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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

SENATE—*Wednesday, April 5, 1995*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. We have a guest Chaplain this morning to open the morning prayer, Rabbi Israel Poleyeff. The rabbi was invited by Senator D'AMATO, of New York. We are pleased to have him with us.

PRAYER

The guest Chaplain, the Honorable Rabbi Israel Poleyeff, Brooklyn, NY, offered the following prayer:

Almighty God: We ask Thy blessings upon the distinguished Members of this Senate of the United States of America. Give them insight to understand the concerns and problems of all the people of this blessed land; bless them with wisdom to enact laws that will benefit all its inhabitants, and imbue them with courage to make difficult decisions for the public good.

For more than a century, millions of immigrants, my father's family amongst them, came to these shores seeking freedom from tyranny and oppression. To this very day our beloved country still serves as a beacon of light to those to whom freedom is but an elusive ideal.

To this very day our country still stands as a shining example of individual liberty and limitless opportunity.

More than two centuries ago, our Founding Fathers created a nation in which every individual had the right to life, liberty, and the pursuit of happiness.

The Members of this Senate have the awesome responsibility of seeing that those goals remain the hallmark of our Nation.

We beseech Thee, O Lord, imbue them with wisdom, understanding, and knowledge to hold aloft the banner of freedom and the torch of liberty, so that all the inhabitants of this country shall be privileged to live, work, and worship their God as they choose and without fear. May our country be the leader among nations in ushering in an era of universal peace and harmony so that the words of the prophet may be fulfilled in our time, when "they shall beat their swords into plowshares and their spears into pruning hooks; nation shall not lift up sword against nation, nor shall they learn war anymore." May this by Thy will. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is now recognized.

Mr. DOMENICI. Thank you very much, Mr. President.

SCHEDULE

Mr. DOMENICI. Mr. President, this morning, the leader time has been reserved and there will now be a period for the transaction of morning business, not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, except for the following: Senator DOMENICI, 20 minutes; Senator DASCHLE or his designee, 30 minutes; Senator SIMPSON, 10 minutes; Senator KERREY, 10 minutes; Senator COVERDELL, 15 minutes; Senator NUNN, 10 minutes; and Senator COATS, 10 minutes.

At 11:30 today, the Senate will resume consideration of H.R. 1158, the supplemental appropriations bill. The majority leader has indicated that rollcall votes are expected throughout the day in order to make progress on the bill. Also, a cloture motion was filed on the bill last night, so a cloture vote will occur Thursday, unless an agreement can be reached with respect to the bill.

Mr. President, I understand the distinguished Senator from South Carolina, Senator THURMOND, desires to speak for 2 minutes. I yield the floor and then I will use my 20 minutes.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from South Carolina.

THE RETIREMENT OF MACK FLEMING, MINORITY STAFF DIRECTOR, HOUSE VETERANS' AFFAIRS COMMITTEE

Mr. THURMOND. Mr. President, it gives me great pleasure to rise today to pay tribute to Mr. Mack Fleming, who has recently retired as minority staff director of the Veterans' Affairs Committee of the U.S. House of Representatives, after more than 20 years of service on the committee.

A native of Hartwell, GA, Mr. Fleming was educated in the public schools of Anderson County, SC. He graduated from my alma mater, Clemson University, Clemson, SC, after which he entered the U.S. Army. He also earned a law degree from the Washington College of Law, American University, Washington, DC.

In the military, he served with the 2d Armored Division in Europe and he was a captain in the U.S. Army Reserve.

Mr. Fleming has a long and distinguished career in public service, both in the Congress and the executive branch. He began that career in 1960 as the administrative assistant to Congressman William Jennings Bryan Dorn, of the Third Congressional District of South Carolina.

In 1965, Mack Fleming moved to the executive branch, first as the director and counsel of the Congressional Liaison Office at the Veterans Administration, then served as Special Assistant to the Administrator of Veterans Affairs.

After a short interval, during which he was engaged in the private practice of law, Mr. Fleming returned to Capitol Hill in 1974 as chief counsel to the House Veterans' Affairs Committee. In 1981, "Mack," as he is known among his friends and colleagues, became chief counsel and staff director of the Veterans' Affairs Committee, where he served through the 103d Congress. For the past 3 months he has served as the minority staff director of the committee, retiring from that position last Friday, March 31, 1995.

During his tenure, the House Veterans' Affairs Committee worked in a bipartisan manner to improve the medical care, compensation, and other benefits to our Nations' deserving veterans. Mack Fleming earned the respect of Members of Congress and staff because of his professionalism, knowledge, and ability. He worked with all sides on the issues, to ensure that all views were

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

heard and to build consensus where possible.

As a member of the Senate Veterans' Affairs Committee, I appreciated Mack's expertise, experience, and skill as we worked together on many issues. The Congress benefited from his service and his leadership, and I know he will be missed.

I congratulate this fine public servant, a man of integrity, capability, and character. I extend my best wishes to his wife, Elizabeth, and their children—John, who attends Clemson University, and Katherine, who practices law in Texas. I wish him well in his retirement, as he and his wife return to Seneca, SC, where I am sure they will enjoy the views, recreation, and quieter life on the shores of Lake Keowee.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each.

Under the previous order, the Senator from New Mexico [Mr. DOMENICI] is recognized to speak for up to 20 minutes.

Mr. DOMENICI. Mr. President, I thank the Chair.

(The remarks of Mr. DOMENICI, Mr. BENNETT, Mr. FRIST, and Mr. DORGAN pertaining to the submission of S. Res. 103 are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN] is recognized for 5 minutes.

THE CONTRACT WITH AMERICA

Mr. HARKIN. Mr. President, I listened to the statement made by the Senators from New Mexico and South Dakota and others about character. I do not know all the aspects of this resolution, I just know some of the things I have heard here on the floor, but I kept hearing reference made to values and we have to start teaching values to our young people.

I agree with that. I think our young people ought to learn values. But, you know, perhaps we ought to look at ourselves first as teachers. Perhaps we ought to start looking at the Congress of the United States. What values are we sending out to the American people? What are the young people of America—what kind of values are they getting from the U.S. Government? That is what I want to speak about this morning, the Contract With America. Its 100 days are up this week, and I want to talk about that Contract With America.

Now, I think I want to talk about it in the context of values and character, because the values that are being sent across America from the Government of the United States is simply this: If you have it made and you have a lot of money, the Government is there to help you and make you more comfortable. If you do not and you are at the bottom rung of the ladder, forget it. You are out in the cold.

Values? You want to talk about a resolution dealing with values? Let us talk about the Contract With America and what values it represents. With any contract you have to ask, who benefits and who loses? Who wins and who loses on a contract? The answer now is crystal clear. The winners are the billionaires, the super wealthy, the special interest Washington lobbyists. They get the credit card. They have the night out on the town. They go to the fancy restaurant. The losers are the hard-working middle-class, children, students, pregnant women, the elderly, the disabled. They get to pick up the bill for the superwealthy. I know that may sound like rhetoric, but the facts are there. Let us look at it. Let us not just get caught up in rhetoric, let us look at the facts.

Here is a chart that we had drawn just to show what is happening in my State of Iowa under the Contract With America, Mr. GINGRICH's contract, the Republicans' contract. Here we are. Two percent of the Iowa population has an income of $100,000 or more. They get 50 percent of the benefits under the contract. And 86 percent of Iowans have incomes of $50,000 or less. They only get 20 percent of the benefits.

One more time. If you are in the upper income bracket, 2 percent of the Iowans making over $100,000 a year, you get 50 percent of all the benefits in the Contract With America. If you are a hard-working, average Iowan making less than $50,000, you will only get 20 percent of the benefits.

Values? You want to talk about values? Let us talk about values. That is the message that is being sent out around America today: If you are on the top of the heap, the Government is there to help you and make you even more comfortable, give you more tax breaks. You want to talk about values, let us talk about values.

Then we just had a recent example of really giving it to the superwealthy, the so-called Benedict Arnold amendment. Senator BRADLEY tried to close a loophole in the law. The House would not hear of it and they knocked it out. We heard a lot of debate on the floor about that last week. Imagine this, what the House Republican leadership has said is that if you make a billion dollars in America and you get all these capital assets and then you renounce your citizenship, you get a big tax windfall. You do not have to pay a lot of these taxes. You can still live in America 4 months out of the year, you can live on the French Riviera 4 months out of the year, you can live in South America 4 months out of the year, you can jet all around the year but you do not have to pay your taxes and you can still own your property and stuff in America. That is why I call it the Benedict Arnold approach, the Benedict Arnold amendment. You can turn your back on the country that made you rich.

What the Contract With America says is, hey, we are going to give you a big tax break, the Benedict Arnold approach. The middle class has to pick it up.

Students. What is happening with students? Under the Contract With America, 94,000 students will pay more for their college loans. That is a tax on students. No one is talking about it. We are taxing students in America as much as $3,150 in additional cost to each student if they require payment of interest while in school and we do not have the grace period before they get a job.

You know, old NEWT GINGRICH and I have a little bit in common. We went to college on the National Defense Educational Loans. I went to a window in the school, got the money, borrowed the money, went to college, but I went to the military after college. Mr. Gingrich did not.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. HARKIN. Mr. President, I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has an additional 5 minutes.

Mr. HARKIN. Mr. President, I spent 5 years in the military. Mr. GINGRICH did not. That is all right. So I did not have to pay it back then. So then I went to law school and I did not still have to pay it back. It was after I finished law school that I started to pay back the loan, and the interest started at that point in time. I think that is what Mr. GINGRICH said he did, too. He just did not go to the military, but he had the same benefit. But he is saying what was good for me is not good for you. He wants to close that now. He said, "Students, as soon as you start borrowing money you have to pay interest on it right away." That is a tax on students any way you cut it. I am saying it was good for me and it ought to be good for other students, too. I think we ought to invest in students and not shut the door. So what they are doing is they are wiping out opportunities for our kids to go to college.

Now they want to take away the Corporation for Public Broadcasting. They want to zero that out. You know, you could make arguments on that. I happen to think public broadcasting is a benefit here in America. There is good programming, good intellectual programming, good stimulation for our kids from "Sesame Street" and "Barney" and everything else. They want to pull the plug on that. But they want to continue to spend about $300 million a year for Radio Free Europe.

One more time. They want to cut public broadcasting in America, the Contract With America, but they turn around and want to have public broadcasting in Europe called Radio Free Europe. If you want to start a radio station in Europe, FM, AM, TV, go right ahead. You can go to Bulgaria, Romania, Lithuania, Latvia, Ukraine—if you want to start a radio station, they will let you, no restrictions. We have this Radio Free Europe now, almost $300 million a year. Guess what, they are broadcasting on shortwave. Who listens to shortwave? People there are listening to FM and AM and television. They are getting satellite TV. They are watching CNN and we are pumping $300 million a year into shortwave broadcasting on Radio Free Europe. The Contract With America says we will keep that up but we will cut public broadcasting in America.

If that makes sense, please someone explain it to me. Europe is free, the borders are down. Whatever value Radio Free Europe had when the Iron Curtain was up, that certainly is gone now, and we ought to bring that money home and put it in public broadcasting here.

So, again, who wins and who loses on the contract? Big business and their special interest lobbyists have been invited into the committee rooms to write the laws that will benefit them. There are articles in the paper about every week, every Thursday, Republicans in the House sit down with all the corporate lobbyists, high-powered lobbyists, not only to write the legislation but to plan out how they are going to get it passed.

I saw a headline in the paper a few weeks ago where NEWT GINGRICH said they were going to end business as usual when they took over. They did. They ended business as usual. But they did not tell us they were going to bring in big business as usual, because that is what is running us now—not business as usual; big business as usual.

The last thing that I want to point out is that a few years ago—this is where this whole thing breaks down. You talk about values. A few years ago Senator LEAHY and I were instrumental in putting in competitive bidding in the Women, Infants, and Children Program to mandate that infant formula companies had to enter into competitive bids to supply the States with infant formula. Before that they did not do that. We got it through. As a result millions more women, infants, and children are getting infant formula, healthy food, to guide a good start in life at no extra cost to the taxpayer because we have competitive bidding. Just last year, for example, the average monthly rebate to my State of Iowa was $630,000 a month because of competitive bidding.

The Contract With America wants to take that away and put it back in the States, and do not require competitive bidding.

I ask unanimous consent to have printed at this point in the RECORD the article from the Wall Street Journal outlining how four giant pharmaceutical companies can make over $1 billion a year in windfalls if they do away with competitive bidding.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOUR DRUG FIRMS COULD GAIN $1 BILLION UNDER GOP NUTRITION-PROGRAM REVISION

(By Hilary Stout)

WASHINGTON.—Four pharmaceutical companies stand to gain as much as a billion dollars under a Republican bill that overhauls federal nutrition programs for children and pregnant women.

The companies sell infant formula to the Women, Infants and Children (WIC) program, a federal initiative that provides formula as well as milk, beans, rice and other nutritious foods to poor children and to pregnant and breast-feeding women. Since 1989 the companies have been required by law to enter into a competitive bidding process in order to sell formula to WIC, resulting in rebates to the government that are expected to reach $1.1 billion this year.

A bill that cleared the House Economic and Educational Opportunities Committee on a party-line vote last week would turn the WIC program over to states in the form of a "block grant," and with it repeal the cost-containment competitive-bidding measure. An amendment to restore it was defeated by the committee. The legislation now moves to the House floor for consideration.

The four companies, the only domestic makers of infant formula—Ross Laboratories, a unit of Abbott Laboratories; Mead Johnson, a unit of Bristol-Myers Squibb Co.; Wyeth-Ayerst, a unit of American Home Products Corp.; and Carnation Co., a U.S. subsidiary of the Swiss conglomerate Nestle SA—fought the competitive-bidding measure fiercely when it came before Congress in the late 1980s. Until then, they were collecting retail prices for the infant formula they sold to WIC.

Sen. Patrick Leahy of Vermont, the senior Democrat on the Senate Agriculture Committee and the lawmaker who led the effort to enact the cost-containment measures, threatened to filibuster the bill yesterday if it reaches the Senate. "It is really obscene," Sen. Leahy said. "The most conservative of people should, if being truthful, like the competitive bidding. . . . It's just rank hypocrisy."

If the bill reaches the Senate floor, Sen. Leahy continued, "I've spent 20 years building bipartisan coalitions and working on nutrition programs. If it's necessary to discuss my whole 20 years' worth of experience in real time, I'll do it."

In 1993, the latest year for which figures are available, the WIC program spend $1.46 billion on infant formula but received $935 million in rebates. That cut the overall cost of providing formula to $525 million, nearly a two-thirds reduction. Moreover, the states, which administer the program, were allowed to use the rebates to add more people to the WIC program.

The action on WIC comes as a liberal-leaning research group, the Center on Budget and Policy Priorities, released a study questioning the continuing effectiveness of some of the infant-formula rebates. The center's analysis found that in the last year, despite the cost-containment requirements, the cost of infant formula purchased through WIC has almost doubled in many states.

Since last March, the study said, 17 state WIC program have signed rebate contracts with at least one of the major formula manufacturers. Under those agreements, the average net cost of a 13-ounce can of concentrated infant formula was 60 cents, compared with a 32-cent average price under rebate contracts signed during the previous 15 months, the study said.

The Federal Trade Commission has been investigating the infant formula makers' rebate and pricing practices, and at least one state, Florida, has filed suit against the manufacturers.

Mr. HARKIN. Mr. President, again, who wins and who loses? Kids lose, low-income women who rely on the WIC Program lose, and our States are going to lose because they will not get rebates. Students are losing. Working families are losing. But, if you are on the top of the heap economically, this "contract" is for you.

So it is not a Contract With America. This is a contract with corporate America. This is a contract with big business America. This is the contract with wealthy Americans. But it is not a contract for the average man and woman in America.

So, again this resolution, I guess, is probably all right about American values. But I believe that we ought to be looking at ourselves and the kind of value signals we send with this Contract With America.

The PRESIDING OFFICER. Under the previous order, the Democratic leader, or his designee, is now recognized to speak for up 30 minutes.

The Senator from North Dakota [Mr. DORGAN] is the designee and will be able to speak up to 20 minutes.

Mr. DORGAN. Mr. President, it is 30 minutes. Is that correct?

The PRESIDING OFFICER. Leadership has 30 minutes but it is the Chair's understanding that you were designated 20 minutes of the 30 minutes.

Mr. DORGAN. I yield 7 minutes to the Senator from West Virginia, Senator ROCKEFELLER.

Mr. ROCKEFELLER. I thank my colleague.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I thank my colleague, and I thank the Chair.

Mr. President, I try not to say I am shocked very often. I try to reserve it for when I really am. Today, I really am shocked. On Friday, we actually watched Senators, led by Majority Leader BOB DOLE, think they need to retaliate against the simple idea coming from this side of the aisle—that cutting Government spending does not mean waging an assault on education and our children.

I am speaking of the amendment from the Democratic leader.

With our pro-education amendment, we are asking every Senator to think very hard about what's right and where our true values should lead us. This amendment gives every Senator a chance, before it is too late, to leave politics at the door and to cast a vote for the basic principle that education and children must not be the victim of this Senate.

The citizens of this country expect us to make choices. With the rescissions bill before us, we are coming up with the funds to pay off recent costs for natural disasters and other emergencies. The bill also cuts a range of Government programs to reduce the Federal deficit even more. Both are essential steps.

But, Mr. President, reducing the deficit and taking care of natural disasters do not mean that this Senate has to rob the schools, the children, and the spirit of the Nation. Any fourth or fifth grade teacher would give this bill a D at best for being that dumb.

The amendment offered by the Democratic leader is our chance to make this bill a lot more worthy of passage. I urge every Senator, on both sides of the aisle, to resist the urge to be too stubborn or too partisan to vote for this amendment. It is never too late to improve ourselves or our work. It is always a good idea to think about the consequences of our actions.

We face one of the clearest choices imaginable between the amendment offered by the Republican leader and the one offered by the Democratic leader. The Republican choice is to cut education even more, and to kill off national service completely.

The Democratic amendment says protect our schools, protect the children, keep national service alive.

Vote for the Daschle amendment, and you are voting to continue supporting what Americans say over and over and over again they support, and care deeply about:

Help for elementary and secondary schools trying to give the best education possible for children from hard-pressed families; the Goals 2000 effort to raise academic standards in over a thousand schools; the funding for schools to teach children and teenagers about the dangers of drugs and alcohol; Head Start, and its special role in getting children off on the right foot; the training that's taking place all over the country to help high school graduates who aren't yet planning to attend college, but need that extra boost to make it in the workplace; and last but not least, the country's new and exciting national service program, that has inspired and excited thousands and thousands of young people to serve their communities with the promise of a college scholarship to follow.

Mr. President, vote against the Daschle amendment, and you are snuffing out a flame of hope for children and families in every town, city, and schoolhouse in this country. This is not rhetoric. These are not abstract numbers. We are not talking about throwing a few bureaucrats out of work or closing some government offices. We are talking about a bill that wants to yank $1.3 billion away from education and children and national service.

This amendment says put the $1.3 billion back into our schools, back into drug education, back into national service, back into getting teenagers ready for the demands of adulthood.

As Chairman of the National Commission on Children, I have traveled to many of the States of my colleagues. To San Antonio, TX, where I saw a principal of a school use Head Start funds and title I funds to cause children to giggle and parents to smile as learning took place in every classroom. Vote against this amendment, and dim the lights in that school in San Antonio. We visited Kansas City, MO, where law officers and parents told us with fear and frustration about the drugs on the streets and in the schoolyards. Vote against this amendment, and start surrendering to the drug traffickers. We went to Minnesota where corporate executives told us about their desperate need to get young workers with better reading and math skills. Vote against this amendment, and tell those employers to start thinking about locating in countries were education is more valued.

Then, there's my own State of West Virginia. Where families and communities face incredible odds every day. Where children are what counts, and education is the key. Where the programs covered in this amendment make the difference. Where schools depend on these funds to have a math teacher or a drug education class or a schoolwide campaign to get grades up. There are not a lot of wealthy families in West Virginia. But wealth is not supposed to determine whether a child becomes a scientist or a professor or even a Senator. Education is. That is the American promise. That is the American dream. Vote against this amendment, and start snuffing out that promise, that dream.

I can hardly believe that national service is on the firing line of this bill, already mowed down by the House Republican leaders. Should the President really apologize or hide the fact that he is proud of helping to reignite the flame for national service? For the idea that we can promote rights and responsibilities? A program that is already the story of thousands of AmeriCorps members, working in housing projects, shelters, classrooms, health clinics, neighborhoods—for a minimum amount of money to live on, and a college scholarship as a reward for service.

AmeriCorps is taking hold in West Virginia. Young people and older participants are helping a mobile health van to bring primary health care, like checkups and shots, to children in rural areas. They are working at domestic violence shelters where women and children seek refuge from this terrible danger in too many homes.

National service is the idea that led me to West Virginia, and changed my life forever.

Vote for this amendment, and national service stays alive in our communities. Vote against this amendment, and let the American people know that we are giving up on this idea once again. Let us wait another 30 years to celebrate service with college scholarships and stipends.

When I joined the Senate, one of my very first bills was the one that helped create the drug education program threatened in this bill. The police officers, the teachers, and the parents of West Virginia led me to push for this special help. As a result, police officers are now in classrooms, telling children about what it is like in prison. Peer groups have developed in countless schools to make it clear that drugs are not cool, whatsoever.

If we are serious about values, where is the logic in going after something as basic as drug education? What signal does that send? It makes no sense.

Mr. President, I heard the Republican leader bemoan the effort from this side of the aisle to fight for kids. I am sorry if that's slowing this bill down. I am especially sorry to see it cause a cruel counterpunch in the form of a Republican-led amendment, instead of the admission that we should take a breath, and remember just how much the citizens of this country support and care about education and children.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROCKEFELLER. I thank the Presiding Officer and I yield the floor.

Mr. DORGAN. Mr. President, the Senator from Wyoming wishes to speak in morning business for 7 minutes. I would be happy to accommodate him, providing that it does not come out of our time and we retain the balance of our time following his presentation.

Mr. SIMPSON. May I suggest that order take place.

The PRESIDING OFFICER. Before the Senator from Wyoming speaks, the Chair would inform the Senator from North Dakota that the Chair was in error. The Senator was allotted 30 minutes, not 20. The Senator has 22 minutes remaining.

Mr. SIMPSON. I yield 2 minutes of my time to my friend from Nebraska, Senator KERREY.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. KERREY] is recognized for 2 minutes.

REPORT OF THE SOCIAL SECURITY TRUSTEES

Mr. KERREY. Mr. President, I have, as well as the Senator from Wyoming, come to the floor to comment on the Social Security trustees' report, which is one more piece of evidence that this Congress needs to act sooner rather than later to change our entitlement programs, specifically our retirement programs and our health care programs. The longer we wait, the more likely it is that we will face very, very difficult choices and it will unfairly punish people for our delay. While it is not a crisis in 1995, that should not be justification for our not taking action as, unfortunately, is often the case.

One additional point, Mr. President. I believe the trustees' report itself makes a very strong case for changing the law so that we have a different kind of trustee relationship. Four of the six trustees are members of the executive branch, the administration. And while I trust each one of them, I do not believe they have the kind of independence that the American people need in order to have a recommendation upon which we can act.

They say in their recommendation there is no real urgency; let us wait until the clock ticks a little further.

I believe an independent board is needed, Mr. President. Otherwise, the American people are not going to acquire the sense of urgency to act. As a consequence, this Congress may be encouraged to delay longer than is wise.

I thank the distinguished Senator from Wyoming for yielding time.

The PRESIDING OFFICER. The Senator from Wyoming has 8 minutes remaining.

TRUSTEES' REPORT ON SOCIAL SECURITY, DISABILITY AND MEDICARE TRUST FUNDS

Mr. SIMPSON. Mr. President, I cannot tell you how much I enjoy working with the Senator from Nebraska. He and I are going to involve ourselves in a bipartisan effort as a form of a national wake-up call. After the recess is concluded, we will introduce a series of bills which will deal with the real hard stuff in America, which is Social Security, Medicare, Medicaid, and Federal retirement. I cannot tell you how much I enjoy and respect and admire the Senator from Nebraska.

I have some remarks to make about Social Security. But in my limited time, and listening to the previous debate, I cannot help but reflect, as I listened to the rather dramatic presentation of how, apparently, I gather, Republicans love to be cruel to children and to veterans and to old people, how absurd and bizarre that is. That is the most stupefying type of debate to listen to.

It will really be interesting to see how everyone handles the tough votes, the ones that really count, when we try to do something which will assure the future for veterans and the children and the old people; and that is to do something with the entitlement programs which are sucking it all up.

We here do not even vote on 68 percent of the Federal budget—no, that just goes out the door to people, regardless of their net worth or their income. Absolutely absurd.

All we are trying to do, at least in our party, is to slow the growth of the programs. There is not a "cut" in a carload here. We are not "cutting" anything. We are trying to slow the growth of programs. If the American people cannot understand that, well, get the other party back in power and start spending it up, because that is exactly where we are.

Let us look at that school lunch caper over there in the House. Do you know what they really did? They took a program going up 5.4 percent a year and said, "Let's let it go up only 4.5 percent a year and let the States handle it with flexibility and less administrative costs," which was then reported to the public as breaking catsup bottles over children's heads, and the prospect of swollen-bellied children in little school districts all over America starving to death. That is bosh; absolutely stupefying drivel.

So every one of these programs is going up, and we are trying to say, "slow the growth."

And try this one, because you will want to be ready for it when we do something to Medicare. And, brothers and sisters, we will do something to Medicare because it is going up 10.5 percent per year regardless of what we do. Then you can watch what happens when we do not allow it to go up 10.5 percent. We are going to let it go up probably 5 percent. The headline will be: "Congress slashes Medicare 50 percent." Be ready for that one.

When a 5-percent increase is described as a 50-percent cut, and it is believed the American people deserve exactly what they are going to get.

I keep hearing about Head Start. Guess what? Why not use the correct figures? Head Start is mentioned every single day as some kind of thing the Republicans love to chop on.

Well, here are the correct figures and they come from Democrats and Republicans alike in this body. In fiscal year 1990, $1.6 billion; in fiscal year 1996, $3.9 billion. So from fiscal year 1990 through fiscal year 1996, Head Start has more than doubled. It has had more than a 140-percent increase, and everybody knows it. If they do not, they are going to get exactly what they deserve.

It comes from a bent of being stupid about what is really happening in America.

The recent trustees' report on Social Security is another classic example of stupefying logic. We are now told that, instead of going broke in the year 2029, it will go broke in the year 2031. Is that not thrilling? Nearly the same numbers as last year; certain disaster. The facts all speak for themselves.

The trustees say Social Security will start running deficits in 2015 and go broke in 2031. Disability insurance is already running deficits and it will go broke in the year 2016. The Medicare trust fund will start running deficits in 1996, and will go broke in the year 2002. But have stout heart, because last year, it was to go broke in the year 2001. So this is cheerful news It will now go broke in the year 2002. That is like a cancer patient being told, "You lucky fellow, you are going to have 6 months to live instead of 5."

The trustees go on to use phrases like "extremely unfavorable" and "severely out of financial balance" when talking about the Medicare trust fund. And the trustees urge that all these reforms be undertaken sooner rather than later.

So that is where we are. Doomsday dates, just about the same, using intermediate assumptions—not the best assumptions, not the worst—but the best "in between" estimate of what the future holds. And we know that they assume that the Consumer Price Index will hover between 3 and 4 percent until the year 2002 and will never go above 4 for the year 2070.

Yet one uptick in the Consumer Price Index of one-half of 1 percent will cost the Government about 7 billion bucks annually for Social Security alone. And if we were to see another few years of high inflation, as in the late seventies and early eighties when the CPI hit 13.4 percent, Mr. President, I say to my colleagues, only 1 year of that type of increase would cost the Government more than 126 billion bucks—1 year.

In light of this report, it is well to reflect on the real, honest-to-God reasons for exploding Federal spending. I know the AARP, the American Association of Retired People, hates to hear this, but it is time they do. That group is the 33 million people paying 8 bucks a year dues to do it. They are bound together by a common love of airline discounts and auto discounts and pharmacy discounts and all the rest. Here is what they do not want you to hear:

The growth of these programs is what is creating the true hazard in America. They have consistently argued that other than health care, entitlements are not growing faster than the rest of the GDP. That is simply wrong—it is a misapplication of fact—it is actually a lie. According to the trustees themselves, Social Security costs would grow from 4.2 of GDP in 1995 to 5.1 by 2020, and more than 5.7 by the year 2045. That is a 40-percent increase relative to the current share of GDP.

I hope when we listen to the debate and when the organs of the AARP and other senior groups begin to rap on us, that we remember that these nonprofit organizations have myriad and lucrative activities in which they engage.

We will have them before the subcommittee, of which I chair, to tell us of their prowess in the fundraising arena.

So here we go. By the year 2045, the trustees' report shows that more than 14 percent of the GDP will go into Social Security and Medicare programs alone. And get this one: In the year 2030, there will have to be a 30 percent payroll tax to pay for Social Security. Oh, yes, you can get there; yes, you can; you can do it with more payroll tax; you can get there that way to pay for Social Security and Medicare.

And we here have done all this to ourselves. The President did not do it. President Clinton did not do it. President Bush did not do it. We did it. We have done it ourselves. We have served as pack horses to drag money back to our States, and we have done a magnificent job for 50 years. Just look at our record. The more you drag home, the more you get reelected. Now the people are waking up from a long slumber. Rip Van Winkle could not have matched it.

I plan to work hard with my good friend, BOB KERREY, to introduce legislation to shore up the Social Security and Medicare trust funds in order that it will not be in the cards to leave our children and grandchildren with the burden of paying payroll tax rates of 30 percent and beyond in all the years to come.

You can run but you cannot hide on this one. The tough votes will be coming, and it will be very interesting to see who casts them. My hunch is the people who give us the business about this and this and this item, which is really peanuts in the great scheme, will not cast the tough votes when they know we full well have to have those votes to stop runaway systems that we do not even vote on, which are up now to 68 percent of the entire national budget.

I earnestly hope that we will have a good bipartisan effort to resolve it. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Dakota has 22 minutes remaining.

WRONGHEADED PUBLIC POLICY DECISIONS

Mr. DORGAN. Mr. President, the discussion in Washington this week, and I suppose next week, and around the country during the Easter break will be the first 100 days. What do we make of the first 100 days in the change of majority status in the Congress, Republicans replacing Democrats as the majority party in the 1992 elections?

I said yesterday, and let me remind people again today, the score in 1992—in a democracy, those who win by one vote are still called winners—the score in 1992 at the end of the election process was the Republicans 20 percent, Democrats 19 percent and 61 percent of those eligible to vote said, "Count me out, I won't even participate." So with a 20 to 19 victory, the Republicans have claimed a mandate for their ideas, and a mandate for something called the Contract With America.

The Contract With America contains a number of ideas that are interesting, provocative, in some cases radical, in my judgment. Some of the ideas in the Contract With America are ideas that I embrace, that I have voted for and have supported. Some of the ideas are ideas that the majority party, who now brings them to the floor, filibustered in the previous Congress and prevented coming for a vote because they felt apparently they will not support them and now they apparently do and even put them in a contract.

By whatever device they come to the floor of the Senate, a good idea is a good idea no matter who proposes it. A number of them have passed.

Unfunded mandates has passed the Senate and gone to the President. The Congressional Accountability Act has passed the Senate. The line-item veto has passed the Senate. A 45-day legislative veto, which makes good sense, on the subject of regulations and rules has passed the Senate. I voted for all of those issues, and I think they make good sense.

But the Contract With America is a mixture of good and bad. The fact is, some of the ideas in the Contract With America reinforce the stereotypical notions of what the majority party has always been about, and that is to keep their comfortable friends comfortable, even at the expense of those who in this country are struggling to make it.

I would like to talk just a few minutes about some of those items in the contract that we have had to fight and that we even now try to fight and reject because we think they are wrongheaded public policy decisions for this country.

One hundred years from now—not 100 days—but 100 years from now, you can look back and evaluate what this society decided was important by evaluating what it invested its money in, what did it spend money on, especially in the public sector, what did it invest in. That is the way to look back 100 years and determine what people felt was important, what people valued and treasured. Was it education? Was it defense? Was it the environment? Was it public safety? Fighting crime? You can evaluate what people felt was important at that point in their lives by what they spent their money on.

And so you can look at the Federal budget and look at the initiatives brought to the floor of the Senate and the House to increase here and cut over there and determine what do they view as valuable, what do they view as the most important investments.

The Contract With America, in the other body, had a debate recently by the majority party pushing the contract provision that said to the Defense Department, "We want to add $600 million to your budget."

The Secretary of Defense said, "We don't want it, we don't need it, we're not asking for it."

The Republicans over in the House of Representatives said, "It doesn't matter to us, we want to increase the Defense Department budget by $600 million. That is our priority. We don't care if you don't want it, don't need it or don't ask for it. We want to stick more money in the pockets of the Defense Department."

How are we going to get it? "We are going to pay for it," they said. "We simply will cut spending on job training for disadvantaged youth and we will cut spending on money that is needed to invest in schools that are in disrepair in low-income neighborhoods."

So they cut those accounts that would help poor kids in this country and said, "Let's use the money to stick it into the pockets of the Pentagon," at a time when the Pentagon and the Secretary of Defense, Mr. Perry, 50 feet from this floor in a meeting said, "We don't want it, we didn't ask for it, we don't need it." But the Contract With America folks said, "It's our priority, it's what we believe in, so we're going to shove money in your direction."

Then they come out on the floor of the Senate and the House and stand up and crow about what big deficit cutters they are, how they dislike public spending, how much they want to cut the budget deficit, how everybody else are the big spenders but they are the frugal folks. Right. They are the folks who are trying to stuff money in the pockets of the Defense Department that the Defense Department says they do not want.

How do they get it? It takes it from poor kids. Now, that says something about values. That says something about priorities, I think.

Now, do we oppose that? Of course we do. Some Members stand up and say we do not think that is the right way to legislate. We do not think we ought to give a Federal agency more money than it needs. If the head of the agency says we do not need or want this money, do Members think the legislature ought to be throwing money? I do not.

Now, we have a number of things in the Contract With America that represent, in my judgment, wrong-headed priorities. I think we are duty-bound to create the debate on these subjects. That is what a democratic system is.

When we disagree, bring all the ideas here and have the competition for ideas, and strong aggressive public debate. Respectful, but strong public debate and see where the votes are.

We had a case in the House of Representatives under the contract where the notion is that all Federal rules and regulations are essentially bad and we should dump them. They did not quite say it that way, but this is pretty much what they meant.

I think there is a general understanding that rules and regulations in many areas have gone too far and have strangled initiative, and have been created by bureaucrats who do not understand the effect of them, and that we ought to streamline them.

So, here in the Senate we passed, with my help, out of the Governmental Affairs Committee, a risk assessment bill which I voted for and helped write. We passed a 45-day legislative veto which I voted for, and I am pleased to do that because we need to address that.

In the House, what they did is they got a bunch of corporate folks, a bunch of big business folks in a room and said, "Why do you not help write this? What bothers you? See if we can write something that satisfies your interest."

Then they bring it to the floor, called a moratorium. It is beyond the dreams of the big special interest folks to put a moratorium on every conceivable rule and regulation that has yet to be issued.

It is like saying to the biggest businesses in the country, "You can come in and write your own ticket. It does not matter. Just come in and write it up and we will legislate it." We have been through this. There needs to be in a free enterprise society like ours, some oversight, some sense of responsibility, as well.

I told on the floor of the Senate the other day about the early days of this century when people did not know what kind of meat they were eating. When a noted author wrote a book that lit the fuse that started the chain reaction that led to the meat inspection programs in this country.

The investigations in the slaughterhouses in the meatpacking plants where they had rat problems, and they take a slice of bread or loaves of bread and lace it with rat poison and lay it out to kill the rats in the meat packing plants. They put the dead rats, bread, and rat poison all down the same chute with the meat and pump out the "mystery meat" that people got a chance to eat in this country.

Finally, understanding that the captains of that industry at least were more interested in profit than they were in public health, there was a decision that we ought to do something about that. Now, when we eat meat in this country that has been inspected, we have some notion that it is safe. Safe to eat. Why is that? Because of regulations. Regulations in many cases are essential to public health and public safety.

No one would want to get on an airline today that does not have a requirement to subscribe to some minimum safety standards in which there are not some air traffic controllers adopting public regulations to determine at what altitudes to fly when heading east and what altitudes to fly when heading west.

Regulations in many cases are critically important. The right kind of regulations. It we have the captains of industry in this country deciding to write the regulations they want, it will, in my judgment, always impose profit as a virtue ahead of public safety and public health.

We need to care a little about that. Those who say, well, we will open our offices to the captains of industry to write the regulation, and we bring them to the floor and push them to the floor under something called the Contract With America, some are duty bound to stand up and say, no, no, there is a public interest involved here as well.

We must urge the private interest and the public interest to be sure that we care about public health and public safety.

Now, those same people in the Contract With America say that they are the ones that care about public spending. They say we will take the $10 billion in the crime bill and decide to move that as a block grant to State and local government.

We will send it back to the States. They are capable of better spending it than we are. Remember what happened when we did that before with the Law Enforcement Assistance Act? You separate where you raise money from where you spend it, I guarantee you you will promote the biggest waste in Government.

Under the old LEAA Act, local governments got money and one had a study, and that was to try to determine why people in prison tried to get out. What would make people in prison try to escape? Well, we do not have to spend $25 million to study that. I tell you why—because they are locked up, for God's sake. That is why people in prison try to escape.

Why would someone want to spend public money to determine why prisoners want to escape? Because it was free. The money came from the Federal Government.

This notion about block grants in which we separate where money is raised from where money is spent and in which the Federal Government raises the money and sends it to the Governors to say, "Here, you go ahead and spend it the way you want, no strings attached. Crime, spend it on roads if you want."

In the House of Representatives, they had an amendment on the floor that says at least with respect to this crime money communities ought not be able to spend it on roads. Guess what? They defeated the amendment. They said, no, we would not restrict that. We can send money back in which there is a problem to deal with the epidemic of violent crime, and they can spend it on roads. Those are the kind of things that make no sense.

The previous speaker this morning spoke briefly about the hot lunch program. He said, "Gee, it will increase." Yes, it is true, it will increase. The cost of food goes up, we increase the amount of the hot lunch program by exactly the amount of increase in the cost of food.

Guess what? More children are coming into our school system that are eligible for hot lunch, and there is not enough money to provide hot lunches for all those kids. And some kids come up and say, "I want a hot lunch, or I need a hot lunch," and they are told, "well, gee, one of the Senators said we increased funding so there certainly should be enough money available for you."

Well, they did not increase funding enough to provide the money for all of the new kids coming into the hot lunch program. And besides, they in the contract for America provide that they will remove the entitlement for a hot lunch for poor kids.

Now, what sense does that make? Poor kids in this country often find that the only hot lunch they receive during the entire day is a hot lunch they received at school. I recall a statement made by the Presiding Officer, about that very subject.

I know the Presiding Officer happens to share my view, the hot lunch program is a critically important program. An entitlement for poor kids to get a hot lunch at school is an entitlement we ought to keep. Any country as big and generous as this country, can certainly be generous enough to be sure that poor kids in this country get a hot lunch in the middle of the day at school.

So people say, "Well, gee, why are you against all these? What are you for?" I am for a hot lunch for poor kids. It seems to me you start with those kinds of notions, and you fight for those things against someone who will decide that we ought not have an entitlement for a hot lunch at school for poor kids. That is what I am for and that is what I am against.

Now, words have meanings, and legislation has consequences. We can talk all we want about what legislation does or does not do. Here is the first 100 ways in the first 100 days that the Contract With America decides it is more comfortable to help the wealthy, help the big special interests, and to do so at the expense of a lot of folks in this country who are vulnerable.

There is a difference in how we believe we ought to discharge our responsibilities. I think we ought to cut Federal spending and we ought to cut it in an aggressive way. But there is plenty of waste and plenty of Federal spending we ought to cut without hurting the vulnerable in our society. We can do that. It simply is a matter of priority.

When those who push the Contract With America decide we want to shove $600 million at the Defense Department that they do not want or they do not need or they did not ask for, and, at the same time, they say, we want you to remove the entitlement to a hot lunch, for American school kids who are disadvantaged. And there is something wrong, in my judgment, with the value system that creates those regulations.

I hope we can talk about all of that this week, because that is the standard by which we judge the first 100 days—some good, some bad. We accept the good, vote to pass it along and improve things in the country. The bad we fight, because this country can do better than that. This country can do better than to compromise health and safety standards, than to say that poor kids in school, your hot lunch does not matter.

I just touched on a couple of areas here. There are dozens and dozens of them that make no sense. I hope during this coming week, we can decide to explore some of those in depth and explore the reasons why we feel it is important to stand up and speak out on behalf of some of those as well.

I yield to the Senator from Vermont, Senator LEAHY, who has done an enormous amount of work in this area.

Mr. President, I yield him the remainder of my time, and he may wish to add to that time.

The PRESIDING OFFICER. The Senator from Vermont has 6 minutes and 20 seconds.

Mr. LEAHY. Mr. President, I ask unanimous consent that we add 12 minutes to my time.

The PRESIDING OFFICER. Is there objection?

Mr. COVERDELL. Mr. President, reserving the right to object, if I may ask the Senator from Vermont if I might address a question through the Chair, I think in the order of business I was to be recognized for up to 15 minutes?

The PRESIDING OFFICER. The Senator from Georgia is correct. He has 15 minutes reserved.

Mr. COVERDELL. Would morning business still allow that?

Mr. LEAHY. I was aware of the order regarding the Senator from Georgia. The Chair will correct me if my addition is not right. It would make sure he would still have his full 15 minutes.

The PRESIDING OFFICER. There are still several Senators who have reserved time. The Senator from Indiana has 10 minutes; the Senator from Georgia has also 10 minutes.

Is there objection?

Mr. COVERDELL. As long as I will have time, with the time remaining, for my remarks, I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont is recognized.

WINNERS AND LOSERS UNDER THE CONTRACT WITH AMERICA

Mr. LEAHY. Mr. President, I have heard from schoolteachers and I have had heard from parents and doctors and day care providers and advocates for children around the Nation. Many of them have called me because, during the past 20 years as chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I have been intimately involved with almost all nutrition legislation in this country.

Certainly, during the last dozen years, there has not been any piece of nutrition legislation that has passed the Congress and has been signed into law by the President that has not either been authored by me or cosponsored by me.

I have heard from many Vermonters, from dietitians, dairy farmers, the Governor of Vermont, and volunteers of Vermont food shelves. They feel worried and betrayed. They want welfare reform; they want able-bodied adults to work, as do I. But they do not want to see hunger return in this country with a vengeance.

They do not want to see a country, blessed as no other nation on Earth has ever been blessed with its ability to produce food, have millions of hungry Americans. And they do not want the Contract With America. They believe the Contract With America is antichild and antifamily, and so do I.

The Contract With America is good for big corporations, for huge tax cuts for the rich, and for special interests. I thought we ought to see who are the top 10 winners under the Contract With America. So I put together a chart that explains the top 10 winners.

Mr. President, I ask unanimous consent that two lists of winners and losers, under the Contract With America, be printed in the RECORD.

TOP 10 WINNERS DURING THE FIRST 100 DAYS OF THE CONTRACT

10. The Coca-Cola Company and the Pepsi Cola Company—soft drinks instead of milk could be served with school lunches. Children and dairy farmers, in contrast, are very big losers.

Pepsi is a big winner since its Taco Bell and Pizza Hut subsidiaries could take over school lunch programs, and other fast food companies are not far behind.

9. Pesticide manufacturers—the chemical giants stand to make millions of dollars with planned cuts in federal regulations that protect the environment. I hope families that drink water in rural areas like the taste of alachlor, atrazine, and cyanazine.

8. Criminals—Republicans plan to stop the President's efforts to put 100,000 new police officers on the streets. All communities who would have gotten those new officers will be big losers.

In Houston, violent crimes have been reduced by 17 percent because of cops on the beat; in New York City, community policing has cut violent street crimes by 7 percent.

7. Four drug giants—the House bill could transfer up to $1.1 billion to infant formula manufacturers by eliminating the requirement that infant formula be bought at the best price for the WIC program.

Current competitive bidding procedures keep 1.5 million pregnant women, infants and children on WIC at no additional cost to taxpayers. Those up to 1.5 million infants, women and children are losers under the House bill.

6. Locksmiths—funding for child day care is slashed, which means that low-income mothers who want to work may have to let tens of thousands of kids stay home by themselves.

5. Water and air polluters, unwholesome meat and poultry packers—House Republicans plan to cut regulations that protect the environment, air quality, water quality and food safety.

Families that breath air, drink water and eat food are the big losers.

4. Large corporations—corporations will enjoy huge tax loopholes (such as eliminating the alternative minimum tax which will give corporations $35 billion over 10 years), defense conglomerates will make large profits, and meat and poultry plants will not have to worry about selling contaminated meats since that will be allowed.

3. The wealthiest 12 percent of Americans—over half the benefits of the tax breaks in the Contract With America go to the wealthiest 12 percent of Americans, those earning over $100,000 a year.

In contrast, children do not vote and have been targeted for the worst cuts by the Contract With America. Included in the list of Federal funding slashed or totally eliminated is funding for: disabled children, food for homeless children living in emergency shelters, day care for the children of low-income parents who want to work, food for children in over 150,000 day care homes, summer jobs and food service programs, PBS children's programs, and other programs for children.

2. Lawyers—lawyers will make a fortune exploiting all the environmental, tax, and worker protection loopholes in the Contract.

The Republicans create 101 new ways for lawyers to delay environmental, health and food safety regulations.

1. Anyone making over $349,000 a year—the House Republican proposals give the wealthy an average tax break of $20,362 through huge capital gains tax cuts, estate tax breaks for the wealthy, and corporate tax loopholes. In addition, U.S. billionaires who renounce U.S. citizenship will be given huge tax writeoffs—$3.9 billion worth over the next 10 years.

These tax entitlements for the rich, and for corporations, are provided while cutting aid to children, to low-income students who want to stay in college, and to the national service program that provides college scholarships.

TOP 10 LOSERS DURING THE FIRST 100 DAYS OF THE CONTRACT

10. Newborn children—the Contract throws up to 1.5 million pregnant women, infants and children off the WIC program, threatens to make millions go hungry, and provides for major funding cuts for programs that help disabled children, children in child care and homeless children.

9. Children who drink tap water—the House delays regulations that protect drinking water from being contaminated with dangerous chemicals.

8. Children who breathe—the House bill hampers clean air protections which will especially hurt more vulnerable populations such as children.

7. Children who need child care—child care food program funding is cut in half which will likely throw over 150,000 day care homes off the program.

6. Children with mothers who work—the Contract slashes funding for child care for low-income parents who are trying to stay off welfare, get off welfare, or find a job.

5. Children with fathers who work—the Contract eliminates the safety net for families when they most need help during a recession. Benefits to millions of children could be significantly cut during hard times.

4. Children who go to school—funding for educational programs for grade school and secondary schools, funding for the Learn and Serve Program, and funding for AmeriCorps college scholarships is slashed.

3. Children who eat hamburgers—The House bill delays rules on food safety for at least one year. These rules are designed to prevent foodborne illness outbreaks like the one that killed several children in Western states in 1991.

2. Children who are not rich—House tax cuts for wealthy Americans and corporations will make it more difficult to balance the budget, our children will have to pay the bill later, and low-income children will lose benefits immediately.

1. Children who eat—The House welfare bill will take food away from hundreds of thousands of infants, homeless children and school children. It says to them "have a hungry day," especially during recessions.

Mr. LEAHY. Mr. President, No. 10 on the list are the Coca-Cola Co. and the Pepsi-Cola Co.—in fact, all junk food companies are winners. They are winners under the Contract With America because the House bill eliminates nutritional requirements for school lunch.

I fought these fast food companies last year to make school lunches healthier. They did not want to allow us to make school lunches healthier for an obvious reason: their fast foods are not healthy foods. Congress reduced the saturated fat content in school meals and clarified that schools have a right to say no to junk food manufacturers.

Under the Contract With America, we throw out those healthy meals requirements. Soft drinks can be sold to schoolchildren during lunch instead of milk. Can anybody here who has been a parent, has raised children as I have, tell me that Coca-Cola is more nutritious for them than milk?

Candy companies, fast food giants, junk food purveyors—these are the big winners. Children and the producers of nutritious food in this country are the real losers.

Who is next in line among the top 10 winners? Why, the pesticide manufacturers. The chemical giants can make millions of dollars with the planned cuts in Federal regulations to protect the environment. I hope that families who drink water in rural areas of Vermont or Colorado or Georgia or any other State like the taste of alachlor, atrazine, and cyanazine.

Who else makes out? As a former prosecutor, I was very interested to see the contract provide benefits to criminals. The Republicans intend to stop the President's efforts to put 100,000 new police officers on the streets. They apparently do not want the President to get credit for anything. As one who spent almost a decade in law enforcement, I would like to see those cops on the streets. The Contract With America does not.

Then we have the four giant drug manufacturers that make infant formula for WIC. Man, did they make out like bandits. Let me tell you what is happening. We have Nestle, which is not even an American company. It is a Swiss company. Its annual sales in 1993 were $37 billion. The other companies also fared well: Bristol-Myers Squibb, $11 billion; American Home Products, $8 billion; Abbott Laboratories, $8 billion.

How did they make out like bandits under the contract? I will tell you how. We have the Women, Infants, and Children Program. Some years ago I called on the Federal Trade Commission to investigate price-fixing and bid-rigging regarding infant formula companies and the WIC Program. I drafted laws that required States to use competitive bidding when they buy formula under the WIC Program. I then worked to pass a law with bipartisan support in the U.S. Senate which imposes fines of up to $100 million for price-fixing by these giant drug companies.

Now, this one simple rule saves taxpayers who pay for the WIC Program $1.1 billion a year. It keeps 1.5 million pregnant women, infants, and children on WIC at no additional cost to taxpayers.

The people who tout the Contract With America—"We are profamily; we are prochildren"—they are probaloney because they voted to get rid of competitive bidding.

That gives a windfall of up to $1 billion to four giant drug companies. I would like to know whom they contributed to among those who voted for this change.

And what do they use to pay for this windfall in the profamily, prochild Contract With America? They take 1.5 million pregnant women and newborn children off WIC in order to give four drug companies that make $37 billion, $11 billion, $8 billion, and another $8 billion an additional windfall of $1 billion.

Can you imagine what would happen if we voted on this change in the daylight? The amendment would say "give $1 billion in tax dollars to these four giant drug companies, but take 1.5 million women and children, most of whom do not vote, off of WIC."

Maybe some of those who receive contributions from the drug companies still would want to vote that way, but they would be embarrassed to do it in the daytime.

The Democrats offered an amendment to restore the competitive bidding requirement. It lost. Taking millions of pregnant women and small children off the WIC Program is now part of the Contract With America.

The influence the large corporations have had on the contract was outlined in the Washington Post yesterday. The story tells of the influence of the Kellogg Co., Gerber's, Mead-Johnson, Abbott Laboratories, and Coca-Cola on the House legislative process. We in the Senate should not put corporate profits ahead of children.

Maybe we should look at another one on the top 10 list: locksmiths. Funding for day care is slashed under this so-called profamily, prochild Contract With America. It is a Contract on America because they slashed child day care funding. Tens of thousands of low-income mothers who want to work, who want to get off welfare, may have to let their children stay home by themselves. Many of them are going to be latchkey children who have to let themselves in after grade school. Some are going to be locked-in children, whose parents, when they go off to work, have to lock them in. They have to lock them in the house because the parents cannot afford to miss work.

Then look at the next big winners, the water and air polluters, and unsanitary meat and poultry packers. Thousands of consumers get ill each year from contaminated foods. In Washington State, several died from eating hamburgers that were tainted. We have the technology to prevent needless death. But the Contract With America would stall or stop the regulations that would bring that about.

We ought to think about whether we want our children or our grandchildren to eat contaminated hamburger before we stand up and celebrate how we passed the Contract With America. I ask Americans to read the small type, read the small print. And those who want to vote for this, let them stand up, the next time a child dies from a contaminated hamburger, let them stand up and say, "Tough luck; but am I not proud I voted for that."

Of course, you are not going to see that.

The children do not vote. They do not send money to PAC's. They do not contribute.

Then we have large corporations next on the list. Our working families are hurt by the contract. Large profitable corporations make out like bandits. They are going to get $35 billion over the next 10 years because the contract eliminates the alternative minimum tax. The average Vermont family is going to get very little tax relief under the contract, and they will lose more than they gain. They are going to lose all these things I talked about—school lunches and child care.

The wealthiest 12 percent of Americans, do they make out. Over half of the benefits of the tax breaks in the Contract With America go to the wealthiest 12 percent of Americans—those earning over $100,000 a year. Those earning over $200,000 a year will get over $11,000 in tax cuts. Families earning between $10,000 and $20,000 will get $90. Big deal.

Lawyers are next. I should be happy. I am a lawyer. But I am not happy that lawyers are going to make a fortune exploiting all the environmental, tax, and worker protection loopholes in the contract. The contract creates 101 new ways for lawyers to delay food safety and environmental regulations.

And now here's the big prize—the No. 1 winner under the Contract With America—is anybody making over $349,000 a year. They ought to be ready to send their checks to every wealthy PAC in this country because they make a killing. They get an average tax break of $20,362.

In addition, these great patriots who are out there waving the American flag saying, "Look at our Contract With America," do you know what they did? Do you know what their sense of patriotism is? They tell a bunch of billionaires in this country that if you make a billion dollars here in America under our laws and under the advantages of being an American, if you just go out and renounce your citizenship, we will give you 3.9 billion dollars' worth of tax writeoffs.

Can you imagine anything more obscene or antipatriotic? They stand up there and say, as they wave our flag, "If you renounce your citizenship, Mr. Billionaire, we will give you under the table a few billion of American tax dollars."

They are about as patriotic as they were serious about term limits. The second they thought the bill might pass and they saw that term limits would apply to them, immediately they backed away.

They were all out there calling for term limits. They said, "We want term limits. I have been here 32 years, saying that we need term limits. I have been here 26 years, saying that we need term limits. I cannot understand why we don't get term limits. For decades I have been arguing we should have term limits." Somebody said, "Here. We have enough votes to apply it to your next election, immediately, to you." "Wait a minute. I do not mean term limits for me. I am pretty good. It is for the next guy." It is the same here with this patriotism.

We are giving these tax entitlements to the rich and to large corporations by cutting aid to children and to low-income students who want to stay in college, and by cutting the National Service Program, which provides scholarships. Children do not vote, and they have been targeted for the worst cuts.

Who are the top 10 losers under the Contract With America? They are children. These are the people who lose: Newborn children, children who drink tap water which will more likely be contaminated, children who breathe air which will more likely be polluted, children who need child care, children with mothers who work, children whose fathers are at work, children who go to school, children who like hamburgers, children who are not rich, children who eat, period. Children are the losers. The contract is a contract not with America but against children.

Children who eat—the contract takes away food from hundreds of thousands of infants, homeless children and schoolchildren.

Children who are not rich—they are the ones who are going to pay for the tax breaks for the rich.

Children who eat hamburgers are going to see the regulations on salmonella- or E. coli-free food taken away.

Children who go to school will see their funding for educational programs cut, funding for the Learn and Serve Program, funding for AmeriCorps scholarships all cut.

Children whose fathers work, if they lose their jobs, the safety net is gone.

Children with mothers who work, funding for child care is gone.

Children who need child care, their healthy food at child care is gone.

Clean air protection is gone.

Clean tap water, that is gone.

Newborn children—what I would say one more time is probably one of the most egregious things in the Contract With America is they take away the requirement that the infant formula manufacturers have to be involved in competitive bidding. Some $1.1 billion is given to four giant drug companies. I expect they are going to buy the tables at the next big fundraiser which those who voted for that have. But as we give them $1 billion, we also say to a million and a half pregnant women, infants, and children, "Sorry. We cannot afford to do anything for you. But then, heck, you don't vote. You don't contribute, so it is OK."

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Georgia is recognized.

Mr. COVERDELL. Madam President, would you advise me of the amount of time I am recognized for?

The PRESIDING OFFICER. The Senator is recognized to speak for up to 15 minutes.

Mr. COVERDELL. Thank you, Madam President.

THE DRUG CARTEL

Mr. COVERDELL. Madam President, yesterday we had a hearing of the Western Hemisphere Subcommittee of the Foreign Relations Committee in the U.S. Senate.

From time to time, in all the clutter of this city and all the issues that we are addressing, something will break through and the magnitude of it is so significant that those who are in the presence of it come to a standstill. I would suggest that was the nature of the meeting held yesterday in the early afternoon in the Senate Dirksen Building.

What was unfolding in the testimony by a very distinguished American was that the United States—and, indeed, this hemisphere—is under attack by a grievous, evil, massively equipped enemy in the name of the Cali cartel or Mafia, or drug lords running with abandon in this hemisphere.

There are five countries in this hemisphere that are at grave risk at this very moment. One is the United States, the second is Mexico, the third is Colombia, the fourth is Peru, and the fifth is Boliva; not to suggest that there are not other countries in the hemisphere that fall prey to the circumstances, but these five countries in particular are embroiled in a massive confrontation with this Mafia drug organization.

Madam President, there is no other threat that more seriously challenges the national security of the United States and of this hemisphere than these cartels, this Mafia, these drug lords. They are threatening the lives and safety and welfare of the citizens of this country, the others I have mentioned, and this hemisphere. We are suffering more casualties, Madam President, in the United States annually than we suffered in the entirety of the Vietnam war.

I would suggest, Madam President, that the fabric of democracy—this is a hemisphere of democracies—the fabric of democracy is threatened and at risk this very day in this confrontation with this evil force.

Let me just share with you for a moment, Madam President, the scope of the enemy we are confronting. This Mafia organization earns $12 to $15 billion in annual revenues. The cartel has the resources and the sophistication to penetrate every fabric of social, political, and economic life in this hemisphere. They can literally buy countries. These large criminal drug trafficking empires are better armed than many police forces. They have more sophisticated equipment than many of the armies of the hemisphere. The cartels have the money not only to buy the best minds—MBA's, accountants, lawyers—they are buying police forces, judicial systems, and in some cases, governments.

They work around our best interdiction efforts, now flying large cargo jets, 727's, with up to 10 tons of cocaine into Mexico, where it is then distributed to the United States.

Madam President, I would like to share some of the remarks that we heard yesterday from, as I said, a very distinguished panel of Americans.

First, from Ambassador Robert Gelbard, who is Assistant Secretary of

State for International Narcotics and Law Enforcement Affairs, a very distinguished former Ambassador to Bolivia, very knowledgeable with this entire subject. He said:

> The spread of international narcotics trafficking constitutes one of the most persistent and serious challenges to America's foreign and domestic interests in the post-cold-war era.

He went on to say that:

> Cocaine consumption by casual users fell significantly between 1985 and 1992.

But it is now on the rise again.

He says:

> The potential for the problem to get worse is great.

And I would underscore that 100 times.

We heard from Stephen H. Greene, Deputy Administer of the Drug Enforcement Agency. He says:

> The technological capabilities of the Cali Mafia may very well be impenetrable.

I repeat: It may very well be impenetrable.

> The Cali Mafia has now formed a partnership with transportation organizations in Mexico, with whom they work hand in glove to smuggle increased amounts of drugs across the U.S. border. Drug trafficking organizations in this hemisphere continue to undermine legitimate governmental institutions through corruption and intimidation. Here at home, drug availability and purity of cocaine and heroine are at an all-time high.

Madam President, Mr. John Walters, who is president of the New Citizenship Project and former Acting Director and Deputy Director for Supply Reduction Office at the Office of National Drug Control Policy, says that:

> Between 1977 and 1992, illegal drug use went from fashionable and liberating to unfashionable and stupid. Overall casual drug use by Americans dropped by more than half between 1985 and 1992.

A period for which there was intense education about the damage of drugs.

> Monthly cocaine use declined by 78 percent.

That has turned around, Madam President, and now it is skyrocketing.

> Last December, the University of Michigan announced that drug use, particularly marijuana use, by 8th, 10th, and 12th graders rose sharply in 1994, as it did in 1993 after a decade of steady decline.

These are terribly alarming statistics, affecting the personal general safety and welfare of our own citizens.

Madam President, let me share with you just for a moment the cost that this represents to our fellow citizens in this country. Each year, the drug cartels ship hundreds of tons of cocaine in the United States, killing and maiming more Americans each year than died in all the years of engagement in Vietnam. And 2.5 percent of the live births in the United States are now cocaine crack exposed babies—100,000 per year. We have had a lot of talk about children in this Chamber over the last few hours and days. And yet, we seem to accept that 100,000 new babies are born as crack babies in the United States. Each year, the cartel drains $70 to $140 billion in revenues out of the United States. That is $70 to $140 billion, Madam President. If this trend continues, 820,000 children will try cocaine in their lifetime; 58,000 of them will become regular users.

Well, Madam President, we can get caught up in the statistics, but the point I am trying to make here this morning is that the United States, Mexico, Colombia, Bolivia, and Peru are all at grave risk and are being challenged openly and directly by a powerful, brutal force that on a daily basis is costing the lives of our fellow citizens and are putting at jeopardy the very fabric of this democratic hemisphere.

Madam President, when we get into these discussions, there is a lot of fingerpointing. And there is certainly plenty of room to do that.

I do want to point out, as we address this issue, that in each of these countries, there have been citizens who have fought valiantly—in the United States, in Mexico, Colombia, Brazil, Peru, Bolivia—who have fought these problems, who have died fighting these problems. And my remarks in that sense are not incriminating. I applaud the efforts that have been expended in our country and these others to address the problem.

But the fact remains that we have not solved this issue and there are circumstances in each of the countries that must be addressed. I would suggest that a new focus needs to be brought to this crisis.

I would suggest the forming of a new alliance of these five countries; that we must come to the table; that we must sit across the table from one another and we must approach the new century by lifting the bar, by lifting the standard of what we are going to achieve; that we must set our sights, these countries directly affected, these countries in the hemisphere must bring this era of abuse and attack on the citizens of the hemisphere to an end.

I would suggest that we have the technology to remove the product, the coca leaf, and we ought to do so as quickly as possible.

By the end of this century, the coca leaf should not be able to be grown in the hemisphere.

I read from the International Narcotics Control Strategy Report issued in March of this year:

> The United States, which has pinpointed the major growing areas, has spray aircraft and a safe herbicide that can destroy illegal cultivation in a matter of months. Since the coca bush does not fully come on line until it is 18 months or 2 years old, these simple measures could deprive the cocaine trade of its basic material, crippling it, if not destroying it entirely. We need the necessary cooperation of the two largest coca growing countries to carry out this simple but effective crop-control measure.

Madam President, we simply must set as a goal among these five countries that we are going to eliminate this source of evil. We have the technology to do it. We have the knowledge of where the product is. It must be removed.

The chief kingpins behind these cartels are known and their locations are known and they must be arrested. Under the constitutional law of each of these countries, there are adequate provisions to arrest, detain, and punish these individuals doing so much damage in our country and throughout the hemisphere.

We must seek special rights of extradition so that these criminals can be brought to bay in the United States when they attack our citizens, as they are doing.

This is a stealth issue. This is an issue that is pervasive. If any other country was pouring chemicals into the United States causing the death or maiming of hundreds of thousands of citizens on an annual basis, it would not be tolerated. The whole Nation would rise up in defense. And yet we are quietly proceeding reducing the resources to attack this problem.

I am going to close, but I will just say that it is time for a new focus. I think these five major countries should come to the table. We need to mutually agree on the end game that the product will be eliminated, that the kingpins will be arrested and will understand that they will be on the run for the rest of their lives, and that other appropriate measures of cooperation, extradition and other laws for interdiction, and the like, will be put in place, and that once those standards are mutually agreed upon and that this hemisphere will not accept degradation of democracy and an attack on the citizens, we will set the bar. People will either participate or we will know permanently they are not cooperating.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia has 10 minutes to speak. Does the Senator from Georgia wish to yield?

Mr. NUNN. Madam President, I need to go ahead and make my remarks. I have been waiting for some time, but I will certainly yield.

Mrs. BOXER. I would like to make an inquiry if it is possible, that concluding the remarks of the Senator from Georgia, I be permitted to speak as in morning business not to exceed 10 minutes.

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana [Mr. COATS] is scheduled for 10 minutes. Does the Senator from California wish to ask unanimous consent for 10 minutes following the Senator from Indiana?

Mrs. BOXER. Yes, that would be perfectly acceptable. I make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from California will have 10 minutes following the Senator from Georgia and the Senator from Indiana.

Mrs. BOXER. I thank my colleagues.

Mr. NUNN. Madam President, I ask unanimous consent that the time we used for that dialog not come out of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

POLICY ON HOMOSEXUALITY IN THE ARMED FORCES

Mr. NUNN. Madam President, in view of the recent attention to the policy on homosexuality in the Armed Forces, Senator COATS and I would like this morning to update the Senate on the status of the legislation which was enacted in 1993 as section 571 of the National Defense Authorization Act for fiscal year 1994. Both Senator COATS and I will be speaking to this subject this morning. I think that our joint statements certainly reflect the continuing bipartisan consensus in support of the basic legislation that was enacted in 1993.

This discussion is precipitated by the recent district court decision in Able versus the United States and the reaction to it. In my view, the Able decision was not correctly decided. I believe it will be reversed on appeal, particularly in view of the unusual approach taken by the district judge in which he, in effect, drafted his own statute, manufactured his own legislative purposes, and reviewed the policy without regard to the standards articulated over a long period of years by the Supreme Court of the United States. And I will speak further to each of those matters.

I believe that our legislative record is solid and the case will be reversed on appeal, and I do not see any need for further legislative action at this time.

BACKGROUND

At the outset, I would like to summarize briefly the events which led to the enactment of this legislation. A more detailed discussion of these events is in the committee's report on the legislation, Senate Report 103-112.

The prohibition on homosexual acts has been a longstanding element of military law. The prohibition on service by gay men and lesbians has been covered in military regulations.

In September 1992, during the Senate's debate on the National Defense Authorization Act for fiscal year 1993, Senator Howard Metzenbaum offered an amendment that would have established a "prohibition on discrimination in the military on the basis of sexual orientation." I observed that "this subject deserves the greatest care and sensitivity" and stated:

> We will have hearings on the subject next year. We will hear from all viewpoints, and we will take into consideration the viewpoints of our military commanders, the viewpoints of those in the homosexual community, the viewpoints of those who are in uniform who may be homosexual, gay, and we will also consider the men and women in uniform who are not in that category and the effect it would have on military morale.

Based upon the assurance that hearings would be held in 1993, Senator Metzenbaum withdrew his amendment.

During the 1992 election campaign, Presidential candidate Bill Clinton said that, if elected, he would take action to change the current policy restricting the service of gay men and lesbians serving in the Armed Forces. He also spoke of the need to consult carefully with the military leadership on this issue. After the election, he reiterated his views on changing the policy and the need to consult with the military leadership.

Secretary of Defense Aspin, during his confirmation proceedings in January 1993, indicated that there would be extensive consultations with Congress on this subject.

Shortly after the Inauguration, a series of media reports suggested that a significant change in the Department's policy was imminent. A number of Senators indicated that they would offer an amendment early in the congressional session that would prohibit any change in policy. I expressed the view that neither the executive branch nor Congress should institute a significant change in the current policy, by Presidential order or by congressional action, prior to undertaking a comprehensive review, including hearings, on this subject.

In late January, I participated in a series of meetings with the President on the subject of homosexuality in the Armed Forces. Other participants included then-Senate majority leader George Mitchell and Democratic members of the Senate Armed Services Committee. In addition, I consulted extensively with members of the Joint Chiefs of Staff.

As a result of these meetings and further discussions with the President, an interim policy was announced by the President on January 29, 1993, to remain into effect until July 15, 1993. This interim policy retained then-existing rules restricting the service of gay men and lesbians in the Armed Forces. The policy also set forth two modifications that would apply during the interim period. First, reflecting a recommendation made by the Joint Chiefs of Staff, new recruits would not be questioned about homosexuality during the enlistment process. Second, gay and lesbian cases that did not involve homosexual acts would be processed through separation from active duty, and the individual would be placed in a nonpay status in the Standby Reserve during this interim period.

In addition, the President directed the Secretary of Defense to conduct a review of the current policy and to provide him with a draft Executive Order by July 15, 1993.

On February 4, 1993, during Senate consideration of the Family and Medical Leave Act, the Senate debated two amendments related to the service of gay men and lesbians in the Armed Forces.

The first amendment would have frozen in law "all Executive Orders, Department of Defense Directives, and regulations of the military departments concerning the appointment, enlistment, and induction, and the retention, of homosexuals in the Armed Forces, as in effect on January 1, 1993." The amendment was tabled by a vote of 62-37.

The Senate then unanimously adopted an amendment expressing the Sense of Congress that the Secretary of Defense should conduct "a comprehensive review of the current Department of Defense policy with respect to the service of homosexuals in the Armed Forces." The amendment further expressed the sense of Congress that the results of the review should be reported to the President and Congress not later than July 15, 1993. In addition, the amendment expressed the sense of Congress that the Senate Committee on Armed Services should conduct comprehensive hearings on the current military policy and should conduct oversight hearings on the Secretary's recommendations as such are reported.

The amendment, as adopted, was enacted as section 601 of the Family and Medical Leave Act of 1993, Public Law 103-3. The Senate also agreed to an order that effectively precluded consideration of any further amendments in the Senate relating to the service of gay men and lesbians in the Armed Forces until July 15, 1993. This procedure permitted the Department of Defense and the Committee on Armed Services to conduct their reviews prior to legislative action on specific amendments.

THE LEGISLATION

Madam President, the legislation passed in Congress in 1993 contains 15 findings, which address the constitutional role of Congress in establishing military manpower policy, the unique nature of military service, and the fact that the presence in the military of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to military capability.

The legislation codifies specific grounds for discharge—homosexual acts, statements, and marriages—reflecting DOD's longstanding policy on homosexuality in the Armed Forces. The legislation also provides the Secretary of Defense with discretion to reinstate accession questioning if the Secretary determines it to be necessary to effectuate the restrictions on homosexuality in the Armed Forces.

On February 28, 1994, the Department of Defense issued final regulations implementing the legislation.

THE LITIGATION

In the 13 months since the regulations were issued, there have been a number of judicial decisions addressing homosexuality in the Armed Forces, but most have dealt with the old administrative rules rather than the new legislation. The authority of the Armed Forces to discharge members based upon homosexual acts has been routinely sustained by the courts, including those courts such as the ninth circuit, that have questioned separation based on statements.

Two leading cases illustrate the differing approaches that the courts have taken on the impact of statements. In *Meinhold* v. *Department of Defense*, 34 F.3d 1469 (9th Cir. 1994), a case arising under the old policy, the ninth circuit held that a servicemember could not be discharged solely because he or she said "I am gay" but could be discharged for making a statement which "manifests a concrete expressed desire or intent to engage in homosexual acts." The court reached this conclusion based on its construction of the regulations, which make it unnecessary to decide any constitutional issue.

In *Steffan* v. *Perry*, 41 F. 3d 677 (D.C. Cir. 1994), the D.C. Circuit ruled that the statement "I am gay" constituted sufficient evidence under the regulations of a propensity or intent to engage in homosexual acts to justify a discharge. The court rejected any constitutional challenge to a discharge based upon such a statement.

Last week, in a case arising under the new legislation, a judge in the U.S. District Court for the Eastern District of New York took a different approach. In Able versus United States, Judge Nickerson held that the act and the implementing directives violate the first amendment as a restriction on speech and the fifth amendment as a denial of equal protection. The judge's decision applies only to the six plaintiffs in the case, and has no wider direct application. As a result, the legislative policy remains in effect.

Madam President, to put this matter in perspective, there are over 600 district court judges in the United States, and it was predictable some district judge somewhere in the country would rule the statute unconstitutional. That does not mean though that the upper courts will uphold this. I made this point at the time the legislation was enacted. I also said that I believed the legislation would be sustained on appeal.

I am pleased that the Clinton administration has made it clear that it will appeal the Able decision, and I continue to believe that the legislative policy will be sustained on appeal.

My confidence is even higher after reading the opinion. In my view, the opinion does not reflect sound judicial craftsmanship or scholarship. The district court's opinion ignores the plain word of the statute, misconstrues the legislative history, relies on speculation about the purposes of the legislation rather than the clear words of the statute, and fails to discuss circuit court opinions which take a contrary view.

There are many flaws in the Able decision, which will undoubtedly be raised on appeal. Today, I will highlight some of the more egregious errors from a congressional perspective.

First, the decision misstates the definition of homosexuality in the statute and then proceeds to analyze the statute in terms of the judge's erroneous definition.

The opinion states:

> The first question for the court is whether the Government may under the first amendment prohibit a member of the Services from stating that he or she is a homosexual, that is, that he or she has "an innate feeling within"—

I am emphasizing those words—

> that indicates the status of a homosexual.

This completely ignores the specific conduct-based definition in the statute, which provides:

> The term "homosexual" means a person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts, and includes the terms "gay" and "lesbian".

The statute talks about conduct, what a person does or intends to do.

We do not mention what the judge put so much emphasis on, that is, in his words, "an innate feeling within that indicates the status of a homosexual". That is nowhere in the statute. Judge Nickerson, in effect, rewrote the statute to conform to his own views of his concept of "status."

Second, the decision disregards the Supreme Court standard of review in military cases. As the Supreme Court stated in *Rostker* v. *Goldberg*, 433 U.S. 57 (1981), "judicial deference to * * * congressional exercise of authority is at its apogee when legislative action under the congressional authority to raise and support armies and make rules and regulations for their governance is challenged." The Supreme Court emphasized that a court may not "substitute [its] own evaluation of the evidence for a reasonable evaluation by the legislative branch."

The Able decision, however, is replete with the district court's evaluation of the testimony presented in congressional hearings, while ignoring virtually all of the analysis presented by authoritative sources such as the committee's report.

Third, although the Able decision assumes there is no rational basis for the presumption that a statement by an individual that he or she is gay indicates a likelihood that the service member engages in or will engage in homosexual acts, the court makes no attempt to address the opinions that are directly contrary in *Steffan* v. *Perry*, 41 F.3d 677 (D.C. Cir. 1994) and *ben Shalom* v. *Marsh*, 881 F.2d 454 (7th Cir. 1989), cert. denied 110 S.Ct. 1296 (1990), which found the presumption to be valid.

It is a puzzle to me how a district court judge completely ignored—he can disagree if he chooses—but how he completely ignored two circuit court opinions on this subject.

Fourth, the Able decision bases its equal protection analysis on the unwarranted assumption that the legislation is based upon the irrational prejudice of service members against gays and lesbians. The decision totally ignores the lengthy discussion of the issue of prejudice and stereotypes in the committee's report on the legislation, in which the committee concluded that "our position on the service of gays and lesbians is not based upon stereotypes but on the impact in the military setting of the conduct that is an integral element of homosexuality."

Fifth, instead of relying on the legislation and the committee report, the Able decision manufactures its own view of the legislation. The decision states:

> Although the act's findings are silent as to the response of heterosexuals to the presence of known homosexuals in the services, the court will analyze the act as if it said that a statement of homosexual status was in itself an evil because heterosexuals would not like to hear it and would react so as to damage unit cohesion.

Madam President, it is a very large leap from the Supreme Court's decision in the Rostker case, which requires deference to Congress in these matters, to the decision of the district court in Able, in which the judge disregards the analysis provided by the committee and substitutes his own version of what he thinks motivated the Congress.

In summary, Madam President, the judge in Able has drafted his own statute, manufactured his own legislative purposes, and reviewed the policy without regard to the standards articulated by the Supreme Court. That is not what the Founding Fathers had in mind when they drafted a Constitution based upon the separation of powers.

Madam President, the media understandably have focused on the inflammatory language in the opinion, such as the suggestion that the policy is "Orwellian" and that it ignores what "Hitler taught the world," in the judge's view.

The opinion is long on rhetoric and short on analysis. Speaker GINGRICH, in reaction, has raised the issue of whether we should reopen the legislative debate and reinstate the policy that predated the legislation.

In my view, Madam President, we should not do so. The policy on homosexuality in the Armed Forces is on much stronger ground than it was prior to enactment of this legislation. It is more likely to be sustained in the Supreme Court based on the law and the findings of Congress than if we went back to the old standards which were based on regulatory policy alone.

We have a strong legislative record, reflecting the common agreement of the civilian and military leadership of the Department of Defense, and of the Congress, that there is a clear military need for the policy on homosexuality in the armed forces. We have a detailed set of legislative findings, which we did not have prior to enactment, setting forth the basis for the policy. We have clear procedures for separation proceedings based upon homosexual acts, statements, and marriages.

The legislative policy is clearly consistent with the preexisting administrative policy requiring separation on the basis of homosexual acts, statements, and marriages. The new policy, of course, makes a change in previous practice in that the legislation does not require the government to initiate questions to an individual about homosexuality, and the regulations do not currently permit such questions to be asked. As I noted earlier in my statement, the recommendation to drop such questioning from the enlistment form was made by the Joint Chiefs of Staff—our military leadership—based on their determination that the questioning was not necessary to effectuate the policy on homosexuality in the Armed Forces.

During our hearings, the military chiefs, when asked for their personal opinions about this policy—General Powell, General Sullivan, Admiral Kelso, General McPeak, General Mundy, and Admiral Jeremiah—each stated he supported the policy.

Each was also asked whether the policy could be implemented in a manner consistent with morale, good order, with discipline, with unit cohesion, and without a degradation in readiness. Each responded that the military could actually implement the policy without such adverse effects.

Mr. President, the policy in effect reflects the recommendations of the military leadership, which were endorsed by the civilian leadership and enacted by the Congress. Members on both sides of the aisle worked closely to ensure that there was a solid legislative record based upon sound military requirements. The hearings were conducted with dignity and respect for all involved, and reflected a sober, careful analysis of a very difficult time.

In my judgment, Mr. President, there is no need at this time for any legislative action. The policy is in place. The policy is working. I do not believe that the opinion in the Able case will survive appellate judicial scrutiny, particularly in light of the clear legislative findings and sound congressional action reflected in the statute. There is no call on the part of our military leadership for change. On the contrary, they believe the policy is working well. Moreover, if they come to the conclusion in the future that it is necessary to reinstate questioning, the statute gives the Department of Defense the authority to do so without further legislative action. In the absence of evidence that a legislative change is needed, it is my recommendation that the Congress take no further legislative action at this time.

The PRESIDING OFFICER. According to the previous order, the Chair recognizes the Senator from Indiana.

Mr. COATS. Madam President, I thank my colleague from Georgia for his statement, and hopefully this will complement that statement. I will attempt not to repeat in areas that he has already addressed.

Section 654(b)(2) of title 10, United States Code, governing military matters states that a member of the Armed Forces shall be separated from the Armed Forces if it is appropriately determined:

> (2) that the member has stated that he or she is a homosexual or bisexual, or words to that effect, unless there is a further finding, made and approved in accordance with procedures set forth in the regulations, that the member has demonstrated that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

The law defines a "homosexual" as:

> a person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts, and includes the terms "gay" and "lesbian."

On Thursday of last week, in the case of Lieutenant Colonel Jane Able et al. versus United States of America, Judge Eugene H. Nickerson, a Federal district court judge sitting in Brooklyn, ruled that the portion of the current homosexual policy contained in title 10, United States Code, section 654(b)(2) and its implementing directives, which addresses statements by individuals, violates the first and fifth amendments of the Constitution.

This court decision is the first one involving the current policy on homosexuals in the military.

Judge Nickerson's ruling allows six self-proclaimed homosexuals to remain on active duty. These six individuals originally filed the suit anonymously and only stated that they were gay.

The issue of whether an individual has a protected right to state they are a homosexual has already been decided by the courts. Declaration of one's homosexuality cannot be logically separated from homosexual acts under free speech. The Senate report on the National Defense Authorization Act for fiscal year 1994 which accompanied the new statute cited the case of Ben Shalom versus Marsh:

> The admission is not a statement protected by the free speech guarantees of the First Amendment because it can rationally and reasonably be viewed as reliable evidence of a desire and propensity to engage in homosexual conduct.

That case goes on to say:

> The Army does not have to take the risk that an admitted homosexual will not commit homosexual acts that will be detrimental to its assigned mission.

To be very basic, the courts have ruled that if you say you are a soprano, people can logically conclude that you sing. Judge Nickerson's decision clearly rejects longstanding court precedent. It is early in the judicial process, but I am confident that the constitutionality of the current policy will prevail.

In 1993, the Senate began its investigation of what effect homosexuals have on the military. It held hearings on March 29 and 31; April 29; May 7, 10, and 11 and July 20, 21, and 22. Testimony was gathered from soldiers, sailors, airmen, and marines. The Secretary of the Department of Defense and the Chairman of the Joint Chiefs of Staff also appeared before the Armed Services Committee and gave extensive testimony from their knowledge of the Armed Forces. There were panels of witnesses from the academic community, as well as from the Senate. The committee also heard from active and retired military officers and enlisted personnel, homosexuals who had been discharged from the services and members of the military and civilian legal community. Literally hundreds of hours of research were conducted. The chairman and ranking member of the Senate Armed Services Committee both dedicated themselves to the most comprehensive examination of this issue that has ever been conducted. Their efforts took them to military installations and onto ships and submarines. This issue was also debated by the committee with the House Armed Services Committee and discussed with members of the administration on several occasions.

All of the committee's efforts made one thing abundantly clear. It was best pointed out in General Powell's testimony before the committee.

I would like to take just a moment of the Senate's time to go over General Powell's statements because they were extremely valuable to the decision process of the committee of the Congress and the administration. Let me now quote from that testimony.

> We have challenged our own assumptions. We have challenged the history of this issue. We have argued with each other. We have consulted with our commanders at every level, from lieutenant (and) ensign all the way up to the commander in chief(s) of the various theaters. We have talked to our enlisted troops. We talked to the family members who are part of the armed services team. We examined the arguments carefully of those who are on the other side of the issue from us.

After all this work by the Department of Defense, General Powell concludes as follows:

> The presence of open homosexuality would have an unacceptable detrimental and disruptive impact on the cohesion, morale, and esprit of the armed forces.

In short, trained, successful, intelligent, experienced military and civilian personnel are of the opinion that admitting homosexual individuals to the military will rob our forces of the most essential element of a fighting force; its cohesion, morale, and esprit. Is this an irrational conclusion? General Powell eloquently addressed this as well. He stated:

> Unlike race or gender, sexuality is not a benign trait. It is manifested by behavior. While it would be decidedly biased to assume certain behaviors based on gender or membership in a particular racial group, the same is not true for sexuality.

On November 30, 1993, 10 months after this effort began, the President signed the National Defense Authorization Act for Fiscal Year 1994 which contained the new policy at section 571.

The act codified the military's longstanding ban on homosexuals serving in the military. It was not the result of a knee jerk reaction but the steady work of the U.S. Congress which took into full consideration the needs of the services and the rights of individuals. Judge Nickerson's ruling is the ruling of a single judge in a single district and is not the consensus of the judicial community as a whole. It is not unusual for a case to be lost at the district level. The circuit courts are full of cases being appealed from district courts. The White House, the Department of Justice, and the Department of Defense all agree that an appeal is in order and will take place this summer. Many appeals are met with decisions which reverse the lower courts. We recently witnessed just such a reversal in the case of Joseph E. Steffan.

The law of the land is quite clear. In addressing this matter, Congress exercised its Constitutional prerogative, section 8, U.S. Constitution to—

> * * * raise and support Armies, * * * provide and maintain a Navy, * * * and * * * to make Rules for the Government and Regulation of the land and naval Forces.

In the process, Congress made a number of findings:

First, there is no constitutional right to serve in the Armed Forces.

Second, pursuant to the powers conferred by section 8 of article I of the Constitution of the United States, it lies within the discretion of Congress to establish qualifications for and conditions of service in the Armed Forces.

Third, the primary purpose of the Armed Forces is to prepare for and to prevail in combat should the need arise.

Fourth, the conduct of military operations requires members of the Armed Forces to make extraordinary sacrifices, including the ultimate sacrifice, in order to provide for the common defense.

Fifth, success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion.

Sixth, one of the most critical elements in combat capability is unit cohesion; that is, the bonds of trust among individual service members that make the combat effectiveness of the individual unit members.

Seventh, military life is fundamentally different from civilian life in that—

The extraordinary responsibilities of the Armed Forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a specialized society; and

The military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.

Eighth, the standards of conduct for members of the Armed Forces regulate a member's life for 24 hours each day beginning at the moment the member enters military status and not ending until that person is discharged or otherwise separated from the Armed Forces.

Ninth, those standards of conduct, including the Uniform Code of Military Justice, apply to a member who has a military status, whether the member is on duty or off duty.

Tenth, the pervasive application of the standards of conduct is necessary because members of the Armed Forces must be ready at all times for worldwide deployment to a combat environment.

Eleventh, the worldwide deployment of U.S. military forces, the international responsibilities of the United States, and the potential for involvement of the Armed Forces involuntarily to accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.

Twelfth, the prohibition against homosexual conduct is a long-standing element of military law that continues to be necessary in the unique circumstances of military service.

Thirteenth, the Armed Forces must maintain personnel policies that exclude persons whose presence in the Armed Forces would create an unacceptable risk to the Armed Forces' high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

Fourteenth, the presence in the Armed Forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

If there is any remaining confusion about the policy, the Department of Defense should ensure that all directives, implementing regulations, and teaching manuals are crystal clear. Homosexuality is incompatible with military service. Homosexuality has always been, and continues to be defined by conduct. Speech is conduct, for it is rational to conclude that members of the military who say they are homosexuals have a propensity to engage in conduct. The military should not be made to bear the risk.

I fully anticipate that the Supreme Court will carefully review the body of work Congress placed into law. I believe that the strong policy set forth in 10 United States Code section 654 will fully meet the constitutional test.

I agree with Senator NUNN that no additional legislation is needed at this time. The law is sufficient. I am confident the court will uphold that law.

Obviously we would tend to closely monitor these judicial proceedings, the implementation of department regulations, and the administration's defense of the current law. But the current law is sufficient, in my opinion. I would just assure my colleagues that we intend to pay very close attention to the implementation of that law—as was clearly expressed with solid majority support of this Congress, with the support of this administration.

I ask the Senator from Georgia if he has any additional comments?

The PRESIDENT pro tempore. The Senator from Georgia.

Mr. NUNN. Mr. President, I wanted to thank the Senator from Indiana for his statement this morning, which shows that we have a united view here. I know the Chair, the Senator from South Carolina, the chairman of the committee, also agrees with our view and has made that clear in his statement. So I think we have very strong consensus in our committee. I thank the Senator from Indiana for the tremendous amount of work he has done on this issue over the last years. He has been an extraordinary partner in dealing with a very difficult, sensitive issue, but one that is important to the U.S. military and our national security. So I thank him very much for his support.

Mr. COATS. I thank the Senator. Without his leadership I do not believe we could have been successful. It has truly been a bipartisan effort and the then-chairman of the Senate Armed Services Committee's leadership was invaluable to this process.

As I said it was the most extensive set of hearings and extensive investigation ever conducted on this subject or perhaps any other subject. That has been placed as a matter of record and is part of the law. I thank him for his support and leadership.

Mr. THURMOND. Mr. President, Judge Eugene H. Nickerson, a district judge for the Eastern District of New York, has rendered a decision in the

Able versus United States case that declares a portion of the don't ask-don't tell policy in violation of the first and fifth amendments to the Constitution as it relates to six plaintiffs. While this is a narrow ruling, it is also, in my opinion, an incorrect ruling and must be appealed to the second circuit court. I have been assured by the Department of Defense and the Department of Justice that an appeal is being formulated and briefs will be filed in a timely manner. A decision from the second circuit could come as early as this fall.

The Senate Armed Services Committee and the Senate worked hard to craft a constitutional policy that protects individual rights and yet provides our fighting men and women with the right kind of environment in which to build the highest morale, discipline, and esprit in their units. I wish to remind all of you that we bear a tremendous responsibility to our men and women in uniform. They rely on us to make certain they are given every opportunity to survive in combat. It is our responsibility to provide them the best places to train and live, the best equipment possible and the very finest in care for their families. In addition, we must not do anything that could reduce the soldiers' most valuable asset—unit cohesion.

Today, Senator NUNN, Senator COATS, and I are addressing this recent court decision. We worked long hours producing the current policy and both of them agree with me that we need to let the judicial system complete its process. I am confident that the final decision will uphold the constitutionality of the new policy and that it will serve the military well.

MEASURE PLACED ON THE CALENDAR—H.R. 849

Mr. COATS. Mr. President, I understand there is a bill that is ready to be read a second time?

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will read the bill the second time.

The bill clerk read as follows:

A bill (H.R. 849) to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers; and for other purposes.

Mr. COATS. Mr. President, I object to further proceedings on the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

The distinguished Senator from California is recognized.

Mrs. BOXER. Mr. President, I ask unanimous consent to continue for a full 15 minutes as in morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE CONTRACT WITH AMERICA

Mrs. BOXER. Mr. President, I am down here on the floor of the Senate this morning, almost this afternoon, to talk about the celebration that is going to take place here at the Capitol by the Republicans on the House side, based on the 100 days after their so-called contract for America.

They are bringing the circus to town for this celebration. In one way, I think it is appropriate that they bring the circus to town because, as I watch the proceedings, part of my heart is still in the House of Representatives. I served their proudly for 10 years. It has been pandemonium over there, in one Senator's view; a barrage of activity into the wee hours of the morning. And, in my view, in many of these areas they have just gone too far, too fast, too sloppily. I think proof of that is the fact that the Senate has slowed down their momentum and I believe we will continue to do this as reasonable people in this body, regardless of party, look at their activity, think about their activity, review their decisions, and come up with more reasonable legislation.

An example of that, they sent over a moratorium bill which would have stopped regulations—all kinds of important safety regulations, for example—from going into effect. And this Senate never even took it up. They put forward a very sensible approach to regulations. That is just one example of how the Senate is slowing down the contract for America.

So in one way it is appropriate that the circus is coming to town. But on another level it is inappropriate because who loves the circus the most? Kids. And who gets hurt the most by the contract? Kids.

So, in some ways, to me, there is a real irony in bringing the circus to town and the kids to the circus to celebrate the contract which hurts the kids—perhaps more than any other group, although many of us get hurt by this contract.

Why do I say it is the kids had who get hurt? This is not rhetoric. This is not overstatement. This is fact.

I ask unanimous consent to have printed in the RECORD the cuts just in these rescission bills that are asked for, by the Republicans, that cut out kids, that hurt kids.

I ask unanimous consent to have this document printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT ON S. 617, SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS—IMPACT ON CALIFORNIA

(By Senator Barbara Boxer)

S. 617 as reported by the Senate Appropriations Committee is a classic Hobson's Choice for California. My state stands in line at the livery stable, waiting for a horse to hire. When she gets to the stable door, the man in charge says "take this one or none". The problem is, the horse offered is a dangerous and destructive outlaw, one that's sure to throw her. So what does she do? Take the one offered so that she can get where she's going? Or reject it and walk? Mr. President, I conclude that California should reject this nag and take a walk.

The amendment offered by the Senator from Maryland, Senator Mikulski, is a far better alternative, and I am happy to have the chance to support it.

Let me explain for the record a few of the most egregious examples of why the bill as reported is a bad deal for my state.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS (CDFI)

The bill would rescind $124 million of the Fund's $125 million appropriation for FY 1995.

The CDFI Fund is important to California. More than 20 established CDFIs serve California citizens that otherwise would have no access to lending or financial services.

For example, the Low Income Housing Fund (LIHF), a large CDFI based in San Francisco, works to increase the amount of capital available for the development of affordable housing. The LIHF serves a wide range of financing needs that are not typically met by other lenders, including construction and gap financing and interest rate subsidies.

There are several new California CDFI's that are currently in the process of formation. For example, the Neighborhood Bancorp., a San Diego CDFI, was recently granted a charter from the Office of the Comptroller of the Currency and is raising capital from private investors.

The Fund helps these institutions raise the capital they need to provide services to distressed communities in California and across the nation.

The Fund was established last year. It got unanimous approval in the Senate and was passed by a vote of 410–12 in the House.

The Senate bill also rescinds:

$47 million from the Economic Development Administration (EDA). This program funds general economic development planning and infrastructure. Historically, California receives about 15% of EDA funds, or about $6 million. Communities use EDA grants to improve economic competitiveness and create jobs.

$27 million from the National Institute of Standards and Technology (NIST). Funds would be cut from the Manufacturing Extension Partnership Program (MEP), which provides small and medium sized companies with manufacturing assistance. The MEP is based on the highly successful Agriculture Extension program. There are currently MEP centers in Southern California that provide assistance to defense contractors seeking to diversify their businesses. Also, we hope to introduce a MEP in the Bay Area soon.

$93.5 million from the Base Realignment and Closure (BRAC) Account for 1993. This program funds closure related expenses for bases scheduled for closure in 1993. In California, such bases include the Alameda Naval Complex and the Mare Island Shipyard. The BRAC account funds environmental cleanup costs, moving costs, and new construction costs at bases receiving workload. The exact impact of this rescission is impossible to determine, but it is reasonable to worry that this rescission could delay the closing of California military bases.

ENVIRONMENTAL PROTECTION

The Committee bill would cut $1.2 billion from water cleanup infrastructure funding.

$799 million of this cut would come from grant money to the States to help them establish revolving loan funds to finance drinking water improvements. This funding would be available to the states once Congress authorizes such state funds in a new Safe Drinking Water Act. The remaining $433 million would come from funds set aside for specific projects.

California's share of the drinking water fund under the current allocation formula would be $57 million. Specific California projects that would loose their FY95 funding include City of LA ($50 million), Mojave Water Agency ($10 million), Lake County ($2 million). California communities whose projects would be spared include San Diego, San Francisco, County of LA, Tijuana, and border cleanup near the New River.

The Committee bill would cut $100 million from the Superfund program. This cut would significantly slow cleanups at many of California's 96 Superfund sites, including the 18 closing and operational military bases on the Superfund list.

AGRICULTURE

The Committee bill would cut $1.5 million from a new USDA salinity research lab at the University of California at Riverside. This lab is designed to grapple with salinity and other runoff problems endemic to the kind of irrigated agriculture that dominates California agriculture. Such a funding cut would prevent the installation of the new labs equipment.

NATURAL RESOURCES

The Committee bill would cut $3 million from the Fish & Wildlife Service, effectively barring new listings of animal and plant species as "endangered" or "threatened" under the Endangered Species Act.

Timber Rider: An amendment attached to the bill would require the Forest Service (under USDA) and the Bureau of Land Management (under the DoI) to sharply increase "salvage logging" in western forests. Unlike the House version of this language, the Committee bill would not require a particular cut level. It would, however, effectively waive several important environmental safeguards.

Forest health is a problem in California and throughout the west, but this extreme approach threatens both forest ecology and cooperative efforts like the Quincy Library Group.

ENERGY

The Committee bill would cut $48 million from the Department of Energy's programs to boost energy efficiency. DoE cannot give a precise breakdown of how much of this funding California would loose, but the amount would be significant because of California's leadership position on the development and use of these technologies.

This includes a proposed $10 million cut from the program used by federal agencies to weatherize low income homes—a cut that will mean about 240 fewer weatherized homes under this program in California.

This also includes a $5 million cut from the Clean Cities Program which supports the purchase of clean vehicles by federal agencies to match such purchases by cities. The California cities affected by this lost funding include, Fresno, Sacramento, San Jose, San Francisco, Oakland, and Long Beach.

The Committee bill would cut $35 million from solar and renewable energy research and commercialization programs. DOE cannot give a precise breakdown of how much of this funding California would lose, but the amount would be significant because of California's leadership position on the development and use of these technologies.

EDUCATION

$55.8 million would be rescinded from grants for state reform initiatives under the Goals 2000 law. California would lose over $6 million in federal funds which were to be used for innovative programs emphasizing math and reading.

$72.5 million in Title I finds for educating disadvantaged children. Title I funds are distributed by formula according to the number of poor children in a school district. California would lose $8.7 million in federal funds, affecting services to approximately 8,500 California students.

$100 million for the Safe and Drug Free Schools program for drug prevention and safety measures. California would lose $10 million. 97% of all school districts in California benefit from this program.

$69 million for teacher training under the Eisenhower Professional Development Program, which has a special emphasis on training in the areas of math and science. California would lose $7.6 million in funds.

$5 million for education technology programs to bring more computers to the classroom and help schools purchase software. California ranks 50th in the nation on the number of schools with computers in the classroom. California loses $500,000 in funds.

CHILDREN

$42 million for Head Start, a comprehensive preschool program for low-income children that combines learning with social services and parental involvement. Approximately 9,000 children nationwide would lose services.

$8.4 million for the Child Care and Development Block Grant which provides funding to states to increase the availability, affordability and quality of child care. California would lose approximately $840,000 and 240 California families would not get child care. eligible for child care assistance under the block grant, but only funding for 1,646 children. The odds of getting off the child care waiting list are 1 in 14.

$35 million for WIC which provides nutrition counseling and food packages to pregnant and post partum women and young children through age 4. This cut won't remove any women and children from the rolls, but it will impede the expansion of the program. California would lose $6.7 million in funds and would be unable to expand the program to serve an additional 20,000 women and children.

NATIONAL SERVICE

$210 million for national service programs, the largest of which is AmeriCorps. Federal funds go directly to the states to support locally designed and operated programs addressing unmet needs in the areas of education, public safety, health, housing and the environment.

AmeriCorps members serve roughly 1,700 hours full-time over a year and receive an education award worth $4,725 which may be used to pay for current or future college and graduate school tuition, job training, or to repay existing student loans.

A cut of this size would severely impact the AmeriCorps program by eliminating over 2,000 slots nationwide. In California alone there are 2500 AmeriCorps members serving in approximately 18 programs throughout the state.

HOUSING AND URBAN DEVELOPMENT

Rental assistance

The Senate bill would rescind $2.4 billion from incremental Section 8 vouchers and certificates. California would receive a rescission of approximately $300 million—denying approximately 6,000 low-income families in the state housing assistance. Many of these families have been on wait lists for years.

The money rescinded was to be used for incremental increases in housing vouchers and certificates—nationally, 62,000 new households would have been able to get housing with this funding. HUD had set aside 12,000 certificates for women with children who are homeless—the fastest growing part of the homeless population. An additional 3,000 certificates (nationally) were to be used for housing assistance for homeless people suffering from the AIDS virus.

Public housing modernization

The Senate would rescind $835 million for public housing modernization. HUD estimates that Public Housing Authorities in California would lose $37.9 million under the rescission. Without the modernization money Public Housing authorities would be unable to upgrade below-standard housing.

HEALTH AND HUMAN SERVICES

State legalization impact assistance grants (SLIAG)

$6 million would be rescinded under the Senate bill—no similar rescission was made in the House bill. It is estimated that California would likely receive at least 40 percent of the money. The money would be used to promote naturalization and citizenship for the immigrants legalized under IRCA, by providing for civics and English education.

Immigrant education

Immigrant education programs would be cut by $11 million nationally. No similar rescission was made in the House bill. California would receive $4.4 million of this amount. The money is used to provide assistance to local educational agencies that have large numbers of recently arrived immigrant children—this includes legal and illegal immigrant children. States like California are the large beneficiaries of the program because of the large influx of immigrant populations. No "head counting" of children is required for the local educational agency to receive funding. In a sense, this program is a reimbursement to states to help offset the cost of providing education to illegal immigrant children since no distinction is made between them and legal immigrant children.

JOBS

The Senate makes bigger cuts in Job Corps than the House, eliminating 12 new centers, including those planned in San Francisco and Long Beach.

The Senate bill does not rescind money for the 1995 summer youth jobs, but does eliminate $871.5 million for 1996 summer youth jobs. California is due to receive $147 million for next summer.

Both House and Senate bills eliminate the Youth Fair Chance program, which provides grants for education and job training to poor youth in communities with high poverty. Los Angeles was due to receive $2 million and Fresno $1 million under the $24.8 million program nationwide.

Both House and Senate bills cut adult job training programs by $33 million of which $5.5 million would be rescinded from California programs.

The Senate bill rescinds $472 million from the year-round program for youth job training, higher than the House rescission of $310 million. Based on the impact to California from the House level ($53 million), the impact to the state from the higher Senate level would be about $80 million.

DEPARTMENT OF TRANSPORTATION

The bill cuts $1.3 billion in airport improvement funds, which are used for runway construction, signals and other airport improvements. The funds are fully discretionary so no specific California project is targeted. However, California received about 8.7 percent in FY93. Applying that proportion for FY95 would mean $113 million less for California.

Although the Senate bill eliminates fewer California transit projects than the House bill, it would still take $1.9 million from San Diego commuter rail, $8 million from San Jose commuter rail and $1.76 million for the Vallejo Ferry.

The Senate bill rescinds $2 million from the Vessel Traffic System, an updated traffic control system that would be installed in San Francisco and Los Angeles-Long Beach. A $4 million Coast Guard support center at the LA-Long Beach ports complex is also rescinded.

CORPS OF ENGINEERS

The Senate bill increases the amount rescinded for Corps of Engineers construction from $40 million to $50 million. No state breakdown is available but this is a major account for California.

Mrs. BOXER. Mr. President, let us look at some of them. Head Start? I thought we had a national consensus in this country that Head Start works. I thought we had a bipartisan agreement that investing in our children at a young and tender age to get them on the right road to learning worked.

Well, they cut Head Start. They cut the Women, Infants, and Children Program. As a matter of fact, they basically end the program. What did this program do? It gave nutrition to pregnant women who could not get that nutrition.

I said on the floor yesterday, I am so proud I am going to become a grandmother for the first time.

I call my daughter every day. "Did you take your vitamins? Are you eating well? Are you gaining weight? Are you taking care of yourself?" She has the best care because she is fortunate to have insurance.

What about the other pregnant women? They are bringing children into this world, into America. Do we not want them to be strong to avoid having to be in an incubator, to avoid having to have learning disabilities because they did not have prenatal care? I thought we had a consensus, a bipartisan lead, on that question. But no. They actually end the WIC Program as a national program, and they will let the States decide how they are going to do this. And by the way, competitive bidding goes out the window. It is a giveaway to the largest infant formula companies—the winners in that one.

Drug free schools? I thought we had consensus on drug free schools. The police come in and they work in the Dare Program and teach the kids to say no to drugs. They cut that. They are proud of that. They are bringing the circus to town to celebrate that they are cutting drug free schools.

School-to-Work Program—getting kids ready to go to work, those who do not go off to college. They cut that. They cut AmeriCorps. They kill the AmeriCorps Program. What is it? National youth service. I thought we had bipartisan consensus here in the Senate when we voted for AmeriCorps. Our young people go into the community. I have met these AmeriCorps volunteers. They work with the children. They work with the elderly. I even got a letter from the Red Cross saying, "Please don't cut the AmeriCorps program." I am forwarding that to the majority leader because I know he likes the Red Cross. They use AmeriCorps volunteers. But they are going to eliminate AmeriCorps.

Summer youth jobs—jobs to teach our young people how important it is to be responsible. They cut that. They even want to do away with the Corporation for Public Broadcasting where our little kids could get quality programming like "Sesame Street", and "Barney", and the others, and zero out the National Endowment for the Arts that teaches those kids the arts, ballet, and music instruction. They are bringing the circus to town to celebrate their attack on the kids.

Do you know what the cruelest one of all is, throwing hundreds of thousands of disabled kids right off the roll, kids that would bring tears to your eyes. But they are bringing the circus to town.

Who is benefiting from all of these cuts?

I went to one school lunch program. A little kid came up to me. I will never forget it as long as I live. She said "Senator, when they cut my school lunch program, where is the money going that they are saving?" What a smart kid. What a smart kid. That is the question all of America should ask.

Where is the money going when you cut these programs? I have the answer. It is being voted on, as we speak, in the House. Do you know what the answer is? It is tax breaks for the wealthiest people in America. Hurt the kids, help the rich. That is the Republican contract. I will show you the chart. More than 50 percent of their tax cut goes to people over $100,000. A third of the tax cut goes to those earning over $200,000 a year. Who gets hurt? The kids, the middle class, the poor, Robin Hood in reverse, my friend.

How about the billionaire tax loophole? I have to tell you about this one. The Senate voted to eliminate a tax loophole that went like this. If you are a millionaire or a billionaire under the current Tax Code you can take all the money you earned and all the assets you have that you earned in America, you can renounce your citizenship, give up your citizenship as a citizen of the United States of America, get out of town and not pay a tax—tax dodgers who are millionaires, billionaires, and trillionaires. Those folks ought to go to the circus. They have a lot to celebrate—not the kids. But I do not think they are going to come out because they do not want anyone to know about this contract. It is not in their best interest. It is unbelievable to me that people would celebrate such a program.

Let us talk about some of the other winners and losers. How about the so-called legal reform? You know about the doctor who cut off the wrong leg of a patient? You read about that. You know about corporations?

You know about corporations that produce dangerous products like silicon breast implants, the Dalkon shield, intrauterine devices that make women sterile. Devices that hurt women, maim them, kill them. Well, under the so-called Reform Act, we cap the punitive damages on those corporations, so there will no longer be a deterrent out there to stop this.

How about the other legal reform? You all know about Charles Keating, how he called the senior citizens in and sold them a bill of goods. They thought their investments were secure. They thought their investments were federally insured. They were not, and they lost everything.

Well, under the so-called Legal Reform Act, by the Republicans, the victims of Charles Keating could never even get into the courtroom. Fortunately, for them, when Charles Keating stole their life savings, the Democrats were in charge of the Congress and we allowed them in the courtroom, and they collected. But now, under this contract, if you are a small investor, you can forget it. Your rights, if this Republican bill goes forward, will have been trampled. I think we will stop it in the Senate, but that is what they are celebrating over there, with the circus.

Corporate polluters are celebrating, too, because in that contract there is hidden language about a moratorium on regulations that will make our water safe and our air clean. We have had people die of a bacteria called cryptosporidium that got into the water supply. We have rules to control the water supply so no one else will die from that bacteria. Those controls would be stopped by the Republican contract, and they could keep on with these practices.

You know about the kids who ate hamburger meat and died from E. coli bacteria. There are rules to stop that. And the Republican contract says forget about those rules; let us have a moratorium.

So who wins? The polluters. Who loses? The people. And the Republicans are celebrating with the circus.

How about the flying public? We fly a lot here in airplanes. That moratorium over there in the contract would stop the FAA from issuing safety regulations.

We know that the safety of certain commuter airlines must be improved. There are several rules that have been proposed to bring them up to the standards of the larger planes, and in the Republican contract and what passed in the House, those rules would be stopped.

Let me tell you what else would be stopped:

> Inspection and repair of landing gear brakes for certain Airbus aircraft.

Airbus is an aircraft that is made in France. This rule was prompted by an accident in which an aircraft was unable to stop on a wet runway. The proposed regulation would ensure the safety of these aircraft, but the Republicans want it stopped. Who is the winner if that regulation is blocked? Airbus. Who is the loser? Any of us who get on those planes.

How about this regulation that would have been stopped:

> Replacement of certain bolts, nuts, washers that hold together parts of the wing flap.

They are celebrating with the circus while they want to stop these kinds of regulations.

Here is a good one. You do not have to have a degree in engineering to understand this one:

> Requiring measures to prevent the sliding cockpit side windows from rupturing in certain Airbus models. Failure to prevent the sliding cockpit side windows from rupture can potentially result in rapid decompression of the aircraft.

"Rapid decompression of the aircraft." Do you want to be on an aircraft when that happens? The Republicans are celebrating with a circus, while they try to stop those kinds of safety regulations.

Who loses there? The flying public. Anyone who goes in an aircraft. Who wins? Irresponsible companies that do not take care of their products.

I could go on, Mr. President, about the winners and losers in this contract. Deficit reduction surely is a loser, if they go ahead with this tax break. It is going to cost $680 billion over 10 years to the Federal treasury. I thought we had a bipartisan consensus for deficit reduction. It was a most important thing, but who are they are going to give that tax break to? The richest among us. Loser? The deficit reduction effort. Loser? The children.

The contract does not stop there. I thought we had a bipartisan consensus last year to put cops on the street. I thought we all agreed to put cops on the beat in the community; it was the cornerstone of the crime bill. But in the contract the Republicans want to slash all that, put it in a block grant, and let someone else decide. Who loses when there are fewer cops on the street? You and I, members of the community, the neighborhoods.

And while they are at it, they want to repeal the ban on assault weapons. How is that one? They want assault weapons back on the streets. Who loses? Only God knows who will be the next victim. My son lost his best friend at 101 California Street, an attorney with promise, a young man, married, hoping to have a family, shot down by a crazed gunman who went in and got an assault weapon and shot eight people and killed my son's best friend John Scully. On that day, I swore to ban these weapons. Now we have to have the fight all over again, a fight that we thought was over, a divisive, difficult fight. And they are celebrating with the circus. I do not understand it.

Who else loses with the contract? Have you ever heard of the gag rule? That is another fight we already had—the gag rule. A poor woman goes into a family planning clinic and cannot be told her options if she is pregnant, cannot be told her options, cannot be told that she has a right to choose in this country. We fought that fight, and President Clinton lifted the gag rule. He said he thought women should have all the facts known and they should make their own choice. It is up to them to decide. It is a difficult choice, but a woman should be able to make that decision. They are celebrating over there. In their contract, they are bringing back the gag rule, treating women like second-class citizens, as if we do not know what could hurt us.

So it is very clear who the winners and who the losers are. The winners? The very wealthy who get tax breaks, the corporate polluters, the big infant formula companies, the criminals, those who oppose the right to choose. They win in this contract. Really, the billionaires who will walk out and renounce their citizenship to get a tax break are the big winners because we ended that tax break. And what happened in the Republican conference committee? They took that out. Who else wins? The broker-dealers who cheat, who do not take their fiduciary responsibility to their clients seriously.

Those consumers, those investors will have a court system that probably does not let them in the front door.

I believe in a system where David can meet Goliath in the courtroom and let the system work.

They believe in a system where David cannot get in the door. They have something in that contract called "loser pays." It is an English system. It is not the American system. It says if you go into court and you lose, you pay the other guy's attorney's fees. How many of us as small investors would take that chance?

We are going to stop that here in the Senate, but it is in the contract. And the Republicans are celebrating with the circus.

So I hope, in this brief time, I have expressed clearly who the winners are and who the losers are. I can add to the losers the senior citizens, who will see Medicare cuts, huge Medicare cuts. And senior housing cuts.

We could not even get our Republican colleagues to protect Social Security when we took up the balanced budget amendment. We said, "Take Social Security out of that and protect it." We could not get a vote. We lost it on a party-line vote.

So while the celebration is going on there with the circus, I just hope the American people will ask a question like that little girl asked me in school: "Senator, what happens if you cut my school lunch? Who gets that money?"

I ask the American people to ask the question: Who benefits from this contract? And read the fine print, because they are not going to show it to you. You are going to have to work to find it out.

I hope that I have been of help in making the point that overall, this contract is not helpful to the American people.

Thank you very much, Mr. President. I yield the floor.

[Disturbance in the galleries.]

The PRESIDING OFFICER. The galleries will restrain.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that the Founding Fathers, two centuries before the Reagan and Bush presidencies, made it very clear that it is the constitutional duty of Congress to control Federal spending, though Congress has failed to do so for the past 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,876,206,792,345.50 as of the close of business Tuesday, April 4. This outrageous debt, which will be saddled on the backs of our children and grandchildren, averages out to $18,510.16 on a per capita basis.

TELECOMMUNICATIONS REFORM

Mr. DASCHLE. Mr. President, yesterday, my colleague from South Dakota, Senator PRESSLER, stated on the Senate floor that the administration was working through my office to block consideration of S. 652, the telecommunications bill. This statement was flat out wrong, and while Senator PRESSLER subsequently corrected his statement for the CONGRESSIONAL RECORD, the press has reported the inaccuracy. This issue is sufficiently important that the mistake needs to be pointed out.

I have spoken with the Vice President concerning telecommunications reform legislation. The Vice President stated, as he apparently indicated to Senator PRESSLER, that the administration would like to see the bill improved in a couple of different areas. However, the Vice President did not ask, nor did I offer, to block consideration of the bill.

I am committed to passing a telecommunications reform bill, I am eager to see the benefits of technology and communications services—the so-called information superhighway—extended to all parts of this country, especially rural areas like my own State of South Dakota.

The telecommunications bill is sweeping legislation addressing complex problems, and highly technical subjects. While I have taken no steps to block the bill from coming to the floor, I sympathize with those of my colleagues who desire the opportunity and time to study it. With the Senate schedule set for the balance of the week, and with the time provided by the upcoming Easter recess, Senators will have the chance to evaluate the proposal in detail prior to its coming to the floor.

Again, let me reiterate, I have not sought to block consideration of S. 652. Our ranking member on the Commerce Committee, Senator HOLLINGS, stands ready to proceed. Indeed, as Senator PRESSLER noted, every Democrat on the Commerce Committee voted for the bill at markup.

I believe my intentions in regards to this matter are clear. I simply take this opportunity to reinforce my position that a telecommunications reform bill is among the most important legislation the Senate will consider this year.

THE 14TH ANNIVERSARY OF SHOOTING OF JIM BRADY

Mr. KOHL. Mr. President, today I would like to tell you a story about criminals and guns. It is about someone—let us call him John Doe because the B-A-T-F says it cannot disclose his identity—who in 1978 was convicted of criminal reckless homicide. He killed another driver while driving drunk. Although, as a convicted felon, John Doe was prohibited by law from buying guns, he purchased a handgun from a gun dealer in December 1993. Then, only 1 month later in January 1994, he purchased another. On both occasions he walked out of the gun store fully armed.

How could he do this? He lied on his forms and no one conducted a background check. A few weeks later John Doe tried to increase his arsenal yet again by purchasing a third handgun. But this last time he was caught—thanks to the background check that is now required under the Brady law.

Mr. President, last week marked the 14th anniversary of the vicious shooting of President Reagan and Jim Brady by John Hinckley. And last month marked the first anniversary of the effective day of the Brady bill.

Critics claimed that Brady would mark an end to personal freedom, and that felons and drug traffickers would never buy guns over the counter. But 1 year after enactment, the sky has not fallen. And the Brady law—for the most part—is accomplishing its goal: Keeping guns out of the hands of criminals and drug traffickers, while not unduly inconveniencing law abiding gun owners.

According to the Bureau of Alcohol, Tobacco and Firearms, over the past year in the 29 States covered by Brady, the law prevented approximately 40,000 firearms purchases. Indeed, when States with their own background checks are added in, B-A-T-F estimates that law enforcement denied up to 70,000 gun purchases in the past year. That means fugitives, rapists and murderers have been stopped while trying to purchase guns.

Statistics from my State support these conclusions. Wisconsin, which has its own 2 day waiting period and background check, has blocked more than 800 convicted felons from buying handguns in the past 3 years. And keeping guns out of the hands of criminals, Mr. President, is the most effective form of prevention—as well as the best way to ensure the safety of the community.

But while the background check and waiting period have stopped gun sales to criminals, authorities need to do more to prosecute the criminals who try to buy guns. CBS news found that only 551 people had been prosecuted in 19 States. And according to the Washington Post, fewer than 10 have been prosecuted federally. These figures just do not add up. We need to do a better job of putting these people behind bars.

In my opinion, if you lie on the Brady Act form you should go to jail. Period. That is the law.

Mr. President, the police chiefs, sheriffs and other law enforcement officers know the real truth: The Brady law has proven to be an effective tool in helping to keep handguns out of the wrong hands. And the American people agree: The latest CBS News/New York Times poll found that 87 percent support the Brady law.

In conclusion, Mr. President, on this anniversary all of us should express our gratitude and appreciation to Sarah and Jim Brady. We would not be where we are today without their hard work.

RECESS UNTIL 12:45 P.M.

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate stand in recess until 12:45 p.m. today.

There being no objection, the Senate, at 12:18 p.m., recessed until 12:44 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ASHCROFT).

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I understand the distinguished Senator from Hawaii wants to speak for 5 minutes. Let me indicate there are some negotiations going on back and forth between the leadership, myself, Senator DASCHLE, members of our staff, the presiding officer, and others. I think it is going to be at least, probably, another 45 minutes before we have any response. They presented us an offer, we presented a counteroffer. Hopefully, we can reach some agreement. If not, it will probably slow things down a bit.

My view is those who have not yet filed—I guess there is a 1 o'clock deadline for filing amendments—even though we may be in recess they be permitted to file their amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. After the remarks of the Senator from Hawaii, I ask unanimous consent that we stand in recess until 1:45.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii.

PRIVILEGE OF THE FLOOR—S. 678

Mr. AKAKA. Mr. President, I ask unanimous consent that Tom Menjin be granted the privilege of the floor while I give a statement regarding the introduction of a bill. Mr. Menjin is a Congressional Fellow in my office.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 678 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS UNTIL 1:45 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 1:45 p.m.

Thereupon, the Senate, at 12:51 p.m. recessed until 1:44 p.m.; whereupon, the

Senate reassembled when called to order by the Presiding Officer (Mr. GREGG).

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPETITION AND THE PHARMACEUTICAL INDUSTRY

Mr. PRYOR. Mr. President, a year ago we were in the midst of a momentous debate in this institution over the reform of our Nation's health care system. At that time, one of my concerns was that dramatic changes were taking place in the prescription drug marketplace. A number of prescription drug manufacturers had begun to experience competitive pressures arising from the growth of generic drugs and managed care. But disturbingly, one of their strategies was to coopt or, if possible, eliminate the sources of that competitive pressure.

In the days that have followed, we have seen some extraordinary changes in the drug marketplace. There has been a wave of multibillion dollar mergers and acquisitions which, according to a recent issue in the Wall Street Journal, "promises to create industry giants." This remarkable consolidation has profound consequences for American consumers.

A few days ago, in fact it was April fool's day to be exact, the Associated Press reported that corporate merger activity broke all records last year and extended its frenetic pace into the first quarter of 1995—with the drug industry leading the way.

Mr. President, in the past 3 months alone, the drug industry by itself has carried out some $23 billion in mergers and buying out their competition worldwide.

We read just the other day, for example, about Glaxo's $14 billion hostile takeover of Burroughs Wellcome, both major drug giants. This deal will create the world's largest pharmaceutical company, in the wake of other giant deals like Hoechst's anticipated $7.1 billion purchase of Marion Merrill Dow, American Home Products' $9.7 billion buyout of American Cyanamid and Hoffmann-La Roche's $5.3 billion acquisition of Syntex.

Brand name companies have also been investing heavily in biotechnology, generic and over-the-counter drug companies. Ciba purchased a $2 billion stake in Chiron, and SmithKline Beecham recently just bought Sterling for $3 billion. Hoechst spent a paltry half a billion dollars on a generic company called Copley.

These are remarkable figures, Mr. President. And if we simply add up the cost of just a sampling of some of these recent mergers and acquisitions, we will find that they total $54 billion.

In the last 15 months, $54 billion has been spent by giant pharmaceutical companies buying up and acquiring their competition. That is an interesting figure when we compare it to the research and development that is planned by the entire prescription drug industry for the year 1995: $14.9 billion spent on research compared to $54 billion spent by the major pharmaceutical companies in acquiring their competition since the beginning of last year.

That is three and a half times what the entire industry is going to spend in research in 1995. This is an extraordinary difference. One would think that such large deals would leave these companies either in debt or strapped for cash. Mr. President, that is not so. These companies are so profitable and their pockets are so deep, Wall Street's Standard & Poor's concluded just a few days ago that the industry's ability to "generate cash in excess of ongoing needs is likely to continue." And their generating that cash is going to continue because the consumer in the United States is going to continue paying the highest drug prices of any major country in the world today.

This is a far cry from the recent past. We may recall that just a year ago the industry was sounding the alarm about declining profits and research cutbacks. These companies claimed that they were under siege and out of favor with investors. A year and a half ago, these same companies warned that research would be choked off by health reform.

This is a statement by Merck in 1993: "R&D will fall at least $2 to $3 billion over the next 5 years."

Well, today, Mr. President, we are hearing a different story. This year, Bear Stearns says earnings growth will be "the best we have seen in years" for the drug industry. They are out spending $54 billion on mergers and we have to wonder how serious the threat to research ever was.

Well, Mr. President, why are they spending all of this money to buy their competition? Why are these mergers taking place? Let us look a little deeper.

Last month, the CEO of Glaxo put it quite simply. His company is trying to do "nothing more than to wrench market power back from the administrators and the distributors who now hold the health care purse-strings." His company is responding to competitive pressures by focusing on its research portfolio.

But what if the brand name companies owned those administrators? What if the brand name companies owned those distributors? What if they not only wrench that market power back—they buy it outright? Who will hold the health care purse-strings at that time?

This is exactly what we are facing today in the United States. The drug industry's acquisitions have not been restricted to brand name or biotechnology companies. They have also included the country's largest pharmacy benefits management companies. We call these companies, PBM's. We are going to hear a lot in the future about PBM's.

What is a PBM? A PBM is hired by HMO's, by health plans, by major corporations, and by self-insured companies to administer their prescription drug programs. PBM's act as a buying agent in negotiating with the drug manufacturers, seeking deep discounts for their clients and in developing cost-saving formulas for their covered patients. They may also deliver medicine to patients through selected pharmacies or through mail-order.

In rapid succession, these PBM's have been snapped up by some of the biggest drug companies in the world. Only 2 years ago, April 1993, the PBM market was completely independent of the pharmaceutical manufacturers. Only 24 months later, in April 1995, SmithKline Beecham-Diversified, Merck-Medco, and now Eli Lilly-PCS would dominate 80 percent of the PBM market.

This is vertical integration, as clear a case as I have ever seen. Merck paid $6 billion for Medco Containment Services, one of the largest PBM's and distributors of drugs. SmithKline Beecham bought Diversified Pharmaceutical Services for $2.3 billion. Today, Eli Lilly is, as we speak, ready to close on acquiring a company called PCS, the Nation's largest PBM company, for $4.1 billion.

The prescription drug marketplace is being revolutionized. Before too long, there may only be a handful of major drug companies left. The major manufacturers of prescription drugs in this country are soon, Mr. President, going to have a lot less competition.

This kind of vertical integration between large manufacturers and distributors, however, is unprecedented. We can see what has happened in the last 24 months. It has had very different implications for consumers than the horizontal mergers and acquisitions so prevalent in today's headlines.

If Lilly is permitted to purchase PCS, the three largest PBM companies will belong to brand name drug companies that research, manufacture, and distribute drugs. These three PBM companies serve 94 million covered lives—80 percent of the total PBM market. A handful of drug companies will wield tremendous influence over which drugs are used by millions of American citizens. They will have the raw power—and they will use that power—to restrict access to needed medicines. They will possess a large share of the mail order drug business. They will exercise decisive leverage over their competitors' access to the marketplace.

This is why, Mr. President, these PBM's are being bought by the major manufacturing firms. They provide market power to a select few companies, precisely when the market has shifted beneath their feet.

Owning a PBM can switch sales to your own drugs. Owning a PBM can counteract the bargaining power of managed care. Owning a PBM can determine which generics you sell: your own or your competitors'. Mr. President, in short, ownership of PBMs by brandname manufacturers destroys all competition.

The brand name companies now admit it. In 1993, Merck said it expected to sell more drugs to Medco after it bought out the PBM. Merck's CEO at that particular time felt the company had to be in a position where "We can be sure that we control the flow of our own drugs." In fact, at one point last year, Lilly and PCS had agreed to make PCS's previous owner, McKesson, the sole distributor of Lilly drugs.

This is growing evidence that these manufacturer-owned PBM's are doing what one would expect. They may no longer act as honest brokers. They may now be acting in the interests of their parent companies, not their clients. They may be favoring their parent companies by switching patients from one drug to another without explicit regard to their health.

Mr. President, these charges have been filed with the Federal Trade Commission. The FTC has heard from a wide spectrum of citizens, consumer groups, trade associations, manufacturers, distributors, Federal agencies, and Congress on this issue. The FTC has even heard these concerns from the brand-name companies who do not own PBM's or who are not about to own PBM's. As a result, the Federal Trade Commission is still reviewing the Lilly-PCS proposed acquisition and has reopened its investigation of the Merck-Medco and SmithKline-Diversified deals.

I have written on two occasions to the Federal Trade Commission about these concerns. On the first occasion, I was joined by my former colleague, the distinguished Senator from Ohio, Senator Howard Metzenbaum, who then chaired the Antitrust Subcommittee of the Senate Judiciary Committee. Our feeling at that time was that the Lilly-PCS merger would lay the capstone of an uncompetitive marketplace. There were already indications that the other two deals had eroded competition.

In November, the FTC confirmed our suspicions and proposed a consent order which established strict conditions over the Lilly-PCS deal. In the next several weeks, the FTC will either approve the consent order, revise the consent order, or seek an injunction blocking the acquisition.

The FTC is not alone in its scrutiny of these manufacturer-PBM deals. It is the Food and Drug Administration's responsibility to ensure that prescription drug marketing is fair and accurate.

When the Lilly-PCS deal was the subject of public comment, the Food and Drug Administration at that time expressed grave concerns over the potential for new forms of violative marketing and promotion. In fact, I recently read in the New York Times that the Food and Drug Administration has now had to warn Merck, SmithKline Beecham, and Eli Lilly "not to put pressure on doctors to prescribe their drugs for unauthorized treatment or to withhold sufficient disclosures regarding the risks of adverse side effects."

What does this mean? It means that if you are one of the millions of Americans covered by these PBM's, your doctor may no longer be receiving impartial advice about which drugs to prescribe to you.

Let me raise another example of how improper marketing can degenerate into inappropriate care.

Two months ago, Eli Lilly & Co. participated in a depression awareness program at a local high school. This story was published in February by the Washington Post. While sponsoring educational programs might be a laudable endeavor, the students in this particular school and the teachers were furious with the company for "turning an educational program into an extended commercial."

What was the particular drug that the drug company was pushing on the students? Mr. President, 1,300 students listened to company representatives pitch their drug, and then they received pens, pads, and brochures embossed with the product name. The product that we speak of is, of course, Prozac.

Afterward, the principal felt that Eli Lilly "shouldn't be pushing their drug program, especially not to children."

One of the students explained, "I was upset that I had to sit in an assembly for 45 minutes and listen to a plug for Prozac."

Her mother added, "The message my daughter came away with was pop a pill and everything is going to be all right."

Let me say that Eli Lilly & Co. did apologize. They admitted their conduct was inappropriate. But imagine, if you can, the potential for such abuses when a manufacturer not only makes a drug, but they also market that drug, they advertise that drug, they influence HMO's to buy that drug, they collude with their PBM subsidiary to win contracts, and—if they have not gotten your business yet—they encourage the doctors with incomplete information to switch you, the patient, to their product.

To add insult to injury, the consumer may also have to pay more for their prescription drugs. In our market economy, we all know that if there is no competition, we pay higher prices. Competition brings down prices. Competition is good for the consumer. Today, the major drug companies of America are buying up their competition and the consumer is going to foot the bill.

If the PBM's have a vested interest in their owner's products, they will not necessarily be negotiating the best deal for their patients—and this is taking place in the midst of the industry's best pricing environment in years. Look at what Wall Street is thinking. Analysts expect drug price increases to be "faster in 1995 than in the preceding 4 years."

I am deeply concerned about the impact of these acquisitions. There is growing evidence that the PBM companies no longer act as independent or honest brokers for their clients. They are going to be acting as brokers for their parent companies who pay the bills. This can only lead to inappropriate health care and to higher prices for consumers, who are already paying some of the highest prescription drug prices in the world.

The FTC has now demonstrated due diligence in investigating the Lilly-PCS deal. The FDA has also signaled its concern over these marketing abuses. Consumers will undoubtedly benefit from this vigilance.

In a textbook-perfect market, competition prevails and the consumer benefits without such scrutiny. But in the real world's imperfect markets, we must sometimes intervene. That intervention is necessary now to guarantee that true competition takes place. It is my hope that we can prevent the anticompetitive practices which I have just described this afternoon.

Mr. President, I hope that we realize what is happening in the drug marketplace in the spring of 1995, and I only hope that we are not going to act too late.

Mr. President, I see another colleague seeking the floor. I thank the Chair for recognizing me. I thank the Senator from Pennsylvania for his patience. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUGITIVE WELFARE REFORM

Mr. SANTORUM. Thank you, Mr. President. I rise to discuss the issue of a bill I introduced recently that I understand is going to be highlighted tonight on a Dateline/NBC telecast having to deal with the issue of fugitives—felons—who are not only running from the law, but under the law receiving welfare benefits, and under the law the police are not able to access information from the welfare office to be able to help track this person down.

Believe it or not, that is exactly the issue that we are going to discuss and hopefully be able to remedy. I got into this in the House. I was Chairman of the Task Force on Welfare in the House of Representatives and was presented with a whole lot of information about some of the problems in the welfare system, and worked extensively putting together the House welfare reform package in 1993 and 1994.

This issue is while there have been a lot of partisanship with respect to the welfare issue and gnashing of teeth as to the mean-spiritedness of the welfare proposals that have been put forward, this particular area of the welfare bill has attracted broad bipartisan support.

When explained, most Americans—all Americans—support this kind of change. I have not heard of any organized opposition to the bill I introduced along with Representative PETER BLUTE from Massachusetts in the House or the one that was introduced here in the Senate.

The House of Representatives, in the welfare reform debate, debated this issue on the floor and it passed, I believe, unanimously on the floor of the House.

The bill now comes to the Senate as an amendment to the House welfare reform bill. Whether we bring it up, I hope this issue can be addressed, because I think it is important in not only reducing welfare fraud—and this is clearly welfare fraud—but also facilitating police operations in tracking down wanted criminals.

We know from the National Crime Information Center there are roughly 400,000 outstanding fugitive warrants in this country. As I say, believe it or not, a sizable portion of those fugitives are on welfare receiving food stamps or AFDC or some other welfare assistance, Federal welfare assistance. SSI is a big one, where they receive assistance from the Federal Government to help support their lifestyle while hiding from law enforcement authorities.

That is bad enough, but under current, law Federal and State law, law enforcement authorities are not able to contact the welfare offices to access any information about this fugitive. Why? Because of welfare privacy laws. If a person gets on welfare they can collect their check, collect their benefits, and be completely immune from anybody ever finding out that they are on the welfare rolls. This is almost unbelievable. But that is, in fact, the case.

Now people may say, how many people are on this? Is this really a problem or is this an isolated case?

Let me first give Members the case. The case that really brought this to my attention was an article in the July 29, 1994, Pittsburgh Tribune Review.

I will read:

> Fugitive Used Real Name for Welfare
>
> James Brabham knew who he was. During a decade on the lam for a 1984 slaying in Pittsburg, he used at least five aliases and five Social Security numbers.
>
> But when he went on welfare he used his real name—and his State-issued welfare card bore his current address and photo.
>
> The cops who arrested him on Wednesday in Philadelphia saw the card when they asked Brabham for identification. They hadn't known he was on welfare.
>
> "I'm sure it would have made things a lot easier," said Detective Joe Hasara of the Federal Fugitive Task Force in Philadelphia, one of the squads that for years pursued lead after dead-end lead searching for Brabham.

I went and met with the Federal Fugitive Task Force in Philadelphia. What they told me was absolutely amazing. They believe from the 90-some fugitives they have caught since the task force has been put together the last couple of years that 75 percent of the people they have tracked down had welfare cards. Seventy-five percent. They have no way to go and find out the information about what their current address is, what their Social Security number is, or even a photograph.

In Cleveland, the Fugitive Task Force ran a sting operation—one of these things where a person gets free things and they invite only certain people and they catch the folks who show up—33 percent of the people who showed up at this sting operation had welfare cards.

Again, because of court decisions and the Welfare Privacy Act, they had no way of contacting or getting this information from the welfare office.

People may say, "OK, these folks have welfare cards. But how many of them use their real name?" I asked that of the Philadelphia Fugitive Task Force. I said, "How many use their real name?" They laughed, and they said almost all of them use their real name and real Social Security number.

I said, "Well, why in the world would they do that?" The answer is, because they do not want to lose their benefits. They do not want to be accused of a welfare problem, and they can get in trouble for a whole bunch of other things, so they use their real name and real Social Security number so they can get the benefits. It is a very good source of the true name and the true Social Security number of people who are on the lam.

Now, what we have suggested in this legislation is to permit law enforcement agencies that have a fugitive warrant to be able to go to a welfare office and say "Look, we would like to know if John Doe is in your file and, if so, we would like the address of John Doe, we would like the Social Security number of John Doe, and we would like a photograph of John Doe."

People wonder why we need a photograph. In the original legislation I proposed in the House, I did not have "photograph." But the Fugitive Task Force in Philadelphia said this is very helpful information because a lot of times they have fugitives who are first-time felons, and they have absolutely no idea what they look like. So this gives a current picture to be able to track this person down. It is very helpful information.

Now, again, this is a bipartisan bill. There is bipartisan sponsorship on the bill here. We hope that this is a measure that can sail through the House, whether we do a welfare reform package or not, and it passes again, this is something we can do to eliminate a welfare problem that we know is occurring.

People who are fugitives are not permitted to be on welfare. Again, there is no way of checking that. And, number two, to give police officers the opportunity to track these people down and get better information.

There is another part of the bill I will briefly discuss, and that is another situation we found out about from our hearings on welfare in the last couple of years, which is the definition of what "temporarily absent" is from a home.

We have situations where we have parents who have children who are on AFDC, whose children end in jail for long periods of time, or run away from home for long periods of time, or are in detention, or a whole lot of other things, but they are out of the house.

If they are out of the house for any period of time the welfare benefit that goes with the child—that is where most of the welfare cash goes and other benefits go—should cease to the mother or the parents—not necessarily the mother.

There is no definition in most States as to what "temporarily absent" means, so we provide a definition of how long a child should be away from home to determine whether that person is temporarily absent, or in fact, permanently absent. It they are permanently absent, they lose their welfare benefits.

We have seen situations where parents have collected welfare benefits literally for years when kids are in jail, and they keep collecting the money, because the State has never determined what "temporarily absent" means. That, we believe, is an abuse that can be stopped.

Again, this provision had bipartisan support and we hope will be so supported here in the U.S. Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BILLIONAIRES' TAX LOOPHOLE

Mr. KENNEDY. Mr. President, I hope that we will soon be able to vote in the Senate on the unjustified tax loophole that exists for billionaires who renounce their American citizenship in order to avoid taxes on the wealth they have accumulated as Americans.

This reform was first proposed in President Clinton's budget on February 6. The Senate Finance Committee closed this loophole as part of its action on the bill to restore the health care deduction for small businesses.

The committee took this action to close the billionaires' loophole, despite the fact that the revenue gained was not needed to pay for the health care deduction in the bill. In fact, the committee recommended that these revenues be used for deficit reduction. This is exactly the type of action necessary if we are serious about achieving a balanced budget.

According to the revenue estimates in the committee report, closing this loophole would raise $1.4 billion over the next 5 years, and $3.6 billion over the next 10 years. Clearly, substantial revenues are at stake.

Too often, we close tax loopholes only when we need to raise revenues to offset tax cuts. In this case, the committee closed this flagrant loophole as soon as it was brought to the committee's attention—and rightly so, because this loophole should be closed as soon as possible. The Senate bill did so, and all of us thought the issue was settled.

Yet the legislation came back to us from the Senate-House conference, and the loophole had reappeared. This outrageous tax break for two dozen or so of the wealthiest individuals in the country will remain open.

We have been told that the loophole was preserved because of unanswered questions about whether closing it would violate U.S. and international laws on human rights. But it certainly does not. All citizens of the United States have a basic right to leave the country, live elsewhere, and relinquish their citizenship.

Any and every citizen surely has the right to repatriate. Closing the loophole would not prevent any individuals from shifting their assets and their citizenship to a foreign country. Rather, it would just make sure that those who have amassed great wealth through the U.S. economic system pay their fair share of taxes, as the rest of us do. It is a provision which a dozen other countries have enacted for the same reasons.

Prof. Detlev Vagts of the Harvard Law School has said,

> The proposed tax does not amount to such a burden upon the right of repatriation as to constitute a violation of either international law or American constitutional law. It merely equalizes over the long run certain tax burdens as between those who remain subject to U.S. tax when they realize upon certain gains and those who abandon their citizenship while the property remains unsold.

Andreas Lowenfeld, a professor of international law at NYU said,

> I am confident that neither adoption nor enforcement of the provision in question would violate any obligation of the United States or any applicable principles of international law.

Michael Matheson, a legal advisor at the State Department said;

> This provision does not conflict with international human rights law concerning an individual's right to freely emigrate from his or her country of citizenship . . . a state, in order to protect its interests, may impose economic controls on departure as long as such controls do not result in a de facto denial of an individual's right to emigrate . . . These are comparable taxes to those which U.S. citizens or permanent residents would have to pay were they in the United States at the time they disposed of the assets or at their death.

Clearly, there is ample support in U.S. law and international law for closing this loophole. Yet, the provision was dropped in conference.

This is all happening, of course, at the same time that we are cutting Federal funds for basic investments in the future of children, students, and working families. Funds for school lunches, education, housing, and other vital social services are all being drastically cut, at the very time our Republican colleagues have decided that this tax break is not flagrant enough to be terminated immediately.

In fact, the conference report on this tax legislation was called up for debate last Friday, just as the Senate was beginning debate on our Democratic amendment to restore some of the harshest cuts in the pending appropriations bill.

Our Democratic amendment contained several key provisions:

We wanted to restore nearly $800 million in cuts in housing programs and in job training programs for young Americans.

We wanted to restore $210 million in cuts in the program to encourage young Americans to participate in national and community services.

We wanted to restore $100 million in cuts from the drug-free schools program.

We wanted to restore $72 million in cuts from education programs for disadvantaged students.

We wanted to restore $67 million in cuts from the Goals 2000 program for local school reforms.

We wanted to restore $42 million in cuts from Head Start, and $35 million in cuts from nutrition programs for expectant mothers and infants.

The contrast in priorities is impossible to ignore. Give every benefit of the doubt to tax loopholes for a few billionaires. Rush to enact spending cuts that jeopardize education, nutrition, and job training for large numbers of children, students and working families.

Yet when it comes to closing a totally unjustified tax loophole used by wealthy citizens who renounce their citizenship to avoid taxes, House Republicans say, "Go slow; this needs more study; we shouldn't act in haste; perhaps this loophole has some merit we don't know about."

Nonsense. I wish that our colleagues would show as much solicitude for millions of deserving Americans struggling to make ends meet, as they are now showing for a handful of undeserving billionaires willing to insult America to evade their fair share of taxes.

This amendment will put the Senate squarely on record in favor of closing this gaping loophole in our tax laws. The amendment has two clear provisions:

The first subsection states the Sense of the Senate that Congress should act as quickly as possible to amend the Internal Revenue Code to close this loophole.

The second subsection makes clear that the effective date of any such action should be February 6, 1995.

The February 6 date is the effective date in the original Senate Finance Committee amendment, and it is also the date of the original proposal by President Clinton to close this loophole.

Clearly, everyone has been on notice since February 6 that this loophole is likely to be closed. It would be unconscionable for anyone in Congress to attempt to delay the effective date to enable a few more wealthy Americans to squirm through this notorious loophole before it finally snaps shut.

Finally, all of us must be vigilant as well to see that this important reform is not watered down behind closed doors before it reappears in its next incarnation.

We know what happened last time. We know that the smartest tax lawyers money can buy will be quietly undermining this reform in any way they can, in order to salvage as much of this billionaires' loophole as possible.

Two good measures of the seriousness with which Congress resists that special interest pressure will be maintaining the effective date of February 6, and maintaining the revenue gain anticipated from the provision in the Finance Committee bill.

Obviously, the revenue estimates may be refined as the Joint Tax Committee and the Treasury Department obtain more information on this insidious tax avoidance practice. But refining the estimates is not the same as reducing them because the reform has been weakened.

A useful measure of the strength of this reform is contained in a comparison of the revenue estimates prepared by the Treasury for the President's February 6 budget, and by the Joint Tax Committee for the Senate Finance Committee's report on March 20 on H.R. 831, the small business tax bill. I ask unanimous consent that a table containing those revenue estimates may be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE.—REVENUE ESTIMATES FROM CLOSING THE BILLIONAIRES' TAX LOOPHOLE

[Dollars in millions]

Year	Revenue gain	
	President Clinton's budget	Senate Finance Committee report on H.R. 831[1]
1995	$0	$47
1996	60	144
1997	200	197
1998	300	257
1999	410	322
2000	530	392
1995–2000	1,500	1,359
2001–2005	(2)	2,274
1995–2005	(2)	3,633

[1] Estimates based on "modified version of administration's revenue proposal."

[2] Estimate not provided.

Mr. President, it basically summarizes on the revenue gain under President Clinton's budget submission from 1995 to the year 2000 some $1.5 billion. The Senate Finance Committee is $1.359 billion, and then the Senate Finance Committee goes on from 1995 to the year 2005 to be $3.6 billion.

Although the committee's revenue estimates are based on a modified version of the administration's proposed reform, the estimates are generally similar, and the total revenue gains in the two estimates for the period 1995–2000 are within about 10 percent of each other. Clearly, it is reasonable to expect that at least this much revenue will be gained by closing this loophole.

The most significant difference between President Clinton's proposal and the Finance Committee bill is that President Clinton's proposal would close the loophole not only for U.S. citizens, but also for wealthy resident aliens who renounce their residency status and leave the country to avoid taxes.

The Senate Finance Committee proposal closes the loophole only for U.S. citizens. There is no obvious reason why the loophole should be closed for one type of billionaire and not the other. They have amassed great wealth in America, and they should not be permitted to escape their fair share of taxes by renouncing America. It is time to close this loophole tight—no ifs, ands, or buts, and no escape hatches for anyone.

I urge the Senate to approve this amendment, and to send a clear, simple message once and for all to any wealthy tax-dodgers who are scheming to renounce America—"Good riddance, but you can't take it with you!"

Just a final two thoughts. As I mentioned during my brief remarks, this debate is coming at a time when the minority leader is attempting to restore the cuts under the rescissions. That means that these moneys have already been appropriated. The Appropriations Committee has made a recommendation. It has perceived that we are going to cut the Voluntary Community Service Program, and the Drug Free Schools Program, which is so important to our young people. It also includes funding for safety in our schools.

As I mentioned on previous occasions, we have had long and good debates with good bipartisan support. We are trying to do something about the increasing incidence of violence that is taking place in our schools. We are attempting to restore some $100 million to the program that will help and assist schools at the local level to deal with the problems of violence and substance abuse in their schools.

Title I of the education bill, which was debated here, and has strong bipartisan support—try to bring some focus and attention to disadvantaged children by providing extra help and assistance to them—we have changed that program, is a good program with strong bipartisan support. We want to make sure that the funding for that program that was included in last year and which local school districts have been depending on will not be pulled out from underneath those young children.

The Goals 2000—again with bipartisan support—each 5 percent of this money, or $67 million, will actually go to the local school districts which are interested in reform; strengthening the academic achievements and accomplishments of young Americans. It has the broad support of the education community and of the parents, teachers, the business community that are in support of the Goals 2000 program.

The Head Start Program, which we revamped and rechartered just over in the last Congress, and had strong bipartisan support, virtually unanimously reported out of our committee and the strong support in appropriating the funds, this represents about a quarter of a reduction in the increases for the Head Start Program. Only about 38 percent of all of our young people get any Head Start Program. We extended the Head Start Program from zero to four to recognize that the recommendations of the Carnegie Commission report that talked about the importance for the nurturing and nutrition, particularly in the early years, and the relationship between that kind of a tension and the academic achievement of children. Now, as is increasingly apparent, we need the kind of support that Head Start provides for that early intervention. We have responded to it. There are school districts all over the country that are depending upon that funding. We should not pull the rug out from the Head Start Program.

The Women, Infants, and Children's program, the $35 million for expectant mothers that do not have the financial resources to get the adequate nutrition to make sure that we are going to have healthy babies, this program has been tried, tested and reviewed. It should not be cut back.

The School-to-Work program, where we have seen a new basis of trying to do something for the 70 percent of our young people that do not go on to higher education. They are the ones who have been too often left out and left behind. We have a good program that again has bipartisan support. This program will be reshaped and adjusted under the leadership of Senator KASSEBAUM and others to be a basis for the whole youth training program. We should not abandon that program.

The child care program, a modest program that only addresses about 4 or 5 percent of the total needs of child care for working families, working mothers primarily, we should not deny that kind of very important support system for working mothers, particularly those that are in the entry-level jobs and the modest income. We know that child care takes up anywhere from a quarter to a third of the income for working mothers. This provided some help and assistance on the basis of need for mothers primarily, but also for single fathers, primarily for single mothers so that they can go out and work and be a part of our whole economic system.

The other programs we have referred to in terms of housing and the youth training are mentioned here.

These are all worthwhile programs that have been tried, tested and evaluated, and in which the local communities—primarily the teachers, the parents, the students—have been depending upon for support. We want to restore education and children's programs.

Against that, Mr. President, we have $1.4 billion that otherwise would be regained for the Federal Treasury, $3.6 billion over a period of 10 years. It is extraordinary to me that, if we are attempting to try to represent the best of what is in the interest of the working families in our society, it is such a compelling case for the support for these programs and such a compelling case to capture the legitimate responsible resources that should be paid in by these billionaires, it is amazing that we have to spend the amount of time that we have had to to get a favorable vote on the Daschle amendment or to get the vote on the billionaire tax break. We have been trying since last Friday to get a vote on that billionaire tax break. We have worked out a procedure by which we will be able to, after we conclude to vote on matters which have been described as at the majority leader's request. This issue is not going to go away. We are going to get a vote on this measure. They may be able to frustrate us by 1 day or a few hours. But we will yet get a vote on that. I hope it will be overwhelming. I hope it will be unanimous. The majority leader has indicated his support for that program, the chairman of the Finance Committee, and Senator MOYNIHAN has indicated his strong support, Senator BRADLEY, and others.

There is no reason in the world why we cannot send the message to the House, which evidently is the reluctant partner in this proposal, that the Senate of the United States is virtually unanimous in support of this proposal. We need to do that. I hope we have the earliest opportunity to do so.

Mr. President, I am sure the American people are wondering why we cannot take action on that particular proposal. I am sure they are wondering why the proposal was dropped in the conference in any event. But they understand what is the issue before us, and hopefully we can have clear, resounding, overwhelming support, hopefully universal support, for that particular proposal.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

Mr. SANTORUM. I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. I thank the Chair.

NO ACTION IN THE SENATE

Mr. SANTORUM. Mr. President, we are waiting around. Probably lots of people are wondering what we are doing while the House of Representatives is storming along at a rapid pace, accomplishing an enormous amount of work here in the first 100 days. They are over there right now trying to pass a tax bill—a tax-cut bill, not a tax increase. You get a tax bill around here and you think to reach for your pocket. No, this is a tax-cut bill.

I actually wonder why the people are here. The action is over there. The action is not here. We are waiting here. We are waiting and waiting and waiting and waiting. What are we waiting for? We are waiting to hear from the leaders on the Democratic side as to how much more money they want to spend this year—not how we can get to a balanced budget but how much more money they want to pack into this appropriations bill, not how we are going to get the budget down to zero but how much more we are going to spend this year.

And I can say that I speak for a large body of people on this side of the aisle who question the sincerity of folks who during the balanced budget debate got up and said, "I'm for a balanced budget. I am just not for a constitutional amendment to balance the budget. But I am for a balanced budget. We have the power to make these tough decisions. We have it right now. The power is within us. We can do it. We do not need some phony baloney constitutional amendment to get us to face the tough decisions of getting this country back on track. We can do it."

And so they used that argument and the phony baloney about Social Security to oppose the balanced budget amendment. Well, as a sports announcer in Pittsburgh likes to say, "The turkey is on the table." Right here is a spending cut proposal, a proposal that funds California disaster relief assistance that they need but makes further rescissions, cuts in spending, for this fiscal year and next fiscal year.

So what do we see? We have seen for the past 2 weeks a filibuster. Oh, no, you will not see it called that in the national media. They would not dare call anything that the other side of the aisle is doing a dilatory tactic. They are delaying and delaying and delaying so we do not get this bill passed. This is the game. The end game is do nothing. Let us not pass a rescission bill. Let us not cut spending. Let us not put a downpayment on deficit reduction. Let us, as the leaders of the other side want to do, trot out an amendment to spend more money.

And so what are we doing? We are waiting. We are waiting—the unwritten story of the first 100 days. I have not seen it anywhere. It is absolutely unbelievable to me. The unwritten story of the first 100 days is not that the House accomplished so much and what happened to the Senate? The unwritten story is the filibustering, delaying tactics of the minority in the Senate to stop what the November election was all about. That is what is going on here.

You want to point to the folks who are trying to derail the train from happening in this country? Look across the aisle. Look at the empty desks. Look at the folks who want to delay, delay, delay. They know if they delay this bill over the recess, a lot of these spending cut proposals go away. Why? Because they are spending cut proposals for this fiscal year. And by the time we get back in May a lot more money will be spent because we are another month and a half into the fiscal year. And so the longer they wait the less we can cut. They know this. And so that is what is going on. Delay, delay, delay. Do not give anybody success. God forbid that we have any bipartisan effort to try to achieve anything around here. Let us play the partisan game of delay, and then stand up and say, "Geez, these folks can't get anything done around here," when the fact is they do not want to change Washington. They do not want to change Washington. They built Washington, and they like it just the way it is. And any time you touch any of their sacred cows, oh, you are mean-spirited. You do not care about people. I care about kids born today who will be saddled, if we do nothing to reduce this deficit—and that is what this bill is all about, reducing the deficit—if we do nothing to reduce the deficit, who will be saddled with 82 percent tax rates—82 percent tax rates over their lifetime, 82 percent of everything you earn goes to the Government to take care of people.

That is the message here in Washington today: You just give it to us and we will take care of everything you need. Folks, that has been rejected all around the world.

It is just incredible to me, it is incredible to me that the very people who blocked the balanced budget amendment will now come to the floor and stop any further deficit reduction.

How can you justify that in your own mind, unless, of course, you are not really for deficit reduction, not really for a balanced budget in the first place.

I do not have any problem—and there are several Senators who come up to the floor, and I give them a lot of credit, who come up to the floor and looked into these cameras and looked around at their colleagues and said, "I'm not for a balanced budget. I think the Federal Government can be just fine running a deficit and we will be fine."

That is being intellectually honest. I do not agree with it, but there is a body of economists out there who believe we can run a deficit and disaster is not impending. Again, I do not agree with it. I think the weight of the evidence is contrary to that. But at least they have the courage to come to the floor and say they do not want to do it.

But quit double-crossing the American public by putting out these passionate speeches about how much you want to get this budget into balance and how the children of this country need it, and when the chance comes where the pedal is supposed to be put to the metal and the rubber hits the road, we call off the race. We decide, no, no, no, we cannot do that. Oh, we cannot cut that program; oh, no, we cannot cut that program. "You know, oh, no, well, this is only .003 percent of the budget. You cannot cut that; I mean, it is so small. Why would you want to cut that?" Or, "We have got a brand-new program of AmeriCorps, which is a great program." Of course, we have increased funding on that. You can go down the list.

I mean, how is the American public going to take this institution seriously? I mean, they are going to look at what happens here and they are going to say, "Wait a minute."

Are we really serious about solving problems? What were we elected to do here? I do not think we were elected in the last election just to come down here and keep doing the same old thing. We were not elected to do the same old thing. We were elected to make changes. We were elected to get our house in order.

And now we have this debate going on between the leaders of the Democratic side and us, the Republican side, about how much more they want to spend. And, do you know something? We made a proposal. We said, "OK. You want to spend $1.3 billion more"—that is what they came up with, $1.3 billion more—"fine." We made an offer. We said, "How about if we give you half of what you want. You give us half of what we want, we will give you half of what you want. We will split the difference, and let us do the bill."

That is the art of compromise. I mean, not just here in Washington, but in everyday life. I mean, we do not always get everything we want. Sometimes you have to sit down and you have to have minds meet.

And so we said, "Let's hear the reasonable offer." Now, that is what we are debating right now—whether a reasonable offer will be accepted. Let us just each meet each other half way. In the end we will have a $15 billion deficit reduction. You can restore the programs that you say will jeopardize the health and safety of so many millions of people. We do not agree with that, but you are passionate about it. Let us put the money back in. We will provide some offsets—in other words, some spending cuts—to pay for these programs and we will be able to put it back together and move the bill.

The leader just walked on the floor. I mean, the leader is spending day after day after day trying to get things done around here. All we have is people obstructing, obstructing, obstructing, obstructing, obstructing.

Let us not let these folks succeed in what they want to do. My goodness, if they accomplish the Contract With America, the American public may actually like them; may actually support what they want to do. They may actually vote for them in the next election. We cannot have that. We cannot have them vote for them, because that means they will vote against us. And if they vote against us, then we will not be here. And if we stall, if we delay, maybe—maybe, maybe—we will be able to cloud the issue up enough, muddy the waters enough, that they will blame all of us. Since there are more of them now than there are of us, we will be OK. We may lose a little bit, they may lose a little bit, but we will not really get hurt.

That is the strategy. That is what is going on here in the U.S. Senate.

You know, I ran for U.S. Senate and I was told this was the upper Chamber, a more deliberative body, where, you know, you had statesmen actually come here and do what was right for the country—do what was right for the country—not worry about partisan advantages or playing politics, but do what was in its best interests of this country.

And so what we have seen is the House of Representatives follow through with a promise they made to America. They promised the American public that they were going to do these 10 things. Imagine that. Imagine. Politicians making promises. Oh, we have heard a lot of promises from politicians around here. All over the campaign trail, we make promises.

But think of this: Politicians who made promises who lived up to their promises. Is not that amazing?

That is exactly what they are doing over in the House of Representatives. These 10 things they said we were going to bring to the floor of the House of Representatives and, darn it, did they not? Every single one of them came to the floor for open debate, for amendments.

And, do you know what? After today, when they vote the tax bill—which I understand is supposed to pass—they will have passed 90 percent of the Contract With America. Not only did they live up to the promise of bringing all the stuff to the floor—and that is what the contract said, we will bring it to the floor. They brought it to the floor not saying, well, we are going to promise a tax cut and then bring a tax bill that was a tax increase. No, no. No bait and switch here. No "read my lips" here. No middle-class tax cut that turned into a middle-class tax increase.

But elected officials, people in Washington, Congressmen, who actually lived up to what they said they would do. Amazing. Amazing.

And so here we are in the U.S. Senate, looking at the model over there, and saying, "Boy, wouldn't it be nice if we could come to the U.S. Senate floor, and we could stand up"— and we do not have to vote in lockstep with the House. I would not suggest it. It is a different body; different rules; different procedures; and different ideas.

But to stand here and play politics and delay on an issue that is—of all the issues that we are dealing with here in Washington, the one that is highest above all is getting our financial house in order. That is what the American public want us to do. They want us to get our house in order.

And so, we have our first chance, right here—the first spending cut bill since the balanced budget amendment. The first chance for the U.S. Senate where the vote of the balance budget amendment occurs, right here—all of us, all 100 of us were sitting in our chairs. We stood up one at a time.

It was a very impressive moment for a young—I know the Presiding Officer, the Senator from Michigan, was just as impressed in casting that vote. It was a very awe-inspiring moment.

But we lost. And we lost because of the argument that we did not need the amendment to force us to make tough decisions. OK. Fine. You say we do not need the amendment. We do not have the amendment.

Now we have the tough decisions. And where are we? We are nowhere. We are waiting and waiting and waiting and waiting and waiting. And they are delaying and delaying and delaying, just like they did—you know, the amazing thing is they just are not delaying on this bill. The Democrats have delayed on every bill—every single bill. Even bills they liked.

I have heard the leader stand up here many times and say, you know, we passed a bill here earlier in the year, the congressional accountability bill, that makes us live by the laws here in Congress that we impose on other people's lives around America. It was over a week of debate, of delay, of dilatory tactics. It passed 98 to 1—98 to 1. It took us better than a week. It took the House an hour—98 to 1.

The next bill was the unfunded mandates bill, another bill that passed 86 to 10, 2 weeks or more. Two weeks of endless debate, delay. Why? Did they disagree? Of course not, 86 to 10. Was the bill changed a lot? No.

So what was the point? What was the point there? Why did we do that? Why did we go through that? Why have we gone 2 weeks on this rescission bill?

Are there a lot of amendments substantive to the bill? Oh, a couple.

Have we had lots of interesting debate? Some.

Have there been agreements to move the bill along, to actually come to votes on some of these things? No, no; we cannot do that. Well, tomorrow we have a vote on cloture on this bill. Cloture means to end the debate. Let us get this thing done. Let us end the debate tomorrow and let us stay here and finish the bill. We will see how many of these deficit hawks, these people who really are concerned about getting the deficit under control—and I will guarantee you, every one of the people delaying this bill will go back home to their States over the recess and talk about how they are for deficit reduction; how they are for changing Washington; how they want to make things different here; how this just happened to be a bad bill; how this just went a little too far.

Folks, this is $15 billion in deficit reduction—excuse me, $15 billion in spending cuts and deficit reduction. That is out of $1.6 trillion, and this goes too far? Get serious. Nobody believes it goes too far. These are the decisions we have to make that we are no longer forced to make, that we are not going to be forced to make because the balanced budget amendment did not pass.

So the unwritten story, the story that may be written here—I hope not—but the story that may be written here in the next couple of days is going to be how 46 Senators conspired to stop the train, did everything they could, everything they could to make sure that elections do not matter. That is right, that elections do not matter; that what people on November 8 said is irrelevant, that it did not happen. Denial and hope that if they just keep muddying the waters, if they just keep deflecting away the real issues before us, that maybe they will just blame the whole lot of us and not them.

I had to come out here today and just say the buck stops there. You want to change Washington? You know where the change has to happen. It is very simple. Do not let all these cries about, oh, how this is going to be so terrible—offer your amendments. You want to put back money for WIC? I will offer an offset. I will pay for the increase, and I will vote with you. I will increase money for WIC—Women, Infants, and Children. I have no problem with that. That is a good program. We will put more money back in. You will get a lot of Republicans to vote for that. Just come up with the money to offset it. Just pay for it. Keep the deficit reduction at the same level so if you want to add in $50 million for it, fine, we will take $50 million out of, oh, let us pick the AmeriCorps Program and offset it.

Set your priorities. Is that not what you want us to do? Do you not want us to set priorities? Do you not want us to say this program is more important than this program? We, obviously, would love to give all the money to every program and everything we want to do. But as everybody in America, maybe outside of 46 people in this room, believes and knows, we do not have all the money to give for everything. So we have to set priorities.

Let us set them. Come on down to the floor. Offer those amendments. Put that money back in for WIC. I will be right there with you. Take the other programs you say are just outrageous cuts; come on, let us talk about them and let us set priorities. Let us offset that money. Let us do it. Let us show the American public we really do care, that the deficit is really important.

You have the chairman of the Budget Committee here, the Senator from New Mexico. I know he cares about the budget. I know his family has not seen much of him because that is all he is doing probably is working on how to get to that balanced budget, and he is making a lot of tough decisions. Folks, we are ready to make the decisions. You told us in the balanced budget debate you were ready to make the decisions. Why are you not here? What is the problem? Is it just politics? Is it just partisanship? Do you not want to come here and solve problems? We deserve better. This institution deserves better.

Eleven freshmen Republicans did not come here to let the status quo continue. You want to fight; you do not want to come here and make things happen. We are ready. We are ready. We will stand here as long as it takes. We are ready to do battle.

We are ready to let the American public decide what direction they want this country to take: More spending, more Government, more power, more control in the hands of the people in Washington; or more money, more power, more control, more freedom in your hands on Main Street, America? That is the issue. We are ready. We are waiting. And we will wait, and we will wait, and we will wait.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to commend my friend from Pennsylvania, the new Senator, for his remarks, and I hope that I have a few minutes. I inquire what the parliamentary situation is, Mr. President?

The PRESIDING OFFICER. Morning business has been closed, but if the Senator seeks consent, he can speak as in morning business.

Mr. DOMENICI. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORKING TOGETHER TO SAVE MEDICARE

Mr. DOMENICI. Mr. President, I want to talk today to everyone in this body and every American who will listen and, in particular, senior citizens across this land, because something is happening that we are not paying attention to and we ought to be doing something about. I want to share it with you.

Again, I repeat, I hope the senior citizens, who themselves are concerned about the future, will pay heed to what occurred the day before yesterday when the trustees of the Medicare program issued their release with reference to the status of this fund. The trustees of Medicare released their 1995 annual report, Mr. President, on the hospital insurance trust fund. This looks like yet another boring Government report. But the information contained within it is singularly alarming. The information contained in this report affects the lives of all Americans, and has an immediate effect on the lives of senior citizens.

I want to read from the cover letter that was sent with this report:

> The Medicare hospital insurance trust fund is expected to be exhausted in the year 2002. While the status of the HI trust fund has thus improved slightly since last year, it still does not meet the board's test of short-range financial adequacy.

Translated, this means Medicare is going bankrupt 7 years from now. It will not have the money in the fund to pay the hospital bills of seniors then in the hospitals of America expecting their bills to be paid under the current Medicare program. If we do nothing, Medicare part A, that portion that pays for hospital benefits, will run out of money in the next 7 years.

I rise today to tell my colleagues and the American people that we must work together to save Medicare from bankruptcy.

This is not one part of America's problem. It is not a Republican problem, a Democrat problem, an independent problem. It is everyone's problem.

We will look at why Medicare is going bankrupt. As we can see on this chart, the bottom line is flat. This line represents the money coming into the trust fund from payroll taxes on current workers in the United States.

The amount of money we are projected to pay out for Medicare is going to continue growing. The top line represents money we are going to spend on Medicare benefits. The Congressional Budget Office, our official scorekeeper, tells Members that Medicare outlays are projected to grow more than 10 percent each year. That means if we leave programs like they are, if we leave the delivery system like it is, that program will go up 10 percent a year in cost.

This is unsustainable. The trend is obvious. The black line is the trend of 10 percent a year. I do not think we can afford to let Medicare spending continue to grow more than 10 percent every year. If we do, the consequence is absolutely and unequivocally and simply that Medicare will go under.

I, for one, will strive diligently not to let that happen. I hope many Senators from both sides of the aisle and many House Members from both sides of the aisle will help Members keep that from happening.

My hope that the President would help do that is dwindling rapidly. I will share with the U.S. Senators why I believe that is a fair conclusion.

I cannot sit by and let it happen because I have promised the people of my

State I would protect Medicare. To do nothing and leave the program alone is not to protect it. If I do nothing as a Senator, and if we do nothing, it will go bankrupt. Therefore, my commitment and promise requires that we act to save this system. I am not about to let it go bankrupt in 7 years.

There are some other interesting facts in the trustees' report that I believe should be spread out here in the Senate, and for those who are interested, through the networks that tell the people what we are saying, this report says, if we do not change our projected Medicare spending and if we want Medicare in long-term balance, if we want to put it in that position, we would have to raise payroll taxes by 3½ percentage points. The report says that.

I note my distinguished friend from New York is present and I hope I do not misinterpret anything in the report.

Mr. MOYNIHAN. No, sir, you do not.

Mr. DOMENICI. In other words, if we do not change the slope of this top line, which represents 10 percent per year growth, we are going to have to raise the bottom line. That means raising the current HI payroll tax from 2.9 percent to 6.4 percent. That is 120 percent increase. Those are not my numbers, their numbers. Those charts were telling the status of this.

Our other option, obviously, is to slow the growth of Medicare spending by changing the system or changing something within the system.

What else do these trustees say? They say:

> The HI program is severely out of financial balance and the trustees believe that Congress must take timely action to establish long-term fiscal stability for this program. The trustees believe that prompt, effective, decisive action is necessary.

They did not say wait until after the next election. They did not say wait 3 years. They did not say it is too tough, so do not do it. We asked them to tell Members what to do, and they are saying, "Congress, change it, fix it, and fix it now."

These trustees are urging Congress to act. They are telling Members to save Medicare. They are telling Members that Medicare part A is going to go bankrupt in 7 years.

I have said that five times. Before I am finished, I hope to say it three more times. Perhaps we should say it 10 times a day until some people in this Congress, besides a few, decide that we must fix this now.

I want to read from another report. Last year I served on the Bipartisan Commission on Entitlements and Tax Reform, cochaired by current Senator BOB KERREY and retired Senator JACK DANFORTH. Thirty of the 32 members of the bipartisan commission signed the interim report to the President. He asked for it. We sent it to him. I want to read finding No. 6 from that report.

> To respond to the Medicare trustees' call to action and ensure Medicare's long-term viability, spending and revenues available for the program must be brought into long-term balance.

Not the black line and the green line and the monstrous wedge, or differential, but so that the lines on the chart are one.

Let Members make no mistake about it. If we pass the President's budget, the highly touted budget of the President, Medicare will go bankrupt in 7 years. The President's budget did nothing on Medicare. The President's budget proposed three tiny changes to the program. These changes have no effect on those lines.

Secretary Shalala testified before the Budget Committee—I believe the distinguished occupant of the chair was present—2 months ago. I asked her what the administration intended to do about Medicare. She said they would wait until the new trustees' report came out before they made a recommendation. So the Secretary, representing the President, 2 months ago said, "Let's wait until the report."

Now, of course, there is something slightly funny about all of this. I have not told Members who the trustees are. The trustees are Shalala—Secretary Shalala. She is one of these trustees. Treasury Secretary Rubin is another of these trustees. Labor Secretary Reich is a third member. Out of the six Medicare trustees, three are Cabinet Secretaries to this administration. The fourth also works for the administration.

So, would we not think that the administration Cabinet Secretaries would recommend some specific action, Mr. President? Ultimately, they do not. Instead, they recommend that we create an advisory counsel that will provide information to help lead to the effective solutions to the problems of the program.

The Cabinet Secretaries are apparently recommending that we continue to study the problem, that we engage in a study program instead of changing the program.

Now, however, I want to tell Members the difference between citizens who do not represent this administration or any Members of Congress who are on this board who are trustees, I want to tell Members what they have to say, Mr. President. Citizens understand reality.

I want to turn to trustees Nos. 5 and 6. These are public trustees, two citizens who do not work for the Government but have given their time over the past 5 years to this Nation. I understand by party affiliation one is a Democrat, one is a Republican. In any event, I thank them profusely. Their names are Stanford Ross and David Walker. Mr. Ross and Mr. Walker have been trustees for Medicare and the Social Security for the past 5 years. They have been trustees during both the Bush and Clinton administrations. They are nonpolitical, private citizens charged with working in the best interests of senior citizens and our country. Most important, they do not answer to the White House.

In the past, Mr. Ross and Mr. Walker have issued their own statements. Believe it or not, the trustees issued a report and the citizen members issue their own report in the back of the book because they do not agree with the public members.

So, what do they have to say? I want to read some of these two public trustees' statements into the RECORD.

> The Medicare program is clearly unsustainable in its present form.

Further quote:

> With the results of last Congress, it is now clear that Medicare reform needs to be addressed urgently as a distinct legislative initiative.

Continuing the quote:

> The idea that reductions in Medicare expenditures should be available for other purposes, including even other health care purposes, is mistaken.

Why do I quote that? I will tell you a little more about that in a moment. Continuing on:

> The focus should be on making Medicare itself sustainable, making it compatible with Social Security, and making both [of them] financially sound in the long term.

That is the end the quotes. Now, my own conclusions from that.

That is what public, nonpolitical trustees say we should do about Medicare and that is exactly what I hope we are going to do. I would be quick to add, as Senator CHAFEE has pointed out, when Congress increased taxes on Social Security benefits in 1993, it devoted the increased revenues to this HI trust fund. Therefore there should be no doubt, if we now repeal that increase we would be lowering the amount of money going into this HI fund, causing the system to go bankrupt even sooner.

We must enact comprehensive Medicare reform to make Medicare financially sound now. And we must do that so it will be manageable and sound over the long term. We must make it sustainable and do that now. We must act to preserve the system, to ensure that our senior citizens receive Medicare today and will continue to receive it in 7 years from now. There is nothing magical about it. We have to do something. If we do not do anything it will be bankrupt. Current seniors for the next 5 or 6 years will get their hospital bill paid as per the law, but thereafter they will not.

What kind of public servants and leaders are we, if we do nothing again? So I am committing today that the U.S. Senate Budget Committee is going to mark up a budget resolution. After we return from this recess that will get done. At least from my standpoint, as chairman, I commit to a blueprint that not only achieves balance in terms of our fiscal house, but also addresses this critical problem. In order to make Medicare financially sound and a financially sound program once again, Congress will have to follow.

I made a comment that I did not follow up on, where I said the nonpolitical trustees, the two who are not Members of the President's Cabinet, said that Medicare savings should be used—Senator GORTON—to make the program solvent. Not to pay for something else.

One might say, "Who intends to spend them for something else? What are you talking about?" I suggest the President ought to let us know what he has in mind. He proposed a $130 billion in Medicare savings 2 years ago. He did not help with this, not one bit. Because he spent the money. He spent it to cover other people with health care coverage problems. I submit that one of the reasons the President of the United States did not put Medicare reform in his budget is because he intends to use Medicare reform savings to pay for health care reform, not to put it on the deficit. I submit we ought to have that debate.

We ought to ask the American people: Do you want to make this program solvent as it should be, or do you want to take savings that you can get from reform and decide we are so rich we can just spend it on another program? That is simple and that is oversimplification, but it is the real question. Some will say, Senator DOMENICI, it is not that simple. We need to cover all the other people who are not covered and it will ultimately help this program. But to tell you the truth, that is very, very difficult to understand. It is very difficult to figure we are really going to do that someday.

So I submit in the next 6 months this body, the U.S. Senate, has a real chance to vote on whether they are going to make this program for future senior citizens and those who have been paying into this fund for a long time, this 2.9 percent—for those, are we going to make it solvent or not? I believe there is a way to do it without a huge amount of pain. I might just suggest it is amazing that the two programs, big programs in health care that are still on a hell-bent-for-bankruptcy growth line are the two programs the U.S. Federal Government still runs.

There are no other programs that are growing at 10 percent a year. Go ask businesses, are they paying 10 percent more, year after year, for insurance coverage for their employees? They will tell you no. It was 14 percent or 15 percent 3 years ago, but it is down to 4 and 5 in some cases. In fact, we got a report the other day, some of them that were growing at 12 or 13 percent are now down at no growth, getting the same coverage. Why? Because they are trying new delivery systems. They are trying managed care. They are trying health maintenance organizations. They are trying those kinds of delivery systems which everybody knows are inevitable.

But we hang onto Medicare and we lead our senior citizens to believe that they are only going to get good health care if we keep the system that the rest of the public is beginning to say does not work, it is too expensive. So that is why we can fix this and we can fix it without denying our senior citizens good, solid health care. And the programs must continue to grow because we know health care for seniors cannot be a zero sum game.

So I thought we ought to tie in, today, sort of the first presentation of the issue with reference to fiscal policy. If you do not want to fix this you probably do not want a balanced budget and, more important than anything else, you probably do not want to do anything very difficult to get to a balanced budget.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I ask unanimous consent I may proceed as in mornings business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TURKEY MUST WITHDRAW

Mr. PELL. Mr. President, on March 23, together with Senators KERRY, FEINGOLD, and SNOWE, I submitted Senate Resolution 91 condemning the Turkish invasion of Northern Iraq. Since then, Senators BIDEN, D'AMATO, SARBANES, and SIMON have become cosponsors. With such strong bipartisan support, I hoped to move this resolution to Senate passage. Until today, I had intended to offer it as an amendment to the pending legislation. Given the fluidity of the floor situation—particularly the difficulties involving the Jordan debt amendment, and the need to send that matter to the President as soon as possible—I think it best not to offer a foreign policy amendment to this bill.

I remain deeply concerned, however, about Turkey's continued military operations in northern Iraq, and I wish to address that subject now. In the past several days, I have had occasion to pursue this issue at the highest levels of both the United States and Turkish Governments. I have had an exchange of letters with both the President and the Secretary of State, and just this morning, I and other members of the Foreign Relations Committee met with the Turkish Foreign Minister.

Specifically, I am disturbed by Turkey's continued military presence in Iraqi Kurdistan, and by the Government's unwillingness to set a date certain for withdrawal. Turkey should withdraw now.

While I appreciate Turkey's legitimate desire to combat the terrorist threat posed by the PKK, I believe the military action in Northern Iraq goes beyond mere self-defense, and furthermore offers virtually no prospect of eradicating PKK terror. The vast majority of terrorist attacks in Turkey are carried out not from Northern Iraq, but from inside Turkey itself. Turkey's repressive treatment of its own Kurds has forced thousands of civilian Kurds to flee to Northern Iraq. This has made it easier, in fact, for a small number of PKK terrorists to use civilian settlements in Northern Iraq as cover.

The Turkish incursion puts at risk thousands of Kurdish civilians living in Northern Iraq. To my mind, the Turkish incursion is a violation of international law, that must be brought to an end.

Furthermore, reports indicate that Turkey has made difficult access to areas of the conflict to representatives of international relief organizations, such as the International Red Cross. At a minimum, Turkey should take immediate steps to ensure the protection of innocent civilians and refugees. It also appears that Turkey has restricted journalists' access to critical areas of the conflict.

I must say that I took small comfort in the thought that Turkey is arranging tours for journalists and that it must place limits on access to the ICRC to ensure that the PKK does not receive assistance. I believe that the ICRC has vast experience in these matters, and certainly is as capable as the Turkish Government in determining how best to assist civilians caught in the fighting.

I will say that in my consultations with the U.S. Government on these matters, I have been pleased to see an acknowledgment of—and a concerted effort to—address my concerns. The President has assured me that United States officials in Washington and Ankara are pressing Turkey daily to protect innocent civilians and to withdraw at the earliest possible date.

The Secretary of State acknowledges that Turkey has been denying access to journalists and nongovernmental organizations, and informs me that the United States is working at the highest levels to rectify this situation. I am pleased to learn that United States embassy officials are visiting Iraqi Kurdistan this very week, and that Secretary Talbott and Secretary Holbrooke will travel to Ankara where they will pursue our concerns. I await their reports anxiously.

I welcome the apparent shift in the administration's approach to the troubling aspects of the invasion. The administration seems much more willing to question Turkey's motives and behavior, and to confront Turkey on these troubling issues. Although I still intend to pursue adoption of my resolution at the earliest practical time, I do believe U.S. policy is moving in the right direction.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am glad that my distinguished colleague, the Senator from New Mexico is still on the floor.

If I got the message of the distinguished chairman of the Budget Committee, it is that President Clinton is not doing anything while Medicare is going broke.

Mr. President, that is about as topsy-turvy as you can get it. the truth of the matter is that Presidents Reagan and Bush were the ones who did nothing while we spent ourselves blind. It was the Congress—Republicans and Democrats—who overwhelmingly voted for the Reagan tax cut in 1981. This particular Senator, Senator Mathias, and Senator BRADLEY were the only ones to vote against those tax cuts and also vote for the spending cuts. We were trying to hold the line and pay the bill.

At that particular time, we did not have hundred billion dollar deficits. We had suffered during the 1970's when the impact of the OPEC cartel sent our country into a recession. In response, we had an economic summit with President Ford, and eventually worked our way down to a $57 billion deficit when President Reagan took office.

But after the Reagan tax cuts, we saw the first $100 billion and the first $200 billion deficit. Then, under President Bush, we saw the first $300 billion deficit. Before he left town, if you didn't use the surpluses in the trust funds to mask the size of the deficit, the red ink rose to over $400 billion.

So President Clinton did not cause this problem. What did he do about it? Very admirably, he came to town and put all his political cards on the table, saying that you cannot get on top of this deficit unless you control health care costs.

In his first budget as President recommended cuts in Medicare and Medicaid which the Senate adopted to the tune of $63 billion. Every Republican voted against these cuts. The distinguished occupant of the chair was not here. He may have been over on the House side where we did not get a Republican vote either. In the Senate, the Vice President had to break the tie. The President then followed up with his health care package containing additional Medicare and Medicaid reductions that the distinguished chairman of the Finance Committee, Senator MOYNIHAN, labeled as "fantasy." At the time Republicans took great pride in attacking the President, but to his credit he stuck to his guns.

Mr. President, the purpose of my rising this afternoon is to remind my colleagues of that piece of history. If the chairman of the Budget Committee wants to stand on the floor of the Senate with a big chart showing the deficit going up, let us remember that President Clinton did not start that line up. We did, long before the gentleman from Little Rock, AR, even came to town. Indeed, before President Clinton arrived the line would be even steeper.

Against all of this criticism of the President for "taking a walk" or "waving the white flag," I want to get right to the heart of my rub with the chairman of the Budget Committee. I read: "accepts the President's proposed reductions in the Medicare program and indexes the current $100 annual part B deductions for inflation. Total Medicare savings would reach $80 billion over the next 5 years."

That is the chairman of the Budget Committee, outlining the "GOP Alternative Deficit Reduction and Tax Relief Plan," just last April.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GOP ALTERNATIVE: DEFICIT REDUCTION AND TAX RELIEF—SLASHING THE DEFICIT, CUTTING MIDDLE CLASS TAXES

The Republican Alternative Budget will reduce the deficit $318 billion over the next five years—$287 billion in policy savings and $31 billion from interest savings. This is $322 billion more in deficit reduction than the President proposes and $303 billion more in deficit reduction than the House-passed resolution contains.

Moreover, the GOP alternative budget helps President Clinton achieve two of his most important campaign promises—to cut the deficit in half in four years and provide a middle-class tax cut. The GOP plan:

Reduces the deficit to $99 billion in 1999. This is $106 billion less than the 1999 deficit projected under the Clinton budget.

Even under this budget federal spending will continue to grow.

Total spending would increase from $1.48 trillion in FY 1995 to more than $1.7 trillion in FY 1999.

Medicare would grow by 7.8-percent a year rather than the projected 10.6-percent. Medicaid's growth would slow to 8.1-percent annually rather than the projected 12-percent a year growth.

It increases funding for President Clinton's defense request by the $20 billion short-fall acknowledged by the Pentagon.

Provides promised tax relief to American families and small business:

Provides tax relief to middle-class families by providing a $500 tax credit for each child in the household. The provision grants needed tax relief to the families of 52 million American children. The tax credit provides a typical family of four $80 every month for family expenses and savings.

Restores deductibility for interest on student loans.

Indexes capital gains for inflation and allows for capital loss on principal residence.

Creates new incentives for family savings and investments through new IRA proposals that would allow penalty free withdrawals for first time homebuyers, educational and medical expenses.

Establishes new Individual Retirement Account for homemakers.

Extends R&E tax credit for one-year and provides for a one-year exclusion of employer provided educational assistance.

Adjusts depreciation schedules for inflation (neutral cost recovery).

Tax provisions result in total tax cut of $88 billion over five years.

Fully funds the Senate Crime Bill Trust Fund, providing $22 billion for anti-crime measures over the next five years. The Clinton budget does not. The House-passed budget does not. The Chairman's mark does not.

Accepts the President's proposed $113 billion level in nondefense discretionary spending reductions and then secures additional savings by freezing aggregate nondefense spending for five years.

Accepts the President's proposed reductions in the medicare program and indexes the current $100 annual Part "B" deductible for inflation. Total medicare savings would reach $80 billion over the next five years.

Achieves $64 billion in medicaid savings over the next five years, by capping medicaid payments, reducing and freezing Disproportionate Share Hospital payments at their 1994 level.

Achieves additional savings through reform of our welfare system totaling $33 billion over the next five years.

Repeals Davis-Bacon, reduces the number of political appointees, reduces overhead expenditures for university research, and achieves savings from a cap on civilian FTE's.

Mr. HOLLINGS. Now, Mr. President, what galls my friends on the other side of the aisle is that the President of the United States did not give them a ball to run with this year. They thought the President might want to be harassed again and would propose another multibillion-dollar plan. Why go through that act again? Instead, he understandably said, "If you have a better way to do it, you do it." But rather than doing it, they come here with the false representation that the President of the United States has done nothing about Medicare. In so doing, the Republicans are making a feeble attempt to justify the enormous Medicare cuts that will be part of the Republican plan.

But we have seen their record on preserving the Medicare Trust Fund. One of the major proposals in the Contract With America would repeal recent changes in Social Security and would result in bankrupting the Medicare trust fund. If there is any movement around town to really make sure that Medicare goes broke quicker than 2002, it is to be found in the Contract With America.

The pundits on the weekend programs need to tell the American people the truth, namely that the entire contract is eyewash. Like a hurricane, as we learned down home, you just have to let it blow on through.

When all fanfare and fireworks are over, it does not create one single job, and it does not pay one single bill. It is all symbols and no substance. Unfortunately, the media treats the entire Government like spectator sport up here, finding out who is on top, and who won this particular vote, without focusing on the long term to find out where we are headed.

Mr. President the inference I took from the comments I heard earlier was that the President was not being responsible. In fact, it is we members of the Budget Committee who have not been responsible. The law that says by April 1 the budget should be reported out of the Senate Budget Committee and by April 15 it is supposed to become law.

Here it is April 5. The Budget Committee has not even started its work on the budget resolution and, yet we are running around with tables, charts, contracts, and hoopla. All symbols, no substance; all process, no product.

In December, Mr. KASICH, chairman of the House Budget Committee, told us on "Meet the Press" that we were going to have three budgets. In addition, we were going to have spending cuts and put them in the bank before we got any tax cuts.

Mr. President, we do not have the spending cuts, but in the House today, they are voting on tax cuts. And where are the spending cuts that they promised? In January I put in the RECORD a list of spending cuts and an illustrative glide path to balance the budget by the year 2002.

(Ms. SNOWE) assumed the chair.

Mr. HOLLINGS. We computed that you had to have at least $37 billion in cuts to put us on that glidepath of Government in the black by the year 2002.

That does not take into measure any tax cuts. You are going to lose another $189 billion over 5 years, if the House succeeds with their tax cut. I was asked earlier this morning about the tax cut. I said, "A tax cut really means a tax increase."

They said, "That is doubletalk. What do you mean?"

I said, "You have to think it through. The first thing your Government did this morning at 8 o'clock was go down to the bank and borrow 1 billion bucks and add it to the debt." That is interest costs. They should more appropriately be called interest taxes in that they cannot be avoided. We are adding it to the debt which is now rapidly approaching $5 trillion bucks. Gross interest costs now total $339 billion and, with rising interest rates, it will soon surpass $1 billion a day.

Thus, if you care to have a tax cut for the middle class, you have in reality burdened the middle class by increasing interest taxes and driving ever skyward, the Federal debt.

The contract is a political exercise designed to make it look like we are thinking about the middle class when in reality we are depriving the middle class. You are doing it to them, not for them, when you pass that tax cut.

I cosponsored a bill earlier this year, along with the Senator from Wisconsin, saying that we oppose the tax cuts would rather any savings be used to reduce the deficit. I am glad the Senate now has gone on record to that effect.

I ask unanimous consent, Madam President, to have printed in the RECORD at this point, dated January 23, the truth in budgeting proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS RELEASES REALITIES ON TRUTH IN BUDGETING

Reality No. 1: $1.2 trillion in spending cuts is necessary.

Reality No. 2: There aren't enough savings in entitlements. Have welfare reform, but a jobs program will cost; savings are questionable. Health reform can and should save some, but slowing growth from 10 to 5 percent doesn't offer enough savings. Social Security won't be cut and will be off-budget again.

Reality No. 3: We should hold the line on the budget on Defense; that would be no savings.

Reality No. 4: Savings must come from freezes and cuts in domestic discretionary spending but that's not enough to stop hemorrhaging interest costs.

Reality No. 5: Taxes are necessary to stop hemorrhage in interest costs.

	1996	1997	1998	1999	2000	2001	2002
Deficit CBO Jan. 1995 (using trust funds)	207	224	225	253	284	297	322
Freeze discretionary outlays after 1998	0	0	0	−19	−38	−58	−78
Spending cuts	−37	−74	−111	−128	−146	−163	−180
Interest savings	−1	−5	−11	−20	−32	−46	−64
Total savings ($1.2 trillion)	−38	−79	−122	−167	−216	−267	−322
Remaining deficit using trust funds	169	145	103	86	68	30	0
Remaining deficit excluding trust funds	287	264	222	202	185	149	121
5 percent VAT	96	155	172	184	190	196	200
Net deficit excluding trust funds	187	97	27	(17)	(54)	(111)	(159)
Gross debt	5,142	5,257	5,300	5,305	5,272	5,200	5,091
Average interest rate on debt (percent)	7.0	7.1	6.9	6.8	6.7	6.7	6.7
Interest cost on the debt	367	370	368	368	366	360	354

Note.—Figures are in billions. Figures don't include the billions necessary for a middle-class tax cut.

Nondefense discretionary spending cuts	1996	1997
Space station	2.1	2.1
Eliminate CDBG	2.0	2.0
Eliminate low-income home energy assistance	1.4	1.5
Eliminate arts funding	1.0	1.0
Eliminate funding for campus based aid	1.4	1.4
Eliminate funding for impact aid	1.0	1.0
Reduce law enforcement funding to control drugs	1.5	1.8
Eliminate Federal wastewater grants	0.8	1.6
Eliminate SBA loans	0.21	0.282
Reduce Federal aid for mass transit	0.5	0.1
Eliminate EDA	0.02	0.1
Reduce Federal rent subsidies	0.1	0.2
Reduce overhead for university research	0.2	0.3
Repeal Davis-Bacon	0.2	0.5
Reduce State Dept. funding and end misc. activities	0.1	0.2
End P.L. 480 title I and III sales	0.4	0.6
Eliminate overseas broadcasting	0.458	0.570
Eliminate the Bureau of Mines	0.1	0.2
Eliminate expansion of rural housing assistance	0.1	0.2
Eliminate USTTA	0.012	0.16
Eliminate ATP	0.1	0.2
Eliminate airport grant in aids	0.3	1.0
Eliminate Federal highway demonstration projects	0.1	0.3
Eliminate Amtrak subsidies	0.4	0.4
Eliminate RDA loan guarantees	0.0	0.1
Eliminate Appalachian Regional Commission	0.0	0.1
Eliminate untargeted funds for math and science	0.1	0.2
Cut Federal salaries by 4 percent	4.0	4.0
Charge Federal employees commercial rates for parking	0.1	0.1
Reduce agricultural research extension activities	0.2	0.2
Cancel advanced solid rocket motor	0.3	0.4
Eliminate legal services	0.4	0.4
Reduce Federal travel by 30 percent	0.4	0.4
Reduce energy funding for Energy Technology Develop.	0.2	0.5
Reduce Superfund cleanup costs	0.2	0.4
Reduce REA subsidies	0.1	0.1

Nondefense discretionary spending cuts	1996	1997
Eliminate postal subsidies for nonprofits	0.1	0.1
Reduce NIH funding	0.5	1.1
Eliminate Federal Crop Insurance Program	0.3	0.3
Reduce Justice State-local assistance grants	0.1	0.2
Reduce export-import direct loans	0.1	0.2
Eliminate library programs	0.1	0.1
Modify Service Contract Act	0.2	0.2
Eliminate HUD special purpose grants	0.2	0.3
Reduce housing programs	0.4	1.0
Eliminate Community Investment Program	0.1	0.4
Reduce Strategic Petroleum Program	0.1	0.1
Eliminate Senior Community Service Program	0.1	0.4
Reduce USDA spending for export marketing	0.02	0.02
Reduce maternal and child health grants	0.2	0.4
Close veterans hospitals	0.1	0.2
Reduce number of political employees	0.1	0.1
Reduce management costs for VA health care	0.2	0.4
Reduce PMA subsidy	0.0	1.2
Reduce below cost timber sales	0.0	0.1
Reduce the legislative branch 15 percent	0.3	0.3
Eliminate Small Business Development Centers	0.056	0.074
Eliminate minority assistance score, small business interstate and other technical assistance programs, women's business assistance, international trade assistance, empowerment zones	0.033	0.046
Eliminate new State Department construction projects	0.010	0.023
Eliminate Int'l Boundaries and Water Commission	0.013	0.02
Eliminate Asia Foundation	0.013	0.015
Eliminate International Fisheries Commission	0.015	0.015
Eliminate Arms Control Disarmament Agency	0.041	0.054
Eliminate NED	0.014	0.034
Eliminate Fulbright and other international exchanges	0.119	0.207
Eliminate North-South Center	0.002	0.004
Eliminate U.S. contribution to WHO, OAS, and other international organizations including the United Nations	0.873	0.873

Nondefense discretionary spending cuts	1996	1997
Eliminate participation in U.N. peacekeeping	0.533	0.533
Eliminate Byrne grant	0.112	0.306
Eliminate Community Policing Program	0.286	0.780
Moratorium on new Federal prison construction	0.208	0.140
Reduce coast guard 10 percent	0.208	0.260
Eliminate Manufacturing Extension Program	0.03	0.06
Eliminate coastal zone management	0.03	0.06
Eliminate national Marine sanctuaries	0.007	0.012
Eliminate climate and global change research	0.047	0.078
Eliminate national sea grant	0.032	0.054
Eliminate State weather modification grant	0.002	0.003
Cut weather service operations 10 percent	0.031	0.051
Eliminate regional climate centers	0.002	0.003
Eliminate Minority Business Development Agency	0.022	0.044
Eliminate Public Telecommunications Facilities Program grant	0.003	0.016
Eliminate children's educational television	0.0	0.002
Eliminate national information infrastructure grant	0.001	0.032
Cut Pell grants 20 percent	0.250	1.24
Eliminate education research	0.042	0.283
Cut Head Start 50 percent	0.840	1.8
Eliminate meals and services for the elderly	0.335	0.473
Eliminate title II social service block grant	2.7	2.8
Eliminate community services block grant	0.317	0.470
Eliminate rehabilitation services	1.85	2.30
Eliminate vocational education	0.176	1.2
Eliminate chapter 1 20 percent	0.173	1.16
Reduce special education 20 percent	0.072	0.480
Eliminate bilingual education	0.029	0.196
Eliminate JTPA	0.250	4.5
Eliminate child welfare services	0.240	0.289
Eliminate CDC Breast Cancer Program	0.048	0.089
Eliminate CDC AIDS Control Program	0.283	0.525
Eliminate Ryan White AIDS Program	0.228	0.468
Eliminate maternal and child health	0.246	0.506
Eliminate Family Planning Program	0.069	0.143

Nondefense discretionary spending cuts	1996	1997
Eliminate CDC Immunization Program	0.168	0.345
Eliminate Tuberculosis Program	0.042	0.087
Eliminate agricultural research service	0.546	0.656
Reduce WIC 50 percent	1.579	1.735
Eliminate TEFAP:		
Administrative	0.024	0.040
Commodities	0.025	0.025
Reduce cooperative State research service 20 percent	0.044	0.070
Reduce animal plant health inspection service 10 percent	0.036	0.044
Reduce food safety inspection service 10 percent	0.047	0.052
Total	36.942	58.407

Mr. HOLLINGS. I thank the distinguished Chair.

Finally, I could not get to the floor yesterday, but I heard my distinguished colleague from Kansas, the majority leader, constantly talking about,

> Well, if you want to talk about children, why didn't you think about it when we were voting for the balanced budget amendment to the Constitution? That is when you should have been thinking about children. The Democrats flip-flopped.

Well, let me correct that record. The flip-flopper is the majority leader. He voted for my law, section 13301, of the Budget Enforcement Act, signed by President Bush on November 5, 1990. In a word, it says "Thou shalt not use Social Security funds for the deficit."

Unfortunately, I cannot find it in the newspapers. If they ever print it, I am going to give them some kind of Pulitzer Prize. I have seen magazine articles. I just saw Susan Dentzer in the U.S. News and World Report; I saw Time magazine; I have seen Newsweek. But have not seen anywhere in print that we have a law saying you cannot use Social Security funds for the deficit.

In direct conflict with that law, section 7 of the balanced budget amendment says, "On, no, all receipts and all revenues shall be used."

I cannot go in two different directions. No, I was not thinking of the children. I was thinking of the trust we made with the senior citizens.

But I am thinking of children, though, and what will happen when they begin to use those funds. When their time comes in the next century, they are going to have to be taxed a second time to get their money. And that is why I do not want that $600 billion in Social Security funds to be used for this charade of balancing the budget.

The balanced budget amendment to the Constitution is supposed to put a gun to the head of Congress to give us discipline. Instead, it makes Congress creative.

I remember what happened during the budget summit of 1990. The leadership went out to Andrews Air Base and said, "We're going to put in caps," and the caps—well, they were way higher than this ceiling. I do not believe they ever brought them in for us to look at. All these words, charades, plays and games have to be understood for what they are.

The majority leader says that they do not intend to use Social Security funds. He said so in the debate on the floor, and others have said so.

But we know differently. If they can use $600 billion of Social Security funds to make it look balanced, they will, in effect, only be moving the deficit from the general Government over to the Social Security fund.

I am ready to get serious. The budget was supposed to be reported out on April 1, pass both Houses and be sent to the President by April 15.

So let us not come on the floor of the Senate and chastise the President of the United States for being guilty of a crime that he did not commit. We cannot in good conscience continue this game against the White House.

I can tell you, nothing is going to happen around here because I am going to start joining in this game. I was not going to come to the floor today. I did not feel so kindly toward the executive branch because we had worked, the Republicans and Democrats from both sides of the aisle, on a very complicated telecommunications bill. We reported it out with 8 of the 10 Republicans approving it. We got it out with all nine of the Democrats approving it. We had a bipartisan bill reported out of the Commerce Committee last week. We were ready to go this week. But then along comes the Vice President and says he does not like the provisions in the bill about cable TV. There are a lot of things I don't feel totally comfortable with, but this bill is a bipartisan compromise bill. A compromise between the Republican bill and the Democratic bill that reflects a lot of give-and-take. Overall this bill is good for the public. The Republicans wanted to totally deregulate the upper tiers, the Democrats did not let them. We still have the basic tier regulated. We did the best we could do with the votes we had in committee. Another example where we had to compromise was on the question of RBOC entry into long distance. We still have the Department of Justice in a consultative role. I can go down point by point where the Democrats would have supported a stronger position. Just look at the Democratic draft of February 15. But my reaction this morning when I read the paper about the administration's position reminds me of the story when Churchill was talking to Stalin about the Soviet troops going into East Poland and how the Pope was worried about it. And Stalin is reported to have asked: "How many divisions does the Pope have?"

This morning my question was, how many votes does the Vice President have? We know the votes pretty well, and I can tell you the votes weren't there in committee. We have a bill we could have passed in a bipartisan fashion here in 2, maybe 3 days, like we had planned. The committee reported out a similar bill, S. 1822, by a vote of 18 to 2 last year. We reported it out 18 to 2. I support Senator PRESSLER's bill.

When we get to the floor, there will be some amendments. But when the executive branch says "veto"—I hear now the Vice President said he did not say "veto"—it sends a very conflicting signal. I asked the distinguished chairman of our Commerce Committee this morning, "Larry, did he say veto?" He said he used the word five times. So I asked my staff and they said that the administration would veto the communications bill in its current form.

So if they are going to veto it, then I feel sort of relieved of my further responsibility of trying to maintain the core provisions of the bill. I was very fearful we might get rolled on the amendments, such as a date-certain entry on long distance. If that passed, then there would be no so-called level playing field. There would be no competition test, and you would have the RBOC's moving in and extending their monopoly rather than real competition in the local exchange. And bet your boots the RBOC's have the clout to do it.

In the middle of all this criticism of the committee, we can at least be thankful to the heads of AmeriTech, AT&T, the Justice Department, and particularly Anne Bingaman, the Assistant Attorney General for Antitrust.

Anne Bingaman is an astute trial lawyer. She knows her subject and works around the clock. She has been working for months on getting AmeriTech and AT&T to agree on the terms under which AmeriTech could compete in long distance. The AmeriTech plan is a monumental achievement that recognizes the need for actual competition in the local market. Actual competition! That is what we required in S. 1822 last year and this proposal is one put forth by an RBOC that opposed our bill last year.

I say kudos to Anne Bingaman; Dick Notabaert of AmeriTech; to Bob Allen, the head of AT&T; and Gene Kimmelman, who used to be with the Consumer Federation of America and is now with the Consumers Union.

They appeared together at a news conference the day before yesterday to announce the signing of the AmeriTech proposal. I think it is a good proposal and reflects many of the ideas embodied in S. 1822 from last year.

So why should we delay now on the floor of the Congress when the parties in the particular discipline have all agreed?

The major player in the long distance industry, an RBOC, the Justice Department, and consumer groups have all gotten together on this one. I am particularly indebted to those parties, and particularly the Assistant Attorney General for Antitrust.

I see other Senators wishing to be recognized. I yield the floor.

Mr. GLENN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICA'S SENSITIVE NUCLEAR TECHNOLOGY

Mr. GLENN. Madam President and colleagues, I rise to speak briefly today about a rather curious development in the history of U.S. efforts to halt the global spread of nuclear weapons.

The hallmark of a good law is its ability to balance elements of permanence and change. A good law offers both fixed compass points and sufficient latitude for tactical navigation.

Our nonproliferation legislation offers no exception to this rule. When our laws and policies apply too much sail or too much anchor, the consequences can be devastating for vital national security interests of the United States.

For example, the notion of timely warning—that is, a legal precondition for certain forms of nuclear cooperation that was placed into the Atomic Energy Act to ensure stringent controls over exported U.S. nuclear materials and technology—has been rendered virtually meaningless by the way various administrations have used this term over the last decade to expedite commercial uses of U.S.-controlled plutonium in other countries.

United States nuclear cooperation with Japan and with members of EURATOM, the European Atomic Energy Community, a region plagued by daily headlines of new black market nuclear deals, are two specific cases where large-scale nuclear cooperation is proceeding without timely warning having been satisfied within the original meaning of the term.

Madam President, I ask unanimous consent to have printed at the end of my remarks an authoritative interpretation of this concept by Dr. Leonard Weiss, who is now the minority staff director of the Governmental Affairs Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Another example, Madam President, in 1985, following repeated and flagrant violations of its peaceful nuclear assurances to the United States, Pakistan was required by the Pressler amendment to satisfy a certification requirement before receiving new aid. Specifically, the President had to certify that Pakistan did not possess a nuclear explosive device and that new aid would, as numerous officials from the Reagan administration had asserted, reduce significantly the risk that Pakistan would acquire such a device.

America funneled hundreds of millions of United States taxpayer dollars into Pakistan after 1985, until President Bush finally stopped making the required certifications in 1990.

Throughout that period, both Presidents Reagan and Bush solemnly certified—using an interpretation of the word "possess" that would make even the most cynical of our Government's legal advisors blush—that Pakistan did not possess the bomb.

The interpretations of the words "reduce" and "significantly" were similarly handled, as though they had been inscribed on something like silly putty. They did not mean anything.

Since the aid cutoff in 1990, by the way, we have finally started to see the first signs of some potential nuclear restraint in Pakistan in the form of a freeze on the production of highly enriched uranium.

Oh yes, I almost forgot to mention the $1 billion or so in taxpayer dollars not doled out to Pakistan since 1990 in the name of restraining Pakistan's bomb program. Those funds remain here at home, thanks to the Pressler amendment.

As a footnote to the sad saga of Washington's failure to implement the Pressler sanctions until 1990, however, our Government has since interpreted the ban on assistance as not covering commercial sales of military equipment, including spare parts for Pakistan's nuclear weapon delivery vehicle, the F–16. Even joint military exercises are not regarded as assistance. Once again, a key nonproliferation term has been molded and distorted beyond recognition.

Yet, my remarks today will focus on another term that has found its way into the "Twilight Zone" of nonproliferation. I am referring to the term "sensitive nuclear technology," SNT, as it is known, which the Nuclear Non-Proliferation Act very clearly defines as any information, other than restricted data, "* * * which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water * * *".

If we look carefully into the United States-Japan agreement for nuclear cooperation, signed in 1987, we will find a clause in there that says the following: "* * * sensitive nuclear technology shall not be transferred under this Agreement." That is article 2–1-b.

Underscoring this provision, the principal negotiator of this agreement, Ambassador Richard Kennedy, testified on December 16, 1987, before the House Foreign Affairs Committee: "The transfer of restricted data and sensitive nuclear technology under the agreement is specifically excluded."

Last September, the international environmental group, Greenpeace, prepared a lengthy analysis of the transfers of United States nuclear reprocessing technology to Japan. This study, titled "The Unlawful Plutonium Alliance: Japan's Supergrade Plutonium and the Role of the United States," makes for interesting reading. It presents considerable evidence of United States cooperation with Japan in the areas of plutonium breeder reactors and nuclear fuel reprocessing.

On September 8, 1994, the United States Department of Energy promised a comprehensive review of the report and further stated that it was "phasing out collaborative research efforts with Japan on plutonium reprocessing and development of breeder reactor technology."

The same day, the New York Times quoted a Department of Energy spokesman as saying that this cooperation was "* * * a remnant of the last administration."

Later, on September 23, Greenpeace was joined by the Natural Resources Defense Council and the Nuclear Control Institute in demanding several steps to restore United States-Japan nuclear cooperation to the constraints of United States law.

Madam President, I ask unanimous consent to have printed in the RECORD a letter by these organizations to Energy Secretary Hazel O'Leary.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GREENPEACE INTERNATIONAL; NUCLEAR CONTROL INSTITUTE; NATURAL RESOURCES DEFENSE COUNCIL,
September 23, 1994.

Hon. HAZEL O'LEARY,
Secretary of Energy, U.S. Department of Energy, Washington, DC.

DEAR SECRETARY O'LEARY: We are writing to you concerning the Department of Energy's current review of its policies and practices with respect to the export of "sensitive nuclear technology."

We urge that the Department immediately suspend its July 1986 guidelines for determining whether technology proposed to be transferred to other countries constitutes SNT within the meaning of the Nuclear Non-Proliferation Act. We further request suspension of all cooperation in reprocessing, uranium enrichment, and heavy water technology pursuant to the guidelines, pending the outcome of the SNT review.

On September 8, 1994, in response to a report issued by Greenpeace, "The Unlawful Plutonium Alliance", outlining the history of recent transfers of reprocessing technology to Japan, the Department announced that it was undertaking a "comprehensive review" of its SNT guidelines. It promised to publish the results of this review within 60 days, or by November 7, 1994. It further stated that it was "phasing out collaborative research efforts with Japan on plutonium reprocessing and development of breeder reactor technology."

As outlined in the Greenpeace report, there is no question that any SNT transfers to Japan are unlawful. Indeed, the 1988 agreement for nuclear cooperation between Japan and the United States flatly prohibits such transfers. While the Department, in reliance on its internal guidelines, has sought to justify the transfer of reprocessing technology to Japan on the grounds that it is not SNT, the justification cannot withstand scrutiny. In fact, the Department's July 1986 guidelines—which permit reprocessing technology to be treated as something other than SNT when supplied to a recipient country with a sophisticated nuclear program or where it would duplicate an existing capability (the rationale invoked in the case of Japan)—cannot be squared with the language and intent of the NNPA.

Indeed, taken to its logical extreme, the Department's interpretation would allow reprocessing technology transfers to countries with questionable proliferation credentials. However, contrary to the Department's guidelines, the NNPA mandates strict, statutory controls over this highly sensitive technology wherever it is to be transferred and without regard to the relative nuclear sophistication of the recipient.

Our conclusion mirrors that of the General Accounting Office, which stated in a 1987 report that the Department's interpretation was "not fully consistent with the intent of the NNPA." (GAO, "Department of Energy Needs Tighter Controls Over Reprocessing Information", 41 GAO/RCED-87-150, August 1987.)

Likewise, in House hearings held more than eight years ago, Senator Glenn, a principal co-author of the NNPA, characterized the Department's approach to SNT determinations as reflecting a "willful determination over a period of years to ignore the intent of Congress." (Hearing on Nuclear Exports before the Subcommittee on Energy Conservation and Power of the House Committee on Energy and Commerce, 99th Cong., 2d Sess. 4-5, May 15, 1986.) At the same hearing, Congressman Markey called the Department's views "bizarre" and underscored. "In the NNPA, Congress took the view that enrichment, reprocessing and heavy water manufacture are inherently sensitive activities wherever they are located. No latitude is specified in the act because none was intended." *Id.* at 3.

We think the legal positions asserted in the Greenpeace report, echoing those of GAO and key members of Congress, are unassailable. We think far too much time has passed during which the Department has ignored the requirements of law and cavalierly condoned unauthorized SNT transfers. While we applaud the Department for undertaking its review, we do not believe that business as usual is appropriate while the review is underway. Indeed, "business as usual", when it involves continued violation of the law, is scarcely something that can or should be tolerated by the Department.

We therefore believe it is incumbent upon the Department to take three firm steps during the period of the review. First, it must immediately suspend the 1986 guidelines. Second, independent of the general phase-out of collaborative reprocessing efforts with Japan, it must perforce suspend approvals of any further technology transfers which might involve SNT to any country. Third, Japan and other countries with whom SNT is shared must immediately be advised of the suspension of the 1986 guidelines and cooperation involving SNT. Only by taking these steps can both the NNPA and the review process be the 1986 guidelines and cooperation involving SNT. Only by taking these steps can both the NNPA and the review process be preserved and can the public have adequate assurance that fundamental U.S. non-proliferation law will not continue to be undermined.

Thank you for your consideration of our views. We would appreciate it if you would promptly advise us of how you intend to proceed concerning our request.

Sincerely,

TOM CLEMENTS,
Greenpeace International.
PAUL LEVENTHAL,
Nuclear Control Institute.
CHRISTOPHER PAINE,
Natural Resources Defense Council.

Mr. GLENN. Months later, on December 28, 1994, these groups received a brief reply from the Department of Energy simply asserting that the transfers to Japan were "permissible exercises of its statutory authorities."

Madam President, I further ask to have printed in the RECORD a letter from the Director of the Department of Energy's Office of Nuclear Energy communicating DOD's view that it is permissible for the Department "to consider the quality of technology already indigenous to the country that would receive the export in making the determination that sensitive nuclear technology was in fact proposed to be exported in a given transaction."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, DC, December 28, 1994.
Mr. TOM CLEMENTS,
Greenpeace, Inc., Washington, DC.

DEAR MR. CLEMENTS: As you will recall, after receiving Greenpeace's report. "The Unlawful Plutonium Alliance," the Department agreed to review the guidelines it has used since 1986 in determining whether particular proposed exports involve "sensitive nuclear technology," as that term is used in the Nuclear Non-Proliferation Act. In particular, the Department directed its critical scrutiny to the question whether it is legally permissible for the Department to consider the quality of technology already indigenous to the country that would receive the export in making the determination that sensitive nuclear technology was in fact proposed to be exported in a given transaction.

The Department's Office of General Counsel has concluded that consideration of the quality of indigenous technology is permissible in identifying whether sensitive nuclear technology is proposed to be exported in a particular transaction. As a result, the Department has concluded that its determinations with respect to technology exports to Japan were permissible exercises of its statutory authorities.

The Department will codify the overall guidelines it uses to determine which exports should be considered sensitive nuclear technology by December 1995. This decision is consistent with our current practice of codifying statements of general applicability and future effect that implement, interpret, or prescribe law or policy. To begin this process the Department will publish an Advanced Notice of Proposed Rulemaking in the Federal Register by February 1995. The Department will actively seek the public's views about sensitive nuclear technology during the rulemaking process. We encourage your participation.

Sincerely,

TERRY R. LASH,
Director, Office of Nuclear Energy.

Mr. GLENN. In short, because Japan already had demonstrated a capability to separate plutonium, DOE is arguing that our reprocessing technology did not qualify as SNT—even though the technology was not in the public domain, even though the technology was important to a Japanese facility engaged in reprocessing activities, and even though the technology was not classified Restricted Data. In short, the Department is asserting that even though the technology satisfied each and every one of the requisite components of the definition of SNT, the technology transferred to Japan was not SNT.

The Department did, however, indicate that it will soon invite the public's views on this interpretation in a rule making process. By all indications, that should be a lively process indeed.

Madam President, I ask unanimous consent to insert into the RECORD: First, three articles from the trade newsletter, Nuclear Fuel: "Four-Month Look at SNT Guidelines Yields Three-Paragraph Response," January 2, 1995; "DOE Pressured to Explain Position on Secret SNT Export Guidelines", October 24, 1994; and "PNC Argues Against Public Release of RETF-Related Design Information", October 24, 1994; and second, a January 6, 1995, letter from the three environmental organizations—Greenpeace, NRDC, and NCI—to the Secretaries of Energy and State urging the exclusion of reprocessing technology transfers from any new agreement for cooperation with the European Atomic Community.

There being no objection, the material was ordered to be printed in the RECORD as follows:

FOUR-MONTH LOOK AT SNT GUIDELINES YIELDS THREE-PARAGRAPH RESPONSE

In a pithy three-paragraph letter, a senior DOE official said December 28 that the department is within its legal authority to transfer so-called sensitive nuclear technology (SNT) to other countries if those countries have advanced nuclear programs.

Questions about DOE's export of SNT arose in September when Greenpeace International released a report charging that DOE has for years illegally provided Japan's Power Reactor & Fuel Development Corp. (PNC) with SNT, which PNC has used to research and develop a planned breeder reactor spent fuel reprocessing plant. Greenpeace said such exports violate the Nuclear Nonproliferation Act, which limits such transfers, and the 1987 U.S.-Japan Peaceful Nuclear Cooperation Agreement, which specifically bars them (NF, 12 Sept '94, 12).

DOE promised to review the Greenpeace report, "prepare a comprehensive response" and "analyze the guidelines used in determining whether nuclear technology transferred to other countries is (SNT) which would be subject to export controls under the Nuclear Nonproliferation Act."

DOE said it would "make public the results of the comprehensive review within 60 days" (by November 7), but a lengthy legal analysis added 51 days to the review, culminating in the one-page, three paragraph response faxed to Tom Clements, U.S. coordinator of Greenpeace's plutonium campaign, at 5:30 p.m., December 28.

The letter from Terry Lash, director of DOE's Office of Nuclear Energy, provides no details on how DOE concluded that the exports to Japan are permissible, but rather merely restates DOE's position that SNT export guidelines, prepared by DOE in 1986, permit such exports if a country has an advanced nuclear capability.

Greenpeace and other environmental groups have argued that the guidelines themselves are unlawful because SNT is SNT, regardless of the capabilities of the country that receives it.

In September, a Greenpeace-sponsored legal analysis of the guidelines concluded that DOE "is not free to designate the same technology as SNT for some recipients and not for others."

DOE clearly disagrees with that analysis, but has provided nothing to back up its rationale and apparently doesn't intend to. Asked specifically if DOE plans to provide additional information on how it concluded that it had not violated the NNPA or the U.S.-Japan agreement. DOE's Ray Hunter said: "There is nothing more intended to come out." The "comprehensive review" DOE promised in early September "is reflected in that letter" to Clements, he said.

Clements told NuclearFuel December 29 that DOE claims to have no written record of its legal analysis, even though Lash noted in his letter that the department "directed its critical scrutiny" to the question of whether "it is legally permissible" to consider a recipient country's level of nuclear expertise when determining whether SNT is involved in a proposed transaction.

Having concluded—without further explanation—that the SNT guidelines are legal. DOE has further concluded that "its determinations with respect to technology exports to Japan were permissible exercises of its statutory authorities." The letter offers no insight as to which "statutory authorities" the department's lawyers considered in their lengthy deliberations over the SNT designation issue.

Lash said the department will codify the overall guidelines it uses to determine which exports should be considered SNT by December 1995. He invited Clements to participate in the rulemaking process, which will begin in February when DOE publishes an advanced notice of proposed rulemaking.

TOTALLY INADEQUATE

"We obviously view this as totally inadequate," Clements told NuclearFuel, "and we will continue to legally challenge DOE on this."

In a press release, Clements said DOE "has failed in the extreme to conduct the thorough review promised of its 'sensitive nuclear technology' export policy. The DOE determination to leave its SNT export policy in place has no basis in law and stands in contradiction to stated U.S. policies aimed at halting the proliferation of plutonium."

Greenpeace and the Nuclear Control Institute (NCI), which have long fought breeder reactor technologies and the separation and use of plutonium, also maintained that DOE's response was contrary to opinions by the U.S. General Accounting Office, Sen. John Glenn (D-Ohio) and Rep. Edward Markey (D-Mass.).

"DOE's conclusion creates a massive loophole in the U.S. nuclear nonproliferation regime, which is particularly disturbing in light of the current renegotiation of the U.S. nuclear agreement with the European Atomic Energy Community (Euratom)," added NCI Deputy Director Daniel Horner.

NCI and Greenpeace are concerned that DOE may be laying the foundation for a new deal with Euratom which would allow virtually unfettered cooperation in plutonium reprocessing technology.

Clements was also disturbed by the way DOE released the letter to him. According to Clements, DOE provided PNC and at least one nuclear industry official with a copy of the December 28 letter before sending it to him.

"The timing of the release of the letter was contrary to openness policies of DOE and we are perturbed that DOE continues to conduct the public's business in this slipshod way," he said.

DOE PRESSURED TO EXPLAIN POSITION ON SECRET SNT EXPORT GUIDELINES

DOE critics are pressing the department to explain how and why it adopted export guidelines that allowed the transfer of nuclear technology that would otherwise be barred under U.S. law.

The export guidelines adopted by DOE in July 1986 without any public notice, allow the transfer of so-called Sensitive Nuclear Technology (SNT) if a recipient country has an advanced nuclear program.

The guidelines became an issue last month after Greenpeace International released a report charging that DOE—relying on the guidelines—has for years provided Japan with SNT, in violation of the 1978 Nuclear Nonproliferation Act and the 1987 U.S.-Japan Peaceful Nuclear Cooperation Agreement (NF, 12 Sept., 12).

Critics charge that the guidelines, and the exports made under them, violate the nonproliferation law and the U.S.-Japan agreement because the law and the pact define SNT strictly by the information and technology involved, making no distinction on the recipient.

The day Greenpeace issued its report, DOE conceded that information and technology provided to Japan under a 1987 collaborative arrangement with Japan's Power Reactor & Fuel Development Corp. (PNC) "may be considered" SNT if provided to a country with a less-developed nuclear program than Japan's.

The department is analyzing the 1986 guidelines and is supposed to make public the results of its review around November 8. However, sources say that date may slip because the DOE review is disorganized and might be folded in broader review of how the department handles surplus material.

Late last month, Greenpeace, the Nuclear Control Institute and the Natural Resources Defense Council jointly urged suspension of the 1986 guidelines and of "all cooperation in reprocessing, uranium enrichment, and heavy water technology pursuant to the guidelines," pending the outcome of the review.

In a separate six-page letter, dated October 11, Rep. Edward Markey (D-Mass.) urged a similar suspension of the guidelines and ongoing cooperative agreements. He also asked detailed questions about who devised the 1986 guidelines and whether agencies other than DOE signed off on them.

Markey wants to know who were the principal authors of the SNT guidelines and why they were not promulgated in a formal, open process as agency rulemaking. He also wants to know who was the highest ranking DOE official to approve the guidelines and whether DOE did a legal analysis to determine whether the guidelines were consistent with the Nuclear Nonproliferation Act and other applicable law. As of October 20, DOE had not responded to the queries and had not suspended the guidelines.

PNC ARGUES AGAINST PUBLIC RELEASE OF RETF-RELATED DESIGN INFORMATION

DOE's use of controversial, secret guidelines to sanction export to Japan of information and hardware that would otherwise be considered sensitive nuclear technology (SNT) has put the department in a bind over how to respond to a year-old Freedom of Information Act (FOIA) request.

The FOIA, filed in October 1993 by Greenpeace's Tom Clements, requests information concerning technology and information transferred to the Japanese Power Reactor & Nuclear Fuel Development Corp. (PNC) from DOE's Oak Ridge National Laboratory under contract with PNC.

Specifically, Clements has asked for copies of the design of a fuel disassembly system which Oak Ridge delivered to PNC for use at its Recycle Equipment Test Facility (RETF), a breeder reactor spent fuel reprocessing plant.

For more than a year, DOE has balked at releasing the design information and, for at least six months, the department has been consulting with PNC on the issue.

Clements has argued that if the information provided to PNC was not SNT—and DOE insists it wasn't—then it should be publicly available.

The 1987 U.S.-Japan Nuclear Cooperation Agreement, which bars the transfer of SNT, defines SNT as "data which are not available to the public and which are important to the design, construction, fabrication, operation or maintenance of enrichment, reprocessing or heavy water facilities. . . ."

DOE determined that this and other information and equipment transferred to PNC for use in its breeder reactor program is not SNT because export guidelines, adopted by the department in July 1986 without any public exposure, allow the transfer of what would otherwise be deemed SNT if a recipient country has an advanced nuclear program.

The guidelines became an issue last month after Greenpeace International released a report charging that DOE has for years provided Japan with SNT, in violation of the 1978 Nuclear Nonproliferation Act and the 1987 U.S.-Japan agreement (NF, 12 Sept., 12).

In April and again July, DOE told Clements that the department had asked the Japanese for comments on the FOIA request. A July 25 letter from Terry Lash, director of DOE's Office of Nuclear Energy, informed Clements that PNC had "recently" assured DOE that the Japanese company's comments would be sent "in the near future."

On September 20, following another Clements' inquiry on the status of his FOIA request, Lash advised that the Washington, D.C. law firm of Lepon, McCarthy, White & Holzworth, "acting for PNC, has provided DOE with a lengthy, detailed legal argument opposing the release of this information to Greenpeace."

DOE's Office of General Counsel is reviewing the letter, Lash said. Contacted by NuclearFuel, neither the law firm nor PNC would provide a copy of the legal argument or discuss the arguments made.

Clements has argued that, while he is interested in whatever the Japanese might have to say about his request "their opinion should be of no concern regarding the release of the information to me." DOE has taken the position that no SNT was transferred, Clements has noted. Any other information transferred "should be publicly available."

NUCLEAR CONTROL INSTITUTE; GREENPEACE INTERNATIONAL; NATURAL RESOURCES DEFENSE COUNCIL,
January 6, 1995.

Hon. HAZEL R. O'LEARY,
Secretary of Energy, U.S. Department of Energy, Washington, DC.

Hon. WARREN CHRISTOPHER,
Secretary of State, U.S. Department of State, Washington, DC.

DEAR SECRETARIES O'LEARY AND CHRISTOPHER: In view of certain recent determinations by the Department of Energy with respect to the identification of "sensitive nuclear technology" ("SNT") in export transactions, we are writing to urge that it be made crystal clear in any new agreement for cooperation with the European Atomic Energy Community ("EURATOM") that transactions involving reprocessing technology are prohibited. As explained below, failure plainly to bar such transactions would run directly counter to the Administration's expressed non-proliferation policy.

As you know, Section 123a.(9) of the Atomic Energy Act, 42 U.S.C. §2153(a)(9) (the "Act"), requires that, as a precondition to SNT transfers, agreements for cooperation contain "a guaranty by the cooperating party that any special nuclear material, production facility, or utilization facility produced or constructed under the jurisdiction of the cooperating party by or through the use of any sensitive nuclear technology transferred pursuant to such agreement for cooperation will be subject to all the requirements specified in this subsection. . ." including, among other things, full-scope safeguards, adequate physical security and U.S. approval of retransfers. Absent such a guaranty, under the terms of Sections 127 and 128 of the Act, 42 U.S.C. §2156, 2157, no SNT may be exported from the United States to the nation or group of nations in question. Further, under the Department of Energy's regulations, 10 CFR Part 810, technology transfers involving SNT are prohibited unless the Section 127 and 128 requirements are met.

In 1987, the United States determined that no SNT transfers would be permitted under the U.S.-Japan agreement for nuclear cooperation. The U.S.-Japan agreement therefore does not contain the provision required by Section 123a.(9) of the Act. Instead, Article 2(1)(b) provides, "[S]ensitive nuclear technology shall not be transferred under this Agreement." Because SNT is defined in Section 4(a)(6) of the Nuclear Non-Proliferation Act of 1978 (Pub. L. No. 95–242) generally to cover non-public information "important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water," it was understood at the time by observers outside the Executive Branch, including ourselves and, to our knowledge, the responsible Congressional oversight committees, that reprocessing technology transfers to Japan would be prohibited.

As it has turned out, this understanding was not shared by the Executive Branch. Under an internal Department of Energy guideline, adopted in 1986, the Department permitted itself to determine whether certain information constituted SNT in part based upon the "level of expertise of the information recipient." In fact, at the time the U.S.-Japan agreement was under consideration in Congress, Oak Ridge National Laboratory ("ORNL") was transferring reprocessing technology to Japan, based upon a determination that it was not "SNT" when delivered to a such a sophisticated nuclear nation.

In our view, the Executive Branch misled Congress in 1987 and 1988 into believing that reprocessing transfers were not possible under the "no-SNT" provision of the U.S.-Japan agreement at the very time such transfers were already underway. We have since established by means of a Freedom of Information Act request that the Department of State has been briefed by the Department of Energy on the ORNL transaction well in advance of the State Department's testimony in Congressional hearings that no SNT could be transferred to Japan under the terms of the new agreement.

Given the high level of expertise in Japan with respect to reprocessing technology, the Department has proceeded over the past half-dozen years to authorize numerous transfers of such technology to Japan. These transfers have been carried out pursuant to a Department of energy guideline which was, in our view, improperly adopted in secret in the first instance, without public notice or opportunity for comment. The SNT prohibition in the U.S.-Japan agreement has thus effectively been rendered a nullity.

The DOE guideline clearly violated the expressed language of the statute and led to absurd results. Moreover, DOE's interpretation has been rejected as having no basis in law by the chairmen of two Congressional oversight committees with jurisdiction over nuclear exports and by the General Accounting Office, which reviewed DOE's nuclear-export performance and concluded that "DOE made [SNT] determinations . . . on the basis of factors that are not included in the 1978 act," and that "DOE needs standards for identifying sensitive nuclear technology that are consistent with the 1978 act."

This fall we raised what we believe are serious concerns about the legality of the Department of Energy's interpretation. In response, the Department promised a "comprehensive review" of the entire issue of the lawfulness of its guidelines. However, in a three paragraph letter dated December 28, 1994, not supported by any public, background analysis, the Department rejected our contentions. Instead, it concluded that "consideration of indigenous technology is permissible in identifying whether sensitive nuclear technology is proposed to be exported in a particular transaction." On that basis, the Department then further concluded that its "determinations with respect to technology exports to Japan were permissible exercises of its statutory authorities."

We continue to believe that the Department of Energy's conduct was wrong as a matter of law. However, without awaiting resolution of the legal issue, we believe that the policy issues presented by the Department of Energy's conclusions need to be addressed immediately and unequivocally in the context of the U.S.-EURATOM negotiations. Indeed, it is essential that the misapprehensions which attended the U.S.-Japan agreement be avoided in the case of EURATOM.

In his September 27, 1993 Policy Statement on Nonproliferation and Export Control Policy, President Clinton categorically states that the United States "does not encourage the civil use of plutonium. * * *" While he also referred to his decision to "maintain its existing commitments regarding the use of plutonium in civil nuclear programs in Western Europe * * *," whatever those commitments are they cannot survive the term of our existing agreement with EURATOM, which expires at the end of December, 1995.

In our judgment, any transfer of reprocessing technology, whether determined to be SNT or not, would involve the encouragement of civil use of plutonium, contrary to the Administration's policy. It is in fact presumably for such reasons that the Department of Energy stated in September, 1994, that it was "phasing out collaborative research efforts with Japan on plutonium reprocessing. * * *"

The need to curtail any future reprocessing transfers to EURATOM is of particular importance. EURATOM is a conglomerate consisting of numerous countries which have quite different degrees of nuclear sophistication. Twenty years hence it could be even more variegated, perhaps stretching from the Atlantic to the Urals, presenting proliferation and terrorism risks that may vary dramatically from member state to member state. Yet, because the United States treats EURATOM as a single entity under the Act, U.S. nuclear materials, technology and facilities will be able to move freely from state to state within the Community. We think it critical in such circumstances that any new nuclear cooperation agreement with EURATOM leave no doubt that cooperation on the civil use of plutonium will not be permitted.

The United States must act consistently with the President's non-proliferation policy in the context of any new EURATOM agreement. This consistency of action means that whatever approach the Department of Energy may ultimately take in its promised rulemaking on SNT transfers, there should be an explicit prohibition on the transfer of any non-public and/or proprietary technology, whether or not designated as SNT, relating in any way to reprocessing. In this way, the type of controversy which has attached to reprocessing technology transfers to Japan would not arise, administrative interpretation would not be allowed to undercut non-proliferation law and policy, and the Congress and the public would have full and complete assurance that the policy of not encouraging plutonium use would be implemented in a consistent and comprehensive manner.

Thank you for your consideration of our views.

Sincerely,

PAUL LEVENTHAL,
Nuclear Control Institute.

TOM CLEMENTS,
Greenpeace International.

CHRISTOPHER PAINE
Natural Resources Defense Council.

Mr. GLENN. Madam President, my own views on this whole issue are well known. On May 15, 1986, Congressman MARKEY chaired a hearing of the House Subcommittee on Energy Conservation and Power to assess the effectiveness of DOE controls over nuclear technology exports. The hearing focused in particular on findings of a report by the General Accounting Office documenting several problems in DOE's controls. I testified that "GAO's documentation of examples where obvious exports of sensitive nuclear technology were covered up by DOE through twisted reasoning allowing determinations that no

sensitive nuclear technology was involved, suggests a dangerous attitude of contempt for law on the part of some DOE officials." That was clear back in 1986.

The GAO report that was the focus of that hearing was entitled, "DOE Has Insufficient Control over Nuclear Technology Exports" (RCED–86–144) and was dated May 1, 1986—about 9 years ago. That same report reached the following specific conclusions—

> DoE has not established objective standards for specifically authorizing exports [of nuclear technology] (page 2).
>
> The 1978 act [the Nuclear Nonproliferation Act (NNPA)] . . . limits the determination of sensitive nuclear technology to its importance to sensitive facilities, not to recipient countries. (page 4)
>
> In defining SNT, neither the act nor its legislative history distinguished among countries, their nuclear weapons capabilities, or their nonproliferation credentials. The act requires DoE to determine if information to be provided to a foreign country is important to the design, construction, fabrication, operation, or maintenance of an enrichment, reprocessing, or heavy water production facility. (page 57)
>
> In our opinion, therefore, the better view is that the NNPA requires DoE to make SNT determinations strictly on the basis of the technical importance of proposed assistance to sensitive nuclear facilities. (page 58)

On August 17, 1987, GAO issued another report, entitled, "Department of Energy Needs Tighter Controls Over Reprocessing Information' (RCED–87–150). This report found that "DOE has little control over the dissemination of information related to the design, operation, and maintenance of commercial or defense reprocessing technology that it produces * * * [adding that] most of DOE's reprocessing-related information is readily available to anyone who wants it." That was on page 17. Here are some additional findings from that report—

> DoE has not enforced the SNT export conditions on activities in conducts with foreign countries under technical exchange agreements. (page 33)
>
> DoE's interpretation [of SNT] * * * does not appear consistent with the NNPA definition of SNT. (page 33)
>
> DoE has not fully met NNPA conditions for transferring SNT on any of the cooperative reprocessing activities with other countries. (page 39)
>
> * * * prior approval rights required by the act were not obtained on any of the cooperative reprocessing activities [specifically the UK and Japan]." (page 39)
>
> [DoE officials] believe that although the information [transferred to the UK and Japan] is 'valuable,' it is not 'important' in the sense intended by the NNPA and is, therefore, not SNT. (page 40)
>
> Neither the definition [of SNT in the NNPA] nor the export requirements [under existing regulations] indicate that SNT decisions were to be based on the nuclear proficiency of the recipient country. (page 41)
>
> Neither the act [NNPA] nor its legislative history distinguishes among countries, their nuclear capabilities, or their nonproliferation status to determine what information constitutes SNT * * * this definition should be consistently applied to all countries on the basis of objective criteria. (page 42)
>
> The assistance DoE provides directly to the reprocessing programs of other countries * * * qualifies in our opinion as SNT as defined in the NNPA. (page 43)

In March 1988, DOE's own Office of International Security Affairs issued a lengthy report on Technology Security (DOE/DP–8008612) which found that "Success in acquiring unclassified sensitive technology, as identified in the Militarily Critical Technologies List, has enabled potential proliferant countries to construct, outside of the international safeguards regime, sensitive fuel cycle facilities at lower costs and in shorter period of time" (page 9–2).

Then on September 19, 1989, the GAO issued another report entitled "Better Controls Needed Over Weapons-Related Information and Technology" (RCED–89–116), which found that "DOE makes readily available a great deal of unclassified information and computer codes that could assist sensitive countries in developing or advancing their nuclear weapons programs" (page 16). GAO also found that "In addition to obtaining DOE information, sensitive countries routinely obtain hardware from the United States that has both nuclear weapons and commercial applications * * * about 290 of the approved requests [for export licenses in 1987] were destined for facilities suspected of conducting nuclear weapons development activities" (page 5).

With respect to exports of these so-called dual-use goods, GAO's 1987 data amount to peanuts compared with what GAO found in 1994. In a report bearing a now-familiar title, "Export Licensing Procedures for Dual-Use Items Need to be Strengthened," (NSIAD–94–119), GAO found that the United States approved over 330,000 licenses for exports of nuclear dual-use goods worldwide between fiscal years 1985 and 1992. Even more alarming, some $350 million of such goods went specifically to facilities believed to be involved in nuclear weapons-related activities in eight controlled countries. For further discussion of this GAO report, readers should consult my floor statement on January 4, 1995, where I inserted into the RECORD detailed summaries of this report and another report prepared by four inspectors general describing serious problems in the implementation of U.S. export controls relating both to munitions and to goods relating to weapons of mass destruction.

Fortunatly, DOE is now under new leadership and appears to be trying to grapple with bringing DOE practices back into line with the spirit and letter of our fundamental nonproliferation legislation.

I compliment Hazel O'Leary for the job she is doing there as the Secretary of Energy.

In light of President Clinton's September 27, 1993, policy statement that the United States "does not encourage the civil use of plutonium," I hope that the Department's three-paragraph letter does not represent the administration's final position on this matter. I would urge DOE in the strongest of terms to undertake a truly comprehensive reexamination of its policies and practices for handling such data and to bring these policies and practices back into line with U.S. law.

The United States is not in the business of promoting commercial uses of plutonium or highly enriched uranium around the world, either as a matter of policy or of law. The bizarre notion that just because a country has demonstrated a national capability to separate plutonium or perform some other sensitive nuclear activity does not, should not, and must not exempt it from provisions of our law addressing sensitive nuclear technology. Indeed, if this notion continues to poison our nonproliferation laws, what would keep our weapons labs or their subcontractors from transferring SNT to virtually any proliferant nation, given the capabilities that many of them have already demonstrated in the fields of reprocessing, enrichment, and heavy water production? If today such technology can go to Japan in direct violation of a bilateral agreement, where will such technology go tomorrow?

I will closely monitor developments in this area in the months ahead and am optimistic that the Department will eventually bring its practices into line with statutory controls over SNT. This will be a splendid opportunity for the Department to distance itself from the time-dishonored practice of previous administrations of redefining key nonproliferation terms to pursue short-term political or diplomatic goals.

I will close this statement by attaching a chronology of some relevant documents pertaining to this whole SNT controversy, and I ask unanimous consent that it be printed in the RECORD, and I urge all my colleagues to look into this matter and to support retaining some consistency, predictability, and clarity in the implementation of one of our most important nonproliferation controls.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHRONOLOGY OF RELEVANT DOCUMENTS

1/6/95: Letter from Greenpeace/National Resource Defense Council/Nuclear Control Institute to the secretaries of Energy and State.

12/28/94: Letter from Terry Lash (DoE/Nuclear Energy) to Greenpeace.

11/9/94: Letter from Sec. Hazel O'Leary to Sen. John Glenn re DoE handling of reprocessing technology.

11/3/94: Letter from Greenpeace/Nuclear Control Institute to Sec. O'Leary.

10/11/94: Letter from Cong. Edward Markey to Secretary O'Leary.

9/23/94: Letter from Greenpeace/National Resource Defense Council/Nuclear Control Institute to Sec. O'Leary.

9/9/94: NY Times quotes DoE spokesman Michael Gauldin on past US plutonium reprocessing cooperation with Japan: Gauldin terms such cooperation "* * * a remnant of the last Administration."

9/8/94: DoE Press Release on recent Greenpeace study states that "The Department of Energy takes Greenpeace's concerns seriously," that DoE "is phasing out collaborative research efforts with Japan on plutonium reprocessing and development of breeder reactor technology," and that DoE will "thoroughly review the Greenpeace study and prepare a comprehensive response."

9/8/94: Greenpeace releases "The Unlawful Plutonium Alliance."

9/29/94: Legal memorandum to Greenpeace by Eldon Greenberg.

8/3/94: O'Leary memorandum to DoE field offices states that "the President's nonproliferation policy of September 1993, which discourages civil reprocessing, must be integrated into Department of Energy property control and management practices."

7/25/94: Letter from Terry Lash to Greenpeace.

6/19/89: GAO issues report, "Better Control Needed over Weapons-Related Information and Technology."

3/88: DoE/OISA issues study on technology security which finds that existing regulations "do not adequately protect unclassified sensitive technology from disclosure and foreign access."

8/17/87: GAO issues report, "DoE Needs Tighter Controls over Reprocessing Information."

1/12/87: DoE concludes agreement with Japanese PNC enterprise regarding breeder reprocessing cooperation.

7/86: DoE issues internal document on guidelines for implementing SNT controls.

5/15/86: Cong. Ed Markey chairs hearing on "Nuclear Exports: The Effectiveness of Department of Energy Controls Over the Export of Nuclear-Related Technology, Information, and Services."

5/1/86: GAO issues report, "DoE Has Insufficient Control over Nuclear Technology Exports."

EXHIBIT 1

THE CONCEPT OF "TIMELY WARNING" IN THE NUCLEAR NONPROLIFERATION ACT OF 1978

INTRODUCTION

In 1984, the first major shipment was made of plutonium separated from U.S.-origin spent fuel to a non-weapon state (Japan) since passage of the Nuclear Nonproliferation Act of 1978 (NNPA) (1). Approval of the shipment had been given by the Secretary of Energy, with the concurrence of the Secretary of State, who was required by the NNPA to determine whether the retransfer of this plutonium from France (where the reprocessing of spent fuel took place) to Japan would result in a "significant increase of the risk of proliferation . . ." in which the "foremost" factor was whether the United States would receive "timely warning" of a diversion of the material.

In accordance with procedures adopted pursuant to the NNPA, the interagency discussions of the Japanese request for approval of the shipment involved the Nuclear Regulatory Commission (NRC). Although the NRC concurred with the finding that the shipment would not result in a "significant increase of the risk of proliferation," the Commission questioned whether the Departments of Energy (DOE) and State had followed Congressional intent in arriving at their conclusion that the "timely warning" test had been met. The NRC's position was summarized by NRC Chairman Nunzio J. Palladino as follows: (2)

"(T)he Commission's disagreement with DOE's position is focused on whether or not non-technical factors are permitted to be considered in connection with reaching any conclusions on the existence of timely warning. In the Commission's view, the legislative history of the Nuclear Non-proliferation Act of 1978 (NNPA) indicates that Congress intended timely warning to be essentially a technical matter involving such factors as safeguards measures applied to the material and the technical ease of incorporating the material into a nuclear explosive device. Other, non-technical factors were to be considered relevant only in connection with making the overall statutory finding of no significant increase in the risk of proliferation. A close reading of the statutory language in Section 131 b. of the Atomic Energy Act would seem to support the Commission's interpretation regarding timely warning, particularly since otherwise it would be necessary to consider the same non-technical factors both in connection with the timely warning analysis and in connection with the overall "increase in the risk of proliferation" finding. The attachment to this letter lists the more significant technical factors that the Commission believes affect timely warning, and that should be addressed in a classified supplement to future DOE analyses of subsequent arrangements."

The resolution of this issue will set a precedent with possibly profound future implications for U.S. national security and foreign relations.

The DOE/State conclusion on "timely warning" was not accompanied by a detailed supporting analysis. Rather, as indicated in the NRC letter, the conclusion was claimed to result from the presence of certain favorable political factors surrounding the U.S./Japan relationship. Subsequent inquiry (3) has revealed that DOE and State interpret the NNPA as saying that political factors, such as the nature and condition of the governmental system and nonproliferation policies in a recipient country, independently of the technical capabilities of that country, could be determining factors in judging whether the U.S. would receive "timely warning" of a diversion. Therefore, according to this view, some political factors, which determine the "inherent risk of proliferation" (4) in a country, could determine that "timely warning" was available, and these and other political factors could be used to determine that there was "no significant increase in the risk of proliferation" stemming from a proposed retransfer for reprocessing or return of plutonium. Further, it is claimed that there was no stated or implied legislative requirement for a supporting analysis of the DOE/State "timely warning" conclusion or the weight given to the latter in relation to other factors in determining proliferation risk.

It is the purpose of this paper to show that the DOE/State position is not in keeping with the legislative history of the NNPA or any other indication of Congressional intent. Rather, we shall show that; (a) the Congressional intent was to separate and independently weigh the "timely warning" test from the set of possibly counterbalancing political factors listed in the NNPA as being pertinent to an overall judgment as to whether a proposed retransfer would result in a significant increase of the risk of proliferation; and, (b) that Congress meant the "timely warning" test to compare the time needed by the U.S. to effectively react to a diversion of nuclear material to the time needed by the diverting country to produce an explosive device, the latter time being estimated by technical assessments only. By this view, a political assessment based on specific political factors could result in approval of a retransfer request even if the "timely warning" test fails, but then the burden is on the political assessment to show that such political factors override "foremost" consideration of the technical capabilities of the recipient country to make a nuclear explosive device quickly from diverted materials.

I. The Language of the Act

The key paragraph, Section 131b (2) of the Atomic Energy Act of 1954 (Section 303a of the NNPA of 1978) states that,

". . . the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of the Nuclear Non-Proliferation Act of 1978 or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, unless in his judgment, and that of the Secretary of State, such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among all the factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device. . . ."

This language was originally offered by Senator Glenn to the Administration during negotiations prior to the beginning of markup of the NNPA by the Subcommittee on Arms Control, Oceans, and International Environment of the Senate Foreign Relations Committee on September 14, 1977. It was a substitute for proposed language by the Administration that would have replaced the "timely warning" criterion with consideration of "the probability of timely warning" as one (not "foremost") factor among many in determining whether to approve a retransfer request. We shall examine this markup in more detail later on. For now it suffices to note that the Subcommittee approved the Glenn language and ignored the Administration's proposal.

Following the markup by the full Committee (there were two earlier markups by the Committees on Governmental Affairs and Energy and Natural Resources), the legislation was reported out and a report filed which contained the following statement on the meaning of "timely warning" (5):

"* * * the standard of 'timely warning' * * * is strictly a measure of whether *warning of a diversion* (emphasis added) will be received far enough in advance of the time when the recipient could transform the diverted material into an explosive device to permit an adequate diplomatic response."

The Senate bill language was accepted by the House on the grounds that there were no substantive differences between the Senate bill and one passed by the House some months earlier. Representative Zablocki (D-Wisconsin), the floor manager for the House

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Footnotes at end.

bill, while offering a resolution on February 23, 1978, directing the Clerk of the House to make certain technical corrections in the NNPA, made the following observation about the Senate amendments (6): "The House reviewed these and found the amended Senate version to be, in all essential respects, consistent with (the House Bill). Upon reaching this judgment, the House, by unanimous consent then moved to recede and accept (the House Bill) as amended." Indeed, on February 9, 1978, when Representative Zablocki received unanimous consent to bring up the Senate bill and successfully proposed its passage by voice vote, he stated (7):

"All of the central elements of the House bill—including the important "timely warning" criterion—were faithfully preserved. * * * On the critical issue of timely warning, I am pleased to say that the Senate's legislative history was indeed consistent with our own."

The concept of "timely warning" was explained in the House report as follows (8):

"'Timely warning' has to do with that interval of time that exists between the detection of a diversion and the subsequent transformation of diverted material into an explosive device."

Despite Representative Zablocki's clear statement, the Senate Report's phrase "warning of a diversion" as opposed to the House Report's "detection of a diversion", along with some additional Senate report language has been used by some in State/DOE to bolster a claim that the intent of the Senate on the meaning of "timely warning" was substantially different from that of the House.

We shall show that such a claim is logically unsupportable.

II. A Precise Reformulation of the Timely Warning Issue

There are four time intervals associated with the notion of "timely warning" to the U.S. of a diversion by country "X". For purposes of explanation, we define them as follows.

Reaction Time: The amount of time needed to fashion an appropriate and effective diplomatic response to prevent diverted material from being converted by country "X" into an explosive device. Reaction time is a function of bilateral and multilateral relationships and, therefore, involves a political assessment.

Conversion Time: The time needed by country "X" to convert diverted material into an explosive device. (Note: Conversion time is a function of the industrial and bomb-making infrastructure in country "X", the nature of the diverted material, and the availability of any technology needed to process the diverted material into weapons-usable form. A technical assessment of country "X"'s capabilities would yield an estimate of conversion time, and no political factors are involved.)

Detection Time: The time between diversion of material and either the last detection of the diversion by the safeguards system or the earlier prediction of diversion through intelligence information. (In the latter case, detection time is a negative quantity, and may depend upon observations of political changes in country "X". Note that if we tacitly assume that the safeguards system works as designed, no political factors enter into an estimate of positive detection time. Quality of safeguards is then measured by the value of positive detection time, with smaller values indicating better safeguards.)

Warning Time: The interval between the time when the U.S. learns a diversion has occurred or may occur and the time at which country "X" is capable of producing a nuclear explosive device following the aforementioned diversion of material. (Thus, warning time = conversion time − detection time. It is important to note that warning time involves political as opposed to technical assessments only when detection time is negative.)

In terms of the above definitions, the concept of "timely warning" in the NNPA becomes as follows:

Definition: The U.S. has received "timely warning" of a diversion by country "X" when warning time is greater than reaction time.

The only thing remaining in order to show equivalence with the statutory concept is to make the connection between some auxiliary concepts in the Senate report with the terminology in this paper.

The phrase "warning time required" in the Senate report as in, "The amount of warning time required will vary (and cannot be defined in terms of a certain number of weeks or months) . . .", (9) refers to what is here called "reaction time". Thus, if a multinational response is needed for effective diplomacy, a quicker reaction time can be expected in the event that the diverted material was multinationally owned or came from a multinational plant, since all the parties in that venture would have reason to feel aggrieved by the diversion.

The phrase "time . . . available" as in ". . . it will be necessary to determine how much time be actually (sic) available under any specific circumstances," (10) refers to what we are calling here "warning time".

The State/DOE position boils down to the claim that Congress did not intend the "timely warning" criterion to involve, on either side of the inequality in the above definition, a quantity estimated only on the basis of a technical assessment.

Since "reaction time" clearly involves political factors, and "warning time" can involve political factors, there appears, superficially at least, to be some merit to the State/DOE argument. On closer examination, however, the apparent merit vanishes.

We reiterate that "warning time" may involve political factors *only* when "detection time" is negative. The key observation to make is to note that detection time can be negative only in two situations: 1) Either the U.S. has learned of plans for (or suspects) diversion at a time prior to the time of actual retransfer (in which case the approval of retransfer is denied or revoked and there is no problem), or 2) There is a significant interval of time after the retransfer occurs before a diversion is achieved. In this case it can be argued that the clock marking off warning time could be triggered by observed changes in the political character of the government of country "X". But there is nothing in the Senate or House floor debate or report language or in the statute language that suggests making an assumption of existence of a significant time interval between retransfer and diversion, or equivalently, to assume that a significant change had occurred on the meaning of timely warning by the time the final version of the NNPA was passed by the Senate on February 7, 1978, and by the House two days later without further amendment.

To show this, we provide a detailed history of the Congress' consideration of the timely warning issue during its deliberations on the NNPA.

III. The Senate Legislative Markup Record on Timely Warning

Committee markup records, which are uncorrected and not publicly filed, and therefore not readily available to the rest of the Congress, are usually given little or no weight in legal determinations of congressional intent on legislation. Nonetheless, they may, in conjunction with the committee report on the legislation and the floor debate, give some clue as to the meaning of certain legislative provisions when such meaning is otherwise obscure.

The DOE/State defense of its position on "timely warning" in the NNPA apparently includes a claim that the Congressional interpretation of the statutory language at the time of passage reflected the Carter Administration's view as expressed in a formal communication from the State Department to the Senate Foreign Relations Committee (see (4)). Since the only place in the legislative history of the NNPA where the Administration's position on "timely warning" is substantively discussed by Senators occurs in the Senate Foreign Relations Committee markups (11), (12), (13) of the legislation, we consider these (uncorrected) markup records in examining the DOE/State claim.

On September 14, 1977, at the Foreign Relations Subcommittee markup (see (11)) Senator Glenn introduced the language on approvals of retransfers for reprocessing or return of plutonium, including the "timely warning" test, that subsequently was adopted as the statute language. This language was a substitute for a previous formulation identical to that contained in the House bill, H.R. 8638, which passed with a dissenting vote on September 28, 1977, the same day the Senate Foreign Relations Committee reported out the NNPA. As indicated earlier, Senator Glenn offered this new language following discussions with and in response to objections by the Executive Branch that the previous formulation on approvals of retransfers was too "restrictive in scope" (14).

It is important to note the motivation as well as substance of the Administration's position at this point. The Administration was facing a serious problem in that the House and Senate bills had virtually identical provisions that subjected decisions on retransfers for reprocessing or return of plutonium to consideration of a single factor, the timely warning criterion. The Administration was concerned that this single test could be used to block U.S. approvals of any such retransfers and disrupt trade relations with our allies. Accordingly, the Administration had to either try to get the Congress to alter the definition of "timely warning" or broaden the test for approvals of retransfers to include other factors besides timely warning. Thus, in its comments on the marked up version of the NNPA reported by the Government Affairs Committee, the Administration said this about the proposed test for retransfer (15):

"First, it would jeopardize negotiation of new, strict nuclear cooperation agreements since an overly strict interpretation of the "timely warning" standard could rule out all forms of fuel processing necessary for future fuel cycle activities. Second, timely warning should not be the sole basis for making determinations concerning the acceptability of subsequent arrangements, taking into account the existence of other factors which must be evaluated. Additional factors of importance include the nonproliferation policies of the countries concerned, and the size and scope of the activities involved."

Now, it is interesting that the language actually proposed by the Administration by way of compromise, language that was arrived at following negotiations with Senator Glenn, clearly takes the path of broadening the test for approvals for retransfers, and does not change the definition of "timely warning" but merely attempts to make the determination fuzzy by referring only to the probability of timely warning being available. The proposed language was as follows (16).

"The Administrator may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power fuel assemblies or been the subject of a subsequent arrangement therefore prior to the date of enactment of the Act or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing unless in his view such reprocessing to retransfer shall take place under conditions that will safely secure the materials and that are designed to ensure reliable and timely detection of diversion. In making his judgment, the Administrator will take into account such factors as the size and scope of the activities involved, the non-proliferation policies of the countries concerned and the probabilities that the arrangements will provide timely warning to the United States of diversions well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device; and".

Senator Glenn's explanation of the amendment he offered at the Foreign Relations Subcommittee markup left no doubt that it was not his intention to change the meaning of timely warning, but rather to broaden the test for approvals of certain retransfers. To see this, we note that in his statement, Senator Glenn referred approvingly to recent congressional testimony by then NRC Commissioner, Victor Gilinsky, defending the timely warning standard against Administration criticism that it was "unnecessary, unworkable, rigid, and unrealistic" (17). Senator Glenn went on to say, (18).

"The idea of timely warning is the explicitly stated objective of the so-called blue book safeguards of the IAEA, which polices the Non-Proliferation Treaty. Under this system, as under the U.S. bilateral safeguards which preceded it, records are kept of all nuclear material going into and coming out of civilian power reactors throughout most of the world, and verified by an international inspectorate. The idea is simply that the disappearance of any of this material will be reported to the international community in plenty of time to allow for appropriate counteraction. Thus timely warning is essential to effective safeguards."

Senator Glenn's references to safeguards and timely warning strongly imply that the timely warning criterion in his amendment could be met only if the reaction time afforded by the safeguards system's detection of a diversion was sufficient "to allow for appropriate counter action" (19).

This thought was echoed in substance by Representative Bingham (D-NY) in introducing this language on the House floor 14 days later. He said (20):

"(W)e consider (timely warning) to be an essential to the safeguarding of nuclear facilities. If there is no timely warning, there are no effective safeguards."

At this point in the Senate markup and without challenging Glenn's view, the Chief Administrative spokesman, Ambassador Gerard C. Smith, expressed two Administration concerns explicitly. First, he said (21):

"May I observe on that Gilinsky quotation that we don't disagree with the concept of timely warning. It is a very appropriate consideration here but we feel it will lead to distortions if it is made the *exclusive* (emphasis added) consideration."

This statement shows that the Administration understood that "timely warning" was a concept that could stand separately and apart from other considerations in determining how to exercise U.S. consent rights for certain retransfers. Indeed, prior to Senator Glenn's statement, Senator Pell had stated that (22):

"The Executive Branch believes that the timely warning standard should not be the sole basis (emphasis added) for measuring an arrangement's acceptability. . . ."

There is no hint in this markup record that the Committee viewed the position of the Administration as seeking to alter the meaning of "timely warning" or how to determine it. On the contrary, the position statement by Senator Pell indicates that the Committee saw the Administration's goal as replacing the timely warning test with a broader one in which the test of "timely warning" was an important factor.

The second concern expressed by the Administration at the markup stemmed from its own confusion between "timely warning" and "reaction time". The House report had stated in essence that the amount of reaction time needed to effectively counter a diversion from a reprocessing plant based on the Purex process was unlikely to be larger than the conversion time to make the bomb (23). The drafters of that report also tried to provide some guidance for a minimum acceptable amount of reaction time, corresponding to a situation where the diverting country only possessed stored spent fuel and had no reprocessing facility. The effect of this would have been to force the denial of nearly all reprocessing requests since "reaction time" would have been mandated to a level greater than "conversion time" in almost all cases, thereby leading to a failure of the "timely warning" test.

In sum, the administration's second complaint was directed to the fixing a priori of a high "reaction time" guideline that effectively did not allow approval of any reprocessing requests. This lack of flexibility in judging reprocessing requests was viewed by Senator Glenn as having been taken care of in his amendment, which did not mandate a "reaction time" beyond that needed for "effective safeguards", and which allowed other factors (besides "timely warning") to be taken into account in judging whether to approve a request. Indeed, although Ambassador Smith's initial reaction to the Glenn language was that ". . . it doesn't move enough in the direction of flexibility that I think is necessary . . ." (24), the Administration's own proposed language at that point, as we have already seen, gave no hint of altering the meaning of "timely warning" or the factors that would have involved its determination. Therefore, when the subcommittee adopted Glenn's language, it had no alternative meaning of "timely warning" before it.

This conclusion was reinforced at the opening of the discussion of the Glenn amendment during the full Committee markup on September 20, 1977. In response to the Chairman's (Senator Frank Church, (D-Idaho)) request for an explanation of the amendment, Senator Glenn replied (25):

"The main issue on the timely warning amendment is this. Timely warning really means technical safeguards and making a judgment as to whether approving reprocessing for some country will result in a significant elevation of risk. The question arises as the weight that should be given to technical safeguards as opposed to, say, political or foreign policy considerations.

My position, as relected in the language adopted by the subcommittee was that technical safeguards, that is, timely warning, should be given primary consideration in these cases. We should not be able to override that because it seems to me that the technical methods of giving timely warning are so critical to the system of safeguards and protections that we have in this area that they should not be ignored."

Now this quote is from an uncorrected record. In the first paragraph, when Glenn says, "'Timely warning' really means technical safeguards", it should be understood (indeed, cannot be understood any other way) from the context of all that has gone before, that the statement implies "'timely warning' really means effective technical safeguards," where, in the Subcommittee markup, Glenn made it clear that effective technical safeguards meant detection of a diversion by technical means "in time for use to do something about it" (26).

The second paragraph, in the absence of further elucidation, could have been interpreted as meaning that the absence of "timely warning" can never be overridden by political or foreign policy considerations. A later statement by Glenn (27) indicates that he meant for "timely warning" to be the largest single factor ("it would be given the bulk of the consideration") in judging whether a retransfer would result in a significant increase in the risk of proliferation. This view was not challenged by the Committee during its discussion of "timely warning". Rather, the committee concentrated on those other factors which, in strong combination, could produce a decision in favor of a retransfer even if "timely warning" is not clearly determinable. Senator Glenn turned the general discussion to specifics by suggesting that (28):

". . . in the report language we put in that there are situations in which other factors, besides timely warning, may induce the Secretary of State to give his approval. I will give a few examples."

Senator Glenn then listed the factors that ended up being mentioned in the Senate report and in his floor statement during debate on the bill. Senator Church summarized the discussion by saying (29).

"Clearly what is sought is to give timely warning a very high priority; but at the same time to recognize that there may be circumstances . . . that will suffice and lead us to grant such a request even though timely warning is not present."

Note that there is no suggestion of any change in the definition or interpretation of timely warning as given earlier by Senator Glenn.

Moreover, Senator Glenn indicated that discussions had been held on his proposed language with members of the House Committee on International Relations (indeed, there was much staff contact on this issue at the time) and that "they are in agreement with this language (30)." What is implied here is that the House members agreed not only with Glenn's language, but also with his interpretation of that language.

At this point, Senator Richard Stone (D-Florida) asked for the Administration's views on this matter. Mr. Philip Farley, the chief Administration spokesman at the full Committee Markup, stated that the Administration's position was set forth in letters to the Senate Foreign Relations Committee dated September 12 and September 19, 1977, and asked that these letters be placed in the record (31). The letter of September 19th, from Assistant Secretary of State Douglas Bennett to Senator John Sparkman (D-Alabama), contained the substantive details of the Administration's position. The most important paragraph is reproduced below (32):

"Agreement has been reached on suitable language relating to the timely warning standard to govern U.S. approval of reprocessing with the leadership of the House Committee on International Relations. This language is acceptable to the Administration. While setting forth strict standards, it recognizes that other foreign policy and non-proliferation factors must be considered. It should also be recognized that warning time associated with alternative reprocessing technology is difficult to quantify but does represent a continuum, progressing from a minimum time associated with processes that involve separated plutonium to longer times for processes that involve uranium and most of the fission products present in irradiated spent fuel. Timely warning is a function of a number of factors, including the inherent risk of proliferation in the country concerned, the amount of warning time provided, and the degree of improvement in warning time that alternative reprocessing technology provides relative to other technologies."

We note that the phrase "inherent risk of proliferation", which appears almost gratuitously and with no explanation of its meaning, was never used in any previous Executive Branch communication to the Congress on "timely warning". We also reiterate our comment in note (4) that this phrase or concept was given no substantive acknowledgment in the legislative history of the NNPA beyond its appearance in the September 19th letter.

In discussing the content of this letter, Mr. Farley went into a long and cogent explanation concerning the amount of warning time available to the U.S. under various circumstances involving the retransfer of nuclear materials. But his explanation does not reflect, in words or implication, any notion that timely warning is a function of "the inherent risk of proliferation" in a country, whatever the meaning of that phrase. Indeed, Mr. Farley's explanation of warning time conforms with the notion that one must consider the worse case possibility of a completely unexpected diversion in determining whether one's warning time is "timely" or not. He said (33):

"For many States, clearly achieving the capability to proceed fairly quickly to a nuclear explosives capability is increasingly going to be something which they have. *In that case, there will be very strict limits on the amount of warning we can expect*" (emphasis added).

Mr. Farley did not say that the "strict limits" he referred to depended on a fuzzy concept like the "inherent risk of proliferation" in a country. He tied those limits only to technological capability. There was no further substantive discussion on this point in the markup because the Executive Branch's explanation of the timely warning language was not viewed as differing from the explanation offered earlier by Senator Glenn.

Thus, the State Department letter of September 19th played no role in changing the congressional view of "timely warning" that had existed from the beginning. The Glenn compromise allowed for "timely warning" not to be the controlling factor in every circumstance where one had to judge whether a given subsequent arrangement would result in a significant increase of risk of proliferation, but the meaning of "timely warning" was unaffected.

The above claim is nailed down for good by considering the House floor statements on timely warning, following the Senate markup.

IV. The House Discussion of the New Language on Timely Warning

The House floor debates clearly show that House members viewed the new language as not altering the relationship of timely warning to effective safeguards, i.e., that timely warning was still to be viewed as having to do with "that interval of time that exists between the detection of a diversion and the subsequent transformation into an explosive device" (see (8)).

In support of this proposition we have already offered a statement by Representative Bingham in introducing the Glenn language on September 28, 1977. Statements by other key participants also are supportive of our claim. For example, Representative Paul Findley (R-Ohio), Ranking Member of the House Committee on International Relations, in two speeches given before and after the final markup of the NNPA in the Senate, showed that his view of the meaning of "timely warning" was unaffected by the Senate action. He stated (34):

"Moreover, the definition of an effective safeguard standard—timely warning—will insure that recipient nations cannot manufacture, undetected and overnight, bombs from materials we provide for peaceful purposes."

Representative Findley solidified his view of timely warning in the floor debate on September 28, 1977, with the following discussion of the related concept of "warning time" (35) (recall that timely warning is present when warning time exceeds reaction time):

"One needs to have warning times that are ample enough to give supplier states or the international community an opportunity to orchestrate an effective response *to an act of diversion* and to be able to do this, moreover, before the violator is able to transform his stolen material into bombs." (Emphasis added.)

Representative Lagomarsino (R-California) in support of the compromise amendment described it as follows (36):

"Specifically, it requires that the reprocessing of U.S.-supplied fuel must occur under conditions that provide timely warning of illicit diversion of bomb-usable material. Without such timely warning, the nuclear safeguards system becomes meaningless. We would discover that the plutonium has been diverted after the bombs have been built. Delayed warning or no warning at all would render deterrence impossible."

Representative Lagomarsino went on to paraphrase the amendment, and describe it further. He said (37):

". . . the timely warning amendment . . . will further require the Administrator to give foremost consideration to the question of whether the reprocessing facility and the reprocessed product *can be safeguarded so* as to provide timely warning (emphasis added) to the United States of any diversion well before the time at which a *violating* (emphasis added) country could transform weapons-useable material into a nuclear explosive device. Such warning time is essential if the international community or the community of supplier states is to have the opportunity for action. And it is only when such an opportunity for action exists, that safeguards can reliably be considered to deter".

Finally, Representative Legget (D-California), while expressing general support for the House bill on the day it passed (September 28, 1977), expressed a number of reservations about the changes in the measure, including "timely warning" (38). His complaints, however, do not address any perceived change in definition, but address the fact that certain facilities were exempted from immediate application of the timely warning standard. The tenor of his remarks suggest that if he had perceived a change in the definition of timely warning to make it "more flexible", he would have cited this as a problem.

The congressional statements discussed above make clear that the change in wording of the amendment did not alter the intent of Congress to view "timely warning" as a measure of whether effective action was possible *after discovery of a diversion* (i.e., the worst-case scenario) to deter or prevent the diverting country from fashioning a nuclear explosive device. There is no reference in the House debate to any concept such as the "inherent risk of proliferation" as being part of the "timely warning" test. Indeed, there is no indication that any member of the House saw a copy of the Bennett-to-Sparkman letter that contained this phrase, let alone paid any attention to it. The only Administration communications that appear in the record of the House debate are identical letters (39) dated September 17, 1977 from Secretary of State Cyrus Vance to Representatives Zablocki and Findley approving proposed amendments to be offered by Congressman Bingham and expressing support for the amended bill. There is not only no reference to "inherent risk of proliferation" as an ingredient of "timely warning" in these letters, but one of the letter's recipients, Congressman Findley, *in the statement that preceded his placement of the letter in the Congressional Record* reiterated his view that "timely warning" was connected to the notion of effective international safeguards. In his words (40):

"Moreover, the definition of an effective safeguard standard—timely warning—will insure that recipient nations cannot manufacture, undetected and overnight, bombs from materials we provide for peaceful purposes.

"By requiring safeguards to provide reliable, timely warning of diversion we are not committing to a new standard but are returning to an old truth."

Later, in the same statement, Representative Findly said:

"Existing safeguards when applied to reactors do provide reliable, timely warning", but that "present safeguards, when applied to reprocessing, do not . . . permit timely warning."

He went on to say that:

"[W]e must devise safeguards that, when applied to reprocessing, will provide reliable, timely warning. Promising technologies exist which, if pursued, may satisfy this standard. This bill, by defining the standard that safeguards must meet intends to stimulate these new technologies."

Congressman Findley then referred to collaboration between the Committee and the Administration "to fashion this safeguard standard", and remarked that ". . . the President and Secretary of State have urged that this legislation pass Congress during this session—in its present form—without amendment" (41).

Obviously, it was not Congressman Findley's understanding that the Administration was proposing any substantial alteration of interpretation of "timely warning" from the one he had just laid down.

The conclusion is therefore inescapable that the House did not see the Senate action as changing the meaning of timely warning, but only as broadening the test for determining whether a subsequent arrangement for reprocessing or return of plutonium would result in a significant increase of the risk of proliferation.

V. Conclusion on the Meaning of Timely Warning

There is no logical alternative to the conclusion that the Congress meant for the "timely warning" criterion to apply to the most difficult or "worst-case" situation, where the U.S. would not suspect in advance that a diversion might occur, but would learn about it after the fact, when the safeguards system had detected it. That is, when detection time is a *positive* quantity. In this case it follows from the definition that *"timely warning" is met only when reaction time is less than conversion time* (which depends only on a technical and not a political assessment). This explains why the legislative history of the NNPA is replete with references to "timely warning" as being associated with what we are here calling "conversion time", and squares the statutory (Senate) language on "timely warning" with the discussion of the concept in the House report.

VI. The Relationship of Timely Warning to Other Factors in Determining Proliferation Risk

The Senate report, after a discussion of factors that are involved in judging whether "timely warning" would be present (i.e., factors entering into an assessment of "conversion time" and "detection time"), launches into a listing of "other factors which may be taken into account in determining whether there will be a significant increase in the risk of proliferation." These are (42):

(1) "whether the nation is firmly committed to effective non-proliferation policies and is genuinely willing to accept conditions which would minimize the risk of proliferation";

(2) "whether the nation has a security agreement or other important foreign policy relationship with the U.S.";

(3) "the nature and stability of the recipient's government, its military, and security position"; and,

(4) "the energy resources available to that nation".

There would have been no reason for the Senate to label these as "other factors" if they already were included in judging whether the "timely warning" test was met. To do otherwise would have meant that the Senate was counting such factors twice in giving guidance to DOE on retransfer requests, in which case these component factors would become the "foremost" factors in practice, a result not in keeping with the clear congressional intent to identify "timely warning" as a separate, "foremost" factor.

We have thus established through examination of the NNPA, the Senate and House Reports on the legislation, the Senate Markups, and the floor debate, that Congress intended "timely warning to be an important factor (the "foremost" one), separable and apart from specific political considerations in determining whether a proposed subsequent arrangement for reprocessing or retransfer of plutonium will result in a "significant increase of the risk of proliferation."

VII. The Need for Adequate Analysis of the Timely Warning Criterion by the Executive Branch

The chief sponsor and Senate floor management of the bill, Senator John Glenn, stated during the floor debate on February 7, 1978, that (42):

"It is important to note, however, that the bill requires that foremost consideration be given to the question of timely warning. This implies that the latter will receive the greatest weight among all factors. Although this does not require denial of a request when timely warning is not clearly determinable, the language suggests that in the absence of a clear determination that timely warning will indeed be provided, a strong combination of other factors would be necessary to compensate for this weakness in safeguards."

This statement emphasizes the importance of clearly determining that the "timely warning" test has been met. Since Executive Branch decisions on retransfers were made optionally reviewable by the Congress under the NNPA, it would have made no sense for the Congress, which went through tortuous hours of debate and negotiation with the Executive Branch on this issue, to intend the Executive Branch to make an important, possibly critical, determination on "timely warning" without adequate supporting analysis showing that the test, as laid out by the Congress, had been met. Therefore, an Executive Branch determination, such as in the Japanese plutonium case, in which there is inadequate analysis revealing how the presence of "timely warning" was arrived at, which does not show how "foremost consideration" was given to it, and which suggests that extraneous political factors were the main component in the determination, is directly counter to Congressional intent.

FOOTNOTES

(1) P.L. 95–242, enacted on March 10, 1978.

(2) Letter from NRC Chairman Nunzio J. Palladino to DOE Secretary Donald P. Hodel, September 13, 1984.

(3) Private communication.

(4) A phrase used without definition or explanation by the Administration in discussing its own position on "timely warning" in a letter dated September 19, 1977, from then Assistant Secretary of State Douglas Bennett to the Chairman of the Senate Foreign Relations Committee, Senator John Sparkman (D-Alabama). It should be noted that this phrase was never mentioned or acknowledged in any way in the extensive House and Senate debates on the floor, during markups, or in hearings.

(5) Senate Report 95–467, October 3, 1977.

(6) Congressional Record—House, February 23, 1978, p. 1456.

(7) Congressional Record—House, February 9, 1978, p. H918.

(8) House Report 95–587, August 5, 1977, p. 18.

(9) See (5), p. 11.

(10) Ibid.

(11) Stenographic Record of Markup—S. 897, U.S. Senate Subcommittee on Arms Control, Oceans, and International Environment, Committee on Foreign Relations; Alderson Reporting Company, September 14, 1977.

(12) Stenographic Record, Committee Business, U.S. Senate Committee on Foreign Relations; Alderson Reporting Company, September 20, 1977.

(13) Stenographic Record, Committee Business, U.S. Senate Committee on Foreign Relations; Alderson Reporting Company, September 28, 1977.

(14) See (5), Section on Executive Branch Comments on S. 897 (As reported by Senate Committee on Governmental Affairs), September 12, 1977, with cover letter from Secretary of State Cyrus Vance, p. 42.

(15) See (14), p. 47.

(16) Ibid.

(17) See (11), p. 14.

(18) Ibid.

(19) Ibid.

(20) Congressional Record—House, September 28, 1977, p. H10280.

(21) See (11), p. 15.

(22) Ibid., p. 11.

(23) See (8), p. 20.

(24) See (11), p. 15.

(25) See (12), p. 45.

(26) See (11), p. 14.

(27) See (12), p. 61.

(28) Ibid., p. 60.

(29) Ibid., p. 61.

(30) Ibid., p. 57.

(31) Ibid., p. 62, The letter of September 12th from Secretary Vance to Senator John Sparkman, Chairman of the Senate Foreign Relations Committee, is identical to the cover letter referred to in (14).

(32) See (5), p. 59.

(33) Ibid., p. 65.

(34) Congressional Record—House, September 22, 1977, p. H9833.

(35) See (20), p. H10282.

(36) Congressional Record—House, September 28, 1977, p. H9835. Although this statement was made on September 22, it was made in reference to the new language on "timely warning" that was formally considered by the House on September 28, 1977. (See colloquy between Representatives Lagomarsino and Bingnam in Congressional Record—House, September 28, 1977, p. H10280).

(37) Ibid.

(38) See (20), p. H10282.

(39) See (35), pp. H9832 and H9834.

(40) See (35), p. H9833.

(41) See (35), p. H9834.

(42) See (5), p. 12.

(43) Congressional Record—Senate, February 7, 1978, p. S1310.

(44) Section 131a (1) of the Atomic Energy Act as amended provides for a 15 day period of notice before a proposed subsequent arrangement goes into effect.

Mr. GLENN. Madam President, we started working on this effort of nonproliferation back many years ago in my very early days in the Senate. We have been on it ever since. Sometimes you feel like the little story of the Dutch Boy with his finger in the dike. You feel like you are not getting very far, and then you find some nations which are willing to sign up under the Nuclear Nonproliferation Treaty [NPT] and place their confidence in some of the restrictions we have had going on around the world. They express admiration that we and Russia finally are at long last getting our nuclear stockpiles downhill somewhat. So maybe over the long term we are making considerable progress in that area.

IRS COMPLIANCE INITIATIVE

Mr. GLENN. Madam President, I rise today to take issue with my distinguished colleague, the majority leader, whose amendment would severely impact the wide variety of Federal programs on which all Americans rely.

The amendment being offered by the majority leader seeks a recession in the funding of the Internal Revenue Service of $100 million. The funding in question is part of the IRS' new compliance initiative, a broad-based effort to collect all the outstanding tax revenue rightfully due the Federal Government. This excellent program, which was passed with bipartisan support by the Congress last year, will bring in more than $9.2 billion in additional revenue over the next 5 years at a cost of just $2.2 billion during the same period. This is a great deal by anybody's calculations.

In fact, as we stand here and debate, this initiative is already working. For the first quarter of 1995, the IRS has generated an additional $101 million of enforcement revenue, 31 percent of the fiscal year 1995 commitment. These are outstanding results for which we should commend the IRS, given that the program has only just begun and that some lag is always necessary to hire new compliance staff. Do we really want to stop a program that brings in revenue to the Government?

Madam President, I am as aware as any of my colleagues of the need to save scarce tax dollars and effectively spend resources provided by the public. I have long believed that there is a lot of fat, fraud, waste and abuse in Government programs. It has been the focus of our activity on the Governmental Affairs Committee for the last several years.

But I must respectfully take issue with cuts that would come in a program expected to bring in $9.2 billion. If the Senate approved this amendment to the rescission bill, then the IRS would be seriously affected by the resulting funding cut. IRS estimates that at this point in the fiscal year, the agency would have to furlough all 70,000 compliance personnel for up to 10 days. At the same time, a cut of this magnitude would cost the Government approximately $500 million in lost collections in addition to the loss of revenue from this initiative.

I am aware that some of my colleagues think that because this appropriation last year was made outside of the domestic discretionary caps, that it undermines our budget strictures and unfairly provides one agency with additional resources. While I sympathize with this reasoning in general—and would not be eager to make exceptions for other agencies—I think that in the case of the IRS, the only responsible choice is to make an exception. To cut compliance funds from the IRS, when each new revenue officer brings in five times their keep, is truly penny wise and pound stupid.

Cutting compliance funds for the IRS is not good logic and it is not good business. I cannot support this amendment that the majority leader has offered. I hope it goes down to defeat.

Madam President, the IRS has had problems. We followed those problems through a number of GAO reports. They have had some financial management problems. After we passed the CFO Act, the IRS management was one of the areas that was targeted to have a first look made of it under the CFO Act to see how they are doing. They are making a number of improvements now as a result of those studies.

Another area that I have followed for several years in which we are beginning, I think, to maybe get our hands on is in the area of IRS receivables. I do not think most Members of this body, or most Americans, people out across America, realize the IRS has owed to it somewhere around $156 billion. Why do we not go out and collect that? Part of that is not collectible in that it is debt that is not validly collectible; where people have gone into bankruptcy, either individually or as corporations. So a big chunk of it fits in that category.

How much can we go out and collect? Peeling that $156 billion down, they have active accounts, they estimate, of $79.5 billion. But they expect, when they look into those, that some are going to be abated or suspended because it will cost more to get them than the money they would get back anyway. But when you come down to the hard core figures that we were given just day before yesterday in a hearing by the Commissioner of the IRS, Margaret Richardson, they feel over there right now that actually collectible money, if we had the people to go out and collect it, is $27.5 billion out there. That is collectible money on IRS accounts if we had the people to go out and get it.

We provided them with additional people last year. We have several thousand people, 4,000 I believe it was, a little over 4,000, that we got as new, full-time employees to go out and collect those accounts because each employee actually brings back in about five times his or her keep as an agent in the IRS.

Now, I think that is a good investment. I think when we talk about cutting back in some of these areas and cutting back on their enforcement money, I cannot understand that, when they bring back far more than what it costs us for those particular people.

The impact of the $100 million rescission would have some far-reaching effects also. We had a hearing just this morning on earned income tax credit. Now, that is a program that has had a lot of fraud and problems because people file either some false income data or they file the wrong number of dependents or whatever and a fairly high percentage of those returns are fraudulent returns.

Now, what do we do? Just as the IRS at the beginning of this year said they were going to do, hold up and look at those returns before they automatically send the money out. They are doing that right now. And we are about to cut the people who do that. We are going to lose far more than the $100 million rescission that has been proposed.

What the amendment would do, it would actually cut the IRS tax law enforcement appropriation by $100 million, 25 percent of the amounts approved in fiscal 1995 for a compliance initiative which is intended to collect an additional $9.2 billion over the fiscal 1995 to fiscal 1999 time period.

The amendment would further require that any revenue officers hired since the beginning of fiscal 1995, which are those addressing the accounts I just mentioned, would have to be redeployed as collection call-site assisters.

And third, the amendment would limit the cuts that could be made to the examination and inspection activities of IRS to accommodate the rescission. Reductions cannot take these activities below fiscal 1994 approved levels.

The IRS compliance initiative is designed—and is carrying on right now—to try to already reduce the deficit. Last year, Congress approved a $405 million annual investment to collect an additional $9.2 billion to reduce the deficit over a 5-year period. And the initiative is working. That is the good news. Early results show that IRS will meet or exceed the goal of generating the additional $9.2 billion. In fact, through the first quarter alone, the initiative has generated an additional $101 million of enforcement revenue—in the first quarter of this year. That is 31 percent of the fiscal 1995 commitment. It is ahead of schedule. In other words, they have collected more this year already than it would cost to keep the program in place.

These initiative results are being tracked. They have a new system for tracking enforcement initiatives, and revenue has been developed and approved by GAO. The first-quarter report was delivered to Congress on schedule on March 31.

Further, cutting the initiative increases the deficit. For every appropriated dollar saved, tax revenues are reduced by nearly $5. The cost of this cut in lost revenue is $500 million, if it is limited just to 1 year—a 5-to-1 ratio. If the cut is permanent, the revenue loss is in the range of $2.5 billion. The rescission will negatively impact examination coverage, collection of delinquent accounts, information returns matching, and efforts to curb fraud and abuse with refundable credits.

Just think of that. If we make this cut of $100 million, we are going to reduce impact; we are going to reduce examination coverage; we are going to reduce collection of delinquent accounts, and we are going to not reduce one of the big problems, matching information returns in order to curb fraud and abuse on those refundable credits that we send out.

These are only direct revenues. The Service's enforcement activities also encourage voluntary compliance. When other people see what is going on and they are not able to get away with fraud and abuse, they think twice before they do it and they check that return an extra time before they send it in to make sure there are not mistakes in that account. An estimate has been made of this. Every 1-percent increase in voluntary compliance increases tax revenues by about $10 billion annually. I think that is a very, very impressive figure.

There are some other aspects of what this $100 million rescission cut would do to IRS. Stop-and-go financing disrupts IRS operations. IRS put in place a long-range hiring and training plan. They did it with our support, with our encouragement. Over 4,000 people have been hired or redeployed to compliance jobs so far as part of this initiative. It is a good initiative. In balanced tax administration, ACS addresses predominantly the high volume of low- to middle-dollar cases while revenue officers address the more complex higher dollar individual and business cases. Uneven enforcement could lead to a perception of unfair tax administration. So we want a balanced tax administration.

There are limits to telephone intervention. Certain issues, such as trust fund recovery penalty, cannot be resolved with the telephone. Additionally, certain enforcement tools require face-to-face contact, including seizure and sale, lien priority investigations, and offers in compromise.

The IRS fiscal 1995 savings options are few. With only 6 months remaining in the fiscal year, IRS would need to make reductions through a combination of an across-the-board hiring freeze in the tax law enforcement appropriation and the staff furloughed.

Now, the worst case I mentioned a moment ago is a furlough of all 70,000 tax law-enforcement appropriation personnel for a 10-day period. A 10-day furlough could result in $500 million in lost revenue collections. So that sounds like a poor bargain to have to do that.

Another factor, too, is using revenue officers as call-site assisters is not practical. In allocating resources for the fiscal 1995 initiative, IRS listened to GAO and congressional concerns regarding staffing for automated collection call sites. The fiscal 1995 initiative contained 2,200, FTE's, full-time employees, for collection; 1,450 of these FTE's were allocated to positions other than revenue officers such as ACS, service center examiners, bankruptcy, account notice work in toll-free operations, and early intervention. Counting the early intervention initiative, 900 additional full-time employees were allocated to ACS.

I wish to also mention the capacity issues. IRS has 3,276 full-time employees assigned to ACS. There are space, equipment, and system limitations that would need to be addressed to accommodate the redeployed revenue officers if this legislation went through. The usual procurement cycle for space and equipment is 18 months.

Since the start of fiscal 1995, only 216 revenue officers have been hired, 89 from outside the IRS and another 127 from other occupations within the IRS.

And redeployment is costly. Even if there were available ACS positions to be filled, redeploying recently hired revenue officers would be costly and it would be inefficient. Revenue officers were not hired in the same location as ACS sites. Revenue officers from around the country would have to either travel to distant cities, incurring travel and hotel costs, or be permanently moved. It has its own costs associated with it. This would mean as much as $7 million in unnecessary travel costs. Further, IRS would be using higher skilled revenue officers to do call-site work that could be done at lower salary costs.

Madam President, this is simply not good business, to cut $800 million out in the interest of balancing the budget, much as we may want to do that, and at the same time cut back on the modernization systems that the IRS has undertaken.

These are good programs that they have and cutting $100 million from law enforcement is exactly the wrong way to move.

I will quote from another document that came to my attention in the office. The headline is:

> Cutting $100 Million From Law Enforcement Bad Move, Richardson Says.
>
> Congress should reconsider before it rescinds $100 million of a $405 million compliance initiative enacted last year, IRS Commissioner Margaret Richardson testified April 3.
>
> Richardson told the Senate Appropriations Subcommittee on Treasury, Postal Service and General Government that the rescission proposal "is simply not good business."
>
> The proposal is part of S. 617, which would cancel $13 billion in fiscal 1995 spending. It was offered as an amendment by Sens. Robert Dole, R-Kan., and Thomas A. Daschle, D-S.D.
>
> Richardson, defending the agency's $8.2 billion request for fiscal 1996, said any reduction in law enforcement funds or personnel could reduce revenue $2.5 billion. "Unlike many agencies, the IRS is not a program agency. Over 70 percent of the IRS's budget is personnel cost," she said.

And she went on to detail some more of this.

I ask unanimous consent that that article, and another article out of the Washington Times, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Highlights & Documents]

CUTTING $100 MILLION FROM LAW ENFORCEMENT BAD MOVE, RICHARDSON SAYS

(By Ryan J. Donmoyer)

Congress should reconsider before it rescinds $100 million of a $405 million compliance initiative enacted last year, IRS Commissioner Margaret Richardson testified April 3.

Richardson told the Senate Appropriations Subcommittee on Treasury, Postal Service and General Government that the rescission proposal "is simply not good business."

The proposal is part of S. 617, which would cancel $13 billion in fiscal 1995 spending. It was offered as an amendment by Sens. Robert Dole, R-Kan., and Thomas A. Daschle, D-S.D.

Richardson, defending the agency's $8.2 billion request for fiscal 1996, said any reduction in law enforcement funds or personnel could reduce revenue $2.5 billion. "Unlike many agencies, the IRS is not a program agency. Over 70 percent of the IRS's budget is personnel cost," she said.

Except for her comments on the rescission proposal, Richardson's testimony was basically the same she has given to several congressional panels since the Clinton's budget was released in February.

Yet even as Richardson tried to justify a $739 million budget increase for fiscal 1996, she found herself talking an awful lot about this filing season.

Sen. J. Robert Kerrey, D-Neb., criticized Richardson and her entourage of deputy commissioners for delays this year in the issuance of the earned income credit. Accusing the IRS of harassing "hard-working Americans," Kerrey said measures such as getting a notary and a clergy member to attest to a child for suspect returns amounted to abuse of taxpayers.

Richardson, taken aback by Kerrey's criticism, said the Service had uncovered several schemes, many involving multiple returns. Fraudulent EITC refunds cost Treasury $1 billion to $5 billion last year, according to official estimates.

Kerrey criticized Richardson for characterizing "some" of those caught as "common street criminals" and wondered aloud how much of the fraud is committed by organized efforts and how much by individuals trying to snag an extra hundred dollars. Richardson could not say.

"There are bigger fish in the ocean," said Kerrey, who suggested the IRS should pay more attention to corporate fraud and individuals who try to avoid all tax.

Richardson tried to escape the examination by saying she would testify on the EITC before the Senate Governmental Affairs Committee the next day.

Subcommittee Chairman Richard C. Shelby, R-Ala., quizzed her about problems with electronic filing and whether the Service could cut its staff positions by 30,000 in seven years if it got all of its budget request.

Shelby also asked Richardson about a March 29 Tax Analysts article that said IRS computers were responsible for some of the millions of returns rejected this year. Richardson said the IRS has found that all of the rejects were caused by taxpayer errors.

[From the Washington Times, Apr. 4, 1995]

IRS FIGHTS RECISION, TELLS HILL PANEL IT WOULD BOOST DEFICIT

(By Ruth Larson)

A Senate proposal to trim the current budget of the Internal Revenue Service ultimately will increase, not decrease, the federal deficit, IRS Commissioner Margaret Milner Richardson told a Senate panel yesterday.

The cuts are part of a $1.2 billion recision package now being considered on the Senate floor. Senate Republicans want to pay for federal disaster relief by trimming funds already appropriated for federal agencies like the IRS.

IRS' share of the cuts—$100 million—would come from the $405 million appropriated by

> Congress last year to help the agency increase tax compliance by hiring 4,000 more agents. The plan was touted as a relatively painless way to raise $9.2 billion in revenues in the next five years, to be earmarked for deficit reduction.
>
> That compliance initiative may be jeopardized just as it gets under way if some Senate Republicans have their way. An amendment expected to be introduced today by Senate Majority Leader Bob Dole of Kansas and Sen. John Ashcroft of Missouri would rescind a quarter of the IRS compliance funding.
>
> Mrs. Richardson said that while she understands Congress is being forced to make difficult funding choices, "some cuts that might appear to produce a short-term benefit may not actually do so. The recision proposal is simply not good business."
>
> The IRS estimates that for each dollar spent on compliance, such as hiring more enforcement officials, it receives $5 in extra tax revenues. Thus, cutting $100 million could translate to a $500 million loss in revenues next year, and a five-year loss of $2.5 billion, Mrs. Richardson said.
>
> Budget cuts could force the IRS to furlough all 70,000 of its compliance agents for up to 10 days, or even lay off the 4,000 newly hired agents, Mrs. Richardson told the Senate Appropriations subcommittee on the Treasury.
>
> Sen. Richard C. Shelby, Alabama Republican and subcommittee chairman, has been skeptical of the IRS initiatives. Last year he supported an amendment, eventually rejected, that would have eliminated funding for the additional enforcement agents.
>
> For its fiscal 1996 budget, the IRS has requested $8.2 billion—an increase of $700 million over this year's budget. "Many of us are asking, What are we getting for this large expenditure?" Mr. Shelby said.
>
> More than half the increase is tied to the agency's on-going tax systems modernization.
>
> Next year the IRS plans to upgrade its computer scanning equipment so it can enter all tax forms and supporting documents into its database. Basic tax data is now entered manually, a time-consuming task prone to error; many supporting records are not even entered in the system.
>
> The General Accounting Office has long criticized the IRS modernization efforts, saying it doubted the project would result in more revenue, even if it were completed. The GAO also has questioned the need for hiring more compliance staff. It found that the IRS has used the extra compliance funds to pay for budget shortfalls, such as locality pay.
>
> Mrs. Richardson said, "While the IRS agrees with many of the issues raised by GAO, we believe a number of their criticisms are not valid." An independent evaluation team from GAO has been looking at the program and is expected to report its findings to Congress next month.

Mr. GLENN. Madam President, when introducing this legislation, Senator DOLE, when he was listing the cuts, said "IRS, 100 million—that ought to be a favorite of everybody."

Well, I disagree with that. I disagree that cutting the IRS is going to prove to be popular with very many people.

On the following page of the Congressional RECORD, Senator KYL is quoted as saying, "For example, as the majority leader says, it cuts $100 million from the IRS bureaucracy, and makes other changes," as though there was a bureaucracy over there that is not working properly to get in the amount of revenue that is owed to the Government.

Let me tell you why I think Senator DOLE is wrong in that regard. When I go back home, what makes people more unhappy than anything else—while they are unhappy at paying taxes, of course; no one likes to pay taxes—but what really burns people up is to feel that they are paying their taxes, they fill out that form, they are honest about everything they do, they do the most honest job they can in submitting their data in for the IRS to consider, but then, when they hear about other people getting away with falsifying accounts and with not submitting all the data and with getting away with something and not paying their fair share, that is what really concerns people very much. It makes them very, very angry. And it makes me angry, too, and, I am sure, every Member of this body.

Yet when we know there are compliance difficulties like this, and we know the earned income tax credit has some difficulties, and where we have programs that are set up now to address those difficulties and get every person to pay their fair share, and now we are saying that instead of expanding that program and making sure that that program is big enough to really make sure everybody does pay their fair share, we are going to cut it.

We are going to cut those funds by one-quarter? That just does not make any sense at all, just from a plain business, flat business standpoint, when we know that each IRS agent gets approximately five times his or her keep in return of revenues that they have found that should have been submitted or should have been paid for and was not. Now that just does not make any sense.

I appreciate the necessity to try to cut the budget here and so on, but this is absolutely the wrong, wrong place to do it.

Madam President, I would like to go to a different subject for a moment.

Another one of the cuts that has been proposed by the Republican Conference this year, which I think is very shortsighted and I hope it does not go through, is an attempt to cut the funding for the General Accounting Office by one-fourth in this 1 year.

Let me give just a little bit of background. We, in the Governmental Affairs Committee, have been the committee of jurisdiction and of supervision over the General Accounting Office ever since I have been on that committee and long before that. We work very closely with them.

They started over 2 years ago, before the last election, to downsize. They wanted to be more efficient. They started their own program of modernization and downsizing at GAO and it has been on schedule. What has happened? They are already down some 12 or 13 percent now and they plan by the end of 1997 to be down one-fourth smaller than they were when they started this program. They are doing that at their own initiative.

Now what happened? The Republican Conference came out with a policy that they want to see GAO cut one-fourth this year, an additional one-fourth of what the GAO is already doing, an additional one-fourth cut in this year alone. This would decimate the GAO.

We depend on the GAO as our investigative arm of Congress.

When they were before us a short time ago over in committee, I could detail just what my own personal efforts where, as committee chairman on the Governmental Affairs Committee, I had asked them to do certain reports. They would come back and then, as a result of that, with action here on the floor or working with other committees, we would point to several billion dollars just that I had saved, just with my own initiative working with GAO.

They have pointed out all sorts of problems. And yet we are trying to cut them back.

Where did this start? Where did people get down on the GAO to the point where they are proposing to be cut back by one-fourth when they do good work and where they their own downsizing already going. And, as Comptroller General Bowsher has said, if you just let them alone and let them proceed until the end of 1997, they will have reduced by one-fourth over that period of time and accomplished on their own an orderly reduction that still enables them to do their job without getting slashed as the proposal would do out of the Republican Conference this year.

There is an editorial in the Hill newspaper, Wednesday, April 5, today. That editorial is entitled "Don't gut the GAO." By and large they state the situation pretty well, I think. I just read this a few moments ago, before I came on the floor. I quote from this editorial:

> Ever since the General Accounting Office uncovered the House bank scandal, which cost many lawmakers their jobs and sent some to jail, Congress has been gunning for the watch-dog agency. Republicans were particularly incensed by GAO reports critical of President Bush's tax policies.
>
> It now appears that the GAO, the research arm of Congress, may have to pay a heavy price for its independence. Senate Republicans want to slash the agency's budget by 25 percent.
>
> The ostensible reason for this cut is a deeply flawed report by a panel of the prestigious National Academy of Public Administration, which concluded that the GAO had strayed from its role as a numbers cruncher and wandered into the more esoteric realm of evaluating government programs and policies. But how does an agency evaluate whether taxpayer funds are being well spent except by evaluating the programs and policies for which they are used?

Since its inception in 1921, the agency has saved taxpayers billions of dollars—more than $200 billion by some accounts.

In fact, I correct the editorial here. The $200 billion I think was since 1985, not going clear back to 1921.

I continue with the editorial:

It was the GAO that found the money trail in the Iran-Contra scandal. After uncovering the HUD scandal, the agency went to work on the Department of Defense, and found $36 billion in supplies not needed to satisfy current operations of war reserves. GAO also turned the spotlight on wasteful Medicare reimbursement practices, including hospitals whose physical therapists billed as much as $600 an hour even though their salaries were as low as $20 an hour.

Last year, the agency examined the Department of Energy's Rock Flats plant in Colorado, and found numerous safety problems, including "plutonium liquids leaking from pipes and tanks, fire hazards and risks of exposing workers to plutonium." The GAO is currently studying Supplemental Security Income, which now costs $60 billion a year, a 140-percent increase in the last 10 years. The agency is seeking ways to bring the mushrooming costs under control.

Scotty Campbell, former head of the Office of Personnel Management who directed the critical study, nevertheless warns that a 25-percent budget cut "could do serious damage to that organization in terms of getting on with its work and readjusting its mission."

The agency, whose $443 million budget is the largest of any legislative branch agency, has already cut its staff from 5,325 to 4,700 since 1992, and is prepared to reduce it to 3,975 during the next two years. They would have to dismiss 1,600 employees in the next nine months to comply with a 25-percent cut in one year.

The GAO does have its internal problems. The agency is stymied by an antiquated management system that never ceases reviewing its work. It seems constitutionally incapable of producing reports to Congress on time—only 21 percent met GAO's own deadline.

Paradoxically, although Congress wants to slash the agency's budget, it bears most responsibility for GAO's workload. About 77 percent of the agency's work was at the request of Congress. Only last week, the Senate approved giving GAO responsibility for reviewing every significant regulation promulgated by a Federal agency, a task currently performed by the Office of Management and Budget.

Clearly, the agency that uncovered the House bank scandal doesn't always give Congress what it wants. That makes the GAO all the more needed, especially when budget cutters are honing their axes.

This is definitely not the time to shackle Congress' most effective fiscal watchdog.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Hill, Apr. 5, 1995]

DON'T GUT THE GAO

Ever since the General Accounting Office uncovered the House bank scandal, which cost many lawmakers their jobs and sent some to jail, Congress has been gunning for the watchdog agency. Republicans were particularly incensed by GAO reports critical of President Bush's tax policies.

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Since its inception in 1921, the agency has saved taxpayers billions of dollars—more than $200 billion by some accounts. It was the GAO that found the money trail in the Iran-Contra scandal. After uncovering the HUD scandal, the agency went to work on the Department of Defense, and found $36 billion in supplies not needed to satisfy current operations of war reserves. GAO also turned the spotlight on wasteful Medicare reimbursement practices, including hospitals whose physical therapists billed as much as $600 an hour even though their salaries were as low as $20 an hour.

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This is definitely not the time to shackle Congress' most effective fiscal watchdog.

Mr. GLENN. Madam President, it just does not make any sense that we are going to cut GAO at a time when we need their investigations more than ever.

It came as a big surprise to me back several years ago, as chairman of the Governmental Affairs Committee, to learn that the departments and agencies of Government are not required to do a bottom-line audit every year, as any business would have to do. The biggest spending organization in the world, the U.S. Government, and we are not required to do any audits at the end of the year.

We worked over several years putting together legislation. It was put together with the assistance of Dick Darman in the White House, during the years when he was head of OMB, and with Charles Bowsher, who is the Comptroller General, and we put together what we called the Chief Financial Officer Act, which has been in effect since 1990.

What does that do? It requires a bottom-line audit every year of every Department, every agency. We started GAO out auditing just three pilot projects trying to see whether we could get audits or not and what kind of shape they would be in. Nobody is passing, at this point, what in business would be called a certified audit. It will be a number of years before we get to that point. But who is required to analyze those new activities that we have put on every Department, every agency of Government to make sure that they are truly doing an audit—in other words, checking the audits, making sure the bottom-line audit is valid? The GAO, the General Accounting Office. That is one of their assigned jobs.

We are assigning them new roles all the time, and yet, at the same time, we are saying in addition to what they are already cutting down, 12 to 15 percent, we whack them out one-fourth this year when we need more accounting capability, not less.

I wish we could go not just to three agencies of the Government or Departments of Government and say, "Yes, the GAO is coming over to audit you and you better get your books in order." I wish we could go the whole length and breadth of Government. We are going to do that next year, and they are phasing it in slowly and doing a good job of phasing it in slowly, because they do not have the resources to go further into this and do it more rapidly.

It is unbelievable some of the things we found in our hearings going on over at the Pentagon, as far as accounting. GAO found across the whole length and breadth we have 200 different accounting systems, most of which cannot talk to each other on computers. The Pentagon alone has 160 different accounting systems; the Army has 43 different accounting systems. GAO is working closely with the Pentagon, with John Hamre, the comptroller over there, trying to make some sense out of this and trying to get reports and combine some of these systems so that we can know what happens to the money that we appropriate for the Pentagon. I use that as just one example.

I think it was $32 billion in unmatched disbursements, for instance, where they are just sort of written off. We hope they were all valid payments, but we could not really document what those payments were, whether they were as valid as they should be or not.

We did not have the paperwork trail there to do it. They are helping the Pentagon upgrade their system so we can get that kind of an audit trail every single year, not just once in a great while. Yet, at the same time, we are talking about cutting their funding back by a fourth when they are on the downswing now.

It was rare we used to hear any comment about problems with the GAO, and I know, as chairman of the Governmental Affairs Committee, where I heard the first major complaints. I think maybe this is where some of the problems started with the reputation of GAO in the Senate at least.

I know that the editorial I read a moment ago puts some of the problem over in the House on what they did in uncovering the House bank scandal. But in the Senate, everybody went along thinking GAO was doing a good job, which they were, up until President Bush was elected. And during that transition period is when the GAO took it upon themselves to issue the transition reports, giving advice, which was not solicited by the new administration at that time.

These were transition reports that called on GAO's background and their experience in these different areas as to where they saw some of the major problems in Government. This was unsolicited by the new administration. We had very few Senators here, but some—I still have one of the letters in my file that was just caustically critical of the General Accounting Office for going outside what this particular Senator saw as their proper role of doing only reports that we had requested specifically from here, committee chairmen or individuals, of course. But they voluntarily made these transition reports.

If that affronted some people, I am sorry it did, but it certainly did not affront me and it would not have affronted me had it been a Democratic administration coming in.

I do not think there is any agency of Government—no one certainly at the congressional level—to give us advice whose views go clear across the length and breadth of Government, all the way across, and is more qualified to give advice than the General Accounting Office.

I know if it had been a Democratic administration coming in, I would have welcomed those transition reports to give a new administration some guidance. Instead of that, their initiative, which they took on their own, seemed to have affronted some people here. And we heard continual criticism of the General Accounting Office ever since that time. Even up to and including one of the reported suggestions after the Republican conference made their suggestions on cutbacks at 25 percent, one of the Senators was quoted as saying he thought they should be cut back 50 percent. That would virtually do away with the fine job the General Accounting Office does for the Congress.

So I hope that we can think about this very carefully as to what we are doing when we cut funds back for the General Accounting Office. I hope they can be permitted not to take a one-quarter cut in this year, all in this year. That would decimate them. It would interrupt all their programs. They are on a reduction of about one-fourth of their work force right now. It started back 2 years ago and will be completed by the end of 1997. That is their target for this, and they are on schedule for it right now.

They can go that kind of reduction in an orderly fashion and accomplish the same thing if just given the time to do it.

I realize the efforts that we try to put forth around here to cut the budget, but if we are cutting the budget with regard to the General Accounting Office to that level, I think we are making a very, very, major mistake and one that we will regret.

If we do not have them, who are we to use for investigations that they have done in the past? I have used them. As chairman of the Governmental Affairs Committee, I used them for quite a number of different projects.

One I will mention. We are all concerned about the nuclear waste across the country, nuclear waste out of the nuclear weapons production program across the country that went for so many years without anybody even looking at it.

Back in 1985, I was at Fernald in Ohio. People wanted me to come out there, and it was one of the first steps in the nuclear weapons process, a processing plant at Fernald, and they felt there were problems there with waste.

I went out not knowing quite what I would find. The situation was worse than I thought it was. I went to work on that.

Then we asked the General Accounting Office to do a study of the site, which they did. I thought it could not possibly be this bad all over the whole country at the 17 major sites in 11 different States that were part of that nuclear weapons process. It turned out we asked GAO to do studies in some of the other areas, which they did, and what did they find? They found what I had run into at Fernald was only the starting point. What was out there across the whole nuclear weapons complex was a hideous ignoring of what had been going on all during the cold war as we fought to get fissile material and nuclear weapons produced as fast as we possibly could.

We had been just ignoring the waste. Everybody was so concerned, including me, including Members of this body, including most Americans, we were concerned, "The Russians are coming, the Russians are coming." We have to get those nuclear weapons out there fast.

What are we going to do with the waste? Put it out behind the plant and we will deal with that later. That is what we did. This "out behind the plant and deal with it later" was all the nuclear waste that we are now going to have to spend hundreds of billions of dollars to clean up.

The organization that has given the best definition of that whole problem all across the country is the General Accounting Office. I add this. Back then, when we first ran into this and had the first GAO reports, we asked for estimates from the Department of Energy as to how much they thought it was going to cost to clean up this whole thing out across the country. This was in about early 1986. They estimated it was going to cost $8 to $12 billion to clean these places up.

Better defining as GAO went through this showed in about 2 years it would cost closer to $100 billion. That was our estimate for several years. Then the cost went up, through better refining of the data, to about $200 billion and 20 to 30 years to do the cleanup.

Now this past week the Department of Energy has finally estimated that depending on how clean we want to make the sites, the cost will be $200 to $375 billion. Some can be done in 20 to 30 years, and some of it may take as long as 75 years as we try to learn how to do it.

GAO is the one who has defined most of this problem and pointed it out. They deserve a lot of credit for having done that.

We could go on. I could talk all night here, all afternoon and all evening about what has happened in GAO on the different projects and what we have been able to save. They have gotten back so many times their cost, the cost of having GAO so many times.

I indicated just my own personal case of requests for information that has resulted in several billion being saved on different accounts that we can document. This $200 billion I said they saved since about 1985, I believe it was, they can document. They have follow-up activities that show. These are not some wild pie-in-the-sky estimates to make them look good. They document this with follow-up review procedures to see how much has actually been saved, and $200 billion over the last 10 years is an enormous savings. Yet at the same time we are talking about whacking them by one-quarter in addition to the reduction they are already making. That would be the most false economy I can think of if we went through with that.

Madam President, I have spoken longer than I usually speak on the floor today, but I think these are very important matters. We talk about pulling back money for the IRS at a time when they are getting their TSM, their tax system modernization in place. That is a mistake. They are getting back far more than what it costs.

If we cut them down on their compliance activities, their follow-up on tax returns, their follow-up to make sure that everybody is paying their fair share, their follow-up to make sure the IETC—the earned income tax credit—is not given incorrectly to the wrong people, when we start cutting back on activities like that, that is a mistake.

I personally would like to see funding increased for GAO and increased for IRS because their track record is that they are getting back more than those additional dollars would cost.

I hope we are not going to, in the interests of balancing the budget here, make some false economies here that will cost more in the long run than it would to fully fund these agencies as requested right now.

I appreciate the consideration of my colleagues. I yield the floor.

BUDGET PROCESS STATUS

Mr. GREGG. Madam President, I wish to address the underlying legislation and also generally about how we stand in this budget process, because obviously this piece of legislation has an impact on the budgets generally.

We are about to break here for a couple of weeks, and when we return from this break, we will have a chance to debate the basic budget resolution before the Congress. This rescission package which we are presently taking up is sort of a precursor to that whole debate, the budget resolution of the Congress.

What it all comes down to is an issue of how we preserve the American dream for our children. What this debate is about is whether or not we are going to start putting fiscal discipline into the Congress and into the Federal Government in a manner which will allow Members to avoid an economic catastrophe which is looming over the horizon and which, unfortunately, our children will be the recipient of.

If we do not soon get control over the extraordinary amount of debt which the Federal Government is running up, we will essentially pass on to the next generation a nation which is bankrupt.

In fact, the national debt today stands at about $5 trillion. It will stand at about $8 trillion by the year 2010. Today, about every American owes about $19,000 if we take the national debt and divide it by the number of Americans. As a result, we are essentially creating a situation where the next generation will not have the capacity for paying the costs of Government which has been passed on to them by our generation. We will be the first generation—talking about the postwar baby boom generations that dominates the membership of this Congress—we will be the first generation in the history of this great country which passes less on to our children than was given by our parents. The opportunity to survive and have a lucrative and a prosperous lifestyle will essentially have been snuffed out for our children by our actions.

Federal taxes today consume about 25 percent of the median income of an American. In the year 1970 it was only 16 percent. Combined Federal and State taxes consume about 50 percent of the incomes of an average American. That is today. That is a huge amount of money. By the time that our children begin to earn and produce, unless we get control over the growth of the Government, taxes will consume 84 percent—84 percent of their income.

Now, that is not my number. I did not come up with that number. That was a number that was actually in the President's prior budget, not in the one he presented this year but the one he presented a year ago. He took it out of this year's budget, I suspect, because it was such a startling number he did not want to disclose it again.

Madam President, 84 percent of all the earnings of all Americans will be absorbed simply to pay for the Government as we move into the beginning of the next century unless we do something, unless we begin to bring under control the rate of growth of our Federal Government.

The current spending policies of this Government also directly affects the cost of doing business and the cost of living in this country.

For example, the national debt adds nearly 2 percent to interest rates, and that, of course, directly affects everyone's lifestyle. For example, those 2 percent in additional interest points represents $900 on the cost of financing a $15,000 car and represents $37,000 on the cost of financing a $75,000 house.

CBO has projected that interest rates would fall, however, if we were able to bring under control Federal spending. In fact, if we were able to balance the budget and put in place a balanced budget, interest rates would fall by fully 1 percent.

In addition, we know if we look into the outyears, what is driving this deficit, what is driving this rate of growth of the Federal Government is entitlement spending. It is not that this country is essentially an undertaxed country, it is not that the people of this Nation do not pay enough in taxes, it is that the people of this country are being asked to spend too much by the Federal Government.

This chart reflects that, and the problem. The green line, which is hard to see, which runs across the middle of the chart, shows what the revenues of the Federal Government are, as we project out into the future years what they have been since 1970 and what they are as we project in future years.

The blue spaces represent discretionary spending. The yellow space represents interest on the Federal debt. And the red space represents entitlement spending.

What this chart essentially says is by the year 2010, we as a Government are going to be spending so much on entitlement programs and interest on the Federal debt that it will absorb all the revenues of the Federal Government. We will not be able to pay for things like national defense, education, roads, libraries, all the services which are discretionary spending. Unless, of course, we wish to tax people at 84 percent of their earnings. Then, around about the year 2015, what this chart essentially says is that because of the force of the cost and the rate of growth of the cost of entitlement spending, this country essentially goes bankrupt.

Ironically, the Medicare system, which is one of the major entitlement programs and which is the primary health care system for senior citizens, that goes bankrupt in about the year 2002, around here. But as a result of demographics and the fact that a large number of citizens in the postwar baby boom generation become senior citizens beginning in about the year 2007, and that group starts to peak around the year 2020, as a result of the huge number of people then receiving benefits under things like Social Security and Medicare, the whole country essentially goes bankrupt in about the year 2015. We end up like Mexico, essentially, a country unable to pay for the operation of its Government and unable to secure or provide a prosperous lifestyle for its people.

All of this occurs not as a result of the fact that people in this country are not paying enough taxes. You would believe they are not paying enough taxes if you listen to many of the Members on the other side of the aisle, that simply raising taxes will address this issue. But that is not the case. As the next chart shows, all of this occurs because we are simply spending too much money. Taxes have remained fairly constant over the last 20 years and will remain constant over the next 20 years as a percent of our national income. But spending has gone up dramatically and stays up and then goes up even more dramatically as we head into the outyears. So it is spending that we must address and addressing the issue of spending we must also address the entitlement spending.

How has the other side decided to do this? How has the President and his party approached this issue? The President sent us a budget about a month ago which projected $200 billion deficits for as far as the eye could see—$200 billion deficits. It added $1 trillion of new debt, just in the next 5 years, to our children's shoulders. It made no major proposals to control any costs in any of the entitlement programs. Imagine that. Entitlement spending makes up 60 percent of the Federal accounts—60 percent. And not one proposal was made in the President's budget to address any of the entitlement accounts.

It was, to say the least, a political document—not designed to address the substance of the major issue confronting this country, which is the fiscal viability of our children's future; not designed to address the fact that we are facing an impending bankruptcy in the Medicare system and a bankruptcy of this Nation for our next generation—but a budget designed to get reelected in 2 years from now.

I call it the Pontius Pilate school of budgeting. Essentially, the President and his party washed their hands of the issue of addressing the deficit and the issue of controlling spending and the issue of how we protect our children's future, and walked off into the distance and said they would give us $200 billion deficits for as far as the eye can see.

This, in my opinion, was an outrage, an inexcusable act, and one which clearly did not reflect the need to manage this Government correctly and to face up to what is the most significant issue we as a Government confront.

On the other side, we, as Republicans, have proposed substantive proposals to address this deficit problem. Today we are taking up this rescission bill. It represents specific reductions in spending for the next 6 months, the balance of this fiscal year, reductions in spending which actually exceed in 6 months what the President has allegedly sent up to us over 6 years. He suggested another $13 billion in spending cuts. We are proposing $13 billion more—more than $13 billion in spending cuts in the next 6 months. He is talking about it over the next 5 years and actually does it through budget gimmicks on top of that.

So that is the first step in this exercise, in this critical exercise of protecting our children's future. But the more important step is how we address the major budget for the next 5 years and how we address specifically the entitlement spending that is driving the issue of the deficit.

If you look at the entitlement accounts there are obviously a large number of them. Many people do not understand what they are. Basically, those are accounts where you have the legal right to receive a payment from the Federal Government, unlike discretionary accounts, where the Federal Government has the option to spend the money. In defense we have the option to spend the money. In education we have the option to spend the money. In building roads we have the option to spend the money. But in entitlement accounts, if you meet certain criteria, you have the right to be supported by the Government or have the Government pay you.

In the entitlement accounts are such areas as Social Security—it is considered an entitlement account although it is really an insurance account—health care, especially Medicare and Medicaid, farm programs, SSI, EITC, pensions for Civil Service and military retirees. Those are some of the biggest ones—welfare. Those are all entitlement accounts.

To begin with, Social Security is something that in the short run is not a problem and we have not proposed doing anything that would impact that in a negative way. Why is that? For the next 7 years, actually, Social Security runs a surplus. Every year more money is paid into the Social Security system than is paid out: $60 billion this year, by the year 2000 it will be $100 billion annually. That is a factor of demographics and a tax increase that occurred back in 1983.

After the year 2005 the postwar baby boom generation hits the system. Then Social Security becomes a major problem. But for people who are over the age 50 there is no proposal and there should be no proposal that would impact their Social Security benefit. So we have not addressed that in the short run of the next 5-year budget.

So we take Social Security off the table but we leave—that leaves on the table the other major entitlement issues. Of those health care is 55 percent of the spending, health care accounts.

In the health care accounts we are talking about two major areas, Medicare and Medicaid. Medicaid is essentially a welfare proposal, where moneys come out of the general fund to support people who cannot afford their own health care and their own long-term care; Medicare is an insurance proposal for the most part, where people pay into it through their earnings. What we propose, as Republicans, is not to cut Medicare, not to cut Medicaid. There has not been any proposal to do any of that. What we propose is to change those programs to make them deliver a better service to the people who are receiving them and, in the process, slow their rate of growth.

Today, the Medicare and the Medicaid accounts are growing at about 10.5 percent annually—10.5 percent. That is three times the rate of inflation. It is actually about 10 times the rate of inflation in the health care community in the private sector. Last year the health care community in the private sector actually had a negative rate of growth. So it is actually 10 times that. But it is three times the rate of growth of the general economy. That is simply too fast and it cannot be afforded. What we are suggesting is we should slow that rate of growth from 10.5 percent down to about 7 percent. That is still twice, in the Medicare area, twice the rate of growth of inflation.

How do we do that? How do we slow that rate of growth? We are going to do it by suggesting to senior citizens that they should have more choices. In fact, we are going to say to them essentially we are going to try to give you the same type of choices a Member of Congress has. That seems pretty reasonable to me. They do not have that today. Today most seniors function out of what is known as a fee-for-service service in health care. Why? Fee for service is where you go out, hire your local doctor, you know him personally, and you pay him personally, and you pay whoever he refers to personally. It is a one-on-one type of relationship to health care. Most seniors in the fifties, sixties, seventies when they were growing up, that was the health care provided in this country, about the only health care, and they were comfortable with it. So the culture of senior citizens today use the fee for service. It happens to be fairly expensive. In fact, it is the most expensive form of health care. It is why health care is growing so fast as a function of cost.

So we are going to say to seniors, I hope, as a way to control the rate of growth of cost, if you want to stay with fee-for-service, fine, do that. We are not going to limit your ability to do that. You can keep that program. But if you as a senior decide to choose a program which is captivated, where the fee for that program is fixed, you go and buy the program at the beginning of the year, they supply you all your health care needs, and the needs they supply are the same as you get as under your fee for service, if you go into that type of program, and that type of program costs less even though it supplies the same type of care—it has to supply the same type of care as you get today—if that program costs less, and it probably will, these are HMO's, PPO's, we are going to let you, the senior, say keep part of your savings. In other words, if it costs $5,000 to get fee for service and you can go out and buy into an HMO for $500, you get to keep 75 percent of the $500 you saved. That is a pretty good deal for seniors. They are going to get the same, probably better, health care in many areas and it is a good deal for the Federal Government. Why? Because it gives us a predictable amount of cost for health care and its rate of growth.

We know that if we can move people out of the fee-for-service system into a captivated system, we can in the outyears save a dramatic amount of money and be assured of the rate of growth. We can afford, instead of the 10-percent rate of growth, closer to the 7-percent rate of growth which we need to reach.

It also creates a huge attitude in the marketplace where you will see competition rise, and you will see seniors given all types of choices. Who knows what will come forward. The market has imagination. They will be able to get programs today that we cannot conceive of, probably offers to give them drugs, long-term care, and probably offers to give them all sorts of different opportunities that they continue to have today under their present plan.

That is a result of marketplace forces competing for those dollars, as a thoughtful senior out there purchasing and make the senior a smarter purchaser. As a result the Federal Government and the seniors are the winners. We will see a reduction in the rate of growth. That is one approach which we will take. We call that creating a better program.

Medicare was created in the 1960's. It is a sixties health care program. It no longer functions in the present climate effectively as a way to deliver health care. We need to change it. Unfortunately, the forces of the status quo which have dominated this place for the last 30 years resist any type of change. But this type of change is needed in order to bring these costs under control, and in order to assure that our children have an opportunity to have health care and that the Medicare system does not go broke so that our seniors get health care after the year 2002. Medicaid accounts, and the welfare accounts, two major entitlements where we have essentially said—and I think most people would agree with this, especially in welfare—the Federal Government has failed. If there is an example of the failure of the liberal welfare state, it is welfare. We have created generations of dependency and despondency. People are locked into their system and told they cannot be productive citizens, and if they try to be they are beaten down by a bureaucracy which says you are not capable of being productive. We are going to keep you in this atmosphere, this endless cycle of dependency on the Federal Government and on the Federal dole. It has not worked. Welfare is a failure. The vast majority of Americans know that. The only folks who do not seem to know that are some of our more liberal colleagues who appear to be tied inexorably to this holdover from the concepts of the past.

What we are going to suggest is that the States should have the responsibility of managing the welfare systems, and they are willing to do it. Given the imagination, the creativity and the flexibility the States have shown in all sorts of areas, release that sort of enthusiasm and energy on the issue of welfare reform and Medicaid, and you will see programs which are better. You will see the recipients and the people who need the care and the assistance get better care, better assistance programs, and the States feel they can do it at less cost. We will design these programs in relationship in conjunction with the Governors so that they will be Governor-driven, so to say. They will be imaginative. They will be creative, and bring to the process a much better view and a much better approach to welfare and to Medicaid. We will get a better program, and we will get it for less money again because the States freed of this huge overhead of Federal bureaucracy can deliver more for the dollar, deliver it for less because they do not have to comply with all of this endless paperwork and bureaucracy.

As Governor of New Hampshire, I knew that if I did not have to comply with an overwhelming morass of Federal redtape and the number of people that we had to keep on the payroll just to comply with the absurd regulations, the massive regulations that were coming out of Washington, that I could have taken that dollar and gotten more dollars out of my welfare for recipients who needed it, make sure the folks who did not need it did not get it, make sure the people who you had to help transition out of welfare were helped transitioned out of welfare, and in the process do it for considerably less and be more efficient. The Governors feel that way too. That is why they have supported this initiative.

So we will undertake that process in reforming that type of program. In other entitlement accounts we can take the same type of approach—imaginative, creative approaches which will slow the rate of growth. That is what we are talking about; slowing the rate of growth of these entitlement accounts. Why? For two simple goals. First, to make sure that these programs work a lot better because they are not working today very well. But, second, to make sure that we do not bankrupt our children's future. That must be one of our primary thoughts.

So as we go forward in this budget debate, we need to be sure that we understand what is at risk here. We can follow the course which has been laid out by some of our colleagues on the other side of the aisle which is to resist every proposal that comes forward to impact any of these programs, and to say that it is wrong—wrong to change one "i" or change one "t" as it has been dotted and crossed for the last 20 years. But we can attempt to go in and fundamentally change and reform the manner in which Government is delivered in this country, to slow the rate of growth of Government, to downsize the size of the Federal Government, to return power to the States, the power to the people, to have a Government which understands the delivery of these programs to be significantly improved through delivering them at the State level, and with the programs that we retain here make sure we take a number of imaginative, more creative approaches such as giving choice to our seniors in the area of health care. Those are the types of changes we need to undertake in order to assure that our children have some opportunity for a prosperous lifestyle.

If we make those choices here on this rescissions bill, and when we come back on a budget bill which would substantially reduce the rate of growth over the next 5 years, then we will see a budget that will come into balance. That is what this black line means. The red line happens to be the President's budget as it is projected out over the next 5 years, with the $200 billion deficits, continuous $5 trillion new debt. But the type of budget we are going to propose will be a budget that will lead us to a balanced budget by the year 2002.

Yes. The decisions will be challenging, and I suppose the votes will be defined as tough, hard-to-make votes. But they really are not. They really should be fairly easy votes because what we are talking about here is how to reform this Government so that it delivers the services it is supposed to deliver, but delivers them in a manner which can be afforded not only by our generation but by the next generation which is going to have to pay for the costs which we are passing down to them.

I believe we can accomplish that. I believe we must reject the debate tactics which we have heard on this floor for the last few days which has essentially demagoged every cut as an act that shows no compassion to whatever constituency has been identified for the moment and acknowledge the truth of the matter, that if we are truly concerned about our children—and there has been so much rhetoric from the other side about this program or that program being an issue of caring for children and compassion for children—if we really care about our children, then we have to be willing to address the deficit and the fiscal crisis which we are facing today and the fact that we are going to pass into a bankrupt Nation if we do not act and act quickly and act now.

We should also reject the view that all compassion is retained here in Washington, that the only people who can run a program that really is caring and thoughtful is some small cadre of bureaucrats aided by their assistants here in the Congress of the United States out of Washington. How arrogant that is. How elitist that is. It assumes that Governors are not compassionate, State legislators are not compassionate, that the people on the main frontline of the issue, the folks in the towns and cities across this Nation who deliver these programs do not have the compassion to manage them themselves; they must be told how to do it by this cadre of self-appointed experts here in Washington.

That theory of compassion holds no substance. It is not defensible. This debate, when you hear those terms, is not about compassion. This debate is about power. That is all it is about, the fact that there are folks in this city who have built their careers around the capacity to control the dollars which flow back to run these programs. And they understand that when we move these programs back to the States and the dollars back to the States, they will lose that power and they do not like it. And so they mask their fear of losing that power or they cover up their desire to retain that power with this inflammatory language about compassion which on the face of it is not defensible because it presumes that they are the only ones who possess such traits and that elected officials at the local level and at the State level cannot equal their level of compassion, which is absurd.

So as we move out back to our States over the next couple of weeks and we discuss the issue of the deficit and of the budget, and as we take on issues such as this rescission package and later this budget itself, I think it is absolutely critical that we be honest with the American people, that we explain to them that if action is not taken very soon on bringing this deficit under control, on bringing the rate of growth of this Federal Government under control, our senior citizens will find a Medicare system that goes bankrupt in the year 2002 and that our children will find a nation that goes bankrupt in the year 2015, 2020, somewhere in that range; that we will have passed on to the next generation a nation that is unable to supply them the opportunities for prosperity and hope that we were given by our parents. And as I said at the beginning of this talk, it is not right and not fair for any generation to do that to another generation.

So I hope that as we go forth over these next few weeks we will honestly discuss what is truly at risk here, and what is at risk is the future of our children.

Mr. President, I yield back the time.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER (Mr. GRAMS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, we have a solemn responsibility the people have given us. It is a responsibility to control the spending of this Government, to bring it in line with the concept of balance, to somehow manage the resources of this Government in a way which would not continue to jeopardize future generations.

You and I are keenly aware of the fact that every man, woman, and child in the United States of America has a debt of about $18,000, every family of four a debt of about $72,000.

We have before us a rescission bill, this measure to try and rescind certain spending items which we think we can afford not to spend—as a matter of fact, we cannot afford to spend. These are items which ought to be cut.

The freshman class of the Senate in this body in the last several days has forwarded additional cuts that would allow us to save additional resources. The original proposal for rescissions in the Senate was about $13.3 billion, and this Senate just a few evenings ago in an act of rather courageous judgment decided that we would defer an additional $1.8 billion in spending by deferring the construction of a number of courthouses around the country.

I think it is important for us to look carefully at the proposal of the freshmen Senators that would provide for another $1.3 billion in spending reductions. That money would be available for future generations because it would not be an encumbrance of debt placed upon them. And the kinds of places in which there are projected cuts are places where we can afford to trim back spending, not the least of them is the AmeriCorps of President Clinton, the so-called volunteer arena where people are paid significant sums of money in order to go and volunteer.

What is interesting about AmeriCorps is that it has been costing the American citizens an average of $30,400 per volunteer.

Now, most people do not think of $30,400 price tags on volunteers. We think of volunteers as a part of a great American tradition of giving. This is part of the great American governmental tradition of spending. Not only is it $30,400, a lot of that just goes into the bureaucracy to support those so-called volunteers. As a matter of fact, the data we have indicates that $15,000 of each one of those $30,400 items goes into the bureaucracy and overhead and administrative costs to support the volunteers. That only leaves $15,400 remaining. So that money then supports the so-called volunteer.

But it is interesting to know where the volunteers work. The volunteers, 20 percent of them, one out of every five of them, works for the Government. And frequently these individuals are not really volunteering in the traditional area of volunteer service in America at all. It is just a back-door way of bringing more people into the bureaucracy.

So the AmeriCorps Program is a program that ought to be carefully looked at. And when the freshman class proposed, in response to the mandate of the American people, that we cut an additional $206 million from the AmeriCorps Program, it was a worthy thing to consider.

Now there are those who have come to say to us, "Well, volunteering is noble; volunteering is wonderful." It is noble and it is wonderful, but it is very expensive if you accept the administration's definition of a volunteer. Here you have volunteers in the State of Alaska averaging over $40,000 apiece in terms of cost. I know there are a lot of folks in my home State that would consider that kind of volunteering a great opportunity.

So, I would just say that when we have come forward with the potential of cutting $206 million from the AmeriCorps Program, I think we have come forward with a reasonable way to say that we ought to restrain spending, to rescind this appropriation so that we do not unduly jeopardize future generations with debt.

Another important area they are recommending and we are recommending for rescission is the area of foreign operations, in the area of our generosity to countries overseas. The original recommendation of the Senate was that we would have a foreign operations cut of $100 million. That represents about an eight-tenths of 1 percent cut. The House had recommended $191 million. If we were to move from the eight-tenths of 1 percent, or $100 million, figure to the $191 million figure, we would only be moving to about a total of 1.4 percent cut in the so-called foreign operations budget.

Now, this foreign aid that we give to other countries can be important, can be in the national interest. But let us not suggest to the entire world that the American people are the only people that are going to have to act responsibly in the area of restraining spending. Other countries around the globe are going to have to participate with us, as we tighten our belt in order to reach a balanced budget, in order to have the kind of fiscal restraint and financial responsibility that our children are demanding of us. As a matter of fact, not just our children and their yet unearned wages, but the people across America are demanding of us.

Incidentally, I think countries around the world are demanding that we act responsibly. If you will look at what has been happening to the American dollar on world monetary markets recently, we have been in a free fall. We ought not to have the picture of George Washington on the American dollar. We ought to have a parachute, if we are going to continue to see its value plummet.

Why does the American dollar plummet on world markets? I think it is a lack of confidence in the discipline of this Government to restrain its spending. And we ought to be restraining spending. So if we do restrain spending and if we are in a position to restrain spending in such a way as to protect the future of America and stabilize the world economy, our restraint of spending the additional $91.6 million in foreign operations will be a great benefit not only to us in balancing the budget, but of great benefit to the world because we will have helped create an environment of financial stability.

Well, there are a whole range of things that are a part of this proposed rescission bill. It includes everything from public broadcasting, to the foreign operations, to the AmeriCorps, to the Legal Services Corporation, a variety of items, all of which at one time or another, or some of which even today are laudable things, but things we simply cannot afford.

Mr. President, I believe the American people expect us to live within our resources. The question is not, Is it something you want? The question is, Is it something that we should be spending for, especially in light of the fact that we do not currently have the resources?

When you and I sit down at our kitchen table to develop the budgets that we must have with our family, we ask more than the question: Is this a good thing or is it a bad thing? We have a list of good things that we might like that would be a mile long. We look at the catalog, whether it be from Sears or Lands End, or wherever it was that we are looking at. There are all kinds of good things there.

The question is not whether they are good things. It is whether or not they are a priority for us, whether or not we really have the wherewithal to engage in this kind of activity.

Now those who have come to attack the committee's proposed reductions have suggested that we are cutting children; that we are somehow injuring young people. They have elevated horror stories. They have elevated very sad scenarios, suggesting that we are heartless and compassionless.

This has been done irresponsibly, in my judgment, because, as a matter of fact, we are responsibly addressing these problems.

One of the things that was projected for reduction and rescission was the WIC Program, Women, Infants, and Children. It is a nutrition program. There was a modest reduction there, I think, of $35 million.

There is a great outcry as a result of that modest reduction, saying that this was heartless, it was compassionless, it was going to be taking food from the mouths of women, infants, and children, and it was going to be destructive of the future because people would have lower levels of nutrition.

The truth of the matter is this money was to be rescinded from an unallocated, undistributed surplus in the Women, Infants, and Children Program. The surplus was about $150 million. And to reduce the surplus by $35 million, from $150 million to $115 million, would not impair the nutrition, not impair the health, not impair the safety, not impair the standing of any of these individuals.

But it is important for us to impair the deficit. And we need to look carefully at the way we are managing resources, even resources that are devoted to things of relatively high priorities, even resources that are devoted to things like health and the like. If they are not being utilized, if they are in unallocated and undistributed surplus accounts, let us make sure that we do not leave that resource there or otherwise fail to rescind it so that we occasion additional spending somewhere else.

We have come in response to the voice of the people last November. As one of the newly elected Senators, I know my colleagues and I, when we came to add our voices to the voices that were asking for rescission of unnecessary spending, we knew we were doing that representing the American people. We were doing that because the people are demanding responsibility in Government. They were demanding reasonable, but tough decisions. They were demanding we restrain the growth of Government. They were demanding that we limit the kind of jeopardy into which our children will go because the debt is higher and higher and higher.

We are not talking about an environment where the debt is going down and down and down. The President has proposed debts of $200 billion a year as far as he is forecasting.

As a matter of fact, the data from which he is creating the forecasts is data that is now coming out of OMB. A year ago, it was represented that we would be using data from the Congressional Budget Office, but that data is not nearly as favorable to the President as the OMB data is.

The OMB data suggests the deficit would only be about $200 billion—only about $200 billion—next year and the year after and the year after and the year after and the year after. But the Congressional Budget Office data indicates that the deficit is substantially greater, hundreds of millions of dollars greater in the outyears than the President's forecasts have indicated.

So we are not talking about a circumstance or situation where it does not matter whether we are cutting, it does not matter whether we are rescinding. It does matter. It matters not only to taxpayers today, but it matters to the young people of tomorrow.

An ordinary family, the father, the mother, no matter how deeply they go into debt, they simply cannot provide or mandate that the youngsters will some day have to grow up and pay that debt. There is a rule against that in America, you cannot be held responsible for the debt of another. No matter how reckless I might be, I cannot create debts my children would have to pay off.

However, there is an exception to the rule. The Congress can incur debt that the next generation will have to pay off, and we have been incurring that debt at an incredible rate. Now each family of four faces a debt of $72,000, and it is growing and growing and growing.

We have the opportunity in this body to say we will stop some of the spending, we will stop the hemorrhaging where we can, we are going to restrain this outflow, and it is time for us to restrain the outflow.

We will restrain it in terms of the AmeriCorps Program, yes, the so-called volunteer program that costs $30,000 per volunteer. We will restrain it in the area of foreign operations and foreign aid. Yes, if we are going to have some belt tightening in this country, other countries around the world should share in that belt tightening as well. We will restrain it even for the Corporation for Public Broadcasting, which is an institution of great wealth, but is an institution which ignores that great wealth and continues to draw upon taxpayers' resources and which ought to be able to use that wealth to avoid having to draw on taxpayers' resources.

We need to make sure that we even implement the rescission cuts which the President of the United States has asked us to implement. When we first started this debate on rescissions, we were going to ignore over $300 million of cuts that the President asked us to make. It is time for us to knock those earmarked special projects out. Those are the projects which the President next year, under a line-item veto, will have the authority to knock out.

He said this year that he would like for us to knock those out, and I think we ought to accommodate the President in that respect and knock out that kind of spending. If we do, we will be responding constructively to the mandate of the people. If we do, we will be responding constructively to what they have asked us to do in the election last year. I believe that is very important. They have asked us to be responsible in restraining spending.

The Senate has an opportunity, as a result of the report of the committee and the amendment offered by the freshmen Members of the U.S. Senate, to rescind the expenditure of resources, the expenditure of which will drive us deeper and deeper into debt.

Mr. President, it is time for us to accept the challenge of the American people to respond constructively to rescind unnecessary spending and to devote the proceeds of the rescissions to the reduction of the Federal deficit. That is the mandate of the people. It is the opportunity which we have. I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

NATIONAL 4–H DAY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 100, a resolution submitted by me proclaiming April 5 as National 4–H Day; further, that the Senate proceed to its immediate consideration; that the resolution and preamble be agreed to, the motion to reconsider be laid upon the table; and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

The Democratic side has agreed to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 100) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 100

Whereas the Senate is proud to honor the National 4–H Youth Development Program of the Cooperative State Research, Education, and Extension Service for 85 years of experience-based education to young people throughout the United States;

Whereas this admirable Program seeks to provide a learning experience for the whole child (including head, heart, hands, and health) and help children of the United States to acquire knowledge, develop life skills, and form attitudes to enable the children to become self-directed, productive, and contributing members of society;

Whereas the 5,500,000 urban, suburban, and rural participants in the Program, ranging from 5 to 19 years of age, hail from diverse ethnic and socioeconomic backgrounds and truly represent a cross-section of the United States;

Whereas the Program could not have achieved success without the service of the more than 65,000 volunteers who have given generously of their time, talents, energies, and resources; and

Whereas throughout proud history of the Programs, the Program has developed positive roles models for the youth of the United States and (through its innovative and inspiring programs) continues to build character and to instill the values that have made the United States strong and great: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims April 5, 1995, as National 4–H Day;

(2) commends the 4–H Youth Development Program and the many children and volunteers who have made the Program as success; and

(3) requests the President to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Mrs. HUTCHISON. Mr. President, I was pleased to submit Senate Resolution 100 proclaiming today, April 5, 1995, as National 4–H Day. As part of the Cooperative Extension System, 4–H is a program of informal education for youth. It is open to all interested young people, age 5 through 19, regardless of race, sex, creed, or national origin.

The mission of 4–H is to help youth acquire knowledge, develop life skills, and form attitudes that will enable them to become self-directed, productive, and contributing members of society. This mission is carried out through the involvement of parents, volunteer leaders, and other adults who organize and conduct educational experience in community and family settings.

4–H gives young people the opportunity to contribute to food production, community service, energy conservation, and environmental protection. In addition, they learn about science and technology and participate in programs that help them with employment and career decisions, health, nutrition, home improvement, and family relationships. In the process, 4–H youth apply leadership skills, acquire a positive self-image, and learn to respect and get along with others. As a result of international cooperation with 82 countries, 4–H is also contributing to world understanding.

Approximately 5.5 million young people participate in 4–H. The program has almost 50 million alumni.

The 4–H's are:

Head—clearer thinking and decision-making; knowledge useful throughout life.

Heart—greater loyalty, strong personal values, positive self-concept, concern for others.

Hands—larger service, work-force preparedness, useful skills, science and technology, literacy.

Health—better living, healthy lifestyles.

The 4–H pledge is:

> I pledge my head to clearer thinking, my heart to greater loyalty, my hands to larger service and my health to better living, for my club, my community, my country, and my world.

The 4–H motto is: "To make the best better."

Mr. President, this organization provides positive and nurturing experiences for our country's youth. Many of our Members have served in 4–H. I am pleased to inform you that 4–H'ers from all over the Nation are visiting Washington today.

Senator HEFLIN, a cosponsor of this resolution, and I would appreciate passage of this resolution in acknowledgment of the fine contribution members of this organization make to our society.

Mrs. HUTCHISON. I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

SETTING THE RECORD STRAIGHT

Mr. WELLSTONE. I thank the Chair. I actually will be brief, Mr. President. I, between other work, had a chance to hear some of my colleagues speak on the floor. Since they are not here now, I do not choose to get into a major debate. Other Senators are not here. Hopefully, we can do that at the right time.

Just a couple quick points for the record, Mr. President. We have for now, several days or at least the last day and a half, been at an impasse. I just want to set the record straight.

One or two of my colleagues were talking about the delay and the, if you will, filibuster of this rescission bill. Actually, I think it was yesterday morning, I came out with a sense-of-the-Senate amendment. I made it very clear that I was willing to vote on it, was more than willing to have a time agreement. But the majority leader then came out and second degreed that amendment.

For those watching, second degree means that his amendment took precedence over my amendment.

From that point in time, we really have been pretty much at an impasse. The amendment I brought to the floor of the Senate yesterday dealt with the Women, Infants, and Children Program, nutrition standards, all of which, by the way, is quite relevant to this rescissions bill, since there are proposed cuts in the WIC Program.

The majority leader's second-degree amendment dealt with Jordan.

At that point in time, Mr. President, we have been pretty much at an impasse, but it is certainly not because Senators like myself and others do not want to move forward. We do.

There has been another amendment which has taken up a good deal of the time this week by my colleague from New York. That amendment deals with Mexico—financial assistance to Mexico.

Mr. President, the rescissions bill of proposed cuts, we have had some debate about that. There has been some discussion of the minority leader's amendment which I think is a very important corrective step in restoring some funding for programs that are really not programs—bureaucracy—but perhaps that really make a difference. Childrens' lives, senior citizens' lives—just name it.

Mr. President, by and large the last 2 days have been pretty much an impasse, but it is not because on the part of Democratic Senators that there is not a willingness to move forward. We are more than willing to move forward.

I did not second-degree my amendment. I wanted to have an up-or-down vote. I did not have an amendment that dealt with aid to Jordan on the rescissions package. That was not my decision.

I just want the record to be clear when Senators come out here and say, well, where are they? Why are we not moving forward? I would be pleased to. I had an amendment that was in a sense only a sense-of-the-Senate amendment, but it did not deal with Women, Infants, and Children, did not deal with nutritional standards, did not deal with children, and those are some of the programs we are talking about and debating.

Second point, Mr. President, some of the discussion about Medicare, tonight is not the night to really go into this in great detail or depth, but I feel like some of the comments of colleagues deserve a response—a brief response. I fear that it is just too easy for Senators to come to the floor about the statistics and data about Medicare, and then make the argument that this is the area that we really have to kind of make the cuts.

Mr. President, a couple of points. In the State of Minnesota, with some of the projected cuts that we will be discussing if not today, certainly during this session, those cuts can amount to as much as $10 billion for Medicare and Medicaid. By the way, about 40 percent of Medicaid is for the elderly in nursing homes.

I can just say, and I speak to my colleague from Minnesota, that if we talk to people in rural Minnesota and we ask them what that will mean either in terms of less reimbursement for some of the hospitals and clinics that already struggle because of the inadequate reimbursement, or if we add to copays or deductibles or make seniors pay more out of their pockets, we will across-the-board from senior citizens and the care givers, get the same response: Its impact will be devastating.

Mr. President, I would just raise two points. Point one, I wonder why some of my colleagues who talked about the dangers of rationing when we were talking about universal health care coverage last Congress, now when we talk about just the focus on Medicare and Medicaid and the need for deep cuts in those programs, are not talking about rationing.

Quite clearly, in the absence of overall health care reform, in the absence of some courage about how to contain costs—and by the way, I think we have to contain costs to have universal coverage—if we just target Medicare and Medicaid, then we are guaranteeing that there will be rationing: by age, by disability, and by income.

I can assure Members that those citizens that would be most affected by these proposed cuts are going to be the citizens who are going to have a very bold and I think clear voice. Not because there are some awful special interests but because they have every reason to raise questions.

The Medicare program, imperfections and all, passed in 1965, has made a huge difference for me. I can say that as a son of two parents with Parkinson's disease. For my mother and father, who were not exactly wealthy, Medicare was the difference between being able to survive and financial disaster.

The Medicare program is not perfect. There are imperfections. There are imperfections to all public and private sector programs, but I think that most view Medicare and Medicaid, both passed in 1965, as steps forward, made our country a better country.

Now, I am not opposed to reform at all. But I do want to make it crystal clear that in the projections that have been laid out here, and what is to be done, I have noticed a certain silence, and that silence is deafening on two counts.

Number one, based upon the criteria of "Well, aren't you going to then be rationing?" And, number two, "What about containing costs within the overall health care system?"

When the Congressional Budget Office scored these different health care plans last Congress, the one proposal to contain costs that really got a very strong score, that really made sense, I say to my colleague from Utah whom I respect and who I know is immersed in this debate, the one proposal that did extremely well was to put some kind of limit on insurance company premiums.

No question about it, in terms of the effectiveness of such a proposal as a part of overall cost containment strategy. It was taken off the table immediately. Taken off the table immediately. I wonder why? Sure, the insurance industry has a tremendous amount of power.

I would just say to my colleagues before we start talking about all senior citizens herded into managed care plans, forgetting fee-for-service period, I thought choice was an important issue. And before we start talking about the way we contain health care costs is target Medicare and Medicaid, we should be sure that we are intellectually rigorous and that we are very honest in our policy choices. We also look at other ways of containing costs.

I will just say to my colleagues, we can take a look at the CBO studies last Congress when they looked at a lot of different proposals, and I see no reason in the world why, in fact, insurance company premiums are not on the table as well in terms of where we try to put some kind of limit as a Senate strategy of cost containment.

Last point, a discussion about welfare. I am just responding to some of what I heard on the floor today. I apologize to colleagues that are not here. When there will be time for debate there will be debate. Nothing that I will say will be personal. Nothing that I will say on the floor right now will be at all hard hitting because I think people should be on the floor to have a right to respond to whatever we say.

I do think that the concern that I have, at least about some of what is in this rescissions package which is cuts in this year's budgets, much less some of the proposals in the future, vis-a-vis some of the block grant, is not flexibility.

That is not the concern I have. The concern I have is that in real dollar terms, when we look at some of the proposed cuts, I really think that the effect of those cuts on too many citizens, and I will start with children, is too much in the negative.

Again, whether it is the insurance companies and their premiums, that somehow that is not on the table when we talk about how to contain health care costs, but we want to target Medicare or Medicaid, same thing here.

Whether it is school lunch or school breakfast or whether it is WIC, or whether it is just the child care block grants programs right now, all that is on the table, clear proposed cuts; but on the other hand, subsidies for oil companies or coal companies or tobacco companies or insurance companies are not on the table.

I think there has to be some standard of fairness, Mr. President. I think that is what people in Minnesota and the country are interested in. I think everyone is aware we have to get our fiscal house in order, although I think there are different views about how to do that. I think we have to have balance.

There has not been an effort on the floor of the Senate on my part, and I do not think on the part of Democrats, to slow anything up. I wanted a vote on the amendment I introduced yesterday.

I will go back to that and end on this. I wanted a vote on the amendment I introduced yesterday morning, which was a long time ago. I did not choose to second-degree that amendment. That was not my amendment on Jordan and financial aid to Jordan. That was the majority leader, the Republican Party. That is his choice—skillful legislator—he did so. Ever since, we have essentially been tied into a knot.

That is really the story of the last 24 hours in the Senate. I look forward to when we get back to this debate. I hope that we can have some good debate on this rescissions package. I yield the floor.

SENATE VOCABULARY

Mr. BENNETT. Mr. President, I have had to learn a new vocabulary since I have come to Washington. I would like to explain to people of America and particularly the people of Utah about this vocabulary, because they may have been watching this debate and have not learned the things that I have had to learn since I have been a Senator.

When I came to the Senate, I came naively from the private sector thinking that the word "cut" meant that we would spend less on a program than we were previously spending.

Indeed, when I talked to my children and I say, "We are going to cut your allowance," that means we will give them less money per month than we were giving them before. When my wife and I sit down and we say we have to cut our household budget, that means we will spend less this month than we were able to spend last month. That is what the word "cut" means to me in the outside world.

When I come to Washington, however, I had to learn, as I say, a new vocabulary. I learned that the word "cut" does not mean that we spend less this year than we spent last year. In many instances, in Washington vocabulary, the word "cut" means that we spend more this year than we spent last year. But you do spend less than someone promised that you might spend at some future time.

So, I have had my staff look through this rescission bill to help me understand this vocabulary, and they have come up with the list of cuts, Washington style, and then compared those to cuts as the term is used outside of Washington. I would like to share a few of those.

One that caught my attention—I got letters from Utah saying, "Senator, this rescission bill will cut $42 million from Head Start. I do not want to do that. I am a very strong supporter of the Head Start Program."

Mr. President, $42 million, under my definition of the word "cut" means that we would spend $42 million less this year on Head Start than we would have spent last year. However, in Washington terms that $42 million cut means that we will only spend $168 million more this year than we spent last year.

Mr. WELLSTONE. Will the Senator yield?

Mr. BENNETT. I will be happy to yield.

Mr. WELLSTONE. Two questions to the Senator, and I appreciate the graciousness of my colleague.

First of all, and I do not remember the exact statistics, maybe he can help me out on this, is it not true that right now, those children who are eligible to benefit from Head Start, we only right now, in current appropriations, cover maybe half or a little more than half of those young children?

Mr. BENNETT. Like the Senator from Minnesota I do not have those figures at my fingertips. I do know that the Head Start Program from fiscal 1990 to fiscal 1995 has had a 128 percent increase during that period, and as I said in my statement, in this rescission bill it will have a $168 million increase over fiscal 1994, for a total of $3.492 billion.

Mr. WELLSTONE. Let me try—if my colleague will take another question. This gets to the semantics about cuts, because I do not think either one of us are trying to be clever. I think it is an honest difference of opinion.

Mr. BENNETT. I will be happy to yield.

Mr. WELLSTONE. I say to my colleague, the background of the context seems to be the following. I do not have it precisely.

First, we say, with Head Start, we intend to do exactly what the title of it is, give a head start to children who come from disadvantaged backgrounds.

Second, even though we say that, we have never funded the program anywhere close to the level where those children who really could benefit from such support get such support.

Third, my colleague says the fact that this is an increase over what is now, over the funding right now, means you cannot call it a cut. But if every 30 seconds a child is born into poverty in this country and the demographics are such and the trend line is such that by definition you have more and more children who are in need of Head Start and you are not funding it anywhere near up to the level to keep up with that increased need, then, in fact, that is a cut. That is a cut by any way in which I think you would imagine it.

In other words, I say to my colleague, my family, we were living on a salary—take my salary when I was teaching, $40,000 a year. And by the same token, then the next year there was an increase in my salary, but it went up just a few percentage points, but the cost of living went up, in terms of food, in terms of utilities, in terms of housing, so in real dollar terms we had less of a standard of living than I had before, that would be a cut.

If the trend line is many more children are eligible so we are now losing ground, is that not a cut from what the program is about?

Mr. BENNETT. Mr. President, the Senator from Minnesota has given us the theoretical, with respect to his own employment which may or may not constitute a cut. He has not produced any figures in it. But ultimately the basic disagreement here has two points.

No. 1, with respect to his issue regarding Head Start, is it not a cut because we have not fully funded it? That is based on the assumption that money alone will solve the issue of poverty that he raises when he talks about the number of children being born into poverty every year. That is a managerial decision involving an analysis of Head Start and its contribution, how well it works, how often it does not work, what the various problems are, what problems are addressed by Head Start, what problems are not. That is not the issue I am talking about here.

Mr. WELLSTONE. Will my colleague yield?

Mr. BENNETT. Let me finish my point here, if I may. I am not talking about that because that is not what is going out over the television to the American people. I am responding to letters, not addressing the question of whether Head Start is adequately funded or inadequately funded; whether it is being properly managed or improperly managed; whether it is achieving its goal or not achieving its goal. I am getting letters saying, "You are cutting back Head Start by the rate of $42 billion. Senator, we do not want to cut Head Start from its present level. We do not want to cut Head Start from the job it is currently doing."

The point I am making is that we are not cutting Head Start back from its present level. The semantics of Washington are deceiving the American people by leading them to believe things are happening that, in fact, are not happening. And Head Start in this rescission bill does, in fact, receive an increase of $168 million, more than it had in fiscal 1994; and over the total period of time from fiscal 1990 to fiscal 1995, it has had a 128-percent increase.

I want to say to the people of Utah and the people throughout the country who are saying, "Do not cut us back $42 million from last year's level," we are not cutting back $42 million from last year's level. Begin to understand the Washington mentality and the Washington vocabulary. When we use the word "cut" on this floor, we do not mean what 99 percent of the American people think we mean, and we do not mean what 99 percent of the American people themselves mean when they use the word "cut." That is the point I am trying to make. If the Senator wants to debate with me the issue of the efficacy of Head Start or the wisdom of Head Start on the adequacy of funding for Head Start in terms of what it does, that is a separate issue for a separate time.

If the Senator has a further question on the issue, I will be glad to yield to him.

Mr. WELLSTONE. I appreciate that. Actually, this will be the last question because I want to enable my colleague to go forward with his remarks.

First of all, I would say to the people of Utah who have written the letter to you that I honestly and truthfully believe that they have a fine Senator. The Senator's reputation here for fairness is unsurpassed by anyone else.

Second, I want to say to my colleague, I think that, however, he is deceiving himself in making the case, the semantic case about cuts. Because it does not seem to me to be that strong kind of high ground you are standing on here—though you are considerably taller than I am—when we understand first, that right now, though we say we want children from disadvantaged backgrounds to have a head start, we do not anywhere near come close to fully funding it and second, in addition, unfortunately, it is the reality that we continue to see a dramatic rise in the poverty of children. Every 30 seconds a child is born into poverty in our country, and then third, we have a budget which was going to increase the funding for Head Start and that now has been cut back. That is exactly what this rescission is, a cutback.

So based upon a program that is inadequately funded, that deals with the most important goal we could have, a head start for disadvantaged children, with more and more children, unfortunately, being disadvantaged, I do not see how my colleague can take any comfort in the very remarks he has made.

Why would you want to trim this back at all? Why would you not want to expand the funding? What is the case for any kind of rescission in the Head Start area?

Mr. BENNETT. I thank the Senator for his kind remarks. I appreciate his comments and I reciprocate the personal friendship that we have because we do have a genuine personal friendship even though on the political spectrum we are probably about as far apart as we can get. But one of the delightful things that comes out of the service of this body is you become friends with people with different pasts, different attitudes, different backgrounds, different parties as well as different parts of the country, and you form the warm personal friendships that the common experience of serving in this body gives us. I thank the Senator for his comments. I do say that perhaps we should have the debate as to whether or not Head Start is the logical way to spend money in an attempt to eradicate poverty or, if there are other places to spend it more effectively I think that is the debate for another day and another time.

I will return now, Mr. President, to some of other items that are on this list that I think appropriately belong in this debate.

Here is one, Goals 2000. That was in the debate last year with respect to education. We are told that there is going to be a $55.8 million cut in Goals 2000. Well, after that cut, the Washington vocabulary which is applied to the bill, we find that the increase for Goals 2000 is $224 million more will be spent on Goals 2000 in fiscal year 1995 than was spent in fiscal year 1994.

So people who are worried about that, "Gee, you are cutting back Goals 2000," be reassured we are spending $224 million more on Goals 2000 than we did last year.

Chapter 1, this is a very emotional area. If the Senator from Minnesota was concerned about Head Start, I am sure he is very concerned about chapter 1 children. In this bill, there is a cut, Washington style vocabulary, of $80.4 million. However, be reassured those of you who are afraid that there is going to be an $80 million cut from the level spent in 1994, the actual number spent in fiscal year 1995 will be $321.6 million more in fiscal 1995 than was spent in fiscal year 1994. The total spent on chapter 1 money is $7.1 billion. Again, Mr. President, $321 million more this year than last, not the $80 million cut that a lot of people think they are protesting.

The Eisenhower Professional Development State Grant, a $69 million cut. I list this in the name of fairness because this is the only one on the list where I cannot say, in fact, we are going to spend more in 1995 than we spent in 1994. The effect of this action in the rescission package will be that the Eisenhower Professional Development State Grant Program will be frozen at the same level in 1995 as it was in 1994. So if you are concerned about that, you can be reassured there will be exactly the same amount of money this year as there was last year.

There are more on the list. I will just touch a few of them. School to Work, people say, "Oh, there is a $15 million cut in School to Work. We love School to Work." In fact, School to Work has more than doubled in fiscal year 1995 over the level it had in fiscal year 1994. So if you like School to Work in fiscal year 1994, be reassured there is more than double the money available in fiscal year 1995, and so on it goes on through.

Mr. President, I ask unanimous consent that this list appear in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENNETT. Mr. President, I will leave this issue without getting into the merits of the cuts, or the Washington style cuts, rather, that we have been debating here. But I think it is something that everyone in America needs to understand. In these programs I've listed, we are not talking about cutting back from prior levels, as many people are afraid we are. We are simply talking about holding down the increases, increases that in many cases, as I say, are double what they were last year, which seems to me in many cases that is enough.

To my colleagues who say, no, these problems are so pressing that even a doubling of the money is insufficient to solve the needs, I share with you my perspective from the experience I have had in the business world, which is that many times the worst thing you can do to a promising program or a business circumstance, product development activity, is to give it too much money too fast. There are many times the temptation to say, "Oh, this problem is not solving itself fast enough. Let us give it more money. This problem is not moving as rapidly. Let us fully fund it." And you push money at a problem at such a rate that the managers of the program simply cannot absorb it and spent it intelligently.

I served, Mr. President, in the executive branch. I can tell you the most hectic day in the life of anyone who serves in the executive branch is the last day of the fiscal year because on that day the spending authority expires, and all effort is exerted to get the money spent before the year ends. And money is being pushed out the door as rapidly as it possibly can be because they live on a use-it-or-lose-it circumstance. They say, "If we do not spend the money this year, we will not get the same appropriation next year." Then the managerial data come back. And they say, "You know. We had to spend it so fast that we had to take care of this artificial requirement that we do it by the end of the fiscal year that we spent it badly, we spent it sloppily, in many cases we spent it in a fashion that was counterproductive to the program we were supporting."

That is the real reason for these rescissions, Mr. President. As a Member of the Appropriations Committee I can assure you and the American people that we went through these programs, and said, "Where is the money that is not likely to be fenced in 1995 for intelligent management reasons? And, if we can find money of that kind, let us rescind the budget authority and only give them the amount of money they can intelligently and properly spend as good managers." And for that we are being accused of cutting vital programs and throwing people out into the snow, and all of the other rhetoric that has come along on this floor.

I hope, Mr. President, that the information developed by my staff and available to readers of the RECORD following my remarks will make it clear that in many programs, we are not cutting, we are simply rescinding money that could not be intelligently spent and properly spent during this fiscal year, and, in fact, in the programs listed we are funding at a level equal to, or in some cases double, that of the level of fiscal year 1994.

With that, Mr. President, I yield the floor.

EXHIBIT 1

WHEN IS A CUT A CUT?—LIST OF CUTS THAT INCREASE FY 1994 APPROPS

[As Contained in Rescission Bill]

Program	Proposed "Cuts" (millions)	Increases over FY94 (Total: Approp w/cut").
JTPA: Adult Job Training	$33	$33 million increase 3.4% increase over FY94. Total: $1.02 billion.
JTPA: Title III: Dislocated Worker.	[1]35.6	$142 million increase 13% increase over FY94. Total: $1.3 billion.
School to Work	[1]15	More than doubled. Total: $110 million.
Employment Service (One-Stop Career Center).	[1]20	Doubled. Total: $100 million.
Healthy Start	[1]2.5	$10 million increase. Total: $107.5 million.
Head Start	[1]42	$168 million increase FY94—$3.324 billion. Total: $3.492 billion (128% increase FY90–95).
Child Care Development Block Grant.	[1]8.4	$33.6 million increase. Total: $926 million.
Goals 2000 (Title III)	[1]55.8	$224 million increase; FY94: $92.4 M. Total: $316 million.
Disadvantaged (Chapter 1)	[1]80.4	$321.6 million increase. Total: $7.1 billion.
Eisenhower Professional Development State Grant (Education).	69	Freeze at 1994 level. Total: $251 million.

WHEN IS A CUT A CUT?—LIST OF CUTS THAT INCREASE FY 1994 APPROPS—Continued

[As Contained in Rescission Bill]

Program	Proposed "Cuts" (millions)	Increases over FY94 (Total: Approp w/cut").
Education Infrastructure[2]	20	$80 million increase. Total: $80 million.

[1] 20 percent reduction of increase.

[2] New program: Feds should not fund this at all.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMPSON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, I move the Senate stand in recess subject to the call of the Chair.

The motion was agreed to, and at 7:17 p.m., the Senate recessed subject to the call of the Chair; whereupon, at 9:06 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. FRIST).

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume the pending bill, H.R. 1158, and immediately proceed to a vote on the pending Dole amendment, as modified, without any further debate.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

A bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Hatfield amendment No. 420, in the nature of a substitute.

D'Amato amendment No. 427 (to amendment No. 420), to require Congressional approval of aggregate annual assistance to any foreign entity using the Exchange Stabilization Fund established under section 5302 of title 31, United States Code, in an amount that exceeds $5 billion.

Daschle amendment No. 445 (to amendment No. 420), in the nature of a substitute.

Dole (for Ashcroft) amendment No. 446 (to amendment No. 445), in the nature of a substitute.

Wellstone amendment No. 450, to express the sense of the Senate that before the Senate votes on block granting WIC to States the Senate Committee on Agriculture, Nutrition, and Forestry should investigate whether there is any improper food industry lobbyists' involvement in the transfer of WIC into State controlled block grants.

Dole/McConnell modified amendment No. 451 (to amendment No. 450), to establish debt restructuring and debt relief for Jordan.

AMENDMENT NO. 451 TO AMENDMENT NO. 450

The PRESIDING OFFICER. The question is on agreeing to amendment No. 451.

The amendment (No. 451) was agreed to.

Mr. DOLE. Mr. President, I further ask that following the disposition of the Dole amendment, the Senate proceed to vote on the Wellstone amendment, as amended, without further debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 450, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 450, as amended.

The amendment (No. 450), as amended, was agreed to.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I further ask that the cloture vote scheduled for Thursday occur at 2 p.m. and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, for the information of all Senators, the two leaders with several other Members have been working in good faith all day to reach a compromise with respect to the consideration of the Daschle and Dole/Ashcroft amendment. I hope to reach a unanimous-consent agreement early tomorrow which would allow us to complete action on this bill by noon or shortly thereafter with no further amendments in order. Therefore, Members should be on notice that votes can be expected to occur during Thursday's session of the Senate including final passage of the rescissions bill.

Also, the Senate is expected to consider and pass the paperwork reduction conference report, H.R. 1345, D.C. financial board. I understand there may be some amendments. They are trying to work those out. I also understand it is very important we do this before the recess. Then if we complete action on the defense supplemental conference report, H.R. 1240 regarding child pornography, executive calendar nominations, and I think we are working together on all those, we hope to get them all done by tomorrow.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I concur with the information that has just been provided by the distinguished majority leader. Let me say, as I understand it, at some point he will be putting into the RECORD the summary of our progress so far in our negotiations.

I think it certainly accurate to say that there is complete agreement on the add-backs. We have a number of issues that we have to raise with our caucus. That caucus will take place at 9 o'clock tomorrow morning, and I urge all Senators to be there for this very important discussion. Whether or not we have any amendments will be dependent upon our discussion there.

We have come a long way in the last day or so, and as the distinguished majority leader has indicated, there have been a lot of good-faith discussions on both sides of the aisle. I am pleased with our progress, but I think we are now at a point where this ought to be subject to a good discussion within our caucus. And we will be prepared to talk more about the specifics of this compromise as soon as that caucus is complete.

But I do hope we can finish our work as a result of our negotiations. And I am confident that, as a result of our progress, we are much closer tonight.

Mr. DOLE. Mr. President, I thank the distinguished Democratic leader.

Mr. President, I will place in the RECORD at this point a description of the Daschle-Dole compromise, which includes the add-backs and the offsets and the total cost of the add-backs, plus total deficit reduction, in addition to paying for the add-backs.

So my colleagues will have notice, it will appear in the RECORD tomorrow morning and they will have a chance to go over it. If there are any questions, they can contact either myself or Senator DASCHLE. Hopefully, they will not have any questions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Possible Daschle-Dole Compromise

[Dollars in millions]

Add-backs	*Cost*
Women, Infants, Children	$35.0
School to Work	25.0
Child Care	8.4
Head Start	42.0
Goals: 2000	60.0
Title I Education	72.5
Impact Aid	16.3
Safe and Drug-free Schools	100.0
Indian Housing	80.0
Housing Modernization	220.0
Americorps	105.0
Community Development Banks	36.0
Total	800.2
Offset	*Savings*
Foreign Operations	$25.0
HUD Section 8 Project Reserves	500.0
Airport Improvement	700.0
Libraries	10.0
Federal Admin. and Travel	225.0
Water Infrastructure	62.0
IRS	50.0

Offset	*Savings*
Corp. for Public Broadcasting ($3.4 in 1997)	21.6
Total	1597.0
Deficit reduction	$796.8

Addendum: Items in Dole amendment used in Defense Conference.

Foreign Ops $40.0; Legal services $15.0.

MESSAGES FROM THE HOUSE

At 12:50, p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 716. An act to amend the Fishermen's Protective Act;

H.R. 1240. An act to combat crime by enhancing the penalties for certain sexual crimes against children;

H.R. 1271. An act to provide protection for family privacy; and

H.R. 1380. An act to provide a moratorium on certain class action lawsuits relating to the Truth in Lending Act.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 716. An act to amend the Fishermen's Protective Act; to the Committee on Commerce, Science, and Transportation.

H.R. 1271. An act to provide protection for family privacy; to the Committee on Governmental Affairs.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 849. An act to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers; and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 510. A bill to extend the authorization for certain programs under the Native American Programs Act of 1974, and for other purposes (Rept. No. 104–28).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN (for himself, Mr. GLENN, and Mr. ROTH):

S. 675. A bill to provide a streamlined contracting and ordering practices for automated data processing equipment and other commercial items; to the Committee on Governmental Affairs.

By Mr. GRAMS:

S. 676. A bill for the relief of D.W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH:

S. 677. A bill to repeal a redundant venue provision, and for other purposes; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Mr. LEAHY, Mr. CRAIG, Mr. CAMPBELL, Mr. FEINGOLD, Mrs. MURRAY, Mr. JOHNSTON, and Mr. BREAUX):

S. 678. A bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LUGAR (for himself, Mr. HARKIN, Mr. PRESSLER, Mr. LOTT, Mr. COCHRAN, Mr. INHOFE, Mr. JOHNSTON, Mr. GRASSLEY, Mr. COATS, Mr. SHELBY, Mr. INOUYE, Mr. KERREY, Mr. BURNS, Mrs. KASSEBAUM, Mr. DASCHLE, and Mr. MCCONNELL):

S. 679. A bill to require that Federal agencies differentiate animial fats and vegetable oils from other oils and greases in issuing or enforcing regulations, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HOLLINGS:

S. 680. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Yes Dear;* to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS (for himself and Mr. MACK):

S. 681. A bill to provide for the imposition of sanctions against Columbia with respect to illegal drugs and drug trafficking; to the Committee on Foreign Relations.

By Mr. FORD:

S. 682. A bill to provide for the certification by the Federal Aviation Administration of airports serving commuter air carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST (for himself, Mr. ASHCROFT, Mr. BROWN, Mr. INHOFE, and Mr. SANTORUM):

S. 683. A bill to protect and enforce the equal privileges and immunities of citizens of the United States and the constitutional rights of the people to choose Senators and Representatives in Congress; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI (for himself, Mr. NUNN, Mr. DODD, Mr. COCHRAN, Ms. MIKULSKI, Mr. BENNETT, Mr. LIEBERMAN, Mr. KEMPTHORNE, Mr. DORGAN, Mr. FRIST, and Mr. ROCKEFELLER):

S. Res. 103. A resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMS:

S. Res. 104. A resolution referring S. 676 entitled "A bill for the relief of D.W. Jacobson, Roland Karkala, and Paul Bjorgen of Grand Rapids, Minnesota, and for other purposes"; to the chief judge of the United States Court of Federal Claims for a report on the bill; to the Committee on the Judiciary.

By Mr. D'AMATO:

S. Res. 105. A resolution condemning Iran for the violent suppression of a protest in Teheran; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mr. GLENN, and Mr. ROTH):

S. 675. A bill to provide a streamlined contracting and ordering practices for automated data processing equipment and other commercial items; to the Committee on Governmental Affairs.

STREAMLINING LEGISLATION

• Mr. LEVIN. Mr. President, I have been fighting for more than a decade to streamline the Federal procurement system and save taxpayer dollars by encouraging the use of more off-the-shelf products. Buying commercial products can lower costs by reducing or eliminating the need for research and development. The time and effort needed to buy a product can be reduced since commercial products are readily available and can be produced on existing production lines. Because the product is already built and has been shown to work, the need for detailed design specifications and expensive testing is also reduced.

Last fall we addressed this issue when we enacted the Federal Acquisition Streamlining Act. This statute, which is the culmination of a comprehensive, 4-year review of the statutes governing the Federal procurement system, will substantially streamline the Federal procurement system and make it easier for Federal agencies to buy off-the-shelf commercial products instead of paying extra to design Government-unique products.

I am today introducing a bill to build on the achievement of that landmark legislation and further simplify the process of entering contracts and placing orders for commercial, off-the-shelf products. In particular, my bill would provide for streamlined contracting and ordering practices in multiple award schedule contracts for automated data processing equipment and other commercial items.

Mr. President, too often when we draft legislation to address a perceived problem, we ignore systems that are already in place and working well.

The multiple awards schedules are an example of a system that has served the taxpayers well. Since the 1950's, the Multiple Award Schedule Program has provided Federal agencies with a simplified method of purchasing small quantities of off-the-shelf commercial items, ranging from paper and furniture to sophisticated computer and telephone equipment. According to the General Accounting Office, the multiple award schedules cover in excess of 1.5 million line items, offered for sale by more than 4,000 vendors.

The multiple award schedules enable agencies to order small quantities of commonly used goods and services at a fair and reasonable price without going through the complex procurement process. They enable commercial companies to sell their products to a large number of potential customers without having to negotiate separate contracts with each. The taxpayers save and the vendors save.

Even so, the Multiple Award Schedule Program is not without its own problems. The negotiation of a single multiple award schedule contract can involve the review and analysis of thousands of pages of financial documents and may require hundreds of staff hours by both the government and the vendor. These paperwork demands are particularly unwelcome to commercial vendors, who complain that the negotiations are divorced from the reality of the commercial marketplace, in which prices are established by competition, not negotiation.

At the same time, the cumbersome process of negotiating multiple award schedule contracts sometimes locks in prices that turn out to be higher than the going market rate. This has been a particular problem in the case of rapidly developing products such as computer software, for which aggressive competition may cause prices to drop quickly in a short period of time.

Finally, because each vendor maintains its own price lists, it is extremely difficult for the thousands of agency officials purchasing products under the schedules to make any kind of effective comparison in vendor products and prices. As the GAO found in a June 1992 report:

> For the most part, procurement offices filled users' requests for a specific manufacturer's product without determining if other [Multiple Award Schedule] products could satisfy the requirement at a lower cost. * * * Procurement officials said that it is an unreasonable administrative burden to require buyers to consider all reasonably available suppliers and determine the lowest overall cost alternative before placing [Multiple Award Schedule]orders. They said that because many schedules have numerous suppliers offering many similar items, comparing all products and prices is too difficult and time-consuming, particularly because [Multiple Award Schedule] information is not automated.

All too often, this means that agencies continue to purchase the same products from the same vendors, even when other vendors offer better products through the schedules at lower cost.

For a number of years, I have pressed the General Services Administration to address these problems by automating the multiple award schedules, using modern computer technology to make it possible for agency officials to compare vendor products and prices. Such automation would bring real competition to the desks of individual purchasing officials, enabling them to select the best value product for their agencies' needs. Happily, such competition should also reduce or even eliminate the need for lengthy negotiations and burdensome paperwork requirements placed on vendors to ensure fair pricing.

With the enactment of the Federal Acquisition Streamlining Act, we now have the means to make such competition a reality. The new statute creates a system for electronic interchange of procurement information between the private sector and Federal agencies, known as the Federal Acquisition Computer Network or "FACNET."

FACNET provides the ideal mechanism for automating the multiple award schedules. By integrating the multiple award schedules into FACNET, GSA can take advantage of a system that is already being developed and will be in place in the near future to bring the multiple award schedules directly to the desks of purchasing officials throughout the Government.

The bill I am introducing today would require the General Services Administration to take advantage of the opportunity afforded by FACNET to bring the multiple award schedules online. Under the bill, GSA would be required to establish a system to provide Governmentwide, on-line access to products and services that are available for ordering through the multiple award schedules, and to establish that system as an element of FACNET.

Once the Administrator has determined that the required computer systems have been implemented, it should be possible to reduce or even eliminate the need for lengthy negotiations and burdensome paperwork requirements placed on vendors to ensure fair pricing. Accordingly, the bill would establish a pilot program, under which direct competition at the user level would substitute for lengthy and paperintensive price negotiations with vendors.

The pilot program would sunset after 4 years, to give Congress an opportunity to evaluate the impact of the new approach on competition, on prices, on paperwork requirements, and on the small business community. A GAO review of the pilot program would be required to address these issues, as well.

Mr. President, I am well aware that we have just completed a complete overhaul of the Federal procurement laws. I tend to agree with those who believe that it would be a mistake to reopen issues directly addressed by last year's legislation without first giving the procurement community an opportunity to absorb the changes we have already made.

However, the change contemplated by the bill that I am introducing today is simple, feasible, and will save money and effort for both contractors and the taxpayers. This change is possible today, in large part, because of last year's enactment of the Federal Acquisition Streamlining Act. I believe it is an idea whose time has come. Regardless of how this Congress may choose to address other procurement proposals, I hope that this measure will be considered and passed.●

By Mr. GRAMS:

S. 676. A bill for the relief of D.W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, MN, and for other purposes; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

● Mr. GRAMS. Mr. President, I introduce S. 676 and submit Senate Resolution 104, a congressional reference bill and companion a private relief bill for Norwood Manufacturing of Grand Rapids, MN.

On May 26, 1987, Norwood Manufacturing was awarded a contract by the U.S. Postal Service to manufacture wooden nestable pallets. On February 9, 1988, the U.S. Postal Service informed Norwood that it was terminating the contract.

The Postal Service first sought to terminate the contract for failure to make timely deliveries. But, when it appeared that this was not a legitimate claim, the Postal Service indicated that Norwood's pallets did not meet specification. This claim came even though Norwood's pallets passed all of the tests required under the contract. Norwood disputes the Postal Services claim and, if given a chance, can present evidence from the Postal Services' own inspectors that support this contention.

Norwood claims that any termination by the Postal Service should have been for convenience, whereby the Postal Service would pay Norwood for its costs of producing the pallets. Instead, the Postal Service chose to terminate the contract for fault causing the company to dissolve, leaving the small businessmen who owned and operated Norwood in debt.

The company contested the Postal Service's decision in the U.S. Court of Claims. On August 10, 1990, the Court of Claims ruled against Norwood on summary judgment; the U.S. Circuit Court of Appeals affirmed the Court of Claims without any explanation or opinion. This came as a surprise to both the Postal Service and their lawyers in the Department of Justice. In fact, Justice Department lawyers had already indicated to Norwood a desire to discuss a settlement of the matter as soon as the Court of Claims denied the Postal Service's motion for summary judgment. Naturally, when the judge ruled in favor of the Postal Service the Justice Department saw no need to further negotiate a settlement.

Mr. President, Norwood deserves an impartial review of the facts. This is why I have submitted Senate Resolution 104, which merely requests a review of this case by the U.S. Court of Claims. After a 1-year review by the court, Congress will possess a determination by the court which will enable Congress to consider if the relief requested in the private bill is justified. Therefore, at this time, I am not advocating passage of the private bill, but instead, seeking Senate approval of Senate Resolution 104 that this matter deserves further judicial review.●

By Mr. HATCH:

S. 677. A bill to repeal a redundant venue provision, and for other purposes; to the Committee on the Judiciary.

VENUE LEGISLATION

Mr. HATCH. Mr. President, I am pleased to introduce a bill that would implement a proposal made by the Judicial Conference of the United States to eliminate a redundant provision governing venue, section 1392(a) of title 28. This bill would make no substantive change in the law governing venue. Instead, it would simply clean up the United States Code by eliminating a provision that no longer serves any purpose.

Section 1392(a) states in its entirety: "Any civil action, not of a local nature, against defendants residing in different districts in the same State, may be brought in any of such districts." I have no quarrel with the rule set forth in this section. I note, however, that it is entirely redundant of provisions of the Judicial Improvements Act of 1990. In that act, Congress rewrote entirely the rules in section 1391 governing venue in diversity and Federal question cases. In so doing, it incorporated the rule of section 1392(a) directly into the provisions of section 1391. Section 1391(a)(1) now provides that venue in diversity cases is proper in "a judicial district where any defendant resides, if all defendants reside in the same State." Section 1391(b)(1) uses the identical language for venue in Federal question cases.

In short, these 1990 changes have exactly duplicated the rule of section 1392(a) within the structure of the new section 1391. Section 1392(a) remains as a useless vestige of an earlier structure.

Again, I note that my bill implements a proposal made by the Judicial Conference of the United States. Specifically, in its September 20, 1993, report, the Judicial Conference states, "The [Judicial] Conference also approved the [Federal-State Jurisdiction] Committee's recommendation to propose a repeal of 28 U.S.C. 1392(a) as redundant because of recent amendments to §§ 1391 (a)(1) and (b)(1)."

By Mr. AKAKA (for himself, Mr. LEAHY, Mr. CRAIG, Mr. CAMPBELL, Mr. FEINGOLD, Mrs. MURRAY, Mr. JOHNSTON, and Mr. BREAUX):

S. 678. A bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE NATIONAL AQUACULTURE DEVELOPMENT RESEARCH AND PROMOTION ACT

Mr. AKAKA. Mr. President, today, I am introducing the National Aquaculture Development, Research, and Promotion Act.

Our bill is virtually identical to the bill which the Senate Agriculture Committee reported to the floor last year. More than 50 Senators cosponsored last year's legislation, but like many bills during the 103d Congress, we did not take final action before Congress adjourned.

This bill is much more than a simple reauthorization of an expiring law. It will stimulate one of the fastest growing components of agriculture in the United States. The bill promotes policies which will allow our country to become more competitive in the expanding global market for aquaculture products. The National Aquaculture Development, Research, and Promotion Act can serve as a road map for America's future success in aquaculture.

This legislation addresses some of the most pressing needs of aquaculture farmers, such as research, credit assistance, production and market data, conservation assistance, and better coordination among Federal agencies. But the bill can best be summarized in a simple, three word statement: aquaculture is agriculture.

For too long, aquaculture farmers have suffered because of the absence of a consistent Federal policy to promote this important sector of agriculture. Aquaculture has also been limited by an inability to fully participate in many of the farm programs available to dry-land agriculture. The time has come for the Federal Government to recognize that just because the crop you harvest has fins and gills instead of hoofs and horns, it is still agriculture and you deserve to be treated just like any other farmer who works hard for a living.

The world market for aquaculture is vast, and the United States is well-equipped to become a leader in aquaculture production and technology. Supported by a national commitment, American farmers have developed the most productive terrestrial agriculture system on earth. A similar effort is needed to help the United States increase its share of the rapidly expanding market for aquaculture products. Such a national commitment is essential to the future success of aquaculture in the United States. America has the finest research institutions in the world. We simply need to redirect some of our research energy toward new, promising technologies like aquaculture.

Efforts to expand the U.S. aquaculture industry will not go unrewarded. The United States imports 60 percent of its fish and shellfish, which results in a $3.3 billion annual trade deficit for seafood. If we could reduce our seafood trade deficit by one-third through expanded aquaculture production, we would create 25,000 new jobs. That is what this aquaculture bill is about—creating jobs and putting Americans to work in new, promising industries.

By the year 2000, nearly one-quarter of global seafood consumption will come from fish farming. In order to keep pace with the rising demand for seafood, world aquaculture production must double by the end of this decade and increase sevenfold in the next 35 years. This estimate is based on current population projections and assumes a stable wild fishery harvest. The important question is whether U.S. aquaculture will share in this explosive growth.

Aquaculture is a diverse industry that affects all regions of the country. More than 30 States produce at least two dozen commercially important aquaculture species. Yet it is disturbing that the United States ranks 10th among nations in the value of its production. China, Japan, India, Indonesia, Korea, the Philippines, Norway, Thailand, and the Newly Independent States of the former Soviet Union, all enjoy a larger share of the global aquaculture market. As we work to resolve this problem with our balance of trade, aquaculture can be part of the solution.

Nowhere is the opportunity for aquaculture more promising than in Hawaii. We have a skilled labor force, access to Asian and North American markets, and a climate that permits harvesting throughout the year. Aquaculture can strengthen our employment base and help fill the gaps caused by the decline in sugar. Aquaculture farming is capable of supporting more jobs per acre than plantation agriculture, and these are usually high-wage and high-technology jobs. With the right encouragement, aquaculture can become a cornerstone of diversified agriculture in Hawaii.

More than 100 Hawaiian production and service businesses generate annual aquaculture sales of $25 million from the production of 35 different aquaculture species. Over the last 15 years, the State has spent $15.7 million to grow our aquaculture industry. This investment has helped generate cumulative revenues of $315.9 million during the period. The industry in Hawaii, like many other regions in the United States, is poised to increase production, sales revenues, and generate new employment opportunities.

However, the legislation I have introduced today was not designed merely to promote aquaculture in Hawaii. The bill was drafted with one basic principle in mind; namely, to assist all aquaculture farmers equally. It would be wrong to promote any segment of the industry—whether it is marine or fresh water aquaculture farming, or a particular species of fish or shellfish—over another.

In summary, this bill has the potential to diversify our agricultural base, strengthen rural economies, increase worldwide demand for U.S. agricultural commodities, and thereby reduce the U.S. trade deficit. I hope that we can consider this legislation as part of the 1995 farm bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 678

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES.

(a) Short Title.—This Act may be cited as the "National Aquaculture Development, Research, and Promotion Act of 1995".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; references.
Sec. 2. Findings and purpose.
Sec. 3. Definitions.
Sec. 4. National aquaculture development plan.
Sec. 5. National Aquaculture Information Center; assignment of new programs.
Sec. 6. Coordination with the aquaculture industry.
Sec. 7. National policy for private aquaculture.
Sec. 8. Water quality assessment.
Sec. 9. Native American fishpond revitalization.
Sec. 10. Aquaculture education.
Sec. 11. Authorization of appropriations.
Sec. 12. Eligibility of aquaculture farmers for farm credit assistance.
Sec. 13. International aquaculture information and data collection.
Sec. 14. Aquaculture information network report.
Sec. 15. Voluntary certification of quality standards.
Sec. 16. Implementation report.

(c) References to National Aquaculture Act of 1980.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.).

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—Subsection (a) of section 2 (16 U.S.C. 2801(a)) is amended to read as follows:

"(a) Findings.—Congress finds the following:

"(1) The wild harvest or capture of certain seafood species exceeds levels of optimum sustainable yield, thereby making it more difficult to meet the increasing demand for aquatic food.

"(2) To satisfy the domestic market for aquatic food, the United States imports more than 59 percent of its seafood. This dependence on imports adversely affects the national balance of payments and contributes to the uncertainty of supplies and product quality.

"(3) Although aquaculture currently contributes approximately 16 percent by weight of world seafood production, less than 9 percent by weight of current United States seafood production results from aquaculture. As a result, domestic aquaculture production has the potential for significant growth.

"(4) Aquaculture production of aquatic animals and plants is a source of food, industrial materials, pharmaceuticals, energy, and aesthetic enjoyment, and can assist in the control and abatement of pollution.

"(5) The rehabilitation and enhancement of fish and shellfish resources are desirable applications of aquaculture technology.

"(6) The principal responsibility for the development of aquaculture in the United States must rest with the private sector.

"(7) Despite its potential, the development of aquaculture in the United States has been inhibited by many scientific, economic, legal, and production factors, such as—

"(A) inadequate credit;

"(B) limited research and development and demonstration programs;

"(C) diffused legal jurisdiction;

"(D) inconsistent interpretations between Federal agencies;

"(E) the lack of management information;

"(F) the lack of supportive policies of the Federal Government;

"(G) the lack of therapeutic compounds for treatment of the diseases of aquatic animals and plants; and

"(H) the lack of reliable supplies of seed stock.

"(8) Many areas of the United States are suitable for aquaculture, but are subject to land-use or water-use management policies and regulations that do not adequately consider the potential for aquaculture and may inhibit the development of aquaculture.

"(9) In 1990, the United States ranked only tenth in the world in aquaculture production based on total value of products.

"(10) Despite the current and increasing importance of private aquaculture to the United States economy and to rural areas in the United States, Federal efforts to nurture aquaculture development have failed to keep pace with the needs of fish and aquatic plant farmers.

"(11) The United States has a premier opportunity to expand existing aquaculture production and develop new aquaculture industries to serve national needs and the global marketplace.

"(12) United States aquaculture provides wholesome products for domestic consumers and contributes significantly to employment opportunities and the quality of life in rural areas in the United States.

"(13) Since 1980, the United States trade deficit in edible fishery products has increased by 48 percent, from $1,777,921,000 to $2,634,738,000 in 1991.

"(14) Aquaculture is poised to become a major growth industry of the 21st century. With global seafood demand projected to increase 70 percent by 2025, and harvests from capture fisheries stable or declining, aquaculture would have to increase production by 700 percent, a total of 77 million metric tons annually.

"(15) Private aquaculture production in the United States has increased an average of 20 percent by weight annually since 1980, and is one of the fastest growing segments of United States and world agriculture.

"(16) In 1990, private United States aquaculture production was 860,750,000 pounds, worth $761,500,000, up from 203,178,000 pounds, worth $191,977,000, in 1980.

"(17) Since 1960, per capita consumption of aquatic foods in the United States has increased by 49 percent to 14.9 pounds in 1991, and could reach 20 pounds by the year 2000. Total United States demand is projected to double by 2020.".

(b) Purpose.—Subsection (b) of section 2 (16 U.S.C. 2801(b)) is amended to read as follows:

"(b) Purpose.—It is the purpose of this Act to promote aquaculture in the United States by—

"(1) declaring a national aquaculture policy;

"(2) establishing private aquaculture as a form of agriculture;

"(3) establishing cultivated aquatic animals, plants, microorganisms, and their products produced by private persons and moving in standard commodity channels as agricultural livestock, crops, and commodities;

"(4) establishing the Department as the lead Federal agency for the development, implementation, promotion, and coordination of national policy and programs for private aquaculture by—

"(A) designating the Secretary as the permanent chairperson of a Federal interagency aquaculture coordinating group;

"(B) assigning overall responsibility to the Secretary for coordinating, developing, and carrying out policies and programs for private aquaculture; and

"(C) authorizing the establishment of a National Aquaculture Information Center within the Department to support the United States aquaculture industry; and

"(5) encouraging—

"(A) aquaculture activities and programs in both the public and private sectors of the economy of the United States;

"(B) the creation of new industries and job opportunities related to aquaculture activities;

"(C) the reduction of the fisheries trade deficit; and

"(D) other national policy benefits deriving from aquaculture activities.".

SEC. 3. DEFINITIONS.

Section 3 (16 U.S.C. 2802) is amended—

(1) in paragraph (1), by striking "the propagation" and all that follows through the period at the end and inserting "the controlled cultivation of aquatic plants, animals, and microorganisms.";

(2) in paragraph (3), by inserting before the period at the end the following: "or microorganism";

(3) by redesignating paragraphs (7) through (9) as paragraphs (9) through (11), respectively;

(4) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(5) by inserting after paragraph (4) the following:

"(5) The term 'Department' means the United States Department of Agriculture."; and

(6) by inserting before paragraph (9) (as redesignated by paragraph (3)) the following:

"(8) The term 'private aquaculture' means the controlled cultivation of aquatic plants, animals, and microorganisms other than cultivation carried out by the Federal Government or any State or local government.".

SEC. 4. NATIONAL AQUACULTURE DEVELOPMENT PLAN.

Section 4 (16 U.S.C. 2803) is amended—

(1) in the second sentence of subsection (c)—

(A) in subparagraph (A), by adding "and" at the end;

(B) in subparagraph (B), by striking "; and" and inserting a period; and

(C) by striking subparagraph (C);

(2) in the second sentence of subsection (d), by striking "Secretaries determine" and inserting "Secretary, in consultation with the other Secretaries, determines";

(3) in subsection (e)—

(A) by striking "Secretaries" and inserting "Secretary"; and

(B) by inserting "and in consultation with the other Secretaries and representatives of other Federal agencies" after "coordinating group"; and

(4) by adding at the end the following:

"(f) ACCOMPLISHMENTS IN AQUACULTURE PROGRAMS.—Not later than December 31, 1995, the Secretary, in consultation with the Secretary of Commerce and the Secretary of the Interior, shall submit to Congress a report evaluating the actions taken in accordance with subsection (d) with respect to the Plan, and making recommendations for updating and modifying the Plan. The report shall also contain a compendium on Federal regulations relating to aquaculture.".

SEC. 5. NATIONAL AQUACULTURE INFORMATION CENTER; ASSIGNMENT OF NEW PROGRAMS.

Section 5 (16 U.S.C. 2804) is amended—

(1) in subsection (b)(3), by striking "Secretaries deem" and inserting "Secretary, in consultation with the other Secretaries, considers";

(2) in subsection (c)(1)(B)—

(A) by striking "Secretary shall—" and inserting "Secretary—";

(B) by striking clause (i) and inserting the following:

"(i) may establish, within the Department, within the Agricultural Research Service, a National Aquaculture Information Center that shall—

"(I) serve as a repository and clearinghouse for the information collected under subparagraph (A) and other provisions of this Act;

"(II) carry out a program to notify organizations, institutions, and individuals known to be involved in aquaculture of the existence of the Center and the kinds of information that the Center can make available to the public; and

"(III) make available, on request, information described in subclause (I) (including information collected under subsection (e));";

(C) in clause (ii)—

(i) by inserting "shall" before "arrange"; and

(ii) by striking the comma and inserting a semicolon; and

(D) in clause (iii), by inserting "shall" before "conduct";

(3) in the first sentence of subsection (d), by striking "Interior,," and inserting "Interior,"; and

(4) by adding at the end the following:

"(e) ASSIGNMENT OF NEW PROGRAMS.—In consultation with representatives of the United States aquaculture industry and in coordination with the Secretary of the Interior, the Secretary of Commerce, and the heads of other appropriate Federal agencies, the Secretary may assess Federal aquatic animal health programs and make recommendations as to the appropriate assignment to Federal agencies of new programs, initiatives, and activities in support of aquaculture and resource stewardship and management.".

SEC. 6. COORDINATION WITH THE AQUACULTURE INDUSTRY.

Section 6(b) (16 U.S.C. 2805(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) in order to facilitate improved communication and interaction among aquaculture producers, the aquaculture community, the Federal Government, and the coordinating group, establish a working relationship with national organizations, commodity associations, and professional societies representing aquaculture interests.".

SEC. 7. NATIONAL POLICY FOR PRIVATE AQUACULTURE.

The Act (16 U.S.C. 2801 et seq.) is amended—

(1) by redesignating sections 7 through 11 as sections 12 through 16, respectively; and

(2) by inserting after section 6 the following:

"SEC. 7. NATIONAL POLICY FOR PRIVATE AQUACULTURE.

"(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, and the heads of other agencies, as appropriate, shall coordinate and implement a national policy for private aquaculture in accordance with this section.

"(b) DEPARTMENT AQUACULTURE PLAN.—

"(1) IN GENERAL.—The Secretary shall develop and implement a Department Aquaculture Plan (referred to in this section as the 'plan') for a unified Department aquaculture program to support the development of private United States aquaculture.

"(2) ELEMENTS OF PLAN.—The plan shall address—

"(A) individual agency programs related to aquaculture in the Department that are consistent with Department programs applied to other agricultural programs, livestock, crops, products, and commodities under the jurisdiction of Department agencies;

"(B) the treatment of cultivated aquatic animals as livestock and cultivated aquatic plants as agricultural crops; and

"(C) means for effective coordination and implementation of aquaculture activities and programs within the Department, including individual agency commitments of personnel and resources.

"(3) DEADLINE.—Not later than 1 year after the date of enactment of the National Aquaculture Development, Research, and Promotion Act of 1995, the Secretary shall submit the plan to Congress.

"(4) REPORTS.—Not later than 1 year after the date of the submission of the plan pursuant to paragraph (3), and annually thereafter, the Secretary shall report to Congress on actions taken to implement the plan during the year preceding the date of the report.

"(5) NATIONAL AQUACULTURE INFORMATION CENTER.—

"(A) IN GENERAL.—In carrying out section 5, the Secretary may maintain and support a National Aquaculture Information Center (referred to in this paragraph as the 'Center') as a repository for information on national and international aquaculture.

"(B) PUBLIC ACCESS.—Information in the Center shall be made available to the public.

"(C) INTERNATIONAL EXCHANGE.—The head of the Center shall arrange with foreign nations for the exchange of information relating to aquaculture and shall support a translation service.

"(D) SUPPORT.—The Center shall provide direct support to the coordinating group.

"(c) NATIONAL AQUACULTURE DEVELOPMENT PLAN.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the National Aquaculture Development, Research, and Promotion Act of 1995, the Secretary shall revise the National Aquaculture Development Plan required to be established under section 4.

"(2) COORDINATION.—The Secretary shall integrate and coordinate the aquaculture and related missions, major objectives, and program components of individual aquaculture plans of the coordinating group members.

"(3) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of the National Aquaculture Development, Research, and Promotion Act of 1995, the Secretary shall submit a revised Plan to Congress.

"(4) UPDATES.—Not later than 5 years after the date of the submission of the revised Plan pursuant to paragraph (3), and annually thereafter, the Secretary shall revise the National Aquaculture Development Plan.

"(d) TREATMENT OF AQUACULTURE.—The Secretary shall, for all purposes, treat—

"(1) private aquaculture as a form of agriculture; and

"(2) cultivated aquatic animals, plants, and microorganisms, and products of the animals, plants, and microorganisms, produced by private persons and moving in standard commodity channels as agricultural livestock, crops, and commodities.

"(e) RESOLUTION OF INTERAGENCY CONFLICT.—In consultation with representatives of affected Federal agencies, the Secretary shall be responsible for resolving any interagency conflict in the coordination or implementation of the policy described in this section.

"(f) PRIVATE AQUACULTURE POLICY COORDINATION, DEVELOPMENT, AND IMPLEMENTATION.—

"(1) RESPONSIBILITY.—The Secretary shall have overall responsibility for coordinating, developing, and carrying out policies and programs for private aquaculture.

"(2) DUTIES.—The Secretary shall—

"(A) coordinate all intradepartmental functions and activities relating to private aquaculture;

"(B) establish procedures for the coordination of functions, and consultation, with the coordinating group; and

"(C) recommend to the Agricultural Research Service methods by which the aquaculture resources of the Service can be made more easily retrievable and can be more widely disseminated.

"(3) LIAISON.—

"(A) AGENCIES OF THE DEPARTMENT.—To facilitate communication and interaction between the aquaculture community and the Department, the head of each agency of the Department shall, if requested by the Secretary, designate an officer or employee of the agency to be the liaison of the agency with the Secretary.

"(B) DEPARTMENTS OF COMMERCE AND INTERIOR.—The Secretary of Commerce and the Secretary of the Interior shall each designate an officer or employee of their respective Departments to be the liaison of their respective Departments with the Secretary.".

SEC. 8. WATER QUALITY ASSESSMENT.

The Act (16 U.S.C. 2801 et seq.) is amended by inserting after section 7 (as added by section 7) the following:

"SEC. 8. WATER QUALITY ASSESSMENT.

"(a) Assessment.—The Administrator of the Environmental Protection Agency is authorized to carry out, in collaboration with the Secretary, collaborative interagency programs that demonstrate the application of aquaculture to environmental enhancement and assessment, including a program to assess the environmental impact of waterborne contaminants on naturally occurring aquatic organisms and ecosystems using aquaculture-raised organisms to serve as an indicator of environmental pollution.

"(b) Grants; Cooperative Agreements.—The Administrator may provide grants or enter into cooperative agreements or contracts with private research organizations for research and demonstration of the technology authorized by this section.".

SEC. 9. NATIVE AMERICAN FISHPOND REVITALIZATION.

The Act (16 U.S.C. 2801 et seq.) is amended by inserting after section 8 (as added by section 8) the following:

"SEC. 9. NATIVE AMERICAN FISHPOND REVITALIZATION.

"(a) Definition of Native American.—As used in this section, the term 'Native American' means—

"(1) an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d));

"(2) a Native Hawaiian, as defined in section 8(3) of the Native Hawaiian Health Care Act of 1988 (42 U.S.C. 11707(3)) or section 815(3) of the Native American Programs Act (42 U.S.C. 2992c(3));

"(3) an Alaska Native, within the meaning provided for the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

"(4) a Pacific Islander, within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.)

"(b) Authorization of Program.—The Secretary of Agriculture is authorized to carry out a program to revitalize fishponds used by Native Americans to cultivate aquatic species.

"(c) Grants; Cooperative Agreements.—The Secretary may provide grants or enter into cooperative agreements with individuals and organizations, including Native American organizations, to promote fishpond revitalization. Funds provided under this section may be used to engage in fishpond research, pond culture technology development, the application of traditional pond culture techniques and modern aquaculture practices to ancient fishponds, technical assistance and technology transfer, and such other activities as the Secretary determines are appropriate.".

SEC. 10. AQUACULTURE EDUCATION.

The Act (16 U.S.C. 2801 et seq.) is amended by inserting after section 9 (as added by section 9) the following:

"SEC. 10. AQUACULTURE EDUCATION.

"(a) Definitions.—As used in this section:

"(1) Postsecondary vocational institution.—The term 'postsecondary vocational institution' has the same meaning given the term by section 481(c) of the Higher Education Act of 1965 (20 U.S.C. 1088(c)), except that the term only includes an institution that awards an associates degree but does not award a bachelor's degree.

"(2) Secondary school.—The term 'secondary school' has the same meaning given the term by section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(25)).

"(b) Authorization of Program.—The Secretary is authorized to establish a program to expand and improve instruction, on aquaculture and the basic principles of aquaculture farming, in the agriculture curriculum for students attending secondary schools and postsecondary vocational institutions.

"(c) Grants and Curriculum.—In carrying out subsection (b), the Secretary may—

"(1) make grants to—

"(A) establish and maintain aquaculture learning centers in secondary schools and postsecondary vocational institutions;

"(B) promote aquaculture technology transfer; and

"(C) educate consumers and the public concerning the benefits of aquaculture; and

"(2) develop curriculum and supporting materials on aquaculture farming, field test the content of the curriculum, and supply training to educators at secondary schools and postsecondary vocational institutions on the aquaculture curriculum and materials developed.

"(d) Priority for Grants.—In awarding grants under subsection (c)(1), the Secretary shall give priority to—

"(1) the ability of the proposed aquaculture learning center to gain access to—

"(A) a commercial aquaculture farm;

"(B) a regional aquaculture center established by the Secretary under section 1475(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322(d));

"(C) an aquaculture research facility; or

"(D) a similar venture that would afford students the opportunity to experience aquaculture research and development or commercialization;

"(2) the ability of the center to achieve outreach to minority audiences or students in inner-city schools;

"(3) the ability of the center to foster awareness of aquaculture among consumers and the general public;

"(4) the ability of the center to serve as an aquaculture education facility for visiting students participating in a field trip or a similar educational experience for inservice training; and

"(5) the level of assistance to be provided from non-Federal sources.

"(e) Limitation.—

"(1) In general.—Except as provided in paragraph (2), a grantee may not receive a grant under this section for more than 5 fiscal years.

"(2) Waiver.—In the case of grantees that receive grants under this section for fiscal year 1996, the Secretary may waive the application of paragraph (1) to the grantees for the fiscal year if the Secretary determines that the application of paragraph (1) to the grantees would result in the termination of an excessive number of grants.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

The first sentence of section 15 (as redesignated by section 7(1)) is amended to read as follows: "There are authorized to be appropriated to carry out this Act (including the functions of the Joint Subcommittee on Aquaculture established under section 6(a)) $3,000,000 for each of fiscal years 1996 through 2000.".

SEC. 12. ELIGIBILITY OF AQUACULTURE FARMERS FOR FARM CREDIT ASSISTANCE.

(a) In General.—Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended by striking "fish farming" both places it appears in paragraphs (1) and (2) and inserting "aquaculture (as the term is defined in section 3(1) of the National Aquaculture Act of 1980 (16 U.S.C. 2802(1)))".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on October 1, 1995.

SEC. 13. INTERNATIONAL AQUACULTURE INFORMATION AND DATA COLLECTION.

Section 502 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692) is amended by adding at the end the following:

"(d) International Aquaculture Information and Data Collection.—

"(1) In general.—The Secretary is authorized to establish and carry out a program of data collection, analysis, and dissemination of information to provide continuing and timely economic information concerning international aquaculture production.

"(2) Consultation.—In carrying out paragraph (1), the Secretary shall consult with the Joint Subcommittee on Aquaculture established under section 6(a) of the National Aquaculture Act of 1980 (16 U.S.C. 2805(a)), and representatives of the United States aquaculture industry, concerning means of effectively providing data described in paragraph (1) to the Joint Subcommittee and the industry.".

SEC. 14. AQUACULTURE INFORMATION NETWORK REPORT.

Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall report to Congress on the feasibility of expanding current information systems at regional aquaculture centers established by the Secretary under section 1475(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322(d)), universities, research institutions, and the Agricultural Research Service to permit an on-line link between those entities for the sharing of data, publication, and technical assistance information involving aquaculture.

SEC. 15. VOLUNTARY CERTIFICATION OF QUALITY STANDARDS.

The Act (16 U.S.C. 2801 et seq.) is amended by inserting after section 10 (as added by section 11) the following:

"SEC. 11. VOLUNTARY CERTIFICATION OF QUALITY STANDARDS.

"The Secretary shall develop, in consultation with representatives of the aquaculture industry, a plan for voluntary certification of guidelines to ensure the quality of aquatic species subject to this Act in order to promote the marketing and transportation of aquaculture products.".

SEC. 16. IMPLEMENTATION REPORT.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall report to Congress on the progress made in carrying out this Act and the amendments made by this Act.

(b) Contents.—The report required by subsection (a) shall include—

(1) a description of all programs and activities of the Department of Agriculture and all other agencies and Departments in support of private aquaculture;

(2) the specific authorities for the activities described in paragraph (1); and

(3) recommendations for such actions as the Secretary of Agriculture determines are necessary to improve recognition and support of private aquaculture in each agency of the Department of Agriculture.

By Mr. LUGAR (for himself, Mr. HARKIN, Mr. PRESSLER, Mr.

LOTT, Mr. COCHRAN, Mr. INHOFE, Mr. JOHNSTON, Mr. GRASSLEY, Mr. COATS, Mr. SHELBY, Mr. INOUYE, Mr. KERREY, Mr. BURNS, Mrs. KASSEBAUM, Mr. DASCHLE, and Mr. MCCONNELL):

S. 679. A bill to require that Federal agencies differentiate animal fats and vegetable oils from other oils and greases in issuing or enforcing regulations, and for other purposes; to the Committee on Environment and Public Works.

THE EDIBLE OIL REGULATORY REFORM ACT

• Mr. LUGAR. Mr. President, I am pleased to join Senator PRESSLER, Senator HARKIN and others in introducing legislation to encourage regulatory common sense. Our legislation will correct two problems: First, the regulation of edible oils in a manner similar to toxic oils like petroleum, and second, the requirement that Certificates of Financial Responsibility [COFR] accompanying vessels carrying edible oils equal those of vessels carrying toxic oils. This bill is similar to legislation which passed Congress last year, but was not given final approval.

In response to the Exxon Valdez oil spill in 1990, Congress passed the Oil Pollution Act of 1990, which requires several Federal agencies to enhance regulatory activities with regard to the shipping and handling of hazardous oils.

In 1993, the Transportation Department proposed regulations to guard against oil spills, and require response plans if spills did occur. DOT proposed to treat vegetable oils—that is, salad oils—in the same way as petroleum. Among other things, salad oils would have been officially declared "hazardous materials," with all the regulatory requirements and extra costs which that designation entails.

This was a classic example of regulatory overreaching. Vegetable oil, of course, is distinctly different from petroleum. Vegetable oil processors thought it entirely appropriate that they undertake response plans to guard against major spills. The industry did not argue that they should be exempt from regulation.

The industry argued that regulators should take into account obvious differences—in toxicity, biodegradability, environmental persistence and other factors—between vegetable oils on the one hand, and toxic petroleum oils on the other.

Secretary Pena eventually agreed with us and prompted modification of DOT's position. However, he does not have jurisdiction over all agencies with a role in regulating oil spills. More recently, the industry has been working with other agencies which have a role in regulating oils and ensuring adequate financial responsibility in the event of a spill.

No one is any longer proposing to call salad dressing or mayonnaise "hazardous material," but agencies are requiring that spill response plans for vegetable oils be quite similar to those for petroleum.

The most recent problem arose in December when Coast Guard regulations subjected vessels carrying vegetable oil to the same standard of liability and financial responsibility as supertankers carrying petroleum. On December 28, 1994, the Coast Guard began requiring the same standard—a $1,200 per gross ton or $10 million of financial responsibility—on vessels carrying vegetable oil and petroleum oil in U.S. waters or calling at U.S. ports. On July 1, similar standards will be phased in on barges operating on U.S. navigable waterways.

Prior to December 28, a COFR requirement of $150 per gross ton applied to all vessels regardless of the hazardous nature or toxicity of the cargo. The vegetable oil industry does not seek a return to this earlier standard, but seeks regulation under a $600 per gross ton COFR requirement that Coast Guard regulations apply to vessels carrying other commodities. It is worth noting that this new financial responsibility standard for edible oil would be four times the COFR required on toxic petroleum oils prior to December 28, 1994.

Application of the most stringent standard to vessels carrying vegetable oil adds to the cost of transporting U.S. vegetable oil to foreign markets. The additional costs of these burdensome regulations are passed back to farmers in reduced prices for commodities. Consumers may also bear a burden in higher food prices. In addition, there have already been instances in 1995 where this unjustified additional cost has made U.S. vegetable oil uncompetitive and has resulted in lost exports. Mr. President, I ask unanimous consent that a February 15, 1995 Journal of Commerce report detailing these losses be printed in the RECORD.

Our bill would not exempt vegetable oil shipments from COFR requirements or regulation. It would only apply a more appropriate standard of financial responsibility to vegetable oil, similar to that applied to vessels carrying other commodities.

The scientific data collected to date indicate that the animal fats and vegetable oils industry has an excellent spill history justifying differentiation of these edible materials from toxic oils. Specifically, these products account for less than one-half of 1 percent of all oil spills in the U.S. In addition, most spills of these products are less than 1,000 gallons.

The industry seeks a separate category for vegetable oils. This is as much because of scientific differences in the oils as it is for economic reasons. There is no reason why non-toxic vegetable oils must be in the same category as toxic oils.

Second, the industry seeks response requirements that recognize the different characteristics of animal fats and vegetable oils within this separate category. A separate category without separate response requirements reflecting different toxicity and biodegradability is nothing more than a hollow gesture.

The Senate and House of Representatives last year passed virtually identical legislation on different legislative vehicles to ensure that both of these objectives were accomplished. Under our bill, the underlying principles of Oil Pollution Act of 1990 would remain unchanged with the language to require differentiation of animal fats and vegetable oils from other oils. The House approved this language twice last year as part of H.R. 4422 and H.R. 4852. The Senate passed the bill as S. 2559. Since final action on this legislation was not completed in the last Congress, we have introduced it again.

This bill does not tell the Coast Guard or any other agency what it must put into regulations. The legislation simply says that in rulemaking under the Federal Water Pollution Control Act or the Oil Pollution Act of 1990, these agencies must differentiate between vegetable oils and animal fats on one hand, and other oils including petroleum on the other.

The bill specifies that the agencies should consider differences in the physical, chemical, biological or other properties and the effects on human health and the environment effects of these oils.

This bill does not exempt vegetable oils from the Oil Pollution Act of 1990 or any other statute. It is a modest effort to encourage common sense in an area of regulation that has not always been marked by that characteristic. I hope my colleagues will cosponsor the legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Edible Oil Regulatory Reform Act."

SEC. 2. DEFINITIONS.

As used in this Act:

(1) ANIMAL FAT.—The term "animal fat" means each type of animal fat, oil, or grease (including fat, oil, or grease from fish or a marine mammal), including any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) VEGETABLE OIL.—The term "vegetable oil" means each type of vegetable oil (including vegetable oil from a seed, nut, or kernel), including any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 3. DIFFERENTIATION AMONG FATS, OILS, AND GREASES.

(a) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law, the head of a Federal agency shall—

(a) differentiate between and establish separate categories for—

(A)(i) animal fats; and

(ii) vegetable oils; and

(B) other oils, including petroleum oil; and

(2) apply different standards to different classes of fat and oil as provided in subsection (b).

(b) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in subsection (a)(1)(A) and the classes of oils described in subsection (a)(1)(B), the head of the Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the effects on human health and the environment, of the classes.

SEC. 4. FINANCIAL RESPONSIBILITY.

(a) LIMITS ON LIABILITY.—Section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is amended by striking "for a tank vessel," and inserting "for a tank vessel (other than a tank vessel carrying animal fat or vegetable oil),".

(b) FINANCIAL RESPONSIBILITY.—The first sentence of section 1016(a) of the Act (33 U.S.C. 2716(a)) is amended by striking "in the case of a tank vessel," and inserting "in the case of a tank vessel (other than a tank vessel carrying animal fat or vegetable oil),".•

• Mr. HARKIN. Mr. President, I am pleased to join Senator LUGAR in introducing legislation that will clarify the regulatory treatment of edible oils, including vegetable oils and animal fats. This legislation is very similar to legislation that we introduced last year and to legislation that both the Senate and House of Representatives passed last fall, but unfortunately not in the same bill.

Common sense would dictate that regulations governing the transportation, handling and storage of edible oils should not be as stringent as those applicable to other oils, such as petroleum oils or other toxic oils, which pose a far more significant level of health, safety, and environmental risk in the event of a spill, discharge or mishandling. Animal fats and vegetable oils are essential components of food products that we consume every day. The scientific evidence indicates they are not toxic in the environment, are essential nutritional components, are biodegradable and are not persistent in the environment. In any event, spills of animal fats and vegetable oils are relatively infrequent and small in quantity. Such spills accounted for less than 1 percent of oil spills in and around U.S. waters between 1986 and 1992, and were generally very small in quantity, with only 13 spills of more than 1,000 gallons in that period.

Regrettably, a common sense approach to regulation of animal fats and vegetable oils has been more difficult to achieve than one might think, as the experience under implementation of the Oil Pollution Act of 1990 demonstrates. At one point, it was proposed that edible vegetable oils be regulated as "hazardous material". Although some of the problems have been worked out, whether regulators will properly differentiate edible fats and oils from petroleum and other toxic oils in applying the Oil Pollution Act and other Federal laws. This kind of overregulation imposes costs which must be borne by the industry and by farmers, in the form of lower prices, and by consumers, in the form of higher prices.

The legislation we are introducing today is simply designed to bring some clarity to this situation by ensuring that overly restrictive or unreasonable interpretations of Federal laws do not impose excessively burdensome or irrational regulations with respect to edible oils. The bill would not exempt edible oils from regulation, but would only require that regulators differentiate animal fats and vegetable oils from other oils, including petroleum oil, considering differences in physical, chemical, biological and other properties, and in the effects on human health and the environment, of the classes of oils.

To address a specific issue that has arisen, language has been added to this bill that was not in the previous version to clarify that under the Oil Pollution Act vessels carrying animal fats and vegetable oils are not subject to the same level of financial responsibility requirements as are applicable to vessels carrying petroleum oils. Again, this is a common sense approach, recognizing that animal fats and vegetable oils simply do not pose risks comparable to those associated with other oils such as petroleum oils.

In conclusion, this legislation will alleviate the substantial threat of overregulation of animal fats and vegetable oils in ways that clearly could not have been intended by Congress. It will bring some reasonableness and clarity to issues that are now characterized by confusion and uncertainty. I urge my colleagues to support this important, straightforward legislation.•

By Mr. HOLLINGS:

S. 680. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Yes Dear;* to the Committee on Commerce, Science, and Transportation.

COASTWISE TRADING PRIVILEGES LEGISLATION

• Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *Yes Dear*, official number 578550, be accorded coastwise trading privileges and be issued a certificate of documentation under section 12103 of title 46, United States Code.

The *Yes Dear* was constructed in Hong Kong in 1976, and the vessel is a wooden trawler. It is 53.6 feet in length, 15 feet in breadth, has a depth of 6.5 feet, and is self-propelled.

The vessel was purchased by R. Milledge Morris of Beaufort, SC, who purchased it in 1991 with the intention of chartering the vessel for short sailing tours. The vessel was in disrepair, and Mr. Milledge has spent a considerable amount of time, effort, and resources in repairs. However, because the vessel was built in Hong Kong, it did not meet the requirements for coastwise license endorsement in the United States. Such documentation is mandatory to enable the owner to use the vessel for its intended purpose.

The owner of the *Yes Dear* is seeking a waiver of the existing law because he wishes to use the vessel for charters. His desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If he is granted this waiver, it is his intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Yes Dear* to engage in the coastwise trade and the fisheries of the United States.•

By Mr. HELMS (for himself and Mr. MACK):

S. 681. A bill to provide for the imposition of sanctions against Colombia with respect to illegal drugs and drug trafficking; to the Committee on Foreign Relations.

THE NARCOTICS NATIONAL EMERGENCY SANCTIONS ACT OF 1995

Mr. HELMS. Mr. President, the drug problem today is worse then it was in 1992. Drug use by young people is up; addiction is up; and drugs on American streets can be acquired at cheaper prices and with greater purity levels than ever before. The most destructive drug remains cocaine, which means the availability of "crack" continues unabated; and there are worrisome reports of increasing heroin availability and use.

The world's primary source of cocaine is Colombia. It is the headquarters for the international cocaine cartels, who are operating with virtual impunity in Colombia. Colombia is also a significant producer of heroin, having overtaken Mexico as the major Western Hemisphere heroin producer; and Colombia's cultivation and export of marijuana is increasing.

On March 1, as required by law, the Clinton Administration announced its annual decision regarding Colombian cooperation with the United States in the fight against drugs. The Administration said Colombia failed to cooperate, the result of which is, in the Clinton Administration's own words, that "* * * the activities of the Colombian drug syndicates continue to ensure that the flow of cocaine, heroin, and marijuana from Colombia to the United States remains undiminished."

This is a startling conclusion. Yet, the Clinton administration then gave Colombia a "national interest" waiver. The effect of this decision is to do nothing about Colombia's abysmal record, with our bilateral relationship continuing as if nothing is wrong. This is a grave moral and geopolitical mistake.

This is why Senator MACK and I are introducing the Narcotics National Emergency Sanctions Act of 1995, a bill to cut off all economic aid, trade benefits, and military assistance to Colombia if the nation does not fulfill the antinarcotics agenda outlined by Colombia's own President, Ernesto Samper.

This legislation requires the President to certify to the U.S. Congress that Colombia has made demonstrable progress in fighting drugs between now and February 6, 1996. If Colombia cannot fulfill what President Samper himself has outlined as his Government's antidrug agenda, then sanctions go into effect.

The objectives outlined by President Samper, and contained in the legislation, include: investigating the financing of political parties and candidates by the drug lords; capturing and imprisoning the major drug kingpins; confiscating the profits from illegal drug activities; reforming the penal code and plea-bargaining system, and increasing penalties for drug trafficking; and destroying 44,000 hectares of illegal coca and poppy plants in Colombia by February 6, 1996, and all remaining illegal crops by February 6, 1997.

These initiatives are in the legislation as the specific conditions that Colombia must meet. They were not created by this Senator, another Senator, or by anyone in the U.S. Government. They were announced by President Samper as his Government's own antidrug program in his July 15, 1994, letter to the U.S. Congress and in a February 6, 1995, speech.

We expect President Samper and the Colombian Government to fulfill their promises, and we will judge Colombia by their own standards.

I do not see how we can accept a national policy that fails to hold the Colombian Government responsible for the poison they are allowing to be sent to our children, especially in the inner cities. I recognize that Colombia's Government is not the only one at fault. However, Colombia is the corporate headquarters for the booming international drug trade.

How can we ask our local police and our Federal law enforcement agencies to continue a tough fight—including risking their lives—if their own national Government won't get tough with foreign governments protecting the drug bosses?

I find this situation amazing, given that the Clinton administration was prepared to sanction China for pirating video tapes and computer programs. Why is the United States prepared to sanction nations that harm U.S. businesses that allow the theft of intellectual property but is not prepared to take equally strong measures against a Government that allows the poisoning of our children?

Let me clearly state that I have no quarrel with the Colombian people. There are many dedicated Colombians who risk their lives every day fighting the drug cartels. Colombian citizens have suffered more wanton violence from greedy drug lords than any people on Earth. My concern is that the Colombian Government is not supporting these courageous individuals.

Mr. President, here is just a brief review of Colombia's record:

No arrest of any significant member of the Cali drug cartel, which accounts for 80 percent of the cocaine shipped into the United States. The brother of a major Cali cartel trafficker was arrested recently, but there are many—including some law enforcement agencies—who doubt that this person is a "big fish." He may be a sacrifice by the drug lords to try to help the Colombian Government show resolve.

No significant steps have been taken to investigate or prosecute some 15,000 drug corruption cases, including no serious investigations into allegations that Colombian President Samper's Presidential campaign received millions of dollars from the Cali cartel or into corruption of Members of the Colombian Congress.

A plea-bargaining system that Colombia's own Justice Ministry criticized for its lenient use, noting that nearly 40 percent of convicted drug traffickers have been freed on parole, without serving a day in prison. According to Colombia's Chief Prosecutor, "the system results in virtual impunity."

Mr. President, the American people have every right to expect full cooperation in the "drug war" so long as our youth are being poisoned by Colombian cocaine. Countries that produce drugs should be put on notice that the United States will not look the other way.

William J. Bennett, former U.S. "drug czar," and I jointly prepared an op-ed piece for yesterday's Wall Street Journal in which we asserted:

> The Colombian leaders must be sent a clear and unmistakable message: In the war on drugs, they can either continue to ally themselves with the [drug] cartels, and thereby become a pariah state like Libya and Iran; or they can return to the community of civilized nations, fulfill the promises President Samper made, and join with the U.S. in an effort to put the cartels out of business. The choice is theirs.

Mr. President, I ask unanimous consent that the Bennett-Helms Wall Street Journal op-ed piece, along with President Samper's July 15, 1994, letter to Senator Helms and his February 6, 1995, counterdrug speech, be printed in the RECORD at the conclusion of my remarks.

Mr. President, I ask unanimous consent that the text of The Narcotics National Emergency Sanctions Act of 1995 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Narcotics National Emergency Sanctions Act of 1995".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Cocaine is the primary drug threat to the United States, and heroin poses an increasingly serious drug threat to the United States.

(2) Colombia is the "corporate headquarters" for the international cartels responsible for the production and distribution of at least 80 percent of the cocaine that enters the United States.

(3) Colombia is the primary producer of heroin in the Western Hemisphere and is a significant cultivator of marijuana.

(4) Courageous and dedicated Colombians risk their lives every day in order to fight drug traffickers, and these Colombians deserve the support of the United States and of the Government of Colombia.

(5) The Government of Colombia did not take significant actions in 1994 to dismantle drug cartels in Colombia, capture drug kingpins, or reverse the influence of drug-related corruption on the political system of Colombia.

(6) The lack of achievement of the Government of Colombia in 1994 in its efforts against drugs raises significant questions as to whether the Colombian people presently receive the support of that government in such efforts.

(7) The political and judicial systems of Colombia are plagued by drug-related corruption, including an ineffective plea-bargaining system that leaves law-abiding citizens virtually unprotected against crime.

(8) The plea-bargaining system in Colombia is so ineffective that at least 33 percent of the convictions for drug-related crimes do not result in imprisonment.

(9) The Prosecutor General of Colombia has stated that the judicial process in Colombia system "results in virtual impunity [for drug traffickers]".

(10) Colombia is a significant center for money-laundering activities, and, as a result, the financial system of Colombia is inundated with illegal monies.

(11) Despite repeated assurances it considers the war against drugs to be a "moral imperative" and a "matter of national security" requiring "an all out effort, without limits," the Government of Colombia has failed to keep specific commitments made on July 15, 1994 by President-elect Samper that Colombia would—

(A) devote law enforcement resources, including creating an elite corps of investigators, to the investigation, apprehension, arrest, prosecution, and imprisonment of major drug traffickers and their accomplices, including political allies;

(B) rapidly reform the penal code of Colombia, including increasing penalties for drug traffickers, closing loopholes in the plea bargain system, and strengthening anti-corruption and money-laundering laws; and

(C) participate in the creation of an antinarcotics force for Caribbean Basin countries and the implementation of a global export monitoring system for precursor chemicals.

(12) Evidence suggests that the influence of drug kingpins reaches the Congress of Colombia and the Office of the President of Colombia.

(13) The Government of Colombia has not taken any significant steps to investigate or prosecute cases of drug-related corruption, nor has that government undertaken a meaningful investigation into allegations that the campaign treasury of President Samper received millions of dollars from the Cali cartel or into allegations of extensive corruption in the Congress of Colombia.

(14) The Government of Colombia has not demonstrated the political will to move against major drug traffickers in Colombia, and President Samper has not used his considerable public influence to build political support for direct, effective action against drug kingpins and the scourge of drugs in Colombia.

(15) The Government of Colombia has not arrested or imprisoned any significant member of the Cali drug cartel, a cartel which accounts for at least 80 percent of the cocaine that is shipped into the United States.

(16) Colombia has in effect laws to address drugs and drug-related corruption in a meaningful manner, but the Government of Colombia does not enforce such laws.

(17) The democratically-elected Government of Colombia is being subjugated to the interests of drug traffickers in Colombia.

(18) On February 6, 1995, the President of Colombia outlined a program of the Government of Colombia called the "Program of the War Against Illicit Drugs".

(19) In promising to pursue the program, the President of Colombia stated that Colombia "will continue fighting [narcotics] because we are convinced that the struggle against this serious scourge is a moral imperative, a response to a public health problem, and, most of all, an issue of national security."

SEC. 3. SANCTIONS.

Subject to sections 4 and 6, the following sanctions shall apply against Colombia as of February 6, 1996:

(1) BILATERAL ASSISTANCE.—Funds available under the following programs of assistance may not be obligated or expended to provide assistance with respect to Colombia:

(A) DEVELOPMENT ASSISTANCE.—Assistance to carry out chapter 1 of part I of the Foreign Assistance Act of 1961.

(B) ECONOMIC SUPPORT FUND ASSISTANCE.—Assistance to carry out chapter 4 of part II of the Foreign Assistance Act of 1961.

(C) FOREIGN MILITARY FINANCING.—Financing under section 23 of the Arms Export Control Act.

(D) IMET ASSISTANCE.—Assistance to carry out chapter 5 of part II of the Foreign Assistance Act of 1961.

(E) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Activities of the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961.

(F) EXPORT-IMPORT BANK.—Financing by the Export-Import Bank of the United States under the Export-Import Bank Act of 1945.

(2) MULTILATERAL DEVELOPMENT BANKS.—The Secretary of the Treasury shall instruct each United States executive director of a multilateral development bank to vote against any loan or other utilization of the funds of the respective bank to or for Colombia.

(3) LICENSES FOR COMMERCIAL ARMS EXPORTS.—Appropriated funds may not be obligated or expended to license the commercial export of items on the United States Munitions List under section 38 of the Arms Export Control Act to Colombia.

(4) MILITARY ACTIVITIES.—Appropriated funds may not be obligated or expended for purposes of carrying out military activities in Colombia or that benefit Colombia, including joint military activities involving the Armed Forces of the United States and the Armed Forces of Colombia.

(5) TRADE PREFERENCES.—

(A) ANDEAN TRADE PREFERENCE ACT.—The President shall withdraw the designation of Colombia as a beneficiary country under section 203 of the Andean Trade Preference Act (19 U.S.C. 3202). The President shall make such withdrawal without regard to the procedures set forth in subsection (e) of that section. Such withdrawal shall apply to goods entered, or withdrawn from warehouse for consumption, after the date that is 45 days after the date sanctions under this section first apply to Colombia and such goods shall be subject to duty at the rates of duty specified for such goods under the general subcolumn of column 1 of the Harmonized Tariff Schedule of the United States.

(B) TRADE ACT OF 1974.—The President shall terminate the designation of Colombia as a beneficiary developing country under section 502 of the Trade Act of 1974 (19 U.S.C. 2462). The President shall terminate such designation without regard to the procedures set forth in subsection (a)(2) of that section. Such withdrawal shall apply to goods entered, or withdrawn from warehouse for consumption, after the date that is 45 days after the date sanctions under this section first apply to Colombia and such goods shall be subject to duty at the rates of duty specified for such goods under the general subcolumn of column 1 of the Harmonized Tariff Schedule of the United States.

(C) OTHER TRADE PREFERENCE PROGRAMS.—Colombia may not be designated as eligible to receive preferential trade treatment under any other program.

(D) FREE TRADE AGREEMENTS.—Colombia shall not be—

(i) extended tariff or quota treatment equivalent to that accorded to members of the North American Free Trade Agreement; or

(ii) allowed to participate in the discussion or implementation of a free trade agreement involving Western Hemisphere countries.

(E) SUPERSEDING EXISTING LAW.—The sanctions described in this paragraph shall apply notwithstanding any other provision of law.

(6) EXCLUSION FROM ENTRY INTO UNITED STATES.—

(A) IN GENERAL.—The President shall take all reasonable steps provided by law to ensure that public officials in Colombia, regardless of rank, who are implicated in drug-related corruption, their immediate relatives, and business partners are not permitted entry into the United States, consistent with the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(B) APPLICABILITY.—Subparagraph (A) shall apply in the case of a public official in Colombia, and the relatives and business partners of such official, until the completion by the Government of Colombia of an investigation into the drug-related corruption of the official that is satisfactory to the Secretary of State and the Attorney General of the United States and is so certified to the President.

SEC. 4. DETERMINATION AND CERTIFICATION.

(a) CERTIFICATION PROCEDURES FOR INITIAL PERIOD.—Subject to section 7(a)(1), the sanctions described in section 3 shall not apply to Colombia during the period beginning February 6, 1996, and ending February 5, 1997, if the President determines and certifies to the appropriate congressional committees on February 6, 1996, the matters set forth in subsection (b).

(b) DETERMINATION.—The determination referred to in subsection (a)(1) is the following:

(1) That the Government of Colombia has made substantial progress in the following matters:

(A) Investigating contributions by drug traffickers to political parties in Colombia.

(B) Providing funding for a sustainable alternative development program to encourage Colombia farmers to grow legal crops.

(C) Utilizing the law enforcement resources of Colombia to investigate, capture, convict, and imprison major drug lords in Colombia and their accomplices.

(D) Implementing and funding fully a proposed plan for the improvement of the administration of the Ministry of Justice of Colombia.

(E) Acting effectively to confiscate profits from activities relating to illegal drugs.

(F) Enacting legislation to implement the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

(G) Dismantling the infrastructure in Colombia that is used for processing illegal drugs, interdicting the chemicals used for such processing, and seizing or disabling vehicles (including airplanes and ships) used to transport processed illegal drugs.

(H) Investing in technology to improve surveillance of airports, waterways, and seaports in Colombia.

(I) Constructing an installation for the Colombia Coast Guard on San Andres Island, Colombia, in order to provide effective surveillance of airplane and ship traffic that departs from the island.

(J) Improving the aircraft detection and interception systems of Colombia, including the purchase of aircraft detectors.

(K) Encouraging and participating in the adoption of an Inter-American convention to ban the establishment of a financial safe haven in any country in the Western Hemisphere.

(2) That the Government of Colombia has accomplished the following:

(A) The reform of the penal code of Colombia in order to increase penalties for drug traffickers and to remove opportunities for such traffickers to enter into plea bargains.

(B) The creation of an effective investigation unit to detect and bring to prosecution individuals in Colombia who engage in corrupt activities related to drugs.

(C) The enactment of legislation to implement the statute prohibiting money laundering that was enacted by the Colombia legislature in 1994.

(D) The destruction of 44,000 hectares of coca and poppy plants in Colombia by January 1, 1996.

(c) CERTIFICATION PROCEDURES FOR SUBSEQUENT PERIOD.—Subject to section 7(a)(1), the sanctions described in section 3 shall not apply to Colombia, and any trade designations withdrawn or terminated under section 3(5) shall be reinstated with respect to Colombia, if the President determines and certifies to the appropriate congressional committees on February 6, 1997, the matters set forth in subsection 6(b).

SEC. 5. DISCRETIONARY SANCTIONS.

(a) AUTHORITY.—The President may impose on Colombia the sanctions described in section 4, or such other sanctions as the President considers appropriate, if the President determines that the Government of Colombia is not cooperating with the United States in counter-drug activities in and with respect to Colombia.

(b) REQUIREMENTS FOR IMPOSITION.—The President shall impose sanctions under this section by transmitting to the appropriate congressional committees a notice of the imposition of the sanctions. The notice shall set forth the sanctions imposed and the effective date of the sanctions.

(c) TERMINATION OF SANCTIONS.—(1) Subject to section 7(a)(2), sanctions imposed under this section shall terminate 45 days after the date on which the President transmits to the appropriate congressional committees the determination and certification referred to in section 6(a).

(2) Upon the termination of sanctions under this section, any trade designation withdrawn or terminated under section 3(5) shall be reinstated with respect to Colombia.

(d) EXPIRATION OF AUTHORITY.—The authority of the President to impose sanctions under this section shall expire on February 5, 1996.

SEC. 6. TERMINATION OF SANCTIONS.

(a) IN GENERAL.—(1) Subject to subsection (c) and section 7(a)(2), the sanctions described in section 3 shall terminate 45 days after the date on which the President determines and certifies to the appropriate congressional committees the matters set forth in subsection (b).

(2) Upon the termination of sanctions under this subsection, any trade designation withdrawn or terminated under section 3(5) shall be reinstated with respect to Colombia.

(b) DETERMINATION.—The determination referred to in subsection (a)(1) is the following:

(1) That the Government of Colombia continues to make substantial progress with respect to the following matters:

(A) Investigating contributions by drug traffickers to political parties in Colombia.

(B) Prosecuting the persons responsible for illegal contributions to political parties and campaigns.

(C) Providing funding for a sustainable alternative development program to encourage Colombia farmers to grow legal crops.

(D) Utilizing the law enforcement resources of Colombia to investigate, capture, convict, and imprison major drug lords in Colombia and their accomplices.

(E) Implementing a reform of the penal code of Colombia so as to punish and incarcerate drug traffickers and to terminate the availability of lenient plea bargains.

(F) Deploying an effective investigation unit to detect and bring to prosecution individuals in Colombia who engage in corrupt activities related to drugs.

(G) Implementing and funding fully a proposed plan for the improvement of the administration of the Ministry of Justice of Colombia.

(H) Acting effectively to confiscate profits from activities relating to illegal drugs.

(I) Enforcing effectively the statute prohibiting money laundering that was enacted by the Colombia legislature in 1994.

(J) Investing in technology to improve surveillance of airports, waterways, and seaports in Colombia and utilizing such technology.

(K) Improving the aircraft detection and interception systems of Colombia and utilizing such systems.

(L) Encouraging and participating in the adoption of an Inter-American convention to ban the establishment of a financial safe haven in any country in the Western Hemisphere.

(2) That the Government of Colombia has accomplished the following:

(A) The enactment of legislation to implement the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

(B) The destruction of all remaining hectares of illicit crops in Colombia.

(C) The construction of an installation for the Colombia Coast Guard on San Andres Island, Colombia, and in order to provide effective surveillance of airplane and ship traffic that departs from the island.

(c) DATE OF TRANSMITTAL.—The President shall transmit the determination and certification described in this section, if at all, not earlier than February 6, 1997.

SEC. 7. CONGRESSIONAL REVIEW.

(a) IN GENERAL.—

(1) REVIEW OF APPLICABILITY.—The sanctions described in section 3 shall apply to Colombia notwithstanding a determination of the President under subsection (a) or (c) of section 4 if, within 45 days after receipt of a certification under such subsection (a) or (c), respectively, Congress enacts a joint resolution disapproving the determination contained in such certification. The effective date of such sanctions shall be the date on which Congress enacts a joint resolution disapproving the determination concerned.

(2) REVIEW OF TERMINATION.—The sanctions described in section 3, and the sanctions authorized by section 5, shall not terminate notwithstanding a determination of the President under section 6(a) or 5(c), respectively, if, within 45 days after receipt of a certification under such section 6(a) or 5(c), respectively, Congress enacts a joint resolution disapproving the determination contained in such certification.

(b) PROCEDURES.—The procedures for the consideration of a joint resolution disapproving a determination under this section shall be governed by the procedures set forth in section 490A(f)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291k(f)(2)).

SEC. 8. RELATIONSHIP TO OTHER CERTIFICATION REQUIREMENTS WITH RESPECT TO COLOMBIA.

In fiscal year 1996 and in any other fiscal year in which sanctions are imposed on Colombia under this Act, the President shall transmit the applicable determination and certification under this Act in lieu of the determination and certification, if any, required with respect to Colombia in such fiscal year under section 490A of the Foreign Assistance Act of 1961 (22 U.S.C. 2291k).

SEC. 9. REPORTS.

(a) REQUIREMENT.—Subject to subsection (b), the Secretary of State shall submit to the appropriate congressional committees a report on—

(1) the progress made by the Government of Colombia in the matters set forth in paragraph (1) of section 4(b); and

(2) the accomplishments of that government with respect to the matters set forth in paragraph (2) of that section.

(b) DATES OF SUBMITTAL.—The Secretary shall submit a report under this subsection not later than—

(1) September 1, 1995; and

(2) September 1 of each year thereafter until the year following the year in which sanctions, if any, on Colombia under this Act terminate.

SEC. 10. DEFINITIONS.

As used in this Act:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) DRUG.—The term "drug" refers to any substance that, if subject to the jurisdiction of the United States, would be a controlled substance within the meaning of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(3) DRUG TRAFFICKER.—The term "drug trafficker" means any person who transports, transfers, or otherwise disposes of illegal drugs, to another, as consideration for anything of value, or makes or obtains control of illegal drugs with the intent to so transport, transfer, or dispose of.

(4) MULTILATERAL DEVELOPMENT BANKS.—The term "multilateral development banks" includes the International Bank for Reconstruction and Development, the International Development Association, and the Inter-American Development Bank.

[From the Wall Street Journal, Apr. 4, 1995]

COLOMBIA, AMERICA'S FAVORITE "NARCO-DEMOCRACY"

(By William J. Bennett and Jesse Helms)

The deluge of illegal drugs flooding into the U.S. has become one of the principal threats to our national security. More Americans die each year from the use of cocaine, heroin and other illegal drugs than from international terrorism. Yet, while the Clinton administration has rightly maintained a tough line with Libya, Iran and other governments known to be sponsoring terrorism, it has let Colombia—which ships more cocaine into the U.S. than any other country—completely off the hook. It is time for the administration to stiffen its spine and show some resolve in its anti-drug efforts.

The administration's recent annual review of international cooperation on counter-drug efforts by major drug-producing and trafficking countries is instructive. Under this review, countries that fail to meet certain minimum standards of performance in combating drug trafficking are supposed to be denied U.S. aid. The Clinton administration acknowledged in its report that Colombia has indeed failed to meet minimum standards, yet, amazingly, granted Colombia a "national interest waiver" allowing U.S. aid to flow into Colombia despite its miserable record.

This is a grave moral and geopolitical mistake. All available evidence clearly indicates Colombia has totally capitulated to the drug lords. By extending certification to Colombia, despite overwhelming evidence that its government is rife with narco-corruption, the Clinton administration has sent a troubling signal to all drug-producing nations: The U.S. will impose no penalty for collusion in trafficking with the drug lords.

Colombia is no borderline case. It has indisputably become a "narco-democracy"—a country with a facade of democratic government that is effectively controlled by drug kingpins who manipulate the political establishment with cocaine money. According to the administration's own background papers on Colombia:

The Cali cartel has been left free by the Colombian government to exploit the banking system and launder vast sums of drug money with impunity.

There is practically no effective investigation or prosecution of the more than 15,000 current cases of corruption involving government officials (more than half of them senior-level authorities).

A "guilt-laundering" system exists, in which Cali drug lords surrender, and submit to a jerry-rigged plea-bargaining system that leaves their assets intact and allows them to plead to minor charges.

The government's eradication programs have been half-hearted at best, despite massive increases in the growing of opium and new cocaine cultivation.

High-level government collusion enables the shipment of enormous quantities of cocaine into the U.S., with 727 jets transiting in Mexico with tons of the drug.

There is evidence of the corruption of many members of the Colombian Congress, and increasing evidence of presidential ties to the drug cartels.

The Clinton administration cannot plead ignorance as the excuse for its abdication of responsibility. But conditions in Colombia are in fact worse than even the administration's report acknowledges. The influence of the cartels and their blood money pervades almost all aspects of Columbia's political, social and economic life. Cartel money finances political campaigns. It silences journalists. It buys judges. It infiltrates virtually every major business activity in Columbia—from cut flowers, to oil, to paper, to banking.

Colombia is now the primary base for the cartels to extend their drug operations throughout the hemisphere. Despite the fact that the Cali cartel now supplies more than 80% of all the cocaine entering the U.S., the Colombian government has failed to arrest or prosecute even one significant cartel member. To the contrary, Colombia has given the cartel cover and protection from international extradition, allowing these drugs to end up on American streets and in American schools, where they destroy the lives of American children.

We believe the Colombian government collusion with the drug lords poses a direct threat to the national security of the U.S. It is time to meet this threat head-on. And since the Clinton administration has failed to provide leadership on this issue, it is all the more important that Congress assume responsibility. That is why a Senate Foreign Relations subcommittee will hold a hearing today on the issue. And why legislation will be introduced this week to cut off all economic support, trade benefits, and military assistance to Colombia by Feb. 6, 1996, unless the president of the United States can certify that Colombian President Ernesto Samper has implemented the reform agenda he promised the U.S. Congress he would enact.

Elements of this agenda include investigating the financing by drug traffickers of political parties and candidates in Colombia; putting law enforcement resources behind investigating, capturing, convicting and imprisoning major drug lords in Colombia; ending the "guilt-laundering" system; confiscating assets of cartel leaders; and destroying 44,000 hectares (108,680 acres) of coca and poppy plants in Colombia by Jan. 1, 1996 (and all remaining acreage by Jan. 1, 1997).

The Colombian leaders must be sent a clear and unmistakable message: In the war on drugs, they can either continue to ally themselves with the cartels, and thereby become a pariah state like Libya and Iran; or they can return to the community of civilized nations, fulfill the promises President Samper made, and join with the U.S. in an effort to put the cartels out of business. The choice is theirs.

WASHINGTON, DC,
July 15, 1994.

Hon. JESSE HELMS,
Ranking Committee on Foreign Relations, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR HELMS: Next month I will assume the Presidency of Colombia at a very important time in the relations between our two countries and in our common struggle against drug trafficking. I am well aware of your dedication and interest in this issue and I appreciate your efforts in support of Colombia. As I prepare my administration for the challenges which lie ahead, I wanted to take this opportunity to share with you my views about the ways we can strengthen our fight against drug trafficking.

I know, in a very personal way, the kind of threat drugtraffickers represent to our democracies. The four bullets still lodged in my body are a constant reminder of the 1989 Cartel attempt to assassinate me at Bogota International Airport. I was lucky, unlike many of my compatriots who have fallen victim of the brutal violence the cartels have wreaked in my country.

Once again, we are the target of their diabolic machinations. The taping of telephone conversations between a Cali Cartel leader and a journalist known to be on the Cartel's payroll revealed their frustrated efforts to infiltrate the campaign organizations of Colombian presidential candidates.

I was perfectly aware of this threat when I entered the Presidential race. That is why I established an independent moral ombudsman in my campaign. That is why my campaign books and records have always been open to public scrutiny. I also expelled several sympathizers when it became evident that they were not up to our rigid ethical standards. We rejected several contributions because of their unclear or obscure origin. That is why I am completely confident that my campaign was successful in rejecting drug traffickers undercover efforts to spread their corrupting influence. Nevertheless, I have called for a special investigation to carefully examine all of these issues and will take further action as needed to protect the integrity of my government.

Those who thought that the drug war was over with the destruction of Pablo Escobar's organization were wrong. We are entering what could be the last but decisive phase of the drug war. The Cartels know that their campaign of terror and intimidation has failed. Nevertheless, they will try to regain the ground lost during the past years. The Cali Cartel will rely on powerful weapons of choice: violence and fear, bank accounts, legal loopholes, computer networks and corruption.

Today, the task is much more complex and the international community has to readjust its strategy, sharpen its skills and develop new legal and institutional tools. Starting on the day of my inauguration, I will aggressively seek to secure the tools we will need to win, both at home and abroad. I invite the United States to join Colombia in leading this effort.

First, we will continue doing what we have done successfully: vigorously applying all our law enforcement resources to investigate, track and put in jail the drug lords and their accomplices. We know who the bosses of the Cali Cartel are and we will capture them. To achieve that goal we need a continuous commitment from the U.S. in terms of technical support, training, intelligence and evidence sharing. We must establish a high-level bilateral commission to permanently evaluate our cooperation, improve its performance and promptly overcome any problem or obstacle.

My administration will accelerate the reform of Colombia's penal code, increasing the penalties for drug traffickers and removing the loopholes in our plea-bargaining system. We will not tolerate leniency.

Drug traffickers failed in taking over our democracy through terrorism and assassination. Now they want to destroy it through infiltration and corruption. They will not succeed. An "elite corp" of investigators will be created to track down corruption and send the political cronies of the cartels to jail and we will present to Colombia's Congress stringent anti-corruption legislation. Additionally, we will introduce new legislation to strengthen our laws against money-laundering, that should be enforced with the support of a U.S.-Colombian financial crime task force, conformed by our best prosecutors and experts.

Equally important, we will urge the U.S. Congress to establish mandatory targets for the reduction of domestic drug consumption and to provide the resources needed to achieve those targets.

Our two countries cannot solely bear the burden of the global war on drugs. Consequently, my administration will work towards the enactment of the following initiatives:

The creation of a Caribbean Basin multilateral anti-narcotics force.

Joining current radar capabilities in a Hemispheric network to track trafficking activities.

The implementation of a global export monitoring system to impose strict controls on the flows of precursor chemicals, crucial to drug production, as well as assault and automatic weapons used by cartel hitmen.

The adoption of a new Inter-American convention to ban financial safe havens in the hemisphere. Drug Traffickers cannot be allowed to enjoy the benefits of their ill-gotten gains.

These are concrete initiatives I will launch August 7th, the day of my inauguration. I hope the United States will choose to help Colombia win the drug war instead of being paralyzed by the drug lords' disinformation campaign. I invite the United States to redouble its faith in the determination and courage of Colombians by joining us again in the difficult battles that lie ahead.

My administration looks forward to working with you on these issues and others of interest to both our countries.

Sincerely,

ERNESTO SAMPER-PIZANO,
President-elect of Colombia.

SPEECH BY DR. ERNESTO SAMPER PIZANO, PRESIDENT OF COLOMBIA, AT THE PRESENTATION OF THE POLICY AGAINST DRUGS, SANTAFÉ DE BOGOTA, FEBRUARY 6, 1995

I wish to take the opportunity, on the occasion of the appointment of the Manger of the Illicit Crops Alternative Development Plan, to outline the Program of the War Against Illicit Drugs that my Administration will carry out in the years ahead. At the same time, I also wish to inform you about what we have already achieved in the first few months of my Administration.

Colombia has been seriously engaged for several years in the war against drug trafficking. Many of our countrymen have fallen in this battle, and the economic price we have had to pay has been very high, requiring us to postpone other important needs and make great sacrifices.

We are fighting this battle and we will continue fighting because we are convinced that the struggle against this serious scourge is a moral imperative, a response to a public health problem, and, most of all, an issue of national security.

AN INTEGRATED POLICY

The challenge posed by drug traffickers demands an integrated policy. We cannot continue in a cycle of action and reactions. This leads to doubt and uncertainty about the effectiveness of what we are doing. My Government is committed to an integrated policy that will be led and supervised directly by the President of the Republic.

The new policy's components are as follows:

1. Crop eradication

Unfortunately, Colombia has become a coca producing country: 14 percent of the land under coca cultivation worldwide is in our country.

Between 1993 and 1994, the number of hectares under cultivation increased 13 percent.

We will eradicate the coca and poppy crops. We will take advantage of the fact that most of these crops are grown for commercial reasons and are not for traditional use, as in other neighboring countries.

We have begun "Operation Radiance" that will destroy all existing illicit crops in the country in the next two years. The target for this year is 44,000 hectares.

The Government will be especially careful to ensure that these operations cause the least adverse social and environmental impact.

Those who criticize spraying operations often forget that the worst ecological damage is being caused by those who are destroying our natural reserves to grow illicit drugs. Two and a half hectares of forest are destroyed in order to plant one hectare of illicit crop, at the expense of approximately 180,000 hectares each year. If production continues like this, according to U.N. calculations, before the end of the century Colombia will have lost one-third of its tropical rain forest.

2. Alternative development plan

The objective of the Alternative Development Plan that we are announcing today is to provide an alternative means of living for the 300,000 small coca growers.

And, simultaneously to develop preventive programs in other areas of the country which are abandoned and could become areas for producing new crops. We do not want confrontations to happen again like the ones in Guaviare and Putumayo last year.

I have requested the Solidarity Network to institute programs in the most sensitive areas so that government programs will begin work before the drug traffickers arrive.

The Plan will provide better roads, health, education and working conditions to small farmers in isolated areas.

Likewise, with the assistance of government programs, the trading and marketing of substitute crops will begin.

The Plan will duplicate substitution programs that have been successful in other places.

In order to finance this ambitious crop substitution program, we have a US$150 million budget which we hope to double with international assistance.

My goal is to eliminate all illicit crops by the end of my term in office.

3. Industrial production of drugs

In addition to coca cultivation, we are also a drug producing country. To eliminate production, we will attack the infrastructure used for the processing of drugs, such as laboratories, importation of processing chemicals, and vehicles used to transport drugs.

With the use of the reinstalled radar system in the South, we will interdict the entry of coca paste, the essential raw material for the production of cocaine.

4. Distribution

Colombia will take strong actions to destroy the internal systems for the distribution and export of drugs through the following programs:

Investment in technology to improve the control capacity of airports, waterways and seaports.

Build a coast guard base on San Andres Island with resources already allocated in the 1995 and 1996 budgets, that will control all air and sea traffic arriving and departing from the island.

Improve the airplane interception system through the purchase of detectors, aerial platforms, and electronic intelligence gathering equipment.

5. Money laundering

Recent estimates show that profits from drug trafficking can reach nearly US$500 billion a year, which is ten times Colombia's gross national product.

Most of these funds are "laundered" through world financial markets. It is very important that controls be established in each country as well as at the international level.

If we allow the income produced by drugs, 75 percent of which is held in international financial centers, to be "recycled" into legitimate business, we will never be able to end drug trafficking.

At the hemispheric summit called by President Clinton and held in Miami, Colombia suggested that the countries of the region hold a convention to consider a War against Money Laundering. This initiative was received with enthusiasm. The organizational details of this convention will be spelled out during the first quarter of 1995.

On the domestic front, with the support of the Attorney General's Office, the Banking Superintendency, the DIAN (tax and national customs department), and the Stock Market Superintendency, we will act more forcefully to confiscate profits from illicit enrichment. We have already proposed changes in the law to give my Government the necessary powers to carry this out.

6. The rise of domestic consumption

Colombia is at risk of becoming a drug consuming country, according to the figures during the last few years.

We will strongly fight against any increase in drug use, particularly among our youth.

The Government's action in this regard will be directed at drug prevention, rehabilitation, special attention to individuals that are vulnerable to becoming drug users, and a massive education effort through the media and education centers, under the coordination of the Youth Vice-Ministry, on the harmful effects of drug use.

7. Law enforcement and administration of justice

The "Surrender to Justice" policy has become an open door to impunity because of inadequate convictions and sentencing by certain judges and prosecutors.

Its implementation included minimum sentences and granted maximum benefits.

We are going to reformulate the policy, so that turning oneself in is no longer perceived as a way to avoid prosecution.

We know that criminals will not turn themselves in if we do not maintain pressure on them. We will pursue them until either we catch them or they surrender.

We are convinced that the new policy, with international judicial cooperation, will enable us to successfully fight against criminal cartels.

8. Changes in justice administration

Those who think that all these changes require basic reform of our justice system are right. The battle against drugs must be fought within the rule of law. With our current weak judicial system and inefficient criminal policy, we will not be able to subject organized crime to the laws and justice of the State.

A Justice Department Plan, with allocations of around $500 million, will make the administration of justice more effective.

It is the intention of my Government to modernize the justice system to include a new program to find ways to defeat organized crime, especially kidnappers and drug cartels.

9. Prosecution of cartels

The Government has the clear intention to pursue, apprehend, prosecute, and convict drug traffickers. We are actively working to achieve this goal as soon as possible. To obtain it, we will improve our intelligence gathering capabilities against drug cartels with technical assistance from various foreign governments, starting, of course, with help from the Government of the United States.

10. International responsibility

It is clear that our objectives cannot be fulfilled entirely without more help and support from the international community. Colombia's efforts will have little impact on international narco-trafficking—

If the rising levels of consumption do not decrease;

If the control of air and sea traffic is not intensified;

If progress is not made to control international money laundering activities; and,

If the sale of precursor chemicals is not reduced.

Colombia will be alert to the international achievements on each of these issues while maintaining its own responsibility to combat the drug problem.

It is not a matter of unloading one's responsibility onto others. It is simply a matter of understanding that the complexity and seriousness of the drug trafficking problem are so extensive that its solution requires EVERYONE'S PARTICIPATION, with no exceptions nor excuses.

RESULTS

Now let me review the results obtained in the first few months since we began this integrated program.

During the first months of my Administration, until December 1994:

1. 6,950 hectares of illicit crops were eradicated, double the amount from the same period last year.
2. 18,416 kilos of cocaine were seized, an increase of 428% compared to the same period last year.
3. 20,200 kilos of coca paste was seized, 782% more than the same period the year before.
4. 194 cocaine laboratories were destroyed.
5. 530,000 gallons of fluid and 213,000 kilos of solid chemical precursors were seized, up from 219,000 gallons and 108,000 kilos seized the previous year.
6. 940 people linked to drug trafficking activities were arrested, of them 59 were foreigners and 5 were extradited.
7. Special Joint Command operations, whose basic responsibility is to pursue the heads of the drug trafficking cartels, were doubled.

It is clear that these statistics indicate progress in the eradication, capture, and interdiction campaign that we expect to continue.

More than that, during the first six months of my Government:

1. A disciplinary emergency was declared for the City of Cali police. More than half of the officers were dismissed.

2. The National Police Anti-Corruption Unit was created.

3. The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances was ratified.

4. Thanks to the action of the National Government and the cooperation of the political parties, we were able to defeat a legislative proposal that would have greatly weakened the legal barriers to illicit enrichment.

5. Money laundering was classified as a crime and national legislation has been drafted and submitted to Congress as part of the anti-corruption statute, which will soon be passed by Congress.

6. A budget of $150 million per year was allocated for the next three years for the Alternative Development Plan we are presenting today.

7. The Attorney General's Office was reorganized to make it more effective in the fight against drug trafficking.

8. The Security Administration Department (DAS) was reorganized in order to improve the professional capabilities to combat organized crime.

9. Prison Emergency was declared in order to control highly dangerous prisoners, to clean up the areas surrounding maximum security prisons, and to improve performance of prison guards.

10. The Surrender to Justice Policy Study Commission was created by decree No. 159, 1995, in order to study and report on sentences and benefits adjustments, as well as to suggest any other reforms to the policy by March 6.

CONCLUSIONS

The Government of Colombia has been active for several years in the struggle against drug trafficking.

My Government reiterates its commitment to continue our efforts as I have described above.

The country has an excellent team to undertake this program including: The Attorney General of the Nation, the Ministers of Defense and Justice, as well as the DAS Director and the National Police Director, who have been working coherently and effectively since the beginning of my Administration in this struggle against drugs.

In the development of this program, Colombia has had the cooperation of several foreign governments among them the U.S. Government.

We trust that the policies and the facts presented here, together with the achievements of my predecessor's government, will renew the confidence that has characterized the relations between our two countries over the years.

Anything other than a strong bilateral relationship based on confidence would weaken the joint efforts we have undertaken and would only benefit the drug cartels' interests.

Colombia accepts international cooperation to achieve its anti-drug objectives, but only after acknowledgment of its sovereign right to formulate this policy on its own.

Over the years, during many administrations, we have never accepted any type of conditions from abroad.

I am optimistic that in the near future we will defeat the scourge of narco-trafficking.

The Colombian people deserve a better international image than that created by organized crime.

We deserve to be known as a country that respects the law.

We deserve to be judged on the basis of the majority of our hard working citizens who love their country, who fight for its progress, and who desire to leave their children the possibility of a life led with dignity.

To achieve this, we all have to make a commitment to fight against violence, beginning with narco-trafficking, which has plagued us like a curse.

We do not want any more heroes or martyrs buried in our cemeteries. Therefore, we must and we will bring crime and violence under control.

As President, I am sure that this would have been the wish of the four presidential candidates, the 23 magistrates, the 63 journalists, and the three thousand policemen who in the last ten years lost their lives fighting narco-trafficking.

In their memory we will overcome future difficulties. We are working very hard on this problem and we will continue to do so.

Thank you very much.

Mr. MACK. Mr. President, there are any number of reasons, from the massive amount of cocaine entering the United States from Colombia, to the rise in high school drug use over the past 2 years, that I could rely on to explain my decision to cosponsor the Narcotics National Emergency Sanctions Act [NNESA]. The poor performance of Colombia's government in interrupting the flow of heroin, marijuana, and cocaine that originates or is processed in Colombia, would be justification enough for the extraordinary measures created by the NNESA. Above all, however, I am moved by the rank corruption the drug trade has spawned in Colombia and the colossal abuse of public trust by officials who ally themselves with criminals rather than the people they serve.

Colombia's government institutions, including the courts, the Congress, and the highest levels of the executive, have been penetrated by the influence of narcotics traffickers. Not surprisingly, in 1994, Colombia failed to meet minimum standards of performance in combating drug trafficking. The Clinton administration responded by granting a national interest waiver. Although it is possible to imagine circumstances in which a national interest waiver might be justified, Colombia is not such a case.

Colombia deserves to be taken out of the normal narcotics cooperation certification process because it is in a league of its own. We do not seek to penalize Colombia unnecessarily, or to impose an arbitrary standard. The NNESA responds directly to public commitments President Samper has repeatedly made to improve Colombia's anti-narcotics performance.

Unfortunately, the Clinton administration itself has sent mixed signals about its commitment to the fight against illegal drugs. Enforcement of drug laws enjoys low priority at the Justice Department where Federal mandatory minimum prison terms are criticized as too harsh. Nationwide, Federal prosecutions of narcotics-related crimes have dropped dramatically since 1992. Colombia and Peru were refused intelligence information crucial to the interdiction of narcotics flights for several months in 1994. Although later overturned, the decision to cut off intelligence sharing dealt a severe blow to counter-drug efforts and broadcast the administration's ambivalence about the drug war. Overall, international interdiction efforts receive little support and dwindling resources in spite of efforts by some officials to protect this indispensable function.

The Clinton White House must restore anti-narcotics policy to the top priority status it has enjoyed under previous administrations. It can start by endorsing the NNESA and sending an unambiguous message to Colombia: the United States has no national interest in cooperating with any government that colludes with drug traffickers.

By Mr. FORD:

S. 682. A bill to provide for the certification by the Federal Aviation Administration of airports serving commuter air carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMMUTER AIRPORT SAFETY LEGISLATION

Mr. FORD. Mr. President, today I am introducing legislation which will provide authority for the Federal Aviation Administration to issue safety certificates to airports serving commuter aircraft of 10 or more passenger seats. The FAA's authority to issue airport certificates is currently limited to airports serving air carrier aircraft with more than 30 passenger seats. This legislation is a result of a recent study of commuter airline safety conducted by the National Transportation Safety Board, which led the Federal Aviation Administration to issue a series of recommendations. The legislation I am proposing today compliments that regulatory effort by providing specific authority for the Federal Aviation Administrator to insure the safety of commuter airports. Safety improvements called for by new airport certification requirements will be eligible for grant funding consideration under the FAA's Airport Improvement Program.

This legislation will not mandate the issuance of airport certificates to commuter airports. It will only provide general authority pursuant to which the FAA Administrator may promulgate appropriate regulatory standards. To do so, the FAA will need to issue a proposed regulation that will undergo a public comment process before any final regulation will be issued as they do with any other safety regulation.

I am aware of a serious sense within the airport community with this new FAA authority. I would urge the FAA to initiate a negotiated process with the airport community which has been successful in the past. I understand the FAA is currently organizing a working group of affected aviation groups to assist in defining potential costs and reasonable certification requirements. I would urge the FAA to work with the industry as the goal of all concerned is safety.

FAA is often criticized for the tombstone mentality in that safety regulations are often the result of major accidents. The new authority in this legislation is proactive in nature. This legislation will put in place reasonable safety standards to protect commuter airline passengers before there are any fatalities. Let us not wait until an accident to justify the need for safety improvements. I commend the leadership at the FAA—David Hinson, Administrator and Linda Daschle, Deputy Administrator for this change in attitude. It is refreshing that FAA is looking forward instead of backward.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 44706(a)(1) of title 49, United States Code, is amended to read as follows:

"(1) that serves any scheduled passenger operation of an air carrier aircraft designed for more than 9 passenger seats or any unscheduled passenger operation of an air carrier aircraft designed for more than 30 passenger seats;".

By Mr. FRIST (for himself, Mr. ASHCROFT, Mr. BROWN, Mr. INHOFE, and Mr. SANTORUM):

S. 683. A bill to protect and enforce the equal privileges and immunities of citizens of the United States and the constitutional rights of the people to choose Senators and Representatives in Congress; to the Committee on Rules and Administration.

ELECTORAL RIGHTS ENFORCEMENT ACT

Mr. FRIST. Mr. President, as a strong supporter of congressional term limits and one who has promised voluntarily to limit my own tenure in Congress, I am today introducing a bill that would allow States to set their own limits.

The American people have spoken. Approximately 80 percent of them support term limits. Measures limiting congressional service have been passed in one form or another in 22 States. This Congress needs to restore the faith of a wary American public in its Federal Government by addressing this issue.

The legislation which I am introducing today would recognize the rights of the States to place term limits on their elected officials. Some may view this statute as redundant because the States already have the right to impose term limits on their Members of Congress. But a legal challenge by term-limit opponents is currently under consideration by the Supreme Court.

This legislation is designed to insulate State-imposed term limits from court challenges. It is based on section 5 of the 14th amendment, which lets Congress enforce the rights of due process and equal protection of the laws. To enhance fair and open competition for elective offices and promote effective representative government, States should be allowed to limit congressional terms. The legislation is also based on other rights afforded in other amendments to the Constitution.

Perhaps most importantly, this bill would restore the power to the American people to set the limits they prefer, without congressional interference. This Congress has already acknowledged that many of the important decisions about how this country is run should be left to the States. I believe that our citizens should determine whether and how to impose limits on their congressional representatives.

I hope that my colleagues will join me in supporting this important measure.

ADDITIONAL COSPONSORS

S. 256

At the request of Mr. DOLE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 281

At the request of Mr. D'AMATO, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 281, a bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans benefits from August 5, 1964, to December 22, 1961.

S. 303

At the request of Mr. PRESSLER, his name was added as a cosponsor of S. 303, a bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

S. 403

At the request of Mr. AKAKA, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 403, a bill to amend title 38, United States Code, to provide for the organization and administration of the Readjustment Counseling Service, to improve eligibility for readjustment counseling and related counseling, and for other purposes.

S. 413

At the request of Mr. DASCHLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 413, a bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under such act, and for other purposes.

S. 440

At the request of Mr. WARNER, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Virginia [Mr. ROBB], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 440, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 490

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 490, a bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes.

S. 565

At the request of Mr. PRESSLER, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 565, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 568

At the request of Mr. COATS, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 568, a bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending.

S. 647

At the request of Mr. LOTT, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 647, a bill to amend section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 to require phasing-in of certain amendments of or revisions to land and resource management plans, and for other purposes.

SENATE JOINT RESOLUTION 26

At the request of Mr. SIMPSON, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Joint Resolution 26, a joint resolution designating April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition Day."

SENATE JOINT RESOLUTION 31

At the request of Mr. HATCH, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of Senate Joint Resolution 31, a joint resolution proposing an amendment to the Constitution of the United States to grant Congress and the States the power to prohibit the physical desecration of the flag of the United States.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the names of the Senator from Ohio [Mr.

GLENN] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 100

At the request of Mrs. HUTCHISON, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Resolution 100, a resolution to proclaim April 5, 1995, as National 4-H Day, and for other purposes.

SENATE RESOLUTION 103—TO PROCLAIM NATIONAL CHARACTER COUNTS WEEK

Mr. DOMENICI (for himself, Mr. NUNN, Mr. DODD, Mr. COCHRAN, Ms. MIKULSKI, Mr. BENNETT, Mr. LIEBERMAN, Mr. KEMPTHORNE, Mr. DORGAN, Mr. FRIST, and Mr. ROCKEFELLER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 103

Whereas young people will be the stewards of our communities, nation, and world in critical times, and the present and future well-being of society requires an involved, caring citizenry with good character;

Whereas concerns about the character training of children have taken on a new sense of urgency as violence by and against youth threatens the physical and psychological well-being of the United States;

Whereas, more than ever, children need strong and constructive guidance from their families, their communities, and institutions such as schools, youth organizations, religious institutions, and civic groups;

Whereas the character of a nation is only as strong as the character of the individual citizens comprising the nation;

Whereas the public good is advanced when young people are taught the importance of good character, and that character counts in personal relationships, in school, and in the workplace;

Whereas scholars and educators agree that people do not automatically develop good character and, therefore, conscientious efforts must be made by youth-influencing institutions and individuals to help young people develop the essential traits and characteristics that comprise good character;

Whereas character development is, first and foremost, an obligation of families, efforts by religious institutions, schools, and youth, civic, and human service organizations also play a very important role in supporting family efforts by fostering and promoting good character;

Whereas the Senate encourages students, teachers, parents, youth, and community leaders to recognize the valuable role youth in the United States play in the present and future of the United States, and to recognize that character plays an important role in the future of the United States;

Whereas, in July 1992, the Aspen Declaration was written by an eminent group of educators, youth leaders, and ethics scholars for the purpose of articulating a coherent framework for character education appropriate to a diverse and pluralistic society;

Whereas the Aspen Declaration states that "Effective character education is based on core ethical values which form the foundation of democratic society";

Whereas the core ethical values identified by the Aspen Declaration constitute the 6 core elements of character;

Whereas the 6 core elements of character are trustworthiness, respect, responsibility, justice and fairness, caring, and civic virtue and citizenship.

Whereas the 6 core elements of character transcend cultural, religious, and socioeconomic differences;

Whereas the Aspen declaration states that "The character and conduct of our youth reflect the character and conduct of society; therefore, every adult has the responsibility to teach and model the core ethical values and every social institution has the responsibility to promote the development of good character.";

Whereas the Senate encourages individuals and organizations, especially the individuals and organizations that have an interest in the education and training of our youth, to adopt the 6 core elements of character as intrinsic to the well-being of individuals, communities, and society as a whole; and

Whereas the Senate encourages communities, especially school and youth organizations, to integrate the 6 core elements of character into programs serving students and children: Now, therefore, be it

Resolved, That the Senate proclaims the week of October 15 through October 21, 1995, as National Character Counts Weeks, and requests the President to issue a proclamation calling upon the people of the United States and interested groups to embrace the 6 core elements of character and to observe the week with appropriate ceremonies and activities.

Mr. DOMENICI. Mr. President, today in the City of Roswell, NM, the water bills that are sent out by the utility companies has this on them, and everyone will receive this as part of their water bill in this city: "Character counts. Trustworthiness. Tell the truth. Be sincere."

One of the six pillars of character established by a broad-based coalition some 2½ years ago, a broad-based group of Americans, was trustworthiness. That means do not lie, be sincere, tell the truth—all the basic things that we thought were part of the character of America.

In addition, five other pillars of character were determined to be the essence—the essence—of the character of the United States in the past that we have lost and that we must get back. The remaining ones are respect, responsibility, fairness, caring and citizenship.

Today, on the floor of the Senate, a number of Senators have joined me in a Character Counts Coalition, which has in the U.S. Senate one principal objective; that is, the introduction and passage of a resolution which will set aside the week of October 15 through the 21 as "National Character Counts Week."

That resolution will be adopted by the Senate and the House, and it will go out into the land—hopefully, the President will speak to it—and the budding, blooming, blossoming enthusiasm among the people to reinject into society these six pillars of character will, once again, get a spurt of support from us.

But far more important than the 10 Senators—five from each party: Senator NUNN joining me as vice chair, Senator DODD, Senator COCHRAN, Senator MIKULSKI, Senator BENNETT, Senator LIEBERMAN, Senator KEMPTHORNE and Senator DORGAN and Senator FRIST, who is on the floor, join me in this resolution.

What is going on out there in the country? First of all, Mr. President, I am very, very proud that the State of New Mexico is moving into the forefront of States that are trying to build a broad-based community support for these six pillars of character. I am very pleased to suggest that in New Mexico, there are now four cities that, with their school boards, are moving in harmony to make these six pillars of character part of daily life, believe it or not, on a volunteer basis.

Public schools in the State of New Mexico are saying to their teachers, "Let's make these six pillars of character part of our daily curriculum." In fact, in the city of Albuquerque, 36 teachers have been trained so that they can begin to put into the curriculum of our grade schools instruction, activities, examples of these six pillars of character. As a matter of fact, there is sort of a model evolving out of New Mexico, wherein a public school will take one of these pillars of character by the month. And so in a month, it will be trustworthiness month and the children will work on it with their teachers and the teachers will work among themselves to let trustworthiness permeate the school and what it means truly counts. Maybe the next month they will do responsibility, and for a month responsibility will permeate the classroom.

Now we are trying to go one step further, Mr. President, and let these permeate the community, so that in each of our cities, there is a broad-based council—all volunteers, from all walks of life and all institutions—who are building a format to get each of these pillars of character to permeate the community in one way or another.

I just gave an example of this very interesting city, Roswell, which has already decided to put the first of the pillars on their electric or water bills. I do not remember which. If I said water bill, let us stay with it. But essentially, everybody will receive in the mail at least a little notice: "Character counts. Trustworthiness. Tell the truth. Be sincere."

Think if this happens, if we are able to join the people of this country, the grassroots of this country in our cities and in our States to mobilize their enthusiasm to get this message across to our children, to our businessmen, to their employees, to those who take care of our families or the families themselves, we may indeed—not this Senator, and not the 10 who are joining on this resolution—but those who had the idea to begin with and those who are working hard at it in the communities, this may turn into a huge chorus to be followed by actions to be followed by change, wherein maybe—maybe—society, which is yearning for something, will end up saying maybe it is we want people to be responsible, maybe it is that we want our people to learn what fairness is, what respect is, what responsibility is, what caring is and, yes, in a broader concept of what citizenship is.

Now, frankly, in the State of New Mexico, the city of Albuquerque, we have now put a major manual together which other cities are asking for as to how we did this.

Who got together and formed the counsel? How did the school board get involved? How are the schools reacting to it? Most of all, how are the parents reacting to it? Is there any antagonism toward it? We would like to say we have found none.

Who will stand up and say that it is not right that we put back into our schools the concept of trustworthiness or responsibility or caring or respect. Nobody yet has done that. We think that these words are acceptable to everyone.

Everyone knows they would like to see this back into the fabric of this country. In my own State, the Governor has decided that Character Counts will be a major effort of him and his wife in their term.

In the city of Albuquerque, I was joined by the mayor, and Albuquerque has declared itself the character community. Soon they will put forth a public relations campaign, joined by the media, we hope, which will try to make this pervasive within the community of Albuquerque.

Every city can do this, not because of the 10 Senators, and maybe 70, who will join this resolution and help pass it, but because we are merely supporting the effort which is budding among our people for something different in the classroom, something different on the street corner, something different in our businesses. There is much enthusiasm for this as one of those rare possibilities.

I do not claim to be either the inventor of this or the one that dreamt it up. What I am very proud of is that I saw it, and joined with other Senators to at least lend our support in the U.S. Congress to designating a week in our country when we thoroughly respect and help promote those in our country who are talking about the six pillars of character, and that character counts.

I have a statement which quotes a number of columnists and journalists in my State, editorials of the major papers, placing greater emphasis on common values that have served America so well. It is worth the extra effort that this will involve. There is no other practical way to make children safe and at the same time fight the violence, drugs, disrespect for property rights, and others, speaking of this program of Character Counts, Albuquerque Journal.

Mr. NUNN. Mr. President, I rise today in strong support of the resolution submitted by my distinguished colleague Senator DOMENICI, Senate Resolution 103. This resolution, which would designate the week of October 15–21, 1995, as the second annual National Character Counts Week.

Last year I joined with Senator DOMENICI and several of our other colleagues in introducing similar legislation, and was very pleased that the proposal was extremely well-received by my colleagues, as well as people in New Mexico, Georgia, and throughout our Nation. This resolution represents a renewal of that effort.

This group of our Senate colleagues has come together again this year to continue its recognition of the fact that our Nation is experiencing a crisis of values. This crisis is reflected in the rising tide of violence that kills little children in the crossfire on school yards and in front of their houses, in the increasing number of children who kill each other and others. This crisis goes beyond crime. It is reflected, also, in the recent survey of youngsters conducted by the Josephson Institute of Ethics. These ordinary youngsters may never by involved in crime, drug abuse, or teenage pregnancy, but they still acknowledge disturbing ethical lapses: two out of five high school age boys and one in four girls have stolen something from a store; nearly two-thirds of all high school students and one-third of all college students had cheated on an exam, and more than one-third of males and one-fifth of females aged 19–24 said they would lie to get a job and nearly one-fifth of college students had already done so in the last year; 21 percent said they would falsify a report to keep a job.

As a character in John Steinbeck's novel "Of Mice and Men" complained, "Nothing is wrong anymore." Unfortunately, a lot is wrong, and our society seems reluctant to admit the problem.

This is the core message of character counts, that there are core values that our society agrees on and that should guide our decisionmaking. These values, as set out in the resolution, are trustworthiness, respect, responsibility, fairness, caring, and citizenship. These values are supported by an extremely broad and diverse coalition of people, including former Secretary of Education William Bennett, former Congresswoman Barbara Jordan, actor-producer Tom Selleck, and Children's Defense Fund Founder Marian Wright Edelman. Among our colleagues, Senators with such diverse political viewpoints as Senator HELMS and Senator BOXER consponsored last year's resolution. I come before the Senate today on behalf of this group to urge continued attention to this important problem.

We must remember that all those children who are never taught the values of trustworthiness, respect, responsibility, fairness, caring, and citizenship are future citizens.

This is a resolution considered by Members of the Senate and House in Washington, DC. But it is the parents, teachers, coaches, ministers, big brothers, and sisters in local communities who will lead the fight for values in our Nation. As a result of the efforts by the character counts coalition, people in all areas of the country are more aware of the problems we face, and have begun to incorporate these values into their everyday lives and those of their children. Senator DOMENICI has outlined some of these efforts. This year, we introduce this resolution to remind the Senate that the work on this issue is far from over, and again to enlist their support in reinstating these values to their proper places as fundamental to our society. I am proud to join my colleagues, especially Senator DOMENICI, in this effort once again, and I urge the Senate to support this resolution.

Mr. BENNETT. I thank the Chair and I thank the distinguished Senator from New Mexico.

He has taken this time this morning to talk about a project that he and the senior Senator from Georgia [Mr. NUNN] initiated in the 103d Congress, of which I was delighted to be a Member. This is the program called character counts, whereby we are talking on the floor of the Senate and in our home States about the six pillars of character which the Senator from New Mexico and the Senator from Georgia have outlined, along with others in the character counts coalition, others outside of Government. I will not review all of those details because they have been spread on the record, but I think it is appropriate for us to pause for a moment and talk about the impact that we have had with this effort.

As I have talked about this in my own home State, the reaction has been: "Why are you doing this? Why take the time to talk about something so much a cliche as character—character counts for our kids. Well, everybody is for that. It is like the old cliche, truth, justice and the American way coming out of the comic book character. We don't need to talk about that. Everybody agrees about that."

And then, as I talk about it, some more people begin to realize that maybe we do need to talk about it. Because bit by bit over the years, the American commitment to individual character, the American commitment to teaching individual character attributes to our children has diminished, not by design but more by inertia.

If you watch the television today, that being our principal source of entertainment and information, you find that references to character are constantly being eroded. For the sake of today's television drama, we glorify selfishness. For the sake of today's television action, we glorify someone who triumphs in a physical way out of a sense of selfishness, and cleverness and character and commitment and cooperation all seem to be disappearing.

What we have done with the character counts coalition is reintroduce into the national dialog those aspects of character that we ought to be talking about. Have we made a dramatic impact? No. Have we caused great national consciousness to rise on these issues? No. But have we begun to turn over one little pebble at a time in the great national mosaic references to selfishness and self-glory and turn them over to become references to cooperation and character? Yes. Over time, that is the slow, steady process that will change the mosaic, that will change the overall look of the national scene.

So we are in this, I say to the Senator and to the Senate as a whole, for the long term. We are in this to keep this dialog going one stone at a time in the mosaic. When we view it in that fashion, I am very gratified by the progress we have made since the last Congress. As we keep the dialog going, as we keep the steady drumbeat going, we have hopes and, indeed, indication that we are succeeding in quietly and slowly turning around this debate.

So I hope that we can keep this up. I commend the Senator from New Mexico for his diligence and his persistence, and that in some future Congress, people will look back and say, "You know, it was slow and steady, but ultimately those people determined to inject character education into our national fabric have produced the long-term effects that they were hoping for."

Thus, Mr. President, I am delighted to be associated with this. I pledge myself to stay in for the long term, the way the Senator from New Mexico is in for the long term, and I have hope that in the long term we will see the deterioration of character that has been going on in this country for so long begin to turn around and change and go in the right direction.

I thank the Senator for his leadership and pledge myself to this effort.

Mr. DOMENICI. Mr. President, I yield 4 minutes to the Senator from Tennessee.

CHARACTER IS UNIVERSAL

Mr. FRIST. Mr. President, I rise today to join my colleagues on both sides of the aisle to speak just for a few moments on character.

Last year, this body passed a resolution that formally endorsed the six character traits set forth in Aspen, CO, in 1992 by a group of scholars, educators, and youth advocates.

People with different backgrounds came together in Aspen in search of consensus on character. Despite their differences, they found that all could agree on those values of trustworthiness, respect, responsibility, fairness, caring, and citizenship.

Mr. President, consensus on character is possible because character is universal, because character counts. The stamp of character has always been unmistakable. We have seen it in our leaders, in people like Abraham Lincoln and Rosa Parks. We have seen it in our communities, in volunteers who give of their time, their energy, and their resources on behalf of those less fortunate.

We have all glimpsed the glory of character in our lifetimes. And in our heart of hearts, we know that the worth of character outweighs those fleeting benefits of cheap substitutes such as wealth and power.

Yet, throughout history, Mr. President, character has been under unrelenting assault. Today in this country, many of our children simply do not even know the meaning of the word. There are very few role models, very few heroes. Even here in Washington, where character should be synonymous with leadership, many pursue less worthy goals.

The time has come, Mr. President, for those in Washington to stand up and up the ante. Battles have been lost but the war is far from over.

Having just spent every day of last year interacting with Tennesseans, traveling to every county throughout Tennessee, I can say that there is a hunger across America for community built on character.

We must teach our children, first by example, and then through lessons of the past, that character counts.

Today, I urge my colleague to renew their commitment to high personal standards, whatever the cost, and endorse this resolution. We were elected to do no less.

Thank you, Mr. President.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. Do I not have time?

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator is correct. The Senator has 4 minutes and 15 seconds.

Mr. DOMENICI. I was going to yield the remainder of the time to Senator DORGAN, a new member of the coalition.

CHARACTER COUNTS

Mr. DORGAN. Mr. President, I am delighted to join my colleague from New Mexico on this resolution, proclaiming that character counts. A group of people in this body and in our country have put together an effort here that I think is important to our young people.

As I was thinking about coming over and talking about character today, I remembered something I read about an 11-year-old boy named Robert Sandifer. Robert is dead. He lies today in a coffin somewhere in the city of Chicago, killed by a bullet to the back of his head at age 11.

At that young age, Robert, who by then had 23 felony charges, was 4 feet 6 inches tall and weighed no more than about 85 pounds. He was buried with a stuffed animal in his casket, as family and friends said their goodbyes.

In Robert's 11 years, he lived the life of a hardened criminal. Yet, if we look at the rest of his life, when he was taken from his mother in 1986, State social workers found scars on his face, cord-like marks on his abdomen, and cigarette burns on his neck and his buttocks. He was a victim of substantial abuse, who turned to a life of crime and then was executed at the age of 11.

As we look at Robert's life, we can feel sorry for him for the abuse he suffered, but we shouldn't make excuses for his behavior. During the course of his young life, Robert had already committed substantial, violent criminal acts. And it seems to me, there comes a time when we need to stand up and say what he did was wrong, despite the reasons he might have had for turning to a life of crime.

Is Robert's story unusual? No, not really. Day after day, in city after city, we hear stories like this. And it breaks your heart. Something is wrong in this country. Something is dramatically wrong, and we need to fix it.

How do we fix it? Well, we have to again begin teaching values and character in this country—in our homes, in our communities, in our schools, in our churches. We need to reinforce the importance of good moral character every day, in every way.

Edmund Burke once stated, "All that is necessary for evil to triumph is for good people to do nothing." Good people all across this country must look around and understand that, in many respects, our moral compass is off.

Two of our major growth industries in America are security and gambling. Those are the growth industries. If you want to get in on the ground floor and get a good job, work as a prison or security guard or for the gambling industry.

Or, for another indication of what's wrong in our country, turn on the television this morning; what do we see? We entertain ourselves by other people's dysfunctional behavior and portray it as normal. Oprah, Phil, Ricki, Geraldo—we amuse ourselves by watching all of this dysfunctional behavior.

What are our children to think, watching violence hour after hour, night after night, on television? The average child will see 8,000 murders on

TV before leaving elementary school. What are our people, especially our young people, to think?

The effort called for in the character counts resolution is very simple. It is to say that all people, good people in this country, people in their homes and in their communities, in school after school across our country, need to, every day and in every way, teach our kids about certain basic values—about trustworthiness, about respect, about justice, about caring, about responsibility, about citizenship. It is our job to reinforce in every conceivable way those kinds of values in America's youth.

I understand that bad news travels halfway around the world before good news gets its shoes on. I understand all that. There is plenty of bad news and there are plenty of storm clouds in this country when we talk about American youth.

But I also recognize that there are many wonderful stories as well, about young people across our country doing well and caring and helping others, and we should reaffirm their efforts.

On the other hand, when we see and hear the gripping, wrenching stories of Robert Sandifer and others, we need to understand that these are things we can do something about.

Character counts is an effort, an educational effort and a citizenship effort all across this country, to say kids matter, values matter, character matters, and we can do something about it if we only work together and try. That is why I am pleased to join my colleague from New Mexico and others in this Chamber as a sponsor of this resolution, and I hope we will pass this measure and give voice to this kind of initiative.

I yield the floor.

Mr. DODD. Mr. President, I am pleased this morning to join with the distinguished Senator from New Mexico and a bipartisan group of my colleagues to submit this Senate Resolution designating October 15 through October 21, 1995, as National Character Counts Week.

One does not need a doctorate in sociology to know that something has gone terribly wrong for many young Americans. Teen pregnancy is exploding; violence by and against children is out of control; basic norms of civility have broken down in too many troubled communities.

Births to unwed women increased 70 percent between 1983 and 1993, according to the Census Bureau. Last year, one in four American children under 18 lived with a single parent who had never been married. Deaths of children due to homicide have tripled since 1960, becoming the fourth leading cause of death among children ages 1 to 9, the third leading cause for children 10 to 14, and the second leading cause of death for adolescents ages 15 to 19. The perpetrators of these crimes are very often other children.

A series of complex trends have caused these problems, and there are no easy solutions to them. Better education, prevention, and punishment, and help for families in trouble must all play a role. But we must also acknowledge that there is only so much government can do. An effective cure for the plagues devastating young America must include a large dose of individual responsibility and character building.

That is why I am so pleased to continue to be a part of the informal Senate Character Counts Coalition, led by Senator DOMENICI. My colleagues and I began last year to promote the idea of character education in our public schools as a part of the solution to the problems that plague young America. And we continue that effort today.

I believe that it is entirely appropriate for schools to teach students the importance of qualities like honesty, courage, respect, responsibility, fairness, caring, citizenship, and loyalty. These ideals are not controversial, revolutionary concepts. They transcend individual religions and philosophies.

Education should be more than the transmission of facts. It should be more than the molding of an intellect. Education should help teach young people all they need to know to be full participants in our society. Strengthening the mind is not enough: We should also nurture the character.

While I believe this approach is common sense to most Americans, it has nonetheless raised eyebrows and concerns about the appropriate role of the schools. I believe these concerns are unfounded. Clearly, schools will never replace the family. Parents and grandparents, churches, and synagogues should and will always be the primary influences on children's values and systems of belief. To promote character education is not to challenge those influences, but to complement them.

Character education is an idea whose time has come, and Congress has begun to recognize that fact. Last year's Improving America's Schools Act included several provisions that offer new support for character education. An amendment I offered to the Safe and Drug-Free Schools and Communities Act provides local schools with more flexibility to use these Federal funds for character education.

During consideration by the full Senate of the same bill, Senator DOMENICI and I expanded on this effort by adopting an additional and distinct programs to provide grants for States and local partnerships that want to implement character education programs. In addition, Congress also established the first National Character Counts Week, which was celebrated in schools and communities across the country.

Character education alone will obviously not solve this country's moral crisis or save young America. But it should certainly be part of any plan to help young America save itself.

For these reasons, I am very pleased to join once again with Senator DOMENICI, Senator NUNN, and others to submit this resolution to establish a 1995 National Character Counts Week. I hope my other colleagues will join us in supporting this and other character education efforts.

Ms. MIKULSKI. Mr. President, I want to thank the Senator from New Mexico for being the organizer of the Character Counts Coalition here in the U.S. Senate.

We are men and women, Democrats and Republicans, from all geographic parts of the United States of America, and we are united with one voice today to talk about why character counts and why we need to instill these pillars of character in our public schools, our nonprofit organizations, and throughout the United States of America through every cultural method of communication.

Mr. President, we are 6 years from the year 2000. A new century is coming. A new millennium is about to be born. We in America need to ask ourselves, what will the United States of America be in the 21st century? Will we be a superpower? Yes. We will be a superpower because of our economic structure. We will be a superpower because of our military might. But we will also be a superpower because the people of the United States have been empowered by a set of values.

I believe the continuity that will sustain us between the centuries is our values. It is the core values that are expressed in the pillars of character, trustworthiness, fairness, justice and caring, civic virtue, and citizenship. These are the aspects of continuity that will help us not only cope with change but to embrace change and lead us into the 21st century.

For some time, I have been concerned that in the United States of America we have gone from being a progressive society to being a permissive society. Instead of having character, you are rewarded if you are a character.

To that end, I have been concerned that we call celebrities heroes. I will tell you what a hero really is. It is a man or woman who makes significant personal sacrifice, maybe even risking their lives for a greater good with no personal gain.

Right now, there are foster mothers throughout the United States of America caring for children who are abused, caring for children who have AIDS. Those people are heroes.

They are willing to make personal sacrifices with no personal gain for the greater good. They are people with strong values.

They know they have a call to duty, a call to responsibility and understanding that for every right there is a responsibility, for every opportunity there is an obligation.

Mr. President, we need to keep advocating a society based on virtue and value and not a society where every aspect of our cultural communication regards and exploits violence and vulgarity. This is not what the United States is about, and this is not what built the United States of America.

What built America was virtue and value. Those are the ties that bind, the habits of the heart, neighbor helping neighbor, personal respect for yourself and respect for others.

This coalition wants to reinforce those values that have sustained America through good times and bad, through war and through peace. That is why I am advocating the Character Coalition and the inculcation of these values once again through our public schools and nonprofits.

My State of Maryland has been dedicated to character education. Over a decade ago, Blair Lee, a former Governor, had a values commission. Our Maryland attorney general encouraged values to be taught in the schools. We are now again moving on innovative character education programs.

In my own hometown of Baltimore, the public schools are making sure that character counts. In many of our schools and higher education facilities, they are looking at how to have institutes to be able to advocate character.

Mr. President, this initiative is important because we need to concentrate on community building and individual capacity among our young people so they can be part of a larger community. We need to be sure that we strengthen the American family and extend that to a larger community.

I am happy to lend my voice and my efforts for a cause that I believe transcends party and geographic lines because it is not only the laws on the books that help govern us as a society, it is the laws you carry in your heart that govern your day to day behavior, and the way you react with one another, your neighbors, and the larger community. I believe the pillars of character count, and I am happy to be part of this coalition.

Mr. LIEBERMAN. Mr. President, I am pleased to join Senator DOMENICI and other cosponsors of this resolution designating the week of October 15, 1995, as Character Counts Week. This is the second year I have worked with a bipartisan group of Senators to promote character education. Our goal is to support the many Americans who are working to strengthen the moral fiber of our children through character education. The resolution specifically embraces six ethical values common to this diverse group of Senators and, we believe, to all Americans—trustworthiness, respect, responsibility, fairness, caring, and citizenship.

We are dedicated to instilling these six pillars of character in our youth. Too many forces in our society teach children to reject these values and too few individuals and institutions reinforce them. The media often glorifies deceitful, violent characters. The breakdown of the family has left many children without consistent caretakers and role models that can nourish their moral development. Even some government policies send the wrong message. Our current welfare system, for example, fosters dependency rather than responsibility and self-sufficiency.

This resolution reflects our support for the education, community, and religious organizations that are working at the grassroots level to promote character education. As politicians we should reinforce their efforts wherever we can. Too often politicians are wary of using their position and the law to reinforce specific moral objectives for fear of weakening the separation of church and state. But the laws society enacts and observes are ultimately expressions of values. They serve as a moral structure for our civilization. We cannot and should not downplay this connection.

This resolution will help reinforce the importance of developing our children's character and will add momentum to the many character education programs underway today. I am committed to working with my colleagues to find other ways to build character education into public and private programs through our political leadership and legislative work.

SENATE RESOLUTION 104—RELATIVE TO S. 676

Mr. GRAMS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 104

Resolved, That the bill S. 676 entitled "A bill for the relief of D.W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota, and for other purposes." is referred, with all accompanying papers, to the chief judge of the United States Court of Federal Claims for a report in accordance with sections 1492 and 2509 of title 28, United States Code.

SENATE RESOLUTION 105—RELATIVE TO IRAN

Mr. D'AMATO submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 105

Whereas, an estimated crowd of 100,000 Iranian people assembled in Southern Teheran on April 4, 1995 to protest sharp price increases and a shortage of water, and other important staples of daily life;

Whereas, the Iranian Revolutionary Guard and the Bassidj, a political militia, have been granted the right to "shoot-to-kill" in order to quell disturbances;

Whereas, these force, supplemented by armed helicopter gunships, on April 14, 1995, opened fire on the demonstrators killing as many as 150 people, thereby ending the protest: Now, therefore, be it

Resolved, That it is the Sense of the Senate that the President should—

Immediately condemn this brutal suppression of a crowd of protesters resulting in the death of as many as 150 people by the Government of Iran and instruct the United States Ambassador to the United Nations to bring this matter before the United Nations Security Council with the intent of pursuing a Security Council condemnation of Iran.

• Mr. D'AMATO. Mr. President, I submit a sense-of-the-Senate resolution condemning the violent suppression of a protest in Southern Teheran yesterday by the Iranian Revolutionary Guards and the political militia. The protesters were demonstrating against the doubling of public transportation, gasoline, basic foodstuffs, and drinking water.

When the protesters gathered in the morning of April 4, 1995, their numbers were few. By the afternoon, the crowd swelled to over 100,000. According to Iranfax, a daily brief on Iranian affairs, the crowd overwhelmed police who were shooting tear gas at them and seized their weapons. As the protests spread to other districts in Teheran, the Government called out the Revolutionary Guards and the Bassidj, a political militia, to quell the riots.

Soon, helicopter gunships and troops arrived and began to fire into the crowds. According to the latest reports, at least 150 people died in the attacks. We have no way of knowing how many were injured. Owing to the order of last year that allowed for a shoot-to-kill policy by government troops against civilians, this outcome should have been expected.

Nor should this be surprising because it came from this terrorist regime. Any government willing to do this to its own people, will have no qualms about killing and maiming foreigners. This is why Iran is so dangerous.

This resolution is simple. It requests that the President immediately condemn this brutal act and instruct the United States Ambassador to the United Nations to bring this matter before the Security Council with the intent of pursuing a Security Council condemnation of Iran.

Mr. President, we cannot allow Iran to slaughter its people. This brutal regime has abused the human rights of so many people, inside its country and outside. The time for their atrocious abuses to end is now.

I hope that my colleagues join me in support of this important resolution.•

AMENDMENTS SUBMITTED

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

INOUYE AMENDMENT NO. 453

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes; as follows:

In chapter V of title I, under the heading "CONSTRUCTION" under the heading "SMITHSONIAN INSTITUTION" under the heading "OTHER RELATED AGENCIES" strike ": *Provided further*, That notwithstanding any other provision of law, the provisions of the Davis-Bacon Act shall not apply to any contract associated with the construction of facilities for the National Museum of the American Indian.".

WELLSTONE AMENDMENTS NOS. 454–456

(Ordered to lie on the table.)

Mr. WELLSTONE submitted three amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill (H.R. 1158), supra; as follows:

AMENDMENT NO. 454

On page 31, strike lines 10 through 13.

On page 55, line 4, strike "$4,800,000,000" and insert "$4,758,000,000".

AMENDMENT NO. 455

On page 31, strike lines 14 through 18.

On page 55, line 4, strike "$4,800,000,000" and insert "$4,758,000,000".

AMENDMENT NO. 456

On page 6, strike lines 8 through 13.

On page 55, line 4, strike "$4,800,000,000" and insert "$4,765,000,000".

PACKWOOD AMENDMENT NO. 457

(Ordered to lie on the table.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill (H.R. 1158), supra; as follows:

At the appropriate place add the following new section:

SEC. . Nothing in section 204 of the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) shall be construed to affect the applicability of the Federal Advisory Committee Act (5 U.S.C. App.) to meetings between Federal, State, and tribal officials concerning Federal efforts to increase salmon populations in the Columbia River Basin. Federal establishment or utilization of advisory committees (as defined under section 3(2) of the Federal Advisory Committee Act) to assist the Federal Government in such efforts shall continue to be governed by the Federal Advisory Committee Act.

BINGAMAN AMENDMENTS NOS. 458–459

(Ordered to lie on the table.)

Mr. BINGAMAN submitted two amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill (H.R. 1158), supra; as follows:

AMENDMENT NO. 458

On pages 35 through 43, strike all beginning with "$15,200,000" on page 35, line 21, through "$1,300,000,000" on page 43, line 17, and insert in lieu thereof the following:

"$5,200,000 are rescinded as follows: from the Elementary and Secondary Education Act of 1965, title X–B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

SEC. 602. Of the funds made available in fiscal year 1995 to the Department of Labor in Public Law 103-333 for compliance assistance and enforcement activities, $8,975,000 are rescinded.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $650,000 are rescinded.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public law 103-283, $600,000 are rescinded.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $150,000 are rescinded.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $8,867,000 are rescinded.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(RESCISSION)

Of the funds made available under this heading in Public Law 103-307, $10,628,000 are rescinded.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

(RESCISSION)

Of the funds made available under this heading in Public Law 103-307, $93,566,000 are rescinded.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

OFFICE OF THE SECRETARY

WORKING CAPITAL FUND

(RESCISSION)

The obligation authority under this heading in Public Law 103-331 is hereby reduced by $4,000,000.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds made available under this heading, $5,300,000 are rescinded: *Provided*, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of Title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation: *Provided further*, That no funds under this head shall be available for payments to air carriers under subchapter II.

COAST GUARD

OPERATING EXPENSES

(RESCISSION)

Of the amounts provided under this hearing in Public Law 103-331, $3,700,000 are rescinded.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(RESCISSION)

Of the available balances under this heading, $34,298,000 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

(RESCISSION)

Of the amounts provided under this heading in Public Law 103-331, $400,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded: *Provided*, That the following proviso in Public Law 103-331 under this heading is repealed, "*Provided further*, That of the funds available under this head, $17,500,000 is available only for permanent change of station moves for members of the air traffic work force".

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $31,850,000 are rescinded.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this account, $1,310,000,000".

Mr. LEVIN. Mr. President, the Senator from Minnesota has raised an important issue, whether the benefits of national nutritional standards for families and children receiving Federal food assistance could be reduced if each State were given the power to determine its own standards. There is another issue which is also overlooked:

Federal nutritional messages are sometimes inconsistent and can result in national standards that do not make sense. Such standards should be amended to be more consistent with USDA's nutritional advice to WIC and other food program participants.

The USDA and other Federal agencies and nutritional experts advise that fruit is an essential element of a nutritional diet. The USDA's food pyramid specifically recommends that people eat 2 to 4 servings of fruit per day. The WIC Program distributes literature urging that participants eat fruit and "use fruit in cereal." Yet, USDA still enforces a regulation prohibiting the inclusion of certain nutritious cereals, such as Raisin Bran, in the WIC food package because of the sugar content of the fruit they contain.

That makes no sense.

USDA should revise its current WIC Program regulations to conform to its own dietary and nutritional guidelines. USDA is being inconsistent when it does not allow WIC participants to purchase cereals because of the recommended fruit they contain. It is because of this kind of regulation that national standards fall into disrepute, and encourage calls for State assumption of Federal standard-making authority.

Amendment No. 459

On pages 35 through 43, strike all beginning with "$15,200,000" on page 35, line 21, through "$1,300,000,000" on page 43, line 17, and insert in lieu thereof the following: "$5,200,000 are rescinded as follows: from the Elementary and Secondary Education Act of 1965, title X–B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,916,000 are rescinded from title II, part B, section 222 of the Higher Education Act.

Related Agencies

Corporation for Public Broadcasting

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $26,360,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $29,360,000 are rescinded.

Railroad Retirement Board

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,000,000 are rescinded.

GENERAL PROVISIONS

Federal Direct Student Loan Program

Sec. 601. Section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended—

(1) by striking "$345,000,000" and inserting "$250,000,000"; and

(2) by striking "$2,500,000,000" and inserting "$2,405,000,000".

Sec. 602. Of the funds made available in fiscal year 1995 to the Department of Labor in Public Law 103–333 for compliance assistance and enforcement activities, $8,975,000 are rescinded.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

Payments to Widows and Heirs of Deceased Members of Congress

For payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $650,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $187,000 are rescinded.

ARCHITECT OF THE CAPITOL

Capitol Buildings and Grounds

SENATE OFFICE BUILDINGS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $850,000 are rescinded.

CAPITAL POWER PLANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $1,650,000 are rescinded.

GOVERNMENT PRINTING OFFICE

Congressional Printing and Binding

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $5,000,000 are rescinded.

BOTANIC GARDEN

Salaries and Expenses

(RESCISSION)

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $7,000,000 are rescinded.

GOVERNMENT PRINTING OFFICE

Office of Superintendent of Documents

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $600,000 are rescinded.

LIBRARY OF CONGRESS

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $150,000 are rescinded.

Books for the Blind and Physically Handicapped

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $8,867,000 are rescinded.

CHAPTER VIII

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

Military Construction, Army

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,000,000 are rescinded.

Military Construction, Navy

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $13,050,000 are rescinded.

Military Construction, Air Force

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $33,250,000 are rescinded.

Military Construction, Air National Guard

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $1,340,000 are rescinded.

North Atlantic Treaty Organization Infrastructure

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $69,000,000 are rescinded.

Base Realignment and Closure Account, Part II

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,628,000 are rescinded.

Base Realignment and Closure Account, Part III

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $93,566,000 are rescinded.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

OFFICE OF THE SECRETARY

Working Capital Fund

(RESCISSION)

The obligation authority under this heading in Public Law 103–331 is hereby reduced by $4,000,000.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds made available under this heading, $5,300,000 are rescinded: *Provided*, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of Title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation: *Provided further*, That no funds under this head shall be available for payments to air carriers under subchapter II.

COAST GUARD

Operating Expenses

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $3,700,000 are rescinded.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(RESCISSION)

Of the available balances under this heading, $34,298,000 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $400,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded: *Provided*, That the following proviso in Public Law 103–331 under this heading is repealed, "*Provided further*, That of the funds available under this head, $17,500,000 is available only for permanent change of station moves for members of the air traffic work force".

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $31,850,000 are rescinded.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this account, $1,310,000,000".

BRADLEY AMENDMENT NO. 460

(Ordered to lie on the table.)

Mr. BRADLEY submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

On page 4, line 20, strike "$1,500,000" and insert "$12,678,000".

BUMPERS (AND BRYAN) AMENDMENTS NOS. 461–463

(Ordered to lie on the table.)

Mr. BUMPERS (for himself and Mr. BRYAN) submitted three amendments intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

AMENDMENT NO. 461

Strike lines 3–7 on page 4 of the Committee substitute, and insert in lieu thereof the following: "deleting '$85,500,000' and by inserting '$0.'"

AMENDMENT NO. 462

Strike lines 3–7 on page 4 of the Committee substitute, and insert in lieu thereof the following: "deleting "$85,500,000" and by inserting "$50,000,000". *Provided*, That none of these funds may be used for non-generic activities by recipients other than those identified at 7 C.F.R. 1485.13(a)(1)(i)(J), 1485.13(a)(2)(ii), 1485.15(c), or other recipients that are new-to-export entities."

AMENDMENT NO. 463

Add the following immediately after line 16 of the Committee substitute:

"SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

"The paragraph under this heading in Public Law 103–330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": *Provided further*, That notwithstanding any other provision of law, up to $10,000,000 of nutrition services and administration funds may be available for grants to WIC State agencies for promoting immunization through such efforts as immunization screening and voucher incentive programs."

INOUYE (AND McCAIN) AMENDMENT NO. 464

(Ordered to lie on the table.)

Mr. INOUYE (for himself and Mr. McCAIN) submitted an amendment intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

On page 57, line 16, insert after "rescinded," the following: "except that the percentage of such rescission relating to public housing for Indian families shall not exceed the percentage of amounts made available under this heading in Public Law 103–327 for development or acquisition costs of public housing that is allocated for the development or acquisition cost of public housing for Indian families, and".

INOUYE AMENDMENT NO. 465

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

On page 81, line 11, strike "governor of the state" and insert "Governor of a State or the Indian tribe, as defined in section 101(36) of the Act (42 U.S.C. 9601(36)), of an affected reservation".

INOUYE (AND OTHERS) AMENDMENT NO. 466

(Ordered to lie on the table.)

Mr. INOUYE (for himself, Mr. BOND, and Mr. McCAIN) submitted an amendment to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

To the Committee Substitute (Amdt. No. 420).

On page 57, after line 3, insert the following:

HOME INVESTMENT PARTNERSHIPS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, $100,000,000 are rescinded: *Provided*, That the Secretary may transfer to this account funds, up to the amount rescinded by this paragraph, from unobligated balances of the Department of Housing and Urban Development earmarked for incremental housing units.

On page 57, line 14, strike "$451,000,000" and insert in lieu thereof "$351,000,000".

On page 57, line 15, strike "including" and insert in lieu thereof "excluding $100,000,000 previously earmarked for".

STEVENS AMENDMENT NO. 467

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

On page 81, line 18, add a new section as follows:

SEC. . (a) As provided in subsection (b), an Environmental Impact Statement prepared pursuant to the National Environmental Policy Act or a subsistence evaluation prepared pursuant to the Alaska National Interest Lands Conservation Act for a timber sale or offering to one party shall be deemed sufficient if the Forest Service sells the timber to an alternate buyer.

(b) The provision of this section shall apply to the timber specified in the Final Supplement to 1981–86 and 1986–90 Operating Period EIS ("1989 SEIS"), November, 1989, in the North and East Kuiu Final Environmental Impact Statement, January 1993; in the Southeast Chichagof Project Area Final Environmental Impact Statement, September 1992; and in the Kelp Bay Environmental Impact Statement, February 1992, and supplemental evaluations related thereto.

FEINGOLD (AND KOHL) AMENDMENTS NOS. 468–469

(Ordered to lie on the table.)

Mr. FEINGOLD (for himself and Mr. KOHL) submitted two amendments intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

AMENDMENT NO. 468

On page 40, line 11, strike out "$13,050,000" and insert in lieu thereof "$21,050,000".

AMENDMENT NO. 469

On page 68, between lines 6 and 7, insert the following:

CHAPTER XII

DEPARTMENT OF DEFENSE—MILITARY OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

(RESCISSION)

Of the funds available under this heading in title II of Public Law 103–335, $9,000,000 are rescinded.

JEFFORDS (AND OTHERS) AMENDMENT NO. 470

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself, Mr. WELLSTONE, Mr. CHAFEE, Mr. DASCHLE, Mr. ROTH, Mr. KERRY, Mr. CAMPBELL, Mr. HARKIN, Mr. KOHL, Mr. FEINGOLD, Mr. LEAHY, Mr. PELL, and Mr. KENNEDY) submitted an amendment intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

On page 14, line 12, strike the period and insert ", of which not more than $20,500,000 shall constitute a reduction in the amount available for solar and renewable energy activities and at least $14,500,000 shall constitute a reduction in the amount available for nuclear activities.".

LEAHY AMENDMENT NO. 471

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

On page 68, between lines 6 and 7, insert the following:

CHAPTER XII

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

AIRCRAFT PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds available under this heading in title III of Public Law 103-335, $69,300,000 are rescinded.

BOXER AMENDMENT NO. 472

(Ordered to lie on the table.)

Mrs. BOXER submitted an amendment intended to be proposed by her to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

On page 68, between lines 6 and 7, insert the following:

CHAPTER XII

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

(RESCISSION)

Of the funds available under this heading in title III of Public Law 103-335, $11,000,000 are rescinded.

HARKIN (AND OTHERS) AMENDMENTS NOS. 473-474

(Ordered to lie on the table.)

Mr. HARKIN (for himself, Mr. LEAHY, Mr. HOLLINGS, Mr. REID, Mr. PRYOR, Mr. DODD, Mr. KERRY, and Mr. KENNEDY) submitted two amendments intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

AMENDMENT NO. 473

Strike page 7, line 14, through page 36, line 12, and insert:

INTERNATIONAL BROADCASTING OPERATIONS

(RESCISSION)

Of the funds made available under this heading to the Board for International Broadcasting in Public Law 103-317, are rescinded.

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $1,000,000 are rescinded.

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading in Public Law 103-317, $5,000,000 are rescinded.

LEGAL ACTIVITIES

ASSET FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $5,000,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

DRUG COURTS

(RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103-317, $17,100,000 are rescinded.

OUNCE OF PREVENTION COUNCIL

(INCLUDING RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103-317, $1,000,000 are rescinded.

In addition, under this heading in Public Law 103-317, after the word "grants", insert the following: "and administrative expenses". After the word "expended", insert the following: ": *Provided*, That the Council is authorized to accept, hold, administer, and use gifts, both real and personal, for the purpose of aiding or facilitating the work of the Council".

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $19,500,000 are rescinded.

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317 for the Manufacturing Extension Partnership and the Quality Program, $27,100,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $37,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $8,000,000 are rescinded.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $1,500,000 are rescinded.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $7,600,000 are rescinded.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSIONS)

Of unobligated balances available under this heading pursuant to Public Law 103-75, Public Law 102-368, and Public Law 103-317, $47,384,000 are rescinded.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

UNITED STATES COURT OF INTERNATIONAL TRADE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $1,000,000 are rescinded.

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $4,100,000 are rescinded.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $15,000,000 are rescinded: *Provided*, That no funds in that public law shall be available to implement section 24 of the Small Business Act, as amended.

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of funds made available under this heading in Public Law 103-317, $15,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $2,000,000 are rescinded.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $30,000,000 are rescinded.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $14,617,000 are rescinded.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $4,000,000 are rescinded, of which $2,000,000 are from funds made available for activities related to the implementation of the Chemical Weapons convention.

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

From unobligated balances available under this heading, $2,000,000 are rescinded.

UNITED STATES INFORMATION AGENCY

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $5,000,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

RADIO FREE ASIA

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

GENERAL INVESTIGATIONS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $10,000,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $50,000,000 are rescinded.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

OPERATION AND MAINTENANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

DEPARTMENT OF ENERGY

Energy Supply, Research and Development Activities

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $81,500,000 are rescinded.

Atomic Energy Defense Activities

Defense Environmental Restoration and Waste Management

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $113,000,000 are rescinded.

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316, and prior years' Energy and Water Development Acts, $15,000,000 are rescinded.

Departmental Administration

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $20,000,000 are rescinded.

Power Marketing Administrations

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $30,000,000 are rescinded.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Authority Fund

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316 $5,000,000 are rescinded.

CHAPTER IV

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

(RESCISSION)

Of the unearmarked and unobligated balances of funds available in Public Law 103–87 and Public Law 103–306, $100,000,000 are rescinded: *Provided*, That not later than thirty days after the enactment of this Act the Director of the Office of Management and Budget shall submit a report to Congress setting forth the accounts and amounts which are reduced pursuant to this paragraph.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the funs available under this heading in Public Law 103–332, $70,000 are rescinded, to be derived from amounts available for developing and finalizing the Roswell Resource Management Plan/Environmental Impact Statement and the Carlsbad Resource Management Plan Amendment/Environment Impact Statement: *Provided*, That none of the funds made available in such Act or any other appropriations Act may be used for finalizing or implementing either such plan.

CONSTRUCTION AND ACCESS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–332, Public Law 103–138, and Public Law 102–381, $2,100,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–381, Public Law 101–121, and Public Law 100–446, $1,497,000 are rescinded.

United States Fish and Wildlife Service

RESOURCE MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds made available under this heading or the heading Construction and Anadromous Fish in Public Law 103–332, Public Law 103–138, Public Law 103–75, Public Law 102–381, Public Law 102–154, Public Law 102–368, Public Law 101–512, Public Law 101–121, Public Law 101–446, and Public Law 100–202, $13,215,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, and Public Law 101–512, $3,893,000 are rescinded.

National Biological Survey

RESEARCH, INVENTORIES, AND SURVEYS

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332 and Public Law 103–138, $12,544,000 are rescinded.

National Park Service

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $25,970,000 are rescinded.

URBAN PARK AND RECREATION FUND

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $7,480,000 are rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, Public Law 102–154, Public Law 101–512, Public Law 101–121, Public Law 100–446, Public Law 100–202, Public Law 99–190, Public Law 98–473, and Public Law 98–146, $11,297,000 are rescinded.

Minerals Management Service

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $814,000 are rescinded.

Bureau of Indian Affairs

OPERATION OF INDIAN PROGRAMS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $11,350,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103–332 is amended by striking "$330,111,000" and inserting in lieu thereof "$329,361,000".

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $9,571,000 are rescinded.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

(RESCISSION)

Of the funds provided under this heading in Public Law 103–332, $1,900,000 are rescinded.

Territorial and International Affairs

ADMINISTRATION OF TERRITORIES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,900,000 are rescinded.

TRUST TERRITORY OF THE PACIFIC ISLANDS

(RESCISSION)

Of the funds available under this heading in Public Law 99–591, $32,139,000 are rescinded.

COMPACT OF FREE ASSOCIATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $1,000,000 are rescinded.

DEPARTMENT OF AGRICULTURE

Forest Service

FOREST RESEARCH

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $6,000,000 are rescinded.

STATE AND PRIVATE FORESTRY

(RESCISSION)

Of the funds available under this heading in Public Law 103–332 and Public Law 103–138, $6,250,000 are rescinded.

INTERNATIONAL FORESTRY

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and

Public Law 102-381, $7,824,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103-332 is amended by striking "1994" and inserting in lieu thereof "1995".

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-332, Public Law 103-138 and Public Law 102-381, $3,020,000 are rescinded.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $20,750,000 are rescinded.

NAVAL PETROLEUM AND OIL SHALE RESERVES

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $11,000,000 are rescinded.

ENERGY CONSERVATION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-332, $34,928,000 are rescinded.

Of the funds available under this heading in Public Law 103-138, $13,700,000 are rescinded.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $2,000,000 are rescinded.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

(RESCISSIONS)

Of the funds available under this heading in Public Law 102-381, and Public Law 103-138, $1,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102-154, Public Law 102-381, Public Law 103-138, and Public Law 103-332, $11,237,000 are rescinded: *Provided*, That of the amounts proposed herein for rescission, $2,500,000 are from funds previously appropriated for the National Museum of the American Indian: *Provided further*, That notwithstanding any other provision of law, the provisions of the Davis-Bacon Act shall not apply to any contract associated with the construction of facilities for the National Museum of the American Indian.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $407,000 are rescinded.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $3,000,000 are rescinded.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $1,000,000 are rescinded.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $5,000,000 are rescinded.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $5,000,000 are rescinded.

GENERAL PROVISIONS

SEC. 501. No funds made available in any appropriations Act may be used by the Department of the Interior, including but not limited to the United States Fish and Wildlife Service and the National Biological Service, to search for the Alabama sturgeon in the Alabama River, the Cahaba River, the Tombigbee River or the Tennessee-Tombigbee Waterway in Alabama or Mississippi.

SEC. 502. (a) None of the funds made available in Public Law 103-332 may be used by the United States Fish and Wildlife Service to implement or enforce special use permit numbered 72030.

(b) The Secretary of the Interior shall immediately reinstate the travel guidelines specified in special use permit numbered 65715 for the visiting public and employees of the Virginia Department of Conservation and Recreation at Back Bay National Wildlife Refuge, Virginia. Such guidelines shall remain in effect until such time as an agreement described in subsection (c) becomes effective, but in no case shall remain in effect after September 30, 1995.

(c) It is the sense of Congress that the Secretary of the Interior and the Governor of Virginia should negotiate and enter into a long term agreement concerning resources management and public access with respect to Back Bay National Wildlife Refuge and False Cape State Park, Virginia, in order to improve the implementation of the missions of the Refuge and Park.

SEC. 503. (a) No funds available to the Forest Service may be used to implement Habitat Conservation Areas in the Tongass National Forest for species which have not been declared threatened or endangered pursuant to the Endangered Species Act, except that with respect to goshawks the Forest Service may impose interim Goshawk Habitat Conservation Areas not to exceed 300 acres per active nest consistent with the guidelines utilized in national forests in the continental United States.

(b) The Secretary shall notify Congress within 30 days of any timber sales which may be delayed or canceled due to the Goshawk Habitat Conservation Areas described in subsection (a).

SEC. 504. RENEWAL OF PERMITS FOR GRAZING ON NATIONAL FOREST LANDS.

Notwithstanding any other law, at the request of an applicant for renewal of a permit that expires on or after the date of enactment of this Act for grazing on land located in a unit of the National Forest System, the Secretary of Agriculture shall reinstate, if necessary, and extend the term of the permit until the date on which the Secretary of Agriculture completes action on the application, including action required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

CHAPTER VI

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $1,521,220,000 are rescinded, including $46,404,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $15,000,000 for the School-to-Work Opportunities Act, $15,600,000 for title III, part A of the Job Training Partnership Act, $20,000,000 for the title III, part B of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $33,000,000 for carrying out title II, part A of such Act, $472,010,000 for carrying out title II, part C of such Act, $750,000 for the National Commission for Employment Policy and $421,000 for the National Occupational Information Coordinating Committee: *Provided*, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II-B and title II-C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

(RESCISSION)

Of the funds made available under this leading in Public law 103-333, $20,000,000 are rescinded, and amounts which may be expended from the Employment Security Administration account in the Unemployment Trust Fund are reduced from $3,269,097,000 to $3,221,397,000.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

Of the funds made available under this heading in Public Law 103-333, $1,100,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $42,071,000 are rescinded.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $1,300,000 are rescinded. $2,185,935,000, and funds transferred to this account as authorized by section 201(g) of the Social Security Act are reduced to the same amount.

SOCIAL SECURITY ADMINISTRATION

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading in Public Law 103-333, $67,000,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 to invest in a state-of-the-art computing network, $88,283,000 are rescinded.

ADMINISTRATION FOR CHILDREN AND FAMILIES

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, there are rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(E) of the Social Security Act (as amended by Public Law 100–485) is amended by adding before the "and": "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,300,000,000 for the purpose of determining the amount of the payment under subsection (l) to which each State is entitled).".

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

(RESCISSION)

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $6,000,000 are rescinded.

COMMUNITY SERVICES BLOCK GRANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $13,988,000 are rescinded.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $42,000,000 are rescinded from section 639(A) of the Head Start Act, as amended.

ADMINISTRATION ON AGING

(AGING SERVICES PROGRAMS)

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $899,000 are rescinded.

OFFICE OF THE SECRETARY

POLICY RESEARCH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,918,000 are rescinded.

DEPARTMENT OF EDUCATION

EDUCATION REFORM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $82,600,000 are rescinded, including $55,800,000 from funds made available for State and local education systemic improvement, and $11,800,000 from funds made available for Federal activities under the Goals 2000: Educate America Act; and $15,000,000 are rescinded from funds made available under the School to Work Opportunities Act, including $4,375,000 for National programs and $10,625,000 for State grants and local partnerships.

EDUCATION FOR THE DISADVANTAGED

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $80,400,000 are rescinded as follows: $72,500,000 from the Elementary and Secondary Education Act, title I, part A, $2,000,000 from part B, and $5,900,000 from part E, section 1501.

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $211,417,000 are rescinded as follows: from the Elementary and Secondary Education Act, title II–B, $69,000,000, title IV, $75,000,000, title V–C, $2,000,000, title IX–B, $1,000,000, title X–D, $1,500,000, section 10602, $1,630,000, title XII, $20,000,000, and title XIII–A, $8,900,000; from the Higher Education Act, section 596, $13,875,000; from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000; and from funds for the Civil Rights Act of 1964, title IV, $7,412,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $32,380,000 are rescinded from funding for title VII–A and $11,000,000 from part C of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $60,566,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and –B, $43,888,000 and from title IV–A and –C, $8,891,000 from the Adult Education Act, part B–7, $7,787,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $46,583,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 2, $600,000, title IV–A–6, $2,000,000, title V–C, subparts 1 and 3, $16,175,000, title title IX–B, $10,100,000, title IX–E, $3,500,000, title IX–G, $2,888,000, title X–D, $2,900,000, and title XI–A, $500,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $6,424,000.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $3,300,000 are rescinded, including $1,500,000 for construction.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $322,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $15,200,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III–A, $5,000,000, title III–B, $5,000,000, and title X–B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,916,000 are rescinded from title II, part B, section 222 of the Higher Education Act.

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $17,791,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $11,965,000 are rescinded.

AMENDMENT NO. 474

Strike page 7, line, through page 36, line 12, and insert:

INTERNATIONAL BROADCASTING OPERATIONS

(RESCISSION)

Of the funds made available under this heading, to the Board for International Broadcasting in Public Law 103–317, $102,000,000 are rescinded.

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317; $1,000,000 are rescinded.

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading in Public Law 103–317, $5,000,000 are rescinded.

LEGAL ACTIVITIES

ASSET FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

DRUG COURTS

(RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, $17,100,000 are rescinded.

OUNCE OF PREVENTION COUNCIL

(INCLUDING RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, $1,000,000 are rescinded.

In addition, under this heading in Public Law 103–317, after the word "grants", insert the following: "and administrative expenses". After the word "expended", insert the following: ":*Provided*, That the Council is authorized to accept, hold, administer, and use gifts, both real and personal, for the purpose of aiding or facilitating the work of the Council".

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $19,500,000 are rescinded.

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317 for the Manufacturing Extension Partnership and the Quality Program, $27,100,000 are rescinded.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $37,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $8,000,000 are rescinded.

Technology Administration

Under Secretary for Technology/Office of Technology Policy

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,500,000 are rescinded.

National Technical Information Service

NTIS REVOLVING FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $7,600,000 are rescinded.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSIONS)

Of unobligated balances available under this heading pursuant to Public Law 103–75, Public Law 102–368, and Public Law 103–317, $47,384,000 are rescinded.

THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services

UNITED STATES COURT OF INTERNATIONAL TRADE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,100,000 are rescinded.

RELATED AGENCY

Small Business Administration

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded: *Provided*, That no funds in that public law shall be available to implement section 24 of the Small Business Act, as amended.

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds available under this heading in Public Law 103–317, $15,000,000 are rescinded.

DEPARTMENT OF STATE

Administration of Foreign Affairs

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $2,000,000 are rescinded.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $30,000,000 are rescinded.

International Organizations and Conferences

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $14,617,000 are rescinded.

RELATED AGENCIES

Arms Control and Disarmament Agency

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded, of which $2,000,000 are from funds made available for activities related to the implementation of the Chemical Weapons Convention

Board for International Broadcasting

ISRAEL RELAY STATION

(RESCISSION)

From unobligated balances available under this heading, $2,000,000 are rescinded.

United States Information Agency

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

RADIO FREE ASIA

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

GENERAL INVESTIGATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $10,000,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $50,000,000 are rescinded.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

OPERATION AND MAINTENANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

DEPARTMENT OF ENERGY

Energy Supply, Research and Development Activities

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $81,500,000 are rescinded.

Atomic Energy Defense Activities

Defense Environmental Restoration and Waste Management

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Act, $113,000,000 are rescinded.

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316, and prior years' Energy and Water Development Acts, $15,000,000 are rescinded.

Departmental Administration

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $20,000,000 are rescinded.

Power Marketing Administrations

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $30,000,000 are rescinded.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Authority Fund

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $5,000,000 are rescinded.

CHAPTER IV

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

(RESCISSION)

Of the unearmarked and unobligated balances of funds available in Public Law 103–87 and Public Law 103–306, $100,000,000 are rescinded: *Provided*, That not later than thirty days after the enactment of this Act the Director of the Office of Management and Budget shall submit a report to Congress setting forth the accounts and amounts which are reduced pursuant to this paragraph.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $70,000 are rescinded, to be derived from amounts available for developing and finalizing the Roswell Resource Management Plan/Environmental Impact Statement and the Carlsbad Resource Management Plan Amendment Environmental Impact Statement: *Provided*, That none of the funds made available in such Act or any other appropriations Act may be used for finalizing or implementing either such plan.

CONSTRUCTION AND ACCESS

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, and Public Law 102-381, $2,100,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 102-381, Public Law 101-121, and Public Law 100-446, $1,497,000 are rescinded.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading or the Heading Construction and Anadromous Fish in Public Law 103-332, Public Law 103-138, Public Law 103-75, Public Law 102-381, Public Law 102-154, Public Law 102-368, Public Law 101-512, Public Law 101-121, Publc Law 100-446, and Public Law 100-202, $13,215,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-332, Public Law 103-138, Public Law 102-381, and Public Law 101-512, $3,893,000 are rescinded.

NATIONAL BIOLOGICAL SURVEY

RESEARCH, INVENTORIES, AND SURVEYS

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-332 and Public Law 103-138, $12,544,000 are rescinded.

NATIONAL PARK SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $25,970,000 are rescinded.

URBAN PARK AND RECREATION FUND

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $7,480,000 are rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, Public Law 103-138, Public Law 102-381, Public Law 102-154, Public Law 101-512, Public Law 101-121, Public Law 100-446, Public Law 100-202, Public Law 99-190, Public Law 98-473, and Public Law 98-146, $11,297,000 are rescinded.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $814,000 are rescinded.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $11,350,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103-332 is amended by striking "$330,111,000" and inserting in lieu thereof "$329,361,000".

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $9,571,000 are rescinded.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

(RESCISSION)

Of the funds provided under this heading in Public Law 103-332, $1,900,000 are rescinded.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $1,900,000 are rescinded.

TRUST TERRITORY OF THE PACIFIC ISLANDS

(RESCISSION)

Of the funds available under this heading in Public Law 99-591, $32,139,000 are rescinded.

COMPACT OF FREE ASSOCIATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $1,000,000 are rescinded.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-332, $6,000,000 are rescinded.

STATE AND PRIVATE FORESTRY

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-332 and Public Law 103-138, $6,250,000 are rescinded.

INTERNATIONAL FORESTRY

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, Public Law 103-138 and Public Law 102-381, $7,824,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103-332 is amended by striking "1994" and inserting in lieu thereof "1995".

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-332, Public Law 103-138 and Public Law 102-381, $3,020,000 are rescinded.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $20,750,000 are rescinded.

NAVAL PETROLEUM AND OIL SHALE RESERVES

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $11,000,000 are rescinded.

ENERGY CONSERVATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $34,928,000 are rescinded.

Of the funds available under this heading in Public Law 103-138, $13,700,000 are rescinded.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $2,000,000 are rescinded.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

(RESCISSIONS)

Of the funds available under this heading in Public Law 102-381, and Public Law 103-138, $1,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102-154, Public Law 102-381, Public Law 103-138, and Public Law 103-332, $11,237,000 are rescinded: *Provided*, That of the amounts proposed herein for rescission, $2,500,000 are from funds previously appropriated for the National Museum of the American Indian: *Provided further*, That notwithstanding any other provision of law, the provisions of the Davis-Bacon Act shall not apply to any contract associated with the construction of facilities for the National Museum of the American Indian.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-332, $407,000 are rescinded.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $3,000,000 are rescinded.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $1,000,000 are rescinded.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $5,000,000 are rescinded.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103-332, $5,000,000 are rescinded.

GENERAL PROVISIONS

SEC. 501. No funds made available in any appropriations Act may be used by the Department of the Interior, including but not limited to the United States Fish and Wildlife Service and the National Biological Service, to search for the Alabama sturgeon in the Alabama River, the Cahaba River, the Tombigbee River or the Tennessee-Tombigbee Waterway in Alabama or Mississippi.

SEC. 502. (a) None of the funds made available in Public Law 103-332 may be used by the United States Fish and Wildlife Service to implement or enforce special use permit numbered 72030.

(b) The Secretary of the Interior shall immediately reinstate the travel guidelines specified in special use permit numbered 65715 for the visiting public and employees of the Virginia Department of Conservation and Recreation at Back Bay National Wildlife Refuge, Virginia. Such guidelines shall remain in effect until such time as an agreement described in subsection (c) becomes effective, but in no case shall remain in effect after September 30, 1995.

(c) It is the sense of Congress that the Secretary of the Interior and the Governor of Virginia should negotiate and enter into a long term agreement concerning resources management and public access with respect to Back Bay National Wildlife Refuge and False Cape State Park, Virginia, in order to improve the implementation of the missions of the Refuge and Park.

SEC. 503. (a) No funds available to the Forest Service may be used to implement Habitat Conservation Areas in the Tongass National Forest for species which have not been declared threatened or endangered pursuant to the Endangered Species Act, except that with respect to goshawks the Forest Service may impose interim Goshawk Habitat Conservation Areas not to exceed 300 acres per active nest consistent with the guidelines utilized in national forests in the continental United States.

(b) The Secretary shall notify Congress within 30 days of any timber sales which may be delayed or canceled due to the Goshawk Habitat Conservation Areas described in subsection (a).

SEC. 504. RENEWAL OF PERMITS FOR GRAZING ON NATIONAL FOREST LANDS.

Notwithstanding any other law, at the request of an applicant for renewal of a permit that expires on or after the date of enactment of this Act for grazing on land located in a unit of the National Forest System, the Secretary of Agriculture shall reinstate, if necessary, and extend the term of the permit until the date on which the Secretary of Agriculture completes action on the application, including action required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

CHAPTER VI

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,521,220,000 are rescinded, including $46,404,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $15,000,000 for the School-to-Work Opportunities Act, $15,600,000 for title III, part A of the Job Training Partnership Act, $20,000,000 for the title III, part B of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $33,000,000 for carrying out title II, part A of such Act, $472,010,000 for carrying out title II, part C of such Act, $750,000 for the National Commission for Employment Policy and $421,000 for the National Occupational Information Coordinating Committee: *Provided*, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II–B and title II–C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $20,000,000 are rescinded, and amounts which may be expended from the Employment Security Administration account in the Unemployment Trust Fund are reduced from $3,269,097,000 to $3,221,397,000.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

Of the funds made available under this heading in Public Law 103–333, $1,100,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $42,071,000 are rescinded.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,300,000 are rescinded.

NATIONAL INSTITUTES OF HEALTH

BUILDINGS AND FACILITIES

(RESCISSION)

Of the available balances under this heading, $79,289,000 are rescinded.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $14,700,000 are rescinded.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,320,000 are rescinded.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

(RESCISSION)

Of the Federal funds made available under this heading in Public Law 103–333, $3,132,000 are rescinded.

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

(RESCISSION)

Funds made available under this heading in Public Law 103–333 are reduced from $2,207,235,000 to $2,185,935,000, and funds transferred to this account as authorized by section 201(g) of the Social Security Act are reduced to the same amount.

SOCIAL SECURITY ADMINISTRATION

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading Public Law 103–333, $67,000,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 to invest in a state-of-the-art computing network, $88,283,000 are rescinded.

ADMINISTRATION FOR CHILDREN AND FAMILIES

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, there are rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(E) of the Social Security Act (as amended by Public Law 100–485) is amended by adding before the "and": "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,300,000,000 for the purpose of determining the amount of the payment under subsection (l) to which each State is entitled),".

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

(RESCISSION)

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $6,000,000 are rescinded.

COMMUNITY SERVICES BLOCK GRANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $13,988,000 are rescinded.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $42,000,000 are rescinded from section 639(A) of the Head Start Act, as amended.

ADMINISTRATION ON AGING

(AGING SERVICES PROGRAMS)

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $899,000 are rescinded.

OFFICE OF THE SECRETARY

POLICY RESEARCH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,918,000 are rescinded.

DEPARTMENT OF EDUCATION

EDUCATION REFORM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $82,600,000 are rescinded, including $55,800,000 from funds made available for State and local education systemic improvement, and $11,800,000 from funds made available for Federal activities under the Goals 2000: Educate America Act; and $15,000,000 are rescinded from funds made available under the School to Work Opportunities Act, including $4,375,000 for National programs and $10,625,000 for State grants and local partnerships.

EDUCATION FOR THE DISADVANTAGED

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $80,400,000 are rescinded as follows: $72,500,000 from the Elementary and Secondary Education Act, title I, part A, $2,000,000 from part B, and $5,900,000 from part E, section 1501.

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $211,417,000 are

rescinded as follows: from the Elementary and Secondary Education Act, title II–B, $69,000,000, title IV, $75,000,000, title V–C, $2,000,000, title IX–B, $1,000,000, title X–D, $1,500,000,000, section 10602, $1,630,000, title XII, $20,000,000, and title XIII–A, $8,900,000; from the Higher Education Act, section 596, $13,875,000; from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000; and from funds for the Civil Rights Act of 1964, title IV, $7,412,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $32,380,000 are rescinded from funding for title VII–A and $11,000,000 from part C of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $60,566,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and –B, $43,888,000 and from title IV–A and –C, $8,891,000; from the Adult Education Act, part B–7, $7,787,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $46,583,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 2, $600,000, title IV–A–6, $2,000,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–E, $3,500,000, title IX–G, $2,888,000, title X–D, $2,900,000, and title XI–A, $500,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $6,424,000.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $3,300,000 are rescinded, including $1,500,000 for construction.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $322,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $15,200,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III–A, $5,000,000, title III–B, $5,000,000, and title X–B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,916,000 are rescinded from title II, part B, section 222 of the Higher Education Act.

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $17,791,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $11,965,000 are rescinded.

DASCHLE (AND LEVIN) AMENDMENT NO. 475

(Ordered to lie on the table.)

Mr. DASCHLE (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 33 strike lines 1 through line 4 on page 55 and insert the following:

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $236,417,000 are rescinded as follows: from the Elementary and Secondary Education Act, title II–B, $69,000,000, title IV, $100,000,000, title V–C, $2,000,000, title IX–B, $1,000,000, title X–D, $1,500,000, section 10602, $1,630,000, title XII, $20,000,000, and title XIII–A, $8,900,000; from the Higher Education Act, section 596, $13,875,000; from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000; and from funds for the Civil Rights Act of 1964, title IV, $7,412,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $32,380,000 are rescinded from funding for title VII–A and $11,000,000 from part C of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $60,566,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and –B, $43,888,000 and from title IV–A and –C, $8,891,000; from the Adult Education Act, part B–7, $7,787,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $57,783,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 1, $11,200,000, title IV–A–2, chapter 2, $600,000, title IV–A–6, $2,000,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–E, $3,500,000, title IX–G, $2,888,000, title X–D, $2,900,000, and title XI–A, $500,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $6,424,000.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $3,300,000 are rescinded, including $1,500,000 for construction.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $322,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $15,200,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III–A, $5,000,000, title III–B, $5,000,000, and title X–B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,916,000 are rescinded from title II, part B, section 222 of the Higher Education Act.

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $26,360,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $29,360,000 are rescinded.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,000,000 are rescinded.

GENERAL PROVISIONS

FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 601. Section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended—

(1) by striking "$345,000,000" and inserting "$250,000,000"; and

(2) by striking "$2,500,000,000" and inserting "$2,405,000,000".

SEC. 602. Of the funds made available in fiscal year 1995 to the Department of Labor in Public Law 103–333 for compliance assistance and enforcement activities, $8,975,000 are rescinded.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $650,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $187,000 are rescinded.

ARCHITECT OF THE CAPITOL

Capitol Buildings and Grounds

SENATE OFFICE BUILDINGS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $850,000 are rescinded.

CAPITAL POWER PLANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $2,650,000 are rescinded.

GOVERNMENT PRINTING OFFICE

Congressional Printing and Binding

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $5,000,000 are rescinded.

BOTANIC GARDEN

Salaries and Expenses

(RESCISSION)

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $7,000,000 are rescinded.

GOVERNMENT PRINTING OFFICE

Office of Superintendent of Documents

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $600,000 are rescinded.

LIBRARY OF CONGRESS

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $150,000 are rescinded.

Books for the Blind and Physically Handicapped

SALARIES AND EXPENESES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $8,867,000 are rescinded.

CHAPTER VIII

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

Military Construction, Army

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,000,000 are rescinded.

Military Construction, Navy

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $13,050,000 are rescinded.

Military Construction, Air Force

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $33,250,000 are rescinded.

Military Construction, Air National Guard

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $1,340,000 are rescinded.

North Atlantic Treaty Organization Infrastructure

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $69,000,000 are rescinded.

Base Realignment and Closure Account, Part II

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,628,000 are rescinded.

Base Realignment and Closure Account, Part III

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $93,566,000 are rescinded.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

OFFICE OF THE SECRETARY

Working Capital Fund

(RESCISSION)

The obligation authority under this heading in Public Law 103–331 is hereby reduced by $4,000,000.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds made available under this heading, $5,300,000 are rescinded: *Provided*, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of Title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation: *Provided further*, That no funds under this head shall be available for payments to air carriers under subchapter II.

COAST GUARD

Operating Expenses

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $3,700,000 are rescinded.

Acquisition, Construction, and Improvements

(RESCISSION)

Of the available balances under this heading, $34,298,000 are rescinded.

Environmental Compliance and Restoration

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $400,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

Operations

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded: *Provided*, That the following proviso in Public Law 103–331 under this heading is repealed, "*Provided further*, That of the funds available under this head, $17,500,000 is available only for permanent change of station moves for members of the air traffic work force".

Facilities and Equipment

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $31,850,000 are rescinded.

Research, Engineering, and Development

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

Grants-in-Aid for Airports

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this account, $1,300,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on General Operating Expenses

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $45,950,000.

Federal-Aid Highways

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $123,590,000, of which $27,640,000 shall be deducted from amounts made available for the Applied Research and Technology Program authorized under section 307(e) of title 23, United States Code, and $50,000,000 shall be deducted from the amounts available for the Congestion Pricing Pilot Program authorized under section 1002(b) of Public Law 102–240, and $45,950,000 shall be deducted from the limitation on General Operating Expenses: *Provided*, That the amounts deducted from the aforementioned programs are rescinded.

Federal-Aid Highways

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–211, $50,000,000 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Highway Traffic Safety Grants

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $20,000,000 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

Office of the Administrator

(TRANSFER OF FUNDS)

Section 341 of Public Law 103–331 is amended by deleting "and received from the Delaware and Hudson Railroad," after "amended,".

Northeast Corridor Improvement Program

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $7,768,000 are rescinded.

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $250,000,000 are rescinded.

FEDERAL TRANSIT ADMINISTRATION

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103-331 is hereby reduced by $17,650,000: *Provided*, That such reduction shall be made from obligational authority available to the Secretary for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.

Notwithstanding Section 313 of Public Law 103-331, the obligation limitations under this heading in the following Department of Transportation and Related Agencies Appropriations Acts are reduced by the following amounts:

Public Law 102-143, $62,833,000, to be distributed as follows:

(a) $2,563,000, for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities: *Provided*, That the foregoing reduction shall be distributed according to the reductions identified in Senate Report 104-17, for which the obligation limitation in Public Law 102-143 was applied; and

(b) $60,270,000, for new fixed guideway systems, to be distributed as follows:

$2,000,000, for the Cleveland Dual Hub Corridor Project;

$930,000, for the Kansas City-South LRT Project;

$1,900,000, for the San Diego Mid-Coast Extension Project;

$34,200,000, for the Hawthorne-Warwick Commuter Rail Project;

$8,000,000, for the San Jose-Gilroy Commuter Rail Project;

$3,240,000, for the Seattle-Tacoma Commuter Rail Project; and

$10,000,000, for the Detroit LRT Project.

Public Law 101-516, $4,460,000, for new fixed guideway systems, to be distributed as follows:

$4,460,000 for the Cleveland Dual Hub Corridor Project.

GENERAL PROVISIONS

(INCLUDING RESCISSIONS)

SEC. 901. Of the funds provided in Public Law 103-331 for the Department of Transportation working capital fund (WCF), $4,000,000 are rescinded, which limits fiscal year 1995 WCF obligational authority for elements of the Department of Transportation funded in Public Law 103-331 to no more than $89,000,000.

SEC. 902. Of the total budgetary resources available to the Department of Transportation (excluding the Maritime Administration) during fiscal year 1995 for civilian and military compensation and benefits and other administrative expenses, $10,000,000 are permanently canceled.

SEC. 903. Section 326 of Public Law 103-122 is hereby amended to delete the words "or previous Acts" each time they appear in that section.

CHAPTER X

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(TRANSFER OF FUNDS)

Of the funds made available for the Federal Buildings Fund in Public Law 103-329, $5,000,000 shall be made available by the General Service Administration to implement an agreement between the Food and Drug Administration and another entity for space, equipment and facilities related to seafood research.

OFFICE OF PERSONNEL MANAGEMENT

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE BENEFITS

For an additional amount for "Government payment for annuitants, employee life insurance", $9,000,000 to remain available until expended.

DEPARTMENT OF THE TREASURY

DEPARTMENT OFFICES

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $100,000 are rescinded.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $160,000 are rescinded.

UNITED STATES MINT

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

In the paragraph under this heading in Public Law 103-329, insert "not to exceed" after "of which".

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-123, $1,500,000 are rescinded.

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $1,490,000 are rescinded.

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

In the paragraph under this heading in Public Law 103-329, in section 3, after "$119,000,000", insert "annually".

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $171,000 are rescinded.

FEDERAL DRUG CONTROL PROGRAMS

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For activities authorized by Public Law 100-690, an additional amount of $13,200,000, to remain available until expended for transfer to the United States Customs Service, "Salaries and expenses" for carrying out border enforcement activities: *Provided*, That of the funds made available under this heading in Public Law 103-329, $13,200,000 are rescinded.

INDEPENDENT AGENCIES

Of the funds made available under this heading in Public Laws 101-136, 101-509, 102-27, 102-141, 103-123, 102-393, 103-329, $1,842,885,000 are rescinded from the following projects in the following amounts:

Alabama:

Montgomery, U.S. Courthouse annex, $46,320,000

Arkansas:

Little Rock, Courthouse, $13,816,000

Arizona:

Bullhead City, FAA grant, $2,200,000

Lukeville, commercial lot expansion, $1,219,000

Nogales, Border Patrol, headquarters, $2,998,000

Phoenix, U.S. Federal Building, Courthouse, $121,890,000

San Luis, primary lane expansion and administrative office space, $3,496,000

Sierra Vista, U.S. Magistrates office, $1,000,000

Tucson, Federal Building, U.S. Courthouse $121,890,000

California:

Menlo Park, United States Geological Survey office laboratory building, $6,868,000

Sacramento, Federal Building-U.S. Courthouse, $142,902,000

San Diego, Federal building-Courthouse, $3,379,000

San Francisco, Lease purchase, $9,702,000

San Francisco, U.S. Courthouse, $4,378,000

San Francisco, U.S. Court of Appeals annex, $9,003,000

San Pedro, Customhouse, $4,887,000

Colorado:

Denver, Federal building-Courthouse, $8,006,000

District of Columbia:

Central and West heating plants, $5,000,000

Corps of Engineers, headquarters, $37,618,000

General Services Administration, Southeast Federal Center, headquarters, $25,000,000

U.S. Secret Service, headquarters, $113,084,000

Florida:

Ft. Myers, U.S. Courthouse, $24,851,000

Jacksonville, U.S. Courthouse, $10,633,000

Tampa, U.S. Courthouse, $14,998,000

Georgia:

Albany, U.S. Courthouse, $12,101,000

Atlanta, Centers for Disease Control, site acquisition and improvement, $25,890,000

Atlanta, Centers for Disease Control, $14,110,000

Atlanta, Centers for Disease Control, Roybal Laboratory, $47,000,000

Savannah, U.S. Courthouse annex, $3,000,000

Hawaii:

Hilo, federal facilities consolidation, $12,000,000

Illinois:

Chicago, SSA DO, $2,167,000

Chicago, Federal Center, $47,682,000

Chicago, Dirksen building, $1,200,000

Chicago, J.C. Kluczynski building, $13,414,000

Indiana:

Hammond, Federal Building, U.S. Courthouse, $52,272,000

Jeffersonville, Federal Center, $13,522,000

Kentucky:

Covington, U.S. Courthouse, $2,914,000

London, U.S. Courthouse, $1,523,000

Louisiana:

Lafayette, U.S. Courthouse, $3,295,000

Maryland:

Avondale, DeLaSalle building, $16,671,000

Bowie, Bureau of Census, $27,877,000

Prince Georges/Montgomery Counties, FDA consolidation, $284,650,000

Woodlawn, SSA building, $17,292,000

Massachusetts:

Boston, U.S. Courthouse, $4,076,000

Missouri:

Cape Girardeau, U.S. Courthouse, $3,688,000

Kansas City, U.S. Courthouse, $100,721,000

Nebraska:

Omaha, Federal Building, U.S. Courthouse, $9,291,000

Nevada:

Las Vegas, U.S. Courthouse, $4,230,000

Reno, Federal building-U.S. Courthouse, $1,465,000

New Hampshire:

Concord, Federal building-U.S. Courthouse, $3,519,000

New Jersey:

Newark, parking facility, $9,000,000

Trenton, Clarkson Courthouse, $14,107,000

New Mexico:

Albuquerque, U.S. Courthouse, $47,459,000

Santa Teresa, Border Station, $4,004,000

New York:

Brooklyn, U.S. Courthouse, $43,717,000

Holtsville, IRS Center, $19,183,000

Long Island, U.S. Courthouse, $27,198,000

North Dakota:

Fargo, Federal building-U.S. Courthouse, $20,105,000

Pembina, Border Station, $93,000

Ohio:

Cleveland, Celebreeze Federal building, $10,972,000

Cleveland, U.S. Courthouse, $28,246,000

Steubenville, U.S. Courthouse, $2,820,000

Youngstown, Federal Building-U.S. Courthouse, $4,574,000

Oklahoma:

Oklahoma City, Murrah Federal building, $5,290,000

Oregon:

Portland, U.S. Courthouse, $5,000,000

Pennsylvania:

Philadelphia, Byrne-Green Federal building-Courthouse, $30,628,000

Philadelphia, Nix Federal building-Courthouse, $13,814,000

Philadelphia, Veterans Administration, $1,276,000

Scranton, Federal Building-U.S. Courthouse, $9,969,000

Rhode Island:

Providence, Kennedy Plaza Federal Courthouse, $7,740,000

South Carolina:

Columbia, U.S. Courthouse annex, $592,000

Tennessee:

Greeneville, U.S. Courthouse, $2,936,000

Texas:

Austin, Veterans Administration annex, $1,028,000

Brownsville, U.S. Courthouse, $4,339,000

Corpus Christi, U.S. Courthouse, $6,446,000

Laredo, Federal building-U.S. Courthouse, $5,986,000

Lubbock, Federal building-Courthouse, $12,167,000

Ysleta, site acquisition and construction, $1,727,000

U.S. Virgin Islands:

Charlotte Amalie, St. Thomas, U.S. Courthouse, $2,184,000

Virginia:

Richmond, Courthouse annex, $12,509,000

Washington:

Blaine, Border Station, $4,472,000

Point Roberts, Border Station, $698,000

Seattle, U.S. Courthouse, $10,949,000

Walla Walla, Corps of Engineers building, $2,800,000

West Virginia:

Beckley, Federal building-U.S. Courthouse, $33,097,000

Martinsburg, IRS center, $4,494,000

Wheeling, Federal building-U.S. Courthouse, $35,829,000

Nationwide chlorofluorocarbons program, $12,300,000

Nationwide energy program, $15,300,000

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $3,140,000 are rescinded.

CHAPTER XI

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster Relief" for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,900,000,000, to remain available until expended: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $4,783,707,000.

LAUTENBERG AMENDMENTS NOS. 476–478

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted three amendments to be proposed by him to the bill, H.R. 1158, supra; as follows:

AMENDMENT NO. 476

On page 21, line 26, strike "$11,000,000" and insert "$19,400,000".

On page 31, strike lines 10 through 13.

AMENDMENT NO. 477

On page 21, line 26, strike "$11,000,000" and insert "$19,400,000. Notwithstanding any other provision of this Act, no provision shall reduce funding for the Child Care and Development Block Grant."

AMENDMENT NO. 478

On page 21, line 26, strike all that follows through page 31, line 13 and insert the following:

$19,400,000 are rescinded.

ENERGY CONSERVATION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, $34,928,000 are rescinded.

Of the funds available under this heading in Public Law 103–138, $13,700,000 are rescinded.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $2,000,000 are rescinded.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

(RESCISSIONS)

Of the funds available under this heading in Public Law 102–381, and Public Law 103–138, $1,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–154, Public Law 102–381, Public Law 103–138, and Public Law 103–332, $11,237,000 are rescinded: *Provided*, That of the amounts proposed herein for rescission, $2,500,000 are from funds previously appropriated for the National Museum of the American Indian: *Provided further*, That notwithstanding any other provision of law, the provisions of the Davis-Bacon Act shall not apply to any contract associated with the construction of facilities for the National Museum of the American Indian.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $407,000 are rescinded.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,000,000 are rescinded.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

GENERAL PROVISIONS

SEC. 501. No funds made available in any appropriations Act may be used by the Department of the Interior, including but not limited to the United States Fish and Wildlife Service and the National Biological Service, to search for the Alabama sturgeon in the Alabama River, the Cahaba River, the Tombigbee River or the Tennessee-Tombigbee Waterway in Alabama or Mississippi.

SEC. 502. (a) None of the funds made available in Public Law 103–332 may be used by the United States Fish and Wildlife Service to implement or enforce special use permit numbered 72030.

(b) The Secretary of the Interior shall immediately reinstate the travel guidelines specified in special use permit numbered 65715 for the visiting public and employees of the Virginia Department of Conservation and Recreation at Back Bay National Wildlife Refuge, Virginia. Such guidelines shall remain in effect until such time as an agreement described in subsection (c) becomes effective, but in no case shall remain in effect after September 30, 1995.

(c) It is the sense of Congress that the Secretary of the Interior and the Governor of Virginia should negotiate and enter into a long term agreement concerning resources management and public access with respect to Back Bay National Wildlife Refuge and False Cape State Park, Virginia, in order to improve the implementation of the missions of the Refuge and Park.

SEC. 503. (a) No funds available to the Forest Service may be used to implement Habitat Conservation Areas in the Tongass National Forest for species which have not been declared threatened or endangered pursuant to the Endangered Species Act, except that with respect to goshawks the Forest Service may impose interim Goshawk Habitat Conservation Areas not to exceed 300 acres per active nest consistent with the guidelines utilized in national forests in the continental United States.

(b) The Secretary shall notify Congress within 30 days of any timber sales which may be delayed or canceled due to the Goshawk Habitat Conservation Areas described in subsection (a).

CHAPTER VI

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,521,220,000 are rescinded, including $46,404,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $15,000,000 for the School-to-Work Opportunities Act, $15,600,000 for title III, part A of the Job Training Partnership Act, $20,000,000 for the title III, part B of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $33,000,000 for carrying out title II, part A of such Act, $472,010,000 for carrying out title II, part C of such Act, $750,000 for the National Commission for Employment Policy and $421,000 for the National Occupational Information Coordinating Committee: *Provided*, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II–B and title II–C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

(RESCISSIONS)

Of the funds made available in the first paragraph under this heading in Public Law 103–333, $11,263,000 are rescinded.

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $3,177,000 are rescinded.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $20,000,000 are rescinded, and amounts which may be expended from the Employment Security Administration account in the Unemployment Trust Fund are reduced from $3,269,097,000 to $3,221,397,000.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

Of the funds made available under this heading in Public Law 103–333, $1,100,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $42,071,000 are rescinded.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,300,000 are rescinded.

NATIONAL INSTITUTES OF HEALTH

BUILDINGS AND FACILITIES

(RESCISSION)

Of the available balances under this heading, $79,289,000 are rescinded.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $14,7000,000 are rescinded.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,320,000 are rescinded.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

(RESCISSION)

Of the Federal funds made available under this heading in Public Law 103–333, $3,132,000 are rescinded.

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

(RESCISSION)

Funds made available under this heading in Public Law 103–333 are reduced from $2,207,135,000 to $2,185,935,000, and funds transferred to this account as authorized by section 201(g) of the Social Security Act are reduced to the same amount.

SOCIAL SECURITY ADMINISTRATION

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading in Public Law 103–333, $67,000,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 to invest in a state-of-the-art computing network, $88,283,000 are rescinded.

ADMINISTRATION FOR CHILDREN AND FAMILIES

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, there are rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(E) of the Social Security Act (as amended by Public Law 100–485) is amended by adding before the "and": "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,300,000,000 for purposes of determining the amount of the payment under subsection (l) to which each State is entitled),".

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

(RESCISSION)

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $6,000,000 are rescinded.

COMMUNITY SERVICES BLOCK GRANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $26,988,000 are rescinded.

AKAKA AMENDMENT NO. 479

(Ordered to lie on the table.)

Mr. AKAKA submitted an amendment intended to be proposed by him to the bill (H.R. 1158), supra; as follows:

On page 31, strike line 9 and insert the following: "Public Law 103–333, $10,988,000 are rescinded."

On page 31, between lines 9 and 10, insert the following:

"Of the funds made available under this heading in Public Law 103–333 and reserved by the Secretary pursuant to section 674(a)(1) of the Community Services Block Grant Act, $1,900,000 are rescinded."

On page 32, line 5, strike "$2,918,000" and insert "$4,018,000".

MOSELEY-BRAUN AMENDMENT NO. 480

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted an amendment intended to be proposed by her to the bill (H.R. 1158), supra; as follows:

On page 18, line 15, strike "$25,970,000" and insert "$27,970,000".

On page 20, line 23, strike "$6,250,000" and insert "$8,050,000".

On page 21, line 4, strike "$3,000,000" and insert "$4,000,000".

On page 21, line 22, strike "$20,750,000" and insert "$15,950,000".

BOND AMENDMENTS NOS. 481–482

(Ordered to lie on the table.)

Mr. BOND submitted two amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill (H.R. 1158), supra; as follows:

AMENDMENT NO. 481

At the appropriate place in amendment No. 420 add the following:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

The Department of Housing and Urban Development shall employ no more than 90 Schedule C employees at any one time during FY 1995; no person who has been a Schedule C employee during FY 1995 shall be converted to a Schedule A, B, or noncareer or career SES employee during FY 1995, or otherwise hired by contract. The Department of Housing and Urban Development shall employ no more than 22 noncareer SES employees at any one time during FY 1995.

AMENDMENT NO. 482

At the appropriate place in amount No. 420 add the following:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GENERAL PROVISIONS

Section 14(c)(1) of the United States Housing Act of 1937 is amended to read as follows: "(1) which projects are owned or controlled by public housing agencies or are made available to eligible low-income families pursuant to an agreement between the public housing agency and a housing provider.".

GORTON AMENDMENTS NOS. 483–486

(Ordered to lie on the table.)

Mr. GORTON submitted four amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill (H. R. 1158), supra; as follows:

AMENDMENT NO. 483

On page 23, strike lines 17 and 18 and insert in lieu thereof the following:

"Of the available balances under this heading, $3,000,000 are rescinded."

AMENDMENT NO. 484

On page 19, line 2, strike "$11,297,000" and insert: "$9,983,000".

On page 21, line 17, strike $3,020,000" and insert: "$3,720,000".

On page 21, line 17, after "rescinded" insert "and the Chief of the Forest Service shall not exercise any option of purchase or initiate any new purchases of land, with obligated or unobligated funds, in Washington County, Ohio, and Lawrence County, Ohio, during fiscal year 1995".

On page 44, line 77, insert the following:

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL AID HIGHWAYS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this heading in Public Law 100–17, $690,074 are rescinded.

AMENDMENT NO. 485

On page 17 of the bill, strike lines 14 through 17.

AMENDMENT NO. 486

On page 26, after line 2, insert the following:

This section shall only apply to permits that were not extended or replaced with a new term grazing permit solely because the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has not been completed and also shall include permits that expired in 1994 and in 1995 before the date of enactment of this Act.

HATFIELD AMENDMENT NO. 487

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

On page 44 line 16 insert:

": *Provided further*, Of the available contract authority balances under this heading in Public Law 97–424, $13,340,000 are rescinded; and of the available balances under this heading in Public Law 100–17, $126,608,000 are rescinded.

"MISCELLANEOUS HIGHWAY DEMONSTRATION PROJECTIONS

"(RESCISSIONS)

"Of the available appropriated balances provided in Public Law 93–87; Public Law 98–8; Public Law 98–473; and Public Law 100–71, $12,004,450 are rescinded."

HOLLINGS AMENDMENTS NOS. 488–489

(Ordered to lie on the table.)

Mr. HOLLINGS submitted two amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

AMENDMENT NO. 488

On page 9 of the substitute amendment, strike line 1 through line 23 and insert the following:

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $3,100,000 are rescinded.

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $30,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $25,100,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $13,000,000 are rescinded.

GOES SATELLITE CONTINGENCY FUND

(RESCISSION)

Of the unobligated balances available under this heading, $2,500,000 are rescinded.

AMENDMENT NO. 489

On page 7 of the substitute amendment, strike line 13 through line 8 on page 13 and insert the following:

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading in Public Law 103–317, $5,000,000 are rescinded.

LEGAL ACTIVITIES

ASSET FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

DRUG COURTS

(RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, 17,100,000 are rescinded.

OUNCE OF PREVENTION COUNCIL

(INCLUDING RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, $1,000,000 are rescinded.

In addition, under this heading in Public Law 103–317, after the word "grants", insert the following: "and administrative expenses". After the word "expended", insert the following: ": *Provided*, That the Council is authorized to accept, hold, administer, and use gifts, both real and personal, for the purpose of aiding or facilitating the work of the Council".

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $21,000,000 are rescinded.

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Pubic Law 103–317 for the Manufacturing Extension Partnership and the Quality Program, $7,100,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $32,000,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $14,000,000 are rescinded.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $7,600,000 are rescinded.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSIONS)

Of unobligated balances available under this heading pursuant to Public Law 103–75, Public Law 102–368, and Public Law 103–317, $47,384,000 are rescinded.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

UNITED STATES COURT OF INTERNATIONAL TRADE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $6,100,000 are rescinded.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded: *Provided*, That no funds in that public law shall be available to implement section 24 of the Small Business Act, as amended.

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $2,000,000 are rescinded.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $30,000,000 are rescinded.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $20,000,000 are rescinded.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded, of which $2,000,000 are from funds made available for activities related to the implementation of the Chemical Weapons Convention.

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

From unobligated balances available under this heading, $2,000,000 are rescinded.

UNITED STATES INFORMATION AGENCY

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading, $11,000,000 are rescinded.

RADIO FREE ASIA

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

PELL (AND OTHERS) AMENDMENT NO. 490

(Ordered to lie on the table.)

Mr. PELL (for himself, Mrs. FEINSTEIN, Mr. FEINGOLD, Ms. MOSELEY-BRAUN, and Mr. SIMON) submitted and intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

On page 33, line 9, strike "$236,417,000" and insert "$242,417,000".

On page 33, line 14, strike "$8,900,000" and insert "$14,900,000".

On page 34, line 4, strike "$60,566,000" and insert "$54,566,000".

On page 34, line 7, strike "$8,891,000" and insert "$2,891,000".

Mr. PELL. Mr. President, I offer this amendment on behalf of myself, Senator FEINSTEIN, Senator FEINGOLD, Senator SIMON, and Senator MOSELEY-BRAUN.

The amendment will ensure continued funding for the National Center for Research in Vocational Education. The Center is a consortium of institutions of higher education in California, Wisconsin, Illinois, New York, and Virginia. The Center is widely recognized for the important research work it does in vocational education, and it would be very unfortunate, indeed, if funding to permit it to continue its work were curtailed.

As my colleagues know, we will soon be considering reauthorization of the Vocational Education Act. The work of the Center has provided the authorizing committee invaluable information to help guide and facilitate our work. But even more critical, their research efforts are vital to improving the quality of vocational education throughout our Nation.

I view the amendment as an important placeholder so that when the Senate and House conferees meet on this legislation, they will have the opportunity to give this matter full and complete consideration. I am very hopeful they will ultimately decide to retain funding for the Center, but without this amendment there will be no chance whatsoever to provide continued funding for the Center and the important work it does.

WELLSTONE AMENDMENTS NOS. 491–495

(Ordered to lie on the table.)

Mr. WELLSTONE submitted five amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

AMENDMENT NO. 491

On page 29, strike "$2,185,935,000" and insert "$2,191,435,000".

Notwithstanding any other provision of this Act, the amount to become available on October 1, 1995, for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), shall not exceed $4,794,500,000.

AMENDMENT NO. 492

On page 31, strike lines 10 through 13.

Notwithstanding any other provision of this Act, the amount to become available on October 1, 1995, for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), shall not exceed $4,785,500,000.

AMENDMENT NO. 493

On pages 6, strike lines 8 through 13.

Notwithstanding any other provision of this Act, the amount to become available on October 1, 1995, for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), shall not exceed $4,785,500,000.

AMENDMENT NO. 494

On page 31, strike lines 14 through 18.

Notwithstanding any other provision of this Act, the amount to become available on October 1, 1995, for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), shall not exceed $4,785,500,000.

AMENDMENT NO. 495

On page 14, line 12, strike "$81,500,000 are rescinded" and insert "$67,000,000 are rescinded.

Notwithstanding any other provision of this Act, the amount to become available on October 1, 1995, for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), shall not exceed $4,785,500,000."

KERRY AMENDMENTS NOS. 496–498

(Ordered to lie on the table.)

Mr. KERRY submitted three amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

AMENDMENT NO. 496

At the appropriate place insert the following:

(RESCISSION)

Notwithstanding any other provision of this Act, of the funds made available under the heading "DEPARTMENT OF EDUCATION", under the heading "SCHOOL IMPROVEMENT PROGRAMS", in Public Law 103–333, no funds are rescinded from title IV of the Elementary and Secondary Education Act: *Provided*, That notwithstanding any other provision of this Act, the additional amount otherwise provided in this Act in Chapter XI for "DISASTER RELIEF EMERGENCY CONTINGENCY FUND" for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to become available on October 1, 1995, is reduced by $100,000,000.".

AMENDMENT NO. 497

On page 4, strike lines 1 through 7 and insert the following:

GENERAL PROVISIONS

Section 715 of Public Law 103–330 is amended by striking "$85,500,000" and inserting "$0". Notwithstanding any other provision of this Act, only $14,500,000 made available in Public Law 103–333 under the heading "DEPARTMENT OF EDUCATION", under the heading "SCHOOL IMPROVEMENT PROGRAMS", shall be rescinded.

AMENDMENT NO. 498

In amendment 420, on page 60, line 9, after "1995" and before the period, insert the following: "*Provided further*, That with respect to Transfer Plans of Action approved on or before September 30, 1995, the Secretary may release up to $150 million in support of such transfers".

SARBANES AMENDMENTS NOS. 499–500

(Ordered to lie on the table.)

Mr. SARBANES submitted two amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

AMENDMENT NO. 499

On page 59, line 16, before the period insert the following: ": *Provided further*, That of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, the Secretary may obligate $262,000,000 for public housing for Indian families, and an additional $262,000,000 of the unobligated funds available for new incremental rental subsidy contracts under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), for loan management set-asides, for section 8 contract amendments, or for expiring contracts for the tenant-based existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), provided under the heading 'ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS' are rescinded (subject to the determination by the Secretary of the distribution of such rescissions)".

AMENDMENT NO. 500

On page 59, line 16, before the period insert the following: ": *Provided further*, That of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, the Secretary may obligate $100,000,000 and not more than $262,000,000 for public housing for Indian families, and an amount equal to the amount obligated for public housing for Indian families shall be rescinded from the obligated funds available for new incremental rental subsidy contracts under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), or for loan management set-asides, (subject to the determination by the Secretary of the distribution of such rescissions)".

BREAUX (AND OTHERS) AMENDMENTS NOS. 501–502

(Ordered to lie on the table.)

Mr. BREAUX (for himself, Mr. NUNN, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. DODD, and Ms. MIKULSKI) submitted two amendments intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

AMENDMENT NO. 501

At the end of the amendment, add the following:

SEC. . PARAMOUNT PROVISIONS.

(a) APPROPRIATION FOR DISASTER RELIEF EMERGENCY CONTINGENCY FUND.—Notwithstanding any provision of this Act that may appropriate a greater amount, there is appropriated, for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $4,632,000,000.

(b) RESCISSION OF FUNDS MADE AVAILABLE FOR THE NATIONAL AND COMMUNITY SERVICE PROGRAM.—Notwithstanding any other provision of this Act that may rescind a greater amount, of the funds made available under the heading "Corporation for National and Community Service/National and Community Service Programs/Operating Expenses" in Public Law 103–327, $42,000,000 are rescinded.

AMENDMENT NO. 502

At the end of the amendment, add the following:

SEC. . PARAMOUNT PROVISIONS.

(a) APPROPRIATION FOR DISASTER RELIEF EMERGENCY CONTINGENCY FUND.—Notwithstanding any provision of this Act that may appropriate a greater amount, there is appropriated, for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $4,425,890,000.

(b) RESCISSION OF FUNDS MADE AVAILABLE FOR THE NATIONAL AND COMMUNITY SERVICE PROGRAM.—Notwithstanding any other provision of this Act that may rescind a greater amount, of the funds made available under the heading "CORPORATION FOR NATIONAL AND COMMUNITY SERVICE/NATIONAL AND COMMUNITY SERVICE PROGRAMS/OPERATING EXPENSES" in Public Law 103–327, $42,000,000 are rescinded.

MOSELEY-BRAUN (AND SIMON) AMENDMENT NO. 503

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN (for herself and Mr. SIMON) submitted an amendment intended to be proposed by them to the bill H.R. 1158, supra; as follows:

On page 18, line 16, strike "$25,970,000" and insert "$27,970,000".

On page 20, line 23, strike "$6,250,000" and insert "$8,050,000".

On page 21, line 4, strike "$3,000,000" and insert "$4,000,000".

On page 21, line 22, strike "$20,750,000" and insert "$15,950,000".

HOLLINGS AMENDMENT NO. 504

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 7 of the substitute amendment, strike line 13 through line 8 on page 13 and insert the following:

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading in Public Law 103–317, $5,000,000 are rescinded.

LEGAL ACTIVITIES

ASSET FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

DRUG COURTS

(RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, $17,100,000 are rescinded.

OUNCE OF PREVENTION COUNCIL

(INCLUDING RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, $1,000,000 are rescinded.

In addition, under this heading in Public Law 103–317, after the word "grants", insert the following: "and administrative expenses". After the word "expended", insert the following: ": *Provided*, That the Council is authorized to accept, hold, administer, and use gifts, both real and personal, for the purpose of aiding or facilitating the work of the Council".

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $19,500,000 are rescinded.

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317 for the Manufacturing Extension Partnership and the Quality Program, $7,100,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $32,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $14,000,000 are rescinded.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $7,600,000 are rescinded.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSIONS)

Of unobligated balances available under this heading pursuant to Public Law 103–75, Public Law 102–368, and Public Law 103–317, $47,384,000 are rescinded.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

UNITED STATES COURT OF INTERNATIONAL TRADE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,100,000 are rescinded.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded: *Provided*, That no funds in that public law shall be available to implement section 24 of the Small Business Act, as amended.

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $2,000,000 are rescinded.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $30,000,000 are rescinded.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $25,000,000 are rescinded.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded, of which $2,000,000 are from funds made available for activities related to the implementation of the Chemical Weapons Convention.

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

From unobligated balances available under this heading, $2,000,000 are rescinded.

UNITED STATES INFORMATION AGENCY

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading, $9,000,000 are rescinded.

RADIO FREE ASIA

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

MURKOWSKI AMENDMENT NO. 505

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 20, between lines 13 and 14, insert the following:

DEPARTMENTAL OFFICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332 for the Office of Aircraft Services, $150,000 of the amount available for administrative costs are rescinded, and in expending other amounts made available, the Director of the Office of Aircraft Services shall, to the extent practicable, provide aircraft services through contracting.

KEMPTHORNE AMENDMENT NO. 506

(Ordered to lie on the table.)

Mr. KEMPTHORNE submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 11, line 19, strike "$2,000,000 are rescinded." and insert the following: $2,500,000 are rescinded.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

For the Advisory Commission on Intergovernmental Relations for purposes of section 306 of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), $500,000.

KERRY (AND OTHERS) AMENDMENT NO. 507

(Ordered to lie on the table.)

Mr. KERRY (for himself, Mr. HOLLINGS, Mr. KENNEDY, Mr. REID, and Mr. PELL) submitted an amendment intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

On page 4, strike lines 1 through 7 and insert the following:

GENERAL PROVISIONS

Section 715 of Public Law 103–330 is amended by striking "$85,500,000" and inserting "$70,800,000". Notwithstanding any other provision of this Act, no funds made available in Public Law 103–333 under the heading "SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION" under the subheading "SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES" SHALL BE RESCINDED.

BURNS AMENDMENT NO. 508

(Ordered to lie on the table.)

Mr. BURNS submitted an amendment intended to be proposed by him to the bill, H.R. 1158, supra; as follows:

At the appropriate place, insert:

(a) SCHEDULE FOR NEPA COMPLIANCE.—Each National Forest System unit shall establish and adhere to a schedule for the completion of NEPA analysis and decisions on all allotments within the National Forest System unit for which NEPA analysis is needed. The schedule for completion of NEPA analysis and decisions shall not extend beyond December 31, 2004.

(b) RE-ISSUANCE PENDING NEPA COMPLIANCE.—Notwithstanding any other law, tern grazing permits which expire or are waived before the date scheduled for the NEPA analysis and decision pursuant to the schedule developed by individual Forest Service System units, shall be issued on the same terms and conditions and for the full term of the expired or waived permit. Upon completion of the scheduled NEPA analysis and decision for the allotment, the terms and conditions of existing grazing permits may be modified or re-issued.

PRESSLER AMENDMENTS NOS. 509–510

(Ordered to lie on the table.)

Mr. PRESSLER submitted two amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

AMENDMENT NO. 509

At the appropriate place in amendment No. 420 add the following:

SECTION 1. EXCEPTION FOR FARMERS AND FARM SUPPLIERS FROM TRANSPORTATION LIMITATIONS ON MAXIMUM DRIVING AND ON-DUTY TIME.

(a) EXCEPTION FOR FARMERS AND FARM SUPPLIERS.—Regulations prescribed by the Secretary of Transportation under section 31502 of title 49, United States Code, regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply to farmers or retail farm suppliers transporting agricultural commodities or farm supplies for agricultural purposes if such transportation is limited to an area within a 100-air mile radius of the source of the commodities or the distribution point for the farm supplies.

(b) CONFORMING REGULATIONS.—The Secretary shall amend part 395 of title 49, Code of Federal Regulations, to reflect the exception provided by subsection (a).

AMENDMENT NO. 510

At the appropriate place in amendment No. 420 add the following:

(a) EXCEPTION FOR TRANSPORTING AGRICULTURAL COMMODITIES AND SUPPLIES.—None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Department of Transportation until the Secretary of Transportation establishes that the regulations prescribed by the Secretary of Transportation under section 31502 of title 49, United States Code, regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes if such transportation is limited to an area within a 100-air-mile radius of the source of the commodities or the distribution point for the farm supplies.

(b) CONFORMING REGULATIONS.—The Secretary shall amend part 395 of title 49, Code of Federal Regulations, to reflect the exception provided by subsection (a).

SIMON (AND OTHERS) AMENDMENTS NOS. 511–513

(Ordered to lie on the table.)

Mr. SIMON (for himself, Ms. MOSELEY-BRAUN, and Mr. BOND) submitted three amendments intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

AMENDMENT NO. 511

On page 19, line 2, strike "$11,297,000 are rescinded." and insert "$10,597,000 are rescinded. Notwithstanding any other provision of this Act that may rescind a lesser amount of the funds made available under the heading 'POWER MARKETING ADMINISTRATIONS/CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION' IN PUBLIC LAW 103–316, $30,700,000 ARE RESCINDED.".

AMENDMENT NO. 512

On page 19, line 2, strike "$11,297,000 are rescinded." and insert "$10,597,000 are rescinded. Notwithstanding any other provision of this Act that may reduce an obligation limitation under the heading 'FEDERAL-AID HIGHWAYS / (LIMITATION ON OBLIGATIONS) / (HIGHWAY TRUST FUND)' in Public Law 103–331, the obligation limitation is reduced by $124,290,000.".

AMENDMENT NO. 513

On page 19, line 2, strike "$11,297,000" and insert "$10,597,000".

Mr. SIMON. Mr. President, I am introducing an amendment for myself and my colleagues from Illinois and Missouri. Quite simply it restores $700,000 to the land acquisition account of the National Park Service for the Jefferson National Expansion Memorial. One hundred acres on the riverbank of the Mississippi River in East St. Louis, IL was designated in 1992 as a National Park. Included in the authorization was $2 million allocation for land acquisition. This $700,000 is well within that allocation.

The park is designed to be an extension of the Arch Park in St. Louis, MO. It enjoys the bipartisan support of Governors and delegations in both Illinois and Missouri and for a good reason. Similar to the resources and effort that went into revitalizing the riverfront in St. Louis, investors on both sides of the river have and will continue considerable private sector donations toward development of the park.

Those important investments by the private sector are jeopardized if the Federal Government backs out of its commitment to share in the development of the park. A great deal is at stake in the development of the park. Its influence in the years ahead on the economy of East St. Louis could be significant. For that reason my colleagues and I share a commitment to this project and its success.

SIMON AMENDMENT NO. 514

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 26, strike lines 12 through 20 and insert in lieu thereof the following: "Public Law 103–333, 1,359,210,000 are rescinded, including $46,404,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $15,000,000 for the School-to-Work Opportunities Act, $15,600,000 for title III, part A of the Job Training Partnership Act, $20,000,000 for the title III, part B of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $33,000,000 for carrying out title II, part A of such Act, $310,000,000 for * * *.

SIMON AMENDMENT NO. 515

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill H.R. 1158, supra, as follows:

Strike page 34 and insert:

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $52,779,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and –B, $43,888,000 and from title IV–A and –C, $8,891,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $57,783,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 1, $11,200,000, title IV–A–2, chapter 2, $600,000, title IV–A–6, $2,000,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–E, $3,500,000, title IX–G, $2,888,000, title X–D, $2,900,000, and title XI–A, $500,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics.

SIMON (AND OTHERS) AMENDMENT NO. 516

(Ordered to lie on the table.)

Mr. SIMON (for himself, Mrs. FEINSTEIN, and Ms. MOSELEY-BRAUN) submitted an amendment intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 31, strike lines 1 through 5.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

Notwithstanding any other provision of this Act, the additional amount otherwise provided in this Act in chapter XI for "DISASTER RELIEF EMERGENCY CONTINGENCY FUND" for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) shall be "$4,794,000,000."

SIMON (AND OTHERS) AMENDMENT NO. 517

(Ordered to lie on the table.)

Mr. SIMON (for himself, Mr. FEINGOLD, and Mr. WELLSTONE) submitted an amendment intended to be proposed by them to the bill H.R. 1158, supra; as follows:

On page 26, beginning with line 12, strike all through page 36, line 25, and insert the following:

Public Law 103–333, $1,506,220,000 are rescinded, including $46,404,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $15,600,000 for title III, part A of the Job Training Partnership Act, $20,000,000 for the title III, part B of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $33,000,000 for carrying out title II, part A of such Act, $472,010,000 for carrying out title II, part C of such Act, $750,000 for the National Commission for Employment Policy and $421,000 for the National Occupational Information Coordinating Committee: *Provided*, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II–B and title II–C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

(RESCISSIONS)

Of the funds made available in the first paragraph under this heading in Public Law 103–333, $11,263,000 are rescinded.

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $3,177,000 are rescinded.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $20,000,000 are rescinded, and amounts which may be expended from the Employment Security Administration account in the Unemployment Trust Fund are reduced from $3,269,097,000 to $3,221,397,000.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

Of the funds made available under this heading in Public Law 103–333, $1,100,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $42,071,000 are rescinded.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,300,000 are rescinded.

NATIONAL INSTITUTES OF HEALTH

BUILDINGS AND FACILITIES

(RESCISSION)

Of the available balances under this heading, $79,289,000 are rescinded.

Substance Abuse and Mental Health Services Administration

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $14,700,000 are rescinded.

Assistant Secretary for Health

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $2,320,000 are rescinded.

Agency for Health Care Policy and Research

HEALTH CARE POLICY AND RESEARCH

(RESCISSION)

Of the Federal funds made available under this heading in Public Law 103-333, $3,132,000 are rescinded.

Health Care Financing Administration

PROGRAM MANAGEMENT

(RESCISSION)

Funds made available under this heading in Public Law 103-333 are reduced from $2,207,135,000 to $2,185,935,000, and funds transferred to this account as authorized by section 201(g) of the Social Security Act are reduced to the same amount.

Social Security Administration

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading in Public Law 103-333, $67,000,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333 to invest in a state-of-the-art computing network, $88,283,000 are rescinded.

Administration for Children and Families

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, there are rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(E) of the Social Security Act (as amended by Public Law 100-485) is amended by adding before the "and": "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,300,000,000 for the purpose of determining the amount of the payment under subsection (l) to which each State is entitled),".

COMMUNITY SERVICES BLOCK GRANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $26,988,000 are rescinded.

CHILD CARE AND DEVELOPMENT BLOCK GRANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $8,400,000 are rescinded.

Administration on Aging

(AGING SERVICES PROGRAMS)

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $899,000 are rescinded.

Office of the Secretary

POLICY RESEARCH

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $2,918,000 are rescinded.

DEPARTMENT OF EDUCATION

EDUCATION REFORM

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $67,600,000 are rescinded, including $55,800,000 from funds made available for State and local education systemic improvement, and $11,800,000 from funds made available for Federal activities under the Goals 2000: Educate America Act.

EDUCATION FOR THE DISADVANTAGED

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $80,400,000 are rescinded as follows: $72,500,000 from the Elementary and Secondary Education Act, title I, part A, $2,000,000 from part B, and $5,900,000 from part E, section 1501.

IMPACT AID

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $16,293,000 for section 8002 are rescinded.

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $236,417,000 are rescinded as follows: from the Elementary and Secondary Education Act, title II-B, $69,000,000, title IV, $100,000,000, title V-C, $2,000,000, title IX-B, $1,000,000, title X-D, $1,500,000, section 10602, $1,630,000, title XII, $20,000,000, and title XIII-A, $8,900,000; from the Higher Education Act, section 596, $13,875,000; from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000; and from funds for the Civil Rights Act of 1964, title IV, $7,412,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $32,380,000 are rescinded from funding for title VII-A and $11,000,000 from part C of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $52,779,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III-A, and -B, $43,888,000 and from title IV-A and -C, $8,891,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H-1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $20,308,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV-A, chapter 5, $496,000, title IV-A-2, chapter 2, $600,000, title IV-A-6, $2,000,000, title IX-E, $3,500,000, title IX-G, $2,888,000, title X-D, $2,900,000, and title XI-A, $500,000; Public Law 102-325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $6,424,000.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $3,300,000 are rescinded, including $1,500,000 for construction.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333 for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $322,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $15,200,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III-A, $5,000,000, title III-B, $5,000,000, and title X-B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $2,916,000 are rescinded from title II, part B, section 222 of the Higher Education Act.

Related Agencies

Corporation for Public Broadcasting

(RESCISSION)

Of the funds made available under this heading in Public Law 103-112, $26,360,000 are rescinded. Of the funds made available under this heading in Public Law 103-333, $29,360,000 are rescinded.

Railroad Retirement Board

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $7,000,000 are rescinded.

GENERAL PROVISIONS

Federal Direct Student Loan Program

SEC. 601. Notwithstanding any other provision of law, the Secretary of Education shall recover from the reserve funds held by guaranty agencies (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))) an aggregate amount that is not less than $500,000,000 for fiscal year 1995.

SIMON AMENDMENT NO. 518

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

At the appropriate place, insert the following new section:

NO RESTRICTIONS ON IRS ENFORCEMENT FUNDING OR PERSONNEL

SEC. . Notwithstanding any other provision of this Act, there shall be no rescission of any amount of the $4,385,459,000 made available under the heading "TAX LAW ENFORCEMENT" in Public Law 103-329 and there shall be no restrictions on the hiring or deployment of additional revenue officers during fiscal year 1995.

SIMON AMENDMENT NO. 519

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill, H.R. 1158, supra; as follows:

At the end of the bill, insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the Inspector General of the Department of Education has testified that $11,000,000,000 of Federal student loans are at risk because of conflicts of interest at guaranty agencies;

(2) a review by the Department of Education found that a large guaranty agency increased such agency's income, at a significant cost to taxpayers, by creating, and contracting with, a new, separate corporation;

(3) the Inspector General identified a guaranty agency that contracts for services with a for-profit company owned by a guaranty agency official; and

(4) the Department of Education found that another guaranty agency used Federal funds for excessive salaries, and to purchase furs, artwork, expensive and unnecessary automobiles, resort retreats, and other items not critical to the Federal purpose of providing student access to loans and protecting the Federal guarantee of student loans.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Education should fully investigate the types of guaranty agency activities and arrangements described in subsection (a), and, where appropriate, should take prompt and decisive action to protect the Federal fiscal interest.

KASSEBAUM (AND SNOWE) AMENDMENT NO. 520

(Ordered to lie on the table.)

Mrs. KASSEBAUM (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

On page 31, strike lines 10 through 18, and insert the following:

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

Notwithstanding the matter under this heading in chapter XI, for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $4,749,600,000, to become available on October 1, 1995, and remain available until expended: *Provided*, That such amount is subject to the limitations specified in the matter under this heading in chapter XI.

BINGAMAN AMENDMENT NO. 521

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

Beginning on page 35, strike line 21 and all that follows through page 43, line 17, and insert the following:

Public Law 103-333, $5,200,000 are rescinded as follows: from the Elementary and Secondary Education Act of 1965, part B of title X, $4,600,000, and from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $2,916,000 are rescinded from title II, part B, section 222 of the Higher Education Act.

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103-112, $26,360,000 are rescinded. Of the funds made available under this heading in Public Law 103-333, $29,360,000 are rescinded.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $7,000,000 are rescinded.

GENERAL PROVISIONS

FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 601. Section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended—

(1) by striking "$345,000,000" and inserting "$250,000,000"; and

(2) by striking "$2,500,000,000" and inserting "$2,405,000,000".

SEC. 602. Of the funds made available in fiscal year 1995 to the Department of Labor in Public Law 103-333 for compliance assistance and enforcement activities, $8,975,000 are rescinded.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $650,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $187,000 are rescinded.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

SENATE OFFICE BUILDINGS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $850,000 are rescinded.

CAPITAL POWER PLANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $1,650,000 are rescinded.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $5,000,000 are rescinded.

BOTANIC GARDEN

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available until expended by transfer under this heading in Public Law 103-283, $7,000,000 are rescinded.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $600,000 are rescinded.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $150,000 are rescinded.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-283, $8,867,000 are rescinded.

CHAPTER VIII

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 103-307, $10,000,000 are rescinded.

MILITARY CONSTRUCTION, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 103-307, $13,050,000 are rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-307, $33,250,000 are rescinded.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(RESCISSION)

Of the funds made available under this heading in Public Law 103-307, $1,340,000 are rescinded.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-307, $69,000,000 are rescinded.

Base Realignment and Closure Account, Part II

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,628,000 are rescinded.

Base Realignment and Closure Account, Part III

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $93,566,000 are rescinded.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

OFFICE OF THE SECRETARY

Working Capital Fund

(RESCISSION)

The obligation authority under this heading in Public Law 103–331 is hereby reduced by $4,000,000.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds made available under this heading, $5,300,000 are rescinded: *Provided*, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of Title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation: *Provided further*, That no funds under this head shall be available for payments to air carriers under subchapter II.

COAST GUARD

Operating Expenses

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $3,700,000 are rescinded.

Acquisition, Construction, and Improvements

(RESCISSION)

Of the available balances under this heading, $34,298,000 are rescinded.

Environmental Compliance and Restoration

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $400,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

Operations

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded: *Provided*, That the following proviso in Public Law 103–331 under this heading is repealed, "*Provided further*, That of the funds available under this head, $17,500,000 is available only for permanent change of station moves for members of the air traffic work force".

Facilities and Equipment

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $31,850,000 are rescinded.

Research, Engineering, and Development

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

Grants-in-Aid for Airports

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this account, $1,310,000,000 are rescinded.

HARKIN AMENDMENTS NOS. 522–523

(Ordered to lie on the table.)

Mr. HARKIN submitted two amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill, H.R. 1158, supra; as follows:

Amendment No. 522

On page 81, between lines 16 and 17, insert the following:

(RESCISSION)

SEC. . Of the funds available under Public Law 103–335 for intelligence activities, $14,400,000 are rescinded.

On page 27, strike lines 4–12.

Amendment No. 523

On page 68, between lines 6 and 7, insert the following:

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

(RESCISSION)

Of the funds available under this heading in title IV of Public Law 103–335, $100,000,000 are rescinded.

On page 33, line 11, strike "title IV, $100,000,000."

KENNEDY AMENDMENTS NOS. 524–525

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

Amendment No. 524

Strike from page 55, line 1 through page 65, line 26 and insert the following:

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $4,590,000,000, to become available on October 1, 1995, and remain available until expended: *Provided*, That such amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL FLOOD INSURANCE FUND

(TRANSFER OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Reform Act of 1994, an additional amount not to exceed $331,000 shall be transferred as needed to the "Salaries and expenses" appropriation for flood mitigation and flood insurance operations, and an additional amount not to exceed $5,000,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood mitigation expenses pursuant to the National Flood Insurance Reform Act of 1994.

DEPARTMENT OF VETERANS AFFAIRS

Veterans Health Administration

MEDICAL CARE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $50,000,000 are rescinded: *Provided*, That $20,000,000 of this amount is to be taken from the $771,000,000 earmarked for the equipment and land and structures object classifications, which amount does not become available until August 1, 1995: *Provided further*, That of the $16,214,684,000 made available under this heading in Public Law 103–327, the $9,920,819,000 restricted by section 509 of Public Law 103–327 for personnel compensation and benefits expenditures is reduced to $9,890,819,000.

Departmental Administration

CONSTRUCTION, MAJOR PROJECTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and prior years, $50,000,000 are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $50,000,000 are rescinded.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, $451,000,000 of funds for development or acquisition costs of public housing (including public housing for Indian families) are rescinded, except that such rescission shall not apply to funds for replacement housing for units demolished, reconstructed, or otherwise disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the existing public housing inventory, or to funds related to litigation settlements or court orders, and the Secretary shall not be required to make any remaining funds available pursuant to section 213(d)(1)(A) of the Housing and Community Development Act of 1994; $2,406,789,000 of funds for new incremental rental subsidy contracts under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), including $100,000,000 from new programs and $350,000,000 from pension fund rental assistance as provided in Public Law 103–327, are rescinded, and the remaining authority for such purposes shall be only for units necessary to provide housing assistance for residents to be relocated from existing Federally subsidized or assisted housing, for replacement housing for units demolished, reconstructed, or otherwise disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements or court orders, for amendments to contracts to permit continued assistance to participating families, or to enable public housing authorities to implement "mixed population" plans for developments housing primarily elderly residents; $500,000,000 of funds for expiring contracts for the tenant-based existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), provided under the heading "Assistance for the renewal of expiring section 8 subsidy contracts" are rescinded, and the Secretary shall require that $500,000,000 of funds held as project reserves by the local administering housing authorities which are in excess of current needs shall be utilized for such renewals; $835,150,000 of amounts earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937 are rescinded and the Secretary may take actions necessary to assure that such rescission is distributed among public housing authorities, to the extent practicable, as if such rescission occurred prior to the commencement of the fiscal year; $106,000,000 of amounts earmarked for special purpose grants are rescinded; $152,500,000 of amounts earmarked for loan management set-asides are rescinded; and $90,000,000 of amounts earmarked for the lead-based paint hazard reduction program are rescinded.

(DEFERRAL)

Of funds made available under this heading in Public Law 103-327 and any unobligated balances from funds appropriated under this heading in prior years, $465,100,000 of amounts earmarked for the preservation of low-income housing programs (excluding $17,000,000 of previously earmarked, plus an additional $5,000,000, for preservation technical assistance grant funds pursuant to section 253 of the Housing and Community Development Act of 1987, as amended) shall not become available for obligation until September 30, 1995: *Provided*, That, notwithstanding any other provision of law, pending the availability of such funds, the Department of Housing and Urban Development may suspend further processing of applications with the exception of applications regarding properties for which an owner's appraisal was submitted on or before February 6, 1995, or for which a notice of intent to transfer the property was filed on or before February 6, 1995.

HOUSING COUNSELING ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $38,000,000 are rescinded.

NEHEMIAH HOUSING OPPORTUNITIES FUND

(RESCISSION)

Of the funds transferred to this revolving fund in prior years, $17,700,000 are rescinded.

ADMINISTRATIVE PROVISIONS

Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) Notwithstanding any other provision of law, a public housing agency may use modernization assistance provided under section 14 for any eligible activity currently authorized by this Act or applicable appropriation Acts (including section 5 replacement housing) for a public housing agency, including the demolition of existing units, for replacement housing, for temporary relocation assistance, for drug elimination activities, and in conjunction with other programs; provided the public housing agency consults with the appropriate local government officials (or Indian tribal officials) and with tenants of the public housing development. The public housing agency shall establish procedures for consultation with local government officials and tenants.

"(2) The authorization provided under this subsection shall not extend to the use of public housing modernization assistance for public housing operating assistance.".

The above amendment shall be effective for assistance appropriated on or before the effective date of this Act.

Section 18 of the United States Housing Act of 1937 is amended by—

(1) inserting "and" at the end of subsection (b)(1);

(2) striking all that follows after "Act" in subsection (b)(2) and inserting in lieu thereof the following: ", and the public housing agency provides for the payment of the relocation expenses of each tenant to be displaced, ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act and shall not commence demolition or disposition of any unit until the tenant of the unit is relocated;";

(3) striking (b)(3);

(4) striking "(1)" in subsection (c);

(5) striking (c)(2);

(6) inserting before the period at the end of subsection (d) the following: ", provided that nothing in this section shall prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving the living conditions of or providing more efficient services to its tenants";

(7) striking "under section (b)(3)(A)" in each place it occurs in subsection (e);

(8) redesignating existing subsection (f) as subsection (g); and

(9) inserting a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law, replacement housing units for public housing units demolished may be built on the original public housing site or the same neighborhood if the number of such replacement units is significantly fewer than the number of units demolished.".

Section 304(g) of the United States Housing Act of 1937 is hereby repealed.

The above two amendments shall be effective for plans for the demolition, disposition or conversion to homeownership of public housing approved by the Secretary on or before September 30, 1995.

Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection:

"(z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—

"(1) GENERAL AUTHORITY.—The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of termination of a housing assistance payments contract (other than a contract for tenant-based assistance) only for one or more of the following:

"(A) TENANT-BASED ASSISTANCE.—Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

"(B) PROJECT-BASED ASSISTANCE.—Pursuant to a contract with an owner, to attach assistance to one or more structures under this section.

"(2) FAMILIES OCCUPYING UNITS FORMERLY ASSISTED UNDER TERMINATED CONTRACT.—Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

"(3) EFFECTIVE DATE.—This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.".

INDEPENDENT AGENCIES

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $500,000 are rescinded.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $124,000,000 are rescinded.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $0 are rescinded.

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $9,635,000 are rescinded.

ABATEMENT, CONTROL, AND COMPLIANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $9,806,805 are rescinded: *Provided*, That notwithstanding any other provision of law, the Environmental Protection Agency shall not be required to site a computer to support the regional acid deposition monitoring program in the Bay City, Michigan, vicinity.

AMENDMENT NO. 525

Strike from page 32, line 8 through page 55, line 16 and insert the following:

Of the funds made available under this heading in Public Law 103-333, -00- are rescinded, including -00- from funds made available for State and local education systemic improvement, and -00- from funds made available for Federal activities under the Goals 2000: Educate America Act; and -00- are rescinded from funds made available under the School to Work Opportunities Act, including -00- for National programs and -00- for State grants and local partnerships.

EDUCATION FOR THE DISADVANTAGED

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, -00- are rescinded as follows: -00- from the Elementary and Secondary Education Act, title I, part A, -00- from part B, and -00- from part E, section 1501, and $2,000,000 are rescinded from part B of title I of the Elementary and Secondary Education Act of 1965.

IMPACT AID

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $16,293,000 for section 8002 are rescinded.

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $67,417,000 are rescinded as follows: from the Elementary and Secondary Education Act, title II–B, –00–, title IV, –00–, title V–C, $2,000,000, title IX–B, $1,000,000, title X–D, $1,500,000, section 10602, $1,630,000, title XII, $20,000,000, and title XIII–A, $8,900,000; from the Higher Education Act, section 596, $13,875,000; from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000; and from funds for the Civil Rights Act of 1964, title IV, $7,412,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $6,967,000 are rescinded from funding for title VII of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $52,779,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and –B, $43,888,000 and from title IV–A and –C, $8,891,000 from the Adult Education Act, part B–7, –00–.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $46,583,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 1, –00–, title IV–A–2, chapter 2, $600,000, title IV–A–6, $2,000,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–E, $3,500,000, title IX–G, $2,888,000, title X–D, $2,900,000, and title XI–A, $500,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $6,424,000.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $3,300,000 are rescinded, including $1,500,000 for construction.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $322,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $600,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III–A, –00–, title III–B, –00–, and title X–B, –00–; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,916,000 are rescinded from title II, part B, section 222 of the Higher Education Act.

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $26,360,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $29,360,000 are rescinded.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,000,000 are rescinded.

GENERAL PROVISIONS

FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 601. Section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended—

(1) by striking "$345,000,000" and inserting "$298,000,000"; and

(2) by striking "$2,500,000,000" and inserting "$2,405,000,000".

SEC. 602. Of the funds made available in fiscal year 1995 to the Department of Labor in Public Law 103–333 for compliance assistance and enforcement activities, $8,975,000 are rescinded.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $650,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $187,000 are rescinded.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

SENATE OFFICE BUILDINGS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $850,000 are rescinded.

CAPITAL POWER PLANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $1,650,000 are rescinded.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $5,000,000 are rescinded.

BOTANIC GARDEN

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $7,000,000 are rescinded.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $600,000 are rescinded.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $150,000 are rescinded.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $8,867,000 are rescinded.

CHAPTER VIII

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,000,000 are rescinded.

MILITARY CONSTRUCTION, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $13,050,000 are rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $33,250,000 are rescinded.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $1,340,000 are rescinded.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $69,000,000 are rescinded.

Base Realignment and Closure Account, Part II

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,628,000 are rescinded.

Base Realignment and Closure Account, Part III

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $93,566,000 are rescinded.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

OFFICE OF THE SECRETARY

Working Capital Fund

(RESCISSION)

The obligation authority under this heading in Public Law 103–331 is hereby reduced by $4,000,000.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds made available under this heading, $5,300,000 are rescinded: *Provided*, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of Title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation: *Provided further*, That no funds under this head shall be available for payments to air carriers under subchapter II.

COAST GUARD

Operating Expenses

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $3,700,000 are rescinded.

Acquisition, Construction, and Improvements

(RESCISSION)

Of the available balances under this heading, $34,298,000 are rescinded.

Environmental Compliance and Restoration

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $400,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

Operations

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded: *Provided*, That the following proviso in Public Law 103–331 under this heading is repealed, "*Provided further*, That of the funds available under this head, $17,500,000 is available only for permanent change of station moves for members of the air traffic work force".

Facilities and Equipment

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $31,850,000 are rescinded.

Research, Engineering, and Development

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

Grants-in-Aid for Airports

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this account, $1,300,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on General Operating Expenses

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $45,950,000.

Federal-Aid Highways

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $123,590,000, of which $27,640,000 shall be deducted from amounts made available for the Applied Research and Technology Program authorized under section 307(e) of title 23, United States Code, and $50,000,000 shall be deducted from the amounts available for the Congestion Pricing Pilot Program authorized under section 1002(b) of Public Law 102–240, and $45,950,000 shall be deducted from the limitation on General Operating Expenses: *Provided*, That the amounts deducted from the aforementioned programs are rescinded.

Federal-Aid Highways

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–211, $50,000,000 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Highway Traffic Safety Grants

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $20,000,000 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

Office of the Administrator

(TRANSFER OF FUNDS)

Section 341 of Public Law 103–331 is amended by deleting "and received from the Delaware and Hudson Railroad," after "amended,".

Northeast Corridor Improvement Program

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $7,768,000 are rescinded.

National Magnetic Levitation Prototype Development Program

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $250,000,000 are rescinded.

FEDERAL TRANSIT ADMINISTRATION

Discretionary Grants

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $17,650,000: *Provided*, That such reduction shall be made from obligational authority available to the Secretary for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.

Notwithstanding Section 313 of Public Law 103–331, the obligation limitations under this heading in the following Department of Transportation and Related Agencies Appropriations Acts are reduced by the following amounts:

Public Law 102–143, $62,833,000, to be distributed as follows:

(a) $2,563,000, for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities: *Provided*, That the foregoing reduction shall be distributed according to the reductions identified in Senate Report 104–17, for which the obligation limitation in Public Law 102–143 was applied; and

(b) $60,270,000, for new fixed guideway systems, to be distributed as follows:

$2,000,000, for the Cleveland Dual Hub Corridor Project;

$930,000, for the Kansas City-South LRT Project;

$1,900,000, for the San Diego Mid-Coast Extension Project;

$34,200,000, for the Hawthorne-Warwick Commuter Rail Project;

$8,000,000, for the San Jose-Gilroy Commuter Rail Project;

$3,240,000, for the Seattle-Tacoma Commuter Rail Project; and

$10,000,000, for the Detroit LRT Project.

Public Law 101–516, $4,460,000, for new fixed guideway systems, to be distributed as follows:

$4,460,000 for the Cleveland Dual Hub Corridor Project.

GENERAL PROVISIONS

(INCLUDING RESCISSIONS)

SEC. 901. Of the funds provided in Public Law 103–331 for the Department of Transportation working capital fund (WCF), $4,000,000 are rescinded, which limits fiscal year 1995 WCF obligational authority for elements of the Department of Transportation funded in Public Law 103–331 to no more than $89,000,000.

SEC. 902. Of the total budgetary resources available to the Department of Transportation (excluding the Maritime Administration) during fiscal year 1995 for civilian and military compensation and benefits and other administrative expenses, $10,000,000 are permanently canceled.

SEC. 903. Section 326 of Public Law 103–122 is hereby amended to delete the words "or previous Acts" each time they appear in that section.

CHAPTER X

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

General Services Administration

FEDERAL BUILDINGS FUND

(TRANSFER OF FUNDS)

Of the funds made available for the Federal Buildings Fund in Public Law 103–329, $5,000,000 shall be made available by the General Services Administration to implement an agreement between the Food and Drug Administration and another entity for space, equipment and facilities related to seafood research.

Office of Personnel Management

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE BENEFITS

For an additional amount for "Government payment for annuitants, employee life insurance'', $9,000,000 to remain available until expended.

DEPARTMENT OF THE TREASURY

Departmental Offices

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $100,000 are rescinded.

Financial Management Service

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $160,000 are rescinded.

United States Mint

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

In the paragraph under this heading in Public Law 103–329, insert ''not to exceed'' after ''of which''.

Bureau of the Public Debt

ADMINISTERING THE PUBLIC DEBT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–123, $1,500,000 are rescinded.

Internal Revenue Service

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $1,490,000 are rescinded.

Administrative Provision—Internal Revenue Service

In the paragraph under this heading in Public Law 103–329, in section 3, after ''$119,000,000'', insert ''annually''.

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

The White House Office

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $171,000 are rescinded.

Federal Drug Control Programs

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For activities authorized by Public Law 100–690, an additional amount of $13,200,000, to remain available until expended for transfer to the United States Customs Service, ''Salaries and expenses'' for carrying out border enforcement activities: *Provided*, That of the funds made available under this heading in Public Law 103–329, $13,200,000 are rescinded.

INDEPENDENT AGENCIES

In lieu of the language proposed to be inserted, insert the following:

Of the funds made available under this heading in Public Laws 101–136, 101–509, 102–27, 102–141, 103–123, 102–393, 103–329, $1,842,885,000 are rescinded from the following projects in the following amounts:

Alabama:
Montgomery, U.S. Courthouse annex, $46,320,000
Arkansas:
Little Rock, Courthouse, $13,816,000
Arizona:
Bullhead City, FAA grant, $2,200,000
Lukeville, commercial lot expansion, $1,219,000
Nogales, Border Patrol, headquarters, $2,998,000
Phoenix, U.S. Federal Building, Courthouse, $121,890,000
San Luis, primary lane expansion and administrative office space, $3,496,000
Sierra Vista, U.S. Magistrates office, $1,000,000
Tucson, Federal Building, U.S. Courthouse, $121,890,000
California:
Menlo Park, United States Geological Survey office laboratory building, $6,868,000
Sacramento, Federal Building-U.S. Courthouse, $142,902,000
San Diego, Federal Building-Courthouse, $3,379,000
San Francisco, Lease purchase, $9,702,000
San Francisco, U.S. Courthouse, $4,378,000
San Francisco, U.S. Court of Appeals annex, $9,003,000
San Pedro, Customhouse, $4,887,000
Colorado:
Denver, Federal Building-Courthouse, $8,006,000
District of Columbia:
Central and West heating plants, $5,000,000
Corps of Engineers, headquarters, $37,618,000
General Services Administration, Southeast Federal Center, headquarters, $25,000,000
U.S. Secret Service, headquarters, $113,084,000
Florida:
Ft. Myers, U.S. Courthouse, $24,851,000
Jacksonville, U.S. Courthouse, $10,633,000
Tampa, U.S. Courthouse, $14,998,000
Georgia:
Albany, U.S. Courthouse, $12,101,000
Atlanta, Centers for Disease Control, site acquisition and improvement, $25,890,000
Atlanta, Centers for Disease Control, $14,110,000
Atlanta, Centers for Disease Control, Roybal Laboratory, $47,000,000
Savannah, U.S. Courthouse annex, $3,000,000
Hawaii:
Hilo, federal facilities consolidation, $12,000,000
Illinois:
Chicago, SSA DO, $2,167,000
Chicago, Federal Center, $47,682,000
Chicago, Dirksen building, $1,200,000
Chicago, J.C. Kluczynski building, $13,414,000
Indiana:
Hammond, Federal Building, U.S. Courthouse, $52,272,000
Jeffersonville, Federal Center, $13,522,000
Kentucky:
Covington, U.S. Courthouse, $2,914,000
London, U.S. Courthouse, $1,523,000
Louisiana:
Lafayette, U.S. Courthouse, $3,295,000
Maryland:
Avondale, DeLaSalle building, $16,671,000
Bowie, Bureau of Census, $27,877,000
Prince Georges/Montgomery Counties, FDA consolidation, $284,650,000
Woodlawn, SSA building, $17,292,000
Masschusetts:
Boston, U.S. Courthouse, $4,076,000
Missouri:
Cape Girardeau, U.S. Courthouse, $3,688,000
Kansas City, U.S. Courthouse, $100,721,000
Nebraska:
Omaha, Federal Building, U.S. Courthouse, $9,291,000
Nevada:
Las Vegas, U.S. Courthouse, $4,230,000
Reno, Federal Building-U.S. Courthouse, $1,465,000
New Hampshire:
Concord, Federal Building-U.S. Courthouse, $3,519,000
New Jersey:
Newark, parking facility, $9,000,000
Trenton, Clarkson Courthouse, $14,107,000
New Mexico:
Albuquerque, U.S. Courthouse, $47,459,000
Santa Teresa, Border Station, $4,004,000
New York:
Brooklyn, U.S. Courthouse, $43,717,000
Holtsville, IRS Center, $19,183,000
Long Island, U.S. Courthouse, $27,198,000
North Dakota:
Fargo, Federal Building-U.S. Courthouse, $20,105,000
Pembina, Border Station, $93,000
Ohio:
Cleveland, Celebreeze Federal Building, $10,972,000
Cleveland, U.S. Courthouse, $28,246,000
Steubenville, U.S. Courthouse, $2,820,000
Youngstown, Federal Building—U.S. Courthouse, $4,574,000
Oklahoma:
Oklahoma City, Murrah Federal Building, $5,290,000
Oregon:
Portland, U.S. Courthouse, $5,000,000
Pennsylvania:
Philadelphia, Byrne-Green Federal Building—Courthouse, $30,628,000
Philadelphia, Nix Federal building—Courthouse, $13,814,000
Philadelphia, Veterans Administration, $1,276,000
Scranton, Federal Building—U.S. Courthouse, $9,969,000
Rhode Island:
Providence, Kennedy Plaza Federal Courthouse, $7,740,000
South Carolina:
Columbia, U.S. Courthouse annex, $592,000
Tennessee:
Greeneville, U.S. Courthouse, $2,936,000
Texas:
Austin, Veterans Administration annex, $1,028,000
Brownsville, U.S. Courthouse, $4,339,000
Corpus Christi, U.S. Courthouse, $6,446,000
Laredo, Federal Building—U.S. Courthouse, $5,986,000
Lubbock, Federal Building—Courthouse, $12,167,000
Ysleta, site acquisition and construction, $1,727,000
U.S. Virgin Islands:
Charlotte Amalie, St. Thomas, U.S. Courthouse, $2,184,000
Virginia:
Richmond, Courthouse annex, $12,509,000
Washington:
Blaine, Border Station, $4,472,000
Point Roberts, Border Station, $698,000
Seattle, U.S. Courthouse, $10,949,000
Walla Walla, Corps of Engineers building, $2,800,000
West Virginia:
Beckley, Federal Building—U.S. Courthouse, $33,097,000
Martinsburg, IRS center, $4,494,000
Wheeling, Federal Building—U.S. Courthouse, $35,829,000
Nationwide chlorofluorocarbons program, $12,300,000
Nationwide energy program, $15,300,000

Office of Personnel Management

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $3,140,000 are rescinded.

CHAPTER XI

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster Relief" for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,900,000,000, to remain available until expended: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $4,800,000,000, to become available on October 1, 1995, and remain available until expended: *Provided*, That such amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

HATFIELD AMENDMENT NO. 526

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill H.R. 1158, supra; as follows:

On page 9, line 12, of the Committee substitute, strike "$37,600,000" and inset in lieu thereof "$30,600,000".

GRAMM AMENDMENT NO. 527

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 10, line 6 of the Committee substitute, insert the following:

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

INFORMATION INFRASTRUCTURE GRANTS

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–317, $15,000,000 are rescinded.

REID AMENDMENT NO. 528

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

At the appropriate place, insert the following:

PROHIBITION OF BENEFITS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES

SEC. . None of the funds made available in this Act may be used to provide any benefit or assistance to any individual in the United States when it is known to a Federal entity or official to which the funds are made available that—

(1) the individual is not lawfully within the United States;

(2) the direct Federal assistance or benefit to be provided is other than search and rescue; emergency medical care; emergency mass care; emergency shelter; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; warning of further risks or hazards; dissemination of public information and assistance regarding health and safety measures; the provision of food, water, medicine, and other essential needs, including movement of supplies or persons; and reduction of immediate threats to life, property, and public health and safety;

(3) temporary housing assistance provided in this Act may be made available to individuals and families for a period of up to 90 days without regard to the requirements of paragraph (4);

(4) immediately upon the enactment of this Act, other than for the purposes set forth in paragraphs (2) and (3), any Federal entity or official who makes available funds under this Act shall take reasonable steps to determine whether any individual or company seeking to obtain such funds is lawfully within the United States;

(5) in no case shall such Federal entity, official, or their agent discriminate against any individual with respect to filing, inquiry, or adjudication of an application for funding on the bases of race, color, creed, handicap, religion, gender, national origin, citizenship status, or form of lawful immigration status; and

(6) the implementation of this section shall not require the publication or implementation of any intervening regulations.

KENNEDY (AND DODD) AMENDMENT NO. 529

(Ordered to lie on the table.)

Mr. KENNEDY (for himself and Mr. DODD) submitted an amendment intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 31, strike lines 10 through 18 and insert the following:

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

Notwithstanding any other provision of this Act, the amount available under the heading "Disaster Relief Emergency Contingency Fund" in chapter XI shall be reduced by $50,400,000.

GRAMM AMENDMENT NO. 530

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 9 of the substitute amendment, strike line 7 through line 16 and insert the following:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $32,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $13,000,000 are rescinded.

LEAHY AMENDMENTS NOS. 531–532

(Ordered to lie on the table.)

Mr. LEAHY submitted two amendments intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

AMENDMENT NO. 531

On page 7, strike out line 13 and all that follows through page 7, line 17, and insert the following:

Notwithstanding any other provision of this Act, that may rescind a greater amount under the heading:

"RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $19,070,000 are rescinded."

AMENDMENT NO. 532

On page 36, strike lines 6–12 and insert the following:

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $19,070,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $11,360,000 are rescinded.

MACK AMENDMENT NO. 533

(Ordered to lie on the table.)

Mr. MACK submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 81, between lines 13 and 14, insert the following:

SEC. . PROHIBITION OF RETROACTIVE APPLICATION OF OUTER CONTINENTAL SHELF LANDS ACT.

None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Minerals Management Service of the Department of the Interior to apply or enforce Section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)) to any contract for the removal of sand, gravel or shell resources from the Outer Continental Shelf executed prior to the enactment of Public Law 103–426.

KENNEDY AMENDMENT NO. 534

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr.

HATFIELD to the bill H.R. 1158, supra; as follows:

At the end of Amendment 420 insert:

"It is the sense of the Senate that—

"(1) the Congress of the United States should act as quickly as possible to amend the Internal Revenue Code to end the tax avoidance by United States citizens who relinquish their United States citizenship; and

"(2) The effective date of such amendment to the Internal Revenue Code should be February 6, 1995."

BURNS AMENDMENT NO. 535

(Ordered to lie on the table.)

Mr. BURNS submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill 1158, supra; as follows:

At the appropriate place, insert:

(a) SCHEDULE FOR NEPA COMPLIANCE.—Each National Forest System unit shall establish and adhere to a schedule for the completion of NEPA analysis and decisions on all allotments within the National Forest System unit for which NEPA analysis is needed. The schedule for completion of NEPA analysis and decisions shall not extend beyond December 31, 2004.

(b) RE-ISSUANCE PENDING NEPA COMPLIANCE.—Notwithstanding any other law, term grazing permits which expire or are waived before the date scheduled for the NEPA analysis and decision pursuant to the schedule developed by individual Forest Service System units, shall be issued on the same terms and conditions and for the full term of the expired or waived permit. Upon completion of scheduled NEPA analysis and decision for the allotment, the terms and conditions of existing grazing permits may be modified or re-issued.

LEVIN (AND OTHERS) AMENDMENT NO. 536

(Ordered to lie on the table.)

Mr. LEVIN (for himself, Mr. SPECTER, Mr. KOHL, Mr. GLENN, Mr. SANTORUM, and Mr. SIMON) submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 7, strike line 23 and insert the following: "Public Law 103-317, $3,000,000 and rescinded. Notwithstanding any other provision of law, $2,000,000 of the amount rescinded under the preceding sentence may be deducted from the total amount of unobligated funds in the Immigration Emergency Fund.

"Notwithstanding any other provision of this Act, of the funds made available under the heading 'Department of Commerce—National Oceanic and Atmospheric Administration—Operations, Research, and Facilities' in Public Law 103-317, $35,600,000 are rescinded.".

LAUTENBERG AMENDMENT NO. 537

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 43, line 17, strike the numeral and insert $1,318,000,000.

On page 46, strike all beginning on line 6 through the end of line 11.

KENNEDY AMENDMENT NO. 538

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 36 after line 5, insert:

"PROGRAM ADMINISTRATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-333, $4,424,000 are rescinded."

On page 34, line 18, strike $57,783,000, and insert in lieu "$53,359,000".

On Page 35, line 2, strike $6,424,000, and insert in lieu of "$2,000,000".

LEAHY (AND HARKIN) AMENDMENT NO. 539

(Ordered to lie on the table.)

Mr. LEAHY (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by them to the bill H.R. 1158, supra; as follows:

In lieu of the matter proposed to be inserted, insert:

INTERNATIONAL BROADCASTING OPERATIONS

(RESCISSION)

Of the funds made available under this heading to the Board for International Broadcasting in Public Law 103-317, $95,000,000 are rescinded.

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $1,000,000 are rescinded.

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading in Public Law 103-317, $5,000,000 are rescinded.

LEGAL ACTIVITIES

ASSET FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $5,000,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

DRUG COURTS

(RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103-317, $17,100,000 are rescinded.

OUNCE OF PREVENTION COUNCIL

(INCLUDING RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103-317, $1,000,000 are rescinded.

In addition, under this heading in Public Law 103-317, after the word "grants", insert the following: "and administrative expenses". After the word "expended", insert the following: *Provided*, That the Council is authorized to accept, hold, administer, and use gifts, both real and personal, for the purpose of aiding or facilitating the work of the Council".

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $19,500,000 are rescinded.

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317 for the Manufacturing Extension Partnership and the Quality Program, $27,100,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $37,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $8,000,000 are rescinded

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $1,500,000 are rescinded.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $7,600,000 are rescinded.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSIONS)

Of unobligated balances available under this heading pursuant to Public Law 103-75, Public Law 102-368, and Public Law 103-317, $47,384,000 are rescinded.

THE JUDICIARY

COURT OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

UNITED STATES COURT OF INTERNATIONAL TRADE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $1,000,000 are rescinded.

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $4,100,000 are rescinded.

RELATED AGENCY

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $15,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $2,000,000 are rescinded.

ACQUISITION AND MAINTENANCE OF BUILDING ABROAD

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $30,000,000 are rescinded.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $14,617,000 are rescinded.

RELATED AGENCIES

ARMS CONTROLS AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded, of which $2,000,000 are from funds made available for activities related to the implementation of the Chemical Weapons Convention.

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

From unobligated balances available under this heading, $2,000,000 are rescinded.

UNITED STATES INFORMATION AGENCY

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

RADIO FREE ASIA

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Act, $10,000,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Act, $50,000,000 are rescinded.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

OPERATION AND MAINTENANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $81,500,000 are rescinded.

ATOMIC ENERGY DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $113,000,000 are rescinded.

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316, and prior years' Energy and Water Development Acts, $15,000,000 are rescinded.

DEPARTMENTAL ADMINISTRATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $20,000,000 are rescinded.

POWER MARKETING ADMINISTRATIONS

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $30,000,000 are rescinded.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $5,000,000 are rescinded.

CHAPTER IV

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

(RESCISSION)

Of the unearmarked and unobligated balances of funds available in Public Law 103–87 and Public Law 103–306, $100,000,000 are rescinded: *Provided*, That not later than thirty days after the enactment of this Act the Director of the Office of Management and Budget shall submit a report to Congress setting forth the accounts and amounts which are reduced pursuant to this paragraph.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $70,000 are rescinded, to be derived from amounts available for developing and finalizing the Roswell Resource Management Plan/Environmental Impact Statement and the Carlsbad Resource Management Plan Amendment/Environmental Impact Statement: *Provided*, That none of the funds made available in such Act or any other appropriations Act may be used for finalizing or implementing either such plan.

CONSTRUCTION AND ACCESS

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, and Public Law 102–381, $2,100,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 102–381, Public Law 102–381, Public Law 101–121, and Public Law 100–446, $1,497,000 are rescinded.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading or the heading Construction and Anadromous Fish in Public Law 103–332, Public Law 103–138, Public Law 103–75, Public Law 102–381, Public Law 102–154, Public Law 102–368, Public Law 101–512, Public Law 101–121, Public Law 100–446, and Public Law 100–202, $13,215,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, and Public Law 101–512, $3,893,000 are rescinded.

NATIONAL BIOLOGICAL SURVEY

RESEARCH, INVENTORIES, AND SURVEYS

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332 and Public Law 103–138, $12,544,000 are rescinded.

NATIONAL PARK SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $25,970,000 are rescinded.

URBAN PARK AND RECREATION FUND

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $7,480,000 are rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, Public Law 102–154, Public Law 101–512, Public Law 101–121, Public Law 100–446, Public Law 100–202, Public Law 99–190, Public Law 98–473, and Public Law 98–146, $11,297,000 are rescinded.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $814,000 are rescinded.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $11,350,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103–332 is amended by striking "$330,111,000" and inserting in lieu thereof "$329,361,000".

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $9,571,000 are rescinded.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

(RESCISSION)

Of the funds provided under this heading in Public Law 103–332, $1,900,000 are rescinded.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,900,000 are rescinded.

TRUST TERRITORY OF THE PACIFIC ISLANDS

(RESCISSION)

Of the funds available under this heading in Public Law 99–591, $32,139,000 are rescinded.

COMPACT OF FREE ASSOCIATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $1,000,000 are rescinded.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $6,000,000 are rescinded.

STATE AND PRIVATE FORESTRY

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332 and Public Law 103–138, $6,250,000 are rescinded.

INTERNATIONAL FORESTRY

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 102–381, $7,824,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103–332 is amended by striking "1994" and inserting in lieu thereof "1995".

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 102–381, $3,020,000 are rescinded.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $20,750,000 are rescinded.

NAVAL PETROLEUM AND OIL SHALE RESERVES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $11,000,000 are rescinded.

ENERGY CONSERVATION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, $34,928,000 are rescinded.

Of the funds available under this heading in Public Law 103–138, $13,700,000 are rescinded.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $2,000,000 are rescinded.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

(RESCISSIONS)

Of the funds available under this heading in Public Law 102–381 and Public Law 103–138, $1,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–154, Public Law 102–381, Public Law 103–138 and Public Law 103–332, $11,237,000 are rescinded: *Provided*, That of the amounts proposed herein for rescission, $2,500,000 are from funds previously appropriated for the National Museum of the American Indian: *Provided further*, That notwithstanding any other provision of law, the provisions of the Davis-Bacon Act shall not apply to any contract associated with the construction of facilities for the National Museum of the American Indian.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $407,000 are rescinded.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,000,000 are rescinded.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

GENERAL PROVISIONS

SEC. 501. No funds made available in any appropriations Act may be used by the Department of the Interior, including but not limited to the United States Fish and Wildlife Service and the National Biological Service, to search for the Alabama sturgeon in the Alabama River, the Cahaba River, the Tombigbee River or the Tennessee-Tombigbee Waterway in Alabama or Mississippi.

SEC. 502. (a) None of the funds made available in Public Law 103–332 may be used by the United States Fish and Wildlife Service to implement or enforce special use permit numbered 72030.

(b) The Secretary of the Interior shall immediately reinstate the travel guidelines specified in special use permit numbered 65715 for the visiting public and employees of the Virginia Department of Conservation and Recreation at Back Bay National Wildlife Refuge, Virginia. Such guidelines shall remain in effect until such times as an agreement described in subsection (c) becomes effective, but in no case shall remain in effect after September 30, 1995.

(c) It is the sense of Congress that the Secretary of the Interior and the Governor of Virginia should negotiate and enter into a long term agreement concerning resources management and public access with respect to Back Bay National Wildlife Refuge and False Cape State Park, Virginia, in order to improve the implementation of the missions of the Refuge and Park.

SEC. 503. (a) No funds available to the Forest Service may be used to implement Habitat Conservation Areas in the Tongass National Forest for species which have not been declared threatened or endangered pursuant to the Endangered Species Act, except that with respect to goshawks the Forest Service may impose interim Goshawk Habitat Conservation Areas not to exceed 300 acres per active nest consistent with the guidelines utilized in national forests in the continental United States.

(b) The Secretary will notify Congress within 30 days of any timber sales which may be delayed or canceled due to the Goshawk Habitat Conservation Areas described in subsection (a).

SEC. 504. RENEWAL OF PERMITS FOR GRAZING ON NATIONAL FOREST LANDS.

Notwithstanding any other law, at the request of an applicant for renewal of a permit that expires on or after the date of enactment of this Act for grazing on land located in a unit of the National Forest System, the Secretary of Agriculture shall reinstate, if necessary, and extend the term of the permit until the date on which the Secretary of Agriculture completes action on the application, including action required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

CHAPTER VI

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,521,220,000 are rescinded, including $46,404,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $15,000,000 for the School-to-Work Opportunities Act, $15,600,000 for title III, part A of the Job Training Partnership Act, $20,000,000 for the title III, part B of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $33,000,000 for carrying out title II, part A of such Act, $472,010,000 for carrying out title II, part C of such Act, $750,000 for the National Commission for Employment Policy and $421,000 for the National Occupational Information Coordinating Committee: *Provided*, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II–B and title II–C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $20,000,000 are

rescinded, and amounts which may be expended from the Employment Security Administration account in the Unemployment Trust Fund are reduced from $3,269,097,000 to $3,221,397,000.

Bureau of Labor Statistics

SALARIES AND EXPENSES

Of the funds made available under this heading in Public Law 103–333, $1,100,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $37,571,000 to be derived from accounts other than Trauma Care are rescinded.

Centers for Disease Control and Prevention

DISEASE CONTROL, RESEARCH, AND TRAINING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,300,000 are rescinded.

National Institutes of Health

BUILDINGS AND FACILITIES

(RESCISSION)

Of the available balances under this heading, $79,289,000 are rescinded.

Substance Abuse and Mental Health Services Administration

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $14,700,000 are rescinded.

Assistant Secretary for Health

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,320,000 are rescinded.

Agency for Health Care Policy and Research

HEALTH CARE POLICY AND RESEARCH

(RESCISSION)

Of the Federal funds made available under this heading in Public Law 103–333, $3,132,000 are rescinded.

Health Care Financing Administration

PROGRAM MANAGEMENT

(RESCISSION)

Funds made available under this heading in Public Law 103–333 are reduced from $2,207,135,000 to $2,185,935,000, and funds transferred to this account as authorized by section 201(g) of the Social Security Act are reduced to the same amount.

Social Security Administration

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading in Public Law 103–333, $67,000,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 to invest in a state-of-the-art computing network, $88,283,000 are rescinded.

Administration for Children and Families

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, there are rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(E) of the Social Security Act (as amended by Public Law 100–485) is amended by adding before the "and": "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,300,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),".

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

(RESCISSION)

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $6,000,000 are rescinded.

COMMUNITY SERVICES BLOCK GRANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $13,988,000 are rescinded.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $42,000,000 are rescinded from section 639(A) of the Head Start Act, as amended.

Administration on Aging

(AGING SERVICES PROGRAMS)

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $899,000 are rescinded.

Office of the Secretary

POLICY RESEARCH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,918,000 are rescinded.

DEPARTMENT OF EDUCATION

EDUCATION REFORM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $82,600,000 are rescinded, including $55,800,000 from funds made available for State and local education systemic improvement, and $11,800,000 from funds made available for Federal activities under the Goals 2000: Educate America Act; and $15,000,000 are rescinded from funds made available under the School to Work Opportunities Act, including $4,375,000 for National programs and $10,625,000 for State grants and local partnerships.

EDUCATION FOR THE DISADVANTAGED

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $80,400,000 are rescinded as follows: $72,500,000 from the Elementary and Secondary Education Act, title I, part A, $2,000,000 from part B, and $5,900,000 from part E, section 1501.

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $211,417,000 are rescinded as follows: from the Elementary and Secondary Education Act, title II–B, $69,000,000, title IV, $75,000,000, title V–C, $2,000,000, title IX–B, $1,000,000, title X–D, $1,500,000, section 10602, $1,630,000, title XII, $20,000,000, and title XIII–A, $8,900,000; from the Higher Education Act, section 596, $13,875,000; from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000; and from funds for the Civil Rights Act of 1964, title IV, $7,412,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $32,380,000 are rescinded from funding for title VII–A and $11,000,000 from part C of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $60,566,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and –B, $43,888,000 and from title IV–A and –C, $8,891,000; from the Adult Education Act, part B–7, $7,787,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $46,583,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 2, $600,000, title IV–A–6, $2,000,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–E, $3,500,000, title IX–G, $2,888,000, title X–D, $2,900,000, and title XI–A, $500,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $6,424,000.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $3,300,000 are rescinded, including $1,500,000 for construction.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $322,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $15,200,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III–A, $5,000,000, title III–B, $5,000,000, and title X–B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,916,000 are

rescinded from title II, part B, section 222 of the Higher Education Act.

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public law 103–112, $17,791,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $11,965,000 are rescinded.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. COATS. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Wednesday, April 5, 1995, beginning at 9:30 a.m. in room SD–215, to conduct a hearing on various flat tax proposals.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 5, 1995, at 2 p.m. to hold a hearing on the crisis in Rwanda and Burundi.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COATS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, April 5, 1995, at 10 a.m. for a hearing on the subject of earned income tax credit.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, April 5, 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the FDA and the future of the American biomedical and food industries, during the session of the Senate on Wednesday, April 5, 1995 at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 5, 1995, beginning at 9:30 a.m., in room 485 of the Russell Senate Office Building on providing direct funding through block grants to tribes to administer welfare and other social service programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COATS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 5, 1995, at 10 a.m. to hold an open hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND FORCES

Mr. COATS. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Wednesday, April 5, 1995, in open session, to receive testimony on the future of the North Atlantic Treaty Organization.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS AND COMPETITION

Mr. COATS. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights and Competition for the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, April 5, 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. COATS. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, April 5, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the Forest Service land management planning process.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. COATS. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, April 5, 1995, in open session, to receive testimony regarding the Department of Defense quality of life programs related to the National Defense Authorization Act for fiscal year 1996 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. COATS. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet at 2:00 p.m. on Wednesday, April 5, 1995, in open session, to receive testimony regarding the Department of Defense quality of life programs related to the National Defense Authorization Act for fiscal year 1996 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, WASTE CONTROL, AND RISK ASSESSMENT

Mr. COATS. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be granted permission to conduct an oversight hearing Wednesday, April 5, 9:30 p.m. regarding the Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA].

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COST ESTIMATE—S. 523

• Mr. MURKOWSKI. Mr. President, at the time the Committee on Energy and Natural Resources filed its report on S. 523, legislation to amend the Colorado River Basin Salinity Control Act, the cost estimate from the Congressional Budget Office was not available. We have since received the estimate, and, for the information of the Senate, I ask that a copy of the cost estimate be printed in the RECORD. The estimate states that enactment would not affect direct spending or receipts and therefore pay-as-you-go procedures would not apply to the bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 3, 1995.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 523, a bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner.

Enactment of S. 523 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES J. BLUM
(For June E. O'Neill).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE, APRIL 3, 1995

1. Bill number: S. 523.

2. Bill title: A bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on on March 29, 1995.

4. Bill purpose: S. 523 would authorize appropriations of $75 million for the Bureau of Reclamation to develop a new program to reduce salinity in the Colorado River basin from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources. The authorized funds also could be used to cover

costs associated with ongoing salinity control projects. The federal government would be reimbursed over time for 30 percent of any appropriations provided for S. 523 through the Upper Colorado River Basin Fund (UCRBF) and the Lower Colorado River Basin Development Fund (LCRBDF), which collect surcharge from power users through the Western Area Power Administration.

5. Estimated cost to the Federal Government: Based on information from the Department of the Interior, CBO estimates that the $75 million in appropriations authorized by S. 523 would be used entirely for new salinity control projects. We expect that funding for these new projects would be required beginning in fiscal year 1996, and that outlays, would reflect historical spending patterns for similar construction projects. Estimated outlays for these projects would total $52 million over the 1996–2000 period, as shown in the following table. Because of the anticipated length of the project, additional outlays would continue beyond fiscal year 2000.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Authorization of appropriations	6	8	10	15	15
Estimated outlays	5	8	10	14	15

The costs of this bill fall within budget function 300.

The bill's reimbursement requirements would not affect outlays over the 1996–2000 period. Fifteen percent of the reimbursable portion of the appropriation would be paid from collections to the UCRBF within 50 years after a project becomes operational, and the remaining 85 percent of the reimbursable costs would be paid from collections to the LCRBDF as costs for construction are incurred. To cover the reimbursable costs allocated to the UCRBF, CBO expects that the federal government would increase its power surcharge rate beginning in fiscal year 2002. We expect that no rate change would be made to cover costs allocated to the LCRBDF because this fund is currently running an annual surplus of about $9 million.

6. Comparison with spending under current law: None.

7. Pay-as-you-go considerations: None.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Ian McCormick and Susanne S. Mehlman.

12. Estimate approved by:

PAUL N. VAN DE WATER,
Assistant Director
for Budget Analysis.•

GET OFF CUBA'S BACK

• Mr. SIMON. Mr. President, William Raspberry's column in the Washington Post and other newspapers around the Nation frequently gives us insights into our society and our policies that are important.

Recently, he had a column under the title "Get Off Cuba's Back" that pointed out how ridiculous our current policy toward Cuba is.

As I have said on the floor before, if Fidel Castro and the Soviet Union had a series of meetings to create an American policy that would make sure Castro would remain in power, they could not have devised a better policy than the one the United States has followed.

We should forget our illusions about overthrowing Castro, and move in the direction of trying to influence him to ameliorate his policies.

The William Raspberry column hits the nail on the head.

I ask that the column be printed in the RECORD.

The column follows:

[From the Washington Post, Apr. 3, 1995]

GET OFF CUBA'S BACK

(By William Raspberry)

Why doesn't the United States get off Cuba's back?

The question is meant literally, not rhetorically. In what way is it in the interest of the United States to cut Cuba off from the rest of the world, to wreck its economy and starve its people?

When there was a Cold War, the reasons were understandable enough—even to those who disagreed with them. Cuba was an outpost of international communism and right in our back yard. Communist leaders, whether in the Soviet Union or in China, were eager to use Fidel Castro as an annoyance to the United States and as the means of spreading communism throughout the hemisphere. There were even times when the communist-expansion-by-proxy scheme seemed to be working, and it didn't make sense for us to sit idly by and let it happen.

The alternate? Isolate Cuba from its neighbors, crush pro-communist revolutions wherever they occurred in the region, encourage the Cuban people to overthrow their despotic leader and serve notice to the communist world that it would be permitted no exploitable foothold 90 miles from our shores. That, as far as I can figure it, is how our opposition to Castro's Cuba became such an obsession.

But that was then. This is now, and I cannot find any logical reason for continuing our Cold War attitude toward Cuba—or Castro. Certainly there is no threat that anyone else in Latin America will be tempted to follow Cuba's disastrous economic path. Cuba, no longer anyone's well-financed puppet, is hardly a military or political threat to destabilize its neighbors. And if anything is clear, it's that the Cubans (in Cuba) have no intention of overthrowing the aging Castro.

But even if they did, so what? Absent the Cold War, why do we care that Castro continues to try to manage a communist state? Doesn't China, with whom we are panting to do more business? We're buddy-buddy with the Russians now—lending them money, supporting their leaders and again, doing business with them.

Isn't there business to be done with Cuba? To this recently reformed cigar smoker, the answer is obvious. And not just Habanas, either. There's sugar and rum and tourism on their side and (prospectively) cars and machinery and other sales and service opportunities on ours.

Isn't it likely that international trade and the concomitant exposure of Cuban citizens to the advantages of capitalism would do more to move Cuba away from communism than has a 30-year U.S.-led embargo of the island?

Or can it be that we don't care whether Cuba abandons communism or not? Officially, of course, we do care. It is, ostensibly, what our policy is about. Members of Congress—notably Sen. Jesse Helms (R-N.C.) and much of the Florida delegation—justify their call for yet tougher sanctions against Cuba on the ground that the new measures will finally topple the regime.

My fear is that the motivations are less philosophical—and significantly less noble—than that. Two things seem to be driving our anti-Castro policy: Cubans in Florida and sheer vengeance.

Few politicians with aspirations for national leadership seem willing to take on the Miami-based Cubans who (like the followers of Chiang Kai-shek) see themselves as a sort of government-in-exile and dream of a triumphant return to their homeland. There being no significant pro-Castro lobby here, the hopeful antis carry the political day.

Keeping these next-Christmas-in-Havana dreamers tractable is, I suspect, one reason for our policy. The other may be a sort of institutional rage that Castro has withstood an international missile confrontation, the Bay of Pigs, any number of unsuccessful CIA plots against him and the demise of international communism—and still sits there as a rebuke to our hegemony.

Our officials keep hinting that Castro is ailing, or aging or losing his iron-fisted control. No need to think of economic concessions or diplomatic rethinking now. . . just hold out a few months longer, and watch him fall like a ripe plum.

And, of course, use our political and economic power to shake the tree.

But to what purpose of ours? Isn't it time to stop making our official hatred of one increasingly harmless old man the basis of our foreign policy?

Why don't we get off Cuba's back?•

LONDONDERRY HIGH SCHOOL BAND PERFORMS IN WASHINGTON, DC.

• Mr. SMITH. Mr. President, I rise today to pay tribute to the Londonderry High School "Lancer" Marching Band and Colorguard from Londonderry, NH. The Lancers recently performed here in the Nation's Capital for the 1995 Washington, DC St. Patrick's Day parade and received awards for their performance.

The Lancer Marching Band and Colorguard, under the able direction of Mr. Andrew Soucy, have a proud tradition of representing the Granite State in parades across the country. In addition to the St. Patrick's Day parade, they have marched in the Pasadena Tournament of Roses Parade and, just this year, performed for the New England Patriots football team at Foxboro Stadium in Massachusetts.

These fine young men and women demonstrate the hard work and dedication that is characteristic of the Granite State students. They have proven that determination and teamwork are the hallmark of success both as musicians and students. The Lancer Band and Colorguard are outstanding ambassadors for New Hampshire.

Mr. President, I want to express my thanks to both the students and faculty at Londonderry High School for their commitment to excellence. It is an honor to represent them in the U.S. Senate.•

INVEST NOW, OR PAY MORE LATER

• Mrs. FEINSTEIN. Mr. President, I respectfully submit into the CONGRESSIONAL RECORD a statement from Mayor Richard J. Riordan of Los Angeles on the issue of the Davis-Bacon Act and Prevailing Wage laws.

Mr. President, I ask that Mayor Riordan's full statement be printed in the RECORD.

The statement follows:

INVEST NOW, OR PAY MORE LATER

(By Mayor Richard J. Riordan)

"You can pay now or pay later" is more than grandmotherly advice. It is a healthy dose of financial wisdom which all levels of government ought to heed. In fact, the pay now approach is a goal-oriented investment strategy that considers current and future needs. The pay later scenario is highly reactive, unpredictable and void of strategy.

Unfortunately for Angelenos and our local businesses community, Los Angeles city government is too reliant on the pay later approach, which really translates to "pay more later." The cost to the city by failing to invest is hundreds of millions of dollars in deferred maintenance and the taking of precious investment dollars for short-term crises. For example, due to years of inadequate funding for street maintenance, 111 miles of Los Angeles City streets are beyond repair and must be totally reconstructed at an estimated cost of $150 million. It costs five times as much to reconstruct a street as it does to maintain it.

Investment in affordable housing, streets, sidewalks, parks, library buildings, schools, water storage, railways, airports and port facilities is good business. Directly, this investment in infrastructure generates tens of thousands of construction jobs. Over the long-term, it creates a climate where businesses will stay and come out of their own self-interest because the quality of life is better—streets are safer, long term economic investment is more secure and more jobs are available.

But it takes a lot more taxpayer dollars to build infrastructure.

It takes investment in human capital, too, and the same "invest now or pay more later" logic should apply. There are some existing strong partnerships between the public and private sectors and organized labor which have wisely adopted a goal-oriented strategy. Prevailing wage laws—created by the federal, state and local governments, in partnership with the building trades and business—have attracted skilled labor with the expertise and experience to complete projects on time and within budget. The Santa Monica Freeway is a shining example; it was reconstructed to the highest quality standards, ahead of schedule and under budget in the aftermath of the Northridge earthquake. Public infrastructure projects have also expanded career opportunities for young people. Some of the best technical training in our region is available through the organized building trades. The facilities are first rate, and the curriculum is fully up-to-date and forward looking.

Against the strong arguments for pay-now versus pay more later, those in the Washington beltway who would eliminate the Davis Bacon Act are shortsighted in their thinking. According to a recent study by the University of Utah Economics Department, in the nine states which have repealed prevailing wage laws, the pay more later rule has kicked in, with the net result being reduced wages for construction workers, increased workplace injuries and deaths, a decline in job training, a loss of tax revenue to the state and increased cost overruns.

Retaining the Davis-Bacon Act and our prevailing wage laws is critical to the public private partnership which has worked so well in developing our public infrastructure and the highly skilled workforce upon which it depends. In so doing, we can continue to build great projects, produce the good paying jobs and careers our economy must have, and save millions of taxpayer dollars in the process. And we can all rest a little easier knowing that the next time the earth moves, we will still have skilled contractors and construction workers needed to get the job done.•

KOWTOW: THE STATE DEPARTMENT'S BOW TO BEIJING

• Mr. SIMON. Mr. President, recently, Lorna Hahn had an op-ed piece in the Washington Post titled, "Kowtow: The State Department's Bow to Beijing."

What she says there makes eminent sense.

I cannot understand our continuing to give a cold shoulder to President Lee of Taiwan.

I trust our Government will make its decision known soon that it will do the responsible thing and let President Lee come to our country. He is a freely elected president of a multiparty country with a free press. We should not give him the cold shoulder because another nation without these human rights objects.

I ask that the Lorna Hahn item be printed in the RECORD at this point.

The item follows:

KOWTOW—THE STATE DEPARTMENT'S BOW TO BEIJING.

(By Lorna Hahn)

Lee Teng-hui, president of the Republic of China on Taiwan, wishes to accept an honorary degree from Cornell University, where he earned his PhD in agronomy.

Last year, when Cornell made the same offer, Lee was refused entry into the United States because Beijing belligerently reminded the State Department that granting a visa to a Taiwanese leader would violate the principle of "One China." (Cornell subsequently sent an emissary to Taipei for a substitute ceremony.) This year, on Feb. 9, Assistant Secretary of State Winston Lord told a congressional hearing that our government "will not reverse the policies of six administrations of both parties."

It is high time it did. The old policy was adopted at a time when China and Taiwan were enemies, Taiwan's government claimed to represent all of China, and Beijing's leaders would never dream of meeting cordially with their counterparts from Taipei. Today, things are very different.

Upon assuming office in 1988, Lee dropped all pretense of ever reconquering the mainland and granted that the Communists do indeed control it. Since then, he has eased tensions and promoted cooperation with the People's Republic of China through the Lee Doctrine, the pragmatic, flexible approach through which he (1) acts independently without declaring independence, which would provoke Chinese wrath and perhaps an invasion; (2) openly recognizes the PRC government and its achievements and asks that it reciprocate, and (3) seeks to expand Taiwan's role in the world while assuring Beijing that he is doing so as a fellow Chinese who has their interests at heart as well.

Lee claims to share Beijing's dream of eventual reunification—provided it is within a democratic, free-market system. Meanwhile, he wants the PRC—and the world—to accept the obvious fact that China has since 1949 been a divided country, like Korea, and that Beijing has never governed or represented Taiwan's people. Both governments, he believes, should be represented abroad while forging ties that could lead to unity.

To this end he has fostered massive investments in the mainland, promoted extensive and frequent business, cultural, educational and other exchanges, and offered to meet personally with PRC President Jiang Zemin to discuss further cooperation. His policies are so well appreciated in Beijing—which fears the growing strength of Taiwan's pro-independence movement—that Jiang recently delivered a highly conciliatory speech to the Taiwanese people in which he suggested that their leaders exchange visits.

If China's leaders are willing to welcome Taiwan's president to Beijing, why did their foreign ministry, on March 9, once again warn that "we are opposed to Lee Teng-hui visiting the United States in any form"? Because Beijing considers the "Taiwan question" to be an "internal affair" in which, it claims, the United States would be meddling if it granted Lee a visa.

But Lee does not wish to come here in order to discuss the "Taiwan question" or other political matters, and he does not seek to meet with any American officials. He simply wishes to accept an honor from a private American institution, and perhaps discuss with fellow Cornell alumni the factors that have contributed to Taiwan's—and China's—outstanding economic success.

President Clinton has yet to make the final decision regarding Lee's visit. As Rep. Sam Gejdenson (D-Conn.) recently stated: "It seems to me illogical not to allow President Lee on a private basis to go back to his alma mater." As his colleague Rep. Gary Ackerman (D-N.Y.) added: "It is embarrassing for many of us to think that, after encouraging the people and government on Taiwan to democratize, which they have, [we forbid President Lee] to return to the United States * * * to receive an honorary degree."•

ETNA SWIMMER WINS GOLD IN PAN AMERICAN GAMES

• Mr. SMITH. Mr. President, I rise today to pay tribute to Barbara (B.J.) Bedford of Etna, NH for capturing three gold medals for swimming in the women's 100 meter and 200 meter backstroke, and as a member of the 4 x 100 meter medley relay, at the Pan American Games held in Mar del Plata, Argentina, March 11 to 26, 1995.

The U.S. Olympic committee sent 800 athletes, including 159 current Olympians, to compete in the 12th Pan Am Games—its largest contingent ever. B.J.'s performance was remarkable and one for which she can be very proud.

B.J. has not only excelled at the Pan Am Games, but she was the bronze medalist in the 100 meter in the 1994 World Championships and is the 11th fastest woman in history in the 100 meter backstroke. At the 1994 Goodwill Games, she won two gold medals in the 200 meter backstroke and 400 meter medley relay and a silver medal in the 100 meter backstroke. She is a three-time U.S. national champion. Currently, B.J. is training for the 1996 Olympics in Gainsville, FL.

B.J. is the daughter of Frederick and Jane Bedford of Etna. She attended Hanover High School and Kimball Union Academy in New Hampshire where she swam with the North Country Aquatics Club. She graduated from the University of Texas in 1994 with a degree in Art History.

On behalf of the citizens of the Granite State, congratulations to Barbara Bedford for a job well done. We are very proud to have this world-class competitor represent New Hampshire at the Pan American Games and look forward to following her future successes. It is an honor to represent Barbara and her family in the U.S. Senate.●

IN TRIBUTE TO NANCY D'ALESANDRO

● Ms. MIKULSKI. Mr. President, I rise today to pay tribute to Mrs. Nancy D'Alesandro, a first-class First Lady of Baltimore. She was a dedicated wife, mother of 6, grandmother of 16 and the driving force behind a family that distinguished itself in Baltimore and in Washington.

Nancy D'Alesandro was a Baltimore institution. There was nobody closer to the street or closer to the people. From 1947 to 1959, her husband Thomas D'Alesandro served as mayor of Baltimore and Nancy was a hands-on first lady. Likewise, she provided endless support during her husband's years in the U.S. House of Representatives.

Devoted to her children, she was there for her son, Thomas D'Alesandro III, who also served a term as mayor of Baltimore and she was there for her daughter Nancy Pelosi, who currently serves California's Fifth District in the House of Representatives.

She was such an important part of not just the Little Italy section of Baltimore, but of the whole city and its history. She was a tireless worker and a great woman.

She immigrated to Baltimore from Italy and graduated from my high school, the Institute of Notre Dame, in 1926. She and her husband were married for nearly 60 years, until his death in 1987.

Nancy was so good to so many people—the nuns, the people in her neighborhood, people all over town. The city of Baltimore and the State of Maryland are proud and honored to have known her. The great First Lady of Baltimore has been called to glory. We will miss her.●

HEAVEN CAN WAIT

● Mr. SIMON. Mr. President, recently, the Jerusalem Report had a fascinating story about a 15-year-old boy who narrowly missed being recruited for a suicide mission.

It is an important story because of its insight into how people with the wrong motivation can cause such horrible and needless tragedy.

This is a story that ended positively, and the young man, Musa Ziyada, hopes to become a physician. I hope he will, and I wish him the best.

I ask that the Jerusalem Post story be printed in the RECORD at this point.

The story follows:

HEAVEN CAN WAIT

Musa Ziyada arrives for our meeting late. The 15-year-old schoolboy had come home from classes and fallen asleep. Still rubbing his huge almond eyes and yawning occasionally, he finally shuffles into his father's office at 3 in the afternoon in the Rimal district of Gaza city and takes a seat across the table.

It's a wonder he's here at all. On the fifteenth day of Ramadan (or February 14), the anniversary in the Muslim calendar of the 1994 Hebron massacre, Musa, an intelligent and earnest Hamas activist, was supposed to have strapped a belt of eight kilograms of TNT around his waste and entered Israel as a human bomb. By blowing himself up along with as many Israelis as he could manage, he was expecting to go directly to heaven; his victim, he says, would go to hell. He was stopped just days before his mission by his alert father and an uncle, who had grown suspicious and handed him over to the Palestinian police.

"In the mosque, they told me that martyrdom means paradise, and that the only way to paradise is through martyrdom," Musa explains. "But I thank God that the suicide act didn't happen, because now I'm convinced it's wrong—both from a religious and personal point of view.

Musa's smooth olive skin and the downy shadow over his upper lip give him a look of innocence that belies the nature of the lethal journey he almost took. Paradise, he says, is a place where he would find "all the pleasures of life and more." A place with no death ("the last station"), full of palaces and gardens flowing with rivers of milk and delicious wine—with the alcohol taken out.

"They" told him that as a martyr, he could gain entry to heaven for 70 relatives and friends, no questions asked. And that 70 virgin brides would await him there. "Wine and women," interjects his father, Hisham, with a hearty laugh. "That was it! Admit it!" It's in the Koran. Musa retorts quietly, trying not to look embarrassed.

"They" are two members of the Izz al-Din al-Qassam brigades, the armed wing of Hamas, men in their mid-30s who told Musa he was true martyr material and started to train him. "They're just ordinary people," he says, giving the word 'ordinary' a whole new meaning. "Their main job is to persuade boys of our age to be suicide bombers." Asked whether he questioned why the two didn't go themselves, Musa replies: "I didn't want to argue, just to be convinced."

Musa was born in the Bureij refugee camp south of Gaza city in 1980, the fourth of nine children. His father, Hisham, a slim, European-looking man of 43 with blue-green eyes and a loud, ready laugh, hardly looks the part of a parent of a would-be suicide bomber. Sitting in the front office of his family firm, an aluminum window-frame workshop, he is sporting a red polo-neck, black silky jacket, jeans and tartan suspenders.

Hisham can joke about the experience now, and never misses an opportunity to do so. His son solemnly explains that a suicide bomber who blew himself up in Jerusalem in December but who didn't manage to take any Israelis with him will still go to heaven, because his intentions were "*jihadi*." But he'll only get 35 virgins, the father gaffaws.

The Ziyadas are not a religious family, though Musa's mother and grandfather pray as many ordinary Muslims do. But from an early age, Musa was particularly attracted to Islam. At 10, he was a regular at the mosque and was considered something of a prodigy in Koran. By 12, he was a member of Hamas.

"Despite his youth, he was given the title of '*emir*,' or prince, because of his religious proficiency and knowledge of the Koran," Hisham relates, with a mixture of pride and bewilderment. "Musa was trusted. Doctors and engineers used to flock to visit him in our home." Musa also loves soccer and played no the mosque team ("a Hamas team—no shorts," says Hisham).

About eight months ago, the family left Bureij and moved to Gaza city's Darraj neighborhood, to be closer to the business. Musa was happy with the move and immediately joined the Izz al-Din al-Qassam mosque near his new home. He came with recommendations from the mosque at Bureij, and quickly became something of a local celebrity.

When the bombs started exploding, killing dozens of Israelis from Afulah to Tel Aviv's Dizengoff Street, Musa began to talk about martyrdom and heaven. "He began to mention it more and more," says the father. "When bombs went off, he'd say 'Wow, I wish I was that martyr.'" He thought the suicide bombing at the Beit Lid junction in January, which killed 21 Israelis, was excellent. "Still, we didn't think much of it," Hisham says. "That's how some of the boys in the street talk."

It was the winter vacation from school. Musa said he wanted to spend some time at Bureij with his friends and family that he'd left behind there. He was given permission, and after about 10 days, his father traveled down to check up on him. When he heard from Musa's aunt and sisters there that they had hardly seen him, he began to get suspicious.

One of Hisham's brothers, Samir, is an intelligence officer in the Palestinian police. He was hearing from "his boys" in Bureij that Musa had been attending secret sessions in the mosque; he finally came to Hisham and told him he'd better watch his son. The father went to Bureij and made Musa come home.

Musa, meanwhile, had attended two secret sessions with his Hamas operators. The first, he says, was to tell him he'd been chosen and to get his agreement. "I wanted to be a martyr but I wasn't a volunteer," Musa says. "They convinced me."

The second session was to explain the outline of what he would have to do. "I wasn't told the location of the attack, but I was told people would help me and be with me all the time, even inside Israel," Musa relates. The third session, for the final details, was set for the 13th of Ramadan. He had told his father that he absolutely had to go back to Bureij that day, to help with a Hamas food distribution. But by then, Hisham had made up his mind that Musa was in trouble, and took him to the police.

"I was scared," Musa recalls. "The police were very nervous around me at the beginning and I was confused. I didn't know what to say." Before he could say much, his interrogators found on him a handwritten will that said it all. In it, Musa had asked forgiveness from his family and wrote that he'd see 70 of his relatives and friends in heaven.

Musa spent the next week-and-a-half in custody, and was released a few days before the end of the Ramdan feast. At that point, Hamas spokespeople denied Musa's story, and said the police had tortured him into giving a false confession. Musa claims he was beaten by his interrogators (his father vehemently denies it), but says matter-of-factly that, truth aside, Hamas has to defend its interests.

After months of admonishment from Israel that it has done little to stop Palestinian terrorism, the Palestinian Authority in Gaza is now making efforts, at least to improve its image and impart a sense of goodwill. Yasser Arafat has announced that his police have prevented at least 10 terror attacks recently; and Musa and two other teenage would-be suicide bombers who had changed their minds have been presented to the press in Gaza.

The Israeli public has been outraged by the recent levels of Palestinian terrorism, and after the Beit Lid attack, Prime Minister Yitzhak Rabin predicated a resumption of the autonomy talks with the Palestinians on a serious attempt by Arafat to quell the phenomenon.

Since then, the Palestinian Authority has announced the establishment of military courts and the Palestinian police have carried out a mini-crackdown on the radical Islamic Jihad, which claimed responsibility for Beit Lid and which is an easier target than the more popular Hamas. The offices of the Islamic Jihad newspaper, Istiqlal, have been closed and several of the radical organization's leaders are in detention.

The talks have resumed, but there is evidently still a way to go. Brig. Sa'eb al-Ajez, the National Security Forces commander of the northern Gaza Strip, can barely bring himself to accept any Palestinian responsibility for attacks that have taken place outside Gaza, and instead hints at an Israeli hand in the suicide bombings. "One has to ask how come the bombs used in Dizengoff and Beit Lid were of such high technical quality, when all the ones we've found in Gaza are so crude," he tells The Jerusalem Report in an interview. "How come someone carrying 20 kgs of explosives creates a blast with the force of 50 kgs?"

He goes on to relate that, according to the Palestinian police, the Beit Lid bombers set out from an area of the Gaza Strip under Israel's control, wearing Israeli army uniforms and driving an Israeli military vehicle. When told that his conspiracy theory would be considered shocking and ridiculous by most Israelis, he replies, "I'm not accusing anyone, I'll leave it up to the reader to decide."

But at the same time, he tells of the exchange of information taking place between Israelis and Palestinians on the military liaison committee, which he terms a success. And he himself has been taking part in joint anti-terror training at the sensitive Erez checkpoint and industrial zone at the Strip's northern border with Israel. The training isn't a formal part of the Oslo agreement. "The need just arose," says Ajez. "It's in our interest. We need to protect the Erez area, for the sake of our economy."

What's more, Palestinians argue, they are better positioned to police the Gaza Strip than the Israelis could ever have been. "We know our people," says Brig. Ajez. "From the first glance we can tell things about them that the Israelis can't. The Palestinian police have only been in Gaza for a matter of months. In another five or six months," he declares, "we'll control the whole area. We'll even know who is blinking and who is not."

Says another police source, who works in the southern half of the Strip: "Believe me, when we are on a case, we do a hundred times what the Israelis used to do. We arrest many more people, because we know who they are."

Musa's father Hisham stresses his abhorrence of terrorism. "I want you to explain in your magazine that we are completely against these attacks and are doing our best to stop them." But asked whether he'd have turned Musa in to the Israelis had they still been in control of Gaza, he replies, "Of course not, I'd have been a collaborator! I'd just have kept him at home myself. But many people support the Palestinian Authority, like me, and will help for no money."

Musa has now been persuaded by his father, and an Islamic authority he went to for a second opinion, that it is un-Islamic to appoint the time of one's own death. Musa says he still wants to be a martyr, preferably dying for the cause, "but not in a suicide attack."

He expresses no remorse about the fact that he planned to kill as many Israeli bystanders as possible in the process, and says he still supports Hamas's religious and political program. Despite having been saved from the jaws of death, he says he is not angry at Hamas, "but I may argue with them now." At times a little sheepish in front of his father, he comes across as little more than a teen rebel, if a potentially murderous one. He's not too religious to shake a woman's hand, and when an electronic pager goes off in the room, he asks if it's a Gameboy.

When he grows up, Musa says, he wants to be a doctor. "To heal people?" this reporter asks, incredulous after hearing the tale of heaven and hell, of eternal life, death and destruction. "Yes," Musa replies quietly, "to heal people."●

ORDERS FOR THURSDAY, APRIL 6, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Thursday, April 6; that following the prayer, the Journal of proceedings be approved to date and the two leaders' time be reserved for their use later in the day; and that the Senate then immediately resume consideration of H.R. 1158.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:11 p.m., recessed until Thursday, April 6, 1995, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, April 5, 1995*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. CAMP].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 5, 1995.

I hereby designate the Honorable DAVE CAMP to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, gracious God, that the words of our mouths and the meditations of our hearts will be acceptable in Your sight and that from our words and meditations will flow deeds that serve people with justice and truth. Give us the insight and the wisdom to think clearly and to act diligently so that we are faithful custodians of the resources of the land. May Your blessing, O God, that is new every morning give every person strength and peace according to their need. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. TIAHRT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. TIAHRT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 27, answered "present" 2, not voting 21, as follows:

[Roll No. 288]

YEAS—384

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fields (LA)
Flake
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schroeder
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Towns
Traficant
Tucker
Upton
Velazquez
Visclosky
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—27

Abercrombie
Brown (CA)
Chenoweth
Clay
Deutsch
Engel
Fattah
Fazio
Filner
Foglietta
Furse
Gillmor
Hastings (FL)
Hefley
Hinchey
Jacobs
Lewis (GA)
McKinney
Menendez
Oberstar
Owens
Pickett
Pombo
Sabo
Taylor (MS)
Vento
Volkmer

ANSWERED "PRESENT"—2

Harman
Stockman

NOT VOTING—21

Ballenger
Collins (MI)
Fields (TX)
Ford
Goodling
Hilliard
Mfume
Mollohan
Rangel
Reynolds
Roberts
Schiff
Scott
Sisisky
Smith (TX)
Stokes
Thompson
Torres
Torricelli
Waldholtz
Watts (OK)

□ 1121

Mr. RUSH changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. CAMP). Will the gentlewoman from Maryland [Mrs. MORELLA] come forward and lead the House in the Pledge of Allegiance.

Mrs. MORELLA led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. As the Chair is about to receive a message from the Senate, the Chair would note that for many years messages from the Senate have been delivered by Mr. Brian Hallen. Mr. Hallen is retiring, and this is the last message he will deliver to the House.

The Chair on behalf of the House thanks him for his many courtesies and wishes him well in the future.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that pursuant to Public Law 94-304, as amended by Public Law 99-7, the Chair, on behalf of the Vice President, appoints Mr. CAMPBELL, Mr. KEMPTHORNE, Mr. SANTORUM, and Mr. ABRAHAM to the Commission on Security and Cooperation in Europe.

The message also announced that pursuant to Public Law 93-29, as amended by Public Laws 98-459 and 102-375, the Chair, on behalf of the President pro tempore, reappoints Robert L. Goldman of Oklahoma to the Federal Council on the Aging.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTENSEN. Mr. Speaker, our Contract With America states the following:

On the first day of Congress, a Republican House will require Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget. We kept our promise.

It continues that in the first 100 days, we will vote on the following items: A balanced budget amendment—we kept our promise; unfunded mandates legislation—we kept our promise; line-item veto—we kept our promise; a new crime package to stop violent criminals—we kept our promise; national security restoration to protect our freedoms—we kept our promise; Government regulatory reform—we kept our promise; commonsense legal reform to end frivolous lawsuits—we kept our promise; welfare reform to encourage work, not dependence—we kept our promise; congressional term limits to make Congress a citizen legislature—we kept our promise; family reinforcement, tax cuts for middle-income families, and the senior Citizens' Equity Act to allow our seniors to work without government penalty—we will do these today.

This is our Contract With America.

CONGRATULATIONS UCLA

(Mr. WAXMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker, as an undergraduate and law school graduate of UCLA, and as the Representative of the congressional district that includes the UCLA campus, I rise to congratulate the Bruins on a great victory on Monday night.

Coach John Wooden once said this to his players: "Do not let what you cannot do interfere with what you can do." The 1995 Bruins lived that advice in the championship game. They did not let the injury to Tyus Edney, who had played so brilliantly throughout the tournament, keep them from their goal. Instead, they focused on what they could do, and the O'Bannon brothers, Cameron Dollars, Toby Bailey, and the other Bruins raised their game. I congratulate them and Coach Jim Harrick for their inspirational play.

I also want to take a moment to express appreciation to Coach Nolan Richardson and his Arkansas players. They are great champions and displayed tremendous determination and skill to reach the final game. I hope Corliss Williamson and Scotty Thurman will return for their senior years so that the Nation can be treated to a championship rematch next year.

THE BASIC MESSAGE

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, today as we consider the tax relief bill, I urge my colleagues and the American people to keep in mind what this debate is really about. Republicans want to cut taxes. The big-government party wants to raise taxes.

From now on, only a few will remember the details in this legislation, and fewer will care about the specifics. But everyone will remember this basic fact: The Republicans want to cut taxes. The liberal big-government party wants to raise taxes.

The vote today is simple. If this bill passes, more Americans will keep more of their own money. If this bill fails, those who oppose reform, the defenders of the status quo, the liberals who love big government, will have won a big victory while the American people will have lost.

Mr. Speaker, last November the people voted out the past and voted in the future. I hope my colleagues remember this basic message sent by the voters. They voted in people who promised to give America tax relief, and they voted out people that they knew would raise taxes.

THE TAX BILL AND THE ALTERNATIVE MINIMUM TAX

(Mr. STUPAK asked and was given permission to address the House for 1 minute.)

Mr. STUPAK. Mr. Speaker, lately I have been on the floor talking about what I call the Republican version of AFDC, not aid to families with dependent children, but aid for dependent corporations.

This tax bill is another example of AFDC, welfare for corporations. The Republican tax bill repeals the corporate alternative minimum tax, AMT, a provision of the 1986 Tax Code which ensures that profitable corporations pay their fair share of income taxes.

I have offered an amendment to the Committee on Rules to prevent the repeal of this provision, but it was not made in order by the Republican leadership.

Every year thousands of parents make room in their budget to buy school supplies for their kids, things like this 99-cent bottle of glue. Most of you do not know, but in 1981 virtually every one of those parents paid more in taxes than the multimillion-dollar company which produced this product. According to Citizens for Tax Justice, in the 1981 tax year, Borden, the makers of this glue, despite making a profit of over $201 million, paid no income tax. In fact, they got back $14.9 million in tax credits.

Mr. Speaker, I hope we reject this bill, reject this rule, bring back tax fairness.

WE MUST PASS THE REPUBLICAN TAX RELIEF BILL

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, in 1993, President Clinton and the liberal Democrats passed the largest tax increase in history, claiming it was for deficit reduction. But, the forecast is $200 billion in deficits as far as the eye can see.

The problem is not that the Government does not have enough money; it just spends too much. We have the proof: For every dollar they have raised in taxes, they have spent a dollar fifty-nine.

We must pass the Republican tax relief bill. It reduces the Clinton Tax on workers, helps businesses expand, creates jobs, and gives money back to the people who earned it.

This tax cut is vital. We must eliminate the deficit. These cuts take money away from the beast, big government, and put dollars back in the hands of the creators of economic growth, the American people.

□ 1130

THE CIRCUS IS INSIDE, TOO

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, there is a circus outside, but the real show is here with the rings on the inside. In ring No. 1, the incredible fire acts. You remember last week when we approved—some of us did not approve of it—burning your citizenship card in order to save billions of dollars if you are a billionaire and move offshore. Well, they performed very well. Apparently, if you have got enough money, patriotism does not matter anymore.

In ring 2, the amazing vanishing act. Yes, 18 of the 19 special deals vanished right out of the conference report, but one is still there; that is the one deal for Rupert Murdoch. You remember Rupert of book deal fame, Rupert Murdoch.

The Daily News reports that the Republicans in the conference committee dropped their opposition to the tax break after learning Murdoch was the beneficiary and after consulting with Mr. GINGRICH. If Mr. GINGRICH wants to do something about the Murdoch book deal, now is the time to do it with a concurrent resolution pulling it back before we get to ring 3 of the circus today, the amazing contortionists who are going to explain how to balance the Federal budget by reducing the amount of Federal revenues. Who needs a circus outside when we have a circus on the inside?

THE CIRCUS

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I will agree with the preceding speaker on one matter: There is a circus and it is not the Ringling Brothers outside; the circus came to town 40 years ago with my liberal brethren on the other side of the aisle, still dealing with hocus-pocus of the speaker when we know that Senator MOSELY-BRAUN of Illinois introduced all these little sleight-of-hand documents here.

Let us talk about the rhetoric and the clowns. Those are folks who come forth making claims so outlandish regarding school lunches and school loans they would be funny if they were not so pathetic. Then you have the real acrobats. Those are the Members who talk about deficit reduction but then acting another way to spend our grandchildren's money without shame. They could be the real contortionists.

Then you have the tightrope walkers; those are Members who balance precariously between what the voters want, which is lower taxes and lower spending, and then you have what the liberal leadership of the Democratic Party wants, which is higher taxes and more spending.

Mr. Speaker, there is one real difference between Ringling Brothers and the liberal Democratic leadership: At least the real circus out front is entertaining.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind Members not to refer to Members of the other body.

HOW DO YOU STOP AN ELEPHANT THAT GOES BERSERK?

(Ms. LOFGREN asked and was given permission to address the House for 1 minute.)

Ms. LOFGREN. Mr. Speaker, when I told my 10-year-old last night that Ringling Brothers was coming to the House, he laughed out loud. I told him that it was highly appropriate. After all, we have our own ringmaster, we have our own clowns.

I heard yesterday that a Member of the other body asked what do we do, how do you stop an elephant if they go berserk in the Capitol? Well, I understand he was talking about the need for assault weapons here in the Capitol. The next thing you know, we will be hunting giraffes.

But the real issue is that the elephants have gone berserk in the Capitol; it is called the contract on America. How do you stop them? There is an election in 18 months. Until then, it is bread and circuses here in our three-ring circus.

A GLORIOUS DAY FOR AMERICA

(Mr. SOUDER asked and was given permission to address the House for 1 minute.)

Mr. SOUDER. Mr. Speaker, today should be a glorious day for America. We hope to pass, in one day, a law that will cut taxes, releasing the engine of economic—dynamic economic growth and giving parents the freedom to make decisions for their own children. It will move Congress toward a balanced budget, and it will begin to transfer the power of the Federal Government back to the people.

The defenders of the Washington welfare state charge we "terrible" Republicans favor the rich, we want to deprive our children of lunches, and other desperate charges. Whine, whine, whine; I fear they drank too much of their own wine.

The truth is simple. America has spoken. Washington does not know best. Today can be the real beginning of the reversal of power where Americans can make their own decisions without consulting Congress. You might even say, "A morning in America, part 2," only this time not only will the cuts again increase Government revenues but now we have a Republican Congress that is not going to spend it all. God has given us a second change. Today should be a glorious day.

LET US PUT OUR MONEY WHERE OUR DEFICIT IS

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, in the last 91 days here in the United States Congress, we have passed some new legislation to give the President and the Congress more ability to cut spending and reduce the deficit. I voted for the line-item veto; I voted for the balanced budget amendment. But now the rubber meets the road. Now we have the opportunity to put our money where the deficit is.

Are we going to spend over $700 billion that we cut in spending and give it to corporations and wealthy individuals? Or are we going to give every single American a tax break and reduce the deficit, keep the interest rates down, keep the economy growing, allow Americans the opportunity to buy a new home? That is the tough decision we should make. Let us not pander for reelection in 1996. Let us make the difficult choice for our children and reduce spending and put it toward the deficit.

WORKING FAMILIES DESERVE THIS TAX RELIEF

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, Americans are working harder today than ever. However, they are receiving lower wages and paying higher taxes. Throughout the country, both parents are having to work just to keep their heads above water.

In 1948, the average American family with children paid only 3 percent of its income to the Federal Government in income and payroll taxes. Today, the same family pays 24.5 percent to the Federal Government.

Working families deserve relief from this growing burden. The Republican tax relief proposal will do just that. It will provide 35 million families with the $500 per child tax credit, lowering the tax burden for 89 percent of the American families.

The middle-class squeeze is taking its toll on families in endless struggle to make ends meet and taking its toll on the fabric of our society as well. More than ever before, American families deserve tax relief.

THE TAX CUT BENEFITS WILL GO TOWARD THE WEALTHIEST IN AMERICA

(Mr. VOLKMER asked and was given permission to address the House for 1 minute.)

Mr. VOLKMER. Mr. Speaker, this is the 92d day of our imperial speakership. What has happened in that 92 days? Well, they voted, the majority Republicans voted to take heating assistance away from my poor, they voted to take school lunches and breakfasts out of the mouths of the children in my district. They voted to take food stamps from the working poor and children in my district. They voted to take the training and education away from women on welfare who want to be off of welfare. Now they are talking about taking college loans away from my middle-income families so they cannot go to colleges or universities.

What are they going to do with this? They are going to give it to the wealthy, $200,000 income parents who have children. Those are the children that they are worried about they want to take care of. They want to give it away in capital gains cuts for big investors who own shopping centers, who own stocks and bonds on Wall Street. That is where they want to give it.

Last, who do they really want to give it to? How about GE, AT&T, IBM, and all the big corporations, because they are no longer, under their tax bill, going to have to pay 1 penny in taxes. That is who the money goes to.

H.R. 1327 ACTUALLY RAISES TAXES ON OVER 2 MILLION AMERICANS

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I have concerns about H.R. 1327 because I believe that genuine deficit reduction rather than tax cuts should be our No. 1 priority. But I really want to point out to this body that while purporting to decrease taxes, this bill actually raises taxes on over 2 million Americans.

Mr. Speaker, title IV of this bill would raise Federal employee retirement contributions by 2.5 percent. It also would change the retirement formula to reflect the highest 5 years of salary instead of the current highest 3 years of salary. This change in retirement formula would affect postal employees as well as civil service workers.

Why are we once again taxing a work force that has already contributed to deficit reduction for more than a decade? The tax bill that is before us contains $91 billion more than is needed to fund the tax cuts. The $12 billion from tax increases on Federal employees is not needed.

Both the Congressional Research Service [CRS] and the General Accounting Office [GAO] agree that the "Federal retirement system's unfunded liability is not a problem that needs to be fixed." Both CRS and GAO conclude that "there will always be sufficient assets in the retirement fund to cover benefit payments to all current and future retirees."

The provisions in title IV of H.R. 1237 were never approved by the Government Reform and Oversight Committee. I really do not understand why we are bypassing the normal and fair procedures of the House by including these provisions in the tax reduction bill.

I want to point out that an average Government employee who earns $30,000 per year will have to pay an additional $750 per year. This is a significant, hefty sum to pay. It is unfair. We should keep our contract with our Federal work force, those people who make America run.

REPUBLICAN MAJORITY HAS A NEW CONTRACT OUT ON COLLEGE STUDENTS

(Mr. PASTOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASTOR. Mr. Speaker, I think it has become clear to the American people that the Contract With America is nothing more than a contract on the middle and working class of America. And now, the Republican majority has a new contract out on the college students of this country.

We all know, Mr. Speaker, that the cost of attending college is rising. And yet my Republican colleagues have suggested giving the wealthy a tax cut by reducing funding for Federal financial aid programs. On the Republican chopping block is the interest-deferred Stafford Loan Program which if eliminated would cost the average student $4,344 in added loan repayments.

The work study programs, which provide Federal dollars to colleges to hire low- and middle-income students for campus jobs, would also be eliminated if Republicans have their way. Other GOP targets include the Supplemental Education Opportunity Grants and the Perkins Loans, which go to the neediest students. These cuts will do nothing for this Nation other than assure that college students, especially the neediest students, will be forced out of school altogether.

To put it simply, Mr. Speaker, anything that would help the children of low-income and working American families to get ahead has been or will be eliminated if the Republican Contract on the average American becomes law.

TAX DAY IS FAST APPROACHING

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, tax day is fast approaching. As a result of Bill Clinton's tax hike the people in my district have to work from January 1 to May 5 just to pay Uncle Sam's taxes and then they work until July to pay off State and local government. Mr. Speaker, I resent the liberal Democrats claiming that my constituents' hard-earned money is the property of Government that they must continue to pay for those who won't work. Working people have the right to keep their own money.

I come from a rural district, most of my constituents work on small farms and in small factories. They create the jobs, fight the wars, and struggle everyday to keep the country going. On their behalf, I support tax cuts—even more cuts than are in this bill—and I reject the politics of class warfare peddled by the minority. It is obscene for the Democrats and their Hollywood and media friends to ridicule the people in my district who want nothing more than to take back control of their lives and communities from the welfare state.

Mr. Speaker, let us cut taxes now and let the Democrats explain why they stood in the people's way.

THE PRICE OF PANDERING WITH TAX CUTS

(Mr. MEEHAN asked and was given permission to address the House for 1 minute.)

Mr. MEEHAN. Mr. Speaker, the Republican tax plan is not about helping out struggling families. It is about pandering with promises that will destroy our economy if they are kept.

Call me cynical, but I do not think Republicans want to give tax credits for children because they believe in family values but because people with kids are likely to vote.

Republicans do not want to let large corporations avoid paying taxes because they think it will boost productivity, but because the people who run those companies are big givers to Republican campaigns.

Do not be fooled, America. The price of this pandering will be paid by ordinary working families, the very people Republicans claim to be trying to help.

Cutting student loans to pay for tax cuts now will make it harder to send their kids to college. Opening tax loopholes for the wealthy and corporations will smother the economy with debt, eroding the living standards of the middle class.

Let us cut wasteful spending and balance the budget. But until then, the pandering on tax cuts has got to stop.

□ 1145

NEEDED TAX RELIEF

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

(Mrs. SEASTRAND. Mr. Speaker, tax relief for middle-class families is long overdue. President Clinton promised middle-class tax cuts, but he walked away from his promise. He promised deficit reduction, and this year he walked away from that promise. This new Congress promised both deficit reduction and tax cuts for the middle class, and unlike the previous 40 years of one-party rule, we are keeping our promise of tax relief for families.

Our bill will help families by providing them with a $500 per child tax credit targeted to the middle class. It will help families pay for college tuition by expanding penalty-free IRA withdrawals, and it will help our senior citizens by restoring the cuts in Social Security that were passed by the Clinton Democrats.

Members on both sides of the aisle can either stand on the sidelines as we make tough votes, or they can join us as we work to ultimately balance the budget, provide tax relief to create jobs, help families, and provide a better future for our children and grandchildren by protecting the American dream.

THIS TAX BILL IS A CRUEL DREAM MACHINE

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, the Republican contract calls parts of today's tax bill the American dream. Well, I, too, have an American dream. My dream is that we pay off the debts of this century and not pass on $4.7 trillion of debt to the next generation. This Republican bill will cost our taxpayers up to $700 billion over the next 10 years. Under the Republican bill it is absolutely wrong that households earning $200,000 would receive an average tax cut of over $11,000 while those under $30,000 receive a hundred bucks. In fact, working families with two children with incomes of up to $16,000 would not get anything, while those with adjusted gross incomes of up to $250,000 would receive a $500 per child tax credit.

This bill is a cruel dream machine. To make matters worse, huge corporations would no longer pay even the minimum tax. Vote for what is right. Do not wait for the next election. Vote "no" on this Republican bill.

LET US PASS THIS TAX BILL TODAY

(Mr. WHITE asked and was given permission to address the House for 1 minute.)

Mr. WHITE. Mr. Speaker, a week or two ago I made a very difficult decision. There is nobody in this House who wants to cut taxes more than I do. But I decided that I would not vote for the tax cuts that we are going to consider today unless I was sure we had the spending cuts to go along with them. I did not want to make the deficit worse, and, as I explained when I sat down and talked to leadership about this, I do not think we should go on a diet, or I do not think we should eat our dessert before we go on a diet. We have got a lot of hard work to do this summer to get the spending cuts under control. Then it would be time to pass the tax cuts.

Well, Mr. Speaker, I am very pleased to say that the bill we are going to consider today does exactly that. The tax cuts under this bill do not take effect unless we have done our job this summer with the Senate to enact laws that will balance the budget. The great genius of this, Mr. Speaker, is that, when every special interest group comes to see us this summer asking us to save their particular program, the American people will know that, if we do our job and they help us do our job, we will be able to cut their tax.

That is what we should do. Let us pass this bill today.

FEDERAL EMPLOYEES PAYING FOR REPUBLICAN TAX CUTS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, this is the Contract With America. This is a Contract With America, and I have looked at the fine print, and it does not say we are going to increase the taxes on 2 million people. It does not have a provision which says that on 2,000,000 of our employees' families you are going to have a tax increase. It does not say to those that are working for the Federal Government and our employees in this House, "If you make $20,000, you're going to have a $500 tax increase; if you make 30, you're going to have a $750 increase; if you make 40, a thousand dollar increase, and if you make 50, a $1,250 tax increase so we can give a tax cut for the wealthiest of America."

"Now STENY HOYER has a lot of Federal employees." My colleagues are saying, "This is a tax increase; we don't believe it."

Let me quote GERALD SOLOMON, chairman of the Committee on Rules: "I have to agree with you that this is a case where we are raising taxes on some to pay for tax cuts for others," and that to me says Chairman SOLOMON is wrong.

THE TIME IS RIGHT FOR A DEBATE ON TAXES

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, yes, this is preeminently the time for us to debate taxes. The people in America are filling out their tax returns, and they are darned mad and they are not going to take it anymore.

Some here in Congress wonder why the American people are so upset. Well, let me give an example:

Here is a letter from a constituent of mine, a man I represent back home in Wisconsin, who points out that the FBI Director on Tuesday pointed out that $44 billion—let me repeat that—$44 billion of our national health costs go to fraud.

Now, no wonder the American people are upset. People are sick and tired of all the waste, fraud, and abuse.

Yes, we need tax breaks because maybe the less money we give to the Federal Government, just maybe, it will be less that will be wasted.

THE CIRCUS IS UNDER THE CAPITOL DOME

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the circus is in the District of Columbia today, and it is actually outside these doors of the Capitol. So we bring in the clowns. We will shoot $500 tax cuts out of a cannon and sell cotton candy wrapped around a capital gains cut. Who is left paying at the ticket booth? Well, our senior citizens, our grade school and college students who have already sustained cuts, construction workers, mothers, and finally all taxpaying Americans.

Today the Republican majority will attempt to pass a bill which will create the largest deficits that have been proposed recently. Welcome to the real circus under our Capitol dome. The Republican majority are working to give the top 2 percent Americans 58 percent of that $180 billion tax cut. The 10-year cost will be $630 billion. Now that really is under the big top.

The bears and elephants are not eating peanuts but hundred-dollar bills at our expense, from the pockets of hard-working Americans. Children are paying $2.3 billion in cuts in education and school nutrition programs. I hope they enjoy the circus today because it will be the last one for 10 years.

The Greatest Show on Earth is not Barnum and Bailey, it is under our Capitol dome.

THIS TAX BILL WILL HELP SMALL BUSINESS AND WORKERS

(Mr. ENGLISH of Pennsylvania asked and was given permission to address the House for 1 minute.)

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I believe it is time for Congress to make small business stronger and more competitive, and the best way to do that is by passing House Resolution 1215, the Republican tax plan. This legislation will help small business continue its critical role as the largest producer of jobs in our country.

The Republican tax plan increases the amount of capital equipment that a small business can expense, doubling it over a period of time to lower the cost of capital equipment, for cost of capital for equipment, used by small business. This assists cash-starved small businesses that need to make strategic capital investments to survive, and it encourages small business growth.

What this legislation does is it makes American workers more productive and more internationally competitive. This legislation is pro small business, it is pro worker. It is time we passed it.

THIS WEEK, THE REPUBLICAN CIRCUS CLOSES

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute.)

Mr. GUTIERREZ. Mr. Speaker, the circus came to town today. But, you know what? If you were looking outside on the Capitol Grounds, you missed it. The real circus is right inside the House, as the Republicans clown around to try to pass this tax cut for the wealthy and well-off.

Step right up and you will see the Republicans juggle numbers—it will be a little clumsy, but they'll still try to pull it off. You will see elephants—that great symbol of the Grand Old Party—dance and stomp around, just as you will see the Republicans dance around the issue of deficit reduction, and stomp on the principle of tax fairness.

You want to see a high wire act? Well, do not bother watching death-defying professional acrobats when you can watch professional politicians defy logic during their high-wire act.

And the Republicans will even perform without a net! Unfortunately, it is your safety net: loans for college education, school lunches and nutrition programs for your kids, heating assistance for the elderly.

Well, the circus came to town. But, eventually, the tents get folded, the sawdust gets swept up, and the elephants and clowns get back on the train. This week, the Republican circus closes. Let us hope it does not return.

THE TRUTH ABOUT THE CONTRACT'S FAMILY TAX CUTS

(Mr. RIGGS asked and was given permission to address the House for 1 minute.)

Mr. RIGGS. Mr. Speaker, to reduce the tax burden on working middle-class families we Republicans are proposing a $500 a year tax credit for each child under 18 years old in tax-paying families with income less than $200,000. Using their tired refrain of class warfare, Democrats are calling our proposal a proposal that would benefit only the rich. Let us take a look at the truth.

The families of 52,000,000 American children, which comes to 35,000,000 families, are eligible for the $500 per child tax credit. In fact, according to the House Committee on Ways and Means, the family tax credit would lessen the tax burden on a vast majority; in fact, 89 percent of these families. The $500 per child tax credit would completely eliminate the Federal tax burden for 4.7 million working families at the lowest income levels.

The bottom line: The contract tax credit will provide families with $120 billion in tax relief over the next 5 years. Just about all families will benefit, the Democrats' class warfare notwithstanding. Family, children, jobs; that is what the Republican tax credit is all about.

INDIA RUBBER MEN UNDER THE BIG TOP TODAY

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, I want to talk about an aspect of the circus that we usually see in the sideshow, but it has moved in here, in the big top. That is the India rubber man who can be bent and twisted all out of shape, no bones, no resistance. One can just make all kinds of shapes out of them.

Well, we have about 150 of them represented here. They are, among others, the people that used to be known as moderate Republicans. About a hundred Republicans signed a letter saying they did not like a tax credit for people that made $200,000, but, like the India rubber man, just because they signed the letter does not mean they cannot be twisted into voting the bill. There will probably be a majority of Republicans who will vote for this bill, having told us how much they do not like some aspects of it. Just like the India rubber man, they will start standing up straight, but the leadership will come, and twist them, and move them, and push them, and, by the time they are through, they will be all bent out of shape, but they will vote for it.

Actually the circus is probably the wrong institution to talk about when we talk about moderate Republicans. The place where they will be found hereinafter is in museums, because there will not be any more left. The pressures that the right wing is able to generate on Republicans means we will continue to see the kind of ultimate flexibility which leads them to sign a letter saying they do not like the tax bill and then get twisted into voting for it.

H.R. 1215 UNFAIR TO FEDERAL WORKERS

(Mr. DAVIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS. Mr. Speaker, I rise to sound the alarm against a huge tax hike on 2 million Americans that has been slipped into H.R. 1215, the package of tax reforms that will be considered on this floor today. Here are the facts:

Fact: The rule governing today's tax debate prevents a clean vote for the tax reductions that were promised in the Contract With America. We will be asked to vote on a package that includes a 2.5-percent payroll tax hike that would cost every Federal worker between $3,500 and $11,000 over the next 5 years. The Congressional Budget Office has scored this as a revenue which means that it is a tax. And that's not all.

Fact: The same tax package would reduce lifetime benefits for Federal workers by 4 percent by changing the retirement formula to reflect the highest 5 years of salary as opposed to the current formula based on the highest 3 years of salary. This provision simply makes it more expensive for Federal workers to retire on schedule and encourages them to stay on the payroll longer to make up for the losses in planned retirement benefits.

The tax hike supporters claim that this revenue is needed to fund the CSRS retirement system. Let's look at the facts:

Fact: None of this increased revenue will be set aside in a trust fund for the benefit of future Federal retirees. Instead, it will go into the general treasury to finance tax cuts for others.

Fact: 50 percent of Federal employees are part of the FERS retirement system which everyone agrees has absolutely no unfunded liability. Nevertheless, these workers are subjected to the same tax hike and will get no additional retirement benefit or security.

Fact: CRS has determined that the Federal retirement system does not have an unfunded liability problem and faces no threat of insolvency. These findings have been verified and confirmed by the GAO.

H.R. 1215 includes a huge, unfair tax hike selectively imposed on 2 million working Americans. This tax hike does not belong in a tax reduction bill and must be defeated. I will oppose any rule that does not address this tax hike, and I will oppose any so-called Tax Fairness bill that arbitrarily punishes these 2 million Federal workers.

TAX CUTS FOR THE RICH, THE CROWN JEWEL OF THE REPUBLICAN CONTACT

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, Speaker NEWT GINGRICH, the Speaker of this House, has called the tax cut for the rich bill that we are going to be debating today the crown jewel of the Republican Contract on America. Well, he is also quoted in the Washington Times yesterday. Speaker NEWT GINGRICH quoted fairness is the animating principle, end quote, of the bill says House speaker NEWT GINGRICH who attacks the Democrats' argument as, quote, class warfare, unquote.

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Well, I am going to leave it to the American people to decide if it is fair to take $15 billion of financial aid from the children of middle and low income families, who would want to use that financial aid to go to college, and use the $15 billion to allow some of our biggest corporations in America to pay no taxes. Corporations like Anheuser-Busch, Boeing, du Pont, General Dynamics, PepsiCo, Texaco, Westinghouse, and Xerox—all of them would be allowed to pay no taxes under this bill.

Is it fair to take $50 billion of heat and housing aid from elders and nutrition from young people and child care and subsistence from poor people and give that to the wealthiest families who make $200,000 a year? Is it fair?

TAX FAIRNESS MEANS TAX RELIEF FOR SENIOR CITIZENS

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, the time has come to provide tax relief for all Americans, especially for our senior citizens. Today our grandparents are used as money trees by the Federal Government. Instead of treating our elders with respect, our Government has come to look at them as just another tax target.

For instance, the earnings limit imposed on working seniors actually discourages work. The tax is so unfair that if a senior citizens earns over $11,000 in a year, he or she will be assessed a marginal tax rate of 56 percent. That is 56 percent; that is ridiculous. This rate is twice the rate that millionaires pay.

Excuse me, but I think there is something wrong with this picture.

In our Contract with America, Republicans promised to reduce the tax burden imposed on senior citizens. We are committed to tax fairness and to protecting our grandparents. We owe it to those who fought the wars, raised the families, and built the Nation to protect them from an out-of-control Federal Government bent on taxing the American people into the poorhouse.

Let us cut taxes now.

AWARD OF PURPLE HEART TO SERVICE MEMBERS KILLED IN IRAQI "NO FLY" ZONE INCIDENT

(Mr. DIXON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DIXON. Mr. Speaker, I rise today to commend the Army and Air Force for their decision to award the Purple Heart posthumously to members of the Armed Forces killed on April 14, 1994, in a friendly fire incident in the northern Iraqi no fly zone. Fourteen American service members on peacekeeping duty—were killed when two American F–15C fighter aircraft accidently shot down two United States Black Hawk helicopters in northern Iraq.

Mrs. Kaye Mounsey, the widow of Army WO Eric Mounsey—a pilot of one of the helicopters—resides in Culver City in my congressional district. I met with Mrs. Mounsey last summer and she related to me the concern which she and other family members shared about the initial decision of the military not to award the Purple Heart.

As a result of language inserted in last year's defense appropriations conference report and the consistent advocacy of family members that decision has now been reversed. It was the appropriate thing to do.

I am pleased that the services have agreed to recognize the sacrifice of these members of the Armed Forces. It is the appropriate thing to do. While there is little we can do to compensate for the loss of a husband, brother, sister or child, it is essential that we acknowledge the Nation's gratitude for the ultimate sacrifice that these Americans gave in service to their country.

The role and complexity of United States Armed Forces missions have evolved and it is important that the services acknowledge that evolution. While the criteria for award of one of the Armed Forces' highest honors must remain high, I commend the services for recognizing that the Iraqi incident, occurring in the presence of hostile forces, meets the criteria for award of the Purple Heart.

A HISTORY LESSON IN ECONOMICS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, of course, the Democrats and the White House are concerned about the circus coming to town. They hate having the competition. Besides, they might get stomped on by a charging elephant. They already had that experience in November.

But have they no shame? For the past 40 years, while controlling the House, the Democrats had deficit spending, and now suddenly they are deficit hawks concerned about a tax cut that might hurt the economy or the deficit, according to them.

Of course, we know that Democrats love taxes, so they do not want to give up on any tax revenue. But I would say to my friends on that side of the aisle, if they would look at history, economic history, they would see that tax cuts actually increase revenues.

From 1956 to 1969, taxes were down, and GDP increased. From 1970 to 1982, taxes were up and GDP went down, revenue from taxes went down. From 1983 to 1988, revenue from taxes went up and taxes were down. But then after the 1989–90 tax bill, taxes went up and revenues went down.

Mr. Speaker, this is economic history. It is not partisan politics. I would be happy to share it with any of the Members.

THE CIRCUS AND THE GOP SHARE THE SPOTLIGHT

(Mr. ENGEL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, much as been said this morning about the circus coming to town, and it is true. As we speak, the circus is out here on the Capitol Grounds, celebrating its 125th anniversary, complete with clowns and elephants performing tricks.

While the elephants are outside performing their tricks, the GOP elephants in this Chamber are performing their tricks on the American people. They say they are for balancing the budget, but instead they are about to pass legislation giving tax breaks for the rich, at the expense of the rest of the American people. These tax cuts for the wealthy, which the Speaker calls his crown jewel, will surely explode the national deficit and at the same time cut or eliminate college student loans, take food out of the mouths of schoolchildren, cut funds for education, and decimate senior citizens and veterans' health care.

The Speaker is planning a big speech and festivities celebrating the end of the 100 days of the contract on America. These Republican circus festivities may not be as entertaining as the real circus, but to paraphrase a very famous song, Mr. Speaker: "Where are the clowns and who are the clowns?"

Mr. Speaker, it looks like they are here.

PASSAGE OF THE TAX BILL HOLDS OUT HOPE FOR NEXT YEAR'S TAXPAYERS

(Mrs. SMITH of Washington asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. SMITH of Washington. Mr. Speaker, I want to talk to the folks at home, my clients that I left at home. I am a tax consultant, and at this time of the year I am usually up 24 hours a day practically helping people get through the maze of taxes and trying to explain to them why every year they keep going up and up and up.

I want to tell you next year what is going to happen when you have your tax return filed. It will be different than it is this year if this bill passes today.

First of all, when you get to the end, you are going to get to take $500 off per child, but really that just means you get to keep $500 of your hard-earned money that the Government is not going to take. You can buy a washing machine with it or you can take the kids to Disneyland, but you will spend the money and that will cause tax revenues to come into the economy. Do you trust you better to spend your money and spur the economy, or do you think it is better to have it go into the big buildings that are being built all the way around me here in Washington, DC, filling them with the bureaucracy? Which one is better? Which one is better for the economy? Which one can use the money, the Government or you who were going to sell or were about to sell that rental that you fixed up and you are holding it because you do not want it all to go away in taxes because of the huge tax increase that was passed in 1986 by this side of the aisle? I want to tell you that next year you can actually sell it and we will not keep all the money if we pass this legislation.

I encourage you to call your legislator and tell him, "Pass this middle class tax cut, and do it today."

FEDERAL WORKERS THREATENED WITH TAX INCREASES TO GIVE TAX CUTS TO OTHERS

(Mr. MORAN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, 1 hour ago we turned and faced this flag. We pledged allegiance to it, and we pledged liberty and justice for all.

Mr. Speaker, where is the justice when we take an average of $5,000 from each of America's civil servants in order to pay a tax cut of about $1,000 over the next 5 years to America's taxpayers? Where is the justice to increase taxes on America's civil servants and reduce their benefits in order to provide tax cuts for other people?

There is no justice, and there is no integrity, Mr. Speaker, when 8 years ago America's civil servants were faced with one of their most important decisions, the financial security of their wives and children when they retire, and we promised them we would never again change their retirement system.

Mr. Speaker, we are going to do that today. Where is the justice? Where is the integrity of this institution?

I urge my colleagues to vote against this tax cut bill and against the rule.

AN AVERSION TO TAX CUTS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I do not know why Democrats hate employers, but they do. Just listen to what they say about tax cuts.

I do not know why Democrats hate middle-class two-earner families, but they do. Just listen to what they say about tax cuts.

I do not know why Democrats hate small business men and women, but they do. Just listen to what they say about tax cuts.

I do not know why Democrats hate success, but they do. Just listen to what they say about tax cuts.

I do not know why Democrats hate the guy who gets lucky and wins the lottery, but they do. Just listen to what they say about tax cuts.

Democrats start with the idea that everything earned by everybody is theirs to spend. Democrats believe that every tax is a good thing because it allows them to do what they see as good things, and they hate anyone who gets money back from their tax bill because it takes away from their ability to spend.

Democrats love taxes. They hate to reduce taxes, and they hate the thought that there are Americans who would like to keep more of the money they earn for themselves.

THE RUPERT MURDOCH TAX BREAK

(Mr. DEUTSCH asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DEUTSCH. Mr. Speaker, this House passed legislation that provided for a $63 million gift to Rupert Murdoch. It was done in the most sleazy, offensive way to this institution. And, yes, it was done.

Mr. ARCHER, what a shame on you, and what a shame on this institution, and what a shame on the Speaker that it was done.

We have the ability to correct what was done. Yesterday I attempted to offer a joint resolution to take out that obscene provision. I have tried to do that today. I have spoken to Mr. ARMEY this morning and asked for his consent, because it does require unanimous consent to take out that provision.

I urge you, my colleagues on the other side of the aisle, who talk in good faith about this institution and about how things need to change, to do in deed what your words have said. Mr. ARCHER, I ask you—you are sitting here right now—to do in deeds what your words and your Speaker have said, take out that provision.

MEMBER'S RESPONSE TO CHARGES INVOLVING TAX PROVISION

(Mr. ARCHER asked and was given permission to address the House for 1 minute.)

Mr. ARCHER. Mr. Speaker, the gentleman has used my name and violated the rules of the House because remarks are supposed to be addressed to the Speaker, not to individual Members, and, second, what he just said is totally distorted.

The amendment to which he refers was introduced in the conference committee by the Democratic Senator from Illinois, CAROL MOSELEY-BRAUN, and pushed by the——

Mr. DEUTSCH. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Regular order.

Mr. DEUTSCH. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. CAMP). Regular order has been called. The gentleman will suspend. Mr. ARCHER has the floor.

Mr. DEUTSCH. Mr. Speaker, will the gentleman yield to answer to the American people why you did what you did?

The SPEAKER pro tempore. The gentleman from Florida is out of order.

Mr. SOLOMON. Mr. Speaker, regular order.

Mr. ARCHER. Mr. Speaker, is anarchy acceptable procedure on the floor of the House? Is interruption and anarchy the basis on which we will conduct our business on the floor of the House? I hope not.

The SPEAKER pro tempore. The gentleman may not be interrupted. The gentleman from Texas may proceed.

Mr. ARCHER. Mr. Speaker, the gentleman has totally distorted what he spoke of. He should go to the Democrat Senator from Illinois, Senator CAROL MOSELEY-BRAUN, and ask her why she insisted and why the Senate insisted, in order to be able to get this conference report out, on this provision being included. There was a real need for expedition to be able to give the self-employed taxpayers of this country the opportunity to deduct their health care benefits on insurance before April 15, and our side did everything we could to expedite the ability for that to occur. The Senate insisted on including such——

Mr. DEUTSCH. Regular order, Mr. Speaker. What about rules? Mr. SOLOMON, what about 1-minutes?

The SPEAKER pro tempore. The gentleman from Florida is out of order.

Mr. DEUTSCH. What about 1-minutes, Mr. SOLOMON? I would ask for unanimous consent that the gentleman be able to conclude and that I have 1 minute to respond.

The SPEAKER pro tempore. The gentleman from Florida will suspend. There will be regular order.

The Chair recognizes the gentlewoman from New York [Ms. VELÁZQUEZ]. For what purpose does the gentlewoman rise?

AN AMERICAN DREAM RESTORATION ACT FOR THE WEALTHY

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, this week the American people see the Contract With America for what it really is, that the centerpiece of the Republican agenda, the so-called American Dream Restoration Act, is nothing but a massive tax giveaway to the wealthy.

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Last Friday, the Wall Street Journal reported that we give $228 billion a year in tax breaks and subsidies to large corporations. The rest of the country gets crumbs, and then picks up the tab.

This legislation is really an American dream denial act. In order to finance the tax proposals, the Republicans will deny the Republican dream to the millions of students that need financial aid to get a college education. Elimination of the Stafford loan program will deny 4.5 million low- and middle-income students college aid; ending Perkins loans cuts out another 740,000 students. Seven hundred and fifty thousand more college kids will lose their work-study jobs.

These are the cuts that the Republicans will demand in order to finance billions of dollars of tax breaks for the rich. Almost half of this tax giveaway goes to the wealthiest 10 percent of the country. This is the Republican contract. What is there to celebrate? Please, Mr. Speaker, do not forget to include corporate welfare reform in your next 100 days.

VOTE FOR TAX RELIEF

(Mr. FORBES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORBES. Mr. Speaker, I rise today in full support of the Tax Fairness and Deficit Reduction Act. Over the past 4 years, Americans have been hit with two of the largest tax increases in modern memory. While home mortgage rates have continued to rise, the cost to Long Island and my area has continued to rise, Washington agencies and departments have enjoyed double digit increases in their spending budgets, helped along by over $300 billion in new taxes over the last 4 years on hard working American families.

Today we begin the process to reverse what has been a de facto policy in Washington of punishing families. We will give $190 billion back to the American people for their own tax relief.

One important element of this tax relief bill is a provision to help along the job creators, the small business men and women of this country who are creating the jobs. On eastern Long Island small businesses are the heart of our local economy, and across America. It is time that Washington understood and that my colleagues on the other side understood that the American people need tax relief.

THE FAMILY TAX-BREAK ACT

(Mr. TUCKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TUCKER. Step right up. Step right up for the GOP's famous disappearing act. Yes, the circus has come to town. Deficit reduction, now you see it, poof, now you do not.

Yes, Republicans want to cut taxes, but it does not take a rocket scientist to know that they cannot cut taxes $700 billion and at the same time reduce the deficit.

This slight-of-hand tax bill is not the deficit reduction that the voters have demanded and that the Republicans in their Contract With America have promised. The Republicans' proposed tax cut will explode the deficit at a time when deficit reduction is what is needed in this country most. This $700 billion tax cut will be a neat trick all right. It will take money out of the hands of the poor and give it into the hands of the very, very rich.

Mr. Speaker, as Yogi Berra once said, "It is deja vu all over again." The same trickle-down theory that they used in the 1980's is coming back again. It is the same trickle-down that quadrupled the deficit in the first place. In this sick, sad three-ring circus that they call the Republican GOP Party, we know that the elephants do not forget, but neither do the American taxpayers.

THE SERVE-THE-RICH SCAM GAME

(Mr. WATT of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATT of North Carolina. Mr. Speaker, today the House is scheduled to pass the crown jewel of the Republican's serve-the-rich contract scam. The American public needs to understand how the Republican serve-the-rich scam game is played.

Start with the number, $11,266. That happens to be the average amount people who make over $200,000 a year will save in taxes each year under the Republican's tax plan. That also happens to be the approximate cost of leasing a brand new foreign-made Mercedes Benz automobile. It also happens to be the amount it would cost to serve 6,294 school lunches to poor school kids who otherwise go hungry.

So you make the choice: a brand new foreign-made Mercedes Benz for the rich, or 6,294 school lunches for the U.S. poor. And we wonder why our children are hungry? We wonder why our dollar is valueless? Get real, Congress. Let us not play the Republican serve-the-rich scam game.

LET FAMILIES SPEND MONEY, RATHER THAN GOVERNMENT

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, fascinating figures we have been hearing from our colleagues from the other side of the aisle about Mercedes Benzes and school lunches. Let us counter it just a little. A message for America's families: When the big-government party warns you how bad off you will be if you get to keep your money rather than sending it to Washington, DC, hide your wallet.

We have heard a lot about student loans lately. Let us look at the real impact of spending money back to families rather than funding more government.

If a family takes the $500 per child tax credit that we offer today and puts it in a tax-free American Dream savings account that we will offer today, they will have $14,766 tax free for each child after 18 years. Now, if in return the smaller government no longer subsidized interest on college loans, the end of the world according to big-government liberals, the average loan would cost $21 more per month over the life of a student loan. That is $2,520.

Our answer to failed big-government liberalism is to give the people the chance to keep $14,766 of their own money. They can fully replace Government help with college and still have over $12,000 left.

EDUCATION IS THE GATEWAY TO EVERYTHING

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, last week I was privileged to participate in an extraordinary field hearing at the University of San Francisco on Republican plans to dismantle student financial aid programs. The testimony we heard from students, parents, and college leaders put a human face on the disaster we face if this budget and debt buster passes.

I listened with growing anger and concern as officials from Stanford University, University of California, and U.S.F. showed in detail how the proposed cuts would devastate middle-class families and result in smaller, more elitist college populations.

We heard the moving testimony of students, Michael Rodriguez, Ronelle Baribaldi, Ameer Loggins, and Mary Wu. All are hard working and are making enormous sacrifices everyday because they have a thirst for education. They all underscored that student loans are investments, not handouts. They are smart investments in our Nation's future.

I urge my colleagues to reject this budget busting tax cut proposal. Education is the gateway to everything in this Nation. Let us not shortcut our students or our Nation's future.

SENIOR AMERICANS: AMERICA'S MOST PRECIOUS RESOURCE

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, as we know, the American family is overtaxed. But our families are not limited to just young newlyweds or those with kids in college. Our families include our parents and grandparents. And just as high taxes are antijobs and antifamily, they are antiseniors.

Here are the facts:

Senior citizens with an average income face the highest marginal tax rates in the country In fact, for seniors 40- to 80-percent tax rates are not uncommon;

A senior working at a job that pays $5 an hour will only net $2.20 an hour after he or she works even 1 hour past the current $11,280 earnings limit; and

A senior who earns just $1 over the earnings limit annually will face an effective marginal tax rate of 56 percent.

Mr. Speaker, we need to restore tax fairness to all families, including seniors. Why should the American dream disappear when someone turns 65? Why should someone be discouraged from working just when they can offer years of experience and wisdom? By raising the earnings limit to $30,000 we will be raising the hopes and futures of one of our Nation's most precious resources, our senior Americans.

HURTING MIDDLE-INCOME AMERICANS

(Mr. POMEROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POMEROY. Mr. Speaker, the Committee on Rules has quite possibly wiped out the last chance to get a meaningful deduction for those millions of Americans struggling every month to pay their own health insurance. I offered an amendment which would have allowed 80 percent of the premium to be deducted and would have paid for it by limiting the child tax credit in the Republican bill to families earning up to $80,000. If we would have foregone this tax credit for families earning 6-figure incomes, up to $250,000, we could have fully funded this vital deduction.

For me, it is a matter of priorities. I think it is much more important for Congress to help families afford the coverage they need to get their children health insurance than to give this tax break to themselves and other families earning in the 6-figure range. It underscores what this Republican tax bill is all about: Helping the rich, and sticking it to middle-income working Americans.

WHAT IS GOOD FOR TODAY'S DEMOCRATS

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, I want you to listen carefully to the following quote and tell me what shameless, unrepentant, unreconstructed, trickle-down, supply-sider said it: "Tax rates are too high today and tax revenue is too low. The soundest way to raise the revenues in the long run is to cut the rates now."

Jack Kemp? No. Ronald Reagan? Nope. DICK ARMEY? Close, no cigar. Actually, this wild-eyed supply-sider was none other than John Fitzgerald Kennedy. He understood what the limousine liberals in today's Democratic Party do not: Tax cuts are good for the economy.

That is why the tax bill that we are considering today is so important. It will not only restore fairness to our Tax Code, but it will also promote savings and investment, just the kind of activities that our economy needs. It was good enough for Jack Kennedy, then why is it not good enough for today's Democrats? Why? Why?

ALTERNATE MINIMUM TAX TO BE REPEALED

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, let me just say there is a little hidden dirty secret in the Republican tax bill. It was not in the contract. you will find none of the Republicans come up and talk about it. But it is the worst part of their whole bill. They repeal the alternative minimum tax for big corporations.

We put this provision in 1986 so that the big corporations will have to pay some taxes. The American people burn when they work hard, pay five, six, seven thousand dollars in taxes, and General Electric and Mobil and Phillips Petroleum pay none.

Well, for 6 years that has not happened. They have had to pay 25 percent of their income as taxes, and now the Republican majority wants to repeal it. Can you believe it? They are saying to the average American it is okay to go back to the old days when Unocal and Phillips Petroleum and Mobil and Ford and Chrysler paid less taxes than you. Shame on them, shame on them, shame on them.

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IN SUPPORT OF THE TAX FAIRNESS AND DEFICIT REDUCTION ACT OF 1995

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, I rise in strong support of the Tax Fairness and Deficit Reduction Act of 1995.

Our job-creating tax cuts enhance the progressivity of the Tax Code. Middle-income taxpayers will overwhelmingly benefit directly from the capital gains tax cut, as the vast majority of taxpayers claiming capital gains are middle income

In fact, 70 percent of all taxpayers reporting capital gains, in a recent tax year, had incomes of less than $50,000.

By comparison, 5 percent of tax returns with capital gains were from taxpayers with annual incomes between $100,000 and $200,000. And, fully three-quarters of the value of all capital gains went to taxpayers earning less than $100,000.

Most importantly, capital gains tax cuts means more jobs for the American people. One leading economist testified in the Ways and Means Committee that 285,000 jobs a year—or about 1.4 million over the 5 year period—will be gained.

The same economist showed that every $1 billion reduction in annual taxes on capital income will lead to a $25 billion increase in the Nation's output of goods and services.

Capital gains relief will facilitate the growth of new business and job formation, improve long-term productivity and make the United States more competitive.

Vote for job growth, lower capital costs, increased productivity and competitiveness.

Vote for H.R. 1327.

TAXING FEDERAL WORKERS

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, I am confused. I thought the Republicans were trying to cut taxes. So why are they raising taxes, raising taxes on 2 million Federal employees? To finance their tax bill they have to raise $12 billion. So what do they do? They ask Federal employees to increase their contribution for their retirement program by 2.5 percent.

What does that mean? It means that for the average Federal employee making about $30,000, it is a tax of $750 a year. Why?

The program is not insolvent. The program is not overly generous. People in the private sector do not pay anything toward their retirement programs.

So it works out like this: In order to get a $500-per-child tax credit, Federal employees, whether they have a child or not, have to pay a tax of $750. It does not make sense.

Moreover, today's Washington Post points out that fully 50 percent of the tax benefits to go to the top 10 percent of Americans, not the Ma and Pa stores and not your average American citizen, and fully 10 percent of these so-called tax benefits for the middle class go to the top 1 percent of wage earners in this country. There is something wrong with this tax bill.

On the subject of Federal employees, before my Republican colleagues vote, I urge them to check to see the number of Federal employees in their district, because you are raising taxes on a lot of very good, average American citizens.

THE BIG SPENDERS

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I have been sitting here patiently waiting to take up the rule on the tax cut package. I have been looking through the list of speakers from the Democrat side of the aisle. They all talk about how they cannot vote for this tax cut because they want to reduce the deficit.

I am just going through a list from the National Taxpayers Union from this past year. Almost every one of these speakers appears on this list as the biggest spenders in the Congress. Not only do they appear on this year's list, but last year's list and the year before that and the year before that.

Where is the credibility for those that say they want to stand up here and vote to reduce the deficit?

I am going to make a challenge to you, every one of you that have stood up here and spoken against this tax cut because you want to lower the deficit. We will have a reconciliation bill coming to the floor. I kept a careful list, and I am going to ask every one of you to vote for balancing the budget, which will come later this year. Good luck.

STUDENT LOAN PROGRAMS

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, we really are about fairness here. I would suggest to our former speaker that we sometimes want to see that fairness go both ways.

Mr. Speaker, under the fictitious banner of a fair tax bill, there is a relentless and unswerving drive that has been launched by the Republican party against the average working American.

This drive is designed to give tax relief to the wealthy Americans who earn more than $200,000 and more. It is a crusade that is oblivious to the harm that is caused in its wake. They plan to give $277 billion in spending cuts. The bulk of these spending cuts will come from reducing discretionary spending and the welfare reform, according to the gentleman from Ohio [Mr. Kasich]. They also plan $190 billion in tax cuts, the bulk of which will go to the richest citizens in America.

In other words, Mr. Speaker, what you have to do is add the cuts for poor people and the average working American and give those tax cuts to the richest persons in America.

The difference in this equation is a loss to low- and middle-income Americans. To mollify people with money, they are causing pain to those who have very little money who are the working Americans in society.

TIME FOR THE PEOPLE BACK HOME

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, this argument that we are into is getting to where if it was not so serious, it would be amusing. We are talking about voting to reduce the deficit. We are talking about concentrating on the budget of the Federal Government.

Do you not think it is time that we started talking about the people back home and doing something to help them balance their budgets? Who do we represent up here? The U.S. Government or the people that elected us?

I am going to concentrate my vote on doing everything I can to give the people tax breaks back home and reduce the overall size of the Federal Government rather than merely talking about, we cannot have tax breaks until we stop the spending.

We tried that once. We are going to get the tax breaks, and we are going to stop the spending. And we are going to start representing the people that elected us instead of saying, we are the Government. We are not the Government. The people sent us up here to represent them.

THE NATIONAL TAXPAYERS UNION

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, I only wanted to highlight an issue that was raised by the gentleman from New York [Mr. Solomon]. The National Taxpayers Union, I think it was, that he cited, put into the Record.

I would hope that everyone would understand that that organization does not have a whole lot of credibility when it comes to ranking Members, because what they did when the Senate was in control of the Republicans a few years back, they had a different criteria for their votes on appropriations bills than they did for the Democrats over on the House side.

And I just wanted everyone to be aware that that is hardly the criteria we ought to be or a standard we ought to be utilizing. They pick and choose the bad votes such as, did you vote for the interior appropriations bill, yes or no? If you did, boy, that is a bad vote.

You are going to find, if they used the same standards on us, as Democrats when we were in charge and had to pass legislation and were governing, as they will use on you, I think you will find that you have a whole lot of real bad votes with that organization.

We will see if they are going to have any credibility left at the end of this session in ranking you poorly because you vote for an appropriations bill.

TAX CUTS AND THE NATIONAL DEBT

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR of Mississippi. Mr. Speaker, in response to my good friend, the gentleman from Ohio [Mr. Hoke], who quoted John Kennedy, I would like to remind him, I reminded him privately, I will remind him publicly, at the time John Kennedy said that, the Nation's annual operating deficit was $10 billion a year, Now it is $200 billion a year. At the time that John Kennedy said that, our Nation's total debt was about $500 billion. Today it is almost $5 trillion.

Now, we have a very strange situation with the tax cutters who, as my good friend, the gentleman from New York [Mr. Solomon], pointed out, should be for deficit reduction. I am one of those people, Mr. Solomon. I am for deficit reduction.

So I am going to say that whatever we save go toward the deficit, because it does not make any sense at all for this Nation to borrow $200 billion this year and pay the interest on it for the next 10 years just to give people a very miniscule break today and to give the wealthiest Americans, whose maximum tax rate went from 66 percent in 1981 down to about 35 percent today, an even bigger tax break.

AFTER THE ACRIMONY IS OVER

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, I would like to say to the American public, when all of this acrimony that you hear on the floor is over, let me tell you what is going to happen. You are going to end up with an enormous ache in your heart and also in your pocketbook.

Today the Republicans will bring to the House floor a bill that cuts programs that serve average Americans to pay for huge tax cuts. Do you know what the message is? The message is that the spending policies here center around sharp cuts in programs that serve average Americans like you, notably education, and to pay for huge tax cuts for the wealthiest Americans.

Think about where you come in. The President and the Democrats want to target tax relief to middle income Americans. The Republicans' bill will give 20 percent of its benefits to the top 1 percent of American families.

Think about it, when the acrimony is over, think about where you stand. All told, the tax cuts that the Republicans would bring today would give away $31.3 billion in tax breaks.

Once again, the Republicans are looking to the past for answers to the future.

FEDERAL WORKERS

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, do you have to represent Federal workers in order to believe they ought to be treated just like other Americans?

Federal workers have lost $9.6 billion in pay and benefits over the last 5 years. Find me any other workers who have lost in that way. That was real money, cutting corners, often through stealth paybacks. Every year these people get a statutory pay cut. I cannot remember the last time that we gave Federal workers the statutory pay raise to which they are entitled. Now we want to steal from their retirement.

It is a brazen pay cut, because the contract they have is that they earn less in compensation in order to get more in retirement. It is a zero-sum gain and they are coming out more and more like zero.

What in the world is this doing in a tax cut bill? Because there is insult and injury here, to cut retirements for some in order to cut taxes for others. My dear colleagues, fairness should begin at home with the people who serve you as Federal workers.

WHAT IS THE RUSH?

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, what is the rush?

I stood on the House floor last evening and asked the same question and, unfortunately, have gotten no answer. We come today, on April 5, 1995, to ask the American people to accept what some would call a tax cut.

I would simply share with you that the tax cut goes to those earning $200,000 and over, 58.1 percent of the cut to those earning that amount. This morning we had a phony vote on the journal, not because we needed to vote on it, ladies and gentlemen, but simply so the Republicans could count the votes. What is the rush?

This tax cut is not going to impact citizens filing their 1994 taxes. And everywhere you go across this Nation, the statistics say that the American people want us to cut the deficit, not cut taxes.

This is supposed to be the crown jewel. We have editorials saying "it is more paste than jewel." Then we have got those saying "Congress fiddles with tax code while deficit burns."

I would simply say to you that there are some things worth discussing: the adoption credit, the elderly care credit, the spousal IRA's are worth talking about, the small business credits, the home office deduction.

Why can we not take the gloves off, come together and talk about a reasoned response to the America's deficit? Why are we fighting each other and counting votes so we can have a crown jewel; which really is nothing more than costume jewelry held together with paste. Why do we not stand for the American people, stop cutting, let us stand for what is right and make sure we reduce the deficit so that young people will have a future.

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THE TRUTH ABOUT TAX CUTS

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, Gilbert and Sullivan once said in one of their operas "Things are seldom what they seem." We have been talking a lot about the protests, and that maybe the tax cuts are unfairly divided between rich and poor.

I think it is important that we remind ourselves what is in this legislation. In this legislation what we are going to be voting on is $100 billion of spending cuts. That is $23 billion out of discarding needless bureaucracy, $24 billion cut in the area of eliminating duplication and waste, $10,900,000,000 cut from foreign aid, $7,500,000,000 attacking corporate welfare, $22 billion in setting empowerment, and an $11 billion spending cut.

Also what this bill does, it says none of these tax reductions take effect until we cut an estimated another $400 billion in spending and get on that glide path toward a balanced budget, which is our goal.

CHARGES RELATING TO TAX BREAK FOR RUPERT MURDOCH ARE LUDICROUS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, for the chairman of the Committee on Ways and Means to come up here a few minutes ago and to suggest that a junior Senator in the minority party in the other body is responsible for a multimillion dollar tax break for Rupert Murdoch is ludicrous. Democrats have not been able to win one vote in committee in this body and in the other body since January.

Newspaper accounts report that the Republicans supported the tax break after learning that Murdoch was the beneficiary of the legislation, and after consulting the Speaker of this House, according to six sources involved in the negotiations. However, if Republicans want to act on behalf of working middle-class families in this Nation, and on behalf of small businesses, and against a multimillion-dollar break for Rupert Murdoch and his taxes, they just need to ask the President of the United States "Pull the bill back, support the concurrent resolution, and do away with this outrageous billionaire boondoggle."

SUPPORT THE TAX RELIEF BILL

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, I rise today to strongly support the rule and to strongly support the tax relief bill that the House will be debating. This, I think, is the most critical feature of the Contract With America, and there is nothing more important in this tax relief provision than what we offer the American family. We have told the American family time and time again "Your time will come."

Every study, every evaluation of the American family says we need to have a tax credit for children, and yet it has been delayed and delayed and delayed. Over 70 percent of the benefits of this tax cut will go to families making less than $75,000 a year who pay only 45.6 percent of all the income taxes. A mere 12½ percent will go to Americans who earn over $75,000, and they pay 54.4 percent of the income tax burden.

This is an eminently fair provision. It is progressive. The contract's $500 per child tax credit treats all of America's children equally. That is the way they should be treated. We need to pass the rule today and we then need to give relief to the American family.

THE AMERICAN PEOPLE CAN HANDLE THE TRUTH ABOUT TAX REDUCTIONS

(Mr. KENNEDY of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Massachusetts. Mr. Speaker, I want to stand today in opposition to the rule that has been proposed. First and foremost, this is a rule that I went before the chairman of the committee and he agreed that we ought to be including some additional services for adoptive parents that are in dire need of assistance to be able to adopt children in this country. We have got over 3 million abused children, we have 450,000 kids in foster care, and we desperately need to provide adoption services to those children.

Most importantly, I oppose this rule because I do not think that this is a period of time that we ought to be talking about tax cuts for the American people. The fact of the matter is we need to bring the deficit of this country down. We ought not to be at this time pandering to the American people, we ought to be tough. The American people are tough. They can handle a tough choice.

The fact of the matter is that we are standing there telling the American people "We can have tax deductions, tax reductions, at the same time that we are going to be facing $200 billion a year deficits." It is not right. The people can handle it, and we ought to say the truth.

REPEAL THE ONEROUS TAX INCREASE ON SENIOR CITIZENS' INCOMES

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, I hope it is not considered pandering to the American people, as the previous speaker suggested, to permit our senior citizens who are receiving Social Security benefits to keep something of what they earn.

In 1993, in the context of the largest tax increase in American history, President and the then Democrat Congress imposed a 70-percent income tax rate increase on senior citizens who work. An important part of the bill that we are now bringing to the floor is going to roll that back.

It was criticized as a tax increase on seniors who are rich, on rich retirees, on rich Social Security beneficiaries. In fact, the 70-percent income tax rate increase on Social Security benefits started for senior citizens who work and who make as little as $30,000 a year. They are not, in my book, the rich. I do not think they are anywhere else in America. I hope all of us will take this opportunity to repeal that onerous tax increase.

THE TAX BILL AND CUTS IN PROVISIONS FOR EDUCATION BENEFITS

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, the question before us today is what kind of tax relief are we going to give the American people. The difference could not be clearer. The Republicans' tax break would benefit 76 percent of those families earning $100,000 or more. If you look at the Citizens for Tax Justice, they say 71 percent of the total capital gains tax breaks go to those making in excess of $200,000.

Who pays the bill? It is young people who pay the bill. It is those who want to go out and get those well-paying jobs that the Republicans talk about. However, how can we expect them to get those well-paying jobs if they cannot first afford the higher education that they are going to need to get if they are to land those jobs?

Mr. Speaker, it was wrong to repeal the interest deduction on student loans in the 1986 tax reform bill, and it is worse that the Republicans have rescinded the amount of the money for subsidizing those student loans that allow them to get an education, and not have the interest on those student loans accrue until after they graduate. That is not right.

Members know that the cost of higher education is going up, and we should not make it more difficult for students.

THE TAX BILL WILL STRENGTHEN AMERICAN FAMILIES

(Mr. FOX of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, the fact of the matter is that American people are going to have with this Contract With America $180,000,000,000 in deficit reduction, $190,000,000,000 in spending cuts, and Mr. Speaker, the tax reduction bill is the third part that the American people are waiting for.

The Republican majority is offering a $500-per-child tax credit. We believe one of the most important things Government can do for American families is to take less of their earnings. Republicans recognize the profoundly positive impact stronger families can have on our Nation.

We believe the basic family unit can be stronger if it is able to keep more of its own earnings and make its own decisions about how those earnings should be spent.

We also respect the contributions of our senior citizens and their right to continue being a productive partner in building a better America. That is why this week Republicans will remove the tax burden placed on Social Security earnings last year by the Democrats.

Finally, Americans believe in the future. We know America's future depends on America's being able to save more and invest more in new jobs and new productivity. That is why we will reduce the capital gains tax cut, which will help all Americans.

Seventy-five percent of the tax cuts will benefit those with incomes less than $100,000. Please vote for the bill.

A BETTER CAPITAL GAINS DEAL FOR THE WEALTHY

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the reason we are still doing 1-minutes is because the Republican leadership is twisting the arms of their caucus to try to get the votes for this tax giveaway, the same arms that they did not twist last week when term limits was on the floor.

There was a shameful time in this country in the mid-1980's when the largest, most profitable corporations in the land paid no income taxes, and we are about to turn back the clock. This bill repeals a modest income tax on the largest, most profitable corporations in this country, so they can go back to paying zero.

People who earn over $200,000 a year, they can get capital gains at 14 percent. That is half of the tax bracket for middle income Americans. Is it not a great country when people, Members of Congress earning $133,000 a year, can vote themselves a wonderful juicy tax break, because they are in a big enough tax bracket to take advantage of it?

When the dust settles, average Americans are going to get it stuck to them again, and the rich are going to be drinking champagne and eating caviar.

REPUBLICANS READY TO INTRODUCE TAX LEGISLATION

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, responding to the previous speaker, I would just like to announce that I do not believe anybody on our side asked him to take a 1-minute, or anybody else over there to take a 1-minute. We are ready to go. We are ready do the Nation's business on the rule.

The minute the 1-minutes are over, we will be very happy to proceed.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, we are so excited to bring up this last of the contract promises. Let's go.

Mr. GOSS. Reclaiming my time, Mr. Speaker, I would point out that the sooner we start, the better prospects are, the sooner we will get out.

THE $63,000 TAX GIVEAWAY TO RUPERT MURDOCH

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I yield to the gentleman from Florida.

Mr. DEUTSCH. Mr. Speaker, I have the opportunity now to respond to some of the charges that the gentleman from Texas [Mr. ARCHER], chairman of the Committee on Ways and Means, raised previously.

It is just absolutely absurd. There is not one person in this building, in this district, in this country that believes Senator BRAUN on her own was able to provide the obscene, sleazy $63 million gift to Rupert Murdoch. It just defies credibility.

There is an expression that I have used, and I think everyone in this country has heard previously. It is look like a duck and it smells like a duck and it walks like a duck and it talks like a duck, it is probably a duck. To think that the Speaker and the chairman of the Committee on Ways and Means did not know about this special deal is absurd.

I am about to offer once again a concurrent resolution which would take out that provision. The Speaker of this Chamber has publicly stated that he supports taking it out. I have asked the gentleman from Texas [Mr. ARMEY]. I have followed the rules to this Chamber to get unanimous consent.

Mr. Speaker, I ask unanimous consent to take up Concurrent Resolution 55, which would take out the tax provision provided for Mr. Murdoch.

The SPEAKER pro tempore. Under the Chair's guidelines, the gentleman is not recognized for that purpose. The gentleman's time as expired.

NOTICE OF INTENT TO OFFER RESOLUTION REGARDING CONSTITUTIONALITY OF TARGETED TAX BENEFIT

Mr. DEUTSCH. Mr. Speaker, under the rule IX, I rise to serve notice that I intend to offer the following resolution and read it into the RECORD.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. DEUTSCH. Resolution: To preserve the constitutional role of the House of Representatives to originate revenue measures.

Whereas, rule IX of the Rules of the House of Representatives provides that questions of privileges shall arise whenever the rights of the House collectively are affected;

Whereas, under the precedents, customs, and traditions of the House, pursuant to rule IX, a question of privilege has arisen in cases involving the constitutional prerogatives of the House;

Whereas section 7 of article 1 of the Constitution require that revenue measures originate in the House of Representatives; and

Whereas the conference report on the bill, H.R. 831, contained a targeted tax benefit which was not contained in the bill as passed by the House of Representatives and which was not contained in the amendment of the Senate; Now, therefore be it

Resolved, that the Comptroller General of the United States shall prepare and transmit, within 7 days after the date of the adoption of this resolution, a report to the House of Representatives containing the opinion of the Comptroller General on whether the addition of a targeted tax benefit by the conferees of the conference report on the bill, H.R. 831 (A bill to amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provision permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission, and for other purposes) violates the requirement of the U.S. Constitution that all revenue measures originate in the House of Representatives.

The SPEAKER pro tempore. The gentleman's notice will appear in the RECORD.

TAX CUTS AND DEFICIT REDUCTION FOR THE FEDERAL GOVERNMENT

(Mr. MARTINI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTINI. Mr. Speaker, in sitting here this morning and listening to this debate, it reminds me of a debate less than 2 years ago in my home State of New Jersey. At that time, when the then-newly elected Governor Whitman spoke about tax cuts and cutting spending at the same time, then, as now, the same naysayers rose and complained and said it could not be done.

I am pleased to report today, Mr. Speaker, that less than 2 years into her term, she has accomplished two-thirds of her tax cut, with sufficient deficit reduction, and what we have witnessed in New Jersey is an increase in revenues, jobs, and a healthy economy.

I am confident that with the passage of today's bill and rule, we will accomplish the same things here for the Federal Government, and with the linkage and language that exists today in this tax bill, the linkage which assures that we will have sufficient deficit reduction with tax relief, I am even more confident that we can accomplish that goal.

PROVIDING FOR CONSIDERATION OF H.R. 1215, CONTRACT WITH AMERICA TAX RELIEF ACT OF 1995

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 128, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 128

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1215) to amend the Internal Revenue Code of 1986 to strengthen the American family and create jobs. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendment in the nature of a substitute made in order as original text and shall not exceed four hours, with two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and two hours equally divided among and controlled by the chairman and ranking minority members of the Committee on the Budget and the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 1327, modified by the amendment printed in part 1 of the report of the Committee on rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. No amendment to that amendment in the nature of a substitute shall be in order except the further amendment in the nature of a substitute printed in part 2 of the report, which may be offered only by Representative Gephardt of Missouri or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the further amendment in the nature of a substitute are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution before us is a rule providing for the consideration of the bill H.R. 1215, which is the Contract With America Tax Relief Act of 1995. The bill is appropriately entitled the Tax Fairness and Deficit Reduction Act of 1995 because it combines the tax relief provisions of H.R. 1215 with various spending reductions from other committees, both to offset the cost of the tax cuts and to begin us on a downward glide path toward a balanced budget. Have we not waited forever for this?

The rule provides for a Democrat substitute printed in part 2 of the Rules Committee report if offered by the gentleman from Missouri [Mr. GEPHARDT], the minority leader.

Finally, the rule provides for 1 motion to recommit with or without instructions.

Mr. Speaker, this rule represents the final major procedural hurdle to fulfilling our Contract With America and, oh, what an exciting, successful run this 100-day contract period has been. Did you ever think it would get here?

The bill this rule makes in order is certainly an appropriate closing to that contract. It addresses both the need to give tax relief to the American people and debt relief to future generations by locking us into a downward glide path toward a balanced budget by fiscal year 2002.

Mr. Speaker, I do not think I have to prove my credentials as a deficit hawk to anyone in this body. I am the only Member of this House, in the last 20 years, to actually offer a balanced budget with specifics. But, Mr. Speaker, like many of my colleagues, I have expressed concerns about enacting tax cuts without first making the necessary spending cuts to produce a balanced budget. That is very, very important to me. I would not be standing here today in support of this rule and bill if I did not think that this bill as modified by the adoption of the language that we are putting into this rule right now—which we will be voting on in a few minutes—locks us into that commitment. It does that. Make no mistake about it, a vote on this rule is a vote to balance the budget, and you better remember that.

To those on the other side who claim that this is some kind of a fig leaf, I would just urge you to first read the legislation. The Upton-Castle-Martini-Solomon amendment prohibits the tax cuts from taking effect until we first adopt a budget resolution that projects a balanced budget by the year 2002. It then—and this is the critical point—requires that pursuant to that budget resolution a reconciliation bill must be enacted into law that keeps that commitment with real spending cuts. And that is enacted into law. This is not some budget resolution that the Committee on Rules can waive the Budget Act for. If spending cuts are not done, those tax cuts do not become law. It is just as simple and as real as that.

Mr. Speaker, if we deviate, then further policy options for putting us back on track will be a part of the subsequent budget resolution and those in turn will be translated into real spending cuts in the reconciliation bill to follow, on which each and every one of us are going to be forced to vote on, on the floor of this House.

That is no fig leaf. Perhaps we should not have Members, running for higher office, running around here saying it is. Mr. Speaker, anyone who calls this a fig leaf does not know the difference between a fig leaf and a sledgehammer. Well, I do, believe you me. Reconciliation is a sledgehammer. If you have ever been here to vote on one, you ought to know, because you are going to be responsible to the voters back home whichever way you vote. It makes a real impact and it gets real results. You all, that are on this big-spender list I have here, always complain about it.

Mr. Speaker, over 40 amendments were filed with the Committee on Rules. Many of those amendments were good amendments that I could individually support. But we cannot rewrite the Internal Revenue Code on the floor of this House. We did not do it under a Democrat House, and we will not do it under a Republican House. Not only do such amendments affect other provisions in that code in ways we cannot always anticipate, but taken together they can also produce vast new revenue drains on the Treasury that we just cannot afford given our current deficit situation. You all know how serious that is.

I urge Members on both sides of the aisle to remain true to our past, our bipartisan practice of modified closed rules when we are dealing with tax and reconciliation bills. Put aside your additional individual wish lists. I have done it for now, and I want you to look at the big picture. This rule and this bill takes the fiscally responsible approach of paying for the tax cuts and putting us on that downward glide path toward a balanced budget which is so terribly, terribly important to the future generations of this country.

I urge every Member to vote "yes" on the rule and to vote "yes" on this bill. The American people want it.

Mr. Speaker, I include the following for the RECORD:

CORRECTION OF VOTES IN COMMITTEE REPORT

The Rules Committee's report, House Report 104–100 on H. Res. 128, the rule for the consideration of H.R. 1215, the "Contract With America Tax Relief Act of 1995," contains an erroneously reported rollcall vote due to a typographical error during the printing process. The vote was correctly reported in the original report filed with the Clerk.

Below is a correct version of that vote as contained in the Rules Committee report as filed with the House. The amendment number referred to in the motion is to an amendment filed with the Rules Committee—a summary of which are contained following the listing of votes in the committee report.

RULES COMMITTEE ROLLCALL NO. 122

Date: April 4, 1995.

Measure: Rule for the consideration of H.R. 1215, Contract With America Tax Relief Act.

Motion By: Mr. Moakley.

Summary of Motion: Allow a division of the question and a separate vote on Titles II and V (H.R. 1215), the senior citizen equity provisions.

Results: Rejected, 4 to 9.

Vote by Member: Quillen—Nay; Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Waldholtz—Nay; Moakley—Yea; Beilenson—Yea; Frost—Yea; Hall—Yea; Solomon—Nay.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS VERSUS 104TH CONGRESS

[As of April 4, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	21	75
Modified Closed[3]	49	47	7	25
Closed[4]	9	9	0	0

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS VERSUS 104TH CONGRESS—Continued

[As of April 4, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Totals:	104	100	28	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 4, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95).
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/6/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1158	Making Emergency Supp. Approps.	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

NATIONAL TAXPAYERS UNION—BIG SPENDER OF 1993

Alabama: Rep. Tom Bevill, Rep. Robert E. Cramer, Rep. Earl F. Hilliard.

Arizona: Rep. Karan English, Rep. Ed Pastor.

Arkansas: Sen. Dale Bumpers, Sen. David Pryor, Rep. Ray Thornton.

California: Sen. Barbara Boxer, Sen. Dianne Feinstein, Rep. Xavier Becerra, Rep. Howard L. Berman, Rep. George E. Brown, Rep. Ronald V. Dellums, Rep. Julian C. Dixon, Rep. Don Edwards, Rep. Anna G. Eshoo, Rep. Sam Farr, Rep. Vic Fazio, Rep. Bob Filner, Rep. Dan Hamburg, Rep. Jane Harman, Rep. Tom Lantos, Rep. Matthew G. Martinez, Rep. Robert T. Matsui, Rep. George Miller, Rep. Norman Y. Mineta, Rep. Nancy Pelosi, Rep. Lucille Roybal-Allard, Rep. Pete Stark, Rep. Esteban E. Torres, Rep. Walter R. Tucker, Rep. Maxine Waters, Rep. Henry A. Waxman, Rep. Lynn Woolsey.

Colorado: Sen. Ben Nighthorse Campbell, Rep. David E. Skaggs.

Connecticut: Sen. Christopher J. Dodd, Rep. Rosa DeLauro, Rep. Sam Gejdenson, Rep. Barbara B. Kennelly.

Delaware: Sen. Joseph R. Biden Jr.

Florida: Sen. Bob Graham, Rep. Jim Bacchus, Rep. Corrine Brown, Rep. Peter Deutsch, Rep. Sam M. Gibbons, Rep. Alcee L. Hastings, Rep. Harry A. Johnston, Rep. Carrie P. Meek, Rep. Pete Peterson, Rep. Karen L. Thurmon.

Georgia: Rep. Sanford D. Bishop, Rep. George Darden, Rep. John Lewis, Rep. Cynthia A. McKinney.

Hawaii: Sen. Daniel K. Akaka, Sen. Daniel K. Inouye, Rep. Neil Abercrombie, Rep. Patsy T. Mink.

Illinois: Sen. Carol Moseley-Braun, Sen. Paul Simon, Rep. Cardiss Collins, Rep. Richard J. Durbin, Rep. Lane Evans, Rep. Luis V. Gutierrez, Rep. Mel Reynolds, Rep. Dan Rostenkowski, Rep. Bobby L. Rush, Rep. George E. Sangmeister, Rep. Sidney R. Yates.

Indiana: Rep. Frank McCloskey, Rep. Peter J. Visclosky.

Iowa: Sen. Tom Harkin, Rep. Neal Smith.

Kansas: Rep. Dan Glickman.

Kentucky: Sen. Wendell H. Ford, Rep. Romano L. Mazzoli.

Louisiana: Sen. John B. Breaux, Sen. J. Bennett Johnston, Rep. Cleo Fields, Rep. William J. Jefferson.

Maine: Sen. George J. Mitchell, Rep. Thomas H. Andrews.

Maryland: Sen. Barbara A. Mikulski, Sen. Paul S. Sarbanes, Rep. Benjamin L. Cardin, Rep. Steny H. Hoyer, Rep. Kweisi Mfume, Rep. Albert R. Wynn.

Massachusetts: Sen. Edward M. Kennedy, Sen. John Kerry, Rep. Barney Frank, Rep. Joseph P. Kennedy, Rep. Edward J. Markey, Rep. Joe Moakley, Rep. Richard E. Neal, Rep. John W. Olver, Rep. Gerry E. Studds.

Michigan: Sen. Carl Levin, Sen. Donald W. Riegle Jr., Rep. David E. Bonior, Rep. Bob Carr, Rep. Barbara-Rose Collins, Rep. John Conyers, Rep. John D. Dingell, Rep. William D. Ford, Rep. Dale E. Kildee, Rep. Sander M. Levin.

Minnesota: Sen. Paul Wellstone, Rep. James L. Oberstar, Rep. Martin Olav Sabo, Rep. Bruce F. Vento.

Mississippi: Rep. G.V. Montgomery, Rep. Bennie Thompson, Rep. Jamie L. Whitten.

Missouri: Rep. William L. Clay, Rep. Richard A. Gephardt, Rep. Ike Skelton, Rep. Harold L. Volkmer, Rep. Alan Wheat.

Montana: Sen. Max Baucus, Rep. Pat Williams.

Nevada: Sen. Harry Reid, Rep. James Bilbray.

New Jersey: Rep. Robert Menendez, Rep. Donald M. Payne, Rep. Robert G. Torricelli.

New Mexico: Rep. Bill Richardson.

New York: Sen. Daniel Patrick Moynihan, Rep. Gary L. Ackerman, Rep. Eliot L. Engel, Rep. Floyd H. Flake, Rep. Maurice D. Hinchey, Rep. George J. Hochbrueckner, Rep. Nita M. Lowey, Rep. Thomas J. Manton, Rep. Michael R. McNulty, Rep. Jerrold Nadler, Rep. Major R. Owens, Rep. Charles B. Rangel, Rep. Charles E. Schumer, Rep. Jose E. Serrano, Rep. Louise M. Slaughter, Rep. Edolphus Towns, Rep. Nydia M. Velazquez.

North Carolina: Rep. Evan Clayton, Rep. W.G. Hefner, Rep. Stephen L. Neal, Rep. David Price, Rep. Charlie Rose, Rep. Melvin Watt.

Ohio: Sen. John Glenn, Sen. Howard M. Metzenbaum, Rep. Douglas Applegate, Rep. Sherrod Brown, Rep. Tony P. Hall, Rep. Tom Sawyer, Rep. Louis Stokes, Rep. Ted Strickland.

Oklahoma: Rep. Mike Synar.

Oregon: Rep. Elizabeth Furse, Rep. Mike Kopetski, Rep. Ron Wyden.

Pennsylvania: Sen. Harris Wofford, Rep. Lucien E. Blackwell, Rep. Robert A. Borski, Rep. William J. Coyne, Rep. Thomas M. Foglietta, Rep. Paul E. Kanjorski, Rep. John P. Murtha.

Rhode Island: Sen. Claiborne Pell, Rep. Jack Reed.

South Carolina: Sen. Ernest F. Hollings, Rep. James E. Clyburn, Rep. Butler Derrick, Rep. John M. Spratt.

South Dakota: Sen. Tom Daschle.

Tennessee: Sen. Harlan Mathews, Sen. Jim Sasser, Rep. Harold E. Ford.

Texas: Rep. Jack Brooks, Rep. John Bryant, Rep. Jim Chapman, Rep. Ronald D. Coleman, Rep. E. de la Garza, Rep. Martin Frost, Rep. Henry B. Gonzalez, Rep. Gene Green, Rep. Eddie Bernice Johnson, Rep. Solomon P. Ortiz, Rep. J.J. Pickle, Rep. Frank Tejeda, Rep. Craig Washington, Rep. Charles Wilson.

Vermont: Sen. Patrick J. Leahy, Rep. Bernard Sanders.

Virginia: Rep. Rick Boucher, Rep. Leslie L. Byrne, Rep. James P. Moran, Rep. Robert C. Scott.

Washington: Sen. Patty Murray, Rep. Norm Dicks, Rep. Mike Kreidler, Rep. Jim McDermott, Rep. Al Swift, Rep. Jolene Unsoeld.

West Virginia: Sen. Robert C. Byrd, Sen. John D. Rockefeller IV, Rep. Alan B. Mollohan, Rep. Nick J. Rahall, Rep. Bob Wise.

Wisconsin: Rep. Gerald D. Kleczka, Rep. David R. Obey.

NATIONAL TAXPAYERS UNION

Name	PA	Sta	Dist	Grade	Percent score	Rank	Percent attend.	381839 All Avg. Support 382510 Support	830962 0.45922 Eligibility 832963 Eligibility	LDR	Budget	Approp.	Region
Long J (IN)	D	IN	4	D	42	219	100.00	845	2028	......	......	......	2
Cox J (IL)	D	IL	16	D	42	220	100.00	843	2028	......	......	......	2
Stallings R (ID)	D	ID	2	D	41	221	90.53	761	1836	......	......	......	1
Johnston H (FL)	D	FL	14	D	41	222	98.47	826	1997	......	......	......	3
Mazzoli R (KY)	D	KY	3	D	41	223	100.00	838	2028	d	......	......	3
Larocco L (ID)	D	ID	1	D	41	224	99.51	831	2018	......	......	......	1
Visclosky P (IN)	D	IN	1	D	41	225	100.00	832	2028	......	......	1	2
Lloyd M (TN)	D	TN	3	D	41	226	97.83	810	1984	......	......	......	3
Lancaster H (NC)	D	NC	3	D	41	227	99.90	823	2026	......	......	......	3
Huckaby J (LA)	D	LA	5	D	41	228	86.09	709	1746	......	1	......	3
Peterson C (MN)	D	MN	7	D	40	229	99.46	811	2017	......	......	......	2
Andrews M (TX)	D	TX	25	D	40	230	99.95	815	2027	......	......	......	3
Schroeder P (CO)	D	CO	1	D	40	231	99.61	802	2020	d	......	......	1
Thomas L (GA)	D	GA	1	D	39	232	83.04	665	1684	......	......	1	3
Brewster B (OK)	D	OK	3	D	39	233	99.85	799	2025	......	......	......	3
Cramer B (AL)	D	AL	5	D	39	234	99.56	795	2019	......	......	......	3
Hoagland P (NE)	D	NE	2	D	39	235	99.75	796	2023	......	......	......	2
Beilenson A (CA)	D	CA	23	D	39	236	92.55	737	1877	......	1	......	1
Derrick B (SC)	D	SC	3	D	39	237	99.80	790	2024	d	......	......	3
Pickett O (VA)	D	VA	2	D	39	238	99.36	786	2015	......	......	......	3
Spratt J (SC)	D	SC	5	D	39	239	100.00	789	2028	......	1	......	3
Early J (MA)	D	MA	3	D	39	241	90.34	707	1832	......	......	1	4
McMillen T (MD)	D	MD	4	D	38	242	100.00	778	2028	......	......	......	4
Kennedy J (MA)	D	MA	8	D	38	243	95.27	741	1932	......	......	......	4
Gordon B (TN)	D	TN	6	D	38	244	93.93	725	1905	d	......	......	3
Panetta L (CA)	D	CA	16	D	38	245	98.67	756	2001	d	1	......	1
Browder G (AL)	D	AL	3	D	37	246	99.11	753	2010	......	......	......	3
Bacchus J (FL)	D	FL	11	D	37	247	99.41	750	2016	......	......	......	3
Pease D (OH)	D	OH	13	D	37	247	99.41	750	2016	......	1	......	2
Bilbray J (NV)	D	NV	1	D	37	249	98.52	743	1998	......	......	......	1
Bruce T (IL)	D	IL	19	D	37	250	99.56	737	2019	......	......	......	2
Atkins C (MA)	D	MA	5	D	36	251	96.25	711	1952	......	......	1	4
Skelton I (MO)	D	MO	4	D	36	252	94.63	692	1919	......	......	......	2
DeFazio P (OR)	D	OR	4	D	36	253	97.24	702	1972	......	......	......	1
Sangmeister G (IL)	D	IL	4	D	36	254	98.22	709	1992	......	......	......	2
Johnson T (SD)	D	SD	0	D	36	255	99.70	719	2022	......	......	......	2
Staggers H (WV)	D	WV	2	D	35	256	89.45	643	1814	......	......	......	4
Bryant J (TX)	D	TX	5	D	35	257	95.32	685	1933	......	1	......	3
Carr B (MI)	D	MI	6	D	35	258	95.81	688	1943	......	......	1	2
Jenkins E (GA)	D	GA	9	D	35	259	95.27	684	1932	......	......	......	3
Darden G (GA)	D	GA	7	D	35	260	98.13	700	1990	......	......	......	3
Vento B (MN)	D	MN	4	D	35	261	99.61	700	2020	......	......	......	2
Espy M (MS)	D	MS	2	D	34	262	96.99	676	1967	......	1	......	3
Eckart D (OH)	D	OH	11	D	34	263	96.60	668	1959	d	......	......	2
Costello J (IL)	D	IL	21	D	34	264	94.23	650	1911	......	......	......	3
Murphy A (PA)	D	PA	22	F	33	266	93.74	633	1901	......	......	......	4
Hall T (OH)	D	OH	3	F	33	267	99.21	667	2012	......	......	......	2
Andrews R (NJ)	D	NJ	1	F	33	268	97.68	653	1981	......	......	......	4
Hatcher C (GA)	D	GA	2	F	33	269	62.72	419	1272	......	......	......	3
Volkmer H (MO)	D	MO	9	F	33	270	98.96	660	2007	......	......	......	2
Price D (NC)	D	NC	4	F	33	271	99.70	664	2022	......	......	1	3
McCloskey F (IN)	D	IN	8	F	33	272	98.67	656	2001	......	......	......	2
Stark P (CA)	D	CA	9	F	33	273	92.26	612	1871	......	......	......	1
Schumer C (NY)	D	NY	10	F	32	274	95.51	627	1937	......	......	......	4
Aucoin L (OR)	D	OR	1	F	32	275	86.19	565	1748	......	......	1	1
Peterson P (FL)	D	FL	2	F	32	276	97.14	634	1970	......	......	......	3
Russo M (IL)	D	IL	3	F	32	277	74.36	485	1508	d	......	......	2
Applegate (OH)	D	OH	18	F	32	278	98.22	634	1992	......	......	......	2
Synar M (OK)	D	OK	2	F	31	279	98.42	626	1996	d	......	......	3
Wilson C (TX)	D	TX	2	F	31	280	95.61	608	1939	......	......	1	3
Wyden R (OR)	D	OR	3	F	31	281	99.31	631	2014	......	......	......	1
Pickle J (TX)	D	TX	10	F	31	282	97.78	621	1983	......	......	......	3
Olin J (VA)	D	VA	6	F	31	283	88.56	561	1796	......	......	......	3
Miller G (CA)	D	CA	7	F	31	284	93.64	592	1899	d	1	......	1
Studds G (MA)	D	MA	10	F	31	285	98.92	622	2006	......	......	......	4
Jones B (GA)	D	GA	4	F	31	286	78.16	491	1585	......	......	......	3
Lipinski W (IL)	D	IL	5	F	31	287	86.93	545	1763	......	......	......	2
Durbin R (IL)	D	IL	20	F	31	288	99.90	626	2026	......	1	1	2
Oberstar J (MN)	D	MN	8	F	31	289	99.95	626	2027	......	1	......	2
McDermott J (WA)	D	WA	7	F	31	290	99.95	621	2027	......	......	......	1
Horn J (MO)	D	MO	2	F	31	291	100.00	621	2028	......	......	......	2
Slaughter L (NY)	D	NY	30	F	31	292	99.16	614	2011	......	1	......	4
Conyers J (MI)	D	MI	1	F	30	293	83.43	514	1692	......	......	......	2
Yates S (IL)	D	IL	9	F	30	294	85.31	525	1730	......	......	1	2
Kostmayer P (PA)	D	PA	8	F	30	295	99.80	614	2024	d	......	......	4
Ford H (TN)	D	TN	9	F	30	296	84.27	518	1709	......	......	......	3
Gejdenson S (CT)	D	CT	2	F	30	297	99.56	611	2019	d	......	......	4
Andrews T (ME)	D	ME	1	F	30	298	98.67	603	2001	......	......	......	4
Hayes C (IL)	D	IL	1	F	30	299	98.32	598	1994	......	......	......	2
Williams P (MT)	D	MT	1	F	30	300	92.70	556	1880	d	......	......	1
Chapman J (TX)	D	TX	1	F	30	301	98.62	590	2000	......	......	1	3
Sawyer T (OH)	D	OH	14	F	29	302	99.90	597	2026	......	......	......	2
Hamilton L (IN)	D	IN	9	F	29	303	100.00	597	2028	......	......	......	2
Levin S (MI)	D	MI	17	F	29	304	99.90	596	2026	......	......	......	2
Leighan E (OH)	D	OH	19	F	29	305	88.66	528	1798	......	......	......	2
Richardson B (NM)	D	NM	3	F	29	306	96.89	576	1965	......	......	......	1
Kennelly B (CT)	D	CT	1	F	29	307	99.65	590	2021	d	......	......	4
Frank B (MA)	D	MA	4	F	29	308	99.01	583	2008	......	1	......	4
Mfume K (MD)	D	MD	7	F	29	309	98.62	579	2000	......	......	......	4
Clay W. (MO)	D	MO	1	F	29	310	97.63	573	1980	......	......	......	2

NATIONAL TAXPAYERS UNION—Continued

Name	PA	Sta	Dist	Grade	Percent score	Rank	Percent attend.	381839 All Avg. Support 382510 Support	830962 0.45922 Eligibility 832963 Eligibility	LDR	Budget	Approp.	Region
SABO M (MN)	D	MN	5	F	29	311	99.21	581	2012	d	1	1	2
Owens M (NY)	D	NY	12	F	29	312	95.66	555	1940				4
Wise B (WV)	D	WV	3	F	28	313	95.41	551	1935		1		4
Tallon R (SC)	D	SC	6	F	28	314	90.24	521	1830				3
Reed J (RI)	D	RI	2	F	28	315	100.00	576	2028				4
Skaggs D (CO)	D	CO	2	F	28	316	100.00	576	2028			1	1
Kildee D (MI)	D	MI	7	F	28	317	100.00	570	2028		1		2
Laface J (NY)	D	NY	32	F	28	318	96.94	552	1966				4
Yatron G (PA)	D	PA	6	F	28	319	89.55	509	1816				4
Gibbons S (FL)	D	FL	7	F	28	320	96.65	549	1960				3
Washington C (TX)	D	TX	18	F	28	321	97.73	555	1982				3
Dellums R (CA)	D	CA	8	F	28	322	99.31	562	2014				1
Weiss T (NY)	D	NY	17	F	28	323	84.52	478	1714				4
Solarz S (NY)	D	NY	13	F	28	324	81.95	461	1662				4
Olver J (MA)	D	MA	1	F	28	325	99.41	557	2016				4
Wolpe H (MI)	D	MI	3	F	28	326	92.70	517	1880				2
Payne D (NJ)	D	NJ	10	F	27	327	94.77	527	1922				4
Lantos T (CA)	D	CA	11	F	27	328	96.45	532	1956				1
Guarini F (NJ)	D	NJ	14	F	27	329	95.07	524	1928		1		4
Ortiz S (TX)	D	TX	27	F	27	330	94.58	521	1918				3
Nowark H (NY)	D	NY	33	F	27	331	94.97	520	1926				4
Anderson G (CA)	D	CA	32	F	27	332	94.53	512	1917				1
Flake F (NY)	D	NY	6	F	27	333	90.93	491	1844				4
Serrano J (NY)	D	NY	18	F	27	334	97.14	524	1970				4
Swift A (WA)	D	WA	2	F	27	335	98.96	533	2007	d			1
Lehman R (CA)	D	CA	18	F	26	336	87.72	471	1779			1	1
Blackwell L (PA)	D	PA	2	F	26	337	97.24	516	1972				4
Markey E (MA)	D	MA	7	F	26	338	95.32	503	1933				4
Lowey N (NY)	D	NY	20	F	26	339	100.00	526	2028				4
Rangel C (NY)	D	NY	16	F	26	340	98.67	516	2001	d			4
Foglietta T (PA)	D	PA	1	F	26	341	89.50	467	1815				4
Collins B (MI)	D	MI	13	F	26	342	93.00	484	1886				2
Evans L (IL)	D	IL	17	F	26	343	99.95	519	2027				2
Edwards D (CA)	D	CA	10	F	26	344	97.53	505	1978				1
Collins C (IL)	D	IL	7	F	25	345	82.84	425	1680				2
Wheat A (MO)	D	MO	5	F	25	346	99.65	511	2021	d			2
Savage G (IL)	D	IL	2	F	25	347	82.79	423	1679				2
Waxman H (CA)	D	CA	24	F	25	348	97.88	499	1985				1
Scheuer J (NY)	D	NY	8	F	25	349	91.91	465	1864				4
Moakley J (MA)	D	MA	4	F	25	350	92.85	469	1883	d			4
Torricelli R (NJ)	D	NJ	9	F	25	351	97.29	491	1973				4
Unsoeld J (WA)	D	WA	3	F	25	352	92.80	468	1882				1
Neal R (MA)	D	MA	2	F	25	353	98.13	492	1990				4
Kanjorski P (PA)	D	PA	11	F	25	354	100.00	500	2028				4
Hoyer S (MD)	D	MD	5	F	25	355	99.06	495	2009	d		1	4
Delauro R (CT)	D	CT	3	F	25	356	100.00	499	2028				4
Kleczka G (WI)	D	WI	4	F	25	357	98.92	493	2006	d			2
Matsui R (CA)	D	CA	3	F	25	358	94.92	472	1925	d	1		1
Hefner W (NC)	D	NC	8	F	24	359	53.70	266	1089	d		1	3
Stokes L (OH)	D	OH	21	F	24	360	98.32	485	1994			1	2
Pelosi N (CA)	D	CA	5	F	24	361	89.74	442	1820			1	1
Ford W (MI)	D	MI	15	F	24	362	94.28	464	1912				2
Nagle D (IA)	D	IA	3	F	24	363	96.25	471	1952				2
Berman H (CA)	D	CA	26	F	24	364	98.92	483	2006		1		1
Jones W (NC)	D	NC	1	F	24	365	76.97	373	1561				3
Obey D (WI)	D	WI	7	F	24	366	99.75	481	2023	d		1	2
Frost M (TX)	D	TX	24	F	24	367	96.45	463	1956	d			3
McHugh M (NY)	D	NY	28	F	24	368	99.06	474	2009	d		1	4
Abercrombie N (HI)	D	HI	1	F	23	369	97.78	466	1983				1
Pastor E (AZ)	D	AZ	2	F	23	370	96.60	458	1959				1
Mavroules N (MA)	D	MA	6	F	23	371	96.84	443	1964				4
Waters M (CA)	D	CA	29	F	22	372	94.72	432	1921				1
de la Garza E (TX)	D	TX	15	F	22	373	93.44	423	1895				3
Smith L (FL)	D	FL	16	F	22	374	90.19	408	1829	d		1	3
Moran J (VA)	D	VA	8	F	22	375	91.67	414	1859				3
Traficant J (OH)	D	OH	17	F	22	376	99.31	447	2014				2
Ackerman G (NY)	D	NY	7	F	22	377	82.79	372	1679				4
Koltr J (PA)	D	PA	4	F	22	378	74.41	331	1509				4
Lewis J (GA)	D	GA	5	F	22	379	94.87	418	1924	d			3
Towns E (NY)	D	NY	11	F	22	380	83.33	365	1690				4
Mink P (HI)	D	HI	2	F	21	381	95.32	415	1933				1
Mrazek R (NY)	D	NY	3	F	21	382	89.64	386	1818			1	4
Coyne W (PA)	D	PA	14	F	21	383	99.80	429	2024				4
Boxer B (CA)	D	CA	6	F	21	384	60.65	260	1230				1
Downey T (NY)	D	NY	2	F	21	385	99.46	425	2017				4
Cardin B (MD)	D	MD	3	F	21	386	95.56	407	1938				4
Roybal E (CA)	D	CA	25	F	20	387	99.56	413	2019			1	1
Bevill T (AL)	D	AL	4	F	20	388	95.81	396	1943	d		1	3
Whitten J (MS)	D	MS	1	F	20	389	68.34	277	1386	d		1	3
Rahall N (WV)	D	WV	4	F	20	390	98.42	395	1996				4
Natcher W (KY)	D	KY	2	F	20	391	100.00	401	2028			1	3
Mineta N (CA)	D	CA	13	F	20	392	99.51	398	2018	d			1
Boucher R (VA)	D	VA	9	F	20	393	99.31	393	2014				3
Engel E (NY)	D	NY	19	F	19	394	94.03	366	1907				4
Dwyer B (NJ)	D	NJ	6	F	19	395	85.06	331	1725		1	1	4
Gaydos J (PA)	D	PA	20	F	19	396	79.44	309	1611				4
Kaptur M (OH)	D	OH	9	F	19	397	96.20	373	1951			1	2
Kopetski M (OR)	D	OR	5	F	19	398	98.37	379	1995				1
Martinez M (CA)	D	CA	30	F	19	399	97.19	374	1971				1
Rostenkowski D (IL)	D	IL	8	F	19	400	89.99	344	1825	d			2
Dicks N (WA)	D	WA	6	F	19	401	96.01	366	1947			1	1
Manton T (NY)	D	NY	9	F	19	402	92.46	352	1875	d			4
Brown G (CA)	D	CA	36	F	18	403	89.40	333	1813				1
Hochbrueckner G (NY)	D	NY	1	F	18	404	99.85	371	2025				4
Dingell J (MI)	D	MI	16	F	18	405	88.66	328	1798				2
Jefferson W (LA)	D	LA	2	F	18	406	86.88	321	1762				3
Traxler B (MI)	D	MI	8	F	18	407	50.30	182	1020			1	2
McNulty M (NY)	D	NY	23	F	18	408	98.96	356	3007				4
Perkins C (KY)	D	KY	7	F	18	409	87.92	316	1783				3
Annunzio F (IL)	D	IL	11	F	18	410	87.38	314	1772				4
Brooks J (TX)	D	TX	9	F	17	411	89.69	318	1819				3
Levine M (CA)	D	CA	27	F	17	412	58.68	205	1190				1
Bustamante A (TX)	D	TX	23	F	17	413	88.12	303	1787	d			3

NATIONAL TAXPAYERS UNION—Continued

Name	PA	Sta	Dist	Grade	Percent score	Rank	Percent attend.	381839 All Avg. Support 382510 Support	830962 0.45922 Eligibility 832963 Eligibility	LDR	Budget	Approp.	Region
Lehman W (FL)	D	FL	17	F	17	414	75.94	260	1540	......	......	......	3
Aspin L (WI)	D	WI	1	F	17	415	97.73	329	1982	......	......	......	2
Dymally M (CA)	D	CA	31	F	16	416	52.22	174	1059	......	......	......	1
Rose C (NC)	D	NC	7	F	16	417	99.41	325	2016	......	......	......	3
Smith N (IA)	D	IA	4	F	16	418	93.89	306	1904	......	......	1	3
Gephardt R (MO)	D	MO	3	F	16	419	90.73	295	1840	d	1	......	2
Borski R (PA)	D	PA	3	F	16	420	98.62	320	2000	......	......	......	4
Murtha J (PA)	D	PA	12	F	15	421	97.58	294	1979	d	......	1	4
Bonior D (MI)	D	MI	12	F	15	422	82.30	247	1669	d	......	......	2
Fazio V (CA)	D	CA	4	F	15	423	98.37	292	1995	d	......	1	1
Dixon J (CA)	D	CA	28	F	15	424	98.03	289	1988	......	......	1	1
Hertel D (MI)	D	MI	14	F	14	425	92.16	256	1869	......	......	......	2
Mollohan A (WV)	D	WV	1	F	14	426	97.44	269	1976	......	......	1	4
Coleman R (TX)	D	TX	16	F	13	427	97.53	264	1978	......	......	......	3
Gonzalez H (TX)	D	TX	20	F	13	428	100.00	266	2028	......	......	......	3
Thornton R (AR)	D	AR	2	F	13	429	97.73	259	1982	d	......	......	3
Alexander B (AR)	D	AR	1	F	13	430	78.85	201	1599	......	......	1	3
Roe R (NJ)	D	NJ	8	F	12	431	87.23	218	1769	......	......	......	4
Oakar M (OH)	D	OH	20	F	12	432	84.02	198	1704	......	......	......	2

[From the National Taxpayers Union, Washington, DC]

BIGGEST SPENDERS—102D CONGRESS, 1ST SESSION 1991

Alabama: Rep. Tom Bevill, Rep. Glen Browder, Rep. Bud Cramer, Rep. Claude Harris, Sen. Howell Heflin, Sen. Richard C. Shelby.

Arkansas: Rep. Bill Alexander, Rep. Beryl F. Anthony, Jr., Rep. Ray Thornton.

California: Rep. Glenn M. Anderson, Rep. Howard L. Berman, Rep. Barbara Boxer, Rep. George E. Brown, Jr., Rep. Julian C. Dixon, Rep. Calvin Dooley, Rep. Don Edwards, Rep. Vic Fazio, Rep. Tom Lantos, Rep. Richard H. Lehman, Rep. Mel Levine, Rep. Matthew G. Martinez, Rep. Robert T. Matsui, Rep. Norman Y. Mineta, Rep. Leon E. Panetta, Rep. Nancy Pelosi, Rep. Edward R. Roybal, Rep. Esteban Edward Torres, Rep. Henry A. Waxman.

Colorado: Rep. Ben Nighthorse Campbell, Rep. David E. Skaggs.

Connecticut: Rep. Rosa DeLauro, Sen. Christopher Dodd, Rep. Sam Gejdenson, Rep. Barbara B. Kennelly, Sen. Joseph Lieberman.

Florida: Rep. Jim Bacchus, Rep. Dante B. Fascell, Rep. Sam M. Gibbons, Rep. William Lehman, Rep. Douglas Peterson, Rep. Lawrence J. Smith.

Georgia: Rep. George Darden, Rep. Charles F. Hatcher, Rep. Ed Jenkins, Rep. Ben Jones, Rep. John Lewis, Rep. J. Roy Rowland, Rep. Lindsay Thomas.

Hawaii: Rep. Neil Abercrombie, Sen. Daniel Akaka, Sen. Daniel Inouye, Rep. Patsy T. Mink.

Idaho: Rep. Larry LaRocco, Rep. Richard H. Stallings.

Illinois: Rep. Frank Annunzio, Rep. John W. Cox, Jr., Rep. Dan Rostenkowski.

Indiana: Rep. Jim Jontz, Rep. Frank McCloskey.

Iowa: Rep. David R. Nagle, Rep. Neal Smith.

Kentucky: Rep. Romano L. Mazzoli, Rep. William H. Natcher, Rep. Carl C. Perkins.

Louisiana: Sen. John Breaux, Rep. William J. Jefferson.

Maryland: Rep. Benjamin L. Cardin, Rep. Steny H. Hoyer, Rep. Tom McMillen, Sen. Paul Sarbanes.

Massachusetts: Rep. Chester G. Atkins, Rep. Barney Frank, Rep. Joseph P. Kennedy II, Rep. Edward J. Markey, Rep. Nicholas Mavroules, Rep. John Joseph Moakley, Rep. Richard E. Neal, Rep. John W. Olver.

Michigan: Rep. David E. Bonior, Rep. Bob Carr, Rep. Barbara-Rose Collins, Rep. John D. Dingell, Rep. Dennis M. Hertel, Rep. Dale E. Kildee, Rep. Sander M. Levin, Rep. Bob Traxler.

Minnesota: Rep. Martin Olav Sabo, Rep. Bruce F. Vento.

Mississippi: Rep. Mike Espy, Rep. Jamie L. Whitten.

Missouri: Rep. Richard A. Gephardt, Rep. Joan Kelly Ham, Rep. Alan Wheat.

Nebraska: Rep. Peter Hoagland.

Nevada: Rep. James H. Bilbray, Sen. Richard H. Bryan, Sen. Harry Reid.

New Jersey: Rep. Bernard J. Dwyer, Rep. Robert A. Roe, Rep. Robert G. Torricelli.

New Mexico: Rep. Bill Richardson, Sen. Jeff Bingaman.

New York: Rep. Gary L. Ackerman, Rep. Sherwood L. Boehlert, Sen. Alfonse D'Amato, Rep. Thomas J. Downey, Rep. Eliot L. Engel, Rep. Benjamin A. Gilman, Rep. George J. Hochbrueckner, Rep. Frank Horton, Rep. John J. LaFalce, Rep. Nita M. Lowey, Rep. Thomas J. Manton, Rep. Matthew F. McHugh, Rep. Michael R. McNulty, Sen. Daniel Patrick Moynihan, Rep. Robert J. Mrazek, Rep. Charles B. Rangel, Rep. Charles E. Schumer, Rep. José E. Serrano, Rep. Louise M. Slaughter, Rep. Stephen J. Solarz.

North Carolina: Rep. W.G. (Bill) Hefner, Rep. Walter B. Jones, Rep. H. Martin Lancaster, Rep. David E. Price, Rep. Charlie Rose.

North Dakota: Sen. Quentin Burdick.

Ohio: Rep. Edward F. Feighan, Rep. Tony P. Hall, Rep. Mary Rose Oakar, Rep. Thomas C. Sawyer.

Oklahoma: Sen. David L. Boren, Rep. Bill Brewster.

Oregon: Rep. Les AuCoin, Rep. Mike Kopetski, Sen. Bob Packwood, Rep. Ron Wyden.

Pennsylvania: Rep. Robert A. Borski, Rep. William J. Coyne, Rep. Thomas M. Foglietta, Rep. Joseph M. Gaydos, Sen. Arlen Specter, Sen. Harris Wofford, Rep. Joe Kolter, Rep. Peter H. Kostmayer, Rep. John P. Murtha, Rep. Gus Yatron.

South Carolina: Rep. Butler Derrick, Rep. John M. Spratt, Jr.

Tennessee: Rep. Bob Clement, Rep. Harold E. Ford, Rep. Bart Gordon, Sen. Al Gore, Rep. Marilyn Lloyd.

Texas: Sen. Lloyd Bentsen, Rep. Jack Brooks, Rep. John Bryant, Rep. Albert G. Bustamante, Rep. Jim Chapman, Rep. Ronald D. Coleman, Rep. E de la Garza, Rep. Chet Edwards, Rep. Martin Frost, Rep. Henry B. Gonzalez, Rep. Solomon P. Ortiz, Rep. J.J. Pickle, Rep. Charles Wilson.

Utah: Rep. Wayne Owens.

Virginia: Rep. Rick Boucher, Rep. James P. Moran, Rep. Owen B. Pickett, Sen. Charles Robb, Rep. Norman Sisisky.

Washington: Rep. Norman D. Dicks, Rep. Jim McDermott, Rep. Al Swift, Rep. Jolene Unsoeld.

West Virginia: Rep. Alan B. Mollohan, Rep. Bob Wise.

Wisconsin: Rep. Les Aspin, Rep. Gerald D. Kleczka.

[From the National Taxpayers Union, Washington, DC]

BOMBS OF 1990

The number one congressional song for big spenders in 1990 "Hey, Big Spender."

Alabama: Sen. Howell T. Heflin, Sen. Richard C. Shelby, Rep. Glen Browder, Rep. Tom Bevill, Rep. Ronnie Flippo, Rep. Claude Harris.

Alaska: Sen. Ted Stevens.

Arizona: Sen. Dennis DeConcini, Rep. Morris K. Udall.

Arkansas: Rep. Bill Alexander, Rep. Beryl F. Anthony, Jr.

California: Sen. Alan Cranston, Rep. Douglas H. Bosco, Rep. Robert T. Matsui, Rep. Vic Fazio, Rep. Nancy Pelosi, Rep. Barbara Boxer, Rep. Don Edwards, Rep. Tom Lantos, Rep. Norman Y. Mineta, Rep. Leon E. Panetta, Rep. Richard H. Lehman, Rep. Henry A. Waxman, Rep. Edward R. Roybal, Rep. Howard L. Berman, Rep. Mel Levine, Rep. Julian C. Dixon, Rep. Augustus F. Hawkins, Rep. Matthew G. Martinez, Rep. Mervyn M. Dymally, Rep. Glenn M. Anderson, Rep. Esteban Edward Torres, Rep. George E. Brown, Jr.

Colorado: Rep. David E. Skaggs.

Connecticut: Rep. Barbara B. Kennelly, Rep. Sam Gejdenson.

Florida: Sen. Bob Graham, Rep. Bill Nelson, Rep. Lawrence J. Smith, Rep. William Lehman, Rep. Dante B. Fascell.

Georgia: Sen. Wyche Fowler, Jr., Rep. Lindsay Thomas, Rep. Charles F. Hatcher, Rep. Ben Jones, Rep. John Lewis, Rep. George (Buddy) Darden, Rep. J. Roy Rowland.

Hawaii: Sen. Daniel K. Inouye, Sen. Daniel K. Akaka.

Illinois: Rep. Charles A. Hayes, Rep. William O. Lipinski, Rep. Cardiss Collins, Rep. Dan Rostenkowski, Rep. Sidney R. Yates, Rep. Lane Evans, Rep. Terry L. Bruce, Rep. Richard J. Durbin, Rep. Jerry F. Costello.

Indiana: Rep. Peter J. Visclosky, Rep. Frank McCloskey.

Iowa: Rep. David R. Nagle, Rep. Neal Smith.

Kentucky: Sen. Wendell H. Ford, Rep. William H. Natcher, Rep. Romano L. Mazzoli, Rep. Carl C. Perkins.

Louisiana: Sen. John B. Breaux, Sen. J. Bennett Johnston, Rep. Lindy Boggs.

Maryland: Sen. Barbara A. Mikulski, Sen. Paul S. Sarbanes, Rep. Benjamin L. Cardin, Rep. Tom McMillen, Rep. Steny H. Hoyer.

Massachusetts: Sen. Edward M. Kennedy, Rep. Richard E. Neal, Rep. Barney Frank, Rep. Chester G. Atkins, Rep. Nicholas Mavroules, Rep. Edward J. Markey, Rep. Joseph P. Kennedy II, Rep. John Joseph Moakley, Rep. Gerry E. Studds.

Michigan: Rep. John Conyers, Jr., Rep. Howard Wolpe, Rep. Dale E. Kildee, Rep. Bob Traxler, Rep. Robert W. Davis, Rep. David E. Bonior, Rep. George W. Crockett, Jr., Rep. William D. Ford, Rep. John D. Dingell, Rep. Sander M. Levin.

Minnesota: Rep. Bruce F. Vento, Rep. Martin Olav Sabo, Rep. Gerry Sikorski, Rep. James L. Oberstar.

Mississippi: Rep. Jamie L. Whitten, Rep. Mike Espy, Rep. G.V. (Sonny) Montgomery.

Missouri: Rep. William L. (Bill) Clay, Rep. Richard A. Gephardt, Rep. Ike Skelton, Rep. Alan Wheat, Rep. Harold L. Volkmer.

Nebraska: Rep. Peter Hoagland.

Nevada: Rep. James H. Bilbray:

New Jersey: Rep. Bernard J. Dwyer, Rep. Robert A. Roe, Rep. Robert G. Torricelli, Rep. Donald Payne.

New Mexico: Sen. Jeff Bingaman, Rep. Bill Richardson.

New York: Rep. George J. Hochbrueckner, Rep. Robert J. Mrazek, Rep. Floyd H. Flake, Rep. Gary L. Ackerman, Rep. James H. Scheuer, Rep. Thomas J. Manton, Rep. Charles E. Schumer, Rep. Edolphus Towns, Rep. Major R. Owens, Rep. Stephen J. Solarz, Rep. Charles B. Rangel, Rep. Jose E. Serrano, Rep. Eliot L. Engel, Rep. Nita M. Lowey, Rep. Bejamin A. Gilman, Rep. Michael R. McNulty, Rep. Sherwood L. Boehlert, Rep. Matthew F. McHugh, Rep. Frank Horton, Rep. Louise M. Slaughter, Rep. Henry J. Nowak.

North Carolina: Sen. Terry Sanford, Rep. Walter B. Jones, Rep. H. Martin Lancaster, Rep. David E. Price, Rep. Charlie Rose, Rep. W.G. (Bill) Hefner.

North Dakota: Sen. Quentin N. Burdick.

Ohio: Sen. John Glenn, Rep. Thomas A. Luken, Rep. Marcy Kaptur, Rep. Thomas C. Sawyer, Rep. Edward F. Feighan, Rep. Mary Rose Oakar, Rep. Louis Stokes.

Oklahoma: Sen. David L. Boren, Rep. Mike Synar, Rep. Wes Watkins.

Oregon: Rep. Les AuCoin, Rep. Ron Wyden, Rep. Peter A. DeFazio.

Pennsylvania: Rep. Thoms M. Foglietta, Rep. William H. Gray III, Rep. Robert A. Borski, Rep. Peter H. Kostmayer, Rep. John P. Murtha, Rep. William J. Coyne.

South Carolina: Rep. Butler Derrick, Rep. John M. Spratt, Jr.

South Dakota: Rep. Tim Johnson.

Tennessee: Sen. Albert Gore, Jr., Rep. Marilyn Lloyd, Rep. Bob Clement, Rep. Bart Gordon, Rep. John Tanner, Rep. Harold E. Ford.

Texas: Sen. Lloyd Bentsen, Rep. Jim Chapman, Rep. Charles Wilson, Rep. Jack Brooks, Rep. J.J. Pickle, Rep. Marvin Leath, Rep. Pete Geren, Rep. E Kika de la Garza, Rep. Ronald D. Coleman, Rep. Craig A. Washington, Rep. Henry B. Gonzalez, Rep. Albert G. Bustamante, Rep. Martin Frost, Rep. Michael A. Andrews, Rep. Solomon P. Ortiz.

Vermont: Sen. Patrick J. Leahy, Rep. James M. Jeffords.

Virginia: Rep. Norman Sisisky, Rep. Lewis F. Payne, Jr., Rep. Rick Boucher.

Washington: Sen. Brock Adams, Rep. Al Swift, Rep. Jolene Unsoeld, Rep. Norman D. Dicks, Rep. Jim McDermott.

West Virginia: Rep. Alan B. Mollohan, Rep. Harley O. Staggers, Jr., Rep. Bob Wise.

Wisconsin: Rep. Les Aspin, Rep. Gerald D. Kleckzka, Rep. David Obey.

VOTE TALLY MEMBER REPORT SORTED BY NET SPENDING—SENATE

[What Members of Congress voted for in the 103d Congress (Figures in millions of dollars)]

Name, party, and state	Increases	Cuts	Net
1 Johnston, J. (D–LA)	127,123	−31,700	95,422
2 Bryan, R. (D–NV)	132,582	−44,342	88,240
3 Breaux, J. (D–LA)	130,572	−45,993	84,579
4 Daschle, T. (D–SD)	130,763	−46,354	84,409
5 Inouye, D. (D–HI)	130,702	−16,352	84,350
6 Moseley-Braun, C. (D–IL)	134,551	−50,324	84,229
7 Reid, H. (D–NV)	132,610	−48,449	84,161
8 Biden, J. (D–DE)	130,708	−46,815	83,893
9 Rockefeller, J. (D–WV)	130,488	−46,657	83,831
10 Mikulski, B. (D–MD)	128,823	−45,826	82,997
11 Akaka, D. (D–HI)	130,732	−47,884	82,848
12 Boxer, B. (D–CA)	136,389	−53,720	82,669
13 Wellstone, P. (D–MN)	135,793	−54,280	81,513
14 Riegle, D. (D–MI)	128,496	−47,037	81,459
15 Ford, W. (D–KY)	130,732	−49,714	81,018
16 Glenn, J. (D–OH)	127,262	−46,343	80,919
17 Sarbanes, P. (D–MD)	127,332	−47,571	79,761
18 Murray, P. (D–WA)	127,332	−48,003	79,329
19 Dodd, C. (D–CT)	126,256	−47,002	79,254
20 Feinstein, D. (D–CA)	127,521	−50,872	76,649
21 Kennedy, E. (D–MA)	127,256	−51,079	76,177
22 Heflin, H. (D–AL)	133,490	−57,768	75,722
23 Harkin, T. (D–IA)	140,062	−64,432	75,630
24 Campbell, B. (D–CO)	127,361	−51,818	75,543
25 Moynihan, D. (D–NY)	129,613	−54,602	75,011
26 Mitchell, G. (D–ME)	127,308	−52,668	74,640
27 Byrd, R. (D–WV)	128,325	−53,869	74,456
28 Mathews, H. (D–TN)	129,125	−56,887	72,238
29 Sasser, J. (D–TN)	132,719	−60,681	72,038
30 Wofford, H. (D–PA)	132,613	−61,662	70,951
31 Bradley, B. (D–NJ)	129,639	−59,336	70,303
32 Leahy, P. (D–VT)	134,144	−64,377	69,767
33 Bingaman, J. (D–NM)	125,602	−56,267	69,335
34 Bumpers, D. (D–AR)	133,128	−65,901	67,227
35 Dorgan, B. (D–ND)	132,900	−66,454	66,446
36 Levin, C. (D–MI)	127,302	−61,756	66,046
37 Kerry, J. (D–MA)	127,332	−62,446	64,886
38 Hollings, E. (D–SC)	126,315	−62,298	64,017
39 Pryor, D. (D–AR)	130,534	−66,918	63,616
40 Pell, C. (D–RI)	121,372	−58,847	62,525
41 Lautenberg, F. (D–NJ)	136,633	−74,425	62,208
42 Conrad, K. (D–ND)	131,665	−70,587	61,078
43 Nunn, S. (D–GA)	127,354	−69,730	57,624
44 Graham, B. (D–FL)	129,093	−71,883	57,210
45 Simon, P. (D–IL)	134,777	−82,337	52,440
46 Metzenbaum, H. (D–OH)	122,709	−71,661	51,048
47 Baucus, M. (D–MT)	129,869	−79,774	50,095
48 Jeffords, J. (R–VT)	127,492	−79,181	48,311
49 Feingold, R. (D–WI)	126,993	−81,812	45,121
50 Robb, C. (D–VA)	127,304	−84,096	43,208
51 DeConcini, D. (D–AZ)	137,832	−95,895	41,937
52 Exon, J. (D–NE)	130,612	−89,195	41,417
53 Kerrey, B. (D–NE)	127,183	−95,574	31,609
54 Hutchison, K. (R–TX)	112,902	−84,690	28,212
55 Lieberman, J. (D–CT)	122,816	−95,098	27,718
56 Boren, D. (D–OK)	126,528	−100,581	25,947
57 Hatfield, M. (R–OR)	112,727	−86,919	25,808
58 Shelby, R. (D–AL)	117,660	−92,487	25,173
59 Stevens, T. (R–AK)	122,046	−97,887	24,159
60 Specter, A. (R–PA)	124,538	−100,781	23,757
61 Kohl, H. (D–WI)	124,700	−103,945	20,755
62 Cochran, T. (R–MS)	117,697	−101,611	16,086
63 Gorton, S. (R–WA)	119,839	−108,973	10,866
64 Bond, C. (R–MO)	117,452	−112,300	5,152
65 McConnell, M. (R–KY)	117,608	−113,755	3,853
66 Lott, T. (R–MS)	115,558	−113,289	2,269
67 Domenici, P. (R–NM)	113,763	−113,076	687
68 Bennett, R. (R–UT)	118,656	−118,998	−342
69 Gramm, P. (R–TX)	116,963	−117,343	−380
70 Hatch, O. (R–UT)	118,376	−119,900	−1,524
71 Burns, C. (R–MT)	116,079	−118,112	−2,033
72 D'Amato, A. (R–NY)	119,056	−121,381	−2,325
73 Thurmond, S. (R–SC)	117,863	−120,618	−2,755
74 Wallop, M. (R–WY)	96,189	−100,419	−4,230
75 Lugar, R. (R–IN)	115,399	−120,289	−4,890
76 Dole, B. (R–KS)	117,684	−122,677	−4,993
77 Pressler, L. (R–SD)	113,502	−119,079	−5,577
78 Danforth, J. (R–MO)	119,264	−127,421	−8,157
79 Murkowski, F. (R–AK)	111,051	−120,295	−9,244
80 Durenberger, D. (R–MN)	113,712	−122,966	−9,254
81 Coats, D. (R–IN)	111,932	−121,410	−9,478
82 Packwood, B. (R–OR)	110,030	−121,330	−11,300
83 Kassebaum, N. (R–KS)	120,090	−133,058	−12,968
84 Chafee, J. (R–RI)	122,158	−136,007	−13,849
85 Warner, J. (R–VA)	104,460	−121,462	−17,002
86 Roth, W. (R–DE)	95,926	−114,511	−18,585
87 Helms, J. (R–NC)	91,567	−112,912	−21,345
88 Kempthorne, D. (R–ID)	115,281	−137,160	−21,879
89 Craig, L. (R–ID)	115,251	−137,160	−21,909
90 McCain, J. (R–AZ)	111,698	−139,708	−28,010
91 Cohen, W. (R–ME)	116,295	−146,117	−29,822
92 Mack, C. (R–FL)	113,043	−143,972	−30,929
93 Coverdell, P. (R–GA)	111,795	−142,899	−31,104
94 Simpson, A. (R–WY)	98,332	−130,480	−32,148
95 Nickles, D. (R–OK)	108,958	−142,761	−33,803
96 Grassley, C. (R–IA)	117,692	−152,677	−34,985
97 Faircloth, L. (R–NC)	103,531	−139,538	−36,007

VOTE TALLY MEMBER REPORT SORTED BY NET SPENDING—SENATE—Continued

[What Members of Congress voted for in the 103d Congress (Figures in millions of dollars)]

Name, party, and state	Increases	Cuts	Net
98 Brown, H. (R–CO)	103,040	−140,292	−37,252
99 Gregg, J. (R–NJ)	103,600	−144,296	−40,696
100 Smith, R. (R–NH)	91,214	−136,976	−45,762

VOTE TALLY MEMBER REPORT SORTED BY NET SPENDING—HOUSE

[What Members of Congress voted for in the 103d Congress (figures in millions of dollars)]

Name	Increases	Cuts	Net
1 Tejeda, F. (TX)—D	141,363	(47,773)	93,590
2 Murtha, J. (PA)—D	140,545	(47,492)	93,053
3 Boehlert, S. (NY)—R	136,912	(45,270)	91,642
4 Gonzalez, H. (TX)—D	140,382	(49,191)	91,191
5 Clement, B. (TN)—D	131,474	(43,068)	88,406
6 Chapman, J. (TX)—D	139,177	(51,602)	87,575
7 Wise, B. (WV)—D	133,297	(47,577)	85,720
8 Fazio, V. (CA)—D	133,278	(47,609)	85,669
9 Dicks, N. (WA)—D	133,328	(47,767)	85,561
10 Darden, G. (GA)—D	133,263	(47,811)	85,452
11 Peterson, P. (FL)—D	133,241	(47,789)	85,452
12 Bevill, T. (AL)—D	133,165	(47,841)	85,324
13 Manton, T. (NY)—D	133,056	(57,900)	85,156
14 Meek, C. (FL)—D	132,765	(47,663)	85,102
15 Ortiz, S. (TX)—D	132,218	(47,340)	84,878
16 Swift, A. (WA)—D	132,523	(48,140)	84,383
17 Hoyer, S. (MD)—D	133,222	(48,893)	84,329
18 Brown, C. (FL)—D	133,224	(49,213)	84,011
19 DeLauro, R. (CI)—D	133,097	(49,205)	83,892
20 Berman, H. (CA)—D	133,124	(49,327)	83,797
21 Kennelly, B. (CT)—D	133,256	(49,553)	83,703
22 Cramer, R. (AL)—D	131,079	(47,836)	83,243
23 Lancaster, H. (NC)—D	141,669	(59,515)	82,154
24 Roybal-Allard, L. (CA)—D	132,591	(50,597)	81,994
25 Smith, N. (IA)—D	130,221	(48,374)	81,847
26 Gephardt, R. (MO)—D	133,462	(51,699)	81,763
27 Hall, T. (OH)—D	135,102	(53,743)	81,359
28 Sawyer, T. (OH)—D	133,549	(52,280)	81,269
29 de la Garza, E (TX)—D	132,460	(51,281)	81,179
30 Gibbons, S. (FL)—D	131,598	(50,571)	81,027
31 Glickman, D. (KS)—D	131,011	(50,128)	80,883
32 Price, D. (NC)—D	133,572	(53,450)	80,122
33 Moran, J. (VA)—D	134,094	(54,248)	79,846
34 Richardson, B. (NM)—D	132,345	(52,617)	79,728
35 Spratt, J. (SC)—D	133,556	(53,868)	79,688
36 McCloskey, F. (IN)—D	133,603	(54,139)	79,464
37 Rose, C. (NC)—D	130,222	(50,862)	79,360
38 Dixon, J. (CA)—D	135,695	(56,387)	79,308
39 Whitten, J. (MS)—D	130,260	(51,373)	78,887
40 Coleman, R. (TX)—D	134,930	(56,112)	78,818
41 Mollohan, A. (WV)—D	127,593	(48,951)	78,642
42 Reed, J. (RI)—D	133,048	(54,455)	78,593
43 Thornton, R. (AR)—D	135,134	(56,709)	78,425
44 Sabo, M. (MN)—D	129,219	(51,210)	78,009
45 Bilbray, J. (NV)—D	133,633	(55,667)	77,966
46 Levin, S. (MI)—D	133,080	(55,338)	77,742
47 Derrick, B. (SC)—D	129,552	(52,095)	77,457
48 Traficant, J. (OH)—D	132,239	(54,813)	77,426
49 Rogers, H. (KY)—R	129,359	(52,075)	77,284
50 Matsui, R. (CA)—D	134,510	(57,291)	77,219
51 Ackerman, G. (NY)—D	131,956	(54,784)	77,172
52 Volkmer, H. (MO)—D	131,029	(54,470)	76,559
53 Skelton, I. (MO)—D	130,804	(55,373)	75,431
54 Pickett, O. (VA)—D	110,525	(35,608)	74,917
55 Edwards, C. (TX)—D	129,826	(54,946)	74,880
56 Brooks, J. (TX)—D	133,173	(58,641)	74,532
57 Harman, J. (CA)—D	132,362	(57,848)	74,514
58 Clyburn, J. (SC)—D	133,732	(60,148)	73,584
59 Mineta, N. (CA)—D	131,362	(57,945)	73,417
60 Bentley, H. (MD)—R	112,601	(39,832)	72,769
61 Johnston, H. (FL)—D	130,685	(58,569)	71,116
62 Stokes, L. (OH)—D	131,023	(59,011)	72,012
63 Bishop, S. (GA)—D	133,046	(61,705)	71,341
64 Laughlin, G. (TX)—D	129,656	(58,974)	70,682
65 McNulty, M. (NY)—D	132,851	(62,223)	70,628
66 Synar, M. (OK)—D	129,921	(59,423)	70,498
67 Clayton, E. (NC)—D	130,160	(59,698)	70,462
68 Sarpalius, B. (TX)—D	136,659	(67,164)	69,495
69 Beilenson, A. (CA)—D	123,210	(54,085)	69,125
70 Olver, J. (MA)—D	136,248	(67,248)	69,000
71 Williams, P. (MI)—D	138,000	(69,030)	68,970
72 Morella, C. (MD)—R	116,854	(48,097)	68,757
73 Gejdenson, S. (CT)—D	133,578	(64,972)	68,606
74 Conyers, J. (MI)—D	126,861	(58,795)	68,066
75 Rostenkowski, D. (IL)—D	134,763	(66,907)	67,856
76 Hamilton, L. (IN)—D	133,806	(66,170)	67,636
77 Jefferson, W. (LA)—D	133,276	(65,803)	67,473
78 Torres, E. (CA)—D	133,372	(66,328)	67,044
79 Sisisky, N. (VA)—D	117,136	(50,586)	66,550
80 Cantwell, M. (WA)—D	133,291	(66,938)	66,353
81 Machtley, R. (RI)—R	117,118	(50,818)	66,300
82 Mfume, K. (MD)—D	135,916	(69,644)	66,272
83 Diaz-Balart, L. (FL)—R	105,349	(39,199)	66,150
84 Scott, R. (VA)—D	129,072	(62,932)	66,140
85 Maloney, C. (NY)—D	133,215	(67,248)	65,967
86 Lipinski, W. (IL)—D	135,707	(69,875)	65,832
87 Danner, P. (MO)—D	136,122	(70,370)	65,752

VOTE TALLY MEMBER REPORT SORTED BY NET SPENDING—HOUSE—Continued

[What Members of Congress voted for in the 103d Congress (figures in millions of dollars)]

Name	In-creases	Cuts	Net
88 Hochbrueckner (NY)—D	130,549	(64,845)	65,704
89 Nadler, J. (NY)—D	132,948	(67,379)	65,569
90 Mazzoli, R. (KY)—D	133,475	(67,925)	65,550
91 Lantos, T. (CA)—D	132,565	(67,248)	65,317
92 Browder, G. (AL)—D	132,765	(67,654)	65,111
93 Klein, H. (NJ)—D	132,260	(68,715)	63,545
94 Visclosky, P. (IN)—D	133,488	(70,124)	63,364
95 Brown, G. (CA)—D	131,062	(67,969)	63,093
96 Waxman, H. (CA)—D	129,495	(66,453)	63,042
97 Reynolds, M. (IL)—D	133,322	(70,340)	62,982
98 Kildee, D. (MI)—D	133,729	(71,150)	62,579
99 LaFalce, J. (NY)—D	132,956	(70,487)	62,469
100 Fowler, T. (FL)—R	117,511	(55,120)	62,391
101 Blackwell, L. (PA)—D	133,043	(70,656)	62,387
102 English, K. (AZ)—D	131,824	(69,704)	62,120
103 Spence, F. (SC)—R	103,080	(40,981)	62,099
104 Frost, M. (TX)—D	133,070	(71,340)	61,730
105 Boucher, R. (VA)—D	134,942	(73,222)	61,720
106 Dingell, J. (MI)—D	131,236	(69,533)	61,703
107 Applegate, D. (OH)—D	129,120	(68,370)	60,750
108 Tucker, W. (CA)—D	130,908	(70,253)	60,655
109 Skaggs, D. (CO)—D	133,458	(72,811)	60,647
110 Woolsey, L. (CA)—D	135,699	(75,289)	60,410
111 Foglietta, T. (PA)—D	133,448	(73,070)	60,378
112 Martinez, M. (CA)—D	135,563	(75,388)	60,175
113 Pickle, J. (TX)—D	131,819	(71,968)	59,851
114 Filner, B. (CA)—D	130,125	(70,313)	59,812
115 Rahall, N. (WV)—D	130,704	(70,898)	59,806
116 Lehman, R. (CA)—D	127,920	(68,375)	59,545
117 Borski, R. (PA)—D	135,626	(76,251)	59,375
118 Shepherd, K. (UT)—D	130,880	(71,552)	59,328
119 Wilson, C. (TX)—D	132,332	(73,141)	59,191
120 Carr, B. (MI)—D	132,782	(73,805)	58,977
121 McCurdy, D. (OK)—D	129,871	(70,988)	58,883
122 Hastings, A. (FL)—D	124,611	(65,777)	58,834
123 Waters, M. (CA)—D	128,403	(69,625)	58,778
124 Roemer, T. (IN)—D	115,914	(57,139)	58,775
125 Mink, P. (HI)—D	133,951	(75,239)	58,712
126 Collins, B. (MI)—D	130,646	(72,086)	58,560
127 Gordon, B. (TN)—D	133,005	(74,449)	58,556
128 Johnson, E. (TX)—D	135,851	(77,427)	58,424
129 Bonior, D. (MI)—D	135,494	(77,509)	57,985
130 Hughes, W. (NJ)—D	122,142	(64,546)	57,596
131 Pelosi, N. (CA)—D	136,146	(78,669)	57,477
132 Hilliard, E. (AL)—D	127,840	(70,623)	57,217
133 Deutsch, P. (FL)—D	135,305	(78,163)	57,142
134 Baesler, S. (KY)—D	131,843	(74,887)	56,956
135 Ford, H. (TN)—D	112,243	(55,410)	56,833
136 Hamburg, D. (CA)—D	131,907	(75,315)	56,592
137 Towns, E. (NY)—D	131,897	(75,597)	56,300
138 Lowey, N. (NY)—D	136,236	(80,007)	56,229
139 Neal, R. (MA)—D	135,123	(78,926)	56,197
140 Eshoo, A. (CA)—D	134,752	(79,068)	55,684
141 Swett, D. (NH)—D	131,083	(75,590)	55,493
142 Abercrombie, N. (HI)—D	136,002	(80,623)	55,379
143 Kleczka, G. (WI)—D	136,083	(80,769)	55,314
144 Ford, W. (MI)—D	127,978	(72,795)	55,183
145 Gutierrez, L. (IL)—D	127,792	(72,618)	55,174
146 Hefner, W. (NC)—D	135,846	(80,675)	55,171
147 Huffington, M. (CA)—R	94,862	(39,830)	55,032
148 Wynn, A. (MD)—D	136,193	(81,292)	54,901
149 Lloyd, M. (IN)—D	128,944	(74,208)	54,736
150 Schumer, C. (NY)—D	135,227	(80,604)	54,623
151 Pallone, E. (NJ)—D	113,692	(59,576)	54,116
152 Coppersmith, S. (AZ)—D	117,093	(63,054)	54,039
153 Engel, E. (NY)—D	135,678	(81,675)	54,003
154 Hinchey, M. (NY)—D	135,659	(81,733)	53,926
155 Thurman, K. (FL)—D	132,997	(79,204)	53,793
156 McDermott, J. (WA)—D	134,667	(80,927)	53,740
157 Sharp, P. (IN)—D	131,236	(77,679)	53,557
158 Schenk, L. (CA)—D	133,606	(80,147)	53,459
159 Costello, J. (IL)—D	134,522	(81,139)	53,383
160 Byrne, L. (VA)—D	131,385	(78,014)	53,371
161 Kopetski, M. (OR)—D	130,335	(77,141)	53,194
162 Gilman, B. (NY)—R	110,441	(57,314)	53,127
163 Obey, D. (WI)—D	136,075	(82,955)	53,120
164 Menendez, R. (NJ)—D	133,872	(80,884)	52,988
165 Bryant, J. (TX)—D	133,135	(80,232)	52,903
166 Slaughter, L. (NY)—D	136,055	(83,249)	52,806
167 Kanjorski, P. (PA)—D	136,145	(83,549)	52,596
168 Gillmor, P. (OH)—R	113,401	(60,947)	52,454
169 Kennedy, J. (MA)—D	135,871	(83,428)	52,443
170 Coyne, W. (PA)—D	136,205	(84,074)	52,131
171 Durbin, R. (IL)—D	135,331	(83,300)	52,031
172 Bacchus, J. (FL)—D	132,887	(80,920)	51,967
173 Furse, E. (OR)—D	134,727	(82,816)	51,911
174 Edwards, D. (CA)—D	124,699	(72,855)	51,844
175 Markey, E. (MA)—D	136,201	(84,477)	51,724
176 Fields, C. (LA)—D	136,243	(84,672)	51,571
177 Andrews, M. (TX)—D	124,106	(72,551)	51,555
178 Studds, G. (MA)—D	135,994	(84,675)	51,319
179 Johnson, T. (SD)—D	134,057	(82,854)	51,203
180 Young, D. (AK)—R	107,842	(56,885)	50,957
181 Neal, S. (NC)—D	116,769	(65,916)	50,853
182 Unsoeld, J. (WA)—D	136,071	(85,252)	50,819
183 Strickland, T. (OH)—D	136,034	(85,400)	50,634
184 Evans, L. (IL)—D	136,045	(85,511)	50,534
185 Yates, S. (IL)—D	135,744	(85,592)	50,152
186 Stupak, B. (MI)—D	135,875	(85,738)	50,137
187 Lewis, J. (GA)—D	131,820	(81,783)	50,037
188 Sanders, B. (VT)—I	128,991	(79,303)	49,688
189 Moakley, J. (MA)—D	129,582	(80,030)	49,552
190 Brewster, B. (OK)—D	108,809	(59,262)	49,547
191 Mann, D. (OH)—D	111,590	(62,197)	49,393
192 Clay, W. (MO)—D	126,983	(77,654)	49,329
193 Vucanovich, B. (NV)—R	109,877	(60,553)	49,324
194 Walsh, J. (NY)—R	132,037	(83,063)	48,974
195 Barlow, T. (KY)—D	133,075	(84,133)	48,942
196 Kaptur, M. (OH)—D	135,191	(86,679)	48,512
197 Andrews, T. (ME)—D	134,168	(85,669)	48,499
198 Parker, M. (MS)—D	117,776	(69,297)	48,479
199 Montgomery, G. (MS)—D	122,661	(74,247)	48,414
200 Payne, L. (VA)—D	126,508	(78,141)	48,367
201 Emerson, B. (MO)—R	105,584	(57,296)	48,288
202 Wheat, A. (MO)—D	133,071	(84,832)	48,239
203 Ros-Lehtinen, I. (FL)—R	101,273	(53,047)	48,226
204 Slattery, J. (KS)—D	125,991	(78,020)	47,971
205 Becerra, X. (CA)—D	134,083	(86,337)	47,746
206 Leach, J. (IA)—R	111,274	(63,586)	47,688
207 Combest, L. (TX)—R	86,879	(39,267)	47,612
208 McKinney, C. (GA)—D	132,747	(85,370)	47,377
209 Flake, F. (NY)—D	134,476	(87,420)	47,056
210 Cooper, J. (TN)—D	130,486	(83,481)	47,005
211 Rangel, C. (NY)—D	126,757	(79,759)	46,998
212 Smith, B. (OR)—R	76,561	(29,600)	46,961
213 Oberstar, J. (MN)—D	129,767	(82,993)	46,834
214 Vento, B. (MN)—D	131,653	(84,926)	46,727
215 Watt, M. (NC)—D	131,786	(85,282)	46,504
216 Pomeroy, E. (ND)—D	133,784	(87,344)	46,440
217 Pastor, E. (AZ)—D	128,259	(81,835)	46,424
218 Tanner, J. (TN)—D	131,670	(85,516)	46,154
219 Payne, D. (NJ)—D	131,116	(85,294)	45,822
220 Miller, G. (CA)—D	134,447	(88,752)	45,695
221 Hoagland, P. (NE)—D	132,702	(87,191)	45,511
222 Johnson, D. (GA)—D	131,875	(87,544)	44,331
223 Rush, B. (IL)—D	131,997	(87,780)	44,217
224 Holden, T. (PA)—D	136,034	(92,293)	43,741
225 Kreidler, M. (WA)—D	135,965	(92,527)	43,438
226 Owens, M. (NY)—D	121,084	(77,737)	43,347
227 Lightfoot, J. (IA)—R	96,061	(52,927)	43,134
228 Barcia, J. (MI)—D	132,669	(89,812)	42,857
229 Geren, P. (TX)—D	113,248	(70,661)	42,587
230 Stark, P. (CA)—D	128,276	(86,378)	41,898
231 Collins, C. (IL)—D	117,579	(75,819)	41,760
232 Bereuter, D. (NE)—R	94,106	(52,443)	41,663
233 Regula, R. (OH)—R	115,493	(74,188)	41,305
234 Roukema, M. (NJ)—R	98,215	(57,205)	41,010
235 Hayes, J. (LA)—D	109,938	(69,222)	40,716
236 Brown, S. (OH)—D	136,089	(95,756)	40,333
237 Torricelli, R. (NJ)—D	133,861	(93,755)	40,106
238 Sangmeister, G. (IL)—D	136,095	(96,172)	39,923
239 Stearns, C. (FL)—R	89,425	(49,647)	39,778
240 Serrano, J. (NY)—D	127,638	(87,924)	39,714
241 Foley, T. (WA)—D	75,302	(35,590)	39,712
242 Molinari, S. (NY)—R	112,661	(73,230)	39,431
243 Kim, J. (CA)—R	112,313	(73,194)	39,119
244 Dellums, R. (CA)—D	174,443	(85,450)	38,993
245 Wyden, R. (OR)—D	126,217	(87,274)	38,943
246 Deal, N. (GA)—D	118,788	(80,398)	38,390
247 Klink, R. (PA)—D	136,088	(97,919)	38,169
248 Torkildsen, P. (MA)—R	119,938	(81,861)	38,077
249 Green, G. (TX)—D	117,418	(79,844)	37,574
250 Barrett, T. (WI)—D	129,832	(92,871)	36,961
251 Skeen, J. (NM)—R	112,479	(75,564)	36,915
252 Rowland, J. (GA)—D	109,857	(73,388)	36,469
253 Cardin, B. (MD)—D	133,856	(97,578)	36,278
254 Velazquez, N. (NY)—D	127,188	(90,925)	36,263
255 Frank, B. (MA)—D	124,628	(88,555)	36,073
256 Snowe, O. (ME)—R	123,710	(87,709)	36,001
257 Farr, S. (CA)—D	109,731	(73,906)	35,825
258 Roberts, P. (KS)—R	89,179	(53,720)	35,459
259 Thompson, B. (MS)—D	111,728	(76,771)	34,957
260 Barrett, B. (NE)—R	98,965	(64,067)	34,898
261 McHale, P. (PA)—D	135,817	(101,176)	34,641
262 Clinger, W. (PA)—R	104,552	(71,143)	33,409
263 Smith, C. (NJ)—R	119,676	(86,449)	33,227
264 Bateman, H. (VA)—R	106,621	(73,802)	32,819
265 Lazio, R. (NY)—R	101,259	(68,809)	32,450
266 Callahan, S. (AL)—R	83,227	(50,907)	32,320
267 Andrews, R. (NJ)—D	118,812	(86,934)	31,878
268 McDade, J. (PA)—R	109,525	(78,081)	31,444
269 Jacobs, A. (IN)—D	114,071	(83,108)	30,963
270 Canady C. (FL)—R	94,433	(63,566)	30,867
271 Washington, C. (TX)—D	98,221	(67,452)	30,769
272 DeFazio, P. (OR)—D	112,003	(81,768)	30,235
273 Levy, D. (NY)—R	97,636	(67,711)	29,925
274 Long, J. (IN)—D	134,135	(104,384)	29,751
275 Hefley, J. (CO)—R	74,007	(44,367)	29,640
276 King, P. (NY)—R	94,194	(64,718)	29,476
277 Gilchrest, T. (MD)—R	117,374	(88,017)	29,357
278 Dornan, R. (CA)—R	70,554	(41,368)	29,186
279 Allard, W. (CO)—R	76,951	(47,788)	29,163
280 Lewis, J. (CA)—R	107,912	(78,838)	29,074
281 Houghton, A. (NY)—R	113,776	(85,066)	28,710
282 Stump, B. (AZ)—R	69,828	(41,271)	28,577
283 Dooley, C. (CA)—D	130,330	(102,428)	27,902
284 Inslee, J. (WA)—D	134,108	(106,326)	27,782
285 Hall, R. (TX)—D	103,847	(76,141)	27,706
286 Fish, H. (NY)—R	115,328	(87,667)	27,661
287 Kingston, J. (GA)—R	87,286	(59,930)	27,356
288 Grandy, F. (IA)—R	102,787	(77,665)	25,122
289 McHugh, J. (NY)—R	95,105	(70,325)	24,780
290 Fingerhut, E. (OH)—D	113,373	(88,677)	24,696
291 Calvert, K. (CA)—R	101,960	(77,478)	24,482
292 Poshard, G. (IL)—D	133,523	(109,126)	24,397
293 Blute, P. (MA)—R	117,151	(92,971)	24,180
294 Burton, D. (IN)—R	81,826	(57,877)	23,939
295 Schroeder, P. (CO)—D	117,890	(94,438)	23,452
296 Minge, D. (MN)—D	116,973	(93,856)	23,117
297 Margolies-Mezv, (PA)—D	117,351	(94,689)	22,262
298 Bartlett, R. (MD)—R	90,787	(68,774)	22,013
299 Orton, B. (UT)—D	98,477	(76,968)	21,509
300 Gallo, D. (NJ)—R	102,380	(81,200)	21,180
301 Murphy, A. (PA)—D	117,285	(96,225)	21,060
302 McCollum, B. (FL)—R	86,428	(66,143)	20,295
303 Bilirakis, M. (FL)—R	111,730	(91,474)	20,256
304 Larocco, L. (ID)—D	131,628	(112,089)	19,539
305 Hutto, E. (FL)—D	98,320	(79,123)	19,197
306 Livingston, R. (LA)—R	106,973	(88,408)	18,565
307 Hyde, H. (IL)—R	94,185	(76,478)	17,707
308 Young, C. (FL)—R	112,386	(94,847)	17,539
309 Goodlatte, R. (VA)—R	74,768	(57,421)	17,347
310 Kolbe, J. (AZ)—R	99,503	(82,210)	17,293
311 Meyers, J. (KS)—R	105,890	(89,016)	16,874
312 Valentine, T. (NC)—D	111,821	(95,042)	16,779
313 Ridge, T. (PA)—R	108,188	(92,187)	16,001
314 Hoekstra, P. (MI)—R	96,995	(81,066)	15,929
315 McCandless, A. (CA)—R	80,914	(65,005)	15,909
316 Smith, L. (TX)—R	94,953	(79,108)	15,845
317 Dunn, J. (WA)—R	82,033	(66,335)	15,698
318 Condit, G. (CA)—D	111,786	(96,357)	15,429
319 Lambert, B. (AR)—D	134,547	(119,193)	15,354
320 Archer, B. (TX)—R	59,069	(43,841)	15,228
321 Peterson, C. (MN)—D	117,450	(102,774)	14,676
322 Meehan, M. (MA)—D	135,375	(120,729)	14,646
323 Mcinnis, S. (CO)—R	72,873	(58,742)	14,131
324 McCrery, J. (LA)—R	100,333	(86,945)	13,388
325 Hancock, M. (MO)—R	58,513	(45,127)	13,386
326 Buyer, S. (IN)—R	94,089	(81,664)	12,425
327 Zekuff, B. (NH)—R	79,479	(67,294)	12,176
328 Tauzin, W. (LA)—D	112,409	(100,269)	12,140
329 Shaw, E. (FL)—R	97,003	(85,295)	11,708
330 Hastert, D. (IL)—R	96,879	(85,496)	11,383
331 Ravenel, A. (SC)—R	116,390	(105,123)	11,267
332 Thomas, B. (CA)—R	98,510	(87,775)	10,735
333 Quinn, J. (NY)—R	96,639	(86,354)	10,285
334 Taylor, G. (MS)—D	97,103	(86,878)	10,225
335 Franks, G. (CT)—R	99,359	(89,472)	9,887
336 Baker, R. (LA)—R	93,284	(83,613)	9,671
337 Horn, S. (CA)—R	109,439	(100,148)	9,281
338 Talent, J. (MO)—R	87,618	(78,445)	9,173
339 Gallegly, E. (CA)—R	97,808	(88,778)	9,030
340 Myers, J. (IN)—R	92,448	(83,657)	8,791
341 Gunderson, S. (WI)—R	97,717	(88,982)	8,735
342 Klug, S. (WI)—R	88,482	(79,847)	8,635
343 Quilen, J. (TN)—R	92,083	(83,848)	8,235
344 Mckeon, H. (CA)—R	88,758	(80,696)	8,062
345 Pryce, D. (OH)—R	107,963	(99,910)	8,053
346 Oxley, M. (OH)—R	86,516	(79,548)	6,968
347 Knollenberg, J. (MI)—R	75,492	(69,738)	5,754
348 Kyl, J. (AZ)—R	81,769	(76,110)	5,659
349 Hobson, D. (OH)—R	107,143	(101,560)	5,583
350 Linder, J. (GA)—R	83,347	(78,226)	5,121
351 Saxton, H. (NJ)—R	96,489	(91,386)	5,103
352 Boehner, J. (OH)—R	71,804	(66,717)	5,087
353 Dickey, J. (AR)—R	91,151	(86,130)	5,021
354 Goodling, B. (PA)—R	98,168	(93,254)	4,914
355 Kasich, J. (OH)—r	93,919	(89,098)	4,821
356 Weldon, C. (PA)—R	91,001	(86,258)	4,743
357 Sundquist, D. (IN)—R	96,191	(91,745)	4,446
358 Hutchinson, T. (AR)—R	94,931	(90,577)	4,354
359 Wolf, F. (VA)—R	94,060	(90,009)	4,051
360 Castle, M. (DE)—R	89,461	(85,686)	3,775
361 Lewis, T. (FL)—R	82,691	(79,105)	3,586
362 Porter, J. (IL)—R	96,466	(93,657)	2,809
363 Crapo, M. (ID)—R	74,138	(71,766)	2,372
364 Bonilla, H. (TX)—R	95,946	(94,297)	1,649
365 Penny, T. (MN)—D	111,140	(110,111)	1,029
366 Goss, P. (FL)—R	71,039	(70,567)	472
367 Gingrich, N. (GA)—R	84,287	(83,872)	415
368 Fields, J. (TX)—R	65,879	(65,861)	18
369 Stenholm, C. (TX)—D	92,638	(92,702)	(64)
370 Cox, C. (CA)—R	69,678	(69,808)	(130)
371 Manzullo, D. (IL)—R	84,545	(85,360)	(815)
372 Delay, T. (TX)—R	72,114	(73,433)	(1,319)
373 Taylor, C. (NC)—R	75,562	(76,931)	(1,369)
374 Schaefer, D. (CO)—R	62,397	(64,193)	(1,796)
375 Armey, D. (TX)—R	66,063	(67,890)	(1,827)
376 Bacgus, S. (AL)—R	76,529	(79,254)	(2,725)
377 Schiff, S. (NM)—R	96,741	(99,656)	(2,915)
378 Baker, B. (CA)—R	74,768	(77,838)	(3,070)
379 Shuster, B. (PA)—R	81,291	(84,389)	(3,098)
380 Mica, J. (FL)—R	83,082	(86,383)	(3,301)
380 Grams, R. (MN)—R	66,974	(70,275)	(3,301)
382 Everett, T. (AL)—R	92,379	(95,818)	(3,439)
383 Bliley, T. (VA)—R	84,660	(88,240)	(3,580)
384 Solomon, G. (NY)—R	67,851	(71,579)	(3,728)
385 Michel, R. (IL)—R	84,049	(87,819)	(3,770)
386 Santorum, R. (PA)—R	91,135	(94,914)	(3,779)
387 Cunningham, R. (CA)—R	88,510	(92,438)	(3,928)
388 Greenwood, J. (PA)—R	103,726	(107,694)	(3,968)
389 Inhofe, J. (OK)—R	64,351	(68,642)	(4,291)
390 Packard, R. (CA)—R	81,520	(85,919)	(4,399)
391 Gekas, G. (PA)—R	83,847	(88,304)	(4,457)
392 Upton, F. (MI)—R	113,730	(119,172)	(5,442)
393 Johnson, S. (TX)—R	64,697	(71,164)	(6,467)

VOTE TALLY MEMBER REPORT SORTED BY NET SPENDING—HOUSE—Continued

[What Members of Congress voted for in the 103d Congress (figures in millions of dollars)]

Name	Increases	Cuts	Net
394 Hunter, D. (CA)—R	81,272	(88,508)	(7,236)
395 Barca, P. (WI)—D	98,012	(105,688)	(7,676)
396 McMillan, A. (NC)—R	100,292	(108,494)	(8,202)
397 Walker, R. (PA)—R	60,943	(69,783)	(8,840)
398 Johnson, N. (CT)—R	98,841	(108,139)	(9,298)
399 Fawell, H. (IL)—R	78,104	(87,618)	(9,514)
400 Moorhead, C. (CA)—R	71,534	(82,590)	(10,056)
401 Pombo, R. (CA)—R	79,667	(90,580)	(10,913)
402 Hoke, M. (OH)—R	74,439	(85,429)	(10,990)
403 Petri, T. (WI)—R	65,995	(78,148)	(12,153)
404 Thomas, C. (WY)—R	80,843	(94,142)	(13,299)
405 Collins, M. (GA)—R	75,886	(90,412)	(14,526)
406 Franks, B. (NJ)—R	83,517	(98,412)	(14,895)
407 Dreier, D. (CA)—R	68,710	(84,560)	(15,850)
408 Inglis, B. (SC)—R	72,616	(89,009)	(16,393)
409 Istook, E. (OK)—R	70,383	(87,137)	(16,754)
410 Ewing, T. (IL)—R	90,344	(109,384)	(19,140)
411 Portman, R. (OH)—R	70,694	(89,944)	(19,250)
412 Roth, T. (WI)—R	63,570	(83,398)	(19,828)
413 Herger, W. (CA)—R	71,660	(92,493)	(20,833)
414 Smith, N. (MI)—R	62,611	(83,827)	(21,216)
415 Paxon, B. (NY)—R	58,374	(80,005)	(21,631)
416 Hansen, J. (UT)—R	78,105	(100,181)	(22,076)
417 Duncan, J. (TN)—R	64,137	(86,559)	(22,422)
418 Doolittle, J. (CA)—R	66,669	(89,816)	(23,147)
419 Ballenger, C. (NC)—R	74,183	(97,923)	(23,740)
420 Camp, D. (MI)—R	95,088	(119,653)	(24,565)
421 Shays, C. (CT)—R	87,608	(112,645)	(25,037)
422 Bunning, J. (KY)—R	61,945	(88,179)	(26,234)
423 Miller, D. (FL)—R	71,308	(97,554)	(26,246)
424 Ramstad, J. (MN)—R	75,533	(102,537)	(27,004)
425 Barton, J. (TX)—R	63,541	(91,227)	(27,686)
426 Zimmer, D. (NJ)—R	72,441	(103,701)	(31,260)
427 Crane, P. (IL)—R	56,922	(88,955)	(32,033)
428 Coble, H. (NC)—R	79,221	(111,406)	(32,185)
429 Rohrabacher, D. (CA)—R	68,584	(105,546)	(36,962)
430 Royce, E. (CA)—R	72,229	(110,243)	(38,014)
431 Nussle, J. (IA)—R	77,293	(116,620)	(39,327)
432 Sensenbrenner, F. (WI)—R	56,113	(106,430)	(50,317)

VOTE TALLY STATE DELEGATION REPORT

[What Members of Congress voted for in the 103d Congress (figures in millions of dollars)]

Name	Increases	Cuts	Net
ALABAMA			
Heflin (D–AL)	133,490	(57,768)	75,722
Shelby (D–AL)	117,660	(92,487)	25,173
Bachus (R–AL)	76,529	(79,254)	(2,725)
Bevill (D–AL)	133,163	(47,841)	85,324
Browder (D–AL)	132,765	(67,654)	65,111
Calahan (R–AL)	83,227	(50,907)	32,320
Cramer (D–AL)	131,079	(47,836)	83,243
Everett (R–AL)	92,379	(95,818)	3,439
Hilliard (D–AL)	127,840	(70,623)	57,217
ALASKA			
Murkowski (R–AK)	111,051	(120,295)	(9,244)
Stevens (R–AK)	122,046	(97,887)	24,159
Young (R–AK)	107,842	(56,885)	50,957
ARIZONA			
DeConcini (D–AZ)	137,812	(95,895)	41,937
McCain (R–AZ)	111,698	(139,708)	(28,010)
Coppersmith (D–AZ)	117,093	(63,054)	54,039
English (D–AZ)	131,824	(69,704)	62,120
Kolbe (R–AZ)	99,503	(82,210)	17,293
Kyl (R–AZ)	81,769	(76,110)	5,659
Pastor (D–AZ)	128,259	(81,835)	46,424
Stump (R–AZ)	69,828	(41,271)	28,557
ARKANSAS			
Bumpers (D–AR)	133,128	(65,901)	67,227
Pryor (D–AR)	130,554	(66,918)	63,616
Dickey (R–AR)	91,151	(86,130)	5,021
Hutchinson (R–AR)	94,931	(90,577)	4,354
Lambert (D–AR)	134,547	(119,193)	15,354
Thornton (D–AR)	135,134	(56,709)	78,425
CALIFORNIA			
Boxer (D–CA)	140,993	(54,218)	86,775
Feinstein (D–CA)	132,138	(51,370)	80,768
Baker (R–CA)	74,799	(78,815)	(4,016)
Becerra (D–CA)	137,670	(87,833)	49,837
Beilenson (D–CA)	128,024	(55,597)	72,427
Berman (D–CA)	137,047	(50,800)	86,247
Brown, G (D–CA)	135,173	(65,532)	69,641
Calvert (R–CA)	102,699	(78,647)	24,052
Condit (D–CA)	115,854	(97,670)	18,184
Cox (R–CA)	68,959	(69,864)	(905)
Cunningham (R–CA)	93,751	(102,314)	(8,563)
Dellums (D–CA)	129,203	(86,911)	42,292
Dixon (D–CA)	140,550	(57,899)	82,651
Dooley (D–CA)	135,131	(103,887)	31,244
Doolittle (R–CA)	66,041	(89,544)	(23,503)
Dornan (R–CA)	69,447	(41,442)	28,005
Dreier (R–CA)	70,191	(84,277)	(14,086)
Edwards, D (D–CA)	129,473	(74,367)	55,106
Eshoo (D–CA)	139,611	(80,580)	59,031
Farr (D–CA)	110,293	(68,790)	41,503
Fazio (D–CA)	138,101	(49,121)	88,980
Filner (D–CA)	134,813	(71,825)	62,988
Gallegly (R–CA)	96,618	(89,958)	6,660
Hamburg (D–CA)	133,657	(76,827)	56,830
Harman (D–CA)	137,040	(59,360)	77,680
Herger (R–CA)	72,438	(92,211)	(19,783)
Horn (R–CA)	114,207	(101,517)	12,690
Huffington (R–CA)	95,233	(39,892)	55,341
Hunter (R–CA)	84,581	(97,514)	(12,933)
Kim (R–CA)	112,267	(73,255)	39,012
Lantos (D–CA)	137,512	(68,709)	68,803
Lehman (D–CA)	132,567	(69,735)	62,832
Lewis (R–CA)	108,670	(80,057)	28,613
Martinez (D–CA)	140,397	(76,900)	63,497
Matsui (D–CA)	139,358	(58,752)	80,606
McCandless (R–CA)	78,321	(65,268)	13,053
McKeon (R–CA)	86,349	(80,965)	5,384
Miller, G (D–CA)	139,122	(90,264)	48,858
Mineta (D–CA)	136,052	(59,457)	76,595
Moorhead (R–CA)	72,312	(82,318)	10,006
Packard (R–CA)	82,099	(86,177)	(4,078)
Pelosi (D–CA)	140,834	(80,181)	60,653
Pombo (R–CA)	76,111	(90,302)	(14,191)
Rohrabacher (R–CA)	68,473	(105,263)	(36,790)
Roybal-Allard (D–CA)	137,426	(52,109)	85,317
Royce (R–CA)	71,028	(109,971)	(38,943)
Schenk (D–CA)	138,363	(81,659)	36,704
Stark (D–CA)	127,647	(87,829)	39,818
Thomas, B (R–CA)	97,174	(89,012)	8,162
Torres (D–CA)	137,196	(67,840)	69,356
Tucker (D–CA)	136,399	(67,466)	68,933
Waters (D–CA)	133,217	(71,137)	62,080
Waxman (D–CA)	134,328	(67,965)	66,363
Woolsey (D–CA)	140,508	(76,801)	63,707
COLORADO			
Brown, H. (R–CO)	103,040	(140,292)	(37,252)
Campbell, B. (D–CO)	127,361	(51,818)	75,543
Allard (R–CO)	76,951	(47,788)	29,163
Hefley (R–CO)	74,007	(44,367)	29,640
McInnis (R–CO)	72,873	(58,742)	14,131
Schaefer (R–CO)	62,397	(64,193)	(1,796)
Schroeder (D–CO)	117,890	(94,.438)	23,452
Skaggs (D–CO)	133,458	(72,811)	60,647
CONNECTICUT			
Dodd (D–CT)	126,256	(47,002)	79,254
Lieberman (D–CT)	122,816	(95,098)	27,718
DeLauro (D–CT)	133,097	(49,205)	83,892
Franks (R–CT)	99,359	(89,472)	9,887
Gejdenson (D–CT)	133,578	(64,972)	68,606
Johnson (R–CT)	98,841	(108,139)	(9,298)
Kennelly (D–CT)	133,256	(49,553)	83,703
Shays (R–CT)	87,608	(112,645)	(25,037)
DELAWARE			
Biden (D–DE)	130,708	(46,815)	83,893
Roth (R–DE)	95,926	(114,511)	(18,585)
Castle (R–DE)	89,461	(85,686)	3,775
FLORIDA			
Graham, B. (D–FL)	129,093	(71,883)	57,210
Mack (R–FL)	113,043	(143,972)	(30,929)
Bacchus (D–FL)	132,887	(80,920)	51,967
Bilirakis (R–FL)	111,730	(91,474)	20,256
Brown (D–FL)	133,224	(49,213)	84,011
Canady (R–FL)	94,433	(63,566)	30,867
Deutsch (D–FL)	135,305	(78,163)	57,142
Diaz-Balart (R–FL)	105,349	(39,199)	66,150
Fowler (R–FL)	117,511	(55,120)	62,391
Gibbons (D–FL)	131,598	(50,571)	81,027
Goss (R–FL)	71,039	(70,567)	472
Hastings (D–FL)	124,611	(65,777)	58,834
Hutto (D–FL)	98,320	(79,123)	19,197
Johnston (D–FL)	130,685	(58,569)	72,116
Lewis (R–FL)	82,691	(79,105)	3,586
McCollum (R–FL)	86,438	(66,143)	20,295
Meek (D–FL)	132,765	(47,663)	85,102
Mica (R–FL)	83,082	(86,383)	(3,301)
Miller (R–FL)	71,308	(97,554)	(26,246)
Peterson (D–FL)	133,241	(47,789)	85,452
Ros-Lehtinen (R–FL)	101,273	(53,047)	48,226
Shaw (R–FL)	97,003	(85,295)	11,708
Stearns (R–FL)	89,425	(49,647)	39,778
Thurman (D–FL)	132,997	(79,204)	53,793
Young (R–FL)	112,386	(94,847)	17,539
GEORGIA			
Coverdell (R–GA)	111,795	(142,899)	(31,104)
Nunn (D–GA)	127,354	(69,730)	57,624
Bishop (D–GA)	133,046	(61,705)	71,341
Collins (R–GA)	75,886	(90,412)	(14,526)
Darden (D–GA)	133,263	(47,811)	85,452
Deal (D–GA)	118,788	(80,398)	38,390
Gingrich (R–GA)	84,287	(83,872)	415
Johnson (D–GA)	131,875	(87,544)	44,331
Kingston (R–GA)	87,286	(59,930)	27,356
Lewis (D–GA)	131,820	(81,783)	50,037
Linder (R–GA)	83,347	(78,226)	5,121
McKinney (D–GA)	132,747	(85,370)	47,377
Rowland (D–GA)	109,857	(73,388)	36,469
HAWAII			
Akaka (D–HI)	130,732	(47,884)	82,848
Inouye (D–HI)	130,702	(46,352)	84,350
Abercrombie (D–HI)	136,002	(80,623)	55,379
Mink (D–HI)	133,951	(75,239)	58,712
IDAHO			
Craig (R–ID)	115,251	(137,160)	(21,909)
Kempthorne (R–ID)	115,281	(137,160)	(21,879)
Crapo (R–ID)	74,138	(71,766)	2,372
LaRocco (D–ID)	131,628	(112,089)	19,539
ILLINOIS			
Moseley-Braun (D–IL)	134,553	(50,324)	84,229
Simon (D–IL)	134,777	(82,337)	52,440
Collins (D–IL)	117,579	(75,819)	41,760
Costello (D–IL)	134,522	(81,139)	53,383
Crane (R–IL)	56,922	(88,955)	(32,033)
Durbin (D–IL)	135,331	(83,300)	52,031
Evans (D–IL)	136,045	(85,511)	50,534
Ewing (R–IL)	90,244	(109,384)	(19,140)
Fawell (R–IL)	78,104	(87,618)	(9,514)
Gutierrez (D–IL)	127,792	(72,618)	55,174
Hastert (R–IL)	96,879	(85,496)	11,383
Hyde (R–IL)	94,185	(76,478)	17,707
Lipinski (D–IL)	135,707	(69,875)	65,832
Manzullo (R–IL)	84,545	(85,360)	(815)
Michel (R–IL)	84,049	(87,819)	(3,770)
Porter (R–IL)	96,466	(93,657)	2,809
Poshard (D–IL)	133,523	(109,126)	24,397
Reynolds (D–IL)	133,322	(70,340)	62,982
Rostenkowski (D–IL)	134,763	(66,907)	67,856
Rush (D–IL)	131,997	(87,780)	44,217
Sangmeister (D–IL)	136,095	(96,172)	39,923
Yates (D–IL)	135,744	(85,592)	50,152
INDIANA			
Coats (R–IN)	111,932	(121,410)	(9,478)
Lugar (R–IN)	115,399	(120,289)	(4,890)
Burton (R–IN)	81,826	(57,887)	23,939
Buyer (R–IN)	94,089	(81,664)	12,425
Hamilton (D–IN)	133,806	(66,170)	67,636
Jacobs (D–IN)	114,071	(83,108)	30,963
Long (D–IN)	134,135	(104,384)	29,751
McCloskey (D–IN)	133,603	(54,139)	79,464
Myers (R–IN)	92,448	(83,657)	8,791
Roemer (D–IN)	115,914	(57,139)	58,775
Sharp (D–IN)	131,236	(77,679)	53,557
Visclosky (D–IN)	133,488	(70,124)	63,364
IOWA			
Grassley (R–IA)	117,692	(152,677)	(34,985)
Harkin (D–IA)	140,062	(64,432)	75,630
Grandy (R–IA)	102,787	(77,665)	25,122
Leach (R–IA)	111,274	(63,586)	47,688
Lightfoot (R–IA)	96,061	(52,927)	43,134
Nussle (R–IA)	77,293	(116,620)	(39,327)
Smith (D–IA)	130,221	(48,374)	81,847
KANSAS			
Dole (R–KS)	117,684	(122,677)	(4,993)
Kassebaum (R–KS)	120,090	(133.058)	(12,968)
Glickman (D–KS)	131,011	(50,128)	80,883
Meyers (R–KS)	105,890	(89,016)	16,874
Roberts (R–KS)	89,179	(53,720)	35,459
Slattery (D–KS)	125,991	(78,020)	47,971
KENTUCKY			
Ford (D–KY)	130,732	(49,714)	81,018
McConnell (R–KY)	117,608	(113,755)	3,853
Baesler (D–KY)	131,843	(74,887)	56,956
Barlow (D–KY)	133,075	(84,133)	48,942
Bunning (R–KY)	61,945	(88,179)	26,234
Mazzoli (D–KY)	133,475	(67,925)	65,550
Rogers (R–KY)	129,359	(52,075)	77,284
LOUISIANA			
Breaux (D–LA)	130,572	(45,993)	84,579
Johnston (D–LA)	127,122	(31,700)	95,422
Baker (R–LA)	93,284	(83,613)	9,671
Fields (D–LA)	136,243	(84,672)	51,571
Hayes (D–LA)	109,938	(69,222)	40,716
Jefferson (D–LA)	133,276	(65,803)	67,473
Livingston (R–LA)	106,973	(88,408)	18,565
McCrery (R–LA)	100,333	(86,945)	13,388
Tauzin (D–LA)	112,409	(100,269)	12,140
MAINE			
Cohen (R–ME)	116,295	(146,117)	(29,822)
Mitchell (D–ME)	127,308	(52,668)	74,640
Andrews (D–ME)	134,168	(85,669)	48,499

VOTE TALLY STATE DELEGATION REPORT—Continued

[What Members of Congress voted for in the 103d Congress (figures in millions of dollars)]

Name	Increases	Cuts	Net
Snowe (R–ME)	123,710	(87,709)	36,001
MARYLAND			
Mikulski (D–MD)	128,823	(45,826)	82,997
Sarbanes (D–MD)	127,332	(47,571)	79,761
Bartlett (R–MD)	90,787	(68,774)	22,013
Bentley (R–MD)	112,601	(39,832)	72,769
Cardin (D–MD)	133,856	(97,578)	36,278
Gilchrest (R–MD)	117,374	(88,018)	29,357
Hoyer (D–MD)	133,222	(48,893)	84,329
Mfume (D–MD)	135,916	(69,644)	66,272
Morella (R–MD)	116,854	(48,097)	68,757
Wynn (D–MD)	136,193	(81,292)	54,901
MASSACHUSETTS			
Kennedy (D–MA)	127,256	(51,079)	76,177
Kerry J. (D–MA)	127,332	(62,446)	64,886
Blute (R–MA)	117,151	(92,971)	24,180
Frank (D–MA)	124,628	(88,555)	36,073
Kennedy (D–MA)	135,871	(83,428)	52,443
Markey (D–MA)	136,201	(84,477)	51,724
Meehan (D–MA)	135,375	(120,729)	14,646
Moakley (D–MA)	129,582	(80,030)	49,552
Neal (D–MA)	135,123	(78,926)	56,197
Olver (D–MA)	136,248	(67,248)	69,000
Studds (D–MA)	135,994	(84,675)	51,319
Torkildsen (R–MA)	119,938	(81,861)	38,077
MICHIGAN			
Levin (D–MI)	127,302	(61,256)	66,046
Riegle (D–MI)	128,496	(47,037)	81,459
Barcia (D–MI)	132,669	(89,812)	42,857
Bonior (D–MI)	135,494	(77,509)	57,985
Camp (R–MI)	95,088	(119,653)	(24,565)
Carr (D–MI)	132,782	(73,805)	58,977
Collins (D–MI)	130,646	(72,086)	58,560
Conyers (D–MI)	126,861	(58,795)	68,066
Dingell (D–MI)	131,236	(69,533)	61,703
Ford (D–MI)	127,978	(72,795)	55,183
Hoekstra (R–MI)	96,995	(81,066)	15,929
Kildee (D–MI)	133,729	(71,150)	62,579
Knollenberg (R–MI)	75,492	(69,738)	5,754
Levin (D–MI)	133,080	(55,338)	77,742
Smith (R–MI)	62,611	(83,827)	(21,216)
Stupak (D–MI)	135,875	(85,738)	50,137
Upton (R–MI)	113,730	(119,172)	(5,442)
MINNESOTA			
Durenberger (R–MN)	113,712	(122,966)	(9,254)
Wellstone (D–MN)	135,793	(54,280)	81,513
Grams (R–MN)	66,974	(70,275)	(3,301)
Minge (D–MN)	116,973	(93,856)	23,117
Oberstar (D–MN)	129,767	(82,933)	46,834
Penny (D–MN)	111,140	(110,111)	1,029
Peterson (D–MN)	117,150	(102,774)	14,676
Ramstad (R–MN)	75,533	(102,537)	(27,004)
Sabo (D–MN)	129,219	(51,210)	78,009
Vento (D–MN)	131,653	(84,926)	46,727
MISSISSIPPI			
Cochran (R–MS)	117,697	(101,611)	16,086
Lott (R–MS)	115,558	(113,289)	2,269
Montgomery (D–MS)	122,661	(74,247)	48,414
Parker (D–MS)	117,776	(69,297)	48,479
Taylor (D–MS)	97,103	(86,878)	10,225
Thompson (D–MS)	111,728	(76,771)	34,957
Whitten (D–MS)	130,260	(51,373)	78,887
MISSOURI			
Bond (R–MO)	117,452	(112,300)	5,152
Danforth (R–MO)	119,264	(127,421)	(8,157)
Clay (D–MO)	126,983	(77,654)	49,329
Danner (D–MO)	136,122	(70,370)	65,752
Emerson (R–MO)	105,584	(57,296)	48,288
Gephardt (D–MO)	133,462	(51,699)	81,763
Hancock (R–MO)	58,513	(45,127)	13,386
Skelton (D–MO)	130,804	(55,373)	75,431
Talent (R–MO)	87,618	(78,445)	9,173
Volkmer (D–MO)	131,029	(54,470)	76,559
Wheat (D–MO)	133,071	(84,832)	48,239
MONTANA			
Baucus (D–MT)	129,869	(79,774)	50,095
Burns (R–MT)	116,079	(118,112)	(2,033)
Williams (D–MT)	138,000	(69,030)	68,970
NEBRASKA			
Exon (D–NE)	130,612	(89,195)	41,417
Kerrey, R. (D–NE)	127,183	(95,574)	31,609
Barrett (R–NE)	98,965	(64,067)	34,898
Bereuter (R–NE)	94,106	(52,443)	41,663
Hoagland (D–NE)	132,702	(87,191)	45,511
NEVADA			
Bryan (D–NV)	132,582	(44,342)	88,240
Reid (D–NV)	132,610	(48,449)	84,161
Bilbray (D–NV)	133,633	(55,667)	77,966
Vucanovich (R–NV)	109,877	(60,553)	49,324
NEW HAMPSHIRE			
Gregg (R–NH)	103,600	(144,296)	40,696
Smith, R.C. (R–NH)	91,214	(136,976)	45,762
Swett (D–NH)	131,083	(75,590)	55,493
Zeliff (R–NH)	79,470	(67,294)	12,176
NEW JERSEY			
Bradley (D–NJ)	129,639	(59,336)	70,303
Lautenberg (D–NJ)	136,633	(74,425)	62,208
Andrews (D–NJ)	118,812	(86,934)	31,878
Franks (R–NJ)	83,517	(98,412)	(14,895)
Gallo (R–NJ)	102,380	(81,200)	21,180
Hughes (D–NJ)	122,142	(64,546)	57,596
Klein (D–NJ)	132,260	(68,715)	63,545
Menendez (D–NJ)	133,872	(80,884)	52,988
Pallone (D–NJ)	113,692	(59,576)	54,116
Payne (D–NJ)	131,116	(85,294)	45,822
Roukema (R–NJ)	98,215	(57,205)	41,010
Saxton (R–NJ)	96,489	(91,386)	5,103
Smith (R–NJ)	119,676	(86,449)	33,227
Torricelli (D–NJ)	133,861	(93,755)	40,106
Zimmer (R–NJ)	72,441	(103,701)	(31,260)
NEW MEXICO			
Bingaman (D–NM)	125,602	(56.267)	69,335
Domenici (R–NM)	113,763	(113,076)	687
Richardson (R–NM)	132,345	(52,617)	79,728
Schiff (R–NM)	96,741	(99,656)	(2,945)
Skeen (R–NM)	112,179	(75,564)	36,915
NEW YORK			
D'Amato (R–NY)	119,056	(121,381)	(2,325)
Moynihan (D–NY)	129,613	(54,602)	75,011
Ackerman (D–NY)	131,936	(54,784)	77,172
Boehlert (R–NY)	136,912	(45,270)	91,642
Engel (D–NY)	135,678	(81,675)	54,003
Fish (R–NY)	115,328	(87,667)	27,661
Flake (D–NY)	134,476	(87,420)	47,056
Gilman (R–NY)	110,441	(57,314)	53,127
Hinchey (D–NY)	135,659	(81,733)	53,926
Hochbrueck (D–NY)	130,549	(64,845)	65,704
Houghton (R–NY)	113,776	(85,066)	28,710
King (R–NY)	94,194	(64,718)	29,476
LaFalce (D–NY)	132,956	(70,487)	62,469
Lazio (R–NY)	101,259	(68,809)	32,450
Levy (R–NY)	97,636	(67,711)	29,925
Lowey (D–NY)	136,236	(80,007)	56,229
Maloney (D–NY)	133,715	(67,248)	65,967
Manton (D–NY)	133,056	(47,900)	85,156
McHugh (R–NY)	95,105	(70,325)	24,780
McNulty (D–NY)	132,851	(62,223)	70,628
Molinari (R–NY)	112,661	(73,230)	39,431
Nadler (D–NY)	132,948	(67,379)	65,569
Owens (D–NY)	121,084	(77,737)	43,347
Paxon (R–NY)	58,374	(80,005)	(21,631)
Quinn (R–NY)	96,639	(86,354)	10,285
Rangel (D–NY)	126,757	(79,759)	46,998
Schumer (D–NY)	135,227	(80,604)	54,623
Serrano (D–NY)	127,638	(87,924)	39,714
Slaughter (D–NY)	136,055	(83,249)	52,806
Solomon (R–NY)	67,851	(71,579)	(3,728)
Towns (D–NY)	131,897	(75,597)	(56,300)
Velazquez (D–NY)	127,188	(90,925)	(36,263)
Walsh (R–NY)	132,037	(83,063)	(48,974)
NORTH CAROLINA			
Faircloth (R–NC)	103,531	(139,538)	(36,007)
Helms (R–NC)	91,567	(112,912)	(21,345)
Ballenger (R–NC)	74,183	(97,923)	(23,740)
Clayton (D–NC)	130,160	(59,698)	70,462
Coble (R–NC)	79,221	(111,406)	(32,185)
Hefner (D–NC)	135,846	(80,675)	55,171
Lancaster (D–NC)	141,669	(59,515)	82,154
McMillan (R–NC)	100,292	(108,494)	(8,202)
Neal (D–NC)	116,769	(65,916)	50,853
Price (D–NC)	133,572	(53,450)	80,122
Rose (D–NC)	130,222	(50,862)	79,360
Taylor (R–NC)	75,562	(76,931)	(1,369)
Valentine (D–NC)	111,821	(95,042)	16,779
Watt (D–NC)	131,786	(85,282)	46,504
NORTH DAKOTA			
Conrad (D–ND)	131,665	(70,587)	61,078
Dorgan (D–ND)	132,900	(66,454)	66,446
Pomeroy (D–ND)	133,784	(87,344)	46,440
OHIO			
Glenn (D–OH)	127,262	(46,343)	80,919
Metzenbaum (D–OH)	122,709	(71,661)	51,048
Applegate (D–OH)	129,120	(68,370)	60,750
Boehner (R–OH)	71,804	(66,717)	5,087
Brown (D–OH)	136,089	(95,756)	40,333
Fingerhut (D–OH)	113,373	(88,677)	24,696
Gillmor (R–OH)	113,401	(60,947)	52,454
Hall (D–OH)	135,102	(53,743)	81,359
Hobson (R–OH)	107,143	(101,560)	5,583
Hoke (R–OH)	74,439	(85,429)	(10,990)
Kaptur (D–OH)	135,191	(86,679)	48,512
Kasich (R–OH)	93,919	(89,098)	4,821
Mann (D–OH)	111,590	(62,197)	49,393
Oxley (R–OH)	86,516	(79,548)	6,968
Portman (R–OH)	70,694	(89,944)	(19,250)
Pryce (R–OH)	107,963	(99,910)	8,053
Regula (R–OH)	115,493	(74,188)	41,305
Sawyer (D–OH)	133,549	(52,280)	81,269
Stokes (D–OH)	131,023	(59,011)	72,012
Strickland (D–OH)	136,034	(85,400)	50,634
Traficant (D–OH)	132,239	(54,813)	77,426
OKLAHOMA			
Boren (D–OK)	126,528	(100,581)	25,947
Nickles (R–OK)	108,958	(142,761)	(33,803)
Brewster (D–OK)	108,809	(59,262)	49,547
Inhofe (R–OK)	64,351	(68,642)	(4,291)
Istook (R–OK)	70,383	(87,137)	(16,754)
McCurdy (D–OR)	129,821	(70,988)	58,883
Synar (D–OK)	129,921	(59,423)	70,498
OREGON			
Hatfield (R–OR)	112,737	(86,919)	25,808
Packwood (R–OR)	110,030	(121,330)	(11,300)
DeFazio (D–OR)	112,003	(81,768)	30,235
Furse (D–OR)	134,727	(82,816)	51,911
Kopetski (D–OR)	130,335	(77,141)	53,194
Smith (R–OR)	76,561	(29,600)	46,961
Wyden (D–OR)	126,217	(87,274)	38,943
PENNSYLVANIA			
Specter (R–PA)	124,538	(100,781)	23,757
Wofford (D–PA)	132,613	(61,662)	70,951
Blackwell (D–PA)	133,043	(70,656)	62,387
Borski (D–PA)	135,626	(76,251)	59,375
Clinger (R–PA)	104,552	(71,143)	33,409
Coyne (D–PA)	136,205	(84,074)	52,131
Foglietta (D–PA)	133,448	(73,070)	60,378
Gekas (R–PA)	83,847	(88,304)	(4,457)
Goodling (R–PA)	98,168	(93,254)	4,914
Greenwood (R–PA)	103,726	(107,694)	(3,968)
Holden (D–PA)	136,034	(92,293)	43,741
Kanjorski (D–PA)	136,145	(83,549)	52,596
Klink (D–PA)	136,088	(97,919)	38,169
Margolies-Mezv (D–PA)	117,351	(94,689)	22,662
McDade (R–PA)	109,325	(78,081)	31,444
McHale (D–PA)	135,817	(101,176)	34,641
Murphy (D–PA)	117,285	(96,225)	21,060
Murtha (D–PA)	140,515	(47,492)	93,053
Ridge (R–PA)	108,188	(92,187)	16,001
Santorum (R–PA)	91,135	(94,914)	(3,779)
Shuster (R–PA)	81,291	(84,389)	(3,098)
Walker (R–PA)	60,943	(69,783)	(8,840)
Weldon (R–PA))	91,001	(86,258)	4,743
RHODE ISLAND			
Chafee (D–RI)	122,158	(136,007)	(13,849)
Pell (R–RI)	121,372	(58,847)	62,525
Machtley (R–RI)	117,118	(50,818)	66,300
Reed (D–RI)	133,048	(54,455)	78,593
SOUTH CAROLINA			
Hollings (D–SC)	126,315	(62,298)	64,017
Thurmond (R–SC)	117,863	(120,618)	(2,755)
Clyburn (D–SC)	133,732	(60,148)	73,584
Derrick (D–SC)	129,552	(52,095)	77,457
Inglis (R–SC)	72,616	(89,009)	(16,393)
Ravenel (R–SC)	116,390	(105,123)	11,267
Spence (R–SC)	103,080	(40,981)	62,099
Spratt (D–SC)	133,556	(53,868)	79,688
SOUTH DAKOTA			
Daschle (D–SD)	130,763	(46,354)	84,409
Pressler (R–SD)	113,502	(119,079)	(5,577)
Johnson (D–SD)	134,057	(82,854)	51,203
TENNESSEE			
Mathews (D–TN)	129,125	(56,887)	72,238
Sasser (D–TN)	132,719	(60,681)	72,038
Clement (D–TN)	131,474	(43,068)	88,406
Cooper (D–TN)	130,486	(83,481)	47,005
Duncan (R–TN)	64,137	(86,559)	(22,422)
Ford (D–TN)	112,243	(55,410)	56,833
Gordon (D–TN)	133,005	(74,449)	58,556
Lloyd (D–TN)	128,944	(74,208)	54,736
Quillen (R–TN)	92,083	(83,848)	8,235
Sundquist (R–TN)	96,191	(91,745)	4,446
Tanner (D–TN)	131,670	(85,516)	16,154
TEXAS			
Gramm (R–TX)	116,963	(117,343)	(380)
Hutchison (R–TX)	112,902	(84,690)	28,212
Andress (D–TX)	124,106	(72,551)	51,555
Archer (R–TX)	59,069	(43,841)	15,228
Armey (R–TX)	66,063	(67,890)	(1,827)
Barton (R–TX)	63,541	(91,227)	(27,868)
Bonilla (R–TX)	95,946	(94,297)	1,649
Brooks (D–TX)	133,173	(58,641)	74,532
Bryant (D–TX)	133,135	(80,232)	52,903
Chapman (D–TX)	139,177	(51,602)	87,575
Coleman (D–TX)	134,930	(56,112)	78,818

VOTE TALLY STATE DELEGATION REPORT—Continued

[What Members of Congress voted for in the 103d Congress (figures in millions of dollars)]

Name	Increases	Cuts	Net
Combest (R–TX)	86,879	(39,267)	47,612
de la Garza (D–TX)	132,460	(51,281)	81,179
DeLay (R–TX)	72,114	(73,433)	(1,319)
Edwards (D–TX)	129,825	(54,946)	74,880
Fields (R–TX)	65,879	(65,861)	18
Frost (D–TX)	133,070	(71,340)	61,730
Geren (D–TX)	113,248	70,661	42,587
Gonzalez (D–TX)	140,382	(49,191)	91,191
Green (D–TX)	117,418	(79,844)	37,574
Hall (D–TX)	103,817	(76,141)	27,706
Johnson, E. (D–TX)	135,851	(77,427)	58,424
Johnson, S. (R–TX)	64,697	(71,164)	(6,467)
Laughlin (D–TX)	129,656	(58,974)	70,682
Ortiz (D–TX)	132,218	(47,340)	84,878
Pickle (D–TX)	131,819	(71,968)	59,851
Sarpalius (D–TX)	136,659	(67,164)	69,495
Smith (R–TX)	94,953	(79,108)	15,845
Stenholm (D–TX)	92,638	(92,702)	(64)
Tejeda (D–TX)	141,363	(47,773)	93,590
Washington (D–TX)	98,221	(67,452)	30,769
Wilson (D–TX)	132,332	(73,141)	59,191
UTAH			
Bennett (R–UT)	118,656	(118,998)	(342)
Hatch (R–UT)	118,376	(119,990)	(1,524)
Hansen (R–UT)	78,105	(100,181)	(22,076)
Orton (D–UT)	98,477	(76,968)	21,509
Shepherd (D–UT)	130,880	(71,552)	59,328
VERMONT			
Jeffords (R–VT)	127,492	(79,181)	48,311
Leahy (D–VT)	134,144	(64,377)	69,767
Sanders (I–VT)	128,991	(79,303)	49,688
VIRGINIA			
Robb (D–VA)	127,304	(84,096)	43,208
Warner (R–VA)	104,160	(121,462)	(17,002)
Bateman (R–VA)	106,621	(73,802)	32,819
Bliley (R–VA)	84,660	(88,240)	(3,580)
Boucher (D–VA)	134,942	(73,222)	61,720
Byrne (D–VA)	131,385	(78,014)	53,371
Goodlatte (R–VA)	74,768	(57,421)	17,347
Moran (D–VA)	134,094	(54,248)	79,846
Payne (D–VA)	126,508	(78,141)	48,367
Pickett (D–VA)	110,525	(35,608)	74,917
Scott (D–VA)	129,072	(62,932)	66,140
Sisisky (D–VA)	117,136	(50,586)	66,550
Wolf (R–VA)	94,060	(90,009)	4,051
WASHINGTON			
Gorton (R–WA)	119,839	(108,973)	10,866
Murray (D–WA)	127,332	(48,003)	79,329
Cantwell (D–WA)	133,291	(66,938)	66,353
Dicks (D–WA)	133,328	(47,767)	85,561
Dunn (R–WA)	82,033	(66,335)	15,698
Foley (D–WA)	75,302	(35,590)	39,712
Inslee (D–WA)	134,108	(106,326)	27,782
Kreidler (D–WA)	135,965	(92,527)	43,438
McDermott (D–WA)	134,667	(80,927)	53,740
Swift (D–WA)	132,523	(48,140)	84,383
Unsoeld (D–WA)	136,071	(85,252)	30,819
WEST VIRGINIA			
Byrd (D–WV)	128,325	(53,869)	74,456
Rockefeller (D–WV)	130,488	(46,657)	83,831
Mollohan (D–WV)	127,593	(48,951)	78,642
Rahall (D–WV)	130,704	(70,898)	59,806
Wise (D–WV)	133,297	(47,577)	85,720
WISCONSIN			
Feingold (D–WI)	126,933	(81,812)	45,121
Kohl (D–WI)	124,700	(103,945)	20,755
Barca (D–WI)	98,012	(105,688)	(7,676)
Barrett (D–WI)	129,832	(92,871)	36,961
Gunderson (R–WI)	97,717	(88,982)	8,735
Kleczka (D–WI)	136,083	(80,769)	55,314
Klug (R–WI)	88,482	(79,847)	8,635
Obey (D–WI)	136,075	(82,955)	53,120
Petri (R–WI)	65,995	(78,148)	(12,153)
Roth (R–WI)	63,570	(83,398)	(19,828)
Sensenbrenner (R–WI)	56,113	(106,430)	(50,317)
WYOMING			
Simpson (R–WY)	98,332	(130,480)	(32,148)
Wallop (R–WY)	96,189	(100,419)	(4,230)
Thomas (R–WY)	80,843	(94,142)	(13,299)

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are finally at the end of the contract.

For 100 days America's children, senior citizens, and working families have watched the Republican Congress gut their school lunches, home heating assistance, and student loans. And for what reason? To pay for tax breaks for the very rich. To continue to allow billionaires to renounce their American citizenship to avoid paying taxes.

The tax bill we are considering today illustrates very clearly the winners and losers in the Republican contract.

This bill takes money from school lunches and hands it over to the very rich in the form of tax breaks—from the mouths of babes to the pockets of billionaires.

Some people are very happy with the Republican Congress. Some people got what they wanted. They had their cake and they will eat it too. Those people are special interest lobbyists, corporations, and millionaires.

The losers were children who get meals at school, young people who need summer jobs, and families whose homes are heated with the help of the LIHEAP Program.

Mr. Speaker, I was sorry to see that Mr. SOLOMON's own committee, which is stacked with nine Republicans to four Democrats, refused to make in order any amendments.

Yesterday he called himself the fiercest deficit hawk up here. Still, despite the demand of 102 Members of their own party, despite Mr. SOLOMON's support, the Republican leadership refused to allow amendments to slow down tax cuts in the face of exploding deficits.

They imposed a watered down, milquetoast amendment that doesn't even qualify as a speed bump on the deficit highway.

I know if Mr. SOLOMON were calling the shots on the Rules Committee he would have made stronger amendments in order. Once we're finished with the contract I hope he gets his way.

I urge my colleagues to defeat the previous question so we can come back with an open rule, instead of this gag rule, and help someone other than the special interest lobbyists.

Mr. Speaker, I include the following for the RECORD:

FLOOR PROCEDURE IN THE 104TH CONGRESS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on suspension calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision.	1D.
H.R. 830	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaness against it.	1D.
H.R. 988	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) of rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R

FLOOR PROCEDURE IN THE 104TH CONGRESS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 4	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments..	5D; 26R
H.R. 1271	Family Privacy Act	H. Res. 125	Open	N/A
H.R. 660	Housing for Older Persons Act	H. Res. 126	Open	N/A

** 72% restrictive; 28% open. **** Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. **** Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. MOAKLEY. Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I would love to respond to the gentleman but time does not allow right now.

I yield 2 minutes to the very distinguished gentleman from Sanibel, FL [Mr. GOSS], a member of the Committee on Rules.

Mr. GOSS. I thank the gentleman from Glens Falls, NY [Mr. SOLOMON], the distinguished chairman, for yielding me the generous time.

Mr. Speaker, this is a very important vote that is coming up, for many reasons, just one of which is that passage of this rule is indeed going to complete our perfect record of bringing the Contract With America up for a vote just as we promised. We are keeping our promise.

This rule does allow the minority free rein to offer its alternative tax plan, such as it may be, and this rule ensures that we match the primary goal of cutting spending so we can balance the budget with the important need to reduce taxation, to curtail Uncle Sam's persistent depressing reach into Americans' pockets and wallets. The average tax filer in my State of Florida will save $1,605 in taxes if this bill becomes law. Other States will fare similarly well. We are delivering the long overdue tax relief that is good for all America, for every American. It will create jobs by providing investment incentives, particularly for small businesses. And it will give much needed relief to our seniors by eliminating the very unfair 1993 Clinton Social Security tax and rolling back the unfair earnings test limit that saps the energies and earnings of seniors who need to work or want to work.

H.R. 1215 is a down payment on comprehensive tax reform. The first 100 days, we have done a lot. The next 265 days, we can do the rest.

I urge a "yes" vote on this rule, so we can get on with that job and do what we were elected to do last November.

Mr. MOAKLEY. Mr. Speaker, I yield 30 seconds to the gentleman from Florida [Mr. GIBBONS], the ranking member of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, we should vote against the previous question, we should vote against the rule and if it passes, we should vote against this bill. It is the wrong time to be cutting taxes. We ought to be cutting the deficit. It is the wrong time, it is the wrong way to be cutting taxes, even if we should be cutting them. This is a terrible gag rule. We are going to do nothing for 3 weeks after Friday. Why can we not spend enough time talking about the impact of this bill instead of gagging us with 1 hour to all the Democrats to talk about the tax matter, a $700 billion mistake?

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. ARCHER], the chairman of the Committee on Ways and Means and one of the most respected Members of this House.

Mr. ARCHER. I thank the gentleman for yielding me the time.

Mr. Speaker, in September of last year, we promised in our Contract With America that we would vote on tax relief for families and on incentives to create new jobs. We also promised to pay for these tax cuts by slowing down the growth of Federal spending, and today we fulfill that pledge. But we do more. This package nets out with a $30 billion greater reduction in deficit than the President's budget proposal.

☐ 1315

We have heard some Democrats say the taxpayers do not need or deserve tax cuts right now, and I disagree. The American family is overworked and it is overtaxed. So as promised, this bill provides a $500 per child tax credit, marriage penalty relief, tax credits for adoption of children and for the care of elderly family members.

It also provides tax incentives for long-term care insurance and for tax-free distributions of life insurance for the terminally and chronically ill.

This bill will repeal current laws that penalize seniors. It repeals the punitive 5-percent tax on Social Security benefits imposed by President Clinton in 1993, and it gives senior citizens greater opportunity to continue to work without suffering the loss of their benefits.

Americans do not save enough. High taxes are a big reason why. So we include incentives for savings and investment. We create a new type of individual retirement account, IRA, the American Dream Savings Account, and we permit homemakers to build their own IRA's.

We provide much-needed capital gains relief to stimulate job-creating investment. Capital gains for individuals will get a 50-percent exclusion along with indexing for inflation. This will reduce the rate for lower income Americans to only 7½ percent.

Corporations will be eligible for a 25-percent alternative capital gains rate. And people who sell their homes at a loss will finally be able to get a tax deduction for that loss.

Businesses will have incentives to invest in new plant and equipment. The punitive and onerous job stifling alternative minimum tax will be repealed and small businesses will be able to double the amount that they can expense and deduct for the purchase of new equipment.

People who work out of their homes will be able to deduct more home office expenses.

The tax burden on family retention of small businesses and farms will be reduced, because the estate tax exclusion will be increased.

Democrats complain that these tax cuts are too big, they are not fair, and they are not targeted, and they are simply wrong.

These tax cuts are not too big. The total cost of all of the cuts is equal to 2 percent of what the Federal Government will spend over the next 5 years. And this will force a further 2-percent shrinking in the size of the Federal Government as we move to a balanced budget.

I think that is what the American people want to hear. These tax cuts are fair. The biggest tax cuts go to families earning $30,000 to $75,000. Over the next 5 years, higher income people, that is, the top 1 to 10 percent of the income categories, will actually pay a larger share of Federal taxes than they pay under current law. These taxes go to the right beneficiaries. Seventy-five percent go to families and 25 percent to create jobs.

Of the family benefits, 75 percent of the child credit goes to families with incomes under $75,000 and 90 percent goes to families with under $95,000 of annual income.

This rule is the only way that we can comply with our contract pledge, which is to bring before the floor of this House a vote on these provisions. A vote against the rule will be a vote against the contract.

I urge a vote for the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes and 15 seconds to the former chairman of the Committee on the Budget, the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Speaker, here we go again. Once more we have a major piece of legislation before us, and the

Republican majority has structured a rule to get around all kinds of serious Budget Act problems.

The reason we have a Budget Act is to help us think through legislation before we pass it. Yet this is the eighth time this year we have been asked by the new majority to ignore the Budget Act.

The tax before us is a good example of the unwise legislation the House has recently been passing. The measure actually makes the long-term deficit worse since the cost of these tax cuts grow far more quickly than the spending cuts.

By the year 2000, according to CBO, the deficit under the bill will be $12 billion higher than it would be if we simply did nothing. Further, it contains some serious provisions that were never passed or considered by the appropriate committees. One of these provisions is a dangerous new taxpayer debt buydown plan. This proposal lets taxpayers designate a portion of their tax liability for debt reduction, thereby taking decisions about Federal spending from the people's elected representatives and handing them over to the wealthy. Essentially it says that the fundamental nature of the Federal Government should be changed from a representative democracy, one person one vote, to a plutocracy, one dollar one vote, a million dollars a million votes.

Mr. Speaker, I cannot think of any more invidious scheme for us to include in a tax package. The plan has never been reviewed by the Committee on the Budget. Rather, it was just dropped into the bill by rule as a part of the Kasich substitute.

Mr. Speaker, may I also remind the House that the Speaker, now Speaker, in August 1993 said that we, if we pass the President's program, we would head into a recession.

Mr. Speaker, the facts are in. Employment is up, unemployment is down, inflation is low, growth was at 4 percent in 1994 productivity is improving, factories are operating at high rates, investment is booming. Mr. Speaker, you were wrong 2 years ago. This is a bad bill.

Mr. SOLOMON. Mr. Speaker, how much time is remaining on each side?

The SPEAKER. The gentleman from New York [Mr. SOLOMON] has 18 minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 24½ minutes remaining.

Mr. SOLOMON. Mr. Speaker, this year we have the privilege of having a very outstanding Member, a former judge from Ohio, serve on our Committee on Rules, Ms. DEBORAH PRYCE.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. PRYCE].

Ms. PRYCE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of this rule. By adopting this resolution, we will enable the House to complete the contract's promise to strengthen families and grow the national economy by delivering real tax relief.

Today, the average family spends more on taxes than it spends on food, clothing, and shelter combined. Many families now need a second breadwinner just to support the costs of a bloated Federal Government, not to cover the costs of raising a family.

After years of struggling to move a pro-family, pro-growth tax plan through Congress, we have the opportunity today to tip the tax scales back in favor of mothers, fathers, grandparents, and children.

It reduces the tax burden on families with children, and on two-earner married couples. It creates valuable tax incentives to encourage families to adopt children, and to care for elderly relatives. And, it gives families more reason to save their hard-earned money for the future.

In my own State of Ohio, taxes will be reduced by an average of more than $1,400 per person. That's $1,400 more that families can spend as they see fit, on the things they need most, and not as Washington would spend it for them.

More importantly, this legislation is fiscally responsible. As we all know, the best hope for tax fairness for America's families lies in our commitment to reducing the deficit and achieving a balanced Federal budget.

Mr. Speaker, I am disappointed that the House will not have the chance to debate the Ganske amendment, but, as the distinguished chairman of the Rules Committee has pointed out, it has been customary over the years to consider tax measures under more restrictive procedures, and I will support this rule. It is a balanced and responsible rule. By allowing the Gephardt substitute and the customary motion to recommit, the rule provides the House with two clear opportunities to offer alternative tax proposals.

Finally, Mr. Speaker, only long-term expansion of our national economy, and the new jobs it will create, can make the American dream a reality for future generations. That is why it is so important that this Congress not miss this opportunity.

Mr. Speaker, we have had a very productive 93 days so far in the 104th Congress. The majority has kept its promise to the American people, and we have made rebuilding and strengthening America's families a top legislative priority.

I urge our colleagues to adopt this rule so that we can usher in a new era of growth, productivity, and financial security—for our children and future generations of Americans.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I urge defeat of this rule. Republicans have boasted that they have reformed the process. It is anti-reform to bypass a committee of jurisdiction. It is worse than that when you do so in order to take people's retirement in order to fund a tax cut.

The American public regards its retirement as sacred, and this House has treated Social Security as sacred. Well, this is these folks' Social Security. You have used the contract time and time again as a metaphor. This is the Federal workers' contract. You asked them and forced them to choose between two systems in 1986. They chose. It is irrevocable for them, but you want to change the rules for yourselves in a tax cut. That is wrong.

It is a tax cut nobody wants except Republicans in this body. How many times, how many ways do Americans have to say it? Deficit reduction, deficit reduction. It is bad enough to give a tax break to the rich; it is shameful to do it by taking money from the retirements of middle-income workers.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule providing for consideration of this bill, for a variety of reasons. As the ranking member on the Government Reform and Oversight Committee, I want to point out one particular problem with the rule. It includes a provision that was never passed by any committee.

This is a provision which hikes the taxes of 2 million middle-class Americans who work for the Federal Government in order to pay for tax cuts for the wealthy. It imposes these new taxes on Federal employees by making changes in the Federal retirement system; changes which were rejected by the committee of jurisdiction—the Government Reform and Oversight Committee.

This rule places before the House legislation which no committee has ever considered. The retirement provisions in this bill were written by the chairman of the Budget Committee. In what is clearly an extraordinary departure from usual procedure, the Rules Committee has chosen to take a course of action which negates the very existence of authorizing committees. This is a very dangerous precedent to set. This is not the same situation as might occur with a reconciliation bill, where the Congress has previously voted for a budget resolution that included reconciliation instructions.

In such a case, the Congress would vote to authorize the Budget Committee to report the necessary legislation, if the authorizing committee had failed to act, and the Congress had voted that budget reductions in a particular area were justified.

This is not the case. This is bad business.

But there has been no such vote, and the Rules Committee is acting without a mandate from the House.

Continuing with the unusual, the rule makes in order a tax increase in a tax cut bill. The bill would increase the amount of payroll withholding for the average Federal employee by an additional 2.5 percent of their income. This would take $750 more out of an employee's pocket each and every year.

Last week, when I testified before the Rules Committee with a bipartisan panel of Members who made these points, the committee's chairman, Mr. SOLOMON, and one of its most distinguished majority members, Mr. QUILLEN, agreed with us. Chairman SOLOMON said, "This is a case where we are raising taxes on some to pay for tax cuts for others, and that to me is wrong. I don't believe we ought to be doing this in this bill."

When we asked that an amendment be made in order to strike this provision, should it be included in the bill, Mr. QUILLEN asked to be made a cosponsor of any such amendment. Clearly, from their comments and those of other Members, Rules Committee members on both sides of the aisle were deeply troubled by this proposal, yet the rule allows for this proposal to be considered.

For those of my colleagues who are not concerned about imposing a 2.5-percent payroll tax on Federal employees, consider the precedent this sets. I believe that if the Republican leadership can get away with this, next they will try to raise the Social Security tax paid by all other American workers. They promised no new taxes, and yet, with this bill, they have broken that promise.

For these reasons, Mr. Speaker, I strongly urge my colleagues to vote "no" on the rule. Reject this effort to bypass the jurisdiction of authorizing committees. Oppose this effort by the Republican leadership to impose a tax increase on middle-class Americans.

Mr. SOLOMON. Mr. Speaker, we continue to reserve our time.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Speaker, a few weeks ago, the House acted to reform the welfare system. We also need to ensure that an even larger welfare system—the more than $200 billion in corporate giveaways—is reformed. Corporate taxpayers must live up to their responsibility as U.S. residents and ensure that they do not dodge their duty to pay their fair share of taxes and their obligation to help reduce the deficit.

I gave my Republican colleagues on the Rules Committee the opportunity to seek a fairer tax system by offering an amendment that curbs tax benefits given exclusively to multinational corporations and foreign investors. This amendment would have closed loopholes in the code that drain billions from our Treasury every year.

Yet, the majority again refuses to stand up to corporate interests so that we can reduce the deficit and put fairness in our tax system.

The Republican gravy train for the wealthy never seems to end. Included in this bill is a repeal of the alternative minimum tax. This tax ensures that profitable corporations do not avoid paying taxes in the United States. Many advocates of a repeal say that instead of an AMT, we need to look at individual parts of the code. But once again, the majority leaves loopholes for multinationals virtually untouched.

I urge my colleagues to oppose the rule.

□ 1330

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, the rule before us contains a brutal breach of contract with America's public servants. Markup of similar legislation, as the ranking member, the gentlewoman from Illinois [Mrs. COLLINS], has said, was rejected on March 15 because a majority did not support this provision.

The chairman of this committee who brings this bill to the floor said that 2 million Americans were getting a tax increase so that the wealthiest in America could get a tax decrease, because retirement benefits are an integral part of the retirement package that we offer to attract and retain top-quality Federal personnel. We should not make hasty, ill-considered, and not supported by a majority of the committee of jurisdiction decisions by the Committee on Rules, by the chairman's own admission, not having jurisdiction over this matter.

The chairman said it is traditional not to have amendments to tax bills. If this is a tax bill and if title IV is a tax bill, it should take three-fifths of this body to increase the taxes on 2 million Americans.

Proponents of this proposal have offered only one justification: We need to pay for the tax cut. There has been some argument about an unfunded liability, but the Congressional Research Service looked at this issue, is the unfunded liability of CRS a problem? And their answer was "no"; we have a system that is paid for. But everybody agrees that the Federal Employment Retirement System [FERS] is fully paid for, and it is included in this, a brutal breach of contract, my friends, in this, your last item.

Reject this rule. Reject this brutal breach of contract. Reject this ill-considered tax policy.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Speaker, I appreciate the gentleman yielding time to me.

Mr. Speaker, I am not here to argue about the value of letting the American people keep as much of their money as we can. I support tax cuts.

But the proposed bill gets the process wrong. I offered a straightforward amendment that insured deficit reduction would be the first priority while fulfilling the Contract With America. My amendment would have made us get on track to balance before the tax cuts become effective and would make continued tax cuts dependent upon us staying on track.

The shame is that in making this rule, the majority opted to reject the advice of the American people. I am entering into the RECORD four quotes that show that a vote for this rule is a vote against the best advice provided to the Congress.

I urge Members to support deficit reduction and returning money to the people who earn it by opposing the rule until we get it right.

GOP leadership needs to listen to the public:

> Opinion polls show public support for tax cuts is low and falling. Even Frank Luntz, the pollster who testmarketed the "Contract With America," says support has eroded in recent months. "The public currently believes that you cannot balance the budget and get a tax cut," Mr. Luntz says.—The Wall Street Journal, Monday, April 3, 1995

GOP leadership needs to listen to the experts:

> Now, with all due respect to both parties, the American people don't want a tax cut. Every poll indicates they want deficits reduced.—Senator Warren Rudman, CNN Late Edition, Sunday, April 2, 1995

GOP leadership needs to listen to its supporters:

> "Our members, if you ask them straight up, come down hard for deficit reduction" ahead of lower taxes, says the head of a national association that is part of the GOP lobbying coalition.—The Wall Street Journal, Friday, March 31, 1995

GOP leadership needs to listen to its pollsters:

> Nothing tells America more about your priorities than the sequence of your actions. . . . That's why "banking" the budget savings before cutting taxes is so important. It's aligned with the national mood, which would choose "ensuring no debt for their children" (72%) over "getting a tax cut this year" (24%).—Memorandum from Frank Luntz, January 19, 1995

Mr. SOLOMON. Mr. Speaker, I yield myself 1½ minutes.

I would point out that the gentleman from Florida [Mr. GIBBONS] appeared before our Committee on Rules. I have great respect for the gentleman, as much as anybody in this body. But I made a note when he said, "I not only support a closed rule, I would support you sending this bill back to the Ways and Means Committee and telling us to get it right. That is our job. I support Chairman ARCHER on a closed rule."

I would just say to my good friend, the gentleman from Alabama [Mr. BROWDER], I really do have to resent his calling this a fig leaf. You know, we really are trying to work together here.

Let me just quote some language in this legislation. It says, "The concurrent resolution on the budget for fiscal year 1996, as agreed to, provides that the budget of the United States will be in balance by fiscal year 2002." That is part 1.

Part 2, "The conference report, as agreed to, on the reconciliation bill for that resolution achieves the aggregate amount of deficit reduction to effectuate the reconciliation instructions required for the years covered by that resolution necessary to so balance the budget." That is why people like myself, who have proven that we are deficit hawks year in and year out for the past 16 years, support this rule. Every Member of this body should.

Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Ohio [Mr. KASICH], and if there ever was a deficit hawk that meets my standards, it is the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, let me just say to my Republican colleagues particularly and to those Democrats who were considering casting a vote for this, this is like the end of a horse race, maybe like the Kentucky Derby, but that would not be appropriate; the last race in the Triple Crown.

What we have done is we have kept our promises. We signed a Contract With America back last fall, and we said that there were a variety of things that we were going to do. We were going to downsize the operations of this House. We were going to cut committees. We were going to cut committee staff. We were going to cut committee funding. We said we would pass the Shays Act which would say that all laws we apply to the American people ought to be applied to ourselves. We said we would pass the balanced budget amendment. We got it done. We said we were going to pass the line-item veto. We got it done.

And you know what else we said? We said we were going to come to this floor, that we were going to downsize the operation of the Federal Government as we head into the 21st century. Let me tell you, ladies and gentlemen, the American people are with us. The American people resent the fact that more of their money and more of their power and more control has been sent from where they live to this city.

What the Republicans are beginning to do is to listen to the communications of the American people, and the will of the American people is simple. What they want done is they want this Federal Government downsized. They want it reduced in scope. They want it reduced in power, and they want their money given back to them so they can begin to solve problems where they live.

They believe that, as we move into the 21st century, we need a smaller, more limited, more focused Federal Government, and they are demanding that in the course of doing that, in the course of shrinking this big Federal Government and giving them their money and power back, they can solve problems where they live, and at the same time that we are shifting power from Washington to local communities, we are also going to save the country from financial collapse.

I just commend to you the testimony of Alan Greenspan before the House Committee on the Budget when he said that if, in fact, we balance the budget, the kind of prosperity that we would experience in this country cannot even be estimated, that the power and the ingenuity and the creativity of the American people and the absolute wonderful dynamic process of our economy, our free enterprise, entrepreneurial economy that rewards every individual for hard work, will unleash a prosperity that we have not known in this country.

And what we are doing today by passing this rule and bringing this bill up for consideration is we are keeping our word. First and foremost, it is critical that the Republican Party keep its word to the American people. It is the only way to restore credibility, and when we come to the floor today, we are going to downsize this operation of the Federal Government, and we are going to give families, the building block of this Nation, it needs to be reinforced, in some cases it needs to be rebuilt, the American family is going to get some of their money back so that they can decide, individuals can decide, how to spend money on their children, not leaving it up to bureaucrats to decide.

Second, we have a growth element. We say we want to increase the size of the funnel so that we can pour more prosperity, have more job creation in this country. We are going to help the senior citizens by lifting the earnings limit. Let them work. Do not penalize them for work if they want to work.

We are going to have an IRA program. We are going to say to the people that if you want to save instead of punishing you in this country, we are going to give you an incentive to save.

Let me just say that this is the final leg of the Republican Contract With America. But it is the first downpayment on what we will follow up with in May, and that is to take this provision that gives tax relief and has growth in it, and we are going to marry it up in May with our budget resolution.

You know what we will achieve? What we promised last fall. We are going to balance the budget. We are going to save the future of this country. We are going to give Americans tax relief in the process, and we are going to shift power from this city back to where we live.

That is what the American people want. Those that fight against it are resisting the will of the American people, and you know, the beauty of what we do today, we not only give you tax relief, but we also have more deficit reduction, $60 billion more in deficit reduction than the entire President's budget.

And you know what, when it comes to deficit reduction and balancing the budget, you ain't seen nothing yet. We will be back in May to complete our job, to keep our word and save America and future generations.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, this is not a good tax-cut bill. In fact, there are two tax shelters within it which will make all the other tax shelters even enacted by this body pale by comparison, with regard to the abuse that they will enable people to take advantage of.

But the worst part of this, of what we are to do today, is not even the bill, it is the rule. We are going to consider legislation which was rejected by the committee of jurisdiction, and under the guise of tax fairness, and not breaking contracts, we are going to increase taxes on each Federal employee by an average of $4,525, to provide a tax cut of about $1,000 to the average American.

And talk about breaking contracts, when each Federal employee had to decide how to provide for the retirement security of their wives and children, we told them we would never break this retirement contract, and today we are going to break it. We are going to require them to lose retirement benefits, and to increase their retirement contribution by 313 percent.

This day will go down in infamy if we pass this bill, and particularly if we do not reject this rule.

Mr. MOAKELY. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas [Mr. STENHOLM.].

Mr. STENHOLM. Mr. Speaker, we have come to the end of a long and exhausting 100 days to take up this final piece of the Contract With America, which I have supported 70 to 80 percent thereof.

Unfortunately, though, what we have before us today is not a crown jewel but, rather, fool's gold.

You know, it was about 2 years ago at this time that we were on the floor trying to pass the rule for another high-profile, highly controversial piece of deficit-reduction legislation. As seems to be my destiny, my role leading up to that vote was to provide better assurance of true deficit reduction. We wanted to try to start to get some sort of handle on the entitlement spending which is increasingly driving our deficits.

Let me tell you about the reaction I received for my efforts when we reached the floor from this side of the aisle. I heard about skepticism, cynicism, I was lectured about meaningless guarantees which had no teeth. I was considered gullible for accepting promises of what would happen tomorrow rather than demanding the deal be closed today.

Now we come to today's vote when I hear I do not need to worry about deficit reduction in this bill. I am told the guarantee is already there. I am assured that we can have the promised land, both massive tax cuts and a balanced budge with borrowed money.

Well, the tax cut promises could not be any clearer. But just how does today's deficit-reduction guarantee stack up against the agreement I worked for 2 years ago, the guarantee which was deemed so inadequate, so toothless, so meaningless? Well, we had proposed laying out specific, numeric entitlement targets. If those targets were exceeded, we would have required the House Committee on the Budget to report a budget resolution which brought us back in line with spending cuts.

Now, does today's guarantee have such a requirement? No, it does not. We said that if the budget resolution or budget conference report breached the targets, the bills could not even be considered on the House floor.

□ 1345

No such prohibition in today's bill. We said, if the Congress decided to increase those targets, in other words, they chose to spend more money, a separate vote had to bring that provision into the political sunshine. No such sunshine in today's bill.

As one who has been criticized for alleged weaknesses in spending discipline proposals, which were 100 times stronger than the rule we have today, would somebody please tell me why I should accept this "trust me" language before us today? I refuse to trust anything other than an honest, enforceable guarantee that these tax cuts will not come at the expense of my children and grandchildren. I refuse to adorn myself with the jewels of political slogans and then hand to my children and grandchildren those worthless minerals passed off as gold.

Tax cuts with borrowed money is no bargain. Vote "no" on this rule and vote "no" on this bill.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I urge my colleagues to reject this rule.

It does not comply with what the Contract With America said, that we are going to have a open debate on tax issues. There is no opportunity for us to offer an amendment. It breaks the promise that we would have specific spending cuts before us before we would be asked to vote on a tax cut.

What this bill attempts to do is to use a phony mechanism for saying that we have to pass a budget reconciliation before the tax cuts become effective. But after we do that, the tax cuts become permanent.

I hope my colleagues will read the Balanced Budget and Emergency Deficit Control Act of 1985, because that is what we did in 1985 with the Gramm-Rudman proposal. By the way, that bill required us to have a balanced budget by fiscal year 1991.

The tax cut in this bill is permanent. The spending cuts are 1 year, and they do not even give us anywhere near the amount of money. Let us do deficit reduction first.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. I thank the gentleman from Massachusetts for yielding this time to me.

Mr. Speaker, I rise to state my opposition to the rule for H.R. 1327. This rule does not permit a number of very important amendments which are critical to improving this bill. It does not permit the Roberts-Ganske amendment to direct the child tax credit to middle-income families; it does not permit the Porter amendment to require that our budget be balanced before tax cuts go into effect; and it does not permit an amendment I offered with several of my colleagues to remove the tax hike that this bill imposes upon Federal employees. A tax hike in a so-called tax reduction bill.

Title IV of H.R. 1327 would require Federal employees to pay an additional 2.5 percent toward their retirement system. An average Government worker making $20,000 a year would have to pay an extra $500 per year, and the employee making $30,000 would have to pay an additional $750. These are hefty sums for middle-class workers. Whatever happened to our contract with the Federal work force?

Title IV also would change the retirement formula to reflect the highest 5 years of salary as opposed to the present formula based on the highest 3 years. This provision would affect postal workers as well as civil service employees. Changing the retirement formula reduces the lifetime retirement benefits by 4 percent.

The General Accounting Office, just this week, issued a statement in support of the conclusions reached by the Congressional Research Service [CRS] on the status of the civil service retirement system. The report states that:

> (1) the system's unfunded liability is not a problem that needs to be fixed to avoid steep increases in outlays from the Treasury or increases in the deficit and (2) the system is not insolvent nor will it become insolvent in the future.

Mr. Speaker, Federal employees have borne the brunt of deficit reduction for more than a decade. Why are we once again taxing an already overburdened work force? Why have we tucked into this tax bill provisions that were never approved by the Government Reform and Oversight Committee?

I oppose the rule, and I ask my colleagues not to support a tax bill that will harm the more than 2 million Federal workers and their families nationwide.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the Republican whip, the gentleman from Texas [Mr. DELAY], one of the outstanding Members of this body.

Mr. Speaker, boy, he has surely earned his medal in the last 100 days, I will tell you.

Mr. DELAY. I thank the gentleman for yielding this time to me.

I hope I do not take the 3 minutes, but I appreciate all work that the chairman of the Committee on Rules has done on this issue. I know it has been very, very hard for all the Members because this is a very big and important bill. Everyone wants a piece of it, but not everyone got what they wanted, and there are some "push me, pull you" going on on the rule. I appreciate that. But you have got to also appreciate the hugeness of this bill and what we are trying to do.

Mr. Speaker, I rise in strong support of this rule, and in strong support of the Tax Fairness and Deficit Reduction Act.

Last November, the American people spoke loud and clear by voting in the first Republican majority in the House in 40 years.

The message voters sent was simple: Cut our taxes and cut Federal Government spending.

The new Republican majority has heard that message, and today we start to deliver on our promise.

The rule we have before us is a fair one. It gives the Democrat minority a chance to offer an alternative while keeping the integrity of the Republican majority package.

The rule also gives the American people a very clear choice.

You can vote for a Democrat package that contains no tax relief for middle class Americans. Or you can vote for the Republican package that finally begins the process of talking the tax burden of the American people.

I am reminded of the vote we had in 1993, when President Clinton and the leadership in the Congress voted in a tax increase that hit seniors, hit the middle class, and slowed economic growth.

Two hundred forty billion dollars' worth of tax increases. All we are doing is allowing people to keep $190 billion of those taxes for themselves to spend the way they think it ought to be spent. Not one Republican voted for that tax increase.

So today I urge my colleagues on the other side of the aisle to join with us in righting the wrongs of 1993. Vote to stop taxing our seniors, vote to allow middle-class families to keep more of their money, and vote to create jobs for our workers.

We have been asked how do you balance the budget by cutting taxes? Well, we have shown you that we honor our promises with passing the Contract With America; we will also show you in May when you cut taxes, as President Kennedy and President Reagan did, revenues go up and as we cut spending and the size of this Government, the cost of government goes down and the American people are allowed to hold onto their money and spend it the way they think is important.

So I urge all my colleagues to vote for this rule, vote for job-creating, deficit-cutting, the Tax Fairness and Deficit Reduction Act.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong opposition to the rule before us. The majority leadership is desperate to convince this House and the American public that this is a bill for middle-income Americans. But their very rule snuffs out an amendment offered by Democrats and Republicans alike to ensure that it goes where it ought to. The bill, the amendment I offered is a case in point. It would have established tax fairness in the deductibility of health insurance. Presently corporations can deduct 100 percent, self-employed individuals 30 percent, other individuals paying their own premium, nothing at all. The bill I introduced would have allowed an 80-percent reduction in premiums paid by individuals. This would have made coverage more affordable for their families and would have installed tax fairness. That is why my amendment was supported by the Farm Bureau, supported by the Farmers Union, supported by the National Association of the Self-employed. And we do not even get a vote. In fact, when the Committee on Rules addressed this issue, at least one said, "We don't want to open up the Tax Code on this issue." Well, they opened up the Tax Code for America's most wealthy; why will they not open up this bill for an amendment to help working Americans?

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, more than half of the tax cuts proposed by the Republicans today for individuals will benefit families earning over $100,000 a year, and more than a quarter of the tax cuts will go to families earning over $200,000 a year.

The highest-earning 1 percent of families will get more in tax cuts than the 60 percent of families at the lower end of the income scale.

This is the Robin Hood proposal in reverse. We savagely cut programs for the poor and the vulnerable, and we give huge tax breaks to the rich and the powerful.

Mr. Speaker, this is bad legislation because it does not allow us to debate the tens of billions of dollars in corporate welfare that goes to rich and large corporations. It does not allow us to debate the propriety of millionaires saving huge amounts of money on mortgage interest deductions. This is bad legislation, a bad rule; let us defeat it.

Mr. Speaker, politics and much of what goes on here in Congress is really not very complicated. Everybody here understands that the majority of poor and working people don't vote and, for a variety of reasons, don't have much confidence that what happens here is relevant to their lives.

On the other hand, the wealthy and the powerful do vote, do contribute very heavily to the political parties, do have well-paid lobbyists and lawyers working full time for their interests. And that in a nutshell is why the rich get richer, the middle class is shrinking, and the poor are becoming poorer and are facing a terrible onslaught from the leadership of this House.

Mr. Speaker, during the last several months some of the wealthiest people in America and representatives of the largest corporations came together to contribute $11 million in one night to the Republican Party. Others came together for a $50,000-a-plate fund raising dinner with NEWT GINGRICH to raise money for a rightwing television network. Corporation like Amway and Golden Rule Financial have been contributing hundreds of thousands of dollars into Republican party coffers.

And today, Mr. Speaker, is payback time. After cutting back massively on programs for low income people, on programs for children, on programs for the elderly, for students, for the homeless, for people with Aids, today is payback time for the rich and the powerful. Today, they get the return on their campaign contributions to the Republican party.

Mr. Speaker, according to the Treasury Department, more than half of the tax cuts proposed by the Republicans for individuals will benefit families earning over $100,000 a year, and more than one quarter of the tax cuts will go to families earning over $200,000 a year. The highest earning 1 percent of families will get more in tax cuts than the 60 percent of families at the lower of the income scale. For the very highest income people, the top 1 percent, the Republican proposal creates an average tax reduction of $20,362, for the lowest income 20 percent taxes are reduced by all of $36.00. The Robinhood proposal in reverse. We cut savagely programs needed by the poor and vulnerable in order to give tax breaks to the rich and the powerful.

Mr. Speaker, this is a bad bill because it does not allow us to provide rational alternatives to the tax breaks for the rich scheme that is being presented today. It does not allow us to cut the tens and tens of billions of dollars in corporate welfare that the largest corporations in America receive. It does not allow us to debate the propriety of millionaires saving large sums of money in taxes from the mortgage interest deduction on their palatial mansions. It does not allow us to remove Federal subsidies for such Federal agencies as OPIA, the Overseas Private Investment Association in which tax payers are paying to see their own jobs go to third world countries.

Mr. Speaker, we need open and vigorous debate about how we can move toward a balanced budget in a fair and progressive way—not on the backs of the weak and the vulnerable. We need fair and open debates to begin the process of eliminating the tax loopholes and the subsidies which the wealthy in large corporations receive.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Utah [Mrs. WALDHOLTZ] an outstanding Member and the first Freshman female Republican Member to serve on the Committee on Rules since the First World War.

Mrs. WALDHOLTZ. I thank the gentleman for yielding this time to me.

Mr. Speaker, today we will have the chance to vote on a bill that will help restore tax fairness to families and senior citizens.

For too long, American families and seniors have seen their tax burden rise. Today, the average American family pays more in taxes than it spends on food, clothing and shelter combined. Some senior citizens now face a marginal tax rate of 85 percent—a rate much higher than that of other Americans.

The problem is not that the Government taxes too little; the problem is that it spends too much. The American people are simply overtaxed. The Tax Fairness and Deficit Reduction Act recognizes families for what they are—the basic building block of American society. It will give them the tax relief they so desperately need and deserve, and despite allegations that this bill is for the wealthy, seventy-six percent of the tax cuts go directly to families.

The $500 per child tax credit will help nearly one-quarter million parents in my State of Utah alone. Listening to the other side of the aisle you would think that only wealthy people have children. But, 75 percent of the family tax credit goes to people with incomes of less than $75,000.

Our bill recognizes the invaluable contribution homemakers make to the family by allowing nonworking spouses a full $2,000 deductible IRA contribution instead of the current $250, helping homemakers provide for their retirement years and recognizing the value and worth of their work at home.

Our bill also helps senior citizens. Under the Clinton tax bill our seniors were unfairly singled out for higher taxes through an increase on their Social Security. Our bill will repeal that tax increase and restore tax fairness to elderly Americans. In addition, we will help remove the penalty for seniors who choose to work in their sunset years by raising the earnings test limit—rewarding rather than punishing working seniors.

The tax money we collect is not ours, it belongs to the taxpayers. As we cut

Government spending and reduce the size of the Government and balance the budget, we need to let people keep more of the money they earn. I encourage my colleagues to support this rule, and this bill.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas, [Mr. DOGGETT].

Mr. DOGGETT. I thank the gentleman for yielding this time to me.

Mr. Speaker, it is true the circus is in town, but not really the roar of the lion that we hear today. The significant thing is a certain mooing sound that is underway. You see, I do not believe we will ever get the budget in balance without a true bipartisan effort. I thought we were headed in that direction because I have a letter here that was signed by 105 Republican Members who said that they recognized there was a need for more money for deficit reduction and they could change their tax proposal and apply it to only 85 percent of the families in this country and provide an additional $12 billion to $14 billion in deficit reduction.

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That represented a half step, and it is sure a lot better than the lockstep we have seen most of this session of Congress. But somewhere along the way that all changed. We are not going to have a chance to vote on that proposal of 105 Republican Members because somewhere along the way the Speaker said "no," and I do not know what it is that is so persuasive about him, but sometimes I get the feeling that, when these Members are around him, they are so cowed, I can almost hear them moo.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, in this tax bill, where are the tax breaks designed to improve the lives of ordinary Americans? This bill has provisions to allow Exxon to write off expenses on capital improvements, but there are no breaks for students that try to improve themselves through higher education. The greatest threats to our Nation's economy are soaring deficits and the erosion of the middle class. Today's tax cut legislation will not remedy any of these problems. Instead it places the burden of future deficits squarely on the backs of working Americans.

Economic indicators tell us that the economy is growing at a strong, steady pace. Do we really need to stimulate it with massive tax cuts for wealthy Americans and big business?

We should take advantage of a healthy economy and follow a prudent course of deficit reduction that will solidify our financial base. Let us send a message to Americans that Congress is making honest spending cuts that pay off our debts. Tying spending cuts to budgetary gimmicks further undermines the credibility of this institution.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise against the rule and the Republican tax cut for the wealthy that this rule allows, a Republican tax cut plan where, according to the Citizens for Tax Justice, more than 71 percent of total capital gains tax cut breaks goes to those who make more than $200,000 a year.

The question is: Who is going to pay? School lunches are getting cut. Elderly are getting tossed out of senior high-rises because they are reducing the amount of subsidies for the elderly to have affordable high-rises. In addition, they have not let the students alone either. They are now going to tack on interest payments for student loans starting the day the student enters the university.

This is not progressive and far from being the middle-class tax cut that the Republicans would have us believe because it is putting the burden on the students, and who gets the break? The people who have the most money.

It figures. It is the Republicans all over again.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. MARTINI], another outstanding freshman Member who was helpful in writing in the language that is going to bring us to a balanced budget.

Mr. MARTINI. Mr. Speaker, as we have kept our promises these first 100 days, we have made the democratic process work. This week it will continue to work with the passage of this rule and this bill.

Mr. Speaker, as originally written I must confess that I was concerned that the tax package in the Contract With America did not place enough emphasis on deficit reduction. Mindful of that concern, a group of us, including the gentleman from Delaware [Mr. CASTLE], the gentleman from Michigan [Mr. UPTON], the gentleman from New York [Mr. SOLOMON], and a host of others from both sides of the aisle, worked with the Republican leadership and fashioned an agreement on the issue that makes it entirely clear to the public that in passing tax relief we will not abandon our pledge to bring the deficit down to zero.

According to the new provision, the tax cuts in the bill cannot go into effect until a budget is passed, putting us on course to a balanced budget in the year 2002, and each year thereafter Congress will have to revisit our deficit reduction goals to make sure we stay on track.

Mr. Speaker, I am pleased to say that with the addition of these provisions to this original bill my concerns have been satisfied. A good bill has been made better, and the process is working again. I urge support of this rule and this bill.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS], the former chairman of the Committee of Ways and Means.

Mr. GIBBONS. Mr. Speaker, this is a time when we, as Members of Congress, should be deliberative and we should take our time in doing the Nation's business. This is a very, very important piece of economic legislation. It is a very, very important piece of social legislation. The Senate, when it will look at it, will call this a $700 billion tax cut. That is because they prefer to look at it in its longer term rather than the very short term that we House Members look at it.

This is the wrong time in America's history to be cutting taxes. This is a time in America's history to be cutting the deficit. Why? Because America is at full employment today. Why? Because America is using its maximum factory capacity utilization today. Factory capacity utilization today in America is the highest it has been in 15½ years. The Federal Reserve knows it; that is the reason why they have increased interest rates 7 times in the last 14 months. Every sensible economist knows that this is the wrong time to be cutting taxes. They tell us it is only time, the right time, to cut the fiscal deficit.

This bill, when it comes up, and it is going to come up, they have twisted enough arms to get it up, is an inequitable piece of social justice. Let us take the capital gains issue. It is a huge item in all of this, and who gets it? Only 8 percent of all taxpayers ever take a capital gains, 8 percent. But in this bill one-half of the capital gains will be taken by the upper 1 percent of our income earners every year, and they will take them every year, not just one time in a lifetime like most Americans.

Let us tell the truth about the capital gains thing. Eight percent of Americans ever take a capital gain. Of that 8 percent, more than half of it goes to those above $200,000, and I say, "If you look at those people again, they're not just taking one or two capital gains in a lifetime. They take multiple capital gains every year." And what do they do? They are just swapping their equities around between each other. Somebody buys their bad investment if they want to get rid of it. There is no creation of additional capital. It is just a game there.

So it is bad economic justice, it is bad social justice.

Now let us take the family credit. When the Republicans first introduced this bill, they gave a family credit, to low income individuals, those below $50,000. The gentleman from Texas [Mr. ARMEY] stood on the Capitol steps out there with the bill on September 27, 1994, and shook it into everybody's face, but this bill takes away 13 billion dollars worth of family tax credit from all those families earning less than $50,000 a year. That is not fair, that is not just, and that is not correct.

The SPEAKER pro tempore. (Mr. GOODLATTE). The time of the gentleman from Florida [Mr. GIBBONS] has expired.

Mr. MOAKLEY. Mr. Speaker, does the gentleman from Florida want another minute?

Mr. GIBBONS. Yes.

Mr. MOAKLEY. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida. I just did not want to slow the gentleman down when he got that steam going.

Mr. GIBBONS. Mr. Speaker, I appreciate it, and I say, "You know I appreciate you, Mr. SOLOMON, but you gave me an hour to ration between 204 Democrats. I've been swamped for requests for time. They would like to stay here and debate this."

I see the Speaker standing in the back there chatting with the chairman of the Committee on the Budget, and I say, "We welcome you here, Mr. Speaker. We don't see you as much as we used to, but we're glad to have you here today. Have you gotten off the elephant out there in the circus. or are you coming in here to ride this elephant?"

Mr. Speaker, this is a lousy bill. It is the wrong time to be reducing taxes. We ought to be reducing the deficit now. We should not be cutting taxes the way we are doing it. It is reckless, it is irresponsible, it is bad policy for the American economy, it is bad policy for the American people.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to this closed and restrictive rule. I cannot believe that my colleagues in the majority, who claimed that they would open up this House, could come to us with a straight face and gag this Chamber with a rule that restricts us to 5 hours of debate on a matter of such gravity for the Nation's future—$630 billion to be exact.

While I dare say that H.R. 1215 is far from the crown jewel that it has been touted to be by some, I will be the first to admit that the bill makes several changes in the Tax Code that I think are long overdue: easing the tax burden on senior citizens, providing tax credits for expenses incurred when adopting a child or caring for an elderly parent or grandparent in your home, and indexing capital gains. I would like to support provisions such as these, but this rule doesn't allow me to do that in a fiscally responsible manner. We are told to take all or nothing, and if that is the case I will have no choice but to vote no.

Mr. Speaker, I will not vote for a bill that will enable some of our wealthiest corporations to avoid taxes altogether while giving just $90 in tax relief for a family with an income of $20,000, and then forces massive cuts in programs that would have a devastating impact on hardworking Americans. For the citizens I represent in New York, this bill spells higher transit fares, devastating cuts in Medicare, reduced student loans, hungrier school children, less affordable child care, and fewer police on the beat.

One of the bill's more offensive provisions is the repeal of the corporate alternative minimum tax, which was instituted in 1986 because more than half of the Nation's most profitable corporations had been able to utilize various loopholes in the Tax Code to pay no Federal income taxes, even though they were reporting huge profits. The inequity of this situation was so clear that the Reagan administration supported establishment of a corporate AMT.

Repeal of the corporate AMT would clearly represent an inequitable shift in the tax burden. Seventy-four percent of the corporations who pay the corporate minimum tax have assets greater than $250 million. Given these facts, it is not surprising that its repeal was not originally part of the Contract With America. Instead, it was added in at the 11th hour, when the American people weren't looking and special interest lobbyists were hard at work.

Let me remind my colleagues that under this rule we will not have the opportunity to vote to restore the corporate AMT; to make the Social Security tax repeal effective immediately, as it should be; to help students pay for college; and to decide if the child tax credit should be available to the families of 35 percent of our Nation's children who need it most but who would not benefit from the credit as it is currently written in this bill.

I urge a "no" vote on this rule.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER], a very outstanding veteran member of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I rise in very strong support of this fair and balanced modified closed rule.

Now, when the gentleman from Florida [Mr. GIBBONS] came before the Committee on Rules, he requested a closed rule. We are not even going as far as the distinguished ranking minority member of the Committee on Ways and Means would like, but we do have a modified closed rule. It is a measure which is bringing to the floor an opportunity for us to do what the American people have said overwhelmingly that they want. They want us to try and reduce the size and scope of Government and allow them to keep a little bit of what they have earned.

Now, as I have been listening to the rhetoric over the past few minutes about us versus them, class warfare, I am very discouraged. I have enjoyed working for years with the gentleman from Florida [Mr. GIBBONS] on trade issues, but, when I hear him talking about the very few who will utilize the capital gains tax reduction versus those working individuals who do not or would not be able to, I cannot help but think of a column that appeared recently in the New York Post where Thomas Sowell said,

> Class-warfare politics is not just fraudulent, it is a cheap play on envy and a very serious disservice to the whole country. Not only does it divide us yet another way, it threatens the very process by which all of us have benefited economically.

□ 1415

This is a balanced approach. We want to recognize that we are in this together. The American people want us to responsibly deal with deficit reduction.

This bill is a very important step on the road toward a balanced budget. Why? Because every shred of evidence is that with this capital gains tax rate reduction, we are going to see an increase in the flow of revenues to the Federal Treasury. That increase is going to help us responsibly get to a balanced budget.

I urge support of this fair and balanced modified closed rule, and urge my colleagues to join us.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware [Mr. CASTLE] a former Governor of Delaware and one of the outstanding Members of this body, who has participated in writing the balanced budget legislation.

Mr. CASTLE. Mr. Speaker, I rise in support of the rule for consideration of H.R. 1215, the Tax Fairness and Deficit Reduction Act of 1995.

The American people deserve to keep more of their hard-earned money. They recognize that the Federal Government is collecting an ever larger share of their earnings and that the money it collects is often not well spent. Americans do not mind paying their fair share of the costs for our Nation's needs—protecting our national security, looking after those who truly need help. But the programs and operations of the Federal Government have become too big and far too inefficient. Excessive Federal spending has resulted in a national debt of $4.8 trillion and deficits of almost $200 billion adding to that debt every year.

Americans want relief from taxes, but what my constituents in Delaware tell me is that reducing the deficit, balancing the budget, and making the Government live within its means is what they want done first, I am happy to say that we now have language in this bill that will ensure that Congress acts to cut the deficit and balance the budget before the tax cuts can become law.

The Rules Committee has added an amendment offered by Mr. UPTON, Mr. MARTINI, and myself which states that the tax provisions in this bill cannot become law until Congress passes a budget resolution and reconciliation legislation that will result in a balanced budget by the year 2002. This provision reflects the will of our constituents: cut taxes, but not at the expense of balancing the budget.

By including this important provision in the bill we are insuring that Congress will have to face the difficult decisions to reduce Government spending. If Congress cannot make those decisions, the tax cuts will not go into effect. It is as simple as that.

The Castle-Upton-Martini amendment also adds two key requirements to force Congress and the President to continue to work toward a balanced budget.

After Congress passes the budget reconciliation legislation that places us on course to a balanced budget, in each subsequent year the budget committees and CBO must report on whether we are still on the path to balance in 2002. If we fall off course, Congress must consider ways to get back on course in that year's budget resolution. In short, Congress must take action if the deficit begins to increase.

Equally as important, this provision will require the President to join in this effort, by requiring him to submit a balanced budget each year. This year, President Clinton has chosen again to propose a budget that would result in annual deficits of $200 billion for the next 5 years. Under this amendment, if the President chooses not to officially submit a balanced budget, he would have to offer an alternative plan that shows how the budget could be balanced. It forces the President to face the same decisions the Congress must face.

Mr. Speaker, I support tax relief for families, savings incentives for individual Americans, and investment incentives for business. But, I am adamant about the critical need to balance the budget. I support the rule because it clearly links tax cuts to deficit reduction. My colleagues and I will continue this effort on the budget resolution and the budget reconciliation bill to ensure that we stay on course to a balanced budget.

I want to thank FRED UPTON and BILL MARTINI for their efforts on this amendment. I also want to acknowledge Mr. BROWDER and Mr. ORTON for their leadership on the need for deficit reduction. Finally, I appreciate the work of JOHN KASICH and JIM NUSSLE, and the Republican leadership for working with us to make this provision part of the bill. I urge support of the rule and approval of the tax fairness and deficit reduction bill.

Mr. MOAKLEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I rise to oppose this rule as a noninclusive rule and hurting the American people.

Mr. Speaker, I rise in strong support of the Democratic substitute to H.R. 1215. The Democratic substitute benefits primarily low- and middle-income Americans. Whereas, H.R. 1215 benefits primarily wealthy Americans with incomes above $200,000.

The Democratic substitute sponsored by my colleague, RICHARD GEPHARDT of Missouri, ensures that 100 percent of the benefits of the tax cut will accrue to families with adjusted gross income of less than $100,000. Moreover, it permits us to invest in human capital by allowing middle-income families to deduct up to $10,000 in educational expenses per year.

Furthermore, the Gephardt bill encourages Americans to emphasize savings for their retirement years by expanding the number of taxpayers who would be eligible to deduct contributions to individual retirement accounts [IRA]. This is accomplished by raising the adjusted gross income level requirement from $35,000 to $50,000 for single taxpayers and $60,000 to $75,000 for couples who file joint tax returns.

The Gephardt bill also affirms our commitment to balancing the Federal budget. This bill requires certification by the Office of Management and Budget [OMB] that the Federal budget will be balanced in fiscal year 2002. H.R. 1215 fails to incorporate the requirement that deficit reduction be a priority.

Frankly, the Democratic bill promotes fairness, maintains fiscal responsibility, and strengthens American families. And finally it is a good commonsense tax bill because it invests in our people—college loans for students—part of America's future.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing I would like to urge Members to defeat the previous question. If the previous question is defeated, I intend to offer an amendment to the rule which will allow Members to vote on several amendments:

The Ganske amendment, which lowers the eligible income level for the child tax credit;

The Kennelly amendment relating to taxable income for the blind;

The Browder amendment tying the tax cuts to deficit reduction;

The Wolf amendment which strikes the tax increase on Federal workers; and

The Nadler-Lowey amendment which restores the pre-1993 lower tax rate for middle-income seniors immediately rather than being phased in as the bill does.

And many others as well.

This will be the only opportunity on this bill to have votes on these issues affecting Federal workers, the blind, the middle class, deficit reduction, and the elderly. I urge Members to vote "no" on the previous question.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I have here the U.S. Tax Code. It is the fear of every American. If we had an open rule today we would open it up, and gosh knows what would happen.

Mr. Speaker, we have heard a lot of complaining about the tax cuts in this bill, but I wonder if the real opposition is to the fact on something we have not heard about much here today. Is there $100 billion in real spending cuts in this bill? That is what Members are going to be voting for.

You know, I said at the time when we opened this debate that a vote on this rule is going to be a vote for a balanced budget. Let me tell you, a vote against the rule is going to be a vote against a balanced budget.

What the people are really afraid of is the language that appears in this bill, and it says, "* * * the budget of the United States will be in balance by the fiscal year 2002." And the second part of it is something they fear even more. It writes into law "the aggregate amount of deficit reduction to effectuate the reconciliation instructions required for the years covered by that resolution necessary to so balance the budget."

That will become the law if you vote for this rule and the bill it will bring up.

Mr. Speaker, when you look at this chart, you see that President Clinton projected, when he gave us the budget a few months ago, another $1 trillion, $996 billion, added to the debt. What is compassionate about that, to load that kind of deficit on the American people and their children and my grandchildren?

We can have a chance to do something about it right now. Vote for the previous question.

Mr. NADLER. Mr. Speaker, I rise to oppose this rule on the Tax Fairness and Deficit Reduction Act, H.R. 1215.

The Contract With America states that "within the first 100 days of the 104th Congress, we shall bring to the House floor the following bills, each to be given full and open debate, each to be given a clear and fair vote and each to be immediately available this day for public inspection and scrutiny." With a closed rule on the tax bill, the Republicans have not provided, as they said they would, for a full and open debate on this crucial legislation.

I would agree that many Americans need tax relief, and that we must do all that we can to ensure fairness for our seniors and families. That is why I offered two amendments to this legislation which would have furthered these very important goals. But, unfortunately, full and open debate on these amendments was denied, and the Members of this House will not have the opportunity to vote on these amendments.

My colleague from New York, NITA LOWEY, and I introduced an amendment which would repeal immediately the increased tax on Social Security benefits rather than repeal it over a 5-year period, as the Republican bill does. While our amendment would have granted seniors immediate tax relief, and would have been paid for by striking from the bill a repeal of the Corporate Alternative Minimum Tax—making corporations pay their fair share of taxes—it was, nonetheless, rejected by the Rules Committee. When we raised this issue of equity regarding our Nation's seniors we were hushed.

While this bill does much to provide significant and immediate tax relief for wealthy corporations, it delays tax relief and fairness for our Nation's seniors. While the Republicans state that this bill will provide fairness, this, to me, does not seem fair.

Repealing the Social Security tax increase immediately and paying for it by requiring Republicans to retain the Corporate Alternative Minimum Tax is only fair and equitable. The Alternative Minimum Tax was adopted to stop the practice of large corporations using the talents of high-priced tax lawyers to contrive ingenious loopholes that enable them to escape all taxation. To provide these huge tax giveaways to corporations and not provide immediate tax relief and fairness to our Nation's senior would be the height of unfairness and hypocrisy. It would be a moral outrage to allow or Nation's most profitable corporations to cease paying income taxes immediately, while requiring seniors to wait half a decade for tax relief.

Mr. Speaker, after restoring fairness to seniors by repealing the Social Security tax increase immediately, our amendment would have left approximately $7 billion for deficit reduction—almost half of the amount of appropriations this House rescinded earlier this month for this very purpose.

Our amendment would have significantly reduced the deficit, while restoring tax fairness to our Nation's seniors, but the Republican leadership would not allow this fiscally prudent amendment to be considered on the House floor.

Our amendment would have done the right thing by making profitable corporations pay their fair share and lifting this unjustified increased tax burden off senior citizens immediately.

I asked, again with no success, that the Rules Committee consider another one of my amendments. The amendment would simply index income taxes to reflect regional differences in the cost of living. These differences mean that an income which might make one well off in, say, rural Arkansas, would barely afford a middle-class lifestyle in New York or Dallas. Yet the current Tax Code, by taxing nominal, rather than regionally adjusted, incomes, treats each of these taxpayers as if their incomes were economically equivalent.

We know that this is not the case.

People living in high cost-of-living areas, like New York City, should not be penalized by the tax system. By regionally adjusting income tax brackets, we can make the tax burden on American families more fair and equitable.

Furthermore, I find it ironic that this rule waives the requirement for a three-fifths vote in order to increase taxes. The Republicans passed a rule earlier this Congress which would require that in order to increase taxes the House had to have a three-fifths vote. Now they are waiving this rule for the purposes of passing their tax bill which gives tax breaks to the wealthy. The hypocrisy here again is blatant.

Mr. Speaker, this bill is unfair and I urge my colleagues to oppose this rule.

Ms. DUNN of Washington. Mr. Speaker, I rise in strong support of this rule.

Two years ago, the liberal Democrats voted for the largest tax in history. Today, we right that wrong by allowing the American people to keep more of their hard-earned money.

The Republican Tax Relief and Deficit Reduction Act accomplishes many things for American families. One of the most symbolic and important is the provision that corrects an inequity against the American homemaker.

Mr. Speaker, the current Tax Code treats American homemakers, who are overwhelmingly women, as second class citizens.

In the eyes of the Federal Government, the work of the homemaker is not as valuable as the work of her husband.

For tax purposes, a single-income family can set aside for retirement roughly one-half what a dual-income family can. Our spousal IRA proposal allows the work-at-home spouse to save $2,000 just like the spouse.

This rule, and the Republican tax relief bill, acknowledge the value and hard work of the millions of homemakers in America.

Support this rule, support homemakers, and support the families of America.

Mr. SOLOMON. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 203, not voting 2, as follows:

[Roll No. 289]

YEAS—230

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—203

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—2

Reynolds
Stark

□ 1437

Mr. DAVIS changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOAKLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 204, not voting 3, as follows:

[Roll No. 290]

AYES—228

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—204

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Horn
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
LaHood
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
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Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates

NOT VOTING—3

Pomeroy
Reynolds
Waters

□ 1455

Mr. TAUZIN changed his vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. POMEROY. Mr. Chairman, I regret that I was not present for rollcall vote No. 290, the rule to provide for the consideration of H.R. 1215, the Contract With America Tax Relief Act of 1995. I was unavoidably detained in a meeting with Office of Management and Budget Director Alice Rivlin regarding Missouri River flood control. I spoke on the floor of the House twice against the rule and, had I been present, I would have voted "no."

PARLIAMENTARY INQUIRY

Mr. MORAN. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman will state his parliamentary inquiry.

Mr. MORAN. Mr. Speaker, it is my recollection that this body passed legislation earlier this term, in fact, on the first day of this session, that required that any tax increase be passed with a three-fifths vote of this body.

Since there is a tax increase to be leveled on Federal employees, in the case of the Federal Employees Retirement System, a 313 percent increase on their retirement contribution; in the case of the Civil Service Retirement System there was a 35 percent increase in their retirement contribution. This is clearly a tax increase, Mr. Speaker.

Therefore, it seems to me, to be consistent with the legislation this body previously passed, it would require a three-fifths vote. I would reserve my point of order, but I would make that parliamentary inquiry at this time.

The SPEAKER pro tempore. The Chair will take the gentleman's inquiry under advisement and rule on it at the appropriate time.

Mr. MORAN. Mr. Speaker, I would ask, when would be the appropriate time for a ruling on this parliamentary inquiry?

The SPEAKER pro tempore. Pending final passage of the legislation.

Mr. MORAN. Mr. Speaker, when would I be able to get a division of the question on that issue?

The SPEAKER pro tempore. The Chair will state that the rule relates to the vote on passage. The question becomes ripe for the House upon passage of the legislation.

Mr. MORAN. Mr. Speaker, the rule said that all points of order are waived, but yet I am making an inquiry as to whether this is consistent with previously passed legislation of this body.

□ 1500

It seems to me this then ought to enable us to call for a division as to the ruling of the Speaker. What I want to understand is when that might occur, when this body might be able to vote on that ruling.

The SPEAKER pro tempore (Mr. GOODLATTE). If the gentleman will suspend. At this point the Chair is merely not responding to an anticipatory parliamentary inquiry. The Chair will rule at the appropriate time.

Mr. MFUME. When is the appropriate time, Mr. Speaker? When is the appropriate time?

The SPEAKER pro tempore. The appropriate time is upon final passage.

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 1215, the bill about to be considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONTRACT WITH AMERICA TAX RELIEF ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 128 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1215.

□ 1501

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1215) to amend the Internal Revenue Code of 1986 to strengthen the American family and create jobs, with Mr. BOEHNER in the chair.

The Clerk read the title of this bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. ARCHER] and the gentleman from Florida [Mr. GIBBONS] will each be recognized for 1 hour; the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. SABO] will each be recognized for 30 minutes; and the gentleman from Virginia [Mr. BLILEY] and the gentleman from Michigan [Mr. DINGELL] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am proud to support this bill which may be the most concrete sign yet that the voters have ended 40 years of Democrat control over the House of Representatives. Just 2 years ago, the Democrat Congress passed the largest tax hike in history. Under the Democrats, tax increases were the answer to every question. In this bill, we proudly bring to a close the era of raising taxes on the working people of this country. When this bill is passed, the tax raising legacy of President Clinton and his party will officially be over.

It gives me great pleasure to look the American people in the eye and say, the days of tax and spend are over. The days of smaller Government and less taxes are at hand.

This is a bill to cut taxes. The tax cuts are fully paid for, as we promised they would be—and—in addition—we reduce the deficit by $30 billion more than President Clinton's budget.

The baseball strike is behind us, Mr. Chairman, and this bill is the first home run of the new season. We cut spending, we cut taxes, and we reduce the deficit. Washington, DC's old conventional wisdom said it couldn't be done. The mavins of the media were saying just this week, well, you don't have the votes, do you? Well, stand back because we're doing it—just as our Nation's Governors have done it in many States.

We signed a contract with the American people pledging to reduce the size of Government and let the American people keep more of their hard-earned dollars. With this bill, we are again keeping our promise.

Our tax cuts can be summarized in three words: family, children, jobs. Our tax relief package will help America's families, and it will create better jobs for those families to head off to every morning.

Over the next 5 years, the Federal Government will spend $9 trillion. Our cuts—$189 billion—represent just 2 percent of Federal spending. The Federal Government is too big, it spends too much, and it's about time we cut it down to size.

These tax cuts coupled with our pledge to get to a balanced budget will mean that when we get there, the government will be 2 percent smaller yet.

In our bill, 76 percent of the tax cuts go directly to families and the other 24 percent go towards job creation.

We bring tax relief to 42-million families through a $500 per child tax credit, 20-million people benefit from marriage penalty relief, and 7-million Americans will enjoy a new IRA known as the American Dream Savings Account. We provide adoption tax credits and we provide credits for those who take care of their ailing parents.

We help 5 million seniors by repealing the punitive 85 percent Clinton tax hike on those who earn as little as $34,000; we increase the earnings limit so seniors—just like the energizer bunny—can go on working, and working and working—for as long as they choose; and we provide long-term care tax relief and accelerated death benefits.

Finally, we provide fuel for the engine that pulls the train of economic growth by cutting capital gains taxes, repealing the alternative minimum tax, and by changing and improving expensing for small business.

The Democrats, who never met a tax they didn't hike—will again go off the deep end complaining about tax cuts. I have a simple message for the Democrats. It is not your money. It is the taxpayers money. It does not belong to the Government. It belongs to the workers who earned it.

When it comes to taxes, the two parties have very different views. Democrats think people work to support the Government. Republicans think people work to support themselves.

Democrats think tax money is their money. Republicans think tax money belongs to the taxpayers.

Democrats think tax rates should start at 100 percent and anything less than that is through the good graces of the Government. Republicans think tax rates should start at zero percent and anything more than that is through the good graces of the people.

The bottom line is this. When the Democrats see someone in the middle of their American dream, they shake them, wake them, and tell them their dream can't come true. Their message is: If you make it in America we're gonna get 'ya.

Republicans, on the other hand, want everyone to have an American dream come true. We want to open up opportunities; we want the magic of free enterprise to give every American the opportunity to become a rich American; and we want success to flourish in a million places, unhindered by the heavy hand of big government.

Our tax cuts are fair, they are good for families, and they will create jobs. That is why they are the right thing to do and that is why I ask for the support of members today.

The Contract With America promised lower taxes and less government. And that's the promise this bill keeps. Every one of you who votes for this bill today is confirming that you meant what you promised to the voters in September of last year.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, the gentleman from Texas [Mr. ARCHER] has just had a good time vilifying we Democrats. We believe there are times for tax cuts, we believe there are ways to tax-cut. We believe it is the wrong time to cut taxes now. This is the time to cut the deficit, not to cut taxes.

Mr. Chairman, I was here in 1981 and I want to just reminisce for a second and recall some of the things that went on in 1981.

In 1981, President Reagan was President, and his Office of Management and Budget Director Mr. Stockman appeared before the Committee on Ways and Means and he said this about the huge Reagan tax cut at that time:

> The combination of incentive-minded tax rate reductions and firm budget controls is expected to lead to a balanced budget by 1984.

Does anybody remember that that is when we began the huge deficit? Not to be outdone on that same day, President Reagan's Secretary of the Treasury Don Regan said this:

> If I know anything about the investing process at all, and I spent most of my adult career in that, I think we have a tremendous boom facing us as a result of what we are going to do today after we pass this tax bill.

Can anybody remember what happened? We had the biggest depression right after that, after that tax bill passed, that we had had since the 1930's. It is deja vu all over again. The same rhetoric, the same people.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. PORTMAN], a member of the committee.

Mr. PORTMAN. Mr. Chairman, after hearing the debate this afternoon, I think it is important that we back up a little bit and highlight the fundamental purpose of this tax relief bill. We are trying to strengthen the American family and yes, we are trying to encourage economic growth. That is what we are going to do with this legislation if we are able to enact it.

As the gentleman from Texas [Mr. ARCHER] told us moments ago, this new Congress refuses to be stuck in the old thinking, refuses to cling to the tax-and-spend policies of the past. Instead, it is simple. We believe in helping families and we believe in growing the economy through economic growth, not in growing big government.

History is a good guide here. In 1948, the average American family of 4 paid just 3 percent of their income to the Federal Government. By 1992 that Federal tax bill had increased to about 25 percent of family earnings. In 1993 Congress added to that by passing the largest tax increase in American history.

Common sense tells us that Congress has gone in the wrong direction. I would hope we would all agree on both sides of the aisle that it is fundamentally important for us to have economic growth, increase jobs and increase our global competitiveness. That is what this bill is all about. By eliminating the marriage penalty, by providing tax credits, by expanding IRA's, it encourages savings, savings we desperately need in this country and it encourages economic growth. Because it lowers the capital gains tax, relieves corporations from the obsolete burden of the alternative minimum tax, and permits small businesses to take tax deductions for needed investment, it will create jobs.

These and other changes will all enhance U.S. competitiveness, which we have to have in order to survive in the global economy of the 21st century.

☐ 1515

For those who argue that cutting taxes is incompatible with our goal of balancing the budget, let me be emphatic: This bill is paid for, more than paid for, with spending cuts. I could not do it without this commitment. As the gentleman from Ohio, JOHN KASICH, said earlier today, this is actually the first step toward a balanced budget. This is the down payment.

Mr. GIBBONS. Mr. Chairman, I yield 4½ minutes to the gentleman from Michigan [Mr. LEVIN], a member of the Committee on Ways and Means.

Mr. LEVIN. Mr. Chairman, this bill is not mainstream. This bill is extreme. This bill will not respond to the dreams of Americans. It is going to turn out to be a nightmare if it were to pass.

I was not here in 1981. I came here in 1983. I came here when Michigan was in a deep recession. I came here when unemployment rates were climbing to 17 percent in my State, 17 percent. There has been a lot of partisanship in this debate and a lot of rhetoric. I am not saying the 1981 act was the sole responsible cause of that recession. But it was part and parcel of it.

And here we go again. Here we go again. The basic thrust of this proposal is you cut taxes mainly for the privileged few, not only, but mainly, and everybody is going to benefit, and the deficit will disappear. That was the assumption in 1981 and now it is the assumption in 1995.

But what happened? The deficit skyrocketed. We know that, despite tax increases while I was here, that President Reagan supported to try to counteract what he did in 1981. The gentleman from Florida [Mr. GIBBONS] was here then for that experience. The gentleman from Texas [Mr. GONZALEZ] I see, and he was here, was forced to vote for tax increases because of the irresponsibility in 1981.

Do not say it helped the middle class. This chart shows what happened to incomes from 1973 to 1993, and it was not only because of the mistakes of 1981, but that was an important part of it.

What happened? This chart shows it all, it shows it all. Income stagnation for the middle class, income loss for low-income families, and who benefited? In those 20 years, 30 percent increases for the upper fifth percentile. I represent some of the upper fifth percentile.

I also represent those who are in the fourth quintile, and the third, and second, and the first. And I am not going to vote to help those in the upper fifth at the sacrifice of those in the lower fifth period, period.

It is bad, bad public policy.

So why are you doing it? You say the taxes are paid for. The gentleman from Florida [Mr. GIBBONS] referred to what was presented in 1982, and I read it. This is what was presented as the budget proposal for the fiscal year 1982. What will the surplus or the deficit be? Just 00.5. When you round it off, zero. That is what was said, and all your bill says is the same pledge has to be made.

It is not even a fig leaf, it is nothing.

So why are you doing it? I think in part because extremism does not learn by experience.

Second, because the moderates in your party on the Republican side have essentially lost their way and there is no such left. This may satisfy the contract, but it sure changes America.

This may be this crown jewel, rubies and sapphires for the privileged few. For the rest of America it is costume jewelry at best. Let us reject it. If we do not, I predict it will be dead on arrival in the U.S. Senate, but let us do our job here and vote no.

Mr. ARCHER. Mr. Chairman, I yield myself 1 minute just to respond to the gentleman from Michigan.

It is the same old story that we have heard. Figures do not lie, but, figures here can be so distorted. In 1981 there was a tax reduction. There were not the precise spending cuts that the gentleman from Ohio [Mr. KASICH] has insisted on and are in this bill. This will be precisely paid for, as confirmed by CBO figures. Not only that, but over and above the tax cuts it will reduce the deficit by $30 billion more than the Democrat President's budget proposal, by CBO numbers.

So the gentleman just is not on track with his figures.

Mr. GIBBONS. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. MATSUI], a member of the Committee on Ways and Means.

Mr. MATSUI. Mr. Chairman, I thank the gentleman from Florida, the ranking member of the Ways and Means Committee, for yielding me this time.

I think what both the gentleman from Florida and the gentleman from Michigan said was absolutely correct. I was here in 1981, and I would implore the Members of this House and this body to pick up the book by David Stockman, the Director of the Office of Management and Budget for President Reagan.

David Stockman, when he left the Office of Management and Budget wrote a book called "The Triumph of Politics," and he said in that book essentially that they knew that they would not achieve a balanced budget by 1984, 3 years after they passed this massive tax cut; and, you know, Ronald Reagan said we are going to have a tax cut, we are going to increase defense and cut spending and balance the budget in 36 months.

That was smoke and mirrors, and everyone now admits it was smoke and mirrors, and we are playing the same smoke and mirrors game again.

There is no way in 7 years we are going to achieve a balanced budget from a $350 billion annual deficit today and give tax cuts in excess of $188 billion, and that is what we are talking about, $188 billion over the next 5 years; and over the next 10 years, even with the Republicans' own actuarial studies, it will cost $640 billion over the next decade. There is no way you are going to be able to achieve that result with these tax cuts and balance the Federal budget at the same time.

The reason the Republicans feel comfortable and the reason this is probably going to pass today is they know the United States is not going to accept it because it is so extreme. Even Senator PACKWOOD said this is nonsense, they are not going to accept this. And so they have nothing to worry about, they are playing a little figment of imagination on the American public, and they are going to be able to go back home and say they passed these wonderful tax cuts that they know will never become law. Let me tell my colleagues, talking about this being paid for, they have $188 billion over 5 years. We do not even pay for it over 5 years. One of the first things is they have $10.5 billion in spending cuts on pensions. They could not even pass pension reduction out of their committee. That is why that bill did not come to the floor. The committee that has jurisdiction over this issue could not get a majority vote to pass it out. So that is a figment. There is $10 billion that they should subtract; they are unwilling to do that.

Then the $100 billion that they have of the $188, what happened there is the gentleman from Ohio [Mr. KASICH] the chairman of the Budget Committee, says he has got some illustrative cuts. Illustrative cuts. They are not in place yet. These are illustrative budget cuts he is talking about.

We will not see those maybe until the fall and who knows, let us see how courageous they will be in the fall of this year when they are going to have to cut over the next decade 100 billion dollars' worth of spending. That is the issue. And you know this is not a middle-class tax cut. I tell you, this is unbelievable, to consider this a middle-class tax cut.

We have Treasury Department numbers here. A family that makes between $30,000 and $50,000 a year, a family that makes between $30,000 and $50,000 a year under this proposal will get about a buck and one-half a day, about $560 a year. On the other hand, on the other hand, and listen to this, those that make over $200,000 a year, the middle class, will get $11,266 a year as a tax cut under this proposal. That is not a tax cut for working families, that is not a tax cut for middle-class families. And what is really frightening I think to the average citizen when they find this, if in fact this ever becomes law, is if we had huge deficits as a result of this misguided decision today, you will see interest rates go up, and what would you rather have, a $560 a year or buck-and-a-half a day tax break or would you rather have lower interest rates so you can buy a home or maybe your child can buy a home?

That is where your savings is, but interest rates will go up. I guarantee interest rates will go up if this ever becomes law.

But they know it will not become law. This is a little figment we are playing on the American public, but the reality is we should vote this down just to show we in this Congress, the House of Representatives have discipline, unlike what we are seeing on the other side of the aisle.

I urge a "no" vote on this particular bill.

Mr. ARCHER. Mr. Chairman, I yield myself 30 seconds.

There they go again, there they go again. Figures do not lie, but. Those were Treasury figures. They do not cite the Joint Committee figures that the congressional activities depend upon. The Treasury figures are so distorted that they are not credible. They were exposed as being noncredible in our committee when the Treasury witness was before us. Imputing rental incomes to somebody that owns their own home and saying that is income to you, this is ridiculous. These figures are just not credible.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD], a member of the committee.

Mr. RAMSTAD. Mr. Chairman, I thank the distinguished chairman for yielding me this time.

Mr. Chairman, for the first time in many American voters' memories politicians are keeping their promises. The new House majority promised tax relief, and we are keeping our promise.

The new majority promised to pay for our tax cuts and lower the deficit, and we are keeping our promise.

The new majority promised to create jobs. And we are keeping our promise.

One leading economist told the Committee on Ways and Means that 1.74 million new jobs will be created over the next 5 years from the capital gains tax cut. Economist after economist told the Committee on Ways and Means why we should reduce the capital gains tax.

As Allen Sinai put it, the capital gains tax reductions will "stimulate economic activity, increase jobs, capital spending and capital formation, improve national savings, increase entrepreneurship and raise economic output."

But, Mr. Chairman, even more impressive than all of these leading economists was the young 17-year-old in my district who came up to me recently after my remarks to his high school assembly. This young man, this young 17-year-old explained to me that he liked what I said about capital gains taxes. And I was a little bit more surprised, not used to this kind of a feedback from a 17-year-old high school student. I looked at this young man and I said, "Do you mind if I ask you a question? Do you have any capital gains?" He looked back at me and his eyes got about this big and he said, "No, not now, Mr. RAMSTAD, but someday I hope to."

Mr. Chairman, that is the kind of incentive we need to restore for all American taxpayers. Vote yes on H.R. 1327.

Mr. GIBBONS. Mr. Chairman, I yield myself 30 seconds, and hope the gentleman will not leave the floor. I hope that young 17-year-old gets a capital gains tax cut, but he would be better off playing the lottery. Only 8 percent of the American taxpayers ever win anything on the capital gains tax cut.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. PAYNE], a member of the Committee on Ways and Means.

Mr. PAYNE of Virginia. Well, Mr. Chairman, here we go again.

Fifteen years after George Bush warned the Nation about voodoo economics, my friends on the other side of the aisle are at it again. They are trying to tell the American people that a 5-year, $188 billion tax cut is an important stop along the road to a balanced budget.

This time the American people know better. They know, as I do, that this tax cut bill is fiscally and economically irresponsible. They know that you can't get something for nothing.

The American people know their history. They saw the national debt climb from less than $1 trillion in 1980 to more than $4.7 trillion today.

Americans know that tax cuts did not balance the budget in 1981. And they know that tax cuts will not balance the budget now.

Our constituents understand what uncontrolled deficit spending means for the family budget. This year, the typical American family of four will spend $3,100 just to pay interest on the national debt. This is not their total tax bill. Nor is it their share of the total national debt. It is simply the amount of money they will spend to pay off the investors, many of whom are located overseas, who have purchased Treasury bills and other debt instruments of the U.S. Government.

The best way to help American families is to cut the deficit and to bring down the crippling interest payments that our constituents have to pay each year. This is the tax cut the American people want.

Mr. Chairman, just 2 months ago, Democrats and Republicans came together on this floor and made history when we passed a balanced budget amendment to the Constitution. We did so out of a shared belief that we cannot continue to saddle American families with a national debt that saps our productive capacity, stifles investment, and causes so much of our wealth to be used just to service the national debt.

In that debate, we heard a lot of very sincere speeches about fiscal discipline, about the need to make tough choices, and about our shared obligation not to burden our children and grandchildren with an ever increasing national debt.

So what happened?

Here we are just 2 months later, and the tough choice that we are being asked to make is for a tax cut that will cost $188 billion over 5 years, and that will explode in cost after the year 2000.

Mr. Chairman, this bill is not my idea of fiscal discipline.

It is not the kind of tough choice that a $4.7 trillion national debt cries out for.

And it will do nothing to save our children and grandchildren from the crushing weight of the national debt.

All this bill does is to repeat the age-old Washington mistake of borrowing from our children to pay for what seems popular right now.

For the sake of deficit reduction, and for the sake of a stronger economic future for all Americans families, I urge my colleagues to reject this poorly timed, irresponsible legislation.

□ 1530

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ZIMMER], a member of the committee.

Mr. ZIMMER. Mr. Chairman, I thank the gentleman for yielding.

It is a sad reality that the average American family is earning no more today than it earned 20 years ago. This reality has led to frustration, it has led to pessimism, it has led to anger among middle-income Americans who are beginning to wonder whether, for the first time in our history, their children will not have a better life than they have had.

We Republicans are deeply concerned about the future of working Americans, but unlike the minority, we are willing to attack the cause of this problem. We understand that wages have stagnated in large part because we have a Tax Code that penalizes people who invest, people who save, people who take risks to create new jobs, good jobs. We tax capital gains at a rate that is higher than our competitors, and we tax capital gains that are attributable solely to inflation.

Even though it is quite obvious that a capital gains tax cut will help working Americans increase their standard of living, most Democrats hate it, because they are afraid that somebody who is rich might also benefit. To them, I would like to quote a Democratic Senator, JOSEPH LIEBERMAN, from Connecticut, who said:

> The argument of some Democrats against a cut in the capital gains tax—that the rich will benefit more than the rest of us—misses the point and is politically divisive. Lower- and middle-income people won't realize most of the tax savings for the obvious reason that they have less capital, but they could get something better: a job, if they have none, or a better job, if they are underemployed. After all, the whole idea of a capital gains tax cut is to induce people who have capital to move it into new investments that will make America more productive and competitive and benefit all of us with greater economic opportunity and security.

So said a wise Democrat, Senator LIEBERMAN.

Mr. GIBBONS. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. CARDIN], a member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Chairman, I thank the gentleman for yielding me this time.

I oppose this tax cut at this time.

Yes, there are some good provisions in the tax cut proposal that help American families. I support some capital gains relief and AMT relief, but there are some very bad things in this bill as well, including the neutral cost recovery system, the raid on the Medicare trust fund, and the relief tilted toward the wealthiest Americans. But the fatal flaw in the tax bill before us is that we must make deficit reduction our first priority. Whatever tax cut we pass, we have to borrow money in order to give the taxes back to our constituents, and that borrowing of additional money will cost our constituents more money.

The Republican bill that is before us will cost the American taxpayer an additional $17.7 billion in debt service over the next 5 years in order to pay for the $188 billion of tax relief. The net impact on the deficit will be an increase in the national debt of $206 billion over the next 5 years as a result of the bill that is before us.

So let us look at the results during the first 100 days. If you take a look at the specific spending cuts that have been passed in the House so far and what is in the bill before us, if we assume that the welfare reform bill will pass the Senate without change, which is very unlikely, if we assume that the rescission bill will stay at $12 billion net savings, and that will not change, and that will hold during the entire 5 years, if you assume that the other provisions in this bill will be enacted, and if you take the specific tax cuts that are proposed in this bill, you find that what we are doing is increasing the deficit over this period of time.

The spending cuts which are in blue are far less than the tax cuts. Let me just give you 2 illustrative years. In 1998 the tax cut will cost the Treasury $35.6 billion, the spending cuts $29.2 billion, a net increase in the debt of $6.4 billion. But go to the year 2002. See what happens when you get a little bit further out, because of the way the tax provisions are worded. The tax cut will cost $87.7 billion, the spending cuts are $51.5 billion, for a net, a net increase in the deficit in the year 2002 at $36.2 billion. We have a major deficit problem. CBO has projected the deficit by the blue columns that you see here; it is scheduled to increase if we do not take action on deficit reduction. If we pass just the bills that have been passed so far in this Congress, in this House, if that is what we do, we are going to find the deficit larger rather than smaller during this period of time.

I do not think that is the record that we want to use. Many of these tax-cut provisions will get worse as time goes on.

Let me just give you one example. The neutral cost recovery system that gives businesses extraordinary write-offs raises $16 billion during the first 5 years, but costs $136 billion during the next 5 years when we do not score it, so we take advantage of revenue even though it is going to cost us billions of dollars and create a major problem for the future.

The contingency will not work. It is a gimmick, a sham. There is no question about it. The tax cuts are permanent. The spending cuts are only 1 year. We can come back and change, and do not think we will not.

Look at the history. Look at the Emergency Deficit and Control Act of 1985; when that was passed, the deficit was $212 billion. In 1985 we were supposed to have a balanced budget. That was supposed to give us a balanced budget by the year 1991 with the sequestration, with enforcement.

What was the deficit in 1991? It grew from $212 billion to $269 billion.

We have the specific tax cuts. We do not have the specific spending cuts. That is why a bipartisan group today opposed this bill under the Concord coalition. That is why a group of business leaders told me yesterday to oppose this bill, do deficit reduction first.

The best present we can give our children and the future generations and the businesses and the growth in our economy is to cut the deficit.

Vote against this bill. Vote for deficit reduction. Vote for the future of our Nation.

Mr. ARCHER. Mr. Chairman, I yield myself 30 seconds.

Here we go again. Figures do not lie, but—the gentleman talks about deficit reduction. There is no Democrat plan before this House for deficit reduction that I know of. This is the only one, and CBO scores us at $30 billion more in deficit reduction than the President's budget.

I hope that the Democrats in their substitute and motion to recommit with instructions will show us a CBO score deficit reduction that is greater than is in this package.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. CRANE], the ranking Republican of the Committee on Ways and Means.

Mr. CRANE. Mr. Chairman, I want to express appreciation to my distinguished chairman and to our colleagues who are in the process of making real significant, historic strides in turning around the direction that this country has been on in virtually all of the 25 years I have been here. We had a tax cut in 1981, the biggest tax cut in our history at that time, approximately, about $200 billion, and the fact of the matter is that that was the last time we had a tax cut.

We have done nothing in the intervening years but raise taxes, and paying taxes to the average middle-income family today accounts for 40 to 50 percent of their budget when you include taxes at all levels, Federal, State, and local. The tax burden has become oppressive. It has had a dampening effect on the economy. I know of no economist who has ever attempted to advance the argument that by raising taxes you are promoting economic growth. Quite the contrary. You lower taxes and you promote growth.

The other thing that was significant about that tax cut in 1981 is that it more than doubled revenues to the Treasury in the decade of the 1980's. That one single tax reduction more than doubled revenues. It was the fastest revenue increase in our national experience, and it had a very positive effect in other ways, too, which created almost 20 million new jobs.

We have an opportunity here though to address more than just tax relief. it is the question of distribution of taxes.

According to the Joint Committee on Taxation, if you look at income brackets after the tax cut, those people in the highest income brackets will be paying a marginally larger component part of the total tax burden, and those people in the lowest income brackets will be paying a marginally lower percentage of the total tax burden.

I urge my colleagues to support this legislation and get this country moving in a forward direction.

Mr. Chairman, the last time I was on the floor of the House of Representatives to debate and vote on a substantial tax cut for the American taxpayer was in 1981. Since that time, Congress has raised taxes more times than I care to remember. In 1993, President Clinton and a Democrat Congress topped all the previous tax bills by enacting the single largest tax increase in the history of the world—literally. According to the Joint Committee on Taxation, the 1993 tax bill robbed the American taxpayers of a total of $240 billion over a 5-year period. Not surprising, not one Republican in either the House or the Senate voted for Clinton's tax bill.

For the American taxpayer, the 1993 tax bill may have been the last straw. And thanks to the American voter, the makeup of Congress was radically altered in the 1994 elections. For the first time in 40 years, the Republicans gained control of the House of Representatives. Republicans campaigned on the Contract With America and promised to change business as usual. We have kept our promises and we certainly have changed this House of Representatives. One of the key components of the contract is to give back to the American taxpayers some of their hard-earned dollars that Democratic Congresses have taken from them over the years.

The bill we have before us today would cut taxes by a total of $190 billion over 5 years. Some have called this excessive. In fact, it is rather modest, particularly when one considers that the $190 billion figure falls $50 billion short of cutting the amount of taxes raised in the 1993 tax bill alone—to say nothing of all the other tax increases we have seen in the last 12 years. Unfortunately, my colleagues need to be reminded of an important point—tax dollars do not, by right, belong to our Government. Some of my colleagues in this House seem to think that tax dollars are owned by Congress.

Let me remind my colleagues that tax dollars are owned by hard-working taxpayers, and Congress has a responsibility to ensure that any money it takes from the taxpayers is spent wisely. Unfortunately, we cannot say that Congress has spent tax dollars wisely over the last 40 years. Indeed, Congress has squandered billions upon billions of dollars. In my view, the only way to force the Federal Government to become efficient, to force it to return to the essentials, and to force it to eliminate the excesses that exist, is to restrict the flow of tax dollars to Congress—it is time to turn off the spigot. Only then will we be able to force Congress to live within its means. Only then will we be able to force Congress to stop spending money and stop mortgaging the future of our children.

WHAT THE BILL DOES

If you listened to the opponents of this bill you'd think we were increasing taxes. Of course, what this bill does is substantially reduce taxes for both individuals and businesses. The opponents of this bill have been screaming in righteous indignation over even the thought of reducing taxes. When you look at the actual contents of this tax legislation you begin to wonder where the opponents of this tax bill are coming from.

This bill does a great many good and necessary things for the overburdened individual and business taxpayers.

First of all, this bill helps American families. I have seen estimates that indicate that 40 to 50 percent of the typical American family budget goes toward paying taxes—Federal, State, and local. Specifically, 25 percent of the family budget goes toward paying Federal taxes. That is absolutely outrageous and it is no wonder that families are getting sick and tired of the tax burden they are shouldering, particularly when they see how their money is being spent by Congress. Families have been hit hard over the last few decades by taxes. The exemption amount for dependents, had it been indexed for inflation from the date it was created, should be worth over $8,000 today, instead of the $2,450 allowed in 1994. This bill attempts to modestly help families by providing a $500 per child credit. In addition, the bill creates the American dream savings accounts which will provide families the opportunity to create an IRA with tax free withdrawals for retirement, education expenses, medical expenses, and first time home purchases. The legislation provides a credit for adoption expenses and reduces the marriage penalty. As a longtime proponent of all of these efforts, and as the lead sponsor of the American Dream Restoration Act which contained nearly all of these three proposals, I can assure my colleagues I feel strongly about this portion of the bill. All these things are long overdue and will help families considerably.

The bill helps seniors as well. While Democrats have often tried to portray themselves as the protectors of senior citizens, in reality you will find that Democrat tax policies have hit senior citizens very hard. Our seniors have worked hard all their lives and they have paid taxes all their lives. Many live on fixed incomes and can ill-afford the continual tax hikes that have been heaped upon them by an arrogant Congress these past 40 years. Seniors deserve a break. This legislation offers them some hope. The bill repeals the increase in income taxes on Social Security benefits which President Clinton had pushed for in the 1993 tax bill. In addition, the legislation raises the amount seniors can earn before their Social Security benefits are reduced. This is referred to as the Social Security Earnings Limitation issue. Both of these measures will put more money in the pockets of seniors. In addition, the bill provides for a tax credit to taxpayers who provide custodial care of certain elderly family members staying in the taxpayer's home.

Finally, the bill gives the American business community a break. Although it is fundamental economics, I believe some of my colleagues need to be reminded of some basic tenets of the marketplace: First, businesses create jobs, and second, without employers you do not have employees. Anything we can do to ease the burden on the business community, increase their ability to compete, and encourage investments in new business ventures will help create new jobs in this country. The best way out of poverty is opportunity—a job. This legislation reduces the tax burden on American businesses by eliminating the excessive, complicated, and inefficient section of the Internal Revenue Code referred to as the alternative minimum tax. Scrapping this insane system will go a long way toward putting American businesses on a competitive footing with businesses overseas. In addition, we reduce the rate on capital gains and index capital assets for inflation. I could write a book about the importance of this provision of the bill. I have been advocating reducing the rate on capital gains for years, and I have seen the benefits of doing so based on past experience. By reducing the capital gains rate we will not only encourage more capital to be invested but we also encourage capital to move freely. This will result in job creation. Moreover, the increased number of transactions will actually mean more revenue to the Treasury.

In short, this bill will create long-term dynamic economic growth that will benefit all Americans.

THE CLASS WARFARE DEBATE

In the debate over this legislation, there are those in Congress who wish to divide our country and its people. These people wish to create class antagonism, and choose demagoguery over logic and reason. These people want to engage in class warfare. These are the social engineers of our society who still don't understand that socialism died of natural causes. These people think they have the perfect formula for deciding what the proper tax burden ought to be for various income groups. They believe that it is Government's responsibility to redistribute income. They apparently do not understand some of the basic concepts upon which this country was founded—freedom, opportunity, hard work, et cetera

These people argue that the tax bill before us today caters to the rich—that it does not properly distribute the tax burden. Let me present some hard facts for these social engineers. According to the Tax Foundation, in

1982, the top 1 percent of income earners paid 19 percent of the taxes. In 1992, this group paid 27.4 percent of the taxes. In 1982, the top 10 percent of income earners paid 48.6 percent of the taxes, while in 1992, that figure rose to 57.5 percent. For both 1982 and 1992 the top 50 percent of taxpayers paid over 90 percent of the taxes. All this was before the 1993 tax bill which was specifically designed to take $114 billion from high-income individuals. Isn't this progressive enough? In fact, the tax bill we have before us today does nothing to change these percentages. Indeed, figures from the Joint Committee on Taxation actually indicate that the top 1 percent and top 10 percent will pay a slightly higher proportion of the total tax burden after this bill is passed than they would if it were not passed. That ought to make the social engineers happy and they ought not be complaining.

Of course my point is that all this talk of tax/income distribution tables and class warfare is foolishness. This bill gives money back to the taxpayers. It does not discriminate. It is designed to encourage savings and investment. It is about reducing the size of Government.

CONCLUSION

Mr. Chairman, I could speak on this subject for a long time. However, let me simply say that this legislation is a most critical part of our Contract With America. Yes, we have brought this legislation to the floor of the House as we promised. But let us do even better than that. Let us pass this legislation with the goal of enacting into law real tax relief before the year is over.

Mr. GIBBONS. Mr. Chairman, I yield 6 minutes to the gentleman from Washington [Mr. MCDERMOTT], a member of the Committee on Ways and Means.

Mr. MCDERMOTT. Mr. Chairman, although both sides of the aisle strongly disagree on the merits of this bill, I think both parties will agree that in the last few days we have seen a truckload of statistics, charts, graphs, and surveys arguing for or against this tax cut plan.

However, there is one thing that both sides agree upon—that the Republican tax cut plan will increase the deficit by $189 billion. Worse still, the Republican majority is proposing that we pay for over half of this deficit increase with an I.O.U. for $100 billion. Not real money, but a promise to pay in the future.

No one knows what will happen in the future when the appropriators actually identify where the cuts will come from to achieve the $100 billion in savings.

We have before us a so-called illustrative list of proposed cuts by Budget Committee Chairman KASICH. I am sure that I am not the only Member of Congress who is dubious at best, about anyone's ability to mandate spending cuts.

If the Republican majority so firmly believes in this tax cut plan, why have they not come up with the specific spending cuts which they promised to identify for the American people? When President Clinton lowered spending caps 2 years ago, he did it to cut spending, not to give the money to the wealthy.

We have been down this road before. In 1981, Congress passed President Reagan's tax cut bill without any accompanying spending cuts. As a result, the deficit soared and we face the budget mess we are in today.

How many Members on the other side of the aisle remember that in 1981 the Reagan administration projected a balanced budget by 1984? Sound familiar? As Yogi Berra would say, "It's deja-vu all over again."

The Republican leadership is asking for a giant leap of faith. They are implicitly forcing Members to sign a second contract, not with the American people, but with the Republican leadership to vote for a budget reconciliation bill that has not been written and currently does not exist.

Unlike the recent rescissions bill which spared projects in key Republican districts, everything—including Social Security—will have to be on the table to find the $100 billion in real cuts.

In September you will be asked to vote for a budget reconciliation bill that drastically cuts programs and services in your district to pay for this wasteful tax cut bill. Many of you will have a lot of explaining to do.

The agreement by the Republican leadership to link the tax cuts to a balanced budget plan is toothless and misleading. This phony agreement allows the leadership to get their tax bill enacted without having to commit to any guaranteed deficit reduction.

There is absolutely nothing in the agreement that even remotely looks like an enforcement mechanism. This agreement makes it all too clear that it is more important to the Republican leadership to keep their political opiate—a promise of tax cuts—no matter how damaging the long-term consequences.

The unfairness of who gets what of this bill are too numerous for me to recite. No matter how you analyze this bill, families with higher incomes receive a disproportionate share of the total benefits from these tax cuts.

Chairman ARCHER knows this. That is why he is trying to change the focus of the debate from who receives the majority of the tax bill's benefits to what percentage of total income taxes are paid by the rich. Good try, Mr. Chairman, but it will not work.

The real issue today is not the total proportion of income taxes the richest 10 percent of the population pay, but how much of a tax benefit high income families receive under the contract when compared to current tax law.

Under the Republican bill, the rich get richer so it is logical that they will pay additional taxes on the extra money they earn. In contrast, a working class family that is not able to take advantage of all of the new tax breaks contained in this bill will simply not benefit nearly as much.

The majority of these tax cuts will not benefit working class Americans. Under the Republican theory of "trickle-down-economics," working families will not even get wet.

For example, the richest 1 percent of Americans who make more than $267,000 will pay 18.23 percent of the tax burden under the contract, up 2 percent. But what Chairman ARCHER does not say is that those same families—the top 1 percent—will an average tax savings of more than $11,000 per year under the contract.

In contrast, the majority of American taxpayers whose incomes are less than $44,434 will pay 16.1 percent of the tax burden under the contract, a drop of 0.2 percent. But, these families only see an average tax savings of $760 or less.

That's right, the rich will get $11,000 in tax savings from this tax plan and the majority of Americans will get $760 or less in savings. Is this what the Speaker means when he talks about the "opportunity society" for the American people?

By voting for this bill with its fairy tale $100 billion I.O.U., the Republican rank-and-file have given up any remaining shred of independence they so briefly entertained last week.

They might as well give their voting cards to the Speaker and allow him to vote yes for them on passage of the budget reconciliation bill in September because after today they have no choice.

In September the voters back home will be wondering why they sent you here. Did they want you to vote your conscience or to play the childish game of "follow the leader?" Unfortunately, we have so few Members who do the former and far too many who do the latter.

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Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], the chairman of the Subcommittee on Oversight of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. I thank the chairman for yielding this time to me.

Mr. Chairman, I rise in strong support of this bill. It is a fine and necessary tax bill. First, it will make our economy grow more rapidly. Small business, the creator of most jobs, will gain the right to expense $30,000 worth of equipment, We all know that any small business can expand more rapidly if it can afford the equipment to produce its product. Expensing has long been the No. 1 demand of the small-business community to accelerate the pace at which it will be able to grow.

Estate tax law reform, home office deduction reinstatement, capital gains, all will help small business grow, prosper and create the jobs that America needs.

Second, this bill helps big businesses that compete in a very tough international market where you can not pass on new costs through higher prices. In Connecticut, one company invested $4 billion over the last few years in capital investment in manufacturing facilities in this Nation and paid higher taxes than other manufacturers who invested not $1 because of the alternative minimum tax. That is wrong. That is bad policy. That is anti-jobs. That is anti a strong economy.

Not only will this bill help build economic strength and create jobs, but it also helps families and seniors, and it takes a giant step toward health care reform. Young families are carrying a heavier burden in our society today than they have at any time in our history. Surely we can agree to give them this $500 tax credit per child.

Seniors have been disadvantaged by the tax hike we imposed on them a couple of years ago. This bill repeals that; it gives them tax relief, raises the earnings limit, so that those with low pensions can work without penalizing them $1 for every $3 they earn.

It also creates the long-term care partnership that protects our seniors and families from the catastrophic costs of long-term care and home care.

Is this a perfect bill? Absolutely not. I disagree with the Neutral Cost Recovery section. I want the $200,000 threshold lowered because I think it is better policy, fairer to all Americans. I think the solution in this bill to the underfunded Federal pension plans may not be the best, but there is no problem in this bill that is not entirely solvable as we move along.

And this bill is critical. Mark my words, it is critical to achieving a balanced budget. If we are going to achieve a balanced budget by the year 2002, that spending plan must not only enable us to provide the services we need in those years but also the tax policy we need to create jobs, to create economic strength and to assure a fair distribution of burden among the families and the seniors of America.

I urge your support of this bill.

Mr. GIBBONS. Mr. Chairman, may I inquire as to how much time remains on each side?

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has 41 minutes remaining, and the gentleman from Florida [Mr. GIBBONS] has 34½ minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Ms. DUNN], a respected member of the committee.

Ms. DUNN of Washington. I thank the gentleman for yielding this time to me.

Mr. Chairman, my State of Washington is home to thousands of entrepreneurs, and home to Microsoft—now an economic giant but once launched by a pair of young entrepreneurs. We also have timber—an industry that once was robust and thriving, but now is facing difficult times.

For too long, our Nation's entrepreneurs have been penalized by the tax policy of the United States. Since 1986, when the business capital gains rate was raised to 35 percent, venture capital financing has dropped by two-thirds—from $4.19 to $1.41 billion—and the number of firms receiving venture capital financing has declined every single year.

Mr. Chairman, we must correct the current tax policy regarding capital formation. It we don't, we will be directly responsible when the next Microsoft never takes it off the ground.

Failure to act could bankrupt 1,200 small timber businesses, who typically own 50 acres and have an income of less than $50,000. For them, the capital gains reduction is a life or death matter. These small timber firms alone represent more than 5,000 jobs threatened by high capital gains rates.

Mr. Chairman, cutting taxes on capital is about jobs. Support capital formation, support entrepreneurs, support family businesses, and support more jobs for Americans.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. MCCRERY].

Mr MCCRERY. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, the quote that I am given by my constituents back home is that, "The Federal Government is too big and spends too much." I do not hear, when I go back home, "I pay too little in taxes." Every Republican and many Democrats who were here 2 years ago voted against the Clinton tax increase. If 2 years ago you were against the tax increase, why would you not be now for giving back to the people about two-thirds of that tax increase? Instead of trying to create class warfare in America, let us talk about what is or is not sound tax policy.

For example, the House recently passed a historic welfare reform bill. Those who oppose welfare reform rightly asked the question: "Where will the jobs come from for people who lose their welfare benefits?"

Well, this bill begins to address that question. There are a number of provisions in this tax reduction bill which will encourage productive investment and creation of private sector jobs. Chief among them is the reduction in the capital gains tax rate. By reducing the tax on capital gains, we reduce the cost of capital; by reducing the cost of capital, we encourage investment, which increases productivity, which allows economic growth without inflation and which, most importantly for Americans who want to work, creates jobs.

This tax cut bill gives us a chance to go back in time 2 years and do now what Americans wanted us to do then: Cut spending first.

If you voted against the tax increase 2 years ago, then you ought to vote today to repeal most of it. Now is your chance to make right what you said was wrong 2 years ago.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, this legislation is a crucial step in a tidal wave of reform. Americans are fed up with paying more in taxes than they pay for their families' food, clothing, and shelter. Americans are fed up with seeing small business drown beneath a suffocating mass of Government regulation, and American taxpayers do not want the Federal Government to be the fastest growing employer in the Nation.

Mr. Chairman, in 1993, the Democrats voted for the largest tax increase in history, and they continue to support high taxes today.

This legislation pays for all of our tax cuts, and still lowers the deficit by $30 billion. In addition, this bill provides $189 billion in tax relief. Tax relief for families with children, tax relief for young couples beginning to save for their first home, and tax relief for senior citizens living on fixed incomes.

Moreover, Mr. Chairman, much of this relief merely gives back to citizens that which was taken away by President Clinton in the 1993 tax bill. The average Californian will save $1,761 a year in taxes if this bill is enacted into law—76 percent of these benefits going to American families.

Mr. Chairman, it is time that Washington realizes that income belongs to the worker, not to the Government. Congress must allow American workers to keep more of what they earn—we must also restore the free market incentive which drives our American dream, that same incentive which leads citizens to take risks and create jobs.

Vote "yes" on this bill.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Four trillion eight hundred seventy-three billion, four hundred eighty-one million dollars. That is the Federal debt. And we should be doing all we can to keep it from growing. The tax cut we are debating this afternoon will explode the debt by over a hundred billion dollars a year in the year 2005. Enormous tax relief for those who need it least. For hard-working middle class American families earning less than $75,000 a year, a pittance, 35 bucks a month. For a family over 200,000, a thousand dollars a month. Whose sense of equity is not offended by that?

Two months ago we were debating a balanced budget amendment. There were pious and sober speeches about the deficit and its burden on our kids. The same people today are supporting this budget buster. Where has their resolve gone?

Four trillion, eight hundred seventy-three billion, four hundred eighty-one million dollars.

With a debt like that we should not even be considering this bill.

Vote against a repeat of voodoo economics. Vote down this bill.

Four-trillion, eight-hundred seventy-three billion, four-hundred eighty-one million dollars.

That is the size of the United States Federal debt. It's shameful. And we should be doing all we can to keep it from growing. Which is why, as much as I would like to cut taxes, I believe this is the wrong time for any tax cut, and certainly this tax cut.

But the tax cut we are debating today would, over the long term, increase that debt tremendously—by almost $100 billion a year in 2005. And it would do so by giving most of the tax cuts to the wealthiest people in America. Speaker GINGRICH calls this bill the "crown jewel" of his party's so-called Contract With America. I suppose that's an apt label, for this bill surely would finance nice trip to Cartier's for folks who are already in furs.

The bill is, plain and simple, irresponsible. It will give enormous tax relief to those in our society who need it least. It will be paid for, however, at the expense of students and the elderly, and hard-working families for whom critical programs are decimated. And it will be at the expense of generations to come, who'll be burdened with an explosion of the deficit that's reminiscent of the early eighties.

Most Americans, those who are struggling to get by, would get only a pittance in tax breaks, an average of $35 a month to families making under $75,000 a year. Whose sense of equity isn't offended when you compare that to almost $1,000 a month in tax relief for those making over $200,000 a year?

This bill also gives huge tax benefits to big corporations and investors. Not enough attention has been paid to this aspect of the bill, probably because these tax breaks are written in a way that hides their true cost. Over the first 5 years, the big business tax breaks add up to $24 billion. In the next 5 years their cost balloons to $221 billion. Like an iceberg, nine-tenths of the cost hides under the surface of the 5-year budget horizon.

What are these tax breaks? Things like the repeal of the corporate minimum tax. This wasn't an original part of the so-called contract, but was slipped in after a successful lobbying campaign by a coalition of large corporations.

Never mind that the corporate minimum tax was supported by President Ronald Reagan. In 1985, the Reagan Treasury Department said, "The prospect of high-income corporations paying little or no tax threatens public confidence in the tax system."

And avoiding taxes they were. Prior to the corporate minimum tax, most of the country's largest and most profitable corporations often paid no Federal income taxes. How can anyone justify increasing the deficit, as this bill does, just to give the biggest corporation a pass on paying any taxes?

You will hear from many people today that this bill is paid for. Do not believe them. It's paid for only over the first 5 years, when the tax breaks are expected to cost $188 billion. What they won't tell you is that this bill was very cleverly written so that the costs are held down over the first 5 years, but nearly triple after that. The Treasury Department estimates that the full 10-year cost of these tax cuts will be $630 billion. That full amount isn't paid for. Any way you count it, this bill add hundreds of billions of dollars to the Federal debt. We can't afford it.

With the huge cost of this bill, and with the lion's share of benefits going to the rich, some of the more moderate members of the Republican party have been hesitant to support it. But there was no opportunity for Democrats to work with them to create a bipartisan, more balanced bill, because their leadership had to have it their way—leadership apparently concerned more with the symbolism and show of the contract than with substance, a leadership that reveals the emptiness of its commitment to deficit reduction.

But the moderate Republicans were right. They remember what happened the last time the Congress embraced an economic policy like this. It was 1981, and it was called "Reaganomics" or "trickle-down": huge tax cuts to the privileged few, more for defense, and an explosion of the deficit.

It took 12 years for the Congress and the President to correct the horrible mistake. That correction was made in 1993, with the approval of the largest deficit reduction package in history. Because of the measures we took, the Federal budget deficit this year—fiscal year 1995—will be $126 billion less than President Bush predicted it would be under his policies. That's a 40 percent reduction, and the size of the deficit compared to the overall economy has been cut nearly in half, to the lowest percentage since 1979. That's a good start. But there's much more to be done.

A little over 2 months ago, the House of Representatives voted to propose an amendment to the Constitution to require a balanced budget, that Congress and the President balance the budget. Many of the amendments' supporters gave pious speeches filled with concern about the size of the deficit and Federal debt. They spoke eloquently about the importance of ensuring that our children aren't saddled with a mountain of debt.

But today many of these same people will be voting to pass this budget-buster, this giveaway to the rich. Where has their resolve gone? Where is their concern over the mountain of debt that's left over from the 1980's? Why don't they want to fix the deficit problem first and give tax cuts next? And why would they support such an ill-conceived preference for the wealthiest taxpayers?

If this were the time for a tax cut, there would be a better alternative to this trickle-down, contract tax break bill. It's a more modest proposal that's being offered by Congressman GEPHARDT. The benefits are targeted at the people who really need a tax break, working families trying to send their children to school, working families trying to save money for retirement, people making under $100,000 a year. And if I thought we could afford to cut taxes now, this is the type of bill I'd vote for.

But I will vote against that, too. Reluctantly. Because I have a very large number that I can't get out of my head.

Four-trillion, eight-hundred seventy-three billion, four-hundred eighty-one millions dollars.

With a debt like that hanging over our heads, we shouldn't even be considering a tax break for the wealthy. The focus should be on deficit reduction. Vote against trickle-down economics. Vote against a free ride for large corporations. Vote down this bill.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentlewoman from Kansas [Mrs MEYERS], the chairman of the Committee on Small Business.

Mrs. MEYERS of Kansas. I rise in strong support of this bill.

In the rhetoric about this tax bill opponents claim we are giving tax breaks to the rich. These critics are wrong, and they are not focusing on some issues in the bill that are good for small business. These provisions are not the major sexy prominent ones in this debate, but they are important to hard-working men and women who are creating 75 percent of the new jobs in this country, doing it through small business.

The Committee on Small Business met five times earlier this year to look at specifically those provisions in the contract of most interest to small business. Four of these issues: one, increasing the estate tax exemption from $600,000 to $750,000 and indexing that amount for inflation; two, increasing the expensing allowance for investment in new equipment; three, reducing capital gains taxes; and, four, clarifying the home office deduction are vital to small business. These provisions spur investment in small business and attract life giving capital.

The increase in the estate tax credit will allow more family businesses to pass from one generation to the next rather than be sold to pay the taxes. The home office deduction, restoring the home office deduction, is very important to millions of self-employed individuals in this country. Many of these self-employeds are those who turn the devastation of losing a job by being downsized out of a large company into an opportunity to start their own business and continue to support their families. Increasing the expensing allowance, particularly important to small business because of cash flow, will encourage small businesses to purchase equipment that can increase productivity and increase new jobs.

More persons gainfully employed means more tax revenues generated, fewer people on welfare and a more productive society. If the 6 million small businesses in this country which have more than one employee could each hire just one more person, unemployment in this country would be wiped out.

I urge support of this bill.

Mr. GIBBONS. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. LEWIS], a member of the Committee on Ways and Means.

Mr. LEWIS of Georgia. Mr. Chairman, I rise against this ill-conceived, ill-considered, and ill-timed tax proposal.

I have heard Speaker GINGRICH refer to this tax proposal as the crown jewel of the Republican contract. I could not agree more. Like the crown jewels, this bill is for royalty, it is for the truly wealthy among us. If you are middle class, if you are poor, you can look but you better not touch.

Just look at who gets the jewels. The truly wealthy, those 1 percent of Americans with the highest incomes, get over $20,000—$20,000. Many working families do not earn that much in a year.

A middle-class family gets less than $50 a month. The working poor do not even get $10 a month.

Where do the Republicans get the money to pay for their royal jewels? They rob poor Peter to pay Paul. The Republicans cut student loans, school lunches, summer jobs—they cut money for roads, schools, housing, and public transportation. All to give the truly wealthy a $20,000 tax cut.

Instead of calling this greedy tax bill a crown jewel, we should call it fool's gold—because for 90 percent of America, that is what it is. For the price of wealthy America's tax cut, millions of children could continue to get school lunches. Countless students could receive their student loans. Hundreds of thousands of our elderly poor would continue to receive heating assistance, to keep them from freezing in the winter. And millions of teenagers would still have summer jobs, to keep them off the streets and teach them needed skills.

Why do we not invest in these people—the children, the workers, the students—our future? Because the Republicans want to give wealthy America a tax cut—a tax cut the rest of us cannot afford.

We have been down this dusty road before—George Bush called it voodoo economics. It is a road that led us to the record deficits we still struggle to overcome. It is a road that mortgaged our children's future. It is a road that we should never ever travel down again.

It is time to stand up for what we believe in. I ask my colleagues on the other side of the aisle to look within yourselves to muster the courage, the raw courage, to be true to your beliefs.

This is a bad bill. You know in your heart, in your heart of hearts, it is a bad bill. It takes from those who need, and gives to those who do not. We must stop pandering, we must stop offering tax cuts for political gain. As for me and my house, I will do what is right. I will say no to the false glow of tax cuts.

I say to my colleagues, the time is always right to do right. It is not—it never will be—time to return to the failed policies of the 1980's. To return to growing deficits, joblessness, and hopelessness. We cannot go back. We must not go back. We will not go back.

I urge my colleagues to say no to the crown jewel of the Republican contract—to the tired and failed policies of the 1980's. Say no to fool's gold, say yes to America's gold—our children, their education, and our future.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. ENGLISH].

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I have listened with interest today to this debate, and I found it on the other side to be disappointing. We have heard from a number of people on the other side that this is the wrong time to cut taxes, but I can tell you in my district in northwestern Pennsylvania we need tax relief, and we need jobs.

This bill helps small business, it helps manufacturing, and it improves the job prospects of working families. According to the McGraw-Hill study it would create 1.7 million jobs, and that is one of the strongest arguments for passing it today.

It helps with small business expensing. It helps the most dynamic sector of our economy by encouraging investment in equipment. It provides help to cash-starved firms that need to make investments to stay internationally competitive, and it allows workers to achieve a degree of productivity that ultimately will protect their jobs. It repeals the alternative minimum tax which is a relic of tax policy past that kills jobs. It imposes high taxes on firms that are actually losing money, and it hurts cyclical industries like manufacturing, disproportionately. It reduces their competitiveness by kicking them when they are down, penalizing companies that need to invest to recover. This provision is no longer needed in the tax law because we have repealed those provisions in the tax law that previously had created abuses that it was intended to correct. We repealed safe harbor leasing in 1982. We repealed the investment tax credit in 1986, and we have made fundamental changes in accounting and depreciation.

This bill would also make necessary reductions in the capital gains tax to unlock resources for investment. This tax change would free up capital for small business and entrepreneurs, providing the economy with seed corn, with new investment to build the economy of the future.

We need this bill, Mr. Chairman, and when we hear criticisms from the other side let us remember they voted for the largest tax increase in American history, and they support higher taxes today, and they have offered us no alternative.

Mr. GIBBONS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New York [Mr. RANGEL], a member of the Committee on Ways and Means.

Mr. RANGEL. I say to my colleagues, congratulations, your contract obviously is going through. I never thought I would see the day when I would look and the other body would be trying to clean up this garbage that we are sending over there. But God is good. It may happen.

Someone said that we should really support this capital gains because it means jobs, jobs, jobs. Well, welcome to my district. Around this country we got congressional districts with 30, 40, 50, 60 percent unemployed, people without homes, without jobs, without hope. For God's sake, what water are you drinking so that I can come tell them that we are going to find the wealthiest Americans that have no problems and living in the luxury of this country, some of them we are even going to allow, to permit them to renounce their citizenship and pay no taxes, but we are going to allow them to get a 50 percent reduction on capital gains, not for themselves, not to get richer, no. We are doing this for jobs.

But at the same time we are doing this, the poor kids around this country that like to believe that a part of this American dream belongs to them, you are cutting out education, job training, and opportunities for them. Indeed if they are minority, and they ever get to become an adult, and are seeking a job that has been locking them out, then we say if there is any chance that any affirmative action will be there for you, we will shatter it. If the kid did get an education, and did get some of the capital gains and wanted to play the capital gains game with you, we would say, "Well, we don't like it, it's too big a deal, and it's a minority preference, so let's knock out that deal, knock out all preferential dealings with the FCC, unless, of course, we know someone that was involved with one of these deals."

I say this:

You are having a ball, you are enjoying the fruits of victory, you are having a party. But America is going to wake up with this hangover because you cannot push this fraud on the American people in a hundred days. One day the people are going to wake up and find out that what you have tried to do is to dismantle the so-called New Deal that you hate so much to destroy the opportunity for the Federal Government to provide a safety net for people and to have anytime you're talking about welfare in this Congress that we would know that we are talking about just oil depletion allowance or rapid depreciation or investment tax credit. That kind of welfare continues to go on.

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But the welfare of the American people that says that no child in this country should go without medicine, without food, should be hungry, whether or not the mother is married, these things now will be shuttled off to the Governors. Why? Because for 40 years we did not perfect the system of how we take care of the poor.

No, you are not getting rid of it to reform it; you are getting rid of it because you hate the word "entitlements." You are saying if you are poor, if you are sick, if you are blind, if you are crippled, if you are disabled, that the Federal Government has no responsibility for you.

Those are the days of Roosevelt. Wine and roses. This is the day of capitalism. Give it to the rich. They know better how to create jobs. And if the Governors do not do it right, and they do not have to, if the Governors do not allocate the money, and there are no mandates, if the Governors run out of money and they cannot tax it, that is no big deal. Government never said you were promised anything. They die. They have poor in other countries. Why not this great Republic? And if the cities and the local governments cannot do it, you are speaking to them where to go. Send your kids to the orphanage. Get them adopted. Go to Boys Town.

What has happened to the sense of feeling for our people, giving everyone opportunity? Let everyone dream that yes, they can cut coupons, but before they get to that, give them a chance to have a job. Do not be able to say that you are so mean-spirited that you think that just by cutting out people and dealing with the wealthiest of the people here, that you are doing the right thing. Because today we know that with the mistakes that we are making, if that other body does not correct it, we will have gone back 40 and 50 years in this great Republic. Do not let it happen just because you have discipline. Have common sense to go with it.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I rise today in support of H.R. 1215. Today is a good day to be in the House of Representatives. Republicans made a promise to the American people embodied in the Contract With America and today's vote on the Tax Relief and Deficit Reduction Act of 1995 is the culmination of fulfilling that promise. We have the opportunity to vote on tax cuts totaling $189 billion over 5 years—simply put, we can give back money to the very people who earned it in the first place.

Cutting taxes will result in an expanded economy and increased job opportunities. But don't take my word for it. Here are concrete examples from four State Governors who have cut taxes in their states. Gov. William Weld, in a letter to the Speaker, states that Massachusetts has "cut taxes nine times over the past four years" resulting in tax revenues growing by over $2.2 billion during that period of time. Gov. John Engler of Michigan says that "fifteen tax cuts in four years have turbocharged the state's economy to the best performance in a generation. While taxpayers are saving more than $1 billion annually, state revenues have continued to rise." Wisconsin Gov. Tommy Thompson cites tax cuts of more than "1.5 billion over the past eight years" resulting in an economy that created "new jobs at nearly double the national rate and more new manufacturing jobs than any other state. The lesson from Wisconsin is clear: tax cuts help create jobs and opportunity for families and individuals."

Gov. Christine Todd Whitman of New Jersey is working on a 30 percent cut in State income taxes over three years and is well ahead of schedule.

I ask you, what is wrong with letting taxpayers keep more of their money to spend as they see fit, perhaps provide for their children's or grandchildren's college education, pay for a family vacation, invest in an Individual Retirement Account, or just pursuing their own version of the American Dream? Let us do for America what these Governors have done for their states.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Chairman, I rise in support for family tax relief. The rhetoric coming from the other side of the aisle does not match up with the facts.

A case in point: I received a phone call last week from Christine, a constituent in my district. She is a single mom with a 7-year-old son who called to urge my vote in support of the capital gains tax relief. It seems that she is selling a home and that she needs the additional income from our tax relief to help her provide for herself and her son.

Now, Christine is not rich. Yet existing capital gains tax laws severely penalize her. This bill means that Christine will keep more of her money.

In addition to tax relief provided by the capital gains reduction, this bill's child tax credit will let her keep another $500 of her income.

Mr. Chairman, it makes for good rhetoric and heightened class warfare, but his does not add up. Support this bill. This is a good bill.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I am so excited that we are reducing part of the taxes, reducing $190 billion of taxes, to help offset the $250 billion tax increase that we had a year and a half ago, and we are doing it in such a way as to expand and encourage jobs in this country.

Let me just briefly show you this chart of how the United States charges our businesses that buy that machinery and equipment.

Our marginal tax rate is 28 percent compared to France, 18 percent; Germany is exempt. We are penalizing our businesses that buy those tools and put the best tools in the hands of our workers. If we give American workers those kinds of tools and those kinds of facilities, we can out produce anybody in the world.

Mr. Chairman, that is what makes jobs. We produce a product that people in this country and all over the world want to buy, and we produce it at a competitive price. To do that, we have got to give our workers the best possible tools.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, this tax relief bill will give something like $4.5 billion of tax relief to the people of Georgia, and I am proud to be standing here in support of it. Four and one-half billion dollars of tax relief for Georgians.

For the last several months we have heard opponents claim that the Contract With America is against children. They claim the welfare bill and this tax bill are antifamily and antichild.

Well, Mr. Chairman, our opponents are wrong, and they know it. The truth is that every legislative component of the Contract With America is designed to benefit all Americans, individuals, families, and especially children.

The Contract With America, and specifically this tax relief legislation, is 100 percent proresponsibility, profamily, and prochildren.

This legislation contains a new American dream savings account that reduces tax penalties on those that save money and use those savings for education, medical costs, and home purchases. It is profamily and prochildren.

This legislation reduces the marriage penalty, making it profamily and prochildren. It provides $5,000 tax credit to help thousands of families overcome the financial obstacles of adoption. It is profamily and prochildren. It provides an increase in the exemption allowed for State taxes so that farms and small businesses started by families can be passed from one parent to child without destroying those assets. It is profamily and it is prochildren.

It provides 50-percent capital gains deduction for individuals. This means that the tax penalty on a family's home or property is reduced so an individual or family can afford to sell that home or property without losing so much to the Federal Government, creating more financial security for that family and their children. It is profamily and prochildren.

It gives a $500 tax credit to families with children under the age of 18. It is profamily and prochildren, and I urge its passage.

Mr. GIBBONS. Mr. Chairman, before the gentleman leaves the floor, I yield myself 30 seconds.

Mr. Chairman, if this is so profamily and prochildren, why in the world did the Republicans introduce two bills that give it to all the children, but then finally in this bill they brought to the floor start cutting children in families of under 50,000, and under 25,000 all the way out of this family and correction credit. If it is so profamily, why did they do that?

Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I rise today in opposition to the Republican tax-cut bill, H.R. 1215, because it would undermine deficit reduction efforts. I have always supported a balanced budget, and the responsibility to achieve this is not one that I take lightly. Over the years, I have frequently taken the political road less traveled in the name of deficit reduction. Last month, I was one of only six Democrats to support the rescissions bill because I believe we need to start making tough spending decisions now. In January, I supported a constitutional amendment to balance the budget for the first time because I finally lost faith that the President and Congress have the resolve to balance the budget without being required to do so.

The bill we are considering today has confirmed my worst fears. We are cutting the taxes of the American people for the low, low price of $188 billion over 5 years. It is absolute folly to cut taxes for those making $200,000 to increase the deficit for those making $20,000 along with everyone else. The total cost of these tax cuts by the year 2002 will be $630 billion. The Republicans on the Budget Committee are now scrambling to come up with spending cuts—just to pay for the tax cuts. What ever happened to deficit reduction? What ever happened to balancing the budget? Why don't we just focus on eliminating the biggest drain on taxpayer dollars, the interest on the national debt. These proposed tax cuts aren't going to give taxpayers a break, they are going to increase their long-term burden.

Nations, like families, have to plan for the future. As a nation, we have failed to plan. We have borrowed to achieve a false sense of security today, leaving the bills for our children to pay tomorrow. In 1994, alone, we spent $203 billion more than we had. This means that $783 was borrowed from every single person in America. Over the past 20 years, the average budget deficit has grown from $36 billion in the 1970's, to $156 billion in the 1980's, to the unprecedented $248 billion hole we have dug for ourselves so far in the 1990's. This irresponsible spending has resulted in a money pit so deep that this year's interest payment—$235 billion—will be larger than this year's deficit—$176 billion.

By providing $188 billion in tax cuts instead of deficit reduction, the Republican Party is charging every American—including every child—$43.51 in interest payments for every year over the rest of their lives.

The Republicans claim that the agreement they quickly slapped together to get enough votes to pass their tax bill will put us on a glide path to a balanced budget by 2002. However, no specific targets are set out in the agreement, and the language does not require the tax cuts to be rescinded if deficit reduction targets are missed. The bill requires only the development of a deficit reduction plan. Without setting enforceable targets, this bill will throw us into the same money pit as Gramm-Rudman I and II. If we pass H.R. 1215, we won't be on a glide path to a balanced budget, we will be on a slippery slope to more exploding debt, higher interest rates, and a shrinking economy for all Americans.

It is disastrous that the Republicans would increase the debt of the average American family in order to benefit creditors, whose special interest lobbyists carry increased clout in the new, reformed Congress. Under current trends, the interest on the national debt is estimated to consume an average of 15 percent of total Federal outlays and more than the 3 percent of the gross domestic product. This year alone, interest payments on the Federal debt will cost almost $940 per person—almost twice the $500 per child tax credit offered in this bill.

I urge opposition to H.R. 1215. If we want to give the American people a break, we should get serious about balancing the budget. A $188 billion package of tax cuts is definitely a step in the wrong direction.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, would it not be great if the Pollyannas and the supply-side ideologues were correct that the road ahead for America is paved with candy? I like candy as much as the next guy. I like tax cuts. They want to give a $500 tax credit per child? Why not $5,000 per child? Because somebody has got to pay for it, and we went down the candy road with them once before. It was sweet for the politicians that promised all the tax breaks. It was very sweet for the privileged few in this country.

But it turned out to be a toll road. And guess who had to pay the toll? Our children, to the tune of trillions of dollars of national debt because of this supply-side nonsense.

Now we have got a Federal deficit as far as the eye can see in the $200-billion-a-year range. The only way we are ever going to deal with it is by making tough choices, and tax cuts are not tough choices. They are the oldest gimmick in the book. In fact, as Ross Perot has said, they are a way for politicians to buy your votes, using your own money. In this case it is our children's money, and it is wrong.

Mr. ARCHER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, simply to respond to the gentleman, the gentleman knows this is not supply-side economics. This bill is paid for and more than offset with in excess of $30 billion of deficit reduction by CBO estimates. Remember CBO? That is where the President stood right here on this floor and said they are the accurate estimators. We are going to follow them.

Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, before I begin to talk about my strong support of H.R. 1215, I cannot help but respond to a comment that was made about the safety net that supposedly we are cutting out. I might add this safety net is lined with flypaper. It is very, very difficult to get out of. In fact, it is a net, I am not sure it is a safety net.

Mr. Chairman, with the tax provisions in the Contract with America we are going to be passing I believe today, this bill is so important to the American people because it provides tax relief to virtually all Americans. It will create incentives for savings and investment. Not only will passage of this bill provide more tax fairness, but it will also stimulate growth in America's private sector.

I would like to speak specifically about the American Dream Restoration portion of H.R. 1215. I was a sponsor of this part of the bill along with the gentleman from Illinois [Mr. CRANE] and the gentleman from Iowa [Mr. NUSSLE] when it was introduced as part of the contract.

This part of the bill eases the marriage penalty that punishes men and women for getting married by making them pay more in taxes than if they had remained single. It creates a new IRA that will allow Americans to save for the purchase of a home, for education, for medical expenses, and for retirement. It will also provide working families with a $500 child tax credit.

Mr. Chairman, let us move away from the greatest American nightmare and move back to the American dream.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, under this bill, the rich get richer, and the poor get more numerous. But that is what you would expect from Republican fiscal policies. This bill hides the fact that more than half of all the tax cuts under the legislation goes to two handfuls of our wealthiest Americans, two handfuls in percentages, of course. Under this bill, the benefits do not go to the middle class, which has been the constantly repeated lie along the way.

I just want to talk about one provision. Take one provision. President

Reagan signed in 1986 a provision that made the biggest corporations in America pay at least a minimum tax. Now this is going to be repealed, taking $15 billion and giving it to the largest corporations, Anheuser-Busch, Coors, Boeing, du Pont, General Dynamics, PepsiCo and Texaco and Westinghouse and Xerox. That money is being taken from people who will become poorer because of this legislation.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. KIM].

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Mr. KIM. Mr. Chairman, I thank the gentleman for yielding time to me. I rise today in support of this bill.

I am getting tired of listening to this rhetoric about this bill is making rich people richer. Let me tell you about this marriage penalty tax that we passed last year under this omnibus budget bill we passed, which was the largest tax increase in our history.

Under that law many married couples face a larger tax burden than they would if they stay single.

Let me give you some specific examples. Two individuals making $75,000 each will pay an extra $2,000 marriage penalty tax to the IRS, if they get married. Let me give you another example, which is more a horrifying example. Two individuals making $15,000 each with two kids for combined income of $30,000 would pay an extra $4,000 to the IRS. That is a marriage tax penalty.

That is enough to buy food for the kids for 6 months. In total, listen to this, a married couple would pay an extra $20 billion in penalty taxes to the Government next year. Nobody ever mentioned this.

This is ridiculous. We should be encouraging people to get married, not penalizing them by taxing.

I have a personal concern. I am married 33 years. This bill will fix that, will repeal this horrifying marriage tax penalty.

Mr. Chairman, I rise today to talk about one of the most important aspects of H.R. 1215: Tax relief for families.

Over the last several decades, one of the groups hit hardest by the increasing Federal tax burden has been the American family. The situation for families is grim: At the same time that economic conditions have made it harder and harder for families to make ends meet, the Government has taken a larger and larger bite out of family income.

For example, while the cost of raising children has gone up steadily—it now costs an average of $5,000 per year to raise a child—the tax break the Government gives families has declined rapidly. In fact, over the last 50 years, the value of the dependent exemption has decreased by more than 36 percent. The result is that families are now forced to spend less on their kids and more to support wasteful Government programs.

It is clear, then, that it is time to give a helping hand to American families. And we do not have to have some massive government bureaucracy—some Department of Families—to do it. In fact, the best way to help American families is very simple: Just let families keep more of their own money.

And that is exactly what H.R. 1215 does—it gets the Federal Government off the backs, and out of the pocketbooks—of American families.

The bill does this in four main ways:

First, H.R. 1215 repeals the so-called marriage penalty. Under current law, many married couples face a larger tax burden than they would if they stayed single.

For example, a married couple without kids making a combined income of $150,000 a year would pay an extra $1,912 in taxes due to the marriage penalty. A married couple with two kids making a combined income of $30,000 per year would pay $4,369 extra than if they were single. That's enough to buy food and clothes for their kids for 6 months.

Nationwide, the extra tax burden placed on married couples is substantial: Because of this inequity in the law, married couples will pay a total of $20 billion in extra taxes in 1996.

This situation is ridiculous. We should not penalize people for being married, especially when marriage seems to be becoming a thing of the past.

H.R. 1215 rectifies this situation. The bill makes married couples eligible for a tax rebate if their tax liability goes up as a result of being married. In doing so, this legislation eliminates the marriage penalty and restores tax fairness for married couples.

Second, the bill establishes a $500 tax credit for the home care of a parent, grandparent, or great-grandparent who is ill or infirmed.

I think we all have experienced the emotional and financial strain of caring for our elderly relatives who can no longer care for themselves. And yet, doing so is one of the fundamental obligations of the family.

H.R. 1215 would give families a helping hand in meeting this obligation. The bill would give families who care for elderly relatives at home a $500 tax credit to help offset the cost of that care. In doing so, H.R. 1215 would allow an additional 400,000 families to care for their elders at home—and keep their extended families together longer.

Third, this legislation would allow families to claim a credit of up to $5,000 for the costs of adopting a child. This needed tax relief will help reduce the financial barriers to adoption, the costs of which average between $10,000 and $12,000 per child.

It is estimated that this tax break would benefit more than 65,000 families nationwide—and will help thousands of children become part of healthy, productive families. At a time when it has become nearly impossible to find adoptive parents for thousands of children, I believe that this tax credit is essential. In a sense, this tax credit helps families in the most fundamental way possible: It helps families become families.

Finally, and most importantly, H.R. 1215 establishes a $500 per-child tax credit.

The $500 per-child tax credit will provide substantial tax relief for American families. In fact, this tax credit will reduce taxes on families with children by $105 billion over the next 5 years. This tax relief would be distributed to more than 30 million families across the country.

But let us put it in everyday terms: If H.R. 1215 passes, a family with two children could receive a $1,000 discount on their yearly tax bill. That's enough to buy food for several months, or clothes for a whole year.

Having raised three children myself, I know from firsthand experience how expensive it is to raise children. I can think of no better way to help American families than by giving them more money to spend on their kids.

And let me say a word to my colleagues who claim that, somehow, this tax credit is a giveaway to the rich:

I think that those who make this claim do not truly understand the value and importance of children. A child's worth does not change just because his or her parents make more money. The fact is that the $500 per-child tax credit is about helping children—all children. It is not about engaging in class warfare to score political points.

Even worse, those who engage in this class warfare argument have their facts wrong:

In reality, 75 percent of the tax benefits from the $500 per-child tax credit will go to families making less than $75,000 per year. 90 percent of the benefits go to families making under $100,000 per year. In other words, average, working families will receive nearly all of the benefits from the $500 per-child tax credit.

In sum, the tax relief bill we are debating here today is one of the most pro-family pieces of legislation Congress has seen in years. By eliminating the marriage penalty, helping families absorb the costs of adoption and caring for an elderly relative, and by giving parents more money to care for their children, H.R. 1215 will do much to help families make ends meet.

In a sense, H.R. 1215 is based on a revolutionary idea that hasn't been tried by Congress before: Let families keep more of their own money. In doing so, we can do more to help children and families than we have ever done in the past—without hiring a single new government bureaucrat or establishing a new government program.

So let us vote to give American families a helping hand. I urge my colleagues to support H.R. 1215.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in strong opposition to this tax giveaway to the rich. We do need tax relief, but it should be targeted at middle-class families who have been working harder for less for far too long in this country.

The bill now before us does nothing to help working Americans. Households earning $200,000 are big winners. They receive an average tax cut of $11,266. Corporations are big winners. The alternative minimum tax is eliminated, but households earning under $30,000 would receive a paltry $124. Even this small break for ordinary people would be more than taken away through spending cuts.

Whatever break seniors get, they will pay back with as much as $400 billion in cuts in Medicare. And whatever breaks middle-class families get, they will pay back in higher college education costs because of $13 billion in cuts in student loans.

Do not be fooled. The American public should not be fooled. The rich and the powerful are the only winners in this very bad bill.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas, Mr. SAM JOHNSON, a respected member of the committee.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I rise in support of America's families, who are all struggling to make ends meet.

For too long Washington has increased taxes and slowly eroded the ability of families to afford the basic necessities of life. It is absurd that the American families now pay more in taxes for food, clothing, and houses combined. High taxes are for what? Politicians can spend more; that is, for big government.

It is time to end this selfish Washington knows best attitude. This money does not belong to government. It belongs to you, the people.

This bill would provide tax relief to 35 million American families. Congress must realize that the people of America can handle their own money better than any Washington bureaucrat. Republicans know better that lower taxes mean more money in the hands of people who make the economy grow.

This means families have more money to spend, to invest, or save for the future.

Democrats have been raising taxes for so long, they truly do not know any other way to run the government. Some of our Democrat speakers even believe that the tax-and-spend policy has succeeded. But we all know what a failure it was. Taxes are destructive to families, to businesses, and to the economy.

Contrary to liberal belief, taxes do not discriminate by income. They hurt every family in America. It is unbelievable that Democrats still believe that people are not taxed enough. But then again, these are the same Democrats that passed the largest tax increase in history. They want to raise taxes again.

Listen to their rhetoric. It supports big government. It supports big spending. It supports more taxes, and they want your family to pay for their over spending.

Let us take a giant step forward today for our families, our children, and our Nation and vote for this bill and vote for tax relief.

Mr. GIBBONS. Mr. Chairman, I yield myself 30 seconds to respond to the last gentleman.

When I came to Congress, the Eisenhower administration had just left here. And the tax rate at the top was 94 percent. And all through the tax rate was much higher than it is today.

We Democrats, who have controlled the Congress ever since then, have reduced those rates from 94 percent down into the 30 percents. So the gentleman is just dead wrong when he says we did not reduce taxes in the Democratic administration. He does not know what he is talking about.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], a member of the Committee on Ways and Means.

Mrs. KENNELLY. Mr. Chairman, I rise in opposition to H.R. 1215. It is he wrong bill at the time, no matter how attractive the various pieces.

We know the macroeconomic reasons for being against this bill today. As Mr. Kiskanen of the Cato Institute has said: "There's not a single part of this bill that I consider an improvement over the current system." He goes on to say that the bill would encourage additional investment in new equipment but does nothing to stimulate additional savings to finance it.

Robert Shapiro, another respected economist, says he doubts the Congress will find the $90 billion to pay for it. Henry Aaron is concerned about the widening gap between the haves and the have nots. Others worry about where the money to pay for the bill will be found. The bill is very specific on cuts in revenue—but oh so vague, about $700 billion, in cuts in discretionary spending.

Although the bill is called the American Dream Restoration Act, it will not be a pleasant dream for some, for instance, the blind. Although the contract includes a provision raising the Social Security earnings test to $30,000 a year for seniors, it breaks the current link in the earnings test between the blind and senior citizens. This link has been successful over the past 18 years in giving blind individuals the opportunity to be more productive members of society, and to support their families.

I had asked the Rules Committee to allow consideration of my amendment to provide the same earnings test for seniors and the blind by the year 2000. This amendment was not controversial. In fact, 161 Members are cosponsors of a complementary resolution that the link be maintained. This amendment would have been paid for with surplus funds on the Social Security pay-go scorecard. Unfortunately, the Rules Committee did not make my amendment in order.

I also want to focus on a little known fact: The contract would significantly reduce State revenues. A recent study of 15 States by the Institute on Taxation and Economic Policy indicates that just two provisions of this bill—depreciation and capital gains—will cost those States over $41 billion over 10 years. Why? Because 37 States use Federal adjusted gross income [AGI] as the starting point for computing State taxes. In other words, Federal AGI is the tax base in these States and as the contract reduces Federal AGI, it also reduces State revenues.

It is possible for States to avoid this loss of revenue by passing laws denying the Federal tax cuts for State tax purposes. This however, would require taxpayers to keep two different sets of books—an administrative nightmare.

My own State of Connecticut stands to see State receipts reduced by $1.64 billion—about $500 for every man, woman, and child in the State. This bill gives $500 per child, but they will get lost at the State and local level.

Mr. Chairman, it is one thing for us to debate how best to raise Federal revenue and how best to spend it. It is quite another for us to make these very fundamental revenue decisions for the State Governors. Especially at a time when we hear so much about the desirability of shifting decision-making back to the States, it seems high-handed, even unreasonable, to arrogate these decisions to ourselves.

Remember, these are just two provisions. How much will the other provisions cost Connecticut or your States? Passing the contract would create budget deficits in 37 States. This is just another unfunded mandate.

Oppose the bill.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING], the chairman of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. BUNNING of Kentucky. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the tax cut bill that is before the House today.

In the last couple of weeks, there has been a lot of hot air and bluster about this bill. It has been interesting to hear the people on the other side of the aisle rant and rave about the unfairness of this tax bill.

It reminds me of my predecessor, Gene Snyder, who frequently referred to the howling wolves of liberalism. Today they are not howling, they are just whining.

Last night, during special orders, I heard one Member go so far as to call this tax bill, immoral.

Anyone who calls this bill unfair or immoral is not reading the same bill I have been reading.

I will tell you what is immoral and unfair. Immoral is a policy that penalizes senior citizens for saving for their own retirement. This bill fixes that existing policy.

Unfair is a policy that penalizes senior citizens for working. This bill fixes that existing policy.

Unfair is a policy that discourages people from buying insurance to take care of themselves in their later years. This bill fixes that.

This bill fixes all of these misguided policies.

This bill—which includes the Senior Citizens Equity Act which I sponsored—repeals the 1993 Clinton tax increase on Social Security benefits which so unfairly penalized people who managed to save and invest enough during their working years to supplement their retirement incomes.

This bill raises the Social Security earnings limit so that seniors who have to work or choose to work after retirement can make more than $11,280 a year and not be penalized. This bill will allow them to make thirty thousand dollars with no penalty. That is fairness.

This bill makes it easier for people to buy long term health care insurance so they can take care of themselves in their failing years. That is not unfair. It is sound public policy.

This bill makes it easier for people who are terminally ill to cash in their life insurance policies—tax free—to help them pay for their own medical bills. That is compassion and common sense.

This tax cut bill gives families a tax credit to help them take care of elderly parents and grandparents. That is policy that encourages individual responsibility.

This bill gives a tax credit to help defray the costs incurred by families who want to adopt a child. This bill will make it possible for more families to bring children into loving homes. That is compassion.

There is nothing immoral or unfair about any of these things. This is sound public policy. This tax bill encourages individual responsibility. It encourages people to work and save and to pay their own way.

Mr. Chairman, this is a good bill. The unfairness argument does not stick. It is time to do what is right and pass this measure and give the American taxpayer a break.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Chairman, the voodoo policies of the 1980's should have taught us something about Reaganomics. Yet, here we go again, Republicans are going to cut taxes for the wealthy and pay for them with cuts to student loans and heating assistance for the elderly poor.

If you make $200,000 a year, Republicans feel your child is worth $500 dollars. But if you make $12,000 a year, your child is worth zero. We suspected this all along, but with this bill the Republicans have brought our worst nightmare to us live and in color. They go too far.

With this bill, the rich are going to make out like bandits, and at the same time, the Republicans are adding another $750 billion to the deficit over the next 10 years. Mr. Chairman, Republicans are so fond of saying that a rising tide lifts all boats. But what they really mean is that a rising tide lifts all yachts, while the working class homes on shore, get washed away.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN], a member of the committee.

Mr. CHRISTENSEN. Mr. Chairman, there is one issue that has been neglected in the debate over our tax bill: the issue of how this tax bill helps our Nation's seniors.

Remember President Clinton's punitive tax hike on seniors? Remember when the Democrats decided that seniors living on fixed incomes as low as $34,000 were wealthy? Well, our bill injects some sanity back into this debate by repealing the Clinton tax increase on seniors. It lets seniors keep more of their own money rather than forcing them to hand it over to the Federal Government to be squandered by spendthrift bureaucrats.

Our tax bill also helps seniors by reforming the Social Security earnings limit. Under current law, seniors between the ages of 65 to 69 can only earn $11,280 before the Government begins confiscating $1 for every $3 they earn. When you include the FICA withholding tax and the Federal income tax, low-income seniors face an effective marginal tax rate of 55.65 percent. That is a tax rate traditionally left to millionaires.

Unlike the Democrats, who once claimed that they wanted to see the earnings limit raised, we are doing what we said we would do by raising the earnings limit to $30,000.

These provisions, plus our long-term care incentives, $500 eldercare tax credit and the increase in the estate and gift tax exclusion, show that it is the Republicans that are looking out for the best interests of our Nation's seniors.

In my State of Nebraska, over 34,000 seniors will benefit directly from our senior citizen tax reforms.

Not to mention how many thousands of other Nebraska seniors will benefit from our American dream savings accounts, spousal IRA's and capital gains reductions.

Let us not forget that it was the Democrats who passed the largest tax increase in American history. They oppose H.R. 1215 because they want to raise taxes again.

Here is a bill that helps out our Nation's seniors, cuts taxes on all Americans, pays for those cuts, and lowers the deficit by $30 billion. Sounds like win-win public policy to me.

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Mr. GIBBONS. Mr. Chairman, I yield myself 15 seconds to answer the gentleman's charge about the 15-percent increase on Social Security.

I will remind the gentleman that President Reagan—President Reagan raised the taxes on 50 percent of the income of Social Security recipients, versus 15 that the current President raised.

Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, first of all, I oppose very strongly the Republican fairness and deficit reduction bill. It is an oxymoron, because there is no fairness in this bill. Neither does it reduce the deficit.

The Republican majority's bill, which is said to reduce the deficit, is not doing it. You are just moving old wine around in new bottles, that is what you are doing, taking money from here and putting it over there. It is an old shell game. Each one of us who has been around long enough will know that.

I am a senior citizen. You are helping senior citizens one way and taking it away in another. Look what is happening with health care for senior citizens. No matter how much money we are giving them, if there is no health delivery system, we are still not helping them.

A lot of things they are doing here is made up of smoke and mirrors all put together in a consortium of fooling the American public that they are really doing something for them, when they are really not. What they are doing, we have a spectrum here, where we have on one side the very poor, in the middle we have the middle class, and then we have the upper class.

Do Members know who is getting all the money? The upper class. The poor middle-class people in the middle are being left out. These cuts in vital programs are going to fund these tax cuts, things they are taking away from average Americans.

I must say, this 5-year budget plan that is supposed to reduce the deficit is not going to reduce the deficit, so do not go away from here thinking it is going to do that.

Mr. ARCHER. Mr. Chairman, I yield 2¾ minutes to the gentleman from Florida [Mr. SHAW], chairman of the Subcommittee on Human Resources of the Committee on Ways and Means.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of helping this country's senior citizens continue to live their American dream. And I mean all senior citizens, Mr. Chairman, not just wealthy senior citizens. Since 1993, the Clinton tax hike on Social Security benefits has meant that a senior citizen who lives on a fixed income as low as $34,000 must pay income taxes on 85 percent of his or her benefits. This was a 70-percent income tax hike on Social Security benefits. Today, we are going to repeal this ill-conceived tax hike and reassure our senior citizens that this Congress has not forgotten the hard work they contributed to their country.

We are also not going to forget that many citizens over the age 65 have no intention of settling into retirement, or that others are in the situation where they must continue to work beyond age 65 because their fixed Social Security income does not provide adequate financial security. For these people we are offering to increase the amount senior citizens can earn before being taxed on the benefits they have already earned. The current earnings limit of only $211,280 punishes senior citizens by hitting them with an additional effective tax of 33 percent. This is not fair, and this is why we owe it to our senior citizens to gradually increase the earnings limit to $30,000 per year over a 5-year period.

Finally, Mr. Chairman, I support helping millions of Americans plan now to avoid potential financial hardships, later in life, by encouraging private solutions to long-term health care. One of the biggest fears of senior citizens is that they may lose most of what they own if they are confronted with a long-term illness. This fear will be felt by younger Americans when they reach the age of retirement. By allowing accelerated death benefits to be paid tax free from life insurance policies, by providing employers with incentives to offer long-term care coverage, and by allowing tax-free withdrawals from IRA's and other pension plans in order to buy long-term care coverage will provide financial security to all Americans who worry about being able to take care of their long-term care needs.

Mr. Chairman, my main concern is for the well-being of this country's senior citizens. The provisions of H.R. 1215 we speak of today will help empower today's senior citizens, as well as tomorrow's. I encourage a vote of "yes" for this bill.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, last week we debated the Personal Responsibility Act. Today we are debating the Tax Irresponsibility Act. This bill is irresponsible for two reasons. First of all, this bill will cost over a 10-year period $700 billion; not million, billion dollars. Now, there is no free lunch, as we learned in the 1980's, and there is no free breakfast, lunch, and dinner. We have to pay for this.

The Republicans have it half right, in that they pay for some of these new tax breaks, but then they respend the money. They do not put it to the deficit.

Second, let us talk about fairness; not class warfare, but tax fairness. This bill repeals the corporate minimum tax. That simply states if you are a profitable company, you should pay some taxes. This bill gets rid of that and says to schoolchildren: "We are going to take 50 cents from you out of that $1.10 lunch, and you are going to help pay for that tax break for the corporation."

Let us get back to the days, in a bipartisan way, when the gentleman from Ohio, JOHN KASICH, and Tim Penny worked together to reduce the deficit in a fair manner.

Mr. ARCHER. Mr. Chairman I yield 1 minute to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, I am glad to rise in support of the tax relief bill. It lowers capital gains, raises the earnings limit on Social Security, provides an adoption tax credit, an elder tax credit, IRA equity, a $500 tax credit for children.

In short, it is a family-friendly tax relief bill. After all, the family is the fundamental unit of society. It is the guardian of our social fabric. It is the means by which our values are conveyed. Yet it is besieged, embattled. It is under attack by its own government. We could not have come up with a more anti-family public policy if we had sat down and devised such a plan.

It is not too much to expect that government be the friend, not the foe, of the family, so one critical step in turning this around is the passage of the $500 per child tax credit. It would shift power and money from Washington bureaucrats and return it to the moms and dads of middle America.

Families do not want more entitlements, they want empowerment. The American family is tired of high-sounding rhetoric and empty speeches about family values while policymakers insult them by saying "We can't afford it now," as if it is our money. We cannot afford not to do it now. Our national security is intertwined with family security. Strong and secure families mean a strong and secure society.

We need to reject the class warfare rhetoric and pass this bill.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. NEAL], a Member of the Committee on Ways and Means.

Mr. NEAL. Mr. Chairman, the Tax Fairness and Deficit Reduction Act is neither, and it is certainly not the right approach for tax cuts. This legislation reduces by $188 billion the Federal Treasury over 5 years. Indeed, Treasury has estimated that the provisions are going to cost $700 billion over 10 years.

The Republicans say this unnecessary legislation will be financed by spending cuts. Discretionary spending cuts total $100 billion, but these cuts are neither specified nor are they guaranteed. It is still unclear which programs will be cut or eliminated. The legislation is not responsible. Our attention should be focused on deficit reduction, and this is not the time to be making tax cuts to the wealthy.

Those earning over $200,000 are not considered the middle class in my congressional district. I am not opposed to tax cuts for the middle class, but they should be targeted and geared toward investments. Several of the tax provisions in the Contract With America are indeed budget gimmicks. These provisions are glitter and sparkle, and there is no real long-term investment.

Let me say, there are some provisions even I could have supported, including the spousal individual retirement account, and expanding the IRA, and would have raised the ceiling on earnings for Social Security recipients, and happen to believe there ought to be some sort of capital gains relief, but I cannot support the larger package that is going to have such a dramatic impact on our deficit.

We should work for a package on both sides of the aisle that could be universally supported. Why could we not today vote on small provisions which are fully paid for? Why is this vote before us today all or nothing?

These tax provisions are not equitable. The wealthy few will receive more of the benefits, and the Treasury Department tells us that only 8 percent of the population realizes capital gains earnings in any given year. Most of the benefits in this proposal go to people who already make up to 6 percent of the wealthiest taxpayers in America.

If we are going to enact tax cuts, we ought to pay for them. It is still unclear which programs will be eliminated, and surely deeper cuts will have to be made in order to pay for these provisions and their cost increases.

We ought to focus on the middle class today. If we look beyond the bluster, we see the flaws in this proposal. Education is the most important investment we can make. In Massachusetts, 137,000 students are going to pay more for their student loans when we get done at the end of this day. This ought not to happen.

The Democratic alternative is sounder. The School Act is a simple, realistic approach. Our legislation provides tax cuts which will help the real middle class and help to pay for higher education. Four proposals make up the School Safety Act. They are deductions for education costs, student loan deductibility, guaranteed education planned savings bonds, and expanded individual retirement accounts. All of these proposals are geared towards education.

None of these tax cuts will be enacted unless we stay on a target toward a balanced budget, but today these Republican cuts are going to end up creating more spending cuts. The public will be cheated in the end.

Mr. Chairman, this legislation is ill-considered and ill-timed.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. ENSIGN], a member of the committee.

Mr. ENSIGN. Mr. Chairman, we have heard "How are we going to pay for these tax cuts." Let me remind the Members here that the Government does not pay for tax cuts. We allow the American people to keep their own tax dollars that they have earned.

Taxpayers have to pay for government spending, so when we talk about how are we going to pay for tax cuts, we are just going to allow the American people to keep more of what they earned.

In reference to a little while ago, we heard about Ronald Reagan raising taxes up to 50 percent on Social Security recipients back in 1983. Let me remind the Members also of which party was in control of the Committee on Ways and Means and which party was in control of the Congress at that time. It was the Democrats.

I have a lot of seniors in my district. Those seniors have been telling me that they thought that the 1993 raise on their Social Security benefits, tax raise on their Social Security benefits, was unfair. I agree with them. They have earned this money. The tax raise in 1983 went to bail out Social Security.

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The tax raise in 1993 did not go to bail out Social Security. What we need to do is we need to be fair to our seniors. We need to raise as this bill does the earnings limit up to $30,000. I had people working for me that would come to me and say, "You know, I just can't work anymore because I'll go over my earnings limit and that will hurt me as far as my Social Security money is concerned." It used to break my heart. These people wanted to be productive and we would not be able to allow that because of the tax system that we have set up. We need to give working seniors a break and this bill does that.

Lastly, this bill also encourages people to get long-term health care insurance. I am proud to support that. It is something we need in this country.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I want to begin by complimenting everyone on the civility that has been shown thus far.

I remind my Republican colleagues that our Nation is over $4 trillion in debt. This Nation this year will borrow over $200 billion just to make ends meet. That money has to be repaid.

In the 2 minutes that I address this body, the American people will spend $1 million just on interest on the national debt. For those of you who have a Visa card or any other charge card, you know what interest is. It is money that is wasted. Sometimes it is a bargain to spend money ahead of time and pay it back later but it is never a bargain for your Nation to borrow money.

Last year on June 6 I happened to stand on the bluffs of Normandy amongst 10,000 crosses, a cross for every person that lives in my hometown almost. Those people, like my colleague SAM GIBBONS, many of them jumped out of airplanes in the dark the night before. Many of them died. They jumped for $90 a month. No one ever asked those people would they do it for a tax break. Do you love your country only if you get a tax break, if you get more back than you gave to it? They did it because they loved their country.

This Nation has done wonderful things and it troubles me when I see my Republican friends belittle the wonderful things this country has done. This country saved the world from Adolf Hitler. This country saved the world from communism. But there is a bill that had to be paid with that. The defense bill of the 1980's that I think was wonderful has to be paid. It was over $300 billion a year.

It makes no sense at all to turn around and say that we just saved a couple of billion dollars last week, so let's give it away. Because you are not giving it away, you are borrowing more money. If you want to threaten the very thing that SAM JOHNSON sat in a POW camp for 5 years in Vietnam, or the very thing that SAM GIBBONS jumped out of an airplane in the middle of the night for, if you want to threaten the democracy of this great Nation, the world's greatest Nation, don't pay your bills. Let this Nation collapse like Mexico. Let this Nation collapse like Yugoslavia. If you love your country, be willing to pay for it.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. THORNBERRY].

Mr. THORNBERRY. Mr. Chairman, one of the reasons I believe that the control of this body changed in the last election is that the American people were fed up with those who talk one way and then come to Washington and vote another. There are those who still try to come across as the protectors of senior citizens and 9 times out of 10 those are the same people who voted to impose new taxes on senior citizens in 1993.

This bill starts to undo some of the damage that has been done to senior citizens in the past. In addition to repealing those new taxes, it goes further and says that senior citizens ought to be able to earn a living, or earn some money, and be productive citizens beyond age 65. The tax incentives for long-term care and also allowing life insurance to come out earlier are important benefits for senior citizens.

I think when seniors look beyond the empty rhetoric and look at the concrete steps that will benefit them and benefit the things that they need to see happen in their later years, they will see this is real happen in their later years, they will see this is real concrete action that will make a big difference in their lives.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. NUSSLE], a member of the Committee on Ways and Means.

Mr. NUSSLE. I thank the gentleman, my chairman, for yielding me the time.

Mr. Chairman, I have had an opportunity and I spent most of the afternoon listening to the debate. I must say it has been pretty clear to me there are two philosophies at work here. The one philosophy is the one I believe I brought to Congress and I believe many of my Republican friends brought to Congress. That is, that individuals and families make better decisions about their daily lives than Government can for them. They spend their money better. They make better decisions about their family, about their future, about deciding what their American dream is all about and how they are going to reach it. Yet there is another philosophy here in Congress and here in Washington, and, that is, that bureaucrats and Congressmen make better decisions about people's daily lives than they can for themselves and that the only kind of compassion we can have in this country is one that comes out of a word processor, one that is printed on paper, one that is paid for by a Government check, and that is basically the two competing philosophies.

So, yeah, there's a lot of whining, there's a lot of crying about the future because the future is changing, because Americans are saying, "We've had enough with Government check compassion. What we want is we want to take back our future."

If there were $500 sitting right here on this podium and we had to decide in this body here today who would spend that money the most wisely, would it be Government bureaucrats and Congressmen or would it be families. I can tell you what the vote would be. The Republicans would say, "Please, let families take back their future, let them decide how to best spend that money."

Yet the vote on the other side would be very clear as well. They would say, "We don't trust families. We think that it's the Government's money. It's not even the family's money. We're giving the tax cut."

Who ever heard of giving a tax cut when it is the family's money to begin with? All of us that balance our checkbooks around our kitchen tables, particularly my friends back in Iowa, know who the money belongs to, knows that it is their money that they earned, that they worked for, that they want to make decisions about, whether it is for their farm or their family, their future, a college education. They are the ones that know how to manage that money.

Today we will decide the future of those two philosophies. I know Republicans are going to trust families.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I say to the gentleman from Iowa, I would not risk laying $500 on either one of these things here.

Let me put in perspective, if I can, first of all about Social Security. We have heard a lot about Social Security. Democrats have always supported Social Security. Let me just remind folks that are talking about the Reagan administration, the very first budget that was sent to this House under the Reagan administration, under David Stockman, called for eliminating the $123 minimum Social Security for the oldest, most vulnerable citizens in our society.

The folks that have been on the talk shows and been making the debates here today have been talking about where these moneys are coming from. And to the credit of the gentleman from the Committee on Ways and Means, he made no bones about it. These rescission savings and all of these savings that have been counted, that have been cut out of the lunch program and all the other programs, make no bones about it, they are going to be used to pay for this tax cut.

Let's make perfectly clear, and the gentleman makes no bones about it, you are going to use the rescission money and on the domestic side you are going to use the cuts, and they are cuts, in the feeding programs for our children, they are real cuts, and they are going to be used to pay for this tax cut for the super-wealthy.

Senior citizens. I am a senior citizen. I can get a discount in every Shoney's across this country. But let me tell you about senior citizens. I have been seeing the buttons about senior-friendly. Let me tell you what is going to happen to you in May. You are talking about senior citizens. In May when the chairman of the Committee on the Budget puts together this budget to get toward this balanced budget, they are going to go in and they are going to absolutely do some devastating cuts in Medicare for our senior citizens. Then we are going to see how senior-friendly this whole package is. It has been all the way to take the money from the most vulnerable people in our society and target it to the people that do not need it, that Social Security, and every Member that has spoken in favor of this tax package today is going to get a tax cut. Every single one of them.

This package is like the lady that had the ugly baby that was so ugly, she had to tie a pork chop around its neck to get the dog to play with it. That is how bad this bill is.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON], the chairman of the Joint Economic Committee.

Mr. SAXTON. I thank the gentleman from Texas for yielding me this time.

Mr. Chairman, one of the things that we hear repeatedly from the opposition side of the aisle is that somehow this Republican tax plan is going to hurt those who are already less well off than others, the poorer folks in the United States. We have heard it over and over again and it did not just start today. It has been going on for some time. I call those of you who use that line revisionists, revising the history of the 1980's just as some people in this country would revise the history of World War II, kind of the same thing.

Let me give an example. A speaker earlier today talked about what happened to the bottom fifth of the wage earners in our country during the 1980's and they said that they were less well off in 1990 than they were in 1980. That is true. But you do not say why. As a matter of fact, in 1979 when our President was not a Republican, the bottom fifth on average earned a level at about $9,800. During the next several years, ending in 1982, that level of income for the bottom fifth of our wage earners plummeted so that by 1982, it was way down here at about $8,400. Then Republican tax policy changes took place in 1981, 1982, and 1983. Look at what happened to the average wage level of the bottom fifth of our wage earners. It went up dramatically. Not quite to $9,800, but almost. It grew rapidly.

Then we go off this chart in 1990, we had a tax increase, and in 1993 we had another tax increase. If this chart were up-to-date, you would see this yellow line shoot back down again because we increased taxes, hurt the economy, and had the most dramatic effect on our low-wage earners.

We are not out to hurt them. We are out to help them with this tax plan.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. I thank the gentleman for yielding me the time.

Mr. Chairman, I appreciate the opportunity to speak on this bill because I am a little confused. As I said earlier this morning, I thought we were in the business of cutting taxes with this bill only to find out that we are actually increasing taxes on 2 million Americans. I am disturbed because those 2 million Americans are Federal employees, FBI agents, cancer researchers, people that help move our Social Security checks, people who work very hard, who have experienced downsizing, and who are now confronted with the notion that in order to get a $500 per child tax deduction, they are going to pay an extra $750 to get that. They are paying that in the form of an increased contribution for their retirement. There is nothing wrong with the Federal retiree system now. It is not overly generous. In the private sector they would not have to pay anything at all. It is not insolvent. We have had research to indicate that it is in fine shape.

Why are they doing this? They are doing it to raise money and they are raising money to give a tax break to the wealthiest citizens in America. This debate does not have anything to do about whether ma and pa ought to get a tax break. The problem with this tax proposal is all the money is going to the very wealthy. The top 1 percent of Americans will get 10 percent of the benefits under this bill. The top 20 percent will get 50 percent of the benefits under this bill. It does not seem right to me.

Mr. ARCHER. Mr. Chairman, if I might, with the indulgence of the gentleman from Florida, yield myself such time as I may consume in order to respond to the gentleman.

Mr. Chairman, I do not know where his figures come from that the top 1 percent gets 10 percent, because what the reality is, with the Joint Committee figures which are the official figures on which we live in the Congress, not the cooked-up Treasury figures, it shows that the top 1 percent pay a bigger portion of the total taxes collected under this bill than they do under current law.

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The top 10 percent pay the bigger percent of the taxes collected than under the current law.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, this debate is not over and there is much more to come, but this is the conclusion of the Ways and Means Committee portion of the debate.

Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Tennessee [Mr. FORD].

Mr. FORD. Mr. Chairman, I thank my colleague from Florida for yielding me this time.

Mr. Chairman, I rise in strong opposition to the bill.

We know that this tax cut that we have before us today is not going to reduce the deficit at all. We know what the Republicans are doing is trying to really give to the well-to-do of this country a tax break that will not really respond to the evils and to the problems that we are faced with in this country, and I rise in strong opposition to it.

Mr. GIBBONS. Mr. Chairman, I yield myself the balance of our time.

Mr. Chairman, there is much more to come, as you know. I want to sum up what I think is the case against this bill right now.

We Democrats are for tax cuts. But we are for tax cuts at the right time when the economy needs them, not when the national economy is running such a huge deficit as it is today.

Our first priority today should be cutting the deficit.

Why should it be the first priority? Since 1991 we have had a rising employment rate, which yields us the lowest unemployment rate we have had in 5½ years. We are at full employment now.

I know there are some isolated pockets in the country that are not in full employment but the country as a whole is at full employment.

We are at full factory capacity utilization. We are at the highest factory capacity utilization we have had in 15½ years. The Federal Reserve acknowledges that, and that is the reason the Federal Reserve has raised the interest rate seven times in the last 14 months, 7 times in the last 14 months. And if this tax bill goes through, the Federal Reserve will offset it by raising the tax rate again as soon as this bill takes effect.

So, this is just the wrong time to do this. We should be reducing the budget deficit. If we cannot reduce the budget deficit in full employment and full factory capacity utilization, we can never reduce the budget deficit.

There is another reason why we should vote against this bill and that is the equities of the bill. The bill is badly balanced against those people who really could use a tax cut if it were the right time to cut taxes. And the first chart I have here shows what has happened to Americans in the last 20 years. And for those who do not have their glasses on and cannot see real well, the figure on my left is the higher one-fifth of our population. Their family income has increased 29½ percent, almost 30 percent in the last 20 years. But on the other end of the chart, the low end, the lowest fifth of our population, their family income has gone down by almost 15 percent in the last 20 years. And Members can see what has happened to the folks in the middle. In other words, three-fifths of the Americans have not participated in the growth of the American economy at all. In fact, they have lost ground. And two-fifths, mainly the upper fifth have gained ground in all of this.

Not all of that is tax policy driven, but a large percentage of it is tax policy driven.

The next chart is showing how difficult it is going to be to balance the budget and, very briefly, to balance the budget with the contract will require tax cuts of a trillion or require spending cuts of $5.8 trillion. That is not paid for in this bill. Anybody that says it is paid for in this bill is not on the same planet with the rest of us.

The next chart I would like to show Members is how the revenue losses explode under this bill. Much ado has been made about how this is all paid for. But in the first 5 years, which is all my colleagues on the Republican side conveniently want to talk about, even though the Senate looks at all of this over a 10-year period, the losses are not very great, but in the second 5-year period they just explode. This whole chart is practically red after the second 5 years and that is 700 billion dollars' worth of revenue loss.

The next chart I want to show is the middle class are shortchanged by the Republican tax bill. The middle-class people, which are all of these people down here in these income ranges, from under $30,000 to $100,000, they get these low figures in all of this. I want my Republican colleagues to see this because this is real important to them. This is what the middle class get. But this is what the upper income people get. The upper income people get 51½ percent of the tax cut in this bill.

Those are not my figures. Those are figures from the Department of the Treasury. I do not believe the Joint Tax Committee, and I see the staff director here on the floor and former staff director of the Joint Tax Committee who will dispute those, so the equities of this bill are wrong.

The timing of it is wrong. It is time to send this bill back to committee, and tell us to do it right.

The CHAIRMAN. The time of the gentleman from Florida [Mr. GIBBONS] has expired. The gentleman from Texas [Mr. ARCHER] has 5 minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey. [Mrs. ROUKEMA.]

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of the bill. It puts critical incentives back into our economy to create those good jobs and save and invest in America.

Mr. Chairman, I rise in support of H.R. 1215, the legislation before the House of Representatives today, for three reasons: it cuts taxes for hard-working American families; it cuts government spending; and it puts some critically needed tax incentives into the law so that we can begin to implement a "Save and Invest in America Plan", which our country desperately needs in order to maintain our role as a world leader in the 21st Century.

While I am pleased to see that several items that I have long advocated as part of my save and invest in America plan are included in this package—including expanded Individual Retirement Accounts, a 50 percent exclusion on capital gains, indexing capital gains for inflation, increased ability of small businesses to deduct up to $35,000 in capital equipment investments—I had hoped that we would consider this important legislation under a more open procedure than the rule that governs debate on H.R. 1215 today.

Specifically, I had hoped that the House could consider an amendment that would allow the $500 tax credit for children to be limited to families with adjusted gross incomes up to $95,000 a year, instead of the $200,000 limit currently in H.R. 1215.

In addition to the fact that this amendment would more precisely target the tax relief in this bill toward middle-class families across our Nation, it would have also meant that H.R. 1215 would have provided for an additional $7 billion in additional deficit reductions over 5 years.

The second item I just mentioned is important because I happen to believe that the single most pressing problem facing the 104th Congress is our broken Federal budget.

In the current budget year, the Federal Government expects to collect a total of $1.3 trillion or revenue. Regrettably, that isn't enough money to fund the Federal Government's activities under the Clinton administration's current fiscal policies, because they expect to spend $1.5 trillion this year, leaving behind a $200 billion budget deficit!

At the same time, the Federal Government will spend $235 billion for interest payments on the $4.6 trillion debt! These interest payments don't help defend our country, provide health care to the elderly or impoverished, or fund environmental or educational programs.

If we fail to balance the budget, and this trend continues, in 2 short years we'll be spending more on interest on the debt—$270 billion—than we will on our national defense—$260 billion.

In this regard, the so-called deficit reduction glidepath agreement incorporated into H.R. 1215 by the rule is clearly insufficient. It takes a tentative step in the right direction—by requiring the Federal budget to be balanced in order for tax cuts to be effective—but it contains no enforcement mechanism that insures the deficit will be eliminated in the next 7 years.

Worse yet is that current projections for the loss in Federal revenues from the tax provisions in H.R. 1215 increase sharply in the future.

In fact, the Treasury Department is estimating that the tax provisions in this bill will lose about $190 billion in revenues in its first 5 years. However, the Treasury estimates that the tax provisions of this bill will lose an additional $440 billion in revenues over the subsequent 5 years.

Such a dramatic reduction in revenues will place extraordinary pressure on the Congress and President to offset this loss by cutting Federal spending even deeper.

For far too long in the past, the Congress and President have been simply unwilling to make the tough choices about budgetary priorities that the American people expect us to make, and as a direct result, we have faced $250 billion deficits for years and years, with no end in sight, a the same time that our debt has escalated from $1 trillion to more that $4 trillion.

Simply put: we must rise to this challenge and fix our budget.

The time has come for this unconscionable practice to end. And, this Congress should not let a historic opportunity to pass a better America on to future generations slip through our fingers.

For the last several years, I have spent a lot of time talking to the people of northern New Jersey that I represent about changing the unacceptable status quo by offering solid, responsible blueprints for our Nation's future—or, what I refer to as a save and invest in America plan.

Saving and investing in America will return money to the pockets of working Americans and encourage U.S. business to invest in new plants and equipment to become more competitive in the ongoing global economic wars. Saving and investing in America is about improving our economy, creating good jobs at good wages, and strengthening the American family.

While the fact of the matter is that the legislation before us today incorporates some of these ideas, I had hoped that this package could have reduced the budget deficit even further than it does.

I anticipate when the Senate acts on a tax bill, the Senate-passed legislation will address my concerns about the dramatic loss of Federal revenue after 2002, such that when the final version of this legislation comes before Congress, the new Republican majority in the House can proudly claim that it has done right by America and really, truly put the Federal Government on the road to a balanced budget by 2002. If so, I look forward to enthusiastically supporting passage and enactment of just that kind of legislation.

There are several other items included in H.R. 1215 that I support as well, including: its 5-year phase-out of President Clinton's Social Security tax increase, a credit for married couples that eliminates the tax code's so-called marriage penalty, tax incentives for the purchase of long-term health insurance and deductions for long-term care premiums, and a phased-in, 5-year increase in the Social Security earnings limit to $30,000 for senior citizens.

In conclusion, I support House passage of this legislation, and urge my colleagues in the House of Representatives to do likewise.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Chairman, I rise in support of H.R. 1215.

For 92 days Congress has undergone tremendous transformation; from body of delay to one of action. Today we begin the climb for the summit of restoring tax fairness for families, businesses, farmers, and senior citizens; and we do so by making real cuts in spending.

I rise to call particular attention to provisions of H.R. 1215 that will help keep the family farm and the family business "in the family" by raising the estate tax credit from $600,000 to $750,000 and adjusting it annually for inflation.

Roughly half of the Nation's 2 million farmers are age 55 or older, and as the next generation of producers begin to take their place, these provisions will be instrumental in the all important effort of retaining the institution of family farming.

The estate tax provisions are but one of many good provisions of this sweeping package of tax cuts and spending reductions. I will support H.R. 1215 onfinal passage; it's far too important we move this last item in our contract forward. It is unfortunate, however, that we won't have the opportunity to make H.R. 1215 that much better.

Yes, I was 1 of the 100 or so Republicans that signed that letter. And I rise today to say that I am concerned about the provisions of this bill applying the $500 per child tax credit to those earning up to $200,000 annually. I commend my colleagues who had the courage and energy to take the lead on this issue.

We did promise the American people a tax cut. We also promised them deficit reduction. And certainly we could have worked for a better balance in this bill. By better targeting the $500 tax credit to families earning up to $95,000 annually, we would be cutting taxes and providing $12 to $14 billion more toward deficit reduction.

Lately, I and many others have been advised by our friends and colleagues that we shouldn't "buy" into the "class warfare" argument that is being waged by the other side, and that we should stick to what was in the Contract With America.

When I signed the Contract With America, I promised my constituents that I would support fair and open debate on items in the contract. I didn't promise to hand over my voting card and go home. They expect me to carefully weigh the pros and cons of the legislation and make improvements where I can.

That is certainly what I wished could have happened in this case. Instead, we're being told to eat our spinach and be happy. I never liked spinach when I was growing up, and I certainly don't like it now.

Nevertheless, on the side of deficit reduction, this bill is still serious business. It locks into place $124 billion in spending cuts.

The committee report accompanying the bill suggests how to achieve these savings, and I would not be representing my congressional district, if I did not raise objections to some of those proposals.

For example, recommended is another hit on rural health care and rural schools. The actual cuts to be made will be determined in the coming months by the appropriators and authorizing committees. I will be fighting to keep our share of the pie in rural America.

My constituents understand that fiscal responsibility and our goal of a balanced Federal budget will require sacrifice. And they are willing to do their share, but shutting down rural America will not be to anyone's benefit in the end. Someone has to put the food in our urban grocery stores.

This bill is the good news—tax cuts. This bill is also the reality—there is bitter medicine to swallow in the months and year ahead if we are to restore the government to fiscal health.

Mr. Chairman, I urge my colleagues to support H.R. 1215. it is not perfect and certainly is not painless, but it is necessary.

Mr. ARCHER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, it is very interesting when the Democrats present charts and numbers. Again, statistics as I have said earlier, do not lie, but. Their numbers almost exclusively are based on the Treasury Department's analysis, and the Treasury Department is an arm of you know who. The Treasury Department's analysis of distribution tables has been thoroughly discredited. The Joint Committee no longer uses that formula. They abandoned it prior to the time that we Republicans ever took over the control of this House. They abandoned the fictitious imputation of income to everyone who owns their own home as if it were being rented. They abandoned the arbitrary assignment of unreported and under-reported income because the Treasury thinks they know that each of us is not accurate in what we report. Therefore, that has got to be added on.

This system of distribution tables in the hearings before the Committee on Ways and Means was thoroughly discredited. But that is the basis of all of their comments. And yet the Joint Committee, which is the commercial nonpartisan arm of the House and the Senate of this Congress, has issued their burden table which shows that under this tax bill the top 1 percent and the top 10 percent will pay more as a percentage of total taxes collected than the middle income or the lower classes will pay compared to current law.

That is what the people of this country should understand.

When we get to the deficit numbers, I have not seen before this Congress anything that has been proposed by the Democrats that will reduce the deficit. They talk about reducing the deficit, but it is words only. When it got to welfare reform, what did their proposal do? It increased welfare spending by $2 billion. Ours reduced welfare spending by $66 billion. There is a direct comparison. The Democrats are full of promises that if we only spend more money up front, somewhere down the line we are going to get a dividend, but it just does not happen that way.

I think the American people are well aware that the party that stands for letting people keep more of their money, downsizing the Federal Government is the Republican Party.

I once had a Democrat colleague on the Committee on Ways and means whom I respected a great deal, a liberal Democrat, genuine, honest, sincere, followed his conscience, and he said to me one day, "Bill, I agree with you, we should have a balanced budget constitutional amendment." And I was rather surprised. But then he continued, "The only difference is you think the budget should be balanced at 15 percent of the GDP; I think it should be balanced at 50 percent of the GDP."

We want to get taxes down now equal to 2 percent of what the spending will be over the next 5 years so that when we get to a balanced budget we will have a Federal Government that will be 2 percent smaller and taking less out of the GDP. That is the Republican position. And we are determined to balance this budget.

On capital gains, it is very interesting to note the Democrats say this is really for the rich only, and yet 75 percent of all of the capital gains filings were for families that had under $75,000 of income.

My friend, the ranking Democrat on the Committee on Ways and Means said, oh well, it is like the lottery, only 7 percent or 8 percent of the people ever have a capital gain. He should look at the Joint Committee study here which was done in 1990, which covers only 5 years, from 1979 to 1993, and 15 million Americans had capital gains. That was 16 percent of the taxpayers who filed during that 5-year period. That is only 5 years. If you look at a lifetime, I will guarantee that the percentage of Americans that will have some type of capital gain will be a very, very large one.

Yes, some people start their business early in life and do not show a capital gain until later when they sell their business. It may be many years. The Treasury figures show them as accruing giant gains each year, and of course when they do finally sell in a one time in a lifetime sale, they are declared to be rich.

This bill is fair, and it gets the deficit down and it should be adopted.

The CHAIRMAN. All time for the Committee on Ways and Means' portion of general debate has expired.

During this portion of the debate, the gentleman from Ohio [Mr. KASICH] will be recognized for 30 minutes, and the gentleman from Minnesota [Mr. SABO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Hampshire [Mr. BASS].

Mr. BASS. Mr. Chairman, I rise in support of the pending legislation, and I do so as a member of the House Budget Committee. I am proud to be a member of this committee for the first time that came up with 180 billion real dollars in spending reduction.

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And not only that, under the guidance of our chairman, it has come up with a plan which is incorporated into the rule which was passed today that will tie the tax relief to the passage of a balanced budget resolution which will be produced by this committee sometime in the next 2 months. We will not have a tax relief unless we have a balanced budget. I think that is responsible of this Congress, and for those who are concerned about tax cuts versus spending reductions, be assured that we will have a balanced budget by the year 2002, and we will have tax relief as well.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. COYNE], a distinguished member of the Committee on the Budget.

Mr. COYNE. Mr. Chairman, I rise today in strong opposition to the Republican tax bill. This tax giveaway to the wealthiest individuals in the U.S. is made possible only by taking a meat axe to programs serving children, seniors, and the poor.

Speaker GINGRICH has called this Republican tax cut for Americans with incomes up to $200,000 the crown jewel of the Contract on America. The tragic fact is, however, that this crown jewel is being paid for by cutting programs like school lunches, infant nutrition programs, disabled children, LIHEAP, and student loans? The only good thing to say about this proposal is that at least the Republican majority is being clear about its priorities.

This Republican tax bill is not a middle-class tax relief bill. The vast majority of tax cuts in this bill go to the richest individuals in our society. Households earning $200,000 would receive an average tax cut of $11,266. By contrast, more than 44 million American households with incomes below $30,000 would receive only $124. The vast majority of middle-class Americans will receive a meager portion of the Republican majority's tax giveaway. They will, however, be the ones to pay for this tax cut through cuts in funding for education, children's programs, job training, crime prevention, cancer research, and a host of other essential domestic programs.

While middle-class Americans get peanuts under this bill, the capital gains reductions in this bill will benefit overwhelmingly upper income individuals. Over three-quarters of the tax benefits from the Republican capital gains proposal will go to individuals with incomes of $100,000 or more. This is no "Mom and Pop" small business investment incentive. Over half the taxpayers who realize capital gains each year have incomes over $200,000. This select group of the wealthiest individuals in our society—those with incomes above $200,000—would receive a $7,800 capital gains tax cut in 1996.

The Republican tax bill also reopens a tax loophole for the biggest corporations in the United States by repealing the Alternative Minimum Tax [AMT]. The AMT was enacted in 1986 when Congress became aware of how U.S. corporations with millions in profits could avoid paying any taxes. Reopening this tax loophole was not in the Contract With America but it was added in the House Ways and Means Committee to benefit the biggest corporations in America. The Republican message to corporate America is "Let the good times roll."

While giving the lion's share of tax cuts to the top 3 percent in America, this bill denies millions of hard working Americans an ability to benefit fully from the $500 per child tax credit in this bill. In the original contract, a young couple with one child and a family income of $15,000 would receive a child tax credit of $500. Under the Republican tax bill being considered today, that family of three would receive a tax credit of only $90. The Republican majority leadership rejected attempts to restore the full family tax credit to moderate-income Americans by phasing out this provision for Americans with incomes above $95,000. Instead, Americans with incomes up to $200,000 will benefit fully under this child tax credit provision while millions of middle-class Americans will never receive a full $500 per child tax credit.

It is also an outrage that Federal workers across America have been singled out for a tax increase to pay for this tax giveaway. A Federal worker in Pittsburgh earning $20,000 will pay $500 more a year in pension taxes under the Republican bill. The people we depend on to run our prisons, enforce our laws, and serve the needs of all Americans have been hit with a tax increase under the Republican tax bill.

Finally, the Republican majority's talk about ensuring that this tax cut does not add to the Federal deficit is a sham. Instead of making tax cuts contingent on deficit reduction, the Republican bill only requires an annual report to Congress on progress toward reducing the deficit. Instead of voting on specific cuts to pay for this bill, we have a promise of an additional $100 billion in unspecified spending cuts to be made sometime in the future. The Federal deficit will grow even larger if the Republican majority fails to enact their $17 billion cut in school lunches, child nutrition, LIHEAP and seniors programs that are targeted to pay for this tax giveaway.

The key to deficit reduction is to stop this tax giveaway. When you are in a hole, the first rule is stop digging. How can we expect to control growth in the Federal debt being passed on to future generations of Americans when the Republican tax bill adds billions more to the Federal deficit? The Republican response is to cut taxes today and we can pay for our giveaway tomorrow. That is the same message Republicans sold the country in the early 1980's and the result was a Federal debt that grew from less than $900 billion in 1980 to more than $4.8 trillion in 1995.

Mr. Chairman, the Republican tax bill is no American Dream Restoration Act. This bill can only be paid for by taking billions away from programs serving middle-class Americans in exchange for a few pennies in tax reductions. At the same time, the wealthiest in our society will have their pockets filled with this Republican tax giveaway. I urge my colleagues to defeat this tax bill.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. HOEKSTRA], a member of the Committee on the Budget.

Mr. HOEKSTRA. Mr. Chairman, I think it is time for us to reflect back on where we have been for the last 2 years and also then to look forward to where we are going to be at the end of this Congress.

Over the last 2 years, back in 1993, we had a real what we thought was a genuine effort to reduce the budget, passed the largest tax increase in American history. Two years later the President has come back after that large tax increase and has taken a walk on getting us to a balanced budget, continuing and perpetuating $200 billion deficits for the next 5 years, taking us to an accumulated debt of over $6 trillion.

I encourage everyone to take a look at where the Republicans will be after we finish our 2 years with this opportunity to set America in a new direction.

We have taken a first step where we have passed a rescission package where we actually pay for emergency spending. This is the second step in that process. Today we are going to be delivering over $190 billion in tax reform, tax relief. We are going to be delivering another $30 billion in deficit reduction.

Within the next 2 months we will also for the first time in this House of Representatives deliver a plan to get us to zero, a balanced budget within the year 2002.

So what we have done is we have paid for emergency spending, we are providing tax relief, and we are going to continue to slow the growth of Federal spending so that we actually do get to a balanced budget. That is a record that we will be proud of. That is a record of accomplishment. And that will be a record of equity, fair distribution between the American people and slowing the growth of the Federal Government.

Mr. SABO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in opposition to the bill.

Mr. Chairman, this vote is not about tax cuts. It is about priorities. It is about intergenerational equity. It is about whether we, as a nation, can in good conscience reward ourselves with tax cuts today, while laying upon our children the burden of massive, bloated deficits stretching as far as the eye can see. That is not right, Mr. Chairman.

While I commend my colleagues, Representatives CASTLE, UPTON, and MARTINI, for their concerted efforts to link tax cuts to deficit reduction, I do not believe that the commitment they have secured goes far enough. No commitment, however well intentioned, can ensure that Congress will meet its deficit reduction goals. Recent budget agreements have certainly taught us that. Yet we know that the pressure to maintain these very expensive tax cuts will only increase with time, regardless of whether or not we are on the deficit reduction glidepath specified in this agreement. That is a very, very slippery slope to embark upon, Mr. Chairman.

I, too, support many of the individual tax provisions contained within this package, but the rule does not permit us to consider these tax provisions individually. On the contrary, we are being asked to cast one vote on a massive tax bill whose price tag—nearly $700 billion in the next decade—is staggering. As a result, in this case, the whole is less than the sum of its parts.

Finally, Mr. Chairman, I would like to voice my strong objections to the leadership's unwillingness to permit amendments that would direct the child tax credit to middle-income families, rather than to those earning up to $250,000. The lack of a reasonable cap on the child credit is particularly troubling considering that this legislation actually raises taxes on over 2 million Federal employees to finance everyone else's tax cut, an egregious inequity that I have already discussed on this floor several times today.

I urge my colleagues to keep their contract with future generations and to put deficit reduction, tax fairness, and equity for our Nation's civil servants first. Vote against this package.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the very distinguished gentleman from New York [Mr. LAZIO], a member of the Committee on the Budget.

Mr. LAZIO of New York. Mr. Chairman, I rise today in support of H.R. 1215, The Tax Fairness and Deficit Reduction Act of 1995.

As the father of two young daughters, I am well aware that families desperately need tax relief. My constituents on Long Island are shouldered with some of the highest taxes in the Nation, which are literally robbing middle-income taxpayers of the ability to take care of their families.

The National Taxpayers Union estimates that in 1991 a family of four that makes $53,000 paid 50 percent of their earnings in Federal, State, local and other indirect taxes. So, the Government takes home a larger share than the worker. Disturbingly, parents now spend about 20 percent less time with their kids today than 40 years ago. Why? Because the tax exemption for children has eroded due to inflation. In 1948 the child exemption amounted to 42 percent of an average family's income. Today it is only worth only about 12 percent. Consequently, both parents today usually have to work just to make ends meet.

The $500-dollar-per-child tax credit contained in the bill will help ease that burden. Every dollar workers do not have to send to Washington can instead be used to raise their families. Overall, Long Island families will save nearly $65 million from this tax credit. Importantly, 75 percent of it will go to families with incomes of less than $75,000.

Additionally, H.R. 1215 recognizes the particular financial burdens placed on seniors and would allow them to keep more of their earned Social Security benefits without being penalized for working. It also repeals President Clinton's tax increase on Social Security benefits and, provides tax incentives to encourage people to purchase long-term care coverage. In all, seniors in New York would reap over $2 billion in tax savings from this bill.

Forty-two million families and 5 million seniors will see their taxes cut under this bill, and New Yorkers will save nearly $16 billion over the next 5 years. Best of all, these tax cuts will be matched by spending cuts.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, I rise today in strong support of deficit reduction and in opposition to a bill that will add at least $700 billion to the deficit. The legislation before us today will give millions of dollars to the wealthiest in our society at the expense of our children, senior citizens, the disabled and working American families. The arguments we have heard to day in support of H.R. 1215, are all to familiar. It was only 15 years ago when the Reagan revolution came here to Washington to ask for deep tax cuts of the wealth, and for corporations.

In the early 1980's our debt stood at $1 trillion, by the end of that same decade the debt was close to $4 trillion. We have all listened to the Republican criticism of the President's fiscal year 1996 budget concerning deficit reduction. However, it should be pointed out that if the President did not have to finance the 1980 debt "gift", his budget would have been balanced. That's better than a glide path. The same misguided policies and economics that allowed our debt to triple in less than 10 years, are driving this huge tax give away.

We have heard that this huge massive irresponsible tax give away, will spur economic growth. I think my colleagues on the other side of the aisle need a refresher course. Fifteen months after the 1981 tax cuts, the unemployment rate soared to 10.8 percent, it highest point since the end of the great depression.

I would question the wisdom of turning our backs on deficit reduction. As a member of the House Budget Committee, I have heard testimony from numerous economists who have cautioned us in proceeding down a dangerous path. Even the Chairman of the Federal Reserve, a vocal proponent of a capital gains tax cut, recommended caution and reminded us that the most important thing we could do for long-term economic growth is to reduce the deficit. Adding an additional $700 billion would do little to reduce the deficit and reduce long-term interest rates which directly impact short term investments.

We do have a choice before us today. We can support real relief for working families without jeopardizing deficit reduction or we can support relief for multinational corporations and wealthy citizens. The Democratic substitute includes necessary triggers to prevent any tax relief from adding to the deficit, unlike the Republican bill which simply calls on CBO to tell us that the deficit targets were not met and that automatic cuts in entitlements and discretionary accounts are necessary. It does not force the cuts nor does it give any specific cuts. The Democratic alternative repeals the tax relief provisions in the event that the deficit climbs above established targets.

Included in the Democratic alternative are real investments in our future economic strength while ensuring that all of the benefits are targeted to taxpayers with adjusted gross income and less than $100,000.

The substitute provides for a deduction for educational expenses of up to $10,000; a restoration of the deduction for student loan interest; an expansion of the current IRA Program to make more Americans eligible and to allow for penalty-free withdrawals for education and an enhancement of the Savings Bond Program to increase the rate of return to help families save for education without suffering any tax penalty. The Democrats are investing in our children and our economic future. What kind of country will we become when education opportunities only exist for the very wealthy? When students graduating from college cannot afford to purchase a home or a car because of staggering college loan payments? We are forcing today's college students into major debt before they turn 25. For our generation a mortgage represented a family's major debt, today it is a college education. What impact does this have on our economy and our ability to compete in global economy. If we do only one thing to help families and improve economic opportunities for all Americans, it would be investing in education.

The Democratic substitute ensures fiscal responsibility while providing necessary relief to working families. What price are we willing to pay to help major corporations and the top 10 percent of earners. Are we willing to cut school lunches? Cut student loans and Pell Grants? Cut Medicare and long-term care for the disabled and senior citizens? Eliminating or drastically reducing COLA's for Federal and military retirees? Are we willing to allow major cuts in breast cancer research. If you answer no to any of these choices, you must defeat H.R. 1215. included in this legislation is a call to cut $100 billion over 5 years from domestic and military spending.

I ask my colleagues to seriously consider the ramifications of today's dangerous vote. Do not be fooled by the rhetoric of yesterday. We have a choice—we can vote for the Democratic alternative and vote for families and economic stability or we can vote for the Republican bill and send the deficit through the roof. We simply cannot justify this type of reckless borrowing to give tax breaks to the wealthy at the expense of real working families and the most vulnerable in our society.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, one of my favorite Jack London stories is about the young Eskimo hunter who was highly successful. When they found out his secret, all were amazed, because his secret was to wrap tightly coiled shards of steel into frozen meat, and as the polar bears would devour the meat and thus would begin to digest it in the polar bear's stomach, the shards of steel would strike forward and literally tear the guts out of the polar bear, leaving a remarkably successful hunt for the young Eskimo hunter.

The tax bill before us is constructed not unlike that little hunting trick. It offers a $200 billion deficit impact in the first 5-year measurement window for this bill. The House only considers the first 5-year cost of the proposal.

Some in the majority side think we can afford the $200 billion. I happen not to agree.

But no one is talking about the full cost of this bill, the 10-year cost of this bill, and that is vital to consider in light of what happens once we get past this bill's measurement window.

You can see here in this chart that once we get past the 5-years, the cost of this measure explodes, and like the trick used by our young Eskimo friend, this tears the guts not out of a polar bear but out of the Federal Treasury when the full costs of the tax proposal before us are experienced to this Treasury. It will devastate our ability to reach a balanced budget.

It will devastate programs vital to kids, vital to students, vital to seniors. It is very, very bad policy, and I urge its rejection.

Mr. KASICH. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER], the very distinguished chairman of the Committee on Science and a member of the Committee on the Budget.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. I would like to thank him for his leadership on this bill.

I certainly rise in support of the Kasich amendment and applaud the hard work done by the Speaker of the House, by the chairman of the Committee on the Budget, by Chairmen ARCHER and BLILEY to put together this historic measure. Included in this bill is a measure that the gentleman from Minnesota has mentioned on a couple of occasions which I believe is a rather historic provision and is something the American people have found very, very much in line with their beliefs of how we ought to begin this process of balancing the budget, namely, to get them involved, and this particular provision is called the Taxpayer Debt Buydown Act.

This is an effective, innovative plan to cut the runaway Federal budget deficit and reduce the $3.6 trillion in public debt. It is a bold way of bringing the American taxpayer directly into the budget process. It is a plan that will give the taxpayers the power they need to participate in controlling Federal spending, a referendum every April 15 on Federal expenditures.

The proposal would amend the IRS code to allow taxpayers the opportunity to voluntarily designate up to 10 percent of their income tax liability for the purpose of debt reduction. All moneys designated would be placed in a public debt reduction trust fund established by the Department of the Treasury and used to retire the public debt other than obligations held by the Social Security trust fund, the civil service and the military retirement funds.

On October 1 the Treasury Department would be required to estimate the amount designated through the checkoff. Congress would then have until September 30 of the next year to make the necessary cuts in spending. To coordinate this measure, in the efforts to balance the budget, the checkoff would count only if the amount is greater than the cuts Congress has already implemented. For example, if Congress passes a reconciliation bill this year and designates cuts of $50 billion in 1998 and the checkoff in 1998 totals $40 billion, well then, we will have met our obligation, and there would be no designation of additional money needed. However, if the American people wanted us to cut $60 billion and we only designated 50, we would, in fact, under this have to find another $10 billion in cuts. Therefore, it works in conjunction with and compliments the push for a balanced budget.

It is also a backup. If Congress fails to enact the balanced budget, the 10 percent will be the only option for cutting spending. If Congress failed to enact spending reductions to meet the amount designated by the taxpayers, an across-the-board sequester would occur on all accounts except Social Security retirement benefits, interest on the debt, deposit insurance accounts, and contractual obligations of the Federal Government. If Congress enacted only half of the necessary cuts, a sequester would ensure the other half.

All spending cuts would be permanent. The cuts would be permanently reducing the spending baseline.

Although nothing in the legislation would prohibit Congress from increasing taxes, tax increases could not be used as a substitute for spending reductions that would be designated by the taxpayers.

□ 1745

OMB and CBO both say this idea works. It would balance the budget in 7 years and zero out the debt by fiscal year 2010 if everybody participated. If the public debt is not reduced in the same time period, projections show it will increase to over $9.5 trillion. So this is a very real way of beginning to deal with the problem.

Some recent criticisms have centered on one issue. The gentleman from Minnesota suggested that this would create a plutocracy where the rich would control the U.S. budget. Well, those with incomes over $100,000 would pay 39.2 percent of all individual income tax, or the top 1 percent of income taxpayers pay 27 percent of all income tax. You cannot have it both ways. You cannot on the one hand say we are going to tax people because of their wealth and then suggest when there is opportunity to have them participate in some of the things to begin reducing the deficit, that they cannot participate equal to what they are contributing to the entire problem. So that is what this does. No one is treated unequally. Anybody who pays taxes gets a chance to have their say in whether or not the debt and deficit should come down. I think this is a highly positive kind of approach, and people are finding it is a highly positive kind of approach. I congratulate. I congratulate the gentleman from Ohio [Mr. KASICH] for including it in this proposal, and I look forward to voting for the bill and seeing to it that it passes.

Mr. SABO. Mr. Chairman, I yield myself 15 seconds.

The gentleman describes a provision inserted in the bill with no hearings, no consideration. It changes fundamentally our government from a representative democracy to a system of government where $1 equals 1 vote, $1 million equals a million votes.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. I thank the gentleman for yielding this time to me.

Mr. Chairman, we are hearing a lot of inside-the-beltway talk in this debate, and it must be confusing to the American people.

In beltway language, this is a bill to eliminate the alternative minimum tax by reducing discretionary spending caps in violation of the Budget Enforcement Act.

But let me tell you what this bill is really all about. It means that NEWT's Republicans are creating tax loopholes for special interests, and paying for it by taking food out of the mouths of children, taking money out of the pockets of middle-income college students, and taking homes away from low-income seniors.

In Budget Committee, when these painful cuts were being thrust upon us, I offered an amendment to protect child nutrition. But, marching in lock step, the Republicans said "no." NEWT's Republicans sent a clear message to America's children: We are willing to take away your school lunch so we can give lobbyists and special interests a free lunch.

But, Mr. Chairman, young children are not the only ones who will pay for these tax loopholes. We will also be taking money out of the pockets of middle-class college students and their families. At two schools in my district alone, almost one-thousand students will lose their campus-based aid so that special interests can stuff their wallets.

Unfortunately, there is another victim in this plot to prop up the special interests—our seniors. While kids are being kicked out of schools, seniors are in danger of losing their housing. More than 200 seniors in Santa Rosa and Marin are already in danger of being thrown out in the street.

Like school lunches and student loans, affordable housing will become an impossibility for many of America's seniors.

Mr. Chairman, NEWT's Republicans are going too far, and they are going too fast. The people of this country don't want this partisanship, they want real solutions—solutions that will improve their lives, not take away their opportunities.

I beg my colleagues on the other side of the aisle, in the interest of our children, our seniors, and middle-class America, let us slow down and think about who we are hurting before we pass this tragic legislation.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on Government Reform and Oversight, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 1215, the Tax Fairness and Deficit Reduction Act of 1995.

This bill keeps the promise made in the Contract With America to put us on a path toward fiscal responsibility with reduced spending to the tune of $90.7 billion over 5 years—that is a whopping $90.7 billion in deficit reduction—accomplished by imposing sorely needed restraints on discretionary spending.

A very difficult part of getting our fiscal house in order is going to involve reforming our Federal retirement system. I have heard some Members argue that there is nothing wrong with the current system. But let me state emphatically—our Federal retirement system is broken and in dire need of repair. We currently have an unfunded liability of $540 billion and that bill is long long overdue.

On top of that, we have a system where the retirement benefits paid out every year far exceed the cash coming in to pay for those benefits. And who do we look to pay the difference? Obviously the American taxpayer. Last year, $26.5 billion had to be drawn from the Treasury to help pay the pension benefits for Federal retirees. If we do not do something now, that number is going to continue to grow larger and larger.

A very short history: The Federal Retirement System was originally set up so that employee and employer contributions were equal, and those payments were projected to cover the cost of the system. When Congress increased benefits, Congress also increased employee contributions to cover these costs. The last adjustment to employee contributions, however, was made in 1969—26 years ago.

Since then, salaries and benefits have continued to increase for Federal workers and retirees, but without, without any corresponding mechanism to pay for them. The result is that the Federal Government—the American taxpayer, in effect—has shouldered an ever-increasing share of the cost of Federal retirement. That share is now about 70 percent of the cost of the retirement system.

So it is time past due to address the inequities of the system and put our Federal retirement program on a sound fiscal footing.

The increased contribution from Federal employees—amounting to about $2 billion a year—will go directly into the Federal Retirement System to maintain the system's benefit structure. And because additional employee contributions reduce the need for Federal borrowing to pay current benefits, the deficit also is reduced.

The Budget Committee has taken a difficult step in addressing the inequities in cost between Federal employer and employees. But just as important, the legislation addressed the inequities between pensions here in the legislative branch and those in the executive branch. H.R. 1215 would bring congressional accrual rates for Members and staff in line with regular Civil Service accrual rates.

Mr. Chairman, in closing, I want to say I strongly support the package of Federal retirement reforms in this legislation and urge my colleagues to do the same. These particular provisions represent a giant step in facing reality that the present dysfunctional system is a significant contributor to the overall budget deficit.

I commend the chairman of the Budget Committee, the gentleman from Ohio [Mr. KASICH], for his efforts in this area, and again urge my colleagues to pass this legislation.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Utah [Mr. ORTON].

Mr. ORTON. I thank the chairman for yielding.

Mr. Chairman, I came here today prepared to give a speech to you outlining the good parts and the bad parts of this bill and to tell you why I am in opposition to it. But I would like to submit my statement for the RECORD and talk to my colleagues for just a minute about what is really important.

Mr. Chairman, a week ago my life changed forever as my wife gave birth to our first-born son, and today I just came from the doctor's office where we took him for his one-week checkup. While there, they had to take a blood test from his blood; they stuck his ankle and also had to give him an immunization. As he laid there crying and looking up at me through tears in his eyes, I would have done anything in the world to take that pain from him. But I could not take his blood test for him, and I could not take that immunization. It made me think as I came here to the floor today what are we going to say to my son 20 years from now or your sons and daughters or grandchildren if we fail to get our fiscal house in order? If we pass onto those children and future generations of this country the deficit, the debt that we have piled upon them, it will impact their lives forever.

But there is something we can do about that. What I am going to do about that today is to vote against this bill because this bill does not balance the budget. This bill says before we start even climbing out of the $5 trillion hole we are, we are going to dig $700 billion deeper. That does not make sense.

So I would urge my colleagues let us balance the budget first, let us not dig deeper into the hole before we try to climb out. Let us be able to look our children and grandchildren in the eye in the future and tell them we did do what we could do for this country.

I urge my colleagues to vote "no."

Mr. Chairman, I rise in opposition to the so-called "Tax Fairness and Deficit Reduction Act of 1995."

I believe the American public has sent us a clear message: Cut spending first. In order to balance the budget over the next seven years, we will have to make over $1 trillion in spending cuts. This will be extremely painful and difficult to achieve. To dig ourselves another $630 billion in debt before we even start to climb out of the deficit hole makes absolutely no sense.

I am certainly not alone in this analysis. The chairmen of the Senate Budget and Finance Committees both agree that we should not be cutting taxes at this point. The Senate Budget Committee's preliminary plan to balance the budget includes not a single tax cut included in this tax bill we are debating today in the House.

So why is this vote taking place. The answer is politics, pure and simple. The tax bill is in the grand old political tradition, a Christmas tree, with something for everyone. As members struggle to justify why they are voting for final passage, their only line of defense seems to be "It's in the Contract." Many supporters of those who will vote for this bill are privately conceding that we should not be cutting taxes by $630 billion over 10 years, and are counting on the Senate to bail us out.

This is not the responsible thing to do. The clear danger here is that we will commit the same mistakes of the 1980's that lead us to ruinous budget deficits and a national debt approaching $5 trillion. In 1981, we passed tax cuts first, with the promise of future spending cuts. Those cuts never materialized. We cannot make this same mistake again. The spending cuts should come first. Then, if we can find additional spending cuts, we can then cut taxes.

For that reason, I have worked with Representatives BROWDER, CASTLE, UPTON, and MARTINI over the last few weeks to develop and offer a bipartisan amendment to make all of the tax cuts in the bill dependent on spending cuts necessary to both balance the budget and pay for the tax cuts. Specifically, our amendment would have delayed the effective date of the tax cuts in the bill until Congress passed and the President signed into law legislation which cuts spending enough to balance the budget by 2002, and also pay for the tax cuts. As an enforcement mechanism, the tax cuts in the bill would later be revoked if we failed to meet interim deficit targets leading to a balanced budget by the year 2002.

This amendment is completely consistent with what the House leadership has announced it would do—to both balance the budget and pay for tax cuts. Now, I am pleased to see that leadership has retained a portion of the provision in our amendment which delays implementation of the tax cuts until there is a certification that the reconciliation bill containing the tax cuts both balances the budget by 2002 and pays for the tax cut. I take this to be an ironclad commitment that the House leadership will not bring a reconciliation vote to the floor this summer containing tax cuts unless such a certification is made. And, I strongly urge every member of the House to vote against any future reconciliation bill which violates this commitment.

However, I am concerned that leadership watered down the Browder/Castle/Orton/Upton/Martini amendment with respect to enforcement of annual glidepath targets. In my opinion, leadership's failure to retain this provision calls into question their commitment to making deficit reduction our top fiscal priority. And it makes it harder to vote for a bill which cuts taxes at the expense of deficit reduction.

Mr. Chairman, the issue is simple. With over $200 billion deficits as far as the eye can see, it is irresponsible to start off with tax cuts when we should be starting off with spending cuts. The issue is not whether these tax cuts are paid for with spending cuts. The issue is whether we are going to cut spending in a amount necessary to both balance the budget and pay for any tax cuts we might approve. Put simply, the issue is whether we are going to cut spending first.

I recognize that families with children could use tax relief at this time. However, I would appeal to every family in my home state of Utah and in the nation to ask themselves what is best for their children. Do we want to leave a legacy to our children of a staggering debt, high interest rates, and a declining standard of living? Do we want to continue a path of consuming today at a huge cost tomorrow? Is that really a family-friendly thing to do?

We know the answer is no. Every parent recognizes the need to save for their children's higher education and for their own retirement. We should be equally responsible with our federal finances. It is fun to cut taxes? The answer is clearly yes. Is is responsible to cut taxes before we cut spending, exacerbating our $200 billion a year federal deficits? The answer is clearly no. Let's put the nation's interest above political interest. Vote no on the rule and vote no on final passage.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MILLER], a member of the Committee on Appropriations, and a distinguished member of the Committee on the Budget.

Mr. MILLER of Florida. I thank the gentleman for yielding this time to me.

Mr. Chairman, the gentleman from Utah who just spoke said there are 182,000 children in the gentleman's district who would benefit from this tax cut and that would amount to $91 million in tax savings for the gentleman's constituents.

Mr. Chairman, I am proud to be here today in support of the Tax Fairness and Deficit Reduction Act. Not only does this legislation provide necessary tax relief for the hard-working families of America, it pays for those tax cuts and reduces the deficit by $30 billion.

In our quest to remove the burden of bloated government from the backs of our kids and our grandkids, all I hear from the other side of the aisle is empty rhetoric about class warfare.

The fact is we started with ourselves: for the first time in 40 years, we have a deficit reduction package that cuts benefits for Members of Congress. This legislation reforms the overly generous pension benefits given to Members of Congress by the overly-taxed American people.

Never in the past 40 years did the Democrats reduce their benefits and actually give the money back to the hard-working, tax-paying citizens of this country.

Republican leadership is different. We are leading by example. I urge my colleagues to support this legislation.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. I thank the gentleman for yielding this time to me.

Mr. Chairman, I have listened to Members from across the aisle insist the tax cuts in tax bill are paid for. In truth, they are not paid for. That is why this tax bill is so reckless. I have time to talk about just one reason why the revenue losses entailed by this bill are not replenished or offset by spending cuts. That is that the lower spending cap, $100 billion, for reduction in discretionary spending, is spurious, just more smoke and mirrors.

Now, I know that the chairman of the Budget Committee sent us an illustrative list of spending cuts that total $100 billion. None of these cuts has been voted on yet. It would be miraculous, in my opinion, if even half of them were ever approved. And if we take this tax list sent to us by the chairman at its face value we ought to know that there is one peculiar discrepancy to it. That is that it is silent, altogether silent on defense spending, which constitutes half of all discretionary spending.

The chairman also said lately that he would like to freeze defense spending at the current level of outlays, which is $270 billion.

Now, let us bring defense, the other half of discretionary spending into the picture and see what happens. I have a chart here that is not about class warfare, it is about budget reality, which deals with that particular half of spending.

If we take the lower caps, $100 billion reduction in the spending caps called for by this bill with constant defense outlays of $270 billion, that is an outlay freeze on defense, we see from this tax chart that we will have to cut $41 billion out of budget authority from nondefense programs for fiscal 1996, which is next month. As you can see from those charts, those cuts in nondefense budget authority will rise to $66 billion in fiscal year 1998, a 23.5-percent reduction off current levels of spending for those programs. That is 23.5 percent off of NASA, Drug Enforcement Agency, programs for the elderly, you name it, everything in discretionary spending. Altogether, over 5 fiscal years the cuts in nondefense spending will add up to $187 billion, which is $87 billion more than the chairman of the Budget Committee has laid out in his illustrative list.

Now, there are lots of things in this tax bill I would like to vote for and support. This would deal a death blow to deficit reduction, and that is why I am voting against it and urge others to do the same.

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Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I thank the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget, for yielding this time to me.

Let me just say that there are two things that this economic program that the contract embodies are trying to carry out. One is to slow the growth of outlays that the Federal Government does on an annual basis. This chart shows where we have come in terms of outlays over the years from a low of total Government spending in 1930 of 12 percent to the 1990 level of spending of 42 percent, and it is the chairman of the Committee on the Budget and his committee members who are going to be responsible for bringing down this rate of growth under our plan.

The second part of our plan is to create more revenue, to get revenues growing so that, as we bring down the rate of growth and spending, the revenue line will catch up with that level of spending that is necessary, and in so doing eliminate the budget deficits and, eventually, the debt.

In order to do that, John Kennedy told us in 1963 that, if we do good, smart tax policy, it will create an economic expansion, we will have more people working, earning more money and hence paying more taxes, and that is what today's debate is essentially about.

Now we know that there are some folks on the other side of the aisle who do not want lower taxes because it means we have to spend less because we will have a smaller government, and so they try to come up with some red herrings to scare some of the Members who might be hesitant to vote for it.

The next chart shows what one of those arguments is about. They say that the capital gains tax reduction that we are proposing to put in place does big favors for the rich people when in fact 38.4 percent of the people who pay capital gains tax have an income of under $50,000, and, as a matter of fact, the next 22 percent have income over $100,000, and so in fact the large majority of the capital gains that are paid are paid by low income and middle income people.

The other thing that the opposition would like us to believe is that the $500 per child tax credit somehow favors rich people when in fact 87 percent of the people who will benefit from this program earn less than $75,000 a year. As a matter of fact, the last speaker, the gentleman from South Carolina [Mr. SPRATT], has 123,000 children in his district which are middle income people, and has district, if we do not pass this plan, will therefore lose $307 million to the families and his middle class taxpayers.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman, and I appreciate the time to offer my thoughts about what we are about to do.

Two weeks ago we had some very dramatic debate in this House concerning the welfare program. At the end of that we saw major cuts being made on some of the most substantial programs that help needy families throughout America, and the cost of the program in terms of reductions made against the poor in America came to something over $60 billion. I say to my colleagues, you study this tax cut program today, you'll see that the $60 billion that we took away from poor needy families is going to pay for the tax cuts for the super rich in this country.

I stand here today, not as an expert on the tax cuts and the implications that are going to fall upon this Nation in 5 or 10 years, but I stand here today and ask the question, Is it ever fair for the Congress of the United States to pass tax cuts for the super rich and to pay for it out of the needs, and wants and feelings of the poorest in this country? We cut school lunches. We are going to cut the student aid programs in our colleges. We took away some of the WIC Program. We took away the base of guarantee of the welfare structure by taking away the entitlements. On and on, Mr. Chairman, the sacrifices that are being called upon to pay for this tax cut are coming from the average citizens of this country.

Now there are some good things in here, and I suppose many people are going to be tempted to vote for this bill because of these various good items in it, some of it having to do with the senior citizens. But I ask the senior citizens: In the end we're going to have to pay for these tax cuts of $189 billion, and watch out, senior citizens. It is going to come from your programs, your benefits, and your Medicare Program. I guarantee you that.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Delaware [Mr. CASTLE], the former Governor of the State.

Mr. CASTLE. Mr. Chairman, I believe the premise of this bill is correct: The American people should be able to keep more of the money they have earned. It is just not right for the Federal Government to take an ever increasing share of the incomes of working Americans. Do the American people want a tax cut? Yes, they certainly do. But their top priority—and many of my constituents in Delaware have told me this—is for Congress to cut spending and balance the budget first, and then cut taxes. The bill now contains this very important safeguard.

I am pleased to say that the Republican leadership, Chairman ARCHER and Chairman KASICH agreed to an amendment offered by Mr. UPTON, Mr. MARTINI, and myself that requires that the tax cuts can only become law when Congress has approved budget legislation that will put the Government on course to a balanced budget by the year 2002.

This will hold Congress' feet to the fire to ensure that the budget legislation passed this year will make all of the necessary spending cuts and program changes to reduce the deficit every year for the next 7 years so that the deficit will be zero in 2002.

It provides a strong incentive to put a tough budget plan in place now, so that the tax cuts can begin as scheduled next year.

In subsequent years, if the budget committees and CBO report that we are no longer on course to a balanced budget, Congress must then consider a budget resolution that will put us back on course.

In addition, the legislation will also require the President to submit a balanced budget each year. As my colleagues know, President Clinton has submitted a budget that will produce $200 billion deficits for each of the next 5 years, adding almost a trillion dollars to the national debt. This amendment will require the President to submit a balanced budget or offer one as an alternative plan if he chooses to propose continued deficit spending.

Mr. Chairman, I strongly believe that no tax cuts should go into effect until this Congress faces up to the challenge of reducing Government spending. This amendment ensures that this will happen. Many of us have tried to work on a bipartisan basis on this issue and we will work with Chairman KASICH as we move on to the deficit reduction legislation that must pass before the tax cuts can take effect. We want to cut taxes—let us make sure the spending cuts happen first.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, one of my colleagues was quoted in this morning's paper saying, "How can anyone today vote against cutting taxes?"

It should be very easy for all of us when we are doing it with borrowed money.

Another colleague stood in the well too long ago and said, "Imagine $500 laying on this table. Shall we have a family spend it, or shall we have the government spend it?" Obviously the family, with one small problem. It has already been spent, and to spend that 500 again they have got to borrow it again.

We all know the quote about those who refuse to study history being doomed to repeat its mistakes. Well, I not only studied the congressional history of the early 1980's—I helped to make it. I did it in good faith. I did it with the encouragement of my constituents. But I am determined not to repeat its mistakes again in 1995.

Contrary to my usual optimism, it is hard for me not to agree with the quote:

"What experience and history teach in this—that people and governments never have learned anything from history, or acted on principles deduced from it."

Think what we are doing, friends. We have a debt which will break $5 trillion by the end of the year. We have annual deficits which are scheduled to continue rising in the foreseeable future. We have a Medicare program which will be insolvent just around the corner, and a Social Security program which will go from having a surplus to running deficits within the next generation.

Our dollar hit a new low today; how can we even be thinking about cutting taxes right now?

I feel particularly sick about seeing history repeat itself in terms of back-loaded costs, disingenuous baselines, and a "spend now/pay later" attitude which is in the current resolution which is before us today, and I also get very upset and disturbed by the frequent comment on the floor that Democrats have not put a serious deficit reduction plan up for a vote. I have noted that every Member that has stood up and made that comment today who was here last year when we had the opportunity voted against the entitlement cap when we put it on the floor and had a serious effort, every single one that criticized that were here in the last Congress.

Vote "no." Let us stop making the hole deeper.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Chairman, I might point out that my distinguished colleague who has preceded me, there are 114,000 children in the gentleman's district whose parents are eligible for the $500 per child tax credit. This bill would allow middle class families in his district to keep a total of $57 million of their hard-earned money.

Mr. Chairman, we are responding to the will of the American people in enacting the tax fairness and deficit reduction bill. The Clinton administration and their defenders raise taxes on the elderly, they raise taxes on families, they raise taxes on small business men and women, the Main Street merchant, the hard-working Americans, and my folks on Long Island, already carrying a heavy enough burden, they asked for this relief.

It is unfortunate that the mouthpiece for the Clinton administration at the Small Business Administration's Office of Advocacy has come out against this measure of relief for small business men and women while the NFIB, the Chambers of Commerce and all small business groups favor the enactment of this tax fairness and deficit reduction measure. I urge its passage.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, let me start by saying how many thousands there are that would benefit from the tax credit in my district; 85 percent of them would still benefit from it if for the 105 Members on the Republican side who signed the letter saying that we ought to change that tax cut had had the courage to stand by their convictions, but we do not have that choice today. We only have the choice presented of extending a tax break to those in the $200,000 range, and this bill, as the gentleman from Texas [Mr. STENHOLM] said, really is about borrowing from all the children in our district in order to pay for this politically motivated tax cut. It is not the American Dream Restoration Act. Its real title is "Stealing Our Children's Future Act."

This bill makes the deficit greater in the year 2000 than if we did not do anything. Put another way, if this Congress would just shut the doors and go home, we would be a lot better off as far as the deficit is concerned.

The American people know that this deficit reduction program is not satisfied in this bill, that in fact what we have is a deficit-mushrooming bill, and, when they have been asked, whether it is in the field hearings of the Budget Committee around the country or in the polls like the one the Wall Street Journal recently conducted, well over half of them have said, "Use the money to pay off the debt." Less than a fourth have spoken up in favor of tax reduction.

There has been plenty of talk today about the misuse of statistics. Well, let us take the Republican numbers. They tell us that this tax cut will only cost a mere $189 billion over 5 years. Well, if we had that $189 billion, we would have that much less deficit, but of course it is not $189 billion. It is $630 billion over the next 10 years that we are going to be adding to this deficit, and the claim that it is being paid for is as frivolous as this letter that has been circulated by the chairman of the Committee on the Budget. Surely there is great competition in this Congress for the silliest Dear Colleague letter, but this one that suggests we will pay for it with $100 billion by eliminating duplication and waste of $24 billion is right up at the top. There is not any line item in the budget for eliminating duplication and waste.

It includes things like eliminating the school-to-work program.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from the State of Michigan [Mr. UPTON].

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Mr. UPTON. Mr. Chairman, I thank the gentleman from the Buckeye State.

Mr. Chairman, deficits do matter They really do. Before I was in the Congress, I worked for a President by the name of Ronald Reagan. I watched a Congress then that promised that they would make $2 or $3 in spending cuts for every dollar that they cut in taxes. And you know what? It never happened. It did not happen. It was a promise that was not delivered on.

In fact, the deficit ballooned by $4 trillion during those years. In 1990, as a Member of Congress, I was asked to go down to the White House to spend a little time with President Bush and talk about his 1990 tax/budget bill. I told him then that I could not support it. I could not support it because his advisers were taking him to the cleaners. In fact, as I reviewed the numbers this last weekend, his budget predicted a surplus of $63 billion in the year 1995. They were $300 billion off.

Mr. Chairman, the Castle-Upton-Martini language that was adopted on this House floor on the last vote recognized three very important principles: No. 1, none of the tax cuts would kick in unless we passed reconciliation later this year that in fact will lead to a balanced budget by the year 2002. The second point was that each and every year if we get off that track, we will have a mechanism to put us back on the track; so that in fact we can achieve a balanced budget by the year 2002, and not end up with something that happened with the Bush budget back in 1990. And, No. 3, that the President will submit a budget that will balance the budget by the year 2002.

The Castle-Upton-Martini language acts as an insurance policy. It insists that we here are going to eat our vegetables even if they are brussels sprouts before we have our dessert. This legislation passed will in essence make sure that we do not repeat the mistakes of the past.

Mr. Chairman, I urge my colleagues to support this bill.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. TUCKER].

Mr. TUCKER. Mr. Chairman, I thank the distinguished gentleman from Minnesota for yielding.

Mr. Chairman, so what is wrong with a $19 billion tax cut for individuals and for businesses? Well, on the surface, nothing. Except two crucial questions: Who and what? Who benefits from these tax cuts, and what will be the cost of these cuts?

First, the wealthiest 1 percent will get 20 percent of the benefits. The wealthiest 5 percent will get 36 percent of the benefits. And the wealthiest 10 percent will get almost half of the benefits, 47 percent. Taxpayers making up to $200,000 will get $11,000, while those making less than $30,000 will receive a paltry $124.

This bill pays for these tax cuts to the rich and corporations by cutting discretionary spending by $100 billion, which has already been cut significantly. We are talking about housing, and we are talking about applying cuts already made in programs like school lunches. The cost of this tax cut over 10 years is $700 billion. This hurts deficit reduction.

This bill should be changed to target families making up to $100,000, the real middle-class. The tax breaks should be for higher education, expenses, and interest on student loans and expanding the number of taxpayers who can deduct contributions to IRA's. The most important thing is all tax cuts should be delayed until OMB certifies that legislation has been enacted that will provide that the budget will be balanced in fiscal year 2002, and that this bill should automatically be repealed if specific targets are not reached each year.

Mr. Chairman, this bill should not be supported, and I urge my colleagues on both sides of the aisle to do what the bill proposes to do, and that is to give tax fairness.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, my friend from Michigan mentioned that he worked for the Reagan administration during the 1980's. I worked for the Nixon administration for quite some time. But during the 1980's I was a stockbroker. I sold tax shelters, tax shelters because they paid the highest commission. And most people that came into the office, whatever they invested, we could show them how to avoid paying any Federal income taxes.

I have some familiarity with the way tax shelters work, and I am not particularly proud of the fact that we financed so many see-through buildings, so many investments that had no real economic value, but the people did not care, the investors did not care, because they were not investing for the substantive value of the asset; they were investing because of the tax benefits.

Mr. Chairman, if this bill passes, we will never have enacted tax shelters that are more open to abuse in the history of this Congress. There are two tax shelter areas here that will yield billions of dollars in tax savings and yield no economic value to our economy. The neutral cost recovery system, for example, if you are going to borrow money in the first place to purchase an asset, put it in use for less than 10 years, you will get back your value, because you will depreciate it, plus it will be indexed, plus you are going to get 3.5 percent annual increment.

Now, Mr. Chairman, what happens is we do not index interest costs for inflation, so no one in their right mind will put actual cash down. They will borrow. But there will be a built-in tax credit, a built-in tax shelter.

It is too complex to be able to describe it in a way that anyone in the audience is going to fully understand. I just have to tell you, Mr. Chairman, that we will rue the day that we pass these kind of tax shelters.

The other problem is in the tax capital gains area. I did not even get into the tax shelter and capital gains.

Mr. Chairman, we have to learn from the past. We are going to repeat what happened in the 1981 Tax Act if we are not careful here. I wish Members would read the entire tax bill before us.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, I thank the gentleman for yielding time.

Mr. Chairman, I would just comment, if this bill would pass, the average Colorado family would pay $1,534 in fewer taxes.

Mr. Chairman, I join in strong support of the Contract With America tax relief package. It is time to give American families back some of their hard-earned money. Two years ago, President Clinton raised our taxes, today the Republicans fulfill their contract and cut taxes. We are keeping our word.

The American people want lower taxes, and less Government spending. This package delivers. Every nickel of this tax cut is paid for with spending cuts, and an additional $90 billion in spending cuts are applied to deficit reduction. In May, we will return with a budget resolution that builds on this legislation and puts the Government on a glide-path to a balanced budget by 2002. This will necessitate us capping the rate of growth in spending at 2 percent a year. The difference is that now the Federal Government grows at over 5 percent a year.

I would like to take the time to comment on one provision in this tax bill that I am particularly pleased with. That is the home office tax deduction.

In the last Congress I introduced home office deduction legislation which was cosponsored by 79 colleagues. This Congress I have introduced H.R. 40, which has been cosponsored by 82 of our colleagues. This legislation is designed to restore the home office tax deduction, which was narrowed a great deal by a 1993 Supreme Court decision.

With April 15 fast approaching the last thing most Americans want to think about is taxes. In fact, the average American must now work the first 125 days of the year to pay all Federal, State, and local taxes.

The bulk of the family tax bill consists of income taxes, payroll taxes, and property taxes. However, one factor which adds to the growing tax bill of many self-employed and small business owners are the new rules governing the home office tax deduction.

Increasingly, it is the little guy who gets squeezed by the tax system. While large corporations can rent space and deduct office and virtually all other expenses, many taxpayers who work out of their home are no longer able to deduct their office expenses.

Traditionally, the Tax Code has permitted individuals who operate businesses within their homes to deduct a portion of the expenses related to that home. However, over the past 20 years Congress, the courts, and the IRS have reduced the scope and usefulness of the deduction.

The most serious blow came 2 years ago when a Supreme Court decision and subsequent IRS action eliminated the home office deduction for many. Under the Supreme Court's new interpretation of principal place of business a taxpayer who maintains a home office, but also performs important business related work outside the home is not likely to pass IRS scrutiny.

This change effectively denies the deduction to taxpayers who work out of their home but also spend time on the road. Those impacted include sales representatives, caterers, teachers, computer repairers, doctors, veterinarians, house painters, consultants, personal trainers and many more. Even though these taxpayers may have no office other than their home, the work they perform will often deny them a deduction.

According to the IRS, 1.6 million taxpayers claimed a home office tax deduction in 1991. While not all of these taxpayers were affected by the change, many will be. Clearly, any taxpayers who operate a business out of their home must review their tax situation.

There are many reasons why a broad home office tax deduction is important. The deduction is pro-family. It helps taxpayers pursue careers that enable them to spend more time with their children. The deduction helps cut down on commuting and saves energy. The deduction recognizes the advances of technology—computer and telecommunication advances mean that more and more individuals will be able to work for themselves and maintain a home office.

The deduction is a boost to women and minorities who are increasingly starting their own businesses. In fact, over 32 percent of all proprietorships are now owned by women entrepreneurs, and Commerce Department data reveals that 55 percent of these women business owners operate their firms from home. Minorities are making similar advances. There are now well over 1 million minority-owned small businesses and a good number of these are operated out of the home.

Finally, the home office tax deduction helps our economy. It benefits small businesses and entrepreneurs who develop new ideas, and create jobs. Many of America's most important businesses originated out of a home office.

Small business is increasingly the engine which drives our economy. With large firms downsizing, entrepreneurs must pick up the slack. The importance of this trend is demonstrated by the job shift that occurred during the slow recovery from the most recent recession. During the period of October 1991 to September 1992 large businesses cut 400,000 jobs while small business created 178,000 new jobs. During the boom years of the 1980s, the vast majority of the 20 million new jobs created were in the small business sector.

It is critical that recent assaults on the home office tax deduction be reversed. That is why I introduced legislation to fully restore the deduction. I was pleased when similar language was included in the Contract With America, and now in this tax bill. With passage of this bill today, we move one giant step closer to restoring the home office tax deduction.

Mr. KASICH. Mr. Chairman, I yield 1½ minutes to the very distinguished gentleman from Arizona [Mr. SHADEGG], a member of the Committee on the Budget.

Mr. SHADEGG. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I might begin by noting my predecessor on the opposite side of the aisle who expressed his opposition to this legislation decided to vote 2 years ago to raise taxes on his constituents by $1 billion, and now opposes a $500 tax credit that would go right to the parents of the 100,000 children in his district. That is the kind of rhetoric which characterizes this debate

Mr. Chairman, I rise in support of this bill. I also listened to my colleague, the gentleman from Utah [Mr. ORTON] a few minutes ago who recently had a son and said it would change his life forever. He asked how would we explain this bill to children. I explain it to children because we are giving their parents a tax credit. His decision to vote against this bill is wrong. It is dead wrong.

As I mentioned, 2 years ago my colleagues on the other side voted to raise taxes. Now they said they cannot cut taxes. It is a consistent pattern on the other side. They believe in raising taxes over and over again.

If we care about children, we must balance the budget, and this bill begins that process. It enacts $100 billion in spending cuts. Not phony spending cuts from a baseline going way up, but real dollar spending cuts. If you care about children, we have got to also cut spending, because the tax burden on America's families today drives spouses into the workplace. Spouses who should be at home and who would like to be at home taking care of their children are forced to go to work. If you listen to their message, it is because of the profligate spending of my colleagues on the opposite side who have controlled this Congress for 40 years and who built a $4.3 trillion deficit, who say we overspent then, so we cannot cut taxes now. Well, I say baloney. It is time to give the American people a break. It is not our money, it is their money. I urge Members to support this bill

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, Ringling Brothers and Barnum & Bailey came to town today with an elaborate show of elephants and clowns on the Capitol Grounds.

But that does not come close to the high wire act being performed today on the floor of the House by daredevils and acrobats who are attempting, through sleight of hand, blue smoke and mirrors, to pull a rabbit out of their hats while dangling the American taxpayer in mid-air and calling this tax bill deficit reduction.

Federal workers in particular know that this is the new "greatest show on earth."

When a Federal employee accepts a position with the U.S. Government, he or she is, in many respects, agreeing to a contract. The employee agrees to provide their knowledge, time, energy, and a good part of their life, to the Nation we all love.

The Government, in return, agrees to compensate them for their time and provide for them in their retirement.

What we are effectively doing to current Federal workers is changing the rules in the middle of the game. We are telling the 2 million of them that we still expect the same quality and quantity of work, but for less compensation.

We are telling them that despite the fact that they have helped to keep this Nation going, we are not fulfilling our part of the bargain.

It is generally accepted that this legislation is unfair to Federal employees; Members on both sides of the aisle have said as much.

Yet the Republican Party has circumvented the committee system and included the Federal employee pension provision in this legislation. What a dangerous, shameful and dastardly deed.

For the average Federal employee earning $40,000 a year this proposal will impose an additional $1,000 in taxes, disguised as an increase in the contribution to their pension.

More than half of the benefits from the tax package before us will go to families with incomes between $100,000 and $200,000 a year. Two hundred thousand dollars, is that middle-class?

And please do not tell me that the money Federal employees are losing will go towards deficit reduction; because the fact of the matter is that this legislation actually adds to the deficit.

If it becomes law, Congress will be forced to find $1.6 trillion in extra budget cuts or revenue increases over the next 7 years in order to balance the budget.

Federal employees are not extravagant millionaires. They are the hard working men and women.

The 2 million Federal employees, who have worked hard for years, deserve better treatment than this.

They deserve our thanks. They deserve the cost of living increases which are usually denied or delayed. They deserve to be free from unwarranted furloughs, and they deserve to know that they can go to sleep at night without worrying about what Congress or the Republican party will do next to renege on their promises to them.

Mr. Chairman, while Federal employees are the biggest losers under this bill, I don't want to belittle for a minute the negative impact this bill will have on our Nation and its deficit.

This legislation will increase the deficit. It rewards the wealthy and punishes the middle-class and working Americans who will feel the brunt of the spending cuts. And, it demoralizes the Federal employees who are necessary to make this Government run.

In the end the difference between last year's Republicans and this year's Republicans is Tweedle Dee and Tweedle Dum. The party that gave us Voodoo economics is now about to give us Robin Hood in reverse. So listen closely my friends, that giant sucking sound that you will hear in a couple of months will have nothing to do with NAFTA, but everything to do with AFTA [Angry, Forgotten, Taxed Americans] who will say to the architects of the Contract on America "Et Tu, Brutus," I can't believe what you say because I see what you do.

Vote no on this misguided piece of legislation and end the charade against the truth, perpetrated in the name of deficit reduction.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the very distinguished gentleman from Oklahoma [Mr. LARGENT], a member of the Committee on the Budget.

Mr. LARGENT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, in this war of words and charts and ideas, we have heard a lot about the tax consequences and the tax burden on the average family. I would just like to begin by saying that those families that are represented by hard-working parents trying to make ends meet for their children are anything but average. They are exceptional. In fact, they are outstanding, and that is why we need to pass this tax reduction and this spending reduction bill today.

The $500 tax credit is all about allowing those families, those parents, to keep their hard-earned money to make the ends meet for their children. Studies reveal that in 1960 families, parents, spent an average of 30 hours a week in personal time with their children. In 1990, 30 years later, those same parents spent an average of 17 hours in personal time with their children.

I think those numbers correlate with the decline in the moral values that we see in our youth culture today. Parents are not spending the same amount of time with their children. Why, you might ask and should ask? In 1950 the average family gave 2 percent of their hard-earned money to the Federal Government; in 1993, that figure was 24.5 percent. Why are parents not able to spend as much time with their children passing on those values? Because they are having to work to send their money to Washington, DC. That is wrong.

Mr. Chairman, this tax bill that gives relief to hard working parents to help raise their children is the right thing to do.

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Mr. SABO. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, our colleague just aptly mentioned, we had the circus on the grounds here, and I thought probably a lot of the Republicans are going to run away with the circus because of everything they want: Clowns, elephants, and they could play they could play their pea and shall game in which they are shifting taxes.

Why are we talking about families? They are not receiving it, because they are not getting the family tax cut. It is not this bill. Forty-five percent of the benefits in the tax cuts in this bill go to corporations in 10 years. The fact is, the remaining part that goes to individuals, the lion's share of that, goes to the wealthy.

You are not doing what you said you were going to do. It is the same story through and through in this bill. You deny you are proposing the policy, deny you are passing the policy, and deny the policy after it is enacted.

Mr. Chairman, it does not take any courage to stand up here and vote for tax giveaways and then put the burden on someone else to do the cutting. Taking away kids lunches, doing things of this nature. That does not take courage.

It took guts 2 years ago to stand here and say, we have to pay if we are going to deal with the deficit. It is tough work. But you are not willing to do that. You just want to go down the easy road in terms of this and pass this tax cut and leave the mess for the American people.

I think this bill ought to be defeated, Mr. Chairman.

Mr. Chairman, today we had the Ringling Brothers Circus on the Capitol Grounds. I would have thought that some of our Republican colleagues, would have run away and joined the circus; it has everything they like: elephants, clowns, and they could have been hired to do their bait and switch trick on middle-income family tax cuts; the old pea and shell game, in which middle-income families get peanuts and in 10 years 45 percent—over $300 billion—of the tax benefits go to corporate America—big business continuing to shift the tax burden onto individuals and families.

Middle-income America gets the shaft when the wealthy families receive over 53 percent of the individual tax breaks—the lion's share—the Republican tax measure. This might get applause as a trick, but this pea and shell, Republican shift and shaft of middle-income families merits a no vote in the Congress today and tomorrow!

Mr. Chairman, I want to join with many of my colleagues in opposing this ill-conceived, poorly timed legislation. For big business and the very rich this bill may very well be the crown jewel of the Republican political agenda, but for the working families who I represent this Republican legislation is a rhinestone, a phony gemstone. This is a tax shift bill, placing, over the next 10 years, more burden on individuals and less on the big business corporations. In fact corporations receive nearly 50 percent of the total tax cuts and today the corporations and big business pay half as much as they did in 1965. This tax shafts the middle-income families who are promised tax breaks. This Republican bill gives those breaks to the affluent—the top income 12 percent get 52 percent of this GOP bill tax breaks. The Republican bill is simply a tax shift and a tax shaft for American working families. The rich get richer and working families get Republican tax cut rhetoric.

There are clear winners and losers under the Republican bill: Family households earning over $200,000 will receive an average tax cut of $11,266 per year while working families earning between $30,000 and $50,000 will receive an average annual cut of $569. Touted as a family friendly bill, the centerpiece of this legislation, the $500 child tax credit, does not help those families with 34 percent of our children. Over 24 million children are denied this tax credit, since their families' income would not be high enough for the credit to apply. While many children will not benefit from this tax bill, these children will pay the price—today and tomorrow—the loss of school lunches, reductions in college loans and a 10 year, $630 billion reduction in revenues to add to the Federal deficit. Welcome to the Republican idea of fairness, the shift and shaft tax Contract on America.

Many of my Republican colleagues talk about this legislation as the reflection of the people's voice in November. I do agree that the American people are angry. But they weren't angry about the rich not paying their fair share. The American people weren't angry that the inheritance exemption is only $600,000. The American people certainly are not mad because corporations now must pay an alternative minimum tax.

But the American people will be yet more angry when they read the fine print of this Republican contract. They will be angry when they learn that the American family rhetoric has been the vehicle to deliver tax breaks that primarily benefit the top 10 percent of Americans. Their anger will be compounded when they understand that the price of their $500 tax credit will be megatax breaks for big business including a major loophole that will allow some corporate giants to get off without paying one cent in taxes, while the middle class gets the bill for the Republicans reneging on their children's education from school lunches to college grants and loans.

Mr. Chairman, the advocates point to the $189 billion in tax breaks over the first 5 years, but this measure is back loaded because in 10 years revenue is reduced $630 billion.

The majority G.O.P. haven't put forth many of the cuts and reductions to achieve such savings and to offset and pay for this revenue loss, those limited cuts that have been advanced are grossly unfair, unworkable, mean-spirited—but none the less most of the Republican cuts are masked in budget ceilings not specific and certainly not achieved.

The Republicans said they would cut spending first but they have reneged on that today.

Mr. Chairman, it doesn't take much talent and certainly little courage to pass massive tax cuts spreading around the tax giveaways to every special interest group on the map. No it doesn't take much thought to give away the store Republican style and that is what this tax bill does: provides instant gratification and a long-term economic bellyache.

The anti-Federal Government rhetoric has led to a tax cut policy that will disable the Federal Government, render the national government unable to responsibly respond to the needs of our Nation. This tax policy path coupled with even the limited reductions in spending advanced this session demonstrate a retreat and abandonment of our responsibilities and the people we represent. Our Nation that has achieved unparalleled economic and social status—not without problems or difficulty but certainly not following an easy Republican policy path.

The 100 days are ending and I want to welcome the American people to the virtual reality of the Republican NEWT Congress. It's a world where you deny your proposing the policy, deny your passing the policy, and deny the policy after it's enacted. The facts are they will: Take the kid's lunch and education; make American workers' jobs pay less at a greater risk to their health and safety; cut the retirement and Medicare benefits for seniors who started the so-called "class warfare"—well the GOP claimed that this tax measure was a middle income tax benefit—what has been pointed out repeatedly is that this measure tax breaks go to big corporations and the affluent families.

I urge my colleagues to reject this unfair policy and to just say no to the Republican tax shift and shaft policy of more tax breaks for the rich and special interests at the expense of the middle class. This is one main course entree too many in the force fed Republican political hundred day march.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the very distinguished gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, this bill does two things. It cuts spending and it cuts taxes. I think we need to ask ourselves the question, what is going to make our communities in this country a better place to live and work and raise our kids?

No. 1, it is to leave some of that hard-earned money in the pockets of the people that made it rather than give it to the Federal Government. A lot of discussion about who gets the advantages. If you happen to be a family that makes less than $25,000, you get a 100 percent tax break. You pay zero. If you are making $30,000, you get 48 percent of your taxes reduced. You see the declining balance? If you make over $200,000, you only get a 2-percent reduction in your taxes.

The other thing is spending cuts. We have built over the last 40 years a $5 trillion debt that we are passing onto our kids and our grandkids. This starts to cut spending.

I know some of those programs are good. So it is easy for the other side to say, do not cut this program, do not cut this program. Well, if we care about spending, if we care about our future, if we care about the $339 billion interest that we are going to be paying this year, one quarter of all revenues coming into the Government, we have got to cut spending.

This bill does it.

Mr. SABO. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Chairman, I thank the distinguished ranking member for yielding time to me.

I think it was Franklin Delano Roosevelt who said that paying taxes, after all, was the price we pay for living in a civilized society.

Some on the other side are trying to convince the American people that they can have a free lunch, that we can educate our children, provide for our seniors, deal with the critical needs facing our nation, but we do not have to pay for it.

The reality is that we do have to pay and we will pay one way or the other. The choices that we make provide for us the opportunity to reap the reward, if we make the right choice, or to suffer the consequences, if we make the wrong choice.

They are trying to appeal to the what they, I guess, consider the selfish greed of Americans who want to hold onto their dollars. It is as if dad would come home and say, rather than paying for tuition and books for my children, I will keep a few dollars in my wallet. Rather than to provide for my parents who have made life possible for me, I will keep a few more dollars in my pockets. Rather than to feed the children in the household, I will keep some more dollars in my pocket.

This group of cowboys that are here now, this wagon train of theirs is one that disposes of the young and the old and the disabled in hopes that somehow they can have a more fruitful and more purposeful life. That is not true, and we are going to find out again that we cannot have a free lunch in this country.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the very distinguished gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, the previous speaker has 85,000 children in his district, just to keep count. And he will get, if this bill passes, to keep $42 million in his district of their hard-earned money.

You have seen enough numbers and enough charts. Let us cut to the chase. The reason we need capital gains tax relief, the reason we need alternative minimum tax relief, the reason we need the IRA tax relief is because you do not have the courage to cut $213 billion from this budget.

Last year we had a 1-percent cut in the budget. The Democratic side of the aisle cheered when it was defeated by 1 percent by seven votes. You cheered when the Penny-Kasich bipartisan cut was defeated.

This year we had a $17 billion rescission program. That is 8 percent of the budget deficit this year. You could not make the trip. You gave us the rhetoric about the children and hurting the elderly and the same argument you are hearing today.

I will tell you why we are doing it. Because we are going to grow the economy. The only way to balance this budget is to increase the economy as well as hold down the growth rate in Government spending. We are going to do them both. This is the first step in the road of 1,000 miles to save our grandchildren.

That child that was born here today in 1995 will spend $187,000 on interest on the national debt during his lifetime. Please vote aye and save America.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I thank the distinguished chairman of the Committee on the Budget for yielding time to me.

Mr. Chairman, I rise today in support of real deficit reduction and long-overdue tax relief for American families.

Last week I was one of those members with genuine concerns about this package of tax cuts. One of the primary reasons I came to Washington in 1992 was to help reign in the budget deficit which has crippled our economy and threatens our children's economic future.

I was one of 23 members to support linking these much-needed tax cuts with a specific plan to eliminate the deficit in 7 years. This package contains language to guarantee deficit reduction and deficit elimination, and I strongly support its passage.

In 1993, I opposed the Clinton tax increase which unfairly targeted small business and our senior citizens. As chairman of the Small Business Subcommittee on Government Programs, I applaud language in this bill that will reinstate the home office deduction for those who operate their business from their home.

This Tax Relief Act also rolls back the Clinton tax increase on Social Security benefits and raises the senior citizen earning limit.

The problem with government is not that it taxes people too little, the problem is still that the government taxes and spends too much.

This bill will hold this and future Congress' accountable on deficit reduction. For deficit reduction, for a balanced budget and for tax relief, I urge my colleagues to vote yes on this bill.

Mr. SABO. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Minnesota [Mr. SABO] is recognized for 4 minutes.

Mr. SABO. Mr. Chairman, we have heard lots of predictions today. Just let me remind Members that in August 1993, the now Speaker, Mr. GINGRICH, had this to say when we passed the President's economic program.

"I believe this will lead to a recession next year." NEWT GINGRICH, August 1993.

What has happened? Employment is up. Unemployment is down. Inflation is low. Growth is strong. Productivity is improving. Factories are operating at high rates. Investment is booming.

The Members who bring this bill to us today were dead wrong in August of 1993 in foreseeing the future. And what they bring to us today is deeply flawed.

I am sure you will hear how this bill is amazing. Well, I find it amazing also.

We hear the new speaker, Speaker GINGRICH, talk of renewing American civilization. Members, if this is renewing American civilization and the values impressed in this bill, I get nervous about this country. Because the values in this bill represent not the best of American ideals but some of the worst.

It is, indeed, a unique Robinhood bill that takes from the poorest to give primarily tax benefits to the rich. Over half the benefits go to people with incomes over $100,000.

We hear a great deal about the children's tax credit. By 2005, that is less than 25 percent of this bill. All the other things for the most affluent in this country explode in cost. And who pays? The poor, children, reduced nutrition programs, women, reduced health programs, poor seniors, low-income housing cut back, low-income fuel assistance cut back, all to pay for this tax cut for the most affluent in our society, at the same time that we are digging the deficit hole deeper.

It is true this bill is paid for over a 5-year period of time. But by the year 2000, it increases the deficit by $12 billion. It does not reduce it. It increases it in the year 2001, the year 2002. So all the speeches you hear about deficit reduction and this bill, it has nothing to do with deficit reduction. It just simply digs a hole deeper and makes the job more difficult, requiring more draconian cuts, I am sure targeted at the same people who have been targeted already.

So, Members, we have a real choice today. To some degree it is about numbers, about a deficit that goes up under this bill, about dollars that flow to the most affluent in our society who profited the most from our economy over the last 20, 25 years. But it is ultimately about values, about how we want to structure Government, how we want to pay for it, who we want to reward in our tax system.

Clearly, this is a bill that takes from the most vulnerable to help the most affluent.

I urge a "no" vote.

The CHAIRMAN. The gentleman from Ohio [Mr. KASICH] is recognized for 4½ minutes.

Mr. KASICH. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, first thing I want to say is that I am not angered at all. I am just, frankly, shocked at some of the rhetoric that has come from the other side—I am not referring necessarily to the rhetoric of the gentleman from Minnesota—bragging about the economic plan that passed in 1993.

We had $250 billion worth of tax increases and higher spending. And do you know what, aside from all that, aside from our opinion and our charts and our numbers, we had a referendum, we had a referendum on the President's program.

The American people last November had a chance to go to the polls and cast a vote on what they thought about President Clinton's economic plan.

Remember, he promised he would be a new Democrat. He would reinvent government. He was not going to raise taxes on us. That is what he promised. And he took power, and he got bought off by the special interests who run this town, who love the status quo, who love big government, who love big Washington, who love bureaucracy and who hate change.

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Guess what? The American people had their say last November. They said no, no, a thousand times no. For the first time in 40 years they put the Republicans in charge of the House. For the first time in 40 years, they rejected that plan of the status quo.

What are Republicans talking about? Let us talk about some of our Federal programs and how Republicans want to downsize.

We have 163 job training programs in the Federal Government. I put this together in about 5 minutes. This is just a short list. There are 23 separate programs to prevent child abuse, 8 separate programs on child care, 42 separate programs for health professions education, 300 separate economic development programs, 9 agencies promoting trade, 71 departments and agencies duplicating the functions of Commerce.

Guess what, Mr. Speaker? Our taxpayers who work hard every day are paying for this duplication. Do Members know why it goes on? Because it is the people's money, not their own. It is time for it to be stopped.

Let me suggest what we also have done in the area of our social program: welfare reform. Do Members know what people in America say about welfare reform? The say it does not work, it creates dependency, fosters so many of the wrong things. They want to help people who need help. That is the old American Judeo-Christian principle: help those who are in need. However, let me also suggest that it is wrong to help those who do not need to be helped.

The Republicans have finally passed a welfare program through this House that the American people have been calling for for 25 years. Let me suggest, in the area of cash welfare, what does the Republican plan do? It increases spending over the next 5 years. Child care goes up. Child protection goes up. School nutrition goes up. Family nutrition goes up. SSI goes up. Food stamps go up.

What is the total? We go from $81 billion to $100 billion in spending to help the poor under the Republican plan. And what the liberals in this Congress say is, "It just still isn't enough, and we have to take more from taxpayers."

Forget it. We are reinventing the system, we are imposing discipline, and we are responding to what the American people want in this country.

Mr. Chairman, let us talk about this President's budget and what we have out here today. We have $190 billion worth of tax relief. For who? If you have children, you are going to get a $500 tax credit. Why? Because you can spend the money better on your kids than the bureaucrats can who are camped in all these buildings across this town. That is part of what we want to do.

Secondly, if you are poor, we want to give risk incentives for people to invest and create jobs so your kids can go to school, they can have a better life, and they can become president of the bank or President of the United States, any man or woman. What we do is we have deficit reduction to the tune of $27 billion.

The President's budget that he sent this year, shame on what he sent us, increases the deficit by $31 billion. What have Republicans done? We have cut taxes. We have provided relief. We have made a down payment on the deficit. And Members have seen nothing yet, because in May we are going to complete the number two job, which is basically this: balance the Federal budget. Just wait. The American people are on our side.

The CHAIRMAN. All time has expired under the control of the Committee on the Budget.

Under the rule, 1 hour of general debate remains, to be controlled by the Committee on Commerce.

The gentleman from Virginia [Mr. BLILEY] will control 30 minutes, and the gentleman from Michigan [Mr. DINGELL] will control 30 minutes.

The Chair recognizes the gentleman from Virginia, [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this is a good bill. We all should support it.

In my home town of Richmond, I have seen how hard it is for young families, almost impossible for them to own their own homes. They are working two jobs, and they are still living from paycheck to paycheck. Things like a new car, a new appliance, a short vacation with the kids are out of reach. It is almost impossible for them to get together the down payment for a first home.

The culprit is not that they are irresponsible. The culprit is the Federal Government that was soaking up their money like a sponge.

In my own district, there are 127,941 children whose families will be eligible for this tax cut. Altogether, it will bring almost $64 million into our community every single year.

Let us put an end to this class warfare demagoguery. Fully 75 percent of this money will go to families with combined incomes, that is mother and father combined, of $75,000 or less. Yes, 75 percent will go to families with $75,000 or less income.

Another provision in this bill removes, or at least raises the cap, on earnings for senior citizens who are retired from the current $11,000 to $30,000 over 5 years. Many of our seniors put away some money for their retirement, only to find inflation has made it so that they must work. They want to work, they are physically able to work, but we put this penalty on if they work and earn more than $11,000.

This is a good bill. Let us get on the bandwagon and let us support it.

Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I stand in opposition to this Republican tax giveaway.

Mr. Chairman, the legislation before us will not provide meaningful tax relief for the middle class, but instead is merely a giveaway for corporate American and the Nation's wealthiest taxpayers. Most importantly, the Republicans have not come up with enough revenue to pay for the more than $600 billion shortfall over the next ten years. Our first responsibility is to get the deficit under control, not hand out politically popular goodies for multibillion dollar corporations and families that make more than $200,000 a year.

Our country now owes more than $4.6 trillion, and that figure is growing fast. The interest payment on this debt will exceed $200 billion this year. Worst of all, we're adding to that debt at the rate of $4 billion every single week. Our first priority should be to reduce the deficit, not engage in politics-as-usual.

I must admit, the Republicans have made some attempts to pay for their tax giveaway. Tax cuts would be paid for by cutting $110 billion out of a number of domestic programs, including WIC, food stamps and other Federal nutrition programs, Medicare, and welfare for legal immigrants in the United States. In addition, Federal employees would be required to increase their pension fund contributions. The increase is expected to cost a Federal employee earning $30,000 a year an additional $750 in taxes each year.

And what does the Republican's tax plan pay for? Not relief for the average families. The Republican majority tax cut proposals would give only a nod toward tax relief for middle income families. In the Republican plan, a family would receive the so-called family tax breaks if they earn between $20,000 and $250,000—those who earn less than $20,000 would receive nothing.

When you take the other tax breaks into account, the average family doesn't do much better, but the rich would see a windfall. Families making more than $200,000 would see more than $11,000. Let me put that into perspective. Average families may see enough of a tax break to pay for a tank of gas each month. However, if you make more than $200,000, your tax break would be enough to buy a new BMW. That is right, the rich will get enough of a tax rebate for the monthly payments on a new luxury car.

I am particularly outraged over the Republican proposal to do away with the alternative minimum tax for profitable corporations. There was a huge public outcry during the early 1980's when many were very large and profitable corporations paid little or no income tax. Some of these corporations even received refundable tax credits. For example, AT&T made $24.9 billion in profits from 1982–1985. However, their team of tax lawyers wrangled a rebate of $636 million from the U.S. Treasury. The alternative minimum tax was established to stop large corporations from abusing the Tax Code. A repeal of this system would represent a government subsidy of the Nation's largest corporations and cost the Treasury $17 billion. I can't support that.

This Nation does need tax relief for working Americans and small businesses. I examine tax proposals to see whether working Americans would benefit. First, does it address the inequities of the last two decades when middle income people paid the largest share of increases? Second, if the proposal includes a revenue decrease, does it also include a corresponding revenue increase to ensure that it doesn't increase the federal debt? For example, I would support cutting taxes for working Americans, while also increasing the share of taxes paid by foreign multinational corporations, which enjoyed substantial windfalls in the 1980's.

One of my colleagues tried to put forward legislation this week to end special tax breaks for multinational corporations and foreign investors. Unfortunately, the Republicans did not allow us to vote on the language by Representative EVANS. We will have no opportunity to save $24 billion in revenue by closing loopholes and special tax breaks for these foreign investors.

I agree, we have got to encourage savings and investment in this country. I would support an equitable capital gains tax cut that really encouraged long-term, productive investment and job creation in the United States. That's not the case with the Republican proposal, which established no limits on the types of investments, nor provided adequate incentives for longer term investment. Only about 25 percent of this multibillion dollar tax break would go to families earning less than $150,000 a year—the same families who were hit hard by the tax changes of the 1980's. Most families would get no benefit at all.

The proposed capital gains tax cut would not distinguish between the rapidly growing world of high stakes gambling in derivatives, and other speculative investments, versus productive investment. When I think of how such a tax cut could truly benefit working Americans, I think of the Oregon family who realized the fruits of 35 years investment in a tree farm. Shouldn't the Tax Codes encourage this type of investment as opposed to derivative speculation on Wall Street? Unfortunately, the Republican proposal does not discriminate between productive investment and speculation.

So at the end of the Republican majority's first 100 days. Here's the heart of the Republican agenda. Take from the middle class and the needy, and give to the rich. It is trickle down economics all over again, and we know how well that worked in the 1980's.

Mr. DINGELL. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. Mr. Chairman, I rise in opposition to H.R. 1215, the Contract With America Tax Relief Act of 1995. However, before I enumerate the concerns I have with the bill, let me make a few general remarks about tax legislation and the process that brought this bill to the floor for consideration.

As the former chairperson of the Ways and Means Committee in the Missouri House of Representatives, I take great interest in the tax legislation before the House today and bring considerable knowledge and experience in crafting bipartisan tax legislation. However, if I have one lament about moving from the state legislature to the national body, especially as we enter the denouement of the contract period, it is the intense level of partisanship that exists in this body when it comes to formulating policy. Here was a prime opportunity, that has now been lost, for Democrats and Republicans to work together on important tax reform issues. Because Republicans insisted on keeping to a political schedule instead of working to craft sound tax policy, they lost the opportunity to work with me and other Democrats who favor tax reform.

This is not to say that I opposed all the provisions in this tax bill. In fact, there are a good many provisions in the bill that I favor. The provisions on IRA's, capital gains and other tax reforms notwithstanding, I believe this legislation is fatally flawed because it turns its back on the most compelling issue facing this Congress, which is the need for deficit reduction. The Republican attitude regarding deficit reduction ignores the message elicited at the town hall meetings that were held throughout the country earlier this year by Mr. KASICH and the Budget Committee, where people overwhelmingly expressed their support for deficit reduction over tax cuts. Adding an additional $660 billion over 10 years to the deficit, when we currently face annual budget deficits of $200 billion, is not in line with the commitment I made to balance the budget, nor in line with the wishes of the people in my district.

Any change to the Tax Code produces winners and losers. What is troubling and what has been made clear throughout this debate on the items in the Republican contract is who the majority has elected to help and who they have elected to disregard. As I have stated, I am not opposed to certain tax reforms. I have, however, serious problems with the way the tax cuts in this bill are structured and who the majority relies on to pay for their tax cuts. For example, the Republican majority decided to cut child nutrition programs, loans for college students and programs for the elderly, as well as increase taxes on Federal employees, to pay for tax cuts that mainly accrue to the top wage earners in this country.

It is worth noting that many conscientious Republicans (106) also made clear their opposition to the way the tax bill was structured when they signed a letter to the Republican leadership stating that providing tax credits to families earning up to $250,000 was not advisable. In addition, it is estimated that 70 percent of the tax savings from the capital gains cut will go to those making $100,000 or more.

Another concern is the impact this legislation will have on State revenues. Because of linkages between the Federal and State tax systems, the State of Missouri is estimated to lose $1.2 billion in revenue over the next 10 years. This potential revenue loss could leave an enormous budget hole for Missouri. This body recently passed legislation to shift enormous Federal responsibilities back to the States. We are now telling the States in this legislation that you will have even fewer dollars to carry out those obligations.

For these, and many other reasons, I cannot and will not support this legislation. Put simply, the Republican tax measure is not sound tax or fiscal policy.

Mr. DINGELL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, it is all very simple. This is a Robin Hood in reverse tax proposal. It is part of a package which is geared to help the rich and to hurt the poor. If we look, we will find that better than 50 percent of the tax reductions are going to go to those who earn more than $100,000 a year, the top 1 percent of the population of the country.

Beyond that, it is going to cut programs which are important to people. It is going to cut the school lunch program. It is a bill which will cut the Women, Infants, and Children program. It is going to eliminate one of the most successful nutrition programs in the history of this country.

It is a package that is going to cut school loans, college loans, college scholarships, and summer jobs. When we read this against the rest of the Contract on America, we will find out why this proposal should be rejected.

Mr. Chairman, I urge my colleagues to reject this tax cut. It is unfair. I urge my colleagues to wait and to support the Democratic alternative, which will be a better package, fairer to everyone. It is going to strike, among other things in this package, the retirement taxes and the benefit cuts that Civil Service employees have worked for for a lifetime, that increase their costs solely to benefit the well-to-do.

Mr. Chairman, the Medicare, Energy, and Telecommunications provisions of this bill reported by the Commerce Committee exemplify the tangled and deceptive nature of the measure before the House.

This bill's title falsely advertises tax fairness and deficit reduction. The bill accomplishes neither. Nothing in the title of the bill advertises the fact that it imposes $10 billion in new costs on Medicare beneficiaries, providers, and employers. Nor does it mention a hastily drawn sale of a Government asset, the Uranium Enrichment Corporation.

In a most curious piece of theater, the Commerce Committee was summoned to a markup a few weeks ago to consider this assortment of unrelated health, energy and communications measures.

In a Congress filled with surprises and irregular procedures, were we getting a jump on reconciliation and beginning the process of deficit reduction? My hopes were dashed. In the markup, Republicans made clear that we were not meeting for deficit reduction, when every Republican voted against our amendments to devote the savings from almost $10 billion in Medicare cuts, from extended auctions of spectrum licenses and from the sale of the uranium enrichment corporation exclusively to deficit reduction.

In Medicare, the Republicans here propose raising premiums as much as $120 per year, shifting costs onto employers, and reducing payments to providers. Let us be straight with the elderly about what would happen under this bill. You will pay more in health insurance premiums to finance this tax cut.

With respect to the extension of competitive bidding authority for radio licenses, Commerce Committee Democrats objected to the fact that the legislation was approved without a hearing or any attempt to determine whether, in fact, competitive bidding authority ought to be extended. For example, during the markup both Republican and Democratic Members expressed concern about the manner in which the Commission was utilizing this authority with respect to licenses in the Specialized Mobile Radio Service [SMR]. These concerns should have been vented during an oversight hearing and not raised for the first time at a markup.

Ironically, during the same week that H.R. 1218 was introduced and approved by the Committee, a court issued a stay to prevent the Commission from using its competitive bidding authority to issue licenses for one group of licenses for broadband PCS. These are blocks of frequencies reserved for "Designated Entities", including small businesses, firms owned by minorities and women, and small telephone companies.

Many of our colleagues support the "Designated Entity" approach adopted by the Commission. No matter what our position, however, it is irresponsible to approve H.R. 1218, thereby blessing the Commission's "Designated Entity" policies, without conducting the necessary oversight so as to determine whether the underlying statute ought to be modified or in some way clarified.

Similarly, many of us want to privatize the U.S. Uranium Enrichment Corporation. We made privatization part of the 1992 energy strategy legislation. However, in the majority's rush to generate revenues to finance tax cuts, the committee allowed itself to be swept up in a hasty and imprudent process. As a result, the committee and the Congress are largely in the dark as to whether the American taxpayer will realize a fair return from the sale of the Corporation.

No hearing was held on the underlying bill. In fact, Chairman SCHAEFER's questions following a February 24 oversight hearing on the Corporation have not been answered. These outstanding matters include applications of the antitrust laws, rights to sensitive technology, and disposition of recycled Soviet weapons materials under a contract the Corporation entered into in 1994, including the difficult issue of matched sales.

My colleagues on the other side have restored to an odd rhetorical gesture to justify some of these cuts: the cuts, they argue, are in President Clinton's budget. We should all note the irony of Republicans taking such comfort in the recommendations of a President they have so pilloried. The President, to his credit, has laid down a comprehensive budget proposal. Republicans have not. The President has expressed opposition to putting further burdens on the elderly. Republicans seem to welcome the opportunity to impose them.

This legislation is poorly conceived and hastily drawn. I urge its defeat.

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Tampa, FL [Mr. BILIRAKIS], chairman of the Subcommittee on Health and Environment of the Committee on Commerce.

Mr. BILIRAKIS. Mr. Chairman, I would like to use my time to address three of the provisions of this legislation that are of particular importance to my constituents: the increase in the Social Security earnings test, the repeal of the Clinton administration's tax increases on Social Security benefits, and tax incentives for private long-term care insurance.

In 1980, Florida had in excess of 1½ million individuals aged 65 or older. In 2000, more than 3 million Florida residents will be 65 or older.

Florida is first in the Nation in percentage of the population 65 years and older—and by this measure, my district is one of the oldest in the country. Thus, the three provisions of this bill that I am emphasizing today are very important to my constituents.

First, as a long-time supporter of eliminating—not just increasing, but eliminating—the earnings test; as a cosponsor of H.R. 300, the Older Americans Freedom to Work Act, in the previous Congress and as a signatory of the Contract With America, I am delighted that we are finally taking action on these matters today.

I simply do not understand why—through the current Social Security law—we want to penalize retired individuals willing to work by forcing them to lose a portion of their Social Security benefits if they have income above a certain level.

The current earnings test amounts to an additional 33 percent marginal tax rate—on top of existing income taxes—and punishes seniors who choose to remain productive beyond age 64. This makes no sense. We should be encouraging rather than penalizing productive, experienced people who want to work.

In fact, our work force benefits greatly from the expertise of older workers—and our young workers can gain much from the experience of their older counterparts.

Second, this legislation provides further tax relief to middle-income seniors by repealing the tax increase on Social Security benefits enacted by the previous Congress.

I just do not believe that this type of tax burden should be borne by our older Americans, and by reducing the taxable portion of benefits from 85 percent back to just 50 percent—the level prior to enactment of the 1993 Clinton tax law—we can make a bold statement in affirmation of this belief.

Finally, let me touch briefly on one final component of this bill, tax incentives for private long-term care insurance and for families caring for a dependent elderly parent or grandparent in the home. As the author of bipartisan consensus health reform and other legislation in the previous Congress that sought to establish similar incentives, I am particularly proud of these provisions.

Everyone is concerned with the high cost of long-term care insurance, and with more than 7 million elderly Americans in need of long-term care today, these incentives certainly belong in this package.

Mr. Chairman, I strongly encourage all of my colleagues in the House to reach out to America's seniors today by voting for and passing this legislation.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I want to address my remarks to the aspect of this legislation that deals with the U.S. Enrichment Corp. I am opposed to the use of the funds for the sale of the U.S. Enrichment Corp. for the tax cut plan.

The U.S. Enrichment Corp. took over the Department of Energy's uranium enrichment program in July 1993. Under the Energy Policy Act of 1992, the Enrichment Corp. is required to prepare a strategic plan by July 1 of this year on prospects for privatization.

That plan is to consider alternative means of transferring ownership to the private sector and identify the preferred method of privatization. The

1992 act also provides that the corporation may not implement the plan without Presidential approval, and cannot privatize less than 60 days after notifying Congress of its intent to implement the plan.

Mr. Chairman, none of these things have happened. I would suggest that what we are doing today is premature. In fact, when we had a hearing of our Subcommittee on Energy and Power on February 28 this year, a lot of questions were raised about the proposed privatization.

A letter, in fact, was sent by the chairman of our subcommittee, the gentleman from Colorado [Mr. SCHAEFER], asking various agencies for input on the terms of privatization.

We do not have any answers to the letter from the chairman. We don't ever know what the proceeds will be from the sale of the corporation.

Mr. Chairman, my criticism has nothing to do with the overall merits of the tax cut plan. It simply should not include potential proceeds from the sale of the U.S. Enrichment Corp.

Mr. BLILEY. Mr. Chairman, it is a pleasure to yield 2 minutes to the gentleman from New York [Mr. PAXON], chairman of the Republican Congressional Committee.

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Mr. PAXON. Mr. Chairman, over the past 90 days and certainly today we have heard two different visions of America enunciated here on the House floor. The Democrats' view is America is a Nation of class warfare. They believe that to climb the ladder of opportunity you must pull someone else down.

In the Democrats' America, bureaucrats should make key decisions for families, the Government will grow and taxpayers will pay more and more. Our vision of America is different. Our key goal is to empower families, not bureaucrats. To do this we cut spending and let taxpayers keep more of their hard-earned tax dollars. In so doing together, all Americans can renew the American dream of hope and opportunity.

Now, for the past 40 years, Democrats have fulfilled their vision of this country. In 1950 Washington took 5 percent of family income. Today Government takes a full 40 percent. As a matter of fact, the 40 percent the Government takes in taxes is more than the family budgets for food, clothing, and shelter in this Nation combined. Tonight we scale back Washington's share and we increase the share the American family keeps.

How do we do it? For example, the $500 per child tax credit puts a quarter of a billion dollars back in the pockets of families in the nine counties I represent in the Buffalo, Rochester, Finger Lakes area. That is 447,000 children who will each receive, their families will receive $500 tax credit. In my region 15,000 couples are married annually. They will keep money when we scale back the marriage penalty, and 28,000 seniors in my region will keep more when we repeal the marriage tax penalty.

The bottom line is kids, families, seniors benefit. It is good for this country, it will help renew the American dream. Tonight, finally a tax bill American people will like to receive from the Government.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, plain and simple, the answer on this bill is we cannot afford it. We cannot afford to give tax breaks to people who do not need them, even if they are our friends, and we cannot afford to cut school loans, housing assistance, school lunches, nutrition for the elderly because that will hurt our future. Now we can afford to cut some other programs, but if we cut programs, we need to put that saving to the deficit, not to tax cuts for corporations.

We hear a lot today about this $500 child credit, but I would like to tell you who gets the credit. One-third of the children of America will not get any credit, and yet they will be the ones who most need it because they will be the children, the one-third who are in the lower tax bracket. They will not get the break, but, Mr. Chairman, they will get the debt. You have to have enough money to file an income tax return to get this $500, but those one-third of American children will not have that money.

Now what about this tax break? OK. If your income is between $30,000 and $75,000, where most of us are, you will get $760 in return, but you will also get higher interest rates. But if your income is over $200,000, you will get $11,000 in a tax break. That is a great deal. Except that 41 million households are in that first category getting $760, and only 2.8 million will get the $11,000. Same old story, once again the rich are getting richer.

Now, some of our biggest corporations under this bill will not pay any taxes. Now, we all love to give large expensive gifts to our friends, but if it hurts our children and our elders, we just cannot afford it. We cannot afford this bill.

Mr. BLILEY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I note for the record that the Member who just spoke cast the deciding vote 2 years ago to raise the taxes on constituents of her district by $808 million and now opposes a $500 tax credit that would go right to the parents. There are 127,000 children in her district. In fact, the bill she opposes would allow the middle-class families of her own district to keep a total of $63 million of their own hard-earned money.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, during the first 100 days of the Contract With America, I have repeatedly received three words of advice from my constituents in Ohio's Fourth Congressional District: "Keep it up." The people I have talked with in my district are pleased that we are carving the lard out of an obese bureaucracy that micromanages our lives. They feel more secure knowing that we have passed a real crime bill this time, and they think it is about time that we revived the principle that the route to prosperity is through work, not welfare. They support our approval of the balanced budget amendment and respect us for facing up to the hard decisions needed to reduce the deficit.

They have consistently told me one other thing. We are overtaxed and we need relief. I have been struck by one remarkable statistic. The average American family spends about half of its budget on Federal, State, and local taxes. Hardworking families just cannot afford to raise children and feed a hungry bureaucracy as well.

H.R. 1215 represents a long overdue down payment on tax fairness. It provides relief for families and senior citizens, establishes critically needed savings, and encourages private sector investment that will promote economic growth and create thousands of jobs. The average taxpayer in my State of Ohio will save about $1,400. That is $1,400 for an individual family to spend rather than spent by a faceless Federal bureaucrat.

Importantly, this $189 billion tax cut is fully paid for by responsible budget cuts and savings. To cite just one example that I have had a personal interest in, it is estimated that $2 billion, that is $2 billion in savings, will be realized through the extension of the Federal Communications Commission's spectrum auction authority. I sponsored the legislation that originally paved the way for these auctions which have already raised over $9 billion for the U.S. Treasury. Read that, the taxpayers.

H.R. 1215 is a bill that all of us should support. The taxpayers have earned it, they deserve to keep it.

Mr. Chairman, I ask for a strong support of this legislation.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Chairman, millions of middle-class Americans make sacrifices for their children every day.

How many times have we known parents to put off buying a new car to pay for their childrens' education? How many times have we seen parents postpone their vacation to save for their kids' tuition?

Yet today, we are considering giving huge tax cuts to the privileged few instead of investing in our children's education and our country's future.

Is this what the American people really want? I don't think so. I represent one of the wealthiest districts in the country they want deficit reduction and they recognize that education is an investment.

Middle-class Americans do need relief—they need relief from the ever climbing costs of education—the seed corn which allows our Nation to harvest a trained work force.

They want deficit reduction—not a Republican deficit buster which doesn't invest in our future or address the fundamental issues which face our country.

I urge my colleagues to reject this so-called crown jewel of the contract. It's costume jewelry. Education produces the true crown jewels in our families, our communities, and in our country.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, America's tax system stifles growth, kills commerce, slows investment, and destroys jobs. Our Tax Code must be changed, it must be energized, it must be incentivized. That is why I rise to support this bill. The Republican plan does cut taxes on families, American families. The plan does cut taxes on business, American companies. It does cut taxes on senior citizens, your parents and grandparents as well as all other Americans. These are tax cuts for your constituents and my constituents and they make sense, and I think it is time to stop the class warfare around here. If people with money do not invest their money in America, poor people will only have welfare and never get a job in this great country.

It is time to utilize the Tax Code to leverage the private sector, where jobs are created, where American workers get a paycheck, not a handout, and they pay taxes and keep this train coming down the track. Now, I would like to see the ceiling for that child tax credit dropped down to $90,000 and hopefully that will happen, and I would like to see us repeal section 903, change section 956 of the code. We give too many foreign tax loopholes in there. I would like to see tax credits for investment in America, tax credits for the purchase of American-made goods. Every study says it is a tax break, and in fact it raises revenue. I could not get the party here to look at it.

H.R. 389, 391 and 392 should have a hearing. But, Mr. Chairman, let me say this, America needs capital punishment, but we do not need it in our Tax Code. Capital gains deserves a change at this modified realistic level. You know, grandma and grandpa and our farmers are not exactly Daddy Warbucks around here.

But I would like to remind my Democrat colleagues of one thing. I will support the Democrat substitute. I like the language that deals with education. But let me say this: There are a lot of Ph.D.'s in New York driving cabs. It is time to incentivize the Tax Code. Our current system is anti-family, anti-business, anti-parents, anti-investment, anti-jobs, and it is anti-smart.

One other thing. The Republicans do not necessarily have a patent on tax cuts. John Kennedy cut taxes for much of the same reason the Republican party is addressing this issue, and I am not going to put him down for that. But it is time to get away from it. The Tax Code basically divided America, old against young, worker against company, rich against poor, and I come from as poor a family as anybody in the Congress, and my dad never worked for a poor person, never.

If we are going to create jobs, we are certainly not going to do it with the Tax Code that we have. I keep hearing about all this great economy. My God, of the top 50 banks in the world, the top American bank was listed at 29. We are still bailing out the savings and loans. Most pension plans are underfunded. Jobs are still being shipped overseas. We have got a record trade deficit. Right now America is buying back American dollars with borrowed American dollars from Japan and Germany to save the endangered American dollar.

Beam me up here if things are so great. Let us change the Tax Code. I support this bill, and it is time to put this class warfare aside.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, over the past few weeks I have been coming to this floor to talk about what I call the Republican version of the AFDC, not Aid to Families with Dependent Children, but aid for dependent corporations. Over this 100 days we have seen the Republicans repeatedly reward the privileged and special interests while trying to do cuts in veterans programs, student financial aid, and law enforcement, and in this bill there is a $5 billion cut for law enforcement.

This tax bill is another example of those misguided priorities. The Republican tax plan essentially repeals the corporate income tax by phasing out, among other things, the corporate alternative minimum tax, a provision of the Tax Code that was put in in 1986 to ensure that profitable corporations pay a fair share of income taxes. This alternative minimum tax repeal was not included in the original Contract on America, but was inserted at the last minute following pressure by corporate lobbyists and special interest groups.

I offered an amendment before the Committee on Rules to delete the phase-out, but that was not made in order by the Republican leadership.

What does the alternative minimum tax mean for average working Americans? It means that corporations cannot use attorneys and tax loopholes to avoid paying a minimum level of taxes. Every year thousands of parents make room in their household budget to buy school supplies for their kids. Like this 99 cent bottle of glue. Most of you do not know that in 1981 virtually every parent who purchased a bottle of glue like this paid taxes, more than the company that produced it.

According to the watchdog group Citizens for Tax Justice, in 1981 the producer Borden Company, makers of the glue, despite a profit of over $200 million, paid no income taxes.

□ 1915

In fact, they got back $14.9 million in income tax credits. This is the very thing which the corporate minimum tax was designed to stop and to end. Even President Ronald Reagan supports the alternative minimum tax.

Mr. Chairman, this is a bad bill, it is going to stick it to big corporations and we must not allow big corporations to take advantage of another tax loophole brought forth by the GOP.

Mr. BLILEY. Mr. Chairman, I yield myself 3 minutes and I will take this time to engage in a colloquy with the chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, in title III of this bill, H.R. 1215, the Tax Fairness and Deficit Reduction Act of 1995, a tax provision was originally included in language providing for the privatization of the United States Enrichment Corporation. As the gentleman knows, Federal tax provisions are within the jurisdiction of the Committee on Ways and Means. As a consequence, I requested that the Commerce Committee chairman ask the Rules Committee to remove this specific provision from the language providing for the privatization of the U-S-E-C, with the understanding that the issues surrounding the tax treatment of the privatization will be fully addressed in conference.

Mr. BLILEY. Reclaiming my time, Mr. Chairman, the distinguished chairman of the Ways and Means Committee correctly states that a provision was include in the bill providing for the privatization of the U-S-E-C that would ensure that the first step in the privatization of the U-S-E-C would be a nontaxable event. It is my understanding that this is how the Internal Revenue Service should treat the event in question; given the immense size of this transaction, the Commerce Committee simply wanted to be certain that there would be no ambiguity in the tax consequences of this aspect of the privatization. I would tell my good friend that after his concerns were brought to my attention, I concurred that the provision falls within the jurisdiction of the Ways and Means Committee, and agreed to ask the Rules Committee to remove the specific tax language from the bill with the understanding that we would deal with this issue at a later time, after we have had an opportunity to confer on the best way to ensure the sound and effective privatization of the U-S-E-C. Our two committees have exchanged correspondence detailing this situation, and I would request that these letters be incorporated into the RECORD at the appropriate point.

I think both of us agree on the intent of the provision, and I look forward to working with my good friend, the chairman of the Ways and Means Committee, to accomplish a responsible tax provision in conference, and I thank him for his cooperation today.

Mr. ARCHER. The gentlemen is correct, and I will work with him to include appropriate tax provisions in conference.

Mr. Chairman, the letters referred to are as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, April 3, 1995.

Hon. THOMAS J. BLILEY, Jr.,
Chairman, Committee on Commerce, House of Representatives, Washington, DC.

DEAR CHAIRMAN BLILEY: On March 28, 1995, the Chairman of the Committee on the Budget, Mr. Kasich, introduced the bill H.R. 1327, the "Tax Fairness and Deficit Reduction Act of 1995", which incorporated the text of H.R. 1215, the "Contract with America Tax Relief Act of 1995", along with other necessary offsetting spending reduction provisions. I understand that the text of H.R. 1327 is to be considered as the base text for floor consideration of H.R. 1215 this week.

H.R. 1327 includes the provisions of H.R. 1216, a bill to provide for the privatization of the United States Enrichment Corporation (USEC), reported by the Committee on Commerce on March 23, 1995.

Section 3006 of H.R. 1327 includes a provision regarding the tax treatment of the USEC privatization. This matter lies within the jurisdiction of the Committee on Ways and Means, and was reported contrary to Rule XXI, clause 5(b), which provides that no bill carrying a tax measure may be reported by any committee not having jurisdiction to report tax measures.

On that basis, I would respectfully request that you write to the Chairman of the Committee on Rules and ask that the rule for floor consideration of H.R. 1215, as amended, delete the tax treatment provision in Section 3006. This action would be done with the understanding that the provision would be treated without prejudice as to its merits when considered, as appropriate, by the Committee on Ways and Means during the course of its legislative agenda later this year.

Your cooperation in this matter is greatly appreciated.

Sincerely,

BILL ARCHER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, April 3, 1995.

Hon. GERALD B.H. SOLOMON,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On March 27, 1995, I wrote to you requesting a rule for floor consideration of H.R. 1215, the "Contract with America Tax Relief Act of 1995", which would make in order a consolidated bill (since introduced as H.R. 1327, the "Tax Fairness and Deficit Reduction Act of 1995") incorporating other offsetting spending reduction provisions as the base text for the purposes of amendment.

H.R. 1327 includes the text of H.R. 1216, a bill to provide for the privatization of the United States Enrichment Corporation (USEC), reported by the Committee on Commerce on March 23, 1995.

Since the date of my original letter to you, it has come to my attention that Section 3006 of H.R. 1216 includes a provision regarding the tax treatment of the USEC privatization. This provision lies within the jurisdiction of the Committee on Ways and Means, and was reported contrary to Rule XXI, clause 5(b), which provides that no bill carrying a tax measure may be reported by any committee not having jurisdiction to report tax measures.

On this basis, I respectfully request that the rule for floor consideration of H.R. 1215, as amended, strike this provision.

Your cooperation and that of the Committee on Rules in this matter is greatly appreciated.

Sincerely,

BILL ARCHER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, April 4, 1995.

Hon. THOMAS J. BLILEY, Jr.,
Chairman, House Committee on Commerce, 2125 Rayburn HOB, Washington, DC.

DEAR CHAIRMAN BLILEY: As you know, H.R. 1216 (the "USEC Privatization Act") as reported by the Commerce Committee contains a tax provision. That provision is intended to allow the United States Enrichment Corporation to transfer its assets without Federal income tax consequences to a state chartered corporation, pursuant to a privatization plan. The provisions of H.R. 1216 were included in H.R. 1327, the "Tax Fairness and Deficit Reduction Act of 1995", and the text of H.R. 1327 is expected to be adopted as a substitute to the text of H.R. 1215.

As you know, Federal tax provisions are solely within the jurisdiction of the Committee on Ways and Means. Accordingly, I appreciate your agreeing to delete the provision from the legislation intended to replace the text of H.R. 1215.

I want to affirm my commitment to work with you in conference to provide appropriate tax provisions to facilitate privatization of the USEC. In particular, I understand that the transfer from a federal to a state charter should be a non-taxable event. I will work in conference to provide statutory language making clear that the transfer from a federal to state charter is a non-taxable event. The fact that such a provision will not be included in the House bill will not prejudice consideration of such a provision in the conference. With respect to such tax provisions, I intend to consult with you to ensure the most effective privatization of the USEC.

Sincerely,

BILL ARCHER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, April 4, 1995.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR CHAIRMAN ARCHER: Thank you for your letters of April 3, 1995, and April 4, 1995, regarding certain provisions in H.R. 1216, the USEC Privatization Act, which would affect the tax treatment of the privatization of the United States Enrichment Corporation. As you know, the text of H.R. 1216 has been incorporated into H.R. 1327, the Tax Fairness and Deficit Reduction Act of 1995, which is to be considered on the floor later this week.

The Commerce Committee acknowledges the jurisdiction of the Ways and Means Committee on Federal tax provisions and agrees to delete the tax provisions in H.R. 1327 which pertain to the privatization of the USEC. This agreement is predicated on an understanding, as set forth in your letter of April 4, 1995, that the Ways and Means Committee will work with this Committee in conference to include appropriate tax provisions that facilitate privatization of the USEC.

As you know, my interest has been in providing a framework for the sound and effective privatization of the USEC. I appreciate your assurance that you agree that the transfer of the USEC from a Federal to a state charter should be a non-taxable event. I also appreciate your commitment to work with me to provide statutory language making clear that the transfer from a Federal to a state charter is a non-taxable event. The assurances provided in your April 4th letter give me sufficient confidence that you agree with the importance of such protections, and that this matter will be addressed properly in conference. Accordingly, I have communicated to the Rules Committee my request that the language found in section 1503(a)(5) of H.R. 1216 be deleted from the text of H.R. 1327.

Thank you for your cooperation in this matter.

Sincerely,

THOMAS J. BLILEY, JR.,
Chairman.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Illinois [Mrs. COLLINS], the ranking minority member of the Committee on Government Reform and Oversight.

Mrs. COLLINS of Illinois. Mr. Chairman, today we are voting on the final item in the Republican's Contract on America, the so-called crown jewel of the 100 day take-money-from-schoolkids-and-give-it-to-the-rich extravaganza.

Well, in case we weren't able to figure out the point of this whole Contract With America, H.R. 1215, the Republican tax bill, makes it all crystal clear.

H.R. 1215 is a reckless, deficit-exploding, who-cares-about-the-poor bill full of goodies and bonuses by the wealthy and the rich. What a fitting finale, Mr. Chairman!

My Republican colleagues have abandoned this commitment to deficit reduction in their Contract With America in favor of this blatant payoff to the rich.

Let's take a look at who exactly this bill benefits. For starters, corporations are big winners under H.R. 1215. Back in the 1980's, Congress realized that many of our richest, biggest companies weren't paying a single dime in taxes by taking advantage of all the tax write-offs available. As a result, the alternative minimum tax was established to ensure that corporations make at least a nominal contribution to the National Treasury.

Well, our friends on the other side of the aisle clearly think that its OK if some of the Fortune 500 corporations leave everyone else to pick up the bill on April 15th because H.R. 1215 completely repeals the alternative minimum tax. This is expected to reduce revenues to the U.S. Treasury by $35.6 billion over the next 10 years that will have to be made up through deficit spending or more cuts in programs that help to ease the financial burdens of the guy who needs a helping hand.

America's wealthiest individuals and families also come out way ahead under H.R. 1215 with the capital gains tax cut and other goodies that ensure that the well-off become even better off. A U.S. Treasury Department analysis of the impact of this legislation reveals that more than half of the benefits in H.R. 1215 go to the top 10 percent of American families with incomes of more than $100,000 a year and nearly 30 percent of the bill's benefits go to the top 2 percent of families making over $200,000 year. These families will receive an average tax break of $938 a month! That's a gift from the Republicans of $12,256 a year.

And who is going to be paying for this? The American Federal employees, these people who have worked for Federal Government are going to have to make vast contributions from their own Federal retirement system in order to pay for these tax cuts.

I want to talk about these Federal employees who only earn $30,000 or so a year. On average they are going to be forced to pay $750 more toward their pension every year under this doggone bill, so the top 2 percent we just talked about who have incomes over $200,000 a year are going to be enriched further.

Somebody mentioned a few minutes ago about welfare, somebody else called it corporate welfare. What else can it be called? It is also welfare to those Americans who are quite wealthy, over $200,000 a year. They are going to get a $500 tax credit for each one of their kids, and yet the poor guy making $30,000 a year is going to have to work forever just to have $4,500 over 5 years in order get about $900 in benefits on his retirement check.

Something is wrong here, Mr. Chairman. It seems to me we are way out of line on this. It seems to me if we wanted to give a real tax break, give it to the guy who really needs it, not the guy who earns $200,000 a year. It just does not make sense to do so.

Now, since we know who wins under this bill, let's look at who loses. Unless you're in the highest income bracket in the United States, you're just plain out of luck. The Republicans promised to lower your taxes, right? Well, if you are a working family with an income under $75,000 a year, you can expect to receive a tax break of a whopping $36 a month. This will barely buy a pair of sneakers. And families earning between $40,000 and $50,000 a year can expect to pocket an average capital gains tax break of $32 a year. This might cover one trip to McDonalds if your family isn't too big or too hungry.

Not only do average working families gain nothing from H.R. 1215 but they will have to pay for the big shots' tax cuts through the exploding deficit and spending cuts.

Its important to note, too, that the vast majority of tax benefits in H.R. 1215 are specifically designed not to apply to low-income Americans. For example, the $500 per child tax refund available to families with incomes up to $250,000 is only available to families with tax liability. In other words, the lowest-income families would receive no benefit under this credit. Low-income families would also receive no benefit whatsoever from this bill's marriage penalty tax credit or the $5,000 tax credit for adoption.

To make matters worse, these same low-income families who aren't eligible for any of H.R. 1215's tax goodies are forced to fund this corporate giveaway. H.R. 1215 is paid for through cuts in programs such as the Low Income Housing Energy Assistance [LIHEAP] Program that helps 2 million senior citizens pay for their heating bills, Healthy Start, which provides prenatal care to expectant moms, and other programs that remove lead-based paint from public housing, provide summer jobs to our teenagers, and so forth.

Senior citizens and Federal employees are also singled out to pay for this tax break bonanza. Medicare will be cut dramatically and Federal employees will be taxed through significantly higher contributions to their retirement plans in order to receive lower benefits.

This is the Republican crown jewel that passes out caviar to the rich and leaves the rest of America starving. I oppose this shameful bill and urge my colleagues to do the same.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HASTERT], the chief deputy whip, and a member of the Committee on Commerce.

Mr. HASTERT. Mr. Chairman, My good friend, the gentlewoman from Illinois [Mrs. COLLINS] just spoke, but you know I think I remember just 2 years ago that my good friend from Illinois just raised the tax on her constituents that would cost $711 milion and now opposes a $500 tax credit to go right to the parents of the 89,000 children that are in her district. The fact is she opposes the bill that would allow middle-class families in her district to keep a total of $44 million of their own hard-earned money.

Mr. Chairman, I also rise in support of the Tax Fairness and Deficit Reduction Act we are considering today. I am especially pleased to support the Senior Citizens Equity Act portion of this legislation.

We heard a great deal in recent weeks about Republicans being mean spirited. I contend that what some Democrats have done to our senior citizens has been mean spirited.

Ever since I first came to Congress I have been fighting against the unfair Social Security earnings limit, and this earnings limit taxes seniors at a rate twice as high as millionaires have to pay if they choose to work.

This tax hurts productivity, it robs the country of needed experience, and penalizes people who we should be trying to help. Despite the obvious unfairness of this earnings limit, the Democrat leadership refused to bring legislation to correct this situation to the floor.

I call that mean spirited.

Today, in this bill, the Republican majority finally brings a long needed solution to this problem to the floor. I call that fairness.

In 1993 President Clinton's budget, passed over the unanimous objections of House Republicans, included a hefty tax increase on Social Security recipients. I call that mean spirited.

Today in this bill, we repeal that tax increase. I call that fairness.

Mr. Chairman, today in the Senior Citizens Equity Act, we reverse these mean spirited taxes on our senior citizens, we repeal the President's Social Security benefits tax, and I ask for my colleagues' yes vote on passage.

Mr. DINGELL. Mr. Chairman, for purposes of correcting the RECORD, I yield 30 seconds to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, there seems to be a concerted attack on those of us who voted for the President's 1993 budget. I just want to point out that many poor and middle-income families received substantial tax returns from the earned income tax credit. In fact, 16,000 families in the First District of Oregon received an earned income tax credit as a result of the 1993 budget.

Mr. DINGELL. Mr. Chairman, in view of an imbalance in time, I think we should yield some time over here and, therefore, I yield 4 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I came to this House at a time of another Republican described revolution. It was the Reagan revolution, instituting the Kemp-Roth supply side economic proposal for feel good, no sweat, no pain Federal fiscal policy. When it passed in August of 1981, President Reagan proclaimed the budget would be in balance by October 1, 1983.

When that revolution began, the debt confronting our Nation was $932 billion. At its conclusion in January of

1993, it was $4.1 trillion. During that 12 years, not a red cent was spent on America that either President Reagan or President Bush did not sign off on.

Today we are in the throes of another Republican led and named revolution, and according to Speaker GINGRICH we today consider the crown jewel of the 1990s version of trickle-down economics. It is a synthetic, virtually worthless stone. I will oppose it. Neither our country nor our children can afford it.

It is, quite frankly, a time for us as a people, as a Congress, and as a great Nation to demonstrate the discipline and the resolve necessary to put our financial house in order and show that America and Americans continue to have the courage to face tough problems without shrinking into policy more expected from nations falling into fiscal chaos and national weakness. That has been the history of the all of great nations: a focus on the immediate, the temporary, the politically popular quick fix.

Mr. Chairman, there can be a time for a reduction of taxes, and when we succeed in eliminating our annual operating deficits, then will be the time to cut taxes.

Then we will be able to say to our children we are paying for what we buy, and we are not passing those expenses on to you. That is why I voted for the balanced budget amendment.

We will convey to you a great Nation, we can tell our children, which has the wisdom to discipline itself and not squander your inheritance, a Nation proud of its history and committed to its future, a Nation prepared to invest prudently in its people, a nation unwilling to slide self-satisfied and self-absorbed into second-rate status.

Over 100 or our Republican colleagues, over 100 of our Republican colleagues urged their party to support such a path. They were rejected.

I urge this House to stand for what it knows to be the correct course for today, for tomorrow and for generations to come; for our senior citizens, for our students, for our families, for our children, and most of all, for our country. Vote, ladies and gentlemen of this House, for fiscal health and responsibility. Our children and grandchildren should expect no less of us. Vote "no."

Mr. BLILEY. Mr. Chairman, how much time is remaining?

The CHAIRMAN pro tempore (Mr. FOLEY). The gentleman from Virginia [Mr. BLILEY] has 13 minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 14 minutes remaining.

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Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BILBRAY], a new member of our committee, the Committee on Commerce.

Mr. BILBRAY. Mr. Chairman, 2 years ago as a member of the public I watched these proceedings, and I watched my colleague from Maryland support the largest tax increase in the United States.

Mr. HOYER. Will the gentleman yield? Would the gentleman like to know what he is doing to my constituents in this tax bill?

Mr. BLILEY. Regular order, Mr. Chairman.

Mr. BILBRAY. Mr. Chairman, that vote cost his constituents $539 million.

Mr. HOYER. Does the gentleman know how much this bill is costing my constituents?

Mr. BILBRAY. Regular order, Mr. Chairman.

The CHAIRMAN pro tempore (Mr. FOLEY). The gentleman will suspend. The gentleman from California [Mr. BILBRAY] has command of the time.

Mr. BILBRAY. Mr. Chairman, I am not trying to be confrontational. I am trying to just communicate what a citizen sees in these proceedings.

You know, we are talking about 137,000 children in his district that parents that could have access to this. Now, that is fine, and we can make those judgments.

But do you realize that 2 years ago when this vote was, the tax increase was put in, my dear colleagues on the other side of the aisle, there was a commitment made that once the tax increase went in, you will see tough, tough budget cuts; you will see us reduce it; trust us. What happened this year with the President's budget?

Will you agree that the credibility of the political process was destroyed when the President of the United States proposed a budget that had none of the cuts that were proposed 2 years ago when the tax increase goes in? And as a citizen, I ran for Congress because the credibility was being destroyed by making promises on one side to raise taxes and never coming across the other way.

Mr. Chairman, I represent a diverse district along the Pacific coast, but I grew up and I live in a working-class neighborhood, and when I hear all the battle about the rich getting some benefit, I would wish my colleagues on the other side would be half as worried about the middle class getting their fair share of tax cuts rather than always worrying about something might happen that may benefit somebody who has been a little more prosperous.

My neighbors do not want to be sacrificed on the altar of work there, and I close with this, please, go outside and ask the security guards if they are rich that work in this Chamber. They make enough money to make that tax writeoff.

Mr. Chairman, it is time to stop the class warfare.

Mr. HOYER. Mr. Chairman, would my friend, the gentleman from Virginia, yield for just 1 second? I would like to ask him a question about talking to the security guards outside.

The CHAIRMAN pro tempore. The gentleman will suspend. The gentleman from Michigan has not yielded time.

Mr. HOYER. The gentleman did not yield me time?

Mr. DINGELL. No.

Mr. HOYER. I apologize, Mr. Chairman.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I have always been told that it is more important to watch what one does rather than what one says. The Republicans say that this tax is not for the wealthy, but what do they do? More than 100 of their own Members signed a letter urging their leaders to reduce coverage of the tax cut from those earning from $200,000 to that of $95,000.

They say that this tax cut is not about making sure that the wealthy at the expense of low and middle income, but what do they do? Mr. Chairman, yesterday the gentleman from Ohio [Mr. KASICH] passed around this letter. Clearly in that letter it showed the spending cuts coming from the low-income and middle-income people will be for what, to pay for the tax cut.

They say this bill is the Contract With America, relief of 1995, but what will they do? Who do they give relief to? They give relief to the privileged few and little relief to the rest of America.

They say this bill is senior-friendly. But what do they do? Nearly three-fourths of the senior tax relief will go to the seniors who make $75,000 or more. To which seniors are they willing to be friendly?

They say this bill is a fair bill. In fact, they call this bill the tax fairness of 1995. But what do they do? They unfairly and unequally distribute the benefits and the burdens.

Guess what, they give the benefits to those who have a lot of money and give the burdens to those who have very little or minimal income.

Three-fourths of the capital gains tax relief in the bill goes to those who earn more than $100,000 a year. If you make more than $200,000 a year, you will get $11,000 tax relief. But if you make $30,000 a year, you may get a couple of hundred dollars.

They say this tax bill will stimulate the economy. But what do they do? They ignore the last tax bill, tax cut, that they gave in the 1980's, which pushed this Nation in a deficit and a sluggish economy, in fact, a deep recession that we have yet to recover.

They say this is a Contract With America. But America certainly is more than about billionaires and big business. America is college students, minimum-wage workers, infants, senior citizens, schoolchildren, pregnant women, and middle-income workers.

I urge Americans to listen carefully to what they say they are going to do.

But I urge them to listen more closely to what they do. I urge my colleagues to vote against this unfair tax bill.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. FRANKS], a member of the committee.

Mr. FRANKS of Connecticut. Mr. Chairman, failed tax-and-spend policies as demonstrated in a proficient manner by a Congress controlled by the Democrats for 40 years, versus less taxation and less spending by Republicans in 1995: America, you voiced your opinion loudly this past November.

Making more money available to private citizens and private industry will inevitably result in more money going into our economy to produce economic growth and, yes, ladies and gentlemen, more tax revenues.

The method to improve our cities is not through new and fancy social spending programs. The first way is to help strengthen our families. Encouraging marriage, adoptions, savings by families, long-term health care, and senior citizens' equity are steps in the right direction.

Second, this and future tax incentives properly directed will allow us to improve the economic condition of our cities. We as Republicans, and I believe many moderate-to-conservative Democrats, would agree that we must help employers to employ more employees, and we must encourage more entrepreneurs of all hues.

Let us remember that with strong families, less taxation, less spending, and less government, we will be able to turn our society around for the better.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. I find it interesting; it disturbs me when Member after Member from this side of the aisle comes and talks about the failures we have had over the past 40 years.

This is the greatest country on the face of the Earth. We do not have to worry about keeping people in here. We do not have to worry. We have to worry about people wanting to come here.

I have seen programs over the last 40 years. We have had some failures. We have had some abuses. But we have had some great successes. Thanks to programs, people are able to go to school that would not have been able to go to school before, that can get a loan to buy a house that would never have been able to have a home; they got a little loan to send their kids to our colleges in North Carolina and all over this country, to take part in this great experiment called democracy.

I take offense when people say how bad this country is. If you want to leave, exercise your right to renounce your citizenship and do not pay taxes and leave this country. But this is the greatest country on the face of the Earth.

The reason I oppose this is the reason that 100 Members of this side of the aisle wrote the letter and wanted us to lower the caps, because it just plain ain't fair. This package is not fair, and that couple that is working in that textile mill back home in North Carolina, they are not going to get anything out of this tax package. They are not going to receive anything for their children.

But I can tell you who is: everybody that has come to either one of these podiums today, everybody that has spoken in favor of this tax package is going to get a benefit from it. Everybody here that has got a kid going to school that is a Member of Congress is going to benefit from it whether they have got two or three kids or four kids, because we are in that bracket.

But it just plain ain't fair to Middle America, and people that work every day to try to support their families and educate their kids. It just plain ain't fair.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, Paul Tsongas said it years ago, let me repeat it tonight. I am not Santa Claus. I wish I was.

I wish I could vote for this tax package and tuck a $1,000 refund check in all of the stockings hung with care from the mantle.

For that matter, I wish I were the Easter Bunny tonight and could hide baskets of goodies in the backyard bushes, but I cannot, folks, because it is my job tonight to play the role of grinch and remind everybody in this Chamber that we are flat-out broke.

Now, there are a lot of my colleagues on the other side of the aisle tonight who suddenly have found religion in deficit reduction, and we will see just where they are come May, because we know where they have been in the past.

I will be delighted to vote for the budget package and help the chairman, the gentleman from Ohio [Mr. KASICH], and do everything I can in my will to pass this tough deficit-reduction plan.

I understand, as John Kennedy did, that capital gains breaks help grow the economy and help small businessmen and farmers back in Wisconsin, and IRA's will help average families save more for retirement.

And if that is all this bill was about tonight, I would be glad to lead the charge up San Juan Hill. Instead, what I hear tonight is not necessarily an assault on the deficit. I am afraid it is a retreat from deficit reduction.

The cuts are not specified. The tax cuts are too generous. The timing in a robust economy, I believe, is all wrong. Maybe it will all make sense and add up later this summer when this bill gets through conference. As for me, I am putting Rudolph back in the stable tonight and telling the elves to put up their feet and relax, because, in my mind, it is not Christmastime tonight.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I rise in favor of this tax reduction bill here tonight. I do so thinking about the American families and the families in my district who sit around the kitchen table on a Friday night, and they take out their checkbook, and after they write their check for their mortgage and their property taxes and their credit card bill and their health insurance and their utility bill and all the other bills they have to pay to meet their family budget, for many of them there is nothing left, and for some of them there is an insufficient amount to pay even those bills.

In my opinion the question of this bill here tonight is this: Does this legislation help or not help that family? I think this legislation helps that family.

It is my conclusion that $500 per child in their hand is better spent by them. It is my conviction that that $500 belongs to them. They earned it. It is a necessity for their way of life, and by voting for this bill tonight, I think we can let them keep more of what they earned.

I rise in support of the legislation.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, I rise to state that I am going to vote for a tax cut today. I am going to vote for the Gephardt plan. Today we had a full-blown circus played out on the steps of the United States Capitol, and to the American people, I really mean it, elephants and clowns. Pure fantasy which is what the Republican tax bill is.

But I am going to another fantasy, and I am going to say bab, humbug, because Scrooge is in the Chamber today.

The reason why I say that is that Scrooge is taking from those who need it, and giving to those who do not need it.

Let me read for a moment, Dave Stockman, the Reagan OMB Director, who said, "The combination of incentive-minded tax-rate reductions and firm budget controls is expected to lead to a balanced budget by 1984." Another fantasy.

I can tell you that we did not have a balanced budget in 1984, and tax reductions did nothing for the balanced budget in 1984.

Let us stop the class warfare and tell the truth. Why are the American people angry? They are angry because they have seen middle-class incomes remain stagnant while those in the highest echelons of our community have seen their earnings increase more than 29.5 percent over the years, but the folk who need the tax cuts, which this present tax bill does not address, the lowest fifth, the second and the third wage earners, they have not been earning enough dollars or they have not been having the infusion of cash to support their basic needs.

□ 1945

Talk about capital gains, and I know I have heard some senior citizens call in and say, "I have property I'd like to sell." Well, if we were not rushing to judgment on this Republican tax bill, we might have been able to have means testing on capital gains tax. We might have been able to sit down at the table and reasonably address the question, who deserves a tax cut. I believe it is those earning under $75,000.

I will vote for a tax cut, but I certainly will not join the fantasy of the circus that was held here at the United States Capitol today and the circus that will be held tonight when we vote for a tax cut that will not help the American people!

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. WHITFIELD], a member of the committee.

Mr. WHITFIELD. Mr. Chairman, as my colleagues know, this debate, as much as any debate on this House floor, epitomizes the difference in the philosophy of the Democratic Party and the Republican Party, and, when I say Democratic Party, I do not include all Democrats because we know that many Democrats are very much concerned about the deficit. But for 30 years, since the Great Society, the Democratic Party has had no concern about Federal deficits in America, and during that time many programs, good programs, have provided benefits for people in our great country.

But as may colleagues know, as times approaches to old problems, and today we have a $4.7 trillion debt in America, $200-and-some billion dollars a year just to pay the interest, and I say to my colleagues, "When you take the entitlements, and you take the interest on the debt, it's by the year 1997 those two items alone will exceed the total tax revenues of this country."

So we have to take care of the problem in two ways. First of all, we have to adopt a tax policy, and that is what this tax bill does. It provides tax breaks for business men and women, small business men and women, to create new jobs and economic expansion in this country. Two, it provides tax credits for men and women with children so that they can get a tax break, and then further, Mr. Chairman, it provides a backbone and a basis for the first step in solving this deficit, and that is a tax policy that will create new jobs just like the tax reduction of Ronald Reagan and, yes, John Kennedy.

Now the second thing that we have to do, and we plan to do it, is we are going to control this deficit because, unlike the Democratic Party for the last 30 years, we are going to do something about the deficit, and that is the second part of our plan.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, this is a bad bill and a very unfair bill. This is, in fact, a bill based precisely on the principles of class warfare. That is exactly what it is.

I say to my colleagues, "When you take from the poor, and you give to the rich, that's class warfare. When you take from hungry children and give to profitable multinational corporations, that's class warfare."

Mr. Chairman, half of the individual tax breaks in this bill go to families earning $100,000 a year, and this bill cuts back on nutrition programs for hungry children. That is class warfare. A quarter of the tax breaks go to people earning $200,000 a year, and the bill cuts back on loans to college students whose families today cannot afford the high cost of college. That is class warfare. The highest earning 1 percent of the population will get more tax breaks than the bottom 60 percent, and then they cut back on a wide variety of programs that lower income senior citizens need.

I say to my colleagues, "When you tell low income seniors in Vermont that they have to live without fuel assistance, that's class warfare."

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. BURR], a member of the committee.

Mr. BURR. Mr. Chairman, those here tonight that would suggest that it is going to be tough to balance the budget are in fact right. We knew it would be tough when we came to Congress, that there would be tough decisions, but we knew we were up to the task of making those decisions.

Tonight we have a special opportunity. Tonight we have the opportunity to make it easier on working Americans to balance their budget. I hope we do not take this opportunity and blow it like we have in the past.

Mr. Chairman, during my campaign there were two areas that I concentrated on very heavily, commitments to stop the punishment on seniors in this country and a commitment to leave money in the pockets of working Americans. Tonight we have an opportunity for seniors to roll back that unfair tax that was placed on them in 1993 and to raise the earnings limits of seniors to allow them to stay in the workplace and to be productive in their later years versus feeling like they are drain on us, and for the American families we have an opportunity to leave the money in their pockets rather than to bring it to Washington and decide what to do here with it, as well as for those families that take care of parents and grandparents, to make sure there is a $500 credit for the added burden and costs that they incur.

Mr. Chairman, the debate today is between those who feel they know best and those that believe that parents and seniors know best what to do with their money. Mr. Chairman, I, for one, am willing to bet on parents and seniors knowing best, and I urge my colleagues to support this important piece of legislation tonight.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I rise in strong opposition to the so-called Tax Fairness and Deficit-Reduction Act, a bill which would produce the opposite result of its title's claims, and which is one of the most economically and socially damaging pieces of legislation that has come before this body in many years.

This bill would reduce revenues by nearly $200 billion over 5 years, and by $630 billion over 10 years. These tax cuts would constitute the largest increase in deficits since the 1981 tax cut, which was the root cause of most of the deficit problem we have been struggling with for the last decade and a half. They would obliterate much of the hard work we have done in recent years to close the huge gap between spending and revenues, and would make it much more difficult than it is already going to be to reduce deficits further.

That difficulty cannot be overstated. With the loss of revenue from this bill, we would need to cut spending by about $1 trillion over the next 7 years to reach the goal of a balanced budget by the year 2002. It is probably not possible to make such cuts; it is certainly not possible to do so without cutting payments to the elderly, disabled and the poor; and without cutting funds for crime control, immigration control, environmental protection, highways and airports, education and job training, and many other critically important activities Americans expect from their government—many of which have already been cut to the bone in recent years.

To make matters worse, many of the tax provisions are backloaded—they will cost more in the future than they will during the first few years. The capital gains inflation indexing, the American Dream Savings Accounts, the neutral cost recovery provisions, and the phasing-in of many of the tax provisions will result in exploding revenue losses in the years beyond 2000. Compensating for that lost revenue will be increasingly difficult as time goes on.

It makes no sense whatsoever to make it more difficult to reduce Federal deficits. As economists have been saying for years, reducing these deficits is the most important step the Government can take to increase jobs and productivity over the long term. Cutting Federal borrowing would free up more of our Nation's limited savings for private capital. We need sustained deficit reduction far more than capital gains tax breaks or anything else in this bill to generate growth and ensure our Nation's future prosperity.

Equally troubling to its impact on the deficit is the fact this bill would exacerbate the growing disparity between the rich and poor. It confers most of its benefits on people who are already well off—those who least need a tax cut—while providing little gain to those of modest means who need tax relief the most. When this bill is combined with the spending cuts for programs that serve the poor that the Republican leadership has been promoting, the effect is an unjust and unconscionable shift of resources from the poor and middle-class to the rich.

Under this bill, the average tax benefits for families earning over $200,000 annually would be $11,270; for families earning $50,000 to $70,000, about $1000; for those earning $30,000 to $50,000, $570; and for those earning $0 to $30,000, $124.

Over half of the total tax benefits, and three-quarters of the capital gains tax benefits, would go to the top 12% of families that earn $100,000 a year or more. Some highly profitable corporations would pay little or nothing in income taxes. It is little wonder that Americans have not been clamoring for this bill, and that they have indicated by large margins in recent polls that they would much prefer that Congress reduce deficits than cut taxes.

One of the most unfair provisions in the bill is the highly touted tax credit of $500 per child, which was intended to make it easier for parents to pay for food, clothing, and other costs of raising children. Because the credit is nonrefundable, the families who are most in need of help in meeting these expenses—about 10 million working families making less than $20,000 a year—will receive less than full $500 per child, or no credit at all. Meanwhile, families with incomes of $200,000 annually, who, obviously, are not struggling to pay for necessities for their children, would receive the full $500 credit.

Another particularly egregious provision is the increase in the pension contribution required of federal employees, which is the equivalent of a 10 percent tax increase for our nation's two million federal employees, the great majority of whom have relatively modest salaries. This increased contribution is not necessary to keep the civil service retirement system insolvent; it is included only because it provides nearly $11 billion over five years to help pay for the bill's tax cuts.

I would note that this provision was rejected by the Committee on Government Reform and Oversight, which has jurisdiction over this matter, and efforts to allow a separate vote on it on the floor where rejected by the Rules Committee.

Mr. Chairman, the bill before us would exacerbate our nation's serious budget deficit problem and contribute to the disparity of wealth among income groups. I urge our colleagues to reject this legislation.

Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the distinguished gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I rise in opposition to both tax cut proposals that will be considered today.

It is time to stop trying to kid our constituents. We cannot spend $630 billion over 10 years on tax cuts and make any dent in our $5 trillion national debt.

Deficit reduction is a higher priority than tax cuts. Put another way, it is a better way to lower interest rates, create jobs and economic growth than to enact the ill-timed tax cuts in these bills.

This House just voted, with my strong support, to amend the Constitution to require a balanced Federal budget. And yet one of our first steps is to retreat.

It is not credible to link tax reductions to deficit reductions as the sponsors of both proposals would do. This have-your-cake-and-eat-it-too concept would not work because, once again, it postpones the tough decisions about cuts, and, further, it creates uncertainty about whether individuals and businesses can plan on receiving tax breaks.

In my view, a number of the proposed tax cuts have merit—but not now. I have two kids in college, and know how higher education expenses burden families. I applaud the Democratic leader for trying to offer relief. But not now. I also support expanded eligibility for fully deductible IRA's, a fair capital gains tax reduction, increased business expensing, and a credit for long-term elderly care. But not now.

Let us stop the gimmicks and start the straight talk. Deficit reduction now. Fair tax reduction when we can afford it. That is a tough choice, and in my view, the right choice.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I want to just tell the gentlewoman from California [Ms. HARMAN], my good friend, that there are 98,000 children in her district, and their parents could certainly use this $500 per child tax deduction. Working people understand that, and let me underscore a point that the gentleman from Ohio [Mr. TRAFICANT] made so effectively when he talked about blue-collar workers and how important this bill is.

Mr. Chairman, blue-collar workers cannot hire each other. They need to have somebody who has enough capital who is not giving that money to the Government, to Uncle Sam, to be able to buy that extra piece of equipment, expand that facility, put those extra 2, or 3, or 5, or 10 people on the payroll, and thereby give them some help, and help their children, help their family and also expand, ultimately, revenues to the United States. This is in many ways a blue-collar tax cut.

Mr. Chairman, the smartest thing Democrats can do is vote for it; the smartest thing President Clinton can do is sign it.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, this bill is not the answer to the real problems of America. We all know that middle-class America is worried. We all know that poor Americans continue to struggle. It is no mystery why this is so. Since the mid-1970's wages have stagnated. Corporate America has exported our jobs overseas for cheap labor. As trade unions have been beaten back, hard-earned benefits like health coverage, pensions, and family leave have eroded.

Mr. Chairman, in the 1980's, taxes increased on working class Americans. So the squeeze is on and politicians are feeling the heat.

We could go right at the problem, but the Republicans have resorted to cheap politics. They have gone back to old-fashioned, trickle-down economic theory: reward the rich and pray.

Mr. Chairman, the capital gains tax cut contained in this bill would yield over 75 percent of its benefits to those earning over $100,000 a year. Low-and middle-income families may need tax relief, but the Republican plan goes to families earning up to $200,000.

To make matters worse, last week the Republicans deleted a Senate proposal to get tough on billionaires who renounce their American citizenship to avoid paying capital gains taxes. The Republican leadership placed in a provision protecting a $63 million business deal for the Speaker's friend, Rupert Murdoch. This is not a strategy for economic opportunity. It is indeed class warfare of the rich against poor and working-class and middle-class Americans.

This Congress needs to reject Wall Street's solutions to Main Street problems. Cheesy tax cut promises only make Americans cynical about Government and politicians. Until we begin to address basic American concerns, this institution will continue to suffer in the public's eye.

I say to my colleagues, "Don't play with the fears of anxious Americans. Let's get serious about our economic problems. Let's reject this Republican charade. Let's vote this turkey down."

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I want to reinforce in my brief time the notion and the truth that this is truly a middle-class tax cut that we are undertaking here, not only the $500 portion up for families earning up to $200,000, because nobody knows where the middle class begins, nor it ends, but we know that most of our people fall in that bracket between zero and $200,000. So that is a middle-class tax cut, but wonder against wonder, the capital gains reform that is built into this bill is also a middle-class tax cut.

Why do I say that? In the last full year of capital gains reporting in 1985, 75 percent of all the people who earned $50,000 or less had an item of capital gains in their tax returns, and if that is not enough, we also learned that in that same capital gains year people earning $100,000 or less, hundreds of them had a capital gains item in their tax return. Capital gains is good for the middle class.

□ 2000

Mr. DINGELL. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Michigan is recognized for 1½ minutes.

Mr. DINGELL. Mr. Chairman, the memories of my Republican colleagues are very convenient. They have forgotten the last time we had a Republican tax cut in this body. That multiplied the national debt by better than 4.5 times, from about $700 billion to $4.5 trillion. They have forgotten most of that went to the rich, not to the poor, and not to the middle class. They have also forgotten that six million jobs were created by the Clinton budget; that that budget cut the national deficit by $700 billion. They have also ignored the fact it gave a tax cut in the President's budget to those who had need. Somewhere in between 16 million and 20 million Americans were removed from the tax rolls and were given tax reductions in each and every Congressional District, including their own, by that particular tax package. There memories are most convenient on these matters.

The hard fact is that Voodoo Economics, Trickle-Down Economics II, which this tax package happens to be, is nothing more or less than a raid on the poor, a sop to the rich, and a benefit to those who have no need of tax expense, sweated out of the hides of those who have the least. It is a cut in school lunch programs, education, and every other program that has meaning, not only to this generation, to the young people of this country, but the young people of the future. I urge the rejection of this rotten Republican tax package.

Mr. Chairman, the tax package before us is fiscally irresponsible and distributionally inequitable in the extreme. It commits this Nation to a budget structure that runs counter to deficit reduction. It also leaves behind those most in need of tax relief—working middle class families. Better than half of the cuts go to people earning more than $100,000 a year.

The last time the American people were promised both a balanced budget and a tax cut was in 1981. That plan, which was put forward by the patron saint of my colleagues on the other side of the aisle, President Ronald Reagan, led to an explosion in deficit spending. More than a decade later, the national debt has increased three-fold to better than $4 trillion. During that same period, middle class families have seen their wages stagnate, while wealthy Americans enjoyed substantial gains.

My colleagues across the aisle have clearly not learned the No. 1 rule of holes: When you find yourself in one, stop digging. If they had learned this lesson, we would not be debating this unwise legislation, that returns us to the failed supply side economic policies of the past.

The costs of this measure are truly staggering—$180 billion over the next 5 years. At a time when one-seventh of the Federal budget is needed to pay interest on the debt, we can ill-afford this extravagance. However, the long-term burdens are far worse. Costs skyrocket to more than $450 billion over the next 5 years, and keep rising after that.

The budgetary impact of these cuts are kept artificially low in the early years through accounting gimmicks. However, the out year impact of the capital gains tax cut, the restoration of huge corporate depreciation loopholes and the repeal of the alternative minimum tax for corporations is enormous. These changes, which will principally benefit the wealthy, are expected to cost: $24 billion between 1995–2000; $221 billion between 2001–2000.

As my colleagues may or may not know, the corporate depreciation tax breaks were eliminated, and the alternative minimum tax was set up in 1986 with strong bipartisan support and the backing of President Reagan. This was done in response to the outcry of the American people who were appalled by the fact that large corporations with enormous profits were gaming depreciation loopholes set up in 1981 to avoid paying taxes and in some cases receive a rebate. According to the Citizens for Tax Justice:

AT&T received $636 million in tax rebates from 1982 to 1985 despite earning $24.9 billion in pretax profits.

DuPont had $3.8 billion in 1982–1985 pretax profits supplemented by $179 million in rebates.

General Dynamics had four out of five no tax years from 1981 to 1985. In addition, its $2 billion in pretax profits from 1982–1985 were augmented by $91 million in tax rebates.

Under this bill, the secretaries and mailroom workers at many of our most profitable corporations will be required to pay more in taxes than their employers.

Many of the specific spending cuts to finance these tax breaks have not been identified. We hear that they will be achieved largely through lowering the discretionary spending caps already in place. However, that still doesn't provide a clear answer to the question—what cuts will be made to finance this package and the better than $1 trillion in savings needed to balance the budget by 2002?

The only suggestions we have seen so far from the Republicans are harsh spending cuts that strike right at the most vulnerable in this country—the elderly and children of this Nation. In a rush to keep a political promise that clearly favors the wealthy, my colleagues have slashed funding for the school lunch, child nutrition, summer youth employment, and education programs. Seniors have also watched as home heating and housing assistance has been eliminated. And today, they are faced with significant cuts to the Medicare program.

As I have mentioned, the middle income taxpayer is left behind by this package. In fact, 34 percent of America's children are not covered by the middle class tax cut, because their family's incomes are too low. Only 1 percent are denied a credit because their family's income is too high.

Middle income families are also being targeted by cuts in student aid programs. My colleagues have proposed cutting $13 billion in college assistance by eliminating or restructuring student loan programs. As a result, the average cost of a college loan will rise by $4,500. In addition, students will now be forced to pay interest from the first day they arrive on campus—not 6 months after graduation as they are currently allowed to do.

I cannot support the fiscally irresponsible tax policy laid out in H.R. 1215. This legislation will help the privileged few who already have plenty get more at the expense of everyone else. It will also further mortgage our children's future by exploding the Federal budget deficit at a time when we should be focusing on paying it down. I urge my colleagues to defeat the bill.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Virginia is recognized for 2 minutes.

Mr. BLILEY. Mr. Chairman, it has been a long debate, it has been a good debate, but I think now is the time to reward Americans and to contrast two philosophies, our philosophy on this side of the aisle that the people who earn the money should keep the money, rather than the other way around, that the government knows best how to spend the money.

Mr. Chairman, we will reduce the deficit. We will get on a slope to a balanced budget in 2002. And for every $1 billion we reduce spending, we pay for a $500 tax credit for two million citizens.

Mr. Chairman, this is a good bill, it is a good debate, this bill ought to pass, and I urge my colleagues to support the bill and reject the substitute.

Mr. RAHALL. Mr. Chairman, I rise in opposition to H.R. 1215, the so-called Tax Fairness and Deficit Reduction Act of 1995. In the first place, it isn't fair, and in the second, it does nothing to reduce the deficit, unless you live in a house of smoke and mirrors.

But before I go into the many reasons why I cannot vote for this bill, let me tell you about the good things that are in it, and for which I would vote if they were offered separately.

This bill contains an increase, over 5 years, in the earnings limitation for senior citizens who are receiving Social Security benefits, but who still work at jobs to supplement their low incomes.

I have been a cosponsor of this earnings limitation increase legislation for years. It hasn't come up in the House for a vote—despite my signing a Discharge Petition last year to force it to a vote. Increasing, almost threefold, this earnings limitation over 5 years to enable working seniors to earn as much as $30,000 a year before their earnings are offset against their social security checks, is a Godsend to seniors. Regrettably, because the majority here in the House will not allow a separate vote on it—I am forced to vote against it because of other unacceptable provisions contained in H.R. 1215.

Another provision, which I have also cosponsored in the past, is the phased-in repeal of the 1993 new taxes on social security benefits for those singles earning more than $34,000 a year and married couples earning more than $44,000 a year. Had this new tax come before me for a separate vote in 1993, I would have voted against it. Now that its repeal is before this House for a vote, I must vote against it because no separate vote is being allowed.

IRA Accounts. I have cosponsored and supported new IRA's which permit early withdrawal without penalty for such things as first time home buyers, college costs, extraordinary medical expenses, and even for periods of unemployment. I would very much like to vote in favor of this new IRA. But I can't. It isn't being brought up as a separate vote.

I stand behind no one when it comes to imposing and enforcing tougher penalties for those engaged in child pornography. During the 103d Congress, I signed the amicus brief before the Supreme Court to force the U.S. Department of Justice to stop weakening existing child pornography laws. We won that battle—and Stephen Knox is behind bars for exploiting children in sexually explicit photographs which he had been peddling to perverts nationwide for huge profits. Yet in this bill, giving House Members a chance to toughen those laws, I will have no separate vote on the issue.

If given a separate vote on the issues, I would also strongly support adoption and foster care enhancements, not to mention tax deduction for home office expenses, which I cosponsor in separate legislation.

In the 103d Congress, I cosponsored a bill, introduced by my friend and colleague Representative FRANK WOLF of Virginia, to give an additional $500 per child deduction to low- and middle-income parents. That provision is in this bill. Why can't I vote for it?

Two reasons: First, the tax credit is given to families with incomes as high as $200,000 a year; and secondly, it isn't being brought up as a separate vote, but is included in the bill as a whole with no amendments allowed.

Who wouldn't support making accelerated death benefits to the terminally ill tax-free? But I can't vote in favor of this, because it too is incorporated into the bill as a whole.

Who wouldn't support an Eldercare tax credit, or tax incentives for long-term care insurance? I would vote for these, if they were offered separately. Too bad they are incorporated into the bill—one vote only—up or down.

Yes, Mr. Chairman, there is much in the bill to recommend it. If the bill were being offered under an open rule, allowing separate votes on initiatives favored by a majority of Members regardless of party, then perhaps I could—many Members could—vote for them. As it is, we cannot.

Now that I have reiterated the provisions in the bill that would have my support if voted on separately, I will tell my colleagues what is in the bill that prevents me from voting in its favor.

First of all—recent surveys show that America prefers that we keep on reducing the deficit—as we have done since 1993—the first time the deficit has declined three years in a row since Harry Truman was President. They don't want a tax cut—and especially since many of them are now aware that this so-called tax cut won't help them because they aren't rich enough. How rich is rich enough? Earning over $200,000 a year is rich enough. That will get you about $11,000 in tax cuts. But if you earn under $30,000 a year, you might get about $124 in reduced taxes.

The so-called tax cut for middle America isn't. That is, middle-income working Americans will not realize much of a benefit from any of the tax-cuts proposed. Fifty-one percent of all tax cuts and tax credits in the bill go to the richest people and corporations. For example, while I could and would support a reduced capital gains tax for individuals holding assets they wish to sell, I cannot in good conscience support the 50 percent capital gains exclusions for individuals because of its serious, adverse effect on small businesses. West Virginia is made up of small businesses—and it is these that create more jobs in my State than any other employer. We need those jobs. I can't afford to vote for something here that will hurt, not help them. Let me quote to you from a letter from the U.S. Small Business Administration, dated April 3, 1995:

> Specifically, Sec. 6301 of H.R. 1215 (or H.R. 1327) * * * creates a 50 percent capital gains exclusion for individuals but, in doing so, repeals the special small business capital gains tax incentive in the existing law (P.L. 103-66, Sec. 13113). This will have the effect of raising the taxes of future investors in qualifying, high growth, small businesses from the previous maximum rate of 14 percent to the new rate of 19.8 percent. This may be the only category of taxpayer to have its taxes raised under the capital gains provisions of the proposal.

She goes on to say:

> * * * the repeal is troubling for small businesses for two reasons. First as a matter of even-handed tax policy, it seems incongruous to raise the tax rates of those who invest in the research, plant and equipment of a high-risk, emerging growth company while rewarding non-productive speculation in real estate or the stock market with substantial tax reductions.

So to all my colleagues whose districts are comprised of many small businesses, which create the jobs our Districts need, but not so many big businesses, beware of voting for this bill because of the much-touted reduction in the capital gains tax for individuals. If you don't believe me, read the two-page letter from the Small Business Administration.

Another provision—reducing and ultimately repealing the Alternative Minimum Tax for business. This AMT was put into the 1986 tax reform legislation because we learned that more than 130 companies—from A to X—Aetna to Xerox, not only didn't pay any taxes between 1982 and 1985, but that many such companies received tax rebates. Companies such as these will be back on the "no tax" gravy train if this bill passes as is.

Proponents of H.R. 1215 will tell you it won't cost but $188 billion. Treasury estimates put the cost at near $700 billion over 10 years.

You might ask: How is the majority going to pay for this tax cut bill?

First, they would "save" $100 billion in unidentified cuts in discretionary programs. While the programs haven't been precisely identified, the Budget Committee chairman, in his budget proposal, H.R. 1219, has a list of "proposed areas" in which cuts should be made. What cuts? Student aid comes to mind—$13 billion in cuts. Repeal of the Davis Bacon Act comes to mind. Repeal of the Essential Air Service comes to mind. There are many, many other discretionary safety-net programs included in the $100 billion cut.

Secondly, they would claim the $62 billion "saved" when they passed, without my support, their so-called Welfare Reform bill—a bill that makes war on innocent children and pregnant women, and senior citizens.

Thirdly, they would claim the $17 billion in Rescissions recently passed by the House, which I have already rejected.

Fourth, they would find another $10.8 billion in "savings" under Medicare by cutting both services to seniors, and payments to doctors and hospitals.

Fifth, they would find another $10.5 billion in new payroll taxes for Federal employees. This small segment of our working population—1.8 million Federal employees—would be expected to pay more into their pension plans, and get less out when they retire. These people are being given a tax increase—to help pay for a tax cut for the wealthiest population in the United States.

The Committee on Government Oversight and Reform couldn't muster enough votes among its majority party to report this bill changing the Federal Retirement System and yet it has been plunked down in the middle of a so-called middle-income tax cut bill.

The Congressional Research Service, in a report issued March 18, 1995, clearly stated that: the Federal retirement system is self-financing and its costs can never exceed its income—now or in the future. In other words, it ain't broke and it don't need fixing.

The $62 billion in claimed "savings" in this bill to help pay for the tax cut, comes directly from cuts in school lunches and breakfasts, in reductions in WIC for pregnant women and children, from denying assistance to children of teen mothers under 18 years of age, and from denying assistance to children whose mothers have other children, or who have been on welfare more than 60 months. All this amounts to an economic jihad against helpless children. If government won't take care of them who will? If not now, when? When it's too late? When children have been arrested in their mental and physical development due to a lack of adequate and proper nutrition? Amazing to see this happening to children, when all we've heard from the past two years is how to encourage preventive health care to keep down health care costs.

Last, while I reiterate that this bill's stated cost of $188 billion will grow to nearly $700 billion over 10 years—seven times more in the second 5 years than in the first 5 years—let me also state another provision lacking in the bill that would make it much more acceptable, if that were possible, and that would be the elimination of corporate welfare.

I am a cosponsor of legislation, known as the "Corporate Welfare Reduction Act" to eliminate corporate welfare. This legislation will close a $200 billion loophole that buries corporate welfare in our Tax Code in the form of giveaways—while we continually ask Americans to sacrifice more and more in higher and higher taxes. We sought to make our bill in order under the Rule, so that Members could vote for this legislation while considering the tax cut bill. The Rules committee rejected our request, yet it would have given us the chance to "find" $200 billion to cut out of our Tax Code, and perhaps make it unnecessary to cut programs for the poor, low-income working Americans, the elderly, and school children.

And just this past week, Mr. Chairman, the majority adamantly opposed requiring those persons who renounce their citizenship in this country and take their assets overseas—tax free—to pay tax on their assets—on the profits they made doing business in the United States under our free enterprise system—before they are allowed to renounce their citizenship. It was deleted from the bill, H.R. 831.

I am a lot more concerned, Mr. Chairman, about Child-Fare than I am about Corporate fare. How can the richest Nation on earth, the only true Democracy, think of declaring war—the equivalent of an economic jihad—on children so that greedy corporations can get richer, fat cats can get fatter, stockholders' dividend checks can get bigger, and salaries of Corporate CEO's can exceed $6 million a year in many cases.

Vote in favor of H.R. 1215? I think not, Mr. Chairman. A vote in favor of this bill, among other things, would have me vote for the heart of the FY95 Budget Resolution which hasn't even been brought before the House yet this year—cutting $100 billion randomly among discretionary programs. These cuts, of course, have not been specifically identified, but they point to cutting $13 billion in student aid, and repealing the Davis Bacon Act, the Economic Development Act, the Appalachian Regional Commission, and many others. This is a pig-in-a-poke and I am not buying it. When H.R. 1219—the budget resolution—comes to the floor, the majority is going to get up and tout the passage of H.R. 1215—saying: Gee, guys and gals, you've already voted to cut $100 billion when you voted for the "crown jewel" of the Contract With America—the tax cut proposal, so step right up and vote for the budget bill—it is one and the same.

A vote in favor of H.R. 1215 would have me voting for $17 billion in rescissions—which I've already rejected once.

A vote in favor of H.R. 1215 would have me voting for $62 billion in welfare reform cuts to programs that serve at-risk women and their infants, hungry school children and the elderly who need home heating assistance to keep from freezing to death in the winter—a bill I have already rejected.

A vote in favor of H.R. 1215 would have me voting for $10.8 billion in Medicare cuts, both in services to the elderly and to hospitals and physicians.

A vote in favor of H.R. 1215 would have me voting to require 1.8 million hard-working Federal employees to pay more into their retirement system and get less out of it upon retirement. It would add $905 more in payroll deductions for Federal employees each year, in order to give an $11,000 tax cut to individuals earnings more than $200,000 a year. This is a blatant new payroll tax on working Americans to help pay for a tax cut for the richest 12 percent of 260 million people who live and work in the United States. It pits 1.8 million Federal workers and retirees against the rest of the country. Talk about David against Goliath.

Those of us who were here in 1981, have been down this road of trickle-down, borrow and spend economics. The economic policies of the 1980's made us into a debtor nation for the first time in our history—we now owe foreign countries more than they owe us. We saw those economic policies translate into a quadrupling of our national debt.

Let's not go down that road again.

In conclusion let me say this: Any tax cut bill ought to be tied to deficit reduction, through carefully crafted spending cuts, not by using a meat-ax approach, so that we don't give parents money today that their children will have to repay in the future in the form of a mammoth interest on a mammoth national debt.

Let us save $200 billion by eliminating tax loopholes protecting corporate welfare in our Tax Code such as that embodied in the Corporate Welfare Reform Act which I and my colleagues have introduced, instead of taking $200 billion out of the mouths of hungry kids.

Let us concern ourselves with child fare—not protecting welfare for the wealthy.

I said early on, when the Contract With America was first presented to the House: there are a lot of god ideas in there—but none of them should be enacted if they intentionally harm the children. The biggest part of the contract that supposedly saves the most money is that which reduces and takes away support for children, in their nutrition programs, in their child care, in Head Start, in food stamps, in AFDC, in Medicaid. A literal war on children.

A tax cut bill should be one which provides relief for America's struggling families—and that alone should remain a top priority. The power to un-tax is the power to truly rescue those who need rescuing. Regrettably, H.R. 1215 does none of these things.

I urge my colleagues to reject this bill by voting against it.

Mr. BORSKI. Mr. Chairman, I rise in strong opposition to H.R. 1215, the so-called Tax Fairness and Deficit Reduction Act. Mr. Chairman, this bill is the farthest thing from being fair. The tax cuts included in this plan overwhelmingly benefit the highest-income Americans and will be paid for with cuts in programs important to working people and senior citizens.

The Treasury Department's analysis of this plan shows that the tax cuts in this bill will primarily benefit wealthy Americans. According to the Treasury, over half of the tax cuts in this proposal benefit only the top 12 percent of families with incomes over $100,000, and 20 percent of the cuts benefit only the top 1 percent of families with incomes over $350,000. In addition, this bill would eliminate the Alternative Minimum Tax [AMT] allowing huge corporations like Mobil Oil and Texaco to pay no taxes at all.

Mr. Chairman, I do not believe that the highest-income Americans and corporations need big tax give-aways from the Federal Government. The problem in this country is not that wealthy Americans do not have enough money, but that working Americans do not earn high enough wages. This bill does nothing to address this fundamental problem for working Americans. In fact, it will make matters worse for them.

The Republicans have proposed to pay for these tax cuts for the wealthy, which will cost nearly $200 billion over 5 years and $600 billion over 10 years, by cutting deep into programs vital to working Americans and senior citizens.

Their plan will repeal the Davis-Bacon Act which ensures a decent wage to laborers working on federally funded or assisted projects. Repealing the Davis-Bacon Act will make small contractors and their employees vulnerable to wage busting by outside companies.

In addition, H.R. 1215 will cut over $11 billion from Medicare. This Medicare cut will force premiums for senior citizens to increase by 25 percent of program growth. With Medicare growing by over 10 percent a year, it will not be long before Medicare premiums eat away at senior's Social Security check and force many seniors below the poverty line.

This bill will also impose a tax on Federal workers by raising their retirement contribution rate by 2.5 percent. This provision will raise taxes on the average Federal employee by $750 a year. I feel it is unconscionable to raise the taxes of lower-middle and middle-income families by nearly $11 billion to pay for tax cuts for the wealthy. H.R. 1215 also will reduce the pensions of Federal workers by changing the formula that is used to determine their pension benefit.

In addition, the Republicans have targeted student loans. Students in my State of Pennsylvania will lose $830 million in higher education assistance. While education is becoming the key to higher wages in a changing economy, Republicans will raise the cost of attending college and force many students out of school altogether, denying them the only chance they have to secure a decent living.

Mr. Chairman, I believe it is absolutely unjust that Republicans are even considering cutting these highly successful programs for working Americans and seniors in order to cut taxes on the wealthiest Americans and corporations. Those who say that these tax cuts on the wealthy will grow the economy and trickle down to the rest of the country had better read their history. This supply-side economics logic was tried under the Reagan administration and was a complete failure for working Americans, whose incomes stagnated and whose taxes increased. It was also the root cause of our enormous deficit problems today which continue to threaten our future. The American people will not be fooled again. They know that this is merely a give away to upper income Americans and special interests and they are the ones who will have to pay. I urge my colleagues to defeat this highly unfair tax bill.

Mr. BEREUTER. Mr. Chairman, this Member rises in reluctant support of this measure.

This Member will vote for H.R. 1215, as it does contain many positive provisions, but he remains concerned that this bill was not allowed to be made better through the amendment process. This Member believes the Senate will improve the bill. Sounds emanating from the Senate indicate a more equitable and reasonable approach on some expected parts of this omnibus tax-cut legislation. And Mr. Chairman, it must be improved before this Member will support a conference report. Specifically, an improved bill must target its tax breaks toward truly middle income Americans.

Still, this Member does support this bill because of the many positive steps it will take to restore a sense of tax fairness to the American people. These include:

A 50 percent cut in the capital gains tax and prospective indexing for inflation. After years of taxing individuals and businesses at the current rate, without any relief through indexing for inflation, this cut and the beginning of indexation to account for the ravages of inflation is the least we can do.

Elimination of the Marriage Penalty. The bill at long last would provide married couples who file joint returns with an income tax credit of up to $145 to at least reduce the marriage penalty for most couples. This provision ends the inequitable and irrational current policy of taxing married couples more than if the couple filed separately. It is notable that this bill eliminates this problem, which was exacerbated by the Clinton tax increase of 2 years ago.

Expansion of existing IRAs and creation of a new type of IRA. The measure modifies present law governing deductible IRAs to permit annual deductible contributions of up to $2,000 for each spouse, thus finally eliminating a penalty on spouses who choose to be homemakers. Additionally, the measure provides for creation of American Dream Savings [ADS] accounts. Individuals will be able to contribute up to $2,000 per year—$4,000 for married couples—into a tax-free, nondeductible ADS account. Contributors will pay income tax when funds are deposited, but not when withdrawing the funds, effectively making the interest on the account tax free. Contributors may make tax-free withdrawals of funds after 5 years for retirement income, purchase of a first home, education expenses, or medical costs—including the purchase of long-term care insurance.

Increasing the exemptions under the Estate and Gift tax from $600,000 to $750,000 to account for the ravages of inflation since the current exemption was first enacted and then indexing the exemption to inflation. Families and small business owners have been hit hard by an exemption which has not been indexed for inflation. They have seen their ability to pass on family businesses and farms diminished by the increasing value of the property. By increasing the exemption we make up for past inflation and indexing the exemption assists families and small businesses down the road.

Increasing the depreciation on equipment and inventory for small businesses. The current depreciation limit of $17,500 is increased over 4 years to $35,000. This increase provides some relief to small businesses—allowing them to expand and update, thereby creating new jobs and a stronger economy.

Increase in the Social Security Earnings Limit. The bill raises the current $11,280 earnings limit for seniors to $30,000 over 5 years. This change which I have long supported eliminates what amounts to a 33-percent marginal tax rate on seniors earning up to $30,000. It is ridiculous that we punish seniors who want to remain productive and pay more income taxes past the age of 64; this measure ends that punishment.

Tax incentives for private long-term health care insurance. To encourage people to provide for their long-term care needs, the bill treats long-term care insurance as a tax-free employee benefit—up to $73,000 annually—like regular health insurance; allows life insurance policies to offer tax-free accelerated death benefits in the event of terminal illness or confinement to a nursing home; allows tax free withdrawals from IRA's, 401(k) plans and other pension plans for the purchase of long-term care insurance; and allows deductions for long-term care premiums.

Repeal of the Social Security Benefits Tax. This measure reduces, over 5 years, the amount of Social Security benefits subject to income tax back to 50 percent, eliminating the increase to 85 percent which was passed as part of President Clinton's tax increase package, passed by the Democrat controlled Congress in 1993. Elderly citizens earning more than $34,000 individually, or couples earning more than $44,000 will now be taxed on 50 percent of their benefits, not 85 percent as they were under the Clinton plan.

Adoption Assistance. The bill creates a refundable tax credit for adoption expenses. The credit starts at $5,000 per child and is proportionally reduced to zero for incomes exceeding $60,000, eliminating it totally for adjusted gross incomes over $100,000.

Despite these many positive provisions this Member's support is reluctant because only one amendment was made in order under the rule. This closed rule violates the spirit of the Contract With America since it calls for full and open debate and a clear and fair vote on each of the 10 Contract items. The Ganske/Roberts amendment should have been ruled in order. At least 102 Republican Members and many Democrats wanted to vote for the Ganske/Roberts amendment. It was a reasonable and fair amendment which helped maintain equity in this bill for people who really are middle-income Americans. Those provisions, limiting the $500 per child tax credit to families earning $95,000 per year or less, were intended to fine tune this measure toward assisting those we have pledged to help—the middle income.

A $95,000 per year income is a much more realistic cut-off for determining who is middle income. Try telling the people of Nebraska that families earning up to $200,000 are middle income; you won't have much success. This is a very substantial tax cut for wealthy and upper-income Americans—a loss of revenue that should have been devoted to reducing the deficit. And I might add, Mr. Chairman, my informal survey of my constituents shows that, on an 8 to 1 ratio, they believe that savings from reduced expenditures should first be used for deficit reduction. Provisions in this bill like the repeal of the Alternative Minimum Tax for corporations are not helpful to middle income Americans and it is bad tax policy which reverses recent reforms. Savings achieved by the cuts made in this measure should either benefit people who truly are middle income or go toward reducing the deficit. They should not provide additional tax benefits to corporations and the wealthy.

Mr. Chairman, despite my concern about some of the provisions of this bill, the positive reform elements just mentioned on balance easily make this a good and needed bill. This Member urges its passage, while lamenting that all of the provisions in the bill are not as effective and reasonable as those positive ones that this Member has highlighted.

Mr. GILMAN. Mr. Chairman, although there are many worthy provisions in this measure, H.R. 1215, I must take exception to the inclusion of title IV, the Congressional and Federal Employee Retirement Equalization Act. It is important to note that due to a lack of consensus by Members of both parties, these retirement provisions, originally H.R. 1185, never came to a vote in the Committee of Jurisdiction. Now these same provisions are being brought to the floor under a closed rule and as part of a separate legislative package. These actions stand in direct contradiction to the committee process and have in effect, restricted debate on an issue that will affect thousands of hard working families in my district.

The inclusion of title IV in a tax reduction bill seems ironic because, in essence, title IV is a tax increase on Federal workers. Title IV mandates a 2.5 percent payroll tax increase on Federal employees and institutes a fundamental change in the calculation of each worker's retirement benefits. The Congressional Budget Office estimates that this change will cause Federal workers to suffer a 4 percent decrease in future pension benefits. In this same bill which grants a tax benefit of $500 per child for families with an upper limit income of $200,000, title IV will cost an additional $750 per year for the family of a Federal employee earning an average salary of $30,000 per year. Along with many of my constituents, I believe this is an unfair burden to place on our dedicated Federal workers.

Most importantly, the central issue of the debate over title IV is the issue of honoring the commitments we have made to Federal employees. When Congress restructured the Federal Retirement System in 1986, barely 9 years ago, we set up the FERS system on a self-sustaining basis and established a system for honoring the liabilities of the old Civil Service Retirement System. At that time we promised our Federal employees that this would be the last time we would alter their pension plan. Many hard working families relied on that commitment and planned their families' futures based on that commitment.

We should live up to the contract we have made with our Federal workers. Title IV of this measure breaks that promise.

Regrettably, title IV has been included within a tax and spending reduction bill which includes many positive proposals, including: A tax credit for long-term care, the establishment of an American dream savings account, relief of the marriage penalty tax, IRA deductions, and capital gains benefits and reductions.

These tax cuts are fiscally responsible. Of course that tax cuts as a whole reduce Federal revenues, that is what tax cuts do. However, families in my district deserve a tax cut and deserve to have Federal spending reined in. Accordingly, this legislation will accomplish both, cut spending that needs to be cut and using those savings to reduce taxes for American families and businesses.

Accordingly, I will vote for passage of this measure, despite my objections to the provisions of title IV.

Mr. COSTELLO. Mr. Chairman, tonight, the House is being asked to approve large and growing tax cuts that make the goal of balancing the budget farther and farther out of reach. The Republican "Contract with America" promised to balance the budget. However, it does not make sense to make drastic and painful cuts in order to provide a tax break to wealthy Americans before we get serious about deficit reduction.

While this bill pays for the tax breaks over a 5-year period, after five years the costs explode, and the federal deficit will actually increase. The long-term result of this bill will be an increase in the deficit by $630 billion over 10 years. This would be the second largest deficit increase in history, behind only the 1981 tax cuts.

Mr. Speaker, this is epitome of hypocrisy. If Republicans were serious about deficit reduction, as they claim, the spending cuts included in this tax package would be applied to the deficit, rather than financing a huge tax break for the wealthy.

This tax-and-spending-cut package will cut programs for the most vulnerable in our society to pay for tax breaks that will largely benefit wealthy American citizens. This bill has been called the "crown jewel" of the Republican "Contract With America," but it appears most of the crown jewels will only go to the rich.

To reduce our Federal budget deficit, we must cut every area of our discretionary budget. However, to make these very difficult cuts only to give the savings to wealthy Americans does not make sense to me. That is why I oppose this "crown jewel" of the "Contract With America."

I believe we must restore fiscal sanity to our budget process. We have an obligation to put an end to the huge interest payments that are eating away at our children's future. However, the solution to this problem does not lie in handing over our nation's "crown jewels" to those who need them the least.

Mr. KLECZKA. Mr. Chairman, this is a sad day for this country . Today, the Republicans passed what should be called a "Deficit Acceleration Bill" under the guise of a tax cut bill.

This measure will not receive my support because it is a Trojan Horse. It sounds and looks friendly, but it will have dire consequences by exploding the federal budget deficit we have worked so hard the last 2 years to contain. If passed into law, this measure would entail a $630 billion loss to the Federal Treasury over the next 10 years. That is inexcusable.

We have a debt of $4 trillion. We have annual deficits estimated to rise in future years due to demographics. Moreover, we are $1.2 trillion short of the balanced budget so many of us want to achieve over the next 7 years. Cutting taxes in this manner and at this time is the absolute height of folly.

This bill is the same mindset as the trickle-down, supply-side tax cuts made during the early 1980's. Those tax cuts, along with massive defense spending increases, got us into this fiscal mess. Those tax cuts are the reason each and every child born in this country is born about $20,000 in debt. They are the reason we pay 16 percent of our budget on interest payments on that debt.

My constituents have told me over and over that they want us to concentrate on cutting the deficit first. They have said so consistently, and I agree with them. That is why the Deficit Acceleration Bill is not just wrong, but morally objectionable. It robs our children and our grandchildren of their futures. And, it ruins any chance of responsibly achieving a balanced budget.

This bill offers huge tax benefits to the wealthy and precious little to those who could use them—hard-working, middle-income Americans. Nearly two-thirds of the tax benefits provided by the Deficit Acceleration Bill will go to those earning more than $75,000 a year. Moreover, the bill gives people who make up to a quarter million dollars unneeded tax relief.

The tax cuts will amount to nearly $1,000 a month for the average household with children that has income over $200,000, but less than $66 a month for those that earn between $30,000 and $75,000. That is just $16 a week, which is not enough to take a family to the movies for a matinee these days.

It is my hope that the next step is for the Senate to reject this Deficit Acceleration Plan so we can work together on a bipartisan basis to address our long run deficit problems. As Vice President Gore said this week, "On Day 101 we're going to start fixing the damage that was done during the 100 days of the Republican Contract." There is no piece of legislation more in need of fixing than the bill we are considering today.

Mr. YOUNG of Florida. Mr. Chairman, I rise tonight in support of H.R. 1327, the Tax Fairness and deficit Reduction Act of 1995, one of the most pro family bills this House will consider.

This legislation, which incorporates several provisions contained in the 10 points of the Republican Contract With America, makes good on the promise we made to ease the tax burden on American families. H.R. 1327 delivers the kind of genuine change that the American people asked for in November, and I am pleased that the House is acting on this legislation, as pledged, within the first 100 days of the 104th Congress.

The family is the core of our society, and the Congress should support our nation's families, not penalize them. We support families with this legislation by addressing the so-called "marriage penalty", where married couples pay more in taxes than they would as two individuals. I have long been a critic of the marriage penalty, and believe that the government should not punish people for getting married.

H.R. 1327 is pro family because it will help this same couple when they have children by providing a $500 per child tax credit. If they choose to adopt a child, this bill establishes a refundable tax credit for adoption expenses. This same family will also benefit from the creation of the American Dream Savings Account. Individuals can contribute up to $2,000 a year into these accounts. They can then make tax-free withdrawals if used for retirement income, for a first time home purchase, for post secondary education, for medical emergencies, or purchasing long-term care health insurance. Make no mistake about it, tonight we are helping families buy their first home, educate themselves or their children, and plan for their future medical needs. While the initial deposit is taxed, by allowing interest in these accounts to accrue tax free, we will foster the American dreams of home ownership, a better job, and retirement security while increasing our nation's savings rate.

When families start to age, H.R. 1327 provides a $500 refundable tax credit for individuals who care for a disabled parent or grandparent at home. Families will benefit because this legislation encourages people to plan ahead for their long-term care needs, by allowing tax-free withdrawals from IRAs, 401(k) plans, and other qualified pension plans so they can purchase long-term care insurance. Also, H.R. 1347 allows a tax deduction for long-term care premiums, and encourages employers to provide these policies by treating them as a tax-free employee benefit like regular health insurance.

As the Representative of Florida's Tenth Congressional District, which is home to one of our Nation's largest populations of senior citizens, I am also pleased that H.R. 1327 will remove a number of onerous burdens on older Americans. One of the first bills I ever introduced in Congress would have repealed the Social Security earnings limitation, and I have consistently cosponsored legislation that would overturn the unfair limit on outside income which penalizes older Americans for working. While the former House Leadership failed to allow us to debate this legislation on its own in the House, and prohibited us from raising it as an amendment to any other pending legislation, I am pleased that today, we will be able to vote for this bill that would raise the earnings limit from $11,280 to $30,000 over the next 5 years. As I have repeatedly told my colleagues, I firmly believe our Nation can benefit greatly from the skills and experience of older employees, and we should encourage their contributions to our economy.

Another portion of the contract that I strongly support is the repeal of the 1993 Clinton tax increase on Social Security benefits. I opposed the original legislation that required senior citizens who earn more than $34,000, or couples earning more than $44,000, to pay income taxes on 85 percent of their Social Security benefits. I cosponsored legislation in the 103d Congress to repeal this tax increase, and I will support this legislation before us which will roll this tax back over 5 years to the pre-Clinton levels.

Finally, one of the most important parts of the Tax Fairness and Deficit Reduction Act is a reduction in the capital gains tax rate. I have long been supportive of these efforts, because this reduction will be good for all Americans. Allowing individuals a deduction equal to 50 percent of their net capital gains for a taxable year is good economic policy because it will encourage personal savings in our Nation and help our capital markets perform more efficiently. By increasing our Nation's personal savings, we will make it easier for businesses to raise capital in order to expand, and create more jobs, leading in turn to more economic opportunities for every American.

Mr. Chairman, the legislation before us this evening makes good on many of the promises we made in the Contract With America. It is pro family. It promotes higher education. It respects the contributions older Americans have made to our Nation. It encourages home ownership. It fosters savings. Most importantly, it creates greater economic opportunities for all sectors of our society.

Mr. Chairman, this legislation is pro family, pro growth, and pro America. I urge its strong support this evening.

Mr. MANZULLO. Mr. Chairman, the passage of the tax legislation that we are considering today will be a triumph for our Nation's seniors. One of the most onerous and counterproductive taxes that exists in our current code is the Social Security earnings test. This penalty reduces Social Security benefits for those ages 65 to 69 by $1 for every $3 earned above $11,280—a 33-percent marginal tax rate. In fact, because of President Clinton's 85 percent tax on so called wealthy senior's benefits, many workers age 65 to 69 face a marginal tax rate as high as 88.8 percent.

Without question, these high marginal tax rates affect the behavior of senior workers. About 1.9 million retired workers in this country age 65 to 69 who are eligible for Social Security benefits earn income. An inordinate number of them earn up to or near the earnings limit and then quit working. It is obvious that these workers earn all they can without being subject to the retirement earnings penalty.

Mr. Chairman, I know first hand of such behavior and the importance of this legislation. A constituent of mine, Bess Marsala from Rockford, IL, called me regularly last year to find out the status of Representative DENNY HASTERT's legislation in the 103d Congress that would have raised the earnings limit. She candidly told my staff that she had job opportunities that would have put her earnings over the current $11,280 limit, but had to decline due to the draconian and punitive taxes she would incur.

Mr. Chairman, the retirement earnings limit has been part of Social Security since its inception. The original reason given for it was that Social Security should replace lost earnings. Benefits, it was believed, should not go to people who continued to work. This policy was consistent with the Depression era view that Social Security should encourage older workers to leave the work force, making more jobs available for the young.

Times have changed. The United States now faces a shortage of workers, not a glut. The continuing labor force participation of older Americans who possess valuable skills acquired over 30 or 40 years is increasingly important to the health of the U.S. economy. The result of the current earnings limit is that a vast store of human capital, rich in talent and ability, is wasted.

Raising the earnings limit for retired workers makes good economic sense. The substantial reduction in marginal tax rates on wages will lead to an increase in labor effort that yields additional income and payroll tax revenues to offset the increase in Social Security benefit payments.

Mr. Chairman, I am excited that today I will be able to tell Bess Marsala that the House of Representatives has taken the first step toward giving seniors such as herself the freedom to work.

Mr. GILLMOR. Mr. Chairman, I rise today in support of H.R. 1327, the Tax Fairness and Deficit Reduction Act of 1995. It is with a great sense of personal satisfaction that I see this bill come to the House floor for debate as part of it, the ability for individuals to create American Dream Savings Accounts, is very similar to a bill I have been introducing since my first term in Congress. That bill, the Education Savings Account, H.R. 769, contains many of the provisions which are included in the legislation we are now debating.

My legislation would allow families to contribute $1,500 annually, tax-free, to education savings accounts for each child under age 19. This provides an incentive for families to begin saving while their children are young. For families who have children closer to college age, this bill has the unique feature of allowing an immediate transfer of funds from an Individual Retirement Account [IRA] to the ESA so that those savings can be used for higher education. Money in the ESA not spent on education can be transferred penalty-free back to the IRA.

Enactment of the tax bill we are now considering will allow families to take the initiative and begin saving for their children's education. We all realize how important higher education is to succeeding in today's work force and the cost of college is continually escalating.

Consider the fact that the family share of college expenses has increased to more than 50 percent with parents contributing over one-fourth of the total spending on higher education and student contributing about one-fifth. This holds for both private and public schools, although the contribution is generally greater for those families whose children attend private institutions.

In fact, if present trends continue, the cost of a college education for my own son who will enter college in the year 2010 could be as much as $107,000 for 4-year public schools, $168,000 for 4-year private schools and $29,000 for 2-year community colleges. That is why it is imperative for us to enact legislation such as H.R. 1327 to help families prepare for these exorbitant costs.

The Fifth District of Ohio, which I represent, is small town Ohio at its best and in many respects represents the same viewpoints of small communities throughout our country. From traveling through my district, one of the most common complaints I hear is that government spends too much and taxes too much. "Cut government spending and cut it now" is a frequent refrain. I am delighted that the 104th Congress is about to vote on actually implementing some of these reductions. For example, as a result of this legislation your average tax reduction per filer in Ohio will save $1,439.

Let me briefly examine some of the more important provisions which will have such great impact on small town Ohio. There is a section which would increase the Federal estate and gift tax exemption from $600,000 to $750,000. This increase is important for small business owners and farmers who wish to pass on their businesses to their children.

There is also a changed requirement with respect to capital gains, the alternative minimum tax, and accelerated depreciation. All of these provisions will strengthen our Nation's economy and make for an improved business climate.

Another reason for supporting this bill is that it goes a long way in restoring faith and confidence in our seniors while giving back to them some of the financial security that was stripped away by the administration's budget 2 years ago. This bill takes three important steps for seniors.

First, it raises the earnings limit for seniors who want to work and remain productive citizens. Government should not prevent people from working, keeping them against their will in a nonactive, nonproductive retirement. There are thousands of seniors who would love to contribute to our society and we should allow them the ability to do so.

Second, the tax reductions bill repeals the tax hike on Social Security benefits imposed by the Clinton administration's budget in 1993. The tax should be eliminated for a couple of reasons. To increase taxes on seniors who are in retirement on fixed incomes is to target one of our most vulnerable populations. It would be wrong to increase taxes on working seniors, seniors wanting to remain in the work force.

The final reason I am for this tax reductions bill involves long-term care insurance. For many seniors, long-term care becomes a necessity. We should provide incentives for people to purchase long-term care insurance before they need it. This bill provides tax deductibility towards the purchase of long-term care insurance so that when people are in the unfortunate situation of needing long-term care, it will be there.

I think the issue of Federal pensions needs to be examined. I believe the review of them has not been adequately completed, and the provisions regarding them should not be included in this bill. However, we must evaluate the bill as a whole, and on balance it is a good bill. The pension issue needs to be reviewed before this bill clears Congress.

Mr. Chairman, today is not the final act in implementation of the Contract With America. Many of the initiatives must be debated by the Senate. But it is absolutely critical that the Members of the House of Representatives endorse this package with the strongest possible vote and begin delivering real and meaningful tax reform to Americans.

Mr. SERRANO. Mr. Chairman, I rise in strong opposition to H.R. 1215 and urge my colleagues to reject it.

With our overall economy doing well, and with the American people demanding attention to the Federal deficit, this is not the time to cut taxes.

But even if this were the time, I believe any tax cuts should be directed to helping working families improve their lives and enhance their ability to participate fully in our economy. Instead of this bill, we should be looking at further expanding the earned income tax credit, providing other refundable credits, or providing credits or deductions for the costs of education and training, as the Democratic leader's substitute would do.

Instead, we have a bill that directs more than half of its benefits to households with incomes above $100,000 and over 66 percent of its benefits to households above $75,000.

And how do we pay for all this generosity? Well, by cutting appropriations for programs such as those on the Budget Committee's list of illustrative cuts—LIHEAP, job training, workplace safety, education, housing, biomedical research at NIH, to name only a few—none of which should be used to offset anything on the pay-as-you-go side of the budget. And by slamming Federal employees through their pension system. And by raiding the Medicare trust fund. Any by relying on the wrong-headed savings from welfare so-called reform, which will in fact either increase State costs—and State taxes—or increase misery among our most vulnerable populations.

I will concede that H.R. 1215 has a couple of good points, such as the accelerated death benefits provisions, which I cosponsored, and the tax credits for expenses of adoption and of caring for an elderly relative at home. Of course, the credits would be much better if they were refundable, as they were in the contract, to encourage people of limited means to build and strengthen families.

But overall, the bad points in this bill far, far outweigh the good. Where to begin?

If I begin at the beginning, I must protest the provisions that violate the spirit of the Budget Act by removing the barrier between the discretionary and the pay-go sides of the budget, allowing appropriations cuts to offset tax cuts. The portion of the budget that is subject to appropriation has already been the major contributor to deficit reduction, but has not—until now—been available to pay for tax cuts. This is very bad policy.

Then there's the extraneous stuff, particularly the provisions relating to Federal pensions that couldn't win a majority vote in the committee that actually has jurisdiction over them. But here they are, in H.R. 1215. The authors of the Contract With America want to violate the Federal Government's contract with its employees. Two million Federal employees face tax increases that exceed any tax cuts they might hope to receive from the rest of the bill, so we can cut everyone else's taxes.

The American Dream Restoration provisions would explode the deficit, especially in the years beyond our 5-year budget calculations.

The family tax credit in the original contract was refundable, so all families with incomes up to $200,000 could benefit, even those whose income tax liability is small, but who still pay Social Security, Medicare, and State and local taxes. But in this bill the credit is not refundable. The parents of 34 percent of American children will not be able to receive the full credit because their incomes are too low. Only the better-off fully benefit from this credit.

The American Dream Savings Account is written so that it brings revenue in in early years but loses tremendous amounts after 5-years, just when efforts to balance the Federal budget are at their most intense.

The overwhelming winners under the capital gains tax rate reduction for individuals are the households with incomes over $100,000, which would receive 76.3 percent of the benefits.

The business tax changes are also backloaded, with major revenue losses coming in the years after 2000. And even as the big changes in depreciation make an alternate minimum tax more necessary, to assure that profitable businesses pay at least some income taxes, the bill phases the minimum tax cut.

The taxpayer debt buydown is another deeply troubling concept. We are already facing extremely hard choices as we attack the federal deficit, but the "glideslope" could become impossibly steep if taxpayers can divert up to 10 percent of income tax revenues from legitimate Government spending to a debt reduction fund.

Mr. Chairman, this is an untimely, bad, misguided bill. I urge all my colleagues to vote to reject it.

Mr. ABERCROMBIE. Mr. Chairman, I submitted to the Rules Committee an amendment to H.R. 1215, the Tax Fairness and Deficit Reduction Act of 1995, regarding the one-time exclusion of gain from sale principal residence by individual who has attained age 55. However, under this closed rule I will not have the opportunity to offer an amendment which deserves consideration by the House.

Currently, under 26 U.S.C.S. section 121, an individual has the option to elect not to include gain from the sale or exchange of property if they meet certain criteria: First, the taxpayer has attained the age of 55 before the date of such sale or exchange, and second, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating 3 years or more.

Furthermore, the limitations for the application of this option are subject to: First, dollar limitation. The amount of the gain excluded from gross income shall not exceed $125,000—$62,500 in the case of a separate return by a married individual, and second; application. An individual can only elect to utilize this option once.

Mr. Chairman, section 121 was added to the code in 1964. Initially, an individual had the option to exclude a gain of $20,000 from the sale or exchange of property. The attainment age was 65 and during an 8-year period ending on the date of the sale or exchange, such property had to have been owned and used as a principal residence for 5 years.

Since that time section 121 has been amended to its present form. yet, the last time the option to exclude from gross income was increased was in 1981 from $100,000/$50,000 to $125,000/$62,500. My amendment would increase the exclusion on sale of principal residence to $250,000/$125,000. Also, I have included language so that the property would has to be owned and used by an individual as a principal residence for 6 out of the 10 years on the date of sale or exchange.

Mr. Chairman, my amendment is not for speculators. The purpose of the amendment is to provide a real option for individuals who have seen property values increase dramatically since 1981, particularly in the State of Hawaii and other high cost housing areas. In 1980–81, the average cost for single-family housing in Hawaii was $169,000, In 1994, the average cost for single-family housing had risen to $430,000. Nowadays, most of my constituents do not even have the opportunity to purchase a house. They have been priced out of the market. By the same token, seniors who in many cases have lived in the same house for their entire lives do not have the option of selling their property because it would be fiscally imprudent.

Mr. Chairman, it is unfortunate that as the House moves to consider legislation to establish tax fairness I am unable to offer an amendment that would move towards this goal.

Mr. BENTSEN. Mr. Chairman, I rise in opposition to H.R. 1215. While reducing taxes at any bracket is appealing, I believe this legislation is contrary to our national priorities at this time.

There are many provisions in the Tax Code which I believe need to be changed in order to help middle-income families regain lost purchasing power, encourage business investment and expand personal saving. However, as drafted this measure fails to fully achieve these goals. More importantly, by choosing this path, the House is telling the world that we are not serious about deficit reduction. I cannot support that position.

House bill 1215 does not provide sufficient middle-income tax relief. The bulk of relief goes to those earning more than $50,000 per year and is greatly skewed up the income scale. The $500 child tax credit is structured so that wage earners who pay most of their taxes through payroll deductions will receive little of its benefit. Anyone earning $50,000 or less will receive little under this bill. The bill provides greater flexibility for deductions for individual for individual retirement accounts and earnings limitation for Social Security beneficiaries, but is deficient on true middle-income relief while potentially increasing the burden on middle-income families by not reducing the national debt.

H.R. 1215 also provides significant relief to corporate taxpayers through the elimination of the corporate minimum income tax and neutral cost recovery. Additionally, the capital gains tax rate is cut and indexed for inflation. I believe that cutting the gains rate may spur investment, but I do not believe significant capital is sitting on the sidelines because of the current 28 percent rate. I support indexation of capital gains just as the code provides for income taxes. Taxpayers should not have to pay for the costs of inflation. Yet, I cannot support this combination of corporate tax breaks when the economy is growing and the Government is broke.

I am greatly concerned about the cost of this bill—estimated to be $700 billion over 10 years. This will double the amount of spending cuts that Congress must achieve to balance the budget. Democrats and Republicans know that balancing the budget without this tax cut will be painful. Why increase the pain for limited benefit? Why not address the deficit first?

Where will the cuts come from to pay for this bill? The majority has told us that discretionary spending will be cut in the out years, but that will require future Congresses to abide by this agreement, in addition to balancing the budget. We now know that under this bill, all Federal employees will have their contributions to retirement increased by 2.5 percent annually while benefits will be reduced at retirement. The net effect is a 2.5 percent tax increase or pay cut for Federal Employees in order to redistribute income through the Tax Code. This proposal will cost $750 for the NASA employee who lives in my district making $30,000 per year. What the American people don't know is that this item was rejected by a bipartisan vote in the Government Oversight Committee but the Republican leadership slipped it into this bill. That breaks the bond between employer and employee and is unfair.

We know that the bill counts on $70 billion in savings from the welfare system, but as we learned from the debate 2 weeks ago, those savings will come at the expense of the States since the welfare reform bill merely cuts spending and transfers responsibility. This so-called reform, with no work requirement, will cost my State of Texas $1 billion per year.

So what the proponents are doing is shifting the costs of welfare to the States and cutting the pay of Federal employees to pay for part of the tax cut. The rest will come from the good will of a future Congress.

Let me say, I give the committee credit for including congressional pension reform which I have long supported. Congressional pensions should be in line with other Federal employees. But we should not have to cut Federal employees pay to reform our own pensions. Let's bring that bill up for a vote now, don't hide it in a tax bill.

Passage of this bill will be another missed opportunity to cut spending and balance the budget. This bill spends the cuts Congress already made, but we have learned that to be the case on every spending cut bill considered this year. With the economy growing at a substantial rate, but deficits still running at $200 billion annually, wouldn't it be prudent to pare down the debt first? We should have real tax relief for the middle class, including expansion of IRA's and indexing of capital gains, but we need debt relief first. We should focus our efforts on the middle class, those earning between $25,000 and $75,000 who have seen their purchasing power decline. Debt reduction will help. This bill fails to achieve that goal. When a company is drowning in debt, it cuts that debt, we should do the same. Let's put this measure aside and begin the hard task of balancing the budget.

Mr. CLAY. Mr. Chairman, I rise in opposition to this so-called Tax Relief Act and the punitive measures it would levy against Federal workers.

The Committee on Government Reform and Oversight—which has jurisdiction over Federal personnel issues—has not held a single hearing on the Federal pension legislation before us today. Not long ago Congress spent almost 2 years creating the Federal Employee Retirement System—which is modeled after private sector pensions plans. It is irresponsible for this Congress to circumvent the legislative process in order to sabotage the careful, deliberative program which was painstakingly produced.

The problem with reducing the Federal workers pensions benefits has been well stated by the conservative think tank, the Hudson Institute, in its report, "Civil Service 2000."

> If federal pay, benefits and working conditions are perceived to be inferior to those available from private employers, Federal employers may be faced with higher levels of turnover at senior levels, and the challenge of recruiting and keeping senior professional and technical people will grow.

Mr. Chairman, despite what the proponents of this legislation pretend, there is no financial crisis in the Federal Employees Retirement System or the Civil Service Retirement System. Both the Congressional Research Service and the General Accounting Office have confirmed the financial solvency of the Federal retirement program. There is no reason for this body to deny reality.

The pension payment increases contained in the Tax Fairness and Reduction Act will effectively increase taxes for most Federal workers by approximately 10 percent. It is dishonest to attempt to offset a tax reduction for the wealthiest households in our Nation by gutting the pension benefits of our Nation's public servants.

Mr. Chairman, I urge my colleagues to reject this legislation.

Mr. ROEMER. Mr. Chairman, I rise in strong opposition to H.R. 1215, the Contract With America Tax Relief Act of 1995. At a time when 16 percent of all Federal spending is used to pay interest on the national debt, it is clear that it is the wrong time to reduce taxes, particularly in the manner recommended in this bill. We cannot afford to spend $630 billion over the next 10 years on this proposal.

I doubt there is a Member in this Chamber who opposes easing the tax burden on working Americans. In an ideal fiscal situation, I would advocate tax simplification and reduction. I am a supporter of capital gains tax reductions, for example. I hear often and loudly from my constituents about the complexity of the Internal Revenue Code, which many view as overly confusing and punitive. There is no question that improvements can and must be made. I will support budget-neutral tax reduction plans that stimulate the economy.

However, our national debt today stands at $4,873,480,746,464.74, and our budget deficit is estimated to be more than $165 billion this fiscal year alone. As these numbers indicate, our country is in a fiscal crisis. It is nothing short of irresponsible to be considering tax cuts that will add at least $630 billion to the deficit over the next 10 years. We should be looking to cut spending first, not cut taxes.

There are some provisions of H.R. 1215 that I support. I have long favored a targeted capital gains tax cut. The bill includes a 50 percent capital gains reduction for individuals, as well as allows for capital gains indexing tied to inflation. These capital gains changes would greatly assist family farmers and small business owners, and are proposals that I endorse. But is imperative that we pay for these proposals with cuts in Government spending.

I also support the Super Individual Retirement Account [IRA] initiative that is contained in H.R. 1215. Under the Super IRA proposal, withdrawals from IRA's would be penalty-free if used for the purchase of a first-time home, or for education and medical expenses. Once an individual reaches age 59½, withdrawals would not only be penalty-free but interest would not be subject to taxation. With the net personal savings rate in the United States at an all-time low of 3.5 percent of gross domestic product, these changes are long overdue.

However, H.R. 1215 contains many egregious and unfair tax changes. The bill repeals the Alternative Minimum Tax [AMT] for corporations. The AMT was established in 1986 when it was discovered that some of the country's largest and most profitable corporations paid no Federal taxes or, because they took advantage of countless deductions and tax credits, actually received a tax rebate. Not only does this bill repeal the AMT, which ensures that profitable corporations pay a fair share in taxes, but it also permits companies to use their prior AMT payments as credits against future taxes. At a time when even the most effective Federal programs are subject to significant cuts, it is simply unconscionable that many corporations will be able to eliminate some or all of their Federal income tax liability.

This bill will cost middle-income American taxpayers $188 billion in the next 5 years alone. Yet, middle-class Americans will see very little benefit. Those making $30,000 or less will see a tax cut of $124 per year while those making $200,000 can expect to save $11,000 per year under this bill. While I am not promoting class warfare here, I am encouraging tax fairness.

This legislation makes promises which will explode the deficit after the first 5 years. The offsets contained in the bill are not from Federal entitlement or revenue programs, but rather are derived from domestic discretionary programs. Because these programs are already capped, subject to annual review, and do not grow at the same rate as tax revenue losses or entitlement programs, they will not pay for the tax cuts over time. Simply put, this bill will add to our already overwhelming deficit.

With respect to fairness, or lack of it, school lunches for children and college loans for middle-income students are cut to pay for tax breaks or tax exemptions for large companies. We should not nickel and dime to death child nutrition and college loan programs in order to relieve fair tax obligations for some profitable businesses. Additionally, small subsidies for senior citizens to heat their homes during frigid winters is completely eliminated to fund these tax breaks and loopholes. The best tax cut for all Americans is to reduce the deficit.

For the sake of future generations, we need to focus on deficit reduction. Only when progress has been made on this goal should we look to reduce taxes. Once we are successful in balancing the Federal budget, then we should focus on tax cuts. I hope we can start in a bipartisan way to craft substantive changes in the Federal tax code to encourage long-term savings and investment critical to the competitiveness of our national and local economies as soon as we return from the Easter work period. We need to practice common sense when we revise the tax code.

Mrs. COLLINS of Illinois. Mr. Chairman, the bill we are considering today may be called the Tax Fairness and Deficit Reduction Act; but there is nothing fair about this tax bill.

For 2 million middle-class Americans, this bill is a tax increase bill, not a tax cut bill. The bill also cuts benefits for future Federal retirees by 4 percent.

In this one bill, my Republican colleagues have succeeded in breaking two important promises they made to the American people: not to raise taxes; and not to tamper with pensions for the elderly.

Under this bill, the 2 million people working for the Federal Government will be taxed a total of 9.5 percent of their income to pay for their retirement benefits. Contributions for those employees participating in the Civil Service Retirement System will increase by 36 percent. Contributions for employees covered by the Federal Employees Retirement System will increase by 313 percent.

If the Congress passes this bill, the average Federal employee will pay an additional

$4,525 over 5 years, or an average of $905 more each year, in order to participate in the retirement program.

No one, let me repeat, no one should take any comfort in the fact that only Federal employees will be hit with this new tax. The Federal retirement program is funded through payroll withholding, just like Social Security.

If the Republican leadership thinks it is all right for Federal employees to pay 9.5 percent of their salary for retirement, may they soon not conclude that workers covered by Social Security should pay 9.5 percent of income for their benefits too?

In fact, what we may be seeing here is the Republican answer to the crisis facing our entitlement programs. If you think it costs too much for the Federal Government to make good on its commitments to the elderly, the sick, children, and survivors, just raise the tax workers pay for these benefits—only, this is very important, do not call it a tax.

Even though this bill will take 9.5 percent of an employee's salary out of his or her check, in the same way income taxes are deducted, proponents claim it is not a tax.

I disagree. All the complicated arguments in the world cannot change the basic fact that 2 million Americans will have about $900 less to spend each year, as a result of this bill. Under House Rules, it should take a vote of three/fifths of the Members to pass it; but, that is not what the Rules Committee provided.

It is ironic. When I appeared on a bipartisan panel before the Rules Committee, which was telecast by C–SPAN, none of the Members of that Committee had any trouble understanding that this was a new tax on employees and that it should not be in this bill. In fact, the Rules Committee chairman said:

> But, I have to agree with you that this is a case where we are raising taxes on some to pay for tax cuts for others and that to me is wrong. I don't believe we ought to be doing this in this bill.

Similarly, Members on both sides of the aisle of the Committee on Government Reform and Oversight emphatically rejected any attempt to raise taxes on Federal employees to pay for tax cuts. Let me repeat, the committee of jurisdiction refused to approve the tax increase for Federal employees this bill contains.

You have to wonder, then, why are we now faced with this proposal as part of the tax bill?

Some in the majority suggest this tax increase is needed, because they claim the retirement fund is financially unstable and will soon become a huge burden on taxpayers.

This simply is not true. The Congressional Research Service of the Library of Congress recently issued a memorandum that makes it very clear, the Federal retirement system is solvent, and the issue of future liabilities has been adequately addressed in previous pension legislation.

Proponents of these changes also allege that it would restore greater balance to the Federal retirement system. However, Federal employees already contribute 28 percent of the total amount spent each year on retirement benefits. On the other hand, GAO says that 95 percent of all private sector retirement plans involve no, I repeat, no employee contribution.

Clearly, Federal workers already assume far greater financial responsibility for their retirement program than do many workers in the private sector. If this is the case, what is the justification for raising the retirement tax Federal employees must pay and for cutting their benefits?

The simple answer is that the majority needs $11 billion to help pay for their tax cut for those wealthy Americans fortunate enough to have investment earnings. There is no other answer.

Apparently, Republicans do not mind taking hard-earned dollars from middle-class Americans to pay for tax cuts they give their rich friends. But, I do, and I believe most Americans do as well.

There is nothing fair about this approach to tax reduction.

In an effort to disguise what this bill does, Chairman CLINGER has made the claim that the increased retirement contributions of Federal employees will offset tax cuts, will strengthen the Federal retirement system, and will reduce the deficit—all at the same time.

This explanation defies basic common sense. Obviously, the same dollars cannot be used for three simultaneous purposes that directly conflict. Instead, this is what really happens in simple English: the increased revenues generated by the tax on Federal employees offset the reduced revenues from the tax cut. The deficit is not reduced, nor is the retirement system healthier.

The accounting trick is that although the revenues go directly into the Federal retirement trust fund under the law, what really goes into the trust fund are nonnegotiable Government securites—in effect, a Government IOU to itself.

This allows the revenues to be scored under the Budget Act at increased receipts that are available for other purposes. The increased receipts would reduce the deficit under Budget Act accounting. However, the tax cuts in the bill offset this reduction, resulting in no reduction of the deficit.

Mr. Chairman, Congress dealt with reforms needed in the Federal retirement system in 1986. At that time, we asked Federal employees to make a final and irrevocable choice as to the retirement plan in which they would participate.

Having made that choice, Federal employees have the right to expect that the Government they have served would not change the rules in the middle of the game.

Mr. Chairman, our contract with Federal employees is every bit as binding as the Contract With America. Federal employees have fulfilled their obligations; it is now up to us to make sure the Government delivers on its commitments.

Each of my Colleagues should remember that if this tax cut bill can be used to raise taxes on Federal employees, no one is safe. Social Security and Medicaid taxes can be raised just as easily.

I urge my Colleagues to vote no on the tax bill.

Mr. PORTER. Mr. Chairman, I have never supported a tax increase, and I supported the Reagan tax cuts which came with the promise of spending cuts to follow which never materialized.

No one should believe that the Castle-Upton package is more than a fig leaf that allows Congress to rationalize cutting taxes before balancing the budget. We have seen deficit reduction packages before. Gramm Rudman promised a balanced budget by 1991, and yet it is 1995 and we have an ongoing $200 billion deficit.

No, Mr. Chairman, we have to get the priorities straight. As much as I would like to support a tax cut now, I refuse to require our children and grandchildren to pay for it by adding its $189 billion cost to the deficit.

Some argue that the tax cuts will stimulate the economy and pay for themselves. We've been down that road before, too, Mr. Chairman. Dynamic scoring may make us feel good about doing what we want to do, but is not a conservative approach. In working to reduce deficits, we should never assume things that may not come true. We should be cautious in our predictions. We should be conservative.

Mr. Speaker, I supported the rule because in signing the Contract With America I promised to bring this bill and all the others before the House for a vote during the first 100 days of this Congress. But the contract did not require us to support the legislation, nor would I have signed it if it did.

There is no ground swell for tax cuts across America. To the contrary, the American people are urging us not to cut taxes, but to cut the deficit. American business, a major beneficiary of the tax cuts, is also more anxious that we address deficit reduction.

Mr. Chairman, under previous Congresses and administrations there were always higher priorities than getting our fiscal house in order. One could argue that they were justified. But now with the end of the cold war, our huge deficits continue unabated and we have yet another higher priority than balancing the budget.

Well, I for one do not, Mr. Chairman. A young person entering the American work force today is being handed a bill for his or her share of the interest on the debt accumulated to date of $250,000 that will have to be paid throughout his or her working lifetime, money that will not be available to buy a home or educate their children or to start a business. For a college graduate the bill is $500,000 to $700,000 or more. This is unconscionable, Mr. Chairman. This is fiscal child abuse and must not be allowed to continue. Not even to cut taxes.

As much as I, as a Republican, want to vote for this tax cut package, I cannot do so. I would breach faith with my own children and grandchild. There is a higher priority—their future. For my, for this Republican, my vote must be no.

Mr. BARTLETT of Maryland. Mr. Chairman, I rise today in strong support of H.R. 1215, the Tax Fairness and Deficit Reduction Act of 1995. By passing this important legislation today, Republicans will fulfill the promises made in the Contract With America. H.R. 1215 offers something for everyone; tax relief for America's hard-working families, relief for senior citizens, and job-creating incentives for businesses. For Maryland residents, these tax cuts mean an average reduction of $1,718 per filer. It is time for the Federal Government to stop stealing money out of the taxpayer's hands and let them keep it.

The Federal Government consumes a huge portion of the family budget. In 1948, the average American family paid only 3 percent of its income to the Federal Government. Today, the same family pays 24.5 percent of their income to Uncle Sam. It is no wonder that a majority of families have both parents working harder and longer hours, but are constantly struggling to make ends meet.

The Republican tax bill offers true tax relief for working middle-class families. Unlike the phony so-called commitment of a middle-class tax cut made by President Clinton and Vice President Gore in 1992, the Republicans are delivering on their promises. Also, let us not forget that President Clinton crammed the largest tax increase in American history down the throats of hard-working American taxpayers.

America's families deserve tax relief. H.R. 1215 allows families to keep their money by providing a $500-per-child tax credit for families with incomes below $200,000. So a family with two children under the age of 18 will reduce their taxes by $1,000. Seventy-four percent of this tax credit will go to families with incomes below $75,000 and it will eliminate the Federal income tax liability for 4.7 million families. For those couples who are caring for an elderly parent or grandparent at home, the legislation gives them a $500 tax credit. Nonworking spouses will be able to make a $2,000 tax deductible contribution to an IRA. These tax cuts truly reflect a pro-family agenda.

This bill also allows senior citizens to keep more of their Social Security benefits and not be penalized for working. We all remember President Clinton's 1993 tax increase on Social Security for seniors with incomes above $34,000 if single or $44,000 for married couples. Not one Republican in either the House or the Senate voted for this increase. Let me repeat: President Clinton raised Social Security taxes. In Maryland alone, Clinton's increase affected nearly 110,671 senior citizens.

Republicans, not the tax-and-spend Democrats, are repealing this unfair and discriminatory tax increase. No one, especially senior citizens, should be discouraged from working. Unfortunately, it was President Clinton, who in 1993 singled out and penalized one group, senior citizens, for attempting to remain financially independent.

The best way to spur economic growth and job creation is to get the Government off of the backs of business. The tax cuts in this legislation will increase economic growth, which creates more economic opportunity for every American. Our current tax code is oppressive by penalizing successful business owners, thereby eliminating any incentive to remain in business or even start one.

Mr. Chairman, I believe that there is a fundamental difference between Republicans and Democrats when it comes to investment and job creation. Republicans want all Americans to prosper by promoting jobs in the private sector, not in Government bureaucracy. Democrats view government spending as an investment, while Republicans want the taxpayers to keep their money and make their own investments.

H.R. 1215 will create unlimited economic opportunities by allowing small business to deduct the first $35,000 they invest in equipment and expanding the home office deduction. In order to protect the future economic stability of our country, we must reduce the tax burden on workers and businesses.

Out of these provisions, I believe the reduction in capital gains is the most important because it provides access to capital. In order to create jobs, people need access to capital, such as tools, equipment, and computers to increase their productivity. Capital is not magically created; business can only secure it if people save and invest. As a member of the Small Business Committee, I have listened to business owners from around the country comment on the high cost of capital and how that hinders new and existing businesses.

The current capital gains tax forces investors to hold on to their assets, thus forcing the investor not to sell the investment and reinvest the proceeds in a higher paying alternative if the capital gains taxes he would owe exceeds the expected higher return. By lowering the tax, we will free up capital for small business and entrepreneurs. This will essentially unleash the free enterprise system so it will create more jobs and improve the pay of existing jobs.

As promised in the Contract With America, House Republicans are reducing the burden of Government to empower families, create jobs, and enhance our children's future, while paying for it and at the same time, reducing the Federal deficit.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise today in support of H.R. 1327, the Tax Fairness and Deficit Reduction Act of 1995. While I had my reservations about whether we could afford a tax cut this year, I am extremely satisfied with this new plan.

Since the beginning of the year, I have received over 7,000 letters and calls from constituents who almost universally sent the same message: cut spending, balance the budget, and provide tax relief. I made it my first priority and responsibility in Congress to work in that direction.

The key to my support is the added provision clearly stating that tax cuts can only become law as part of legislation that lays out our course for a balanced budget by the year 2002. Furthermore, the legislation strengthens enforcement, through limiting discretionary spending, of our promise to bring the deficit to zero in 7 years. This, Mr. Speaker, this bill strongly clarifies and holds us accountable to our commitment to balancing the Nation's budget, as well as providing tax relief to hard-working American families.

And, let's keep these tax cuts in perspective. At current rates, taxpayers will contribute to our Government coffers over the next 7 years more than $7.5 trillion. A $188 billion tax relief package is comparatively small and manageable over 5 years. Yet as the bill is now written, this will be immense relief for millions of American families.

For the State of New Jersey, nearly $8 billion will be pumped back into the economy—that's $1,803 over 5 years into the hands of working New Jerseyans.

I am also comforted by knowing that the legislation helps those who need it most: families, individuals, our elderly, and small businesses. For families, a $500-per-child tax credit relieves the burden of year-end tax liabilities. New nondeductible contributions of up to $2,000 for single filers annually and $4,000 for married couples annually will encourage greater savings.

For the elderly, it repeals the unfair tax hike passed in 1993 on Social Security benefits, and raises the earnings limit from $11,280 to $30,000 by the year 2000. The bill makes long-term care insurance more affordable and more widely available, and it clarifies and improves current law for terminally ill individuals who would not be able to use tax-free distributions for their life insurance policies to pay medical bills and living expenses.

It establishes a credit for married couples who file joint tax returns to alleviate the marriage tax penalty, and provides a $500 tax credit for families caring for a dependent elderly parent or grandparent.

Finally, individuals and small businesses will benefit and economic growth will be spurred from a 50-percent capital gains deduction for individuals, abolishing the 28-percent maximum rate on capital gains, indexing capital gains to adjust for inflation, allowing small businesses to deduct the first 35,000 dollars' worth of investment each year, and clarifies the home office deduction.

Mr. Chairman, this proposal is about fairness. This is an opportunity to help working Americans who feel that their best efforts to provide for their families are thwarted by an oppressive tax system and an uncontrolled Federal debt that threatens our children's futures.

Our goal is clear—we must bring spending under control and allow all Americans to control more of their hard-earned money. H.R. 1327 is an equitable and intelligent approach, and I urge my colleagues to pass this bill.

Mr. CUNNINGHAM. Mr. Chairman, I rise today in strong support of the Tax Fairness and Deficit Reduction Act.

This landmark legislation increases the take-home pay of American families with a $500-per-child tax credit. It removes the barriers that discourage seniors from work, and repeals the unfair Clinton taxes on seniors' Social Security. It grows the economy by reducing the job-killing tax on capital gains. And it reduces Federal Government spending, reduces the size of the Federal Government and actually lowers the Federal deficit by $90 billion .

For these reasons, this important legislation has been called the crown jewel of our Contract With America.

Contrast this tax cut legislation with the Clinton tax increase of 1993. Bill Clinton campaigned on a promise to cut taxes. Instead, he rammed through a Democrat-controlled Congress the largest tax increase in American history. The Clinton plan added $1 trillion to the huge Federal debt. It was enacted into law without a single Republican vote. The President failed to keep his promise. The American people replied last November by electing a new Republican Congress.

Our Contract With America included tax relief for American families. We're keeping our promise.

We're keeping our promise to allow American families to keep more of their pay. We're keeping our promise to encourage families to save for retirement, home ownership, college education, or long-term health care, through new American dream savings accounts. We're keeping our promise to help America's seniors, who I prefer to call our "chronologically gifted" citizens, by repealing the Clinton taxes on seniors, and rolling back the unfair Social Security Earnings Limit. We're keeping our promise to create jobs, by adopting a cut in the capital gains tax and other provisions to spur investment.

And we're keeping our promise to reduce the growth of Federal spending. This legislation cuts the deficit $30 billion more than President Clinton's budget.

This matter of keeping promises is common sense in America, but radical change for Washington, D.C. I am confident this legislation will have bipartisan support. But for all the promise-keeping, this legislation would not be worthwhile unless it was in the best interest of our children.

For the first time in history. American families feel their children will grow up to have a lower, not a higher, standard of living. They see government taking more of their money, and controlling more of their lives. They know Federal spending is spiralling out of control. Thus, families lose hope for the real American dream, a better life for their kids. The Tax Fairness and Deficit Reduction Act represents real hope for American families. It reduces government's appetite for their money. It grows the economy and jobs. Most importantly, it leaves cash in the hands of American families that they can use in their best interests.

After all, whose money is it anyway? The Federal government does not have one dime that hasn't been taken from an American family, today or tomorrow.

I strongly urge my colleagues to support this legislation. Let's keep our promises. And let's trust American families to make the best decisions about the money they have earned.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to H.R. 1215 for a number of reasons. One key reason is that this bill would dramatically reduce our investments in research and development to pay for a misguided tax cut. The bill reduces discretionary spending by $100 billion dollars over the next 5 years. We are being told that this bill will result in reductions of $2.3 billion in energy supply research, over $1.5 billion in economically important climate and weather research, over $2 billion in technology development programs within the Department of Commerce, and a whole host of other R&D and capital investments.

The profound irony here is that the stated objective is to stimulate economic growth by creating a more favorable tax climate for business through reductions in capital gains taxation and increases in depreciation for capital investments.

Mr. Chairman, countless economic studies have shown that between one fourth and one half of all economic growth is directly attributable to technology development of the type being eliminated in this bill.

A recent report from the World Economic Forum in Geneva Switzerland is useful in putting our situation in perspective. We rank well behind other competitors such as Japan, Sweden, Switzerland, and even the Czech Republic in the total R&D investment as a percent of GNP. We rank an astonishing 28th in terms of the percent of public funding going to civilian R&D.

On the other hand, this same report shows that the U.S. ranks 33rd in all the world in terms of corporate taxes on business profits, income, and capital gains as a percent of GNP. Simply said, we already have one of the most favorable business tax environments in existence.

There is a simple principle of physics learned by all high school students that one gains maximum leverage by pushing on the long end of the fulcrum lever, not the short end. We will gain in productivity only by addressing the basic problem—underinvestment in technology and research. A more favorable tax environment will, no doubt, make some in industry happy but it will not result in any productivity gains nor any long term economic growth.

Mr. Chairman, I am also voting against this measure because I believe that most of the tax cuts contained within it will simply increase our federal deficit at the wrong time. We can better help more Americans not through tax cuts at this time but by reducing the deficit, which will lead to a more secure financial future and lower interest rates.

While I am opposed to this overall bill, I am supportive of one portion, but am disappointed that the Republican leadership has attached it to the tax package and thus I am not able to vote for it separately. This positive portion of the bill would raise the Social Security Earnings Limit for senior citizens.

The bill would nearly triple the amount of outside earnings that seniors aged 65 to 69 earn before their Social Security payments are reduced. Currently, the level of income is only $11,160 annually, and seniors lose $1 in Social Security benefits for every $3 they earn in excess of $11,160. Under the bill the Social Security Earnings Limit would be raised to $30,000 by the year 2000.

I have always supported relaxing the earnings threshold and repealing this unjust tax burden on hard—working seniors. The current limit is unfair and simply does not make sense. Rather than penalizing senior citizens for working, the Government should encourage them in their efforts to be financially self-sufficient. I think it is fair to say that, for the most part, senior citizens who are working do so because they need the money.

Under current law, seniors who work to supplement their Social Security benefits are penalized, while no limits are placed on those seniors who have alternative forms of income such as private pensions or investments. This is simply not right. Seniors who work are paying taxes, putting money back into the system, and providing society with a valuable pool of experience. We should encourage seniors' participation in the work force by changing the current law that causes working seniors to lose what is sometimes more than 50% of their Social Security benefits.

However, all news is not good news for seniors. With this bill, the Government would be giving to seniors with one hand and taking from them with the other. Medicare cuts totaling $10.5 billion help pay for the Republican's tax cuts, which will go primarily to the wealthy. These cuts are another reason why I could not support the overall bill. Part of the savings derived from Medicare is achieved by limiting Medicare payments for home care. Although this may save money in one area, it will cost more in the long run by discouraging seniors from seeking less costly care in the home and driving them into hospitals or emergency rooms where care is far more expensive.

Mr. Chairman, I very much want to take action to help America's families and for that reason have been very tempted to support the proposal in this bill to provide a $500 tax credit for children. However, in thinking carefully about this provision, I have come to the conclusion that the tax credit is not the best way to help America's moderate and middle income families. A $500 tax credit for children would be very expensive and would use critical Federal revenues that could—and should—be used to reduce our Nation's budget deficit. From my studies on these matters, I am convinced that the best way and the most responsible way to help America's families—and all Americans at this time—is to reduce our budget deficit. Continued deficit reduction will lead to reduced interest rates, which in turn will save many American families well over $500 a year in reduced credit interest costs, refinanced home mortgages, and more affordable home purchases. The increased economic activity resulting from these savings to American consumers will lead to the creation of more jobs.

Mr. HEINEMAN. Mr. Chairman, I rise today in strong support of America's senior citizens. This week, we in Congress have the opportunity to give the senior citizens of this Nation some much needed tax relief.

As a senior citizen, I see the far-reaching implications of these tax relief provisions, perhaps a bit better than some of my younger colleagues do.

Two years ago, this body and the President of the United States passed the largest tax increase in history. The greatest part of that burden fell on the shoulders of those in the United States who could least afford it: Our senior citizens.

We must roll back the 1993 tax increase on Social Security benefits. It is wrong to raise taxes on our seniors who live on fixed incomes.

The 1993 tax increase targeted supposedly wealthy senior citizens who made $34,000 or more.

We must raise the limit on the amount that our seniors can earn and still remain eligible for Social Security benefits. It is wrong to target working seniors—older Americans have been the backbone of our Nation. They pay their fair share, and it is an outrage to ask them to pay anything more.

This bill is vitally important to our Nation for many reasons. But any Member of this House should find it easy to vote for this bill on the basis of fairness to our senior citizens alone.

The United States has a contract with the citizens who have made this Nation great—our senior citizens—and that contract has been breached. This Congress must pass this legislation and honor the Contract our government has with our senior citizens.

This Congress must make things right.

This Congress must act now.

I urge my colleagues to support this bill and the senior citizens of this Nation.

Mrs. FOWLER. Mr. Chairman, I rise in strong support of H.R. 1215, the Tax Fairness and Deficit Reduction Act.

For far too long the American people have been called upon to bear the costs of a federal government whose spending habits have rampaged unchecked.

In 1950, the average American family paid only 2 percent of its income in taxes to the Federal Government. Today, that figure has ballooned to 24.5 percent. Under current provisions, a family with a median income of $52,895 pays some 50.4% of its income to Federal, State, and local taxes.

This is not just unconscionable. It is a shortsighted misuse of America's productive energies. Government has an important role to play in our Nation in a number of areas—national security, public safety, public health, to name a few—but it is the private sector that has been the true engine for progress in our country.

The bill before us today would give greater power over economic affairs to the American people and allow for the more productive use of American capital. When coupled with welfare reform and other legislation we have passed under the Contract with America, we will reduce Federal spending by some $280 billion over the next 5 years, providing for both tax cuts and some $90.7 billion in deficit reduction.

Most importantly, H.R. 1215 provides greater disposable income to Americans through tax credits to families, alleviation of the marriage tax penalty, repeal of the President's 1993 tax increase on Social Security recipients, a reduction in capital gains taxation, and much more. It is a package designed to unshackle America's true economic potential.

I urge my colleagues to support this measure.

Mr. GONZALEZ. Mr. Chairman, the Republican tax bill is the wrong thing to do—it gives a huge tax break to the wealthy, and little or nothing to Americans who need it most. It is the same old Republican menu, the one that makes most of us eat baloney, but guarantees filet mignon to the country club. The Republican bill robs poor people and hands the money to the rich. They claim that the rich will invest the money and give fine jobs to the poor, but there's not an honest economist in the land who believes this will happen. They claim that their bill won't make the deficit worse, but they refuse to make the tax cuts contingent on actually producing a lower deficit. The Republican bill is flatly irresponsible from a fiscal point of view, unfair in its approach and unwise in its details.

There are more than a hundred Republicans who signed a letter urging that the family tax credit be modified, in recognition that families earning more than $95,000 a year don't need a gift from the Treasury. But no, this change wasn't allowed, and those commonsense Republicans have been told to swallow their doubts and vote with the radicals.

There are other Republicans who see that the bill includes a change to Federal retirement benefits that even the chairman of the Rules Committee says is unfair. These are changes that the committee of jurisdiction could not find the votes to approve. But those Republicans have been told to swallow their conscience and vote with the radicals.

There are Republicans who think that it is silly to cut taxes and run up the deficit. They believe that any tax cut should be contingent on actually cutting the deficit. But they have been told to forget about common sense and vote with the radicals.

There are Republicans who think that it is wrong to cut school lunches in order to give wealthy families a tax break averaging $11,000 a year, which is 100 times the benefit that families earning $30,000 or less will see. But these fair-minded Republicans have been told that fairness is class warfare, and to vote with the radicals.

This bill is a catalog of the silly, the mean-spirited and the flat wrong. Fortunately, most of it will never be enacted, and the radicals know it. But they must demonstrate their power and mastery, and will do whatever they must do, break whatever promises they must, and twist whatever arms they must, to make their point: the radicals are running things, and they don't care about what is right or reasonable, what is workable or unworkable, or what is responsible or irresponsible. They merely aim to make the point that they are in control, and they will remain so as long as moderate and fair-minded Republicans are willing to swallow their pride and common sense, chloroform their consciences, and vote for this abomination. This bill is a disgrace and ought to be defeated. But that will only happen if common sense prevails, and they radicals are told that sometimes party loyalty demands too much.

Mr. PALLONE. Mr. Chairman, I rise to express my opposition to the provisions to cut pension benefits for Federal retirees and to increase pension contributions for current Federal employees that were included in H.R. 1215, the Tax Fairness and Deficit Reduction Act.

I did vote for the bill on final passage because I have pledged to my constituents to work for tax relief. But the package that we voted on tonight has a serious flaw with regard to Federal workers. While we provide tax relief to millions of Americans, we are providing 2 million middle-class Federal employees with a tax hike.

The increased pension contributions represent about a 10-percent increase for Federal workers. This bill also changes the number of years used to compute employees' annuities, from 3 years to 5 years.

Mr. Chairman, I supported the Gephardt substitute, which did not contain provisions increasing pension contributions by Federal employees or cutting pension benefits for Federal retirees. The Gephardt substitute would have provided $31.6 billion in tax cuts, offset by $32 billion in spending cuts and other savings, without punishing Federal employees and retirees.

Furthermore, the motion to recommit that we just voted on would take out the punitive hit on Federal employees while keeping intact the provisions that decrease the levels of accrual rates for Members of Congress and our staffs. In case some people are trying to score cheap political points by suggesting that this effort to protect Federal employees is motivated by the self-interest of Members of Congress. It should be clear the motion to recommit is intended to restore fairness to 2 million Federal employees, even as those of us who serve in Congress vote to reduce our own benefits.

We hear a lot of nasty and irresponsible rhetoric about faceless bureaucrats and other vicious attacks on the Federal work force. The truth is that Federal employees are hard-working middle-class taxpayers, people who care about their communities, who are devoted to their country and who want to make a decent life for themselves and their families.

Mr. Chairman, Democrats are for tax relief. Some of us crossed party lines to vote for this legislation—albeit with a heavy heart over the Federal employees and retirees provisions. I will work to have this portion of the bill stricken in the Senate or in conference between the two Houses. Then, we can begin the work of crafting a bipartisan package that will provide true tax relief to all Americans.

Mr. FOGLIETTA. Mr. Chairman, I hope kids aren't watching because today, we are ripping apart a great bedtime story—Robin Hood. In the rewrite, Robin has been bought off by rich, fat cat lobbyists. He isn't wearing his tights anymore. Instead, he's wearing an Armani suit and Gucci loafers. This time, Robin's taking the little the poor have left and giving it to the rich.

The facts make this story a horror story. Fifty-four percent of the tax cuts in this Contract On America would go to families with incomes of $100,000 or more. Thirty-two percent of the tax cuts go to families earning over $200,000. What's left in the Republican pot for poor and middle-class Americans? A mere 14 percent.

A mere 14 percent of the tax cuts of this Republican plan will benefit the average family struggling to send kids to college, struggling to make a downpayment on a home, struggling to make ends meet.

As an alternative, DICK GEPHARDT's tax bill provides families with a way to meet one of their many challenges—providing their children with opportunities for higher education. Importantly, this Democratic alternative targets those American families who need this help the most—families earning $100,000 or less per year.

There were some well-meaning Members on the other side of the aisle who were trying to do the right thing.

They sought to rid the bill of some of its inherent inequity by delivering the tax cuts only to working families making $95,000 or less per year. But when they arrived at the Sherwood Forest on the second floor of this building, they were rolled.

It would be nice if this was just a fairy tale, but it's not. The unfairness and the inequity of this bill are going to fall hardest on people like my constituents. My colleagues, this bill is called the Tax Fairness and Deficit Reduction Act. I cannot think of a worse name for it. It is anything but fair and it makes the deficit grow even larger than the tax cuts of the 1980's. My colleagues, oppose this bill.

Mr. LUTHER. Mr. Chairman, as a new Member of the House of Representatives, I wish to explain my opposition to the GOP tax proposal.

For me, the most important issue is not tax fairness or the question of good tax cuts versus bad tax cuts. Many other Members have made those arguments with eloquence and insight.

There are plenty of reasons to vote "no" on this bill. But for me, the best reason to vote "no" is the impact this legislation will have on our efforts to reduce the deficit.

The proponents of this package have argued that the tax breaks they want to create are paid for with spending cuts—and they may well be. But that's not the problem.

The problem is that you can't use the same spending cut twice. If you use a spending cut to pay for a tax break, you can't use it to reduce the deficit.

And reducing the deficit must come first.

For years the national debt has paralyzed our Nation. It has prevented us from dealing with critical issues that will impact our competitiveness as a Nation well into the next century. Past efforts to deal with the deficit have largely failed and our debt now stands at $4.8 trillion.

Whether we are Democrats or Republicans, we shouldn't risk losing the opportunity we have today to reduce the deficit now and get on the glide path to a balanced budget. Our economy is strong, productivity is up and there is a growing consensus among the public and Members of Congress favoring deficit reduction. Our country's future is too important to let this opportunity pass.

We should capitalize on the momentum we have today by reducing the deficit and finally putting this paralyzing issue behind us so that we can begin focusing on the many other issues affecting our Nation's future.

Mr. Speaker, I came to this Congress to work with Democrats and Republicans to solve the problems facing this country for the people I represent. I've voted for 10 of the 22 items we've voted on in the Contract With America so far so I'd have no hesitation in supporting this bill if it was a good idea like some of the other ideas in the contract.

But this is not a good idea at this time. There is just too much risk for our country.

Mr. HASTERT. Mr. Chairman, I am very pleased that the House voted to pass provisions to lift the Social Security earning penalty on older Americans of retirement age from the current level of $11,280 to $30,000 by the year 2000. In part, we have seven very special senior citizens to thank for this action. These people came out to Washington to tell their stories this week because America needs to know how the earnings penalty affects its citizens. Therefore, I would like to share these stories with the Nation.

GLORIA DAVIS, MARINA DEL REY, CA

Gloria has worked since she was 16 years old. Two years ago, when she discovered she owed the Social Security Administration $4,000 for benefits she received after exceeding the earnings limit, she became active in the effort to change the law. The Social Security Administration gave her 30 days to pay. She has told her story on television and through print media and has heard from seniors across the Nation who wrote her after seeing her on television.

Gloria and her husband owned their own business, but went bankrupt in the 1980's. They lost everything and were saddled with debt. So, Gloria doesn't have a retirement income and must work. Gloria, like many older women, worked at jobs which paid little, and sometimes for employers who did not pay into the Social Security System. Her monthly benefit averages $467.

Gloria has a background in public relations, sales, advertising, and television production. At one time she was State director of the Miss U.S.A./Universe Pageants, Miss America pageant and several other pageants. She has served as an event planner and trade show organizer for many years. Gloria currently works a full time job at Car Barn Airport Parking.

BETTY BOURGEAU, TAYLOR, MI

Betty entered the work force at age 50 when her husband left her and her children. She worked two part-time minimum wage jobs at a department store and for a security company. She then became a teacher's aide for a Head Start Program, went back to school and became qualified to be a Head Start lead teacher. However, Betty quit teaching Head Start, the job she loved, when she began taking Social Security. She would lose most of her benefits with both jobs. Her department store job included health care benefits she needed, so she remained employed there.

Betty has received several Employee of the Year awards at the department store over the years, accompanied by pay raises. However, when she takes the raises, she must reduce her hours or lose more of her benefits to Social Security. This puts her in a particularly difficult situation because her health benefits are predicated on working a certain number of hours for the department store. Regulating her hours is also difficult during the busy holiday season at the end of the year. The store needs her more during these times, but she loses most of her benefits if her work puts her further over the Social Security limit.

MARY LOU LIVINGSTONE, SPRINGFIELD, IL

Mary Lou was divorced 19 years ago and worked ever since. She has no pension or retirement plan to draw from. She had to pay the Social Security Administration back $549 in 1991, $281 in 1992, $935 in 1993 and $730 in 1994 for earnings exceeding the Social Security earnings limit. During those years, her average Social Security check was $288 per month. In 1994, Mary Lou cut back her hours to try to avoid the penalty, but still had to pay some money back. Mary Lou supplements her grocery bill each month through the Share Program sponsored by Catholic Charities. This program allows her to pay $14 per month and receive $35 worth of groceries.

Mary Lou works as an information receptionist at the visitors center of the Lincoln Home National Historic Site in Springfield, IL. She has worked there for nearly 12 years and has received numerous complimentary letters for her job performance. She was also featured as a staff star of the Springfield Bureau of Tourism.

MR. AND MRS. ROBERT AND SHIRLEY HICKEY, UNADILLA, NY

Robert and Shirley have both worked most of their lives. Shirley suffered a brain aneurism several years ago and is no longer able to work. However, Robert still works at a calendar factory as a kensole operator imprinting the lettering on the calendars. This is just to make ends meet. They have a 401(k) plan, but no other outside income.

Last year, Robert earned more than the earnings limit allows and was recently fined $1,650 by the Social Security Administration. As a result, he and Shirley took out a personal loan against their 401(k) plan at a rate of 10 percent in order to pay their bill to Social Security. They cannot afford the alternative, under which the Social Security Administration would cease payment of monthly Social Security benefits until the payment was complete. At the same time, Robert pays over $3,000 a years in Federal income taxes for the privilege of working.

MARY LOU HAGAN, GROVILLE, CA

Mary Lou is a widow and is currently looking for part time work. She has been in the banking business for years, serving as a bank manager, loan officer and operations manager. She was earning a comfortable salary when the bank went under, with her retirement benefits with it. All of her retirement plan was in bank stock. After the bankruptcy, she recovered only $1,000 from her retirement plan. In addition, much of her savings was invested in this stock, so she suffered further loss.

Mary Lou is an avid volunteer and serves on the hospital board, the Chamber of Commerce, Friends of the Park, and Soroptimists International.

Nevertheless, Mary Lou wants and needs to get back to work, but the earnings penalty poses obstacles to gainful employment. A job she has recently applied for would require her to work all year at a salary that would exceed the limit by about $3,000. She could not take the job without agreeing to this work load, but she would not receive the benefits of the extra work.

JOSEPH O'BRIEN, RANCHO PALOS VERDES, CA

Joe is an electrical engineer with 40 years of experience. He holds three patents for high speed counters. He has deliberately stopped working because he reached the earning limit after the first few months of the year. Society is being deprived of his considerable expertise because he is unable to keep his earnings if he works over the limit. He pays taxes to the Federal Government, which he feels are not adequately considered when the cost of the lifting the Social Security earnings penalty is calculated.

Joe feels that the optimum strategy is for a senior to work until hitting the limit, then quit for the rest of the calendar year. This makes it difficult for him to find a job fully utilizing his talents. His prospective employers know there must be limits on his commitments, so he ends up working on a contract basis, which means there are no benefits. In 1993, after reaching the limit, he made only 17 cents on the dollar after marginal tax rates were applied to his income. Joe realized he could have earned more on California unemployment.

Joe's father was also affected by the Social Security earning limit when he was alive. After raising three children alone—this wife died at age 42—and sending them through college, he was forced to work in his retirement years. Joe's father ended up taking money under the table through jobs that did not report his income to Social Security to avoid the law. While Joe does not advocate this, he knows it is a reality for many seniors.

Mr. PACKARD. Mr. Chairman, every person and business in the United States is overtaxed. Whether young or old, a struggling family or an affluent family, a small business or a Fortune 500 company, Government remains a fiscal burden. The tax reform provisions within our Republican Contract with America work to ease this financial load by reducing the size of Government, the size of the deficit and the size of the American tax bite for all people.

Our tax bill represents a historic piece of legislation. It cuts taxes, pays for each dollar of those tax cuts with a dollar in spending cuts, and substantially lowers the deficit by $91 billion—all at the same time. Simply put, this bill gives the American people back the money that rightfully belongs to them.

Our tax plan embraces the notion that economic growth is economic justice. It promotes savings and investment by getting Government out of the way of the American economy. The fiscal incentives in our tax bill encourage Americans to save more and to invest more. That means more jobs, greater productivity, higher paying jobs and, most importantly, a brighter economic future for our children and grandchildren.

Our tax relief bill represents another Republican effort to cut Government down to size. It is a crucial step on the long road toward restoring our Government's fiscal sanity. Mr. Chairman, Republicans continue to do exactly what they set out to do—make Government smaller, less costly and more efficient.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 1215. In taking this position, let me first make it clear that I have consistently supported efforts for real tax relief for our Nation's working citizens and their families. However, I cannot and will not support this "Reverse Robin Hood" tax relief package that robs from the poor and gives to the rich.

I am also mindful of my duty as a Member of Congress to act in the best interest of the people I represent. That is why I cannot, shirk my responsibility to act in the best interest of all the American people by transferring nearly $189 billion from programs that help the neediest Americans, to our Nation's most privileged and wealthy Americans. This shortsighted and rushed legislation before us will fail to put a dent in the deficit, but will plunge scores of Americans on the edge of poverty down that slope and decrease the standard of living for this Nation's middle class and working poor.

H.R. 1215 represents the majority's most significant attack on poor and working citizens of this country. It is cynical and repugnant to me that this bill, under the guise of providing tax relief to Americans, seeks to cut: Federal retirement packages; Medicare for our elderly; welfare for innocent children; wages for organized labor; and eliminates or reduces spending on countless other Government programs that help protect our economy, our citizens, and the environment. This flawed and hurried measure should be defeated because it represents a clear attack on the neediest in America.

The stated purpose of H.R. 1215 is to cut taxes for individuals and businesses by $189 billion. Under this bill, families making up to a quarter of a million dollars a year would receive a tax credit of up to $500 per child, excluding low-income families who don't make enough to qualify for significant tax cuts. This legislation also contains provisions that significantly reduce the tax on capital gains income, repeal the minimum tax on corporations, and provide businesses with more generous tax loopholes.

While I agree that Congress should look to provide tax relief to all Americans whenever fiscally prudent, the attempt to pit less privileged citizens against our most privileged corporations and citizens is offensive. This legislation goes well beyond its legitimate objective of providing tax relief. In fact, this bill is specifically designed to enrich big businesses and our Nation's wealthiest Americans.

Contrary to the assertions of the Republican supporters of H.R. 1215, 52 percent of the benefits of this so-called tax relief will go to the top 13 percent of taxpayers making over $100,000 per year. The facts clearly show that the nearly 61-percent of the population that constitutes poor and middle class citizens share of the tax cuts represents only 16 percent of the benefits of tax relief. While I applaud all Americans who have been able to enrich themselves through hard work, innovation, and creativity, I cannot support a tax relief package that so disproportionately benefits the top 13 percent of the American public.

This legislation does not stop at providing huge, disproportionate advantages to rich individuals through tax cuts. H.R. 1215 also exempts some corporations from paying any corporate tax on their profits. By repealing the corporate minimum tax enacted in 1986 designed to assure that profitable companies have to pay some reasonable amount in Federal income taxes, many wealthy corporations will be able to use H.R. 1215's tax loopholes to avoid paying any tax at all.

Prior to the enactment of the 1986 minimum tax, nearly 50 percent of this Nation's wealthiest and largest corporations were able to pay no Federal income tax. Adoption of this bill will return us to the days when companies profited while citizens paid—AT&T received $636 million in tax rebates between 1982 and 1985, despite making $24 billion in pre-tax profits—DuPont supplemented $3.8 billion in pre-tax profits with $179 million in tax rebates—General Dynamics benefited for 4 years from 1982 to 1985 by paying no taxes and received a total of $91 million in tax rebates. Companies like these will be able to enjoy paying no Federal income taxes under the unfair and ill-advised provisions of this tax bill.

In addition to providing tax breaks to America's richest citizens and corporations, this bill also fails to provide meaningful deficit reduction. The fact is, under current law we will enjoy greater future deficit reduction in fiscal years 1999 and 2000 than would be enjoyed if this bill is adopted into law. The cost of the Republican tax cuts will total $189 billion in the first 5 years and, according to the Treasury Department estimates, that cost will balloon to over $630 billion by fiscal year 2005. Therefore, by fiscal years 1999 and 2000, deficits under current law would be $3.8 billion and $12.4 billion less respectively, than deficits under H.R. 1215. We all agree that deficit reduction in and of itself is a good thing, but as projections show, this Republican legislation simply does not deliver any better deficit reduction than we would experience under current law.

Mr. Chairman, the unfair distribution of the benefits of this bill and its bogus deficit reduction claims were not enough for our colleagues on the other side. They would have us pay for these tax breaks for the rich by mandating a massive $189 billion in Federal spending reductions in programs serving those who can least afford it.

The largest portion of the spending cuts are characterized in the bill as general purpose spending cuts, totaling $100 billion over the next 5 years. The effects of these proposed cuts will be unmistakable—they will fall on the poorest, the most vulnerable, the most needy of our citizens. They will fall especially hard on the elderly, the disabled, and children.

This assault on the well-being of these individuals is worsened by the transfer of over $62 billion in welfare funding to finance this tax break for the rich. This action is a cruel and callous attempt to eliminate the most basic income support for desperately needy children and their families. There is no doubt that many of our Nation's poor will suffer under this proposal. Almost 70 percent of the individuals currently receiving benefits, or 9.7 million people, are children. According to the Department of Health and Human Services, it is estimated that more than 6 million children would lose their financial support to finance this tax cut for the rich.

In addition to the $100 billion in general purpose spending cuts and $62 billion in welfare cuts, this bill will snatch $11 billion from Federal employees pensions, and over $10 billion in Medicare cuts for medical treatment for our elderly.

It is my belief that H.R. 1215, and the circumstances under which it is presented in this House, attempt to mislead the American people to believe that unfair and insensitive solutions will cure what ails this Nation. Nothing could be further from the truth. This legislation unfairly and unjustifiably expands the gap between rich and poor, and contributes to the impoverishment of our neediest citizens. The American people elected us to act in their best interest, not compromise their welfare because the new Republican majority wants to satisfy campaign promises and grant tax breaks to the rich. I strongly urge my colleagues to vote against this bill.

Mr. CARDIN. Mr. Chairman, looking at the tax bill we have before us today, I can't help feeling a bit like the proverbial kid in a candy store. The store is full of tempting goodies. But there are two problems. The goodies aren't good for me, and I can't afford them.

The bill is loaded wall to wall with goodies. It provides a 50-percent exclusion for capital gains. It greatly expands eligibility for individual retirement accounts. It offers needed relief from the alternative minimum tax for corporations trapped in a way never intended when the AMT was designed.

In each of these areas, however, the bill's approach is seriously flawed. The capital gains exclusion will help unlock assets and encourage new investment, especially in venture capital enterprises. But the bill also provides indexing of capital gains, which raises serious complexity problems, and, because the bill indexes only gains and not debt, raises the danger of new tax shelter activities.

The IRA proposal in the bill is designed to limit the revenue losses in the first 5 years—

the so-called budget window. That concern has led to a proposal for back-loaded IRA's. Under traditional IRA's, taxpayers can deduct a contribution, then have earnings accrue on a tax-deferred basis until the funds are withdrawn at retirement.

The American Dream Savings Account invites taxpayers to make non-deductible contributions. That feature may restrict the attractiveness of the proposal. The incentive to contribute to an ADSA IRA is that the initial, after-tax contributions, plus all earnings, accrue tax free forever.

The bill also provides relief to corporations beset by the alternative minimum tax. I strongly support AMT relief for capital intensive corporations. That's why I have introduced H.R. 1092, which would eliminate the depreciation preference from the AMT. Under the regular tax system, we provide accelerated depreciation to encourage companies to modernize and invest in new plant and equipment. Then, under the AMT, we turn around and punish them for acting on the incentive we have provided. It makes no sense.

The problem with this bill is that it goes beyond providing sensible, moderate AMT relief, and completely repeals the corporate AMT. We should not send a signal that we are willing to return to the days when profitable corporations could completely escape taxation.

One proposal in the bill is so atrocious it requires special mention. The so-called "neutral cost recovery system" is a potentially disastrous idea masquerading as a simple, fair investment incentive.

NCRS, or nickers, as it is known, aims to help solve a real problem for American business. But it is plainly the wrong answer to the right question. The question is, "What can we do to make the depreciation rules more simple and more favorable to investment?" The answer provided by NCRS is to add complexity, make depreciation a multiple choice game, raise the prospect of tax shelter activities, and try to hide $120 billion in lost revenues by pushing it outside the budget window.

Other provisions in the bill pursue worthwhile goals. For instance, the bill correctly identifies the marriage penalty as a problem for many American families. Yet the solution it proposes would require these families to plow through a complex set of instructions and calculations, only, at the end, to qualify for a maximum of $145 in relief.

The centerpiece of the plan is the proposal to provide tax relief to beleaguered American families through a child credit. But characteristically, the bill goes too far. The bill's sponsors make the case that middle class families making $30,000 to $50,000 a year are hard pressed and deserve relief. But that argument cannot be made with the same force to apply to families making $150,000 to $200,000 a year. Yet they will enjoy the full benefit of this child tax credit.

The point here is not that upper income Americans should be punished for their success. The point is that the problem with this entire bill, and the reason we should defeat it, is that we simply can't afford it.

Mr. Chairman, the national debt of the United States is fast approaching $5 trillion. We continue to add $200 billion a year to that total.

This Congress has talked a strong game on deficit reduction. We have talked about amending the Constitution. We have talked about making the hard choices. Today, though, we are not making hard choices. We are making easy choices.

We have before us a bill that provides specific tax cuts, 630 billion dollars' worth, over the next 10 years, of very specific tax cuts. Every American knows about the $500 child credit. Every business knows about the AMT relief. Every investor knows about the capital gains exclusion. We have been specific in making the easy choices.

But when it comes to spending cuts, we have not been specific. We have passed a package of rescissions, $12 billion dollars. We have passed a welfare reform bill that would, if enacted, cut spending by $62 billion over 5 years. We have in this package today Medicare savings and reforms of the pension plans for Federal employees, Members of the House, and our staff, that will save, combined, $21 billion over 5 years

The total spending cuts—specific, identified spending cuts—included in this package will save $87 billion over 5 years. Add in the $12 billion saved in the rescission, and you have $99 billion. That amount is slightly more than half the $189 billion cost of the tax cuts.

Where is the rest of it? It comes in the form of a promise. The sponsors of the bill promise they will save the rest of the money by lowering the caps on discretionary spending. They have issued an illustrative list of spending cuts.

But we have no specific cuts. We can tell the American people what taxes we are cutting, and how much of their money we are giving back. We know how much Federal revenue we will give up in the process. But when the American people say, "Thank you very much for the tax cut. But I thought the Government was deep in debt. How can you afford to cut taxes?," this bill answers "Don't worry, we'll tell you later."

Mr. Chairman, that is not good enough. To balance the Federal budget will require $1.2 trillion in savings over the next 7 years. This bill takes a giant step backwards in achieving that goal. It would add $630 billion in red ink over the next decade.

Let's make this clear—we need deficit reduction now—first. If, after we have cut spending and reduced the deficit to the point where it no longer acts as a drag on the economy, then we can talk about further spending cuts to provide tax relief. But the spending cuts have to be specific, not just promises. That's the reason I will vote no on this legislation.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 1327, modified by the amendment printed in part 1 of House Report 104–100, is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

H.R. 1327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Fairness and Deficit Reduction Act of 1995".

TITLE I—DISCRETIONARY SAVINGS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Discretionary Spending Reduction and Control Act of 1995".

SEC. 1002. DISCRETIONARY SPENDING LIMITS.

(a) LIMITS.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (A), (B), (C), (D), and (F), by redesignating subparagraph (E) as subparagraph (A) and by striking "and" at the end of that subparagraph, and by inserting after subparagraph (A) the following new subparagraphs:

"(B) with respect to fiscal year 1996, for the discretionary category: $502,994,000,000 in new budget authority and $537,946,000,000 in outlays;

"(C) with respect to fiscal year 1997, for the discretionary category: $497,816,000,000 in new budget authority and $531,793,000,000 in outlays;

"(D) with respect to fiscal year 1998, for the discretionary category: $489,046,000,000 in new budget authority and $523,703,000,000 in outlays;

"(E) with respect to fiscal year 1999, for the discretionary category: $491,586,000,000 in new budget authority and $522,063,000,000 in outlays; and

"(F) with respect to fiscal year 2000, for the discretionary category: $492,282,000,000 in new budget authority and $521,690,000,000 in outlays;".

(b) COMMITTEE ALLOCATIONS AND ENFORCEMENT.—Section 602 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (c), by striking "1995" and inserting "2000" and by striking its last sentence; and

(2) in subsection (d), by striking "1992 TO 1995" in the side heading and inserting "1995 TO 2000" and by striking "1992 through 1995" and inserting "1995 through 2000".

(c) FIVE-YEAR BUDGET RESOLUTIONS.—Section 606 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (a), by striking "1992, 1993, 1994, or 1995" and inserting "1995, 1996, 1997, 1998, 1999, or 2000"; and

(2) in subsection (d)(1), by striking "1992, 1993, 1994, and 1995" and inserting "1995, 1996, 1997, 1998, 1999, and 2000", and by striking "(i) and (ii)".

(d) EFFECTIVE DATE.—Section 607 of the Congressional Budget Act of 1974 is amended by striking "1991 to 1998" and inserting "1995 to 2000".

(e) SEQUESTRATION REGARDING CRIME TRUST FUND.—(1) Section 251A(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (B), (C), and (D) and its last two sentences and inserting the following:

"(B) For fiscal year 1996, $1,827,000,000.

"(C) For fiscal year 1997, $3,082,000,000.

"(D) For fiscal year 1998, $3,840,000,000.

"(E) For fiscal year 1999, $4,415,000,000.

"(F) For fiscal year 2000, $4,874,000,000.

"The appropriate levels of new budget authority are as follows: for fiscal year 1996, $3,357,000,000; for fiscal year 1997, $3,915,000,000; for fiscal year 1998, $4,306,000,000; for fiscal year 1999, $5,089,000,000; and for fiscal year 2000, $5,089,000,000.".

(2) The last two sentences of section 310002 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14212) are repealed.

SEC. 1003. GENERAL STATEMENT AND DEFINITIONS.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first sentence and inserting the following: "This part provides for the enforcement of deficit reduction through discretionary spending limits and pay-as-you-go requirements for fiscal years 1995 through 2000.".

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) The term 'category' means all discretionary appropriations.";

(2) by striking paragraph (6) and inserting the following:

"(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.";

(3) in paragraph (9), by striking "1992" and inserting "1995";

(4) in paragraph (14), by striking "1995" and inserting "2000"; and

(5) by striking paragraph (17) and by redesignating paragraphs (18) through (21) as paragraphs (17) through (20), respectively.

SEC. 1004. ENFORCING DISCRETIONARY SPENDING LIMITS.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "1991–1998" and inserting "1995–2000";

(2) in the first sentence of subsection (b)(1), by striking "1992, 1993, 1994, 1995, 1996, 1997 or 1998" and inserting "1995, 1996, 1997, 1998, 1999, or 2000" and by striking "through 1998" and inserting "through 2000";

(3) in subsection (b)(1), by striking subparagraphs (B) and (C) and by striking "the following:" and all that follows through "The adjustments" and inserting "the following: the adjustments";

(4) in subsection (b)(2), by striking "1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998" and inserting "1995, 1996, 1997, 1998, 1999, or 2000" and by striking "through 1998" and inserting "through 2000";

(5) by striking subparagraphs (A), (B), and (C) of subsection (b)(2);

(6) in subsection (b)(2)(E), by striking clauses (i), (ii), and (iii) and by striking "(iv) if, for fiscal years 1994, 1995, 1996, 1997, and 1998" and inserting "If, for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000"; and

(7) in subsection (b)(2)(F), strike everything after "the adjustment in outlays" and insert "for a category for a fiscal year shall not exceed 0.5 percent of the adjusted discretionary spending limit on outlays for that fiscal year in fiscal year 1996, 1997, 1998, 1999, or 2000.".

SEC. 1005. ENFORCING PAY-AS-YOU-GO.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "1992–1998" and inserting "1995–2000";

(2) in subsection (d), by striking "1998" each place it appears and inserting "2000"; and

(3) in subsection (e), by striking "1991 through 1998" and inserting "1995 through 2000" and by striking "through 1995" and inserting "through 2000".

SEC. 1006. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (d)(2), by striking "1998" and inserting "2000"; and

(2) in subsection (g), by striking "1998" each place it appears and inserting "2000".

SEC. 1007. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled "Modification of Presidential Order", is repealed.

SEC. 1008. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1995" and inserting "2000".

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note; 2 U.S.C. 665 note) is repealed.

SEC. 1009. SPECIAL RULE ON INTERRELATIONSHIP BETWEEN CHANGES IN DISCRETIONARY SPENDING LIMITS AND PAY-AS-YOU-GO REQUIREMENTS.

(a)(1) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subsection:

"(f) SPECIAL RULE ON INTERRELATIONSHIP BETWEEN SECTIONS 251, 251A, AND 252.—Whenever the Committee on the Budget of the House of Representatives or the Senate reports legislation that decreases the discretionary spending limits for budget authority and outlays for a fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974 or in section 251A(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, or both, then, for purposes of subsection (b), an amount equal to that decrease in the discretionary spending limit for outlays shall be treated as direct spending legislation decreasing the deficit for that fiscal year.".

(2) Section 310(a) of the Congressional Budget Act of 1974 is amended by striking "or" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5) and by striking "and (3)" in such redesignated paragraph (5) and inserting "(3), and (4)", and by inserting after paragraph (3) the following new paragraph:

"(4) carry out section 252(f) of the Balanced Budget and Emergency Deficit Control Act of 1985; or".

(b) For purposes of section 252(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by subsection (a)(1))—

(1) this Act shall be deemed to be legislation reported by the Committee on the Budget of the House of Representatives; and

(2)(A) reductions in the discretionary spending limit for outlays set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1999 and 2000 under section 1002 shall be measured as reductions from the discretionary spending limit for outlays for fiscal year 1998 as in effect immediately before the enactment of this Act; and

(B) reductions in the discretionary spending limit for outlays set forth in section 251A(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years 1999 and 2000 under section 1002 shall be measured as reductions from the level for outlays for fiscal year 1999 and 2000, as the case may be, referred to in the last two sentences of section 251A(b)(1) as in effect immediately before the enactment of this Act.

(c) In the final sequestration report of the Director of the Office of Management and Budget for fiscal year 1996—

(1) all adjustments required by section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 made after the sequestration preview report for fiscal year 1996 shall be made to the discretionary spending limits set forth in 601(a)(2) of the Congressional Budget Act of 1974 as amended by section 1002; and

(2) all statutory changes in the discretionary spending limits set forth in 601(a)(2) of the Congressional Budget Act of 1974 made after issuance of the sequestration preview report for fiscal year 1996 of the Director of the Office of Management and Budget and before the date of enactment of this Act shall be made to those limits as amended by section 1002.

TITLE II—EXTENSION OF AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION TO USE COMPETITIVE BIDDING

SEC. 2001. EXTENSION OF AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking "September 30, 1998" and inserting "September 30, 2000".

TITLE III—PRIVATIZATION OF THE UNITED STATES ENRICHMENT CORPORATION

SEC. 3001. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "USEC Privatization Act".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 3002. PRODUCTION FACILITY.

Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology".

SEC. 3003. DEFINITIONS.

Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: "and any successor corporation established through privatization of the Corporation";

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

"(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

"(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

"(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.";

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

"(18) The term 'transition date' means July 1, 1993."; and

(4) by redesignating the unredesignated paragraph (14) as paragraph (19).

SEC. 3004. EMPLOYEES OF THE CORPORATION.

(a) PARAGRAPH (2).—Paragraphs (1) and (2) of section 1305(e) (42 U.S.C. 2297b-4(e)(1)(2)) are amended to read as follows:

"(1) IN GENERAL.—It is the purpose of this subsection to ensure that the privatization of the Corporation shall not result in any adverse effects on the pension benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(2) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—The Corporation shall abide by the terms of the collective bargaining agreement in effect on the privatization date at each individual facility.".

(b) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b–4(e)(4)) is amended—

(1) by striking "AND DETAILEES" in the heading;

(2) by striking the first sentence;

(3) in the second sentence, by inserting "from other Federal employment" after "transfer to the Corporation"; and

(4) by striking the last sentence.

SEC. 3005. MARKETING AND CONTRACTING AUTHORITY.

(a) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(1) by amending the subsection heading to read "MARKETING AUTHORITY.—"; and

(2) by striking the first sentence.

(b) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(1) in paragraph (2)(B), by adding at the end the following: "The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract."; and

(2) by adding at the end the following:

"(3) EFFECT OF TRANSFER.—

"(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

"(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

"(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.".

(c) PRICING.—Section 1402 (42 U.S.C. 2297c–1) is amended to read as follows:

"SEC. 1402. PRICING.

"The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.".

(d) LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c–2) is amended by adding at the end the following:

"(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—

"(1) RESPONSIBILITY OF THE DEPARTMENT; COSTS.—

"(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

"(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

"(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

"(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

"(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

"(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.".

(e) LIABILITIES.—

(1) Subsection (a) of section 1406 (42 U.S.C. 2297c–5(a)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by adding at the end the following: "As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.".

(2) Subsection (b) of section 1406 (42 U.S.C. 2297c–5(b)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by adding at the end the following: "As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.".

(3) Subsection (d) of section 1406 (42 U.S.C. 2297c–5(d)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by striking "the transition date" and inserting "the privatization date (or, in the event the privatization date does not occur, the transition date)".

(f) TRANSFER OF URANIUM.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and by inserting after section 1407 the following:

"SEC. 1408. TRANSFER OF URANIUM.

"The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.".

SEC. 3006. PRIVATIZATION OF THE CORPORATION.

(a) ESTABLISHMENT OF PRIVATE CORPORATION.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

"SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

"(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(B) To undertake any and all activities as provided in its corporate charter.

"(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

"(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

"(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

"(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(iii) persons otherwise authorized by law to enter into such transactions;

"(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

"(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

"(A) all of the Corporation's assets, including all contracts, agreements, and leases, including all uranium enrichment contracts and power purchase contracts;

"(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

"(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B); and

"(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403.

"(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

"(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

"(c) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

"(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

"(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.".

(b) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by subsection (a)) is amended by adding at the end the following new section:

"SEC. 1504. OWNERSHIP LIMITATIONS.

"(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

"(b) APPLICATION.—Subsection (a) shall not apply—

"(1) to any employee stock ownership plan of the Corporation,

"(2) to underwriting syndicates holding shares for resale, or

"(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

"(c) No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

"(1) in the public offering of securities of the Corporation in the implementation of the privatization,

"(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

"(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.".

(c) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by subsection (b)) is amended by adding at the end the following new section:

"SEC. 1505. EXEMPTION FROM LIABILITY.

"(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

"(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.".

(d) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by subsection (c)) is amended by adding at the end the following new section:

"SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

"(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

"(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.".

(e) APPLICATION OF PRIVATIZATION PROCEEDS.—Chapter 25 (as amended by subsection (d)) is amended by adding at the end the following new section:

"SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

"The proceeds from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.".

(f) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

"Sec. 1503. Establishment of Private Corporation.
"Sec. 1504. Ownership Limitations.
"Sec. 1505. Exemption from Liability.
"Sec. 1506. Resolution of Certain Issues.
"Sec. 1507. Application of Privatization Proceeds.".

(g) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

"(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

"(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.".

(h) PERIOD FOR CONGRESSIONAL REVIEW.—Section 1502(d) (42 U.S.C. 2297d-1(d)) is amended by striking "less than 60 days after notification of the Congress" and inserting "less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)".

SEC. 3007. PERIODIC CERTIFICATION OF COMPLIANCE.

Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking "ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1)." and inserting "PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.".

SEC. 3008. LICENSING OF OTHER TECHNOLOGIES.

Subsection (a) of section 1702 (42 U.S.C. 2297f-1(a)) is amended by striking "other than" and inserting "including".

SEC. 3009. CONFORMING AMENDMENTS.

(a) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS OF THE PRIVATIZATION DATE.—

(1) REPEALS.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(A) Section 1202.
(B) Sections 1301 through 1304.
(C) Sections 1306 through 1316.
(D) Sections 1404 and 1405.
(E) Section 1601.
(F) Sections 1603 through 1607.

(2) CONFORMING AMENDMENT.—The table of contents of such Act is amended by repealing

the items referring to sections repealed by paragraph (1).

(b) STATUTORY MODIFICATIONS.—As of such privatization date, the following shall take effect:

(1) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the "United States Enrichment Corporation" shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by section 6(a)).

(2) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by striking "the United States" and all that follows through the period and inserting "the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.".

(3) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102–486.

(c) REVISION OF SECTION 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b–4) is amended—

(1) by repealing subsections (a), (b), (c), and (d), and

(2) in subsection (e)—

(A) by striking the subsection designation and heading,

(B) by redesignating paragraphs (1) and (2) (as added by section 4(a)) as subsections (a) and (b) and by moving the margins 2-ems to the left,

(C) by striking paragraph (3), and

(D) by redesignating paragraph (4) (as amended by section 4(b)) as subsection (c), and by moving the margins 2-ems to the left.

TITLE IV—RETIREMENT

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Congressional and Federal Employee Retirement Equalization Act".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 4001. Short title; table of contents.
Sec. 4002. Amendment of title 5, United States Code.
Sec. 4003. Individual contributions.
Sec. 4004. Average pay.
Sec. 4005. Accrual rates.
Sec. 4006. Elimination of Members' option to elect not to participate in FERS.

SEC. 4002. AMENDMENT OF TITLE 5, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 5, United States Code.

SEC. 4003. INDIVIDUAL CONTRIBUTIONS.

(a) CSRS.—

(1) IN GENERAL.—The table under section 8334(c) is amended—

(A) in the matter relating to an employee by striking

"7 .... After December 31, 1969."

and inserting the following:

"7 .... January 1, 1970, to December 31, 1995.
"8½ .... January 1, 1996, to December 31, 1996.
"9 .... January 1, 1997, to December 31, 1997.
"9½ .... After December 31, 1997.";

(B) in the matter relating to a Member or employee for Congressional employee service by striking

"7½ .... After December 31, 1969."

and inserting the following:

"7½ .... January 1, 1970, to December 31, 1995.
"8½ .... January 1, 1996, to December 31, 1996.
"9 .... January 1, 1997, to December 31, 1997.
"9½ .... After December 31, 1997.";

(C) in the matter relating to a Member for Member service by striking

"8 .... After December 31, 1969."

and inserting the following:

"8 .... January 1, 1970, to December 31, 1995.
"8½ .... January 1, 1996, to December 31, 1996.
"9 .... January 1, 1997, to December 31, 1997.
"9½ .... After December 31, 1997.";

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking

"7½ .... After December 31, 1974."

and inserting the following:

"7½ .... January 1, 1975, to December 31, 1995.
"9 .... January 1, 1996, to December 31, 1996.
"9½ .... January 1, 1997, to December 31, 1997.
"10 .... After December 31, 1997.";

(E) in the matter relating to a bankruptcy judge by striking

"8 .... After December 31, 1983."

and inserting the following:

"8 .... January 1, 1984, to December 31, 1995.
"8½ .... January 1, 1996, to December 31, 1996.
"9 .... January 1, 1997, to December 31, 1997.
"9½ .... After December 31, 1997.";

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking

"8 .... On and after the date of the enactment of the Department of Defense Authorization Act, 1984."

and inserting the following:

"8 .... The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.
"8½ .... January 1, 1996, to December 31, 1996.
"9 .... January 1, 1997, to December 31, 1997.
"9½ .... After December 31, 1997.";

(G) in the matter relating to a United States magistrate by striking

"8 .... After September 30, 1987."

and inserting the following:

"8 .... October 1, 1987, to December 31, 1995.
"8½ .... January 1, 1996, to December 31, 1996.
"9 .... January 1, 1997, to December 31, 1997.
"9½ .... After December 31, 1997."; and

(H) in the matter relating to a Claims Court judge by striking

"8 .... After September 30, 1988."

and inserting the following:

"8 .... October 1, 1988, to December 31, 1995.
"8½ .... January 1, 1996, to December 31, 1996.
"9 .... January 1, 1997, to December 31, 1997.
"9½ .... After December 31, 1997.".

(2) DEDUCTIONS.—The first sentence of section 8334(a)(1) is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c).".

(3) GOVERNMENT CONTRIBUTIONS.—

(A) IN GENERAL.—Section 8334(a) is amended by adding at the end the following:

"(3) The amount to be contributed under the second sentence of paragraph (1) with respect to any service period occurring during any calendar year after 1995 shall be determined as if the percentage then applicable under subsection (c) were the percentage that was applicable for calendar year 1995 plus 3 percent.".

(B) TECHNICAL AMENDMENT.—The second sentence of section 8334(a)(1) is amended by striking the period at the end and inserting ", subject to paragraph (3).".

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end the following:

"(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an 'employee', subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) is amended—

(i) in paragraph (1) by striking the period at the end and inserting ", subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an 'employee'.".

(b) FERS.—

(1) IN GENERAL.—Section 8422(a) is amended by striking paragraph (2) and inserting the following:

"(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

"(A) the applicable percentage under paragraph (3), minus

"(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(3) The applicable percentage under this paragraph, for civilian service after December 31, 1995, shall be as follows:

	Percentage of basic pay	Service period
"Employee	8½	January 1, 1996, to December 31, 1996.
	"9	January 1, 1997, to December 31, 1997.
	"9½	After December 31, 1997.
"Congressional employee	8½	January 1, 1996, to December 31, 1996.
	"9	January 1, 1997, to December 31, 1997.
	"9½	After December 31, 1997.
"Member	8½	January 1, 1996, to December 31, 1996.
	"9	January 1, 1997, to December 31, 1997.
	"9½	After December 31, 1997.
"Law enforcement officer	9	January 1, 1996, to December 31, 1996.
	"9½	January 1, 1997, to December 31, 1997.
	"10	After December 31, 1997.
"Firefighter	9	January 1, 1996, to December 31, 1996.
	"9½	January 1, 1997, to December 31, 1997.
	"10	After December 31, 1997.
"Air traffic controller	9	January 1, 1996, to December 31, 1996.
	"9½	January 1, 1997, to December 31, 1997.
	"10	After December 31, 1997.".

(2) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8422(e) is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (6)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end the following:

"(6) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8422(a)(3) for that same period for service as an 'employee', subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8422(f) is amended—

(i) in paragraph (1) by striking the period at the end and inserting ", subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8422(a)(3) for that same period for service as an employee.".

(c) EXEMPTION.—

(1) IN GENERAL.—Section 1005(d) of title 39, United States Code, is amended by adding at the end the following:

"(3) For purposes of applying chapters 83 and 84 of title 5 with respect to any officer or employee of the Postal Service, section 4003 of the Congressional and Federal Employee Retirement Equalization Act shall be treated as if it had not been enacted.".

(2) TECHNICAL AMENDMENT.—The second sentence of section 1005(d)(1) of title 39, United States Code, is amended by striking the period and inserting ", subject to paragraph (3).".

(d) EFFECTIVE DATE.—This section shall take effect on January 1, 1996.

SEC. 4004. AVERAGE PAY.

(a) CSRS.—

(1) IN GENERAL.—Subchapter III of chapter 83 is amended by inserting after section 8339 the following:

"§ 8339a. Special rules relating to average pay

"(a) Notwithstanding section 8331(4), for purposes of computing any annuity or survivor annuity under this subchapter, eligibility for which is based on a separation occurring after December 31, 1995, 'average pay' shall, if the separation occurs—

"(1) during calendar year 1996, have the meaning given such term by subsection (b)(1); or

"(2) after calendar year 1996, have the meaning given such term by subsection (b)(2).

"(b) For purposes of this section—

"(1) the meaning given the term 'average pay' by this paragraph shall be the meaning such term would have under section 8331(4) if '4 consecutive years' were substituted for '3 consecutive years' and '4 years' were substituted for '3 years'; and

"(2) the meaning given the term 'average pay' by this paragraph shall be the meaning such term would have under section 8331(4) if '5 consecutive years' were substituted for '3 consecutive years' and '5 years' were substituted for '3 years'.

"(c) Nothing in this section shall be considered to apply with respect to any annuity or survivor annuity eligibility for which is based on a separation occurring before January 1, 1996.

"(d) The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this section.".

(2) TECHNICAL AMENDMENTS.—

(A) Section 8331(4) is amended by striking "effect;" and inserting "effect, subject to section 8339a;".

(B) The table of sections for chapter 83 is amended by inserting after the item relating to section 8339 the following:

"8339a. Special rules relating to average pay.".

(b) FERS.—

(1) IN GENERAL.—Chapter 84 is amended by inserting after section 8461 the following:

"§ 8461a. Special rules relating to average pay

"(a) Notwithstanding section 8401(3), for purposes of computing any annuity or survivor annuity under this chapter, eligibility for which is based on a separation occurring after December 31, 1995, 'average pay' shall, if the separation occurs—

"(1) during calendar year 1996, have the meaning given such term by subsection (b)(1); or

"(2) after calendar year 1996, have the meaning given such term by subsection (b)(2).

"(b) For purposes of this section—

"(1) the meaning given the term 'average pay' by this paragraph shall be the meaning such term would have under section 8401(3) if '4 consecutive years' were substituted for '3 consecutive years' and '4 years' were substituted for '3 years'; and

"(2) the meaning given the term 'average pay' by this paragraph shall be the meaning such term would have under section 8401(3) if '5 consecutive years' were substituted for '3 consecutive years' and '5 years' were substituted for '3 years'.

"(c) Nothing in this section shall be considered to apply with respect to any annuity or survivor annuity eligibility for which is based on a separation occurring before January 1, 1996.

"(d) The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this section.".

(2) TECHNICAL AMENDMENTS.—

(A) Section 8401(3) is amended by striking "effect;" and inserting "effect, subject to section 8461a;".

(B) The table of sections for chapter 84 is amended by inserting after the item relating to section 8461 the following:

"8461a. Special rules relating to average pay.".

(c) REGULATIONS.—The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to provide that section 302(a)(6) of the Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8331 note) shall be carried out in a manner consistent with the amendments made by this section.

SEC. 4005. ACCRUAL RATES.

(a) CSRS.—

(1) MEMBERS.—

(A) IN GENERAL.—Section 8339(c) is amended by striking all that follows "with respect to—" and inserting the following:

"(1) so much of his service as a Member as is or was performed before January 1, 1996;

"(2) so much of his military service as—

"(A) is creditable for the purpose of this subsection; and

"(B) is or was performed before January 1, 1996; and

"(3) so much of his Congressional employee service as is or was performed before January 1, 1996;

by multiplying 2½ percent of his average pay by the years of that service.".

(B) TECHNICAL AMENDMENT.—Section 8332(d) is amended by striking "section 8339(c)(1)" and inserting "section 8339(c)".

(2) CONGRESSIONAL EMPLOYEES.—Section 8339(b) is amended—

(A) by inserting "so much of" after "is computed with respect to"; and

(B) by inserting "as is or was performed before January 1, 1996," before "by multiplying".

(b) FERS.—

(1) MEMBERS.—Section 8415(b) is amended by striking "shall" and inserting "shall, to the extent that such service is or was performed before January 1, 1996,".

(2) CONGRESSIONAL EMPLOYEES.—Section 8415(c) is amended by striking "shall" and inserting "shall, to the extent that such service is or was performed before January 1, 1996,".

(3) PROVISIONS RELATING TO THE 1.1 PERCENT ACCRUAL RATE.—Section 8415(g) is amended—

(A) in paragraph (1) by striking "an employee under paragraph (2)," and inserting "an employee or Member under paragraph (2),";

(B) in paragraph (2) by inserting "or Member" after "in the case of an employee" and by striking "Congressional employee,"; and

(C) by adding at the end the following:

"(3) Notwithstanding any other provision of this subsection—

"(A) this subsection shall not apply in the case of a Member or Congressional employee whose separation (on which entitlement to annuity is based) occurs before January 1, 1996; and

"(B) in the case of a Member or Congressional employee to whom this subsection applies, the 1.1 percent accrual rate shall apply only with respect to any period of service other than a period with respect to which the 1.7 percent accrual rate applies under subsection (b) or (c).".

SEC. 4006. ELIMINATION OF MEMBERS' OPTION TO ELECT NOT TO PARTICIPATE IN FERS.

(a) IN GENERAL.—Section 8401(20) is amended by striking "2106," and all that follows through the semicolon and inserting "2106;".

(b) EFFECTIVE DATE; SAVINGS PROVISION.—

(1) EFFECTIVE DATE.—Subsection (a) shall take effect on January 1, 1996.

(2) SAVINGS PROVISION.—The amendment made by subsection (a) shall not affect any election made before such subsection takes effect.

TITLE V—MEDICARE SAVINGS EXTENSIONS

SEC. 5001. SHORT TITLE.

This title may be cited as the "Medicare Presidential Budget Savings Extension Act of 1995".

Subtitle A—Provisions Relating to Part A of the Medicare Program

SEC. 5101. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR SKILLED NURSING FACILITY SERVICES.

(a) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(1) IN GENERAL.—The last sentence of section 1888(a) of the Social Security Act (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(2) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by paragraph (1) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(b) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

Subtitle B—Provisions Relating to Part B of the Medicare Program

SEC. 5201. SETTING THE PART B PREMIUM AT 25 PERCENT OF PROGRAM EXPENDITURES PERMANENTLY.

(a) IN GENERAL.—Section 1839(a)(3) of the Social Security Act (42 U.S.C. 1395r(a)(3)) is amended by striking "The monthly premium" and all that follows through "November 1." and inserting the following: "The monthly premium shall be equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, as determined according to paragraph (1), for that succeeding calendar year.".

(b) CONFORMING AMENDMENTS.—Section 1839 of such Act (42 U.S.C. 1395r) is amended—

(1) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (c), (e), and (f)";

(2) in the last sentence of subsection (a)(3), by striking "and the derivation of the dollar amounts specified in this paragraph"; and

(3) in subsection (e)—

(A) by striking "(1)(A) Notwithstanding" and all that follows through "(B)",

(B) by striking paragraph (2), and

(C) by redesignating clauses (i) through (v) as paragraphs (1) through (5).

Subtitle C—Provisions Relating to Parts A and B of the Medicare Program

SEC. 5301. PERMANENT EXTENSION OF CERTAIN SECONDARY PAYER PROVISIONS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) of the Social Security Act (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) of such Act (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) of such Act (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) PERIOD OF APPLICATION TO INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking "12-month" each place it appears and inserting "18-month", and

(2) by striking the second sentence.

SEC. 5302. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

TITLE VI—CONTRACT WITH AMERICA TAX RELIEF ACT OF 1995

SEC. 6001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Contract With America Tax Relief Act of 1995".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE V—CONTRACT WITH AMERICA TAX RELIEF ACT OF 1995

Sec. 6001. Short title; amendment of 1986 Code.

Subtitle A—American Dream Restoration

Sec. 6101. Family tax credit.
Sec. 6102. Credit to reduce marriage penalty.
Sec. 6103. Establishment of American Dream Savings Accounts.
Sec. 6104. Spousal IRA computed on basis of compensation of both spouses.

Subtitle B—Senior Citizens' Equity

PART I—REPEAL OF INCREASE IN TAX ON SOCIAL SECURITY BENEFITS

Sec. 6201. Repeal of increase in tax on social security benefits.

PART II—TREATMENT OF LONG-TERM CARE INSURANCE AND SERVICES

Sec. 6211. Treatment of long-term care insurance.
Sec. 6212. Qualified long-term care services treated as medical care.
Sec. 6213. Certain exchanges of life insurance contracts for long-term care insurance contracts not taxable.
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Sec. 6603. Amendments related to Revenue Reconciliation Act of 1993.
Sec. 6604. Miscellaneous provisions.

Subtitle A—American Dream Restoration

SEC. 6101. FAMILY TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 22 the following new section:

"SEC. 23. FAMILY TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

"(b) LIMITATION.—The amount of credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by an amount which bears the same ratio to such amount of credit as—

"(1) the excess (if any) of the taxpayer's adjusted gross income (determined without regard to sections 911, 931, and 933) over $200,000, bears to

"(2) an amount equal to 100 times the dollar amount in effect under subsection (a) for the taxable year.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

"(B) such individual has not attained the age of 18 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of a taxable year beginning in a calendar year after 1996, the $500 and $200,000 amounts contained in subsections (a) and (b) shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

"(e) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 32 shall apply for purposes of this section."

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Family tax credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 6102. CREDIT TO REDUCE MARRIAGE PENALTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 23 the following new section:

"SEC. 24. CREDIT TO REDUCE MARRIAGE PENALTY.

"(a) ALLOWANCE OF CREDIT.—In the case of a joint return for the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the marriage penalty reduction credit.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of credit allowed by subsection (a) for the taxable year shall not exceed $145.

"(2) CREDIT DISALLOWED FOR INDIVIDUALS CLAIMING SECTION 911, ETC.—No credit shall be allowed under this section for any taxable year if either spouse claims the benefits of section 911, 931, or 933 for such taxable year.

"(c) MARRIAGE PENALTY REDUCTION CREDIT.—For purposes of this section—

"(1) IN GENERAL.—The marriage penalty reduction credit is an amount equal to the excess (if any) of—

"(A) the joint tax amount of the taxpayer, over

"(B) the sum of the unmarried tax amounts for each spouse.

"(2) UNMARRIED TAX AMOUNT.—For purposes of paragraph (1), the unmarried tax amount, with respect to an individual, is the amount of tax which would be imposed by section 1(c) if such individual's taxable income were equal to the excess (if any) of—

"(A) such individual's qualified earned income for the taxable year, over

"(B) the sum of—

"(i) an amount equal to the basic standard deduction under section 63(c)(2)(C) for the taxable year, plus

"(ii) the exemption amount (as defined in section 151(d)) for such taxable year.

"(3) JOINT TAX AMOUNT.—For purposes of paragraph (1), the joint tax amount is the amount of tax which would be imposed by section 1(a) if the taxpayer's taxable income were equal to the excess (if any) of—

"(A) the taxpayer's qualified earned income for the taxable year, over

"(B) the sum of—

"(i) an amount equal to the basic standard deduction under section 63(c)(2)(A) for the taxable year, plus

"(ii) an amount equal to twice the exemption amount (as so defined) for such taxable year.

"(d) QUALIFIED EARNED INCOME.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified earned income' means an amount equal to the excess (if any) of—

"(A) the earned income for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (6), (7), and (12) of section 62(a) to the extent that such deductions are properly allocable to or chargeable against earned income for such taxable year.

The amount of qualified earned income shall be determined without regard to any community property laws.

"(2) EARNED INCOME.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'earned income' means income which is earned income within the meaning of section 401(c)(2)(C) or 911(d)(2) (determined without regard to the phrase 'not in excess of 30 percent of his share of the net profits of such trade or business' in subparagraph (B) thereof).

"(B) EXCEPTION.—Such term shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)),

"(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3)(B)).

"(e) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—

"(1) IN GENERAL.—The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

"(2) REQUIREMENTS FOR TABLES.—The tables prescribed under paragraph (1) shall reflect the provisions of subsection (c) and shall round to the nearest $25 any amount of credit which is less than the maximum credit under subsection (b)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Credit to reduce marriage penalty."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 6103. ESTABLISHMENT OF AMERICAN DREAM SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. AMERICAN DREAM SAVINGS ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, an American Dream Savings Account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) AMERICAN DREAM SAVINGS ACCOUNT.—For purposes of this title, the term 'American Dream Savings Account' or 'ADS account' means an individual retirement plan which is designated at the time of the establishment of the plan as an American Dream Savings Account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an ADS account.

"(2) CONTRIBUTION LIMIT.—

"(A) IN GENERAL.—The aggregate amount of contributions (other than rollover contributions) for any taxable year to all ADS accounts maintained for the benefit of an individual shall not exceed the lesser of—

"(i) $2,000, or

"(ii) an amount equal to the compensation includible in the individual's gross income for such taxable year.

"(B) $4,000 LIMITATION FOR CERTAIN ADDITIONAL MARRIED INDIVIDUALS.—

"(i) IN GENERAL.—In the case of an individual to whom this subparagraph applies for the taxable year, the limitation of subparagraph (A)(ii) shall be equal to the sum of—

"(I) the compensation includible in such individual's gross income for the taxable year, plus

"(II) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by the amount of the limitation under subparagraph (A) applicable to such spouse for such taxable year.

"(ii) INDIVIDUALS TO WHOM CLAUSE (i) APPLIES.—Clause (i) shall apply to any individual if—

"(I) such individual files a joint return for the taxable year, and

"(II) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year.

"(C) ADJUSTMENT FOR INFLATION.—

"(i) IN GENERAL.—In the case of a taxable year beginning in a calendar year after 1996, the $2,000 amount contained in subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

"(D) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 shall be applied separately with respect to individual retirement plans which are ADS accounts and individual retirement plans which are not ADS accounts; except that, for purposes of applying such section with respect to individual retirement plans which are ADS accounts, excess contributions shall be considered to be any amounts in excess of the limitation under subsection (c)(2)(A).

"(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to an ADS account may be made even after the individual for whom the account is maintained has attained age 70½.

"(4) MANDATORY DISTRIBUTION RULES NOT TO APPLY, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), subsections (a)(6) and (b)(3) of section 408 (relating to required distributions) and section 4974 (relating to excise tax on certain accumulations in qualified retirement plans) shall not apply to any ADS account.

"(B) POST-DEATH DISTRIBUTIONS.—Rules similar to the rules of section 401(a)(9) (other than subparagraph (A) thereof) shall apply for purposes of this section.

"(5) LIMITATIONS ON ROLLOVER CONTRIBUTIONS.—No rollover contribution may be made to an ADS account unless—

"(A) such contribution is from another ADS account, or

"(B) such contribution is from an individual retirement plan (other than an ADS account) and is made before January 1, 1998.

"(d) DISTRIBUTION RULES.—For purposes of this title—

"(1) GENERAL RULES.—

"(A) EXCLUSION FROM GROSS INCOME.—No portion of a qualified distribution from an ADS account shall be includible in gross income.

"(B) EXCEPTION FROM PENALTY TAX.—Section 72(t) shall not apply to—

"(i) any qualified distribution from an ADS account, and

"(ii) any qualified special purpose distribution (whether or not a qualified distribution) from an ADS account.

"(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified distribution' means any payment or distribution—

"(i) made on or after the date on which the individual attains age 59½,

"(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

"(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

"(iv) which is a qualified special purpose distribution.

"(B) DISTRIBUTIONS WITHIN 5 YEARS.—No payment or distribution shall be treated as a qualified distribution if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to an ADS account (or such individual's spouse made a contribution to an ADS account) established for such individual, or

"(ii) in the case of a payment or distribution properly allocable to a rollover contribution (or income allocable thereto), it is made within 5 years after the date on which such rollover contribution was made, as determined under regulations prescribed by the Secretary.

Clause (ii) shall not apply to a rollover contribution from an ADS account.

"(3) INCOME INCLUSION FOR ROLLOVERS FROM NON-ADS ACCOUNTS.—In the case of any amount paid or distributed out of an individual retirement plan (other than an ADS account) which is paid into an ADS account (established for the benefit of the payee or distributee, as the case may be) before the close of the 60th day after the day on which the payment or distribution is received—

"(A) sections 72(t) and 408(d)(3) shall not apply, and

"(B) any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the payment or distribution is made.

"(e) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified special purpose distribution' means any payments or distributions from an ADS account to the individual for whose benefit such account is established—

"(A) if such payments or distributions are qualified first-time homebuyer distributions, or

"(B) to the extent such payments or distributions do not exceed—

"(i) the qualified higher education expenses of the taxpayer for the taxable year in which received, and

"(ii) the qualified medical expenses of the taxpayer for the taxable year in which received.

"(2) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such individual as a first-time homebuyer.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and, if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which a binding contract to construct or reconstruct such a principal residence is entered into.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any payment or distribution out of an ADS account fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase, construction, or reconstruction of the residence, the amount of the payment or distribution may be contributed to an ADS account as provided in subsection (d)(3)(A)(i) of section 408 (determined by substituting '120th day' for '60th day' in such subsection), except that—

"(i) subsection (d)(3)(B) of such section shall not be applied to such contribution, and "(ii) such amount shall not be taken into account in determining whether subsection (d)(3)(A)(i) of such section applies to any other amount.

"(3) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.

"(4) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified medical expenses' means any amounts paid during the taxable year, not compensated for by insurance or otherwise, for medical care (as defined in section 213(d)) of the taxpayer, his spouse, or a dependent (as defined in section 152).

"(B) LONG-TERM CARE INSURANCE PREMIUMS TREATED AS MEDICAL EXPENSES.—For purposes of subparagraph (A), section 213(d)(1)(C) shall not apply but the term 'qualified medical expenses' shall include premiums for long-term care insurance (as defined in section 7702B(b)) for coverage of the taxpayer or his spouse.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) ROLLOVER CONTRIBUTIONS.—The term 'rollover contributions' means contributions described in sections 402(c), 403(a)(4), 403(b)(8), or 408(d)(3).

"(2) COMPENSATION.—The term 'compensation' has the meaning given such term by section 219(f)."

(b) TERMINATION OF NONDEDUCTIBLE IRA CONTRIBUTIONS.—

(1) Section 408(o) is amended by adding at the end the following new paragraph:

"(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1995."

(2) Section 219(f) of is amended by striking paragraph (7).

(c) EXCESS DISTRIBUTIONS TAX NOT TO APPLY.—Subparagraph (B) of section 4980A(e)(1) is amended by inserting "other than an ADS account (as defined in section 408A(b))" after "retirement plan".

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. American Dream Savings Accounts."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 6104. SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.

(a) IN GENERAL.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of subsection (b)(1) shall be equal to the lesser of—

"(A) $2,000, or

"(B) the sum of—

"(i) the compensation includible in such individual's gross income for the taxable year, plus

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by the amount allowable as a deduction under subsection (a) to such spouse for such taxable year.

"(2) INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.—Paragraph (1) shall apply to any individual if—

"(A) such individual files a joint return for the taxable year, and

"(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year."

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 219(f) (relating to other definitions and special rules) is amended by striking "subsections (b) and (c)" and inserting "subsection (b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle B—Senior Citizens' Equity

PART I—REPEAL OF INCREASE IN TAX ON SOCIAL SECURITY BENEFITS

SEC. 6201. REPEAL OF INCREASE IN TAX ON SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Subsection (a) of section 86 (relating to social security and tier 1 railroad retirement benefits) is amended by adding at the end the following new paragraph:

"(3) PHASEOUT OF ADDITIONAL AMOUNT.—In the case of any taxable year beginning in a calendar year after 1995 and before 2000, paragraph (2) shall be applied by substituting the percentage determined under the following table for '85 percent' each place it appears:

"In the case of a taxable year beginning in calendar year:	**The percentage is:**
1996	75 percent
1997	65 percent
1998	60 percent
1999	55 percent."

(b) TERMINATION OF ADDITIONAL AMOUNT.—Paragraph (2) of section 86(a) is amended by adding at the end the following new flush sentence:

"This paragraph shall not apply to any taxable year beginning after December 31, 1999."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 871(a) is amended—

(A) by striking "85 percent" in subparagraph (A) and inserting "50 percent", and

(B) by inserting before the last sentence the following new flush sentence:

"In the case of any taxable year beginning in a calendar year after 1995 and before 2000, subparagraph (A) shall be applied by substituting the percentage determined for such calendar year under section 86(a)(3) for '50 percent'."

(2)(A) Subparagraph (A) of section 121(e)(1) of the Social Security Amendments of 1983 (Public Law 98–21) is amended—

(i) by striking "(A) There" and inserting "There";

(ii) by striking "(i)" immediately following "amounts equivalent to"; and

(iii) by striking ", less (ii)" and all that follows and inserting a period.

(B) Paragraph (1) of section 121(e) of such Act is amended by striking subparagraph (B).

(C) Paragraph (3) of section 121(e) of such Act is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(D) Paragraph (2) of section 121(e) of such Act is amended in the first sentence by striking "paragraph (1)(A)" and inserting "paragraph (1)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (c)(2).—The amendments made by subsection (c)(2) shall apply to tax liabilities for taxable years beginning after December 31, 1995.

PART II—TREATMENT OF LONG-TERM CARE INSURANCE AND SERVICES

SEC. 6211. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a long-term care insurance contract shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

"(4) except as provided in subsection (d)(3), amounts paid for a long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

"(1) IN GENERAL.—The term 'long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

"(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not provide for a cash surrender value or other money that can be—

"(i) paid, assigned, or pledged as collateral for a loan, or

"(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C), and

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) SPECIAL RULES RELATING TO MEDICARE.—

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity or to cognitive impairment, or

"(ii) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i).

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) Eating.

"(ii) Toileting.

"(iii) Transferring.

"(iv) Bathing.

"(v) Dressing.

"(vi) Continence.

Nothing in this section shall be construed to require a contract to take into account all of the preceding activities of daily living.

"(3) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"(4) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) APPLICATION OF 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a long-term care insurance contract under subsection (b).

"(4) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a long-term care insurance contract."

(b) RESERVE METHOD.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a long-term care insurance contract, as defined in section 7702B(b))" after "insurance contract".

(c) LONG-TERM CARE INSURANCE NOT PERMITTED UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following new sentence: "Such term shall not include any long-term care insurance contract (as defined in section 7702B(b))."

(2) FLEXIBLE SPENDING ARRANGEMENTS.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) GENERAL RULE.—Except as provided in subsection (b), gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—

"(1) IN GENERAL.—Effective on and after January 1, 1996, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

"(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(d) CONTINUATION COVERAGE EXCISE TAX NOT TO APPLY.—Subsection (f) of section 4980B is amended by adding at the end the following new paragraph:

"(9) CONTINUATION OF LONG-TERM CARE COVERAGE NOT REQUIRED.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely by reason of failing to provide coverage under any long-term care insurance contract (as defined in section 7702B(b))."

(e) AMOUNTS PAID TO RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—Section 213(d) is amended by adding at the end the following new paragraph:

"(10) CERTAIN PAYMENTS TO RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

"(A) by a relative (directly or through a partnership, corporation, or other entity) unless the relative is a licensed professional with respect to such services, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance."

(f) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of long-term care insurance.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after December 31, 1995.

(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1996, which met the long-term care insurance requirements of the State in which the contract was sitused at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act and before January 1, 1996, a contract providing for long-term care insurance coverage is exchanged solely for a long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received.

For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

SEC. 6212. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

"In the case of a long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (11)) shall be taken into account under subparagraph (D)."

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(11) ELIGIBLE LONG-TERM CARE PREMIUMS.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	$200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500.

"(B) INDEXING.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1995.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence."

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 6213. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.

(a) IN GENERAL.—Subsection (a) of section 1035 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a long-term care insurance contract (as defined in section 7702B(b))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 6214. EXCLUSION FROM GROSS INCOME FOR AMOUNTS WITHDRAWN FROM CERTAIN RETIREMENT PLANS FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. DISTRIBUTIONS FROM CERTAIN RETIREMENT PLANS FOR LONG-TERM CARE INSURANCE.

"(a) GENERAL RULE.—The amount which would (but for this section) be includible in the gross income of an individual for the taxable year by reason of eligible distributions during the taxable year shall be reduced (but not below zero) by the aggregate premiums paid by such individual during such taxable year for any long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual.

"(b) ELIGIBLE DISTRIBUTION.—For purposes of this section, the term 'eligible distribution' means any distribution or payment to an individual from—

"(1) an individual retirement plan of such individual,

"(2) amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii), or

"(3) amounts deferred under section 457(a)."

(b) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for the payment of premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of the employee or the spouse of the employee."

(3) Subparagraph (A) of section 457(d)(1) is amended by striking "or" at the end of clause (ii), by striking "and" at the end of clause (iii) and inserting "or", and by inserting after clause (iii) the following new clause:

"(iv) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(4) The table of sections for part III of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 137. Distributions from certain retirement plans for long-term care insurance.

"Sec. 138. Cross references to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1995.

PART III—TREATMENT OF ACCELERATED DEATH BENEFITS

SEC. 6221. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

"(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

"(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual (as defined in section 7702B(c)(2)) but only if such amount is received under a rider or other provision of such contract which is treated as a long-term care insurance contract under section 7702B.

"(2) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes, such person meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TERMINALLY ILL INDIVIDUAL.—The term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

"(B) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

"(4) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer.

"(5) CROSS REFERENCE.—

"For inclusion in gross income of excess benefits, see section 91."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1995.

SEC. 6222. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

"(3) EXCEPTION FOR LONG-TERM CARE RIDERS.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on January 1, 1996.

(2) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

PART IV—INCLUSION IN GROSS INCOME OF EXCESS LONG-TERM CARE BENEFITS

SEC. 6231. INCLUSION IN INCOME OF EXCESS LONG-TERM CARE BENEFITS.

(a) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. EXCESS LONG-TERM CARE BENEFITS.

"(a) GENERAL RULE.—Notwithstanding any other provision of this title, gross income shall include the amount of excess long-term care benefits received by the taxpayer during the taxable year.

"(b) EXCEPTION FOR TERMINALLY ILL INDIVIDUALS.—Subsection (a) shall not apply to any long-term care benefit paid by reason of an insured who is a terminally ill individual (as defined in section 101(g)) as of the date the benefit is received.

"(c) EXCESS LONG-TERM CARE BENEFITS.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess long-term care benefits' means the excess (if any) of—

"(A) the value of the long-term care benefits received by the taxpayer during the taxable year, over

"(B) the exclusion amount applicable to such benefits.

"(2) LONG-TERM CARE BENEFITS.—The term 'long-term care benefits' means—

"(A) payments and other benefits under long-term care insurance contracts (as defined in section 7702B(b)) to the extent excludable from gross income by reason of section 7702B(a)(2), and

"(B) payments which are excludable from gross income by reason of section 101(g).

"(3) EXCLUSION AMOUNT.—

"(A) IN GENERAL.—In the case of long-term care benefits received by the taxpayer during the taxable year by reason of the taxpayer being a chronically ill individual, the term 'exclusion amount' means the aggregate of $200 for each day during such year on which the individual is a chronically ill individual. In the case of individuals who are married to each other and who are both chronically ill individuals, the preceding sentence shall be applied separately with respect to each spouse.

"(B) OTHER TAXPAYERS.—In the case of long-term care benefits received during the taxable year by a taxpayer by reason of another individual being a chronically ill individual, the term 'exclusion amount' means so much of such other individual's exclusion amount (for such other individual's taxable year which begins in the calendar year in which the taxpayer's taxable year begins) as is allocated by such other individual to the taxpayer. Such an allocation shall be made at the time and in the manner prescribed by the Secretary; and once made, shall be irrevocable.

"(d) CHRONICALLY ILL INDIVIDUAL.—For purposes of this section, the term 'chronically ill individual' has the meaning given to such term by section 7702B(c)(2).

"(e) INFLATION ADJUSTMENT OF $200 BENEFIT LIMIT.—In the case of a calendar year after 1996, the $200 amount contained in subsection (c)(3)(A) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(11)."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end the following new item:

"Sec. 91. Excess long-term care benefits."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 6232. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

"SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.

"(a) REQUIREMENT OF REPORTING.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term care benefit' has the meaning given such term by section 91(c)."

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050Q (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to certain long-term care benefits),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050Q. Certain long-term care benefits."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1995.

Subtitle C—Job Creation and Wage Enhancement

PART I—CAPITAL GAINS REFORM

Subpart A—Capital Gains Reduction for Taxpayers Other Than Corporations

SEC. 6301. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains), as amended by subsection (d)(1), is amended by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(c) Coordination With Treatment of Capital Gain Under Limitation on Investment Interest.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(d) Special Rule For Collectibles.—

"(1) In general.—At the election of the taxpayer, the rate of tax imposed by section 1 on the excess of—

"(A) the amount which would be the net capital gain for the taxable year without regard to the application of section 1222(12) to collectibles specified in such election, over

"(B) the net capital gain for such year,

shall not exceed 28 percent.

"(2) Election.—Any election under this subsection, and any specification therein, once made, shall be irrevocable.

"(3) Coordination with indexing.—Any collectible specified in such an election shall be treated as not being an indexed asset for purposes of section 1022.

"(e) Transitional Rule.—

"(1) In general.—In the case of a taxable year which includes January 1, 1995—

"(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after January 1, 1995, and

"(B) if the net capital gain for such year exceeds the amount taken into account under subsection (a), the rate of tax imposed by section 1 on such excess shall not exceed 28 percent.

"(2) Special rules for pass-thru entities.—

"(A) In general.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) Pass-thru entity defined.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) Deduction Allowable in Computing Adjusted Gross Income.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) Long-term capital gains.—The deduction allowed by section 1202."

(c) Treatment of Collectibles.—

(1) In general.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) Special rule for collectibles.—

"(A) In general.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) Treatment of certain sales of interest in partnership, etc.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) Collectible.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) Charitable deduction not affected.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(d) Technical and Conforming Changes.—

(1)(A) Section 13113 of the Revenue Reconciliation Act of 1993 (relating to 50-percent exclusion for gain from certain small business stock), and the amendments made by such section, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section (and amendments) had never been enacted.

(B) At the election of a taxpayer who holds qualified small business stock (as defined in section 1202 of such Code, as in effect on the day before the date of the enactment of this Act) as of such date of enactment—

(i) the provisions repealed by subparagraph (A) shall continue to apply to any disposition by such taxpayer of such stock held on such date, and

(ii) the amendments made by this section and section 6302 shall not apply to such stock; except that losses from the sale or exchange of such stock shall be taken into account as provided in the amendments made by paragraph (13) of this subsection.

Such an election may be made only during the 1-year period beginning on the date of the enactment of this Act and, once made, shall be irrevocable.

(2) Section 1 is amended by striking subsection (h).

(3) Paragraph (1) of section 170(e) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "50 percent ($\frac{25}{35}$ in the case of a corporation) of the amount of gain".

(4)(A) Paragraph (2) of section 172(d) is amended to read as follows:

"(2) Capital gains and losses.—

"(A) Losses of taxpayers other than corporations.—In the case of a taxpayer other than a corporation, the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets.

"(B) Deduction under section 1202.—The deduction under section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by striking "paragraphs (1) and (3)" and inserting "paragraphs (1), (2)(B), and (3)".

(5) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account."

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) Adjustments.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) shall not be taken into account."

(8) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) shall not be taken into account".

(9) Paragraph (4) of section 691(c) is amended by striking "sections 1(h), 1201, and 1211" and inserting "sections 1201, 1202, and 1211".

(10) The second sentence of section 871(a)(2) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for capital gains) and" after "except that".

(11)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) Other taxpayers.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income."

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) Corporations.- -In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

"(D) Rate differential portion.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the alternative rate of tax under section 1201(a)."

(12) Subsection (d) of section 1044 is amended by striking the last sentence.

(13)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain."

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) SPECIAL RULES.—

"(A) ADJUSTMENTS.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year."

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

"(3) TRANSITIONAL RULE.—In the case of any amount which, under paragraph (1) and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (1) and section 1211(b) (as so in effect) shall apply (and paragraph (1) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total of any net capital gains (determined without regard to this subsection) of taxable years beginning after December 31, 1995."

(14) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 shall not apply" before the period at the end thereof.

(15) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "25 percent (or, to the extent provided in regulations, 19.8 percent)", and

(B) in paragraph (2) by striking "35 percent" and inserting "25 percent".

(16)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (25 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (25 percent".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by inserting after the item relating to section 1201 the following new item:

"Sec. 1202. Capital gains deduction."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1994.

(2) CONTRIBUTIONS.—The amendment made by subsection (d)(3) shall apply to contributions on or after January 1, 1995.

(3) USE OF LONG-TERM LOSSES.—The amendments made by subsection (d)(13) shall apply to taxable years beginning after December 31, 1995.

(4) WITHHOLDING.—The amendment made by subsection (d)(15) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 6302. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 1994, FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 1994, FOR PURPOSES OF DETERMINING GAIN.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) common stock in a C corporation (other than a foreign corporation), and

"(B) tangible property,

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—

"(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) stock of a foreign investment company (within the meaning of section 1246(b)),

"(ii) stock in a passive foreign investment company (as defined in section 1296),

"(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and

"(iv) stock in a foreign personal holding company (as defined in section 552).

"(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.

"(c) INDEXED BASIS.—For purposes of this section—

"(1) GENERAL RULE.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, increased by

"(B) the applicable inflation adjustment.

"(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

"(A) the adjusted basis of the asset, multiplied by

"(B) the percentage (if any) by which—

"(i) the gross domestic product deflator for the last calendar quarter ending before the asset is disposed of, exceeds

"(ii) the gross domestic product deflator for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest ⅒ of 1 percentage point.

"(3) GROSS DOMESTIC PRODUCT DEFLATOR.—The gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

"(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

"(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not be treated as an indexed asset for the period of such reduced risk.

"(2) SHORT SALES.—

"(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 3 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

"(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

"(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and

"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

"(ii) the average of the fair market values of all assets held by such company at the close of each such month.

"(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to

"(ii) the fair market value of all assets held by such trust at the close of such quarter.

"(C) RATIO OF 80 PERCENT OR MORE.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.

"(D) RATIO OF 20 PERCENT OR LESS.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.

"(E) LOOK-THRU OF PARTNERSHIPS.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.

"(3) TREATMENT OF RETURN OF CAPITAL DISTRIBUTIONS.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.

"(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

"(4) INDEXING ADJUSTMENT DISREGARDED IN DETERMINING LOSS ON SALE OF INTEREST IN ENTITY.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall not be taken into account in determining the adjusted basis of such interest.

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT OF IMPROVEMENTS, ETC.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—

"(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and

"(B) such addition shall be treated as a separate asset acquired at the close of such taxable year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.

A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation ratio shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(5) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets acquired after December 31, 1994, for purposes of determining gain."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins after December 31, 1994.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired after December 31, 1994, from a related person (as defined in section 1022(g)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

(d) ELECTION TO RECOGNIZE GAIN ON ASSETS HELD ON JANUARY 1, 1995.—For purposes of the Internal Revenue Code of 1986—

(1) IN GENERAL.—A taxpayer other than a corporation may elect to treat—

(A) any readily tradable stock (which is an indexed asset) held by such taxpayer on January 1, 1995, and not sold before the next business day after such date, as having been sold on such next business day for an amount equal to its closing market price on such next business day (and as having been reacquired on such next business day for an amount equal to such closing market price), and

(B) any other indexed asset held by the taxpayer on January 1, 1995, as having been sold on such date for an amount equal to its fair market value on such date (and as having been reacquired on such date for an amount equal to such fair market value).

(2) TREATMENT OF GAIN OR LOSS.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the date the asset is treated as sold under paragraph (1) and shall be recognized notwithstanding any provision of the Internal Revenue Code of 1986.

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary may prescribe and shall specify the assets for which such election is made. Such an election, once made with respect to any asset, shall be irrevocable.

(4) READILY TRADABLE STOCK.—For purposes of this subsection, the term "readily tradable stock" means any stock which, as of January 1, 1995, is readily tradable on an established securities market or otherwise.

(e) TREATMENT OF PRINCIPAL RESIDENCES.—Property held and used by the taxpayer on January 1, 1995, as his principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) shall be treated—

(1) for purposes of subsection (c)(1) of this section and section 1022 of such Code, as having a holding period which begins on January 1, 1995, and

(2) for purposes of section 1022(c)(2)(B)(ii) of such Code, as having been acquired on January 1, 1995.

Subsection (d) shall not apply to property to which this subsection applies.

Subpart B—Capital Gains Reduction for Corporations

SEC. 6311. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 25 percent of the net capital gain.

"(b) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of any taxable year ending after December 31, 1994, and beginning before January 1, 1996, subsection (a)(2) shall be applied as if it read as follows:

" '(2)(A) a tax of 25 percent of the lesser of—

" '(i) the net capital gain for the taxable year, or

" '(ii) the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year after December 31, 1994, plus

" '(B) a tax of 35 percent of the excess (if any) of—

" '(i) the net capital gain for the taxable year, over

" '(ii) the amount of net capital gain taken into account under subparagraph (A).'

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1202(e)(2) shall apply for purposes of paragraph (1).

"(c) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A)."

(b) TECHNICAL AMENDMENT.—Clause (iii) of section 852(b)(3)(D) is amended by striking "65 percent" and inserting "75 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

Subpart C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence

SEC. 6316. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end the following new paragraph:

"(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after December 31, 1994, in taxable years ending after such date.

PART II—COST RECOVERY PROVISIONS

SEC. 6321. DEPRECIATION ADJUSTMENT FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1994.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new subsection:

"(k) DEDUCTION ADJUSTMENT TO ALLOW EQUIVALENT OF EXPENSING FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1994.—

"(1) IN GENERAL.—In the case of tangible property placed in service after December 31, 1994, the deduction under this section with respect to such property—

"(A) shall be determined by substituting '150 percent' for '200 percent' in subsection (b)(1) in the case of property to which the 200 percent declining balance method would otherwise apply, and

"(B) for any taxable year after the taxable year during which the property is placed in service shall be—

"(i) the amount determined under this section for such taxable year without regard to this subparagraph, multiplied by

"(ii) the applicable neutral cost recovery ratio for such taxable year.

"(2) APPLICABLE NEUTRAL COST RECOVERY RATIO.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The applicable neutral cost recovery ratio for the property for any taxable year is the number determined by—

"(i) dividing—

"(I) the gross domestic product deflator for the calendar quarter which includes the mid-point of the taxable year, by

"(II) the gross domestic product deflator for the calendar quarter which includes the mid-point of the taxable year in which the property was placed in service by the taxpayer, and

"(ii) then multiplying the number determined under clause (i) by the number equal to 1.035 to the nth power where 'n' is the number of full years (as of the close of the taxable year referred to in clause (i)(I)) after the date such property was placed in service.

The applicable neutral cost recovery ratio shall never be less than 1. The applicable neutral cost recovery ratio shall be rounded to the nearest 1/1000.

"(B) SPECIAL RULE FOR CERTAIN PROPERTY.—In the case of property described in paragraph (2) or (3) of subsection (b) or in subsection (g), the applicable neutral cost recovery ratio shall be determined without regard to subparagraph (A)(ii).

"(3) GROSS DOMESTIC PRODUCT DEFLATOR.—For purposes of paragraph (2), the gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

"(4) COORDINATION WITH INDEXING OF BASIS FOR PURPOSES OF DETERMINING GAIN.—Section 1022 shall not apply to any property to which this subsection applies.

"(5) ELECTION NOT TO HAVE SUBSECTION APPLY.—This subsection shall not apply to any property if the taxpayer elects not to have this subsection apply to such property. Such an election, once made, shall be irrevocable.

"(6) CHURNING TRANSACTIONS.—This subsection shall not apply to any property if this section would not apply to such property were—

"(A) subsection (f)(5)(A)(ii) applied by substituting '1995' for '1987' and '1994' for '1986', and

"(B) subsection (f)(5)(B) not applied.

"(7) ADDITIONAL DEDUCTION NOT TO AFFECT BASIS OR RECAPTURE.—The additional amount determined under this section by reason of this subsection shall not be taken into account in determining the adjusted basis of any property or of any interest in a pass-thru entity (as defined in section 1202(e)(2)) which holds such property and shall not be treated as a deduction for depreciation for purposes of sections 1245 and 1250."

(b) MINIMUM TAX TREATMENT.—

(1) Paragraph (1) of section 56(a) is amended by adding at the end thereof the following new subparagraph:

"(E) USE OF NEUTRAL COST RECOVERY RATIO.—This paragraph shall not apply to property to which section 168(k) applies."

(2) Clause (i) of section 56(g)(4)(A) is amended by striking "(a)(1)(A)" and inserting "(a)(1)".

(3) Subparagraph (C) of section 56(g)(4) is amended by adding at the end the following new clause:

"(v) NEUTRAL COST RECOVERY DEDUCTION.—Clause (i) shall not apply to the additional deduction allowable by reason of section 168(k)."

(c) TECHNICAL AMENDMENTS.—

(1) Clause (i) of section 280F(a)(1)(B) is amended by adding at the end the following new sentence: "For purposes of this clause, the unrecovered basis of any passenger automobile shall be treated as including the additional amount determined under section 168 by reason of subsection (k) thereof to the extent not allowed as a deduction by reason of this paragraph for any taxable year in the recovery period."

(2) Subparagraph (B) of section 382(h)(2) is amended by adding at the end the following new sentence: "The amount of the net unrealized built-in loss shall be increased by the amount of the additional deduction allowable by reason of section 168(k) which is treated under the preceding sentence as a recognized built-in loss."

(3) Subsection (a) of section 465 is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF NEUTRAL COST RECOVERY DEDUCTION.—

"(A) IN GENERAL.—None of the additional deduction allowable by reason of section 168(k) for the taxable year shall be disallowed under paragraph (1) unless there is a disallowed non-NCR loss for such year.

"(B) PROPORTIONATE DISALLOWANCE.—

"(i) IN GENERAL.—If there is a disallowed non-NCR loss for the taxable year, only the disallowed portion of the additional deduction allowable by reason of section 168(k) shall not be allowed under paragraph (1).

"(ii) DISALLOWED PORTION.—For purposes of clause (i), the disallowed portion is the percentage which the disallowed non-NCR loss's allocable share of non-NCR depreciation is of total non-NCR depreciation.

"(iii) ALLOCABLE SHARE.—For purposes of clause (ii), a disallowed non-NCR loss's allocable share of non-NCR depreciation is the amount which bears the same ratio to the amount of the loss as the amount of non-NCR depreciation for the taxable year bears to the total amount of deductions for such taxable year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) DISALLOWED NON-NCR LOSS.—The term 'disallowed non-NCR loss' means, for any taxable year, the amount of the loss from the activity which would be disallowed under paragraph (1) if such loss were determined without regard to the additional deduction allowable by reason of section 168(k).

"(ii) NON-NCR DEPRECIATION.—The term 'non-NCR depreciation' means the amount allowable as a deduction under section 168 without regard to subsection (k) thereof."

(4) Subparagraph (A) of section 1503(e)(1) is amended by inserting before the comma "and shall be determined without regard to section 168(k)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

SEC. 6322. TREATMENT OF ABANDONMENT OF LESSOR IMPROVEMENTS AT TERMINATION OF LEASE.

(a) IN GENERAL.—Paragraph (8) of section 168(i) is amended to read as follows:

"(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—

"(A) IN GENERAL.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

"(B) TREATMENT OF LESSOR IMPROVEMENTS WHICH ARE ABANDONED AT TERMINATION OF LEASE.—An improvement—

"(i) which is made by the lessor of leased property for the lessee of such property, and

"(ii) which is irrevocably disposed of or abandoned by the lessor at the termination of the lease by such lessee,

shall be treated for purposes of determining gain or loss under this title as disposed of by the lessor when so disposed of or abandoned."

(b) EFFECTIVE DATE.—Subparagraph (B) of section 168(i)(8) of the Internal Revenue Code of 1986, as added by the amendment made by subsection (a), shall apply to improvements disposed of or abandoned after March 13, 1995.

PART III—ALTERNATIVE MINIMUM TAX RELIEF

SEC. 6331. PHASEOUT OF APPLICATION OF ALTERNATIVE MINIMUM TAX TO CORPORATIONS.

(a) TERMINATION.—Subsection (a) of section 55 is amended by adding at the end the following new flush sentence:

"In the case of a corporation, the tentative minimum tax for any taxable year beginning after December 31, 2000, shall be zero."

(b) EARLIER TERMINATION OF CERTAIN ADJUSTMENTS FOR ALL TAXPAYERS.—

(1) DEPRECIATION.—Clause (i) of section 56(a)(1)(A) is amended by inserting "and before March 14, 1995," after "December 31, 1986,".

(2) MINING EXPLORATION AND DEVELOPMENT COSTS.—Paragraph (2) of section 56(a) is amended by inserting "and before January 1, 1996," after "December 31, 1986,".

(3) LONG-TERM CONTRACTS.—Paragraph (3) of section 56(a) is amended by inserting "and before January 1, 1996," after "March 1, 1986,".

(4) POLLUTION CONTROL FACILITIES.—Paragraph (5) of section 56(a) is amended by inserting "and before January 1, 1996," after "December 31, 1986,".

(5) INSTALLMENT SALES.—Paragraph (6) of section 56(a) is amended by inserting "and before January 1, 1996," after "March 1, 1986,".

(c) EARLIER TERMINATION OF CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURE ADJUSTMENT FOR INDIVIDUALS.—Subparagraph (A) of section 56(b)(2) is amended by inserting "and before January 1, 1996," after "December 31, 1986,".

(d) EARLIER TERMINATION OF CERTAIN ADJUSTMENTS FOR CORPORATIONS.—

(1) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—Paragraph (2) of section 56(c) is amended—

(A) by inserting "and before January 1, 1996," after "December 31, 1986," each place it appears, and

(B) by striking the last sentence and inserting the following new flush sentence:

"For purposes of this paragraph, any withdrawal of deposit or earnings from the fund shall be treated as allocable to deposits made, and earnings received or accrued, in the order in which made, received, or accrued."

(2) SECTION 833(b) DEDUCTION.—Paragraph (3) of section 56(c) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any taxable year beginning after December 31, 1995."

(3) CERTAIN EARNINGS AND PROFITS ITEMS.—

(A) Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

"(iii) TERMINATION.—This subparagraph shall not apply to any taxable year beginning after December 31, 1995."

(B) Subparagraph (C) of section 56(g)(4) is amended by adding at the end the following new clause:

"(vi) TERMINATION.—This subparagraph shall not apply to any taxable year beginning after December 31, 1995."

(4) INTANGIBLE DRILLING COSTS.—Clause (i) of section 56(g)(4)(D) is amended by adding at the end the following new sentence: "This clause shall not apply to any taxable year beginning after December 31, 1995."

(5) CERTAIN AMORTIZATION PROVISIONS.—Clause (ii) of section 56(g)(4)(D) is amended by adding at the end the following new sentence: "This clause shall not apply to any expenditure paid or incurred after December 31, 1995."

(6) LIFO INVENTORY ADJUSTMENTS.—Clause (iii) of section 56(g)(4)(D) is amended by adding at the end the following new sentence: "This clause shall not apply to any adjustment arising in a taxable year beginning after December 31, 1995."

(7) INSTALLMENT SALES.—Clause (iv) of section 56(g)(4)(D) is amended by adding at the end the following new sentence: "This clause shall not apply to any disposition after December 31, 1995."

(8) DEBT POOLS.—Subparagraph (E) of section 56(g)(4) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to any exchange after December 31, 1995."

(9) DEPLETION.—Subparagraph (F) of section 56(g)(4) is amended by adding at the end the following new clause:

"(iii) TERMINATION.—This subparagraph shall not apply to any deduction for depletion for any taxable year beginning after December 31, 1995."

(10) OWNERSHIP CHANGES.—Subparagraph (G) of section 56(g)(4) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to any ownership change after December 31, 1995."

(e) EARLIER TERMINATION OF ITEMS OF TAX PREFERENCE.—

(1) DEPLETION.—Paragraph (1) of section 57(a) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any taxable year beginning after December 31, 1995."

(2) INTANGIBLE DRILLING COSTS.—Paragraph (2) of section 57(a) is amended by adding at the end the following new subparagraph:

"(F) TERMINATION.—This paragraph shall not apply to any taxable year beginning after December 31, 1995."

(3) RESERVES FOR LOSSES ON BAD DEBTS.—Paragraph (4) of section 57(a) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any taxable year beginning after December 31, 1995."

(4) TAX-EXEMPT INTEREST.—Paragraph (5) of section 57(a) is amended by adding at the end the following new subparagraph:

"(D) TERMINATION FOR CORPORATIONS.—In the case of a corporation (other than a corporation referred to in section 56(g)(6)), this paragraph shall not apply to interest accruing for periods after December 31, 1995."

(f) NET OPERATING LOSS DEDUCTION.—Paragraph (1) of section 56(d) is amended by inserting "(100 percent in the case of taxable years beginning after December 31, 1995)" after "90 percent" each place it appears.

(g) LOSSES.—

(1) Section 58 is amended by adding at the end the following new subsection:

"(d) TERMINATION.—This section shall not apply to any loss incurred for any taxable year beginning after December 31, 1995."

(2) Subsection (h) of section 59 is amended by inserting "469," after "465,".

(h) FOREIGN TAX CREDIT.—Paragraph (2) of section 59(a) is amended by adding at the end the following new subparagraph:

"(D) TERMINATION.—This paragraph shall not apply to any taxable year beginning after December 31, 1995."

(i) LIMITATION ON USE OF CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—

(1) IN GENERAL.—Subsection (c) of section 53 is amended to read as follows:

"(c) LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed the lesser of—

"(1) the excess (if any) of—

"(A) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, over

"(B) the tentative minimum tax for the taxable year, or

"(2) 90 percent of the amount determined under paragraph (1)(A)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1995.

PART IV—TAXPAYER DEBT BUY-DOWN

SEC. 6341. DESIGNATION OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION FOR REDUCTION OF PUBLIC DEBT

"Sec. 6097. Designation.

"SEC. 6097. DESIGNATION.

"(a) IN GENERAL.—Every individual with adjusted income tax liability for any taxable year may designate that a portion of such liability (not to exceed 10 percent thereof) shall be used to reduce the public debt.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for the taxable year. The designation shall be made on the first page of the return or on the page bearing the taxpayer's signature.

"(c) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section, the term 'adjusted income tax liability' means income tax liability (as defined in section 6096(b)) reduced by any amount designated under section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund)."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part IX. Designation for reduction of public debt."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 6342. PUBLIC DEBT REDUCTION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9512. PUBLIC DEBT REDUCTION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Public Debt Reduction Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Public Debt Reduction Trust Fund amounts equivalent to the amounts designated under section 6097 (relating to designation for public debt reduction).

"(c) EXPENDITURES.—Amounts in the Public Debt Reduction Trust Fund shall be used by the Secretary of the Treasury for purposes of paying at maturity, or to redeem or buy before maturity, any obligation of the Federal Government included in the public debt (other than an obligation held by the Federal Old-Age and Survivors Insurance Trust Fund, the Civil Service Retirement and Disability Fund, or the Department of Defense Military Retirement Fund). Any obligation which is paid, redeemed, or bought with amounts from the Public Debt Reduction Trust Fund shall be canceled and retired and may not be reissued."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

"Sec. 9512. Public Debt Reduction Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

SEC. 6343. TAXPAYER-GENERATED SEQUESTRATION OF FEDERAL SPENDING TO REDUCE THE PUBLIC DEBT.

(a) SEQUESTRATION TO REDUCE THE PUBLIC DEBT.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 253 the following new section:

"SEC. 253A. SEQUESTRATION TO REDUCE THE PUBLIC DEBT.

"(a) SEQUESTRATION.—Notwithstanding sections 255 and 256, within 15 days after Congress adjourns to end a session, and on the same day as a sequestration (if any) under sections 251, 252, and 253, but after any sequestration of budget-year budgetary resources required by those sections, there shall be a sequestration equivalent to the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the calendar year two years before the year in which that session of Congress started, as estimated by the Department of the Treasury on October 1 in the year after the applicable tax year and as modified by the total of (1) any amounts by which net discretionary spending is reduced by legislation below the discretionary spending limits enacted after the enactment of this section related to the fiscal year subject to the sequestration or, in the absence of such limits, any net reduction below discretionary outlays for fiscal year 1995 and (2) the net deficit change that has resulted from all direct spending legislation enacted after the enactment of this section related to the fiscal year subject to the sequestration, as estimated by OMB. Within 5 days after the enactment of any such direct spending legislation, OMB shall estimate the change in spending resulting from that legislation for the 5-fiscal-year period beginning with the first fiscal year for which that legislation becomes effective and transmit a report to the House of Representatives and the Senate containing that estimate. Only the estimated deficit reduction included in the 5-year estimate made at the time the legislation is enacted shall be used for purposes of determining whether there shall be a sequestration under this subsection. Notwithstanding the preceding two sentences, any estimates of direct spending made by OMB under this subsection for any legislation that first takes effect in fiscal year 1995, 1996, or 1997 shall include estimates of the direct spending effects through fiscal year 2002 and those estimates shall be used for purposes of determining whether there shall be a sequestration under this subsection. If the reduction in spending under paragraphs (1) and (2) for a fiscal year is greater than the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 respecting that fiscal year, then there shall be no sequestration under this section.

"(b) APPLICABILITY.—

"(1) IN GENERAL.—Except as provided by paragraph (2), each account of the United States shall be reduced by a dollar amount calculated by multiplying the level of budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (a). All obligational authority reduced under this section shall be done in a manner that makes such reductions permanent.

"(2) EXEMPT ACCOUNTS.—(A) No order issued under this part may—

"(i) reduce benefits payable to the old-age and survivors insurance program established under title II of the Social Security Act;

"(ii) reduce payments for net interest (all of major functional category 900); or

"(iii) make any reduction in the following accounts:

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

"National Credit Union Administration, credit union share insurance fund; or

"Resolution Trust Corporation.

"(B) The following budget accounts, activities within accounts, or income shall be exempt from sequestration—

"(i) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

"(ii) offsetting receipts and collections;

"(iii) all payments from one Federal direct spending budget account to another Federal budget account; all intragovernmental funds including those from which funding is derived primarily from other Government accounts, except to the extent that such funds are augmented by direct appropriations for the fiscal year for which the order is in effect; and those obligations of discretionary accounts or activities that are financed by intragovernmental payments from another discretionary account or activity;

"(iv) expenses to the extent they result from private donations, bequests, or voluntary contributions to the Government;

"(v) nonbudgetary activities, including but not limited to—

"(I) credit liquidating and financing accounts;

"(II) the Pension Benefit Guarantee Corporation Trust Funds;

"(III) the Thrift Savings Fund;

"(IV) the Federal Reserve System; and

"(V) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

"(vi) payments resulting from Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

"(vii) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

"Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–806);

"Bureau of Indian Affairs, miscellaneous payments to Indians (14–2303–0–1–452);

"Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14–9973–0–7–999); .

"Claims, defense;

"Claims, judgments, and relief act (20–1895–0–1–806);

"Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);

"Compensation of the President (11–0001–0–1–802);

"Customs Service, miscellaneous permanent appropriations (20–9992–0–2–852);

"Eastern Indian land claims settlement fund (14–2202–0–1–806);

"Farm Credit System Financial Assistance Corporation, interest payments (20–1850–0–1–351);

"Internal Revenue collections of Puerto Rico (20–5737–0–2–852);

"Panama Canal Commission, operating expenses and capital outlay (95–5190–0–2–403);

"Payments of Vietnam and USS Pueblo prisoner-of-war claims (15–0104–0–1–153);

"Payments to copyright owners (03–5175–0–2–376);

"Payments to the United States territories, fiscal assistance (14–0418–0–1–801);

"Salaries of Article III judges;

"Soldier's and Airmen's Home, payment of claims (84–8930–0–7–705);

"Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401).

"(viii) the following noncredit special, revolving, or trust-revolving funds—

"Coinage profit fund (20–5811–0–2–803);

"Exchange Stabilization Fund (20–4444–0–3–155);

"Foreign Military Sales trust fund (11–82232–0–7–155); and

"(ix)(I) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act);

"(II) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act; and

"(III) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account.

"(3) FEDERAL ADMINISTRATIVE EXPENSES.—

"(A) Administrative expenses incurred by the departments and agencies, including independent agencies, of the Federal Government in connection with any program, project, activity, or account shall be subject to reduction pursuant to any sequestration order, without regard to the exemptions under paragraph (2) and regardless of whether the program, project, activity, or account is self-supporting and does not receive appropriations.

"(B) Payments made by the Federal Government to reimburse or match administrative costs incurred by a State or political subdivision under or in connection with any program, project, activity, or account shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to sequestration to the extent (and only to the extent) that other payments made by the Federal Government under or in connection with that program, project, activity, or account are subject to that reduction or sequestration; except that Federal payments made to a State as reimbursement of administrative costs incurred by that State under or in connection with the unemployment compensation programs specified in paragraph (2)(ix) shall be subject to reduction or sequestration under this part notwithstanding the exemption otherwise granted to such programs under that paragraph.".

(b) REPORTS.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (a), by inserting after the item relating to the GAO compliance report the following:

"October 1 . . . Department of Treasury report to Congress estimating amount of income tax designated pursuant to section 6097 of the Internal Revenue Code of 1986.";

(2) in subsection (d)(1), by inserting ", and sequestration to reduce the public debt,";

(3) in subsection (d), by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

"(A) The aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the calendar year two years before the year in which the budget year begins.

"(B) The amount of reductions required under section 253A and the deficit remaining after those reductions have been made.

"(C) The sequestration percentage necessary to achieve the required reduction in accounts under section 253A(b)."; and

(4) in subsection (g), by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The final reports shall contain all of the information contained in the public debt taxation designation report required on October 1.".

(c) EFFECTIVE DATE.—Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the expiration date set forth in that section shall not apply to the amendments made by this section. The amendments made by this section shall cease to have any effect after the first fiscal year during which there is no public debt.

PART V—SMALL BUSINESS INCENTIVES

SEC. 6351. COST-OF-LIVING ADJUSTMENTS RELATING TO ESTATE AND GIFT TAX PROVISIONS.

(a) INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.—

(1) ESTATE TAX CREDIT.—

(A) Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".

(B) Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

"In the case of estates of decedents dying, and gifts made, during:	**The applicable exclusion amount is:**
1996	$700,000
1997	$725,000
1998 or thereafter	$750,000.

"(2) COST-OF-LIVING ADJUSTMENTS.—In the case of any decedent dying, and gift made, in a calendar year after 1998, the $750,000 amount set forth in paragraph (1) shall be increased by an amount equal to—

"(A) $750,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

(C) Paragraph (1) of section 6018(a) is amended by striking "$600,000" and inserting "the applicable exclusion amount in effect under section 2010(c) (as adjusted under paragraph (2) thereof) for the calendar year which includes the date of death".

(D) Paragraph (2) of section 2001(c) is amended by striking "$21,040,000" and inserting "the amount at which the average tax rate under this section is 55 percent".

(E) Subparagraph (A) of section 2102(c)(3) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death".

(2) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of section 2505(a) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for such calendar year".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying, and gifts made, after December 31, 1995.

(b) ALTERNATE VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—Subsection (a) of section 2032A is amended by adding at the end the following new paragraph:

"(3) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 1998, the $750,000 amount contained in paragraph (2) shall be increased by an amount equal to—

"(A) $750,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

(c) ANNUAL GIFT TAX EXCLUSION.—Subsection (b) of section 2503 is amended—

(1) by striking the subsection heading and inserting the following:

"(b) EXCLUSIONS FROM GIFTS.—

"(1) IN GENERAL.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) INFLATION ADJUSTMENT.—In the case of gifts made in a calendar year after 1998, the $10,000 amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) $10,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000."

(d) EXEMPTION FROM GENERATION-SKIPPING TAX.—Section 2631 (relating to GST exemption) is amended by adding at the end the following new subsection:

"(c) INFLATION ADJUSTMENT.—In the case of an individual who dies in any calendar year after 1998, the $1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

"(1) $1,000,000, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

(e) AMOUNT OF TAX ELIGIBLE FOR 4 PERCENT INTEREST RATE ON EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX ON CLOSELY HELD BUSINESS.—

(1) Subparagraph (A) of section 6601(j)(2) is amended by striking "$345,800" and inserting "the applicable limitation amount".

(2) Subsection (j) of section 6601 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) APPLICABLE LIMITATION AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (2), the applicable limitation amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were $1,000,000.

"(B) INFLATION ADJUSTMENT.—In the case of estates of decedents dying in a calendar year after 1998, the $1,000,000 amount contained in subparagraph (A) shall be increased by an amount equal to—

"(i) $1,000,000, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

SEC. 6352. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

"(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed the following applicable amount:

"If the taxable year begins in:	**The applicable amount is:**
1996	$22,500
1997	27,500
1998	32,500
1999 or thereafter	35,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 6353. CLARIFICATION OF TREATMENT OF HOME OFFICE USE FOR ADMINISTRATIVE AND MANAGEMENT ACTIVITIES.

(a) IN GENERAL.—Paragraph (1) of section 280A(c) is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), the term 'principal place of business' includes a place of business which is used by the taxpayer for the administrative or management activities of any trade or business of the taxpayer if there is no other fixed location of such trade or business where the taxpayer conducts substantial administrative or management activities of such trade or business."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 6354. TREATMENT OF STORAGE OF PRODUCT SAMPLES.

(a) IN GENERAL.—Paragraph (2) of section 280A(c) is amended by striking "inventory" and inserting "inventory or product samples".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

Subtitle D—Family Reinforcement

SEC. 6401. CREDIT FOR ADOPTION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25 the following new section:

"SEC. 25A. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to sections 911, 931, and 933) exceeds $60,000, bears to

"(B) $40,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program. The preceding sentence shall not apply to expenses for the adoption of a child with special needs.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

"(i) which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the taxpayer, and

"(ii) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement.

"(B) EXPENSES FOR ADOPTION OF SPOUSE'S CHILD NOT ELIGIBLE.—The term 'qualified adoption expenses' shall not include any expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse.

"(2) ELIGIBLE CHILD.—The term 'eligible child' means any individual—

"(A) who has not attained age 18 as of the time of the adoption, or

"(B) who is physically or mentally incapable of caring for himself.

"(3) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child if—

"(A) a State has determined that the child cannot or should not be returned to the home of his parents, and

"(B) such State has determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance.

"(d) MARRIED COUPLES MUST FILE JOINT RETURNS, ETC.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section."

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Adoption expenses.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 6402. CREDIT FOR TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25A the following new section:

"SEC. 25B. CREDIT FOR TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who maintains a household which includes as a member one or more qualified persons, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 for each such person.

"(b) QUALIFIED PERSON.—For purposes of this section, the term 'qualified person' means any individual—

"(1) who is a father or mother of the taxpayer, his spouse, or his former spouse or who is an ancestor of such a father or mother,

"(2) who is physically or mentally incapable of caring for himself,

"(3) who has as his principal place of abode for more than half of the taxable year the home of the taxpayer, and

"(4) whose name and TIN are included on the taxpayer's return for the taxable year.

For purposes of paragraph (1), a stepfather or stepmother shall be treated as a father or mother.

"(c) SPECIAL RULES.—For purposes of this section, rules similar to the rules of paragraphs (1), (2), (3), and (4) of section 21(e) shall apply."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

"Sec. 25B. Credit for taxpayers with certain persons requiring custodial care in their households."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle E—Social Security Earnings Test

SEC. 6501. ADJUSTMENTS IN MONTHLY EXEMPT AMOUNT FOR PURPOSES OF THE SOCIAL SECURITY EARNINGS TEST.

(a) INCREASE IN MONTHLY EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read as follows:

"(D)(i) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

"(I) for the taxable year beginning after 1995 and before 1997, $1,250.00,

"(II) for the taxable year beginning after 1996 and before 1998, $1,583.33⅓,

"(III) for the taxable year beginning after 1997 and before 1999, $1,916.66⅔,

"(IV) for the taxable year beginning after 1998 and before 2000, $2,250.00, and

"(V) for the taxable year beginning after 1999 and before 2001, $2,500.00.

"(ii) For purposes of subparagraph (B)(ii)(II), the increase in the exempt amount provided under clause (i)(V) shall be deemed to have resulted from a determination which shall be deemed to have been made under subparagraph (A) in 1999.".

(b) CONFORMING AMENDMENT.—The second sentence of section 223(d)(4) of such Act (42 U.S.C. 423(d)(4)) is amended by striking "the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof" and inserting the following: "an amount equal to the exempt amount which would have been applicable under section 203(f)(8), to individuals described in subparagraph (D) thereof, if section 6501 of the Contract With America Tax Relief Act of 1995 had not been enacted".

(c) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after 1995.

Subtitle F—Technical Corrections

SEC. 6601. COORDINATION WITH OTHER SUBTITLES.

For purposes of applying the amendments made by any subtitle of this title other than this subtitle, the provisions of this subtitle shall be treated as having been enacted immediately before the provisions of such other subtitles.

SEC. 6602. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) Amendments Related to Subtitle A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking "section 1(i)(3)(B)" and inserting "section 1(g)(3)(B)".

(2) Clause (i) of section 151(d)(3)(C) is amended by striking "joint of a return" and inserting "joint return".

(b) Amendments Related to Subtitle B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking "Paragraph (1) of section 6724(d)" and inserting "Subparagraph (B) of section 6724(d)(1)".

(2)(A) Subparagraph (B) of section 4093(c)(2), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period "unless such fuel is sold for exclusive use by a State or any political subdivision thereof".

(B) Paragraph (4) of section 6427(l), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period "unless such fuel was used by a State or any political subdivision thereof".

(3) Paragraph (1) of section 6416(b) is amended by striking "chapter 32 or by section 4051" and inserting "chapter 31 or 32".

(4) Section 7012 is amended—

(A) by striking "production or importation of gasoline" in paragraph (3) and inserting "taxes on gasoline and diesel fuel", and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(5) Subsection (c) of section 5041 is amended by striking paragraph (6) and by inserting the following new paragraphs:

"(6) Credit for transferee in bond.—If—

"(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

"(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the 'transferee') to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

"(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph,

then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

"(7) Regulations.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons during a calendar year, and

"(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year."

(6) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(f),".

(7) Section 5354 is amended by inserting "(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))" after "any one time".

(c) Amendments Related to Subtitle C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraphs (I) and (J) as subparagraphs (H) and (I), respectively.

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xii), and

(B) by striking the period at the end of clause (xiii) and inserting ", or".

(3) Subsection (g) of section 6302 is amended by inserting ", 22," after "chapters 21".

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections 56 and 902, and subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986, such deduction shall be taken into account.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking "any transaction to which the summons relates" and inserting "any affected taxable year", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates.".

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new flush sentence:

"The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.".

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking "this subtitle" and inserting "this title".

(d) Amendments Related to Subtitle D.—

(1) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(2) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking "any month of the 10-year period" and inserting "any year of the 4-year period",

(B) by striking "succeeding months" and inserting "succeeding years", and

(C) by striking "over the remainder of such period (or, if lesser, 5 years)" and inserting "to zero over the succeeding 5 years".

(e) Amendments Related to Subtitle E.—

(1)(A) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

"(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A)."

(B) For purposes of applying sections 56(g)(1) and 56(g)(3) of the Internal Revenue Code of 1986 with respect to taxable years beginning in 1991 and 1992, the reference in such sections to the alternative tax net operating loss deduction shall be treated as including a reference to the deduction under section 56(h) of such Code as in effect before the amendments made by section 1915 of the Energy Policy Act of 1992.

(2) Clause (i) of section 613A(c)(3)(A) is amended by striking "the table contained in".

(3) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking "section 40(f) or 51(j)" in subsection (m) (as redesignated by subparagraph (A)) and inserting "section 40(f), 43, or 51(j)".

(4) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: "and without regard to the deduction under section 56(h)".

(5) The amendment made by section 1913(b)(2)(C)(i) of the Energy Policy Act of 1992 shall apply to taxable years beginning after December 31, 1990.

(f) Amendments Related to Subtitle F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

"(C) Valuation of qualified payments where no liquidation, etc. rights.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section."

(B) Section 2701(a)(3)(B) is amended by inserting "CERTAIN" before "QUALIFIED" in the heading thereof.

(C) Sections 2701 (d)(1) and (d)(4) are each amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3) (B) or (C)".

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting "(or, to the extent provided in regulations, the rights as to either income or capital)" after "income and capital".

(3)(A) Section 2701(b)(2) is amended by adding at the end thereof the following new subparagraph:

"(C) Applicable family member.—For purposes of this subsection, the term 'applicable family member' includes any lineal descendant of any parent of the transferor or the transferor's spouse."

(B) Section 2701(e)(3) is amended—

(i) by striking subparagraph (B), and

(ii) by striking so much of paragraph (3) as precedes "shall be treated as holding" and inserting:

"(3) Attribution of indirect holdings and transfers.—An individual".

(C) Section 2704(c)(3) is amended by striking "section 2701(e)(3)(A)" and inserting "section 2701(e)(3)".

(4) Clause (i) of section 2701(c)(1)(B) is amended to read as follows:

"(i) a right to distributions with respect to any interest which is junior to the rights of the transferred interest,".

(5)(A) Clause (i) of section 2701(c)(3)(C) is amended to read as follows:

"(i) In general.—Payments under any interest held by a transferor which (without regard to this subparagraph) are qualified payments shall be treated as qualified payments unless the transferor elects not to treat such payments as qualified payments. Payments described in the preceding sentence which are held by an applicable family member shall be treated as qualified payments only if such member elects to treat such payments as qualified payments."

(B) The first sentence of section 2701(c)(3)(C)(ii) is amended to read as follows: "A transferor or applicable family member holding any distribution right which (without regard to this subparagraph) is not a qualified payment may elect to treat such right as a qualified payment, to be paid in the amounts and at the times specified in such election.".

(C) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor's return of the tax imposed by section 2501 of such Code for the first calendar year ending after the date of enactment.

(6) Section 2701(d)(3)(A)(iii) is amended by striking "the period ending on the date of".

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting "or the exclusion under section 2503(b)," after "section 2523,".

(8) Section 2701(e)(5) is amended—

(A) by striking "such contribution to capital or such redemption, recapitalization, or other change" in subparagraph (A) and inserting "such transaction", and

(B) by striking "the transfer" in subparagraph (B) and inserting "such transaction".

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

"(C) TRANSFER TO TRANSFERORS.—In the case of a taxable event described in paragraph (3)(A)(ii) involving a transfer of an applicable retained interest from an applicable family member to a transferor, this subsection shall continue to apply to the transferor during any period the transferor holds such interest."

(10) Section 2701(e)(6) is amended by inserting "or to reflect the application of subsection (d)" before the period at the end thereof.

(11)(A) Section 2702(a)(3)(A) is amended—

(i) by striking "to the extent" and inserting "if" in clause (i),

(ii) by striking "or" at the end of clause (i),

(iii) by striking the period at the end of clause (ii) and inserting ", or", and

(iv) by adding at the end thereof the following new clause:

"(iii) to the extent that regulations provide that such transfer is not inconsistent with the purposes of this section."

(B)(i) Section 2702(a)(3) is amended by striking "incomplete transfer" each place it appears and inserting "incomplete gift".

(ii) The heading for section 2702(a)(3)(B) is amended by striking "INCOMPLETE TRANSFER" and inserting "INCOMPLETE GIFT".

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1)(A) Subsection (a) of section 1248 is amended—

(i) by striking ", or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock" in paragraph (1), and

(ii) by adding at the end thereof the following new sentence: "For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock.".

(B) Paragraph (1) of section 1248(e) is amended by striking ", or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock".

(C) Subparagraph (B) of section 1248(f)(1) is amended by striking "or 361(c)(1)" and inserting "355(c)(1), or 361(c)(1)".

(D) Paragraph (1) of section 1248(i) is amended to read as follows:

"(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been—

"(A) issued to the 10-percent corporate shareholder, and

"(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section."

(2) Section 897 is amended by striking subsection (f).

(3) Paragraph (13) of section 4975(d) is amended by striking "section 408(b)" and inserting "section 408(b)(12)".

(4) Clause (iii) of section 56(g)(4)(D) is amended by inserting ", but only with respect to taxable years beginning after December 31, 1989" before the period at the end thereof.

(5)(A) Paragraph (11) of section 11701(a) of the Revenue Reconciliation Act of 1990 (and the amendment made by such paragraph) are hereby repealed, and section 7108(r)(2) of the Revenue Reconciliation Act of 1989 shall be applied as if such paragraph (and amendment) had never been enacted.

(B) Subparagraph (A) shall not apply to any building if the owner of such building establishes to the satisfaction of the Secretary of the Treasury or his delegate that such owner reasonably relied on the amendment made by such paragraph (11).

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1)(A) Clause (vi) of section 168(e)(3)(B) is amended by striking "or" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", or", and by adding at the end thereof the following new subclause:

"(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)."

(B) Subparagraph (K) of section 168(g)(4) is amended by striking "section 48(a)(3)(A)(iii)" and inserting "section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking "subsection (m)" and inserting "subsection (h)".

(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking "243(b)(5)" and inserting "243(b)(2)".

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting "of" after "In the case".

(5) The subsection heading for subsection (a) of section 280F is amended by striking "INVESTMENT TAX CREDIT AND".

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting "section" before "243(b)(2)".

(7) Paragraph (3) of section 341(f) is amended by striking "351, 361, 371(a), or 374(a)" and inserting "351, or 361".

(8) Paragraph (2) of section 243(b) is amended to read as follows:

"(2) AFFILIATED GROUP.—For purposes of this subsection:

"(A) IN GENERAL.—The term 'affiliated group' has the meaning given such term by section 1504(b), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

"(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

"(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

"(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901."

(9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after "section 48(a)(5)".

(10) Paragraph (1) of section 179(d) is amended—

(A) by striking "in a trade or business" and inserting "a trade or business", and

(B) by adding at the end thereof the following new sentence: "Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units and horses."

(11) Subparagraph (E) of section 50(a)(2) is amended by striking "section 48(a)(5)(A)" and inserting "section 48(a)(5)".

(12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck "Section 422A(c)(2)" and inserted "Section 422(c)(2)".

(13) Subparagraph (B) of section 424(c)(3) is amended by striking "a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option" and inserting "an incentive stock option or an option granted under an employee stock purchase plan".

(14) Subparagraph (E) of section 1367(a)(2) is amended by striking "section 613A(c)(13)(B)" and inserting "section 613A(c)(11)(B)".

(15) Subparagraph (B) of section 460(e)(6) is amended by striking "section 167(k)" and inserting "section 168(e)(2)(A)(ii)".

(16) Subparagraph (C) of section 172(h)(4) is amended by striking "subsection (b)(1)(M)" and inserting "subsection (b)(1)(E)".

(17) Section 6503 is amended—

(A) by redesignating the subsection relating to extension in case of certain summonses as subsection (j), and

(B) by redesignating the subsection relating to cross references as subsection (k).

(18) Paragraph (4) of section 1250(e) is hereby repealed.

(i) EFFECTIVE DATE.—Except as otherwise expressly provided—

(1) the amendments made by this section shall be treated as amendments to the Internal Revenue Code of 1986 as amended by the Revenue Reconciliation Act of 1993; and

(2) any amendment made by this section shall apply to periods before the date of the enactment of this section in the same manner as if it had been included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.

SEC. 6603. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1993.

(a) Amendment Related to Section 13114.—Paragraph (2) of section 1044(c) is amended to read as follows:

"(2) Purchase.—The taxpayer shall be considered to have purchased any property if, but for subsection (d), the unadjusted basis of such property would be its cost within the meaning of section 1012."

(b) Amendments Related to Section 13142.—

(1) Subparagraph (B) of section 13142(b)(6) of the Revenue Reconciliation Act of 1993 is amended to read as follows:

"(B) Full-time students, waiver authority, and prohibited discrimination.—The amendments made by paragraphs (2), (3), and (4) shall take effect on the date of the enactment of this Act."

(2) Subparagraph (C) of section 13142(b)(6) of such Act is amended by striking "paragraph (2)" and inserting "paragraph (5)".

(c) Amendment Related to Section 13161.—

(1) In general.—Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows:

"(e) Inflation Adjustment.—

"(1) In general.—The $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) Rounding.—If any amount as adjusted under paragraph (1) is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000."

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) Amendment Related to Section 13201.—Clause (ii) of section 135(b)(2)(B) is amended by inserting before the period at the end thereof the following: ", determined by substituting 'calendar year 1989' for 'calendar year 1992' in subparagraph (B) thereof".

(e) Amendments Related to Section 13203.—Subsection (a) of section 59 is amended—

(1) by striking "the amount determined under section 55(b)(1)(A)" in paragraph (1)(A) and (2)(A)(i) and inserting "the pre-credit tentative minimum tax",

(2) by striking "specified in section 55(b)(1)(A)" in paragraph (1)(C) and inserting "specified in subparagraph (A)(i) or (B)(i) of section 55(b)(1) (whichever applies)",

(3) by striking "which would be determined under section 55(b)(1)(A)" in paragraph (2)(A)(ii) and inserting "which would be the pre-credit tentative minimum tax", and

(4) by adding at the end thereof the following new paragraph:

"(3) Pre-credit tentative minimum tax.—For purposes of this subsection, the term 'pre-credit tentative minimum tax' means—

"(A) in the case of a taxpayer other than a corporation, the amount determined under the first sentence of section 55(b)(1)(A)(i), or

"(B) in the case of a corporation, the amount determined under section 55(b)(1)(B)(i)."

(f) Amendment Related to Section 13221.—Sections 1201(a) and 1561(a) are each amended by striking "last sentence" each place it appears and inserting "last 2 sentences".

(g) Amendments Related to Section 13222.—

(1) Subparagraph (B) of section 6033(e)(1) is amended by adding at the end thereof the following new clause:

"(iii) Coordination with section 527(f).—This subsection shall not apply to any amount on which tax is imposed by reason of section 527(f).".

(2) Clause (i) of section 6033(e)(1)(B) is amended by striking "this subtitle" and inserting "section 501".

(h) Amendment Related to Section 13225.—Paragraph (3) of section 6655(g) is amended by striking all that follows "'3rd month'" in the sentence following subparagraph (C) and inserting ", subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply.".

(i) Amendments Related to Section 13231.—

(1) Subparagraph (G) of section 904(d)(3) is amended by striking "section 951(a)(1)(B)" and inserting "subparagraph (B) or (C) of section 951(a)(1)".

(2) Paragraph (1) of section 956A(b) is amended to read as follows:

"(1) the amount (not including a deficit) referred to in section 316(a)(1) to the extent such amount was accumulated in prior taxable years beginning after September 30, 1993, and".

(3) Subsection (f) of section 956A is amended by inserting before the period at the end thereof: "and regulations coordinating the provisions of subsections (c)(3)(A) and (d)".

(4) Subsection (b) of section 958 is amended by striking "956(b)(2)" each place it appears and inserting "956(c)(2)".

(5)(A) Subparagraph (A) of section 1297(d)(2) is amended by striking "The adjusted basis of any asset" and inserting "The amount taken into account under section 1296(a)(2) with respect to any asset".

(B) The paragraph heading of paragraph (2) of section 1297(d) is amended to read as follows:

"(2) Amount taken into account.—".

(6) Subsection (e) of section 1297 is amended by inserting "For purposes of this part—" after the subsection heading.

(j) Amendment Related to Section 13241.—Subparagraph (B) of section 40(e)(1) is amended to read as follows:

"(B) for any period before January 1, 2001, during which the rates of tax under section 4081(a)(2)(A) are 4.3 cents per gallon."

(k) Amendment Related to Section 13261.—Clause (iii) of section 13261(g)(2)(A) of the Revenue Reconciliation Act of 1993 is amended by striking "by the taxpayer" and inserting "by the taxpayer or a related person".

(l) Amendment Related to Section 13301.—Subparagraph (B) of section 1397B(d)(5) is amended by striking "preceding".

(m) Clerical Amendments.—

(1) Subsection (d) of section 39 is amended—

(A) by striking "45" in the heading of paragraph (5) and inserting "45A", and

(B) by striking "45" in the heading of paragraph (6) and inserting "45B".

(2) Subparagraph (A) of section 108(d)(9) is amended by striking "paragraph (3)(B)" and inserting "paragraph (3)(C)".

(3) Subparagraph (C) of section 143(d)(2) is amended by striking the period at the end thereof and inserting a comma.

(4) Clause (ii) of section 163(j)(6)(E) is amended by striking "which is a" and inserting "which is".

(5) Subparagraph (A) of section 1017(b)(4) is amended by striking "subsection (b)(2)(D)" and inserting "subsection (b)(2)(E)".

(6) So much of section 1245(a)(3) as precedes subparagraph (A) thereof is amended to read as follows:

"(3) Section 1245 property.—For purposes of this section, the term 'section 1245 property' means any property which is or has been property of a character subject to the allowance for depreciation provided in section 167 and is either—".

(7) Paragraph (2) of section 1394(e) is amended—

(A) by striking "(i)" and inserting "(A)", and

(B) by striking "(ii)" and inserting "(B)".

(8) Subsection (m) of section 6501 (as redesignated by section 6602) is amended by striking "or 51(j)" and inserting "45B, or 51(j)".

(9)(A) The section 6714 added by section 13242(b)(1) of the Revenue Reconciliation Act of 1993 is hereby redesignated as section 6715.

(B) The table of sections for part I of subchapter B of chapter 68 is amended by striking "6714" in the item added by such section 13242(b)(2) of such Act and inserting "6715".

(10) Paragraph (2) of section 9502(b) is amended by inserting "and before" after "1982,".

(11) Subsection (a)(3) of section 13206 of the Revenue Reconciliation Act of 1993 is amended by striking "this section" and inserting "this subsection".

(12) Paragraph (1) of section 13215(c) of the Revenue Reconciliation Act of 1993 is amended by striking "Public Law 92–21" and inserting "Public Law 98–21".

(13) Paragraph (2) of section 13311(e) of the Revenue Reconciliation Act of 1993 is amended by striking "section 1393(a)(3)" and inserting "section 1393(a)(2)".

(14) Subparagraph (B) of section 117(d)(2) is amended by striking "section 132(f)" and inserting "section 132(h)".

(n) Effective Date.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1993 to which such amendment relates.

SEC. 6604. MISCELLANEOUS PROVISIONS.

(a) Application of Amendments Made by Title XII of Omnibus Budget Reconciliation Act of 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) Treatment of Certain Amounts Under Hedge Bond Rules.—

(1) Clause (iii) of section 149(g)(3)(B) is amended to read as follows:

"(iii) Amounts held pending reinvestment or redemption.—Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) Treatment of Certain Distributions Under Section 1445.—

(1) In general.—Paragraph (3) of section 1445(e) is amended by adding at the end

thereof the following new sentence: "Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation."

(2) Effective date.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) Treatment of Certain Credits Under Section 469.—

(1) In general.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income."

(2) Effective date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) Treatment of Dispositions Under Passive Loss Rules.—

(1) In general.—Subparagraph (A) of section 469(g)(1) is amended to read as follows:

"(A) In general.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) any loss from such activity for such taxable year (determined after the application of subsection (b)), over

"(ii) any net income or gain for such taxable year from all other passive activities (determined after the application of subsection (b)),

shall be treated as a loss which is not from a passive activity."

(2) Effective date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(f) Miscellaneous Amendments to Foreign Provisions.—

(1) Coordination of unified estate tax credit with treaties.—Subparagraph (A) of section 2102(c)(3) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States."

(2) Treatment of certain interest paid to related person.—

(A) In general.—Subparagraph (B) of section 163(j)(1) is amended by inserting before the period at the end thereof the following: "(and clause (ii) of paragraph (2)(A) shall not apply for purposes of applying this subsection to the amount so treated)".

(B) Effective date.—The amendment made by subparagraph (A) shall apply as if included in the amendments made by section 7210(a) of the Revenue Reconciliation Act of 1989.

(3) Treatment of interest allocable to effectively connected income.—

(A) In general.—

(i) Subparagraph (B) of section 884(f)(1) is amended by striking "to the extent" and all that follows down through "subparagraph (A)" and inserting "to the extent that the allocable interest exceeds the interest described in subparagraph (A)".

(ii) The second sentence of section 884(f)(1) is amended by striking "reasonably expected" and all that follows down through the period at the end thereof and inserting "reasonably expected to be allocable interest."

(iii) Paragraph (2) of section 884(f) is amended to read as follows:

"(2) Allocable interest.—For purposes of this subsection, the term 'allocable interest' means any interest which is allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States."

(B) Effective date.—The amendments made by subparagraph (A) shall take effect as if included in the amendments made by section 1241(a) of the Tax Reform Act of 1986.

(4) Clarification of source rule.—

(A) In general.—Paragraph (2) of section 865(b) is amended by striking "863(b)" and inserting "863".

(B) Effective date.—The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 1211 of the Tax Reform Act of 1986.

(5) Repeal of obsolete provisions.—

(A) Paragraph (1) of section 6038(a) is amended by striking ", and" at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(B) Subsection (b) of section 6038A is amended by adding "and" at the end of paragraph (2), by striking ", and" at the end of paragraph (3) and inserting a period, and by striking paragraph (4).

(g) Treatment of Assignment of Interest in Certain Bond-Financed Facilities.—

(1) In general.—Subparagraph (A) of section 1317(3) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence: "A facility shall not fail to be treated as described in this subparagraph by reason of an assignment (or an agreement to an assignment) by the governmental unit on whose behalf the bonds are issued of any part of its interest in the property financed by such bonds to another governmental unit."

(2) Effective date.—The amendment made by paragraph (1) shall take effect as if included in such section 1317 on the date of the enactment of the Tax Reform Act of 1986.

(h) Clarification of Treatment of Medicare Entitlement Under COBRA Provisions.—

(1) In general.—

(A) Subclause (V) of section 4980B(f)(2)(B)(i) is amended to read as follows:

"(V) Medicare entitlement followed by qualifying event.—In the case of a qualifying event described in paragraph (3)(B) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this clause before the close of the 36-month period beginning on the date the covered employee became so entitled."

(B) Clause (v) of section 602(2)(A) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(v) Medicare entitlement followed by qualifying event.—In the case of a qualifying event described in section 603(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled."

(C) Clause (iv) of section 2202(2)(A) of the Public Health Service Act is amended to read as follows:

"(iv) Medicare entitlement followed by qualifying event.—In the case of a qualifying event described in section 2203(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled."

(2) Effective date.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1989.

(i) Treatment of Certain REMIC Inclusions.—

(1) In general.—Subsection (a) of section 860E is amended by adding at the end thereof the following new paragraph:

"(6) Coordination with minimum tax.—For purposes of part VI of subchapter A of this chapter—

"(A) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this subsection,

"(B) the alternative minimum taxable income of any holder of a residual interest in a REMIC for any taxable year shall in no event be less than the excess inclusion for such taxable year, and

"(C) any excess inclusion shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

The preceding sentence shall not apply to any organization to which section 593 applies, except to the extent provided in regulations prescribed by the Secretary under paragraph (2)."

(2) Effective date.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 671 of the Tax Reform Act of 1986 unless the taxpayer elects to apply such amendment only to taxable years beginning after the date of the enactment of this Act.

(j) Exemption From Harbor Maintenance Tax for Certain Passengers.—

(1) In general.—Subparagraph (D) of section 4462(b)(1) (relating to special rule for Alaska, Hawaii, and possessions) is amended by inserting before the period the following: ", or passengers transported on United States flag vessels operating solely within the State waters of Alaska or Hawaii and adjacent international waters".

(2) Effective date.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1402(a) of the Harbor Maintenance Revenue Act of 1986.

(k) Amendments Related to Revenue Provisions of Energy Policy Act of 1992.—

(1) Effective with respect to taxable years beginning after December 31, 1990, subclause (II) of section 53(d)(1)(B)(iv) is amended to read as follows:

"(II) the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased in the manner provided in clause (iii)."

(2) Subsection (g) of section 179A is redesignated as subsection (f).

(3) Subparagraph (E) of section 6724(d)(3) is amended by striking "section 6109(f)" and inserting "section 6109(h)".

(4)(A) Subsection (d) of section 30 is amended—

(i) by inserting "(determined without regard to subsection (b)(3))" before the period at the end of paragraph (1) thereof, and

(ii) by adding at the end thereof the following new paragraph:

"(4) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle."

(B) Subsection (m) of section 6501 (as redesignated by section 6602) is amended by striking "section 40(f)" and inserting "section 30(d)(4), 40(f)".

(5) Subclause (III) of section 501(c)(21)(D)(ii) is amended by striking "section 101(6)" and inserting "section 101(7)" and by striking "1752(6)" and inserting "1752(7)".

(6) Paragraph (1) of section 1917(b) of the Energy Policy Act of 1992 shall be applied as if "at a rate" appeared instead of "at the rate" in the material proposed to be stricken.

(7) Paragraph (2) of section 1921(b) of the Energy Policy Act of 1992 shall be applied as if a comma appeared after "(2)" in the material proposed to be stricken.

(8) Subsection (a) of section 1937 of the Energy Policy Act of 1992 shall be applied as if "Subpart B" appeared instead of "Subpart C".

(l) TREATMENT OF QUALIFIED FOOTBALL COACHES PLAN.—

(1) IN GENERAL.—Section 1022 of title II of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new subsection:

"(l) QUALIFIED FOOTBALL COACHES PLAN.—For purposes of determining the qualified plan status of a qualified football coaches plan, section 3(37)(F) shall be treated as part of this title and a qualified football coaches plan shall be treated as a multiemployer collectively bargained plan for purposes of the Internal Revenue Code of 1986."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to years beginning after the date of the enactment of Public Law 100–202.

(m) DETERMINATION OF UNRECOVERED INVESTMENT IN ANNUITY CONTRACT.—

(1) IN GENERAL.—Subparagraph (A) of section 72(b)(4) is amended by inserting "(determined without regard to subsection (c)(2))" after "contract".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1122(c) of the Tax Reform Act of 1986.

(n) MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.—

(1) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(ii) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(2) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(A) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(B) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(3) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1994.

(o) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking "of the subclause" and inserting "of subclause".

(2) Paragraph (2) of section 72(m) is amended by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking "adusted" and inserting "adjusted".

(4)(A) The heading for section 112 is amended by striking "combat pay" and inserting "combat zone compensation".

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking "combat pay" and inserting "combat zone compensation".

(C) Paragraph (1) of section 3401(a) is amended by striking "combat pay" and inserting "combat zone compensation".

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking "section 563(c)" and inserting "section 563(d)".

(7) Paragraph (1) of section 958(a) is amended by striking "sections 955(b)(1) (A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)" and inserting "section 960(a)(1)".

(8) Subsection (g) of section 642 is amended by striking "under 2621(a)(2)" and inserting "under section 2621(a)(2)".

(9) Section 1463 is amended by striking "this subsection" and inserting "this section".

(10) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(11) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking "and special rules".

(12) Paragraph (2) of section 4978(b) is amended by striking the period at the end of subparagraph (A) and inserting a comma, and by striking the period and quotation marks at the end of subparagraph (B) and inserting a comma.

(13) Paragraph (3) of section 5134(c) is amended by striking "section 6662(a)" and inserting "section 6665(a)".

(14) Paragraph (2) of section 5206(f) is amended by striking "section 5(e)" and inserting "section 105(e)".

(15) Paragraph (1) of section 6050B(c) is amended by striking "section 85(c)" and inserting "section 85(b)".

(16) Subsection (k) of section 6166 is amended by striking paragraph (6).

(17) Subsection (e) of section 6214 is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2)."

(18) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(19) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(20) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(21)(A) Section 7232 is amended—

(i) by striking "LUBRICATING OIL," in the heading, and

(ii) by striking "lubricating oil," in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking "lubricating oil," in the item relating to section 7232.

(22) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subclause (IV)" and inserting "subclause (V)".

(23) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking "subsection (c)(2)" and inserting "subsection (c)".

(24) Paragraph (1) of section 7646(b) of such Act is amended by striking "section 6050H(b)(1)" and inserting "section 6050H(b)(2)".

(25) Paragraph (10) of section 7721(c) of such Act is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6661(b)(2)(C)(ii)".

(26) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting "the first place it appears" before "in clause (i)".

(27) Paragraph (10) of section 7841(d) of such Act is amended by striking "section 381(a)" and inserting "section 381(c)".

(28) Paragraph (2) of section 7861(c) of such Act is amended by inserting "the second place it appears" before "and inserting".

(29) Paragraph (1) of section 460(b) is amended by striking "the look-back method of paragraph (3)" and inserting "the look-back method of paragraph (2)".

(30) Subparagraph (C) of section 50(a)(2) is amended by striking "subsection (c)(4)" and inserting "subsection (d)(5)".

(31) Subparagraph (B) of section 172(h)(4) is amended by striking the material following the heading and preceding clause (i) and inserting "For purposes of subsection (b)(2)—".

(32) Subparagraph (A) of section 355(d)(7) is amended by inserting "section" before "267(b)".

(33) Subparagraph (C) of section 420(e)(1) is amended by striking "mean" and inserting "means".

(34) Paragraph (4) of section 537(b) is amended by striking "section 172(i)" and inserting "section 172(f)".

(35) Subparagraph (B) of section 613(e)(1) is amended by striking the comma at the end thereof and inserting a period.

(36) Paragraph (4) of section 856(a) is amended by striking "section 582(c)(5)" and inserting "section 582(c)(2)".

(37) Sections 904(f)(2)(B)(i) and 907(c)(4)(B)(iii) are each amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)" after "section 172(h)".

(38) Subsection (b) of section 936 is amended by striking "subparagraphs (D)(ii)(I)" and inserting "subparagraphs (D)(ii)".

(39) Subsection (c) of section 2104 is amended by striking "subparagraph (A), (C), or (D) of section 861(a)(1)" and inserting "section 861(a)(1)(A)".

(40) Subparagraph (A) of section 280A(c)(1) is amended to read as follows:

"(A) as the principal place of business for any trade or business of the taxpayer,".

(41) Section 6038 is amended by redesignating the subsection relating to cross references as subsection (f).

(42) Clause (iv) of section 6103(e)(1)(A) is amended by striking all that follows "provisions of" and inserting "section 1(g) or 59(j);".

(43) The subsection (f) of section 6109 of the Internal Revenue Code of 1986 which was added by section 2201(d) of Public Law 101–624 is redesignated as subsection (g).

(44) Subsection (b) of section 7454 is amended by striking "section 4955(e)(2)" and inserting "section 4955(f)(2)".

(45) Subsection (d) of section 11231 of the Revenue Reconciliation Act of 1990 shall be applied as if "comma" appeared instead of "period" and as if the paragraph (9) proposed to be added ended with a comma.

(46) Paragraph (1) of section 11303(b) of the Revenue Reconciliation Act of 1990 shall be applied as if "paragraph" appeared instead of "subparagraph" in the material proposed to be stricken.

(47) Subsection (f) of section 11701 of the Revenue Reconciliation Act of 1990 is amended by inserting "(relating to definitions)" after "section 6038(e)".

(48) Subsection (i) of section 11701 of the Revenue Reconciliation Act of 1990 shall be applied as if "subsection" appeared instead of "section" in the material proposed to be stricken.

(49) Subparagraph (B) of section 11801(c)(2) of the Revenue Reconciliation Act of 1990 shall be applied as if "section 56(g)" appeared instead of "section 59(g)".

(50) Subparagraph (C) of section 11801(c)(8) of the Revenue Reconciliation Act of 1990 shall be applied as if "reorganizations" appeared instead of "reorganization" in the material proposed to be stricken.

(51) Subparagraph (H) of section 11801(c)(9) of the Revenue Reconciliation Act of 1990 shall be applied as if "section 1042(c)(1)(B)" appeared instead of "section 1042(c)(2)(B)".

(52) Subparagraph (F) of section 11801(c)(12) of the Revenue Reconciliation Act of 1990 shall be applied as if "and (3)" appeared instead of "and (E)".

(53) Subparagraph (A) of section 11801(c)(22) of the Revenue Reconciliation Act of 1990 shall be applied as if "chapters 21" appeared instead of "chapter 21" in the material proposed to be stricken.

(54) Paragraph (3) of section 11812(b) of the Revenue Reconciliation Act of 1990 shall be applied by not executing the amendment therein to the heading of section 42(d)(5)(B).

(55) Clause (i) of section 11813(b)(9)(A) of the Revenue Reconciliation Act of 1990 shall be applied as if a comma appeared after "(3)(A)(ix)" in the material proposed to be stricken.

(56) Subparagraph (F) of section 11813(b)(13) of the Revenue Reconciliation Act of 1990 shall be applied as if "tax" appeared after "investment" in the material proposed to be stricken.

(57) Paragraph (19) of section 11813(b) of the Revenue Reconciliation Act of 1990 shall be applied as if "Paragraph (20) of section 1016(a), as redesignated by section 11801," appeared instead of "Paragraph (21) of section 1016(a)".

(58) Paragraph (5) section 8002(a) of the Surface Transportation Revenue Act of 1991 shall be applied as if "4481(e)" appeared instead of "4481(c)".

(59) Section 7872 is amended—

(A) by striking "foregone" each place it appears in subsections (a) and (e)(2) and inserting "forgone", and

(B) by striking "FOREGONE" in the heading for subsection (e) and the heading for paragraph (2) of subsection (e) and inserting "FORGONE".

(60) Paragraph (7) of section 7611(h) is amended by striking "approporiate" and inserting "appropriate".

(61) The heading of paragraph (3) of section 419A(c) is amended by striking "SEVERENCE" and inserting "SEVERANCE".

(62) Clause (ii) of section 807(d)(3)(B) is amended by striking "Commissoners' " and inserting "Commissioners' ".

(63) Subparagraph (B) of section 1274A(c)(1) is amended by striking "instument" and inserting "instrument".

(64) Subparagraph (B) of section 724(d)(3) by striking "Subparagaph" and inserting "Subparagraph".

(65) The last sentence of paragraph (2) of section 42(c) is amended by striking "of 1988".

(66) Paragraph (1) of section 9707(d) is amended by striking "diligence," and inserting "diligence".

(67) Subsection (c) of section 4977 is amended by striking "section 132(i)(2)" and inserting "section 132(h)".

(68) The last sentence of section 401(a)(20) is amended by striking "section 211" and inserting "section 521".

(69) Subparagraph (A) of section 402(g)(3) is amended by striking "subsection (a)(8)" and inserting "subsection (e)(3)".

(70) The last sentence of section 403(b)(10) is amended by striking "an direct" and inserting "a direct".

(71) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(c)" and inserting "section 402(c)".

(72) Paragraph (12) of section 3405(e) is amended by striking "(b)(3)" and inserting "(b)(2)".

(73) Paragraph (41) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if "section" appeared instead of "sections" in the material proposed to be stricken.

(74) Paragraph (27) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if "Section 691(c)(5)" appeared instead of "Section 691(c)".

(75) Paragraph (5) of section 860F(a) is amended by striking "paragraph (1)" and inserting "paragraph (2)".

(76) Paragraph (1) of section 415(k) is amended by adding "or" at the end of subparagraph (C), by striking subparagraphs (D) and (E), and by redesignating subparagraph (F) as subparagraph (D).

(77) Paragraph (2) of section 404(a) is amended by striking "(18),".

(78) Clause (ii) of section 72(p)(4)(A) is amended to read as follows:

"(ii) SPECIAL RULE.—The term 'qualified employer plan' shall not include any plan which was (or was determined to be) a qualified employer plan or a government plan."

(79) Sections 461(i)(3)(C) and 1274(b)(3)(B)(i) are each amended by striking "section 6662(d)(2)(C)(ii)" and inserting "section 6662(d)(2)(C)(iii)".

(80) Subsection (a) of section 164 is amended by striking the paragraphs relating to the generation-skipping tax and the environmental tax imposed by section 59A and by inserting after paragraph (3) the following new paragraphs:

"(4) The GST tax imposed on income distributions.

"(5) The environmental tax imposed by section 59A."

Subtitle G—Tax Reduction Contingent on Deficit Reduction

SEC. 6701. TAX REDUCTION CONTINGENT ON DEFICIT REDUCTION.

Notwithstanding any other provision of this title and any amendment made by this title, no provision of this title shall take effect unless—

(1) the concurrent resolution on the budget for fiscal year 1996, as agreed to, provides that the budget of the United States will be in balance by fiscal year 2002, and

(2) the conference report, as agreed to, on the reconciliation bill for that resolution—

(A) achieves the aggregate amount of deficit reduction to effectuate the reconciliation instructions required for the years covered by that resolution necessary to so balance the budget, and

(B) contains a statement, based on estimates made by the Director of the Congressional Budget Office, that such conference report does so comply.

SEC. 6702. MONITORING.

The Committees on the Budget of the House of Representatives and the Senate shall each monitor progress on achieving a balanced budget consistent with the most recently agreed to concurrent resolution on the budget for fiscal year 1996 or any subsequent fiscal year (and the reconciliation Act for that resolution) or the most recently agreed to concurrent resolution on the budget that would achieve a balanced budget by fiscal year 2002 (and the reconciliation Act for that resolution). After consultation with the Director of the Congressional Budget Office, each such committee shall submit a report of its findings to its House and the President on or before December 15, 1995, and annually thereafter. Each such report shall contain the following:

(1) Estimates of the deficit levels (based on legislation enacted through the date of the report) for each fiscal year through fiscal year 2002.

(2) An analysis of the variance (if any) between those estimated deficit levels and the levels set forth in the concurrent resolution on the budget for fiscal year 1996 or the most recently agreed to concurrent resolution on the budget that would achieve a balanced budget by fiscal year 2002.

(3) Policy options to achieve the additional levels of deficit reduction necessary to balance the budget of the United States by fiscal year 2002.

SEC. 6703. CONGRESSIONAL ACTION.

Each House of Congress shall incorporate the policy options included in the report of its Committee on the Budget under section 6702(a)(3) (or other policy options) in developing a concurrent resolution on the budget for any fiscal year that achieves the additional levels of deficit reduction necessary to balance the budget of the United States by fiscal year 2002.

SEC. 6704. PRESIDENTIAL ACTION.

If the President submits a budget under section 1105(a) of title 31, United States Code, that does not provide for a balanced budget for the United States by fiscal year 2002, then the President shall include with that submission a complete budget that balances the budget by that fiscal year.

The CHAIRMAN. No amendment to the amendment in the nature of a substitute is in order except the further amendment in the nature of a substitute printed in part 2 of the report, which may be offered only by the gentleman from Missouri [Mr. GEPHARDT], or his designee, is considered as having been read, is debatable for one hour, equally divided and controlled by the proponent and an opponent of the amendment, and is not subject to amendment.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Chairman, I offer an amendment in the nature of a substitute made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. GEPHARDT.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "School Act of 1995".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—INCENTIVES FOR INVESTMENT IN HIGHER EDUCATION

Sec. 101. Deduction for higher education expenses.
Sec. 102. Deduction for interest on loans for higher education.
Sec. 103. Expansion of education saving bond program.
Sec. 104. Deduction for IRA contributions available to all middle-income taxpayers.
Sec. 105. Distributions from individual retirement plans may be used without penalty to pay higher education expenses.
Sec. 106. Spousal IRA computed on basis of compensation of both spouses.

TITLE II—NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS

Sec. 201. Establishment of nondeductible tax-free individual retirement accounts.

TITLE III—TAX BENEFITS CONTINGENT ON FEDERAL BUDGET

Sec. 301. Effective dates of tax benefits delayed until Federal budget projected to be in balance.
Sec. 302. Termination of tax benefits if Federal budget deficit reduction targets are not met.

TITLE IV—REVISIONS TO DISCRETIONARY SPENDING LIMITS AND BUDGET PROCESS

Sec. 401. Short title.
Sec. 402. Discretionary spending limits.
Sec. 403. General statement and definitions.
Sec. 404. Enforcing discretionary spending limits.
Sec. 405. Enforcing pay-as-you-go.
Sec. 406. Reports and orders.
Sec. 407. Technical correction.
Sec. 408. Effective date.
Sec. 409. Savings from provisions of this title reducing discretionary spending to be added to pay-as-you-go scorecard.
Sec. 410. Clarification of order in which adjustments to discretionary spending limits are to be made.

TITLE V—PROVISIONS RELATING TO INTERNATIONAL TAXATION

Sec. 501. Revision of tax rules on expatriation.
Sec. 502. Improved information reporting on foreign trusts.
Sec. 503. Modification of rules relating to foreign trusts having one or more United States beneficiaries.
Sec. 504. Foreign persons not to be treated as owners under grantor trust rules.
Sec. 505. Gratuitous transfers by partnerships and foreign corporations.
Sec. 506. Information reporting regarding large foreign gifts.
Sec. 507. Modification of rules relating to foreign trusts which are not grantor trusts.
Sec. 508. Residence of estates and trusts.

TITLE VI—EXTENSION OF AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION TO USE COMPETITIVE BIDDING

Sec. 601. Extension of authority.

TITLE VII—PRIVATIZATION OF THE UNITED STATES ENRICHMENT CORPORATION

Sec. 701. Short title and reference.
Sec. 702. Production facility.
Sec. 703. Definitions.
Sec. 704. Employees of the corporation.
Sec. 705. Marketing and contracting authority.
Sec. 706. Privatization of the corporation.
Sec. 707. Periodic certification of compliance.
Sec. 708. Licensing of other technologies.
Sec. 709. Conforming amendments.

TITLE I—INCENTIVES FOR INVESTMENT IN HIGHER EDUCATION

SEC. 101. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.— Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. HIGHER EDUCATION TUITION AND FEES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year shall not exceed $10,000.

"(B) PHASE-IN.—In the case of taxable years beginning in 1996, 1997, or 1998, '$5,000' shall be substituted for '$10,000' in subparagraph (A).

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The amount which would (but for this paragraph) be taken into account under paragraph (1) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

"(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

"(i) the excess of—

"(I) the taxpayer's modified adjusted gross income for such taxable year, over

"(II) $50,000 ($75,000 in the case of a joint return), bears to

"(ii) $10,000.

"(C) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(i) without regard to this section and sections 911, 931, and 933, and

"(ii) after the application of sections 86, 135, 219 and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(c) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this section—

"(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees charged by an educational institution and required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

as an eligible student at an institution of higher education.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such expenses—

"(i) are part of a degree program, or

"(ii) are deductible under this chapter without regard to this section.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include any student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

"(D) ELIGIBLE STUDENT.—For purposes of subparagraph (A), the term 'eligible student' means a student who—

"(i) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(ii)(I) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education, or

"(II) is enrolled in a course which enables the student to improve the student's job skills or to acquire new job skills.

"(E) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under subsection (a) to a taxpayer with respect to an eligible student unless the taxpayer includes the name, age, and taxpayer identification number of such eligible student on the return of tax for the taxable year.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution which—

"(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) is eligible to participate in programs under title IV of such Act.

"(d) SPECIAL RULES.—

"(1) NO DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for qualified higher education expenses with respect to which a deduction is allowable to the taxpayer under any other provision of this chapter unless the taxpayer irrevocably waives his right to the deduction of such expenses under such other provision.

"(B) DEPENDENTS.—No deduction shall be allowed under subsection (a) to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(C) SAVINGS BOND EXCLUSION.—A deduction shall be allowed under subsection (a) for qualified higher education expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135 for the taxable year.

"(2) LIMITATION ON TAXABLE YEAR OF DEDUCTION.—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) for any taxable year only to the extent the qualified higher education expenses are in connection with enrollment at an institution of higher education during the taxable year.

"(B) CERTAIN PREPAYMENTS ALLOWED.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the 1st 3 months of the next taxable year.

"(3) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

"(A) a qualified scholarship which under section 117 is not includable in gross income,

"(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

"(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

"(4) NO DEDUCTION FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year. The preceeding sentence shall not apply if the taxpayer lives apart from his spouse at all times during the taxable year.

"(5) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of such Code is amended by inserting after paragraph (15) the following new paragraph:

"(16) HIGHER EDUCATION TUITION AND FEES.—The deduction allowed by section 220."

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 220 and inserting:

"Sec. 220. Higher education tuition and fees.
"Sec. 221. Cross reference."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1995.

SEC. 102. DEDUCTION FOR INTEREST ON LOANS FOR HIGHER EDUCATION.

(a) IN GENERAL.—Paragraph (2) of section 163(h) of the Internal Revenue Code of 1986 (defining personal interest) is amended by striking "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any interest on a qualified higher education loan, and".

(b) QUALIFIED HIGHER EDUCATION LOAN DEFINED.—Paragraph (5) of section 163(h) of such Code (relating to phase-in of limitations) is amended to read as follows:

"(5) QUALIFIED HIGHER EDUCATION LOAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified higher education loan' means any loan incurred by the taxpayer under a State or Federal student loan program to pay qualified higher education expenses (as defined in section 220(c))—

"(i) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(ii) which are attributable to education furnished during a period during which the recipient was an eligible student (as defined in such section).

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified higher education loan.

"(B) REDUCTION OF BENEFIT FOR HIGHER INCOME TAXPAYERS.—

"(i) IN GENERAL.—The amount of interest which would (but for this subparagraph) be taken into account under paragraph (2)(E) for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to the amount of such interest as—

"(I) the excess of the taxpayer's modified adjusted gross income for such taxable year over $50,000 ($75,000 in the case of a joint return), bears to

"(II) $10,000.

"(ii) MODIFIED ADJUSTED GROSS INCOME.—For purposes of clause (i), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(I) without regard to paragraph (2)(E) and sections 911, 931, and 933, and

"(II) after the application of sections 86, 135, 219, 220, and 469.

For purposes of sections 86, 135, 219, 220, and 469, adjusted gross income shall be determined without regard to the deduction allowed by reason of paragraph (2)(E).

"(C) COORDINATION WITH LIMITATION ON HOME EQUITY INDEBTEDNESS.—Any qualified higher education loan shall not be taken into account for purposes of applying the limitation of paragraph (3)(C)(ii).

"(D) COORDINATION WITH SAVINGS BOND EXCLUSION.—The amount of qualified higher education expenses for any taxable year otherwise taken into account under subparagraph (A) shall be reduced by any amount excludable from gross income under section 135 for such taxable year.

"(E) OTHER RULES TO APPLY.—Rules similar to the rules of subparagraphs (B) and (C) of paragraph (1), and paragraphs (3), (4), and (5), of section 220(d), shall apply for purposes of this section."

(c) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of such Code is amended by inserting after paragraph (16) the following new paragraph:

"(17) INTEREST ON LOANS FOR HIGHER EDUCATION.—The deduction allowed by section 163 to the extent attributable to any qualified higher education loan (as defined in section 163(h)(5))."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued after December 31, 1995.

SEC. 103. EXPANSION OF EDUCATION SAVING BOND PROGRAM.

(a) HIGHER YIELD ON GUARANTEED EDUCATION PLAN BONDS.—Subsection (b) of section 3101 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary shall issue savings bonds which are designated as Guaranteed Education Plan Bonds.

"(B)(i) Except as provided in clause (ii) or by the Secretary, Guaranteed Education Plan Bonds shall have the same terms and conditions as other savings bonds.

"(ii) Guaranteed Education Plan Bonds, if redeemed under circumstances such that the Secretary is reasonably certain that the redemption proceeds will be used to pay the qualified higher education expenses (as defined in section 135 of the Internal Revenue Code of 1986) of the individual holding the bond, shall have an investment yield which is materially greater than the investment yield when not so used."

(b) REDUCTION OF AGE LIMIT ON INDIVIDUAL TO WHOM BOND ISSUED.—Subparagraph (B) of section 135(b)(1) is amended by striking "age 24" and inserting "age 21".

(c) TAXPAYER NEED NOT BE PURCHASER OF BOND.—Nothing in section 135 of the Internal Revenue Code of 1986 shall be construed to require that, in order for a savings bond to be a qualified United States savings bond under such section, the purchaser of the bond must be the individual to whom the bond is issued.

(d) LIMITATION ON INFLATION ADJUSTMENT.—Subparagraph (B) of section 135(b)(2) is amended by adding at the end the following new flush sentence:

"In no event shall be adjustment under this subparagraph increase the $40,000 amount to more than $50,000 or the $60,000 amount to more than $70,000."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to taxable years beginning after December 31, 1995.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the administrative expenses of the Department of the Treasury to carry out the amendment made by subsection (a)—

(1) $650,000 for the fiscal year beginning after the date of the enactment of this Act, and

(2) $11,900,000 for each following fiscal year.

SEC. 104. DEDUCTION FOR IRA CONTRIBUTIONS AVAILABLE TO ALL MIDDLE-INCOME TAXPAYERS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking "$40,000" in clause (i) and inserting "$75,000", and

(2) by striking "$25,000" in clause (ii) and inserting "$50,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions for taxable years beginning after December 31, 1995.

SEC. 105. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS MAY BE USED WITHOUT PENALTY TO PAY HIGHER EDUCATION EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR HIGHER EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan to the extent such distributions during the taxable year do not exceed the amount allowed as a deduction under section 220 to the taxpayer for such taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after December 31, 1995.

SEC. 106. SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.

(a) IN GENERAL.—Subsection (c) of section 219 of the Internal Revenue Code of 1986 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of subsection (b)(1) shall be equal to the lesser of—

"(A) $2,000, or

"(B) the sum of—

"(i) the compensation includible in such individual's gross income for the taxable year, plus

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by the amount allowable as a deduction under subsection (a) to such spouse for such taxable year.

"(2) INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.—Paragraph (1) shall apply to any individual if—

"(A) such individual files a joint return for the taxable year, and

"(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year.

"(3) PHASEIN OF BENEFIT.—The amount determined under paragraph (1)(B)(ii) for any taxable year beginning in a calendar year shall not exceed the sum of—

"(A) $250, plus

"(B) the product of $250 and the number of calendar years which such calendar year is after 1996."

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 219(f) of such Code (relating to other definitions and special rules) is amended by striking "subsections (b) and (c)" and inserting "subsection (b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 1995.

TITLE II—NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 201. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this chapter, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) SPECIAL INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

"(B) the amount so allowed.

"(3) SPECIAL RULES FOR QUALIFIED TRANSFERS.—

"(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

"(B) LIMIT NOT TO APPLY.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

"(A) IN GENERAL.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a special individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN SAME YEAR.—Except as provided in regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(C) CROSS REFERENCE.—

"For additional tax for early withdrawal, see section 72(t).

"(3) QUALIFIED TRANSFER.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

"(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before January 1, 1997, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).

"(2) LIMITATION.—A transfer otherwise described in paragraph (1) shall not be treated as a qualified transfer if the taxpayer's adjusted gross income for the taxable year of the transfer exceeds the sum of—

"(A) the applicable dollar amount, plus

"(B) the dollar amount applicable for the taxable year under section 219(g)(2)(A)(ii).

This paragraph shall not apply to a transfer from a special individual retirement account to another special individual retirement account.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'adjusted gross income' and 'applicable dollar amount' have the meanings given such terms by section 219(g)(3), except subparagraph (A)(ii) thereof shall be applied without regard to the phrase 'or the deduction allowable under this section'."

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t) of such Code is amended by adding at the end the following new paragraph:

"(6) RULES RELATING TO SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of a special individual retirement account under section 408A—

"(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

"(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A)."

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) of such Code is amended by adding at the end the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A."

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 of such Code is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Special individual retirement accounts."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE III—TAX BENEFITS CONTINGENT ON FEDERAL BUDGET

SEC. 301. EFFECTIVE DATES OF TAX BENEFITS DELAYED UNTIL FEDERAL BUDGET PROJECTED TO BE IN BALANCE.

(a) IN GENERAL.—Notwithstanding any provision of title I or II of this Act and any amendment made by such titles, except as otherwise provided in this section—

(1) any reference in this such titles (or in any amendment made by such titles) to 1995 shall be treated as a reference to the calendar year ending in the first successful deficit reduction year, and

(2) any reference in such titles (or in any amendment made by such titles) to any later calendar year shall be treated as a reference to the calendar year which is the same number of years after such first calendar year as such later year is after 1995.

(b) FIRST SUCCESSFUL DEFICIT REDUCTION YEAR.—For purposes of this section and section 302—

(1) IN GENERAL.—The term "first successful deficit reduction year" means the first fiscal year beginning after the date of the enactment of this Act with respect to which there is an OMB certification before the beginning of such fiscal year that the budget of the United States will be in balance by fiscal year 2002 based upon estimates of enacted legislation, including the amendments made by this Act.

(2) OMB CERTIFICATION.—The term "OMB certification" means a written certification by the Director of the Office of Management and Budget to the President and the Congress.

(c) CERTIFICATION DURING 1995.—Subsection (a) shall not apply if there is an OMB certification made during 1995 that the budget of the United States will be in balance by fiscal year 2002 based upon estimates of enacted legislation, including the amendments made by this Act.

SEC. 302. TERMINATION OF TAX BENEFITS IF FEDERAL BUDGET DEFICIT REDUCTION TARGETS ARE NOT MET.

(a) NO CREDITS, DEDUCTIONS, EXCLUSIONS, PREFERENTIAL RATE OF TAX, ETC.—No tax benefit provided by any provision of the Internal Revenue Code of 1986 added by title I or II of this Act shall apply to any taxable year beginning after the calendar year in which the first failed deficit reduction year ends.

(b) FIRST FAILED DEFICIT REDUCTION YEAR.—For purposes of this section, the term "first failed deficit reduction year" means the first fiscal year (beginning after the earliest date on which any amendment made by title I or II takes effect) with respect to which there is an OMB certification during the 3-month period after the close of such fiscal year that the actual deficit in the budget of the United States for such fiscal year was greater than the deficit target for such fiscal year specified in the following table:

"In the case of fiscal year:	**The deficit target (in billions) is:**
1996	$150
1997	125
1998	100
1999	75
2000	50
2001	25
2002 or thereafter	0.

TITLE IV—REVISIONS TO DISCRETIONARY SPENDING LIMITS AND BUDGET PROCESS

SEC. 401. SHORT TITLE.

This title may be cited as the "Discretionary Spending Reduction and Control Act of 1995".

SEC. 402. DISCRETIONARY SPENDING LIMITS.

(a) LIMITS.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (A), (B), (C), (D), and (F), by redesignating subparagraph (E) as subparagraph (A) and by striking "and" at the end of that subparagraph, and by inserting after subparagraph (A) the following new subparagraphs:

"(B) with respect to fiscal year 1996, for the discretionary category: $516,478,000,000 in new budget authority and $549,054,000,000 in outlays;

"(C) with respect to fiscal year 1997, for the discretionary category: $522,894,000,000 in new budget authority and $544,051,000,000 in outlays;

"(D) with respect to fiscal year 1998, for the discretionary category: $528,810,000,000 in new budget authority and $545,548,000,000 in outlays;

"(E) with respect to fiscal year 1999, for the discretionary category: $527,753,000,000 in new budget authority and $544,402,000,000 in outlays; and

"(F) with respect to fiscal year 2000, for the discretionary category: $527,040,000,000 in new budget authority and $543,357,000,000 in outlays;".

(b) COMMITTEE ALLOCATIONS AND ENFORCEMENT.—Section 602 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (c), by striking "1995" and inserting "2000" and by striking its last sentence; and

(2) in subsection (d), by striking "1992 TO 1995" in the side heading and inserting "1995 TO 2000" and by striking "1992 through 1995" and inserting "1995 through 2000".

(c) FIVE-YEAR BUDGET RESOLUTIONS.—Section 606 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (a), by striking "1992, 1993, 1994, or 1995" and inserting "1995, 1996, 1997, 1998, 1999, or 2000"; and

(2) in subsection (d)(1), by striking "1992, 1993, 1994, and 1995" and inserting "1995, 1996, 1997, 1998, 1999, and 2000", and by striking "(i) and (ii)".

(d) EFFECTIVE DATE.—Section 607 of the Congressional Budget Act of 1974 is amended by striking "1991 to 1998" and inserting "1995 to 2000".

(e) SEQUESTRATION REGARDING CRIME TRUST FUND.—Section 251A(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking its last sentence and inserting the following:

"(E) For fiscal year 1999, $5,639,000,000.

"(F) For fiscal year 2000, $6,225,000,000.

SEC. 403. GENERAL STATEMENT AND DEFINITIONS.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first sentence and inserting the following: "This part provides for the enforcement of deficit reduction through discretionary spending limits and pay-as-you-go requirements for fiscal years 1995 through 2000.".

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) The term 'category' means all discretionary appropriations.";

(2) by striking paragraph (6) and inserting the following:

"(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.";

(3) in paragraph (9), by striking "1992" and inserting "1995";

(4) in paragraph (14), by striking "1995" and inserting "2000"; and

(5) by striking paragraph (17) and by redesignating paragraphs (18) through (21) as paragraphs (17) through (20), respectively.

SEC. 404. ENFORCING DISCRETIONARY SPENDING LIMITS.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "1991–1998" and inserting "1995–2000";

(2) in the first sentence of subsection (b)(1), by striking "1992, 1993, 1994, 1995, 1996, 1997 or 1998" and inserting "1995, 1996, 1997, 1998, 1999, or 2000" and by striking "through 1998" and inserting "through 2000";

(3) in subsection (b)(1), by striking subparagraphs (B) and (C) and by striking "the following:" and all that follows through "The adjustments" and inserting "the following: the adjustments";

(4) in subsection (b)(2), by striking "1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998" and inserting "1995, 1996, 1997, 1998, 1999, or 2000" and by striking "through 1998" and inserting "through 2000";

(5) by striking subparagraphs (A), (B), and (C) of subsection (b)(2);

(6) in subsection (b)(2)(E), by striking clauses (i), (ii), and (iii) and by striking "(iv) if, for fiscal years 1994, 1995, 1996, 1997, and 1998" and inserting "If, for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000"; and

(7) in subsection (b)(2)(F), strike everything after "the adjustment in outlays" and insert "for a category for a fiscal year shall not exceed 0.5 percent of the adjusted discretionary spending limit on outlays for that fiscal year in fiscal year 1996, 1997, 1996, 1999, or 2000.".

SEC. 405. ENFORCING PAY-AS-YOU-GO.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "1992–1998" and inserting "1995–2000";

(2) in subsection (d), by striking "1998" each place it appears and inserting "2000"; and

(3) in subsection (e), by striking "1991 through 1998" and inserting "1995 through 2000" and by striking "through 1995" and inserting "through 2000".

SEC. 406. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (d)(2), by striking "1998" and inserting "2000"; and

(2) in subsection (g), by striking "1998" each place it appears and inserting "2000".

SEC. 407. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled "Modification of Presidential Order", is repealed.

SEC. 408. EFFECTIVE DATE.

(a) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1995" and inserting "2000".

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note; 2 U.S.C. 665 note) is repealed.

SEC. 409. SAVINGS FROM PROVISIONS OF THIS TITLE REDUCING DISCRETIONARY SPENDING TO BE ADDED TO PAY-AS-YOU-GO SCORECARD.

(a)(1) The net change in outlays for any fiscal year through fiscal year 2000 estimated to result from provisions of this title revising or extending limits on discretionary spending and spending from the Violent Crime Reduction Trust Fund shall be considered a change in direct spending for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) In applying paragraph (1), the change in outlays resulting from provisions of this title revising and extending the limits on discretionary spending set forth in section 601(a)(2) of the Congressional Budget Act of 1974 shall be computed as follows:

(A) For fiscal years 1996 through 1998, by comparing the outlay limit resulting from this title for each year with the outlay limit for that year in effect immediately prior to enactment of this Act.

(B) For fiscal years 1999 and 2000, by comparing the outlay limit resulting from this title for each year with the limit for fiscal year 1998 in effect immediately prior to enactment of this Act.

(3) In applying paragraph (1), the change in outlays resulting from provisions of this title extending the limits on spending from the Violent Crime Reduction Trust Fund set forth in section 251A(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be computed by comparing the outlay limit resulting from this title for each year with the level of outlays for that year referred to in the last 2 sentences of section 251A(b)(1) of such Act as in effect immediately before the enactment of this Act.

(b) Except as provided in subsection (a), no statutory reduction in the discretionary spending limits shall be counted in estimates under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 410. CLARIFICATION OF ORDER IN WHICH ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS ARE TO BE MADE.

In the OMB final sequestration report for fiscal year 1996—

(1) all adjustments required by section 251(b)(2) made after the preview report for fiscal year 1996 shall be made to the discretionary spending limits set forth in 601(a)(2) of the Congressional Budget Act of 1974 as amended by section 402; and

(2) all statutory changes in the discretionary spending limits made by the Personal Responsibility Act of 1995 or by the Act entitled "An Act making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes" shall be made to those limits.

TITLE V—PROVISIONS RELATING TO INTERNATIONAL TAXATION

SEC. 501. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) CITIZENS.—If any United States citizen relinquishes his citizenship during a taxable year, all property held by such citizen at the time immediately before such relinquishment shall be treated as sold at such time for its fair market value and any gain or loss shall be taken into account for such taxable year.

"(2) CERTAIN RESIDENTS.—If any long-term resident of the United States ceases to be subject to tax as a resident of the United States for any portion of any taxable year, all property held by such resident at the time of such cessation shall be treated as sold at such time for its fair market value and any gain or loss shall be taken into account for the taxable year which includes the date of such cessation.

"(b) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this subsection) be includible in the gross income of any taxpayer by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

"(c) PROPERTY TREATED AS HELD.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

"(1) all property which would be includible in his gross estate under chapter 11 were such individual to die at the time the property is treated as sold,

"(2) any other interest in a trust which the individual is treated as holding under the rules of section 679(e) (determined by treating such section as applying to foreign and domestic trusts), and

"(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

"(d) EXCEPTIONS.—The following property shall not be treated as sold for purposes of this section:

"(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the date the individual relinquishes his citizenship or ceases to be subject to tax as a resident, meet the requirements of section 897(c)(2).

"(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(d)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(B) FOREIGN PENSION PLANS.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(ii) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the date the United States Department of State issues to the individual a certificate of loss of nationality or on the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

"(2) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States and, as a result of such status, has been subject to tax as a resident in at least 10 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a) is treated as occurring.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a)—

"(1) any period deferring recognition of income or gain shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable.

"(g) ELECTION BY EXPATRIATING RESIDENTS.—Solely for purposes of determining gain under subsection (a)—

"(1) IN GENERAL.—At the election of a resident not a citizen of the United States, property—

"(A) which was held by such resident on the date the individual first became a resident of the United States during the period of long-term residency to which the treatment under subsection (a) relates, and

"(B) which is treated as sold under subsection (a),

shall be treated as having a basis on such date of not less than the fair market value of such property on such date.

"(2) ELECTION.—Such an election shall apply to all property described in paragraph (1), and, once made, shall be irrevocable.

"(h) DEFERRAL OF TAX ON CLOSELY HELD BUSINESS INTERESTS.—The District Director may enter into an agreement with any individual which permits such individual to defer payment for not more than 5 years of any tax imposed by subsection (a) by reason of holding any interest in a closely held business (as defined in section 6166(b)) other than a United States real property interest described in subsection (d)(1).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

"(j) CROSS REFERENCE.—

"For termination of United States citizenship for tax purposes, see section 7701(a)(47)."

(b) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) of such Code is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(1)."

(c) CONFORMING AMENDMENTS.—

(1) Section 877 of such Code is amended by adding at the end the following new subsection:

"(f) TERMINATION.—This section shall not apply to any individual who is subject to the provisions of section 877A."

(2) Paragraph (10) of section 7701(b) of such Code is amended by adding at the end the following new sentence: "This paragraph shall not apply to any individual who is subject to the provisions of section 877A."

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 of such Code is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) United States citizens who relinquish (within the meaning of section 877A(e)(1) of the Internal Revenue Code of 1986, as added by this section) United States citizenship on or after February 6, 1995, and

(2) long-term residents (as defined in such section) who cease to be subject to tax as residents of the United States on or after such date.

SEC. 502. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 of the Internal Revenue Code of 1986 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall—

"(A) notify each trustee of the trust of the requirements of subsection (b), and

"(B) provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1)(B) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event,

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust, and

"(C) a statement that each trustee of the trust has been informed of the requirements of subsection (b).

"(3) REPORTABLE EVENT.—For purposes of this subsection, the term 'reportable event' means—

"(A) the creation of any foreign trust by a United States person,

"(B) the transfer of any money or property to a foreign trust by a United States person, including a transfer by reason of death,

"(C) a domestic trust becoming a foreign trust,

"(D) the death of a citizen or resident of the United States who is a grantor of a foreign trust, and

"(E) the residency starting date (within the meaning of section 7701(b)(2)(A)) of a grantor of a foreign trust subject to tax under section 679(a)(3).

Subparagraphs (A) and (B) shall not apply with respect to a trust described in section 404(a)(4) or 404A.

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of a reportable event described in subparagraph (A) or (E) of paragraph (3),

"(B) the transferor in the case of a reportable event described in paragraph (3)(B) other than a transfer by reason of death,

"(C) the trustee of the domestic trust in the case of a reportable event described in paragraph (3)(C), and

"(D) the executor of the decedent's estate in the case of a transfer by reason of death.

"(b) TRUST REPORTING REQUIREMENTS.—If a foreign trust, at any time during a taxable year of such trust—

"(1) has a grantor who is a United States person and—

"(A) such grantor is treated as the owner of any portion of such trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(B) any portion of such trust would be included in the gross estate of such grantor if the grantor were to die at such time, or

"(2) directly or indirectly distributes, credits, or allocates money or property to any United States person (whether or not the trust has a grantor described in paragraph (1)),

then such trust shall meet the requirements of subsection (c) (relating to trust information and agent) and subsection (d) (relating to annual return).

"(c) CONTENTS OF SECTION 6048 STATEMENT.—

"(1) IN GENERAL.—The requirements of this subsection are met if the trust files with the Secretary a statement which contains such information as the Secretary may prescribe and which—

"(A) identifies a United States person who is the trust's limited agent to provide the Secretary with such information that reasonably should be available to the trust for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine trust records or produce testimony related to any transaction by the trust or with respect to any summons by the Secretary for such records or testimony, and

"(B) contains an agreement to comply with the requirements of subsection (d).

"(2) SPECIAL RULE.—A foreign trust which appoints an agent described in paragraph (1)(A) shall not be considered to have an office or a permanent establishment in the United States solely because of the activities of such agent pursuant to this section. For purposes of this section, the appearance of persons or production of records by reason of the creation of the agency shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the activities and operations of the trust.

"(d) ANNUAL RETURNS AND STATEMENTS.—The requirements of this subsection are met if—

"(1) the trust makes a return for the taxable year which sets forth a full and complete accounting of all trust activities and operations for the taxable year, and contains such other information as the Secretary may prescribe; and

"(2) the trust furnishes such information as the Secretary may prescribe to each United States person—

"(A) who is treated as the owner of any portion of such trust under the rules of subpart E of part I of subchapter J of chapter 1,

"(B) to whom any item with respect to the taxable year is credited or allocated, or

"(C) who receives a distribution from such trust with respect to the taxable year.

"(e) TIME AND MANNER OF FILING INFORMATION.—Any notice, statement, or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(f) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information."

(b) PENALTIES.—Section 6677 of such Code (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) FAILURE TO REPORT CERTAIN EVENTS.—

"(1) IN GENERAL.—In the case of a reportable event described in any subparagraph of section 6048(a)(3) for which a responsible party does not file a written notice meeting the requirements of section 6048(a)(2) within the time specified in section 6048(a)(1), the responsible party shall pay a penalty of $10,000. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the responsible party, such party shall pay a penalty (in addition to the $10,000 amount) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(2) 35-PERCENT PENALTY.—In the case of a reportable event described in subparagraph (A), (B), or (C) of section 6048(a)(3) (other than a transfer by reason of death), the aggregate amount of the penalties under paragraph (1) shall not be less than an amount equal to 35 percent of the gross value of the property involved in such event (determined as of the date of the event).

"(3) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' has the meaning given to such term by section 6048(a)(4).

"(b) FAILURE TO MAKE CERTAIN STATEMENTS AND RETURNS.—

"(1) IN GENERAL.—In the case of any failure to meet the requirements of section 6048(b), the appropriate tax treatment of any trust transactions or operations shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(2) MONETARY PENALTY.—In the case of any failure to meet the requirements of section 6048(b) with respect to a trust described in such section by reason of paragraph (1) thereof, the grantor described in such paragraph (1) shall pay a penalty of $10,000 for each taxable year with respect to which the foreign trust fails to meet such requirements. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to such grantor, such grantor shall pay a penalty (in addition to any other penalty) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause.

"(d) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts."

(2) The table of sections for part I of subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) to reportable events occurring on or after February 6, 1995, and

(B) to the extent such amendments require reporting for any taxable year under section 6048(b) of the Internal Revenue Code of 1986 (as added by this section), to taxable years beginning after the date of the enactment of this Act.

(2) NOTICES.—For purposes of section 6048(a) of such Code, the 90th day referred to

therein shall in no event be treated as being earlier than the 90th day after the date of the enactment of this Act.

SEC. 503. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) IN GENERAL.—Section 679 of the Internal Revenue Code of 1986 (relating to foreign trusts having one or more United States beneficiaries) is amended to read as follows:

"SEC. 679. FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

"(a) TRANSFEROR TREATED AS OWNER.—

"(1) IN GENERAL.—A United States person who directly or indirectly transfers property to a foreign trust (other than a trust described in section 404(a)(4) or section 404(A) shall be treated as the owner for his taxable year of the portion of such trust attributable to such property if for such year there is a United States beneficiary of such trust.

"(2) EXCEPTION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any sale or exchange of property to a trust if—

"(i) the trust pays fair market value for such property, and

"(ii) all of the gain to the transferor is recognized at the time of transfer.

"(B) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), in determining whether the transferor received fair market value, there shall not be taken into account—

"(i) any obligation of—

"(I) the trust,

"(II) any grantor or beneficiary of the trust, or

"(III) any person who is related (within the meaning of section 643(i)(3)) to any grantor or beneficiary of the trust, and

"(ii) except as provided in regulations, any obligation which is guaranteed by a person described in clause (i).

"(C) TREATMENT OF DEEMED SALE ELECTION UNDER SECTION 1057.—For purposes of subparagraph (A), a transfer with respect to which an election under section 1057 is made shall not be treated as a sale or exchange.

"(3) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—A nonresident alien individual who becomes a United States resident within 5 years after directly or indirectly transferring property to a foreign trust shall be treated for purposes of this section and section 6048 as having transferred such property, and any undistributed income (including all realized and unrealized gains) attributable thereto, to the foreign trust immediately after becoming a United States resident. For this purpose, a nonresident alien shall be treated as becoming a resident of the United States on the residency starting date (within the meaning of section 7701(b)(2)(A)).

"(b) BENEFICIARIES TREATED AS TRANSFERORS IN CERTAIN CASES.—For purposes of this section and section 6048, if—

"(1) a citizen or resident of the United States who is treated as the owner of any portion of a trust under subsection (a) dies,

"(2) property is transferred to a foreign trust by reason of the death of a citizen or resident of the United States, or

"(3) a domestic trust to which any United States person made a transfer becomes a foreign trust,

then, except as otherwise provided in regulations, the trust beneficiaries shall be treated as having transferred to such trust (as of the date of the applicable event under paragraph (1), (2), or (3)) their respective interests (as determined under subsection (e)) in the property involved.

"(c) TRUSTS ACQUIRING UNITED STATES BENEFICIARIES.—If—

"(1) subsection (a) applies to a trust for the transferor's taxable year, and

"(2) subsection (a) would have applied to the trust for the transferor's immediately preceding taxable year but for the fact that for such preceding taxable year there was no United States beneficiary for any portion of the trust,

then, for purposes of this subtitle, the transferor shall be treated as having received as an accumulation distribution taxable under subpart D an amount equal to the undistributed net income (as determined under section 665(a) as of the close of such immediately preceding taxable year) attributable to the portion of the trust referred to in subsection (a).

"(d) TRUSTS TREATED AS HAVING A UNITED STATES BENEFICIARY.—

"(1) IN GENERAL.—For purposes of this section, a trust shall be treated as having a United States beneficiary for the taxable year unless—

"(A) under the terms of the trust, no part of the income or corpus of the trust may be paid or accumulated during the taxable year to or for the benefit of a United States person, and

"(B) if the trust were terminated at any time during the taxable year, no part of the income or corpus of such trust could be paid to or for the benefit of a United States person.

To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust.

"(2) ATTRIBUTION OF OWNERSHIP.—For purposes of paragraph (1), an amount shall be treated as paid or accumulated to or for the benefit of a United States person if such amount is paid to or accumulated for a foreign corporation, foreign partnership, or foreign trust or estate, and—

"(A) in the case of a foreign corporation, more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote is owned (within the meaning of section 958(a)) or is considered to be owned (within the meaning of section 958(b)) by United States shareholders (as defined in section 951(b)),

"(B) in the case of a foreign partnership, a United States person is a partner of such partnership, or

"(C) in the case of a foreign trust or estate, such trust or estate has a United States beneficiary (within the meaning of paragraph (1)).

"(e) DETERMINATION OF BENEFICIARIES' INTERESTS IN TRUST.—

"(1) GENERAL RULE.—For purposes of this section, a beneficiary's interest in a foreign trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(2) SPECIAL RULE.—In the case of beneficiaries whose interests in a trust cannot be determined under paragraph (1)—

"(A) the beneficiary having the closest degree of kinship to the grantor shall be treated as holding the remaining interests in the trust not determined under paragraph (1) to be held by any other beneficiary, and

"(B) if 2 or more beneficiaries have the same degree of kinship to the grantor, such remaining interests shall be treated as held equally by such beneficiaries.

"(3) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a foreign trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(4) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(A) the methodology used to determine that taxpayer's trust interest under this section, and

"(B) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending on or after February 6, 1995.

(2) SECTION 679(a).—Paragraphs (2) and (3) of section 679(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply to—

(A) any trust created on or after February 6, 1995, and

(B) the portion of any trust created before such date which is attributable to actual transfers of property to the trust on or after such date.

(3) SECTION 679(b).—

(A) IN GENERAL.—Paragraphs (1) and (2) of section 679(b) of such Code (as so added) shall apply to—

(i) any trust created on or after the date of the enactment of this Act, and

(ii) the portion of any trust created before such date which is attributable to actual transfers of property to the trust on or after such date.

(B) SECTION 679(b)(3).—Section 679(b)(3) of such Code (as so added) shall take effect on February 6, 1995, without regard to when the property was transferred to the trust.

SEC. 504. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) IN GENERAL.—So much of section 672(f) of the Internal Revenue Code of 1986 (relating to special rule where grantor is foreign person) as precedes paragraph (2) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being included (directly or through 1 or more entities) in the gross income of a citizen or resident of the United States or a domestic corporation. The preceding sentence shall not apply to any portion of an investment trust if such trust is treated as a trust for purposes of this title and the grantor of such portion is the sole beneficiary of such portion."

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) of such Code is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section

672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.''

(c) Distributions by Certain Foreign Trusts Through Nominees.—

(1) Section 643 of such Code is amended by adding at the end the following new subsection:

''(h) Distributions by Certain Foreign Trusts Through Nominees.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.''

(2) Section 665 of such Code is amended by striking subsection (c).

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(e) Transitional Rule.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1996, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 505. GRATUITOUS TRANSFERS BY PARTNERSHIPS AND FOREIGN CORPORATIONS.

(a) In General.—Subchapter C of chapter 80 of the Internal Revenue Code of 1986 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. PURPORTED GIFTS BY PARTNERSHIPS AND FOREIGN CORPORATIONS.

''(a) In General.—Any property (including money) that is purportedly a direct or indirect gift by a partnership or a foreign corporation to a person who is not a partner of the partnership or a shareholder of the corporation, respectively, may be recharacterized by the Secretary to prevent the avoidance of tax. The Secretary may not recharacterize gifts made for bona fide business or charitable purposes.

''(b) Statements on Recipient's Return.—A taxpayer who receives a purported gift subject to subsection (a) shall attach a statement to his income tax return for the year of receipt that identifies the property received and describes fully the circumstances surrounding the purported gift.

''(c) Exemption.—Subsection (a) shall not apply to purported gifts received by any person during any taxable year if the amount thereof is less than $2,500.

''(d) Regulations.—The Secretary may prescribe such rules as may be necessary or appropriate to carry out the purposes of this section.''

(b) Clerical Amendment.—The table of sections for such subchapter C is amended by adding at the end the following new item:

''Sec. 7874. Purported gifts by partnerships and foreign corporations.''

(c) Effective Date.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

SEC. 506. INFORMATION REPORTING REGARDING LARGE FOREIGN GIFTS.

(a) In General.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6039E the following new section:

''SEC. 6039F. NOTICE OF LARGE GIFTS RECEIVED FROM FOREIGN PERSONS.

''(a) In General.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $100,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

''(b) Foreign Gift.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

''(c) Penalty for Failure To File Information.—

''(1) In general.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

''(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

''(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

''(2) Reasonable cause exception.— Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

''(d) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(b) Clerical Amendment.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Notice of large gifts received from foreign persons.''

(c) Effective Date.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 507. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) Modification of Interest Charge on Accumulation Distributions.—Subsection (a) of section 668 of the Internal Revenue Code of 1986 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

''(a) General Rule.—For purposes of the tax determined under section 667(a)—

''(1) Sum of interest charges for each throwback year.—The interest charge (determined under paragraph (2)) with respect to any distribution is the sum of the interest charges for each of the throwback years to which such distribution is allocated under section 666(a).

''(2) Interest charge for year.—Except as provided in paragraph (6), the interest charge for any throwback year on such year's allocable share of the partial tax computed under section 667(b) with respect to any distribution shall be determined for the period—

''(A) beginning on the due date for the throwback year, and

''(B) ending on the due date for the taxable year of the distribution,

by using the rates and method applicable under section 6621 for underpayments of tax for such period. For purposes of the preceding sentence, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

''(3) Allocable partial tax.—For purposes of paragraph (2), a throwback year's allocable share of the partial tax is an amount equal to such partial tax multiplied by the fraction—

''(A) the numerator of which is the amount deemed by section 666(a) to be distributed on the last day of such throwback year, and

''(B) the denominator of which is the accumulation distribution taken into account under section 666(a).

''(4) Throwback year.—For purposes of this subsection, the term 'throwback year' means any taxable year to which a distribution is allocated under section 666(a).

''(5) Periods of nonresidence.—The period under paragraph (2) shall not include any portion thereof during which the beneficiary was not a citizen or resident of the United States.

''(6) Throwback years before 1996.—In the case of any throwback year beginning before 1996—

''(A) interest for the portion of the period described in paragraph (2) which occurs before the first taxable year beginning after 1995 shall be determined by using an interest rate of 6 percent and no compounding, and

''(B) interest for the remaining portion of such period shall be determined as if the partial tax computed under section 667(b) for the throwback year were increased (as of the beginning of such first taxable year) by the amount of the interest determined under subparagraph (A).''

(b) Rule When Information Not Available.—Subsection (d) of section 666 of such Code is amended by adding at the end the following: ''In the case of a distribution from a foreign trust to which section 6048(b) applies, adequate records shall not be considered to be available for purposes of the preceding sentence unless such trust meets the requirements referred to in such section. If a taxpayer is not able to demonstrate when a trust was created, the Secretary may use any reasonable approximation based on available evidence.''

(c) Abusive Transactions.—Section 643(a) of such Code is amended by inserting after paragraph (6) the following new paragraph:

''(7) Abusive transactions.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.''

(d) Treatment of Use of Trust Property.—Section 643 of such Code (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

''(i) Use of Foreign Trust Property.—

''(1) General rule.—For purposes of subparts B, C, and D, if, during a taxable year of a foreign trust a trust participant of such trust directly or indirectly uses any of the trust's property, the use value for such taxable year shall be treated as an amount paid to such participant (other than from income for the taxable year) within the meaning of sections 661(a)(2) and section 662(a)(2).

"(2) EXEMPTION.—Paragraph (1) shall not apply to any trust participant as to whom the aggregate use value during the taxable year does not exceed $2,500.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) USE VALUE.—Except as provided in subparagraph (B), the term 'use value' means the fair market value of the use of property reduced by any amount paid for such use by the trust participant or by any person who is related to such participant.

"(B) SPECIAL RULE FOR CASH AND CASH EQUIVALENT.—A direct or indirect loan of cash, or cash equivalent, by a foreign trust shall be treated as a use of trust property by the borrower and the full amount of the loan principal shall be the use value.

"(C) USE BY RELATED PARTY.—

"(i) Use by a person who is related to a trust participant shall be treated as use by the participant.

"(ii) If property is used by any person who is a related person with respect to more than one trust participant, then the property shall be treated as used by the trust participant most closely related, by blood or otherwise, to such person.

"(D) PROPERTY INCLUDES CASH AND CASH EQUIVALENTS.—The term 'property' includes cash and cash equivalents.

"(E) TRUST PARTICIPANT.—The term 'trust participant' means each grantor and beneficiary of the trust.

"(F) RELATED PERSON.—A person is related to a trust participant if the relationship between such persons would result in a disallowance of losses under section 267(b) or 707(b). In applying section 267 for purposes of the preceding sentence—

"(i) section 267(e) shall be applied as if such person or the trust participant were a pass-thru entity,

"(ii) section 267(b) shall be applied by substituting 'at least 10 percent' for 'more than 50 percent' each place it appears, and

"(iii) in determining the family of an individual under section 267(c)(4), such section shall be treated as including the spouse (and former spouse) of such individual and of each other person who is treated under such section as being a member of the family of such individual or spouse.

"(G) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan described in subparagraph (B) is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to interest for throwback years beginning before, on, or after the date of the enactment of this Act.

SEC. 508. RESIDENCE OF ESTATES AND TRUSTS.

(a) TREATMENT AS UNITED STATES PERSON.—Paragraph (30) of section 7701(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust."

(b) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) of such Code is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) to taxable years beginning after December 31, 1996, and

(2) at the election of the trustee of a trust, to taxable years beginning after the date of the enactment of this Act and on or before December 31, 1996.

Such an election, once made, shall be irrevocable.

TITLE VI—EXTENSION OF AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION TO USE COMPETITIVE BIDDING

SEC. 601. EXTENSION OF AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking "September 30, 1998" and inserting "September 30, 2000".

TITLE VII—PRIVATIZATION OF THE UNITED STATES ENRICHMENT CORPORATION

SEC. 701. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "USEC Privatization Act".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 702. PRODUCTION FACILITY.

Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology".

SEC. 703. DEFINITIONS.

Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: "and any successor corporation established through privatization of the Corporation";

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

"(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

"(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

"(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.";

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

"(18) The term 'transition date' means July 1, 1993."; and

(4) by redesignating the unredesignated paragraph (14) as paragraph (19).

SEC. 704. EMPLOYEES OF THE CORPORATION.

(a) PARAGRAPH (2).—Paragraphs (1) and (2) of section 1305(e) (42 U.S.C. 2297b–4(e)(1)(2)) are amended to read as follows:

"(1) IN GENERAL.—It is the purpose of this subsection to ensure that the privatization of the Corporation shall not result in any adverse effects on the pension benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(2) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—The Corporation shall abide by the terms of the collective bargaining agreement in effect on the privatization date at each individual facility.".

(b) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b–4(e)(4)) is amended—

(1) by striking "AND DETAILEES" in the heading;

(2) by striking the first sentence;

(3) in the second sentence, by inserting "from other Federal employment" after "transfer to the Corporation"; and

(4) by striking the last sentence.

SEC. 705. MARKETING AND CONTRACTING AUTHORITY.

(a) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(1) by amending the subsection heading to read "MARKETING AUTHORITY.—"; and

(2) by striking the first sentence.

(b) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(1) in paragraph (2)(B), by adding at the end the following: "The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract."; and

(2) by adding at the end the following:

"(3) EFFECT OF TRANSFER.—

"(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

"(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

"(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.".

(c) PRICING.—Section 1402 (42 U.S.C. 2297c–1) is amended to read as follows:

"SEC. 1402. PRICING.

"The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.".

(d) Leasing of Gaseous Diffusion Facilities of Department.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c–2) is amended by adding at the end the following:

"(h) Low-Level Radioactive Waste and Mixed Waste.—

"(1) Responsibility of the department; costs.—

"(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

"(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

"(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

"(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

"(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

"(2) Agreements with other persons.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.".

(e) Liabilities.—

(1) Subsection (a) of section 1406 (42 U.S.C. 2297c–5(a)) is amended—

(A) by inserting "and Privatization" after "Transition" in the heading; and

(B) by adding at the end the following: "As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.".

(2) Subsection (b) of section 1406 (42 U.S.C. 2297c–5(b)) is amended—

(A) by inserting "and Privatization" after "Transition" in the heading; and

(B) by adding at the end the following: "As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.".

(3) Subsection (d) of section 1406 (42 U.S.C. 2297c–5(d)) is amended—

(A) by inserting "and Privatization" after "Transition" in the heading; and

(B) by striking "the transition date" and inserting "the privatization date (or, in the event the privatization date does not occur, the transition date)".

(f) Transfer of Uranium.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and by inserting after section 1407 the following:

"SEC. 1408. TRANSFER OF URANIUM.

"The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.".

SEC. 706. PRIVATIZATION OF THE CORPORATION.

(a) Establishment of Private Corporation.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

"SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

"(a) Establishment.—

"(1) In general.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

"(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(B) To undertake any and all activities as provided in its corporate charter.

"(2) Authorities.—The corporation established pursuant to paragraph (1) shall be authorized to—

"(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

"(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

"(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(iii) persons otherwise authorized by law to enter into such transactions;

"(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

"(3) Transfer of assets.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

"(A) all of the Corporation's assets, including all contracts, agreements, and leases, including all uranium enrichment contracts and power purchase contracts;

"(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

"(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B); and

"(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403.

"(4) Merger or consolidation.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

"(5) Tax treatment of privatization.—

"(A) Transfer of assets or merger.—No income, gain, or loss shall be recognized by any person by reason of the transfer of the Corporation's assets to, or the Corporation's merger with, the corporation established pursuant to subsection (a)(1) in connection with the privatization.

"(B) Cancellation of debt and common stock.—No income, gain, or loss shall be recognized by any person by reason of any cancellation of any obligation or common stock of the Corporation in connection with the privatization.

"(b) OSHA Requirements.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

"(c) Legal Status of Private Corporation.—

"(1) Not federal agency.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

"(2) No recourse against United States.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) No claims court jurisdiction.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

"(d) Board of Director's Election After Public Offering.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

"(e) Adequate Proceeds.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.".

(b) Ownership Limitations.—Chapter 25 (as amended by subsection (a)) is amended by adding at the end the following new section:

"SEC. 1504. OWNERSHIP LIMITATIONS.

"(a) Securities Limitation.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

"(b) Application.—Subsection (a) shall not apply—

"(1) to any employee stock ownership plan of the Corporation,

"(2) to underwriting syndicates holding shares for resale, or

"(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

"(c) No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

"(1) in the public offering of securities of the Corporation in the implementation of the privatization,

"(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

"(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.".

(c) Exemption From Liability.—Chapter 25 (as amended by subsection (b)) is amended by adding at the end the following new section:

"SEC. 1505. EXEMPTION FROM LIABILITY.

"(a) In General.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

"(b) Exception.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.".

(d) Resolution of Certain Issues.—Chapter 25 (as amended by subsection (c)) is amended by adding at the end the following new section:

"SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

"(a) Corporation Actions.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

"(b) Right To Sue Withdrawn.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.".

(e) Application of Privatization Proceeds.—Chapter 25 (as amended by subsection (d)) is amended by adding at the end the following new section:

"SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

"The proceeds from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.".

(f) Conforming Amendment.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

"Sec. 1503. Establishment of Private Corporation.
"Sec. 1504. Ownership Limitations.
"Sec. 1505. Exemption from Liability.
"Sec. 1506. Resolution of Certain Issues.
"Sec. 1507. Application of Privatization Proceeds.".

(g) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) Limitation.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

"(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

"(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.".

(h) Period for Congressional Review.—Section 1502(d) (42 U.S.C. 2297d–1(d)) is amended by striking "less than 60 days after notification of the Congress" and inserting "less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)".

SEC. 707. PERIODIC CERTIFICATION OF COMPLIANCE.

Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking "ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1)." and inserting "PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.".

SEC. 708. LICENSING OF OTHER TECHNOLOGIES.

Subsection (a) of section 1702 (42 U.S.C. 2297f–1(a)) is amended by striking "other than" and inserting "including".

SEC. 709. CONFORMING AMENDMENTS.

(a) Repeals in Atomic Energy Act of 1954 as of the Privatization Date.—

(1) Repeals.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(A) Section 1202.

(B) Sections 1301 through 1304.

(C) Sections 1306 through 1316.

(D) Sections 1404 and 1405.

(E) Section 1601.

(F) Sections 1603 through 1607.

(2) Conforming amendment.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(b) Statutory Modifications.—As of such privatization date, the following shall take effect:

(1) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the "United States Enrichment Corporation" shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by section 6(a)).

(2) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by striking "the United States" and all that follows through the period and inserting "the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.".

(3) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102–486.

(c) Revision of Section 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b–4) is amended—

(1) by repealing subsections (a), (b), (c), and (d), and

(2) in subsection (e)—

(A) by striking the subsection designation and heading,

(B) by redesignating paragraphs (1) and (2) (as added by section 4(a)) as subsections (a) and (b) and by moving the margins 2-ems to the left,

(C) by striking paragraph (3), and

(D) by redesignating paragraph (4) (as amended by section 4(b)) as subsection (c), and by moving the margins 2-ems to the left.

The CHAIRMAN. Pursuant to the rule, the gentleman from Missouri [Mr. GEPHARDT] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I come before you today not to engage in partisan finger pointing, but to appeal to basic common sense and to common decency.

This Republican tax bill is wrong. It awards billions of dollars to the wealthiest Americans, and it pays for it by cutting school lunches, child nutrition, and heat for low income elderly, hurting the very people that we should be helping.

For 16 years all but the top fifth of Americans have seen their wages fall and their standard of living decay. We have the ability tonight to do something about that, to offer a modest amount of tax relief to families that are struggling to simply stay in place. And we have more than the ability. We have the obligation to do something about it.

Each of us was elected to serve the greater good, not to come here and line the pockets of the most powerful Americans. But that is exactly what the Republican bill does. More than half of its benefits go to families earning $100,000 or more.

Think about the struggling young couple, trying to get by on $20,000 or $25,000 a year. Under the Republican plan they get a $5 a week tax cut. But they lose school lunch subsidies, low income heat assistance, food stamps, and summer jobs for their children. On balance, this Republican bill hurts them and it means that they may never have a chance at a better future. But for the most privileged and powerful, people earning $200,000 a year and above, the Republican plan gives them a massive $11,000 tax break.

Mr. Chairman, you and I both know that America does not want that, and I dare say that most Members of Congress do not want that. More than 100 Members of the Republican Party even tried to buck their own leadership to make this tax plan fairer to the middle class, but they lost that fight. And the Republican leadership is forcing them to vote for it anyway.

I believe that we should be voting our conscience, our principles, not our party registration. I believe the day that we put blind party loyalty ahead of what is right for the American people is a sad day for the U.S. Congress.

We can do better. We can pass the Democratic tax plan, which gives every penny, every penny of this plan, to families who earn less than $100,000 a year. It gives big tax breaks for education, so struggling families can lift themselves up and build our country and our economy. It lets middle income families deduct up to $10,000 a year in educational expenses. It lets students deduct interest payments on their student loans, because an investment in education is an investment in America's future, and we should reward it.

It establishes a new guaranteed education plan bond, so that families can put aside as little as $25 a month to save as much as $16,000 dollars for their children's education when they need it. And, above all, it is built on the profoundly moral principle that in a just, decent society, we do not take away from those who need our help to give it to those who need nothing at all.

It is not too late for us to come together tonight on this tax plan, to stand for fairness, to stand for the middle class, Republicans and Democrats alike. It is not too late to say to America we stand for that young struggling family and the privileged can take care of themselves.

The Republican bill is wrong, but we can make it right. And would that not be a proud moment for the American people, the moment we said we can change our minds and work together for the good of the country; the day we put our people ahead of our party.

Support this substitute; reject the Republican tax bill; and just this one time, let us vote as one party for tax fairness and justice for all.

Mr. ARCHER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] is recognized for 30 minutes.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will try not to speak in chivalrous adjectives or rhetoric, but I would like to speak in fact about this proposal. After all, it is the third version of the Gephardt tax proposal that we have seen in recent times. In December, the minority leader offered a $66 billion tax relief plan. Last week, it had been cut in half. Today, the House is debating his substitute, which contains little tax relief, and with it tax increases of nearly $3 billion.

Yet with all of that, under CBO scoring, the substitute does not reduce the deficit at all, compared to a reduction in the deficit under H.R. 1215 of $30 billion.

It also seems strange to me that the gentleman is the leader of the Democrat Party in the House of Representatives, and yet has not chosen to offer the President's own tax proposal. His substitute offers benefits that affect far fewer families than in H.R. 1215. Moreover, the substitute is conspicuously silent on capital gains tax reduction, relief for small business, and incentives for job creation.

It does not contain a family tax credit. In fact, the only tax break in the substitute will benefit less than 4 percent of families with dependent children, compared to our family tax credit which benefits 75 percent of families with children. The substitute in actuality gives zero help to families with children in elementary and secondary schools.

The Gephardt substitute does embrace several provisions already contained in H.R. 1215, namely, the spousal IRA and nondeductible IRA provisions. We believe in both of those. Unfortunately, the savings provisions in the Gephardt substitute are less effective and more complicated than in the base bill, and, unlike H.R. 1215, the Gephardt substitute allows a $2,000 contribution to deductible or nondeductible IRA's but not both as the base bill does.

For those who like to gamble, the substitute offers a cheap crap shoot: Namely, all bets are off for a tax reduction if the OMB Director estimates Congress has not precisely met the deficit reduction targets set in the law. If the Congress fails to meet them by only a small amount, the taxes go away.

Imagine a family trying to pick an affordable college under this on-again, off-again tax policy. Worse yet, imagine a student halfway through the school year finding out the tax break is now gone. Many Americans simply will not take the risk and the supposed benefits of the proposal will vanish.

Under these conditions, why would savers establish an IRA knowing they might suddenly find themselves with taxable income? OMB will be under tremendous pressure to fudge on the deficit numbers in order to prevent the ensuing chaos caused by this proposal. So in the end we will see the worst of all worlds, a combination of phony deficit estimates, no benefit for taxpayers, and more business for tax consultants.

This substitute does not deserve further debate. The Contract With America is the real thing, accept no substitutes. I urge my colleagues to reject this third and inferior rendition by the minority leader.

Mr. Chairman, I reserve the balance of my time.

Mr. GEPHARDT. Mr. Chairman, I ask unanimous consent that the gentleman from Michigan [Mr. BONIOR] be permitted to manage the remainder of my time on this substitute.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BONIOR. Mr. Chairman, I yield 2½ minutes to the distinguished chairman of the Democratic Caucus, the gentleman from California [Mr. FAZIO].

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Mr. FAZIO of California. Mr. Chairman, I rise in support of the Gephardt substitute, because the Republican proposal hurts us as a country in too many ways. It creates more problems down the road by adding to the deficit, and it divides the middle class from the wealthy by sacrificing long-term investment in education and training for a short-term gain for far too many who do not need it.

Instead of helping the middle class, Republicans are helping big corporations. Instead of helping families send their kids to college, they are giving people earning $200,000 a year a $500 per child tax credit.

This package includes a new form of the Individual Retirement Account and raises the portion of an inheritance tax that is exempt up to $750,000. Ninety-five percent of the benefits of this new IRA would go to the wealthiest 20 percent of Americans.

The family earning $35,000 a year will not have the savings to invest in an Individual Retirement Account. They do not have a $750,000 estate to pass along to their children. They do not have stocks to sell. They do not need a $500 tax credit. They need a college student loan to build their future.

We are helping these big corporations and wealthy individuals at what cost? This country will suffer revenue losses of $180 billion over 5 years, mushrooming to $630 billion over 10 years, a real balloon payment for all American taxpayers.

What I do not support in this kind of legislation is the sort of thing that we cannot afford when in fact we are having to cut school lunches, student loans and job training to make available tax cuts for the very wealthy.

This package is much more costly than mere dollar figures. It comes at the price of this country's future. It takes away the very tools that will help to turn our children into productive adults. The Gephardt substitute will provide that future.

Let's invest in the long-term goals with lasting benefits. Let's educate our children while making sure they receive proper nutrition in school. Let's train our workers for a changing world marketplace that requires high-tech skills. Let's reduce the deficit which will accomplish much more to put money in the pockets of the middle class through lower interest rates for every American family.

Under this bill, households earning $200,000 a year would receive an average tax cut of $11,000, while those earning under $30,000 would receive just $124. That is compounding the class warfare that has been waged on the middle class for far too long. Let's support the Gephardt alternative and defeat this bill.

Mr. ARCHER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Chairman, I want to congratulate the chairman of the Committee on Ways and Means for an excellent job in bringing real tax relief to the American citizens of this country, to allow American families to keep more of what they earn.

Right now, Mr. Chairman, 53 percent of the American families' income goes to government. If you add up the taxes of the local, State and Federal Government, you add to that the cost of litigation and regulation, 53 percent, 53 cents out of every dollar that the American family earns today, goes to the governments.

And what the minority leader and the Democrats want to do is to protect their ability to confiscate the income of the American family to pay for their failed welfare state.

I want to talk about their substitute. First off, they have no intention of offering a budget that gets us to balance by the year 2002. Yet they offer a so-called tax cut that depends on a balanced budget. This substitute provides income tax deductions for interest payments on student loans and education expenses up to $5,000 and $10,000 thereafter.

So if you are an American family that does not have a child in college or a child going to vocational school, you get no relief. You still pay for the failed welfare state. Deductions will be phased out. Class warfare. Between $50,000 and $60,000 for individuals and between $75,000 and $85,000 for couples. Marriage penalty.

In our bill, we try to lessen the marriage penalty, because in the present tax code, you are penalized for creating and starting a family.

The Democrat substitute allows penalty-free IRA withdrawal for education and creates new education savings bonds.

Education is a very laudable goal, and that is what we ought to be striving for. But the problem is that the Democrats are putting up this sham that they are giving tax relief as long as you have children in college or are participating in education. The phaseout of this deduction will increases the marginal income tax rate by 50 percent, from 28 percent to 42 percent for those in the income phaseout range. More class warfare.

Deductions for education are contingent on OMB certifying that the Federal budget will be balanced by the year 2002, yet they are not even going to offer us a budget that does balance. Since the Democrat leadership has not announced any plans to offer a balanced budget, we can only assume that their tax cuts will never take effect.

Even if the tax cuts do take effect, they would be repealed in any subsequent year in which annual deficit targets are not met. In other words, the Democrats, who claim to care so much about students, would hold these very same students hostages every year to Congress's ability to meet deficit targets that they will not even offer.

If Congress misses those targets, who gets punished? Not Congress. Not the big spenders. Not the people that want to continue making Americans dependent on government. No, it will be the very students that they claim they want to help.

Finally, the Gephardt substitute contains the expatriation tax. I ask the minority leader, did the minority leader vote for Jackson-Vanik? Did he vote and condemn Russia for charging such a huge exit tax that Russian Jews could not get out of Russia?

Where is freedom in this country? We just throw freedom aside, as if it means nothing. When an American citizen wants to leave this country, they want to charge a tax. That is what this is all about. They want to charge a tax. They care nothing for freedom. What we care about is the American family, the American family holding onto their own income. What they want to do is charge Americans for leaving America. Yet they want Russians to stay there.

Mr. BONIOR. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. GIBBONS], the distinguished ranking member of the committee, to talk a little bit about this issue.

Mr. GIBBONS. Mr. Chairman, I get a little resentful when I hear Members of Congress comparing the United States, my United States, your United States——

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I have only got a minute. You get time from the gentleman from Texas [Mr. ARCHER].

Mr. DELAY. Did the gentleman vote for Jackson-Vanik?

Mr. GIBBONS. Will you shut up and listen while I talk?

The CHAIRMAN. The gentleman from Florida has the time.

Mr. GIBBONS. Please respect that. I respect your time.

But you insult me, you insult this Congress, you insult the American Government when you compare this Government to the Government of Russia. You ought to be ashamed of yourself.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I appreciate the gentleman's yielding time.

Mr. Chairman, I ask the distinguished ranking member, did he vote for Jackson-Vanik or not?

The gentleman has left the floor. He does not want to answer the question. Because I am sure the gentleman as well as many Members of this Congress were outraged at the notion that the Soviet Union charged their people huge taxes to leave the government that they so despised.

The problem with people leaving this Government is that the welfare state and the taxes charged and the regulations charged in this country have forced people to leave.

Mr. BONIOR. Mr. Chairman, I yield myself 1 minute.

I address my comments to my friend, and he is my friend from Texas. I do so because I really want to set the record straight for those who are listening.

What this issue that we are talking about is all about, there was a provision that was brought to this House of Representatives very recently, last Thursday, concerning very wealthy individuals in America who are renouncing their U.S. citizenship in order to avoid paying taxes. As incredible as that may seem, these are the people who used the security of this country to gain their wealth, who used the workers, the men and women of this country, to gain their wealth.

When it came time for them to pay their fair share, they said, "No, I am going to renounce my U.S. citizenship so I can avoid paying taxes."

You know what that cost the American taxpayers over 10 years, estimated? $3.6 billion a year. And for my friend from Texas to compare that to Jackson-Vanik and what happens with those in Russia who are trying to emigrate from Russia, this is just an outrage. There is no comparison at all. It is just the opposite.

I commend my friend, the gentleman from Florida, for taking a strong stand on this issue.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Chairman, while Republicans take positive steps to reduce the marriage penalty, Democrats are giving America's families one more incentive not to stay together. Under their substitute, a family making $75,000 can deduct up to $5,000 per year for educational expenses. However, a divorced couple or an unmarried couple living together, each earning $50,000 or $100,000 combined, can deduct up to $5,000 each, or a total of $10,000. In other words, Mr. Chairman, Democrats reward families that stay together with a $5,000 tax penalty.

Anti-family policies like this one, simply put, are destructive to families and should be rejected. I urge that we vote "no" on the substitute.

Mr. BONIOR. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, let me say at the outset, this is a Member on the Democratic side who favored a targeted capital gains package, who has been the author with the gentleman from California [Mr. THOMAS] of the Individual Retirement Account, its tax advantage restoration, and who favors the idea of allowing seniors to earn and keep more despite Social Security obligations.

Most of the Members on this side would have voted for those provisions tonight if it was not an all-or-nothing package. But let me get to the point at hand. The favorite refrain heard on this side of the aisle these days is this: I did not write the contract. The second most well-heard refrain on this side of the aisle these days is, "The Senate will correct it."

Let me say tonight, there are 133,000 students in Massachusetts, and I represent an area with some of the finest colleges in America who are going to begin to pay a lot more at the end of this contractual day for their student loans when this House gets done.

We had an opportunity in this House to find middle ground on most of these issues where most of the Members on both sides rest.

Don't heed my warning tonight. Heed the warning of George Bush who called it voodoo economics. And heed the warning of David Stockman who said it was the triumph of politics.

Let me close on this note. There is one thing that NEWT GINGRICH, RICHIE NEAL, DICK ARMEY, and PHIL GRAMM all have in common. We all had student loans guaranteed by the Federal Government, and it has paid a huge dividend for the American people. Do not deny the next generation that same opportunity.

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Mr. ARCHER. Mr. Chairman, I yield 6 minutes to a respected Member, the gentleman from California [Mr. THOMAS], chairman of the Health Subcommittee of the Committee on Ways and Means.

Mr. THOMAS. Mr. Chairman, the American people in November decided to put their trust in our party in this House after 40 years. In large part I believe it was because we told them what we were for. We offered a contract with the American people. They know what we are for.

We know what you are against. You have indicated that over and over and over. We know what you are against.

The 2 great parties in this county should be for something. The American people know where we are. We have our contract. Let us try to determine where the Democrats are.

Following the November election the President of the United States went on television and told the American people, and this is from the administration's revenue proposals, Department of the Treasury, it says "tax relief for middle class families has been and continues to be an important goal of this Administration." The proposal: "A nonrefundable tax credit granted for only those children under 13 to ultimately reach $500 per child." Marvelous new idea. I wonder where the President got it?

When we debated this bill in the Committee on Ways and Means, and the Democrats had an opportunity to offer a substitute at the end of the debate in the Committee on Ways and Means over our middle-class tax proposal, this was the amendment that the Democrats offered. The amendment in its entirety as a substitute for our proposal laid out to the American people before the election was not what the President said he was for. Their amendment as a substitute in toto was one word, one word: Insert after section 1 the following new section, section 2, "sunset." "It is not that we are against what you are proposing," the Democrats said in the Committee on Ways and Means, we just do not think it ought to be open-ended for the American people. We think it ought to be sunsetted, stopped at a given time, should not apply after January 1, 2001.

The President said he has been for a long time for middle-class tax relief. The Democrats said, yeah well, it is okay, but sunset it.

And then we have in front of us tonight the minority leader's substitute. Does it look like the President's bill as he said he wanted it and as the gentleman from Missouri [Mr. GEPHARDT] introduced along with the gentleman from Florida [Mr. GIBBONS] in February called H.R. 980 which had the middle-class tax cut in it? No. What this proposal has in it is one of the most onerous provisions that has ever come to this floor.

We heard the gentleman from Michigan give a representation about this business of taxing people because they have decided to give up their United States citizenship. Many people in this country are born here and get citizenship by birth, others acquire it after birth. It is something that you can get, and it has always been something that you can give up.

We have had a law on the books for years that says if you are going to give up your citizenship to avoid paying taxes, then there are actions that can be taken. That is not what is in the proposal by the minority leader, and let me turn to the testimony in the Oversight Subcommittee of just a few short days ago when Chairman JOHNSON, the gentlewoman from Connecticut, inquired of the Treasury representative, Mr. Guttentag, What is it that you are proposing, how many people have given up their citizenship? Mr. Guttentag then went through numbers over the last several years, several hundred people. She then said, How many of them have given up their citizenship to avoid taxes? The representative of the administration of the Department of Treasury said, "We do not know".

She then said, "How in the world can you have a revenue estimate about how much money you are going to make if in fact you do not know how many people voluntarily gave up their citizenship to avoid taxes?" Listen to the reply of the Administration's representative, and see if it is not chilling. "The Clinton-Gephardt proposal," he indicated, "does not require an intent to avoid taxes."

He said, "The Administration's proposal does not require an intent to avoid taxes." The fact that you would have the audacity to decide that you were voluntarily giving up your citizenship would result in tax penalties and we have heard these Members taking the floor saying there is no way you can compare yourself with the Soviet Union. Outrageous to do that. The Soviet Union used to make people pay a penalty for leaving their country voluntarily. You had to pay through the nose.

We have historically said if you are trying to avoid taxes, then we are going to get you. What this proposal says, and which is included in the new substitute, is we are going to get you even if it is not to avoid taxes.

We have lost the high moral ground. Do not let this substitute pass with this onerous provision.

Mr. BONIOR. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I said earlier that Ringling Brothers and Barnum & Bailey came to town today and put on a great performance of elephants and clowns outside of this building, but it does not come close to the high wire act that is being performed here by the daredevils of the high wire of this legislation who are attempting through blue smoke and mirrors to pull a rabbit out of a hat and dangle the American taxpayer from the high trapeze bar, suggesting that this bill somehow will achieve deficit reduction.

For the average Federal employee earning $40,000 a year the Republican proposal imposes an additional $1,000 in taxes resulting from increased contributions to their pension system, and I have yet to hear somebody on the other side talk about the plight of Federal employees regarding this.

More than half of the tax benefits will go to families with incomes between $100,000 and $200,000. Is $200,000 a year middle class? You go figure.

If you earn $100,000 you get $11,000 in tax reductions, but if you earn $30,000 you get $124 in tax reductions.

This bill increases the deficit. It rewards the wealthy, it punishes working Americans, and I do not care what people say, when you take money out of their pocket, $1,000 per Federal employee, that is a punishment.

So in the end, the difference between last year's Republican rhetoric and this year's Republican rhetoric is a matter of Tweedledee and Tweedledum. The party that gave us voodoo economics is now giving us Robin Hood in reverse. I said it earlier, so let me repeat it for those who did not hear. The giant sucking sound we will hear from now on will not be NAFTA, it will be AFTA, angry, frustrated Americans who are carrying the brunt of this and carrying the biggest weight as a result of what I consider to be foolishness on the part of those who have designed it.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I thank the gentleman from Texas for yielding me the time.

Mr. Chairman, I am amazed here to sit and listen to this debate here tonight and see how fact and fiction is twisted and turned and twisted. I would like to set the record straight.

First of all, I have a letter here from Abraham Chayes who is a professor of law at Harvard University. He says:

> I am writing to express my concern about the current proposal before the U.S. House to impose a tax on persons leaving the United States who renounce their citizenship. I understand this proposal is now in the House in debate. I am the Felix Frankfurther Professor of Law emeritus at Harvard Law School where I teach international law. From 1961 to 1964, I was the Legal Adviser to the department of State.
>
> In my opinion, the proposed expatriation tax raises serious questions under the Constitution and international law involving the fundamental right of voluntary expatriation and immigration. As you may know, the International Law Section of the ABA in its statement of March 8, concluded that the proposed expatriation tax "may be an illegal restriction on the fundamental right to emigrate."

I go on.

> The proposed tax, which applies without regard to the individual's motivation, imposes much more than a nominal penalty on citizens who wish to emigrate. Thus, it has serious human rights implications and is inconsistent with longstanding U.S. policies with respect to the right of free emigration expressed in the Jackson-Vanik Amendment to the Trade Act of 1974.

And he goes on, and it is signed sincerely, Abraham Chayes, Harvard School of Law.

Mr. Chairman, I include for the RECORD the letter in its entirety

> HARVARD LAW SCHOOL,
> *Cambridge, March 30, 1995.*
>
> Hon. NANCY L. THOMPSON,
> *U.S. House of Representatives,*
> *Washington, DC.*
>
> DEAR CONGRESSMAN JOHNSON: I am writing to express my concern about the current proposal in the Senate version of H.R. 831 to impose a tax on persons leaving the United States who renounce their citizenship. I understand this proposal is now in House-Senate conference. I am the Felix Frankfurter Professor of Law emeritus at Harvard Law School where I teach international law. From 1961 to 1964, I was the Legal Adviser to the Department of State.
>
> In my opinion, the proposed expatriation tax raises serious questions under the Constitution and international law involving the fundamental right of voluntary expatriation and emigration. As you may know, the International Law Section of the ABA in its statement of March 8, concluded that the proposed expatriation tax "may be an illegal restriction on the fundamental right to emigrate." It also appears to burden the constitutionally based right of voluntary expatriation. See *Richards* v. *Secretary of State*, 752 F.2d 1413, 1422 (9th Cir. 1985).
>
> The proposed tax, which applies without regard to the individual's motivation, imposes much more than a nominal penalty on citizens who wish to emigrate. Thus, it has serious human rights implications and is inconsistent with long-standing U.S. policies with respect to the right of free emigration expressed in the Jackson-Vanick Amendment to the Trade Act of 1974 and elsewhere. Indeed, this policy was a centerpiece of our effective opposition to the Soviet Union during the 1970s and 1980s. If the United States now adopts this restrictive approach, it will give oppressive foreign governments an excuse to retain or erect barriers to expatriation and emigration.
>
> I strongly urge you to protect these important freedoms by rejecting the proposed expatriation tax in the Conference Committee.
>
> Sincerely,
>
> ABRAM CHAYES.

You know, Mr. Chairman, after 40 years of Democrat rule, the people need a break from high taxes, higher spending and hyperbole. Last November they got that break. They voted in a Republican majority that promised change and in this tax bill we have delivered this change.

I ask for a negative vote on this piece of legislation. The Gephardt substitute is not change. It is the same old story. It contains no real tax relief for middle-class Americans, it contains no real breaks for senior citizens, it contains no incentives for job creation.

It is as if the Democrats do not really believe that the American people have had enough of tax-and-spend politics for the last 40 years.

Well, I have news for the Democrat leadership. The American people are sick and tired of being taxed and spent to death. The Gephardt substitute proves a point I have believed for some time. The Democrat leadership wants to raise taxes. The Republican Party wants to cut taxes. I urge my colleagues on both sides of the aisle to vote against the Gephardt substitute and vote for tax fairness and deficit reduction.

Mr. BONIOR. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from the State of Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Chairman, I want to thank the gentleman from Michigan for yielding time to me.

Mr. Chairman, the debate is about students, students and their futures. The cost of a college education is rising faster than middle-income families can afford. In fact, paying for college now ranks second only to buying a home as the most expensive investment for the average family.

Last week in my State of Rhode Island, three colleges announced once again that they were raising their tuition. In the last 5 years the University of Rhode Island has raised tuition 83 percent. Rhode Island College and the Community College of Rhode Island tuition has gone up 67 percent and 66 percent respectively since 1990.

What makes matters worse, the balance of aid that students have used in the past to help them afford these rising costs has shifted. In the early 1980s it was 75 percent grants and 25 percent loans. Today, the reverse is true. It is 75 percent loans and 25 percent grants.

□ 2045

And the Republicans now want to eliminate the interest subsidy for student loans. That compounds the already difficult problem that middle-class families are having in affording an education because of the elimination on the deduction on student loans that was put through in the 1980's.

Mr. Chairman, ladies and gentleman of the House, I ask my colleagues to support the Gephardt substitute, because the Republicans keep talking about jobs, but they are not going to be able to get the high-paying jobs without a high-skills education that they are going to need if they do not go to college.

Mr. Chairman, the question before us today is what kind of tax relief are we going to give to the American people? Are we going to hand out huge tax breaks to the wealthiest Americans, open loopholes so big some of our most profitable companies will be able to avoid paying any tax at all, or are we going to give some help to middle income Americans, to young people who are struggling to pay for their education? The choice is clear—it is between the past and the future. The Contract plan is a return to the failed, unfair policies of the past. The Democratic alternative is about investing in our future. It is about making sure we have the high skill workers for the high skill, high wage jobs of tomorrow.

Middle income families need the tax relief offered by the Democratic alternative. The cost of post-secondary education is rising faster than middle income families can afford. In fact, paying for college now ranks second only to buying a home as the most expensive investment for the average family. Last week, in my State of Rhode Island, three different colleges announced once again that they were raising their tuition. In the last 5 years the University of Rhode Island has raised its tuition 83 percent. At Rhode Island College, and the Community College of Rhode Island, tuition has gone up 67 percent and 66 percent, respectively since 1990. What makes matters worse, the balance of aid that students have used in the past to help afford these rising costs has shifted. Fifteen years ago the mix of Federal student financial aid was 75 percent grants and 25 percent loans. In 1995 those figures are reversed. I submit to my colleagues, that if the Federal Government does not take some course of action, the middle class will soon be shut out of higher education. These are the people who need tax relief, not the Fortune 500 singled out in the GOP proposal.

The Republican party offers tax cuts that will send more than 58 percent of total capital gains tax breaks to those making more than $200,000 a year—the top 2.6 percent of all tax fliers. Households earning $200,000 would receive an average cut of over $11,000 a year, whereas those under $30,000 would receive less than $150 per year. The Contract On America tax bill will cost the American people almost $700 billion over the next 10 years. It is clear what interests the Republicans represent.

Under the Republicans, who is going to pay? Students—our future. They give loopholes to the rich and roadblocks to students. Simply put, they are standing on the backs of students to support the wealthy. In addition to their tax cut, the Republicans plan to severely cut aid to students.

Fact: The GOP is poised to eliminate the interest-deferral on the Stafford Loan program. Currently, the interest on the Stafford Loan is deferred until 6 months after graduation. Under the Republican plan, interest would begin accruing on the loan immediately.

Fact: By removing the interest deferral, American students will face a $9.6 billion increase in the cost of post-secondary education over the next 5 years. That's over $4,000 added to the loan repayments for each student.

Fact: The GOP is poised to eliminate the Perkins Loan program. Post-secondary institutions use the Perkins program to help low income students take out low interest loans to pay for college. Eliminating this program will add $785 million to the cost of going to college over the next 5 years.

In short, the Republican plan will kill the dream of higher education for thousands of middle income students. The Democrats however, have a plan that will help that dream come true. The Democratic plan identifies our students as our Nation's most precious commodity. It helps them achieve their goals by creating incentives to save and methods by which students will find it easier to payback their loan debts.

During the last Congress, President Clinton's Direct Lending Program took an important step in helping young adults realize their education dreams. The Direct Lending program made it easier for students to take on the cost of higher education by simplifying the loan process and creating new ways for students to payback their loans. Ultimately, Direct Lending is a step in the right direction but it falls short of easing the burden of paying back the loans. For this reason I introduced the Student Loan Affordability Act of 1995. This bill grants a deduction for the payment of interest on student loans. Just like that provided for mortgage interest. Today, I am proud to say that Democratic Leader GEPHARDT has incorporated this idea into his education tax cut plan for the middle class citizens of this country.

The Democratic alternative is affordable, and does not explode the deficit. Moreoever, it does not simply cut taxes, but it represents a real investment for the American taxpayer. Last year the Government paid out an estimated $2 billion to cover defaulted student loan costs. This is money that we can never retrieve and results in higher costs to the taxpayers. The Democratic proposal encourages students to work within the system, payback their loans, and one day make additional investments in the economy.

I urge my colleagues to vote for the plan that represents real savings for the middle class of this country. Eighty-nine percent of the American people oppose cuts to student financial aid programs. They want their children to pursue higher education and achieve their dreams. The Republicans offer a tax cut to the rich and then try to pay for it on the backs of students. We can't afford trickle down 2. Support the tax cut that invests in our future—not the one which repeats the mistakes of the past. Support the plan that opens doors for our students—not the plan that shuts them out. Support the Democratic substitute and invest in the future of those who will lead America tomorrow.

Mr. BONIOR. Mr. Chairman, I yield 1½ minutes to the gentleman from New Mexico [Mr. RICHARDSON], the distinguished chief deputy whip.

Mr. RICHARDSON. Mr. Chairman, the Democratic substitute is about investing in people and education.

Too many Americans between the ages of 25 and 40 are not able to invest extra money or buy a house because they have to repay school loans. Our best-educated citizens are handed diplomas and then pushed into a huge pool of debt.

We are bombarded with calls from the private sector to educate a work force that can compete in the global arena, yet we are unwilling to provide any tax incentives for education. Instead, we offer General Motors generous value-added tax writeoffs to guarantee returns on their investments.

Mr. Chairman, the Democratic substitute stands for middle-class families, for education benefit, a $10,000 deduction per family for education expenses, making student loans deductible, an IRA plan for education expenses, education plan savings bond, and it is paid for. It is paid for through savings in government reform and closing billionaires' loopholes.

Unlike the Republicans fig leaf, the Democratic tax benefits would not be provided until deficit targets have been achieved.

Mr. Chairman, let us have tax cuts, but let us be responsible. Let us pay for them. Let us give them to those Americans that deserve them, that have been shouldering the blame and expense for the last 50 years. Let us not give it to millionaires and corporations.

We stand for the middle class, and they are the ones that should benefit.

Mr. BONIOR. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I wish to rise in support of the Gephardt amendment and to voice concern regarding the Republican tax bill.

One of the immutable principles of tax law is fairness. Unfortunately, the only place fairness appears in this Republican tax bill is in the title.

Tax fairness would mean that the so-called reform bill before us would benefit not just the privileged few but the majority of American taxpayers by providing for an across-the-board set of sacrifices shouldered proportionately by every taxpayer based on his or her ability to pay. In this regard, with regard to unfairness, the Republican tax bill is doubly guilty. First, it pays for the $630 billion cost on the small shoulders of the most vulnerable Americans, our Nation's children, through cuts in programs that support children and families.

Secondly, the Republican bill hands its tax benefits over to the wealthiest Americans.

Finally, it disregards our responsibility to reduce the Federal deficit.

Mr. Chairman, the Gephardt amendment sets things right. It represents a more uniform way to help eliminate the current budget deficit. It is fair to the middle-class taxpayer and promotes education and savings and is overall good for our families, and it will ensure that deficit reduction is made before any tax cuts take effect.

Finally, Mr. Chairman, America needs the Gephardt amendment. It has no hidden set of agendas. It singles out no special-interest group. Giving tax breaks to the middle class while reducing our deficit, keeping intact programs for our children and for the elderly, for students, and for families is why Gephardt makes sense.

I urge you to approve the Gephardt amendment.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this body has heard over and over again the programmed rhetoric that clearly is assigned to every Democrat Member of the House, that the benefits of these taxes go to the wealthy.

The benefits of these taxes go to senior citizens who have retirement income of $34,000. Is that wealthy?

When we reduce the 85-percent tax on their Social Security benefits put on by the Clinton budget in 1993, I say, is that wealthy?

Seventy-five percent of the child tax credit goes to family income of less than $75,000. That can be wage earners. Is that wealthy? That is 75 percent. I say, is that wealthy?

Adoption tax credits go to all taxpayers up to a limited amount. Is that wealthy. No. It is not.

The overwhelming majority of the tax benefits in this bill go to working Americans who are not wealthy.

Mr. Chairman, I reserve the balance of my time.

Mr. BONIOR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, it is clear everyone here would like to be able to pass a tax cut, but with a deficit looming, tax cuts cannot simply be distributed as free gifts that have no costs. The costs hang on all of our necks as an albatross until the deficit has been brought under control.

Cuts, if any, should be given to those in need, and clearly families earning the median income, in my district, as an example, are in need. We can help them with the Gephardt substitute.

The tax cuts in the Republican bill would be paid for by putting families in my district out on the street when their public housing crumbles from neglect and by snatching away hot lunches from their children. In return, the bill affords them an average tax cut of $10 a month, $10 a month.

By contrast, families earning $200,000 or more will reach nearly $1,000 a month in cuts. Mr. Chairman, that is clearly a raw deal.

And as for seniors, if they are going to lose their housing, senior housing repairs, their security patrols, their home energy assistance, their Medicaid being slashed, that is not a good deal for them either.

The family vote, the 13th District vote in New Jersey, the one that makes sense and does not hang on the deficit is the Gephardt substitute.

Mr. BONIOR. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, we have often heard those who do not learn from history are doomed to repeat it. Usually there is a lot more time that passes than just 14 years.

But for those of us that remember 1981 and that famous Reagan tax cut that was going to bring us all prosperity, that trickle-down economics, we remember later that David Stockman said it was a Trojan horse just designed to bring down the top rate. I would suggest, if that was a Trojan horse, then the Republican tax cut bill we are faced with tonight is a Trojan elephant.

I can remember the results in the Pittsburgh area and much of the industrial Northeast of trickle-down economics. I remember standing outside plant gates when plants were shutting down and tens of thousands of workers were put out in the street. Now we are coming back for a second bite. We have got a tax-reduction bill that they are calling that in my State of Pennsylvania will cause 343,000 college students to pay more for college loans, that will cause 473 school districts across Pennsylvania to lose money for safe schools and drug-free schools, that will cause 68,000 Pennsylvania kids to lose summer jobs. That is what the Republican proposal is about. It is about 1 million kids in Pennsylvania that will lose their school lunches. It is about 311,000 Pennsylvania senior citizens that will not get help paying their electric bill and may have to freeze and may have to make some hard choices.

This is not about a Republican tax break. This is about a Republican rape of the poor and the middle class in order to reward the wealthy.

Mr. BONIOR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I rise in strong support of the Gephardt bill which embraces middle-class values and middle-class families.

While the Republicans are trying to cut and eliminate student loans, this bill will enable more middle-class college students to go to college.

You know, it reminds me of Robin Hood; at least, Robin Hood stole from the rich to give to the poor. This steals from the poor and the middle class to give to the rich, and let us call it the way it is.

This Gephardt substitute is the only substitute or amendment that was allowed. The Republicans would not allow any other amendments, because they know that it would pass.

What I would like to know is how 102 of my Republican colleagues can sign a letter saying no tax breaks for the wealthy and they just fold under the Speaker's juggernaut, how 30 Members on the other side of the aisle, 30 Republican Members, say there must be deficit reduction before there are tax cuts, and then they just fold and vote for the rule and vote for the bill.

This bill says all tax breaks, this substitute, all tax breaks are revoked if deficit targets are not met. That is what we should do.

And look how we are beating up on Federal workers. It is bad enough we have no respect for ourselves apparently. But why beat up on the Federal workers? I guess if you are wealthy and you are millionaires, it does not matter. But most of America is not.

Support the Gephardt substitute. It helps the middle class.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, the real truth is that Democrats do not like this bill because Democrats like to tax nearly everything, and they love taxes.

And I found just an absolutely fascinating quote from a senior member of the Democratic Party who was on the floor last night speaking to us, and the gentleman gives us a quote here that I think is absolutely fascinating. He is prepared to tax the air we breathe.

Let me quote to you from what he says. He says,

> Technology has brought us to this point. The technology was produced by the genius of people over many, many years, but it has brought us to the point where suddenly the atmosphere above our heads is valuable. It is worth a great deal of money. Let us find a way to tax that for the benefit of all Americans. That is just one of the taxes.

That is right, Democrats have suddenly realized they may be able to tax the air we breathe. No wonder they do not want tax cuts. They want more taxes.

Mr. BONIOR. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Chairman, I rise in opposition to the tax, cutting off the air we breathe.

Mr. Chairman, I rise to state my strong opposition to the Republican tax cut bill that is being considered today.

Mr. Chairman, this bill will increase interest payments on the national debt and shackle our economy. It will add to the mountain of debt which our children will inherit.

There are a few popular tax benefits in the Republican plan, namely the tax credit for children, the repeal of the marriage tax, the capital gains tax cut, and the raising of the earnings limit for elderly Americans. I only regret that they are attached to such a bad bill.

I do believe that American families deserve tax relief. The tax credit for children is a laudable goal. I also believe that the marriage penalty in our current tax laws is something that we should eliminate. Current law adds a disincentive for couples to stay together and become contributors to American society. I was a cosponsor of various measures in the last Congress which would have rectified this. I also support a capital gains tax cut because I believe, and studies show, that it spurs economic growth, especially in depressed areas. But this cut at this time is a mistake. Finally, I also believe that the earnings limit on elderly Americans should be raised. I have supported these provisions before and will gladly do so again.

However, these popular segments far from balance the massive cost of this tax package, $189 billion in spending cuts over 5 years. During this time of high deficits, we cannot continue to add to the debt. Our children will suffer later when they will be forced to pay for our spending. In addition, working families will bear the brunt of these cuts needed to pay for the wealthy's tax breaks.

This bill is like a hand grenade with the pin pulled out. While it gives away almost $189 billion in the first 5 years, the Treasury Department estimates it will actually cost $630 billion over a 10-year period. That will be a true explosion.

Mr. Chairman, the tax cuts the bill calls for mainly benefit the rich. A Treasury Department study shows that a working family making between $30,000 and $50,000 a year would receive $569 in tax relief under this bill. This pales in comparison to the $11,266 in tax relief the legislation gives to a family with an income over $200,000. The Treasury Department also estimates that corporations and only the top 12 percent of the wealthiest taxpayers would get more than half of the tax break. Seventy-six percent of the $31 billion, 5-year cost of the capital gains tax cut would go to families making over $100,000. In my district these families are not considered middle class, Mr. Chairman.

This bill is also tough on Federal employees numbering about 30,000 in the El Paso area, which I represent. This bill will increase the payroll withholding for older Federal employees by 33 percent and for newer Federal employees by 313 percent. Under this legislation, middle-class Federal employees will pay an additional $905 in taxes to receive $125 in tax cuts.

The Republicans failed to obtain approval of this retirement contribution change in the committee of jurisdiction; the Government Reform and Oversight Committee. Thus, they subverted the legislative process and inserted this change in the Rules Committee. The leadership's promises to address this in later legislation is simply a fig leaf that we have seen before such as the lock-box/deficit-reduction mechanism in the welfare reform debate.

There are other ways in which middle- and low-income working families will pay if we enact this bill. For example, there will be large cuts in the welfare system and in nutrition programs which will significantly reduce benefits of 2.8 million needy families by the year 2000 according to the CBO; and higher Medicare costs will be borne by millions of older Americans.

I also want to remind my colleagues of the illustrative list of spending cuts released by Budget Committee Chairman KASICH the other day for the express purpose of paying for today's tax cuts. As you know, the Budget Committee reported legislation that cuts discretionary spending by $100 billion over the next 5 years (H.R. 1219). Yet, these suggested cuts do not even cover the $189 billion cost of this tax cut bill. Again, these cuts are aimed at working American families. These include; elimination of the Low Income Heating Program [LIHEAP], elimination of many job training programs including those aimed at displaced workers like the Trade Adjustment Assistance and NAFTA Adjustment Assistance, elimination of summer youth jobs programs, reduced funding for school-to-work programs and Goals 2000, elimination of Federal efforts in vocational and adult education, elimination of the Legal Services Corporation, elimination of PBS, and repealing the Davis-Bacon Act.

Even more, these illustrative cuts include several programs that are cut or eliminated in the 1995 rescission bill. This means the cuts already made in the rescission package are not available to meet the new $100 billion cut. Therefore, this is double-counting, Mr. Chairman. Like Reagan-era budget wizards of yesteryear the other party is once again engaging in funny math.

Under the Republican tax cut bill, these cuts will only be used to pay for the tax benefits going to mostly upper income Americans and the business community. The proposed spending reductions do nothing to reduce the Federal deficit. That means additional and even deeper cuts will come later in the year.

Mr. Chairman, the American people are looking at the Congress today and they see two incongruous goals: tax cuts and reducing the deficit. They have been rightly critical of Congress in the last few years. We must reject this bill because of the mixed message we continue to send to the American people.

In the 103d Congress, the Democrats and the President put before the American people tough and painful choices that were necessary to reduce the deficit. We imposed tough spending and entitlement caps. As a result, we will reduce the annual deficits of 1994–95 by more than $600 billion over 5 years. The economy has responded to our medicine by giving us one of the largest post WWII expansions in history. Some say the Democrats paid a high price for what we did in last November; if so, then so be it. Our country is better for it.

Finally, Mr. Chairman, the actions we are taking by approving this tax cut plan will send shudders around world financial markets. The dollar continues its downward slide. Americans are still uneasy about the future. Approval of this tax cut bill could send our economy into a tailspin.

Mr. Chairman, this is not the jewel our Speaker constantly refers to, but rather fools gold. This represents a return to the failed supply-side economics of Ronald Reagan—trickle-down economics. Well, Mr. Chairman, America has been trickled on quite enough. I urge my colleagues to resist this invitation to fiscal and economic disaster. Oppose the Republican tax cut bill.

Mr. BONIOR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Chairman, I support the Gephardt substitute which provides $31.6 billion in tax relief to American families earning primarily between $20,000 and $85,000 per year, and encourages investments in education and training to strengthen our economy. This is a responsible, fully paid for, and carefully targeted plan, and I applaud the efforts of the Democratic leader in bringing this to the House today.

I am opposed to the underlying deficit-busting tax legislation proposed by our Republican colleagues. It hurts middle- and low-income families, businesses, many States, and children. It benefits the wealthiest Americans instead of those who need relief the most. It costs too much and will likely add billions to our Nation's deficit and debt.

H.R. 1215 is simply another tax giveaway for the well-off. Under this legislation, households earning $200,000 a year would receive an average tax cut of $11,266, while those earning under $30,000 a year would receive on average only $124. This is patently unfair.

H.R. 1215 hurts middle- and low-income American families. They are unlikely to see any significant benefits from the bill's provisions. In fact, because the bill's centerpiece—a $500 tax credit for each child—is nonrefundable, it is estimated that 24 million children would not qualify for the credit because their families' income is too low to have any tax liability.

Contrary to our colleagues' claims, this bill will not necessarily help small business. In fact, because this plan may lead to increases in interest rates, the plan may in fact hurt small businesses. Higher interest rates make the loans needed for expansion, upgrading equipment, or making other infrastructure improvements more expensive for businesses.

H.R. 1215 will hurt the States. Many States, including Maine, use Federal adjusted gross income to calculate taxable income for State income tax purposes. Unless States cease to conform to Federal depreciation and capital gains provisions, they will be faced with enormous revenue losses. In Maine, those losses are estimated to be $370 million. It is ironic that this legislation is offered by the party that also offered legislation to curb unfunded mandates. This is just another example of how some of our colleagues are willing to say one thing and then do another for the sake of political expediency.

Finally, H.R. 1215 will hurt our children, our Nation's most precious natural resource. The bill uses savings achieved at the expense of schools lunches, WIC, and other programs which benefit children to help fund tax breaks for those earning more than $100,000. This bill will lead to cuts in student financial aid, public housing, and education.

Moreover, this bill is a budget-buster. The Congressional Budget Office estimates that it will cost our country $630 billion over the next 10 years. The proposed spending cuts don't even come close to paying for this cost explosion. The result, or course, will be even higher deficits and debts. Once again, we are mortgaging our children's future.

Mr. Chairman, H.R. 1215 is irresponsible. It fails to target the families that have been overburdened by taxes for too long. Instead, it gives tremendous tax breaks to wealthy Americans and to corporations. It hurts middle- and low-income families, small businesses, the States, and our children. It ignores our deficit and debt, and explodes in cost after 5 years.

We need tax relief. But we need responsible, targeted tax relief. I urge my colleagues to support the Gephardt substitute, and to vote down the Republican alternative which threatens to balloon our Nation's deficits and make it much harder to ever balance the Federal budget and get our fiscal house in order.

Mr. BONIOR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Kentucky [Mr. WARD].

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Mr. WARD. Mr. Chairman, earlier today I heard a supporter of this unfair tax bill say that, no, they were not really cutting school loan programs. Why he said with a straight face, a straight face, that a person could take their $500 tax break that is being given, put it in a savings account that is going to be created with this bill. They say, "Take that $500 and have $14,000—$14,000 are waiting."

I could not understand it. Well, it was $14,000, 18 years after they put that money in the bank.

Well, I told that to a high school senior from my State today, and he just laughed at me. He said, "You know, it's going to cost $8,000 next year just to go to the University of Kentucky for 1 year."

He said, Mr. Chairman, it is going to cost over $8,000 to attend the University of Kentucky for 1 year, so in 18 years $14,000 is not going to do a thing for them.

Mr. Chairman, that is why this bill is wrong. I urge its defeat.

Mr. BONIOR. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, I rise to support a real tax bill, one that in fact saves student loans, and I support the Gephardt bill.

Mr. ARCHER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 291]

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
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Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 2118

The CHAIRMAN. Four hundred sixteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

The gentleman from Michigan [Mr. BONIOR] has 7 minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 8 minutes remaining.

The Chair recognizes the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, I rise in strong opposition to H.R. 1215 and in support of the Democratic substitute.

Mr. Chairman, last weekend, we moved our clocks forward to begin daylight savings time. I was shocked that the Republicans allowed that to occur. After watching the action in this chamber for the past three months, I thought that our clocks only moved backward.

Today, the Republican leadership brings to the floor yet another bill that takes us back in time. H.R. 1215 takes us back to the 1980's when Reagan-Bush policies created a huge chasm between the rich and poor. This bill sets out to make that gap even wider and drive a wedge between the "haves" and "have-nots" of our society.

"Republican tax fairness" is as much an oxymoron as "you have to be cruel to be kind." In the name of deficit reduction, House Republicans have slashed programs serving the Nation's most needy by $76 billion, while preparing to dish out $189 billion in tax breaks, mostly to the nation's wealthiest Americans.

Releasting $189 billion to the American people would not be so bad if it were done equitably, but equity and this bill are far from synonymous. The average tax cut for the top 1% of income-earning families would be $20,362 under the Republican proposal. But for families in the bottom one-fifth, the average tax cut would be a mere $36. So while wealthy families are out purchasing expensive, foreign cars, poor families will be buying a couple of tanks of gas.

The Republican bill also takes us back to the early 1980's when giant corporations were tax freeloaders. Through massive corporate depreciation loopholes and the repeal of the corporate "alternative minimum tax," H.R. 1215 would guarantee that more than half of the largest companies in America would pay no taxes at all, just as they did prior to enactment of the 1986 tax reform package.

Additionally, Republicans are leading us in the wrong direction on capital gains tax policy. Capital gains already enjoy preferential treatment—a lower rate than earned income. That sends a message to hard-working Americans trying to move up the economic ladder that we value the small minority of people who own most of the nation's wealth more than we value the large majority of people who work at back-breaking jobs for barely a living wage. Mr. Speaker, that is the wrong message.

Instead, we should be rewarding people who earn their income through hard work the most while rewarding those who earn their income passively the least; for the latter group already owns the wealth they need to take care of themselves—they are already at the top of the economic ladder.

I have a bill that would lead us in this direction, the right direction. H.R. 538, the "Citizens' Tax Relief Act of 1995," would lower the first income tax bracket from 15 percent to 12.5 percent, giving every American a tax cut. To pay for it, a huge tax loophole would be eliminated—the favorable tax treatment of inherited property. To be equitable, the bill also would exempt from taxes the first $250,000 of capital gains on the sale of inherited homes (which is currently available only to individuals over the age of 55 and only for the first $125,000) and provide lower capital gains tax rates on the inherited property of heirs who pay the tax in the first four years after enactment of the bill.

Currently, when a person dies and leaves property to a family member, the amount by which that property increased in value during the person's lifetime is never taxed. Such a policy is fundamentally unfair considering that if the same person sells the property before dying, the individual is taxed on the gain. My bill would reverse that policy.

A study conducted by two Cornell University professors showed that more than $10 trillion worth of property will be inherited over the next 45 years. That means that there will be several trillion dollars of capital gains that should be taxed. If Congress takes advantage of this opportunity, we would have more than enough money to pay for my proposed tax cut, so that the bill actually would increase the revenues of the Federal Government. With the money left over, we could invest in job creation and job training programs so that every American who is willing and able to work would have the opportunity to do so.

H.R. 1215 and other Republican proposals do very little to create jobs for those who need them. In fact, the combination of tax cuts and budget cuts is proving to be a one-two punch for America's poor. The bottom 26 percent of families who have incomes below $20,000 a year would receive less than 2 percent of the Republican tax cut benefits. Meanwhile, most of the budget reductions proposed by House Republicans have been in programs targeted to the poor. These reductions are only a small fraction of those needed to balance the budget over the next 7 years, which means that more bitter pills are on their way.

Republicans have offered nothing to poor and working class Americans this session and have taken much away. Now they are proposing to make Federal employees pay, on average, an additional $905 a year to participate in the Federal retirement program. That will effectively wipe out any benefit Federal employees might have received from the tax cut.

Republicans, however, have offered sweetheart tax deals to the wealthiest corporations and sweetheart tax breaks for the wealthiest individuals. One of these individuals is Rupert Murdoch, a special friend of the Speaker of the House. The Republican leadership made sure that tax incentives for media conglomerates to sell broadcasting properties to minorities were eliminated from the law, but at the same time made sure that Rupert Murdoch's $150 million deal was untouched.

Mr. BONIOR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, some day when historians look back on the first 100 days of this Congress, I think they may borrow that phrase from Charles Dickens, "It was the best of times, it was the worst of times." If you are a Fortune 500 company looking for a big tax cut, if you are a billionaire Benedict Arnold sitting on a Caribbean beach, if you are a Rupert Murdoch sitting pretty with a $38 million tax break, it is the best of times, because the Republicans are looking out for you.

But if you are a kid looking for a school lunch, if you are a senior looking for a little heating assistance, if you are a student looking for a school loan, it may be the worst of times, because you are not part of the Gingrich revolution.

Time and time again this past 6 months we have heard Republicans talk about renewing American civilization. We have heard our Speaker talk about renewing American civilization. But they do not seem to understand that you cannot renew American civilization by taking Big Bird from a 5-year-old, school lunch from a 10-year-old, summer jobs from a 15-year-old, school loans from a 20-year-old, in order to pay for a tax cut for the privileged few in our society. And that is exactly what this bill that we will be voting on tonight does. And everybody knows it.

I say to my Republican friends, do not come to this floor tonight and tell us this is not a tax bill for the wealthy, because 106 Members of your own caucus signed a letter that said it was a tax bill for the wealthy. It was not a Democrat who said, "Most people in my district do not consider someone making over $200,000 a year middle class." That, my friends, was a Republican.

Now, this bill operates under the old Republican theory that the best way to feed the birds is to give more oats to the horses. And do not tell us you are looking out for the next generation either, because you cannot save the children of the next generation by punishing the children of this generation.

Now, Republicans have come to the floor all afternoon and all evening and they kept saying they are making history today. But I say they are repeating history. I was here in 1981. I was here in 1981, when one of the worst votes of the history of this country were cast. Republicans came to the floor back then and said they had this magic solution. We are going to cut taxes. We are going to increase defense spending, and magically we are going to balance the budget.

Well, we know what happened. The rich got richer, the poor got poorer, the middle class got squeezed, and the deficit exploded. And now Republicans are ready to do it all over again, and once again when we ask for the details, all they say is "Trust us. Trust us."

Well, fool me once, shame on you; fool me twice, shame on me. It is no secret why the polls are telling you do not do this tonight. The American people will not be fooled again. NEWT GINGRICH calls this bill the crown jewel of the contract. Well, it may be the crown jewel for the wealthy, but for the rest of America it is nothing but fool's gold.

Mr. Chairman, let us do something today for middle class families for a change. Do you realize that since we began working on this contract, we have met for nearly 100 days, we have cast about 250 votes, we have not adopted one amendment that deals with jobs, one amendment that deals with income, one amendment that deals with health care, one amendment that deals with education, one amendment that deals with job training. Not one. Let us do something that targets the middle class for a change, 100 percent. 100 percent of the benefits in the Gephardt substitute go to working middle class families. It will help them send their kids to school, it will not cut student loans, it will let them deduct student loans. And, above all, it will help parents save for their children's education.

Mr. Chairman, this debate really comes down to one very simple question: Whose side are you on? Are you on the side of middle class families, or are you on the side of the privileged few? And if you think the problem in America is that the wealthy need more tax breaks, then vote against this substitute. But if you really want to do something to help middle income families in this country and make this country stronger, I urge my colleagues, vote for the Gephardt amendment, and give the next generation a fighting chance.

□ 2130

Mr. ARCHER. Mr. Chairman, to close on the substitute, I yield the balance of my time to the gentleman from Texas [Mr. ARMEY], the majority leader.

Mr. ARMEY. I thank the gentleman for yielding me the time.

Mr. Chairman, we are not passing this tax relief bill tonight because it is in the Contract With America. It is in the Contract With America because it is needed by the American people.

When we wrote the Contract With America, we said we agree with the American people that the Federal Government is too big and takes too much of their hard-earned money. The average family today pays more in taxes than it does in food, shelter, and clothing combined. Most households have a second wage earner not to support the family but to support the government.

Mr. Chairman, starting today, relief is on the way. Mr. Chairman, we have relief for the families, relief for the elderly, relief for the small business entrepreneur, relief for savers, and relief for investors.

Mr. Chairman, there are many provisions in this bill that do not get much attention, but they make real differences in the lives of real people. There is, for example, in this bill an adoption tax credit to make it easier for loving couples to provide homes for precious children.

There is an IRA for education, medical expenses, first-time home purchases and retirement, and it is available to the work-at-home parent as well.

Our bill has a tax credit for families who take care of their elderly parents at home. It has a home office deduction so more people can work at home and spend more time with their children.

This tax relief will benefit all Americans just like the capital gains tax cut will, despite the tired class warfare rhetoric we have heard today.

Let me explain what capital gains means to a working American, as told to me by a machinist on the plant floor in Irving, TX.

When he showed me his new machine with which he worked, he said, "Congressman, with this machine I can do better work. I can reach higher levels of tolerance than I've ever done before. I produce a better quality, and we have more satisfied customers. My productivity goes up, and my wages have gone up."

He said, "Congressman, this machine cost $1 million. I could work all my life and not buy this machine. And I appreciate those savers who made that money available so that machine can be there and I can have my job."

When we reduce the cost of capital and reward savers so more investments are made and more people have more and better jobs, the economy will grow, and we will receive more tax revenue. I don't care what the scorekeepers say.

Mr. Chairman, for too long we have been taking too much money away from working Americans and sending it to Washington. It is time tonight that we send more of that money back to working Americans.

It is time to shift decisions away from the hallowed Halls of Washington and back to the more hallowed kitchen tables of America. It is time for us to vote for our constituents, vote for the real families in their real homes back in our real America, vote against the Gephardt substitute and vote the Contract tax provision. Then we will come back and we will, in fact, give America a real balanced budget that really gets there without touching Social Security.

Mr. Chairman, I, too, have read Dickens. When we are done doing all of this for the children of America, they, too, like Pip, can have once again in America great expectations.

Mr. REED. Mr. Chairman, I rise in support of the Gephardt education tax deduction legislation and in strong opposition to the ill-conceived Republican tax bill.

I am opposed to the Contract on America tax bill because it is a return to the failed policies of the 1980's, it provides much for the well-to-do and little for the middle-class, and it will massively increase the deficit. It is also interesting to note that this tax cut bill actually would raise taxes on Federal workers.

In the 1980's the American people were told that tax cuts for the wealthy would trickle down to the average American. They didn't. The American people were also told that the deficit would be cut. Well it wasn't. Regrettably, the Republicans are ready to try this experiment again today.

Proponents of the Contract tax bill claim it will help the American middle class. Well, it won't. Indeed, it is estimated that 51 percent of the benefits from this bill go to the top 12 percent of earners. For the average family most of us would consider middle-class, those making $30,000 to $50,000, would get a tax break of $569, but a family making over $200,000 gets $11,266.

If this isn't unfair enough to make someone question this bill, the repeal of the Alternative Minimum Tax, which President Reagan introduced, further tilts the balance against working Americans. The AMT ensures that large corporations have to pay at least some tax. Prior to President Reagan's introduction of the AMT, large, profitable companies paid no tax and in some cases actually got rebates. For example, AT&T got a $636 million rebate, even though its profits were $24.9 billion. DuPont got a $179 million rebate, but made $3.8 billion. GE didn't get a rebate, it just didn't pay taxes for 3 years between 1982 and 1985. How does this help middle-class families?

Not only does the Contract tax bill do little for the middle-class, it also swells the deficit. Over the first 5 years, the Contract tax bill would cost roughly $200 billion which the majority has paid for by cutting child nutrition programs and tightening the caps on discretionary spending. However, the total cost over 10 years would be almost $700 billion. I believe this is why many in the Senate, like Senator CHAFEE, are opposed to the Contract's tax cuts.

If the Republicans follow through with their pledge to protect Social Security and defense spending while balancing the budget, this tax bill will require 30 percent cuts in all other domestic programs like student loans, transportation, and job training. Cutting the deficit further than we did in 1993 will be a tough job, but the Contract tax bill makes achieving a balanced budget all the more difficult, if not impossible. I would also like to remind my colleagues on the other side of the aisle that they promised to pass specific spending cuts before they passed any tax cuts.

I know many of my Republican colleagues share this concern over the deficit impact of their party's tax bill. Indeed, many of them tried to add a provision to the bill to prohibit tax cuts before the deficit is eliminated. However, their party's leadership was not willing to support that proposal. Instead, the Contract tax bill only requires an annual report on progress in balancing the budget. However, the Democratic alternative requires that all tax cuts would be revoked, if deficit targets are not achieved. This Democratic provision guarantees that deficit reduction comes before any tax cuts.

I support cutting Congressional pensions and bringing them in line with private sector pensions which a provision of this bill will partially do. However, I am disappointed that this initiative was included in this mistaken tax bill solely for political effect.

In response, I wrote and urged Minority Leader GEPHARDT to include Congressional pension reform in the only amendment allowed by the Republicans. Therefore, I am glad that the motion to recommit includes Congressional pension reform, and I plan to support this motion which requires that the Ways and Means Committee fix Congressional pensions. However, I cannot support fixing Congressional pensions as part of this spurious Republican tax bill.

Mr. Chairman, the Contract tax bill would also require the new Governor of Rhode Island to make up the loss of $280 million in revenues over 10 years. Rhode Island already faces a budget crisis and unfortunately this bill just compounds this problem. But Rhode Island's Governor might be lucky compared with New Jersey's Governor Whitman whose State loses $3 billion over 10 years.

In contrast, the Democratic alternative provides fair, reasonable, and targeted tax benefits aimed at helping middle-class families make a productive investment in their children's education. The Democratic tax fairness bill provides a $10,000 tuition deduction. It expands the number of Americans who are eligible for a tax deductible IRA which will increase our savings rate. The Democratic alternative would create new U.S. savings bond which would help middle-class families save money for their children's education. It would also allow students to deduct the interest on their loans. The Democratic alternative is geared toward education because education is an investment in our future. Education means an increased earning potential, greater global competitiveness, and self-sufficiency.

Of course, there are other proposals that the minority leader's substitute might have included, But, to the alternative bill's credit it maintains deficit reduction as the major focus of Congress.

Mr. Chairman, this debate did not have to be them against us. The Republicans could have worked with Democrats to develop an affordable, fair, bipartisan tax bill. Indeed, there are many items in the Contract tax bill that I support and wish we could have worked together to pass. First, I am in favor of reducing taxes for families making under $100,000. Second, I have voted for targeted capital gains tax breaks in the past in order to spur productive investments in jobs, not just for Wall Street billionaires. Third, I would like to see a repeal or modification of the change in the amount of Social Security that is subject to taxation. However, I am concerned that Republicans would change this tax by cutting funds for the Medicare trust fund. Fourth, I would be glad to support a bipartisan change in the Social Security earnings limit. Fifth, I believe we need to correct the home office deduction. Finally, I am sure there are a number of tax provisions we could all agree on, but the Republicans decided against a bipartisan approach.

Mr. Chairman, I wish the majority had decided on a bipartisan approach and developed a sensible tax bill that truly helps America's struggling families. Instead, they chose to favor those least in need and cut programs for society's most vulnerable members—children.

Ms. ESHOO. Mr. Chairman, the Gephardt alternative is about opportunity, growth, and the future.

While the Republicans are busy gutting nutrition programs and student loans to finance tax cuts for the rich, we have a different approach.

We believe that education is the seed corn which allows our Nation to harvest a trained work force, scientific breakthroughs, and greater prosperity in the years ahead.

Our substitute provides incentives for middle class Americans to invest in higher education and gives them the opportunity to save sufficiently for this investment.

We know the 21st century will demand higher skills from our people. The only way our country can remain competitive is to invest in our human capital. That means investing in educating our children.

The Republican agenda is not about growth and opportunity, it's about helping the rich at the expense of the middle class. It's about eating our seed corn instead of planting it.

The Gephardt substitute is a common sense cut and invest proposal targeted at the middle class. Hard-working Americans deserve more than being shafted in the fine print of the Contract With America. This package provides them with the much-needed relief they and this country deserve.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Missouri [Mr. GEPHARDT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 119, noes 313, not voting 2, as follows:

[Roll No 292]

AYES—119

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Bevill
Bonior
Borski
Boucher
Browder
Brown (FL)
Brown (OH)
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cramer
Danner
de la Garza
DeLauro
Dingell
Dixon
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gordon
Gutierrez
Hastings (FL)
Hefner
Hinchey
Holden
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kennedy (RI)
Kennelly
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McHale
Meek
Menendez
Miller (CA)
Mineta
Mink
Moakley
Moran
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Peterson (MN)
Pomeroy
Rahall
Reed
Richardson
Rose
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Slaughter
Spratt
Stokes
Studds
Stupak
Tanner
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Volkmer
Ward
Waxman
Wise
Woolsey
Wyden
Wynn
Yates

NOES—313

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brown (CA)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (LA)
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
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Lewis (CA)
Lewis (KY)
Lightfoot
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Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Rangel
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stark
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—2

Pelosi Reynolds

□ 2152

Mr. BISHOP, Ms. MCKINNEY, and Mr. PASTOR changed their vote from "aye" to "no."

Mr. WYNN changed his vote form "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as modified, made in order by the rule.

The amendment in the nature of a substitute, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. DREIER] having assumed the chair, Mr. BOEHNER, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 1215) to amend the Internal Revenue Code of 1986 to strengthen the American family and create jobs, pursuant to House Resolution 128, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GEPHARDT. Yes; I am opposed to the bill in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEPHARDT moves to recommit the bill H.R. 1215 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendments:

In paragraph (1) of section 4003(a), strike all subparagraphs except subparagraph (C) (and make the necessary conforming grammatical changes).

Strike paragraph (2) of section 4003(a) and insert the following:

(2) DEDUCTIONS.—Section 8334(a) is amended by adding after paragraph (3) (as added by paragraph (3)(A) of this subsection) the following:

(4) Effective with respect to service after December 31, 1995, in the case of a Member, the employing agency shall (instead of the percentage otherwise applicable under the first sentence of paragraph (1)) deduct and withhold from basic pay of the Member the percentage of basic pay applicable under subsection (c).".

In paragraph (3) of section 8334(a) of title 5, United States Code (as proposed to be amended by section 4003(a)(3)(A)) insert ", in the case of a Member," after "shall".

Strike paragraph (4) of section 4003(a).

Strike subsection (b) of section 4003 and insert the following:

(b) FERS.—

(1) IN GENERAL.—Section 8422(a) is amended by adding at the end the following:

"(3) In applying the provisions of paragraph (2)(B) in the case of a Member, '7½' in clause (i) thereof shall, for purposes of applying such provisions with respect to basic pay for service performed—

"(A) in calendar year 1996, be deemed to read '8½';

"(B) in calendar year 1997, be deemed to read '9';

"(C) after calendar year 1997, be deemed to read '9½';

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 8422(a) is amended by striking "paragraph (2)." and inserting "paragraphs (2) and (3).".

Strike subsection (c) of section 4003 and redesignate subsection (d) thereof accordingly.

In section 8339a(a) of title 5, United States Code (as proposed to be inserted by section 4004(a)(1)) and section 8461a(a) of such title (as proposed to be inserted by section 4004(b)(1)), strike "a separation" and insert "the separation of a Member".

In section 4005(a), strike paragraph (2) and conform paragraph (1) accordingly.

In section 4005(b), strike "MEMBERS.—" in paragraph (1) and insert "IN GENERAL.—", strike paragraph (2), and redesignate paragraph (3) as paragraph (2).

In subparagraph (B) of section 4005(b)(2) (as so redesignated), strike "and by striking 'Congressional employee,'".

In paragraph (3) of section 8415(g) of title 5, United States Code, as proposed to be added by section 4005(b)(2) (as so redesignated), strike "or Congressional employee" each place it appears, and strike "or (c)".

Strike title V of the bill.

Strike subtitle A of title VI of the bill (other than section 6101).

In section 23 of the Internal Revenue Code of 1986 (as proposed to be added by section 6101)—

(1) insert "(or, in the case of taxable years beginning before January 1, 2001, the amount specified in subsection (e))" after "$500",

(2) strike "$200,000" each place it appears and insert "$60,000",

(3) strike "100 times" in subsection (b)(2) of such section 23 and insert "70 times",

(4) strike "1996" and "1995" in subsection (d) of such section 23 and insert "2001" and "2000", respectively, and

(5) redesignate subsection (e) of such section 23 as subsection (f) and insert after subsection (d) the following new subsection:

"(e) PHASE IN OF AMOUNT OF CREDIT.—In the case of taxable years beginning before January 1, 2001, subsection (a) shall be applied by substituting for '$500'—

"(1) '$100' in the case of taxable years beginning after December 31, 1996, and before January 1, 1999, and

"(2) '$300' in the case of taxable years beginning after December 31, 1998.

In section 6101(c) of the bill, strike "1995" and insert "1996".

Strike subtitles B, C, D, and E of title VI.

After subtitle A of title VI, insert the following new subtitles:

Subtitle B—Tax Benefit Contingent on Federal Budget

SEC. 6201. EFFECTIVE DATE OF TAX BENEFIT DELAYED UNTIL FEDERAL BUDGET PROJECTED TO BE IN BALANCE.

(a) IN GENERAL.—Solely for purposes of subtitle A, notwithstanding any provision of subtitle A, and any amendment made by such subtitle, except as otherwise provided in this section—

(1) any reference in such subtitle (or in any amendment made by such subtitle) to 1996 shall be treated as a reference to the calendar year ending in the first successful deficit reduction year, and

(2) any reference in such subtitle (or in any amendment made by such subtitle) to any later calendar year shall be treated as a reference to the calendar year which is the same number of years after such first calendar year as such later year is after 1996.

(b) FIRST SUCCESSFUL DEFICIT REDUCTION YEAR.—For purposes of this section—

(1) IN GENERAL.—The term "first successful deficit reduction year" means the first fiscal year beginning after the date of the enactment of this Act with respect to which there is an OMB certification before the beginning of such fiscal year that the budget of the United States will be in balance by fiscal year 2002 based upon estimates of enacted legislation, including the amendments made by this Act.

(2) OMB CERTIFICATION.—The term "OMB certification" means a written certification made solely for purposes of this subtitle by the Director of the Office of Management and Budget to the President and the Congress.

(c) CERTIFICATIONS BEFORE 1997.—Subsection (a) shall not apply if there is an OMB certification made during 1995 or 1996 that the budget of the United States will be in balance by fiscal year 2002 based upon estimates of enacted legislation, including the amendments made by this Act.

SEC. 6202. TERMINATION OF TAX BENEFIT IF FEDERAL BUDGET DEFICIT REDUCTION TARGETS ARE NOT MET.

(A) TERMINATION OF CREDIT.—No credit shall be allowed by section 23 of the Internal Revenue Code of 1986 (added by subtitle A) for any taxable year beginning after the calendar year in which the first failed deficit reduction year ends.

(b) FIRST FAILED DEFICIT REDUCTION YEAR.—For purposes of this section, the term "first failed deficit reduction year" means the first fiscal year (beginning after the earliest date on which any amendment made by subtitle A takes effect) with respect to which there is an OMB certification during the 3-month period after the close of such fiscal year that the actual deficit in the budget of the United States for such fiscal year was greater than the deficit target for such fiscal year specified in the following table:

"In the case of fiscal year:	*The deficit target (in billions) is:*
1996	$150
1997	125
1998	100
1999	75
2000	50
2001	25
2002 or thereafter	0.

Subtitle C—Revision of Tax Rules on Expatriation

SEC. 6301. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 of the Internal

Revenue Code of 1986 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) CITIZENS.—If any United States citizen relinquishes his citizenship during a taxable year, all property held by such citizen at the time immediately before such relinquishment shall be treated as sold at such time for its fair market value and any gain or loss shall be taken into account for such taxable year.

"(2) CERTAIN RESIDENTS.—If any long-term resident of the United States ceases to be subject to tax as a resident of the United States for any portion of any taxable year, all property held by such resident at the time of such cessation shall be treated as sold at such time for its fair market value and any gain or loss shall be taken into account for the taxable year which includes the date of such cessation.

"(b) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this subsection) be includible in the gross income of any taxpayer by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

"(c) PROPERTY TREATED AS HELD.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

"(1) all property which would be includible in his gross estate under chapter 11 were such individual to die at the time the property is treated as sold,

"(2) any other interest in a trust which the individual is treated as holding under the rules of section 679(e) (determined by treating such section as applying to foreign and domestic trusts), and

"(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

"(d) EXCEPTIONS.—The following property shall not be treated as sold for purposes of this section:

"(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the date the individual relinquishes his citizenship or ceases to be subject to tax as a resident, meet the requirements of section 897(c)(2).

"(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(d)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(B) FOREIGN PENSION PLANS.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(ii) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the date the United States Department of State issues to the individual a certificate of loss of nationality or on the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

"(2) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States and, as a result of such status, has been subject to tax as a resident in at least 10 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a) is treated as occurring.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a)—

"(1) any period deferring recognition of income or gain shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable.

"(g) ELECTION BY EXPATRIATING RESIDENTS.—Solely for purposes of determining gain under subsection (a)—

"(1) IN GENERAL.—At the election of a resident not a citizen of the United States, property—

"(A) which was held by such resident on the date the individual first became a resident of the United States during the period of long-term residency to which the treatment under subsection (a) relates, and

"(B) which is treated as sold under subsection (a),

shall be treated as having a basis on such date of not less than the fair market value of such property on such date.

"(2) ELECTION.—Such an election shall apply to all property described in paragraph (1), and, once made, shall be irrevocable.

"(h) DEFERRAL OF TAX ON CLOSELY HELD BUSINESS INTERESTS.—The District Director may enter into an agreement with any individual which permits such individual to defer payment for not more than 5 years of any tax imposed by subsection (a) by reason of holding any interest in a closely held business (as defined in section 6166(b)) other than a United States real property interest described in subsection (d)(1).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

"(j) CROSS REFERENCE.—

"For termination of United States citizenship for tax purposes, see section 7701(a)(47)."

(b) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) of such Code is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(1)."

(c) CONFORMING AMENDMENTS.—

(1) Section 877 of such Code is amended by adding at the end of the following new subsection:

"(f) TERMINATION.—This section shall not apply to any individual who is subject to the provisions of section 877A."

(2) Paragraph (10) of section 7701(b) of such Code is amended by adding at the end the following new sentence: "This paragraph shall not apply to any individual who is subject to the provisions of section 877A."

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 of such Code is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) United States citizens who relinquish (within the meaning of section 877A(e)(1) of the Internal Revenue Code of 1986, as added by this section) United States citizenship on or after October 1, 1996, and

(2) Long-term residents (as defined in such section) who cease to be subject to tax as residents of the United States on or after such date.

At the end of the bill insert the following new title:

TITLE VII—HOUSE BUDGET COMMITTEE TO REPORT NEW DISCRETIONARY SPENDING LIMITS

SEC. 701. HOUSE BUDGET COMMITTEE TO REPORT NEW DISCRETIONARY SPENDING LIMITS.

Not later than 20 days after the date of the enactment of this Act, the Committee on the Budget of the House of Representatives shall report legislation which provides general discretionary spending limits as follows:

(1) With respect to fiscal year 1996: $514,998,000,000 in new budget authority and $547,245,000,000 in outlays.

(2) With respect to fiscal year 1997: $521,281,000,000 in new budget authority and $542,111,000,000 in outlays.

(3) With respect to fiscal year 1998: $528,024,000,000 in new budget authority and $544,594,000,000 in outlays.

(4) With respect to fiscal year 1999: $527,051,000,000 in new budget authority and $543,130,000,000 in outlays.

(5) With respect to fiscal year 2000: $525,091,000,000 in new budget authority and $541,082,000,000 in outlays.

Make necessary conforming changes in title and section designations and in the tables of contents.

Mr. GEPHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. ARCHER. Mr. Speaker, we have only just received a copy of this motion to recommit and I think for the benefit of all of the House Members, unless it is extremely lengthy, we should have it read so we will know what we are voting on.

The SPEAKER pro tempore. Does the gentleman object?

Mr. ARCHER. I object, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will read.

The Clerk continued the reading of the motion.

□ 2200

Mr. ARCHER (during the reading). Mr. Speaker, we have now had additional time to read the motion to recommit, and I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. DREIER). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Speaker, let me state we have had only a short time to look at it. We do believe that it is subject to a point of order. However, considering the gentleman's results on his substitute, we think he should have an opportunity on his motion to recommit. We will not urge the point of order.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Missouri [Mr. GEPHARDT] for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, this motion to recommit is very simple.

A lot of Members have said that this tax bill ought to be directed to middle-income families. One of the features of the Republican bill that Members have talked a lot about is the credit for children, a $1,000 credit, $500 credit for children. A family of two would get $1,000.

But as you know, in the Republican bill the families who can enjoy this credit go up to family incomes of $200,000 a year.

Over 100 Members wrote their own leadership and said that they would like to have that amount dropped to $95,000. I agree with them. I think over 100 Republicans get it right, and that is that we ought to give a tax cut to middle-income families and not to families at the top.

If you take all of the provisions of the Republican bill together, half of their tax cuts go to families who earn $100,000 a year or more.

We can remedy that tonight with this motion to recommit. It does four simple things. It substitutes for their bill. First, it says that family tax credit should be limited to families making $95,000 a year or less.

Second, it puts into effect the retirement changes that are in the Republican bill applying to all Federal employees including Members of Congress; in this motion to recommit, we make those changes, lowering the amount of the Federal retirement but only for Members of Congress. We do not in this motion to recommit lower the benefits or raise the taxes on Federal employees or staffs of the Congress.

Third, the motion to recommit closes this egregious loophole allowing people to renounce their American citizenship in order to avoid paying taxes. Our friends on the other side may say that it is a human right to be able to leave America and not pay your taxes. I say it is America's right that everybody ought to pay their taxes to this country.

And finally, we have included the language of the so-called Browder amendment that says none of this tax cut will go into effect until we are on the road to a balanced budget, and we will not keep this tax cut for people unless we stay on the road to a balanced budget.

Mr. BROWDER. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from Alabama.

Mr. BROWDER. Mr. Minority Leader, let me clarify this, please. Are you saying that this has hard numbers for deficit reduction over the next 7 years?

Mr. WISE. Regular order, Mr. Speaker; regular order, Mr. Speaker.

The SPEAKER pro tempore. The House will be in order. The gentleman from Missouri controls the time.

Mr. GEPHARDT. I yield to the gentleman from Alabama.

Mr. BROWDER. For a point of clarification, do you tell me that this motion to recommit includes the hard numbers that were in the Browder-Castle-Orton-Upton-Martini amendment for deficit reduction?

Mr. GEPHARDT. That is correct. As you know, in the Republican bill it got changed so that you did not look back every year to make sure you are on the road to a balanced budget. That is what you had in your amendment, and that is what is in this amendment, and that is a good amendment.

Mr. BROWDER. Thank you, Mr. Leader.

Mr. GEPHARDT. Let me sum up and say that this is a choice that we have to make tonight.

Are we willing to give half of the tax cut to families who earn $100,000 a year or more, or are we willing to focus this tax cut at the hard-working, hard-pressed, squeezed middle-income people of this country? I know what my vote is for, and I hope your vote will be for the middle-income people of this country.

Vote for this motion to recommit.

The SPEAKER pro tempore. The time of the gentleman from Missouri [Mr. GEPHARDT] has expired.

The Chair recognizes the gentleman from Texas [Mr. ARCHER] for 5 minutes in opposition to the motion to recommit.

Mr. ARCHER. Mr. Speaker, I yield my 5 minutes to the Speaker of the House of Representatives, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, let me say first of all that on this 91st day, I want to thank everyone on both sides of the aisle. This has been an immense amount of work. And despite the occasional rancor directed at me personally, I think frankly everything has gone about as well as we could have hoped.

And I think that the transfer of power which is one of the great acts of majesty in our system, the willingness to work together, getting through a lot of tough decisions, a lot of tough things, that the American people can be proud of the U.S. House for what we have done together in 91 days, and I thank every Member on both sides for the spirit, sometimes deeply disagreeing, sometimes voting unanimously, but working together very long hours for a very long time.

I find, standing here tonight, a truly historic and at the same time a truly personal experience.

Two years ago we were debating a tax increase, and all of our friends on the other side of the aisle were saying, "It will be OK," and by a one-vote margin, they passed it. But the country said it was not OK to raise taxes, that Government was too big, it spends too much, and it needs to be brought under control.

We were given an opportunity to try to be helpful. On the opening day, we spent 14 hours together, and we passed nine reforms. We applied to the Congress every law which applies to the rest of the country. We cut the congressional committee staffs by 30 percent, and we came back later and cut the congressional committee budgets by 30 percent, and we have begun a process of changing the Congress.

We committed ourselves to a contract, and to be fair, an awful lot of Democrats helped us on key votes. I stood on this floor and looked up when litigation reform for strike law firms passed by 330 to 99, and I was proud of that bipartisan majority. I stood on this floor and looked in amazement as 300 Members voted for a balanced budget amendment to the Constitution, a strong bipartisan commitment.

We have had votes on nine items. We passed eight. We lost on term limits, but it was the first time in the history of the Congress that it had been brought to a vote, and I was proud that this institution debated it honestly and passionately with Members on both sides speaking for their conscience, and we had a recorded vote.

And now we come, after great work, to a welfare reform bill that emphasizes work and family. All of the things we have done, and now we come to tonight, and let me say first, the motion to recommit is 16 pages that very few Members understand, that has not been scored, that is an appropriate effort for a minority to try to score a coup, but is not serious legislation. I urge a "no" vote.

And on final passage, what is your choice, a $500 tax credit that says about children we would rather parents have the money than bureaucrats? And an adoption tax credit to help children get into a loving family, a repeal of the tax increase on Social Security so senior citizens can keep their money, an increase in the amount that senior citizens can earn up to $39,000 a year without being penalized, an American dream savings account that allows every family to save, to buy a house, for an illness, to take care of education, for retirement, individual retirement accounts extended to spouses so if you stay home to raise your children you are not deprived of the right to save money, tax credit for long-term care, and a capital gains tax cut and indexing to create jobs.

This is a good bill. It is paid for. It helps create jobs. It strengthens families. It does what we ought to be doing. It is the last step in the Contract.

I thank all of my friends on both sides of the aisle who have worked with us to get this far. I urge every Member to look at this and ask yourself, in your constituents' lives, will not a little less money for Government and a little more money for those families be a good thing? And is not that what this Congress was elected to do?

I urge a "no" vote on recommittal and a "yes" vote on final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GEPHARDT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 168, noes 265, not voting 1, as follows:

[Roll No. 293]

AYES—168

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cramer
Danner
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skelton
Slaughter
Spratt
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—265

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Becerra
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brown (CA)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stark
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Reynolds

☐ 2231

Mr. GIBBONS and Mr. STARK changed their vote from "aye" to "no."

So the motion to recommit was rejected.

The results of the vote was announced as above recorded.

PARLIAMENTARY INQUIRIES

Mr. MORAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MORAN. Mr. Speaker, in my opinion there are two Federal income tax increases in this bill before us. There is an indirect tax increase on Federal employees of $4,525 over the next 5 years through a 313 percent increase in their retirement contribution, and there is a second more direct income tax rate increase in this bill.

Mr. Speaker, my parliamentary inquiry is directed at the clear, unequivocal Federal income tax rate increase. Does clause 5(c) of rule XXI that was passed in the first day of this session require a three-fifths majority for any increase in the Federal income tax rate?

The SPEAKER pro tempore. It is the opinion of the Chair that it does not apply in this case.

Ms. MORAN. Mr. Speaker, that was not the question.

The SPEAKER pro tempore. The rule requires a three-fifths vote if the bill contains a Federal income tax rate increase, and this bill does not.

Mr. MORAN. Mr. Speaker, further parliamentary inquiry. It would appear to me then that clause 5(c) of rule XXI is meaningless, since we have never changed any income tax rate, increased it or decreased it, without first striking the prevailing tax rate and inserting a new tax rate. I understand that the ruling of the Chair is based upon a conclusion by the Joint Tax Commission that the provision we passed in the first day of this session does not apply to effective tax rate changes, and that in fact the change from the capital gains rate of 28 percent to 39.6 percent does not apply because we first struck the 28 percent before imposing the 39.6 percent as it applies to capital gains.

Mr. Speaker, that is the way we have done every tax rate change. You first have to strike the existing change and then impose a new one. That means that subsequently, if this ruling prevails, that this body is able to increase tax rates anytime it wants simply by striking the existing rate, putting in a new rate, or, if it chooses, to say that the taxes will now apply to 110 percent of income without changing the tax rates. Mr. Speaker, this is a very dangerous precedent.

Mr. Speaker, in light of the fact I have a letter from the Treasury Department that says this is a Federal tax rate increase, and I have a letter from the Small Business Committee identifying the taxpayers and small businesses that will have to pay the 36 percent increase in the effective income tax rate that applies to investors in small businesses, I would ask the Speaker what clause 5(c) of rule XXI actually means if it does not apply to this income tax rate increase? Is the Speaker suggesting that any time there is an effective tax rate change, that what we passed does not apply? When would it ever apply, if it does not apply in this instance, Mr. Speaker?

The SPEAKER pro tempore. The Chair is not in a position to answer hypothetical questions. It has been the determination of the Chair that this measure does not include a Federal income tax rate increase.

The Chair would like to inquire if the gentleman from Texas [Mr. ARCHER], wishes to be heard on the point of order?

Mr. ARCHER. Mr. Speaker, I do.

Mr. WALKER. Mr. Speaker, has a point of order been made?

Mr. Speaker, I have a parliamentary inquiry. I do not believe there is a point of order before the House.

The SPEAKER pro tempore. The gentleman from Virginia has stated a point of order.

Mr. MORAN. Mr. Speaker, I made a parliamentary inquiry, but I would state a point of order that any vote on this bill should require a three-fifths vote. If it does not require that, then I would appeal the ruling of the Chair.

The SPEAKER pro tempore. Does the gentleman from Texas [Mr. ARCHER] desire to be heard on the point of order?

Mr. ARCHER. Mr. Speaker, I understood the gentleman from Virginia made a point of order and the Chair ruled against the point of order. Am I correct?

The SPEAKER pro tempore. The chair will continue to listen to an argument that is provided by the chairman of the Committee on Ways and Means before finally ruling.

Mr. ARCHER. Mr. Speaker, I would be pleased to try to help the Chair to support his ruling.

First, as a result of the enactment of the 50-percent exclusion applicable generally, taxpayers, other than those described in the following two paragraphs, would have a tax rate lower than 28 percent. Thus, the 28 percent maximum rate of section 1(h) of current law would not cause a reduction in tax liability as compared with that under current law; that is, as relates to current law liability, the provision would be inoperative.

No. 2, the 50-percent exclusion would not apply to collectibles. Under H.R. 1215, for this group of taxpayers the maximum rate of 28-percent is retained in H.R. 1215.

No. 3, a question has been raised as to the potential application of the 28 percent maximum rate under current law for taxpayers currently qualifying for the special rules of existing section of the law, 1202. In light of the fact that this provision would be repealed by 1215, the maximum rate of 28 percent would have no further application. Moreover, it should be noted that the special rules in section 1202 are an exclusion provision rather than a rate provision.

Further, it should be noted that concerns as to whether repeal of current law, section 1202, in conjunction with the repeal of current law, section 1(h), constitutes a rate increase, are focused on the effective rate impact rather than the occurrence of any income tax rate increase.

The House rule in question is not intended to apply to effective rate changes.

The SPEAKER pro tempore. Does the gentleman from Virginia [Mr. MORAN] wish to be heard further on his point of order?

Mr. MORAN. Mr. Speaker, I would like to underscore the last comment that was made by the distinguished chairman of the Committee on Ways and Means that the House rule in question is not intended to apply to effective tax rate changes. There was never any reference to effective rate changes. In fact, it was any income tax rate increase. I read the debate again that occurred on the first day of this session. We are now making a distinction between effective rate changes apparently and statutory rate changes, although both apply here. I do have a letter from the Treasury Department explaining that this is a tax rate increase.

How it occurred, Mr. Speaker, is in the 1993 Omnibus Budget Reconciliation Act we did pass a capital gains tax rate reduction. What it said is that when people invest in small capitalized firms for five years, their capital gains tax is reduced by 50 percent. What this bill did was to strike the capital gains rate of 28 percent, raise it to 39.6 percent, and then apply the 50 percent preference for capital gains investment. What that means is that the effective capital gains rate is 19.8 percent if this bill were to pass, whereas today there are investors getting a 14 percent tax rate on capital gains investments.

Now, this is not an obscure provision. It is a $725 million capital gains provision that was passed in the 1993 Budget Reconciliation Act. What we have done is for some investors who have invested hundreds of millions of dollars in small capitalized firms, is increased their tax rate from 14 percent to 19.8 percent. That is an increase in the income tax rate. It is both a statutory increase, in that we remove the 28 percent level and put in 39.6 percent. It is also an effective rate increase because it changes from 14 percent to 19.8 percent. That is what the letter from both the Treasury Department and the Small Business Committee underscores, that in fact investors would be paying a higher capital gains rate.

Mr. THOMAS. Mr. Speaker, the gentleman did not mean to say the Small Business Committee. I believe he meant to say the Small Business Administration.

Mr. MORAN. The Small Business Administration. I thank the gentleman from California for clarifying that.

The SPEAKER pro tempore. Does the gentleman from Maryland [Mr. CARDIN] wish to be recognized on the point of order?

Mr. CARDIN. Mr. Speaker, I do.

Mr. Speaker, this is a very important ruling. It is the first one that the Chair has had to make on the new rule XXI that requires an extraordinary vote on a tax rate increase. The language, as I understand it, is when the Federal tax rate increase applies we need a three-fifths vote.

If I understand the potential ruling of the Chair, if the Chair rules that this bill does not raise a rate and therefore does not need an extraordinary vote, what the Chair is saying is that legislation which subjects a larger percentage of a taxpayer's income to an existing tax rate would not be a tax rate increase under the provisions of rule XXI. That would mean that we could effectively raise tax rates in this country by just subjecting a larger amount of a person's income to the tax rate, thereby accomplishing the effect of a tax rate increase under the potential ruling of the Chair without raising the rate.

I just really want to point that out to the Chair before he makes his ruling, because effectively if he rules against the gentleman from Virginia [Mr. MORAN] rule XXI is meaningless.

□ 2245

PARLIAMENTARY INQUIRY

Mr. MFUME. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. DREIER). The gentleman will state his inquiry.

Mr. MFUME. Mr. Speaker, we have a ruling from the joint committee, an explanation. We have two explanations, one from Treasury, one from Small Business, both of which are very detailed in terms of their justification of their position.

This Member is at a loss with respect to the ruling of the Chair and questions whether or not the Chair's ruling, pending ruling, is discretionary or is it based in fact. And if it is based in fact, could the Chair kindly advise the Member how the Chair reached that and to suggest also that it was not discretionary?

The SPEAKER pro tempore. The Chair is prepared to rule on this.

Mr. SKAGGS. Mr. Speaker, I would like to be heard on the point of order.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. SKAGGS. Mr. Speaker, one further point I think needs to be made on this.

During the debate on opening day, it was touted that this rules change was remedial in nature. It was to be viewed expansively as remedying a propensity of the House that needed to be curtailed. A narrow reading such as is advocated by the chairman of the Committee on Ways and Means a few minutes ago flies in the face of all of the advocacy, the legislative history, if you will, of this rules change, which is the only basis that the House has and that the Chair has for informing a ruling.

To take a provision that was intended to be remedial, and therefore viewed expansively, and interpret it narrowly belies the absurdity of the rules change to begin with.

The SPEAKER pro tempore. Does the gentleman from Washington [Mr. MCDERMOTT] wish to be heard on the point of order?

Mr. MCDERMOTT. Yes, Mr. Speaker.

Mr. Speaker, if I understand the ruling the Chair is about to make, you are saying for those who do not understand arcane tax law, if we raise taxes on people but we do it in a sneaky, kind of back-door way of doing it, that, Mr. Speaker, if we do it in a legislatively, carefully crafted way, we can get away with it. If we do it straight out and say to small business, your taxes go from 14 percent to 19 percent just like that, that would require a 60-percent vote. But if we can find some way parliamentarily to swing around it, whatever the effect on people is does not make any difference.

Is that what the Chair is saying?

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized on the point of order.

Mr. LINDER. Mr. Speaker, this does not seem all that complicated. It does not change any rates of taxation of capital gains. It excludes 50 percent of the gain. Therefore, you are taxed at the 39.6-percent tax rate. Fifty percent of any gain would be excluded, giving an effective rate of 19.8 percent, a lower effective rate.

If you happen to be taxed at a 35-percent tax rate, 50 percent of the gain would be excluded, giving you a 17.5-percent tax. It lowers the effective rate in every instance by excluding half of the gain from any taxation at all.

The SPEAKER pro tempore. Does the gentleman from Michigan [Mr. LEVIN] wish to be heard on the point of order?

Mr. LEVIN. Yes, Mr. Speaker.

I just want to say to the gentleman from Georgia, the reason the gentleman from Virginia [Mr. MORAN] is right is because you are simply wrong.

The SPEAKER pro tempore. The Chair is prepared to rule.

PARLIAMENTARY INQUIRY

Mr. OBEY. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. OBEY. Mr. Speaker, I really do not wish to draw this out. I would like to go home as much as anybody else.

But in light of the statement made by the previous gentleman in the well in which he asserted in his advice to the Chair that this was a simple question because tax rates were not being raised, we were simply expanding the percentage of income being taxed at that rate, does that mean——

Mr. LINDER. If the gentleman will yield, I said precisely the opposite. I said we are reducing the amount of income that is going to be taxed or the percentage of income by excluding half the gain.

Mr. OBEY. Mr. Speaker, may I finish my parliamentary inquiry?

The SPEAKER pro tempore. The gentleman is recognized.

Mr. OBEY. Does that rationale mean that when it was suggested that there was a tax increase on Social Security recipients last year simply because the percentage of income that was being taxed was being broadened, does that mean that the Republican Party is now changing their opinion that that was a tax increase? Are they not taking it back?

The SPEAKER pro tempore. The Chair is prepared to rule.

In deference to the specialized expertise that has been provided, the Chair rules that this bill does not include a Federal income tax rate increase.

Mr. MFUME. Mr. Speaker, is the ruling discretionary? Mr. Speaker, is it a discretionary ruling?

Mr. MORAN. Mr. Speaker, I respectfully appeal the ruling of the Chair.

MOTION TO TABLE OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ARCHER moves to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MFUME. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 204, not voting 3, as follows:

[Roll No. 294]

AYES—228

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—204

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)

Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—3

Franks (NJ)
Reynolds
Souder

□ 2307

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRIES

Mr. HEFNER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from North Carolina will state his parliamentary inquiry.

Mr. HEFNER. My parliamentary inquiry is I did not ever get the ruling of the Parliamentarian, and my parliamentary inquiry is in the future if we have the ruling of the Chair questioned or challenged, is it going to become the practice for someone to move to table the motion and we will never have a ruling on the ruling of the Chair as it applies to House rules?

The SPEAKER pro tempore (Mr. DREIER). The Chair will respond to the gentleman by saying first that it was not the Parliamentarian's ruling, and the Chair ruled and the House just addressed the issue of that ruling.

Mr. HEFNER. Further parliamentary inquiry, and I feel this is justifiable.

The SPEAKER pro tempore. The gentleman from North Carolina is recognized.

Mr. HEFNER. If there is no mechanism, if there is going to be no mechanism to challenge a ruling of the Chair, if it can be superseded by a motion to table, then the majority is going to rule, there will be no chance to challenge the ruling of the Chair.

□ 2310

The SPEAKER pro tempore (Mr. DREIER). The Chair wishes to first respond to the parliamentary inquiry of the gentleman from North Carolina by stating that the House has just ruled by a vote.

The gentleman from California is recognized for a parliamentary inquiry.

Mr. THOMAS. Mr. Chairman, under the rules of the House, are there procedural motions available to the body, and if moved, voted on, and is the motion to table a procedural motion utilized by the former majority over and over and over again?

(The letters referred to by Mr. MORAN follow:)

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, April 3, 1995.

Hon. ZOE LOFGREN,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: Given my statutory responsibility (15 USC §634b(4)) to determine the impact of the taxes on small businesses and advise Congress, I have been asked to analyze the impact on small businesses of the "Contract With America Tax Reform Act of 1995" which is scheduled to come before the House of Representatives this week for consideration.

Specifically, section 6301 of H.R. 1327, the Tax Fairness and Deficit Reduction Act of 1995, creates a 50 percent capital gains exclusion for individuals but, in so doing, repeals the special small business capital gains tax incentive in the existing law (P.L. 103-66, §13113). This will have the effect of raising the taxes of future investors in qualifying, high growth, small businesses from the previous maximum rate of 14 percent to the new rate of 19.8 percent. This may be the only category of taxpayer to have its taxes raised under the capital gains provisions of the proposal. One change from the original bill added in H.R. 1327 that small businesses will appreciate is a provision which allows investors who have already purchased qualifying stock to keep the lower rate they expected under previous law.

Nevertheless, the repeal is troubling for small businesses for two reasons. First, as a matter of even-handed tax policy, it seems incongruous to raise the tax rates of those who invest in the research, plant and equipment of a high-risk, emerging growth company while rewarding non-productive speculation in real estate or the stock market with substantial tax reductions. This is particularly true where a windfall of capital gains treatment is provided to some investors for gains on property held previous to the introduction of the across-the-board proposal where such purchases were made with no expectation of a higher after-tax return.

Second, there is persuasive evidence that emerging, high-growth small businesses are the best choice for investment incentives when measured by return-per-dollar of tax expenditure. Yet historical data suggest that the across-the-board capital gains proposal will not significantly help these small businesses seeking investment dollars and repealing the special tax preference will hurt.

Our estimate is that only 10% of business finance resources currently go to small businesses and most of that is in the form of bank loans and commercial mortgages—not long term or "patient" capital that is needed to finance research and growth.

The across-the-board 50% reduction which would replace the special small business capital gains incentive will do little to improve the situation. Historical data, based on previous across-the-board capital gains treatment, indicate that about two-thirds of the capital gains benefit will flow to appreciated property, such as real estate, and only about one-third will go to corporate equity investment. Most of the corporate equity investment, however, will reward gains generated by the transfer of existing shares of stock in the market which do not result in any new productive investment for businesses. Based on this data and current levels of venture funding, we estimate that less than one per cent of the across-the-board capital gains benefits will flow to venture capital that would help small emerging companies.

Our research, and research we have reviewed, indicates that growing small businesses are greatly underfunded compared to their contribution to our economy. Small businesses in general provide 54% of all jobs and 50% of total output using only 40% of total business assets. The lion's share of our economy's job growth and innovation is generated by the type of efficient, high-growth, high-tech small business that can qualify for special capital gains treatment under current law. The purposes of the incentive is to persuade "mainstream" investors to take the added risk of investing in an emerging firm. Without such an incentive, the ability of these businesses to attract equity investment may be seriously impaired.

We conclude that the repeal of the special small business capital gains incentive and the resultant increase of the effective tax rate on qualifying small business investors will make it more difficult for these small businesses to compete in highly competitive capital markets. Since small, high growth businesses generally develop the markets and provide the jobs that help to secure our commercial leadership in the future, the repeal may have an adverse impact on our future economic growth.

I hope that this information is useful to you during the debate. I would be happy to provide any statistics or information that I have. Feel free to call me at 205-6533 or FAX at 205-6928.

Sincerely,

JERE W. GLOVER,
Chief Counsel for Advocacy.

DEPARTMENT OF THE TREASURY,
Washington, DC, April 5, 1995.

Hon. JAMES P. MORAN,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MORAN: In response to your request regarding whether the capital gains and indexing provisions of H.R. 9 would increase the tax rate on gains from eligible small business stock, the Administration submitted written testimony to the Committee on Small Business on February 22, 1995 which stated the following:

"* * * by extending the 50 percent exclusion to all capital assets, H.R. 9 will eliminate the current preference in Section 1202 for small business stock * * * and would actually increase the tax rate on certain gains from investments in eligible small businesses. The current maximum tax rate for individuals on investment in small businesses that qualify for the Section 1202 preference is 14 percent (maximum capital gain rate of 28 percent times 50 percent exclusion).[1] H.R. 9 would eliminate the 28 percent maximum tax rate on capital gains of individuals. As a result, H.R. 9 would impose a maximum tax rate of 19.8 percent (39.6 percent maximum rate times 50 percent exclusion) on investments that currently qualify for the 14 percent preferential rate under Section 1202. A 14 percent rate in a 28 percent rate environment is relatively attractive to investors in small businesses, compared to a flat rate on all gains."

The Administration remains committed to this position. Please do not hesitate to contact me if you have any questions on this or any other matter.

Sincerely,

LESLIE B. SAMUELS,
Assistant Secretary (Tax Policy).

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ENGEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 246, noes 188, not voting 1, as follows:

[Roll No. 295]

AYES—246

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
Kolbe
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Pallone
Parker
Paxon
Petri
Pombo
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Young (FL)
Zeliff
Zimmer

NOES—188

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Blute
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
LaHood
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Porter
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rogers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—1

Reynolds

☐ 2326

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 889, EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS FOR FISCAL YEAR 1995

Mr. LIVINGSTON submitted the following conference report and statement on the bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–101)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 889) "making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 6, 7, 8, 10, 20, 22, and 25.

That the House recede from its disagreement to the amendments of the Senate numbered 16 and 23, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide emergency supplemental appropriations for the Department of Defense to preserve and enhance military readiness for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I

CHAPTER I

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army," $260,700,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy," $183,100,000: Provided, That

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[1] Because one-half of the excluded gain is treated as a preference for AMT purposes, the actual rate could be higher for certain taxpayers subject to the AMT, but would never exceed 21 percent.

such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Military Personnel, Marine Corps

For an additional amount for "Military Personnel, Marine Corps," $25,200,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Military Personnel, Air Force

For an additional amount for "Military Personnel, Air Force," $207,100,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Reserve Personnel, Army

For an additional amount for "Reserve Personnel, Army," $6,500,000: That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Reserve Personnel, Navy

For an additional amount for "Reserve Personnel, Navy," $9,600,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Reserve Personnel, Marine Corps

For an additional amount for "Reserve Personnel, Marine Corps," $1,300,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Reserve Personnel, Air Force

For an additional amount for "Reserve Personnel, Air Force," $2,800,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

National Guard Personnel, Army

For an additional amount for "National Guard Personnel, Army," $11,000,000: That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

National Guard Personnel, Air Force

For an additional amount for "National Guard Personnel, Air Force," $5,000,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For an additional amount for "Operation and Maintenance, Army," $936,600,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Navy

For an additional amount for "Operation and Maintenance, Navy," $423,700,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 215(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Marine Corps

For an additional amount for "Operation and Maintenance, Marine Corps," $33,500,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Air Force

For an additional amount for "Operation and Maintenance, Air Force," $852,500,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Defense-Wide

For an additional amount for "Operation and Maintenance, Defense-Wide," $46,200,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Navy Reserve

For an additional amount for "Operation and Maintenance, Navy Reserve," $15,400,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PROCUREMENT

Other Procurement, Army

For an additional amount for "Other Procurement, Army," $8,300,000, to remain available until September 30, 1997: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For an additional amount for "Defense Health Program," $13,200,000: Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER II

RESCINDING CERTAIN BUDGET AUTHORITY

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

Operation and Maintenance, Navy

(rescission)

Of the funds made available under this heading in Public Law 103–335, $2,000,000 are rescinded.

Operation and Maintenance, Air Force

(rescission)

Of the funds made available under this heading in Public Law 103–335, $2,000,000 are rescinded.

Operation and Maintenance, Defense-Wide

(rescission)

Of the funds made available under this heading in Public Law 103–335, $68,800,000 are rescinded.

Operation and Maintenance, Army National Guard

(rescission)

Of the funds made available under this heading in Public Law 103–335, $15,400,000 are rescinded.

Operation and Maintenance, Army Reserve

(rescission)

Of the funds made available under this heading in Public Law 103–335, $6,200,000 are rescinded.

Environmental Restoration, Defense

(rescission)

Of the funds made available under this heading in Public Law 103–335, $300,000,000 are rescinded.

Former Soviet Union Threat Reduction

(rescission)

Of the funds made available under this heading in Public Law 103–335, $20,000,000 are rescinded.

PROCUREMENT

Aircraft Procurement, Army

(rescission)

Of the funds made available under this heading in Public Law 103–335, $34,411,000 are rescinded.

Procurement of Ammunition, Army

(rescissions)

Of the funds made available under this heading in Public Law 102–396, $85,000,000 are rescinded.

Of the funds made available under this heading in Public Law 103–335, $55,900,000 are rescinded.

Other Procurement, Army

(rescission)

Of the funds made available under this heading in Public Law 103–335, $32,100,000 are rescinded.

Aircraft Procurement, Air Force

(rescissions and transfer)

Of the funds made available under this heading in Public Law 102–396, $100,000,000 are rescinded.

Of the funds made available under this heading in Public Law 103–335, $27,500,000 are rescinded.

Of the funds made available under this heading in Public Law 103–335, $23,500,000 are hereby transferred and made available for obligation to Operation and Maintenance, Air Force.

Missile Procurement, Air Force

(rescissions)

Of the funds made available under this heading in Public Law 102–396, $33,000,000 are rescinded.

Of the funds made available under this heading in Public Law 103–139, $99,000,000 are rescinded.

Of the funds made available under this heading in Public Law 103–335, $89,500,000 are rescinded.

Other Procurement, Air Force

(rescission)

Of the funds made available under this heading in Public Law 103–335, $6,100,000 are rescinded.

Procurement, Defense-Wide

(rescission)

Of the funds made available under this heading in Public Law 103–335, $32,000,000 are rescinded.

National Guard and Reserve Equipment

(rescission)

Of the funds made available under this heading in Public Law 103–335, $30,000,000 are rescinded.

DEFENSE PRODUCTION ACT PURCHASES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–139, $100,000,000 are rescinded.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–139, $5,000,000 are rescinded.

Of the funds made available under this heading in Public Law 103–335, $43,000,000 are rescinded.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–335, $68,800,000 are rescinded.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–139, $49,600,000 are rescinded.

Of the funds made available under this heading in Public Law 103–335, $191,200,000 are rescinded.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–139, $77,000,000 are rescinded.

Of the funds made available under this heading in Public Law 103–335, $436,445,000 are rescinded.

RELATED AGENCIES

NATIONAL SECURITY EDUCATION TRUST FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, $75,000,000 are rescinded.

CHAPTER III

GENERAL PROVISIONS

SEC. 101. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 102. Notwithstanding sections 607 and 630 of the Foreign Assistance Act of 1961 (22 U.S.C. 2357, 2390) and sections 2608 and 2350j of title 10, United States Code, all funds received by the United States as reimbursement for expenses for which funds are provided in this Act shall be deposited in the Treasury as miscellaneous receipts.

SEC. 103. During the current fiscal year, appropriations available to the Department of Defense for the pay of civilian personnel may be used, without regard to the time limitations specified in section 5523(a) of title 5, United States Code, for payments under the provisions of section 5523 of title 5, United States Code, in the case of employees, or an employee's dependents or immediate family, evacuated from Guantanamo Bay, Cuba, pursuant to the August 26, 1994 order of the Secretary of Defense. This section shall take effect as of March 5, 1995, and shall apply with respect to any payment made on or after that date.

(INCLUDING TRANSFER OF FUNDS)

SEC. 104. In addition to amounts appropriated or otherwise made available by this Act, $28,297,000 is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard to cover the incremental operating costs associated with Operations Able Manner, Able Vigil, Restore Democracy, and Support Democracy: Provided, that such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SEC. 105. (a) Section 8106A of the Department of Defense Appropriations Act, 1995 (Public Law 103–335), is amended by striking out the last proviso and inserting in lieu thereof the following: ":Provided further, That if, after September 30, 1994, a member of the Armed Forces (other than the Coast Guard) is approved for release from active duty or full-time National Guard duty and that person subsequently becomes employed in a position of civilian employment in the Department of Defense within 180 days after the release from active duty or full-time National Guard duty, than that person is prohibited from receiving payments under a Special Separation Benefits program (under section 1174a of title 10, United States Code) or a Voluntary Separation Incentive program (under section 1175 of title 10, United States Code) by reason of the release from active duty or full-time National Guard duty, and the person shall reimburse the United States the total amount, if any, paid such person under the program before the employment begins".

(b) Appropriations available to the Department of Defense for fiscal year 1995 may be obligated for making payments under sections 1174a and 1175 of title 10, United States Code.

(c) The amendment made by subsection (a) shall be effective as of September 30, 1994.

SEC. 106. (a) Subsection 8054(g) of the Department of Defense Appropriations Act, 1995 (Public Law 103–335), is amended to read as follows: "Notwithstanding any other provision of law, of the amounts available to the Department of Defense during fiscal year 1995, not more than $1,252,650,000 may be obligated for financing activities of defense FFRDCs: Provided, That, in addition to any other reductions required by this section, the total amounts appropriated in titles II, III, and IV of this Act are hereby reduced by $250,000,000 to reflect the funding ceiling contained in this subsection and to reflect further reductions in amounts available to the Department of Defense to finance activities carried out by defense FFRDCs and other entities providing consulting services, studies and analyses, systems engineering and technical assistance, and technical, engineering and management support.".

(b) Subsection 8054(h) of the Department of Defense Appropriations Act, 1995 (Public Law 103–335), is amended to read as follows: "The total amounts appropriated to or for the use of the Department of Defense in titles II, III, and IV of this Act are reduced by an additional $251,534,000 to reflect savings from the decreased use of non-FFRDC consulting services by the Department of Defense.".

(c) Not later than 60 days after enactment of this Act, the Under Secretary of Defense (Comptroller) shall report to the Committees on Appropriations of the Senate and the House of Representatives as to the total, separate amounts of appropriations provided, by title and by appropriations account, in titles II, III, and IV of the Department of Defense Appropriations Act, 1995 (Public Law 103–335), as amended.

SEC. 107. Within sixty days of the enactment of this Act, the President shall submit to Congress a report which shall include the following:

(a) A detailed description of the estimated cumulative incremental cost of all United States activities subsequent to September 30, 1993, in and around Haiti, including but not limited to—

(1) the cost of all deployments of United States Armed Forces and Coast Guard personnel, training, exercises, mobilization, and preparation activities, including the preparation of police and military units of the other nations of the multinational force involved in enforcement of sanctions, limits on migration, establishment and maintenance of migrant facilities at Guantanamo Bay and elsewhere, and all other activities relating to operations in and round Haiti; and

(2) the costs of all other activities relating to United States policy toward Haiti, including humanitarian and development assistance, reconstruction, balance of payments and economic support, assistance provided to reduce or eliminate all arrearages owed to International Financial Institutions, all rescheduling or forgiveness of United States bilateral and multilateral debt, aid and other financial assistance, all in-kind contributions, and all other costs to the United States Government.

(b) A detailed accounting of the source of funds obligated or expended to meet the costs described in paragraph (a), including—

(1) in the case of funds expended from the Department of Defense budget, a breakdown by military service or defense agency, line item and program; and

(2) in the case of funds expended from the budgets of departments and agencies other than the Department of Defense, by department or agency and program.

SEC. 108. None of the funds appropriated to the Department of Defense for the Technology Reinvestment Program under Public Law 130–335 shall be obligated for any new projects for which a selection has not been made until the Under Secretary of Defense for Acquisition and Technology certifies to the Congress that military officers and civilian employees of the military departments constitute a majority of the membership on each review panel at every proposal evaluation step for the Technology Reinvestment Program: Provided, That the Under Secretary of Defense for Acquisition and Technology shall submit to the Congress a report describing each new Technology Reinvestment Program project or award and the military needs which the project addresses.

SEC. 109. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for assistance to or programs in the Democratic People's Republic of Korea, or for implementation of the October 21, 1994, Agreed Framework between the United States and the Democratic People's Republic of Korea, unless specifically appropriated for that purpose.

And the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 110. During the current fiscal year, none of the funds available to the Department of Defense for emergency and extraordinary expenses may be obligated or expended in an amount of $1,000,000 or more for any single transaction without prior notification to the Committees on Appropriations of the Senate and House of Representatives, the Senate Armed Services Committee, and the House National Security Committee.

And the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of "Sec. 112" named in said amendment, insert: *Sec. 111*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

SEC. 112. None of the funds made available to the Department of Defense for any fiscal year for military construction or family housing may be obligated to initiate construction projects upon enactment of this Act for any project on an installation that—

(1) was included in the closure and realignment recommendations submitted by the Secretary of Defense to the Base Closure and Realignment Commission on February 28, 1995, unless removed by the Base Closure and Realignment Commission, or

(2) is included in the closure and realignment recommendation as submitted to Congress in 1995 in accordance with the Defense Base Closure and Realignment Act of 1990, as amended (P.L. 101–510):

Provided, That the prohibition on obligation of funds for projects located on an installation cited for realignment are only to be in effect if the function or activity with which the project is associated will be transferred from the installation as a result of the realignment: Provided further, That this provision will remain in effect unless the Congress enacts a Joint Resolution of Disapproval in accordance with the Defense Base Closure and Realignment Act of 1990, as amended (P.L. 101–510).

(RESCISSIONS)

SEC. 113. Of the funds appropriated under Public Law 103–307, the following funds are hereby rescinded from the following accounts in the specified amounts:

Military Construction, Army, $3,500,000;

Military Construction, Navy, $3,500,000;

Military Construction, Air Force, $3,500,000;

North Atlantic Treaty Organization Infrastructure, $33,000,000;

Base Realignment and Closure Account, Part III, $32,000,000.

Of the funds appropriated under Public Law 102–136, the following funds are hereby rescinded from the following account in the specified amount:

Military Construction, Naval Reserve, $25,100,000.

And the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 114. The Secretary of Defense shall not allocate a rescission to any military installation that the Secretary recommends for closure or realignment in 1995 under section 2903(c) of the Defense Base Closure and Realignment Act of 1990 (subtitle A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) in an amount in excess of the proportionate share for each installation for the current fiscal year of the funds rescinded from "Environmental Restoration, Defense" by this Act.

SEC. 115. Funds in the amount of $76,900,000 received during fiscal years 1994 and 1995 by the Department of the Air Force pursuant to the "Memorandum of Agreement between the National Aeronautics and Space Administration and the United States Air Force on Titan IV/Centaur Launch Support for the Cassini Mission," signed September 8, 1994, and September 23, 1994, and Attachments A, B, and C to that Memorandum, shall be merged with appropriations available for research, development, test and evaluation and procurement for fiscal years 1994 and 1995, and shall be available for the same time period as the appropriation with which merged, and shall be available for obligation only for those Titan IV vehicles and Titan IV-related activities under contract as of the date of enactment of this Act.

SEC. 116. Section 8025 of the Department of Defense Appropriations Act, 1995 (Public Law 103–335), is amended by striking out the amount "$203,736,000" and inserting in lieu thereof "$170,036,000".

SEC. 117. In addition to the rescissions made elsewhere in this Act, on September 15, 1995, $100,000,000 shall be rescinded from appropriations under title III of the Department of Defense Appropriations Act, 1993 (Public Law 102–396).

And the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

CHAPTER IV

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount to enable the Secretary of Transportation to make a grant to the National Railroad Passenger Corporation, $21,500,000 is hereby appropriated which shall be available until expended for capital improvements associated with safety-related emergency repairs at the existing Pennsylvania Station in New York City: Provided, That none of the funds herein appropriated shall be used for the redevelopment of the James A. Farley Post Office Building in New York city as a train station and commercial center: Provided further, That the $21,500,000 shall be considered part of the Federal cost share for the redevelopment of the James A. Farley Post Office Building, if authorized.

TITLE II

And the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and the matter inserted by said amendment, insert:

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

IMMIGRATION EMERGENCY FUND

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–317, $45,000,000 are rescinded.

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the amounts made available under this heading in public Law 103–317 for the Advanced Technology Program, $90,000,000 are rescinded.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

INFORMATION INFRASTRUCTURE GRANTS

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–317, $15,000,000 are rescinded.

RELATED AGENCIES

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317 for tree-planting grants pursuant to section 24 of the Small Business Act, as amended, $15,000,000 are rescinded.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317 for payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $15,000,000 are rescinded.

And the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

Retain the matter inserted by said amendment, amended as follows:

Insert the following heading at the beginning of said amendment:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

And on line 17, page 17 of the House of Representatives engrossed bill, H.R. 889, delete "$100,000,000" and insert in lieu thereof *$200,000,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$60,000,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

DEVELOPMENT ASSISTANCE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior appropriations Acts, $12,500,000 are rescinded.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–87 and Public Law 103–306, $7,500,000 are rescinded.

Of the funds made available under this heading in Public Law 103–87 for support of an officer resettlement program in Russia as described in section 560(a)(5), $15,000,000 shall be allocated to other economic assistance and for related programs for the New Independent States of the Former Soviet Union notwithstanding the allocations provided in section 560 of said Act: Provided, That such funds shall not be available for assistance to Russia.

And the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for new education infrastructure improvement grants, $65,000,000 are rescinded.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $35,000,000 made available for title IV, part A, subpart 1 of the Higher Education Act are rescinded.

And the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

FEDERAL AVIATION ADMINISTRATION

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading that remain unobligated for the "advanced automation system", $35,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

MISCELLANEOUS HIGHWAY DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available appropriated balances provided in Public Law 93–87; Public Law 98–8; Public Law 98–473; and Public Law 100–71, $12,004,450 are rescinded.

And the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment insert: *$6,563,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment to read as follows:

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

The Congress finds that the 1990 amendments to the Clean Air Act (Public Law 101–549) superseded prior requirements of the Clean Air Act regarding the demonstration of attainment of national ambient air quality standards for the South Coast, Ventura, and Sacramento areas of California and thus eliminated the obligation of the Administrator of the Environmental Protection Agency to promulgate a Federal implementation plan under section 110(e) of the Clean Air Act for those areas. Upon the enactment of this Act, any Federal implementation plan that has been promulgated by the Administrator of the Environmental Protection Agency under the Clean Air Act for the South Coast, Ventura, or Sacramento areas of California pursuant to a court order or settlement shall be rescinded and shall have no further force and effect.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NATIONAL AERONAUTICAL FACILITIES

Public Law 103–327 is amended in the paragraph under this heading by striking "March 31, 1997" and all that follows, and inserting in lieu thereof. "September 30, 1997: Provided, That not to exceed $35,000,000 shall be available for obligation prior to October 1, 1996.".

And the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

TITLE IV—MEXICAN DEBT DISCLOSURE ACT OF 1995

SEC. 401. SHORT TITLE.

This title may be cited as the "Mexican Debt Disclosure Act of 1995".

SEC. 402. FINDINGS.

The Congress finds that—

(1) Mexico is an important neighbor and trading partner of the United States;

(2) on January 31, 1995, the President approved a program of assistance to Mexico, in the form of swap facilities and securities guarantees in the amount of $20,000,000,000, using the exchange stabilization fund;

(3) the program of assistance involves the participation of the Board of Governors of the Federal Reserve System, the International Monetary Fund, the Bank for International Settlements, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Bank of Canada, and several Latin America countries;

(4) the involvement of the exchange stabilization fund and the Board of Governors of the Federal Reserve System means that United States taxpayer funds will be used in the assistance effort to Mexico;

(5) assistance provided by the International Monetary Fund, the International Bank for Reconstruction and Development, and the Inter-American Development Bank may require additional United States contributions of taxpayer funds to those entities;

(6) the immediate use of taxpayer funds and the potential requirement for additional future United States contributions of taxpayer funds necessitates congressional oversight of the disbursement of funds; and

(7) the efficacy of the assistance to Mexico is contingent on the pursuit of sound economic policy by the Government of Mexico.

SEC. 403. PRESIDENTIAL REPORTS.

(a) REPORTING REQUIREMENT.—Not later than June 30, 1995, and every 6 months thereafter, the President shall transmit to the appropriate congressional committees a report concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall contain a description of the following actions taken, or economic situations existing, during the preceding 6-month period or, in the case of the initial report, during the period beginning on the date of enactment of this Act:

(1) Changes in wage, price, and credit controls in the Mexican economy.

(2) Changes in taxation policy of the Government of Mexico.

(3) Specific actions taken by the Government of Mexico to further privatize the economy of Mexico.

(4) Actions taken by the Government of Mexico in the development of regulatory policy that significantly affected the performance of the Mexican economy.

(5) Consultations concerning the program approved by the President, including advice on economic, monetary, and fiscal policy, held between the Government of Mexico and the Secretary of the Treasury (including any designee of the Secretary) and the conclusions resulting from any periodic reviews undertaken by the International Monetary Fund pursuant to the Fund's loan agreements with Mexico.

(6) All outstanding loans, credits, and guarantees provided to the Government of Mexico, by the United States Government, including the Board of Governors of the Federal Reserve System, set forth by category of financing.

(7) The progress the Government of Mexico has made in stabilizing the peso and establishing an independent central bank or currency board.

(c) SUMMARY OF TREASURY DEPARTMENT REPORTS.—In addition to the information required to be included under subsection (b), each report required under this section shall contain a summary of the information contained in all reports submitted under section 404 during the period covered by the report required under this section.

SEC. 404. REPORTS BY THE SECRETARY OF THE TREASURY.

(a) REPORTING REQUIREMENT.—Beginning on the last day of the first month which begins after the date of enactment of this Act, and on the last day of every month thereafter, the Secretary of the Treasury shall submit to the appropriate congressional committees a report concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall include a description of the following actions taken, or economic situations existing, during the month in which the report is required to be submitted:

(1) The current condition of the Mexican economy.

(2) The reserve positions of the central bank of Mexico and data relating to the functioning of Mexico monetary policy.

(3) The amount of any funds disbursed from the exchange stabilization fund pursuant to the program of assistance to the Government of Mexico approved by the President on January 31, 1995.

(4) The amount of any funds disbursed by the Board of Governors of the Federal Reserve System pursuant to the program of assistance referred to in paragraph (3).

(5) Financial transactions, both inside and outside of Mexico, made during the reporting period involving funds disbursed to Mexico from the exchange stabilization fund or proceeds of Mexican Government securities guaranteed by the exchange stabilization fund.

(6) All oustanding guarantees issued to, and short-term and medium-term currency swaps with, the Government of Mexico by the Secretary of the Treasury, set forth by category of financing.

(7) All outstanding currency swaps with the central bank of Mexico by the Board of Governors of the Federal Reserve System and the rationale for, and any expected costs of, such transactions.

(8) The amount of payments made by customers of Mexican petroleum companies that have been deposited in the account at the Federal Reserve Bank of New York established to ensure repayment of any payment by the United States Government, including the Board of Governors of the Federal Reserve System, in connection with any guarantee issued to, or any swap with, the Government of Mexico.

(9) Any setoff by the Federal Reserve Bank of New York against funds in the account described in paragraph (8).

(10) To the extent such information is available, once there has been a setoff by the Federal Reserve Bank of New York, any interruption in deliveries of petroleum products to existing customers whose payments were setoff.

(11) The interest rates and fees charged to compensate the Secretary of the Treasury for the risk of providing financing.

SEC. 405. TERMINATION OF REPORTING REQUIREMENTS.

The requirements of sections 403 and 404 shall terminate on the date that the Government of Mexico has paid all obligations with respect to swap facilities and guarantees of securities made available under the program approved by the President on January 31, 1995.

SEC. 406. PRESIDENTIAL CERTIFICATION REGARDING SWAP OF CURRENCIES TO MEXICO THROUGH EXCHANGE STABILIZATION FUND OR FEDERAL RESERVE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no loan, credit, guarantee, or arrangement for a swap of currencies to Mexico through the exchange stabilization fund or by the Board of Governors of the Federal Reserve System may be extended or (if already extended) further utilized, unless and until the President submits to the appropriate congressional committees a certification that—

(1) there is no projected cost (as defined in the Credit Reform Act of 1990) to the United States from the proposed loan, credit, guarantee, or currency swap;

(2) all loans, credits, guarantees, and currency swaps are adequately backed to ensure that all United States funds are repaid;

(3) the Government of Mexico is making progress in ensuring an independent central bank or an independent currency control mechanism;

(4) Mexico has in effect a significant economic reform effort; and

(5) the President has provided the documents described in paragraphs (1) through (28) of House Resolution 80, adopted March 1, 1995.

(b) TREATMENT OF CLASSIFIED OR PRIVILEGED MATERIAL.—For purposes of the certification required by subsection (a)(5), the President shall specify, in the case of any document that is classified or subject to applicable privileges, that, while such document may not have been produced to the House of Representatives, in lieu thereof it has been produced to specified Members of Congress or their designees by natural agreement among the President, the Speaker of the House, and the chairmen and ranking members of the Committee on Banking and Financial Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House.

SEC. 407. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEE.—The term "appropriate congressional committees" means the Committees on International Relations and Banking and Financial Services of the House of Representatives, the Committees on Foreign Relations and Banking, Housing and Urban Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.

(2) EXCHANGE STABILIZATION FUND.—The term "exchange stabilization fund" means the stabilization fund referred to in section 5302(a)(1) of title 31, United States Code.

That the Senate recede from its amendment to the title of the bill.

For consideration of Senate amendments numbered 3, 5, 6, 7, and 10 thru 25, and the Senate amendment to the title of the bill:

BOB LIVINGSTON,
JOHN MYERS,
BILL YOUNG,
RALPH REGULA,
JERRY LEWIS,
JOHN EDWARD PORTER,
HAROLD ROGERS,
FRANK R. WOLF,
BARBARA F. VUCANOVICH,
SONNY CALLAHAN,
CHARLES WILSON,
ALAN MOLLOHAN,

For consideration of Senate amendments numbered 1, 2, 4, 8, and 9:

BILL YOUNG,
JOE MCDADE,
BOB LIVINGSTON,
JERRY LEWIS,
JOE SKEEN,
DAVE HOBSON,
HENRY BONILLA,
GEORGE R. NETHERCUTT, Jr.,
MARK NEUMANN,
JOHN P. MURTHA,
NORMAN DICKS,
CHARLES WILSON,
W.G. BILL HEFNER,

Except Ament. No. 1 re: ELF:

MARTIN OLAV SABO,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
THAD COCHRAN,
ARLEN SPECTER,
PETER V. DOMENICI,
PHIL GRAMM,
KIT BOND,
SLADE GORTON,
MITCH MCCONNELL,
CONRAD BURNS,
ROBERT BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
PATRICK J. LEAHY,
FRANK R. LAUTENBERG,
BARBARA A. MIKULSKI,
HARRY REID,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House in the report accompanying H.R. 889 (H. Rept. 104–29) and the report accompanying H.R. 845 (H. Rept. 104–30) which is not changed by the report of the Senate (S. Rept. 104–12), and Senate report language which is not changed by the conference are approved by the committee of conference. The statement of the managers while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

Amendment No. 1: Inserts an enacting clause, inserts language making emergency supplemental appropriations for the Department of Defense, inserts language rescinding certain budget authority from the Department of Defense and inserts general provisions relating to the Department of Defense. The Senate amendment deleted the enacting clause and all the House language providing emergency supplemental appropriations and directing certain rescissions relating to the Department of Defense and inserted new language providing supplemental appropriations and providing additional rescissions and language provisions relating to the Department. The details of the conference agreement follow:

TITLE I

CHAPTER I

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY

The conference agreement includes a total of $3,069,997,000 for unfunded military personal, operation and maintenance, and procurement costs associated with contingency operations and other readiness requirements instead of $3,208,400,000 as proposed by the House and $1,963,697,000 as proposed by the Senate. The conferees also have agreed to a general provision proposed by the House which will provide $360,000,000 in offsets to this amount from burdensharing contributions.

After the House and Senate acted on the fiscal year 1995 Supplemental budget request, the Department of Defense identified several significant revisions to the cost of contingency operations. These revisions, outlined in the table below, include a reduction to Operation VIGILANT WARRIOR that concluded on December 22, 1994, and increases for support of Cuban refugees, as well as flying hour costs associated with several of these operations. The conferees agree to incorporate these revisions in the total appropriations provided to the Department.

In addition to providing funds to cover contingency operations costs, the conference agreement also includes funds to pay for other readiness enhancements in the Military Personnel and Operation and Maintenance accounts. Funds are added to completely pay for the fiscal year 1995 military pay raise, and cover increased overseas station allowance costs accruing from the recent decline in the value of the dollar. Funds also are included to finance shortfalls in Navy flying hour costs.

A summary of the conference agreement is as follows:

SUMMARY OF CONFERENCE AGREEMENT

	Army	Navy	Marine Corps	Air Force	Defense-Wide		Defense Health Program	Army Reserve	Navy Reserve	Marine Corps Reserve	Air Force Reserve	Army Guard	Air Guard	Total
					DIA	SOCOM								
Military personnel:														
Budget request	69.3	49.5	10.4	71.7					4.6					205.5

SUMMARY OF CONFERENCE AGREEMENT—Continued

	Army	Navy	Marine Corps	Air Force	Defense-Wide		Defense Health Program	Army Reserve	Navy Reserve	Marine Corps Reserve	Air Force Reserve	Army Guard	Air Guard	Total
					DIA	SOCOM								
Adjustments to request:														
Vigilant Warrior	2.8	1.5		−3.5										0.8
Cuba refugee support	3.6													3.6
Other readiness enhancements:														
Military pay raise	75.5	68.2	3.0	70.4				6.5	5.0	1.3	2.8	11.0	5.0	248.7
Overseas station allowance	109.5	63.9	11.8	68.5										253.7
Subtotal, military personnel	260.7	183.1	25.2	207.1				6.5	9.6	1.3	2.8	11.0	5.0	712.3
Operation and maintenance:														
Budget request	958.6	347.6	38.0	888.7	3.6	39.6	14.0		6.4					2,296.5
Adjustments to request:														
Vigilant Warrior	−29.8	−0.9	−4.5	−36.2			−0.8							−72.2
Cuba refugee support	7.8	38.6												46.4
Contingency flying hours		19.7				3.0								22.7
Cuba real property		−22.3												−22.3
Other readiness enhancements:														
Navy flying hours		41.0							9.0					50.0
Subtotal, operation and maintenance	936.6	423.7	33.5	852.5	3.6	42.6	13.2		15.4					2,321.1
Procurement:														
Other procurement	8.3													8.3
Total	1,205.6	606.8	58.7	1,059.6	3.6	42.6	13.2	6.5	25.0	1.3	2.8	11.0	5.0	3,041.7
Burdensharing (Sec. 102)														−360.0
Grand total														2,681.7

CONTINGENCY AND NON-TRADITIONAL MISSIONS

The conferees express their deep concern over the process by which U.S. military forces are being deployed on major, large scale contingency operations. The conferees note that the Administration neither sought nor received advance approval of or funding for military operations from the Congress in support of peacekeeping and humanitarian missions. The missions involving Somalia, Rwanda, Haiti, and refugee relief in the Caribbean all mark significant departures from previous emergency deployments of American forces dealing with valid threats to the national security. The conferees strongly believe that military deployments in support of peacekeeping or humanitarian objectives both merit and require advance approval by the Congress.

The issue is of special concern to the conferees because of the effect these operations have had on the defense budgeting and planning process. There is no question but that the recent spate of "contingency" deployments, none of which was approved in advance by Congress nor budgeted for, have wreaked havoc upon the ability of the Department of Defense to maintain military readiness. These operations have led to substantial and repeated diversions of funds intended for training, equipment and property maintenance. From the Secretary of Defense to commanders in the field, there is universal acknowledgment that this practice has led to degradations in readiness.

A related issue involves the rapid increase in Defense Department participation in activities which under both law and tradition are the responsibility of other Federal departments. The principal example of this trend is the use of DoD funds, personnel, and facilities to deal with the issue of Cuban and Haitian refugees. The cost of these operations has been almost entirely borne by the Department of Defense, even though other Federal entities have long had primary responsibility for dealing with refugee and immigration issues and have, in the past, reimbursed the Department of Defense for such support in accordance with the Economy Act. At present, DoD is being forced to bear $1 million per day in costs for these operations, out of funds intended to be used for military operations, training, and readiness. The conferees believe DoD should not be forced to bear the cost of operations which are not its responsibility, especially when it results in a substantial diversion of funds provided by the Congress expressly for military activities.

These problems underline the need for the Executive Branch to seek congressional approval for unanticipated nontraditional military operations in advance. The conferees intend to address these issues in connection with the fiscal year 1996 appropriations process, in order to avoid the recurrence of situations such as those which created the need for the appropriations contained in this measure. The conferees strongly urge the Administration to provide detailed and timely proposals to assist in resolving these issues.

OTHER PROCUREMENT, ARMY

The budget request included $28,600,000 for a wide variety of equipment in the "Other Procurement, Army" account. The conferees recommend a total of $8,300,000 for the highest priority programs within the request.

CHAPTER II

RESCINDING CERTAIN BUDGET AUTHORITY

DEPARTMENT OF DEFENSE—MILITARY

The conferees agree to rescind $2,009,956,000 from fiscal year 1993, 1994, and 1995 appropriations and make other reductions of $250,000,000 in funds available to the Department of Defense. The conference agreement on items in conference is as follows:

Rescissions Recommended in the Bill

[In thousands of dollars]

Item	*Conference Agreement*
Operation and maintenance, Navy: Classified programs	(2,000)
Operation and maintenance, Air Force: Classified programs	(2,000)
Operation and maintenance, Defense-Wide:	
Other conversion initiatives	(18,800)
DFAS pricing rebate	(50,000)
Operation and maintenance, Army National Guard: Reserve component automation system	(15,400)
Operation and maintenance, Army Reserve: Reserve component automation system	(6,200)
Environmental restoration, Defense	(300,000)
Former Soviet Union threat reduction	(20,000)
Aircraft procurement, Army, 1995/1997: AH-64 Apache	(34,411)
Procurement of ammunition, Army, 1993/1995 armament and retooling manufacturing support initiative	(85,000)
Procurement of ammunition, Army, 1995/1997:	
Provision of industrial facilities	(5,550)
Layaway of industrial facilities	(46,000)
Conventional ammo demilitarization	(4,350)
Other procurement, Army, 1995/1997:	
Reserve component automation system	(12,100)
SINCGARS contract savings	(20,000)
Aircraft procurement, Air Force, 1993/1995: C-17 aircraft	(100,000)
Aircraft procurement, Air Force, 1995/1997: SR-71	(27,500)
Missile procurement, Air Force, 1993/1995: Advanced cruise missile	(33,000)
Missile procurement, Air Force, 1994/1996:	
Triservice standoff attack missile	(86,200)
Minuteman II/III missile	(12,800)
Missile procurement, Air Force, 1995/1997:	
AMRAAM missile contract savings	(39,500)
Classified programs	(50,000)
Other procurement, Air Force, 1995/1997: Classified programs	(6,100)
Procurement, Defense-wide, 1995/1997: Defense Airborne Reconnaissance Program, UAV (Hunter)	(32,000)

Item	Conference Agreement
National Guard and Reserve equipment, 1995/1997: Miscellaneous equipment	(30,000)
Defense Production Act: Defense Production Act purchases	(100,000)
Research, development, test, and evaluation, Army, 1994/1995: Triservice standoff attack missile	(5,000)
Research, development, test, and evaluation, Army, 1995/1996: Program reductions, science and technology	(43,000)
Research, development, test, and evaluation, Navy, 1995/1996:	
Triservice standoff attack missile	(29,800)
Program reductions, science and technology	(39,000)
Research, development, test, and evaluation, Air Force, 1994/1995: Triservice standoff attack missile	(49,600)
Research, development, test, and evaluation, Air Force, 1995/1996:	
Triservice standoff attack missile	(111,200)
Program reductions, science and technology	(40,000)
Tactical support satellite	(15,000)
Hypersonic Flight Technology Program	(25,000)
Research, development, test, and evaluation, Defense-wide, 1994/1995: Technology reinvestment program/dual use partnership	(77,000)
Research, Development, test, and evaluation, Defense-wide, 1995/1996:	
Technology reinvestment program/Defense reinvestment (ARPA)	(223,000)
Other conversion initiatives/Defense reinvestment (OSD)	(16,600)
NATO research and development	(5,000)
Program reductions, science and technology	(103,000)
Experimental evaluation of major innovative technology:	
Program reduction	(20,000)
Tactical support satellite	(53,845)
Manufacturing technology (ARPA)	(15,000)
National education trust fund (non-add)	(−75,000)
Subtotal rescissions	(2,009,956)
Sec. 106—Federally funded research and development centers—Consulting services	(150,000)
Sec. 117—Expiring fiscal year 1993 balances—Title III	(100,000)
Total fiscal year 1993/1994/1995 rescissions	(2,259,956)

RESERVE COMPONENT AUTOMATION SYSTEM

The Senate proposed to rescind $46,900,000 in the Other Procurement, Army appropriation for the Reserve Component Automation System. In February 1995 the Army conducted a special review of the program which resulted in a proposal to significantly change the system's architecture and caused a temporary delay. The Army informed the conferees that given these events, $33,700,000 is no longer needed to execute the program during fiscal year 1995. The conferees agree to rescind $12,100,000 in Other Procurement, Army; $15,400,000 in Operation and Maintenance, Army National Guard; and $6,200,000 in Operation and Maintenance, Army Reserve. This action should not be construed as either agreement or disagreement with the Army's proposed restructure of the program. The conferees have amended section 8025 of the Department of Defense Appropriations Act for fiscal year 1995 to reflect this reduction.

SUNCGARS

The conferees recommend a rescission of $20,000,000 for the SINCGARS radio in the "Other Procurement, Army" account. These funds are available as a result of savings because of a lower than projected per unit cost in a recent contract award.

ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE

The conferees agree to rescind $85,000,000 for the Armament Retooling and Manufacturing Support Initiative. The budget submission requested that the expiring fiscal year 1993 funds be made available to fix a funding shortfall for tank ammunition in fiscal year 1996. The conferees do not believe that fiscal year 1996 shortfalls should be funded with excess funds from previous fiscal years. Although the conferees support the multi-year tank ammunition contract, the budget proposal does not comply with standard acquisition and budget procedures. The conferees' decision to rescind the funds does not prejudge any decision regarding programs that have funding shortfalls in fiscal year 1996. The conferees would consider a reprogramming request to continue the manufacture of the 120mm armor piercing tank ammunition if it is necessary to maintain production in fiscal year 1995. The conferees understand that closing the existing production line would greatly increase costs for this needed ammunition.

APACHE HELICOPTER

The conferees agree to rescind $34,411,000 for Apache-A production. Of the available funds, $5,611,000 is only for Apache engineering support and $37,589,000 is only for long lead procurement for the Longbow Apache program.

NATIONAL SECURITY EDUCATION TRUST FUND

The conferees agree to rescind $75,000,000 of the amount appropriated for the National Security Education Trust Fund in Public Law 102–172. The intent of the conferees is to reduce the corpus of the Fund by 50 percent.

CLASSIFIED PROGRAMS

The Senate proposed classified rescissions totalling $60,100,000. The House proposed no such rescission. The conferees agree to a reduction of $60,100,000 as discussion in the Classified Report which accompanies this Statement of the Managers.

FORMER SOVIET UNION THREAT REDUCTION

The House rescinded a total of $80,000,000 originally appropriated for housing, conversion projects, and the Defense Enterprise Fund. The Senate proposed no such reduction. The conferees agree to a reduction of $20,000,000.

C–17

The conferees agree to rescind $100,000,000 in fiscal year 1993 Air Force aircraft procurement funds from the C–17 program for engineering change orders. The recommendation is made without prejudice as the Air Force has informed the conferees that the funds could not be obligated before they expired at the end of the fiscal year. The conferees have also been informed by the Air Force that the C–17 program office intends to use fiscal year 1994 and fiscal year 1995 funds to implement the low cost engine nacelle modification when the requirements are fully defined.

SR–71

Of the $100,000,000 appropriated for the SR–71 activation in fiscal year 1995, the conferees agree to rescind $27,500,000, and transfer $23,500,000 from Aircraft Procurement, Air Force (APAF) 95/97 to Operation and Maintenance, Air Force (OMAF) 95 as follows:

[In thousands of dollars]

	Fiscal Year 1995 appropriation	Rescission	Transfer	Net
APAF	$65,000	$−27,500	$−23,500	$14,000
OMAF	35,000	0	+23,500	58,500
Total	100,000	−27,500	0	72,500

GUARD AND RESERVE MISCELLANEOUS EQUIPMENT

The conferees agree to a rescission of $30,000,000 for Guard and Reserve miscellaneous equipment as proposed by the House. The conferees agree that the $30,000,000 rescission is to be allocated proportionally to the amount appropriated to each of the Reserve Components for procurement of miscellaneous equipment in fiscal year 1995.

HYPERSONIC FLIGHT TECHNOLOGY

The conferees recommend a rescission of $25,000,000 from the $45,000,000 appropriated in the Hypersonic Flight Technology program funded in the Air Force fiscal year 1995 Research, Development, Test and Evaluation appropriation. The conferees endorse the Air Force's new budget plan which requires $10,000,000 to close out the Hypersonics Systems Technology (HySTP) program and $10,000,000 to initiate a new technology program focused on warfighter needs.

TACTICAL SUPPORT SATELLITE

The Senate proposed rescissions totaling $68,845,000 and termination of the Tactical Support Satellite. The House proposed no such action. The conferees agree with the Senate recommendation.

RDT&E GENERAL REDUCTIONS

The conferees direct that general reductions to Science and Technology, Experimental Evaluation of Major Innovative Technologies, and Manufacturing Technology (ARPA) programs be applied in a manner such that no disproportionate reduction be made to any individual project within these program elements.

DEFENSE FINANCE AND ACCOUNTING SERVICE

The conferees agree to rescind $50,000,000 from the Operation and Maintenance, Defense-wide account, and direct the Defense Finance and Accounting Service (DFAS) to rebate prices charged to Defense Agencies and the Office of the Secretary of Defense for accounting services provided in fiscal year 1995 in order to reduce expected operating gains by a like amount.

BALLISTIC MISSILE DEFENSE

The conferees have restored funds for the National Test Facility to avoid any negative impact on critical theater missile defense (TMD) programs during the remainder of fiscal year 1995. However, the conferees note the importance and capabilities of the Ballistic Missile Defense Organization's (BMDO) Advanced Research Center (ARC) supercomputing facility.

The United States Army Space and Strategic Defense Command (USASSDC) ARC in Alabama has proven to be a cost-effective solution in the development, integration and testing of the Army's missile defense programs. The ARC, in the opinion of the conferees, has demonstrated that these cost effective procedures in accomplishing the test and integration function for the Army's missile defense programs can also be applied to accomplish the integration and testing of BMDO systems.

The mature simulation environment of the ARC has existing, state-of-the-art component test beds within the facility which are supporting space and theater missile defense programs. Test beds included in the ARC are the Extended Air Defense Test Bed (EADTB), Ground Based Radar Test Facility (GBRTF), Missile Defense Data Center (MDDC), Integrated System Test Capability (ISTC), TMD System Exerciser (TMD-SE), and others which support space and missile defense tests and integration. The ARC has secure communication links to the other modern DoD test facilities through defense and commercial networks that are required to conduct system simulations and evaluations of BMDO systems.

The conferees will work to ensure that the funds required in fiscal year 1996 are available to make necessary upgrades and facilitate the integration and testing of BMDO component systems.

CHAPTER III

GENERAL PROVISIONS

DEPARTMENT OF DEFENSE—MILITARY

COAST GUARD

The conferees have included a general provision which appropriates $28,297,000 to the Department of Defense for transfer to the Coast Guard to cover incremental operating expenses associated with contingency operations.

FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS AND RELATED ACTIVITIES

The conferees have modified the Senate proposal to revise Section 8054(g) of the Department of Defense Appropriations Act, 1995, to further reduce funding for defense federally funded research and development centers (FFRDC's) and other entities providing similar services.

The conferees have modified the Senate language to allocate the reductions in the revised Section 8054(g) among the operation and maintenance, procurement, and research, development, test and evaluation appropriations titles of the underlying Act.

The conferees also have added a subsection which modifies Section 8054(h) of the underlying Act to allocate the reduction in that subsection among the three titles.

The conferees direct that none of the FFRDC's or the funds allocated to the consultants and for-profit activities be required to absorb a disproportionate share of the decreases recommended in Subsections 8054(g) and (h) of the Act, as amended.

The conferees further approved a reporting requirement to provide the Committees on Appropriations with the most current information about the allocation of these reductions.

Amendment No. 2: Inserts and amends Senate language which limits the use of funds that can be used for emergency and extraordinary expenses unless prior notification is submitted to the Committees on Appropriations of the House and Senate, the House National Security Committee and the Senate Armed Services Committee.

Amendment No. 3: Inserts a new section number and retains a provision proposed by the Senate. This provision prohibits the expenditure of funds under this or any other Act to enter into an agreement between the United States and Russia under section 123 of the Atomic Energy Act of 1954, until the President certifies to Congress that Russia has satisfied certain conditions regarding an agreement not to sell nuclear reactor components to Iran. The House bill contained no provision on this matter.

Amendment No. 4: Deletes Senate language which expressed the sense of the Senate that a member of the Armed Forces sentenced by a court martial to confinement and a punitive discharge or dismissal should not receive pay and allowances.

Amendment No. 5: Deletes language proposed by the Senate, and not addressed in the House bill, which contained conditional fiscal year 1995 rescissions for certain military construction projects relating to 1995 Base Closures and Realignments, and inserts new language which prohibits the obligation of funds for any new military construction or family housing project at an installation proposed for closure or realignment, and also inserts new language rescinding a total of $100,600,000.

Projects related to realignments are defined as projects which are affected by the function or activity being realigned. The prohibition on obligation of funds is in effect unless the Congress enacts a Joint Resolution of Disapproval in accordance with the Defense Base Closure and Realignment Act of 1990, as amended (P.L. 101–510).

The conferees note that while they support the intent of the Senate amendment, in anticipation of savings due to the 1995 Base Closure and Realignments, general reductions totaling $136.7 million were enacted in the Military Construction Appropriations Act, 1995. The conferees are committed to rescinding any additional savings at the appropriate time during consideration of the fiscal year 1996 budget request.

With regard to the recommended rescissions, the conferees agree to rescind $75,500,000 from five appropriation accounts as contained in Public Law 103–307, the Military Construction Appropriations Act for Fiscal Year 1995. The appropriation accounts and recommended rescission amounts for each account are listed below:

Military Construction, Army	$3,500,000
Military Construction, Navy	3,500,000
Military Construction, Air Force	3,500,000
North Atlantic Treaty Organization Infrastructure	33,000,000
Base Realignment and Closure Account, Part III	32,000,000
Total	75,500,000

In addition, the conferees agree to rescind $25,100,000 from funds appropriated for Military Construction, Naval Reserve in Public Law 102–136, the Military Construction Appropriations Act for Fiscal Year 1992.

The conference agreement includes a general reduction of $3,500,000 for each of the Service accounts for military construction. These amounts are to be applied to the combination of project savings from favorable bids, reduced overhead costs, and other cost reduction initiatives.

With regard to the North Atlantic Treaty Organization Infrastructure account, the recommended rescission amount reflects savings associated with deobligations due to canceled projects, low bids, and reduction of project scope, as well as NATO reimbursement for projects previously funded with U.S. appropriated funds that are now NATO eligible.

With regard to the Base Realignment and Closure Account, Part III, the recommended rescission amount is based on estimated savings as a result of the Secretary of Defense recommendations to the Base Closure Commission for 1995 closures and realignments, which reflect changes to the 1993 closure and realignment decisions.

With regard to the rescission of funds appropriated for Military construction, Naval Reserve for fiscal year 1992, the recommended rescission amount is based on the cancellation of a project to provide C-130 support facilities, which is no longer required.

Amendment No. 6: Deletes a provision added by the Senate expressing the sense of the Senate relating to South Korea's nontariff barriers to United States beef and pork. The House bill contained no provision on this matter.

Amendment No. 7: Deletes a provision added by the Senate expressing the sense of the Senate relating to the indefinite extension of the Non-Proliferation Treaty. The House bill contained no provision on this matter.

Amendment No. 8: Deletes Senate language which expressed the sense of the Senate concerning the importance of the National Test Facility.

Amendment No. 9: Inserts and amends Senate language which provides that the rescission from the Environmental Restoration, Defense account shall not be allocated in excess of a proportionate share to installations that are recommended for closure or realignment in 1995.

Inserts a new provision which makes necessary technical adjustments in order to make available to the Air Force up to $76,900,000 in funds received from NASA as reimbursement for TITAN IV-related costs in support of the NASA Cassini mission.

Insert a new provision which amends the Department of Defense Appropriations Act, 1995 to reduce the funds available for the Reserve Component Automation System.

Inserts a new provision which rescinds $100,000,000 from unobligated procurement balances that expire at the end of fiscal year 1995.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RESTRUCTURING

DEBT RELIEF FOR JORDAN

Amendment No. 10: Deletes language proposed by the Senate that would have provided $275,000,000 for debt relief for Jordan, of which not more than $50,000,000 could be obligated prior to October 1, 1995.

The conferees agree not to include supplemental funding for restructuring Jordanian debt to the U.S. government, but it is the full intention to propose an appropriation of $275,000,000 for this purpose in H.R. 1158 under consideration in the Senate at the time of the conference. The conferees confirm that they support fully the President's commitment to King Hussein to restructure Jordan's debt in support of the October 1994 peace agreement between Jordan and Israel. Should appropriation of these funds fail to be enacted as part of H.R. 1158, the conferees recommend that funding for this purpose be included in the regular fiscal year 1996 Foreign Operations, Export Financing, and Related Programs Appropriations Act.

PALESTINIAN-ISRAELI COOPERATION PROJECT

In reports by both the House and Senate Appropriations Committees which accompanied the FY 1994 and FY 1995 Foreign Operations bills, strong support was expressed for funding of the educational, cultural, and humanitarian activities financed through the Palestinian-Israeli Cooperation Project. The Agency for International Development continues to ignore this expression of support.

Once again the conferees urge that AID commit funds to this project.

CHAPTER IV

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Amendment No. 11: Appropriates $21,500,000 for capital grants to the National Railroad Passenger Corporation (Amtrak) and conforms heading. The House and Senate bills contained no similar appropriation. The agreement also inserts a title designation, as proposed by the Senate.

The conferees agree to provide $21,500,000 for capital grants to the National Railroad Passenger Corporation (Amtrak) to address emergency safety-related needs at the existing Pennsylvania Station in New York City. These funds are to be available immediately for obligation. This issue is further addressed under amendment number 20.

TITLE II

CHAPTER I

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

Amendment No. 12: Rescinds $180,000,000 from five accounts, instead of $177,000,000 from two accounts as proposed by the House, and the same amount from eight accounts as proposed by the Senate, distributed as follows:

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

IMMIGRATION EMERGENCY FUND

Rescinds $45,000,000 from the Immigration Emergency Fund, instead of $70,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

INDUSTRIAL TECHNOLOGY SERVICES

Rescinds $90,000,000 from the Advanced Technology Program at the National Institute of Standards and Technology, instead of $107,000,000 as proposed by the House and $32,000,000 as proposed by the Senate.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

Deletes a rescission of $2,500,000 from the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration proposed by the Senate. The House bill contained no provision on this matter.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

INFORMATION INFRASTRUCTURE GRANTS

Rescinds $15,000,000 from National Telecommunications and Information Administration Information Infrastructure Grants, instead of $34,000,000 as proposed by the Senate. The House bill contained no provision on this matter.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Deletes a rescission of $40,000,000 from Economic Development Administration Economic Development Assistance Programs as proposed by the Senate. The House bill contained no provision on this matter.

RELATED AGENCIES

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

Rescinds $15,000,000 for tree-planting grants from Small Business Administration Salaries and Expenses, as proposed by the Senate. The House bill contained no provision on this matter.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

Rescinds $15,000,000 from the Legal Services Corporation, as proposed by the Senate. The House bill contained no provision on this matter.

The conferees agree that, to the maximum extent possible, these funds should be taken from programs that do not provide direct legal services to individuals.

DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

Deletes a rescission of $28,500,000 from the State Department Foreign Buildings account as proposed by the Senate. The House bill contained no provision on this matter.

CHAPTER II

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

The conferees recommend a rescission of $200,000,000 from funds appropriated for fiscal year 1995 and unobligated balances carried forward into fiscal year 1995. To the extent possible, these reductions should be taken against low priority, noncritical work and not direct cleanup activities, or activities which do not support the safe and cost-effective operation and management of Department of Energy waste management facilities.

This recommendation includes the $100,000,000 which was originally proposed in H.R. 889 by both the House and the Senate, and $100,000,000 of the $113,000,000 rescission for defense environmental restoration and waste management which has been proposed by the Senate during consideration of H.R. 1158.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

Amendment No. 13: The conference agreement includes language proposed by the Senate authorizing the U.S. Army Corps of Engineers to initiate and complete remedial measures to prevent slope instability at Hickman Bluff, Kentucky, utilizing $3,000,000 appropriated in the Fiscal Year 1995 Energy and Water Development Appropriations Act for that purpose. The Senate language has been amended to include appropriate headings.

CHAPTER III

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Amendment No. 14: Rescinds $60,000,000 from the U.S. contribution to the International Development Association instead of $70,000,000 as proposed by the Senate. The House did not address this matter.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

Amendment No. 15: Rescinds $7,500,000 from funds made available in fiscal year 1994 and fiscal year 1995 for assistance to the New Independent States of the Former Soviet Union. In addition, the conference agreement reallocates $15,000,000 from the funds provided for Russian officer housing in Public Law 103-87 for aid to the New Independent States with the exception of Russia. The House had proposed a rescission of $110,000,000 from funds provided for Russian officer housing. The Senate amendment struck the House language and proposed certain rescissions described below.

The conference agreement also rescinds $12,500,000 from "Development assistance fund" from appropriations provided in Public Law 103-306 and prior appropriations acts. The Senate had proposed a rescission of $13,000,000 from this account, as well as $9,000,000 from fiscal year 1994 and 1995 appropriations for "Assistance for Eastern Europe and the Baltic States", and $18,000,000 from fiscal year 1994 and 1995 appropriations for "Assistance for the New Independent States of the Former Soviet Union" of which not less than $12,000,000 would have come from funds allocated for Russia. The House bill did not contain provisions on these matters.

CHAPTER IV

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

Amendment No. 16: Includes a rescission of $1,500,000 as proposed by the Senate of funding available to the Fish and Wildlife Service for activities involving the listing of endangered species and the designation of critical habitat. The provision also prohibits the Fish and Wildlife Service from using other funds to make final listings or critical habitat designations. The House bill contained no similar provision.

The conferees note that this provision has been adopted only to provide a brief "time out" from the Endangered Species Act listings and critical habitat designations. The managers will review the issue without prejudice. The Endangered Species Act expired in 1992, and its reauthorization is long overdue. The conferees fully expect the appropriate committees to continue their efforts to develop and pass a reauthorization bill.

CHAPTER V

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

STUDENT FINANCIAL ASSISTANCE

Amendment No. 17: The conference agreement rescinds $65,000,000 from the Education Infrastructure program as requested by the President. The House recommended a $100,000,000 rescission; the Senate included no rescission for this program.

The agreement also rescinds $35,000,000 from unobligated funds appropriated in FY 1994 for the Pell Grant program. The Senate bill included a rescission of $100,000,000 for this purpose; the House bill included no rescission from this account.

CHAPTER VI

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Federal Highway Administration

MISCELLANEOUS HIGHWAY DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

Amendment No. 18: Rescinds $35,000,000 from facilities and equipment of the Federal Aviation Administration, and rescinds $12,004,450 of appropriated balances available for miscellaneous highway demonstration projects provided in Public Laws 93–87, 98–8, 98–473, and 100–71 as proposed by the Senate. The House bill contained no such provisions, but included a similar provision rescinding $35,000,000 from facilities and equipment of the Federal Aviation Administration in H.R. 1158. The conference agreement rescinds $35,000,000 of funds provided for the advanced automation system of the Federal Aviation Administration.

The conference agreement also deletes the Senate rescissions of $139,948,000 of unobligated contract authority from highway demonstration projects that received funding in Public Laws 97–424 and 100–17. The House bill contained no similar proposals.

Federal Railroad Administration

LOCAL RAIL FREIGHT ASSISTANCE

Amendment No. 19: Rescinds $6,563,000 for the local rail freight assistance program, instead of $13,126,000 as proposed by the House. The Senate bill contained no similar provision.

Pennsylvania Station Redevelopment Project

Amendment No. 20: Rescinds $40,000,000 for the Pennsylvania Station redevelopment project as proposed by the House. The Senate bill contained no similar provision.

The conferees agree that this action is taken without prejudice to the advancement of the project to redevelop the James A. Farley Post Office Building as a train station and commercial center in New York City. The project is unauthorized; however, the House and Senate Committees on Appropriations will consider any subsequent requests for funds once authorized. The conference agreement includes $21,500,000 for capital grants to the National Railroad Passenger Corporation (Amtrak) under amendment number 11 to address emergency safety-related needs at the existing Pennsylvania Station in New York City.

CHAPTER VII

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies

INDEPENDENT AGENCIES

Amendment No. 21: Adds language under the Environmental Protection Agency, Administrative Provision, regarding Federal and State Implementation Plans under section 110(e) of the Clean Air Act. Provides for no rescission of funding for National Aeronautical Facilities as proposed by the Senate instead of $400,000,000 as proposed by the House, and adds language extending the availability of funds previously appropriated for this purpose.

EPA ADMINISTRATIVE PROVISION

The conferees have included bill language which clarifies that any Federal implementation plan promulgated for three areas of California pursuant to section 110(e) of the Clean Air Act shall have no further force and effect, thus removing the cloud which exists as a result of having a promulgated but nonenforced Federal implementation plan in effect at the same time a State implementation plan is undergoing the approval process by the Environmental Protection Agency.

NATIONAL WIND TUNNEL COMPLEX

The conferees agree to no rescission of funds provided in the fiscal year 1995 appropriations Act for the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies (P.L. 103–327) for the National Wind Tunnel Complex. Language is included which extends the availability of $400,000,000 to September 30, 1997. However, no more than $35,000,000 may be obligated prior to October 1, 1996.

The conferees agree that NASA may use $35,000,000 to achieve completion of the Phase I study of wind tunnel needs and requirements. It is the understanding of the conferees that a portion of the study will identify site selection criteria and a short list of locations which would meet the requirements.

The conferees are concerned with the state of the nation's wind tunnel infrastructure and encouraged that industry and NASA are jointly interested in finding a solution to the lack of adequate facilities. All the same, the conferees realize that the solution must include significant industry financial participation. Therefore, any decision by the Congress to move beyond the Phase I study is contingent upon NASA executing a Memorandum of Agreement with both the Department of Defense and the U.S. aviation industry, both commercial and military, regarding cost shares for construction and utilization of the complex. The conferees agree that industry's share of the total cost should be both substantial and appropriate, and NASA is to report to the Appropriations Committees of the House and Senate what that level of contribution should be.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Amendment No. 22: Deletes language proposed by the Senate to rescind $400,000,000 of 1995 and prior years funds earmarked for the development or acquisition costs of public housing.

Title III—Miscellaneous

Amendment No. 23: Includes language authorizing the Secretary of Transportation to issue a certificate of documentation to the vessel, L.R. BEATTIE, as proposed by the Senate. The House bill contained no similar provision.

Title IV

Mexican Debt Disclosure Act of 1995

Amendment No. 24: Inserts new language, similar to the Senate amendment, entitled "Mexican Debt Disclosure Act of 1995". The conference agreement differs from the Senate amendment in several respects:

1. The agreement modifies section 403 to require the President to transmit a report to the appropriate committees of the Congress, not later than June 30, 1995, and every six months thereafter, regarding all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico. Such reports are required to include details on changes in wage, price, and credit control in the Mexican economy; on changes in taxation policy of Mexico; on specific actions taken by Mexico to privatize the economy; on actions taken by Mexico to develop a regulatory policy that significantly affects the performance of the Mexican economy; on consultations between the United States and Mexico concerning the program approved by the President and conclusions resulting from periodic reviews undertaken by the International Monetary Fund; on all outstanding loans, credits, and guarantees provided to the Government of Mexico by United States agencies; and on the progress made by Mexico in stabilizing the peso and establishing an independent central bank or currency board.

2. The agreement includes a new section 404 that requires monthly reports from the Secretary of the Treasury concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico. Such reports are required to include details on the current condition of the Mexican economy; the reserve portions of the central bank of Mexico and data relating to Mexican monetary policy; the amount of funds disbursed from the exchange stabilization fund pursuant to the assistance pledged by the President to Mexico; the amount of any funds disbursed by the Board of Governors of the Federal Reserve System; guarantees issued to, and currency swaps engaged with, Mexico by either the Department of Treasury or the Federal Reserve System; and the interest rates and fees charged to compensate the Secretary of Treasury for the risk of providing financing.

3. The agreement includes a new section 405 that terminates the reporting requirements of section 403 and 404 on the date the Mexican Government has paid all obligations incurred in connection with the program of assistance approved by the President on January 31, 1995.

4. The agreement includes a new section 406 that requires a certification by the President to the appropriate committees of the Congress prior to the extension or further utilization of any loan, credit, guarantee, or currency swap through the exchange stabilization fund or the Federal Reserve System, beyond those already in effect, that there is no projected cost (as defined in the Credit Reform Act of 1990) to the United States from the action; that such loans, credits, guarantees or currency swaps are adequately backed to ensure repayment; that the Mexican government is making progress in developing an independent bank or an independent currency control mechanism; that Mexico has in effect a significant economic reform effort; and that the President has provided the documents described in paragraphs (1) through (28) of House Resolution 80 as adopted on March 1, 1995. For the purposes of the final certification, any classified documents that may not have been

produced to the House of Representatives would be produced to certain specified Members of Congress.

5. The agreement modifies the definition of "appropriate congressional committees" to include the Committees on Appropriations of the House and Senate, and includes a definition for the term "exchange stabilization fund" as stated in section 5302(a)(1) of title 31, United States Code.

The House bill contained no provision on this matter.

Amendment No. 25: Restores the citation of the House passed bill in lieu of the one proposed by the Senate.

The conference agreement restores the title of the House passed bill in lieu of the one proposed by the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1995 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 budget estimates, and the House and Senate bills for 1995 follows:

Budget estimates of new (obligational) authority fiscal year 1995	2,365,696,629
House bill, fiscal year 1995	−13,940,000
Senate bill, fiscal year 1995	−1,272,684,450
Conference agreement, fiscal year 1995	−746,140,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1995	3,111,836,629
House bill, fiscal year 1995	−732,200,000
Senate bill, fiscal year 1995	+526,544,450

For consideration of Senate amendments numbered 3, 5, 6, 7, and 10 thru 25, and the Senate amendment to the title of the bill:

Bob Livingston,
John Myers,
Bill Young,
Ralph Regula,
Jerry Lewis,
John Edward Porter,
Harold Rogers,
Frank R. Wolf,
Barbara F. Vucanovich,
Sonny Callahan,
Charles Wilson,
Alan Mollohan,

For consideration of Senate amendments numbered 1, 2, 4, 8, and 9:

Bill Young,
Joe McDade,
Bob Livingston,
Jerry Lewis,
Joe Skeen,
Dave Hobson,
Henry Bonilla,
George R. Nethercutt, Jr.,
Mark Neumann,
John P. Murtha,
Norman Dicks,
Charles Wilson,
W.G. Bill Hefner,

Except Ament. No. 1 re: ELF:

Martin Olav Sabo,
Managers on the Part of House.

Mark O. Hatfield,
Ted Stevens,
Thad Cochran,
Arlen Specter,
Pete V. Domenici,
Phil Gramm,
Kit Bond,
Slade Gorton,
Mitch McConnell,
Conrad Burns,
Robert Byrd,
Daniel K. Inouye,
Ernest F. Hollings,
J. Bennett Johnston,
Patrick J. Leahy,
Frank R. Lautenberg,
Barbara A. Mikulski,
Harry Reid,
Managers on the Part of the Senate.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 889 EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS FOR FISCAL YEAR 1995

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–102) on the resolution (H. Res. 129) waiving points of order against the conference report to accompany the bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 483, MEDICARE SELECT EXPANSION

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–103) on the resolution (H. Res. 130) providing for consideration of the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 2330

PERMISSION FOR SUNDRY COMMITTEES TO SIT ON THURSDAY, APRIL 6, 1995, DURING FIVE-MINUTE RULE

Mrs. SMITH of Washington. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule:

Committee on Agriculture; Committee on Banking and Financial Services; Committee on Government Reform and Oversight; Committee on International Relations; Committee on the Judiciary; Committee on National Security; Committee on Small Business; Committee on Transportation and Infrastructure; and Committee on Veterans' Affairs.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. Riggs). Is there objection to the request of the gentlewoman from Washington?

Mr. WISE. Mr. Speaker, reserving the right to object, I do so to thank the majority. This has been cleared with all the minority ranking members.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Washington?

There was no objection.

THERE SHOULD BE NO NEW TAXES ON FEDERAL EMPLOYEES IN H.R. 1215

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, listening to the 1-minutes back in my office, I agreed with literally everything that was said by the Members of my side, all the help there is for American families in the tax cut bill. But if everything they said is true, and I believe it is true, why would not the same help be given to Federal employees?

I have been a leader in the family issues for Federal employees and non-Federal employees for the 102d Congress and the 103d Congress.

The FBI agent that everyone here would call if their husband or wife or kids were kidnapped is a Federal employee. The cancer researcher out at NIH that everyone would call quickly if someone in your family had cancer is a Federal employee. The Secret Service agent, Timothy McCarthy, that stopped the bullet that saved the life of Ronald Reagan is a Federal employee.

So I say to my side, I agree with everything you have said, because the American family is under more pressure today than any other time in the history of the country. But if this is good for American families, it should be good for the families of Federal employees.

Mr. Speaker, I urge the leadership of my side to remove the provision which increases the payroll tax on Federal employees. it should never see the light of day and should not pass.

Mr. Speaker, as one of the first Members of Congress to call for family tax relief, I am pleased that this package has as its centerpiece a $500 tax credit for families with children. This is a much needed tax credit to correct the tax inequity for families that has developed over the years when the deduction for children was not indexed. The capital gains tax cut, and the easing of the marriage penalty are also to be commended. It is time that we allow hard working American families to keep more of their hard earned money. This bill is a strong package to do that.

However, I come to the floor very troubled and disappointed. In what was otherwise a good bill for families and economic growth, the leadership has chosen to include a tax on Federal employees in this bill. For middle-class Federal employees this is bad news. We are making a very hasty decision regarding the largest single employer in the United States when the pension system we are supposedly correcting faces no shortfall of legally available budget authority to pay benefits. There is no crisis here. Yet we are including a tax that will hit middle-class Federal employees so hard that it will eliminate for most any of the benefits of this legislation. That I believe is unfair and a mistake.

Federal employees are virtually all middle-class taxpayers. We promised no tax increases on middle-class Americans; yet we have picked on a politically unpopular target. I am frustrated to be put in such an untenable situation. This was not in the Contract With America and it was rushed into this bill in fundamental violation of our promise of no new taxes. If any action in this area were to be taken it should be more properly taken in the context of an overall entitlement reform effort that objectively looks at the need, if any, to improve the civil service system.

I was calling for family tax relief in the 102d Congress and 103rd Congress when Republicans in the White House, on the Ways and Means Committee and the Budget Committee wouldn't give it the time of day. Many Democrats also opposed it because they wanted the money to fund more Government programs. Yet my bill for family tax relief garnered bipartisan support of 263 cosponsors in the 102d Congress. Raising taxes to fund a tax cut was never part of this picture.

So why sully our tax package now with a tax increase? Using a tax increase to balance is merely a return to failed policies of the past. President Bush didn't balance the budget by raising taxes and neither did President Clinton. In fact, in raising taxes both broke their promise to the American people. To include this tax on Federal employees in this bill we will also be breaking our promise in the Contract not to raise taxes. We are repealing the Social Security tax increase which the Democrats passed to balance the budget because it hit many middle-class retirees. Why repeat that mistake by picking on another group? And why repeat the disasters of the past in breaking promises on tax increases?

A fundamental tenet of the Contract With America is a commitment to no new taxes. Once we cede the tax issue in any area we will be open to the argument that it is OK to raise taxes—it just depends upon whose. We shouldn't be talking about raising anybody's taxes. But this bill singles out Federal employees for a dramatic increase in payroll taxes. For example, an FBI agent with two children earning $50,000 will pay an additional $250 a year to the Federal Government even with the $500 tax credit. This is a $1,250 hit without the tax credit. The 2.5-percent increase in Federal payroll taxes represents a 36-percent payroll tax increase. If this was being done to any other workers in this country, Republicans would never stand for it.

The Federal retirement system provision that was put into this bill is even more onerous than the provision proposed in the Government Reform and Oversight Committee, where, by the way, the proposal couldn't even make it out of the Civil Service Subcommittee. There were only 2 days of hearings on this very complicated issue and quite frankly there were many issues unresolved. As our Rules Chairman has noted, this is not a good precedent to be setting.

Furthermore, most management experts will tell you that as you are downsizing it is important not to demoralize the remaining staff. Hitting Federal employees across the board with a payroll tax like this in conjunction with massive downsizing efforts will have a devastating impact on morale at a critical time.

The issue of unfunded liabilities in the Federal pension system is still open to considerable debate and quite frankly is a debate I would be happy to have in a timely and thoughtful manner. When Congress originally set up the new retirement system and integrated it with the old system in the mid-80s we spent months and months hearing from experts. Senator STEVENS led the effort in the other body to see that this system was reformed in a sound and fair manner.

To that end, I believe we now have a workable system. The Congressional Research Service reported that the Federal retirement system trust fund balance is adequate to provide needed budget authority on an ongoing basis. The combined funded and unfunded liabilities of the old retirement system is the amount the Government would have to pay all at one time if everyone who is or who ever has been a vested CSRS participant could demand a check for the present value of all the benefits to which they would be entitled from that time throughout retirement until their death, taking into account future pay raises they might receive and cost-of-living adjustments after retirement. As CRS noted, this event cannot happen in the Federal Retirement System.

Federal pension obligations will just not come due all at one time. Furthermore, given the large downsizing effort in progress, the pension liabilities will be dramatically reduced in coming years. And that is just one more reason why it is particularly unfair that Federal employees will see this huge jump in their payroll tax—many of them will be gone before their pension even vests. Rather than include this complex issue in this tax bill, perhaps we need to establish a bipartisan commission to look at federal pensions as well as the potential liabilities in the Pension Benefit Guaranty Corporation.

Finally, my understanding of the Contract was that we were fundamentally rejecting the idea of raising taxes to balance the budget and just saying NO to tax increases in all shapes and forms. To include a tax increase in this bill fundamentally violates the anti-tax spirit of the Contract. To add this payroll tax when there are important issues still open to debate is particularly unwise.

This is bad policy, bad politics and it is a breach of faith to those who support a tax break for the American family but can't accept an unfair tax hike on middle-class government employees.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each:

A BILL TO END THE USE OF STEEL JAW LEGHOLD TRAPS ON ANIMALS IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY. Mr. Speaker, I rise today to introduce legislation to end the use of steel jaw leghold traps. More than 50 of our colleagues have already endorsed this legislation. I want to be very clear: this bill would not end trapping, but would simply end the use of this particularly barbaric instrument. Less cruel alternatives do, in fact, exist.

Mr. Speaker, this device was invented in the 1820's and has continued to inflict needless pain and suffering for over 170 years. Mr. Speaker, since then we've passed a host of animal welfare statutes, including the Humane Slaughter Act and the Cruelty to Animals Act, to name just two. Yet we continue to allow the use of a device that slams with bone-crushing force upon any animal that steps into it. This trap does not discriminate between the front paw of a fox, the hind leg of a golden retriever, or the hand of a small child. It is a brutality that we should stop.

More than 60 countries—including the European Union—have recognized and acknowledged the inhumanity of these traps. As of January 1, 1996, countries that have not ended the use of this device will no longer be permitted to sell furs in European markets. Unless we act now and follow their wise lead, the United States will be sanctioned as one of those countries. Mr. Speaker, some trappers are concerned that passing this bill would require adopting alternative trapping methods that already exist. That is true. But they must understand that, without this law, the demand for their furs will decline when the only buyers to be found are those within our borders.

Mr. Speaker, most Americans support the abolition of steel jaw leghold traps. It's time to join the growing circle of enlightened nations that have realized that they can end the use of these instruments without killing the trapping industry. If we don't act now, both the animals and trappers themselves will suffer the consequences. I encourage my colleagues to join this effort to make this sensible change.

FURTHER DISCUSSION ON TAX BILL JUST PASSED BY THE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BECERRA] is recognized for 5 minutes.

Mr. BECERRA. Mr. Speaker, we now move on to the Senate to discuss what has happened here today in the House of Representatives, where we have just provided to the privileged few in this

Nation, the opportunity to have massive tax cuts. I would like to have an opportunity to go through a few of the things that we have just heard discussed over the last several hours of debate on this tax bill. But I would like to do it under the context of what will happen in many situations that will, of course, not help at all with single Americans, especially middle-income Americans, but will in effect help some of the wealthiest, not so much individuals, but some of the wealthiest corporations in America.

I have before me some headline news. Headline news not of 1995, although I must tell you that the headlines will be very appropriate in 1995 if this tax bill goes through, but these are headlines from 1984, 1985, and 1986, years when we did not have what we call the alternative minimum tax.

The alternative minimum tax, for those who do not know, is a proposal that took effect in 1986 because we had situations, as you see here, declared in some of our major newspapers throughout the country. We had situations as Newsday reports where 50 major firms paid no U.S. taxes. We are talking about firms that made profits in the billions. We had corporations, as the headlines say, that paid less taxes then our families, in some cases families earning less than $20 to $30,000. We had headlines of firms misusing their tax breaks, as demonstrated in studies that were done.

We see also that in a study that was done as well that 50 big firms paid the IRS zippo, nothing, not a single cent, when we had taxpayers earning perhaps $20 to $30,000 paying much, much more than the biggest corporations in America, the biggest corporations throughout the world.

Because of situations like this, in 1986 Congress passed the alternative minimum tax. What we said is that at some point at the end of that year, a corporation that has made billions of dollars in profits has to pay some minimum tax. You cannot get off with no taxes, when even some of America's poorest families are paying even slight amounts of taxes.

Well, in 1986 this went through. Now every corporation in America that shows some profits must pay some taxes. That seems pretty fair to me.

Well, this bill that just passed this House floor by a very small margin will now eliminate the alternative minimum tax, which means we will revert to the days before 1986 where we saw banner headlines like this in our major newspapers. So let us not be surprised when we hear people say "Why am I not receiving anything out of this supposed tax cut bill for America, and I hear that corporations no longer are having to pay any taxes, even though they have made billions in profits?" That is, in my mind, very disturbing for America.

But let me go through some of other aspects of this particular legislation that just went through that also should concern Americans, especially those who are middle-income taxpayers and those that are making perhaps less than that.

Touted throughout the day by Members on the other side of the aisle was this tax break, $500 tax break for children. A family with children would be able to deduct $500 per child. That, of course, went for families with incomes up to $200,000, which includes the wealthest 2 percent of Americans in this Nation.

□ 1140

But what they did not say was that if you happened to earn about $18,000 in your family income and you have a child, you are not going to benefit from that particular tax break for children, because although you have children, because your tax rates are going to be so low or your taxable income will be so low because you make so little that you will not be able to benefit.

So you are lucky if you are very wealthy because you have a lot of things to deduct that $500 from, but if you happen to be a very hard-working American with a child, you will not have a chance to deduct a single cent because your income level is too low to make use of a $500 deduction.

There are other things like the child care credit which will not go to those families that are lower income and when you take a close look, you will see that this is not a tax break for America. It is a tax break for the very privileged few.

CHANGE IN ORDER OF TAKING SPECIAL ORDER

The SPEAKER pro tempore. Mr. SMITH from Michigan is recognized for 5 minutes.

Mr. CASTLE. I would ask unanimous consent to have Mr. SMITH of Michigan's time yielded to me in his absence tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware [Mr. CASTLE]?

There was no objection.

OTHER PROVISIONS IN GEPHARDT PACKAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware [Mr. CASTLE] is recognized for 5 minutes.

Mr. CASTLE. Mr. Speaker, I would like to go back to about an hour ago on the floor of the House of Representatives when the minority leader presented a motion to recommit with respect to the tax cut package which went through.

He stated specifically and had a placard, a board which showed that this bill does four things and that is all he spoke to. He says it substitutes $95,000 for the threshold level for the family tax credit. The retirement changes are lowered only for Members of Congress. It closes a loophole of renouncing American citizenship and avoiding taxes. It includes the Browder-Castle language with respect to thresholds that would have to be met and other matters pertaining to being able to balance our budget.

Quite frankly, that was a very attractive package to me as I listened to him and it gave me a great deal of pause as to whether or not I should go ahead and support that because this does encompass some of the things that had concerned me in this bill, as it went along.

He mentioned one thing at that point that caught my attention, though. He says this is 16 pages. At some point in the middle of that he said that. We got a copy of this and have checked it out since that time.

I think to establish the RECORD, we need to show here, Mr. Speaker, exactly what else was in that 16 pages that was not mentioned by Mr. GEPHARDT here tonight.

The provisions which he filed in the 16 pages eliminate the tax credit to reduce the marriage penalty. It eliminates the American dream savings account or the IRA. It eliminates the spousal IRA. He did not mention that he eliminates the child tax credit altogether in the first year then reduces from $500 to $100 in the next 2 years and raised it to $300 thereafter. He also failed to mention that he reduces the income eligibility for the child tax credit from $200,000 to $60,000.

Mr. WISE. Would the gentleman yield?

Mr. CASTLE. I will yield very briefly.

Mr. WISE. There are several statements. For instance, on your last one, you are not probably representing that.

Mr. CASTLE. Let me reclaim my time and finish.

Mr. WISE. If the gentleman is——

Mr. CASTLE. Reclaiming my time.

Mr. WISE. If the gentleman is going to attack the minority leader, then he ought to yield.

Mr. CASTLE. It eliminates the repeal of the tax on Social Security benefits. It eliminates the tax coverage for long-term insurance, accelerated death benefits and long-term care benefits. It eliminates the capital gains tax reduction. It eliminates the neutral cost recovery provisions. It eliminates the repeal of the alternative minimum tax. It eliminates the taxpayer debt buydown. It eliminates the small business expensing. It eliminates the elderly care tax credit. It eliminates the tax credit for adoption. It eliminates the increase in social security earnings test.

In other words, Mr. Speaker, what this piece of legislation did or this attempt on the motion to recommit was a lot more than the four items which were mentioned here. Quite frankly, this is one Member who was influenced by what he said and what he put on that board and would be tremendously impacted by that, perhaps even at the sake of a vote and I think that is a real problem in the House. of Representatives.

Quite frankly, I have a problem with motions to recommit anyhow. They come in at the last minute. You have 10 minutes to consider them. This is a general problem, I am speaking to now. Unfortunately, sometimes these things can try to get slipped by in the course of oral testimony which is given here usually when the chambers are filled and it makes it very, very difficult.

I would like to make this a part of the RECORD. I did not put this together. It was done by the Ways and Means people. If somebody wants to try to split hairs and take it apart, fine, that could be done.

Mr. SOLOMON. Would the gentleman yield?

Mr. CASTLE. I will yield to the gentleman from New York.

Mr. SOLOMON. I would just like to say to the gentleman, he is absolutely correct. I even spoke to some Members of the Democratic party on that side who had the sense to vote against that motion to recommit and when they found out that this was in there, they were just outraged that they would be misled this way. I just thank the gentleman for bringing this to Members' attention.

Mrs. SMITH of Washington. Would the gentleman yield?

Mr. CASTLE. I will yield to the gentlewoman from Washington.

Mrs. SMITH of Washington. I was really confused during the vote, but am I to understand that when people file their tax return next year that there was another provision in there, too, that would have eliminated a child tax credit in the first year? I do not think he said that either. He then reduces it from 500 to 100 the next 2 years and raises it back. Otherwise, he basically eliminated any benefit. I do not recall that that was made a point. Did I miss that?

Mr. CASTLE. Reclaiming my time, the gentlewoman is absolutely correct. You did not miss it. It was not made a point. It does eliminate it for one year. It is a lower level altogether to begin with. He did state it was a lower income level, but there was some question about what that particular level was but clearly the other omissions were not stated.

Mrs. SMITH of Washington. So when they file their tax returns, if they have two kids next year, right now they would have $1,000 they could keep to buy a washer or dryer or something for their family. Under this, they would have to wait for 2 years out, hopefully, and then it would be reduced.

Mr. CASTLE. That is correct the way it has been interpreted.

Mrs. SMITH of Washington. That would have been wrong. He would have been eliminating the children's tax credit.

Mr. CASTLE. Mr. Speaker, may I ask unanimous consent to have this submitted as part of the record?

The SPEAKER pro tempore. Is there objection to the request of the gentleman?

There was no objection.

WHAT GEPHARDT "FORGOT" TO TELL US ABOUT HIS MOTION TO RECOMMIT

Page 3 (bottom) "strike subtitle A of title VI of the bill (other than section 6101)."

This eliminates the tax credit to reduce marriage penalty.

This eliminates the American dream savings accounts.

This eliminates the spousal IRA.

Gephardt failed to mention that he eliminates the child tax credit in the first year, then reduces it from $500 to $100 for the next two years and raises it to $300 thereafter (see page 4).

He also failed to mention that he reduces income eligibility for the child tax credit from $200,000 to $60,000 (representing it as $95,000).

*Page 5 (top) "strike subtitles B, C, D, and E of title VI."

This eliminates the repeal of the tax on Social Security benefits.

This eliminates the tax preference for long-term insurance, accelerated death benefits and long-term care benefits.

This eliminates the capital gains tax reduction.

This eliminates the neutral cost recovery provisions.

This eliminates the repeal of the alternative minimum tax.

This eliminates the taxpayer debt buydown.

This eliminates small business expensing.

This eliminates the elderly care tax credit.

This eliminates the tax credit for adoption.

This eliminates the increase in Social Security earnings test.

CHANGE IN ORDER OF TAKING SPECIAL ORDER

The SPEAKER pro tempore. The gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, I would ask unanimous consent to take the place of Mr. OWENS, please. I am Ms. JACKSON-LEE from Texas.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman?

There was no objection.

GEPHARDT TAX SUBSTITUTE CLEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, I think it is important as I heard the discussion with my colleagues on the other side of the aisle I heard some individuals talking about confusion and not knowing what they voted for. I think it is important that the American people but as well my constituents in the State of Texas really focus on what we did tonight.

First of all, I think it was very clear what the Gephardt tax substitute did. If focused on reducing the deficit at the same time as if did in giving the right kind of tax benefits to those working Americans. But what it did for the State of Texas and this was what the State of Texas would lose under the rescissions bill, which unfortunately was passed, and this was simply to give this uninformed and incorrect and biased tax cut to those who do not need it.

So we are losing family nutrition. We are going to lose in AFDC training and emergency assistance, school nutrition, Medicaid. We are going to lose summer jobs and, yes, our college students are going to lose their ability to go to college with the college loans.

Mr. Speaker, I would simply say that even with the so-called Republicans that support this tax cut, in the quiet moments of reflection they tell the truth. What about the capital gains tax? Is that widely popular among business? Let me tell you what they have said.

"The rationale is to encourage Americans to save and invest more of their money." This is in the Washington Post with an article in headlines, GOP Tax Cut Publicly Backed But Privately Doubted. "A goal supported by nearly all economists, but even those who support it concede," meaning the capital gains tax, "there is no evidence that it will work. In all honesty, as an economist I cannot say that a change in the capital gains rate will have any measurable impact on savings or investment."

There goes your tax cut for the business folk. Then this is supposed to be a jewel. It is simply paste.

Let me tell you what the Gephardt tax cut did. What it did is it ensured that we would be able to assess each time we were getting a cut as to whether or not it met the test of cutting the deficit. Each year, 1996, 1997, 1998, 1999, 2000, 2001, we were going to determine deficit targets: 150 billion, 125 billion, 100 billion, 75 billion, 50 billion, and 25 billion.

But most of all, Mr. Speaker, I think the most important point is that we would have a tax cut that responded to working Americans.

I see the gentleman from Louisiana [Mr. FIELDS] and I wanted to yield to him and make an inquiry, because we are confronted and faced with hard decisions in this Congress. I do not think we are afraid of hard decisions.

Mr. FIELDS of Louisiana. Without question. I thank the gentlewoman for yielding.

One of the points that I wanted to make was the point of the alternative minimum tax proposal that was eliminated in this piece of legislation. I mean, the whole purpose of this measure that was passed in 1986 was because of the fact that we had about 130 to 250 corporations that pay zero in taxes.

This was a big loophole in our tax law, so we passed this legislation so we could make sure that corporations paid their fair share.

Now, if the gentlewoman would continue to yield, even corporations, the very corporations that we are giving this big tax break to today as a result of the passage of this act a few minutes ago, if these corporations' board of directors would meet across the country, and if they are in the red, these board of directors members will not give their shareholders a tax dividend because they are in the red. This company, this country is in the red. It is in the red because we are facing a huge deficit.

We are Members of Congress, we really are a board of directors for the United States of America. So I think it is our fiduciary responsibility as members of the board of directors for the United States of America to make sure that we not give a tax dividend to our shareholders when our corporation, which is the United States of America, is not as solvent as we want it to be.

So if corporations themselves will not give shareholders a dividend when they are in a deficit, why would we as a corporation for the United States of America and as a board of directors give corporations themselves a dividend. It makes absolutely no sense to me.

Ms. JACKSON-LEE. If the gentlewoman would yield.

You remember in 1981 when we got that kind of tax cut when the deficit was then just $1 trillion, it is now, under the Republican leadership, $4 trillion.

CHANGE IN ORDER OF TAKING SPECIAL ORDER

The SPEAKER pro tempore. The gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mrs. SMITH of Washington. Mr. Speaker, I ask unanimous consent to substitute for the gentleman from Indiana [Mr. BURTON].

The SPEAKER pro tempore. It there objection to the request of the gentlewoman?

There was no objection.

THE TAX BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington [Mrs. SMITH] is recognized for 5 minutes.

Mrs. SMITH of Washington. Mr. Speaker, I yield to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. I thank the gentlewoman for yielding.

I wanted to just get on the record with respect to the remarks of the minority leader, it seems to me that I cannot imagine that the minority leader intended in any way to mislead the House regarding what his motion to recommit was. He talked about four items. In fact, there are more like 15 or 20 items with respect to it.

But I would like to give the minority leader both the benefit of the doubt as well as the opportunity to tell this House that what he had indicated earlier this evening was not a complete statement but it was not meant to be an incomplete statement and to tell the entire House what the complete statement about the motion to recommit really was.

The reason that I think that it is important for him to do that is so that we clear up the cloud with respect to representations about motions to recommit.

Mr. WISE. Mr. Speaker, point of order, point of personal privilege.

Mr. Speaker, I realize this may predate the Speaker somewhat, but several years ago we went through this exact same procedure in which Members, in effect——

Mrs. SMITH of Washington. Mr. Chairman——

Mr. HOKE. The gentleman is not stating a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WISE. My point of order is that several years ago we went through this procedures where Members would in effect call out other Members on the floor, knowing they were not there. It was agreed, I thought, by rule, if not by rule by comity, that that process would no longer happen. Because, clearly, the minority leader is not here, was not served notice that this was going to happen until 2 minutes before when somebody came over here and said it was.

I would just hope for comity purposes alone we will not engage in this conduct which several years ago both parties rejected.

The SPEAKER pro tempore. We are not aware of any violation of rule from what he said so far.

Mr. WISE. Then point of parliamentary inquiry. Then it is appropriate for a Member to challenge another Members even though they are not here, probably cannot be reached, to challenge them on the floor as though they were there and ask them to come forward knowing that they cannot come forward

The SPEAKER pro tempore. As long as the Member has not engaged in personalities, which they have not.

Mr. WISE. I thank the Speaker. That is an interesting rule.

The SPEAKER pro tempore. The gentlewoman from Washington may proceed.

Mrs. SMITH of Washington. Mr. Speaker, I would like to yield to the gentlewoman from New York [Mrs. KELLY].

Mrs. KELLY. Mr. Speaker, perhaps we have not made clear what Mr. GEPHARDT'S motion would have meant for the senior citizens of this Nation.

This would eliminate the repeal of the tax on social security benefits. This would eliminate the tax preference for long-term insurance, accelerated death benefits and long-term care benefits. This eliminates the elderly care tax credit. This would eliminate the increase in the Social Security earnings test.

These are not tax cuts to those who do not need it. The Republican deficit reduction tax fairness act is one of the strongest pieces of seniors legislation that this Congress has moved to date, and that is why I am so proud to be an original sponsor of the seniors portion of the legislation.

Essentially, what we have done with this legislation is remove the unfair tax burden that the Democrats imposed on senior citizens in the last session of Congress.

Remember back in 1993 the Democrats imposed a $25 billion tax on our Nation's elderly. When President Clinton proposed this tax, he said that only the wealthiest Americans would face higher taxes. So, by President Clinton's definition, senior citizens living on fixed incomes as low as $34,000 are wealthy and ought to pay their fair share.

Well, what President Clinton and the Democrats in Congress did 2 years ago was not fair, and after less than 100 days we have just corrected this injustice.

In terms of New York, my State, my elderly will be able to keep more than $2.2 billion more of their hard-earned tax dollars, and I can assure you that this is going to benefit people who are definitely in need of a tax break. They do need it.

Two of the other key elements of the deficit and tax reduction package which benefit the senior citizens are the custodial care tax credit and the estate and gift tax exclusion.

All of us have heard a loved one at one time or another say they did not want to go to a retirement home. Well, by instituting a $500 elder care tax credit, we have started to take steps to ease their minds and their family's financial burden. This helps keep families intact by providing financial assistance to families who might otherwise have to place parents in a nursing home.

I will stand strongly behind these tax provisions that help our seniors of this Nation.

Mrs. SMITH of Washington. Mr. Speaker, we forget how strong the package was for seniors, but I want to talk about working families again, just real quick.

We heard about an average $120-some tax break. There are not any "quarter" of a children. Next April, under this plan that we just passed, every child will be worth $500 on the tax return to their parents. So if you have two kids, it is $1,000. If you have three kids, it is $1,500. That is actual money that you can use to raise your own children.

So for many people that means that government will not have to do things for them they can do for themselves. For others, it means that they will buy something and pay taxes back into the economy. But it is a misnomer; all of the averages are often used to try to confuse the American people.

COLLEGE FINANCIAL AID PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. MASCARA] is recognized for 5 minutes.

Mr. MASCARA. Mr. Speaker, I am here tonight to speak out against plans being considered by my Republican colleagues to dismantle college financial aid programs.

A college education is the heart and soul of the American dream. It is the meal ticket that helps ensure our youngsters have the opportunity to enjoy a brighter and more economically secure tomorrow.

The financial aid programs that Republicans want to cut back are the tools that have helped generations of Americans educate their children.

If the cuts being considered are adopted, they would cost students and their families $20 billion over the next 5 years. It is estimated, that would add $4,157 over 10 years to the bill of the average student in my home State of Pennsylvania.

According to a renowned higher education association study, the changes being sought by the Republicans would constitute the largest increase in college costs in history.

We cannot and should not let this happen. It is reprehensible to attack the very programs that help ensure our Nation has a source of future leaders who can attain financial security.

I happen to know something about college educations. I received my degree in 1972 and over the years educated my wife, Dolores, and our children.

Because I believe so strongly in the benefits of a higher education, I have served for many years as a trustee at California University of Pennsylvania. Knowing how important it is to keep the costs of college in line and within reach of working families, I have repeatedly opposed tuition increases that have come before the board of trustees.

I know that each time tuition and costs rise, students leave school because they can no longer afford to stay.

My goal has always been to keep them in school to make sure they receive a college degree.

As I indicated in a 1 minute earlier this week, thousands of students in my district would have no chance of achieving a brighter future unless they get that all important degree.

Let's not let them down. Let's lift them up and help them lift themselves out of a lifetime of economic decadence and despair.

I urge my colleagues on both sides of the aisle to oppose these cuts. We can ill afford to turn our backs on our young people. They are our future.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WISE) to revise and extend their remarks and include extraneous material:)

Mr. BECERRA, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. MASCARA, for 5 minutes, today.

Mr. BALDACCI, for 5 minutes, today.

Mr. BARRETT of Wisconsin, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Mr. ROMERO-BARCELÓ, for 5 minutes, today.

Mr. VOLKMER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mrs. SMITH of Washington) to revise and extend their remarks and include extraneous material:)

Mrs. SMITH of Washington, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. HOKE, for 5 minutes, today.

Mr. HAYWORTH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. MORAN, and to include extraneous material during debate on H.R. 1215 in the House.)

(The following Members (at the request of Mr. WISE) and to include extraneous matter:)

Mr. STOKES in two instances.

Mr. STARK.

Ms. NORTON.

Mr. GORDON.

Mr. HASTINGS of Florida.

Mr. HAMILTON.

Mr. MURTHA.

Mr. ACKERMAN.

Ms. LOFGREN.

Mr. HOYER.

Mr. LEVIN in three instances.

Mr. WILLIAMS.

Mr. POMEROY.

Mr. SABO.

Mr. DINGELL.

Mr. SKAGGS.

Mr. JACOBS.

Mr. CONYERS in two instances.

Mr. GEJDENSON.

Mrs. LINCOLN.

Mr. COYNE.

(The following Members (at the request of Mrs. SMITH of Washington) and to include extraneous matter:)

Mr. SHUSTER in two instances.

Mr. HOUGHTON.

Mr. BATEMAN.

Mr. CALLAHAN.

Mr. SOLOMON in two instances.

Mrs. KELLY.

Mr. RAMSTAD.

Mr. FRELINGHUYSEN.

Mr. ARCHER.

Mr. BURTON of Indiana.

Mr. SAXTON.

Mr. BUYER.

Mr. GILMAN.

Mr. GILLMOR.

Mr. HANCOCK.

Mr. DAVIS.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

On April 4, 1995:

H.R. 831. An act to amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provision permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission, and for other purposes.

ADJOURNMENT

Mr. SOLOMON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock p.m.), the House adjourned until tomorrow, Thursday, April 6, 1995, at 10 o'clock a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LIVINGSTON: Committee of Conference. Conference report on H.R. 889. A bill making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. 104-101). Ordered to be printed.

Mr. DREIER: Committee on Rules. House Resolution 129. Resolution waiving points of order against the conference report to accompany the bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. 104–102). Referred to the House Calendar.

Ms. PRYCE: Committee on Rules. House Resolution 130. Resolution providing for the consideration of the bill (H.R. 483), to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes (Rept. 104–103). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON of Indiana (for himself and Mr. TORRICELLI):

H.R. 1397. A bill to authorize the President to transfer 28 F-16 aircraft and associated spare parts and support equipment to Pakistan pursuant to agreements between the United States and Pakistan; to the Committee on International Relations.

By Mr. CLAY:

H.R. 1398. A bill to designate the U.S. post office building located at 1203 Lemay Ferry Road, St. Louis, MO, as the "Charles J. Coyle Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. HAMILTON:

H.R. 1399. A bill to provide for the conveyance of certain real property at the Indiana Army Ammunition Plant in Charlestown, IN, to the State of Indiana for inclusion in a State park; to the Committee on National Security.

By Mr. RICHARDSON (for himself, Mr. NADLER, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BERMAN, Mr. BONIOR, Mr. BROWN of California, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FILNER, Mr. HINCHEY, Mr. MARTINEZ, Mr. MCDERMOTT, Ms. MCKINNEY, Mr. PALLONE, Ms. PELOSI, Mr. ROMERO-BARCELO, Ms. ROYBAL-ALLARD, Mr. SABO, Mrs. SCHROEDER, Mr. SERRANO, Mr. TORRES, Ms. VELÁZQUEZ, Mr. VENTO, Mr. WAXMAN, Ms. WOOLSEY, and Mr. YATES):

H.R. 1400. A bill to amend the Clean Water Act to eliminate certain discharges of chlorine compounds into navigable waters, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HOUGHTON (for himself and Mr. GIBBONS):

H.R. 1401. A bill to establish for certain employees of international organizations an estate tax credit equivalent to the limited marital deduction; to the Committee on Ways and Means.

By Mr. JACOBS (for himself, Mr. LEACH, Mr. DELLUMS, Mr. FRANK of Massachusetts, Mrs. SCHROEDER, Mr. DEFAZIO, Mr. MILLER of California, Ms. RIVERS, Mr. TOWNS, Mr. MARKEY, Mr. OBERSTAR, Ms. VALAZQUEZ, Mr. YATES, Ms. FURSE, Mr. LEWIS of Georgia, and Mr. MCHALE):

H.R. 1402. A bill to amend the Internal Revenue Code of 1986 to improve revenue collection and to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes, to create the U.S. peace tax fund to receive such tax payments, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on International Relations, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Massachusetts:

H.R. 1403. A bill to regulate handgun ammunition, and for other purposes; to the Committee on the Judiciary.

By Ms. LOWEY (for herself, Mr. SHAYS, Mr. ACKERMAN, Mr. HYDE, Mr. NADLER, Mrs. MALONEY, Mr. ROEMER, Ms. PELOSI, Mr. TORRICELLI, Mr. MEEHAN, Mr. MCCOLLUM, Mr. TRAFICANT, Mr. LIPINSKI, Mr. CLAY, Mr. JACOBS, Mrs. SCHROEDER, Mr. BEILENSON, Mr. TORRES, Mr. MILLER of California, Mr. LANTOS, Mr. MORAN, Mr. VENTO, Mr. MCDERMOTT, Mr. GOSS, Mr. FILNER, Mr. MANTON, Mr. BROWN of California, Mr. DELLUMS, Mr. MARTINEZ, Mr. STARK, Mr. FRANK of Massachusetts, Mr. JOHNSTON of Florida, Ms. WOOLSEY, Mr. WAXMAN, Mr. PORTER, Ms. SLAUGHTER, Ms. ESHOO, Mr. MINETA, Mr. OWENS, Mr. DEUTSCH, Mr. YATES, Ms. ROYBAL-ALLARD, Mr. GEJDENSON, Mr. SMITH of New Jersey, Mr. MARKEY, Mr. FARR, Mr. GUTIERREZ, Mr. ABERCROMBIE, Mr. SCHUMER, Mr. ANDREWS, Mr. PAYNE of Virginia, Mr. STUDDS, Mr. FOGLIETTA, Ms. NORTON, Mrs. MINK of Hawaii, Mrs. KENNELLY, and Mr. BONIOR):

H.R. 1404. A bill to end the use of steel jaw leghold traps on animals in the United States; to the Committee on Commerce.

By Mr. MARTINEZ (for himself, Mr. FATTAH, Mr. DELLUMS, Ms. WATERS, Mr. CLAY, Mr. LEWIS of Georgia, Mr. ABERCROMBIE, Mr. OWENS, Mr. SCOTT, Ms. ROYBAL-ALLARD, and Ms. VALAZQUEZ):

H.R. 1405. A bill to establish a national public works program to provide incentives for the creation of jobs and address the restoration of infrastructure in communities across the United States, and for other purposes; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MASCARA:

H.R. 1406. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall plan and George Catlett Marshall; to the Committee on Banking and Financial Services.

By Mr. MEEHAN:

H.R. 1407. A bill to provide for the transfer of certain excess property at Fort Devens Military Reservation to the Secretary of the Interior for inclusion in the Oxbow National Wildlife Refuge, and for the conveyance of a parcel of property at such military reservation to the town of Lancaster, MA; to the Committee on Resources, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MINGE:

H.R. 1408. A bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer may elect to include in income crop insurance proceeds and disaster payments in the year of the disaster or in the following year, and for other purposes; to the Committee on Ways and Means.

By Ms. NORTON (for herself and Mrs. MORELLA):

H.R. 1409. A bill to provide for funding for Federal employee pay adjustments and comparability payments through reductions in agency spending on service contracts for fiscal year 1996; to the Committee on Government Reform and Oversight.

H.R. 1410. A bill to amend the Federal Workforce Restructuring Act of 1994 to prohibit the contracting out of certain duties; to the Committee on Government Reform and Oversight.

H.R. 1411. A bill to prohibit any executive branch agency from entering into any service contract if the services procured under the contract can be performed at a lower cost by employees of the agency; to the Committee on Government Reform and Oversight.

H.R. 1412. A bill to require the Director of the Office of Management and Budget to develop and implement a system for determining and reporting the number of individuals employed by non-Federal Government entities providing services under contracts awarded by executive branch agencies; to the Committee on Government Reform and Oversight.

By Mr. PETERSON of Florida:

H.R. 1413. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to impose a limitation on State eligibility for major disaster and emergency assistance to ensure that States repay loans and advances made under that act; to the Committee on Transportation and Infrastructure.

By Mr. RANGEL:

H.R. 1414. A bill to provide grants to States to reduce crime and poverty in poor neighborhoods by providing employment opportunities to disadvantaged young adults; to the Committee on Economic and Educational Opportunities.

By Mr. SKAGGS (for himself and Mr. MCINNIS):

H.R. 1415. A bill to authorize the Secretary of the Interior to enter into an appropriate form of agreement with the town of Grand Lake, CO, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park; to the Committee on Resources.

By Mr. SMITH of New Jersey (for himself, Mr. LANTOS, Mr. HYDE, Mr. WOLF, Mr. ROHRABACHER, Mr. YATES, Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. SABO, and Ms. MCKINNEY):

H.R. 1416. A bill to implement the Convention Against Torture and Other Forms of Cruel, Inhuman, and Degrading Treatment or Punishment and to provide a program of support for victims of torture; to the Committee on the Judiciary, and in addition to the Committees on International Relations, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. SMITH of Washington:

H.R. 1417. A bill to amend the Magnuson Fishery Conservation and Management Act to provide for a 3-year research plan to assess the status of stocks of fish that are managed under the Pacific Fisheries Management Council Pacific Coast Groundfish Plan, and for other purposes; to the Committee on Resources.

By Mr. TRAFICANT:

H.R. 1418. A bill to prohibit United States foreign assistance for Russia unless the Government of Russia prohibits the export of nuclear weapons equipment and related technology and offensive military weapons, equipment, and related technology to terrorist states; to the Committee on International Relations.

By Mr. VISCLOSKY:

H.R. 1419. A bill to provide an exemption with respect to gambling devices on certain vessels making voyages on Lake Michigan; to the Committee on Transportation and Infrastructure.

By Mr. BROWN of Ohio (for himself and Mr. Stearns):

H. Con. Res. 57. Concurrent resolution expressing the sense of the Congress supporting the Government of India's efforts to hold free and fair elections in Jammu and Kashmir; to the Committee on International Relations.

By Mr. DEUTSCH:

H. Res. 131. Resolution to preserve the constitutional role of the House of Representatives to originate revenue measures; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. METCALF introduced a bill (H.R. 1420) for the relief of Richard W. Schaffert; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. Tanner, Mr. Spratt, Mr. Inglis of South Carolina, and Mr. Johnson of South Dakota.

H.R. 104: Mr. Bono.

H.R. 125: Mr. Cramer, Mr. Orton, and Mr. Rogers.

H.R. 127: Mr. Brown of California, Ms. McCarthy, Mrs. Schroeder, and Mr. Volkmer.

H.R. 345: Mr. Bereuter.

H.R. 359: Mr. Pallone, Mr. Barton of Texas, and Mr. Payne of New Jersey.

H.R. 398: Mr. Fields of Louisiana.

H.R. 399: Mr. McHale.

H.R. 462: Mr. Everett.

H.R. 483: Mr. Ward, Mr. Whitfield, and Mr. Everett.

H.R. 497: Mr. Calvert.

H.R. 526: Mr. Watt of North Carolina and Mr. Rose.

H.R. 570: Mr. Shays.

H.R. 645: Mr. Mineta.

H.R. 649: Mrs. Thurman.

H.R. 656: Mr. Blute, Mr. Frisa, Mr. Calvert, Mrs. Kelly, and Mr. Fox.

H.R. 682: Mr. Jacobs and Mrs. Roukema.

H.R. 692: Mr. Tanner.

H.R. 699: Mr. Bono.

H.R. 708: Mr. Mineta.

H.R. 744: Mr. Gene Green of Texas.

H.R. 763: Ms. Norton.

H.R. 764: Ms. McKinney.

H.R. 782: Mr. Pickett, Mr. Jones, Mr. Horn, Mr. Richardson, Mr. Coleman, Mr. Ney, Mr. Goodling, and Mr. Fazio of California.

H.R. 789: Mr. Roberts and Mr. Duncan.

H.R. 800: Mr. Crapo.

H.R. 803: Mr. Baker of California, Mr. Fazio of California, Ms. Woolsey, Mr. Blute, Mrs. Myrick, Mr. Cramer, and Ms. Harman.

H.R. 804: Mr. Kim.

H.R. 820: Mr. Barrett of Wisconsin, Mr. Brown of Ohio, Mr. Norwood, Mr. Canady, and Mr. Rose.

H.R. 862: Mr. Packard.

H.R. 893: Ms. Brown of Florida, Mr. Levin, and Mr. Lipinski.

H.R. 895: Mr. Reed and Mr. Hinchey.

H.R. 915: Ms. Pelosi, Mr. Yates, Mr. Nadler, Ms. Norton, Mr. Lewis of Georgia, and Mr. Torricelli.

H.R. 927: Mr. Engel, Mr. Knollenberg, Mr. Wilson, Mr. Foley, and Mr. Bartlett of Maryland.

H.R. 942: Mrs. Kelly, Mr. Upton, Mr. Rohrabacher, Mr. Wyden, Mr. Beilenson, Ms. Pelosi, Mr. Shays, Mr. Forbes, Mr. Horn, Mr. Kildee, and Mr. Hall of Ohio.

H.R. 957: Mr. Peterson of Florida and Mr. Hancock.

H.R. 972: Mr. Hamilton.

H.R. 987: Mr. Pete Geren of Texas and Mr. McCrery.

H.R. 990: Mrs. Thurman.

H.R. 994: Mr. Calvert, Mr. Tanner, Mr. Bentsen, Mr. Gene Green of Texas, and Mr. Johnson of South Dakota.

H.R. 997: Mr. Hilliard and Mr. Pallone.

H.R. 1002: Mr. Callahan and Mrs. Thurman.

H.R. 1003: Mr. Weller, Mr. Thompson, Mr. Emerson, and Mr. Dellums.

H.R. 1005: Mrs. Kelly and Mr. Funderburk.

H.R. 1023: Mr. Manton, Mr. Hall of Ohio, Mr. Petri, and Mr. Bilbray.

H.R. 1061: Mr. Houghton and Mr. Hancock.

H.R. 1076: Mr. Taylor of North Carolina, Mr. Baker of Louisiana, Mr. Moran, Mrs. Chenoweth, and Ms. Lofgren.

H.R. 1080: Mr. Hinchey.

H.R. 1094: Mr. Calvert, Mr. Peterson of Florida, Ms. Lowey, Ms. Kaptur, Mr. Poshard, Mr. Foglietta, Mr. Weller, and Mr. Bereuter.

H.R. 1114: Mr. Emerson, Mr. Oxley, Mr. Herger, Mr. Miller of Florida, and Mr. Manzullo.

H.R. 1138: Mr. Flanagan, Mr. Studds, and Mr. Hostettler.

H.R. 1162: Mr. Bentsen, Mr. Luther, and Mr. Quinn.

H.R. 1184: Mr. Crane, Mr. Doolittle, Mr. McInnis, and Mr. Nethercutt.

H.R. 1200: Mr. Rush and Mr. Ackerman.

H.R. 1233: Mrs. Maloney, Mr. Williams, Mr. Barrett of Wisconsin, Mr. Martinez, Mr. Thornton, Mr. Klug, Mr. Brown of California, Mr. Fox, and Mr. Gejdenson.

H.R. 1234: Mr. McKeon and Mr. Wicker.

H.R. 1242: Mr. Rohrabacher, Mr. Portman, Ms. Dunn of Washington, Mr. Largent, Mr. Kasich, Mr. LaTourette, Mr. Barrett of Wisconsin, and Mr. Klug.

H.R. 1252: Mrs. Thurman.

H.R. 1253: Mrs. Mink of Hawaii, Mr. Matsui, Mr. Ackerman, Mr. Montgomery, Mr. Richardson, Mr. Frank of Massachusetts, Mr. Leach, Mr. Kleczka, Mr. Frost, Mr. Moakley, Mr. Lipinski, Mr. DeFazio, Mr. Torres, Mr. Abercrombie, Mr. Berman, Mr. Brown of California, Mrs. Schroeder, Mr. Jacobs, Mr. Hinchey, Mr. Roemer, Mr. Bonior, and Mr. Stokes.

H.R. 1259: Mr. Frost, Mr. Hayes, Mr. Underwood, Mr. Dellums, Mr. Hansen, Mr. Radanovich, and Mr. Brown of California.

H.R. 1274: Mr. Rush and Mr. Pallone.

H.R. 1302: Mr. LaFalce, Mr. Williams, Mr. Thornton, Mr. Gejdenson, and Mr. Sawyer.

H.R. 1323: Mr. Bachus.

H.R. 1326: Mr. Traficant and Mr. Clinger.

H.R. 1328: Mr. Lipinski and Mr. Clinger.

H.R. 1391: Mr. Thomas and Mr. Bilirakis.

H. Con. Res. 12: Mr. Armey.

H. Con. Res. 47: Mr. Baker of California, Mr. Brown of Ohio, Mr. Dellums, Mr. Dreier, Ms. Eshoo, Mr. Evans, Mr. Frank of Massachusetts, Mr. Franks of New Jersey, Mr. Horn, Mr. Kildee, Mr. Knollenberg, Mr. Levin, Mr. Markey, Mr. Martinez, Mr. McHugh, Mr. Moorhead, Mr. Radanovich, Mr. Reed, Mrs. Roukema, Ms. Roybal-Allard, Mr. Souder, Mr. Stokes, Mr. Torres, Mr. Underwood, and Mr. Waxman.

H. Con. Res. 50: Mr. Calvert and Mrs. Morella.

H. Con. Res. 53: Mr. Martinez, Mr. Andrews, and Mr. Berman.

H. Res. 98: Mr. Hinchey and Ms. McKinney.

H. Res. 99: Mr. Hoyer.

H. Res. 124: Mrs. Morella, Mr. Brown of California, and Mr. Rush.

EXTENSIONS OF REMARKS

THE PLEDGE OF ALLEGIANCE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. SOLOMON. Mr. Speaker, each day of session, we begin the proceedings with the Pledge of Allegiance. We recite the words by heart, as we have since we were children starting each school day with that same motto. But how often do we really consider the words contained in the pledge?

Mr. Speaker, I would like to submit to the CONGRESSIONAL RECORD an anecdote from comedian Red Skelton, who reminisces about the day his favorite teacher gave true meaning to the Pledge of Allegiance. It is a thought-provoking story, which will hopefully cause each of us to ponder what the pledge really means to us:

THE PLEDGE OF ALLEGIANCE

(By Red Skelton)

I remember this one teacher. To me, he was the greatest teacher, a real sage of my time. He has such wisdom. We were all reciting the Pledge of Allegiance, and he walked over. Mr. Lasswell was his name. He said:

"I've been listening to you boys and girls recite the Pledge of Allegiance all semester and it seems as though it is becoming monotonous to you. If I may, may I recite it and try to explain to you the meaning of each word:

I—me, an individual, a committee of one.

Pledge—dedicate all of my worldly goods to give without self-pity.

Allegiance—my love and my devotion.

To the Flag—our standard, Old Glory, a symbol of freedom. Wherever she waves, there is respect because your loyalty has given her a dignity that shouts freedom is everybody's job.

Of the United—that means that we have all come together.

States—individual communities that have united into 50 great states. 50 individual communities with pride and dignity and purpose, all divided with imaginary boundaries, yet united to a common purpose, and that's love for country.

Of America.

And to the Republic—a state in which sovereign power is invested in representatives chosen by the people to govern. And government is the people and it's from the people to the leaders, not from the leaders to the people.

For which it stands.

One Nation—meaning, so blessed by God.

Indivisible—incapable of being divided.

With liberty—which is freedom and the right of power to live one's own life without threats or fear or some sort of retaliation.

And justice—The principle or quality of dealing fairly with others.

For all—which means it's as much your country as it is mine."

Since I was a small boy, four states have been added to our country and two words have been added to the Pledge of Allegiance—"under God."

Wouldn't it be a pity if someone said, "That's a prayer" and that would be eliminated from schools, too!

A SPECIAL SALUTE TO SHANITA SHERRIE TARTT, OUTSTANDING SCHOOL STUDENT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. STOKES. Mr. Speaker, I am pleased to salute Shanita Sherrie Tartt, an outstanding student from my congressional district who attends the Cleveland School of the Arts. Mr. Anthony Vitanza serves as principal for this institution. Shanita, who is an eighth grade student, was recently selected as Student of the Month. She is certainly deserving of this special honor.

Shanita has been an honor student for the past 9 years. Currently, she maintains a 3.8 grade point average at the School of the Arts. In addition, Shanita was recently chosen by the Ohio Interscholastic Writing League as the recipient of the Donald Baker Memorial Award for Promising Talent in the Cleveland Public Schools. The award is presented each year to a young writer from the Greater Cleveland area. Shanita achieved the highest score of any participant from the public school system.

In addition to her academic and writing pursuits, Shanita is also an inspiring young actress. She was awarded the Actress of the year Award in 1992, 1993, and 1994. Her associations include the Cleveland Playhouse, the Dance Studio, Karamu Performance Theatre, and the Cleveland Heights Youth Theatre. Other talents include playing the violin, both tap and ballet dancing, and martial arts.

Mr. Speaker, I am proud to salute Shanita Sherrie Tartt for her academic excellence. She is an outstanding student and a bright star of tomorrow. I also take this opportunity to commend School of the arts principal, Anthony Vitanza, for his strong leadership and commitment. I ask that my colleagues join me in extending our congratulations to Shanita Tartt.

TRIBUTE TO FORMER STATE REPRESENTATIVE SIDNEY PAULY

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. RAMSTAD. Mr. Speaker, I rise today to pay tribute to former State Representative Sidney Pauly of Eden Prairie, MN, in our Third Congressional District.

On Thursday, Representative Pauly will be a deserving honoree at a reception citing her highly productive decades of service to her community.

Sidney Pauly served the residents of Eden Prairie and Edina responsively and effectively in the Minnesota Legislature and before that on the Eden Prairie City Council. Extremely dedicated, Sidney's commitment to solid public policy and helping people in need has been exemplary.

Her public service to her Nation included going overseas when her husband Roger, as a member of the Armed Forces, was stationed in Germany. Roger and Sidney had their first two children there.

Despite her hectic schedule as the mother of four, Sidney plunged into her role as a community leader upon her return to the United States in the then-small community of Eden Prairie, where her family still resides. Sidney started her legendary term of public service with the local PTA as treasurer. The breadth and scope of Sidney's public leadership grew with her community, which today is a bustling community of more than 40,000.

Sidney Pauly's reputation as a leader of integrity and effectiveness grew from the confines of Eden Prairie across the Twin Cities metro area and to the borders of Minnesota and beyond. As a member of the Eden Prairie City Council from 1970 until 1982, residents always knew they could find a willing and attentive listener and get their questions and concerns answered about city services and policies.

Then as a member of the Minnesota Legislature, serving both Eden Prairie and neighboring Edina for a dozen more years, Sidney became a leader of statewide repute. Her careful scrutiny of State government, incisive questioning, and inspirational speaking style won her the respect of legislative leaders on both sides of the aisle. Her expertise in transportation policy, fiscal matters, innovative approaches to education, pioneering environmental laws, and ethics reform earned her plaudits in Minnesota and around the Nation.

But most of all, Sidney Pauly listened to her constituents and put their priorities on the top of her agenda. She would be the first to tell you she is proudest of that accomplishment.

Sidney Pauly represents the best in public service, and all our Nation's governments could use more of her kind. She established an uncompromising standard of public service, one all elected representatives of the people should do their utmost to emulate.

As she seeks new frontiers of public service in the years ahead, our area, State, and Nation offer our heartfelt gratitude and sincerest appreciation.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO ESTABLISH FOR CERTAIN EMPLOYEES OF INTERNATIONAL ORGANIZATIONS A LIMITED ESTATE TAX CREDIT EQUIVALENT TO THE MARITAL DEDUCTION AND A PRO RATA UNIFIED CREDIT

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. HOUGHTON. Mr. Speaker, I am joined today by my colleague, Mr. GIBBONS, in introducing legislation to address a problem that exists for employees of the World Bank and other international organizations. This same legislation was introduced in the 103d Congress by Congressman GIBBONS. We understand that the estate tax rules, as amended by the Technical and Miscellaneous Revenue Act of 1988 [TAMRA], are producing a serious and probably unintentional tax burden on certain employees of the World Bank and other international organizations.

The employees affected are those who are neither U.S. citizens nor permanent resident aliens, but who come to the United States temporarily for purposes of their employment at an international organization. In addition, nonresidents who are not U.S. citizens may also be affected. These individuals are normally exempt from U.S. individual income taxes.

The problem involves the restrictions on the use of a marital deduction in the estates of these individuals. These restrictions may result in an unwarranted U.S. estate tax burden because the individuals happen to die while in the United States, when their purpose for being here is employment with an international organization. This bill addresses these problems by providing for a limited marital transfer credit.

The bill would apply to a holder of a G–4 international organization employee visa on the date of death. Normally, a resident employee and the spouse would each be entitled to a unified estate and gift tax credit, which under current law is equivalent to an exemption of $600,000 or a total of $1,200,000. However, if the employee dies the spouse would normally return to the country of citizenship. In that case, the surviving spouse would not utilize his or her unified credit. The bill would provide for a limited marital transfer credit, which again would be the equivalent of $600,000. Thus, in a deceased employee's estate, there would be available the unified estate and gift tax credit for bequests to any beneficiaries selected by the deceased, as well as a maximum marital transfer credit equivalent to $600,000, the latter limited for use to marital transfers. A similar provision would apply to nonresident individuals who are not U.S. citizens; however, the unified credit equivalent of $60,000 would be substituted for the $600,000.

We believe this change would appropriately address the problem that currently exists. We welcome the support of our colleagues in enacting this important piece of legislation.

BROWARD COUNTY WOMEN'S HALL OF FAME INDUCTEES

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. HASTINGS of Florida. Mr. Speaker, on Sunday, March 12, 1995, eight new members were inducted into the Broward County Women's Hall of Fame.

The Women's Hall of Fame has brought deserved recognition to women who have made significant contributions towards Broward's community betterment. All of the honorees have excellent leadership skills, dedication, versatility, problem solving skills, and "stick-to-it-tiveness."

The honorees were: Karen Coolman Amlong, Esq.; Elizabeth Landrum Clark; Mary Cooney Crum; Helen Ferris; City Commissioner Sue Gunzburger; Representative Ann MacKenzie; and Mae Horn McMillan.

I congratulate these outstanding citizens for their achievement.

TRIBUTE TO SARA WAUGH VOICE OF DEMOCRACY WINNER

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mrs. KELLY. Mr. Speaker, I would like to share an award-winning essay by Ms. Sara Waugh, a young constituent of mine, who was recently recognized for her outstanding talent by the Veterans of Foreign Wars of the United States. Having said this, I commend this piece to my colleagues:

MY VISION FOR AMERICA

If I close my eyes and think of America, I imagine the country to be a sturdy, but still young, oak tree. The roots of our country are education, on which all else grows. The trunk of the tree and the branches represent the social environment of the people. The green leaves on my Tree of America symbolize culture.

First—the roots. In my vision for America, I see the roots, the educational system, spreading out—growing, forming a steady base. Education must be firmly entrenched in society if there is to be any progress. Already, this country has one of the best education systems in the world. But I imagine that it will get even better. The old adage that, "it takes an entire village to raise a child" is true. In my vision of America's future, I see increasing community involvement in reaching educational goals.

As the roots of the tree become more established and stronger, the trunk and branches will also grow. I believe that the social environment of the people can be equated to the branches of my tree. As education becomes more encompassing and complete, involving not only the children and teachers, but also parents, businessmen, and other citizens, the country's problems will be eradicated. Pollution, unemployment, crime and other social ills will dwindle with the loss of ignorance.

Finally, as the overall environment improves, the culture will flourish. In my vision for America, culture is symbolized by the green leaves of the oak tree. The culture of America is the most visible part of our country. It is what people see from a distance, across the ocean, like the full branches of an oak across a wide meadow. But not only does culture add to the beauty of the country, it also energizes the entire community, just as the leaves catch the sun's golden rays and turn them into nourishment.

Although travelers seeing the Tree of America from afar may only notice the waiving leaves, we citizens should realize how much educational effort made the vision possible—and this hard work will continue the growth of our oak in the future seasons.

The parts of a tree are in a delicate balance—the roots draw raw materials to grow a strong trunk and branches, and these in turn support the leaves. But without the vital energy from the leaves, the rest of the tree would die. Similarly, without culture, America would not be the marvelous country it is. We would be just another spot on the map. In our national tree, the educational system takes unrefined human resources and processes them into socially useful "nutrients." These nutrients are what create the diverse culture that is uniquely American.

In America, the sun is a symbol of hope. Hope is the unifying force in my vision for America—it illuminates the future, and with it, all things are possible.

In the future, I predict an increase in involvement and concern for education. With that added involvement, the lives of all citizens will improve, and the Tree of America will be in full bloom.

This is my vision for America—we will be a durable and magnificent tree in the world forest.

TRIBUTE TO GAINES R. JOHNSTON

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. CALLAHAN. Mr. Speaker, I ask my colleagues to congratulate Mr. Gaines R. Johnston, who won fifth place honors in the Voice of Democracy broadcast scriptwriting contest. Enclosed is a copy of his winning script.

The Veterans of Foreign Wars of the United States and its Ladies Auxiliary sponsor the Voice of Democracy audio-essay scholarship competition. The program is now in its 48th year and requires high school student entrants to write and record an essay on a patriotic theme. My Vision for America is this year's theme, and over 125,000 students participated in the program nationwide.

Gaines is a senior at Murphy High School in Mobile, AL and is the son of Mr. and Mrs. William Johnston. He was sponsored by VFW Post 49 and its Ladies Auxiliary in Mobile.

MY VISION FOR AMERICA

If we could have one thing for the future, what would it be? Money? Power? A good job? Healthy kids? Peace? Which is the most important? Society tries to answer this question for us. So often we hear people pleading for peace. Peace in the middle east, peace in eastern Europe, peace on the streets of America. But the peace I want for the future is peace of mind. "Peace of Mind." It's knowing that you don't have to worry; you don't need to worry. Peace of mind goes beyond hope. It's knowing that it's going to be alright.

How does peace of mind go beyond hope? At first glance, they can seem very similar. They achieve almost the same goal. But, hope is defined as desire and expectation combined, whereas peace of mind is defined as mental calm. One can create hope, but you must find peace of mind. And you can have hope without peace of mind—you can hope things will get better without knowing they will. You just hope.

We don't have peace of mind in America; Americans worry a lot. We worry what the future will hold for us. We worry because our present is always changing. This fall America votes for its new leaders. We don't know who is going to win. We don't know who our leaders are going to be. Our desire is so great that we must watch the media poll and repoll the public even down to the last minute to try to predict who will win. We want to know as soon as possible so we don't have to worry as long. Americans have been removed from delayed gratification so long we don't know what it is. We want to know about O.J., now. We want our hamburger, now. We want to know what is going on around us, now. We want our five-day forecast so we don't worry about the erratic weather. America wants instant gratification, and when the world can't deliver that to us, we worry.

With so much to worry about, people want to find peace. They want to escape from the struggles of everyday life. They want to put life on hold, press the pause button and relax. There's peace to be found. It's everywhere. Peace is found in nature, in a sunset, in a mountain lake, in the smile of a baby; there is peace. Nothing attracts a crowd like a newborn baby. Complete strangers will come up to the new parent carrying the baby and look at the parent and smile and look at the baby and smile and smile at the parent again. The complete stranger found peace in that child—an inner peace knowing the future was in that beautiful smiling baby. There's peace in a sunset. When you watch a sunset, you don't have to worry about anything; you don't worry about who left a message on your answering machine. You don't worry about what time you have to get up tomorrow. You concentrate on the here and now. You find serenity and that's what people look for. They look for mental calm. They look for peace of mind.

In order for America to find peace of mind, we must change. When we can have faith in what is going on in the present, we begin to feel better about what will happen in the future. But it all starts from within. When we have control of our lives, we can begin to take a look at the rest of the world. We make our place in the world—we do our part to make it better. It takes work and it is not instantaneous, but the goal is a future peace. A peace that helps people sleep at night; a peace that helps parents feel safer; a peace so strong that you can look at a baby and smile and not have to worry about the future.

A TRIBUTE TO MONSIGNOR WILLIAM A. KERR

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. COYNE. Mr. Speaker, I am pleased today to pay tribute to Monsignor William A. Kerr, Ph.D., President of La Roche College in Pittsburgh, PA, who has been selected by the Myasthenia Gravis Association of western Pennsylvania to receive its Celebration of Life and Services Award.

Monsignor Kerr will be honored in Pittsburgh on April 8, 1995, by the Myasthenia Gravis Association of western Pennsylvania for his leadership in celebrating the dignity of life and the need to bring all people together to address human needs. The Myasthenia Gravis Association of western Pennsylvania is an organization dedicated to helping those whose lives are affected by a neuromuscular disorder. It is estimated that 10,000 to 20,000 individuals are affected by Myasthenia Gravis [MG] but there are several treatment options available that can improve the quality of life and increase the ultimate life expectancy for the person with MG. This organization selects individuals each year to receive its Celebration of Life and Services Award to recognize those who have demonstrated an outstanding commitment to serving others and uplifting the human spirit.

Monsignor William A. Kerr is exceptionally well qualified to receive the 1995 Celebration of Life and Services Award. He has provided La Roche College with remarkable academic leadership while also sharing with the local community and the Nation his commitment to uniting individuals in a common campaign to improve the human condition. Monsignor Kerr has worked to establish at La Roche College the Pacem In Terris Institute, a center for alternative thinking about modern violence. Through this Institute, he has displayed his dedication to promoting conflict resolution in both American society and in the international arena. He has brought in students from war-torn Eastern Europe to study at La Roche College and he has helped to forge a partnership between La Roche College and Passivant Hospital.

Monsignor Kerr quickly emerged as a valued resident of the Pittsburgh area since becoming the sixth president of La Roche College in 1992. Under his leadership, La Roche has achieved great growth in student enrollments and this achievement has been marked by the largest first-year class and the largest number of international students in the college's 32 year history. Monsignor Kerr is also a member of the Board of Directors of the Greater Pittsburgh Chamber of Commerce, the Presidential Leadership Development Council of the American Council of Education, based in Washington, DC, and he is on the International Affairs Board of the Council of Independent Colleges and Universities. Before coming to La Roche College, Monsignor Kerr was vice president for university relations at The Catholic University of America in Washington, DC.

Mr. Speaker, it is fitting that the Members of the U.S. House of Representatives should have this opportunity to join in paying tribute to Monsignor William A. Kerr, 1995 recipient of the Celebration of Life and Services Award. I am pleased to join with the Myasthenia Gravis Association of western Pennsylvania in saluting Monsignor Kerr.

CONGRATULATIONS TO UNIVERSITY OF CONNECTICUT'S WOMEN'S BASKETBALL TEAM

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. GEJDENSON. Mr. Speaker, I rise today to congratulate the University of Connecticut's women's basketball team on their victory Sunday to claim the NCAA national championship. This game capped an unforgettable season in which the Lady Huskies became only the second team in NCAA women's basketball tournament history to finish the year without a loss.

Coach of the Year, Gene Auriemma, NCAA Player of the Year Rebecca Lobo and the rest of the Huskies beat the University of Tennessee in the championship game to take home the national title. The Lady Huskies also dominated the regular season, winning their games by an average of 34 points.

Over the past few months, the people of Connecticut—sports fans and non sports fans alike—caught Husky fever. Across the State, the Huskies were the team to watch. Incredibly, in February, UConn made NCAA history by becoming the first school ever to secure simultaneous No. 1 rankings in the Associated Press poll for its men's and women's basketball teams. The women's team never gave it up.

The national media even turned its spotlight on the small town of Storrs, as the undefeated Huskies continued their dream season. In one interview, Coach Auriemma joked that at a recent game at Gampel Pavilion, there were more reporters in attendance than there were fans at his first game 10 years ago.

As a graduate of UConn, I am proud to announce that the Lady Huskies are indisputably the best women's basketball team in the country. Congratulations on a job well done. Go Huskies!

TONY MOORE, DRESDEN HERO, RISKS LIFE TO SAVE NEIGHBOR

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. SOLOMON. Mr. Speaker, according to Webster's Dictionary, a hero is "a man admired for his achievements and noble qualities; one who shows great courage." In a time when precious few individuals qualify for this distinction, Tony Moore, a corrections officer from Dresden, NY, stands out as a true hero.

On February 1, 1995, Tony noticed smoke streaming through a heat-cracked window in his neighbor's front door. Realizing that his neighbor was most likely still inside the house, Tony ignored the potential to himself and crawled through the smoke-enveloped entrance, making his way to the bedroom. There he found his neighbor, unconscious from the suffocating smoke. Tony dragged his neighbor outside, and then proceeded to take action to extinguish the blaze. These courageous acts were all performed by Tony before any emergency personnel arrived to help. If not for Tony's heroism, his neighbor surely would have lost his life, not to mention his home.

Mr. Speaker, in a society all too often ruled by selfishness and apathy, Tony Moore's actions set him apart as an individual for whom doing the right thing and helping others in danger are not difficult choices, they are the only choices. Tony has already been commended by his town of Dresden, and I now ask that you and all Members of Congress join me in a tribute to Tony Moore, a true hometown hero.

RECOGNIZING THE WOMENS CLUB OF ALTOONA, PA, FOR 60 YEARS OF SERVICE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. SHUSTER. Mr. Speaker, I rise today to recognize the accomplishments of a group which has been a positive influence for 60 years in Altoona, PA. Since 1935, the Womens Club of Altoona has played a significant role in community service throughout Altoona and Blair County. This is a club in which members dedicate themselves to the betterment of the community by providing scholarship aid to students, assisting and giving to charitable organizations, and volunteering many hours to programs and events for the young and elderly throughout the region. They have provided support and assistance which government services cannot afford to sustain or otherwise would not even exist. This club provides a sense of guidance, awareness, responsibility, and caring toward the community; characteristics vital to keeping our cities and towns on the right track, especially in this period of time in which we see communities breaking down around the Nation. I want to take this opportunity to thank all of the women who have been a part of this organization, and say to them that they are an asset to our region and I hope that they will continue to play a visible role throughout the community. I wish them the best in celebrating their 60 years of service in Altoona and Blair County.

THE REPUBLICAN CONTRACT: THE CALL AND POST NEWSPAPER RESPONDS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. STOKES. Mr. Speaker, we are moving closer to the conclusion of the first 100 days of the Republican Contract With America. Over the past weeks, we have debated on the House floor various provisions of the contract. During this same period, newspapers across America are providing their readers with detailed analyses of this plan put forth by the Republican Party. One such newspaper is the Call and Post, a black weekly newspaper which serves residents of my congressional district.

In recent editorials, the Call and Post takes a close look at the Republican Contract With America, and its impact on the African-American community, in particular. The newspaper criticizes the Republican Party for its drastic cuts in programs including housing assistance, nutrition and child care services, low-income energy assistance and the student loan program, along with many others. The Call and Post editorial writers are also critical of Republican efforts to dismantle affirmative action programs and the Voting Rights Act. Their editorial states in part, "Our early vote on the Republican first '50 days' is that, on balance, it has been disastrous for those in America who do not have stocks and bonds, or six-figure incomes."

Mr. Speaker, I want to share these editorials from the Call and Post newspaper with my colleagues and the Nation. I agree with the editorial writers that the Contract With America is mean-spirited, ill-advised and particularly harmful to the African-American community, other disadvantaged populations, and the poor. I hope that Members on both sides of the aisle will take a moment to read the Call and Post analysis of the Contract With America.

[From the Call and Post, Mar. 2, 1995]

AFTER 50 DAYS

When Newt Gingrich was leading the charge against the Democrats in the last election, he promised in his "Contract with America" that the House of Representatives would, within the first 100 days of operation, vote on measures which would carry out a massive restructuring of government.

The "100 days" symbolism was significant. It hearkened back to the "New Deal" pronouncement of Franklin Delano Roosevelt, who, within his first 100 days of office, had put into place legislation designed to bring the nation out of the depths of the great depression—legislation and more importantly, a focus of government which was radically different than what had gone before.

Now, after 50 days of "Newtonian" politics, we have seen dramatic results. The first, and easiest, step the Congress took to fulfill the "Contract with America" was requiring Congress to abide by all the laws it imposes on others, such as civil rights statutes, wage and hour requirements, and occupational safety laws. There was little controversial about this measure: Ohio Sen. John Glenn had been fighting for the measure for years. It ended Congress' stature as America's "last plantation."

But the remainder of the contract has not been so easy, or so uncontroversial. It appears that the Republicans themselves—who have gained power on the push for term limits—now are debating whether, and how much, they want to impose this on themselves. The U.S. Term Limits organization, which has been the national arm for this movement, has attacked the Republicans—including specifically several Ohio Republican legislators—for hypocrisy on this issue; a measure particularly of concern to the group is sponsored by Florida Congressman Bill McCollum, which would replace all state-enacted term limits statutes with a federal one.

In the area of criminal justice, the Republican majority in the house has passed a measure which panders to the national hysteria about punishment for crime. It violates all the Republicans historic concern about the intrusion of the federal government into the rights of states by allowing federal money for prisons building to only those states in which incarcerated serious felons serve at least 85 percent of their sentences. And it also has severe constitutional questions in its willingness to allow a "good faith" exemption for warrantless searches. No less a constitutional authority than outgoing sixth circuit appellate court judge Nathaniel Jones has expressed serious concerns about this measure, saying that it would "gut the fourth amendment from the Constitution."

It is in the area of spending for human and social services that the Republicans have done the most mischief already. The House has already passed a bill cutting spending already appropriated by the House in 1994 by more than $17 billion—with $7.2 billion of that coming in one area, housing. Other human services programs have already been affected.

And the Republicans are planning even deeper cuts in the future, as the plan calls for block grants for human services spending.

If you're a young struggling mother trying to feed your children, you're probably in trouble: the rescission bill cut already-appropriated funding for Head Start and the Women's, Infants and Children's (WIC) program.

If you're a poor family struggling to survive through a cold winter, you're already in trouble: they have cut the low income housing energy assistance program.

If you're a poor child in school and needing the resources of the federal government just to get a decent meal, you're probably in trouble: massive cuts are contemplated for school feeding programs.

If you're a poor student seeking a better life through college, you're probably in trouble: the House is looking to cut grants and loans for college students.

In short, if you're one of America's poor trying to achieve a better life—or even merely survive in the one you have—you're probably going to be further impoverished by this round of budget cuts being proposed by the House Republicans in their "Contract with America."

It is clear that, after 50 days, the Republican legislative leadership, especially in the House, is planning a frontal assault on the New Deal's "contract" with the poorest of America's citizens. By the time their plans are completed, the goal is to take from them the resources to house them more adequately; feed them moderately; and educate them appropriately. None of the rhetoric they have used recently—about the need for budget tightening; about shared sacrifice from everyone; about how the private sector will step up and help—can erase that stark fact.

In fact, part of the Contract with America is designed specifically to shield some Americans from the sacrifices others must make: the Republicans are pushing a reduction in the capital gains tax which will provide windfall tax savings to some of the nation's wealthiest citizens.

President Clinton, who is threatening to veto parts of the contract, has said of the Republicans, "what they want to do is make war on the kids of this country to pay for a capital gains tax cut."

We believe, sadly, that this harsh language is correct. Our early vote on the Republicans first "50 days" is that, on balance, it has been disastrous for those in America who do not have stocks and bonds, or six-figure incomes.

We can only hope that President Clinton will demonstrate the courage of his convictions to veto some of the most destructive expressions of the GOP leadership's demonstrated desire to turn back the clock on help for America's poorest citizens.

CONTRACT ON BLACK AMERICA

The "Republican Revolution" and its makeshift constitution otherwise known as the "Contract With America" has been criticized by President Clinton and other prominent Democrats as a threat to the children of the poor, and rightfully so. However, the general tenor of the actions of Congress have the appearance of a contract ON Black America.

We have already cited the cuts in low income housing, heating bill subsidies and Head Start, that were appropriated by the last Congress and now cut retroactively to pay for a capital gains tax cut that will benefit wealthy individuals and corporations. These cuts will affect all low-income Americans, but like everything else, they will be disastrous in the Black Community.

Now, the "contract's" legislative agenda will turn to "direct hits" on Black America. For starters, Eleanor Holmes-Norton, the District of Columbia Delegate, has been striped of her right to vote on the floor of Congress. This act leaves the entire, predominately Black, taxpaying ($1.6 Billion at last count) population of the District without Congressional representation.

On affirmative action, they have already voted to end tax breaks for companies that sell broadcast licenses to minorities, a program that was created to foster minority ownership to those previously denied access to electronic media ownership. This will benefit primarily well-off self-employed persons, who will now be able to deduct a portion of the cost of their medical insurance.

Next, they have vowed to completely dismantle affirmative action, the Voting Rights Act and the welfare system, and unless we mobilize, it looks like no-one can stop them.

We urge our readers to write to The President, our Senators and Congressmen, and to let them know that we are about to start our own revolution. Our political organizations should be planning voter registration and education programs throughout the state, so that the Black community will once again become something to be feared, and not trampled over.

RADIOLOGY: 100 YEARS OF HEALTH PROGRESS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. STARK. Mr. Speaker, just 100 years ago this year, a German physicist, Wilhelm Conrad Roentgen, discovered x rays. Within weeks, American scientists, physicians, and industrialists were making new discoveries with x rays and were putting them to work in medicine and industry. No major scientific discovery ever spread so fast or found such instant acceptance in many areas of life.

At first physicians peered at dim images to perceive bullets, bones, and kidney stones. Equipment and technique were improved. Soon physicians could look for other health problems with x rays. They learned that x rays could be used to cure some diseases, particularly forms of cancer. A medical specialty, radiology, grew among the men and women who applied x rays in health care.

Over the century, radiologists added to their competence with the products of scientific breakthroughs. From the atomic bomb research came radioisotopes, so vital for diagnosing body organ function and treating cancers. From radar and sonar came medical applications of ultrasound. From the space efforts came the ability to analyze images electronically, bounce them off of satellites, and store them for instant recall. From computers came computed tomography and magnetic resonance imaging. The million-volt energies of linear accelerators allow radiation oncologists to deliver pinpoint treatment of cancers.

This year, two-thirds of all Americans will receive a medical diagnostic imaging procedure. Two-thirds of those with cancers will receive radiation as part of their treatment. In a hundred years, radiology has become a vital part of our health care pattern.

During this year, more than 100 professional societies and companies which supply the family of radiology have organized Radiology Centennial, Inc. to conduct a year-long series of celebratory events. Among these events is a special convocation on April 30 here in Washington.

Mr. Speaker, I ask that the RECORD show that this House joins other Americans in recognizing the value of radiology to all of us in this, its 100th year.

TERM LIMITS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 5, 1995, into the CONGRESSIONAL RECORD.

TERM LIMITS

In recent years public frustration with the performance of government has been fueled by various scandals and a lack of progress on the budget deficit and other pressing national issues. I share this frustration. Among the many proposals to alleviate this problem are campaign finance reform, tougher ethics laws, restrictions on lobbyists, and term limits for elected officials. The new congressional leadership has chosen to focus solely on term limits.

Recently the House considered several different versions of a constitutional amendment to limit the number of terms for Members of the House and Senate. Some versions included a 12-year limit for Representatives and Senators; another imposed a shorter 6-year limit on Representatives. Other options would allow states to impose stricter limits if they so desired. None of the amendments received the necessary ⅔ vote needed for passage.

Supporters of term limits contend that they are necessary to assure a "legislature of citizens," bringing new blood to Washington and competition to the political process. With term limits, Members might not be tempted to protect their legislative careers at the expense of the country. A completely new membership would restore confidence in Congress and promote confidence in Congress and promote bolder decision-making on Capitol Hill. Although supporters of term limits raise some legitimate concerns, in my view the arguments against term limits are more persuasive.

TIME LAG

Term limits advocates argue that changing the Constitution is necessary to get legislators to tackle the tough issues we face as a nation today. Yet the main version they push would have no effect for almost two decades. Once approved by Congress, the term limits amendment would have to be ratified by the states, and they would have 7 years to do so. If ratified, the amendment would only apply to elections after ratification, which means 12 additional years of service for sitting members. Thus the first year in which someone would actually leave office because of term limits could be 19 years from now—the year 2014. This is clearly not an answer to today's problems.

ACCOUNTABILITY

Elections keep Members accountable. Under term limits, however, a large proportion of the House would be ineligible for re-election, and could completely ignore their constituents, missing votes, staying away from their home districts, and lining up lucrative jobs after they leave Congress. This republic has been well-served since its birth by the belief that accountability in elected officials should be enforced by voters through frequent elections. Why should voters be denied the right to return those who have maintained their public trust? That is why I have also opposed the present constitutional term limits imposed on Presidents. Term limits dilute the accountability of elected officials.

POWER

One unintended consequence of term limits is that by eliminating experience in elected office, power would shift to unelected special interest groups, congressional staff, and federal bureaucrats. In our system of government, power does not simply evaporate; it flows to others—to the unelected and unaccountable. It is hard to imagine a greater advantage for a President or the special interests than to purge Congress of experienced legislators who are experts on certain issues, who understand the workings of government, and who remember the problems of the past.

EXPERIENCE

Term limits penalize experience. No other profession does that, and no other country imposes term limits on national legislators. Our country's founders noted that courage by public officials not to pander to the people requires a self-confidence and credibility that only experience can bring. Experience gives Members the ability to stand up to powerful special interests. The nation benefits from having Members in Congress who debated the Persian Gulf War, health care reform, Watergate, tax reform, and the savings and loan crisis. Experience helps us avoid mistakes of the past. I am not persuaded that in this day of very complicated problems an inexperienced legislature is better than a more professional legislature.

HIGH CONGRESSIONAL TURNOVER

Term limits are unnecessary. Elections work. There is already substantial turnover in the membership of Congress. More than 50% of the House has served less than 5 years, and the average length of service is already less than 12 years. Voters have shaken up Congress a great deal in a short amount of time. Congress is improved by the flow of fresh ideas from these new legislators, just as it is improved by the insights of experience. The best solution is to allow voters to determine the proper balance between freshness and experience.

DEMOCRACY

Term limits are fundamentally undemocratic. Our founding fathers specifically rejected term limits because they limit the choice of the voter to choose who will represent them. Term limits substitute an arbitrary rule for the independent judgement of voters. In effect, the present electoral system provides strong term limits every two years. A citizen who believes a Member of Congress should not serve more than a few years is free to vote against the incumbent, but a law should not prevent other voters from voting for a particular person. If the problem is poor representation, the solution is campaign finance reform and lobbying restrictions, which would expand democracy and limit special interests instead of limiting the voters' choice.

In the end, I do not think that term limits would deal with the causes of frustration with Congress that prompt support for term limits in the first place—certainly not until well into the 21st century. They would do nothing to deliver services better, or cut government waste, or solve any of the social problems that desperately need solving. We are again looking for a procedural fix when we really need to start dealing with the substantive issues. Term limits are a barometer of the discontent with government that exists around the country, and all Members should heed the warning.

INTRODUCTION OF FOUR BILLS TO IMPROVE FEDERAL CONTRACTING PRACTICES

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Ms. NORTON. Mr. Speaker, today I am introducing four bills to bring some accountability and cast a search light on the elusive, stealth "shadow government." This government we cannot see is the proliferating and largely unmonitored private contract service sector and work force from which the Federal Government procures services. Although a huge $105 billion Goliath, this sector has emerged unscathed and uncut at a time when deficit reduction has spared few others.

In fact, service contracting constitutes the fastest growing area of Federal Procurement. In the 1980's, Federal officials acted as if they wanted to contract out the entire Government. From fiscal year 1989 to fiscal year 1992 alone, before the Clinton administration came into office, the number of contractors doing business with the Government rose from 62,819 to 82,472. Over that same period, the amount of money shelled out to contractors of all kinds mushroomed from $184 billion to almost $200 billion. Service contracts alone account for $105 billion of the $200 billion spent each year on outside contracts.

This is a Government-created and financed monster that the OMB itself concedes is out of control. How extraordinary, then, that in a budget which has left no visible stone unturned, this large Federal expenditure has remained hidden in the shadows and has not contributed a single dollar of mandated cuts to deficit reduction, as Federal agencies and employees have. How remarkable that, despite a Government-wide effort to promote efficiency, we have not considered the inefficiency of guaranteeing contractors an invulnerable chunk of tax dollars.

The Clinton administration, to its credit, has worked hard to make service contractors more responsive—for example, by proposing new performance-based standards for existing service contracts. How surprising, then, that the budget the Congress is now considering proposes no cuts in funds allocated for service contracts—thus leaving untouched a huge source of potential savings—while demanding continued sacrifices from the career work force that makes up the "visible government." Thus far, the shadow government has not registered beneath the green eyeshades of budget cutters, including the Congress.

The time is long past due for overhauling contracting practices. With the four bills I am introducing today, I hope to help begin the process of reinventing Federal contracting just as the rest of our Government is being reinvented.

FULL FEDERAL PAY RAISE

My first bill would cut $2 billion in Federal agency funds for service contracts and make this money available for pay raises that are due Federal employees next year. Federal employees are again being required to give up part of their statutory pay increases while, again, contract employees paid by the same Federal budget remain untouched. The intent of my first bill is to eliminate the raw discrimination that allows the Government to seek sacrifices for civil servants because they are where we can see them but to give immunity to contract employees because they are out of sight.

Beyond the discrimination against career employees who are denied modest increases promised by statute, current contracting practices are fundamentally bad business. According to a March 1994 GAO report, issuing service contracts and hiring consultants actually costs Federal agencies more than using Federal employees. In 3 of the 9 cases analyzed by GAO, agencies could have saved over 50 percent by keeping the work in-house.

BUYOUTS

My second bill would plug a gaping hole in the landmark buyout legislation we have only just passed. Congress went to extraordinary lengths to ensure that civil servants who were bought out with cash could not be replaced and that the resulting 272,000 reductions in the Federal work force would be permanent. However, as it stands now, the buyout law would allow untold numbers of contract employees to take the places of bought-out Federal employees—substituting shadow government employees for career employees. My bill would amend the Federal Workforce Restructuring Act to prohibit agencies from contracting out work previously done by buyout recipients.

COST COMPARISONS

The reason most often touted for contracting out work is that it is cheaper. The March 1994 GAO study contradicts this assumption, and an OMB study released in January 1994 shows that the cost-saving assumption is often not even tested. Federal agencies do not compare the costs for contracting with the costs of doing work in-house. My third bill would require agencies to make these cost comparisons and would prohibit any agency from entering into an outside service contract if the services could be performed at a lower cost by agency employees.

SIZE OF CONTRACTING WORKFORCE

One of the chief obstacles to regulating the contracting workforce has been the absence of information on the extent of the workforce. In 1988, for example, Congress passed legislation requiring agencies to significantly cut service contracts. However, a subsequent GAO report found that there was no way to know if the agencies had actually complied with the legislation. My fourth bill requires OMB to develop a Government-wide system for determining and reporting the number of nonfederal employees engaged in service contracts.

All four of these bills would provide more systematic ways for monitoring and constraining the expenses associated with contracting out of services—just as we have insisted for Federal agencies and employees. Efficiency and deficit reduction must not stop at the door of the Federal agency. We need to bring the shadow government into the full light of day so that the sacrifices demanded in the name of reinventing Government may be shared by all employees and by every area of Government.

SUMMARIES OF SERVICE CONTRACTING BILLS INTRODUCED BY CONGRESSWOMAN ELEANOR HOLMES NORTON

1. The first bill cuts $2 billion in Federal agency funds for service contracts and makes this money available for pay raises that are due Federal employees next year. Federal employees are again being required to give up part of their statutory pay increases while, again, contract employees paid from the same Federal budget remain untouched. The intent of this bill is to eliminate this inexplicable discrimination.

2. The second bill amends section 5(g) of the Federal Workforce Restructuring Act of 1994, (Public Law 103-226) to prohibit an agency authorized to offer voluntary separation incentive payments under that Act from contracting out, in whole or in part, the duties previously performed by an employee who separated upon receiving such a payment. This is to ensure that no substitution of shadow government employees for career employees occurs.

3. The third bill prohibits any Executive Branch agency from entering into a service contract if the services to be procured under the contract can be performed at a lower cost by employees of the agency. It requires agencies to perform cost comparisons (contractor cost v. in-house cost) when deciding whether to contract for a service. The requirement applies to contracts entered into after the date of enactment.

4. The fourth bill requires the Director of the Office of Management and Budget (OMB) to develop a government-wide system for determining the number of persons employed by non-Federal Government entities providing services under service contracts awarded by agencies in the Executive Branch of the Federal Government. It also requires OMB to

submit an annual report to the Congress indicating the number of such persons providing services and the number with jobs comparable to those of career Federal employees providing services to agencies.

REPORT TO CONGRESS BY RICHARD H. STALLINGS, OFFICE OF NUCLEAR WASTE NEGOTIATOR

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. GORDON. Mr. Speaker, in 1987, Congress created the Office of the Nuclear Waste Negotiator as part of its amendments to the Nuclear Waste Policy Act of 1982. The goal of this office was to negotiate an agreement with a host site for the storage and disposal of spent nuclear fuel. Congressional action in 1994 terminated authority for the negotiator's office. Today, I am submitting for the RECORD, the last report to Congress by Richard H. Stallings, negotiator, of the Office of the Nuclear Waste Negotiator.

For the past 15 months Mr. Stallings and his staff have worked to help resolve our Nation's spent nuclear fuel storage and disposal problem. This office held numerous expert discussions which produced valuable scientific information on possible future uses of spent nuclear fuel. In addition, Mr. Stallings was instrumental in designing and improving the economic development opportunities of the Department of Energy's multipurpose canister [MPC] Program as an integral part of the interim storage facility. As a result of their efforts, I am confident that Congress will be better prepared to consider legislation concerning the management of spent nuclear fuel.

As negotiator, Mr. Stallings also demonstrated the ability for the Department of Energy to develop meaningful communications with potential host States and increased community awareness and understanding of the emotional issues surrounding nuclear fuel. While the authority of Office of the Nuclear Waste Negotiator ended before a host site was designated, I believe it is important for Congress to continue in these educational efforts and open dialog.

I would like to extend my sincere gratitude to Mr. Stallings for his work as nuclear waste negotiator. His findings and expertise are greatly appreciated and will prove invaluable as Congress moves forward with our Spent Nuclear Fuel Management Program for a permanent repository and temporary storage facility.

OFFICE OF THE
NUCLEAR WASTE NEGOTIATOR,
Washington, DC, February 8, 1995.

The SPEAKER OF THE HOUSE,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am submitting the following as the last report to Congress by the Office of the Nuclear Waste Negotiator.

As a result of a legal cloud over our authority to continue operations, I terminated the mission of the Office on January 21, 1995. In closing the Office prior to completing its legislated mission, I leave with a sense of lost opportunity, although much was accomplished over my short fifteen month term. I hope that this report will encourage those who still believe in finding ways for the Federal government and the states to work together for solutions to challenging and controversial public policy issues.

When Congress created the Office of the Nuclear Waste Negotiator in 1987 as part of its amendments to the Nuclear Waster Policy Act of 1982, it recognized the possibility that the storage and disposal of the nation's civilian nuclear waste could be accomplished through cooperation. By giving the Office the authority to negotiate an agreement with a state of tribe, Congress was essentially saying to the states, "Reliance on Federal supremacy may not be the only way that we as a nation should deal with this issue." Perhaps the legacy of this Office should be that we demonstrated that the Federal government can work cooperatively and constructively with the states on this issues, if we are only willing to put forth the effort.

THE OFFICE I ASSUMED IN NOVEMBER 1993

Upon confirmation by the Senate in November of 1993, I took charge of an Office that had been in operation since September of 1990. My predecessor had remained in Office until June of 1993, but with the change of Administrations following the 1992 election, the Office was in essentially a suspended operational status from November of 1992 until I was confirmed a year later. This is important for four reasons.

First, for an Office whose entire term is four years and five months, a year hiatus is a very long time. Second, the lost year was an off-election year, which is when this particular Office, dealing with such a controversial issue, must make publicly recognizable progress if it is to make any progress at all. Third, one of the four tribes that was officially participating in the negotiated siting program when I took Office, the Mescalero Apache tribe in New Mexico, had become frustrated over that year with the lack of progress and funding and was looking to other opportunities. And fourth and perhaps most importantly, I found that with the passage of that year whatever hope the nuclear utility industry, the Department of Energy, and Congress had had for the mission of the Office of the Nuclear Waste Negotiator was gone. I received general support from these groups, but found their energies focused more on either a legislated solution to temporary storage, abandonment of Federal away-from-reactor temporary storage altogether, or the development of a private interim storage facility on tribal lands.

With this as the backdrop I committed to making something happen. Congress was on the right track in creating this Office and it deserved the best chance it could get to be successful.

REINVENTING THE OFFICE

The siting program that I took over had relied on what I term a "trash for cash" approach. In return for hosting a waste storage facility, the state or tribe would be rewarded handsomely with payments and benefits that bore no necessary relationship to the facility. This approach presented me in November of 1993 with one frustrated tribe, and three tribes still willing to consider whatever program I came up with. There remained no viable non-tribal interests. I knew that to even enjoy the "possibility" of coming to an agreement and successfully siting a facility, perceptions had to change and the Office had to be essentially "reinvented".

I concluded that the reinvention needed to concentrate on two aspects of the mission, making sure that the potential hosts the Office worked with were inclusive of those that presented the best opportunities for siting, and developing a sufficiently defined presentation of facility and benefits to permit meaningful evaluation and consideration. Ultimate success would depend on whether the siting opportunity was considered by the localities where siting a temporary storage facility made practical sense, and whether the opportunity they considered was real and worthy of consideration.

NEW APPROACH TO POTENTIAL HOSTS

With respect to the potential hosts, I committed to continuing to work with the four tribes that were already in the program, while seeking to approach potential hosting opportunities that did not involve siting a facility on a "green field", green field being a site that had not previously experienced any environmental degradation. This resulted in efforts being directed at closed military bases and facilities and laboratories owned by the Department of Energy. I did not have the time to conduct a "volunteer" program. I do not think the voluntary approach to siting works for this type of an issue. I think you need to tell potential hosts that they are likely to be qualified, and ask for their consideration.

SEEKING TO CHANGE PERCEPTIONS

As to the presentation of facility and benefits, I knew that much work would need to be done, and I found that it wasn't until the fall of 1994 that I had a presentation with which I was comfortable.

In my confirmation I asserted my conclusion and firm belief that the transportation and storage of nuclear waste was safe. We have the technology and experience. This was a radical departure from my predecessor, who proposed to provide grant funding to potential hosts to allow them to determine for themselves whether transportation and storage was safe. I believed that as Negotiator, it was essential to take a clear stand in order to be able to interact with elected officials and the public with any credibility. Had I not been able to take that stand, I would not have taken the job.

Given that the handling and storage of spent fuel was safe, and recognizing that the perception of a storage facility as nothing more than a "dump" (to coin a popular media term), I wanted to know if it was possible for something to be done with the spent fuel as opposed to just storing it. For the next several months following my confirmation, I conducted an extensive evaluation of whether spent fuel had value. I held a roundtable discussion on February 10, 1994, with a dozen scientists who were working on projects utilizing spent fuel. The report that was issued after that roundtable documented that spent fuel has potential value that will almost certainly be realized at some time in the future. The projects that were perhaps the closest to being practical at this time were those involving food irradiation and ozone production, and of course this concept of value did not even consider the potential value associated with reprocessing.

My efforts to pursue this question were widely misinterpreted. This can best be summed up by my Deputy, Robert Mussler, being told by a utility executive upon hearing of this idea, "Don't tell me spent fuel isn't waste!" Rather than trying to somehow convert a temporary storage facility into an instant research park, I was trying to get others to think about spent fuel differently, by having the Office think about it differently. To my knowledge no one had ever proffered the idea that spent fuel might have value besides reprocessing, and I believe my willingness to address this possibility in a direct, public manner, changed the debate. I also believe that technology will advance and the day will come when the value of spent fuel is recognized.

DEVELOPING A CONCISE PRESENTATION

Having dealt in a fairly short period of time with the perception and approach to spent fuel, and its storage and management, I set out to put together a concise presentation that could be reasonably and fairly considered, evaluated, and pursued or rejected by elected officials.

This took more time than I had expected, but in the end it was worth it. Out of a facilitated workshop on March 23, 1994, came the idea that the Department of Energy's multipurpose canister (MPC) program may present an economic development opportunity that could be coupled with the temporary storage facility. We worked to develop the idea, and coordinated that development with the Director of the Office of Civilian Radioactive Waste Management at the Department of Energy. The MPC Program involves manufacturing and assembling Nuclear Regulatory Commission certified containers for the handling and dry storage of spent fuel. The program projects a need for 10,000 canisters, and is a 3 to 5 billion dollar project. By September 1994 we had focused our efforts on refining the presentation of the economic development opportunities that the MPC program presented to a potential host. The overriding consideration in the development of this idea was that whatever part of the MPC program might go to a State, it must make sense. We were not proposing the creation of a heavy foundry industry in a State that did not already have one. In such States the focus would rather be on assembly and inspection.

Although the presentation contained a number of other elements to describe the facility and other associated benefits, I felt that the MPC element was the most important in conveying the message that this was a genuine opportunity worthy of consideration. As I noted earlier, this presentation was completed to my satisfaction in the fall of 1994.

CHANGING THE APPROACH TO FINANCIAL ASSISTANCE

Another aspect of the program that needed attention when I took Office was the way that financial assistance was provided to potential hosts to support their participation in the negotiated siting program. My predecessor has relied on grants administered by the Department of Energy, and at about the time I was confirmed, a major element of that grant program had been deleted by Congress. I decided that relying on the Department of Energy to provide financial assistance to potential hosts was not the best way to operate and concluded that what we really should do is to instead directly enter into cooperative agreements with those potential hosts. The cooperative agreement is a funding mechanism that anticipates interest and participation by both parties in the activities funded. This fit much better with the way I intended to interact with potential hosts. Since our budget did not provide for the funding of cooperative agreements, I approached the Director of the Office of Civilian Waste Management for help. The Director and I worked out the transfer of an initial $250,000 to the Office to fund cooperative agreements that I might enter into. This ended up working out very well, giving us the flexibility and responsiveness we needed to establish and maintain credible relationships.

With the cooperative agreement funding mechanism in place, and the development of the presentation that described the temporary storage facility and the associated economic development opportunities that the MPC program could bring with it, I had what I needed to begin direct discussions with those potential hosts where a temporary storage facility made practical sense. It was a presentation that used an overhead projector, and it was a very effective communication vehicle. Unfortunately, with the closing of the Office I was not able to give this presentation to all of those whom I felt needed to hear it.

In this first part of the report I have discussed how I changed, or reinvented, the negotiated siting program. I am convinced that this was a viable program, open to consideration by many governors and state officials. In the second part of the report I will discuss the chronology of interactions with potential hosts. I will then conclude with a brief discussion of the circumstances of the closure of the Office.

PROGRESS WITH POTENTIAL HOSTS

As discussed earlier, I took over the Office with one frustrated tribe and three tribes that were at different points in the process of their consideration of hosting a storage facility. By the beginning of 1994, the Mescalero Apache tribe had redirected their efforts to working with a group of utilities to develop a private storage facility on their reservation. Adding to this tribe's concerns with the Federal negotiated siting program was the passage of a law that I discussed earlier that took away from the tribe the opportunity to receive 2.8 million dollars in grant moneys to pursue the Federal project. My support for the deletion of this grant authority, based on concerns about the lack of specificity on how the funds were to be used, did not help my relations with the tribe. My Office had essentially no contact with the tribe following their commitment to the private project. The private project was reject by the tribal membership in a referendum held last month.

The Tonkawa tribe in Oklahoma was in the process of concluding their initial consideration of the project when I took Office. Following one meeting with the tribal leadership, and prior to any opportunity to have any broader discussions with the tribal membership, the tribe rejected the project in a referendum on August 12, 1994.

The Fort McDermitt Paiute-Shoshone tribe in Oregon and Nevada decided in 1994 to defer active consideration of the project. Prior to this decision I was able to meet with the tribal leadership and visit the reservation. I was also able to meet with county officials in Humbolt County, Nevada, and Malheur County, Oregon, as well as participate in a community meeting in the town of McDermitt. Since the tribe's reservation straddled the state line, even though the site would be on the Oregon side of the reservation, the tribe was very active in including the two counties and the community in meetings, tours, and citizen advisory groups. The tribe's deferral in 1994 was due to the gubernatorial contest underway in Oregon. I should note that the tribe had their first meeting with a representative of the newly elected governor in January of 1995. Based on the meeting, the tribe is optimistic that the new governor will be receptive to discussing the merits of the project based on sound science, notwithstanding the closure of the Office.

The Skull Valley Goshute tribe in Utah continued to pursue the project aggressively right up to the closure of the Office. We completed a cooperative agreement with the tribe for $48,000 to support the development of a framework for negotiating an agreement for the tribe to host a storage facility on their reservation. The development of the framework was also to give each party an indication of whether we seemed to have the ability to work constructively together. Over the last half of 1994, in negotiating the cooperative agreement and the framework for future negotiations, I found that we indeed had the ability to communicate and work effectively together. I was optimistic about the prospects of entering into formal negotiations with the tribe.

At the time we began discussions to develop the cooperative agreement with the tribe, we notified the state and county that cooperative agreements were also to be made available to them if they wished to participate at this time. Within days of completing the cooperative agreement with the tribe, we signed cooperative agreements with Tooele County for $18,000, and the University of Utah for $25,000. The University was interested in conducting an analysis of the economic and transportation impacts of a storage facility on the reservation, and the County intended to use their money to have the University do the same type of analysis on a county basis.

In early December 1994, the Office sponsored a trip to the Idaho National Engineering Laboratory for all members of the tribe interested in seeing and learning about the storage of spent fuel. Approximately one-fifth of the tribal membership participated in the trip, and the response was very positive.

On the week the Office closed, I received a completed framework for negotiations signed by the tribal chairman. Had the Office not closed I would have signed the framework and the tribe and the Office would have then been in formal negotiations. I cannot say that this would have necessarily led to a completed agreement to be sent to Congress, but I do know that to have even reached this stage was unprecedented.

The work on the County analysis was stopped, but the University report, based on costs already incurred, is to be completed sometime later this month. I have directed that a copy of the report be sent to the Office of Civilian Radioactive Waste Management at the Department of Energy, with hopes that they may be able to use it in their future work.

In addition to working with the tribes that I inherited, I initiated contacts with the office in the Pentagon that manages base closures to determine if closed bases offered any siting opportunities. After providing them a list of criteria, we received a listing of possible base closures that might have the size and access needs of a storage facility. We pursued each of those leads and at the time of Office closure we were continuing to have discussions with the base closure committee for the Wurtsworth Air Force Base in Michigan. In the final analysis, much of the prior land use planning for the closed bases precluded consideration of the storage facility.

In pursuing the challenges of seeking to work directly with governors or their representatives, I employed what I would term quiet diplomacy. This is the way that I believe that Congress intended for the Negotiator to function and it is indeed the only way that meaningful communications outside of the public posturing imperatives can occur. It was very effective. A free flowing dialogue was, and I believe would have continued to be possible with many state executives. I can report that since the presentation discussed above was put together, I had established good lines of communications in three states, and I was in the process of working to expand that number. It is specifically this aspect of the program and my efforts in this area that leave me with the greatest sense of lost opportunity.

CONCLUSION

I have concluded that the management, storage, and disposal of nuclear waste presents one of the greatest challenges to the principles of federalism. I cannot say for certain that my efforts would have resulted in a state willingly accepting spent fuel storage, but I do know that the opportunity for meaningful discussions existed. What I can say for certain is that discussions I would have had with many governors would have resulted in a greater awareness and understanding of the controversial, emotional, and politically charged issues that surround spent fuel. This is a problem that is not going to go away. Unfortunately, this Office may have been the last chance to develop mutually agreeable solutions. With its demise we as a Nation are left with an unhealthy reliance on Federal supremacy at a time when mutual solutions to issues such as this are more important than ever.

TERMINATION OF MISSION-CLOSURE

The termination of the mission of the Office is occasioned by a legal cloud over our authority to continue operations. Congress had appropriated adequate funding for the full fiscal year, but there was a question raised in early January about the basis of authority for such continued operations. As part of my aggressive pursuit of the opportunity to complete my mission, I obtained the opinion of outside legal counsel on the question of the authority to continue operations of the Office until the end of this fiscal year. That outside legal opinion concluded that such authority existed.

This opinion was reviewed and concurred with by the General Counsel of the Office of Management and Budget. I am advised that the same conclusion was reached by the General Counsel of the General Services Administration. However, I was told that the Legal Counsel for the Department of Justice reached a contrary conclusion. Given the sensitive nature of the work underway, and the recognized urgency to make real progress this year, the resolution of these conflicting views would create significant obstacles and take time that I did not have. It thereby essentially negated any chance of my succeeding with the mission of the Office. As I said at the time I was confirmed by the Senate, I have no interest in keeping the Office open if there is little or no likelihood of success.

During the short period of orderly shutdown and closure of the Office I secured an audit of our financial records by an independent outside accounting firm. The report of that audit concluded that at closure all financial records and accounting practices were in order.

Over the past fifteen months I have had the good fortune of a dedicated, hard working, and highly competent staff. I'd like to take this opportunity to express my appreciation for the efforts of Michael Campilongo, Gary Catron, Maureen Conley, Henry Ebert, Martha Fitzsimmons, Brad Hoaglun, Tom Lien, Bob Liimatainen, Bob Mussler, Angie Neitzel, and Jennifer Stone.

I am very appreciative of having been asked by the President to serve in this Administration. It was an honor and a privilege to have had the opportunity to accept this challenging assignment.

Sincerely,

RICHARD H. STALLINGS,
Negotiator.

TRIBUTE TO MURIEL M. DOUGHERTY

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. SAXTON. Mr. Speaker, Monday, April 3, 1995, marked the first official day of long-deserved retirement for my associate and friend for many memorable years, Muriel M. Dougherty. After having worked with me for almost 22 years, most of them as a public servant, Muriel will now blissfully enjoy the fruits of a leisurely life, including the company of her 5 children and 13 grandchildren.

Muriel first worked with me as secretary in the real estate firm of Saxton, Imlay and Falconer, earning her real estate license along the way. In 1975 when I began my political career as a New Jersey State Assemblyman, Muriel became my legislative assistant, working diligently in her new position, as always.

After 6 years, she moved with me to the New Jersey Senate. Because Muriel is a completely trustworthy, competent, and people-oriented individual, I was always able to concentrate on my legislative duties in Trenton, while leaving the administrative responsibilities to her.

In 1984, when the opportunity arose for me to run for a seat in the U.S. House of Representatives, Muriel was the first to say in her usual enthusiastic way, "Go for it!" During those hectic days, she would take care of just about anything that needed to be done, always competently and with a smile; and would often use her free time to help with campaign activities.

Upon taking my seat in the House on November 9, 1984, Muriel became office Manager for my Mount Holly district office, where she has served faithfully and tirelessly for over a decade.

During our many good years together, Muriel has served not only as my employee, but also as a trusted friend, always willing to go the extra mile to help her boss with whatever needed to be done. From knowing the proper way to address the President to soothing unhappy or angry constituents, she always knew the proper way to do things. Her sensitive and able assistance to the numerous constituents in my district has always made my job much easier.

And, as a friend to her co-workers, who looked at her as a teacher, she has won praise and admiration for always handling things just right.

I, as well as my entire staff, will very much miss Muriel's calm demeanor and gracious manner. Her legacy of excellence will be felt in my office for a long time to come. One thing for sure is Muriel will rarely be found at home. She loves to travel and visit places of interest with her many friends. We wish her health and happiness in the years ahead. She truly deserves it.

OPERATION OF THE GRAND LAKE, CO, CEMETERY

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. SKAGGS. Mr. Speaker, I am pleased to introduce today legislation that will authorize an important and unique management agreement between the National Park Service and the town of Grand Lake, CO. This agreement will grant to the town the permanent right and responsibility to manage its century-old cemetery that is now inside the boundary of Rocky Mountain National Park.

This bill, on which my colleague from Colorado, Mr. MCINNIS, joins as a cosponsor, matches legislation introduced earlier this month by our State's two Senators.

The cemetery legislation is based on extensive negotiations between town and national park officials, with both groups supporting it.

Under the agreement, the cemetery will remain inside the national park; no boundary adjustments will be made. Normally, such a situation would be handled through a park service special use permit, which must be renewed every 5 years. Such a short-term permit is not appropriate for a site like this one.

The area to be used and managed by the town is precisely defined and limited to avoid future disputes. The agreement reflects an important spirit of cooperation and good will between the town and the Federal Government.

I recommend this legislation to my colleagues in the House, and I urge swift action on it.

TRIBUTE TO JEFF KATZ

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. BURTON of Indiana. Mr. Speaker, I would like to pay tribute to Jeff Katz, a radio talk-show host in my district. Jeff's wonderful insights blasted the Indianapolis-area airwaves during the evening drive-time slot on WIBC. Jeff's program played a very integral role in the recent Republican revolution. You see, Jeff is one of the gaggle of conservative talk-radio hosts who helped spread the word before last fall's telling elections. Their courage and ability to bring moral, social, and political issues into the publics' eye had a very positive impact on helping the Republicans gain control of the Congress last November. Jeff continues his good work even today.

Jeff Katz has been a good friend of mine, and unlike some in the mainstream media, he covers issues fairly and honestly. Jeff is moving to the Sacramento, CA, area to another radio station. I wish him well and will miss him. While central Indiana is losing one of the finest talk-radio hosts in the country, the people of northern California will be gaining a very talented and capable radio personality. Jeff, thank you for all of your hard work, and best of luck.

H.R. 1386, THE CLINICAL LABORATORY ACT AMENDMENTS OF 1995

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. ARCHER. Mr. Speaker, I am introducing H.R. 1386 to reduce the burdens on physicians who perform laboratory tests in their offices and thereby, improve patient care and reduce patient costs. The Clinical Laboratory Improvement Act of 1988 [CLIA] has greatly increased health care costs associated with laboratory testing. Some physicians have reported that compliance with CLIA regulations have more than doubled the cost of providing tests in their offices. In fact, the Health Care Financing Administration estimated in 1992 that CLIA would add between $1.2 billion and $2.1 billion annually to the cost of performing clinical laboratory tests in a physicians office.

The CLIA 1988 restrictions have caused thousands of physicians in their offices to discontinue all or some portion of essential clinical laboratory testing on site. This creates a barrier to patient compliance with diagnostic and treatment protocols and causing patient inconvenience. For example, for many tests a patient must be referred to an outside laboratory to have the specimen taken and tested. This poses a substantial hardship for many patients, most notably the elderly, the disabled and families who live in underserved areas. Oftentimes these patients cannot travel or find someone to taken them to these facilities. The result is that they do not obtain the necessary test which may interfere with their treatment.

I hope that my colleagues, on both sides of the aisle, will join me in supporting this legislation which will reduce health care costs and improve the ability of patients to receive appropriate laboratory tests conveniently and in a timely fashion.

AN HONEST DIALOG WITH MY CONSTITUENTS

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. FRELINGHUYSEN. Mr. Speaker, since the November election, there has been a lot of national attention on the U.S. House of Representatives, the Republican majority and the Contract With America.

During all of this, I have been honored to serve 3 months as a Representative in Congress. It has been a time of both great change and opportunity. More than 7,000 constituents have taken the time to write or call me, visit my office or attend one of my town meetings.

Having read each of their letters and listened to their concerns, I have learned that we share common goals—putting our Nation's fiscal house in order, and balancing the Federal budget, making Government more efficient and more accountable, and preserving programs that actually work, that serve the national interest and that take care of the most needy in our country.

Unlike a lot of the media commentary on the contract and the speechmaking in Washington, their letters have expressed these concerns in very real terms.

Families are worried about financing their children's college education but are also concerned about whether or not the future holds the same opportunities for their children that we enjoy.

The people who serve the needy in our communities worry about Federal aid cuts but also feel they could do more with the money if there were less Federal strings attached.

And, thousands of constituents just ask why the Federal Government cannot balance their budget like American families do. People just cannot comprehend, and quite frankly neither can I, a national debt of over $4.5 trillion and annual deficits of $200 billion.

Many people have offered imaginative and sensible ideas about how to address these concerns and I sense a real willingness to try new approaches, including doing more with less if it means making real strides on our budget problems. Most important, there is once concern that weighs on all of us—our children's future and whether or not we leave them debt-free or debt-burdened.

In the pass 3 months, many citizens feel that we in Washington have started the process of really listening, and taking real steps to address their concerns.

Whether we agree or disagree on the specifics, the direction is clear:

They want accountability. We changed the way Congress conducts business. We brought term limits to the House floor for the first vote ever. We required Congress to live by the same laws as everyone else. We opened all committee meetings to the public and press, and we limited chairmen to a term of 6 years, probably the single most effective way to dismantle the arrogance of power that characterized past Congresses.

They want us to make the tough choices. We passed the balanced budget amendment and the line-item veto. And, we passed a first installment of $17 billion in real spending reductions.

They want us to stop assuming that Washington knows best. We passed legislation eliminating unfunded mandates on the States and put a halt to Federal regulations and red tape while preserving national standards for health, safety and the environment.

They are willing to try new approaches. We are all frustrated that Washington-imposed programs to solve the crises of crime and welfare have not worked. So, we proposed giving our States and local communities the flexibility and the resources to try new approaches. And, we have not overlooked the fact that the Government programs are not a substitute for personal responsibility or community involvement.

In all, I have cast over 280 votes so far this Congress. I am told that not since 1933 has Congress been so active in voting on major issues. I weighed each vote individually and carefully and I know that there is still much room for improvement in many of our proposals as we work with the President and the Senate.

While we have made a lot of progress, the Congress faces more tough choices in the next 100 days as we lay out a plan to balance the budget by 2002.

The goal is clear—we must bring spending under control and allow all Americans to control more of their hard-earned money. It is the specific choices that will be tough and New Jersey will not be immune to them even as our delegation works to assure that we get our fair share.

I remember the tough choices I had to make working on the budget in Trenton. As I did then, I will continue to listen to all my constituents and pledge to do my share to make these tough decisions with the utmost of care and fairness.

I will do my best to explain our decisions, although I would forewarn that some media and political "sound bytes" often have more persuasive power than do the facts. We need an honest dialog with our constituents, and I welcome their ideas at all times.

RADIO VISION'S 15TH ANNUAL VOLUNTEER RECOGNITION DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. GILMAN. Mr. Speaker, on May 6, 1995, Radio Vision, a service organization in my 20th District of New York which is staffed 100 percent by volunteers, will be celebrating it's 15th annual "Volunteer Recognition Day."

Radio Vision is a closed-circuit radio broadcasting service that provides news and information for the blind and sight impaired throughout 5 counties in the Hudson Valley region of New York. The volunteers who give of their time to provide the Radio Vision service free of charge to hundreds of sight-impaired persons is highly deserving of our gratitude and special recognition. Without Radio Vision, sight impaired people would have no access to the day-to-day information, especially regarding local events, that the rest of us all take for granted.

A sight impaired person's access to the media is limited to listening to radio and TV broadcasts that briefly outline national and world news stories. For a person that has difficulty holding or reading a newspaper, local news and happenings—such as the stores which are having sales, where new facilities have opened in the vicinity, and what our neighbors are accomplishing—is difficult to obtain. Without Radio Vision, a blind person has little or no access to information about his or her community.

Radio Vision provides a free closed-circuit radio to people who need help getting news. Over 100 volunteers read local news, topical literature, shopping hints and other vital information to the more than 400 blind, sight impaired or otherwise disabled Hudson Valley residents who subscribe to the Radio Vision service.

For the past 15 years, Daniel Hulse has done a superlative job as program director. In addition, Carol Cleveland has worked tirelessly to coordinate the volunteers who find time to aid disadvantaged members of their community.

Their voluntary hard work has enriched the lives of many of my constituents, and I am proud to honor them today.

TRIBUTE TO ERNIE PYLE

HON. STEPHEN E. BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. BUYER. Mr. Speaker, I rise today to commemorate the life of one of the most beloved Hoosiers of the 20th century on the 50th anniversary of his death. He was a man of strong character, unwavering dedication, and a common touch. Born in the American heartland, he became world famous by chronicling the struggles of countless "G.I. Joes" during World War II. His writing remains some of the most poignant and moving in the history of warfare. I speak, of course, of that most beloved war correspondent and friend of the common soldier, Ernie Pyle.

He was born in Dana, IN, on August 3, 1900. It could have been Anywhere, USA. An only child, he was a wiry, red-headed, shy boy raised on a farm. After a short stint in the Navy, he enrolled in journalism at Indiana University. Restless and eager to move on, he left school his senior year to pursue a career in writing. His early jobs included positions with the La Porte Herald Argus, the Scripps-Howard Daily News in Washington, DC, and the Evening World and the Evening Post in New York.

Ernie Pyle began his career as a syndicated columnist in 1935 when he took a 3 month sick leave from the Washington Daily News and toured the country by car with his wife, Geraldine Elizabeth Siebolds. Returning to Washington, he wrote numerous columns describing his experiences. His chatty style, which became his trademark, was popular with readers and the Scripps-Howard group created the post of roving correspondent for Pyle. In this position, he criss-crossed the continent 35 times gathering material for his columns.

Ernie Pyle's first experience with war came in 1939, when he was sent overseas to cover the outbreak of World War II. His early coverage of the Nazi bombing of London was so gripping that his dispatches were cabled back to Britain for readers there. Soon Pyle found himself accompanying military units to the various fronts that developed as the war progressed. It was here that Pyle developed his now famous love for the combat infantryman—the "G.I. Joes" of the U.S. Army. His coverage of the North African campaign, written in the folksy style that became his trademark, included the names and hometowns of the junior officers and men who actually did the fighting.

Known affectionately as "the little guy,"—he weighed only 110 lbs—Pyle accompanied the soldiers through North Africa and into Sicily. His writing is best described by Pyle himself:

> I only know what we see from our worm's-eye view, and our segment of the picture consists only of tired and dirty soldiers who are alive and don't want to die; of long darkened convoys in the middle of the night; of shocked silent men wandering back down the hill from battle; of chow lines and atabrine tablets and foxholes and burning tanks and Arabs holding up eggs and the rustle of high-flown shells; of Jeeps and petrol dumps and smelly bedding rolls and C-rations and cactus patches and blown bridges and dead mules and hospital tents and shirt collars greasy-black from months of wearing; and laughter, too, and anger and wine and loverly flowers and constant cussing. All these things it is composed of; and graves and graves and graves.

Exhausted, Pyle returned home following the invasion of Sicily, only to return to Europe in time to cover the Italian campaign, including the Anzio landing. Although sick with anemia, it was here that Pyle wrote his most famous column on the death of Capt. Henry T. Waskow of Belton, TX. He returned to England in April 1944 to await the invasion of Normandy. During this period, he received the Pulitzer Prize for his war correspondence. He continued his coverage of the European theater from the Normandy landings to the liberation of Paris. After 29 months overseas and 700,000 written words on the war, Pyle returned home once again.

His restlessness continued. Half-bald, gray and thin, Pyle declared himself a deserter, and decided to return to combat, this time in the Pacific. He landed with the 77th Infantry Division on Ie Shima in the Ryukyus on April 17, 1945. It was here that Pyle's luck ran out. After spending the night under fire, he started out for the front in a jeep on the morning of April 18. Caught in a machine gun ambush, he dove into a ditch for cover. He was killed minutes later by a Japanese sniper when he raised his head. On learning of his death, the Secretary of War stated that "They like him because he talked their language. They trusted him because he reported them faithfully to the public at home."

Originally buried where he fell, Pyle's body was later interred on Okinawa and finally at the National Memorial Cemetery of the Pacific, the Punchbowl Crater, Hawaii. But he was never forgotten in his home in Vermillion County. In 1975, Pyle's farmhouse was moved into Dana and became a museum. On April 18, 1995, 50 years after his death, two Quonset huts will be dedicated as additions to this museum to store his memorabilia. There can be no more fitting symbol to honor a man who covered America's finest in the farthest points of the globe.

Today we remember Ernie Pyle. Not for his Pulitzer, or his honorary degrees, but for his common touch. We remember him because 50 years ago, in a world at war, he reminded us that it is people—regular, everyday people from places like Dana, IN—who love, and fight and die in war. It is for this reason that as long as we remember World War II, we will remember the chronicler of America's G.I. Joes—Ernie Pyle.

TRIBUTE TO THE MACOMB COUNTY INTERFAITH VOLUNTEER CAREGIVERS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. LEVIN. Mr. Speaker, I with to extend my congratulations to the volunteers and staff of the Macomb County Interfaith Volunteer Caregivers as they celebrate their first ever Volunteer Recognition Evening.

The Macomb Chapter of the Interfaith Volunteer Caregivers was established in 1993 to serve the older and physically challenged adults living in the community. These adults were struggling daily to maintain their independence. Interfaith discovered that a little extra help could make the difference between staying at home and moving into a nursing facility.

Macomb County Interfaith Volunteer Caregivers is an interdenominational network of local religious congregations joined together to respond to basic needs of those needing assistance. The program matches centrally trained volunteers of all ages with older and physically challenged adults to provide such services as housekeeping, home maintenance, shipping, transportation, and friendly visits. Because of the generosity and compassion of the program's 400 volunteers, the skilled management of Program Coordinator Karyn Dombrowski, and the strong commitment of the board of directors, the services are offered completely free of charge.

It is clear that faith and community involvement are key elements in the lives of all of the volunteers. Their sense of responsibility and concern for others have made the Macomb County Interfaith Volunteer Caregivers a truly remarkable organization.

My best wishes to all of the incredible volunteers on this special evening.

TRIBUTE TO ACCESS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. DINGELL. Mr. Speaker, I wish to take the opportunity to congratulate and call to the attention of my colleagues an organization in my congressional district dedicated to the well-being of a rich and vibrant community in Dearborn, MI. The name of the organization is ACCESS, which has delivered immeasurable social service throughout its existence and is marking its success with the ACCESS annual banquet on April 8, 1995.

As a Member of Congress, it is a distinct please to serve what is commonly recognized as the largest community of Arab-Americans in the United States. Like every other person I represent in my congressional district, Arab-Americans are busy raising children, running their businesses, getting involved in local civic, cultural, and religious organizations, and trying to make the most of the American dream.

The executive director of ACCESS is Ismael Ahmed, an individual with whom I have worked to help secure support for health care, education, other support services for persons in need. During Ish's tenure, ACCESS has gone from a simple shop to a sophisticated organization. This parallels a renaissance in many neighborhoods in our Arab-American community, and tremendous growth in Arab contributions to the local, regional, and national economy.

Throughout our history, the American dream has represented the sum of our citizens' hopes, ambitions, and struggles to build a better life for ourselves and our children. Arab-Americans are only one more group of people who are successfully building their lives and planning better futures for their children. This success rests in part on the dedication of ACCESS to providing people with the means they need to overcome cultural and language barriers and become a part of our rich national fabric.

JIMMY STEWART MUSEUM TO OPEN IN INDIANA, PA

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. MURTHA. Mr. Speaker, one of America's best-loved actors over the last 60 years is Jimmy Stewart. Recipient of the Academy Award for best actor for "The Philadelphia Story" in 1940, Jimmy Stewart appeared in more than 80 full-length feature films and numerous television specials. Who can forget his performances in such American film classics as "It's a Wonderful Life" and "Mr. Smith Goes to Washington"?

Although Jimmy Stewart is best recognized for the many film roles he played, too many people forget the role he also played as a fighter pilot in World War II. Less than a year after winning the Academy Award, he was in training in the Army Air Force, and by 1943 he was in command of a squadron in Europe. He returned from World War II a veteran of over 20 combat missions, and he's one of the true American heroes that we honor in 1995, the 50th anniversary of the conclusion of World War II. When he returned from the war, he didn't immediately go to Hollywood; he did what thousands of American soldiers did, and went back to his hometown—in this case, Indiana, PA.

Indiana, PA, is the birthplace of Jimmy Stewart, and this western Pennsylvania town is justifiably proud of its native son. To celebrate his 87th birthday on May 20, the James M. Stewart Museum in Indiana will be dedicated. The town is planning a gala celebration, including a dinner, parade, and ribbon-cutting ceremony.

The James M. Stewart Museum is bound to be a favorite stop for movie buffs all over the United States. I'd like to salute the folks in Indiana, PA, who have worked tirelessly to put this museum together and make it a place which tells the Jimmy Stewart story. And most of all, I'd like to salute Jimmy Stewart, the actor who has brought us many hours of pleasure in his movie and television roles, the American hero who fought for his country, and the native son of western Pennsylvania who has never forgotten his hometown.

HONORING JOE ALEXANDER

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. DAVIS. Mr. Speaker, I rise today to pay tribute to one of Virginia's best known and most successful political leaders, who is retiring from public office after 32 years of service. Joseph Alexander, known as "Metro Joe," or "The Baron of Lee District," has announced he will not seek reelection to the Fairfax Board of Supervisors from Lee District. He is being honored by the Fairfax Chamber of Commerce at this annual turkey roast on April 22, 1995.

Joe grew up in Franconia, where his father, Milton Alexander, established the Franconia Hardware Store at 6124 Franconia Road. His mother, Celia, was the local post mistress at the Franconia Post Office, which was located in the same building with the hardware store.

Joe moved on to attend college at Virginia Tech, where he served with the Corps of Cadets all 4 years of his stay. He graduated in 1951 with a degree in business administration and a commission of second lieutenant in the Air Force. Joe continued at Tech in 1952, and pursued a degree in public administration. He was called to duty this time and went to flight training. He served in the Korean war as a first lieutenant until 1955.

After leaving the service, Joe returned to Fairfax County and joined his father in the family hardware business, and became active in the Springfield Chamber of Commerce, where he served as president from 1959 to 1961. Prior to his leadership role with the chamber, Joe met Davina Einbinder, a Washington, DC, native. In June of 1956, they married and moved into the Rose Hill area of Lee District, where they have continued to live to this day.

While serving in the Springfield Chamber and being active in the community as a local businessman, Joe became interested and concerned about the future of Fairfax County. Other area businesses were also concerned that there was no representation for the business community on the Board of Supervisors during 1960. They began to press Joe to run for the Lee District position on the board. Joe decided to enter the race in 1963. With the Franconia Hardware Store as his headquarters, Joe received a large amount of public support from the Springfield Chamber, local fire fighters, and a number of Lee District communities. His bid for the seat was successful, and in 1964 Joe was sworn in as a member of the Fairfax County Board of Supervisors.

Joe always showed a strong interest in transportation issues, and in 1971 he was appointed as an alternate member of the Metro board. He was instrumental in getting the citizens of Fairfax County to approve bonds to finance the regional Metro system. He became a principle voting member in 1973, and he further advanced the organization to serve as chairman of the board four times: 1975, 1981, 1987, and 1993.

Some of the organizations that Joe helped organize as a county boardmember were: the Economic Development Authority, the South East Fairfax Development Corporation, and he pushed the county to begin promoting tourism. Joe has always been one of the most stable business leaders on the Board of Supervisors.

He has always paid attention to local concerns, and as the Lee District boardmember, he has personally been responsible for the completion of over at least 200 million dollars' worth of public projects in Lee District. Projects range from neighborhood improvements, parks, drainage protection, trails, street lights, intersection improvements, new roads and streets, conservation and environmental projects, the Huntington, Van Dorn, and Franconia-Springfield Metro stations, as well as a number of other projects that are too numerous to mention.

During all of this time, he was very active in the American Public Transit Association [APTA]. The association represents all of the transit systems in the United States and Canada. Joe was elected vice president of APTA in 1981, and was elected chairman of APTA in 1982. He served as chairman until 1984. Joe developed a tremendous amount of knowledge about transit operations around the country.

Because of his transit experience, Joe was asked to join Ernst & Young and help develop the National Transit Consulting Practice. Joe left Perpetual in 1987 to go to work for Ernst & Young. He spent the next 5 years developing the transit practice and working with transit systems in Los Angeles, Atlanta, Chicago, Miami, and many other cities. Joe left Ernst & Young in 1992 to create the Alexander Group, in order to pursue additional consulting opportunities.

He is presently serving as the APTA membership committee chairman, president of the Virginia Association of Transit Officials, a member of the Virginia Railway Express Operations Board, a member of the NVTC Board, and a member of the Metro Board.

Joe and his wife Davie have two daughters, Cathy and Cheri, both graduates of the Fairfax County school system. Davie presently serves as the executive director of the Mt. Vernon-Lee Chamber of Commerce.

Mr. Speaker, I know my colleagues join me in honoring Joe Alexander for his 32 years of public service and wish him and Davie continued success in the years ahead.

TRIBUTE TO OTIS BOWEN

HON. MEL HANCOCK

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. HANCOCK. Mr. Speaker, Dr. Otis Bowen is one of the finest people God ever put on Earth. Indiana is justifiably proud of him and John Krull has captured Doc's goodness beautifully in the following article:

BOWEN REFLECTS ON LIFE OF POLITICS

POPULAR FORMER GOVERNOR STILL HOLDS GREAT INFLUENCE

(By John Krull)

BREMEN, IN.—Otis Bowen singles out one photograph on his wall of memories.

It is near the edge of one of the walls of a long hallway. Almost every inch of space is covered with certificates and pictures—photos of Bowen when he was in the Indiana Legislature, when he was governor, when he was the secretary of Health and Human Services in Ronald Reagan's Cabinet.

The images on Bowen's walls are a fairly comprehensive photographic record of recent American political history. There are pictures of Bowen with many of the most powerful politicians of the past 30 years. Richard Nixon. Gerald Ford. Jimmy Carter. Reagan. George Bush. Dan Quayle. Richard Lugar. Robert Orr.

As he points to one photograph, though, the former small-town doctor reveals something of the political know-how that made him one of the most popular politicians in Indiana history.

The picture is of the staff at the Department of Health and Human Services. In it, former Surgeon General C. Everett Koop is seated near Bowen.

"Koop was kind of a character," says Bowen, 77. "But Chick—that's what we called him—had great credibility with the media. So, whenever we had some idea we wanted to explore or try to get a fair hearing, we'd send Chick out to talk about it. It worked pretty well that way."

That hidden-hand style of leadership was one of the qualities that made Dr. Otis Bowen such a formidable politician, says William J. Watt.

"One of Doc's supporters had a saying that sort of captured it," says Watt, who wrote a book about Bowen's years as governor after serving as one of his executive assistants.

"He said that Doc always let other people have his way. That was the way he operated. He could control things without letting other people know it."

Watt attributes Bowen's success to several factors.

"Doc is very intelligent, but he has a greater sense of focus than a lot of intelligent people do. He had a very clear sense of what his priorities were. He knew what he wanted and he could be very determined in going after it. He would not quit or back off. And he could be very, very tough."

So tough that for a long time Otis "Doc" Bowen—the pride of Bremen, Ind., a small town not far from South Bend—practically ruled the political arena in Indiana.

In 1972, he ran for governor against a popular former governor, Matthew Welsh, and won convincingly. In 1976, he trounced then-Secretary of State Larry Conrad to win re-election.

In 1980, a young member of the U.S. House of Representatives felt compelled to ask Bowen if he intended to run for the U.S. Senate that year. Only after Bowen said he wasn't interested did Dan Quayle feel it was safe to enter the race.

His shadow has proven to be so long that rising Hoosier Republicans still feel the need to seek out his counsel and blessing.

"They still come up here. In the last election, a fair number—David McIntosh, Sue Anne Gilroy and some others—came up to sit down and ask my advice. It was gratifying to know that they haven't forgotten me," Bowen says, and smiles.

"Up here" is a converted barn on the outskirts of Bremen. It is a large, open house filled with memorabilia and souvenirs. Along the mantle atop the fireplace is a collection of ceramic elephants.

"Every time you speak at a Lincoln Day dinner, they given you an elephant. I've lost track of how many I have," he says.

It is the home Bowen built in the early 1970s with his first wife, Elizabeth, who died in 1981. They had been married for nearly 42 years at the time of her death.

She was the reason he did not run for the U.S. Senate.

"Her health was failing and she had to be my first priority," he says.

Later that year, he married an old friend, Rose Hochstetler. Because of his service in Washington, he only got to live in this house for a short time with her before she died in 1992.

He now shares the home with his third wife, the former Carol Mikesell.

He had known her for much of her life—even delivered her children. But they had lost touch during the years he was governor. She, too, had been married twice.

They became reacquainted at a political fund-raiser he held at his house in 1992. At the time, she was working at a bank in Warsaw.

Their courtship did not begin right away.

"It took me about a month or more to work up the nerve to call her," he says.

When he did, they went to dinner in Fort Wayne.

"We knew pretty quickly that it was going to be serious," says Carol, 52.

They were married two years ago in the living room of the house, right in front of the fireplace with all the elephants. It was a small ceremony with only family members present.

Bowen says Carol helped him recover a zest for living.

"I have to give Carol much of the credit for turning me around. She made all the difference," he says.

When he met her, he says, the loss of his second wife still was fresh. The deaths of his two wives have been the most difficult things in his life.

"The grief was just devastating. You have six or eight months when you can't eat or sleep or even think about much. You lose 25 or 30 pounds and you wonder if you can go on," he says, shaking his head.

"But then there comes a point when you get tired of feeling so bad. You realize that you have to go on living. It's hard, but you do it."

He teases Carol about not being politically active.

"I don't even know if she voted for me," he laughs.

"Of course I did," she says, laughing too.

He and Carol now try to stay close to home. They work outside on their five acres of land. They journey into Bremen once a day. And they travel around the state, when Bowen delivers one of his many speeches, mostly about health-care issues.

Carol quit her job at the bank. Bowen says he's going to try to cut down on the number of speeches he makes. They plan to travel together some, but mostly they hope to enjoy their home and each other.

"This is a pretty good size bit of land, and we work on it ourselves, because we like that. And we want to spend the time together," he says.

Bowen says he doesn't know exactly why he was so popular with Indiana voters.

"Maybe it had to do with my medical training. You're taught as a doctor not to panic or act rashly in difficult situations," he says, and then he changes the subject.

His biographer and former aide William Watt sees it differently.

"With Doc Bowen, the public man and the private man were one and the same. There was a genuineness to the man people responded to," he says.

What's more, Watt says, Hoosiers remember the 1970s—the Bowen years—with fondness. Government and its problems seemed smaller and more approachable then.

Bowen recalls those days with affection, too.

"I miss the people contact," he says. "As governor, you always were with people, working with them, getting things done. I miss that."

He does not view his days at the Department of Health and Human Services with the same warmth he does his days at the Statehouse.

"I didn't enjoy my time in Washington as much. As governor, you could get things done. But in Washington you had more than 500 bosses in Congress to answer to and bureaucrats to frustrate you. You never seemed to make contact with people," he says.

Still, there were people in Washington he respected.

"Gerald Ford was my favorite president, because he was just a good, down-to-earth man. He had common sense, and that's the most important thing.

Ford's successor in the White House, Jimmy Carter, also merits a spot in Bowen's affections.

"I don't think he was a very good president, but he is a fine man. He wanted to do the right things, but his management style undid him. But he is one of the nicest men you would ever want to meet," he says.

Closer to home, there are many people Bowen misses.

Again and again, as he points to people in the pictures, he has to say, "he has since died" or "he passed on a few years ago."

One person he mourns is one of his predecessors in the governor's chair and an occasional political adversary, Roger Branigin.

"He was a good man," Bowen says. "He was likable, personable and very open. It wasn't hard getting in to see him when he was governor. In fact, it could be kind of hard getting out of the office, because it was so pleasant to pass time with him and he enjoyed people so much."

Bowen says that some Indiana Republicans don't entirely accept the fact that he is retired.

"Some people have come up here to try to talk me into running for governor again," he says.

"I don't know if they were serious or if they were just trying to flatter me. I told them that I'd had my time at bat and it was time to let younger folks have their try."

Watt says he's not surprised that some people would want Bowen to run for governor again.

"Doc made people feel comfortable. It wasn't his style to have public confrontations. He seemed to make things work, and people liked that," he says.

That style manifests itself even in the way Bowen assesses his own career.

"I've been fortunate. Sometimes I almost have to pinch myself," he says.

"I've been a governor and I've worked with presidents. But then you realize that people of power and prominence came to their positions through some quirk or accident of fate, and that basically they're no more intelligent than you are. When you realize that, you can just go about doing what you have to do. That's what I tried to do."

HONORING THE CESAR CHAVEZ WRITING CONTEST AWARD WINNERS OF THE EAST SIDE UNION HIGH SCHOOL DISTRICT

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Ms. LOFGREN. Mr. Speaker, I rise today to recognize more of the winners of the first annual Cesar Chavez writing contest held by the East Side Union High School District in San Jose, CA. I had the great privilege of attending the award ceremony honoring the student winners on March 31, 1995, and would like to continue sharing the essays and poems written by the student award winners with my colleagues.

Yesterday, I began by sharing the essays and poems of the grand prize winners and three of the first place winners, and today I will share the five remaining first prize entries, and the first three of eight second place winning entries. Tomorrow, I will share the remaining five essays and poems of the second place winners.

The first prize winning essays and poems of Lisette Munoz of W.C. Overfelt High School, Ahmed Desai of Piedmont Hills High School, Brenda Reyes of Silver Creek High School, and Eulala Reynolds of Yerba Buena High School follow:

Lisette Munoz of W.C. Overfelt High School.

CESAR CHAVEZ

To some he was a hero but he only saw himself as a man.
A man I believe put on this earth to help the disadvantage.
His struggle was not easy for he faced much prejudice.
An acquired prejudice brought upon be ignorance.
His people, he saw hunched over in the fields, sweat upon their brows, pain in their backs, hands blistered and skin darkened from the sun.
All eyes were wide open, everyone looked around but no one took stand.
Cesar Chavez felt something in his gut this was 'El Movimiento.'
He stood amid the mist of the pesticides and began to walk, and surprisingly, the people followed.
He then knew that all the people needed was a leader who was dedicated to his cause.
He fasted so that people would listen.
He pointed out the forgotten ones.
Babies deformed by the hands and inventions of man.
He did what he needed to so change would come about.
He did all this but his body couldn't withstand the battle.
He entered the souls of his followers, and his spirit became the agila on our flag, soaring to continue the unfinished struggle.

Ahmed Desai of Piedmont Hills High School.

DEDICATED TO A DEDICATOR

In a modern world dominated by models who are athletic superstars, rarely is society given the gift of a true hero. The late Cesar Estrada Chavez was and continues to be such a unique individual who deserves the title of "genuine model." Chavez is an inspiration to many, and a teacher to all. There is much that he stood for, and even more that today's youth can learn from him.

A servant not to his own wants and desires, but rather to those of his community, Cesar Chavez reminds the young to put the needs of others before one's own. He utilized the tactics of civil disobedience and peaceful protests only to bring about change for the better and for society, and not for his personal gains or rewards. Armed with a strong dedication, yet a descendant of a poor background and minority ethnic group, Chavez proved that anyone, anywhere, with perseverance, can succeed and make a difference. Withstanding and conquering numerous obstacles, he neither gave up nor lost hope. He worked long and hard, rested little, and made nothing come between him and his goal. As a result of years of continuous struggles, Cesar Chavez achieved his goal and gained rights for farm laborers. Youths of today can see themselves in Chavez, as they prepare their future aspirations and discover ways to accomplish them. As a model, Cesar Chavez teaches youngsters that the best and only method for success is through dedication and persistence.

Cesar Chavez lives on as a leader to whom teens can relate and look up. He was human and knew his strengths and limits. He did not only talk about ideas, but took charge and did things to make them a reality. Chavez, even with his short stay on earth, proved that a lot can be done in and with so little. Moreover, he made the most of what he had and did not ask for more than what he felt was deserved. The lifestyle that he led includes many lessons that can be beneficial to today's new generation. Let us reflect the past actions of Cesar Estrada Chavez, a great humanitarian. Feliz Cumpleaños, señor Chavez.

Maria Gonzalez of Santa Teresa High School.

BATTLE

He fought for what was right,
It didn't matter if it was
Day or night.
He fought for our race,
And battled face to face
With the dangers we find
When we are the alien race.
Latino, Hispanic, Chicano
Some of the names he was
Called.
Proud to be who he was,
And what he stood for,
Equality.
He was a leader urging us to
Fight.
A leader explaining our right's.
Our right's as people
Our right's for freedom
Our right to come to this
Country, fight the odds, and
Win.

Brenda Reyes of Silver Creek High School.

"WHO IS HE?"

The fields were his life.
Los files eran su vida.
The crops in the fields were his life.
Las cosechas que crecian en los files, eran su vida.
The people picking the crops in the fields, were his life.
La gente que cortaba la cosecha en los files, eran su vida.
The pesticides that fell upon the people, became his enemy.
Los insecticidas que caian sobre la gente en los files, se convirtieron en su enemigo.
They became his concern.
Ellos se hicieron su preocupacion.
His struggle.
Su batalla.
His fight.
Su pelea.
But no one cared.
Pero a nadie le importo.
"I will make a difference" he said.
El dijo, "Yo hare la diferencia."
"I will bring justice" he said.
El dijo, "Yo traire justicia."
"Something will be done!" he said.
"Algo se hara!" El dijo.
But no one listened.
Pero nadien escucho.
"No grapes" he yells.
"Uvas no" El grita.
Who is he mommy?" a little girl asked.
"Quien es el mami?" una nina pregunto.
"I do not know" the mom answers.
"No lo se" contesto la madre.
"One day I will be like him, mommy." the girl said.
"Un dia sere como el mami." dijo la nina.
"I will fight for what I believe, and I will be a leader."
"Yo peleare por mis creancias y sere una lider."
"Many will believe in me, and I will believe in myself too."
"Muchos creran en mi, y yo crere en mi misma tambien."
"Crowds will come to listen to my words of wisdom, and there will be those that will want to stop me."
"Grupos bendran a oir mis palabras de sabiduria y habran unos que quedran interponer."
"But no one will suceed."
"Pero nadie lo hara posible."
"I will organize my own march's, and those who believe in me will follow."
"Yo organisare mis propias marchas, y esos que crean en mi, me sequiran."
"The sore blistered feet will be my reward."
"Los pies mayugados y ampollados, seran mi recompensa."
"I will have hunger strikes, as he."
"Yo trende guelgas de hambre, como el."
"And the grumbling of my stomach, will be my reward."
"Y los grunidos de mi estomago, seran mi recompensa."
"I can't wait to grow up mommy."
"No pudo esperar para crecer mami."
"I want to be just like Cesar Chavez."
"Quiero ser igualita que Cesar Chavez."
"It can be done, huh mommy?"
"Si se puede, eh mami?"
"Yes honey, it can be done." The mom smiles.
"Si mija, si se puede." La mama sonrie.

Eulala Reynolds of Yerba Buena High School.

CESAR CHAVEZ

Raw, callous, sun, rain
Eternal work, labor, pain
Grief, hurt, no reward
Living land a sharpened sword
Struggle, family, one thing clear
Survival, essential, defeat near
Uprooted and adrift behold!
For this an endless story told!
What one voice and truth is heard?
A man with whom a piercing word?
Loud for absorbed by truckloads of women and men
Who flight for justice again, again
The power of nonviolence but yet a war
Lead by him to soothe the wound
The wound an open cut, a pool desolate, defeat, doom
The union "La Causa" it's birth not a breech

Gallo wine, grapes, lettuce beseech
For had "La Causa" slowly climbed it's way
The picket march exist today
Child labor put to ends
By well pronounced fighting friends
Cesar Chavez stood brave, tall
His lifelong dream, "live for the cause!"
For now over is the war
Still the wound remains, a scar.

The second prize winning essays and poems of Lauren Droira of Andrew Hill High School, Eve Zuniga of Independence High School, and Troy Arevalo of James Lick High School follow:

Lauren Droira of Andrew Hill High School.

CESAR CHAVEZ'S TESTIMONY TO MODERN SOCIETY

A splendorous eagle soars through the boundless skies above on a quest to grasp the seemingly unattainable star.
Off in the horizon a muffled roar:
Come accompany us in accomplishing such a dream which appears so far.
Ferocious winds encompass the creature, through it valianty persists onward, an astonishing feature.
Cesar Chavez: a dauntless, intrepid warrior;
One who strived throughout his entire existence to eradicate the actual barrier.
Racism? Latino farmers impetuously toil throughout the day,
Hoping to be paid by the sun's final ray.
Injustice? Living conditions were quite squalor,
Personal wages as meager enough to leave a child's stomach hollow.
Such reasons fed the brewing red fire of descreation;
Protests, tumults, riots were born Mr. Chavez as the chieftain.
"SOCIAL JUSTICE!" exclaimed the impoverished multitude,
And the truth was revealed bare and crude.
Now this great moment in time,
Has influenced the viewpoints of society's mind.
One can rationalize that such minorities stand beneath the human category, if you will,
Regardless of their customs, ethnic backgrounds, or skill.
Regressing to the era of John Locke and his corresponding theories,
One recalls the Natural Rights: the right to life, liberty, and property.
To whom was such theory directed towards?
Why the people of the world, of course!
Analyzing this statement, one can discover some significant aspects;
CORRECT! Humans possess rights to live independently, to survive, and to own, though obliged to comply with the present-time precepts.
For instance, this world can be pictured as a vast rainforest filled with thousands of different species,
Among such myriad of creatures exists humanity.
Each member must stand in one accord in order to endure
The process in maintaining freedom and composure.
Sacrificing every ounce of material obtained for his fellow agriculturers,
Including the faithful supporters,
Chavez eventually was depicted as a unique, symbolic figure for migrant worker's ethics,
Simultaneously promoting social justice.
Influentially, Chavez's devotion and dedication in transforming the "old society",
Has conclusively become our tenacity to continue striving for equality.
Yet beyond its effect on society's established regulations,
Chavez's perseverant character has modified even the most desperado of people into diligent beings possessing substantial aspirations.
During his amazing fulfillment,
Cesar Chavez's speaking contained moral relevance.
"The beauty of life is not what surrounds us,
but the compassion and charity we have within our hearts."
Human beings tend to rank others according to outer bearings,
Though interior values possess greater meanings.
Considerate, abased, and anxious,
Cesar Chavez could very well represent a golden sack of morals, so virtuous.
Similar to Dr. Martin Luther King and Ghandi,
Who both likewise elevated the social rights of their corresponding people utilizing a
manner of fiery resolution and obstinacy,
Cesar Chavez can be illustrated as the deliverer of his own compatriots,
The stalwart defender who blanched the obscure unrighteous spots.
In history such standard bearer that prominently
Exudes in determination to conquer the epitamy,
Specifically for his fellow workers and racial minorities,
Is highly commended in the present times,
And will be in the future minds.

Eva Zuniga of Independent School.

"CHARITY"

All to many times while I was young, I was asked who my hero was. I had never stopped to think about the importance of this question until recently. Throughout my education I was given research assignments that require me to learn the lives of many people. I knew that these people were important to many people and I thought what they done was great but, I never felt a touching emotion for these people. I asked many people including teachers and friends what makes a hero heroic? However, I never found an answer that was suitable to me. I decided to compose a search of my own on what a hero should be and I realize that the characteristics of a hero couldn't be found in an encyclopedia article nor in a definition in a dictionary. It was a feeling you feel in your heart. It's a definition you crate on your own to fit your personal beliefs.

After reading about the life of Cesar E. Chavez I finally felt gratitude for a man who has brought so much knowledge to the lives of many. Cesar was born into a family with little of their own and nothing to spare. He learned the ways of life from his work in the farming fields of California. With little education and a strong will in life Cesar grew to be a leader, a man who took action, someone who speaks up, a man who will fight until he wins or die trying. He helped his fellow farm workers by gathering people who believed that working in the fields where poisonous gases are sprayed and threaten the lives of men women and children. He rallied against every health problem, every underpaid and overworked individual farm worker. This wasn't a job for Chavez, it wasn't something he was paid to do. It was a what he believed and what he knew his people deserved.

Many times Chavez risked his life for the welfare of his people. He starved himself for long periods of time to express his strong beliefs and he sacrificed anything to bring his people to a better way of life.

Chavez fought for the dreams of thousands of people and their families. The time, the effort, and the courage that Cesar has shown us we should honor and respect. He has taught many lessons, fought many battles and he has left us with the knowledge to fight on.

Troy Arevalo of James Lick High School.

CESAR CHAVEZ

He struggled, with persistence, for the rights of the oppressed,
And in striving to bring about a change, he did not rest.
Despite the disheartening atmosphere in which he matured and grew,
Chavez became the type of leader only of which there are a few.
The needs of his people fell upon uncaring ears,
And through his fight for liberation, there fell many, many tears.
Although many Mexicans were helped by Cesar Chavez in bringing an end to their plight,
He emphasized that his crusade was for all people, it was not just a Mexican fight.
Chavez's organization of unions attracted many powerless people who would not confront the growers who proved to be formidable,
But to gain liberation, he was surely capable.
Because of his efforts in trying to help the California farm worker, his movement gained empathy from much of the nation,
But there was still prejudice from many, many people against the workers in the organization.
In order to form the union, Chavez went from door to door.
In the end, when the workers had gained their liberation, it did not matter that they were all poor.
After spending five years of his life for his people's liberation, Chavez finally succeeded,
But these rights were by far not easily gained, but greatly needed.

THE FIRST 100 DAYS

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. SABO. Mr. Speaker, I rise today to share my deep misgivings on the first 100 days of the 104th Congress, the first 100 days of Republican Party control, and the most grim 100 days I have served as a Member of the U.S. House of Representatives.

On September 27, 1994, the national Republican leadership, led by Congressman NEWT GINGRICH, proposed a Contract With America. They pitched it as a magic formula for everything that ails us. Eliminate crime. Reduce the deficit. Increase defense spending. Cut taxes on the rich. On April 7, 1995, the Republicans led by the new Speaker, NEWT GINGRICH, will celebrate their accomplishments.

But what are the true accomplishments of the Republican leadership? And who are the primary beneficiaries? The answer to these questions might surprise the average taxpayer.

The Republican Contract With America was advertised with great sounding slogans including: The "Fiscal Responsibility Act," the "Taking Back Our Streets Act," the "Personal Responsibility Act," the "Family Reinforcement Act," the "American Dream Restoration Act," the "National Security Revitalization Act," the "Senior Citizens Fairness Act," the "Job Creation and Wage Enhancement Act," the "Common Sense Legal Reform Act," and the "Citizen Legislature Act."

As I reflect on these bill titles, it is hard to imagine how anyone could be against such straightforward proposals. However, hidden behind these clever and appealing names are very dangerous efforts to systematically employ a reverse-Robin-Hood scheme—to take from the most vulnerable in our society and give to the most affluent.

"JOB CREATION AND WAGE ENHANCEMENT" OR CUTTING TAXES FOR THE RICH?

The Republican tax cut proposal, or the crown jewel of the contract, benefits mostly those at the upper end of the income scale. The capital gains tax cut is a boon to wealthy investors—with more than three-quarters of this tax cut going to people with incomes of more than $100,000. The child tax credit will be given to families with incomes of up to $250,000 a year. When taken together, these tax cuts are clearly skewed to the privileged few who already have the most wealth.

For example, consider two average families that decide to spend their tax savings on education. The family earning less than $75,000 a year would be able to pay for about three-quarters of the cost of books. Their tax break would be $432 a year. But the family earing more than $200,000 would be able to pay for all tuition and fees, books and supplies, room and board, transportation, and every other cost of a public college. Their tax break would be $11,266 a year.

On the whole, the wealthiest 10 percent of families get 47 percent of the benefits. The wealthiest 1 percent get 20 percent of the benefits of the tax cuts. That is simply not fair.

Even if you look only at the child tax credit, the trend is the same. The Republicans were careful to make the credit nonrefundable. This means that lower income families could not receive the full $500 per child tax credit because their tax burden is not high enough, but those earning up to $200,000 would get a full tax credit. A full 35 percent of American children will receive no benefit from the children's tax credit: Thirty-four percent because their family's income is too low and only 1 percent because their family income is too high. Further, by the year 2005 the so called childrens' tax credit will account for less than a quarter of the overall tax cuts.

At the same time, the Republican leadership has proclaimed that they would not bring up a tax bill until they could pay for it, but that is not what is happening here. They do eliminate and slash some very important Federal programs, but they still do not cut enough to pay for their extremely expensive tax cuts. In fact, the combined effect of their tax and spending cuts will increase the deficit by $12 billion in the year 2000.

Besides being misdirected and extremely expensive what are some of the offsets? Not surprisingly, they take money from programs designed to assist those with the least income.

"PERSONAL RESPONSIBILITY" OR TURNING BACKS ON THOSE MOST IN NEED?

Recent action on welfare reform provides a particularly vivid display of the Republicans' attitude toward disadvantaged Americans. The new majority voted in favor of a rash attempt to reform welfare by dismantling the safety net that protects children and their families.

Virtually every American agrees that the current welfare system must be reformed. Most of us also have a clear vision of what a successful welfare system would accomplish: It would put people to work. Yet, the Republican plan overlooks this goal. Instead, it cuts finding for child care and weakens Federal support for job training programs. The Republican plan would actually make it more difficult for people to get jobs than it is under current law.

Unfortunately, the damage does not stop there. This legislation seeks to slash spending on programs that provides school lunches to hungry children and protect children from child abuse and neglect.

If we are to measure the success of welfare reform by its effectiveness in putting people to work and its capacity to protect children from the dangers of poverty, the Contract With America clearly fails.

"TAKING BACK OUR STREETS" OR TAKING POLICE OFF THE STREETS?

The Republican crime bills take funds Congress designated last year for an additional 100,000 police on America's streets and crime prevention programs and reallocates it to build more prisons. If we can keep more cops on our streets and more kids out of trouble, we won't have to keep building more jails. It is naive to believe that we will solve America's crime problem by warehousing the criminal element in our society. We must reach out to the inner cities and other high crime areas with policies that help stop criminal activities before they begin. The Republican approach of building more prisons at the expense of police and prevention programs will never attack the true root of America's crime problems.

"COMMON SENSE LEGAL REFORMS" OR LIMITING JUSTICE FOR THE COMMON PERSON?

Without a doubt, certain aspects of our Nation's legal system need to be changed. Too many lawsuits are being filed in America's courts. Unfortunately, many of the provisions found in the commonsense legal reform package don't make much sense. The contract tort reform legislation is an assault on the safety of the American people. If enacted, this legislation would result in more unsafe products, more injuries, and less compensation for those who are hurt because of corporate misconduct.

The bill's cap on punitive damages at three times the claimant's award for monetary losses—such as wages and medical bills—or $250,000, whichever is greater, removes the incentives corporations currently have to avoid developing and marketing unsafe products. While $250,000 may be enough to stop small mom and pop businesses from making unsafe products, Fortune 500 companies could simply incorporate the fine as a cost of doing business and sell dangerous goods. With such changes, would unsafe products such as the exploding Pinto become more common?

Not surprisingly, this legislation also discriminates against the most vulnerable members of our society. Under these same caps, a corporate CEO might be able to recover $1 million in punitive damages while an elderly couple living on Social Security would have their damages limited to $250,000. If this is commonsense legal reform, we need to redefine common sense.

"NATIONAL SECURITY RESTORATION" OR THE GREAT DEFENSE BUILDUP CONTINUED?

The Republicans' defense build-up bill, passed by the House in February is a startlingly simple-minded measure that calls for restoring defense spending to the historic highs of the 1980's. In this post-cold-war era, we must be smarter than ever in spending our defense dollars. We cannot afford to be so foolish as to resurrect the old star wars missile defense program and finance other inefficient and unnecessary military programs.

On a positive note, with the help of a handful of Republicans, House Democrats were successful in rejecting provisions of the legislation that would have required the old star wars antimissile defense system program to be deployed at the earliest possible date.

However, should this measure become law it will hamper the President's ability to deploy U.S. troops in U.N. peacekeeping operations. As we have seen recently, United States leadership and participation in international peacekeeping missions, such as in Haiti, have produced positive results. While not all such operations are equally successful, this bill would put the United States in the position of acting alone or not at all in such humanitarian missions.

The Republicans' plan would also require that budget firewalls between defense and other domestic discretionary spending be restored, in order to prevent defense cuts from being used to pay for domestic programs. With the overblown rhetoric in Congress supporting a constitutional balanced budget amendment, it astounds me that the restoration of these budget firewalls is being contemplated. If we are to seriously attempt to balance the Federal budget, defense spending must also be on the table.

"BUSINESS INCENTIVES" OR DISMANTLING ENVIRONMENTAL AND WORKPLACE SAFEGUARDS?

The regulatory rollbacks and new entitlements proposed by my Republican colleagues would have disastrous consequences for our environment, The Federal budget, and our legal system. First and foremost, if passed by the House, this legislation would wreck havoc on the valuable environmental protection laws that we have enacted over the past 25 years. Laws that are proven successes, such as the Endangered Species Act, the Clean Water Act, and the Clean Air Act are all threatened in this bill.

The legislation also has the potential to explode the Federal deficit at a time when we are just beginning to bring it under control. The bill's takings provisions would require the Federal Government to compensate landowners when Federal actions affect their property values by 20 percent. The U.S. Constitution already protects private property rights. This proposal could create new liabilities costing the Federal Government billions of dollars. This new entitlement program is hardly in line with the downsizing of Government that the Republicans claim to support.

Finally, while the Republicans condemn excessive litigation in America today, this measure dramatically expands the scope of judicial review of Federal regulations, placing Federal courts in the unprecedented role of judging the scientific and economic merits of agency decisions. As past experience shows, this would clog America's courtrooms and give opponents of any new rule an ideal tool for creating gridlock in the regulatory process.

More bureaucracy, expanded Federal entitlement spending, additional work for already overburdened courts, and a rollback of protections for our health, safety, and environment are what America stands to reap from this crop of Republican regulatory reform proposals. While we must address the legitimate concerns of property owners, local governments, and industry, this is not the answer. We must find ways to increase regulatory efficiency and flexibility without compromising the environment or the health and safety of the American public. These challenges are daunting, but the stakes are too high for us to fail.

"CREATING A CITIZEN LEGISLATURE" OR LIMITING VOTER CHOICE?

The Republican proposal to impose term limits on Member of Congress failed to pass because it was simply antidemocratic. Placing a limit on terms of service assumes that the American people lack the common sense and ability to decide if they want their Representative or Senators to continue serving. Imposing such limits abridges the fundamental right of all Americans to freely choose who will represent them. If the voters feel that someone has been in office too long, they can remove him or her at the ballot box. The last several elections proved this point.

Term limits are an emotional response to the notion that incumbents in Congress have become entrenched. The facts show, however, that a permanent Congress, as critics like to call it, is a myth. During the Reagan Presidency, for example, 55 percent of the House turned over. In other words, less than a quarter of the Members who were serving in 1980 are still in office. In just the last two elections, a total of 45 percent—196 members—of the House turned over. Further, the average number of years of service in today's Senate is 10.2 years, 1 year less than the average for the 103d Congress. Also since 1980, the political party whose majority controls the Senate has changed parties three times.

The antidemocratic nature of arbitrary term-limitation proposals should be reason enough to reject them, but there are also other reasons. While some turnover is healthy—and significant turnover already takes place—we also need experienced leadership. In today's Congress, we deal with very complex issues, and we need experts in Congress to address them. A new Representative, even one who has significant government experience, does not arrive in Washington with a full understanding of complex issues such as the budget, military weapons systems, and Federal housing policy. In many cases, it takes years to learn an issue fully. No one would want to turn their business over to entirely new management every few years, and it is audacious for proponents of term limits to contend that Congress is the only workplace in America where experience is inherently had.

Increasing the turnover rate of Members of Congress would also increase the power of staff members, lobbyists, and bureaucrats. In a Congress perpetually filled with inexperienced Members, these unelected yet highly experienced people would replace our duly elected Representatives as the true powers in Congress. That would betray what the Framers of the Constitution envisioned when they created Congress—the people's branch of Government—as the first branch of Government.

"FISCAL RESPONSIBILITY" OR CONSTITUTIONAL COVER?

In another attempt to tinker with the institution rather than deal with the real problems at hand, the Republicans sought to pass a balanced budget amendment to the U.S. Constitution. The majority party tried to perpetuate the myth that a constitutional amendment will erase the deficit and end all of our budget woes. The balanced budget amendment, which passed this House, was an attempt to escape political responsibility for the deficit. The Constitution did not create our budget problems, and changing it will not solve them. The deficit is a problem created by politics, and one that must be solved by an exercise of political will.

The Constitution is our most valuable governing document and an expression of permanent policy. Amending it to deal with ever-changing economic conditions would be a grave mistake. In the words of Charles Schultze, a former Presidential economic advisor:

> No Constitutional amendment can be written to cover the budgetary exigencies of the future. If interpreted literally, the amendment could lead to radically inappropriate budget decisions. . . . If interpreted loosely, the amendment would lead to a sharp deterioration in the quality of . . . governmental process generally.

As Members of the Senate defeated the amendment, they acknowledged that those of us who were elected must take responsibility for eliminating the deficit. Our job is to make these tough budget decisions—not simply to hope vainly that some constitutional machination will do the work for us.

In addition to their gimmick for a constitutional budget fix, my Republican colleagues want to shift more control to the White House by giving the President a line-item veto. This proposal also represents tinkering with our constitutional balance of powers. A measure such as this allows the President to substitute his or her judgment for that of 535 Members of Congress who are elected to represent all regions and viewpoints in our diverse Nation. While this measure is touted as a weapon against unnecessary spending, the line-item veto could backfire and actually increase spending under a strong President, such as Ronald Reagan or Lyndon Johnson. Our interests are best served by the give and take of the legislative process, not by granting new legislative authority to the executive branch.

THE FIRST "100 DAYS"—HISTORIC?

As the Republicans talk about the first 100 days and their Contract With America, they will undoubtedly boast of how historic it was and how much was accomplished. It's true that much legislation was passed in the House, but I will argue that it has not been good for our country.

The Republican majority seeks to shake the Federal Government at its foundations. But to what end and at what harm to the lives of Americans? If the Republican answer to our society's most difficult problems is to dismantle the Federal Government rather than develop real solutions, then perhaps the first 100 days of the 104th Congress was indeed historic.

The Republicans who set the agenda for the first 100 days should be recognized for their general contempt for the most successful democratic government in the world. In their haste and ideological purity, they would tear down basic protections for our quality of life and the safety net for our society's most vulnerable individuals. We should also be aware of their disregard for the wisdom of our Founders and their zeal to rewrite the U.S. Constitution to accommodate their political goals.

Haste rarely produces positive results in the democratic process. The House Republican leadership has had its 100 days in the spotlight. We must now take stock of this assault, and return our focus to governing for the good of the American people.

TRIBUTE TO THE AMERICAN LEGION ROOSE-VANKER POST 286

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. LEVIN. Mr. Speaker, I wish to extend congratulations to the Roose-Vanker Post 286, American Legion as it celebrates 75 years of service to the community with a celebration on April 23, 1995.

Post 286 was organized on April 20, 1920, received its charter 2 months later, and has been in continuous service to the community assisting veterans' and their families, and helping preserve our American heritage.

The Post is named after two men, Roose and Vanker, who were killed defending our Nation in France during World War I. Like them, most past and present members of the Post are of Belgian descent and reside in the metro-Detroit area. Members of the Post have admirably served our Nation in every conflict from World War I to the Persian Gulf.

I commend the members of the Roose-Vanker Post 286, American Legion, for 75 years of dedication to their fellow members and their community. I congratulate them on this joyous occasion with best wishes for continued success.

TRIBUTE TO STEPHANIE DAVIS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. WILLIAMS. Mr. Speaker, today I'm proud to share with you and my colleagues a remarkable essay written by a talented young Montanan. This essay, authored by 17 year-old Stephanie Davis of Livingston, MT, was selected as our State's lone winner in the Veterans of Foreign Wars Voice of Democracy scriptwriting contest. Mr. Speaker, I wish to enter this prize-winning essay into the CONGRESSIONAL RECORD not only to celebrate Stephanie's important personal achievement, but to draw your and my colleague's attention to a young woman's sincere vision of what makes our country great.

"MY VISION FOR AMERICA"

The band played an off-key rendition of a favorite patriotic song, the crowd cheered wildly, and everything was dotted with red, white, and blue! As Old Glory passed by, a young girl put her hand across her heart, and her daddy, in his faded brown army uniform, removed his hat. People from all walks of life watched in silence. Some even had tears in their eyes as the national anthem rang out from a solo bugle.

Many people, one America! It is filled with millions of people working individually. . . diligently in pursuit of their own dreams. Yet, they somehow know that the total is more important than the sum of the parts. Their undying patriotism holds our society together, a large organization, strong and proud.

However, there is a segment of the American population that has forgotten what America truly means. It is our responsibility as citizens to inspire the 'love of country' which once filled this great land. My vision . . . anyone's vision of America's future begins by remembering the vision of the First Americans.

Over two hundred years ago a group of people had a vision. They saw a very large land, not measured by area, but by the generosity and dedication of its people. Their common dream of equality and justice was so strong that it led these people to turn against the only system they had ever known, and forge a new life, relying only on each other. Their undying perseverance became the American Dream. It is found in the wondering eyes of a child, in the drive for success of a college student and young professional, and in the reflective thoughts of a wizened adult.

The American Dream unites today's citizens with the first visionaries: George Washington, Thomas Jefferson, Thomas Paine, Molly Pitcher, and many others. The American Dream shines through in great men and women such as Woodrow Wilson, Janette Rankin, Neil Armstrong, and Sandra Day O'Connor. The American Dream has created and will continue to create an American Heritage that is uniquely our own.

That unique heritage has molded and shaped us into 250 million individual American citizens. Learning what that heritage is and who created it gives meaning and purpose to our lives. Our heritage is the first American's gift to us.

Unfortunately, too many people know little or nothing about our history. Preserving the American Dream begins at home. Parents and grandparents often tell the most fascinating stories about their lives and those of others. Taking the time to listen opens up a world of curiosity and knowledge. In school, we can continue the fascination by teaching history in new and different ways. I will always remember the story of Betsy Ross, because in the sixth grade, I gathered my friends together, and for fun we created a radio program from her story. (I played Betsy.)

Even when we reach adulthood we preserve the ideals of our heritage simply by fulfilling our responsibilities as American citizens: voting representing the public in office and out, serving on juries, and standing up for our rights. Attending Girls' State this summer taught me that one person can make a difference, but when we all work together we can start a revolution—Just remember 1776!

Preserving our heritage only takes a small effort from every person. In fact, just taking a few minutes each day to honor America is enough to keep us moving through the next 200 years!

"I have a dream * * *", exclaimed civil rights leader Martin Luther King, Jr. Well, I also have a dream, that we will not forget what out ancestors fought and died for, that we will not forget the vision written in the Declaration of Independence, and that we will remember to continue striving for the American Dream—liberty, equality, and justice for all! Only then will we be able to walk in the footsteps of our forefathers and say, "I AM AN AMERICAN!"

IN TRIBUTE TO MILT JACKSON

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. CONYERS. Mr. Speaker, I rise on behalf of the Congressional Black Caucus to bring to the attention of my colleagues the distinguished cultural achievements of Milt Jackson.

Milt Jackson was born in Detroit, MI, in 1923. Milt started playing the guitar when he was 7 and by the time he was in high school he was proficient in a number of instruments, including drums. He played in both the marching band and symphony orchestra.

As a young man in 1941, Milt Jackson heard Lionel Hampton at the Michigan State Fair and decided he wanted to play the vibraharp. Milt started playing with Clarence Ringo and the George E. Lee band. In 1942, he met Dizzy Gillespie. Through Dizzy, he got an opportunity to join Earl Hines' big band, with whom Gillespie was playing. Later, Milt was drafted and served in the Air Corps.

Milt returned to Detroit in 1944 and organized a group called "The Four Sharps." The Four Sharps performed for about a year until Dizzy came to Detroit, sat in one night, and persuaded Milt to go to New York.

Explaining why Jackson has such a fine sense of rhythm, Gillespie once exclaimed, "Why man he's sanctified!" Ironically, like Gillespie, Milt had grown up in a sanctified church.

In 1952, he joined John Lewis, Percy Heath, and Kenny Clarke, all members of the Gillespie band, to form the modern Jazz Quartet, a group with a unique collective sound which, in the words of Whitney Balliett, "recused jazz from the banality of the endless solo and the rigidity of conventional arrangements."

Milt Jackson is the perennial winner of practically every popular poll taken by jazz fans and critics—he has gotten used to being described in superlatives. Because he has performed in so many contexts, both within and without the Modern Jazz Quartet, he is now among the five most recorded artists in jazz history.

Milt's unique sound on the vibraharp gave it an entirely new direction and style—distinct from the contributions of other players such as Red Norvo and Lionel Hampton. He also became one of the principal proponents of bebop almost from its inception, and was one of the fathers of modern jazz while working with the famous sextet which included Dizzy Gillespie, Charlie Parker, pianist Al Haig, bassist Ray Brown, and drummer Stan Levy.

Mr. Speaker, during the 100th Congress, the House passed a resolution I authored, House Concurrent Resolution 57, which declared jazz "a rare and valuable national American treasure." On the occasion of the Detroit Symphony Orchestra's Tribute Concert to Milt Jackson on April 8, 1995, I am honored to call to the attention of the Members of the 104th Congress, a living testament of this national treasure, Milt Jackson.

TRIBUTE HONORING THE MARBLEHEAD, OHIO VOLUNTEER FIRE DEPARTMENT ON THE OCCASION OF THEIR CENTENNIAL YEAR

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to an outstanding organization located in Ohio's Fifth Congressional District. This year, the Volunteer Fire Department of the Village of Marblehead, OH, celebrates it centennial.

The village of Marblehead is a community renowned for its civic pride and commitment to service. Located along the shores of Lake Erie, it has been a favorite with tourists for decades. The department was created when the mayor appointed a committee to purchase three fire extinguishers to be placed at various locations throughout the village. It is still a volunteer department, but the equipment has grown from three extinguishers to three pumpers, a rescue truck, and three ambulances.

The present fire chief is Harold Zura, a 25-year fire department veteran, with two assistant chiefs, Jim Lucas and Russel Zura. Marblehead was the first fire department in Ottawa County to begin ambulance service and now has a full-time paramedic/firefighter and several emergency medical technicians, in addition to well-trained firefighters. Throughout its history there has never been a lack of enthusiasm or labor for its many services.

Anniversaries are a time to reflect upon a steadfast tradition of service. They are also a time to look toward new horizons. The fire department has made it its responsibility to serve those in need by keeping pace with the ever increasing challenges facing residents.

Mr. Speaker, it is obvious that the community and the members of the department have greatly benefited from the effort that was started in 1885. I ask my colleagues to join me today in recognizing the achievements of the Marblehead Fire Department and encourage its volunteers to continue to uphold what has become the standard for excellence in Ohio.

TRIBUTE TO FELICIANO "NINO" GIORDANO

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. PALLONE. Mr. Speaker, on Thursday, April 13, 1995, a retirement dinner will be held for Mr. Feliciano "Nino" Giordano, the Deputy Director of the Research, Development and Engineering Center for the Army's Communications-Electronics Command [CECOM] at Fort Monmouth, NJ.

Mr. Speaker, it is a great honor to pay tribute to Nino Giordano, a man who truly epitomizes the American dream. A native of Italy, Mr. Giordano immigrated to the United States in 1956. He holds degrees from the Massachusetts Institute of Technology, Fairleigh Dickinson University and Northeastern University. Mr. Giordano has had a distinguished career with the Army, lending his technological expertise and leadership skills to the ongoing effort to keep our armed forces the best equipped and most technologically advanced in the world.

In his current capacity, Mr. Giordano is involved in managing the organization and has responsibility for directing strategic and operational planning for all technical programs to achieve the digitization of the battlefield. Prior to his current position, he was the Center's associate director, with responsibilities for electronic and signals warfare, night vision and reconnaissance, surveillance and target acquisition systems. Previously, he served as the Program Executive Officer, Strategic Information Systems, and directed the management of the Army's worldwide upgrade of strategic command and control capabilities. He also directed the acquisition, development, testing and fielding of Army and Defense Communications Agency communications and information systems on a worldwide basis.

Now, I know that some of this terminology sounds like a real mouthful, but what it boils down to is leadership on the cutting edge technology that makes U.S. forces the best in the world. The American people, and the world, had a chance to see that technology in action during Operation Desert Storm, when United States forces routed the Iraqi forces with stunning speed and effectiveness. While we rightly pay tribute to the heroic fighting men and women who made that victory over tyranny possible, we should remember the highly talented and dedicated civilian professionals whose technological breakthroughs give our soldiers, sailors and Air Force personnel the edge they need. People like Nino Giordano, working at top-notch facilities like CECOM at Fort Monmouth.

Mr. Speaker, it is a great honor to pay tribute to Nino Giordano, whose distinguished career has been dedicated to preserving and enhancing the national security of our country. Although most Americans are probably unaware of the breakthroughs that Mr. Giordano has worked for, we can all rest easier knowing that he has served his adopted country, and the cause of world peace and stability, so well.

CONGRATULATIONS TO MAX SCHENKLER ON HIS 90TH BIRTHDAY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. ACKERMAN. Mr. Speaker, I would like to ask my colleagues in the 104th Congress to join me in congratulating Max Schenkler on the occasion of his 90th birthday, on April 16, 1995. A decade after I extended my best wishes to Max on his 80th birthday, I am proud to again extend my regards in this same Chamber.

Mr. Speaker, Max Schenkler spent nearly 25 years as a pillar of the community in my home of Queens County. As a result, the entire neighborhood felt a sense of loss, when he and his wife Pearl relocated to Boca Raton, Florida, years ago. Max and Pearl had made everyone feel like a part of their family.

Max and Pearl Schenkler are special people, who are appreciated by everyone who has come to know them. Fortunately, in Queens, a great deal of people came to know them, through their generous contributions to their neighborhood and synagogue, through Max's many years as a teacher and educator, and through their loving service in community organizations. Every time then return to New York for a visit, the warm welcome they receive is a testament to how much they are missed.

Through his endeavors, Max gives himself to people in many ways. He spent 40 years sharing his talent, humor and insight with New York City school children. His enthusiasm for life and gift for sharing himself with others enabled him to form special bonds with his young charges. Max Schenkler was the type of teacher that students remembered for a lifetime. He has a way of showing students how to grow, and how to stretch their minds and imaginations to meet new challenges.

Mr. Speaker, Max had a distinguished career as both an educator, and as a principal of Public School 143, an elementary school in Queens. As a principal he inspired and trained scores of dedicated teachers leaving a legacy that will be felt for many generations. He is a man of varied interests and talents, one who throws himself into whatever he is doing—whether he is helping someone in need or in trouble, spending time with family or friends, or pursuing his most beloved pastime—doting on his children and grandchildren.

Max's professional and family life have been rich with success. His 90th birthday is a joyous occasion for his many friends and his beautiful family—his lovely wife Pearl, his loving daughter Carol Jacobson and her husband, Gil, and daughter, Debbie, and Max's son and my dear friend Michael, his wife Lillian and their children Lee and Allison. Max always gave his children the love and encouragement they need when the time came to make tough decisions or face new challenges.

Mr. Speaker, Max Schenkler is a beautiful man who has touched many lives. I would like to ask all of my colleagues in the U.S. House of Representatives to join with me now in wishing him a joyous 90th birthday. I wish him continued health and happiness, and look forward to again returning to this Chamber in 10 years, to congratulate Max Schenkler when he turns 100.

PROPOSED STUDENT LOAN CUTS HARMFUL TO AMERICA'S STUDENTS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. HOYER. Mr. Speaker, today I joined hundreds of college and university students from around the Washington metropolitan area in a rally against proposed cuts in student aid and loan programs. The average American family today simply cannot afford to send a child—much less two or three—to college without some form of student aid. That is why I believe that cutting student aid is penny-wise and pound foolish. The Republican tax cut bill wants to provide families with a $500 per child tax cut, while at the same time proposing that each student who receives student loans will pay, on the average, about $4,000 more in additional interest costs over the 10-year life of a loan.

At today's rally was a young graduate student from the University of Maryland. Mr. Dominic Perri spoke on behalf of the National Association of Graduate and Professional Students and spoke of the additional costs that he and thousands of graduate students across this country would be forced to pay under this Republican plan. Mr. Speaker, I am pleased to share with my colleagues the remarks of Mr. Perri and urge my colleagues to read his remarks and understand the severity of these potential student aid cuts.

REMARKS OF DOMINIC J PERRI, NATIONAL ASSOCIATION OF GRADUATE AND PROFESSIONAL STUDENTS

Good Afternoon, my name is Dominic Perri. I am a graduate student at the University of Maryland at College Park, and I want to speak to you on behalf of the National Association of Graduate and Professional Students.

I want to talk to you about the effect the loss of the interest exemption and other proposed cuts would have on graduate and professional students. Lately opponents to student aid have made statements that trivialize the effect of these cuts.

One opponent of student aid here at the Capital claims that the loss of the interest exemption would cost students just $21 a month. "So they won't be able to buy 2 CD's" he told USA Today.

Now, in addition to knowing where he buys his CD's, I'd like to know where he got his numbers. You see, for the graduate student who takes out loans to get an M.A., the loss of the interest exemption means that the loan payments could increase as much as $110 a month. Or to put in terms our friend can understand, that's 11 CD's.

And just yesterday, another opponent of student aid claimed that the loss of the interest exemption would cost just . . . pennies a month.

Tell that to the graduate student who completes a Ph.D. and winds up with over $68,000 in loans. The loss of the interest exemption could cost this student an additional $33,000.

That's an increase of over $400 in the monthly payments, . . . or 40,000 pennies.

So you see, while eliminating the interest exemption is a disaster for undergrads, its even worse for graduate students. Of course, the opponents of student aid have simply chosen to ignore the effects these cuts would have on more than a million graduate and professional students.

These cuts could drive many of these students right out of school. That's a loss that this country cannot afford.

This is because graduate programs prepare the nation's most highly skilled workforce, including faculty, business and industry leaders, social workers, physicians, ministers, researchers, and professionals.

Research conducted by graduate students contributes directly to economic growth. The University of California says that graduate student research drove the development of the biotechnology industry that today employs 80,000 Californians!!

In fact, studies show that U.S. economic production is directly related to government spending in higher education.

In the last week Governor Carlson of MN and Governor George Bush of Texas have both issued statements that "quality graduate education is crucial to the global competitiveness of the United States."

Graduate students are a valuable resource that the opponents of student aid seemed to have ignored. They have not taken calculated the devastating effect of their cuts on this nation's graduate and professional students. (Pause) But we have.

The National Association of Graduate and Professional Students warns you not to be deceived by those who would trivialize the effect of these cuts. These cuts are real, unwise, and undermine the very foundation of higher education.

TRIBUTE TO THE 1995 ITALIAN-AMERICANS OF THE YEAR

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. LEVIN. Mr. Speaker, I wish to extend my congratulations to the 1995 Italian-Americans of the Year, as honored by the Italian Study Group of Troy, MI. Ed and Marlene Baker and Frank and Angela Penna are truly deserving of this prestigious honor.

Ed and Marlene Baker publish the oldest Italian-American newspaper in Michigan, the Italian Tribune, spanning 86 years and four generations of Italian-Americans. Together, they also publish the County Line, a community newspaper which covers Madison Heights, Troy, Warren, and Sterling Heights, and have a long list of accomplishments and many years of community involvement.

Frank and Angela Penna own Penna's of Sterling Banquet Hall, in Sterling Heights, and Penna's Restaurant in Warren. In addition to their business involvement, the Pennas are involved with many charity organizations, including the Muscular Dystrophy Association, the March of Dimes Foundation, and the St. Vincent and Sarah Fisher Center.

This honor is just one of many testimonies to Frank and Angela's, and Ed and Marlene's, success and dedication to their community. Again, my congratulations to them and to the Italian Study Group of Troy on this joyous occasion.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 6, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 7

9:30 a.m.

Joint Economic

To hold hearings to examine the employment-unemployment situation for March.

SD–562

10:00 a.m.

Commission on Security and Cooperation in Europe

To hold a closed briefing on the United Nation High Commission for Refugees (UNHCR) activities and concerns in the former Yugoslavia and several of the newly independent states of the former Soviet Union. 2255 Rayburn Building

APRIL 26

9:30 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for energy conservation.

SD–116

9:45 a.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To resume oversight hearings on the U.S. Forest Service land management planning process.

SD–366

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Food and Consumer Service, Department of Agriculture.

SD–138

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Legal Services Corporation.

S–146, Capitol

11:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for fossil energy, clean coal technology, Strategic Petroleum Reserve, and the Naval Petroleum Reserve.

SD–116

APRIL 27

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, Department of Transportation.

SD–192

APRIL 28

9:30 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings on issues of waste, fraud and abuse in the Medicaid program.

SD–138

MAY 2

9:30 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Forest Service of the Department of Agriculture.

SD–138

Labor and Human Resources

To hold hearings on the nomination of Henry W. Foster Jr., of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, Department of Health and Human Services.

SH–216

MAY 3

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Environmental Protection Agency, the Council on Environmental Quality, and the Agency for Toxic Substances and Disease Registry.

SD–192

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Agriculture.

SD–138

MAY 4

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Coast Guard, Department of Transportation.

SD–192

2:00 p.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the National Institutes of Health, Department of Health and Human Services.

SD-192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Treasury and the Office of Management and Budget.

SD-138

MAY 11

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Bureau of Indian Affairs, Department of the Interior.

SD-116

1:00 p.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Indian Health Service, Department of Health and Human Services.

SD-116

2:00 p.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine access to abortion clinics.

SD-192

MAY 17

9:30 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the National Park Service, Department of the Interior.

SD-192

MAY 24

9:30 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Fish and Wildlife Service, Department of the Interior.

SD-192

JUNE 6

9:30 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Interior.

SD-138

POSTPONEMENTS

APRIL 6

10:00 a.m.

Foreign Relations

Near Eastern and South Asian Affairs Subcommittee

To hold hearings to examine the Arab boycott of Israel.

SD-419

HOUSE OF REPRESENTATIVES—*Thursday, April 6, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. INGLIS of South Carolina].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 6, 1995.

I hereby designate the Honorable BOB INGLIS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Tim Bunn, Karcher Church of the Nazarene, Nampa, ID, offered the following prayer:

Father, today we pause to recognize that You are sovereign and there is no other God before You. Lord, we pray that Your will may be done as Your Son requested it may "* * * on earth as it is in heaven." We know that for His prayer to be answered requires our obedience and service to You.

Heavenly Father, I pray specifically for the representatives of the people of the United States of America. Lord, as they represent rich and poor, ghetto and mansion, farm and factory, may their actions be motivated by the desire to serve others.

Theirs, Lord, is a task greater than human wisdom can answer; therefore we call on You recognizing Your sufficiency when our resources are inadequate.

Father, we pray for peace and justice in our homes, our Nation, and our world. We invite You to use us to create it. We pray that You will heal our land where we are damaged and bless our lives with Your presence.

Father, we love You and praise You in the name of Your Son Jesus who suffered in our place. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Ohio [Mr. TRAFICANT] will lead the House of Representatives in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 244) "An act to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. At this point, the Chair will entertain 20 1-minutes on both sides, starting with the gentleman from Oregon [Mr. BUNN], the sponsor of the guest Chaplain.

WELCOME TO THE REVEREND TIM BUNN

(Mr. BUNN of Oregon asked and was given permission to address the House for 1 minute.)

Mr. BUNN of Oregon. Mr. Speaker, I want to take this opportunity to welcome and thank my brother, Tim Bunn, who is a pastor from Karcher Church of the Nazarene, who offered our prayer this morning.

As we conclude our 100 days and look forward, we have and will continue to work on legislation that will strengthen families. We also want to encourage the volunteer spirit. We all know that it is not government that fosters or encourages the volunteer spirit or strengthens families, it is the individual.

And my brother Tim is an example of someone who has worked since college in missionary work. He has been a volunteer in disaster relief, and one of the most important things is working as a counselor trying to keep families together, which is really one of the crucial things we are all about.

I just wanted to take the opportunity to thank him for being with us today, to say I am proud he is my brother, and to welcome him to Congress.

PATCH UP THE CONTRACT

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute.)

Mr. GUTIERREZ. Mr. Speaker, over the past 100 days, Mr. GINGRICH has had his fun taking out his hole puncher and putting a few holes in his copy of the Contract With America.

Well, I never saw what the big deal was.

The way I see it, that contract was already full of holes.

Remember the Republican tax plan or their balanced budget amendment? Right where you thought they would tell you how to pay for it, there was a big, gaping hole.

And they had special kinds of holes for different people.

If you are a working family, trying to raise your kids, there is a sinkhole for your wages to fall into, but if you are looking for a capital gains cut, there is a nice loophole for you.

And you know those blackholes in outer space, those things that stuff gets sucked into and nothing comes out of? It turns out you do not need the Hubble telescope to see them.

Because the Republicans' cuts in home heating assistance for the elderly and child nutrition for the country's babies are a blackhole that is going to pull people into poverty and pain where they will never be heard from again.

So, Mr. Speaker, instead of getting a hole puncher, you should have used something to patch up the holes that were already in your contract from day one.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. RIGGS asked and was given permission to address the House for 1 minute.)

Mr. RIGGS. Mr. Speaker, our Contract With America states the following:

On the first day of Congress, a Republican House will require Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget. We kept our promise.

It continues that in the first 100 days, we will vote on the following items: A balanced budget amendment—we kept our promise; unfunded mandates legislation—we kept our promise; line-item veto—we kept our promise; a new crime package to stop violent criminals—we kept our promise; national security restoration to protect our freedoms—we kept our promise; Government regulatory reform—we kept our

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

promise; common sense legal reform to end frivolous lawsuits—we kept our promise; welfare reform to encourage work, not dependence—we kept our promise; congressional term limits to make Congress a citizen legislature—we kept our promise; family reinforcement, tax cuts for middle-income families, and the Senior Citizens' Equity Act to allow our seniors to work without Government penalty—we kept our promise.

Mr. Speaker, this is the Republican Contract With America.

IRS AND THE BURDEN OF PROOF

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the IRS actually had the gall to tell Congress, "If you change the burden of proof in a tax case, you will destroy our voluntary-compliance program." Right. Some kind of voluntary. Who is kidding whom?

If you do not voluntarily pay your voluntary taxes, the IRS will come in and voluntarily take your parakeet, your beagle, your golf clubs, your wife, your rubber ducky. Beam me up here. Voluntary?

Ladies and gentlemen, are they smoking dope around here or what?

My bill will say you have to substantiate your tax form, but when you go to court, you will be treated like an American citizen, innocent until proven guilty.

Voluntary? My assets.

WHAT ABOUT FOREIGN AID?

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute.)

Mr. FUNDERBURK. Mr. Speaker, the first 100 days of the 104th Congress are over. We passed 9 of the 10 items in the Contract With America. The new majority set our country on a new course. But we did not go far enough. While we are at home for Easter, the Mexican dictatorship and New York City financiers will be raking in billions of American dollars and the lords in the Kremlin will be soaking up foreign aid while their planes ravage Chechnya and their scientists provide the Ayatollahs with nuclear reactors.

Mr. Speaker, we desperately need a reality check. How can we seriously debate the future of student loans and farm programs while the State Department and the World Bank dispense billions of our dollars without the Congress saying one word? The $20 billion handout to Mexico City is 20 times the value of the yearly tobacco crop in North Carolina. Is it not tragic that Bill Clinton and his establishment friends in Congress will drag hard-working tobacco farmers in my district through the wringer and give Mexican thugs and Russian autocrats billions of our money with a wink and a nod?

Mr. Speaker, if last November really was a revolution we had better come back here in May and cut off the foreign aid monster at its knees or the American people will put us out in the street.

TAX FAIRNESS

(Mr. VOLKMER asked and was given permission to address the House for 1 minute.)

Mr. VOLKMER. Mr. Speaker, Members of the House, today is the 92d day of the imperial speakership.

You know, yesterday afternoon, discussing with one of the Gingrich Republicans about their tax bill, I advised them that I did not plan to vote for that tax bill. I planned to vote against it. He says, "You must be brave to be able to go back to your district after voting against such a great tax bill."

Well, in the first place, I said, "I don't think that is a great tax bill. Second thing, it has no tax fairness in it. It doesn't lead to deficit reduction, but it explodes the deficit in out years."

I advised that Gingrich Republican I was going to vote for the Gephardt tax bill which limited the $500 child credit to those earning $95,000, not $200,000. You know, in my district, the Ninth District in Missouri, middle income is not $200,000. I do not have very many people earning $200,000. Yet the Gingrich Republican says $200,000 are middle income. They say that corporations should not have to pay any taxes here in the United States.

I say corporations should pay their fair taxes.

I voted for a tax fairness yesterday.

PROUD TO BE A PART OF THE CONTRACT WITH AMERICA

(Mr. TIAHRT asked and was given permission to address the House for 1 minute.)

Mr. TIAHRT. Mr. Speaker, today is a great day on the Potomac.

This is the Contract With America, and even though a New York newspaper tells us only 38 percent of the people know what the Contract With America is, all of them know what a balanced-budget amendment is, all of them know what a real crime package is that punishes criminals instead of giving them dance lessons, all of them know what welfare reform is, and on down the line including the tax-relief package passed last night that restores hope to people with families, gives them a break, because we believe that people who have children know better how to spend that money on their children than the Federal Government does here in the beltway.

So we are very pleased to be part of this Contract With America, to see all 10 pieces passed as promised. It will be the first Congress to say we are going to do something during a campaign and then actually do it when they get to Washington.

I am very proud to restore hope to the next generation and to this generation, to be a part of this Congress and pass the Contract With America.

CONGRESS MUST BE TOLD WHAT IS IN LEGISLATION

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute.)

Mrs. SCHROEDER. Mr. Speaker, I stand in this well to admit that I was wrong, and I must correct my remarks. I have been here several times protesting the $63 million that we heard Rupert Murdoch got slipped into the bill that was to give relief to middle Americans on their health care coverage. Well, I find out it is not $63 million, it is more like $38 million.

But I am still just as outraged that he would get this $38 million rebate on the backs of the middle class.

I do not know what we can do at the end to correct this. We have introduced bills. We have tried to bring it to the floor, and today I am introducing one more bill that says in the future when this process is used to slip something in that this body never considered nor knew was in there, we must be told. I think it is unbelievable these kinds of games are going on, and I think the American public expects a whole lot more from us.

I think we are here to protect them and not to line the pockets of fat cats.

CLARIFICATION OF THE MURDOCH CONTRACT

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, when such information as you have just heard is presented to the House floor, it needs to be responded to.

The fact of the matter is this: Mr. Murdoch was selling a property to the Tribune Co. headed by Quincy Jones, a black entrepreneur. Mr. Murdoch had two contracts for that property, one to be sold at this amount and one to be sold at another amount if he got a Treasury certificate.

The beneficiary of the Treasury certificate was the Quincy Jones operation, which would have received that property at less than the amount equal to the Treasury certificates. Mr. Murdoch was going to get precisely the same amount whether or not the certificates were ordered.

In the other body, the gentlewoman from Illinois argued that we should open the timeframe for the certificates to be allowed, and she amended the contract to open the timeframe to extend it.

The Senate insisted on her position. The House could not get her to remove her position, and so Quincy Jones is going to be the beneficiary of the $38 million or $65 million, whichever the amount is.

LEFT WANTING BY THE CONTRACT WITH AMERICA

(Mr. KLINK asked and was given permission to address the House for 1 minute.)

Mr. KLINK. Mr. Speaker, let me get this contract correct. If I am a child and I happened to be born to a mother who is of the wrong age or who has been on assistance for too long, then the Contract With America leaves me wanting just because of the circumstances surrounding my birth. If I am a child and my mother would happened to depend on WIC, that money is now going to be block-granted, and 20 percent of it can be used for other things. The same thing for school lunch, if I am dependent upon school lunches, we are now going to have 50 laboratories across this country where people will be able to take as much of that money out, 20 percent of it, and use it for paving highways and for doing all sorts of other things.

If I survive all of that under the Contract With America, Mr. Speaker, let me understand this, if I get to be 14 or 15 years old, and I want to learn the work ethic, I want a summer job, the Contract With America leaves me with no summer job and no opportunity to rebuild my community.

Let me understand that also, Mr. Speaker, that then if I want to go to college and get the same kind of federally backed loans that the Speaker and the majority leader had, now again, I am going to be left wanting by the Contract With America.

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GET GOVERNMENT OUT OF MY LIFE

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, I ran for this office because I saw a government out of control, I see a Congress who clearly did not understand, and this morning I see additional Members of Congress who do not understand. Like the people of the 10th District of Georgia, I want a government to protect our borders and help maintain order, but otherwise I want government out of my life, out of my business and, most especially out of my pocket.

Mr. Speaker, in these first 100 days, we have made significant steps forward. We have cut Government regulation and cut taxes to return more of the fruits of labor back to workers who earn them. I can tell we are making progress because the liberal Democrats are whining loud and the bureaucrats are running scared.

There is still a long way to go. Balancing the budget will not be easy. But to the people back home, I say we can take back this great Nation of ours from the people who think that government knows best; stay involved; stay with us; we will take this country back.

FURTHER EXPLANATION TO CORRECT THE RECORD

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I am very grateful to the gentleman from Wisconsin for yielding.

I want to point out and correct the record again: First of all, it does not pass the straight-face test that one Senator of the minority party could force this entire House to yield to something the House never considered or the conferees on her side. There were 17 of these deals—18 of these deals—and this is the only one that stood. I cannot believe that one Senator has ever had that kind of power.

Second, I want to point out that this $38 million revenue does go back to the sellor. The idea of this was to give the sellors benefits if they sold to minority owners. And the idea has been, we all were going to do away with those, going to do away with all of those.

We found we did away with all of them except the one, and that owner happens to be Rupert Murdoch. He gets the benefit of this.

So let us make the record perfectly clear.

I thank the gentleman for yielding.

INTRODUCTION OF PROSTATE CANCER DIAGNOSIS AND TREATMENT ACT OF 1995

(Mr. FIELDS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS of Texas. Mr. Speaker, today I am introducing the Prostate Cancer Diagnosis and Treatment Act of 1995 in the hopes that we will finally do something to effectively battle prostate cancer. Prostate cancer is one of the deadliest forms of cancer for men—and yet, as men, we seem almost afraid to talk about it. More than 215,000 American men will be diagnosed with prostate cancer this year and more than 40,000 men will die from it. It is the most common form of cancer among men and the second leading cancer killer.

If you look around this Chamber—about every third male over age 50 probably already has prostate cancer in some form and does not know it; roughly one-quarter of those who are stricken, will get a life-threatening form of the disease. Most people find out about their prostate cancer too late, even though the cancer can be detected with a simple, inexpensive blood test—the P.S.A. test. This test is the most effective cancer screening marker there is; it can spot prostate cancer accurately 5 years or more before it presents a serious health problem. The American Cancer Society and several other groups recommend that everyone over age 50 get this test once a year, and General Schwarzkopf, a man who has undergone prostate surgery, said the test saved his life. Nevertheless, Medicare and veterans' health programs do not pay for this, so most of the 13 million Medicare men and a few million older veterans are not getting the care they need for early detection. My bill would fix that hole.

Finally, the budget for prostate cancer research is a pittance compared to what we are spending on other cancer research. Studies needed to identify the most effective treatment are either not being done, or will not be completed for several years. My bill would increase the research effort by diverting more research dollars to prostate cancer.

We must end the public embarrassment about a disease that has already taken the lives of several of our colleagues and that will affect many more of us in the future. We need to make men more aware of what this disease can do and what they must do to protect themselves. I believe my bill can help point us in the right direction, and I urge my colleagues to cosponsor this legislation.

PROPOSED CUTS TO STUDENT FINANCIAL AID

(Mr. BALDACCI asked and was given permission to address the House for 1 minute.)

Mr. BALDACCI. Mr. Speaker, I am deeply concerned about the cuts to student financial aid that have been proposed by our Republican colleagues. It would seem that I am not alone in my concerns.

I have received letters from hundreds of Maine college students and their families. Each letter tells a poignant story of what Federal financial aid means to that family.

One student wrote to tell me that he was the first person in his family to go to college. His parents work hard, but the family still struggles to make ends meet. He dreams of finishing his bachelor's degree, perhaps going on to obtain further education, and then securing a well-paying job so that he can support himself and help his parents out.

But without Federal financial aid, he will not be able to even finish his undergraduate studies.

In our zeal to provide tax cuts for the well-off, we must not forget about those who will come next. We must continue to ensure that bright, motivated, hard-working young Americans have the opportunity to better themselves through higher education. We must continue to invest in the future of our Nation by continuing to provide student financial aid.

THE CONSEQUENCES OF BIGGER GOVERNMENT

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, for the last generation the governing principle here in Washington, especially here in the Congress, was always, above all, make government bigger. We now see the consequences of this ridiculous principle, almost $5 trillion national debt, bloated, inefficient government, failed welfare state, obsessive regulation, and some of the highest taxes in history.

Mr. Speaker, the liberal Democrat leadership claims that we Republicans misread the message of last November. They claim Americans really do not want a tax cut, they do not want term limits, they really do not want to balance the budget. But, Mr. Speaker, it is the liberal Democrats who have misread the message of last November, because, you see, the Contract With America is not about Republicans, it is about the American people. The American people want an end to the out-of-control growth of a Federal Government, they want safer neighborhoods, they want lower taxes, they want a secure future for their children. That is what our contract is all about.

It is not really all that complicated. The new governing principle in this Nation is not what benefits the Government but what benefits the American people.

THE DEFICIT EXPLOSION ACT

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, on the path to approve the Deficit Explosion Act last night, otherwise known as the campaign tax cut bill, the Gingrichites hit a roadblock. How they dealt with that roadblock was significant implications for the future of this Congress and this country.

You will recall that on day one a rule was approved here requiring a three-fifths' vote for a tax hike. In all the talk of capital gains tax reduction yesterday, overlooked was the fact that the capital gains taxes were actually raised from 14 percent to 19 percent for many small companies in this country.

How was that dealt with when it came time to apply the three-fifths' vote requirement? It was dodged, it was hedged. Instead they turned to the captive consultants of the Joint Tax Committee, who told us that we did not need a three-fifths vote because the basis for this conclusion relates generally to the fact that this provision would be inoperative as it relates to current law after the enactment of the pending legislation.

Meaningless gobbledygook. If you strike a provision in one place and add another, it is not a tax increase? Well, taxpayer protection bit the dust last night.

CONTRACT WITH AMERICA: WE KEPT OUR PROMISE

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, it is simple; our Contract With America states the following:

On the first day of Congress, a Republican House will require Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget. We kept our promise.

It continues that in the first 100 days, we will vote on the following items: A balanced budget amendment—we kept our promise; unfunded mandates legislation—we kept our promise; line-item veto—we kept our promise; a new crime package to stop violent criminals—we kept our promise; national security restoration to protect our freedoms—we kept our promise; Government regulatory reform—we kept our promise; commonsense legal reform to end frivolous lawsuits—we kept our promise; welfare reform to encourage work, not dependence—we kept our promise; congressional term limits to make Congress a citizen legislature—we kept our pomise.

And finally, the Contract With America Tax Fairness and Deficit Reduction Act, including tax cuts for middle-income families, and the Senior Citizens' Equity Act to allow our seniors to work without Government penalty—we kept our promise.

This is the Contract With America.

WE SHOULD NOT IGNORE OUR OWN RULES

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute.)

Mr. JOHNSTON of Florida. Mr. Speaker, I was very disappointed that we undermined our own rules and procedures to assure the passage of the tax bill. As my colleagues know, and as it was explained just now by the gentleman from Texas [Mr. DOGGETT] there was a substantial increase. In 20 years in the State legislature and in Congress, I have never voted against the ruling of the Chair. In fact earlier this year I supported Speaker GINGRICH in the resolution on Mexico against my own colleague, the gentleman from Mississippi [Mr. TAYLOR]. But in this instance I was forced to vote against the Chair.

While I sincerely compliment the gentleman from California who chaired during this and was very fair-minded throughout, I do fault those Members who advised him from the floor to totally ignore our rules which were only 3 months ago adopted.

Our rules are the glue that hold this body together under the best and most adverse conditions. If we ignore them intentionally, we not only act with intellectual dishonesty but we invite anarchy.

ITEMS CONTAINED IN THE MINORITY LEADER'S MOTION TO RECOMMIT

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, last night when the minority leader presented his motion to the House to recommit, he said the following, and I quote:

> This motion to recommit is very simple. It does four simple things.

When I read the 16-page motion, I found out it included more like 40 than 4 changes. For example, it eliminates the marriage penalty, it eliminates the American dream savings account, it eliminates the spousal IRA. It eliminates the child tax credit completely in the first year and then reduces it to $100. It changes it from a $200,000 ceiling to a $60,000 ceiling which was called $95,000.

It eliminates the tax on Social Security benefits, the tax preference for long-term insurance, the accelerated death benefits and long-term care benefits, it eliminates the capital gains tax reduction, it eliminates the neutral cost recovery provisions, it eliminates the repeal of the alternative minimum tax, it eliminates the increase in the social security earnings test.

My question to the minority leader is I would like to give him the opportunity to explain why, what the disconnect is here when we were told this was a 4-point change when in fact it really completely and totally changed the bill.

WGOP RADIO

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, it's nothing new for politicians to use the power of radio to send a message, but it appears that Republicans in this body are hoping to start their own station. WGOP radio—playing all the greatest hits from the 1980's, 24 hours a day.

For the last 100 days we have been listening to the Republican Party's greatest hits compilation, entitled the "Contract With America." It includes an array of golden oldies from the grand ole party. Among the easy listening favorites are the crowd pleasing, tax-cut fever, the cold war favorite, the theme from Star Wars. And, finally, that fairy tale put to music, puff the magic budget.

Tax cuts for the wealthy, runaway military spending, and empty promises for a balanced budget—these familiar tunes have been playing 'round the clock on WGOP.

Mr. Speaker, Republicans are hoping to find a new audience for these old songs, but the American people do not think that skyrocketing deficits and tax breaks for the wealthy and billionaires being able to renounce there citizenship so they can get a tax evasion, they do not think these are anything to sing about. And, Mr. Speaker, they are going to change the station.

REPUBLICANS' PLEDGE TO THE AMERICAN PEOPLE: PROMISES MADE, PROMISES KEPT

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTENSEN. Mr. Speaker, last September 27, Republican incumbents and candidates stood on the Capitol steps and made a pledge to the American people. We promised to bring to the floor legislation that had been blocked by the Democrat-controlled Congress for years. Congressional reform, welfare reform, tax breaks, term limits, regulatory reform, legal reform.

Mr. Speaker, I stand here today to say that we kept our promise. A new day has dawned in America. We have proved to the people that politicians can keep a promise. The Republican majority is working hard to recapture the long-lost trust the American people used to have in their elected officials. And I am proud to be a part of this healing process.

Mr. Speaker, it is as simple as this—promises made, promises kept. This is what the Republicans are all about.

WEALTHY AMERICANS GAIN MORE THAN THEY PAY

(Mr. KEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEVIN. Mr. Speaker, a central issue yesterday was what is the impact of the bill on various income groupings. The gentleman who heads the Committee on Ways and Means yesterday said that wealthy Americans will pay a slightly higher portion of the Nation's total tax bill.

True. But that is because 1 percent of all taxpayers will have an income increase in the year 2000 of $47 billion if this bill ever was enacted.

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So their share of taxes goes up slightly because their share of wealth goes up tremendously.

I now just want to say a word about ethnic slurs in this country. A slur on any part of America is a slur on all of America. People should not be excused for outrageous statements because they are outrageous on many other occasions. A gentleman in the other body owes everyone in America an apology.

LAST NIGHT'S MOTION TO RECOMMIT WAS DECEPTIVE

(Mr. CASTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CASTLE. Mr. Speaker, I would like to follow up on the gentleman from Ohio [Mr. HOKE] with respect to the motion to recommit last night. This was presented, it is a 10-minute debate, then we vote on it, and that could become part of the legislation. It was presented in such a way that it was very appealing to some of us who had some concerns about certain aspects of the tax bill. We found out in the middle of all this that it was 16 pages. We went over, and we researched it, and in a short period of time we learned exactly what the gentleman from Ohio has represented here today, and that is that it basically gutted all aspects of the tax bill. It did much more than the four things which were on the placard here. I do not know why this happened in this particular way; that is to be answered some other day in some other way.

But the bottom line was it was a deceptive approach to how that motion to recommit was handled. Maybe we have problems with motions to recommit, maybe they need to be filed sooner, maybe we need to have a longer time in order to digest them, but certainly we should not be in a situation in which deception is being practiced in this building.

I put into the RECORD last night in a 5-minute appearance all the mistakes that were presented on the floor and the correct version of what was actually in that 16-page motion to recommit. From now on I hope we can pay more attention to this particular problem.

REPUBLICANS' CONTRACT IS DAMAGING AMERICA

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, the Republican contract may have good titles, but it is bad policy. Its policy is just too extreme for America. What we end up doing is cutting taxes for the top 1 percent while we take away educational opportunity for average and middle class kids.

What does that do to this country? It does not just hurt the children. It hurts the future of our country and its competitiveness. What do they try to do on drug treatment during the crime bill? A great title; they cut the funding for drug rehabilitation.

The Republican contract is too extreme. Its impact on the deficit is that it will explode it. Its impact on the economy of the country is that it will retard it, it will leave us less competitive as a nation, it will increase unemployment and, in the end, further add to the deficit.

Mr. Speaker, maybe we have got great rhetoric on the Republican side and good titles, but it is bad policy, it is too extreme, and it is damaging America.

THE REPUBLICAN MAJORITY HAS KEPT ITS PROMISES

(Mr. LONGLEY asked and was given permission to address the House for 1 minute.)

Mr. LONGLEY. Mr. Speaker, the bitter defenders of the old order have spent a lot of time complaining, even whining, about the legislation in our Contract With America. But they seem to have forgotten that since January 4, our legislation has continuously received bipartisan support—in fact, the average vote for contract legislation in the House has been 332 to 96. On an average, over 100 Democrats have voted "yes" on the Contract With America.

Mr. Speaker, I have faith that the American people are going to look past all the distortions and rhetoric and see that the Republican majority has kept the promises we made, and we will continue to work hard to change Washington—to make the Federal Government smaller, less costly, less intrusive, and more efficient for the American people. It truly is a new day here in Washington, DC.

IS THEIR CONTRACT GOOD FOR AMERICA? NO

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, my colleagues, I think the Republicans indeed do deserve recognition. They said they would bring the contract to the floor of this House and attempt to pass it, and indeed they did, and I think that the Democrats and Americans have to recognize them for that. But the real question for all Americans is:

"What's in the contract? What did they pass?"

Mr. Speaker, I think much of what was in the contract is, by definition, extremism. For example, one element to the contract which passed this House with Republican votes allows the Government to break down our doors, search our homes without a search warrant. One element of the contract allows illegal immigrants who commit crimes in this country and are convicted of a felony not to go to prison in America, but to be sent back home to their own country, presumably so they can reenter illegally here.

Mr. Speaker, last night we passed another element of the contract which takes America back to trickle-down economics, a pittance for middle-income people, huge tax breaks for the wealthy.

Did they pass the contract?

Yes.

Is the contract good for America?

No, it is extremism.

CONTRACT AND TAXES

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, yesterday the Republican Party passed the last hurdle in the Contract With America by passing our tax reduction package.

We provide families a $500 per child tax credit, we slash the capital gains tax rate, repeal the Clinton tax increase on Social Security benefits, double an investment deduction for small businesses, provide a tax credit to families who adopt children, and create the American dream savings account to encourage saving.

In the last 92 days we kept our word with the American people. We changed Washington and we have worked hard to preserve the American Dream for America's children. The contract is only the first step, however, toward moving power and money out of Washington and returning it to the people. Henry Ford said that, "What's right about America is that although we have a mess of problems, we have great capacity—intellectual and resources—to do something about them."

I am proud to say that this new Congress is changing America and helping to restore its greatness.

REPUBLICAN EXTREMISTS HAVE GONE TOO FAR

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, the last 2 weeks have seen the most disturbing developments of the Republican Contract on America, the worst example of Republican extremists simply going too far. Thirty-five million dollars in tax breaks for Australian-born Rupert Murdoch, $3.6 billion for American billionaires that have renounced their citizenship, $3.6 billion in tax cuts, tax cuts for people making $200,000 a year and calling them middle-class taxpayers, and the elimination of a major corporate tax, all at the same time while cutting school lunches for America's school children, while cutting student loans for America's middle-class families, while cutting the Summer Jobs Program.

Let me make sure I understand this. We have Rupert Murdoch, a billionaire from Australia, becoming an American citizen so he can buy Fox network, buy a big book publishing house and negotiate book deals with American politicians. Then we have a bunch of American billionaires renouncing their U.S. citizenship so they can get a tax break,

Mr. Speaker, in the last 3 months Republican extremists have gone too far.

H.R. 1258 TO ENHANCE SMALL BUSINESS OPPORTUNITIES

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Last week, Mr. Speaker, I introduced legislation to enhance funding opportunities to America's small businesses. H.R. 1258, the Small Business Capital Access Act of 1995, is designed to raise the lending cap from $500,000 to $750,000 for the Small Business Administration's [SBA] 7(a) Loan Program. H.R. 1258, with significant support from lending institutions, accomplishes the goal of raising the lending limits of the program without further Federal expenditure.

Mr. Speaker, raising the lending limits of the 7(a) Program, the Federal Government is demonstrating its commitment to fostering small business growth by enabling them to more easily overcome startup impediments. These impediments are often a result of undercapitalization. The $250,000 increase is accomplished without greater financial exposure to the taxpayer. This is made possible by lowering the Federal subsidy to lenders who participate in the SBA program and reprogramming those funds to guarantee a significant portion of those higher-capped loans. The SBA currently extends a 2.74-percent subsidy for 7(a) loans in fiscal year 1995. My proposal lowers the subsidy to 1.65 percent, thereby allowing more funds to actually guarantee 7(a) loans.

Mr. Speaker, I urge all of my colleagues to please join with me in supporting H.R. 1258 so we can rebuild America through the small business sector.

LAST NIGHT'S TAX-CUT BILL CUTS $5 BILLION FROM CRIME TRUST FUND

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, even though I am a Democrat, I must say congratulations to my friends, the Republicans on this side of the aisle, for passing a Contract on America. They showed a lot of discipline in doing so, I say, "Congratulations," but, being a former police officer, as I was for 13 years, I say, "I admire the discipline you showed on the contract, but please use that discipline when you now try to pay for your contract."

As my colleagues know, the tax cut bill that was passed last night, in there they took $5 billion from the crime trust fund to start paying for these cuts. That $30 billion in the crime trust fund is going to pay for more prisons, is going to pay for local grants back to our districts.

I say to my colleagues, "You've already reneged on your first promise. You've cut $5 billion out of the crime trust fund to start paying for this new tax bill that you put forth, so what I ask you to do in your disciplined ways is quit spending the same money over, and over, and over again. Don't go back to your good old days of spend, spend, spend without the money being there."

So, again, congratulations, but let us be cautious on how we are spending that money three times over.

ABOUT LAST NIGHT

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, NEWT GINGRICH put the crown jewel on his contract last night. And if you earn over $200,000 a year, it is a crown jewel indeed. But if you earn $20,000 or $30,000 or $40,000 a year, you were sold fool's gold—costume jewelry.

Under the Republican plan passed under the cover of darkness, if you earn $200,000 a year you will get a tax break of over $11,000. Those earning over $350,000 will get $20,000—more than some working families earn in a year.

But if you earn $20,000 or $30,000 you will get a meager $25 a month. You can see why NEWT GINGRICH calls this plan a jewel—it is precious to the rich.

The Republicans say they can cut taxes without increasing the deficit. We tried that once before in the 1980's. We are still trying to dig our way out of the huge record deficits it created.

Mr. Speaker, the Republicans are robbing poor Peter to pay Paul. The American people know better. For shame, Mr. Speaker, for shame.

THE BEST TIME TO CUT TAXES

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, as my colleagues know, we keep talking about what we tried in 1980–81 to cut taxes. Only difference is we got a Republican Congress now that is going to cut the spending, too, so that will take care of that.

As my colleagues know, the argument over the last several days has been that there is not a good time to cut taxes. Every place we hear this is not a good time to cut taxes. We got full employment, practically full employment, we have got the production facilities in the United States operating at capacity; now is not a good time to cut taxes.

I am going to ask the question of the other side of the aisle over here, "When is a good time to cut taxes?"

Mr. Speaker, I say to my colleagues, "Now you can't cut taxes when the economy is down; that is true, as my colleagues know, because we got to pump it up, we have got to take tax money and generate the economy." So they are also saying that it is not a good time to cut taxes when the economy is doing well. So my question is:

"When is a good time to cut taxes?"

I can tell my colleagues when it is. Down in southwest Missouri, down in the hill country, we used to be a major apple producing area. At that time the question was when was the best time to prune the trees. I tell my colleagues, "The best time to prune the trees is when you got a sharp knife. The best time to cut taxes is whenever you can get it done."

SUMMER YOUTH EMPLOYMENT PROGRAM

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, I am disappointed that the Senate has not restored the Summer Youth Employment Program in the rescissions package. The rescissions package zeroed out the Summer Youth Employment Program, a very vitally needed program across the Nation in both rural and urban communities. Thirty-two thousand youngsters, teenagers, were employed last summer in the New York City Summer Youth Program.

□ 1045

I am disappointed in the Senate, but I am shocked at the rumor I hear that the President will support this package and not veto it. If the President does not veto this package, it is an abandonment of the youth in our cities. We are going to restore money for national service. At the same time, you are going to leave the zero out for the Summer Youth Employment Program. That is unfair to any national service components that are going to go into our cities. To go into our cities and not have the youth there employed when they get there, they are going to find a hostile environment, I assure you.

I appeal to the President. He should demand the restoration of the Summer Youth Employment Program or veto the bill. Please do not abandon the poorest teenagers in America.

TAX CUT IS A MIDDLE INCOME, WORKING AMERICAN, JOB CREATION PROGRAM

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, over the past several weeks through this debate on taxes we have been listening to little more than class warfare, the "us versus them" mentality, pitting one segment of society against another. When one looks closely at what we call the crown jewel, there should be a realization that those people who are in the upper 10 percent of wage earners in this country actually shoulder 60 percent of the Federal tax burden. We also should recognize that the tax cut that is going to take place is much greater for those earning between $30,000 and $75,000 a year. It is actually 4.4 percent. Those who are earning over $200,000 a year get only a 2.9-percent cut. And the $500 per child tax credit, 90 percent of that will be going to families with incomes of less than $100,000 a year.

We need to realize that this is a program for middle income, working families, and it has some incentives to create more job opportunities for those who are struggling to find greater opportunity. Remember, 4.7 million Americans are completely taken off the tax rolls because of that $500 per child tax credit.

APOLOGY DUE AMERICANS OF JAPANESE ANCESTRY

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, 50 years ago this year Senator DANIEL INOUYE was fighting to liberate Italy from Nazi oppression. He lost his arm and almost his life, as did many other American soldiers of Japanese ancestry.

What a savage irony it is that Senator INOUYE and other veterans of the 442d and the 100th Battalions have to listen to the kind of mockery that was displayed on the 50th anniversary of the defeat of nazism by Senator ALFONSE D'AMATO.

I trust that Senator D'AMATO will display some sense of shame. I would like to believe it was an anomaly, that it was something that was spontaneous and not well thought out. I would like to think that Senator D'AMATO would have the common courtesy, as well as a sense of shame, to let Senator INOUYE and all Americans of Japanese ancestry know that he apologizes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The Chair would remind Members that references to the other body and individuals in the other body should be avoided.

INTRODUCTION OF BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR ACT OF 1995

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, today I am joining my colleagues, Mr. BLUTE, Mr. PATRICK KENNEDY and Mr. REED, in introducing a bill that would revise the boundaries and extend the life of the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island.

This region, which is the birthplace of the American Industrial Revolution, was established by Congress as a national heritage area in 1986 and has proven to be a successful Federal investment. This legislation will build upon the outstanding record of historic preservation and tourism development that the Blackstone Valley has enjoyed during the past 10 years.

Expanding the boundaries of the corridor to include Worcester, MA, New England's second largest city, and four other communities will enhance the opportunities for the Corridor Commission to solicit funds from private groups to accompany those provided by the Federal Government. This partnership between the public and private sector will serve as a model for our country, by preserving a region without draining the public's pocketbook.

I am proud to join with my colleagues from the region in this bipartisan effort to preserve the Blackstone River Valley. Working together we can help to ensure that this area, which is so rich in history, will be around for future generations to experience and enjoy.

COMMUNICATION FROM THE HONORABLE BOB FRANKS, MEMBER OF CONGRESS FROM THE STATE OF NEW JERSEY

The SPEAKER pro tempore laid before the House the following communications from the Honorable BOB

FRANKS, a Member of Congress from the State of New Jersey:

APRIL 5, 1995.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has received a subpoena issued by the Municipal Court of Manville, New Jersey.

After consultation with the General Counsel, I have determined that compliance with the subpoena is not consistent with the privileges and precedents of the House.

Sincerely,

BOB FRANKS,
Congressman.

CONFERENCE REPORT ON H.R. 889, EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS FOR FISCAL YEAR 1995

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 129 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES 129

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my very good friend, the gentleman from Woodland Hills, CA [Mr. BEILENSON], and, pending that, I yield myself such time as I may consume. All time yielded is for the purpose of debate only.

(Mr. DREIER asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. DREIER. Mr. Speaker, this rule responds to a national emergency in defense readiness and training. The rule makes in order for consideration the conference report to accompany the bill H.R. 889, making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995.

The rule waives all points of order against the conference report and its consideration, and the conference report is to be considered as read.

The conference report requires a waiver of the 3-day layover rule. This rule is being waived in order to permit the House to consider this very vital measure as quickly as possible. The Secretary of Defense recommended that this bill be completed by March 31, 1995, and since we failed to do that, we are trying to move as expeditiously as possible to get this done.

Mr. Speaker, yesterday was an historic day in the House of Representatives. The new majority completed the final legislation outlined in our Contract With America. The new majority proved that Congress is finally led by legislators that keep their promises and live up the commitments that they make. The new majority proved that they value families ahead of Government, cutting taxes and ensuring that every dollar returned to the people that earned it comes from reduced Government spending, rather than adding to the deficit. And the new majority made the Washington establishment lash out in anger because we are doing something totally new: cutting taxes, reducing government, and cutting the deficit.

People take note of major accomplishments, Mr. Speaker. They measure Congress by high profile legislation, like the tax relief deficit reduction bill that we passed late last night. However, I believe that it is in the more mundane legislative accomplishments that we can really measure the difference in the House of Representatives between this year and past years. When I use the term "mundane," I do not mean in any way to criticize my very dear friend, the chairman of the Committee on Appropriations.

The conference report on this emergency defense supplemental appropriations bill is proof that we are making a real difference, changing the long-ingrained culture of deficit spending in Congress. For years those of us on this side of the aisle have said that we are committed to fiscal responsibility, that the Federal Government must live within its means. However, I can understand how people would want to see some results before they actually are sure that that is the case.

The Contract With America proved that we keep our promises, and this conference report begins to establish the real record of fiscal responsibility American taxpayers have demanded.

Our $4.7 trillion national debt is so massive it is almost incomprehensive. How did we get there? You can probably get as many reasons as there are Members of Congress. But I know that one reason is that in the past the standard operating procedure for this House, dealing with emergency spending, is to simply add to the deficit.

Well, Mr. Speaker, that era has come to an end. Things have changed. The new leadership has said that we will find offsetting cuts for all supplemental spending. While the big spenders said it could not be done with a $1.5 trillion Federal budget, it can. We are doing it here, and we will do it again with a disaster relief supplemental appropriations bill. In fact, it is now the only way for us to meet emergencies.

Make no mistake, H.R. 889 makes supplemental appropriations of a truly emergency nature. It provides $3.04 billion in readiness funds. Those defense funds are offset with $2.5 billion in defense rescissions, $775 million in nondefense rescissions, and $142 million in foreign assistance rescissions.

Two months ago some said that the House's original nondefense rescissions were going nowhere. They said the Senate would not even consider them. I would note, Mr. Speaker, that instead of failure, the House got much of what it wanted, and this bill cuts $746 million more than it spends. In other words, we are again doing the people's business and making a down payment on balancing the budget.

Mr. Speaker, the real changes in Congress are at least as evident when we send a bill like this to the President as when we cut taxes and cut spending to pay for it. I urge all of my colleagues to support this very fair rule and permit the House to consider this conference report. There is a critical national security need that must be met, and H.R. 889 meets it.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from California for yielding to me. I yield myself such time as I may consume.

Mr. Speaker, over the past few years this country has called on the men and women of our armed services to perform duties ranging from humanitarian assistance in Somalia to all out war in Iraq. These duties were performed superbly and with honor. There is not one of us here today who can feel anything but pride for the job our Armed Forces have done in Africa, the Middle East, the Balkans, or in the Caribbean.

I would like to commend the conferees for their work with regard to the defense side of the conference report. While the increases in defense spending are not fully offset by direct defense cuts, this bill is certainly an improvement over the bill which the House sent to conference just a few weeks ago.

The bill still relies on some nondefense cuts to offset the additional defense spending. Those offsets include cuts of $200 million from environmental cleanup at the Department of Energy sites and $142 million in foreign assistance, as well as major cuts in the technology reinvestment program, the defense conversion grants that have been so important to companies in areas that have experienced significant losses of defense and aerospace jobs.

We would like to raise some additional concerns with a number of other domestic rescissions in the conference report which are not needed to offset defense spending. A few examples of those cuts are $35 million for student loans under the Pell Grant Program, $200 million for training and employment services, and $200 million for clean coal technology.

Also, Mr. Speaker, the conference report effectively places a hold on any endangered species listing and critical habitat designations for the remainder of the year. We believe that the authorizing committee and not the Committee on Appropriations is the proper place to address this far-reaching and very critical issue.

Finally, Mr. Speaker, the rules does not allow separate votes on any of the amendments in disagreement. The conference report contains items which the House has not had the opportunity to consider before today, and we believe, Mr. Speaker, that it is only fair that some of these issues be voted on separately.

Mr. Speaker, even though we have many reservations about the conference report, we support the rule because it is absolutely necessary that we have this bill on the President's desk as soon as possible.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I would simply urge support of this very important first step toward dealing with the deficit, and at the same time dealing with emergency spending, and again I have to apologize not only to the chairman of the Committee on Appropriations for in any way leading one to believe that this might be a mundane measure, but also the chairman of the Subcommittee on Defense Appropriations, Mr. YOUNG, who has now joined us, and say that I believe this is extraordinarily important. I hope we can immediately report out this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1100

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 129, I call up the conference report on the bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Pursuant to House Resolution 129, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Wednesday, April 5, 1995, at page H4319.)

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 889, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was not objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to bring to the House what I believe to be an extraordinary—and I say to the gentleman from the Rules Committee [Mr. DREIER], nonmundane conference report to accompany H.R. 889, making emergency supplemental appropriations for the Department of Defense and rescinding additional budget authority.

We need to adopt the conference report so that we can respond quickly to what we all acknowledge is an emergency in funding readiness operations.

First, I want to acknowledge the valiant efforts of the distinguished chairman of the Subcommittee on National Security, the gentleman from Florida, [Mr. YOUNG] and all of the members of that subcommittee, as well as all of the subcommittee chairmen who participated in the conference. They have worked diligently, along with the Members of the other body, to confect this conference agreement and have it ready today before the recess begins.

It was not an easy conference, but I think that everyone worked so hard that we ended up with an extremely valuable product which will not only provide needed assistance and support to the young men and women in uniform in our armed services but ultimately will maintain the national security of this country.

Mr. Speaker, this bill contains $3,041,700,000 in new budget authority for the Department of Defense. All of this budget authority is paid for, mostly from other less critical defense programs. We offset $2,259,956,000 from the Defense Department. We provide $442,014,000 in offsets from defense-related sources, including foreign operations, nuclear facility cleanup, and military construction activities. Also, we include burden-sharing receipts totaling $360 million that provide additional offsets. In total, we have provided a net reduction in defense and defense-related activities of $20,870,000.

The bill also provides other cuts totaling $775,067,000 in nondefense budget rescissions., Taken in total, the bill provides a net budget authority reduction of $746,067,000. Let me repeat that. This bill has a net budget authority reduction of $746 million plus.

I will include for the RECORD a table detailing these specific reductions.

Mr. Speaker, we had a difficult conference on what I had hoped would be a not-too-difficult bill. But I would ask that the Members consider the following points as they consider this conference report:

The bill is more than offset in budget authority, as I have indicated, by nearly three-quarters of $1 billion.

It meets Secretary of Defense Perry's needs to replenish readiness accounts depleted by humanitarian peacekeeping operations.

It also carries the emergency designation for funding that Secretary Perry has requested. And it makes a modest contribution to our readiness needs.

Mr. Speaker, in addition to the appropriations mentioned, the agreement includes language requiring the Secretary of the Treasury to submit reports to the Congress each month concerning our loans and our currency agreements with Mexico.

It also requires that certifications be made by the President to the Congress on that very important issue.

Mr. Speaker, time is of the essence in passing this measure. We need to have this bill clear Congress before we leave for the recess to avoid a major disruption in our readiness activities. Democrats and Republicans alike have worked hard in a bipartisan, bicameral spirit to approve this conference report in time for our departure. I urge all Members to vote for this agreement.

At this point in the RECORD I would also like to insert a table reflecting the details of the conference. It is a very important conference report. Again, I urge its adoption.

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL (H.R. 889)

Doc No.		Supplemental Request	House	Senate	Conference	Conference compared with House	Conference compared with Senate
	TITLE I						
	SUPPLEMENTAL APPROPRIATIONS						
	CHAPTER I						
	PART I						
	DEPARTMENT OF DEFENSE - MILITARY						
	Military Personnel						
104-4	Military Personnel, Army	69,300,000	69,300,000	35,400,000	260,700,000	+191,400,000	+225,300,000
104-4	Military Personnel, Navy	49,500,000	49,500,000	49,500,000	183,100,000	+133,600,000	+133,600,000
104-4	Military Personnel, Marine Corps	10,400,000	10,400,000	10,400,000	25,200,000	+14,800,000	+14,800,000
104-4	Military Personnel, Air Force	71,700,000	71,700,000	37,400,000	207,100,000	+135,400,000	+169,700,000
....	Reserve Personnel, Army	....	....	....	6,500,000	+6,500,000	+6,500,000
104-4	Reserve Personnel, Navy	4,600,000	4,600,000	4,600,000	9,600,000	+5,000,000	+5,000,000
....	Reserve Personnel, Marine Corps	....	....	....	1,300,000	+1,300,000	+1,300,000
....	Reserve Personnel, Air Force	....	....	....	2,800,000	+2,800,000	+2,800,000
....	National Guard Personnel, Army	....	....	....	11,000,000	+11,000,000	+11,000,000
....	National Guard Personnel, Air Force	....	....	....	5,000,000	+5,000,000	+5,000,000
	Total, Military Personnel	205,500,000	205,500,000	137,300,000	712,300,000	+506,800,000	+575,000,000
	Operation and Maintenance						
104-4	Operation and Maintenance, Army	958,600,000	958,600,000	636,900,000	936,600,000	-22,000,000	+299,700,000
104-4	Operation and Maintenance, Navy	347,600,000	347,600,000	284,100,000	423,700,000	+76,100,000	+139,600,000
104-4	Operation and Maintenance, Marine Corps	38,000,000	38,000,000	27,700,000	33,500,000	-4,500,000	+5,800,000
104-4	Operation and Maintenance, Air Force	888,700,000	888,700,000	785,800,000	852,500,000	-36,200,000	+66,700,000
104-4	Operation and Maintenance, Defense-Wide	43,200,000	43,200,000	43,200,000	46,200,000	+3,000,000	+3,000,000
104-4	Operation and Maintenance, Navy Reserve	6,400,000	6,400,000	6,400,000	15,400,000	+9,000,000	+9,000,000
	Total, Operation and Maintenance	2,282,500,000	2,282,500,000	1,784,100,000	2,307,900,000	+25,400,000	+523,800,000
	Procurement						
104-4	Other Procurement, Army	28,600,000	28,600,000	....	8,300,000	-20,300,000	+8,300,000
104-4	Other Procurement, Air Force	8,100,000	8,100,000	....	....	-8,100,000	....
	Total, Procurement	36,700,000	36,700,000	....	8,300,000	-28,400,000	+8,300,000
	Other Department of Defense Programs						
104-4	Defense health program	14,000,000	14,000,000	14,000,000	13,200,000	-800,000	-800,000
	GENERAL PROVISIONS						
104-4	Burdensharing contribution, misc. receipts (sec. 102)	-360,000,000	-360,000,000	....	-360,000,000	....	-360,000,000
	Total, Chapter I	2,178,700,000	2,178,700,000	1,935,400,000	2,681,700,000	+503,000,000	+746,300,000
	CHAPTER II						
	PART II						
	RESCINDING CERTAIN BUDGET AUTHORITY						
	DEPARTMENT OF DEFENSE - MILITARY						
	Operation and Maintenance						
....	Operation and Maintenance, Navy	....	....	-16,300,000	-2,000,000	-2,000,000	+14,300,000
....	Operation and Maintenance, Air Force	....	-15,000,000	-2,000,000	-2,000,000	+13,000,000	....
....	(By transfer)	....	....	....	(23,500,000)	(+23,500,000)	(+23,500,000)
....	Operation and Maintenance, Defense-Wide	....	-18,800,000	-90,000,000	-68,800,000	-50,000,000	+21,200,000
....	Operation and Maintenance, Army Reserve	....	....	....	-6,200,000	-6,200,000	-6,200,000
....	Operation and Maintenance, Army National Guard	....	....	....	-15,400,000	-15,400,000	-15,400,000
....	Environmental Restoration, Defense	....	-150,000,000	-300,000,000	-300,000,000	-150,000,000	....
....	Former Soviet Union threat reduction	....	-80,000,000	....	-20,000,000	+60,000,000	-20,000,000
	Total, Operation and Maintenance	....	-263,800,000	-408,300,000	-414,400,000	-150,600,000	-6,100,000
	Procurement						
....	Aircraft Procurement, Army, 1995	....	....	-77,611,000	-34,411,000	-34,411,000	+43,200,000
....	Procurement of Ammunition, Army, 1993	....	....	-85,000,000	-85,000,000	-85,000,000	....
....	Procurement of Ammunition, Army 1995	....	....	-89,320,000	-55,900,000	-55,900,000	+33,420,000
....	Other Procurement, Army, 1995	....	....	-46,900,000	-32,100,000	-32,100,000	+14,800,000
....	Shipbuilding and Conversion, Navy, 1995	....	....	-26,600,000	....	....	+26,600,000
....	Aircraft Procurement, Air Force, 1993	....	....	....	-100,000,000	-100,000,000	-100,000,000
....	Aircraft Procurement, Air Force, 1994	....	-15,000,000	....	....	+15,000,000	....
....	Aircraft Procurement, Air Force, 1995	....	-71,400,000	....	-27,500,000	+43,900,000	-27,500,000
....	Missile Procurement, Air Force, 1993	....	-33,000,000	-33,000,000	-33,000,000	....	....
....	Missile Procurement, Air Force, 1994	....	-86,200,000	-86,184,000	-99,000,000	-12,800,000	-12,816,000
....	Missile Procurement, Air Force, 1995	....	....	....	-89,500,000	-89,500,000	-89,500,000
....	Other Procurement, Air Force, 1995	....	....	-6,100,000	-6,100,000	-6,100,000	....
....	National Guard and Reserve Equipment	....	-30,000,000	....	-30,000,000	....	-30,000,000
....	Procurement, Defense-Wide, 1995	....	....	-81,000,000	-32,000,000	-32,000,000	+49,000,000
....	Defense Production Act Purchases	....	-100,000,000	-100,000,000	-100,000,000	....	....
	Total, Procurement	....	-335,600,000	-631,715,000	-724,511,000	-388,911,000	-92,796,000

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL (H.R. 889) — continued

Doc No.		Supplemental Request	House	Senate	Conference	Conference compared with House	Conference compared with Senate
	Research, Development, Test and Evaluation						
	Research, Development, Test and Evaluation, Army, 1994		-28,300,000		-5,000,000	+23,300,000	-5,000,000
	Research, Development, Test and Evaluation, Army, 1995		-19,700,000	-38,300,000	-43,000,000	-23,300,000	-4,700,000
	Research, Development, Test and Evaluation, Navy, 1994		-1,200,000			+1,200,000	
	Research, Development, Test and Evaluation, Navy, 1995		-58,900,000	-59,600,000	-68,800,000	-9,900,000	-9,200,000
	Research, Development, Test and Evaluation, Air Force, 1994		-93,800,000	-81,100,000	-49,600,000	+44,200,000	+31,500,000
	Research, Development, Test and Evaluation, Air Force, 1995		-75,800,000	-226,900,000	-191,200,000	-115,400,000	+35,700,000
	Research, Development, Test and Evaluation, Defense-Wide, 1994		-77,000,000	-77,000,000	-77,000,000		
	Research, Development, Test and Evaluation, Defense-Wide, 1995		-491,600,000	-351,000,000	-436,445,000	+55,155,000	-85,445,000
	Total, Research, Development, Test & Evaluation		-846,300,000	-833,900,000	-871,045,000	-24,745,000	-37,145,000
	RELATED AGENCIES						
	National Security Education Trust Fund:						
	Total funding available		(-161,287,000)		(-75,000,000)	(+86,287,000)	(-75,000,000)
	Appropriation from trust fund currently unobligated		-14,500,000			+14,500,000	
	Total, Chapter II		-1,460,200,000	-1,873,915,000	-2,009,956,000	-549,756,000	-136,041,000
	PART III						
	ADDITIONAL SUPPLEMENTAL APPROPRIATIONS						
	DEPARTMENT OF DEFENSE - MILITARY						
	Military Personnel						
	Military Personnel, Army		75,500,000			-75,500,000	
	Military Personnel, Navy		68,200,000			-68,200,000	
	Military Personnel, Marine Corps		3,000,000			-3,000,000	
	Military Personnel, Air Force		70,400,000			-70,400,000	
	Reserve Personnel, Army		6,500,000			-6,500,000	
	Reserve Personnel, Navy		5,000,000			-5,000,000	
	Reserve Personnel, Marine Corps		1,300,000			-1,300,000	
	Reserve Personnel, Air Force		2,800,000			-2,800,000	
	National Guard Personnel, Army		11,000,000			-11,000,000	
	National Guard Personnel, Air Force		5,000,000			-5,000,000	
	Total, Military Personnel		248,700,000			-248,700,000	
	Operation and Maintenance						
	Operation and Maintenance, Army		133,000,000			-133,000,000	
	Operation and Maintenance, Navy		107,000,000			-107,000,000	
	Operation and Maintenance, Marine Corps		46,000,000			-46,000,000	
	Operation and Maintenance, Air Force		80,400,000			-80,400,000	
	Operation and Maintenance, Army Reserve		13,000,000			-13,000,000	
	Operation and Maintenance, Navy Reserve		18,000,000			-18,000,000	
	Operation and Maintenance, Marine Corps Reserve		1,000,000			-1,000,000	
	Operation and Maintenance, Air Force Reserve		2,800,000			-2,800,000	
	Operation and Maintenance, Army National Guard		10,000,000			-10,000,000	
	Operation and Maintenance, Air National Guard		10,000,000			-10,000,000	
	Total, Operation and Maintenance		421,000,000			-421,000,000	
	Total, Part III		669,700,000			-669,700,000	
	CHAPTER III						
	PART IV						
	GENERAL PROVISIONS						
104-4	**Coast Guard operations (sec. 104)**	28,297,000		28,297,000	28,297,000	+28,297,000	
	FFRDC'S/Consultant services (sec. 108)			-100,000,000	-150,000,000	-150,000,000	-50,000,000
	Military Construction (sec. 113):						
	Military construction, Army, 1995				-3,500,000	-3,500,000	-3,500,000
	Military construction, Navy, 1995				-3,500,000	-3,500,000	-3,500,000
	Military construction, Air Force, 1995				-3,500,000	-3,500,000	-3,500,000
	Military construction, Naval Reserve, 1992				-25,100,000	-25,100,000	-25,100,000
	NATO, 1995				-33,000,000	-33,000,000	-33,000,000
	Base realignment & closure account, Part III, 1993				-32,000,000	-32,000,000	-32,000,000
	Research, Development, Test and Evaluation, Air Force (by transfer) (sec. 115)				(76,900,000)	(+76,900,000)	(+76,900,000)
	Sec. 8005 transfer authority			(-250,000,000)			(+250,000,000)
	Expiring balances, FY 1993, Title III (sec. 117)				-100,000,000	-100,000,000	-100,000,000
	Total, Chapter III	28,297,000		-71,703,000	-322,303,000	-322,303,000	-250,600,000
	Total, Chapters I, II and III	2,208,997,000	1,388,200,000	-10,218,000	349,441,000	-1,038,759,000	+359,659,000

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL (H.R. 889) — continued

Doc No.		Supplemental Request	House	Senate	Conference	Conference compared with House	Conference compared with Senate
	CHAPTER IV						
	PART V						
	FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS						
	BILATERAL ECONOMIC ASSISTANCE						
	Agency for International Development						
104-4	Debt restructuring: Debt relief for Jordan	275,000,000		275,000,000			-275,000,000
	DEPARTMENT OF TRANSPORTATION						
	Federal Railroad Administration						
	Grants to the National Railroad Passenger Corporation: Capital				21,500,000	+21,500,000	+21,500,000
	Total, Title I (net)	2,481,997,000	1,388,200,000	264,782,000	370,941,000	-1,017,259,000	+106,159,000
	Appropriations	(2,481,997,000)	(2,848,400,000)	(2,238,697,000)	(2,731,497,000)	(-116,903,000)	(+492,800,000)
	Rescissions		(-1,460,200,000)	(-1,973,915,000)	(-2,360,556,000)	(-900,356,000)	(-386,641,000)
	TITLE II - OTHER RESCISSIONS						
	CHAPTER I						
	DEPARTMENT OF JUSTICE						
	Immigration and Naturalization Service						
	Immigration Emergency Fund		-70,000,000	-10,000,000	-45,000,000	+25,000,000	-35,000,000
	DEPARTMENT OF COMMERCE						
	National Institute of Standards and Technology						
	Industrial technology services		-107,000,000	-32,000,000	-90,000,000	+17,000,000	-58,000,000
	National Oceanic and Atmospheric Administration						
	Operations, research and facilities			-2,500,000			+2,500,000
	National Telecommunications and Information Administration						
	Information infrastructure grants			-34,000,000	-15,000,000	-15,000,000	+19,000,000
	Economic Development Administration						
	Economic development assistance programs			-40,000,000			+40,000,000
	Total, Department of Commerce		-107,000,000	-108,500,000	-105,000,000	+2,000,000	+3,500,000
	RELATED AGENCIES						
	Small Business Administration						
	Salaries and expenses			-15,000,000	-15,000,000	-15,000,000	
	Legal Services Corporation						
	Payment to the Legal Services Corporation			-15,000,000	-15,000,000	-15,000,000	
	Total, Related Agencies			-30,000,000	-30,000,000	-30,000,000	
	DEPARTMENT OF STATE						
	Administration of Foreign Affairs						
	Acquisition and maintenance of buildings abroad			-28,500,000			+28,500,000
	Total, Chapter I (rescissions)		-177,000,000	-177,000,000	-180,000,000	-3,000,000	-3,000,000
	CHAPTER II						
	DEPARTMENT OF ENERGY						
	Atomic Energy Defense Activities: Defense Environmental Restoration and Waste Management		-100,000,000	-100,000,000	-200,000,000	-100,000,000	-100,000,000
	CHAPTER III						
	FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS						
	MULTILATERAL ECONOMIC ASSISTANCE						
	International Financial Institutions						
	Contribution to the International Development Association			-70,000,000	-60,000,000	-60,000,000	+10,000,000
	Contribution to the African Development Fund		-62,014,000	-62,014,000	-62,014,000		
	Total, International Financial Institutions		-62,014,000	-132,014,000	-122,014,000	-60,000,000	+10,000,000
	BILATERAL ECONOMIC ASSISTANCE						
	Agency for International Development						
	Development Assistance Fund			-13,000,000	-12,500,000	-12,500,000	+500,000
	Assistance for Eastern Europe and the Baltic States			-9,000,000			+9,000,000
	Assistance for the New Independent States of the Soviet Union		-110,000,000	-18,000,000	-7,500,000	+102,500,000	+10,500,000
	Total, Agency for International Development		-110,000,000	-40,000,000	-20,000,000	+90,000,000	+20,000,000
	Total, Chapter III (rescissions)		-172,014,000	-172,014,000	-142,014,000	+30,000,000	+30,000,000

FY 1995 EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL (H.R. 889) — continued

Doc No.		Supplemental Request	House	Senate	Conference	Conference compared with House	Conference compared with Senate
	CHAPTER IV						
	DEPARTMENT OF INTERIOR						
	United States Fish and Wildlife Service						
	Resource management			-1,500,000	-1,500,000	-1,500,000	
	RELATED AGENCIES						
	DEPARTMENT OF ENERGY						
	Clean coal technology		-200,000,000	-200,000,000	-200,000,000		
	Total, Chapter IV (rescissions)		-200,000,000	-201,500,000	-201,500,000	-1,500,000	
	CHAPTER V						
	DEPARTMENT OF LABOR						
	Employment and Training Administration						
	Training and employment services		-200,000,000	-200,000,000	-200,000,000		
	DEPARTMENT OF EDUCATION						
104-28 104-40	School improvement programs	-103,084,000	-100,000,000		-65,000,000	+35,000,000	-65,000,000
	Student financial assistance			-100,000,000	-35,000,000	-35,000,000	+65,000,000
	Total, Chapter V (rescissions)	-103,084,000	-300,000,000	-300,000,000	-300,000,000		
	CHAPTER VI						
	DEPARTMENT OF TRANSPORTATION						
	Federal Aviation Administration						
	Facilities & equipment (Airport and Airway Trust Fund)			-35,000,000	-35,000,000	-35,000,000	
	Federal Highway Administration						
	Federal-aid highways (Highway Trust Fund)			-139,948,000			+139,948,000
	Miscellaneous highway demonstration projects (Highway Trust Fund)			-12,004,450	-12,004,000	-12,004,000	+450
	Total, Federal Highway Administration			-151,952,450	-12,004,000	-12,004,000	+139,948,450
	Federal Railroad Administration						
104-28	Local rail freight assistance	-13,216,371	-13,126,000		-6,563,000	+6,563,000	-6,563,000
	Grants to the National Railroad Passenger Corporation:						
	Pennsylvania station redevelopment project		-40,000,000		-40,000,000		-40,000,000
	Total, Federal Railroad Administration	-13,216,371	-53,126,000		-46,563,000	+6,563,000	-46,563,000
	Total, Chapter VI (rescissions)	-13,216,371	-53,126,000	-186,952,450	-93,567,000	-40,441,000	+93,385,450
	CHAPTER VII						
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT						
	Housing Programs						
	Annual contributions for assisted Housing			-400,000,000			+400,000,000
	INDEPENDENT AGENCIES						
	National Aeronautics and Space Administration						
	National aeronautical facilities		-400,000,000			+400,000,000	
	Total, Chapter VII (rescissions)		-400,000,000	-400,000,000		+400,000,000	+400,000,000
	Total, Title II (rescissions)	-116,300,371	-1,402,140,000	-1,537,466,450	-1,117,081,000	+285,059,000	+420,385,450
	Grand total (net)	2,365,596,629	-13,940,000	-1,272,684,450	-746,140,000	-732,200,000	+526,544,450
	Appropriations	(2,481,897,000)	(2,848,400,000)	(2,238,697,000)	(2,731,497,000)	(-116,903,000)	(+492,800,000)
	Rescissions	(-116,300,371)	(-2,862,340,000)	(-3,511,381,450)	(-3,477,637,000)	(-615,297,000)	(+33,744,450)
	(Transfer out)						
	(By transfer)			(-250,000,000)	(100,400,000)	(+100,400,000)	(+350,400,000)

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, when this bill originally left the House, I voted against it for a number of reasons. First of all, because it took money from domestic programs to pay for some of the additional Pentagon spending in the bill.

Second, the bill added to the deficit. At the time the bill left the House, the committee indicated that even though the outlays were not in balance, that in fact the bill was balanced in terms of budget authority. But after the bill passed the House, the committee produced a table, I did not produce that table, the committee produced a table, which indicated that in fact the bill, as it left the House, added $186 million in budget authority to the deficit and it added $250 million in outlay spending to the deficit in the first year and $650 million to the deficit in the out years.

I thought that was a very important reason to object to the bill. When we went to conference with the Senate, I offered a motion to instruct conferees. And essentially at that time what I said is that I was willing to overlook, though I was not enthusiastic about the idea, I was willing to overlook the fact that some domestic-related programs were used to finance some of the Pentagon spending in the bill, provided that the bill, in fact, would be paid for. So we asked the conferees to produce a bill which was, in fact, paid for.

In conference, I did not sign the conference report for a number of reasons.

First of all, because in the nondefense portion of this bill, it retains spending for an item which was strongly insisted on in the Senate, which begins a new construction program in the area of education. I, frankly, think it is silly and shortsighted and stupid, even though that program in and of itself may be useful, for us to spend money on that program which we do not have at the very same time that we are cutting money from existing education programs.

Second, I wanted to register my objection to the fact that the committee continues to insist that we spend $14 million in my district which I do not want to spend. I do not know of another situation in the Congress where you have both U.S. Senators and the Member of the House representing a specific district asking that a project be canceled in our district. That is what we are asking to do. Yet the Congress, in what I regard as a typical lap dog puppy situation, again rolled over and decided to give the Navy the money for its toy again.

Third, I do not like the fact that this is treated as an emergency and, therefore, does not count added defense spending in out years against the budget caps. In fact, it should, if we are serious about deficit reduction.

And fourth, I was trying to help the administration on the issue of Jordan because the administration was asking for help in seeing to it that the Jordan debt provision, which in the Senate was originally contained in this bill, not be moved from this bill to the $17 billion rescission bill which we have sent to the Senate.

But on that score, I would say that, in light of the administration's negotiations which they conducted last night in the Senate, without consultation on the side so far as I know, it appears to me that the White House does not mind being jerked around on the issue of Jordan. It would appear to me the White House does not mind being blackmailed on the issue of Jordan. And so if they do not care, why should I?

So what I am going to do on the floor, now that I have registered my concern on the individual points, is to support this conference report, because in essence, it does what we asked them to do in the motion to instruct, and it does what the bill did not do when it originally left the House, which is to largely offset the spending with cuts, so it does remain significantly deficit neutral.

So I think that in comparison to the House-passed package, this is much more preferable. Having registered my concerns on the details, I will, in the interest of comity and the interest of getting things done, recognize the progress that was made in the conference report and support the bill as it is reported.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding to me. Certainly I will reciprocate in the event that we run short of time, although I do not think that we will. I would just like to point out that insofar as the gentleman's objections to the educational infrastructure project are concerned, the gentleman from Louisiana and the gentleman from Illinois [Mr. PORTER], who chairs the subcommittee on which the gentleman is the ranking minority member, totally agree with the gentleman from Wisconsin that that program is wasteful, inefficient, and almost constitutes a brand new entitlement for which the taxpayer to the U.S. Federal Government cannot possibly be expected to ultimately pay.

Mr. Speaker, I yield myself such time as I may consume.

I say further to the gentleman that the fact is that the other body pressed very hard for this program, notwithstanding the prognosis that in future legislative activities before this body, that this program will not be looked upon kindly. Yet, it was a compromise. It was an effort to reach an accommodation, at least temporarily, so this very important bill could go forward. Unfortunately, the whole appropriation was not stricken. But I totally share the sentiment of the gentleman and want to assure him that it was only agreed to for the purposes of comity with the other body in order to conclude the entire conference.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the gentleman for his statement, and I would say that I certainly recognize the value of the program that the Senate is trying to support, but it just seems to me that the worst thing one can do in a situation of tight budgets is to unfairly raise people's expectations about the ability of the Federal Government to fund yet another program when, in fact, we are making substantial reductions in programs that now do some very good things for a lot of people who need help.

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I share the gentleman's view on that point, and would simply observe that for all of the Members who voted for the motion to instruct, demanding that conferees come back with a bill which is essentially budget neutral and does not add to the deficit, we won our point, and I think that deserves recognition on our part on the conference report.

Mr. LIVINGSTON. Reclaiming my time, Mr. Speaker, in further response to the gentleman, I agree with his points. I would add, though, that the administration made a commitment to Jordan that there would be three tranches in response to the President's agreement to forgive Jordanian debt; that one would be expected to be provided in 1995, one in 1996, and one in 1997.

We are currently dealing with a conference agreement on a supplemental and a rescission of 1995 appropriations. We are going to deal with another one, another 1995 supplemental and rescission conference agreement in the coming weeks. We will deal with this relief in that agreement. The fact is that the three tranches for Jordanian aid will be dealt with in 1995, not in 1996 or 1997, for the entire total balance of the commitment that the President has made to Jordan.

If that is jerking the administration around, I think they would think it is a good way to do it, from their point of view.

Mr. Speaker, I am delighted to yield 5 minutes to the gentleman from Florida [Mr. YOUNG], the very hard-working, diligent, and most distinguished chairman of the Subcommittee on National Security of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Speaker, I thank the distinguished gentleman from Louisiana for yielding time to me.

Mr. Speaker, I do not think it is necessary to use all of the time we have allocated today. I did want to pay a special tribute to my chairman, the gentleman from Louisiana [Mr. LIVINGSTON], because as we proceeded with this supplemental he was there every step of the way in strong support of what we were doing.

I have to admit, after having served in the minority for so many years, to be the chairman of the subcommittee that brought out the first appropriation bill of this new Congress was gratifying, and it was a partnership effort. The gentleman from Pennsylvania [Mr. MURTHA], the former chairman of the subcommittee, could not have been a stronger supporter, and I think we both felt really good when the subcommittee and the full committee agreed to the recommendation we made on how to deal with this emergency supplemental. We moved it even ahead of the request from the administration, because we recognized the emergency and the time element.

I would also want to say that, in addition to the Members who were so helpful and so supportive, I never saw a staff work as many hours, attend as many meetings, draw up as many papers and make as many comparisons on so many different ideas as I saw in this particular exercise. I pay tribute to that staff, because even after we would go home at 10 or 11 o'clock at night, they were still here after we left, and they were here before we got back the next morning.

Mr. Speaker, I want to take just a couple of minutes to say that we are facing not just a supplemental issue today but we are facing a real concern about the readiness of our forces and the ability to defend our national interest.

For the last 10 years we have experienced a reduction, a reduction in the amount of funding made available to our national defense establishment for pay for forces, for uniforms, for training, for modernization of equipment. We have reduced that budget for the last 10 years. The budget request that we deal with this year would be the 11th reduction.

The gentleman from Pennsylvania [Mr. MURTHA] and I have discussed this on a number of occasions, we would not be able to do today what we did in Desert Storm just a few short years ago, because of the tremendous reductions. We have to face up to and recognize that the many contingencies that are not planned for, that are not funded, that we have to develop some way to deal with these contingencies.

If the President is going to deploy forces around the world on an unplanned contingency, he ought to consult with the Congress of the United States, so we can work together not only in devising the plan to handle the deployment and the mission, but to determine how we are going to pay for it before we get into a crisis situation like we face today.

If we do not pass this supplemental today, the Navy is prepared to tie up ships within the next couple of weeks. The Air Force and the Navy both are prepared to ground airplanes; not prepared to, they would be forced to, because the money for those purposes has already been spent for these contingencies.

Mr. Speaker, one other issue, Haiti. There was a strong difference of opinion in this House whether or not we should even have gone to Haiti to return Aristide to office. Nevertheless, it happened. Our troops performed almost flawlessly. We should be so extremely proud of the way that they did perform in Haiti.

However, Haiti was not a military threat to our Nation, not a security threat to our Nation, and the Department of Defense should not have to pay the bill for the Haiti operation. It should come from another account, whether it is the State Department or the foreign aid account. It should not come out of the hide of the national defense establishment that is already suffering from 10 years of funding reductions.

Mr. Speaker, I hope Members will pay close attention, because the gentleman from South Carolina [Mr. SPENCE], the distinguished chairman of the Committee on Armed Services, which we now call the Committee on National Security, and I have met on many occasions since the beginning of this Congress. We have reached an agreement that any projects, any items that are going to be authorized in their bill or appropriated by our appropriations subcommittee had better have a national defense application.

We are not going to use the national defense budget for a slush fund for anyone. We are going to be very careful not to use the national defense funding for political projects, whatever they might be. Whatever is funded and authorized in this Congress for national defense is going to be used for national defense.

Mr. Speaker, I want to thank my friend, the gentleman from Wisconsin [Mr. OBEY], for the stature that he displays in being willing to support this legislation today, although he opposed it in the beginning. It is somewhat different than it was in the beginning. I appreciate all the support from the gentleman from Wisconsin and his staff, all of the Members of the House and our subcommittee.

Mr. Speaker, as I said earlier, the Department of Defense is facing a critical shortfall in its funding for military readiness and training—because the funds we provided last year for these activities have been siphoned off, and used to pay for the large number of contingency operations that our Armed Forces have been involved in since last fall. Haiti, Bosnia, the Middle East, refugee relief at Guantanamo Bay, Korea, Somalia. All these operations, the DOD has been forced to pay for out of hide—from funds intended for training and readiness in the second half of the current fiscal year.

The second half of the fiscal year began last Saturday, Mr. Speaker—and if we do not act to replenish the DOD's accounts, beginning next week we will start to see the Pentagon ordering cutbacks in all of the military services.

The Joint Chiefs of Staff have recommended that without this supplemental, in April they will have to order the Air Force to cut flying hours by 25 percent; the Navy will have to cancel scheduled maintenance on two aircraft carriers; the Marines will have to cancel exercises and cut operating forces budgets by 20 percent; and the Army will have to cut tank training 25 percent and scrub preparations for exercises at the National Training Center in California.

That is just what will happen in April. It will get worse as the year goes on.

That is why we have to act—and why we have brought back to the House this emergency supplemental for the DOD which, while it is not perfect, provides the only way we can avoid what will be a disaster for military readiness.

This bill provides just over $3 billion in readiness funding for the military—and it not only covers the costs of the contingency operations I just mentioned but also provides money to fully finance the military pay raise for 1995, as well as a $250 million shortfall in pay accounts for our forces stationed overseas, brought on by the drop of the dollar.

And at the same time we provide this emergency funding, we have more than fully offset these costs—by recommending over $3.8 billion worth of rescissions and offsets. As a result, even with the funding for the DOD, this bill will reduce current budget authority by over $740 million dollars.

Now, I have to admit I am not entirely comfortable with having to totally offset an emergency supplemental for our military. Our committee has never done this before; and we have to realize that depending on the type of military actions our forces may have to carry out, it may be impossile to totally offset Defense supplementals in the future. But in this bill we have done so.

I must also admit that I am not entirely pleased with how we finally offset this bill. After a long and hard negotiation with the other body, we ended up agreeing to taking nearly $2.4 billion in rescissions out of other Defense accounts—$2.26 billion from programs under the National Security subcommittee, and another $100 million from military construction. On top of this, $200 million is coming from the defense-related accounts in the Department of Energy.

In conference, we were basically asked to rob Peter to pay Paul—take money out of other Defense accounts to pay for Defense readiness. We did our best to recommend Defense offsets which were less critical, less important—but the fact remains, the Defense budget has been cut for 10 straight years. There are no easy cuts left. And we had a very difficult time settling with the Senate which Defense accounts were important, and which ones were not.

None of this was easy for the House conferees—but we were left with no choice. And I want to thank Chairman VUCANOVICH and Chairman MYERS for helping with offsets, because without these we could not have gotten an agreement before the recess.

We would not be in this situation if the President would have come to the Congress and asked for approval of these operations as well as the needed money in advance. With the exception of the deployments to the Middle East and Korea, we are not talking about emergency military operations here. We are talking about peacekeeping, and humanitarian operations—things that are not the core mission of the Department of Defense.

That is one thing we were all able to agree upon in our conference—that the President just cannot keep ordering these operations and then expect us to come up with the money afterwards. We just can not keep doing this. We will destroy military readiness and other critical defense programs. We lay all this out in the statement of managers. And I know, based on how all of us in the conference felt—Chairman LIVINGSTON, Senators HATFIELD, BYRD, STEVENS, and INOUYE; and certainly myself and the gentleman from Pennsylvania, Mr. MURTHA—that if the President does not do something to correct this then we will come back in the 1996 appropriations bills with some further recommendations of our own.

So, this is not a perfect agreement, but it is one that we have to pass. And I want to thank BOB LIVINGSTON and the ranking member of our subcommittee, JACK MURTHA, as well as our Senate counterparts for their efforts to bring this emergency bill back to the House before we leave this week. This is a good bill, and one that is absolutely essential. I urge your support.

Mr. OBEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I would simply like to make one additional point on the Jordan issue, in light of the comments made by the chairman. Let me put it this way, Mr. Speaker: I can recall when a previous President, President Bush, asked for bipartisan help to see to it that they could in fact move events forward in the Middle East by withholding funds for the Israel loan guarantee.

That was not a popular position for President Bush to take in the Congress. At that time I supported President Bush strongly, because I thought that unless those loan guarantees were held up, we would never see a posture on the part of the Israeli Government with respect to the settlements issue that was consistent with American foreign policy.

I would compare that bipartisan support of President Bush with the quite different approach taken by the other body, and especially the majority party in the other body on the issue of Jordan. We now have this President asking for help to again move the peace process forward by funding the commitment that the President made to Jordan when they agreed to follow along in this round on the peace process. But instead, what has happened is that we have had an insistence from the majority leader in the other body that funding for Jordan be taken out of this bill, where it belongs, and put into what is essentially a domestic rescission bill.

What that will mean is that any Member who votes for that rescission bill will be asked to make cuts in domestic programs for kids and for seniors in order to fund debt relief for Jordan. I do not think that is a very smart thing to do tactically, I do not think that is the right thing to do substantively. It seems to me if we are going to provide that action for Jordan, that it belongs in this bill and it should be offset in this bill, because I am tired of seeing this Government make foreign policy decisions that wind up having domestic consequences that are negative for our constituents.

Another example would be, for instance, the situation which we find ourselves in with respect to refugees, where the Federal Government will make agreements allowing refugees into this country, and then they will walk away from the obligation to support the financing of those refugees, and turn the obligation for that over to State and local governments.

I do not think that is legitimate. I think foreign policy issues should be dealt with in foreign policy bills. That is why Jordan belongs in this bill. That is why Jordan belongs in this bill, not the other bill.

However, I find it quaint that the administration asked a bipartisan group of people to go up to the other end of Pennsylvania Avenue twice on last Thursday to talk about the necessity to keep Jordan funding in this bill, rather than moving it over to the other bill, and then we find out that without any notice whatsoever to anybody on this side of the Capitol, the administration decides, after all, they are going to acquiesce in putting it in the other bill.

That is why I say that the administration apparently does not mind being jerked around. I do. It seems to me the next time the administration asks someone in the Congress to defend their position on a foreign policy issue in the Congress, it would be nice to know that we could find the administration where they were the last time we talked to them.

Mr. LIVINGSTON. Mr. Speaker, I will let the gentleman's comments stand where they are, and I am delighted to yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], the distinguished chairwoman of the Subcommittee on Military Construction of the Committee on Appropriations.

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise to speak regarding the conference agreement on Senate amendment numbered 5, the Military Construction Subcommittee's portion of the bill H.R. 889, as well as action to date on the bill H.R. 1158.

As these two bills proceeded through the House, no rescissions were proposed for military construction.

The Senate took an opposing view. On H.R. 889, the Senate imposed a contingent rescission based on the current round of base closure, and this contingent rescission may have reached a total of $150 million. On H.R. 1158, the Senate imposed additional rescissions totaling $230.8 million. In the House view, these rescissions were ill-advised and unnecessary at this time.

In conference action on H.R. 889, the House very reluctantly agreed to rescissions totaling $100.6 million, and these specific rescissions are explained in detail in the statement of the managers accompanying the conference report. More importantly, the conferees agreed that all rescissions proposed by the Senate in both bills would be addressed in the conference agreement on the bill H.R. 889. Therefore, no rescissions will be recommended for military construction in final action on H.R. 1158.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I wish to bring to the Members' attention a title that is a part of this Defense supplemental bill, title IV, entitled "The Mexican Debt Disclosure Act of 1995," a measure that was attached in the Senate and then agreed to by the conferees.

Let me mention also, Mr. Speaker, that as the ranking member on our side has indicated, it has been very difficult to get the $3.1 billion identified in the overall defense supplemental bill to take care of costs for Haiti, for Bosnia, for Somalia. I might mention $3.1 billion.

Title IV, which deals with Mexico, talks about $20 billion. Of course, that is money that has not been voted on by the Members of this body, because we have not been permitted a vote by our own leadership. We have been thwarted at every turn.

Now we are faced with a vote on a defense supplemental that has a title that pushes us a little bit further toward getting some additional information from the Clinton administration. I have to say that it is a step in the right direction, but it is certainly not what we have been asking for in this body.

□ 1130

A little recent history here. Members will remember that we were ruled against, those of us who wanted a clean vote on the question of whether we should be appropriating dollars to support the bailout in Mexico. The Speaker ruled against us. We were not allowed an open debate a few weeks ago. Then there was a vote in the Republican conference about a week ago, 2 to 1 against getting a vote here, a clean vote on the floor on the question of these credits and loan guarantees being extended to Mexico. Now the only item we were able to get passed was a resolution that had broad bipartisan support here, House Resolution 80, which we had to use a special procedure to disgorge it from committee and it essentially only asked the administration for information which was supposed to be here by March 15 and which is not here. Only parts of it are here.

Now the cleanest measure that we could get on this floor is not this title IV of this bill but rather Discharge Petition 2 which sits at the desk there that would allow us a clean vote on the issue of how many dollars if any should be extended further to Mexico to help bail out that tragic situation down there.

I want to point out to the Members, this title does exist in this bill. It is a serious title. Essentially what it says is that no money, loan credit guarantee or arrangement through the Exchange Stabilization Fund at the Treasury or the Federal Reserve can be extended unless the President of the United States has provided us with every single document that we have asked for in our resolution of inquiry.

I can say based on the research we have done in our office, again this information was to have been here by March 15. There are big holes in what the administration has failed to tell us, including the conditions that were placed on the bailout by members of the investment community, the relationships to the Bank for International Settlement and the other international funds involved in this bailout, and private phone conversation notes between the Government of the United States and Mexico.

I just have to say that this is another weak attempt to try to get some vote here in the Congress on a massive amount of money that is being extended by the people of the United States.

Mr. Speaker, I have to say that it is not comfortable to be a Member of this body and not be allowed a full debate on a matter that is 7 times as large as the base dollar funding in this defense supplemental. This has been an insiders' deal from the beginning. I think that the Members should read the language of title IV carefully. We have a right to debate this amount of money going to another country. We are tied in knots over $3.1 billion of money that needs to be paid to restore the amount in our readiness accounts. Why is it so difficult to get a full debate in the Congress of the United States when we have a new form of back-door foreign assistance that has been allowed to Mexico setting an incredible precedent that we will have to account for later?

I just have to say that this amendment that was added to this bill gets us to maybe second base but it does not get us the full and open debate and the kind of oversight that we need in this body on the amount of money that is now being extended to not just back up the Government of Mexico but the Mexican banking system. This is extremely serious. Title IV, an important step perhaps, gets us to second base, not the home run that we really need in order to gain proper oversight over this massive expenditure of our tax dollars.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 1 minute to respond to the gentlewoman and say that had it not been for the Appropriations Committee, the gentlewoman would not have an opportunity to discuss this issue at all. We have developed a compromise with the Senate on this bill. We have compelled the White House to provide documentation which has not been forthcoming to date despite a resolution passed by this House on March 1. We are doing our best to get to the bottom of the issue and try to provide as much light on the decision process on the issue of providing aid to Mexico as we possibly can. This is a good first step. There may be others. The gentlewoman should in fact be pleased that we have gone as far as we have.

Ms. KAPTUR. Mr. Speaker, would the gentleman yield for three questions?

Mr. LIVINGSTON. To the extent I have any more time on the minute, I would be happy to yield to the gentlewoman from Ohio.

Ms. KAPTUR. I would just ask the gentleman, is it the gentleman's understanding that in title IV that if passed it certifies that the President—

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The time of the gentleman from Louisiana [Mr. LIVINGSTON] has expired.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. I thank the gentleman for yielding me the time.

Mr. Speaker, I would like to know whether if we vote for this, we assure ourselves that until the President certifies that without exception every requested document has been turned over to Congress, all further Mexican bailout funds through the ESF, the Federal Reserve Board or any other fund with which the United States is associated in the pipeline are halted.

Mr. LIVINGSTON. If the gentlewoman would yield, I would say that certainly the White House counsel is going to be examining this provision carefully, but it is the gentleman's understanding that from the point of passage of the bill that the White House, or that the administration has 10 days to sign the bill. If in fact they have not provided the documentation at the end of the 10 days, there will be a period of time during which there shall be no Mexican assistance. However, if the documentation is provided prior to that time, then there is no lapse at all.

Mr. BURTON of Indiana. If the gentlewoman would yield, I think the gentleman the chairman is correct with one possible exception. I want to make sure this is well understood. After the President signs the bill, the time starts. Then the requirement starts. Not after we pass it here in the House. It is after the President signs it, I believe, which could be as late as the 24th or 25th of this month.

Ms. KAPTUR. This leads to my second question. Then it is my understanding that under the legislation the President would not have to provide the documentation until the last day of the first month after which this legislation is passed, which would mean the end of May; is that correct?

During which time billions more could flow out of that fund. Am I correct in my understanding?

Mr. LIVINGSTON. If the gentlewoman would yield to me, that is not my understanding. I think that the time limits are much shorter than that.

Mr. BURTON of Indiana. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Regarding the certification, it said the funds stop unless and until the President submits the appropriate documents. Until we get the certification, the money is cut off, so it would be around the 24th or 25th of this month.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would simply suggest that I do not think it is particularly constructive for individual Members of Congress to try to write a record of legislative intent when in fact the record that is being written is probably not accurate nor legitimate.

I do not believe, for instance, that any Member of the House who is not a member of the conference can really assure the House about anything with respect to what that language means. I certainly do not necessarily subscribe to the interpretation of the gentleman from Indiana since he was not a member of the conference and cannot possibly have an understanding of what the agreement was that was reached by persons who were in the room.

Ms. KAPTUR. If the gentleman would be kind enough to yield, I would just like to read into the RECORD the actual language in title IV which says that the reports will be provided beginning on the last day of the first month which begins after the date of enactment, which would be the end of May.

Mr. LIVINGSTON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM], a member of the Committee on National Security.

Mr. CUNNINGHAM. Mr. Speaker, I would say to the gentleman from Wisconsin [Mr. OBEY] and the last speakers, that many of us on this side of the aisle agree that when he talked about Jordan, King Hussein, we all witnessed the King up here with good intentions, but he, in fact, does not have control of Jordan and with the Palestinians, this Member personally feels that we are dumping money down a rat hole.

I think we have also taken a look and many Members on this side of the aisle want an up-or-down vote on Mexico, the bailout. I think that it is going to be a problem. I do not know what the deal is with the support of President Clinton on the issue, but many of us would like to halt the money going to Mexico, because I think again it is money going down a rat hole.

I also agree with the gentleman from Wisconsin [Mr. OBEY] that when we are looking at a balanced budget and we are sending money to Mexico, we are sending money to Jordan and we have domestic problems here in this country and we also have military readiness problems, that we have got to change our modus operandi on both sides of the aisle and the administration as well.

But why is this particular issue that we are talking about today important? Military readiness, and I quote from testimony in the Committee on National Security, that we are near buffet condition when it comes to national security, and near buffet is the condition in which an airplane goes into an out-of-control spin. That condition has been created much because of the operations of this body. Our op tempo today, operation tempo, is higher than it was during Desert Storm or Vietnam. But yet our military has had dollars cut out of it not only in a $177 billion defense cut but from not funding BRAC, from all the operations that were in Somalia, Haiti, and so on.

In Somalia, we testified, when there was an extension of Somalia that it was going to cost billions of dollars, and that was going to come out of military readiness, time and training.

This is an attempt to get a little portion of that money back. In the meantime, we have gone a year and a half without allotting the training in the military. I just got through with a briefing of the military. Our F-18's, C-10's, our F-15's, our AWACS in Bosnia and these other expenditures are killing the flight time left on those airframes. At the same time, we have air wings back in the States that are not flying. Top Gun did not fly against its class because it did not have enough fuel or parts because of the Somalia, the Haiti, the Bosnia expeditions. This is critical.

If we take a look at the extension of Somalia, we said it was going to cost billions of dollars. Then if we take a look at the retreat from Somalia that we just went through, General Aideed is still there, and it cost us over 100 Rangers that were killed in Somalia at great cost to this country. When we talk about domestic programs, when we talk about military readiness, it was not Members on this side of the aisle that made the decision to extend Somalia that cost lives and billions of dollars.

Haiti is another case. We put into position a madman in Haiti. I ask the Speaker, if we pulled out of Haiti today, what would be the condition? Do Members remember Papa Doc and Baby Doc? It would be a total turmoil there. That has cost us billions of dollars. We are paying for those military forces, military, the United States is. That is wrong, against our own military defense. Again, when we pull out of there, it is going to go back just like it has, and we could have left it there for another 100 years and it would not have been a national security.

The President is saying, what a great victory. Pull out of there and see what kind of victory we have.

Mr. Speaker, I would also like to take a look at the different costs. There are many on the other side of the aisle that would depreciate our readiness and our capability in national defense and our military. But we are asking our men and women to put their lives on the line. Readiness is not just machines. Readiness is not just going out and turning and burning in a jet or in the ground on a tank. It is the families that are involved. We ask these high up-tempo operations at a cost of family separation, and the No. 1 indicator of our men and women leaving the service is family separation. That is part of readiness as well. We need to get a grip on this.

I ask Members on both sides of the aisle to support this supplemental, because if we do not get it, and I quote, our military will shut down at the end of this fiscal year.

□ 1145

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON], a distinguished member of the Committee on International Relations.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

Let me just say that the gentlewoman who has worked so hard on the Mexican issue is to be commended, the gentleman from Alabama [Mr. CALLAHAN], subcommittee chairman, should be commended, the gentleman from California [Mr. COX], the gentleman from Florida [Mr. YOUNG], the chairman, the gentleman from Louisiana [Mr. LIVINGSTON], and the gentleman from Wisconsin [Mr. OBEY] for putting language in here that at least gives the Congress an opportunity to get information on the Mexican bailout.

But as the gentlewoman from Ohio said, we still are not going to have a vote on the ultimate $52 billion that is going to go to Mexico, $52,000 million that is going to Mexico without a vote by the people's House on their tax dollars.

So far it was reported in the Los Angeles Times yesterday that of the first $5 billion, $5,000 million, that was sent to Mexico, $4 billion, $4,000 million, was used to pay off American insurance companies, mutual fund investors, Wall Street brokerage houses, Mexican banks, and the richest of Mexico's rich, these people that bought their tesobonos, their bonds, down there, and that is not what we were sending the money down there for in the first place.

It is really a tragedy our tax dollars are being used to pay off these people who invested in Mexico knowing the risks. We are bailing out the big investors who took the risks, and now they are being repaid even though they should have taken the loss like anybody else that invests in financial instruments.

Now, this legislation does head in the right direction. It is a step in the right direction. The President is going to have to certify to the Congress what this money is being spent for, where it is going. They do not particularly like that at the White House, but, nevertheless, they are going to have to do it, otherwise additional tranches of money are not going to go to Mexico.

That still begs the issue. Should we be sending this money down there in the first place? Anyone who is following the financial markets knows the dollar has been dropping like a rock. It is at the lowest levels against the Japanese yen in decades, and in large part, if you talk to many economists, you will find that is due to the Mexican bailout that has been taking place unilaterally by the executive branch of Government.

This Congress was going to vote on it. We had a proposal that would protect the American taxpayer. We could not get Mexico to go along with the provisions. We could not get the White House to go along with the provisions. They decided to use the Exchange Stabilization Fund, which has never been used for that purpose before to my knowledge. There are some people that question the legality of it.

As a result, the peso has continued to drop. It finally stabilized at half of what it was worth. The dollar continues to drop.

We are responsible for the taxpayers' dollar. Even though the Committee on

Appropriations is to be commended for at least putting this language in the legislation, it does not go far enough. We ultimately need an up-or-down vote on whether we should continue to send billions of United States taxpayers' dollars, billions of United States taxpayers' dollars to Mexico without any guarantees it is going to be repaid. That money right now is going down a rat hole.

Of the first $12 billion that has gone down there, $11 billion of it is gone. They have only increased their reserves by $1 billion. We still need an up-or-down vote on this entire issue.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. CALLAHAN], chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs, who did an outstanding job in the conference.

Mr. CALLAHAN. Mr. Speaker, I rise in support of the conference report on the supplemental appropriations and rescissions bill. As chairman of the Subcommittee on Foreign Operations, I am pleased to report that we have participated in the effort to offset the defense spending in this bill by reducing foreign aid spending by $142 million. In addition, we have reallocated $15 million from the Russian Officer Housing Program, a program I have strongly opposed, to other economic assistance in the New Independent States. However, these funds would not be available to Russia.

These reductions are a downpayment on the cuts that will be necessary in fiscal year 1996. In addition, we will be looking at further reductions in the second rescission bill that is currently pending in the Senate.

In addition, while we have not provided debt relief for Jordan in this conference agreement, we have pledged to address this issue in the second rescission bill as well. We committed ourselves to meeting the parameters of the agreement between the administration and Jordan in support of the October 1994 peace agreement. The President believes this debt relief is in the national security interest of the United States, and we will make every effort to provide the full amount for debt relief in the next rescission bill.

I would just like to say a few words about the agreement on Mexican debt relief. The agreement we have reached with the Senate requires the President to provide the information on the Mexican debt crisis called for in House Resolution 80. This resolution passed the House by an overwhelming bipartisan majority of 407 to 21. If you voted for that resolution, you should support this agreement.

The bill language does not cut off aid to Mexico. It does, however, require the President to provide the information requested in House Resolution 80, prior to the extension of additional aid to Mexico.

Mr. Speaker, I strongly support this conference agreement to provide needed additional funds for our national security, and I urge its adoption.

Mr. OBEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I am overwhelmed with the gentleman's remarks.

I would only say, Mr. Speaker, that I think this is an outstanding compromise with the other body.

It meets the emergency needs of our young people in uniform in the armed services. It requires documentation from the White House on the Mexican affair, and it is a good bill.

I urge adoption of H.R. 889.

Mr. COLEMAN. Mr. Speaker, I rise today in support of the conference agreement on H.R. 889, the defense supplemental bill. However, I do so with strong reservations. The conference agreement rescinds a net total of $746 million in fiscal year 1995 and prior years appropriations in order to fund emergency defense and Coast Guard needs and to make additional offsetting reductions.

Mr. Speaker, I support the emergency supplemental appropriations that are required to restore funds spent by the Department of Defense and the Coast Guard in unanticipated peacekeeping operations. In particular, the conference agreement provides the $28.3 million requested by the President to reimburse the Coast Guard for operating expenses associated with extraordinary Caribbean regional activities. I am concerned that the conference committee did not fully fund the supplemental request for the operation and maintenance accounts, the backbone of our Armed Forces.

I also have strong reservations about the $223 million rescission included in the DOD-related section of this bill for the Technology Reinvestment Program [TRP]. A program such as the TRP is very important to our national security interests. I, and others, feel that the TRP is vitally necessary to our country's future as we position ourselves strategically in the post-Cold War era. The President, Secretary of Defense Perry, Office of Management and Budget Director Rivlin and Fortune 500 corporations oppose the rescission of these funds, which would ensure that commercial firms in this country supply the superior technologies needed to maintain our military advantage.

In addition, I do not support the $775 million rescinded in the bill for important domestic programs. Mr. Speaker, in particular, I take exception to the rescissions of $200 million slated for cutting critical employment and training programs for our Nation's youth, and $100 million to be taken out of programs for our Nation's school children and college students. I am also concerned about the rescission of $6.6 million from the Local Rail Freight Assistance [LRFA] Program, which has a major, beneficial impact on the economy of smaller communities, small businesses and job creation.

In summary, I believe the result of the conference agreement on H.R. 889, while flawed, should be passed so that military readiness is not impaired. I urge my colleagues to vote for the conference report.

Mr. LIVINGSTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 343, nays 80, not voting 11, as follows:

[Roll No. 296]

YEAS—343

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borški
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lowey
Lucas
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery

McDade
McHale
McHugh
McInnis
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Sabo
Salmon
Sanford
Sawyer
Saxton
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—80

Barrett (WI)
Becerra
Clay
Clayton
Clyburn
Coburn
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
Dellums
Dixon
Duncan
Ehlers
Evans
Fattah
Fields (LA)
Filner
Foglietta
Frank (MA)
Franks (NJ)
Furse
Graham
Green
Gutierrez
Gutknecht
Hastings (FL)
Hilliard
Hoekstra
Holden
Johnson (SD)
Johnson, Sam
Johnston
Klug
Lewis (GA)
Lincoln
Lipinski
Lofgren
Luther
McDermott
McKinney
Mineta
Minge
Mink
Moakley
Nadler
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Rahall
Ramstad
Rangel
Roybal-Allard
Rush
Sanders
Schroeder
Schumer
Serrano
Stark
Stokes
Studds
Thompson
Torres
Towns
Tucker
Upton
Velazquez
Vento
Waters
Watt (NC)
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—11

Burton
Chapman
Dickey
Frost
Hinchey
Kasich
McIntosh
Moran
Reynolds
Scarborough
Waxman

☐ 1213

Mr. WYNN, Mr. CLYBURN, Mrs. CLAYTON, Mr. SCHUMER, Mrs. MINK of Hawaii, and Messrs. COYNE, WISE, MOAKLEY, THOMPSON, and FIELDS of Louisiana changed their vote from "yea" to "nay."

Mr. BRYANT of Texas, Mr. SHADEGG, and Mrs. THURMAN changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, I wish to have the RECORD reflect, immediately after rollcall vote No. 296 on H.R. 889, that I would have voted "aye" had I been here. I was across the hall.

PERSONAL EXPLANATION

Mr. SCARBOROUGH. Mr. Speaker, I also wish to have the RECORD reflect that I missed the vote, and had I been here, I would have supported the approval of the conference report on defense supplemental.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

☐ 1215

PROVIDING FOR CONSIDERATION OF H.R. 660, HOUSING FOR OLDER PERSONS ACT OF 1995

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 126 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 126

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 660) to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Florida [Mr. DIAZ-BALART] is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 126 is an open rule providing for the consideration of H.R. 660, the Housing for Older Persons Act of 1995 authored by our distinguished colleague from Florida, [Mr. SHAW].

The purpose of this legislation is to clarify the requirements for seniors-only housing by removing the "significant facilities and services" requirement for housing for older persons from the Fair Housing Act, 42 U.S.C. 3601-3631. The Fair Housing Act prohibits discrimination against families with children, and as the father of two young boys, I am a strong supporter of the rights of families with children of any age. However, current law also allows for seniors-only housing if it meets certain requirements, including the provision of "significant facilities and services." It is my understanding that compliance with the regulations that the Department of Housing and Urban Development has devised to meet this requirement are often vague and sometimes very expensive to meet.

Mr. Speaker, I would defer to the sponsor of the bill, the gentleman from Florida [Mr. SHAW] and to others, other members of the Committee on the Judiciary and Members who have worked diligently on this legislation, which of course the Committee on the Judiciary reported this bill, to speak to the details, to the bill's merits.

I will speak to the rule with which the Committee on Rules brings this bill to the floor. It is, I believe, an extremely fair rule; it is an open rule. Two amendments were offered by members of the minority in the Committee on the Judiciary, amendments that failed on recorded vote, and there may be other Members of Congress and not on the Committee on the Judiciary that may wish to amend this bill. Under this open rule any Member of Congress, regardless of committee or party affiliation, has the opportunity to offer any germane amendment.

The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, House Resolution 126, I believe, is exemplary, it is a totally fair, completely open rule, and I urge its adoption.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of April 5, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	21	72
Modified Closed [3]	49	47	8	28
Closed [4]	9	9	0	0
Totals:	104	100	29	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 4, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	0	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95)
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	0	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95)
H. Res. 52 (1/31/95)	0	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95)
H. Res. 53 (1/31/95)	0	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95)
H. Res. 55 (2/1/95)	0	H.R. 2	Line Item Veto	A: voice vote (2/2/95)
H. Res. 60 (2/6/95)	0	H.R. 665	Victim Restitution	A: voice vote (2/7/95)
H. Res. 61 (2/6/95)	0	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95)
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95)
H. Res. 69 (2/9/95)	0	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95)
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95)
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95)
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95)
H. Res. 91 (2/21/95)	0	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95)
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95)
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95)
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95)
H. Res. 100 (2/27/95)	0	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95)
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/97)
H. Res. 108 (3/6/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1158	Making Emergency Supp. Approps	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	0	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	0	H.R. 660	Older Persons Housing Act	
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	

Codes: 0-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend my colleague, the gentleman from Florida [Mr. DIAZ-BALART], as well as my colleagues on the other side of the aisle for bringing this resolution to the floor. House Resolution 126 is an open rule which will allow full and fair debate on the important issue of housing for older Americans. As the gentleman from Florida has described, this rule allows 1 hour of general debate. It makes in order the Judiciary Committee amendment in the nature of a substitute as an original bill for the purpose of amendment. Under the rule, germane amendments will be allowed under the 5-minute rule, the normal amending process in the House of Representatives. I am pleased that the Rules Committee was able to report this rule without opposition, and I plan to support it.

Although this rule is open, I do have some questions about the bill itself. In passing the Fair Housing Amendments of 1988, the Congress protected families living with children against discrimination. At the same time, Congress did recognize the particular needs of older people to live among their peers in age restricted communities. This was a correct policy in my view. However, by changing the requirements for senior housing now, I want to make sure that we are not shutting out families, who are struggling to make ends meet, from obtaining affordable housing.

According to the Justice Department, under this bill more than half the persons living in a facility designated as "housing for older persons" could be younger than 55 and that facility would not be required to provide any significant services for seniors. Yet, such a facility could be exempt from the Fair Housing Act. Fortunately, the rule we have before us today will allow amendments to this measure, and I sincerely hope the bill can be improved.

As I indicated before, I support this open rule and I urge my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, we have four speakers who have asked to address the House. I will begin by yielding 2½ minutes to the distinguished gentleman from Florida [Mr. GOSS], a member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Florida [Mr. DIAZ-BALART], my colleague and close friend, for yielding me this time, and I parenthetically say it is a great pleasure having a gentleman of his esteemed distinction and knowledge serving on the Committee on Rules. The fact that he is from Florida also is an extra blessing. I certainly welcome the opportunity to speak in favor of this wide-open rule on a bill that I hope will have very broad bipartisan support.

As my colleagues know, much has been said about the Contract With America and just which is the crown jewel of that contract, and my colleague from the southwest coast of Florida [Mr. MILLER], and myself from the southwest coast of Florida believe this probably is the crown jewel of the Contract With America; at least in my district it is in close competition because this legislation makes good on yet another promise we made in the Contract With America, and I have also got to point out another Floridian who had an important part of this, and I commend him as a prime sponsor of this bill, the gentleman from Florida, Mr. SHAW, my colleague who has actually been an initiator and put in a lot of hard work, and it is his persistence which brought this to a successful close today.

I think it is important to remember how we got back into this situation, and it is not a great track record. What happened is back in 1988 Congress unintentionally tried to do the right thing when it rightfully sought to exempt bona fide senior citizen communities from a bill to prohibit discrimination against families with children. Congress did have the right idea, but the administrative agency charged with implementing that idea sort of missed the mark. The result was a great deal of unnecessary, I think, unfair anxiety, upset, costly legal headaches for older Americans seeking to live in designated senior retirement communities. This Congress has not wavered on its commitment to assisting our older Americans in their effort to live out their golden years in communities with their peers, places where their special needs can be met. I know our country's grandparents, I think, because I am one, too. I believe our grandparents like to maintain active life styles, complete with frequent visits by their children, grandchildren, and great-grandchildren, and I do not have any of those yet; I hope I will someday. I understand and I respect the wishes of many seniors to join together in communities designed and specifically maintained for people over 55. After several false starts, the administration seems to have caught on to the problem with earlier application of the 1988 law, and we are grateful that finally we have some much-improved rules from HUD, but still it is clear the bureaucracy has not been able to put the problem to rest on its own, and that is why the legislative fix is important.

So, I urge my colleagues to join in this support for H.R. 660 and this very wonderful rule we have to bring it to the floor.

Mr. DIAZ-BALART. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of H.R. 660, the Housing for Older Persons Act of 1995.

Sometimes, Mr. Speaker, Congress passes laws which have unintended consequences. The Fair Housing Act of 1988 is one of those instances. This landmark legislation has laudable goals of eliminating discrimination in housing. Unfortunately the bill also contains provisions which have had a damaging and harming effect to our chronologically gifted seniors. This has been particularly apparent in San Diego.

Let me tell my colleagues the problems. When the law was enacted, first of all, that in one specific area, and that is the mobile home residents, we had a law enacted that changed the tax rate from going from DMV for mobile homes to property taxes. When that happened, it caused many of the mobile home parks to shut down. There was nowhere else to go, unlimited access to it, and then with the Fair Housing Act, it mandated that they get certain special facilities, medical facilities and others, to the chronologically gifted. In some cases those costs were passed on to our seniors, and in some cases the owners actually made a profit on those services.

Now most of these chronologically gifted folks in the mobile home parks are on a fixed income, and they could not pay the additional costs. It seemed like every time their Social Security increased, they would also get a rent raise. They could not move, and then these extra facilities were put on, and they could not meet it. The mobile home owners would say, "Okay, move," and of course there was no other parks to move to because of the previous law also, so catch-22.

Mayor Thibadow of San Marcos, a city councilman, Corby Smith, and Jerry Linhart who worked with the mobile home people came to me 4 years ago with this, and that is why I laud the gentleman for bringing this bill up.

☐ 1230

Even Secretary of HUD Jack Kemp wrote letters and tried to establish the policies. We have not been able to do that before this time. So I would like to thank the gentleman on the other side of the aisle as well as the Members on this side for finally being able to correct a provision that is harmful to chronologically gifted folks.

This is a good bill. It is a bill that protects, as I never use the term senior citizens, the chronologically gifted of our society, and it was one that, and it was not the intent of an original bill, hurt those folks, and we can ill afford to do it. This is government at its best.

From senior citizens going to a city council and a mayor, to coming to the Federal Government for resolutions, it has taken a long time. But again I would like to thank the chairman and CLAY SHAW for bringing this up and the Committee on the Judiciary for acting on it.

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank my friend from Florida for yielding me this time. I am in strong support of this rule and this legislation. When we signed the Contract With America, one of the underlying principles of the Contract With America was that we are going to restore some common sense to our Government again. And this precisely is an area where it is needed.

The agency has now come and told senior citizens some of these areas what kind of bingo they have to have, how many ping-pong tables they have to have. It is absurd regulations.

I applaud the gentleman from Florida, Mr. SHAW, for introducing this legislation, and also another Member, one of our colleagues, DAN MILLER from Florida, for the excellent "Dear Colleague" he sent to all of us regarding this legislation. I thought it was very well done.

What this legislation is going to do is going to clarify the congressional intent relating to the Fair Housing Act of 1988. The 1988 law does prohibit discrimination against families and children, but it also has an exemption. It exempts healthy seniors. It exempts senior citizens who want to live in a unit where they can have relative peace and quiet.

The way it has been interpreted by the departments has been totally unworkable. The 1988 legislation has been interpreted in such a way that it is unclear, unworkable, and very costly. It is, I think, an example of what happens when government runs amuck, and this is a precise example of that.

The passage of this bill will finally set forth once and for all a clear and workable and fair exemption that will ensure that these housing facilities that are intended for older persons qualify and remain as housing for our older citizens.

Basically the nub of this bill is this: Under this bill, if a community can prove that 80 percent of its units have one or more occupants aged 55 or older, then it passes the adult only housing test and qualifies for the exemption. That is precisely what we are doing here, is redefining, clarifying, what the 1988 law was to have done.

We need senior communities. But what has happened is that these senior communities have been harassed by lawsuits. The significant facilities and services test has been completely misinterpreted. It has made senior housing unafforadable, it has driven the cost up on it, and many low and fixed income seniors have had to suffer because of this.

The other point I want to make is this, is that this bill is going to protect the realtors. Relators and community boards have been harassed because of this legislation. Basically we have got too many people working in our departments here in Washington and for the Federal Government, and they are just looking for things to do. So they are out harassing realtors and community boards. What we are doing with this legislation is this bill protects the relators and the members of the community boards who act in good faith—that is precisely what the law should do—from liability and monetary damages and lawsuits arising out of senior only provisions. There have been numerous lawsuits against realtors and directors of housing boards, and most of whom were just trying to meet this vague exemption for senior housing.

So I applaud the gentleman from Florida, the Committee on Rules, and every one who has been involved in this, because this is certainly an area that needs clarification, and finally today we are going to do that.

Mr. DIAZ-BALART. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. MILLER], who, along with the sponsor, the gentleman fro Florida [Mr. SHAW], has worked extremely hard and very diligently on this legislation.

Mr. MILLER of Florida. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am proud to be able to stand here today to offer my strong support for the Housing for Older Americans Act, H.R. 660, which we will be voting on very shortly. This is a very important piece of legislation. As my colleague the gentleman from Florida [Mr. GOSS], said, to many people in our districts down in southwest Florida, this is the crown jewel of the contract, in addition to the tax bill and reductions we offered last night.

This is the final part of the Contract With America. I would like to think of it now as the granddaddy of the Contract With America since we are going to conclude the contract with this very important issue.

It is not that important to many Members of the Congress because they do not have as many seniors as I have. I have the largest number of seniors of any congressional district in the country, and many of them move to my area to live until senior-only housing, especially mobile home parks. And it is a special way of life. That is the reason they move to this area of Florida, is to live with their peers.

You have to be in a senior-only housing project to get a better idea of what it means to them. Mobile homes are close to each other, they share so much of their lives together as they get older. They can rely only on their neighbors to provide transportation. They have activities and programs specifically to their needs. They want to preserve this way of life. It is very, very important. And that is the reason I feel very strongly that we need to pass this legislation.

The election last year was a message to Congress and Washington to stop trying to micromanage our lives. And this is one of the many things that shows that they are trying to micromanage our lives.

I am very familiar with this issue. My grandparents moved to Florida back in the 1940's to live in a trailer park, the Bradenton Trailer Park they moved into in 1947 or so. I saw them mature and finish and retire and stay in that mobile home park. They retired to that mobile home park. It was a trailer park in those days. But it was a way of life that was very important in their final years of their lives. So it means so much to so many people in my district.

But the problem was in the 1988 legislation, when they put in legislation where they have the words significant and specific, that is significant facilities and services that are specifically designed, that is a dream word to the bureaucrats and lawyers here in Washington, to be able to define what is significant and what is specific. And they had a grand old time doing it.

Last summer, last July, they came out with 60 pages of regulations to interpret this one sentence. They had hearings. I have to commend HUD, they went around the country to hold hearings. They had one in Tampa. They had almost 3,000 people at this hearing in Tampa that I attended, and the gentleman from Florida [Mr. CANADY] was present there, and they started explaining about congregate meals and all these expensive things that is going to make these senior-only facilities not capable of maintaining and following the regulations. It was a disaster, and actually they realized it.

So when Assistant Secretary Altenberg came to the area, she actually saw these mobile home parks and said, "Golly, I didn't realize what it means to be in these senior-only programs." So they came back and changed them.

So I commend HUD for doing that, and I commend my colleague the gentleman from Florida [Mr. STERNS], for being on top of this issue and encouraging HUD to get manageable, understandable, and livable regulations.

But they came back and they changed the regulations and just issued them a few weeks ago, and it is much better, a big improvement. But it is still micro-management and getting into the affairs and lives of our senior citizens, and it is wrong. Fortunately, this was included in our Contract With America, and I thank my colleagues on the Republican side for including it in the contract. There is wide bipartisan support here in the House of Representatives.

Unfortunately, the administration just does not get it yet. At a Committee on the Budget meeting recently, Secretary Cisneros was trying to defend why we need to have these regulations. They just do not get it yet. The AARP just 2 weeks ago finally got the message and came over to support the Clay-Shaw bill that we are going to be voting on shortly. Thank goodness we have got it this far. At least we have the AARP to say hey, the election last November meant something.

So I am glad to say we are keeping our promises, we are going to vote to approve this, we are going to get Washington out of the lives of our senior citizens back in senior communities, and we are going to let seniors go on and enjoy their retirement years in these senior communities.

Mr. Chairman, I urge my colleagues to support H.R. 660.

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to a distinguished new Member, the gentlewoman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Speaker, I thank the gentleman so much for this time.

Mr. Speaker, I realized that so much of what I thought I would have to come do when I got here, others were starting to work on before I got here, and it was really nice to find that out. When I was first deciding to run, I was a write-in candidate, one of the first issues that hit me in this Pennsylvania barrage was the elderly in my community. We have a lot of those folks that live in mobile home parks, and they had received 60 pages of proposed regulations to micro-manage their lives and how their parks were going to be managed. And they said we are going to elect you to send you back there to do something, because this is government at its worst. Not only that, if we do all of these costly things they want to our mobile home park, it will cost us so much money, and most of us are on fixed incomes. Can you not get those people back there to stop doing this to us?

I thought, is that not interesting? They did not really believe government was doing it for them. They felt government was doing it to them. Then I got here and thought it is getting better. They have backed off a little bit. They revisited the regulations.

Then I just looked through the new regulations. The new regulations are just cousins of the old regulations. They might think they are better, but they are really not. And it comes to this: If this place does not tell the bureaucracies how to operate, they will operate on their own, and they will take away freedoms from people. They will micro-manage their life. Bureaucracy always does. It will raise the cost of senior citizen housing by their meddling.

So this is a great bill. I am real thankful for it. It is nice to know we all do not have to work on everything, that this effort went on before, and I want to thank those that worked on it.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNUAL REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR FISCAL YEAR 1993—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Economic and Educational Opportunities:

To the Congress of the United States:

It is my special pleasure to transmit herewith the Annual Report of the National Endowment for the Arts for the fiscal year 1993.

The National Endowment for the Arts has awarded over 100,000 grants since 1965 for arts projects that touch every community in the Nation. Through its grants to individual artists, the agency has helped to launch and sustain the voice and grace of a generation—such as the brilliance of Rita Dove, now the U.S. Poet Laureate, or the daring of dancer Arthur Mitchell. Through its grants to art organizations, it has helped invigorate community arts centers and museums, preserve our folk heritage, and advance the performing, literary, and visual arts.

Since its inception, the Arts endowment has believed that all children should have an education in the arts. Over the past few years, the agency has worked hard to include the arts in our national education reform movement. Today, the arts are helping to lead the way in renewing American schools.

I have seen first-hand the success story of this small agency. In my home State of Arkansas, the National Endowment for the Arts worked in partnership with the State arts agency and the private sector to bring artists into our schools, to help cities revive downtown centers, and to support opera and jazz, literature and music. All across the United States, the Endowment invests in our cultural institutions and artists. People in communities small and large in every State have greater opportunities to participate and enjoy the arts. We all benefit from this increased arts presence, and yet the cost is just 65 cents per American. The payback in economic terms has always been several-fold. The payback in human benefit is incalculable.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 6, 1995.*

□ 1245

HOUSING FOR OLDER PERSONS ACT OF 1995

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 126 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 660.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 660) to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons, with Mr. DUNCAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. CANADY] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 660 corrects a serious problem by amending the Fair Housing Act to remove the significant facilities and services requirement for seniors-only housing. Under H.R. 660, if a community can show that 80 percent of its units have one or more occupants aged 55 or older, and meets certain other requirements, it will pass the housing for older persons test.

When Congress amended the Fair Housing Act in 1988, it broadened the coverage of the act to prohibit discrimination against families with children. In covering discrimination based on familial status, Congress recognized the need to respect the desires of some older people to live among their peers in age-restricted communities and crafted an exemption for senior citizens communities.

The Fair Housing Act defines "housing for older persons" as housing that is occupied by persons 62 years of age or older or housing that is intended for occupancy by persons 55 years of age or older where there are "significant facilities and services specifically designed to meet the physical or social needs of older persons."

Unfortunately, this exemption has been narrowly construed and does not offer the protection to the elderly intended by Congress in passing the 1988 amendments. Consequently, legislation is necessary to establish a workable and fair exemption to protect senior citizens who wish to live in retirement communities.

The meaning of "significant facilities and services" has been a source of great confusion and controversy since passage of the act. Lack of clear guidelines have made it difficult for senior's communities to qualify for the exemption. In addition, seniors with low or fixed incomes are often unable to afford the amenities which might be sufficient to qualify for the exemption.

The American Association of Retired Persons, which supports H.R. 660, recently issued a report which states that there has been no "successful defense of a claim of exemption for housing for older person among the cases receiving judicial review." This makes it clear beyond any doubt that the existing statutory provisions have been inadequate to realize the original good of the Congress.

Initially, HUD issued regulations which provided little guidance to legitimate seniors' communities seeking to avail themselves of the statutory exemption for seniors communities. The Housing and Community Development Act of 1992 required HUD to issue a revised rule defining "significant facilities and services." On July 7, 1994, HUD issued proposed rules to define the meaning of this language.

After hearing from several thousand senior citizens in a series of public hearings, Assistant Secretary Achtenberg announced on November 30, 1994, that HUD was withdrawing the proposed regulations for seniors-only housing. HUD recently released new regulations for comment which establish a broad checklist of potential services and facilities, and allow self-certification by communities that they are eligible for the exemption.

While these new regulations are a step in the right direction, significant uncertainties remain. Despite the good faith efforts of HUD to provide reasonable guidance, it has become clear that the only way to finally solve this problem is for Congress to take action.

The heart of the legislation, section 2, amends the Fair Housing Act to remove the significant facilities and services requirement. The major inquiry that H.R. 660 requires in order to determine whether a facility or community qualifies for housing for older persons is whether, in fact, the community is comprised of individuals 55 years of age or older. This section also requires the housing facility or community to publish and adhere to policies and procedures demonstrating the intent to provide housing for occupancy by the 55 and over age group at an 80-percent level.

Section 3 of the bill creates a defense against the imposition of money damages for compliance where a person has relied in good faith on the application of the exemption relating to housing for older persons. This section allows an individual to raise a defense which may prevent the imposition of money damages, where he or she relies, in good faith, on the existence of an exemption for housing for older persons and it is later found that the exemption did not apply.

H.R. 660 will bring needed relief to thousands of senior citizens who live in fear that they will be sued for violating the Fair Housing Act because they are living in a facility or community that is designated as seniors-only. It will relieve their fear that their exemption will be taken from them and they will lose the right to live among other older adults in an age-restricted community.

This legislation strikes a reasonable compromise—protecting the rights of families with children and the security and peace of mind of senior citizens.

I want to thank my colleague, the gentleman from Florida, [Mr. SHAW] for his leadership on this issue. He has diligently pursued this matter for a number of years. Without his hard work, this legislation would not have moved forward.

I also want to thank the gentleman from Massachusetts [Mr. FRANK] for his support in moving this legislation to the floor.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today's housing for older persons amendment to the Fair Housing Act provides a true measure of relief for those moderate- and low-income senior citizens who have convinced us that some of the compliance requirements of the current Fair Housing Act are too onerous.

In this connection, I join with the American Association of Retired Persons in support of this amendment, which eliminates the burdensome significant facilities requirement that senior communities currently have to demonstrate that they have available to be considered seniors-only housing.

I would be remiss if I did not state explicitly that I give pause before I support any change in civil rights laws which weakens that kind of a law in any way, but in this narrow case, I believe in the careful balance which the Fair Housing Act must strike between the legitimate interests of our seniors to maintain age-specific communities for themselves and against the need of families to find decent housing, in 1988, this Congress struck the balance a little too harshly against seniors. And all we have done in this bill is make a modest adjustment.

The only concern that I had about a provision in this bill which permits a good faith defense against liability for monetary damages in housing discrimination lawsuits prompted me to offer an amendment unsuccessfully to delete the defense from the bill. I did not succeed in that effort, but I was satisfied with the considerable narrowing of the defense that the Committee on the Judiciary adopted, mainly because of the efforts extended by the gentleman from Massachusetts, the ranking minority member of this committee.

So we have an improvement, and the Department of Housing and Urban Development has done a good job of promulgating regulations which clarify the significant facilities requirement as they were required to do in 1988 and again in 1992.

The statutory requirement of the significant facilities remains too expensive, too onerous for many of our senior, moderate- and low-income housing communities. It is for that reason that I urge support for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield 5 minutes and 30 seconds to the gentleman from Florida [Mr. SHAW], the sponsor of this legislation.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding time to me. I also thank him for his leadership in getting this to the House, and I thank the gentleman from Michigan [Mr. CONYERS], the ranking minority member. I also want to recognize the gentleman from Massachusetts [Mr. FRANK], who had a hearing on this last year, when he was chairing the committee, and made a commitment at that time that this would come back to the floor, which the new majority has honored. So I very much appreciate this. It is a bipartisan piece of legislation, and it is one that I think is well thought out. And I think it is very protective of the rights of families and of children.

In 1988, Congress passed the Fair Housing Amendments Act of 1988, which attempted to bar discrimination based on familial status. The 1988 act tried to provide an adequate exemption for those housing communities or developments intended as senior or retirement communities. Up until then, States regulated senior housing through State legislation.

The 1988 act requires communities that qualify as senior housing under the provision, to quote from the rule, that "at least 80 percent of the households have in residence at least one person 55 years of age or older," and to provide "significant facilities and services designed to meet the needs of older persons." Significant facilities is currently the most problematic requirement for exemption from the familial status provision. Seniors' communities throughout the country have been faced with a barrage of lawsuits challenging their qualifications under this provision. This litigation is costly and burdensome to the communities and unwelcome to the seniors who reside in them. No seniors community which has been challenged in court has ever retained its exemption.

The Housing and Community Development Act of 1992 required HUD to issue a revised rule defining the term "significant facilities." On July 7, 1994, HUD issued proposed regulations to define the meaning of "significant facilities." On November 30, 1994, HUD withdrew the proposed regulations. Once again, HUD has attempted to provide a rule to define "significant facilities" and has released new regulations. Unfortunately, as drafted, the new rules will impose expensive and unnecessary burdens on seniors-only housing communities. For example, a provision that requires a staff member assigned to read to the elderly.

H.R. 660 will make it easier for adult communities to satisfy the fair housing regulations. The bill would repeal the "significant facilities and services" requirement that is one of the troublesome and unreasonable tests seniors' communities have had to meet to qualify for an exemption from the 1988 Fair Housing Act.

Under this bill, if a community publicly states and can prove that 80 percent of its units have one or more occupants aged 55 or older and shows an intent to serve the 55 and older population through its advertising, rules and regulations, it passes the adults-only housing test. These two tests are sufficient to protect families with children against discrimination.

I want to be perfectly clear on what I am not trying to do. I am not repealing the protection for persons discriminated against based on familial status, but merely trying to establish communities around the country. The Fair Housing Amendments Act recognized that senior have a right to live in bona fide retirement communities if they choose. It is time the legal language reflects that worthy goal.

I believe, however, that these most recent guidelines are vague and still fail to provide a reasonable certainty of compliance for senior communities that attempt to comply with the 1988 act.

I believe older Americans deserve to have the senior-only housing option preserved. The should not be required to add requirements of communal and rehabilitative services that are not appropriate to the active lifestyle of some senior-only communities.

The elimination of the significant facilities from the 1988 act is of vital concern to seniors throughout Florida and indeed throughout the country. It is vital to every apartment building, every condominium association and every homeowners' association that wishes to retain the senior-only status. I have heard from and continue to hear from hundreds of my constituents about this issue. I continue to receive calls from other States as well, so this is definitely not a problem unique to Florida.

Let's take this opportunity today to provide peace of mind for senior citizens in 55 and older communities by passing H.R. 660. Let's provide assurances that they can continue to live in their 55 and older retirement communities without having to pay for expensive facilities and services they don't want and don't need. Let us pass this final portion of the Contract With America which responds to the outcry from senior citizens on this issue from every corner of the country.

□ 1300

Mr. CONYERS. Mr. Chairman, the name of the gentleman from Massachusetts, BARNEY FRANK, has been mentioned many times already in this debate.

I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I feel a little bit like the character in the Moliere play who learned that he was speaking prose all his life without knowing it. I find that I am here advocating a part of the contract. That is not a posture I have previously found myself in very often. I did not know that this was part of the contract. It just goes to show that even a stopped clock can be right twice a day.

This is an important piece of legislation. What we did in 1988 was, sensibly, to try to protect children, families with children against discrimination. As the gentleman from Florida [Mr. SHAW], who is the author of this pointed out, this in no way weakens or repeals that substantive legislation.

What we are dealing with here is basically how you establish a certain fact. We recognize, first, that the general principle should be that you do not discriminate against families with children in the sale or rental of housing.

Second, we did not mean that this ruled out the ability to create a community of people who were older. Older people, like the rest of us, differ in their tastes and preferences. Some of them want to live just like everybody else. Others, by the time they reach a certain age, do not ever want to hear another ball bouncing against a wall, they do not want to be awakened by music they do not understand at midnight. They want to be able to get up at 6 o'clock in the morning and not worry about waking up other people. People's patterns in life can change.

Congress sensibly said in 1988, and President Reagan agreed, let us have a protection for children, but let us also say that we can have a separate situation for older people only. To define that, people put in at the time, trying to prevent abuse, a requirement that you had to have special facilities for the elderly. That is wrong, I think now, for a couple of reasons.

First of all, it suggests that if the average age in a place is in the sixties, that automatically means that they are people who cannot get around very well, that they need special facilities. There are communities of people in their sixties and seventies and eighties who do not need any special facilities. Some do, some do not.

Beyond that, and this is where I have found this to be a problem, it is especially a burden on people who live in manufactured housing. In the district I represent, there are a number of very attractive communities of older people in manufactured housing, people living in separate units. They may have one building which is kind of a community room, but they do not have the kind of facilities that you might find in a high-rise building. They have found themselves at a disadvantage.

It is to the credit of Assistant Secretary Roberta Achtenberg at HUD that, given this set of rules, she has shown a great deal of flexibility and understanding in interpreting them. She had one proposal which people pointed out was problematic, and she withdrew it, as has been noted, and she deserves credit for that.

She then came out with a second proposal. I agree with the gentleman from Florida, her second proposal was a considerable improvement. Indeed, I believe that given the framework of the statute, it was about as good as it could be. Therefore, it is not a criticism of her that we have said "You have done a pretty good job of trying to be flexible within the statute, but there is a problem with the statute itself.

That is what this is here to amend. Therefore, we should be very clear, this is not a repeal of the protection for children, this is not any weakening of the substantive rules. It does remove one piece of evidence that you have to have to qualify for an exemption in the law. which remains essentially unchanged.

Finally, I want to note, and I appreciate the good words of the gentleman from Michigan [Mr. CONYERS] about my efforts, the original bill as it came forward or as it came to committee had some language which we thought was too broad in terms of a good faith effort.

What we do here is to say if you are an individual citizen, you are not going to be held to a very high, sophisticated standard in terms of dollars, but if you are a real estate professional, we can hold you to a somewhat higher standard, so we put real estate professionals on notice that they have to be fully cognizant of the facts. If they are not cognizant of the facts and are found to have been deceptive, they might pay a penalty, but that does not apply to individuals.

I think it is a very reasonable piece of legislation, and I thank the gentleman from Florida and others for letting us bring it forward.

Mr. CANADY of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I want to express my support for this important legislation, which injects some commonsense changes into the Federal fair housing law. I want to congratulate the chairman of the Subcommittee on the Constitution of the Committee on Judiciary, the gentleman from Florida, Mr. CHARLES CANADY, and his chief counsel, Kathryn Hazeem, as well as the ranking member of the Subcommittee on the Constitution, the gentleman from Massachusetts, Mr. FRANK, and his chief counsel, Robert Raben; in addition, the gentleman from Michigan, Mr. CONYERS, JOHN CONYERS, the ranking minority member of the Committee on the Judiciary, for their very supportive conduct on this bill.

It has pretty much all been said, and I do not want to repeat it, but I ought to mention that this legislation will protect innocent real estate agents and condominium board Members against personal liability for money damages stemming from this seniors only provision if they have acted in good faith.

The American Association of Retired Persons strongly supports enactment of H.R. 660 as a means of providing needed clarity in the law.

Housing discrimination should not be tolerated in our society, but there have been numerous instances where implementation and administration of the fair housing law has prompted unnecessary confusion and strife. This bill is a step toward fairness, accommodation, and common sense for senior citizens and the communities where they live. I certainly urge an "aye" vote.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 5 minutes to the gentlewoman from Florida [Mrs. THURMAN]

Mrs. THURMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, it sounds like there is a Florida day today out here on the floor. I have to tell the Members, this piece of legislation has really created in our State some, obviously, notoriety here, because it has been an issue that we have heard about for a couple of years now.

I am just delighted that the House is going to consider the necessary changes in the Fair Housing Act. I want to, along with my other colleagues, congratulate the gentleman from Florida [Mr. SHAW] for bringing this legislation forward, not only this year but also last year.

I want to thank the gentleman from Massachusetts [Mr. FRANK] for having the hearing last year and setting part of this stage so we could move in this year to consider this legislation before the House.

Mr. Chairman, I think it is also appropriate to say that this is a Florida delegation-sponsored piece of legislation in a bipartisan spirit, and again, and I cannot tell the members how important it is to our seniors in our State. It is just so important.

We have talked about that ever since the 1988 amendments to the Fair Housing Act were signed into law there has been confusion and controversy that have surrounded the definition of "significant facilities and services" in senior citizen housing. The provision would require senior communities to provide these facilities and services designed to meet the special needs of senior citizens.

In a footnote here, I have to tell the Members, I will invite any Member down to my district, and I can assure them that some of these things are not necessary. Some of them have more spirit and more drive than many of us sitting in Congress today, and they are out dancing and doing the kinds of things that we like to see people enjoy in their years as they get a little older.

However, the Department of Housing and Urban Development proposed this rule on this definition, and they first published it last year, which only added to the problem. Then HUD came in, to their credit, and held public hearings. They had one in the State of Florida in Tampa.

I have to tell the Members, hundreds of my constituents drove to Tampa to be heard on this important issue. I think when they came back and once they saw some of the activity that took place, they felt like they had been heard.

At the same time, Mr. Chairman, what we have heard today is that there are sometimes things that cannot just be corrected through a rule or regulation, that we really do have to make changes in the law, which is what I think we are here today for, is to make sure that the changes that are made protect this, and so HUD can go about what they intended to do in their rule recently, and that is give them the tools to do this correctly.

Again, I just want to add my support, and hope that my colleagues on this side will support H.R. 660.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 660, the Housing for Older Persons Act. Stop bureaucrats down at the Department of Housing and Urban Development from harassing those who live in seniors-only housing.

Mr. Chairman, this is a very important issue for older Americans in my district. They should have the opportunity to live with other friends and neighbors which are sharing in the same life experiences of retirement in the type of community they choose.

In 1990, the Congress passed amendments to the Fair Housing Act intended to protect seniors-only housing from familial status lawsuits. However, bureaucrats down at the Department of Housing and Urban Development, appointed by President Clinton, are not allowing these Americans to follow the law. There is a nebulous requirement that seniors housing include significant facilities and services. HUD has given this term an ominous and expensive definition, that costs thousands of dollars for seniors-only housing in my district.

A clear example of how the Federal Government has wreaked havoc in housing for older persons took place in my own home State. Late last year, seniors at the Windmill Pointe Village Club Association of Orlando, FL, were forced to pay more than $440,000 in damages and penalties for practicing familial discrimination.

Mr. Chairman, mandating such services as illustrated in the latest regulations issued by HUD will require housing complex owners to double, triple or quadruple rents in mobile home parks or housing complexes. Unless the House of Representatives acts on this bill, the potential of high rents could effectively ban low- and moderate-income elderly from seniors-only housing.

Mr. Chairman, I urge my colleagues to vote for this bill and end this attack on our seniors.

Mr. CONYERS. Mr. Chairman, I yield back the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the record on passage of the Fair Housing Act Amendments of 1988 is clear—Congress specifically recognized the need to protect housing for older persons as a valuable resource for the elderly. Unfortunately, the record is equally clear that the statutory exemption that we crafted requiring significant facilities and services is not working. No community which has been challenged in court has ever retained its exemption. The significant facilities and services requirement imposes expensive and unnecessary requirements on communities seeking an exemption. Seniors communities across the country live in fear that they will have their exemption revoked—or worse—that they will have to use the precious dollars that they have set aside for their retirement to defend themselves in a lawsuit in which they face the unlimited resources and legal firepower of the Federal Government.

The most recent rulemaking by HUD marks the third time that the executive branch has tried to issue regulations to give clear guidance without imposing expensive and burdensome requirements. I think Assistant Secretary Achtenberg has made an admirable effort in attempting to craft flexible regulations, but no amount of rulemaking can save a flawed statute. The best recourse available to us is to amend the law and stop the intimidation of senior citizens—especially those with fixed and low incomes—who can neither afford the expense of significant facilities and services nor lawsuits to defend their right to live their retirement years in peace and security.

Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. STEARNS].

□ 1315

Mr. STEARNS. I thank my colleague for yielding me the time.

Mr. Chairman, I rise today in strong support of H.R. 660, the Housing for Older Persons Act. I wish to thank my good friend and colleague, the gentleman from Florida, CLAY SHAW, for his work on this issue. His efforts on behalf of the seniors of this country are commendable. I also want to recognize the chairman of the full committee, Chairman HYDE, and the chairman of the subcommittee, another Florida colleague, Chairman CANADY, both of whom have been instrumental in the fight for fairness for seniors.

The Fair Housing Act of 1988 created a burdensome and intrusive regulation regarding seniors-only housing. The significant facilities and services language has caused far too many problems for the seniors of our country. As you all know, I have worked on this issue since I came to Congress 7 years ago. In 1992, I amended section 919 of the Housing and Community Development Act, requiring that HUD simplify and clarify the exemption language. This year HUD finally published the new rule. The rule does simplify the requirements and ease the burden on housing communities, but does not alter the questionable and confusing facilities and services language. In other words, seniors still face a legal hurdle for doing nothing more than trying to freely live in their own communities.

It has become clear that a full repeal of the questionable regulations is the best solution to this problem. Only by removing the ambiguous language regarding significant facilities and services can we truly protect the rights of seniors. If we pass this bill, there will finally be a clear and concise test, by which seniors only housing facilities can know whether they qualify for the exemption.

Housing discrimination should not be tolerated by our society, and it certainly should be encouraged by legislation. But, the Fair Housing Act does just that: instead of making it easier for seniors to live in their own communities it has created a legal pitfall that assumes seniors are guilty until proven innocent. The act has actually discouraged seniors from exercising their right to live where they want. The Fair Housing Act has been anything but fair.

I urge my colleagues to support H.R. 660. This legislation will provide the fairness and accommodation our Nation's seniors deserve. No longer will they be treated as second-class citizens; no longer will they be punished simply for their age. Finally they will enjoy the fairness promised to them in the Fair Housing Act. Finally they will regain the right to live in peace. I urge an "aye" vote on H.R. 660.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BONO].

Mr. BONO. Mr. Chairman, I thank the gentleman for yielding me the time. Mr. Chairman, I rise in support of H.R. 660, the Housing for Older Persons Act of 1995. In my district, particularly in communities like Hemet and San Jacinto, thousands of seniors suffer from oppressive and unfair regulations when it comes to seniors-only housing.

The bill would repeal the significant facilities requirement that is one of the tests senior communities have had to meet to qualify for an exemption from the 1988 Fair Housing Act. This will bring needed relief to not only my district, but to seniors throughout the country.

I urge my colleagues to support H.R. 660 and end the discrimination against seniors.

Mr. BILIRAKIS. Mr. Chairman, I rise today in strong support of H.R. 660, the Housing for Olders Persons Act, legislation of which I am a proud cosponsor.

I am delighted to tell my colleagues that this legislation creates no new programs, expands no bureaucracies, helps our seniors—and will cost us virtually nothing.

It merely clears up some of the tortured "logic" of federal regulation touched off when the Congress sought to amend the Fair Housing Act in 1988. It was a classic example of the law of unintended effects.

In a good-faith effort to prohibit housing discrimination, the Federal Government managed to virtually prohibit senior citizen retirement communities. The more loopholes the Congress sought to open to allow these communities to safety slip through this vague and ill-written law. The more bureaucratic hurdles and hoops were created by the Department of Housing and Urban Development.

These communities were forced to supply "significant facilities and services specifically designed to meet the physical or social needs of older persons." Unfortunately, HUD chose not to define what these services or facilities should be. Seniors communities often sunk hundreds of dollars into service improvements only to be denied HUD certification anyway.

Last year, under pressure from citizens across the country, HUD attempted to clarify this requirement. Instead, it merely added 59 more pages of proposed rules and regulations.

HUD suggestions for costly congregate dinning facilities, daily meal delivery and other services regardless of whether they were needed or already available elsewhere led to even more confusion and frustration.

Last month, HUD tried again to clear the bureaucratic swamp it had created following another round of citizen complaints. Again, no specific requirements were offered, but 12 categories of suggested facilities were advanced—including, as was reported in the Wall Street Journal, "Bingo clubs, bowling trips and TAI–CHI classes."

It is obvious to me that the only way we are going to drain this swamp is by wiping this outlandish requirement for significant facilities and services off the books entirely—which is what the bill before us does.

I urge my colleagues to strike a blow for fairness and against mind-numbing, bureaucratic nonsense by voting for this legislation today.

Mr. YOUNG of Florida. Mr. Chairman, I rise in strong support of H.R. 660, the Housing for Older Persons Act, which is legislation I have cosponsored to once and for all specify with certainty which housing communities qualify as adult-only communities.

The Fair Housing Act of 1988 prohibited housing discrimination based on familial status. Congress, however, was very clear in providing exemptions for adult-only communities. Unfortunately, in the 7 years since enactment of the law, the Department of Housing and Urban Development has been unable to issue regulations that adequately set out the requirements for adult-only communities that are to be exempted from the act. The result has been great uncertainty among the residents of these communities, volunteers serving in homeowner associations, and real estate agents who sell or rent homes.

It is an issue that has generated great interest among the residents of many, many senior retirement communities across the 10th Congressional District of Florida which I have the privilege to represent. Their concern was heard by the Department of Housing and Urban Development in a public hearing last October in Tampa. Hundreds of Tampa Bay area residents turned out to share these concerns and as a result, HUD announced late last year that it was again withdrawing proposed regulations to clarify which communities are exempt from the Fair Housing Act's requirements.

The primary concern I raised in my testimony at that hearing, which was echoed by the many residents of senior housing communities, is HUD's proposed requirement that these communities provide "significant facilities and services specifically designed to meet the physical or social needs of older persons." The lack of a clear definition for significant facilities has created havoc in housing communities throughout our Nation, and particularly in Pinellas County, FL. Without some clarification, these communities have been unable to complete the process by which they receive exemptions from the act's familial status discrimination provisions. Regulations promulgated by the Department in 1991 did not clearly define what facilities and services are required to meet this test, and throughout the past 4 years, HUD officials have admitted they are unable to provide a specific list of these requirements.

The result is that many housing communities have not been able to determine with certainty whether they qualify for the exemption. Because HUD has no certification process, the only way this issue can be determined is through the courts. Therefore, communities find themselves in limbo until they are challenged in court and their exemption is approved or rejected. A number of housing communities throughout our Nation have been challenged in court by HUD and have had their senior-only status overturned.

Congress recognized the problems created by the original 1991 regulations and in October 1992 enacted legislation requiring the Department to issue revised regulations to more clearly define the significant facilities required for communities to retain their senior status. Unfortunately, HUD's latest proposed regulations, issued on March 14, one again fail to clear up the confusion and uncertainty caused by past drafts.

As I have said in cosponsoring legislation in the 101st, 102d, 103d, and this 104th Congress to correct this problem, we must take legislative action to provide a definitive solution if HUD cannot solve the problem and ease the confusion through the regulatory route. The legislation before us today, which I cosponsored, simply deletes the significant structures and services requirement from the law. This enables housing communities to definitively determine whether or not they qualify for the 55-and-older exemption from the familial status discrimination provisions. The sole remaining criteria is whether or not 80 percent of a housing community's residents are 55 or older.

Mr. Chairman, the problem we seek to solve today is not only important to the people of the many adult communities I represent, but to the hundreds of volunteers who serve as directors for the countless housing communities which remain uncertain whether they are in compliance or in violation of Federal law.

This is a good legislative solution to a long overdue problem and I urge the support of my colleagues.

Mr. KOLBE. Mr. Chairman, I rise in strong support of H.R. 660, the Housing for Older Persons Act. This legislation will at long last put to rest a burdensome bureaucratic requirement that senior's housing communities provide significant facilities and services for senior care in order to meet the Fair Housing Amendment Act's adult-only housing test.

I, along with every Member of this body, have heard from literally hundreds of seniors who fear their community will no longer be able to qualify as a senior's community. Every attempt at clarification by the Department of Housing and Urban Development of what is meant by significant facilities has led to even greater confusion. The most recent set of regulations issued in March are a nightmare. HUD has decided that in order to qualify as seniors housing, critical services such as tai-chi and bowling trips must be provided.

Clearly, it is time we acknowledge that the Congress erred during the 1988 expansion of the Fair Housing Act when it mandated that seniors communities provide significant facilities. James Bovard put it best when he wrote in the March 20 edition of the Wall Street Journal: "We don't need Federal bingo mandates for our senior citizens. The real issue in this controversy is how much power politicians and bureaucrats should have to forcibly veto Americans' freedom of association."

I urge my colleagues to vote in favor of H.R. 660.

Mr. ACKERMAN. Mr. Chairman, I rise in strong support of H.R. 660, the Housing for Older Persons Act. In 1988, Congress amended the Fair Housing Act to prohibit discrimination in housing against families with children providing an exemption in the case of housing for older persons in order to allow senior citizens to live in age-restricted housing, such as retirement communities.

Unfortunately, since enactment of the 1988 amendments, controversy has surrounded the definition of seniors-only housing which requires significant facilities and services specifically designed to meet the physical or social needs of older persons in order for a specific facility to qualify for the exemption. Some seniors' communities have been faced with housing discrimination lawsuits, due in part to confusion about the types of facilities and services that must be provided in order for a community to qualify.

H.R. 660 removes the significant facilities and services requirement that a seniors community must meet in order to qualify for the exemption and instead allows communities to demonstrate only that it is intended to provide housing for persons 55 and older, and that 80 percent of the housing units are occupied by one or more persons in this age group.

The Older Persons Act also establishes a good faith defense against liability for monetary damages in housing discrimination lawsuits which involve the exemption. This defense protects individuals, such as members of condominium boards, from lawsuits if they acted on a good faith belief that the seniors community qualified for the exemption.

Mr. Chairman, H.R. 660 removes the uncertainty from current law and protects the legitimate right of seniors to live in communities designed for them. I urge my colleagues to support the bill.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and each section is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Housing for Older Persons Act of 1995".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. DEFINITION OF HOUSING FOR OLDER PERSONS.

Subparagraph (C) of section 807(b)(2) of the Fair Housing Act (42 U.S.C. 3607(b)(2)) is amended to read as follows:

"(C) that meets the following requirements:

"(i) The housing is in a facility or community intended and operated for the occupancy of at least 80 percent of the occupied units by at least one person 55 years of age or older.

"(ii) The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under clause (i), whether or not such policies and procedures are set forth in the governing documents of such facility or community.

"(iii) The housing facility or community complies with rules made by the Secretary for the verification of occupancy. Such rules shall allow for that verification by reliable surveys and affidavits and shall include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.".

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. GOOD FAITH ATTEMPT AT COMPLIANCE DEFENSE AGAINST CIVIL MONEY DAMAGES.

Section 807(b) of the Fair Housing Act (42 U.S.C. 3607(b)) is amended by adding at the end the following:

"(5) Good Faith Reliance.—(A) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

"(B) For the purposes of this paragraph, a person engaged in the business of residential real estate transactions may show good faith reliance on the application of the exemption by showing that—

"(i) such person has no actual knowledge that the facility or community is not, or will not, be eligible for such exemption; and

"(ii) the facility or community has certified to such person, in writing and on oath or affirmation, that the facility or community complies with the requirements for such exemption.".

The CHAIRMAN. Are there amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McINNIS) having assumed the chair, Mr. DUNCAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 660) to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons, pursuant to House Resolution 126, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 424, nays 5, not voting 5, as follows:

[Roll No. 297]

YEAS—424

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson

Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—5

Becerra
Berman
Bryant (TX)
Scott
Watt (NC)

NOT VOTING—5

Ackerman
Chapman
Dickey
Frost
Reynolds

☐ 1341

Mr. WATT of North Carolina changed his vote from "yea" to "nay."

Mr. RUSH changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 660, the bill just passed.

The SPEAKER pro tempore (Mr. HOBSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

LAST VOTE ON CONTRACT WITH AMERICA—FREE AT LAST

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, I will just take a minute. Let me say to my colleagues that here we are on day 92 of the 100 days for the Contract With America and on this overwhelmingly bipartisan vote that we just cast we have made our last vote on the Contract With America.

Let me say to all my colleagues on both sides of the aisle how very proud I am of the way we as a body have conducted our affairs. This has been a difficult schedule. It has been extraordinarily demanding on our families, and if I may close my remarks with this observation, on behalf of our families let me just say: Free at last; free at last.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 345

Mr. PICKETT. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Oklahoma [Mr. BREWSTER] be removed from the list of cosponsors of H.R. 345.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 483, MEDICARE SELECT EXPANSION

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 130 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 130

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of any committee amendment it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 1391. That amendment in the nature of a substitute shall be considered as read. No amendment to that amendment in the nature of a substitute shall be in order except one further amendment in the nature of a substitute which may be offered only by Representative Dingell of Michigan or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. Subject to clause 2(l)(5) of rule XI, the Committee on Commerce may file a report to the House on H.R. 483 at any time.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

AMENDMENT OFFERED BY MS. PRYCE

Ms. PRYCE. Mr. Speaker, I ask unanimous consent that House Resolution 130 be amended on page 2, line 3, by inserting after "bill" the words "for failure to comply with clause (2)(l)(6) of rule XI."

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. MOAKLEY. Mr. Speaker, reserving the right to object, I would like to know exactly what the gentlewoman from Ohio [Ms. PRYCE] is doing at the present time.

Ms. PRYCE. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. Further reserving the right to object, I yield to the gentlewoman from Ohio.

Ms. PRYCE. Mr. Speaker, the words proposed to be inserted were inadvertently deleted from the text of the rule, even though it is clear from the motion made in committee that those included words were to be reported.

Mr. MOAKLEY. Mr. Speaker, the gentlewoman has a very lucid explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The SPEAKER pro tempore. The resolution is amended.

Ms. PRYCE. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, time is of the essence. That is the basic principle underlying our consideration of this legislation today.

In 1990, Congress created the Medicare Select Program to allow Medicare recipients the option of purchasing a MediGap managed care option. This 15-State demonstration project is set to expire on June 30, a date that is not so far away when you consider that we are about to begin a 3-week district work period. Unless Congress takes prompt action to renew this program, the insurance benefits of nearly half a million senior citizens covered by the Medicare Select Program would be in jeopardy.

Failure to extend the program's authority would most likely lead to higher premiums for current enrollees, presenting a new burden for senior citizens who live on fixed incomes.

The legislation before us, crafted by the distinguished gentlewoman from Connecticut [Mrs. JOHNSON], expands this option now being tried successfully in 15 States to seniors in all 50 States, extends the program for a minimum of 5 additional years, and puts it on track to becoming permanent if the Secretary of Health and Human Services certifies that certain conditions have been met.

In order to expedite consideration of this bill in the House, and to ensure that the Senate will have ample time to debate this issue, the Committee on Rules has reported a fair and balanced rule for this very necessary legislation. Only the rule will be considered by the House today.

Mr. Speaker, the rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce, after which time the bill shall be considered for amendment under the 5-minute rule.

The rule makes in order as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 1391. This bill reflects a consensus position reached by the two committees of jurisdiction in this matter: The Committee on Commerce, and the Committee on Ways and Means.

No amendment to that amendment in the nature of a substitute shall be in order, except one further amendment in the nature of a substitute which may be offered only by Representative DINGELL or his designee. The amendment shall not be subject to further amendment, and is debatable for an hour, which shall be equally divided and controlled by the proponent and an opponent.

Finally, the minority is provided with one motion to recommit, with or without instructions.

Mr. Speaker, health care reform dominated much of the time and attention of the 103d Congress. This year, work has already begun to explore new and innovative ways to make health care more available and affordable for our citizens, especially for older Americans.

As Chairman BLILEY stated before the Committee on Rules last evening, this legislation provides a reasonable balance to permit a very valuable, and arguably successful, program for our senior citizens to continue, while allowing us time to evaluate the program more closely before making it permanent.

Our colleagues should keep in mind that the Medicare Select Program provides senior citizens with another viable option to receive affordable medical care. Premiums under the select option have resulted in savings as high as 37 percent over traditional MediGap products. By giving older Americans more choices within MediGap, we give them the flexibility to choose plans which meet their special, individual needs.

Mr. Speaker, the sponsors of this legislation have made it very clear that the House needs to act on this bill before leaving for the upcoming district work period. More than 450,000 Medicare beneficiaries will be impacted if the Medicare Select Demonstration Program is not expanded.

Mr. Speaker, this is a fair, balanced, and responsible rule. It provides the minority with two distinct opportunities to offer alternative proposals. These proposals may contain whatever germane amendments the minority leadership considers most important, as long as they are consistent with the standing rules of the House.

In the Rules Committee hearing, we discussed a number of substantive amendments which were offered during the separate committee markup process, all of which were defeated at the committee level. While these proposals do have merit, Mr. Speaker, the Rules Committee majority strongly believes that they should be brought up when the House considers legislation specifically addressing reform of Medicare and MediGap programs. It would seem unfair to single out one program for reform at this time when all MediGap policies together should be examined at the proper time.

Once again, Mr. Speaker, let me emphasize that it is imperative that the House complete its consideration of this legislation and forward it to the Senate, which we all know operates at a much different pace than the House.

I urge my colleagues on both sides of the aisle to support this fair, balanced, and very reasonable rule.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it gives me great pleasure to stand on the House floor today to publicly thank my good friend, the gentleman from New York, Mr. JERRY SOLOMON.

Democrats were upset to learn yesterday that the Republican leadership was going to deny the Democrats on the Commerce Committee their right to have 3 days to file their views.

But JERRY SOLOMON came to our rescue. He talked to his leadership and convinced them to change the schedule so that Democrats on the Commerce Committee will be given time to file their views.

That's right. Thanks to JERRY SOLOMON we are taking up the rule today, but we will take up the bill tomorrow and Democrats will have the right to voice their opinion just as Republicans did when they were in the minority.

Unfortunately, I cannot say Democrats are as happy with this rule as we were with JERRY SOLOMON yesterday.

Today, we are discussing a closed rule on a simple, noncontroversial bill that anyone and everyone should be allowed to amend if they see fit.

But for some reason Republicans seem to have gotten in the habit of breaking promises and socking it to American families. They are shutting down this rule just as they restricted 66 percent of the contract rules.

At least three amendments that were offered in the Commerce Committee had significant bipartisan support. I would ask my colleagues, what is going on here?

What reason on Earth could you have to forbid Democrats and Republicans from offering amendments to this Medicare bill?

I urge my colleagues to defeat this rule.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH CARE FINANCING ADMINISTRATION,
Washington, DC, April 5, 1995.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, DC.

DEAR MR. DINGELL: I am responding to your request as to whether there is any federal requirement that Medicare SELECT insurers notify their enrollees about the status of their policies prior to the expiration of the current authorization for the demonstration.

There are no provisions in Federal law, regulations or the NAIC Model that require plans to notify enrollees in April or for that matter any time prior to the expiration of the demonstration authority. Even after the demonstration authority expires, plans are required to maintain coverage to all enrollees who continue to hold policies.

Confusion may have arisen on this issue of notification because of a provision in Section 10-N of the NAIC Model. This section outlines the requirements for plans to provide continuation of coverage in the event that the Secretary notifies the states of her determination that SELECT policies should be discontinued because of the failure of the demonstration to be reauthorized or its substantial amendment. This notification to states is at the Secretary's discretion. Given the bipartisan interest in both the House and Senate, we don't anticipate making such a determination in the foreseeable future even in the unlikely event that there is a temporary lapse in the authority for the demonstration.

We are committed to working with Congress to improve the options available to our beneficiaries. As you are aware, the Administration supports a temporary extension of the 15-state demonstration. Such an extension would provide sufficient time to examine what we have learned from the demonstration and to make needed changes to SELECT based on our findings. I look forward to working with you on these issues.

Sincerely,

BRUCE C. VLADECK,
Administrator.

Floor Procedure in the 104th Congress; Compiled by the Rules Committee Democrats

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729	Death Penalty/Habeas	N/A	Restrictive; Brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on suspension calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; Makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision.	1D.
H.R. 830	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment. Waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; Makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) of rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R
H.R. 1271	Family Privacy Act	H. Res. 125	Open	N/A
H.R. 660	Housing for Older Persons Act	H. Res. 126	Open	N/A
H.R. 1215	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; Waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D

*Contract Bills, 67% restrictive; 33% open. *** All legislation, 74% restrictive; 26% open. **** Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. **** Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GOSS], a very distinguished member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I rise in support of this very fair, structured rule for the consideration of H.R. 1391. This rule balances the rights of the minority, with the pressing need to extend the extraordinarily popular, and highly effective Medicare Select Program. Seniors in my home State of Florida have benefited greatly from this pilot program. Currently, more than 50,000 Medicare enrollees in Florida have voluntarily chosen to purchase one of these unique MediGap-PPO products—a product that helps fill the gap between what health care actually costs and what Medicare will pay. Often this is a substantial gap that has placed seniors in tough financial straits. On the whole, Medicare select enrollees in Florida enjoy supplemental premium costs that are about 25 percent lower than traditional indemnity products. To seniors living on fixed incomes, this type of insurance savings can make the crucial difference between barely surviving and maintaining a certain level of quality of life. In some cases, it can mean the difference between having supplemental coverage for such costly things as prescription drugs or not. Seniors I have talked to appreciate the simplified billing process that a Medicare select policy offers—they do not have to front the cost of care and then file two separate claims to seek reimbursement. In most cases, under this program, all out-of-pocket costs are determined and paid at the time of service. While some have expressed concerns about the quality of care provided through these plans, seniors in Florida have consistently expressed very high rates of satisfaction with the care they have received. This has been demonstrated most convincingly by the fact that more than 90 percent of enrollees retain their policies—even though they could choose another Medigap option at any time. Mr. Speaker, in order to ensure that the hundreds of thousands of current Medicare select enrollees maintain the benefits of this program, the Congress must act expeditiously. The program is set to expire on June 30. And without assurances that the law will be extended, insurers will have to begin to notify enrollees of their plan's pending termination. By passing this rule, and H.R. 1391 today, we will not only ensure that current beneficiaries maintain coverage, but we will make it possible for seniors in an additional 35 States to enjoy the benefits of this program. By extending the Medicare Select Program to the rest of the country, we will reaffirm our commitment to giving seniors more choices in Medicare—and provide them with more opportunities to reduce their health care costs. I urge adoption of this rule and the bill.

Mr. MOAKLEY. Mr. Speaker, I yield 7 minutes to the gentleman from Michigan [Mr. DINGELL], the ranking member of the committee.

□ 1400

Mr. DINGELL. Mr. Speaker, let me thank the distinguished gentleman from Massachusetts for yielding this time to me.

Mr. Speaker, this is a gag rule pure and simple. It is not needed at this particular time. There is plenty of time to deal with this legislation. If we pass this legislation tomorrow or today, the other body will not be able to move on it until after they come back. If we pass it the day after we come back from the recess, the other body can still consider the legislation within sufficient time to meet the June 30 deadline.

Mr. Speaker, I rise in opposition, and I say this with great respect for my good friend, the chairman of the Committee on Rules, the gentleman from New York, who has given us another gag rule.

I also object to the extraordinary way in which this bill was brought to the floor and the way in which the minority's rights have been trampled. There are two rules that have been dealt with unfavorably: One is the 3-day requirement with regard to the minority having opportunity to file minority views, and the other is a provision which requires a 3-day layover. Neither of these needs to be waived at this time.

This is a closed rule. It is an unfair rule. It is a restrictive rule. It prevents Members from offering amendments other than one substitute that requires any and all amendments to be packaged into one, regardless of whether they are consistent with each other. It simply imposes on the Congress a requirement that we legislate poorly without adequate opportunity for debate or proper discussion on a piece of legislation which is relatively unimportant and on which there is no great need for haste.

There is absolutely no justification for this closed rule. Even the justification suggested by my colleagues in the majority collapse on close scrutiny.

My friend, the gentlewoman from Connecticut [Mrs. JOHNSON], has suggested at the Rules Committee that a closed rule shutting off individual amendments is appropriate because she disagrees with the substance of the amendments. It is my view those kind of amendments should be a matter of decision by the House and not by the Committee on Rules, and certainly not by one Member alone.

An open rule would have afforded my colleagues the opportunity to argue why amendments should be passed or defeated. The gentlewoman from Connecticut has suggested that matters on which the Members disagree should not be put before the Members for their consideration. That seems to indicate we should make this body more like the Russian Duma or perhaps the Reichstag and that disagreement over facts and policy are not appropriate for Members on the House floor.

The gentlewoman has also suggested that a closed rule was justified because the amendments the minority was contemplating were too narrow in scope and should apply to a broader series of insurance policies. Ironically, her bill was narrowed by the Republicans in the Committee on Ways and Means precisely for the purpose of preventing the offering of germane amendments that were broader.

The bill brought before the Committee on Commerce was similarly narrowed to just this one class of policy. We heard in the Rules Committee that a closed rule might be justified by the fact that the Commerce Committee markup involved a discrete number of amendments and took only 2 hours to complete. That sounds like a bill uniquely suited and qualified for a completely open rule. It would not burden Members with too many votes or too much debate time.

Given the relatively small number of issues and the limited time they might occupy, we are here witnessing a rule that has been closed gratuitously.

Finally, it was suggested in the Rules Committee that a closed rule was in order because this bill was reported out by the Ways and Means Committee by a large margin.

Leaving aside the fact that amendments in the Commerce Committee lost by narrow margins, has the measure for whether minority rights should be protected become the number of people in the minority?

We have heard a lot about how a closed rule was necessary because this legislation is urgent. Nothing could be further from the truth. Indeed the minority has not been in any way uncooperative in bringing this legislation to floor. Nor did we in any way delay the consideration of the legislation in either of the two committees.

Even if this legislation were urgent, and it is not, does it mean that debate must be stifled? We managed to debate quite fully the resolution on the Gulf war, and that matter had real urgency and was not so limited, in fact, by time.

But the fact is this bill is not urgently needed. Arguments about the legal need for notification of insurers and policyholders are wrong and are being used to alarm senior citizens unnecessarily so that some insurers who might cut a fat hog off this program might scare off any opposition to it. The 15-State demonstration project does not expire until the end of June, and I have not heard of a single Member who objects to the extension of that particular program.

But what is really curious here is how the proponents of this rule are using the expiration of a program in 15 States, 3 months from now, 3 months from now, to justify urgent expansion of this experiment to the other 35 States.

This is like rushing through a bill that gives flood relief not only to California but the other 49 States and arguing that it is urgent.

A further sign that these arguments are phony is the lack of urgency felt in the other body. There is no indication that body will act before the recess. There has not even been a committee markup there.

In addition to being unduly restrictive, this rule comes to the floor under an exceptional and highly objectionable procedure. The committee report has not been filed. Indeed the Rules Committee met last night without having a committee report before it. The minority has not had its full 3 days to prepare its views. In fact, the rule contains a most extraordinary provision permitting the committee to file its report at any time. Are we beginning a process whereby the committees will not have to file their reports until after bills are passed?

The rule also waives the 3-day layover. These are rights which have always been considered sacrosanct, and whenever any attempt was made to control them on the part of the Democrats when we controlled this body, there was enormous outrage expressed by our colleagues on the Republican side.

Finally, the rule is objectionable because it makes in order a bill that no committee has reported out. It purports to be a compromise between Commerce and the Ways and Means Committees, but there was no consultation whatsoever that took place between the majority and minority. Therefore, it is not a compromise.

Furthermore, the Ways and Means Committee would not even be represented on the floor under this closed rule.

I urge my colleagues to reject this rule, I urge my colleagues to let us consider the matter in a more deliberate and appropriate fashion. There is no need for haste. We have not been delaying the matter. I believe that in protecting the rights of the minority, the rights of all Americans are protected as opposed to just some select few in the insurance industry.

Ms. PRYCE. Mr. Speaker, I yield 5 minutes to the gentlewoman from the State of Connecticut [Mrs. JOHNSON], who has done so much hard work on this issue.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of this rule permitting us to vote an extension and expansion of Medicare Select. I urge my colleagues to support making these health insurance plans, which Consumer Reports has rated so highly, available to seniors in all 50 States.

I support this rule because it allows us to get to the central issue, preserving a low-cost, high-quality insurance option for seniors while not allowing requirements to be imposed on a single Medigap policy that cannot under this bill be imposed on all MediGap policies in the market.

Mr. Speaker, it is important that we not add requirements to Medicare Select that would treat these plans differently from other MediGap prices. During each committee's markup, amendments were defeated because they would have required select plans to offer benefits, plan options and rates that would not apply to other Medigap policies.

The time to address these issues is when we make changes to all Medigap plans. Otherwise, Medicare Select plans would operate on an unlevel playing field and at a competitive disadvantage, eroding the savings seniors now enjoy by choosing these plans.

The Ways and Means Committee approved extension and expansion of the select program with a very bipartisan vote of 31 to 2. The Commerce Committee reported its legislation by voice vote.

My esteemed colleague, the gentleman from Michigan [Mr. DINGELL], agrees that this bill has broad bipartisan support.

If Congress does not act to extend this program this week, nearly a half-million seniors risk losing low-cost MediGap coverage. Companies offering these policies need to begin making plans now to prepare providers and beneficiaries about the future of their program.

Medicare Select is a MediGap policy—covering costs and services that Medicare does not. The difference is that select enrollees get their care from a preferred provider organization. Enrollees are still Medicare beneficiaries: Medicare will cover their health care costs even if they go outside the health network. By staying within the network, beneficiaries make the best use of their coverage because the health plan picks up most or all of their out-of-pocket costs.

Medicare Select is not a Medicare HMO/risk-contracting plan. Such plans require Medicare beneficiaries to obtain their care entirely within the network, or Medicare won't pay. With select, beneficiaries can still get Medicare to cover their charges even if they go outside the network, and in cases of emergency, the plan will reimburse charges in full.

Medicare Select saves beneficiaries money. Seniors on fixed incomes can save from 9 to 38 percent on the cost of their MediGap premium—up to $300 a year.

Mr. Speaker, Medicare Select is not a Government program. Medicare Select is a MediGap insurance policy and regulated at the Federal and State levels just as all such policies are.

Mr. Speaker, it operates around Medicare requirements. But it has indirect benefits to Medicare, however, because enrollees are using health providers within an integrated delivery system. Thus, inappropriate utilization of medical services is avoided. A California select plan found that the cost of medical services per admission for network providers was 20 percent lower than for non-network providers. In addition, the average length of stay for network providers was 50 percent lower than for non-network providers.

I urge my colleagues to support this rule and support the extension of Medicare Select to all States before we adjourn.

Mr. MOAKLEY. Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. STARK], the ranking minority member of the subcommittee.

Mr. STARK. I thank the gentleman for yielding this time to me.

Mr. Speaker, I just wanted to remind my colleagues that Medicare is the finest health insurance program in the country. It is the only functional health insurance system in the country, and universal coverage is guaranteed. More than 99 percent of the Americans over 65 are covered. No private insurance company will even offer insurance to people in that age group.

There is no insurance plan in the country that offers beneficiaries a higher, more broader choice of high-quality, affordable health insurance than does Medicare.

The success of this program, although it may rankle those who cannot stand to see the Federal Government do anything well, is, in large part, due to the willingness of prior Congresses to provide choice to beneficiaries or at the same time putting in the extra effort to guarantee to those beneficiaries that this range of choices will not be hazardous to their health.

Strong beneficiary protections are vital to the well-being of the seniors of our country.

I might remind the gentlewoman from Connecticut that she misspoke. There are no Federal regulations on Medicare select, none whatsoever. Therein might be the modest suggestion that many of us would have for improving this experiment and guaranteeing that it does not become subject to the same avaricious group, like Prudential Insurance, who have been fined $300 million for stealing billions from senior citizens.

I am not sure those are the people I want to run my mother's health care plan under Medicare select, and there would be nothing to stop them from stealing under this plan if Prudential chose to run one.

There are many other questions about the program, questions about the use of attained-age premiums, the bait-and-switch policy that some insurance companies use, selling a lowball premium to somebody when they turn 65 only to see that premium double and triple when they get to the delicate age of 67 or 68 or 80, where they can no longer afford it and see their premiums doubled and tripled.

There is no protection against that. Questions about the comparability of Medicare select products with other MediGap products, so that unscrupulous insurance salesmen do not unnecessarily confuse and cancel insurance for senior citizens.

The seniors deserve some protection there against those few unscrupulous sales people.

Last but not least, questions about the effect of these products on the Medicare expenditures, the trust fund which my Republican colleagues are so concerned about as they continue to break the trust fund with their capricious tax cuts, it is a fact that this has not saved Medicare any money at all and may indeed cost extra money. Those things should be looked at.

It seems to me that some modest protections—even the gentlewoman from Connecticut, in her original bill, had a few protections in her bill which were stripped out when the bill was presented to the Committee on Ways and Means.

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These questions deserve answers, and I would ask the gentlewoman who is managing the bill for the majority what is the hurry. I do not know. If we pass this today or tomorrow, is there a reason that this bill must pass tomorrow or today?

Ms. PRYCE. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentlewoman from Ohio.

Ms. PRYCE. We would like to get this to the Senate as soon as possible. Their pace is much different than ours. They are coming back a week before we are, so they can get a jump on it and get moving on it. This does expire in June, and we would like to see this extended.

Mr. STARK. I am reliably informed they do not intend to take it up, but, other than that, it can lay over there as well as lay here. That could well be.

We still have until the end of June, and, as I say, why are we bringing it up today? I mean, if it is such urgency, I do not know because it seems to me we are bringing it up without the responsible procedure of seeing whether the bill is indeed any good. A closed rule does not permit any changes, and, except in some of the tax bills, I do not know what this urge, this rush, to judgment. If it is so good, why would it not stand the scrutiny of some discussion? I really do not—have no understanding of that, and I have heard precious little response from the majority side as to what they are scared of. What is it they are afraid of that will be offered?

I am puzzled. I begin to—I would not say smell a rat—but why we would rush to jam this down the throats of unsuspecting seniors? My mother is perfectly happy right now with Blue Cross, and she has got Aetna—or she has got AARP's MediGap. Why? She is happy.

Mr. BILBRAY. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from California.

Mr. BILBRAY. Let me say, as somebody who has had to work with this population from a county service point of view, the inconsistency of not letting them know as soon as humanly possible what their options are and if this program will be available, and, as somebody who administered Federal programs, as my colleague knows, his side of the aisle again and again—

Mr. STARK. If I could reclaim my time to just explain to the gentleman that those people who are in the plan cannot be canceled even if we do not pass this. They are guaranteed to stay in. The only thing it would prevent is those insurance salesmen from selling new plans for perhaps a day or a week, it we miss the goal.

Mr. BILBRAY. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from California.

Mr. BILBRAY. I say to the gentleman, "But their premiums can be raised, and you tell a senior that it's no problem. You just pay more, and you won't know what that is in the future. We try to lay a defined course for these people. They have enough insecurity. They don't need us playing games back and forth, and you, more than anybody else, knows that you try to send messages that we pre-warn citizens of a changing situation as much as humanly possible."

Mr. STARK. If I can reclaim and explain to the gentleman. The premiums under the current law cannot be raised during the middle of the year so that there, first, is no danger that existing beneficiaries under these plans would have their premiums raised until the end of their policy year; and, second, there would be no restrictions on their being able to maintain their policies. It is just that the salesmen, admittedly, and it may hurt the insurance salesmen because they earn their living doing this. I would just suggest that it is risky business dealing with the fragile elderly who are easily confused, and I say that Democrat elderly are as confused as Republican elderly. We ought to be able to protect them through the process.

Ms. PRYCE. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. THOMAS], who has done a lot of work in this area and can speak to many of the concerns just raised.

Mr. THOMAS. Mr. Speaker, I would tell the gentleman from California, my friend and colleague who is a freshman, that at the beginning of the 104th Congress it was my privilege to follow the gentleman from California [Mr. STARK] as the chairman of the Health Subcommittee of the Committee on Ways and Means. What he probably does not realize is that this program was supposed to be a permanent program back in 1990. It moved through the Congress as a permanent program. At the 11th hour, behind closed doors, with pulled curtains, they made it a demonstration program. This whining about, gee, what is the delay—I will not yield—the delay is in the gentleman's lap completely.

It took us until 11:30 at night the last day of the 103d Congress to extend this program.

I loved the gentleman from Michigan asking what is the problem. We have plenty of time to move legislation. At 1:30 a.m. the Senate acted to extend this program. Why do they not want to move forward? They want to see the program dead; that is why. All of these crocodile tears about seniors. What they are scared to death about is that this one little choice program among 10 other MediGap policies will show, by people choosing it, that managed care is a better way to go in the Medicare Program. They cannot stand one chink in the armor of the old-fashioned fee-for-service system to be tested at all.

Now we moved this bill through the Committee on Ways and Means on March 8. The first week in March we moved this bill.

How many members of the Committee on Ways and Means opposed this? Two. There is one of them. He convinced one other member to oppose making this permanent. The gentleman from Florida [Mr. GIBBONS], a senior himself representing a number of seniors, he is for it. The gentleman from California [Mr. MATSUI], outspoken in terms of the protection of seniors' rights, he voted for it. Thirty-one members of the Committee on Ways and Means said, "You're right. This program should be made permanent."

What is the rush? There are only about 18 legislative days between now and when this program expires. They want to take all the time in the world.

This objection about rights under this rule? "How many times, when you were the majority, did you not even give us the right to recommit?"

I say to my colleagues, "You've got two bites at the apple. You can offer your own substitute, and then you can have the motion to recommit. You can change it twice. You've got an opportunity to convince folks that making it permanent is wrong. You couldn't convince the Commerce Committee. You could only convince two members of the Ways and Means Committee."

The idea that we did not give them 3 days to examine this rule? Notice carefully he said we are violating the 3-day rule, not on the bill, but on the rule itself. Those folks need 3 days to study a two-paragraph rule? I say to my colleagues, "You've got your full 3 days guaranteed to the minority on the bill."

Now, finally, what I consider absolutely egregious and outrageous, for the gentleman from California to stand up and say that the gentlewoman from Connecticut is wrong about Federal protections on this program. She said there were some; he said there were none.

I would invite the gentleman's attention to the Federal Register, August 21, 1992, beginning on page 37993, which is section 10, Medicare Select Policies and Certificates. This section shall apply to Medicare select policies and certificates, and on, and on, and on, page, after page, after page of a Federal structuring that is to be followed by the States to make sure that the seniors are protected in this program area.

This rule is a good rule, it is a fair rule, it is an appropriate rule, it is a timely rule. We will pass this rule, and then, more importantly, we will finally begin to move permanently, Medicare select.

The seniors deserve a choice. These detractors continue to try to stand in the way, and we will not let them.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. WAXMAN] who is the ranking member of the committee.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. STARK. I just wanted to correct the misstatements of the previous speaker.

On March 8 the committee report indicates that the gentleman from Florida [Mr. GIBBONS] did not vote. As a practical matter, he was out sick on that day and did not vote on this bill either way.

Second, the House of Representatives has never considered Medicare select in its deliberations. It was added about the Senators in a conference and never considered in the House of Representatives, and I stand by the statement that there are no Federal regulations covering it.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman from California [Mr. STARK] for that clarification.

I must say I am absolutely astounded by the comments of the gentleman from California [Mr. THOMAS] a minute or two ago on the House floor. He seems to ignore the whole history of this proposal and then mischaracterizes what is at issue today.

The Medicare Program pays for the beneficiaries to go to the doctors and the hospitals of their choice and pays most of those costs, but there are costs that have to be incurred by the elderly. For that people go out and buy MediGap supplemental insurance policies.

There are a lot of anticonsumer practices in the sale of these policies, so in 1990 the Congress said the insurance commissioner should set up a uniform benefit package for MediGap so people can compare one policy to another. People were being sold MediGap policies to cover things that were already covered under Medicare. They were paying for coverage that they already had. The consumers were being ripped off.

So these policies were established, 10 different packages.

At the same time the Congress moved to allow people to go into HMO's and have their coverage through a health maintenance organization. Medicare select came out as a sort of different kind of policy, not an HMO, but not a complete choice of doctors and hospitals for the Medicare beneficiary. The Medicare select said that, if a senior would sign up, they could go to the doctors on the panel. If they went outside the panel, they had to pay for it. Their MediGap policy would only cover the doctors on the panel, to supplement the Medicare payments to them. It is like a preferred provider organization, and it was established as an experiment because it was the only MediGap policy being sold that did not give the consumer the free choice of doctors and other health providers.

Many consumers have found this very appealing. It has been an experiment in a number of States, and that experiment is up. But before the experiment is up, we have not had the analysis yet of how well it has done, but from those of us who have followed it, like in my own State of California, I think it has been a choice for consumers that has been well worth while.

The bill before us would make it available in all 50 States. In my opinion that may be premature, but I have no serious problem with allowing Medicare select policies in 50 States. But there are two problems that we should address. One is if someone goes into a Medicare select panel, and they do not like the doctors, and they do not feel they are being treated well in this kind of hybrid MediGap policy. They should be permitted to leave and go to another MediGap coverage policy that would give them the choice of doctors.

One of the amendments that was offered in the Committee on Commerce by a Republican Member, a doctor, the gentleman from Iowa [Mr. GANSKE]—he offered, and I supported, many of our Members supported, the ability of people, if they did not like their Medicare select policy, to be able to have a choice of another MediGap policy. They might not have this choice, they might not have it because they passed up the opportunity for another policy if they signed up on Medicare select. So we wanted to say, if Medicare select were going to be made available in all 50 States, they ought to make sure the consumers have a choice to opt out. That is a very important consumer protection.

One would think from what the gentleman from California [Mr. THOMAS] had to say it was not even an issue, but that is what we are talking about in this rule because that amendment would not even be permitted to be offered as a separate amendment on the House floor when this bill is presented.

A second issue:

If people are in a MediGap policy, they could have a fairly low rate when they start, but there is nothing to restrict the insurance companies as they get older and sicker from moving up the rate of that MediGap policy cost.

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That seems to be a real troublesome area, where consumers can be taken advantage of. And if they are priced out of their ability to buy that Medigap policy, because they have attained a higher age and therefore can have a higher premium imposed upon them, the consumers may be priced out of the ability to get any Medigap coverage. So we wanted to have an amendment on that issue.

The Committee on Rules offered a rule that we are now considering that will not even give us that opportunity to offer those amendments. We have to tie them all together in a substitute amendment, but not be able to offer these two distinct amendments. That is what our objection to this rule is all about. It is not that we do not want to have Medicare Select policies. It is that we do not want them marked in a way where the consumers can be disadvantaged.

Now, the rule is an unfair rule and it has been hastily put together. The bill was marked up in our committee, the Committee on Energy and Commerce, Monday evening, and we offered those two separate amendments that we are not going to be permitted to offer. The rule now before us not only would not allow these two amendments to be offered, it waives the usual 3-day layover period and it would permit the bill to be brought up even though a committee report with dissenting views has not been filed, as far as I know, by the Committee on Energy and Commerce.

I think that we ought to have an opportunity to debate these issues when the bill comes up. Some of us will support the bill, to allow Medicare Select as an option. But they should not have Medicare Select as an option that freezes people into a panel of doctors which may not be satisfactory to them and not allow them then to get another Medigap policy.

So I would urge opposition to this resolution, to allow us the opportunity to argue these separate issues, to protect the elderly consumers in this country from unscrupulous insurance practices when they go out to get their Medigap policy.

Mr. Speaker, I urge a "no" vote on the rule.

Ms. PRYCE. Mr. Speaker, it is my pleasure to yield 4 minutes to the distinguished Chair of the Subcommittee on Health and Environment of the Committee on Commerce, the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise in support of the rule providing for the consideration of legislation to extend the current Medicare Select Program which is scheduled to expire in June.

On January 11, 1995, our colleague, the gentlewoman from Connecticut, introduced H.R. 483, a bill to amend title 18 of the Social Security Act to permit Medicare Select policies to be offered in all States, and for other purposes. That bill was referred to the Committee on Commerce as the committee of primary jurisdiction and in addition, to the Committee on Ways and Means.

On February 15, 1995, our Health and Environment Subcommittee held an oversight hearing on Medicare Select and issues related to Medicare managed care. On March 22, 1995, the subcommittee met and marked up H.R. 483 and approved the bill for full committee consideration, as amended, by a voice vote. On Monday, April 3, 1995, the full Commerce Committee met and ordered H.R. 483 reported to the House, as amended, by a voice vote, a quorum being present.

As ordered reported by the Commerce Committee, H.R. 483 would extend the Medicare Select Program for an additional 5 years and expand the coverage to include all 50 States in order to continue in an improved way the demonstration project, which is really what we are trying to do.

The Committee on Ways and Means also completed action on H.R. 483, and reported a different version of the legislation to the House. The Ways and Means Committee version of the bill extends the Medicare Select Program to all 50 States on a permanent basis.

Since the time that both committees completed action on H.R. 483, the committees have met and have developed a consensus bill, H.R. 1391, which was introduced in the House on April 4. This rule makes in order the text of H.R. 1391.

The bill to be considered would extend the Medicare Select Program for a 5-year period and expands the coverage to all 50 States.

The bill would also require the Secretary of the Department of Health and Human Services to conduct a study comparing the health care costs, quality of care, and access to services under Medicare select policies with other Medigap policies. This study must be completed by the end of 1998. Based on the results of this study, the Secretary must make a determination that the Medicare Select Program is permanent unless the study finds that, first, Medicare select has not resulted in savings to Medicare select enrollees, second, it has led to significant expenditures in the Medicare Program, or third, it has significantly diminished access to and quality of care.

I think this bill provides for a reasonable balance that will permit a valuable and innovative program for our senior citizens to be continued while permitting a more informed evaluation of the program. We must remember that Medicare select is a Medigap insurance policy which provides seniors with another option to receive medical care. By giving the elderly more choices within Medigap, we give them the option to pick plans which meet their individual needs.

Mr. Speaker, I urge adoption of this rule that will provide for consideration of this important legislation.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I rise in opposition to the rule, and specifically would like to address the comment that the gentleman from California [Mr. THOMAS] made earlier about the views that somehow Democrats are a little bit frightened of managed care or skeptical of its benefits.

I come from an area with one of the highest concentrations of Medicare and managed care in our country, and we know that there can be good managed Medicare. But in our programs, there is real choice. There are real options. And that is why we are concerned about this rule, because we think it takes away needed options from senior citizens.

Frankly, because I believe that when we come back the other side will be proposing major cuts in Medicare that are going to take additional choices and options away from seniors, I think it is very important that in Medicare select we build in some more choices and some more consumer protections.

For example, my friends on the other side are not worried about attained age pricing in their bill. What that means is that the prices the senior citizens pay go up with the age of the older person. A lot of these older people have no idea about the rate hikes that are going to hit them with Medicare select.

We hear that seniors are happy at this point about Medicare select. Of course they are, because the product is new. A lot of these older people may have only had it for 18 months. They got a statement, maybe a disclosure form, that said there was going to be attained age pricing. It did not prepare them for the rate shock that is coming.

Let us vote against this rule, let us fashion an alternative, that provides real choice to older people. Let us offer an alternative that protects senior citizens against draconian rate hikes.

Mr. Speaker, I urge my colleagues to vote against this rule, and then fashion a bipartisan program that will protect the rights of older people in our country.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BILBRAY], a distinguished new Member who has much experience.

Mr. BILBRAY. Mr. Speaker, let me just say as somebody who is new on the block, but has been involved in many programs that have been mandated, allowed, and pursued by the Federal Government, one of the greatest frustrations a constituency in America has is when Washington starts sending mixed signals and then waits for the last minute to give a go-ahead. The inconsistency of the political process in Congress is always frustrating for the constituents out in real world America. They watch us in the House and they watch the Senate with their faster than light process of coming to a conclusion to let America know what the rules are that they are going to be able to live by.

Well, I strongly support this proposal, because I think we need to send a clear message to our seniors, not only in California where we have over 100,000 seniors that have made this choice, Mr. Speaker, but also many other States where this opportunity is needed.

Mr. Speaker, I know there are those who fear the MediGap concept. I know there are those who want to defend to their dying day the fee for service, even if it means denying an alternative to fee for service to our seniors.

Mr. Speaker, I strongly urge my colleagues, not as just a Member of Congress, but as somebody who has not so long ago been a consumer of the products that come out of Congress, let us send that clear message as quick as possible, let us make sure the consumer knows what the rules are, and let Congress get its job done in time so the seniors know the rules that they are going to be expected to play by.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, may I engage the gentlewoman from Ohio [Ms. PRYCE] in a colloquy for a moment.

Mr. Speaker, I gather that the majority feels that we should move ahead rapidly with this bill, and I begin to sense that we are not going to have any opportunity to amend it.

Ms. PRYCE. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentlewoman from Ohio.

Ms. PRYCE. Mr. Speaker, I disagree with the gentleman. There are two opportunities.

Mr. STARK. Mr. Speaker, the gentlewoman from Ohio is correct. I am sure we are not making many friends with all this, but this is one of the things we might do to accommodate many of our colleagues who might like to end the 100 days sooner: Is there any reason in the rule that the bill could not be considered this afternoon?

Ms. PRYCE. Mr. Speaker, if the gentleman will yield further, It is my understanding we are protecting the rights of the minority.

Mr. STARK. Mr. Speaker, I am about to suggest, if the minority would be willing to accept unanimous consent, that the bill be considered today, so in a matter of comity we are prepared and would be happy to proceed, and I am sure we would make a lot of friends.

Mr. Speaker, I do not believe unanimous consent is necessary, but I ask unanimous consent that the bill be considered today.

Mr. SOLOMON. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore (Mr. HOBSON). The gentleman from California [Mr. STARK] was not recognized for the purpose of making a unanimous-consent request. The unanimous consent request is not entertained.

Mr. SOLOMON. Mr. Speaker, If the gentleman would yield, let me just say to the gentleman, as the gentleman from Massachusetts [Mr. MOAKLEY] has said, we did defend the minority's rights. We wanted to give 3 days for the minority's views. I always insisted on it when I was in the minority. You have just filed your minority views, and we have Members on this side of the aisle that would like to have time to look at your minority views. We value your views, seriously.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I understand that my views on this matter have created vast distress on the part of my Republican colleagues. They are very easily distressed, and this pains me. For the help of my colleagues on that side, I would say I do not mind bringing the bill up today or tomorrow. If the leadership on that side wants to do it, they can do it. They have been quite wanton in disregard of the rights of the minority and in disregard of the rules, and I see no reason why I would object to further practices of that sort at this time.

So if the leadership on the other side wants to bring this bill up, they control this place. I would suggest that they should commence doing so forthwith, and then we will hear less complaining on the Republican side about how this side, in insisting on the orderly conduct of the business of the House and the proper conduct of the business and protection of the rights of the minority, is delaying the conduct of the business of the House, which we in fact are not doing.

The bill is going to be passed. It needs to be perfected. It will not be passed as perfected because the Republicans will not participate in the perfection of it by eliminating two very significant problems, which the amendments to be offered by this side would perfect.

□ 1445

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Chairman, I thank the gentlewoman for yielding time to me.

I do have to compliment the minority. I thought perhaps they were not learning to become the minority quite as quickly as we had hoped they would. But what we have just heard on the part of the minority is an absolute denouncement of the rule because it denies them the privileges of the minority on the 3-day rule. And then less then 20 minutes later, standing up and deciding, maybe they really did not want that 3-day period.

They talked about the fact that this does not need to be rushed through at all. And then less than an hour later, gee, we might as well expedite the business of the House.

I compliment them that both sides of the mouth is working well.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in opposition to the closed rule on HR. 483, the Expanded Use of Medicare Select Policies Act that would extend the Medicare Select demonstration program that currently exists in my State of Illinois and 14 other States and would allow all 50 States to participate.

Once again, despite the promises and pledges by the Republicans to allow open debate on the House floor, we are being forced to accept a closed rule that only permits one amendment to be considered. Several germane amendments that were submitted for consideration have been rejected outright with no explanation given. Yet again, free debate is stifled by this rule that permits only 1 hour of debate. Mr. Speaker, this is clearly not sufficient time for the two committees of jurisdiction to debate the bill and the substitute to be discussed.

As we have seen since the 104th Congress first convened in January, the Republicans talk a good talk. They pledge their dedication to free and open debate, they declare how committed they are to the open rule process and yet, once again, we are being bound and gagged with a closed rule for no apparent reason. We are forced to race through the debate at top speed with no chance to truly discuss or debate the important bill before us.

I intend to oppose this rule and I urge my colleagues to do the same.

Ms. PRYCE. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HOBSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 253, nays 172, not voting 9, as follows:

[Roll No. 298]

YEAS—253

Allard
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Pelosi
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—172

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Hoekstra
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Mineta
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Pickett
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Tucker

Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—9

Ackerman
Archer
Chapman
Dickey
Frost
Hilliard
Largent
Miller (CA)
Reynolds

□ 1505

Mr. HOLDEN and Mr. GEJDENSON changed their vote from "yea" to "nay.".

Mr. LAZIO of New York changed his vote from "nay" to "yea"

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

URGING IMMEDIATE ACTION ON H.R. 483

(Mr. DINGELL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, on this side we are ready to bring up debate and deal with H.R. 483. I would urge the majority to call it up at the earliest possible moment.

CONFERENCE REPORT ON S. 244, PAPERWORK REDUCTION ACT OF 1995

Mr. CLINGER. Mr. Speaker, I call up the conference report on the Senate bill, S. 244, to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. McInnis). Pursuant to the rule, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of Monday, April 3, 1995, at page H4093.)

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. Clinger] will be recognized for 30 minutes, and the gentleman from Minnesota [Mr. Peterson] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. Clinger].

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to bring to the floor today the conference agreement on the reauthorization of the Paperwork Reduction Act. It is the first reauthorization since the act expired in 1989.

The House version, I would remind my colleagues, of this bill was approved by an overwhelming vote, a unanimous vote, of 418 to nothing. The conference report very closely resembles the excellent provisions which were included in our original bill. There are several provisions which I would just like to discuss for the Record.

First, the conference bill reauthorizes the appropriation for the Office of Management and Budget's Office of Information and Regulatory Affairs, so-called OIRA, for 6 years, OIRA is the key office responsible for implementing the provisions of the Contract With America's regulatory reduction goals which are moving through this Congress. OIRA had a permanent authorization which I had hoped the other body would accept. Six years, however, which is what is provided in the conference report, should provide OIRA with a significant authorization to implement the regulatory reforms called for by the Contract With America.

Second, the bill strengthens the requirements of existing law to ensure that agencies develop low-burden, better-quality collections of information that in particular reduce the compliance requirements and paperwork costs for small businesses. This is clearly a very meritorious objective, to take away some of this overwhelming burden that we have imposed on small businesses over the years in the form of regulatory requirements.

Third, it overturns the 1990 Supreme Court case of Dole versus the United Steel Workers of America, which thereby restores the full coverage of the Paperwork Reduction Act over third-party disclosure requirements, which was originally included in this act.

Fourth, Mr. Speaker, and most importantly, the conference bill protects the public by providing citizens with a complete legal defense if agencies refuse to participate in a clearance process involving public notice and comment, public protection, and OIRA review. This provision is based on the very excellent amendment which was offered on the House floor by our colleague, the gentleman from Idaho, Mr. Mike Crapo.

Finally, Mr. Speaker, the legislation mandates a paperwork reduction goal of 10 percent for the next 2 years, as proposed in the committee amendment offered by our colleague, the gentleman from Pennsylvania, Mr. Jon Fox.

The remainder of the bill was discussed at length during consideration of the House-passed bill on February 22. As I say, those were the only changes that were implemented in this conference report, so I would encourage all Members to support this conference report.

Let me conclude my remarks by expressing my appreciation to those who helped in drafting this bill and the conference report. In addition to all of my committee members, I particularly appreciate the efforts of the House conferees, the gentleman from New York, John McHugh, the gentleman from Indiana, David McIntosh, the gentleman from Pennsylvania, Jon Fox, the gentlewoman from Kansas, Jan Meyers, the gentlewoman from Illinois, Cardiss Collins, the gentleman from Minnesota, Collin Peterson, and the gentleman from West Virginia, Bob Wise.

I also want to thank the Senate conferees, Senators Bill Roth, Bill Cohen, Thad Cochran, John Glenn, and Sam Nunn; and, finally, express my deep appreciation to the staff of the conferees who worked so tirelessly to produce this much-needed reauthorization of OIRA, the first in 6 years.

Therefore, again, I would just encourage all Members to support enactment of this report, and continue the good work of our predecessors who started the drafting of this legislation back in 1980. It is overdue.

Mr. Speaker, I reserve the balance of my time.

Mr. PETERSON of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report for S. 244, the Paperwork Reduction Act of 1995. This legislation received broad bipartisan support in both Houses, and the conference committee has reported a stronger bill.

Mr. Speaker, the Paperwork Reduction Act of 1995 reflects the sentiment that sometimes, Federal agencies ask for too much paperwork from large and small businesses alike. Agency officials, often highly specialized in the programs they administer, require information, surveys, and questionnaires that place a substantial burden on companies while providing benefits that are not always apparent.

The Paperwork Reduction Act sets up a check by reauthorizing the Office of Information and Regulatory Affairs within the Office of Management and Budget to review all information collection requests before they are approved.

It is OIRA's job to approve information requests only if the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. OIRA must also ensure that the requests have been open for public comment and that legitimate concerns are addressed. These requirements stem from the recognition that information requests are often time consuming and costly to comply with.

The Paperwork Reduction Act also authorizes another important function, that of providing Government information to the public. The bill charges OIRA with overseeing the dissemination of information to the public by agencies, as well as providing central guidance for public access to that information.

It must oversee agency efforts to provide privacy, confidentiality, security, disclosure, and the sharing of Government information. These are very important policies that cannot be left to the whims of individual agencies.

Mr. Speaker, the conferees made substantial improvements to the bill as reported by the House. Let me briefly describe those changes.

First, the House bill had made the Office of Information and Regulatory Affairs within OMB a permanent office with permanent authorization. That would have given away Congress' ability to regularly review OIRA by not requiring OIRA to justify and defend its operations during reauthorization hearings.

OIRA, because of its pivotal role in the regulatory process, has been at the center of controversy since its inception in 1980. Reauthorization hearings allow Congress to closely examine how this Office is working, whether you believe it has too much influence or not enough control over agency regulations. To give permanent authorization would have resulted in ceding a key congressional function to the executive branch, which I know is something the 104th Congress is fond of doing.

Fortunately, the conference committee recognized the need for regular review of this Office, and agreed to a 6-year authorization.

Second, the conferees dropped a provision in the House bill authorizing the head of OIRA to waive statutory requirements that agencies not charge more than their marginal copying costs for making Government information publicly available.

This world have been a sharp departure from the policy that while agencies are allowed to charge the actual cost of copying Federal records, they cannot subsidize their operating budgets through higher fees.

This would have resulted in far higher costs for public libraries, the public interest community, and the information industry, and therefore the conference committee wisely rejected this change.

In addition, the Senate bill contained two provisions eliminating hundreds of statutorily required reports. The conference committee dropped these provisions.

Mr. Speaker, both houses included a provision requiring workplace safety notifications required by Federal regulatory agencies to be submitted for OMB clearance. This provision, which overturns a Supreme Court decision, leaves workers at the mercy of politicians instead of safety experts. I would have preferred that this new provision be dropped, but because it was included in both bills, it was retained.

I would hope that OMB would use its new authority only with a view toward paperwork, and not as a mechanism to overturn statutory requirements for full disclosure of safety hazards at the workplace.

I would like to commend Chairmen CLINGER and ROTH, Senator GLENN, and all the other conferees for quickly resolving all of these issues and reporting back a bill that all of us can support.

□ 1515

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. MARTINI], a very valued freshman member of the committee.

Mr. MARTINI. I thank the gentleman for yielding me the time.

Mr. Speaker, first I would like to compliment the chairman and the other members who worked on this conference report. I rise today to express my support for the Paperwork Reduction Act conference report.

Mr. Speaker, the era of big taxing, big spending, and big Government is finally over. The taxers, the takers, and Government rulemakers are out of business. Congress is taking steps to reduce the size and scope of the Federal Government.

As a member of the Committee on Government Reform and Oversight, I have worked to get Government off the back of business both large and small.

This act will reduce the paperwork burden that hinders both large and small business across our Nation. By decreasing Government paperwork, we will allow companies to do what they do best, expand their businesses and create jobs.

The Council on Regulatory Information Management has estimated that American businesses spend over 10 billion hours a year meeting Federal paperwork requirements. This is simply unacceptable. By easing paperwork requirements, small businesses will now be able to better compete in the global market and in the 21st century.

Mr. Speaker, in a recent meeting of business leaders of the Eighth Congressional District of New Jersey, my constituents complained of the noose that Washington puts around their necks and their businesses' necks.

Mr. Speaker, they have spoken and we have listened. We made a contract with the American people and I am proud to say that we have stood firm and delivered today. This important legislation is the first step toward returning common sense to Government regulation, and I urge support of the conference report.

Mr. PETERSON of Minnesota. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of the conference report. We went through a very elaborate debate on this floor regarding regulatory reform. The extraordinary effort this House has made to change the way in which agencies of this Government regulate businesses and entities and individuals in our society is, I think, historic. I hope, indeed, that before this session gets too much older, we can see a conference report on those regulatory reform bills. They are critical to the future success of this country and to a new relationship between the Government and those people in this country who created it and who expect their Government to start serving them again instead of being their master.

Paperwork reduction is a key component of that. Reauthorizing this act, improving it, strengthening it, giving the OMB additional authorities to cut down on the level of paperwork required in business and industry and small business and by individuals in our society is a key element of regulatory reform. More and more people in small business tell me it's not so much the regulation, it's not so much having to comply, it's the enormous paperwork, the reporting we have to do, not to one agency but to 5, 6, 7, 10 agencies on the same activity.

The load of paperwork, the load of extra, unproductive work done in a small business to comply with regulations just in paperwork is crippling our productivity. This conference report will give us a chance to complete, if you will, that effort in regulatory reform, not only to change the way in which regulations are made in this country but hopefully one day to lower the level of reports and paperwork required of small businesses and individuals in our society.

I urge my colleagues to adopt this conference report.

Mr. CLINGER. Mr. Speaker, I yield 3 minutes to the gentleman from Idaho [Mr. CRAPO] for the purposes of a colloquy.

Mr. CRAPO. I thank the gentleman the chairman for yielding me the time.

Mr. Speaker, before I begin my colloquy, I would like to mirror the comments of our colleagues on both sides of the aisle about the importance of this historic opportunity to bring regulatory reform to the forefront in the Congress.

Mr. Speaker, I commend the chairman of the committee and Subcommittee Chairman DAVID MCINTOSH and House Small Business Committee Chairwoman JAN MEYERS for bringing this conference report to the floor. I strongly support the conference report and believe it will provide immediate benefits to business across the country.

In that regard, I am particularly pleased that the final version of this legislation contains an amendment offered by myself, and Congressmen TOM DELAY and DAVID MCINTOSH, which passed unanimously on the House floor, that expressly provides for the enforcement mechanism implicit in section 3512 as it was originally enacted by Congress in 1980, and, therefore, puts teeth in the public protection provisions of the Paperwork Reduction Act.

This should end any confusion which may exist in the courts and Federal agencies about how section 3512 was originally intended to work by codifying existing law.

Mr. Speaker, is it your understanding that the amendments made to section 3512 are intended to clarify that a penalty imposed by a Federal agency based on failure to comply with an information collection request that does not bear an OMB control number is not enforceable, and has always provided the public with the right to petition the agencies or courts for complete relief at any time during the agency or court review process to eliminate the effects of any penalty.

Mr. CLINGER. Mr. Speaker, if the gentleman will yield, let me say that the gentleman is correct. The conference report is intended to clarify that it is the intent of Congress that section 3512 requires agency information collection requests applicable to 10 or more members of the public to be submitted to OMB and receive a valid control number. If not, the public need not respond, nor may it be subjected to any penalty for failing to comply with such an unenforceable collection of information.

Mr. CRAPO. I thank the chairman of the committee. If the gentleman would respond to one more question, I would like to ask, is it the chairman's understanding that section 3512 will become effective as of October 1, 1995, and will apply to all cases then pending before the Federal agencies or the courts?

Mr. CLINGER. Mr. Speaker, the gentleman is absolutely correct. As of October 1, 1995, the defense provided in section 3512 is available at any time in an ongoing dispute.

Mr. CRAPO. Mr. Speaker, I thank the gentleman.

Mr. PETERSON of Minnesota. Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX], another very valued freshman member of the committee.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise in support of S. 244, the Paperwork Reduction Act. I want to thank the gentleman from Pennsylvania [Mr. CLINGER] for his initiative on this issue.

This legislation is long awaited and takes the necessary steps to help Federal agencies reduce their paperwork and better utilize information technology. It sets a goal of 10-percent paperwork burden reduction for fiscal year 1996 and 1997 and a 5-percent goal thereafter. This is an attainable goal.

Passage of this legislation is imperative in keeping our reform goals and serving as active players in the information age. Therefore, I ask my colleagues to give full support to this important bill.

Mr. CLINGER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Kansas [Mrs. MEYERS], the chairman of the Committee on Small Business who was a conferee on this measure and made many valuable contributions to the production of this bill and particularly recognizing the burden that we had placed on small business over the years. She has been a real tiger protecting their interests.

Mrs. MEYERS of Kansas. Mr. Speaker, on behalf of nearly all the small business organizations across the country who have for 6 years supported efforts to enact the Paperwork Reduction Act of 1995, and on behalf of the Small Business Committee, I want to proclaim hallelujah. There has been a lot of hard work that has gone into this. Everyone can feel proud that the job has been done well.

This is very strong legislation we are sending to the President. It is a good bill. It establishes a solid legislative framework to reduce the burdens of regulatory paperwork on small business and the American public generally.

I want to particularly acknowledge the work of the broad-based Paperwork Reduction Act coalition, a group of some 70 organizations. They were led by the U.S. Chamber, the National Federation of Independent Businesses, the National Association of Manufacturers, National Small Business United, Citizens for a Sound Economy, and the Council on Regulatory and Information Management. The coalition was most helpful in ensuring this bill had bipartisan support.

It is worth noting Mr. Speaker, that this legislation benefited from a 418-to-0 vote in the House; a 99-to-0 vote in the Senate. There was not a single vote of opposition. That sends a strong signal from Congress to the executive branch that they want the tools in this act used vigorously to reduce the burdens of regulatory paperwork.

□ 1530

We have in this bill now a 6-year organization that is a target of 10 percent for 2 years, and 5 percent after that of reduction of paperwork; a provision that if paperwork is required, the regular regulation must state how long it must be kept. And I think that is very important because we could save millions in this country. There are people paying for storage of paperwork all over this country that we could probably do without.

The public protection provision of this act has been strengthened, and we have the amendment of the gentleman from Idaho [Mr. CRAPO] to thank for that. The feature of the law is intended to help the public self-police the commonsense management principles contained in the law. If, for example, a recordkeeping requirement does not display an OMB control number, then no one can be penalized for failing to comply if a control number is displayed that shows the agency has checked for duplication, allowed for public comments, and submitted a justification for OIRA review and approval.

This is particularly important, Mr. Speaker, for small business. Paperwork is difficult for all business. The costs are enormous. The Paperwork Reduction coalition thinks that 10 billion hours and $510 billion are spent every year doing paperwork. It is particularly difficult for small business because they frequently do not have an office manager or other personnel to handle it.

I am very grateful, I am proud to be a conferee on this bill, and I urge strong support of S. 244.

Mr. CLINGER. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Virginia [Mr. DAVIS], another member of our committee, a freshman who is chairman of our District of Columbia Committee who has done valiant work in that area. Even today he has been doing valiant work in that area.

Mr. DAVIS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to once again congratulate Chairman CLINGER for shepherding yet another bill through both bodies and being able to send it on to the President for signature.

The House action has really succeeded in this with the following: We are authorizing appropriations for the OIRA for 6 years, we are establishing clear guidance for agencies to follow in developing good quality but low-burden forms, including the need to seek public comment before submitting the form to the Office of Information and Regulatory Affairs for review. We are focusing specific attention to the need for agencies to the extent practicable and appropriate to reduce reporting burdens on small business, including the use of techniques set forth in the Regulatory Flexibility Act. We have included third-party-disclosure requirements in the definition of collection of information, returning this act to its original intended scope by overturning the Supreme Court Dole versus Steelworkers decision, and it has agencies give added attention to the management of information technology in performing agency missions.

Mr. Speaker, once again I want to congratulate Chairman CLINGER and other Members who made this possible, and I am proud to get up here today and support it.

Mr. PETERSON of Minnesota. Mr. Speaker, we have no further requests for time. Again I urge my colleagues to support S. 244.

Mr. Speaker, I yield back the balance of my time.

Mrs. MALONEY. Thank you, Mr. Speaker. I want to congratulate all who have been so involved in this effort—especially Chairman

CLINGER and Ranking Member Congresswoman CARDISS COLLINS.

The Paperwork Reduction Act has been unauthorized since 1989. Some look at that fact as justification for the permanent authorization that was included in the House version of this bill.

I disagree, and offered amendments both in committee and on the floor to limit the period of reauthorization.

Happily, the Conference Committee agreed with me and placed a 6-year sunset on this legislation.

We have made a number of new initiatives in this bill—a new and higher goal on reducing paperwork; specific paperwork reduction goals for each agency; new information dissemination policy; new policy on statistics; and increased responsibility for agencies in incorporating public comment.

The 6 year authorization included in this conference report will allow us to revisit these initiatives to determine their effectiveness.

Frankly Mr. Speaker, there are a number of groups that are not to particularly happy with this bill.

Statisticians feel that the section on statistical policy should be stronger.

Librarians are concerned that the principles of public access to government information could be stated more strongly.

Businesses that specialize in repackaging government information want their access to that information more clearly defined.

For each of these groups and many others, reauthorization will provide the opportunity to make their case again.

It assures a continuing role of and by the public in the legislative process.

Furthermore, as technology improves, this legislation may well become seriously outdated. We cannot predict the impact of the information revolution.

Reauthorization will force us to keep information policy up with technology.

I am pleased that the conference committee agreed to a limited authorization for this bill. The Paperwork Reduction Act is a crucial piece of our public information policy and it is important that we not let it get out of date.

Mr. CLINGER. Mr. Speaker, I also have no further requests for time. I urge a unanimous vote for this very good conference report to reauthorize OIRA for a 6-year period.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCINNIS). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CLINGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 423, nays 0, answered "present" 2, not voting 9, as follows:

[Roll No. 299]

YEAS—423

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—2

Becerra
Roybal-Allard

NOT VOTING—9

Ackerman
Chapman
Dickey
Frost
Ganske
Pelosi
Pickett
Rangel
Reynolds

☐ 1552

Ms. ROYBAL-ALLARD changed her vote from "yea" to "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill just passed.

The SPEAKER pro tempore (Mr. MCINNIS). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 555

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Florida [Mr. FOLEY] be removed as a cosponsor of H.R. 555.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR LANGUAGE CLARIFICATION IN CERTAIN STATUTORY REFERENCES RESULTING FROM CHANGES MADE IN THE REORGANIZATION OF THE HOUSE AT THE BEGINNING OF THE 104TH CONGRESS

Mr. THOMAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 1421) to provide that references in the statutes of the United States to any committee or officer of the House of Representatives the name or jurisdiction of which was changed as part of the reorganization of the House of Representatives at the beginning of the 104th Congress shall be treated as referring to the currently applicable committee or officer of the House of Representatives.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FAZIO of California. Mr. Speaker, reserving the right to object, will the gentleman from California explain the purpose of the legislation?

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding.

What this bill does is attempt to conform the statutes that are on the books with the changes that were made at the beginning of the 104th Congress. As we know, there were three committees that were dissolved, there were significant restructurings in terms of jurisdictions, and all this bill does is to treat references to the old structure in public law as referring to the new structure. References to the old committees are to be treated as referring to the new committees.

This is, in essence, a conforming bill. It does not make policy. Indeed, it simply conforms to policy that has already been passed allowing the new committees to reference themselves in the statutes that are already on the books.

Mr. Speaker, this bill provides that references in public law to any committee or officer of the House whose name or jurisdiction was changed as a part of the reorganization of the House at the beginning of this Congress, shall be treated as referring to the currently applicable committee or officer.

Mr. Speaker, on the first day of the 104th Congress, the new Republican majority lived up to its commitment to the American people by passing major reforms. Among these reforms was the wholesale restructuring of the committee system, which included elimination of three major committees. Committee jurisdictions were consolidated, and the names of several committees were changed.

The primary purpose of this bill is to treat references to the old structure in public law as referring to the new structure. References to the old committees are to be treated as referring to the new committees.

In the course of restructuring the internal operations of the House, we also eliminated the positions of Director of Non-Legislative and Financial Services and the House Doorkeeper. We created the position of Chief Administrative Officer, and we redefined the responsibilities of the Clerk and the Sergeant-at-Arms.

The Committee on House Oversight has been charged in House rules with providing policy direction for and oversight of the House officers, and is continuing to direct the restructuring of the internal operations of the House. References in public law to the function, duty, or authority of a House officer are to be treated as referring to the officer exercising that function, duty, or authority, as determined by the Committee.

Mr. Speaker, enactment of this bill will result in no changes in policy, rather it will reflect policy changes already made.

Mr. FAZIO of California. Mr. Speaker, further reserving the right to object, if there is no further debate, I would certainly concur in the adoption of the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California [Mr. THOMAS]?

There was no objection.

The Clerk read the bill, as follows:

H.R. 1421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES IN LAW TO COMMITTEES OF THE HOUSE OF REPRESENTATIVES.

(a) REFERENCES TO COMMITTEES WITH NEW NAMES.—Except as provided in subsection (c), any reference in any provision of law enacted before January 4, 1995, to—

(1) the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives;

(2) the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives;

(3) the Committee on Education and Labor of the House of Representatives shall be treated as referring to the Committee on Economic and Educational Opportunities of the House of Representatives;

(4) the Committee on Energy and Commerce of the House of Representatives shall be treated as referring to the Committee on Commerce of the House of Representatives;

(5) the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of House of Representatives;

(6) the Committee on Government Operations of the House of Representatives shall be treated as referring to the Committee on Government Reform and Oversight of the House of Representatives;

(7) the Committee on House Administration of the House of Representatives shall be treated as referring to the Committee on House Oversight of the House of Representatives;

(8) the Committee on Natural Resources of the House of Representatives shall be treated as referring to the Committee on Resources of the House of Representatives;

(9) the Committee on Public Works and Transportation of the House of Representatives shall be treated as referring to the Committee on Transportation and Infrastructure of the House of Representatives; and

(10) the Committee on Science, Space, and Technology of the House of Representatives shall be treated as referring to the Committee on Science of the House of Representatives.

(b) REFERENCES TO ABOLISHED COMMITTEES.—Any reference in any provision of law enacted before January 4, 1995, to—

(1) the Committee on District of Columbia of the House of Representatives shall be treated as referring to the Committee on Government Reform and Oversight of the House of Representatives;

(2) the Committee on Post Office and Civil Service of the House of Representatives shall be treated as referring to the Committee on Government Reform and Oversight of the House of Representatives, except that a reference with respect to the House Commission on Congressional Mailings Standards (the "Franking Commission") shall be treated as referring to the Committee on House Oversight of the House of Representatives; and

(3) the Committee on Merchant Marine and Fisheries of the House of Representatives shall be treated as referring to—

(A) the Committee on Agriculture of the House of Representatives, in the case of a provision of law relating to inspection of seafood or seafood products;

(B) the Committee on National Security of the House of Representatives, in the case of a provision of law relating to interoceanic canals, the Merchant Marine Academy and State Maritime Academies, or national security aspects of merchant marine;

(C) the Committee on Resources of the House of Representatives, in the case of a provision of law relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography;

(D) the Committee on Science of the House of Representatives, in the case of a provision of law relating to marine research; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives, in the case of a provision of law relating to a matter other than a matter described in any of subparagraphs (A) through (D).

(c) REFERENCES TO COMMITTEES WITH JURISDICTION CHANGES.—Any reference in any provision of law enacted before January 4, 1995, to—

(1) the Committee on Energy and Commerce of the House of Representatives shall be treated as referring to—

(A) the Committee on Agriculture of the House of Representatives, in the case of a provision of law relating to inspection of seafood or seafood products;

(B) the Committee on Banking and Financial Services of the House of Representatives, in the case of provision of law relating to bank capital markets activities generally or to depository institution securities activities generally; and

(C) the Committee on Transportation and Infrastructure of the House of Representatives, in the case of a provision of law relating to railroads, railway labor, or railroad retirement and unemployment (except revenue measures related thereto); and

(2) the Committee on Government Operations of the House of Representatives shall be treated as referring to the Committee on the Budget of the House of Representatives in the case of a provision of law relating to the establishment, extension, and enforcement of special controls over the Federal budget.

SEC. 2. REFERENCES IN LAW TO OFFICERS OF THE HOUSE OF REPRESENTATIVES.

Any reference in any provision of law enacted before January 4, 1995, to a function, duty, or authority—

(1) of the Clerk of the House of Representatives shall be treated as referring, with respect to that function, duty, or authority, to the officer of the House of Representatives exercising that function, duty, or authority, as determined by the Committee on House Oversight of the House of Representatives;

(2) of the Doorkeeper of the House of Representatives shall be treated as referring, with respect to that function, duty, or authority, to the officer of the House of Representatives exercising that function, duty, or authority, as determined by the Committee on House Oversight of the House of Representatives;

(3) of the Postmaster of the House of Representatives shall be treated as referring, with respect to that function, duty, or authority, to the officer of the House of Representatives exercising that function, duty, or authority, as determined by the Committee on House Oversight of the House of Representatives; and

(4) of the Director of Non-legislative and Financial Services of the House of Representatives shall be treated as referring, with respect to that function, duty, or authority, to the officer of the House of Representatives exercising that function, duty, or authority, as determined by the Committee on House Oversight of the House of Representatives.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF H.R. 42

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to delete the names of the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from California [Mr. BONO], and the gentlewoman from Florida [Ms. ROS-LEHTINEN] as cosponsors of the bill, H.R. 42, the Ryan White Reauthorization Act of 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CFTC REAUTHORIZATION ACT OF 1995

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 178) to amend the Commodity Exchange Act to extend the authorization for the Commodity Futures Trading Commission, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

Mr. DE LA GARZA. Mr. Speaker, reserving the right to object, I do so to yield to our distinguished committee chairman for an explanation of the legislation, and I yield to the gentleman.

Mr. ROBERTS. Mr. Speaker, I thank the distinguished minority leader of the Committee on Agriculture for yielding.

Mr. Speaker, S. 178, the CFTC Reauthorization Act of 1995, was adopted in the other body on February 10. The bill is a simple one-line reauthorization that provides authority for appropriations through the year 2000.

□ 1600

The Committee on Agriculture on Tuesday reported companion legislation by a voice vote and the presence of a quorum. Since the bills are identical and have no opposition, they are identical and have no opposition in either body, we are considering S. 178 so that we may expedite the reauthorization of the Commission.

Mr. Speaker, S. 178, the CFTC Reauthorization Act of 1995 was adopted in the other body February 10, 1995. The bill is a simple one-line reauthorization providing authority for appropriations for the Commodity Futures Trading Commission through the year 2000 at such sums as may be necessary. The Committee on Agriculture on Tuesday reported companion legislation by voice vote in the presence of a quorum. Since the bills are substanially identical and had no opposition in either body, we are considering today S. 178 so that we may expedite the reauthorization of the Commission.

Mr. Speaker, this is the first time in the 20-year history of the Commodity Futures Trading Commission there has not been, in conjunction with a CFTC reauthorization, either significant amendments to the Commodity Exchange Act or outright questions about whether or not the CFTC should continue to exist.

The CFTC is a mature regulatory organization that is overseeing the most innovative and efficient markets in the world—our futures markets, where risk management concepts were born and the price discovery process provides U.S. commerce and industry the information necessary to compete in a global economy. The CFTC has reached regulatory parity with every other Federal regulator, and I would point out to my colleagues has done so with minimal resources and a staff of approximately 550 full-time employees.

Mr. Speaker, I urge the House to adopt S. 178 today and move it on to the White House, where, I am certain, the President will sign the bill.

Mr. DE LA GARZA. I thank the gentleman for his comments.

Mr. Speaker, I support the legislation.

Mr. Speaker, I commend the distinguished chairman of the Agriculture Committee, Mr. ROBERTS, as well as the chairman, Mr. EWING, and ranking minority member, Mr. ROSE, of the Risk Management and Specialty Crops Subcommittee for their leadership in providing for the expeditious consideration of S. 178, the Commodity Futures Trading Commission Reauthorization Act of 1995. This Senate bill is identical to H.R. 618 which was reported unanimously from the Committee on Agriculture without amendment. The bill authorizes appropriations to carry out the Commodity Exchange Act for each fiscal year through 2000 and I strongly support its passage.

In the legislative activity leading up to the enactment of the Futures Trading Practices Act of 1992 (FTPA; Public Law 102–546), Congress considered and ultimately enacted a number of new responsibilities and authorities for the Commodity Futures Trading Commission [CFTC]. Those changes were designed to enhance the effectiveness of our futures regulatory system, while accommodating the evolutionary processes which are transforming world financial markets. Our philosophy has been and should continue to be that fair markets are efficient markets, and that a sound, rational and independent regulatory system contributes to their efficiency.

The CFTC has made extraordinary progress in carrying out the mandates of the 1992 Act. The Commission's pace demonstrates clearly that it shares the same sense of importance that we had in Congress when those important changes to the Commodity Exchange Act were adopted.

As a few examples, since the FTPA was enacted the CFTC has: Approved final rules exempting swap transactions, hybrid securities, and energy contracts meeting specified criteria from the exchange-trading and other requirements of the CEA; Approved final rules prohibiting dual trading on high-volume contract markets that do not have adequate systems for monitoring trading activity; Proposed rules to allow existing futures exchanges to sponsor trading among entities meeting qualifying criteria with relief from some of the regulatory strictures that otherwise would apply; and Approved final rules regarding procedures for exchange emergency actions.

In addition, the Commission has submitted five mandated reports to Congress. Notable among these was The Study of Swaps and Off-Exchange Derivatives—one of the more complete and informative discussions of that issue available.

Meanwhile, our Nation's futures markets have continued to grow and innovate. During fiscal year 1994 alone, the Commission approved trading in 28 new futures and options contracts. Futures and options volume on the exchanges increased by 27 percent to 510 million trades in fiscal year 1994 from the fiscal year 1993 level of 402 million.

While the increased use of U.S. futures exchanges demonstrates the confidence that financial risk managers have in these markets, trading on offshore futures markets—which in many cases trade contracts similar to those on U.S. exchanges—has grown even more rapidly. In its report to Congress, A study of the Global Competitiveness of U.S. Futures Markets, April 1994, the CFTC noted U.S. exchanges' declining share of global futures trading. That trend is largely explained as the initial growth stage in the relatively new, foreign futures markets rather than a reflection of significant cost advantages. It should, however, make us aware in our regulatory policy decisions that we need to balance our efforts to ensure that the markets are sound and fair, with a recognition of the potential for excessive regulatory burdens to disadvantage U.S. futures markets vis-a-vis their foreign competitors.

In their efforts to modernize and to comply with trade monitoring requirements in the Commodity Exchange Act, U.S. exchanges continue to work towards the development and implementation of automated audit trail systems. These systems promise to greatly enhance the ability of exchange and Commission enforcement officials to prevent fraud and punish cheaters.

Finally, Commission Chairman Schapiro, other Commissioners, and Commission staff continue to be actively engaged in interagency policy coordination regarding securities and securities derivatives markets, over-the-counter derivatives, and other matters of importance in market regulation. In this effort, the Commission has rightfully asserted itself as the expert regulatory agency where derivative markets are concerned.

Given the agency's substantial progress in carrying out the will of Congress expressed through the FTPA, I strongly support passage of this bill to extend the Commission's reauthorization through fiscal year 2000.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCINNIS). Is there objection to the request of the gentleman from Kansas?

There was no objection.

The Clerk read as follows:

S. 178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "CFTC Reauthorization Act of 1995".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 1995 through 2000.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 831, PROVIDING FOR RETURN OF ENROLLED BILL, H.R. 831, AND FOR ITS REENROLLMENT

The SPEAKER pro tempore. For what purpose does the gentleman from Florida [Mr. DEUTSCH] rise?

Mr. DEUTSCH. Mr. Speaker, for the purpose of a unanimous-consent request.

The SPEAKER pro tempore. The gentleman from Florida [Mr. DEUTSCH] may proceed.

Mr. DEUTSCH. Mr. Speaker, I move that the House do take up House Concurrent Resolution 55, requesting the President to return the enrolled bill (H.R. 831) and providing for its reenrollment without the targeted tax benefit contained therein. Mr. Speaker, this deals with a provision, a tax provision, that was put in the bill providing $63 million to Mr. Murdoch.

The SPEAKER pro tempore (Mr. MCINNIS). In accord with the policy first announced on December 15, 1981, and applied consistently ever since, the Chair will confer recognition for a unanimous-consent request for consideration of an unreported measure only when assured that the majority leader, the minority leader, and the chairman and the ranking minority members of the committees of jurisdiction have no objection.

The policy is recorded on page 527 of the House Rules Manual.

PARLIAMENTARY INQUIRY

Mr. DEUTSCH. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DEUTSCH. Mr. Speaker, parliamentary inquiry: Are you required to tell this Chamber who in fact has objected to the discretionary decision of the Speaker to take up this particular motion that the Speaker himself had said he would favor taking out but has not been taken out?

The SPEAKER pro tempore. The Chair is not aware of the clearance of the parties that are requested to be consulted.

Mr. DEUTSCH. Again, are you required to say which particular people have not cleared it?

The SPEAKER pro tempore. Again, the Chair is not aware that the necessary parties have been conferred with.

PRIVILEGES OF THE HOUSE—RESOLUTION PRESERVING THE CONSTITUTIONAL ROLE OF THE HOUSE OF REPRESENTATIVES TO ORIGINATE REVENUE MEASURES

Mr. DEUTSCH. Mr. Speaker, I rise to a question of privilege under rule IX of the House rules and I offer a House Resolution No. 131.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 131

Whereas rule IX of the Rules of the House of Representatives provides that questions of privilege shall arise whenever the rights of the House collectively are affected:

Whereas, under the precedents, customs, and traditions of the House pursuant to rule IX, a question of privilege has arisen in cases involving the constitutional prerogatives of the House;

Whereas section 7 of Article I of the Constitution requires that revenue measures originate in the House of Representatives; and

Whereas the conference report on the bill H.R. 831 contained a targeted tax benefit which was not contained in the bill as passed the House of Representatives and which was not contained in the amendment of the Senate: Now, therefore, be it

Resolved, That the Comptroller General of the United States shall prepare and transmit, within 7 days after the date of the adoption of this resolution, a report to the House of Representatives containing the opinion of the Comptroller General on whether the addition of a targeted tax benefit by the conferees to the conference report on the bill H.R. 831 (A bill to amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provision permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission, and for other purposes) violates the requirement of the United States Constitution that all revenue measures originate in the House of Representatives.

The SPEAKER pro tempore. Does the gentleman from Florida [Mr. DEUTSCH] wish to be heard on whether the question is one of privilege?

Mr. DEUTSCH. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. DEUTSCH. I thank the Chair.

Mr. Speaker, article I, section 7 of the Constitution specifically states that revenue measures must originate in this Chamber, in the House of Representatives. It is an infringement of the House prerogatives when that is not done, and in fact this House has consistently ruled that as a question of privilege when that occurs. It consistently occurs when the other body does a revenue provision.

What occurred in this case, as most Members at this point are well aware, is that this revenue measure which did originate in the House, then went to the other body, went to a conference committee.

A provision was put in in the conference committee which clearly did not originate in the House, which provided for a direct benefit of $63 million to Mr. Rupert Murdoch. And then at that point the Constitution of the United States and the prerogatives of this House were violated because that provision did not originate in this Chamber.

The House has consistently held that that type of instance is a violation of our prerogatives.

Furthermore, the Chair has consistently ruled that on issues of this nature the House has the right, and the appropriate action is for the House to decide itself what is a prerogative and what is a violation in terms of the privileges of the House.

Mr. Speaker, if I might, if I may yield to at least one or two other Members.

Mr. WALKER. Mr. Speaker, regular order.

The SPEAKER pro tempore. There will be order in the House. Does any other individual Member wish to be heard on the question of privilege?

The Chair recognizes the gentlewoman from the California (Ms. WATERS).

Ms. WATERS. I thank the chair.

Mr. Speaker, I rise in support of the argument that basically concludes that indeed the tax measure giving the tax benefit to Mr. Rupert Murdoch did not originate in this House. It is no question. One may raise a question about the kind of debate that we attempted to have yesterday where we were denied the opportunity to really explain what had taken place on this. And I think that having heard Mr. DEUTSCH's explanation today, no one in this House can disagree that indeed the measure did originate on the other body's side.

The SPEAKER pro tempore. The gentlewoman shall suspend.

The House will be in order. The gentlewoman deserves the courtesy of being heard. The House will be in order.

The gentlewoman may proceed.

Does the gentleman from Mississippi wish to be heard on the question of privilege?

Mr. TAYLOR of Mississippi. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. TAYLOR of Mississippi. Mr. Speaker, the rules of the House with regard to questions of privilege very clearly state that whenever something that questions the integrity of the proceedings of this body is called into question, then it is the privilege of any Member of this body to try to resolve that issue.

And, of course, the entire reason for the motion was to expedite a ruling on something that could well result in a mammoth tax decrease for one individual, something that many Members of this body think brings the integrity of this body into question.

When we are granting tax relief to someone who apparently has had very lucrative book deals with the heads of state of many countries, who offered a lucrative book deal—though rejected—to the Speaker of the House and then just within 91 days of that offer gets an enormous tax break, I think is prima facie evidence that would bring the integrity of the proceedings of this House into question.

Therefore, I speak on behalf and in defense of the gentleman's motion that this be a privileged resolution.

The SPEAKER pro tempore. Does the gentleman from Kentucky [Mr. WARD] wish to be heard on this question of privilege?

Mr. WARD. I do, Mr. Speaker.

Yes, I wish to speak in favor of the gentleman's privileged motion.

I would ask the Speaker, and I would make the point that this seems to be just business as usual. This seems to be the way that it was not supposed to be done when the changes in the election were held in 1994. The people said they did not want things done as they had been done, and my question speaks to that.

Mr. WALKER. Regular order.

The SPEAKER pro tempore. The Chair is prepared to rule.

Mr. DEUTSCH. Mr. Speaker——

The SPEAKER pro tempore (Mr. McINNIS). The Chair is prepared to rule.

The Chair rules that the resolution does not constitute a question of privilege under rule IX.

The resolution offered by the gentleman from Florida collaterally questions actions taken by a committee of conference on a House-originated revenue bill by challenging the inclusion in the conference report of additional revenue matter not contained in either the House bill nor the Senate amendment committed to conference. The resolution calls for a report by the Comptroller General on the propriety under section 7 of article I of the Constitution of those proceedings and conference actions on a bill that has already moved through the legislative process.

In the opinion of the Chair, such a resolution does not raise a question of the privileges of the House. As recorded in Deschler's Precedents, volume 3, chapter 13, section 14.2, a question of privilege under section 7 of article I of the Constitution may be raised only when the House is "in possession of the papers." In other words, any allegation of infringement on the prerogatives of the House to originate a revenue measure must be made contemporaneous with the consideration of the measure by the House and may not be raised after the fact.

The Chair rules that the resolution does not constitute a question of the privileges of the House.

PARLIAMENTARY INQUIRIES

Mr. DOGGETT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DOGGETT. Mr. Speaker, do I understand the ruling then that the objection about the interference with the prerogatives of the House has to be made contemporaneously with the action complained of? Is that the ruling of the Chair?

The SPEAKER pro tempore. When the House is in possession of the papers, the gentleman is correct.

Mr. DOGGETT. Well, in this case, of course, no one in the House was informed that this special deal had been put in for Mr. Murdoch. So how could that right have been exercised?

The SPEAKER pro tempore. The Chair has ruled.

Does the gentleman from Pennsylvania [Mr. WALKER] wish to be recognized?

Mr. DEUTSCH. Mr. Speaker, I respectfully appeal the ruling of the Chair.

Ms. WATERS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Ms. WATERS. Mr. Speaker, do the rules provide for a 3-day notice on a conference report?

The SPEAKER pro tempore. That question is not relevant here. All points of order were waived before the conference report was considered, and were debatable at that time.

Ms. WATERS. The question is raised, Mr. Speaker, because if there was a waiver, then I wonder how does that impact the ruling of the Speaker?

The SPEAKER pro tempore. The issue brought up by the gentlewoman from California is not relevant at this point.

The Chair recognizes the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, I respectfully appeal the ruling of the Chair.

The SPEAKER pro tempore. The gentleman from Florida has appealed the ruling of the Chair. The gentleman is recognized.

Mr. DEUTSCH. Mr. Speaker, I believe I am recognized for an hour.

The SPEAKER pro tempore. The gentleman will suspend.

MOTION TO TABLE OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. WALKER moves to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion to table.

PARLIAMENTARY INQUIRIES

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from the State of Mississippi [Mr. TAYLOR] is recognized.

Mr. TAYLOR of Mississippi. Mr. Speaker, since the rules of the House clearly state that when the question of the integrity of the proceedings of this

House have been violated, that is indeed a privileged resolution. Now, I realize that the Chair responded to the written request of my colleague, but I have also asked the Chair to respond to whether or not it is prima facie evidence that a question relating to the integrity of the proceedings of this body are called into question when one individual who earlier this session offered the Speaker of the House an over $4 million book deal which the Speaker turned down, but he still offered it and with—that is a parliamentary inquiry. I have just as much right as the Members.

The SPEAKER pro tempore. Regular order. This is a parliamentary inquiry. The gentleman will suspend. The Chair has ruled previously on all points on this issue as textually raised by the resolution. We now have the motion before the House.

Mr. TAYLOR of Mississippi. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The motion is not debatable.

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a parliamentary inquiry.

Mr. MFUME. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. TAYLOR] may state a legitimate parliamentary inquiry.

Mr. TAYLOR of Mississippi. I do not think the Chair responded——

The SPEAKER pro tempore. The gentleman from Mississippi shall suspend. The gentleman from Mississippi may state a legitimate parliamentary inquiry.

The gentleman may proceed.

Mr. TAYLOR of Mississippi. Mr. Speaker, I do not feel like the Chair has responded to my question of whether or not they felt like——

The SPEAKER pro tempore. The House will be in order. The gentleman has a right to be heard.

Mr. TAYLOR of Mississippi. A question of the integrity of the proceedings of this House has been brought into play.

The SPEAKER pro tempore. The gentleman will suspend. The Chair has ruled that the resolution as read does not constitute a question of privilege. The Chair has ruled.

Mr. MFUME. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. MFUME. Mr. Speaker, yesterday evening when there was an appeal of the ruling of the Chair; then there was from the other side of the aisle a request to table. Following that, there were questions raised on this side of the aisle about why is it so difficult to get a vote on an appeal of the ruling of the Chair?

Now, I recognize that the majority has the right to lay it on the table. But if every time there is an appeal of the Chair, a motion is laid on the table and defeated because of the numerical advantage the majority has, it denies not just this side but the entire House an opportunity to vote on the ruling of the Chair. It is a legitimate appeal.

□ 1615

The gentleman has legitimately appealed it and ought to, at least at some point in time, have a vote, so I would say to my distinguished colleague, the gentleman from Pennsylvania, that, while we will vote on the motion to table the appeal, that there may in fact be another motion to appeal the Chair, and another one after that, and, if that is what it is going to take to get one vote on the appeal of the Chair, then this side is prepared to do that. I would rather not do it. They will win in either case, but this side is just asking for a clean vote on the appeal of the Chair.

The SPEAKER pro tempore (Mr. McINNIS). It is the Chair's ruling that the motion that is currently pending is, in fact, a proper motion under the rules of the House.

Mr. MFUME. I do not dispute that, Mr. Speaker.

The SPEAKER pro tempore. The question before the House is the motion to table.

Are there further parliamentary inquiries?

The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALKER] to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 192, not voting 12, as follows:

[Roll No. 300]

YEAS—230

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—192

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott

McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—12

Ackerman
Chapman
Dickey
Frank (MA)
Franks (CT)
Frost
Hayes
Kaptur
Pelosi
Reynolds
Schiff
Tucker

□ 1635

Mr. GEJDENSON and Mr. DINGELL changed their vote from "yea" to "nay."

Mr. BAUCUS changed his vote from "nay" to "yea."

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM FRIDAY, APRIL 7, 1995, TO MAY 1, 1995, AND FROM WEDNESDAY, MAY 3, 1995, TO TUESDAY MAY, 9, 1995, AND ADJOURNMENT OR RECESS OF SENATE FROM THURSDAY, APRIL 6, 1995, OR THEREAFTER, TO MONDAY, APRIL 24, 1995

Mr. GOSS. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 58) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 58

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, April 7, 1995, it stand adjourned until 12:30 p.m. on Monday, May 1, 1995, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns or recesses at the close of business on Thursday, April 6, 1995, Friday, April 7, 1995, Saturday, April 8, 1995, Sunday, April 9, 1995, or Monday, April 10, 1995, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, April 24, 1995, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.

SEC. 2. When the House adjourns on the legislative day of Wednesday, May 3, 1995, it stand adjourned until 12:30 p.m. on Tuesday, May 9, 1995, or until noon on second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR MEMBERS TO EXTEND THEIR REMARKS IN THE RECORD FOR TODAY AND TOMORROW

Mr. GOSS. Mr. Speaker, I ask unanimous consent that for today, April 6, 1995, and tomorrow, April 7, 1995, all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled extension of remarks.

The SPEAKER pro tempore (Mr. MCINNIS). Is there objection to the request of the gentleman from Florida?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WISE. Mr. Speaker, reserving the right to object, and I shall not object, this change was cleared with the Democrat leadership.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MEDICARE SELECT EXPANSION

The SPEAKER pro tempore. Pursuant to House Resolution 130 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 483.

□ 1641

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare Select policies to be offered in all States, and for other purposes, with Mr. BONILLA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia [Mr. BLILEY] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge my colleagues to join me in supporting the extension of the Medicare Select Program. The bill before the House was worked out between the members of the Commerce and Ways and Means Committees. The bill provides for a 5-year extension of the program and permits it to be offered in all 50 States. The bill also requires the secretary of the Department of Health and Human Services to conduct a study comparing the health care costs, quality of care, and access to services under Medicare select policies with other Medigap policies. The secretary is required to establish Medicare select on a permanent basis unless the study finds that: First, Medicare select has not resulted in savings to Medicare select enrollees, second, it has led to significant expenditures in the Medicare program, or third, it has significantly diminished access to and quality of care. I think the bill provides for a reasonable balance that will permit a valuable and innovative program for our senior citizens to be continued while permitting a more informed evaluation of the program. We must remember that Medicare select is a MediGap insurance policy which provides seniors with another option to receive medical care. By giving the elderly more choices within MediGap we give them the option to pick plans which meet their individual needs.

In my view, we must not allow this program to expire. It is unfair to both participants and insurers alike to have to worry about what the Congress will do next. Medicare Select is a small but important program—and, I might add, a highly regulated program. It is regulated under the Federal MediGap standards. There are additional Federal statutory standards for select policies, plus our States insurance departments regulate them under State law. Medicare Select saves senior citizens money, provides more choice for senior citizens than the current Medicare risk contract HMO, and has given them the opportunity to secure a more comprehensive benefits package. If we do not act to extend this program, no new enrollees will be permitted to enroll in

Select plans and we will see the ultimate demise of these plans. The end result is bound to be significant increases in premiums for current enrollees. Medicare beneficiaries will be denied a product that saves them money and which has served them well. There is no reason not to extend this program in a responsible fashion.

Mr. Chairman, I urge my colleagues to join me in supporting this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I will not burden the House with the discussions which took place during the consideration of the rule. Suffice it to say my displeasure with the way the rule has been handled in its substance and the way the rights of the minority have been constrained remain. I observe also that those constraints affect the ability of this House to legislate well, as they affect the rights of the people who look to us to see to it that their concerns are properly protected in the consideration of legislation.

□ 1645

I will speak, rather, Mr. Chairman, of the substitute which will be offered by the gentleman from California [Mr. WAXMAN], and I point out that this substitute is a reasonable alternative. It permits Members to support an extension of the program and an expansion of the program while providing very important consumer protections.

First, the substitute differs from the newly-drafted underlying bill in three particulars.

It expands the Medicare Select Program to all 50 States for a 5-year period, just like the bill reported out of the Committee on Commerce. Five years permits an ample opportunity to execute the program, to evaluate it, and to permit the Congress to come back and to extend the period, if necessary, or to make whatever changes might appear appropriate at the conclusion of 5 years.

Second, it bans attained age rating that lets insurance companies raise rates on elderly people as they age.

I want to comment a little on this. One of the perils of the people who would be seeking insurance under this program is that they will find that their initial purchase of insurance will be done on the basis that the prices are going to be very reasonable. Under the attained age rating practices of insurance companies, it means that there can be a substantial annual increase in cost to the insured. This is a deceptive practice. It is increasingly employed. It has the function of misleading consumers, and it makes it impossible for them to make meaningful comparisons of products of insurance.

It also arranges matters so that misrepresentations can be made by unscrupulous insurance salesmen and that the consequences of the annual rating increases are not known to the purchaser of insurance at the time the insurance is first negotiated for.

Third, the substitute allows people in restricted networks, that is, Medicare Select plans of the type we are dealing with here, to get out of those plans, something which they may very well want to do and something which is consistent with their rights as insured and enables them to get into an unrestricted Medigap plan.

Specifically, it requires select insurers also to offer to individuals who disenroll from a select plan a fee-for-service plan under terms comparable to the terms they would have enjoyed had they initially joined a fee-for-service plan. Thus, choice is maintained for the persons who would enroll in these, fairness in achieving the kind of service they might want, protection of their basic liberties and their economic and other concerns.

It is a fair way of addressing the failures which exist with regard to the legislation before us. These proposals do nothing to disturb the underlying bill. They do provide important consumer protections to the elderly. They create a level playing field for insurers, stabilize the marketplace and assure that insurers who would behave fairly toward their insured are not placed at a disadvantage by the behavior of unscrupulous insurers who would utilize these kinds of devices to the detriment not only of the more responsible insurers but also to the different holders of the policies that we are talking about.

I urge my colleagues to adopt the substitute at the time that it is offered.

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. BILIRAKIS], chairman of the Subcommittee on Health and Environment of the Committee on Commerce.

Mr. BILIRAKIS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of legislation to extend the current Medicare Select Program which is scheduled to expire in June.

On January 11, 1995, our colleague, the gentlewoman from Connecticut [Mrs. JOHNSON] introduced H.R. 483, a bill to amend title 18 of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes. That bill was referred to the Committee on Commerce, the principal committee of jurisdiction and in addition to the Committee on Ways and Means.

On February 15, 1995, the Health and Environment Subcommittee held an oversight hearing on Medicare select and issues related to Medicare managed care. On March 22, 1995, the subcommittee met and marked up H.R. 483 and approved the bill for full committee consideration, as amended, by a voice vote. On Monday, April 3, 1995, the full Commerce Committee met and ordered H.R. 483 reported to the House, as amended, by a voice vote.

As ordered reported by the Commerce Committee, H.R. 483 would extend the Medicare Select Program for an additional 5 years and expand the coverage to include all 50 States and this provides for a more true analyses as a demonstration project.

The Committee on Ways and Means also completed action on H.R. 483, and reported a different version of the legislation to the House. The Ways and Means Committee version of the bill extends the Medicare Select Program to all 50 States on a permanent basis.

Since the time that both committees completed action on H.R. 483, the committees have met and have developed a consensus bill, H.R. 1391, which was introduced in the House on April 4. The rule the House just passed makes in order the text of H.R. 1391.

The bill the House is considering would extend the Medicare Select Program for a 5 year period and expands the coverage to all 50 States.

The bill would also require the Secretary of the Department of Health and Human Services to conduct a study comparing the health care costs, quality of care, and access to services under Medicare select policies with other MediGap policies. This study must be completed by the end of 1998. Based on the results of this study. The Secretary must make a determination that the Medicare Select Program is permanent unless the study finds that: (1) Medicare select has not resulted in savings to Medicare select enrollees. (2) it has led to significant expenditures in the Medicare Program, or (3) it has significantly diminished access to and quality of care.

Congress needs to enact legislation to extend this program now.

The National Association of Insurance Commissioners [NAIC] has testified in favor of the program and stated that out of the 10 Medicare select States that report into the NAIC's Complaint Data System, there were only 9 Medicare select complaints last year.

The program has been a very good one for senior citizens. In August 1994, Consumer Reports rated the top Medigap insurers nationwide. Eight out of 10 of the top-rated 15 MediGap plans were Medicare select plans. It is a very popular program in my home State of Florida where some 13,000 Medicare beneficiaries are enrolled.

I urge my colleagues to support this legislation so we may continue to provide older Americans with an often needed and in my opinion, necessary option.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. STARK], a member of the Committee on Ways and Means.

Mr. STARK. Mr. Chairman, I would like first to congratulate the distinguished gentlewoman from Connecticut, the sponsor of H.R. 483. While I may agree with what is in the bill, it is the absence of a few things with which she and I would differ. But she gets my highest admiration for tenacity. She has done an excellent job in bringing this bill to the floor promptly.

I do believe that there is a need for strong beneficiary protections. These may be prophylactic. They may be only a safety net, but we have had anecdotal evidence of abuses. And this program is new, and the administration had hoped that we would only extend it for 18 months. Many of us feel that Federal standards, which would be enforced or reinforced by States, would be in order.

The few States that choose not, like my own State of California, to regulate this through the insurance code, might be required to.

Had we had the opportunity, and we will have a partial opportunity in the substitute to be offered by the distinguished gentleman from California later in the proceedings, I would have suggested that we perhaps extend this for 5 years; also, that we have Federal oversight of Medicare select.

The amendment that I would offer perhaps would require Medicare select plans to have similar requirements as we now require for Medicare approved HMO's, called risk contractors. Those would include community rating.

For example, in California, to compare identical plans with Prudential, AARP's plan, and Blue Cross, the only offeror of Medicare select, there is, indeed, a savings for the first 4 years. From 1965 to 1969, Medicare select only costs $780. AARP's Prudential plan is $957, but it is $957 until you expire or stop paying your premiums.

The Medicare select plan jumps to $1,080 at age 70, $1,260 at 75 and, over 80, it is $1,380, almost a 40 percent increase. This, I believe, is improper and impacts most on seniors when they can lest afford to pay those premiums.

I think we should consider the idea of forbidding premiums that are age-related.

We should have State certification of these plans and an amendment to define the benefit package, not so as to limit it, but so as to put it into context with the plans that are now offered under MediGap so that seniors will have the opportunity to use free market choice and pick a plan that is, in fact, one that they can compare on a price basis.

Many of these amendments will be in the substitute offered by the gentleman from California [Mr. WAXMAN]. I would urge that that be supported.

I think that we will revisit this. One of the reasons I do not want to belabor this, and I will in a moment yield back my time, is that my guess is that some of these provisions may be added later in the legislative process. I hope then we can consider them at some more deliberate pace and consider which of these amendments will make Medicare select a better product, more consumer friendly than what might appear without the regulations that are missing from the current bill.

I thank the distinguished gentleman for yielding time to me.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from North Dakota [Mr. POMEROY].

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Mr. POMEROY. Mr. Chairman, I thank the distinguished ranking member for yielding time to me.

Mr. Chairman, Medicare select is an issue I have followed for several years. I am the only former insurance regulator in the 104th Congress.

At the time the Medicare Select Program came into being, I was regulating the insurance market in North Dakota, the State I now represent in this body. I favored very strongly the Medicare select component. I thought perhaps the 15-State limitation at that time was unduly restrictive, in light of fairly prevalent practices throughout the Medicare supplement market at that time to allow the type of discounting and favorable premium impact it had for the senior citizen consumers under the operation explicitly allowed for the 15 States under the program.

I believe with the Medicare select, those who would believe we are engaged in an experiment here have it exactly wrong. The Medicare select restrictions actually constricted discounting activity that was allowing seniors lower insurance prices throughout the 50 States.

I fought as an insurance regulator to make sure North Dakota got to be one of the 15 States allowed, and was pleased that the Department of Health and Human Services allowed North Dakota to be one of the States. The experience has been significant. It has allowed a 17-percent premium deduction for senior citizens.

I called in the course of the Medicare select legislation to see whether or not problems, some kind of consumer complaints had arisen because of the restricted delivery system that might bring about this kind of discount. I was told by the North Dakota insurance department they did not have one, not a single complaint on their Medicare select book of business allowed in the State of North Dakota, now amounting to about 10,000 policyholders.

Having regulated this market for 8 years, I would say it is rather incredible that any product, no matter how perfect, does not generate one consumer complaint to the insurance department.

I think when it comes to senior citizens, this body owes them the same range of choices allowed throughout the rest of the insurance marketplace. We have discounting arrangements being made with providers to pass a better value on to the policy holder. Why, when it comes to senior citizens, should we somehow become so protectionist as to try and keep them from being able to access that same kind of discounted premium?

Are there questions in the senior MediGap market? Of course there are. Attained age rating is a concern that I believe needs to be addressed. It needs to be addressed, in my opinion, first by the regulatory entities responsible for regulating insurance, State insurance departments.

I believe if the State insurance departments adn their collective organization, the National Association of Insurance Commissioners, a body I formerly served in as president, do not in the very near term address that forcefully, action should be considered in this body to preclude attained age rating. I feel that strongly about it.

However, the vehicle before us certainly is not the one to try in this body to revamp the regulatory structure in this way. This is a simple bill. It serves a positive purpose. Give seniors a choice, give seniors a break, and pass this legislation.

Mr. BLILEY. Mr. Chairman, to close debate on our side, I yield 5 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], who knows more about this subject, certainly, than anybody on this side of the aisle. It has been a pleasure to work with her.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of this bill, and urge my colleagues to support it with enthusiasm. A number of issues have been raised from the other side, but they are issues that were thoroughly addressed in the hearings that we have had on this bill.

First of all, this is not a failed program. This is a very strong program that seniors are choosing, and they are choosing it because it offers them lower cost health care that is also high-quality health care. Their premiums are anywhere from 10 to almost 40 percent less than the premiums of other Medigap policies. That is why they choose it. That is why seniors all over America should have the right to choose it.

Are these good policies? According to the Consumer Reports, 8 of the 15 top-ranked policies were Medicare select policies. That is pretty good.

Second, there have been essentially no complaints. Members heard my colleague, who was an insurance commissioner himself, say in his State there was not a single complaint. Nationwide in 1994 there were only 9 complaints in regard to select plans, when there were 967 complaints for regular Medigap policies, another reason why seniors choose these policies in the Medigap market. They are good.

Third, when we look at the consumer satisfaction surveys, Medicare select rates very high, another good sign.

Lastly, no program that was not well regarded would be supported by the National Governors Association, the National Council of State Legislatures, and the insurance commissioners of 50 States, so this is a good program, it is a successful program and, futhermore, it is a well-regulated program. It is regulated by the States; it is regulated by the Federal Government; it is regulated in exactly the same way that plans are regulated for people of other ages.

There is no problem with seniors who choose this option getting locked in. Later we will hear an amendment that says that these plans ought to be required to offer a fee-for-service option.

In every single State, in every single State, there are at least seven policies offered by Blue Cross or Blue Shield or AARP that guarantee issue at predetermined rates for seniors, so anyone in a Medicare select policy has a choice of choosing another Medigap policy at the same rate anyone else would be able to buy that policy, and without any danger of exclusion for preexisting medical conditions. Therefore, there is no need to pass a law that would force this kind of policy to do something that none of its competitors have to do.

This is a good bill. It is strictly structured. This program has succeeded. I ask Members' support of it, and I ask the Members' opposition to the following substitute, because it would force this plan, in certain States, to offer benefits that no other Medigap policy has to offer. That would effectively kill this low-cost choice for seniors. If it was forced to age rate its premiums, base its premiums on attained age rating, premiums for young seniors would go up.

In the market now, seniors of every age can choose whether they want to buy an attained-age-rating Medigap policy or a community-rated Medigap policy or an issued age-rated Medigap policy. They are all there. Seniors can choose that. Why should we not allow a 67-year-old healthy senior to choose a lower cost policy, if that is what he prefers, and face the higher rates of a 70-year-old when he hits 70, if that is what he wants? He has the right under current circumstances to choose a community-rated or an attained-age-related policy when he is 67, if he wants to do that.

I ask Members to support the bill, to oppose the alternative, and to guarantee that seniors in our Nation will have the choice of a lower cost, high-quality Medigap policy.

NATIONAL GOVERNORS' ASSOCIATION,
NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS,
March 15, 1995.

Hon. BILL THOMAS,
Chairman, Subcommittee on Health of the Committee on Ways and Means,
Washington, DC.

DEAR CHAIRMAN THOMAS: In an effort to promote consumer choice and the offering of affordable health care coverage for senior citizens, the National Governors' Association (NGA), the National Conference of State Legislatures (NCSL), and the National Association of Insurance Commissioners (NAIC) call to your attention an urgent problem facing over 400,000 Medicare beneficiaries: the imminent expiration of the medicare SELECT program. This program has provided significant savings to Medicare beneficiaries in demonstration project states. We urge its permanent extension and expansion to all fifty states.

As you are aware, the Medicare SELECT program is a three year demonstration project (extended another six months by the 103rd Congress) that authorizes managed care networks to offer Medicare Supplement policies in the fifteen demonstration states. Medicare SELECT offers significant savings to seniors, many of whom live on fixed incomes. It also offers seniors a choice among health plans.

In the absence of Congressional action on this issue, more than 400,000 Medicare beneficiaries will be faced with higher premiums and less choice. If the Medicare SELECT program is not continued, Medicare SELECT carriers could not enroll new members after June 30, 1995. This will result in significant increases in premiums for Medicare beneficiaries already enrolled in the program. Further, those beneficiaries not enrolled in the program will no longer have the opportunity to choose this low-cost and choice-enhancing option.

Nearly every federal health reform proposal before the 103rd Congress included a permanent extension of this program to all fifty states. The momentum and broad-based political support behind this program should not be allowed to dissipate simply due to the absence of more comprehensive Congressional action in the health care reform area. The health care coverage of too many Americans is at stake.

As we testified before two House subcommittees on this issue, we urge you to support the provisions of H.R. 483 that extend and expand the Medicare SELECT program to all fifty states.

The NGA, NCSL and NAIC would be happy to answer any questions and provide you with any additional technical background upon request. Please contact Mary Beth Senkewicz at the NAIC Washington office at 624-7790. Thank you for consideration of this recommendation.

Sincerely,

RAYMOND C. SCHEPPACH,
Executive Director, NGA.
CARL TUBBESING,
Director, Washington Office, NCSL.
KEVIN T. CRONIN,
Washington Counsel, NAIC.

MEDICARE SELECT: THE FACTS

Medicare Select is Point of Service coverage—Beneficiaries can go out of the Select network at any time and Medicare still pays for covered care.

Medicare Select Saves Seniors $'s—Premium savings range from 10 to 38% over regular Medigap policies.

Medicare Select provides Quality and Value—Consumer Reports ranked 8 Select plans among the top 15 plans.

MORE MED SELECT FACTS

Medicare Select Works for Seniors—In 1994 the National Association of Insurance Commissioners reported only 9 complaints on Select plans vs. 967 for regular Medigap.

Medicare Select Offers Choice—Gives seniors an option similar to that enjoyed by millions of working Americans.

EVEN MORE MED SELECT FACTS

Medicare Select Satisfies Seniors—Select plans are highly rated in consumer satisfaction surveys.

Medicare Select has bipartisan Support—Ways and Means bill passed 31-to-2, Commerce bill passed by voice vote.

Medicare Select Wanted by States—NGA, NAIC, and NCSL support the 50 state option.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 1391 is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMITTING MEDICARE SELECT POLICIES TO BE OFFERED IN ALL STATES FOR AN EXTENDED PERIOD.

Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990, as amended by section 172(a) of the Social Security Act Amendments of 1994, is amended to read as follows:

"(c) EFFECTIVE DATE.—(1) The amendments made by this section shall only apply—

"(A) in 15 States (as determined by the Secretary of Health and Human Services) and such other States as elect such amendments to apply to them, and

"(B) subject to paragraph (2), during the 8½ year period beginning with 1992.

"(2)(A) The Secretary of Health and Human Services shall conduct a study that compares the health care costs, quality of care, and access to services under medicare select policies with that under other mediare supplemental policies. The study shall be based on surveys of appropriate age-adjusted sample populations. The study shall be completed by December 31, 1998.

"(B) The Secretary shall determine during 1999 whether the amendments made by this section shall remain in effect beyond the 8½ year period described in paragraph (1)(B). Such amendments shall remain in effect beyond such period unless the Secretary determines (based on the results of the study under subparagraph (A)) that—

"(i) such amendments have not resulted in savings of premiums costs to these enrolled in medicare select policies (in comparison to their enrollment in medicare supplemental policies that are not medicare select policies and that provide comparable coverage),

"(ii) there have been significant additional expenditures under the medicare program as a result of such amendments, or

"(iii) access to and quality of care has been significantly diminished as a result of such amendments.".

The CHAIRMAN. No amendment to the amendment in the nature of a substitute is in order except a further

amendment in the nature of a substitute, which may be offered only by the gentleman from Michigan [Mr. DINGELL], or his designee, is considered as read, is debatable for 1 hour, equally divided and controlled by a proponent and opponent of the amendment, and is not subject to amendment.

Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WAXMAN.

Mr. WAXMAN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. WAXMAN:

Strike all after the enacting clause and insert the following:

SECTION 1. EXTENDING MEDICARE SELECT POLICIES TO ALL STATES FOR AN ADDITIONAL 5-YEAR PERIOD.

Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990, as amended by section 172(a) of the Social Security Act Amendments of 1994, is amended—

(1) by striking "The amendments" and inserting "(1) Subject to paragraph (2), the amendments";

(2) by inserting "and, subject to paragraph (3), those other States that elect them to apply" after "15 States (as determined by the Secretary of Health and Human Services)";

(3) by striking "3½-year" and inserting "8½-year"; and

(4) by adding at the end the following new paragraphs:

"(2) The amendments made by this section shall apply to a State after the first 3½ years of the 8½-year period described in paragraph (1) only if the State provides that the premiums for a medicare select policy do not vary at renewal (or at any other time premiums change) on the basis of the age attained by the policy-holder or certificateholder.

"(3)(A) The amendments made by this section shall apply to a State other than the 15 States referred to in paragraph (1) only if the State provides that the issuer of a medicare select policy makes available to a policyholder or certificateholder, at each of the times described in subparagraph (B), a policy described in subparagraph (C) (whether or not otherwise offered by the issuer to individuals in the State and whether issued directly by that issuer or under an arrangement with another issuer) under terms and conditions described in subparagraph (C).

"(B) The times described in this subparagraph are—

"(i) the time the policyholder or certificateholder moves out of the service area of the issuer of the medicare select policy,

"(ii) the time of renewal of such policy, and

"(iii) at the end of the 12-month-period beginning on the date such policy first becomes effective if the policy is canceled or nonrenewed by the policyholder or certificateholder at the end of such period.

"(C) A policy described in this subparagraph is a policy that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation and other requirements of section 1882 of the Social Security Act (without regard to subsection (t)) and the terms and conditions (including premium levels) described in this subparagraph are terms and conditions comparable to the terms and conditions that the policyholder or certificateholder would have had if the policyholder or certificateholder had been enrolled in a policy not under section 1882(t) of such Act during the period in which the policyholder or certificateholder was enrolled in a policy under such section 1882(t).

"(D) The Secretary of Health and Human Services is authorized to issue such regulations as may be necessary to carry out this paragraph.".

Mr. WAXMAN. Mr. Chairman, I offer this amendment in order to improve this legislation before us. The argument on the floor before us today is not whether we ought to have Medicare select policies or not. A number of States are already marketing these policies. It has been used on an experimental basis in those States. All of us agree that we ought to expand that to other States as well.

However, our amendment would make three changes in the underlying bill. First of all, while we extend Medicare select programs to all 50 States, we would do it for a 5-year period so we can take a look, again, at that period of time to see whether this program is working the way we envision it.

Second, we would in this amendment say that the Medicare select policies would not permit attained age rating that lets insurers raise rates on elderly people as they age. This is a deceptive practice that is increasingly employed to mislead consumers and make meaningful comparison between various insurance options possible.

Third, the substitute allows people in restricted networks, like Medicare select plans, where they only have a panel to choose from of their health care providers, allows them to leave the Medicare select and go to a choice of provider that they may wish to have Medicare and this gap policy pay.

These provisions do nothing to disturb the underlying bill. However, they are important consumer protections for the elderly, they create a level playing field for insurers, and they stabilize the market.

Mr. Chairman, let me elaborate on these points. The gentlewoman from Connecticut [Mrs. JOHNSON], who is the original author of the bill before us, has argued that people have choices now, and we should not have any guarantee in the bill that they will have choices in the future.

My concern is we do not know what the future will bring, except we have some idea of what is going on now in the competitive marketplace dealing with health insurance. As there is competition, there is competition for insurance companies to try to offer the lowest-priced plan to induce people to sign up.

However, if they do not have a community rating, if they do not keep that low price for everybody except for the newcomers in their plan, as people get older, what we call attain an older age, and are therefore more likely to get sick, insurance companies can turn around and say "You signed up a number of years ago at a certain level, but now we are going to double or triple your premiums."

That, Members could imagine, would be a terrible thing for an elderly person who has a Medigap policy for which they now think they have security, to suddenly find that their rates have gone up so dramatically.

Sometimes, however, people do not like these preferred provider organizations where they have only a certain list of physicians and health care providers to choose from. They may think it is okay when they are younger, let us say 65, but if they have some experiences later on with a specific illness where they need the expertise of someone who is not on that panel, they may want to choose to leave.

I believe a fundamental value in health insurance for this country ought to be that we give people the right to choose what insurance they will have. We have offered in this substitute a guarantee that when people sign up in these Medicare select policies, that they will have a right to choose to join another Medigap plan. When people turn 65, they can sign up in any MediGap plan available.

What they do not realize is if they sign on to Medicare select, unless we have this substitute adopted, in the future they may not be able to leave and go to another what is called fee-for-service or choice-of-provider plan. They will be faced with either being in the Medicare select or having to go outside of that list and then pay out of their own pockets, not only for their insurance, but they would have to pay for the costs of the doctor who is not on that panel.

Let us keep in mind, we are dealing with Medicare select. It is only a very small issue in the scheme of the Medicare issues that we have already faced and are going to face in this Congress, but what we do in this instance may well become a benchmark for what we are going to do in the future.

There is a lot of talk that the Republicans would like to take the Medicare program and, rather than let people have choices of doctors and other health care providers, to put them in managed care.

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Managed care is a reasonable option but it ought to be an option at the choice of the beneficiary, not something which they are forced into whether they like it or not. In fact, if we really believe in managed choice being a good option, it is only a good option when people have the ability in a free market to walk away and leave and join another alternative plan. But if they only have one choice, you can be sure that when they are captive in that one choice, that they are not going to be as important a customer, since they are a captive customer of the Medicare select plans.

Members will hear in this debate about how well these Medicare select plans are doing. I do not deny they are doing well. The consumers generally seem happy in most States. Our fear is what the marketplace will look like not right now but in a couple of years.

Let us put in this substitute which gives us a 5-year period in which to watch, to see how it is working; second, protect people from this sort of bait-and-switch of signing up and then finding your rates are going to double and triple because there is no protection against insurance companies raising your rates as you get older; and third, a guarantee that when you sign up in a Medicare select system, that that Medicare select system will give you an option which almost all of them do now, to choose another system, a fee-for-service system that will give you unlimited choice.

This is an important consumer protection amendment. It is consistent with the idea of having Medicare select policies. I do not think anybody is arguing against the idea of Medicare select although some people may. But most Members would argue let us allow this Medicare select way of handling MediGap insurance, a supplemental insurance to Medicare, in the most consumer-oriented manner.

I urge support for the substitute amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. THOMAS], the chairman of the Subcommittee on Health of the Committee on Ways and Means.

Mr. THOMAS. I thank the gentleman for yielding me the time.

Mr. Chairman, if Members will examine the proponents of the substitute's argument, what they are saying is that we really do want Medicare select, we just want to improve it, we want to help. That would be akin to having you cross the street against the light. Urge you to go down a tunnel with a light ahead and say it is daylight. Turn on the gas with the pilot light out.

They do not want to improve the Medicare program. Their position is clear. They stalled in the last Congress, hoping it would die. It took a Herculean effort at the 11th hour to get the pilot program renewed. And here they are once again, a wolf in sheep's clothing saying all we want to do is try to improve the program.

The substitute says it is going to extend for only 5 years. The underlying bill says if after 5 years on a finding of the Secretary of HHS it saves money, we make it permanent. If it is good and it works, we make it permanent. What does the substitute do?

Notwithstanding saving money after 5 years, the program is dead. That is improving? That is helping? That is a wolf in sheep's clothing.

All they say they want is a level playing field. In fact, what they are trying to do is set up hurdles specific to Medicare select. If what they advocated for Medicare select is good, why is it not applied across-the-board to all MediGap programs? If in fact what they are urging for Medicare select is something that creates 15 States having one program and 35 States having another, so that you are guaranteed not to have a uniform program over 50 States, that is helping? That is creating an impossible standard to meet.

Let's talk about really taking care of seniors.

The gentleman from North Dakota is the only person in the Congress who has done this kind of work. I have great admiration for his courage to stand up and say, after 8 years, not one complaint. He is someone who has been in the trenches. He was a member of the National Association of Insurance Commissioners, and I received a letter from those commissioners, from the National Council of State Legislatures, and from the National Governors Association. This is what they said to me:

> Dear Chairman Thomas, in an effort to promote consumer choice in the offering of affordable health care coverage for senior citizens, the National Governors Association, the National Conference of State Legislatures, the National Association of Insurance Commissioners call to your attention an urgent problem facing over 400,000 Medicare beneficiaries: the imminent expiration of the Medicare select program. This program has provided significant savings to Medicare beneficiaries in demonstration project States. We urge its permanent extension and expansion to all 50 States.

They have seen these programs every day. They do not have the nine pages of improvements. They do not have the 45 points of consumer protection. They agree with our colleague from North Dakota, the program is good the way it is. It should be permanent. The underlying bill says if we save money, it is going to be permanent. Under the guise of protecting seniors, they want to guarantee that this program will not succeed.

Why in the world would they do that? The answer is very simple. The gentleman from California exposed his hole card. He told you what we were going to do with Medicare.

I will tell you what their great fear is, that we will be able to convert an old-fashioned, bloated, government-run, fee-for-service program into an efficient, cost-effective program that gives seniors more than they are getting now. This is the good step in the right direction. His old program will be changed. He does not want the new program. Their substitute will kill Medicare select. Vote against it. Vote for the underlying bill.

NATIONAL GOVERNORS' ASSOCIATION,
NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS,
March 15, 1995.

Hon. BILL THOMAS,
Chairman, Subcommittee on Health of the Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN THOMAS: In an effort to promote consumer choice and the offering of affordable health care coverage for senior citizens, the National Governors' Association (NGA), the National Conference of State Legislatures (NCSL), and the National Association of Insurance Commissioners (NAIC) call to your attention an urgent problem facing over 400,000 Medicare beneficiaries: the imminent expiration of the Medicare SELECT program. This program has provided significant savings to Medicare beneficiaries in demonstration project states. We urge its permanent extension and expansion to all fifty states.

As you are aware, the Medicare SELECT program is a three year demonstration project (extended another six months by the 103rd Congress) that authorizes managed care networks to offer Medicare Supplement policies in the fifteen demonstration states. Medicare SELECT offers significant savings to seniors, many of whom live on fixed incomes. It also offers seniors a choice among health plans.

In the absence of Congressional action on this issue, more than 400,000 Medicare beneficiaries will be faced with higher premiums and less choice. If the Medicare SELECT program is not continued, Medicare SELECT carriers could not enroll new members after June 30, 1995. This will result in significant increases in premiums for Medicare beneficiaries already enrolled in the program. Further, those beneficiaries not enrolled in the program will no longer have the opportunity to choose this low-cost and choice-enhancing option.

Nearly every federal health reform proposal before the 103rd Congress included a permanent extension of this program to all fifty states. The momentum and broad-based political support behind this program should not be allowed to dissipate simply due to the absence of more comprehensive Congressional action in the health care reform area. The health care coverage of too many Americans is at stake.

As we testified before two House subcommittees on this issue, we urge you to support the provisions of H.R. 483 that extend and expand the Medicare SELECT program to all fifty states.

The NGA, NCSL and NAIC would be happy to answer any questions and provide you with any additional technical background upon request. Please contact Mary Beth Senkewicz at the NAIC Washington office. Thank you for consideration of this recommendation.

Sincerely,

RAYMOND C. SCHEPPACH,
Executive Director, NGA.
CARL TUBBESING,
Director, Washington Office, NCSL.
KEVIN T. CRONIN,
Washington Counsel, NAIC.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I found the comments of the gentleman from California very interesting because many of us who support the Waxman amendment are strong supporters of 21st century Medicare that uses managed care to a much greater extent. In fact, in my community, we have one of the highest concentrations in the country of managed care participation. We have seen the future, and we know it can work.

But the fact is that as part of that future, we should incorporate two principles that the Waxman amendment addresses.

First and foremost, the Waxman amendment will protect the hundreds of thousands of older people in this country from rate shock. I have listened to my colleagues talk, for example, about how consumers are satisfied with Medicare slack. Of course they are, because many of them have had this product for maybe 18 months or so, under attained age pricing, and they have not seen the big rate hikes that are going to hit them down the road.

Under the Waxman proposal, there is a floor of protection for older people from those rate hikes. I would urge my colleagues in the strongest way, the seniors of America do not know what is coming in the days ahead in terms of these rate hikes. The Waxman amendment offers some real protection.

Second, with respect to choice, and again in our area, managed care works because there is real choice, the Waxman amendment offers more choices. Frankly, a lot of us think that is especially important now. We have got the chairman of the Senate Finance Committee saying that there are going to be 400 billion dollars' worth of cuts in Medicare and Medicaid. That will inevitably take choice from the senior citizens. The Waxman amendment again gives to older people more choices, more protection to deal with what we think is going to come in the days ahead from the other side.

Finally, I would say that I have worked very closely with the gentlewoman from Connecticut often. She is a sincere and dedicated leader in the health policy field. I wish to make Medicare select work. I support managed care. My community has been a leader nationwide in this area. We can make managed care work better if we adopt the Waxman amendment so seniors across this country do not get clobbered with rate hikes that they do not expect and that we give them more real choice.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. WAXMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from North Dakota [Mr. POMEROY].

The CHAIRMAN. The gentleman from North Dakota [Mr. POMEROY] is recognized for 3½ minutes.

Mr. POMEROY. Mr. Chairman, this debate brings up two points of frustration that I have got with Congress:

The first is partisanship. There are technical policy questions that come before this House and they do not need to be debated in a bashing, partisan manner with which we bring to the debates. There clearly are those issues that will divide us along partisan and ideological lines. This is a technical little public policy question we face and we do not need to turn it into a partisan free-for-all. We have had enough of those already.

Second frustration. Sometimes on the floor of this House we try and imagine everything that can go wrong and figure out how to fix it regardless of whether in real life it has been a problem at all. Inevitably that produces the law of unintended consequences and we can foul things up pretty well.

I believe the substitute, while wholly well-intentioned, represents that sort of approach. Having regulated this market, having tracked it since I left regulation, I do not believe we see the practices that would be fairly addressed by this regulation. Even if there were those circumstances out there, the worst place to fashion the right regulatory response would be on the floor of the House with amendments and substitutes. There are experts that do this every day. They are called insurance regulators. They ought to have first crack at this.

Second, in the event that they are remiss, we ought to have a good solid hearing in the committees on this issue. Believe me, when I was commissioner, I can remember some very rigorous days in congressional committees as we discussed these matters. Not on the floor of the House, not in the context of substitute motions.

I urge a defeat of the gentleman's motion, although I have the greatest respect for what he is trying to accomplish, and the passage of the bill.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for his leadership in this area, and particularly for saying to the audience that may be watching this debate, we are arguing in good faith over some policy differences. I do find it startling to think that people would come in and question others' motives.

Questioning people's motives just seems to me so out of place in a debate where we are trying to make the best decisions we can.

We look at the insurance market today, the non-Medicare insurance market, and it is not just in anticipation of problems that may happen but most likely will not, we look at the insurance market today and it just makes more sense for an insurance company to try to offer the lowest possible price to those people that are the healthiest, and they do not really want to insure people who are going to be the sickest, because the sickest are going to cost them more money. Rather than spread the cost out across the broad population, we see a segmentation of the market and lowest prices for the healthiest.

I fear that we see that reality now in regular insurance practices, that in the MediGap policies, we are going to find the same thing, the lowest price for healthier people, and then they get older and sicker, a higher price.

That is why we have offered the substitute. I would like to have the gentleman's thoughts on it.

Mr. POMEROY. I believe attained age rating of the Medicare supplement business generally is inappropriate. I think that it is dead wrong for people whose finances are diminishing in advancing age, whose health is deteriorating in advancing age, to be finding themselves on the upper range of an attained age premium scale. I think that it needs to be addressed in the context of the entire Medicare supplement marketplace, not simply the Medicare select product. Right issue, wrong vehicle. That is why I oppose this substitute. But the gentleman is on to something. This is unacceptable and the insurance commissioners better move quickly on this or Congress should take action.

□ 1730

Mr. WAXMAN. Mr. Chairman, I yield 6 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I thank the distinguished gentleman from California for yielding me this time.

Mr. Chairman, this is a very important question. It is not something which is arcane. Attained age rating, which this amendment would compel to be not used, permits an insurer to raise his rates on a policy solely on the basis of a policyholder's age.

Some States have sought to place limitations on this practice, and a number of States have already banned that outright, or have community rating.

In all of the States where this has been done, there remains plenty of competition for good Medigap products.

Attained age rating removes the ability of consumers to meaningfully compare different premiums: Hence, this is a practice which undermines the major objective of the 1990 reforms, to standardize policies.

Second, attained age rating can cost consumers thousands of dollars more over the long run than a fairly nicely priced product because it allows insurers to play games with premiums that are hard for regulators to control or consumers to make an intelligent judgment on.

Third, attained age rating is forcing good insurers who want to use community rating to move away from that method of rating. This will cause the kind of fragmentation that occurred in the health insurance marketplace that led to so many of the problems we have today.

Now with thanks to my good friend from California, Mr. STARK, let me go through some of the differences which exist. If you take a policy where premiums do not vary by age, for example the AARP Prudential plan, the plan is, at all times, every year of the life of the insured, $957 a year. But, if you take any of the other plans where attained age rating is used, then you come up with quite a different one.

For example, under Bankers Life and Casualty you start out at age 65 with $892.57, but at age 70 it is $1,060. Your savings are beginning to vanish and, as matter of fact, have done so. By the time you are age 80 it is $1,590.66.

In the case of Blue Cross/Blue Shield of California, at age 65 to 69 it is $780 if they use attained age rating. But by the time they reach 80 it goes to $1,300.80.

In the case of other offerors, for example Life Investors Insurance Co., it starts out at age 65 at $966. It goes at age 70 to $1,200.67. The advantages which you got are now gone. And by the age of 80 it goes to $1,629. In the case of MedCare Plus, it starts at 65 at $833, a saving, but by the time you are at age 80 it is $1,487.

What does the Waxman-Dingell amendment do? Very simple: it says first of all no attained age rating, so that you cannot hook a senior citizen. And if you want to get a senior citizen by selling him an attained age rating insurance policy on the basis he is going to make some massive savings, looks good because he says oh, yeah, I will sign on that, but all of a sudden, by the time he is age 80 and his needs are great, his medical costs and the risks to his pocketbook are greatest, the amount he is paying is almost doubled.

Now under the bill as drawn, a retiree is not able to get out. The Waxman-Dingell amendment says the insurer has to offer him, if he wants out, another insurance package which gives him more conventional type of insurance availability, so that if he finds he is getting skinned or he does not like his service he has a way out of this plan.

The proponents of this legislation have told nobody about these things and they have been somewhat dark secrets and it did not come up very well in the course of the hearings which were conducted in either committee, and we owe particular thanks to the gentleman from California [Mr. STARK] for bringing these matters to light, and we also owe particular thanks to the gentleman from California [Mr. WAXMAN] for having offered the amendment.

The harsh fact of the matter is if you want to protect senior citizens from unscrupulous insurers, from exorbitant prices, from bait and switch, and if you want to see to it that they have decent treatment and they can get out of the onerous process of rapidly escalating costs where they are not offered the services, then you should go this route.

That is, accept and adopt the amendment offered by the gentleman from California [Mr. WAXMAN] on behalf of himself, myself, and the gentleman from California [Mr. STARK].

Mr. Chairman, having said these things, let me simply observe if you really want to protect the senior citizens, if you want to treat them fairly, the Waxman-Dingell-Stark amendment is the way that we should proceed, and to fail to do something different is unfair.

Let us just talk about the home State of the distinguished gentlewoman from Connecticut. That is the State of Connecticut. It requires community rating of all Medigap policies. The Waxman substitute will simply protect that important public policy decision made by the State of Connecticut and will prevent the bill, under the authorship of the distinguished gentlewoman from Connecticut, from skinning a bunch of old folks in amongst other places the State of Connecticut where they may no longer be able to get community-rated policies. And so I urge my colleagues to adopt the amendment that has been offered by the distinguished gentleman from California. I have given Members good reason. They will be protecting the senior citizens from being skinned by unscrupulous bait and switch practices and enabling them to exit policies they have found to be oppressive and to assure that there will be policies available to them at the time they exit. Otherwise you will deny them those important rights.

CONSUMERS UNION,
Washington, DC, April 6, 1995.

DEAR REPRESENTATIVE: We urge you to support the Dingell/Waxman amendment in the nature of substitute to H.R. 483, which is expected to be considered by the House of Representatives on Friday, April 7. Unlike H.R. 483, the Dingell/Waxman amendment offers protections for the nation's senior citizens.

The Dingell/Waxman amendment would do the following:

Limit the extension of Medicare Select to a five year period, assuring that the program is evaluated thoroughly before becoming permanent.

Ban attained age rating for Medicare Select policies. Attained age rating does not belong in health policies designed for people 65 and over; it results in steep premium increases as seniors grow older and have less income, making medigap policies unaffordable for many. Medicare Select policies are at a substantial competitive advantage in the marketplace since, unlike traditional medigap policies, they typically do not have to pay the Part A deductible. Banning attained age rating for Medicare Select policies helps to both level the playing field among medigap insurance policies and provides a first step at protecting seniors against unaffordable medigap premiums.

Require Medicare Select companies to make available to previous Medicare Select policyholders a traditional medigap policy. In today's marketplace, there are no guarantees that seniors with Select policies will have access to a traditional policy in the future at a price they can afford. Without this adjustment, many seniors could find themselves locked into a Select policy when they feel they want and need access to a broader choice of doctors and hospitals.

Many Members have spoken recently of the need to provide choice to seniors. Without the Dingell/Waxman amendment, many seniors will face reduced choice: they will be priced out of the medigap market or will find they have no choice but to remain in a Select policy with limited choice of providers.

We urge you to vote in favor of protecting the nation's senior citizens by supporting the Dingell/Waxman amendment.

Sincerely,

GAIL SHEARER,
Directory, Health Policy Analysis.

Coverage	AFLAC Equalizer, American Family Life Assurance Co. of Columbus, GA		AARP—Prudential Medicare Supplement Plans	Bankers Life and Casualty Co. Medicare Supplements		Blue Cross of Calif. Medicare Select Plans		Blue Shield of Calif. Medicare Supplement Plans	
	Age +	Annual premium	Premiums do not vary by age	Age +	Annual premium	Age +	Annual premium	Age +	Annual premium
Plan A	65–69	$643.50	$552	65	$565.41	65–69	$480	65–66	$720
	70–74	724.90		70	642.21	70–74	540	67–69	852
	75–79	775.50		75	750.10	75–79	600	70–74	936
	85+	809.60		80+	888.76	80+	660	75–79	1,044
								80+	1,044
Plan B	65–69	926.75	858	65	768.65	Not offered		Not offered	
	70–74	1,067.00		70	907.74				
	75–79	1,175.35		75	1,096.90				
	85+	1,263.35		80+	1,340.83				

Coverage	AFLAC Equalizer, American Family Life Assurance Co. of Columbus, GA		AARP—Prudential Medicare Supplement Plans	Bankers Life and Casualty Co. Medicare Supplements		Blue Cross of Calif. Medicare Select Plans		Blue Shield of Calif. Medicare Supplement Plans	
	Age +	Annual premium	Premiums do not vary by age	Age +	Annual premium	Age +	Annual premium	Age +	Annual premium
Plan C	65–69	1,115.40	963	65	884.61	Not offered		Not offered	
	70–74	1,283.70		70	1,045.74				
	75–79	1,426.70		75	1,268.83				
	85+	1,541.65		80+	1,565.01				
Plan D	Not offered		930	65	809.23	Not offered		65–66	960
				70	970.36			67–69	1,140
				75	1,194.32			70–74	1,284
				80+	1,493.01			75–79	1,452
								80+	1,524
Plan E	Not offered		957	65	892.57	65–69	[1]780	Not offered	
				70	1,061.01	70–74	[1]1,080		
				75	1,289.77	75–79	[1]1,260		
				80+	1,590.86	80+	[1]1,380		
Plan F	65–69	1,316.15	1,161	65	1,220.61	Not offered		65–66	1,044
	70–74	1,507.00		70	1,483.08			67–69	1,248
	75–79	1,663.75		75	1,808.06			70–74	1,392
	85+	1,783.65		80+	2,213.11			75–79	1,572
								80+	1,642
Plan G	65–69	1,218.25	1,104	65	1,111.41	Not offered		Not offered	
	70–74	1,417.35		70	1,368.86				
	75–79	1,584.00		75	1,693.51				
	85+	1,715.45		80+	2,107.40				
Plan H	Not offered		1,212	65	1,778.49	Not offered		65–66	1,224
				70	2,115.47			67–69	1,452
				75	2,555.43			70–74	1,608
				80+	3,116.16			75–79	1,788
								80+	1,896
Plan I	Not offered		1,377	65	2,576.81	65–69	[2]1,620	65–66	1,440
				70	3,071.87	70–74	[2]1,920	67–69	1,692
				75	3,704.70	75–79	[2]2,220	70–74	1,860
				80+	4,505.31	80+	[2]2,340	75–79	2,088
								80+	2,208
Plan J	Not offered		1,764	Not offered		Not offered		Not offered	

[1] Prudent Buyer Plan. Added skilled nursing facility days. Part B deductible not covered.

[2] Platinum Plan, no drug limit. Increased skilled nursing facility days. No Part B deductible.

Senior World Magazine, May 1994.

Coverage	Golden State Mutual Life, Medicare supplement plans		Life Investors Inc. Co., Medicare supplements		Med-Care Plus Bankers Multiple Line Ins. Co., Medicare supplements		Medico Life, Medicare supplement insurance		Mutual of Omaha, Medicare supplement plans		National Home Life Assurance Co., Medicare supplement insurance			Physicians Mutual Inc. Co., total senior care	
	Age +	Annual premium	Age +	Annual premium	Age +	Annual premium	Age +	Annual premium	Age +	Annual premium	Age +	Annual premium		Age +	Annual premium
Plan A	65–69	$447.27	65	$543.60	65	$519.70	65	$627.15	65	$684.37		Male	Female	65–89	$518.10
	70–74	630.63	70	712.80	70	590.18	66–69	661.05	70	852.07	65	$419.40	$371.40		
	75	930.99	75	865.60	75	689.45	70–72	721.90	79	1,062.67	66–70	539.40	479.40		
			80+	916.80	80+	816.87	73–75	766.35	80+	1,141.14	71–75	599.40	539.40		
							76–79	793.30			76+	659.40	575.40		
							80+	816.70							
Plan B	65–69	531.80	65	808.80	65	720.43	Not offered		Not offered			Male	Female	Not offered	
	70–74	749.81	70	1,062.00	70	850.79					65	719.40	647.40		
	75	1,106.92	75	1,274.40	75	1,027.96					66–70	1,007.40	839.40		
			80+	1,365.60	80+	1,256.61					71–75	1,079.40	947.40		
											76+	1,199.40	995.40		
Plan C	Not offered		65	945.60	65	834.54	65	1,123.20	65	1,157.21	Not offered			65–69	873.10
			70	1,240.80	70	986.61	66–69	1,189.90	70	1,440.82				70–79	977.68
			75	1,489.20	75	1,197.04	70–72	1,310.40	79	1,796.96				80–84	1,070.41
			80+	1,596.00	80+	1,476.42	73–75	1,411.05	80+	1,929.72					
							76–79	1,491.75							
							80+	1,583.05							
Plan D	Not offered		65	924.00	65	759.81	Not offered		Not offered		Not offered			Not offered	
			70	1,213.20	70	911.12									
			75	1,455.60	75	1,121.45									
			80+	1,560.00	80+	1,401.92									
Plan E	Not offered		65	966.00	65	833.34	Not offered		Not offered		Not offered			Not offered	
			70	1,267.20	70	990.65									
			75	1,521.60	75	1,204.35									
			80+	1,629.60	80+	1,485.37									
Plan F	Not offered		65	1,089.60	65	1,220.61	65	1,372.45	65	1,294.02	Not offered			65–69	1,208.79
			70	1,430.40	70	1,483.08	66–69	1,452.00	70	1,611.17				70–79	1,286.56
			75	1,716.00	75	1,808.06	70–72	1,597.05	75	2,009.59				80–89	1,371.59
			80+	1,838.40	80+	2,213.11	73–75	1,714.05	80+	2,157.95					
							76–79	1,806.50							
							80+	1,908.30							
Plan G	Not offered		65	1,039.20	65	1,111.41	Data unavailable		Not offered			Male	Female	Not offered	
			70	1,364.40	70	1,368.86					65	947.40	827.40		
			75	1,598.40	75	1,693.51					66–70	1,307.40	1,079.40		
			80+	1,754.40	80+	2,107.40					71–75	1,415.40	1,199.40		
											76+	1,547.40	1,307.40		
Plan H	Not offered		65	1,296.00	65	1,660.57	Not offered		Not offered		Not offered			Not offered	
			70	1,700.40	70	1,975.29									
			75	2,040.00	75	2,385.91									
			80+	2,185.20	80+	2,909.65									
Plan I	Not offered		65	1,519.20	65	2,410.45	Not offered		65	1,876.21	Not offered			Not offered	
			70	1,993.20	70	2,873.54			70	1,955.93					
			75	2,391.60	75	3,465.68			79	2,439.68					
			80+	2,563.20	80+	4,214.58			80+	2,619.71					
Plan J	Not offered		65	2,235.60	Not offered		Not offered		Not offered		Not offered			65–69	1,858.45
			70	2,935.20										70–79	2,000.02
			75	3,522.00										80–89	2,153.80
			80+	3,772.80											

Coverage	Golden State Mutual Life, Medicare supplement plans		Life Investors Inc. Co., Medicare supplements		Med-Care Plus Bankers Multiple Line Ins. Co., Medicare supplements		Medico Life, Medicare supplement insurance		Mutual of Omaha, Medicare supplement plans		National Home Life Assurance Co., Medicare supplement insurance		Physicians Mutual Inc. Co., total senior care	
	Age +	Annual premium	Age +	Annual premium	Age +	Annual premium	Age +	Annual premium	Age +	Annual premium	Age +	Annual premium	Age +	Annual premium
	Phone 1–213–731–1131 for specific details on coverages.		Six month waiting period for medical conditions occurring within 6 months prior to effective date of coverage. If policy replaces previous supplement insurance, credit for pre-existing condition limitation is applied. Phone 1–800–229–6565 for specific details.		Preferred Provider plan. No balance billing. All network providers accept assignment. Automatic claims filing when using network providers. Rates vary by zip code. Rates shown are for zip code areas 918–925. Phone 619–747–7712 for specific details on coverage and network providers.		Rates vary by geographical areas. Rates shown are for the San Diego area. No pre-existing medical condition limitation. Phone 1–800–228–6080 for specifics on coverages and current rates for geographical areas.		Rates vary by zip code. Rates shown are for zip code areas 900–931. No waiting period for pre-existing conditions for Plans A, C or F. Phone 1–800–228–7669 or 1–402–342–7600 for details and coverage specifics. Automated claims processing feature.		6 months waiting period for pre-existing medical conditions occurring within six months prior to effective date of coverage. Phone 1–800–356–6271 for specifics on details and coverages.		Special savings if husband-wife plans selected. No waiting period for pre-existing conditions. Rates vary by zip code areas. Rates shown are for zip code 92128. Phone 1–800–325–6300 for specifics and coverages.	

Senior World Magazine, May 1994.

Mr. WAXMAN. Mr. Chairman, do I get to close on the debate?

The CHAIRMAN. The gentleman from Virginia [Mr. BLILEY] has the right to close.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if I might on our side conclude the debate, I would say this is an important consumer protection effort. As we go down the road of Medicare select, going from 15 States to 50, I worry about what it is going to mean for consumers who may well be taken advantage of by insurance companies that will be able to raise their rates after they get older and, more likely, sick. I agree that it would be viable for us to do this for all MediGap policies, and I hope at some point we will be able to reach all MediGap policies. But this is what is before us now and it would be improper under the rules and nongermane to offer an amendment to all MediGap policies.

But when we come to the closed panel and the fact that consumers will want a choice beyond that, this is the appropriate place and I think it is appropriate to do what Democrats and Republicans recommended out of the Committee on Commerce, and to put that 5-year sunset in place.

This amendment is supported by the Consumers Union, which has played a very active role in advising people about the dangers for consumers, that consumers can be taken advantage of. And it says in this amendment, according to the Consumers Union, the statement which I would like to put in the RECORD, many seniors will face reduced choice, they will be priced out of the MediGap market, or they will find that they have no choice but to remain in a select policy with limited choice of providers.

That is our fear. We think Medicare select policies can survive and function well and we want to encourage them, but we want consumer protections built in. I urge support of the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield myself 30 seconds just to say that one of the problems—and I know the intentions of the gentleman who offered this and I respect him intensely—is that you have an unintended consequence. That is, if you mandate these things on one MediGap policy and they are not mandated on the others, you will have the effect of killing the program because the premiums will be higher.

Mr. Chairman, to close debate on our side, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the amendment, but I am pleased that the underlying bill has broad bipartisan support. We are joined together in wanting to make available to seniors a lower-cost, high-quality MediGap insurance policy.

The amendment, however, jeopardizes that choice for seniors because if the amendment passes, it will require Medicare select plans to offer a benefit that no other MediGap policy is required to offer, and by doing that you will force the price of Medicare select policies up, you will kill the savings that seniors now enjoy by buying Medicare select policies. So you will effectively eliminate a choice that has been very good for seniors, very helpful to them in a tough world, saves them $300 a year, and offers them prescription drugs and broader coverage than other MediGap plans could offer them.

We would do ourselves and we would do the seniors of America a great disservice if under the guise of reform we denied them alone any access to participate in, on a voluntary basis, a managed care plan. Medicare is a fee-for-service system. Medicare also has a very tight, closed panel HMO component. The only access seniors have to participate in integrated systems of care is through the Medicare select plan.

If today under the guise of reform we force those plans to offer a benefit that no other MediGap policy in the market has to offer, we put that plan at a competitive disadvantage that will kill it, and we will deny to seniors the most cost-effective, high-quality plan in the market.

I urge a "no" vote on the substitute and a "yes" vote on the bill.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the substitute offered by Congressmen DINGELL and WAXMAN to H.R. 483, the Expanded Use of Medicare Select Policies Act. This bill would expand the Medicare select demonstration program that currently exists in my State of Illinois and 14 other States to all 50 States and extend these programs until June 2000 and beyond unless the Secretary of Health and Human Services determines otherwise.

Under this program, senior citizens on Medicare are allowed to buy private MediGap insurance policies through managed-care providers to supplement what Medicare does not cover.

I rise in support of the substitute because it would establish important consumer protection safeguards for senior citizens for MediGap insurance. Specifically, the substitute would ban attained age rating for Medicare select policies. Attained age rating hurts senior citizens when they are at their most vulnerable. As they grow older and have less income, attained age rating causes seniors' premiums to rise sharply, make MediGap insurance increasingly unaffordable for many senior citizens on limited incomes. It is critically important to many senior citizens in my district that attained age rating is eliminated.

The substitute would also limit the extension of Medicare select to a 5-year period, to ensure that we provide ample opportunity to review the program before it is established permanently.

Mr. Chairman, I would also like this opportunity to express concerns that I have about the reason that H.R. 483 is being pushed through the House at this time. Based on the drastic cuts that I have seen made to programs during the Republicans' first 100 days, it is crystal clear to me that draconian cuts to Medicare are ahead. There is already discussion about turning Medicare into block grants for the States and based on what happened to the Federal school lunch and breakfast programs in the House of Representatives, I know that block grant is a code word for cutting, slashing, and eliminating.

Let me just urge my colleagues who intend to support this bill to not use H.R. 483 as the first thread with which to unravel the entire Medicare system. I have far too many senior citizens in my district who depend on Medicare and would be devastated by any cuts to the program to allow it to be destroyed.

Mr. BLILEY. Mr. Chairman, I yield back the balance of our time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. WAXMAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 246, not voting 13, as follows:

[Roll No. 301]

AYES—175

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Brewster
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—246

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Ackerman
Brown (CA)
Chambliss
Chapman
Collins (MI)
Dickey
Frost
Kolbe
Pelosi
Pickett
Reynolds
Rose
Shuster

☐ 180

The Clerk announced the following pair:

On this vote:

Ms. Pelosi for, with Mr. Chambliss against.

Mr. GREENWOOD and Mr. BISHOP changed their vote from "aye" to "no."

Messrs. MARTINEZ, TAUZIN, WILLIAMS, and MEEHAN changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute made in order as original text.

The amendment in the nature of a substitute made in order as original text was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. HOBSON] having assumed the chair, Mr. BONILLA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes, pursuant to House Resolution 130, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. JOHNSON of Connecticut. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered

The vote was taken by electronic device, and there were—ayes 408, noes 14, not voting 12, as follows:

[Roll No. 302]

AYES—408

Allard
Andrews
Archer
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooley

Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—14

Abercrombie
Conyers
Dellums
Dingell
Fattah
Gonzalez
Johnston
Kennedy (RI)
McDermott
Mink
Stark
Stupak
Waters
Watt (NC)

NOT VOTING—12

Ackerman
Armey
Brown (CA)
Chapman
Dickey
Ewing
Frost
Kolbe
Payne (NJ)
Pelosi
Reynolds
Shuster

☐ 1826

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 483, MEDICARE SELECT EXPANSION

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 483, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore (Mr. HOBSON). Is there objection to the request of the gentleman from Virginia?

There was no objection.

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

☐ 1830

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. RADANOVICH). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each:

NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, since 1987, Congress has approved legislation declaring April 9 as "Former Prisoner of War Recognition Day." These men and women are among our greatest patriots and I cannot think of a group more deserving of remembrance and special recognition than our former prisoners of war.

Under the new rules adopted at the start of this session, Congress will not enact commemorative legislation this year. That being the case, we should take the time now to honor the Americans held captive in past conflicts and wars.

All those who have been prisoners of war know the true meaning of freedom and have paid a tremendous price for the liberty we all cherish. Their service and sacrifice, and that of their fellow veterans, make possible our way of life.

Some of you may wonder why April 9 was chosen as a day for recognition for former prisoners of war. It was on April 9, 1942, that the largest contingent of American forces ever were taken prisoner with the fall of Bataan in the Philippines during World War II.

Many of those taken prisoner did not survive the infamous Bataan Death March that followed or the nearly 4 years of captivity in deplorable prisoner of war camps throughout the Far East. Many of those that did survive were left with permanent disabilities from the brutalities that they endured.

The 9th of April is also the day on which Gen. Robert E. Lee surrendered to Gen. Ulysses S. Grant at Appatomax, VA, to end the Civil War between the North and South. On that day, prisoners from both sides were released and allowed to return home.

While April 9 commemorates the fall of Bataan and the release of prisoners at the end of the Civil War, the significance of this day extends to all Americans who were ever held prisoner by enemy forces. The brutal treatment and torture to which these POW's were subjected by their captors in violation of fundamental standards of morality and international law ensured that many did not survive.

Yet, despite the suffering inflicted upon them, American POW's have demonstrated an unfailing devotion to duty, honor, and country. Their service helped preserve our freedom through two world wars, regional conflicts of the cold war era, and since. They have given more than most Americans will be called upon to give for their country.

Today, the American Ex-Prisoners of War, an organization comprised of former POW's—both military and civilian—is raising funds to build the National Prisoner of War Museum. This museum will be located at the site of the Civil War prison camp in Andersonville, GA. It will be a legacy for all generations that follow and will contain historic accounts and memorabilia that pertain to former American prisoners from all wars.

Former Prisoner of War Recognition Day serves as a poignant reminder of the sacrifice and commitment of all the American men and women whose patriotism has been tested by the chains of enemy captivity.

Their experiences underscore our debt to those who place their lives in harm's way and stand willing to trade their liberty for ours. As a Nation, we must always remember the sacrifices made by our men and women in uniform.

I hope all of my colleagues will join me in paying special tribute to former prisoners of war. There is little we can do to repay these men and women, but we can recognize their invaluable contribution.

REPORT ON ENVIRONMENTAL QUALITY AND NATURAL RESOURCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Resources:

To the Congress of the United States:

The United States has always been blessed with an abundance of natural resources. Together with the ingenuity and determination of the American people, these resources have formed the basis of our prosperity. They have given us the opportunity to feed our people, power and industry, create our medicines, and defend our borders—and we have a responsibility to be good stewards of our heritage. In recent decades, however, rapid technological advances and population growth have greatly enhanced our ability to have an impact on our surroundings—and we do not always pause to contemplate the consequences of our actions. Far too often, our short-sighted decisions cause the greatest harm to the very people who are least able to influence them—future generations.

We have a moral obligation to represent the interests of those who have no voice in today's decisions—our children and grandchildren. We have a responsibility to see that they inherit a productive and livable world that allows their families to enjoy the same or greater opportunities than we ourselves have enjoyed. Those of us who still believe in the American Dream will settle for no less. Those who say that we cannot afford both a strong economy and a healthy environment are ignoring the fact that the two are inextricably linked. Our economy will not remain strong for long if we continue to consume renewable resources faster than they can be replenished, or nonrenewable resources faster than we can develop substitutes; America's fishing and timber-dependent communities will not survive for long if we destroy our fisheries and our forests. Whether the subject is deficit spending or the stewardship of our fisheries, the issue is the same: we should not pursue a strategy of short-term gain that will harm future generations.

Senators Henry Jackson and Ed Muskie, and Congressman JOHN DINGELL understood this back in 1969 when they joined together to work for passage of the National Environmental Policy Act. At its heart, the National Environmental Policy Act is about our relationship with the natural world, and about our relationship with future generations. For the first time, the National Environmental Policy Act made explicit the widely-held public sentiment that we should live in harmony with nature and make decisions that account for future generations as well as for today. It declared that the Federal Government should work in concert with State and local governments and the citizens of this great Nation "to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."

Over the past 25 years, America has made great progress in protecting the environment. The air is cleaner in many places than it was, and we no longer have rivers that catch on fire. And yet, this year in Milwaukee, more than 100 people died from drinking contaminated water, and many of our surface waters are still not fit for fishing and swimming. One in four Americans still lives near a toxic dump and almost as many breathe air that is unhealthy.

In order to continue the progress that we have made and adequately provide for future generations, my Administration is ushering in a new era of common sense reforms. We are bringing together Americans from all walks of life to find new solutions to protect our health, improve our Nation's stewardship of natural resources, and provide lasting economic opportunities for ourselves and for our children. We are reinventing environmental programs to make them work better and cost less.

My Administration is ushering in a new era of environmental reforms in many ways. Following is a description of a few of these reforms, grouped into three clusters: first, stronger and smarter health protection programs such as my proposed Superfund reforms and EPA's new common sense approach to regulation; second, new approaches to resource management, such as our Northwest forest plan, that provide better stewardship of our natural resources and sustained economic opportunity; and third, the promotion of innovative environmental technologies, for healthier air and water as well as stronger economic growth now and in the future.

Stronger and Smarter Health Protection Programs. Throughout my Administration, we have been refining Government, striving to make it work better and cost less. One of the best places to apply this principle in the environmental arena is the Superfund program. For far too long, far too many Superfund dollars have been spent on lawyers and not nearly enough have been spent on clean-up. I've directed my Administration to reform this program by cutting legal costs, increasing community involvement, and cleaning up toxic dumps more quickly. The reformed Superfund program will be faster, fairer, and more efficient—and it will put more land back into productive community use.

Similarly, EPA is embarking on a new strategy to make environmental and health regulation work better and cost less. This new common sense approach has the potential to revolutionize the way we write environmental regulations. First, EPA will not seek to adopt environmental standards in a vacuum. Instead, all the affected stakeholders—representatives of industry, labor, State governments, and the environmental community—will be involved from the beginning. Second, we will replace one-size-fits-all regulations with a focus on results achieved with flexible means. And at last, we're taking a consistent, comprehensive approach. With the old piecemeal approach, the water rules were written in isolation of the air rules and the waste rules, and too often led to results that merely shuffled and shifted pollutants—results that had too little health protection at too great a cost. With its new commonsense approach, EPA will address the full range of environmental and health impacts of a given industry—steel or electronics for example—to get cleaner, faster, and cheaper results.

Better Stewardship of our Natural Resources. Just as representative of our new approach to the environment—and just as grounded in common sense—is the Administration's commitment to ecosystems management of the Nation's natural resources. For decades ecologists have known that what we do with one resource affects the others. For instance, the way we manage a forest has very real consequences for the quality of the rivers that run through the forest, very real consequences for the fishermen who depend on that water for their livelihood, and very real consequences for the health of the community downstream. But until recently, government operations failed to account adequately for such interaction. In many cases, several Federal agencies operated independently in the same area under different rules. In many cases, no one paused to ponder the negative consequences of their actions until it was too late.

Often, these consequences were catastrophic, leading to ecological and economic train wrecks such as the collapse of fisheries along the coasts, or the conflict over timber cutting in the Pacific Northwest. When I convened the Forest Conference earlier this year I saw the devastating effects of the Federal Government's lack of foresight and failure to provide leadership. Here, perhaps more than anywhere else, is a case study in how a failure to anticipate the consequences of our actions on the natural environment can be devastating to our livelihood in the years ahead. Our forest plan is a balanced and comprehensive program to put people back to work and protect ancient forests for future generations. It will not solve all of the region's problems but it is a strong first step at restoring both the long-term health of the region's ecosystem and the region's economy.

Innovative Environmental Technologies. Environmental and health reforms such as EPA's common sense strategy and natural resource reforms such as the forest plan provide an opportunity, and an obligation, to make good decisions for today that continue to pay off for generations to come. In much the same way, sound investments in environmental technology can ensure that we leave to future generations a productive, livable world. Every innovation in environmental technology opens up a new expanse of economic and environmental possibilities, making it possible to accomplish goals that have eluded us in the past. From the very beginning, I have promoted innovative environmental technologies as a top priority. We've launched a series of environmental technology initiatives, issued a number of Executive orders to help spur the application of these technologies, and taken concrete steps to promote their export. Experts say the world market for environmental technology is nearly $300 billion today and that it may double by the year 2000. Every dollar we invest in environmental technology will pay off in a healthier environment worldwide, in greater market share for U.S. companies, and in more jobs for American workers.

Innovations in environmental technology can be the bridge that carries us from the threat of greater health crises and ecological destruction toward the promise of greater economic prosperity and social well-being. Innovation by innovation, we can build a world transformed by human ingenuity and creativity—a world in which economic activity and the natural environment support and sustain one another.

This is the vision that Jackson, Muskie, and Dingell articulated more than two decades ago when they wrote in the National Environmental Policy Act that we should strive to live in productive harmony with nature and seek to fulfill the social and economic needs of future generations. We share a common responsibility to see beyond the urgent pressures of today and think of the future. We share a common responsibility to speak for our children, so that they inherit a world filled with the same opportunity that we had. This is the vision for which we work today and the guiding principle behind my Administration's environmental policies.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 6, 1995.*

HIGHER EDUCATION ASSISTANCE NEEDED IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I take the well tonight to talk about student loans and what is happening with our young people. We have had several events in my district on student loans. When you look at the numbers in the State of Colorado, over 90,000 young people are receiving student loans. They are very concerned about having to start paying interest from the minute they get that loan while they are in school, because it will really increase the price.

We have also had a lot of the direct lending going on in Colorado, and that makes a tremendous amount of sense, because it cuts out the middleman and gives you more money for loans, and it also means that the school is much more involved with the young person and the young person is not as apt to take the money and go spend it for something other than school. If the school is doing the lending, the school is going to be much more certain that the student comes and the student goes to class. If they are not and they bought a pickup with it or something instead, they will know.

I think the most moving thing that happened at our very first student loan meeting in Colorado was that Dikembe Mutombo came. Maybe many of you do not know him, but he is a very prominent basketball player for the Denver Nuggets. He got off the plane, went to the meeting, and went immediately back to the airport to meet his next game.

He said he knew personally how very, very, very much government aid can help in getting an education; that he would not have gotten even his education if it had not been for the U.S. Government helping him and Georgetown helping him, and he could not possibly believe we would be doing anything to make this more difficult in this country.

You see, today we had a vote on the tax cuts, and people said well, that is the crown jewel of the contract. Let me tell you, I think the crown jewels of this country are our kids, and we have seen a tremendous war on kids I think these last 100 days. Whether you are talking about knocking out Big Bird and Bert and Ernie, about the only decent things left to watch on TV, whether you are talking about cutting back on the nutrition programs, whether you are talking about the great cuts in the math and science programs for public schools, whether you are talking about doing away with summer jobs, we totally zeroed that out, whether you are talking about what we did to the National Service Program, which was the program that allowed young people to work in their community and for that get credit for going on to school or get credit that would be relieving them from some of their student loans. That got really devastated. We had 511 kids that will be knocked out in my district on that alone.

So we are starting to get all these phone calls from young people saying well, what happened? My city tells me there will not be any summer jobs. And we say that is right. Zero means none.

I do not know what happens in the cities this summer. I certainly hope people find other ways to do it. But you know, you cannot keep telling kids to say "no" to things if there is nothing for them to say "yes" to. And if they do not think they can go on to school, and they are certainly going to think that as you see Pell grants reduced, the work study programs reduced, national service dissipated, and obviously we are taking in fewer and fewer young people in the military, so the Montgomery GI Bill is going to be less and less of an option for many, they are seeing doors slammed in their face every single day. And these young people are the stockholders in the 21st century. They are going to be the ones that provide either that this country has great leadership and continues to remain prominent on the world stage, or, if we do not have them educated, if we do not have them prepared to compete, they are the ones that are going to allow this country to sink.

So I think the one thing that we ought to be doing in this Congress is hold young people harmless from this debt and all these cuts we are making in order to provide tax cuts. I think we ought to do that because these young people did not cause this debt. They are going to inherit it, and they are going to need all the skills they can have to be able to figure out how to deal with it. And I just find it absolutely amazing they are the first ones we are offering up as a sacrifice to the debt.

Every American home I know, when that family is in trouble economically, they sit at that kitchen table and they work that budget every way they know how to hold those children harmless as long as they possibly can from any economic downturn in the family. We all know the stories. We have all heard about our own families and the sacrifices they made to get us where we are.

I think it is outrageous that we go after the young people first. That is what we did in these first 100 days, and I hope it stops.

GUAM COMMONWEALTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, as a former academic administrator, I would like to add my words of strong support to the statement just made by the gentlewoman from Colorado. One of the most stirring things about America is the ability to get ahead, and you get ahead through higher education. The proposals from the other side of the aisle are unconscionable and put a heavy burden on our young people. I might add I received an e-mail from one of the students at college at the University of Guam that told me the proposal being advanced is like paying for a mortgage and not even seeing the house yet. It is paying for a mortgage in advance.

Mr. Speaker, I rise today on an entirely different topic.

Mr. Speaker, I rise today to draw attention to Guam's guest to improve its relationship with the Federal Government through the establishment of the Commonwealth of Guam. On February 24 I introduced the Guam Commonwealth Act, H.R. 1056, which would create a commonwealth that would carry Guam into the next century and give Guam the tools to prosper economically in the global marketplace. Guam is confident of its future and Guam has achieved in recent years, through remarkable growth in its private sector, the self-sufficiency to make the new Commonwealth a viable political entity.

The people of Guam voted in plebiscites to improve their relationship with the United States by establishing a commonwealth based on mutual consent and that protects the right to self-determination for the indigenous people of Guam. It will ultimately be Congress' responsibility to respond to Guam's political aspirations. However, before Congress holds hearings on the draft Commonwealth Act, the administration should conclude its discussions with the Guam Commission on Self-Determination that have been ongoing for over a year. The result of these discussions would be useful to Congress in its deliberations on the many issues that the Commonwealth Act addresses.

And there is good reason to believe that these discussions will be helpful to the Commonwealth process. Last year, under the guidance of then-Governor, Joseph Ada, who chaired the Commission, the Guam Commission on Self—Determination had a significant breakthrough on mutual consent to the Commonwealth agreement—meaning, that any agreement between Guam and the United States cannot be changed without the mutual consent of both parties. With the recent elections on Guam, there is renewed optimism in the future. Gov. Carl Gutierrez and the newly reconstituted Commission, Consisting of Judge Alberto Lamorena, Former Lt. Gov. Rudy Sablan, Mayor Frank Lizama, Senator Hope Cristobal, Senator Mark Forbes, Senator Francis Santos, Attorney David Lujan, and Youth Congress Speaker Roy Respicio, bring to the table a team committed to Guam and to our island's future.

These Commonwealth discussions have been recently put on hold because of the announced resignation of the President's Special Representative, Mr. I. Michael Heyman in February of this year. I had hoped that the administration would have moved expeditiously to find a replacement for Mr. Heyman.

Recently, I have been given assurances that this appointment would be given priority in the White House with the strong support of Secretary Babbitt, and that the nominee may be going through the necessary background checks. While I certainly appreciate the efforts of the administration, I must also point out our frustration with the valuable time that has been lost in the past 65 days.

Therefore, I call on the administration to redouble its efforts to finalize the appointment of a special representative. We have made important progress in these talks. But we must be careful not to squander the opportunity that lies before us in resolving Guam's political status, and we must not lose the momentum that we once had.

The Guam Commission on Self-Determination and I are eager to see this process reach its conclusion. The people of Guam are ready to take their rightful place in the American community. We can only hope that the administration and the Congress share our commitment to improve the lives of the American citizens who live on our island.

☐ 1845

INTRODUCTION OF AGRICULTURE DISASTER ASSISTANCE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FARR] is recognized for 5 minutes.

Mr. FARR. Mr. Speaker, today, I am introducing a bill to provide disaster assistance to farmers who have no other access to disaster assistance. I am joined in this effort by my colleagues, Mr. DOOLITTLE, Ms. PELOSI, Mr. POMBO, Ms. ESHOO, Mr. HERGER, Mr. FAZIO, Mrs. SEASTRAND, Mr. RADANOVICH, Mr. CALVERT, Mr. BROWN of California, Mr. ROSE, and Mr. DOOLEY.

As you know, Mr. Speaker, the central coast and northern California have been racked with flooding. My own district around the Monterey Bay area has been the worst hit with more than $240 million in agriculture damage alone.

But whereas small businesses and individuals have recourse to private flood insurance, to FEMA emergency assistance, and to low-interest loans from the SBA, most of the agriculture in my district has access to none of this help.

Farmers who grow specialty crops—items like strawberries, artichokes, lettuce, and broccoli or flowers—are not eligible for Federal crop insurance. They are not eligible for FEMA assistance. They are not eligible for SBA loans.

This situation is inherently unfair. A businessman whose business is washed out can apply for emergency grants and loans. A farmer with the same investment cannot, simply because his business is agriculture.

Congress attempted to correct this hole in the safety net when in enacted the Non-Insured Assistance Program, or NAP. The purpose of NAP was to provide some assistance where none other was available. Unfortunately, even under this failsafe program, nearly 85 percent of affected farmers in my district are still not eligible for assistance.

The problem arises in three areas: the definition of family farm; the threshold on income that determines eligibility; and, the amount of planted area that must be affected.

In all these three cases, the criteria established looks reasonable on its face. But in real life, they deny access to aid to farmers who have suffered terrible crop losses.

For example, the farms in my district—like most other districts—are run like businesses. The product is produce. Farms that are held by and operated by a single family are considered family farms in the traditional sense. But the NAP definition is unclear on this point and implementation of programs that use this definition have erred on the side of not including these family farmers simply because not every member of the family works on the farm, even though the chief operating officer is a family member.

Another problem is that the NAP program disallows any farmer who has a gross income of $2 million. Many, many farmers have much more than this tied up in their farms. But after all is said and done, their net income is far, far lower than $2 million. But because the program looks at gross income and not net, these farmers are left uncovered.

Finally, there is confusion over how much land and crop must be affected before a farmer becomes eligible for assistance under NAP. As I understand it, 35 percent of the area must be affected by the disaster. But area is not clearly defined. Is it county? Is it acres? Is it statewide? Also, NAP requires that a producer lose 50 percent of his crop before he can be eligible for aid. But what if a farmer loses 100 percent of his first crop but not of the two or three others he would have planted later? Has he lost 100 percent of his crop or only 33? If the decision is that he has lost only 33 percent of his crop, he cannot receive aid under NAP, but again, without assistance, he will have no funds with which to rebuild his farm or plant the other crops.

Mr. Speaker, this is unfair. During times of emergency and disaster, this country has always risen to the occasion and provided relief to hurricane, flood, earthquake, drought, and fire victims, with one exception: farmers of specialty crops.

Well, the livelihood of a strawberry farmer who gets flooded out is just as disrupted as the livelihood of a restaurant owner who gets flooded out. There shouldn't be a distinction between the two just because one happens to make his living off the land.

So today I and my colleagues are introducing legislation to correct this oversight. Very simply, this bill states that the Secretary of Agriculture shall be authorized to provide assistance from funds appropriated for disaster relief to farmers whose crops are otherwise not eligible for crop insurance coverage under existing department programs; and whose farm does not otherwise qualify for loans, grants, or disaster assistance from other Federal sources.

What does this mean? This means, under those emergency situations where no other Federal programs are available for aid, the Secretary of Agriculture may—and I emphasize may; he isn't required to do so—open up existing agriculture relief programs to farmers who have no other recourse to assistance. This bill does not authorize additional funds but allows the Secretary to use already authorized funds in existing programs.

Mr. Speaker, specialty crop farmers deserve no more than other farmers who suffer natural disasters. But they deserve no less, either. I thank my colleagues for joining me in introducing this bill and urge other Members of the House to support us in helping America's farmers.

UPDATE ON THE CONTRACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, you can see now after 12 weeks that this bipartisan House, under Republican leadership, has passed 9 out of 10 items in the Contract With America.

First the balanced budget amendment which only awaits one vote in the Senate.

Stop violent criminals. Here we have a law which changed the habeas corpus reform by making sure that there is finality to death sentences where we are dealing with violent criminals for which there is a first degree sentence.

Welfare reform. Here we are trying to make sure that able-bodied people will have every right and every incentive to be off welfare within 2 years by giving them job counseling, job training, job placement, and day care, if necessary, and also make sure that we do get healthy meals for our kids with WIC and with the school nutrition programs.

Under the Republican proposal which has been passed with a 4.5-percent increase over this year, that is higher than 3.1 percent recommended by the President and the 3.6 percent recommended by the Democrat minority. The fact is that with the 15-percent middleman eliminated by the Federal bureaucrats and the States taking over the program, we are going to have a 5-percent cap on administrative expense, and we will feed more children more meals.

We are going to have in the tax cuts for families a very important program. Here we have the tax bill historically passed last night. I might say that almost every single bill passed in the Contract With America; there has been bipartisan support, well over the 218 votes necessary, votes approximating 300 on almost all occasions.

In the tax credit bill, we are going to have $500 tax credit for each child in the family. New IRA deductions for health insurance, for first-time home purchases, and for retirement income. We repealed last night the 1993 tax increase on Social Security benefits over 5 years. We provide tax incentives for the purchase of long-term-care health insurance. We provide a 50-percent capital gains exclusion from taxes which will help investments, savings, and create new jobs. We will help small businesses be able to deduct more of the expenses of their business and, therefore, encourage more employment. We will provide a refundable tax credit for families of $5,000 for those families who adopt children, a $500 tax credit for families caring for a dependent elderly parent or grandparent. We will raise the earnings limit for senior citizens up to $30,000, up from the $11,280 we have today.

By working together we have passed almost every single item here in the Contract With America. The only item we have left to pass finally will be congressional term limits. While I supported all four bills, we needed 290 votes to pass it in the House. We had as much as 227.

Speaker GINGRICH has guaranteed that in the beginning session for the next session, 1997, he would make that bill No. 1, if we do not have another opportunity to vote on it again.

We have rolled back Government regulations. We have had commonsense legal reform. We want to make sure people have the legal right to redress their grievances in court, but we also want to make sure that frivolous, fraudulent, and inflated suits would not be encouraged in the courts of the United States.

We are also going to make sure that we have a strong national defense by making sure that our military are properly armed and properly trained, but our U.S. troops will not be under UN command, because we will be making sure that we take care of the United States first.

Now, what is going to happen in the post-100 days? We are going to work on health care reform. We are going to work on FDA reform. We are going to make sure the Food and Drug Administration moves the process along more quickly so that drugs that are life extending and those that are life saving are approved more quickly so we can help our constituents, create jobs and also help people live longer.

Going to work with Mrs. MORELLA, Mrs. LOWEY, and Ms. PELOSI on the women's health care initiatives, very important programs here in the Congress.

We are also going to work on a bill that I have, within 7 years, sunset Federal agencies to make sure that those agencies that have outlived their usefulness or are spending too much money or duplicate what we are doing in the States, that they are eliminated.

We also need to expand the investment tax credit and research and development tax credits to help our small businesses be able to make sure that they keep their employment going to keep their services going and to make sure the engine of America moves forward with new jobs, with expansion, and to make sure we have every family enjoy the American dream.

So the Contract With America is only the beginning. We see a bipartisan effort moving forward in this 104th Congress. We do not see Republicans or

Democrats fighting. We do not see conservatives and liberals fighting. We see the end of gridlock. We see the end of finger pointing. We see an America moving forward together to help its people.

We will restore the confidence in the Congress because not only will we get more reforms which helps individuals and families and seniors, but we are going to make sure we have the kind of reforms in this Congress that will have gift ban reform, that we are going to make sure we have campaign reform. And we also are going to make sure we have pension reform. That was part of this last legislation to make sure that Congressmen in fact have the same pensions as other Federal workers.

So, Mr. Speaker, I thank you for the opportunity to give this recap and look forward to working with the American people and the Congress and Senate to make sure we have valuable legislation adopted in the next 100 days.

STUDENT LOANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, Republicans have taken aim at middle-class families with proposals to cut student loans. They want to cut student loan programs to pay for tax cuts for the wealthy.

Student loans in this country today have made it possible for 4.5 million middle-class students to go to college. These Republican cuts will mean fewer students going to college and for those students that do go to college that are now receiving student loans, it will mean higher costs to them.

In my State of Ohio, the average debt per student on student loans will increase nearly $3,100.

Mr. Speaker, I wear a tie today from Lorraine County Community College in northeast Ohio. In the county which I live, in Lorraine County, 67 percent of all Lorraine County Community College students are on some type of financial aid, nearly 5,000 students per quarter.

At a school like Lorraine County Community College, which is an absolute jewel for Lorraine County in terms of job training and people going back to school and getting more education and people going straight from high school onto LC to go to college, Lorraine County Community College has literally thousands of part-time students, hundreds and hundreds of single parents who are students, hundreds of people from a very diverse cross section of the community.

What these cuts to middle-class students mean, what these budget cuts mean on student loans is that many of these students that are now at Lorraine County Community College will be saddled with heavier and heavier debts as they are struggling to work part-time and go to school part-time and raise their children and some of them simply will give up.

□ 1900

These cuts to middle-class students are part of the Republican Contract on America.

Let me briefly discuss the winners and the losers in the Republican Contract on America. The winners are people like Rupert Murdoch. Rupert Murdoch got a $63 million tax break, Australian-born, American-naturalized-citizen Rupert Murdoch. Another winner is American billionaires who are the recipients of $3.6 billion, thanks to the Republican Contract on America, American billionaires who renounced their American citizenship and got this tax break. Other winners are people making $200,000 a year.

The Republicans have called middle class not what people in my district would term middle class. Those are other winners who get a major tax break under the Contract With America.

Another major winner is America''s largest corporations, which in the mid-1980's had enjoyed so many tax loopholes that many of them paid no Federal taxes. Ronald Reagan and the then Democratic Congress put on them an alternative minimum tax so those corporations at least paid some tax. That tax loophole has been recreated under the Republican Contract for America.

Mr. KINGSTON. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Georgia.

Mr. KINGSTON. I was just hoping that in your list of winners you would include 87.5 percent of the American people who will benefit from this $500 per child tax credit. It is a pretty significant group in the population of the country that will benefit from the Contract With America, and I would hope my friend from Ohio would mention this large group of our citizens.

Mr. BROWN of Ohio. Let me answer that.

The fact is that, in spite of all the Republican charts, they have called people making $200,000 a year middle class. The tax cuts are mostly for them when you add in that one particular tax item plus the money for Rupert Murdoch plus the $3.6 billion that people renounced their citizenship plus the alternative minimum tax repeal.

Now, I want to make sure I have this right with the Rupert Murdoch situation. You have got an Australian billionaire who has come to the United States, gotten American citizenship so that he could buy a television network and so that he could buy a major book publishing house and cut book deals with American politicians. Then you have American billionaires who have renounced their citizenship so they can get $3.6 billion in tax breaks.

Perhaps if Rupert Murdoch is really, really smart, after he has become an American citizen and got this $65 million, he will be able to renounce his citizenship and get part of the $3.6 billion.

The fact is, this is ludicrous. Perhaps Mr. Murdoch and perhaps some of those American billionaires that have partaken of the $3.6 billion by renouncing their citizenship will come to Lorain, to my hometown with me, and explain to students at Lorain Community College why in fact their student loans are being cut, will explain to students at Tennyson Elementary in Sheffield Lake, OH, why school lunches are being cut, will explain in Elyria, OH, to young people who have had summer jobs in the past why there are no more summer jobs programs because of these Republican cuts.

It simply does not make sense. It is not fair. It is not right.

I ask, Mr. Speaker, that the House reconsider some of these measures that the Republican Contract With American is all about.

THE CONTRACT WITH AMERICA WILL BENEFIT THE MIDDLE CLASS

The SPEAKER pro tempore (Mr. RADANOVICH). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I wanted to comment, just a few comments on my friend who spoke previously in front of me.

I think that it is important that as we debate and talk about the situation in America today that we try and leave class envy and prejudice out of it. I know it just sounds so appealing to say everybody's billionaires and millionaires. I guess because you are successful you become guilty of overachievement; therefore, you should be overtaxed equally.

Maybe that is the Democrat mantra; but, as I was pointing out earlier, the distribution of the $500 per child tax credit—and you know what, Mr. Speaker, I am going to go ahead and move down to the easel because I was not intending to show this, but let us go ahead and make sure. All right.

You know, I know the Democrats do not like our charts, and there is reason they do not like our charts. They do not like the truth. When you are pushing propaganda, you do not like to have people stand up and say, well, here is a source that is a neutral source that comes from the Tax Foundation. It is not the Republican party. It is not NEWT GINGRICH's office. But that 87.5 percent of the people who benefit from this middle-class tax cut are people under $75,000 in income. That is pretty much middle class. You know, it is a very mainstream tax credit.

Now, here is on the capital gains tax. Most of the people who will be benefiting, this larger column, make under $50,000 a year. I hope that when we reconvene in May that we can get away from this class envy and this if you do well we are going to attack you because you have done something wrong along the way. I like to believe that people who are successful have done so usually by helping others, by selling a quality good or delivering a service that is needed in America today.

Now, let us talk about the Contract With America, which I know the press and a lot of folks on the other side of the aisle do not like. But the Contract With America, if you go back to when it was introduced in October, everyone said, well, this is cute, but it will never get passed, nobody is really interested in it, and the Republicans are the minority party and will not make a difference.

Well, that was in October. November, what happened? It was passed. And then for the first time in history the media started calling it Contract With America instead of Contract for America. That was a big step within the national liberal media.

Then, by December, what had happened? Instead of people saying, hey, the November elections are over with, ho hum, let's go home, they said this is really different, we are going to have some changes, we are going to have some fundamental changes in Washington, DC. These folks have a campaign promise that they are telling people put on your refrigerator door, call us, follow up, make sure that we follow through on our promise to you that we made on the campaign trail.

And now all the new freshmen, all the sophomore class, all the senior Republicans delivered. But, more importantly, Mr. Speaker, 70 percent of the items on the Contract With America passed with bipartisan support.

Democrats joined in. Why? Not because they are in love with NEWT GINGRICH but because their constituents wanted these items. This is what 60 to 70 to 80 percent of Americans want: smaller government, fewer regulations, more personal freedom, get the government off my back, lower my taxes. And that is what the Contract With America is all about.

When we reconvene, Mr. Speaker, we are going to tackle the budget. Now, the third largest item on the budget, the third largest expenditure, is interest on the national debt, interest paid to bondholders of our debt. In 2 years that interest alone will be more than our military or defense spending, which means you are paying more interest in the year 1997 on the national debt than you will for the Army, the Navy, the Marine Corps, the National Guard, the Air Force, and all of them combined.

We have got to do something about it, and it is a bipartisan problem. We got here by bipartisan action, and we have got to get out of it that way. When we pay so much interest on the national debt, your taxes go up, you have less money to put into education or health care, the interest rates go up.

Alan Greenspan, Chairman of the Federal Reserve, says it makes as much as a 2 percent increase in the interest rate on your home mortgage, on your automobile mortgage, and it is inflationary.

We have got to address this problem. It is not going to be easy, but it has got to be done across the board, it has got to be done in a fair manner, and I hope, Mr. Speaker, we can do it in a bipartisan manner.

Just to give you an idea, farm programs in the year 1986 had a spending level of $26 billion. Today, they are $10.6 billion. And yet agriculture is better than ever. We have a lot of food today, Mr. Speaker. If we can do that with agriculture, we can do it with the rest of our Nation's budget. I look forward to being a part of that process.

THE PIECES OF THE CONTRACT DO NOT FIT TOGETHER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. SPRATT] is recognized for 5 minutes.

Mr. SPRATT. Mr. Speaker, tomorrow the Republicans in the House will celebrate the completion or at least the passage through the House of their Contract With America.

I do not like to rain on anybody's parade, but I have to predict, as the parts of this contract which were passed separately are pieced together, I am afraid we are going to find that all the pieces do not fit. Particularly I think there is going to be a misfit when it comes to fitting together revenues and expenditures, the budget, and fulfilling the prediction of a balanced budget by the year 2002.

I say that because yesterday in the final act of this contract we adopted a bill called H.R. 1215, which will reduce the tax revenues that flow into the Government by $189 billion over the next 5 years and by $630 billion over the next 10 years.

I think it is fair to ask here in the Congress, out in the country, how do we do that? How do we cut taxes by $630 billion and increase defense spending as the contract seems to promise or at least hold defense spending constant and at the same time bring the budget into balance by the year 2002?

Well, one way the bill proposed yesterday and passed yesterday offers is to lower what we call the cap on discretionary spending, nonentitlement spending by $100 billion cumulatively over the next 5 years. Before the vote yesterday, the chairman of the Committee on the Budget, Mr. KASICH, sent to us an illustrative list of domestic spending cuts that totaled $100 billion showing how we could get $100 billion out of discretionary spending over the next 5 fiscal years. None of these cuts has been voted on yet, and it would be miraculous to me if half of them were ever approved.

But let's take the list that Mr. KASICH proposed at face value and note this about it. It very conveniently ignored or failed to note anything at all. It was silent on the issue of defense spending, and yet defense spending constitutes fully half of discretionary spending. Discretionary spending is right now about $545 billion. Defense spending is about $270 billion.

Mr. KASICH has said elsewhere that he would like to see defense spending frozen at its current level of about $270 billion a year. What I would like to do tonight is just explore the consequences of that. Let's put the other sphere on the first sphere, defense spending and discretionary spending, domestic discretionary spending together and see what happens.

If we combine the lower caps, that $100 billion lower cap, which are provided for by H.R. 1215 with a constant outlay stream of $270 billion for defense every year, an outlay freeze, we see from this first chart which I have here that we will need to make $41.4 billion in budgetary cuts, in nondefense discretionary programs in fiscal year 1996. And that begins, in effect, next month because that is when we begin the budget for fiscal 1996.

As you can see on this chart, these cuts in nondefense programs would have to rise to $66 billion in fiscal year 1998, and that constitutes a 23.5-percent cut below the current budget level of expenditure, 23.5 percent of student loans, 23.5 percent of Head Start, 23.5 percent of ag programs, job training, the Drug Enforcement Agency, the FBI and the Federal court system. Over the course of this year we would have to take off 23.5 percent and over the course of 5 fiscal years the cuts in nondefense spending required by holding defense spending constant at this year's level would add up to $187 billion, which is $87 billion more than the chairman of the Committee on the Budget spelled out in the illustrative list that he sent out to us yesterday.

There is a second chart I have here that depicts the same story, only in a different way. You can see from this chart, the blue line at the top is the proposed level of discretionary spending for domestic programs, nondefense programs, and President Clinton's budget. It runs from $260 to $280 billion, and it is roughly flat between $275 and $280 for 5 fiscal years.

But if we make these changes I am talking about it drops immediately from $260 to $220 and from $280 down to about $220, a $60 billion cut, very severe reductions.

The term defense freeze sounds sort of noncontroversial, benign, uneventful, but the purpose of these charts is to show you that it will trigger deep nondefense spending cuts because of the linkage between something we call budget authority and outlays. Budget authority are what we budget, what we pass around here every year. Outlays are what the government actually spends. And there is a difference between the two because we have to put up lots of budget authority, particularly for defense programs, and yet it takes the Department of Defense years in building a carrier to spend out all of that budget authority.

□ 1915

There is a difference between the two. Because discretionary outlay is a cap, an increase in defense budget authority requires a 1-to-1 decrease in the budget authority of nondispensed accounts. Anything you put in defense, you have to take out of nondefense.

An outlay freeze seems to say, well, we just hold things like they are. But a defense outlay freeze means anything but the status quo for a nondefense program.

The cuts I have just gone over assume a hard freeze, that is, a flat freeze on defense spending. It would not be adjusted up or down except for inflation.

DORNAN TO ANNOUNCE PRESIDENTIAL BID

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the majority leader.

Mr. DORNAN. Mr. Speaker, and I am particularly pleased that you are in the chair tonight, sir, because, given the change of events today, which enabled us to finish tomorrow's work this evening, thereby having no votes tomorrow, just our well-deserved Republican majority celebration for completing the 100 days of the Contract With America in only 93 days as of today, I decided that although I got this time, from the Speaker, to honor our Americans that died over the longest period of any sea battle in history, Guadalcanal was 7 months of land and sea battles, but the battle of Okinawa, which began on April 1, 1945, 50 years ago, and reached a crescendo today after a slow beginning that persisted for over 87 days, with one of our Members who has served on both sides of the aisle, BOB STUMP, a conservative Democrat, came here with me in our bicentennial year election, sworn in January 4, 1977, and after 6 years of seeing his party drift to the left, actually not 6 years, less than that, about half of that, he became a Republican, and now is the No. 2 Republican in seniority on the National Security Committee, formerly the Armed Services Committee.

BOB STUMP was a young 18-year-old sailor—he had joined at 16—in that battle of Okinawa, and he saw many sailors burned to death before his eyes in the fuel spread across the seas, watched some of the 34 ships that we lost sunk, and I will come back in May and do a full hour on the battle of Okinawa.

Tomorrow the largest battleship ever created, the Japanese *Yamamoto* was sunk with no survivors, almost 3,000 men. The Japanese this very day, BOB STUMP was just telling me in the cloakroom—he has already flown back to Arizona—the Japanese lost 477 planes on April 6, 50 years ago, a world record for any aerial conflict.

This is quite a battle. I would loved to have spent the whole hour on it.

But, Mr. Speaker, my good colleague from California, George, when I come back on May 1, I will be a declared Presidential candidate, one of nine.

I believe our Governor will declare during this month, Pete Wilson. I believe that BOB DOLE will start a trek back to Russell, KS, the most severely wounded Member in any war that serves in either the House or Senate. BOB DOLE declares Monday and starts back to be in Russell, KS, on Good Friday, the 50th anniversary of his crucifixion where his young body of 21 years of age was ripped for the rest of whatever life God gives him. I will start on Holy Thursday, declaring at the National Law Enforcement Memorial which is exactly like the Vietnam Wall, a memorial to those who gave their lives to protect our lives.

In the case of the police, or Law Enforcement Memorial, it will have names added every year till the end of our lives, Mr. Speaker. We added more than a dozen names just this year, I believe 14 or 15, and two of them were female officers who died in the line of duty. The Vietnam Wall has just about ended with changing names from missing in action or POW, the last one, Col. Charles Shelton who was lost on his 33d birthday, southeast Asia, a known POW for 5 years, he, just a few months ago, was declared presumptive finding of death.

There are no POW's left on the wall. Missing in action monthly are turned into killed in action. But the Police Memorial will be updated each year with the names of young men and women and some not so young. I found a Dornan on there who was killed in the line of duty as the chief of police in a small West Virginia town.

This living memorial is truly something to visit. It is very moving. And because crime is one of our No. 1 issues, I will start with my declaration on Thomas Jefferson's birthday, the founder of the oldest party in America, now the minority party in the House and the Senate, and when I think of Jefferson, I think of two things. I think of "least government is the best government" and I think of what is inscribed inside of that beautiful Jefferson Memorial across the reflecting pond with all of the beautiful Japanese cherry blossoms that were given to this Nation in 1912, such a living gift, when they were our friends and our allies through World War I.

But inside that Jefferson Memorial, up in the frieze area it says, "I have sworn upon the altar of God eternal vigilance against every tyranny over the mind of man."

This founder of the Democrat Party, it is a nice day to declare on the 13th, but I will be heading toward my principal day of declaration, which is Easter Sunday.

We take the train, my wife, and I, two sons-in-law, a daughter-in-law, all of our five grown children, two sons, three daughters, and nine grandchildren—it is going to be quite a gaggle—on the Amtrak train to Boston, be picked up by young Republicans on the morning of the 15th, and then we will go up to Exeter, NH, in front of the once hotel, now business building where the Republican Party was born.

Three cities claim this honor, Jackson, MI, Ripon, WI, but I think Exeter has the edge, at least on dates, Columbus Day, October 12, 1853.

Our party was born over a moral issue, slavery, taking people's lives, the fruits of their labors, enslaving them, taking away their freedom.

The abortion issue in this country is equally the moral issue of our day, because you don't just steal a person's months and years and the sweat of their brow. You take their life away. You snuff out their life. You crush their little skull in the womb. You flatline their brain waves. You snuff out that heartbeat. Every abortion stops a tiny little beating heart because that heart starts between day 18 and 20 and most women don't even know they are pregnant except a little feeling inside that your body is changing, that you have human life inside of you, a whole different genetic package, a different gender possibly, different hair color, eye color, different height, different bone structure, a total genetic package with a little heartbeat and by day 40 a brain wave.

This is an important issue. That is why I chose Exeter. Not only is it the birthplace of the Republican Party, but a birth born of a moral issue, slavery.

Then we are going across the State, it should not take more than an hour. We may stop in Manchester and say hello to some of the folks at one of the Nation's greatest newspapers, the Manchester Union Leader. Then we are going over to Nashua, to Nashua High School, in the gymnasium, to resurrect a memory that is certainly good for me and I hope will incline people to understand that I not only was conservative before it was cool, I was conservative by decades ahead of some of my worthy colleagues that are declared.

I will declare again at the Nashua High School gymnasium where Ronald Reagan, fair and square, beat George Bush in 1980, when he grabbed that microphone from Mr. Breen, who is now a newspaper editor over by the seacoast in Portsmouth, and mistakenly called him Mr. Green and said, "I've paid for this microphone."

There was only one Congressman there for Ronald Reagan, it was yours truly, Mr. Speaker, BOB DORNAN. I had a great Senator sitting there next to me, Paul Laxalt and on the other side, Bush, having served in this House from 1967 to 1971, had about 15 Congressman there, several Senators. He had the rooting section, but Ronald Reagan carried the day.

I want to resurrect that memory for the press in New Hampshire and whoever else has any interest in my candidacy.

Then we will car caravan with young Republicans at the helm down to New York City, Easter Sunday, where I was born, in Harlem, 110th Street, April 3, 1933, the 30th day of Franklin Delano Roosevelt's 12-year-plus Presidency. We have graciously received 20 seats from one of the greatest cardinals in church history, Cardinal John Joseph O'Connor of New York. We are going to his Sunday Mass, that is my wife's birthday which makes it extra nice, Easter Sunday, and our 40th wedding anniversary.

We will stand, at a quiet moment that early moment that early afternoon, at the altar where my parents were married June 27, 1929, a few months before Black Tuesday and the crash. They did not come home from their honeymoon. My dad, a young 37-year-old New York businessman, said sell it all off, the first loss is the best loss. I've got more important things to do. I'm on my honeymoon.

They went as far as the Holy Land. My mom was 29. Irish folk got married earlier in those days. I married by wife on her 21st birthday, 13 days past my 22nd birthday.

We will renew our wedding vows. Then we will stay overnight, go out and declare again for anybody that is interested on Ellis Island, because I still haven't sorted out in my head the fair way to approach illegal immigration as opposed to legal immigration because this, as our Speaker describes it, is an unique civilization. The American civilization is composed of people from every continent on the Earth, from Australia to all of Eurasia, to our second largest continent Africa, to South America, from American Eskimo Native Americans to every part of the world, all the islands in the Pacific.

In my old part of my district that is ED ROYCE'S district now, we swore in 800 people a few weeks ago, and the largest group was Vietnamese-Americans. Then Mexican, about to become Mexican-Americans. Then Koreans, about to become Korean-Americans. And the list went on through about 38 different countries.

We are a melting pot of the world. If we cannot make the dream work, nobody can.

Then we are going over to the Statue of Liberty, a nice way to begin a Presidential race. Then I will come back here in Virginia, answer a few more press questions, do the regular routine that has become de riguer now, the Larry King Show. Face the Nation is going to give me my own half-hour for the first time in my life. I did Meet the Press way back in 1982. Maybe I will get a second shot at that.

Then I am joining a great group of American Republicans.

Mr. Speaker, BOB DOLE, PHIL GRAMM, DICK LUGAR, ARLEN SPECTER, four sitting Senators, one Congressman, two former Reagan appointees, Pat Buchanan and Alan Keyes, terrific guys, both great radio talk show hosts, great writers, great columnists, wonderful speakers, and a former Governor, Lamar Alexander of Tennessee; and a current Governor.

That is the field of nine. I don't think it is going to expand much. All of this field—I don't even want to exclude myself—I'll be vain enough to say, including me, we stand head and shoulders in character and integrity and in political skills, I believe, above the current occupant of the White House. This is an honor to go out on the road with them.

I see my pal, my friend, my colleague from the other big sunshine State and retirement State, Florida, in the well. As I recognize him, let me get in one piece of history first, then I am going to tell everybody why I am running for President.

□ 1930

Do you know, Mr. STEARNS of Florida, how many members of the Democratic Party in the House of Representatives have gone from this, the world's greatest parliament, the world's greatest deliberative body, right to the White House? The answer is zero.

Do you know how many Republicans have done it? Our minority leader from 1880. A highly decorated Civil War two-star general. James A. Garfield, not known outside of Ohio, won it on the 36th ballot in Chicago, and was shot on day 120. Would have saved him in a week and he would have been back on the job in 2 or 3 weeks today. No anesthesia to probe for the bullet. No X-ray to look for it.

After 80 days of suffering, took him to the New Jersey coast to get out of this hot city. He died on day 200. That is it for this House.

Now we have got lots of people who served here and went on to the Senate, to governorships or to a long gap, like Lincoln served 2 years, lost the Senate race in 1858 to Douglas, and then got elected President. His last immediate job was here in 1847 to 1848. That is the only man to make it from this House directly to the White House.

People say, "DORNAN, when was that? 1880? Look at the odds you are against."

Let's talk Senators. In the 1700's and 1800's not a single U.S. Senator ever went from the other body to the White House. In this entire century, and it is almost over, 95 years, I am speaking 206 years of history, two, 1 Democrat, John F. Kennedy, and 1 Republican, Warren Harding, a Senator who had been a newspaper publisher who was dead when he was 5 years younger than I am, died at age 57 in his third year in the White House. That is it. One Senator from each party. No Democrats. One James A. Garfield, Civil War general, who had been in the House about 18 years and was the minority leader. That is it.

Does that mean that Lamar Alexander has a lock on this or Pete Wilson? Not necessarily. Records are made to be broken. I am about to embark on a quest, a crusade that I think is going to be one of the most enjoyable years of my life, and as with most endeavors in life, only God literally knows the outcome.

Mr. STEARNS. If the gentleman would yield for just about 15 or 30 seconds.

Mr. DORNAN. I will yield to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I came down just to say this is the 25th day of captivity for David Daliberti and William Barloon. I just want to mention this.

But before I say my piece here, I do want to let the gentlemen from California know how much I admire him. Frankly, I think you bring to the Presidential debate something that is needed and that is a social conservativism that you have displayed. As you know, you and I voted many, many times in very difficult votes.

I think you are going to bring to the Presidential debate items like prayer in school, which a lot of candidates will not talk about but that you have the courage to do. So I commend you for what you are doing; and I certainly, as you know, admire you.

But I wanted to point out to the Speaker that today marks the 25th day of captivity for 2 Americans held prisoner in Iraq. Their incarceration began on the 13th of March. They were tried and unfairly convicted on the 25th. The two men were sentenced to 8 years in prison simply because they made a wrong turn.

Mr. Speaker, we must continue to hold the two Americans in our minds and hearts. Twenty-five days is too long for any innocent American to be held in captivity, so I ask all Americans to recognize that this is the 25th day of their captivity.

Mr. DORNAN. Thank you for reminding us of that. Because if the audience on C-SPAN is 1.3 million going toward 1½ million, I mean dedicated people who have really come to know their government by watching C-SPAN, we can ask 1.3 million people right now to pray for these 2 fellow Americans to give them courage.

The worse part of their captivity is over: the slapping around, the torture, some beatings. Now comes the boredom and the drudgery.

DICK LUGAR, U.S. Senator, has gone out further than any of us calling for military action. People say, "Well, isn't that your style, Mr. DORNAN?" No, I am holding back my thunder because I think this is a crude bluff, and I think that diplomatically is probably the way to force this dictator's hand.

However, a friend of mine who is a great movie director, John Milleous, did "Flight of the Intruder," did a movie with Brian Keith, I think it was called "The Wind and the Lion," about an American held captive in North Africa by one of the Berber leaders in Algiers or Morocco. Teddy Roosevelt was the President then, and he came out with a simple sentence. I believe the man's name was Porteralis, "alive or rastuli," dead. That was the Arab chieftain or warlord. The American citizen was soon released, and it turned out he was a Greek citizen about to become an American, and he did become an American.

But we can speak softly and carry a big stick because you try to do these things quietly and deliberately at first, but if it came down to a standoff and months went by, this is a republic. Clinton is not a royal personage. Every American is worthy of full support and protection by his country as Mr. Clinton gets from the Secret Service.

And I will focus like a laser beam on getting these two men out with proper challenge if they are not out. It is their 25th day, so I hope everybody will pray for their safe release. I have seen their families on television shows, and they are suffering and worried about them.

Mr. Speaker, why am I running? Tomorrow night I will be the sponsor at the confirmation for the oldest of my nine grandchildren, Richard Cobban. Ricky and other young people have said to me, "Why are you running?" The first thing that pops into my mind is so simple it probably sounds flippant: Save America.

We have a financial crisis, $5 trillion of debt by this summer, and there is nothing any of us can do in this Chamber from either party or the U.S. Senate to stop that debt from creeping up to $6 trillion before we begin to turn it around. I believe it will take us 30 measured years of dedicated work to pay off that national debt.

The average American is coming close to owing $20,000, the newest baby, the oldest senior about to meet his maker. The average American family has $76,000 worth of debt put on their back by the U.S. Government.

One stunning figure is, if you break this down monthly, just the interest on the debt, and we must pay that interest every year on time if we are a noble superpower, every average family's debt of just the interest is $440 per month. How many people can afford to make a car payment that big?

So here is why I am running, and I have some thoughts written down. I would like to share them with this great electronic audience. Mr. Speaker, it looks like it is just the two of us and a few guests and our great Capitol Hill police in the gallery.

If you do not know already, Mr. Speaker, I am very different from most of my colleagues. I have found out in my 17th year here, 2 years out of office but staying in close contract, this is my 17th year in office. Nineteen years I have been around the Hill. I have noticed that I think differently.

I have a voracious appetite for history. It knows no bounds. I consider myself one of the three true historians in Congress. If anybody else is, they sure keep it to themselves. The others being two Ph.D.s, NEWTON GINGRICH of Georgia and PHILIP CRANE of Illinois.

To a large degree, this sense of history, my sense of history is one of the major reason why I serve in Congress and why I will always try to lengthen my stride in service to my country.

In my 62 years, I have witnessed American men and women continuously, consistently, virtuously lay down their lives and their good names of preserve our liberty only to see that these twin pillars, liberty and virtue, only to see them trampled upon by the selfishness and greed of others.

In America, this beautiful, bountiful land, through the grace of God, we, the people, are the repository of power. The rise and fall of our great Nation rests squarely on the shoulders of the men and women in this Chamber and in the U.S. Senate and the occupant of the White House. We are only to blame in failure, and only pure humility prods us to credit God for our success.

The fact is that no civilization can long endure the hollow sustenance of fallen men and women, and I do mean fallen, Mr. Speaker, in the Biblical sense. We cannot have liberty without virtue, and we cannot truly be virtuous without liberty. Men and women must be free to choose virtue, but they must unequivocally choose virtue to be free.

Benjamin Franklin said it best as he described his, our, newly formed Nation to a woman who demanded, "Dr. Franklin, what have you given us?" And he responded, coming out of these long, secret sessions, he said, "Madam, we have a republic, if we can keep it."

A key reason for my Presidential quest is to focus on this vision for America and to say that my conservative friends who only concern themselves with economic issues are providing a grave disservice to the American people invoking the near deity of the marketplace on such altars as the "Baal Street Journal."

Well, these false economic priests of conservatism are little different than the Keynesians who believe we can use government to spend our way to prosperity or, for that matter, hardened Marxists who view the world with the tunnel vision of economic models and class warfare. Lord knows, Mr. Speaker, we have heard a lot of class warfare rhetoric, some of it poisonous, in this Chamber over the last 2 weeks, if not longer.

The truth is that without a moral base and a virtuous people, the free market simply cannot function. Happiness is not necessarily a derivative of prosperity. True happiness, true happiness comes from a deep and an abiding faith in God and in living the way that God intended.

The tendency toward only an economic view of life has given rise in social conservative ranks to what some pretenders call a cultural free market. Frankly, I have never met a purebred conservative who believes in this cultural free market. Nor, by the way, have I ever met anyone who believes in a decadent society with a balanced budget.

The fact is that successful political leadership demands that some cultures be discouraged and other cultures encouraged. Any American, let alone any of us seeking the mantle of the Presidency who is unwilling to make these kinds of judgments, is hardly a productive citizen.

I disagree wholeheartedly with some of my econ-obessed friends who pontificate that the market punishes immorality, and, therefore, that is reason enough why no social issues should be discussed in this campaign or in this Chamber or in the Senate or in any other campaign by a participant who is a Republican.

Let me tell you something, Mr. Speaker, and I am going to carry this message sea to shining sea, the defenders of the second amendment will back me up with this little play on words. Markets don't punish immorality; people punish immorality. People also reward immorality, which is why we have arrived at the sorry state in which we find our society today.

What do we and what do our public institutions and our debased popular culture consist of today if not wholesale corruption?

□ 1945

Please do not misunderstand what I am saying nor mistake the motives of true social conservatives. For instance, I am not talking about the wrongheaded and extreme use of using tax dollars to fund even wholesome art or Christian art or anything like that. But I am saying, keeping within this art framework for just a moment, that responsible leaders find ourselves morally compelled to make absolute judgments on what passes for art in contemporary society when tax dollars go to fund the arts, and as long as tax dollars are used to fund the arts, I would not dare leave such an important stewardship up to the marketplace to make that point, especially when today that art sells so well.

Once again, the false gods of prosperity and economics do not produce good citizens or even virtuous ones. Actually the reverse is true.

Our Founding Fathers understood this moral imperative better than anyone. The countless allusions to God and the Creator in their writings, including our Declaration of Independence, the very words ring out with a firm reliance upon divine providence.

When I was a 19-year-old aviation cadet, I took a ball pen and pressed that, the reverse of embossing, into my little, cheap blue Air Force binder with a firm reliance upon divine providence, we mutually pledge our lives, our fortunes, and our sacred honor, and of those 56 signers, almost the whole bunch lost their homes, burned to the ground, and many of their lives and all of their fortunes. But they kept their contract with God.

It is true, these grant men were religious men, but they understood first and foremost that a free people had to be a good people, and when a nation stopped being good, it became enslaved.

The best of the ancient Greek cultures, the best of the ancient Roman cultures, and there was more corruption and decay and brutality and slavery than there ever were of these golden moments in those two amazing civilizations, but they taught us that when a nation stopped being virtuous, eventually all of the citizens were enslaved.

I have long held to a motto of "God, family, and country." To second the nomination of Vice President George Bush in the beautiful city of New Orleans in 1988 in August, I want for alliteration and changed "God" to "faith" to embrace all of the great religions of the world, and I changed "country" to broaden it out to "freedom," because my dad had offered his life to die for France and almost did, and I offered my life during the Eisenhower years to defend Hungary. We pulled back on that one, and I volunteered later to fight to not only save Korea but Vietnam, Israel, other small countries around the world.

And I had been out of the cockpit too long to be recalled on active duty, but I went to Vietnam to witness these heroes and their excellent nurses, which is where women mainly served in that tragic decade of trying to keep half of Vietnam free as we kept half of Korea free. I watched those young heroes, by now most of them younger than I, and it is a debt that I want to pay back.

Truthfully, I would declare in front of the Vietnam Memorial, but I know what the liberal press would say. "DORNAN is doing this to get at Clinton, DORNAN cannot let go of Vietnam, DORNAN is locked in the past." That is why I will pay a private visit there on the morning of April 13, I repeat, Jefferson's birthday, and then go to the National Law Enforcement Memorial for the first of several declarations during that 4-day period.

So I have long held to his motto, Mr. Speaker, "Faith, family, and freedom."

The world has always been divided along these lines, and it always will be as long as sin and transgression exist. The 20th century humanists' attempt to remove faith from civics has only deepened the divide which separates us as an American people.

We believe that a Creator grants unto us certain inalienable rights. Or do we not? Is that not how we were founded? In my view, Mr. Speaker, there was no greater political distinction to be made by any aspirant to the Presidency. We either believe as our Founders did, or we do not. Either God grants us our most fundamental of rights or man does, and if it is man, then man can also take away those rights in a heartbeat. But if it is God who grants us these rights, then our allegiance as Americans should be to his goodness and his mercy. I take the latter view.

This is why I believe that liberty and virtue are absolutely inseparable.

The second component of my motto, and this would be on the family escutcheon, if I were not from dirt-poor Irish farmer background. If I had one of these beautiful brand crests, it would be, "Faith, family, and freedom," for this generation of Dornans.

Well, family, the traditional family, is what I mean in that battle cry. The family, along with a deep and abiding faith in God, is the basis for all successful civilizations. The family is the fundamental social, political, and economic unit of Western civilization, not the state, not the corporation, not the individual. Essential faith is first manifest, and because of this fact, the family is the most natural of settings from which to base all human actions including public policy.

It is a truism, Mr. Speaker, that no other success in life can compensate for failure in the home. Nothing. Nothing makes up for that. How many millionaires have we read about in fact and fiction that would pay millions of dollars to get back their son that committed suicide, their daughter who destroyed herself on drugs or turning herself over to the mean streets? Who can deny this, that anybody will squander his fortune to have the love back of a son or a daughter or to get back a wife in those early years that he just so easily let slip away from him because of irreconcilable so-called differences?

And yet an ever increasing march against the traditional family mounts up like an evil force in this United States of ours. The deadly combination of heavy taxes, levied by government at every level, county, State, Federal, and personal selfishness has both driven and led many women away from the home and encouraged men to justify their own familial neglect of wife and children. Onward to the new Mercedes, your income goes up, the wife's income goes down, and her struggle deepens.

To help save your families, we must substantially cut taxes, which means spending as well, of course, and we have got a good start on that, a small start in the last few days, and then we must do all we can within the proper bounds of governmental powers to encourage single-earner family wages so that mom can stay home when she chooses it with the children and so that dad can feel confident, or the mother, if she is the breadwinner, that he or she is able to provide sufficient income for the family, and in most cases because of that need for the mother to be with small growing children, I believe most families will opt for the traditional role.

And this does not mean in any way to cater to the almost vicious lie of flippant elitist media that traditional family people want to keep the mother home uneducated, pregnant, barefoot, and slaving over the spaghetti. No; no. It means an intelligent family sharing in both roles, the husband the breadearner when the children are tiny and need their mother around the clock, not quality care, an hour a day, not good day-care centers, which is a fruitless search for many families, but when those little children are 1, 2, 3, 4, 5, and 6, what the abortion industry says is viable, that little 1-year-old viable, that 1-week-old viable, 1-month-old, 1-year-old. A 4-year-old is not viable; out they go into traffic to be kidnaped or torn apart by the mean streets again.

At what point are we really able to go out on our own without being nurtured through an educational process? I heard a philosopher say every generation is only 18 years from the savagery of the jungle existence, survival of the fittest, the cruel, the brutal rule, because it takes 18 years to prepare most people, and most civilizations, to play a productive part in society.

To help our families, I repeat, we must substantially cut taxes and spending.

Now, the last thing we in Congress should do is to create something like a Department of the Family. That would ensure the family's demise. We have seen what other departments have done.

The third and final component of my chosen motto is freedom, freedom, interchangeable with liberty. We must once and for all, before it is too late, return to our political roots and change, Mr. Speaker, what I will call the mechanisms of power.

Let me explain that. The first American revolution was certainly incited by the abuse of power; a great movie out now about King George, mad as a hatter, but more importantly, it was also the direct result of a corrupt power structure.

Today, like then, 1776, Americans face not only the abuse of power but the very same corrupt power structure.

To think, as do some of my neo-conservative or country-club Republican friends of the big-tent school, that is a simple change of personnel or an obsessive focus on money, and they think that will solve the problems of the Federal Government. It is not only crudely elitist, but it is downright offensive.

I have many friends of our new second American Revolution which began to take hold on November 8 last year, but I would no more trust them with the current mechanisms of power than I would trust Mr. Clinton. It is the mechanisms of power that must be altered.

I am for a flat tax. I have been for about 27 years. I was trying to figure this out the other night.

But as large an improvement as a flat tax would be compared to our current system of tyranny which punishes hard work and investment and savings, the best solution is one where the IRS is completely abolished. Is anybody ready for this in a Presidential campaign? I do believe the Nation is.

Let us face reality. The IRS is a creature of a planned economy, a socialist state. It exists solely as the enforcer, the muscle, for a comparatively few elitists who desire to control our lives. Without it, how could these liberal elites extort so much of our money, your money?

Yes, the flat tax is an improvement. But with the enforcement mechanisms of the IRS would remain in place. I think the chairman of our Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER], the man who actually took George Bush's seat in this Congress, is the right man, in the right place, at the right time.

A flat tax is a plateau for a few years to work out how we shut down the income tax.

I prefer the repeal of the income tax, Mr. Speaker, the repeal of the corporate income tax, the repeal of the capital gains tax, and any other tax which requires the IRS to enforce collections, and I would replace all of this with a national sales tax or a similar proposal.

What could be fairer? The rich would pay the bulk of the taxes while the poor, who spend very little in comparison, would pay little in comparison.

I mean, the Irish comedian, George Carlin, always talks about how the rich accumulate stuff, stuff, stuff, and more stuff. I know that urge. I am a collector, and my collections are little things, coins, stamps, little automobiles, model airplanes. There is still a lot of the little boy in me. But people who collect Duesenbergs and people who collect art, major art, and hide it out in their homes instead of donating it to museums where the poorest and humblest of us can share in that joy, they all do that when they are about a week from their death bed, some a little bit before. Andrew Carnegie, that dour Scot, is my ideal. He said it is more fun to give away money than to make it, and the perfect life is when you give the last dime of the money you earned during God's gift of life, you give away the last dime on your death bed.

We could even exempt the poor up to a certain income from some of this new tax structure.

That is what I mean by changing the mechanisms of power. I have got a lot of good people that I have met over my life that work at the IRS. They work hard, and we will get other good jobs for them that are not part of the elite structure.

Another example is abolishing the Federal Reserve and returning the power of money back to the elected representatives of the people. My pal Jack Kemp says, "I would rather be Chairman of the Fed, Chairman of the Federal Reserve, than President of the United States." Jack has studied this and knows the raw power of our good friend and decent man, Alan Greenspan.

I do not know about you, Mr. Speaker, but I am sick and tired of having an unelected, little, tiny group of people come up to Congress every few months and tell the American people that our economy is growing too fast, and that one person, the chairman all by himself, has made the decision to stall the economy by artificially raising interest rates.

Why not speak the truth? Harmful inflation is not caused by a growing and productive economy. It is caused by government intervention in our money supply.

□ 2000

Now, I loathe violence. That is why I marched with Martin Luther King. I have to believe that our founders have taken a similar power structure with King George, out to the gallows, the full weight of the good citizens hard-earned money strapped to his ankles. They were not as patient as some court systems today.

I have introduced a bill on this subject, Mr. Speaker, H.R. 1130, to halt the absurd mechanism which allows advocacy groups, most of which are very left wing, to receive Federal grants and then turn around and lobby and protest the Federal Government to keep those tax dollars flowing.

Here is an example of what I mean about my legislation, changing again the mechanisms of power, H.R. 1130. The National Council for Senior Citizens, NCSC, it is a left wing, AFL–CIO front group, established in 1961 to help pass the Medicare bill, and they took in just $105,000 in membership dues for the most recent year of record, 1993. $105,000, less than the pay of one Congressman or woman. That same year they received over $68 million in Federal grants. National Council for Senior Citizens.

They are a tax exempt political lobby. They rate us in this Chamber. They rate our congressional votes. They hand-picked votes to give some of us a zero rating, and others a 100 percent rating who did their bidding. They endorse candidates. What in the world, Mr. Speaker, are tax dollars going to fund the political activities of this left wing lobby group for? Just one example. American Education Union, on the national level, is another public institution held embarrassingly captive by powerful special interest groups. Going all the way back to the George McGovern, Shirley MacLaine Convention, that is the way I remember it best, in 1972, the majority of delegates were members of the teachers union, and it has been that way at every Democratic Convention since.

Under the circumstances, it is absolutely a no-brainer to abolish the Department of Education. BOB DOLE has called for this, Lamar Alexander, a former Secretary of Education under George Bush, Bill Bennett after he left that position and went to another job in the White House. I think before this race is over, all nine of us will be calling for the abolition of the Department of Education, as are most people in the cloakroom that I have spoken to here on the Republican side of the aisle, the majority side.

Again, some of our friends who call themselves conservatives do more harm than good on this issue as they attempt to play to the very natural interests parents have in the education of their children. All we hear about from some so-called conservatives is how we need to train our children to compete in the world markets of the 21st century. More math, more science, more national goals and standards.

Well, whether we like to hear it or not, Mr. Speaker, it is just New World Order mumbo-jumbo in the main. All this talk of remaining competitive, the best, the best in the world, the best this, the best that, all of this for economic purposes only is global baloney. Global baloney. It is funny how we did not need this kind of political leadership to become the most industrious

Nation that had ever existed. Only social engineers talk about America in macro terms as if they know better than parents what is best for their children and how to train them and how to educate them.

Education in America is not in jeopardy because parents continue to care. Education is in jeopardy because we have not yet taken the time to change the mechanisms of power, particularly at the Federal level, built up around our educational systems state to state.

Everyone knows that on the whole private schools and home schooling outperform public schools, and that given a choice, most parents, if they could, would send their children to private schools or keep them home, particularly given the violence and the guns and narcotics and the beepers and the knives that are carried in some urban schools. Not only urban schools.

But then why have we built up all of our mechanisms of power around a particular, bureaucracy laden public school system, and my younger brother is a proud and hard working public schoolteacher, why have we built up this system which locks up all of our children into an education of lesser distinction? Is it to help the poor? If so, then why not lift the poor up rather than pull a lot of middle class students down?

In changing the mechanisms of power, Mr. Speaker, surrounding education, we must remind ourselves that the essential state interests in education is liberty, and from liberty comes that virtue, and vice versa. It is not surprising that a socialist, welfare state mentality would ultimately pervert this state interest in education into some kind of class struggle, solvable by redistribution of the wealth enforced by the IRS?

I would rather abolish the welfare state before ever relinquishing over to some people who at their hearts are Marxists the real, real reason why we stress education in America. Abolish that Department of Education, repeal compulsory attendance laws, and localize all schooling decisions, and our Nation will not only house the best educated and most literate people in the world; we will remain the freest people on Earth as well.

Last, changing the mechanisms of power, it is as they relate to defense and foreign policy. Mr. Speaker, we need such a spirited public debate on just what national interest means that I just yearn for this debate.

I am a staunch pro-lifer. Everyone around here knows that. But my allegiance to life does not stop in the womb. I care about every man and woman asked to give their life for our country. It is the very height of immorality to send American lives into harm's way without a crystal clear moral reason for doing so, and I released position papers on this on my birthday last Monday on all of the mistakes, some of them just through sheer stupidity and lack of understanding about why someone would dedicate their life to the profession of arms. Warriors hate war and do not want to have to lose any of the lives in their care.

This administration has been the worst in this century as far as not understanding why you do not put our Rangers and our Delta Force and our 10th Mountain Division in harm's way in the angry violence ridden streets of Mogadishu. We did accomplish saving 300,000 or more lives of women and children, but now they are left again to the non-tender mercies of the battling politicians there for power with their jeeps mounted with heavy weaponry, and we can only pray for them. The slaughter in Burundi this week, we could not extend a helping hand because Rwanda suffered severely, and we were unable to go in because of what Clinton showed in the way of absolute bankrupt leadership in Mogadishu. That is why the fathers and mothers of the two Medal of Honor winners who were given that medal posthumously because they tried to save Michael Durant's helicopter crew, and did succeed, in trading their lives for Michael Durant's life, getting him out of the helicopter, laying him down on the ground where God took over from there and kept him from being beaten to death as were his three other crewmen and the two rescuers. "Greater love than this no man has, that he give up his lives for his colleagues and friends." God bless Gary Gordon and Randy Shugart and their wonderful families and their wives, and those two little beautiful children of Gary Gordon, Ian and Brittany. This is what you have to understand when you are the commander-in-chief, that every family, every life of every man and woman in the military is precious.

What is our national interest, Mr. Speaker? Is it bailing out multinational corporations who roll the dice in a foreign land and then lose? Should we shed blood over an economic commodity, even oil in the Middle East? We had a great debate here at the beginning of the 103d Congress. Everybody on both sides did themselves proud. But at least we fought it out here, whether or not we were going to lose 148 lives of our finest young men and several women to scud missile attacks and plane crashes and a lady helicopter pilot flying into power lines in bad weather and desert sand. We lost the best, the very best this country has to offer, for a commodity. We should have debated that in depth.

Should we sacrifice lives in the names of foreign wars far removed from any direct threat to the United States? Sometimes, yes, we should help. I am not nearly as narrowly focused on this as my pal Pat Buchanan with his battle cry of "America first." There are many cases where we should help because we can help and we can save many innocent people. But it has got to be debated in this Chamber and the Senate, except for emergencies when the President has to act swiftly. And that is why I put in legislation to kill the War Powers Act, to give back the White House its full emergency power to use force.

I cannot tell you how many American veterans I meet who will break down and actually shed tears at the mere mention of men and women having to don the blue beret or blue helmet of the United Nations to risk their lives in battle under foreign commanders. It is an atrocity that some of our leaders would allow this to happen. To think that Americans bled and died, lost life and limb 50 years ago in Okinawa, or going back to the birth of our country, our revolutionary struggle, the Civil War between the States, World War I, World War II, Korea, Vietnam, Panama, the Persian Gulf, Somalia, only to see American sovereignty go out the window with a stroke of a pen. No one would ever, of course, ever see that under the presidency of this Congressman.

There is no more enduring term for any Nation than sovereignty, when properly respected and constructed. In fact, if the United States were a person and we asked it to define itself, it would tell us that without sovereignty, it would not exist. Those leaders who would push us to shed our borders and merge our lives, our economies, our cultures and our governments into one big wonderful world government, ask for something they will only receive answerable through much uprising and probably bloodshed.

We are historically, Mr. Speaker, a moral nation, and a moral nation fights only moral wars. And that is why we have a Department of Defense, not a department of offense, of attack, or of war any longer. We must immediately begin to develop world class antiballistic missile systems to defend the homeland. Then and only then do we have the moral authority to establish peace through strength.

Somebody said to me what would be a blueprint for your campaign, BOB? And I said how about the Preamble to the Constitution? Just think of that preamble. "We the people of the United States, in order to form a more perfect union," and there is the word union carved right into the Speaker's platform there along with liberty, "in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare," and welfare in those days meant the common wheel of the commercial marketplace, a chance to success and farm and have small businesses, and that is what welfare meant in any 1700's dictionary, "and to ensure the blessings of liberty upon ourselves and our posterity," that is our children, "do ordain and establish this Constitution of the United States of America."

There it is, provide for the common defense, right in the preamble, for the whole beautiful Constitution. The original contract is the Constitution. The original contract is the Constitution. And we have passed in this House, it is one of the items in this contract with America, the 24 Republicans jumped ship and the majority of Democrats voted not to defend the American homeland. We will defend our troops overseas, a moral obligation. We will defend our allies overseas with a ballistic missile defense from rogue missiles, if nothing else, but we are not going to defend our homeland yet by the contract.

We can truly call ourselves a free people once we change all of the mechanisms of power, once we reassert the 10th Amendment, which this contract does very well, that 10th Amendment to the Constitution, return the power back to the states and local communities, once we reaffirm property rights, Mr. Speaker, as the most basic of all our inalienable rights, once we send a clear message that multinational profiteers do not run this country wherein they expect to be bailed out every time they make a bad investment. Our founders already fought that war, and now we must renew the struggle.

This is the real revolution. What happened last November 8th is just the beginning. I am committed to sealing this new second American revolution through to the very end.

Let me conclude with a few personal observations about principal leadership, and I will return in a month to do that hour on the heroes of Okinawa. For the next 87 days, since April 1st, we will be living through the 50th anniversary of the greatest Naval conflict ever fought in history, with 49,000 American seamen blasted apart or drowned or burned to death, and 4,800 wounded. That rarely happens where the wounded are less than your killed.

But let me conclude by saying I have always felt that principal leadership means not asking anyone to do something you would not do yourself. For instance, as President, this means the unenviable task of perhaps one day calling your Nation to arms and sending men and now young women into harm's way. What an insult it would be to have a President who never wore the uniform, when he had the obligation and the opportunity, if he was healthy. That is God's call. 4-F is nobody's fault. Or being a woman that is not subject to the draft or being alive not during a voluntary period. I mean when the obligation was there and you were healthy, to ask a young man to go in your place, and then to aspire to the mantle of the presidency, asking young men and women to die for their country or for some other country that truly needs us when that person refused to do the same when it was asked of him.

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We have got to sort this out. This job of President is different than any governorship. It is different than any other role in our Nation because of this aspect of Commander in Chief.

Further, I have always felt, Mr. Speaker, that principled leadership also means self-control. What right does any man have to claim authority to govern the lives of others when he cannot control his own behavior? Fortunately, I do not see that problem with any of the nine candidates that are out before the people at the end of this month. Principled leadership sifts through the pack rather quickly.

I serve here in the House of Representatives, in my 11th year from Orange County and a very exciting 6 years from West Los Angeles in the late 1970's and early 1980's. I serve here because I want to help restore America to its former greatness and its promised future.

My last sentence, Mr. Speaker, is this, America's future will remain in jeopardy as long as leaders lack the guts and convictions to move the revolution. The first 100 days was important, but the second, third, and fourth and fifth 100 days will reveal the character of this body.

We either stand for liberty and virtue or we cower toward a seemingly safe island of moral isolation. I stand for liberty and for virtue.

ON THE EFFECTS OF THE CONTRACT WITH AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Vermont [Mr. SANDERS] is recognized for 60 minutes as the designee of the minority leader.

Mr. SANDERS. Mr. Speaker, let me begin by quoting from an article that appeared on the front page of the New York Times today and what the article does is analyzes a poll that was done by the New York Times and CBS News. Let me read, if I might, the second paragraph on the front page. It goes as follows:

> "Despite the best efforts of the Republicans to publicize and promote what they call their legislative revolution, the survey," i.e., the poll that CBS and the New York Times did, "suggested that much of the public remains largely disengaged. Only 38 percent said they had read or heard anything about the Contract With America, the Republican policy agenda that has driven the House in these first three months. Forty-seven percent said they were 'mostly disappointed' with the first 100 days compared with 39 percent who said they were pleased, and Mr. GINGRICH's personal ratings remain remarkably negative."

What I find disturbing about the results of the poll is not really whether people cared about Mr. GINGRICH or how much they liked or disliked the Contract With America, what I find absolutely incredible is that only 38 percent of the people contacted said they had read or heard anything about the Contract With America.

Now, how can that be? Every single day on the front pages of newspapers there are discussions about the Contract With America. Turn on the television tonight, every news program will be discussing the Contract With America, and only 38 percent of the people had heard anything about the Contract With America. What is that about?

It suggests to me a very serious problem in America. And that is, by the tens of millions of people, ordinary Americans are tuning out and not paying attention, ignoring the politics that goes on in this country. This phenomenon was certainly reflected in the November 8 election that brought the Republicans power in both the House and the Senate. In that mandate, 38 percent of the American people voted; 62 percent of the people did not vote at all.

The question, therefore, is, what is going on with American democracy? And the deeper question that I think we must ask ourselves is, to what degree are we, in fact, today a democracy, when the vast majority of the people do not vote and when tens of millions of people are not aware of what is going on in our society and within our political system?

Mr. Speaker, I would argue that perhaps, and I am not quite sure of the full reasons as to why so many people have given up on the political process. I do not really know why when Sweden holds an election, 90 percent of the people come out to vote. France is now in the middle of a major campaign. The guess is that over 70 percent of the people will vote there. And in Canada, our neighbor, over 70 percent of the people vote. I cannot tell you why it is that so few people in America have faith in the political system and no longer participate, no longer vote, no longer care about what goes on here in Washington.

Here every day people are yelling and screaming, but it does not mean much to the folks out there. I would argue that perhaps the major reason is that the average American today is hurting very, very badly. The average American family is in a lot of pain. We are becoming a poorer nation. Our standard of living is in decline. The gap between the rich and the poor is growing wider. Millions of Americans are fearful that their jobs are going to go to Mexico. They are going to go to China. Millions of Americans are working longer hours. They are afraid to stand up on the job and protect their rights and fight for their rights because they are going to get fired.

And I think with people in pain they look to Washington, they turn on the television and they do not see the reality of their lives reflected in the debate that takes place here in Congress. They listen to corporate America on the media. They do not see that reality reflected. And they say, Hey, I am in trouble. I am in pain. My standard of living is going down. My kids are going to have a lower standard of living than I am. I cannot afford health care. My job is going to Mexico. Who is talking for me? Certainly not the politicians. Why should I pay any attention?

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Oregon.

Mr. DEFAZIO. In response to that, I think that part of what breeds the disenfranchisement, the fact that people are turned off, is things like the bill that was passed here in the wee hours last night.

Funny thing, when Mr. GINGRICH had things in his contract and he wanted to trump it, we always stopped about the middle of the evening and then brought them up the next day so they could play it prime time. But two bills, term limits and now tax breaks, were voted on very, very late at night.

They are very cynically named. This was a bill to provide middle-income tax relief. The gentleman touched on this very well. The only group of people who are consistently paying higher taxes in 1995 than in 1980 are middle-income wage earners, small business owners and people who work for hourly wages or a salary. They are paying more, because Congress jacked up the FICA tax, Social Security, dramatically, a regressive flat tax which is capped at $64,000 a year of income, and also what has happened with bracket creep and other things.

The wealthy, those who earn over 200,000 a year, they were yelling and screaming like stuck pigs over the Clinton budget which put them in the normal 39 percent tax bracket, which is down from the 70 percent tax bracket that they were in in 1979. And, of course, they only paid the 7 percent FICA tax on the first $60,000 of their earnings.

But then what people see, they tune in. And some of them would have voted for the new majority who were disenchanted with what had happened to them. They saw their standard of living declined, and they asked for help and reached out for change and help. And they brought in a group of people who turned back the clock to the point where there is not going to be middle-class tax relief from the bill that was passed last evening, but what there will be is tremendous court relief.

They did not talk much about those parts of the bill on the floor. They talked about some of the smaller portions.

Just the repeal of the corporate alternative minimum tax, your eyes glaze over when you hear that. But it is so significant.

Mr. SANDERS. Let me jump in, if I might. Some Americans, Mr. Speaker, will remember, as I am sure my colleague from Oregon will remember, that in the early 1980s, after Reagan was elected president, there was an enormous scandal that many people were discussing in America.

What they were discussing is that at the time when middle-income people were paying more and more in Federal, State and local taxes, lo and behold, as a result of a variety of loopholes, it appeared that some of the largest and most profitable corporations in America, primarily owned by the wealthiest people in America, were paying what in taxes, Mr. DEFAZIO?

Mr. DEFAZIO. I brought the list, just so we could review a few. 1982 to 1985, 42 major corporations paying zero or less.

Mr. SANDERS. These must be small businesses with marginal profits, I would suspect. Is that the case?

Mr. DEFAZIO. Sure. Let us start at the top. American Telephone and Telegraph, profit, $24,898,000,000 from 1982 to 1985 in profits. And guess how much they paid in taxes?

Mr. SANDERS. Six billion dollars? I would guess that would be a fair——

Mr. DEFAZIO. They had 24 billion in profits. Would you think, if they were working for wages, they would have paid even a little more than 6 billion? They would have paid 28 percent? No, try one more time.

Mr. SANDERS. Well, 4 billion maybe 4. Am I wrong again?

Mr. DEFAZIO. A reasonable guess. But guess what? This is sort of a miracle. This is a miracle of supply side economics, which we brought back to America last night.

They did not pay any taxes. In fact, they not only did not pay any taxes, with 26,898,000,000 in profits. Guess what? Working stiffs in this country gave them a $635.5 million tax credit. They did not pay any taxes, and they got a credit for the taxes they did not pay. So their tax rate was minus 2.6 percent. Not bad.

Mr. SANDERS. We have been a little bit facetious about this. I think this deserves analysis and serious look.

What we are talking about is some of the largest corporations in America, owned by the wealthiest people in America, making huge profits and paying less in taxes, zero, than the average working stiff who makes $20,000 or $30,000 a year.

You mentioned AT&T. What other corporations were involved?

Mr. DEFAZIO. Let me list a couple of others. This is serious. And we do not want to be facetious. I will jump down to, say, the middle of the list. Xerox Corporation, over that three-year period, $670,300,000 in profits. And they received a tax credit of $42.8 million. So their tax rate was minus 6.5 percent.

Mr. SANDERS. That means——

Mr. DEFAZIO. One more. Let us pick a high tech company, Tectronics—they have not been doing so well lately but back then they did better—$163,300,000 profits over three years, and they got a $13,800,000 tax rebate for a negative 8.5 percent rate of taxation.

Just last night we repealed the law that did away with this scandal. That was part of the contract on America, to do away with the corporate alternative minimum tax. That means that an American who works in a factory job for 10 bucks an hour, if Mr. GINGRICH's dream bill here goes through, the crown jewel, will pay absolutely, not in rates, but will pay absolutely more in taxes than some of these largest corporations in the world.

Mr. SANDERS. Let us back up a little bit.

What Mr. DEFAZIO is talking about is that in the early 1980s, if my memory is correct, a majority of the major corporations in America paid zero, not a penny in taxes, and, as Mr. DEFAZIO indicates, some of them actually got a credit. That is how absurd and corrupt the tax system was.

Well, both the Democrats and the Republicans became a little bit embarassed by this scandalous situation where we have working people making $20- or $30,000 a year paying more in taxes than all of AT&T and General Electric and the other large corporations.

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So what they passed in 1986 was called the minimum corporate tax. Basically, what that said, it said large multinational corporations with all of your fancy lawyers and your tax accountants and everybody else, after you go through all of the tax loopholes and after you avoid paying taxes on this, that and the other thing and you end up with zero, well, guess what, we think you should at least pay a minimal tax, a minimal tax. And that is what was passed in 1986, mandating the corporations at least paid something.

What Mr. DEFAZIO is describing is that yesterday, as part of the Republican tax bill, that minimal corporate tax was repealed, and we are rapidly moving back to the time when the largest corporations in America will pay zero in taxes.

Now, some people will say, well, so what? So what does it matter that AT&T and General Electric and duPont and all these corporations do not pay anything in taxes? What does it have to do with me?

Mr. DEFAZIO, what does it have to do with the average working person?

Mr. DEFAZIO. Well, if it gets as bad as it did in the 1980', working people will pay taxes in order to give tax credits to corporations that did not pay any taxes at all, which they then passed through to their shareholders who are also hiring the same accountants to avoid taxes and now will be allowed with the new 14-percent tax bracket for capital gains or 18 percent established by the Republican bill, will be able to pay a lower rate of taxes than someone earning $25,000 or $30,000 a year through the capital gains loophole.

So what we are doing is asking people who are struggling to make ends meet, people who are struggling to figure out desperately some way to save a few bucks for their kids' education or just for their clothes are going to be asked to send money to the Federal Government so it can be handed back to large, profitable corporations so they can distribute it to shareholders who will not pay very much tax on it.

Mr. SANDERS. What it also means, it seems to me, is that if the major corporations in America are paying nothing in taxes there will be less money available for Federal aid to education, Federal aid for environmental protection, Federal aid for the handicapped, Federal aid for Head Start, and so forth and so on. So, in essence, what will happen is the tax burden will be passed on back to the State and local level.

Now, I do not know about Oregon. I am not familiar with Oregon's local tax situation. But in my State of Vermont we are highly dependent for education and municipal services on the property tax, which is an extremely regressive tax.

To the degree that the Federal Government cuts back on Federal aid to education because corporations are not paying any taxes, who is going to make up the difference? In the State of Vermont it will be family farmers, it will be senior citizens, it will be working people who are not making a lot of money who will have to pay higher and higher property taxes, higher and higher State taxes because the AT&T's and the GE's primarily owned by wealthy people are not paying their fair share of taxes.

Mr. DEFAZIO. If I can interject again. Another interesting historical note, in 1960 the corporations in America paid about 20 percent of the tax bill. This year, before the Republicans repealed the corporate alternative minimum tax, the corporations will pay about 10 percent of the tax bill in this country.

So someone else has had to pick up the slack. And guess what? It is not the people who earn over $200,000 a year who just got also some very generous tax breaks last night; it is average working families.

There was some move on the part of the Republican Party, and I have got to give credit to the 106 Republicans who signed a letter to the Speaker saying they could not go home with a straight face and say they were providing middle-income tax relief when it went up to $200,000 a year, and they asked to take it down to $100,000 a year.

Well, I cannot go home with a straight face to Oregon and talk about $100,000 as middle income, but if we were talking $30,000, $40,000 a year, that would be in the ball park. And those people are being asked to pick up the additional share of the burden or finding that the programs on which they depend, that is people who have incomes at that level and who are retired now, Medicare, are being cut back, seniors with even lower incomes, Medicaid is being cut back, younger people with kids who are growing up are finding that Pell grants and other things are going to be cut back, both in the rescission bill earlier passed in this House by Mr. GINGRICH and in the budget which Mr. KASICH will put forward shortly.

So not only are we asking the middle-income people to pay more, the few programs from which they and their families have been able to benefit and the few sorts of things they had to depend upon are being gutted. I mean, it is a very bitter reality.

So I can understand why a lot of these people are turned off to politics and not voting. But I mean my solution is they should all get out and vote. Because the people who earned over $200,000 a year who got these very generous tax breaks last night probably voted at a rate of 90 percent, and the people in the $30,000 tax bracket who are going to end up picking up the tab probably voted at the rate of 37 percent.

Mr. SANDERS. Let me jump in and just pick up on that point. Let's talk for a moment about something which, amazingly enough, I do not know how it happened, but the Contract With America just ignored or I missed it, it must have been by accident, and that is the role of money in politics and campaign finance reform.

Now, I find it extremely interesting that within the last several months, and, by the way, as the only independent in the Congress I will say the same things about the Democratic Party here, but within the last couple of months after the Republican victory huge amounts of corporate money has been flowing into the Republican National Committee, campaign contributions.

Several months ago, as you will recall, the Republicans had a fundraiser, and on one night, one night, they raised $11 million from some of the wealthiest people in America and large corporations.

Furthermore, at about the same time, Speaker GINGRICH attended a fundraiser in order to raise money for a conservative television network. And the deductions to that fundraiser, by the way, were tax deductible. Interestingly enough, that fundraiser cost a mere $50,000 a plate, $50,000 a plate. My understanding is that extra coffee was served free of charge, and that included gratuities. In fact, I would have loved to have been the waiter getting a 15 percent tip on that. But $50,000 a plate. Huge amount of money.

Mr. DEFAZIO, it would seem to me that there is a direct correlation between this huge amount of corporate money and money from the wealthy flowing into the Republican party and what happened yesterday. Do you see that relationship?

Mr. DEFAZIO. Well, not only what happened in the tax bill yesterday, certainly. More than 50 percent of the individual benefits in this tax bill will go to people earning over $100,000 a year. And, of course, the corporate benefits will not go to small businesses. They are going to go to these largest corporations, again those who are subject to the alternative minimum tax.

I do not know any small businesses in my district who have to pay the alternative minimum tax, but the large corporations, multinational corporations certainly do. So that is one thing.

But there was something else going on yesterday, and I don't want to get too far afield, but we were marking up over about a 30-hour period in the Committee on Transportation and Infrastructure a revision of the Clean Water Act, and I will say also that the corporate payoff was going on there, too. Because we saw amendment after amendment offered on the Republican side to remove restrictions from industry to allow direct discharge of toxics into the Great Lakes and other bodies of water in this country, to reduce the list of chemicals restricted from direct discharge into our drinking water from 70,000 to 5. That was an amendment.

These amendments, I saw after the Great Lakes were removed from Federal control, the Great Lakes bordering some 10 States and a foreign nation have been removed from Federal control for toxic discharge because that was an undue burden. It has now become a voluntary program.

I saw some paper company and other lobbyists hugging and jumping up and down outside. They had just won this tremendous victory. You can bet that they have been writing checks.

Then we saw, one of the most outrageous things I have seen, I have been around a while, this is my ninth year in Congress, but I have never seen anything so blatant as what I saw a couple of weeks ago when a number of new Republican freshmen Members were quoted as saying they are telling lobbyists if they did not contribute to their campaigns or contributed to their opponents, they had better make up for that. I mean, this is the most blatant squeezing of corporate America I have ever seen. It is unbelievable.

Mr. SANDERS. Now, I have not witnessed this with my own eyes, but I have read and I have heard from other Members that the lobbyists themselves are now writing the legislation and giving it to Members to present. Have you heard that?

Mr. DEFAZIO. Well, there were amendments in the Committee on Transportation and Infrastructure yesterday being presented which favored polluters over public interests which could not be satisfactorily explained by the Republicans offering them on the other side. And at one point I was tempted to say why don't we just bring the lobbyist up to the dais, they can at least explain it, and then we will go forward with the vote.

You know, clean water. I mean, there were things like allowing industries to discharge whatever they wanted into municipal sewers and requiring the local taxpayers to pick up the tab. No more pretreatment requirements for toxics or extraordinarily difficult things that are difficult to deal with.

I am not saying the Clean Water Act is perfect the way it is, but a reading by an impartial person of what went through that committee yesterday will say, whoa, are we going back to 1955 when the Cuyahoga River was flammable? Are we going back to the days in Oregon when the Willamette River was an open sewer?

And the unfunded mandates, we offered an amendment to say that, you know, the bill should identify unfunded mandates because what this does substantially is move burdens from industry to public taxpayers and people who pay sewer bills and people who pay property taxes and bonds for municipal sewer systems.

Of course, the Republicans would not let an unfunded mandate provision through that related to private interests. It is okay that these large corporations who are also contributing to the Republican party can now just dump their stuff in the river and then it is up to the people in the local city to try and clean it up.

Mr. SANDERS. We have been trying to understand in this discussion not just the outrageous nature of the recent Republican tax plan in which half of the benefits go to people earning $100,000, 25 percent of the benefits go to those people earning $200,000 a year or more, where the largest, the wealthiest 1 percent of earners get more benefits than the bottom 60 percent.

All of that is important, but it takes place within the context and I think helps us understand why so many people out there shrug their shoulders and say why should I vote, why should I participate. It does not really matter, the game is rigged, the people who have the money call the shots. Nobody cares about me. I am just a plain working person.

Mr. DEFAZIO. If I could interject a story at that point. I, in my first term went to stand with some men and women who were on strike at a lumber mill in my district. I stood there with them and caused some disruption and dismay by the management and ownership of this very large company, and I was asked by a reporter how can you do this? You are dealing with one of the most powerful corporations in America, privately held, one of the 500 richest men in America.

I said, you know, on election day he gets one vote and all these people get one vote each, and that is the thing. People have to come back to the ballot box. They do not have to be a Democrat or a Republican. They can be an Independent, I mean nonaffiliated. They can form a third party. It does not matter. This country is not going to be healed until we get turnouts in the 70s, 80s, 90s. I do not think I will ever live to see the day when we get close to 100 percent.

Mr. SANDERS. We should ask ourselves why it is in the Scandinavian countries, many of the European countries turnouts are 70, 80, 90 percent; and we just had an election in which 38 percent of the people came out to vote. That turnout is directly related to what we have been talking about in terms of huge tax breaks for large corporations and wealthy people and cutbacks that will be coming in Medicaid, Medicare, student loans for those young people who today are having a hard time getting into college, WIC, Head Start, you name it. Every program that every working person, elderly person and kid in this country needs is on the chopping block.

What is going on, and Mr. DEFAZIO stated it well, if you have only 38 percent of the people who are voting and if the vast majority of low-income and working people do not vote, those people are invisible.

□ 2045

You don't have any health insurance, so what? Who cares? Your pain is not reflected on the floor of this House.

You can't afford to send your kid to college? So what? No one is going to pay attention to you unless you make your concerns known by getting involved politically.

What goes on is that the vast majority of poor people and working people don't vote. Therefore, they are politically invisible. But there are some people who understand the political system very well. It is not just that the upper-income people vote in very high percentages, but they contribute huge amounts of money to political campaigns. If a corporation like Amway or some other large corporation contributes hundreds and hundreds of thousands of dollars to the Republican Party, don't you think that maybe the leadership of the Republican Party is going to sit down and listen to their concerns? If wealthy people contribute thousands and thousands of dollars to the party of their choice, they have enormous power in shaping the agenda.

The gentleman from Oregon [Mr. DEFAZIO] was suggesting that on his subcommittee, lobbyists paid a major role in writing the legislation. That is what is going on. The only way to change that situation is when working people and low-income people say, "Wait a minute. This country belongs to all of us, not just the wealthy and the powerful." One person—one vote. It is not how much you contribute. It is not a $10,000 contribution gives me power. That is not what it is supposed to be about. One person-one vote.

I absolutely agree with the gentleman from Oregon [Mr. DEFAZIO] that we are not going to change the priorities and the agenda of the Congress so that it begins to pay attention to ordinary Americans, working people, unless we make radical changes in who participates, who votes.

If you are not happy with what is going on, you can ignore everything and not vote. The people who own America are delighted. That is exactly what they want. They want you to think that politics is a joke, that it is irrelevant. They don't think it is irrelevant. They contribute huge amounts of money. They help determine the agenda. So if you want to have some input, you have got to participate politically, you have got to vote, you have got to get involved.

Mr. DEFAZIO. If the gentleman would yield, I am going to have to leave shortly, I would just like to change the subject for a moment but it bears on the whole discussion, again, why people are so cynical about what is going on in Washington. It goes to the subject that we have spent some time on, on the floor earlier this year, which is the bailout of Mexico.

There is an article, a very interesting article from yesterday's Los Angeles Times. It says it more succinctly than I could.

Thus far, the United States has put up $20 billion of our taxpayer dollars through a rather secretive fund controlled by the Federal Reserve and the Treasury and Mexico has spent slightly more than $4 billion of the funds. There is some discussion, we heard certainly from Speaker GINGRICH and Majority Leader DOLE in the Senate who were avid supporters of the Mexico bailout who are not trying to sort of cover that up, but they were there, they signed on with the administration, the President and Robert Rubin. They were all together. This is again why people are cynical because they saw a Democratic President and a newly elected House Speaker and a newly elected majority leader, both Republicans, in the House and the Senate signing on to the same $40 billion bailout of Mexico.

Here is what the Los Angeles Times says about the first $4 billion of our money that has gone to this bailout:

Much of the money never left New York. It was paid out by the Federal Reserve in New York, where it was used to redeem the high profit bonds held primarily by major U.S. institutions, Wall Street speculators, and wealthy Mexicans who bought the securities largely through non-taxable offshore corporations according to investment sources and market analysts.

So here it is. We are supposedly saving our neighbors to the south in a gesture of good will and the money changes hands from our tax deposits with the Treasury and the Federal Reserve in New York directly into the bank vaults of the speculators and the wealthy investment banks in New York City. This kind of outrage is again part of what brings people to cynicism. At the same time as that is going on, we see in yesterday's Washington Post a little headline saying power to boost dollar doubted. Dollar hits a record low 3 days in row against the Japanese yen. We are basically heading to one dollar and one yen the way we are going here and the United States cannot do anything about it.

Why? In great part because we are too involved in attempting to prop up the failing government of Mexico and the crashing peso and as soon as we became associated dollar with peso like a Eurocurrency, the dollar started plummeting. This is a good part of the problem.

Mr. SANDERS. If the gentleman will yield, I am very glad he raised this issue because that in fact is the issue I wanted to get to next. When we talk about why people are cynical about the political process, the gentleman is absolutely right in suggesting that this multi, multibillion-dollar bailout of Mexico is precisely the reason why people shrug their shoulders and they say, "Government doesn't represent me."

Let's start off with a couple of facts. You made the right point. Who is supporting the bailout? We have presumably 2 political parties, right? And theoretically they are supposed to be really different, big basic philosophical differences.

Well, you have President Clinton and some of the leadership of the Democratic Party are supporting the bailout. One would therefore expect that the opposition in terms of the Republican Party would obviously be strongly opposed, right? That is what one might expect. But lo and behold, surprise of all surprises, there is the gentleman from Georgia [Mr. GINGRICH] and the leadership of the Republican Party supporting the bailout. The truth of the matter is there are a number of people in the Democratic party, the gentleman from Oregon [Mr. DEFAZIO], the gentlewoman from Ohio [Ms. KAPTUR], some of the leaders there, a number of people in the Republican Party, the gentleman from Texas [Mr. STOCKMAN], the gentleman from California [Mr. ROHRABACHER], and others in strong opposition as well.

When we talk about cynicism, this really gets to me. We are talking about a bailout which puts at risk the possibility of losing over $20 billion of American taxpayers' money at the same time as we have a $200 billion deficit and at the same time we are cutting back on a wide variety of programs for the most vulnerable people in this country.

I ask the gentleman from Oregon [Mr. DEFAZIO], help me out, what was the vote on the floor of the House after that vigorous debate on this bailout? Do you recall what the vote was after we discussed that issue thoroughly on the House?

Mr. DEFAZIO. We attempted to bring a privileged resolution to the floor of the House about 2-months ago on this issue, the secretive rendering of funds from the Federal Reserve and from the Treasury accounts that are supposed to be there to prop up the dollar, and obviously they are not there to prop up the dollar anymore. My recollection is we were able to get 14 Republican votes who were all threatened with punishment the next day if they ever would vote that way again, and obviously we got more votes on the Democratic side. I do not recall the total number.

Mr. SANDERS. I was being a little facetious. There has never been a vote of course on the floor of the House.

Mr. DEFAZIO. That was on an extraordinary attempt to bring the issue to the floor.

Mr. SANDERS. Right.

Mr. DEFAZIO. No, we have not been allowed to directly bring the issue to the floor, although there was some language attached to today's Department of Defense conference report.

Mr. SANDERS. In other words, the point is that with over $20 billion of taxpayers' money at risk, Speaker GINGRICH and the Republican leadership in conjunction with a number of Democrats are prepared not to allow that debate on the floor of the House, not to allow that vote.

Mr. DEFAZIO. The gentleman is on the Banking Committee. Has there been a vote in the Banking Committee on this issue?

Mr. SANDERS. There certainly has not. I have introduced legislation which would not allow any more funding from the Exchange Stabilization Fund to go to the bailout of Mexico without the appropriation and the authority of a vote from the Congress. But we have not been able to get that legislation on the floor of the House.

When we talk about cynicism, let's talk a little bit about Mexico, let's talk a little bit about NAFTA, and I know that my friend from Oregon has introduced legislation to repeal NAFTA.

What really gets to me is that a year and a half ago when there was a vigorous debate on the floor of the House, we had the Clinton administration fighting terribly hard for the NAFTA agreement, we had the leadership of the Republican Party fighting very, very hard for the NAFTA agreement, we had virtually every multinational corporation in America telling us just what a wonderful thing NAFTA would be for American workers and Mexican workers. We had the corporate media, every, underlined, every major newspaper in the America editorialized in favor of NAFTA. That is the Wall Street Journal, the New York Times, the Boston Globe, the L.A. Times, you name it. All of the establishment and the money interests said, "Boy, NAFTA is just what we need."

I ask the gentleman from Oregon [Mr. DEFAZIO] why he introduced legislation to repeal NAFTA. Has it not been quite the success that these corporate giants and pundits told us it would be?

Mr. DEFAZIO. It is kind of extraordinary, actually. What we are doing now with the Mexico bailout is we are paying billions of dollars to speculators to attempt to prop up the Mexico peso and the Mexican economy because we are linked to them through the NAFTA agreement. We are losing jobs to Mexico, where wages and the standard of living have been reduced by 35 percent because of the devaluation of the peso.

The situation is the workers of Mexico, everyone outside of Mexico's 24 billionaires and a few hundred millionaires, have seen their standard of living go down by 35 percent in direct relation to NAFTA. Thousands at this point, over 20,000 American workers have been approved for unemployment benefits because their job loss was linked directly to the movement of their plant to Mexico.

We ran in January the first trade deficit with Mexico in 12 years, $863 million, 1-month trade deficit with Mexico, and it is predicted by next year we will run a $20 billion trade deficit with Mexico, which means, according to the Commerce Department, for every billion dollars of net on our trade balance, we create 20,000 jobs in America.

So if we run a $20 billion trade deficit with Mexico, we are ceding $400,000 to Mexico and we are paying $40 billion to do it. Absurdity on absurdity on mistake.

Mr. SANDERS. If the gentleman will yield, a year and a half ago we were told by every major corporate newspaper in America that NAFTA was a good deal. The multinational corporations put big ads in the newspapers saying, NAFTA is a good deal. Working people and their unions fought back against NAFTA. Environmentalists understood the terrible environmental impact that NAFTA would have. Consumer groups fought against NAFTA. But we could not defeat the enormous amount of power and money that was arrayed against us.

Since NAFTA has gone into effect, the figures that I have seen indicate that we have lost some 50,000 American jobs.

As the gentleman from Oregon [Mr. DEFAZIO] just indicated, at a time that historically we have always had a trade surplus with Mexico, we have a terrible trade deficit internationally, but we have always had a surplus with Mexico, for the first time now, we are running a significant trade deficit.

The gentleman is right, in January the deficit was $800 million in 1 month, and it is predicted that the trade deficit will mushroom and grow. The standard of living of Mexican workers is plummeting with the devaluation of the peso.

And now, atop of all of that, American workers who have lost their jobs because of NAFTA are being asked to bail out American speculators and billionaires in Mexico because the peso was devalued and the L.A. Times appropriately I think correctly indicates that most of our bailout money is going back to Wall Street and to wealthy Mexicans.

□ 2100

Mr. SANDERS. Now, on top of all of that, if that is not enough for you, during the debate over NAFTA, some of us were concerned that we were merging our economies with an authoritarian and corrupt government.

Mr. DEFAZIO, maybe you want to share with the public, and I have some of the information here, what has recently taken place in Mexico that I have a feeling some people may have known before the NAFTA debate. What about Mr. Salinas' brother? Where is that gentleman sitting right now? Former President Salinas' brother is now in jail.

Mr. DEFAZIO. He is in jail, that is right.

Mr. SANDERS. Now, this gentleman, Mr. Salinas, was President of that country. His brother is in jail under arrest for masterminding a political assassination. Furthermore, the former Deputy Attorney General of their country who had the responsibility for cracking down on the very serious drug problem in Mexico and the exporting of drugs from Mexico to the United States. Surprise, surprise. Where is that Deputy Attorney General today, who was their drug czar? My goodness, he is also in jail. He is in jail under charge that he has taken millions and millions of dollars from the Mexican drug cartel.

Mr. DEFAZIO. Do not forget that, of course, President Salinas said his brother was innocent and went back and staged I think it was a 12-hour hunger strike and then fled the country for the United States he was so convinced of his brother's innocence. He is of course somewhere at large in the United States living off of his Swiss back accounts and his investments in New York City and his many residences there.

Mr. SANDERS. So at a time when we continue to have a large deficit, when the government is cutting back in my State, in your State, Oregon, cold weather up there, not as cold as Vermont but it gets cold. We are talking about in the House cutting back and completely eliminating the fuel assistance program by which 5 million low income people get help in the wintertime to heat their homes, including 2 million senior citizens. We cannot afford to do that.

We are cutting back on student loans and grants upon which millions of working class kids depend in order to get their college education. We are cutting back on the WIC program, wonderful program for pregnant women, low income children. We are cutting back, now the debate will begin on the new budget, major cutbacks in medicare, major cutbacks in medicaid. There are those who seriously want to dismantle the social security system. We just don't have enough money for all of that, but lo and behold, isn't it amazing, just amazing that we have $20 billion to put at risk bailing out another country, in this case Mexico. Much of that money will accrue and go back to investors who originally made a whole lot of money in Mexico lost money and now they want Uncle Same to bail them out.

Mr. DEFAZIO. According to the Los Angeles Times, many of those folks are high stakes American investors who had invested the money through nontaxable offshore corporations, so we cannot even say that they have made a gain or they are going to recoup their funds and pay taxes on it. These are Americans who are not paying taxes on 50 percent interest earnings on failed Mexican bonds which have been propped up by working people's tax dollars, which brings up one other outrageous thing that went on this week. The issue of the billionaires, people amassing huge fortunes in the United States which if they were to dispose of it they would have to pay a capital gains tax on, 28 percent, that is about what your average working person pays or, under the new Republican proposal, 19 percent.

But in any case, a number of those people, and again this is a collusion between the Republicans and Democrats, unfortunately, from my own party between the administration. The Treasury has a list of how many of these billionaires and cente-millionaires have in the last year renounced their United States citizenship which means that they can expatriate all of their holdings and profits to Ireland or Costa Rica and not pay any United States taxes.

On the floor of the House we attempted several times to pass a simple piece of legislation that would have said before these people can expatriate the money, since they enjoyed the fruits of American citizenship, since they made that money as American citizens, since they made that money by employing Americans and selling things to Americans in this country, that they should pay a fair rate of taxes, at least the capital gains rate of 28 percent, before they expatriated and before they renounced their American citizenship. Amazingly, somehow the Republican party stood up and defended that practice.

It is alleged two former members of Congress have been hired by an investment firm out of New York to lobby this issue. How is it that you cannot get 435 people elected to represent citizens of the United States of America and the interests of the citizens of the United States of America to vote to say that people who want to renounce their citizenship, traitors to the United States of America, should not pay some minimum tax before they expatriate the hundreds of millions or billions they made operating businesses in this country? That was one of the most outrageous and one of the lowest points, there are many low points in the first hundred days, but that has to be the lowest because that kind of goes to the heart of everything.

Who do we really work for here? Do we work for the American people? Apparently a majority, since we were voted down by a large majority of Republicans and a few Democrats several times on this issue feel that multi-millionaires and billionaires no matter what their citizenship have a stronger call on their vote than the people who elected them. I think if people who elected the new majority knew about that vote they would be outraged.

Mr. SANDERS. We are running out of time and I just want to conclude by saying this. This is a great country and we are great people, but I think as Mr. DEFAZIO just demonstrated, time after time what ends up happening in Congress is that the decisions that are made here are not made in the best interests of ordinary Americans. They are made in the best interests of the wealthy and the powerful, very often the same people who contribute heavily to the political parties, who hire lobbyists and lawyers to get things done for those people.

In this country, we can, if we put our minds to it and we work together, develop a new trade policy which stops corporate America from taking our jobs to Third World countries. We can have those corporations reinvest in America and create decent paying jobs for our people. That is not utopian.

In this country, we can raise the minimum wage. We do not need to continue a minimum wage of $4.25 an hour in which people work long, hard hours and they end up deeper in poverty. We can raise the minimum wage to $5.50 an hour. We have legislation in to do that.

In this country, if you had a Congress that represented ordinary people rather than the big money interests, we could join the rest of the industrialized world and pass a national health care system that guarantees health care to all people. We do not need to continue the most expensive, wasteful bureaucratic system in the world in which 40 million Americans today have no health insurance.

We can do better. we can have a tax system which is fair, which asks those people who have the money to pay their fair share of taxes so we can lower taxes for middle income and working people.

We can put more money into education so that we do not have so many of our kids dropping out of high school and have a situation where so many of our kids cannot afford to go to college. Throughout Europe, in Canada, in Scandinavia, their governments put more money into higher education, enabling their working people to be better able to send their kids to college.

Those things are not magical. They are not utopian. They can happen, but they will not happen until the American people wake up and reclaim this government from the millionaires and the billionaires who today control it.

Mr. DeFAZIO. In conclusion, I could say we can do all those things and, in my opinion, with the proper priorities, we can balance the Federal budget.

Mr. SANDERS. I would certainly agree. Let me conclude by thanking my friend, Mr. DeFAZIO from Oregon, for joining me.

I think we depart by saying to the American people, please stand up, fight back and take back your country.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GEPHARDT (at the request of Mr. FROST), for Thursday, April 6 and Friday, April 7, on account of death of his father.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FARR) to revise and extend their remarks and include extraneous material:)

Mr. WYNN, for 5 minutes, today.

Mr. DeFAZIO, for 5 minutes, today.

Mr. KLINK, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mr. OBERSTAR, for 5 minutes, today.

Ms. SLAUGHTER, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mr. SPRATT, for 5 minutes, today.

Mr. FARR, for 5 minutes, today.

(The following Members (at the request of Mr. HOKE) to revise and extend their remarks and include extraneous material:)

Mr. MICA, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. HOKE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MOAKLEY, during debate of House Resolution 130.

Mr. THOMAS and to include extraneous material on H.R. 483 in the Committee of the Whole today.

ADJOURNMENT

Mr. SANDERS. Mr. Speaker, I move that the house do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, April 7, 1995, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the speaker's table and referred as follows:

689. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting the Department's defense manpower requirements report for fiscal year 1996, pursuant to 10 U.S.C. 115(b)(3)(A); to the Committee on National Security.

690. A letter from the Chairman, National Research Council, transmitting a study of live-fire survivability testing of the F–22 aircraft; to the Committee on National Security.

691. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

692. A letter from the President, Overseas Private Investment Corporation, transmitting the fiscal year 1994 management report, pursuant to Public Law 101–576, section 306(a) (104 Stat. 2854); to the Committee on Government Reform and Oversight.

693. A letter from the Acting Assistant Secretary for Civil Works, Department of the Army, transmitting a report recommending authorization of a deep-draft navigation project at Salem River, NJ; to the Committee on Transportation and Infrastructure.

694. A letter from the Senior Vice President, Tennessee Valley Authority; transmitting a copy of the Authority's statistical summaries as part of their annual report for the fiscal year beginning October 1, 1993, and ending September 30, 1994, pursuant to 16 U.S.C. 831h(a); to the Committee on Transportation and Infrastructure.

695. A letter from the Chairman of the Board, Pension Benefit Guaranty Corporation, transmitting the 20th annual report of the Corporation, which includes the Corporation's financial statement as of September 30, 1994, pursuant to 29 U.S.C. 1308; jointly, to the Committees on Economic and Educational Opportunities and Ways and Means.

696. A letter from the Chief Counsel for Advocacy, U.S. Small Business Administration, transmitting an analysis of the impact on small businesses of the "Contract With America Tax Reform Act of 1995"; jointly, to the Committees on Small Business and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY; Committee on Commerce. H.R. 483. A bill to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes; with an amendment (Rept. 104–79 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROBERTS: Committee on Agriculture H.R. 618. A bill to extend the authorization for appropriations for the Commodity Futures Trading Commission through fiscal year 2000 (Rept. 104–104). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. THOMAS:

H.R. 1421. A bill to provide that references in the statutes of the United States to any committee or officer of the House of Representatives the name or jurisdiction of which was changed as part of the reorganization of the House of Representatives at the beginning of the 104th Congress shall be treated as referring to the currently applicable committee or officer of the House of Representatives; considered and passed.

By Mr. BARRETT of Wisconsin:

H.R. 1422. A bill to amend the Job Training Partnership Act to provide for employment and training assistance for certain individuals employed at a facility at which the employer has made a public announcement that a substantial member of employees will be terminated or laid off from employment; to the Committee on Economic and Educational Opportunities.

By Mr. BROWN of California (for himself and Mr. TORRICELLI):

H.R. 1423. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through the reduction in meat and poultry of harmful substances that present a threat to public health, and for other purposes; to the Committee on Agriculture.

By Mr. STEARNS:

H.R. 1424. A bill to provide Americans with secure, portable health insurance benefits through tax credits, medical savings accounts, and greater choice of health insurance plans without mandates, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, the Judiciary, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURTON of Indiana (for himself, Mr. TORRICELLI, Mr. COX, Mr. FLAKE, Mr. ROHRABACHER, Mr. MORAN, Mr. KING, Mr. JEFFERSON, Mr. HUNTER, Mr. REYNOLDS, Mr. DIAZ-BALART, Mr. CONDIT, Mr. FIELDS of Texas, Mr. TOWNS, Mr. DOOLITTLE, Mr. ABERCROMBIE, Mr. POMBO, Mr. PETERSON of Minnesota, Mr. CUNNINGHAM, Mr. LIPINSKI, Mr. CRANE, Mr. HERGER, Mrs. WALDHOLTZ, Mr. BARTLETT of Maryland, Mr. FUNDERBURK, Mr. HASTINGS of Washington, Mr. JONES, Mr. CALVERT, Mr. STOCKMAN, Mr. PETE GEREN of Texas, and Mr. WILSON):

H.R. 1425. A bill to suspend United States development assistance for India unless the President certifies to the Congress that the Government of India has taken certain steps to prevent human rights abuses in India; to the Committee on International Relations.

By Mr. CLAY (for himself and Mr. WILLIAMS):

H.R. 1426. A bill to assist States and secondary and postsecondary schools to develop, implement, and improve school-to-work opportunities systems so that all students have an opportunity to acquire the knowledge and skills needed to meet challenging State academic standards and industry-based skill standards and to prepare for postsecondary education, further learning, and a wide range of opportunities in high-skill, high-wage careers, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. COSTELLO:

H.R. 1427. A bill to amend the Federal Election Campaign Act of 1971 to control House of Representatives campaign spending, and for other purposes; to the Committee on House Oversight.

By Mr. DE LA GARZA:

H.R. 1428. A bill entitled, "The North American Border Stations Improvements Act"; to the Committee on Transportation and Infrastructure.

By Mr. EVANS (for himself, Mr. GUTIERREZ, Mr. KENNEDY of Massachusetts, Mr. WILLIAMS, and Mr. DOYLE):

H.R. 1429. A bill to amend title 38, United States Code, to provide for the organization and administration of the Readjustment Counseling Service of the Department of Veterans Affairs, to improve eligibility for veterans' readjustment counseling and related counseling, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FARR (for himself, Mr. DOOLITTLE, Ms. PELOSI, Mr. POMBO, Ms. ESHOO, Mr. HERGER, Mr. FAZIO of California, Mrs. SEASTRAND, Mr. BROWN of California, Mr. RADANOVICH, Mr. ROSE, Mr. DOOLEY, and Mr. CALVERT):

H.R. 1430. A bill to authorize the Secretary of Agriculture to provide emergency financial assistance to agricultural producers who suffer severe crop losses in federally designated disaster areas; to the Committee on Agriculture.

By Mr. FLANAGAN:

H.R. 1431. A bill to amend the Internal Revenue Code of 1986 to repeal the 30-percent of gross income limitations applicable to regulated investment companies; to the Committee on Ways and Means.

By Mr. GREENWOOD:

H.R. 1432. A bill to amend the Federal Election Campaign Act of 1971 to eliminate multicandidate political committees, and for other purposes; to the Committee on House Oversight.

By Mr. HAYES (for himself and Mr. BALLENGER):

H.R. 1433. A bill to require the Secretary of Labor to establish a program under which employers may consult with State officials respecting compliance with occupational safety and health requirements; to the Committee on Economic and Educational Opportunities.

By Mr. HOUGHTON (for himself and Mr. LEVIN):

H.R. 1434. A bill to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of Georgia:

H.R. 1435. A bill to amend the Internal Revenue Code of 1986 to permit the use of certain agricultural byproducts in wine production; to the Committee on Ways and Means.

By Mr. LIPINSKI (for himself and Mr. MINETA) (both by request):

H.R. 1436. A bill to amend subtitle IV of title 49, United States Code, to eliminate unnecessary regulation of transportation industries, to streamline regulation of rail carriers, to sunset the Interstate Commerce Commission, and for other purposes; to the Committee on Transportation and Infrastructure.

H.R. 1437. A bill to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. LOWEY (for herself, Ms. DELAURO, Mr. GEJDENSON, Mrs. KENNELLY, Mr. BONIOR, Mr. YATES, Mr. MILLER of California. Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. ENGEL, Mr. MANTON, Mr. SERRANO, Ms. ESHOO, Mr. FILNER, Ms. PELOSI, Ms. WOOLSEY, Ms. FURSE, Mr. REED, Mr. TORRES, Ms. HARMAN, Ms. NORTON, Mr. PALLONE, Mr. MCDERMOTT, Mr. TOWNS, Mr. WAXMAN, Ms. WATERS, Mr. DICKS Mr. VENTO, Mr. WYNN, Mr. GONZALEZ, Ms. VELAZQUEZ, Mr. JOHNSTON of Florida, Mr. MARTINEZ, Mr. MARKEY, Mr. BERMAN, Mr. HINCHEY, Mr. ROMERO-BARCELO, and Mr. FALEOMAVAEGA):

H.R. 1438. A bill to amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. METCALF:

H.R. 1439. A bill to amend the National Forest Management Act of 1976 to require the Timber Sale Program conducted by the Forest Service on National Forest System lands to be financed only by receipts from the sale of timber under the program; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MINETA (by request):

H.R. 1440. A bill to amend title 49, United States Code, to simplify and improve the organization of the Department of Transportation, and for other purposes; to the Committee on Transportation and Infrastructure.

H.R. 1441. A bill to provide for the transfer of operating responsibility for air traffic services currently provided by the Federal Aviation Administration on behalf of the United States to separate corporate entity, in order to provide for more efficient operation and development of these transportation services and related assets, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MINGE (for himself, Mrs. MEYERS of Kansas, Mr. DEFAZIO, and Mrs. FOWLER):

H.R. 1442. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate any portion of their income tax overpayments, and to make other contributions, for deficit reduction; to the Committee on Ways and Means.

By Mr. MOORHEAD (for himself, Mr. SENSENBRENNER, Mr. COBLE, Mr. GOODLATTE, Mr. BONO, Mr. GALLEGLY, and Mr. CANADY):

H.R. 1443. A bill to amend chapter 44 of title 28, United States Code, to provide for arbitration in all U.S. district courts, and for other purposes; to the Committee on the Judiciary.

By Mr. MARKEY (for himself, Mr. BROWN of California, Mrs. JOHNSON of Connecticut, Mr. PALLONE, Mrs. KENNELLY, Mr. DELLUMS, Mr. FRANK of Massachusetts, Mr. OLVER, and Mr. STUDDS):

H.R. 1444. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other programs; to the Committee on Commerce.

By Mr. MOORHEAD (for himself, Mrs. SCHROEDER, Mr. COBLE, and Mr. CANADY):

H.R. 1445. A bill to amend rule 30 of the Federal Rules of Civil Procedure to restore the stenographic preference for depositions; to the Committee on the Judiciary.

By Mr. MOORHEAD:

H.R. 1446. A bill to amend the Revised Statutes of the United States to promote equity and fairness in lawsuits brought against State and local law enforcement officers; to the Committee on the Judiciary.

By Mr. NEAL (for himself, Mr. BLUTE, Mr. KENNEDY of Rhode Island, and Mr. REED):

H.R. 1447. A bill to revise the boundaries of the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, and for other purposes; to the Committee on Resources.

By Ms. PRYCE (for herself, Mr. SOLOMON, and Mr. BURTON of Indiana):

H.R. 1448. A bill to amend the Indian Child Welfare Act of 1978 to require that determinations regarding status as an Indian child and as a member of an Indian tribe be prospective from the date of birth of the child and of tribal membership of the member, and for other purposes; to the Committee on Resources.

By Mr. ROBERTS (for himself and Mrs. MEYERS of Kansas):

H.R. 1449. A bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes; to the Committee on Resources.

By Mr. ROEMER (for himself, Mr. KLUG, and Mr. CHRYSLER):

H.R. 1450. A bill to eliminate certain activities from the functions performed by the National Weather Service, and for other purposes; to the Committee on Science.

By Mr. ROHRABACHER (for himself and Mr. HAMILTON):

H.R. 1451. A bill to provide authority for the extension of nondiscriminatory (most-favored-nation) trade treatment to Cambodia; to the Committee on Ways and Means.

By Mr. ROSE (for himself, Mr. CLAY, Mr. LIPINSKI, Mrs. MINK of Hawaii, Mr. PICKETT, Mr. RAHALL, Mr. SANDERS, Mr. QUILLEN, and Mr. EMERSON):

H.R. 1452. A bill to amend the Harmonized Tariff Schedule of the United States to clarify that certain footwear assembled in beneficiary countries is excluded from duty-free treatment, and for other purposes; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 1453. A bill to amend the Internal Revenue Code of 1986 to deny tax-exempt status to organizations which promote the legalization of certain drugs; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 1454. A bill to require the Federal Trade Commission to issue a trade regulation rule which requires the release of prescriptions for contact lenses; to the Committee on Commerce.

By Mr. STARK (for himself, Mr. HANSEN, Mr. DURBIN, Mr. COYNE, Ms. PELOSI, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. MORAN, Mr. OBERSTAR, Mrs. COLLINS of Illinois, and Mr. EVANS):

H.R. 1455. A bill to amend the Internal Revenue Code of 1986 to increase the tax on tobacco products, and for other purposes; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. WAXMAN, and Mr. MCDERMOTT):

H.R. 1456. A bill to amend title XVIII of the Social Security Act to provide expanded coverage of mental health and substance abuse treatment services under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK (for himself and Mr. KLECZKA):

H.R. 1457. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide tax benefits with respect to long-term care insurance contracts that satisfy certain requirements; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUMP (for himself, Mr. MONTGOMERY, Mr. BURTON of Indiana, Mr. PARKER, Mr. TRAFICANT, and Mr. BILIRAKIS):

H.R. 1458. A bill to provide for the award of the Purple Heart to persons held as prisoners of war before April 25, 1962, on the same basis as persons held as prisoners of war after that date; to the Committee on National Security.

By Mr. THOMPSON (for himself, Mr. HILLIARD, Mr. JEFFERSON, Mr. MONTGOMERY, Ms. JACKSON-LEE, Mr. FIELDS of Louisiana, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 1459. A bill to increase the supply of minority scientists and help meet the research and development needs of the public and private sectors of the United States; to the Committee on Science.

By Mr. TORRICELLI (for himself, Mr. GILMAN, Mr. LANTOS, Mr. GEJDENSON, Mr. SOLOMON, Mr. ACKERMAN, Mr. ROHRABACHER, Mr. FALEOMAVAEGA, Mr. BROWN of Ohio, Mr. DEUTSCH, and Ms. PELOSI):

H.R. 1460. A bill to amend the Taiwan Relations Act to permit visits to the United States by the elected leaders of the people of Taiwan or their elected representatives; to the Committee on International Relations.

By Mr. UPTON (for himself and Mr. BROWN of Ohio):

H.R. 1461. A bill to amend the Public Health Service Act to eliminate the incentives that lead to increased prices and utilization of clinical laboratory diagnostic testing services and other ancillary health services; to the Committee on Commerce.

By Mr. WAXMAN (for himself, Mr. UPTON, Mr. DINGELL, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. COYNE, Mr. DEUTSCH, Mr. DIXON, Mr. FRANK of Massachusetts, Mr. GREENWOOD, Mr. KLECZKA, Ms. LOWEY, Mr. MARKEY, Mr. MCDERMOTT, Mr. MILLER of California, Mrs. MINK of Hawaii, Mrs. MORELLA, Mr. OBERSTAR, Mr. PALLONE, Mr. PASTOR, Mr. SISISKY, Mr. STUDDS, Mr. TOWNS, and Ms. WOOLSEY):

H.R. 1462. A bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes; to the Committee on Commerce.

By Mr. WOLF (for himself and Mr. DAVIS):

H.R. 1463. A bill to provide for the adoption of mandatory standards and procedures governing the actions of arbitrators in the arbitration of labor disputes involving transit agencies operating in the National Capital area; to the Committee on Transportation and Infrastructure.

By Mr. YOUNG of Alaska:

H.R. 1464. A bill to amend title 39, United States Code, to require the Postal Service to accept a change-of-address order from a commercial mail receiving agency and to forward mail to the new address; to the Committee on Government Reform and Oversight.

By Mr. ZELIFF:

H.R. 1465. A bill to amend the Magnuson Fishery Conservation and Management Act to establish additional prohibitions against removing, damaging, tampering with, or moving fishing gear and fish, including gear and fish from aquaculture operations in the exclusive economic zone; to the Committee on Resources.

By Mr. GOSS:

H. Con. Res. 58. Concurrent resolution providing for the adjournment of the two Houses; considered and agreed to.

By Mr. LANTOS:

H. Con. Res. 59. Concurrent resolution expressing the sense of the Congress that the Government of the United States should encourage resumption of direct, bilateral talks between India and Pakistan at the earliest possible time; to the Committee on International Relations.

By Mr. ROSE (for himself and Mr. GILMAN):

H. Con. Res. 60. Concurrent resolution commending India for its commitment to religious pluralism and tolerance; to the Committee on International Relations.

By Mr. MILLER of California (for himself, Ms. DELAURO, Mr. FROST, Mr. LIPINSKI, Ms. PELOSI, Mr. POSHARD, Mrs. SCHROEDER, Mr. VENTO, and Mr. CLAY):

H. Res. 132. Resolution amending the Rules of the House of Representatives to provide for disclosure of the source of amendments, measures, and committee reports; to the Committee on Rules.

By Mrs. SCHROEDER:

H. Res. 133. Resolution amending the Rules of the House of Representatives to require that reports from the Committee on Ways and Means accompanying revenue bills with targeted tax benefits clearly identify those benefits; to the Committee on Rules.

By Mrs. WALDHOLTZ (for herself, Mr. BARRETT of Wisconsin, Mr. SHAYS, Mr. MINGE, Mr. KLUG, Mr. DEAL of Georgia, Mr. CASTLE, Mr. MCHALE, and Mr. DICKEY):

H. Res. 134. Resolution to amend the Rules of the House of Representatives concerning the receipt of gifts from lobbyists and other persons; to the Committee on Standards of Official Conduct.

MEMORIALS

Under clause 4 of rule XXII,

41. The SPEAKER presented a memorial of the Legislature of the State of Oregon, relative to Federal mandates on States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GILCHREST:

H.R. 1466. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and fisheries for each of the vessels *Sallie D* and *Memory Maker;* to the Committee on Transportation and Infrastructure.

By Mr. LIPINSKI:

H.R. 1467. A bill for the relief of Leland E. Person; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. ANDREWS.

H.R. 70: Mrs. VUCANOVICH and Mr. TORKILDSEN.

H.R. 103: Mr. COLLINS of Georgia, Mr. SAWYER, Mr. SHAW, Mr. TALENT, Mr. BONO, and Mr. VENTO.

H.R. 127: Ms. HARMAN, Mr. HALL of Texas, Mr. FIELDS of Louisiana, and Mr. WAXMAN.

H.R. 218: Mrs. KELLY.

H.R. 311: Ms. NORTON Mr. SHAYS, Mr. GEJDENSON, Mr. WYDEN, and Ms. RIVERS.

H.R. 329: Mr. Packard.

H.R. 333: Mr. Mineta.

H.R. 359: Mr. Chambliss, Mr. McHale, and Mrs. Fowler.

H.R. 367: Mr. Rangel.

H.R. 427: Mr. Skeen, Mr. Upton, Mrs. Chenoweth, and Mr. Stockman.

H.R. 436: Mr. Pastor, Mr. Petri, and Mr. Cooley.

H.R. 468: Mr. Hamilton.

H.R. 549: Mr. Hamilton.

H.R. 553: Mr. Mfume.

H.R. 592: Mrs. Fowler.

H.R. 616: Mrs. Meek of Florida, Mr. Frost, Mr. Lipinski, Mr. Thompson, Mr. Underwood, Ms. Norton, Mr. Jefferson, Mr. Schumer, Mr. Dellums, Mr. Tucker, Mr. Bishop, Mr. Rush, Mr. Ford, Mr. Watt of North Carolina, Mr. Owens, Mr. Fields of Louisiana, Ms. McKinney, Mr. Clyburn, Mr. Scott, Ms. Jackson-Lee, and Mr. Lewis of Georgia.

H.R. 638: Mr. Menendez.

H.R. 676: Mr. Fattah.

H.R. 677: Mr. Lewis of Georgia.

H.R. 700: Mrs. Myrick, Mr. Shaw, Mr. Linder, Mr. Brownback, Mr. Hostettler, Mr. English of Pennsylvania, Mr. Paxon, Mr. Baker of California, and Mr. Scarborough.

H.R. 713: Ms. McCarthy, Mr. Manton, and Mrs. Mink of Hawaii.

H.R. 727: Mr. Hinchey.

H.R. 733: Mr. Sawyer.

H.R. 734: Mr. Sawyer.

H.R. 739: Mr. Calvert and Mrs. Meyers of Kansas.

H.R. 743: Mr. Graham and Mr. Souder.

H.R. 752: Mrs. Waldholtz, Mr. Burton of Indiana, Mr. Stockman, Mr. Chambliss, and Mr. Young of Florida.

H.R. 761: Mr. Rangel.

H.R. 795: Mrs. Smith of Washington.

H.R. 798: Mr. McDermott, Mr. Serrano, Mrs. Thurman, Mr. Frost, Mr. Gene Green of Texas, Mr. Jefferson, Ms. Rivers, Mrs. Schroeder, Mr. Thompson, and Mr. Romero-Barcelo.

H.R. 820: Mr. Moran.

H.R. 822: Mrs. Chenoweth and Mr. Luther.

H.R. 844: Mr. Minge.

H.R. 850: Mr. Fox.

H.R. 896: Mr. Ackerman and Mr. Lewis of Georgia.

H.R. 899: Mr. Dreier, Mr. Wicker, Mr. Lewis of Kentucky, Mr. Solomon, Mr. Mica, Mr. Emerson, Mr. Spence, Mr. Calvert, Mr. Hilleary, Mr. Bartlett of Maryland, Mrs. Vucanovich, Mr. Bereuter, Mr. Chapman.

H.R. 924: Mr. Boehlert and Ms. Harman.

H.R. 991: Mr. Rohrabacher.

H.R. 1010: Mr. Beilenson, Mr. Dellums, Mr. Dickey, Mr. Pallone, Mr. Menendez, Mr. Frank of Massachusetts, Mr. Filner, and Mr. Petri.

H.R. 1018: Mrs. Fowler.

H.R. 1020: Mr. Frisa.

H.R. 1023: Mr. Romero-Barcelo and Mr. Frank of Massachusetts.

H.R. 1028: Mr. Upton and Mr. Skeen.

H.R. 1044: Mr. Fields of Texas.

H.R. 1079: Mr. McDade, Mr. Pallone, Mr. Romero-Barcelo, Mr. Torres, Mr. Frost, Mrs. Mink of Hawaii, Mr. Baker of Louisiana, Mr. Bishop, Mr. Yates, Mr. Poshard, Mr. Traficant, Mr. Stokes, Mrs. Collins of Illinois, Mr. Costello, Mr. Bryant of Texas, Mr. Pastor, Mr. Duncan, Mr. Filner, Mr. Borski, Mr. Frazer, and Mr. Tucker.

H.R. 1085: Mr. Hinchey.

H.R. 1103: Mrs. Seastrand and Mr. Cooley.

H.R. 1129: Mr. Bevill, Mr. Bonior, Ms. Norton, Mr. Markey, Mrs. Mink of Hawaii, and Mr. Waxman.

H.R. 1143: Mr. Saxton.

H.R. 1144: Mr. Saxton.

H.R. 1145: Mr. Saxton.

H.R. 1173: Mr. Goodlatte.

H.R. 1191: Mr. Luther.

H.R. 1210: Mr. Diaz-Balart.

H.R. 1220: Mr. Nethercutt, Mr. Funderburk, Mr. Thornberry, Mr. Combest, Mr. Doolittle, Mr. McIntosh, Mr. Packard, and Mr. Jones.

H.R. 1235: Mr. Hoekstra, Mr. Ackerman, Mr. Cox, and Mr. Rohrabacher.

H.R. 1242: Mr. LaHood.

H.R. 1252: Mr. Sensenbrenner and Mr. Minge.

H.R. 1288: Mr. Burton of Indiana, Mr. Roberts, Mr. Myers of Indiana, Mr. Hostettler, Mr. Souder, and Mr. McIntosh.

H.R. 1300: Mr. Coble, Mrs. Clayton, Mr. Stenholm, Mr. Heineman, Mr. Goodlatte, Mr. Klug, and Mr. Funderburk.

H.R. 1309: Mr. Diaz-Balart and Mr. Filner.

H.R. 1316: Ms. Molinari.

H.R. 1329: Mr. Bryant of Tennessee and Mr. Romero-Barcelo.

H.R. 1339: Mr. Evans.

H.R. 1378: Mr. Matsui and Mr. Kleczka.

H.R. 1397: Mr. Wilson.

H.J. Res. 61: Mr. Shays.

H.J. Res. 79: Mr. Hayes and Mr. Inglis of South Carolina.

H. Con. Res. 32: Mr. King, Mr. Flake, Mr. Tucker, Mrs. Waldholtz, Mr. Moran, Mr. Traficant, Mr. Funderburk, Mr. Jones, Mr. Salmon, Mr. Hoke, Mr. Reynolds, and Mr. Cox.

H. Con. Res. 43: Mr. Luther and Ms. Slaughter.

H. Con. Res. 48: Mr. Meehan, Mr. McDermott, Mr. Levin, Mr. Schumer, Mr. Stearns, Mr. Doyle, Mr. Royce, Mr. Gene Green of Texas.

H. Con. Res. 54: Mr. Andrews.

H. Res. 30: Mr. Barton of Texas, Mr. Abercrombie, Mr. Oberstar, Mr. Hayes, Mr. Leach, Mr. Inglis of South Carolina, Mr. Rose, Mr. Neal of Massachusetts, Mr. Portman, Mr. Cunningham, Mr. Burr, Mr. Wamp, and Mr. Graham.

H. Res. 122: Mr. Ackerman, Mr. Baldacci, Mr. Boehlert, Mrs. Collins of Illinois, Ms. DeLauro, Mr. Deutsch, Mr. Flake, Mr. Frost, Mr. Gonzalez, Mr. Holden, Ms. Jackson-Lee, Mr. Markey, Mr. Pickett, Mr. Rahall, Mr. Vento, Mr. Wise, and Mr. Wyden.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 42: Mr. Bono, Mr. Oberstar, and Ms. Ros-Lehtinen.

H.R. 345: Mr. Brewster.

H.R. 555: Mr. Foley.

SENATE—*Thursday, April 6, 1995*

(Legislative day of Wednesday, April 5, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Father Schlegel. He is president of the University of San Francisco. He has been endorsed by Senator HATFIELD and Sheila Burke. We are very pleased to have him with us.

PRAYER

The guest Chaplain, Father John Schlegel, office of the president, University of San Francisco, offered the following prayer:

Let us pray:

God, designer of life and author of all that is good and beautiful. We know You to be a God of harmony and wholeness; a God who seeks justice and rewards goodness.

You give to Your daughters and sons many gifts, talents, opportunities, and challenges. You have endowed those elected to this Chamber great opportunities and great responsibility in conducting the public work of this land for the common good of all.

As they deliberate may they be motivated by service and guided by conscience.

Grant the Members of this Senate and the whole Congress: wisdom to their minds; clearness in their thinking; truth in their speaking; love in their hearts; and enthusiasm for their work. Help them be a source of unity not division. Help them be seekers of justice and forgers of equality. Help them to set the interest of the Nation above all else.

Guide them, finally, to exercise their power to assist our fellow citizens to feed the hungry among us; to ease the burden of those in pain; and to make our country, our communities, and our homes better places to live and to work.

As we make this prayer today as every day, we make it in confidence knowing You are a God of faithfulness and covenant, a God of love, a God of peace. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished Senator from Wyoming.

SCHEDULE

Mr. THOMAS. Mr. President, on behalf of the leader, let me say this morning that the time for the two leaders has been reserved, and the Senate will immediately resume consideration of H.R. 1158, the supplemental appropriations and rescissions bill. It is the hope of the majority leader that a unanimous-consent agreement can be reached that will enable the Senate to complete action on the supplemental appropriations bill today.

If an agreement cannot be reached, Senators are to be reminded that a cloture vote on the Hatfield substitute is scheduled for 2 p.m. today. Members should be aware that rollcall votes could occur throughout the day.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADERSHIP TIME

The PRESIDING OFFICER. Under the previous order, the leadership time has been reserved.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 1158, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Hatfield amendment No. 420, in the nature of a substitute.

D'Amato amendment No. 427 (to amendment No. 420) to require congressional approval of aggregate annual assistance to any foreign entity using the exchange stabilization fund established under section 5302 of title 31, United States Code, in an amount that exceeds $5 billion.

Murkowski-D'Amato amendment No. 441 (to amendment No. 427) of a perfecting nature.

Daschle amendment No. 445 (to amendment No. 420) in the nature of a substitute.

Dole (for Ashcroft) amendment No. 446 (to amendment No. 445) in the nature of a substitute.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is now recognized.

Mr. THOMAS. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAPERWORK REDUCTION ACT OF 1995—CONFERENCE REPORT

Mr. THOMAS. Mr. President, this request has been agreed to by both the minority and the majority leaders.

I ask unanimous consent that the Senate now turn to the consideration of the conference report to accompany S. 244, the paperwork reduction bill; that the conference report be agreed to; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 244) to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report is printed in the House proceedings of the RECORD of April 3, 1995.)

Mr. ROTH. Mr. President, I am pleased to state that our bipartisan efforts to strengthen the Paperwork Reduction Act, which began in the last Congress, has now in this Congress become bicameral. The conferees were able to resolve the differences between the Houses so that before the week is over the Congress will have concluded its work on a bill that significantly improves upon current law.

As my colleagues know, the 1980 Act established within OMB the Office of Information and Regulatory Affairs [OIRA]. That office was directed to review the paperwork burdens created by the Federal Government. All collections of information from 10 or more persons must, with very few exceptions, be reviewed by OIRA for their need and practical utility and must receive a clearance number before they can become effective.

The fundamental purpose of this review process is to reduce the paperwork burden on the American public.

Hence, the name given to this legislation. However, before this legislation now pending, because of the Supreme Court decision in Dole versus Steelworkers, not all paperwork burdens caused by the Federal Government had to be reviewed and cleared. The Court said that the act applied to paperwork that flowed from a private party to the Federal Government and not to instances where the Federal Government required a person to provide information to another person.

As a policy matter, I have never favored the distinction made in the Dole case. The conference report makes clear that neither House of Congress accepts this distinction. The Dole case is overturned, and the scope of OIRA's review authority is, as a consequence, enlarged by 50 percent. This change marks a major breakthrough in our paperwork reduction efforts.

In noting the major effect of this legislation, I do not mean to imply that it was a major issue with the House. It was not. In fact, in view of the breadth of this legislation, the issues in disagreement were relatively few.

Perhaps the most significant disagreement concerned the duration of the authorization of appropriations for OIRA. The Senate bill provided $8 million for each of the next 5 years, while the House had an indefinite and permanent authorization. The conferees compromised on the Senate version for an additional year. This 6-year authorization will prompt us to review the legislation at some future time, which was the underlying rationale of the Senate provision.

The House argued that OIRA has clearly been established as a matter of policy, if not in law, as a central organ of the Federal Government and a key instrument of current regulatory reform efforts. The Senate responded that it was not its position to sunset either the Paperwork Reduction Act or OIRA. The lack of a permanent authorization of appropriations for OIRA has never before, even when it has expired, caused OIRA to terminate.

I agree that OIRA has become a necessary and permanent policeman of paperwork and regulation. But I also continue to hold my longstanding commitment to limited authorizations. Six years is a substantial period of time. A lot can change in 6 years. In 2001, it is entirely appropriate that Congress review the status of our paperwork reduction efforts and the role of OIRA.

A second major issue of disagreement between the Houses concerned the annual percentage goals for Government-wide reductions in paperwork burdens. The Senate set a 5 percent goal for each of the next 5 years. The House set a 10 percent annual goal forever. Of course, all the conferees would like to see substantial reductions. The question was a practical one: what goal was realistically achievable? Once we had decided on a 6-year timeframe, the issue became more focused. While the House conferees made clear that their 10 percent goal was to be set annually with respect to a new paperwork baseline that would include new congressional paperwork mandates, Senate conferees were still concerned that 10 percent a year for 6 years was unrealistic. After some discussion, it was agreed that the paperwork reduction goals of the Federal Government should be set at 10 percent for each of the first 2 years and 5 percent for each of the other 4 years.

A third major issue of disagreement concerned the House provision which permitted OIRA to charge the users of Government information more than the cost of disseminating such information. While there might be some instances where such an authority would be appropriate, the House provision was not crafted in any such limited manner. The Senate conferees thought it was a little late in the legislative process to start isolating circumstances where charges in addition to dissemination costs might be appropriate. Not having addressed this issue at all in the Senate bill, the Senate conferees asked that the House recede. And the House agreed.

Mr. President, the topic that captured more time in conference discussion than any other was that of redrafting section 3512, which provides public protection against agency noncompliance with the Paperwork Reduction Act. Since 1980, the act has provided a fundamental protection to every citizen that he or she need not comply with, or respond to, a collection of information if such collection does not display a valid control number given by OMB as evidence that the collection was reviewed and approved by OIRA. And if the collection does not display a valid control number, the agency may not impose any penalty on the citizen who fails to comply or respond.

In order to strengthen and underscore congressional desire to protect the public, the conferees included a definition of penalty at the end of section 3502 to make clear that the term not only applies to the payment of a fine but also to the denial of a benefit. What this means is that if an agency does not comply with this act, it is in serious trouble. If an agency does not act on a citizen's request for a Government benefit because the citizen did not complete a form that fails to display a valid OMB clearance number, it is the agency—not the citizen—that stands in violation of law. Once this is determined, the agency would not only owe the citizen the benefits due but also perhaps interest as well.

Now there are some who may grumble that this provision is too weak. Since 1980, section 3512 has included an alternative clause of public protection requiring the collection of information to state that if it did not display a valid OMB control number, it was not subject to the act. Some may view that second clause as a tautology. That is how agencies have interpreted it. But some others have believed that it requires: First, that every effort by the Government to collect information, even those not covered by the act, be accompanied by a statement advising that such collection is not required to have a clearance number; and second, that consequently a failure to provide such advice would subject the collection of information to the public protection sanctions of section 3512, even though the collection was not subject to the act.

Now the act specifies in section 3518 certain exceptions from the act. A subpoena is one example. Also, by definition, a collection of information falls under the act only if 10 or more persons are involved. My view is that since a subpoena is not covered by the act's clearance requirements and since a request for information made to nine or fewer individuals is likewise not covered, then in such cases the sanctions of section 3512 have no application. It is simply foolish, in my opinion, to require an agency to inform a person it is dealing with about the laws that do not apply.

So with the concurrence of all the Senate conferees, this second clause was rewritten to be both feasible and useful. It now requires the agency to inform the person who is to respond to collections of information governed by the act that such person is not required to respond to the collection of information unless it displays a valid control number from OMB. This statement of how section 3512 operates to protect the public technically need not appear on the collection of information itself. That is because the term collection of information includes more than Government requests for information. An example of an additional item included within the definition might be a recordkeeping requirement. In such case, the collection of information might not be a Government form but instead a legal requirement about which the agency provides instructions.

While the conferees provided some flexibility regarding the second clause of section 3512(a), it is their intention that the agency inform those who are to respond in a manner reasonably calculated to bring the matter to their attention. If the collection is a Government form to be completed and submitted by a person, then that form should bear the necessary statement to fulfill the requirements of section 3512(a)(2). If the collection concerns something else, such as recordkeeping, then the agency should make it section 3512(a)(2) statement as clearly as possible in some document, such as instructions regarding such recordkeeping.

Moreover, in section 3512(b) the conferees made clear that the protections of section 3512 may be raised at any time during the life of the matter. The protections cannot be waived. Failure to raise them at any early stage does not preclude later assertion of rights under this section, regardless of any agency or judicial rules to the contrary.

I believe that as a result of our changes to section 3512 we have substantially strengthened that section and, in turn, the entire act. Any agency that fails to comply with the clearance provisions of this act does so at its peril. Any collection of information, unless excepted by this act, must be cleared by OMB. And this applies to all agencies, including independent agencies.

Neither the House nor the Senate sought to change the policy of the 1980 Act that all agencies, including independent agencies, have their information collections, even those by regulation, subjected to OMB review and approval. So while exceptions are made for certain law enforcement and intelligence activities, none is made for duck hunting or the safety and soundness regulations of banking agencies. Apparently, no difficulties have arisen in the last 15 years under the 1980 Act. So no change is made from current law.

The final major item of disagreement concerned the standard by which regulations which include information collections are judged. Under current law, OMB reviews such agency rules and comments thereon applying the standard of section 3508—whether the collection is unnecessary) and thereafter approves or disapproves after receiving the agency's response to OMB's comments. By what standard does OMB decide? Current law allows OMB to disapprove if the agency's response was unreasonable. The House sought to tidy up by cross-referencing section 3508 rather than using the current law's formulation of unreasonable.

As a practical matter, there is no real difference between whether the agency's response to OMB's comments are unreasonable in light of OMB's views on whether the agency's collection is unnecessary under section 3508 and whether the collection is unnecessary under that section. Since both standards—unreasonable and unnecessary—lack precision, there is nothing in current law to stop OMB, unless persuaded by the agency's response, from disapproving a regulatory collection because it would be unnecessary under section 3508.

Some of my Senate colleagues believe that the House position undermined an important difference—a zone of deference to be accorded agency rulemaking. The argument is that OMB may disapprove a regulation only if the agency's response is unreasonable even if OMB believes that collection is unnecessary. While the argument tracks the words of current law, I am not persuaded that the zone of deference has any dimension to it at all. Nor do I see what benefit would derive from making a distinction between collections undertaken as part of a regulation and those outside of a regulation, which are covered only by section 3508. Either way, if the collections are unnecessary, they should be disapproved. What is the compelling argument for allowing unnecessary collections to burden the American public simply because the agency's response was not unreasonable?

Ultimately, the conferees decided to keep current law because it satisfied more conferees then did the House version's unambiguous language. Current law satisfies the majority of conferees who believe that nothing stops OMB from disapproving a regulatory collection found to be unnecessary while it allows others to argue that some metaphysical zone of deference is preserved for regulatory collections.

Mr. President, when we last came to the floor on S. 244, the Senate adopted several amendments that did not directly bear upon the Paperwork Reduction Act. Only one of those amendments survived the conference. That amendment by Senator COVERDELL sought to reduce small business compliance burdens with the Quarterly Financial Report Program at the Bureau of the Census. With some minor modifications, this provision has been transformed in conference from a pilot project to a permanent program change. The provision, as modified, has the support of its original sponsor and of the Census Bureau.

Two amendments dealing with the elimination of unnecessary reports to Congress—one by Senator MCCAIN and one by Senator LEVIN—were dropped at the insistence of the House. Conferees had received correspondence from various congressional committees and agencies raising technical and other concerns about these provisions. Representative CLINGER, who chaired the conference, indicated that he favored the purpose of the reports-elimination provisions but could not hold up the Paperwork Reduction Act while various concerns with these nongermane amendments were addressed. He said he would introduce a companion bill in the House and would seek to move the legislation there.

Finally, an amendment that expressed the sense of the Senate regarding the Oregon option was also dropped in conference at the insistence of the House conferees.

Mr. President, the Paperwork Reduction Act of 1995 passed both Houses on rollcall votes with not a single dissenting voice. I am pleased to report that the conferees have resolved all differences between the two bodies with the result that we have even a stronger bill than before. It should be noted that we could not have moved so swiftly to passage and through conference without the bipartisan cooperation of Senator NUNN, the chief sponsor of S. 244, and Senator GLENN, the ranking minority member of the Committee on Governmental Affairs. I commend them for their hard work on this legislation not only in this Congress but in the last. Their effort set a mark not only in the Senate but in the House and made enactment of this legislation possible within the first 100 days of the 104th Congress.

I urge my colleagues to approve this conference report.

Mr. GLENN. Mr. President, it gives me great pleasure to rise before my colleagues today and urge their acceptance of the conference report on our bipartisan legislation to reauthorize the Paperwork Reduction Act. This day has been a long time in coming. At long last, we can take our final step toward presenting the President with a bill that I am sure he will sign and that I am equally confident will reduce paperwork and improve the management of Federal information resources.

Passage of this legislation is an accomplishment that I am very proud of. Reauthorization of the act was one of my major priorities during my 6 years as chairman of the Governmental Affairs Committee. After several years of discordant debate about the act's implementation, we fashioned a bipartisan bill that resolved outstanding issues and moved the act forward to more clearly address new Information Age issues. This bill was unanimously passed by the Senate on October 6, 1994.

Unfortunately, the House was unable to act before the end of the 103d Congress. The legislation that we have before us today is this same bill, with only a few minor changes. This year's House bill itself was also modeled very, very closely on our bill. I am thus very proud of the leadership our committee provided in the last Congress, the bipartisan cooperation that continued into this Congress, and the accomplishment that we now have before us.

The Paperwork Reduction Act is a vitally important law. Originally enacted in 1980, and reauthorized in 1986, the act serves two closely related and very essential public purposes. First, the act is key to the ongoing effort to reduce Government paperwork burdens on the American public. Too often, our citizens—individuals, businesses, State and local governments, academic institutions, nonprofit organizations, and more—are burdened by having to fill out questionnaires and forms that simply are not needed to implement the laws of the land. Too much time and money is wasted in an effort to satisfy bureaucratic excess.

The Paperwork Reduction Act of 1980 took up the battle by transforming a leaky review process—created in 1942—

into a strong centralized OMB clearance process to control the information appetite of agencies all across the Federal Government. The Paperwork Reduction Act of 1995 strengthens this process, primarily by increasing the paperwork reduction responsibilities of the individual agencies, so that we can make new progress in fighting Government redtape.

The act's second core purpose is to improve Federal information resources management. This is not a separate or secondary goal. Reducing the costs and improving the efficiency and effectiveness of Government information activities is an essential element of paperwork reduction. As the 1977 Federal paperwork Commission commented, how can Federal agencies reduce paperwork if they don't know what information they possess or how best to use it? We simply cannot reduce paperwork burdens on the American people unless we can get more efficient and effective information activities out of Federal agencies.

Our entry into the Information Age signals an even more fundamental truth. We cannot provide efficient and effective Government operations without efficient and effective information activities. Program operations, service delivery, agency policy formulation and decisions—all now depend increasingly on information technology.

The scale of this transformation of the Government from a paper-driven to a computer-driven operation is staggering. The Federal Government is now spending over $25 billion each year on information technology. We have truly entered the Information Age. Automated data processing for program applications, electronic benefits transfer for food stamps distribution, electronic data interchange to speed up Federal contracting, direct deposit for more efficient delivery of pay and retirement benefits, computer matching to catch tax cheats, high capacity telecommunication networks and videoconferencing for more efficient work across the Nation and even the globe. These innovations are already a part of Government. They also suggest some of the opportunities still to come for improving Government operations.

Unfortunately, as oversight by our committee and others has shown, the Government is not realizing the full potential of this technological revolution. The Federal Government is simply wasting millions and millions of dollars on poorly designed and often incompatible systems. This must stop.

The Paperwork Reduction Act of 1980 took a first step on the road to reform when it created information resources management [IRM] policies to be overseen by OMB. The Paperwork Reduction Act of 1995 strengthens that mandate and establishes new requirements for agency IRM improvements. These requirements focus on agency responsibility for IRM improvement, including results-oriented performance standards. These strengthened requirements add needed detail to the larger IRM framework, with its essential oversight role for OMB, to ensure that we have both management results and accountability. The legislation balances process controls with program and management responsibility to provide IRM improvements without stifling micromanagement.

In serving these twin, closely related statutory purposes of paperwork reduction and information resources management, the Paperwork Reduction Act of 1995 includes several notable accomplishments.

We reauthorize the act for 6 years. While the House proposed a permanent authorization, the conference agreement contains a definite reauthorization period. While the difficulties in reauthorizing the act between 1983 and 1986, and again from 1989 to the present, may suggest to some that the act ought to be permanently reauthorized, I draw a very different conclusion. It is precisely because the act is so important, because it concentrates significant power in OMB—which is the President's enforcer, if there ever was one—and because there has been so much controversy about OMB's actions under the act—and its related regulatory review powers—that every effort must be made to provide and sustain serious congressional oversight.

Without a periodic reauthorization schedule, I am afraid that our oversight would suffer. With the requirement for reauthorization, we are required to scrutinize the act and its implementation, and persevere in resolving differences and arriving at any needed statutory reforms. The reforms found in the Paperwork Reduction Act of 1995 are the product of this reauthorization process and proof of its importance.

We strengthen the paperwork clearance process in several ways. The most important reform is the establishment of new detailed requirements for agencies to evaluate paperwork proposals and solicit public comment on them before the proposals go to OMB for review. These new requirements will, first of all, ensure the more thoughtful development of only truly "necessary" agency information collection proposals. Just as importantly, these requirements will also help agencies more clearly and thoroughly make their case for such proposals, and thus prepare for a fair hearing before OMB on what is or is not "necessary for the proper performance of the agency's functions," as the law puts it. Together, I believe, these expanded agency requirements provide the greatest opportunity for progress in the war against red tape.

We also strengthen the paperwork process by overturning the Dole versus United Steelworkers Supreme Court decision regarding OSHA's hazard communication standard, so that information disclosure requirements are covered by the OMB paperwork clearance process. This ends a controversy of several years and clarifies that the act covers all paperwork requirements, not just information that is collected for an agency's own use.

In other respects, the act's OMB paperwork clearance standards remain unchanged. In fact, the decision to overturn the Supreme Court "Haz Comm" decision is only appropriate given the continuing integrity of the procedure for OMB review of information collections required by regulation. As provided under the original 1980 act, after commenting on regulatory paperwork requirements in a proposed rule, OMB may disapprove a final rule paperwork requirement only if it finds that the agency's response to its comments are "unreasonable." As Senator KENNEDY said at the time, "[Without this provision,] this legislation would permit OMB to overturn * * * [an agency rulemaking] decision without even requiring OMB to justify its decision publicly. This violates basic notices of fairness upon which the Administrative Procedure Act is based, as well as concepts of due process embodied in the U.S. Constitution." (S30178, November 19, 1980). With this legislative history so clear, I am very pleased that the House receded to the Senate on this point in the current legislation—our committee and the Senate having already clearly decided to maintain unchanged the paperwork clearance standards of the act.

The Paperwork Reduction Act of 1995 also provides needed detail to the act's general provisions on information dissemination. OMB policy guidance responsibilities are delineated, as are the operational responsibilities of individual Federal agencies. The primary theme running through these provisions is the obligation of Federal agencies to conduct their dissemination activities in such a way as to ensure that the public has timely and equitable access to public information. A major element of this obligation is the mandate to make information available on a nondiscriminatory and nonexclusive basis so as to avoid disadvantaging any class of information users. Public information is public. It should not become a source of revenue for agencies or a means by which to exercise proprietary-like controls on information.

Finally, the legislation requires the development of a Government Information Locator Service [GILS] to ensure improved public access to government information, especially that maintained in electronic format, and makes other improvements in the areas of government statistics, records management, computer security, and the management of information technology.

These are important reforms. Of course, reaching broad bipartisan agreement on this legislation has involved considerable compromise. There has been give and take on both sides. The result, like most compromises, has displeased some. I believe, however, that the legislation represents a practical compromise that addresses many real issues and moves the Government forward toward the reduction of paperwork burdens on the public and improvements in the management of Federal information resources. It should be supported for its very significant provisions.

Even with this accomplishment, it should be clearly understood that the legislative compromise does not resolve conflicting views on the OMB paperwork and regulatory review controversies that have dogged congressional oversight of the Paperwork Reduction Act. As I said in my additional views in our committee report:

> Support for the original act and for the current legislation should not . . . lead anyone to overlook the problems that have frustrated full implementation of the law. Fifteen years of Committee oversight have produced a record replete with criticisms, largely directed at OMB, for unbalanced implementation of the Act. Slighting statistics, records management, information technology management, privacy and security, and other aspects of information resources management, OMB devoted itself to a paperwork clearance and regulatory review process that occasioned repeated charges of interference with substantive agency decisionmaking. I believe that this record should not be obscured . . ." (S. Report No. 104-8, p. 59):

This record should remind us of our continuing obligation to oversee the act, at the same time that we move forward with the current legislation to better fulfill its very important purposes.

In conclusion, the legislation before us strengthens the Paperwork Reduction Act. It also remains true to the intent of the original 1980 act. Both the administration and the General Accounting Office concur in this judgment and support the legislation. I am very proud of our accomplishment in bringing this legislation to final passage of the conference report. This has been a cooperative bipartisan effort. We could not be here without the hard work of Senator NUNN and Senator ROTH, who is now chairman of the Governmental Affairs Committee. I would also single out Senator BINGAMAN, my good friend from New Mexico, who, when he was on our committee, initiated the reauthorization effort in 1989. And, of course, as always, Senator CARL LEVIN of Michigan has played an important role, working to ensure that our committee's consideration of the legislation helped the fight both against paperwork and for Government efficiency.

This really has been a long-haul effort. And through those years, a small group of staff have labored long and hard, again and again working over drafts and coming up with legislative language to help us reach the point we are at today. I want to thank Frank Polk of Senator ROTH's staff, Bill Montalto with Senator NUNN, and Len Weiss and David Plocher of my staff. We could not be here today without their work. Finally, I want to thank Jeff Hill and Bruce McConnell of OMB's Office of Information and Regulatory Affairs, and Dan Latta and Chris Hoenig of GAO's Accounting and Information Management Division. Their technical assistance throughout the legislative process was essential, and they deserve our thanks for their help.

We are now one short step from final enactment of the Paperwork Reduction Act of 1995. I strongly urge my colleagues to join in supporting this very important legislation.

The PRESIDING OFFICER. Without objection, the conference report is agreed to.

So the conference report was agreed to.

Mr. THOMAS. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FRESHMAN FOCUS

Mr. THOMAS. Mr. President, as you know, over the last several weeks, the Senate freshmen have taken time on various occasions to come to the floor to talk about the agenda that we believe was prescribed during the last election, the agenda that the 11 of us, as new Republican Senators, would like to see pursued in the Senate.

Our plan was to talk in morning business about that this morning. As you know, the order has been changed, and we respect that. But until such time as the majority leader and the minority leader are able to pull up the bill, we would like to proceed to talk about some of the things that we think are most important.

We call this the freshman focus, and we think we do bring to this body something of a unique point of view in that each of us, of course, just came off an election, each of us campaigned for a very long time in our States, each of us talked to many people, and each of us believes that there was a message in the election and that the responsibility of responsive Government is to respond to that election and to the voice of the voters as we see it.

So, Mr. President, we, I think, have going on here a great debate. It may not take the form of great debate in terms of its physical approach, but the great debate is between the way we see things happening, the way we see ourselves as a society and as a country entering into the new millennium, entering into the year 2000 in a relatively short 5 or 6 years and what shape we see ourselves in as a nation going into that new millennium.

The great debate is whether or not we want to go into that new century continuing as we are financially, continuing as we are with the huge debt that we have, continuing as we are with deficits of $250 billion in that foreseeable future or, in fact, whether we want to seek to make some changes so that we go into that millennium, so that we go into that new century, with a nation that is financially and fiscally responsible, and now is the time we have to do that.

That is the great debate, the great debate that has been going on in the House, the great debate that is going on here, the great debate that will take place over the next year in terms of the budget. Basically, the debate is overspending.

We all have charts. Unfortunately, I am not armed with a chart this morning. The chart would show, however, that spending has gone up in this kind of fashion, spending has gone up in the neighborhood of 5 percent a year for many years and is designed to continue to go up at 5 percent a year for the foreseeable future. The President's budget this year has a 5.5-percent increase in spending.

So we talk a lot about the deficit, the deficit which is a result, of course, of the difference between revenues and outlays, but really is the result of spending. If there was a message that I think was universally discernible in November, it was that Government is too big and that Government spends too much. Most people agree with that.

If we are to have a reasonable debate, there needs to be a couple of things agreed to, a couple of things have to be stipulated. One struck me some time back in our church in Cheyenne that we attend, and the message that the pastor had was that every day each of us has a responsibility to make this a better place to live.

Whether a person is a Senator, whether a person is a carpenter, whether a person is a rancher, we each, where we are, have a responsibility to make this a better place to live.

We do it in our own ways. We each have something different to contribute. But, Mr. President, we have, in addition to the citizenship responsibility, we have the responsibility of being trustees for this country, being trustees for the spending responsibilities of the United States—an awesome responsibility it seems to me, one that goes far beyond simply spending, goes far beyond arithmetic, goes far beyond accounting. It goes into the character of a nation.

Whether or not we are able to pay for the things we want, whether we are willing to have a cost-benefit ratio and decide for ourselves if it is worth paying for, we pay for it. It is irresponsible to continue to put it on the credit card for our kids. Our credit card is maxed out.

Within the next month or 2 months, we will be asked to raise the debt limit—$5 trillion. Talk about charts that impressed me a little some time ago, in 1970, the budget of this country was about $204 billion, in that category. Twenty-five years later, the interest payment on the debt is more than the entire cost of the Federal Government in 1970—not very long ago.

So the question in the great debate is how do we go into the 21st century? How do we go into the new millennium? That is what the freshmen are focusing on.

There is a great deal more to the debate on this question today of rescissions, this question today of whether we can find $15 billion to take out of spending, $15 billion that will not go on the debt. There is more to it than just this spending issue. It has a good deal to do with national character.

So that is what it is about. That is what the freshmen are seeking to do. Unfortunately, the opposition, rather than taking a look at where are we, where do we need to go, what changes do we have to make, what changes did voters ask for, are saying, "Oh, no, we cannot change. We want to continue with the programs we have had. We want to continue with the war on poverty"—which has failed. The war on poverty was started 30 years ago, and there are more people in poverty now than there were then.

We have the greatest opportunity now than we have had for a very long time, a great opportunity to take a look at where we are going. I suggested there needs to be a stipulation in this great debate, and that stipulation also has to be not only do we have a responsibility to make it a better place to live, but also that people who want to make changes have as much compassion and as much caring as do those who do not. The idea that people wanting to make a change and wanting to take a look at where we are going signifies that we want to throw everyone out on the street and there is no caring and that it is simply a mathematical thing is absolutely wrong. I am beginning to hear it. I hear it almost hourly from the opposition—the reason for not making a change is because it is not compassionate.

Let me suggest if we want to take a look at the long range, we want to take a look at your kids, my kids and our grandkids, we need to have a little compassion about that. We need to have a little compassion about what kind of a financial position and responsibility for our Government will we have in the year 2000 unless we make some changes.

Of course they are difficult. Of course they are difficult changes. We must make them. Americans voted for change in 1994.

We have the greatest opportunity we have had for a very long time to take a look at programs and say are they fulfilling the objective? Is that the best way to deliver services to people who need them? To take a look at welfare and say, the purpose of welfare is to help people who need help and to help them back into the workplace. A hand up, not a handout.

That is what we ought to be looking for, and to measure those programs and see if, indeed, they are successful, or is there a better way to do it. Do we need 165 programs designed to go from school to work? Of course not. We need to put them together and look at duplicity and look at repetition and see if there is a more efficient way to do it. That is what this debate is about.

Frankly, we are having a hard time keeping that debate in the arena of finding better ways to help people help themselves. That is what it is for.

Mr. President, I hope as we go through it, there will be a stipulation that we are setting out to find a better way, a better way to help people who need help; a better way to provide incentives for everyone to work and take care of themselves; a better way for the business sector to invest, to create jobs, so that we can help ourselves; a better way to eliminate bureaucracy and duplicity so that we can deliver services.

That is what it is about. That is the responsibility that we have.

Mr. President, I thank you, and I want to yield to my good friend from Pennsylvania, who certainly is one of the leaders in this effort to find better ways so that we have a society of self-improvement rather than dependence.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I ask unanimous consent I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO THE HOUSE

Mr. SANTORUM. I want to commend the Senator from Wyoming for his continued effort to bring the freshmen here to the floor on a regular basis to talk about where this Senate is going and how we are living up here in the Senate to what the country said on November 8, and what the House is obviously very successfully doing in living up to their promises to the folks that they made when they ran for office back last year.

The first thing I want to do is congratulate the House, having voted, pretty strong showing last night, for a tax reform bill and a tax cut bill—both a tax cut bill and a tax reform bill. It is a progrowth bill, a bill that is going to create more jobs, it will help families, eliminate the marriage tax penalty that has existed—which is a tremendous break—an encouragement for people to marry, an encouragement to supporting families.

It is a bill that says to seniors that we believe seniors have value and worth, that seniors can, in fact, work past the age of 65 and earn a modest amount of money—$20,000, $15,000—and not lose your Social Security benefits, if you are age 65 to 70.

We think that that is important. It is an important sign to seniors that we understand that they have value to give to the communities and to give it their businesses, and that we do not want to discourage seniors out of the work force and penalize them at a rate of over 50 percent in taxation if they make over $9,600 a year as a senior. We think that that is a very positive thing that occurred in that tax bill last night.

The adoption tax credit provision which encourages adoption, we believe, is also a very, very positive profamily kind of tax change. And the list goes on.

I want to commend them for the great work that they did in paying for the program. It is not a tax cut that will increase the deficit. They offset it, more than offset it, with spending reductions in order to pay for the tax reductions.

That is the kind of decision that we will have to be making, whether it is, in fact, better to have a person keep their money or is it better to have a person send their money here and for Washington to figure how best to spend it, and of course take the cut for bureaucracy and write rules and regulations that make no sense, then send it back. That is the difference.

I think it is a pretty easy call for most Americans. I am not surprised that it passed over in the House, and I will not be surprised when it passes over here in the Senate.

On a larger scale, I want to congratulate the House for the great work that they have done. In 91 or 92 days they passed nine major pieces of legislation, nine major bills. The amount of work that they did in working—and I know a lot of folks around do not believe that Members of Congress and the Senate work very hard. I will say if we look at what the House of Representatives has done in this first 90 days, and the amount of hours they put in legislation in committees and in working groups and putting this stuff together to pass this kind of massive change that they promised, I think a person might think again as to whether Members of Congress do in fact earn their keep.

Let me suggest that the most important thing—I ask this question all the time—the most important thing that came out of the House of Representatives was not the tax bill, was not the balanced budget amendment, was not the line-item veto.

The most important thing was they kept their promise. They kept their promise. They ran and they said, "If you elect us, we will do 1, 2, 3, 4, 5, 6, 7, 8, 9, 10—we will do these 10 things. We promise you we will bring them up and we will get a vote and we will work our darndest to try to make that happen." They could not promise passage because you never know. But they promised they would try their best.

Do you know what? They introduced bills exactly the way it was written in the contract. They did not change it. They did not say, look, I am going to cut taxes for middle-income people and then pass a tax increase. They did not say they were going to be for a balanced budget amendment and then pass big spending increases. No, they did exactly—exactly what they promised the American public. And they succeeded on 90 percent of it.

They are batting .900. Ted Williams would be proud—.900; 90 percent of what they said they would try to do, they did.

The only one they failed on was the constitutional amendment, which as most people know takes two-thirds of the body to pass, which is well beyond the number of Republicans that there are in the House of Representatives. So: The first ever vote on term limits. They failed, but 85 percent of the Republicans supported it. They got a majority of the House to support it. It is building. It is on the track to eventually pass, probably after the next election. So I think the country should look at the House of Representatives.

One of the big concerns I had when I came to the U.S. House, 4 years now, now here in the Senate, is I think the public has lost trust in our institutions. They do not believe that we mean what we say or say what we mean; we are here and all we care about is getting reelected and having some power and being able to throw our weight around. What the public really wants does not really matter. It is just this big game down here.

Is it not nice to know that promises can be kept; that people do sometimes mean what they say? They made some hard decisions. A lot of this stuff was not easy to do. A lot of it came, as you probably heard in the last few weeks, with a lot of criticism raining down on how mean-spirited this Contract With America is.

I know it is mean to cut off a lot of bureaucrats here in Washington—that is mean—and to give that money back to you. That is very mean to the people who are here to protect the bureaucrats. I know it is mean to say people who are on welfare have to work at some point. That is terrible. It is terrible that we should require people to work. It is just unbelievable to me that argument was made on programs that were trying to help people. We are trying to give more responsibility and freedom and choices back to people, but that is the way things are in this town. If we do not keep the power then it is mean, because of course we are the only ones who actually care about people. You do not care about your neighbor, we do. You do not care about your family, we do. We care about it more than you do.

I am sitting right behind the desk of the Senator from Texas, Senator GRAMM. I will never forget a statement he made on one of these talk shows. Ira Magaziner was on and they were talking about the health care plan of Clinton's a couple of years ago and Magaziner was making the point he does care about children, he does care about the young people in this country and the folks who are uninsured. He says, "I care for your children as much as you do." That is what he said to PHIL GRAMM, and what PHIL GRAMM said, I think, was classic. And that is: "OK, what are their names? What are their names?"

You see, we all care. But do we really care about that one person? Do we really understand what their needs are? Not what "the needs" are, but "their needs?" What "their concern" is? See, that is the problem. We cannot deal with "a concern." We deal with "the concerns." The problem is "the concerns" sometimes do not beat "a concern." And the closer we get to "a concern" and the closer we can tailor and allow the people who have the feeling and the relationship to deal with that concern, the better our country and the "gooder" our country is.

This line has been used a lot around here and it is so true, the de Tocqueville line. "America is great," he wrote in Democracy in America, "America is great because America is good."

The people are good, they care about each other. They reach out to their fellow man. There are volunteer organizations that developed here in the 1800's and 1900's that just did not exist anywhere else in the world because Americans cared about each other and felt that relationship and kinship. And he said America is a great country because it is a good country. "And when America ceases being good it will cease being great." We are ceasing to be good because we have delegated everything to this massive bureaucracy here in Washington to be good for us.

You hear the people, as you will over the next few months, get up and talk about: How can you be so mean as to not give money to—this or that. Folks, it is not my money. See, I am taking that money from somebody else who worked darned hard to make it. And who says I know best how to spend their money to help somebody else? That is the basic premise of what is going on here.

If you want to talk about the revolution that is going on, that is the basic premise. I care as much—I believe more—but I do not necessarily think I am the best person equipped to make those decisions for everybody. We can best make those decisions one-on-one, local communities and groups, as opposed to here in Washington, DC. That is the fundamental argument.

So, when you look at the first 100 days and you see what has happened in the U.S. House of Representatives, and I believe what will happen in the U.S. Senate, if you look at what we have accomplished and the hope that we have given to Americans that we in fact can change, that America, again, can be good, that America can be great, I think it is an inspirational story.

We have done something in the House—and I believe the Senate will follow—we have done something that is more important than any one particular thing, and that is, I hope, we have restored the faith that the American public used to have in their institutions. Because if they do not believe in us, if what we say is irrelevant, if they do not believe in anything we say on the campaign trail, that we are just a bunch of folks who say what we need to say to get elected—if they do not have any faith in what we stand for, if they think all we are going to do is change our minds when we get down here, then democracy itself is in danger.

If people do not believe in us anymore, if we do not stand for anything anymore, if all we are is symbols of a corrupt institution that does not respond to what the will of the public is, then democracy fails. It falls from within.

Whether you agree with what the House of Representatives has done, whether you agree 10 percent, or 90 percent, or 100 percent, you have to stand back and say "Well done. You did what you said you were going to do. We may not like it but, darn it, you did. And you have to tip your hat to that."

Hopefully here in the Senate, while we did not sign the Contract With America, and no one in this institution did, and that is often repeated, we have an obligation to do something. We have an obligation to follow through and let the country know that elections do matter; that when the country speaks, we here in Washington, in both the House and Senate, listen.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. Mr. President, I yield time to the chairman of our freshman group, the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Oklahoma is recognized.

Mr. INHOFE. Thank you, Mr. President. I thank the Senator from Wyoming for giving me some time to talk about this.

I do not think there is any subject nor any issue in America right now that people are more concerned about than what is happening with the budget and with the deficit.

I just had an experience a minute ago with two very dear people, and I would like to deviate a little. It fits very well into this. Two of the most beautiful women in America are Yvonne Fedderson and Sara O'Meara. They started many years ago an effort to address the problem of child abuse. This blue ribbon is in recognition of Child Abuse Prevention Month that is taking place right now. Here is a bumper sticker. They started many years ago a program outside of Government to do something effectively about the problem of child abuse in America.

We saw just yesterday a bill which passed the House of Representatives that also recognizes that the problems of this country are not going to all be addressed by Government. In fact, in many cases, Government is the problem.

This particular program, which was started by Sara O'Meara and Yvonne Fedderson many years ago, has a hotline throughout the Nation. Anyone who has an idea about or knowledge of child abuse can call 1-800-4-A-CHILD.

The reason I bring this up, Mr. President, is because this is a national problem. It seems to me that in the last 40 years the very liberal Congress in both Houses has felt that you had to respond to these problems by starting some new Government program. I suggest to you that most of the programs which address the problems in the Nation today are not Government programs, they are programs in the private sector. This program is a perfect example. They have in every State and every contiguous State—and perhaps the others too—a program where people can call a hotline and do something about one of the most serious problems in America, which is child abuse.

The Government has a number of programs. But I suggest to you when you look at the effectiveness of these programs it is far more effective to have one that is run by the private sector, that is staffed by volunteers, than having one that is a Government program. Our problem is we have become accustomed to assuming that the problems can be addressed by the Federal Government better than by the private sector.

In the bill that was passed yesterday in the House of Representatives, there is a tax incentive for families to take care of their own children as opposed to Government taking care of them. There is a tax incentive—not many people are aware of this—of $500 for people to take care of the elderly. This is something that many people did not know was in that bill, which just passed yesterday. The idea is families in this country can take on a lot of responsibilities that Government has learned to assume.

I read something with interest the other day. It is an article by Thomas Sowell. Thomas Sowell is an editorial writer. The name of his article is "A Dishonest Slogan." This "Dishonest Slogan" is the one that is called trickle down. It seems as if the liberals feel that with Government, higher taxes are the answer to our problems—and this was said, by the way, on this Senate floor by the distinguished Senator from West Virginia, Senator BYRD—that we need higher taxes in America. Then when they talk about the fact that they are giving tax reductions, they try to use slogans like "trickle down."

Mr. President, I ask unanimous consent that, at this point in the RECORD, this article by Thomas Sowell be printed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A DISHONEST SLOGAN

(By Thomas Sowell)

If there were a prize for the most dishonest phrase in politics, the competition would be fierce and the outcome very uncertain. However, my nomination would be the phrase "trickle-down economics."

The trickle-down theory is supposedly the notion that the way to benefit the poor is to have the government provide benefits to the rich, which will then trickle down to the poor. But there is simply no such theory—not in Adam Smith, not in John Maynard Keynes, not in Milton Friedman. Not in anybody.

My specialty within economics is the history of economics theories—but there is no history of any such theory.

Still, no political campaign is complete without liberals accusing conservatives of applying trickle-down theories to benefit the rich, instead of having the government give benefits directly to the poor. With Republicans likely to raise the issue of reducing the capital gains tax in the next Congress, Democrats will no doubt cry that this is a "tax break for the rich" based on "trickle-down economics."

Let's go back to square one. There is no investment income to tax until after an investment has been made and people hired—and after it all works out successfully, which is by no means guaranteed. In short, the benefits to investors come after the benefits to those they employ, not before.

When investments finally pay off, perhaps years later, it would make no sense to call the eventual profit simply income for the year in which it is received. That is why capital gains are taxed differently from ordinary income.

Often there is no real capital gain at all, except on paper. If you bought an asset back when the price level was half of what it is today, and you sold the property for twice what you paid for it, then you have just kept up with inflation. If you sell it for 50% more than you paid for it, you have actually lost part of the real value.

Even when your capital "gain" does not keep up with inflation, the government still taxes you on it. Moreover, these kinds of "gains" go into the statistics supposedly showing that "the rich are getting richer and the poor are getting poorer."

Despite tilting against the windmills of a nonexistent trickle-down theory, the last thing the liberals want to do is to give benefits directly to the poor. They may not have a trickle-down theory, but in practice they make sure that any benefits to the poor trickle down through layers of bureaucracy and are siphoned off to pay the salaries, consulting fees and research grants of all sorts of "experts" with degrees.

That is why studies have shown that every man, woman and child in America could be raised above the official poverty level by direct transfers of money, at less than half the cost of all the government's antipoverty programs. Lots of people who are not poor by any stretch of the imagination have to be taken care of out of antipoverty money.

Proposals to replace public housing programs, "retraining" programs and other social experiments with hard cash given directly to the poor have repeatedly run into a buzz saw of opposition from liberals. They don't mind more money being given to the poor—or to anybody else—but not at the expense of programs that employ bureaucrats and "experts."

These anomalies are not accidental. The welfare state is ultimately not about getting more money into the hands of the poor but about getting more power into the hands of government. In program after program, the poor are to benefit only insofar as they allow themselves to be directed and manipulated by their self-anointed saviors.

When people get private sector jobs instead of government handouts, the situation is completely different. Capital gains tax reforms are needed simply to stop the government from discouraging the investment that provides employment.

It is nonsense to call this "trickling down" because the investment has to happen first, and workers have to be hired first and paid first, before the investor has any hope of reaping any gains. Since capital gains come last, not first, they do not "trickle down."

Obviously, the higher the capital gains tax rate, the less the incentive to invest and hire. If you want more Americans employed, you don't punish people for employing them. Otherwise, the investors have every incentive to invest their money in some other country that doesn't have such high capital gains taxes—or doesn't have capital gains taxes at all.

But the liberals are so politically dependent on class warfare, and on their own role as saviors of the poor, that they are very slow to admit that there wouldn't be so many poor for them to save if there were more jobs created by the economy. On the other hand, if they are not playing the role of saviors of the poor, how are they to get re-elected?

Mr. INHOFE. Mr. President, the idea is that nobody benefits from a capital gains tax or some of these tax reductions until they have actually provided a stimulus to the economy. For example, if you have a capital gains tax, the individual who will eventually benefit from that tax cannot benefit until he has already started a company, already invested his money, already met a payroll, and already hired people. What the liberals in Congress refuse to recognize is that for each 1 percent increase in economic activity in America, it produces an additional $24 billion of new revenue.

I am so sick and tired of sitting on the floor here listening to the liberal Members of Congress talk about how it did not work in the 1980's, how we tried tax reductions in the 1980's and look what happened to the deficit. Well, the deficit went up during that decade, but it did not go up because we had tax reductions. It went up because the Members of the House and the Senate have an insatiable appetite to spend money that is not theirs and are borrowing it from future generations.

I will give you an example. Back in 1980, the total revenues that were derived from the marginal tax rates in America were $244 billion. Then, in 1990, the total revenues that were derived from the marginal tax rates in America were $466 billion. What happened during that 10-year period? During that 10-year period, we had the greatest tax reductions in this Nation's history. Remember, the highest rate went down from 70 percent to 28 percent. We had capital gains tax reductions. We had reductions all the way down so that people knew they could keep more of the money that they made. This stimulated people to invest in equipment, in company, in employment, and it did, to borrow a phrase that is often abused by our President, it did "grow America." So we almost doubled the revenue during that 10-year period when we had the largest tax reduction.

I would like to mention one of the things that I told the Senator from Wyoming, Senator Thomas, that I would make a reference to; that is, the moral issue that we are dealing with right now. I gave a talk not long ago where I had the pictures of two beautiful children on an easel behind me. Those two beautiful children I identified in the first hour as being my two grandchildren, Glade and Maggie. Each of them will be celebrating their second birthday this month. They are beautiful little children.

When people talk about the programs they say are going to be cut when we have passed a balanced budget amendment—and we will try to reach a balanced budget—and they try to pull on the heartstrings of America and say that all these great, wonderful Government social programs are going to be cut, they neglect to tell you who is really going to be punished by these programs, who is really going to be punished if we do not do something to bring the budget into balance, which we are going to do. And I do not want to sound partisan here, but by Republicans taking over the House and the Senate, you are going to see some cuts. You are going to see come growth caps. But you will see our budget come back into balance, and we are targeting right now the year 2002.

Let us look at what is going to happen if we do not do this in America. According to the CBO and all the other analysts, where are we in America today if we do not have some type of a change in the program that we have had? They have said that, if we continue to go on as we have gone in the past, if we do not pass a balanced budget amendment, if we do not bring it into balance, that a person who is born today, during his or her lifetime, will have to pay 82 percent of his or her lifetime income for taxes to support the Government programs. Stop and think about that.

The other day, we had an interesting visitor. We had a number of visitors from all over the world. This was during the National Prayer Breakfast. We had people from all over the world there. I was in charge of a group of the national visitors from the Ukraine, from Eastern Europe and some of that area. One man was here from Moldavia. He asked me a very interesting question. He said, "Senator INHOFE, here in the United States, how much can you keep?"

I said, "Pardon me? I do not understand what you are saying."

He said, "Well, when you earn something, how much do you have to give the Government?"

I said, "Well, that is a real interesting question." I kind of established a guess because there is not really a very simple answer to that question when you stop and think about what the Government really absorbs.

But he said, "We are celebrating in Moldavia. We are so thrilled that finally, after all these years of communism, we now have a free economy. We now have a free society. We now can own property. We now can buy businesses and we can work hard and pass on to future generations that which we reap."

I said, "In your country, how much do you have to give the Government?" He said, very proudly, "We get to keep 20 percent." I said, "How does that work?" He said, "Well, when you earn money, if you earn a dollar, you have to give 80 cents of that dollar to the Government." They do not wait until year end, Mr. President. This is something that is ongoing. And then we looked around at each other and thought, here are these people, seeking their freedom, so excited about this, they are all through with communism, and they can benefit and they can enrich themselves and future generations and how happy they were, and yet they have to give to Government 80 percent of what they have.

Mr. President, that brings it really to the surface of where we are today. If we do not do something to change this path, we will be behind Moldavia. It will cost our future generations 82 cents on the dollar.

So I would like to think that this is not a fiscal issue. It is a moral issue. We are going to see in the next few weeks the Republicans coming out in the House and the Senate with a program, with a budget, a proposed budget that would eliminate the deficit by the year 2002. I disagree with the way we are doing it. I hate to be the one who disagrees with my own party. I have talked to different people who are on the Budget Committee, and I say I think we are making a mistake when we come out with a budget and say exactly where we are going to cut programs, where we are going to expand programs. Why not do what we know would work? Let us put spending caps on. If we initiate a resolution that says we are not going to let any Government program increase more than 2 percent, we would not touch one program, not have a reduction in one program, not have elimination of one program, and we would be able to balance the budget by the year 2002.

That is because—and most people do not realize it and you are not going to hear it said by a lot of the liberals here in Congress—our problem is not where to cut programs but how to stop the accelerated growth. And when you hear people like the President standing up and saying proudly, "We are cutting the deficit," that is garbage.

There is an article everyone should read. It was in the Reader's Digest last year. It was called "Budget Baloney." And in it they described how Members of Congress say they are cutting the deficit. They described it this way: They say let us say you have $5,000 but you want to buy a $10,000 car. All you have to say is I really want a $15,000 car, but I will settle for a $10,000 car and I have cut the deficit by $5,000.

That is the way they do things around here.

Let me suggest to you that there is going to be a come-home-to-roost time. There is going to be a time when these individuals who have habitually voted for expanded Government into our lives and are not a part of the revolution of November 8 are going to have to come back and take the consequences.

I would like to show you just two charts that we put together back when we were debating the balanced budget amendment to the Constitution.

This chart shows the characterization of those Members of the Senate who were voting for an amendment called the Right To Know Act. Now, what this was was an amendment to the balanced budget amendment to the Constitution, and it said show us exactly where you are going to cut every program. Obviously, you cannot do that 7 years in the future. But we analyzed the voting behavior of the 41 Senate cosponsors of this bill. We find that every one of them voted yes on the $16 billion President Clinton tax stimulus program which was the largest increase in spending that we have had in one bill, I believe, in the history of the Congress; that every one of the 41 who had signed on as cosponsors to this amendment was ranked by the National Taxpayers Union as either a D or an F. In other words, the people who were behind this were the people who were the big spenders in Congress.

Then the most revealing chart is the one that shows what is going to happen to a lot of these people by showing what did happen to them in the revolution of November 8.

On November 8, there were either defeated or retired in the Senate eight Senators. Of the eight Senators, all eight voted for the spending increase. This was the spending increase that put all kinds of subsidized programs in there, supposedly to stimulate the economy. All of them voted for the tax increase. The tax increase was the 1993 tax increase that President Clinton had. It was characterized as the largest single tax increase in the history of public finance in America or any place in the world, and those are not the words of conservative Republican JIM INHOFE. Those are the words of PATRICK MOYNIHAN, who at that time was chairman of the Senate Finance Committee.

Further down here they all had either D or F ratings by the National Taxpayers Union. In other words, they were the big spenders, and those are the ones who were defeated. They are not here. Look around. They are not here.

In the House of Representatives, 66 of them went out. Almost all of the 66 voted yes on the stimulus bill, voted yes on the tax increase, and had a D or F rating by the National Taxpayers Union.

So I just suggest to you, Mr. President, that we make it abundantly clear to the liberals in Congress, the few liberals who are left, because most of them were wiped out in the November 8 revolution, there is going to be another wave coming up in 1996, and this is the opportunity for us to be fiscally responsible, for us to be able to stand up and say no to some of these useless programs that have outlived their usefulness and say yes to future generations, including my two grandchildren, Glade and Maggie Inhofe. This is what is going to work for America, and this is probably the centerfold of the revolution of November 8.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I understand that the parliamentary situation is that we are in morning business; is that correct?

The PRESIDING OFFICER. Technically speaking, the Senate is on H.R. 1158.

Mr. LEAHY. Mr. President, if no one else is seeking recognition, I ask unanimous consent to proceed as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVING THE ANTITRUST EXEMPTION FROM MAJOR LEAGUE BASEBALL

Mr. LEAHY. Mr. President, yesterday the Senate Subcommittee on Antitrust, Business Rights and Competition of the Committee on the Judiciary voted out S. 627, the Hatch-Thurmond-Leahy bill clarifying the application of our antitrust laws to major league baseball.

What we did was to remove the antitrust exemption given to major league baseball. I hope that the full Judiciary Committee, the Senate and the other body will take this up and pass it relatively soon.

Baseball has for decades had a special exemption from the antitrust laws, which laws apply to everything else, every other business in this country and every other professional sport. What this means is that baseball and those who own it and run it are basically above the law.

Now they have shown what this means. They have shown great disdain for the fans, for those who do not make the $1 million salaries, like the people who park the cars, that sell peanuts and beer and hot dogs and soda at the various stadiums, for the communities that have taxed their people through bond issues to build stadiums, for those who make the pennants and the T-shirts and the baseball caps, and even, in the State of Vermont, those who make the souvenir bats given out on bat day. Such people have been out of jobs over the past year because of the baseball strike.

And throughout all of this, people, some acting in extremely high-handed fashion, are able to say, "Well, the fans be damned. Because we have this exemption from antitrust, we can act together. We can do whatever we want."

The antitrust exemption was provided for baseball on the assumption that those who control baseball would act in the best interest of the game and the best interest of the fans, would do it responsibly and that we would have a strong commissioner. The practical matter is they have done none of this in the last few years.

I recall testimony in a hearing that Senator THURMOND and I had in which the question was asked: Let us assume baseball did not have an exemption from the antitrust laws and let us assume we saw the situation, the sorry situation, we have seen for nearly a year in baseball. If the owners came in and said, "Oh, by the way, Congress, give us something you have not given any other business. Give us an exemption from the antitrust laws." Would they not be laughed off Capitol Hill? Of course, they would.

Republicans and Democrats alike, both in the Senate and the House, would say, "We are not going to give you that. We are not going to give you this special exemption from the antitrust laws that we don't give to football or basketball or General Motors or Dow Chemical or Monsanto or Apple Computers or anybody else. We are not going to give it to you. And especially we are not going to give it to you because of the way you have been acting."

We would not pass a statutory exemption, and I daresay, Mr. President, there would not be one Member of the U.S. Senate that would vote to give them an antitrust exemption today, yet they have it.

So, I hope, by the same token, everyone in the Senate will join with Senator THURMOND, Senator HATCH, and myself—an interesting coalition, if ever there was one—and would withdraw the antitrust exemption. It is not deserved by baseball. It should not be continued for baseball. They should be treated as anybody else.

Their behavior in the past year has shown why they should not have that special exemption, if they ever really deserved it. But whether they have deserved it or not, they have now lost it. We should take it away.

So, Mr. President, I hope that this legislation will work its way through the committee process fairly quickly, come to the floor of the Senate, and be voted upon.

I have watched some of the activities of the baseball teams, I mean things that are so petty, so petty. For example, the way they treat Little League teams.

When I was a youngster and when my children were, the idea was, if you had a Little League team, you built up some following for various teams. You proudly wore the logos of a team—the Red Sox, the Yankees, whoever else it might be.

Now they say: "Well, we will require each one of those children to pay us $6 for the privilege of having their logo on their uniform." This is just penny-ante baloney.

What it does, it says, "We expect you to be fans supporting us, but, kid, you're going to pay for it."

I recall as a child being at Fenway Park and seeing some of the greats of baseball come by. If you held out a baseball, they would autograph it for you. And they were paid a tiny fraction of what is paid to these multimillionaires today who tell you, "Yes, you can come in and for x number of dollars we may give you the autograph." This is spoiling the whole idea of baseball.

So, as I said, Mr. President, we ought to lift their antitrust exemption. They do not deserve it. They never really earned it in the first place, and they have done nothing to keep it today. Let us get rid of it. Let us treat them as the business they have become and let us stand up for the fans for a change.

I have seen a situation in the hearings where even the acting commissioner of baseball in his testimony tried to mislead the Senate; gave conflicting testimony, gave testimony that turned out not to be true; and did not move to correct his testimony. This is the kind of disdain that they show for the Congress.

Well, then let us not give them the exemption to the laws. You can have disdain for the laws, you can have disdain for the game, you can have disdain for your own responsibilities, you can have disdain for your own fans, but we are not going to give you a special exemption under the law to carry out that disdain.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET BALANCING IS A THREE-STEP PROCESS

Mr. KYL. Mr. President, I wanted to comment on two things, one which has just occurred and one which is about to occur, I hope. We know that last night the House of Representatives passed historic tax relief for the American people. I want to address that for a moment.

Second, we know there have been discussions between the majority and minority leader on an attempt to reach an agreement on a rescissions package which we could conclude before the Easter recess.

Mr. President, the House of Representatives adopted a rescissions package of about $17 billion and the Senate has been working on a package somewhat less than that. It is our hope between the majority and minority we can come to an agreement on a package which would represent our effort to meet the House, if not precisely their figure, at least something close to it so that as the House and Senate take the recess during the Eastertime, our constituents back home would know that both the House and Senate were serious about saving money.

Mr. President, during the last campaign, as I was running for this office, people asked me what it would take to balance the budget? I said it is a three-step process.

The first thing we can do is immediately try to save some of the money that the Congress has already appropriated. We know that every year there is money appropriated that really cannot be spent very effectively. If we could make a head start on balancing the budget by just saving some of that money for next year, it would demonstrate our commitment to a long-term goal of balancing the budget.

That is what the rescission package is about. I will come back to that in a moment. The second step, of course, is the decisions that we make throughout the year for that year's budget. The third step, of course, is the long-term balancing of the budget process which I have contended can only be done effectively through the adoption of the balanced budget amendment, because without the discipline of the constitutional requirement to balance the budget I have always felt it doubtful Congress would actually develop the willpower and the commitment to see that difficult project through.

Those are really the three steps that I articulate.

In the second step, what I had said was each month throughout the legislative year we deal with legislation that spends money. We can make the conscious decision not to spend as much, to limit Federal spending. When it comes time to appropriate the funds, we can set priorities and we can end passing appropriations bills that limit the growth in Federal spending.

Mr. President, we have heard the figures that if we adopt a tax relief plan for the American people we can still balance the Federal budget by the year 2002 if we limit growth in Federal spending to 2 percent a year. We are not talking about draconian cuts, but talking about limiting the growth in spending.

So the first step is to try to save money that we do not have to spend next year through a rescissions bill. The second step is to make the tough additions each week, each month, as this year goes by, as we pass the appropriations bills, to spend less money than we had anticipated spending.

If we do that each year for 7 years, we will have achieved a balanced budget by the year 2002, without the need for a constitutional amendment.

We know that would provide more discipline, would give the Congress a better ability to control spending, but we will deal with the issue of the constitutional amendment later this year and probably next year.

Let me go back to the first of those three steps, the rescission package, because that is what has been before the Senate for the past week.

The idea of rescissions—not a term that the American people would necessarily relate to—but the idea of rescissions is to simply not spend money that we counted on spending, because we really do not have to spend it.

Here is an example: We appropriate money to the General Services Administration to build a building. We say it will cost $2 million, so here is the money for it. GSA lets out the bids but none of the companies that would bid on it gives the GSA a bid they want to accept. The bids do not supply the right kind of construction or architect or something.

So the GSA does not let the bids for the contract, so the contract is delayed a year. That $2 million which has been appropriated for next year, really, cannot efficiently be spent next year. The construction project on which it was supposed to be spent cannot be built.

Why should we force the GSA to spend that money on something? We can rescind the money. We can call that money back, and save it for this year, and either decide to apply it to deficit reduction or apply it to some other expenditure for next year.

There are a lot of different programs that we have been talking about rescinding money in. The net result has been an agreement that somewhere between $13 or $14 billion and $17 billion, we can save the American people—taxpayers—that much money in this coming fiscal year because we really do not need to spend that money even though the money has been authorized to be spent.

Now we have had some disagreements in the Senate about whether we should agree to the House level of $17 billion. There has been some disagreement between the Democrats and Republicans as to where to save that money.

I am hopeful that within a few minutes the majority and the minority leader will announce an agreement which represents not totally a Republican view or a Democratic view but a view that both share, that we need to save as much money as possible.

While it will not get to the $17 billion level that the House of Representatives has adopted, it will be close to that. It will be in the range of $16 billion, I hope, and that we will then be able to quickly adopt that rescissions package, go into conference with the House so that as soon as we return from the Easter recess we can send to the President savings of between $16 and $17 billion.

Some people have said, why are we taking time to deal with that problem when we have a much bigger problem of developing a budget of over $1 trillion? Beginning the process of reducing Federal spending over a period of 7 years to reach a balanced budget, perhaps in the order of magnitude of $1 trillion over the 7-year period.

What is $17 billion? Well, we have all quoted Everett Dirksen, who use to speak in this Chamber, and who made famous "A billion here and a billion there, pretty soon you are talking real money." To the American people, $17 billion is a lot of money, and it is a very good downpayment on the savings that we have to make in the future.

Because of the consternation I have seen expressed on the floor here about some of the savings even within the $17 billion package, it makes it clear to me that it will be a very hard process if we cannot agree to some of the things that are in the $16 or $17 billion package, how will we agree to something 10 times greater than that or 100 times greater than that?

Clearly, we have to start from the bottom up. Each program has to be prioritized, and we have to try and find savings everywhere we can. In each line of that Federal budget, there is something to be saved. When we add it all up, it adds up to big dollars.

If we only look to the big programs, then we are forced to look at things like Social Security and Medicare and defense. Frankly, most Senators understand that there is much about those programs which precludes the Senate from making the huge savings that would have to be made there if we ignore the smaller programs.

It is important to start at a level of rescissions. I am very, very hopeful that within a few minutes our leadership will indicate an agreement on a rescissions package of $16 to $17 billion that we can adopt, and begin this process of balancing the Federal budget.

Just one more comment, since I see the Senator from Alaska is here and wishes to speak. I wanted to comment on what the House of Representatives did last night. It was historic, Mr. President. Never in the history of the country has a body as the House of Representatives in less than 100 days adopted the sweeping legislation that the House of Representatives has now adopted. Nine out of the 10 points in the Republican Contract With America were adopted, concluding last night with the historic $180 billion-plus tax cut for the American people. A tax cut which guarantees not to cost in terms of the deficit but has added to the deficit reduction planning.

In other words, the House committed to reducing the Federal budget deficit and achieving a balanced budget by the year 2002, and in addition, providing for $180 billion in tax cuts for the American people.

This is in keeping with the commitment that many made in the last election to our constituents and to the desires of the American people expressed to Members in the last election.

I want to commend the House of Representatives and all of the people there who thought it important enough not only to express the intention to balance the budget but also to allow American families to keep more of what they earn and to allow American businesses to generate the capital, to create the jobs to employ the people, to create the kind of employment that we know is necessary to bring people out of poverty and create a high standard of living for working Americans, for all of middle America.

This is an important commitment that needed to be kept. And it is up to the Senate, after we return from the Easter recess, to follow through on our part of that commitment. Our tax cut program may not be precisely what the House program was. It might be a little bit less, in terms of money. We know that there is a little bit different point of view here.

I, for one, would be happy to adopt every penny of the tax cuts adopted by the House of Representatives. To me, every one of them is justified and I will be urging that we do that here on the Senate floor. But even if it is not exactly identical, I think we can be proud and we can go back to the American people and say we kept our promises to you, we kept our commitment, if we are able to adopt a program of tax relief that is close to what the House adopted last night.

I think it is important for us in the Senate to say to our colleagues in the House, "Job well done. You did what you promised you would do. You set the stage for us to come in behind you and to finish the job and we are committed to doing that when we return from this Easter recess."

I think, as we prepare to go back and spend time with our constituents, much has been achieved. We should be prepared to talk about that. But most important—most important we should be prepared to listen to our constituents when we go home now, to listen for 3 weeks to what they have to tell us. Have we been doing the right thing? Do you want us to continue on this path? My guess is, when we come back, we will be energized with the spirit of our constituents telling us to carry on, keep on with that fight, balance the Federal budget, save this money in rescissions and provide tax relief for American families. I think that will be their message to us. I cannot wait to get back and hear it.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, let me commend my colleague and a number of the freshman Senators for their initiative in pursuing appropriate action relative to cutting Federal spending. While I have been around here a little longer than they have, I think their energy and commitment is to be recognized, and I think the spirit of leadership in relationship to the tough decisions that have to be made are certainly evidenced in this new group that has joined our membership.

I believe we are in morning business?

The PRESIDING OFFICER. Technically, we have before us H.R. 1158, FEMA supplemental appropriations.

Mr. MURKOWSKI. I ask that I may extend my remarks concerning an invitation to allow the President of Taiwan to visit the United States. I assume under the rescission package before us, unanimous consent would be sufficient?

The PRESIDING OFFICER. That is correct.

Mr. MURKOWSKI. Mr. President, I had intended to offer an amendment to the rescission package which would express the sense of the Congress that the President of Taiwan, Lee Teng-hui, be allowed to visit the United States.

It is my understanding it is unlikely that I will have an opportunity to offer such an amendment. But I intend, at an appropriate time in the near future to offer the amendment to another vehicle and request an up or down vote.

The amendment I intended to offer would have been identical to Senate Concurrent Resolution 9, which has 52 bipartisan cosponsors, including, I am proud to say, both the majority and minority leaders of this body. Senate Concurrent Resolution 9 passed the Foreign Relations Committee unanimously 2 weeks ago.

Specifically, that resolution calls on our President to allow President Lee of Taiwan to come to the United States, not on a state visit but on a private visit. It is an identical resolution to House Concurrent Resolution 33, which was introduced in the House by Congressmen LANTOS of California, SOLOMON of New York, and TORRICELLI of New Jersey. It passed the House International Relations Committee yesterday, I am told, by a vote of 33 to 0.

Obviously, the support is there. I hope the State Department will be sensitive to the recommendations of the Congress.

We have a rather interesting situation with regard to our relations with Taiwan, as well as China, but clearly we should not allow the People's Republic of China to dictate who can visit the United States. Again, we are not talking about an official state visit; we are talking about allowing President Lee to make a private visit. He has received two invitations that the Senator from Alaska is aware of. One is to come visit his alma mater, Cornell University, where he has been asked to make an address. Further, he has been extended an invitation to the U.S.-ROC Economic Council Conference. This is an organization whose purpose is to promote trade and commerce between Taiwan and the United States. That organization will be meeting in Anchorage, AK, my home State, in September.

In both instances, the State Department has discouraged the issuance of these invitations and implied that they would not look favorably on a request for a visa.

That is offensive to this Senator. The suggestion of the State Department is that allowing President Lee to visit the United States would upset relations with the People's Republic of China. I think we have to recognize the gigantic strides that have been made by Taiwan over the years. They ended their martial law. They have initiated free and fair elections. They have a very vocal press. Human rights have steadily improved. They have the development of a strong second party. And Taiwan ultimately is a friendly, democratic, stable, and prosperous nation. They are the 5th largest trading partner of the United States, and the world's 13th. They buy twice as much from the United States as the People's Republic of China. They are among the holders of the largest foreign reserves of any country. They contribute to international causes.

But our country continues to give a cold shoulder to the leader of Taiwan, President Lee. It went so far that last May in Hawaii when President Lee was in transit from Taiwan to Central America, the State Department refused to allow President Lee an overnight visit. The State Department continues to indicate that a private visit will not be allowed. They suggest that the United States would allow transient stops. That means perhaps the airplane can stop for refueling and President Lee would be allowed to get off and perhaps spend the night.

One of the inconsistencies I would like to bring out—and this came up on a recent trip I made to both Taiwan and Beijing—is the expanding relationship between Taiwan and the People's Republic of China. I learned of an organization called the Association for Relations Across Taiwan Straits. That is the organization in Beijing. On the Taiwanese side, there is the organization called the Mainland Affairs Council.

Although the People's Republic of China is telling the United States not to have any relations with Taiwan because it would offend the People's Republic of China, there is a relationship between Taiwan and the People's Republic of China through these two organizations that have been established and that meet regularly. The Association for Relations Across Taiwan Straits and The Mainland Affairs Council talk about everything but politics. They talk about trade, they talk about commerce, they talk about hijacking.

I think it is fair to say the Chinese business men and women are among the best in the world. They are motivated, obviously, by the opportunity for trade and commerce. So they are discussing between them matters of interest and matters that are beneficial to both. They have even announced proposals for direct shipping from Taiwan to the southern provinces in China that would bypass Hong Kong.

Here we have a situation of inconsistency, and it is beyond this Senator to understand how the State Department can overlook that. Trade and commerce is flourishing between Taiwan and the People's Republic of China, yet the People's Republic of China dictates to us that we cannot extend a private visit to the President of Taiwan.

I have a great respect and fondness for their representatives.

I know the Ambassador. I have had the pleasure of meeting Chairman Deng. But the People's Republic of China bellows about virtually everything that we do— United States pressure at the United Nations on human rights, world trade organization membership and anything we do with regard to Taiwan. That is the litany. It is expected. We should recognize it for what it is. But we should not be dictated by the terms and conditions which they mandate.

In my opinion, in the end the People's Republic of China will make calculations about when and what to risk with regard to their philosophy of doing business and participating in our markets. We should simply do the same.

There is precedent for a visit by Lee. I will be specific. This administration has welcomed other unofficial leaders to the United States. The Dalai Lama called on Vice President Gore over the objections from the People's Republic of China. Yasser Arafat came to the White House ceremony. He was once referred to as a supporter of terrorism. Gerry Adams has been granted numerous visas over Great Britain's objection. In each case the administration, I think, made the correct choice to allow us to advance American goals. President Lee's visit would do the same.

I would also call my colleagues' attention to the extended debates we have had in this body about most-favored-nation status for China. I have supported MFN for China, and most of my colleagues have also supported it under the premise that engagement helps bring about change. We can bring about greater recognition on human rights if we establish a dialog, open trade, and commerce. So we apply it to China. But with regard to Taiwan, we will not even invite the President of the Republic of China on Taiwan for a visit to the United States. This is a private visit. We are not talking about a state visit.

By the number of supporters on the amendment, 52 bipartisan cosponsors, the State Department should get the message of the prevailing attitude in this body. As I said when I started, I am not going to have an opportunity to offer this as an amendment before this body on the rescissions package. But I intend to bring it up later for an up-down vote because that is perhaps the only way the State Department can understand the prevailing attitude.

Finally, the U.S.-ROC Economic Council conference is to be held in Anchorage in September. Visiting Alaska would not be a political statement. We consider ourselves almost another country. We are out there all by ourselves and I think it is appropriate that President Lee participate in an economic meeting. Lee's alma mater, Cornell University, as I indicated earlier, is another completely private matter.

So I call on my colleagues to vote to send a strong signal to the administration at an appropriate time when I have an opportunity to bring up the amendment.

I also ask unanimous consent that a letter be printed in the RECORD. This is a letter from David W. Tsai, President of the Center for Taiwan International Relations.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CENTER FOR TAIWAN
INTERNATIONAL RELATIONS,
Washington, DC, March 15, 1995.

President WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: I am writing to urge you to demonstrate your Administration's support for global democratization by permitting President Lee Teng-hui of Taiwan to visit the United States. In particular, you should allow President Lee, a distinguished Ph.D. alumnus of Cornell University, to visit his alma mater this summer, where he has been invited to give the prestigious Olin Lecture to over 2,000 returning Cornell alumni all over the world. He should also be permitted to address the Economic Council meeting in Alaska as an honored speaker later this year. Such visits are well-provided for within United States policy toward Taiwan. In addition, the Administration should take advantage of President Lee's visit to the U.S. by granting him an audience with yourself.

President Lee, a political reformer, has significantly advanced democracy in Taiwan. He is committed to the further democratization of the island nation—a process which has been encouraged and prodded along by the United States Congress and six different administrations. He has played a central role in the Taiwan model that so many nations are now seeking to emulate. Today Taiwan is an emerging democracy and an economic powerhouse. Yet while Taiwan has made great strides in response to the calls for reform and has achieved international economic distinction, the United States has continued to treat Taiwan like an international pariah. Many Members of Congress and the American public were outraged last May at the Administration's refusal to allow President Lee to stay overnight in Hawaii en route to a presidential inauguration in Central America. It undercuts American credibility and concern for human rights when a country like Taiwan with its strong democratization record is treated so badly.

It is in the American national interest to allow President Lee to visit. In so doing, America will reaffirm its commitment to freedom and democracy and to friendship with the people of Taiwan. We cannot continue to let China dictate U.S. policy or determine who can and cannot visit the United States. It weakens the Clinton Administration and compromises the U.S. world leadership to allow even the appearance of taking orders from Bejing or being bullied by China.

As you know, President Lee's visit has strong bipartisan support in both Houses of the U.S. Congress. Having visited Taiwan three times yourself, you undoubtedly recognize Taiwan's strategic importance to maintaining the balance of power in East Asia. Also, Taiwan is important as a friendly partner of the United States, particularly in trade, education, and diplomacy. Today Taiwan is the seventh largest trading partner of the United States and buys more than twice as many annually from the U.S. as does the People's Republic of China. Both the Taiwanese American community and the American business community will support your favorable decision to permit President Lee's visit. A visit to the U.S. by the President of Taiwan is not only in America's national interest but in line with the democratic traditional values that the United States stands for.

Congressional and grass roots support for President Lee's visit is building, and I urge you to take immediate steps to welcome President Lee to the United States.

Sincerely,

DAVID W. TSAI, Ph.D.,
President, Center for Taiwan International Relations.

This letter is also endorsed by the following Taiwanese American organizations:

World Taiwanese Chambers of Commerce (President: Jentai Tsai), N.Y.

Taiwanese Import and Export Association (President: Wen-chu Huang), N.Y.

North America Taiwanese Medical Association (President: Bernard Tsai, M.D.), Potomac.

Taiwanese Christian Church Council of North America (Chair: Rev. David Chen), Santa Ana.

Taiwanese American Citizens League (President: David D. Tsay, Ph.D.), Houston.

Society of Taiwanese Americans (Representative: Wilbur Chen), Bethesda.

Mr. MURKOWSKI. Mr. President, I see my good friend, the Senator from West Virginia, on the floor. I would be happy to yield to him.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I have no desire to have the floor. I thank the Senator.

Mr. MURKOWSKI. I wish my friend a good day and thank him.

MEXICO'S DEBT

Mr. MURKOWSKI. Mr. President, let me speak very briefly about another amendment that I was prepared to offer. But, again, because of the circumstances on the floor, it is not going to be presented. It is an issue that is ongoing. I would like to speak briefly on the merits of the issue, although, as I have said, the amendment will not be offered.

This was to be a very simple and very straightforward amendment. It would require the Government of Mexico to provide our Government with information relative to the names of the individuals or institutions that are redeeming Mexico's debt when the redemptions are made with the funds provided by the United States Government. As my friend in the chair, the Presiding Officer, will recall, this package is almost $52 billion.

It is the contention of the Senator from Alaska that is a bailout that has been crafted by the United States through the Treasury Department. It is my understanding that Mexico has already used some $13 billion to pay off the debt, of which $5 billion initially has come from the United States. Another $15 billion of American taxpayer money is at risk. That is money that came from the Exchange Stabilization Fund that was set up when we went off the gold standard.

We are all aware of the fact that the administration came to the Hill to seek support for the Mexico bailout. But they could not get our support and decided that they would find another avenue to bail out Mexico. And they came up with the $20 billion that is in the Exchange Stabilization Fund, the International Monetary Fund, the Bank for International Settlements, and others and the commitment now is some $52 billion.

It is rather interesting to reflect on that because the Senator from New York and I had a colloquy some time ago. And both our recollections are that the current debt of Mexico, as communicated by the assistant to the President of Mexico at a meeting we had, was in the area of $70 billion. The current debt is debt payable in a year. This debt is to meet an obligation issued by the Mexican Government in the form of bonds. These are bearer bonds. That means we do not know who holds them. It is like a check payable to cash.

The question my amendment attempts to address is who is being bailed out? Is it the Mexican people? Is it Mexican financial institutions? We have not been able to get a definitive answer from the Department of the Treasury. It is my opinion that the ordinary citizens of Mexico are not being bailed out. In fact, the ordinary citizen of Mexico is currently facing interest rates that are clearly out of reach, in some instances 75 and 100 percent. Mortgage rates are absolutely unrealistic. The reality of lost jobs, higher taxes, higher inflation, and when we look at the obligation of who pays this back, we find it is the citizens of Mexico. It is the economy of Mexico.

Businesses operating in Mexico are not being bailed out by this commitment, which is the first advance of some $52 billion. Mexico has already used $13 billion to pay off the debt which comes from the United States; hence, the United States taxpayer.

Companies that have put brick and mortar in the ground for new plants and employ Mexican citizens are not the beneficiaries of this money. In fact, they are suffering from the havoc caused by the interest rate explosion. They cannot borrow for inventory. They cannot borrow for expansion. American mutual fund investors—let me repeat that—American mutual fund investors whose funds invest on the Mexican Bolsa are not being bailed out. In fact, these equity investors have seen the value of their holdings drop more than 50 percent, and in some cases the loss of these stocks are even larger. So the questions are, Well, where is this money going? Who is it going to benefit?

Mr. President, you know who is being bailed out. So do I. The owners of the so-called tesobono debt. Most people do not even know what a tesobono is. In fact, this debt really did not exist a year ago. It is the Mexican debt which, when it comes due, is paid in pesos.

It is rather interesting how the financial intrigue of this adjustment occurs. However, the important thing to recognize is the amount of pesos that the debt-ridden holder receives at maturity is linked to the peso-dollar exchange rate. Mexico, unfortunately, made a decision to issue this type of debt early last year because it was finding it more and more difficult to attract more investors to finance its debt.

That sounds rather curious, does it not, that they have to have foreign investors to finance their debt? Yet that is the reality that Mexico faced. Canada has to have foreign investors to finance its debt. I noted the other day a figure which indicated that 29.6 percent of the Canadian budget was to pay interest on the debt. That is almost a third. When you get into that area, the ball game is almost over. It is almost over.

Now, the foreigners, of course, in order to invest, when they see a situation that is less than stable, demand higher interest rates, and they demanded as much as 20 percent from Mexico. Not only that, but that demanded that the debt be linked to the peso/dollar exchange rate.

These are very shrewd investors, Mr. President. They know that money goes to the highest return and the least risk. And they must have foreseen that the peso could be devalued, and they wanted to ensure that they would suffer no currency risk.

That is exactly what happened, Mr. President. The peso went from 3.5 to the dollar to 6.5 in barely 2 months, and now that this debt is due these investors are completely insulated from the financial crisis that is affecting all other sectors of the investment community and the working community in Mexico.

One asks the question why? It is because the United States Government has decided to give Mexico these billions of dollars to pay off these investors. Now, who are these investors? As I said, they are sophisticated investors. They are the investors who went out there and took a risk because the attractiveness of 20 percent interest suggested that risk was worth taking. These are not the ordinary Mexican people.

This was done because the United States Government has decided to give billions of dollars to Mexico to pay off these investors. If we had not come to the rescue, then these investors would have had to suffer the financial consequences that everyone else in Mexico must face. Why should these investors be bailed out? We do not bail out the investors who put money in Orange County bonds. Why are these investors in Mexico so very special?

One of the reasons, obviously, we do not know who they are. That makes them special. We know who the investors are who bought Orange County bonds. Who bought these tesobonos? We do not know. They could be American investors, Japanese or German investors, they could very well be some of the billionaires who live in Mexico City and are friends of the controlling PRI party.

What we do know is that whoever owns this debt is really cashing in, and they are shipping their money where? They are shipping it out of Mexico. In fact, so many tesobono owners were immediately converting their proceeds into dollars that the peso began to crash above seven to the dollar, and then the Mexican Government decided to stop paying off tesobono debt in pesos and immediately paid the debt in dollars. Where did the money come from? It came from the United States. Whose dollars are they using? They are using U.S. taxpayer dollars. We are bailing them out. Why? We are being told it is to stabilize the monetary and currency system.

That is what we are told. If you buy some shares on the New York or American Stock Exchange and lose money, we do not bail you out.

But if we had not bailed out the bond holders and the Mexican Government, what would they have done? They would have done as everybody else who runs in to credit problem. They sit down and work a deal out. You know you cannot get 100 percent back on the investment. You might get 40 percent. But that is the way the process works in the ordinary debtor/creditor situation. Then we would know who the holders of the tesobono debt are. They would have to come forth, submit their bearer bonds through investment brokers, commercial, international banks. We would know who they are and they would sit down and work out a deal. That is what should have been done.

I believe it is important that the American taxpayers know who the recipients of this debt are. Some have said, what difference does it make who they are? I think it is important when American taxpayer money is used to provide a guarantee on a foreign government debt to a very select group of holders of debt. Not only are they going to get their principal back; they are going to get the interest back—20 percent.

You and I, where do we go to get 20 percent? I do not know. Maybe you get in line down there and buy some tesobonos. But we ought to know who the beneficiaries are because we know that it is not the Mexican economy that is the beneficiary. This is not going to do a thing for the Mexican economy. Those holders of that debt are moving that money out of Mexico. Yet, the Mexican economy, the Mexican citizens are expected to pay it back. In the conditions that exist in Mexico that is unlikely to occur.

Now, many of my colleagues make the point that we cannot indicate that we are supporting a process and then not follow it through. The problem with this sales package, Mr. President, is we did not understand it in the first place. We were told continually we were going to stabilize the Mexican economy. What we are doing is paying off the debt of sophisticated investors who bought those tesobonos who are standing in line to get United States dollars and will bail out and they are not going to put that money back in Mexico.

There are assumptions that a large portion of this debt is held by Americans, yet the Treasury Department claims that these bearer instruments are of a nature where they do not know who owns the debt.

I do not know who controls the debt. But what if we found out that $5 billion of the debt was owned by the Bank of Libya or maybe the debt was owned by an investment house operating as a front for the Government of Iraq or Iran. Would not the taxpayer be curious? Do we not have an obligation as we sign off on this money as a Congress to know who those recipients are? Is it too much to demand that when American taxpayer dollars are used by the Government of Mexico to pay off an investor or speculator the identity of that investor or speculator be known? Because again, we are being told that this has to happen to solidify the economy of Mexico. It is going to solidify the holders of those bearer notes.

What my amendment seeks to accomplish is to try to identify who those holders are. Mr. President, reality dictates that if my amendment passes and Mexico does provide the information we are seeking, we will probably never know who really holds that debt. It will probably be reported in the name of the Bank of Panama, the Bank of the Bahamas, a couple of major brokerage house firms, but I think it important that this body focus on this principle: that it was an unnecessary and unwise action taken by this administration at the expense of the U.S. taxpayer to favor the holders of an extraordinary type of foreign debt that was issued out there to make them whole when we do not do it to any other investor when their investments turn bad. But we made an exception for these investors.

The New York Times reported last Sunday:

> Most of those investors, a mix of rich Americans and other foreigners, have swept up their hefty profits and immediately transferred their money out of the country of Mexico.

Now, if that is true, Mr. President, we have not done Mexico a favor. We have put a burden on the taxpayer and the Mexican economy because they are the ones we expect to pay that back.

So that is the extent of my statement and my concern, Mr. President. And I urge my colleagues who have anguished over whether or not the Congress should take a position on this matter to recognize that we have an obligation to the U.S. taxpayer to make an accounting of the worthiness of a $20 billion commitment, and that is not what we have done.

I would feel entirely different in this matter if I felt this was an investment in the Mexican economy which would benefit the Mexican taxpayer.

It is like, if you borrow money, Mr. President—and I know you are a businessman—and you could use that money to make more money, that is a good thing. You are employing more people; you are building up inventory. But if you borrow money and you have to mortgage your income to pay it back, I may be doing you a grave disfavor.

That is the principle that I think is applicable in this particular case of bailing out this select group of investors, whom we have no knowledge of at the expense of the Mexican taxpayer.

Mr. President, I have concluded my statement. I intend to pursue this matter at a later date when the opportunity arises with an appropriate vehicle.

In the meantime, I ask my colleagues to consider the merits of my statement this morning relative to identifying who the beneficiaries are of our $20 billion commitment. This is just a part of the current Mexican debt, which will in this year require some $70 billion in order to meet the obligations of the Mexican government.

I thank the Chair and I wish the Presiding Officer a good day.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MURKOWSKI). Without objection, it is so ordered.

STRIKER REPLACEMENT

Mr. FAIRCLOTH. Mr. President, on March 23, I introduced S. 603—a bill to nullify Executive Order 12954 which prohibits Federal contracts with any company that hires permanent replacements for striking workers. This is the companion bill to H.R. 1176 introduced by Chairman GOODLING of the Committee on Economic and Educational Opportunities. Yesterday, Mr. GOODLING's committee held a hearing on H.R. 1176, at which testimony was given concerning the fundamental flaws of this Executive order. Many of the same issues were addressed in this Chamber when the distinguished Senator from Kansas, Chairman KASSEBAUM, ably led an effort to limit funding for the implementation of the Executive order.

We lost that fight, but the opponents of this Presidential power grab will not rest until the Executive order is overturned and balance is restored to this Nation's labor policies.

Today, I would like to speak briefly about just a few of the more recent and compelling criticisms of the Executive order.

I share the opinion of those who conclude that the order is invalid because it exceeds the President's constitutional and statutory authority. The Justice Department's legal memorandum in justification of the order cites a statute which was enacted in 1949 to implement the recommendations of the Hoover Commission.

The Justice Department takes the position that this statute authorizes the President to adopt any regulation which promotes economy and efficiency in Government procurement. However, there is no Supreme Court decision that supports the Justice Department's interpretation of this statute as conferring such sweeping Presidential authority.

Moreover, the Congressional Research Service recently concluded that Executive Order 12954 "may not survive even the most restrained judicial scrutiny."

We must be clear about the legal foundation which restricts the President's authority to issue an Executive order regarding a central tenet of national labor policy.

The National Labor Relations Act itself authorizes the hiring of replacement workers—and by so doing, limits Presidential authority to regulate the relationship between management and striking employees. The President has not been granted authority under any statute to alter this carefully balanced congressional design.

If this order is not overturned, just imagine the possible consequences of allowing the President to bypass Congress and issue directives on any and all matters relating to Federal contractors.

For example, President Clinton would be permitted to unilaterally impose on Federal contractors a mandate to implement the type of health care plan which he advocated last year and which was so thoroughly and soundly rejected by Congress and the American people.

In issuing Executive Order 12954, President Clinton has made a sweeping assertion of Presidential power which is completely at odds with our constitutional system of separated and enumerated powers. It should not be allowed to stand, and during the 104th Congress we should commit ourselves to reversing this ill-conceived precedent.

Mr. President, I yield the floor and suggest the absence of a quorum.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. Will the Senator from North Carolina withhold his request? The Senator from Illinois is seeking the floor.

Mr. FAIRCLOTH. Mr. President, I am sorry. I did not see the Senator from Illinois.

I withdraw the request for a quorum call.

Ms. MOSELEY-BRAUN. I thank the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from Illinois is recognized. The Chair apologizes. I was raptured by the Senator from North Carolina, and my head was turned the wrong way. I wish her a good day.

WINNERS AND LOSERS OF THE CONTRACT

Ms. MOSELEY-BRAUN. Mr. President, I would like to discuss the first 100 days of Congress, and the winners and losers of the Contract With America.

We have heard a lot from those who would compliment the leaders in the House for their speedy answers to some of this Nation's most pressing problems. Many will say that they have made history for their ability to address so many issues in a mere 100 days. I dare say, though, that if the Contract With America makes history, it will not be for its achievements, but for the reckless manner in which critical issues were considered, issues that have will have a severe negative impact on the lives of countless Americans.

At the outset, I want to say that we all know that spending must be reduced. We all know that the deficit must be brought under control. This is why I supported the balanced budget amendment. But out jobs as Members of Congress means prioritizing the needs of the American people within our fiscal constraints. What the Contract With America does is give the wealthy a higher ranking over working class families and children in this country.

I can sum up the winners in the last 100 days easily, the super wealthy and the billionaires. Unfortunately the list of losers is much longer, children, students, hard working middle-income families, and the list goes on. The losers are those who would greatly benefit our investment in the people of this great Nation, quality education for our children, job training for young people and adults, efforts calculated to help prepare this Nation for the future.

WINNERS/EXPATRIOTS

Who are some of the winners in the first 100 days? Some of the winners have been big. The big winners include 24 billionaires who escape $1.4 billion in income and estate taxes by renouncing their citizenship, the expatriots who abandon this great land that has helped them gather their wealth. Democrats tried to close that loophole in the Finance Committee we were outvoted by the Republican majority.

Our current tax laws are not neutral. To favor those that would renounce their citizenship over hard working loyal American citizens who are struggling to get by.

A few dozen ex-patriots take advantage of this loophole in Federal tax laws by removing their assets beyond the reach of U.S. taxing jurisdiction just before renouncing their U.S. citizenship, thereby avoiding taxation of the appropriated value of their assets.

While they enjoyed the benefits of U.S. citizenship—police protection, roads, schools, national security, and countless of other Government services—they looked for ways to get around paying their fair share of taxes.

Although the Senate Finance Committee voted to eliminate this loophole, the provision was restored in conference. This is nothing short of astounding. At the same time that Republican leaders in the House were proposing massive cuts to be placed on the backs of the children and families of this country, the House Republicans chose to continue granting massive benefits to billionaires.

WINNERS/HOUSE TAX PACKAGE

Among the other winners, are those that would benefit from the House tax and spending package that has been labeled the crown jewel of the Contract With America. I fail to see the glitter in this jewel.

Among the tax cuts is a provision which will give families that pay taxes eligibility for a $500 tax credit for each child under the age of 18, including families earning more than $200,000 a year.

But what this crown jewel does is reverse an original proposal which would have made the credit partially refundable, meaning that some low-income working families, who pay no income tax but who do pay substantial social security and Medicare taxes, could have received the credit. This version is now nonrefundable. And what that means is that those earning $200,000 will not be affected, but that the working poor of this country have once again lost out.

LOSERS/OPENING

And who else loses, well, these tax loopholes and tax breaks are paid for at the expense of middle Americans who will have to pay more to send their children to college or to a child care program. These breaks are also being paid for by the children in this country, thousands of kids, who are on waiting lists to attend a Head Start Program. For example, in my hometown of Chicago, only 26 percent of all poor children qualifying for Head Start are able to attend a program because of the shortage of slots available.

I would like to take a moment to talk about the many other educational programs that will suffer as a result of the past 100 days. I would also like to review, in somewhat greater detail, the consequences of these ill-considered actions to decimate programs that invest in this country's future.

Mr. President, it is an understatement to say that it is vital to the interest of our Nation that we maintain quality public education for all Americans. Education is not just a private benefit, but a public good. It is the cornerstone of a healthy democracy and as a society, we all benefit from a well educated citizenry. What quality education results in is the means by which we prepare our children to succeed, to earn a living, participate in the community and give something back to their communities.

LOSERS/EDUCATION AND THE WORKFORCE

Education is also the vehicle to understanding the technology that has reshaped our workplace. This country is experiencing a new era in economic competition. If we are to succeed and retain our competitiveness into the 21st century, there must be a renewed commitment to education in this country.

The results of a failed commitment to our educational system will have direct ramifications on this country's work force—the private sector—and this country's economy. Every day, businesses across this country are trying to cope with the fact that a great percentage of the work force is functionally illiterate. Every day, thousands of Americans are being told that they do not qualify for jobs because they lack a high school diploma, or a college degree.

Mr. President, our continued commitment to education will mean jobs for the American people.

Nonetheless, as other leaders of our countries continue to recognize the increasing importance of education, many in this country continue—and I am sorry to say, many Members of Congress—continue to wear blinders. We must not retreat from this commitment.

HOUSE RESCISSIONS BILL

The rescissions bill sent to this chamber by the U.S. House of Representatives would cut $1.7 billion from the 1995 Department of Education budget. It enacted this legislation would cut: $481 million from the Safe and Drug Free Schools Program; $261 million from vocational education and literacy programs; $186 million from the Goals 2000 program; $113 million from chapter 1, and $50 million from bilingual education programs.

The House has also recommended rescinding critical funding for programs which advance our Nation's education technology infrastructure, which I will also address. These cuts include:

$30 million from the Educational Technology Program, a program which promotes equal access for all elementary and secondary students to the educational opportunities made available through advances in technology.

$10 million from the Star Schools—a program designed to improve instruction in math, science, foreign languages, and other subjects through telecommunications technologies. It also supports eligible telecommunications partnerships organized on a statewide or multistate basis to develop and acquire telecommunications equipment, instructional programming, and technical assistance.

$2.7 million from the Ready to Learn Program, the first national goal which states that all children should start school ready to learn. The program helps local school districts meet this goal by supporting the development and distribution of educational television programming for preschool children.

GAO REPORT

Mr. President, last year, I asked the GAO to conduct a nationwide study on the condition of our Nation's public school facilities. Earlier this week, I elaborated on the second of those reports—released this week by GAO—which focuses on our Nation's education technology infrastructure needs. I would like to just briefly comment on this critical subject again.

This GAO report concludes that our Nation's public schools are not designed or sufficiently equipped to prepare our children for the 21st century. More specifically, the GAO report found that more than half of our Nation's schools lack six or more of the technology elements necessary to reform the way teachers teach and students learn including: computers; printers; modems; cable tv; laser disc players; VCR's, and TVs.

In fact, the GAO report found that even more of our Nation's schools do not have the education infrastructure necessary to support these important audio, video, and data systems. More importantly, this second GAO report confirmed our worst fears, the availability of education technology in our Nation's public schools is directly correlated with community type, the percentage of minority students, and the percentage of economically disadvantaged students.

Mr. President, this is simply unacceptable and the proposed cuts to educational programs are also simply unacceptable. There is no reason why our Nation's children should not have equal access to the best education technology resources available.

EDUCATION INFRASTRUCTURE

Let me mention briefly the first GAO report, released in February, on the state of school facilities. This report found that our Nation's public schools need $112 billion to restore their facilities to "good" overall condition.

And what is the Republican response to our Nation's schoolchildren? I am sorry to report that the House rescissions bill would also slash funding for all new education initiatives, including the education infrastructure act which I introduced last April to help local school boards improve the physical conditions of our schools and ensure the health and safety of their students.

EDUCATION CUTS IMPACT ON ILLINOIS

While the Senate bill does restore some of the educational funding, it is not enough. The cuts are still deep and will have a great impact on children throughout this country. I would like to use my State of Illinois as an example. Some of the Senate-recommended cuts will result in the following loss to the children in Illinois alone: Disadvantaged Students Program, (Title I): −$3.4 million; Safe & DrugFree Schools: −$4.3 million; Goals 2000: −$2.4 million.

HIGHER EDUCATION

The contract's attack on education does not stop at the grade school and high school levels. College students and middle-income American families will also pay a higher price.

For example, the proposed elimination of four higher education programs—supplemental educational opportunity grants, Federal work study, Perkins loans, and the State student incentive grants, along with the elimination of the "in-school interest forgiveness exemptions on student loans"—will increase the cost of college for American families by $20 billion over the next 5 years.

Eliminating the subsidy on school interest forgiveness alone would mean the following for middle-American families: 4.5 million current borrowers will accrue interest on their loans while they are still in school; a student who borrows $17,125 over 4 years would owe $3,150 or more and have his or her monthly payments increased by more than 18 percent and, in my State of Illinois, the number of students who will pay more for student loans will increase by 198,053.

AMERICORPS

The contract's attack on young people continues. Republican attempts in the House to gut the AmeriCorps Program would eliminate opportunities for thousands of students to serve their country while earning money for their own education. A promise that has been made to these thousands of young Americans; the communities they serve; the charitable groups they serve with; and, the partners who share the costs of the National Service program, will be broken. Thousands of working families who depend on the promise of college scholarships for service, will lose this valuable financial assistance.

The House rescission on AmeriCorps will mean that the almost 700 projected number of students who could take part in the program in fiscal year 1995 will be rejected.

Mr. President, I would like to use City Year Chicago—the model program that AmeriCorps is based on—as an example of some of the outstanding and desperately need work that is being done by students in the Chicago area. Some of the community service work includes: The Alter Group Team—Members work with Bethel New Life, a community development corporation in the Garfield Park neighborhood, a low-income area in Chicago. Projects include designing and piloting a computer-literacy program for adults and assisting in the renovation of both a hospital, which will become senior housing and a school, which will become transitional housing for battered women.

The First Chicago/Harris/LaSalle/Northern Trust Team—Members are running a teaching assistant program at the Brian Piccolo Elementary School in West Humboldt Park, a public elementary school serving approximately 966 African-American and Latino students. Each team member works as a teaching assistant in a classroom, tutoring children with special needs, assisting in bilingual classes, or helping to implement special art or education programs.

Mr. President, these are just two examples of what's being done under the AmeriCorps Program after only 6 full months of operation. I would like to submit for the RECORD, a complete list of the AmeriCorps Community Service Programs underway in Chicago, and ask unanimous consent that the list be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Ms. MOSELEY-BRAUN. Across this country, more than 20,000 AmeriCorps members have begun to serve their neighbors; children, the elderly, students, and persons with AIDS.

AmeriCorps members have taught or tutored more than 9,000 pre-school, elementary, and junior high school students in basic educational skills. They have launched after-school and summer tutoring programs for more than 4,600 kids. And they have organized hundreds of community service projects, cleaning up neighborhoods and providing food for the elderly.

CLOSING

In closing, I want to make clear what I am for and what I am not for. As I stated at the start of my remarks, a lot of what the spending process includes is prioritizing. By providing the needed and long overdue support for educational programs, job training programs, and programs for children, we invest in this country's future. Cutting these opportunities is clearly in the wrong direction. We must not retrench on our commitments to young people and American families.

Mr. President, before the celebrating of the contract and the first 100 days begins, the American people need to understand who's been invited to this party. If you are a billionaire, or part of the small percentage of the superwealthy elite in this country, your invitation has been signed, sealed, and delivered.

For the rest of American people—the children, students, or hard-working, middle-income Americans—I dare say, your invitation has been lost in the mail.

EXHIBIT 1

CITY YEAR CHICAGO—COMMUNITY SERVICE UPDATE—AS OF MARCH 1995

THE ALTER GROUP TEAM

The Alter Group Team is working with Bethel New Life, a Community Development Corporation in the Garfield Park neighborhood. In the mornings, the Alter Group Team members participate in a variety of group and individual projects under the direction of Bethel New Life staff. Corps members are designing and piloting a computer-literacy program for adults; organizing community improvement and gardening projects; helping to organize a volunteer week and other community events; and assisting in the renovation of both a hospital which will become senior housing and a school which will become transitional housing for battered women. In the afternoons, the team members tutor students in the after school program in Bethel's affiliate elementary school.

THE FIRST CHICAGO/HARRIS/LASALLE/NORTHERN TRUST BANK TEAM

The Bank Team is running a City Year in Schools Program at the Brian Piccolo Elementary School in West Humboldt Park, a public elementary school serving approximately 966 African-American and Latino students. Each team member works as a teaching assistant in a classroom, tutoring children with special needs, assisting in bilingual classes, or helping to implement special art or physical education programs. Corps members also act as role models for the young students by establishing an environment of common goals and values and promoting the City Year values of team work and inclusivity. When the school day is finished, the team continues working on a project designed to improve students' self-image and enliven the school environment through the creation of inspirational banners.

THE AMOCO TEAM

The Amoco Team also works in partnership with an elementary school: the John Spry Community School in Little Village. Spry is a pre-kindergarten through eighth grade school with approximately 1,300 students. By working individually in classrooms as teaching assistants, City Year corps members are helping to give students the confidence to excel academically. They lead small groups in math and reading, work closely with troubled students and teach lessons in English as a Second Language and art. The Team also participates in such special programs as the celebration of Young Readers Day, for which corps members rotated classrooms and read to over 700 children. The creation of perfect attendance and honor roll certificates for the entire school, and the renovation and reorganization of the Spry School Library for reopening can also be credited to the team members. The Amoco Team is currently working on a violence prevention curriculum, which the team will take to classrooms throughout the school.

THE RONALD MCDONALD CHILDREN'S CHARITIES TEAM

The Ronald McDonald Children's Charities Team is helping to run an after school club at the Chicago Youth Centers-Lower North in Cabrini Green for over 100 children. The team's service is focused on expanding the curriculum offered at the youth center and strengthening the educational components of the program. The team members not only tutor the young children in the program, but create and run after school clubs such as Arts and Crafts, No-Bake Cooking, Tumbling, Volleyball/Softball, Basketball, and Chorus. Along with their work with the After School Club, the team is succeeding in changing the face of the Youth Center. The team has painted most of the building's interior surface, repaired the outside fence, created a mural in the gymnasium, and completed many other physical service projects at the Center. When not at the Center, the Ronald McDonald Children's Charities Team works in partnership with Careers for Youth and Uptown Habitat for Humanity on the West side. They are painting and installing light fixtures in a two-flat apartment building, so that a family can move in this Spring.

THE DIGITAL EQUIPMENT CORPORATION TEAM

The Digital Equipment Corporation Team runs an after school club for approximately 80 children at the Price School in the Grand Boulevard community through Chicago's Youth and Family Resource Center. Under the supervision of the Digital Team, the children study and work on their homework for two hours tech day. Corps members give the special attention and individual tutoring that is often difficult for teachers to provide in a classroom context. Following completion of their homework, the children can participate in one of the Digital Team's After School Clubs: "An Exploration of Culture;" Art; Rap Session (a discussion group); Dance; Music; Reading and Writing Workshop; and Athletics. The Team also works with Habitat for Humanity/Careers for Youth doing renovation and carpentry for low cost housing on the West Side. In addition, Team members work with the Chicago Historical Society's Neighborhoods; Keepers of Culture Exhibition, a project created to collect, interpret and exhibit the histories of four Chicago neighborhoods. The entire Digital Team is also being trained as AIDS Counselors, and this Spring will begin doing AIDS/HIV outreach in the Little Village community.

(Mr. FAIRCLOTH assumed the chair.)

AFFIRMATIVE ACTION

Ms. MOSELEY-BRAUN. Mr. President, I would like to take up another subject that is probably as controversial as the Contract With America and what has happened in the last 100 days.

I recently met with a group of concerned women in Illinois to discuss the continued relevance of affirmative action. The idea of the meeting arose quite naturally. As with any other debate that is happening here in Washington, I try to reach out to those in my State who will be impacted by changes that Congress might make, in order to get the input of their collective wisdom.

The meeting was arranged when we, at last, had a few days to spend back in the State. As you know, Mr. President, we have not been able to get back home as much as we would like. So the meeting was arranged somewhat hastily; we did not have a great opportunity to plan for it. Nor were we able to provide interested parties with much in the way of advance notice.

However, as it turned out, the meeting was a resounding successful. Frankly, I do not think I could have even imagined how successful it would be, or how many people would rearrange their plans to meet with me on a moment's notice.

My office was filled with women who spanned the political and economic spectrum. There were women who had spent their lives doing grassroots political organizing, and women who had spent their lives working in corporate America. There were women who had started their own businesses from scratch, as well as women working in unions and associations. Many of the women present had also spent years exclusively as homemakers.

Despite the diversity of viewpoints and backgrounds represented at the meeting, there was a near unanimity of response. The women in that room wanted to know why Congress would choose this moment in time to turn its back on the promise of equal economic opportunity, when so much work remains yet to be done; at a time when, despite all of our efforts, a glass ceiling still works to prevent qualified women and minorities from making full use of their collective talents.

The women at the meeting wanted to know how Congress could ignore the overwhelming evidence that affirmative action benefits not only individuals, but employers and society as well. Finally, they wanted to know what they could do to help preserve this country's commitment to equality, opportunity, and fairness.

Every woman at that meeting agreed that she would have been denied opportunity in the absence of affirmative action. Every woman agreed that she had been provided with opportunities because the climate created by affirmative action helped to encourage diversity and inclusion, and helped to open up fields of endeavor that might have otherwise been closed to her. And, more importantly—or as importantly—every woman there could recall a roadblock that had been placed in her way as she tried to become an equal participant in the marketplace.

The barriers to equal opportunity, and the roadblocks that one runs into because of gender are not subjects that most women generally discuss. Frankly, most women would prefer to meet the potholes and the ruts in the road, to confront them head on and overcome them, if possible, and then move on. Yet every woman present agreed that congressional efforts to repeal affirmative could only serve to put cement on the glass ceiling, and to make those hurdles higher. If that happens, Mr. President, these women will come out of the woodwork. Letters and phone calls will pour in from across this Nation, Mr. President, as women tell their stories. The sentiment in that room can be summed up quite simply: Women cannot, and will not, turn back.

The simple fact is that many of these women were in professions that women could not even enter 20 years ago. Many of the women in the room had been hired for jobs or had received promotions that would have been unthinkable in 1965, or even 1975. And all of them felt that the existence of affirmative action in the laws and in executive orders in this country had opened doors, had created a climate of diversity, had created an environment for their inclusion.

Finally, despite the progress they had made, all of these women felt that there were still barriers to their advancement, that the glass ceiling was all too real. They concurred that efforts by this Congress to retreat from the commitment to equal opportunity in the workplace would have the effect of putting cement on that glass ceiling, and make it much more difficult for women to participate in the economic, political and social life of this country.

Given the enthusiastic reaction at the meeting that took place in my office, I was frankly not surprised to learn 2 days ago that a Coalition for Equal Opportunity is being formed in Illinois. At a press conference on the 17th of April, more than 40 women's, civil rights, labor, religious, and business organizations will announce their intentions to work to preserve equality and fairness in Illinois and throughout the Nation. They announced their intention to begin to galvanize and work to explain to women what affirmative action really means—the truth of it.

I gave a statement on the floor the other night, Mr. President, in which I went some detail about the truth of affirmative action—what the myths are, what the realities are, and how women and minorities will be affected by efforts to repeal it.

For those who may be wondering if the reaction of that group is atypical, I can assure you, it is not. There is a tendency in Washington to get wrapped up in what is happening here on the Senate floor. Sometimes, we can lose sight of what people are saying out there in the real world, what is actually going on in communities.

It is interesting to note that there is an old expression, "How does it play in Peoria,"—a town that is, of course, in my State of Illinois. How does it play in Peoria? This is a shorthand way to cut through the beltway issues and get to what the people out in the heart of the country think about the issue.

There was a major story that recently appeared in the Peoria Journal Star, a major newspaper in Peoria, that gives us a sense of how this issue, the affirmative action debate, is playing in Peoria.

The headline of the article is entitled, "Toward a Middle Ground: Re-Think Affirmative Action, But Don't Kill It; Issue Demands Caution."

I ask unanimous consent that the text of the article be printed in the RECORD following my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 1.)

Ms. **MOSELEY-BRAUN.** I would like to discuss a few points made by that article, because I think it is helpful for those of us in this body to be aware of how some people in America's heartland feel about the affirmative action issue.

First and foremost, the people in Peoria are echoing the conclusions reached last week by the Department of Labor's glass ceiling commission: affirmative action makes good business sense. As the article states:

> A half-dozen Peoria area employers and educators contacted over the last week said they make special efforts to promote diversity not because the Federal regulators are on their backs, but because it's in their interest. In some circumstances and with some individuals, a black cop or teacher can be more effective than a white one. A rape victim may be more willing to tell her story to a female reporter. A Hispanic salesman may be better able to reach that market. It's not just black students who benefit from attending college; whites are more fully educated—wiser if you will—for having black classmates and roommates.

Mr. President, these are businesses in Peoria, not New York or even Chicago. This is Main Street, not Pennsylvania Avenue. And these Main Streeters recognize that affirmative action is more than a private benefit; it is a public good. If we can open opportunity to a student or a job applicant who has been previously excluded from consideration, obviously, that person benefits. What is less obvious, but just as important, is that society benefits as well.

The Journal Star's article continued on to point out that, while America has made great strides in equal opportunity, there is still much work to be done. The dream of America as a colorblind society has not yet been realized even though all of us want, I think, to move in that direction. There are still entire professions, entire companies and even entire industries that remain virtually off-limits to women and minorities, particularly in the upper-levels. The glass ceiling report reached that conclusion after years of painstaking research; in reality, all people need to do is look around their boardroom or their classroom to figure out what is really going on. As Clarence Brown, personnel director at Peoria's Bradley University, stated:

> Everyone still believes the Government is forcing businesses to hire minorities—it's not. At every workshop, somebody brings that up. We say, look around you, and in most of those workshops there are no minorities at all, and most of the people there are white males.

Mr. President, as I have said before and will say again, I agree that all affirmative action programs should be subject to review. Everything that we do in Government, if the Government is to function effectively, from time to time, be subject to scrutiny and accountability. But there is a difference between review and retreat. In fact, the issue we are facing right now is that we make certain that retreat does not mean retrenchment. It is important that efforts to promote diversity are fair to everybody. It is important that the affirmative action initiatives do what they say they do and that we weed out the companies that run amuck and bureaucrats that run amuck and make a rash of regulations that are illogical.

So review in and itself can be an opportunity for improvement of affirmative action but it should never be used as an excuse for retrenchment from our commitment to fairness.

As the Peoria Journal Star article concludes:

> It would be a mistake to abandon the broad commitment to act affirmatively to make for a more inclusive America: To recruit, to recognize the value in diversity, to provide more opportunities to those, regardless of sex or color, who have too little from the moment of birth.

In other words, an absence of discrimination is not enough. The Federal Government, employers, and our universities must reach out beyond the traditional groups and ensure that all people are given the opportunity to succeed in America.

Some have argued that, even if the Federal Executive order on affirmative action is repealed, businesses will continue to seek out diversity because it is the right thing to do. It affects the bottom line in a positive way. That is possible. But I do not think promotion of diversity would proceed as rapidly in the absence of legal guidance. Indeed, it is likely to slow down and some of the evidence suggests that where the legal requirement has changed affirmative action efforts have slowed down.

The more probable scenario is described this way in the article from the Peoria paper:

> The other possibility is that ending Federal affirmative action mandates will make our workplaces and campuses look more Germanic than American. The commitment to minority recruiting will fade as time passes. Blacks shackled by poor schools and single-parent families will be more disadvantaged than they already are in competition for spots in good colleges, necessary to put them in competition for good jobs. Minorities and women who would be otherwise competitive will run up against the good-old-boys network and the human tendency toward the familiar—to give the job to somebody who looks and things as you do.

Is that what we want from America? That scenario runs counter to the American dream, the dream of opportunity for everyone, the dream of traveling as far as your abilities will take you; or, as many parents put it to their children, the dream that any one of us could one day grow up to be the President of the United States. If that dream is to have any basis in reality, we cannot retreat from our commitment to affirmative action. To those who will easily dismiss the Peoria Journal Star observations, and my remarks on this subject, again I have already made one more detailed speech about this issue, and I intend to make others about this issue to focus in on particular parts of the debate and particular issues going to the facts of this issue, I would like to remind whoever is listening that Illinois has long been a bellwether State on the issue of equal opportunity.

As far back as 1914, a woman's organization known as the Kappa Suffrage Club realized the link between equality of women, and equality for minorities, and worked for the election of the first black alderman in the city of Chicago. The League of Women Voters was founded in Illinois in 1919 by Carrie Chapman Catt, who stated at the time that "Winning the vote is only an opening wedge, but to learn to use it is a bigger task."

I know that there are attempts by some to turn the affirmative action issue into a cynical debate about race. We cannot allow that to happen. There are too many problems facing this country—problems of job creation, deficit reduction, education—that need our collective energy. To divide Americans one from the other is not only counterproductive, it is irresponsible and I submit irresponsible debate. Affirmative action is about opportunity, and affirmative action is about giving our country the ability to compete in the world economy, in this world marketplace on an equal par and with the capacity to tap the talents of 100 percent of the people of this country.

As our country is able to tap the talents of 100 percent, we grow stronger as a nation and we are better able to participate and to compete. To close that door to, put cement on the glass ceiling at this point in time, it seems to me, turns this country in the absolute wrong direction and will put us on a course that I hate frankly to imagine.

I hope that over the months as we discuss this issue that people who care about it will, one, focus in on the fact and, two, hear the voices of reason coming from the America's heartland. We all stand to gain from the wisdom of people who are out in the real world trying to make our country work as one America.

If any objective should command our complete consensus, it is ensuring that every American has a chance to succeed. And in any event, the facts will not support tagging blacks and other minorities with any failures of affirmative action programs.

Mr. President, I will close on a note of caution from the Peoria Journal Star:

> There are fewer threats to the Nation's future that a wide divide between angry whites and disenfranchised blacks.

Those who would seek to enlarge that divide by using affirmative action as a racial "wedge" issue may score short-term political points; but they do so at the expense of America's long-term future. Before we travel down that road, I urge everyone to consider the voices of reason coming from America's heartland. We all stand to gain from their wisdom.

Thank you very much, Mr. President. I yield the floor.

EXHIBIT 1

[From the Peoria Journal Star, Mar. 12, 1995]

TOWARD A MIDDLE GROUND: RETHINK AFFIRMATIVE ACTION, BUT DON'T KILL IT; ISSUE DEMANDS CAUTION

Call it the revenge of the angry white guys.

Claiming white males denied access to a janitorial training program, the United States Justice Department last week sued Illinois State University. ISU President Thomas Wallace responded that the program has been set up to integrate a largely white, male work force. White men weren't precluded from joining, Wallace said. But the Justice Department alleges none were among the 60 people trained and hired between 1987 and 1991.

It's not often lately that the feds have gone to bat for white guys, especially those who allege they are being denied an opportunity to become janitors because of gender or skin color. Before affirmative action sought to put the power of programming behind the pledge of opportunity, most of the positions that paid Buick-buying money went to white men. Why would they mind if custodial jobs went to blacks?

We have come not quite full-circle in the 30 years since President Lyndon B. Johnson committed the country to guaranteeing black Americans "not just equality as a right . . . but equality as a fact." What followed was a host of federal programs—the Library of Congress lists 160—which seek to increase the number of minorities and women in college and medical school, behind jackhammers and at the kneehole side of vice-presidential desks. That it did, though imperfectly (women benefited more fully than blacks) and with fallout.

The fallout is the growing resentment of whites. Only a few take their cases to court: the Colorado contractor who lost a federal highway job to a minority firm which submitted a lower bid and the white schoolteacher, hired on the same day as a black, who was laid off when her employer opted for diversity over a coin-toss.

More often, white males who believe they've been victimized take their cases to their buddies: They can't get hired, they can't get into law school, they don't have a shot at a promotion because they are being discriminated against. But with some notable exceptions, it's not the best case. For the work force, especially at higher reaches and in the professions, remains predominantly white and largely male.

"Everyone still believes the government is forcing businesses to hire minorities—it's not," says Clarence Brown, Bradley University's personnel director. "At every workshop somebody brings that up. We say look around you, and in most of them there are no minorities at all and most of the people there are white males."

Yet most employers and universities do make special efforts to make their offices and their student bodies look more like America.

A half-dozen area employers and educators contacted over the last week said they do so not because federal regulators are on their backs, but because it's in their interest. In some circumstances and with some individuals, a black cop or teacher can be more effective than a white one. A rape victim may be more willing to tell her story to a female reporter. A Hispanic salesman may be better able to reach that market. It's not just black students who benefit from attending Bradley; whites are more fully educated—wiser, if you will—for having black classmates and roommates.

A colorblind society, free from all discrimination, is a wonderful goal, but it's not the reality. And so most of those questioned say they'd remain committed to the wisdom of diversity, in the absence of legislation. That's one of the arguments made by those who call for dismantling federal affirmative action programs.

But it's also an argument that ends up running in circles. To wit: Race and sex should not be considered. Laws that require their consideration should be repealed. Without laws, employers and institutions will continue their voluntary efforts to attract more minorities because a diverse work force is in their interest. Hence, race and sex will be considered—and all those white guys who think that's why they failed to get hired or promoted will be angry still.

The other possibility is that ending federal affirmative action mandates will make our workplaces and campuses look more Germanic than American. The commitment to minority recruiting will fade as time passes. Blacks shackled by poor schools and single-parent families will be more disadvantaged than they already are in competition for spots in good colleges, necessary to put them in competition for good jobs. Minorities and women who would be otherwise competitive will run up against the good-old-boys network and the human tendency toward the familiar—to give the job to somebody who looks and thinks as you do. There will be fewer black doctors and business executives and teachers.

All this is a long-winded way of saying that affirmative action is an extraordinarily complex and explosive issue. It's admirable that we want to be a society free of racial or sexual bias, but we are not. What to do about that remains a huge and divisive issue.

A story in this newspaper a couple of weeks ago reported that President Clinton had decided to review all affirmative action plans to search for a middle ground: "Affirmative action review carries a no-win risk," read the headline. Yet a compelling case can be made for an effort to find a middle ground on this issue.

The House began last month by repealing legislation that granted tax breaks for companies that sell broadcast stations to minorities. No sound argument could be made for filling the pockets of rich white men so blacks could get into broadcast. Minority set-asides deserve a look; so do bidding rules that result in more expensive contracts because race or gender offset a low bid.

But it would be a mistake to abandon the broad commitment to act affirmatively to make for a more inclusive America: to recruit, to recognize the value in diversity, to provide more opportunities to those, regardless of sex or color, who have too little from the moment of birth. There are fewer threats to the nation's future than a wide divide between angry whites and disenfranchised-blacks. If ever an issue demanded a middle ground, free of reckless passion, this is it.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from Wisconsin.

Mr. FEINGOLD. I thank the Chair. I thank the Senator from Illinois. I appreciate hearing her remarks, particularly on affirmative action.

Mr. President, I ask unanimous consent that I my speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. I thank the Chair.

ALLOWING GIFTS AND SPECIAL BENEFITS

Mr. FEINGOLD. Mr. President, I want to state first of all that, as we get to the end of the Republican contract of 100 days, it is time to take stock. Everyone is taking stock of what is in the contract, what is passed, what has not passed, what is not in the contract.

The piece I want to discuss today is something that just is not included; that is, whether we are going to ban the practice of allowing gifts and special benefits from private interests to Members of Congress.

I want to thank my colleague, the Senator from New Jersey, Senator LAUTENBERG, and the Senator from Minnesota, Senator WELLSTONE, for keeping up this fight during a series of months when in effect it appears that the effort to ban the gifts has been ruled out of order. It is not part of the contract. So we do not come out here and talk about it.

This came up in the very first week when we addressed something that Democrats have supported that was included in the Republican contract—there have not been many—namely to make sure that Members of Congress have to live by the rules that we make for everyone else. It makes sense. It passed overwhelmingly, if not unanimously, and a lot of us thought—certainly the three Senators behind the gift ban—what a perfect opportunity the first week to get rid of this outrageous practice.

So we tried to put it on the bill. We were defeated by almost a pure party line vote.

It is not very surprising in light of the fact that the new majority wanted to set the agenda. I understand that. We protested. But I certainly did not see it as outrageous given the fact that it was the first week and that there would be other opportunities. At that point, though, we received something that I think most of us perceived as an assurance that the gift ban issue would come up in a timely manner. This is not something that needs to be evaluated at length anymore such as welfare reform or the whole issue of how to cut the Federal deficit. Those are very complicated subjects. This is an easy subject. It is not the kind of thing that should wait until later this year or the end of session. It is important that the gift ban be enacted now so that the negative effect it has on this institution and the perceptions of this institution are mitigated now. But that is not what has happened.

The distinguished majority leader on January 10 said that it was his intent to try to move the bill as quickly as he could. He said:

> I am not certain about any date. I am not certain it will be May 31. It could be before, maybe after May 31.

Some of us hoped at least the end of May would be a good target time to solve this problem, certainly by the Memorial Day recess.

Unfortunately, Mr. President, that is not the position now. We have received a list not too long ago of must-do items entitled, "The must-do list for Memorial Day Recess, nonexclusive."

Among the items listed on there are some very important items: The defense supplemental appropriations bill, the line-item veto, which we have taken care of in this House, regulatory moratorium bill, which we have moved out, product liability, the self-employed health insurance extension—we have taken care of that—FEMA supplemental, which we are dealing with now, crime bill, budget resolution, telecommunications bill, and various other items are listed as likely.

Nowhere on that list is there any suggestion either that we will be taking up the gift ban, or that we are likely to take up the gift ban before the Memorial Day recess, so I am beginning to get concerned. The majority leader had given us what I thought was a pretty strong commitment this bill would be taken up in a reasonable time but we are not getting that indication now. And I am beginning to wonder why.

Mr. President, a lot of things have not surprised me about these first 100 days of the Republican contract. That does not mean I like them, but they did not surprise me. I am not surprised that the House of Representatives, that talked so loudly about deficit reduction, yesterday passed a $200 billion step in the wrong direction in the form of tax cuts for everyone including some of the very wealthiest people in our society. I am not surprised. The Republican contract was voodoo mathematics from the beginning. It is about having your cake and eating it, too, saying you are for deficit reduction, saying you are for balancing the budget and then as fast as you can trying to make sure that everybody in the country is happy with you by giving you a tax cut that you cannot afford. I am not surprised by that.

I was not surprised but dismayed that the Republican contract does not even mention campaign finance reform. The American people want campaign finance reform, but it is very easy on that issue to confuse people, to say that if the Democrats write the bill, it is going to help out the Democrats; if the Republicans write it, it is going to help the Republicans. And it is terribly confusing because it involves so many different issues of PAC's and campaign limitations, contribution limitations. I think it is a tragedy that it was not a part of the contract and before us. But that does not surprise me. I would have expected that especially after the effort to kill the campaign finance reform bill in this body last year.

I am not surprised about the complete ignoring of the whole health care issue in the Republican contract, which everybody in the Senate said was an important issue; everybody said they wanted universal coverage somehow and acknowledged the 40 million Americans with no health care coverage. Everybody said we have to deal with it somehow, but there is no action on it. There is hardly mention of it.

Again, though, Mr. President, I am not surprised. I saw that one coming. Health care became a symbol of something that Government should not get involved in at all during the 103d Congress, and I think that is a regrettable result.

What I am surprised by, Mr. President, is that the folks running the Republican contract believe that it is just fine to not include the gift ban and not take it up in a timely manner. It is not important enough apparently to be handled in the first 100 days. I thought it was just too obviously inconsistent with the tone and the spirit of the Republican contract and the November 8 elections to ignore the fact that the gift ban is one of the greatest symbols of the corruption that exists in this town. That is what I would have thought. After eliminating the free gym, the free health care, the special stationery, and all the little perks that certainly should go—and I am glad they are gone—I would have thought it was just incredible that either party felt safe and secure not trying to get rid of the use of gift giving to Members of Congress. It seems like just offering up raw meat to the folks who do the "Prime Time" television show, begging them to come and photograph Members of Congress on tennis trips paid for by special interests.

That is what I would have thought. But that is not the perception. That is not the approach. The approach is to stonewall the gift ban issue. And why would Members of Congress continue to allow that perception to exist? Well, I guess the conclusion I have come to is because the giving of gifts to Members of Congress by private interests, by special interests—not by the Government—is not any old perk given by the Government like the haircuts and other things that have been discovered here and, I hope, changed. It is something different.

The practice of gift giving and special interest influence behind closed doors is a key link in a chain of influence, Mr. President, a circle of influence that operates in this town to create a culture of special interest influence. Among the links in this chain are the practice of the revolving door—Members of Congress and staff members working a while here and then finding a nice job downtown and finding out that they can, in effect, trade on their experience here to get a job lobbying later on. That is one link.

Another major link, of course, is the horrible problem of the way our campaign financing system works—the news today in the Washington Post of the incredible numbers of new contributions coming into the National Republican Committee now that they are in charge of both Houses. You can mention the book deals. You can mention the piece of legislation that is before us in the Senate Judiciary Committee today, the so-called regulatory reform bill.

Mr. President, in that bill it is seriously proposed and apparently is going to be passed that the review of these regulations, when they get to the highest level, will not be done by a disinterested group but will include a so-called peer review panel that will include the very interests that have a financial interest in the outcome of what happens with those rules.

That is a link in this chain. And so is the practice of giving gifts and free trips by lobbyists to Members of Congress.

The gift giving practice is the piece of the chain of special influence that has to do with feeding and pampering Members of Congress, and it is part of a system that tears the people of this country away from the people they thought they elected to represent them.

It is no wonder that the Republican contract does not mention the gift ban. It is no accident that the 104th Congress blocked action on that issue so far. Is it not interesting, if you listen to the talk show hosts, the rather conservative talk show hosts that talk about all the perks in Congress, they will talk about the pension problems here and the fact that the pension system needs reform, which I agree with, they will talk about anything that has to do with a Government perk but they seem to not talk about this practice of meals and gifts and special benefits, personal benefits to Members of Congress. The only time I have ever heard it discussed on one of those shows was on the Jim Hightower show. He was interested in pointing out what happened the first week of Congress. But basically it is not mentioned.

I can tell you the failure to mention it is not because it is something very difficult to enact or follow. A gift ban works very, very well. I have said many times in the Chamber—I guess I will be saying it many more times—we have had a law basically banning all these kinds of gifts in Wisconsin for 20 years. It has worked extremely well. Although we certainly have problems with special interest influence in our Government as well, it is a very different culture in Wisconsin government because of the Wisconsin gift ban. The type of thing that happened that was described in the Washington Post this week could not happen.

In an article in the "In The Loop" section a couple of days ago, entitled "Hospitality Sweet," a recent fact finding trip was described as follows:

> Some House Republicans have come up with a neat way to fulfill their promise of slashing the cost of Congress. When members of the Resources Committee recently held field hearings on endangered species and wetlands in Louisiana, the trip included dinner at Armand's in the French Quarter.
>
> Who picked up the tab? The not-so-disinterested Louisiana Farm Bureau Federation, Midcontinent Oil and Gas Association, American Sugar Cane League and Louisiana Land and Exploration company.

And then:

> A week later, it was dinner in San Antonio, sponsored and paid for by groups like the Texas Cattle Feeders Association, Texas Sheep and Goat Raisers, San Antonio Farm and Ranch Real Estate Board and Texas Association of Builders.

Mr. President, there was a rather lame response from one of the staff members of the House Members trying to explain why there was no problem with this.

Mr. Johnson said:

> We just consider this to be local hospitality. It's an opportunity for Members to discuss issues with people from Louisiana.* * * We didn't solicit any of these companies. I feel confident if any environmental groups had come forward and offered to have a luncheon or media opportunity we would have tried to accommodate them.

Mr. President, if they try to accommodate all these meals, they are going to have to go to a weight-loss clinic pretty soon.

In Wisconsin, you cannot do this. If you want to meet with constituents and sit down with them at a meal, that is fine, but you have to pay your own way. Sometimes the waiter or the waitress is a little irritated because they have to write out separate checks. But that is the worst thing that happens. You pay your own way. You do not do the kind of stuff that was done just recently by the House Republicans who said they felt they had to do this in order to investigate concerns in their State.

Mr. President, the problem is not that we cannot enact a gift ban or comply with one. It is just too darn simple to get rid of this horrible practice.

Mr. President, let me just be clear. I consider this gift ban issue to be very, very important. But I do consider it to be sort of the kid brother to the bigger issue, which I consider to be campaign finance reform.

I am not suggesting in any way that getting rid of gift-giving would solve the problem of special interests and the problem of lobbying. I think the answer there is to limit the amount of money, total amount of money, that can be spent, or at least make sure that those who abide by the limits get an advantage to make up for the loss of advantages of the greater spending.

I also think you ought to get a majority of your campaign contributions from your own home State, something many Republicans have proposed. I think that would really dilute and limit the influence of special interests and lobbyists in the campaign finance context.

But this is different. This is about personal enrichment. This is about, in effect, having an opportunity to subtly buy the time, the precious time, of Members of Congress. This is about creating a feeling of personal, not professional, obligation between one individual and another, one who happens to be a Member of Congress, one who happens to be a lobbyist for a special interest. This is about the opportunity to use gift giving and buying dinners and giving trips to achieve undue access to Members of Congress.

It is part of a chain, as I have said, it is part of a circle of influence that I think has broken down the trust between the American people and their elected representatives.

Mr. DORGAN. Will the Senator from Wisconsin yield for a question?

Mr. FEINGOLD Yes, I yield for a question.

Mr. DORGAN. Mr. President, I was listening to the Senator from Wisconsin talk about gifts. I had come over to speak about something else, but in many respects it relates to the issue of gifts. I thought I would ask the Senator a question about it.

Last evening, the House of Representatives passed a tax cut bill, about $190 billion lost in revenue for the Federal Government in the 5-year period, about $630 billion lost in revenue during the next 10 years.

The same people who were the loudest proponents of changing the Constitution to require a balanced budget now have taken a bunch of polls and have found out if they offered a tax cut, it would be very popular. So they pass a tax cut bill.

It is the wrong way to balance the budget. The first step is to cut Federal spending and to use the money to cut the Federal deficit. Then we should turn our attention to the Tax Code and try to promote some fairness in the Tax Code.

But I find it interesting looking at the numbers in this bill passed by the House last evening. Last night they talked about this being a tax cut for families; this is a family-friendly tax cut to kind of help out working families. This morning I looked at the numbers. If you added it all up together—the child credit, capital gains cuts, eliminating the alternative minimum tax for corporations and a whole series of other things—and figure out who benefits, here is what the numbers show. It shows that if you are an American with over $200,000 in income, you get an $11,200 cut in your tax bill. If you are an American who has an average income of less than $30,000, your tax cut under the House bill was a whole $124. In other words, if you are earning above $200,000, you can expect to get a check in the mail for $11,200. That is a pretty good gift.

These folks say this is for working families. Well, working families that make over $200,000 a year get an $11,200 tax cut—at a time when we have debt up to our neck trying to figure out how we try to deal with this Federal deficit—and then the working families earning $30,000 or less get an $124 tax cut.

It is the old cake-and-crumbs approach. Give the cake to the very rich and the crumbs to the rest and say, "Everybody benefits."

We are told that broad capital gains tax cuts help everybody. That is kind of like saying, OK, you take 40,000 people and put them over in Camden Yards; fill every seat. And then say, "I'm going to pass out $100 million to these folks." And you pass out $1 to 39,999 people and to the other person you give all the rest of the money. And then you go outside and crow that everybody in that place got some money. Yes, they did—but one person got almost all of it and all the rest of them got just a little. So you can make the claim that everybody benefits, but the fact is one person got most of the benefits.

So that is the circumstance of the tax cut. At a time when we should be dealing with the deficit honestly, we have people taking polls and cutting taxes that promote enormously beneficial gifts to the very wealthy in this country.

Has the Senator had a chance to take a look at what happened last evening and what I think is essentially gifting to the wealthiest Americans in this generous tax cut proposed by the majority party in the House?

Mr. FEINGOLD. I am happy to respond to the Senator from North Dakota.

I did not want to see that headline this morning, but I did. And I did have a chance to take a look at it.

Let me say, first of all, to the Senator from North Dakota that long before I had the honor of being elected to this body, I admired the Senator from North Dakota when he was in the other body as one of the true leaders in the Congress on the issue of tax reform and tax fairness. He knows this stuff.

And so when he speaks about what this is all about, and what the tax cut for all Americans supposedly, but especially for wealthy Americans, is all about, he knows exactly what he is talking about. He was a key force for the positive aspects of the 1986 tax reform, parts of which I think are at least an example of when Washington got some things right. So I think his comment is very appropriate.

What I want to say in response, since I know the Senator wants to speak at more length about the tax cut, is that there is a common thread between the various parts of the contract. There is a connection between the fact that the gift ban is not mentioned in the contract and campaign finance is not mentioned in the contract, but the tax cuts are there for the wealthy, the so-called regulatory reform is included for the very interests that probably still do need some regulation. The common thread is this:

If you have a lot of resources and you have a lot of lobbyists here in Washington, you are not going to get nicked by the Republican contract. You just are not. If you are on welfare, you are going to get nicked. If you have a lunch coming to you at school, you are going to get nicked. But if you have any kind of serious interest supporting you on this Republican contract, you are not going to get nicked.

It is worse than that. This giant $190 billion piece of legislation that the House passed makes a complete farce out of the notion that the contract has anything to do with deficit reduction. Everyone knows it.

I have to say to the Senator from North Dakota and the Chair, I was the first Member of Congress—I am proud of this—of 535 Members of Congress, I was the first one to say "No tax cuts." I said it the day after the November 8 election and I said it the day after the President proposed his tax cut. The Los Angeles Times said there was one lone voice that thinks this should not happen.

It is not nice to say, "I told you so." I do not get to say it very often. On this one, it feels good to say it; that the people of this country know better than the people in this town and the people in this town are beginning to wake up, especially in the Senate, that it is a total fraud on the American people to say you are for balancing the budget and then start handing out $200 billion or $700 billion in tax cuts, tax gifts. The sad thing is, it is the repeating gift after gift after gift after gift to the same people.

Mr. DORGAN. Will the Senator yield for one additional question?

Mr. FEINGOLD. Yes.

Mr. DORGAN. The Congress in 1986 changed the tax law. And maybe it did not do such a great job. But it really tried to eliminate all the artificial things in the tax laws that promoted artificial investments and tried to let the marketplace make the decisions about where the investments would go.

Prior to that time, we had a circumstance in this country where you could pick out some of the biggest names in American corporate life and find out that they made billions of dollars in profits, and what did they pay in taxes? Zero. Nothing.

So in 1986, we put in place an alternative minimum tax that worked, and we said, "You can't make billions of dollars in profits and end up paying nothing." The folks who work for a living pay taxes. They cannot get by without paying taxes. So we constructed an alternative minimum tax that worked.

The legislation they passed last night in the House of Representatives says, "Let's get rid of the alternative minimum tax for corporations"—with 2,000 corporations benefiting to the tune of washing away $4 billion in revenue annually. The way I calculate it, that is about a $2 million a corporation every year. Talk about gifts? There is a gift. I bet there was not much debate about that.

Mr. FEINGOLD. Mr. President, if I may respond briefly, I am very glad the Senator mentioned some of the specifics of the 1986 bill, because as he was speaking, I realized, in 1986, we had a Republican President and, I believe, we still had a majority of Republicans in the Senate. Although that bill had flaws, there were changes in accelerated depreciation, and limits to the practice of using tax loss farming, which was something of great concern to farmers in Wisconsin. There were limits on some of the most visible aspects of tax deductions that seemed to be unfair.

What is ironic, Mr. President, is that here we have now, again, the majority of the Republican Party in the U.S. Senate—as well as the other body—and they are doing just the reverse.

There was a book written about the success of the 1986 bill called "Showdown at Gucci Gulch." Gucci Gulch, of course, is where all the lobbyists were with their Gucci shoes, and it was a Republican, the Senator from Oregon, who I believe chaired that famous meeting. Tax loopholes were limited. Here we are, again, many years later with just the reverse happening: The restoration of some of these special deals at a time when the deficit is far worse than it was in 1986.

So let me simply conclude, Mr. President, by saying what I have told my constituents back home regrettably. They say, "How is it going out there in Washington? How is the Republican contract working out? Are you cleaning things up?" And I have to tell them the truth, and the truth is that the lobbyists in Washington have never had bigger smiles on their faces than they do now. This is the happiest time for lobbyists in America in many, many years, because they are running the show.

And as a final example, there was a rather disturbing occurrence in front of the Senate Judiciary Committee recently where our staff members were told to come to a staff briefing by the Republican majority staff on the regulatory reform bill.

As I understand it, although I have not been here for very long, it is normal practice for majority staff folks to brief the minority staff on what is going to be proposed by the Chair. But they were not briefed really by the majority staff. They were briefed by a couple of attorneys. And when they were asked who they were they said, "We're the folks who represent 12 to 15 corporations that basically wrote this thing." Apparently, several times, when questions were asked about details of the document, the Republican majority staff was even overruled by these attorneys, lobbyists from downtown Washington.

I think that is another symbol, another link in the chain of special influence that I am afraid has infected this town more this year than at any time in recent history.

So, Mr. President it is time to pass the gift ban. It is time to clean that up on the bipartisan basis that I thought we were going to do last time with an overwhelming 93-to-4 vote.

I am very delighted to yield in order to allow further discussion of what I consider to be an even more important issue: The need to let the Senate do its job by getting rid of this foolish tax cut at a time when all available dollars have to be devoted to eliminating the Federal deficit.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, I appreciate the presentation of my colleague from Wisconsin. I note the Senator from Arkansas, Senator BUMPERS, is on the floor, I think intending to speak a bit about the tax-cut bill that was passed by the House of Representatives last evening.

Might I ask about the order of the Senate. Are we in morning business?

The PRESIDING OFFICER. No, the Senate is on the supplemental appropriations bill. As the Senator will note from the remarks that we have heard before the Senate, it would be in order to ask unanimous consent.

Mr. DORGAN. I ask unanimous consent to speak as in morning business for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IT MAY BE POPULAR, BUT IT IS NOT RIGHT

Mr. DORGAN. Mr. President, I will not take a great amount of time because I made some points here already. I did want to come and speak briefly about the action last evening with respect to one portion of the Contract With America in the House of Representatives.

As almost everyone understands, the Contract With America is a document that resulted from substantial polling of focus groups that the Republican Party did all across this country. They were polling to try to understand what is popular, what do people want, what do people think we should do, how will they react positively to words and phrases and ideas, and they put that together in a contract.

It is not surprising to me that one would discover the answer to a question, "Would you like lower taxes," that the answer "yes" would be the popular answer. "Yes, of course, we'd like to have lower taxes. We'd like to have a tax cut." I understand that. I understand any poll in this country would achieve that result.

But there are times when we have to choose between what is right and what is popular. Although I think it may be popular for them to be talking about tax cuts, I am convinced it is right only for us to talk about how to get this country's fiscal policy under some control. We are up to our neck in debt. We are choking on fiscal policy debt, budget debt and trade debt, and we must straighten it out.

Not more than a month or two ago, we had people on the floor of this Senate trying to change the U.S. Constitution in order to require a balanced budget. Among those who bellowed the loudest about changing the U.S. Constitution are some of the same ones who now say what we want to do is not balance the budget, we want to cut taxes. This is a stew that we have tasted before. This recipe was concocted in 1981, and it resulted not in a balanced budget, as was promised by 1984. In fact it resulted in staggering massive public debt over the last decade and a half. Mr. President, nearly $4 trillion ago in debt we learned the lessons of this dilemma.

Our job is very simple. It is to aggressively cut spending and to use the money to cut the Federal deficit. And even to start paying down on the national debt and then turn our attention to finding out how we can change the tax system; yes, then to give some relief, but especially to give relief to middle-income working families who had to bear the burden of this Tax Code over all these years.

But to decide now at a time when we have this staggering debt, to decide now that what we need to do is the popular thing to simply propose a tax cut of $200 billion or in the next 10 years nearly three-quarters of a trillion dollars loss of revenue is preposterous. It may be popular, but it is not right.

I had not spoken about the specifics of the tax cut yesterday because it will not surprise anybody to learn the specifics. It is the same old Republican philosophy: Call it a tax cut for the rest, and give a big tax cut to the rich. Call it a tax cut for families, and give a big tax cut to rich families.

Class warfare? No, it is not class warfare to talk about that. It is talking about who gets what check in the mail as a result of these tax reductions.

If you are a family that has over $200,000 in income, the bill that passed last evening in the House of Representatives is going to give you an $11,200 a year average tax cut. If you are a family with less than $30,000 in income, you are going to get all of $124 and, in fact, a whole lot of folks are going to get nothing. If you make $15,000 a year and have three kids, that child tax credit means nothing to you. Zero. There is no $500 a child. You get zero.

The fact is, this tax bill is the same old thing from the same old boys that have always proposed this kind of remedy: It gives a very large tax cut to the very, very wealthy and gives a few crumbs to the rest.

Why? They believe if we pour in a lot of money at the top that somehow the magnificence of the top will spend this in a way that will help the rest.

I happen to think that the American economic engine runs and works best when we give working families something to work with. If we give a tax cut—and I do not think we ought to until we have solved the deficit problem in this country—we ought to provide real tax relief to real working families.

It is interesting to me as I have said, that the very same people who have fought the hardest to change the Constitution because they say we must balance the Federal budget are the first ones out of the chute who say now that we have had this debate about politics and polls over the Constitution, we will have another debate about politics and polls about our favorite subject: Cutting taxes, or cutting tax now, which we know exacerbates the deficit.

It does not reduce the Federal budget deficit, but expands and explodes the Federal budget deficit. Only those who do not care about this country's deficit could be proposing something that irresponsible at this point in this country's history.

Yes, I said I know it might be popular but it is not right. We all ought to put our shoulder to the wheel and do what is right. We know what is right—cut spending and use the money to cut the deficit.

Those who are off trying to suggest we should give tax cuts to the rich when we are choking on Federal debt in this country do no service to this country or its future or its children.

We are seeing a bill come out of the House of Representatives that has the same old proposals. I mentioned to the Senator from Wisconsin a proposal to eliminate the alternative minimum tax. I could bring names of companies—I will not, but I could bring names of companies to the floor—that every single American would recognize immediately, companies that made $1 billion, $500 million, $3 billion, $6 billion, and paid zero in Federal income taxes. Paid less money in Federal income taxes than some person out there working for $14,000 a year, struggling, working 10 hours a day, working hard all year, and they end up paying a tax.

An enterprise making $6 billion over a few years ends up paying zero. So we change that and said, "You cannot end up paying zero any more. You have to pay an alternative minimum tax at the very least."

It is called fairness. What did the House of Representatives do? They passed a bill that says we do not care about fairness. We will abolish alternative minimum tax and go back to the good old days of zero tax obligation for some of the biggest special interests in this country.

At the same time, they are saying, "Let's give away the store in those circumstances," and just that provision—the one provision on the alternative minimum tax—gives away $4 billion to 2,000 companies. Mr. President, $4 billion washed away to 2,000 companies. That is $2 million a company.

I do not know how that is justifiable in the circumstances of the fiscal policy problems and deficit dilemma problem we have in our country. How is it justifiable? How will the proponents justify coming to the floor of the Senate and saying, "We don't have enough money anymore to provide an entitlement to a school hot lunch to a poor kid. We will eliminate the entitlement status to a hot school lunch," because we frankly cannot afford it.

But we can afford to give somebody with a $400,000 or $200,000 annual income a check for $11,200 a year and say, "Partner you are lucky. Here is a big tax break for you."

We are running this big deficit and we have to cut back on dozens of programs dealing with issues of nutrition, issues of child abuse on Indian reservations, just name it, cutting back all of them, because we cannot afford it.

They say, "But we can afford to hand over a very large tax refund to some of the biggest economic special interests in this country."

I know when I finish speaking, and when the Senator from Arkansas finishes speaking, there will be people who say, "Well, it is the same old complaint: Class warfare." You should not stand up and talk about who actually gets the benefit. Because if we talk about who gets the benefit, and you describe someone with $200,000 income getting an $11,200 check, and someone with $30,000 income getting $124, somehow you are being unfair.

It is unfair to point that out to the American people. That is not class warfare. That is a discussion of what is real about the proposals to change our revenue system.

I will support substantial changes in our whole revenue base when we are through this process of honestly trying to get this budget deficit under control.

Frankly, our revenue system does not work as well as it should. Our revenue system ought to be changed in a wholesale way to encourage savings. Our revenue system ought to be changed in a substantial way to tax more consumption than we tax and to encourage savings.

We ought not keep taxing work every chance we get. We hang every social good on a payroll tax. Frankly, our payroll taxes are too heavy. I bow to no one to my interest and desire to try and change our tax system. I do not believe it is right at this time, given the problems our country faces, to propose as a matter of public policy, very large tax cuts to very big special economic interests, and then come to the floor of the Senate and the House and crow about how Members want to change the Constitution to eliminate the Federal budget deficit.

Anybody who wants to eliminate the Federal budget deficit can do it honestly. The honest way is to aggressively reduce Federal spending in areas where we ought to reduce Federal spending, and continue to make investments where we ought to make investments, especially in the lives of children and then use the savings from reducing Federal spending to reduce the Federal budget deficit.

When we have set this country on a course in a constructive path to solve that problem, we ought to turn to the Tax Code. When we turn to the Tax Code, we should not have middle-income families turn out to be the losers.

Every single time somebody monkeys with the Tax Code, especially the majority party, somehow middle-income families end up getting less or end up paying the bill to provide tax cuts and big tax rebates and big generous refunds to the wealthiest Americans.

We ought to have learned in the last 50 years what works and what does not work. What works is to give working families something to work with. The biggest advantage we can provide working families in this country today is to reduce the Federal budget deficit.

We do that by cutting spending and using the savings to reduce the deficit. When we finish that job, then I think we can turn to the Tax Code. And I think we will do a substantially different job than was done over in the House of Representatives for fair tax cuts, for a fair tax system, for those people in this country who work hard and who have borne the cost of Government for far too many years.

Mr. President, I will have more to say about this subject along with some charts tomorrow. I notice my friend from Arkansas, a man noted for charts, has brought charts to the floor, so I am anxious to hear what he has to say. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent I be permitted to proceed for up to 10 minutes as in morning business

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX FAIRNESS

Mr. BUMPERS. Mr. President, I cannot add or detract from what the Senator from North Dakota has just eloquently said.

I do have some charts that perhaps are a little more graphic, but I also want to say that one of the things that my wealthier friends not only back home but across the country say to me is, "The thing I do not like about Democrats is they promote class warfare."

The Senator from North Dakota alluded to that. I do not believe in class warfare. I believe in fairness, justice, and the judicial system, as well as in our economy.

What happened in the House last evening is one of the most bizarre things I have witnessed in my 20 years in the U.S. Senate. A tax cut—a tax cut—of about $180 billion over the next 5 years but which balloons to about $600 to $700 billion for the 10-year period.

In other words, $180 billion for the first 5 years, and between $400 and $500 billion for the next 5 years.

They say they will identify cuts to pay for it. We see in the House they can do that because they only have to project 5 years out. Our budget in the Senate requires the Senate to come up with a 10-year projection.

To get on with the story, I do not like class warfare but how do we say to the American people that the tax bill that passed last evening provides a tax cut for people who make over $200,000 a year, provides them a tax cut of $11,266—and that is per year—and provides an average for those who make zero to $30,000 a year, gives them $124 a year.

Mr. President, for the people who make less than $30,000 a year, the tax cut last night will not even buy a 13-inch pizza for the family to enjoy on Friday nights. Are we engaging in class warfare to bring up this fact? Is it class warfare to point out the unbelievable unfairness of this situation? I ask the American people and my colleagues, if you are going to provide a tax cut, how do you say to the American people that those who make over $200,000 a year are going to get a $11,000 tax cut and people who make $30,000 or less get a $124 tax cut? Class warfare? It is utterly the most bizarre thing I have ever seen.

Who do you think needs the tax cut most, the guy making $200,000 a year or the guy with a wife and two kids making $30,000 a year?

Let's discuss the capital gains part of the tax bill. Capital gains occur when you buy and sell stocks or other property. I agree with Felix Rohatyn, who I watched on CNBC yesterday, who said, "I have never understood what economic benefit this country derives when somebody sells General Electric and uses the money and buys DuPont stock." What does that do for the economy, except fatten some broker's fees?

But look at this chart showing who benefits from the capital gains tax cut. Who benefits from it? You guessed it. Those who make $100,000 a year or more are going to get 76 percent of the benefit of this capital gains tax cut. What does this poor stiff get who makes only $30,000 a year? Only 6.4 percent of the capital gains tax cut. Class warfare? Who believes that is fair, Mr. President? Who believes that the people making $100,000 a year or more—which includes every single Member of Congress—who believes we ought to be getting 76 percent of this tax cut. How can I believe that this is fair while the people of my State—where the median family income is less than $30,000 a year—will get only 6.4 percent of the cut?

Mr. President, here is a USA Today poll. It points out what I have been saying for months around here. I never lost a friend voting for a tax cut. It is so wonderful to be able to vote for a tax cut and go back home and say, "Look what we did," and beat our chests. I get letters from people who want their taxes cut. But I get more letters from people who want the deficit reduced. People who are making $30,000 a year or less would gladly give up that $124 tax cut in return for a balanced budget. Do you know why? Because if we balance the budget, it will hold down inflation and interest rates. Mortgage interest will be less, interest on car loans will be less, the economy will be more stable, the dollar will stabilize. Why in the name of God are we considering this tax cut when polls like this one indicate that 70 percent of the people in this country say they want the deficit reduced before they want a tax cut? Only 24 percent of the people in this poll said, "I want the tax cut over deficit reduction."

Do you know who the House agreed with when they passed the tax cut last night? Not with the 70 percent of the people who say, "Deficit reduction first." And, actually, not with the 24 percent of people who say they want a tax cut more than they want deficit reduction. No, the House agreed with this 5 percent of people who say, "We want both." That is what the House is saying. "We are going to cut your taxes and balance the budget, too." Think about it—5 percent of the people in this country saying we want both—and that is where the House comes down.

We tried that $3.5 trillion ago in 1981. Here is a graph that shows pointedly and precisely what happened. In 1981—and I remember it well—Ronald Reagan's press conference, after Congress passed his tax cut plan. He said, "You have given me the tools. Now I will do the job. We will balance the budget by 1984 and with a little luck we will balance it in 1983." Those were Ronald Reagan's words.

Well, it did not happen. Instead the deficit shot up to record levels. I want it put on my epitaph that I was 1 of the 11 U.S. Senators who voted against those 1981 tax cuts. I said, "You will create deficits big enough to choke a mule." They turned out to be big enough to choke an elephant.

Look at this chart. Here was our deficit in 1981 and here is how the Reagan administration said they would reduce the deficit. That was the promise. That was the siren song that an irresponsible Congress bought into.

But what happened? The deficit did not go down as promised. Look where it went. By the time we were supposed to have a balanced budget in 1983, we had $200 billion deficits and we have never had one less than that since.

Ironically, I can remember the last year Jimmy Carter was President, the deficit was $65 billion and people were threatening to impeach him. Unthinkable.

No, Mr. President, I am not voting for a tax cut. I am going to vote the way 70 percent of the people of this country want me to vote. When it comes to fairness, the tax cut, even if desirable, is hopelessly inequitable and unfair. The greatness of this Nation, the greatness of the Constitution, is it says each one of us counts. We are all somebody.

Whether you like Jesse Jackson or not, I always like it when he has those kids say, "I am somebody." The soul of America is that each one of us counts. And no one of us should count for $12,000 or $11,000 a year more than the people who did not happen to be born quite so wealthy.

This chart shows where the deficit has been going since Bill Clinton became President. There it is in 1995. Here are his projections for the outyears and here is the projection the American people want. They want that deficit to continue going down. They do not expect miracles, but they do expect a responsible, thoughtful Congress to give this Nation a chance. Give our children a chance. You are not ever going to achieve the greatness of this Nation by cutting student loans, or AmeriCorps, where people can pay off their student loans.

When the families of America sit around the dinner table in the evening and talk about what they love most, it is not the tax cut. It is not that Mercedes out in the driveway. It is not that nice big split-level home. It is not the farm out back or that posh office downtown. What they talk about most is loving their children. In light of that, what do you think the ordinary American person with a family believes—that he or she should get a few dollars more in spendable income or that this Nation ought to start living within its means so that those children have a real opportunity, not a saran-wrapped opportunity, but a real one.

I come down on the side of all of those American families. My children are all grown. I have two grandchildren. They deserve better than they are going to get if we do not reverse our overspending ways; if we do not show the kind of responsibility they have a right to expect of us.

Mr. President, I believe the Senate will show a great deal more discretion in dealing with this, and if we do not, if we do not, the chart you saw a moment ago of what happened from 1980 to 1995 will just be compounded.

Mr. President, I have taken more time than I really intended to take. I feel very strongly about it and will speak again on the subject and again and again. My side may lose just as 11 of us lost in 1981. But I am absolutely certain without intending to be arrogant or self-serving that it will be one of the greatest travesties ever to befall this Nation.

Mr. President, I yield the floor.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. DOLE. Mr. President, we had hoped that we might have an agreement reached on the rescissions bill. But apparently that will not be possible. So there will be a cloture vote at 2 o'clock. We will file cloture again today for a vote on Saturday because we intend to finish this bill before we leave for the Easter recess; spring recess.

I would hope that our colleagues on the other side would understand that we, this Senator and the Democratic leader, worked in good faith most of yesterday into the evening until 9 or 10 o'clock. So did other Members on our side of the aisle, the Senator from Pennsylvania, and both Senators from Arizona. And we believe we gave up a great deal to get an agreement. I thought there was an agreement until I read it in the morning paper.

So I was surprised when I later learned that our colleagues on the other side did not agree to the agreement we thought we had agreed to.

Having said that, I hope we can invoke cloture. If we do that, a lot of these amendments will disappear. I do not know how we can deal with 100-and-some amendments that are out there. But if cloture is obtained, that will shorten the process a great deal.

I do not know where the hot buttons are on the other side. I maybe know of one or two of them. But it seems to me many of the so-called cuts were in effect funny money and many of the add-ons are not going to be spent either. But if both sides felt they had a good position, I fail to understand what may have derailed the whole process.

But there will be a cloture vote at 2 o'clock. The second-degree amendments must have been filed by 1 o'clock. So it is too late to file second-degree amendments.

It is still my hope that Senator DASCHLE and I can bring everybody together here. I think we are pretty much together on this side. What we want is an agreement with no amendments. We do not want an agreement and then have everybody say we have 10 amendments here and 10 amendments there. If you have an agreement, you have an agreement. Right now we do not have an agreement.

So I just urge my colleagues to be patient, to take two aspirins, take a nap, whatever. If we finish this today, we will finish some conference reports, and hopefully we will be in session tomorrow but no votes. If we do not finish today, we will be in session tomorrow with votes and we will be in session on Saturday with votes.

Mr. BUMPERS. Will the majority leader yield for a question?

Mr. DOLE. Certainly. I yield.

Mr. BUMPERS. The announced consent agreement has not been propounded yet has it?

Mr. DOLE. Only with respect to the adoption of the Jordan amendment.

Mr. BUMPERS. How many amendments do you anticipate would be allowed under an agreement?

Mr. DOLE. We thought we had narrowed it down to about four on each side. We thought some of those were acceptable. Some who had problems with the CPB, said, "Well, give us $20 million somewhere else in spending restraints." So they have to be "this or nothing."

I think, as has been the attitude certainly of the Democratic leader, Senator DASCHLE, as we both know, it can still come together, and I hope it would because we could finish late afternoon and that would be probably the last vote until we come back from recess.

Mr. BUMPERS. I thank the leader.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

Mr. President, I am incredibly disappointed at the outcome of this negotiation. I had hoped that the good-faith effort of the majority leader who stayed here late last night and worked on this bill late, and diligently, and I think more than bent over backward to accommodate leadership on the Democratic side to help them restore some of the money that they felt was so desperately needed for programs that they have long fostered and supported in this institution.

We have been working with the majority leader, several members of the freshmen class, Senator KYL from Arizona, Senator ASHCROFT from Missouri, Senator MCCAIN from Arizona, and myself have been working to try to craft an amendment that recognizes the concerns of the minority and at the same time preserve some of the objections that we had to the bill. Frankly, we thought we were pretty generous.

The minority leader came in and asked in the original amendment, the amendment that was pending, for almost $1.3 billion in more spending, more spending on almost all social programs; just more social program spending. These were not, just so you understand, the bill that came to the floor of the House—the Hatfield substitute was not—had increases in these programs. Every one of these programs that the minority leader asked for already had an increase from last year. They already had an increase, and in many cases huge amounts of increases. But they cut back a little bit on the rate of the increase with the Hatfield substitute.

The Democratic leader did not like that. So he jacked it back up. OK. We said, fine. You want to jack up some programs and put them back to the level that they were before, which was a dramatic increase over where we were last year, you think those are the most important, we understand the sensitivity you have, we are willing to work on that.

As Senator DOLE, and other freshmen, came forward with an amendment, we said we believe we should offset these expenditures not with money from a year or two down the road—which is what the minority leader, the Democratic leader—they pulled back money out that was funny money from years down the road. You want to spend money this year, let us take money out this year. That is the way we should do things around here, not spend more money this year and find funny money down the road to pay for it. We have been doing that a long time around here. Let us get serious.

And so we got serious. We made a serious compromise. And we thought we had a serious compromise agreement that would have accomplished three major things. No. 1, it would have given the minority leader, Senator DASCHLE, and folks on his side almost all of what they wanted in this increase in social spending—almost. Instead of $1.3 billion, we give $800 million in more spending—$800 million in more spending on many programs that are not exactly well received on this side of the aisle, like the AmeriCorps Program. We gave them an increase in the AmeriCorps Program from what the Appropriations Committee had suggested. We allowed an increase of $100 million in a program that in our amendment we wanted to cut by $200 million.

So from where we started, we gave them a $300 million increase. That was not good enough. We gave them all the money they wanted in WIC, school-to-work, child care, Head Start, $60 million of the $67 million they wanted for Goals 2000, title I, impact aid, safe and drug-free schools, Indian housing, housing modernization, community development banks—every social program, all the way down, they got almost all of what they wanted. We took some of their cuts. Some of the things they used in the original Daschle amendment to pay for this bill we accepted, we accepted as ways to pay for this.

And we said, OK, in exchange for not getting all that you wanted, we will not take all that we wanted. We will get rid of a lot of the proposed reductions that we wanted. And we put on the table some pretty minor things, folks—reducing the foreign operations, foreign aid by $25 million—$25 million; libraries by $10 million—and by the way, the libraries money was the President's rescission; that is the President's suggestion to us to take this money out, said it was not needed—Federal administrative travel, something that they agreed to, that they suggested we increase, we increased to a cut of $225 million. By the way, that is out of a $107 billion budget we are taking out $225 million for Federal travel, hardly something that the public is concerned about, that we are not traveling enough around here; water infrastructure; and, oh, the sticking point. We took out of their sacred little cow $21 million of $312 million. We took $21 million out of the Corporation for Public Broadcasting.

In the end, we would have had savings of $1.6 billion. They had additional spending of $800 million which would get us a net deficit reduction out of this amendment of $800 million. So we both win. They get $800 million more spending, we get $800 million in deficit reduction, so everybody sort of stands even.

I always thought that is what compromises were all about. And so I am hopeful that in the next 45 minutes, the other members of the Democratic caucus who seem to be holding up this compromise take a look at this and realize it is in the best interests of this body and this Congress and this country to move forward with this compromise piece of legislation and get this enacted.

Mr. President, I ask unanimous consent that a paper entitled "Possible Compromise" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Possible Compromise

[Dollars in millions]

	Cost
Add-Backs:	
Women, Infants, Children	$35.0
School to Work	25.0
Child Care	8.4
Head Start	42.0
Goals: 2000	60.0
Title I Education	72.5
Impact Aid	16.3
Safe and Drug-free Schools	100.0
Indian Housing	80.0
Housing Modernization	220.0
AmeriCorps	105.0
Community Development Banks	36.0
Total	800.2
	Savings
Offset:	
Foreign Operations	$25.0
HUD Section 8 Project Reserves	500.0
Airport Improvement	700.0
Libraries	10.0
Federal Admin. and Travel	225.0
Water Infrastructure	62.0
IRS	50.0
Corporation for Public Broadcasting	[1]21.6
Total	1597.0
Deficit Reduction	796.8
Addendum: Items in Dole amendment used in Defense Conference:	
Foreign Ops	$40.0
Legal services	15.0

[1] $3.4 million in 1997.

Mr. SANTORUM. I yield the floor.

APOLOGY FOR RADIO REMARKS

Mr. D'AMATO. Mr. President, two mornings ago I gave a radio interview on the Imus talk show program.

I am here on the Senate floor to give a statement as it relates to that episode.

It was a sorry episode.

Mr. President, as an Italian-American, I have a special responsibility to be sensitive to ethnic stereotyping. I fully recognize the insensitivity of my remarks about Judge Ito. My remarks were totally wrong and inappropriate. I know better. What I did was a poor attempt at humor. I am deeply sorry for the pain I have caused Judge Ito and others. I offer my sincere apologies.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as if in morning business for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT OF THE BUREAU OF JUSTICE STATISTICS ON TORT CASE FILINGS

Mr. GRASSLEY. Mr. President, today I want to discuss a Bureau of Justice Statistics special report that is supposed to be released in the very near future. I am very disturbed about what I consider to be the political manipulation of a Government report.

This draft report concerns tort cases in State courts. One of the so-called findings of what is, undoubtedly, a flawed report, is that tort case filings have remained steady and that there is no tort litigation explosion.

I believe this document by the Bureau of Justice Statistics was clearly prepared for political reasons. This is underscored by the fact that the study conveniently omits any study of the cost of torts; it omits all Federal liability suits; and it is a scientifically flawed telephone-based survey on only a fraction of the counties in the United States. In addition, the report does not even address many of the important issues regarding tort reform.

Included in this report are some of the results from a study of tort cases in State courts. The study claims that the basis of this report is a representative sampling of the courts in which half of all tort cases nationwide are adjudicated. I disagree with that, Mr. President.

First of all, the report only involves 16 States and a total of 75 counties out of our more than 3,000 counties, but there is nothing scientific about their selection. They are simply the 75 most populous counties, and even if they were selected randomly the results would not have been much better. Filings are not random occurrences; the number of filings in any set of counties cannot possibly represent anything but the counties that are being surveyed.

Worse, this study does not even involve the use of the most rudimentary sampling techniques. It relies on only the 75 largest counties and further stratified them so that only samples of the data in some of the counties were used.

After reading over this study, you will find that there is a lack of rational sampling methodology in selecting which counties would be used. There is absolutely no evidence contained in this Bureau of Justice Statistics special report that the counties selected are in any way representative of the entire United States.

However, once the counties were selected, only a few of those were used to select various kinds of data. The counties were divided into four strata, although it is not clear how the strata were defined. In the first strata, all 14 counties were selected for the first stage of the study; in the second strata, only 12 of 15; in the third, only 10 of 20; and in the fourth, only 9 of 26. In the second phase, the study relied on interval or random samples. It seems unusual to use more than one sampling method as they have here.

In this study, it reads:

> Contrary to the belief that there has been an explosion of tort litigation, tort case filings have remained stable since 1986 according to multi-State data.

Now, there is no rational way to identify whether there has been an explosion in tort filings or not from this study, since the data is limited to 1990 for the first phase of the study and for a 1-year period from mid-1991 to mid-1992. It should also be pointed out that the study was based on phone interviews in only 45 of the 75 largest counties.

Now, to determine whether there was an explosion in tort filings, it seems to me that you would need to start with data at least as far back as 1970, or maybe as late as 1980, and run a longitudinal analysis to see what happened. The study simply declares out of thin air that "multi-State data" since 1986 proves that there has not been any such explosion. Another concern I had was the fact that no financial data of any kind was shown anywhere in the report. Let me stress that again. In this whole study of tort liability explosion, there is no financial data of any kind involved in the report.

This means that there is no way to identify the most important of all indicators. The report simply omits any discussion of whether the size of tort awards had changed over the years.

Because there are no financial data, there is no way to see if venue shopping is real or not. For example, we know that awards in certain counties in Texas are extreme. However, you would not know that from this report.

The report also conveniently fails to provide any information on the effect of large tort awards on settlements. In other words, one could ask, are settlements made more often now without regard to the merits of the case because of the threat of an expensive suit? This study does not answer that question, and it does not do it, of course, because it also conveniently failed to include any data on award amounts.

Lastly, this report does not limit itself to the torts with which we are most concerned, those that affect products, like product liability, those that affect premises liability and medical malpractice. It does not include any of those. Instead, it includes auto torts, which make up more than 60 percent of all tort cases considered. This seems to make every other tort look minor, even though auto torts are very common. Generally, they are very quickly settled and, generally, they involve only one or two parties and relatively small amounts of money. By adding auto torts, the average time for the disposition of all torts falls to about 19 months, whereas the auto torts average less than 17 months.

Yet, all other torts average more like 2 years, involve more parties and they involve much larger amounts of money.

These are just a few of the criticisms that can be leveled at this flawed and ill-conceived report. But the more telling criticism has to do with the timing of its release. I am concerned about the possible political manipulation behind the report. We all know that President Clinton, and one of the most powerful special-interest supporters, the Trial Lawyers Association, opposes tort reform. Apparently, the original plan was to have the report out before the House considered tort reform. The goal now seems to be to release it before the Senate takes up tort reform. The Bureau of Justice Statistics claims the study has been in the system for several years. If this is so and they, indeed, had several years to compile this study, why is it so limited and so conveniently timed?

I strongly believe that this document by the Bureau of Justice Statistics was clearly prepared for political reasons. Once again, this is underscored by the fact that the study conveniently omits any study of the cost of tort, no study of the cost of torts. It omits all Federal liability suits and is a scientifically flawed telephone-based survey of only a fraction of the counties in the United States.

In addition, the report does not address the real issues, such as what effect do large awards have on settlements, and is there extensive venue shopping for those counties which consistently make the most outrageous awards?

You could hypothesize about the answers to these questions. That is why our civil justice system is in need of reform, and studies like this, I think, cloud the issue. If this report comes out as written, the Justice Department should be embarrassed, the people in the Bureau of Justice Statistics should be ashamed that they allowed themselves to be used for political purposes, and I hope the Justice Department will try to reestablish some credibility and integrity by refusing to release this report or at least require it to meet minimum scientific standards.

I also hope and even challenge the media to look into this matter and shine some light on the political maneuvering that is going on over at the Justice Department.

The Assistant Attorney General, or Associate Attorney General, Mr. Schmidt, will be briefed on this tomorrow. He has an opportunity to make sure this study, if it is going to be used as a basis, is done in a more scientific and intellectually honest way and, most importantly, it seems to me, since this study has been supposedly going on for a long period of time, that we do not let it come out at just about this time that the Senate is going to discuss the issue of tort reform.

There has to be the integrity of an agency, as the Justice Department, particularly under this Attorney General, seems to have a great deal of independence and integrity, to make sure that there is not this sort of manipulation that is going to undercut the principal approach to running the Department that our Attorney General has assumed.

I hope that my speaking at this point will encourage another look-see at this report, and I hope that the report that I have seen will not be the one that comes out. I think there are plenty of checks and balances within our system to see that it does not, and I hope those checks and balances will work in this instance. I yield the floor.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, last night, the majority leader and I announced that we had a tentative agreement with regard to the pending legislation. We had hoped that as a result of our negotiations, which have been conducted in good faith on both sides, it would lead, hopefully, to an opportunity to come to some closure in the not-too-distant future on this important matter.

Unfortunately, as a result of differences on both sides of the aisle with regard to the agreement, amendments are likely which would significantly alter the result of the negotiations that have been ongoing.

As a result, the real prospect that the agreement could be successfully concluded in debate on the floor this afternoon becomes increasingly unlikely. I am disappointed because I feel it was an effort made on the part of many Senators—Republicans and Democrats—to bridge our differences to accomplish what we all want.

The amendment that I have had pending has now been pending for a week. Unfortunately, we have not had the opportunity during these negotiations to vote on it or on any other Democratic amendment. We have been hopeful that over the course of the last several days, we could have come to some conclusion about the agreement or about at least a time limit relating to the amendments, and come to some conclusion this week in one way or the other. That now does not look possible.

But the fact is, because we have not been given an opportunity to have votes on these amendments, we will come to the cloture vote this afternoon not having had one vote on one Democratic amendment. As a result, I urge my colleagues to protect our right to offer these amendments. I urge my colleagues to recall how important it is that the amendments that we have offered over the course of the last couple of weeks dealing directly with the concerns that have been raised on this floor now for more than 7 days, that we have the opportunity to have good debates about those issues prior to the time we come to closure on this vote.

As I have said on several occasions, we really have three goals here:

The first goal is to ensure the Federal Emergency Management Administration is adequately funded.

The second goal is to ensure that we provide the necessary deficit reduction that this rescissions package will allow, and we are now at a point of $15 billion in the total deficit reduction package.

And the third goal was one that all of us on this side of the aisle feel especially strongly about.

That is, if we are going to do it, we should do it right. If we are going to do it, we should ensure that we do not eat the seed corn. We should ensure that as we remember our priorities, we remember our kids and working families who are struggling to ensure that they can be productive citizens in this country.

Those are the three goals. Our whole effort, the amendment that we have pending, is designed to accomplish those three goals. Without that amendment, unfortunately, all we do is accomplish the first two goals. We provide adequate funding for FEMA. We provide for necessary deficit reduction, but we do it at the expense of kids. We do it at the expense of people who are counting on these investments so they can be the productive, working people that they want to be.

That is what this debate was about. So this cloture vote is very important. It is a cloture vote that will allow Members the opportunity to accomplish all three goals. Without defeating cloture we will not have that protection.

I want to emphasize as loudly and as plainly as I possibly can, our desire is not to hold up this bill. Our hope is that we do not have to hold up this bill. Our hope is that before we leave here, Democrats and Republicans can come to time agreements on amendments. We will have up-or-down votes on the amendments that are proposed on this side and do so in a way that will allow Members to get our business accomplished.

We will finish, we will have final passage, and we can all go home satisfied, however the votes may fall. We only hope we will be given the opportunity to have up-or-down votes on these issues because that is critical to the degree of enthusiasm, the degree of support that we ultimately will have for the bill itself.

I think it is very clear that for a lot of different reasons, we have not been given a right today to offer those amendments, and it is equally as clear that, unless we block cloture this afternoon, we will not have that right after 2 o'clock today.

So, Mr. President, I come to the floor to express regret. In good faith we have not been able to accomplish what I sincerely had hoped we could accomplish. Having said that, we now must accomplish what our original intent was, which was try to protect all three goals as we move toward final passage of this legislation.

I urge my colleagues to weigh carefully their decision on this cloture motion. I hope that we can defeat it, not in the interest of extending debate, not in the interest of prolonging this issue any longer than we have to, but in the interest of accomplishing the three goals and protecting our rights to offer amendments and improve legislation as these occasions arise.

So, Mr. President, to accommodate my colleagues who have amendments to the bill, it is important at this point, from a parliamentary procedure motion only, to withdraw my amendment to allow others to offer the amendments that they will so offer. I will certainly come back at a later time and describe, as we intend to, the importance of the amendments that will make in the composite what our amendment was originally designed to do as it was laid down last Friday. We will do that at a date or at a time later, perhaps today.

AMENDMENT NO. 445 WITHDRAWN

Mr. DASCHLE. Mr. President, at this time I withdraw my amendment.

I yield the floor.

The PRESIDING OFFICER. The minority leader has that right. Amendment No. 445 is withdrawn.

The amendment (No. 445) was withdrawn.

The PRESIDING OFFICER. As a result, the second-degree amendment No. 446, which was pending thereto, falls.

Mr. PRYOR. Mr. President, may I ask the Chair if we are in morning business at this time?

The PRESIDING OFFICER. The pending business is H.R. 1158.

Mr. PRYOR. Mr. President, I ask unanimous consent that I may speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I thank the Chair.

(The remarks of Mr. PRYOR pertaining to the introduction of S. 687 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I just rise to really express my great disappointment that, after working for over a week, no agreement has been reached on this legislation. Now we will be going to a cloture vote at 2 o'clock. I certainly hope that cloture will be invoked. I remind my colleagues if that is done, we still will have lots of time to debate—30 hours, I believe. Germane amendments would still be in order. I think most of the key amendments that colleagues on that side of the aisle have been interested in would be germane.

But as it stands right now, I believe there are some 72 amendments on one side pending and a number on the other side. We still have 100 amendments at the desk. Many of them are obviously not germane and really nobody ever intended for them to actually be voted on, I suspect.

But after a week of negotiations, we basically came up emptyhanded. I know there was a lot of good-faith effort. I thought a reasonable agreement had been worked out between the Daschle amendment and the Dole amendment that was pending, with an understanding there would still be a few amendments that would be offered on both sides—two, three, four, five, whatever—but that we would find a way to bring it to conclusion.

Here we are Thursday afternoon. Presumably, we are going to go out tonight or tomorrow or Saturday or sometime for the Easter recess period. I just have to raise this specter. Are we now going to just let this die off, go off into the night with no results? No Department of Defense supplemental appropriations? No Jordan aid? No rescissions package? Is this the total white flag of our effort to begin to seriously deal with the needs for supplemental appropriations, commitments that have already been made and paid for in the Department of Defense, in disaster aid? And the first opening effort, the first shot to begin to deal with the deficit? Are we not going to be able to do any of that? Just collapse in a puddle of nothingness here in the Senate?

I cannot believe my colleagues would want to allow this to happen. We need to find a way to begin to make some savings. This bill provides some savings. The distinguished Democratic leader just said he would like to see this bill passed. The President has said he would like to see this legislation passed. We want it passed. Everybody wants it, but we do not seem to be able to get it.

I really think we need to work——

Mr. KENNEDY. Will the Senator yield on that point?

Mr. LOTT. To be able to find an agreement to bring all these issues to conclusion, one that I think would be basically satisfactory to both sides. Sure, we disagree on how we should get there. But maybe we should have just started voting, taking up issues and voting on them a week ago. But there was a feeling that we could reach an agreement, and that negotiating started I think last Thursday, and here we are a week later, emptyhanded.

So I really urge my colleagues here this afternoon to vote for this cloture motion so we can limit the list of amendments to somewhat of a reasonable number, at least germane amendments, and begin to get some limit on the time so we can bring all these issues to a conclusion. That is all we are asking for. That is all we were seeking yesterday.

I think it would certainly serve us well if we would invoke cloture here and then go forward.

Failing that, let us see if we cannot enter into some time agreements, some understanding about the limit of amendments. There has been no reduction really in the number of amendments that are pending out there. So I will be glad to yield to the Senator from Massachusetts, if he would like for me to yield. We are going to have to vote here in a minute.

Does the Senator want me to yield? I yield to the Senator from Arkansas.

Mr. PRYOR. Does the Senator from Mississippi yield for a question?

Mr. LOTT. Sure.

Mr. PRYOR. I cannot figure out for the life of me who over here is slowing down the defense supplemental appropriations bill. Could you name anyone who is slowing down that particular bill over here?

Mr. LOTT. They are all related, if I might respond to the Senator.

Mr. PRYOR. We have been overly anxious to get that bill out and get it sent to the President. We are anxious to get this bill acted upon. All last week, we were involved basically with an amendment offered by a Republican Senator, our friend Senator D'AMATO, from New York, relative to Mexican aid. We have been trying our very best to start voting on some amendments offered on this side, and we have yet to have been afforded that opportunity.

Mr. LOTT. I will respond to the Senator, there has been an effort going on to try to work out a process where we could vote on the related amendments, a number of amendments, and bring it all to a conclusion. We have not had the Mexican amendment really before us for quite some time. That was set aside last week so we could move on to other issues. We are about 3 degrees down the line past that amendment.

But in an effort to move this legislation, I think an agreement had been worked out that would have dealt with that and a number of other issues so we could bring it all to a vote. But they are related. All of these are related. We have to decide what we are going to do with the Jordan aid, where is it going to go? Of course, it is on this bill but it is not on the DOD appropriations bill, as I understand it, right now. So we are trying to get all these to positions where we can complete all this legislation.

Several Senators addressed the Chair.

Mr. SANTORUM. Will the Senator yield? I just wanted to follow up on a comment you made, which is the——

Mr. FORD. May I say to the Senator that you go through the Chair.

Mr. SANTORUM. Mr. President, of the 72——

The PRESIDING OFFICER. The Senator from Mississippi has the floor.

Mr. LOTT. Mr. President, I yield for a comment to the Senator from Pennsylvania; for a question to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, is it not true, I ask the Senator from Mississippi, that 41 of the 72 Democratic amendments would be germane after this cloture vote? So 41 of the amendments that have been filed—41 is hardly a paltry sum—would be germane after this cloture vote would have been acted upon?

Mr. LOTT. I might respond, Mr. President, that is my understanding. I think most all of the portions of the pending Daschle amendment, with maybe one exception, could be offered under this cloture vote.

Mr. SANTORUM. My second question would be, of the Daschle amendment add-backs that we have debated here for several days, is it not also the Senator's understanding that every single one of those add-backs would be eligible to be added back after cloture, with the exception of the Goals 2000 provision which is neither in the House nor the Senate bill?

Mr. LOTT. Mr. President, I might respond, I have not looked at every one of them on that list to make sure or find out if that would be true, but I understand there is—maybe the Goals 2000 would be the only one not open to be offered after the cloture vote.

Mr. SANTORUM. I thank the Senator for yielding.

Mr. LOTT. Mr. President, I yield the floor, in view of the time, for the cloture vote.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Kentucky.

Mr. FORD. Mr. President, I hear all this blame put on us. In the last 2 years, all the blame has been the other way. I wish some of the leadership on the other side would give me an hour so they could explain to me how they provided for gridlock in the last session so I would be better at gridlock this session.

You are now 6 days late on the budget. In the last 2 years, we have had the budget on time. It was due April 1. It is due out here, by both Houses, on April 15. We hear all this moaning and groaning and crocodile tears as it relates to we will not do that; we want to start saving; we want to start saving—but we have a budget that is due to put us on the track to 2002 and you are 5 days late, and we are not going to get it probably until May.

I say to my friend, let us get a budget out here. Let us really start doing things.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. Mr. President, if I could proceed for 1 moment—1 minute?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I still hope we can work this out. We were about that close, or closer. The Democratic leader and the Republican leader worked throughout the day with other Senators on both sides. We thought we had an agreement.

We thought we had an agreement. I still hope it is possible to get the agreement. If that happens, we could finish our work very quickly today and there would be no votes tomorrow or Saturday. But if not, then I do not think we have any other choice other than to try to complete this bill tonight with or without cloture.

So I still think there is a genesis of an agreement here. I would say to the White House, I hope that you will help us reach an agreement, because, until there is an agreement, there will not be any defense supplemental taken up in this body.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXI of the

Standing Rules of the Senate, hereby move to bring to a close debate on the Hatfield amendment No. 420, to H.R. 1158, the supplemental appropriations bill, signed by 17 Senators as follows:

Senators Mark, Hatfield, Pete Domenici, Rick Santorum, Larry Pressler, Mitch McConnell, Slade Gorton, Rod Grams, Ben Nighthorse Campbell, Conrad Burns, Mike DeWine, Nancy Kassebaum, Ted Stevens, Jesse Helms, Robert F. Bennett, Spencer Abraham, Dirk Kempthorne, and Fred Thompson.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the debate on the Hatfield amendment number 420 to H.R. 1158, the supplemental appropriations bill, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 56, nays 44, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—56

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Nunn
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the Hatfield amendment No. 420 to H.R. 1158, the supplemental appropriations bill:

Bob Dole, Fred Thompson, Rick Santorum, Alfonse D'Amato, Chuck Grassley, Trent Lott, Larry Craig, Connie Mack, Craig Thomas, Jesse Helms, John H. Chafee, Thad Cochran, Mark Hatfield, Pete Domenici, Dan Coats, and Judd Gregg.

Mr. DOLE. Mr. President, let me indicate to the distinguished Democratic leader, who is on the floor, it is still my hope that we can reach some agreement. It seems to me we are not that far apart. We ought to be able to do it.

I am certainly prepared to sit down with the Democratic leader, or anyone else, if there is a problem. But, just in case we cannot work it out, then I have filed a cloture motion, because I do think it is important that we finish this bill so we can take up the defense supplemental bill and some other things after that.

But I am prepared and I think the Democratic leader is prepared and, hopefully, our colleagues are prepared. It seems to me we have one of two choices. Either we try to finish this tonight with no votes tomorrow, or we will be here tonight and tomorrow and maybe Saturday. But, that is up to our colleagues. I cannot believe any of these amendments are so critical they cannot wait until the next supplemental or until the appropriations bills start arriving.

I think there was a lot of give and take on each side in good faith. I thought we were almost there. But if we make an agreement and everybody says, "Well, I will make the agreement but I want to go back and offer an amendment to try to undo the agreement," then we do not have an agreement. Either we have an agreement or we do not have an agreement.

I can agree, if you let me have 25 chances to improve on what I have already agreed upon, but I do not think that is an agreement.

I hope that we can resolve everything so that, when it comes to the floor, I can persuade the Senator from New York to withdraw the amendment with reference to Mexico. He has not done that yet. We have the Jordan aid in this package that I know the administration is very concerned about.

So I hope there would be some way to bring it together in the next, say, 45 minutes to an hour.

I also remind my colleagues on this side of the aisle, there is a Republican conference in progress in S. 207 which will end, hopefully, at 3 o'clock.

I am happy to yield the floor or yield to my colleague from South Dakota.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, as I said before the vote, it was not our desire to hold up this bill. I will reiterate my sincere desire to work with the majority leader in finding an agreement.

What I hope we might be able to do, perhaps, is to maybe run two tracks, get some debate and offer some of these amendments. We could maybe work out some short time agreements and have a good debate, rather than just putting the Senate in a quorum call, and then work simultaneously to see if we might not be able to address some of these concerns.

I agree with the majority leader. We are close and perhaps we can find a way to accommodate many of the concerns raised on both sides of the aisle.

But perhaps at the same time we might be able to accommodate some Senators who have been waiting patiently to be able to offer amendments. If we could do that, perhaps that might even accelerate our progress.

I reiterate my sincere desire, and I think the desire on this side, to work in earnest and try to accommodate everyone and successfully complete this bill.

I yield the floor.

Mr. DOLE. Will the Senator yield? We are prepared to vote on the amendment of the Senator from Massachusetts. I do not think we need any additional debate on that. I am for it, not that it makes any difference.

Mr. KENNEDY. We are quite prepared to vote. I do not think we need additional time. We wanted to do that at the earliest possible convenience. We welcome the opportunity to have a rollcall vote.

Mr. DASCHLE. I think the distinguished Senator from New York will be interested in speaking to the amendment prior to the time we vote, but I am sure there could be some relatively brief time agreement that we could work out to accommodate him, and others, who may yet want to speak. But I do not think it will take that long. I suggest we do that.

Mr. DOLE. Why do we not agree to have the time between now and 3 o'clock equally divided and then vote at 3 o'clock? I think the Senator from West Virginia also wants to speak on some other issue.

Mr. BYRD. I can wait.

Mr. DOLE. Is that satisfactory?

Mr. DASCHLE. If the majority leader will let me consult with the distinguished Senator from New York, Senator MOYNIHAN, to see how much time he may require, we can resolve this matter very soon.

Mr. DOLE. While the minority leader is checking, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIRST 100 DAYS OF SO-CALLED REVOLUTION

Mr. BYRD. I thank the Chair.

Mr. President, tomorrow we will hear about the first 100 days of the so-called revolution, and about the success of the misnamed contract with America. I call the contract misnamed because so many Senators on both sides of the aisle claim never to have signed it, and many Americans have no idea what it is, much less any idea of its various provisions. The term "contract" is usually reserved for binding documents which two or more parties have agreed to and signed. But, not so with this so-called contract with America. It is simply the wish list of the extreme faction of one political party, packaged to sell better by giving it the legitimacy of the word "contract." It is clever, essentially meaningless ad-man lingo, probably conjured up by some pollster.

But, in any event, the Nation will, no doubt—at least part of the Nation—be glued to the TV sets on Friday evening to hear the 100-day report on the progress of the so-called contract, as promised. But everything about this made-for-TV drama will be somewhat of a fantasy.

First, as I have already indicated, the contract is merely a made-up device. Second, the so-called 100-day report is not occurring after 100 days. Friday, April 7, will only be the 94th day since the convening of the 104th Congress. The real 100th day will occur on Thursday, April 13th, smack in the first week of the April congressional recess. So we will be getting the report on the so-called contract, which is not really a contract, on the so-designated 100th day, which is really only day 94. But, then of what import are messy details when one is busy manufacturing non-news while conducting a pseudo revolution?

We will undoubtedly hear of the wild success of the so-called contract when, in fact, only two of its provisions have been enacted into law, and these two were relatively noncontroversial. In reality, two of the contract's major tenets, the balanced budget amendment and the term limits proposals have gone down to defeat, while a third, a misnamed proposal being loosely called line-item veto which, by the way, may be found to be unconstitutional, may be stuck in a House/Senate conference for perhaps a long time. Only in Washington would this type of report card be touted as successful. Rather than a 100-day report on the progress of the contract, this coming performance might be better billed as a 94-day alibi for the failure of an extremist agenda.

The truth of the matter is that the so-called contract is pretty much of a flop. And just like a bad play in the theatre, a bomb is a bomb. You can punch up the dance numbers, spice up the dialog and gussy up the costumes a little bit, but in the end a flawed script will flop and nothing on God's green earth will save it.

Likewise, at the end of this particularly bad show this so-called contract will also be judged a flop and a failure. That will happen because the contract is a giant gimmick comprised of other lesser gimmicks, and it does not address real problems in our Nation. It merely packages several old canards which are holdovers from the last popular Republican administration and calls them reform. It reruns a lot of 1980's political bumper sticker slogans and calls them a program for change. The Revolution has come to Washington! Rejoice all mad-as-hell citizens! Well, if this is a revolution, it must certainly be called the retread revolution. Term limits, balanced budget amendment, line-item veto, enhanced rescission, separate enrollment, tax cuts—there is a tough one; there is a tough one—all of these old bald tires have been around for years.

And what about those tax cuts? Mr. President, earlier this year the House of Representatives passed the balanced budget constitutional amendment in just 2 days—2 days. A similar measure failed to pass the Senate by only two votes. During the debate on these proposals, Republicans nearly drowned the American people in a sea of rhetoric proclaiming the need for such an amendment.

Deficit reduction, it was claimed, was the most pressing issue facing Congress today. We heard a lot about our responsibility to future generations, about the need for fiscal discipline, and about the need to make tough choices. The American people were told that there would be shared sacrifice among all for the good of the Nation. Everyone was going to do his fair share to beat back the economic dragon of deficit spending.

For weeks we heard lofty speeches in this body over the need to reduce deficits. Now, for the House to come right along behind that debate and enact a huge tax cut financed by cuts in general spending makes a mockery of all the hot air we heard in this body about deficit reduction. To suggest squandering our budget savings on tax favors for the well to do and for big corporations is just plain crazy. For the House of Representatives to pass a tax cut giveaway which will cost the American people $189 billion over 5 years and approximately $700 billion over 10 years is clearly walking away from any serious attempt to reduce the deficit.

We will hear a lot of talk about the winners and the losers under the so-called contract in the coming days. But, in my view, there are no winners when what should be a serious attempt to address the Nation's problems is replaced with glitzy media shows, overblown rhetoric, one-line solutions, and junk legislation enacted in a rush to meet a phoney deadline, and huge tax cuts designed to benefit the well to do. We all lose. We all lose when that kind of superficial excuse for leadership is offered to the people as a substitute for the real thing.

The truth is that Barnum and Bailey's is not the only show in town this week. All of this touting of a revolution and praising of a nonexistent contract with America is nothing more than a less entertaining version of the same sort of circus.

This contract is a sham and it will ultimately be judged a failure because the American people will never choose the so-called contract over the Constitution, the Constitution of the United States of America. It will fail because it is mostly form devoid of substance. It will fail because it opts out of trying to find solutions to real problems, and instead tries to rig the game and rearrange our cherished checks and balances in order to further a misguided political agenda. And it will fail because it plays on people's fears and anger, instead of nourishing their hopes and their dreams.

It will also fail, I believe because of the genius of the Framers in their crafting of a U.S. Senate, designed to slow things down, educate the public and talk things through in extended debate.

For my part, I only wish that tomorrow night, instead of the touting of some made-up, fabricated so-called Contract With America in a partisan attempt to manufacture fervor for a political agenda, the American people will hear a detailed explanation of how the last 94 days have once again demonstrated the innate wisdom, power, and grandeur of the only contract ever agreed to by the people of America and sworn to by all of the Members of the Senate and the House. That contract is the Constitution of the United States of America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I have consulted with colleagues on this side and I think as a result of our discussions in recent minutes that we will be able to enter into a fairly short-time agreement on this particular amendment.

Whatever length of time the distinguished Senator from Massachusetts would like to speak I think will be all the time required on this side. We would be prepared to vote.

Mr. KENNEDY. Mr. President, could we have 15 minutes, evenly divided? I will be glad, as I had previously indicated to the leadership, make a brief presentation. And I am glad to accommodate the timeframe. I could complete my statement in a shorter period, or take a few extra minutes.

I will be glad to begin, and when the leaders work out a time agreement, I will accommodate it.

Mr. DASCHLE. Mr. President, I suggest the Senator begin his remarks, and in the meantime we will try to work out an agreement.

AMENDMENT NO. 448 TO AMENDMENT NO. 420

(Purpose: To state the sense of the Senate regarding tax avoidance by certain former citizens of the United States)

Mr. KENNEDY. Mr. President, in a few moments, we will consider the amendment numbered 448. To again familiarize the Members of the Senate of its intent, I will read it. It is a brief amendment.

This amendment states that it is the sense of the Senate that Congress should act as quickly as possible to amend the Internal Revenue Code of 1986 to provide for taxation of accrued gains at the time that a person relinquishes U.S. citizenship; and it is the sense of the Senate that the amendment referred to should take effect as if enacted February 6, 1995.

This is defined as the billionaires' amendment.

Just to review the amendment very quickly, Mr. President, it was part of the small business health care deduction bill to permit the self-employed to deduct 25 percent of their premiums.

It had been included by the Finance Committee, and was a part of the legislation which we passed. This provision addressed a serious loophole in the Internal Revenue Code.

That loophole can be explained as follows: An individual can accumulate massive sources of wealth, owe their fair share of taxes to the Internal Revenue Code, renounce their American citizenship, become what I consider to be a Benedict Arnold, change their residency to another country, and effectively avoid and evade any responsibility to pay their fair share of taxes on all unrealized gains.

It has been estimated that the cost of this tax avoidance is $3.6 billion, including both American citizens and permanent resident aliens.

It is important to note that the measure reported out of the Finance Committee related only to American citizens. I am hopeful that the Finance Committee and the Ways and Means Committee, when they revisit this issue, will consider the administration's proposal, which would include both American citizens and permanent resident aliens.

This provision only affects about 25 Americans a year. But the cumulative loss to the Federal Treasury is $1.5 billion over a 5-year period and $3.6 billion over a 10-year period.

This matter is of major importance, Mr. President, because the Senate is now debating the rescissions legislation, rescissions meaning cuts in a number of different programs. These are programs that the Congress has authorized, and for which we have made appropriations. The President has signed these measures into law, and now Congress is revisiting these commitments and deciding how to cut the various programs.

The Daschle amendment that is before the Senate would restore funding for some of these programs: the voluntary community service program called AmeriCorps; the drug-free schools program, which assists parents, schoolteachers, and school boards with the problems of substance abuse and violence in the schools; the chapter 1 education program, which assists disadvantaged children; the Goals 2000 Program, which would provide sufficient funding for 1,300 school districts around the country for needed reforms and improvements in academic achievement; the well-known Head Start Program, that has been extended to 0- to 4-year-olds, so that intervention can take place to help children, particularly toddlers, as defined by the Carnegie Commission report; the Program for Women, Infants, and Children [WIC], which provides expectant mothers with high-quality nutrition; the School-To-Work Program, that is being reviewed now before our Human Resources Committee and will provide one-stop shopping for youth trainees; and the child care program, which is so essential for working families to ensure that their children are adequately cared for.

The amendment restores approximately $700 million in these programs. Other programs in the amendment for training and housing total $700 million. That requires a restoration of $1.4 billion, and we have spent days debating this amendment. By and large, most members of the Senate have voted in favor of these programs. A handful have not, but by and large it has been a bipartisan effort.

At the same time, we are not recovering the $1.4 billion from those Americans who are renouncing their citizenship and turning their backs on America. If they were not renouncing their citizenship, they would owe that money to the Federal Treasury. We have not recaptured that money. It was dropped in the conference committee on the small business legislation. The small business legislation with the appropriate language, which had been accepted in the Finance Committee, accepted on the floor of the Senate, and went to the conference, came back without the necessary language.

With this amendment, we are saying that the membership feels that this loophole must and should be closed, and will be closed at the first opportunity. And the date will be made retroactive to the date of original introduction by President Clinton, who has taken a personal interest in closing this loophole.

The majority leader has indicated that he will support it. The chairman of the Finance Committee has said that he will support it. The Senator from New York, Senator MOYNIHAN, as well as Senator BRADLEY and other members of the Finance Committee, have all expressed their support.

The vote is important because we want to make sure that the Senate's hand is strengthened when the measure goes to conference. Hopefully, this will be a unanimous vote, which will further strengthen the hand of the Senate. It will be a clear indication that the Senate of the United States wants this loophole closed, and that the renunciation of citizenship, after an individual has taken advantage of the American free enterprise system, and the avoidance of the responsibility to pay a fair share of taxes, is unacceptable.

An individual has every right to renounce his or her citizenship and leave America, and we have some 800 every year who do so. We are not saying that they cannot leave. We are saying that if they decide to leave, they should pay their taxes prior to their leaving.

Mr. DORGAN. Mr. President, I wonder if the Senator will yield for a question?

Mr. KENNEDY. Yes. Let me finish with one thought.

This provision is not a new concept. The concept itself is already included in the Internal Revenue Code but is drafted such that it does not protect against this egregious loophole. This new provision will close the loophole.

I am glad to yield.

Mr. DORGAN. I appreciate the Senator yielding. I know he has been waiting for a week to offer this sense-of-the-Senate amendment. I know also this was dropped from a previous piece of legislation that has been through this Chamber and I cannot conceive of anyone in this Chamber who would vote against this proposition.

As I understand the current tax law—and I might ask the Senator to confirm this—that if you have accumulated substantial assets and wealth in this country and have substantial gains on those assets and then decide to renounce your citizenship and leave the country, we'll give you a special deal. You do not have to pay tax on the way out on your gains.

I am going to bring something to the floor later this session on another perverse tax incentive that says, "Close your manufacturing plant in America and move it overseas and we will give you a tax break for that as well."

As I understand it, what the Senator is offering is a sense-of-the-Senate amendment saying let's close the loophole by which people can renounce their citizenship and leave this country with substantial amounts of accumulated gains in income and end up paying no taxes. Is that the current tax circumstance?

Mr. KENNEDY. The Senator has stated it accurately and correctly. It is a provision that is probably as inoffensive to all fair-minded Americans as any other before this body. As we debate our priorities on the floor, we have an opportunity to reduce the deficit or invest these resources in our children and our educational system.

We can give a clear, resounding message to our members of the Finance Committee so that this egregious loophole will be closed at the next possible opportunity.

Mr. DOLE. Is the Senator prepared to vote at, say 5 after 3?

Mr. KENNEDY. I will be glad to vote at 5 after 3.

Mr. DOLE. Up or down on the amendment?

Mr. KENNEDY. I appreciate that.

Mr. President, I call up amendment 448.

The PRESIDING OFFICER. Without objection the pending amendments will be set aside.

The clerk will report this amendment.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment (No. 448) to amendment No. 420.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following:

SEC. . SENSE OF THE SENATE REGARDING TAX AVOIDANCE.

(A) IN GENERAL.—It is the sense of the Senate that Congress should act as quickly as possible to amend the Internal Revenue Code of 1986, to eliminate the ability of persons to avoid taxes by relinquishing their United States citizenship.

(b) EFFECTIVE DATE.—It is the sense of the Senate that the amendment referred to in subsection (a) should take effect as if enacted on February 6, 1995.

Mr. DOLE. Did we get the yeas and nays?

The PRESIDING OFFICER. We have not gotten the yeas and nays.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays are ordered, vote at 5 after 3.

Mr. KENNEDY. Mr. President, I will be glad to yield the floor if others want to address the issue. I will just take a few moments to mention one or two other facts.

The question was raised about this provision's constitutionality. I will place more complete statements in the RECORD, but I will now note the opinions of three very thoughtful international law experts. Prof. Andreas Lowenfeld of NYU said:

> I am confident that neither adoption nor enforcement of the provision in question would violate any obligation of the United States or any applicable principles of international law.

Prof. Detlev Vagts of the Harvard Law School said:

> The proposed tax does not amount to such a burden upon the right of repatriation as to constitute a violation of either international law or American constitutional law. It merely equalizes over the long run certain tax structures.

And Michael Matheson, a legal advisor at the State Department, said:

> This provision does not conflict with international human rights laws concerning an individual's right to freely emigrate from his or her country of citizenship . . . . These are comparable taxes to those which U.S. citizens or permanent residents would have to pay were they in the United States at the time they disposed of the assets or at their death.

The overwhelming international law opinion on this measure is that it in no way restricts the constitutional right of exit or of renunciation of one's citizenship.

These international law experts understand this measure, and recognize that these individuals have accumulated this wealth through the American economic system, and have a responsibility to pay their fair share of taxes. As they understand it, the amendment would only recover what is owed to the Internal Revenue Service, which is part of one's responsibilities of citizenship.

Mr. President, we have appreciated the strong support that we have received on this measure.

This matter was brought to the attention of the President of the United States a number of months ago, and he personally pursued it with the appropriate committees and the Treasury Department. Through his individual oversight, the matter was spotted and will be corrected.

With the vote today, we are telling our good friends in the House of Representatives that we are serious about this measure, and that it is a significant issue of justice. The renunciation of one's citizenship is deplorable, but it is a right that we respect. But the renunciation of citizenship by individuals so that they do not have to pay their fair share of taxes is wholly unacceptable. It is sufficiently compelling to generate a resounding vote.

Mr. President, I would just take another moment of the Senate's time. We were questioned earlier about the revenue estimates. It is interesting that the figures of both the Senate Finance Committee and the administration are very similar. The administration's proposal estimated a cost of $1.5 billion, and the Finance Committee estimated a cost of $1.359 billion. Those figures are remarkably close. The Finance Committee's estimate was less than the President's figures because the Finance Committee estimated the cost for only American citizens, not permanent resident aliens. If we included permanent resident aliens, the committee estimate would perhaps exceed the President's estimate. Nonetheless, we have two solid estimates approaching $1.5 billion.

The President's proposal estimates a cost of $3.6 billion over a 10-year period. That is a very substantial amount, which, if not collected, will either add to the Federal deficit or deny us the opportunity to invest in our first order of priorities, our children and our education system, through the Head Start Program, the chapter 1 program, child care programs, job training programs, the student loan program, and our School-To-Work program. All of these programs reach out to the youngest of our citizens to make certain that they are going to get a healthy start, an even start, and a fair start in life, and be able to provide for themselves and for their own children in the future.

Mr. President, I ask unanimous consent that a November 21, 1994, article from Forbes magazine that explains this egregious tax loophole be printed in the RECORD.

I look forward to the vote itself.

I yield the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From, Forbes, Nov. 21, 1994]

THE NEW REFUGEES

(By Robert Lenzner and Philippe Mao)

"Over and over again courts have said that there is nothing sinister in so arranging one's affairs as to keep taxes as low as possible. Everybody does so, rich or poor, and all do right, for nobody owes any public duty to pay more than the law demands: taxes are enforced exactions, not voluntary contributions. To demand more in the name of morals as mere cant"—Judge Learned Hand.

"I talk to a new client interested in expatriating every week. Many people can't pay the federal tax rate and live in the style they want." So said Francis Mirabello, the head of the personal law department at the Philadelphia office of Morgan, Lewis & Bockius, speaking at a Bermuda conference on offshore money early this fall.

Expatriating? Give up U.S. citizenship? Who in his right mind would give up his U.S. citizenship? Lots of people. You could practically fill a Boeing 747 with well-heeled U.S. citizens who have taken of foreign citizenship rather than submit to what Learned Hand called "enforced exactions" at a level that amounts to virtual confiscation. The exodus may speed up under an Administration that campaigned for office on a tax-the-rich platform.

In 1981 Ronald Reagan lowered taxes. The following year not a single American gave up his citizenship. In 1993 the expatriate community grew by 306 names.

The expatriates of recent years have included:

Michael Dingman, chairman of Abex, and a Ford Motor director. Dingman is now a citizen of the Bahamas and lives there.

Billionaire John (Ippy) Dorrance III, an heir to the Campbell Soup fortune. Dorrance is now a citizen of Ireland and lives there as well as in the Bahamas and Devil's Tower, Wyo.

J. Mark Mobius, one of the most successful emerging market investment managers. Born a U.S. citizen, Mobius has the German citizenship of his ancestors and lives in Hong Kong and Singapore.

Kenneth Dart, an heir to Dart Container and his family's $1 billion fortune. He is a citizen of Belize and works in the Cayman Islands.

Ted Arison, founder of Carnival Cruise Lines. He kept Israeli citizenship and now lives there.

These newer emigrants join others of longer standing, including Robert Miller, the co-owner of Duty Free Shoppers International Ltd. Miller has a British passport obtained in Hong Kong, though he was raised in Quincy, Mass.

The U.S. is virtually the only country in the world that imposes significant income and death taxes on the worldwide income and assets of every citizen, even if the citizen is domiciled elsewhere. Even Canada, semisocialist, did away with estate taxes.

"Expatriation has been called the ultimate estate plan," says William Zabel, senior partner of Schulte Roth & Zabel, one of the nation's foremost authorities on trusts and estates, and author of the upcoming book The Rich Die Richer—And You Can Too.

The arithmetic is simple and brutal. A very rich Bahamian citizen pays zero estate tax; rich Americans—anyone with an estate worth $3 million or more—pay 55%. A fairly stiff 37% marginal rate kicks in for Americans leaving as little as $600,000 to their children. The marginal rate—what you pay on an additional dollar of assets—ranges upward from there to 60%. You get a credit for some or all of your state inheritance taxes, but your combined rate will still be in this range, or higher.

There are huge potential income tax savings, too, in giving up U.S. citizenship. St. Kitts-Nevis and the Cayman Islands, among others, levy no income taxes. Little wonder so many of the expatriate Americans have gone to the Caribbean for a year-round suntan.

Not that living in the Bahamas is any great sacrifice. Michael Dingman is building a 15,000-square-foot home at the exclusive Lyford Cay club in Nassau that will include a dock for his personal yacht. Cost: more than $10 million, but—who knows?—he might save more than that much in taxes.

The heirs of John (Ippy) Dorrance III, the Campbell Soup heir, won't have to pay Uncle Sam the maximum bite of 55% of the 26.7 million shares of Campbell Soup that make up most of his $1-billion-plus fortune. His new fatherland, Ireland, levies a 2% estate, or probate, tax. In any event, Dorrance doesn't escape the full federal income taxes. There's a U.S. withholding tax of 30% on the $30 million he gets in dividends every year from Campbell.

Many of these expatriates agonize over the decision, however. "I have serious reservations about expatriation for patriotic and practical reasons," says tax expert Zabel. "It is extraordinarily difficult for Americans to get back their citizenship once it is given up. To get it back you have to start like any other nonresident alien, with a green card, and go through the naturalization process.

"Before expatriating I make my clients consider all the limitations on loss of citizenship—like giving up the ability to travel to the U.S. more than 120 days a year."

But losing that American passport isn't as hazardous as it once was. Profligate government policies are steadily eroding the value of the U.S. dollar, making overseas investments increasingly preferable for the wealthy. Investments in emerging markets look increasingly attractive. The end of the cold war means wealthy Americans can live in many developing nations safely. Global communication and jet travel facilitate an offshore lifestyle. What with computers and cable TV, you can be as well informed, and as quickly, living in Antigua as in New York City.

It certainly seems that way to Frederick Krieble, a director and former treasurer of Loctite Corp., the Rocky Hill, Conn. manufacturer of sealants and adhesives. Krieble, whose father, Robert, was formerly Loctite chairman, moved to Turks and Caicos Islands, where he runs an investment company. Krieble owns almost 1 million shares of Loctite, worth over $43 million.

"It's 85 degrees, but the market's down 35 points," Krieble told Forbes recently. When he heard we wanted to discuss the subject of expatriation, Krieble clammed up. "I don't wish to discuss that. Have to run now."

Yes, it's a bit embarrassing, but consider the consequences: decimation of your estate and huge reductions in your aftertax income.

Thus many money managers, senior executives and self-made entrepreneurs are on the phone quizzing their lawyers and accountants about how to leave the high-tax U.S.

Jane Siebels-Kilnes, a vice-president of Templeton, Galbraith & Hansberger, in Nassau, told Forbes she was "following in the footsteps of Sir John Templeton," who gave up his U.S. citizenship in 1962 and moved to Nassau. Thus when Templeton sold his mutual fund management company in October 1992, he may have saved more than $100 million in capital gains taxes. Templeton, an extremely generous and public-spirited man, gives most of his money away. Apparently he wants to decide who gets the benefits rather than letting Donna Shalala or Mario Cuomo decide.

Siebels-Kilnes became a Norwegian citizen this year and moved her residence from Fort Lauderdale, Fla. to Nassau. "I've spoken to a number of hedge fund managers who are thinking of giving up their citizenship. It may be better to be offshore running offshore money before American authorities clamp down on the advantages," says Siebels-Kilnes.

A hot spot: St. Kitts-Nevis. All it requires is owning $150,000 worth of local real estate and paying $50,000 in fees, and presto. St. Kitts-Nevis levies neither a personal income tax nor an estate tax.

Top executives of midwestern industrial companies nearing retirement are considering expatriation as a way to ensure a high standard of living in a comfortable environment.

Is it greed alone that impels these citizenship changes? Not necessarily.

"These people love to challenge all the rules, even recognizing they may isolate themselves," says Carol Caruthers, a partner of Price Waterhouse in St. Louis. "We are doing preliminary planning for a few of them."

Expatriation is a fairly easy choice for many wealthy Americans who hold dual citizenship—as Mobius already did—and whose wealth is heavily concentrated abroad anyhow.

"Since they may inherit these assets, a planning opportunity might be to give up U.S. citizenship in order to avoid taxation on assets and income that have no connection to the U.S.," says Robert C. Lawrence III, a Cadwalader Wickersham & Taft partner in New York who is advising on several such expatriations.

You'll need an ace attorney. If the Internal Revenue Service suspects you are renouncing your citizenship to avoid taxes, it will try to tax your holdings for another ten years, no matter where you live. All the IRS need establish is that it is reasonable to believe you gave up citizenship to avoid taxes. Then, the burden of proving the move was not for tax reasons falls on the former citizen.

But whatever the drawbacks, many nations put out the welcome mat for tax-averse Americans.

Lawyer Mirabello, who is working on six expatriations, is changing citizenship for a superwealthy Chinese-American whose headquarters is in Hong Kong. He has never set foot in the U.S. and wants to avoid estate taxes when he passes the empire to his children.

Some of Mirabello's clients are considering becoming Irish citizens. What does that require? Certainly no hardship, given what a pleasant place Ireland is for those with money. They need only buy a home there and reside there at least part of the year.

Why Ireland? An Irish passport lets its holder travel hassle-free in any member of the European Union. It also has more panache than a passport from Belize or St. Kitts, two small tropical outposts. And, Dublin is being developed as a global money center with tax advantages for individual and corporate investors.

How do you get an Irish passport? It should be fairly easy for the rich. New regulations will probably require a $1.6 million investment in a job-producing operation like the reforestation of an area or modernization of a shipbuilding concern. This is the so-called business migration scheme, administered in Dublin by the Department of Justice. Its guidelines are currently being reexamined for political reasons.

Another attractive destination is Switzerland. "You can pretty well negotiate your own private agreement with a Swiss canton about your annual income taxes," asserts Lawrence.

Can an affluent American keep the politicians at bay without sacrificing citizenship? It's not easy. Wealthy people hold over $2 trillion in offshore accounts from Zurich to the Cayman Islands. No doubt some of these accounts are held by Americans who—illegally—omit mention of them on their tax returns.

Merrill Lynch, like all major investment firms, has a piece of this business. Merrill will not accept offshore accounts from U.S. citizens, but it is eager to service foreigners.

"Offshore money is growing faster than any other part of the financial services industry. It's multiplying at a double-digit rate of growth," says Nassos Michas, head of Merrill Lynch's private banking division. Merrill's trust bank in the Caymans, with assets growing at over $100 million a month, has almost $5 billion of wealthy individuals' holdings.

Actually, the Caymans trust is just a file for legal purposes. Merrill's banks in Geneva, New York and London hold the securities. The accounting is done in Singapore, the administration is done on the Isle of Man, famed for its trust business.

Wealthy Europeans, Latin Americans, Asians and Middle Easterners are Merrill's principal clients here. They want to buffer their fortunes against expropriation, political unrest, economic instability, angry first wives, kidnapping, family members, creditors and potential litigants.

Wealthy Europeans have expatriated their money to safety ever since the French Revolution, when they began hiding it in Switzerland.

When the Germans occupied the Netherlands in 1940, this activated a trust instrument transferring ownership from the homeland to a trust at a U.S. bank. In Europe, where the pounding of marching feet and air raid warnings are of recent memory, use of such trusts was common, at least up until the collapse of the Soviet Union.

Today many wealthy Kuwaitis have trusts offshore to protect their fortunes from Saddam Hussein. The rich in Latin America, Southeast Asia and the Middle East remember that it was only yesterday that their countries were ruled by thieving populists or arbitrary soldiers.

What is new is that Americans are beginning to feel the same sort of residual uncertainty about their posessions. They see courts eroding property rights. They read about bureaucrats who talk about "tax expenditures" when referring to that part of your earnings that they permit you to keep. They are subjected to retroactive taxation under the Clinton "deficit reduction bill." They live in a society that changes the tax rules so frequently that long-term planning is almost impossible.

So they consult legal experts like Cadwalader's Lawrence, who is an authority on generational and international planning, including the use of trusts, and taxation. "They want to sequester, organize and protect the privacy and maintenance of their wealth, plus the freedom to transfer it as they wish," says Lawrence.

But how, short of leaving for some sand dune in the Caribbean?

There are several clever strategies you can use to minimize the future tax bite on your estate, but the fact is that Congress has done a very thorough job of plugging chinks in the tax code. Parking assets abroad or setting up holding companies will not get you out of the U.S., steep income and estate tax rates. You really have to give up citizenship to get a big tax savings.

It's easier for foreigners who have property in the U.S. to avoid the worst of American taxation, but even for them there are pitfalls. They must pay U.S. estate taxes on assets held in the U.S. unless they safeguard them by means of an offshore legal structure. Only certain fixed-income investments are immune from the IRS.

A foreigner can shelter his U.S. assets in the following way: Set up a trust outside the U.S. in some tax-advantaged locale, such as Bermuda, the Cayman Islands or the British Virgin Islands. "The foreign trust must own an underlying holding company, called a private investment company (pic)," Lawrence says.

"The pic opens an investment account in the U.S. Otherwise, a foreign individual who has a stocks-and-bonds portfolio of U.S. companies would be subject to U.S. estate tax. If the securities are owned by a true foreign corporation, the individual is not subject to the estate tax. The foreign corporation acts like a shield to the estate tax."

The IRS can't be happy about these paper shuffling arrangements. Indeed, Lawrence is afraid it may crack down on them. But before you cheer at the prospect of making them furriners pay up, remember this: The U.S. needs foreign capital because we don't save enough. We must compete for that capital with lots of other places. Treat the capital shabbily and it can go elsewhere.

"I'm afraid that foreign capital may be scared away from the U.S. because of taxes and the complexity of our regulation," Lawrence warns.

It could happen, Lawrence insists. He points to the Foreign Investment in Real Property Tax Act, passed in 1980, which forces foreigners to pay a capital gains tax when they sell real estate in the U.S. We shudder to think what would happen to the U.S. stock and bond markets if foreign paper holdings were similarly taxed.

It will come as a shock to many people to learn about the growing band of expatriates. But it is not unpatriotic to remind Americans that ours is no longer the only show in town as a place to invest. At a time when we urge developing countries to cut taxes and make capital more secure, a lot is happening to make it less secure and more heavily taxed at home. Those who give up their citizenship to escape Clintonomics and wealth redistribution are only the extreme part of a worrisome trend.

AVOIDING CONFISCATION

Short of renouncing citizenship, how do you protect the family fortune from confiscation by the tax code writers in Congress and in the U.S. Treasury?

The first, and easiest, tax-saving maneuver is to give money away while alive. If the heirs are young or irresponsible, you can put the gift in a trust and get the same tax advantages.

There are two advantages to gifts over bequests. One is that the first $10,000—per year, per recipient, per donor—is free from gift tax. If both you and your spouse give for a long time and you have many heirs, that exclusion can make a serious dent in your estate. With five heirs, two donors and 20 years to make the transfers, you can get $2 million out of your estate scot-free.

The other advantage is that the gift tax is somewhat lower than the estate tax. The two taxes use the same rate schedule, but the gift tax is calculated in a way more favorable to the tax-payer. Say you give $1 million to a grandchild when you are in the 60% bracket for federal gift tax. (That rate applies when your cumulative gifts, after the exclusion, are between $10 million and $21 million.)

The total cost of the gift will be $1.6 million—$1 million to the grandchild, $600,000 to the IRS. But at your death, that $1.6 million would be divided $960,000 (60% of $1.6 million) to the IRS, only $640,000 to the grandchild.

Caution. If you die within three years of making a gift, your taxes will be recalculated to negate the advantage of giving over bequeathing.

Another defensive maneuver is the grantor retained annuity trust (Forbes, Jan. 31). You transfer your business to a trust whose beneficiaries are your heirs. Out of the trust you carve yourself an annuity. The trust pays your annuity out of business earnings.

You figure the discounted present value of the annuity you retained, and subtract this amount from the value of the business in order to arrive at the value of the gift. The annuity gives you income while keeping your taxable gift to a minimum.

Business owners are also availing themselves of the "minority discount" rule (Forbes, Mar. 1, 1993) For example, your software firm is worth $10 million. Carve it up into ten shares and give one share each to ten heirs. Each share may be worth only $700,000 on a gift tax return, because no outside investor would want to be a minority owner in a family business.

If the family heirloom is a house, a variation on the GRAT may work well. You give your residence to your heirs, retaining the right to live in it for a specific period (Forbes, June 24, 1991). Again, the carve-out reduces the value of the gift.

Another innovation is the dynasty trust. Each grandparent puts $1 million worth of property in a trust in South Dakota for the benefit of grandchildren and great-grandchildren. Why South Dakota? Because it permits trusts to last in perpetuity; most states allow them to last no more than 21 years after the death of anyone now living. Why only $1 million? Because if you transfer more than that you will get hit with a punitive "generation skipping tax."

Note that a dynasty trust doesn't relieve you of the usual gift tax. It might, however, let you keep an asset in the family for a long, long time. The asset is hit with a transfer tax only once, when you set up the trust, rather than again and again as each generation passed on.

"There's no one device to solve all the problems. It's a combination of solutions," says Richard Covey, a partner at Carter, Ledyard & Milburn in New York. "I find most wealthy people outside of New York don't know about these tricks."

What about life insurance? The inside buildup of assets gets passed on to your heirs tax-free, but the premiums you pay must be reported as gifts. Life insurance is somewhat overtouted as an estate tool but it does have its advantages, especially if you die before your time.

You also can buy a tax-deferred annuity from a foreign life insurance company, typically German or Swiss. If the annuity is fixed rate and denominated in deutsche marks or Swiss francs, it may protect your nest egg from a deteriorating dollar (Forbes, June 20). You may also opt for a variable policy that is invested in stocks or mutual funds.

But you won't save taxes unless your estate administrator is willing to commit a felony by omitting it. So the main legal benefit of these overseas insurance policies appears to be that they may—repeat, may—be beyond the reach of creditors.

For a while the very wealthy were able to defer tax on portfolio profits by investing in overseas funds that had a majority of shares held by foreigners. But the 1986 tax put a stop to this game.

After the 1986 crackdown, the main thing that offshore funds can do for you is give your fund manager more flexibility in trading. Domestic funds must be diversified, must avoid getting too much of their profits from short term trading, and have limits on leverage. Foreign funds escape these rules, says Joel Adler, a partner in Sutherland, Asbill & Brennan in New York.

The bottom line is that there isn't much that wealthy Americans can do to protect their assets from a covetous state. Which explains, if it doesn't excuse, the drastic step taken by more and more people of giving up their U.S. citizenship. R.L. and P.M.

TAXATION OF EXPATRIATES

Mr. MOYNIHAN. Mr. President, I wish to speak to the matter raised by the distinguished Senator from Massachusetts. We should not countenance the evasion of taxes by those who renounce their citizenship. The Senate should act to address this problem expeditiously.

A genuine abuse exists. Although the current Tax Code contains provisions, dating back to 1966, designed to address tax-motivated relinquishment of citizenship, these provisions have proven difficult to enforce and are easily evaded. One international tax expert described avoiding them as "child's play." Individuals with substantial wealth can, by renouncing U.S. citizenship, avoid paying taxes on gains that accrued during the period that they acquired their wealth and were afforded the myriad advantages of U.S. citizenship. Moreover, even after renunciation, these individuals can maintain substantial connections with the United States, such as keeping a residence and residing in the United States for up to 120 days a year without incurring U.S. tax obligations. Indeed, reports indicate that certain wealthy individuals have renounced their U.S. citizenship and avoided their tax obligations while still maintaining their families and homes in the United States, being careful merely to avoid being present in this country for more than 120 days each year.

Meanwhile, the rest of Americans who remain citizens pay taxes on their gains when assets are sold or when an estate tax becomes due at death.

It was this Senator who made the first proposal in the Senate to deal with the expatriation tax abuse. On February 6, the President announced a proposal to address the problem in his fiscal year 1996 budget submission. Three weeks ago, on March 15, during Finance Committee consideration of the bill to restore the health insurance deduction for the self-employed, I offered a modified version of the administration's expatriation tax provision as an amendment to the bill. My amendment would have substituted the expatriation proposal for the repeal of minority broadcast tax preferences as a funding source for the bill. The amendment failed when every Republican member of the Committee voted against it. Subsequently, Senator BRADLEY offered the expatriation provision as a freestanding amendment, with the $3.6 billion in revenue that it raised to be dedicated to deficit reduction. Senator BRADLEY's amendment passed by voice vote. That is how the expatriation tax provision was added to the bill that came before the Senate.

After the Finance Committee reported the bill, but before full Senate action and conference with the House, the Finance Committee held a hearing to further review the issues raised by the expatriation provision. Tax legislation routinely gets polished in its technical aspects as it moves through floor action and conference. At the Finance hearing, we heard criticisms of some technical aspects in the operation of the provision, as well as testimony raising the issue of whether the provision comported with article 12 of the International Covenant on Civil and Political Rights, which the United States ratified in 1992. Section 2 of article 12 states: "Everyone shall be free to leave any country, including his own." Robert F. Turner, a professor of international law at the U.S. Naval War College, argued that the expatriation provision was problematic under the covenant. The State Department's legal experts disagreed, as did two other outside experts whose letters were before the committee. I refer to Prof. Paul B. Stephan III, a specialist in both international law and tax law at the University of Virginia School of Law; and Mr. Stephen E. Shay, who served as International Tax Counsel at Treasury under the Reagan administration.

Mr. President, I ask unanimous consent that the written testimony of Professor Turner, the written testimony of the Department of State, and the letters of Professor Stephan and Mr. Shay be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, although there was considerable support for the legality of the provision, I thought it best to proceed with caution in these circumstances. These are matters of human rights under international law, on which we have rightly lectured others, and involve our solemn obligations under treaties. I sought the views of other experts. Letters concluding that the expatriation provision did not raise any problems under international law were received from Prof. Detlev Vagts of Harvard Law School and Prof. Andreas F. Lowenfeld of New York University School of Law. The State Department issued a lengthier analysis upholding the legality of the provision, and the American Law Division of the Congressional Research Service reached a like conclusion. However, there were dissenting views, most notably Prof. Hurst Hannum of the Fletcher School of Law and Diplomacy at Tufts University, who first wrote to me on March 24.

Mr. President, I ask unanimous consent that the letters of Professors Vaghts, Lowenfeld, and Hannum, and the memoranda from the American Law Division of CRS and the Department of State, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MOYNIHAN. Mr. President, this is where things stood when the House-Senate conference met on March 28. The weight of authority appeared to be on the side of legality under international law, but there was some question, and the bill had to move at great speed. As my colleagues well know, the legislation restoring the self-employeds' health insurance deduction, for calendar year 1994, needed to be passed and signed into law well in advance of this year's April 17 tax filing deadline, so that the self-employed would have time to prepare and file their 1994 tax returns. The decision regarding the expatriation provision had to be made without further opportunity of deliberation. I opted not to risk making the wrong decision with respect to international law and human rights.

The decision to drop the expatriation tax provision from the final conference version of the bill has been the subject of much debate over the last week. I certainly don't presume to speak for the other conferees. But for myself I repeat as I have said on two occasions on this floor over the past week: We should proceed with care when we are dealing with human rights issues, particularly when the group involved is a despised group—that is, millionaires who renounce their citizenship for money.

As the Senator who first proposed the expatriation tax provision, I will see this matter through to a conclusion. We are getting more clarity on the human rights issue, and it appears that a consensus is developing to the effect that the provision does not conflict with our obligations under international law. In particular, it is worth noting that Professor Hannum, who first wrote me on March 24 expressing his concern that the expatriation provision was a problem under international law, has, after receiving additional and more specific information about the expatriation tax, now written a second letter of March 31 stating that he is "convinced that neither its intention nor its effect would violate present U.S. obligations under international law." This is the growing consensus, although it is not unanimous.

Mr. President, I would further ask unanimous consent that Professor Hannum's March 31 letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. MOYNIHAN. Mr. President, as for criticism of the technical difficulties of the original proposal, I believe they can be satisfied. Indeed, I would venture that if some of those criticizing the provision's technical aspects had put even half as much effort into devising solutions as in highlighting shortcomings, we would already be much further along toward a satisfactory statute.

One final point, of utmost importance. As we take the time to write this law carefully, billionaires are not slipping through some loophole and escaping tax by renouncing their citizenship. The President announced the original proposal on February 6, and made it effective for taxpayers who initiate a renunciation of citizenship on or after that date. This was an entirely appropriate way to put an end to an abusive practice under current law. Both the proposal that I initiated, and the one that was ultimately adopted by the Finance Committee, also used February 6, 1995, as the effective date of the new provision preventing tax evasion through expatriation. The House conferees had proposed slipping the effective date to March 15, 1995—the date of Senate Finance Committee action on the provision. The two chairmen of the tax-writing committees ultimately—and wisely—resisted that overture, and have issued a joint statement giving notice that February 6 "may" be the effective date of any legislation affecting the tax treatment of those who relinquish citizenship. Given the potential for abuse under current law, I believe that February 6 must be the effective date for a new rule. In any event, given the President's announcement in the budget, the Finance Committee action, and the joint statement of the two chairman of the tax-writing committees, individuals who are contemplating renunciation of their U.S. citizenship are on fair notice of the February 6, 1995, effective date.

To repeat, as the Senator who first offered the proposal to end the expatriation tax abuse, I will do everything I can to see that this matter gets resolved. We will do it this session. Fundamental justice to all taxpaying Americans requires no less.

In an effort to advance that goal, I will shortly introduce legislation embodying a revised expatriation tax proposal. I do so in the interest of ensuring that the issues that have been raised are addressed satisfactorily, and in a timely manner. This revised proposal represents a serious effort to address the criticisms that have been raised, and I believe it will be a major step forward.

Mr. President, we will end this abuse, and promptly, but in a careful and orderly way, as we should do in matters of this importance.

EXHIBIT 1.—INTERNATIONAL LAW AND THE "EXIT TAX": DOES SECTION 203 OF THE TAX COMPLIANCE ACT OF 1995 VIOLATE THE "RIGHT TO EMIGRATE" RECOGNIZED IN THE U.N. COVENANT ON CIVIL AND POLITICAL RIGHTS AND OTHER U.S. AND INTERNATIONAL LEGAL INSTRUMENTS?

(By Robert F. Turner)

Mr. Chairman, it is an honor and a pleasure to appear before the subcommittee this morning to explore the human rights ramifications of the so-called "exit tax" contained in Title II of H.R. 981, the "Tax Compliance Act of 1995."[1]

Before turning to the merits of the issue, I would like to make three caveats in connection with my appearance here today.

First of all, I am testifying in my personal capacity as a scholar interested in the subject of International Law; and, although I currently occupy the Charles H. Stockton Chair of International Law at the Naval War College while on leave of absence from the University of Virginia's Center for National Security Law, my appearance is unconnected with either of those relationships. Any similarities between the views I express and those of the War College, the Navy, the University of Virginia, or any other institution or organization, is purely coincidental.

Secondly, I want to stress the start that I have absolutely no expertise on the substantive issue of tax law. I will therefore have to pass on any questions you might wish to raise predicated upon such a knowledge.

Finally, since my invitation to testify was not extended until late Friday afternoon (four days ago)—and because of prior commitments and travel requirements, I had less than one day to work seriously on my testimony—my prepared statement is not as detailed as I might otherwise have preferred. The basic human rights issue is, of course, not new to me—ironically, I believe I first looked at the "right of emigration" professionally more than two decades ago when the Jackson-Vanik Amendment came before the Senate while I was on the staff of Senator Robert P. Griffin of Michigan—and I don't believe the pressures of time have prevented me from accurately setting forth the basic legal rules by which this statutory provision should be judged. I have not had a great deal of time for serious analysis, however; and while I venture some very tentative conclusions, I suspect that each of you will be able to apply the legal rules to the proposed new statute at least as well as I have been able to do in the limited time available. Candidly, I have gone back and forth on the issue—I don't find it to be a clear cut case.

Thus, I do not appear before you this morning for the purpose of either supporting or opposing the so-called "exit tax" provision of the tax bill. I do believe that upholding the rule of law is important, and I do believe that this provision may raise a sufficiently serious question under International Law that it warrants additional consideration before making a final decision on Section 201. To that end, I commend you for scheduling this hearing.

Even if in the end you conclude that the provision does not, in reality, violate the Nation's solemn human rights treaty commitments, if there is even a colorable claim to the contrary that might be raised to undermine future US efforts to enforce human rights laws, it might be wise to avoid even the appearance of violating these laws. In the end it may come down to balancing the importance of the tax code provision against the potential harm that might result if we are perceived as having violated these important rules of international human rights law.

As an aside, I also have a professional interest in issues of US Constitutional Law—indeed, I have testified before at least half-a-dozen congressional committees on issues of Constitutional Law in the past few years—and I have the impression that this provision may also raise issues in that area.[2] However, considerations of time, and my understanding of the scope of my invitation this morning, led me to refrain from examining those issues in sufficient depth to make a meaningful contribution today on that issue.

THE GROWTH OF A LEGAL RIGHT TO EMIGRATE

Today the right of citizens to renounce their citizenship and leave their own country is almost universally recognized as a fundamental civil right, but its widespread recognition as creating international obligations is of relatively recent origin. The origin of the right can arguably be traced back nearly 2500 years, to the famous Dialogues of Plato, in which Socrates says to Crito: [H]aving brought you into the world, and nurtured and educated you, and given you and every other citizen a share in every good which we had to give, we further proclaim to any Athenian by the liberty which we allow him, that if he does not like us when he has become of age and has been the ways of the city, and made our acquaintance, he may go where he pleases and take his goods with him. None of . . . [our] laws will forbid him or interfere with him. Any one who does not like us and the city, and who wants to emigrate to a colony or to any other city, may go where he likes, retaining his property.[3]

The 42nd paragraph of the original 1215 version of the Magna Carta issued by King John at Runnymede guaranteed the right of "any one to go out from our kingdom, and to return, safely and securely, by land and by water, saving their fidelity to us"; but this "right to travel" was omitted from the forty-six subsequent versions—including the one issued by Henry III in 1225 usually associated with the term "Magna Carta"—on the grounds that such a right seemed "weighty and doubtful."[4] Nor, for that matter, is it clear that the right to "travel" included a right to emigrate—a right far more easily sustained now that people have changed from "subjects" of the King to "citizens" of the State.

In 1791, the French Declaration of the Rights of Man affirmed the right "to come and to go" from the State as a "natural" right.[5] By 1868 the U.S. Congress was on record by statute that: [T]he right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness. . . . Therefore, . . . any declaration, instruction, opinion, order, or decision of any officers of this government which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of this government.[6]

More recently, Section 349(a) of the Immigration and Nationality Act recognizes a right of every citizen to relinquish US citizenship.[7] Just a decade ago, the US Court of Appeals for the Ninth Circuit observed that "expatriation has long been recognized as a right of United States citizens," and noted that "the Supreme Court [has] placed the right of voluntary expatriation solidly on a constitutional footing."[8]

The proposed "exit tax," of course, does not expressly challenge this well-established right to emigrate—it merely provides that a few very wealthy citizens will be forced to pay a 35% tax on appreciated assets should they wish to exercise this constitutional right. The issue you have invited me to address is whether such a tax would bring the United States into noncompliance with any binding rules of International Law. I am not sufficiently versed on issues of tax law to answer that question with any real confidence, but perhaps I can be of assistance by at least summarizing the existing international law binding upon the United States concerning the human right to emigrate.

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[1] Footnotes at end of article.

INTERNATIONAL LAW AND CONSTRAINTS ON THE RIGHT TO EMIGRATE

Mr. Chairman, perhaps it would be most helpful if I began by briefly setting forth the status of the right to emigrate under International Law. I will first consider the relevant conventional (treaty) law binding upon the United States, followed by a look at some "nonbinding" international documents which may shed light on these issues, and finally I will discuss the very important area of customary international law (which, under the Statute of the International Court of Justice, is considered as equal in authority to conventional law[9]).

CONVENTIONAL INTERNATIONAL LAW

The effort to codify international human rights law is of quite recent origin, essentially coming in the wake of World War II and the establishment of the United Nations. Article 55 of the UN Charter establishes as a goal the promotion of "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." In Article 56, "All Members pledge[d] themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55."

An important first step was the unanimous adoption (with eight abstentions, including the Soviet Union and several other Communist States) on 10 November 1948 of the "Universal Declaration of Human Rights" as a UN General Assembly Resolution. Such resolutions do not have legal effect,[10] and the Declaration was clearly viewed as aspirational at the time—indeed, the United States delegate expressly stated that the resolution "is not and does not purport to be a statement of law or of legal obligation."[11] However, there is a very strong consensus today that the Declaration is legally binding by virtue of reflecting customary international law. It will be discussed below under customary law.

THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

In an effort to follow up the Declaration with a series of binding treaties, in 1966 the United Nations General Assembly unanimously approved the International Covenant on Civil and Political Rights, which entered into force on 23 March 1976. The following year, it was signed by the Carter Administration and on 23 February 1978, it was submitted to the Senate for its advice and consent.

In 1991, President Bush asked the Senate to consider the treaty, and hearings were held late that year in the Foreign Relations Committee, which recommended approval of the treaty by a unanimous vote (19-0). On 2 April 1992, the Senate consented to the ratification of the treaty with a variety of proposed reservations, understandings, and declarations[12]; and the instrument of ratification was deposited with the United Nations on 8 June of that year with the recommended additions—none of which apply directly to the issue at hand.[13] The United States thus joined more than 100 other States in assuming a solemn international legal obligation to abide by the terms of the Covenant.

It is perhaps worth noting that the unanimous report of the Foreign Relations Committee on this treaty categorized the "rights enumerated in the Covenant" as being "the cornerstone of a democratic society."[14]

The Covenant was designed to be a legally-binding international treaty setting forth "inalienable rights" which were "derive[d] from the inherent dignity of the human person."[15] Article 12 of the Covenant provides:

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. *The above mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others,* and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country. [Italic emphasis added.][16]

The American Society of International Law commissioned an excellent study of The Movement of Persons Across Borders, edited by two of the nation's foremost scholars in this area (Professors Louis B. Sohn and Thomas Buergenthal), which provides important background on the interpretation of the Article 12 of the Covenant. Among other things, the authors note that one of the reasons Article 12 was written was that, "[n]otwithstanding Article 13(2) of the . . . [*Declaration*], some countries prevent their nationals from leaving, prescribe *unreasonable conditions such as exacting taxes or confiscating property* . . . [emphasis added]"[17]

While Article 12 embodies a "fundamental right," it is not an "absolute right" in the sense that a State may not legitimately place some reasonable restrictions by law on the right of emigration. In addition to preventing individuals accused of serious crimes from leaving,[18] for example, it is clear that a State may require a citizen to pay any normal tax obligations or other public debts.[19] However, people who wish to emigrate may not lawfully be required to surrender their "personal property," and "Property or the proceeds thereof which cannot be taken out of the country shall remain vested in the departing owner, who shall be free to dispose of such property or proceeds within the country."[20]

It seems to me that a key issue with respect to the proposed US "exit tax" is whether or not it represents a normal tax obligation applicable to all citizens irrespective of their wish to emigrate. To the extent that it constitutes a special requirement on individuals because of their desire to emigrate, then the Government would presumably have the burden under the Covenant of establishing that the law is "necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others. . . ."[21]

It may be relevant that efforts were made during the drafting of Article 12 to broaden this list of permissible exceptions to include such concepts as promoting a State's "general welfare" and "economic and social well-being," and these were rejected as being "too far-reaching."[22] Restrictions on freedom of movement were only to be permitted in "exceptional" circumstances.[23] Professor Louis Henkin, of Columbia Law School, has noted that: The Covenant . . . is not to be read like a technical commercial instrument, but "as an instrument of constitutional dimension which elevates the protection of the individual to a fundamental principle of international public policy." Rights are to be read broadly, and limitations on rights should be read narrowly, to accord with that design.[24]

This view is widely shared by other experts in the field.[25] Discussing Article 12 in a lengthy 1987 article in the *Hofsta Law Review*, a group of four attorneys from the New York firm of White & Case concluded: Although it is accepted that there may be restrictions imposed on the right to emigrate, these restrictions are of an exceptional character and must be strictly and narrowly construed. The right to emigrate is primary; the restrictions on that right are subordinate and may not be so construed as to destroy the right itself.[26]

For the record, the United States is now also to the *International Convention on the Elimination of All Forms of Racial Discrimination*, which prohibits barring freedom of movement (and many other enumerated rights) on the basis of "race, colour, or national or ethnic origin"[27]—however, this treaty does not appear to be relevant to the issue at hand. There are several other international conventions which guarantee the right to emigrate, including regional agreements underlying the European, African, and Inter-American human rights systems. However, the United States is not a Party to these, so in the interest of time I have not addressed their specifics. (While they do serve as evidence of customary legal obligations, in this area the statutory language of the Jackson-Vanik Amendment [discussed *infra*] assures that the United States is bound by customary law in this area.)

OTHER INTERNATIONAL INSTRUMENTS OF RELEVANCE

As already noted, the Universal Declaration of Human Rights was intended to be aspirational and not legally binding upon the 48 States that voted to approve it. Because it reflects customary law, it will be discussed under that heading—but it also stands as an important non-treaty human rights document.

Another very important international document clearly not intended to create binding legal rights was the Final Act of the Conference on Security and Cooperation in Europe (Helsinki Accords), which expressly incorporated the *Declaration*.[28] Time has precluded me from addressing these types of instruments further, but they are probably not critical to a resolution of the issue.

CUSTOMARY INTERNATIONAL LAW

Perhaps the most important written source of customary international law[29] is the *Universal Declaration of Human Rights*, approved as a UN General Assembly Resolution on 10 November 1948 and already noted above. The *Declaration* provides:

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.[30]

During the debate on the Jackson-Vanik Amendment in 1974 (discussed infra), this document was occasionally portrayed as an international treaty designed to create legal rights.[31] In reality, its only "legal" value is as evidence of binding customary law. This may be important background for the discussion which follows, because the Soviet Union voted against Article 13 during the drafting process and did not vote in favor of the Declaration itself in the General Assembly. With a few exceptions, which are not relevant to the issue at hand,[32] rules of International

Law are established by the consent of States. This can be done explicitly by ratifying a treaty or other international agreement, or it may be done implicitly by taking part in the development of a consistent and general practice accepted as law. But—again, with some exceptions[33]—a State is not considered bound by customary legal rules against which it clearly protested during formation. Thus, it is at least arguable[34] that the Soviet Union was not bound by the Declaration as customary law in 1974.

THE 1974 JACKSON-VANIK AMENDMENT

Mr. Chairman, it may be worth noting this Committee, and the United States Congress, have played a prominent role in the affirmation of customary international law governing the right of citizens to emigrate without having to pay burdensome special taxes. I believe that Chairman Packwood, Majority Leader Dole, and Senator Roth are the only current members of the Finance Committee who served in the Senate during the Ninety-Third Congress, so it may be useful to review the history of the "Jackson-Vanik" Amendment—also known as the "Freedom of Emigration" Amendment[35]—briefly at this time. I remember it reasonably clearly, for, as I mentioned, I was serving at the time on the staff of Senator Bob Griffin and I followed the Amendment closely.

As reported out of this committee, Section 402 of the Trade Act of 1974 (H.R. 10710) included the House-passed "Vanik Amendment"[36] which prohibited the President from granting "nondiscriminatory tariff treatment" to any "non-market economy country" which "imposes more than a nominal tax, levy, fine, fee or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice."[37] In its accompanying report, this Committee referred to the "right to emigrate" as a "basic human right. . . ."[38]

When the trade bill reached the Senate floor in mid-December 1974, this provision was strengthened by the enactment of the famous "Jackson Amendment" (with the final language affirming the right of emigration thus widely referred to as the "Jackson-Vanik Amendment"). Although strongly opposed by the Ford Administration as an impediment to détente with the Soviet Union, and Jackson Amendment was introduced in the Senate with 78 co-sponsors.[39] Significantly, it received a unanimous vote after a lengthy (if entirely one-sided) floor debate.[40] The three current members of this Committee who served in the Senate at the time were co-sponsors of the Jackson Amendment[41] and voted for its passage.[42]

In testimony before this committee, the legendary Hans J. Morgenthau, at the time Leonard Davis Distinguished Professor of Political Science at the City University of New York, characterized the right of emigration as "one of the tests of civilized government."[43] Senator Dole termed it a "fundamental freedom," and described the Soviet requirement that citizens seeking to emigrate first pay a "diploma tax" to reimburse the State for its investment in their education as being in conflict with "America's traditional concern for the rights of individuals."[44] Addressing the Senate following passage of his amendment, Senator Jackson noted that the "fundamental human right to emigrate" was guaranteed "in the Universal Declaration of Human Rights which was adopted unanimously 26 years ago this week."[45] As enacted into law (19 U.S.C.A. §2432), the provision provides in part: §2432. Freedom of emigration in East-West trade. . . . (a) To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of law, on or after . . . January 3, 1995, products from any nonmarket economy country shall not be eligible to receive nondiscriminatory treatment (most-favored-nation treatment), such country shall not participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly, or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

(1) denies its citizens the right or opportunity to emigrate;

(2) imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever, or

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice,

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).[46]

Even if you conclude that the proposed exit tax is not in conflict with the terms of the Covenant on Civil and Political Rights, it strikes me that—given in particular this Committee's and the Senate's unanimous support for the Jackson-Vanik Amendment—careful consideration ought to be given to whether this proposal complies with that standard as well.

RECONCILING THE PROPOSED US "EXIT TAX" WITH JACKSON-VANIK

Subjectively, of course, all of us can presumably agree that there is a substantial difference in the motivation behind the proposed US "exit tax" and the impediments placed in the path of Soviet Jews (and others) in the early 1970s designed clearly to discourage emigration (especially by dissident Jews to Israel). The United States understandably does not wish to lose the substantial sums in tax revenues which the Treasury Department projects could be lost if especially wealthy US citizens elect to renounce their citizenship and emigrate to foreign points.

While one might normally view this as a "political" problem for Congress to factor in to the drafting of the tax laws—how to extract maximum tax revenues from the wealthy without exceeding the point that the "geese that lay the golden eggs" will fly off to find a more hospitable environment in which to do business[47]—there are obvious political attractions to the exit tax approach. Presumably few constituents will be directly affected by this legislation (and "soaking the rich" is not all that unpopular with many Americans of more ordinary means in these troubled times), and in order to be subject to the special "tax" an individual will have to renounce his or her American citizenship—in the process surrendering their right to vote in any case. One can see how this might have appeared to be a virtually cost-free (from a political standpoint) way to raise a couple of billion additional dollars over the next five or six years.[48]

From the standpoint of International Law, however, it may be more difficult to make the distinction between the old Soviet practice of charging a special "diploma tax" to compel citizens who wish to emigrate to compensate the State for its investment in their education, and the proposed US "exit tax" designed to compel citizens who wish to emigrate to compensate the State for income taxes they would likely eventually owe if they remained citizens. (It would not be illegal under these rules of International Law for the United States to tax unrealized capital gains annually, or for the Soviets to charge a fee for providing an education—the legal issue arises when people who seek to emigrate are treated less favorably than others because of their decision to exercise their legal right to emigrate.)

To be sure, we can probably agree that the old Soviet regime was made up of "bad guys," and our own government is much "nicer." Even as many of us search around for professional assistance in reducing our own tax liabilities, it is probably true that most Americans have a visceral antipathy for "tax dodgers." Nor do many of us identify very closely with individuals who would voluntarily renounce their American citizenship as a means of reducing tax liability. While it may be in part that our relatively more limited liability makes their decision difficult to comprehend, I like to think that most of us view our status as American citizens as among our most cherished rights. Many of us still recall Sir Walter Scott's moving words, as we read them in high school in Hale's "A Man Without a Country":

Breathes there the man, with soul so dead,
Who never to himself hath said,
This is my own, my native land!
Whose heart hath ne'er within him burn'd
As home his footsteps he hath turn'd
from wandering on a foreign strand!
If such there breathe, go, mark him well;
For him no Minstrel raptures swell;
High though his titles, proud his name,
Boundless his wealth as a wish can claim;
Despite those titles, power, and pelf,
the wretch, concentered all in self,
Living, shall forfeit fair renown,
And, doubly dying, shall go down
to the vile dust, from whence he sprung,
Unwept, unhonor'd, and unsung.[49]

I suspect that the outcry from your constituents over the proposed exit tax—even if it is perceived as nothing more than an effort to "stick it to rich expatriates"—is not likely to be very considerable.

CONGRESS MAY BY STATUTE VIOLATE INTERNATIONAL LAW

Perhaps I should make one additional point. The United States belongs to the dualist school and views municipal and international law as being separate, if often interrelated,[50] legal systems. United States courts will thus first attempt to reconcile the language of apparently inconsistent statutes and treaties, but if that proves unreasonable, they will apply the "later in time" doctrine (lex posterior derogat priori) and give legal effect to the instrument of most recent date.[51] The theory underlying this policy is that treaties and statutes have a co-equal standing as "supreme law of the land,"[52] and the lawmaking authority—be it the two chambers of the Legislative Branch acting with the approval (or over the veto) of the Executive,[53] or the Executive acting with the consent of two-thirds of those Senators present and voting[54]—is presumed to know the existing law when it acts and to intend the logical consequences of its actions. Thus, if the Congress enacts the provision in question and it is subsequently challenged as contrary to the nation's solemn treaty commitments, American courts will not strike down the statute because of the treaty. Similarly, while some scholars quarrel with the rationale,[55] the oft-cited 1900 Supreme Court case of The Paquete Habana held that customary international law ("the customs and usages of civilized nations") is part of US law "where there is no treaty and no controlling executive or legislative act or judicial decision. . . ."[56] Furthermore, while the recently ratified Covenant clearly creates a solemn legal obligation upon the United States under International Law, it is not self-executing[57] and thus will not be implemented by US courts in the absence of independent legislative authority.[58]

However, this is not to say that Congress has the legal power to relieve the United States from its solemn treaty obligations under International Law. On the contrary, no such right exists (unless the relevant treaty provides for termination by act of a national legislature), and if the Congress elects to approve a statute that is contrary to the Covenant it will make the United States a lawbreaker.

To be sure, Congress in the past has on occasion enacted legislation which placed the Nation in such a status.[59] Such a decision has consequences, however. Not only might other treaty Parties have available meaningful remedies under International Law,[60] but violations of International Law by the United States contributes to a lack of respect for the rule of law in general and greatly undermines the ability of the United States to pressure other States to comply with such rules. Thus, in particular when the issue involves solemn undertakings in the area of international human rights, one would hope that legislators would be careful to avoid even the appearance of breaching provisions of a treaty.

CONCLUSION

Mr. Chairman, as I indicated when I began, I did not come here this morning with the intention of taking a definitive position on this legislation on the merit. Because the invitation to take part in the hearing came with such short notice, I have not been able to analyze the issue to the extent I might have wished. The comments which follow are offered with more than a little hesitation and uncertainty.

I have primarily tried to set forth the basic international legal rules in my testimony, and I suspect that honorable men and women might reach different conclusions when applying those rules to this bill. I came into the hearing with some reservations, but it may be that after I have heard other perspectives I will be less concerned about the compatibility of the "exit tax" with Article 12 of the Universal Covenant on Civil and Political Rights.

Even if that occurs, however, it still leaves us with the perhaps more difficult problem of reconciling this tax with the spirit and language of the 1974 Jackson-Vanik Amendment. I'm not going to pre-judge that issue for you, either, other than to say that I personally find it somewhat more troubling. If this were merely a statute providing that citizens must "pay their lawful taxes" before they may renounce their citizenship and move to a foreign State they find more attractive, I think it could pass legal muster with little difficult.[61] But I'm not sure that's the situation. You understand the tax system far better than I do, and I will defer to your expertise in the final analysis.

As I stressed at the beginning, I am not even arguably an authority on the tax code; but it is my initial impression that the proposed "exit tax" is designed to impose an immediate and substantial financial burden upon citizens—on the specific and expressed grounds that they have elected to renounce their citizenship and emigrate—and that this is a burden that would not be imposed upon otherwise identically situated citizens who elected to remain American citizens (and did not elect to sell or dispose of their property or take other action that would realize capital gains liability).

If that is true, in all candor, I think I would want my money "upon front" if I were asked to argue before an international tribunal that the proposed US exit tax complies with the spirit of the Jackson-Vanik Amendment—which no less an authority that the United States Congress argued reflected the minimal requirements of International Law two decades ago. (I think I would base my Jackson-Vanik case upon the technicality that the United States is not covered because it does not have a "non-market economy"—but the underlying rule of customary international law is not so qualified and could not be evaded by that consideration. Trying to argue that international human rights standards have declined since 1974 would clearly not pass the "straight face" test.)

I have not had time to research the issue, but my recollection is that in the recent past, Congress—or at least many members of Congress—have pressured the Executive to apply the Jackson-Vanik principle to trade with the People's Republic of China. Certainly many members continue to feel passionately about human rights issues, and to urge the President to identify and put pressure on other States who fail to comply with fundamental treaty norms in this important area. Unless someone can do a better job that I have in distinguishing an exit tax targeted at "rich Americans" from one aimed at "educated Jews," however, you may find as a practical matter that you will need to make a choice between enacting this provision and attempting in the years ahead to uphold the Jackson-Vanik Amendment and similar human rights norms. If this provision is enacted into law, I believe the odds are good that future US protests calling upon China, Iraq (which last month imposed an exit tax of its own to curtain the flow of capital), Iran, and other flagrant human rights violators to comply with the provisions of the Covenant on Civil and Political Rights will receive in reply a reference to American "violations" of Article 12.

Mr. Chairman, that concludes my prepared statement. I will be happy to attempt to answer any questions you or your colleagues might have.

FOOTNOTES

[1] Inter alia, this provision would amend the Internal Revenue Code by adding this language: If any United States citizen relinquishes his citizenship during a taxable year, all property held by such citizen at the time immediately before such relinquishment shall be treated as sold at such time for its fair market value and any gain or loss shall be taken into account for such taxable year.

That the "exit" is designed to affect a relatively small portion of the population is clear from the fact that the first $600,000 of gross income is excluded from this provision. According to the State Department 697 US citizens expatriated in 1993 and 858 the following year. "It is not yet known how many of these former citizens, if any, will be subjected to tax under section 877." Joint Committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1996 Budget Proposal 17 n.6 (Feb. 17, 1995). The fact that the Treasury Department anticipates more than $2 billion in additional revenues from this provision by FY 2000 suggests either that many expatriates will be covered or that the few covered will be hit with rather substantial additional tax bills under this provision. See infra, note 48.

[2] See, e.g., Eisner v. Macomber, 252 U.S. 189, 214–15 (1920).

[3] The Dialogues of Plato 217 (7 Britanica Great Books of the Western World, 1952). See also, Jeffrey Barist et al., Who May Leave, 15 Hofstral L. Rev. 381, 384 (1987).

[4] By coincidence, I discussed this issue in my prepared testimony before the Senate Judiciary Committee Subcommittee on the Constitution on 5 October 1994 (page 2–3 of original text), which has not yet, to my knowledge, been published.

[5] Id. at 4, and Barist et al., Who May Leave, 15 Hofstral L. Rev. at 384.

[6] Expatriation Act of 1868, 15 Stat. 223 (1868).

[7] 8 U.S.C. §1481, quoted in 87 Am. J. Int'l L. 601 (1993).

[8] Richards v. Secretary of State, 752 F.2d 1413 at 1422 (1985).

[9] Statute of the International Court of Justice, Art. 38. While customary law may over time replace a rule established by treaty, and the general goal is to ascertain the most recent expression of the consent of the parties (thus a more recent customary practice accepted as law (opinio juris) may prevail over a prior treaty), it is probably accurate to observe that, where a relevant treaty exists between the parties to a dispute, the terms of the treaty will provide at least the starting point for resolution of the dispute. However, the principle that "the specific prevails over the general" (lex specialis derogat generali) may well lead to a narrow customary practice prevailing over a more general treaty obligation.

[10] However, a UNGA resolution expressing legal principles approved by an overwhelming vote of Member States may serve as powerful evidence of the existence of a legally-binding international custom.

[11] 19 Dep't State Bull. 751 (1948).

[12] Report of the Senate Committee on Foreign Relations on the International Covenant on Civil and Political Rights, reprinted in 31 Int'l Leg. Mats. 645 (1992).

[13] A possible exception is the first Declaration specifying that the Covenant is Non-Self-Executing. Id. at 651.

[14] Report of the Senate Committee on Foreign Relations on the International Covenant on Civil and Political Rights, supra at 649 (p. 3 of OT).

[15] Preamble, 6 Int'l Leg. Mats. 368 (1967).

[16] Art. 12, id. at 372.

[17] The Movement of Persons Across Borders 76 (Louis B. Sohn & Thomas Buergenthal, eds.

[18] *Id.* at 79.

[19] *Id.* at 82.

[20] *Id.* at 81, quoting Article 6 of the 1989 Strasbourg Declaration on the Right to Leave and Return (prepared by a group of international experts under the auspices of the International Institute of Human Rights).

[21] International Covenant on Civil and Political Rights, Art. 12.

[22] Barist *et al., Who May Leave,* 15 Hofstra L. Rev. at 389.

[23] *Id.* at 389, 394.

[24] The International Bill of Rights: The Covenant on Civil and Political Rights 24 (Louis Henkin, ed. 1981), *quoted in* Barist *et al., Who May Leave,* 15 Hofstra L. Rev. at 395.

[25] Barist *et al., Who May Leave,* 15 Hofstra L. Rev. at 396.

[26] *Id.* at 406.

[27] 660 U.N.T. S. 194.

[28] 14 Intl'L Leg. Mats. 1292 (1975).

[29] To constitute binding international customary law, a rule must reflect "a general practice" that has been "accepted as law" (*opinio juris*). *See* Statute of the International Court of Justice, Art. 38 (1)(b).

[30] UNGA Res. 217 A (III), 3 UNGAOR 71, UN Doc. A/810 (10 Nov. 1948).

[31] Note to follow.

[32] Some rules of International Law are of such fundamental importance that they are considered "peremptory norms" *(jus cogens)* and bind all States irrespective of consent. A thorough discussion of this issue is precluded by the short time available to prepare this testimony. Some human rights principles have this status—it is doubtful that this is one of them. The issue is of only academic interest given the strong statement of the right to emigrate as constituting binding International Law contained in the Jackson-Vanik Amendment to the 1974 Trade Act (discussed below). Thus, the United States could hardly protest that it is not bound by this rule and claim to have protested against its creation.

[33] *Jus congens* rules (discussed *supra*) bind all States, and newly-formed States are bound by all rules of customary law in existence when they are created.

[34] In reality, a strong case can be made that the Soviet Union was bound by this provision of the *Declaration* in 1974. Among other things, abstention in the General Assembly does not constitute an adequate "protest" to protect against being bound (although it does not constitute "consent" either). The following year the issue was arguably resolved when Moscow signed the Helsinki Accords (which, as discussed *supra*, incorporated the text of the *Declaration.)* While the Helsinki Accords were not designed to be legally binding in themselves, Moscow's acceptance of the principles of the *Declaration* would undercut any Soviet claim that it objected to these principles as *customary* law.

[35] *See, e.g.*, Senate Report No. 93–1298 (Committee on Finance), *reprinted in* 4 U.S. Code Congressional & Admin. News 7338 (93d Cong., 2d Sess., 1974) (hereinafter cited as Finance Committee Report).

[36] This amendment, introduced by Representative Charles Vanik, was approved on the House floor on 11 December 1974 by a vote of 319–80. *See* 120 Cong. Rec. 39782 (1974).

[37] Finance Committee Report at 7213.

[38] *Id.* at 7338.

[39] 120 Cong. Rec. 39782 (1974).

[40] *Id.* 39806. The final vote was 88–0, with 12 Senators absent. All but two or three of the absent Senators were co-sponsors of the amendment.

[41] *Id.* at 39782.

[42] *Id.* at 39806

[43] 120 Cong. Rec. 39787.

[44] *Id.* at 39802.

[45] *Id.* at 39806.

[46] Trade Act of 1974, 19 U.S.C.A. §2432 (emphasis added).

[47] While I claim no special expertise on matters of finance or tax policy, I was impressed with Forbes magazine editor James W. Michaels' observation that "It's not that legislators sympathize with rich tax dodgers. It's that they realize it's time to worry less about soaking the rich and more about changing the tax code to make the country more hospitable to the capital that produces jobs and economic growth." James W. Michaels, "You can't take it (all) with you," Forbes, 13 March 1995, p. 10.

[48] The Treasury Department estimates that this provision will produce $2.2 billion in additional tax revenues between FY 1995 and FY 2000. Department of the Treasury, General Explanations of the Administration's Revenue Proposals 17 (Feb. 1995).

[49] Sir Walter Scott, The Lay of the Last Minstrel, canto VI, st. 1.

[50] As will be discussed, treaties are a part of the "supreme law of the land" and customary international law "is part of our law" too. The monist school views international law to be superior to municipal law in a single legal system.

[51] See, e.g., Whitney v. Robertson, 124 U.S. 190 (1888).

[52] US Const. Art. VII

[53] Id. Art. I, Sec. 7.

[54] Id. Art. II, Sec. 2.

[55] See, e.g., Louis Henkin, The Constitution and United States Sovereignty, 100 HARV. L. REV. 853 (1987).

[56] Note to follow.

[57] For a discussion by Chief Justice Marshall of the distinction between self-executing and non-self-executing treaties, see Foster and Elam v. Neilson, 27 U.S. (2 Pet.) 253 (1829).

[58] Note to follow.

[59] This sometimes occurs inadvertently when legislation is considered by members who are simply unaware of a conflicting treaty provision (as may be the case in this Committee's approval of the statute being considered in this hearing), but it also occurs occasionally even after the conflict with a treaty has been identified. An example of this that comes readily to mind was S-961, the "Magnuson Fisheries and Conservation Act," passed around 1976. See the minority views of my former employer, Senator Robert P. Griffin, included in the Foreign Relations Committee's report on this bill for a discussion of this problem.

[60] These may range from judicial settlement to reciprocal breach or simply the "horizontal enforcement" of retorsionary behavior to pressure our Country to observe its solemn international legal obligations (pacta sunt servanda).

[61] The Department of State, for example, has warned that "Persons considering renunciation [of US citizenship] should also be aware that the fact that they have renounced U.S. nationality may have no effect whatsoever on their U.S. tax or military service obligations." 87 AM. J. INT'L L. 602 (1993).

PREPARED STATEMENT OF JAMISON S. BOREK

Thank you Mr. Chairman and Members of the Committee. I am here today to address the question whether section 5 of H.R. 831 as reported by the Senate Committee on Finance raises legal questions concerning international human rights.

The proposal in section 5 would effectively require payment of taxes by U.S. citizens on gains, if they have such gains, if they elect to renounce U.S. citizenship, by treating this as equivalent to a realization of gains (or losses) by sale. The proposal would only apply to gains in excess of $600,000; it would not apply to U.S. real property owned directly, nor to certain pension plans.

It has been suggested by some that this proposal would violate the right to leave the territory of a state (including one's country of nationality) or the right to change one's citizenship as recognized in international human rights law. In our view, however, this tax proposal does not conflict with these or any other international human rights.

Section 5 is not an "exit tax". It does not apply to the act of emigration and is wholly unrelated to travel. Rather, it applies at the time an individual renounces U.S. citizenship. Based on past experience, the proposal is most likely to affect U.S. citizens who have already departed from the United States. It is well established, nonetheless, that a state could impose economic controls in connection with departure as long as such controls do not result in a *de facto* denial of an individual's right to emigrate.

Similarly, a claim of violation of the right to renounce citizenship could only be made where that right is effectively denied. There is no international law right to avoid taxes by changing citizenship. Section 5 would impose taxes comparable to those which U.S. citizens would have to pay were they in the United States. It is a bona fide means of collecting taxes on gains which have already accrued. It is not a pretext to keep people from leaving, and it is not so burdensome as effectively to preclude change of nationality or emigration. It applies only to gains, and only when these gains are in excess of $600,000.

In short, it is the view of the Department of State that this proposal does not raise any significant question of interference with international human rights.

I hope that this information is helpful to the Committee.

UNIVERSITY OF VIRGINIA,
Charlottesville, VA; March 20, 1995.

LESLIE B. SAMUELS,
Assistant Secretary of the Treasury for Tax Policy, U.S. Department of the Treasury.

DEAR MR. SAMUELS: I have been asked to offer an opinion as to whether the Administration's proposal to treat the renunciation of U.S. citizenship as a realization event with respect to wealthy taxpayers presents any problems under international law, particularly in light of the position the United States has taken in the past with respect to the freedom to emigrate. As I find myself in the unusual position of being a specialist in international law, U.S.-Soviet relations, and federal taxation, I am happy to do so.

The Jackson-Vanik Amendment to the Trade Act of 1974 and the 1975 Helsinki Accords both express a strong U.S. stand in favor of the freedom of people of emigrate free of more than "a nominal tax," 19 U.S.C. §2432(a)(2), and there is substantial authority for the proposition that the international law of human rights incorporates the obligation to refrain from erecting such impediments to emigration. But it is critical to recognize the distinction between the right to travel, on the one hand, and the right to change one's citizenship status, on the other. Emigration necessarily involves the former, but not necessarily the latter. The human rights concerns that dominated our encounters with the Soviet Union and other totalitarian regimes during the 1970s and 1980s were based on violations of the right to travel. Those governments treated their borders as the perimeter of a prison and their citizens as prisoners. The so-called education tax that the Soviet Union threatened to impose on emigrants, which inspired the above cited language in the Jackson-Vanik Amendment, was triggered by a request to travel abroad, not by an attempt to renounce Soviet citizenship. Whether the communist regimes also made it difficult to surrender citizenship was a matter of indifference to us. Indeed, many authorities believed that the Soviet Union and other governments violated international law by making it too easy to lose one's citizenship, as they did when they imposed involuntary loss of citizenship as a form of punishment for political dissent (*e.g.*, the case of Aleksandr Solzhenitsyn).

The Administration's proposal, as I understand it, has absolutely no effect on the right of a citizen to travel abroad. It is triggered only by a change of citizenship status, not by the crossing of the country's borders. The reason for this distinction is clear when one considers how U.S. tax rules operate. Whether a citizen resides within or without the United States, the obligation to pay tax on appreciation of assets remains the same. Any gain realized and recognized during life will result in an income tax. Any unrealized appreciation that remains at death will not be subject to an income tax, but instead will subject the decedent to the estate tax. To be sure, the federal estate tax is not an exact substitute for an income tax at death on unrealized appreciation, both because only wealthy persons (those with assets in excess of $600,000, assuming no taxable gifts during life) are subject to the estate tax, and because the taxable estate includes both realized and unrealized appreciation. But I am not alone in having pointed out that the estate and gift tax, in practice, serve as a reasonable approximation for the income tax that could be levied on unrealized appreciation at death.

All of the above turns on citizenship, not on residence. A U.S. citizen who resides abroad will have to include in his tax base any gain realized from the disposition of an asset, see Cook v. Tait, 265 U.S. 47 (1924), will pay a federal gift tax on any taxable gift during his life, no matter where the asset is located, and will include all of his worldwide assets in his taxable estate at death. By contrast, a citizen who severs the bond of citizenship and does not continue to reside in the United States will pay neither income, gift, nor estate tax (except as U.S.-sourced income and, for the estate and gift tax, transfers of certain property sourced to the United States). The change of citizenship status, not of residence, is what matters for U.S. tax law. Current law recognizes the significance of changes in citizenship by subjecting nonresident aliens who lose U.S. citizenship for tax avoidance reasons to a special alternative income tax, see Internal Revenue Code Section 877. Section 2107 imposes a similar result with respect to the estate tax, and 2501(a)(3) with respect to the gift tax. What the Administration proposal would do, as I understand it, is replace the unworkable tax avoidance standard of Sections 877, 2107 and 2501(a)(3) with a per se rule that applies to any person with sufficient assets to make future estate taxation a probability. An analogous provision is Section 367 of the Code, which denies nonrecognition treatment in certain corporate reorganizations if the recipient of appreciated property is a foreign corporation. I never have heard the argument that the latter provision imposes an impermissible burden on the right of a domestic corporation to export its capital.

In summary, the international law of human rights is concerned with restrictions on the right to leave one's country, not those on the right to renounce one's citizenship. To the extent human rights law deals with citizenship status, it addresses involuntary denials of citizenship, not burdens triggered by the renunciation of citizenship. Furthermore, the proposed measure is not a tax on the export of capital as such, but rather a logical part of a comprehensive scheme to ensure that all appreciation of capital owned by a U.S. citizen eventually will be subject to a U.S. tax, whether income, gift, or estate. For these reasons, it is inconceivable to me that the Administration's proposal could be seen as violating international human rights law.

To be sure, there are few positions with respect to customary international law that cannot obtain the support of at least some jurists. Last Saturday, while passing through Pittsburgh's airport, I ran into my former student, Bob Turner, who informed me of his intention to testify before the Senate Finance Committee to the effect that the proposal did raise problems under international law. As I told him at the time, I found his arguments unconvincing. However, I am responsible only for Bob's education in Soviet law, not in international or tax law.

I hope this letter is useful. Please feel free to make whatever use of it you wish.

Sincerely,

PAUL B. STEPHAN III.

ONE INTERNATIONAL PLACE,
BOSTON, MA, *March 20, 1995.*

Hon. BOB PACKWOOD,
Chairman, Committee on Finance,
U.S. Senate,
Washington, DC.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN PACKWOOD AND SENATOR MOYNIHAN: I would like to comment on the provisions of Section 5 of H.R. 831 as reported by the Committee on Finance (the "Committee Bill").

I am a partner in the law firm Ropes & Gray in Boston, where I practice international tax law on behalf of U.S. and non-U.S. corporate and individual clients. Prior to joining Ropes & Gray, I served as International Tax Counsel to the U.S. Treasury Department. Altogether, I served in the Treasury Department for five years during the Reagan Administration.

Although I am Vice Chairman of the American Bar Association Section of Taxation's Committee on Foreign Activities of U.S. Taxpayers and an active member of several other bar and professional associations, my comments are not made as a representative of Ropes & Gray or any of its clients, the American Bar Association Tax Section or any of the other bar or professional associations of which I am a member. My comments are directed exclusively to tax policy aspects of the proposal in the Committee Bill to amend the Internal Revenue Code of 1986, as amended, by adding proposed Section 877A.[1] Subject to certain technical comments referred to below, I strongly support enactment of proposed Section 877A.

DESCRIPTION OF CURRENT LAW

The United States exercises personal jurisdiction to tax individuals by taxing the worldwide income of U.S. citizens (whether or not resident or domiciled in the United States) and residents.[2] A U.S. taxpayer may elect to credit foreign income taxes against his U.S. tax, subject to a limitation that applies with respect to categories of foreign source income to restrict the credit to the amount of U.S. tax paid with respect to income in that category.

The United States asserts a source-based tax on nonresident aliens.[3] Nonresident aliens are taxed on the gross amount of U.S.-source interest, dividends, rents, and other fixed or determinable income at a flat rate of 30 percent (or a lower treaty rate). This tax generally is collected by withholding. A nonresident alien is taxed at regular graduated rates on income that is effectively connected with a U.S. trade or business, less deductions that are properly allocable to the effectively connected income. A nonresident alien individual is allowed a foreign tax credit under Section 906 only for foreign taxes paid with respect to income effectively connected with a U.S. trade or business.

Under current law, the only income tax provision governing a change from citizenship to non-citizenship status is Section 877, first enacted in 1966. Under Section 877, a U.S. citizen who relinquishes his U.S. citizenship with a principal purpose to avoid Federal income tax is taxed either as a nonresident alien or under an alternative taxing method, whichever yields the greater tax, for 10 years after expatriation. For purposes of determining the tax under the alternative method, gains on the sale of property located in the United States and stocks and securities issued by U.S. persons are treated as U.S.-source income, taxable at rates applicable to U.S. citizens.[4]

Whether tax avoidance is a principal purpose for the expatriation is determined by all of the relevant facts and circumstances. If the I.R.S. establishes that it is reasonable to believe that the loss of U.S. citizenship would result in a substantial reduction in the taxpayer's income taxes for the year (taking account of U.S. and foreign taxes), the burden of proving that the loss of citizenship did not have tax avoidance as one of its principal purposes is on the taxpayer. This presumption is rebuttable.[5]

A foreign tax credit is not allowed for foreign taxes on income that is deemed to be U.S.-source income under the alternative method. The effect of the source rules generally is to transform foreign income that would not be effectively connected income into U.S. gross income. Because Section 877(c) does not cause the income to be effectively connected income, the Section 906 foreign tax credit will not apply. Any foreign taxes imposed on the income re-sourced under Section 877(c) therefore would give rise to double taxation.

The so-called savings clause found in most modern income tax treaties generally provides that the United States may tax its citizens and residents as though the treaty had not come into effect.[6] Although the I.R.S. has published a revenue ruling taking the position that the savings clause preserved U.S. taxation of former citizens taxable under Section 877,[7] the Tax Court held in *Crow* v. *Commissioner*, 85 T.C. 376 (1985), that the savings clause of the 1942 United States-Canada Income Tax Convention did not apply to a former citizen who, it was assumed for purposes of deciding petitioner's motion for summary judgment, expatriated to Canada for a principal purpose of avoiding United States tax. The Court found that, properly interpreted, the Convention prohibited the United States from taxing the taxpayer's capital gain from the sale of stock under Section 877. Based on the *Crow* decision, it is doubtful whether the United States may tax a treaty resident under Section 877 on income that a treaty reserves for taxation by the country of residence unless the treaty specifically preserves the U.S. right to tax a Section 877 expatriate.

Current U.S. treaty policy is to cover Section 877 expatriates under the savings clause to permit the United States to tax income or gains of a Section 877 expatriate who is resident in the treaty partner country notwithstanding other articles of the treaty.[8] Even where the savings clause covers taxation of an expatriate under Section 877, the coverage may be less than complete.[9]

It does not appear that treaties remedy the failure of the domestic law foreign tax credit mechanism to avoid double taxation under Section 877. For example, the 1980 Convention between the United States and Canada allows the United States to impose tax on gains from the sale of stock in a U.S. company realized by a Section 877 expatriate who is resident in Canada.[10] Canada also would be allowed to tax the gains.[11] For purposes of applying the foreign tax credit provisions of the Convention, the gains from the sale of stock would be treated as Canadian-source income,[12] however, the United States does not commit to allow a credit for the Canadian tax.[13]

DEFICIENCIES OF CURRENT LAW

The reason for enactment of Section 877 in 1966 was that the elimination of graduated rates with respect to non-effectively connected income of a nonresident alien could encourage some individuals to surrender their U.S. citizenship and move abroad. The 89th Congress did not have any experience as to whether the other changes in taxation of nonresident aliens made by the Foreign Investors Tax Act of 1966 would induce expatriations and chose to employ a tax avoidance purpose condition to the application of Section 877.

The facts of the Furstenberg case, in which the Tax Court found that the taxpayer's expatriation did not have tax avoidance as a principal purpose, illustrate why a tax avoidance purpose standard is ill-advised. To satisfy a commitment made before her marriage to her new husband, Mrs. Furstenberg renounced her U.S. citizenship immediately after her honeymoon on December 23, 1975. As a result of the Tax Court's decision that Section 877 did not apply, it appears that Mrs. Furstenberg paid no U.S. tax on as much as $9.8 million of capital gains from selling securities owned at the time of her expatriation in the two years following her expatriation.

There is ample precedent for a U.S. claim to tax appreciated assets at a time when the asset will no longer be subject to U.S. personal taxing jurisdiction. Under sections 367 and 1491, the United States overrides otherwise applicable nonrecognition rules in order to tax transfers of appreciated assets to foreign entities. It is accepted that this principle should apply in circumstances where there is no actual transfer of an asset, for example, upon the termination of an election by a foreign corporation to be treated as a domestic corporation under section 1504(d) or when a foreign trust ceases to be a grantor trust with a U.S. grantor. Amendments in 1984 to sections 367 and 1492 deleted exceptions to taxation of such outbound transfers where the taxpayer could establish that the transfer did not have as one of its principal purposes the avoidance of Federal income taxes. The principal purpose test similarly should be deleted from Section 877.[14]

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[1] Footnotes at end of letter.

A second difficulty with current Section 877 relates to the assertion of U.S. taxing jurisdiction after the taxpayer has renounced U.S. citizenship. At that point, the taxpayer may be resident in another taxing jurisdiction that may rightfully feel that it has the primary right to tax gains of a resident from the sale of tangible property (other than real estate in another country) and intangible property. It is not surprising that there may be disagreement as to which country should be considered to have the primary right to tax. A tax imposed at the time of expatriation, however, would accurately delineate gains properly subject to U.S. taxing jurisdiction. This would improve the position of the United States if it asks treaty partners to increase a taxpayer's basis in property taxed by the United States on expatriation for purposes of taxation by the treaty partner. If taxation at the time of expatiation is adopted, I would urge the Treasury to take such a position in treaty negotiations.

A third problem with current Section 877 is that it is easily avoided. I quote from a 1993 article published in Tax Notes International:

"Even for those nonresident former U.S. citizens with substantial U.S. assets and income, there are techniques that can greatly reduce the impact of the anti-abuse rules by converting U.S. income and assets into foreign income and assets or by deferring income and taxable transfers until after the 10-year period under the anti-abuse rules has expired.

For example, consider the plight of a tax-motivated former U.S. citizen living abroad and owning a portfolio of U.S. stocks and bonds. Without taking any measures, such a person would be subject to U.S. income tax on interest, dividends and capital gain from the portfolio and would be subject to a U.S. estate and gift tax on taxable transfer of assets in the portfolio. Such an individual could, however, transfer the portfolio to a foreign corporation that is not engaged in a U.S. trade or business with drastically more favorable results.

For income tax purposes, the foreign corporation would itself be taxed in the same manner as an NRA who had never been a U.S. citizen (i.e., gross U.S.-source dividends would be subject to a flat 30-percent-or-lower withholding tax, certain types of U.S.-source interest would be subject to a similar flat withholding tax while other types of U.S.-source interest would be exempt under the portfolio interest or other exemptions and capital gains would be exempt from tax unless real estate related).

While a sale of stock in the foreign corporation by the former U.S. citizen would be treated as taxable U.S.-source income under the anti-abuse rule, as sale of the U.S. stocks and securities in the portfolio by the foreign corporation would not. Moreover, dividends by the foreign corporation to its shareholders would be foreign-source, and therefore free from U.S. tax, even if the foreign corporation's earnings out of which it pays the dividends are U.S.-source interest, dividends, and capital gains." (Footnotes omitted.)[15]

In light of the increasing sophistication of taxpayers, it is not surprising that the easy pickings of tax-motivated expatriation are too tempting for some to resist. Based on informal discussions with the State Department, and Staff of the Joint Committee on Taxation has reported that 697 citizens expatriated in 1993 and 858 in 1994.[16] There is evidence that some of these expatriations will result in substantial revenue loss as a result of the infirmities of current Section 877. It is time to amend the law to address current realities.

DESCRIPTION OF PROPOSED SECTION 877A

Under the Committee Bill, a U.S. citizen who relinquishes U.S. citizenship generally would be treated as having sold all of his or her property at fair market value immediately prior to relinquishing citizenship and gain or loss from the deemed sale would be subject to U.S. income tax. In addition, the deferral of tax or income recognition (e.g., due to the installment method) would terminate on the date of the deemed sale and the deferred tax would be due and payable on that date.

Generally property interests that would be included in the individual's gross estate under the Federal estate tax if such individual were to die on the day of the deemed sale, plus certain trust interests that are not otherwise included in the gross estate, would be taxed on the expatriation date. The first $600,000 of net gain recognized on the deemed sale would be exempt from tax. If a taxpayer were determined to hold an interest in a trust for purposes of Section 877A, the trust would be treated as though it sold the taxpayer's share of assets of the trust and the proceeds were distributed to the taxpayer and recontributed to the trust.

U.S. real property interests, which remain subject to U.S. taxing jurisdiction in the hands of nonresident aliens, generally would be excepted from the proposal.[17] Certain interests in qualified retirement plans and, subject to a limit of $500,000, interests in foreign pension plans (as provided in regulations) also would be excepted from the deemed sale rule.

A U.S. citizen would be treated as having relinquished his citizenship on the earlier of (i) the date he renounces citizenship before a diplomatic or consular officer, (ii) the date he provides to the State department a signed statement of voluntary relinquishment of citizenship confirming an act of expatriation under the Immigration and Nationality Act, (iii) the date that the U.S. Department of State issues a certificate of loss of nationality, or (iv) the date a court cancels a naturalized citizen's certificate of naturalization. The tax would be due on the 90th day after the expatriation date. The Internal Revenue Service would be authorized to allow a taxpayer to defer payment of the tax for up to 10 years under section 6161 as through the tax were an estate tax imposed by chapter 11.

The Committee Bill's Section 877A would be effective for U.S. citizens who relinquish their U.S. citizenship on or after February 6, 1995. No tax would be due before 90 days after enactment.

ANALYSIS OF PROPOSED SECTION 877A

The Committee Bill meets the three objections to current law Section 877 described above. It deletes the tax avoidance purpose test. It imposes tax on gain determined as of the date a taxpayer relinquishes citizenship and thereby properly measures the gain subject to U.S. personal taxing jurisdiction. As a consequence of these changes it will be more administrable and not subject to easy avoidance.

The Committee Bill also reflects several significant improvements over the text released in the original version of H.R. 981. The definition of when a taxpayer relinquishes citizenship has been modified to relate to the earliest of several substantive acts that manifest an intent to voluntarily relinquish citizenship. This should adequately protect taxpayers who have relied on current law. The I.R.S. authority to extend the time to make payment of the tax is expanded to permit deferral of up to 10 years under rules that are commonly used in the estate tax context. These changes are welcome.

I suggest another modification to the Committee Bill. I recommend that an alien that becomes a naturalized citizen take a "fresh start" fair market basis in his or her assets for purposes of Section 877A. The measuring date for this purpose should be the earliest of (i) the date the alien becomes a naturalized citizen, (ii) the date the alien becomes a resident alien, and (iii) the date the asset is "effectively connected" with a U.S. trade or business of the alien. This measure is important to support the position that the U.S. claim to tax is truly related to its personal or source taxing jurisdiction.

I reserve comment on certain technical aspects of the proposal and would be pleased to work with the Committee staff on the details of final legislation. In particular, I do not comment, without further study, on the approach taken by the Committee Bill to interests in trusts or to the interaction of Section 877A with estate and gift tax rules.

Finally, I respectfully disagree with certain initial criticisms of H.R. 981 in comments prepared by other individual members of the American Bar Association.

The weight of scholarship rejects the view that realization is or should be constitutionally required to tax gains. Since, in my experience, Congress, and this Committee, exercises an appropriate skepticism regarding professorial musings, perhaps the more relevant precedent is that Congress has enacted at least two provisions that tax gains before they are realized. Section 1256 was added to the Code in 1981 and provides that certain regulated futures and foreign currency contracts are marked-to-market on the last day of a taxpayer's taxable year and gain or loss recognized.[18] Section 475, enacted in 1993, requires securities dealers to mark-to-market securities held in inventory on the last day of the taxable year and recognize gain or loss. Moreover, fairness to taxpayers as well as the Government's revenue interests may require that such mark-to-market treatment be expanded to a broader range of circumstances. It would be extremely unwise for this Committee to adopt the holding of Eisner v. Macomber[19] in a way that could be viewed as imposing a constitutionally-based realization requirement.

I also would not in any way equate the imposition by the United States, in 1995, of a tax on its fair share of the appreciation in assets owned by U.S. persons during their period of U.S. citizenship to an exit tax imposed on Jewish and politically motivated emigrants from the Union of Soviet Socialist Republics during the State-sponsored repression of the Brezhnev era. A tax that excludes the first $600,000 of gain can hardly be viewed as a barrier to emigration.

CONCLUSION

The Committee's proposed Section 877A is an improvement over current law, is sound international tax policy and deserves the strong support of your Committee.

Please do not hesitate to contact me if I may be of assistance to the Committee.

Sincerely,

STEPHEN E. SHAY.

FOOTNOTES

[1] Unless otherwise indicated, all section references are to the Internal Revenue Code of 1986, as amended and as proposed to be amended by the Committee Bill.

[2] Taxation on the basis of citizenship is different from the practice of most countries, which is to tax individuals on the basis of residence. The Supreme Court, however, has upheld the constitutionality of taxing a nonresident citizen. Cook v. Tait, 265 U.S. 47 (1924).

[3] A nonresident alien individual is an individual who is neither a U.S. citizen nor a resident alien. Generally, an alien individual is a resident alien for U.S. tax purposes under Section 7701(b) if he or she (1) is a lawful permanent resident of the United States (i.e. holds a green card), or (2) satisfies the "substantial presence" test as a result of being physically present in the United States for a prescribed amount of time.

[4] These same taxing rules also are applied under Section 7701(b)(10) in the case of a resident alien individual who is resident in the United States for three consecutive years, then ceases to be a resident, and subsequently becomes a resident within three years after the close of the initial residency period. This anti-abuse rule protects the U.S. tax base from erosion by a resident alien who transfer residence from the United States for a limited period of time in order to sell a highly appreciated asset and then resumes his or her U.S. residence.

[5] See, e.g., Furstenbert v. Commissioner, 83 T.C. 755 (1985).

[6] See U.S. Department of the Treasury, Proposed Model Convention Between the United States and ______ for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion, Art. 1(3) (1981), reprinted in 1 Tax Treaties (CCH) ¶208 (1994) (hereinafter "U.S. Model Treaty"). An important exception to the saving clause is the obligation of a contracting state to give double tax relief for taxes imposed by the source country.

The savings clause implements the U.S. policy that tax treaties generally are not intended to affect U.S. taxation of U.S. citizens or residents. American Law Institute, Federal Income Tax Project: International Aspects of United States Income Taxation (Proposals of the American Law Institute on United States Income Tax Treaties); 229, N. 606 (1992).

[7] Rev. Rul. 79–152, 1979–1 C.B. 237 (holding that a liquidating distribution would be taxable to a Section 877 expatriate that acquired residence in a treaty country even though the treaty did not preserve U.S. right to tax under Section 877).

[8] See U.S. Department of the Treasury, Proposed Model Convention Between the United States and ______ for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion, Art. 1(3) (1981), reprinted in 1 Tax Treaties (CCH) ¶208 (1994).

[9] The 1993 U.S. treaty with the Netherlands, for example, does not cover Section 877 expatriates who are Dutch nationals. Convention Between the United States of America and The Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income, Art. 24(1).

[10] Convention Between the United States of America and Canada With Respect to Taxes on Income and on Capital ("U.S.-Canada Treaty"), Art XXIX(2).

[11] U.S. Canada Treaty, Art. XIII(4).

[12] U.S.-Canada Treaty, Art. XXIV(3)(b).

[13] See U.S.-Canada Treaty, Art. XXIV(1).

[14] There are a series of exceptions to taxation at the time of transfer under sections 367 and 1491 that are based in substantial part on the fact that the transferring shareholder remains subject to residence-based taxation on property that receives a carryover basis in the exchange for the transferred property. That circumstance is not present in the context of Section 877.

[15] Zimble, "Expatriate Games: The U.S. Taxation of Former Citizens," Tax Notes Int'l (Nov. 2, 1993), LEXIS 93 TNI 211–15.

[16] Staff of the Joint Committee on Taxation, "Description of Revenue Provisions Contained in the President's Fiscal Year 1996 Budget Proposal," Footnote 6 (JCS–5–95, Feb. 15, 1995).

[17] The exception would apply to all U.S. real property interests, as defined in section 897(c)(1), except stock of a U.S. real property holding corporation that does not satisfy the requirements of section 897(c)(2) on the date of the deemed sale.

[18] The Ninth Circuit has passed favorably on the constitutionality of Section 1256, *Murphy* v. *United States*, 992 F. 2d 929 (9th Cir. 1993).

[19] 252 U.S. 189 (1920).

EXHIBIT 2

HARVARD LAW SCHOOL,
Cambridge, MA, March 24, 1995.

Hon. LESLIE B. SAMUELS,
Assistant Secretary (Tax Policy), Department of the Treasury, Washington, DC.

DEAR SECRETARY SAMUELS: Your office has requested my views as to international law implications of the proposed tax on expatriates that would be imposed by section 5 of H.R. 831. You will understand that this is my personal opinion and in no way purports to represent the views of the institution to which I belong. It is also compact in form due to the constraints of time imposed by your legislative schedule and my own impending travel.

The right of expatriation has always been highly valued by the United States, which has defended it against the claims of other nations that refused to let their citizens go. The right to make this choice is the counterpart of the right not to lose one's citizenship except by one's own voluntary choice, a right underlined by opinions of the Supreme Court. However, in my view, the proposed tax does not amount to such a burden upon the right of expatriation as to constitute a violation of either international law or American constitutional law. It merely equalizes over the long run certain tax burdens as between those who remain subject to U.S. tax when they realize upon certain gains and those who abandon their citizen while the property remains unsold.

Furthermore, the proposed tax does not except, in the most indirect way, burden the right to emigrate. It is the right to emigrate rather than the right to expatriate oneself which is the subject of various conventions and of customary international law. As stated in the preceding paragraph, it basically equalizes certain tax burdens. It is not comparable to the measures imposed by such countries as the former Soviet Union and German Democratic Republic which were obviously and intentionally burdens on the right to emigrate.

In arriving at these conclusions I have reviewed various materials such as your statement before the Subcommittee on Taxation and Internal Revenue Oversight, two opinions of the Office of the Legal Adviser, U.S. State Department, the views of Professors Paul Stephan III and Robert Turner and others.

Very truly yours,

DETLEV F. VAGTS,
Bemis Professor of Law.

NEW YORK UNIVERSITY,
SCHOOL OF LAW,
New York, NY, March 27, 1995.

Hon. LESLIE B. SAMUELS,
Assistant Secretary (Tax Policy), Department of the Treasury, Washington, DC.

DEAR MR. SECRETARY: You have asked for my views on section 5 of H.R. 831 presently pending before the U.S. Senate, which as I understand it would impose a capital gains tax on United States citizens who renounce their U.S. citizenship, based on a hypothetical sale of all their property (subject to a deduction) immediately prior to renunciation. In particular, you have asked my view on whether such a tax would be inconsistent with applicable treaties or principles of international law.

STATEMENT OF QUALIFICATIONS

I have been a professor of law at New York University since 1967, specializing in international law and international economic transactions. Prior to joining the faculty of New York University, I served for more than five years in the United States Department of State, as Special Assistant to the Legal Adviser for Economic Affairs, and Deputy Legal Adviser (1961–66). I was an Associate Reporter for the American Law Institute's Restatement (Third) of the Foreign Relations Law of the United States (1979–87), and I served as consultant to the ALI Project on Income Tax Treaties (1988–92).

CONCLUSION

Without taking any position on the desirability of the proposed legislation, I am confident that neither adoption nor enforcement of the provision in question would violate any obligation of the United States or any applicable principles or international law.

ANALYSIS

There is no doubt that international law today recognizes the right to emigrate, and the right to change one's nationality. Article 13(2) of the universal Declaration of Human Rights (1948) states.

Everyone has the right to leave any country, including his own. . .

Article 15(2) states: No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Without here debating the binding character of the Universal Declaration (see "Restatement (Third) of Foreign Relations Law," introduction to Part VII, §701, and notes thereto), it is clear to me that the Congress should not be asked to adopt legislation that runs contrary to principles to which the United States has given and continues to give its support. I do not believe, however, that H.R. 831 is contrary either to the right to emigrate (i.e., change of one's residence) or to expatriate (i.e., change of one's nationality). No prohibition against performing either or both of these acts is contained in the proposed legislation, nor is the tax so burdensome as to be fairly regarded as penal or confiscatory.

Persons who wished to abandon their American Citizenship for reasons of political or religious belief would not be prevented from doing so by H.R. 831. Persons who were considering renunciation of their U.S. citizenship for purposes of reducing their tax liability—whether on income or upon succession at death—might be dissuaded by H.R. 831 from doing so, but I do not believe the effect of the proposed tax could be classified as an arbitrary denial of the right to change one's nationality within the meaning of the Universal Declaration.

I understand that the question has been raised whether H.R. 831 is inconsistent with §402 of the Trade Act of 1974, the so-called Jackson-Vanik Amendment. I am very familiar with the amendment, having written about it in my book "Trade Controls for Political Ends" at pp. 166–190 (2d.ed 1983). I am clear that the amendment was addressed to a quite different purpose, i.e., inducement to Soviet authorities to abandon their restrictions on Jews and some other groups who desired to leave the Soviet Union to escape discrimination and persecution. It is true that one of the restrictions against which the Jackson-Vanik Amendment was directed was taxation; however (i) the Soviet tax was a relatively high tax based not on wealth or income but on the level of education; and (ii) the tax was imposed on emigration, not on change of citizenship or nationality. I have read the prepared statement of Professor Robert F. Turner of March 21, 1995; I find his suggestion that H.R. 831 is somehow inconsistent with the ideals expressed in the Jackson-Vanik Amendment quite unpersuasive, as a matter of history, of purpose, and of law.

On sum, imposition of unreasonable conditions on emigration or change of nationality could be contrary to international law. H.R. 831 imposes no restrictions on emigration; it does impose some conditions on renunciation of United States citizenship, but these conditions are not unreasonable, and therefore not unlawful.

Respectfully submitted,
ANDREAS F. LOWENFELD,
Herbert and Rose Rubin Professor of International Law.

TUFTS UNIVERSITY
THE FLETCHER SCHOOL OF LAW AND DIPLOMACY,
Medford, MA, March 24, 1995.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate.

Re: Tax Compliance Act of 1995, H.R. 981

DEAR SENATOR MOYNIHAN: I am writing to express my serious concern over the proposed "exit tax" included in Sec. 201 of H.R. 981. This concern is based not on an evaluation of its tax consequences, an area in which I am not an expert, but rather on the possible inconsistency of the tax with fundamental international human rights norms and U.S. international legal obligations.

As you know, the U.S. is now a party to the Covenant on Civil and Political Rights, article 12 of which guarantees the right of everyone "to leave any country, including his own." By coincidence, the United States will present its first report on compliance with the Covenant to the Human Rights Committee in New York next week.

Although I understand that the "exit tax" is based on renunciation of citizenship rather than on leaving the country, it is difficult to see how one can "punish" the former without seriously compromising the latter. Indeed, the imposition of confiscatory taxes has been a policy pursued by many countries to discourage emigration, whether on purported national security grounds, specious economic arguments, or to prevent "brain drain;" I address these and other issues in my 1987 book, "The Right to Leave and Return in International Law and Practice" (Martinus Nijhoff).

In 1986, a meeting of eminent American and European legal experts adopted the "Strasbourg Declaration on the Right to Leave and Return," a copy of which I attach for your information. I would particularly draw your attention to article 5, which states, inter alia, that "[a]ny person leaving a country shall be entitled to take out of that country . . . his or her personal property . . . [and] all other property or the proceeds thereof, subject only to the satisfaction of legal monetary obligations, such as maintenance obligations to family members, and to general controls imposed by law to safeguard the national economy, provided that such controls do not have the effect of denying the exercise of the right." The tax in question would not appear to meet these standards.

Without having examined the provisions of Sec. 201 in greater detail, I cannot state definitively that it would violate international law. However, the human rights implications of such a provision appear to be extremely serious, and adoption of the law would seem, at best, to be hypocritical, given the legitimate and consistent U.S. insistence on free emigration from other countries over the years.

I hope that the Senate will examine these issues with great deliberation before it decides to balance the budget on the back of individual rights.

Yours sincerely,
HURST HANNUM,
Associate Professor of International Law.

APPENDIX F

STRASBOURG DECLARATION ON THE RIGHT TO LEAVE AND RETURN

Adopted on 26 November 1986

PREAMBLE

The Meeting of Experts on the Right to Leave and Return,

Recognising that respect for human rights and fundamental freedoms is essential for peace, justice and well-being and is necessary to ensure the development of friendly relations and co-operation among all states;

Recalling that the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination, as well as regional conventions, recognize the fundamental principle, based on general international law, that everyone has the right to leave any country, including one's own, and to return to one's own country;

Emphasizing that the right of everyone to leave any country and to enter one's own country is indispensable for the full enjoyment of all civil, political, economic, social and cultural rights;

Concerned that the denial of this right is the cause of widespread human suffering, a source of international tensions, and an object of international concern;

Adopts the following Declaration:

Article 1

Everyone has the right to leave any country, including one's own, temporarily or permanently, and to enter one's own country, without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, marriage, age (except for unemancipated minors independently of their parents), or other status.

Article 2

Every state shall adopt such legislative or other measures as may be necessary to ensure the full and effective enjoyment of the rights set forth in this Declaration.

All laws, administrative regulations or other provisions affecting the enjoyment of these rights shall be published and made easily accessible.

THE RIGHT TO LEAVE

Article 3

(a) No person shall be subjected to any sanction, penalty, reprisal or harassment for seeking to exercise or for exercising the right to leave a country, such as acts which adversely affect, inter alia, employment, housing, residence status or social, economic or educational benefits.

(b) No person shall be required to renounce his or her nationality in order to leave a country, nor shall a person be deprived of nationality for seeking to exercise or for exercising the right to leave a country.

(c) No person shall be denied the right to leave a country on the grounds that that person wishes to renounce or has renounced his or her nationality.

Article 4

(a) No restriction may be imposed on the right to leave except those which are

(1) provided by law;

(2) necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others; and

(3) consistent with internationally recognized human rights and other international legal obligations.

Any such restriction shall be narrowly construed.

(b) Any restriction on the right to leave shall be clear, specific and not subject to arbitrary application.

(c) A restriction shall be considered "necessary" only if it responds to a pressing public and social need, pursues a legitimate aim and is proportionate to that aim.

(d) A restriction based on "national security" may be invoked only in situations where the exercise of the right poses a clear, imminent and serious danger to the State. When this restriction is invoked on the ground that an individual acquired military secrets, the restriction shall be applicable only for a limited time, appropriate to the specific circumstances, which should not be more than five years after the individual acquired such secrets.

(e) A restriction based on "public order (ordre public)" shall be directly related to the specific interest which is sought to be protected. "Public order (ordre public)" means the universally accepted fundamental principles, consistent with respect for human rights, on which a democratic society is based.

(f) A restriction based on "the rights and freedoms of others" shall not imply that relatives (except for parents with respect to unemancipated minors), employers or other persons may prevent, by withholding their consent, the departure of any person seeking to leave a country.

(g) No fees, taxes or other exactions shall be imposed for seeking to exercise or exercising the right to leave a country, with the exception of nominal fees related to travel documents.

(h) Permissibility of restrictions on the right to leave is subject to international scrutiny. The burden of justifying any such restriction lies with the state.

Article 5

(a) Any person leaving a country shall be entitled to take out of that country

(1) his or her personal property, including household effects and property connected with the exercise of that person's profession or skill;

(2) all other property or the proceeds thereof, subject only to the satisfaction of legal monetary obligations, such as maintenance obligations to family members, and the general controls imposed by law to safeguard the national economy, provided that such controls do not have the effect of denying the exercise of the right.

(b) Property or the proceeds thereof which cannot be taken out of the country shall remain vested in the departing owner, who shall be free to dispose of such property or proceeds within the country.

RIGHT TO ENTER OR RETURN

Article 6

(a) No one shall be deprived of the right to enter his or her own country.

(b) No person shall be deprived of nationality or citizenship in order to exile or to prevent that person from exercising the right to enter his or her country.

(c) No entry visa may be required to enter one's own country.

Article 7

Permanent legal residents who temporarily leave their country of residence shall not be arbitrarily denied the right to return to that country.

Article 8

On humanitarian grounds, a state should give sympathetic consideration to permitting the return of a former resident, in particular a stateless person, who has maintained strong *bona fide* links with that state.

PROCEDURAL SAFEGUARDS

Article 9

Everyone has the right to obtain such travel or other documents as may be necessary to leave any country or to enter one's own country. Such documents shall be issued free of charge or subject only to nominal fees.

Article 10

(a) Any national procedures or requirements affecting the exercise of the rights set forth in this Declaration shall be established by law or administrative regulations adopted pursuant to law.

(b) Everyone shall have the right to communicate as necessary with any person, including foreign consular or diplomatic officials, for the realization of the rights set forth in this Declaration.

(c) No state shall refuse to issue the documents referred to in Article 9 or shall otherwise impede the exercise of the right to leave, on the ground of the applicant's inability to present authorization to enter another country.

(d) Procedures for the issuance of the documents referred to in Article 9 shall be expeditious and shall not be unreasonably lengthy or burdensome.

(e) Everyone filing an application for any document referred to in Article 9 shall be entitled to obtain promptly a duly certified receipt for the application filed. Decisions regarding issuance of such documents shall be taken within a reasonable period of time specified by law. The applicant shall be promptly informed in writing of any decision denying, withdrawing, cancelling or postponing issuance of any such document; the specific reasons therefor; the facts upon which the decision is based; and the administrative or other remedies available to appeal the decision.

(f) The right to appeal to a higher administrative or judicial authority shall be provided in all instances in which the right to leave or enter is denied. The appellant shall have a full opportunity to present the grounds for the appeal, to be represented by counsel of his or her choice, and to challenge the validity of any fact upon which a denial or restriction has been founded. The results of any appeal, specifying the reasons for the decision, shall be communicated promptly in writing to the appellant.

FINAL CLAUSES

Article 11

Any person claiming a violation of his or her rights set forth in this Declaration shall have effective recourse to a judicial or other independent tribunal to seek enforcement of those rights.

Article 12

No state may impede communication by any person with an international organization or other bodies or persons outside the state with regard to the rights set forth in this Declaration, and no sanction, penalty, reprisal or harrassment may be imposed on anyone exercising this right of communication.

Article 13

The enjoyment of the rights set forth in this Declaration shall not be limited because of activities protected under internationally recognized human rights or other international legal obligations.

Article 14

Nothing in this Declaration shall be interpreted as implying from any state, group or person any right to engage in any activity or perform any act aimed at destroying any of the rights set forth herein or at limiting them to a greater extent than is provided for in this Declaration.

Article 15

The present Declaration shall not be interpreted to limit the enjoyment of any human right protected by international law.

EXHIBIT 3

CONGRESSIONAL RESEARCH SERVICE
THE LIBRARY OF CONGRESS
Washington, DC, March 23, 1995.

American Law Division, Memorandum

Subject: Whether Legislation That Would Tax Property Upon Expatriation Constitutes a Violation of International Law

Author: Jeanne J. Grimmet and Larry M. Eig, Legislative Attorneys

This memorandum addresses whether legislation that would tax the property of American citizens who renounce their citizenship at the time of renunciation violates an international obligation of the United States under a treaty or other international agreement or customary international law. Because of the brevity of our deadline, this memorandum does not provide a detailed analysis of this question, but rather briefly examines some of the more salient international legal issues that might be implicated by such legislation.

Based on this preliminary analysis, there does not appear to be a clear international legal impediment to the enactment of the proposed legislation. First, the legislation applies upon the act of renunciation of citizenship and would thus only indirectly affect emigration. While a right to emigrate is recognized in national legal systems and in both binding and non-binding international legal instruments, there does not appear to be an obvious consensus on the content of this right and, moreover, international legal instruments recognize the right of emigration may be restricted for certain purposes. Additionally, the proposed tax would not appear to violate a norm of customary international law. It would seem to be relatively common in international practice for an individual to incur tax consequences as a result of his or her emigration or expatriation.

Proposed legislation. Section 5 of H.R. 831, 104th Cong., 1st Sess. (1995), as reported by the Senate Finance Committee, would amend federal income tax law to require that property held by a United States citizen who relinquishes his or her citizenship be treated as sold for its fair market value at the time of relinquishment and any gain or loss be taken into account for the taxable year (new 26 U.S.C. §877A). Certain exceptions and conditions would apply to the general rule. Items currently excluded from gross income under 26 U.S.C. §§102 et seq. would continue to be excluded, as would real property and interests in retirement plans. The amount of realized gain would be reduced (but not below zero) by $600,000.

A tentative tax would be due 90 days after the taxpayer relinquishes citizenship, but for good cause payment of tax may be extended by the Secretary of the Treasury for up to 10 years. An individual will be deemed to have relinquished his or her citizenship (1) on the date the individual renounces his or her United States nationality before a diplomatic or consular officer, furnishes the State Department a signed statement of voluntary relinquishment, or is issued a certificate of loss of nationality by the State Department or (2) for naturalized citizens, on the date a court cancels the citizen's certificate of naturalization.

Currently, nonresident aliens are subject to income tax on certain property for ten years after losing United States citizenship, unless the loss of citizenship did not have as one of its purposes the avoidance of federal or income or estate and gift taxes (26 U.S.C. §877). This law would cease to apply to any individual who relinquishes his or her citizenship on and after February 6, 1995 (new 26 U.S.C. §877(f)).

International agreements. With respect to the right of emigration, we can identify only one clearly binding international agreement to which the United States is a party that addresses the right to emigrate as possibly implicated here—namely, the International Covenant on Civil and Political Rights.

Article 12 of the Covenant, which entered into force for the United States on September 8, 1992, provides, in pertinent part, as follows:

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order ("order public"), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

In submitting the Covenant to the Senate, the Executive Branch specifically stated that Article 12 "guarantees . . . the right of emigration to all those lawfully within the territory of a State party."[1]

The Convention does not make the right to emigrate an absolute one. The right may be restricted for, among other things, reasons of "public order," a phrase roughly analogous to the concept of public policy and likely including such notions as "economic order."[2] Some commentary apparently indicates that States may certainly require that citizens pay normal tax obligations and public debts upon emigration,[3] but suggests that economic controls should not result in a de facto denial of the right to leave.[4]

The proposed legislation does not directly restrict the right of an individual to leave the United States and indeed covers individuals who may have already chosen to reside elsewhere. The tax would not be triggered by the mere act of leaving or residing abroad. It would be based on activities that occurred while the taxpayer was a citizen and appears to generally reflect amounts that for the most part would otherwise be payable upon death. The proposed tax obligation contains elements found in existing tax laws—for example, exclusions for items currently excludable from income tax under 26 U.S.C. §§101 et seq. (certain interest on state and local bonds, gifts and inheritances, etc.) and an exclusion of the first $600,000 of gain. Currently 26 U.S.C. §6018 requires an executor to file an estate tax return in all cases where the gross estate at the death of a citizen or resident exceeds $600,000. While current deferrals would apparently be eliminated, the possibility of deferred payment is not entirely foreclosed. Further, the tax burden would seem to be immediately lessened by the fact that certain real property and pension plans would be excluded.

Though curbs on expatriation may indirectly affect one's ability to emigrate, one may question, however, whether a restriction on expatriation would in fact restrict

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Footnotes at end of article.

this right. The proposed tax does not, for example, amend current constitutional and statutory protection of a U.S. citizen's right to leave the country whether or not the tax is paid; in other words, the act of emigration would not appear to be conditioned on such payment. Moreover, it seems difficult to argue that a condition on U.S. expatriation would so affect foreign countries' willingness to accept U.S. citizens as residents that the right to leave the U.S. would be substantially impaired. More likely, there may be a number of foreign laws and regulations that could burden an individual who seeks to live elsewhere—e.g., restrictions on immigration, acquiring citizenship, eligibility for benefits.

Customary international law. Customary international law is defined as resulting "from a general and consistant practice of states followed by them from a sense of legal obligation.[5] Further, a principle of customary international law would not bind a State that dissents from the norm while it is being developed nor if and when the practice evolves into a rule.[6] As stated in the Foreign Relations Restatement, whether a principle has achieved the status of an international legal norm would generally be determined by "evidence appropriate to the particular source from which that rule is alleged to derive,"[7] and thus the most reliable evidence for customary law would be "proof of state practice, ordinarily by reference to official documents and other indications of governmental action" and similar proof regarding a nation's dissent from the principle.[8]

The Universal Declaration of Human Rights (a United Nations General Assembly Resolution) and the Final Act of the Conference of Security and Cooperation in Europe (Helsinki Final Act) state or incorporate the notion of freedom of emigration[9] and to this extent they may be said to articulate a generally recognized international human right. It appears to remain uncertain, however, whether the Universal Declaration is binding.[10] Further, the Helsinki Final Act is not intended to legally bind parties. Even assuming that the right to emigrate may be considered to be a norm of customary international law, it is unclear whether the proposed tax would violate that right, given the apparent lack of international consensus on the issue of taxes keyed to expatriation and state practice to the contrary.

As for the right of expatriation in general, the Universal Declaration of Human Rights provides that "no one shall be denied the right to change his nationality" (Art. 15(2)). Nevertheless, while the United States over 10 years ago recognized a right of expatriation in statute,[11] other countries appear to have expressed different views on the matter.[12]

More specifically, identifying customary international law that may restrict a State's ability to limit emigration and expatriation necessarily requires examination of State taxation practices that affect those acts. A recent Joint Committee on Taxation staff document indicates that policies that attach tax consequences to emigration are common.[13] Many countries, including the United States, continue to impose income and capital gains tax liability on former residents (including citizens) after they emigrate. Commonly, this income and gains are also fully taxable in the new country of residence, and a recent emigre may face significantly higher taxation than would have been incurred had he or she not emigrated. Additionally Australia and Canada already tax an emigre's property upon emigration. Denmark and Germany also deem some types of property to have been sold upon emigration for tax purposes. In addition, United States bilateral income tax treaties generally contain a provision reserving a right on the part of the United States to tax for a period of ten years the property of a former citizen who is resident in the territory of the treaty partner.[14] Entry into the treaty obligation would appear to indicate at least some foreign acquiescence in this practice. In sum, the "expatriation tax" under consideration would not appear to inhibit international movement in ways that current international tax practice already does not.

Jackson-Vanik Amendment. The Jackson-Vanik Amendment, which makes nonmarket economy (NME) countries that do not meet statutory freedom-of-emigration standards ineligible for United States trade and financial benefits,[15] would not appear to provide sufficient evidence of the kind of state practice that is needed to create a customary rule of international law regarding the type of tax that is being proposed here. Three types of conduct are addressed by the Amendment: (1) denying citizens the right or opportunity to emigrate; (2) imposing more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; and (3) imposing more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice.[16] While the statute specifically incorporates language regarding the right to emigrate and defines unacceptable restrictions on that right, placing Jackson-Vanik-type requirements on trading partners would appear to be unique to the United States. Further, the targeted taxes are specifically related to emigration, rather than to expatriation and, moreover, clearly apply in an overly restrictive manner. They include fees for passport applications and exit visas that are ordinarily prohibitive when measured against average income.[17] These are far removed from the kind of tax proposed in H.R. 831, which, among other things, applies to individuals who have incurred a tax burden because of actions that would generally implicate tax laws absent renunciation of citizenship, affects taxpayers with untaxed capital gains in excess of $600,000, and, if the Internal Revenue Service agrees, might be payable on a deferred basis.

FOOTNOTES

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[1] Senate Exec. E, 95th Cong., 2d Sess. xii (1977).

[2] See Kiss, "Permissible Limitations on Rights," in L. Henkin, ed., The International Bill of Rights 290, 299–302 (1981); M. Nowak, U.N. Covenant on Civil and Political Rights: CCPR Commentary 212–214 (1993)[hereinafter cited as Nowak].

[3] The Movement of Persons Across Borders 82 (Sohn & Buergenthal eds. 1992), as cited in Prepared Statement of Robert F. Turner Before the Subcommittee on Taxation and IRS Oversight, Senate Comm. on Finance, March 21, 1995, at 8. We have been unable to consult this treatise directly.

[4] See, e.g., H. Hannum, "The Right to Leave and Return in International Law and Practice 39–40 (1987); cf. Nowak, supra note 2, at 213–14.

[5] American Law Institute, Restatement (Third) of the Foreign Relations Law of the United States §102(2) (1987)[hereinafter cited as Foreign Relations Restatement]; see also Statute of the International Court of Justice, Art. 33(1).

[6] Id. at Comments b and d.

[7] Id. §103(1).

[8] Id. at Comment a.

[9] The International Declaration of Human Rights provides at Article 13(2) that "everyone has the right to leave any country, including his own." The Final Act of the Conference on Security and Co-operation in Europe, August 1, 1975 (Helsinki Final Act), provides that "the participating States will act in conformity with the purposes of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfil their obligations as set forth in the international declarations and agreement in this field, including inter alia, the International Covenants on Human Rights, by which they may be bound." Helsinki Final Act, Declaration on Principles Guiding Relations Between States, ¶VII.

[10] Foreign Relations Restatement, supra note 5, at §701, Reporters' Note 6.

[11] Expatriation Act of July 27, 1868, 15 Stat. 223, 8 U.S.C. §1481 note.

[12] W. Bishop, International Law 526 (3d ed. 1971); Foreign Relations Restatement, supra note 5, at §211, Reporters' Note 4.

[13] Joint Committee on Taxation Staff Document (JCX-14-95) on Background and Issues Relating to Taxation of U.S. Citizens Who Relinquish Citizenship, Prepared for Senate Finance Committee Hearing March 21, 1995, at 8–11 [hereinafter cited as Joint Committee Document], as reprinted in Daily Tax Reporter, No. 55, L–11, L–15—L–16 (March 22, 1995).

[14] Joint Committee Document, supra note 13, at 16, as reprinted in Daily Tax Reporter, March 22, 1995, at L–18.

[15] 19 U.S.C. §2432.

[16] 19 U.S.C. §2432(a).

[17] Joint Committee Document, supra note 13, at 18, as reprinted in Daily Tax Reporter, March 22, 1995, at L–19.

SECTION 201 OF TAX COMPLIANCE ACT OF 1995: CONSISTENCY WITH INTERNATIONAL HUMAN RIGHTS LAW

The Department of State believes that Section 201 of the proposed Tax Compliance Act of 1995 is consistent with international human rights law. As described below, closing a loophole that allows extremely wealthy people to evade U.S. taxes through renunciation of their American citizenship does not violate any internationally recognized right to leave one's country. It is inaccurate on legal and policy grounds to suggest that the Administration's proposal is analogous to efforts by totalitarian regimes to erect financial and other barriers to prevent their citizens from leaving. The former Soviet Union, for example, sought to impose such barriers only on people who wanted to leave, and not on those who stayed. In contrast. Section 201 seeks to equalize the tax burden born by all U.S. citizens by ensuring that all pay taxes on gains above $600,000 that accrue during the period of their citizenship. Unlike the Soviet effort to discriminate against people who sought to leave, the purpose of Section 201 is to treat those who renounce their U.S. citizenship on the same basis as those who remain U.S. citizens.

Section 201 would require payments of taxes by U.S. citizens and long-term residents on gains above $600,000 that accrue immediately prior to renunciation of their U.S. citizenship or long-term residency status. These tax requirements are similar to those that they would face if they remained U.S. citizens or long-term residents at the time they realized their gains or at death. While U.S. tax policy generally allows taxpayers to defer gains until they are realized or included in an estate, we understand from the Department of the Treasury that Section 201 treats renunciation as a taxable event because such act effectively removes the underlying assets from U.S. taxing jurisdiction.

International law recognizes the right of all persons to leave any country, including their own, subject to certain limited restrictions. Article 12(2) of the International Covenant on Civil and Political Rights provides that: "Everyone shall be free to leave any country, including his own." Article 12(3) states that the right "shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (order public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant."

Section 201 does not affect a person's right to leave the United States. Any tax obligations incurred under Section 201 would be triggered by the act of renunciation of U.S. citizenship, and not by the act of leaving the United States. In addition, since during peacetime U.S. citizens must be outside the United States to renounce their citizenship (see 8 U.S.C. Secs. 1481(a)(5), 1483(a)) the persons affected by Section 201 would have already left the United States. Renunciation does not preclude them from returning to the United States as aliens and subsequently leaving U.S. territory. Accordingly, Section 201 does not affect a person's right or ability to leave the United States.

Inherent in the right to leave a country is the ability to leave permanently, i.e., to emigrate to another country willing to accept the person. The proposed tax is as unconnected to emigration as it is to the right to leave the United States on a temporary basis. It is not the act of emigration that triggers tax liability under Section 201, but the act of renunciation of citizenship. These two acts are not synonymous and should not be confused with one another. Because the United States allows its citizens to maintain dual nationality, U.S. citizens may emigrate to another country and retain their U.S. citizenship. Hence, the act of emigration itself does not generate tax liability under Section 201. Indeed, we understand from the Department of the Treasury that some of the people potentially affected by Section 201 already maintain several residences abroad and hold foreign citizenship. Moreover, in stark contrast to most emigrants, particularly those fleeing totaliatarian regimes, some continue to spend up to 120 days each year in the United States after they have renounced their U.S. citizenship.

While emigration from the United States should not be confused with renunciation of U.S. citizenship, it should nonetheless be noted that it is well established that a State can impose economic controls in connection with departure so long as such controls do not result in a de facto denial of emigration. As Professor Hurst Hannum notes in commenting on the restrictions on the right to leave set forth in Article 12 of the Covenant:

"Economic controls (currency restrictions, taxes, and deposits to guarantee repatriation) should not result in the de facto denial of an individual's right to leave . . . If such taxes are to be permissible, they must be applied in a non-discriminatory manner and must not serve merely as a pretext for denying the right to leave to all or a segment of the population (for example, by requiring that a very high 'education tax' be paid in hard currency in a country in which possession of hard currency is illegal)."[1]

A wealthy individual who is free to travel and live anywhere in the world, irrespective of nationality, is in no way comparable to that of a persecuted individual seeking freedom who is not even allowed to leave his or her country for a day. In U.S. law, the Jackson-Vanik amendment to the Trade Act of 1974 (19 U.S.C. Sec. 2432) is aimed at this latter case and applies to physical departure, not change of nationality. Examples of States' practices that have been considered to interfere with the ability of communist country citizens to emigrate include imposing prohibitively high taxes specifically applied to the act of emigration with no relation to an individual's ability to pay, or disguised as "education taxes" to recoup the State's expenses in educating those seeking to depart permanently. Such practices also include punitive actions, intimidation or reprisals against those seeking to emigrate (e.g., firing the person from his or her job merely for applying for an exit visa). It is these offensive practices that the Jackson-Vanick amendment is designed to eliminate and thereby ensure that the citizens of all countries can exercise their right to leave. (See Tab A for further analysis of the Jackson-Vanik amendment.)

The only international human rights issue that is relevant to analysis of Section 201 is whether an internationally recognized right to change citizenship exists and, if so, whether Section 201 is consistent with it. The Universal Declaration of Human Rights, which is in many respects considered reflective of customary international law, provides in Article 15(2) that: "No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality" (emphasis added).[2] Although many provisions of the Universal Declaration have been incorporated into international law, for example in the International Covenant on Civil and Political Rights, Article 15(2) is not. Accordingly, the question arises whether this provision could be considered to be customary international law.

States' views on this question and practices do vary. Many countries have laws governing the renunciation of citizenship, but renunciation is not guaranteed because they have also established preconditions and restrictions, or otherwise subject the request to scrutiny.[3] Professor Ian Brownlie has commented on Article 15(2) in the context of expatriation that: "In the light of existing practice, however, the individual does not have this right, although the provision in the Universal Declaration may influence the interpretation of internal laws and treaty rules."[4] Others agree with this position. (See Restatement of the Foreign Relations Law of the United States, Sec. 211, Reporters' Note 4). Nonetheless, the United States believes that individuals do have a right to change their nationality. The U.S. Congress took the view in 1868 that the "right of expatriation is a natural and inherent right of all people" in order to rebut claims from European powers that "such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof. . . ." (Rev. Stat. Sec. 1999).

It is evident, however, that States do not recognize an unqualified right to change nationality. It is generally accepted, for example, that a State can require that a person seeking to change nationality fulfill obligations owed to the State, such as pay taxes due or perform required military service.[5] This is especially true where—as here—the requirement is by its nature proportional to the means to pay, and thus does not present a financial barrier.

The consistency between Section 201 and international human rights law is further demonstrated by the practice of countries that are strong supporters of international human rights and that have adopted similar tax policies. According to the Report prepared by the Staff of the Joint Committee on Taxation, Germany imposes an "extended tax liability" on German citizens who emigrate to a tax-haven country or do not assume residence in any country and who maintain substantial economic ties to Germany. Australia imposes a tax when an Australian resident leaves the country; such person is treated as having sold all of his or her non-Australian assets at fair market value at the time of departure. To provide another example, Canada considers a taxpayer to have disposed of all capital gain property at its fair market value upon the occurrence of certain events, including relinquishment of residency.

Accordingly, Section 201 would not raise concerns with respect to change of citizenship for two reasons. First, U.S. citizens would remain free to choose to change their citizenship. This proposal does not in any way preclude such choice, even indirectly. Any tax owed, by its nature, applies only to gains and thus should not exceed an individual's ability to pay. Second, international law would not proscribe reasonable consequences of relinquishment, such as liability for U.S. taxes that accrue during the period of citizenship. We understand from the Department of the Treasury that the imposition of taxes under Section 201 would be equitable, reasonable and consistent with overall U.S. tax policy. We are aware of no evidence that would suggest otherwise. The tax, as we understand it, applies only to gains that accrued during the period of citizenship in excess of $600,000; the tax rate is consistent with other tax rates; and affected persons have the financial means to pay the tax. Indeed, were these persons to choose to retain their U.S. citizenship, they would have to pay similar taxes upon realization of their gains or upon death. Obviously, there is no international right to avoid paying taxes by changing one's citizenship.

In conclusion, it is the view of the Department of State that Section 201 does not violate international human rights law. Accordingly, the debate on the merits of Section 201 should focus solely on domestic tax policies and priorities.

FOOTNOTES

[1] H. Hannum, "The Right to Leave and Return in International Law and Practice" 39–40 (1987).

[2] Article XIX of the American Declaration on the Rights and Duties of Man provides that: "Every person has the right to the nationality to which he is entitled by law and to change it, if he so wishes, for the nationality of any other country that is willing to grant it to him." The Declaration is not a treaty and has not itself acquired legally binding force.

[3] See Coumas v. Superior Court in and for San Joaquin County (People, Intervenor), 192 P. 2d 449, 451 (Sup. Ct. Calif. 1948). When confronted with Greek refusal to consent to an expatriation, the Supreme Court of California stated: ". . . The so-called American doctrine of 'voluntary expatriation' as a matter of absolute right cannot postulate loss of original nationality on naturalization in this country as a principle of international law, for that would be tantamount to interference with the exclusive jurisdiction of a nation within its own domain."

[4] I. Brownlie, "Principles of International Law" (4th ed.) 557 (1990). Professor Lillich comments that "the right protected in [Article 15] has received very little subsequent support from states and thus can be regarded as one of the weaker rights . . . " "Civil Rights," in T. Meron, "Human Rights in International Law" at 153–154 (1988).

[5] A State should not, for example, withhold discharge from nationality if, inter alia, acquisition of the new nationality has been sought by the person concerned in good faith and the discharge would not result in failure to perform specific obligations owed to the State. P. Weis, "Nationality and Statelessness in International Law" (2nd ed.) 133 (1979). In Coumas, supra note 3, the Supreme Court of California observed that Greece qualified the right of expatriation on fulfillment of military duties and procurement of consent of the Government.

TAB A

Section 201 of the proposed Tax Compliance Act of 1995 does not conflict with the Jackson-Vanik amendment to the Trade Act of 1974 (19 U.S.C. §2432). That amendment restricts granting most-favored-nation treatment and certain trade related credits and guarantees to a limited number of nonmarket economies that unduly restrict the emigration of their nationals. Specifically, it applies to any nonmarket economy which:

"(1) Denies its citizens the right or opportunity to emigrate;

"(2) Imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purposes or cause whatsoever; or

"(3) Imposes more than a nominal tax, levy, fine, fee or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice * * *."

This provision, according to the Senate Finance Committee, was "intended to encourage free emigration of all peoples from all communist countries (and not be restricted to any particular ethnic, racial, or religious group from any one country). (1974 U.S.C.C.A.N. 7338.) These countries were expected to "provide reasonable assurances that freedom of emigration will be a realizable goal" if they were to enter into bilateral trade agreements with the United States. (Id.)

The amendment does not apply to emigration from the United States or to the renunciation of U.S. citizenship. It has been suggested, however, that Section 201 would somehow conflict with the "spirit" or the "principles" of the Jackson-Vanik amendment. The Department of State does not agree with such proposition.

Generally, in implementing this statute, the President makes determinations concerning a nonmarket economy's compliance with freedom of emigration principles contained in the amendment. Such determinations take into account the country's statutes and regulations, and how they are implemented day to day, as well as their net effect on the ability of that country's citizens to emigrate freely. The President may, by Executive Order, waive the prohibitions of the Jackson-Vanik amendment if he reports to Congress that a waiver will "substantially promote" the amendment's freedom of emigration objectives, and that he has received assurances from the country concerned that its emigration practices "will henceforth lead substantively to the achievement" of those objectives. (19 U.S.C. sec. 2431(c).)

Several types of State practices have been considered by the United States to interfere with the ability of communist country citizens to emigrate, such as:

Prohibitively high taxes specifically applied to the act of emigration with no relation on an individual's ability to pay or disguised as "education taxes" seeking to recoup the state's expenses in educating those who are seeking to permanently depart;

Punitive actions, intimidation or reprisals by the State against those seeking to emigrate (e.g., firing a person from his or her job merely for applying for an exit visa);

Unreasonable impediments, such as requiring adult applicants for emigration visas to obtain permission from their parents or adult relatives;

Unreasonable prohibitions of emigration based on claims that the individual possesses knowledge about state secrets or national security; and

Unreasonable delays in processing applications for emigration permits or visas, interference with travel or communications necessary to complete applications, withholding of necessary documentation, or processing applications in a discriminatory manner such as to target identifiable individuals or groups for persecution (e.g., political dissidents, members of religious or racial groups, etc.).

Examples of these practices in the context of the former Soviet Union are described in an exchange of letters between Secretary of State Kissinger and Senator Jackson of October 18, 1974, discussing freedom of emigration from the Soviet Union and Senator Jackson's proposed amendment to the Trade Act, now known as the Jackson-Vanik amendment. (Reprinted in 1974 U.S.C.C.A.N. 7335–38.)

As explained in the accompanying memorandum, Section 201 does not deny anyone the right or ability to emigrate, and does not impose a tax on any decision to emigrate. Neither does the proposed tax raise questions of disparate standards applicable to the United States as against the nonmarket economies subject to Jackson-Vanik restrictions.

The emigration practices of those countries which have been the target of Jackson-Vanik restrictions have typically involved individuals or groups that have been persecuted by the State (e.g., dissidents), precluded family reunification, applied across the board to all citizens by a totalitarian State in order to preclude massive exodus, or have otherwise been so restrictive as to effectively prevent the exercise of the international right to leave any country including one's own (as recognized in Article 12(2) of the International Covenant on Civil and Political Rights and further described in the accompanying memorandum). Furthermore, the primary objectives of those seeking to emigrate from those countries have been to avoid further persecution or to be reunified with their relatives, and to leave permanently. It was the act of leaving for any period of time that the State sought to block. None of these conditions are comparable to the exercise of taxing authority by the United States under Section 201 or to the status of individuals who would be subject to that tax.

As stated in the accompanying memorandum, Section 201 would not interfere with the right of an individual to physically depart from the United States, whether temporarily or permanently.

TUFTS UNIVERSITY, THE FLETCHER
SCHOOL OF LAW AND DIPLOMACY,

March 31, 1995.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate.
Attention: Patricia McClanahan,
Re Tax Compliance Act of 1995, H.R. 981.

DEAR SENATOR MOYNIHAN: I wrote you on 24 March expressing my concern over the possible human rights implications of the so-called "exit tax" called for in the above-referenced bill. As I noted then, what appeared to be the imposition of a tax solely on the ground that a person was renouncing his or her citizenship could interfere with the right of every person "to leave any country, including his own," which is guaranteed under article 12 of the Covenant on Civil and Political Rights.

I am gratified that the human rights issues related to this bill have become a subject of serious debate, and I appreciate your contribution to that debate. Having now received additional and more specific information about the tax, however, I have become convinced that neither its intention nor its effect would violate present U.S. obligations under international law.

Although imposition of a special tax on those who wished to renounce U.S. citizenship might be questionable, it is my understanding that the tax in question is based on accrued income and, in effect, treats renunciation of citizenship as the financial equivalent of death for the purpose of attaching tax liability. There are undoubtedly negative consequences to the individual concerned in having to pay taxes on gains while he or she is alive rather than after death, but there is no internationally protected right to escape taxation by changing citizenship. However, in order to clarify that the purpose and effect of the proposed tax are non-discriminatory, the language might be rewritten to offer the individual the option of complying with the new tax or electing to have realized gains taxed only as part of the individual's estate—subject to an appropriate escrow account being established for money which would be otherwise be expected to be beyond U.S. jurisdiction at the time of death.

In sum, imposition of a non-discriminatory tax on accrued income at the time citizenship is renounced, in a manner consistent with the way in which that same income would be treated at the time of death, does not appear to me to violate either the internationally protected right to emigrate or the (somewhat less well protected) right to a nationality.

Thank you for the opportunity to clarify my views on this important matter.

Yours sincerely,

HURST HANNUM,
Associate Professor of International Law.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The question is on agreeing to the amendment of the Senator from Massachusetts. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 4, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—96

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—4

Craig
Gramm
Kyl
Mack

So, the amendment (No. 448) was agreed to.

Mr. KENNEDY. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 567 TO AMENDMENT NO. 420

(Purpose: To make $10,000,000 of nutrition services and administration funds for WIC to promote immunizations)

Mr. BUMPERS. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 567 to amendment No 420.

Mr. BUMPERS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

The paragraph under this heading in Public Law 103–330 (108 Stat. 2441) is amended by inserting before the period at the end, the following:

: *Provided further*, That notwithstanding any other provision of law, up to $10,000,000 of nutrition services and administration funds may be available for grants to WIC State agencies for promoting immunization through such efforts as immunization screening and voucher incentive programs.

Mr. BUMPERS. Madam President, this is an amendment that was part of the law last year and should be part of the bill this year. It allows up to $10 million in WIC administrative expenses to be used for incentives for immunizing children prior to the age of 2 years.

This has been cleared by Senator COCHRAN, who is chairman of the Appropriations Committee on Agriculture where this resides, and with the distinguished chairman of the full Appropriations Committee.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Madam President, the Senator is correct. The matter has been cleared by our side of the aisle, by the subcommittee chair, and the Senator from Arkansas is the ranking member of that subcommittee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 567) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WELLSTONE. Madam President, I ask unanimous consent that I be able to speak for 10 minutes as in morning business.

Mr. LOTT. Madam President, the Senator is not offering an amendment, he is just going to speak in morning business?

Mr. WELLSTONE. Madam President, the Senator from Mississippi is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENCE IN AMERICA

Mr. WELLSTONE. I thank the Chair.

Madam President, I come before the Senate today to underscore the commitment that we must make to end domestic violence in America.

Beginning today, every time a person in my State of Minnesota dies at the hands of an abuser, I will make sure that their story becomes part of the CONGRESSIONAL RECORD. I do this so that we all remember how deeply this violence scars our society and, most importantly, as a reaffirmation of our commitment to ending domestic violence.

Indeed, if we are ever going to stop the violence in our communities and in our workplaces and on the street, we must begin in the home.

I am here today with evidence that the brutal violence continues, and while it continues to be the single most important or the single most significant cause of injury to women, this violence knows no boundaries of age or gender or race or geography or income or education. The violence goes on year after year, generation after generation.

In Minnesota in 1994, at least 19 women and 7 children were killed brutally by a spouse or former partner. With pain, but also with great determination, I ask that we honor the memory of the following individuals, and from my heart, I ask that we work to end the kind of violence that has cost these individuals, their families and their communities so much:

Pamela Bennett, 34 years of age, January 5, Bemidji, MN. Pamela and her boyfriend of Bemidji were traveling together in Oregon when they stopped at a rest stop. Hoagland reported to authorities that a hit-and-run driver struck Pamela at the rest stop as she exited the restroom. She was dead upon arrival at the hospital. When police found no evidence of an accident, Hoagland told authorities that he had lied about the accident and that she fell beneath their travel trailer as he pulled away from the rest stop without her. Hoagland was charged with filing a false police report, assault and harassment. In late March, Hoagland pleaded guilty to misdemeanor charges in her death. He was sentenced to 5 months in jail.

Pamela Kay Currie, 45, January 14, St. Francis, MN. Pamela was found stabbed to death in her home by police who were called by her husband, Gary Currie. He reported awaking in the morning and finding his wife dead on the bed and a knife sticking out of his own chest. He told authorities he remained in bed for almost a whole day before calling 911 because he hoped he would die. Curry was charged with second-degree murder.

Mary Sue Oberender, 46, February 16, Watertown, MN. Mary Sue was found shot to death in her home by her husband, Lawrence. Authorities discovered the car in Minneapolis and, within a half an hour, arrested two youths. The youths, Mary Sue's teenage son, Christian, 14, and a friend, also 14, were arrested. They indicated the shooting stemmed from a minor difference one of them had had with the mother. Police said the shooting appeared somewhat planned, as if by ambush. There were no signs of struggle. Mary Sue was a volunteer for Scouts at a local elementary school. Her husband is a Watertown-Mayer school board member.

Gertrude Bestor, 86, February 19, Granger, MN.

And finally, some murders of children:

Lydia Healy, 4 years of age. Police officers found Lydia lying on her living room floor after her mother, Judey Healy, reported to police that Lydia wasn't breathing. Lydia was hospitalized for 8 days before she died. Her injuries included massive swelling of the brain caused by shaking or hitting; large black-and-blue marks on the tops of her feet; marks on her legs; bruises on her stomach and chest; a burned hand; bruises on her face; two large welts above an eye and on her cheek; and a burn or cut on her chin. Lydia's 11-year-old brother told police that his mother beat Lydia with a spatula and was left sitting in a bathtub of cold water. The next morning, neither he nor his mother were able to wake Lydia. Judey Healy was charged with second-degree murder.

Geneva Broaden, 15, March 10, 1995, St. Paul. Alfred Robinson, 51, the live-in companion of Geneva's mother, summoned authorities to their home and reportedly confessed to beating Geneva. Robinson told police he punched Geneva and kicked and stomped on her after she fell down because of a dispute over use of the telephone. When found, Geneva was not breathing and was transported to a medical center where she was pronounced dead. Police described the assault as "a very vicious attack."

Adriana Whiteside, age 4, March 11, 1995, St. Paul. Adriana was found stabbed inside her father's apartment. She was stabbed near her heart with a pocketknife and was rushed to the hospital where she died a short time later. A 14-year-old boy, Randy Burgess, who was babysitting Adriana and her infant stepsister, was seen by neighbors running through the building, carrying Adriana screaming, "Call 911. I stabbed a baby." He was arrested at the scene. He allegedly told police he was planning to kill someone when he found himself alone with Adriana. Randy Burgess was charged with intentional second-degree murder.

And finally, Jessica Turner, age 8, March 31, 1995, St. Paul. Jessica died after being stabbed in the chest and tumbling down a flight of stairs in her parent's apartment. Her stepfather, who had been released from a chemical dependency center on March 24, was drinking when he allegedly stabbed Jessica and her mother. He was found 5 hours after the stabbings, arrested and was charged with second-degree murder and attempted second-degree murder.

Madam President, as I went over the names of these Minnesotans who died at the hands of an abuser—and as I say, I want their story to become a part of the CONGRESSIONAL RECORD because I want us to honor them, I want us to make a commitment to stopping this violence—I realize that I did not read the circumstances of Gertrude Bestor, 86.

Gertrude's daughter went to her mother's house after a signal had been sounded by Gertrude's medical alert alarm. As she approached the house, she saw a pickup truck speeding away and found Gertrude lying on her bedroom floor beaten to death.

The daughter recognized the truck as belonging to Gertrude's step-great-grandson. He was arrested about an hour later after police stopped him in his pickup truck and noticed bloodstains on his clothes and hands. He was charged with two counts of second-degree murder and a count of first-degree murder.

Madam President, I would like to end this presentation with a quote from my wife, Sheila:

> We will not tolerate the violence, we will not ignore the violence, we will no longer say it is someone else's responsibility.

I urge all of my colleagues, and I have two great colleagues out here on the floor with me right now, the Senator from Oregon and the Chair, the Senator from Kansas, to work with the survivors, the advocates, the medical professionals, the justice system in our own States, and to support full community involvement in ending the violence.

I urge my colleagues, Democrats and Republicans alike, to work with passion and conviction to make this a priority for our work of the Senate. We must do everything we can to make homes the safest places that they can be. I yield the floor.

Mr. HATFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded and I be allowed to proceed in morning business for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOBBYING AND GIFT REFORM

Mr. LEVIN. Madam President, there has been a lot of talk on the House side this week about the bills they have passed as a part of their so-called Contract With America. I have my own views about many of those bills.

But today, I would like to talk about what was not included in the so-called contract. The contract does not include campaign finance reform legislation, it does not include lobbying disclosure legislation, and it does not include gift reform legislation. So, on the three biggest political reform issues facing the Congress today, the Contract With America is silent. The House of Representatives has been silent. We in the Senate have also been silent. We have done nothing to address these fundamental problems with the way business is done in Washington today.

We tried to bring these issues up in January, but we were told that the new Republican leadership wanted some time, wanted a chance to govern. Action would come in a few months, we were told.

Well, we have waited more than 3 months, and there is no sign of any serious effort to enact lobbying and gift reform. No hearings have been scheduled, there have been no mark-ups, and no effort has been made to bring a bill to the Senate floor.

If anything, it appears that we have been moving in the wrong direction on political reform. Special interest seems to be more influential than ever. Every week, we read new stories about how special interest lobbyists have written bills, and have been invited into committee rooms to brief congressional staff about what those bills would do.

Reform of the Federal lobbying laws and of the congressional gift rules is too important to wait any longer. This should not be hard. My lobbying reform and gift reform bills each received 95 votes in the Senate in the last Congress.

It was only when the conference report got caught up in a last-minute filibuster that we were unable to finally pass lobbying registration reform and gift reform.

Our existing lobbying registration laws have been characterized by the Department of Justice as ineffective, inadequate, and unenforceable; they breed disrespect for the law because they are so widely ignored; they have been a sham and a shambles since they were first enacted almost 50 years ago. At a time when the American public is increasingly skeptical that their government really belongs to them, our lobbying registration laws have become a joke, leaving more professional lobbyists unregistered than registered.

My lobbying reform bill would ensure that we finally know who is paying how much to whom, to lobby what Federal agencies and congressional committees on what issues. This bill would close the loopholes in existing lobbying registration laws. It would cover all professional lobbyists, whether they are lawyers or non-lawyers, in-house or independent, whether they lobby Congress or the executive branch, and whether their clients are for-profit or non-profit. It would streamline reporting requirements and eliminate unnecessary paperwork. And it would provide, for the first time, effective administration and enforcement of disclosure requirements by an independent office.

The congressional gift rules are also fundamentally flawed. These rules currently permit Members and staff to accept unlimited meals from lobbyists or anybody else. They permit the acceptance of football tickets, baseball tickets, opera tickets, and theater tickets. They permit Members and staff to travel to predominantly recreational events, such as charitable golf and tennis tournaments, which are paid for by special interest groups. To the public, these rules reinforce an image of a Congress more closely tied to the special interests than to the public interest. That is not good for the Congress and it is not good for the country.

Our bill would address this problem as well. Under our bill, lobbyists would be prohibited from providing meals, entertainment, travel, or virtually anything else of value to Members of Congress and congressional staff. Acceptance of gifts from others would also be restricted significantly. To give just one example, my bill would prohibit private interests from paying for recreational expenses, such as greens fees, for Members of Congress, whether in Washington or in the course of travel outside Washington. In fact, private interests would be prohibited from paying for congressional travel to any event, the activities of which are substantially recreational in nature. If my bill passes, recreational activities paid for by interest groups will be a thing of the past.

The enactment of our bill would fundamentally change the way business is conducted on Capitol Hill. It would get rid of the gifts, and it would bring lobbying out in the open. If we are serious about changing the way government works, we will enact this legislation, and do it soon.

I thank the Chair and yield the floor. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

AMENDMENT NO. 569 TO AMENDMENT NO. 420

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 569 to amendment No. 420.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17 of amendment 420, strike lines 14 through 17.

Mr. GORTON. Mr. President, this is the first of a series of five minor amendments to the Interior section of this rescission bill which had been worked out in each case with all of the affected parties, including the chairman and ranking minority members of authorizing committees where they include authorizing language.

Their first amendment deletes a proposed $3 million rescission of funds available to the Fish and Wildlife Service in the Endangered Species Act, and it is placed at this point because such a rescission and certain set of restrictions proposed on the Defense supplemental by the distinguished junior Senator from Texas has now been accepted as a part of that conference committee.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 569) was agreed to.

AMENDMENT NO. 570 TO AMENDMENT NO. 420

(Purpose: To allow grazing permits, that expired in 1994 and in 1995 before the date of enactment and were not replaced due to NEPA requirements, to be reinstated or extended)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 570 to amendment No. 420.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, after line 2, insert the following: "This section shall only apply to permits that were not extended or replaced with a new term grazing permit solely because the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has not been completed and also shall include permits that expired in 1994 and in 1995 before the date of enactment of this Act."

Mr. GORTON. Mr. President, this amendment makes a correction in an amendment earlier adopted by the body on the part of the distinguished Senator from South Dakota [Mr. PRESSLER]. A confusion between himself and myself left out a couple of very important words. This makes that correction.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 570) was agreed to.

AMENDMENT NO. 571 TO AMENDMENT NO. 420

(Purpose: A technical correction to clarify that funds proposed for rescission are from multiple prior year unobligated balances)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 571 to amendment No. 420.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, strike lines 17–18 and insert in lieu thereof the following: "Of the available balances under this heading, $3,000,000 are rescinded."

Mr. GORTON. Mr. President, this is a technical correction to a rescission with respect to the Kennedy Center here in Washington, DC. It does not affect the rescission. But it makes its meaning clear.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 571) was agreed to.

AMENDMENT NO. 572 TO AMENDMENT NO. 420

(Purpose: To rescind $150,000 of the appropriation for the Office of Aircraft Service of the Department of the Interior)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] for Mr. MURKOWSKI, proposes an amendment numbered 572 to amendment No. 420.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, between lines 13 and 14, insert the following:

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332 for the Office of Aircraft Services, $150,000 of the amount available for administrative costs are rescinded, and in expending other amounts made available, the Director of the Office of Aircraft Services shall, to the extent practicable, provide aircraft services through contracting.

Mr. GORTON. Mr. President, this amendment is offered on behalf of the junior Senator from Alaska, [Mr. MURKOWSKI]. It rescinds $150,000 in administrative funds for the Office of Aircraft Services, and is at the request of the Senator from Alaska. It is a rescission in Alaska.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 572) was agreed to.

AMENDMENT NO. 573 TO AMENDMENT NO. 420

(Purpose: To amend the Supplemental Appropriations and Rescissions Bill for the fiscal year ending September 1995)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. STEVENS, proposes an amendment numbered 573 to amendment No. 420.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 81, after Line 18, add a new section as follows:

SEC. . (a) As provided in subsection (b), and Environmental Impact Statement prepared pursuant to the National Environmental Policy Act or a subsistence evaluation prepared pursuant to the Alaska National Interest Lands Conservation Act for a timber sale or offering to one party shall be deemed sufficient if the Forest Service sells the timber to an alternate buyer. (b.) The provision of this section shall apply to the timber specified in the Final Supplement to 1981-86 and 1986-90 Operating Period EIS ("1989 SEIS"), November, 1989; in the North and East Kuiu Final Environmental Impact Statement, January 1993; in the Southeast Chicagof Project Area Final Environmental Impact Statement, September 1992; and in the Kelp Bay Environmental Impact Statement, February 1992, and supplemental evaluations related thereto.

Mr. GORTON. Mr. President, this is an amendment in behalf of the senior Senator from Alaska, [Mr. STEVENS], and it has to do with legislative language relating to environmental impact statements. It is one that has been OK'd by both sides on the Energy Committee, as it does include authorizing legislation.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 573) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I thank you. I thank the Senator from New York.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY THE PRIME MINISTER OF THE ISLAMIC REPUBLIC OF PAKISTAN, BENAZIR BHUTTO

Mr. HELMS. Mr. President, the Senate Foreign Relations Committee has the honor of welcoming the distinguished Prime Minister of the Islamic Republic of Pakistan, and I wish to bring her to the Senate floor.

RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for the Senate to have 5 minutes in recess to greet and welcome this distinguished lady.

There being no objection, the Senate, at 4:08 p.m., recessed until 4:12 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I would ask the distinguished Presiding Officer if my understanding is correct that we are in a period when amendments can be offered, although several amendments—I do not know how many—have been set aside for this purpose; is that correct?

The PRESIDING OFFICER. That is correct. Although it does take unanimous consent to set aside the pending amendments before additional business can be ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that all the amendments necessary be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have a bit of a dilemma. I have been in Foreign Relations Committee meetings and other things most of the day. I am not aware of precisely what has happened on one issue which is of great interest to me and which I consider to be an outrageous invasion of the taxpayers money. It involves the 1995 appropriations bill containing $30 million that would be spent to build housing for Russian military officers.

My understanding is that there may have been some action to delete part of that $30 million. I will speak my opinion about this and then I will consult with the chairman of the Appropriations Committee, who is now on the floor, about whether my understanding is correct.

This program was begun, as I recall, in 1993 by President Clinton. In my judgment, it is a perfect example of how the United States conceives a bad foreign aid giveaway program, shrouds it in doubletalk to protect it, and then scrambles to spend the money when elected officials in Congress raise questions about it.

In April 1993, President Clinton met at a summit with Russian President Boris Yeltsin in Vancouver. At that time, Mr. Clinton proposed that the United States would pay—meaning the taxpayers of the United States would pay—to construct housing in Russia so that Russian troops occupying the Baltic States could be withdrawn to Russia.

Now, let me drag that by one more time—going to spend American taxpayers' money to build housing for Russian soldiers so Russian soldiers can go home.

The Clinton administration suggested this, as I understand it, on the grounds that no housing existed in Russia for these soldiers.

There is at least one problem with that logic. Instead of building housing in Russia, the United States is now giving Russian soldiers $25,000 apiece to go out and purchase an existing unoccupied house. Now I am in favor of home ownership and I wish the Clinton administration would support more home ownership right here in America. But this program, Mr. President, is absolutely outrageous.

In fact, what the administration is saying is that it is not a housing shortage that the Russian military has; it is a cash shortage. I think that question is going to be of great interest to a lot of America's taxpayers.

Well, the U.S. Government, as a matter of fact, come to think of it, has a cash shortage. The Federal debt, as of yesterday afternoon closing time, was over 4.8 trillion bucks. Everybody knows about the budget deficit. We have talked and talked and talked about it for years. Finally, when something is being done about it, you hear all the weeping and wailing and gnashing of teeth—"But you can't do that to this one or you are doing this to that one," and so forth.

So I want to see these political figures go home and try to explain their votes against cutting the Federal deficit.

The administration itself is struggling to fund a request for 77,000 new and improved housing units for American soldiers and their families. They do not have the money for it, but they are struggling to find it. But they have already found it for the Russian soldiers. The conditions in which many of the men and women who serve in the U.S. services—the Army, Navy, Marines, and all the rest—are required to live are circumstances that are an embarrassment. And yet we have money for $25,000 apiece for Russian soldiers for housing.

Finally, the question absolutely must be asked: why does the Russian military have a shortage of money? The answer is no further away than the evening news in various places where the Russians are still participating in mayhem.

This program to build housing for Russian soldiers is not essential and it did not get the Russian military out of the Baltic States. This program is nothing but a golden parachute for the Russian military—not the United States military.

Mr. President, while the United States plays real estate agent to the Russian military, they have time and resources to fight in other places they ought not to be fighting.

Let me ask the distinguished chairman of the Appropriations Committee if any action on this outrageous allocation of money has been taken since I last heard.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I would like to respond to the Senator from North Carolina in terms of the "provision in this bill," the conference report on H.R. 889, that is, the bill on military defense appropriations that we conferenced yesterday, and we are now about to face that conference report, it having passed the House.

A number of years ago when, I believe, President Bush was still President and made a trip to the Baltics, he found that even though the Soviet Union had ceased to exist in reality, that the Baltic Governments that had emerged out of that former Iron Curtain power base of the Soviet Union, that those occupation troops, particularly the officers within the occupation of the Baltics, were not going back to Russia, were not returning home. They were remaining in the Baltics. They were wearing their uniforms, and that gave the new Baltic Governments great concern as to the intentions, and what have you.

Upon a careful analysis, they found that the Russians were not returning home because they had no housing to return to. The housing market had just been totally demolished over the years, and they found better housing in the Baltics.

So in the first initial step, we had what was called a demonstration project, I suppose, a figure of about $6 million—I am recalling now, not precisely—but a single-digit figure was appropriated as a demonstration project to help the Russians produce housing, not just for those officers still in the Baltics but also to start a housing industry in that country that had had no housing policy to speak of.

Then following that, there was a commitment made, and that now carries over into the Clinton administration, within the Baltic reaches that after there is that skill that comes out of that demonstration project we had to find an incentive to get these Russian officers out.

So a voucher system was provided, $25,000 voucher value for housing in Russia. That has then proceeded to, as we know now, there being no officers left in uniform. Some have decided to make the Baltics their home, have taken off the uniform and are rooting in as citizens, not as officers.

There were a lot of questions raised about this whole policy to begin with but, nevertheless, it was felt to be a sound policy to pursue to assist our new government friends in the Baltics.

We had, in effect, a drawdown from a $100 million appropriation to what we thought was about $75 million unobligated funds in the pipeline. These figures are difficult, and we are not certain of these figures. We cannot precisely identify the total number, but we think it is around $75 million.

The House had rescinded all $75 million in their bill. We, on the Senate side, rescinded none. We kept whatever that figure—75—in the bill.

Mr. HELMS. That is what got my attention.

Mr. HATFIELD. Yes. Now when we went to conference, we engaged in a lot of discussion, a lot of debate, and then the questions were raised as to what is the precise figure in that budget. We have the State Department, we have other sources, that have yet to give what we consider satisfactory figures so that we can say exactly how much.

So the House made a proposal to the Senate that we reallocate $15 million out of the $75 million; leave, in a sense, a total of $60 million to be revisited at a time when we can get that exact figure, which would probably be in the 1996 cycle, assuming this report passes now as a rescission package. Other discussions might be engendered out of the Foreign Relations Committee. We are not wedded on the basis of that program to say that is in place to last into the indefinite future.

Mr. HELMS. I hope it has no future.

Mr. HATFIELD. Because of the question of not only appropriations under the circumstance of today, but the policy issue itself.

All I can say, as the chairman of the Appropriations Committee, we are doing the minimal of what we can legitimately do and maintain commitments that are in process or already made, until we can get a more exact total figure of unobligated funds.

Mr. HELMS. But the Senator will not presume to permit any further commitments. Is that correct?

Mr. HATFIELD. We have no basis upon which at this time to make a statement to the future of this program, because every program today is under such careful review and scrutiny in terms of our budget deficit, in terms of our priorities. Obviously, these rescissions are only to reflect upon the current fiscal year anyway.

Mr. HELMS. I am not being critical of the Senator. I would hate to have his job as chairman of the Appropriations Committee.

It seems to me we have $60 million somewhere in limbo—it might be in the pipeline, it may have been committed without our knowing. There are so many ambiguities about it. How can we tie it up so there will be no commitment beyond what has already been made?

Mr. HATFIELD. Well, I think that the situation is such that when the House rescinded the total figure of unobligated funds, it sent a very, very strong message to the agencies themselves. I suppose it should send a message to the authorizing committee as well, which the Senator from North Carolina chairs.

We have a whole foreign aid bill under constant review. Nothing is a commitment very far down the road.

We are dealing with the problem right now in this appropriation bill report that is pending as to how to delineate between the Department of Defense pursuing and executing a humanitarian program as a police action program and as it relates to the defense of this Nation. In other words, there are those who say we should not be charging, in offsets, any of these incursions into Haiti, et cetera, et cetera, back to the DOD appropriations budget.

So we are engaged in a lot of issues here that are pretty cloudy at this moment. I do not think any part of this can be a statement of future commitment at all.

Mr. HELMS. Let me ask, if I may, will we have somebody on the Appropriations Committee staff try to explain to me specifically where the $60 million is, because I do not want to leave this unvisited before we pass this bill. Can somebody answer that?

Mr. HATFIELD. We can certainly do that. We have very excellent staff that can be supportive of your questions and responsive to your questions.

Let me just say in summary, we have no precise figures at this moment. We are dependent upon a couple of agencies from the executive branch of government to provide such figures. We do not keep the books in that sense. We are now at a level of commitment in this report that we feel will be sufficient to cover any current commitments, obligations, or pipeline. Until we can get that precise figure we cannot answer that part of your question.

I can answer your question in the sense, does this have any kind of a base of commitment for 1996, or 1997, and I could say on that, "No, it makes no basic commitment for 1996." We will review 1996 in a totally different context.

Mr. HELMS. So, the Foreign Relations Committee, I assure the Senate——

Mr. HATFIELD. I want to make sure, as the chairman of the Appropriations Committee, that the Senator understands we are not trying to make policy in our committee when the policy committee that he chairs is in that position.

Mr. HELMS. The strongest policy part of any legislation are the dollars. That is what really counts.

I am not saying anything that the Senator does not know or believe himself.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The regular order is the Murkowski-D'Amato amendment to the D'Amato amendment No. 427.

Mr. HATFIELD. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the pending amendment be set aside so I can send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 574 TO AMENDMENT NO. 420

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. THURMOND, Mr. BINGAMAN, Mr. BREAUX, Mr. GLENN, Mr. GRAHAM, Mr. LEAHY, Mr. LEVIN, Mr. KOHL, Mr. LIEBERMAN, Mr. KENNEDY, Mr. KERRY, Mrs. MURRAY, Mr. PELL, Mr. ROCKEFELLER, and Mr. SARBANES, proposes an amendment numbered 574 to amendment No. 420.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9 of the substitute amendment, strike line 1 through line 23 and insert the following:

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $3,100,000 are rescinded.

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $30,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OPERATIONS, RESEARCH AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $25,100,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $13,000,000 are rescinded.

GOES SATELLITE CONTINGENCY FUND

(RESCISSION)

Of the unobligated balances available under this heading, $2,5000,000 are rescinded.

Mr. HOLLINGS. Mr. President, this goes to the heart of our work in the Appropriations Subcommittee of State, Justice, and Commerce whereby we want to support the overall amount of the rescission but to redirect it to less important financial requirements at this particular time. In other words, my amendment would restore current programs that have been found very effective for the NOAA coastal oceans program, $7 million to the NOAA climate and global change research, $1.5 million to the Under Secretary for Technology, and $24 million to the NIST manufacturing extension program for a total of $37.5 million in total restoration.

Those restorations are offset by $30 million from the unobligated balances in the NIST construction, $5 million in the unobligated balances in the NOAA construction, and $2.5 million in the unobligated balances of the NOAA contingency fund.

All of those construction funds and everything else are to be set aside not to be expended this year. Of course, the distinguished Senator from Texas, chairman of our subcommittee, and I are just now completing our series of hearings for next year's appropriations. So we are not turning away in any context our dedication to the various requested construction commitments. But, in a word, what we are saying is let us not go for office buildings but rather for building jobs.

Let me go right to the heart of the connection between this amendment and the so-called Contract With America, which I welcome because this is a good tonic to come to town and stir everybody up and get us moving. Many elements of the contract are things that I have worked upon—the unfunded mandates, the balanced budget amendment to the Constitution, which I voted for already three times. I did not vote for it this time because I did not want to repeal my own law that puts Social Security off budget.

On that matter, I do not believe that we should just move deficits. Rather, let us eliminate deficits. I did not want to move the Government's deficit from the general Government over to Social Security. So when we were debating the balanced budget amendment, all they had to do is exempt the Social Security funds instead of repealing my section 13301 which says "Thou shall not use Social Security funds" in the estimates of the deficit and the debt. That was put in by Senator Heinz and myself back in 1990 and signed into law by President Bush.

With respect to the other parts of the contract, the line-item veto, is actually my bill, which was a compromise between the two rescissions initiatives by Senator MCCAIN and Senator DOMENICI.

So there is much with which we can agree. But I thought in coming to town here at this particular session in January that our purpose was to pay the bill, and create jobs—not to adopt a contract which does not in itself create a single job or pay a single bill. It has more to do with symbols than substance, more with procedures than actual production. Now we have an amendment before the body which actually produces jobs.

I am convinced, after the hearing we had this morning, that we will get a most sympathetic hearing from our distinguished chairman of the subcommittee, Senator GRAMM of Texas, because the two big elements of misgiving that I have heard expressed about the NIST programs of the Advanced Technology Program and the Manufacturing Centers is on the one hand, that this was industrial policy, Government picking winners and losers, and on the other hand, that this was pork, political pork. Let me address the first particular problem.

Of course, we make all kinds of industrial policies. This morning, with respect to product liability, we told industry just exactly what it can expect—less care in the manufacturing. Currently, we have the highest degree of care in the United States of America in its manufacturing. But what we did was put in all kinds of gimmicks and hurdles that hamstring the individuals right to a trial by jury and thereby significantly affects industry. But we will not go any further into that.

But we get industrial policy when we recommend a minimum wage, when we come forward and say we are going to have parental leave, when we say we are going to have to have plant closing notice, safe machinery, safer working place, Social Security, unemployment compensation, Medicare, Medicaid. You can go right on down the list. When we in a bipartisan fashion, which is the record, adopt those measures, we get into industrial policy. There has been a fetish around town amongst the pollsters putting out their pap about industrial policy, saying "let the market choose the winners and losers rather than the bureaucrats and politicians in Washington." I agree with that.

But, while we make industrial policy all the time, my amendment supports an industrial policy chosen by industry. We ensure sound industrial choice by requiring the industry to come with 50 percent of the money at least in their pocket and also to go through a peer review system of the National Academy of Engineering and the overall Government peer review choice. That was brought out in specific by

Mary Lou Good, Dr. Good, the undersecretary in charge of technology, a real expert; had been in charge of their research and development over the years and just had a perfect speaking knowledge about the various things to guard against and make sure it was the industry and not the politician choosing the winner and loser, so to speak.

And otherwise, we carefully designed the peer review to make sure that the Senator could not call and get a manufacturing center, the Secretary of Commerce could not call and get one, nor could the President, nor the White House minions call over and say, "We want it." In fact, our absolute track record with this program under every administration has been one of just exactly that, of unbiased peer review.

I can tell you categorically we did have a little hesitation in the markup of our bill over the past few years because the distinguished chairman on the House side wanted one of these but we never would write it in. We said we are not breaking ranks and starting with these markups on bills and inserting anything like Lawrence Welk's home as one of these manufacturing centers.

Otherwise, consider the matter of pork. I must refer to the distinguished former Senator from Wyoming, Senator Wallop. He pointed out in reading an article year before last, or April 2 years ago, how the chairman of the Democratic Party had gone to the West Coast under the Clinton administration. He said, "Look here." I read the article. The chairman of the party is saying categorically the end all and be all of Presidential—and I know the Senator from Mississippi is interested in Presidential elections. The end all and be all of Presidential elections is California. And, according to this article, this administration was going to send out Ron Brown, the Secretary of Commerce, and he was going to pour the projects to the State of California and we were really going to get on the move over here for our party.

Well, that there just tackled me from behind because it was not true at all. The Secretary of Commerce could not do it. But it was a tremendous misgiving on the part of Senator Wallop and others on the other side of the aisle, even though 14 Republican Senators and a task force for reconversion had gone on and endorsed this particular program. It took us several days, what we had previously passed almost by unanimous consent took us several days to pass, and then with an overwhelming majority we passed the authorization.

So I had to answer up to that matter of pork and make sure that everyone knew that this was as well administered a governmental program on the basis of merit that we have ever had.

Another question arose then. The Senator from Texas says, now, "what is the cutoff date?" Well, that is a good question because you would think in the global competition, the answer could be given "when is the cutoff date for Germany, for Japan, for Taiwan?" And all our competition that has been investing way more than this. They just pour in the research and development, and we are trying to catch up, since we do not have long-term investments here in the United States—it is everything short term with the Wall Street market. It is tough, tough to get these little, small, fledgling industries going because they go to the market seeking credit, but if it takes more than two-, three-, four-quarters, over a year to get a good return, they can put the money elsewhere. This is a quick turnaround society in which we live. And the others go for the long range and can lose some in the short term. Specifically, the Japanese this past year, 1994, took over an additional 1.2 percent of the automobile market, losing, if you please, losing $2.5 billion. Of course, they made it back in the Tokyo market selling cars in Japan.

We do not have that kind of policy, and we do not want that kind of policy. And we are not going to have that kind of approach to our problems here. But to try to stay alive in the competition, we very wisely, with the support of the competitiveness council, and President Bush in his address to the joint session of the Congress, agreed to come forward and resolve the National Institute of Standards into the National Institute of Standards and Technology, and on a peer review merit basis to start meeting this kind of competition.

We had a very, very thorough hearing about it this morning, and these offsets are not really going to hurt anybody and certainly they will not diminish further our effort with respect to jobs.

In the other rescission bill, we have already knocked $90 million off the advanced technology program. We cannot afford, on these research centers, manufacturing centers, to knock another $24 million off of this.

Specifically, in agriculture, when the question was asked, when is the cutoff date? Well, Roosevelt started it in 1933 with price supports and protective quotas, and we still have it. In fact, we have embellished it with advertising and export promotion. They got over $1 billion selling California raisins and almonds and California wines and all these other agricultural products. Here, for the poor fellow, working in industry, trying to hold his job, nothing but this babble of free-trade nonsense, whereby we are blaming America's labor for a flawed trade policy.

There is no question in my mind; we have the most competitive industry worker, the most productive industrial worker in the entire world, but we have a silly, really nonpolicy of running around and acting like we are still on foreign policy and we have to sacrifice on the kind of relation in the Pacific rim, we have to defend them and we have to continue to give them all our jobs.

I can talk at length, but I see others waiting. I do not want to go too long, but I wish my colleagues to understand its fullest importance. That is why I did not want to agree to a time limit right here at the initial part of this particular amendment. If we had, Senator, the same number of manufacturing jobs as we had 25 years ago, we would add 10 million manufacturing jobs.

What am I saying? I am saying that in 1970, 25 years ago, 10 percent of the consumption of manufactured products in the United States of America was represented in imports. Now, over 50 percent of the consumption of manufactured products is represented in imports. If we had gone back to the 90 percent that we had of U.S. manufacture of this country's consumption of manufactured products, we would immediately add 10 million jobs.

What does that mean? Some of my friends here have talked today about foreign policy. I would like to get to foreign policy. What does it mean? It means that if you cannot have a strong manufacturing sector, said Mr. Morita—former chairman of Sony—in a particular seminar we attended in Chicago years back, if you cannot have a strong manufacturing sector, you cannot be a nation state. And the country that loses its manufacturing power ceases to be a world power.

What we are learning already in the WTO, I say to the Senator from Mississippi. We thought we had a consensus on who would be the president of the WTO—like Mickey Kantor would come in and say we are going to have a consensus. Oh, we are in charge. Consensus. Consensus. We got together on a consensus with the Italian as the choice. In fact, the poor fellow now—I happen to like him. They say he is a protectionist. OK, that is common sense to me. We have a high standard of living. We have to protect it. But the gentleman from Italy they said was totally unacceptable. We could not have him. We tried to get the man, Salinas, down in Mexico, and he bombed out. And then we ended up with the Italian, who is now going to be the president of the WTO. The second choice was Korea, and we are sitting around with our so-called consensus.

On our most important choice to be made we have already been rolled with WTO. When you lose your economic power, you lose your influence in foreign policy. The foreign policy, Mr. President, of this land is like a three-legged stool. You have as one leg the values of the country; your second leg of military power; and your third leg of economic power.

That one leg of values as a nation is strong. We sacrifice to feed the hungry in Somalia and bring democracy to Haiti. No one questions it or our military power, the military leg. We are the superpower. But when it comes around to the economic leg, Mr. President, I can tell you, here and now, that leg over the last 40 years, 45 years, has been fractured due to the special relationship that we had to give. We had to rebuild the capitalist economy the world around in order to contain communism. And bless it, the Marshall plan has worked. We have no misgivings about it. But now, with the fall of the wall, we have an opportunity here to repair that economic leg for America.

And this one little initiative here out of all the other initiatives has been the bipartisan move toward production and manufacture and strengthening that economic leg. That is what this particular amendment does. It could not be considered, incidentally, in the subcommittee. We tried, but we could not get a hearing, as the ranking member. Our subcommittee report was read out without a single one Senator on this side of the aisle ever having heard of it.

I wanted to have a chance to repair that and say, "Look, set aside construction funds, money just hanging around not to be used in this fiscal year. Why rescind ongoing programs that we have in the several States on a merit basis that is one of the finest that we have ever got to try to help?"

I will speak a little bit further. I see other Senators wanting to be recognized.

I have the list of the industries here with respect to what we call the Advanced Technology Coalition, representing 5 million U.S. workers, 3,500 electronic firms, 329,000 engineers, and 13,500 companies in the manufacturing sector. They have endorsed this particular program.

And it is really down to the minimal basis, not near what we give to NASA and all its research in space, not near what we have in agriculture, not near what we have in alternative energy and in nuclear endeavors. Here is a fledgling little $300 million program that we are trying to keep alive, and some, I think, unknowingly, have cut it, because over on the other side there is a gentleman—incidentally, from Pennsylvania—who says we ought to not only get rid of this but get rid of the entire Department of Commerce.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, I have sought recognition to comment briefly on the pending legislation. There appears to be some reason for optimism that we are in the final stages and will be completing action on this bill yet this evening.

As chairman of the Subcommittee on Labor, Health, Human Services, and Education, our subcommittee faced a very major rescission package, as sent over by the House of Representatives, amounting to some $5.9 billion. While the full appropriations package addressed the rescissions of the House—with somewhat different calculations because FEMA, the Federal Emergency Management Agency, was deferred. The committee was able to shift priorities, so that the rescissions in our Subcommittee on Labor, Health and Human Services, and Education was reduced to $3.05 billion.

We restored some $1 billion in cuts on education because it was our sense that the education funding should remain at as high a level as possible.

It is my own view, Mr. President, that education, as a national priority, is second to none. I come by that view from the experience with my own parents, both of whom were immigrants, who had very little education and therefore valued it very highly in our household. My father, Harry Specter, had no formal education. My mother, Lillie Specter, went only to the eighth grade when she quit school to help support her family on the tragic death of her father from a heart attack in his mid to late forties. But my brother, my two sisters and I have been the beneficiaries of the opportunity to share in the American dream with good educations. And that has been a point for which I have always worked hard to try to maintain the funding, supported by Senator HARKIN, the ranking member of the subcommittee.

Senator HARKIN agreed with restoring these funds to education, and included in that was the restoration of funding of $371 million for drug-free schools. Mr. President, the drug problem in the school system is the intersection of education and violence. Funding for the program is supported by our subcommittee, supported by the full committee and supported, it appears, by the Senate. Perhaps even more money will be added back on drug-free schools which is a very, very high priority.

We also restored some $13 million for worker safety, for OSHA, where the funds had been cut. It is very, very important to have safety on the job.

Another key item was low-income home energy assistance for the elderly and poor. Principally, this vital program provides assistance for many Americans who earned less than $8,000 a year. For these low income or elderly without this important program it comes down to a choice, as the expression goes, between heating or eating.

The program also is very, very important, as a matter of safety. In a 3-month period in the city of Philadelphia, 11 people were killed, many of them children, in families which were using kerosene heaters because they did not have enough money for the regular fuel allotment. The committee has reinstated the program from the House cuts.

I think it is very important, Mr. President, to meet the target of balancing the budget by the year 2002, but I think it has to be done with a scalpel and not a meat ax. Traditionally, as the Founding Fathers articulated, the Senate is the saucer that cools the tea from the House of Representatives. The strength in our system is a bicameral legislature—that is a House of Representatives and a Senate—the models of most of the States in the United States, and it takes both of the Houses to work it out.

So I think we will come up in the Senate with a very sound bill. There have been negotiations, as has been announced on the floor, and it appears at this point that there will be add-backs on a number of the programs, which could, apparently, lead to less of a cut from the $3.05 billion.

But it appears that we will have had an appropriate allocation of resources and assessment of priorities and that we will take a good bill into conference. Hopefully, we can eliminate unnecessary expenses but, at the same time, retain the programs which are very important for America's safety net.

I thank the Chair and I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, on behalf of our leader, I would like to see if we could not get a time agreement now on the Hollings amendment. I understand Senator HOLLINGS has already had some time to speak and has indicated a willingness to enter into this agreement.

I ask unanimous consent that the time on the pending Hollings amendment be limited to the following: 20 minutes under the control of Senator HOLLINGS, 10 minutes under the control of Senator HATFIELD; I further ask that, following the conclusion or yielding back of the time, Senator DOLE or his designee be recognized to make a motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. With no amendments to our amendment?

Mr. LOTT. That is fine. No amendment is mentioned here.

Mr. HOLLINGS. I thank the Senator.

The PRESIDING OFFICER. Without objection, so ordered.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. If it is in order, I would like to propose an amendment, Mr. President.

The PRESIDING OFFICER. Will the Senator suspend?

The Senate has just entered into a time agreement on the Hollings amendment.

Who yields time?

Mr. HOLLINGS. Can we temporarily set this aside so the Senator from Hawaii and the Senator from Pennsylvania could be recognized?

Mr. LOTT. Mr. President, the Senator from Hawaii has an amendment he would like to offer. Could I inquire of the Senator from Hawaii, is this an amendment that has been worked out?

Mr. AKAKA. It is an a amendment that has been agreed to on both sides. I have spoken with Chairman SPECTER and he agrees with this amendment.

By unanimous consent, I wanted to offer the amendment.

Mr. LOTT. How much time does the Senator expect to take?

Mr. AKAKA. I will take 2 minutes.

Mr. SPECTER. Mr. President, if my distinguished colleague from Hawaii would yield, I believe we will work that amendment through in the final package, so it would not be in order to offer it at this time.

But I understand the distinguished Senator from Hawaii would like to speak about it, which I think would be entirely appropriate to outline what we will accomplish. But structurally and procedurally, we will include that in the final managers' amendment, which will accommodate what the Senator from Hawaii wants to achieve.

Mr. President, while I have the floor, I had asked the distinguished assistant leader if Senator SANTORUM and I—and I cleared this with the Senator from South Carolina—might have 10 minutes for a brief presentation on a memorial to Jimmy Stewart in Indiana, PA, which will be coming up after the Senator from Hawaii finishes his remarks.

Mr. HOLLINGS. And without the time being allocated on our particular unanimous consent agreement.

Mr. LOTT. I am sure that would be fine. But after that, I know the leader would like for us to really begin to finish the debate on this amendment and other amendments that have been agreed to so we can begin to bring this to a conclusion.

But I believe we are going to have a couple minutes now for the Senator from Hawaii and then 10 minutes for the Senator from Pennsylvania.

The PRESIDING OFFICER. Would the Senator from Mississippi wish to propose a unanimous consent request for this?

Mr. LOTT. Mr. President, I so make that request to have 2 minutes for the distinguished Senator from Hawaii to discuss an amendment that will be the managers' amendment, and 10 minutes for the two Senators from Pennsylvania on a subject relating to Jimmy Stewart, I believe.

The PRESIDING OFFICER. Is there objection? Without objection, so ordered.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

DEMONSTRATION PARTNERSHIP PROGRAM

Mr. AKAKA. Mr. President, I thank the leadership, and I thank my friend, Chairman SPECTER, for including it in his manager's report.

I have an amendment, which will be in the chairman's report, and it would restore partial funding for the $7.9 million rescinded from the Demonstration Partnership Program. My hope is this amendment is agreeable and that it will receive the support of my colleagues.

The DPP, administered by the Office of Community Services in the Administration for Children and Families of the Department of Health and Human Services, has a highly successful record of employing innovative approaches to increase self-sufficiency for the poor.

The program provides grants to community action agencies and other eligible entities of the community services block grant. The objectives of the DPP are to develop tests and evaluate new approaches for overcoming poverty, as well as to disseminate project results and evaluation findings so that successful programs can be replicated elsewhere.

I also want to inform my colleagues that there is agreement to offsets for this $3 million, and there is agreement by the staff on both sides of the Appropriations Committee.

Therefore, Mr. President, I urge the adoption of my amendment and thank Chairman SPECTER for including it in his report. I yield back any time remaining.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, rather than taking time now from the amendment of the distinguished Senator from South Carolina, Senator SANTORUM and I would like to amend the unanimous-consent agreement to take 10 minutes at the conclusion of the next vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield myself sufficient time. The Senator from Connecticut, Senator LIEBERMAN, wanted to be heard. I ask unanimous consent that the Senator from Virginia, Senator ROBB, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I think it is fundamental that we all understand that this movement with respect to the development of our technology came about at the same time that we were trying to get conversion programs in the Defense Department, including start-up funding for many of the extension centers in this particular program. In fact, we actually got as NIST Director Dr. Arati Prabhakar, one of the top managers who had worked with Craig Fields over at DARPA, and NIST is now taking over the funding of 37 DOD-started extension centers that help small firms that are no less attuned to civilian purposes rather than to military purposes.

If this little amendment is knocked out, and some $25.6 million, is rescinded, as originally proposed in the bill, then what you have left is only $65 million to support a total of 44 centers, plus any new centers for other States. There is a cutoff period of 6 years also in this program that I forgot to emphasize. These centers come up with at least 50 percent of the cost to begin with and over the years we have an ever diminishing amount by the Feds and an ever increasing amount by the sponsoring State along with the industry. They take over these extension centers.

By way of comparison, it should be shown that this past year, where we had some $91 million in these centers and now, if we lose $25 million, we would end up with only $65 million. You can compare that to the $439 million budget this year of extension program of the U.S. Department of Agriculture, a figure that does include research or the cooperative education programs; to NASA with an aeronautical research and assistance budget of $882 million; and the Department of Energy, where there is another $3.315 billion for civilian energy research. And what we have is a very restricted program, run on a peer-review basis, of $91 million. We are trying to restore the proposed cut by using unobligated balances within the same NIST budget.

I also emphasize at this particular time, Mr. President, before yielding as much time as is necessary to the Senator from Connecticut, that I would like to read just one sentence from the 1992 Senate Republican defense conversion task force. This was a very outstanding group of some 14 Republican Senators, including the Senator from Kansas, now the majority leader, and many others here, without reading out their names. I read the language:

> The task force endorses two programs of the National Institute of Standards and Technology as important to the effort to promote technology transfer to allow defense industries to convert to civilian activities. These programs are the Manufactured Technology Program and the Advanced Technology Program.

That is exactly what we have been doing. This has been bipartisan from the very beginning. It has worked very well. There is no pork and there is no industrial policy with the Government picking winners and losers.

I yield as much time as he needs to the distinguished Senator from Connecticut. I do appreciate his support.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, the state of manufacturing in this country is mixed. On the one hand our manufacturing productivity is increasing, but on the other hand we are losing manufacturing jobs by the millions. Manufacturing which once was the life blood of our economy is bleeding jobs overseas. We need to provide the infrastructure that insures that manufacturing flourishes.

Some kinds of manufacturing have been experiencing a resurgence in the last decade. This resurgence has been dominated by big business, not by small and mid-sized businesses. I am worried about the 381,000 manufacturing companies of less than 500 workers, representing nearly 12 million employees. Taken as a group, these small and mid-sized manufacturers are the source of the largest number of new manufacturing jobs, and, they represent real growth for our economy. Perhaps most importantly, small and mid-sized manufacturers have become the foundation of our manufacturing industry.

Larger manufacturers are no longer self-sufficient. Outsourcing is more and more often the most efficient and competitive way to manufacture. Take the example of a Chrysler car. Typically 70 percent of the final product is manufactured by Chrysler itself, the rest is manufactured by a myriad of smaller suppliers. This web of smaller manufacturers have become the core of the manufacturing industry. When U.S. small manufacturers thrive, our manufacturing industry as a whole thrives, and our economy thrives. If our smaller suppliers are not competitive, they compromise the quality of the final product, or more realistically, they lose out to more qualified suppliers abroad. We have to decide how, as a nation, we are going to build our manufacturing infrastructure so that we do not lose these jobs and this potential for economic growth.

As I look at our manufacturing competitors, I am struck by how little we do to support this critical component of our economy. American big manufacturers have had the resources to undergo something of a long and painful rebirth. They have learned from their competitors how to modernize their manufacturing processes as well as their products. At one time, it was sufficient to provide new products in a wide variety. Then as more companies had products, being the company with the best price was the order winner. Then, all competitive companies had low prices, and the company with the highest quality products started winning the orders. Now, a company must supply high quality, low cost products, in a wide variety and deliver it exactly when the customer needs it. These demands are tremendous challenges for manufacturing, and unless you have state-of-the-art manufacturing practices, you cannot compete.

In the United States we are used to being the leaders in technologies of all kinds. Historically, English words have crept into foreign languages, because we were the inventors of new scientific concepts, technology, and products. Now when you describe the state-of-the-art manufacturing practices you use words like "kanban" (pronounced kahn' bahn) and "pokaoke" (pronounced po kai oke'). These are Japanese words that are known to production workers all over the United States. Kanban is a word which describes an efficient method of inventory management, and pokaoke is a method of making part of a production process immune from error or mistake proof thereby increasing the quality of the end product. We have learned these techniques from the Japanese, in order to compete with them.

In a global economy, there is no choice, a company must become state-of-the-art or it will go under. We must recognize that our policies must change with the marketplace and adapt our manufacturing strategy to compete in this new global marketplace. The Manufacturing Extension Program [MEP] is a big step forward in reforming the role of government in manufacturing. This forward looking program was begun under President Reagan, and has received growing support from Congress since 1989.

The focus of the MEP is one that historically has been accepted as a proper role of government: education. The MEP strives to educate small and mid-sized manufacturers in the best practices that are available for their manufacturing processes. With the MEP we have the opportunity to play a constructive role in keeping our companies competitive in a fiercely competitive, rapidly changing field. When manufacturing practices change so rapidly, it is the small and mid-sized companies that suffer. They cannot afford to invest the necessary time and capital to explore all new trends to determine which practices to adopt and then to train their workers, invest in new equipment, and restructure their factories to accommodate the changes. The MEPs act as a library of manufacturing practices, staying current on the latest innovations, and educating companies on how to get the best results. At the heart of the MEP is a team of teachers, engineers and experts with strong private sector experience ready to reach small firms and their workers about the latest manufacturing advances.

Another benefit of the MEP is that it brings its clients into contact with other manufacturers, universities, national labs and any other institutions where they might find solutions to their problems. Facilitating these contacts incorporates small manufacturers into a manufacturing network, and this networking among manufacturers is a powerful competitive advantage. With close connections, suppliers begin working with customers at early stages of design and engineering. When suppliers and customers work together on product design, suppliers can provide the input that makes manufacturing more efficient, customers can communicate their specifications and timetables more effectively, and long term productive relationships are forged. These supplier/customer networks are common practice in other countries, and lead to more efficient and therefore more competitive, design and production practices.

The MEP is our important tool in keeping our small manufacturers competitive. We are staying competitive in markets that have become hotbeds of global competition, and we are beginning to capture some new markets. More importantly, companies that have made use of MEP are generating new jobs rather than laying off workers or moving jobs overseas. These companies are growing and contributing to real growth in the U.S. economy. For each Federal dollar invested in a small or midsized manufacturer through the MEP, there has been $8 of economic growth. This is a program that is paying for itself by growing our economy.

Let me share with you some examples of success stories from the MEP. When the Boeing Co. told Manufacturing Development Inc. or, MDI, it needed to meet Boeing's stringent D1-9000 quality standards, or risk losing Boeing's business, MDI Vice President Michael Castor knew the company needed help. The 30-person sheet metal fabricator located in Cheney, KS, depended on its work with Boeing, its largest customer. The company called the Mid-America Manufacturing Technology Center, an extension center in Kansas, which provided MDI employees on-site training in statistical process control and helped MDI secure a State job training grant that paid for half of the training costs. MDI not only received certification by Boeing and retained its largest customer, but it also estimates that it will achieve a 50 percent reduction in scrap, reduce rework by 25 percent, and realize an annual savings of $132,000.

Another example is HJE Co. Inc., a 4-person manufacturer of gas atomization systems in Watervliet, NY. HJE produces ultrafine metal powders from molten metal. These powders are used, for example, in solder and braze pastes and dental alloys. When Joe Strauss, founder of HJE, first came to the New York MEP he had lots of good ideas and some sketches and rough drawings. The New York MEP helped him turn those ideas into blueprints of manufacturable parts, and helped him find machine shops to make the parts. Strauss spent 6 months getting assistance and learning how to become a world class manufacturer. After learning to use them with the help of the MEP, Strauss eventually purchased his own computer-aided design and manufacturing equipment and software. Now HJE is one of only four companies of its kind in the world and the only one in the United States. Joe is now used as a materials expert for others who seek help from the New York MEP. HJE, by the way, is expanding and moving into new areas in manufacturing.

These are just a couple of examples. There are many others.

Each MEP is funded after a competitive selection process, and currently there are 44 Manufacturing Technology Centers in 32 States. One requirement for the centers is that the States supply matching funds, ensuring that centers are going where there is a locally supported need.

The appropriated funds for fiscal year 1995 would allow the Commerce Department to fund over 30 more centers, to further cover manufacturing areas in the country. The funds are required to grow the program and reach the States that still need them. Not only are the appropriated funds needed to grow the program, but to maintain the centers that were once covered by DOD funds. Historically, the DOD has covered the cost of some manufacturing extension centers because of its vested interest in maintaining a strong defense manufacturing base. DOD funding of the MEP has been a casualty of the defense cuts as defense dollars become tighter.

In conclusion, I urge my colleagues to support the Manufacturing Extension Program. The MEP provides the arsenal of equipment, training, and expertise that our small and mid-sized manufacturers need to keep them in the new global economic battlefield. The investment is in our future economic health, in high wage jobs for our workers, in the American dream. Investment in the education of our small and mid-sized manufacturers is investment in our future.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. First, I would like to remind everybody what is the base bill here. This started out being a bill that was going to pay for disaster aid that is needed for California and perhaps in other areas.

It also has rescissions. These are reductions in spending from this year's fiscal budgets throughout the Government to try to reduce the deficit, try to pay for the disaster aid, and to try to begin to move toward controlling our rate of growth. That is the basic premise that we are starting from here.

When we have all these amendments—although some of them are very justifiable, good, small amounts of money, they just keep growing. For a week now, I have seen lists floating around here with add-backs here, add-backs there, many of which I like. When we check into it, usually it is an add-back on top of a very large program already.

Second, this amendment, I understand, has four components, at least part of which there is support for, and an agreement could probably have been worked out to support it.

I understand that Senator GRAMM from Texas, chairman of the State, Justice and Commerce Subcommittee of the Appropriations Committee, had indicated he could go along with some of these. But it adds back money in these areas: $26.5 million in the manufacturing extension partnership program; adds back $1.5 million from salaries and expenses of the Commerce Department's Technology Administration; it adds back funding of $5 million in funding for NOAA coastal ocean program; and it adds back $14 million in the climate and global change research area.

Some of those sound pretty good, but in each case it is an add-back on top of money that was already there.

The central issue here is the funding for the manufacturing and extension partnership program and the fact that it has been growing so rapidly. Funding for this unauthorized program increased dramatically over the past few years. For instance, this program did not exist until fiscal year 1991. In that year, the funding was $11.9 million; then it went to $15.1 million; and then $16.9 million; then $30.3 million; in this fiscal year it jumped to $90.6 million. Even with the rescission or the cuts proposed in this bill, we still would have had a doubling of the program. The Senator noted that there is still $67 million, I believe, that would be left. It is projected this program would go up to $146.6 and keep going up.

This is a new program that has grown like top seed. Maybe the plan is over the years to bring it down and maybe bring in private-sector funding. That is all well and good. The fact of the matter is it has been doubling and tripling in recent years. That is why on this side, on behalf of the chairman of the subcommittee and the chairman of the committee, our urging to the Members is that they vote to table this amendment, because if we do not do it here, there will be another one that will add money, and another one will add money, and we think we have to control the rate of growth and not start a long process that will add back additional spending to this bill. I yield the floor.

I reserve the remainder of my time.

Mr. HOLLINGS. Mr. President, right to the point. We are not adding back $26 million of the $24 million, and we are not adding back $14 million, but $7 million on the climate and global change research. I want to correct those figures.

I wanted also to include, Mr. President, the point made that it does restore not only the manufacturing extension but the NOAA coastal ocean program, the NOAA climate and global change program and the Undersecretary for Technology Office, and it shows the United States-Israel Bilateral Science and Technology Agreement continues.

Right to the point about growing: We transferred from the Department of Defense at the request of the Republican Coalition for Defense Reconversion. These programs did not grow. It was just really transferred as more applicable to the civilian side than the military side. That is why we have that amount in there.

It certainly has not grown just like export promotion in agriculture, which I am sure my distinguished colleague from Mississippi supports, which is over 1 billion bucks.

Talking about rescissions—now, just with the atmosphere or environment of frustration of amendments coming and going, I can say categorically, Mr. President, we could not offer an amendment all last week. I tried to. What we had was a fill-up-the-tree kind of approach and we had to take the amendments, and we had no votes. We sat around here for 3 days with no votes on amendments. My amendment has never been considered in subcommittee. Rolled in the Appropriations Committee as if we had considered it. And it only takes from other programs unexpended balances, rather than eliminate viable programs endorsed on both sides of the aisle that are not growing like topsy.

I ask unanimous consent to have printed in the RECORD at this point a letter from the president of the Advanced Technology Coalition, with the encompassing endorsement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ADVANCED TECHNOLOGY COALITION,
Washington, DC, February 9, 1994.

Hon. ERNEST F. HOLLINGS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HOLLINGS: On behalf of the Advanced Technology Coalition, we want to express our strong support for the Senate version of the National Competitiveness Act, S.4.

We believe that the bill deserves bipartisan support. We ask that you vote for the bill when it reaches the floor in the very near future. Its passage is essential to strengthening the ability of our companies and members to compete in the international marketplace; in short, S.4 means jobs and will contribute to our nation's long-term economic health.

Combined, the Advanced Technology Coalition represents 5 million U.S. workers, 3,500 electronics firms, 329,00 engineers, and 13,500 companies in the manufacturing sector. The Coalition is a diverse group of high-tech companies, traditional manufacturing industries, labor, professional societies, universities and research consortia that have a common goal of ensuring America's industrial and technological leadership.

The members of the Advanced Technology Coalition have invested an enormous amount of time working with both the House and the Senate in developing and refining the National Competitiveness Act. The Coalition believes that its views have been heard by Congress and reflected in the bill.

In short, we believe that S.4 will promote American competitiveness and enhance the ability of the private sector to create jobs in this country. We hope that you will play a leadership role in ensuring its passage. We would be happy to sit down with you or your staff to discuss the bill in greater detail.

Sincerely,

See attached list of associations, professional organizations, academic institutions and companies:

American Electronics Association (AEA).
National Association of Manufacturers (NAM).
The Modernization Forum.
Microelectronics and Computer Technology Corporation (MCC).
Honeywell, Inc.
National Society of Professional Engineers.
Business Executives for National Security.
IEEE-USA.
Semiconductor Equipment and Materials International (SEMI).
Institute for Interconnecting and Packaging Electronics Circuits (IPC).
Wilson and Wilson.
American Society for Training and Development.
Catapult Communications Corporation.
Dover Technologies.
Texas Instruments, Inc.
Columbia University.
Motorola.
Intel Corporation.
Cray Research.
Electron Transfer Technologies.
Electronic Data Systems (EDS).
American Society for Engineering Education.
U.S. West, Incorporated.
Electronic Industries Association.
Tera Computer Company.
Southeast Manufacturing Technology Center.
Convex Computer Corporation.
Association for Manufacturing Technology.
Semiconductor Research Corporation.
American Society of Engineering Societies.
AT&T.
Hoya Micro Mask, Inc.

Mr. HOLLINGS. I also ask unanimous consent we print a letter from President Clinton, an endorsement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, March 28, 1995.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, DC.

DEAR FRITZ: Thank you for your concern about the technology investment programs we have built together over the past two years. Your steadfast support of the Advanced Technology Program (ATP), the Technology Reinvestment Project (TRP), and related technology investment efforts has been indispensable in educating the new Congress as to their economic and national security value, and countering proposed legislative actions that threaten their existence.

These programs are a high priority to me and I will continue to fight for them. I have expressed strong opposition to the cuts to TRP and ATP in H.R. 889, and I am working to see that an acceptable bill comes out of conference. And, as you know, I have indicated that I would veto H.R. 1158 in the form passed by the House; the cuts to key technology programs are among the serious problems that I have with the bill.

Our technology investments in partnership with industry, while a small part of our entire federal R&D portfolio, make essential contributions to national security and economic growth. Together with TRP and ATP, initiatives such as the High Performance Computing and Communications program, the Partnership for a New Generation Vehicle, the Manufacturing Extension Partnership, Challenge Grants for Technology in Education, Information Infrastructure grants, and the Environmental Technology Initiative provide the necessary seed money for exciting, rewarding education for our children, productive jobs for our working people, and a better quality of life for all of us in the twenty-first century.

I have asked Laura D'Andrea Tyson, chair of the National Economic Council (NEC), to lead a team composed of senior officials from throughout my Administration to continue to build support for these vital investments in the nation's future. We want to work closely with you to protect our technology investments.

Sincerely,

BILL.

Mr. HOLLINGS. Mr. President, I rise to speak regarding a technology/NOAA amendment for myself, and Senators THURMOND, BINGAMAN, BREAUX, GLENN, GRAHAM, LEAHY, LEVIN, KENNEDY, KERRY, KOHL, LIEBERMAN, KERREY, MURRAY, PELL, ROCKEFELLER, and SARBANES.

There are many rescissions in the Commerce, Justice and State chapter of this bill which I am not pleased with. There are four particular rescissions in the Commerce Department section of the committee reported bill which my amendment would restore—the National Institute of Standards and Technology Manufacturing Extension Program, the Office of the Under Secretary of Technology, the NOAA Climate and Global Change Research Program, and the NOAA Coastal Ocean Program. These rescissions total $37.5 million and my amendment proposes $37.5 million in alternative rescissions in their place. My amendment is fully offset, dollar for dollar.

OFFSETS

The offsets in this amendment are quite simple, and they are all from other Commerce Department appropriations accounts. We propose rescinding $30 million from the unobligated balances in the NIST construction account. There are currently $195 million to such unobligated balances. Most of this amount is set to go on contract. But several projects have been held up due to environmental concerns and delays, and this rescission should have little impact on the agency being able to move ahead with modernization of its priority laboratories. This account has never been authorized, and there should be no reason why this rescission is not acceptable to the managers of the bill.

Second, we have recommended two rescissions of prior year unobligated balances from NOAA. We have recommended rescinding $5 million of unobligated balances from NOAA's construction account. Since fiscal year 1992 Congress has appropriated over $9 million for above standard costs for a new environmental research laboratory. The principle construction costs for this facility are the responsibility of GSA. The construction of this facility has been held up by a number of environmental and community concerns.

Finally, we have proposed rescinding $2.5 million of prior year recoveries within the GOES Satellite contingency fund. This is a one-time appropriation account that Warren Rudman and I established in 1991 to ensure the GOES Satellite Program continued. The program got back on track, and the first GOES-next satellite is now in orbit—these unobligated funds are no longer needed.

So each offset is based on good financial management. We have identified prior year appropriations that are not required or not needed at this time. Our proposed restorations, however, continue priority NOAA and technology programs that should not be cut.

RESTORATIONS

Our amendment provides restoration of appropriations for four programs:

Technology programs: With respect to the Commerce technology and competitiveness programs. The committee bill rescinds $26.5 million from the NIST Manufacturing Extension Program—from Manufacturing Technology Centers—and it rescinds $1.5 million from the Office of the Under Secretary of Technology, Mary Good.

No. 1, Office of the Under Secretary for Technology: I find it hard to believe that this Senate would want to cut Under Secretary Mary Good's office. She is the finest Under Secretary for Technology we have had. She is the kind of leader that we had in mind when the Congress passed the 1988 Trade Act. This cut would make her either lay off her staff or terminate valuable projects, like the Commerce Department's share of the United States/Israel Science and Technology Agreement. When I was chairman, we annually exceeded the Bush and Reagan budget requests for this office. I was requested to do so by Republican members of this committee, and I was happy to do so. Further, I cannot understand why we would want to prevent the Under Secretary of Technology from following through participating in a technology and science agreement with our allies, the Israelis.

So, first, our amendment restores funding for her office and prevents any reduction to the U.S./Israeli science and technology agreement.

No. 2, Manufacturing extension: Second, the House bill and the committee-reported bill currently cuts the NIST Manufacturing Technology Centers by $26.5 million. Our amendment would restore $24 million of this program, and leave a rescission of $3.1 million.

The Manufacturing Extension Program now supports 44 centers in 32 States. Most were started with defense conversion [TRP] funds but have now been transferred onto NIST's budget. These centers provide hands-on technical support to small to medium-sized manufacturers to help them upgrade equipment, improve production processes and save jobs. They are cost-shared with States and are competitively awarded. This is a merit-based program—neither the President nor the Secretary of Commerce, nor members of Commerce—can earmark these centers. Each center is tailored to the industrial characteristics and needs of the area in which it is located. So the center in Philadelphia is different from the center in Albuquerque, NM, which is different again from the manufacturing extension center in Rolla, MO.

Now there are two specific impacts from the rescission proposed in the committee-reported bill. First, NIST will not be adding as many new centers as we intended when I fought for these funds in conference last year. And I should note that NIST informs me that they expect applications to come in from many States.

Second, some of the 37 centers that were started with Defense appropriations will have to begin phasing out operations—because NIST will lack the funding to take over the Federal portion of their operational support.

This is an effective program that has always been bipartisan. I remember when former Vice President Dan Quayle traveled to the Great Lakes Manufacturing Center in Cleveland, OH. He praised their work and was particularly impressed with their role in keeping an automotive part manufacturer in business. General Motors told the small firm to cut costs or they would contract with a Mexican firm. The NIST manufacturing center designed machinery to automate and modernize the firm's operations—and the company prospered and added even more jobs in Cleveland. In fact, there is a picture of the Vice President in the entrance to that Great Lakes Manufacturing Center.

NOAA OCEAN AND ENVIRONMENTAL PROGRAMS

No. 3, NOAA, Coastal Ocean Program. Third, my amendment restores $5 million to the National Oceanic and Atmospheric Administration's [NOAA] Coastal Ocean Program. The Coastal Ocean Program was established as an agency-wide initiative to focus the capabilities of all NOAA line organizations to deal with coastal and oceanic issues of national concern. Examples include fisheries research in the Bering Sea off Alaska and the Georges Bank off Massachusetts, New Hampshire and Maine; and estuary and ecosystem studies in Florida and the Chesapeake Bay. The Coastal Ocean Program is merit-based and employs competitive peer review. The program was recently praised by the National Research Council.

The House rescission, which the committee-reported bill agrees to, eliminates half the Coastal Ocean Program's funding. This would result in a loss of ongoing field and laboratory work and it would impair NOAA's ability to attract quality scientists and oceanographers. Many coastal ocean projects would have to be terminated or severely curtailed.

No. 4. NOAA Climate and Global Change Program. Finally, our amendment would restore $7 million for the NOAA Climate and Global Change Research Program. Specifically, we would seek to restore cuts that the committee-reported bill, which cuts twice as much as the House bill from this program, would require in the research and understanding of the role of the oceans in climate change.

NOAA's Climate and Global Change Program is a competitive and peer-reviewed program of scientific grants geared toward improving our understanding of long-term changes in the oceans and atmosphere.

This is a quality program that increasingly is paying off by allowing NOAA to have more accurate long-term weather forecasts. We used to think of a wet side to NOAA and a dry side or atmospheric side of NOAA. The Climate and Global Change Program is breaking down these artificial barriers by proving that the oceans hold the key to global climate and weather.

A case in point is NOAA's program to monitor and forecast El Nino events. El Nino is an interannual change in the air-sea conditions of the tropical Pacific that can cause torrential rains, droughts and major shifts in ocean conditions. For example, during a 1983 El Nino, 600 people died in South America, and Peruvian economic losses due to severe weather and poor fishing were estimated at $2 billion. In the United States, the west coast and Gulf of Mexico were hit by major winter storms that led to beach erosion, flooding and mudslides. Increasingly, NOAA's climate and global change research is correlating severe weather events and the temperature of the equatorial Pacific. The program plays a key role in efforts to develop El Nino predictions that could improve planning and preparation for such events, thereby saving hundreds of lives and preventing millions in economic losses.

Mr. President, again this amendment is fully offset. I urge its adoption.

Mr. ROCKEFELLER. Mr. President, this amendment, offered by the Senator from South Carolina, deserves strong support from this body. I am a cosponsor of the amendment for a very basic reason. Our amendment will restore funding for what's called the Manufacturing Extension Partnership [MEP] Program—a vital network of facilities dedicated to a strong manufacturing base in this country. With vision and a lot of hard work, the Senator from South Carolina has turned a very basic idea into a very powerful, invaluable reality.

It seems incredibly stupid to cut funds from a program that has the track record of this one. The name says it all—manufacturing extension. That means that because of this program, the small- and medium-sized businesses of this country have place to contact, to call, to visit where they get the latest there is to know about how to make products and turn a profit. Cut the funds, eliminate these centers, and cut off the businesses of our country from what they cannot get anywhere else.

Forty-four manufacturing extension centers now operate in 32 States. The centers are sharing expertise, information, and advice to smaller- and mid-sized companies that want to manufacture products and want to stay in business. This extension network has been so successful that other States are waiting In the wings to get centers of their own, and to link hundreds and even thousands of the businesses in their State to a central repository of people and expertise steeped in the state-of-art in manufacturing and technology. Anyone who knows what the Agricultural Extension Service did in this country to help farmers learn about the latest techniques for irrigation, for farming, for keeping their costs down, understand this model now applied to manufacturing very well.

These manufacturing extension centers play a role that cannot and will not be duplicated by any single part of the private sector. They play a truly public role, because their only client is the public interest. They share information and ideas among businesses. They learn what works on 1 factory floor, and help 20 more businesses avoid reinventing the wheel by learning from the first. They spread manuals, training guides, information across their States—with the latest findings and ideas on how to run and fix equipment, make products efficiently, organize and train a work force, and make profits.

We all know how information and know-how spread in places like Silicon Valley and Cambridge, MA. Extension programs tie the rest of the country's small manufacturers into these and other hubs of new technology, and allow even the smallest firm to share in new ideas and equipment in a way that enables businesses across the country to prosper.

In West Virginia, this is the program responsible for drawing together two facilities, the West Virginia Industrial Extension Service at West Virginia University and the Robert C. Byrd Institute for Advanced Manufacturing at Marshall University. The program is called the West Virginia Partnership for Industrial Modernization [WVPIM].

Because of this effort, the hundreds of small businesses in my State have a place to go for help and expertise that would not be there otherwise. In Huntington, WV, there is the story of Wooten Machine Co. Because of the help that this company got from the Institute for Advanced Manufacturing, Wooten went from making parts manually to computerizing their operation. Now they are talking about hiring more people.

They are not alone. Stinson Manufacturing in Alta, WV, went from a 4-person operation to one that now employs 28 people and has annual gross sales of more than $1 million, again with the help of the Robert C. Byrd Institute.

This is not just about tying together the resources in just one State. Mr. President, there is a tremendous advantage in being part of a national network of centers planted in different States. With the help of this network, West Virginia firms are staying on top of the innovations and techniques that are being collected from thousands of small- and mid-sized firms throughout the country. Larger firms will always be able to keep up with modernization, they have the staff and resources to do that. But if this unique network of manufacturing centers shrinks or dies off, the losers will be the small firms in our States.

Nationally, there are almost 400,000 small- and mid-sized manufacturers that employ less than 500 people apiece—these manufacturers account for over half our national manufacturing output. Nearly 12 million people, in all 50 States, work at these small- and mid-sized firms.

Mr. President, in the global marketplace, firms of any size must master modern technologies, management techniques, and methods of work organization. The exciting part of progress is that you don't have to run a business in Chicago or Detroit or New Orleans to be the best maker of an auto-part, a computer chip, a machine tool. You can be in remote parts of Montana or West Virginia or South Carolina. But you do have to be linked to the information that is necessary to keep up with the advances breaking out every day.

Our Nation's overall economy requires thousands of small- and mid-sized firms keeping up at breakneck pace with what works in design, production, marketing, training, and all kinds of other practices.

Mr. President, the American people know what it will mean to our Nation's long-term economic survival if we do not keep making products and being the best at manufacturing. We have to build things to survive in this increasingly competitive global marketplace. The Manufacturing Extension Partnership is the best, most efficient way to advance this cause.

I also ask unanimous consent that a Dear Colleague distributed by myself and several colleagues on the importance of this effort be reprinted immediately after this statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 23, 1995.

DEAR COLLEAGUE: Tomorrow, Friday, March 24, 1995, the Senate Appropriations Committee will mark-up the many rescissions passed by the House of Representatives as part of the Disaster Relief Supplemental Appropriation.

One item included in the House package is a $26.5 million rescission from the Manufacturing Extension Partnership—that amounts to 30 percent of this current year's appropriated funds.

We believe Congress should continue its history of bipartisan support for this unique network of assistance dedicated to equipping small-and-medium-sized businesses and their employees to maximize their potential in manufacturing and for growth.

The MEP centers exist in most states, and play an essential role in diffusing and sharing the state-of-the-art ideas, lessons, and methods that businesses in all of our states—especially when they're not in metropolitan centers—would not otherwise obtain.

To help you think about the vital role of the Manufacturing Extension Partnership, we offer you the following:

10 KEY FACTS ABOUT THE MANUFACTURING EXTENSION PARTNERSHIP—AND WHAT'S AT STAKE FOR THE BUSINESSES AND ECONOMIES OF YOUR STATE

1. The Manufacturing Extension Partnership (MEP) is based on the basic, proven idea that a strong manufacturing base is essential to this nation's economic strength and future. Manufacturing employs almost 19 million Americans, representing more than 20 percent of the private sector workforce and accounting for almost a fifth of the U.S. GNP over the last 40 years.

2. Small manufacturing firms, with less than 500 employees—the primary customers of the MEP—contribute more than half of total U.S. value-added in manufacturing and employ almost two-thirds of all manufacturing employees, approximately 12 million Americans.

3. America's small manufacturers know their challenge lies in being able to learn about and adopt modern manufacturing equipment and "best practices," and overcoming various barriers to change, including geographic location or even isolation, awareness, information, finance, and regulations. These are the smaller companies across the country being assisted by manufacturing engineers at MEP extension centers run by local, state, and non-profits.

Median size of MEP's client companies is 50 employees; median sales of a MEP's client companies is $5.4 million; median age of MEP's client companies is 26 years.

4. The Manufacturing Extension Partnership is industry-driven, and market-defined. It builds on and magnifies existing state and local industrial extension initiatives and resources. Centers are managed and staffed by experts with private sector manufacturing experience.

5. The MEP Centers are awarded funds using a rigorous, merit-based competitive process.

6. MEP and its Centers focus services on activities where economies of scale do not exist in the marketplace, and on only those firms which demonstrate a commitment to their own growth and development.

7. The small amount of federal dollars available for MEP leverages substantial resources in state and local governments, as well as the private sector.

8. MEP is committed to performance measurements which focus on the bottom-line economic impact for client companies. This program has shown a rate of return of 7-to-1 for the federal government's investment, with concrete benefit in increased sales, cost savings, and jobs for small manufacturers.

9. Companies using MEP centers are becoming more competitive and are improving their long-term prospects for growth. Their goal is to retain existing jobs, create new high-skilled jobs, and contribute broader economic benefits.

10. Manufacturing Extension Centers are in 32 states, and one of them could be yours. But even if your state is still without a center, eliminating funds from the Manufacturing Extension Program will mean giving up on the goal of a modern, national network to provide irreplaceable technical assistance to our businesses and workforce.

In conclusion, our point is: "fiscal year rescissions undermines manufacturing strength"

The proposed $26.5 million rescission for the Manufacturing extension Partnership would weaken the emerging, nationwide network of extension centers—co-funded by state and local governments—that provide small and medium-sized manufacturers with technical assistance as they upgrade their operations to boost competitiveness and retain or create new jobs. The rescission would reduce funding available for establishing new centers around the country. Approximately 10 new centers could be funded in FY 1995, rather than the planned 36 centers. Reducing the number of new centers would slow the delivery of MEP services to large regions of the United States—and many thousands of small companies.

We urge your support for his important endeavor. For further information, please contact Laura Philips at 4-9184 in Senator Lieberman's office or Ken Levinson at 4-7515 in Senator Rockefeller's office.

Sincerely,

JOE LIEBERMAN.
JOHN GLENN.
JAY ROCKEFELLER.
JEFF BINGAMAN.

Mr. KERRY. Mr. President, I speak today in support of the Hollings amendment to the Emergency Supplemental Appropriations Act. The amendment would restore programs that are important to the people of Massachusetts and the entire country. I would also like to note that offsets for each of these programs is provided so the total amount of the rescission package is not affected.

NIST's Manufacturing Extension Program [MEP] is vitally important to small businesses in my State. MEP supports our Bay State Skills and University of Massachusetts technical assistance programs for small- and mid-sized Massachusetts companies. The House bill rescinds $26.5 million from this program and the Senate bill retains this rescission. The Hollings amendment would restore the entire amount rescinded from the MEP Program.

The second program addressed in the amendment is the NOAA Coastal Ocean Program [COP], a nationwide science program that is conducting very important interdisciplinary research on oceanographic problems. As part of the COP, a major field study is presently being conducted of Georges Bank as part of the U.S. Global Ocean Ecosystems Research Program [U.S. GLOBEC]. The main objective of the study is to understand the physical and biological processes that control the abundance of populations of commercially important marine animals. The House and Senate bills rescind $5 million of COP's $11 million in fiscal year 1995 funding—40 percent of the budget. The rescission is harmful not only to U.S. marine science but also to resource management decisionmaking which depends on the results of this science. The Hollings amendment would restore the $5 million rescission in the NOAA operations, research and facilities account for the Coastal Ocean Program, resulting in retention of $11 million in funding for this year. As an offset, the amendment would increase the rescission in NOAA construction account from $8 to $13 million. This would decrease the construction account from $97 to $84 million. NOAA supports this change.

The final program that the amendment addresses is the NOAA Global Climate Change Program. This program seeks to develop a clearer picture of the relative roles of various greenhouse gases in causing global warming. The Senate bill rescinds $14 million of the $78 million in fiscal year 1995 funding. The amendment would restore $7 million of the rescission for this critical program. The offset would come from the NIST construction fund and the GOES construction fund.

I compliment the distinguished Senator from South Carolina for his leadership in these oceans and technology issues—which he has championed for years. It is my pleasure to serve with him on the Commerce Committee, where he was recently chairman and is now the ranking Democrat.

I join with him to prevent shortsighted cuts in these beneficial programs that exemplify the kind of nationally important work Government can do so well and I urge my colleagues to support this amendment.

Mr. HOLLINGS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes and 40 seconds.

Mr. HOLLINGS. Mr. President, I retain the remainder of my time and yield time to the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, very briefly I just wanted to respond to my friend from Mississippi and say we are at a time when, obviously, we have to make some tough choices, a lot of tough choices. There are a lot of rescissions in this bill to cut spending and I am going to support most of them. But it seems to me this is one that does not make sense because of the numbers I cited, which is $8 in economic growth for every $1 we spend in this program.

I have to tell my colleague, I know we all hear different messages from our people back home. When I am in Connecticut there is one question that I think is most on people's minds, resonating throughout the State, and I think, throughout the country. The question is: "Can you do something in Washington to protect my job, to keep my job secure?" If people have lost a job, as too many people in my State have, because of manufacturing downsizing, the question becomes: "What can you do to help me get a new job?"

I know some of the old industries in our State which have downsized, some have even closed, are not going to expand in the near future. The only answer here is to grow the economy. There are tax policies I will look forward to supporting that will encourage capital formation and help make that possible.

But it seems to me one of the best things we can do is to create manufacturing extension centers that will reach out to the small- and mid-size companies to help them grow and help them create jobs. This is a program where I feel we make a mistake by cutting a single dollar because this is a program that gives a lot of people out there—people who are worried about their futures—some hope that there is a new and a good job, a high-paying job, around the corner.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the Senator from Mississippi should understand, this does not add back. It does not add back one red cent. It is offset within the same budget for unexpended construction funds that are sitting there.

I am here going along with the original premise and the continuing premise of rescissions. That is the basic premise. This amendment is in conformance. It does not add back. It readjusts allocations under the same budget from construction—whether you are going to build office buildings or you are going to start building jobs.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 3 minutes and 40 seconds.

Mr. HOLLINGS. I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT. Mr. President, I think we have made our points. We will be prepared to yield our time and go to a vote if the Senator would like to. I think we only have a total of about 5 minutes or so left. How much do we have?

The PRESIDING OFFICER. The Senator from Mississippi has 6 minutes remaining. The Senator from South Carolina has 3½ minutes.

Mr. HOLLINGS. Mr. President, I will go along with the suggestion of the distinguished Senator from Mississippi. What happened, two or three Senators wanted to be heard, but we only have 3 minutes if they got here.

Is it the point to yield the remainder of our time, make the motion, get the yeas and nays? Is that it?

Mr. LOTT. Yes, sir.

Mr. HOLLINGS. Very good.

Mr. LOTT. Mr. President, I yield the remainder of my time.

Mr. HOLLINGS. I yield the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back on the amendment.

Mr. LOTT. Mr. President, I move to table the Hollings amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 574 TO AMENDMENT NO. 420

The PRESIDING OFFICER. The question is now on the motion to table the amendment of the Senator from South Carolina. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. BENNETT). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 43, nays 57, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—43

Abraham
Ashcroft
Bennett
Bond
Brown
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Thomas
Thompson
Warner

NAYS—57

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Cohen
Conrad
D'Amato
Daschle
DeWine
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings

Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Stevens
Thurmond
Wellstone

So the motion to lay on the table amendment No. 574 to amendment No. 420 was rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HOLLINGS. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on the adoption of the amendment. Is there further debate?

The amendment (No. 574) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

Mr. FORD. Mr. President, may we have order.

The PRESIDING OFFICER. Will the Senator from Minnesota suspend?

The Senate is not in order. The Senate will be in order.

Mr. FORD. Mr. President, I do not believe they can even hear you.

The PRESIDING OFFICER. Will the Senate please be in order?

The Chair advises the Senator from Minnesota that under the previous order, at this time, the Senators from Pennsylvania were to be recognized for 10 minutes.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, if the Senator from Minnesota would just give us about 5 minutes, then we will come back to the Senator from Minnesota.

Mr. WELLSTONE. I thank the majority leader.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized.

The Senate will be in order.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

THE JIMMY STEWART MUSEUM IN INDIANA, PA

Mr. SANTORUM. Mr. President, Senator SPECTER and I rise today to honor a native son of the Commonwealth of Pennsylvania who is going to be honored next month in Indiana, PA—the birthplace of Jimmy Stewart—with a museum that is going to open right about half a block away from the birthplace of Jimmy Stewart.

Many of us have been working long and hard on this museum, trying to get a suitable museum for a man like Jimmy Stewart.

Jimmy Stewart asked, when the people of Indiana, PA, went to him and asked to do a museum for him, that it not be anything fancy; that he wanted it to be very modest. He did not want the University of Indiana, PA, to have a big museum dedicated to him. He wanted something very simple.

In fact, he refused to have anyone from Hollywood participate in any of the fundraising. He said he wanted it to be something from the community and not anything that was generated with a lot of money and a lot of fanfare; that that would make him feel uncomfortable.

So the people of Indiana, PA, have set about the process of raising the money locally and secured the third floor of an old house, just a very small amount of space. Mr. Stewart donated the artifacts for the museum, some of his personal memorabilia. And, in fact, he still has several old friends who have been sort of shepherding this cause along.

I am rising today with Senator SPECTER to pay tribute to him and to the people of Indiana, PA, a little town in western Pennsylvania; a town that, frankly, has had some tough times of late. In fact, Indiana County has the highest unemployment rate of any county in the Commonwealth of Pennsylvania.

But they pulled themselves together and are putting together this really fine and lovely and modest tribute to Jimmy Stewart.

The man is an incredible man in America. He is an actor who has appeared in 71 films. Obviously, we all know the famous films that he has been in. Who has gone through a Christmas holiday without seeing the brilliant George Bailey part that he played and that we all can identify with as someone who has gone through some tough times and been able to face those tough times, and the spiritual role that he played in that movie.

I can still relate to him as I watch "Mr. Smith Goes to Washington," and the role he played as a U.S. Senator in fighting for what the people of his State called for.

He has been an inspiration not only on the movie screen, but he has been a tremendous inspiration as a war hero. He was assigned to the Army Air Corps, rising from private to bomber pilot, to commander of the Eighth Air Force Bomber Squadron. He, himself, flew 21 missions over enemy territory, including Berlin, Bremen and Frankfurt. By the time it was over Over There, James M. Stewart would be known as colonel, and he would be later decorated with an Air Medal, the Distinguished Flying Cross, and the Croix de Guerre. All told he accumulated 27 years of service in active and reserve duty, even attaining the rank of brigadier general.

On May 20 in Indiana, PA, we will be celebrating Jimmy Stewart's birthday and the opening of the Jimmy Stewart Museum. And, in so doing, we really do honor a great American, someone who takes life in stride and who is just a wonderful example of the goodness that is in America.

I just want to read a couple of quotes from Jimmy Stewart that I found to be amusing and somewhat typical of the man. He said once:

> Jean Harlow had to kiss me, and it was then I knew that I'd never been kissed before. By the time we were ready to shoot the scene, my psychology was all wrinkled.

On his experience in the military and in the war:

> I always prayed, but I didn't really pray for my life or for the lives of other men. I prayed that I wouldn't make a mistake.

And finally, when he was flying a plane back for the Army, he ran into engine trouble while flying a tour of duty in 1959, but managed to bring his plane to a safe landing. He was quoted after he got out of the plane:

> All I could think of was not my personal safety, but what Senator Margaret Chase Smith (who was then chairman of the Senate Armed Services Committee) would say if I crashed such an expensive plane.

That is the kind of down-to-earth goodness and humbleness that Jimmy Stewart brought to the stage and to the screen and to the families of millions and millions of Americans and millions around the world.

He, frankly, deserves a greater tribute but, frankly, I cannot think of a more appropriate tribute to a modest man, to a good man, than a modest museum in his own hometown.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am pleased to join with my distinguished colleague, Senator SANTORUM, in commemorating the opening of the museum in Indiana, PA, on May 20 of this year, which will commemorate the 87th birthday of a great American.

James Stewart spoke in the Senate of the United States to a spellbound crowd in the movie "Mr. Smith Goes to Washington," unlike those assembled here today, who are still conducting some substantial business as we near the completion of this important appropriations bill.

The PRESIDING OFFICER. The Senator will suspend while we get order on the floor.

Could we please have order in the Senate?

I thank the Senator.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I feel a particular affinity for James Stewart for many reasons. In addition to playing a U.S. Senator for the movies, he was also the lead actor in "The Philadelphia Story," for which he won an Academy Award.

He is a Pennsylvanian from a small town, Indiana, PA, which has a very striking statue in his honor.

In opening this museum on May 20—we talk about it on an appropriations bill—it is relevant to know that there is no Federal funding, at least to my knowledge, for this museum, which the people are offering as a tribute to James Stewart.

He has really a remarkable career as an actor and as a great patriot, one of the first movie stars to enter in World War II. He rose from the rank of private to the rank of colonel. He had 20 missions over Bremen, Frankfurt, and Berlin. He is an all-American hero. He reminds us of that when he appears frequently on television and in the reruns of "It's a Wonderful Life."

James Stewart is an American success story, and it is entirely appropriate that he be honored in his hometown on May 20 of this year.

Jimmy Stewart's achievements on and off the silver screen are well known to us, and Indiana, PA, is indeed fortunate to claim him as one of its own. He was born in Indiana, PA, on May 20, 1908, and graduated from Princeton University in 1932 with a degree in Architecture. Shortly after his graduation, Jimmy joined a summer theater group, debuting that same year in a production of "Goodbye Again." After several years of performing in Broadway productions, Jimmy made his film debut in "The Murder Man" in 1935. His legendary film career was launched, and over the next several years he would bring us such classics as "It's A Wonderful Life," "Destry Rides Again," and "The Philadelphia Story." His 1939 "Mr. Smith Goes to Washington" stands before us all—here in Washington and all throughout our country—as an abiding testimony to the importance of courage and integrity.

Jimmy Stewart's excellence in film, however, is matched by his sense of duty and patriotism. When his country called him to serve in World War II, he answered willingly; he served as a bomber pilot in the U.S. Air Force with dedication and distinction, earning several medals and commendations—and yet all the while with a sense of modesty and humility that belied the star-of-the-screen status he had left behind. By the time he returned home to the States, Mr. Jimmy Stewart had become Col. Jimmy Stewart, and over the course of his continued service in the Air Force Reserve in the years after the war he rose to the rank of Brigadier General.

His post-war return to the world of film brought us some of his greatest cinematic achievements, including such collaborative efforts with Alfred Hitchcock as "Rear Window," "The Man Who Knew Too Much," and "Vertigo." In 1950, he brought us "Harvey," in 1953, "The Glenn Miller Story," and in 1962, "The Man Who Shot Liberty Valance." And in the most gloriously atypical fashion, he and his wife Gloria remained together through it all year after year until her recent passing.

Jimmy Stewart's many contributions to the world of film, as well as the steadfast humility of his character and the tremendous sacrifice that he made as he served in behalf of his country, have endeared him to us all, and the occasion of the opening of this museum in his honor is a special one indeed. I am personally grateful for the joy that he has brought to us in his films and for the tremendous model of integrity and selflessness that he has exhibited for so many years, and I am hopeful that this modest museum erected in his honor will serve to enshrine his contributions and his character for many generations to come.

These remarks, along with the remarks by my distinguished colleague, Senator SANTORUM, as we pay tribute to this very, very distinguished American and Pennsylvanian.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota has been recognized.

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair reminds the Senator, the question before the Senate is amendment No. 441 in the second degree to amendment No. 427. The Senator needs to ask unanimous consent for that to be set aside.

Mr. WELLSTONE. I ask unanimous consent that that amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

Mr. President, shortly I think we will have some agreement on an amendment that I will offer. I thought what I might do is take advantage of this time to briefly summarize this for colleagues. I appreciate the hard work of the majority leader and the bipartisan spirit of this.

Senior citizens face a confusing world of rules, conditions, exceptions, limitations, and even outright scams when choosing their supplemental health insurance and grappling with the Medicare system. Congress recognized the difficulty seniors face when it established a program, which is really a wonderful program. It is sort of the best example of grant money going a long way, and is called the Insurance Information Counseling and Assistance Grant Program in OBRA 1990. This was a recognition by the Congress that Medicare beneficiaries need help, not help through a Washington agency, but person-to-person help at a local level.

All 50 States have established insurance counseling and assistance programs with the help of Federal grant dollars. As a result, these programs provide local volunteer based assistance to Medicare beneficiaries.

Mr. President, this grant program is a perfect example of a small program—it is basically seed money—that has produced big results. Let me repeat that—a small program that has produced big results.

Over 10,000 volunteers have been trained through the program, and over $14 million is saved each year for beneficiaries just by good counseling for senior citizens who have a difficult time.

I remember that both my mom and dad had Parkinson's disease and, in the latter years of their lives, among their struggles was the struggle of just wading through some of the paperwork that they had to do, and some of the forms that they found bewildering.

In my own State of Minnesota, 300 volunteers have been trained, and 3,300 beneficiaries were assisted in 1994 alone—just in the State of Minnesota—and $867,000 was saved on their behalf.

Mr. President, I just simply want to make the case that what we are trying to do here is restore $5.5 million that is part of the proposed rescissions. What we are working on now is what the offset will be.

This is $5.5 million to be added on to what I think is now being spent, which is also about $5.5 million, which will go a long way. Again, this is not a program centered in Washington, DC. This is a program that uses a small amount of Federal dollars that goes a long, long way. We train volunteers in each of our States, and I say to my colleagues that I know if you just talk to people in your State, especially senior citizens, you will find that there is a tremendous appreciation for the Insurance Information Counseling and Assistance Grant Program.

So I am just trying to restore $5.5 million. We are now working on an offset. As soon as we have that offset—

and I think it will be soon—it is my hope that my amendment will have unanimous support.

Mr. President, I also want to say to my colleagues, the reason that I have been working on this amendment is, at least for me, one of the better reasons to be in the U.S. Senate—the need for this program comes directly from a lot of senior citizens in the State of Minnesota. People are really committed to this program. They feel it is not very expensive. I am just trying to get $5.5 million back in here to provide counseling assistance to seniors all across the country, and people tell me it is a huge help to them.

I think this is a good example of public policy that is not overly centralized, Mr. President, and not overly bureaucratized. It takes place back in our States and local communities, and constitutes the best example of using a small amount of money to get a lot of volunteers to provide a lot of help to senior citizens working their way through these forms, and it is a wonderful consumer protection and prevention program against some of the scams that all too often, unfortunately, happen to seniors.

I suggest the absence of a quorum. I hope soon we will have some resolution.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President I ask unanimous consent that we lay aside the pending amendment if we have one.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 576 TO AMENDMENT NO. 420

(Purpose: To restore $614,000 proposed for rescission from the Weir Farm Historical Site, CT, and $700,000 proposed for rescission from the Jefferson Expansion Memorial, IL, offset by rescissions of $700,000 from land acquisition for the Wayne National Forest, OH, and $690,000 from the Highway Trust Fund; and to prohibit the purchase of lands in Washington County and Lawrence County, OH)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 576 to amendment No. 420.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 2, strike "$11,297,000" and insert: "$9,983,000".

On page 21, line 17, strike $3,020,000" and insert: "$3,720,000".

On page 21, line 17, after "rescinded" insert "and the Chief of the Forest Service shall not exercise any option of purchase or initiate any new purchases of land, with obligated or unobligated funds, in Washington County, Ohio, and Lawrence County, Ohio, during fiscal year 1995".

On page 44, line 77, insert the following:

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL AID HIGHWAYS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this heading in Public Law 100–17, $690,074 are rescinded.

Mr. GORTON. Mr. President, this amendment includes five items, all of which apply within the general direction of the Interior Committee portions of this bill. They are at the request of individual Senators and have offsets there for relatively small projects. They have offsets. They have been cleared with the majority and minority parties.

They include elements in Ohio, Illinois—that is one in which Missouri is interested—and Connecticut.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Has the Senator from Washington sent the amendments to the desk? Are they at the desk?

Mr. GORTON. They are.

Mr. BUMPERS. Mr. President, those amendments have been cleared on this side.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 576) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, as I understand it, the Senator from Nevada is prepared to offer an amendment. I wonder if we might agree to a 30-minute time agreement on the amendment?

Mr. BRYAN. Mr. President, if I may respond, Senator BUMPERS is the primary sponsor of this. I am trying to reach him. He will be here momentarily. I am certainly agreeable in principle to the time limit to accommodate the leader and move this along, but I am reluctant to agree to a specific time until I speak with him.

Let me assure the leader I will try to ferret out the distinguished Senator from Arkansas and will be in communication with the leader as soon as possible.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I just want to give my colleagues a status report on where I think we are. I believe we are making progress, but I am not certain because I see some additional amendments that have been added, additional cost items, add-backs—about $60 million. Then the offset has been reduced by about $60 million. It is about $120 million that has sort of disappeared here without our knowledge on this side.

We are perfectly willing to discuss these items or look at offsets that might be offered.

$46 million for Job Corps; I do not know where that came from. That came out of the blue; never discussed it yesterday. TRIO, whatever TRIO is; immigration and education; substance abuse and mental health—all these things. There is already a great deal of money in the bill for all of these programs.

Then the IRS offset disappeared. That was $50 million. Library is $10 million; maybe one or two others.

So we have sort of gone backwards on the deficit reduction and forwards on spending more money. Now, maybe in the overall mix of things, because this is about a $16 billion rescission package, we should not quarrel about $120 million. But I think there may be principle involved here, too.

If we are going to negotiate, then we ought to negotiate and finish this bill, or finish it tomorrow. I am not going to stay here very much longer tonight if we are not making any more progress than we are. So we will come back tomorrow. But I hope before that decision is made we can come to some conclusion on where these amendments came from. Why were there not any offsets? Why did we lose some $60 million on the offset side, savings side? Then I think we would be prepared to reach some agreement.

I know the Senator from Nevada has an amendment. I know the Senator from Minnesota has an amendment. And I know there is a managers' amendment. Then I think there was one additional amendment. The Senator from Iowa has an amendment on CPB. I thought those were all of the amendments. Then we discovered there are four more amendments that have been added back without a vote or anything else. Then there were some taken out of the savings side without a vote or anything else.

I just say to my colleagues on the other side. We want to be cooperative, but we cannot do business this way. I am prepared to see if we cannot work something out in the next 30 minutes. If not, we will recess for the evening and come back sometime tomorrow.

Are we yet in a position to get a time agreement? We are never going to finish it unless some people are willing to give us some time agreements.

Mr. FORD. Will the majority leader yield for just a moment?

Mr. DOLE. Sure.

Mr. FORD. We are doing our best to try to put things together. I understand the push. I understand getting out in 30 minutes and coming back tomorrow. But then you have a cloture petition filed. That ripens Saturday. So we are trying to put it together, and people understand that. The amendments that we have there, the new entrants, are the ones that are the amendments that basically have been agreed to. We have been trying to put—

Mr. DOLE. On your side.

Mr. FORD. On our side. We are trying to put it together where we can get that agreement. It becomes very difficult. We understand that there is no budget out here. We are trying to get rescissions in this year's allowances. That cuts off a lot of money for people that already started work. It does make it a little bit difficult.

I wanted to assure the majority leader that we are working. We are sweating trying to agree to what he is offering here. I just wanted to assure him. There was not anyone else out here to take it up.

Mr. DOLE. I am not quarreling with the Senator from Kentucky.

I will give you one example. The Senator from Mississippi, Senator COCHRAN, has been following the Women, Infants, and Children program, WIC, very carefully. He is very sensitive to that program. So we are adding back $35 million, which he says we cannot spend, just cannot spend it. But you know we added it back. So I assume it will not be spent. So it is not really an add-on. I am certain there are other programs which are the same.

But all I am suggesting is I think we are very, very close to getting this done, except for these new add-backs that I was not aware of, and then some of the deductions that have gone on that I was not aware of. So, hopefully, we can resolve those matters very quickly. And one way to do it quickly is to get Members to give us a time agreement.

I wonder if we not in a position to get a time agreement on the BRYAN-BUMPERS amendment so we can move on to some other amendments and so we are not just wasting our time waiting for the Senator from Arkansas to give us permission to proceed. Is there another amendment that we can proceed to?

Mr. BRYAN. I have just been informed that Senator BUMPERS should be here momentarily. Once he gets here, I am can assure the leader that we are prepared to proceed and enter into a time agreement.

Mr. DOLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HUTCHISON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, I ask unanimous consent that there be 30 minutes equally divided on the BRYAN-BUMPERS amendment. In fact, we are prepared to give Senator BRYAN 20 minutes as the proponent of the amendment and we will take 10 on this side.

Mr. BRYAN. I thank the majority leader. That is agreeable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 461 TO AMENDMENT NO. 420

(Purpose: To eliminate funding for the market promotion program)

Mr. BRYAN. Madam President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside, and the clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for Mr. BUMPERS, for himself and Mr. BRYAN, proposes an amendment numbered 461 to amendment No. 420.

Mr. BRYAN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike lines 3-7 on page 4 of the Committee substitute, and insert in lieu thereof the following: "deleting '$85,500,000' and by inserting '$0.'"

Mr. DASCHLE addressed the Chair.

Mrs. BOXER. Madam President, I have a parliamentary inquiry, if I might.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. BRYAN. I yield for the purposes of parliamentary inquiry. Will that be on our time?

The PRESIDING OFFICER. Yes. The Senator is correct.

Mr. DOLE. Madam President, the Senator can have 5 minutes; 10 in opposition, and take 5.

Mrs. BOXER. That is quite satisfactory. So the agreement is that the Senator from California would have 5 minutes, and the Senator from——

Mr. DOLE. Wherever.

Mrs. BOXER. Wherever can have 5 minutes.

Mr. BRYAN. Is that satisfactory to the Senator from California?

Mrs. BOXER. Yes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I yield myself 7 minutes, Madam President.

Madam President, this year Ralston-Purina will spend $13 million to advertise its Chex brand cereal, and Brown-Forman Corp. has budgeted $20 million to help sell California Cooler, and last year McDonald's spent $7.7 million in advertising in Singapore alone.

The question arises, what do all of these companies have in common besides each having multimillion-dollar advertising budgets? The answer is that they are all recipients of taxpayer funds which is known as the Market Promotion Program. This program was started in 1986 to promote American agricultural produce.

Let me just say a word by way of background. The amendment which the Senator from Arkansas and I have presently before the floor will zero out funding for this program for this year. Last year, the appropriators came up with $85 million for this Market Promotion Program, and in the legislation we are acting on this evening, they have increased the appropriation level to $110 million.

In my view, this program, which I am going to describe very briefly in a moment, is corporate welfare. We have debated in this session of the Congress where we can make cuts in the budget. We have talked about Women, Infants, and Children and school nutrition programs. Everything seems to be on the table except the sacred cow of American agriculture, the Market Promotion Program.

Very briefly, Madam President, the history of this program dates back a number of years. Currently, we are spending in the neighborhood of $3.5 billion in America on export promotion—$3.5 billion. Of that sum, $2.2 billion is set aside specifically for agricultural promotion.

Now, to put this in context, 63 percent of all the money that we are spending for export promotion in America is devoted to agriculture. Agriculture represents about 10 percent of the foreign exports from America. So it is my view that is a disproportionate, indefensible amount. But let us put that aside for the moment. We can debate the merits or demerits of spending $2.2 billion in agricultural promotion. I am talking about the Market Promotion Program. This is a program which, as I have said, is corporate welfare. It is the equivalent of food stamps for the largest corporations in America.

The way this program works is that advertising budgets of some of the large corporations in America are supplemented by taxpayer moneys. Now, Conagra, a good company, makes the kind of products that are household names in America: Country Pride, Chung King, Wesson, Butterball, Swift, Peter Pan, Armour, Banquet, Swiss Miss. Since 1986, this company has received in taxpayer dollars $826,000. This company has, by 1994 financial data,

$462 million in net profits. The advertising budget is $200 million. The CEO receives compensation of $1.229 million annually. How in God's world do we justify, Madam President, spending taxpayer dollars to supplement this program? This is a company that is large; it is successful; and they can effectively handle their own advertising and promotion budget.

Jack Daniels, a product that is familiar to many of us, $2.41 million is what they have received through the Market Promotion Program and its immediate predecessor, TEA [Targeted Export Assistance]. The 1994 financial data: Net profits of $146 million, an advertising budget of $74 million, CEO compensation of $703,000.

Again, Madam President, I suggest that it is indefensible to call upon the American taxpayer to subsidize a company of this size.

McDonald's. Who among us does not enjoy a Big Mac? I know I do. But this is a company that has received, since 1986, $1.6 million, taxpayer dollars, all taxpayer money, to supplement a company that makes a net profit, according to the 1994 data, of $1.2 billion, that has an advertising budget of nearly $700 million, and CEO compensation of $1.78 million.

In addition to this, it is not only American companies that receive it. Here is a list—not a complete list—of foreign companies that receive money from the American taxpayer.

The point to be made is that at a time when we are making some very tough budget cuts—very tough budget cuts—we are talking about the most vulnerable in our society who have been asked to step forward, whether it is the WIC program, or whether it is school nutrition, or aid to our schools in terms of drug assistance.

All of these programs have been hotly debated, but for some reason these agriculture programs are sacrosanct. It is time to eliminate these programs. First of all, they are indefensible in terms of taxpayer dollars being used to subsidize them. And secondly, there is a question as to its effectiveness.

The General Accounting Office has done an evaluation, and they find a number of problems with this program. Number one, it is not clear whether the taxpayer dollars that are going into the advertising budget simply are being exchanged for advertising money that is already in the corporate budget.

Secondly, there is no criteria as to who is eligible—big company, small company.

Third, there is no criteria as to how long you stay in. Do you get in and stay forever?

Now, there has been at least one reform that has been added that you have to get out in 5 years. But that is 5 years from 1994, and that means some of these companies have been in this program since its origin.

There is no objective statistical data, absolutely none, to suggest or to prove that in fact these dollars have assisted our export promotion program. Madam President, I remind my colleagues that we are spending separate and apart for this one agricultural promotion $2.2 billion. Now, you will recall agricultural exports represent 10 percent of the exports from America. We are spending 63 percent of a total of $3.5 billion that is being spent by the Federal Government on export promotion.

There are other brand names that are household products. I think the American taxpayer is entitled to be absolutely outraged when you look at some of these companies, highly successful companies. I have no quarrel with the companies. My quarrel with them is the fact that American taxpayer dollars are subsidizing the corporate giants in America.

Let me just give you some more information here. Welch's, marvelous fruit juice, and others, they have received since 1986 $5.8 million; Blue Diamond, these are the folks who are involved in nuts, $37 million; Dole fresh fruit, $9 million. If the Pillsbury Doughboy looks a little chubby to you all, it is because the American taxpayer has been subsidizing his diet pretty heavily. Pillsbury, it says, received during this period of time $10 million.

So my point, Madam President, is that if we are serious about cutting the deficit, if we are serious about making the hard choices, the tough cuts, we have to begin with programs like this. Corporate welfare ought to be on the line every bit as much as the other programs which have been targeted in this Congress either for elimination or reduction.

Let me say this is not a liberal amendment nor a conservative amendment that my friend, the distinguished senior Senator from Arkansas, and I offer. This is an amendment on which those who are to the political right in America, the Cato Institute, and those who are the moderates in America, the Political Aggressive Policy Institute, have taken a look at this program and both have reached the same conclusion: This is a program that ought to be eliminated.

To conclude, Madam President, it is time to take these companies off the taxpayer dole. They are capable of fending for themselves. They have marvelous programs, sophisticated staffs. They pay their people top dollar in terms of their promotion programs. The American taxpayers ought not to be asked to spend their dollars to supplement these advertising accounts. The time for action is now.

Madam President, I yield the floor and reserve the remainder of my time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. I thank the Chair.

I rise to oppose the amendment by my friend and colleague from Nevada. We agree on many things. This is one on which we do not agree. To zero out a program like the Market Promotion Program, which we know is working—and, when my colleague says there is no statistical proof it is working, I have other reports than he does on that matter. But to cut a program that is working to increase our exports, when we are approaching the 21st century mark and exports are crucial to our economy—and promoting those exports is certainly crucial to that—I think it would be a very radical move.

We have a budget that is coming up for review. We are going to look at this program in that budget review. After we do that—and I am on the Budget Committee—as my friend knows, we are going to take a real hard look at all of these things in the various authorizing committees and, of course, in the Appropriations Committee. But to take this move today to eliminate this program, I hope that we will not go along with it.

The Marketing Promotion Program is an important tool in expanding markets for U.S. agricultural products from California to many other countries in the world.

We talk today about redirecting farm spending away from price supports. I support that. I think we should move away from price supports. But we also should work toward expanding markets. I think it makes a lot of sense to do that.

My friend from Nevada says there is no statistical data to show that the Marketing Promotion Program is working. I would like to call to his attention a U.S. Department of Agriculture study. They estimate that each marketing promotion dollar results in an increase in agricultural product exports of between $2 and $7.

Madam President, that is a very good return on our money. Indeed, any business person would say if you put $1 in and it results in $2 of increased sales and even up to $7 in increased sales, that is a very sound program.

And my colleague talks about large beneficiaries. Well, I think he is overlooking the number of small beneficiaries. We have seen much-needed assistance to commodity groups comprised of small farmers who are unable to break into those markets on their own. And I think that is a very important point.

I have been to the fertile valleys of California. I have met with those small farmers. I have seen those family farms. And alone they do not have much power. But they come together as cooperatives, and they work together as marketing groups, and with the Market Promotion Program they have been successful in breaking into the export markets.

So I think it is fair to say to my friend that the small growers and the small farmers have benefited greatly. And that is one of the intentions of the program.

I also want to point out to my friend that last year a task force of the U.S. Agricultural Export Development Council met for 2 days in Leesburg, Virginia. Their function was to review the role of the Marketing Promotion Program and other agricultural programs as part of our overall trade policy. The task force concluded that the purpose of the Marketing Promotion Program is to "increase U.S. agricultural product exports." It also concluded that the increase in such exports helps to "create and protect U.S. jobs, combat unfair trade practices, improve the U.S. trade balance, and improve farm income."

And I am directly quoting from that meeting.

So I would say to my friend, although he has not found any documentation that this program works and it helps us and, in fact, is a wise investment, there are certainly other groups that have found that it is a wise investment. And it should be supported.

I would like to say to my friend, in closing, that we should look at what other countries do. Sometimes we do not look at the fact that other countries push for their exports, push for their agricultural products, promote their products, and fight for their products. And what do we do sometimes? We walk away from a program like this and let our people twist in the wind.

Madam President, I see my time is up.

I ask unanimous consent to have 1 additional minute.

The PRESIDING OFFICER. Is there objection? If not, so ordered.

Mrs. BOXER. Thank you very much, Madam President.

I will conclude here. I think that we would be making a big mistake, as we move toward this global marketplace, to walk away from the Marketing Promotion Program. Our competitors have programs that do far more for their agricultural products than we do. And there is a reason. They understand that exports are key to any country's success as an economic power.

We do not have a level playing field out there. That is clear. So I hope that my friend would agree with me that there is no level playing field, and other countries are out there pushing hard for their products, helping their farmers to push exports. This is our only program that does that.

I hope we will defeat his amendment.

I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Nevada has 10 minutes 39 seconds remaining.

Mr. BRYAN. I yield to the Senator from Arkansas whatever time he wishes.

Mr. BUMPERS. How much time remains for the proponents?

The PRESIDING OFFICER. Ten minutes 31 seconds.

Mr. BUMPERS. Madam President, I will yield myself such time as I may use, which I hope will be less than 10 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. First of all, I want to thank my colleague and very good friend, Senator BRYAN, of Nevada, for his unstinting efforts in this.

In 1993, Congress directed GAO to prepare a report on the effectiveness of the Market Promotion Program. The report that came back was less than satisfactory. Subsequently, for Fiscal Year 1994, we cut MPP from $147.7 million to $100 million. In Fiscal Years 1991 and 1992, the funding level had been at $200 million.

Last year, as Chairman of the Appropriations Subcommittee on Agriculture and Rural Development, I made every effort to eliminate this program. However, the distinguished Senator from Washington, Mr. GORTON, was successful in reinstating the program, both in the committee and on the floor.

Madam President, I do not see how we can go through the agony we have been going through in here in trying to cut spending, particularly in light of the fact that we are cutting spending for school lunches and for the Corporation for Public Broadcasting and for a host of other things which, in my opinion, have great merit and go right to the heart and soul of America. How we can cut spending for them and actually add nearly $25 million to the Market Promotion Program? It was at $85.5 million for Fiscal Year 1995 and it now stands, by virtue of the bill now before the Senate, at $110 million.

Senator BRYAN and I now propose to eliminate the Market Promotion Program and apply the savings toward deficit reduction. We are not setting it aside for something else. I would love to take this and put it in the Corporation for Public Broadcasting, but we chose to offer this amendment and apply the $110 million for pure deficit reduction.

I do not believe any member of this body should be able to keep a straight face and support some of the measures we are voting for when we cannot kill a program, like MPP, that is a pure subsidy for some of the biggest corporations in America and abroad. If we were solely promoting an industry, an industry-wide product or an agricultural product, as we do in the Export Enhancement Program, it might make a little sense. But we are promoting brand loyalty. With MPP, we are using Federal funds to promote a large number of popular retail items that most of us know as household words. MPP funds have been used to promote McDonalds' products, Gallo Wines, and several popular items produced in my State which we can all easily identify in grocery stores across the Nation.

Look down the list of the people who benefit from this—143 foreign firms. You inquire, what on Earth are we doing spending American taxpayers' money subsidizing foreign companies and promoting their brand loyalty? The answer: They use some American products. So if foreign companies that use our products want to advertise their brand and create a brand loyalty, we give them money, too.

And, in addition to 143 foreign corporations, Madam President, over 700 American corporations participate in this program just last year alone.

I am not blaming them. When Uncle Sam throws a big trough full of money out and says, come and get it, if I were one of these corporations and I had a foreign presence, as most of them do, I would get up there and apply for it, too.

Now, Madam President, I started off saying that the 1993 GAO report gave us reasons to question the validity of this program. More recently, another GAO report was prepared which I received in March of this year, just a couple of weeks ago.

No Senator should vote on this amendment until they look at the March 1995 GAO report.

Here is what they say, and this is the meat of the whole argument:

> The Foreign Agricultural Service has no assurance that marketing promotion funds are supporting additional promotional activities rather than simply replacing company industry funds.

The GAO did not just reach that decision without substantial program review. They studied it, and they said there is no evidence that this money is going for additional promotional activities that the companies themselves would not spend if we torpedoed this program. You cannot find a more compelling reason to vote for anything around here than a GAO report offers findings such as this.

If we were going to champion a program such as this—and I am not prepared to do that yet—it ought to be for small business, or companies new to market U.S. agricultural products abroad. Not big businesses that have been in the export business for years.

So, Madam President, I hate to use the term corporate welfare because big corporations make a contribution to this country, although members of the national press have not hesitated to attach that label to some results of the Market Promotion Program. I am not blaming them for standing at the trough and getting this money. There are 716 domestic and 143 foreign firms that received MPP funds in Fiscal Year 1994, and some of these are among the largest commercial enterprises in the World. Look down the list. It is shocking.

Here is an opportunity to save $110 million, of which it can be argued that the farmers of this nation are only the indirect beneficiaries, if even that; $110 million in genuine deficit reduction, much of which will otherwise go to some of the most affluent companies we know.

I listened to some Senators on the other side of the aisle 2 evenings ago talking about pork, talking about the Corporation for Public Broadcasting being an outrageous waste of the taxpayers' money. Here is an opportunity for everybody to quit talking and making partisan points. We need to make better use of our limited federal resources. We should join hands and eliminate this funding and allow these large companies to float free and easy on their own and spend their own money.

Madam President, I yield the floor and reserve the remainder of time that the distinguished Senator from Nevada has.

Mr. COCHRAN. What is the situation with the time? How much time remains on each side, allocated to individual Senators?

The PRESIDING OFFICER. The Senators in opposition have 5 minutes; the proponents have 3 minutes 28 seconds.

Mr. COCHRAN. I thank the Chair.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. How much time on our side is left?

The PRESIDING OFFICER. Three minutes 28 seconds.

Mr. BRYAN. Madam President, let me, in the interest of moving this debate forward, just express my appreciation to the distinguished Senator from Arkansas for his efforts and make just a couple of brief points, if I may.

He made the observation, which is absolutely correct, that there are 140 foreign companies. Here is a partial list of them right here. Some of the names you may know and some, frankly, I have never heard of, but 140.

To make the point that the distinguished Senator from Arkansas was making, from 1986 to 1993, 20 percent—20 percent—of the budget for this program for branded advertising—that is the McDonald's and the rest of it—goes to foreign companies. Twenty percent, American taxpayer dollars. I do not know how you justify and how you support that.

The other point that I would like to make is the GAO report that the distinguished Senator makes reference to has a very interesting piece of testimony, and that is, one of the recipients of the program was asked by the auditors, "How did you all become involved in the program?"

"Well," she said, "we got a phone call. They said, 'Would you like to get some money?'"

As the Senator from Arkansas said, I do not fault the company.

She said, "Tell me how."

"Look, we are passing out money on this program called the Market Promotion Program," and, indeed, the company did. The company, Newman's Own, Paul Newman's food company. They just got a call which said, "Look, would you like help for your advertising bills? We will reimburse you."

This was the testimony of A.E. Hotchner, from Newman's Own.

"We would be delighted to take it." As the Senator from Arkansas made the point, number one, it has not been established that it has accomplished its desired purpose. It is not effective. Is that not a prime reason to zero it out? And secondly, philosophically, I must say, Madam President, it sticks in my craw. Companies like this, and good companies—I am not maligning these companies—would get into the public trough and get this kind of taxpayer dollar when everybody in this Congress has talked a pretty good talk about reducing the deficit.

This ought to be a no brainer. This is not a difficult decision. This is one in which we should say these companies ought to have the ability to fly on their own.

I yield the floor and reserve any time I may have left.

The PRESIDING OFFICER. The Senator has 31 seconds left.

Mr. COCHRAN. Madam President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Madam President, first of all, let me say putting the sign of McDonald's on the floor of the Senate and suggesting this program is designed to subsidize McDonald's, or any other particular firm, is an outrageous distortion of this program.

Let me read to you a memo written by the Poultry and Export Council about the McDonald's issue. It says in part:

> Yes, our Council has used MPP to help McDonalds sell more American chicken—but not to promote McDonalds. The facts are that McDonalds franchises in other countries are foreign owned and operated. They are under no obligation to buy U.S. poultry or eggs and can readily find lower priced (and lower quality) product in Thailand, Malaysia or elsewhere.
>
> But by allowing McDonalds to apply for and receive matching funds under MPP, requires their franchisees to be entirely supplied with U.S. products. The point is, we are NOT promoting McDonalds, we are getting McDonalds to advertise U.S. chicken and eggs. And it has been quite effective. In fact, the state of Arkansas has likely benefited more from this activity than any other state.

The point is this: The market promotion funds are made available almost 97 percent to non-profit and related U.S. trade associations, including state departments of agriculture. The National Cattlemen's Association says these funds have helped them break into the market in Japan, in Korea, and build market share.

We have seen the funds used in other countries for the same purpose, to try to overcome barriers to U.S. trade. The program has helped farmers, it has created jobs in America, and it has benefited every community.

I ask unanimous consent, Madam President, to print a copy of a letter from the Coalition to Promote U.S. Agricultural Exports in the RECORD, which shows a listing of all of the agriculture and farm commodity groups in America that benefit from this program because they can sell what they produce more effectively with this program's promotion money in overseas markets when they have to combat the unfair and competitive subsidies from other countries.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

COALITION TO PROMOTE
U.S. AGRICULTURAL EXPORTS,
Washington, DC, March 28, 1995.

Hon. THAD COCHRAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COCHRAN: We are writing to urge your continued strong support for maintaining and strengthening funding for USDA's export programs, including the Market Promotion Program, when the Senate takes up the FY 1995 supplemental appropriation and rescissions package.

As approved by the Senate Appropriations Committee, the package includes $24.5 million to restore funding for USDA's Market Promotion Program to its authorized level of $110 million. Such an increase, we believe, sends a strong and positive message that U.S. Policies and programs will remain equally competitive with those of other countries as allowed under the Uruguay Round GATT Agreement.

For this reason, we are very concerned over possible amendments to reduce or even eliminate funding for the entire program when the package comes to the Senate floor. Such action would be devastating to U.S. interests—especially in the face of continued subsidized foreign competition.

The GATT agreement, it should be emphasized, did not eliminate export subsidies, it only reduced them. The European Union (EU), which outspent the U.S. by 6 to 1 over the last 5 years, will be able to more than maintain its historical advantage. As export subsidies are reduced, they and other competitors can be expected to redirect much of those resources into other GATT allowable programs, including market development and promotion, to maintain and expand their share of the world market.

In fact, the EU and other competitors, including Australia, Canada and New Zealand, are moving aggressively with their farmers and ranchers, and other exporters, in support of market development and promotion efforts. According to USDA, total expenditures for such activities are estimated at nearly $500 million—well above similar expenditures by the U.S. and are expected to increase.

American agriculture is the most competitive in the world. But, it is not enough to be economically competitive. U.S. policies and programs also must be competitive. Many of us supported the Uruguay Round agreement because of assurances that U.S. policies and programs would continue to be maintained and aggressively implemented to the full extent as allowed under GATT and U.S. law. Without this commitment, America's farmers and ranchers will be at a substantial disadvantage in the new global trade environment.

U.S. agriculture exports, which are projected to reach as high as $48.5 billion this year, account for as much as one-third of total production. In addition to helping strengthen farm income, exports are vital to our nation's economic well-being as highlighted below:

Jobs—Nearly one million Americans have jobs which are dependent on agriculture exports. A 10 percent increase in exports would help create as many as 100,000 jobs.

Economic Growth—U.S. agriculture exports help generate approximately $100 billion in economic activity and account for $8 billion or more in federal tax revenues.

Balance of Payments—U.S. agriculture exports result in a positive trade balance of nearly $20 billion. Without agriculture, the U.S. trade deficit would be even higher.

Again, such economic benefits can only be maintained to the extent that U.S. policies and programs remain competitive with those of our foreign competitors. America's farmers and ranchers, and others engaged in international trade, can not and should not be required to compete alone against the treasuries of foreign governments.

USDA's Market Promotion Program has been and continues to be an important element in our nation's trade strategy and in helping U.S. agriculture build, maintain and expand export markets in the face of continued subsidized foreign competition. As a cost-share program, it has been extremely cost effective with farmers and ranchers, along with other participants, required to contribute as much as 50 percent of their own resources in order to be eligible. It has also been highly successful by any measure.

For these reasons, we urge your continued strong support and that you oppose any amendment which would reduce or eliminate funding for this important program.

Sincerely,

Ag Processing, Inc.
Alaska Seafood Marketing Institute.
American Farm Bureau Federation.
American Forest & Paper Assn.
American Hardwood Export Council.
American Meat Institute.
American Plywood Association.
American Seed Trade Association.
American Sheep Industry Assn.
American Soybean Association.
Blue Diamond Growers.
California Avocado Commission.
California Canning Peach Assn.
California Kiwifruit Commission.
California Pistachio Commission.
California Prune Board.
California Table Grape Commission.
California Tomato Board.
California Walnut Commission.
Cherry Marketing Inst., Inc.
Chocolate Manufacturers Association.
Diamond Walnut Growers.
Dole Fresh Fruit Company.
Eastern Agricultural and Food Export Council Corp.
Farmland Industries.
Florida Citrus Mutual.
Florida Citrus Packers.
Florida Department of Citrus.
Ginseng Board of Wisconsin.
Hop Growers of America.
International American Supermarkets Corp.
International Apple Institute.
International Dairy Foods Association.
Kentucky Distillers Association.
Mid-America International Agri-Trade Council.
National Dry Bean Council.
National Grape Cooperative Association, Inc.
National Association of State Departments of Agriculture.
National Cattlemen's Assn.
National Confectioners Assn.
National Corn Growers Assn.
National Council of Farmer Cooperatives.
National Cotton Council.
National Milk Producers Federation.
National Peanut Council of America.
National Pork Producers Council.
National Potato Council.
National Renderers Association.
National Sunflower Association.
National Wine Coalition.
NORPAC Foods, Inc.
North American Export Grain Association.
Northwest Horticultural Council.
Ocean Spray Cranberries, Inc.
Produce Marketing Association.
Protein Grain Products International.
Sioux Honey Association.
Southern Forest Products Assn.
Southern U.S. Trade Association.
Sun-Diamond Growers of California.
Sunkist Growers, Inc.
Sun Maid Raisin Growers of California.
Sunsweet Prune Growers.
The Catfish Institute.
The Popcorn Institute.
Tree Fruit Reserve.
Tree Top, Inc.
Tri Valley Growers.
United Egg Association.
United Egg Producers.
United Fresh Fruit and Vegetable Association.
USA Dry Pea & Lentil Council.
USA Poultry & Egg Export Council.
USA Rice Federation.
U.S. Feed Grains Council.
U.S. Livestock Genetics Export, Inc.
U.S. Meat Export Federation.
U.S. Wheat Associates.
Vodka Producers of America.
Washington Apple Commission.
Western Pistachio Association.
Western U.S. Agricultural Trade Association.
Wine Institute.

Mr. COCHRAN. Madam President, let me give one example. The European Community this year is going to spend $89 million just promoting wine exports and subsidizing wine exports, a lot of that into the U.S. This entire program is $85.5 million, and the sponsors of this amendment are trying to knock out every dollar of it. We are not going to have any funds left to help combat the unfair and heavily subsidized trading practices of foreign countries if you take away this tool.

I am hoping that we can increase the funding. It used to be $200 million a year, and because of cuts in this and other programs, we had to downsize the program. It is now only $85.5 million, and they are trying to take away that.

The President and the administration requested additional funds to help companies, to help farm groups and State departments of agriculture deal with these competitors, to increase their market share. The administration asked for an increase from $85.5 million to $110 million, and this committee recommended it, the Appropriations Committee agreed to it, and we ought to approve it.

I am hoping the Senate will reject this amendment. I yield whatever time remains to the Senator from the State of Washington.

The PRESIDING OFFICER. The Senator from Washington has 1 minute 7 seconds.

Mr. LEAHY. Mr. President, I would like to say a few words about a program that I have not often praised in the past. The Market Promotion Program [MPP] is designed to help U.S. agricultural producers develop export markets overseas.

Most people do not associate Vermont with agricultural exports, but in fact the State exported almost 122 million agricultural products in 1994. The food products industry is the fastest growing sector of the State's economy. And profitable value added products make up a good part of that total.

In my State, the Market Promotion Program has fulfilled its potential to help small companies develop a niche in foreign markets. Thanks to the program Mexicans have discovered the joys of Vermont maple syrup, Canada is importing Vermont cheesecakes, Bermudans are drinking our cider and finding that they like it, and our friends in the United Kingdom are eating MacIntosh apples they never even knew Vermont produced.

Through MPP, the Vermont Department of Agriculture is introducing Vermont companies to new opportunities in Europe, Canada, Asia, and Latin America. During the next year, Vermont companies will be participating in trade missions and export seminars in Hong Kong, Guangzhou, Canada, Brazil, and Mexico. These opportunities would not be available to Vermont agriculture without the MPP.

Unfortunately MPP dollars are not always as well spent. As chairman of the Senate Agriculture Committee, I held oversight hearings on MPP that uncovered a number of problems with USDA's management of the program. And, in 1993 I worked for real reform of the program to correct the abuses that were reducing MPP to a massive corporate welfare program.

The Market Promotion Program has come a long way from where it was 3 years ago. The Clinton administration has reformed the program to curb abuses and focus the program where it should always have been targeted—toward small businesses. MPP is far from perfect. We must continue to look for ways to put scarce dollars where they are needed the most. But eliminating the program is not the way to do it.

Mr. GORTON. Madam President, I find it simply incredible that almost the only suggestion for the reduction in funds that we get from Members who, by and large, have been voting to increase funds for all sorts of income transfer purposes is to take away funds that help the United States sell its agricultural products abroad.

This program does more to benefit hard-working American farmers and food processors than almost any other program we have.

It helps to deal with a terrible deficit in our trade balance, the largest this country has ever had. It is a more positive impact on what we do to produce money for our farmers, for the people who work for them, for those who process food, than practically any other program.

By all means, we should not turn down the opportunity to help our economy become more and more competitive. We should reject this amendment.

Mr. COCHRAN. Madam President, is there time left in opposition to the amendment?

The PRESIDING OFFICER. All time has expired. The Senator from Nevada has 30 seconds remaining.

Mr. BRYAN. Thank you, Madam President.

Let me just say in response to my friends on the other side of this proposition, I am not arguing with the distinguished Senator from Arkansas that no agricultural promotion is defensible or justified.

We are spending $2.2 billion—$2.2 billion—on agriculture promotion for exports aside from this program. What I am saying is this particular program that subsidizes the wealthiest corporations in America cannot be defended, particularly when we are spending $12.2 billion, 63 percent of all the money spent for promotion around——

The PRESIDING OFFICER. All time has expired.

Mr. COCHRAN. Madam President, I move to table the amendment offered by Senators BRYAN and BUMPERS and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to table amendment No. 461 offered by the Senator from Nevada [Mr. BRYAN]. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

Mr. FORD. I announce that the Senator from Maryland [Ms. MIKULSKI] is necessarily absent.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote "nay".

The PRESIDING OFFICER (Mr. FRIST). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 37, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—61

Akaka
Ashcroft
Baucus
Bennett
Biden
Bond
Boxer
Breaux
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Dorgan
Exon
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Heflin
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kohl
Leahy
Lott
McConnell
Moseley-Braun
Murkowski
Murray
Nunn
Packwood
Pressler
Pryor
Robb
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wellstone

NAYS—37

Abraham
Bingaman
Byrd
Chafee
Coverdell
Dodd
Faircloth
Feingold
Glenn
Graham
Gregg
Harkin
Hollings
Bradley
Brown
Inhofe
Kennedy
Kerry
Kyl
Lautenberg
Levin
Lieberman
Lugar
Mack
McCain
Moynihan
Bryan
Bumpers
Nickles
Pell
Reid
Rockefeller
Roth
Santorum
Sarbanes
Smith
Thompson

NOT VOTING—2

Helms
Mikulski

So the motion to lay on the table the amendment (No. 461) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me advise my colleagues I think we may have an agreement here if we can have everybody's cooperation, and we may be able to finish this bill tonight and we may be able to finish all other business by voice votes including the defense supplemental, the district board, kiddie porn and whatever else might be remaining. So it would mean that my colleagues will be able to tend to other business tomorrow either here or somewhere else.

AMENDMENT NO. 577

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of myself, Senator DASCHLE, and others, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mr. DASCHLE, proposes an amendment numbered 577.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment will be printed in today's RECORD under "Amendments Submitted.")

Mr. DOLE. Mr. President, I ask unanimous consent there be 30 minutes for debate on the Dole amendment to be equally divided in the usual form and that no amendments be in order during the pendency of the Dole-Daschle amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN addressed the Chair.

Mr. DOLE. I am coming to the Senator's.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that the following amendments be the only remaining amendments in order and limited to the following time restraints where noted, all in the usual form. And I have been advised by Senator LEVIN he will not offer the one amendment—he does have an amendment that has been worked out; an amendment by Senator WELLSTONE relating to seniors; a managers' amendment, a Hatfield/Byrd amendment; and a Harkin handback for CPB, and on that there be an up-or-down vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Reserving the right to object, Mr. President.

Mr. DOLE. Excuse me. I did not give times on those amendments: On Harkin, there will be 20 minutes equally divided; on the Wellstone amendment, 20 minutes equally divided; and the Hatfield/Byrd managers' amendment, 15 minutes equally divided.

Mr. HARKIN. Reserving the right to object.

Mr. JEFFORDS. Mr. President, reserving the right to object, I have an amendment for which I do not need more than 10 minutes which I intend to offer.

Mr. HARKIN. Mr. President, reserving the right to object, I ask the distinguished majority leader, on my amendment, I had initially asked for 20 minutes on our side. I do not know how much time the other side will take. I need 20 minutes because I have at least two other people who want to speak on it. If I can just have 20 minutes, that is fine.

Mr. DOLE. Twenty minutes and we will take 10 minutes.

Mr. HARKIN. Whatever. The amendment is not only CPB. It is also an addback for the senior community appointment program.

Mr. DOLE. What is the total of the amendment?

Mr. HARKIN. The total of the amendment is $40 million.

Mr. DOLE. And it is offset?

Mr. HARKIN. It is offset by the cut in Radio Free Europe. Some of the money goes to get CPB back up to the inflation increase, and then some of it goes for the senior community appointment program. The Senator did not mention it, and I wanted to make sure that it was in there.

Mr. DOLE. So that will be 20 and 10, 20 minutes for Senator HARKIN and 10 minutes in opposition.

Mr. HARKIN. That is fine. My concern, when the unanimous consent was read, was that when I sent my amendment to the desk and it was also for somebody in the senior community appointment program, it would not be pulled out of order on this type of agreement.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. Reserving the right to object, I am not sure where I stand, Mr. President.

Mr. JEFFORDS. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I further ask unanimous consent that, following the disposition of the above listed amendments, the Senate proceed to vote on the Hatfield substitute, to be followed by third reading and final passage of H.R. 1158, as amended, all without any intervention action or debate.

But before the Chair rules on that, I think it is best to have a colloquy at this time with the distinguished Senator from New York with reference to the amendment on Mexico, which would be critical to winding up this package this evening, as I understand from the Democratic leader and others.

So I am happy to yield to the Senator from New York.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I thank the majority leader.

I recognize the situation and the dilemma that the Senate finds itself in in confronting the necessity of moving forward with this bill. I recognize that we are moving up against a time deadline.

Mr. President, I am going to say now that I am not going to pursue this amendment for two reasons. Number one, I do not want to be accused of scuttling a very difficult agreement that has been worked out, where other of my colleagues have stepped back, and insist that I be the only one that goes forward.

Having said that, I want to indicate very clearly that this Senator is deeply troubled by the manner in which we are discharging our constitutional responsibility as it relates to Mexico and the attempt of this administration to help them.

And I want to help. But this Senator wants to see to it that the dollars that we are committing are used appropriately. I think at the very least we are entitled to the kind of accountability that we would be if it were a foreign aid program and even more since it is a clear circumvention of the manner in which foreign loans should be made.

To that extent, I suggest that the second-degree amendment which was offered by Senator MURKOWSKI is absolutely, totally appropriate; that the legislative initiatives undertaken by Congressman Cox should be, without question, something that is carried out in terms of making information available to us as it relates to what preceded the crisis in Mexico before it became public and the collapse of the Mexican economy. What was our role and what has been our role since then? And what do we anticipate as we move along?

Again, I will press this matter. I do not claim that the legislative initiative that I have undertaken should be adopted in its present form, but I do believe that when we are talking about sending billions of dollars, taxpayers' dollars, to a program that may or may not work—and the administration has testified before the Banking Committee that it may not work—that we have an absolute obligation to know what is taking place and how it is administered, at the very least.

I do not think that those who say this is without doubt within the administration's prerogative would deny us that. I believe that is giving tremendous latitude.

When we come back from our recess, undoubtedly billions of dollars more of American moneys will have been placed into this program. The question as to whether or not we will ever have repayment is a very legitimate question. But how far do we go, in a very important but a very risky undertaking; how far do we go before we say, "Wait, this may not be working"? Do we leave this just in the prerogative of the Secretary of the Treasury to determine if it is working, or should we not at the very least have that information?

Mr. President, I tell the majority leader that I will move forward by way of legislation, if necessary, to at least obtain that information, obtain the facts. And, in addition thereto, if we find, and if I am not convinced, that the.program is working or that there is a chance of us recovering moneys, I will then move by legislative action again to accomplish the things that I have said before on this floor and to cut off further dollars.

By the time we come back, there is no doubt in my mind that we will have committed directly from the United States probably in the area of $10 billion or more. That is a lot of money. We are working on a rescission package to try to save money. We certainly, at the very least, are entitled to know that those dollars are being used wisely, appropriately, and that there is some chance of success, a bona fide chance of success. That is what troubles this Senator.

So with that statement, I will say that I do want to accommodate my colleagues, but I also want them to know that there may be more legislation moving through this Senate, and I reserve the right, as all of us have that right, to move forward with this initiative. It will be at a time when there is legislation that may be critical, that the administration needs or that people are interested in. I will not move on a piece of legislation that is not critical and therefore be denied bringing this matter to a vote.

At some point in time, it is my belief that this Congress and this Senate should be required to vote as to whether or not we should continue this program.

Mr. President, I ask unanimous consent to withdraw the pending amendment, amendment No. 427.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 427) was withdrawn.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I think we have the agreement.

I think I did ask unanimous consent that following the disposition of the above-listed amendments, the Senate proceed to vote on the Hatfield substitute, to be followed by third reading and final passage of H.R. 1158, as amended, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Mr. President, I want to say to the Senator from New York, I think he has raised a very important issue, and it is not going to go away. Sooner or later, Congress is going to have to become involved, because we are spending taxpayers' money. I think it is safe to say that Speaker GINGRICH and I indicated early on that we wanted to support the administration, the President. That is what we said at that time, and that is what I would say at this time, but with one caveat: We should know precisely what is happening. And I think that is the thrust of the Senator's amendment. It is an important amendment.

We have a responsibility. We are talking about $5 million here in one amendment we cannot agree on—$5 million. And you are talking about $5 billion. So I just suggest it is important, and I hope that we do not lose sight of that.

I thank the Senator for withdrawing the amendment. That will permit us to complete action on this bill, hopefully, tonight or tomorrow at some hour. I would like to do it tonight.

I ask unanimous consent that all the votes that we order be stacked, in effect, so we could have all the votes and then final passage, and then see if we cannot get some agreement to do the rest of our business by voice vote, if there is no objection to that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. I also ask unanimous consent that, if there is more than one vote, any succeeding votes be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I would also ask my colleagues, even though they have 20 minutes or 15 minutes, different time allotments, that I think we could save some time.

I want to thank the distinguished Democratic leader for his cooperation throughout the day and throughout yesterday, and throughout part of the night last night.

I believe we are within striking distance of concluding a bill that now totals about $16 billion in rescissions—$16 billion. This bill will go to conference and some of the issues that some people have concerns about will be raised again in the conference. Regardless of what your concern may be, if you think it is too much or too little, it can be raised in the conference.

So I thank all of my colleagues for their cooperation. I think we have made progress. I can tell you that the end is in sight.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, let me also thank all of our colleagues on both sides of the aisle for their cooperation in the effort that has been made to bring us to this point. It has been a long day. There have been a lot of people who have been responsible for bringing us to this point, and I want to publicly commend them and thank them for that effort.

We still have some very big decisions to make on amendments that are going to be offered. I appreciate everyone's willingness to accommodate a debate on each one of these issues, but I do think that we are getting close, and I think that it is an agreement we can all support. Obviously, people are going to come down on either side of the issue when we come to final passage, but I think this accommodates Senators in a way that allows us to get to that point.

So I think it is a good agreement, and I hope that we can work through the amendments and get to final passage sometime tonight. I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 578 TO AMENDMENT NO. 420

(Purpose: To restore funds to the National Sea Grant's program on research to control and prevent the spread of aquatic nonindigenous species)

Mr. LEVIN. Mr. President, I ask unanimous consent to set aside the pending amendment and send an amendment to the desk which has been cleared by both sides, reference to which was made by the majority leader in the UC.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. ABRAHAM, Mr. SPECTER, Mr. KOHL, Mr. GLENN, Mr. SANTORUM, Mr. SIMON, and Ms. MOSELEY-BRAUN, proposes an amendment numbered 578 to amendment No. 420.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 16, strike "$13,000,000" and insert "$15,000,000".

On page 9, line 12, strike "$37,600,000" and insert "$35,600,000".

Mr. LEVIN. Mr. President, I am sending this to the desk on behalf of myself, Senator ABRAHAM, Senator SPECTER, Senator GLENN, Senator KOHL, Senator SANTORUM, Senator SIMON, and Senator MOSELEY-BRAUN.

This amendment will restore $2 million to the research program on the zebra mussel, which is a pest which has infested the Great Lakes and is now spreading through the tributaries from and to the Great Lakes.

It is a very important program for the fresh water supply of this country. The reduction of $2 million will hurt the research program. Many, many States benefit by it, and the offset for the $2 million restoration comes from the NOAA construction money.

I understand that this has been accepted on both sides.

The $2 million rescission in the National Sea Grant Research Program will limit Federal, State, and university research to help stop the spread of the zerbra mussel, and other non-indigenous species.

Fifteen States' programs would likely continue efforts to educate natural resource managers as to the devastating impacts of zebra mussels if this $2 million is restored. They will study these pests' life cycles to determine when and where they are most vulnerable to pesticides or nonchemical control. The States that received funds in fiscal year 1994 besides the Great Lakes States include California, Louisiana, Massachusetts, Maryland, New Jersey, Delaware, Texas, Connecticut, and Florida.

This is not just a zebra mussels amendment. Sea Grant's Program is crucial. We need to keep cataloging the ways nuisance species reproduce. There are over 130 nonindigenous species in this country, two-thirds of which entered the country since 1959, when the St. Lawrence Seaway was opened.

Some of my colleagues may be familiar with some of the most economically damaging exotic species that industries, municipal sewerage and drinking water facilities, boaters, farmers, et cetera have been forced to confront besides the zebra mussel, such as the water milfoil, the water flea, purple loosestrife, the round Gobi, and the ruffe.

But, the zebra mussel invasion provides the most compelling reason to support research that will enable us to develop control methods and prevent infestation. The mussel has now spread to 20 States and continues to spread. Between July and September 1994, mussel densities on the southern Mississippi River increased from 10/sq meter to 40,000/sq meter.

A relatively new pest, the ruffe, is spreading throughout the far reaches of Lake Superior threatening commercial and recreational fisheries, and is heading toward Lake Erie's $800 plus million perch and walleye fishery.

The sea grant performs high-quality, peer-reviewed science. It does not duplicate other nonindigenous programs conducted by other agencies.

My bipartisan amendment would take an additional $2 million out of NOAA's construction account and restore it to NOAA's National Sea Grant Program for research on nonindigenous species.

Mr. GLENN. Mr. President, I rise to commend my colleagues from the Great Lakes region, on their efforts to restore needed funding for Sea Grant's critical research on aquatic nuisance species.

As the cochair of the Senate Great Lakes Task Force, I have worked hard to protect and restore the economic and environmental health of the Great Lakes. This aquatic ecosystem is home to nearly 30 million Americans who depend on these waters as avenues of commerce, as sources of drinking water, and as recreational playgrounds attracting millions of visitors. Under the Nonindigenous Aquatic Nuisance Prevention and Control Act (P.L. 101-646) I sponsored in 1990, Sea Grant is authorized to conduct critical exotic species research which allows the Great Lakes to provide such a wide range of benefits.

Exotic species cause severe economic and ecological damage along our Nation's marine coasts and freshwater systems. In a surprisingly short time, the zebra mussel has spread to 20 States taking a heavy toll on biodiversity of hosting systems and forcing private and municipal waterworks and powerplants to withstand increased and costly maintenance efforts. However, Sea Grant aquatic nuisance species research is not exclusively dedicated to the zebra mussel. The restoration of $2.0 million for Sea Grant's nonindigeous species funding continues research on the serious Eurasian ruffe problem in Lake Superior which threatens the region's $4 billion fishing industry.

The increasing number of harmful nonindigenous species and their cumulative impacts continue to create growing economic and environmental burdens for the United States. Sea Grants research and outreach efforts complement other Federal programs and enable us to adopt a national approach toward stewardship of our natural resources. Reducing funding for the critical aquatic nuisance species research conducted by Sea Grant will curtail ongoing research which benefits the Great Lakes and the entire Nation.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Senator from Michigan is correct. This amendment has been accepted on this side.

Mr. LEVIN. I thank the Senator from Washington.

Mr. President, I ask unanimous consent that Senator FEINGOLD be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 578) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 579 TO AMENDMENT NO. 420

Mr. HARKIN. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. LEAHY, Mr. REID, and Mr. KENNEDY, proposes an amendment numbered 579 to amendment No. 420.

Mr. HARKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert after page 7, line 18:

INTERNATIONAL BROADCASTING OPERATIONS
(RESCISSION)

Of the funds made available under this heading to the board for international broadcasting in Public Law 103-317, $40,500,000 are rescinded.

On page 27, delete lines 4 through 12.

On page 36, line 10, strike "$26,360,000" and insert "$17,791,000".

On page 36, line 12, strike "$29,360,000" and insert "$11,965,000".

Mr. HARKIN. Mr. President, I understand I have 20 minutes; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. I yield myself 10 minutes.

Mr. President, this amendment, offered on behalf of myself, Senator HOLLINGS, Senator LEAHY, Senator REID, and Senator KENNEDY, would rescind $40.5 million from the funding for the organization known as Radio Free Europe. Of that money, we would take $26 million and put it into the Corporation for Public Broadcasting in America, and the other $14 million would go for the Senior Community Service Employment Program.

Again, Mr. President, I point out that adding this money, this $26 million to the Corporation for Public Broadcasting, still leaves the CPB at $29 million less than what was appropriated last year. This does not even bring it up to the fully appropriated level. It would allow for only an inflationary increase for CPB.

But I want to point out very emphatically that this amendment does not even bring the Corporation for Public Broadcasting up to what was funded last year.

It does take $40 million out of Radio Free Europe, and I think it reflects an important historical reality; namely, the cold war is over, and it is time we take some of these old relics of the cold war and we start defunding them.

Mr. President, right now we have a lot of people who are opposing Federal funding for public radio and television in the United States. The same opponents who rail against U.S. contributions to public radio for Americans are willing to write, without question, a check of almost equal amount to fund public radio for Europeans to fight a war against an enemy that no longer exists. In short, sending U.S. taxpayer dollars abroad to fund public radio in Europe is OK, but using U.S. tax dollars to finance public radio and TV for Americans at home is not.

Our amendment attempts to correct that injustice by restoring federally financed public radio for Americans and cutting a little from U.S. financed public radio for Europeans.

I will also point out that this amendment, plus the $14 million that is in the agreement, provides for a $54 million total cut in Radio Free Europe. The Dole substitute, offered by the majority leader, had a $98 million cut in Radio Free Europe. So I am not even advocating cutting as much from Radio Free Europe as the Senator from Kansas did in his first proposal. He proposed to cut $98 million out of it. We are only proposing to cut $54 million.

Even with this cut in Radio Free Europe, Radio Free Europe's funding level will be $175 million. That is $100 million more than the $75 million the administration requested for this program in fiscal year 1996.

I point out further that President Clinton, in February of 1993, proposed eliminating Radio Free Europe. He said the cold war is over; there is no use to keep funding RFE.

Opponents of the Corporation for Public Broadcasting are working to phase out public broadcasting at home and are willing to sustain that same service in Europe. Make no mistake about it, this is public broadcasting in

Eastern Europe; it is paid for by U.S. taxpayers. But there are existing alternatives available to Eastern Europeans and Russians—CNN, FM radio, AM radio, in addition to the Voice of America.

Mr. President, let me recite briefly the history of Radio Free Europe. It started 40 years ago as a covert operation of the CIA broadcasting shortwave signals behind the Iron Curtain. All three of these—Radio Free Europe, Radio Liberty, and Voice of America—played a tremendous role in bringing news and information to people in Communist countries. They all played a critical role in fighting and winning the cold war.

I would never have suggested this kind of amendment if the cold war were still on, but the cold war is over. And yet our overburdened American taxpayers are still paying more than $200 million for Radio Free Europe—I have dubbed it "Radio Expensive Europe"; it is not Radio Free Europe, it is "Radio Expensive Europe"—plus another $100 million for the Voice of America and another $2 million for the administrative costs for the Board of International Broadcasting.

Mr. President, you will hear arguments against my amendment. They will claim that RFE provides independent broadcasting, and therefore performs a different role from the Voice of America. Who is kidding whom? Radio Free Europe, created by the Central Intelligence Agency—the board that runs it is appointed by the President of the United States.

Second, Radio Free Europe continues to be funded to this day solely by U.S. taxpayers. Why? Why not the Germans? Their mark, as we know lately, is a lot better than the U.S. dollar. Why do the Germans not come in and pay a little bit? Why do they not pick up the tab? Or how about the French or the Norwegians or the Swedes or the Poles or the Italians? Why do they not come in and contribute?

No, it is our U.S. taxpayers footing the whole bill for Radio Free Europe. Quite frankly, Mr. President, I want to make my feelings known. I think Radio Free Europe ought to be zeroed out. But I am not proposing to do that in this amendment. I am still leaving $175 million for RFE for Fiscal 1995. I think we ought to come back and zero it out, maybe next year, but we ought to use some of this money to at least provide an inflationary increase for public broadcasting here at home, and restore funding for the senior citizen community employment program.

Mr. President, let me just talk a little bit more about the Senior Community Service Employment Program. As I said, the amendment I have offered takes $26 million for the Corporation for Public Broadcasting. It still leaves it $29 million less than what we appropriated last year. And it takes $14 million and puts it into senior community service employment, the only work force program designed to help seniors, elderly, get jobs in community service.

I suspect all Members have gone to a senior citizens center providing meal programs, and we know how much good this program does.

I ask unanimous consent to have printed in the RECORD an article from the Washington Post of January 27, 1995, titled "A Federal Program That Does It Right," and I also ask unanimous consent to insert a letter from the National Council of Senior Citizens in support of this program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 27, 1995]

A FEDERAL PROGRAM THAT DOES IT RIGHT

(By Judy Mann)

Let's say you run a small company and you need a filing clerk. A 67-year-old Latino woman applies for the job and so does a newly minted high school graduate. Which one would you hire?

Precisely. And that's one of the reasons behind the Senior Company Service Program, an organization that trains low-income people 55 and older and helps them find jobs. Participants usually receive minimum wage for 20 hours of training, and then they go to work, often in community service jobs that help the elderly. Those subsidized jobs often serve as bridges into permanent positions.

By last June, the program had placed 27.3 percent of its people in unsubsidized jobs such as bookkeeping in banks, driving delivery vehicles, tutoring in schools and working as health aides. That is a higher rate than the 25 percent job placement rate in California's program for its welfare parents.

The Senior Community Service Program is the backbone for most meals-on-wheels programs and for many day-care centers in rural areas. an essential feature of the program is that it matches seniors with the service needs of each community. The program also works closely with businesses to ensure that enrollees are getting indispensable job skills.

The program is administered by the Department of Labor, which contracts with national nonprofit organizations, such as the National Council of Senior Citizens (NCSC) and the American Association of Retired Persons, to run them. About 70 percent of the enrollees are women, 56 percent are 65 or older, a third have less than a high school education and about 40 percent are members of a minority group—one of the highest rates of minority participation for any domestic program.

Chris Oladipo, who runs the NCSC program in Prince George's County, says it is particularly helpful as a bridge for older immigrants who have trouble earning a living because of language barriers.

While most employment programs operate on the premise that they get more for their money by concentrating on young people, "we look for the oldest and poorest people we can find," says Andrea Wooten, president of Green Thumb Inc., which trains 18,000 people a year.

The programs have also played an important role in retraining displaced workers, says Donald Davis, who directs the programs run by the National Council on Aging. He tells the story of a professional man in San Francisco who had looked for a job for eight months after being laid off.

"We worked with him for three months. He is now heading up a multilingual program and making $30,000 a year," Davis says. "Every study that's been done of this program says it is one of the most effective ever developed by the federal government."

In the three decades since the senior community service and job training program has evolved, it has enjoyed strong bipartisan support. But it is in danger of getting caught up in the current rush to decentralize welfare programs and to fund them through block grants to states, where various programs are having to compete with each other for fewer resources.

David Affeldt, the former chief counsel with the U.S. Senate Committee on Aging who developed legislation creating the program, says it came about because block grant programs historically have not served older workers well. He predicts that, at a minimum, 15,000 to 20,000 older workers served each year "will get their pink slips" if the program is funded through block grants.

"One of the main problems that older workers have is that they are not as visible or outspoken about their needs. . . . The program has given these people hope and an opportunity to help themselves while helping others, rather than be dependent upon public assistance."

The Senior Community Service Program, also known as Title V of the Older Americans Act, costs $410 million a year and is supposed to serve about 67,000 people. "We actually serve over 100,000 people because we've used this program to get people up and out," says Sheila Manheimer, of the NCSC.

Half the members of the U.S. House of Representatives have been elected since 1992, and many are riding a streamroller called "mandate for change" without having a very good idea of the territory they are rolling over. The Senior Community Service Program serves the poorest of the elderly while providing a wide variety of services that make our communities livable. Far from a candidate for dismantling, this is one federal program that everyone should look to as a model of what works.

NATIONAL COUNCIL
OF SENIOR CITIZENS,
Washington, DC, March 30, 1995.

DEAR SENATOR: The National Council of Senior Citizens (NCSC), in behalf of our five million affiliated members, asks you to vote in support of Senator Harkin's amendment of H.R. 1158, the 1995 Rescission bill. This amendment is expected to come before the full Senate today and your support would be appreciated by seniors and families throughout the nation.

This amendment would restore funding to many programs important to the elderly, children and our communities, including the Senior Community Service Employment Program (SCSEP), the Child Care Block Grant, the Safe and Drug Free Schools Program, Drug Courts and the Corporation for Public Broadcasting.

The Council is particularly concerned about the $14.4 million rescinded under H.R. 1158 from the Senior Community Service Employment Program. The SCSEP designs needed community service programs and provides subsidized training and part-time employment which maximizes the productive contributions of older persons in these community services. Senator, please note that the $14.4 million rescinded under H.R.

1158 would result in the loss of jobs for almost 3,000 low-income senior citizens now staffing community service programs nationwide under Title V of the Older Americans Act.

In a January 27 article in *The Washington Post*, which I have attached, Judy Mann said it best when she said, "Far from a candidate for dismantling, this is one Federal program that everyone should look to as a model of what works." Every study has shown the SCSEP to be one of the most effective programs ever developed by the Federal government.

Again, please do right by the elderly, young and our communities by supporting Senator Harkin's amendment restoring funding to these critical programs. Short of the changes included in Senator Harkin's amendment, the Rescission bill does not merit support.

Sincerely,

LAWRENCE T. SMEDLEY,
Executive Director.

Mr. HARKIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. There are 2 minutes of the 10 minutes allotted yourself and another 10.

Mr. HARKIN. I yield 2 minutes or whatever more he needs to the Senator from Vermont.

Mr. LEAHY. Mr. President, the amendment Senator HARKIN and I are offering would partially restore cuts to public radio and television by reducing the appropriation for Radio Free Europe.

Radio Free Europe [RFE] is a World War II program, designed to broadcast news to people living behind the Iron Curtain.

News flash—The Iron Curtain has fallen.

The Cold War is over. While the rest of the world is moving ahead with satellite communication and other technological advances, we are still using U.S. tax dollars to support broadcasts by shortwave radio.

I find when I go on the internet, I can reach people in Eastern Europe. I think I can reach them quicker on internet than by shortwave radio on Radio Free Europe.

I really cannot see, when we are cutting out our own public broadcasting, why we are paying for this in Germany.

We are shortchanging an American audience in deference to overseas listeners.

Our amendment cuts $40.5 million from what U.S. taxpayer is currently paying to support Radio Free Europe. This will still leave $175 million for RFE.

The Corporation for Public Broadcasting would receive $26 million of this savings.

This is not a total restoration of the cuts in this bill for public television and radio—we understand that tough choices have to be made. This restoration will support CPB at the 1995 level with a small increase to compensate for inflation.

Continuing public television and radio programs are especially important in rural areas where residents might not be able to afford or have access to cable programs.

I hear from hundreds of Vermonters each week on how important Vermont ETV and Vermont Public Radio are to their lives. For some, it is the only news and educational programming they can get.

We should not be diminishing this valuable national resource.

The remaining savings from the RFE budget would restore cuts to the Community Service for Older Americans Program.

The war against communism is over. We must focus our efforts on another battle that is still being waged here at home:

Adoption of this amendment will send a clear signal that our priority is to support programs that will help educate and enrich the lives of Americans.

Mr. HARKIN. I yield 2 minutes to the Senator from Minnesota.

Mr. WELLSTONE. First of all, Mr. President, I ask unanimous consent to be included as an original cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair. Mr. President, it is difficult to cover the ground in less than 2 minutes.

Let me just make three points. First of all, I want to associate myself with the remarks of the Senator from Vermont. Second of all, I would like to focus on the import of this amendment, which is to restore as much funding as possible for public television.

I go back to just one gathering in Appleton, MN, in southwest Minnesota, where it is just crystal clear for anyone who wants to look at public TV that it is far from a "sandbox for the rich." Public television is so important to the enrichment of lives of citizens in our country, both urban and rural, but I think especially in the rural communities it is vitally important.

Second of all, the community service for older Americans program is a huge success. The way I define "success" is we are talking about low- and moderate-income elderly people who, number one—it is kind of a marriage—are able to have the dignity of being able to work; and number two, their work is this service of community, whether it be delivery of meals to homebound, whether it be taking care of children, whether it be recreational services.

I remember in talking with citizens in Willmar, MN, we can get a wonderful feel for how important this program is on the basis of investment of really very few dollars.

I want to make it clear that I am in full support of this amendment and proud to be an original cosponsor.

Mr. PRESSLER. Mr. President, if the leader would yield 5 minutes.

Mr. HATFIELD. I yield 5 minutes.

Mr. PRESSLER. Mr. President, this amendment represents the complicated dilemmas that can be presented. Of course, I am in favor of senior citizens, and I also support public broadcasting. In fact, I contribute and have contributed to public broadcasting through the years.

As chairman of the Commerce Committee this year I have discovered that public broadcasting could well become self-funding. I agree with AL GORE that we need to reinvent and privatize wherever possible.

In talking to a lot of telecommunications people, I discovered that they plan to get into video dial TV and so forth, and I asked them where they are going to buy their programming? They would say from Arts and Entertainment, the History channel, or Learning channel. I said, "Why not buy it from public television or radio? They have all kinds of public programming." And they said, "Well, they do not try to sell it."

I came up with a plan, along with some House leaders, and an agreement has been reached, or an informal agreement, with some of the leading people in public broadcasting to move towards self-funding.

Where would the money come from? First of all, public broadcasting can digitize and sell a lot of their programming. There is a good market for that type of programming. They can sell it to the channels I mentioned as the History channel, the Learning channel, Arts and Entertainment. Nickelodeon is marketing a lot of children's programming in France where it is dubbed—educational children's programming. There is money to be made in this. Public television has taught that.

Second of all, the spectrums that public broadcasting has throughout the country. Now we are finding that, with modern technology, we have extra spectrum. They can sell it or rent parts of their spectrum and make a great deal of money.

Third of all, they have a lot of overlapping spectrum that can be sold or represented. For example, in the Washington, DC, area, many homes get two or three public television signals with the same programming or virtually the same programming. The taxpayers of the country need some relief.

Fourth, the great bureaucracy that has grown inside the beltway here and the excessively high salaries that are paid to foundations that get grants directly from the corporation can be cut. There is great room for efficiency there.

By the way, our States are not getting their fair share of the money. In fact, our State legislatures support most of the public broadcasting in this country as well as private contributors such as myself.

Finally, public stations could make money by getting a bigger percentage of what is played on the free public platform. I have spoken out about this, and indeed I commend the board of directors of the Corporation for Public Broadcasting because they passed a resolution to start getting a bigger percentage of Barney and other programming that appear on the free public platform provided by the taxpayers of this country.

Mr. President, the States are not getting their fair share. My little State of South Dakota, which is vast in geography but small in population, gets $1.7 million, but they have to send $1 million back immediately for programming, which they might be able to buy elsewhere at a better rate.

The "shields" used by public broadcasting are children in rural areas. Let me say the State legislature in my State voted against a resolution to seek more funding for the Corporation for Public Broadcasting because it is such a charade they must go through.

So, I believe strongly in lowering the deficit. I believe in less Government involvement. This is an opportunity, a plan has been developed, and they are working with a big investment bank in New York to privatize, to become self-funding.

There is not a need for taxpayers money here. If we are going to transfer this money, we do not need to transfer it to the corporation. The House leaders reached an agreement to privatize, to work toward self-funding. I have outlined various sources of revenue the Corporation for Public Broadcasting can get. I have not mentioned additional advertisement. They already have a great deal of advertising. They call it "enhancements" or something. That is fine.

Even without further advertising they sit on a treasure trove of resources here. I recently wrote an article in the Washington Post outlining the five ways public broadcasting can get more revenue without any more advertising. They are sitting on a treasure trove of spectrum, of overlapping spectrum. Inside the beltway here their headquarters are bloated bureaucracies.

The States are really not getting the money that they are supposed to be getting.

Mr. President, I ask unanimous consent to have the Washington Post article I mentioned printed in the RECORD at the conclusion of my remarks.

[From the Washington Post, Mar. 8, 1995]

REALITY-BASED BROADCASTING

(By Larry Pressler)

"Public broadcasting is under attack!" "Congress wants to kill Big Bird!" These and other alarmist cries have been common in recent weeks. The problem is they are lies. That's right, lies. I tried to conceive of a more polite way to say it. I could not. With rare exceptions the press largely has ignored the specifics of the position taken by members of Congress seeking to reinvent public broadcasting.

I have struggled to make my position clear. Yet the misrepresentations continue. I am convinced many simply do not care to report the facts—facts they do not find as interesting as the scenarios they create. That is too bad. The average American taxpayer would find the facts extremely interesting.

As chairman of the Senate Committee on Commerce, Science, and Transportation, I am not seeking to destroy public television and radio. I am a strong supporter of public broadcasting, both in my home state of South Dakota and nationally. Pull the plug? Absolutely not. Rather, my plan would expand opportunities and save taxpayer dollars.

Why do I seek change? Because times have changed. Today's electronic media are vastly different from those of the 1960s, when the current system of federal subsidies for public broadcasting was established. The old theory of "market failure" for educational programming is completely untenable in today's environment. Educational and cultural programs can and do make profits when their quality is good and marketing astute. The only money losers in today's arrangement are the taxpayers.

A Feb. 24 Post editorial stated it is time for the public broadcasting industry to face reality. The issue no longer should be whether federal subsidies for public broadcasting will be cut. I could not agree more. Congress now is debating when and how much. The House Appropriations subcommittee on labor, health and human services already has cut the public broadcasting budget. The House leadership promises more to come. I fully expect the Senate to follow suit.

Instead of crying over public cash, it would be more prudent for public broadcasting executives to use their talents and resources developing the numerous potential sources of revenue available to replace the federal subsidy rather than continuing to fan the flames of fear and exaggeration. As captains of a major corporation, their responsibilities should be clear. The Corporation for Public Broadcasting (CPB), National Public Radio (NPR) and the Public Broadcasting System (PBS) need to learn to stand on their own feet.

To help in that effort, I recently provided the chairman of the board of CPB with a plan to end its dependency on federal welfare in three years. Ideas to end CPB's addition to taxpayer dollars include:

PROFITS FROM SALES

CPB should renegotiate sales agreements and improve future agreements to get a larger share of the sales of toys, books, clothing and other products based on its programming. In 1990, Barney-related products retailed at $1 billion! Steps have been taken by the CPB board to improve its share of such sales. More should be done.

MAKE THE MOST OF NEW TECHNOLOGY

Use of new compressed digitization technology would permit existing noncommercial licensees to expand to four or five channels where once they had only one. Public broadcasting stations could rent, sell or make use of the additional channels for other telecommunications and information services.

END REDUNDANCY

At least one-quarter of public television stations overlap other public television stations' signal areas. Public radio also suffers from the inefficiencies of redundancy. Ending this overlap and selling the excess broadcast spectrum would provide substantial revenues to public broadcasting.

SWITCH CHANNELS

Moving public television stations from costly VHF channels to less costly UHF channels in certain markets would provide a substantial source of new revenue.

TEAM WITH OTHER INFORMATION SERVICES

CPB could increase commercial arrangements in the computer software market and with on-line services.

These are only a few of the ways in which the CPB could reinvent itself into a self-sufficient corporation for the '90s and, indeed, for the next century. Ending federal dependency does not end public broadcasting. Today's subsidy amounts to only 14 percent of the industry's spending! Indeed, my current plan asks the Corporation for Public Broadcasting to end its dependency on federal welfare in three years—that's one year more than what current proposals would give welfare recipients to get off federal assistance.

It would be tragic if the public broadcasting industry ignores its responsibilities when the federal budget is in crisis. It also would be tragic if the industry spurns exciting opportunities in new markets and technologies. Perhaps most tragic of all, however, would be continued retrenchment from public broadcasting executives crying, "It can't be done." It can be done. It should be done.

Mr. PRESSLER. So, let me conclude by saying that it may well be that moneys could be transferred from here to there, but they do not need to be transferred anymore for the Corporation for Public Broadcasting. The committee level and the House level gives them more than they need.

I yield the remainder of my time to my chairman.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. Five minutes; 5 minutes and 8 minutes.

Mr. SPECTER. How much time remains for the opponents of the amendment?

The PRESIDING OFFICER. Five minutes.

Mr. SPECTER. How much time was there originally?

The PRESIDING OFFICER. Ten minutes.

Mr. SPECTER. We have 5 minutes left. Will the Senator from Delaware take 2½?

Mr. BIDEN. Mr. President, I will make it real quick. First of all, I think the characterization of my friend from Iowa is bizarre. It makes it sound like this is a CIA plot that is still underway. It is one of the most noble undertakings that the Western World has ever engaged in. If you ask any people in Eastern Europe, from Lech Walesa to Vaclav Havel to Boris Yeltsin, and others, who in fact were there before the Wall came down, they credit Radio Free Europe or Radio Liberty more than any single thing.

Number two, is it still needed? It is needed now. There is an enemy. The enemy is called censorship, and if you wonder whether or not it is true, some of us met this week with Mr. Gusinsky, the fellow who has the media empire in Russia now who is criticizing the present President. They are threatening to take down the television stations. They are taking down the radio and television access to the news for the people everywhere from Slovakia through Russia.

The third thing is this notion it is no longer needed. Mr. President, 25 million people still listen to it on a regular basis in Eastern Europe and Russia. Anyone who thinks democracy has taken root and the free market system is in place in those areas, I respectfully suggest they take another close look. And the notion that they can watch CNN—I would say to my friends, CNN is in English; it can be censored. It, in fact, can be impacted upon. And CNN communicates international news, not what is happening within those countries—as RFE/RL does. What we are doing is fully emasculating the ability of Radio Free Europe or Radio Liberty to continue to function.

I am a supporter, an unabashed supporter of public television. I believe it should be more than it is now. But this is like having the hearing impaired steal from the physically impaired, from those who are unable to walk. They are pitting two very important functions of government against one another. But we should not undermine Radio Free Europe and Radio Liberty.

Again, those who think democracy is secure in those areas, please stand and raise your hands and tell me that censorship is still not the single biggest enemy of the prospect for freedom to flourish and democracy to flourish in Eastern and Central Europe.

Let me give a few more examples. In Russia, we have heard about the media courageously reporting on the war in Chechnya.

But that does not mean that Russia is now blessed with completely free media.

Last year, the State Duma in Russia adopted a new media law which requires that State-owned media must inform the public of activities of the President, Government, and Parliament within 24 hours after any noteworthy event.

And although the State Department reports that "print media [in Russia] functioned largely unhindered," this optimistic picture is clouded by the situation in many provinces:

> Regional political authorities [in Russia] resorted to various devices to close down critical newspapers.

Last winter and spring, during the parliamentary campaign in Kazakhstan, a television station went off the air for several days when local authorities, upset by broadcasts critical of the mayor of the capital, shut off electricity to the station.

In Slovakia, as the Washington Post reported last Tuesday, the newly elected Government has increasingly pressured—and at times forced—television, radio, and newspapers to accept wholesale changes or drop programs.

In my view, Radio Free Europe and Radio Liberty are as important today as they were during the past 40 years.

Because the establishment of free and independent media in the region has been a slow process, RFE/RL today have a dual role: To provide a model of how independent media should function in a free society, and to keep honest those who seek to reestablish repression and to silence the press.

This function is not one conceived in the abstract; the practical reality lies in the public response: The people of the region continue to tune in to RFE/RL.

In nearly every country in Eastern Europe and the former Soviet Union, the listenership of RFE/RL today equals or exceeds that of the Voice of America.

It also exceeds the audience of the British Broadcasting Corporation's World Service.

All told, some 25 million people in the region listen to RFE/RL on a regular basis.

Surveys conducted last fall of leading citizens in the region found that an average of nearly 75 percent supported the continuation of western radio broadcasts.

Equally important, every leader of the new democracies in the region continues to urge that these radios remain open.

Let me quote from a letter from Czech President Vaclav Havel to President Clinton:

> [RFE broadcasts] remain important to the development of independent journalism and democracy in our country.

The Presidents of the three Baltic States expressed a similar view:

> These broadcasts [are] an integral part of the continuing development of [our] democratic institutions.

These are not leaders whose budgets benefit from RFE/RL—these are leaders who recognize that RFE/RL still make a contribution to the establishment of democracy.

This year, the administration proposes to spend $100 million on the so-called "Warsaw Initiative," a program to assist the new democracies of Eastern Europe to modernize their militaries.

I would argue that Radio Free Europe and Radio Liberty are as important as this military assistance in helping to secure the democratic foundation in the former East bloc.

Yet I predict that hardly anyone around here will blink an eye when the Congress votes on the $100 million "Warsaw Initiative."

RFE/RL IS CUTTING ITS BUDGET

I agree with the Senator's belief that we need to reduce our international broadcasting budget.

We are doing just that.

The State Department authorization bill, enacted last year, provides for the consolidation of all U.S. international broadcasting.

The plan will reduce operations at both RFE/RL and the Voice of America. By next October, VOA and REF/RL will have reduced their combined broadcast hours to Eastern Europe and the former Soviet Union by 32 percent.

RFE/RL will reduce its budget by 67 percent—from $220 million to $75 million annually by fiscal 1996.

In terms of employees, RFE/RL will be cut by a similar amount—from 1,600 in September, 1993 to about 420 in fiscal 1996.

The research arm of RFE/RL has already been privatized: Its operations have been taken over by the open media society—a project funded by the philanthropist George Soros.

The new institute will undertake the restoration and preservation of the invaluable archives owned by RFE/RL—40 years of material that trace the dark era of totalitarianism in Eastern Europe and Eurasia.

This is a project for which no Federal funds were available. But because of this public-private partnership, that important objective will be realized.

The changes that I have enumerated will produce $400 million in savings over the period from 1994 to 1997. All this is not a one-time phenomenon—it is a permanent structural change.

In addition, Congress has directed RFE/RL to begin an effort to privatize the radios—that is, that the funding should be assumed by the private sector by the end of the decade.

The radios are taking that directive seriously. Their ongoing move to Prague is a critical part of the effort to prepare for privatization.

Let everyone understand what this amendment will do—it will emasculate Radio Free Europe and Radio Liberty.

The fiscal year 1995 budget for the radios is $229 million. That includes $103.5 million for one-time downsizing costs.

Nearly $67 million of those costs are mandated by German labor laws.

Restrictive German labor laws require RFE/RL to pay severance and other benefits to the hundreds of employees who will be laid off—laws that RFE/RL, as a private corporation operating in Germany, must comply with. It is undisputed that RFE/RL, Inc. is subject to German labor laws.

A recent case, decided in February in the D.C. Circuit (*Mahoney* v. *RFE/RL, Inc.*), made clear that as a corporation with its principal place of business in Munich, RFE/RL would violate the laws of Germany if the corporation breached its collective bargaining agreements.

THIS WILL STOP AN IMPORTANT MOVE TO PRAGUE

In short, the effect of this amendment would be to place a dagger in the heart of the radios—at a moment when they are in the midst of a move from Munich to Prague, where they are preparing for the eventual privatization of RFE/RL.

This would break faith with a decision that the President and Congress jointly made last year.

Last January, the Senate voted to consolidate RFE/RL and the Voice of America.

Last summer, the President sent a reprogramming to Congress which provided for the move of the headquarters of RFE/RL from Munich to Prague.

I do not recall any of my colleagues objecting at that time to the continuation of RFE/RL.

But now the move to Prague is in motion. Four language services are now being produced in Prague: Russian, Ukrainian, Latvian, and the South Slav service.

RFE/RL plans to be out of Munich by June 10.

Because Munich is one of the most expensive cities in Europe, the move will achieve important savings. Per capita personnel costs will be reduced by one-third.

The President of the Czech Republic, President Havel, made an extremely generous offer to allow the radios to use the former Czechoslovak Federal Parliament Building for a nominal fee of one Czech crown per day—or 12 dollars per year.

The President of the United States accepted that offer last summer. This amendment would obviously undercut that commitment.

That is why the Clinton administration is strongly opposed to the Harkin amendment, as stated in the letter I read earlier from Joe Duffey, director of the U.S. Information Agency.

RFE/RL AND VOA ARE NOT DUPLICATIVE

It is not true that RFE/RL duplicates the Voice of America.

The two radios have different missions. The Voice of America's is mandated to tell America's story.

By contrast, Radio Free Europe and Radio Liberty radios provide news and information about local events within the recipient countries.

In this manner, RFE/RL act as home service or surrogate radios in the absence of fully free and independent media in the emerging democracies of Eastern Europe and Eurasia.

As a result of the broadcast consolidation, the amount of overlapping broadcasts—that is, broadcasts by both RFE/RL and the VOA in the same language at the same time—was reduced from 24 hours to zero.

It is ludicrous to suggest that the cable news network now suffices for the countries of the former Soviet Empire.

In most countries, there are only two ways to obtain CNN—by staying in an expensive hotel or to buy a satellite dish.

I do not have any data on how many such dishes are available, but I cannot believe they are widespread.

More important, the news of CNN is in English, and it is international news. The news on Radio Free Europe and Radio Liberty is in the vernacular—the local language; and it focuses mainly on local news.

Do not take my word for it that these broadcasts are still needed. Listen to the results of a survey conducted last fall in the region.

A poll of decisionmakers in each country—government, military, media, and economic leaders—clearly demonstrates this point.

When the proposition was put to them that Western radio is needed despite the new media freedom, some 75 percent of those polled disagreed or strongly disagreed.

I sympathize with my friend from Iowa about the choice we face in this bill.

I am in favor of restoring the cuts to the corporation for public broadcasting—but not at the expense of one of the most valuable instruments in American foreign policy.

The last point I will make is the administration is opposed to the amendment of my friend from Iowa. And I hope I have done this within 2½ minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I oppose the amendment. Much as I would like to see additional funding for public broadcasting, the subcommittee of which I am the chairman, the Subcommittee on Labor, Health, Human Resources and Education, has made a very careful allocation and has in fact reduced considerably the rescission by the House of Representatives for fiscal years 1996 and 1997. The House wanted to cut public broadcasting by $47 million. We limited the rescission to $26,360,000 for fiscal year 1996. For fiscal year 1997, the House of Representatives wanted to cut public broadcasting by $94 million, and our subcommittee limited that rescission to $29,360,000, leaving public broadcasting at its current rate of $285,640,000.

That is fairly complicated arithmetic, but what it boils down to is on the current mark, there has been substantial consideration given to public broadcasting. The responses which the committee has heard from those who are interested in public broadcasting is a sigh of relief that their funding has been maintained at its present level.

I would like to see more funding for public broadcasting. But in setting this mark we feel there has been a realistic and appropriate balancing of priorities.

When the Senator from Iowa talks about employment for older Americans and would like to add funding there, of course it would be fine to add $14 million additionally to the $396 million recommended by the committee. But here again, the Appropriations Committee has made a very careful balancing of priorities. It is possible to pick apart the appropriations bill in a thousand ways and to take accounts which sound wonderful, like older Americans or public broadcasting, and take them from accounts like Radio Free Europe which makes a great sound bite or looks complicated when the Sunday papers reprint the vote. But this has been very, very carefully worked out.

Senator BIDEN has made as good an argument as you can make in 2½ minutes. I am sorry he is not on the floor to compliment him, because it is seldom that Senator BIDEN makes that good an argument in 2½ minutes. Usually it is longer and proportionately it may not justify the additional time. I wish he were here to reply to that.

It is with some reluctance that I oppose my colleague, Senator HARKIN, who serves as ranking member on the subcommittee. We have worked together for a very, very long period of time. But as the allocations now stand, there is an appropriate allocation and balancing of priorities.

Mr. President, I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Will the Senator yield for just a moment?

Mr. SPECTER. I yield.

Mr. HATFIELD. Mr. President, I ask unanimous consent to extend this debate for 10 minutes, to be equally divided between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. If the time is extended for an additional 10 minutes—

Mr. HATFIELD. And I yield to the Senator from Pennsylvania 2 minutes.

Mr. SPECTER. I would want to reserve time until I hear from Senator HARKIN and reply, if I may.

Mr. HATFIELD. Mr. President, the 10 minutes has been agreed to, 5 on a side?

Mr. SPECTER. I yield the floor and will reply to whatever additional arguments remain.

Mr. HARKIN. Mr. President, I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, Senator SPECTER's argument on the Corporation for Public Broadcasting is we are not hurting the corporation nor public broadcasting as much as the House is. That is not a very good argument.

Let me point out one thing. This body, I am pleased to say, unanimously supported me in an effort to have an exemption to the antitrust laws so that the television industry could get together on the question of violence. The evidence is overwhelming.

The Presiding Officer is a physician. The American Academy of Pediatrics, the American Medical Association, the National Institute of Mental Health, the Surgeon General of the United States, all have issued studies saying that television violence that glorifies violence adds to violence in our society.

I am pleased to report to this body, thanks to your efforts and to voluntary efforts in the industry, broadcast television has reduced violence appreciably. Cable has moved very, very modestly. But one network and one network alone provides violence-free television for the children of America, and that is public broadcasting.

I think we have to put our vote where our mouth is on this. I think we have to encourage the only network in this Nation that provides violence-free television for our children. There is one children's program, for example, that is broadcast in this country which is produced in two versions. One is the violent version for the United States of America, and the other is the nonviolent version for all the other countries in the world. When the Christian Science Monitor asked the producer why, she said, "Well, the United States people demand violence, and we get no complaints. We cannot sell it in other countries with the violence in it."

The Corporation for Public Broadcasting is doing a superb job of giving us violence-free television for our children, and we ought to be supporting it and supporting them strongly.

I am proud to be a cosponsor of the Harkin amendment. If I am not already, I want to be added.

I thank the Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes and 39 seconds.

Mr. HARKIN. Mr. President, I yield 4 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank my distinguished friend from Iowa for yielding to me. I congratulate him on trying to maintain a semblance of culture, decency, and civility in this Nation.

The Senator from Illinois spoke just before I did. He spoke about the fact that our children, by the time they graduate from high school, will have seen 18,000 murders, to say nothing of the other unspeakable violence they are going to see on network television. We have grappled in the Senate with how to control children's exposure to violence in light of the free speech provisions of the first amendment, and nobody has been able to come up with a workable solution.

I was speaking with a Senator's wife about a week ago and she said, "You know, Dale, we don't subscribe to cable at our house. We have a 12-year-old son. We do not want him exposed to MTV." I tell you, there are an amazing number of people in this country who deplore what their children are watching on television, and some of them are opting, as she does, not to purchase cable television.

Mr. President, you can be assured that this is not the final definitive debate on the Corporation for Public Broadcasting. There is an assault in the U.S. Congress on public broadcasting. With NEWT GINGRICH leading the charge, the Republicans in Congress have decided to take dead aim at Big Bird, rather than deal with the problems that really cause harm to our society.

Mr. President, we have heard the argument: "CPB can be privatized; let them do as everybody else does." Let me ask you about the magnificent, unprecedented series on the Civil War which was so poignant. 14 percent of Americans tuned in to see it. I promise you, most Americans were in tears watching, but above all, learning about the most defining moment in American history—13 hours on public broadcasting. Can you imagine watching that series on one of the commercial networks and being interrupted every 5 minutes with a car being dropped on top of a mountain top, or a Budweiser beer commercial?

I cannot believe that the Harkin amendment is even being challenged. If the Senator from Iowa prevails on his amendment, there will be $175 million left in the Radio Free Europe account. That is $100 million more than the President requested. In addition, even if the Senator from Iowa prevails, we will still be $29 million short of what public broadcasting was supposed to get.

Mr. President, how many times during the balanced budget amendment debate did you hear the argument, "Senator, how can you vote against the balanced budget amendment? Eighty percent of the people of this country favor it. You are going against the wishes of the people."

So, for the Senators here who are prepared to vote against the amendment of the Senator from Iowa, let me remind you that between 65 percent and 70 percent of the people of this country do not want the Corporation for Public Broadcasting to be cut. Is it for dilettantes? The statistics show that the average salary of the people of this country who watch opera is $40,000 a year. Where else could they see Pavarotti, Kiri Te Kanawa, all of the magnificent voices; are they to be silenced? Are we going to say to the American people that other countries of the world are willing to spend up to $38 per household for the very same thing the American people are paying $1.09 for?

It is troubling to hear the assaults on things like the Corporation for Public Broadcasting and National Public Radio—I never move my radio off NPR. When I get in the car in the morning, that is what is on; and when I go home at night, that is what is on, because I want to know what is going on in the world and I do not want all those commercials interrupting it. I want a definitive, honest-to-goodness, analysis of what is happening all over the world. I wonder what the opponents of the Harkin amendment listen to in order to get their news.

Mr. President, I thank the Senator for yielding.

I yield the floor.

Mr. HARKIN. How much time is remaining on both sides, Mr. President?

The PRESIDING OFFICER. Five minutes on this side.

Mr. HARKIN. I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, first of all, I want to thank my colleagues who have spoken so eloquently on this amendment. I thank them for their support.

Second, I want to again thank and congratulate my colleague, Senator SPECTER, for doing a truly outstanding job in getting the provisions through our Labor-HHS-Education Appropriations Subcommittee that he has done in this bill. Having been in his position, I know it is a tough job, a thankless job. I want to commend him for all the work he has done. He has done a good job. I support him in that effort.

I point out, however, that in this case, Radio Free Europe is not in our subcommittee. So I am not hanging that on his head. It is funded in another subcommittee. Senator SPECTER and our subcommittee does not fund Radio Free Europe.

Mr. President, I also want to say—and I do not have the time to do this. The compensation package that was agreed upon for the employees of Radio Free Europe because they are now moving to Prague, Czechoslovakia, you ought to read it. Let me read a couple of its provisions.

Employees having children shall receive a one-time payment in the following amount: One month of gross salary, but in no event more than deutsche mark 10,000—that is $7,500 in U.S. dollars—for every dependent child aged no more than 27. How about that?

Employees terminated effective as of July 30, 1994, shall receive in respective school fees for the children to go to school 10,000 deutsche marks per child. So they can go to school. That is $7,500 a year.

What is going on here? This is criminal. Talk about a golden parachute. And at the same time, we are saying we are going to cut broadcasting for Big Bird and for our kids in this country. What nonsense.

My friend from Delaware talks about censorship. If that is going to be our guiding light, let us start Radio Free Asia, Radio Free South Africa, Radio Free South America.

Mr. BIDEN. We have.

Mr. HARKIN. Censorship can rear its ugly head anywhere, anywhere—in Uruguay and Paraguay, in Chile and Argentina, in any country in Africa.

But what we have is the Voice of America. Now, he talked about Lech Walesa. I have some statements from other people I will put in the RECORD telling about the Voice of America, the present Prime Minister of Albania saying it was the Voice of America that brought them through, not Radio Free Europe.

Second, Mr. President, here is a list—I ask unanimous consent to put these in the RECORD—of every country in Eastern Europe and all of the radio and TV stations they already have that are operating. I ask unanimous consent to put that in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Ukraine: Russian TV programming is widely viewed.

Belarus: European music stations and BBC TV programs have been on air since last year.

Latvia: 6 commercial stations broadcasting most of day.

Lithuania: Recent formation of an association of independent TV and radio stations. TV programs broadcast; also several TV and radio stations broadcasting in Polish.

Hungary: VOA and BBC rebroadcast on Kossuth, FM, a state radio network.

Poland: RWE, Inc. broadcasts on Polish Program 4, a nationwide mediumwave network; BBC and VOA rebroadcast locally on both MW and FM. A National Broadcasting Council has issued 3 private national licenses in addition to 115 local licenses. The first national private TV license was recently awarded to Polsat over competing bids involving well-established foreign firms such as Time Warner Inc., Bertelsmann AG, and Reuters.

Czech Republic: VOA and BBC broadcast on FM networks in locations throughout the country; 2 public radio networks. Many of the independent stations with music and news often broadcast 24 hours a day.

Slovakia: Slovak Radio broadcasts despite financial problems BBC broadcasts on FM networks throughout the country.

Bulgaria: Numerous local independent radio stations operate in Sofia and other major cities. VOA, BBC, Deutsche Welle and Radio France International broadcast on FM in Sofia; VOA and BBC in cities outside.

Romania: Romania Radio, with 3 national networks all due to go on FM in the near future, is a less controversial institution than state TV. Numerous local independent radio stations operate in Bucharest and other major cities. VOA, BBC, Radio France International and DW are currently being rebroadcast on FM in Bucharest; BBC and DW also broadcast on FM in other cities.

Azerbaijan: Iran and Turkey supply television and radio programs to Azerbaijan; radio and TV cooperation between Iran and Azerbaijan is expanding.

Georgia: "Free Georgia" radio reportedly has been set up in Mingrelia by Gamsakhurdia supporters. Western and Turkish TV is available in Tbilisi.

Kazakhstan: TV broadcasts from Russia. Almaty is home to several independent radio stations. Print media are diverse. BBC and VOA broadcast, but only in Russia.

Tajikistan: An opposition radio, "Free Tajikistan," has begun broadcasting 90 minutes a day. BBC and VOA broadcast in Russian.

Uzbekistan: Voice of Iran and radio Saudi Arabia transmit to Uzbekistan in Uzbek; other regional broadcasters can be heard in Persian or Turkish. VOA broadcasts; BBC plans to begin broadcasting in Uzbeck in later 1994.

Mr. HARKIN. The Senator from Delaware says the administration is opposed.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. HARKIN. I will take 30 more seconds. Here is the OMB pass-back budget 1994:

> Presidential decisions. The pass-back includes some specific policy issues that were personally reviewed and decided by the President and cannot be changed. BIB, RFE, RL will be terminated in 1995, capital assets will be transferred to and merged with USIA.

So if this is something new, then the President obviously has changed his mind. But the President made a decision to personally zero it out.

I would also point out that even in this fiscal year the President asked for $75 million.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. And this is $100 million more than the President asked for.

I reserve the remainder of my time.

Mr. BIDEN. Mr. President, will the Senator from Pennsylvania yield me 2 minutes?

Mr. SPECTER. I yield the Senator 2 minutes.

Mr. BIDEN. I do not say this with any rancor, but it is clear the Senator from Iowa is correct; he is uninformed on this issue. The reason he is uninformed on the issue, Radio Free Europe or Radio Liberty, the administration is not opposed.

I will submit the letter for the RECORD. I ask unanimous consent it be put in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. INFORMATION AGENCY,
Washington, DC, March 31, 1995.

Hon. JOSEPH BIDEN,
U.S. Senate.

DEAR JOE: It is my understanding that the Senate may take up an amendment that would rescind major funding for the operations of Radio Free Europe/Radio Liberty. We appreciate your past and continuing support for RFE/RL and hope you will join the Administration and me in opposing this amendment.

As you know, we are currently in the process of shutting down RFE/RL in Munich and moving the newly configured operation to Prague. We have managed to get major components of the operation off the government budget and all of those involved in this effort have proceeded in good faith on the basis of reductions agreed to last year. The budget is being drastically reduced.

The operation will be overhauled under the leadership of Kevin Klose, President of RFE/RL, and a new Board of Directors, chaired by David Burke, former Vice President of ABC News. We have, however, let go more than a thousand long-time employees in Germany and must meet major obligations (legal obligations) there for German Government mandated separation costs, pension and health costs, etc. A cut in this year's budget of the one-time expense set aside for this purpose will break faith with those who have moved ahead with creativity and no little courage to help reinvent this old institution and make it serve a new purpose in a new time. It will also create a monumental management disaster in Munich and Prague, which will cause operations to come to an abrupt halt and create obligations and penalties for the U.S. Government beyond the savings sought by the amendment's sponsors.

I stand ready to met you in the Senate Lounge at any time to talk with you about this, as does Mort Halperin, who can express President Clinton's and the National Security Council's strong opposition to the proposed amendment.

Thank you for your consideration.

Sincerely,

JOSEPH DUFFEY,
Director.

Mr. BIDEN. Let me clarify this for the Senator. At the beginning of this administration, the President proposed terminating RFE/RL. That decision was reversed in the spring of 1993. And that summer, the President proposed consolidating all U.S. sponsored international broadcasts. Congress accepted it. And we ordered budget cuts. We cut the costs. The reason it is $175 million, $100 million more that the request for Fiscal 1996, is that it costs more—in the current fiscal year—to reduce the size of the radios. That is what it cost under German law to reduce the operation. We are bound under German law. When we lay off people and fire people under German law, we are required to pay this severance pay. That is the reason why it is more money this year and drops to $75 million next year.

Thirdly, I point out to my friend from Iowa, he did vote for and we did vote for Radio Free Asia. We authorized the establishment of a new service last year, and began appropriating money last year. We did it because there is censorship in China and the other communist countries in Asia; because there is a gerontocracy in Beijing that does not let people express their points of view. We did do that. So he is ahead of himself without even realizing it. We did in fact vote and have voted to guarantee that where there is censorship in the world, we will be involved to the extent that we can.

So, Mr. President, if we do not send troops, and we are not going to send money, and we are not going to send information, and we are not going to send access to the truth, what the heck are we going to do? I resent the fact that this is being pitted against public television. The reason public television is cut is not because of Radio Free Europe. When we reach the point——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BIDEN. When you reach the point your time has expired, you sit down.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. Three minutes 9 seconds remain.

Mr. SPECTER. How much for the opposition?

The PRESIDING OFFICER. One minute thirty-two seconds. But the Senator from Iowa yielded back his time.

Mr. HARKIN. No, the Senator did not.

The PRESIDING OFFICER. The Chair thought the Senator did.

In that event, 1 minute 32 seconds remain.

Mr. SPECTER. Mr. President, I yield myself 2 minutes.

When the argument is made by the Senator from Arkansas that there is an assault on public broadcasting, I would remind him that the major assault is on the deficit, and as chairman of the subcommittee we looked at $5.9 billion of rescissions by the House, and we reduced that to $3.05 billion, and asked public broadcasting to take a fair share, leaving them with the same amount they had last year. And that has received the comments of gratitude that they are able to function without the larger cuts recommended by the House.

The amendment is an attractive one, obviously, when they move into community service with older Americans, but that account already has $410 million. So the $14 additional million, while making this amendment look attractive, really is not very significant in the overall picture.

The distinguished Senator from Delaware has spoken about Radio Free Europe, but I think the point has not been made that the $229 million is being reduced next year to $75 million, and $7 million has been added this year for consolidation and wind-down purposes.

My colleague from Iowa, who was chairman and is now ranking member, worked with me over these sheets, and I can understand his interest in wanting more money for public broadcasting. And I understand the Senator from Illinois, who has done outstanding work to try to combat violence on television. But this is a fair allocation, and if we are going to reach a balanced budget——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. SPECTER. I yield myself 1 additional minute.

If we are to reach the balanced budget by the year 2002, there is going to have to be a fair share reduction on many items which we would like to have. And I think it is a fair submission that the Corporation for Public Broadcasting is able to tighten its belt and do the job within the parameter of the existing budget, so additional funds should not be added at the expense of another worthwhile account.

I yield the floor and reserve the remainder of my time.

Mr. BIDEN. Will the Senator give me 5 seconds?

Mr. SPECTER. I do.

Mr. BIDEN. I would like to point out that in the Dole-Daschle compromise we are cutting the international broadcasting account by $35 million. The Senator from Iowa proposes to cut $40 million from RFE/RL in addition to what we are about to cut.

I yield the floor.

Mr. HARKIN. How much time is remaining?

The PRESIDING OFFICER. One minute 30 seconds.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. First of all, let us face it. The Voice of America is broadcasting all over the world, in China, in Europe. The Prime Minister of Albania said it was the Voice of America, not Radio Free Europe that they listened to, plus we have BBC, German. These countries all have other broadcasts. So it is just a question of choices.

This is deficit neutral. This does not increase the deficit. But the choice is just this. Are we going to privatize the Corporation for Public Broadcasting or are we going to privatize Radio Free Europe? Will we have a compensation package for the Germans that I just mentioned or will we have jobs for our senior citizens here in America?

I would also point out, Mr. President, that the Dole substitute had a $98 million cut in Radio Free Europe, much more than what we are asking for here in ours.

Lastly, Mr. President, I would point out again, this amendment provides $26 million more for the Corporation for Public Broadcasting. It also provides $14 million for the senior community service employment program.

I ask unanimous consent to put at the end of my remarks some supporting documents regarding the senior community service employment program.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARKIN. So, again, Mr. President, the choice is clear. Are we going to spend our taxpayers' dollars for Radio Free Europe when the Voice of America is already broadcasting? Or are we going to bring that money here and make sure we have public broadcasting and jobs for our seniors?

EXHIBIT 1

EXAMPLES OF VOA PROGRAMMING

GENERAL

They do news broadcasts (in English and native languages), descriptions of US foreign policy, pieces on popular US culture, information about studying in America, English lessons including Special English broadcasts in slow English, and editorials (which are criticized for being one-sided and potentially damaging the credibility of VOA.)

You can think of VOA as the public relations arm of the US Government for foreign publics.

SPECIFICS

During China's 1989 Tiananmen Square demonstrations and massacre, VOA correspondents broadcast in real time back to China eye-witness accounts of the massacre, and gave public exposure in China to the demonstrators demands for democracy and openness—information that Chinese authorities were censoring.

During the Gulf War, VOA stepped up broadcasts in Iraq and throughout the Middle East in English and Arabic to counter misinformation by Sadaam Hussein, and explain US goals and achievements in the world.

VOA reports on the Middle East peace process from the US perspective so that Arab populations, who live in countries where press is often censored, will hear additional views.

President Clinton broadcast an appeal for calm and non-violence to Burundi in February 1995 just as ethnic violence a la Rwanda is heating up between Tutsi and Hutu extremists: in this case the President is using VOA to circumvent hostilities without resorting to force or sanctions.

The Prime Minister of Albania, Dr. Alexander Meksi, praised VOA for its role during 5 decades of totalitarianism and during the 1990–1991 revolutions:

"On Voice of America we heard about the revolution in Eastern Europe as well as about internal developments in our own country. The role of the radio station was vital in the democratization of Albania. Through interviews that VOA conducted with prominent personalities in Albania we heard the first public criticism of the communist regime from within Albania."

VOA correspondents were in Mogadishu to report on the US feeding mission, getting out information about where the US Marines were, what they are doing, and where feeding centers were.

When the Congress voted to lift the trade embargo against Vietnam, Vietnamese heard it on VOA along with appeals for continued cooperation on POW–MIAs—which well reflected US policy.

VOA broadcasts to Tibet news about international efforts for their struggles that China authorities would not allow. The Dalai Lama can address his people on Tibet on VOA.

English classes in the English Corner throughout the world. It's a language lesson everyday on radio.

VOA also feeds its broadcasts to local FM stations to expand distribution

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10 GOOD REASONS TO SUPPORT SCSEP

The Senior Community Service Employment Program (SCSEP) authorized under Title V of the Older Americans Act should be preserved and expanded for the following reasons:

1. The SCSEP is our country's only workforce development program designed to maximize the productive contributions of a rapidly growing older population through training, retraining, and community service. History has taught us that mainstream employment and training programs like JTPA and CETA are not successful in serving older workers. A targeted approach is needed.

2. The SCSEP is primarily operated by private, non-profit national aging organizations that are customer-focused, mission driven, and experienced in serving older, low-income people. These nonprofits work in close partnership with the Governors, Department of Labor, aging network, and employment and training system, actively participating in One Stop Service initiatives designed to streamline and integrate services.

3. The SCSEP is a critical part of the Older Americans Act, balancing the dual goals of

community service and employment and training for low-income seniors. Many nutrition programs and other services for seniors are dependent on labor provided by the SCSEP.

4. The SCSEP has consistently exceeded all goals established by Congress and the Department of Labor, surpassing the 20% placement goal for the past six years and achieving a record 135% of goal in FY 1993-94. Virtually all appropriated funds are spent each grant year, in stark contrast to similar programs.

5. The SCSEP provides a positive return on taxpayer investment. One study found that the program returns at least $1.47 for every dollar invested by empowering individuals to become self-sufficient and productive members of their communities.

6. The SCSEP is a means tested program, serving Americans age 55+ with income at or below 125% of the poverty level, or $9,200 for a family of one. The program serves less than 1% of those who are eligible; long waiting lists are common in most areas of the country.

7. The SCSEP serves the oldest and poorest in our society and those most in need: 39% of enrollees are minorities—the highest minority participation rate of any Older Americans Act program; 72% are female; 32% are age 70 and older; 81% are age 60 and older; 41% do not have a high school education; and 9% have disabilities.

8. The SCSEP ensures national responsiveness to local needs by directly involving participants in meeting critical human needs in their communities, from child and elder care to public safety and environmental preservation. The SCSEP has been a major contributor to national disaster relief efforts, most recently resulting from floods in the midwest, hurricanes in the southeast, and the California earthquakes and riots.

9. The SCSEP has demonstrated high standards of performance and fiscal accountability unique to government programs. Less than 15% of funding is spent on administrative costs—one of the lowest rates among federal programs and despite a unit cost that has not been adjusted for increased administrative expenses since 1981.

10. The SCSEP historically has enjoyed strong public support because it is based on the principles of personal responsibility, lifelong learning, and service to community. In addition, the program is extremely popular among participants, host agencies, employers, communities, and the membership of our nation's largest aging organizations.

[From Green Thumb, Inc.]

IOWA SCSEP CASE HISTORIES

Donald Huntley of Boone county came to a Green Thumb pre-app day last spring out of desperation. He had worked for many years at a large turkey manufacturing plant that had gone out of business. His annual income for a family of two at the time was $1,380. Don had very good skills and life experiences and a wonderful personality. He began his assignment in June with the Iowa 4-H Education Center. Prior to his orientation his Area Supervisor, Denise Juhl, told him that this was a chance to prove to the agency that they couldn't live without him. Don told her, "consider it done". On January 1, 1992, Don became a permanent full-time employee of the Iowa 4-H Education Center. His beginning salary will be $18,400 with full benefits—an increase of more than 13 times his salary when he enrolled in June! Way to go, Don—we knew you could do it!

Jerry Burgett, a once very successful business owner and entrepreneur, found himself physically disabled and as a result lost his business. He had been a concrete sawer, which took an extreme amount of physical activity. At age 55 he experienced major back surgery and was unable to lift more than five pounds. He became homeless, living with different relatives. His life learned working skills were no longer of value to him. At the intake and assessment, he indicated that he wanted to learn computers and word processing. He was dual enrolled in Green Thumb and JTPA to begin an eight week course in computers and word processing. At the completion of his course, he finished with a perfect attendance and top scores in his class. Jerry began working for a local greenhouse firm the day he finished classes. He is in charge of a city wide satellite greenhouse system. He insures each satellite is staffed and ready for business each day. Jerry credits his new job to his recently acquired training. He now has a small apartment and rediscovered self esteem and self worth.

The PRESIDING OFFICER. The time has expired.

Mr. SPECTER. How much time remains on my side?

The PRESIDING OFFICER. Fifteen seconds.

Mr. SPECTER. Mr. President, this has been a lively debate. I think all of the issues have been aired. I think the accounts as they currently stand express appropriate priorities as best we can determine them, and I move to table the Harkin amendment.

The PRESIDING OFFICER. The motion to table is not in order under the unanimous consent agreement.

Mr. SPECTER. Mr. President, I understand there was an agreement on an up-down vote. I was not present at that time. I withdraw the motion to table.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The PRESIDING OFFICER. Under the previous order, all yea and nay votes will be stacked. We are ready for other amendments.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, may I inquire of the Chair the list of the amendments that were incorporated in the unanimous consent agreement?

The PRESIDING OFFICER. The Wellstone seniors' amendment, the Hatfield-Byrd managers' amendment, the Harkin add-back for Corporation for Public Broadcasting.

Mr. HATFIELD. Mr. President, so as far as the process of those needing to be disposed of, we have the Wellstone amendment and the managers' wrap-up amendment?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. Mr. President, we have resolved the Wellstone amendment. We are now putting that together with the managers' wrap-up. Therefore, I believe that would complete the business at this point as far as amendments are concerned; is that correct?

The PRESIDING OFFICER. That would be correct.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

Mr. WELLSTONE. Would the Senator from Oregon yield for a moment?

Mr. HATFIELD. I withdraw the request for a quorum call.

Mr. WELLSTONE. Mr. President, I just want to thank Senator HATFIELD for his graciousness in our negotiations. I wanted to say to the Senator and to my colleagues that this program, the insurance information counseling and assistance grant program, again, is a program that we have in every single State, with seniors receiving assistance from trained volunteers in dealing with all the Medicare forms and the Medigap policies to provide really good protection for people. It is a program, with very little by way of money, that has gone a long way. I thank my colleague from Oregon for all of his help.

Mr. HATFIELD. I thank the Senator.

Mr. FORD. Mr. President, will the distinguished chairman yield for a question?

Mr. HATFIELD. I am happy to yield.

Mr. FORD. The only amendment left now will be the managers' amendment. When will that amendment be prepared to be offered and how much time will it take for that amendment, could I ask the good Senator?

Mr. HATFIELD. My estimate at this point is that we are in the process of putting that together and of alerting our colleagues who are involved.

I notice Senator MCCAIN is here. He will have an amendment in that wrap-up. Senator WELLSTONE will have one. Senator JEFFORDS will have one.

In each case, Mr. President, I say to the Democratic whip, each of these amendments that are in the wrap-up are totally offset amendments. So they do not add to the deficit. And they have been cleared on both sides. We should have that within the next few minutes.

Mr. FORD. Mr. President, I say to my good friend, I was not objecting to that amendment. I understand it is basically agreed to and it has complete offsets, so most people are satisfied with it.

The only thing I was trying to do is figure out how much longer it would be and when you think the votes will be occurring.

Mr. MCCAIN. I would like to make about a 4-minute statement.

Mr. HATFIELD. Mr. President, I say to the Senator, at this point, I would say it should all be wrapped up, as far as the managers' amendment, in about 15 minutes.

Mr. FORD. I thank the chairman very much.

AMENDMENT NO. 578, AS MODIFIED

Mr. HATFIELD. Mr. President, I will now make a unanimous consent request to make a technical correction. We had cleared the Levin amendment No. 578, but I ask unanimous consent to correct a drafting error by modifying it with the language that I now send to the desk.

What we are doing is we are, on page 9, line 12, striking one figure, $37 million, and putting in $25 million; and one figure $35 million and putting in $23 million. This does not change the basic content of the amendment. It was inaccurately drafted.

I ask that it be modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

The amendment (No. 578), as modified, is as follows:

On page 9, line 16, strike "$13,000,000" and insert "$15,000,000".

On page 9, line 12, strike "$25,100,000" and insert "$23,100,000".

Mr. HATFIELD. Mr. President, that will appear in our wrap-up package now that it is corrected. It is easier to correct it now than correct it down the line. That is why I took the time to do that at this point.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I know the hour is late, and I will be brief. But I would like to make some comments on the compromise amendment that has been so long in its gestation period today and yesterday.

I want to start out by thanking the chairman of the Appropriations Committee and all those Members of the Senate who have worked to produce a good substitute rescission bill. I give them credit. I am only sorry we had not been able to do more.

Over the last week, freshman Senators have led a noble fight, in my view, to add new cuts to these bills. The amendment originally proposed by my freshman colleagues would have called for cuts in the Corporation for Public Broadcasting, AmeriCorps $206 million, IRS, Foreign Operations, Youth Build, and many other cuts that would have totaled $1.3 billion. Obviously, they sought to have that amendment passed. They were unable to do so for a variety of reasons which are not worth going into now.

But I really want to comment, Mr. President, about the difference that those freshmen bring to this body, which is the message of November 8, which is that we have to make tough decisions. We have to make difficult cuts in the budget and we have to do so because we have an obligation to the American people to balance the budget. Mr. President, we are not going to do that with this compromise amendment.

I especially thank Senator Santorum. I thank Senator Ashcroft, who is in the chair. I thank my colleague from Arizona, Senator Kyl, and many others who played such an important role in their efforts and came here to succeed and maybe will succeed next time. Those cuts that they proposed were difficult decisions. They alienated substantial constituencies in all of their States. But the fact is, we needed to enact those cuts and many more.

I have to say, Mr. President, I am a little bit disspirited because, if we cannot enact these cuts, I wonder what is going to happen when we take up budget reconciliation and we have to consider some really important and difficult reductions in the Federal budget. I am not positive we will have the courage to do so, particularly in light of the rejection of the so-called freshmen amendment.

I point out, in the compromise amendment, there are some good programs. I think they are very nice to have these programs. These add-backs all have nice-sounding names to them, like TRIO and substance abuse and mental health and Goals 2000 and school-to-work, et cetera, et cetera. But Mr. President, the question is where the role of Government ends and our obligation to the American people to balance the budget begins.

I am particularly pained by the so-called offsets that are in this amendment, because the majority of the offsets, about $1.2 billion of the $1.6 billion, are contained in two so-called offsets. One is for the HUD section 8 project reserves and the other is for airport improvement. Both of those funds will have to be replenished within the next 6 months.

So the fact is what we have done is add back $834 million and really only subtract from that around a couple hundred million. So the offsets are illusory. The offsets are not meaningful.

And it was interesting that Radio Free Europe and foreign operations were two of the major so-called savings in offsets, neither of which have any domestic constituencies. The other one that I see here was Federal administration and travel, which is always a convenient one. If anyone believes that there will be a $337 million reduction in Federal administration and travel that is unspecified, I would say they have more optimism about the Federal bureaucracy's reactions to the mandates of Congress than I have seen in the past.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. McCAIN. I did not ask for unanimous consent.

The PRESIDING OFFICER. We are under controlled time.

Mr. McCAIN. I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I am sorry for taking so much time.

I believe it is important for us to recognize the effort that was made by the freshman Senators. I think it is disappointing that they did not succeed. I urge them to continue in their efforts, because I think they best reflect the views, aspirations, and hopes of the American people, as expressed on November 8.

I am disappointed in this so-called compromise. I hope that in the future we will not agree to such compromises again.

Mr. President, I had yield back the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 579

Mr. FEINGOLD. Mr. President, I voted for the Harkin amendment to transfer $40.5 million from the Board for International Broadcasting and Radio Free Europe/Radio Liberty, Inc. to the Corporation for Public Broadcasting and the seniors community service program because I believe they are higher national priorities than overseas broadcasting is.

Last year I led the fight to reduce RFE/RL's budget from $220 to $75 million—by two-thirds—and to slash their outrageous management perks because I believe that RFE/RL is a cold war relic, which also suffered from terribly sloppy fiscal management in the past. I do have some concerns about this formula, however,

During the debate on consolidation last year, we discovered that because of contractual obligations that the BIB never should have entered into on behalf of the U.S. Government, we have to spend some money this year in order to cap RFE/RL at $75 million next year. It seems to make little sense, but I have done the math many times, and unfortunately, concluded that these sums are necessary if we are to downsize. It actually demonstrates how this organization ran amok for years under the guise of national security interests. In any case, I am concerned that if BIB funds are rescinded this year, we may not be able to reduce fully to $75 million next year.

At the same time, I think CPB is a far better investment than so-called surrogate broadcasting—particularly when we already have radio services to the transitioning democracies through the Voice of America. I am carefully monitoring RFE/RL's budgeting and expenditures. If their request exceeds $75 million next year, I will be the first to propose their termination.

Mr. HOLLINGS. Mr. President, I support the amendment to reduce funding for Radio Free Europe and to restore $40.5 million for programs cut in this bill before us. Specifically, this amendment would restore: $26 million for the Corporation for Public Broadcasting; $14.4 million for the Community Services Program for Older Americans.

Mr. President, for many years, I have been a supporter of the continued operation of Radio Free Europe. Every year as chairman of the Appropriations Subcommittee, I supported the Board for International Broadcasting's appropriations. But, now I look at this rescission bill and I look at the reductions that are proposed for programs like the Corporation for Public Broadcasting, the National Oceanic and Atmospheric Administration, programs to prevent the use of illegal narcotics, and programs that serve the elderly and children—all programs that serve Americans here at home—and I can no longer support the appropriations for the radios. Programs for Americans here at home should and must have a higher priority.

I have listened to the attacks on the Corporation for Public Broadcasting, on support for National Public Radio and Public Television. The other side has argued that taxpayer funds should not be used to support public radio and television. I disagree. Public radio and television are among the finest investments made by this Government. They are an investment in the education of our people. But, if the other side is arguing against taxpayer support for public radio for Americans, how can they justify taxpayer support for Radio Free Europe. And, in this bill that the Appropriations Committee reported they have even proposed supplemental funding for Radio Free Europe while they are proposing rescissions in the Corporation for Public Broadcasting. That simply doesn't make sense.

One of President Clinton's first reinventing government proposals was to phase out Radio Free Europe and to consolidate it with the Voice of America. This country spends over $320 million per year for the Voice of America's operations and facilities, and almost $230 million per year for Radio Free Europe.

We did not phaseout Radio Free Europe. They conducted an impressive lobbying campaign to continue their existence, and the administration backed down. It agreed to reduce the Radios, but not to end their operation.

But, times are changing. The world has changed. The cold war has ended. Many of the nations in Eastern Europe and the former Soviet Union had developed their own media and radio stations, and without jamming, they now have access to the BBC, CNN, Sky Television, and other Western media. Just last week the Washington Post carried an article discussing Russia since the fall of communism. While the article bemoaned the outbreak of organized crime, it also noted that Russia has developed a vigorous, and free mass media.

And, as everyone can see from this rescission bill, times have changed here at home too. We have before us a $13 billion rescission bill. We are cutting programs that Americans rely on.

Mr. President, in the budget game, in the appropriations business, we are continually involved in a process of setting priorities—of determining what is more important than something else. And, when I look at the programs that Senator HARKIN, Senator LEAHY, and Senator REID have suggested in this amendment, for this Senator, there is no contest. They clearly are higher priority than continuing radio stations for Europe.

There is no one in this room that does not think the Older Americans Act Community Service Employment Program has been a success. The average participant is a 68-year-old woman who has just lost her husband and has little or no work history outside the home. There are both elderly men and elderly women in the program, but this is the typical situation. All of the participants are low income by definition.

This program provides a grant to nonprofit organizations to train participants and to place them in jobs. Initially, the program supports them at the minimum wage. For those who have good work skills, it moves them into full-time, unsubsidized employment. For the others, it provides either formal or on-the-job training to prepare for employment.

In any case, the work done by these seniors in libraries, home health agencies, child care centers, and other public, nonprofit, and private jobs is an absolute boon to the community and to the taxpayer. It would be pennywise and pound foolish to send these low-income senior citizens to the welfare line instead of letting them do work that is needed for the minimum wage.

Furthermore, we are talking in committee about getting people off of welfare and into work, and here on the Senate floor we are cutting a program that does just that.

Mr. President, 16,000 elderly people are being supported at the minimum wage nationwide through the Community Service Employment for Older Americans Program. There are 900 in South Carolina alone, and we will cut 106 if this amendment fails. The dignity of these elderly people is certainly more important than overextending our past commitment to taxpayer-funded European radio.

Mr. President, Senator HELMS, chairman of the Foreign Relations Committee, and Senator SNOWE have proposed a major reorganization of our international affairs agencies. They are, at this time, considering major reductions in international affairs agencies. Their proposed organization chart for the reinvented Department of State includes an "America Desk." Well, it is clear to me that time has run out for Radio Free Europe, and we could well help their reorganization effort at this time. Clearly, Radio Free Europe no longer can pass the "America Desk" review.

I commend Senators HARKIN, LEAHY, and REID for bringing this amendment to the Senate. Phasing out Radio Free Europe is a tough decision to make. But, it is far preferable to the other reductions that have been proposed in this rescission bill.

I urge the adoption of the amendment.

Mr. SIMPSON. Mr. President, I rise in strong opposition to the pending amendment proposed by the Senator from Iowa.

Let me first state that I fully understand the valid impulses that give rise to an amendment such as this. It takes money from Radio Free Europe, and puts it into a small number of other domestic spending categories, some of them bringing benefits to children and to the elderly.

The point being made is clear. It is one that we always hear whenever we go to our town meetings. If a Senator such as myself stands up to describe the vast increases in direct transfer payments to American citizens—from the young worker to the older retiree—increases which indeed have driven our deficit to near extremity, one always hears the same old refrain in response: "What are you going to do about foreign aid? What about Congressional perks?"

Of course, spending on those two items amounts to less than 1 percent of the budget. But as long as some of it is still there, one can always gain a few more political points by taking a little bit more out of international spending, and spending a little bit more on the domestic side.

Now, I come to this issue from an unusual stance, which I would hope the Senator from Iowa appreciates. Unlike some of my colleagues on the Republican side, I fully support public broadcasting. I think it is especially valuable in a rural State such as my own, where we simply do not have the market power to make available to our citizens all of the best that commercial programming has to offer in a cost-effective way.

But despite my general support for public broadcasting, I oppose this amendment. It would take $40.5 million out of Radio Free Europe in order to make it available for other domestic programs.

The first point I would make is that there has been a series of amendments here from the other side of the aisle, each of them designed to score big political brownie points by giving more money to children, to the poor, to the elderly. They're trying to make the crude charge stick, that somehow Republicans are wreaking havoc upon all these programs.

It is a war of symbolism, and it is being waged by various feints, jabs and deceptions. I would say to my colleagues over there on that side that I believe this tactic is getting quite worn and tired. The press, believe it or not, is beginning to figure this one out. They did fall a bit for the school lunch sophistry, buying the notion that we were snatching the food out of children's mouths, simply by giving the States more control over that program. But increasingly they are starting to understand what is a cut and what is a slower rate of increase. That's what we are proposing with all domestic and welfare spending generally—and if the American public can't figure that one simple gem of logic out, then they are, all of them, going straight to the poorhouse themselves.

So that's what gives rise to these partisan amendments. And of course, if you want to get some money for the ragged and downtrodden, there is no more politically popular place to get it than something that smacks of the evil term "foreign aid"—as in Radio Free Europe.

I would say that the U.S. is still getting a very fine return on its investment in Radio Free Europe. One thing that the collapse of the Berlin Wall has shown to us is the power that Radio Free Europe had in beaming a message of hope and freedom to those striving for democracy. It is said by some that, now that the wall has come down, RFE has outlived its usefulness. But we have seen eloquent testimony that this is not the case.

Indeed, Radio Free Europe has moved its base of operations precisely because President Havel of the Czech Republic offered them various forms of subsidy assistance if only they would relocate in Prague. That's what he personally feels about Radio Free Europe's usefulness in the post-Cold War World. If the charge was to be made that Radio Free Europe was too expensive, then the people of Central Europe were willing to chip in their own bucks and give some help in order to enable it to stay.

Radio Free Europe has kept its operation up-to-date and relevant. It remains a tremendous source of reliable information on many subjects of international import, often giving more timely and profound coverage of events that the commercial news services. They have managed to stay ahead of the game in a number of areas of particular movement and importance in recent years—reports on the evolution of ethnic tensions as well as burgeoning controversies in economic and military matters. They provide translations of articles in major international newspapers, and academic analysis of events that cannot always be found in commercial papers and broadcasts.

In a budget in which we devote less than 1 percent of our resources to trying to affect the course of events beyond our borders in a way that is beneficial to us, it seems to me to be very pennywise and pound foolish, to take yet another whack at something which is so inexpensive to the taxpayer—indeed becoming less expensive as a result of the recent decision to move—simply to make the sudden, cynical political point that the loyal advocates of the amendment stand for more spending for the downtrodden.

So I regret to say to the Senator from Iowa that I cannot support his amendment. I would say to him and to the rest of this chamber that if we are squeezing funding for the programs that he has attempted to provide for here, it is not spending on Radio Free Europe that has caused the difficulty. Come the year 2013, unless we do something about entitlement spending, we not only will not have money for Radio Free Europe, but for national defense, highways, prisons—turn them all loose—upkeep of the national parks—nothing. So we should turn the spotlight onto the spending that got us here and we'll be looking for the Senator's vote, otherwise we won't be able to fund any of the programs that the Senator from Iowa or anyone else cares about.

Mr. KENNEDY. Mr. President, I will just take one or two moments at this time, prior to the time that we are going to have a final vote on this issue on the rescissions, to, first of all, express my own deep personal appreciation for the leadership of Senator DASCHLE, on our side, over the course of this debate and his perseverance in pursuing the restoration of extremely important funding that had been cut in the areas which were targeted on children and on education. There is close to a billion dollars which has been returned to this measure as a direct result of his strong commitment and work over these past days.

Many of us were prepared to have extended debate on priorities, which I think the rescission issue basically brings forward, to try and reflect in this body what we think are the real priorities of the American people with regard to children and with regard to education.

We know that over this year and in the future, we are going to have to be much sharper in prioritizing this country's expenditures. Funding in and of itself is not necessarily the answer to all of our problems, but it is a pretty clear reflection of a nation's priorities. This is particularly true when we are talking about a number of the different items that were included in the measure which was supported by Senator DASCHLE and others, including some Members from the other side of the aisle.

I am speaking about the restoration of the funds at Head Start, Chapter 1, and the day care programs, which are so important for working families, particularly working mothers, and are an indispensable part of our planning if we are trying to be serious about welfare reform. I should also note the return of the funding on the Goals 2000, which will help some 1,300 schools to move ahead in terms of enhancing academic achievement and accomplishment.

Those were extremely important programs. Other important measures that were restored include the School-to-Work Program, which will provide additional opportunities for the 70 percent of the young people that do not go on to college and are facing dead-end jobs when they get out of high school.

Because of the School-to-Work Program that was passed last year and strongly supported with the leadership of President Clinton, we were able to work through a partnership with public and private sectors to try to offer a greater opportunity for young people. That, I think, is important.

I know that Senator KASSEBAUM is working through the restructuring and reorganizing of our youth training programs, and the role of the School-to-Work Program may very well be—I believe will be—the center focus of reform of youth training. It will also help in redesigning the outreach to the some 400,000 young people who drop out of school every year. With this program and some of the other efforts, these dropouts may be brought back into the educational system.

Finally, I want to mention the restoration of funding for the national service program. While we have had some debate and discussion on that measure, I wish we had had the chance to go into greater detail on the extraordinary contributions that so many of the young people in this country are involved in through community service.

If there was really a failing during the period of the 1980's, and we all have our list of shortcomings in national policy, I think one of the important areas was the failure to offer a vehicle and an avenue for young people, particularly, to give something back to their community in the form of voluntary service. We didn't give them an opportunity to repay what the community has done for them.

Under the leadership of President Clinton, we have seen service programs growing, not only in the AmeriCorps programs, but the other programs which are creating an opportunity for service while students are in school, from kindergarten through high schools. In my State of Massachusetts, enormously impressive programs are taking place.

I was talking recently to the service learning director of the community service programs, and she mentioned that Massachusetts is one of the top States in taking advantage of the service learning programs.

We could go on about other programs restored—the TRIO program—and about some that were not, such as the technology programs, which are so important in making sure young people are going to be able to get the best in terms of new technology, and not only technology but training programs in the use of these technologies. All of these are enormously important.

We are going to have debates on these measures as to funding levels in the future. But we want to make very clear in this body and to the country that there are going to be a number of Members that will stand for the children, stand for education, stand for investing in the future of this country by doing all that we can to strengthen the support for the youngest and the most vulnerable. We will support children in the Head Start programs and support strengthening our education system. Another issue we will watch closely will be aid to college students. We must ensure that young people that are taking advantage of the student loan programs, work study programs, and other higher education programs which have been targeted by Republicans over in the House of Representatives are not hurt by Republican cuts. We must make sure the Republicans bent on eliminating these programs are not going to be successful.

I believe that there is a bipartisan coalition for education. Perhaps, had we had more votes on education it would have been reflected in the course of this debate, but I believe it is there. It will be tested over the period of these future months.

I do think in this early skirmish that it is very clear that even though the funding levels are not what I would certainly like to see in these areas, the areas nonetheless where there has been the greatest restorations have been in children and in education. I think that that is what the American people would want. I know that these are what we will want as we go through the process of prioritizing this Nation's needs. We will keep them on the front burner.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, by my calculation, we should be voting by now. Could I be advised why we are still talking?

The PRESIDING OFFICER. We still have another amendment to be offered, the managers' amendment.

Mr. DOLE. Is anybody entitled to time on the managers' amendment, or are the managers entitled to time?

The PRESIDING OFFICER. There is a total of 15 minutes remaining on the managers' amendment.

Mr. DOLE. I just say to my colleagues, if they want to stay here all night, that is fine. But we are going to come back in the morning if we cannot close this down in about 5 minutes.

It is about 10 o'clock. Most everybody is here tomorrow, and we will come back if we cannot conclude this, come back tomorrow morning. If everybody needs to talk, let them talk and we will come back and vote tomorrow morning.

Mr. President, why can we not proceed to vote on the Harkin amendment?

The PRESIDING OFFICER. The unanimous consent provided that the votes would be stacked.

VOTE ON AMENDMENT NO. 579

Mr. DOLE. I ask unanimous consent that we now proceed to vote on the Harkin amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Harkin amendment No. 579. On this question, the yeas and nays have been requested, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD: I announce that the Senator from Maryland [Ms. MIKULSKI] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—46

Akaka
Baucus
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Grassley
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Moseley-Braun
Moynihan
Murray
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Snowe
Warner
Wellstone

NAYS—53

Abraham
Ashcroft
Bennett
Biden
Bond
Bradley
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond

NOT VOTING—1

Mikulski

So the amendment (No. 579) was rejected.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Oregon.

Mr. HATFIELD. I ask unanimous consent to make a technical correction to an amendment previously offered by Senator GORTON and adopted by the Senate. It is a technical correction because the amendment is flawed.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until the Senate is in order.

Without objection, the amendment is so modified.

AMENDMENTS NOS. 580 THROUGH 592, EN BLOC

Mr. HATFIELD. Now, Mr. President, I would like to have the attention of the body.

Mr. President, this is the last act for this bill except final passage, and this is referred to as a managers' wrap-up. What we have done is incorporate into this one action amendments that have been agreed to on both sides. If there is any additional money, it is fully offset. So it is totally deficit neutral. And instead of having them offered one at a time, we are offering them en bloc. Let me enumerate them because those of you who have such amendments make certain that we have incorporated them. The following list: HATFIELD has three, LAUTENBERG, BURNS, MCCAIN, JEFFORDS, PELL, KENNEDY, AKAKA, KEMPTHORNE, INOUYE, and WELLSTONE.

Now, that is our listing of all of the amendments that have been agreed to, cleared.

Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc and that motions to reconsider votes by which these amendments were agreed to be laid upon the table en bloc and any statements with regard to the amendments be placed in the RECORD at the appropriate place. And I yield to the ranking member of the committee.

Mr. BYRD. Mr. President, reserving the right to object, I shall not object, these amendments have been cleared on this side and they are fully offset.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], proposes amendments numbered 580 through 592, en bloc.

The amendments en bloc are as follows:

AMENDMENT NO. 580

(Offered by Mr. HATFIELD, for himself and Mr. BYRD.)

On page 26, line 12, reduce the sum named by "200,000,000".

On page 26, line 20, reduce the sum named by "$200,000,000".

On page 27, line 21, strike "$3,221,397,000" and insert in lieu thereof: "$3,201,397,000".

AMENDMENT NO. 581

In Amendment number 437 to Amendment 435 strike the following:

"Of the funds made available under this heading in Public Laws 101–136, 101–509, 102–27, 102–141, 102–393, 103–123, 103–329, $1,842,885,000 are rescinded from the following projects in the following amounts:"
and insert in lieu, thereof:

"Of the funds made available under this heading in Public Laws 101–136, 101–509, 102–27, 102–141, 102–393, 103–123, 103–329, $1,894,840,000 are rescinded from the following projects in the following amounts:"
and strike:

"Tucson, Federal building, U.S. Courthouse, $121,890,000"
and insert in lieu thereof:

"Tucson, Federal building, U.S. Courthouse, $80,974,000".

AMENDMENT NO. 582

On page 44 line 16 insert:
": Provided further, Of the available contract authority balances under this hearing in Public Law 97–424, $13,340,000 are rescinded; and of the available balances under this heading in Public Law 100–17, $126,608,000 are rescinded."

AMENDMENT NO. 583

(Purpose: To restore funding for the purchase of buses and the construction of bus-related facilities as authorized under section 3 of the Federal Transit Act)

(Offered by Mr. HATFIELD, for Mr. LAUTENBERG.)

On page 43, line 17, strike the numeral and insert "$1,318,000,000."

On page 46, strike all beginning on line 6 through the end of line 11.

AMENDMENT NO. 584

(Offered by Mr. HATFIELD, for Mr. BURNS.)

At the appropriate place insert the following:

(a) SCHEDULE FOR NEPA COMPLIANCE—Each National Forest System unit shall establish and adhere to a schedule for the completion of National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analysis and decisions on all allotments within the National Forest System unit for which NEPA analysis is needed. The schedule shall provide that not more than 20 percent of the allotments shall undergo NEPA analysis and decisions through Fiscal Year 96.

(b) * * * other law, term grazing permits which expire or are waived before the NEPA analysis and decision pursuant to the schedule developed by individual Forest Service System units, shall be issued on the same terms and conditions and for the full term of the expired or waived permit. Upon completion of the scheduled NEPA analysis and decision for the allotment, the terms and conditions of existing grazing permits may be modified or re-issued, if necessary to conform to such NEPA analysis.

(c) EXPIRED PERMITS—This section shall only apply to permits which were not extended or replaced with a new term grazing permit solely because the analysis required by NEPA and other applicable laws has not been completed and also shall include permits that expired in 1994 and 1995 before the date of enactment of this Act.

AMENDMENT NO. 585

(Purpose: To address issues of equity in rehiring former Federal employees)

(Offered by Mr. HATFIELD, for Mr. MCCAIN.)

In title II—General Provisions, SEC. 2001 Timber Sales, add the following to the end of subsection (6) SALE PREPARATION: The Director of the Office of Personnel Management, and the Secretary of the relevant Department, shall provide a summary report to the governmental affairs committees of the House and Senate regarding the number of incentive payment recipients who were rehired, their terms of reemployment, their job classifications, and an explanation, in the judgment of the agencies, of how such reemployment without repayment of the incentive payments received is consistent with the original waiver provision of P.L. 103–226.

This report shall not be conducted in a manner that would delay the rehiring of any former employees under this Act, or effect the normal confidentiality of federal employees.

Mr. MCCAIN. Mr. President, I would like to make a few brief comments to describe the intent of the amendment I have offered today to S. 619. It addresses my concerns about the rehiring of former Federal employees who received a voluntary separation incentive payment to leave the Federal service, but now will be rehired under the provisions of this bill.

Under the terms of the "Federal Workforce Restructuring Act"—popularly known as the buyout bill—Federal employees could receive an incentive payment as high as $25,000 if they voluntarily agreed to leave their agency. These buyouts will help achieve a reduction in the Federal work force of approximately 275,000 employees, which will significantly reduce the size of our Federal bureaucracy and save taxpayers hundreds of millions of dollars.

After receiving such a buyout, the Federal employee would be barred from rejoining the Federal work force for 5 years. A special waiver provision afforded former employees with unique capabilities to be rehired by a Federal agency if no other qualified individual was available.

I supported this legislation, and am pleased that it has already helped reduce the Federal work force by some 30,000 employees. I am concerned, however, by one provision of the recissions bill before us today that would allow individuals who received a buyout payment to be rehired without having to either repay their buyout, or meet the terms of the existing waiver provision.

Mr. President, I recognize the need for highly qualified individuals to be brought back to Federal service with the Bureau of Land Management and the Forest Service to assist with new timber harvests. They must be brought back quickly, and are likely to be reemployed for a fairly short period of time.

I do believe, however, that the agencies rehiring these individuals should advise the Congress on the extent of former Federal employees who received a buyout and have been rehired. We have a responsibility to ensure that the spirit of the buyout legislation is not abrogated by this new rehiring authority. Furthermore, it would be wise for the Congress to monitor that the taxpayers investment in this buyout program is not improperly utilized.

My amendment is intended to allow the Congress to fulfill these obligations. It would require OPM and the relevant Federal Department to advise the Governmental Affairs Committees of the House and Senate their use of the rehiring authority established in S. 619. More importantly, it will require these agencies to explain how rehiring buyout recipients without a repayment of their separation incentive award is consistent with the original waiver provision of Public Law 103–226.

This requirement will provide the Congress with some idea of not only how many former Federal employees who received a taxpayer funded buyout have been rehired, but also whether their reemployment truly meets the congressional requirement of highly skilled individuals, and a shortage of similarly talented candidates. I do not want to see the expedited rehiring authority established in this bill to be used in such a manner that undermines the merits and purpose of the cash awards given to individuals.

I think it is important that we treat rehired Federal employees fairly in this regard, but we also need to ensure that taxpayers are protected due to the fact that they have paid for the cash buyouts that have been awarded. After all, these voluntary separation payments are intended to downsize the bureaucracy, and save taxpayers money. Individuals should not be able to take advantage of large buyout bonuses and then reenter the Federal service except under very special circumstances.

This amendment will help the Congress evaluate this rehiring program as it proceeds, without hindering the Forest Service or the BLM in their legitimate efforts to bring skilled individuals back into their work force on a short-term basis.

Mr. President, I want to thank Senator GORTON, Senator HATFIELD, and Senator BYRD for their assistance and acceptance of this amendment.

AMENDMENT NO. 586

(Offered by Mr. HATFIELD for Mr. JEFFORDS.)

On page 14, line 12 strike $81,500,000 and insert "$71,500,000".

On page 13, strike the figure on line 24 and insert "$60,000,000".

AMENDMENT NO. 587

(Purpose: To provide continued funding for the national center for research in vocational education)

(Offered by Mr. HATFIELD for Mr. PELL.)

On page 33, line 9, strike "$236,417,000" and insert "$242,417,000".

On page 33, line 14, strike "$8,900,000" and insert "$14,900,000".

On page 34, line 4, strike "$60,566,000" and insert "$54,566,000".

On page 34, line 7, strike "$8,891,000" and insert "$2,891,000".

AMENDMENT NO. 588

(Offered by Mr. HATFIELD, for Mr. KENNEDY.)

On page 36 after line 5, insert:

"PROGRAM ADMINISTRATION.

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $4,424,000 are rescinded."

On page 34, line 18, Strike $57,783,000 and insert in lieu "$53,359,000".

On Page 35, line 2, strike $6,424,000, and insert in lieu of "$2,000,000".

AMENDMENT NO. 589

(Purpose: To restore certain funding for the demonstration partnership program which is administered by the Office of Community Services within the Administration for Children and Families)

(Offered by Mr. HATFIELD, for Mr. AKAKA.)

On page 31, strike line 9 and insert the following: "Public Law 103–333, $10,988,000 are rescinded.".

On page 31, between lines 9 and 10, insert the following:

"Of the funds made available under this heading in Public Law 103–333 and reserved by the Secretary pursuant to section 674(a)(1) of the Community Services Block Grant Act, $1,900,000 are rescinded."

On page 32, line 5, strike $2,918,000" and insert "$4,018,000".

AMENDMENT NO. 590

(Purpose: To make an appropriation for the Advisory Commission on Intergovernmental Relations and to increase the rescission amount for diplomatic and consular programs)

(Offered by Mr. HATFIELD, for Mr. KEMPTHORNE.)

On page 11, line 19, strike "$2,000,000 are rescinded." and insert the following: $2,500,000 are rescinded.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

For the Advisory Commission on Intergovernmental Relations for purposes of section 306 of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), $500,000.

AMENDMENT NO. 591

(Purpose: To strike the provision that prohibits the application of the Davis-Bacon Act to any contract associated with the construction of facilities for the National Museum of the American Indian)

(Offered by Mr. HATFIELD, for Mr. INOUYE.)

In chapter V of title I, under the heading "CONSTRUCTION" under the heading "SMITHSONIAN INSTITUTION" under the heading "OTHER RELATED AGENCIES" strike ": *Provided further*, That notwithstanding any other provision of law, the provisions of the Davis-Bacon Act shall not apply to any contract associated with the consideration of facilities for the National Museum of the American Indian.".

AMENDMENT NO. 592

(Offered by Mr. HATFIELD, FOR MR. WELLSTONE)

On page 29, line 16, strike "$2,185,935,000" and insert in lieu thereof $2,191,435,000".

At the appropriate place in the bill insert the following:

Notwithstanding any other provision of this Act, administrative expenses & travel shall further be reduced by $5,500,000.

So the amendments (No. 580 through 592) were agreed to.

Mr. HATFIELD. I thank the Chair.

I move to reconsider the vote by which the amendments were agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARKET PROMOTION

Mr. LAUTENBERG. Mr. President, I rise to express my outrage at the provision in this rescission bill that would increase funding for the Market Promotion Program by $25 million in fiscal year 1995. A provision that would increase subsidies for major corporations, at the same time that we are cutting billions from programs that are vital to our Nation's children.

My opposition to the Market Promotion Program is long-standing. I do not believe that the U.S. Government should be spending $100 million a year to subsidize overseas advertising by large corporations.

In recent years, the Market Promotion Program has used taxpayer money to subsidizes such corporations as McDonalds, Miller Beer, Sun Maid Raisins, and General Mills: hardly struggling corporations in need of Government largesse.

It would be a travesty for the Senate to increase spending on this wasteful program while we are considering billions of dollars in cuts from far more important programs in the fiscal year 1995 budget.

How can we cut housing assistance for low-income families and seniors while we increase subsidies for large corporations?

How can the U.S. Senate cut the Head Start Program, the Youth Training program, the National Service Program, the Safe and Drug Free School Zones program, Child Care, Education, and so many other programs that benefit our Nation's children and families, help hard-working Americans, and prevent drug abuse and crime? How can we cut all those programs and then turn around and increase funding for multinational corporations?

Mr. President, this is wrong. Dead wrong. The market promotion program should not be increased. It should be eliminated. If we can cut funding for child nutrition programs and elderly housing, we certainly can ask billion-dollar multinational corporations to do their fair share as well.

I recently introduced legislation that would eliminate the Market Promotion Program and several other wasteful subsidy programs operated by the Department of Agriculture. I am pleased that the Senate has an opportunity today to cut some real waste out of the Federal budget.

I hope that my colleagues in the Senate will join with me in supporting the Bumpers-Bryan amendment.

FUNDING FOR THE UNITED NATIONS POPULATION FUND [UNFPA]

Mr. SIMPSON. Mr. President, I rise today to reaffirm my full support for U.S. funding for the U.N. Population Fund [UNFPA]. President Clinton resumed funding for the Population Fund last year after a 7 year suspension during the Reagan and Bush administrations. Last year, Congress appropriated $40 million for the fund, and $50 million was appropriated for 1995. Unfortunately—and I think unwisely—the House rescinded $25 million of the funding in its emergency supplemental and rescissions bill.

With Senator HATFIELD'S courageous support, the Senate did not rescind any money for the fund in its bill. I am most appreciative of my fine colleagues, Senator HATFIELD and his efforts and longstanding support for international population stabilization activities including the UNFPA.

I do understand that funding for all programs across the board needs to be reduced if we are to properly fund this supplemental bill. However, I do not want to see population programs unfairly targeted for larger reductions than other foreign assistance programs. Reducing the Population Fund's money by one-half is surely an unreasonable reduction in funding.

This huge reduction in funding will surely send exactly the wrong message to the rest of the developed nations across the world. Last year, the United States was seen as the world's leader on population and development assistance at the International Conference on Population and Development in Cairo. I was a congressional delegate at the Conference aid I came away very much impressed with the leadership and direction displayed by Vice President GORE and the assistance given him by our former colleague, Under Secretary of State Tim Wirth in guiding the Conference and its delegates in developing a consensus document on a broad-range of short- and long-term recommendations concerning maternal and child health care, strengthening family planning programs, the promotion of educational opportunities for girls and women, and improving the status and rights of women across the world.

We surely do not want to lose our moral leadership role and relinquish any momentum by abandoning or severely weakening our financial commitment to population and development assistance. The United States needs to continue its global efforts to achieve responsible and sustainable population levels, and to back up that leadership with specific commitments to population planning activities.

That is why it is so very important that we show our support by funding the U.N. Population Fund. The fund is supported entirely by voluntary contributions, not by the U.N. regular budget. There were 101 donors to the fund in 1993, most of which were developing nations. Japan and the United States are the leading contributors to the fund with the Nordic countries not lagging far behind. UNFPA assistance goes to over 140 countries and territories across the world. It would certainly be a real shame if the United States were to back away from its commitment to the world's largest source of material assistance for population programs.

Mr. CHAFEE. Mr. President, I want to join my colleague from Wyoming in expressing my strong support for the United Nations Population Fund (UNFPA). There are many challenges to be faced in the next century with regard to global population growth, and international programs such as UNFPA are critical to the world's population and development assistance efforts.

UNFPA, which receives funds from some 101 donor nations, has had a somewhat tumultuous history in the United States over the past decade. Indeed, UNFPA funding was suspended altogether during both the Reagan and the Bush administrations.

Under the Clinton administration, modest funding for UNFPA has resumed. However, of the $50 million appropriated for UNFPA in fiscal year 1995, $25 million—or one-half—was rescinded by the House of Representatives in its emergency supplemental and rescissions bill.

Let me emphasize that in these difficult budgetary times, U.S. Federal spending, including U.S. contributions to international foreign assistance programs such as UNFPA, need to be adjusted accordingly. However, in this process we must ensure that programs are not unfairly targeted for disproportionate funding reductions. Moreover, I believe it is important in this instance to continue the U.S. leadership role that was demonstrated at the 1994 International Conference on Population and Development in Cairo.

For these reasons, I believe that a 50-percent cut in funding for UNFPA is excessive, and thus unwise. I was pleased, therefore, to find that the Senate rescissions package does not cut the U.S. allocation for UNFPA. I particularly want to commend and thank the chairman of the Appropriations Committee, Senator HATFIELD, for recognizing the importance of this international effort.

UNFPA will continue only if member nations continue to provide it with support. I believe that the United States has a clear interest in the success of UNFPA and similar population and development assistance efforts, and I join with Senator SIMPSON and my other colleagues in urging the Senate to maintain U.S. support.

Mr. BINGAMAN. Mr. President, as the Senate prepares to take final action on H.R. 1158, I rise to draw the attention of my colleagues to the provisions of the bill and the Dole-Daschle amendment making rescissions in U.S. foreign policy programs. Along with my distinguished colleagues, Senators SIMPSON, CHAFEE, SIMON, and others, I believe a direct and substantial benefit flows to the United States from our modest investment in sustainable development and population efforts. I am pleased the Senate bill rejects specific cuts to these vital programs and instead attempts to minimize harm to on-going, cost-effective foreign assistance programs.

Mr. President, I disagree with certain provisions of the bill before us. Nonetheless, I want to commend the distinguished chairman and ranking Democrat of the Senate Appropriations Committee, Senators HATFIELD and BYRD, and the distinguished chairman and ranking Democrat of the Appropriations Subcommittee on Foreign Operations, Senators MCCONNELL and LEAHY, for their very commendable effort to make equitable rescissions in U.S. foreign policy programs.

It is significant that the cuts recommended by the Foreign Operations Subcommittee are not based on a fundamental dislike for particular programs. Nor are they driven by a belief that one or two foreign aid programs are unnecessary. Rather, the subcommittee's recommendation of $100 million in general reductions to programs within its jurisdiction reflects the laudable belief that deficit reduction can be achieved in a manner which minimizes harm to all programs.

Over the next few weeks, as my colleagues on the Appropriations Committee take this bill to conference with the House, I urge them to remain firmly committed to the subcommittee's goal of making equitable rescissions in foreign policy programs. More specifically, I urge them to resist House efforts to target and cut vital population and development programs.

Under the House-passed bill, population and development programs would disproportionately bear the burden of foreign policy rescissions. Development assistance would be cut by $45.5 million and population assistance would be targeted for $9 million in cuts. In my view, these cuts are extremely shortsighted. In the long-term, they could end up costing the United States far more than we would save in fiscal year 1995. The Senate should remain firm in its commitment to making foreign policy rescissions that are rationale and fair, and the House rescissions should be rejected in conference.

From my perspective, attention to global population issues and support for worldwide development is critical to our future successes here in the United States. Because I so strongly believe this, I joined with Senator SIMPSON—and Congressman BEILENSON and Congresswoman MORELLA—to introduce legislation called the International Population Stabilization and Reproductive Health Care Act, S. 1096, in the 103d Congress. Our bill, which we are revising for reintroduction in this Congress, would have focused U.S. foreign policy on a coordinated strategy to help achieve world population stabilization; encourage global economic development and self-determination; and improve the health and well-being of women and their children.

I believe these three objectives are inextricably tied to one another. The way I see it, all U.S. efforts to help develop economies and promote democracy around the world will be futile if we do not first address the staggering rate of global population growth. How can we expect under-developed countries to pull themselves up when the world's population is growing at a rate of more than 10,000 people per hour? When the women and men who make up a nation's workforce pool do not even have the right to plan their families? And when millions of women around the world do not have access to basic—and lifesaving—reproductive health care or educational opportunities?

Fortunately, national and international awareness of two fundamental concepts is growing: (1) population, poverty, patterns of production and consumption, and the environment are so closely interconnected that none can be considered in isolation; and (2) sustained economic growth, sustainable development and population are fundamentally dependent on advances in the education, economic status and empowerment of women.

Tonight, we in the Senate are re-affirming these principles, and we are rejecting the House's attempt to drag U.S. foreign policy backwards. I sincerely hope the Senate conferees carry this message into Conference. I urge them not to waiver from the Senate's position on this issue.

AMENDMENT NO. 445

Ms. MOSELEY-BRAUN. Mr. President, I rise today in strong support of the amendment proposed by the minority leader that would restore funding for several important programs that address the needs of our Nation's children.

Mr. President, the bill we are debating here today, H.R. 1158, would rescind $13.4 billion in previously appropriated funds—including $600 million appropriated last year for Federal education programs.

Needless to say, I am vehemently opposed to taking this kind of giant leap backward. In my view, it would be unconscionable for Congress to reduce the Federal Government's share of public education funding which has already fallen from 9.1 percent during the 1980–1981 school year to 5.6 percent during the 1993–1994 school year.

It is vital to the interest of our Nation that we maintain quality public education for everyone. Education is not just a private benefit but a public good. It is the cornerstone of a healthy democracy and, as a society, we all benefit from a well educated-citizenry.

We are currently experiencing a new era in economic competition. All over the world, barriers to trade between nations are falling. We are witnessing the development of a truly global marketplace. I believe that America can lead the way in this marketplace. But if we are to succeed, if we are to retain our competitiveness into the 21st century, there must be a renewed commitment to education in this country.

Several international institutions recognized the increasing importance of education just a few weeks ago at the United Nations summit on social development when they urged developing nations to invest in education rather than on defense.

In fact, for the first time in history, over 130 world leaders also agreed to a non-binding goal known as the 20-20 proposal which recognizes that economic and social problems have global consequences by creating immigration problems, epidemics, markets too poor to buy exports, and economies too risky for investors.

This proposal encourages all donor nations and international institutions to earmark 20 percent of their foreign aid for basic social needs including education and health care. It also encourages developing nations to allocate 20 percent of their expenditures to the same underfinanced sectors.

Nonetheless, while leaders from around the world were recognizing the increasing importance of education, Members of the U.S. House of Representatives were busy passing H.R. 1158. If enacted, H.R. 1158 would rescind $17 billion—including $1.7 billion in education funding for our Nation's children and $2.3 billion in job training funding for our Nation's unemployed youth.

In fact, this legislation would also withdraw funding for all new education initiatives—including the education infrastructure act which I introduced last April to help local school boards ensure the health and safety of their students.

Mr. President, I simply do not understand why some of my colleagues are so determined to slash funding for programs that increase economic, social, and educational opportunities for our Nation's children. According to the Children's Defense Fund, every day in America: 3 children die from child abuse; 15 children die from guns; 27 children die from poverty; 95 children before their first birthday; 564 babies are born to women who had little or no prenatal care; 2,217 teenagers drop out of school; 2,350 children are in adult jails; 100,000 children are homeless; and 135,000 children bring guns to school.

Although S. 617 would reduce our investment in our Nation's children by less than H.R. 1158, it still asks them to bear too much of the pain created by this effort to pay for emergency spending.

The Daschle amendment would improve the bill by restoring $1.3 billion for some of the most important and successful education and job training programs in this country. More specifically, the Daschle amendment would provide: $42 million for the Head Start Program which has successfully given hundreds of thousands of pre-schoolers the chance to start school ready to learn; $100 million for the Safe and Drug Free Schools Program which is helping local school districts keep drugs and guns out of our Nation's $72 million for the Chapter 1 Program which has helped States and local school districts meet the educational needs of economically disadvantaged children for 30 years; $69.6 million for the goals 2000 program which is helping States create coherent frameworks for education reform founded on the national education goals; $30 million for the school-to-work program which helps States and local school districts improve the educational and employment opportunities of our Nation's high school students who do not plan to attend college; $8.8 million for the immigrant education program which helps local school districts meet the educational needs of recently arrived immigrant children; $16.3 million for the impact aid program which compensates local school districts for revenue losses incurred due to removal of Federal property from local tax rolls; $35 million for the WIC Program which provides important nutrition supplements to 6.5 million women, infants, and children everyday—including more than 3 million children under 5; $100 million for the Youth Training Program which helps States prepare youth and young adults for high skill, high wage careers; and $210 million for the Americorps Program which provides a $4,725 scholarship to individuals who serve the educational, environmental, public safety, and human needs of our communities.

By providing this needed and long overdue support, the Daschle amendment will begin to address our failure to adequately engage resources in behalf of preparing our children for competition in the emerging global economy. It will help our children to succeed—to make a living, to participate in the community, to enjoy the arts, and to understand the technology that has reshaped our workplace. This is in our children's interest; this is in our national interest.

Mr. President, I would like to conclude my remarks by urging my colleagues to support these investments in our Nation's children by voting for the Daschle amendment.

Mr. KERRY. Mr. President, while there are a number of features of the Daschle amendment which significantly improve this legislation, I would like to draw particular attention to two provisions that reinstate funding the original bill intended to rescind—$14.7 million for the Substance Abuse and Mental Health Services Administration [SAMHSA] and $100 million for the Safe and Drug-Free Schools Program—because it was my intention prior to their inclusion in the Daschle amendment to offer amendments to restore these funds and to offset the consequent additional costs by rescinding funds from programs less vital to our Nation and its people.

SAMHSA funds both Substance Abuse Block Grants and the Children's Mental Health Program. Substance Abuse Treatment Block Grants are the most important vehicle of support for substance abuse treatment efforts in this country. Funding for these grants cannot be compromised if we are to succeed in our efforts to reform welfare, reduce crime, and contain health care costs. The grants account for over one-third of the funding for public substance abuse treatment nationwide.

The California Drug and Alcohol Treatment Assessment, July 1994 [CALDATA], found that each day of substance abuse treatment pays for itself on the day it is received, primarily through reductions in crime. The Rand Corporation reports that drug treatment is the most cost-effective form of drug intervention, compared with other potential drug strategy program options, such as interdiction or imprisonment.

Mr. President, every $1 invested in drug treatment saves taxpayers $7 dollars. There are several sources for this figure, including CALDATA and the National Institute on Drug Abuse.

The heavy toll drug use exacts on the United States is most easily measured by the criminal and medical costs imposed on and paid for by the Nation's taxpaying citizens. One major study, conducted by Dorothy Rice at the Institute for Health and Aging at the University of California at San Francisco, concluded that drug abuse costs taxpayers $67 billion, alcohol abuse costs $99 billion, for a total cost to the Federal Government of $166 billion per year. "The impact of substance abuse and addiction on Federal entitlements is equivalent to more than 40 percent of the Federal deficit for 1995," states Joe Califano, former HEW Secretary and President of the Center on Addiction and Substance Abuse (CASA) at Columbia University. Ninety-two percent of the funds spent by health care entitlement programs as a result of substance abuse are used to pay for treatment of the consequences of such abuse; only 8 percent is spent to reduce dependency.

The costs to the Federal Government do not begin to account for the higher costs substance abuse wreak on the private economy. Every man, woman, and child in America pays nearly $1,000 annually to cover the costs of unnecessary health care, extra law enforcement, auto accidents, crime, and lost productivity resulting from substance abuse, according to a Brandeis University study.

The impact of substance abuse on crime is staggering. Substance abuse is linked to between one-quarter and one-third of all suicides, according to the Public Health Service, and the Alcohol, Drug Abuse, and Mental Health Administration. Substance abuse is linked to half of all homicides, rapes, spousal abuse, and traffic fatalities. Substance abuse is linked to two-thirds of all cases of manslaughter, drownings, burglaries, robberies, thefts, and assaults.

According to a study by the National Association of State Alcohol and Drug Abuse Directors [NASADAD], approximately 1 million people—40 percent of those in need—want and pursue substance abuse treatment at this moment but do not get it: instead of helping them to help themselves, the Government leaves them sitting on waiting lists across the country.

These individuals—the vast majority of which are mothers, workers, or professionals—are willing and eager to improve their lives and the lives of those around them, but the government fails to extend a helping hand. Not only taxpayers, but society at large, foots the bill for this neglect.

SAMHSA also funds the Children's Mental Health Program, which provides services for children with very serious emotional disturbances [SED]. This program is targeted at the 1 million children with SED—out of 7.5 million nationwide—who are in State-administered systems encompassing child welfare, juvenile justice, and special education programs. This amendment restores $1.3 million to this program that the bill would have rescinded. This money goes to 22 service sites that will not survive without the funds. The future of these children is at stake.

Even in the face of all these facts, Mr. President, the rescissions bill—prior to the Daschle amendment—would have taken a random, unexplained, unjustifiable slice out of the budget for SAMHSA.

At the same time, it would have taken $100 million out of the Safe and Drug Free Schools—Safe Schools—program.

Mr. President, on this subject, I would like to take a few moments to talk about a reality that is very separate from the one in which my colleagues and I live.

Someone who lives in this reality, Mr. President, wakes up worried that today he could very well be killed. He realistically expects that someone he knows might be shot this week, or stabbed, or beaten. He goes through his day fearing everyone who passes by, constantly alert for trouble and danger, always keeping an eye on the nearest exit or hiding place. He might carry a weapon, purely for protection, and hide it on his person—a crude knife hidden in his sleeve, a length of pipe tucked into his boot, a makeshift handgun in his pocket, a box-cutter taped to his stomach. One hand is probably always on this weapon, this small piece of security. If he makes it back to bed at the end of the day, he will be thankful, relieved, and certainly a little surprised.

This reality is not a war, and the people who inhabit this world are not soldiers. This reality is only blocks away from this Chamber, and is mirrored in towns across our country. And the participants in this reality are not adults, they are children, they are as young as 5 and 6 years old, and rarely over the age of 18. I am talking about the reality found in many elementary and secondary schools across the United States, where 150,000 students bring a gun every day; where shootings and stabbings are commonplace; where gangs are in control; and where 3 million violent crimes are committed each year. I am talking about a national disgrace, a monumental embarrassment, a failure on the part of all who care about the future of this country and the quality of life of our children.

I am talking about a state of events that we cannot tolerate, that we cannot allow to endure.

In the Steven Speilberg film "Schindler's List," a Nazi soldier stands on the balcony of his home overlooking the busy center square of a Jewish concentration camp. Calm and precise, he aims his powerful rifle at random Jews passing through the crowded streets below, and effortlessly pulls the trigger. His aim is never faulty, and he always succeeds in ending a life. The people near the murder recoil in fright only momentarily, then continue on their way, perhaps a little quicker, perhaps a little slower, thankful for the moment that the gun was not trained on them, fearful that the next shot will terminate their existence. The bullet has struck them, too, and changed them permanently, leaving them forever horrified, forever damaged, forever in shock.

This sequence is brutally painful for so many reasons. The only relief I expected to feel when I watched this sequence was the lack of any connection between the events on the screen and present day reality in America. But such a connection is exactly what I felt. Violence in portions of our country has become so rampant and so deadly that almost all of us live in a collective state of fear and acceptance. Our cities and schools have become infested with random violence and bloodshed and criminals with no conscience and no check on their destructive impulses. And when this state of affairs has infected our Nation's schools, then we know that our children are going to be conditioned to accept this disease as normal. Not only are some of our children dying in our Nation's schools, but the ones who survive are learning that murder and violence are simply a part of life—in fact, the most important part. Mr. President, we are permitting our Nation's youth to grow up emotionally scarred, terminally frightened, and permanently embittered.

Mr. President, the Safe Schools Program is a necessity if this systemic child abuse and neglect is to cease.

A study examining the effects of the first 2 years of funding for the Safe Schools Program showed increases in the number of school districts with formal drug and violence prevention programs in every State and territory in the United States.

The same study also showed increases in school-community collaboration on drug prevention issues in 50 States and territories; increases in parent involvement in drug education efforts in 49 States and territories; increases in the degree of community involvement in prevention programs for youth in 46 States and territories; and increases in the number of high-risk youth served in drug education programs in 38 States and territories.

Prior to the Daschle amendment, the rescission would reduce or eliminate violence and drug prevention programs serving approximately 39 million students attending the schools operated by 94 percent of local educational agencies in the Nation.

Also at risk would be every State Governor's drug and violence prevention programs designed for youth not served by local educational agencies. So would be the development and distribution of publications on school violence and drug/alcohol prevention, which have been the cornerstone of nationwide efforts to provide schools with information on models and effective practices. The Parent's Guide on Drug Prevention alone has been requested by over 30 million persons.

The original rescission would have eliminated assistance and model development in the area of alternatives to expulsion. With expulsion rates increasing dramatically in several regions, it is essential to provide leadership in this area, or more and more kids will go straight from the schoolhouse to the courthouse.

Consequently I commend the Democratic leader for his leadership and his sensitivity to the importance of these issues. I appreciate the opportunity to work with him to gain the inclusion of these important provisions in his amendment. And I am pleased that the ultimate goals of the amendments I intended to offer were realized. Since the House version of the rescissions bill rescinded no funds from SAMHSA, fiscal year 1995 funds for SAMHSA are now secure. I wish I could say the same about Safe Schools funds. The House bill eliminated Safe Schools funds altogether. I urge the conferees to the rescissions bill to protect Safe School funds. We owe the children and the future of this Nation nothing less.

AMENDMENT NO. 448

Mr. BRADLEY. Mr. President, I rise this afternoon to express my wholehearted support for the sense of the Senate resolution proposed as an amendment today by Senator KENNEDY. As a member of the Finance Committee, I offered an amendment to H.R. 831 that would have closed a loophole that allows wealthy citizens who renounce their American citizenships to avoid U.S. taxes. My amendment would have dedicated all of the savings from closing this loophole to deficit reduction. According to estimates of the Joint Committee on Taxation, my amendment would have reduced the deficit by approximately $3.6 billion over the next 10 years.

Unfortunately, although the Finance Committee adopted this amendment on an undivided voice vote and the Senate approved it as part of H.R. 831, the joint House-Senate conference committee reopened this loophole. Senator KENNEDY's resolution simply expresses the sense of the Senate that in the interest of tax equity and in the face of ongoing Federal deficits, we must close this loophole.

Mr. President, the amendment that I proposed was fundamentally about fairness. Not only is it fair to those who enjoyed the benefits of U.S. citizenship to make billions and are now attempting to avoid paying tax on such gain, it is also fair to those Americans who stay behind to shoulder the burdens of citizenship. All my amendment would have done is treat those who renounce their citizenship on par with Americans who stay and pay their share of the tax burden.

While U.S. citizenship confers tremendous benefit, it also requires responsibility. Although we may not always be happy about the amount, most of us willingly pay our fair share of the tax burden. However, for many Americans it becomes just too much when they have to pay not only their share of taxes, but also an additional share for those few, wealthy individuals who made their money in this country, but are now trying to skip town without paying their portion of the tab.

Significantly, my amendment would have excluded pension income, real estate assets, and the first $600,000 in gain. As a result, of the roughly 850 U.S. citizens who renounced their citizenships in 1994, only a handful would be affected by the closing of this loophole. In fact, representatives from the Treasury Department testified that the amendment would have affected only 24 Americans each year.

Mr. President, significant deficit reduction will be necessary to put our country back on the right track. However, until we close these special-interest tax loopholes for the few, we cannot ask for the shared sacrifice from the many that will be necessary to reduce the deficit. Therefore, I urge all of our colleagues to support the Kennedy sense of the Senate amendment.

AMENDMENT NO. 470—RENEWABLE ENERGY

Mr. JEFFORDS. Mr. President, the rescissions bill we are discussing today, H.R. 1158, cuts $35 million from the Department of Energy's solar, wind and renewables research and development budget. The amendment I offer today will limit to $25 million the amount to be rescinded from this account, thereby protecting vital renewable energy programs. I offer this amendment on behalf of myself, Senator WELLSTONE, Senator CHAFEE, Senator DASCHLE, Senator ROTH, Senator CAMPBELL, Senator HARKIN, Senator LEAHY, Senator Kerry, Senator PELL, Senator KOHL, Senator KENNEDY, Senator MURRAY, and Senator FEINGOLD.

Mr. President, this amendment is about creating jobs, reducing our foreign debt, reducing our reliance on imported oil, making American business more competitive, maintaining our commitment to these small energy companies and continuing on the path of developing clean, cheap, efficient energy.

Mr. President, we are proposing to restore $10 million to the Department of Energy's solar, wind and renewables R&D budget. This money is primarily used for research, joint ventures with small U.S. companies, market development and commercialization. Federal support for renewable energy research and development has been a major success story. Costs have declined, reliability has improved and a domestic industry has been born. More work still needs to be done in basic research at our national labs and applied development to bring down costs and work with industry.

The $10 million we restore to renewables will come from the $1 billion Army Corps of Engineer's construction account.

Mr. President, I hope my colleagues will vote for clean domestic energy, domestic jobs, reduced trade deficit and a stronger economy. I would like to thank the managers of this bill for their support.

Mr. WELLSTONE. Mr. President, I just want to express my appreciation to the Senators from Oregon, West Virginia, New Mexico, and Louisiana for their help in allowing this amendment to go forward. The amendment decreases the recission from renewable energy research and development by $10 million, paying for it by increasing the recission for the Army Corps' general construction activities by the same amount.

This amendment reflects the growing recognition that funding for research and development of renewable energy technologies is money well-spent. The recission provided in the committee substitute was just too high.

There is a nationwide movement toward funding only R&D that is going to lead to commercially viable, economically realistic technology in the relatively short-term. Renewable energy R&D fits that description. Renewable energy R&D has been and continues to be a major success story. Costs have declined, reliability has improved, and a domestic industry has been born. While the United States is currently the world leader in renewable energy technologies, other nations are investing heavily in this area. Given that many utilities are averse to investing in new technologies, the continued strength of DOE's programs is necessary to protect our position in the world market.

The American people agree that renewable energy R&D ought to be a priority for Federal R&D funding. According to a December 1994 survey by RSM Inc., when asked what energy source should be highest priority for R&D spending, Americans overwhelmingly supported renewables. The top finisher was renewable energy, receiving 42 percent of the vote.

Again, I appreciate the help of my colleagues in making acceptance of this amendment possible. It is time that our federal energy R&D dollars reflect the public's funding priorities.

AMENDMENT NO. 490

Mr. PELL. Mr. President, I offer this amendment on behalf of myself, Senator FEINSTEIN, Senator FEINGOLD, and Senator SIMON.

The amendment will insure continued funding for the National Center for Research in Vocational Education. The Center is a consortium of institutions of higher education in California, Wisconsin, Illinois, New York, and Virginia. The Center is widely recognized for the important research work it does in vocational education, and it would be very unfortunate, indeed, if funding to permit it to continue its work were curtailed.

As my colleagues know, we will soon be considering reauthorization of the Vocational Education Act. The work of the Center has provided the authorizing committee invaluable information to help guide and facilitate our work. But even more critical, their research efforts are vital to improving the quality of vocational education throughout our Nation.

I view the amendment as an important placeholder so that when the Senate and House conferees meet on this legislation, they will have the opportunity to give this matter full and complete consideration. I am very hopeful they will ultimately decide to retain funding for the Center, but without this amendment there will be no chance whatsoever to provide continued funding for the Center and the important work it does.

CITIZENSHIP TRAINING AND NATURALIZATION SERVICES

Mr. SIMON. Mr. President, I and my colleagues from California and Illinois, Senators FEINSTEIN and MOSELEY-BRAUN, had intended to offer an amendment restoring $6 million dollars for citizenship training and naturalization services that had been rescinded in the Senate, but not in the House.

Although naturalization has been identified as a priority by the administration in its immigration policy, naturalization services have been chronically underfunded and naturalization backlogs begin to grow. It is my believe—and I belief that of my colleagues—that these funds are essential to the important goal of providing those who want to naturalize with an opportunity to do so. Admittedly, $6 million dollars is a small amount of money, but the program rescinded in the Senate is crucial to the continued health of those providing citizenship training.

In discussing my intention with the Honorable Chairman of the Labor/HHS Appropriations Subcommittee, Senator SPECTER, I was impressed with his willingness to attempt to resolve this problem in conference with the House of Representatives, which, as I mentioned before, did not rescind the $6 million in citizenship training money. I would like to ask the Honorable Chairman if it is in fact his desire to take a second look at the $6 million citizenship money in conference.

Mr. SPECTER. I thank the Senator from Illinois. The committee's intent, in recommending this rescission, was to revisit funding once authorizing legislation has been enacted through the regular process of Judiciary Committee consideration. There is some concern that adding this responsibility to the Office of Refugee Resettlement in the Department of Health and Human Services could increase pressure on already underfunded domestic resettlement activities, as opposed to placing responsibility under the Immigration and Naturalization Service. I believe this is an issue the authorizing committees need to address. Nevertheless, it is indeed my intention to resolve this matter in conference to the satisfaction of all those who—like myself—value legal immigration and recognize the importance to our immigration policies of an effective naturalization process. I look forward to working with the distinguished Senate Appropriations Committee Chairman, Mr. HATFIELD; my counterpart in the House, Congressman PORTER, chairman of the House Labor/HHS Appropriations Subcommittee; and the other conferees to address this issue, and I thank Senator SIMON, Senator FEINSTEIN, and Senator MOSELEY-BRAUN for their attention to this important matter.

Mr. SIMON. I thank the Senator from Pennsylvania. His concern for issues of legal immigration and naturalization has long been recognized, and I am gratified that he will undertake to review seriously, and hopefully restore, the $6 million Senate rescission with our colleagues in the House.

THE MILDGAS PROCESS UNIT

Ms. MOSELEY-BRAUN. Mr. President, this amendment has a simple purpose—to restore $4.8 million in fiscal year 1995 fossil energy research and development funds to help complete a small coal technology testing facility, the Mildgas Process Unit.

I am joined in this amendment by my distinguished senior Illinois colleague, my good friend, Senator SIMON.

The Mildgas Process Unit is a facility that will test a technology known as mild gasification, a process where lower-grade domestic coals are heated at moderate temperatures and pressures to produce a variety of gaseous fuels, liquid hydrocarbons, and a solid product known as char.

Char, the primary product of the Mildgas facility, can be briquetted into form coke, creating a new alternative to conventional coke now used by American steel firms and foundries. This is particularly important because the Clean Air Act Amendments of 1990 imposed strong restrictions on the emissions from coke ovens.

Those are two major reasons why my amendment is important, Mr. President. For a modest investment today, the Mildgas experiment promises hundreds of millions of dollars in new uses tomorrow for Illinois Basin and Appalachian high-sulfur coals. And those new uses solve a significant economic and environmental problem of our Nation's iron and steel industries.

However, I am concerned that the decision to cut funds for the Mildgas Process Unit has been based principally on deficit reduction, and on a belief that this technology is unwanted and unneeded.

This year, overall Federal spending will be in excess of $1½ trillion, and it will take $1.2 trillion in deficit reduction to achieve a balanced budget by the year 2002. Laid along figures of that size, the $4.8 million we seek for the Mildgas project may seem to be a small matter.

That is not to say that its relatively small size should not immunize the Mildgas project from review. After all, to paraphrase a famous Illinoisan who preceded me in the Senate, the Senate Republican leader of his day, Everett Dirksen, "A few dollars here, a few dollars there, and pretty soon you're talking about serious money." What that means, it seems to me, is that nothing can be off limits—not small items, not large items, not any item.

I therefore agree that review of Federal support for mild gasification technology demonstrations is both necessary and appropriate. It is because my own review of the facts convinces me that going forward is the right decision, the prudent decision, and the right budgetary decision, that I am offering this amendment to restore funding toward completing the Mildgas project.

It is worth noting, in this era of concern about earmarks and pork-barrel spending, that this project did not originate with the Congress. The Department of Energy originally selected this project in 1991 in a competitive solicitation. The Mildgas project had to compete with a number of other proposals.

In the years since the Mildgas project won that competition, over $7.5 million has been provided by Congress—half of the Federal share. The State of Illinois has funding that amounts to 20 percent of the total cost. A team of participants, which includes Kerr McGee Coal Corp., Southern Illinois University, and the Institute of Gas Technology in Chicago, has broken ground at the Coal Development Park in Carterville, IL, in preparation to test this technology.

The contracts are now in place to turn this demonstration into reality. Construction of the facility will end late 1995, followed by 1 year of testing, after which the project will be shut down.

I am well aware that there are several similar projects currently being funded by the Department of Energy. But, success cannot be defined as simply demonstrating one example of a broad class of mild gasification technologies. The spectrum of mild gasification techniques is quite broad. There are different types of coals used, products produced, and markets served.

That is why the Mildgas process unit is important. It does not reinvent the wheel. It does not duplicate other mild gasification technologies. It is unique.

Mildgas can use many types of coals. The Encoal clean coal demonstration project in Wyoming, a project often compared to Mildgas, utilizes only Western coal. Mildgas technology makes use of Illinois, Wyoming, and West Virginia coals.

And although Encoal's primary product is a value-added fuel, its market is still only a boiler fuel. Mildgas's product, char, creates an entirely new market for high-sulfur and lower-grade coals, and solves an environmental problem for the Nation's steel industry. And as aging coke ovens are shut down and not replaced, Mildgas can provide American steel industries with a domestically produced alternative to importing coke from the same countries that are our steel-making competitors.

Encoal and the other mild gasification technologies have been, and I hope will continue to be, successful, but their success will not address the Illinois Basin and Appalachian coals that Mildgas will use, nor meet the environmental needs of the steel industry like Mildgas will.

Mr. President, the Mildgas Process Unit is based upon years of detailed planning, investment, and careful research by industry and scientists in close cooperation with the Department of Energy. It deserves to continue.

Mildgas does not break the bank. For a minor investment today, Mildgas can open hundreds of millions of dollars in markets tomorrow.

Mildgas can help the coal industry, by exploring a way to shift high-sulfur coals from markets reduced by the Clean Air Act, to markets opened.

And, Mildgas is unique. Mildgas uses coals, produces products, and serves markets that other mild gasification technologies simply do not. I think it is worth investing a few more years to complete this experiment.

I strongly urge my colleague, the distinguished Senator from Washington, to give every consideration in conference to providing the necessary funds to complete the Mildgas Process Unit.

Mr. GORTON. I thank the Senator from Illinois for her comments regarding the mild gasification facility planned for southern Illinois. As I am sure the Senator knows, given the budget constraints that the committee was forced to confront, we were simply unable to include the funds needed to initiate construction of the Mildgas Process Unit. I can assure the distinguished Senator, however, that I will give appropriate consideration to this project within the budget limitations that we will continue to face in conference.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Mr. PRESSLER. Mr. President, I rise at this time to voice my concerns with apparent inconsistencies in the administration of disaster recommendations by the Federal Emergency Management Agency [FEMA].

As my colleagues well know, H.R. 1158, the fiscal year 1995 Disaster Supplemental/Rescissions Bill, contains $1.9 billion for outstanding expenses accrued from previous disasters in 39 States, including recent flooding in southern California.

I am sure all of us have seen news footage of the raging winter storms that have wreaked havoc across virtually the entire State of California. The devastation families have endured is terrible. As a result, the President—acting on recommendations made by FEMA—declared many California counties disaster areas. This includes Ventura County, which is located along the southern California coast north of Los Angeles.

There is one particular area of Ventura County I would like to call to the attention of my colleagues. Homes located on a hillside in La Conchita, CA recently sustained considerable damage. Because of the President's declaration, private and public property damaged by the disaster is eligible for four different kinds of FEMA assistance. These homeowners rightfully have the hope of relief.

My concern is not with the fact that relief is being made available to those affected by the La Conchita mudslide. Rather, I am concerned with what I believe could very well be an inconsistent approach to disaster recommendations made by FEMA.

Permit me to explain. Mr. President, geologists have known for several decades that the La Conchita hillside has been moving for 23,000 years. In other words, La Conchita was a potential disaster waiting to happen. Thus, FEMA is making relief available in response to a disaster resulting from a preexisting condition. This is a policy vastly different from one FEMA applied last July.

I see my colleague, the chairman of Appropriations Committee, is now on the floor. I ask the Senator if he is familiar with a similar situation that occurred in Lead, SD.

Mr. HATFIELD. No, I am not familiar with the situation. Could the Senator from South Dakota please explain.

Mr. PRESSLER. I thank the Senator from Oregon for inquiring.

Last May, a slow moving landslide damaged homes, businesses, and infrastructure. This landslide was exacerbated by excessive precipitation. Despite a request by the Governor of South Dakota and the urging of the State's congressional delegation, FEMA recommended that the President deny South Dakota's relief request for the Lead landslide. According to FEMA, the landslide resulted from a preexisting condition and did not pose "an immediate threat to public health, safety, and improved property."

The Lead landslide forced the community's only grocery store, pharmacy, and discount store to close. Some of the stores were forced to relocate to the community hall and church basement.

Clearly, the people of Lead suffered a great deal. This isolated community has yet to reopen the only grocery store in the area. Although the Economic Development Administration has offered a grant to help mitigate the slide, the city will have to sacrifice vital repairs to streets, gas lines, and water lines.

By contrast, the residents of the La Conchita hillside in Ventura County will have access to expedited FEMA assistance. This lack of consistency concerns me.

I would like to verify with the Senator from Oregon that moneys provided in H.R. 1158 will be used, in part, to assist the victims of this winter's storms in California. Is this correct?

Mr. HATFIELD. The Senator from South Dakota is correct. The bill, in its current form, provides $1.9 billion to FEMA for disaster relief functions including expenses resulting from disasters in 39 States. Report language accompanying this bill acknowledges that these funds may be used to ensure unforeseen expenses associated with the recent disaster in California resulting from winter storms.

Mr. PRESSLER. I also understand my concerns regarding the consistency of disaster declarations are shared by others. As chairman of the committee, I am sure the Senator from Oregon is very familiar with questions regarding disaster declaration criteria. Does the Senator from Oregon agree this is a common concern?

Mr. HATFIELD. Yes, I do agree with the senior Senator from South Dakota. As he well knows, the General Accounting Office, the Congressional Research Service, and the Congressional Budget Office recently released a comprehensive study of the entire relief process.

Mr. PRESSLER. Will the distinguished Senator from Oregon agree that it is imperative that FEMA apply its declaration criteria consistently, regardless of where the disaster is taking place?

Mr. HATFIELD. I could not agree more with my friend from South Dakota. Consistency in the disaster declaration process should be a reasonable expectation of all Americans.

Mr. PRESSLER. I think it is clear, Mr. President, that FEMA needs to take a close look at its current declaration policies.

The similarities surrounding the landslides in Lead and Ventura County are striking. For the residents of Ventura County, FEMA's response is reassuring. For the people of Lead, the response from FEMA is disconcerting. I must stress a point I have made on this very floor in the past: Disasters occurring in isolated rural areas do not seem to capture the attention of the national media, Federal agencies, or the President. Lead, SD, does not compare to Southern California glamour, and it certainly is not near a major media outlet.

However, as we all know, the size of a community or its media outlets should not dictate whether or not Federal relief is granted or how fast the assistance gets to those in need.

I believe the time has come for FEMA take a close look at its policies. In the meantime, I have asked GAO to examine FEMA's responsiveness to urban and rural disasters. I hope Congress will be able to maintain an oversight role. If there is an inconsistency we should not hesitate to consider legislation to ensure emergency assistance is provided consistently and judiciously.

In fact, I believe it would be appropriate for the conferees of this bill to include language in the accompanying report to direct FEMA to report to Congress on how it found that disaster assistance could be provided in response to the identified preexisting condition in Ventura County, but came to a different conclusion with the preexisting condition in Lead. I believe this instruction is an appropriate first step in what I hope will be a comprehensive review by FEMA of its current declaration policies and criteria.

Would the distinguished chairman of the committee agree that this review is necessary?

Mr. HATFIELD. I agree with the Senator from South Dakota that a review of the disaster declaration process may be appropriate. His concerns have merit. The people of Lead, SD, deserve to be assured that they are being treated fairly by the Federal Government. The Senator from South Dakota is to be commended for his diligent attention to the needs of his constituents. The Senator can be assured I will deliver this message to the conferees and will do my best to include a directive to FEMA regarding its declaration policies and criteria in the conference report to this bill.

Mr. PRESSLER. I thank my good friend the Senator from Oregon and thank him for his leadership. I yield the floor.

HEALTH CARE FINANCING RESEARCH AND DEMO PROJECTS

Mr. HARKIN. Mr. President, I would like to clarify the situation with respect to funding of research and demonstration projects by the Health Care Financing Administration. The Senate recommendation calls for a rescission of $11 million, which would reduce fiscal year appropriations to $45.1 million for research and demonstration projects. This is an increase of nearly $2 million over the amount needed to fund continuations of on-going activities, so that even if the entire Senate rescission is enacted into law, the Health Care Financing Administration should be able to fund about $2 million of new projects. I would ask Senator SPECTER, the chairman of the Labor, Health and Human Services, and Education Subcommittee, is that his understanding.

Mr. SPECTER. Yes, based on information supplied to me by the Department of Health and Human Services, there would still be about $2 million available for new research and demonstration projects by the Health Care Financing Administration, even after the Senate recommended rescission.

ESSENTIAL AIR SERVICE

Mr. PRESSLER. Mr. President, I am very concerned about a section in chapter IX of this legislation that in my view could have an adverse impact on the future of the Essential Air Service (EAS) Program. Specifically, I am very concerned about the language affecting "Payments to Air Carriers," otherwise referred to as EAS subsidies.

I see the distinguished chairman of the Appropriations Committee on the floor. Would the chairman be willing to enter into a short colloquy on this issue and explain the intent of this section of the bill?

Mr. HATFIELD. Certainly. I understand the chairman of the Senate Committee on Commerce, Science, and Transportation has always supported EAS. Therefore, I would be pleased to explain the intent of these provisions and answer any questions posed by the Senator from South Dakota.

Mr. PRESSLER. I thank my friend from Oregon. First, I understand this legislation would rescind $5.3 million in "Payments to Air Carriers." What is the impact of this rescission?

Mr. HATFIELD. This rescission should have no real impact on the program. The Appropriations Committee was informed sufficient funding would remain available to continue the EAS program through the end of this fiscal year. In other words, all communities currently provided air service with EAS assistance will continue to be served through this fiscal year.

Mr. PRESSLER. I understand about 79 cities rely on EAS to remain linked to the national air transportation system. I am pleased the chairman of the Appropriations Committee will continue to uphold our commitment to these small communities.

Now, as my friend from Oregon knows, there are EAS agreements in at least 13 States that will expire before September 30 of this year. The committee amendment to the bill before us includes a provision to prohibit the Secretary of the Department of Transportation [DOT] from entering into any new EAS agreements beyond September 30, 1995. I am concerned about the purpose of this restriction. In my view, it implies congressional support for EAS ends September 30, 1995—the end of the current fiscal year. My support for EAS will not end on that date. Would the chairman explain the purpose of this specific provision?

Mr. HATFIELD. Yes. First, let me assure the Senator from South Dakota this provision should not be read by any Member of Congress as an attempt to jeopardize future congressional support for EAS. This provision applies only to fiscal year 1995. Further, as the chairman of the Appropriations Subcommittee on Transportation, I intend to work with my friend from South Dakota on an appropriate level of EAS funding for fiscal year 1996.

Mr. PRESSLER. I am very pleased to know my friend from Oregon does not view the provision in question as a threat to the future of EAS. However, I still have strong concerns about the language in this bill. Specifically, I remain concerned the most economic continuation of EAS may be hindered by this provision. Permit me to explain.

As my friend from Oregon knows, when an EAS agreement is about to expire, current law requires the Department of Transportation to invite and consider competing proposals from any interested air carriers. The objective of that policy is to maximize the carriers' incentives to be efficient, to control costs effectively and to develop demand in the EAS market. This process yields two primary benefits: subsidy burdens are minimized and service to the community is often enhanced. That process has served the EAS program very well.

As I mentioned, EAS agreements will expire in 13 States before September 30th. Several already have expired. The practical reality of the proposed restriction to limit contract commitments would result in very short contracts at much higher costs in order to continue air service to those 13 States for the remainder of this fiscal year.

I am concerned efficiencies will be jeopardized if the DOT is prohibited from entering into any agreements beyond September 30. I do not believe new carriers would seek to serve any of these 13 States for such a limited time period. In turn, those EAS carriers serving the 13 States will almost assuredly demand higher subsidies if they are held into those markets through the end of the fiscal year.

Further, DOT already issues notification to carriers that subsidy payments under EAS agreements are subject to the availability of funds in future fiscal years. Therefore, EAS carriers already know their subsidies are contingent on the annual approval of the Congress.

In my view, competition could be eliminated by this provision. In turn, subsidy rates will go up. What is the view of the Chairman?

Mr. HATFIELD. This language simply forces the EAS office to have EAS contracts conform to the Federal fiscal year. The office has had almost 20 years to make this adjustment. When the Appropriations Committee tries to get data from this office it often does not comport to the fiscal year basis that the committee must consider in its deliberations.

Mr. PRESSLER. As the Chairman knows, I am prepared to offer an amendment to strike all the language after the rescission provision. I am willing to modify my amendment to further ensure the future of EAS is not jeopardized. Would the Manager of the bill be willing to accept my amendment?

Mr. HATFIELD. I would be happy to accept the Senator's amendment which would strike lines 1 through 3 on page 42. As he knows, the language which was provided by the Department had the effect of totally canceling the EAS program which was not the committee's intent.

Mr. PRESSLER. I thank the Chairman. I very much appreciate his support for EAS and his leadership on this overall legislation. I also thank him for his support of my amendment and urge its adoption.

COLLOQUY ON SMITHSONIAN INSTITUTION FUNDING

Mr. HELMS. Mr. President, when debate began on the House rescissions bill I intended to offer an amendment prohibiting the Smithsonian Institution from using appropriated funds to develop, plan, or build any new museum before congressional authorization had been obtained.

After speaking with the distinguished chairman of the Interior Appropriations Subcommittee, Senator GORTON, I chose to forgo proposing the amendment. Senator GORTON assured me that the Smithsonian has no intention of beginning any new museum without first seeking the appropriate authorization from Congress.

Mr. President, as a member of the Senate Rules Committee, which is the authorizing committee with jurisdiction over the Smithsonian, I have seen the Smithsonian initiate a new project without congressional authorization and then come to Congress to authorize the project bemoaning the waste of funds already spent should the project not be authorized.

It is important to stress that any new project requesting taxpayer funds, should first go to the committee that has authorizing authority and then, if and only if, the project has been authorized should the request go to the Appropriations Committee for funding.

The Smithsonian must not ignore this process.

Mr. GORTON. Mr. President, will the Senator from North Carolina yield?

Mr. HELMS. I welcome comments from the able Senator from the State of Washington.

Mr. GORTON. Mr. President, I appreciate the decision of the Senator from North Carolina, Senator HELMS, not to offer his amendment so we can speed up debate on this important bill.

The issue that Senator HELMS has brought to our attention is a serious one that deserves emphasis. I am confident through my conversations with the current Secretary of the Smithsonian, Mr. Heyman, that the Smithsonian intends properly to fulfill its obligations as steward of this public trust. Secretary Heyman agrees that no Federal appropriation will be used for projects that have not yet been authorized by Congress.

Mr. HELMS. Will the Senator yield for a point of clarification?

Mr. GORTON. I yield.

Mr. HELMS. Senator GORTON, I am not sure that all of our colleagues realize that 72 percent of Smithsonian operating funds are public, taxpayer funds.

Mr. GORTON. Mr. President, Senator HELMS is correct.

Therefore, it is important for the Smithsonian, like all other entities that receive taxpayer dollars, to take note of the budgetary constraints under which we are working. It is a time for fiscal responsibility and the careful allocation of increasingly scarce resources.

I have been assured in all conversations I have had with Secretary Heyman that he is aware of his institution's role and its attendant responsibilities. The Secretary has underscored the importance of prioritizing projects during his tenure.

Mr. HELMS. Will the distinguished subcommittee chairman yield for a moment?

Mr. GORTON. Certainly. I yield the floor to the Senator from North Carolina.

Mr. HELMS. I sincerely appreciate the work the Senator from Washington has done in this area. The Senate Rules Committee has yet to meet with the current Secretary of the Smithsonian, Mr. Heyman, but I have been assured we will soon be given that opportunity. I will welcome that important hearing.

NATIONAL BIOLOGICAL SURVEY'S GREAT LAKES SCIENCE CENTER IN ANN ARBOR, MI

Mr. LEVIN. Mr. President, I would like to engage the distinguished chairman of the Senate Appropriations Subcommittee on Interior and Related Agencies in a brief discussion regarding the impact of S. 617 on the National Biological Survey's Great Lakes Science Center in Ann Arbor, MI. The committee's report accompanying S. 617 recommends rescinding $4.136 million less than was included in the House-passed recission bill, H.R. 1158. That is almost exactly the amount appropriated in fiscal year 1995 to maintain operations at the Great Lakes Science Center. If the Senate approves the committee's recommended recissions from funds already appropriated for NBS research, will this center remain in business in fiscal year 1995?

Mr. GORTON. Yes. While there is not a correlation between the funding levels rescinded by the House and by the Senate and the fiscal year 1995 appropriations level necessary for keeping the Great Lakes Center open, it is the committee's intent to provide sufficient funds for NBS research so that the Great Lakes Center and other NBS centers can continue to operate in fiscal year 1995.

Mr. ABRAHAM. Mr. President, if the subcommittee chairman would answer an additional question, I would like to know whether he will continue to support funding to keep the Great Lakes Center open in fiscal year 1995, during the conference on S. 617 and H.R. 1158?

Mr. GORTON. I am aware that both of my colleagues from Michigan and from elsewhere in the Great Lakes region strongly support the work being done by the NBS Great Lakes Science Center. Hopefully, in conference, we can arrive at a compromise which will prevent cuts in the NBS research budget that would close or hamper operations at NBS centers and cooperative units.

Mr. ABRAHAM. I thank the Senator from Washington for his responsiveness to our concerns. As he may know, the Great Lakes Center conducts fishery stock assessments that are relied upon by States, tribes, and Canada. And effective management of fish stocks in the Great Lakes is important to the $4 billion fishing industry in the region.

Mr. LEVIN. I would also like to thank my colleague from Washington for his assistance in this matter. As my colleague from Michigan has indicated, the Great Lakes Center has important duties. Besides the fishery stock management element of its activities, the center conducts invaluable scientific research on preventing, controlling and mitigating the impacts on nonindigenous species, such as the zebra mussel. And, the center is conducting essential studies on the sources and health effects of toxics in the Great Lakes ecosystem.

WIC

Mr. LEAHY. I am very worried that the House Republican welfare reform bill ultimately could throw millions of pregnant women, infants, and children off the WIC Program [the Supplemental Nutrition Program for Women, Infants and Children].

That part of the Contract With America guts strong competitive bidding requirements which have put millions of pregnant women, infants, and children on the WIC Program at no cost to taxpayers in recent years.

These are provisions which I and my Senate colleagues from both sides of the aisle included in child nutrition legislation in 1987 and in 1989 and which the Senate Appropriations Committee mandated in 1988 with strong bipartisan support.

I am concerned that this victory is eliminated by the House bill.

These efforts on the House side raise serious concerns about why House members want to provide millions of dollars to the four huge corporations that manufacture infant formula.

The details of this tragedy are set forth in articles in the Wall Street Journal "Four Drug Firms Could Gain $1 Billion Under GOP Nutrition-Program Revision," Hilary Stout, February 28, 1995; the New York Times "Formula for Tragedy," Bob Herbert Op Ed, March 25, 1995; and the Washington Post "Food Program Defender Becomes a Dismantler," David Maraniss and Michael Weisskopf, April 4, 1995.

WIC serves children at some of the most critical times of their lives. It feeds mothers when they are pregnant or breastfeeding. And it feeds children during their important, early development years.

WIC is a proven success story. A 1991 USDA study showed that for every WIC dollar spent on a pregnant woman, between $2.98 and $4.75 was saved in Medicaid costs for the newborn during the first 60 days after birth.

Thus competitive bidding saves taxpayers doubly—first, it puts 1.5 million more eligible women, infants and children on the program at no costs to taxpayers, and it saves millions in Medicaid and other Federal costs, in addition to saving millions of dollars in family, local, and State medical costs.

The details of this system are easy to explain. At retail stores, WIC participants exchange special vouchers for infant formula. The recipients pay nothing; the State reimburses the store for the full retail cost of the formula. The infant formula manufacturers then rebate a portion of the retail price to the State. The States are required to use the rebates to serve more persons who are eligible for WIC.

Under current law States are required to use competitive bidding, with certain exceptions, to buy infant formula for the WIC Program. USDA has calculated that this provision now saves $1.1 billion a year and thus puts 1.5 million more women, infants and children on WIC at no extra cost to taxpayers.

That provision is eliminated by the Contract With America. That contract should be renamed the "Contract To Increase Profits of Drug Companies."

That part of the contract is a sham. It contains an extremely weak cost containment provision which will allow infant formula manufacturers to make a killing off the WIC Program while allowing them to pretend to help WIC.

It will let drug giants donate small amounts of formula to State WIC programs, in front of their cameras, while making hundreds of millions of dollars in increased profits.

How have they been able to get this done in this Republican Congress? The Washington Post article that I referred to earlier, "Food Program Defender Becomes a Dismantler," explains the influence of large corporations on the House. A short history lesson is in order.

Some years ago these drug giants hired the former Republican ranking member of the House Agriculture Committee and a former Republican Assistant Secretary of USDA who was in charge of WIC to fight competitive bidding at the State level.

Unfortunately, actions of the infant formula and infant cereals manufacturers have made such mandatory competitive bidding language necessary and demonstrate why the House bill will be an invitation to drug companies and cereal companies to siphon millions out of WIC.

As reported in Senate Hearing 101-979, "Competitive Issues in Infant Formula Pricing," May 29, 1990, efforts were made by two major manufacturers Ross Laboratories—a division of Abbott Laboratories—and Mead-Johnson—a division of Bristol-Myers Squibb—to prevent individual States from using competitive bidding procedures. In 1985 three States—Tennessee, Oregon, and South Carolina—announced plans to institute a competitive bidding system for the purchase of infant formula for WIC.

A group called the Infant Formula Council, an association of formula manufacturers, immediately opposed these cost containment ideas. The IFC sent letters to USDA and State officials opposing the plans and testified against this approach.

The council retained a Washington law firm to raise legal concerns with such attempts by States to buy formula more cheaply. The IFC argued that State efforts to buy formula through competitive bidding would disrupt commercial channels of distribution of infant formula.

Tennessee went ahead anyway and set a deadline for bids from the companies to supply formula to WIC participants. However, not a single company submitted a bid.

That is why I, and many of my Senate colleagues, are very worried. Under the House Republican bill any State could fall prey to these same practices today as already discussed in the April 4, 1995, Washington Post article.

The former ranking Republican member of the House Agriculture Committee, Congressman Wampler, was hired to oppose these State voluntary efforts to use competitive bidding. Congressman Wampler was one of several well-connected lobbyists hired by Mead Johnson and Ross Laboratories to persuade USDA either directly, or indirectly through congressional intervention, to prevent States from moving ahead with plans to institute competitive bidding. Senate Hearing 101–979.

Mead-Johnson also hired the former Republican Assistant Secretary, Mary Jarrett, to help make sure that States did not use competitive bidding.

The new plan of attack by the companies was to only offer paltry cost containment deals to States. This would include giving States some free formula, or modest cash rebates, or free coupons instead of participating in competitive bidding.

I am very worried that smaller States such as my home State of Vermont could be easily victimized by the drug companies under the House bill.

The lawyers hired by the formula manufacturers then raised legal objections at the State and Federal level to competitive bidding. They also tried to convince States not to use competitive bidding but to instead offer States formula at discounted prices under a system then called open bidding which is fully described in that report.

A full description of the efforts of Republican lobbyists and the drug companies to promote cost containment instead of competitive bidding is detailed in Joint Hearing Report 102–135—Pricing and Promotion of Infant Formula, March 14, 1991.

Also, on Mach 6, 1990, Mead-Johnson sent letters to the other formula manufacturers advising them that Mead would only provide a 75-cent rebate for each can of formula purchased through WIC. Ross Laboratories and Wyeth-Ayerst Laboratories—a division of American Home Products Corporation—followed suit and put in much lower rebate bids at or around 75 cents.

During the next 8 months, Mead submitted 75-cent rebate bids to 12 different States. In several States, Ross and Wyeth followed Mead's lead. Ross bid 75 cents 9 times, and 75.7 cents once.

When one company bids a rebate of $0.75 and soon after another bids $0.757, as Mead and Ross did in Wisconsin and Montana in early 1990, it does not take a genius to see how this could frustrate competitive bidding.

A very unusual development also took place which tipped off Federal investigators with the Federal Trade Commission. The same companies offered a better bid under what was called an open market system—whereby all companies matching a discounted price could sell formula to WIC in that State.

This higher rebate bid of $1 made no economic sense since the companies would have made more money off the exclusive competitive bid of 75 cents rather than the open market bid. This apparently was done to discourage States from using competitive bidding since it signaled States that the companies would bid $1.00 in an open market setting but only around 75 cents for a competitive bidding system. The chronology of infant formula rebate bids for 1990 shows this point.

I asked the FTC to investigate allegations of price fixing and bid rigging in the WIC program and the efforts to discourage States from using the best system for purchasing infant formula. The Federal Trade Commission found merit to the charges and filed actions against the three companies. Also, several States filed actions against formula companies for anti-trade activities which have been well detailed in the press.

In June, 1992, the Federal Trade Commission found that three pharmaceutical companies tried to fix prices of infant formula they supply to the WIC program.

The FTC also concluded that competition was reduced because Mead Johnson announced in advance the amounts to be submitted in sealed bids to provide formula to the WIC program. Also, it was alleged by the FTC that Mead Johnson sought to limit advertising to the public and provided information to competitors signaling bidding preferences.

Two of the drug companies consented to having a Federal court issue relief against them. The companies—Mead Johnson and American Home Products—were ordered to provide formula to the WIC program free of charge as partial restitution.

The Center for Budget and Policy Priorities analyzed the harm to States from the advance price signaling in 1990. It concluded that after the Mead-

Johnson letter announcing what it would bid in the future that States were harmed by over $14 million by increases in annual infant formula costs including the following: Indiana, $3.7 million cost increase; Minnesota, $1,811,000 increase; Mississippi, $1.7 million increase; Oklahoma, $1.4 million increase; Kentucky, $868,000 increase; Oregon, $867,000 increase; Colorado, $820,000 increase; West Virginia, $650,000 increase; Iowa, $539,000 increase; and Montana, with a $324,000 cost increase.

I am very worried, as are many of my Senate colleagues, that allowing these companies the opportunity to take more than one million participants off the program so the drug companies can make more profits is outrageous. The fact that the House cut $25 million out of the WIC budget for fiscal year 1995 also raises some concern. We will work to see that no one is taken off the WIC rolls in fiscal year 1995 because of funding limitations.

Senator BUMPERS also took the lead in supporting and defending these competitive bidding requirements. What are the views of the Senator from Arkansas on this matter?

Mr. BUMPERS. I am also worried and concerned about the provisions in the House bill that eliminate the current WIC competitive bidding requirements. I have supported these efforts right from the beginning and will strongly oppose efforts to eliminate competitive bidding.

I share Senator LEAHY's concern that the new plan of attack by the companies will be to only offer paltry cost containment deals to States. This would include giving States some free formula, or modest cash rebates, or free coupons instead of participating in competitive bidding. This could mean that millions of infants, women and children would be forced off WIC.

Senator PRYOR has been a leader regarding child nutrition programs and I would like his views on this issue.

Mr. PRYOR. As I said at an Agriculture Committee hearing, I am also very troubled by the House efforts to cut child nutrition programs. The worst aspect of their bill relates to efforts to give these drug companies the opportunity to increase their profits at a high cost to poor pregnant women and children.

The Senate reports show the efforts drug companies have exerted over the years to sell formula at a high cost to WIC. Since WIC is 100 percent federally funded, the Federal Government should insist that it get the best return on each dollar spent.

Competitive bidding, which is used by the Federal Government for much of its procurement, should be required as under current law. Clever efforts to hide profiteering under the cloak of weakened, so-called cost-containment measures, will hurt the WIC program in my State, and throughout the Nation. I know the drug companies may already be celebrating, but the Senate took the lead in the past in standing up to these corporate interests. I believe that despite all the money spent by the drug companies to influence opinion, the Senate will do the right thing.

Mr. DASCHLE. I fully agree with the views expressed by my fellow Democratic colleagues. We cannot give the WIC program to the drug companies and allow them to turn WIC into a formula for profit.

WIC is one of America's most effective child nutrition programs and I intend to fight any efforts of the House to repeal the WIC program. Senator HARKIN led the fight against the practices of one infant formula company that sold powdered formula to third-world countries. Low-income families would mix the formula with contaminated water and the formula would do more harm than good. I ask Senator HARKIN what are his views on competitive bidding?

Mr. HARKIN. I was very proud of my role in leading the fight against companies that tried to push formula in the third-world. While I am a very strong supporter of breastfeeding I recognize the formula does play an important role in the WIC program.

I agree fully with the remarks that Senator LEAHY has made about the importance of competitive bidding for WIC infant formula, and the comments of my colleagues on the subject, and I commend Senator LEAHY for his work on this issue as chairman of the Committee on Agriculture, Nutrition, and Forestry and now as ranking member.

To get the best deal for taxpayers I believe it is essential that we require that competitive bidding be used for WIC infant formula so that we can ensure that the States are not subjected to the kinds of pressure tactics to eliminate competitive bidding that have been so thoroughly documented. We owe it to taxpayers and to over a million and a half additional people who are served each month with the savings from competitive bidding. I do not want this provision watered down so that companies can increase their profit margins at the expense of WIC participants and taxpayers.

I have had a long involvement in the efforts to implement competitive bidding for WIC infant formula. As chairman of the Subcommittee on Nutrition and Investigations, I worked to include the provision in the 1987 Commodity Distribution Reform Act that allowed States to keep a portion of savings they achieved through competitive bidding in order to cover the increased administrative expenses of bringing additional participants into WIC.

Without that provision, the States could not have used the savings from WIC cost containment to serve more people in the WIC program. Unbelievably, the Republican Deputy Secretary of Agriculture wrote a letter to Chairman LEAHY officially opposing that provision in the bill.

I also requested the study by the General Accounting Office that was issued in October of 1987 demonstrating the savings that could be achieved through competitive bidding for infant formula.

And in 1989, as chairman of the Nutrition and Investigations Subcommittee, I introduced the Child Nutrition and WIC Reauthorization Act of 1989, which included the provision requiring the use of competitive bidding or equally effective cost containment measures for WIC infant formula. Again, it was my privilege to work with Senator LEAHY, as chairman of the Agriculture Committee, in getting this provision enacted into law.

The benefits of competitive bidding are simply too large to give up. The national benefits have already been described. In Iowa, as of late last year our State was gaining approximately $630,000 a month for its WIC program through infant formula rebates, which allows approximately 12,000 additional Iowa women, infants and children to be served each month without increasing spending.

WIC is one of our Nation's most successful and cost-effective efforts. Competitive bidding makes WIC remarkably more cost-effective. We hear a lot about the importance of letting States have more freedom in administering programs. WIC already involves a partnership between the Federal Government and the States—it is already administered by the States, but it is funded entirely with Federal money. This proposal to do away with the competitive bidding requirement stands the idea of State flexibility on its head. It basically says that if the States want to squander Federal taxpayer dollars by lining the pockets of the infant formula companies, that is just fine, have at it.

All I can say is that we have made too much progress and there is far too much at stake for this Senator to stand by and watch a proven and practical tool like competitive bidding be thrown out the window for the sake of some half-baked, radical theory. Not without a fight, not without a huge fight.

Finally, I am also concerned, as are my colleagues, about the ramifications of the $35 million cut in WIC in this rescissions bill. The Congress should be fully funding WIC as per the President's proposals and should be very cautious about cutting the funding available for carrying out WIC efforts in the States. I, too, will work to see that no one is taken off the WIC rolls in fiscal year 1995 because of funding limitations.

I understand Senator BOXER also has concerns about the WIC Program.

Mrs. BOXER. I also am very concerned about the Contract With America and how it will seriously hurt the WIC Program. I am very proud to support the WIC Program, and it is important to ensure that the competitive bidding process stays in place so that the largest number of women and children possible can be effectively served by this enormously successful program.

STUDENT AID

Mr. LEAHY. Mr. President, students on college campuses throughout Vermont have mobilized against cuts in student aid. The strong opposition around the country to these cuts has prevented most student aid programs from being included in the rescission bill we are debating today. The next step will be to make sure that students do not get short-changed in next year's budget.

On Monday, I had the pleasure of meeting with 19 exceptional college students in my office in Burlington, VT. These students: John Boyle of Landmark College; Stephen O'Keefe and Sean Brown of Southern Vermont College; Terri Taylor of Lyndon State College; Eric Sorenberger and Marlene Rye of Sterling College; Cecily Muller of Woodbury College; Beth McDermott of the University of Vermont; Alison Maling of Trinity College; Courtney Ryan of St. Michael's College; Kevin Canney of Burlington College; Sue Jean Murray of Champlain College; Theresa Morris of Vermont Technical College; John Wyrocki and Laura Whitney of Green Mountain College; Jeff Albertson of Middlebury College; and Darryl Danaher, Ryan Carter, and Matthew Thornton of Norwich University shared with me how cuts in student aid would affect them and other Vermont students.

One student is the youngest of nine children and is holding two work study jobs. Another is a mother of two and on welfare. Her daughter also is in college. Another is the third child in her family to go to school. Her mother went back to school to get a better job to help pay her children's student loans. Another is the mother of four who had to leave an abusive marriage. She relies on work study to help her stay in school. She also will have loans to pay for her daughter's education. Another is returning to school after having to change her occupation due to major back surgery.

I could go on and on about what these students are going through to earn their college degree.

These students are working hard to learn. Now, some Members of Congress would like to pull the rug out from under them by cutting student aid.

Earlier this week, the House Economic and Educational Opportunities Chairman confirmed that Republicans are considering eliminating the in-school interest subsidy on Stafford college loans.

If House Republicans are successful, 20,000 Vermont students will be paying more for college. Individual student debt will increase by 15 to 50 percent, depending on the length of time spent in school. An undergraduate student who borrows the maximum amount for a four year college could owe an additional $3,407 in interest. This is an increase of about 20 percent, on top of debt that already is tough to manage.

There also has been talk about eliminating campus-based aid including Supplemental Educational Opportunity Grants, Perkins loans, and the work-study programs. Eliminating these need-based programs would cause hardship for students at 2 and 4-year colleges throughout the country. A student who receives an aid package that includes average awards from all three programs would stand to lose $3,152.

Increasing the financial burden to students and their families will discourage many students from attending college or enrolling in vocational or graduate programs.

As we encourage people, both young and old, to pursue higher education, we need to help them achieve this by providing realistic funding options.

These students are our future. All of us know just how difficult it is to pay for a college education these days. It is important that these students and their families do not see the dream of higher education slip beyond their grasp.

Decisions to cut student aid programs are based solely on shortsighted politics.

I am concerned that the debate over next year's budget is going to occur over the summer when many students are not on campus. I hope they will continue to work together to speak out against cuts in student aid.

RESTORATION OF DEFENSE CLEANUP FUNDS

Mr. PRYOR. Mr. President, I rise today in support of restoring $104.2 million to the Department of Defense accounts that are used to fund the cleanup and redevelop of closing military bases. These funds were authorized and appropriated by Congress last year and they now are subject to a possible rescission.

Mr. President, less than a month ago the Secretary of Defense announced the 1995 hit list of military base closings. This list recommended closing 25 major bases. Communities with bases on this list are currently working to convince the independent Base Closure Commission to remove their hometown bases from the list and to spare them the economic trauma of a base closing.

Unfortunately, many of these communities will be unsuccessful in their efforts to save the base. In the first three base closure rounds, in 1988, 1991, and 1993, the Commission approved the closing of approximately 85 percent of the recommended bases.

These first three base closure rounds produced the closing of 75 major military installations and over 200 smaller installations nationwide. Each of these communities are now focusing on beating swords into plowshares. And to its credit, the U.S. military is trying to do its part to quickly cleanup these bases and prepare them for civilian use.

Mr. President, many have argued in the past that the Federal Government should not help beat swords into plowshares—that we do not have a responsibility to help the workers and communities that proudly supported our bases for decades. However, we cannot and must not turn a cold shoulder to those who helped us win the cold war.

To be certain, base closings hurt. Communities that lose a base lose much more than just the daily sights and sounds of the military's presence. They lose the heart and soul of their local economy. In many cases, the military is the largest employer in the region. As my colleagues know, closing military bases causes an immediate economic trauma in these communities.

But some good news is beginning to arise in a few of the towns that lost bases in the early rounds. Lost military jobs are slowly being replaced by civilian employment. The private sector is moving in and jobs are being created at many old bases.

The local communities that are experiencing an economic revival have told us that their successful efforts to beat swords to plowshares were made possible only because the Federal Government, specifically the U.S. military, decided to become a partner in this worthy effort.

In helping communities rebound, the military services are focused on quickly cleaning up contaminated portions of the closing bases so private sector businesses can move in and begin creating jobs.

In order to quickly prepare closing bases for redevelopment, the DOD's base closure accounts, or BRAC accounts, must be fully funded.

It would be shortsighted to rescind funds for closing bases, especially given that the Base Closure Commission is currently preparing to add more bases to the closure list.

Cutting funds from the DOD base closure account will slow down the process of returning these bases back to the communities. By doing so, we would substantially damage the economic development efforts of base closure communities nationwide.

I urge my colleagues in the Senate, especially those on the Senate Appropriations Committee, to restore $104.2 million to the DOD BRAC accounts.

AMENDMENT NO. 577

Mr. HATFIELD. Mr. President, if there had been a rollcall vote on the Dole-Daschle amendment, I would have voted "no." As my colleagues know, I support many, if not all, of the programs that would benefit from the funding restorations of the amendment. They are worthwhile, meritorious programs that address important national needs.

But as I said at the outset of this debate, Mr. President, many of the Appropriations Committee's recommended rescissions were reductions in the rate of funding increases, not reductions in actual funding below the previous year's level. I see no reason to add more money now to simply increase the increase. The Appropriations Committee made a considered judgment on these matters, and we found our recommended rescissions to be reasonable. Further, we found them to be urgently needed for the task of deficit reduction.

On that point, Mr. President, I believe this amendment is a serious mistake. We do not have CBO scoring of this amendment as yet, but it would appear to me that the recommended "offsets" of this amendment reduce significant amounts of budget authority but very little in outlays. The reductions are primarily drawn from accounts with annual outlay rates as low as 1 percent, while the funding restorations occur in accounts with outlay rates as high as 80 percent. In short, Mr. President, it appears to me that this amendment may actually increase the deficit. The bill that I brought to the floor on behalf of the Appropriations Committee was a first step in the long march toward a balanced budget. This amendment is a step backward.

FUNDING FOR ACIR'S MANDATES STUDIES

Mr. DORGAN. Mr. President, I rise to take note of an aspect of the managers' amendment to H.R. 1158, the supplemental appropriations and rescissions bill.

As my colleagues know, I helped write the Unfunded Mandates Reform Act of 1995, which just became law. This law passed the Senate on January 27 by an 86–10 vote. Part of this law requires the Advisory Commission on Intergovernmental Relations to conduct studies on unfunded mandates issues. The Senate passed my amendment giving these studies to ACIR by a vote of 88–0.

The law requires ACIR to make recommendations to the President and Congress about simplifying, consolidating, suspending or terminating Federal mandates. It also requires ACIR to examine the measurement and definition issues involved in calculating the costs and benefits of unfunded Federal mandates.

The law requires ACIR to do these studies very quickly. It must issue proposed and final criteria for its studies, hold hearings, and publish a preliminary and a final report, all by March 22, 1995. The conferees on the mandates bill recognized that ACIR needed further funding in this fiscal year in order to do the studies. The conferees therefore authorized an appropriation of $500,000 for fiscal year 1995.

The managers' amendment contains a provision that would appropriate this money. I am glad that the senior Senators from Oregon and West Virginia, Senators HATFIELD and BYRD, have funded the mandate on ACIR.

I would like to thank them for accommodating the Senator from Idaho, Senator KEMPTHORNE, and the Senator from Florida, Senator GRAHAM, and myself on this issue. And I look forward to helping ACIR carry out this mission.

Mr. PELL. Mr. President, I am supporting the Dole-Daschle compromise and the final passage of the supplemental appropriations and rescissions bill because I believe, on balance, the bill does take a significant step toward fiscal control and economy in Government.

I am particularly pleased that the compromise restores nearly $1 billion in House rescissions that would have jeopardized programs that benefit children and education.

Head Start, Title I Education, Impact Aid, WIC, Goals 2000, School to Work, and Drug Free Schools are all programs that constitute investments in our national future, and restoration of funding for them lends balance and merit to the bill.

I am very pleased that the Senate bill restores funding for the LIHEAP program and housing modernization, two programs that are important to my State.

And finally I would note that the Senate bill would restore more than half of what the House bill would cut from our foreign aid programs—not a perfect outcome, but certainly far preferable to the House version.

Mr. President, none of us are going to be completely satisfied with the painful compromises that must be made in the current season of downsizing of government. But this bill does what had to be done with less pain than might otherwise have been inflicted. I commend the managers and give the bill my support.

Mr. WARNER. Mr. President, I am pleased to commend the majority leader, Senator DOLE, and the Democratic leader, Senator DASCHLE, for the successful completion of the managers rescission amendment package to H.R. 1158, the fiscal year 1995 supplemental appropriations bill for disaster assistance and rescissions. I am particularly gratified that the leadership has steadfastly retained, through a myriad of negotiations, the restoration of section 8002 of the Federal Impact Aid Program.

With funding of only $16.29 million, nearly 200 school districts directly benefit from section 8002 payments in lieu of taxes for Federal properties. As federally owned lands, these properties are tax exempt and contribute nothing to local tax revenues. These moneys are made available under strict criteria to help compensate local school districts for revenues they might otherwise be receiving.

The impact aid section 8002 program has been authorized since the inception of impact aid in 1950. For 45 years, the Congress has recognized its responsibilities to compensate local schools for tax-exempt Federal personnel and properties.

Furthermore, the entire impact aid program was just reauthorized last year as a part of the Elementary and Secondary Education Act. This is no time to retreat from our longstanding commitment which is so vital to federally impacted school districts.

I am supporting that impact aid restoration because the York County School Division in the historic Hampton Roads region of Virginia is the largest recipient of section 8002 funding in the Nation. I commend the York County School Division finance director, Mr. Dennis Jarrett, as well as superintendent Steven Staples for their careful work in bringing this urgent matter to my attention.

This year alone, more than $1 million of the York County School District budget is at risk because of the proposed rescission. I am confident that my colleagues on the Appropriations Committee had no intention for the budget cutting axe to fall so heavily on only 1 of some 200 school districts.

The restoration of the $16.29 million for impact aid will symbolize our support of the communities across the Nation which house and serve the U.S. Armed Services and their families.

Mr. President, I thank the Chair and commend this small measure to the support of my colleagues.

Mr. PRESSLER. Mr. President, I am pleased to rise today in support of the agreement offered today on H.R. 1158, the rescissions bill. The leadership can be commended for their hard work on this compromise. This rescissions bill has been a drawn-out and difficult process. But this hard-fought agreement represents good news for many South Dakotans: it contains my amendment that would restore funds for section 8002 of the Impact Aid Program, otherwise known as section 2. The inclusion of my amendment to save this important program is a significant reason why I offer my wholehearted support for this agreement.

The Impact Aid Program is not aid in the traditional sense. It is called Impact Aid because the presence of the Federal Government is having an adverse impact on nearby school districts. The adverse impact is the loss of tax revenue to the schools, and the Impact Aid Program is designed to compensate schools for that lost tax base.

In short, impact aid is an ongoing Federal responsibility. Impact aid does not represent extra dollars for special programs. Impact aid provides support payments for basic day-to-day operations. It is neither a wasteful nor ideologically driven program—these funds go directly to a school district's operating budget. Impact aid represents fairness—to the schools and the parents and children they serve.

Section 2 of the Impact Aid Program is the lifeblood of many schools across the Nation. This program provides support payments to school districts for Federal land. Across the country, schools in 27 States rely on Section 2 payments. It would be most unfair to federally impacted districts and the children they serve if the Federal Government opts to deny them both a tax base and Federal support.

If Section 2 payments had been terminated, the Pollock School district in northern South Dakota would have closed, forcing potentially displaced students to travel up to 50 miles in order to receive an education. Pollock and similarly situated school districts would have been forced into this drastic course of action because no other revenue options are available.

Mr. President, federally impacted schools already have taken their share of cuts. The Impact Aid Program suffered a $70 million cut last year. If we were to add to this cut the elimination of Section 2 payments, federally impacted schools would be left without the assistance they had planned on to pay teachers, buy textbooks, or as in the case of Pollock, to even function.

Like my colleagues, I am committed to reducing wasteful government spending. My voting record consistently has been in favor of a balanced budget. I also appreciate fully the difficult nature of the Appropriations Committee's job this year. We are all in the difficult position of needing to cut bureaucracy and federal spending. However, our leadership can be commended for realizing where our priorities must lie.

Impact aid is a program that enjoys support on both sides of the aisle. However, I especially would like to thank my distinguished friends from New York and Virginia, Senators D'AMATO and WARNER, for their leadership on this issue. These Senators and others on both sides of the aisle were prepared to support my amendment to restore the Section 2 payments. It is because of this bipartisan commitment to education that the leadership has restored this important program. I appreciate their help and support.

I hope this bipartisan support for impact aid will send a clear signal to our colleagues and especially to the administration. Impact aid is vital to our schools and it should continue to be fully funded. It is my hope that we will not have to fight this battle again during the budget negotiations for fiscal year 1996. President Clinton has requested a $109 million cut in the Impact Aid Program for next fiscal year. I hope it has been made clear that such a cut would be unacceptable.

I would be happy to work with my colleagues to demonstrate why impact aid is critical to so many school children. I also look forward to working with my colleagues on the budget and appropriations committees to maintain the vitality of the Impact Aid Program for many years to come.

RESTORE FUNDING FOR THE CDFI FUND

Ms. MOSELEY-BRAUN. Mr. President, one of the provisions in the amendment the distinguished majority and minority leaders have offered, would partially restore funding for the Community Development Financial Institutions [CDFI] Fund. The full House and Senate Appropriations Committee have both rescinded $124 million of the $125 million appropriated for this bill in fiscal year 1995.

Although it is not clear when the Senate will have the opportunity to vote on this amendment. I want to take a few moments to discuss why the funding for the CDFI Fund is needed.

Clearly, the $36 million included in the Daschle amendment is an insufficient amount compared to the $125 million appropriated last year—but, this start up money will help the CDFI Fund get off the ground. The importance of this Fund is its profound affect on the lives of people who want to make their lives better and improve their neighborhoods.

The CDFI Fund is bipartisan initiative passed in the Riegle Community Development and Regulatory Improvement Act of 1994. I was proud to be a cosponsor, along with many of my colleagues, of this legislation.

The Fund will support and expand existing Community Development Banks and Financial Institutions [CDBFI] across the country. The CDFI Fund is based on the simple proposition—helping the private sector to help communities grow from the bottom up.

Over the last two decades, a diverse range of community development financial institutions have emerged to provide new opportunities for neglected communities. In urban, reservation-based and rural settings, more than 300 CDFIs are providing credit, investments and comprehensive development services. These institutions—working in 45 States—manage more than $1 billion in primarily private sector capital. These institutions have loaned more than $3 billion with a loan loss rates comparable to some of the best banks in this country.

Mr. President, across the country, many rural and urban communities are starved for affordable credit, capital and basic banking services. The lack of jobs is a critical issue for any community. The lack of jobs is also the crux of an important issue for the welfare reform debate that the Senate will soon be considering.

What the Fund is all about is creating jobs in communities that desperately needs jobs. What this amendment is all about is providing a very, very modest amount of Federal money to spur entrepreneurship, and assist small and microbusinesses in low-income communities to help create those jobs.

Job creation is so important to the many critical issues that come before Congress. It is also the crux of the welfare reform debate now before Congress.

Almost everyone agrees that our welfare system needs major reform, and almost everyone agrees that welfare recipients who can work ought to be required to work. The question that remains is simple—where are those jobs supposed to come from?

The basic truth that must be faced is that there simply aren't enough jobs now in many communities where the poor are concentrated, are dropping. My own home town of Chicago illustrates the problem.

Between 1972 and 1990, the City of Chicago lost over 146,000 jobs. Between 1979 and 1990, the city lost over one-third of its manufacturing jobs. Over the same period, the central business district actually gained jobs over that period, which means that the impact of the declining job base fell most heavily on Chicago's neighborhoods, and particularly its poorest neighborhoods. In the decade of 1980's alone, the south and west side Chicago neighborhoods—where many of the City's low-income residents reside—lost over 82,000 jobs.

This results in a declining population in the city, and high unemployment rates for those who want to stay, or who can't leave. For residents in public housing in the inner cities, jobs are almost non-existent. Of the households in the Robert Taylor Homes—the country's largest public housing complex located on Chicago's southside—an approximate 4 percent report any wage income at all.

The fact of the matter is—there is not enough economic opportunity in poor communities. It's no secret that what is needed to create jobs in any community is capital. However, poor communities, simply do not have the access they need to our capital market. What this means is that prospective homebuyers, oftentimes have difficulty getting mortgage money. What it also means is that people who want to start businesses—or expand businesses—in poor communities where all too often cannot get access to the money they need. The creation of the CDFI FUND is a crucial first step in helping low-income communities help themselves.

The CDFI Fund will invest in community development banks and other community development financial institutions which have a primary mission of community development, lending and equity investment and loan counseling services in distressed, underserved communities.

This capital assistance will serve only as seed capital that must be matched by private funds. All types of new and existing CDFIs will be eligible for assistance, including community development banks, credit unions, micro-enterprise and revolving loan funds, minority-owned banks and community development corporations.

One of the exciting aspects of the Fund is the Bank Enterprise program will catalyze new community lending and investment activities by conventional financial institutions—complementing community reinvestment efforts by lenders.

Mr. President, the Fund will have an extraordinary impact on many of this country's low-income neighborhoods. It will support financial and technical support for new community development banks—which will support thousands of new loans—which, in turn, can result in thousands of new full-time jobs in low-income communities.

I have seen first hand what an important role community development financial institutions can play in the economic development of distressed communities and provide jobs to those who have relied on public assistance.

South Shore Bank—the country's first community development bank in my home town of Chicago—has had a tremendous impact in the South Shore neighborhood of Chicago. Since 1973, the bank and its affiliated community development activities have invested $450 million in its target communities, financing the rehabilitation of 15,000 housing units and hundreds of businesses. South Shore was once a rapidly-deteriorating, inner city community abandoned by conventional lenders. Today it is a stable community with access to a range of sources of conventional credit.

Another example is the Women's Self Employment Project in Chicago which has lent more than $800,000 to low income women—many of whom relied on public assistance—to start and grow microenterprises. This successful program has a repayment rate of over 94 percent.

Mr. President, these are just two examples of how community development works. The list of success stories in community lending goes on and on: the Self-Help Credit Union in North Carolina; the Federation of Appalachian Housing Enterprises in North Carolina; The Coalition for Women's Economic Development in South Central Los Angeles.

Mr. President, as I said in my opening remarks, the $36 million included in this amendment is clearly not enough for the investment that is needed in low-income communities now. But it is a start to help the institutions I referred to, and many others throughout the country. They will be able to expand their capacity through modest federal investments provided by the CDFI Fund.

It is important to point out that the Fund does have an experienced and knowledgeable transition team to begin setting up operations and programs. While the Fund cannot issue regulations or take applicants until the administrator is confirmed, this team is making significant progress to ensure that the programs are up and running.

By using very little Federal money to leverage significant private dollars, the Fund's investments will build partnerships between banks, thrifts, credit unions, and CDFIs.

The results in every equity dollar invested in a community development bank or loan fund can leverage at least $10 in new private capital for development lending.

Community Development Banks and Financial Institutions provide capital where it is critically needed—and jump start a local economy. The CDFI Fund will support these institutions and represents an essential part of what's needed to build and strengthen the economies in many urban, reservation-based and rural communities.

In closing, let me add that the CDFI Fund, is a very good step in the right direction in creating jobs. If the federal government is going to succeed in reforming welfare, we must start by creating jobs and economic growth in impoverished communities where they are needed most.

Mr. President, I ask unanimous consent that the list of success stories be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

In North Carolina, the Self-Credit Union and its affiliated Self-Help Ventures Fund made a $50,000 loan in 1985 to a small, rural worker-owned sewing company threatened with closing because it could not obtain credit from its local banks. With Self-Help's technical assistance and a series of working capital loans, the business now employs 80 people, making it the second largest private employer in its county. By 1992, the company had almost tripled its sales, to $1.8 million.

In Chicago, the Women's Self Employment Project set up an entrepreneurial training and lending program to enable women receiving public assistance and with little or no asset to start their own income-producing enterprises. Seventy percent of the 20 women participating in the pilot program in 1987 were able to move off public assistance permanently as a result of their business activities. An expanded program now includes 150 women. WSEP's three lending programs have lent more than $500,000 to 350 low- and moderate-income women for micro business ventures.

In Central Appalachia, the Federation of Appalachian Housing Enterprises [FAHE] provides loans that make homeownership a reality for very low-income families, many of whom have previously lived in rented trailers without heat or running water. FAHE has lent $3.2 million for more than 172 housing units, including loans to borrowers with incomes as low as $5,000 a year.

The Coalition for Women's Economic Development in South Central Los Angeles operates a 12-week training program in Spanish and English, for low-income women seeking to operate their own enterprises.

Santa Cruz Community Credit Union in California, which has lent more than $27 million to small businesses, non-profits and co-operatives, supplements its credit union lending with a non-profit housing development subsidiary, Seascape Senior Housing. Seascape developed and owns an 80 unit low-income housing project.

The Quitman County Federal Credit Union in Mississippi is located in one of the ten poorest counties in the United States. As a community development credit union, the credit union has been able to supplement the small savings of its 600 members with more than $1 million in nonmember deposits, enabling the development of home improvement and minority small business lending programs.

For years, the Delaware Valley Community Loan Fund was one of the only lenders in Camden, New Jersey. Its successful lending has led to a 7 bank multimillion dollar loan pool for the disinvested area managed by the loan fund.

Mr. NUNN. Mr. President, I understand that an agreement has been worked out between the two sides on this legislation, but I want to set the record straight on a few issues which I believe to be of particular importance.

The initiative in question is the Corporation for National and Community Service. In the last few days, several of our colleagues have come to the floor and, for one reason or another, discussed this initiative in a way which has deviated substantially from the facts. I want to provide information for the record to eliminate some of the misconceptions which may have been formed about National Service.

First, I would like all of us to be clear on the facts. Contrary to what we have heard on the Senate floor in the last week, AmeriCorps does not cost the taxpayer outrageous sums. Counting all costs, the average annual cost per AmeriCorps member is $17,600. $4,725 of that amount is an education award which is not given until after the year of service is complete.

Additionally, the program has benefited the efforts of many private organizations which depend on volunteers for their work. Many charitable organizations, from Habitat for Humanity to the Red Cross have resoundingly rebutted the argument that National Service injures the ethic of voluntarism in this country. These groups have often stated that the presence of AmeriCorps members has made their efforts to attract traditional volunteers even more effective.

Charitable organizations are not the only ones who have seen sufficient worth in the program to give it their vocal support. Many businesses also have seen the value of AmeriCorps as an investment and given it their own dollars to supplement those provided by the federal government. These private partners range from Alcoa to Xerox, with many others in between. I request unanimous consent that this information regarding the cost per

AmeriCorps participant and the number of volunteers and business organizations supporting AmeriCorps be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. My second point is that National Service is successfully accomplishing its primary mission—performance of service. The anecdotal evidence on this score is abundant. From helping clean up after last year's floods in the Midwest to immunizing 105,000 children in Texas, to building 60 homes for poor people in Americus, Georgia, these youngsters are performing real work that is needed by our communities. The independent research firm of Aguirre, International provides confirmation. They did a study of 52 randomly selected AmeriCorps sites across the country, and the findings from the study confirm that the achievements of this program are many and varied. I ask consent that the Aguirre International study be also printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. NUNN. Mr. President, my final point is that this project should not be a partisan issue. The debate on the original authorization was not marred by the misinformation and partisan rancor that we have seen during the last week. Indeed, the 1993 bill passed with the support of a number of Republicans in both Houses. I would hope that we could return the debate to that higher plane in the future. To that end, I would hope that my colleagues, whether they agree or disagree with the program, would take the time over the upcoming recess to visit an AmeriCorps site in their states. To my colleagues who are willing to make this visit, if you still have concerns about the program after you have made this good-faith effort to see it in action, that will be useful to an open, straightforward debate on the upcoming reauthorization. I believe that the minds of my colleagues will be changed when they see the results of this program.

In conclusion, I appreciate the indulgence of my colleagues on this matter, and I hope that we can continue the debate in an objective fashion. I am fully aware of the funding constraints which face our Nation's Government, but I am confident that the program will be judged valuable to our Nation if judged on its true merits and true costs. I yield the floor.

EXHIBIT 1

AMERICORPS BUDGET AND MEMBERS

	1994	1995	1996
Budget	$376,000,000	$579,000,000	$828,000,000
[HUD/VA]	[$318,000,000]	[$516,000,000]	[$750,000,000]
Members	20,000	33,000	47,000
Average cost per Member	$18,800	$17,600	$17,600

Average total cost per member by category

Health/child care 7%	($1,200)
Grantee operations, planning, evaluation 23%	($4,075)
State Commissions 3%	($450)
Americorps' overhead 5%	($850)
(Represents 1995 Costs)	
Education Award 27%	($4,725)
Stipend 35%	($6,200)
Total	$17,600

EXHIBIT 2

AMERICORPS USA AT FIVE MONTHS

A SUMMARY OF ACCOMPLISHMENTS FROM 52 RANDOMLY SELECTED SITES

The following report aggregates and summarizes the bulk of the accomplishments of 1,654 AmeriCorps USA Members serving at 52 sites that were selected randomly from across the nation. Listed accomplishments represent the efforts of approximately 8% of AmeriCorps USA's operating sites during the first five months of operation—from September, 1994 through January, 1995.

The accomplishments are grouped within AmeriCorps USA's four issue areas: education, public safety, health and human needs, and environmental and neighborhood restoration. The list, while both long and diverse, is not exhaustive; not every accomplishment has been captured. Nevertheless, the list summarizes the major accomplishments of the selected sites.

EDUCATION

The AmeriCorps Members helped children and youth from impoverished urban and rural communities to succeed in school. They taught in classrooms, established new learning programs in and out of school, and prepared preschoolers for the demands of school. Specific accomplishments include the following:

Taught 1,430 and tutored 7,638 pre-school, elementary, and junior high school students in basic educational skills.

Conducted enriched learning programs and initiated new ones—such as computer-based reading instruction, peer tutoring, scientific experimentation, and programs for children with special needs—for 6,414 children.

Established after-school and vacation programs to reinforce the academic involvement of 4,656 children.

The AmeriCorps Members helped at-risk children succeed in school by assisting them and their families to develop their sense of civic and community responsibility and to become more stable, more self-sufficient, and more involved in the community. Specific accomplishments include the following:

Organized and supervised community service projects for 4,469 at-risk children and youth. Projects included neighborhood cleanups and providing food for elderly people.

Counseled, taught parenting skills, and/or provided problem solving assistance to 390 families, 183 teen parents, and the low-income families of 440 children at risk of failing in school.

Provide literacy or employment-related training for 694 adults.

Provided intensive educational support—including regular counseling—to 30 troubled teenagers living in group homes and 33 low-income children, including 22 homeless preschoolers.

PUBLIC SAFETY

The AmeriCorps Members started neighborhood safety programs, mobilized neighbors, and improved community/police relations, resulting in safer communities. Specific accomplishments include the following:

Escorted 8,500 children to school through safe corridors.

Started 258 neighborhood safety programs and patrolled 250 vacant buildings to prevent violence, drug-dealing and other illegal activities.

Initiated 2 programs to improve community/police relations, including assisting a police mobile unit.

The AmeriCorps Members worked to prevent violence in school by teaching mediation techniques, resulting in decreased incidence of violence and negative behavior. Specific accomplishments include the following:

Resolved 414 school conflicts that might otherwise have ended in violence or with students dropping out of school because of fear of violence.

Taught conflict resolution techniques to 8,119 school children.

Counseled and taught alternatives to violence to 1,350 potential or actual gang members and 54 parents of children at risk of becoming involved in gangs.

Initiated 3 programs to train school and community members to implement violence prevention activities.

Secured donated materials and created a memorial garden and mural in memory of 3 children slain in the streets.

The AmeriCorps Members worked to prevent violence and drug abuse in families and communities and provided direct assistance to victims of crime as well as referring them to needed services. Specific accomplishments include the following:

Conducted workshops for 220 at-risk individuals about family violence prevention.

Answered crisis hotline calls and made referrals for 878 victims of sexual and domestic violence.

Provided each of 470 victims of sexual and domestic violence with 30 days of counseling and assistance.

Counseled 35 elementary or high-school students in crisis as a result of rape, violence, or home difficulties.

Counseled 1,180 teenagers about alcohol and drug abuse.

Conducted home visits about drug or alcohol abuse prevention with 120 community residents.

HEALTH AND HUMAN NEEDS

The AmeriCorps Members made independent living easier for disabled, elderly, or hospitalized individuals by providing direct support service and by recruiting and organizing community volunteers. Specific accomplishments include the following:

Helped 123 elderly persons, 50 visually impaired adults, and 9 visually impaired children live independently.

Provided job-related training, independent living assistance and/or medical referrals for 135 mentally ill or developmentally disabled persons.

Organized weekly social activities for 400 elderly nursing home residents.

Constructed wheel-chair accessible trails, ramps, or sidewalks at 3 parks, 5 low-income homes, and 4 public buildings.

Obtained donated materials, trained 58 volunteers, and repair the homes of 296 elderly persons.

The AmeriCorps Members provided emergency medical services, as well as health training and education. Specific accomplishments include the following:

Trained 1,144 inner-city residents in CPR.

Provided emergency medical services to over 1,500 people.

Screened 1,100 low-income children for lead toxicity and other health risks.

Provided health counseling, education, or referrals and transportation to 220 low-income families and over 5,000 individuals.

Disseminated health care information to 4,567 individuals.

Distributed 150 children's car seats to low-income families.

Conducted immunization screenings—immunizing 158 individuals and notifying 500 others of their families' need to be immunized.

Administered 301 HIV tests and counseled patients regarding results.

Conducted workshops and distributed information on AIDS and tuberculosis to over 7,000 people.

The AmeriCorps Members helped meet the basic needs of low-income and homeless people for food and shelter. They improved low-income housing, fed the hungry, and improved the methods of service referral and delivery. Specific accomplishments include the following:

Renovated 238 inner-city housing units and 99 rural homes; began renovation of 121 more.

Refurbished 2 homeless shelters and began to renovate 3 buildings—one for seniors, one for battered women, and one for the formerly homeless.

Distributed food to more than 16,625 low-income people and packed 7,000 dinners and 32,000 breakfasts for the hungry.

Found shelter for 400 homeless families, and sorted and distributed clothes to 350 homeless individuals.

Secured hospice housing for 27 people with AIDS and helped feed (on a weekly basis) 1,250 people who have AIDS or who are HIV positive.

Provided housing information or counseling to over 500 low-income and homeless families.

Secured donated furniture, repaired it, and delivered it to 300 newly-housed families.

ENVIRONMENTAL AND NEIGHBORHOOD RESTORATION

The AmeriCorps Members responded to emergencies, including post-disaster environmental restorations, and worked to improve emergency responses capacity in parks and public lands. Specific accomplishments include the following:

Inspected and repaired 87 small dams, protecting 200 farms.

Provided disaster recovery assistance to 350 land owners recovering from a flood; activities included sand and soil deposit mapping, advice on pasture and hayland management, watershed mapping, and computer simulations to plan floodplain management.

Fought 2 major forest fires and saved 1 national park road from washing out.

Joined at least 5 search and rescue efforts.

The AmeriCorps Members restored and stabilized the natural environment and wildlife habitats. Specific accomplishments include the following:

Planted 212,500 trees.

Restored 320 acres of wild land areas by repairing fire and flood damage, re-planting to prevent erosion, and fencing off wetlands to prevent illegal dumping.

Restored or stabilized 27 miles of riverbed and stream banks to improve the habitat of salmon; fenced another 7 miles to keep cattle from destroying spawning grounds; repaired three aquaculture tanks with a capacity to rear 1,000,000 salmon fry per year.

Removed 2,000 lbs. of trash from an urban river.

Monitored water quality in 2 parkland areas.

Surveyed 5,700 acres of National Forest land as part of reforestation programs to monitor reforestation efforts; conducted biological inventories on 12,000 acres of wetland.

Built, restored, or maintained 311 campsites, 88 miles of parkland trails, 17 bridges, and 1 mile of forest service road.

Cleaned up storm debris and trash on 3 beaches, protected sand dunes on one beach, and built one wildlife observation platform and 3 duck blinds.

The AmeriCorps Members improved neighborhoods, parks, and recreation facilities by converting vacant lots, renovating buildings, repairing public facilities, and conducting recycling and conservation programs, resulting in a heightened sense of community ownership. Specific accomplishments include the following:

Renovated 11 community buildings, including an inner-city medical clinic, community centers, and public schools.

Converted 29 overgrown lots into green space; built 7 community gardens; planted trees along 30 city blocks.

Cleaned 27 miles of road, restored 1 community reservoir, removed illegally dumped garbage from one community; and unclogged more than 14,000 storm drains.

Created 4 playgrounds, designed 1 picnic area, and improved safety at 1 scenic overlook. Restored, repaired, or maintained 19 historical landmarks and a traditional tribal longhouse.

Completed 61 inner-city neighborhood clean-ups—including a city-wide graffiti removal.

Distributed 1,375 low flush toilets and 1,700 water conserving showerheads in low-income neighborhoods—along with over 1,400 water conservation guides.

Recycled 920 inefficient toilets and 1,120 inefficient showerheads.

AMERICORPS COMMUNITY PARTNERS

The following is a partial list of national and local volunteer, charitable and service organizations through which AmeriCorps is getting things done in over a thousand communities across the nation.

4-H, Albany Police Department, American Red Cross, Arctic Village Tribal Council, Arlington Police Department, ASPIRA, Audubon Society, Big Brothers/Big Sisters, Big Horn Police Department, Boy Scouts of America, Boys and Girls Clubs, Camp Fire Boys and Girls, Casper Police Department, Catholic Charities, Chambers of Commerce, City of Decatur of Police Department, Clearwater Police Department, Coalition of 100 Black Women.

Confederated Tribes and Bands of Yakima, Dallas Police Department, D.A.R.E., Ft. Worth Police Department, Girl Scouts of the USA, Girls, Inc., Goodwill Industries, Habitat For Humanity, Hart County Police Department, Head Start Programs, Humane Society, I Have a Dream Foundation, Independent Sector, Indianapolis Police Department, Jewish Family Services, Jubilee Housing, Junior League.

Kickpoo Tribe, Lincoln County Sheriffs Department, Lions Club, Literacy Volunteers of America, Knick Tribal Council, Meals on Wheels, Metropolitan Police Department of St. Louis, Mid-Atlantic Network of Youth and Family Services, Navajo Nations, National AIDS Fund, National Center for Family Literacy.

National Council of Churches of Christ in the USA, National Council of Educational Opportunity Associations, National Council of LaRaza, National Council of Non Profit Associations, National Endowment for the Arts, National Multiple Sclerosis Society, National Organization for Victim Assistance, Neighborhood Green Corps, New York University, NezPerce Tribe, Northeastern University, Ouzinkie Tribal Council, Parents Anonymous, Philadelphia Bar Association, Pinelas Sheriffs Department, Points of Light Foundation.

Pompano Beach Police, Public Allies, Public Education Fund Network, Rotary Club, Salvation Army, Seattle Police Department, Shoshone-Bannock Tribe, Sierra Club, St. Petersburg Police Department, Sunflower Girls, Teach for America, Tuntutulkia Traditional Council, United Cerebral Palsey, University of Texas, Austin, United Way of America.

Urban League, Visiting Nurses Association, Volunteer Centers, Volunteers of America, Westin County Sheriffs Department, YMCA of the USA, YWCA.

Dozens of colleges and universities, community health centers, police and sheriffs departments, and hundreds of elementary, junior and high schools.

AMERICORPS INVESTORS

The following is a partial list of corporate giving programs and corporate, independent and community foundations that are investing in community service organizations that are a part of the AmeriCorps National Service Network:

Alcoa, AlliedSignal, Allstate, Amelior Foundation, American Airlines, American Express, Ameritech, Anheuser-Bush, ARCO, Arizona Foundation, Arthur Anderson, Bank of Boston, Bank of New Hampshire, Bechtel, BellSouth, Booth Ferris Industries, Boston Foundation.

British Petroleum, Bullitt Foundation, Burnett-Tandy Foundation, Cabletron Systems, California Community Foundation, Capital Community Foundation, Capitol Cities/ABC, Carnegie Corporation of NY, Amon G. Carter Foundation, Chevron, Citizens Bank, Compaq, Cowell Foundation, Charles A. Dana Foundation.

Digital Equipment Corporation, Echoing Green Foundation, Enron, Entergy, Fannie Mae, First Deposit National Bank, Fleet Bank, Ford Foundation, The Gap, General Electric, General Mills.

Grand Rapids Foundation, Greater Cincinnati Foundation, GTE, E. & W. Haas Jr. Foundation, Hall Family Foundations, Healthsource, Hogg Foundation, The Home Depot, Houston Endowment, IBM, JCPenny, J.P. Morgan, James Irvine Foundation, Robert Wood Johnson Foundation, Johnson & Johnson, Kansas City Community Foundation.

Kauffman Foundation, W.K. Kellogg Foundation, Key Bank of NY, Knight Foundation, Luce Foundation, MacArthur Foundation, MBNA, McKesson, Meadows Foundation, Mellon Bank, R.K. Mellon Foundation, Microsoft.

Millipore, Mobil, Monsanto, Morgan Stanley, Charles S. Mott Foundation, NationsBank, NH Charitable Foundation, Nike, NYNEX, Packard Foundation, Panhandle Eastern.

Patagonia, Pew Charitable Trust, Philip Morris, PNC Bank, Polariod, Prince Charitable Trust, Proctor and Gamble, Providian Bank, Prudential Insurance, Reebok, RI Hospital Trust Bank, Winthrop Rockfeller Foundation, The Rouse Company, Safeco Insurance, Sallie Mae, Joseph E. Seagram & Sons, Shell Oil.

Skillman Foundation, Sony Corporation of America, Sprint, Steelcase, Surdna Foundation, Tenneco, Texaco, Timberland, Time Warner, Toyota, Union Pacific, United Way of America.

UPS, U.S. Health Corporation, Waste Management, Western Resources, Lola Wright Foundation, Xerox.

The PRESIDING OFFICER. The question is on agreeing to the Dole-Daschle amendment No. 577.

The amendment (No. 577) was agreed to.

AMENDMENT NO. 420

The PRESIDING OFFICER. The question is on agreeing to the Hatfield substitute.

The amendment (No. 420) was agreed to.

Mrs. BOXER. Mr. President, I will vote yes on final passage of this supplemental Appropriations/Rescission bill, but I do so with reservations.

This bill provides $6.7 billion for disaster assistance, more than 70 percent of which will go to California earthquake and flood victims. This is an urgent and necessary response to the heartbreaking disasters California has faced.

I regret that Republicans have played politics with disaster assistance—for the first time in history—by using it as a hook for their agenda to slash programs that benefit children, education, working families, and the poor.

If the Senate were considering the House passed version of this legislation, I would vote no, because that is a bad bill for both my State and my country.

But the Senate bill is different in two significant ways:

First, the Senate Appropriations Committee added back funds in critical education and housing programs.

Second, Senate Democrats were successful on the floor in restoring funds for Head Start, Child Nutrition, Safe and Drug Free Schools, Housing, and other programs that are so important to the well-being of our children.

So I will vote to send this bill to conference with the House. But I reserve the right to vote no on the conference agreement if it comes back looking like the mean-spirited House bill. I cannot support any bill that does not maintain funds for our children at the Senate-passed level or higher.

Mr. BRADLEY. Mr. President, the Senate is about to finish consideration of a rescissions bill that reduces the Operation and Maintenance Account of the Bureau of Reclamation by $10 million. This amount is identical to the sum rescinded by the House, and I support it. As the former chairman and current ranking member of the subcommittee with authorizing jurisdiction over the Bureau, I have seen opportunities for the Bureau of Reclamation to reduce spending. I have no doubt that this cut can be absorbed, given the streamlining that is now occurring within the Bureau.

I note, however, that the Senate has wisely avoided commenting on particular operations. This has two benefits. First, it gives the Bureau the flexibility to deal with this cut in the most effective and appropriate manner. It won't be easy to cut this account, given that the fiscal year is half over. The project managers need to be creative and do not need legislative handcuffs.

Second, the House report suggests that one way to balance this account is to stop a study of the San Joaquin River that was established in law through the Central Valley Project Improvement Act. This language is notably absent from the Senate report.

As the author of this landmark CVPIA law, I am surprised at the House report language. This San Joaquin study is specifically ordered in this public law and, in fact, has a statutory deadline for action by the Bureau. Clearly, this statute is unaffected by any committee report language, and the law remains binding on the Bureau.

Additionally, I am puzzled by this suggested target, since cutting the San Joaquin River Comprehensive Plan, either directly or through report language if possible, would not save the taxpayer any money. Indeed, the study is not even funded out of the Bureau's Operating Account. The plan was established in the statute and financed through a surcharge on the sales of water from the Central Valley project. In fact, if these funds are not spent on this plan, the law still requires that the full amount be spent on other fish and wildlife restoration efforts. There can be and will be no deficit reduction from stopping this plan.

Mr. President, in summary, I'm pleased with the Senate action. Spending cuts will occur, as agreed with the House. And the San Joaquin study will continue, as specifically directed in public law. The restoration of the San Joaquin River would bring benefits throughout California. We need to know if this restoration can occur and how it would be achieved.

Mr. ABRAHAM. Mr. President, I will vote for this rescission bill because I believe it will greatly benefit the citizens of Michigan by reducing the burden of Government spending and deficits on the economy. Each dollar that Washington does not spend on Government programs means $1 more that Americans can spend for their families.

While I did fight to restore funding for a few specific programs slated for rescission because of their critical importance to Michigan—such things as the Low-Income Heating Energy Assistance Program and the Center for Ecology Research and Training slated to be located in Bay City, MI—I do believe that this rescission package is a win for the people of Michigan because it is the first down-payment toward reducing the size and scope of Government.

Specifically, this bill will reduce Government spending by $15 billion. That represents a reduction of 1 percent of the entire Federal budget of $1.5 trillion this year—hardly a draconian reduction in Government spending as some special interest groups have claimed.

Nonetheless, these spending reductions are crucial to our Nation, and to Michigan in particular. This bill will help my State by reducing the deficit, freeing up economic resources for the economy, and job creation in particular. Moreover, American taxpayers send 25 percent of their paychecks to Washington.

Furthermore, it is clear that we need to take immediate action to reduce Government spending because projected deficits are getting larger, not smaller, under President Clinton's budget policies.

Contrary to conventional wisdom, President Clinton's budget policies have had almost nothing to do with the slight improvement in the size of the budget deficit that has occurred in recent years. According to the CATO Institute, almost all of the deficit reduction since 1992 is attributable to three main factors: No. 1, the one-time sale of assets and properties acquired by the Federal Government during the savings and loan bailout of the late 1980's—which alone has accounted for about $75 billion in deficit reduction in recent years; No. 2, reductions in defense spending resulting from the end of the cold war; and No. 3, the cyclical economic recovery that began well before President Clinton took the oath of office.

Federal spending continues to spiral out of control. Under President Clinton, the level of Federal spending as a share of the national income is about 23 percent, near historic levels. According to the nonpartisan Congressional Budget Office, unless we take action to halt the growth of Government spending, it will automatically rise from $1.531 trillion this year to $2.202 trillion by 2002.

Under the President's budget plan, deficit spending would continue to explode. The CBO reports that the annual deficit will rise from $170 billion this year to over $200 billion next year and to almost $300 billion a year over the next 4 years. Under President Clinton's policies, $1.4 trillion dollars will be added to the national debt, thereby increasing interest payments, crowding out private sector investment, and reducing the economic well-being of America's children.

I am particularly concerned about the budget crisis occurring in the Housing and Urban Development's subsidized housing program. The CBO projects that the future obligations to renew the expiring section 8 contracts will add $20 billion to the budget by the year 2000. This $15 billion rescission package would partially offset these added budget costs.

Mr. President, this rescission package is only a small example of the kind of reductions in the growth rate of

Government spending that will be required to balance the budget. According to the CBO projections, if we simply limit annual spending increases to 2.9 percent between now and 2002, we can balance the budget. In other words, achieving a balanced budget requires not absolute cuts in Government spending, but rather reductions in the rate of growth of Government spending.

Mr. President, the best thing I can do for the citizens of Michigan is to reduce the burden of Government and let them keep more of what they earn. By reducing the growth rate of Government spending and cutting taxes, we can strengthen America's and Michigan's families, businesses, and voluntary organizations. This rescission bill is an important first step in achieving the electorate's desire for smaller Government. I yield the floor.

Mr. DOLE. Mr. President, with all the rhetoric spoken over the last few days, some of us seem to have forgotten why we are here—to cut unnecessary spending. Yes, there will always be differences of opinion as to priorities, but the fundamental commitment to reassess every Federal program and reduce Federal expenditures must be paramount.

I am pleased the Democratic leader and I have reached agreement, supported by our colleagues, that will enable us to help keep our promise to the American people. In the amendment, a very limited number of programs which Members on both sides of the aisle support, have received smaller reductions in their rate of increase. At the same time, the amendment also contains a number of items that will result in additional savings being achieved. Most important to this Senator, overall the amendment will result in additional deficit reduction.

As a result of this amendment, the package we will send to the conference will contain approximately $16 billion in savings. I repeat, $16 billion—that's not over 2 years or 5 years, that's this year.

For all those who supported a balanced budget—rest assured we are committed to achieving that goal even if it means making some tough choices. Of course, the real hard decisions have yet to be made. And, we will not be deterred by the hue and cry of the last few days about all the so-called terrible things the Republicans have proposed. This bill is certainly progress, but we still have a long way to go. While I am pleased we were finally able to reach consensus—I caution everyone that the real hard choices are yet to come.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, if I could have my colleagues' attention.

The PRESIDING OFFICER. The Senate will be in order.

The majority leader.

Mr. DOLE. It is my understanding there will be no requests for a vote on either side on the defense supplemental bill, no request for a vote on the contract board, the District of Columbia, no request for a record vote on child pornography, and the paperwork simplification conference report is done, and other wrap-up material with only minor changes in the Constitution.

But I just say for my colleagues, it will be our intention at 1 o'clock on Monday, April 24, to begin consideration of H.R. 956, the product liability bill, and following disposition of product liability it will be my intention to proceed to S. 652, the telecommunications bill. Votes could occur during Monday's session of the Senate but will not occur prior to the hour of 3 p.m. on Monday, April 24.

Mr. CHAFEE. How about tonight?

Mr. DOLE. This will be the last vote until hopefully April 24, after 3 p.m. There could be votes after 3 p.m. If we should decide in the interim there will be no votes, we will try to notify you the earliest possible time before you are in the air.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce [Ms. MIKULSKI] as necessarily absent.

I further announce that if present and voting, [Ms. MIKULSKI] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall vote No. 132 Leg.]

YEAS—99

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—1

Mikulski

So the bill (H.R. 1158), as amended, was passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the bill passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the enrolling clerk, in making technical and clerical corrections to the bill, may insert all amendments that have been adopted to the committee substitute at appropriate places in the Senate amendment to the House bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I move that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. ASHCROFT) appointed Mr. HATFIELD, Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. GRAMM, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. MACK, Mr. BURNS, Mr. SHELBY, Mr. JEFFORDS, Mr. GREGG, Mr. BENNETT, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mrs. MIKULSKI, Mr. REID, Mr. KERREY, Mr. KOHL, and Mrs. MURRAY.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the following Senators to the Commission on Security and Cooperation in Europe: the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Nevada [Mr. REID], and the Senator from Florida [Mr. GRAHAM].

The Chair, on behalf of the Vice President, pursuant to the provisions of Public Law 99–151, appoints the Senator from Iowa [Mr. GRASSLEY] as a member and Chairman of the U.S. Senate Caucus on International Narcotics Control.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 96–388, as amended by Public Law 97–84, appoints the Senator from Iowa [Mr. GRASSLEY], vice the Senator from Ohio [Mr. METZENBAUM], to the U.S. Holocaust Memorial Council.

The Chair, on behalf of the President pro tempore, in accordance with Public Law 99–498, section 1505(a)(1)(B)(ii), appoints the Senator from Hawaii [Mr. INOUYE] to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

The Chair, on behalf of the President pro tempore, in accordance with Public Law 99–498, section 1505(a)(1)(B)(ii), appoints the Senator from New Mexico [Mr. DOMENICI] to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

MORNING BUSINESS

Mr. THOMPSON. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE HOUSE CONTRACT

Mr. PELL. Mr. President, 2 years ago, when President Clinton marked his 100th day in office, I said the occasion "should not be regarded as a magical threshold for defining achievement or failure."

The same thought applies now. This is a logical time to take stock, but the real measure of success can't be taken for many months—not until the rest of the democratic process, namely the Senate and the President, bring their perspectives to bear.

I give the new House leadership credit for lots of energy and activity in the flush of electoral victory, but this should not be mistaken for definitive accomplishment.

The fact is the Contract With America is a contract made by Republican candidates for the House of Representatives. It is not a contract made by the Senate and certainly not one made by Senate Democrats nor by the President of the United States.

Since the contract seems to be the product of pollsters and campaign consultants, it is not surprising that nearly everyone can agree with at least several of its objectives. But when we look at the fine print of some of them and when we get down to the hard job of deciding on the means for achieving those objectives, there are bound to be vast philosophical disagreements.

I certainly agree with the objectives of fiscal responsibility, welfare reform, continued action on crime control, job creation, fairness for senior citizens, and promotion of family values.

And I even agree with some of the means proposed, such as unfunded mandate reform and capital gains tax relief to create jobs, child support enforcement to advance family values and an increase in the Social Security earnings limit for the benefit of senior citizens.

But I find myself in profound disagreement with several of the major objectives as well as the means to implement them. These include:

The balanced budget amendment, which I opposed because it would have cut too much too soon.

The line-item veto, which I opposed because it yields too much congressional power to the President and because it is administratively unwieldly.

Term limitations.

Increased defense spending.

Reinstatement of the death penalty and cuts in spending on social programs, such as midnight basketball, to control crime.

Tax cuts without deficit reduction.

Welfare reforms without compassion.

Reduced support for the United Nations.

Any reduction in support for education or elimination of support for the arts and humanities.

So, Mr. President, it is far too early to tally up score cards on a contract made by one party in one House of the legislative branch. Many of us simply don't subscribe to substantial parts of it and don't believe that implementation of it in toto would be good for the country.

The streamroller needs to be slowed down and the contract needs to be pruned, modified, and in some cases excised. This is the role that the Senate is so admirably equipped to do. And only when it has done so will the revised elements of the contract be candidates for Presidential consideration. Then and only then, when the executive branch has concurred, can the final score be tallied.

As I said 2 years ago, the true measure of success should be taken over the extended timeframe of this whole process, without drawing hasty conclusions here and now; 100 days is only the first milestone of a long journey.

CONGRATULATING THE UCONN HUSKIES ON THEIR NCAA NATIONAL CHAMPIONSHIP VICTORY

Mr. DODD. Mr. President, on Sunday, April 2, the University of Connecticut Huskies made history by becoming the second women's basketball team ever to finish an NCAA season undefeated and win a national championship. The Huskies' dramatic 70–64 come-from-behind defeat of the Tennessee Volunteers brought their final season record to 35–0, the best finish by any team—men's or women's—in the history of NCAA basketball.

On behalf of the citizen's of Connecticut, I rise to congratulate and thank this remarkable group of young women.

Those who watched the game on Sunday afternoon may recall that as the Huskies celebrated their victory, the UConn pep band played Aretha Franklin's hit song, "Respect." Mr. President, there simply could not have been a more appropriate accompaniment for this long-awaited celebration. Perhaps as much as any sports team in recent memory, the UConn women's basketball team has generated the respect and admiration of all who have had the privilege of watching them play. In so doing, they have reminded the citizens of Connecticut, as well as people throughout the country, what college athletics is all about.

The Huskies' list of accomplishments on the court is nothing short of amazing. On their way to the NCAA title, they broke 14 NCAA records, including most victories, longest winning streak, most points, most points in a game and largest margin of victory. In addition, four Connecticut players—Rebecca Lobo, Jen Rizzotti, Kara Walters, and Jamelle Elliott—were named to the all-tournament team. That is the first time in history that four players from the same team have received this honor.

No less impressive than their basketball heroics are the Huskies' accomplishments off the court. Rebecca Lobo, winner of numerous individual basketball honors awarded by the NCAA and the Big East Conference this year, has maintained a near-perfect grade point average as a political science major and was a finalist for the prestigious Rhodes Scholarship. Last semester, seven of the 12 Husky players were named to the University's dean's list.

What has touched basketball fans throughout the country more than anything else, however, are those qualities exhibited by the Huskies that cannot be measured by grade point averages, records or point tallies. Anyone who saw the team play this year was struck by their tremendous enthusiasm for the game of basketball, their unwavering commitment to fair play and good sportsmanship and their obvious dedication to and respect for one another and their coaches.

In this era of season-ending strikes, multi-million dollar contract disputes, recruiting scandals and low athlete graduation rates, this group of women has reminded us that the term, "student-athlete", is not just a catch-phrase for college brochures. It is an attainable ideal to which all college athletes should aspire, and it is what makes collegiate athletics so special.

Mr. President, it is also important to recognize what this remarkable group of young women has done for women's college athletics. This year, on average, roughly 8,000 people attended the women's home games at Gampel Pavilion, which represents a 485 percent increase over the average crowd size during their 1991 Final Four season. Young girls, with their hair braided like Rebecca Lobo or wearing replicas of Jen Rizzotti's number 21 jersey, watched the team play on national television. Autograph seekers mobbed the players before and after games, and the players' mailboxes were literally flooded with letters from fans and well-wishers.

People of all ages in Connecticut and throughout the nation caught wind of "Husky-mania" and demonstrated that women's athletics could generate every bit as much enthusiasm and spectator support as men's. Nationwide, total attendance for women's college basketball games has skyrocketed from 1.3 million in 1984 to 3.6 million in 1995.

As we look back on this spectacular season of women's college basketball, it is important that we note just how far collegiate athletic programs for women have come. Once little more than small, poorly-funded intramural organizations, women's collegiate athletic teams have begun to enjoy the same status as the men's teams. This is due in part to Title IX of the Equal Education Amendment Act, the 1972 legislation that guarantees women equal opportunity in all scholastic pursuits—including sports—at schools that receive federal funding.

Although disparities and inequities between men's and women's programs persist, it is clear that this law has forced colleges and universities to reexamine how they allocate resources. The law has helped ensure that scholarship money is available for women like Rebecca Lobo, Pam Webber, Kara Wolters or Jamelle Elliott and that the coaching and facilities provided to female athletes allow them to develop their talents to the fullest.

While it is true that we may look upon the Huskies' success as positive evidence of Title IX at work, it is also true that their accomplishments underscore the need for further progress in this area. Not all schools have made efforts to improve their women's athletic programs, and many of those that have made significant progress have yet to fully comply with Title IX.

What is clear, however, is that the American people, as evidenced by the immense popularity of the UConn women's basketball team, are ready and willing to lend their enthusiastic support to women's collegiate athletics.

Mr. President, when the Huskies traveled to Washington earlier this year, they waited in line outside a White House gate only to be told that a scheduling mistake made it impossible for them to get inside. On Sunday, after having won the national championship, Head Coach Geno Auriemma spoke with President Clinton on the phone and pointed out that perhaps the next time his team traveled to Washington, his players could enter the White House through the front door.

The President has honored his request.

Mr. President, when the Huskies walk through the front door of the White House, they will not only experience a great honor, but will also help ensure that the door remains open for future generations of female athletes.

In closing, Mr. President, I want to mention the names of all the UConn players and coaches who contributed to the 1995 undefeated title campaign: Geno Auriemma (Head Coach), Chris Dailey (Assistant Coach), Tonya Cardoza (Assistant Coach), Meghan Pattyson (Assistant Coach), Carla Berube, Kim Better, Jamelle Elliott, Jill Gelfenbien, Kelley Hunt, Rebecca Lobo, Brenda Marquis, Jen Rizzotti, Missy Rose, Nykesha Sales, Pam Webber and Kara Wolters.

I also ask unanimous consent to have printed in the RECORD an article by Owen Canfield that recently appeared in the Hartford Courant, as well as a 1992 editorial by Greg Garber, Lori Riley and Woody Anderson that was also printed in the Hartford Courant.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Hartford Courant, Apr. 3, 1995]

THE BEST: IT'S PURE AND SIMPLE

(By Owen Canfield)

MINNEAPOLIS—Glory. Really. What a brave bunch, this UConn women's basketball team, and a fighting bunch.

The NCAA Division I women's college basketball championship flag will fly over the state university in Storrs. They should haul it down and have it dry-cleaned every day just to preserve the purity of the memorable season that ended with a surging, 70–64 victory over Tennessee at the Target Center.

The Huskies wound up 35–0. That's pure.

Hey, Connecticut, let's have a parade. Bet you already have started planning back there? Wait for us, we who traveled here to watch. We'll be home today.

UConn won all the easy ones this year, and then it won the toughest game imaginable, under the most trying, challenging conditions.

This was the time for it. Put it down as one of the more dramatic and gutty performances in the state's sports history.

"No way they can do it now," a pessimist said after Rebecca Lobo picked up her third personal foul and had to go to the bench to sit out more than 11 minutes of the first half. Then it was Jen Rizzotti, then Nykesha Sales with three personals. And Kara Wolters with two before the half ended. UConn had to alter its game and its personnel. Emboldened, the Volunteers went up by one, by three, by five, by six.

"No way," Joe Pessimist said. "It's over."

It wasn't over. It hadn't even started, friends. But you know that. You saw it, right?

Say it slowly and savor it: Connecticut is the national champion in women's basketball.

"More wins [35]," said Nykesha Sales, the 18-year-old freshman who scored 10 points, "than I won in my whole [Bloomfield] high school career. Gosh. A perfect season."

Yes sir. A perfect season. The last word.

Players on both teams cried at the end. It always happens. There are winners' tears and losers' tears. But these winners' tears were different because . . . well, can you picture Jamelle Elliott crying over anything? She is the toughest person on the team, maybe the toughest in all of women's basketball while the game is in progress. But when this game ended, while Rebecca Lobo ran in a wide semicircle with her hand in the air and the ultimate triumph on her lips, Elliott stood flatfooted in one spot on the court and did a little public bawling.

Well, this was the time for it. There were no more games to win, no more criticism to answer and no more people to fling doubts.

Win one like this and the job is finished. Time now to be human and celebrate not only with cheers and hugs and high-fives, but celebrate within yourself. That's what Elliott was doing, having a happy, moving little private party inside. Expressing love for her teammates is what she was doing.

She was celebrating the perfect season the perfect way.

The losers' tears were not bitter ones, though this was a bitter loss for Tennessee because, as Carla Berube said, "We gave them everything they could have wanted. Maybe we wanted it more."

Berube, the wiry reserve who, like Sales, simply had to make the plays this day because at times there was no one else, wore a cap that said "National Champions" in bold blue across the front. She sat in a chair in the locker room, cool as ice, but her eyes were dancing.

"You are not as big as those Tennessee kids," a man said. "Tiffani Johnson, Vonda Ward, Abby Conklin, Dana Johnson . . . they're a lot bigger. And they're athletes. But you got some rebounds [three] and you played some defense. You were tough."

"I'd better be tough," Berube said. "I practice against Rebecca Lobo and Jamelle Elliott every day. I'd better be."

Referee Dee Kantner is said to be one of the best in the business, but it appeared to Connecticut people she was calling them a little too close. UConn does not have the depth of Tennessee, and coach Geno Auriemma had to improvise as never before after Lobo, Wolters and Rizzotti all got in first-half foul trouble. At time all three were on the bench, which meant that the responsibility fell to Berube, the soph, and Sales, the frosh.

Did you say tough?

"I think I got rid of my nervousness in the last game," Sales said. She didn't have to mention it. She did amazing things with the ball, made some astonishing championship moves to the hoop, and played 33 minutes because the team needed her.

"Today I started off well and that's always good," Sales said. "Coach hasn't said anything to me [after a weak showing against Stanford]. He never puts the pressure on me."

There was pressure enough in this game to buckle an old colonel going under fire for the thousandth time. But these UConn women didn't budge.

So, you go ahead and arrange the parade. The whole state will come. And let's have Rebecca ride in the lead limousine and be governor for a day. She's a straight-A political science major, you know.

But wait for us, will you?

Glory, what a story.

[From the Hartford Courant, May 24, 1992]

Women's Progress in College Athletics

(By Greg Garber, Lori Riley and Woody Anderson)

When Jaymie Hyde arrived at the University of New Hampshire four years ago, she looked past the cracked public tennis courts, the 15-year-old uniforms that didn't fit, and the lack of scholarships. She was just happy to play tennis.

Then, last July, New Hampshire took that away, too.

After the shock of the program's elimination wore off, Hyde did something about it. Like so many young female athletes, Hyde, 21 of Essex, had never heard of Title IX of the Equal Education Amendment Act, the law that gave women equal opportunity in all scholastic pursuits, including sports, at schools that receive federal funds.

She learned quickly.

Led by Hyde and her mother, the 11 women's tennis team members hired Washington attorney Arthur Bryant and threatened to sue the Durham University. After all, the school's budget cuts didn't affect the men's tennis team.

The university capitulated. The two parties reached an out-of-court settlement March 12. New Hampshire reinstated the team and agreed to implement a five-year plan to upgrade its women's athletic program.

"I hope from this whole thing that everybody else realizes that you don't have to sit around and let it happen," Hyde said. "We didn't know about Title IX, which is kind of funny. I sort of felt stupid."

Title IX marks its 20th anniversary next month. With regard to sports, the law insists that the ratio of male and female athletes be proportional to that of the student body.

Though some progress has been made, women in college athletics are still struggling for equality nationally and in Connecticut. And with many colleges now hard-pressed economically, women's programs seem unlikely to expand in the '90s.

"In the '70s and '80s, women's athletics expanded and left us with extravagant expectations," said Judith A. Davidson, athletic director at Central Connecticut State University in New Britain. "Now we're in retrenchment."

And yet, women are curiously quiet. Although men outnumber women in collegiate athletics by about 2-to-1 in Connecticut, the federal agency responsible for enforcing Title IX has received no complaints about the state's schools in the last two years. Nationally, in two years, the agency has received only 20 college complaints.

Many in college athletics do not understand their rights. And many are not as willing as Jaymie Hyde to fight for them. Some fear reprisals from those in charge.

Nationally, women collegiate athletes are also outnumbered 2-to-1. Some say that is not because of a lack of opportunity, but a lack of interest.

"I think every male and female athlete on campus should have the same opportunities," said Carolyn Vanacore, a former physical education department chairwoman and professor emeritus at Southern Connecticut State University in New Haven. "But there do not appear to be as many women interested in sports as men."

Others argue that lack of women doesn't necessarily mean lack of interest.

"For years, athletic departments have contended that women just don't want to play sports in the numbers that men do," said Lyn St. James, the president of the New York-based Women's Sports Foundation, a non-profit organization dedicated to promoting and enhancing sports for girls and women.

"They say, because of football, there will be more men playing sports than women. Perhaps there may always be a few more male athletes than females, but the kind of disparity that we now see—a 70–30 ratio in Division I schools—is due to a denial of opportunities rather than a lack of interest."

What happened at Washington State University supports the point. After the school was found in violation of Title IX, it added women's soccer and crew teams. As a result, the percentage of women athletes increased from 29 to 44.

"If the opportunities are there," St. James says, "women will play."

In compliance or not? Title IX is so complex and unwieldy—there are 14 major criteria to judge whether a school is in compliance—that it took 16 years of debate and lawsuits to define the law so it could be enforced. The Office of Civil Rights (OCR) is responsible for enforcing Title IX, and there is sharp disagreement over whether it has done its job.

"We had a chance to move into a period of permanent equity," said Jeff Orleans, who helped write Title IX as a lawyer in the Civil Rights Division of the U.S. General Counsel's Office. "But there was no federal leadership for the colleges. It was disappointing that there wasn't [OCR] enforcement."

Most of Connecticut's colleges and universities say they think they are in compliance with the law, but no one is sure.

At the state's 18 four-year colleges, male athletes outnumber female athletes almost two to one, 3,975 to 2,089. Yet full-time female undergradutes outnumber males by almost 2,500.

At only two Connecticut schools—the University of Bridgeport and the U.S. Coast Guard Academy in New London—is the number of women athletes in proportion to the number of students.

In the state's worst case, female students outnumber males at Sacred Heart University in Fairfield. Yet, its 40 female athletes are outnumbered by male athletes by more than 5-to-1.

Double standards? Clearly, there are disparities large and small.

At the University of Connecticut, male athletes always have been given jockstraps as a matter of courses. Not until 1990 were female athletes given sports bras. At most other Connecticut schools, men are given jockstraps, but women buy their own athletic bras.

At Quinnipiac College in Hamden, the men's basketball coach is a full-time employee; the women's basketball coach is part time. It is the same with the track program at Central Connecticut State University.

At Yale University's ancient Payne Whitney Gymnasium, women athletes still walk into women's bathrooms and see urinals, leftovers from Yale's pre-coed days.

This year at Central, the football and men's basketball teams traveled to games in buses with hired drivers, while coaches drove all other sports teams in vans.

These slights hint at larger imbalances.

A recent National Collegiate Athletic Association (NCAA) study shows that:

The average Division I school spends $849,000 on scholarships for male athletes and only $373,000 for women.

Division I schools spend nearly five times more recruiting male athletes than women athletes. Much of the spending is for recruiters' and recruits' travel.

Division I schools spent nearly 3½ times more on men's sports than on women's.

Closing the gap? "Gender equity: It's the hot topic of the 90s," UConn athletic director Lew Perkins said. "Everybody's just beginning to talk about it. I'll be honest, like many schools we don't fully understand it. That's why we're studying it. We need to find out where we are."

Even armed with the thick title IX manual and a battery of lawyers, schools have found that is not easy.

For example, if numbers are awry, but a university determines by studies and surveys that there is no interest in a particular sport on campus, then the school may still be in compliance.

About seven years ago, a women's softball club was formed at Connecticut College. Last spring, the 30-member club petitioned for varsity status. The proposal was approved by the student advisory board but was turned down by the administration. Athletic director Charles Luce said lack of space on campus for a softball field was the main reason. The club pays to play at a public field in Groton.

Luce, who is retiring this summer, said the school does not discriminate against women athletes. There are more women's teams (12) than men's (11), but 18 fewer women athletes than men, and 240 more women students than men overall.

Does this put Connecticut College out of compliance with Title IX? Luce, who wasn't sure what the participation numbers were, doesn't think so. "We try to bend over backward to make sure we don't" discriminate.

Under Title IX, lack of facilities or money are not acceptable reasons for not adding a women's sport when there is interest and women are underrepresented.

Kathryn Reith, director of communications and advocacy at the Women's Sports Foundation, said the school's decision on softball "could be a violation." Reith recently produced a Title IX guide, "Playing Fair," for high school and college sports. "They have more than enough players, a demonstrated interest. The school should add the team."

Terry Perreault, a junior softball captain, didn't understand how Title IX could help her club become a varsity sport. Her coach, Deana Kiefer, doesn't want to challenge Connecticut College's administration.

"I think if we keep petitioning, we'll get it sooner or later," Kiefer said. "I'm not going to go sue for it; what are my chances of being the varsity coach if I did?" What is compliance? There are other factors by which compliance is measured, including the amount and quality of equipment, locker rooms, practice facilities and playing fields.

When assessing compliance, an overall comparison must be made between men's and women's programs. For example, if an assistant coach is provided for the men's basketball team and not the women's, a school could still be in compliance if another men's team did not have an assistant coach.

At the team level, comparisons of similar sports, such as baseball and softball, are also valid, even if the program is balanced overall. So, if the baseball team travels by airplane and the softball team uses a van, that could be a violation, depending on the distance traveled.

When University of New Hampshire administrators eliminated women's tennis, they believed they were still in compliance because they also cut men's wrestling. But when the tennis team threatened to sue, the OCR informed the school that they were out of compliance. Since women were already underrepresented in athletics, cutting one sport for each sex maintained the disparity.

At Yale, 36.3 percent of all athletes are women, based on the team rosters, while 44.2 percent of Yale's undergraduates are women.

Yet Barbara Chesler, Yale's associate athletic director, said her sports program would have been in compliance even if women's ice hockey had been cut, as was rumored last spring.

Members of the ice hockey team's alumni association and parent support groups contemplated suing the university if their team was eliminated. After consulting with the OCR, Yale cut men's water polo and wrestling instead.

College administrators often say, "If you don't count football, we're fairly equitable." Before Title IX took effect, the NCAA unsuccessfully tried to exclude football from the legislation.

Title IX makes no distinction between revenue-producing sports, such as basketball and football, and non-revenue sports such as cross country and swimming.

But if football is removed, more men than women still participate in sports at most schools. The University of New Haven, for example has 147 male athletes and only 46 female athletes even when the football team isn't counted.

That means men athletes would outnumber women athletes by 3-to-1 although they outnumber women only 2-to-1 in the student body.

"If we're out of whack there, we're out of whack in the other areas," said Debbie Chin, New Haven's associate athletic director. "I take the blame for this."

Glass ceiling drops while women are underrepresented as athletes, the situation with coaches and athletic program administrators is worse. While about one of every three college athletes is a woman, less than one of every four college coaches is a woman. And only one of every 17 athletic directors is a woman.

Title IX does not say anything about the hiring of women coaches or administrators; ironically, it has led to a decrease in the number of women in coaching. Only 65 of 139 women's teams in the state are coached by women. Nearly all women's teams were coached by women before Title IX. But when the visibility and pay increased, so did men's interest in applying for the jobs.

Fifteen of the state's 18 schools have male athletic directors. Nationally, there are only 57 women directors among the 860 coed college athletic departments.

"The glass ceiling in the gymnasium appears to be even lower than in the nation's business office," said Brooklyn College physical education professor Vivian Acosta, a leading authority on women in sports. "In athletics, it appears that women are being carved out of the work force."

Six years ago, UConn associate athletic director Pat Meiser-McKnett found herself discussing the vacant athletic director's job at Virginia Commonwealth University in Richmond with the school's president at the NCAA convention. The conversation took place in a hotel lobby and lasted less than 30 minutes. Meiser-McKnett submitted a three-page letter to VCU, but was not formally interviewed.

Months later, Meiser-McKnett was stunned to read in The Courant that she was one of three finalists for the job.

"I was furious," Meiser-McKnett said. "It was so absurd. They were suing me to fill the slot—I was the token female."

VCU officials say they did not release Meiser-McKnett's name as a finalist. However, John Packett, a reporter at the Richmond Times-Dispatch, says he got his information from a university source.

It was, Meiser-McKnett says, the Old-Boy network at work. According to a 1988 Brooklyn College study by Acosta and fellow professor Linda Jean Carpenter, the Old-Boy network—made up of males in power who aren't willing to recognize women as equals—is the main reason women don't get hired by athletic departments. As a rule, men have been in power longer and there are vastly more of them.

"Who do they look [to hire]?" said Linda Wooster, director of women's athletics at Quinnipiac. "People not posing a threat, people they're comfortable with. It's frustrating sometimes."

In the Ivy League, all eight athletic directors are men. Meanwhile, 13 of the 28 associate athletic directors are women. Recently, Columbia University in New York had the chance to break up the male monopoly.

"I was approached last year by a search firm about the AD's job at Columbia," said Davidson, Central's athletic director. "The four finalists were two women [including Davidson] and two minority men. And then, they decided to reopen the search.

"They hired a white male who fits the traditional image of an AD. You can't tell me of those four people there wasn't one qualified. I just don't think the Ivy League is ready for a woman AD."

Fred Knubel, director of public information at Columbia, said "Davidson's inference is incorrect.

"The search for an athletic director was continuous until a consensus was reached," he said, reading from a statement. "Special efforts were made to seek out minorities and women. Along the way, a number of strong candidates withdrew, including one woman who did so for personal reasons at the last moment."

Often, there is a smaller pool of qualified female applicants than male for each open position. There is also a feeling among some women in athletic administration that women are less willing to work through the low-paying low-status coaching and administrative positions.

"Men, for whatever reasons, are more willing to take those entry-level jobs," Davidson said. "They will do anything they have to to succeed. I think part of it has to do with the opportunities that are opening up for women. There are more women lawyers, doctors. It leaves the women's athletic pool smaller."

UConn women's basketball coach Geno Auriemma bristles when people say men are intruding on the women's game.

"People see me in this big beautiful office inside Gampel Pavilion and say, 'How does he get that?' This is my 17th year of coaching. Those five years I coached high schools, I spent working three jobs trying to do that."

The early years as difficult as things seem for women in athletics today, it used to be worse.

In 1979, a patch of grass between two dormitories passed for the varsity softball field at Eastern Connecticut State University in Willimantic. When coach Clyde Washburne hit balls in practice, he had to compete with errant Frisbees and footballs.

Meanwhile, the baseball team enjoyed a state-of-the-art facility. The baseball coach was athletic director Bill Holowaty. "I told the athletic director, I told the president, that it wasn't fair to my players safety-wise or to me as a teacher," Washburn said. "By the time practice began, you were angry. It was hard to not take it out on the players."

Washburne, who would win four national Division III softball titles before retiring in 1988, took it out on Eastern Connecticut instead—by way of the Boston OCR. After the OCR descended on Eastern and tied up the athletic director's and president's office for several weeks with paperwork, the money for a new fenced-in field and dugouts suddenly appeared.

Said Holowaty: "When softball saw what we [baseball] had, they had to have it, too. I said to Clyde, 'Fine. I agree with you.' But people forgot how many years it took us to get our field, and we did it with private money. It took us 11 years to get lights. You don't do it overnight and you don't tear down a successful program to build something else. They got a softball field a lot quicker than we got our field."

After they framed the dugout roofs, Washburne told the OCR he was satisfied and its investigators returned to Boston.

But when the complex was built, the softball players would look up through the skeleton of the dugout frame at the dark sky and say, "Isn't this a great place to get in out of the rain?" It was two years before roofs were added.

At some colleges, the scramble to accommodate women led to controversy.

Fred Barakat, the former Fairfield University men's basketball coach, was furious to discover one day, in the mid-1970s, that his office was literally cut in half to make room for the women's basketball coach.

"There was no warning. I was shocked by it," said Barakat, now the assistant commissioner of the Atlantic Coast Conference.

"I was on the brink of something good. I wanted to show recruits what other Division I programs were showing recruits, like a nice office. None of us were ready for it. Coaches didn't understand it."

Now, Barakat says of equal opportunity for women: "It's here to stay and we'd better dance with it."

In 1975, UConn offered 12 sports for men, eight for women. Women's soccer, a fledgling sport nationwide, was not one of them.

Felice Duffy grew up in Storrs as part of a large soccer-playing family. When she went to UConn and found no team, she lobbied for one. She said the administration told her and the 78 members of her women's soccer club they would have to wait eight years for a varsity program.

Duffy didn't have eight years.

Realizing athletic opportunities for men outnumbered those for women at the school, she contacted lawyers and then-U.S. Rep. Christopher Dodd, D-Conn., and finally filed a Title IX complaint. After a year of club status and a year of "trial varsity" status, Duffy got her varsity team and became an All-American.

Duffy now coaches the Yale women's soccer team, which loses to UConn's nationally ranked program every year.

In the early 70s, most women were simply content to play sports for the first time. Whatever accompanied that new-found privilege—scholarships, practice uniforms, new equipment—was more than most expected. At Trinity, for instance, coach Robin Sheppard's field hockey team happily accepted castoff football jerseys as their first uniforms in 1974.

Originally, colleges and secondary schools were given six years, until 1978, to comply with the 1972 law, but progress was slow. Then, Title IX lost most of its punch in 1984, when the Supreme Court ruled that the law's protection extended only to programs directly receiving federal funding, not to the institution as a whole.

It wasn't until 1988 that the Civil Rights Restoration Act, spearheaded by then-U.S. Sen. Lowell P. Weicker Jr., R-Conn., and fellow Sen. Edward Kennedy, D-Mass., put the teeth back into Title IX.

An awakening Before this year, school officials would get their hands slapped for discriminating against women.

But this past February, the Supreme Court sent a strong message to schools who practice discrimination. For the first time, the justices agreed to permit a plaintiff to recover monetary damages in a Title IX case. A young woman from Georgia said she was forced into a sexual relationship by a male athletic coach and economics teacher while she was a high school student. A lower court had refused to allow her to seek damages.

Many believe this decision will encourage more women to file Title IX complaints.

"Now," said Donna Lopiano, executive director of the Women's Sports Foundation and a Southern Connecticut graduate, "all the major civil rights issues are at the beginning of a new cycle. People are trying again to get homosexual, racism, sexism issues on the table. I see that as a national trend."

To upgrade the women's program at Temple University in Philadelphia, athletes pursued a Title IX lawsuit through the courts for almost a decade. Female basketball players at the College of William & Mary in Williamsburg, Va., and the University of Oklahoma in Norman threatened lawsuits to keep their teams from being cut.

Like New Hampshire's Hyde, they took matters into their own hands. Still, women like Hyde remain in the minority.

"I had one athlete say the other night, 'Title 19, or whatever . . .' It makes me sad," said Quinnipiac's Wooster. "Kids in this day and age expect these opportunities."

TRIBUTE TO COLLEGE BASKETBALL STAR, REBECCA LOBO

Mr. DODD. Mr. President, I rise to pay tribute to Rebecca Lobo, who this year led the University of Connecticut women's basketball team to an undefeated season and a national championship. I have already spoken at length about the team's accomplishments—its 35 to 0 perfect record and its dramatic come-from-behind national championship victory. I want to take this opportunity, however, to focus on Rebecca Lobo, whose tremendous athletic skill and personal character have captured the imagination of people throughout the Nation.

Mr. President, contemporary writers, pundits, and philosophers have long bemoaned the absence of leadership figures worthy of our emulation and adoration. Young Americans are frustrated by athletic heroes who fail to lead exemplary lives off the playing field, politicians who seem focused solely on their re-election prospects or movie stars whose real-life personas pale in comparison to those of the characters they portray on screen. In Rebecca Lobo, however, America has found a role model that not only meets our expectations, but exceeds them.

Ms. Lobo's accomplishments on the basketball court are well known. On her way to leading the Huskies to an undefeated season and national championship, Lobo averaged 17 points, 10 rebounds, 3.5 blocked shots and 3.7 assists per game. She was named a first team All-American and the national player of the year, and, despite having to sit out much of the first half with three fouls, sparked the dramatic second half come-from-behind victory over Tennessee in the NCAA championship game.

Her accomplishments in the classroom are equally impressive. As a political science major, Ms. Lobo has maintained a 3.63-grade point average and was a nominee for the prestigious Rhodes scholarship. She was also named a first team Academic All-American both this season and last.

Yet what sets this talented young athlete apart is not just her athletic or academic accomplishments, but her care for and commitment to her teammates and her fans.

As Connecticut head coach, Geno Auriemma is quick to point out, Rebecca's greatest weakness as a player is that she is too unselfish and too unwilling to grab the spotlight. Foremost in her mind is her connection and responsibility to her team, a trait which is shared by all her fellow Huskies and which is undoubtedly the source of their great success.

Mr. President, beyond Rebecca Lobo's athletic and academic accomplishments lies her ability and willingness to reach out to her numerous fans and admirers. Along with her teammates, Rebecca made it a point to chat with fans and sign autographs for an hour after each game. Despite being overwhelmed by letters, she has devoted hours of her time to personally answering each and every piece of correspondence she has received, and she has been a regular at summer basketball camps and clinics, where she has patiently worked with aspiring basketball stars of all ages.

Mr. President, Rebecca Lobo has reminded people of what being an athlete, a student, and a human being is all about. She has struck a balance and a harmony between her goals and those of the people around her. In this day and age, when millionaire athletes defiantly proclaim on television commercials that they are not role models, Rebecca Lobo reminds us that being a role model is not a blight but a privilege. It is a privilege for her to be afforded the opportunity to showcase her array of talents, and it is a privilege for us watch her and urge others to follow her lead.

In closing, Mr. President, I ask unanimous consent that an article written by Ira Berkow that was printed in the New York Times be printed in the RECORD.

[From the New York Times, Mar. 3, 1995]

UCONN CAN COUNT ON LOBO

(By Ira Berkow)

MINNEAPOLIS.—Rebecca Lobo's parents hadn't spoken with her before the game, the game yesterday afternoon that would decide the N.C.A.A. women's national basketball championship between Connecticut and Tennessee.

"We rarely do talk with her beforehand," said her mother RuthAnn, in section 129 of the Target Center arena. "But we can guess how she's feeling: anxious."

A couple of hours later, with 28.9 seconds left in the game, RuthAnn and her husband, Dennis, were the obviously anxious ones, as they leaned forward in their seats. Becca, as they call her, was stepping to the free-throw line. It was perhaps the single most important moment in their daughter's brilliant athletic career—no, her brilliant college career.

After all, Rebecca Lobo, the 6-foot-4-inch senior forward with the French braid and the determined demeanor, the player who sparked a 70–64 victory in the championship game to complete an undefeated season, is Connecticut's basketball version of Frank Merriwell, Eleanor Roosevelt and Larry Bird all rolled into one. For the last two seasons, she has been first-team all-American. In her spare time, the political science major has been a candidate for a Rhodes scholarship.

She epitomizes the women's game, because for the most part the women are truly scholar-athletes, not just jocks majoring in eligibility with dreams only of slam-dunk highlights in the pros.

And she is part of a game that is substantially different from the men's game, one in which egos seem to meld into the concept of the team, and which makes the game so satisfying for a basketball fan.

And this moment on the free-throw line was what one dreams about, or sweats over. Lobo's Huskies were up by 3 points, 65–62. She has a one-and-one: if she makes the first she gets a second.

If she misses either, Tennessee is still in the game.

Now, Lobo bounces the ball and looks up at the rim.

It had been a long, long day for Lobo, a day in which she quickly picked up three fouls and played just eight of the 20 minutes in the first half, scoring just 3 points.

And when undefeated Connecticut went into the locker room at halftime, the team was losing by 38–32. It was only the second time this season that UConn was behind at the half, the first being last week in the East regional final, when it came back from a 7-point deficit to beat Virginia.

Could the Huskies do it again?

Lobo returned to the lineup for the start of the second half, though she still seemed away from the action, affected by her fouls. But her teammates were keeping the team in the game: Jen Rizzotti, the guard who was aptly described as being all ponytail and knee guards, stole a pass, hit a drive; Jamelle Elliott, the junior from Washington's inner city whom Coach Geno Auriemma calls their rock, battled for rebounds and banked in a shot, and Nykesha Sales, the smooth but sometimes nervous freshman, hit a key 3-pointer.

Then Lobo struck, again and again: she hit a spin shot, threw in a drive, sank a jumper from the left side, and then another from the right side, and Connecticut was back in the ball game, 3 points off the lead, with seven minutes to go.

"When the game is on the line," said Pat Summitt, the Tennessee coach, "you naturally go to your all-American."

One recalled the time last year when Rebecca learned that her mother had breast cancer, and she broke down in tears. Her mother said, "You do what you have to do, and I'll take care of my end."

RuthAnn's cancer is in remission, and she never misses a game, because Becca says she always wants her there.

And so it seemed not unusual for Rebecca to be taking responsibility, on or off the court. RuthAnn remembers a significant moment, when Rebecca was 6 years old, and had taken an eraser from the home of Mrs. Lukasik, a neighbor in Southwick, Mass.

"I told Rebecca that the eraser wasn't hers, and she had to return it," RuthAnn said. "And I watched as she walked, sobbing, to Mrs. Lukasik's house. It broke my heart to see it, but I think it helped her understand right from wrong. And to think about other people."

If there was one criticism Coach Auriemma had of Lobo, it is that she has sometimes thought too much about other people. He had wished her at times to be more selfish, to shoot more. But the blend was there in this game.

And now on the free-throw line she had a chance to ice the proceedings. Lobo made her first free throw and with that her teammates on the floor mobbed her. RuthAnn, in section 129 and seated beside Dennis, clasped her hands in anticipation of the second free throw.

Rebecca bent, perched the ball near her ear, and let it go. It sailed right through the hoop, giving Connecticut the lead, at 67-62, that they would not relinquish.

Shortly after the victory, it was announced that Lobo had been named the outstanding player in the Final Four.

It was a hugely satisfying comeback for the Huskies, for a couple sitting in section 129 and for Becca Lobo. The fans cheered, the band blasted, and the team zealously cut down the nets.

As for Mrs. Lukasik, one imagines that she still has her eraser and the memory of a little girl who grew up to become a national champion.

IN RECOGNITION OF THE ONE-HUNDREDTH BIRTHDAY OF FREDERICK BENSON OF BLOCK ISLAND, RI

Mr. CHAFEE. Mr. President, it is my honor and privilege to pay tribute to Mr. Frederick Benson of Block Island, RI, in recognition of his one-hundredth birthday on April 14, 1995.

In the 92 years Fred has lived on Block Island, since arriving as an orphan in 1903, he has immersed himself in almost every level of community activity on this small, close-knit island. His impressive list of efforts on behalf of the community include service as the island civil defense director for 12 years, police commissioner, first captain of the local rescue squad, and president of the Chamber of Commerce five times. In recognition of his selfless devotion he was chosen as Block Island's Man of the Year by the Chamber of Commerce in 1972.

But it is the children of this picturesque wind-swept island, 11 miles off the Rhode Island coast, that have benefited the most from Fred's unbounded generosity. After winning the lottery in 1976, Fred announced the money would go into a scholarship fund for worthy Block Island students. Since 1977, scores of Block Island High School graduates have been awarded Fred Benson scholarships.

Many Block Islanders have fond memories of Fred from their school days. Beginning as the island's high school baseball coach, Fred went on to teach auto shop, carpentry, machine repair, and driver instruction until he retired at the age of 69. His contributions to the youth of Block Island have extended to many generations, and the island is richer for it.

I commend Mr. Benson for his years of selfless community service and wish all the best to him and his many island friends. Mr. Benson is a truly remarkable man and a distinguished educator. I am proud to honor him on this joyous occasion.

TRIBUTE TO MARTHA HANSON KILPATRICK

Mr. HEFLIN. Mr. President, I rise today to pay tribute to one of the best teachers I ever had, Martha Kilpatrick. She taught me at Colbert County High School and has kept in touch over the years by attending my town meetings in Reform, AL, her hometown, and by sending me letters and news clippings from time to time. She is a dear friend to me, and I know she had a great deal to do with guiding me at an early age and pointing me in the right direction. Her wisdom, advice, and encouragement were helpful to me not only as a student long ago, but also throughout the several stages of my career.

It might surprise my colleagues to learn that I still have former teachers who are alive and well, but Martha is indeed among them. On April 25, she will turn 80, and Reform is planning a gala celebration of this milestone in her life, to take place on the 22d at the Methodist Church there. She will be surrounded by many friends and family members, each of whom have been influenced by Martha in special and unique ways.

Martha Hanson was born in Columbus, MS, and as a baby moved with her family to Carrollton, AL, where she spent her formative years. Her family later moved to Reform, where she graduated high school. That same year, she entered Alabama College at Montevallo, now the University of Montevallo, where she majored in education. Her entire career was spent as a teacher in Alabama and Georgia. Her husband, Wilbur Kilpatrick, was born and raised in Reform, and although they lived in a variety of places during their married life, Reform was always home to them.

Martha continued her own education in Atlanta, earning her masters degree and teaching in that school system for many years. When their children, Kay and Joe, were grown, Martha and Wilbur retired and moved back to the quiet peace of their roots in Reform, where she remains today. She has three grandchildren and four great-grandchildren.

Her home is a virtual museum of the things she has collected over the years—bottles, stamps, salt and pepper shakers, antique Christmas ornaments, pictures, linens, glassware, and books. Her husband has passed away, and Martha lives alone in the large, comfortable museum of her life. She stays busy doing things for others, as she has always done.

One of Martha's great characteristics is making and keeping friends. She is perhaps her local post office's best private customer, keeping an active correspondence with friends and family all over the world, including myself. She never forgets birthdays, anniversaries, special holidays, and her cards saying "Get well soon" or "With deepest sympathy" are always the first to arrive when a crisis hits.

Martha Hanson Kilpatrick has been one of the true treasures of my life and the lives of many others. I am proud to commend her on an outstanding life, one that has been lived out in the best American tradition, her nurturing of young minds, and her sincere love for family and friends, whom she counts as her most valuable collection of all. As she turns 80 later this month, I trust those many family members and friends will reflect on the outstanding qualities this extraordinary lady has exhibited throughout her life. We can all learn from her.

ALABAMA BUSINESS CONNECTIONS 1995

Mr. HEFLIN. Mr. President, each year, the Alabama Minority Supplier Development Council holds a major event known as Alabama Business Connections. This year, it will be held in Birmingham June 27–29, when more than 5,000 individuals and businesses will be actively participating.

During Alabama Business Connections, suppliers and purchasing personnel from majority and government organizations network and exchange information in order to develop mutually-beneficial business opportunities. This important event also furthers the year-round efforts of the Alabama Minority Supplier Development Council. The council is dedicated to providing economic and educational opportunities for certified suppliers and corporate-government members.

I am proud to call the attention of my Senate colleagues to the vital work accomplished each year during Alabama Business Connections, and wish the Alabama Minority Supplier Development Council all the best for a successful event this summer. They are to be commended for their outstanding work toward the cause of furthering business opportunities for minority suppliers.

REINVENTING PUBLIC BROADCASTING

Mr. PRESSLER. Mr. President, another thoughtful voice has joined the debate in favor of reinventing public broadcasting. Jack Kemp has written an article, published in today's Wall Street Journal, making the case that public broadcasting can be reinvented and become self-funding. This would be a win-win proposition for taxpayers, for television and radio audiences, and for the public broadcasting industry.

Secretary Kemp's analysis is timely, because through the rescission bill Congress has an opportunity to begin an orderly and reasonable phasing out of Federal subsidies for public broadcasting. I support the approach of the House of Representatives, to begin phasing out the subsidies in a significant measure, now.

Secretary Kemp just this week has been named chairman of the new National Commission on Economic Growth and Tax Reform. This is by appointment of Majority Leader DOLE and Speaker GINGRICH. Secretary Kemp is superbly qualified for this position. I offer Secretary Kemp my hearty congratulations.

Mr. President, I ask unanimous consent to have printed in the RECORD Secretary Kemp's article, entitled "Privatizing PBS Doesn't Mean Killing Big Bird," from today's Wall Street Journal.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, April 5, 1995]

PRIVATIZING PBS DOESN'T MEAN KILLING BIG BIRD

(By Jack F. Kemp)

Politics doesn't have to be a zero-sum game, even when it comes to budget cutting—and especially when it comes to as contentious an issue as cutting the public television budget. I believe it's possible to find a compromise where both sides of this debate emerge winners and happy.

First, let's look at the impasse we seem to have reached in Congress. On the one hand, we have a new generation of Republicans who are absolutely serious when they talk about limiting the size, scope and power of the federal government. For these "neo-Federalists," it isn't enough that a program have some positive benefits or a committed political constituency (almost all programs do); there must be a compelling reason why the federal government, as opposed to state and local governments, or the private sector, is involved. As they have said, no domestic program, except Social Security, will be exempt from scrutiny.

Energizing the neo-federalists is a budget deficit that they have claimed they could get under control, when no one else could—and to a great extent, they realize that their political legitimacy rides on making good on their promise. The almost $300 million yearly subsidy to the Corporation for Public Broadcasting (CPB) will add up to almost a billion dollars over the next three years. That's not chicken feed, even for Big Bird.

On the other hand, there are large numbers of people inside and outside Congress who value public broadcasting. Leaving aside for a moment questions of political bias, they have for many years found on the PBS stations quality programming that is hard to find elsewhere. those with young children especially value what I would call the "trust factor," the fact that one can leave one's children watching PBS without having to constantly monitor the TV for fear that they will be exposed to the kind of mind-numbing violence so common on the other stations. For adults, the "MacNeil-Lehrer Newshour" provides a similar respite from "sound-bite" news programs.

What is the solution? It lies, as it so often does, in a growing, technologically expanding private sector—in a future that is bigger than the present, where one person doesn't have to lose for another to gain. Where both sides can be winners.

The following is a brief sketch of how the CPB can be privatized in such a way that it emerges stronger, healthier and in a better position to continue the kinds of quality programs that many admire it for.

It must first be stressed that "privatization" does not mean "extinction." Far from it. Look at Britain's experience: British Airways, British Telecom and British Petroleum are good examples. In our own country, Conrail has benefited from privatization. Privatization is the new rage in our nation's cities and towns because local governments have found that services are often delivered better when they are transferred back to the private sector.

The fact is, as many on the side of public broadcasting concede, the CPB, like most government-funded agencies, has its share of waste and redundancy. An analysis by the Twentieth Century Fund found that 75% of its budget went to overhead (including inflated executive salaries). The most expensive, and least necessary, expenses are the number of stations that carry its programming. ABC, the largest network, has 221 stations. NBC has 213. CBS and Fox have 208 and 201 stations, with sometimes as many as four or five signals serving essentially the same market.

As part of any privatization scheme, CPB should be asked to choose a core group of, say, 160 stations that would cover the entire country. All other stations would have the opportunity to "merge" into the core station that served their market. PBS could shift the licenses of the "non-core" stations to commercial usage and auction them off to the highest bidder. The proceeds would go to a National Programming Endowment that would be administered by PBS and used to make the network self-sustaining.

Pro-PBSers should realize that spectrum auctions are no small potatoes. Even with the current technology, PBS could garner some $2 billion from auctioning off its redundant stations. But the technology is changing, making each one of these station's signals potentially many times more valuable. Meanwhile, the market is getting more competitive as the newly created networks of United Paramount and Warner Bros. scramble to pick up affiliates—and that pushes value up, too.

A conservatively estimated endowment of $2 billion would eliminate PBS's need for federal subsidies. CPB—which currently administers government subsidies to PBS—would no longer need to exist, eliminating an expensive layer of bureaucracy. Certainly, PBS's cushy executive salaries would have to be trimmed to be more in line with the private sector, but each core station would receive increased membership contributions (from the redundant "non-core" stations that have been eliminated), as well as corporate and foundation grants. Meanwhile, PBS would, by dint of necessity, become entrepreneurial by developing and owning shows that it would sell around the world, as well as merchandising rights to its children's productions (an area of funding that officials admit they have not taken proper advantage of).

Will there be resistance to this plan? Yes, by those who distrust the private sector, no matter what. And by those politicians who like having a PBS station in their district that is required to carry local school board or city council meetings, giving incumbents a free platform. But for those who honestly want to cut the budget deficit, and for those who care about the future of PBS, this is a plan that makes everyone a winner.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES!

Mr. HELMS. Mr. President, the incredible Federal debt which long ago soared into the stratosphere is in about the same category as the weather—everybody talks about it but almost nobody had undertaken the responsibility of trying to do anything about it until immediately following the elections last November.

When the 104th Congress convened in January, the U.S. House of Representatives approved a balanced budget amendment. In the Senate all but one of the 54 Republicans supported the balanced budget amendment but only 13 Democrats supported it. Thus, the balanced budget amendment failed by just one vote—there will be another vote later this year or next year.

As of the close of business yesterday, Wednesday, April 5, the Federal debt stood—down to the penny—at exactly $4,878,158,190,719.92.

REED LARSON'S 40 YEARS: TIRELESS DEFENSE OF FREEDOM

Mr. HELMS. Mr. President, a little over 40 years ago—January 28, 1955—the Nation's pre-eminent defender of workers' freedom was founded in the basement of Washington's Mayflower Hotel.

It was named the National Right to Work Committee, and it was organized by a small group of railroad workers and small businessmen. The Right to Work Committee has grown into a proud home for freedom-loving Americans who believe that while workers may have the right to unionize, no American worker should ever be compelled to join, or even support, a labor union.

Mr. President, upon the founding of the committee, its first president, Congressman Fred A. Hartley, Jr., of New Jersey, declared, "[We] will not shrink because of attacks which may be made against us. We intend to do everything possible to educate the American people to the perils of compulsory unionism and to encourage them to resist it."

Three years later, in 1958, after piloting the successful fight for Kansas' right-to-work law, a dedicated American named Reed Larson left his job as an engineer in Kansas to lead the right-to-work movement in America.

At the time, the power of the Big Labor bosses was virtually unchecked. By 1965, the unions had rolled up what appeared to be a filibuster-proof majority in the U.S. Senate favoring legislation to obliterate the one obstacle in their path to total dominance of the American work force: State right-to-work laws.

Such legislation was Big Labor's No. 1 priority. The bosses were backed by President Lyndon Johnson and the congressional leadership.

But, Mr. President, Reed Larson and the committee's members refused to be intimidated by the power arrayed against them. With the help of legendary Senate Republican Leader Everett Dirksen and after a fierce 2-year struggle, the committee defeated the enemies of worker freedom.

The fight to preserve State right-to-work laws marked the coming of age of the National Right to Work Committee. From that moment on, the Big Labor bosses realized that someone was finally going to stand up to their ceaseless demand for power over the lives of American working men and women.

As further protection for working Americans, Larson in 1968 founded the National Right to Work Legal Defense Foundation to aid workers in legal confrontations with union-boss despots.

In the 27 years since, the foundation has been a leader in protecting the legal rights of workers and has won several significant Supreme Court cases—including the landmark 1988 Beck case which declared that forced union dues for politics was unconstitutional.

During the 1970's the committee battled attempts by Big Labor and its congressional allies to throw the net of compulsory unionism over the American construction industry with the common situs picketing scheme.

Big Labor steamrolled this legislation through both the House and Senate amid President Ford's Labor Secretary John Dunlop's assurances of Presidential approval.

Against all odds, Reed Larson launched what was at the time the largest grassroots mobilization in American history, flooding the White House with over 700,000 cards and letters of protest.

Despite the pleas of his own Labor Secretary—who resigned shortly afterwards—President Ford vetoed the bill.

When the common situs picketing bill returned in 1977, Larson rallied the same grassroots coalition he had so painstakingly assembled the year before and did battle with a seemingly stronger Big Labor political machine.

However, Mr. President, in one of the most stunning upsets in American political history, right-to-work forces emerged victorious in the House of Representatives by a slim 217 to 205 vote.

As Reed stated after the vote, "The history and death of the coercive piece of legislation should serve as a very important lesson to powerful union officials * * * seemingly limitless doses of money and muscle are no match for the will of the American people."

In 1978, Big Labor was razor close to enacting a so-called labor law reform bill which would have given union organizers tremendous powers to blackmail employers into granting forced-dues contracts.

Reed Larson mobilized the majority of Americans opposed to compulsory unionism through a massive mail, media, and lobbying campaign which generated over 4 million cards and letters to the Senate during the course of the fight.

Mr. President, after a marathon of six separate cloture votes in the Senate, the labor bosses gave up.

Throughout the 1980's, Larson and the Committee kept up their campaign to bring the benefits to workers freedom to more and more Americans. That campaign resulted in the successful 1986 referendum making Idaho the Nation's 21st right-to-work State.

But the decade of the 1990's opened with yet another big labor power grab.

This time it was the pushbutton strike bill, or the so-called anti-striker replacement bill. And once again, Reed and the committee cranked up their grassroots network of freedom-loving Americans to put the heat on Congress.

This bill would have handed union czars new strike powers so they could blackmail employers into signing contracts forcing their workers to pay union dues.

In response to Larson's letters and phone calls, the Senate was flooded with nearly 2 million cards, letters, faxes, and phone calls.

After 3 long years—and four more cloture votes—Larson and the committee emerged victorious once again.

Today, the National Right to Work Committee, 1.9 million members strong and growing, stands on the vanguard for worker freedom and has compiled an outstanding record of commitment to principle and effective action.

So, Mr. President, I proudly salute the members of the National Right to Work Committee—and especially my good friend, Reed Larson, upon his 35th anniversary as president of the committee for their unswerving dedication and tireless action on behalf of every American's birthright not to be forced to join a labor union to get or keep a job.

COMMERCE COMMITTEE ACTION ON S. 565, PRODUCT LIABILITY

Mr. PRESSLER. Mr. President, the Committee on Commerce, Science, and Transportation met in executive session this morning and voted 13-6 to report favorably S. 565, the Product Liability Fairness Act of 1995, with an amendment. The amendment, a Chairman's mark, is an amendment in the nature of a substitute for S. 565. However, it did not replace the bill's original content. Rather, it built upon the good work of Senators GORTON and ROCKEFELLER.

I want to have the amendment printed in the RECORD so that my colleagues have the opportunity to review the legislation over the recess period we are about to begin. I understand the leadership intends to take up S. 565 when we return from the recess and I want all Senators to have ample time to understand its provisions.

In addition to the original provisions contained in S. 565, the Chairman's mark incorporates the entirety of S. 303, the Biomaterials Access Assurance Act of 1995. Senators LIEBERMAN and MCCAIN introduced S. 303 on January 31, 1995 and the bill was referred to the Commerce Committee. I am proud to be a co-sponsor of S. 303. The biomaterials provisions are found in Title II of the chairman's mark.

The chairman's mark made two other notable changes to S. 565. Modifications were made to address the vicarious liability of rental car companies and of equipment lessors. Such entities would be treated as "product sellers" under the mark.

Another exception was added to the statute of repose for durable and capital goods used in the workplace. Now, when there is an express warranty in writing as to the safety of the product involved, and the warranty period is longer than the 20-year-statue of repose, a product liability action is timely for the duration of the warranty.

Mr. President, beyond these changes made by the chairman's mark, Senators will find S. 565 remains much as introduced several weeks ago. In other words, it remains very much a product liability reform bill. The committee did not act to expand the legislation beyond its jurisdiction—tort reform connected to injuries caused by products in the stream of commerce.

I ask unanimous consent that the chairman's mark to S. 565, which the

Commerce Committee voted to report this morning, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act of 1995".

TITLE I—PRODUCT LIABILITY

SEC. 101. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) CLAIMANT.—The term "claimant" means any person who brings a product liability action and any person on whose behalf such an action is brought. If an action is brought through or on behalf of—

(A) an estate, the term includes the decedent; or

(B) a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means an amount equal to the sum of—

(A) the amount paid to an employee as workers' compensation benefits; and

(B) the present value of all workers' compensation benefits to which the employee is or would be entitled at the time of the determination of the claimant's benefits, as determined by the appropriate workers' compensation authority for harm caused to an employee by a product.

(3) CLEAR AND CONVINCING EVIDENCE.—

(A) IN GENERAL.—Subject to subparagraph (A), the term "clear and convincing evidence" is that measure of degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

(B) DEGREE OF PROOF.—The degree of proof required to satisfy the standard of clear and convincing evidence shall be—

(i) greater than the degree of proof required to meet the standard of preponderance of the evidence; and

(ii) less than the degree of proof required to meet the standard of proof beyond a reasonable doubt.

(4) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage to a product itself, loss relating to a dispute over its value, or consequential pecuniary loss not including harm.

(5) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which has a normal life expectancy of 3 or more years or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(6) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including any medical expense loss, work loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent that recovery for the loss is permitted under applicable State law.

(7) HARM.—The term "harm" means any physical injury, illness, disease, or death, or damage to property, caused by a product. The term does not include commercial loss or loss or damage to a product itself.

(8) INSURER.—The term "insurer" means the employer of a claimant, if the employer is self-insured, or the workers' compensation insurer of an employer.

(9) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product), and who designs or formulates the product (or component part of the product), or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, constructs, designs, or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another person; or

(C) any product seller that is not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(10) NONECONOMIC LOSS.—The term "noneconomic loss"—

(A) means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; and

(B) does not include economic loss.

(11) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(12) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; and

(ii) electricity, water delivered by a utility, natural gas, or steam.

(13) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(14) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who—

(i) in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(15) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, or any political subdivision thereof.

(16) TIME OF DELIVERY.—The term "time of delivery" means the time when a product is delivered to the first purchaser or lessee of the product that was not involved in manufacturing or selling the product, or using the product as a component part of another product to be sold.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY.—

(1) ACTIONS COVERED.—Subject to paragraph (2), this title applies to any product liability action commenced on or after the date of enactment of this Act, without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

(2) ACTIONS EXCLUDED.—

(A) ACTIONS FOR DAMAGE TO PRODUCT OR COMMERCIAL LOSS.—A civil action brought for loss or damage to a product itself or for commercial loss, shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable commercial or contract law.

(B) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable State law.

(b) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes a State law only to the extent that State law applies to an issue covered under this title.

(2) ISSUES NOT COVERED UNDER THIS ACT.—Any issue that is not covered under this title, including any standard of liability applicable to a manufacturer, shall not be subject to this title, but shall be subject to applicable Federal or State law.

(c) STATUTORY CONSTRUCTION.—Nothing in this title may be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil

damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601(8)) or the threat of such contamination or pollution.

(d) Construction.—To promote uniformity of law in the various jurisdictions, this title shall be construed and applied after consideration of its legislative history.

(e) Effect of Court of Appeals Decisions.—Notwithstanding any other provision of law, any decision of a circuit court of appeals interpreting a provision of this title (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 103. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) In General.—

(1) Service of offer.—A claimant or a defendant in a product liability action that is subject to this title may, not later than 60 days after the service of the initial complaint of the claimant or the applicable deadline for a responsive pleading (whichever is later), serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(2) Written notice of acceptance or rejection.—Except as provided in paragraph (3), not later than 10 days after the service of an offer to proceed under paragraph (1), an offeree shall file a written notice of acceptance or rejection of the offer.

(3) Extension.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in paragraph (2), extend the period for filing a written notice under such paragraph for a period of not more than 60 days after the date of expiration of the period specified in paragraph (2). Discovery may be permitted during such period.

(b) Defendant's Penalty for Unreasonable Refusal.—

(1) In general.—The court shall assess reasonable attorney's fees (calculated in accordance with paragraph (2)) and costs against the offeree, incurred by the offeror during trial if—

(A) a defendant as an offeree refuses to proceed pursuant to the alternative dispute resolution procedure referred to in subsection (a)(1);

(B) final judgment is entered against the defendant for harm caused by the product that is the subject of the action; and

(C) the refusal by the defendant to proceed pursuant to such alternative dispute resolution was unreasonable or not made in good faith.

(2) Reasonable attorney's fees.—For purposes of this subsection, a reasonable attorney's fee shall be calculated on the basis of an hourly rate, which shall not exceed the hourly rate that is considered acceptable in the community in which the attorney practices law, taking into consideration the qualifications and experience of the attorney and the complexity of the case.

(c) Good Faith Refusal.—In determining whether the refusal of an offeree to proceed pursuant to the alternative dispute procedure referred to in subsection (a)(1) was unreasonable or not made in good faith, the court shall consider—

(1) whether the case involves potentially complicated questions of fact;

(2) whether the case involves potentially dispositive issues of law;

(3) the potential expense faced by the offeree in retaining counsel for both the alternative dispute resolution procedure and to litigate the matter for trial;

(4) the professional capacity of available mediators within the applicable geographic area; and

(5) such other factors as the court considers appropriate.

SEC. 104. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS.

(a) General Rule.—

(1) In general.—In any product liability action that is subject to this title filed by a claimant for harm caused by a product, a product seller other than a manufacturer shall be liable to a claimant, only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant; or

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) Reasonable opportunity for inspection.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect a product if the product seller had no reasonable opportunity to inspect the product that allegedly caused harm to the claimant.

(b) Special Rule.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(c) Rented or Leased Products.—

(1) Notwithstanding any other provision of law, any person, other than a product seller, engaged in the business of renting or leasing a product shall be subject to liability in a product liability action under subsection (a), but shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 105. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) General Rule.—Notwithstanding any other provision of law, a defendant in a product liability action that is subject to this title shall have a complete defense in the action if the defendant proves that—

(1) the claimant was under the influence of intoxicating alcohol or any drug that may not lawfully be sold over-the-counter without a prescription, and was not prescribed by a physician for use by the claimant; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for the accident or event which resulted in the harm to the claimant.

(b) Construction.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

SEC. 106. REDUCTION FOR MISUSE OR ALTERATION OF PRODUCT.

(a) General Rule.—

(1) In general.—Except as provided in subsection (c), in a product liability action that is subject to this title, the damages for which a defendant is otherwise liable under applicable State law shall be reduced by the percentage of responsibility for the harm to the claimant attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, the express warnings or instructions of the defendant if the warnings or instructions are determined to be adequate pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) Use intended by a manufacturer is not misuse or alteration.—For the purposes of this title, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) State Law.—Notwithstanding section 3(b), subsection (a) of this section shall supersede State law concerning misuse or alteration of a product only to the extent that State law is inconsistent with such subsection.

(c) Workplace Injury.—Notwithstanding subsection (a), the amount of damages for which a defendant is otherwise liable under State law shall not be reduced by the application of this section with respect to the conduct of any employer or coemployee of the plaintiff who is, under applicable State law concerning workplace injuries, immune from being subject to an action by the claimant.

SEC. 107. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) General Rule.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in a product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) Limitation on Amount.—The amount of punitive damages that may be awarded to a claimant in any product liability action that is subject to this title shall not exceed 3 times the amount awarded to the claimant for the economic injury on which the claim is based, or $250,000, whichever is greater. This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(c) Bifurcation at Request of Either Party.—

(1) In general.—At the request of either party, the trier of fact in a product liability action that is subject to this title shall consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) Admissible evidence.—

(A) Inadmissibility of evidence relative only to a claim of punitive damages in a proceeding concerning compensatory damages.—If either party requests a separate proceeding under paragraph (1), in any proceeding to determine whether the claimant may be awarded compensatory damages, any evidence that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

(B) Proceeding with respect to punitive damages.—Evidence that is admissible in the separate proceeding under paragraph (1)—

(i) may include evidence of the profits of the defendant, if any, from the alleged wrongdoing; and

(ii) shall not include evidence of the overall assets of the defendant.

SEC. 108. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Statute of Limitations.—

(1) In general.—Except as provided in paragraph (2) and subsection (b), a product liability action that is subject to this title may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered, the harm that is the subject of the action and the cause of the harm.

(2) Exceptions.—

(A) Person with a legal disability.—A person with a legal disability (as determined under applicable law) may file a product liability action that is subject to this title not later than 2 years after the date on which the person ceases to have the legal disability.

(B) Effect of stay or injunction.—If the commencement of a civil action that is subject to this title is stayed or enjoined, the running of the statute of limitations under this section shall be suspended until the end of the period that the stay or injunction is in effect.

(b) Statute of Repose.—

(1) In general.—Subject to paragraphs (2) and (3), no product liability action that is subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed after the 20-year period beginning at the time of delivery of the product.

(2) State law.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 20-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) Exceptions.—

(A) A motor vehicle, vessel, aircraft, or train that is used primarily to transport passengers for hire shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety of the specific product involved which was longer than 20 years, but it will apply at the expiration of that warranty.

(c) Transitional Provision Relating to Extension of Period for Bringing Certain Actions.—If any provision of subsection (a) or (b) shortens the period during which a product liability action that could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action pursuant to this title not later than 1 year after the date of enactment of this Act.

SEC. 109. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) General Rule.—In a product liability action that is subject to this title, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) Amount of Liability.—

(1) In general.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) Percentage of responsibility.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 110. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) General Rule.—

(1) Right of subrogation.—

(A) In general.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this title.

(B) Written notification.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) Insurer not required to be a party.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) Settlements and other legal proceedings.—

(A) In general.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this title, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) Written consent.—Except as provided in subparagraph (C)—

(i) an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without the written consent of the insurer; and

(ii) no release to or agreement with the manufacturer or product seller described in clauses (i) through (iv) of subparagraph (A) shall be valid or enforceable for any purpose without the consent of the insurer.

(C) Exemption.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) Harm resulting from action of employer or coemployee.—

(A) In general.—If, with respect to a product liability action that is subject to this title, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the employer.

(B) Rights of employer.—

(i) In general.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an employer shall, in the same manner as any party in the action (even if the employer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) Last issue.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is presented to the trier of fact.

(C) Reduction of damages.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) Certain rights of subrogation not affected.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) Attorney's Fees.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

SEC. 111. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under section 1331 or 1337 of title 28, United States Code, over any product liability action covered under this title.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1995".

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) QUALIFIED SPECIALIST.—With respect to an action, the term "qualified specialist" means a person who is qualified by knowledge, skill, experience, training, or education in the specialty area that is the subject of the action.

(9) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(10) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(11) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section; or

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if the biomaterials supplier—

(1) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(A) the manufacture of the implant; and

(B) the entrance of the implant in the stream of commerce; and

(2) subsequently resold the implant.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary,

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—The procedural requirements described in paragraphs (2) and (3) shall apply to any action by a claimant against a biomaterials supplier that is subject to this title.

(2) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(A) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(B) an action against the manufacturer is barred by applicable law.

(3) AFFIDAVIT.—At the time the claimant brings an action against a biomaterials supplier the claimant shall be required to submit an affidavit that—

(A) declares that the claimant has consulted and reviewed the facts of the action with a qualified specialist, whose qualifications the claimant shall disclose;

(B) includes a written determination by a qualified specialist that the raw materials or component parts actually used in the manufacture of the implant of the claimant were raw materials or component parts described in section 205(d)(1), together with a statement of the basis for such a determination;

(C) includes a written determination by a qualified specialist that, after a review of the medical record and other relevant material, the raw material or component part supplied by the biomaterials supplier and actually used in the manufacture of the implant was a cause of the harm alleged by claimant, together with a statement of the basis for the determination; and

(D) states that, on the basis of review and consultation of the qualified specialist, the claimant (or the attorney of the claimant) has concluded that there is a reasonable and meritorious cause for the filing of the action against the biomaterials supplier.

(c) Proceeding on Motion To Dismiss.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) Affidavits relating to listing and declarations.—

(A) In general.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) Response to motion to dismiss.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) Effect of motion to dismiss on discovery.—

(A) In general.—If a defendant files a motion to dismiss under paragraph (1) or (3) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) Discovery.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) Affidavits relating status of defendant.—

(A) In general.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) Responses to motion to dismiss.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such subsection 205(b) or seller subject to subsection 5(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) Basis of ruling on motion to dismiss.—

(A) In general.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) Motion for summary judgment.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) Summary Judgment.—

(1) In general.—

(A) Basis for entry of judgment.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) Issues of material fact.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) Discovery made prior to a ruling on a motion for summary judgment.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) Discovery with respect to a biomaterials supplier.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) Stay Pending Petition for Declaration.—If a claimant has filed a petition for a declaration pursuant to section 205(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) Manufacturer Conduct of Proceeding.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) Attorney Fees.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 207. APPLICABILITY.

This Act shall apply to all civil actions covered under this title that are commenced on or after the date of enactment of this title, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this title.

RUSSIA TODAY

Mr. PELL. Mr. President, I call the Senate's attention to an important historic landmark. It is the 10th anniversary of Mikhail Gorbachev's accession to power in Moscow, an event which set in motion a mostly nonviolent process of change that brought down the Iron Curtain and Soviet domination of Eastern Europe in 1989, followed 2 years later by the dissolution of the Soviet Union itself—arguably the most important developments in the second half of the 20th century.

Unfortunately, the momentous upheaval of 1989–91 did unleash some violence—most notable and tragically in the former Yugoslavia, and also in the Caucasus, between Armenia and Azerbaijan, in Georgia, and, most recently, in Chechnya. We should not ignore the tragedy or the dangers to European security posed by the fighting in the former Yugoslavia and in the Caucasus, but we should not lose sight of how much safer we are now than during the cold war's global confrontation with the Soviet Union and the nuclear balance of terror with its doctrine of Mutual Assured Destruction.

Now, 10 years after Gorbachev's rise to power, Russia appears to be at another historic crossroad. One path leads toward democratization and integration into the global market economy; another points back toward authoritarianism and a sullen, isolated militarism. Russia's future lies first and foremost in the hands of its own people and their leaders. We should have no illusions about our ability to control events there. But we do have some influence. The outcome in Russia is still very important to the United States.

Russia will play a major role in determining the future security environment in Europe, the Middle East, and Asia. Russia is a key player in implementing the START I and II strategic force reduction treaties and in preventing nuclear proliferation. The United States budget deficit, the peace dividend, defense conversion, the future of NATO, and the United States role in the world will all be strongly affected by developments in Russia. Also, although Russia's economy is now severely distressed, it is potentially an important market and trading partner. Russia is the only country in the world that has more bountiful natural resources than the United States, including vast oil and gas reserves. It has a large, well-educated labor force and a huge scientific establishment. Furthermore, many of Russia's needs—food and food processing, oil and gas extraction, computers, communications, and transportation—are in areas in which the United States is highly competitive. Thus, although the former Soviet military threat is greatly diminished, we ought not turn our backs on Russia now.

Moscow's clumsy but brutal use of military force to regain control of the secessionist republic of Chechnya has triggered a new political crisis for the regime of President Boris Yeltsin, whose support in Russian public opinion polls has fallen below 10 percent. Many observers fear that if Chechnya becomes a protracted guerrilla war, it will drag down both Yeltsin and the prospects for reform. It may be too early to write Yeltsin's political obituary. He has made some remarkable recoveries in the past. But we also cannot ignore the possibility that the post-Yeltsin transition has already begun. In any case, these developments call attention to the importance of the other major focus of political power in Russia—the parliament.

The Yeltsin Constitution of December 1993 created a very powerful presidency, but there is also a separation of powers between the executive and legislative branches that resembles our own system in many ways. The constitutional checks and balances on presidential power in Russia are more limited than in the United States, but the parliament does have real authority. Historically, the threat of authoritarianism and totalitarianism comes from excessive and ultimately unlimited executive power. This has certainly been Russia's experience. Whether or not Yeltsin regains his democratic equilibrium, and regardless of who succeeds him or when, in the long run, the best institutional protection against a turn toward authoritarianism in Russia is a healthy, independent, and democratically elected legislature. Congress may be able to help the one-year-old Russian parliament become more effective and democratic.

The new Russian Federal Assembly is a bicameral legislature. The lower—and more powerful—chamber, the State Duma, has 450 seats, half chosen from single-member constituencies and half from national party lists based on proportional representation. The upper chamber, the Federation Council, nominally has 178 seats, two from each of the 89 regions and republics of the Russian Federation. Many of its Deputies are regional leaders. It does not meet on a continuous, full-time basis and is more like the French or German upper chamber than the U.S. Senate. Deputies in both chambers serve 4-year terms. The first Federal Assembly, however, was elected in December 1993 for only a 2-year term, with new elections due this December.

After the December 1993 election, it seemed that the Duma might be dominated by an anti-democratic coalition of hardline ultranationalists and Communists. In its first year, however, the parliament avoided extreme confrontation with Yeltsin and, despite some missteps, supported some of the Government's key economic reform legislation. Surprisingly, the parliament approved Government budgets for 1994 and 1995 that imposed relatively strict fiscal discipline and sharply restrained defense spending despite intense pressure from the military-industrial complex. The parliament also enacted key parts of a new commercial code and laws protecting property rights.

There is strong parliamentary opposition to the Government's actions in Chechnya. Many Deputies were angered by Yeltsin's failure to consult them in advance or seek parliamentary approval of a state of emergency. Both chambers voted their disapproval of the assault several times by lopsided majorities, calling for the cessation of hostilities and a political resolution of the conflict. Parliamentary opposition, however, has had minimal impact on Russian policy in Chechnya, in part because the Constitution gives predominant power to the president on national security issues.

The Federal Assembly is a political training ground in which an important segment of the post-Yeltsin generation of politicians is learning democratic principles and skills that are not part of traditional Russian political culture, such as compromise and coalition-building, respect for the rule of law and representative government. Most Russian Deputies are overwhelmed by the enormity and urgency of their legislative responsibilities and the meagerness of their experience and resources. They know that they have a great deal to learn and the majority are not only willing but eager to benefit from foreign experience, including U.S. experience. Despite, or perhaps because of, the legacy of the cold war, many Russian Deputies view the United States Congress as an important and appropriate model. They are also stuck by similarities in the size and demographic diversity of our counties and our constitutional systems based on separation of powers, bicameralism, and federalism. Imperfect as our own institutions are, from a Russian perspective they are impressive examples of stability and continuity, functioning federalism, and peaceful resolution of competing political, economic, social, ethnic, and spiritual interests.

There is already a significant level of mostly informal travel between Washington and Moscow by Members of Congress and Russian Deputies. This is healthy and should be expanded as much as possible. There are already overtures from the Russian side for committee-to-committee consultations on issues of mutual interest. Staff consultations, exchanges, and training are another fruitful avenue. Frankly, on the American side the constraints are not so much financial but the commitment of time by busy Members. But I would urge my colleagues to think about the potential payoff on a modest investment of time in such endeavors. Russian Deputies are so eager to learn about U.S. legislative procedure and about the U.S. experience on a wide range of legislative issues. Here is an opportunity to influence positively and perhaps even help to shape the procedures, policies, and perspectives of the legislature of the world's other nuclear superpower. This should be done not in spite of the conflict in Chechnya, but all the more because of it. The Chechen crisis underlines the increased importance of the Russian parliament.

The Congressional Research Service is already embarked on an ambitious program of technical assistance to the Russian Federal Assembly. Funded by the Agency for International Development, $3.5 million over 3 years, beginning in May 1994, with congressional approval, the CRS program aims to:

Help the Russian Federal Assembly create its own research and analysis capability independent of the executive branch.

Enhance the automation and interconnectivity of both chambers of the Federal Assembly and the Parliamentary Library.

Strengthen the collections and capabilities of the Russian Parliamentary Library.

Provide training in Moscow and Washington for Russian parliamentary staff specializing in automation, research and policy analysis, and legislative drafting.

Bring a leadership delegation from both chambers of the Federal Assembly to Washington to learn and observe first hand about development and oversight of legislative research and policy analysis.

CRS has considerable experience in such activity, having been directed by Congress to provide similar parliamentary assistance through the Gift of Democracy, to Poland, program, which was subsequently expanded under the House of Representative Special Task Force on the Development of Parliamentary Institutions in Eastern Europe, to include assistance to the parliaments of Poland, Hungary, the Czech Republic, Slovakia, Estonia, Latvia, Lithuania, Bulgaria, and Albania. There is a comparable AID-funded program in Ukraine.

These programs have made significant contributions to the development of democratic parliamentary institutions in Central and Eastern Europe and now hope to do the same in Russia.

At the same time, these programs provides CRS and the Congress with literally unique access to and insight into political developments in those countries. It is an activity from which all parties benefit in a variety of ways.

The Russian parliamentary leadership delegation that has been invited by CRS to visit Capitol Hill in the first week of April 1995 is led by Mikhail Mityukov, First Deputy Chairman of the Duma and Valerian Viktorov, Deputy Chairman of the Federation Council, and includes the chairmen of five important committees from both chambers.

On behalf of the Congress I would like to welcome these distinguished visitors in the spirit of interparliamentary cooperation and exchange.

I would also encourage my colleagues to meet with their Russian counterparts to help them gain a deeper appreciation of our legislative experience as well as our shortcomings so that they may benefit both from our example and from mistakes as they build the foundation of their own legislature. At the same time, this will give Members an unusual opportunity to discuss legislative issues of mutual interest with senior Russian Deputies and to learn firsthand about developments in Russia as it struggles to redefine itself politically, economically, socially, and spiritually.

This is not only a historic moment for Russia but also a historic opportunity for both our countries to redefine the relation between us. Cooperative interparliamentary relations can play a role in this redefinition.

HONORING THE 1995 KIMBALL HUMANITARIAN AWARD RECIPIENTS

Mr. BRADLEY. Mr. President, I rise today to pay tribute to three outstanding citizens of New Jersey who are being honored by the Kimball Medical Center Foundation of Lakewood, NJ on Wednesday, April 12, 1995.

At the Ninth Annual Awards Program, Edmund Bennett, Jr., Thomas F. Kelaher, Esq., and Robert H. Ogle will each receive the Kimball Humanitarian Award as a way to recognize "extraordinary leadership to the nonprofit sector of society, to acknowledge distinguished service towards the advancement of health care, and to honor individuals whose daily lives reflect the essence of humanitarianism."

Today, when the fragile ecology of our social environment is as threatened as that of our natural environment, I am delighted to have the opportunity to pay tribute to the efforts of these three individuals who recognize the importance of civil society. Civilizations cannot be constructed out of government and markets alone—we must also have a healthy and robust civic sector—a place in which the bonds of community can flourish.

Edmund Bennett, Thomas Kelaher and Robert Ogle recognize that civil society is the place where Americans make their home, sustain their marriages and raise their kids. They know that civil society is in our schools, fraternities, community centers, churches, PTAs, libraries and local voluntary associations. They recognize that a sense of common purpose and consensus need to be forged to tackle our Nations' problems. Civil society is the sphere of our most basic humanity—the personal, everyday realm that is governed by values such as responsibility, trust, fraternity, solidarity and love. With every meeting attended, board sat on, speech delivered and helping hand that is extended, these three men challenge the notion that life today is too fastpaced and global in scope for individuals to make a difference in their own communities. I salute Edmund Bennett, Thomas Kelaher and Robert Ogle for their spirit of volunteerism, leadership among local voluntary organizations and their continuing contributions to their community.

COMMEMORATING THE SESQUICENTENNIAL OF McCARTER & ENGLISH OF NEWARK, NJ

Mr. BRADLEY. Mr. President, I rise today to commemorate the sesquincentennial anniversary of the founding of McCarter & English, the oldest and largest law firm in New Jersey.

Originally a small firm with fewer than a dozen lawyers, McCarter & English has grown in both size and prominence in the century and a half since its founding. At its current size of 210 lawyers, with five offices and a sizable international legal services group, McCarter & English has established a reputation as one of the preeminent firms in New Jersey and the country.

If you were to ask a member of the New Jersey business community to describe McCarter & English, they might use the word prestigious or perhaps venerable; if you were to ask a New Jersey historian the same question they would undoubtedly use a much different word and it would be colorful. Since its founding by Thomas Nesbitt McCarter in 1845, McCarter & English's unique history of legal representation has included: handling legal matters for one of New Jersey's most famous historical figures, Thomas Alva Edison; defending one-time client Annie Oakley in a libel case and successfully contesting the New Jersey Senate election of 1893.

McCarter & English has contributed more than just color to New Jersey's legal history, it has also provided the State with many fine public and business leaders throughout the 15 decades since its founding. These leaders have included the founder's son Robert, who became New Jersey attorney general, son Uzal, who founded First Fidelity Bank and a third son, Thomas Jr. who created Public Service. This history of leadership in both the public and private sector continues today. McCarter & English plays an on-going leadership role in support of charitable, educational, cultural and civic organizations in the State. Generous contributions to the New Jersey Center for Performing Arts and other projects have played a vital role in the revitalization of downtown Newark. This commitment to the city of Newark, where McCarter & English has been headquartered since it moved from Newton, Sussex County in 1865, has helped Newark weather difficult times over the past three decades.

McCarter & English has played an historic role in the development of New Jersey's business and legal communities and continues to play a vital role in these arenas. Once again, I congratulate McCarter & English on its 150th anniversary.

CONFERENCE REPORT ACCOMPANYING S. 244, THE PAPERWORK REDUCTION ACT OF 1995

Mr. NUNN. Mr. President, I rise in strong support of the conference report on the Paperwork Reduction Act of 1995, S. 244, a bill which I introduced on January 19, with strong bipartisan support. I anticipate that the conference report will be accepted by the Senate. The leadership of the House is eager to take action before the recess. Representatives of the administration have stated that the President is equally eager to sign into law this legislation to substantially strengthen the Paperwork Reduction Act of 1980, and reauthorize appropriations for the Office of Information and Regulatory Affairs [OIRA], which has been without an authorization since October of 1989.

Mr. President, before making some observations about the substance of the conference report upon which the Senate is about to act, I would like to briefly share with some of our newer colleagues some highlights of the very long march that had to be taken to get us to this point.

The effort has spanned more than 5 years, beginning in 1989. In the fall of 1989, the small business community sought the assistance of members of the Committee on Small business to advance a package of amendments to S. 1742, legislation in the 101st Congress. They asserted that these amendments were desperately needed if the effectiveness of the Paperwork Reduction Act was to be preserved. These proposed amendments garnered bipartisan support within the Small Business Committee and were advanced during the Governmental Affairs Committee's consideration of the bill. S. 1742 was not passed by the Senate before the end of the 101st Congress.

With the beginning of the 102d Congress, I offered the Paperwork Reduction Act of 1991, the first predecessor to the legislation being considered today. From the outset, this legislation has garnered strong bipartisan support, especially within the membership of the Committee on Small Business. Successive ranking Republican Members of the Committee on Small Business, including Senators Boschwitz, Kasten, and Pressler, have all been original cosponsors. My friend from Arkansas [Mr. BUMPERS], then chairman of the committee, has each time consented to serve as the principal Democratic cosponsor.

With the introduction of S. 1139, the effort has had the strong support of a broad Paperwork Reduction Act Coalition, representing virtually every segment of the business community, but especially the small business community.

Mr. President, I will have more to say about the Paperwork Reduction Act Coalition later in my remarks.

The 102d Congress ended without seeing any action on S. 1139. Consideration of that bill became ensnared in the controversies regarding OIRA's regulatory review activities on behalf of the President, conducted pursuant to executive order, and the activities of the Council on Competitiveness, chaired by Vice President Quayle.

At the beginning of the 103d Congress, I introduced S. 560, again with strong bipartisan support. Our former colleague from Missouri, Senator Danforth, served as the principal Republican cosponsor. Senator Danforth had been the principal Republican cosponsor of the legislation sponsored by our former colleague from Florida, Lawton Chiles, that became the Paperwork Reduction Act of 1980.

During the last Congress, real progress was finally made. S. 560 was skillfully blended with Senator GLENN's bill, S. 681. Both had the same basic objective—to reauthorize appropriations for OIRA and to strengthen the Paperwork Reduction Act of 1980. Each bill, however, reflected substantially different perspectives of how the Paperwork Reduction Act should be strengthened. A committee substitute for S. 560 was developed, reflecting the core of both bills. My friend from Ohio [Mr. GLENN], then chairman of the Governmental Affairs Committee displaying skillful leadership and tenacity to break the logjam. Progress would not have been possible without the steadfast support of my friend from Delaware [Mr. ROTH], and many of my Republican friends on the Governmental Affairs Committee. Before the end of the last Congress, we were able to have the Paperwork Reduction Act of 1994, S. 244, as amended, approved by the Senate not once but twice in the closing days of the 103d Congress. S. 560 passed the Senate by unanimous voice vote on October 6, 1994. The following day, the text of S. 560 was attached to a House-passed measure, and returned to the House. Unfortunately, neither bill was cleared for action before adjournment of the 103d Congress.

With the convening of the 104th Congress, I introduced the Paperwork Reduction Act of 1995, S. 244, a bill substantially identical to the text of S. 560, as passed by the Senate.

A substantially identical House companion, H.R. 830, was introduced in the House. H.R. 830 was passed by the House on February 22 by a rollcall vote of 418–0.

Given all of the bipartisan consensus that had been developed around S. 560 during the prior Congress, the Senate was able to promptly turn to the consideration of S. 244, following its being unanimously ordered reported by the Committee on Governmental Affairs on February 1. On March 7, the Senate passed S. 244 by a rollcall vote of 99–0.

Since the version of the Paperwork Reduction Act of 1995 passed by the House contained virtually all of the provisions of S. 244, as reported by the Governmental Affairs Committee, the conferees' focus was on those provisions of the House-passed bill that sought to further strengthen provisions of the 1980 act and the provisions added during consideration on the Senate floor.

Mr. President, the text of S. 244 is truly not the least common denominator of the two versions of the bill, but rather almost an aggregation of the best features of both. Those who have worked long and hard on this effort over the years, within this body, within the House, and especially the organizations that comprise the Paperwork Reduction Act Coalition, can be justifiably proud of what has been accomplished. Only the fewest of House provisions to further strengthen the 1980 act were not included in the conference report.

S. 244 forcefully reaffirms the fundamental congressional objective of the Paperwork Reduction Act of 1980: to minimize the Federal paperwork burdens imposed on the public. It improves the act's effectiveness as a restraint on the natural tendencies of individual Federal agencies to levy a relentless stream of paperwork requirements on businesses, small and large, State and local governments, educational institutions, non-profit organizations, and individual citizens.

S. 244 makes a series of specific amendments to the Paperwork Reduction Act of 1980, based upon almost 15 years of experience under the act. These amendments reemphasize the fundamental responsibilities of each agency to carefully consider each proposed paperwork requirement to determine if it meets the act's fundamental standards of need and practical utility. And, if needed, assures that the proposed requirement imposes the least burden on those segments of the public against whom the paperwork requirement is directed.

S. 244 also substantially improves the opportunity for public participation in the review of proposed paperwork burdens. Under the changes made by the Paperwork Reduction Act of 1995, the public will have a chance to review and comment on the proposed paperwork requirement, while the agency is conducting its review, so that the public comments or suggestions for a less burdensome alternative approach can more effectively influence the final outcome.

S. 244 will not merely preserve, but substantially enhance the role of OIRA, which was created by the 1980 act. Located within the Office of Management and Budget, OIRA was from the outset expected to regulate the regulators in the words of President Carter, when he signed the orginal Paperwork Reduction Act into law. OIRA brings a Government-wide perspective to the act's implementation, serving as both traffic cop and honest broker, regarding paperwork requirements advanced by individual Federal agencies without regard to related burdens being imposed by other Federal agencies. We all hear complaints that it is the cumulative effect of Federal paperwork burdens that so infuriates the public.

To demonstrate congressional confidence in OIRA, the conference agreement on S. 244 provides a 6-year authorization of appropriations. The conferees rejection of the provision from the House-passed bill providing a permanent authorization of OIRA's appropriations should not be construed negatively. In fact, most of the pending legislation relating to reform of the regulatory process expands OIRA's role as the focal point within the Executive Office of the President for the fight to minimize regulatory and paperwork burdens which Government imposes on the public.

S. 244 begins that process. Under the provisions of the Paperwork Reduction Act of 1995, OIRA has more authority and more responsibility to spur individual agencies in the direction of minimizing regulatory paperwork burdens.

For example, S. 244 reaffirms OIRA's authority to prescribe standards under which agencies estimate the number of burden hours imposed by a proposed paperwork requirement. Today, too many agency paperwork estimates severely underestimate the total burden likely to be imposed. It is not merely the time needed to complete the form. That is just part of the burden. The time needed to understand the paperwork requirement, collect the information, and then array it in the manner requested, cannot be ignored. Further, if the paperwork requirement is to be a recurring requirement, it may require the establishment of a special record keeping system and the associated equipment and personnel. S. 244 modifies the Act's definition of burden to capture the full range of regulatory paperwork compliance costs.

S. 244 clarifies and strengthens the act's public protection features. The act currently permits a member of the public to ignore a paperwork collection requirement that does not display a valid OMB control number, indicating that the paperwork collection requirement has been approved by OIRA, and that approval has not expired. The conference agreement makes explicit that the protection afforded by the act may be asserted or raised in the form of a complete defense at any time if the agency should seek to enforce compliance with the unapproved collection of information or impose a penalty through administrative or judicial action.

The enhanced public protection provision of S. 244 also requires the agencies to provide an explicit notice on the form that the public need not comply with a paperwork requirement that fails to display a valid control number. Such a warning label should help educate the public regarding the protections afforded them by the act against unauthorized collections of information.

The conference agreement reflects another provision of S. 244 designed to empower individual members of the public to help police unauthorized paperwork requirements. Under S. 244, a member of the public empowered to seek a determination from the OIRA Administrator regarding whether the manner in which an agency is implementing a paperwork requirement is in conformity with the act. The provision establishes response times and provides the OIRA Administrator with authority to seek appropriate remedial action by the agency, if warranted.

The conference agreement also includes a substantially strengthened requirement relating to paperwork reduction goals. S. 244 requires the establishment of a Government-wide paperwork burden reduction goal of at least ten percent for each of the fiscal years 1996 and 1997. A Government-wide goal of at least 5 percent would be required in each the fiscal years 1998 through 2001. After the establishment of the Government-wide goals, goals would be negotiated between OIRA and the individual agencies, which reflect the maximum practicable opportunity for paperwork burden reduction.

More important than the simple establishment of more aggressive Government-wide paperwork reduction goals is the provision adopted from the House-passed bill which will contribute to making them a reality. Under the conference agreement, OIRA's annual report to the Congress would identify those agencies which had failed to attain their burden reduction, set forth the reasons given by the agency for such failure, and specify the agency's proposals for remedial action.

Mr. President, such a burden reduction program is sorely needed. In fiscal year 1994, the American people spent more than 6.6 billion hours filling-out forms, answering survey questions, and compiling records for the Federal Government. On the basis of a 40-hour work week, that's the equivalent of 3 million Americans being employed full-time solely to meet the Government's paperwork demands. And, these are conservative estimates, compiled by OIRA on the basis of the burden hour estimates assigned by the agencies to their approved paperwork burdens. Burden estimates, which many in the private sector, those on the receiving end of these paperwork demands, believe to be very low. These estimates are contained in an Information Collection Budget, annually published by OIRA. Our former colleague, Lawton Chiles, the father of the Paperwork Reduction Act, used the word budget to emphasize that Federal paperwork requirements impose real costs on the public and the Nation's economy.

Mr. President, at the same time, there can be no doubt that Government requires information to serve the people. We are in the Information Age. In the words frequently used by my colleague from Georgia the Speaker of the House the "Third Wave" is upon us.

With respect to Government's real need for information, the key is to obtain only what is necessary and to do so in the least burdensome manner. Improving the Government's use of information technology is, and should be, an important function of OIRA. It can simultaneously lessen the burden of information collection on the public, enhance Government's effective use of the information collected, and foster dissemination of Government information for the benefit of the public. Although the product of an era in which mechanical typewriters dominated Government offices, the Paperwork Reduction Act provides the broad legislative foundation to serve as a key tool for copping with the new demands being placed upon the Federal Government. That foundation was broadened and substantially enhanced by the provisions in the Senate's version of S. 244 derived from the work of my good friend from Ohio [Mr. GLENN].

Mr. President, I would like to highlight one additional point about S. 244, although it was not an issue in conference since both versions of the bill contained identical language. The Paperwork Reduction Act of 1995 clarifies the 1980 Act to make explicit that it applies to Government-sponsored third-party paperwork burdens. These are recordkeeping, disclosure, or other paperwork burdens that one private party imposes on another private party at the direction of a Federal agency.

In 1990, the U.S. Supreme Court decided that such Government-sponsored third-party paperwork burdens were not subject to the Paperwork Reduction Act. The Court's decision in Dole versus United Steelworkers of America created a potentially vast loophole. The public could be denied the act's protections on the basis of the manner in which a Federal agency chose to impose a paperwork burden, indirectly rather than directly. It is worth noting that Lawton Chiles filed an amicus brief to the Supreme Court arguing that no such exemption for third-party paperwork burdens was intended. Given the plain words of the statute, the Court decided otherwise.

S. 244 makes explicit the act's coverage of all Government-sponsored paperwork burdens. We can feel confident that this major loophole is closed. But given more than a decade of experience under the act, it is prudent to remain vigilant to additional efforts to restrict the act's reach and public protections.

The Paperwork Reduction Act of 1995, like its predecessor bills, has enjoyed the steadfast support of the Paperwork Reduction Act Coalition, representing virtually every segment of the business community. Participating in the Coalition are the major national small business associations—the National Federation of Independent Business [NFIB], the Small Business Legislative Council [SBLC], and National Small Business United [NSBU], as well as the many specialized national individual small business associations, like the American Subcontractors Association, that compromise the membership of SBLC or NSBU.

Other business associations participating in the coalition represent many types of manufacturers, aerospace and electronics firms, construction firms, providers of professional and technical services, retailers of various products and services and the wholesalers and distributors who support them. I would like to identify a few of the coalition's member organizations: the Aerospace Industries Association [AIA], the American Consulting Engineers Council [ACEC], the American Subcontractors Association [ASA], the Associated Builders and Contractors [ABC], the Associated General Contractors of America [AGC], the Contract Services Association [CSA], the Electronic Industries Association [EIA], the Independent Bankers Association of America [IBAA], the International Communications Industries Association [ICIA], the National Association of Wholesalers and Distributors, the National Association of Manufacturers [NAM], the National Tooling and Machining Association [NTMA], the Printing Industries of America [PIA], and the Professional Services Council [PSC].

Leadership for the Coalition is being provided by the Council on Regulatory and Information Management [C–RIM] and by the U.S. Chamber of Commerce. C–RIM is the new name for the Business Council on the Reduction of Paperwork, which has dedicated itself to paperwork reduction and regulatory reform issues for a half century.

The coalition also includes many other professional associations and public interest groups that support strengthening the Paperwork Reduction Act of 1980. Because of their efforts, two deserve special mention. The Association of Records Managers and Administrators [ARMA] have worked long and hard. The conference agreement reflects their valuable contribution—a requirement that any collection of information imposing a recordkeeping requirement also specify how long the public must retain the required record. According to ARMA, tens of millions of dollars are being wasted in the needless retention of records.

The coalition has also been substantially enhanced by the participation of Citizens for a Sound Economy [CSE]. With this victory nearly at hand, CSE has been working hard at reform of the Government's basic regulatory processes.

Given the regulatory burdens faced by State and local governments, legislation to strengthen the Paperwork Reduction Act is high on the agenda of the various associations representing our Nation's elected officials. As Governor of Florida, Lawton Chiles, has worked hard for the cause with the National Governors Association [NGA]. NGA adopted a resolution in support of this legislation during its 1994 annual meeting, thanks to the work of Governor Chiles and others.

Mr. President, I ask unanimous consent to insert in the RECORD a list of the membership of the Paperwork Reduction Act Coalition.

Mr. President, I urge my colleagues to join me in supporting the conference report on S. 244, the Paperwork Reduction Act of 1995.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

THE PAPERWORK REDUCTION ACT COALITION

Aerospace Industries Association of America.
Air Transport Association of America.
Alliance of American Insurers.
American Consulting Engineers Council.
American Institute of Merchant Shipping.
American Iron and Steel Institute.
American Petroleum Institute.
American Subcontractors Association.
American Telephone & Telegraph.
Associated Builders & Contractors.
Associated Credit Bureaus.
Associated General Contractors of America.
Association of Records Managers and Administrators.
Association of Manufacturing Technology.
Automotive Parts and Accessories Association.
Biscuit and Cracker Manufacturers' Association.
Bristol Myers.
Chemical Manufacturers Association.
Chemical Specialties Manufacturers Association.
Citizens Against Government Waste.
Citizens For A Sound Economy.
Computer and Business Equipment Manufacturers Association.
Contract Services Association of America.
Copper & Brass Fabricators Council.
Dairy and Food Industries Supply Association.
Direct Selling Association.
Eastman Kodak Company.
Electronic Industries Association.
Financial Executives Institute.
Food Marketing Institute.
Gadsby & Hannah.
Gas Appliance Manufacturers Association.
General Electric.
Glaxo, Inc.
Greater Washington Board of Trade.
Hardwood Plywood and Veneer Association.
Independent Bankers Association of America.
International Business Machines.
International Communication Industries Association.
International Mass Retail Association.
Kitchen Cabinet Manufacturers Association.
Mail Advertising Service Association International.
McDermott, Will & Emery.
Motorola Government Electronics Group.
National Association of Homebuilders of the United States.
National Association of Manufacturers.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of the Remodeling Industry.
National Association of Wholesalers-Distributors.
National Federation of Independent Business.
National Food Brokers Association.
National Food Processors Association.
National Foundation for Consumer Credit.
National Glass Association.
National Restaurant Association.
National Roofing Contractors Association.
National Security Industrial Association.
National Small Business United.
National Society of Professional Engineers.
National Society of Public Accountants.
National Tooling and Machining Association.
Northrop Corporation.
Packaging Machinery Manufacturers Institute.
Painting and Decorating Contractors of America.
Printing Industries of America.
Professional Services Council.
Shipbuilders Council of America.
Small Business Legislative Council.
Society for Marketing Professional Services.
Sun Company, Inc.
Sunstrand Corporation.
Texaco.
United Technologies.
Wholesale Florists and Florist Suppliers of America.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Floorcovering Association.
American Gear Manufacturers Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Travel Agents, Inc.
American Sod Producers Association.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehouse Association.
American Wholesale Marketers Association.
AMT—The Association for Manufacturing Technology.
Apparel Retailers of America.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Business Advertising Council.
Christian Booksellers Association.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bakers Association.
Independent Bankers Association of America.
Independent Medical Distributors Association,
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Television Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.
National Association of Catalog Showroom Merchandisers.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of Retail Druggists.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.

National Association of Truck Stop Operators.

National Association of Women Business Owners.

National Chimney Sweep Guild.

National Association of Catalog Showroom Merchandisers.

National Coffee Service Association.

National Electrical Contractors Association.

National Electrical Manufacturers Representatives Association.

National Food Brokers Association.

National Independent Flag Dealers Association.

National Knitwear Sportswear Association.

National Lumber & Building Material Dealers Association.

National Moving and Storage Association.

National Ornamental & Miscellaneous Metals Association.

National Paperbox Association.

National Shoe Retailers Association.

National Society of Public Accountants.

National Tire Dealers & Retreaders Association.

National Tooling and Machining Association.

National Tour Association.

National Venture Capital Association.

Opticians Association of America.

Organization for the Protection and Advancement of Small Telephone Companies.

Passenger Vessel Association.

Petroleum Marketers Association of America.

Power Transmission Representatives Association.

Printing Industries of America, Inc.

Promotional Products Association International.

Retail Bakers of America.

Small Business Council of America, Inc.

Small Business Exporters Association.

SMC/Pennsylvania Small Business.

Society of American Florists.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR FISCAL YEAR 1993—MESSAGE FROM THE PRESIDENT—PM 41

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

It is my special pleasure to transmit herewith the Annual Report of the National Endowment for the Arts for the fiscal year 1993.

The National Endowment for the Arts has awarded over 100,000 grants since 1965 for arts projects that touch every community in the Nation. Through its grants to individual artists, the agency has helped to launch and sustain the voice and grace of a generation—such as the brilliance of Rita Dove, now the U.S. Poet Laureate, or the daring of dancer Arthur Mitchell. Through its grants to art organizations, it has helped invigorate community arts centers and museums, preserve our folk heritage, and advance the performing, literary, and visual arts.

Since its inception, the Arts Endowment has believed that all children should have an education in the arts. Over the past few years, the agency has worked hard to include the arts in our national education reform movement. Today, the arts are helping to lead the way in renewing American schools.

I have seen first-hand the success story of this small agency. In my home State of Arkansas, the National Endowment for the Arts worked in partnership with the State arts agency and the private sector to bring artists into our schools, to help cities revive downtown centers, and to support opera and jazz, literature and music. All across the United States, the Endowment invests in our cultural institutions and artists. People in communities small and large in every State have greater opportunities to participate and enjoy the arts. We all benefit from this increased arts presence, and yet the cost is just 65 cents per American. The payback in economic terms has always been several-fold. The payback in human benefit is incalculable.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 6, 1995.*

REPORT RELATIVE TO THE NATIONAL ENVIRONMENTAL POLICY ACT—MESSAGE FROM THE PRESIDENT—PM 42

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works.

To the Congress of the United States:

The United States has always been blessed with an abundance of natural resources. Together with the ingenuity and determination of the American people, these resources have formed the basis of our prosperity. They have given us the opportunity to feed our people, power our industry, create our medicines, and defend our borders—and we have a responsibility to be good stewards of our heritage. In recent decades, however, rapid technological advances and population growth have greatly enhanced our ability to have an impact on our surroundings—and we do not always pause to contemplate the consequences of our actions. Far too often, our short-sighted decisions cause the greatest harm to the very people who are least able to influence them—future generations.

We have a moral obligation to represent the interests of those who have no voice in today's decisions—our children and grandchildren. We have a responsibility to see that they inherit a productive and livable world that allows their families to enjoy the same or greater opportunities than we ourselves have enjoyed. Those of us who still believe in the American Dream will settle for no less. Those who say that we cannot afford both a strong economy and a healthy environment are ignoring the fact that the two are inextricably linked. Our economy will not remain strong for long if we continue to consume renewable resources faster than they can be replenished, or nonrenewable resources faster than we can develop substitutes; America's fishing and timber-dependent communities will not survive for long if we destroy our fisheries and our forests. Whether the subject is deficit spending or the stewardship of our fisheries, the issue is the same: we should not pursue a strategy of short-term gain that will harm future generations.

Senators Henry Jackson and Ed Muskie, and Congressman JOHN DINGELL understood this back in 1969 when they joined together to work for passage of the National Environmental Policy Act. At its heart, the National Environmental Policy Act is about our relationship with the natural world, and about our relationship with future generations. For the first time, the National Environmental Policy Act made explicit the widely-held public sentiment that we should live in harmony with nature and make decisions that account for future generations as well as for today. It declared that the Federal Government should work in concert with State and local governments and the citizens of this great Nation "to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."

Over the past 25 years, America has made great progress in protecting the environment. The air is cleaner in many places than it was, and we no longer have rivers that catch on fire. And yet, this year in Milwaukee, more than 100 people died from drinking contaminated water, and many of our surface waters are still not fit for fishing and swimming. One in four Americans still lives near a toxic dump and almost as many breathe air that is unhealthy.

In order to continue the progress that we have made and adequately provide for future generations, my Administration is ushering in a new era of common sense reforms. We are bringing together Americans from all walks of life to find new solutions to protect our health, improve our Nation's stewardship of natural resources, and provide lasting economic opportunities for ourselves and for our children. We are reinventing environmental programs to make them work better and cost less.

My Administration is ushering in a new era of environmental reforms in many ways. Following is a description of a few of these reforms, grouped into three clusters: first, stronger and smarter health protection programs such as my proposed Superfund reforms and EPA's New common sense approach to regulation: second, new approaches to resource management, such as our Northwest forest plan, that provide better stewardship of our natural resources and sustained economic opportunity; and third, the promotion of innovative environmental technologies, for healthier air and water as well as stronger economic growth now and in the future.

Stronger and Smarter Health Protection Programs.—Throughout my Administration, we have been refining Government, striving to make it work better and cost less. One of the best places to apply this principle in the environmental arena is the Superfund program. For far too long, far too many Superfund dollars have been spent on lawyers and not nearly enough have been spent on clean-up. I've directed my Administration to reform this program by cutting legal costs, increasing community involvement, and cleaning up toxic dumps more quickly. The reformed Superfund program will be faster, fairer and more efficient—and it will put more land back into productive community use.

Similarly, EPA is embarking on a new strategy to make environmental and health regulation work better and cost less. This new common sense approach has the potential to revolutionize the way we write environmental regulations. First, EPA will not seek to adopt environmental standards in a vacuum. Instead, all the affected stakeholders—representatives of industry, labor, State governments, and the environmental community—will be involved from the beginning. Second, we will replace one-size-fits-all regulations with a focus on results achieved with flexible means. And at last, we're taking a consistent, comprehensive approach. With the old piecemeal approach, the water rules were written in isolation of the air rules and the waste rules, and too often led to results that merely shuffled and shifted pollutants—results that had too little health protection at two great a cost. With its new common sense approach. EPA will address the full range of environmental and health impacts of a given industry—steel or electronics for example—to get cleaner, faster, and cheapter results.

Better Stewardship of our Natural Resources.—Just as representative of our new approach to the environment—and just as grounded in common sense—is the Administration's commitment to ecosystems management of the Nation's natural resources. For decades ecologists have known that what we do with one resource affects the others. For instance, the way we manage a forest has very real consequences for the quality of the rivers that run through the forest, very real consequences for the fishermen who depend on that water for their livelihood, and very real consequences for the health of the community downstream. But until recently, government operations failed to account adequately for such interaction. In many cases, several Federal agencies operated independently in the same area under different rules. In many cases, no one paused to ponder the negative consequences of their actions until it was too late.

Often, these consequences were catastrophic, leading to ecological and economic train wrecks such as the collapse of fisheries along the coasts, or the conflict over timber cutting in the Pacific Northwest. When I convened the forest Conference earlier this year I saw the devastating effects of the Federal Government's lack of foresight and failure to provide leadership. Here, perhaps more than anywhere else, is a case study in how a failure to anticipate the consequences of our actions on the natural environment can be devastating to our livelihoods in the years ahead. Our forest plan is a balanced and comprehensive program to put people back to work and protect ancient forests and future generations. It will not solve all of the region's problems but it is a strong first step at restoring both the long-term health of the region's ecosystem and the regions economy.

Innovative Environmental Technologies—Environmental and health reforms such as EPA's common sense strategy and natural resource reforms such as the forest plan provide an opportunity, and an obligation, to make good decisions for today that continue to pay off for generations to come. In much the same way, sound investments in environmental technology can ensure that we leave to future generations a productive, livable world. Every innovation in environmental technology opens up a new expanse of economic and environmental possibilities, making it possible to accomplish goals that have eluded us in the past. From the very beginning, I have promoted innovative environmental technologies as a top priority. We've launched a series of environmental technology initiatives, issued a number of Executive orders to help spur the application of these technologies, and taken concrete steps to promote their export. Experts say the world market for environmental technology is nearly $300 billion today and that it may double by the year 2000. Every dollar we invest in environmental technology will pay off in a healthier environment worldwide, in greater market share for U.S. companies, and in more jobs for American workers.

Innovations in environmental technology can be the bridge that carries us from the threat of greater health crises and ecological destruction toward the promise of greater economic prosperity and social well-being. Innovation by innovation, we can build a world transformed by human ingenuity and creativity—a world in which economic activity and the natural environment support and sustain one another.

This is the vision that Jackson, Muskie, and DINGELL articulated more than two decades ago when they wrote in the National Environmental Policy Act that we should strive to live in productive harmony with nature and seek to fulfill the social and economic needs of future generations. We share a common responsibility to see beyond the urgent pressures of today and think of the future. We share a common responsibility to speak for our children, so that they inherent a world filled with the same opportunity that we had. This is the vision for which we work today and the guiding principle behind my Administration's environmental policies.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 6, 1995*.

MESSAGES FROM THE HOUSE

At 12:43 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

At 1:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1215. An Act to amend the Internal Revenue Code of 1986 to strengthen the American family and create jobs.

At 5:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 244) to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 58. Concurrent Resolution providing for an adjournment of the two Houses.

The message further announced that the House has passed the following bill, without amendment:

S. 178. An Act to amend the Commodity Exchange Act to extend the authorization for the Commodity Futures Trading Commission, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1215. An Act to amend the Internal Revenue Code of 1986 to strengthen the American family and create jobs; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 349. A bill to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program (Rept. No. 104–29).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SIMPSON, from the Committee on Veterans' Affairs:

Dennis M. Duffy, of Pennsylvania, to be an Assistant Secretary of Veterans Affairs (Policy and Planning).

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD (for himself, Mr. Simpson, Mr. Simon, Mr. Stevens, Mr. Inouye, Mr. Wellstone, Mr. Kerrey, Mrs. Boxer, and Mr. Cochran):

S. 684. A bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes; to the Committee on Labor and Human Resources.

By Ms. SNOWE:

S. 685. A bill to provide for the conveyance of certain lighthouses located in the State of Maine; to the Committee on Commerce, Science, and Transportation.

By Mr. KYL (for himself and Mr. McCain):

S. 686. A bill to establish a commission to examine the costs and benefits, and the impact on voter turnout, of changing the deadline for filing Federal income tax returns to the date on which Federal elections are held; to the Committee on Finance.

By Mr. PRYOR:

S. 687. A bill to improve and strengthen child support enforcement, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. Grassley):

S. 688. A bill to provide for the minting and circulation of one-dollar silver coins; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. MURRAY:

S. 689. A bill to amend the Solid Waste Disposal Act regarding the use of organic sorbents in landfills, and for other purposes; to the Committee on Environment and Public Works.

By Mr. AKAKA (for himself, Mr. Campbell, and Mr. Dorgan):

S. 690. A bill to amend the Federal Noxious Weed Act of 1974 and the Terminal Inspection Act to improve the exclusion, eradication, and control of noxious weeds and plants, plant products, plant pests, animals, and other organisms within and into the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SHELBY (for himself, Mr. Stevens, Mr. Inouye, Mr. Thurmond, Mr. Heflin, and Mr. Mack):

S. 691. A bill to amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under part B of the medicare program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer; to the Committee on Finance.

By Mr. GREGG:

S. 692. A bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes; to the Committee on Finance.

By Mr. HOLLINGS (by request):

S. 693. A bill to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KYL:

S. 694. A bill to prevent and punish crimes of sexual and domestic violence, to strengthen the rights of crime victims, and for other purposes; to the Committee on the Judiciary.

By Mrs. KASSEBAUM (for herself and Mr. Dole):

S. 695. A bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY:

S. 696. A bill to assist States and secondary and postsecondary schools to develop, implement, and improve school-to-work opportunities systems so that all students have an opportunity to acquire the knowledge and skills needed to meet challenging State academic standards and industry-based skill standards and to prepare for postsecondary education, further learning, and a wide range of opportunities in high-skill, high-wage careers, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. BOXER (for herself, Ms. Mikulski, Mrs. Murray, Mr. Bradley, and Ms. Moseley-Braun):

S. 697. A bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. COHEN (for himself and Ms. Snowe):

S. 698. A bill to designate the Federal building at 33 College Avenue in Waterville, Maine, as the "George J. Mitchell Federal Building", and for other purposes; to the Committee on Environment and Public Works.

By Mr. COHEN (for himself and Mr. Levin):

S. 699. A bill to amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for seven years, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself, Mr. Bradley, Mr. Conrad, and Mr. Graham):

S. 700. A bill to amend the Internal Revenue Code of 1986 to revise the tax rules on expiration, to modify the basis rules for nonresident aliens becoming citizens or residents, and for other purposes; to the Committee on Finance.

By Mr. SIMON:

S. 701. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations; to the Committee on Finance.

S. 702. A bill to amend the Internal Revenue Code of 1986 to treat certain private foundations in the same manner as educational institutions and pension trusts for purposes of the unrelated debt- financed income rules; to the Committee on Finance.

By Mr. HOLLINGS (by request):

S. 703. A bill to amend title 49, United States Code, to simplify and improve the organization of the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 704. A bill to establish the Gambling Impact Study Commission; to the Committee on Governmental Affairs.

By Mr. HATCH (for himself, Mr. Grassley, and Mr. Thurmond):

S. 705. A bill to combat crime by enhancing the penalties for certain sex crimes against children; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. Conrad, Mr. Campbell, Mr. Kennedy, Mr. Heflin, Ms. Mikulski, and Mr. Levin):

S. 706. A bill to prohibit the importation of goods produced abroad with child labor and for other purposes; to the Committee on Finance.

By Mrs. KASSEBAUM (for herself and Mr. BROWN):

S. 707. A bill to shift financial responsibility for providing welfare assistance and medical care to welfare-related medicaid individuals to the States in exchange for the Federal Government assuming financial responsibility for providing certain elderly low-income individuals and nonelderly low-income disabled individuals with benefits under the medicare program under title XVIII of the Social Security Act and long-term care benefits under a new Federal program established under title XIX of such Act, and for other purposes; to the Committee on Finance.

By Mr. NICKLES:

S. 708. A bill to repeal section 210 of the Public Utility Regulatory Policies Act of 1978; to the Committee on Energy and Natural Resources.

By Mr. BOND (for himself and Mr. BRYAN):

S. 709. A bill to amend the Fair Credit Reporting Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERREY:

S. 710. A bill to promote interoperability in the evolving information infrastructure maximum competition, innovation, and consumer choice, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. BIDEN, Mr. THURMOND, Mr. ABRAHAM, and Mr. GRASSLEY):

S.J. Res. 32. A joint resolution expressing the concern of the Congress regarding certain recent remarks that unfairly and inaccurately maligned the integrity of the Nation's law enforcement officers; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 106. A resolution to authorize testimony by former Senate employee and representation by Senate Legal Counsel; considered and agreed to.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. Res. 107. A resolution to commend the Huskies of the University of Connecticut for capping a perfect season by winning the 1995 NCAA Women's Basketball Championship; considered and agreed to.

By Mr. WELLSTONE (for himself, Mr. SIMON, Mr. JEFFORDS, Mr. DASCHLE, Mr. PRYOR, Mr. ROCKEFELLER, Mr. AKAKA, Mr. REID, and Mr. LEAHY):

S. Res. 108. A resolution designating July 16, 1995, as "National Atomic Veterans Day"; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD (for himself, Mr. SIMPSON, Mr. SIMON, Mr. STEVENS, Mr. INOUYE, Mr. WELLSTONE, Mr. KERREY, Mr. COCHRAN, and Mrs. BOXER):

S. 684. A bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes; to the Committee on Labor and Human Resources.

THE MORRIS K. UDALL PARKINSON'S RESEARCH ASSISTANCE AND EDUCATION ACT OF 1995

• Mr. HATFIELD. Mr. President, if you want to know more about Parkinson's disease all you have to do is read the newspaper or watch the nightly news. You don't even have to read the whole paper, the information is usually on page 1. Prestigious and international papers such as the New York Times and the Wall Street Journal believe that the news is worthy of front page coverage. "Prime Time" had a feature on Parkinson's, and our very own Washington Post devoted three pages to promising new developments. What has caused the media fervor is the exciting new and dramatic medical discoveries in the field of neurology and neurosurgery. As I speak, scientists are uncovering new important data on nerve cell function and repair. Our biomedical research teams are on the cusp of breaking the code to nerve regeneration.

In these times of exciting new developments, we are unfortunately encountering a financial impediment. Last year, the Federal funding for Parkinson's disease at the NIH was $26 million. To put that number in prospective, the annual Federal budget for Alzheimers is $300 million, $1 billion each for cancer and heart disease. Our commitment to eradicating Parkinson's disease is minuscule in comparison. I cannot understand the lack of financial support for a disease that affects over 1 million Americans and costs our society over $6 billion a year. This disease is so widespread that each one of us has a close friend or loved one who is facing the challenge of life with Parkinson's. We must change our message to the American public and declare that increased Federal funding for Parkinson's disease research is a worthy investment in the future health of our Nation.

Today, I am pleased to reintroduce legislation that accomplishes that goal. The Morris K. Udall Parkinson's Research, Assistance, and Education Act of 1995, increases the Federal investment in Parkinson's research to $100 million for fiscal year 1996. The bill establishes an Interagency Coordinating Council, composed of representatives from the relevant agencies and NIH, which will develop a strategic plan for Parkinson's research.

At the heart of the bill is the funding of Morris K. Udall Parkinson's Centers which will conduct basic and clinical research and patient care. Having these three individual areas of research and treatment linked in a center will assure that the research developments will be coordinated and the quality of patient care will be greatly improved. In addition, the centers may develop teaching programs for health professionals and dissemination programs for public information. To compile necessary data on patients and their families a clearinghouse will be established. Morris K. Udall Leadership and Excellence Awards will be granted to scientists who excel in Parkinson's research. Finally, a national Parkinson's Disease Education Program will be established to provide technical assistance to advocacy groups and facilitate public understanding of Parkinson's.

This important legislation honors Mo Udall, a dedicated Congressman from the Second District in Arizona. For 30 years, Mo represented his constituents with integrity, compassion, and humor. He is remembered for his stewardship of the public lands by setting aside millions of acres of wilderness. He also championed civil rights and political reform. In 1980, Congressman Udall was diagnosed with Parkinson's disease, and struggled with the neurologic decay for years. He resigned from Congress in 1991, his career prematurely and tragically ended. Other famous individuals such as Mohammed Ali and Harry S Truman have all succumbed to this disease which knows no boundaries and strikes without warning.

For Mo Udall and the millions of Americans who suffer from Parkinson's, we must enact this legislation now. By uniting the advocacy groups, the scientists, the caregivers, the patients and their families, we can become a solidified and cohesive group dedicated to alleviating the hardship of Parkinson's. We must give our world-respected researchers the funding and the time to combat this and other neurological diseases, and improve the future health of all Americans.

I ask unanimous consent that this bill, a section-by-section summary, various letters of support, and two newspaper articles appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Morris K. Udall Parkinson's Research, Assistance, and Education Act of 1995".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Parkinson's disease and related disorders (hereafter referred to in this Act as "Parkinson's") is a neurological disorder affecting as many as 1,500,000 Americans.

(2) Approximately 40 percent of persons with Parkinson's are under the age of 60.

(3) While science has yet to determine what causes the disease, research has found that cells that produce a neurochemical called dopamine inexplicably degenerate, causing uncontrollable tremors, muscle stiffness, and loss of motor function.

(4) Eventually, Parkinson's renders the afflicted individuals incapable of caring for

themselves. In addition to causing disability and suffering for the afflicted individuals, Parkinson's places tremendous and prolonged physical, emotional, and financial strain on family and loved ones.

(5) It is estimated that the disease costs society nearly $6,000,000,000 annually.

(6) To date, the federally funded research effort has been grossly underfunded. Only $26,000,000 is allocated specifically for research on Parkinson's, or only about one dollar for every $200 in annual societal costs.

(7) In order to take full advantage of the tremendous potential for finding a cure or effective treatment, the Federal investment in Parkinson's must be expanded, as well as the coordination strengthened among the National Institutes of Health research institutes.

(b) PURPOSE.—It is the purpose of this Act to provide for the expansion and coordination of research concerning Parkinson's, and to improve care and assistance for afflicted individuals and their family caregivers.

SEC. 3. BIOMEDICAL RESEARCH ON PARKINSON'S DISEASE.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following section:

"PARKINSON'S DISEASE

"SEC. 409B. (a) IN GENERAL.—The Director of NIH shall establish a program for the conduct and support of research and training, the dissemination of health information, and other programs with respect to Parkinson's disease.

"(b) INTERAGENCY COORDINATING COMMITTEE.—

"(1) IN GENERAL.—The Director of NIH shall establish a committee to be known as the Interagency Coordinating Committee on Parkinson's Disease (in this subsection referred to as the 'Coordinating Committee').

"(2) DUTIES.—With respect to Parkinson's, the Coordinating Committee shall—

"(A) provide for the coordination of the activities of the national research institutes; and

"(B) coordinate the aspects of all Federal health programs and activities relating to Parkinson's in order to assure the adequacy, effectiveness, and technical soundness of such programs and activities and in order to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

"(3) COMPOSITION.—The Coordinating Committee shall be composed of—

"(A) the directors of each of the national research institutes and other agencies involved in research with respect to Parkinson's;

"(B) one representative of the relevant Federal departments and agencies whose programs involve health functions or responsibilities relevant to such disease;

"(C) individuals with the disease and individuals who have a family history with the disease; and

"(D) health professionals or allied health professionals.

"(4) CHAIR.—The Coordinating Committee shall be chaired by the Director of NIH (or the designee of the Director). The Committee shall meet at the call of the chair, but not less often than once each year.

"(5) ANNUAL REPORT.—Not later than 120 days after the end of each fiscal year, the Coordinating Committee shall prepare and submit to the Secretary, the Director of NIH, and the directors specified in paragraph (3)(A) a report detailing the activities of the Committee in such fiscal year in carrying out paragraph (2).

"(c) MORRIS K. UDALL RESEARCH CENTERS.—

"(1) IN GENERAL.—The Director of NIH shall award Core Center Grants to encourage the development of innovative multidisciplinary research and provide training concerning Parkinson's. The Director shall award not more than 10 Core Center Grants and designate each center funded under such grants as a Morris K. Udall Center for Research on Parkinson's Disease.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—With respect to Parkinson's, each center assisted under this subsection shall—

"(i) use the facilities of a single institution or a consortium of cooperating institutions, and meet such qualifications as may be prescribed by the Director of the NIH; and

"(ii) conduct basic and clinical research and provide patient care services.

"(B) DISCRETIONARY REQUIREMENTS.—With respect to Parkinson's, each center assisted under this subsection may—

"(i) conduct training programs for scientists and health professionals;

"(ii) conduct programs to provide information and continuing education to health professionals;

"(iii) conduct programs for the dissemination of information to the public; and

"(iv) develop and maintain, where appropriate, a brain bank to collect specimens related to the research and treatment of Parkinson's.

"(3) STIPENDS REGARDING TRAINING PROGRAMS.—A center may use funds provided under paragraph (1) to provide stipends for scientists and health professionals enrolled in training programs under paragraph (2)(C).

"(4) DURATION OF SUPPORT.—Support of a center under this subsection may be for a period not exceeding five years. Such period may be extended by the Director of NIH for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(d) DATA SYSTEM; INFORMATION CLEARINGHOUSE.—

"(1) DATA SYSTEM.— The Director of NIH shall establish the National Parkinson's Disease Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with such disease, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing the disease.

"(2) INFORMATION CLEARINGHOUSE.—The Director of NIH shall establish the National Parkinson's Disease Information Clearinghouse to facilitate and enhance knowledge and understanding of such disease on the part of health professionals, patients, and the public through the effective dissemination of information.

"(e) MORRIS K. UDALL LEADERSHIP AND EXCELLENCE AWARDS.—The Director of NIH shall establish a grant program to support scientists who have distinguished themselves in the field of Parkinson's research. Grants under this subsection shall be utilized to enable established investigators to devote greater time and resources in laboratories to conduct research on Parkinson's and to encourage the development of a new generation of investigators, with the support and guidance of the most productive and innovative senior researchers.

"(f) NATIONAL PARKINSON'S DISEASE EDUCATION PROGRAM.—The Director of NIH shall establish a national education program that is designed to foster a national focus on Parkinson's and the care of those with Parkinson's. Activities under such program shall include—

"(1) the bringing together of public and private organizations to develop better ways to provide care to individuals with Parkinson's, and assist the families of such individuals; and

"(2) the provision of technical assistance to public and private organizations that offer support and aid to individuals with Parkinson's and their families.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated $100,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000.

"(2) AVAILABILITY.—Of the amount appropriated under paragraph (1), the Secretary shall make available not to exceed $10,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000, to establish Morris K. Udall Centers under subsection (c).".

THE MORRIS K. UDALL PARKINSON'S RESEARCH, EDUCATION AND ASSISTANCE ACT OF 1995—SECTION-BY-SECTION SUMMARY

Section 1—Short Title: Morris K. Udall Parkinson's Research, Assistance and Education, Act of 1995.

Section 2—Findings and Purpose: Parkinson's disease and related disorders affect as many as 1.5 million Americans, with costs to society of nearly $6 billion annually. To date, the federal research effort has been grossly underfunded, providing about $26 million a year for research on Parkinson's. It is the purpose of this Act to provide for the expansion and coordination of research concerning Parkinson's, and to improve care and assistance for the afflicted individuals and family caregivers.

Section 3—Biomedical Research on Parkinson's Disease: Amends Title IV, Part B of the Public Health Service Act (42 U.S.C. 284 et seq.) with a new Section 409B—Parkinson's Disease Research—

A. EXPANSION OF BIOMEDICAL RESEARCH

1. Interagency Coordinating Committee—The Director of the National Institutes of Health (NIH) will establish a committee to coordinate Parkinson's research, composed of the directors of each of the national research institutes, representatives of other agencies, and patients and their families.

2. Annual Report—Not later than 120 days after the end of each fiscal year, the Coordinating Committee shall prepare and submit to the Secretary of Health and Human Services, the Director of the National Institutes of Health (NIH), and the directors of appropriate Federal programs a yearly report detailing the activities of the Committee.

3. Morris K. Udall Research Centers—The Director of NIH shall award Core Center Grants to provide funding for not more than 10 Parkinson's Research Centers, which will conduct basic and clinical research, and patient care. The Centers may disseminate clinical information, provide training for health care personnel, develop and maintain brain banks, and enhance community awareness concerning Parkinson's. Not more than $10 million.

Data System; Information Clearinghouse: The Director of NIH shall establish a clearinghouse for collecting patient and family data.

Udall Leadership and Excellence Awards: The Director of NIH shall establish grants for scientists who excel in Parkinson's research.

Natl. Parkinson's Disease Education Program: The Director of NIH shall establish a national education program to provide technical assistance to advocacy groups, establish a clearinghouse to disseminate information, and facilitate public understanding of Parkinson's Disease.

Authorization of Appropriations: The bill establishes a five-year authorization, and authorizes appropriations beginning in fiscal year 1996. Overall funding authorizations are: $100 million for FY1996, and such sums as necessary for FY1997 through FY2000. Not more than $10 million will be allocated in FY1996 for the funding of the Centers.

PARKINSON'S ACTION NETWORK,
Washington, DC, April 5, 1995.

Re Morris K. Udall Parkinson's Research and Education Act.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: Thank you from the bottom of our hearts for your great leadership in authoring the Morris K. Udall Parkinson's Research and Education Act.

The impact of Parkinson's disease on its victims and their loved ones is devastating. As Parkinson's neurologic devastation progresses, it leaves its targets with increasing difficulty with every simple motor function. That process changes forever the lives, the careers and the dreams of the million Americans who suffer from Parkinson's, and millions more loved ones.

Moreover, it causes Parkinson's victims and their families to drop out of public life, so consumed are they with the struggle to survive.

Scientists promise that the cure of Parkinson's is very near—as long as adequate support for research is available. Unfortunately, this great need for research support has been neglected by our government in the past.

Your legislation can end this deadlock, by giving the research community the support they need to deliver our cure.

Words are inadequate to express our profound gratitude for this bill. Equally profound is our determination to do whatever it takes to ensure swift enactment of this legislation, so that our suffering community can be rescued. We commit to you that we no longer will be an invisible community, so that our suffering will be recognized and ended.

Sincerely,

ANNE J. UDALL,
Chair.
JOAN I. SAMUELSON,
President.

THE AMERICAN PARKINSON DISEASE
ASSOCIATION, INC.,
Washington, DC., April 1, 1995.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: The American Parkinson Disease Association and the more than 1 million people with Parkinson's and their families, commend and enthusiastically support the introduction of the Morris K. Udall Parkinson's Research, Education & Assistance Act to the 104th Congress.

Your introduction of this bill; the first legislative initiative to strengthen the federal Parkinson's research program, will ensure proper funding and coordination of Parkinson's research. The current science gives us hope that major breakthroughs are within reach. We can no longer ignore the tremendous scientific potential.

The Udall Bill will assure that scientific advances are able to move to the stage of treating and curing people with Parkinson's.

Thank you for your leadership and initiative embodied in this legislation, as we work together to achieve the ultimate goal—a cure for Parkinson's.

Sincerely,

SALVATORE J. ESPOSITO,
JR.,
President, Board of Directors.
FRANK L. WILLIAMS,
Executive Director.

OREGON HEALTH
SCIENCES UNIVERSITY,
PARKINSON CENTER OF OREGON,
Portland, OR, April 3, 1995.

Hon. MARK HATFIELD,
U.S. Senator,
Washington, DC.

DEAR SENATOR HATFIELD: Your introduction of the "Morris K. Udall Parkinson's Research Assistance and Education Act" could not have come at a more opportune time. Medical scientists need support to follow up on some very important clues into the cause and treatment of Parkinson's disease and related neurodegenerative disorders. We have a greater understanding of Parkinson's disease in comparison to other neurodegenerative disorders; medical scientists are closer to breakthroughs in the understanding of the cause and treatment of Parkinson's disease, which could serve as a model for similar approaches in the other disorders such as Alzheimer's disease and Lou Gehrig's disease.

I am particularly pleased that not only does the bill fund research centers but also productive biomedical researchers with good ideas who can train younger, promising investigators to continue the work. The data system and information and clearing house provided in the bill will be a valuable tool for facilitating the work of the scientists.

Because Parkinson's disease is a chronic disorder that consumes valuable family and community resources, the education program is also extremely important. We need to facilitate the delivery of education and assistance to the families and communities struggling with this debilitating disease.

Thank you again for providing the leadership to provide the much needed support to conquer Parkinson's disease and related degenerative disorders.

Sincerely yours,

JOHN P. HAMMERSTAD, M.D.,
Professor of Neurology.

WILL–COPE
(WILLIAMETTE COLUMBIA
PARKINSONIAN SOCIETY),
April 5, 1995.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: We are delighted to learn of your intention to introduce a revised version of the Morris K. Udall Parkinson's Research and Education Act.

Parkinson's disease steals the golden years from many of us and is taking away the economic productive lives of younger-onset Parkinsonians. We know what causes our tremors and makes our bodies freeze but research has not yet provided the cause. Without this needed research, many fine people are trapped in bodies that limit their potential.

Nationwide there are approximately one million Parkinson's patients. U.S. support for research of this condition amounts to less than $30.00 per patient which is far less than the help other diseases receive.

Please continue with whatever actions are needed to secure additional Federal funds for continued research towards finding an early cure for this dreaded condition.

Our thanks for your attention, efforts and support.

Sincerely,

L.R. GREGER,
President.

UNIVERSITY OF COLORADO
HEALTH SCIENCES CENTER,
Denver, CO, March 29, 1995.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: I wish you well with your bill, the Morris K. Udall Parkinson's Research and Education Act, which you will reintroduce to the Senate on April 6th. As a physician and scientist who has spent the last 20 years trying to improve the treatment of Parkinson's disease, I am delighted to see a proposal which recognizes that Parkinson's disease may be cured if adequate resources are devoted to the problem for the next few years.

Even with the current low level of Federal research support for Parkinson's disease, this disease is still the neurologic disorder most likely to be cured in the next decade. While neural transplantation with fetal tissue has already been shown to produce substantial clinical benefit in some patients, genetically engineered alternatives to fetal cells offer promise to supply a limitless amount of tissue for brain repair. These and other fundamental breakthroughs will certainly occur with accelerated research.

Your bill recognizes this unusual opportunity. If we can cure Parkinson's disease, the lessons that we learn will apply to many other disorders such as Alzheimer's disease, Huntington's disease, and epilepsy. Research in other areas such as diabetes will also be benefited.

Although we live in a time of fiscal constraint, I can assure you that money spent on research for Parkinson's disease will be repaid many times over by increased productivity and reduced medical costs. Research success will take people who are frozen invalids and give them back the freedom to move.

Yours sincerely,

CURT R. FREED, M.D.,
Professor and Head, Division of Clinical Pharmacology and Toxicology.

SPRINGFIELD, MO,
April 3, 1995.

Hon. MEL HANCOCK,
U.S. Congress,
Washington, DC.

DEAR CONGRESSMAN HANCOCK: On July 19, 1994 Senator Mark O. Hatfield and Congressman Henry Waxman introduced the Morris K. Udall Parkinson's Research, Education and Assistance Act of 1994. (S. 2294 & H. 4789) This bill is critical to the Parkinson's community. We are seeking strong support for this bill and would like your cosponsorship.

The Udall Bill would establish research and education centers, promote a coordinated research agenda, establish research and training grants and establish a national education program.

More than 1 million Americans are afflicted with Parkinson's disease. Approximately 50,000 Americans are diagnosed with Parkinson's each year. Parkinson's disease is estimated to cost the U.S. $6 billion a year in direct health-related expenses, lost productivity and indirect disability costs.

I am able to speak in regard to this matter with authority and experience. Three years ago my family was virtually torn apart when I received the diagnosis of Parkinson's Disease at the early age of 37. Four years prior to my diagnosis, I went through many emotional ups and downs, expensive tests and 4 different doctors. I was a hard-working career mom with two teenage daughters and a 10 year old son. Two weeks after my diagnosis my oldest daughter ran away. With increasing disability, I had to leave my job at the Prosecuting Attorneys Office 8 months ago which I truly loved and still miss every day. In a year and a half I will lose my benefits with my previous job and my family will be responsible to pick up the costs of skyrocketing prescription costs. At the present time my health care pays $418 for my drug treatment which will only increase with progression. We are scared, really scared and no longer make plans for our future. Do we even have a future?

I urge you to co-sponsor the Morris K. Udall Parkinson's Research, Education and Assistance Act of 1994 to give my family and so many families HOPE! I look forward to hearing your views on this subject.

Sincerely,

KAREN KIDWELL.

THE PARKINSON'S INSTITUTE,
Sunnydale, CA, March 29, 1995.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: I strongly support and applaud your re-introduction of the "Morris K. Udall Parkinson's Research and Education Act" to the U.S. Senate. I am a neurologist who treats a large number of patients with Parkinson's disease and I know first hand of their suffering. In my view, passage of this bill would greatly bolster promising research efforts that are now in limbo because of reduced funding by NIH and others.

A few areas of research that would benefit if this bill were to pass include: 1) a project testing several compounds that have been shown to revive damaged dopamine producing neurons in several models of Parkinson's disease, 2) a project aimed at testing the possibility of inducing certain brain cells to produce dopamine by directly injecting specific genes into the brain, 3) several projects investigating possible genetic factors that might predispose to the disease, 4) a project aimed at discovering the underlying mechanisms of neuronal degeneration in Parkinson's disease. All of these projects are very promising, but are suffering because of insufficient funding.

I do hope that Congress will recognize the compelling arguments for this legislation. I commend your efforts as well as those of Ms. Samuelson and all who have supported this bill.

Sincerely,

JAMES W. TETRUD, M.D.

AMERICAN PARKINSON
DISEASE ASSOCIATION,
Salisbury, MD, March 30, 1995.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD AND OTHER MEMBERS OF THE SENATE: We, the Parkinsonians and the caregivers of the Delmarva Chapter/Support Group of the American Parkinson Disease Association, strongly support and encourage passage of the Morris K. Udall Parkinson's Research, Assistance, and Education Act of 1995 and hope that adequate funding will follow.

Parkinson's disease is stealing the "golden years" from many in our group, and, increasingly, is taking away the economic productive life of the young-onset Parkinsonians and many caregiver children. We know the thief who causes our tremors and makes our bodies writhe or freeze, but we do not know where he comes from or how to rid ourselves of him. Research does not guarantee our finding the cause or the cure, but, without medical research, we can be sure we will never know where Parkinson's disease comes from.

We want to help ourselves, but we can do only so much. I give financially in spite of an early unplanned Parkinson's induced retirement. I give my time as a local hospital volunteer worker; as president of the Delmarva Pakinson's chapter/support group; and as writer, editor, printer, and circulation manager of the monthly Parkinson's Newsletter with a complimentary circulation of 483 [March 1995] which carries chapter news, hints for coping with Parkinson's, and a synopsis of research. I give myself. Since 1991 I have been a "guinea pig" in two double blind Parkinson's experimental drug tests at Robert Wood Johnson Medical School in New Brunswick, New Jersey; been a subject in a PET scan Parkinson's diagnosis experiment at Johns Hopkins in Baltimore which resulted in a medical journal article; and participated in a Parkinson's olfactory test experiment at Graduate Hospital in Philadelphia. It is not enough.

We need help. A national investment now in finding the cause and cure for Parkinson's should pay off in better and more productive lives for us and future Parkinsonians.

Sincerely,

WILL JOHNSTON,
President,
Delmarva Chapter/Support Group.

UNIVERSITY OF MINNESOTA,
Minneapolis, MN, March 29, 1995.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: I have recently learned that you will re-introduce the Morris K. Udall Parkinson's Research and Education Act. I am writing to show my strong support for this bill.

I am a Ph.D. candidate in Neuroscience at the University of Minnesota. My research work for my thesis is on the cellular mechanisms involved in the death of brain cells and novel protective therapies that can be utilized to prevent cell death. As you know, the hallmark of Parkinson's disease is the death of the dopamine-producing cells (neurons) in the brain.

This is an extremely exciting time in neuroscience research. Breakthroughs in our understanding of how the brain functions in normal and diseased states as well as new therapies to treat neurological disorders are occurring at an unprecedented pace. Research relating to Parkinson's disease (PD) is at an especially exciting crossroads, since we understand more about PD than many other neurological disorders. Novel therapies, such as neural tissue transplantation, selective neural ablation techniques, and protective drug therapies, are being aggressively studied in laboratories at the University of Minnesota, as well as in laboratories across the country. These important studies hold hope and promise for the more than 1 million people in the United States who have Parkinson's disease, as well as the many more people in the next generation destined to be struck down with this devastating disease.

I would like to make one additional point about this type of neuroscience research. The death of neurons in Parkinson's disease undoubtedly employs cellular mechanisms similar to that which occurs in many other neurodegenerative diseases. Therefore, advances made in Parkinson's disease research today will be applicable to many, many other neurological diseases. The knowledge gained will advance the research on diseases such as Alzheimer's and Huntington's diseases, as well as stroke and cerebral palsy, to name just a few. This bill promises to give a boost to so many areas of neuroscience research which affect each and every one of us.

Thank you for your attention and your support of these important efforts. Please contact me if there is anything that I might do to answer questions or to help facilitate the passage of this bill.

Sincerely,

ELIZABETH M. JANSEN.

AXION RESEARCH FOUNDATION,
Hamden, CT, April 4, 1995.

Hon. MARK O. HATFIELD,
Hart Office Building, Washington, DC.

DEAR SENATOR HATFIELD: The Axion Research Foundation, its supporters, and researchers are most grateful to you and other supporters for the re-introduction of the Morris K. Udall Parkinson's Research and Education Act.

Our Foundation has played an important role in carrying out and funding important breakthroughs related to cellular and genetic brain circuit restorations as possible treatments for Parkinson's disease. We have recently helped to develop the first practical diagnostic test for Parkinson's disease, which should dramatically facilitate studies aimed at determining its cause. Other research areas also offer great promise at the present time. But it is clear that the combined efforts of the private sector and the federal government must increase to produce clinical benefits for patients and the reduction of health care costs which would result from a cure.

The Morris K. Udall Parkinson's Research and Education Act is a great step in the right direction and will be eagerly supported by patients, their families, and neuroscience researchers.

Sincerely,

D. EUGENE REDMOND, Jr., M.D.,
President.

YALE UNIVERSITY,
SCHOOL OF MEDICINE,
New Haven, CT, April 3, 1995.

Hon. MARK O. HATFIELD,
Hart Office Building, Washington, DC.

DEAR SENATOR HATFIELD: As director of the Neural Transplant Program at Yale University, I am writing to thank you and other supporters for re-introducing the Morris K. Udall Parkinson's Research and Education Act to the 104th Congress.

This is a particularly exciting period of research in which novel treatments for Parkinson's disease are being developed and evaluated, and research is progressing to determine the cause of the disease. Although there is potential for incredible breakthroughs, such progress is not inevitable. Without funding, the breakthroughs might never happen. Techniques for cellular and genetic reconstruction of neural circuits which are being developed in our research and elsewhere may some day be applicable to other neurological and medical diseases as well.

I hope that you will be able to explain to your colleagues in the Congress that this investment in research will save money on health care and increase productivity from people who now become incapacitated over a period of many years.

This excellent legislation will not be helpful unless it actually adds dollars to the funding relevant to this disease, and does not shift funding from investigator-initiated basic science projects.

Sincerely,

D. EUGENE REDMOND, Jr., M.D.,
Director.

PARKINSON'S DISEASE FOUNDATION,
New York, NY, March 31, 1995.

Re Morris K. Udall Parkinson's Research and Education Act.

The Hon. MARK O. HATFIELD,
Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: On behalf of my fellow directors of the Parkinson's Disease Foundation (PDF), I am writing to thank you and to support your introduction of this bill.

The authorization of funds to launch a Parkinson's research initiative, coordinating between the several institutes now conducting research in Parkinson's disease, would give added impetus to the efforts of scientists to improve their understanding of this debilitating illness. Although PDF scientists are working to improve our understanding of the brain, we still do not know what causes people to develop the illness, so we cannot develop a cure. The boost to the research effort that the establishment of the Morris K. Udall Research Centers would provide would allow for additional resources toward our goal: to find the cause and then the cure.

As our population ages, there is no doubt that the prevalence of Parkinson's disease will increase. It is, therefore, imperative to work together towards a breakthrough in Parkinson's disease. Only the federal government can provide sufficient financial support and leadership to sustain a coordinated approach to the search for the cause and cure.

Your leadership, and that of your Congressional supporters, are deeply appreciated by all of us who seek to improve the quality of life of those afflicted with Parkinson's and related disorders.

Most sincerely,

PAGE MORTON BLACK,
Chairman of the Board.

MOVERS & SHAKERS, YOUNG
PARKINSON'S SUPPORT NETWORK,
San Diego, CA, April 4, 1995.

The Morris K. Udall Parkinson's Research and Education Act.

Senator MARK HATFIELD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATFIELD: Parkinson's disease and related neurological disorders are said to cost society $6 billion annually. This monetary cost, although staggering, is minuscule when compared to the human suffering these disorders inflict on the patient and family. Research is needed to push ever closer to finding the cause and the cure for these disorders. In the meantime quality of life can be raised through education of patients, caregivers and community support services.

The Morris K. Udall Parkinson's Research and Education Act allows Congress to embark on a major effort to increase the knowledge of the causes, treatments and cures for these disorders. It further sets patient, caregiver, support services and community understanding as a priority in raising the quality of life of those affected by these disorders. The 1990's form the Decade of the Brain. It is only fitting that Congress move swiftly to enact this important legislative initiative for it symbolizes hope of major breakthroughs for the millions of Americans affected by these disorders.

I commend you for your leadership in this very important legislative initiative. Your leadership is much appreciated and supported by the Young Parkinson's Support Network of California.

Sincerely,

TOM G. BROWN,
President.

Sincerely,

ALAN L. BONANDER,
Past President.

[From the Washington Post, Apr. 4, 1995]

DISEASES THAT ATTACK THE BRAIN

(By Rick Weiss)

She was a retired Swedish lawyer, 69, and during the past eight years she had sunk into the foggy oblivion of Alzheimer's disease. Long gone were the details of case law and logic upon which she had built her career. Now she was housebound and confused, unable to survive without round-the-clock care.

He was a 45-year-old high school teacher and basketball coach in Wisconsin who began to notice a loss of strength in his hands—some difficulty unscrewing jars or turning house keys. Then he watched in despair over a period of months as the muscles in his arms and neck grew flaccid and weak. The diagnosis: amyotrophic lateral sclerosis, or Lou Gehrig's disease, the paralytic syndrome that stole the strength and ultimately the life of the baseball great.

The Alzheimer analogy is apt. Viewed under a microscope, nerve cells look a lot like trees and shrubs, with bifurcating roots and boughs sprouting from either end of a stem or trunk. As every gardener knows, fertilizer is the key to growth, and scientists have long assumed that the body makes its own neural nutrients—in great quantities, no doubt, during embryo development, but perhaps in smaller maintenance doses throughout life.

The challenge faced by neuroscientists pursuing nerve regeneration was to identify those naturally occurring products and mass produce them in the laboratory so they could be given as drugs.

In their quest to discover such substances, researchers have gone to great and gory lengths.

Figuring the best place to look for a nerve nurturing compound was around nerve cells themselves, one team ground up 100 pig brains. They distilled from that mass less than a drop of a rare brain chemical called BDNF, which does indeed now show promise as drug to protect nerves in patients with Lou Gehrig's disease.

Another team teased thousands of sciatic nerves from the legs of rats, then ground the nerves up to get a smidgen of something they call CNTF, which is also now in clinical trials in Lou Gehrig's patients.

Yet another group isolated a potent nerve growth factor from the juices of hundreds of mouse salivary glands. Saliva, it turns out, is rich in natural healing compounds—a fact that may explain the propensity of animals to lick one's wounds. The salivary substance, known as NGF, is now being tested in diabetics with peripheral neuropathy and in a handful of patients with Alzheimer's disease.

Then there was the 63-year-old woman from Stockholm with Parkinson's disease. For the past 19 years her condition had gradually worsened, despite treatment with the best available drugs, like L-dopa. At times now her entire body would suddenly freeze up, becoming so rigid she would crash to the floor. At other times her hands trembled so severely and her head shook so much that she felt as though the whole world were crumbling.

Three patients with three very different diseases. But all of them have one thing in common: They are among the first to enter a radical new field of medicine, in which doctors are using a novel class of drugs to regenerate dying nerve cells in the brain and spinal cord.

No one can say yet whether the treatments will work. Preliminary results from about 1,000 patients getting a handful of different compounds for various neuro-degenerative diseases are a mix of encouragement and disappointment. In some cases, patients' symptoms subsided but were replaced by worrisome side effects.

But for each of these diseases the prognosis is so poor that even a sliver of improvement—or a brief reprieve from the otherwise inevitable decline—would be welcome.

"We are dealing with diseases that are uniformly fatal," said Ted Munsat, a neurologist and professor of neurology at Tufts University in Boston, "so the hope and anticipation is more heightened than ever."

It's almost impossible to get ailing nerve cells to grow, or to get injured ones to sprout new parts. Unlike most peripheral neuropathy (the painful nerve irritation that afflicts many people with advanced diabetes and some patients getting cancer chemotherapy), Huntington's disease (the dementia-inducing brain disease that strikes by surprise in the prime of life) or the paralysis that results from serious injuries to the spine or head.

But everyone has grown nerve cells at least once before. The central nervous system, which includes the brain and spinal cord, is one of the first organ systems to develop in a fertilized egg, its rudimentary struoture already evident in the third week of gestation when the embryo is still less than 3 millimeters long. Nine months later more than a trillion neurons have settled into position, some of them almost six feet long.

If we can do it once, why not again?

For decades, the common wisdom was that it can't be done. But with a little help from some compounds called nerve growth factors, scientists are changing their minds.

"These are nerve fertilizers," said Steven Ringel, a professor of neurology at the University of Colorado Medical Center in Denver. "We can make these neurons grow like grass. It's a remarkable tool and incredibly exciting."

"Until growth factors were discovered there was no molecule known that could rescue dying neurons. When neurons died, they were gone forever," said Frank Baldino, president and CEO of Cephalon, a biotech company in West Chester, PA. "When growth factors were discovered, everyone was thrilled."

The newest nerve growth factor, recently purified from rat brain cells, may be the most promising of them all. The substance is called glial cell line-derived neurotrophic factor, or GDNF. In experiments with brain-injured animals published in January, researchers documented its ability to spur regeneration of the types of nerve cells that disappear in people with Parkinson's and Lou Gehrig's diseases.

"You can really get substantial regeneration of nerve fibers," said Frank Collins, a neuroscientist at Amgen in Thousand Oaks, Calif., speaking of GDNF's effects in animals. "It suggests that the benefits in early-stage patients may be very profound. And that's very exciting."

Exciting, yes, except for one problem: It's almost impossible to get GDNF—or any of the other nerve growth compounds—into the human brain, where the compounds are needed.

DELIVERY PROBLEMS

It turns out that every nerve growth factor so far discovered is, to put it plainly, a big fat protein. Proteins tend to break down quickly when taken as pills or injected into the blood. And even if these particular proteins could survive in the bloodstream and make it to a person's head, they are too large to diffuse through blood vessel walls and make their way into the brain.

This may not be a serious problem when it comes to treating peripheral neuropathy, where the problem is mostly limited to nerve cells in the fingers and toes that can be treated with injections beneath the skin. Simple injections may also work for Lou Gehrig's disease, since the motor neurons that are affected extend out from the brain, down the spine and all the way to every extremity. Studies have shown that CNTF and BDNF injected into the thigh, arm or elsewhere in the body are absorbed by nerve endings and travel up those cells into the spinal cord.

But when it comes to the most common and serious neurological diseases—Alzheimer's and Parkinson's—the neurons that are dying are deep within the brain, where no nerve growth factor can get on its own. So with the physiological potency of growth factors now well established, the challenge of making these compounds into useful drugs is actually more a problem of engineering and delivery than of medicine or biology.

In animal experiments, scientists have gotten around this problem by injecting doses directly into the creatures' brains. And though most researchers have been reluctant to try this in people, one team of scientists in Sweden is doing so.

The first patient to get such a treatment was the retired lawyer with Alzheimer's disease. Lars Olson and his colleagues at the Karolinska Institute in Stockholm surgically implanted a pump the size of a hockey puck into the woman's abdomen. They ran a thin plastic tube from the pump up through her torso and neck, all within her body, and underneath her scalp to the crown of her head. There they drilled a hole through her skull and fed the hidden tube through the opening and into a space in her brain near the area that degenerates in Alzheimer's patients. For three months, the pump supplied a constant low dose of NGF, the nerve growth factor isolated from mouse salivary glands.

It is still not clear whether the approach is worth the trouble. The researchers did note an increase in blood flow in the brain, a more normal electroencephalogram (EEG) and improvement in a word recognition test that is used to measure cognitive function. But the woman also experienced serious back pain, anxiety, sleeplessness and weight loss—symptoms the scientists think may be due to an unintended activation of nearby nerves in the brain. She also had a painful outbreak of shingles, which indicated that a herpes virus that normally stays dormant inside nerve cells had for some reason "woken up." And in every cognitive test other than the word recognition test, the woman's performance stayed the same or declined.

The Swedish team is trying the technique on a few other patients, and researchers in the United States have proposed doing essentially the same thing, using plastic tubes, or cannulas, to get NGF into the brain. The Food and Drug Administration officials have so far rejected the approach, in part because animal studies suggest that the procedure can itself cause brain damage.

"Cannulas in the brain may be fine for animals, but not for 4 million Alzheimer's patients," said Baldino of Cephalon. "It's a great way to show proof of concept—to show that growth factors can have an effect in the brain. But practically speaking, I don't think patients are going to be lining up at the clinic."

MINI-FACTORIES

Another way to get bulky proteins into a person's gray matter is to first give a drug that temporarily pokes holes in the brain's blood vessels—that is, make those vessels leaky—and then infuse the nerve growth factor into such a vessel. Some scientists are already using this technique to get cancer drugs, some of which are molecular mammoths, to brain tumor. But the approach makes it difficult to aim the shot of growth factor to the precise part of the brain where it is needed, and so risks stimulating "innocent bystander" neurons better left alone.

"A good drug in the wrong place can give serious side effects," said Fred Gage, a neuroscientist at the University of California-San Diego.

Gage and others suggest that the best way to give the brain a healthy dose of growth factors is to arrange for those factors to be made on-site, in the brain itself. "Instead of giving a drug," Gage said, "you engineer some cells to make what's needed."

The idea of implanting robust, hormone-secreting cells into the brain to nurse ailing nerve cells back to health has its roots in an older and more controversial strategy for Parkinson's disease. In the original approach, scientists took cells from the brains of aborted fetuses and transplanted them into the brains of people with Parkinson's disease. Fetal cells produce copious quantities of dopamine, the brain chemical lacking in Parkinson's patients.

Such transplants do seem to hold some potential. More than 40 patients with Parkinson's disease have been treated that way in the United States, and some patients are showing modest improvement. But 95 percent or more of the transplanted fetal cells generally die in the weeks or month after transplantation.

Olson and his colleagues in Sweden recently used nerve growth factors to better those odds. After transplanting healthy dopamine-producing cells into the brain of a patient with Parkinson's, they drenched the transplanted cells with NGF for 23 days, dripping the liquid fertilizer through a plastic tube inserted directly into her brain. Preliminary results suggest that the patient became less rigid and more mobile than did patients who got cell transplants without NGF, though it's difficult to tell much from a single patient. Two others have since been treated but results have not been published.

Gage, however, proposes a more elegant means of getting growth factors into the brain—a method that would make plastic tubes and fetal transplants completely unnecessary. He and others have put the genes for nerve growth factors like NGF into hardy, laboratory-reared skin cells, instantly endowing those ordinary cells with the specialized ability to churn out the therapeutic factors. They have transplanted those cells into the brains of rodents with a condition resembling Alzheimer's disease, with the hope that these growth-factor mini-factories might revitalize failing nerve cells nearby.

Sure enough, the animals began to spout new and healthy neurons in the area around the nutrient-spewing transplants. While highly experimental, the approach is about to get its clinical debut. This month, Swiss researchers will insert CNTF genes into cells and inject the cells into the spines of patients with Lou Gehrig's disease, marking the first human test of cells engineered to produce a nerve growth factor. They hope that the locally made CNTF will revive ailing motor neurons there more effectively than if the substance were injected into the skin.

AVENUES OF HOPE

Even if researchers find a good way to administer nerve growth factors, there is no guarantee that patients will be able to tolerate the drugs. CNTF injections already have run into trouble in preliminary experiments in Lou Gehrig's patients, causing flu-like symptoms and weight loss serious enough to convince one company to give the research up. Another company is now trying smaller doses, and others are testing BDNF. Though side effects have been rare in these latter studies, it's too soon to say whether the more mellow regimens will be potent enough to stem the disease's progress.

Similarly, some of the early tests of NGF injections for peripheral neuropathy have been plagued by a serious side effect: A super-sensitivity to pain that makes normally innocuous stimuli unbearable. A lukewarm shower, for example, can become an excruciatingly painful experience in which drops of water feel like little burning arrows.

Ultimately, scientists said, a cocktail of different nerve growth factors—perhaps delivered by a variety of different routes—may work best of all. "We now have a number of molecules looking good," said Ronald Lindsay, a neuroscientist at Regeneron, a Tarrytown, N.Y., biotech company developing nerve growth factors. "It doesn't make sense to bet on a single horse."

Unfortunately, the race is still far from the home stretch, and that's disappointing news for people already suffering from nervous system diseases. The lawyer with Alzheimer's disease, for example, has continued down the path of senility since receiving her experimental drizzle of nerve growth factor. And her counterpart with Parkinson's is again subject to freeze-ups and jitters.

On the other hand, the basketball coach with Lou Gehrig's disease has improved since getting treated with CNTF. "He has more neck strength and breathing strength," said Benjamin Brooks, a professor of neurology and director of the University of Wisconsin's ALS Clinical Research Center in Madison. "Now he's back at work one hour a day, which is something we never would have expected with this disease."

BRAIN AND NERVE DISEASES FOR WHICH NERVE GROWTH FACTORS MAY HELP

Alzheimer's Disease—4 million patients in the United States.

Nerve growth factor (NGF) is being infused directly into the brains of a few patients in Sweden; potentially serious side effects have been reported, including extreme sensitivity to pain. NGF is also being given by injections under the skin in the United States as an experimental treatment for peripheral neuropathy, a loss of sensation in the extremities common among diabetics and patients getting cancer chemotherapy.

Parkinson's Disease—1 million patients in the United States.

One patient in Sweden has received brain infusions of NGF to enhance survival of healthy neurons that researchers had previously transplanted into his brain, with some possible benefits. A newly discovered nerve growth factor, called glial cell line-derived neurotrophic factor (GDNF), looks promising in animal studies and may enter human trials in the next year or two.

Amyotrophic Lateral Sclerosis (Lou Gehrig's disease) 5,000 new cases a year in the United States.

A nerve growth factor called ciliary neurotrophic factor (CNTF) is being injected into the skin, where it can be absorbed by nerves. Doses have recently been lowered, however, because of side effects. Swiss researchers are about to transplant the first genetically engineered versions of CNTF-secreting cells into the spines of ALS patients. Another growth factor, brain derived neurotrophic factor (BDNF), is also in clinical trials with apparently fewer side effects, Insulin-like growth factor-1 (IGF-1) is an injectable cell growth factor not specific for nerve cells but now being tested in patients with ALS. Results are expected this year.

SCIENCE CLOSER TO A TREATMENT FOR PARKINSON'S

(By Michael Waldholz)

Researchers say experiments involving a powerful substance discovered in the human nervous system may lead to new drugs to slow the progress of Parkinson's disease and Lou Gehrig's disease.

Four separate research teams are reporting test-tube and animal experiments showing the new substance acts as a biological shield, protecting crucial nerve cells from damage that normally kills them. Death of these cells is the hallmark of Parkinson's and amyotrophic lateral sclerosis, also known as ALS or Lou Gehrig's disease.

The substance is perhaps most potent of a series of human proteins—discovered in recent years by scientists at biotechnology companies—that the body uses to spur nerve-cell growth. The new growth factor was uncovered by researchers working separately at Synergen Corp., now owned by Amgen Inc., a biotech company in Thousand Oaks, Calif.; and by scientists at Genentech Inc., of South San Francisco, Calif. All four research teams conducted their experiments in association with one of the two biotechnology companies.

It is unclear whether ownership rights for the substance will be disputed between Amgen and Genentech. But officials at both companies say that because of the promising results of the new experiment, they have decided to move forward to develop the substance as a potential treatment against Parkinson's and other nerve disorders.

The new factor is called glial cell-line derived neurotrophic factor, or GDNF. Its discovery is so recent that scientists don't know exactly how GDNF spurs cell growth, or how it protects neurons from lethal damage. But the new experiments provide persuasive evidence that the factor plays an important role in the life cycle of neurons, and that scientists may be able to exploit that role in their search for new medicines against degenerative nerve diseases.

GDNF "is by far the most powerful nerve-growth factor we have tested yet," says Ronald Oppenheim, of Bowman Gray School of Medicine, Winston-Salem, N.C., who led one of the research teams. Dr. Oppenheim's experiments in laboratory mice showed the GDNF kept alive almost all the cells that normally would have died within three weeks after researchers damaged them. "We were surprised because none of the other factors we've tested were that protective," he says.

Still, the researchers emphasize that the new results are preliminary, suggesting that many years of work will be needed before they know GDNF or some related chemical will be helpful to patients.

Indeed, a similar kind of nerve-growth factor called CNTF, developed by the biotech company Regeneron Pharmaceuticals Inc., Tarrytown, N.Y., produced troubling side effects when tested last year in ALS patients. Regeneron, Amgen, Genentech and several other biotech companies are researching other promising nerve-growth factors.

Even so, the new experiments, published today in the British journal Nature, provide several hints that in uncovering GDNF, scientists have found a new doorway to the treatment of nerve diseases that continue to defy adequate treatment. "It's a fairly exciting set of results," says Ronald Lindsay, vice president for neurobiology research at Regeneron, noting that "it provides strong competition for the [factors] we've been working with."

In several experiments using GDNF developed by Synergen and now owned by Amgen, researchers used the substance to protect nerve cells from destruction caused by a toxic substance called MPTP. When given to mice, MPTP produces symptoms similar to the debilitating muscle tremors caused by Parkinson's disease in humans.

In one surprising experiment by scientists at Karolinska Institute in Stockholm and at Synergen in Boulder, Colo., GDNF restored nerve activity to cells already damaged by the MPTP toxin.

GDNF was first isolated in 1990 by Frank Collins, a biologist working at Synergen. He identified it in glial cells, which provide nutrients to neurons. Dr. Collins didn't publish the discovery until 1993, when Synergen received a patient. About the same time, Dr. Collins was hired by Amgen. In an interview, Dr. Collins said that acquiring the rights to GDNF was one of the reasons Amgen bought Synergen several months ago.

"I've been given the green light to go full steam ahead in developing GDNF for use against Parkinson's disease," says Dr. Collins, senior director of neuroscience research at Amgen. He said it may be possible to begin testing the substance in humans within a year or two.

Currently, the symptoms of Parkinson's disease can be treated with several medicines, but their effectiveness wears off after time. Amgen hopes GDNF can protect nerve cells being relentlessly killed by the disease, thereby prolonging the existing treatments' usefulness. But GDNF will do nothing to stop the underlying cause of the illness, which is still unknown.

A significant hurdle facing GDNF is that cells under attack by Parkinson's are located in the brain. Because GDNF is a large molecule that can't get into the brain if ingested or injected into the bloodstream, it will have to be infused directly.•

By Ms. SNOWE:

S. 685. A bill to provide for the conveyance of certain lighthouses located in the State of Maine; to the Committee on Commerce, Science, and Transportation.

LIGHTHOUSE CONVEYANCE LEGISLATION

• Ms. SNOWE. Mr. President, today I am introducing legislation that would help to preserve historic lighthouses in the State of Maine and ensure that future generations will be able to appreciate these treasured landmarks.

The legislation, also known as the Maine Lights Program, authorizes the Secretary of Transportation to convey four lighthouses in Maine to the U.S. Fish and Wildlife Service, and (29) others to the Island Institute of Rockland, ME. Founded in 1983, the Island Institute is a nationally recognized nonprofit organization dedicated to the preservation and protection of Maine's coastal lights. This legislation was crafted in close coordination with the Island Institute, and it is an extraordinary opportunity to preserve the most obvious symbols of Maine's living maritime heritage.

The Maine Lights Program is strongly supported by the U.S. Coast Guard. The Coast Guard currently owns each of these lighthouses, and it is a strong proponent of preserving their historic character. But the cost of maintaining these historic structures is becoming particularly difficult for the Coast Guard in these times of tight budgetary constraints. These lighthouses were built in an age when they had to be manned continuously. Today's advanced technology has made it possible to build automated aids to navigation that do not require around-the-clock manning, and this technology has made these historic lighthouses expensive anachronisms for the Coast Guard. The Maine Lights Program would relieve the Coast Guard of the financial burden of maintaining these lighthouses.

The program also mandates continued Coast Guard maintenance of the active aids to navigation in these lighthouses—the lights and horns—and it ensures that each lighthouse will remain an effective marine navigational aid despite the conveyance. Maritime safety will not be sacrificed in the name of saving money. The Coast Guard will still be responsible for maintaining the aids to navigation themselves. Only the lighthouses and structures associated with them are impacted by this program.

By conveying these lighthouses to the Island Institute, the program ensures that the lighthouses will be preserved as an important part of our coastal maritime heritage. The Island Institute will never be allowed to sell these properties. The institute would be required to transfer the lighthouses to third parties without any compensation to itself within a 3-year period beginning on the date of the conveyance of the lighthouse to the institute by the Coast Guard. The Island Institute would be required to identify appropriate nonprofit corporations, educational agencies, community development organizations, and any Federal, State, or local government or other eligible entity that would assume responsibility for the lighthouse.

This legislation sets specific eligibility requirements for organizations and entities that wish to take the responsibility of a lighthouse. They must be financially able to maintain the lighthouse, and they must agree to regular inspections by the State historic preservation officer of the State of Maine in order to ensure that the lighthouses are being properly maintained in a manner that preserves their historic characteristics. Moreover, those receiving a lighthouse must also assure continued public access to the lighthouse.

This legislation also provides that if the Secretary of Transportation determined at any time that a lighthouse is not being used or maintained as required by the law, that the lighthouse would revert to the United States and then be transferred to other institutions or entities according to existing law.

Finally, the legislation requires the Secretary to report to Congress after 5 years about the effectiveness of the program in maintaining, preserving, and repairing historic lighthouse properties, maintaining public access, and finding and transferring lighthouse property to appropriate third parties.

The Island Institute has already identified suitable candidates for receiving many of these lighthouses. For example, the town of Camden will receive the Curtis Island Light, which is located in Camden Harbor. The town already owns Curtis Island and all of the buildings on it except for the light tower itself, and this program will appropriately convey the light tower to the town of Camden.

The Maine Lights Program is an innovative approach to historic maritime preservation. It will become a model for the conveyance of other lighthouses for historic preservation all across the country. At the same time it will save the Coast Guard hundreds of thousands, if not millions, of dollars a year in maintenance costs. I urge all of my colleagues to support this legislation, and I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF CERTAIN LIGHTHOUSES LOCATED IN MAINE.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Subject to paragraphs (3) and (4), the Secretary of Transportation may convey, without consideration, to the Island Institute, Rockland, Maine (in this section referred to as the "Institute"), all right, title, and interest of the United States in and to any of the facilities and real property and improvements described in paragraph (2).

(2) COVERED FACILITIES.—Paragraph (1) applies to lighthouses, together with any real property and other improvements associated therewith, located in the State of Maine as follows:

(A) Whitehead Island Light.
(B) Deer Island Thorofare (Mark Island) Light.
(C) Burnt Island Light.
(D) Rockland Harbor Breakwater Light.
(E) Monhegan Island Light.
(F) Eagle Island Light.
(G) Curtis Island Light.
(H) Moose Peak Light.
(I) Great Duck Island Light.
(J) Goose Rocks Light.
(K) Isle au Haut Light.
(L) Goat Island Light.
(M) Wood Island Light.
(N) Doubling Point Light.
(O) Doubling Point Front Range Light.
(P) Doubling Point Rear Range Light.
(Q) Little River Light.
(R) Spring Point Ledge Light.
(S) Ram Island Light (Boothbay).
(T) Seguin Island Light.
(U) Marshall Point Light.
(V) Fort Point Light.
(W) West Quoddy Head Light.
(X) Brown's Head Light.
(Y) Cape Neddick Light.
(Z) Halfway Rock Light.
(AA) Ram Island Ledge Light.
(BB) Mount Desert Rock Light.
(CC) Whitlock's Mill Light.

(3) LIMITATION ON CONVEYANCE.—The Secretary shall retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the lighthouses conveyed under this subsection, whether located at the lighthouse or elsewhere. The Secretary shall identify any equipment, system, or object covered by this paragraph.

(4) DEADLINE FOR CONVEYANCE.—The conveyances authorized by this subsection shall take place, if at all, not later than 5 years after the date of the enactment of this Act.

(5) ADDITIONAL CONVEYANCES TO UNITED STATES FISH AND WILDLIFE SERVICE.—The Secretary may transfer, in accordance with the terms and conditions of subsection (b), the following lighthouses, together with any real property and improvements associated therewith, directly to the United States Fish and Wildlife Service:

(A) Two Bush Island Light.
(B) Egg Rock Light.
(C) Libby Island Light.
(D) Matinicus Rock Light.

(b) CONDITIONS OF CONVEYANCE.—The conveyance of a lighthouse, and any real property and improvements associated therewith, under subsection (a) shall be subject to the following conditions:

(1) That the lighthouse and any such property and improvements be used for educational, historic, recreational, cultural, and wildlife conservation programs for the general public and for such other uses as the Secretary determines to be not inconsistent or incompatible with such uses.

(2) That the lighthouse and any such property and improvements be maintained at no cost to the United States in a manner that ensures the use of the lighthouse by the Coast Guard as an aid to navigation.

(3) That the use of the lighthouse and any such property and improvements by the Coast Guard as an aid to navigation not be interfered with, except with the written permission of the Secretary.

(4) That the lighthouse and any such property and improvements be maintained in a manner consistent with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(5) That public access to the lighthouse and any such property and improvements be ensured.

(c) RESERVATIONS.—In the conveyance of a lighthouse under subsection (a)(1), the Secretary shall reserve to the United States the following:

(1) The right to enter the lighthouse, and any real property and improvements conveyed therewith, at any time, without notice, for purposes of maintaining any aid to navigation at the lighthouse, including any light, antennae, sound signal, and associated equipment located at the lighthouse, and any electronic navigation equipment or system located at the lighthouse.

(2) The right to enter the lighthouse and any such property and improvements at any time, without notice, for purposes of relocating, replacing, or improving any such aid to navigation, or to carry out any other activity necessary in aid of navigation.

(3) An easement of ingress and egress onto the real property conveyed for the purposes referred to in paragraphs (1) and (2).

(4) An easement over such portion of such property as the Secretary considers appropriate in order to ensure the visibility of the lighthouse for navigation purposes.

(5) The right to obtain and remove any historical artifact, including any lens or lantern that the Secretary has identified pursuant to paragraph (3) of subsection (a).

(d) MAINTENANCE OF AIDS TO NAVIGATION.—The Secretary may not impose upon the Institute, or upon any entity to which the Institute conveys a lighthouse under subsection (g), an obligation to maintain any aid to navigation at a lighthouse conveyed under subsection (a)(1).

(e) REVERSIONARY INTEREST.—All right, title, and interest in and to a lighthouse and any real property and improvements associated therewith that is conveyed to the Institute under subsection (a)(1) shall revert to the United States and the United States shall have the right of immediate entry thereon if—

(1) the Secretary determines at any time that the lighthouse, and any property and improvements associated therewith, is not being utilized or maintained in accordance with subsection (b); or

(2) the Secretary determines that—

(A) the Institute is unable to identify an entity eligible for the conveyance of the lighthouse under subsection (g) within the 3-year period beginning on the date of the conveyance of the lighthouse to the Institute under subsection (a)(1); or

(B) in the event that the Institute identifies an entity eligible for the conveyance within that period—

(i) the entity is unable or unwilling to accept the conveyance and the Institute is unable to identify another entity eligible for the conveyance within that period; or

(ii) the committee established under subsection (g)(3)(A) disapproves of the entity identified by the Institute and the Institute is unable to identify another entity eligible for the conveyance within that period.

(f) INSPECTION.—The State Historic Preservation Officer of the State of Maine may inspect any lighthouse, and any real property and improvements associated therewith, that is conveyed under this section at any time, without notice, for purposes of ensuring that the lighthouse is being maintained in the manner required under subsections (b)(4) and (b)(5). The United States Fish and Wildlife Service, the Institute, and any subsequent conveyee of the Institute under subsection (g), shall cooperate with the official referred to in the preceding sentence in the inspections of that official under this subsection.

(g) SUBSEQUENT CONVEYANCE.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Institute shall convey, without consideration, all right, title, and interest of the Institute in and to the lighthouses conveyed to the Institute under subsection (a)(1), together with any real property and improvements associated therewith, to one or more entities identified under paragraph (2) and approved by the committee established under paragraph (3) in accordance with the provisions of such paragraph (3).

(B) EXCEPTION.—The Institute, with the concurrence of the committee and in accordance with the terms and conditions of subsection (b), may retain right, title, and interest in and to the following lighthouses conveyed to the Institute:

(i) Whitehead Island Light.

(ii) Deer Island Thorofare (Mark Island) Light.

(2) IDENTIFICATION OF ELIGIBLE ENTITIES.—

(A) IN GENERAL.—Subject to subparagraph (B), the Institute shall identify entities eligible for the conveyance of a lighthouse under this subsection. Such entities shall include any department or agency of the Federal Government, any department or agency of the Government of the State of Maine, any local government in that State, or any nonprofit corporation, educational agency, or community development organization that—

(i) is financially able to maintain the lighthouse (and any real property and improvements conveyed therewith) in accordance with the conditions set forth in subsection (b);

(ii) agrees to permit the inspections referred to in subsection (f); and

(iii) agrees to comply with the conditions set forth in subsection (b) and to have such conditions recorded with the deed of title to the lighthouse and any real property and improvements that may be conveyed therewith.

(B) ORDER OF PRIORITY.—In identifying entities eligible for the conveyance of a lighthouse under this paragraph, the Institute shall give priority to entities in the following order, which are also the exclusive entities eligible for the conveyance of a lighthouse under this section:

(i) Agencies of the Federal Government.

(ii) Entities of the Government of the State of Maine.

(iii) Entities of local governments in the State of Maine.

(iv) Nonprofit corporations, educational agencies, and community development organizations.

(3) SELECTION OF CONVEYEES AMONG ELIGIBLE ENTITIES.—

(A) COMMITTEE.—

(i) IN GENERAL.—There is hereby established a committee to be known as the Maine Lighthouse Selection Committee (in this paragraph referred to as the "Committee").

(ii) MEMBERSHIP.—The Committee shall consist of five members appointed by the Secretary as follows:

(I) One member, who shall serve as the Chairman of the Committee, shall be appointed from among individuals recommended by the Governor of the State of Maine.

(II) One member shall be the State Historic Preservation Officer of the State of Maine, with the consent of that official, or a designee of that official.

(III) One member shall be appointed from among individuals recommended by State and local organizations in the State of Maine that are concerned with lighthouse preservation or maritime heritage matters.

(IV) One member shall be appointed from among individuals recommended by officials of local governments of the municipalities in which the lighthouses referred to in subsection (a) are located.

(V) One member shall be appointed from among individuals recommended by the Secretary of the Interior.

(iii) APPOINTMENT DEADLINE.—The Secretary shall appoint the members of the Committee not later than 180 days after the date of the enactment of this Act.

(iv) MEMBERSHIP TERM.—

(I) Members of the Committee shall serve for such terms not longer than 3 years as the Secretary shall provide. The Secretary may stagger the terms of initial members of the Committee in order to ensure continuous activity by the Committee.

(II) Any member of the Committee may serve after the expiration of the term of the member until a successor to the member is appointed. A vacancy in the Committee shall be filled in the same manner in which the original appointment was made.

(v) VOTING.—The Committee shall act by an affirmative vote of a majority of the members of the Committee.

(B) RESPONSIBILITIES.—

(i) IN GENERAL.—The Committee shall—

(I) review the entities identified by the Institute under paragraph (2) as entities eligible for the conveyance of a lighthouse; and

(II) approve one such entity, or disapprove all such entities, as entities to which the Institute may make the conveyance of the lighthouse under this subsection.

(ii) APPROVAL.—If the Committee approves an entity for the conveyance of a lighthouse, the Committee shall notify the Institute of such approval.

(iii) DISAPPROVAL.—If the Committee disapproves of the entities, the Committee shall notify the Institute and, subject to subsection (e)(2)(B), the Institute shall identify other entities eligible for the conveyance of the lighthouse under paragraph (2). The Committee shall review and approve or disapprove of entities identified pursuant to the preceding sentence in accordance with this subparagraph.

(C) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee, however, all meetings of the Committee shall be open to the public and preceded by appropriate public notice.

(D) TERMINATION.—The Committee shall terminate 8 years from the date of the enactment of this Act.

(4) CONVEYANCE.—Upon notification under paragraph (3)(B)(ii) of the approval of an entity for the conveyance of a lighthouse under this subsection, the Institute shall, with the consent of the entity, convey the lighthouse to the entity.

(5) RESPONSIBILITIES OF CONVEYEES.—Each entity to which the Institute conveys a lighthouse under this subsection, or any successor or assign of such entity in perpetuity, shall—

(A) use and maintain the lighthouse in accordance with subsection (b) and have such terms and conditions recorded with the deed of title to the lighthouse and any real property conveyed therewith; and

(B) permit the inspections referred to in subsection (f).

(h) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any lighthouse, and any real property and improvements associated therewith, conveyed under subsection (a) shall be determined by the Secretary.

(i) REPORT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for the next 7 years, the Secretary shall submit to Congress a report on the conveyance of lighthouses under this section. The report shall include a description of the implementation of the provisions of this section, and the requirements arising under such provisions, in—

(1) providing for the use and maintenance of the lighthouses conveyed under this section in accordance with subsection (b);

(2) providing for public access to such lighthouses; and

(3) achieving the conveyance of lighthouses to appropriate entities under subsection (g).

(j) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with a conveyance under subsection (a) that the Secretary considers appropriate in order to protect the interests of the United States.•

By Mr. KYL (for himself and Mr. MCCAIN):

S. 686. A bill to establish a Commission to examine the costs and benefits, and the impact on voter turnout, of changing the deadline for filing Federal income tax returns to the date on which Federal elections are held; to the Committee on Finance.

THE VOTER TURNOUT ENHANCEMENT STUDY COMMISSION ACT

• Mr. KYL. Mr. President, I introduce the Voter Turnout Enhancement Study [VoTES] Commission Act, a bill to establish a temporary Commission to consider whether the deadline for filing Federal income tax returns should be changed to the date on which Federal elections are held.

Our constituents demonstrated last fall that they want real change. I can't think of anything that would change the Congress more than to move tax day to election day so the American people could vote as they pay. It would not only enhance voter turnout rates, but also give the American people an opportunity to vote at the same time they pay their taxes, thus holding politicians accountable to the people on the day they are most focused on the cost of their Government.

While just about every day of the year is celebrated by special interest groups around the country for the Government largesse they receive, the taxpayers—the silent majority—have only one day of the year to focus on what that largesse means to them—how much it costs them—and that is tax day.

The Voter Turnout Enhancement Study [VoTES] Commission Act would provide for a thoughtful and thorough analysis of the date change, its potential impact on voter turnout, as well as any economic impact it might have. The bill explicitly requires that an independent Commission conduct a cost-benefit analysis—a requirement that Congress would be wise to impose routinely on legislative initiatives to separate good ideas from the bad, and save taxpayers a lot of money in the process. A number of other cost-limiting provisions have been included to protect taxpayers' interests.

I invite my colleagues to cosponsor this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Voter Turnout Enhancement Study Commission Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the right of citizens of the United States to vote is a fundamental right;

(2) Federal, State, and local governments have a duty to promote the exercise of the right to vote to the greatest extent possible;

(3) the power to tax is only guardedly granted to Federal, State, and local governments by the citizens of the United States;

(4) the only regular contact that most Americans have with their government consists of filing personal income tax returns and voting in Federal, State, and local elections;

(5) in 1992, almost 115,000,000 Federal income tax returns were filed by individuals and couples, but only approximately 104,000,000 votes were cast in the year's presidential election;

(6) an estimated 116 million Federal income tax returns will be filed by individuals and couples for 1994, but only about half that number of votes were cast in that year's congressional elections; and

(7) more closely tying the rights of individuals as voters to their obligations as taxpayers will provide additional incentives for individuals to both participate in the electoral process and scrutinize the costs and benefits of government policies.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the Voter Turnout Enhancement Study Commission (in this Act referred to as the "Commission").

SEC. 4. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members appointed as follows:

(1) 3 members appointed by the President.

(2) 3 members appointed by the President pro tempore of the Senate, upon the joint recommendation of the majority leader and the minority leader of the Senate.

(3) 3 members appointed by the Speaker of the House of Representatives, upon the joint recommendation of the Speaker and the minority leader of the House of Representatives.

(b) POLITICAL AFFILIATION.—Not more than 2 of the 3 members of the Commission appointed under any 1 paragraph of subsection (a) may be of the same political party.

(c) TIME OF APPOINTMENT.—Members of the Commission shall be appointed not later than 30 days after the date of the enactment of this Act.

(d) TERMS.—Members of the Commission shall be appointed to serve for the life of the Commission.

(e) VACANCIES.— Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(f) COMPENSATION.—

(1) RATE OF PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member of the Commission shall be entitled to receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(g) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold a hearing.

(h) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

(i) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(2) INITIAL MEETING.—The Commission shall hold its initial meeting not later than 30 days after the date on which all members of the Commission have been appointed.

SEC. 5. DUTIES.

(a) STUDY.—The Commission shall conduct a comprehensive study of all matters relating to the possibility of changing the filing date for Federal income tax returns to the 1st Tuesday after the 1st Monday in November. The study shall include an analysis of—

(1) the costs and benefits of the change in filing date; and

(2) the likelihood that establishment of a single date on which individuals can fulfill obligations of citizenship as both electors and taxpayers will increase participation in Federal, State, and local elections.

(b) CONSULTATION.—The Commission shall consult with Governors, Federal and State election officials, the Commissioner of Internal Revenue, and any other person, agency, or entity that the Commission determines to be appropriate.

SEC. 6. POWERS.

(a) HEARINGS.—The Commission may hold the hearings, sit and act at the times and places, take the testimony, and receive the information that the Commission considers advisable to carry out the purposes of this Act.

(b) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as any other Federal department or agency.

(c) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this section.

(d) REQUESTS FOR OFFICIAL INFORMATION.—The Commission may request from a Federal department or agency information necessary to enable the Commission to carry out this Act. The head of the department or agency shall provide the information to the Commission unless release of the information to the public by the agency is prohibited by law.

SEC. 7. STAFF ASSISTANCE FROM FEDERAL AGENCIES.

Upon the request of the Commission or the Chairperson of the Commission, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission to carry out this Act.

SEC. 8. REPORT.

Not later than 1 year after the date of the enactment of this Act, the Commission shall submit to the President and the Congress a report that contains—

(1) a detailed statement of the findings and conclusions of the study required by section 5; and

(2) recommendations of the Commission regarding any legislation or administrative action the Commission considers appropriate.

SEC. 9. TERMINATION.

The Commission shall terminate upon the submission of the report required by section 8.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.●

By Mr. PRYOR:

S. 687. A bill to improve and strengthen child support enforcement, and for other purposes; to the Committee on Finance.

THE CHILD SUPPORT ENFORCEMENT ACT OF 1996

Mr. PRYOR. Mr. President, I rise today to introduce the Child Support Enforcement Act of 1995. This bill is modeled after the bipartisan approaches contained in child support enforcement legislative proposals of last year.

The problems that we currently face in this area have been well researched and analyzed in a recently released report, written at my request, by the General Accounting Office [GAO]. One of the most telling facts in the GAO report is that the national child support enforcement caseload grew 180 percent between 1980 and 1992. This statistic speaks volumes. In 1994, the 15 million support cases nationwide represent a significant portion of our neediest families. If the estimated $34 billion that is owed these families could be collected, the taxpayers would receive some much needed relief as a result of the corresponding reductions that would be possible in many welfare programs.

Mr. President, I held a hearing on child support enforcement last July to try to better understand why this money is not being collected. This hearing lead me to conclude that until we improve the way the system works at the local, State, and Federal levels we will never be able to ensure that children receive the financial support from their respective families to which they are entitled.

There were many issues raised in the hearing that are worthy of attention, but one I wish to especially highlight is the caseload of most of the State workers who are trying to help custodial parents collect their payments.

One witness, a caseworker from Virginia, testified that she could only spend about 12 minutes a month with any one client. Mr. President, 12 minutes a month is simply not enough time to effectively deal with all of the complex issues involved in these cases.

Another witness was Ms. Judy Jones Jordan, the administrator of the Child Support Enforcement Program in Arkansas. My State is indeed fortunate to have an outstanding administrator of such a critical program. She testified that the system had bogged down. Rather than having a clear mission, the State programs are subject to so much Federal oversight that getting the job done has become almost impossible. She said:

> The program has changed from one designed to assist families and reduce the cost of public assistance programs to one focused on passing audits and avoiding Federal penalties.

Mr. President, the legislation I am introducing today is an attempt to address the problem identified by Ms. Jordan. In a country where the default rate on used car loans is 3 percent and the default rate on child support orders is nearly 50 percent, we need to greatly improve the way that the partnership between the Federal Government and the States works.

This legislation that I am introducing addresses the key issues that I think will make a significant difference in the operation of the child support system. First, the Federal audit requirements will be revised so that they become a far less onerous burden on the States. In fact, I believe the new procedures will transform this process into a helpful and necessary evaluation that will provide the States with useful information on the effectiveness of their program while ensuring accountability of Federal dollars.

The second thing that my legislation would do, is the funding system will be modified to address the GAO's finding that the present system does not provide incentives to States for improving the performance of the program.

Third, the legislation will require States to suspend drivers licenses and other licenses, both professional and recreational, of parents who are delinquent in their child support payments. My State of Arkansas has found that this program is very effective in encouraging noncustodial parents to promptly pay their child support obligations.

Finally, the legislation attempts to address the difficult issue of the overburdened case workers in of the State child support offices. The Department of Health and Human Services and the States will sit down together and determine the level of staffing necessary for each State to effectively carry out its child support program. It is my hope that with the benefit of this joint effort, the State programs will then be able to at least partially address this critical area.

Mr. President, while personal responsibility is the key to taking care of children, it is my belief the Government has a limited but important role to ensure that it is easy for noncustodial parents to fulfill their duties, and difficult for them to avoid it.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TITLE I—ELIGIBILITY AND OTHER MATTERS CONCERNING CHILD SUPPORT ENFORCEMENT PROGRAM CLIENTS

Sec. 101. Cooperation requirement and good cause exception

Section 101 amends the CSE, AFDC, and Medicaid statutes to require that, effective 10 months after enactment (or earlier, at State option)—

The State CSE agency (rather than the AFDC and Medicaid agencies, as under current law) will make determinations of whether applicants for AFDC and Medicaid are cooperating with efforts to establish paternity and obtain child support, or have good cause not to cooperate;

The AFDC and Medicaid agencies must immediately refer applicants needing paternity establishment services to the CSE agency, and the CSE agency must make an initial cooperation or good cause determination within 10 days of such referral;

The mother or other custodial relative of a child born 10 months or more after enactment of these amendments will not be found to cooperate with efforts to establish paternity unless that individual names the putative father and supplies information that could assist the IV–D agency to identify him; and

Cooperation with initial efforts to establish paternity (except where good cause is found) is a precondition to eligibility for program benefits, except where the applicant is eligible for emergency assistance under title IV–A or is a pregnant woman presumptively eligible for Medicaid, where an appeal of a finding of lack of good cause is pending, or where the CSE agency has not made a timely determination.

Sec. 102. State obligation to provide paternity establishment and child support enforcement services

Section 102 requires State laws to require that—

Every child support order established or modified in the State on or after October 1, 1998 be entered in a central case registry to be operated by the IV–D agency (see section 301 of the bill);

Child support be collected (except where parents agree to opt out under limited circumstances) through a centralized collections unit to be operated by the IV–D agency or its contractor (see section 302 of the bill)—

On and after October 1, 1998, in all cases being enforced under the State plan; and

On and after October 1, 1999, in all cases entered in the central case registry.

Section 102 amends the IV–D State plan requirements to eliminate distinctions between welfare recipients and other applicants for IV–D services with respect to services available and fees for such services. Under these amendments—

No fees may be imposed on any custodial or noncustodial parent—

After September 30, 1998, for application for IV–D services; or

At any time, for inclusion in the central state registry;

No other fees (other than those specified in current law for genetic testing and tax refund offset) may be imposed on the custodial parent; and

Any other costs or fees may be imposed on the noncustodial parent (but any fees for support collections through the centralized collections unit must be added to and not deleted from the support award).

Sec. 103. Distribution of payments

Section 103 amends the provisions of title IV–D concerning the order of priority for distribution of child support collections, to provide that—

A family not receiving AFDC shall be paid the full amount of current support, plus arrearages for any period after the family ceased to receive AFDC, before any amount is retained by the State to reimburse AFDC;

The State would have the option, in the case of a family receiving AFDC, either to make distribution as under current law or to pay the family the full amount of current support due before retaining any amount to reimburse the AFDC agency;

Where the parent owing support marries (or remarries) the custodial parent, and the parents' combined income is less than twice the Federal poverty line, the State must, upon application by the parents, suspend or cancel any debts owed the State on account of AFDC paid to the family.

This section also requires the Secretary to promulgate regulations—

Under title IV–D, establishing a uniform national standard for distribution where a parent owes support to more than one family; and

Under title IV–A, establishing standards for States choosing the alternative distribution formula, to minimize irregular monthly payments to AFDC families.

Finally, this section, together with the corresponding amendment to title IV–A in title VII of this bill, increases the amount of monthly support to be paid to the family by the CSE agency and disregarded for purposes of AFDC eligibility and benefits. The new "passthrough and disregard" amount would be the current $50 increased by the CPI, or such greater amount as the State may choose.

Sec. 104. Due process rights

Section 104. requires State IV–D plans, effective October 1, 1997, to provide for procedures to ensure that—

Parties to cases in which IV–D services are being provided receive notice of all proceedings in which support obligations might be established or modified, and of any order establishing or modifying a support obligation within 10 days of issuance; and

Individuals receiving IV–D services have available to them fair hearing or other formal complaint procedure.

Sec. 105. Privacy safeguards

Section 105 requires State IV–D plans, effective October 1, 1996, to provide for safeguards to protect privacy rights with respect to sensitive and confidential information, including safeguards against unauthorized use of disclosure of information relating to paternity and support proceedings, and prohibitions on disclosing the whereabouts of one individual to another person who is subject to a protective order, or convicted of criminal assault or abuse against such individual, or against whom a proceeding is pending seeking such a protective order or conviction.

Sec. 106. Requirement to facilitate access to services.

Section 106 requires State IV–D plans, effective October 1, 1996, to include outreach plans to increase parents' access to CSE services, including plans responding to the needs of working parents and parents with limited proficiency in English.

TITLE II—PROGRAM ADMINISTRATION AND FUNDING

Sec. 201. Federal matching payments

Section 201 increases the basic eral matching rate for State IV–D programs (currently 66 percent) to 69 percent for FY 1997, 72 percent for FY 1998, and 75 percent for FY 1999 and thereafter.

Section 201 also adds a maintenance of effort requirement that—

Total State expenditures (other than for automated data processing systems development), after deducting Federal matching payments (but not incentive payments) not be less than such expenditures for FY 1996, and

Total State expenditures for FY 1997 and 1998, after deducting Federal matching payments and incentive payments, not be less than such expenditures for FY 1996.

Sec. 202. Performance-based incentives and penalties

Section 202 replaces the system of incentive payments to States under section 458 of the Act with a new program of incentive adjustments to the Federal matching rate. Under this program, States could receive increases of up to 5 percentage points based on Statewide paternity establishment, and increases of up to 10 percentage points based on overall CSE performance.

Section 202 also makes amendments (effective with respect to quarters beginning on and after the date of enactment) providing for a penalty reduction of AFDC matching payments where a State's CSE program does not meet specified performance standards:

Section 452(g) is amended to make minor and technical amendments to the formula for determining the paternity establishment percentage under the IV–D program (the amendments correct errors introduced by OBRA 1993).

Section 403(h) is amended (effective with respect to calendar quarters beginning one year or more after enactment) to simplify the penalty reduction procedure. The penalty is to be deferred for one year pending State corrective action, and to be canceled if all deficiencies are eliminated by the end of that year.

The Secretary would specify in regulations the levels of accomplishment (or improvement) needed to qualify for each incentive adjustment rate. States would report performance data after the end of FY 1995 and each succeeding year; the Secretary would determine the amount (if any) of adjustment due each State, based on State data determined by the Secretary to be reliable, and would apply the adjustment to matching payments for the succeeding fiscal year (beginning with FY 1997).

Sec. 203. Federal and State reviews and audits

Section 203 makes amendments, effective beginning one year after enactment, shifting the focus of title IV–D audits from the manner in which activities are conducted to performance outcomes, as follows:

A new State plan element requires the States annually—

To determine, and report to the Secretary concerning, conformity with State plan requirements; and

To extract from their ADP systems, and transmit to the Secretary, data and calculations concerning their compliance with Federal performance requirements.

The Secretary's responsibilities are revised to require—

Annual review of the State reports on plan conformity; determinations of amounts of penalty adjustments to States; and provisions of comments, recommendations, and technical assistance to the States);

Evaluation of elements of State programs in which significant deficiencies are indicated by the State reports; and

Triennial audits of State reporting systems and financial management, and for other purposes the Secretary finds necessary.

Sec. 204. Automated data processing

Section 204 recognizes and clarifies title IV–D State plan requirements concerning automated data processing, and adds requirements that the State agency ADP system (1) be used to calculate the State's performance for purposes of the incentive and penalty adjustments under sections 403(h) and 458; and (2) incorporate safeguards on information integrity and security.

This section also revises the statutory provisions for State implementation of all Federal ADP requirements (currently required by October 1, 1995), to provide that:

All requirements enacted on or before enactment of the Family Support Act of 1988 are to be met by October 1, 1996; and

All requirements (including those enacted in OBRA 1993 and this bill) are to be met by October 1, 1999.

Ninety percent Federal matching for ADP start-up costs remains available through FY 1996. For the next 5 years, the match rate for startup costs is the higher of (i) 80 percent or (ii) the matching rate generally applicable to the State IV–D program (including any incentive increases); total Federal payments to States are limited to $260,000,000, to be distributed among States on a formula set in regulations which takes into account the relative size of State caseloads and the level of automation needed to meet applicable ADP requirements.

Sec. 205. Director of CSE Program; training and staffing

Section 205—

Eliminates the requirement that the individual responsible for day-to-day operation of the Federal CSE program report directly to the Secretary;

Requires the Secretary to develop a national training program for State IV–D directors, and a core curriculum and training standards for State agencies, and authorizes the Secretary to charge States fees for such programs;

Requires State IV–D agencies to have training programs consistent with the national standards and curriculum, and to provide for initial standards and curriculum, and to provide for initial and ongoing training of all staff, and permits use of IV–D funds (with the Secretary's approval) for training of non-agency personnel with related responsibilities (including judges, law enforcement personnel, and social workers); and

Requires the Secretary to study and report to Congress on the staffing of each State's CSE program (including a review of needs created by requirements for ADP systems, central case registries, and centralized support collections).

Sec. 206. Funding for secretarial assistance to State programs

Section 206 makes available to the Secretary, from annual appropriations for payments for State programs under title IV–D for FY 1995 and succeeding years—

An amount equal to 1 percent of the Federal share of child support collections on behalf of AFDC recipients for the preceding fiscal year, for use for assistance to State IV–D agencies through technical assistance, training, and related activities; projects of regional or national significance; and

An amount equal to 2 percent of the Federal share of such collections, for operation of the FPLS and the National Welfare Reform Information Clearinghouse established by section 305 (to the extent such costs are not recovered in user fees.)

Sec. 207. Data collection and reports by the Secretary

Section 207 amends data collection and reporting requirements, effective with respect to FY 1994 and succeeding fiscal years, to conform the requirements to the changes made by the bill, and to eliminate requirements for unnecessary or duplicative information.

Sec. 208. Coordination with income eligibility verification system

Section 208 amends the authority for the Income Eligibility Verification System (IEVS)—

To permit IEVS information furnished to state CSE programs to be used to assist in carrying out any title IV–D program purpose (rather than only for income eligibility verification); and

To require the state CSE agency to make information in the central State case registry available to State agencies administering the AFDC, Medicaid, Food Stamp, and unemployment compensation programs.

TITLE III—LOCATE AND CASE TRACKING

Sec. 301. Central State case registry.

Section 301 requires the State IV–D agency's ADP system—

To perform the functions of a single central registry containing records with respect to each case in which services are being provided by the State agency (including each case in which an order has been entered or modified on or after October 1, 1998);

For each case, to maintain and regularly update a complete payment record of all amounts collected and distributed; amounts owed or overdue (including interest or late payment penalties and fees); and the termination date of the support obligation;

Regularly to update and monitor case records on the basis of information on judicial and administrative actions, proceedings, and orders relating to paternity and support; information from data matches; information on support collections and distributions; and other relevant information; and

To extract data for purposes of sharing and matching with Federal, in-State, and interstate data bases and locator services, including the FPLS, the data bases created by this bill, other State IV–D agencies, and State agencies administering AFDC, Foster Care, and Medicaid.

Sec. 302. Centralized collection and disbursement of support payments

Section 302 requires State IV–D agencies, on and after October 1, 1997—

To operate a centralized, automated unit for collection and disbursement of child support which—

Is operated directly by the State IV–D agency or by a contractor responsible directly to the State agency;

Collects and disburses support in all cases being enforced by the State agency (including all cases under orders entered on or after October 1, 1998);

Uses automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical; and

Is coordinated with the State agency's ADP system;

To use the State agency ADP system to assist and facilitate the operations of the centralized collections unit, through functions including—

Generation of wage withholding notices and orders to employers;

Ongoing monitoring to promptly identify nonpayment; and

Automatic use of administrative enforcement mechanisms; and

To have sufficient State staff (including State employees and contractors) to carry out these monitoring and enforcement responsibilities.

Sec. 303. Amendments concerning income withholding

Section 303 requires State laws concerning income withholding to provide—

That all child support orders issued or modified before October 1, 1995, which are not otherwise subject to income withholding, will become subject to income withholding immediately if arrearages occur, without need for a judicial or administrative hearing;

That employers withholding wages must forward payments to the State centralized collections unit within 5 working days after the amount withheld would otherwise have been paid to the employee;

That the notice from the State to employers directing wage withholding must be in a standard format prescribed by the Secretary;

For the imposition of fines against employers who fail to withhold support from wages, or to make appropriate and timely payment to the State collections unit.

This section also makes amendments—

Conforming the income withholding requirements to the requirement for a centralized State collections unit; and

Requiring the Secretary to promulgate regulations defining income and other terms for purposes of title IV–D.

Sec. 304. Locator information from interstate networks and labor unions

Section 304 adds a requirement for State laws providing—

That the State will neither finance nor use any automated interstate locator system network for purposes relating to (i) motor vehicles or (ii) law enforcement unless all Federal and State IV–D agencies (including the FPLS and the new Federal data matching services) have access on the same basis as any other user of the system or network (but only, in the case of law enforcement data, where such access is otherwise allowed by State and Federal law); and

Requiring labor unions and their hiring halls to furnish to the IV–D agency, upon request, locator information (relating to residence and employment) on any union member against whom a paternity or support obligation is sought to be established or enforced.

Sec. 305. National Child Support Information Clearinghouse

Section 305 amends title IV–D to require the Secretary to establish and operate a National Child Support Information Clearinghouse (NCSIC).

The NCSIC would include Federal Parent Locator Service under section 453 of the Act, The Secretary is also required to establish within the NCSIC, by October 1, 1998, two new automated data matching services designed to locate individuals (and their assets) for CSE purposes:

The National Child Support Registry would contain minimal information (including names, social security numbers or other uniform identification numbers, and State case identification numbers) on each case in a State central case registry, based on information furnished and regularly updated by State IV–D agencies.

The National Directory of New Hires would contain identifying information—

Supplied by employers, within 10 business days of hiring (or, if the employer makes automated reports, 10 business days after the close of the corresponding payroll period), on each individual hired on or after October 1, 1998, and

Consisting of extracts from reports to the Secretary of Labor under the Federal Unemployment Tax Act, supplied by States either quarterly or on such more frequent basis as such reports are supplied to the Secretary of Labor, in such format and containing such information as the Secretary may require.

(An employer failing to make a timely report concerning an employee would be subject to a civil money penalty of the lesser of $500 or 1 percent of the wages paid to the employee.)

The Secretary is required to disclose or match data in the Clearinghouse as follows:

Data are to be shared with the Social Security Administration for the purpose of verifying the accuracy of identifying information reported.

The New Hire Directory and Child Support Registry are to be matched every 2 working days, and resulting information to be reported to State CSE agencies.

Other Clearinghouse registries are to be matched against each other, and resulting information is to be reported to State CSE and AFDC agencies, to the extent found effective.

Data in Clearinghouse registries are to be disclosed through the IEVS system to the AFDC, Medicaid, unemployment compensation, food stamp, and territorial cash assistance programs, for income eligibility verification and any other purpose permitted under section 1137 of the Act.

Registry data are to be disclosed to the Social Security Administration for use in determining the accuracy of supplemental security income payments under title XVI and in connection with benefits under title II of the Act.

Data in the New Hire Directory are to be disclosed—

To the Secretary of the Treasury, for administration of the earned income tax credit program and for verification of claims concerning employment on tax returns; and

To State agencies administering unemployment compensation and workers compensation programs, to assist determinations on the allowability of claims.

The Secretary may disclose Clearinghouse data, without personal identifiers, for research serving the purposes of specified programs under title IV of the Act.

This section provides for reimbursement by the Secretary to SSA and to State employment security agencies (SESAs) for their costs of carrying out this section; and for reimbursement to the Secretary by State and Federal agencies receiving information from the Clearinghouse. This section also include provisions designed to safeguard information in the Clearinghouse from inappropriate disclosure or use.

This section makes related amendments to the Federal Unemployment Tax Act and title III of the Social Security Act, requiring SESAs to furnish wage and unemployment compensation information to the Directory of New Hires.

Sec. 306. Expanded locate authority

Section 306; makes various amendments to remove legal barriers and otherwise increase the effectiveness of electronic data matches for CSE purposes. The FPLS authority is amended—

To broaden the purpose of the FPLS to include locating information on wages and other employment benefits, and on other assets (or debts), for purposes of establishing or setting the amount of support obligations;

To require the FPLS to obtain information from consumer reporting agencies; and

To authorize the Secretary to set reasonable rates for reimbursement to other Federal agencies, State agencies, and consumer reporting agencies for the costs of providing information to the FPLS.

This section also makes complementary amendments to other laws, as follows:

Section 608 of the Fair Credit Reporting Act is amended to make available to the FPLS all information on individuals in the files of consumer reporting agencies (rather than only locate information, as under current law).

Section 6103(1) (6) and (8) of the Internal Revenue Code of 1986 (providing for IRS and Social Security Administration disclosures of tax return information to Federal, State, and local CSE agencies) are amended—

To eliminate the restriction that IRS may disclose return information only if the information is not reasonably available from any other source; and

To permit disclosures by the Social Security Administration to OCSE.

Sec. 307. Studies and demonstrations concerning parent locator activities

Section 307 requires the Secretary—

To study, report, and make recommendations to the Congress concerning issues involved in (1) making FPLS information available to noncustodial parents, and (2) operating electronic data interchanges between the FPLS and major consumer credit reporting bureaus; and

To fund State demonstrations testing automated data exchanges with other State data bases (using funds available to the Secretary for technical assistance to States under the provision added by section 616 of the bill).

Sec. 308. Use of Social Security numbers

Section 308 requires State laws requiring the recording of social security numbers of the parties on marriage licenses and divorce decrees, and of parents on birth records and child support and paternity orders.

This section also makes an amendment to title II of the Act, to clarify that social security numbers of parents must be recorded on children's birth records, but that this requirement authorizes release of social security numbers only for purposes related to child support enforcement.

TITLE IV—STREAMLINING AND UNIFORMITY OF PROCEDURES

Sec. 401. Adoption of uniform State laws

Section 401 requires States, by January 1, 1996, to adopt in its entirety the Uniform Interstate Family Support Act, with the following modifications and additions:

The State law is to apply in any case (1) involving an order established or modified in one State and for which a subsequent modification is sought in another State; or (2) in which interstate activity is required to enforce an order;

The State law shall provide that a tribunal in the State with jurisdiction over a child who is a resident of the State has jurisdiction over both parents;

The State law shall provide that the State may modify an order issued in another State if (1) all parties do not reside in the issuing

State, and either reside in or are subject to the jurisdiction of the State in question; and (2) (if any other State is exercising or seeks to exercise jurisdiction), the conditions applicable to simultaneous proceedings are met to the same extent as required for proceedings to establish orders;

The State law shall permit consenting parties to permit the State which issued an order to retain jurisdiction which it would otherwise lose because the parties are no longer present in that State;

The State law shall recognize as valid service of process upon persons in the State by any means acceptable in the State which is the initiating or responding State in a proceeding;

The State must have procedures requiring all public and private entities in the State to provide promptly, in response to the request of the IV-D agency of that or any other State, information on employment, compensation, and benefits of any employee or contractor of such entity.

Section 401 provides for expedited appeal to the Supreme Court of any district court ruling on the constitutionality of the above provision concerning long-arm jurisdiction based on the child's residence.

This section also makes conforming amendments to authorities requiring States to give full faith and credit to other States' child support orders.

Sec. 402. State laws providing expedited proceedings

Section 402 requires State laws to give the State IV-D agency the authority (and recognize and enforce the authority of State agencies of other States), to take the following actions relating to establishment of paternity and establishment and enforcement of support orders without obtaining an order from a separate judicial or administrative tribunal (but subject to due process safeguards):

To establish the amount of support in any case being enforced by the State agency, and to modify any support order included in the central case registry, based on State guidelines;

To order genetic testing for paternity establishment where appropriate preconditions are met;

To enter a default order—

Establishing paternity (where a putative father refuses to submit to genetic testing); and

To establish or modify a support obligation, where an obligor or obligee fails to respond to notice to appear;

To subpoena financial or other information needed to establish, modify, or enforce an order, and to sanction failure to respond to a subpoena;

To obtain access (including automated access, if available), subject to appropriate safeguards, to—

Records of other State and local government agencies, including records on vital statistics; tax and revenue; real and titled personal property; occupational and professional licenses; ownership and control of corporations and other business entities; employment security; public assistance; motor vehicles; and corrections;

Customer records of public utilities and cable television companies; and

Information held by financial institutions on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought);

To order wage or other income withholding;

To direct that the payee under an order be changed (in cases being enforced by the State agency) to the appropriate government entity;

For the purpose of securing overdue support—

To intercept and seize any payment to the obligor by or through a State or local government agency;

To attach and seize assets of the obligor held by financial institutions;

To attach retirement funds (where permitted by the Secretary);

To impose liens and, in appropriate cases, to force sale of property and distribution of proceeds; and

To increase monthly support payments to include amounts for arrearages.

To suspend drivers' licenses of individuals owing past-due support.

Section 402 also requires State laws to provide for the following substantive and procedural rules and authority, applicable to all proceedings to establish paternity or to establish, modify, or enforce support orders:

Procedures permitting presumptions of notice in child support cases, under which parties to a paternity or child support proceeding must file with the tribunal, and update, information on location and identity, which may be relied on in any subsequent child support enforcement action between the same parties for purposes of providing notice and service of process (if due diligence has otherwise been exercised in attempting to locate such party);

Procedures ensuring Statewide jurisdiction in child support cases, under which the IV-D agency and tribunals hearing child support and paternity cases have Statewide jurisdiction; their orders have Statewide effect; and (where orders in such cases are issued by local jurisidictions) a case may be transferred within the State without loss of jurisdiction.

This section would bar the Secretary from granting States exemptions from State law requirements under section 466 of the Act concerning procedures for paternity establishment; modification of orders; recording of orders in the central State case registry; recording of social security numbers; interstate enforcement; or expedited administrative procedures.

Finally, this section requires the IV-D agency's ADP system to be used, to the maximum extent feasible, to implement the above expedited administrative procedures.

TITLE V—PATERNITY ESTABLISHMENT

Sec. 501. State laws concerning paternity establishment

Section 501 amends the provisions concerning State laws on paternity establishment to require such laws—

To permit the initiation of proceedings to establish paternity before the birth of the child concerned;

To provide authority to order genetic testing upon request of a party when such request is supported by a sworn statement establishing a reasonable possibility of parentage;

To require the IV-D agency, when it orders genetic testing, to pay the costs (subject (at State option) to recoupment from the putative father if paternity is established), and to obtain additional testing (upon advance payment) where test results are disputed;

To require the State to admit into evidence results of any genetic test that is of a type generally acknowledged by accreditation bodies designated by the Secretary as reliable evidence of paternity, and performed by a laboratory approved by such an accreditation body;

To make cooperation by hospitals and other health care facilities in voluntary paternity acknowledgment procedures a condition of Medicaid participation;

To require any State that treats a voluntary acknowledgment as a rebuttable presumption to provide that the presumption becomes conclusive within one year (unless rebutted or invalidated);

To provide (at State option, notwithstanding the preceding provision) for vacating an acknowledgement of paternity, upon the request of a party, on the basis of new evidence, the existence of fraud, or the best interest of the child; and

To provide that no judicial or administrative proceedings are required or permitted to ratify an unchallenged acknowledgement of paternity;

To provide that parties to a paternity proceeding are not entitled to jury trial;

To require issuance of an order for temporary support, upon motion of a party, pending an administrative or judicial determination of parentage, where paternity is indicated by genetic testing or other clear and convincing evidence;

To provide that bills for pregnancy, childbirth, and genetic testing are admissible without foundation testimony;

To grant discretion to the tribunal establishing paternity and support to waive rights to amounts owed to the State (but not to the mother) for costs relating to pregnancy, childbirth, genetic testing, and child support arrears, where the father cooperates or acknowledges paternity;

To ensure that putative fathers have a reasonable opportunity to initiate paternity actions.

Sec. 502. Outreach for voluntary paternity establishment

Section 502 requires State IV-D plans, effective October 1, 1996, to provide that the State will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support through a variety of means, which—

Will include distribution of materials at health care facilities and other locations, such as schools; and follow-up on each child for whom paternity has not been established discharged from a hospital after birth; and

May include programs to educate expectant couples on rights and responsibilities relating to paternity, in which all expectant IV-A recipients may be require to participate).

90 percent Federal matching would be available for the above outreach activities in quarters beginning on and after October 1, 1996.

Sec. 503. Penalty for failure to establish paternity promptly

Section 503 provides for reduction of Federal matching otherwise payable to a State IV-A program, for quarters beginning 10 months or more after enactment of this bill, for failure to establish paternity for children born 10 months or more after enactment who are receiving public assistance, whose mothers or custodial relatives have cooperated with State agency efforts for the entire preceding year, but for whom paternity has not been established. The reduction formula would be establish in regulations; it would equal the product of (1) the number of such children in the State (after making allowance for a tolerance level of a percentage of such children, ranging from 25 percent for FY 1998 to 10 percent for FY 2004 and succeeding fiscal years); (2) the average monthly AFDC payment; and (3) one-half the applicable Federal matching rate under title IV-A.

Sec. 504. Incentives to parents to establish paternity

Section 504 authorizes the Secretary to approve IV-D State plan amendments providing for incentive payments to families to encourage paternity establishment. State payments for this purpose would be matched as ordinary IV-D expenditures.

This section also requires the Secretary to authorize up to 3 States to conduct demonstrations providing financial incentives to families for establishment of paternity. 90 percent Federal matching would be available under title IV-D for State payments to families under these demonstrations, up to a $1 million cap on Federal expenditures.

TITLE VI—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

Sec. 601. National Commission on Child Support Guidelines

Section 601 authorizes the Secretary to establish a National Commission on Child Support Guidelines to consider the advisability of a national child support guideline (or parameters for State guidelines) and, if appropriate, to develop a proposed guideline for congressional consideration. The Commission is to consider matters including the adequacy of State guidelines; the definition of income and circumstances under which income should be imputed; tax treatment of support; cases in which parents have obligations to more than one family, treatment of expenses for child care, health care, and special needs; the appropriate duration of support, and issues raised by shared custody.

The Commission would have 2 members appointed by the Chairman and 1 by the Ranking Minority Member of the Senate Finance Committee; 2 appointed by the Chairman and 1 by the Ranking Minority Member of the House Ways and Means Committee; and 6 appointed by the Secretary. Members would be appointed by March 1, 1996, and would make a final report to the President and the Congress within 2 years after appointment.

Appropriations are authorized of $1 million for each of FYs 1996 and 1997, to remain available until expended.

Sec. 602. State laws concerning modification of child support orders

Section 602 requires States, effective October 1, 2000, to have in effect laws concerning modification of child support order under which—

The IV-D agency modifies all support order (including judicial orders) included in the central case registry, in accordance with State guidelines on award amounts;

All orders in the central case registry are revised and adjusted at least every 36 months unless adjustment is not in the child's best interests, or unless both parents decline modification in writing.

Support orders must be reviewed upon the request of either parent whenever either parent's income has changed by more than 20 percent, or other substantial changes in circumstances have occurred, since the order was established or most recently reviewed.

This section also amends current due process provisions to eliminate specific Federal timetables and to require instead application of State due process safeguards.

Sec. 603. Study on use of tax return information for modification of child support orders

Section 603 requires the Secretaries of HHS and Treasury to conduct a study to determine how tax return information might be used to facilitate the process of modifying child support awards.

Sec. 604. Cost-of-living adjustment of child support awards

This section directs the States to include in their State plan procedures to ensure that child support orders shall be adjusted an annual basis in line with the Consumer Price Index.

TITLE VII—ENFORCEMENT OF SUPPORT ORDERS

Sec. 701 Revolving loan fund for program improvements to increase collections

Section 701 authorizes appropriation of a total of $100 million ($10 million each for FYs 1999 and 2000, and $20 million each for FYs 2001 through 2004), to establish in title IV-D a revolving fund for loans by the Secretary to States for short-term projects making operational improvements in State and local IV-D programs with the potential for achieving substantial increases in child support collections.

Loans from the fund could not exceed $5 million per State or $1 million per project (or $5 million for a single Statewide project in a large State); loan durations could not exceed 3 years. Loans would be repaid through offsets against the increase in State incentive payments, plus additional offsets against State IV-D payments as necessary to ensure full repayment in 3 years. Loan funds received by a State could be used by the State as the non-Federal share of expenditures under the State IV-D program.

Sec. 702. Federal income tax refund offset

Section 702 makes amendments, effective January 1, 1997, relating to the authority to offset child support arrearages against Federal income tax refunds, as follows:

The Internal Revenue Code of 1986 is amended to provide that offsets of child support arrears (whether owed to the family or assigned to the State) against income tax overpayments would take priority over debts owed Federal agencies (other than debts owed to HHS or the Department of Education for student loans);

Title IV-D is amended—

To eliminate disparate treatment of families not receiving public assistance, by repealing provisions (applicable only to support arrears not assigned to the State) that—

Make the offset available only for minor or disabled children who are still owed current support;

Set a higher threshold amount of arrears before tax offset is available; and

Permit higher fees to be charged for the offset service.

Sec. 703. Internal Revenue Service collection of arrears

Section 703 amends the provision of the Internal Revenue Code of 1986 which provides authority to collect child support arrears as if they were a tax owed by the obligor, upon certification of arrears by the Secretary of HHS, to bar imposition by IRS of additional fees for adjustment to the amount of arrears previously certified with respect to the same obligor.

Sec 704. Authority to collect support from employment-related payments by the United States

Section 704 amends title IV-D, effective 6 months after enactment, to eliminate the separate rules for withholding of child support from wages, pensions, and other employment-related compensation of Federal employees. These amendments treat U.S. employment income the same as income from any other employer for purposes of the income withholding provisions of title IV-D.

This section also amends 10 U.S.C. to remove barriers to availability of military retirees' compensation for payment of child support, by making clear that these funds can be reached by administrative as well as judicial orders, and to provide for payment through a designated governmental entity.

Sec. 705. Motor vehicle liens

Section 705 amends the title IV-D requirements for State laws concerning liens with respect to child support arrears to require that States have and use procedures to place liens on titled motor vehicles owned by individuals owing child support arrears equal to two months of support. Such liens would take precedence over all other encumbrances on a vehicle title, other than a purchase money security interest, and could be used to force seizure and sale of the vehicle.

Sec. 706. Voiding of fraudulent transfers

Section 706 requires States to have in effect the Uniform Fraudulent Conveyance Act of 1981, the Uniform Fraudulent Transfer Act of 1984, or an equivalent law providing for voiding of transfers of income or property made to avoid payment of child support.

Sec. 707. State law authorizing suspension of licenses

Section 707 requires enactment of laws giving the State authority to withhold, suspend, or restrict use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue child support or failing to respond to subpoenas or warrants relating to paternity or child support proceedings.

Sec. 708. Reporting arrearages to credit bureaus

Section 708 amends the requirement for a State law providing for the reporting of child support arrears to consumer credit bureaus (which currently must permit such reporting) to require such reporting when payment is one month overdue.

Sec. 709. Extended statute of limitation for collection of arrearages

Section 709 requires that State law provide a statute of limitations on child support arrears extending at least until the child reaches age 30. (This amendment would not require a State to revise any payment obligation which had lapsed on the effective date of the State law.)

Sec. 710. Charges for arrearages

Section 710 requires State laws to provide, not later than October 1, 1998, for assessment of interest or penalties for child support arrearages.

Sec. 711. Visitation issue barred

Section 711 requires State laws to provide that failure to pay child support is not a defense to denial of visitation rights, and denial of visitation rights is not a defense to failure to pay child support.

Sec. 712. Denial of passports for nonpayment of child support

Section 712 amends 4 U.S.C., effective October 1, 1996, to provide that the Secretary of State, upon a certification by a State IV-D agency that an individual owes child support arrears of over $5,000, must refuse to issue a passport to the individual and may revoke or restrict a passport already issued.

Sec. 713. Denial of Federal benefits, loans, and guarantees

This section provides that no Federal agency may make a loan to, provide any guarantee for the benefit or, or provide any benefit to any person who has a child support arrearage exceeding $1,000 and who is not in compliance with a plan or an agreement to repay this obligation. This provision is designed to elevate the issue of child support in the operations of the Federal government. The Federal agencies determine, for example, if a contractor is on the suspension and debarment list before the agency awards a contract to the company. The purpose of this section is to create this type of screening system for child support obligations.

Sec. 714. Seizure of lottery winnings

This section provides that the distributor of lottery winnings, insurance settlements, judgments, and/or property seizures shall first seek a determination from the State child support enforcement agency as to whether the person owes a child support arrearage. If there is an arrearage, then there shall be a withholding of that amount which shall be sent to the Child Support agency for distribution.

Sec. 801. Child support enforcement and assurance demonstrations

Section 801 requires the Secretary to fund grants to 3 States for demonstrations, beginning in FY 1998 and lasting from 7 to 10 years, providing assured levels of child support for children for whom paternity and support have been established. The projects would be administered by the State IV-D agency or the State department of taxation and revenue. Annual benefit levels set by States could range from $1,500 to $3,000 for a family with one child, and from $3,000 to $4,500 for a family with four or more children. States could require absent parents with insufficient income to pay support to work off support by participating in work programs.

Ninety percent Federal matching would be available from appropriations for payments to States under title IV-D, but total Federal funds available for these demonstrations would be capped at $27,000,000 for FY 1998; $55,000,000 for FY 1999; $70,000,000 for each of FYs 2000 through 2003; and $55,000,000 for FY 2004. This section authorizes appropriation of $10 million for FY 1998, to remain available until expended, for the Secretary's costs for evaluating demonstrations under this section.

Sec. 802. Social Security Act demonstrations

Section 802 amends section 1115(c) of the Act (which currently requires that IV-D demonstrations not result in increased costs to the Federal Government under AFDC) to require instead that such demonstrations not result in an increase in total costs to the Federal Government.

TITLE IX—ACCESS AND VISITATION GRANTS

Sec. 901. Grants to States for access and visitation programs

Section 901 adds a new section 469A of the Act providing a new capped entitlement program of grants to States for programs to support and facilitate noncustodial parents' access to and visitation of their children. The program would be funded at $5 million for each of FYs 1997 and 1998, and $10 million per year thereafter; Federal funding would be available to match 90 percent of a State's expenditures up to the amount of its allotment under a formula based on the numbers of children living with only one biological parent. State programs could be administered by the CSE agency either directly or through courts, local public agencies, or nonprofit private entities, and could be Statewide or geographically limited.

TITLE X—EFFECT OF ENACTMENT

Sec. 1001. Effective dates

Section 1001 provides that, except as otherwise specified—

Provisions of this title requiring enactment of State laws or revision of State IV-D plans shall become effective October 1, 1996; and

All other provisions of this title become effective upon enactment,

subject to provisos—

Affording a State until after the end of the next State legislative session beginning after enactment, in the case of any provision of this title requiring enactment or amendment of State laws; and

Affording a State up to 5 years to comply if a State constitutional amendment is required to permit compliance.

Sec. 1002. Severability

Section 1002 provides that the provisions of this title are severable, and that any provision found invalid will not affect the validity of any other provision which can be given effect without regard to the invalid provision.

OFFICE OF CHILD SUPPORT ENFORCEMENT, DEPARTMENT OF FINANCE AND ADMINISTRATION,
Little Rock, AR, March 30, 1995.

Hon. DAVID PRYOR,
U.S. Senator, Russell Building,
Washington, DC.

DEAR SENATOR PRYOR: We share your concern regarding the future of the children and families of Arkansas and the nation. Congress is considering sweeping changes to reform the welfare system that will affect families struggling to support their children. An effective child support enforcement program is a essential part of that reform. Regular child support payments must be ensured if single parent families are to have financial security necessary for children to thrive and to be successful citizens and relieve the burden of taxpayers.

As child support enforcement professionals, we support the efforts of congress to improve the present program. We realize the importance of our role in empowering individuals to become self-sufficient and we embrace the challenges ahead. Our mission is to provide assistance to children and families in obtaining financial and medical support through locating parents, establishing paternity and support obligations, and enforcing those obligations. Our vision for the future is to put children first by helping parents assume responsibility for the social and economic well-being and health of their children.

To accomplish these goals we must have improved and uniform enforcement remedies that reach across state lines. We must also have improved operational support from both the state and federal government and increased funding. While other programs may lend themselves to block grants, nonpayment of child support transcends state lines and requires some uniformity in enforcement. Competing state interests affect state legislation more readily than at the federal level. Many state child support programs welcome federal mandates of proven enforcement and operational remedies to assist them in acquiring effective collection tools. Not all mandates are bad. Much of the progress in child support has come about through federal mandates and the resulting uniformity from state to state has been most beneficial.

Child support advocates and professionals agree on much of what is needed to improve the program nationwide. They include the following:

1. Central Registry of Child Support Orders—States should be required to develop and implement a central registry of all child support orders. State central registries should be formatted similarly to form a national central registry of child support orders.

2. Central Collection Systems—It is difficult to enforce child support orders because of the variety of collection points. To enforce an order, payments made or not made must be accounted for to determine past due support. With child support payments being paid directly to custodial parents, court clerks or local agencies it becomes a time consuming process to collect payment records from different sources in order to determine past due arrears. Central payment processing has proven to be effective and efficient where implemented. Central processing enables IV-D agencies to monitor delinquencies in child support cases and allows for expedited enforcement remedies to be implemented immediately upon delinquency. Many of the IV-D agency's cases have been delinquent for months or years when they enter the caseload. Central monitoring is essential if we as a nation are to have an effective child support program. Collections should not become delinquent. If they do become delinquent, immediate enforcement actions must be taken.

3. New Hire Reporting—New hire reporting has proven effective in fifteen states. It is an effective tool to locate job hoppers. Employers report new hires to the state IV-D agency or in cooperation with state employment security agencies when a new employee is hired. At present, there is no good way to locate a job hopper for at least one quarter of the year when withholding is first reported. Custodial parents cannot wait that long to feed and clothe their children. There are those who feel that this is too heavy a burden upon employers. It need not be. It cold be as simple as forwarding a copy of a W-4 form. We have found employers to be responsive and concerned about child support issues. When new hire reporting was erroneously reported as having passed our legislature, employers called wanting to know how to report new hires. There was no opposition in the employer community but certain business interests presented strong opposition to the measure. It is difficult to win approval for such a measure on the local level and to do so requires federal leadership.

4. License Revocation—License suspension or revocation is a proven and effective administrative procedure to compel payment of past due arrears. It is somewhat controversial because of vested interest and licensing agencies reluctance to participate, but it has proven to be effective in Maine, California and Arkansas. Nineteen states have adopted some form of license suspension or revocation. To be an effective remedy all states need to have access to licensing revocation and suspension. For interstate enforcement a request to suspend a license in another state would be most beneficial and would be a deterrent to nonpayers to flee from one state to another to avoid paying child support.

In addition to new enforcement techniques, support from the federal government not just in dollars and cents but in cooperation is paramount if we are to solve the national nonsupport problem. Federal government agencies have information we need to locate nonpaying noncustodial parents and their assets. Yet, it is difficult to obtain that information, it is outdated or; if provided, cannot be used without additional verification.

1. Social Security Administration—We recommend that Congress pass laws that would require the Social Security Administration (SSA) to provide information to the child support agencies for the purpose of determining the location and the ability of the noncustodial parent to pay support. Currently,

information from SSA is available through the Federal Parent Locator Service. However, the information that we receive is minimal and outdated. We need to know if a noncustodial parent has filed a claim for benefits, the amount of benefits paid to the noncustodial parent and the children, the amount of any lump sum payment to the noncustodial parent or the custodial parent. This information is vital in determining support obligations and arrearage.

2. IRS Locate and Asset Information—The IRS provides a valuable service in the form of the Federal Tax Offset program. Information on income is available from 1099 files. However, The Internal Revenue Service (IRS) has some concerns with regard to safeguarding the information it shares with state child support agencies and does not want the information shared with anyone who is not a state employee. Many states have contracted with local jurisdictions or private entities, since 1975 in some states, to provide child support services in their areas. After 20 years, the IRS has suddenly raised issues of safeguarding confidentiality. These contractors are agents or designees of the state and are entitled to the same level of information as state employees performing the same functions. Confidentiality is a high priority for all child support professionals and the information we gather is used solely to establish or enforce child support obligations. The Department of Defense has contractors that have access to secure information that could affect national security, certainly child support contractors should have access to all information needed to pursue a case. Something is very wrong when an agency of the federal government can throw up road blocks to obtaining information on delinquent noncustodial parents affecting the ability of a child to receive the support he deserves.

3. IRS Full Collection—The IRS full collection process could be a valuable enforcement tool. However, our experience has been that child support cases receive a low priority when referred to the IRS field office. We suggest that Congress provide funding for staff and resources to enhance the full collection process and require that child support cases receive priority over all other collection cases.

4. Automated Systems—The new child support data systems being developed nationwide are sorely needed to manage the growing number of delinquent child support cases. These systems will assist child support workers who have caseloads of 500 to 1000 cases to be more productive and enhance their ability to make child support collections. However, the resources of both the private vendors and states have been exhausted in their attempt to make fifty statewide systems operational by the deadline date. Few states will be up and running by October 1, 1995 and the rush to get "something up" by October 1 will produce inferior systems. There are numerous reasons why these projects are in trouble. One of the chief reasons for delay in implementation was that the final federal regulations were not issued until October 1992 and the certification requirements were not issued until June 1993. Both the state and the federal government have enormous sums of money invested. We should get our moneys worth. By extending the deadline for one more year to October 1, 1996 without approving any additional funds for furthering the project, state administrators will be allowed the opportunity to make these projects successful. If there is no extension, there is going to be mass confusion on or about October 1, when all states try to bring up these new systems nationwide. It does not make good sense to allow this to occur. We, therefore, recommend an extension to October 1, 1996 at the 90% FFP rate with no additional funding allowed other than those funds previously approved in the state's Advance Planning Documents.

The 1993 Amendments to the Omnibus Budget Reconciliation Act (OBRA) required states to establish programs that provide a simple civil process for unmarried parents to voluntarily acknowledge paternity for their children. In Arkansas, all 56 birthing centers are assisting parents by providing information on establishing paternity and completing the necessary forms. Since the program implementation date of January 25, 1994, over 4,500 acknowledgements have been signed. The acknowledgements are matched to the existing IV–D caseload on a continual basis. To date, twenty-five percent (25%) of the signed acknowledgements have been identified as IV–D cases. To be truly successful, the program should be extended to encompass postnatal follow-up to provide yet another opportunity for parents to acknowledge the paternity of their children. The IV–D agencies will follow-up with families that receive child support services. However, the Public Health agencies have an opportunity through public education, nutrition, immunization and home health services to reach the parents that are not served by the IV–D program. We suggest that Congress provide a funding mechanism for the public health agencies, Headstart and any other agencies concerned with the welfare of children and families, to provide paternity acknowledgement services to their clients.

Federal regulations require states to periodically review and adjust child support orders utilizing state guidelines. We agree that periodic review is essential to ensure that the children receive the support they deserve and that parents are ordered to pay a fair and reasonable amount. The process by which review and adjustment is accomplished is restrictive and incompatible with states' Rules of Civil Procedure. States should have more flexibility to determine the process by which review and adjustment is accomplished. One alternative might be the award of Cost of Living Allowances (COLA). This method could be automated and more evenly applied.

Arkansas has implemented an administrative process to revoke or suspend Commercial Driver's License of noncustodial parents who are six (6) months behind in their child support obligations. In less than six months of operation, we have collected over $106,000. A total of 107 commercial driver's licenses have been suspended, 12 licenses have been reinstated and 70 noncustodial parents have signed agreements to pay the delinquent accounts and avoid suspension of their licenses. One of the most difficult case for us to collect is the independent truck driver. With this program, drivers are detained in weigh stations throughout the nation or at their terminals until the child support issues are resolved. Arkansas has recently extended the license suspension for nonpayment of child support to all business and professional licenses, hunting and fishing licenses and permanent license plates. We recommend that all states be required to suspend licenses to include all professional/business licenses, regular drivers' licenses and personal vehicles, trucks, boats and airplanes registered in the state. States have found that the most successful programs are administrative and automated. Congress should consider requiring state IV–D agencies to implement such administrative programs and provide funding for licensing boards to become automated with electronic links to the IV–D agencies.

No one wants to discuss funding in today's environment. However, there is a direct relationship between the amount of child support collected and the ratio of child support workers per case. The more workers, the more child support is collected. At some point there would be diminishing returns, but this is not likely in the foreseeable future. Originally, states received 75% FFP plus incentives on collections. Only AFDC cases were mandated. Over the years since the program began, FFP has decreased to 66% plus 6–10% incentives on AFDC cases and 6–10% on non-AFDC cases. Incentives on non-AFDC collections are capped at 115% of AFDC collections, creating somewhat of a disincentive to work non-AFDC cases. During the same time period that federal financial participation was decreasing, Congress mandated services to non-AFDC clients and Medicaid recipients, increasing caseloads dramatically. Caseloads, nationally, have increased by 128% with collections increasing by 345% during the same period, FFP has decreased by 5.7%. States are continually asked to do more with less funding, which has contributed to the growing problem of uncollected child support.

While the intent of the current proposal being considered is to provide some relief and to redistribute federal dollars among states, it is important to understand the effect of the proposed funding scheme. Under the proposed distribution rules, states will lose dollars in the form of retained AFDC collections which provide match dollars for half of the states. Currently, states can earn more than 100% funding. Some make a profit. Under the new scheme, the best a state can do is 90% FFP. Since many states pass incentives on to the contractors providing services in some local jurisdictions, many local offices will be asked to enter into contracts knowing that they will experience at least a 10% loss each year or state cost will increase. Once again, as Congress attempts to improve the nation's child support problem, a funding cut is proposed. We know that more dollars must be invested in caseworkers and automation if we are to work more cases and collect more child support. Why then reduce funding to state programs by at least 10% when you want them to do more? If we are to remove custodial parents from welfare and make parents financially responsible for their children, a strong child support program is essential. A return to the 75% FFP plus incentives would be helpful and we recommend that incentives be sufficient to allow for a 100% reimbursement. Any funds over 100% should be returned to the federal government.

We greatly appreciate your interest in child support enforcement. Thank you for the opportunity to express our views on these very important issues. We join in your commitment to assist the children and families of Arkansas and the nation to realize their full potential.

Sincerely,

JUDY JONES JORDAN,
Administrator.

By Mr. MURKOWSKI (for himself and Mr. GRASSLEY):

S. 688. A bill to provide for the minting and circulation of $1 silver coins; to the Committee on Banking, Housing, and Urban Affairs.

THE U.S. SILVER DOLLAR COIN ACT OF 1995

• Mr. MURKOWSKI. Mr. President, today I am introducing legislation that would permit the minting of a $1 silver-plated coin with a likeness of President Dwight D. Eisenhower on the front and a rendering of the Iwo Jima monument on the reverse side of the coin. I am pleased that Senator GRASSLEY is joining in this effort that will provide a boost to our domestic silver mining industry and could serve to reduce the Federal deficit.

Our currency system has not been significantly altered over the past century even though the economy has fundamentally changed. Not long ago, an individual could use one coin—a nickel, dime, or quarter—to purchase a coke from a vending machine or ride a bus. Today, that's just not possible. Vending machines require two, three, or four coins, or, even worse, a dollar bill. And you know how frustrating those dollar bill readers can be on vending machines and Metro fare machines. To make matters worse, a dollar bill reader on a vending machine costs $400 to $500—an utterly unnecessary cost if a dollar coin were available.

According to the Coin Coalition, processing dollar coins instead of dollar bills would save the mass transit industry alone more than $124 million a year. The Los Angeles County Metropolitan Transportation Authority would save $3.5 million a year if it did not have to expend the time and labor in processing—unwrinkling dollar bills. Those savings could be used to buy 24 new buses to move people instead of paper. The Chicago Transit Authority does its own bill-unfolding, at a cost of $22 per thousand. Processing coins costs just $1.64 per thousand.

In addition, many economists project that a dollar coin could save the Federal Government several million dollars. Although coins cost more to mint than dollar bills to print, coins last far longer. A bill wears out in an average of about 17 months while coins can last 30 years.

Since this is the 50th anniversary of the allied victory in World War II, I believe it is appropriate that the new coin present a likeness of President Eisenhower who also served as the Supreme Commander in Europe. The rendition of the raising of the flag on Mount Surabachi on Iwo Jima has become a symbol of the dedication and valor of our Armed Forces in restoring freedom in the Pacific.

I hope my colleagues will join me in getting this coin modernization enacted into law this year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Silver Dollar Coin Act of 1995".

SEC. 2. ONE-DOLLAR COINS.

(a) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended—

(1) in the first sentence, by striking "The dollar," and inserting "The"; and

(2) by inserting after the fourth sentence the following: "The dollar coin authorized under subsection (a)(1) shall be silver in color, shall have a distinctive edge and have tactile and visual features that make the denomination of the coin readily discernible, shall be minted and fabricated in the United States, and shall have metallic and anticounter-feiting properties similar to those of United States clad coinage, except that the dollar coin shall be a clad coin with 3 layers of metal, including 2 outer layers of silver. The dollar coin authorized under subsection (a)(1) shall contain not less than 1 gram of newly mined fine silver.".

(b) ADJUSTMENTS TO SILVER CONTENT.—Section 5112(c) of title 31, United States Code, is amended by adding at the end the following: "Notwithstanding subsection (b), the Secretary may prescribe the weight of silver in the dollar coin if the Secretary determines that such action is necessary to ensure an adequate supply of dollar coins to meet the needs of the United States.".

(c) DESIGN.—Section 5112(d)(1) of title 31, United States Code, is amended—

(1) in the fourth sentence, by striking "the dollar, half dollar," and inserting "the half dollar"; and

(2) by striking the fifth and sixth sentences and inserting the following: "The obverse side of the dollar coin shall bear a likeness of President Dwight D. Eisenhower and the reverse side shall bear a rendering of the Iwo Jima Memorial.".

(d) EFFECTIVE DATE.—Not later than 30 months after the date of enactment of this Act, the Secretary of the Treasury shall place into circulation the one-dollar coins authorized by section 5112(a)(1) of title 31, United States Code, in accordance with the amendments made by subsections (a), (b), and (c).•

By Mrs. MURRAY:

S. 689. A bill to amend the Solid Waste Disposal Act regarding the use of organic sorbents in landfills, and for other purposes; to the Committee on Environment and Public Works.

THE LANDFILL TECHNICAL IMPROVEMENTS ACT OF 1995

• Mrs. MURRAY. Mr. President, I am introducing today the Landfill Technical Improvement Act of 1995. This legislation will allow us to maximize technical advances of the last decade in carrying out our Nation's environmental protection strategy. It will also promote small business and entrepreneurship and help our Nation compete in the global market for new, environment driven technologies.

By passing the 1984 Hazardous and Solid Waste amendments, Congress required the Environmental Protection Agency [EPA] to issue regulations restricting the disposal of organic absorbents in hazardous waste landfills. In the past decade, however, developments in natural absorbent technologies show more efficiency than traditional sorbents produced for fossil fuels.

For example, a company in Bellingham, WA, manufactures organic sorbents from a local paper mill's sludge. Sludge recycled into productive use is kept out of landfills. This small company employs 20 to 30 Washingtonians and, with other similar companies across the country, seeks to expand in the marketplace with this new, recycled product.

Normal landfill conditions are anaerobic, and studies have shown that no biodegradtion takes place in the anaerobic environment of landfills. Thus, in this anaerobic environment of RCRA landfills, these sorbents will not degrade. These organic absorbents, made totally from reclaimed materials, may actually outperform current chemical absorbents. However, because of the 1984 amendments and subsequent EPA regulations, these absorbents have been effectively shut out from disposition in landfills.

This disposition issue threatens to undermine the existence of these new technologies, since that which cannot be disposed economically will not be used. Moreover, innovative and environmentally conscious technologies, such as those developed by this small company in my State, are discriminated against.

The administration has clearly stated its preference for such recycled/reclaimed materials, but this flawed regulation has prejudiced the widespread availability and use of these products. This is to the detriment of our national environmental goals.

This bill remedies this situation, allowing the fullest use of environmentally sound landfill technologies.•

By Mr. AKAKA (for himself, Mr. CAMPBELL, and Mr. DORGAN):

S. 690. A bill to amend the Federal Noxious Week Act of 1974 and the Terminal Inspection Act to improve the exclusion, eradication, and control of noxious weeds and plants, plant products, plant pests, animals, and other organisms within and into the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FEDERAL NOXIOUS WEED CONTROL IMPROVEMENT ACT OF 1995

• Mr. AKAKA. Mr. President, today I am introducing the Federal Noxious Weed Control Improvement Act of 1995. Senators CAMPBELL and DORGAN have joined me as cosponsors of this bill. The objective of this legislation is to curb the wave of noxious weeds that is sweeping over productive rangeland, agricultural land, and native ecosystems across America.

I hope my colleagues saw the article on invasive alien species that appeared in the New York Times magazine last November. It vividly described the threats to the tropical ecosystems of Hawaii posed by nonindigenous species.

In Hawaii, gorse, ivy gourd, and the banana poka vine are ravaging native forest and rangeland. But Hawaii is not alone in facing this threat. Nearly 200 species of troublesome imported weeds infest the continental United States.

We see evidence of this problem within a few miles of the Capitol. Drive to the edge of the Potomac or through Rock Creek Park and you will see impenetrable mats of hydrilla and honeysuckle. Another weed, kudzu, topples grown trees and smothers shrubs and plants. In New England, Oriental bittersweet and porcelain berry vine cause similar damage. Purple loosestrife has decimated wetlands across the country from Maine to Washington.

Leafy spurge, spotted knapweed, cheatgrass, thistle, salt cedar, and Medusa-head cover millions of acres of grasslands in Montana, Idaho, Oregon, and Washington. All of these weeds are foreign to the United States. Some are toxic to livestock. Others are heavy consumers of water, or fuel forest and rangeland fires. These weeds ruin the grasslands for birds, elk, and grizzly bears. In Montana alone, cattlemen suffer millions of dollars of forage losses due to spotted knapweed. At its current rate of spread, Montana's projected losses due to spotted knapweed could exceed $100 million by the year 2000. Another weed, leafy spurge, occupies over 2.5 million acres in 30 States. Nationwide, $100 million in direct and indirect losses to livestock are attributable to leafy spurge.

The cost of weed control and losses due to weed infestation are estimated at over $20 billion per year, more than the combined losses for all other pests.

Nearly 16 million acres of Federal land are infested with noxious weeds. On Bureau of Land Management lands, weed infestation expands at a rate of 2,000 acres per day. If current trends continue, a quarter of BLM lands in the continental United States could be overrun with weeds by the turn of the century.

At least one hundred of our national parks face serious harm to their natural resources as a result of invasive foreign plants. Everglades National Park and Big Cypress National Preserve are overrun by the Australian melaleuca tree. More than 400,000 acres of the everglades are infested by this tree, and 50 additional acres are consumed each day. Wildlife habitat and water supplies are also threatened by maleleuca in the Loxahatchee National Wildlife Refuge. Another tree, the Brazilian pepper, is crowding out the mangroves along Florida's southwestern coast. Both of these alien trees make habitat unsuitable for native water birds.

Competition from 25 exotic plants threatens the habitat of rare plants in Great Smoky Mountains National Park. Among the damaging species are stink tree, multi-flora rose, and an imported grass with a scientific name I won't even attempt to pronounce.

River margins and rare desert springs in the beautiful slickrock parks of Utah, including Canyonlands and Zion National Parks, as well as in Death Valley National Park, have become overgrown with tamarisk, a tree which literally sucks the water out of the ground, depriving wildlife and native plants of precious water supplies.

Efforts to safeguard private and public land from these threats are grossly inadequate. In 1993, the Congressional Office of Technology Assessment called U.S. efforts to counter the effects of invasive exotic species "a largely uncoordinated patchwork of laws, regulations, policies, and programs."

The Secretary of Agriculture is responsible for preventing noxious weeds from entering the country either accidentally or as intentional imports, as well as for spearheading control efforts for those noxious weeds that have already become established. However, the Federal Noxious Weed Act of 1974 has not been an effective tool to address this problem.

Under current law, the Secretary of Agriculture must wait until a weed is an established, documented nuisance before action can be taken. That's like waiting until the cows have run away before you close the barn door.

For example, tropical soda apple, a plant in the nightshade family, was introduced from Brazil into pastures in Florida. It was first observed in 1987 and now occupies more than 400,000 acres in Florida. Although cattle cannot eat the plant because of its sharp spines, seeds from this invasive weed easily contaminate hay and other forages. Tropical soda apple presents a particularly difficult control problem because seeds are passed through cattle manure. In Mississippi, Alabama, and Georgia, more than 20 outbreaks have been linked to cattle purchased in Florida. Tropical soda apple can also be transported in commercially packaged manure used for gardening. Despite the danger and the relative ease of dealing with the original infestation, it took the U.S. Department of Agriculture 8 years to declare it a noxious weed. During that time, the problem has become so widespread that containment may be beyond hope.

To correct weaknesses in the Federal Noxious Weed Act of 1974, my bill would grant emergency authority to prohibit the entry of foreign weeds that have not been formally added to the Federal noxious weed list. Weeds could also be added to the list through a petition process. Also, the bill would prohibit the international movement of Federal noxious weeds across State lines except under permit. Finally, this legislation would establish a Noxious Weed Technical Advisory Group to evaluate weed species, develop appropriate classification criteria for noxious weeds, and make recommendations to implement the act.

As the hearings that I chaired during the 103d Congress clearly demonstrated, the lack of coordination between Federal agencies that are responsible for the control of alien weeds is a serious problem. Twenty-four Federal agencies located in 8 different Cabinet departments have responsibility for pest control. They enforce more than an dozen major laws, and a host of minor ones.

With so many statutes and so many agencies, Federal policy resembles a piece of swiss cheese, and noxious, foreign pests are streaming through the holes in policy and enforcement. Hawaii and other States suffer the consequences of piecemeal Federal enforcement.

I ask my colleagues to support the prompt passage of this bill. I hope that we can consider this legislation as part of the 1995 farm bill. All of our constituents will benefit from a stronger and more secure foundation for agriculture and conservation of our natural resources.

I ask unanimous consent that the text of the Federal Noxious Weed Control Improvement Act of 1995 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 690

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Noxious Weed Control Improvement Act of 1995".

TITLE I—NOXIOUS WEEDS

SEC. 101. IMPROVEMENT IN THE EXCLUSION, ERADICATION, AND CONTROL OF NOXIOUS WEEDS IN THE UNITED STATES.

The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Foreign and Federal Noxious Weed Act'.

"(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Findings.
"Sec. 3. Definitions.

"TITLE I—MOVEMENT OF FEDERAL NOXIOUS WEED INTO OR THROUGH THE UNITED STATES

"Sec. 101. Movement of Federal noxious weed into or through the United States.
"Sec. 102. Identification of Federal noxious weeds.
"Sec. 103. Quarantines.
"Sec. 104. Measures to prevent dissemination of foreign and Federal noxious weeds.
"Sec. 105. Search of persons, premises, and goods.
"Sec. 106. Penalties.
"Sec. 107. Cooperation with other Federal, State, and local agencies.
"Sec. 108. Authorization of appropriations.

"TITLE II—MANAGEMENT OF UNDESIRABLE PLANTS ON FEDERAL LANDS

"Sec. 201. Definitions.

"Sec. 202. Federal agency involvement.

"Sec. 203. Authorization of appropriations.

"TITLE III—GENERAL PROVISIONS

"Sec. 301. Effect on inconsistent State and local laws.

"Sec. 302. Regulations.

"SEC. 2. FINDINGS.

"Congress finds that—

"(1) the importation or introduction in interstate commerce of foreign noxious weeds, except under controlled conditions, is detrimental to the environment, agriculture, and commerce of the United States and to the public health in that the growth and spread of weeds in the United States—

"(A) interfere with the growth of useful plants;

"(B) clog waterways and interfere with navigation;

"(C) cause disease or have other adverse effects on the environment; and

"(D) directly or indirectly interfere with natural resources, agriculture, forestry, native ecosystems, and the management of ecosystems;

"(2) uncontrolled distribution within the United States of foreign noxious weeds, after importation or introduction of the weeds, has similar detrimental effects;

"(3) the distribution of noxious weeds poses long-term problems for natural resources, agriculture, and native or natural ecosystems and ecosystem management, including—

"(A) economic injury to natural resources, agriculture, and the economy of the United States;

"(B) impedance of interstate and foreign commerce; and

"(C) diminishment of biodiversity in native ecosystems of the United States; and

"(4) in light of the adverse consequences of uncontrolled importation or distribution of foreign noxious weeds, the regulation of foreign noxious weeds as provided in this Act is necessary to protect interstate and foreign commerce and the public welfare.

"SEC. 3. DEFINITIONS.

"As used in this Act:

"(1) Advisory panel.—The term 'Advisory Panel' means the Noxious Weed Technical Advisory Panel established under section 102(e).

"(2) Authorized inspector.—The term 'authorized inspector' means an employee of the Department, or an employee of any other agency of the Federal Government or of any State or other governmental agency that is cooperating with the Department in the administration of this Act, who is authorized by the Secretary to perform assigned duties under this Act.

"(3) Department.—The term "Department" means the United States Department of Agriculture.

"(4) Emergency.—The term 'emergency' means an unforeseen combination of circumstances or the resulting state that calls for immediate action, as determined by the Secretary.

"(5) Federal noxious weed.—The term 'Federal noxious weed' means a foreign noxious weed that is identified as appropriate for control under this Act and included in the Federal noxious weed list established pursuant to a regulation issued under section 102(b).

"(6) Federal noxious weed list.—The term 'Federal noxious weed list' means the list prepared by the Secretary that contains the names of all Federal noxious weeds.

"(7) Foreign noxious weed.—The term 'foreign noxious weed' means a plant species, including all reproductive parts of the species, that the Secretary determines—

"(A) is of foreign origin;

"(B) can directly or indirectly interfere with an agroecosystem, native ecosystem, or the management of an ecosystem, or cause injury to public health; and

"(C)(i) has not been introduced into the United States;

"(ii) is determined by the Secretary to be likely to be introduced into the United States;

"(iii) is new to the United States; or

"(iv) has not expanded beyond susceptibility to containment within a geographic region or ecological range of the United States.

"(8) Interfere.—The term 'interfere' means to injure, harm, or impair an agroecosystem or native or natural ecosystem in the environment or commerce.

"(9) Interstate movement.—The term 'interstate movement' means movement from any State into or through any other State.

"(10) Move.—The term 'move' means deposit for transmission in the mails, ship, offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport.

"(11) Secretary.—The term 'Secretary' means the Secretary of Agriculture or a designee of the Secretary.

"(12) State.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

"(13) United states.—The term 'United States', when used in a geographic sense, means all of the States and territories and possessions.

"TITLE I—MOVEMENT OF FEDERAL NOXIOUS WEED INTO OR THROUGH THE UNITED STATES

"SEC. 101. MOVEMENT OF FEDERAL NOXIOUS WEED INTO OR THROUGH THE UNITED STATES.

"(a) Permit Required.—No person shall knowingly move any Federal noxious weed, into or through the United States or interstate, unless the movement is—

"(1) authorized under a general or specific permit from the Secretary; and

"(2) made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as the Secretary may issue under section 302 to prevent the dissemination into or within the United States, or interstate, of the Federal noxious weed.

"(b) Refusal To Issue Permit.—

"(1) In general.—The Secretary may refuse to issue a permit under subsection (a) for the movement of a Federal noxious weed if the Secretary determines that the movement would involve a danger of dissemination of the Federal noxious weed into or within the United States or interstate.

"(2) Reason for refusal.—If the Secretary refuses to issue a permit under paragraph (1), the Secretary shall publish the reasons for the refusal in the Federal Register.

"(c) Prohibitions.—No person shall knowingly sell, purchase, barter, exchange, give, deliver, or receive any Federal noxious weed that has been moved in violation of subsection (a).

"SEC. 102. IDENTIFICATION OF FEDERAL NOXIOUS WEEDS.

"(a) Federal Noxious Weeds List.—The Secretary shall maintain a Federal noxious weed list containing the names of all Federal noxious weeds identified by the Secretary under subsection (b).

"(b) Inclusion by Regulation.—

"(1) Regulation process.—

"(A) In general.—Except as provided in paragraph (2), a plant species may be identified as a Federal noxious weed and included in the Federal noxious weed list only pursuant to a regulation issued by the Secretary.

"(B) Notice and hearing.—The regulation shall be issued only after publication of a notice of the proposed regulation and, when requested by any interested person, a public hearing on the proposed regulation.

"(C) Basis.—The regulation shall—

"(i) be based on the information received at any such hearing, comments, and other information available to the Secretary; and

"(ii) require a determination by the Secretary that—

"(I) the plant is a foreign noxious weed (within the meaning of section 3(7)); and

"(II) the dissemination of the weed in the United States may reasonably be expected to interfere with natural resources, agriculture, forestry, or a native ecosystem or the management of an ecosystem, or cause injury to public health.

"(2) Emergency designation.—

"(A) In general.—In an emergency, the Secretary may temporarily designate a plant species as a Federal noxious weed if the Secretary determines that the plant species meets the definition of a foreign noxious weed.

"(B) Duration.—The temporary designation shall remain in effect until the Secretary initiates and completes the regulation process in accordance with paragraph (1).

"(C) Notice.—The Secretary shall provide notice of the temporary designation to interested parties, including importers, State agencies, and the general public, at the time the emergency is declared.

"(c) Additions to and Removals From Noxious Weed List.—

"(1) Petition process.—

"(A) In general.—Any interested person may petition the Secretary to add a plant species to, or remove a plant species from, the Federal noxious weed list.

"(B) Determination.—To the maximum extent practicable, not later than 90 days after receiving a petition, the Secretary shall determine whether the petition presents an assessment of potential damage based on scientific information indicating that the plant species involved should be added to or removed from the Federal noxious weed list.

"(C) Publication.—The Secretary shall publish each determination made under this paragraph in the Federal Register.

"(2) Review by advisory panel.—If the Secretary determines that a petition presents scientific information described in paragraph (1)(B), the Secretary shall forward the petition to the Advisory Panel for the review and advice of the panel.

"(3) Findings.—Not later than 1 year after receiving a petition under paragraph (1) determined to present scientific information described in paragraph (1)(B), and after considering the advice of the Advisory Panel, the Secretary shall make 1 of the following findings:

"(A) The petitioned action is not warranted.

"(B) The petitioned action is warranted, in which case (except as provided in subparagraph (C)) the Secretary shall commence the procedure described in subsection (b)(1) to add the plant species involved to, or remove the plant species from, the Federal noxious weed list.

"(C) The petitioned action is warranted, except that—

"(i) immediate promulgation of a regulation implementing the petitioned action is precluded by pending proposals to identify Federal noxious weeds; and

"(ii) expeditious progress is being made to add the plant species to the Federal noxious weed list.

"(4) Publication.—The Secretary shall publish a finding made under paragraph (3) in the Federal Register, with a description and evaluation of the reasons and data on which the finding is based.

"(d) Classification System and Integrated Management Plan.—

"(1) Classification system.—The Secretary shall develop a classification system to describe the status and action levels for foreign noxious weeds and Federal noxious weeds. The classification system shall include, for each foreign noxious weed or Federal noxious weed, the current geographic distribution, relative threat, and actions initiated to prevent introduction or distribution.

"(2) Integrated management plan.—The Secretary shall develop an integrated management plan for each foreign noxious weed or Federal noxious weed introduced into the United States for the geographic region or ecological range where the weed is found in the United States. The plan may include the use of a permanent or temporary quarantine established under section 103.

"(3) Consultation.—The Secretary shall develop the classification system and integrated management plans in consultation with the Advisory Panel.

"(e) Noxious Weed Technical Advisory Panel.—

"(1) Establishment.—The Secretary shall appoint a Noxious Weed Technical Advisory Panel consisting of 6 individuals to—

"(A) assist the Secretary in—

"(i) the identification of foreign noxious weeds for inclusion on the Federal noxious weed list;

"(ii) the development of integrated management plans; and

"(iii) other matters relating to the administration of this Act; and

"(B) recommend to the Secretary any foreign noxious weed that should be added to or deleted from the Federal noxious weed list.

"(2) Members.—The members of the Advisory Panel shall be appointed by the Secretary from among persons who have professional or working knowledge of agroecosystems or native or natural ecosystems management. In appointing the members, the Secretary shall ensure that there is 1 representative from each of the North Central, Northeastern, Southern, Southwestern, Northwestern, and Western regions of the United States, and that each of following entities is represented:

"(A) An environmental organization.

"(B) A State agency with weed management responsibility.

"(C) A land grant college or university.

"(D) A weed science society.

"(E) A trade association.

"(F) An ecologist.

"(3) Ex officio members.—The Advisory Panel shall also include a representative of each of the following agencies, who shall serve as exofficio members of the Advisory Panel:

"(A) The Animal and Plant Health Inspection Service of the Department.

"(B) The Agricultural Research Service of the Department.

"(C) A Representative of the Federal Interagency Committee for the Management of Noxious and Exotic Weeds.

"(D) A Federal agency with land management responsibilities.

"(4) Compensation.—A member of the Advisory Panel who is not a Federal employee shall receive compensation while on official business in the form of reimbursement for travel and per diem expenses, to be paid by the Secretary in accordance with subchapter I of chapter 57 of title 5, United State Code.

"(5) Annual report.—The Advisory Panel shall submit to the Secretary, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report describing the activities of the Advisory Panel during the preceding year.

"SEC. 103. QUARANTINES.

"(a) In General.—The Secretary may establish by regulation such quarantines as are necessary to prevent the importation or introduction, or control the distribution, of a Federal noxious weed.

"(b) Temporary Quarantine.—

"(1) Authorized.—If the Secretary has reason to believe that an infestation of a foreign noxious weed exists in any State, the Secretary may by order—

"(A) temporarily quarantine the State or a portion of the State; and

"(B) restrict or prohibit the interstate movement from the quarantined area of any products and articles of any character, and means of conveyance, capable of carrying the foreign noxious weed.

"(2) Time period of quarantine.—A temporary quarantine ordered under paragraph (1) may not extend for more than 1 year after the date on which the order is issued, unless the order is renewed by the Secretary.

"(3) Expedited consideration for listing.—Not later than the end of the 1-year period referred to in paragraph (2), the Secretary shall determine whether or not the foreign noxious weed involved should be added to the Federal noxious weed list established pursuant to section 102(b). The Secretary shall make the determination in consultation with the Advisory Panel.

"(c) Prohibition.—It shall be unlawful for any person to move interstate or intrastate from a quarantined area any product, article, or means of conveyance specified in the regulation or order establishing the quarantine, except in accordance with the regulation or order.

"(d) Relationship of Quarantines to Other Activities.—The establishment of a quarantine shall not be required in order for the Secretary to regulate the interstate movement, sale, or distribution of a foreign noxious weed.

"SEC. 104. MEASURES TO PREVENT DISSEMINATION OF FOREIGN AND FEDERAL NOXIOUS WEEDS.

"(a) Emergency Disposal.—

"(1) Disposal authority.—Subject to subsection (c), if the Secretary determines that action under this paragraph is necessary as an emergency measure to prevent the dissemination of any foreign noxious weed or Federal noxious weed, the Secretary may seize, quarantine, treat, destroy, or otherwise dispose of any product or article of any character, or means of conveyance, that—

"(A) is moving into or through the United States or interstate, with bond or otherwise; and

"(B) the Secretary has reason to believe is infested by the foreign noxious weed or Federal noxious weed, in violation of this Act or any regulation issued under this Act.

"(2) Method of disposal.—Subject to subsection (c), the Secretary may dispose of a product, article, or means of conveyance seized under this subsection in such manner as the Secretary considers appropriate.

"(b) Orders Requiring Disposal.—

"(1) Disposal orders.—

"(A) In general.—Subject to subsection (c), the Secretary may order the owner (or agent of the owner) of any product, article, or means of conveyance contaminated with a foreign noxious weed or Federal noxious weed subject to disposal under subsection (a) to treat, destroy, or otherwise dispose of the product, article, or means of conveyance of a foreign noxious weed or Federal noxious weed, without cost to the Federal Government and in such manner as the Secretary considers appropriate.

"(B) Enforcement.—The Secretary may apply to the United States District Court or the judicial district in which the owner or agent resides or transacts business or in which the product, article, means of conveyance of a foreign noxious weed or Federal noxious weed is found, for enforcement of the order by injunction.

"(C) Process.—Process in the case may be served in any judicial district in which the defendant resides or transacts business or may be found. A subpoena for a witness who is required to attend a court in any judicial district in such a case may be served in any other judicial district.

"(c) Destruction, Export, or Return as the Least Drastic Action.—No product, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section, unless in the opinion of the Secretary there is no less drastic action that would be adequate to prevent the dissemination of a foreign noxious weed or Federal noxious weed within the United States or interstate.

"(d) Civil Action Against United States by Owner.—

"(1) In general.—The owner of any product, article, or means of conveyance destroyed or otherwise disposed of by the Secretary under this section may bring an action against the United States in a Federal district court, not later than 1 year after the destruction or disposal, to recover just compensation for the destruction or disposal (other than compensation for loss due to delays incident to determining the eligibility of the product, article, or conveyance for movement under this Act), if the owner establishes that the destruction or disposal was not authorized under this Act.

"(2) Payment of judgment.—Any judgment rendered in favor of the owner shall be paid out of sums in the Treasury of the United States appropriated for the administration of this Act.

"SEC. 105. SEARCH OF PERSONS, PREMISES, AND GOODS.

"(a) Warrantless Searches.—An authorized inspector, if properly identified, shall have the authority, without a warrant, to stop any person or means of conveyance moving into or through the United States, and to inspect any product or article of any character moving into or through the United States, if the authorized inspector has probable cause to believe that the person or means of conveyance is moving a foreign noxious weed or Federal noxious weed regulated under this Act, or a product or article containing a foreign noxious weed or Federal noxious weed regulated under this Act.

"(b) Warrant Searches.—

"(1) In general.—An authorized inspector shall have authority, with a warrant, to enter any premises in the United States for purposes of an inspection or other action necessary to carry out this Act.

"(2) ISSUANCE OF WARRANTS.—A judge of the United States or of a court of record of any State, or a United States magistrate judge, may within the jurisdiction of the judge or magistrate judge, on proper oath or affirmation showing probable cause to believe that there are on certain premises any product, article, or means of conveyance contaminated with a foreign noxious weed or Federal noxious weed plant regulated under this Act, issue a warrant for the entry of the premises for purposes of any inspection or other action necessary to carry out this Act, except as otherwise provided in section 107.

"(3) EXECUTION OF WARRANTS.—The warrant may be executed by any authorized inspector or any United States marshal.

"SEC. 106. PENALTIES.

"(a) IN GENERAL.—Any person who knowingly violates section 101 or 103, or any regulation issued to carry out section 101 or 103, shall be fined not more than $100,000 or imprisoned not more than 1 year, or both.

"(b) PECUNIARY GAIN OR LOSS.—If any person derives pecuniary gain from an offense described in subsection (a), or if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than an amount that is the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the imposition of a fine or sentence under subsection (a).

"SEC. 107. COOPERATION WITH OTHER FEDERAL, STATE, AND LOCAL AGENCIES.

"(a) COOPERATION AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall cooperate with other Federal agencies, agencies of States and political subdivisions of States, agriculture producer associations and similar organizations, and individuals in carrying out operations or measures in the United States to prevent, retard, eradicate, suppress, control, or manage the spread of a foreign noxious weed or Federal noxious weed.

"(2) COOPERATORS.—The Secretary may appoint employees of other Federal agencies, and employees of agencies of any State or political subdivision of the State, to assist in the administration of this Act, pursuant to cooperative agreements with the agencies, if the Secretary determines that the appointments would facilitate administration of this Act.

"(b) CONDITIONS ON COOPERATION.—In performing an operations or measure authorized by subsection (a), the cooperating State or other governmental agency shall be responsible for the authority necessary to carry out the operation or measure on all lands and properties, subject to coordination with landowners and land managers within the State or other jurisdiction involved.

"SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title.

"(b) LIMITATION.—Unless specifically authorized in other laws or provided for in appropriations, no part of sums made available under subsection (a) shall be used to pay the cost or value of property disposed of under section 104.

"TITLE II—MANAGEMENT OF UNDESIRABLE PLANTS ON FEDERAL LANDS

"SEC. 201. DEFINITIONS.

"As used in this title:

"(1) COOPERATIVE AGREEMENT.—The term 'cooperative agreement' means a written agreement between a Federal agency and a State agency entered into pursuant to this title.

"(2) FEDERAL AGENCY.—The term 'Federal agency' means a department or agency of the Federal Government responsible for administering or managing Federal lands under the jurisdiction of the department, agency, or bureau.

"(3) FEDERAL LAND.—The term 'Federal land' means land managed by or under the jurisdiction of the Federal Government.

"(4) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means a system for the planning and implementation of a program, using an interdisciplinary approach, to comprehensively manage an undesirable plant species or group of species using all available methods, including—

"(A) education;

"(B) preventive measures;

"(C) physical or mechanical methods;

"(D) biological agents;

"(E) herbicide methods;

"(F) cultural methods; and

"(G) general land management practices, such as manipulation of livestock or wildlife grazing strategies or improving wildlife or livestock habitat.

"(5) INTERDISCIPLINARY APPROACH.—The term 'interdisciplinary approach' means an approach to making decisions regarding the containment or control of an undesirable plant species or group of species, that—

"(A) includes participation by personnel of Federal or State agencies with experience in areas including weed science, range science, wildlife biology, land management, and forestry; and

"(B) includes consideration of—

"(i) the most efficient and effective method of containing or controlling the undesirable plant species over the long term;

"(ii) scientific studies and current technologies;

"(iii) the physiology and habitat of a plant species and the associated environment of the plant species; and

"(iv) the economic, social, ecological, and human health consequences of carrying out the approach.

"(6) STATE AGENCY.—The term 'State agency' means a State department of agriculture, or other State agency or political subdivision of a State, responsible for the administration or implementation of laws of the State regulating undesirable plants.

"(7) UNDESIRABLE PLANT.—The term 'undesirable plant' means a plant species that is classified as undesirable, noxious, harmful, exotic, injurious, or poisonous, pursuant to State or Federal law. A species listed as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall not be designated as an undesirable plant under this paragraph and the term shall not include a plant indigenous to an area where control measures are to be taken under this title.

"SEC. 202. FEDERAL AGENCY INVOLVEMENT.

"(a) DUTIES OF AGENCIES.—The head of each Federal agency shall—

"(1) designate an office and person adequately trained in the management of undesirable plants to develop and coordinate an undesirable plant management program for the control of undesirable plants on Federal land under the jurisdiction of the agency;

"(2) establish and adequately fund an undesirable plant management program through the budgetary process of the agency;

"(3) complete and carry out cooperative agreements with State agencies regarding the management of undesirable plants on Federal land under the jurisdiction of the agency; and

"(4) establish integrated management systems to control or contain undesirable plants targeted under cooperative agreements.

"(b) ENVIRONMENTAL IMPACT STATEMENTS.—If an environmental assessment or environmental impact statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to carry out an integrated management system to manage undesirable plants under this section, a Federal agency shall complete the assessment or statement not later than 1 year after the requirement for the assessment or statement is determined.

"(c) COOPERATIVE AGREEMENTS WITH STATE AGENCIES.—

"(1) IN GENERAL.—A Federal agency shall enter into a cooperative agreement with a State agency to coordinate the management of undesirable plants on Federal land under the jurisdiction of the Federal agency.

"(2) CONTENTS OF PLAN.—A cooperative agreement entered into pursuant to paragraph (1) shall—

"(A) prioritize and target undesirable plants or groups of undesirable plants to be controlled or contained within a specific geographic area;

"(B) describe the integrated management system to be used to control or contain the targeted undesirable plants or group of undesirable plants; and

"(C) detail the means of carrying out the integrated management system, define the duties of the Federal agency and the State agency in carrying out the system, and establish a timeframe for the initiation and completion of the tasks specified in the system.

"(d) EXCEPTION.—A Federal agency shall not be required to carry out programs on Federal land under this section unless similar programs are being carried out generally on State or private land in the same area.

"(e) COORDINATION.—

"(1) IN GENERAL.—The Secretary of Agriculture, Secretary of Defense, Secretary of Energy, Secretary of the Interior, and Secretary of Transportation, acting through the Federal Interagency Committee for the Management of Noxious and Exotic Weeds, shall take such actions as are necessary to coordinate Federal agency programs for control, research, and educational efforts associated with Federal, State, and locally designated noxious weeds.

"(2) DUTIES.—The Federal Interagency Committee for the Management of Noxious and Exotic Weeds, in consultation with the appropriate Assistant Secretaries, shall—

"(A) identify regional priorities for noxious weed control in cooperation with the appropriate States;

"(B) incorporate into technical guides regionally appropriate technical information; and

"(C) disseminate the technical information to interested State, local, and private entities.

"(3) COST SHARE ASSISTANCE.—The Secretary may provide cost share assistance to State and local agencies to manage noxious weeds in an area if a majority of landowners in the area agree to participate in a noxious weed management program.

"SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as are necessary for fiscal years 1995 through 1999.

"TITLE III—GENERAL PROVISIONS

"SEC. 301. EFFECT ON INCONSISTENT STATE AND LOCAL LAWS.

"This Act shall not invalidate the law of any State or political subdivision of a State relating to foreign noxious weeds or Federal noxious weeds, except that a State or political subdivision of a State may not permit any action that is prohibited under this Act.

"SEC. 302. REGULATIONS.

"The Secretary may issue such regulations as are necessary to carry out this Act.".

SEC. 102. EFFECT OF AMENDMENT ON PREVIOUS LISTING OF NOXIOUS WEEDS.

(a) Definition of Noxious Weed.—In this section, the term "noxious weed" has the meaning given the term in section 3(c) of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2802(c)), as in effect on the day before the date of enactment of this Act.

(b) Inclusion on New Federal List of Noxious Weeds.—Each noxious weed identified by the Secretary of Agriculture in a regulation issued before the date of enactment of this Act shall be considered to be a Federal noxious weed and included on the Federal noxious weed list for purposes of the Foreign and Federal Noxious Weed Act (as amended by section 101).

TITLE II—STATE TERMINAL INSPECTION

SEC. 201. INSPECTION OF ANIMALS AND OTHER ORGANISMS.

The matter under the heading "Enforcement of the Plant-Quarantine Act:" under the heading "MISCELLANEOUS" of the Act of March 4, 1915 (commonly known as the "Terminal Inspection Act") (38 Stat. 1113, chapter 144; 7 U.S.C. 166) is amended—

(1) in the second paragraph—

(A) by striking "plants and plant products" each place it appears and inserting "plants, plant products, animals, and other organisms";

(B) by striking "plants or plant products" each place it appears and inserting "plants, plant products, animals, or other organisms";

(C) by striking "plant-quarantine law or plant-quarantine regulation" each place it appears and inserting "plant-quarantine or other law or regulation"; and

(D) in the last sentence, by striking "be forward" and inserting "be forwarded"; and

(2) in the third paragraph, by striking "plant or plant product" and inserting "plant, plant product, animal, or other organism".

SEC. 202. INSPECTION OF ITEMS ON STATE LISTS.

The second sentence of the second paragraph of the matter under the heading "Enforcement of the Plant-Quarantine Act:" under the heading "MISCELLANEOUS" of the Act of March 4, 1915 (commonly known as the "Terminal Inspection Act") (38 Stat. 1113, chapter 144; 7 U.S.C. 166) is amended—

(1) by striking "Upon his approval of said list, in whole or in part, the Secretary of Agriculture" and inserting "On the receipt of the list by the Secretary of Agriculture, the Secretary"; and

(2) by striking "said approved lists" and inserting "the list".

SEC. 203. WARRANTS.

The second paragraph of the matter under the heading "Enforcement of the Plant-Quarantine Act:" under the heading "MISCELLANEOUS" of the Act of March 4, 1915 (commonly known as the "Terminal Inspection Act") (38 Stat. 1113, chapter 144; 7 U.S.C. 166) is amended by inserting after the second sentence the following: "On the request of a representative of a State, a Federal agency shall act on behalf of the State to obtain a warrant to inspect mail to carry out this paragraph.".•

By Mr. SHELBY (for himself, Mr. Stevens, Mr. Inouye, Mr. Thurmond, Mr. Mack, and Mr. Heflin):

S. 691. A bill to amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under part B of the Medicare Program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans' Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer; to the Committee on Finance.

THE PROSTATE CANCER DIAGNOSIS AND TREATMENT ACT OF 1995

Mr. SHELBY. Mr. President, today I am introducing the Prostate Cancer Diagnosis and Treatment Act of 1995. Prostate cancer is the leading cancer and the second leading cause of cancer death among American men. Over 215,000 Americans will be diagnosed with the disease this year and over 40,000 men will die from it.

Despite recent advances in the early detection and treatment of prostate cancer, the number of cases and the number of deaths continue to rise. Prostate cancer is as common today in men as breast cancer is in women, and the death rates for the two diseases are similar as well. Over this decade, prostate cancer cases and deaths are expected to continue their rapid rise—with cases increasing by 37 percent and deaths by 90 percent between 1985 and 2000.

Early detection has been greatly improved with the development of the prostate specific antigen [PSA] test—a simple and inexpensive blood test for the presence of prostate cancer. As a result, the American Urological Association and the American Cancer Society now recommend that men age 50 and over get an annual screening with the PSA test. Treatment has been improved through new surgical techniques that remove the cancer without disastrous side effects, and through new drug therapy that can extend life expectancy and improve patient comfort for patients with advanced stage cancer.

These improvements have meant the difference between life and death for many men. The ability to detect prostate cancer in the first stage of the disease has made it possible to surgically remove the cancer when it is still confined to the prostate. Over 70 percent of patients treated in this way never have a recurrence of the disease. Waiting until the second stage or later, which was necessary under previous techniques, greatly increases the risk that the cancer has spread, with small hope for a cure.

I know how important it is to get screening and early treatment for prostate cancer—I am a prostate cancer survivor. I had a PSA test—I had a positive score—I had my prostate removed—and I am here to tell about it as a result. A number of my colleagues in this Chamber—Senator Dole, Senator Stevens, among them—are here with us today because their prostate cancer was spotted early and treated effectively. General Schwarzkopf, the hero of the gulf war, is another man nearly felled by prostate cancer, but saved through screening and surgery. General Schwarzkopf has become a national spokesman for prostate cancer detection. General Schwarzkopf and all of us in Congress are lucky to have the kind of insurance coverage we do through the military and Federal employees health benefit plans and the access we have to the finest medical facilities and doctors at Walter Reed Hospital among other places.

We can all be sure we get our annual PSA test and any treatment we may need.

The tragedy is that 13 million American men who are at the highest risk for this disease do not have health insurance coverage for the best early detection methods and drug therapies. They do not have it because we, the Congress, have not seen fit to provide it for them through the Medicare and veterans health programs. Medicare covers the old diagnostic test but does not provide for an annual PSA test. The veterans health services could provide annual tests for their resident and inpatient populations, but rarely do the tests or the follow-on surgery. Both of these programs cover part of the hormonal drug therapy for treatment of advanced prostate cancer, but leave out the oral drug which is particularly effective when given in combination therapy. These omissions are particularly troubling because these programs cover the overwhelming majority of men who have the disease.

Finally, it is remarkable that we have had these breakthroughs in detection and treatment given that we have so completely neglected funding for prostate cancer research. Prostate cancer is a disease that has a similar incidence and death rate to breast cancer yet receives one-fourth as much research money. This is a serious oversight that we should correct to increase the pace of research and develop conclusive evidence on what really works and does not work in treating prostate cancer.

The Prostate Cancer Diagnosis and Treatment Act of 1995 would take three important steps to halt the progression of this disease. First, it would nearly double spending on research to develop more effective treatments of the disease. Second, it would make PSA tests available under the Medicare and Veterans Health programs. Third, it would extend Medicare and Veterans Health coverage for prostate cancer drugs to cover the advanced combination therapy including oral drugs that can significantly extend and improve the lives of prostate cancer victims.

Mr. President, it is important that we increase our efforts to combat this deadly form of cancer and address these deficiencies in our Federal health coverage and research programs. I urge my colleagues to join me in sponsoring the legislation that could make a difference for thousands of men who might otherwise have suffered greatly or died an untimely death from prostate cancer.

By Mr. KYL:

S. 694. A bill to prevent and punish crimes of sexual and domestic violence, to strengthen the rights of crime victims, and for other purposes; to the Committee on the Judiciary.

THE SEXUAL VIOLENCE PREVENTION AND VICTIMS RIGHTS ACT

• Mr. KYL. Mr. President, I ask unanimous consent that the summary of the Sexual Violence Prevention and Victims Rights Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROVISIONS OF THE SEXUAL VIOLENCE PREVENTION AND VICTIM'S RIGHTS ACT OF 1995

TITLE I—EQUAL PROTECTION FOR VICTIMS

Sec. 101. Right of the victim to restitution.

Makes issuance of a full order of restitution for the victim mandatory in all cases under the federal criminal code, and adopts other reforms to strengthen restitution for victims.

Sec. 102. Right of the victim to an impartial jury.

Protects the right of victims to an impartial jury by equalizing the number of preemptory challenges afforded to the defense and the prosecution in jury selection. (Current law affords defendants 10 preemptory challenges, but affords the prosecution only 6, in felony cases.)

Sec. 103. Right of the victim to fair treatment in legal proceedings.

Establishes higher standards of professional conduct for lawyers in federal cases to protect victims and other witnesses from abuse, and to promote the effective search for truth. Specific measures include prohibition of: harassing or dilatory tactics, knowingly presenting false evidence or discrediting truthful evidence, willful ignorance of matters that could be learned from the client, and concealment of information necessary to prevent violent or sexual abuse crimes.

Sec. 104. Rebuttal of attacks on the victim's character.

Provides that if a defendant presents negative character evidence concerning the victim, the government's rebuttal can include negative character evidence concerning the defendant.

Sec. 105. Use of notice concerning release of offender.

Repeals provision that notices to state and local law enforcement concerning the release of federal violent and drug trafficking offenders can only be used for law enforcement purposes. This removes an impediment to other legitimate uses of such information, such as advising victims or potential victims that the offender has returned to the area.

Sec. 106. Balance in the composition of rules committees.

Provides for equal representation of prosecutors with defense lawyers on committees in the judiciary that make recommendations concerning rules affecting criminal cases.

Sec. 107. Victim's right of allocution in sentencing.

Extends the right of victims to address the court concerning the sentence to all criminal cases. Current law provides such a right for victims only in violent crime and sexual abuse cases, though the offender has the right to make an allocutive statement in all cases.

TITLE II—SEXUAL VIOLENCE, DOMESTIC VIOLENCE, AND OFFENSES AGAINST THE FAMILY

Sec. 201. Implementation of evidence rules for sexual assault and child molestation cases.

Provides that F.R.E. 413-15, which establish general rules of admissibility for similar crimes evidence in sexual assault and child molestation cases, will take effect immediately.

Sec. 202. HIV testing of defendants in sexual assault cases.

Provides effective procedures for HIV testing of defendants in sexual assault cases, with disclosure of test results of the victim.

Sec. 203. Clarifying amendment to extraterritorial child pornography offense.

Clarifies that the extraterritorial child pornography offense, like the domestic child pornography offenses, covers cases involving the transmission of child pornography by computer.

Sec. 204. Evidence of defendant's disposition towards victim in domestic violence cases and other cases.

Clarifies that evidence of a defendant's disposition towards a particular individual—such as the violent disposition of a domestic violence defendant towards the victim—is not subject to exclusion as impermissible evidence of "character."

Sec. 205. Battered women's syndrome evidence.

Clarifies that "battered women's syndrome" evidence is admissible under the federal expert testimony rule, to help courts and juries understand the behavior of victims in domestic violence cases and other cases.

Sec. 206. Death penalty for fatal domestic violence offenses.

Authorizes capital punishment under the federal interstate domestic violence offenses, for cases in which the offender murders the victim.•

By Mrs. KASSEBAUM (for herself and Mr. DOLE):

S. 695. A bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes; to the Committee on Energy and Natural Resources.

THE TALLGRASS PRAIRIE NATIONAL PRESERVE ACT

Mrs. KASSEBAUM. Mr. President, I rise today with my colleague from Kansas, Senator DOLE, to introduce legislation to create a tallgrass prairie preserve in the Flint Hills of Kansas.

At a time when some in Congress are asking hard questions about the cost and role of some units in the national park system, one may wonder why I am proposing the addition of another preserve to an already overburdened system. I am aware and sympathetic to those who complain that some members of Congress have taken a parochial interest in the park system, passing bills to create parks and historical sites more for their economic benefits to neighboring communities than because the area is nationally significant, either naturally or historically.

James Ridenour, former director of the National Park Service under President Bush, calls this the "thinning of the blood" of park system and points out that we are spreading limited personnel and scarce funds too thin. As a consequence, we have been spending an increasing percentage of Federal dollars on sites with questionable significance and devoting less to protecting our Nation's naturally significant resources. However, Mr. Ridenour strongly supports the bill being introduced today as a unique solution to the creation of an important addition to the park system.

This legislation was crafted in response to these concerns. It creates for the first time a private-public partnership, where capital from a private conservation organization is combined with limited funds from the Federal Government to create a national preserve open to the American public. We will be doing this at a fraction of the cost that the Federal Government would otherwise spend if it were to purchase the property for preservation. By taking this approach, we will be preserving for the first time an ecosystem that is found nowhere in the park service system. The approach taken in this bill is the kind of new thinking we in Congress must explore if we are to wisely spend scarce Federal dollars to protect important natural and historic areas in the future.

For those who have never been to the Flint Hills of Kansas, let me explain why this area is so unique and special. From Nebraska to Oklahoma there remains a narrow swath of tallgrass prairie—the remnants of a once vast tallgrass prairie ecosystem that covered 400,000 square miles from Ohio to the Rocky Mountains, from Canada to Texas. Today, less than 1 percent of this ecosystem remains, much of it in the Flint Hills, which are too steep and too rocky to farm.

There is no better example of this tallgrass prairie ecosystem in the Flint Hills than the 10,894-acre Spring Hill Ranch in Chase County. Hundreds of species of native plants and grasses grow on the ranch. Nearly 200 kinds of birds, 29 species of reptiles and amphibians, and 31 species of mammals can be found on the property. The National Park Service, after an extensive survey of the property in 1991, concluded the property was nationally significant became of its natural resources and said it deserved conservation as a unit of the national park system.

Beyond the natural splendor of the ranch, the property includes a house, barn, and several outbuildings listed on the National Register of Historic Places because of their unique second empire architectural style. Each of these buildings was built in the 1880s from hand-cut cottonwood limestone quarried in the area. They illustrate the elegance and style of the ranch's first owner, a local cattle baron. A mile way from the house, over a rise in the land, also sets a one-room prairie school built in 1882.

For the past 4 years, I have been involved in efforts to preserve this ranch and open it to the public. Last year, the National Park Trust, a private conservation organization, purchased the ranch and has been working with members of the Kansas congressional delegation and officials with the Department of the Interior to develop legislation to preserve the ranch through a private-public partnership. The results, which have come only after painstaking negotiations with the Trust, Interior officials, and representatives of Kansas' agricultural and conservation groups, is reflected in the legislation I am introducing today.

The Tallgrass Prairie National Preserve Act will allow the National Park Service to purchase or accept donations of up to 180 acres, or less than 2 percent of the ranch. In meetings I have had with Secretary of the Interior Bruce Babbitt, he has stated that he would like to see the National Park Service own, maintain, and operate this historic core area, which includes the house, barn, and outbuildings.

The rest of the ranch will continue in private ownership, but the Secretary of the Interior is given the authority in this bill to enter into a cooperative agreement with the National Park Trust to provide interpretative and resource management assistance for the rest of the ranch, as well as police and emergency services.

What is different about this proposal and why it makes such sense from the standpoint of the Federal Government is that the American people will have access to and use of the 10,894-acre ranch for the cost of operating a 180-acre site. The National Park Trust, in a letter that I will ask be printed in the RECORD following my statement, has committed to donating to the Federal Government at no cost up to the 180 acres of the ranch's historic core. This donation, estimated by the trust to exceed $2 million in value, was one of the elements we negotiated to make this bill a true private-public partnership.

Mr. President, as Congress looks for innovative ways to make Government work better, I believe the approach taken in this bill signals departure from the way the Federal Government has protected important natural and historic areas in the past. I am pleased officials with the Department of the Interior have been so willing to work with me to explore this partnership. They have gone to great lengths to ensure the quality of this Park Service unit will not be compromised, while remaining open to suggestions to new ways of approaching issues. As former Director Ridenour says in a letter endorsing the legislation, this bill "represents the kind of creative thinking that will have to take place to guarantee that we take care of our great parks in the future."

In addition to the care that was taken to draft this private-public partnership, equal care was given to address the legitimate concerns of area ranchers. In this bill, National Park Service ownership is limited to 180 acres, and no further expansion is permitted. Language was incorporated into the bill to address concerns regarding fence maintenance and to require compliance with State noxious weed, pesticide, animal health, and water laws. The bill establishes an advisory committee consisting of conservationists, landowners, local community officials, and range management specialists to help determine how the ranch should be managed. The bill also incorporates language that requires the Federal Government to be a good partner with neighboring communities and work cooperatively to deliver emergency and other services.

Mr. President, we have a wonderful opportunity to protect for future generations a portion of the tallgrass prairie—the only ecosystem not currently represented in the National Park System. Passage of this bill will give the American public an opportunity to enjoy and explore this beautiful area and grow to appreciate its history and importance.

I ask unanimous consent that a letter from the National Park Trust and a letter from James Ridenour be included in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill and other material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tallgrass Prairie National Preserve Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Of the 400,000 square miles of tallgrass prairie that once covered the North American Continent, less than 1 percent remains, primarily in the Flint Hills of Kansas.

(2) In 1991, the National Park Service conducted a special resource study of the Spring Hill Ranch, located in the Flint Hills of Kansas.

(3) Such study concludes that the Spring Hill Ranch—

(A) is a nationally significant example of the once vast tallgrass ecosystem, and includes buildings listed on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a) which represent outstanding examples of Second Empire and other 19th Century architectural styles; and

(B) is suitable and feasible as a potential addition to the National Park System.

(4) The National Park Trust, which owns the Spring Hill Ranch, has agreed to permit the National Park Service—

(A) to purchase a portion of the ranch, as specified in this Act; and

(B) to manage the ranch in order to—

(i) conserve the scenery, natural and historic objects, and wildlife of the ranch; and

(ii) provide for the enjoyment of the ranch in such manner, and by such means, as will leave such scenery, natural and historic objects, and wildlife unimpaired for the enjoyment of future generations.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To preserve, protect, and interpret for the public an example of a tallgrass prairie ecosystem on the Spring Hill Ranch, located in the Flint Hills of Kansas.

(2) To preserve and interpret for the public the historic and cultural values represented on the Spring Hill Ranch.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the Advisory Committee established under section 7.

(2) PRESERVE.—The term "Preserve" means the Tallgrass Prairie National Preserve established under section 4.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRUST.—The term "Trust" means the National Park Trust, Inc. (which is a District of Columbia nonprofit corporation), or any successor-in-interest, subsidiary, affiliate, trustee, or legal representative of the National Park Trust, Inc. that possesses legal or equitable ownership or management rights with respect to land and improvements on land that constitutes any portion of the Preserve.

SEC. 4. ESTABLISHMENT OF TALLGRASS PRAIRIE NATIONAL PRESERVE.

(a) IN GENERAL.—In order to provide for the preservation, restoration, and interpretation of the Spring Hill Ranch area of the Flint Hills of Kansas, for the benefit and enjoyment of present and future generations, there is hereby established the Tallgrass Prairie National Preserve.

(b) DESCRIPTION.—The Preserve shall consist of the lands, waters, and interests therein, including approximately 10,894 acres, generally depicted on the map entitled "Boundary Map, Flint Hills Prairie National Monument" numbered NM-TGP 80,000 and dated June 1994, more particularly described in the deed filed at 8:22 a.m. of June 3, 1994, with the Office of the Register of Deeds in Chase County, Kansas, and recorded in Book L–106 at pages 328 through 339, inclusive. In the case of any difference between such map and legal description, such legal description shall govern, except that if, as a result of a survey, the Secretary determines that there is a discrepancy with respect to the boundary of the Preserve that may be corrected by making minor changes to the map or legal description, the Secretary is directed to make such minor changes. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service of the Department of the Interior.

SEC. 5. ADMINISTRATION OF NATIONAL PRESERVE.

(a) IN GENERAL.—The Secretary shall administer the Preserve in accordance with this Act, the cooperative agreements described in subsection (f)(1), and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2 through 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) APPLICATION OF REGULATIONS.—The regulations issued by the Secretary concerning the National Park Service that provide for the proper use, management, and protection of persons, property, and natural and cultural resources shall apply within the boundaries of the Preserve.

(c) FACILITIES.—For purposes of carrying out the duties of the Secretary under this Act relating to the Preserve, the Secretary may, with the consent of the landowner—

(1) directly or by contract, construct, reconstruct, rehabilitate, or develop essential buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property that is not owned by the Federal Government and is located within the Preserve; and

(2) maintain and operate programs in connection with the Preserve.

(d) LIABILITY.—

(1) LANDOWNERS.—Notwithstanding any other provision of law, no person who owns any land or interest in land within the Preserve shall be liable for injury to, or damages suffered by, any other person who is injured or damaged while upon the land within the Preserve if—

(A) such injury or damages result from any act or omission of the Secretary or any officer, employee, or agent of the Secretary; or

(B) such liability would arise solely by reason of the ownership by the defendant of such land or interest in land and such injury or damages are not proximately caused by the wanton or willful misconduct of the defendant.

(2) LIABILITY OF UNITED STATES AND OFFICERS AND EMPLOYEES OF THE UNITED STATES.—(A) Nothing in this subsection or in any other provision of this Act may be construed to exempt the Federal Government, or any officer or employee of the Federal Government, from any liability for any act or omission for which the Federal Government, or such officer or employee, as the case may be, would otherwise be liable under any applicable provision of law.

(B) Nothing in this subsection or in any other provision of this Act may be construed to impose on the Federal Government, or any officer or employee of the Federal Government, any liability for any act or omission of any other person or entity for any act or omission of such other person or entity for which the Federal Government, or such officer or employee, as the case may be, would otherwise not be liable under any applicable provision of law.

(e) FEES.—Notwithstanding any other provision of law, the Preserve shall be considered a designated unit of the National Park System, including for the purposes of charging entrance and admission fees under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a).

(f) AGREEMENTS AND DONATIONS.—

(1) AGREEMENTS.—The Secretary is authorized to expend Federal funds for the cooperative management of private property within the Preserve for research, resource management (including pest control and noxious weed control, fire protection, and the restoration of buildings), and visitor protection and use. The Secretary may enter into one or more cooperative agreements with public or private agencies, organizations, and institutions to further the purposes of this Act (as specified in section 2(b)), including entering into a memorandum of understanding with the appropriate official of the county in which the Preserve is located to provide for such services as law enforcement and emergency services.

(2) DONATIONS.—Notwithstanding any other provision of law, the Secretary may solicit, accept, retain, and expend donations of funds, property (other than real property), or services from individuals, foundations, corporations, or public entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of this Act.

(g) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than the termination date of the third full fiscal year beginning after the date of establishment of the Preserve, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a general management plan for the Preserve.

(2) CONSULTATION.—In preparing the general management plan, the Secretary, acting through the Director of the National Park Service, shall consult with—

(A)(i) appropriate officials of the Trust; and

(ii) the Advisory Committee established under section 7; and

(B) adjacent landowners, appropriate officials of nearby communities, the Kansas Department of Wildlife and Parks, and the Kansas Historical Society, and other interested parties.

(3) CONTENT OF PLAN.—The general management plan shall provide for the following:

(A) Maintaining and enhancing the tallgrass prairie ecosystem within the boundaries of the Preserve.

(B) Public access and enjoyment of the property that is consistent with the conservation and proper management of the historical, cultural, and natural resources of the ranch, lands of adjoining landowners, and surrounding communities.

(C) Interpretive and educational programs covering the natural history of the prairie, the cultural history of Native Americans, and the legacy of ranching in the Flint Hills region.

(D) Provisions requiring the application of applicable State law concerning the maintenance of adequate fences within the boundaries of the Preserve. In any case in which an activity of the National Park Service requires fences that exceed the legal fence standard otherwise applicable to the Preserve, the National Park Service shall pay the additional cost of constructing and maintaining the fences to meet the applicable requirements for that activity.

(E) Provisions requiring the Secretary to comply with applicable State noxious weed, pesticide, and animal health laws.

(F) Provisions requiring compliance with applicable Federal and State water laws and waste disposal laws (including regulations) and any other applicable law.

(G) Provisions requiring the Secretary to honor each valid existing oil and gas lease for lands within the boundaries of the Preserve (as described in section 4(b)) that is in effect on the date of enactment of this Act.

(H) Provisions requiring the Secretary to offer to enter into an agreement with each individual who, as of the date of enactment of this Act, holds rights for cattle grazing within the boundaries of the Preserve (as described in section 4(b)).

SEC. 6. LIMITED AUTHORITY TO ACQUIRE.

(a) IN GENERAL.—The Secretary is authorized and directed to acquire, by donation or purchase with donated or appropriated funds, at fair market value—

(1) not more than 180 acres of real property within the boundaries of the Preserve (as described in section 4(b)) and the improvements thereon; and

(2) rights-of-way on roads that are not owned by the State of Kansas within the boundaries of the Preserve.

(b) PAYMENTS IN LIEU OF TAXES.—For the purposes of payments made pursuant to chapter 69 of title 31, United States Code, the real property described in subsection (a)(1) shall be deemed to have been acquired for the purposes specified in section 6904(a) of such title 31.

(c) PROHIBITIONS.—No property may be acquired under this section without the consent of the owner of the property. The United States may not acquire fee ownership of any lands within the Preserve other than lands described in this section.

SEC. 7. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established an advisory committee to be known as the "Tallgrass Prairie National Preserve Advisory Committee".

(b) DUTIES.—The Advisory Committee shall advise the Secretary and the Director of the National Park Service concerning the development, management, and interpretation of the Preserve. In carrying out such duties, the Advisory Committee shall provide timely advice to the Secretary and the Director during the preparation of the general management plan required by section 5(g).

(c) MEMBERSHIP.—The Advisory Committee shall consist of the following 13 members, who shall be appointed by the Secretary as follows:

(1) Three members shall be representatives of the Trust.

(2) Three members shall be representatives of local landowners, cattle ranchers, or other agricultural interests.

(3) Three members shall be representatives of conservation or historic preservation interests.

(4) Three members, who shall be appointed as follows:

(A) One member shall be selected from a list of nominations submitted to the Secretary by the Chase County Commission in the State of Kansas.

(B) One member shall be selected from a list of nominations jointly submitted to the Secretary by appropriate officials of Strong City, Kansas, and Cottonwood Falls, Kansas.

(C) One member shall be selected from a list of nominations submitted to the Secretary by the Governor of the State of Kansas.

(5) One member shall be a range management specialist representing institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) in the State of Kansas.

(d) TERMS.—

(1) IN GENERAL.—Each member of the Advisory Committee shall be appointed to serve for a term of 3 years, except that the initial members shall be appointed as follows:

(A) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 3 years.

(B) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 4 years.

(C) Five members shall be appointed, one each from paragraphs (1) through (5) of subsection (c), to serve for a term of 5 years.

(2) REAPPOINTMENT.—Each member may be reappointed to serve for a subsequent term.

(3) EXPIRATION.—Each member shall continue to serve after the expiration of the term of the member until a successor is appointed.

(4) VACANCIES.—A vacancy on the Advisory Committee shall be filled in the same manner as an original appointment is made. The member appointed to fill the vacancy shall serve until the expiration of the term in which the vacancy occurred.

(e) CHAIRPERSON.—The Secretary shall appoint one of the members who is a representative from the Trust appointed under subsection (c)(1) to serve as Chairperson.

(f) MEETINGS.—Meetings of the Advisory Committee shall be held at the call of the Chairperson or the majority of the Advisory Committee. Meetings shall be held at such locations and in such manner as to ensure adequate opportunity for public involvement. In compliance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall choose an appropriate means of providing interested members of the public advance notice of scheduled meetings.

(g) QUORUM.—A majority of the members of the Advisory Committee shall constitute a quorum.

(h) COMPENSATION.—Each member of the Advisory Committee shall serve without compensation, except that while engaged in official business of the Advisory Committee, the member shall be entitled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(i) CHARTER.—The rechartering provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) are hereby waived with respect to the Advisory Committee.

SEC. 8. RESTRICTION ON AUTHORITY.

Nothing in this Act shall give the Secretary authority to regulate lands outside the boundaries of the Preserve.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out this Act.

NATIONAL PARK TRUST,
Washington, DC, April 6, 1995.

Hon. Senator KASSEBAUM,
U.S. Senate,
Washington, DC.

DEAR SENATOR KASSEBAUM: It is a privilege for the National Park Trust to endorse the legislation you are introducing to establish a Tallgrass Prairie National Preserve in Kansas. We commend you for your leadership in recognizing the importance of America's tallgrass prairie, which once covered more than 140 million acres across our nation's heartland, but today only survives in remnant swatches.

The Spring Hill/Z Bar Ranch encompasses a magnificent unspoiled swath of the Flint Hills. Its rolling, nearly treeless landscape with grasses, sometimes reaching ten feet in height, sustains the biological riches of a vanishing American landscape. Nearly 200 kinds of birds, 29 species of reptiles and amphibians, and 31 species of mammals can be found on the property. Its distinctive century-old limestone buildings, looming large amid ocean-like waves of prairie, give enduring voice to local traditions and can serve as an appropriate setting to tell the story of Native Americans and pioneers and our nation's westward expansion. Because of its outstanding natural and cultural resources, the National Park Service's 1991 special resource study concluded that the property met the standards as a unit of the National Park System.

The National Park Trust acquired the Spring Hill/Z Bar Ranch last June as a first important step toward ensuring that this country's tallgrass heritage is preserved and interpreted for all Americans. The Trust is a 501(c)(3) non-profit educational and charitable corporation which is celebrating more than ten years as the land conservancy of the national parks. Its mission is to assist the National Park Service in the acquisition of inholdings from willing sellers, and to acquire and protect properties, such as the Spring Hill/Z Bar Ranch, that merit protection as units of the National Park System.

Now more than ever, the acquisition of properties for inclusion in the National Park System is limited by shrinking federal funds. In view of the condition of the federal budget and because inclusion of a tallgrass prairie unit is believed by many to be the highest priority for the National Park System, the Trust will consider as its May meeting a proposal to donate up to 180 acres of the historic core area of the ranch, with a value of more than $2 million, to the national Park Service. The property would be donated once the federal designation has occurred and the National Park Service has completed its study to determine the amount of acreage that is needed. It is our hope that this potential donation indicates the strength of our conviction that the Spring Hill/Z Bar Ranch is of great national significance and deserves to be part of the National Park System.

We also continue our pledge to manage the remainder of the property not under the direct control of the National Park Service in a manner that is compatible with the preserve's general management plan—a plan that will be developed by the National Park Service in cooperation with a citizen advisory committee.

We welcome this opportunity to support this legislation and look forward to its completion so that this deserving resource can be part of the National Park System.

Sincerely,

J. PAUL DUFFENDACK,
Chairman, Tallgrass Prairie Interim Management Committee, Member, National Park Trust Board of Trustees.

INDIANA UNIVERSITY,
Bloomington, IN, April 3, 1995.

DEAR SENATOR KASSEBAUM: This is a letter in support of your efforts to set aside a tall grass prairie in Kansas. You may recall that I was Director of the National Park Service in the Bush Administration.

In lectures I have been giving around the country, I have been saying that the last great natural park to be purchased is a tall grass prairie park. We may have some trades between various federal agencies from time to time, but the tall grass park is one in which private ownership will be involved.

You have reached a unique solution to creating the park. Private ownership has been recognized and respected while the core area of 180 acres would become the management responsibility of the NPS. This represents the kind of creative thinking that will have to take place to guarantee that we take care of our great parks in the future.

A tall grass prairie is a missing link in our system. This statement comes from a former director who in leery of creating additional parks. In my book, National Parks Compromised, I talk of the concern I have with "thinning the blood" of our system with parks with little or no national significance. A tall grass addition to the system would not be a "Thinning of the blood", especially in the creative manner you are bringing it into the system.

Good luck and thank you for your efforts.

Sincerely,

JAMES M. RIDENOUR,
Director, Eppley Institute for Parks and Public Lands.

Mr. DOLE. Mr. President, for several years there have been attempts to create a national tall grass prairie preserve on nearly 11,000 acres in Kansas, known as the Z-Bar Ranch. Proposals for this preserve have faced valid opposition from concerned citizens and landowners in the area. Today, Senator KASSEBAUM is introducing legislation which I expect will establish a successful public/private partnership.

I commend Senator KASSEBAUM's leadership efforts to establish a prairie park in Kansas. In January 1992, she organized the Spring Hill/Z-Bar Ranch Foundation to raise money for the purchase of the ranch. This private foundation also addressed many of the concerns of local residents and landowners.

Last summer, the Z-Bar Ranch was sold to a private trust. But establishing Z-Bar as a national preserve requires legislation. Senator KASSEBAUM has worked diligently to strike a balance which is acceptable to all parties. This bill authorizes the Federal Government to purchase or to accept a donation of up to 180 acres of the Z-Bar Ranch.

I have always supported Senator KASSEBAUM's efforts to encourage private participation in the establishment of a national prairie preserve. With a private/public partnership, we can officially recognize the tall grass prairie while limiting the involvement of the Federal Government.

This year, the National Park Trust, who currently owns the ranch, offered to donate the core area of land to the Federal Government. This will minimize the cost of establishing the preserve. In my view, a compromise which includes minimal Federal ownership and continued local input sets this proposal apart from other efforts.

The tall grass prairie is a vital part of the natural environment and heritage of the high plains. We must protect and preserve it. Anyone who has driven through the Flint Hills of Kansas appreciates the beauty of this prairie. I am pleased to join Senator KASSEBAUM today in cosponsoring this legislation. Her success in creating a partnership between public and private efforts will help preserve the history of the Midwest.

By Mr. KENNEDY:

S. 696. A bill to assist States and secondary and postsecondary schools to develop, implement, and improve school-to-work opportunities systems so that all students have an opportunity to acquire the knowledge and skills needed to meet challenging State academic standards and industry-based skill standards and to prepare for postsecondary education, further learning, and a wide range of opportunities in high-skill, high-wage careers, and for other purposes; to the Committee on Labor and Human Resources.

THE CAREER PREPARATION EDUCATION REFORM ACT

Mr. KENNEDY. Mr. President, it is a privilege, on behalf of the Clinton administration, to introduce the Career Preparation Education Reform Act. This measure will reform vocational education and contribute to the development of school-to-work opportunities. This legislation represents major change. It consolidates more than 20 current Perkins Act programs and gives States an increased role and increased flexibility.

The legislation ensures that funds for in-school youth are administered at the local level by local schools, and that Federal funds are allocated by a more effective needs-based formula.

This legislation adopts a new approach. It stresses high performance for all students. It places greater emphasis on outcomes and the reporting of results. It links outcomes with corrective actions, including sanctions and rewards. It requires each State's plan to describe how the State will serve at-risk students. And it uses a local allocation formula which targets funds to the neediest communities.

The report of the National Assessment of Vocational Education found that at-risk and special education students are too often concentrated in programs that do not adequately prepare them for careers or higher education. By raising performance for all students and ensuring that planning, reporting and evaluation reflect this priority, these students will be better served.

At-risk students should have a greater opportunity to receive the quality services and assistance they need to be successful. We intend to pay close attention to this issue as this legislation moves through Congress.

This bill encourages States to use their vocational education, elementary and secondary education, and second-chance programs to develop comprehensive, integrated, and effective school-to-work systems.

It proposes two funding streams—a State grant and a national program authority. It increase the amount of the State grant distributed to schools and colleges under the formula.

It calls on vocational education to support development of the in-school part of school-to-work systems.

It takes a new approach to meeting the needs of special populations by emphasizing quality for all students.

It no longer requires separate State boards for vocational education or separate State advisory councils.

It gives States the waivers necessary to develop comprehensive education systems.

It proposes a performance partnership with the States in cooperation with the Secretary of Labor, in order to develop a system to measure performance, that ensures accountability and provides information on program success.

This legislation closely parallels other education reform initiatives on education reform and career preparation. I look forward to working closely with other Senators to achieve the bipartisan support we need in order to do a better job of preparing students for the world.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Career Preparation Education Reform Act of 1995".

ORGANIZATION OF THE ACT

SEC. 2. This Act is organized into the following titles:

TITLE I—AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT

TITLE II—EFFECTIVE DATES; TRANSITION

TITLE III—AMENDMENTS TO OTHER ACTS

TITLE I—AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT

AMENDMENT TO THE ACT

SEC. 101. The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 *et seq.*; hereinafter referred to as "the Act") is amended in its entirety to read as follows:

"SHORT TITLE; TABLE OF CONTENTS

"SECTION 1. (a) Short Title.—This Act may be cited as the 'Carl D. Perkins Career Preparation Education Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy, findings, and purpose.
"Sec. 3. Authorization of appropriations.

"TITLE I—PREPARING STUDENTS FOR CAREERS

"PART A—IMPROVING STATE AND LOCAL PROGRAMS

"Sec. 101. Priorities.
"Sec. 102. State leadership activities.
"Sec. 103. Local activities.
"Sec. 104. Combination of funds.
"Sec. 105. State plans.
"Sec. 106. State administration.
"Sec. 107. Local applications.
"Sec. 108. Performance goals and indicators.
"Sec. 109. Evaluation, improvement, and accountability.

"PART B—ALLOCATING STATE AND LOCAL RESOURCES

"Sec. 111. Allotments.
"Sec. 112. Within-State allocation.
"Sec. 113. Distribution of funds.

"TITLE II—NATIONAL SUPPORT FOR STATE AND LOCAL REFORMS

"Sec. 201. Awards for excellence.
"Sec. 202. National activities.
"Sec. 203. National assessment.
"Sec. 204. National research center.
"Sec. 205. Data systems.
"Sec. 206. Career preparation for Indians and Native Hawaiians.

"TITLE III—GENERAL PROVISIONS

"Sec. 301. Waivers.
"Sec. 302. Effect of Federal payments.
"Sec. 303. Identification of State-imposed requirements.
"Sec. 304. Out-of-State relocations.
"Sec. 305. Definitions.

"DECLARATION OF POLICY, FINDINGS, AND PURPOSE

"SEC. 2. (a) DECLARATION OF POLICY.—The Congress declares it to be the policy of the United States that, in order to meet new economic challenges brought about by changing technologies and increasing international economic competition, the Nation must put in place a system that enables all students to obtain the education needed to pursue productive and adaptable careers.

"(b) DECLARATION OF FINDINGS.—The Congress finds that—

"(1) although employment and earnings increasingly depend on educational attainment and the ability to acquire and transfer skills among jobs in broad clusters of occupations or industry sectors, a majority of high school graduates in the United States lack sufficient curriculum focus to prepare them for completing a two-year of four-year college degree or for entering careers with high-skill, high-wage potential;

"(2) enactment of the Goals 2000: Educate America Act has helped to establish a new framework for education reform, based on challenging State academic standards and industry-based skill standards for all students;

"(3) enactment of the School-to-Work Opportunities Act of 1994 has helped to catalyze the development, in all States, of statewide system offering opportunities for all students to participate in school-based, work-based, and connecting activities leading to postsecondary education, further learning, and first jobs in high-skill, high-wage careers;

"(4) the GI Bill for America's Workers, of which this Act is a key component, will further strengthen the capacity of States, schools, and businesses, working together, to upgrade the skills of youth and to prepare them for high-wage careers;

"(5) local, State, and national programs supported under the Carl D. Perkins Vocational and Applied Technology Education Act have assisted many students in obtaining occupational and academic skills, as well as employment, but not these programs must become part of the larger reforms taking place under the School-to-Work Opportunities Act of 1994;

"(6) when properly aligned with related Federal statutes and the broader reforms that States and localities carry out under the Goals 2000: Educate America Act, this Act can enhance the capacity of States to establish school-to-work opportunities systems that serve all students, enable a greater number of students to achieve to challenging State academic standards and industry-based skill standards, and contribute to enabling all Americans to prosper in a highly competitive, technological economy;

"(7) certain individuals (including students with disabilities, educationally or economically disadvantaged students, students of limited English proficiency, incarcerated youth, migrant children, foster children, school dropouts, and women) often face great challenges in acquiring the academic knowledge and occupational skills needed for successful employment and thus may need special assistance and services to allow them to participate fully in career preparation activities;

"(8) Federal resources currently support a maze of employment-related education and training programs that are often focused on specific content areas or populations, have conflicting or overlapping requirements, and are not administered in an integrated manner, thus inhibiting the capacity of State and local administrators to implement programs that meet the needs of individual States and localities;

"(9) the Federal Government can—through a performance partnership with States and localities based on clear programmatic goals, increased State and local flexibility, improved accountability, and performance goals, indicators, and incentives—provide to States and localities financial assistance for the expansion of school-to-work opportunities systems in all States, as well as for services and activities that ensure that all students, including students with special needs, have full access to the programs offered through those systems; and

"(10) the Federal Government can also assist States and localities by carrying out nationally significant research, development, demonstration, dissemination, evaluation, capacity-building, data collection, training, and technical assistance activities that support State and local efforts to implement successfully services and activities that are funded under this Act, as well as to implement State and local career preparation activities that are supported with their own resources.

"(c) DECLARATION OF PURPOSE.—The purpose of this Act is to assist all students, through a performance partnership with States and localities, to acquire the knowledge and skills they need to meet challenging State academic standards and industry-based skill standards and to prepare for postsecondary education, further learning, and a wide range of opportunities in high-skill, high-wage careers. This purpose shall be pursued through support for State and local efforts that—

"(1) build on the efforts of States and localities under the School-to-Work Opportunities Act, as well as the Goals 2000: Educate America Act and other legislation;

"(2) integrate reforms of vocational education with overall State reforms of academic preparation in schools;

"(3) promote, in particular, the development of activities and services that integrate academic and occupational instruction, link secondary and postsecondary education, link school-based and work-based learning, coordinate efforts for in-school and out-of-school youth, and enable students to complete career majors in broad occupational clusters;

"(4) increase State and local flexibility in providing services and activities designed to develop, implement, and improve school-to-work opportunities systems, as well as integrating these services and activities with services and activities supported with other Federal, State, and local funds, such as those under the Job Training Partnership Act, in exchange for clear accountability for results;

"(5) provide all students, including students who are members of special populations, with the opportunity to participate in the full range of career preparation services and activities; and

"(6) benefit from national research, development, demonstration, dissemination, evaluation, capacity-building, data collection, training, and technical assistance activities supporting the development, implementation, and improvement of school-to-work opportunities systems.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 3. (a) STATE AND LOCAL ACTIVITIES.—There are authorized to be appropriated to carry out title I, section 201, section 206(a), and section 206(d) of this Act $1,141,088,000 for the fiscal year 1996 and such sums as may be necessary for each of the fiscal years 1997 through 2005.

"(b) NATIONAL ACTIVITIES.—There are authorized to be appropriated to carry out title II, except sections 201, 206(a), and 206(d) of this Act, $37,000,000 for the fiscal year 1996 and such sums as may be necessary for each of the fiscal years 1997 through 2005.

"TITLE I—PREPARING STUDENTS FOR CAREERS

"PART A—IMPROVING STATE AND LOCAL PROGRAMS

"PRIORITIES

"SEC. 101. In order to prepare students for a wide range of opportunities in high-skill, high-wage careers, funds under this title shall be used to support the development, implementation, and improvement of school-to-work opportunities systems in secondary and postsecondary schools, as set forth in title I of the School-to-Work Opportunities Act of 1994. State and local recipients shall give priority to services and activities designed to—

"(1) ensure that all students, including students who are members of special populations, have the opportunity to achieve to challenging State academic standards and industry-based skill standards;

"(2) promote the integration of academic and vocational education;

"(3) support career majors in broad occupational clusters or industry sectors;

"(4) effectively link secondary and postsecondary education;

"(5) provide students, to the extent possible, with strong experience in, and understanding of, all aspects of the industry they are preparing to enter;

"(6) combine school-based and work-based instruction, including instruction in general workplace competencies;

"(7) provide school-site and workplace mentoring; and;

"(8) provide career guidance and counseling for students at the earliest possible age, including the provision of career awareness, exploration, and guidance information to students and their parents that is, to the extent possible, in a language and form that the students and their parents understand.

"STATE LEADERSHIP ACTIVITIES

"SEC. 102. Each State that receives a grant under this title shall, from amounts reserved for State leadership activities under section 112(c), conduct services and activities that further the development, implementation, and improvement of its statewide school-to-work opportunities system and that are integrated, to the maximum extent possible, with broader educational reforms underway in the State as well as activities the State carries out under the Goals 2000: Educate America Act, the School-to-Work Opportunities Act of 1994, title II of the Job Training Partnership Act, and the Elementary and Secondary Education Act of 1965, including such activities as—

"(1) providing comprehensive professional development for vocational teachers, academic teachers, and career guidance personnel that—

"(A) will help such teachers and personnel to meet the goals established by the State under section 108; and

"(B) reflects the State's assessment of its needs for professional development, as determined under section 2205(b)(2)(C) the Elementary and Secondary Education Act of 1965, and is integrated with the professional development activities that the State carries out under title II of that Act;

"(2) developing and disseminating curricula that are aligned, as appropriate, with challenging State academic standards and industry-based skill standards;

"(3) monitoring and evaluating the quality of, and improvement in, services and activities conducted with assistance under this Act;

"(4) promoting equity in secondary and postsecondary education and, to the maximum extent possible, ensuring opportunities for all students, including students who are members of special populations, as well as single parents and single, pregnant women, to participate in education activities that are free from sexual and other harassment and that lead to high-skill, high-wage careers;

"(5) improving career guidance and counseling for students, including use of one-stop career centers;

"(6) expanding and improving the use of educational technology;

"(7) supporting partnerships of local educational agencies, institutions of higher education, and, as appropriate, other entities, such as employers, labor organizations, and community-based organizations, to provide models, such as youth development partnerships as described in section 202(a)(3) and tech-prep education, for enabling all students, including students who are members of special populations, to achieve to challenging State academic standards and industry-based skill standards;

"(8) promoting the dissemination and use of occupational information, including use of one-stop career centers;

"(9) providing financial incentives or awards to one or more local recipients in recognition of exemplary quality or innovation in education services and activities, or exemplary services and activities for students who are members of special populations, as determined by the State through a peer review process, using performance goals and indicators described in section 108 or other appropriate criteria;

"(10) supporting vocational student organizations, especially with respect to efforts to increase the participation of students who are members of special populations in such organizations;

"(11) serving special populations and individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities.

"LOCAL ACTIVITIES

"SEC. 103. (a) GENERAL REQUIREMENTS.—Each local recipient that receives a subgrant under this title shall use funds to—

"(1) conduct services and activities that further the development, implementation, and improvement of the school-to-work opportunities system in the State;

"(2) provide services and activities that are of sufficient size, scope, and quality to be effective; and

"(3) focus assistance under this title on schools or campuses that serve the highest numbers or percentages of students who are members of special populations.

"(b) AUTHORIZED ACTIVITIES.—Each local recipient that receives a subgrant under this title may use funds to—

"(1) provide services and activities that promote the priorities described in section 101, such as—

"(A) developing curricula, including establishing and expanding career majors;

"(B) acquiring and adapting equipment, including instructional aids;

"(C) providing professional development activities;

"(D) providing services, directly or through community-based organizations, such as curriculum modification, equipment modification, classroom modification, supportive personnel, instructional aids and devices, guidance, career information, English language instruction, and child care, to meet the education needs of students who are members of special populations;

"(E) providing tech-prep education services and activities;

"(F) carrying out activities that ensure active and continued involvement of business and labor in the development, implementation, and improvement of a school-to-work opportunities system in the State;

"(G) matching students with the work-based learning opportunities of employers; and

"(H) providing assistance to students who have participated in services and activities under this Act in finding an appropriate job and continuing their education and training; and

"(2) carry out other services and activities that meet the purpose of this Act.

"(c) EVALUATION ACTIVITIES.—In order to improve educational practices and performance of all students, including students who are members of special populations, each local recipient that receives a subgrant under this title may use such funds to carry out the evaluation under section 109(a)(1) or 109(a)(2).

"(d) EQUIPMENT.—Equipment acquired or adapted with funds under this title may be used for other instructional purposes when not being used to carry out this title if such acquisition or adaptation was reasonable and necessary for providing services or activities under this title and such other use is incidental to, does not interfere with, and does not add to the cost of, the use of such equipment under this title.

"COMBINATION OF FUNDS

"SEC. 104. (a) IN GENERAL.—In order to develop, implement, and improve school-to-work opportunities systems, States and local recipients that are assisted under this Act may combine funds from programs listed in subsection (e) in accordance with subsections (b) through (d).

"(b) STATE LEADERSHIP ACTIVITIES.—A State may combine funds authorized under section 112(c) with funds available for State leadership activities under one or more of the programs listed in subsection (e) in order to carry out State leadership activities that are authorized under this title as well as under such other program or programs.

"(c) LOCAL ACTIVITIES.—A local recipient may combine funds authorized under section 112(a) with funds available for services and activities related to the development, implementation, or improvement of school-to-work opportunities systems in one or more of the programs listed in subsection (e) in order to provide services and activities that are authorized under this title as well as under such other program or programs.

"(d) ADMINISTRATION.—Nothing in this section shall be construed to—

"(1) require a State or local recipient under this Act to maintain separate records tracing any services or activities conducted with funds combined under this section to the individual program or programs listed in subsection (e) under which funds were authorized; or

"(2) waive or amend any requirement of the programs listed in subsection (e), except as authorized in section 301.

"(e) INCLUDED PROGRAMS.—Funds may be combined for programs, services, or activities authorized under—

"(1) this Act;

"(2) the School-to-Work Opportunities Act of 1994;

"(3) the Goals 2000: Educate America Act;

"(4) the Elementary and Secondary Education Act of 1965; and

"(5) the Job Training Partnership Act.

"STATE PLANS

"SEC. 105. (a) STATE PLAN.—Any State desiring to receive a grant under section 111(f) for any fiscal year shall submit to, or have on file with, the Secretary a five-year State plan in accordance with this section. The State may submit its State plan as part of a comprehensive plan that may include State plan provisions under the Goals 2000: Educate America Act, the School-to-Work Opportunities Act of 1994, section 14302 of the Elementary and Secondary Education Act of 1965, the Job Training Partnership Act, and any other Federal education and training program. If the State has an approved State plan under section 213(d) of the School-to-Work Opportunities Act of 1994, it shall base its plan under this section on that plan. If the State does not have an approved plan under section 213(d) of the School-to-Work Opportunities Act of 1994, it shall base its plan under this section on an objective assessment of its progress in developing, implementing, and improving its school-to-work opportunities system and in meeting the priorities described in section 101.

"(b) APPROVALS.—(1) Notwithstanding the designation of the responsible agency or agencies under section 112, the agencies that shall approve the State plan under subsection (a) are—

"(A) the State educational agency; and

"(B) each of the State agencies responsible for higher education (including community colleges) that the State chooses.

"(2) The Secretary shall approve a State plan under subsection (a) if the plan meets the requirements of this section and is of sufficient quality to meet the purpose of this Act. The Secretary shall establish a peer review process to make recommendations regarding approval of the State plan and revisions to the plan. The Secretary shall not finally disapprove a State plan before giving the State reasonable notice and an opportunity for a hearing.

"(c) CONSULTATION.—(1) In developing and implementing its plan under subsection (a), and any revisions under subsection (f), the State shall consult widely with individuals, employers, and organizations in the State that have an interest in education and training, such as those described in section 213(d)(5) of the School-to-Work Opportunities Act of 1994, and individuals, employers, and organizations that have an interest in education and training for students who are members of special populations.

"(2) The State educational agency shall submit the State plan under this section, and any revisions to the State plan under subsection (f), to the Governor for review and comment and shall ensure that any comments the Governor may have are included with the State plan or revision when the State plan or revision is submitted to the Secretary.

"(d) CONTENTS.—(1) Each State plan under subsection (a) shall describe how the State will use funds under this title to—

"(A) develop, implement, or improve the statewide school-to-work opportunities system and address the priorities described in section 101;

"(B) ensure that all students, including students who are members of special populations, have the opportunity to achieve to challenging State academic standards and industry-based skill standards and will be prepared for postsecondary education, further learning, and entrance into high-skill, high-wage careers;

"(C) establish performance goals and indicators described in section 108;

"(D) further the State's approved State plan under section 213(d) of the School-to-Work Opportunities Act of 1994 or address the needs identified in the State's objective assessment of its progress in developing, implementing, and improving its school-to-work opportunities system; and

"(E) carry out State leadership activities under section 102.

"(2) Each State plan under subsection (a) shall also describe how the State will integrate its services and activities under this title with broad educational reforms in the State, including those under the Goals 2000: Educate America Act and the School-to-Work Opportunities Act of 1994, as well as related services and activities under the Elementary and Secondary Education Act of 1965, the Job Training Partnership Act, and relevant employment, training, and welfare programs carried out in the State.

"(e) ASSURANCES.—Each State plan under subsection (a) shall contain assurances that the State will—

"(1) comply with the requirements of this Act and the provisions of the State plan; and

"(2) provide for the fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State under this Act.

"(f) REVISIONS.—When changes in conditions or other factors require substantial revision to an approved State plan under subsection (a), the State shall submit revisions to the State plan to the Secretary. State plan revisions shall be approved by the State educational agency and each of the State agencies responsible for higher education (including community colleges) that approved the State plan.

"STATE ADMINISTRATION

"SEC. 106. (a) RESPONSIBLE AGENCY OR AGENCIES.—Any State desiring to receive a grant under section 111(f) shall, consistent with State law, designate an education agency or agencies that shall be responsible for the administration of services and activities under this Act, including—

"(1) the development, submission, and implementation of the State plan;

"(2) the efficient and effective performance of the State's duties under this Act; and

"(3) consultation with other appropriate agencies, groups, and individuals that are involved in the development and implementation of services and activities assisted under this Act, such as business, industry, parents, students, teachers, labor organizations, community-based organizations, State and local elected officials, and local program administrators.

"(b) SPECIAL ACTIVITIES.—Any State that receives a grant under section 111(f) shall—

"(1) gather and disseminate data on the effectiveness of services and activities related to the State's school-to-work opportunities system in meeting the educational and employment needs of women and students who are members of special populations;

"(2) review proposed actions on applications, grants, contracts, and policies of the State to help to ensure that the needs of women and students who are members of special populations are addressed in the administration of this title;

"(3) recommend outreach and other activities that inform women and students who are members of special populations about their education and employment opportunities;

"(4) advise local educational agencies, postsecondary educational institutions, and other interested parties in the State on expanding career preparation opportunities for women and students who are members of special populations and helping to ensure that the needs of men and women in training for nontraditional jobs are met; and

"(5) work to eliminate bias and stereotyping in education at the secondary and postsecondary levels.

"LOCAL APPLICATIONS

"SEC. 107. (a) ELIGIBILITY.—Schools and other institutions or agencies eligible to apply, individually or as consortia, to a State for a subgrant under this title are—

"(1) local educational agencies;

"(2) area vocational education schools that provide education at the postsecondary level;

"(3) institutions of higher education; and

"(4) postsecondary educational institutions controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or the Act of April 16, 1934.

"(b) APPLICATION REQUIREMENTS.—Any applicant that is eligible under subsection (a) and that desires to receive a subgrant under this title shall, according to requirements established by the State, submit an application to the agency or agencies designated under section 106. In addition to including such information as the State may require and identifying the results the applicant seeks to achieve, each application shall also describe how the applicant will use funds under this title to—

"(1) develop, improve, or implement a school-to-work opportunities system in secondary and postsecondary schools and address the priorities described in section 101, in accordance with section 103;

"(2) evaluate progress toward the results it seeks to achieve, consistent with the performance goals and indicators established under section 108;

"(3) coordinate its services and activities with related services and activities offered by community-based organizations, employers, and labor organizations, and, to the extent possible, integrate its services and activities under this title with broad educational reforms in the State, including those under the Goals 2000: Educate America Act and the School-to-Work Opportunities Act of 1994, as well as related services and activities under the Elementary and Secondary Education Act of 1965, the Job Training Partnership Act, and relevant employment, training, and welfare programs carried out in the State; and

"(4) consult with students, their parents, and other interested individuals or groups, in developing their services and activities.

"PERFORMANCE GOALS AND INDICATORS

"SEC. 108. (a) IN GENERAL.—(1) Any State desiring to receive a grant under section 111(f) shall—

"(A) establish performance goals to define the level of performance to be achieved by students served under this title and to evaluate the quality and effectiveness of services and activities under this title;

"(B) express such goals in an objective, quantifiable, and measurable form;

"(C) establish performance indicators that the State and local recipients will use in measuring or assessing progress towards achieving such goals; and

"(D) provide biennial reports to the public and to the Secretary, in accordance with section 109(c), on the State's progress in achieving its goals, including information on the progress of students who are members of special populations.

"(2) Any State may also use amounts it receives for State leadership activities under section 112(c) to evaluate its entire school-to-work opportunities system in secondary and postsecondary schools and to carry out activities under paragraph (1)(D).

"(b) PERFORMANCE INDICATORS.—The Secretary shall, in collaboration with the Secretary of Labor, work with States to ensure that their performance goals under this section are consistent with challenging State academic standards and industry-based skill standards and their State goals established under the School-to-Work Opportunities Act of 1994 and title II of the Job Training Partnership Act. Performance goals established under paragraph (1)(A) of subsection (a) shall be in accord with the National Education Goals and with the purpose of this Act. Performance indicators established under paragraph (1)(C) of subsection (a) shall include at least—

"(1) achievement to challenging State academic standards, such as those established under Goals 2000: Educate America Act, and industry-based skill standards;

"(2) receipt of a high school diploma, skills certificate, and postsecondary certificate or degree; and

"(3) job placement, retention, and earnings, particularly in the career major of the student.

"(c) TRANSITION.—Before it establishes performance goals and indicators under subsection (a), each State receiving funds under this title shall use the system of standards and measures developed under section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act as in effect prior to the enactment of this Act. A State shall use its performance goals and indicators established under subsection (a) not later than July 1, 1997.

"(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the States regarding the development of the State's performance goals and indicators under subsection (a). Notwithstanding any other provision of law, the Secretary may use funds appropriated for title II to provide technical assistance under this section.

"EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY

"SEC. 109. (a) LOCAL EVALUATION.—(1) Each local recipient of a subgrant under this title shall biennially evaluate, using performance goals and indicators described in section 108, and report to the State regarding, its use of funds under this title to develop, implement, or improve a school-to-work opportunities system at the local level and the effectiveness of its services and activities supported under this title in achieving the priorities described in section 101, including the progress of students who are members of special populations.

"(2) Such local recipient may evaluate portions of its school-to-work opportunities system that are not supported with funds under this title, including its entire system. If such recipient does so, it need not evaluate separately that portion of its school-to-work opportunities system supported with funds under this title.

"(b) IMPROVEMENT ACTIVITIES.—If a State determines, based on the local evaluation under subsection (a) and applicable performance goals and indicators established under section 108, that a local recipient is not making substantial progress in achieving the purpose of this Act in accordance with the priorities described in section 101, the State shall work jointly with the local recipient to develop a plan, in consultation with teachers, parents, and students, for improvement for succeeding school years. If, after three years of implementation of the improvement plan, the State determines that the local recipient is not making sufficient progress, the State shall take whatever corrective action it deems necessary, consistent with State law. The State shall take corrective action only after it has provided technical assistance to the recipient and shall ensure that any corrective action it takes allows for continued career preparation education services and activities for the recipient's students.

"(c) STATE REPORT.—The State shall, once every two years on a schedule determined by the Secretary, report to the Secretary on the quality and effectiveness of its services and activities provided through its grant under title I, based on the performance goals and indicators established under section 108.

"(d) TECHNICAL ASSISTANCE.—If the Secretary determines that the State is not properly implementing its responsibilities under subsection (b), or is not making substantial progress in meeting the purpose of this Act or carrying out services and activities that are in accord with the priorities described in section 101, based on the performance goals and indicators established under section 108, the Secretary shall work with the State to implement improvement activities.

"(e) WITHHOLDING OF FEDERAL FUNDS.—If, after a reasonable time, but not earlier than one year after the implementation of the improvement activities described in subsection (d), the Secretary determines that the State is not making sufficient progress, based on the performance goals and indicators established under section 108, the Secretary shall, after notice and opportunity for a hearing, withhold from the State all, or a portion, of the State's allotment under this title. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services activities within the State that meet the purpose of this Act and are in accord with the priorities described in section 101.

"PART B—ALLOCATING STATE AND LOCAL RESOURCES

"ALLOTMENTS

"SEC. 111. (a) AWARDS FOR EXCELLENCE.—In each fiscal year after the fiscal year 1998, from the amount made available under section 3(a) for title I, the Secretary may reserve not more than 10 percent for carrying out section 201.

"(b) ALLOTMENT FOR INDIANS AND NATIVE HAWAIIANS.—In each fiscal year, from the amount made available under section 3(a) for title I, the Secretary shall reserve 1.50 percent of which—

"(1) 1.25 percent shall be for carrying out section 206(a); and

"(2) 0.25 percent shall be for carrying out section 206(d).

"(c) ALLOTMENT TO STATES.—(1) Subject to paragraph (2), from the remainder of the sum available for title I, the Secretary shall allot to each State for each fiscal year—

"(A) an amount that bears the same ratio to 50 percent of the sum being allotted as the product of the population aged 15 to 19, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

"(B) an amount that bears the same ratio to 50 percent of the sum being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States.

"(2)(A) Notwithstanding any other provision of law and subject to subparagraph (B), for any fiscal year through the fiscal year 1998 no State shall receive for services and activities authorized by title I of this Act less than 90 percent of the sum of the payments made to the State for the fiscal year 1995 for programs authorized by title II and parts A, B, and E of title III of the Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) If for any fiscal year the amount appropriated for services and activities authorized by title I and available for allotment under this section is insufficient to satisfy the provisions of subparagraph (A), the Secretary shall ratably reduce the payments to all States for such services and activities as necessary.

"(C) Notwithstanding any other provision of law, the allotment for this title for each of American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands shall not be less than $200,000.

"(d) ALLOTMENT RATIO.—The allotment ratio of any State shall be 1.00 less the product of—

"(1) 0.50; and

"(2) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands), except that—

"(A) the allotment ratio shall in no case be more than 0.60 or less than 0.40; and

"(B) the allotment ratio for American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands shall be 0.60.

"(e) REALLOTMENT.—If the Secretary determines that any amount of any State's allotment under subsection (c) for any fiscal year will not be required for carrying out the services and activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment to one or more other States. Any amount reallotted to a State under this subsection shall be deemed to be part of its allotment for the fiscal year in which it is obligated.

"(f) STATE GRANTS.—From the State's allotment under subsection (c), the Secretary shall make a grant for each fiscal year to each State that has an approved State plan under section 105.

"(g) DEFINITIONS AND DETERMINATIONS.—For purposes of this section—

"(1) allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the three most recent consecutive fiscal years for which satisfactory data are available;

"(2) the term 'per capita income' means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year; and

"(3) population shall be determined by the Secretary on the basis of the latest estimates available to the Department that are satisfactory to the Secretary.

"WITHIN-STATE ALLOCATION

"SEC. 112. (a) IN GENERAL.—(1) For each of the fiscal years 1996 and 1997, the State shall award as subgrants to local recipients at least 80 percent of its grant under section 111(f) for that fiscal year.

"(2) For each of the fiscal years 1998 through 2005, the State shall award as subgrants to local recipients at least 85 percent of its grant under section 111(f) for that fiscal year.

"(b) STATE ADMINISTRATION.—(1) The State may use an amount not to exceed five percent of its grant under section 111(f) for each fiscal year for administering its State plan, including developing the plan, reviewing local applications, supporting activities to ensure the active participation of interested individuals and organizations, and ensuring compliance with all applicable Federal laws.

"(2) Each State shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds used for State administration under paragraph (1).

"(c) STATE LEADERSHIP.—The State shall use the remainder of its grant under section 111(f) for each fiscal year for State leadership activities described in section 102.

"DISTRIBUTION OF FUNDS

"SEC. 113. (a) DISTRIBUTION OF FUNDS AT THE SECONDARY LEVEL.—(1) Except as provided in subsections (c), (d), and (e), each State shall, each fiscal year, distribute to local educational agencies, or consortia of such agencies, within the State funds under this title available for secondary school education services and activities that are conducted in accordance with the priorities described in section 101. Each local educational agency or consortium shall be allocated an amount that bears the same relationship to the amount available as the local educational agency or consortium was allocated under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the total amount received under such subpart by all the local educational agencies in the State in such fiscal year.

"(2) In applying the provisions of paragraph (1), the State shall—

"(A) distribute those funds that, based on the distribution formula under paragraph (1), would have gone to a local educational agency serving only elementary schools, to the local educational agency that provides secondary school services to secondary school students in the same attendance area;

"(B) distribute to a local educational agency that has jurisdiction over secondary schools, but not elementary schools, funds based on the number of students that entered such secondary schools in the previous year from the elementary schools involved; and

"(C) distribute funds to an area vocational education school in any case in which—

"(i) the area vocational education school and the local educational agency or agencies concerned have an agreement to use such funds to provide services and activities in accordance with the priorities described in section 101; and

"(ii) the area vocational education school serves an equal or greater proportion of students with disabilities or economically disadvantaged students than the proportion of these students under the jurisdiction of the local educational agencies sending students to the area vocational education school.

"(b) DISTRIBUTION OF FUNDS AT THE POSTSECONDARY LEVEL.—(1) Except as provided in subsections (c), (d), and (e), each State shall, each fiscal year, distribute to eligible institutions, or consortia of such institutions, within the State funds under this title available for postsecondary school education services and activities that are conducted in accordance with the priorities described in section 101. Each such eligible institution or consortium shall be allocated an amount that bears the same relationship to the amount of funds available as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled by such institution or consortium in the preceding fiscal year bears to the number of such recipients enrolled in such programs within the State in such fiscal year.

"(2) For the purpose of this section—

"(A) the term 'eligible institution' means—

"(i) an institution of higher education;

"(ii) a local educational agency providing education at the postsecondary level;

"(iii) an area vocational education school providing education at the postsecondary level; and

"(iv) a postsecondary educational institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or the Act of April 16, 1934; and

"(B) the term 'Pell Grant recipient' means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965.

"(c) ALTERNATIVE DISTRIBUTION FORMULA.—The State may distribute funds under subsection (a) or (b) using an alternative formula if the State demonstrates to the Secretary's satisfaction that such alternative formula better meets the purpose of this Act, is in accord with the priorities described in section 101, and that—

"(1) in the case of funds distributed to secondary schools—

"(A) the formula described in subsection (a) does not result in a distribution of funds to the local educational agencies or consortia that serve secondary school students with the greatest need for services and activities under this title, including students who are members of special populations; and

"(B) the alternative formula would better serve the needs of these students; and

"(2) in the case of funds distributed to postsecondary schools—

"(A) the formula described in subsection (b) does not result in a distribution of funds to the eligible institutions or consortia that have the highest numbers or percentages of economically disadvantaged students, as described in subsection (g); and

"(B) the alternative formula would result in such a distribution.

"(d) MINIMUM SUBGRANT AMOUNTS.—(1)(A) Except as provided in subparagraph (B), no local educational agency shall be eligible for a subgrant under this title unless the amount allocated to that agency under subsection (a) or (c) equals or exceeds $15,000.

"(B) The State may waive the requirement in subparagraph (A)) in any case in which the local educational agency—

"(i) enters into a consortium with one or more other local educational agencies to provide services and activities conducted in accordance with the priorities described in section 101 and the aggregate amount allocated and awarded to the consortium equals or exceeds $15,000; or

"(ii) is located in a rural, sparsely-populated area and demonstrates that the agency is unable to enter into a consortium for the purpose of providing services and activities conducted in accordance with the priorities described in section 101.

"(2)(A) Except as provided in subparagraph (B), no eligible institution shall be eligible for a subgrant under this title unless the amount allocated to that institution under subsection (b) or (c) equals or exceeds $50,000.

"(B) The State may waive the requirement in subparagraph (A)) in any case in which the eligible institution—

"(i) enters into a consortium with one or more other eligible institutions to provide services and activities conducted in accordance with the priorities described in section 101 and the aggregate amount allocated and awarded to the consortium equals or exceeds $50,000; or

"(ii) is a tribally controlled community college.

"(e) SECONDARY-POSTSECONDARY CONSORTIA.—The State may distribute funds available in any fiscal year for secondary and postsecondary schools, as applicable, to one or more local educational agencies and one or more eligible institutions that enter into a consortium in any case in which—

"(1) the consortium has been formed to provide services and activities conducted in accordance with the priorities described in section 101; and

"(2) the aggregate amount allocated and awarded to the consortium under subsections (a), (b), and (c) equals or exceeds $50,000.

"(f) REALLOCATIONS.—The State shall reallocate to one or more local educational agencies, eligible institutions, and consortia any amounts that are allocated in accordance with subsections (a) through (e), but that would not be used by a local educational agency or eligible institution, in a manner the State determines will best serve the purpose of this Act and be in accord with the priorities described in section 101.

"(g) ECONOMICALLY DISADVANTAGED STUDENTS.—For the purposes of this section, the State may determine the number of economically disadvantaged students on the basis of—

"(1) eligibility for free or reduced-price meals under the National School Lunch Act, the program for aid to dependent children under part A of title IV of the Social Security Act, or benefits under the Food Stamp Act of 1977;

"(2) the number of children counted for allocation purposes under title I of the Elementary and Secondary Education Act of 1965; or

"(3) any other index or disadvantaged economic status if the State demonstrates to the satisfaction of the Secretary that the index is more representative of the number of low-income students than the indices described in paragraphs (1) and (2).

"TITLE II—NATIONAL SUPPORT FOR STATE AND LOCAL REFORMS

"AWARDS FOR EXCELLENCE

"SEC. 201. The Secretary may, from the amount reserved under section 111(a) for any fiscal year after the fiscal year 1998, and through a peer review process, make performance awards to one or more States that have—

"(1) exceeded in an outstanding manner the performance goals set in section 108;

"(2) implemented exemplary school-to-work opportunities systems in secondary and postsecondary schools in accordance with the priorities described in section 101; or

"(3) provided exemplary education services and activities for students who are members of special populations.

"NATIONAL ACTIVITIES

"SEC. 202. (a) GENERAL AUTHORITY.—(1) In order to carry out the purpose of this Act, the Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation, capacity-building, and technical assistance activities with regard to the services and activities carried out under this Act. The Secretary shall coordinate activities carried out under this section with related activities under the School-to-Work Opportunities Act of 1994, the Goals 2000: Educate America Act, the Job Training Partnership Act, and the Elementary and Secondary Education Act of 1965.

"(2) Research and development activities carried out under this section may include support for States in their development of performance goals and indicators established under section 108. The Secretary shall broadly disseminate information resulting from research and development activities carried out under this Act, and shall ensure broad access at the State and local levels to the information disseminated.

"(3) Activities carried out under this section may include support for youth development partnerships that are promoted by the Secretary and the Secretary of Labor, working with other agencies and entities such as the Corporation for National and Community Service, and that facilitate innovative arrangements at the State and local level among business, community-based organizations, labor organizations, and educational institutions.

"(4) Activities carried out under this section may include support for occupational and career information systems.

"(5) The Secretary shall coordinate technical assistance activities carried out under this section with related technical assistance activities carried out under the Job Training Partnership Act and title XIII of the Elementary and Secondary Education Act of 1965.

"(b) PROFESSIONAL DEVELOPMENT.—(1) The Secretary may, directly, or through grants, contracts, or cooperative agreements, support professional development activities for educators (including teachers, administrators, and counselors) to help to ensure that all students receive an education that enables them to enter high-skill, high-wage careers. Entities eligible to receive funds under this subsection are institutions of higher education, other public or private nonprofit organizations or agencies, and consortia of such institutions, organizations, or agencies.

"(2)(A) Professional development activities supported under this subsection shall—

"(i) be tied to challenging State academic standards and industry-based skill standards;

"(ii) take into account recent research on teaching and learning;

"(iii) be of sufficient intensity and duration to have a positive and lasting impact on the educator's performance;

"(iv) include strong substantive and pedagogical components; and

"(v) be designed to improve educators' skills in such areas as integrating academic and vocational instruction, articulating secondary and postsecondary education, combining school-based and work-based instruction, and using occupational and career information.

"(B) Funds under this subsection may be used for such activities as pre-service and in-service training and support for development of local, regional, and national educator networks that facilitate the exchange of information relevant to the development of school-to-work opportunities systems.

"(3) In supporting activities under this subsection, the Secretary shall give priority to designing and implementing new models of professional development for educators, and preparing educators to use innovative forms of instruction, such as worksite learning and the integration of academic and occupational instruction. The Secretary shall coordinate the professional development activities carried out under this subsection with related activities carried out under the Job Training Partnership Act and title II of the Elementary and Secondary Education Act of 1965, as well as with other related professional development activities supported by the Department.

"NATIONAL ASSESSMENT

"SEC. 203. (a) GENERAL AUTHORITY.—(1) The Secretary shall conduct a national assessment of services and activities assisted under this Act, through independent studies and analyses, including, when appropriate, studies based on data from longitudinal surveys, that are conducted through one or more competitive awards.

"(2) The Secretary shall appoint an independent advisory panel, consisting of administrators, educators, researchers, and representatives of business, industry, labor, and other relevant groups, as well as representatives of Governors and other State and local officials, to advise the Secretary on the implementation of such assessment, including the issues to be addressed, the methodology of the studies, and the findings and recommendations. The panel, at its discretion, may submit to the Congress an independent analysis of the findings and recommendations of the assessment.

"(b) CONTENTS.—The assessment required under subsection (a) shall examine the extent to which services and activities assisted under this Act have achieved their intended purposes and results, including the extent to which—

"(1) State and local services and activities have developed, implemented, or improved systems established under the School-to-Work Opportunities Act of 1994;

"(2) services and activities assisted under this Act succeed in preparing students, including students who are members of special populations, for postsecondary education, further learning, or entry into high-skill, high-wage careers;

"(3) students who participate in services and activities supported under this Act succeed in meeting challenging State academic standards and industry-based skill standards; and

"(4) the systems improvement, participation, local and State assessment, and accountability provisions of this Act, including the performance goals and indicators established under section 108, are effective.

"(c) REPORT.—The Secretary shall submit to the Congress an interim report on or before July 1, 2000, and a final report on or before July 1, 2004.

"NATIONAL RESEARCH CENTER

"SEC. 204. (a) GENERAL AUTHORITY.—(1) The Secretary may, through a grant or contract, establish one or more national centers in the areas of applied research, development, and dissemination. The Secretary shall consult with the Secretary of Labor and with States prior to establishing one or more such centers.

"(2) Entities eligible to receive funds under this section are institutions of higher education, other public or private nonprofit organizations or agencies, and consortia of such institutions, organizations, or agencies.

"(3) The national center in existence on the date of the enactment of the Career Preparation Education Reform Act of 1995 shall continue to receive assistance under this section in accordance with terms of its current award.

"(b) ACTIVITIES.—(1) The applied research, development, and dissemination activities carried out by the national center or centers shall include—

"(A) activities that assist recipients of funds under this Act to meet the requirements of section 103; and

"(B) such other activities as the Secretary determines to be appropriate to achieve the purpose of this Act.

"(2) The center or centers conducting the activities described in paragraph (1) shall annually prepare a summary of key research findings of such center or centers and shall submit copies of the summary to the Secretaries of Education, Labor, and Health and Human Services. The Secretary shall submit that summary to the Committee on Labor and Human Resources of the Senate, and the Committee on Economic and Educational Opportunities of the House of Representatives.

"DATA SYSTEMS

"SEC. 205. (a) IN GENERAL.—The Secretary shall maintain a data system to collect information about, and report on, the condition of school-to-work opportunities systems and on the effectiveness of State and local services and activities carried out under this Act in order to provide the Secretary and the Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of career preparation education activities and services. The Secretary shall periodically report to the Congress on the Secretary's analysis of performance data collected each year pursuant to this Act.

"(b) CONTENTS.—The data system shall—

"(1) provide information to evaluate, to the extent feasible, the participation and performance of students, including students who are members of special populations;

"(2) include data that are at least nationally representative;

"(3) report on career preparation in the context of education reform; and

"(4) be based, to the extent feasible, on data from general purpose data systems of the Department or other Federal agencies, augmented as necessary with data from additional surveys focusing on career preparation education.

"(c) COORDINATION.—(1) The Secretary shall consult with a wide variety of experts in academic and occupational education, including individuals with expertise in the development and implementation of school-to-work opportunities systems, in the development of data collections and reports under this section.

"(2) In maintaining the data system, the Secretary shall—

"(A) ensure that the system, to the extent practicable, uses comparable information elements and uniform definitions common to State plans, performance indicators, and State and local assessments; and

"(B) cooperate with the Secretaries of Commerce and Labor to ensure that the data system is compatible with other Federal information systems regarding occupational data, and to the extent feasible, allow for international comparisons.

"(3) The Secretary and the Secretary of Labor shall jointly define common terms and definitions that all State grantees and local applicants shall use in program administration, data collection and reporting, and evaluation at all levels for programs supported under this Act and the Job Training Partnership Act.

"(d) ASSESSMENTS.—(1) As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on career preparation at the secondary school level for a nationally representative sample of students, including students who are members of special populations, which shall allow for fair and accurate assessment and comparison of the educational achievement of students in the areas assessed. Such assessment may include international comparisons.

"(2) The Commissioner of Education Statistics may authorize a State educational agency, or consortium of such agencies, to use items and data from the National Assessment of Educational Progress for the purpose of evaluating a course of study related to services and activities under title I, if the Commissioner has determined in writing that such use will not—

"(A) result in the identification of characteristics or performance of individual schools or students;

"(B) result in the ranking or comparing of schools or local educational agencies;

"(C) be used to evaluate the performance of teachers, principals, or other local educators for reward or punishment; or

"(D) corrupt the use or value of data collected for the National Assessment.

"CAREER PREPARATION FOR INDIANS AND NATIVE HAWAIIANS

"SEC. 206. (a) ASSISTANCE TO TRIBES OR BUREAU-FUNDED SCHOOLS.—(1)(A) From funds reserved under section 111(b)(1) for each fiscal year, the Secretary shall make grants to, or enter into cooperative agreements with, tribal organizations of eligible Indian tribes or Bureau-funded schools to develop and provide services and activities that are consistent with the purpose of this Act and conducted in accordance with the priorities described in section 101.

"(B) Any tribal organization or Bureau-funded school that receives assistance under this subsection shall—

"(i) establish performance goals and indicators to define the level of performance to be achieved by students served under this subsection;

"(ii) evaluate the quality and effectiveness of services and activities provided under this subsection; and

"(iii) help to ensure that students served under this subsection achieve to challenging academic and skill standards, receive high school diplomas, skill certificates, and postsecondary certificates or degrees, and enter employment related to their career major.

"(2)(A) The Secretary shall make such a grant or cooperative agreement—

"(i) upon the request of any Indian tribe that is eligible to contract with the Secretary of the Interior for programs under the Indian Self-Determination Act or the Act of April 16, 1934; or

"(ii) upon the application (filed under such conditions as the Secretary may require) of any Bureau-funded school that offers secondary programs.

"(B)(i) A grant or cooperative agreement under this subsection with any tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act, and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934 that are relevant to the services and activities administered under this subsection.

"(ii) A grant or cooperative agreement under this subsection with any Bureau-funded school shall not be subject to the requirements of the Indian Self-Determination Act or the Act of April 16, 1934.

"(C) Any tribal organization or Bureau-funded school eligible to receive assistance under this subsection may apply individually or as part of a consortium with another tribal organization or school.

"(D) The Secretary may not place upon such grants or cooperative agreements any restrictions relating to programs or results other than those that apply to grants or cooperative agreements to States under this Act.

"(3) Any tribal organization or Bureau-funded school receiving assistance under this subsection may provide stipends to students who are undertaking career preparation education and who have acute economic needs that cannot be met through work-study programs.

"(4) In making grants or cooperative agreements under this subsection, the Secretary shall give special consideration to awards that involve, are coordinated with, or encourage, tribal economic development plans.

"(b) ASSISTANCE TO TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS.—(1) The Secretary may make five-year grants to tribally controlled postsecondary vocational institutions to provide basic support for educating Indian students, including support for the operation, maintenance, and capital expenses of such institutions.

"(2) To be eligible for assistance under this subsection, a tribally controlled postsecondary vocational institution shall—

"(A) be governed by a board of directors or trustees, a majority of whom are Indians;

"(B) demonstrate adherence to stated goals, a philosophy, or a plan of operation that fosters individual Indian economic self-sufficiency;

"(C) have been in operation for at least three years;

"(D) hold accreditation with, or be a candidate for accreditation by, a nationally recognized accrediting authority for postsecondary vocational education;

"(E) offer technical degrees or certificate-granting programs; and

"(F) enroll the full-time equivalent of not less than 100 students, or whom a majority are Indians.

"(3) The Secretary shall, based on the availability of appropriations, distribute to each tribally controlled vocational institution having an approved application an amount based on full-time equivalent Indian students at each such institution.

"(c) ACCOUNTABILITY.—The Secretary shall require from each institution assisted under this section such information regarding fiscal control and program quality and effectiveness as is reasonable.

"(d) ASSISTANCE TO NATIVE HAWAIIANS.—From the funds reserved under section 111(b)(2) for each fiscal year, the Secretary shall make one or more grants to, or enter into one or more cooperative agreements with, organizations, institutions, or agencies with experience providing educational and related services to Native Hawaiians to develop and provide, for the benefit of Native Hawaiians, services and activities that are consistent with the purpose of this Act and conducted in accordance with the priorities described in section 101.

"(e) DEFINITIONS.—For the purposes of this section:

"(1) The term 'Bureau-funded school' has the same meaning given 'Bureau funded school' in section 1146(3) of the Education Amendments of 1978 (25 U.S.C. 2026(3)).

"(2) The term 'full-time equivalent Indian students' means the sum of the number of Indian students enrolled full time at an institution, plus the full-time equivalent of the number of Indian students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at each institution.

"(3) The terms 'Indian' and 'Indian tribe' have the meaning given such terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978.

"TITLE III—GENERAL PROVISIONS

"WAIVERS

"SEC. 301. (a) REQUEST FOR WAIVER.—Any State may request, on its own behalf or on behalf of a local recipient, a waiver by the Secretary or the Secretary of Labor, as appropriate, of one or more statutory or regulatory provisions described in this section in order to carry out more effectively State efforts to reform education and develop school-to-work opportunities systems in the State.

"(b) GENERAL AUTHORITY.—(1) Except as provided in subsection (d), the Secretary may waive any requirement of any statute listed in subsection (c), or of the regulations issued under that statute, and the Secretary of Labor may waive any statutory or regulatory requirement under the Job Training Partnership Act, for a State that requests such a waiver—

"(A) if, and only to the extent that, the Secretary or the Secretary of Labor determines that such requirement impedes the ability of the State to carry out State efforts to reform education and develop school-to-work opportunities systems in the State;

"(B) if the State waives, or agrees to waive, any similar requirements of State law;

"(C) if, in the case of a statewide waiver, the State—

"(i) has provided all local recipients of assistance under this Act in the State with notice of, and an opportunity to comment on, the State's proposal to request a waiver; and

"(ii) has submitted the comments of such recipients to the appropriate Secretary; and

"(D) if the State provides such information as the Secretary or the Secretary of Labor reasonably requires in order to make such determinations.

"(2) The Secretary or the Secretary of Labor, as appropriate, shall act promptly on any request submitted under paragraph (1).

"(3) Each waiver approved under this subsection shall be for a period not to exceed five years, except that the Secretary or the Secretary of Labor may extend such period if the Secretary or the Secretary of Labor determines that the waiver has been effective in enabling the State to carry out the purpose of this Act.

"(c) PROGRAMS.—(1) The statutes subject to the waiver authority of the Secretary under this section are—

"(A) this Act;

"(B) part A of title I of the Elementary and Secondary Education Act 1965 (authorizing programs and activities to help disadvantaged children meet high standards);

"(C) part B of title II of the Elementary and Secondary Education Act of 1965 (Dwight D. Eisenhower Professional Development Program);

"(D) title IV of the Elementary and Secondary Education Act of 1965 (Safe and Drug-Free Schools and Communities Act of 1994);

"(E) title VI of the Elementary and Secondary Education Act of 1965 (Innovative Education Program Strategies);

"(F) part C of title VII of the Elementary and Secondary Education Act of 1965 (Emergency Immigrant Education Program); and

"(G) the School-to-Work Opportunities Act of 1994.

"(2) The Secretary may not waive any requirement under paragraph (1)(G) without the concurrence of the Secretary of Labor.

"(d) Waivers Not Authorized.—The Secretary or the Secretary of Labor may not waive any statutory or regulatory requirement of the programs listed in subsection (c) relating to—

"(1) the basic purposes or goals of the affected programs;

"(2) maintenance of efforts;

"(3) comparability of services;

"(4) the equitable participation of students attending private schools;

"(5) parental participation and involvement;

"(6) the distribution of funds to States or to local recipients;

"(7) the eligibility of an individual for participation in the affected programs;

"(8) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

"(9) prohibitions or restrictions relating to the construction of buildings or facilities.

"(e) Termination of Waivers.—The Secretary or the Secretary of Labor, as appropriate, shall periodically review the performance of any State for which that Secretary has granted a waiver under this section and shall terminate such waiver if the Secretary determines that the performance of the State affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law in accordance with subsection (b)(1)(B).

"EFFECT OF FEDERAL PAYMENTS

"Sec. 302. (a) Student Financial Assistance.—(1) The portion of any student financial assistance received under this Act that is made available for attendance costs described in paragraph (2) shall not be considered as income or resources in determining eligibility for assistance under any program of welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children, that is funded in whole or in part with Federal funds.

"(2) For purposes of this subsection, attendance costs are—

"(A) tuition and fees normally assessed a student carrying the same academic workload, as determined by the institution, including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and

"(B) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for student attending the institution on at least a half-time basis, as determined by the institution.

"(b) Institutional Aid.—No State shall take into consideration payments under this Act in determining, for any educational agency or institution in that State, the eligibility for State aid, or the amount of State aid, with respect to public education within the State.

"IDENTIFICATION OF STATE-IMPOSED REQUIREMENTS

"Sec. 303. Any State rule or policy imposed on the provision of services or activities funded by this Act, including any rule or policy based on State interpretation of any Federal law, regulation, or guideline, shall be identified as a State-imposed requirement.

"OUT-OF-STATE RELOCATIONS

"Sec. 304. No funds provided under this Act shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from one State to another if such relocation would result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

"DEFINITIONS

"Sec. 305. As used in this Act:

"(1) The term 'all aspects of an industry' has the same meaning as given that term under section 4(1) of the School-to-Work Opportunities Act of 1994.

"(2) The term 'all students' has the same meaning as given that term under section 4(2) of the School-to-Work Opportunities Act of 1994.

"(3) The term 'area vocational education school' means—

"(A) a specialized public high school that provides vocational education to students who are preparing to earn a high school diploma or its equivalency and to enter the labor market; or

"(B) a public technical institute or vocational school that provides vocational education to individuals who have completed or left high school and who are preparing to enter the labor market.

"(4) The term 'career guidance and counseling' has the same meaning as given that term under section 4(4) of the School-to-Work Opportunities Act of 1994.

"(5) The term 'career major' has the same meaning as given that term under section 4(5) of the School-to-Work Opportunities Act of 1994.

"(6) The term 'community-based organization' means any such organization of demonstrated effectiveness described in section 4(5) of the Job Training Partnership Act.

"(7) The term 'institution of higher education' has the same meaning as given that term under section 1201(a) of the Higher Education Act of 1965.

"(8) The term 'limited English proficiency' has the meaning given such term in section 7501(8) of the Elementary and Secondary Education Act of 1965.

"(9) The term 'local educational agency' has the same meaning as given that term under section 4(10) of the School-to-Work Opportunities Act of 1994.

"(10) The 'school dropout' has the same meaning as given that term under section 4(17) of the School-to-Work Opportunities Act of 1994.

"(11) The term 'Secretary' means the Secretary of Education.

"(12) The term 'skill certificate' has the same meaning as given that term under section 4(22) of the School-to-Work Opportunities Act of 1994.

"(13) The term 'special populations' includes students with disabilities, educationally or economically disadvantaged students, students of limited English proficiency, foster children, migrant children, school dropouts, students who are identified as being at-risk of dropping out of secondary school, students who are seeking to prepare for occupations that are not traditional for their gender, and, to the extent feasible, individuals younger than age 25 in correctional institutions.

"(14) Except as otherwise provided, the term 'State' includes, in addition to each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"(15) The term 'State educational agency' has the same meaning as given that term section 4(24) of the School-to-Work Opportunities Act of 1994.

"(16) The term 'students with disabilities' means students who have a disability or disabilities, as such term is defined in section 3(2) of the Americans With Disabilities Act of 1990.

"(17) The term 'tribally controlled community college' means an institution that receives assistance under the Tribally Controlled Community College Assistance Act of 1976 or the Navajo Community College Act.".

TITLE II—EFFECTIVE DATES; TRANSITION

EFFECTIVE DATE

SEC. 201. This Act shall take effect on July 1, 1996.

TRANSITION

SEC. 202. Notwithstanding any other provisions of law—

(1) Upon enactment of the Career Preparation Education Reform Act of 1995, a State or local recipient of funds under the Carl D. Perkins Vocational and Applied Technology Education Act may use any such unexpended funds to carry out services and activities that are authorized by either such Act or the Carl D. Perkins Career Preparation Education Act; and

(2) a State or local recipient of funds under the Carl D. Perkins Career Preparation Education Act for the fiscal year 1996 may use such funds to carry out services and activities that are authorized by either such Act or were authorized by the Carl D. Perkins Vocational and Applied Technology Education Act prior to its amendment.

TITLE III—AMENDMENTS TO OTHER ACTS

AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT

SEC. 301. The Job Training Partnership Act (29 U.S.C. 1501 *et seq.*) is amended—

(1) in section (4)—

(A) in paragraph (14), by striking "in section 521(22) of the Carl D. Perkins Vocational Education Act" and inserting in lieu thereof "section 4(10) of the School-to-Work Opportunities Act of 1994"; and

(B) in paragraph (28), by striking "Vocational Education Act" and inserting in lieu thereof "Vocational and Applied Technology Education Act as in effect on the day prior to the date of enactment of the Career Preparation Education Reform Act of 1995";

(2) in section 121(a)(2), by adding at the end thereof the following sentence: "The State may submit such plan as part of a State plan, or amendment to a State plan, under the Carl D. Perkins Career Preparation Education Act or the School-to-Work Opportunities Act of 1994.";

(3) in section 122(b)—

(A) by amending paragraph (8) to read as follows:

"(8) consult with the appropriate State agency under section 106 of the Carl D. Perkins Career Preparation Education Act to obtain a summary of activities and an analysis of results in training women in nontraditional employment under such Act, and annually disseminate such summary to service delivery areas, service providers throughout the State, and the Secretary;"; and

(B) in paragraph (11)(B), by striking "section 113(b)(14) of the Carl D. Perkins Vocational Education Act" and inserting in lieu thereof "section 105(e)(2) of the Carl D. Perkins Career Preparation Education Act";

(4) in section 123(c)—

(A) in paragraph (1)(E)(iii), by striking "Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting in lieu thereof "Carl D. Perkins Career Preparation Education Act"; and

(B) in paragraph (2)(D)(iii), by striking "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation";

(5) in section 125—

(A) in subsection (a), by inserting after "coordinating committee" a comma and "as described in section 422(b) of the Carl D. Perkins Vocational and Applied Technology Education Act as in effect on the day prior to the date of enactment of the Career Preparation Education Reform Act of 1995,";

(B) in subsection (b)(1), by striking out "Vocational" and inserting in lieu thereof "Career Preparation"; and

(C) in subsection (c), by inserting after "Coordinating Committee" a comma and "as established in section 422(a) of the Carl D. Perkins Vocational and Applied Technology Education Act as in effect on the day prior to the date of enactment of the Career Preparation Education Reform Act of 1995,";

(6) in section 205(a)(2), by striking "Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting in lieu thereof "Carl D. Perkins Career Preparation Education Act";

(7) in section 265(b)(3), by striking "Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting in lieu thereof "Carl D. Perkins Career Preparation Education Act";

(8) in section 314(g)(2), by striking out "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation";

(9) in section 427(a)(1), by striking "local agencies, including a State board or agency designated pursuant to section 111(a)(1) of the Carl D. Perkins Vocational Act which operates or wishes to develop area vocational education school facilities or residential vocational schools (or both) as authorized by such Act, or private organizations" and inserting in lieu thereof "local agencies, or private organizations";

(10) in section 455(b), by striking "Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting in lieu thereof "Carl D. Perkins Career Preparation Education Act";

(11) in section 461(c), by stiking out "Vocational" and inserting in lieu thereof "Career Preparation";

(12) in section 464—

(A) in subsection (a), by striking out "Carl D. Perkins Vocational Education Act)" and inserting in lieu thereof "Carl D. Perkins Vocational and Applied Technology Education Act as in effect on the day prior to the date of enactment of the Career Preparation Education Reform Act of 1995)";

(B) in subsection (b), by striking out "In addition to its responsibilities under the Carl D. Perkins Vocational Education Act, the" and inserting in lieu thereof "The"; and

(C) in subsection (c), by striking out "this Act, under section 422 of the Carl D. Perkins Vocational Education Act, and" and inserting in lieu thereof "this Act and";

(13) in section 605(c), by striking out "Vocational Education Act)" and inserting in lieu thereof "Vocational and Applied Technology Education Act as in effect on the day prior to the date of enactment of the Career Preparation Education Reform Act of 1996)";

(14) in section 701(b)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—For purposes of this title, the term 'applicable Federal human resource program' includes any program authorized under the provisions of law described under paragraph (2)(A) that the Governor and the head of the State agency or agencies responsible for the administration of such program jointly agree to include within the jurisdiction of the State Council."; and

(B) in paragraph (2)(A)(ii), by striking "Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting in lieu thereof "Carl D. Perkins Career Preparation Education Act"; and

(15) in section 703(a)(2), by striking the comma after "section 123(a)(2)(D)" and "except that, with respect to the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), such State may use funds only to the extent provided under section 112(g) of such Act."

AMENDMENTS TO THE SMITH-HUGHES ACT

SEC. 302. The Act of February 23, 1917 (20 U.S.C. 11 *et seq.*) is amended—

(1) in section 1 (20 U.S.C. 11), by inserting "through the fiscal year 1995" after "annually appropriated";

(2) in section 2 (20 U.S.C. 12)—

(A) by inserting "through the fiscal year 1995" after "there is annually appropriated"; and

(B) by inserting "through the fiscal year 1995" after "There is appropriated for each fiscal year";

(3) in section 3 (20 U.S.C. 13)—

(A) by inserting "through the fiscal year 1995" after "there is annually appropriated"; and

(B) by inserting "through the fiscal year 1995 after "There is appropriated";

(4) in section 4 (20 U.S.C. 14)—

(A) by inserting "through the fiscal year 1995" after "there is annually appropriated"; and

(B) by inserting "through the fiscal year 1995" after "And there is appropriated"; and

(5) in section 7 (20 U.S.C. 15), by inserting "through the fiscal year 1995" after "There is authorized to be appropriated".

AMENDMENTS TO THE ADULT EDUCATION ACT

SEC. 303. THE ADULT EDUCATION ACT (20 U.S.C. 1201 *et seq.*) is amended—

(1) in section 322(a)(4), by striking "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation";

(2) in section 342—

(A) in subsection (c)(11), by striking "Carl D. Perkins Vocational Education Act of 1963" and inserting in lieu thereof "Carl D. Perkins Career Preparation Education Act"; and

(B) in subsection (d), by striking "Vocational" and inserting in lieu thereof "Career Preparation"; and

(3) by amending section 384(d)(1)(D)(ii) to read as follows:

"(ii) be coordinated with activities conducted by other educational and training entities that provide relevant technical assistance;".

AMENDMENTS TO THE SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994

SEC. 304. The School-to-Work Opportunities Act (20 U.S.C. 1601 *et seq.*) is amended—

(1) in section 202(a)(3), by striking "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation";

(2) in section 203 (b)(2), by striking clause (I) and redesignating clauses (J) and (K) as clauses (I) and (J), respectively;

(3) in section 213—

(A) in subsection (d)(6)(B), by striking "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation"; and

(B) in subsection (b)(4), by striking clause (I) and redesignating clauses (J) and (K) as clauses (I) and (J), respectively;

(4) in section 403(a), by striking "the individuals assigned under section 111(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)(1)),";

(5) in section 404—

(A) by inserting "and" after "(29 U.S.C. 1733(b)),"; and

(B) by striking "and the National Network for Curriculum Coordination in Vocational Education under section 402(c) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2402(c)),";

(6) in section 502(b)(6), by striking "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation"; and

(7) in section 505—

(A) in subsection (a)(2)(B)(i), by striking "section 102(a)(3) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2312(a)(3)" and inserting in lieu thereof "section 112(c) of the Carl D. Perkins Career Preparation Education Act"; and

(B) in subsection (e), by striking "section 201(b) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2312(a)(3)" and inserting in lieu thereof "section 102 of the Carl D. Perkins Career Preparation Education Act".

AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 305. The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 *et seq.*) is amended—

(1) in section 1114(b)(2)(C)(v), by striking "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation";

(2) in section 9115(b)(5), by striking "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation";

(3) by amending section 14302(a)(2)(C) to read as follows: "(C) services and activities under section 102 of the Carl D. Perkins Career Preparation Education Act;" and

(4) in section 14307(a)(1), by striking "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation".

AMENDMENTS TO THE GOALS 2000: EDUCATE AMERICA ACT

SEC. 306. The Goals 2000: Educate America Act (20 U.S.C. 5801 *et seq.*) is amended—

(1) in section 306—

(A) in subsection (c)(1)(A), by inserting before the semicolon at the end thereof a comma and "as in effect on the day prior to the date of enactment of the Career Preparation Education Reform Act of 1995, until not later than July 1, 1998, and the performance goals and indicators developed pursuant to section 108 of the Carl D. Perkins Career Preparation Education Act thereafter"; and

(B) in subsection (1), by striking out "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation"; and

(2) in section 311(b)(6), by striking out "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation".

OTHER TECHNICAL AND CONFORMING AMENDMENTS

SEC. 307. (a) HIGHER EDUCATION ACT OF 1965.—The Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*) is amended—

(1) by amending section 127(2) to read as follows:

"(2) have, as one of the partners participating in an articulation agreement, an entity that uses funds under title I of the Carl D. Perkins Career Preparation Education Act to support tech-prep education services and activities;";

(2) in section 481(a)(3)(A), by striking "section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act" and inserting in lieu thereof "section 305(3)(B) of the Carl D. Perkins Career Preparation Education Act";

(3) in section 484(1)(l), by striking "section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act" and inserting in lieu thereof "section 305(3)(B) of the Carl D. Perkins Career Preparation Education Act"; and

(4) in section 503(b)(2)(B)(vi), by striking "in a Tech-Prep program under section 344 of the Carl D. Perkins Vocational and Applied Technology Education Act" and inserting in lieu thereof "in a tech-prep program supported through services and activities under the Carl D. Perkins Career Preparation Education Act".

(b) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 626(g) of the individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*) is amended by striking out "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation".

(c) REHABILITATION ACT OF 1973.—Section 101(a)(11)(A) of the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*) is amended by striking out "Vocational and Applied Technology Education Act (20 U.S.C. 2301 *et seq.*)" and inserting in lieu thereof "Career Preparation Education Act".

(d) DISPLACED HOMEMAKERS SELF-SUFFICIENCY ASSISTANCE ACT.—Section 9(a)(2) of the Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 *et seq.*) is amended by inserting "as in effect on the day prior to the date of enactment of the Career Preparation Education Reform Act of 1995 or the State agency or agencies designated under section 106(a) of the Carl D. Perkins Career Preparation Education Act,".

(e) WAGNER-PEYSER ACT.—Section 7(c)(2)(A) of the Act of June 6, 1933 (29 U.S.C. 49 *et seq.*) is amended by striking out "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation".

(f) EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.—Section 533(c)(4)(A) of the Equity in Education Land-Grant Status Act of 1994 (7 U.S.C. 301 note; part C of title V of the Improving America's Schools Act) is amended by inserting after "(20 U.S.C. 2397h(3))" a comma and "as in effect on the day prior to the date of enactment of the Career Preparation Education Reform Act of 1995,".

(g) TITLE 31, CHAPTER 67, OF THE UNITED STATES CODE.—Section 6703(a)(12) of title 31, United States Code (as added by section 31001 of the Violent Crime Control and Law Enforcement Act of 1994) is amended by striking out "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation".

(h) NONTRADITIONAL EMPLOYMENT FOR WOMEN ACT.—Section 2(b)(3) of the Nontraditional Employment for Women Act (29 U.S.C. 1501 note) is amended by striking out "Vocational and Applied Technology" and inserting in lieu thereof "Career Preparation".

(i) TRAINING TECHNOLOGY TRANSFER ACT OF 1988.—Section 6107(6) of the Training Technology Transfer Act of 1988 (20 U.S.C. 5091 *et seq.*) is amended by inserting before the semicolon at the end thereof a comma and "as in effect on the day prior to the date of enactment of the Career Preparation Education Reform Act of 1995".

(j) GENERAL REDESIGNATION.—Any other references to the Carl D. Perkins Vocational and Applied Technology Educational Act shall be deemed to refer to the Carl D. Perkins Career Preparation Education Act.

By Mrs. BOXER (for herself, Ms. MIKULSKI, Mrs. MURRAY, Mr. BRADLEY, and Ms. MOSELEY-BRAUN):

S. 697. A bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence, and for other purposes; to the Committee on Labor and Human Resources.

THE DOMESTIC VIOLENCE IDENTIFICATION AND REFERRAL ACT

• Mrs. BOXER. Mr. President, I introduce the Domestic Violence Identification and Referral Act with my colleagues Senator MIKULSKI, Senator MURRAY, Senator MOSELEY-BRAUN, and Senator BRADLEY. Representative WYDEN and Representative MORELLA are introducing identical legislation in the House.

Spouse abuse, child abuse, and elder abuse injures millions of Americans each year, and is growing at an alarming rate. An estimated 2 to 4 million women are beaten by their spouses or former spouses each year. In 1992, 2.9 million children were reported abused or neglected, about triple the number reported in 1980. Studies also show that spouse abuse and child abuse often go hand-in-hand.

Doctors, nurses, and other health care professionals are on the front lines of this abuse, but they cannot stop what they have not been trained to see or talk about. The Domestic Violence Identification and Referral Act addresses this need by encouraging medical schools to incorporate training on domestic violence into their curriculums.

There is a need for this legislation. While many medical specialties, hospitals and other organizations have made education about domestic violence a priority, this instruction typically occurs on the job or as part of a continuing medical education program. A 1994 survey by the Association of American Medical Colleges [AAMC] found that 60 percent of medical school graduates rated the time devoted to instruction in domestic violence as inadequate.

The bill I am introducing today would give preference in Federal funding to those medical and other health professional schools which provide significant training in domestic violence. It defines significant training to include identifying victims of domestic violence and maintaining complete medical records, providing medical advice regarding the dynamics and nature of domestic violence, and referring victims to appropriate public and nonprofit entities for assistance.

The bill also defines domestic violence in the broadest terms, to include battering, child abuse, and elder abuse.

I hope my colleagues agree that this legislation is a critical next step in the fight to bring the brutality of domestic violence out in the open. It mobilizes our Nation's health care providers to recognize and treat its victims—and will ultimately save lives by helping to break the cycle of violence.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Violence Identification and Referral Act of 1995".

SEC. 2. ESTABLISHMENT, FOR CERTAIN HEALTH PROFESSIONS PROGRAMS, OF PROVISIONS REGARDING DOMESTIC VIOLENCE.

(a) TITLE VII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 791 of the Public Health Service Act (42 U.S.C. 295j) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding at the end the following subsection:

"(c) PREFERENCES REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF VICTIMS OF DOMESTIC VIOLENCE.—

"(1) IN GENERAL.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training in carrying out the following functions as a provider of health care:

"(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

"(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of domestic violence.

"(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

"(2) RELEVANT HEALTH PROFESSIONS ENTITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of medicine, a school of osteopathic medicine, a graduate program in mental health practice, a school of nursing (as defined in section 853), a program for the training of physician assistants, or a program for the training of allied health professionals.

"(3) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of the Domestic Violence Identification and Referral Act of 1995, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying—

"(A) the health professions entities that are receiving preference under paragraph (1);

"(B) the number of hours of training required by the entities for purposes of such paragraph;

"(C) the extent of clinical experience so required; and

"(D) the types of courses through which the training is being provided.

"(4) DEFINITIONS.—For purposes of this subsection, the term 'domestic violence' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.".

(b) TITLE VIII PROGRAMS; PREFERENCES IN FINANCIAL AWARDS.—Section 860 of the Public Health Service Act (42 U.S.C. 298b-7) is amended by adding at the end the following subsection:

"(f) PREFERENCES REGARDING TRAINING IN IDENTIFICATION AND REFERRAL OF VICTIMS OF DOMESTIC VIOLENCE.—

"(1) IN GENERAL.—In the case of a health professions entity specified in paragraph (2), the Secretary shall, in making awards of grants or contracts under this title, give preference to any such entity (if otherwise a qualified applicant for the award involved) that has in effect the requirement that, as a condition of receiving a degree or certificate (as applicable) from the entity, each student have had significant training in carrying out the following functions as a provider of health care:

"(A) Identifying victims of domestic violence, and maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries.

"(B) Examining and treating such victims, within the scope of the health professional's discipline, training, and practice, including, at a minimum, providing medical advice regarding the dynamics and nature of domestic violence.

"(C) Referring the victims to public and nonprofit private entities that provide services for such victims.

"(2) RELEVANT HEALTH PROFESSIONS ENTITIES.—For purposes of paragraph (1), a health professions entity specified in this paragraph is any entity that is a school of nursing or other public or nonprofit private entity that is eligible to receive an award described in such paragraph.

"(3) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of the Domestic Violence Identification and Referral Act of 1995, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report specifying—

"(A) the health professions entities that are receiving preference under paragraph (1);

"(B) the number of hours of training required by the entities for purposes of such paragraph;

"(C) the extent of clinical experience so required; and

"(D) the types of courses through which the training is being provided.

"(4) DEFINITIONS.—For purposes of this subsection, the term 'domestic violence' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, child abuse, elder abuse, and acquaintance rape.".•

By Mr. COHEN (for himself and Ms. SNOWE):

S. 698. A bill to designate the Federal building at 33 College Avenue in Waterville, Maine as the "George J. Mitchell Federal Building", and for other purposes; to the Committee on Environment and Public Works.

THE GEORGE J. MITCHELL FEDERAL BUILDING ACT OF 1995

• Mr. COHEN. Mr. President, at the request of the City of Waterville, Maine, I am introducing S. 698, legislation to name a federal building in Waterville the "George J. Mitchell Federal Building."

As most of you know, George Mitchell and I shared more than the position of Senator from Maine. We both grew up in similar circumstances with very similar backgrounds. George Mitchell is half Irish and half Lebanese. I am half Irish and half Jewish. Both of us graduated from Bowdoin College and both became lawyers before entering public service. We worked together over the years on many issues of concern to Maine people and wrote a book together on the Iran-Contra Affair.

From a quiet young lawyer in Waterville, Maine, came a great leader who has done his country and his State proud. George Mitchell was born in Waterville in 1933. Waterville is located 18 miles north of the State capitol on the west bank of the Kennebec River. It was settled in 1764 and became Maine's 137th town in 1802. Waterville is home to Colby College, Hathaway Shirt Company, and the Redington Museum which exhibits a number of 18th and 19th century artifacts from the region including the revolver used by Lieutenant Charles Shorey, of Waterville, at the Battle of Gettysburg.

George attended St. Joseph's grammar school and graduated from Waterville High School in 1950. He graduated from Bowdoin in 1954; served in the U.S. Army Counterintelligence Corps in Berlin, Germany, from 1954–56; and then went on to Georgetown University to get his law degree.

George Mitchell's litany of accomplishments are many: lawyer, trial attorney in the Antitrust Division in the

U.S. Department of Justice in Washington, D.C.; executive assistant to U.S. Senator Ed Muskie; U.S. Attorney for Maine; and U.S. District Judge for Maine.

In 1980, he was appointed by Governor Brennan to fill the unexpired term of Senator Muskie who was appointed by President Carter to be Secretary of State. There is a Chinese proverb that says "when drinking the water, it is important to remember those who dug the well." To really understand George's success, one need look no further than to the fact that Ed Muskie was his mentor. Ed, like George, began his political career in Waterville as a young lawyer and state legislator. Ed provided George with the basic principles of public service which have guided him over the years. It was no surprise that George Mitchell demonstrated many of the qualities which typify Senator Muskie and Maine: intelligence, integrity, and independence. Senator Mitchell was elected Senate Majority Leader in 1988 and served his colleagues and the institution with distinction.

George Mitchell was a gifted public servant. His voice reminds us that public service is a noble calling. It was both a pleasure and an honor to have served with him. I hope my colleagues will work with me in passing this legislation as a means of paying tribute to the many years of outstanding service Senator Mitchell has given to the State of Maine and the country.•

• Ms. SNOWE. Mr. President, it is my pleasure today to offer my strong support for legislation to honor our colleague and my predecessor, former Senate Majority Leader George J. Mitchell. This legislation, which I am proud to cosponsor with my colleague, the senior Senator from Maine, would designate the Federal building at 33 College Avenue in Waterville, Maine, as the "George J. Mitchell Federal Building."

There is perhaps no more fitting tribute to George Mitchell than naming the Federal building in his home town—Waterville, Maine—in his honor. George Mitchell is a man who dedicated himself to government. Following his graduation from Georgetown Law School in Washington, George Mitchell devoted himself to public service: at the U.S. Justice Department; as the leader of his party in the State of Maine; as one of Maine's gubernatorial candidates; as a Federal, U.S. District judge; and, for the past 14 years, as Maine's junior Senator. George Mitchell devoted himself to government because he believed in government, and it is appropriate today that we name the seat of our Federal Government in his hometown in his honor.

George Mitchell's story is well known in Waterville, Maine. His mother was a first-generation Lebanese immigrant; his father, an orphan, was a janitor at Colby College. They instilled strong values in their son. George Mitchell dedicated himself to learning, to knowledge and justice, and throughout his youth he surpassed the arbitrary ceilings our society so often builds. He graduated from Bowdoin College, served in the Army, and then went on to law school. He typified the Maine work ethic, and that ethic served him well as an attorney, a judge, and as a United States Senator.

George Mitchell came to the U.S. Senate when another distinguished Mainer, Senator Edmund Muskie, resigned his seat to become Secretary of State. Immediately, Senator Mitchell put a lifetime of experience to work. He became one of the earliest advocates—and chief sponsors—of the landmark Clean Air legislation that passed a decade later, in 1990. He recognized the importance of standing up for Maine—and also made his mark on our Nation's political system. Because of his dedication to his party's ideals, he was chosen as this body's Majority Leader in 1988, and served in that important and prestigious position until his retirement from the Senate.

Always, during his tenure, George Mitchell remembered the people who sent him to Washington. As Maine's Second District Representative, I was honored to serve alongside George Mitchell throughout his tenure in the United States Senate. We worked together on a bipartisan basis to ensure that the men and women of Maine were treated fairly, and had opportunities extended to other Americans.

With this legislation, we make an appropriate acknowledgement of George Mitchell's years of leadership in the public arena. This is but a small token of our appreciation: a fitting gesture which the city of Waterville has requested.

So in closing, I urge all of my colleagues to join me in support of this legislation and to extend to George Mitchell the hometown honor he so deeply deserves.•

By Mr. COHEN (for himself and Mr. LEVIN):

S. 699. A bill to amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for 7 years, and for other purposes; to the Committee on Governmental Affairs.

THE OFFICE OF GOVERNMENT ETHICS REAUTHORIZATION ACT OF 1995

• Mr. COHEN. Mr. President, today I am introducing S. 699, legislation on behalf of myself and Senator LEVIN to reauthorize the Office of Government Ethics (OGE).

To quote American statesman John C. Calhoun: "The very essence of a free government consists in considering offices as public trusts, bestowed for the good of the country, and not for the benefit of an individual or party."

This sums up the way we expect our government officials to conduct themselves. Government service is a privilege that carries with it tremendous responsibilities. Public servants in all three branches of government have an important obligation to the citizens who have put their faith and trust in them. Government officials should abide by a certain code of conduct and adhere to high ethical standards so that our citizens may have confidence in the integrity of their government.

Unfortunately, however, many Americans are disenchanted with their public officials. As a result, the need for strict ethical standards, and vigilant oversight of compliance with our ethics laws, is as great as ever. Almost daily headlines purport allegations of "unethical" or "inappropriate" conduct by government officials in one form or another. These stories only further erode the public's confidence in the integrity of their government officials which is already at one of the lowest points in our recent history.

Senator LEVIN and I have long been proponents of strong ethics laws. We serve as the Chairman and the Ranking Minority Member on the Subcommittee on Oversight of Government Management which has jurisdiction over ethics matters within the Executive Branch. Senator LEVIN and I have made many changes to strengthen the ethics laws since the Ethics in Government Act of 1978, which created OGE, was passed. We authored the Independent Counsel provisions of the Ethics in Government Act which provides for the appointment of an independent counsel to investigate allegations of criminal wrongdoing by top level Executive Branch officials, and we worked together to strengthen the revolving door laws. Moreover, Senator LEVIN and I have consistently sought to aid OGE in its mission of providing overall direction to the Executive Branch in developing policies to prevent conflicts of interest and ensure ethical conduct by Executive Branch officers and employees.

The reauthorization bill Senator LEVIN and I are introducing today is nearly identical to the legislation we introduced last Congress which was passed by the Senate in October. Unfortunately, however, no action was taken by the House of Representatives prior to Congress' adjournment.

OGE's authorization expired on September 30 of last year. It is very important, therefore, that the Congress move as quickly as possible to reauthorize the agency. The bill will reauthorize OGE for 7 years. This is a slightly longer reauthorization than we have sought in previous years. As in the past, we want to avoid the need to reauthorize OGE during the firs year of a Presidential term when a large portion of OGE's resources are devoted to the nominee clearance process.

The bill would also, for the first time, grant OGE gift acceptance authority to address the problem that arises when Federal Government facilities are not adequate either in terms of size or equipment resources to accommodate OGE's ethics education and training programs which are held around the country. This authority is intended to enable OGE to accept the use of certain non-Federal facilities, such as an auditorium that might be offered by a State or local government or a university, which may be better suited for OGE's needs.

As I have often noted in the past, the Office of Government Ethics is a small office with large responsibilities. Over the years, we have imposed more responsibilities on OGE and we haven't always provided the necessary staff or resources to carry out those responsibilities. Specifically, I would note the additional functions OGE had to perform when it became an independent agency in 1989 and in complying with the Ethics Reform Act of 1989. Congress moved to make OGE a separate agency because it was believed that OGE was not independent enough. In addition, Congress wanted to enhance the agency's prestige and authority within the Executive Branch given its important and sensitive responsibilities.

While OGE's budget has increased rather significantly since we last reauthorized the agency in 1988, OGE still has a lean budget with which to operate when you consider the critically important responsibilities of the agency. That said, in light of looming budget deficits, OGE, like all agencies will be called upon to meet its responsibilities in the most cost-effective manner possible. The bill also contains a number of technical changes to the ethics laws.

OGE's mission is critically important in ensuring strict ethical standards in government. I hope my colleagues will move expeditiously to pass this legislation and reauthorize this important agency.•

• Mr. LEVIN. Mr. President, today, Senator COHEN and I, in our capacities as the Chairman and the Ranking Minority Member of the Subcommittee on Oversight of Government Management, are introducing a bill to Reauthorize the Office of Government Ethics (OGE). Reauthorization of the OGE is essential so that the agency can continue to perform its mission to provide overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency. The OGE's previous authorization expired on September 30, 1994.

Senator COHEN and I first introduced this bill bank in August of 1993. The Oversight Subcommittee held a hearing on the reauthorization in April of 1994, with the Director of the OGE, Stepehn Potts, as a witness. The Reauthorization bill was reported out of the Oversight Subcommittee and the Governmental Affairs Committee with strong bipartisan support and was approved by the Senate. The bill subsequently died when the House of Representatives failed to act upon the reauthorization in the last Congress. Therefore, Senator COHEN and I seek to reauthorize the OGE, so that the agency can carry on its very important responsibilities.

OGE was created in 1978 as part of the Office of Personnel Management. Over the years, Congress has given more authority and autonomy to the OGE, making it a separate agency as of October 1, 1989. This was an important step in recognizing the significance of OGE's role and its need for independence. In addition, through Executive Order, President Bush and President Clinton have given the OGE new responsibilities for guiding and implementing an effective ethics program throughout the Executive Branch. The responsibilities of the OGE range from teaching to enforcement; from issuing regulations to providing guidance and interpretation; from reviewing financial disclosure forms to auditing agency ethics programs.

In the process of developing this bill, the Oversight Subcommittee reviewed OGE's budget, its personnel, and its accomplishments. Based on that effort, I am satisfied that the OGE has improved in areas where weaknesses were identified in the past and that the agency is currently on track in performing its duties in an effective, professional matter.

In addition to reauthorizing OGE, this bill would give OGE authority to accept donations or gifts that would facilitate the agency's work. A Federal agency can't accept gifts unless it has specific statutory authority to do so. Many agencies have such authority but, up until now, the OGE has not been one of those agencies. The reason OGE seeks this authority is in connection with it's training mission. OGE conducts multiagency ethics training sessions around the country, and sometimes there is no nearby Federal facility that is appropriate in terms of size and services. This gift acceptance authority would allow the OGE to accept the use of non-Federal facilities—for example, an auditorium and related services such as might be offered by a State or local government or a university.

I hope that the Senate will act quickly in reauthorizing this important agency.•

By Mr. MOYNIHAN (for himself, Mr. BRADLEY, Mr. CONRAD, and Mr. GRAHAM):

S. 700. A bill to amend the Internal Revenue Code of 1986 to revise the tax rules on expiration, to modify the basis rules for nonresident aliens becoming citizens or residents, and for other purposes; to the Committee on Finance.

TAX LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation designed to address a problem that has come to light recently concerning the ability of U.S. citizens to avoid taxes by abandoning their citizenship. We should not countenance the evasion of taxes by those who renounce their citizenship. The Senate should act to address this problem expeditiously, and the bill that I introduce today will, I hope, represent significant progress toward that end. It is a revision of provision passed by the Senate Finance Committee recently, and responds to some of the criticisms that have been raised concerning the original proposal.

A genuine abuse exists in this area. Although the current tax code contains provisions, dating back to 1966, designed to address tax-motivated relinquishment of citizenship, these provisions have proven difficult to enforce and are easily evaded. One international tax expert described avoiding them as child's play. Individuals with substantial wealth can, by renouncing U.S. citizenship, avoid paying taxes on gains that accrued during the period that they acquired their wealth and were afforded the myriad advantages of U.S. citizenship. Moreover, even after renunciation, these individuals can maintain substantial connections with the United States, such as keeping a residence and residing in the United States for up to 120 days a year without incurring U.S. tax obligations. Indeed, reports indicate that certain wealthy individuals have renounced their U.S. citizenship and avoided their tax obligations while still maintaining their families and homes in the United States, being careful merely to avoid being present in this country for more than 120 days each year.

Meanwhile, the rest of Americans who remain citizens pay taxes on their gains when assets are sold or when an estate tax becomes due at death.

It was this Senator who made the first proposal in the Senate to deal with the expatriation tax abuse. On February 6, the President announced a proposal to address the problem in his fiscal year 1996 budget submission. Three weeks ago, on March 15, during Finance Committee consideration of the bill to restore the health insurance deduction for the self-employed, I offered a modified version of the administration's expatriation tax provisions as an amendment to the bill. My amendment would have substituted the expatriation proposal for the repeal of minority broadcast tax preferences as a funding source for the bill. The amendment failed when every Republican member of the committee voted against it. Subsequently, Senator BRADLEY offered the expatriation provision as a free-standing amendment, with the $3.6 billion in revenue that it raised to be dedicated to deficit reduction. Senator BRADLEY's amendment passed by voice vote. That is how the expatriation tax provision was added to the bill that came before the Senate.

After the Finance Committee reported the bill, but before full Senate action and conference with the House, the Finance Committee held a hearing to further review the issues raised by the expatiation provision. Tax legislation routinely gets polished in its technical aspects as it moves through floor action and conference. At the Finance hearing, we heard criticisms of some technical aspects in the operation of the provision, as well as testimony raising the issue of whether the provision comported with article 12 of the International Covenant on Civil and Political Rights, which the United States ratified in 1992. Section 2 of article 12 states: "Everyone shall be free to leave any country, including his own." Robert F. Turner, a professor of international law at the U.S. Naval War College, argued that the expatriation provision was problematic under the covenant. The State Department's legal experts disagreed, as did two other outside experts whose letters were before the committee. I refer to Prof. Paul B. Stephan III, a specialist in both international law and tax law at the University of Virginia School of Law; and Mr. Stephen E. Shay, who served as International Tax Counsel at Treasury under the Reagan administration.

Mr. President, earlier in the day when I addressed this matter I asked that the materials to which I am presently referring be inserted in the record following my remarks. These materials, and others mentioned in this statement, can be found there.

Although there was considerable support for the legality of the provision, I thought it best to proceed with caution in these circumstances. These are matters of human rights under international law, on which we have rightly lectured others, and involve out solemn obligations under treaties. I sought the views of other experts. Letters concluding that the expatriation provision did not raise any problems under international law were received from Prof. Detlev Vagts of Harvard Law School and Prof. Andreas F. Lowenfeld of New York University School of Law. The State Department issued a lengthier analysis upholding the legality of the provision, and the American Law Division of the Congressional Research Service reached a like conclusion. However, there were dissenting views, most notably Prof. Hurst Hannum of the Fletcher School of Law and Diplomacy at Tufts University, who first wrote to me on March 24.

This is where things stood when the House-Senate conference met on March 28. The weight of authority appeared to be on the side of legality under international law, but there was some question, and the bill had to move at great speed. As my colleagues well know, the legislation restoring the self-employeds' health insurance deduction for calendar year 1994 needed to be passed and signed into law well in advance of this year's April 17 tax filing deadline, so that the self-employed would have time to prepare and file their 1994 tax returns. The decision regarding the expatriation provision had to be made without further opportunity of deliberation. I opted not to risk making the wrong decision with respect to international law and human rights.

The decision to drop the expatriation tax provision from the final conference version of the bill has been the subject of much debate over the last week. I certainly don't presume to speak for the other conferees. But for myself I repeat as I have said on two occasions on this floor over the past week: we should proceed with care when we are dealing with human rights issues, particularly when the group involved is a despised group—that is, millionaires who renounce their citizenship for money.

As the Senator who first proposed the expatriation tax provision, I will see this matter through to a conclusion. We are getting more clarity on the human rights issue, and it appears that a consensus is developing to the effect that the provision does not conflict with our obligations under international law. In particular. it is worth noting that Professor Hannum, who first wrote me on March 24 expressing his concern that that expatriation provision was a problem under international law, has, after receiving additional and more specific information about the expatriation tax, now written a second letter of March 31 stating that he is convinced that neither its intention nor its effect would violate present U.S. obligations under international law. This is the growing consensus, although it is not unanimous.

As for criticisms of the technical difficulties of the original proposal, I believe they can be satisfied. Indeed, I would venture that if some of those criticizing the provision's technical aspects had put even half as much effort into devising solutions as in highlighting shortcomings, we would already be much further along toward a satisfactory statute.

One final point of utmost importance. As we take the time to write this law carefully, billionaires are not slipping through some loophole and escaping tax by renouncing their citizenship. The President announced the original proposal on February 6, and made it effective for taxpayers who initiate a renunciation of citizenship on or after that date. This was an entirely appropriate way to put an end to an abusive practice under current law. Both the proposal that I initiated, and the one that was ultimately adopted by the Finance Committee, also used February 6, 1995, as the effective date of the new provision preventing tax evasion through expatriation. The House conferees had proposed slipping the effective date to March 15, 1995—the date of Senate Finance Committee action on the provision. The two chairmen of the tax-writing committees ultimately—and wisely—resisted that overture, and have issued a joint statement giving notice that February 6 may be the effective date of any legislation affecting the tax treatment of those who relinquish citizenship. Given the potential for abuse under current law, I believe that February 6 must be the effective date for a new rule. In any event, given the President's announcement in the budget, the Finance Committee action, and the joint statement of the two chairmen of the tax-writing committees, individuals who are contemplating renunciation of their U.S. citizenship are on fair notice of the February 6, 1995, effective date.

To repeat, as the Senator who first offered the proposal to end the expatriation tax abuse, I will do everything I can to see that this matter gets resolved. We will do it this session. Fundamental justice to all taxpaying Americans requires no less.

In an effort to advance that goal, I am today introducing legislation embodying a revised expatriation tax proposal. I do so in the interest of ensuring that the issues that have been raised are addressed satisfactorily, and in a timely manner. This bill represents a serious effort to address the criticisms that have been raised, and I believe it represents a major step forward. It will provide an opportunity for comment and further review. In addition, I anticipate that the Joint Committee on Taxation will include an analysis of this bill in its comprehensive study of the subject of expatriation that the Committee staff has been directed to present to the chairmen of the tax-writing committees.

Mr. President, we will end this abuse, and promptly, but in a careful and orderly way, as we should do in matters of this importance.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was order to be printed in the RECORD, as follows:

S. 700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) General Rules.—For purposes of this subtitle—

"(1) Mark to market.—Except as provided in subsection (f)(2), all property held by an expatriate immediately before the expatriation date shall be treated as sold at such time for its fair market value.

"(2) Recognition of gain or loss.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) Election to continue to be taxed as United States citizen.—

"(A) In general.—If an expatriate elects the application of this paragraph with respect to any property—

"(i) this section (other than this paragraph) shall not apply to such property, but

"(ii) such property shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) Limitation on amount of estate, gift, and generation-skipping transfer taxes.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of subsection (a)(2)).

"(C) Requirements.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) Election.—An election under subparagraph (A) shall apply only to the property described in the election and, once made, shall be irrevocable.

"(b) Exclusion for Certain Gain.—The amount which would (but for this subsection) be includible in the gross income of any individual by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

"(c) Property Treated as Held.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

"(1) all property which would be includible in his gross estate under chapter 11 if such individual were a citizen or resident of the United States (within the meaning of chapter 11) who died at the time the property is treated as sold,

"(2) any other interest in a trust which the individual is treated as holding under the rules of subsection (f)(1), and

"(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

"(d) Exceptions.—The following property shall not be treated as sold for purposes of this section:

"(1) United States real property interests.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(2) Interest in certain retirement plans.—

"(A) In general.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(B) Foreign pension plans.—

"(i) In general.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(ii) Limitation.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) Definitions.—For purposes of this section—

"(1) Expatriate.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

An individual shall not be treated as an expatriate for purposes of this section by reason of the individual relinquishing United States citizenship before attaining the age of 18½ if the individual has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for less than 5 taxable years before the date of relinquishment.

"(2) Expatriation date.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) Relinquishment of citizenship.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)-(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) Long-term resident.—

"(A) In general.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a)(1) is treated as occurring. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) Special rule.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) Special Rules Applicable to Beneficiaries' Interests in Trust.—

"(1) Determination of beneficiaries' interest in trust.—For purposes of this section—

"(A) General rule.—A beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) Special rule.—The remaining interests in the trust not determined under subparagraph (A) to be held by any beneficiary shall be allocated first to the grantor, if a beneficiary, and then to other beneficiaries under rules prescribed by the Secretary similar to the rules of intestate succession.

"(C) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(D) Taxpayer return position.—A taxpayer shall clearly indicate on its income tax return—

"(i) the methodology used to determine that taxpayer's trust interest under this section, and

"(ii) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(2) Deemed sale in case of trust interest.—If an individual who is an expatriate is treated under paragraph (1) as holding an interest in a trust for purposes of this section—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and "(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(g) Termination of Deferrals, Etc.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) Rules Relating To Payment of Tax.—

"(1) Imposition of tentative tax.—

"(A) In general.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(B) Due date.—The due date for any tax imposed by subparagraph (A) shall be the 90th day after the expatriation date.

"(C) Treatment of tax.—Any tax paid under subparagraph (A) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(2) Deferral of tax.—The payment of any tax attributable to amounts included in gross income under subsection (a) may be deferred to the same extent, and in the same manner, as any tax imposed by chapter 11, except that the Secretary may extend the period for extension of time for paying tax under section 6161 to such number of years as the Secretary determines appropriate.

"(3) Rules relating to security interests.—

"(A) Adequacy of security interests.—In determining the adequacy of any security to be provided under this section, the Secretary may take into account the principles of section 2056A.

"(B) Special rule for trust.—If a taxpayer is required by this section to provide security in connection with any tax imposed by reason of this section with respect to the holding of an interest in a trust and any trustee of such trust is an individual citizen of the United States or a domestic corporation, such trustee shall be required to provide such security upon notification by the taxpayer of such requirement.

"(i) Coordination with Estate and Gift Taxes.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent double taxation by ensuring that—

"(1) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (b),

"(2) no interest in property is treated as held for purposes of this section by more than one taxpayer, and

"(3) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(1)(C).

"(k) Cross Reference.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47)."

(b) Definition of Termination of United States Citizenship.—Section 7701(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(47) Termination of united states citizenship.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3)."

(c) Conforming Amendments.—

(1) Section 877 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(f) Application.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995."

(2) Section 2107(c) of such Code is amended by adding at the end the following new paragraph:

"(3) Cross reference.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i)."

(3) Section 2501(a)(3) of such Code is amended by adding at the end the following new flush sentence:

"For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i)."

(4) Section 6851 of such Code is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(5) Paragraph (10) of section 7701(b) of such Code is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1))."

(d) Clerical Amendment.—The table of sections for subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation."

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) Due date for tentative tax.—The due date under section 877A(h)(1)(B) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 2. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

(a) In General.—Part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1061 as section 1062 and by inserting after section 1060 the following new section:

"SEC. 1061. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

"(a) General Rule.—If a nonresident alien individual becomes a citizen or resident of the United States, gain or loss on the disposition of any property held on the date the individual becomes such a citizen or resident shall be determined by substituting, as of the applicable date, the fair market value of such property (on the applicable date) for its cost basis.

"(b) Exception for Depreciation.—Any deduction under this chapter for depreciation, depletion, or amortization shall be determined without regard to the application of this section.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Applicable date.—The term 'applicable date' means, with respect to any property to which subsection (a) applies, the earlier of—

"(A) the date the individual becomes a citizen or resident of the United States, or

"(B) the date the property first becomes subject to tax under this subtitle by reason of being used in a United States trade or business or by reason of becoming a United States real property interest (within the meaning of section 897(c)(1)).

"(2) Resident.—The term 'resident' does not include an individual who is treated as a resident of a foreign country under the provisions of a tax treaty between the United States and a foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(3) Trusts.—A trust shall not be treated as an individual.

"(4) Election not to have section apply.—An individual may elect not to have this section apply solely for purposes of determining gain with respect to any property. Such election shall apply only to property specified in the election and, once made, shall be irrevocable.

"(5) Section only to apply once.—This section shall apply only with respect to the first time the individual becomes either a citizen or resident of the United States.

"(d) Regulations.—The Secretary shall prescribe regulations for purposes of this section, including regulations—

"(1) for application of this section in the case of property which consists of a direct or indirect interest in a trust, and

"(2) providing look-thru rules in the case of any indirect interest in any United States real property interest (within the meaning of section 897(c)(1)) or property used in a United States trade or business."

(b) Conforming Amendment.—The table of sections for part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 1061 and inserting the following new items:

"Sec. 1061. Basis of assets of nonresident alien individuals becoming citizens or residents.

"Sec. 1062. Cross references."

(c) Effective Date.—The amendments made by this section shall apply to dispositions after the date of the enactment of this

Act, and to any disposition occurring on or before such date to which section 877A of the Internal Revenue Code of 1986 (as added by section 1) applies.

EXPLANATION OF REVISIONS TO H.R. 831 AS PASSED BY THE SENATE

1. APPLICATION TO LONG-TERM RESIDENTS.

The tax on expatriation would apply to "long-term residents." A long-term resident would be an individual who has been a lawful permanent resident of the United States (i.e., a green card holder) in at least 8 of the prior 15 taxable years. For purposes of satisfying the 8-year threshold, taxable years for which such individual was a resident of another country under a treaty tie-breaker rule would be disregarded. The tax on expatriation would apply to a long-term resident when (a) the individual is no longer treated as a lawful permanent resident of the United States as that term is defined in section 7701(b)(6), or (b) the individual is treated as a resident of another country under the tie-breaking provisions of a U.S. income tax treaty (and the individual does not elect to waive treaty benefits). Long-term residents would be considered domiciled in the United States for purposes of calculating the tax on expatriation.

2. FAIR MARKET VALUE BASIS ADJUSTMENT.

An individual who has been a nonresident alien would be considered to have a fair market value basis in property owned by the individual as of the earlier of: (1) the date the individual first became a U.S. citizen or resident, or (2) the date the property first became subject to U.S. tax because it was used in a U.S. trade or business or it was a U.S. real property interest. The fair market value basis would apply for all purposes of computing gain or loss on actual or deemed dispositions (not just the tax on expatriation), but would not apply for purposes of computing depreciation.

Under this provision, the taxpayer would have the burden of proving fair market value. However, in determining whether the individual has satisfied his burden of proof, the Secretary will take into account the difficulty of establishing fair market value (especially for years prior to the enactment of this rule). If adequate evidence regarding the fair market value of a piece of property is not available, a taxpayer may elect to use historical cost to determine any gain on the disposition of the property; the historical cost election would not be available to claim a loss on the disposition of the property. No fair market value basis would be given to the assets of a foreign trust that becomes a domestic trust. This provision would be effective to calculate the tax under section 877A for expatriations occurring on or after February 6, 1995, or for any other dispositions after the enactment date.

3. ELECTION TO BE TREATED AS A U.S. CITIZEN

Each taxpayer would be allowed to irrevocably elect, on an asset-by-asset basis, to continue to be taxed as a U.S. citizen with respect to assets designated by the taxpayer. The taxpayer would therefore continue to pay U.S. income taxes following expatriation on any income generated by a designated asset and on any gain from the disposition of the asset, as well as any excise tax imposed with respect to the asset (see *e.g.*, section 1491). In addition, the asset would continue to be subject to gift, estate, and generation-skipping transfer taxes.

However, the amount of any transfer tax so imposed would be limited to the amount of income tax that would be due if the property were sold for its fair market value immediately before the transfer or death, taking into account any remaining portion of the expatriate's $600,000 exclusion. To make this election, the taxpayer would be required to waive treaty benefits with respect to designated assets. An expatriating individual would be required to provide security to ensure payment of the tax under this election in such form, manner, and amount as the Secretary may require.

4. ADMINISTRATION OF TAX ON EXPATRIATION

The current "sailing permit" requirement of section 6851(d) would be replaced with a new requirement to file a tax return and pay a tentative tax for the portion of the tax year through the date of expatriation. Section 6851(d) and the regulations thereunder currently require any alien who physically leaves the country—regardless of the duration of the trip—to obtain a certificate from the IRS District Director that he has complied with all U.S. income tax obligations. This provision would be modified to require any citizen or resident alien of the United States who becomes a nonresident to file a tax return within 90 days of the date that he ceases to be a U.S. citizen or resident, and pay the relevant tentative tax. No tax return would be required of a departing alien who intends to maintain U.S. residence.

5. TECHNICAL CORRECTIONS

A. Allow deferral of tax on expatriation where estate taxes would be deferred

Payment of the tax on expatriation should be extended in circumstances that are similar to situations in which payment of estate taxes may be extended under current law. Therefore, the time for the payment of the tax on expatriation could be extended for any period at the request of the taxpayer, as provided by section 6161 (without regard to the ten-year limitation of that section). In addition, the tax on expatriation could be deferred on interests in closely-held businesses as provided in section 6166. The tax on expatriation could also be extended for reversionary or remainder interests in property as provided in section 6163. Payment of tax liabilities could also be extended under section 6159 to facilitate the collection of tax liabilities.

B. Method of providing security

If a taxpayer is required to provide security under this section, it is anticipated that in many cases adequate security could be provided by contributing assets to a trust with a responsible U.S. trustee (see section 2056A). Other mechanisms determined to be effective by the Secretary could be used, such as providing a bond or letter of credit. If an expatriating individual is a beneficiary of a trust, and the beneficiary elects to defer payment of the tax on expatriation with respect to the trust interest, a U.S. trustee of that trust will be required to provide security if the beneficiary provides actual notice of such requirement to the domestic trustee.

C. Exceptions for relinquishment of citizenship by certain minors

The tax on expatriation would not apply to an individual who resided in the United States under the substantial presence test of section 7701(b)(1)(A)(ii) for less than five years and relinquishes U.S. citizenship by the age of 18 years and 6 months.

D. Ownership of interests in trusts

The ownership of any interest in a trust which is not determined under the general facts and circumstances rule of section 877A(f)(1)(A) will be allocated to the grantor if the grantor is a beneficiary of the trust. Otherwise, the ownership of the trust interest will be based on the rules of intestate succession. Unless otherwise prescribed by the Secretary, the applicable rules of intestate succession will be the rules under the Uniform Probate Code as promulgated by the American College of Trust and Estate Counsel.

E. Coordination with estate and gift tax rules

The tax on expatriation would be allowed as a credit against U.S. estate or gift taxes to the extent that the property subject to the tax on expatriation is subsequently subject to additional U.S. estate or gift taxes solely by reason of the estate or gift tax expatriation rules (sections 2107 and 2501(a)(3)).

Mr. BRADLEY. Mr. President, I rise this afternoon to introduce, along with Senator MOYNIHAN, a bill that a would close a tax loophole that allows wealthy citizens who renounce their American citizenships to avoid paying their fair share of U.S. taxes. As a member of the Finance Committee, I offered a similar amendment to H.R. 831 that would have closed this loophole. My amendment would have dedicated all of the savings from closing this loophole to deficit reduction. According to estimates of the Joint Committee on Taxation, my amendment would have reduced the deficit by approximately $3.6 billion over the next 10 years.

Unfortunately, although the Finance Committee adopted this amendment on an undivided voice vote and the Senate approved it as part of H.R. 831, the joint House-Senate conference committee reopened this loophole. The bill that we are introducing today would close this loophole once and for all.

Mr. President, this bill is fundamentally about fairness. Not only is it fair to those who enjoyed the benefits of U.S. citizenship to make billions and are now attempting to avoid paying tax on such gain, it is also fair to those Americans who stay behind to shoulder the burdens of citizenship. All this bill would do is treat those who renounce their citizenship on par with Americans who stay and pay their share of the tax burden.

While U.S. citizenship confers tremendous benefit, it also requires responsibility. Although we may not always be happy about the amount, most of us willingly pay our fair share of the tax burden. However, for many Americans it becomes just too much when they have to pay not only their share of taxes, but also an additional share for those few, wealthy individuals who made their money in this country, but are now trying to skip town without paying their portion of the tab.

Significantly, this bill would exclude pension income, real estate assets, and the first $600,000 in gain. As a result, of the roughly 850 U.S. citizens who renounced their citizenships in 1994, only a handful would be effected by the elimination of this loophole. In fact, representatives from the Treasury Department testified that provisions similar to those contained in this bill would affect only 24 Americans each year.

Mr. President, significant deficit reduction will be necessary to put our country back on the right track. However, until we close these special-interest tax loopholes for the few, we cannot ask for the shared sacrifice from the many that will be necessary to reduce the deficit.

By Mr. SIMON:

S. 701. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations; to the Committee on Finance.

THE EQUITY INCENTIVE ACT OF 1995

• Mr. SIMON. Mr. President, today I am introducing a bill to amend the Internal Revenue Code to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations.

Our current system of taxation encourages American businesses to use debt, rather than equity, to provide needed financing. My bill would encourage firms to shift from greater debt financing to more equity financing by limiting the interest deduction allowed corporations and allowing a deduction for dividends paid by corporations.

My proposal would be revenue neutral, although in the long run it should add to revenue because it would help the economy.

I propose that, while 80 percent of interest payments remain deductible, 20 percent of the interest payments of all but the smallest corporations (including farm corporations) should be disallowed. And 50 percent of dividends should be deductible.

If a corporation borrows money to acquire another company or to buy equipment or for any other purpose, the interest on that debt is deductible, even though the debt can—and often does—put the corporation in a precarious position. But if the same corporation issues stock, and then pays dividends, there is no deduction. The tax laws favor debt.

That same corporation, if it cannot meet the payments of principal and interest, will have to sell itself or go bankrupt, neither of which are desirable goals. But if that corporation issues stock, and there is a downsizing in the economy, the only penalty the corporation must pay is that it cannot issue dividends. It can continue to thrive, employ people, and be a productive part of our society.

Our tax laws have encouraged corporations and banks and law firms to make "the fast buck", rather than take the slow, constructive steps that are necessary to build their businesses and the economy of this Nation. I favor tax laws that give corporations deductions for research, for creating jobs, for adding to the productivity of the Nation.

My proposal would provide the incentive corporations need. It would encourage investment and help the growth of productivity. It would also help eliminate the excessive debt our country has accumulated, and it would go a long way toward strengthening the economy.

I urge my colleagues to support this legislation, Mr. President. It may need to be refined, but the idea is sound. I hope we can make it a part of the Tax Code.•

By Mr. SIMON:

S. 704. A bill to establish the Gambling Impact Study Commission; to the Committee on Governmental Affairs.

THE NATIONAL GAMBLING STUDY COMMISSION ACT

• Mr. SIMON. Mr. President, today I am introducing legislation that would establish an 18 month commission to review the impact gambling has had on State and local governments, and native American tribes. As these entities find themselves strapped for financial resources, many public officials and residents believe gambling can be an economic panacea.

Gambling is now one of the largest growth industries in the country. Legal wagering now totals almost $400 billion compared to $17.3 billion in 1974, according to the last—and only—national gambling study released in 1976 by the Commission on the Review of the National Policy Toward Gambling.

Federal policy on gaming should not be a moral one, rather it should be a practical one. Gambling is a matter of personal choice, and I have no problem with individuals who enjoy and are able to play the lottery or the slots. But I am concerned with the substantial costs to individuals, families, and society. Legalized gambling can lead to problem and pathological gambling, deterioration of family relationships, lost work productivity, unpaid taxes, bankruptcies, higher crime rates, and increased costs to the criminal justice system.

On the other hand, legalized gambling offers the promise of economic development, tourism, increased jobs and tax revenues, which is extremely appealing to State, local and tribal governments that compete with one another for financial resources.

While State governments have primary responsibility for regulating gambling, the scope of gaming has broadened to a national level in recent years. I am introducing the Gambling Impact Study Commission Act to address these issues of national concern, so State, local and tribal governments can make fully informed decisions about future economic development investments.•

By Mrs. KASSEBAUM (for herself and Mr. BROWN):

S. 707. A bill to shift financial responsibility for providing welfare assistance and medical care to welfare-related medicaid individuals to the States in exchange for the Federal Government assuming financial responsibility for providing certain elderly low-income individuals and nonelderly low-income disabled individuals with benefits under the medicare program under title XVIII of the Social Security Act and long-term care benefits under a new Federal program established under title XIX of such act, and for other purposes; to the Committee on Finance.

THE WELFARE AND MEDICAID RESPONSIBILITY EXCHANGE ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I rise today to introduce a revision of the "Welfare and Medicaid Responsibility Exchange Act of 1995" with my colleague Senator BROWN. This legislation incorporates the changes which I indicated would be forthcoming when we introduced the "swap" legislation earlier this year.

The basic principle embodied in both this and the earlier proposal is that true reform will occur only when there is a clear delineation of responsibilities between the federal and state governments.

The legislation we are introducing today shifts to the states responsibility for the nation's largest welfare programs—Aid to Families with Dependent Children (AFDC), Supplemental Food Program for Women, Infants and Children (WIC), Food Stamps, and the AFDC portion of Medicaid. In exchange, the Federal Government will assume responsibility for that portion of the Medicaid program designed to provide acute care and long-term care to elderly and disabled Americans.

Currently, the overlapping regulation and dual administration of the AFDC and Medicaid programs, in particular, has resulted in a significant lack of accountability. In contrast, this legislation makes a clear-cut decision about who will run the welfare programs, who will finance them, who will make key decisions, and who will be responsible for the outcomes.

This legislation will allow both the States and the Federal Government to build a more cohesive safety net for the populations each sector is serving. At the end of a five-year transition period during which the States will be freed from the vast majority of restrictive Federal regulations, the States will have complete autonomy for designing welfare and medical programs for low-income individuals—without Federal mandates, but with their own money at stake.

The Federal Government will be able to improve the efficiency and effectiveness of the Supplemental Security Income (SSI) Medicaid program—a program which now consumes 70 percent of Medicaid costs yet serves only 30 percent of the Medicaid population—by better coordinating choronic care services for elderly and disabled Medicaid recipients, by promoting competition, and by allowing these individuals to have a broader choice of private health plans. To reduce the reliance on Medicaid, the revised legislation also includes tax incentives for the purchase of private long-term-care insurance and long-term care services, and standards for long-term care insurance. These provisions are similar to those contained in legislation which was introduced earlier this year by Senator COHEN.

I would like to highlight some of the other key components of this revised swap legislation:

State responsibilities: As in the earlier swap legislation (S. 140), the states will assume full costs for the AFDC, WIC, and Food Stamp programs. In addition, however, the states also will assume responsibility for providing health care for "AFDC-related" Medicaid recipients (non-elderly and non-disabled individuals). This population represents about 30 percent of current Medicaid expenditures.

Federal responsibilities: Instead of assuming the full costs of the Medicaid program, under the revised legislation the federal government will assume financial responsibility for the "SSI-related Medicaid" program (elderly and disabled individuals). This group represents the remaining 70 percent of Medicaid costs.

Five-year transition period: The revised legislation still contains a five-year transition period during which states will have freedom to design low-income assistance programs and time to build the infrastructure to support these programs. During this period, an independent Commission will work with Congress to develop the specific provisions of the federal Medicaid program for elderly and disabled individuals. Also, the federal government will continue to provide funding to states during this period so that no state will suffer significant losses of funding.

State maintenance-of-effort: During the transition period, the states must spend the funds made available by the swap and any money previously used as a state match for AFDC, food stamps, WIC, and AFDC-related Medicaid, to provide cash and non-cash assistance to low-income individuals and families. Unlike S. 140, however, the states may direct up to 15 percent of these funds annually to savings or other uses.

Medicaid during the transition: Under the revised legislation, federal Medicaid benefit and coverage requirements for children will be frozen at 1995 levels during the transition. Beyond that, however, the states will be given significant freedom to redesign the AFDC-related Medicaid program without applying for federal waivers.

At the end of the transition period: Under the revised legislation, Congress must determine at the end of five years whether to continue this arrangement or, instead, to grant the states complete autonomy to design welfare and low-income medical care programs. If this complete swap goes into effect, states that experience a significant loss of federal funds and have the greatest need for public services will be eligible for a targeted grant program.

Mr. President, if we are serious about returning substantial authority, autonomy, and responsibility to state and local governments; if we are serious about rejecting the "one-size-fits-all" approach to income support programs which has frustrated those who have sought innovative solutions; and if we are serious about breaking the cycle of dependence that has frayed the current social welfare system; then I believe we must make systemic changes that will have a profound and long-lasting impact on the way services are delivered to needy Americans. We must cross the threshold from a Washington that simply shares power with the states to a Washington that actually surrenders power.

This legislation goes a long way toward achieving that goal. I hope my colleagues will join me in working toward its passage.

By Mr. NICKLES:

S. 708. A bill to repeal section 210 of the Public Utility Regulatory Policies Act of 1978; to the Committee on Energy and Natural Resources.

THE ELECTRIC UTILITY RATEPAYER ACT

• Mr. NICKLES. Mr. President, I introduce legislation to repeal section 210 of the Public Utility Regulatory Policies Act of 1978 ("PURPA").

Section 210 of PURPA is no longer in the public interest. It is costing consumers billions of dollars in higher electric bills. It is interfering with the increasingly competitive wholesale market for electricity. It has been overtaken by changes in energy policy, particularly the transmission access and PUHCA reform provisions of the Energy Policy Act of 1992. It is no longer needed to promote a once-fledgling independent power industry. In short, it is time to repeal section 210 of PURPA.

Enacted in 1978, PURPA was one of several laws created by President Carter to address the energy crisis. All involved heavy government interference in the marketplace; all but PURPA have since been repealed.

PURPA was created to stimulate the construction of non-conventional electric powerplants, referred to by PURPA as a qualifying facility [QF]. A QF can be a cogeneration powerplant of unlimited size, or a small power production facility of less than 80 megawatts. A cogeneration powerplant is a facility which produces heat along with electric power. A small power production facility is as a renewable driven electric power generator, such as a windmill, a biomass or waste-fueled powerplant, a geothermal generator, a solar power facility, or a hydroelectric dam.

Section 210 of PURPA encourages QFs in two ways. First it requires electric utilities to purchase the power they produce—whether or not it is needed. Second, it requires electric utilities to pay an avoided cost price for the electricity purchased from the QF—which may or may not bear any relationship to actual market price.

When PURPA was enacted, everyone thought that it would benefit primarily unconventional power generating facilities, such as solar, geothermal, wind, and waste. These were unproven technologies at the time, and even with the host of benefits provided by PURPA plus tax incentives, it was not clear that they could ever be profitable. Instead, PURPA has primarily benefitted the more traditional turbine-powered cogenerators. According to data provided by the Edison Electric Institute, more than three-fourths of installed QF generation capacity are cogenerators. Small power producers—solar, geothermal, wind and waste—account for less than one-forth of installed QF generation capacity.

PURPA was also enacted on the assumption that it would not increase the price of electricity to consumers. Congress thought that it had guarded against this by limiting the price of QF electricity to the avoided cost—the price that the electric utility would have incurred had it generated the electricity itself or had it purchased it from someone else. But it did not work out that way. The Edison Electric Institute estimates that nationwide PURPA will add $38 billion to the future price of electricity, calculated in net present value. This continues to occur for several reasons.

First, in many instances PURPA's avoided cost rate is being based on fuel price projections which often prove to be wildly wrong. Second, several States are setting the avoided cost rate above true avoided cost in order to encourage QFs. QFs are viewed as being socially desirable, even if not the cheapest source of power. The FERC has recently acknowledged that over the years it has given State public utility commissions wide latitude in implementing PURPA in order to maximize the development of QFs. Third, environmental adders continue to be included in the avoided cost rate to promote certain types of QF facilities. This further increases the price of QF power above true avoided cost. Fourth, because PURPA requires QF power to be purchased whether or not it is needed, utility-owned generation will continue to be idled, which someone has to pay for. Thus, unless we repeal PURPA section 210, this will continue for new QF contracts.

Mr. President, some will argue that section 210 ought to be retained because it fosters competition in the wholesale power marketplace, but that is not true. The essence of competition is allowing choice, not mandating what must be purchased. Moreover, there are other key reasons why the wholesale electric power market has become competitive. They include the following: First, state public utility commissions have required their utilities to become more competitive. Second, Congress opened the wholesale market to all electric generators through transmission access and PUHCA reform. Third, and most importantly, the market itself denies everyone the luxury of avoiding competition. Thus, the repeal of PURPA section 210 will not adversely affect competition.

Mr. President, while everyone agrees that renewable energy can and should play a role in the future energy mix, that should not be accomplished through PURPA's mandated purchase requirement. In this connection, I might note that there are other programs on the books to promote renewables. For example, section 1212 of the Energy Policy Act of 1992 provides a renewable energy production incentive of 1.5 cents per kilowatt hour, subject to appropriations, for solar, wind, biomass, and geothermal powerplants. Section 1914 provides a tax credit of 1.5 cents per kilowatt hour for wind and closed-loop biomass. This is not subject to appropriations. Section 1916 provides a permanent extension of the energy investment credit for solar and geothermal properties.

Mr. President, I am a strong believer in contract sanctity. The bill I am introducing does not abrogate existing contracts; they will continue to operate by their own terms. Section 4 of the bill specifically states that "Nothing in this Act abrogates any existing contract."

Mr. President, it is clear the time has come to repeal section 210 of PURPA. It is distorting competition and it is hurting consumers. It is time to substitute the discipline of the marketplace for the judgment of regulators. In short, it is time for PURPA section 210 to go. I urge may colleagues to join me in my efforts to update our energy policy to benefit consumers and our economy.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 708

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Electric Utility Ratepayer Act."

SEC. 2. FINDINGS.

The Congress findings that—

(1) implementation of section 210 of the Public Utility Regulatory Policies Act of 1978 results in many consumers paying excessive rates for electricity;

(2) the Energy Policy Act of 1992 gives producers of electricity additional access to the wholesale electric market through transmission access and exemption from the Public Utility Holding Company Act; and

(3) in light of the increasingly competitive wholesale electric marketplace being brought about by the Energy Policy Act of 1992, there no longer is any justification for section 210 of the Public Utility Regulatory Policies Act of 1978.

SEC. 3. REPEAL.

Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is hereby repealed.

SEC. 4. TRANSITION.

Nothing in this Act abrogates any existing contract.

SEC. 5. EFFECTIVE DATE.

The provisions of this act are effective April 7, 1995.●

By Mr. BOND (for himself and Mr. BRYAN):

S. 709. A bill to amend the Fair Credit Reporting Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CONSUMER REPORTING REFORM ACT

Mr. BOND. Mr. President, I join my colleague, Senator BRYAN, in introducing the Consumer Reporting Reform Act of 1995. We have spent several sessions of Congress in perfecting this legislation, and I expect this bill to enjoy wide bipartisan support. In particular, this legislation balances the needs of the consumer to have accurate credit information, while ensuring that the credit industry provides such information without the imposition of unreasonable regulatory burdens.

The Fair Credit Reporting Act is overdue for revision and reform. I know that we have all heard too many horror stories about inaccurate credit information and the inability of consumers to get the information corrected. The Fair Credit Reporting Act was written long before computer technology was as sophisticated as it is today. These technological advances have meant a drastic increase in the amount of information that can be kept and is kept on individuals. Current law simply does not adequately protect consumers.

For example, currently the law only requires that credit bureaus reinvestigate within a reasonable period of time. It was not uncommon for it to take months, even years, to get a credit report corrected and cleaned up. And even in cases where a consumer does succeed in getting the incorrect information removed or corrected, there is nothing to prevent the incorrect information from being put back on the credit report.

I believe that the single most important consumer protection provision in this legislation is the 30-day limit on the reinvestigation procedure. If the disputed information cannot be verified or is found to be inaccurate within 30 days, then it is corrected or removed from the credit report and cannot be reinserted without a notice to the consumer.

This is the cornerstone of the legislation—the most significant improvement over current law.

In addition, I realize that the credit bureaus have voluntarily instituted a 30-day standard in recent years, but there is no force of law behind it to hold them to it. I congratulate the credit bureaus for taking steps to make the system more accurate, but I feel that legislation is still needed. It was the threat of this legislation that has cleaned up the system, and I think we have an obligation to finish the job. This legislation, in particular, will address concerns about accuracy in the system and the need for consumer privacy.

I emphasize that I have met with many of my constituents to listen to their horror stories of trying to fix mistakes on their credit reports. They have met with many of the same obstacles that millions of other consumers have faced—months of waiting for their credit reports to be fixed, credit grantors who are unresponsive, and no one to talk to who will listen to their complaints. As you know, these problems are not new. I have been hearing about these problems for years and trying to find a way to address them. This legislation is designed to address these problems.

Because it traditionally takes a long time for the credit bureaus to respond and fix credit reports, the bill requires the process to be completed in 30 days. As I have said, if the information in the report cannot be verified by the creditor who submitted it within 30 days, it will be removed from the report. In addition, it cannot be reinserted later unless the consumer is notified.

When a consumer goes through the reinvestigation process with the credit bureau and the problem is still not fixed, our bill gives the consumer the right to sue the creditor who will not fix the information it submitted to the credit bureau.

This bill also contains limited Federal preemption to ensure that there are uniform Federal standards to govern a number of procedural issues which are part of credit reporting and which will reduce the burdens on the credit industry from having to comply with a variety of different State requirements. For example, the bill preempts requirements regarding prescreening, information shared among affiliates, reinvestigation timetables, obsolescence time periods and certain disclosure forms.

In addition, the civil liability section makes it absolutely clear that there are only private causes of action against a furnisher after that furnisher has had an opportunity to reinvestigate and fix any mistakes.

I believe that this legislation is a well-balanced bill. All interested parties benefit from this bill. The free flow of accurate information will help all sides by promoting good economic decisions in our free market economy. Consumers get increased disclosure and a 30-day reinvestigation time period and the credit industry gets a limited Federal preemption, the ability to share information among affiliates, and broader prescreening abilities.

Mr. BRYAN. Mr. President, I join Senator BOND today in introducing amendments to the Fair Credit Reporting Act. I want to again express my appreciation for the efforts of Senator BOND. I have enjoyed teaming up with him on a number of issues and look forward to continuing this friendship and productive working relationship.

As those who follow this issue know, Senator BOND and I came extremely close to getting similar legislation enacted into law last Congress. Versions of this bill passed the Senate 87 to 10 and passed the House of Representatives on several occasions. Unfortunately because this came up at the end of the session, one Senator was able to block this bill's enactment into law. I am confident we can get this legislation to the President's desk this year.

This legislation is similar to the version that passed the Senate and House of Representatives last year. Senator BOND and I have made some refinements but the guts of the bill are intact.

The heart of this legislation is the investigation process which is undertaken when a consumer discovers a mistake on his or her credit report. We all know that mistakes will occur when you are entering billions of pieces of data in computer banks every month. That is inevitable.

What is not inevitable is the frustration consumers experience getting these mistakes removed from their files. This bill requires credit bureaus and the businesses which supply information to verify it within 30 days or remove it from a consumer's file. Thereby, the burden of proof is transferred from consumers to businesses to verify the accuracy of the information in a file.

I was struck by the testimony of Nevadans who were forced to jump through a serious of hoops to prove that the information in their file was faulty. They spent countless hours on the telephone trying to track down information and to explain to credit bureau representatives what mistakes have been made. Through no fault of their own, these people were put through the ringer. This legislation should rectify this situation.

The bill also brings businesses who furnish information into the regulatory process. Without such a provision, bad actors can wreak havoc on the credit reporting system and on consumers. I would have preferred a higher standard of liability for these businesses but believe this is a good first step.

On this point, I must express my total disgust at the behavior of the J.C. Penney Co. In my entire career of public service, I have never seen a more disingenuous lobbying effort by any organization, and I will not soon forget it.

This legislation tries to craft a delicate balance on the issue of State preemption. Senator BOND and I are both former Governors so we take States' rights very seriously. We have tried to only preempt those areas of this law which affect the operational efficiencies of businesses but do not harm consumers. Setting a national uniform standard for disclosure forms or timetables, does not set the consumer movement back, yet should help the business community operate more efficiently.

I would like to put everyone on notice that I feel very strongly that we should not preempt States' rights in the area of liability—particularly if we set a low-liability standard as we do in this bill. Certain members of the business community have and will continue to push to preempt this area of State law, but I will fight such efforts and will have to reconsider the merits of this bill, should I lose on this issue.

I believe the issues in this bill have been compromised and refined over several years of consideration and do not need much more massaging. They represent an equitable balance with benefits to both the consumers and businesses. I hope we can move this along swiftly. I urge my colleagues support.

By Mr. KERREY:

S. 710. A bill to promote interoperability in the evolving information infrastructure maximum competition, innovation, and consumer choice, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELECOMMUNICATIONS INTEROPERABILITY ACT

Mr. KERREY. Mr. President, earlier this week I came to the floor of the Senate to discuss my concerns relating to the pending Telecommunications Competition and Deregulation Act of 1995, S. 652. I have been concerned that this bill does not do enough to promote competition and consumer choice. As we on Capitol Hill work to revamp the regulatory regimes governing the telephone and cable television companies of today, a much larger dynamic is taking hold in our country.

The digital age is upon us, and we must try to take this larger picture into view if we are to be truly effective in our efforts to pass telecommunications reform that will serve our country, not only today, but tomorrow, and for the years to come. We need to take this opportunity, not only to address the regulatory issues currently being discussed, but to think about what kind of world we want this digital age to create.

Today, I am introducing legislation, the Communications Interoperability Act of 1995, that I hope will stimulate a vigorous public debate on how we can best achieve a truly ubiquitous National Information Superhighway. I am introducing this bill as a discussion vehicle, and welcome reactions or comments on this legislation from interested parties.

The National Information Superhighway, or National Information Infrastructure (NII) as it is called, is evolving as we speak. This new digital age brings with a convergence of technology and vast new opportunities for Americans to gather and disseminate information. This NII pays no mind to the lines between industry sectors that have existed in the past. The NII is a conglomeration of pieces, including, various high-speed, interactive, narrow and broadband networks that exist today and will emerge tomorrow. It is the satellite, terrestrial, and wireless technologies that deliver content to homes, businesses, and other public and private institutions. The NII is a term that encompasses all the pieces and conveys a vision for a nationwide, invisible, seamless, dynamic web of transmission mechanisms, information appliances, content and people. This ubiquitous network of networks has the potential to improve the quality of life for all Americans—regardless of location, age, economic status, or physical handicap. However, this potential will only be realized if we have interoperability in our information infrastructure.

Interoperability is the ability of two or more systems to interact with one another. Interoperability allows diverse systems made by different vendors to communicate with each other so users do not have to make major adjustments to account for differences in products and services. Open interfaces at critical points of connection will allow interoperability to occur.

Interoperability will allow components of the NII to work together easily and transparently. A high school student in Nebraska will be able to use research resources located anywhere in the country, and discuss that research with students at distant schools. It will allow teachers in Nebraska to share information about experiences with other teachers around the country. If, while on vacation, a person becomes ill, a doctor in another State will be able to easily reach the family physician in Nebraska to consult and access complete medical records online.

Interoperability will make the NII accessible to the broadest number of people—both users and vendors. Users will not be limited to a particular vendor's products. Vendors will be able to make their services available to anyone who wants to use them. A small business or entrepreneur in Nebraska will be able to fully realize their potential because from their home office they will have the ability to easily reach customers across the Nation and around the world.

Interoperability allows all Americans to be both information consumers and information providers. This means that a citizen in Lincoln, NE, will not only be able to access the vast amount of information using an information appliance of her choice, at the same time, she will also be able to publish her newsletter on fishing in Nebraska to interested readers wherever they reside.

Interoperability promotes competition among technologies, providers, and media, leading to the greatest number of choices, the lowest prices, and maximum innovation. Interoperability based on open interfaces, will help promote a level playing field for the future of communications. Rather than attempting to create or adapt regulations to ever changing technologies, open interfaces, and interoperability will help ensure access and competition by allowing new entrants into the marketplace.

Interoperability must be led by industry, but Congress can help by promoting the vision of an interoperable information infrastructure. I am not suggesting that Government get involved setting standards or dictating what technologies the private sector should use. What I am suggesting is that we all have an interest in monitoring the private sector process and facilitating the development of a system that will best serve American business, and American citizens.

Without interoperability, we will simply have pockets of information and services that will not be nearly as valuable because they will not be easily linked to other parts of the infrastructure. Interoperability will allow information to be transmitted between different technologies, allowing for the most efficient distribution of services. In some areas, wire lines or fiber optic cable may be dominant, while in other more rural areas we may need to rely on satellite and wireless technologies. Unless all these divergent parts of the system are interoperable, the digital age will divide us into information haves and have nots. I am concerned about the potential for rural States like mine to be left behind as the digital age charges forward.

The distinguished Senator from Maine introduced legislation earlier this week to promote competition and consumer choice in consumer electronics used in conjunction with the current cable system. Certainly an important piece of the overall infrastructure, but as the distinguished Senator pointed out in his introductory statement, this bill is only focused on one particular area of telecommunications. The legislation I am introducing today focuses on the bigger picture, providing a broader, over-arching vision for our digital information age.

By looking ahead, and providing some policy objectives we can use this opportunity to address not only past and current regulatory issues, but to project some expectations for the future of communications. Expectations which include an information infrastructure that strengthens our educational system, expands commerce, improves the delivery of health care, and enhances participatory democracy.

I hope we will embrace this opportunity to herald the future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Communications Interoperability Act of 1995".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the rapid convergence of communications, computing and video technologies holds the promise of bringing revolutionary improvements in the delivery of a variety of information and other communications services to the American public;

(2) interoperability will promote competition among technologies, providers, and media, leading to the greatest choices, lowest prices, highest value, and maximum innovation;

(3) interoperability at key interfaces of the developing information infrastructure of the United States will ensure that existing and new components work together easily, quickly, and transparently as the components of today's telephone system;

(4) interoperability will help ensure that the information and communications infrastructure of the future will be accessible to the broadest number of people, both users and vendors of products and services;

(5) open interfaces at critical connection points are essential to achieving interoperability and the smooth transfer of information throughout the system; and

(6) the development of an interoperable information infrastructure based on open interfaces is in the interest of all Americans, and the Federal Government should act as a facilitator to achieve this goal.

SEC. 3. DEFINITIONS.

As used in this Act:

"(1) INTEROPERABILITY.—The term "interoperability" means—

"(A) the ability of two or more systems (such as devices, databases, networks, or technologies) to interact in concert with one another, in accordance with a prescribed method, to achieve a predictable result;

"(B) the ability of diverse systems made by different vendors to communicate with each other so that users do not have to make major adjustments to account for differences in products or services; and

"(C) compatibility among systems at specified levels of interaction, including physical compatibility.

The compatibility described in subparagraph (C) should be achieved through open interface specifications.

"(2) INTERFACE SPECIFICATIONS.—The term "interface specifications" means the technical parameters for the manner in which systems, products, and services communicate with each other and may be limited to the information necessary to achieve interoperability, leaving the implementation and remaining product design to the creative abilities of competitive suppliers.

SEC. 4. PROMOTING INTEROPERABILITY.

The Federal Communications Commission, and other appropriate Federal Government agencies (such as the National Institute of Standards and Technology), shall monitor the voluntary industry standards processes, and assist private sector standards bodies in the identification and promotion of open and interoperable interface specifications as needed.

By Mr. HATCH (for himself, Mr. BIDEN, Mr. THURMOND, Mr. ABRAHAM, and Mr. GRASSLEY):

S.J. Res. 32. Joint resolution expressing the concern of the Congress regarding certain recent remarks that unfairly and inaccurately maligned the integrity of the Nation's law enforcement officers; to the Committee on the Judiciary.

LAW ENFORCEMENT OFFICERS JOINT RESOLUTION

Mr. HATCH. Mr. President, I rise today to introduce a joint resolution expressing the Nation's gratitude to its law enforcement officers, and ask that it be passed by unanimous consent.

Every day, the brave men and women of our Nation's police forces put their lives on the line as they patrol our streets to keep the rest of us safe. These fine public servants are far too often all that stands between the rule of law and the tyranny of crime and chaos.

The job of a law enforcement officer is increasingly dangerous. Across America, 70 law enforcement officers were murdered in the line of duty in 1993. Assaults on officers are commonplace. Yet these men and women go out every day and perform their jobs with courage and integrity.

Attacks from criminals, however, are not the only assaults out law enforcement officers are suffering from today. They are also being victimized by malicious, mean-spirited, and misleading verbal attacks from those who should know better.

Officers daily put their lives in jeopardy to prevent crime, and to investigate crimes that have been committed, in order to bring the guilty to justice. They are expected to act perfectly, with often imperfect information, and must ensure both the safety of the community and the integrity of the criminal justice process.

The Nation's police officers perform these tasks admirably. And On those rare and regrettable occasions when they falter, it is the police who are most aggrieved, seeking to redress the failure to uphold the public's trust. They recognize that without that trust, they cannot enforce the laws.

So we must never forget the faith with which the police attempt to discharge their duty. Whenever the public is led to believe without cause that their law enforcement officers are less than true to their oaths "to serve and protect," the rule of law is endangered. For any society in which the law is in disrepute, or its fair enforcement in doubt, is only a shore step away from a society without law.

America owes a debt of gratitude to its police officers that it really cannot repay. However, Congress can and should take this opportunity to acknowledge that debt, and express the American People's thanks for the continuing service of its law enforcement heroes.

Mr. President, I urge my colleagues to join me in support of this joint resolution.

Mr. BIDEN. Mr. President, today, I and Senator HATCH are introducing a joint resolution to express the concern of the Congress regarding some recent remarks that inaccurately malign the integrity of the Nation's law enforcement officers.

It has been my privilege to work closely with our Nation's State and local police officers throughout my career. And, whether I have been dealing with officers who protect citizens in one of Delaware's smallest towns or those who patrol our Nation's largest cities, I have been impressed by the level of honor, commitment and integrity they have consistently upheld. Indeed, the evidence is that vast majority of our Nation's law enforcement officers are conscientious public servants who have a job where they must literally be willing to lay their life on the line everyday they go to work.

Let me be clear, I do not being to claim that there are no "bad apples" among the Nation's 540,000 police officers—as in every profession, there are "bad apples" who violate the law. But, this does not justify any sweeping indictment of the ethics of the entire police profession, any more than a case of malpractice by a doctor justifies sweeping criticism of the entire medical profession.

Because I believe it is simply unfair to make allegations about a whole profession based on the actions of a tiny minority and because I have enjoyed such a close and, I hope, mutually respectful relationship with our Nation's police officers, I am introducing this legislation so that the Congress is on record as recognizing the integrity of our Nation's police profession. I am happy to be joined by Senator HATCH on this measure, and I look forward to other Senators joining us in this effort.

The morale of our Nation's police officers is dependent upon the respect they feel from all of us, such is the case for any profession. This resolution is but one of many chances the Senate will have this year to indicate our confidence in our Nation's police. Later this year, I expect that the Senate will be faced with legislation that will nullify the provisions of the Violent Crime Control Act of 1994 that will add 100,000 more police to our streets. Those who believe that our Nation's police do not live up to the highest ethical standards may oppose this effort to add 100,000 officers to their ranks. But, those of us who know that the overwhelming majority of our police meet these high standards, must protect this effort to add 100,000 state and local police to America's neighborhoods.

I admit that the resolution I introduce today offers but some small measure of rhetorical support. The real support for our Nation's police will be shown by continuing our commitment to add 100,000 more officers to the ranks of those who protect us all. I urge my colleagues to support this resolution.

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. REID, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 44, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

S. 240

At the request of Mr. DOMENICI, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 248

At the request of Mr. GREGG, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 248, a bill to delay the required implementation date for enhanced vehicle inspection and maintenance programs under the Clean Air Act and to require the Administrator of the Environmental Protection Agency to reissue the regulations relating to the programs, and for other purposes.

S. 256

At the request of Mr. DOLE, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 256, supra.

S. 258

At the request of Mr. PRYOR, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 258, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 277

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 277, a bill to impose comprehensive economic sanctions against Iran.

S. 360

At the request of Mr. SMITH, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 360, a bill to amended title 23, United States Code, to eliminate the penalties imposed on States for noncompliance with motorcycle helmet and automobile safety belt requirements, and for other purposes.

At the request of Mr. SMITH, the name of the Senator from Alaska [Mr. STEVENS] was withdrawn as a cosponsor of S. 360, supra.

S. 389

At the request of Mr. JOHNSTON, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 389, a bill for the relief of Nguyen Quy An and his daughter, Nguyen Ngoc Kim Quy.

S. 401

At the request of Mr. LEAHY, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of hard apple cider.

S. 426

At the request of Mr. SARBANES, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 427

At the request of Ms. SNOWE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 427, a bill to amend various acts to establish offices of women's health within certain agencies, and for other purposes.

S. 440

At the request of Mr. WARNER, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 440, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 459

At the request of Mr. Bond, the names of the Senator from Connecticut [Mr. Dodd], the Senator from South Carolina [Mr. Hollings], the Senator from Indiana [Mr. Lugar], and the Senator from Illinois [Mr. Simon] were added as cosponsors of S. 459, a bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

S. 520

At the request of Mr. Shelby, the name of the Senator from Oregon [Mr. Hatfield] was added as a cosponsor of S. 520, a bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit for adoption expenses.

S. 524

At the request of Mr. Wellstone, the names of the Senator from Hawaii [Mr. Inouye] and the Senator from Maryland [Ms. Mikulski] were added as cosponsors of S. 524, a bill to prohibit insurers from denying health insurance coverage, benefits, or varying premiums based on the status of an individual as a victim of domestic violence and for other purposes.

S. 526

At the request of Mr. Gregg, the names of the Senator from Oklahoma [Mr. Inhofe] and the Senator from Wyoming [Mr. Thomas] were added as cosponsors of S. 526, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes.

S. 548

At the request of Mr. Rockefeller, the names of the Senator from Hawaii [Mr. Akaka], the Senator from Vermont [Mr. Jeffords], the Senator from Maryland [Ms. Mikulski], the Senator from Illinois [Ms. Moseley-Braun], and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of S. 548, a bill to provide qualify standards for mammograms performed by the Department of Veterans Affairs.

S. 584

At the request of Mr. Robb, the name of the Senator from New Hampshire [Mr. Smith] was added as a cosponsor of S. 584, a bill to authorize the award of the Purple Heart to persons who were prisoners of war on or before April 25, 1962.

S. 630

At the request of Mr. D'Amato, the name of the Senator from Pennsylvania [Mr. Specter] was added as a cosponsor of S. 630, a bill to impose comprehensive economic sanctions against Iran.

S. 637

At the request of Mr. McCain, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 637, a bill to remove barriers to interracial and interethnic adoptions, and for other purposes.

S. 641

At the request of Mr. Kennedy, the names of the Senator from Virginia [Mr. Robb], the Senator from New York [Mr. Moynihan], the Senator from Massachusetts [Mr. Kerry], the Senator from Wisconsin [Mr. Feingold], the Senator from Connecticut [Mr. Lieberman], the Senator from Maine [Mr. Cohen], the Senator from Oregon [Mr. Packwood], the Senator from Rhode Island [Mr. Chafee], the Senator from Virginia [Mr. Warner], and the Senator from Oregon [Mr. Hatfield] were added as cosponsors of S. 641, a bill to reauthorize the Ryan white CARE Act of 1990, and for other purposes.

S. 650

At the request of Mr. Shelby, the name of the Senator from Tennessee [Mr. Frist] was added as a cosponsor of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. Simon, the names of the Senator from Mississippi [Mr. Cochran], the Senator from New Hampshire [Mr. Smith], the Senator from Nebraska [Mr. Exon], the Senator from Kentucky [Mr. Ford], the Senator from Florida [Mr. Graham], and the Senator from South Dakota [Mr. Daschle] were added as cosponsors of Senate Concurrent Resolution 3, a concurrent resolution relative to Taiwan and the United Nations.

AMENDMENT NO. 448

At the request of Mr. Harkin his name was added as a cosponsor of Amendment No. 448 proposed to H.R. 1158, a bill making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

SENATE RESOLUTION 106—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. Daschle) submitted the following resolution; which was considered and agreed to:

S. Res. 106

Whereas, in the case of *Pittston Coal Group, Inc. v. I.U., UMWA*, Case No. 93-0162-A, pending in the United States District Court for the Western District of Virginia, a subpoena for testimony at a deposition has been issued to Marisa Spatafore, a former employee of the Senate on the staff of Senator Rockefeller;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1988), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved That Marisa Spatafore is authorized to testify in the case of *Pittston Coal Group, Inc., v. I.U., UMWA*, except concerning matters for which a privilege should be asserted.

Sec. 2. That the Senate Legal Counsel is directed to represent Senator Rockefeller, Marisa Spatafore, and any other Member or employee of the Senate from whom testimony or documents may be sought in connection with this case.

SENATE RESOLUTION 107—RELATIVE TO THE NCAA WOMEN'S BASKETBALL CHAMPIONSHIP

Mr. DODD (for himself and Mr. Lieberman) submitted the following resolution; which was considered and agreed to:

S. Res. 107

Whereas the UConn women's team won the school's first-ever national basketball championship by defeating the University of Tennessee by the score of 70-64;

Whereas the UConn Huskies became only the second women's basketball team in NCAA history to finish the season undefeated, and the first basketball team of any kind in NCAA history to finish 35-0;

Whereas UConn Head Coach Geno Auriemma was the recipient of the Naismith National Coach of the Year Award, as well as the Associated Press Coach of the Year and the United States Basketball Writers Association Coach of the Year awards;

Whereas UCONN forward and co-captain Rebecca Lobo was the consensus choice of those same organizations as the National Player of the Year, and was named the Most Outstanding Player of the NCAA Women's Final Four;

Whereas Rebecca Lobo was also named the GTE Women's Basketball National Academic All-American of the Year for her outstanding achievement in the classroom;

Whereas the UConn Women Huskies enthralled the entire state of Connecticut, providing it with one of its finest moments;

Whereas the UConn Women Huskies elevated the sport of women's basketball to new heights, and inspired a generation of young girls in Connecticut to aspire toward their own "hoop dreams": Now, therefore, be it

Resolved, That the Senate commends the Huskies of the University of Connecticut for capping a perfect season by winning the 1995 NCAA Women's Basketball Championship

SENATE RESOLUTION 108—DESIGNATING NATIONAL ATOMIC VETERANS DAY

Mr. WELLSTONE (for himself, Mr. Simon, Mr. Jeffords, Mr. Dashchle, Mr. Pryor, Mr. Rockefeller, Mr. Akaka, Mr. Reid, and Mr. Leahy) submitted the following resolution; which was considered and agreed to:

S. Res. 108

Whereas July 16, 1995, is the 50th anniversary of the first detonation of an atomic bomb at Alamagordo, New Mexico;

Whereas the members of the Armed Forces who have been exposed to ionizing radiation as a result of the detonation of a nuclear weapon or device are considered to be America's "atomic veterans";

Whereas atomic veterans are in many ways one of the most neglected groups of United States veterans;

Whereas atomic veterans served their country patriotically and proudly, believing fully that the United States Government would protect them from any serious hazards to their health;

Whereas atomic veterans were not told of the hazards they faced from exposure to ionizing radiation, often were provided with little protection from such exposure even when deployed at or near ground zero immediately after test detonations of nuclear weapons, on occasion were not provided film badges to measure their exposure to radiation during such detonations, and were provided with no follow-up medical care or other monitoring to determine the health consequences of such exposure;

Whereas for 40 years after World War II Federal law contained no provisions specifically providing veterans compensation or health care for atomic veterans for service-connected radiogenic diseases; and

Whereas many of the 250,000 members of the Armed Forces who participated in post-World War II atmospheric nuclear testing were forbidden from publicly revealing such participation for reasons of national security and received no recognition for their important contributions to the United States and the Armed Forces: Now, therefore, be it

Resolved, That—

(1) July 16, 1995, is designated as "National Atomic Veterans Day"; and

(2) the President is authorized and requested to issue a proclamation calling on the departments and agencies of the Federal Government, State and local governments, and the people of the United States to observe that day with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

BUMPERS AMENDMENT NO. 540

(Ordered to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to amendment No. 461 proposed by him to the bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes; as follows:

Strike "$0" and insert in lieu thereof the following: "$50,000,000. *Provided*, that none of these funds may be used for non-generic activities by recipients other than those identified at 7 C.F.R. 1485.13(a)(1)(i)(J), 1485.13(a)(2)(ii), 1485.15(c), substantially similar entities, or other recipients that are new-to-export entities."

AKAKA AMENDMENTS NOS. 541–542

(Ordered to lie on the table.)

Mr. AKAKA submitted two amendments intended to be proposed by him to an amendment submitted to the bill (H.R. 1158) supra, as follows:

Amendment No. 541

On page 31, strike line 9 and insert the following: "Public Law 103–333, $10,988,000 are rescinded. Of the funds made available under this heading in Public Law 103–333 and reserved by the Secretary pursuant to section 674(a)(1) of the Community Services Block Grant Act, $1,900,000 are rescinded. Notwithstanding any other provision of this Act, the amount rescinded under the heading 'Office of the Secretary, Policy Research' in chapter VI shall be increased to $4,018,000.".

Amendment No. 542

On page 1 of the amendment, strike line 2 and all that follows through line 4 on page 2, and insert the following: "Public Law 103–333, $10,988,000 are rescinded. Of the funds made available under this heading in Public Law 103–333 and reserved by the Secretary pursuant to section 674(a)(1) of the Community Services Block Grant Act, $1,900,000 are rescinded. Notwithstanding any other provision of this Act, the amount rescinded under the heading 'Office of the Secretary, Policy Research' in chapter VI shall be increased to $4,018,000.".

GRAHAM AMENDMENT NO. 543

(Ordered to lie on the table.)

Mr. GRAHAM (for himself and Mrs. Feinstein) submitted an amendment intended to be proposed by them to the bill (H.R. 1158) supra, as follows:

On page 33, line 23, strike "and $11,000,000 from 2 part C".

GLENN AMENDMENT NO. 544

(Ordered to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill (H.R. 1158) supra, as follows:

At the appropriate place, insert the following new section:

NO RESTRICTIONS ON IRS ENFORCEMENT FUNDING OR PERSONNEL

Sec. . Notwithstanding any other provision of this Act, there shall be no rescission of any amount of the $4,385,459,000 made available under the heading "Tax Law Enforcement" in Public Law 103–329 and there shall be no restrictions on the hiring or deployment of additional revenue officers during fiscal year 1995.

DOLE AMENDMENTS NOS. 545–546

(Ordered to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to an amendment submitted to the bill (H.R. 1158) supra, as follows:

Amendment No. 545

At the appropriate place in the amendment add the following:

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide additional supplemental appropriations and rescissions for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I—SUPPLEMENTALS AND RESCISSIONS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

(TRANSFER OF FUNDS)

For an additional amount for necessary expenses of the Agricultural Research Service $2,218,000, to be derived by transfer from "Nutrition Initiatives", Food and Consumer Service.

Food Safety and Inspection Service

For an additional amount for salaries and expenses of the Food Safety and Inspection Service, $9,082,000.

Commodity Credit Corporation Fund

FOOD FOR PROGRESS

Notwithstanding any other provision of law, no funds of the Commodity Credit Corporation in excess of $50,000,000 for fiscal year 1995 (exclusive of the cost of commodities in the fiscal year) may be used to carry out the Food for Progress Act of 1985 (7 U.S.C. 1736o) with respect to commodities made available under section 416(b) of the Agricultural Act of 1949: *Provided*, That of this amount not more than $20,000,000 may be used without regard to section 110(g) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(g)). The additional costs resulting from this provision shall be financed from funds credited to the Corporation pursuant to section 426 of Public Law 103–465.

Rural Electrification Administration

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

The second paragraph under this heading in Public Law 103–330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 per centum per year".

Food and Nutrition Service

COMMODITY SUPPLEMENTAL FOOD PROGRAM

The paragraph under this heading in Public Law 103–330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": *Provided further*, That twenty per centum of any Commodity Supplemental Food Program funds carried over from fiscal year 1994 shall be available for administrative costs of the program".

General Provisions

Section 715 of Public Law 103–330 is amended by deleting "$85,500,000" and by inserting "$110,000,000". The additional costs resulting from this provision shall be financed from funds credited to the Commodity Credit Corporation pursuant to section 426 of Public Law 103–465.

Office of the Secretary

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $31,000 are rescinded: *Provided*, That none of the funds made available to the Department of Agriculture may be used to carry out activities under 7 U.S.C. 2257 without prior notification to the Committees on Appropriations.

Agricultural Research Service

BUILDING AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330 and other Acts, $1,500,000 are rescinded.

Cooperative State Research Service

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $958,000 are rescinded, including $524,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i(c)); and $434,000 for necessary expenses of Cooperative State Research Service activities: *Provided*, That the amount of "$9,917,000" available under this heading in Public Law 103–330 (108 Stat. 2441) for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, is amended to read "$9,207,000".

Animal and Plant Health Inspection Service

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $6,000,000 are rescinded.

Rural Development Administration and Farmers Home Administration

LOCAL TECHNICAL ASSISTANCE AND PLANNING GRANTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $1,750,000 are rescinded.

Alcohol Fuels Credit Guarantee Program Account

(RESCISSION)

Of the funds made available under this heading in Public Law 102–341, $9,000,000 are rescinded.

Rural Electrification Administration

RURAL ELECTRIFICATION AND TELEPHONE LOANS

PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $1,500,000 for the cost of 5 per centum rural telephone loans are rescinded.

Foreign Agricultural Service

PUBLIC LAW 480 PROGRAM ACCOUNTS

Of the funds made available under this heading in Public Law 103–330, $142,500,000 are rescinded of which: $6,135,000 shall be from the amounts appropriated for ocean freight differential costs; $92,500,000 shall be from the amounts appropriated for commodities supplied in connection with dispositions abroad pursuant to title III; and $43,865,000 shall be from the amounts appropriated for the cost of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended.

General Provisions

SEC. 101. PROHIBITION ON USE OF FUNDS TO DELINEATE NEW AGRICULTURAL WETLANDS.

(a) IN GENERAL.—Except as provided in subsection (b), during the period beginning on the date of enactment of this Act and ending on December 31, 1995, none of the funds made available by this or any other Act may be used by the Secretary of Agriculture to delineate wetlands for the purpose of certification under section 1222(a) of the Food Security Act of 1985 (16 U.S.C. 3822(a)).

(b) EXCEPTION.—Subsection (a) shall not apply to land if the owner or operator of the land requests a determination as to whether the land is considered a wetland under subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) or any other provision of law.

CHAPTER II DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

RELATED AGENCIES

National Bankruptcy Review Commission

(TRANSFER OF FUNDS)

For the National Bankruptcy Review Commission as authorized by Public Law 103–394, $1,500,000 shall be made available until expended, to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

United States Information Agency

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations", $7,290,000, for the Board for International Broadcasting to remain available until expended.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading in Public Law 103–317, $5,000,000 are rescinded.

LEGAL ACTIVITIES

ASSET FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

Office of Justice Programs

DRUG COURTS

(RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, $17,100,000 are rescinded.

OUNCE OF PREVENTION COUNCIL

(INCLUDING RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, $1,000,000 are rescinded.

In addition, under this heading in Public Law 103–317, after the word "grants", insert the following: "and administrative expenses". After the word "expended", insert the following: ": *Provided*, That the Council is authorized to accept, hold, administer, and use gifts, both real and personal, for the purpose of aiding or facilitating the work of the Council".

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $19,500,000 are rescinded.

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317 for the Manufacturing Extension Partnership and the Quality Program, $27,100,000 are rescinded.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $37,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $8,000,000 are rescinded.

Technology Administration

Under Secretary for Technology/Office of Technology Policy

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,500,000 are rescinded.

National Technical Information Service

NTIS REVOLVING FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $7,600,000 are rescinded.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSION)

Of unobligated balances available under this heading pursuant to Public Law 103–75, Public Law 102–368, and Public Law 103–317, $47,384,000 are rescinded.

THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services

UNITED STATES COURT OF INTERNATIONAL TRADE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

DEFENDER SERVICES

(RESCISSON)

Of the funds made available under this heading in Public Law 103–317, $4,100,000 are rescinded.

RELATED AGENCY

Small Business Administration

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded: *Provided*, That no funds in that public law shall be available to implement section 24 of the Small Business Act, as amended.

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded.

DEPARTMENT OF STATE

Administration of Foreign Affairs

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $2,000,000 are rescinded.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $30,000,000 are rescinded.

International Organizations and Conferences

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $14,617,000 are rescinded.

RELATED AGENCIES

Arms Control and Disarmament Agency

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded, of which $2,000,000 are from funds made available for activities related to the implementation of the Chemical Weapons Convention.

Board for International Broadcasting

ISRAEL RELAY STATION

(RESCISSION)

From unobligated balances available under this heading, $2,000,000 are rescinded.

United States Information Agency

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

RADIO FREE ASIA

(RESCISSIONS)

Of the funds made available under this heading, $6,000,000 are rescinded.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

GENERAL INVESTIGATIONS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $10,000,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $50,000,000 are rescinded.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

OPERATION AND MAINTENANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

DEPARTMENT OF ENERGY

Energy Supply, Research and Development Activities

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $81,500,000 are rescinded.

Atomic Energy Defense Activities

Defense Environmental Restoration and Waste Management

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $113,000,000 are rescinded.

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $15,000,000 are rescinded.

Departmental Administration

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $20,000,000 are rescinded.

Power Marketing Administrations

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $30,000,000 are rescinded.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Authority Fund

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $5,000,000 are rescinded.

CHAPTER IV

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

(RESCISSION)

Of the unearmarked and unobligated balances of funds available in Public Law 103–87 and Public Law 103–306, $125,000,000 are rescinded: *Provided*, That not later than thirty days after the enactment of this Act the Director of the Office of Management and Budget shall submit a report to Congress setting forth the accounts and amounts which are reduced pursuant to this paragraph, submit a report to Congress setting forth the accounts and amounts which are reduced pursuant to this paragraph.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $70,000 are rescinded, to be derived from amounts available for developing and finalizing the Roswell Resource Management Plan/Environmental Impact Statement and the Carlsbad Resource Management Plan Amendment/Environmental Impact Statement: *Provided*, That none of the funds made available in such Act or any other appropriations Act may be used for finalizing or implementing either such plan.

CONSTRUCTION AND ACCESS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–332, Public Law 103–138, and Public Law 102–381, $2,100,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 102–381, Public Law 101–121, and Public Law 100–446, $1,497,000 are rescinded.

United States Fish and Wildlife Service

RESOURCE MANAGEMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading or the heading Construction and Anadromous Fish in Public Law 103–332, Public Law 103–138, Public Law 103–75, Public Law 102–381, Public Law 102–154, Public Law 102–368, Public Law 101–512, Public Law 101–121, Public Law 100–446, and Public Law 100–202, $13,215,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, and Public Law 101–512, $3,893,000 are rescinded.

National Biological Survey

RESEARCH, INVENTORIES, AND SURVEYS

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332 and Public Law 103–138, $12,544,000 are rescinded.

National Park Service

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $25,970,000 are rescinded.

URBAN PARK AND RECREATION FUND

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $7,480,000 are rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, Public Law 102–154, Public Law 101–512, Public Law 101–121, Public Law 100–446, Public Law 100–202, Public Law 99–190, Public Law 98–473, and Public Law 98–146, $11,297,000 are rescinded.

Minerals Management Service

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $814,000 are rescinded.

Bureau of Indian Affairs

OPERATION OF INDIAN PROGRAMS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $11,350,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103–332 is amended by striking "$330,111,000" and inserting in lieu thereof "$329,361,000".

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $9,571,000 are rescinded.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

(RESCISSION)

Of the funds provided under this heading in Public Law 103–332, $1,900,000 is rescinded.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,900,000 are rescinded.

TRUST TERRITORY OF THE PACIFIC ISLANDS

(RESCISSION)

Of the funds available under this heading in Public Law 99–591, $32,139,000 are rescinded.

COMPACT OF FREE ASSOCIATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $1,000,000 are rescinded.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $6,000,000 are rescinded.

STATE AND PRIVATE FORESTRY

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332 and Public law 103–138, $6,250,000 are rescinded.

INTERNATIONAL FORESTRY

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 102–381, $7,824,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103–332 is amended by striking "1994" and inserting in lieu thereof "1995".

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 102–381, $3,020,000 are rescinded.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $20,750,000 are rescinded.

NAVAL PETROLEUM AND OIL SHALE RESERVES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $11,000,000 are rescinded.

ENERGY CONSERVATION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, $34,928,000 are rescinded.

Of the funds available under this heading in Public Law 103–138, $13,700,000 are rescinded.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $2,000,000 are rescinded.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

(RESCISSIONS)

Of the funds available under this heading in Public Law 102–381, and Public Law 103–138, $1,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–154, Public Law 102–381, Public Law 103–138, and Public Law 103–332, $11,237,000 are rescinded: *Provided*, That of the amounts proposed herein for rescission, $2,500,000 are from funds previously appropriated for the National Museum of the American Indian: *Provided further*, That notwithstanding any other provision of law, the provisions of the Davis-Bacon Act shall not apply to any contract associated with the construction of facilities for the National Museum of the American Indian.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $407,000 are rescinded.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,000,000 are rescinded.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

GENERAL PROVISIONS

SEC. 501. No funds made available in any appropriations Act may be used by the Department of the Interior, including but not limited to the United States Fish and Wildlife Service and the National Biological Service, to search for the Alabama sturgeon in the Alabama River, the Cahaba River, the Tombigbee River or the Tennessee-Tombigbee Waterway in Alabama or Mississippi.

SEC. 502. (a) None of the funds made available in Public Law 103–332 may be used by the United States Fish and Wildlife Service to implement or enforce special use permit numbered 72030.

(b) The Secretary of the Interior shall immediately reinstate the travel guidelines specified in special use permit numbered 65715 for the visiting public and employees of the Virginia Department of Conservation and Recreation at Back Bay National Wildlife Refuge, Virginia. Such guidelines shall remain in effect until such time as an agreement described in subsection (c) becomes effective, but in no case shall remain in effect after September 30, 1995.

(c) It is the sense of Congress that the Secretary of the Interior and the Governor of Virginia should negotiate and enter into a long term agreement concerning resources management and public access with respect to Back Bay National Wildlife Refuge and False Cape State Park, Virginia, in order to improve the implementation of the missions of the Refuge and Park.

SEC. 503. (a) No funds available to the Forest Service may be used to implement Habitat Conservation Areas in the Tongass National Forest for species which have not been declared threatened or endangered pursuant to the Endangered Species Act, except that with respect to goshawks the Forest Service may impose interim Goshawk Habitat Conservation Areas not to exceed 300 acres per active nest consistent with the guidelines utilized in national forests in the continental United States.

(b) The Secretary shall notify Congress within 30 days of any timber sales which may be delayed or canceled due to the Goshawk Habitat Conservation Areas described in subsection (a).

SEC. 504. RENEWAL OF PERMITS FOR GRAZING ON NATIONAL FOREST LANDS.

Notwithstanding any other law, at the request of an applicant for renewal of a permit that expires on or after the date of enactment of this Act for grazing on land located in a unit of the National Forest System, the Secretary of Agriculture shall reinstate, if necessary, and extend the term of the permit until the date on which the Secretary of Agriculture completes action on the application, including action required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

CHAPTER VI

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,508,700,000 are rescinded, including $46,404,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $2,500,000 for the School-to-Work Opportunities Act, $15,600,000 for title III, part A of the Job Training Partnership Act, $20,000,000 for the title III, part B of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $33,000,000 for carrying out title II, part A of such Act, $472,010,000 for carrying out title II, part C of such Act, $750,000 for the National Commission for Employment Policy and $421,000 for the National Occupational Information Coordinating Committee: *Provided*, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II–B and title II–C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

(RESCISSIONS)

Of the funds made available in the first paragraph under this heading in Public Law 103–333, $11,263,000 are rescinded.

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $3,177,000 are rescinded.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $20,000,000 are rescinded, and amounts which may be expended from the Employment Security Administration account in the Unemployment Trust Fund are reduced from $3,269,097,000 to $3,221,397,000.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

Of the funds made available under this heading in Public Law 103–333, $1,100,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $42,071,000 are rescinded.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,300,000 are rescinded.

NATIONAL INSTITUTES OF HEALTH

BUILDINGS AND FACILITIES

(RESCISSION)

Of the available balances under this heading, $79,289,000 are rescinded.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $14,700,000 are rescinded.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,320,000 are rescinded.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

(RESCISSION)

Of the Federal funds made available under this heading in Public Law 103–333, $3,132,000 are rescinded.

HEALTH CARE FINANCING ADMINISTRATION

(RESCISSION)

Funds made available under this heading in Public Law 103–333 are reduced from $2,207,135,000 to $2,185,935,000, and funds transferred to this account as authorized by section 201(g) of the Social Security Act are reduced to the same amount.

SOCIAL SECURITY ADMINISTRATION

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading in Public Law 103–333, $67,000,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 to invest in a state-of-the-art computing network, $88,283,000 are rescinded.

ADMINISTRATION FOR CHILDREN AND FAMILIES

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, there are rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(E) of the Social Security Act (as amended by Public Law 100–485) is amended by adding before the "and": "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount of such year shall be deemed to be $1,300,000,000 for the purpose of determining the amount of the payment under subsection (l) to which each State is entitled),".

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

(RESCISSION)

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $6,000,000 are rescinded.

COMMUNITY SERVICES BLOCK GRANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $13,988,000 are rescinded.

ADMINISTRATION ON AGING

(AGING SERVICES PROGRAMS)

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, $899,000 are rescinded.

OFFICE OF THE SECRETARY

(POLICY RESEARCH)

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, $2,918,000 are rescinded.

DEPARTMENT OF EDUCATION

EDUCATION REFORM

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, $10,100,000 are rescinded, including $6,300,000 from funds made available for State and local education systemic improvement, and $1,300,000 from funds made available for Federal activities under the Goals 2000: Educate America Act; and $2,500,000 are rescinded from funds made available under the School to Work Opportunities Act, including $729,000 for National programs and $1,771,000 for State grants and local partnerships.

EDUCATION FOR THE DISADVANTAGED

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, $7,900,000 are rescinded as follows: $2,000,000 from part B, and $5,900,000 from part E, section 1501.

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, $136,417,000 are rescinded as follows: from the Elementary and Secondary Education Act, title II–B, $69,000,000, title V–C, $2,000,000, title IX–B, $1,000,000, title X–D, $1,500,000, section 10602, $1,630,000, title XII, $20,000,000, and title XIII–A, $8,900,000; from the Higher Education Act, section 596, $13,875,000; from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000; and from funds for the Civil Rights Act of 1964, title IV, $7,412,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, $32,380,000 are rescinded from funding for title VII–A and $11,000,000 from part C of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, $60,566,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and –B, $43,888,000 and from title IV–A and –C, $8,891,000; from the Adult Education Act, part B–7, $7,787,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, $57,783,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 1, $11,200,000, title IV–A–2, chapter 2, $600,000, title IV–A–6, $2,000,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–E, $3,500,000, title IX–G, $2,888,000, title X–D, $2,900,000, and title XI–A, $500,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $6,424,000.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, $3,300,000 are rescinded, including $1,500,000 for construction.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

PROGRAM

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $322,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $15,200,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III–A, $5,000,000, title III–B, $5,000,000, and title X–B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $12,916,000 are

rescinded from title II, part B, section 222 of the Higher Education Act.

Related Agencies

Corporation for Public Broadcasting

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $47,960,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $32,760,000 are rescinded.

Railroad Retirement Board

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,000,000 are rescinded.

GENERAL PROVISIONS

Federal Direct Student Loan Program

SEC. 601. Section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended—

(1) by striking "$345,000,000" and inserting "$250,000,000"; and

(2) by striking "$2,500,000,000" and inserting "$2,405,000,000".

SEC. 602. Of the funds made available in fiscal year 1995 to the Department of Labor in Public Law 103–333 for compliance assistance and enforcement activities, $8,975,000 are rescinded.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

Payments to Widows and Heirs of Deceased

Members of Congress

For payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $650,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $187,000 are rescinded.

ARCHITECT OF THE CAPITOL

Capitol Buildings and Grounds

SENATE OFFICE BUILDINGS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $850,000 are rescinded.

CAPITAL POWER PLANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $1,650,000 are rescinded.

GOVERNMENT PRINTING OFFICE

Congressional Printing and Binding

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $5,000,000 are rescinded.

BOTANIC GARDEN

Salaries and Expenses

(RESCISSION)

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $7,000,000 are rescinded.

GOVERNMENT PRINTING OFFICE

Office of Superintendent of Documents

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $600,000 are rescinded.

LIBRARY OF CONGRESS

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $150,000 are rescinded.

Books for the Blind and Physically Handicapped

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $8,867,000 are rescinded.

CHAPTER VIII

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

Military Construction, Army

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,000,000 are rescinded.

Military Construction, Navy

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $13,050,000 are rescinded.

Military Construction, Air Force

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $33,250,000 are rescinded.

Military Construction, Air National Guard

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $1,340,000 are rescinded.

North Atlantic Treaty Organization Infrastructure

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $69,000,000 are rescinded.

Base Realignment and Closure Account, Part II

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,628,000 are rescinded.

Base Realignment and Closure Account, Part III

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $93,566,000 are rescinded.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

OFFICE OF THE SECRETARY

Working Capital Fund

(RESCISSION)

The obligation authority under this heading in Public Law 103–313 is hereby reduced by $4,000,000.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds made available under this heading, $5,300,000 are rescinded: *Provided*, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of Title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation: *Provided further*, That no funds under this head shall be available for payments to air carriers under subchapter II.

COAST GUARD

Operating Expenses

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $3,700,000 are rescinded.

Acquisition, Construction, and Improvements

(RESCISSION)

Of the available balances under this heading, $34,298,000 are rescinded.

Environmental Compliance and Restoration

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $400,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

Operations

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded: *Provided*, That the following proviso in Public Law 103–331 under this heading is repealed, "*Provided further*, That of the funds available under this head, $17,500,000 is available only for permanent change of station moves for members of the air traffic work force".

Facilities and Equipment

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $31,850,000 are rescinded.

Research, Engineering, and Development

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

Grants-in-Aid for Airports

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this account $2,000,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $45,950,000.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $123,590,000, of which $27,640,000 shall be deducted from amounts made available for the Applied Research and Technology Program authorized under section 307(e) of title 23, United States Code, and $50,000,000 shall be deducted from the amounts available for the Congestion Pricing Pilot program authorized under section 1002(b) of Public Law 102–240, and $45,950,000 shall be deducted from the limitation on General Operating Expenses: *Provided*, That the amounts deducted from the aforementioned programs are rescinded.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–211, $50,000,000 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HIGHWAY TRAFFIC SAFETY GRANTS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $20,000,000 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

(TRANSFER OF FUNDS)

Section 341 of Public Law 103–331 is amended by deleting "and received from the Delaware and Hudson Railroad," after "amended,".

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $7,768,000 are rescinded.

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $250,000,000 are rescinded.

FEDERAL TRANSIT ADMINISTRATION

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $17,650,000: *Provided*, That such reduction shall be made from obligational authority available to the Secretary for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.

Notwithstanding Section 313 of Public Law 103–331, the obligation limitations under this heading in the following Department of Transportation and Related Agencies Appropriations Acts are reduced by the following amounts:

Public Law 102–143, $62,833,000, to be distributed as follows:

(a) $2,563,000, for the replacement, rehabilitation, and purchases of buses and related equipment and the construction of bus-related facilities: *Provided*, That the foregoing reduction shall be distributed according to the reductions identified in Senate Report 104–17, for which the obligation limitation in Public Law 102–143 was applied; and

(b) $60,270,000, for new fixed guideway systems, to be distributed as follows:

$2,000,000, for the Cleveland Dual Hub Corridor Project;

$930,000, for the Kansas City-South LRT Project;

$1,900,000, for the San Diego Mid-Coast Extension Project;

$34,200,000, for the Hawthorne-Warwick Commuter Rail Project;

$8,000,000, for the San Jose-Gilroy Commuter Rail Project;

$3,240,000, for the Seattle-Tacoma Commuter Rail Project; and

$10,000,000, for the Detroit LRT Project. Public Law 101–516, $4,460,000, for new fixed guideway systems, to be distributed as follows:

$4,460,000 for the Cleveland Dual Hub Corridor Project.

GENERAL PROVISIONS

(INCLUDING RESCISSIONS)

SEC. 901. Of the funds provided in Public Law 103–331 for the Department of Transportation working capital fund (WCF), $4,000,000 are rescinded, which limits fiscal year 1995 WCF obligational authority for elements of the Department of Transportation funded in public Law 103–331 to no more than $89,000,000.

SEC. 902. Of the total budgetary resources available to the Department of Transportation (excluding the Maritime Administration) during fiscal year 1995 for civilian and military compensation and benefits and other administrative expenses, $10,000,000 are permanently canceled.

SEC. 903. Section 326 of Public Law 103–122 is hereby amended to delete the words "or previous Acts" each time they appear in that section.

CHAPTER X

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(TRANSFER OF FUNDS)

Of the funds made available for the Federal Buildings Fund in Public Law 103–329, $5,000,000 shall be made available by the General Services Administration to implement an agreement between the Food and Drug Administration and another entity for space, equipment and facilities related to seafood research.

OFFICE OF PERSONNEL MANAGEMENT

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE

LIFE INSURANCE BENEFITS

For an additional amount for "Government payment for annuitants, employee life insurance", $9,000,000 to remain available until expended.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $100,000 are rescinded.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $160,000 are rescinded.

UNITED STATES MINT

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

In the paragraph under this heading in Public Law 103–329, insert "not to exceed" after "of which".

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $1,490,000 are rescinded.

TAX LAW ENFORCEMENT

Of the $4,385,459,000 made available under this heading in Public Law 103–329, $80,000,000 are rescinded. The Internal Revenue Service shall not hire any additional revenue officers in fiscal year 1995 and any additional revenue officers that have been hired in fiscal year 1996 shall be redeployed as call site collectors. The examination and inspection activities of this Secretary of the Treasury conducted pursuant to the provisions of the Internal Revenue Code of 1986 shall be maintained at not less than the level of such activities for fiscal year 1994.

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

In the paragraph under this heading in Public Law 103–329, in section 3, after "$119,000,000", insert "annually".

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $171,000 are rescinded.

FEDERAL DRUG CONTROL PROGRAMS

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For activities authorized by Public Law 100–690, an additional amount of $13,200,000, to remain available until expended for transfer to the United States Customs Service, "Salaries and expenses" for carrying out border enforcement activities: *Provided*, That of the funds made available under this heading in Public Law 103–329, $13,200,000 are rescinded.

INDEPENDENT AGENCIES

"GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON THE AVAILABILITY OF REVENUE

(RESCISSION)

Of the funds made available under this heading in Public Laws 101–136, 101–509, 102–

27, 102–141, 103–123, 102–293, 103–329, $1,894,840,000 are rescinded from the following projects in the following amounts:

Alabama:

Montgomery, U.S. Courthouse annex, $46,320,000

Arkansas:

Little Rock, Courthouse, $13,816,000

Arizona:

Bullhead City, FAA grant, $2,200,000

Lukeville, commercial lot expansion, $1,219,000

Nogales, Border Patrol, headquarters, $2,998,000

Phoenix, U.S. Federal Building, Courthouse, $121,890,000

San Luis, primary lane expansion and administrative office space, $3,496,000

Sierra Vista, U.S. Magistrates office, $1,000,000

Tucson, Federal Building, U.S. Courthouse, $80,974,000

California:

Menlo Park, United States Geological Survey office laboratory building, $6,868,000

Sacramento, Federal Building-U.S. Courthouse, $142,902,000

San Diego, Federal building-Courthouse, $3,379,000

San Francisco, Lease purchase, $9,702,000

San Francisco, U.S. Courthouse, $4,378,000

San Francisco, U.S. Court of Appeals annex, $9,003,000

San Pedro, Customhouse, $4,887,000

Colorado:

Denver, Federal building-Courthouse, $8,006,000

District of Columbia:

Central and West heating plants, $5,000,000

Corps of Engineers, headquarters, $37,618,000

General Services Administration, Southeast Federal Center, headquarters, $25,000,000

U.S. Secret Service, headquarters, $113,084,000

Florida:

Ft. Myers, U.S. Courthouse, $24,851,000

Jacksonville, U.S. Courthouse, $10,633,000

Tampa, U.S. Courthouse, $14,998,000

Georgia:

Albany, U.S. Courthouse, $12,101,000

Atlanta, Centers for Disease Control, site acquisition and improvement, $25,890,000

Atlanta, Centers for Disease Control, $14,110,000

Atlanta, Centers for Disease Control, Roybal Laboratory, $47,000,000

Savannah, U.S. Courthouse annex, $3,000,000

Hawaii:

Hilo, federal facilities consolidation, $12,000,000

Illinois:

Chicago, SSA DO, $2,167,000

Chicago, Federal Center, $47,682,000

Chicago, Dirksen building, $1,200,000

Chicago, J.C. Kluczynski building, $13,414,000

Indiana:

Hammond, Federal Building, U.S. Courthouse, $52,272,000

Jeffersonville, Federal Center, $13,522,000

Kentucky:

Covington, U.S. Courthouse, $2,914,000

London, U.S. Courthouse, $1,523,000

Louisiana:

Lafayette, U.S. Courthouse, $3,295,000

Maryland:

Avondale, DeLaSalle building, $16,671,000

Bowie, Bureau of Census, $27,877,000

Prince Georges/Montgomery Counties, FDA consolidation, $284,650,000

Woodlawn, SSA building, $17,292,000

Massachusetts:

Boston, U.S. Courthouse, $4,076,000

Missouri:

Cape Girardeau, U.S. Courthouse, $3,688,000

Kansas City, U.S. Courthouse, $100,721,000

Nebraska:

Omaha, Federal Building, U.S. Courthouse, $9,291,000

Nevada:

Las Vegas, U.S. Courthouse, $4,230,000

Reno, Federal building-U.S. Courthouse, $1,465,000

New Hampshire:

Concord, Federal building-U.S. Courthouse, $3,519,000

New Jersey:

Netwark, parking facility, $9,000,000

Trenton, Clarkson Courthouse, $14,107,000

New Mexico:

Albuquerque, U.S. Courthouse, $47,459,000

Santa Teresa, Border Station, $4,004,000

New York:

Brooklyn, U.S. Courthouse, $43,717,000

Holtsville, IRS Center, $19,183,000

Long Island, U.S. Courthouse, $27,198,000

North Dakota:

Fargo, Federal building-U.S. Courthouse, $20,105,000

Pembina, Border Station, $93,000

Ohio:

Cleveland, Celebreeze Federal building, $10,972,000

Cleveland, U.S. Courthouse, $28,246,000

Steubenville, U.S. Courthouse, $2,820,000

Youngstown, Federal Building-U.S. Courthouse, $4,574,000

Oklahoma:

Oklahoma City, Murrah Federal building, $5,290,000

Oregon:

Portland, U.S. Courthouse, $5,000,000

Pennsylvania:

Philadelphia, Byrne-Green Federal building-Courthouse, $30,628,000

Philadelphia, Nix Federal building-Courthouse, $13,814,000

Philadelphia, Veterans Administration, $1,276,000

Scranton, Federal Building-U.S. Courthouse, $9,969,000

Rhode Island:

Providence, Kennedy Plaza Federal Courthouse, $7,740,000

South Carolina:

Columbia, U.S. Courthouse annex, $592,000

Tennessee:

Greeneville, U.S. Courthouse, $2,936,000

Texas:

Austin, Veterans Administration annex, $1,028,000

Brownsville, U.S. Courthouse, $4,339,000

Corpus Christi, U.S. Courthouse, $6,446,000

Laredo, Federal building-U.S. Courthouse, $5,986,000

Lubbock, Federal building-Courthouse, $12,167,000

Ysleta, site acquisition and construction, $1,727,000

U.S. Virgin Islands:

Charlotte Amalie, St. Thomas, U.S. Courthouse, $2,184,000

Virginia:

Richmond, Courthouse annex, $12,509,000

Washington:

Blaine, Border Station, $4,472,000

Point Roberts, Border Station, $698,000

Settle, U.S. Courthouse, $10,949,000

Walla Walls, Corps Engineers building, $2,800,000

West Virginia:

Beckley, Federal building-U.S. Courthouse, $33,097,000

Martinsburg, IRS center, $4,494,000

Wheeling, Federal Building-U.S. Courthouse, $35,829,000

Nationwide chlorofluorocarbons program, $12,300,000

Nationwide energy program, $15,300,000

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $3,140,000 are rescinded.

CHAPTER XI

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster Relief" for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,900,000,000, to remain available until expended: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $4,800,000,000, to become available on October 1, 1995, and remain available until expended: *Provided*, That such amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL FLOOD INSURANCE FUND

(TRANSFER OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Reform Act of 1994, an additional amount not to exceed $331,000 shall be transferred as needed to the "Salaries and expenses" appropriation for flood mitigation and flood insurance operations, and an additional amount not to exceed $5,000,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood mitigation expenses pursuant to the National Flood Insurance Reform Act of 1994.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(RESCISSION

Of the funds made available under this heading in Public Law 103–327, $50,000,000 are rescinded: *Provided*, That $20,000,000 of this amount is to be taken from the $771,000,000 earmarked for the equipment and land and structures object classifications, which amount does not become available until August 1, 1995: *Provided further*, That of the $16,214,684,000 made available under this heading in Public Law 103–327, the $9,920,819,000 restricted by section 509 of Public Law 103–327 for personnel compensation and benefits expenditures is reduced to $9,890,819,000.

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MAJOR PROJECTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327 and prior years, $50,000,000 are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $50,000,000 are rescinded.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327 and any unobligated balances from funds appropriated under this heading in prior years, $351,000,000 of funds for development or acquisition costs of public housing (including public housing for Indian families) are rescinded, except that such rescission shall not apply to funds for replacement housing for units demolished, reconstructed, or otherwise disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the existing public housing inventory, or to funds related to litigation settlements or court orders, and the Secretary shall not be required to make any remaining funds available pursuant to section 213(d)(1)(A) of the Housing and Community Development Act of 1994; and except that such rescission should not apply to $30,000,000 of funds for development or acquisition costs of public housing for Indian families (excluding replacement units); $2,406,789,000 of funds for new incremental rental subsidy contracts under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), including $100,000,000 from new programs and $350,000,000 from pension fund rental assistance as provided in Public Law 103-327, are rescinded, and the remaining authority for such purposes shall be only for units necessary to provide housing assistance for residents to be relocated from existing Federally subsidized or assisted housing, for replacement housing for units demolished, reconstructed, or otherwise disposed of (including units to be disposed for pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements or court orders, for amendments to contracts to permit continued assistance to participating families, or to enable public housing authorities to implement "mixed population" plans for developments housing primarily elderly residents; $1,000,000,000 funds for expiring contracts for the tenant-based existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), provided under the heading "Assistance for the renewal of expiring section 8 subsidy contracts" are rescinded, and the Secretary shall require that $1,000,000,000 of funds held as project reserves by the local administering housing authorities which are in excess of current needs shall be utilized for such renewals; $615,000,000 of amounts earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937 are rescinded and the Secretary may take actions necessary to assure that such rescission is distributed among public housing authorities, to the extent practicable, as if such rescission occurred prior to the commencement of the fiscal year; $106,000,000 of amounts earmarked for special purpose grants are rescinded; $152,500,000 of amounts earmarked for loan management set-asides are rescinded; and $90,000,000 of amounts earmarked for the lead-based paint hazard reduction program are rescinded.

(DEFERRAL)

Of funds made available under this heading in Public Law 103-327 and any unobligated balances from funds appropriated under this heading in prior years, $465,100,000 of amounts earmarked for the preservation of low-income housing programs (excluding $17,000,000 of previously earmarked, plus an additional $5,000,000, for preservation technical assistance grant funds pursuant to section 253 of the Housing and Community Development Act of 1987, as amended) shall not become available for obligation until September 30, 1995: *Provided*, That, notwithstanding any other provision of law, pending the availability of such funds, the Department of Housing and Urban Development may suspend further processing of applications with the exception of applications regarding properties for which an owner's appraisal was submitted on or before February 6, 1995, or for which a notice of intent to transfer the property was filed on or before February 6, 1995.

HOUSING COUNSELING ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $38,000,000 are rescinded.

NEHEMIAH HOUSING OPPORTUNITIES FUND

(RESCISSION)

Of the funds transferred to this revolving fund in prior years, $17,700,000 are rescinded.

ADMINISTRATIVE PROVISIONS

Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) Notwithstanding any other provision of law, a public housing agency may use modernization assistance provided under section 14 for any eligible activity currently authorized by this Act or applicable appropriation Acts (including section 5 replacement housing) for a public housing agency, including the demolition of existing units, for replacement housing, for temporary relocation assistance, for drug elimination activities, and in conjunction with other programs; provided the public housing agency consults with the appropriate local government officials (or Indian tribal officials) and with tenants of the public housing development. The public housing agency shall establish procedures for consultation with local government officials and tenants.

"(2) The authorization provided under this subsection shall not extend to the use of public housing modernization assistance for public housing operating assistance.".

The above amendment shall be effective for assistance appropriated on or before the effective date of this Act.

Section 18 of the United States Housing Act of 1937 is amended by—

(1) inserting "and" at the end of subsection (b)(1);

(2) striking all that follows after "Act" in subsection (b)(2) and inserting in lieu thereof the following: ", and the public housing agency provides for the payment of the relocation expenses of each tenant to be displaced, ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act and shall not commence demolition or disposition of any unit until the tenant of the unit is relocated;";

(3) striking subsection (b)(3);

(4) striking "(1)" in subsection (c);

(5) striking subsection (c)(2);

(6) inserting before the period at the end of subsection (d) the following: ", provided that nothing in this section shall prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving the living conditions of or providing more efficient services to its tenants";

(7) striking "under section (b)(3)(A)" in each place it occurs in subsection (e);

(8) redesignating existing subsection (f) as subsection (g); and

(9) inserting a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law, replacement housing units for public housing units demolished may be built on the original public housing site or the same neighborhood if the number of such replacement units is significantly fewer than the number of units demolished.".

Section 304(g) of the United States Housing Act of 1937 is hereby repealed.

The above two amendments shall be effective for plans for the demolition, disposition or conversion to homeownership of public housing approved by the Secretary on or before September 30, 1995.

Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection:

"(z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—

"(1) GENERAL AUTHORITY.—The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of termination of a housing assistance payments contract (other than a contract for tenant-based assistance) only for one or more of the following:

"(A) TENANT-BASED ASSISTANCE.—Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

"(B) PROJECT-BASED ASSISTANCE.—Pursuant to a contract with an owner, to attach assistance to one or more structures under this section.

"(2) FAMILIES OCCUPYING UNITS FORMERLY ASSISTED UNDER TERMINATED CONTRACT.—Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

"(3) EFFECTIVE DATE.—This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.".

INDEPENDENT AGENCIES

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $500,000 are rescinded.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $88,000,000 are rescinded.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS

OPERATING EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $105,000,000 are rescinded.

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $9,635,000 are rescinded.

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $9,806,805 are rescinded: *Provided*, That notwithstanding any other provision of law, the Environmental Protection Agency shall not be required to site a computer to support the regional acid deposition monitoring program in the Bay City, Michigan, vicinity.

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389 and Public Law 102–139 for the Center for Ecology Research and Training, $83,000,000 are rescinded.

HAZARDOUS SUBSTANCE SUPERFUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $100,000,000 are rescinded.

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–327 and Public Law 103–124, $1,304,095,000 are rescinded: *Provided*, That $799,000,000 of this amount is to be derived from amounts appropriated for state revolving funds and $443,095,000 is to be derived from amounts appropriated for making grants for the construction of wastewater treatment facilities specified in House Report 103–715.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE, AERONAUTICS AND TECHNOLOGY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under "Research and Development" in prior years, $68,000,000 are rescinded.

CONSTRUCTION OF FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389, for the Consortium for International Earth Science Information Network, $27,000,000 are rescinded; and any unobligated balances from funds appropriated under this heading in prior years, $49,000,000 are rescinded.

NATIONAL AERONAUTICAL FACILITIES

The first proviso under this heading in Public Law 103–127 is repealed, and the amounts made available under this heading are to remain available until September 30, 1997.

MISSION SUPPORT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $6,000,000 are rescinded.

NATIONAL SCIENCE FOUNDATION

ACADEMIC RESEARCH INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $131,867,000 are rescinded.

CORPORATIONS

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC AFFORDABLE HOUSING PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103 – 327, $11,281,034 are rescinded.

TITLE II—GENERAL PROVISIONS

SEC. 2001. TIMBER SALES.

(a) SALVAGE TIMBER.—

(1) DEFINITION.—In this subsection, the term "salvage timber sale"—

(A) means a timber sale for which an important reason for entry includes the removal of disease- or insect-infested trees, dead, damaged, or downed trees, or trees affected by fire or imminently susceptible to fire or insect attack; and

(B) includes the removal of associated trees or trees lacking the characteristics of a healthy and viable ecosystem for the purpose of ecosystem improvement or rehabilitation, except that any such sale must include an identifiable salvage component of trees described in the first sentence.

(2) DIRECTION TO COMPLETE SALVAGE TIMBER SALES.—Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary of Agriculture, acting through the Chief of the Forest Service, and the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall—

(A) expeditiously prepare, offer, and award salvage timber sale contracts on Federal lands, except in—

(i) any area on Federal lands included in the National Wilderness Preservation System;

(ii) any roadless area on Federal lands designated by Congress for wilderness study in Colorado or Montana;

(iii) any roadless area on Federal lands recommended by the Forest Service or Bureau of Land Management for wilderness designation in its most recent land management plan in effect as of the date of enactment of this Act; or

(iv) any area on Federal lands on which timber harvesting for any purpose is prohibited by statute; and

(B) perform the appropriate revegetation and tree planting operations in the area in which the salvage operations occurred.

(3) SALE DOCUMENTATION.—

(A) IN GENERAL.—For each salvage timber sale conducted under paragraph (2), the Secretary concerned shall prepare a document that combines an environmental assessment under section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(E)) (including regulations implementing that section) and a biological evaluation under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) and other applicable Federal law and implementing regulations.

(B) MATTERS TO BE CONSIDERED.—The environmental assessment and biological evaluation under subparagraph (A) shall, at the sole discretion of the Secretary concerned and to the extent that the Secretary concerned considers appropriate and feasible, consider the environmental effects of the salvage timber sale and consider the effect, if any, on threatened or endangered species.

(C) USE OF PREVIOUSLY PREPARED DOCUMENT.—In lieu of preparing a new document under the paragraph, the Secretary concerned may use a document prepared pursuant to the National Environmental Policy Act of 1969 before the date of the enactment of this Act, a biological evaluation written before that date, or information collected for such a document or evaluation if the document, evaluation, or information applies to the Federal lands covered by the proposed sale. Any salvage sale or preparation on the date of enactment of this Act shall be subject to the provisions of this section.

(D) SCOPE AND CONTENT.—The scope and content of the documentation and information prepared, considered, and relied on under this paragraph is at the sole discretion of the Secretary concerned.

(4) VOLUME.—In each of fiscal years 1995 and 1996—

(A) the Secretary of Agriculture, acting through the Chief of the Forest Service, shall—

(i) prepare, offer, and award salvage timber sale contracts under paragraph (1) on Forest Service lands to the maximum extent feasible to reduce the backlogged volume of salvage timber as described in paragraph (i); and

(B) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall—

(i) prepare, offer, and award salvage timber sale contracts under paragraph (1) on Bureau of Land Management lands to the maximum extent feasible to reduce the backlogged volume of salvage timber as described in paragraph (i).

(5) EFFECT ON OTHER LAWS.—Any timber sale prepared, advertised, offered, awarded, or operated in accordance with paragraph (1) shall be deemed to satisfy the requirements of all applicable Federal laws (including regulations), including—

(A) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(B) the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.);

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.);

(D) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(E) the National Forest Management Act (16 U.S.C. 472a et seq.);

(F) the Multiple-Use Sustained Yield Act (16 U.S.C. 528 et seq.); and

(G) other Federal environmental laws.

(6) SALE PREPARATION.—The Secretary concerned shall make use of all available authority, including the employment of private contractors and the use of expedited fire contracting procedures, to prepare and advertise salvage timber sales under this subsection. The provisions of section 3(d)(1) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226) shall not apply to any former employee of the Department of the Secretary concerned who received a voluntary separation incentive payment authorized by such Act and accepts employment pursuant to this paragraph.

(7) REPORTING REQUIREMENTS.—Each Secretary shall report to the Committee on Appropriations and the Committee on Resources of the House of Representatives, and the Committee on Appropriations and the Committee on Energy and Natural Resources of the United States Senate, 90 days after the date of enactment of this Act and on the final days of each 90 day period thereafter throughout each of fiscal years 1995 and 1996, on the number of sales and volumes contained therein offered during such 90 day period and expected to be offered during the next 90 day period.

(b) OPTION 9.—

(1) DIRECTION TO COMPLETE TIMBER SALES.—Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary of the Interior, acting through the Director of the Bureau of Land Management, and the Secretary of Agriculture, acting through the Chief of the Forest Service, shall expeditiously prepare, offer, and award timber sale contracts on Federal lands in the forests specified within Option 9, as selected by the Secretary of the Interior and the Secretary of Agriculture on April 13, 1994.

(2) EFFECT ON OTHER LAWS.—Any timber sale prepared, advertised, offered, awarded, or operated in accordance with paragraph (1) shall be deemed to satisfy the requirements of all applicable Federal laws (including regulations), including—

(A) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(B) the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.);

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.);

(D) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(E) the National Forest Management Act (16 U.S.C. 472a et seq.);

(F) the Multiple-Use Sustained Yield Act (16 U.S.C. 528 et seq.); and

(G) other Federal environmental laws.

(c) JUDICIAL AND ADMINISTRATIVE REVIEW.—

(1) JUDICIAL AUTHORITY.—

(A) RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS.—No restraining order or preliminary injunction shall be issued by any court of the United States with respect to a decision to prepare, advertise, offer, award, or operate any timber sale offered under subsection (a) or (b).

(B) PERMANENT INJUNCTIONS.—The courts of the United States shall have authority to enjoin permanently, order modification of, or void an individual sale under subsection (a) or (b) if, at a trial on the merits, it has been determined that the decision to prepare, advertise, offer, award, or operate the sale was arbitrary, capricious, or otherwise not in accordance with law.

(2) TIME AND VENUE FOR CHALLENGE.—

(A) IN GENERAL.—Any challenge to a timber sale under subsection (a) or (b) shall be brought as a civil action in the United States district court for the district in which the affected Federal lands are located within 15 days after the date of the initial advertisement of the challenged timber sale.

(B) NO WAIVER.—The Secretary of the Interior and the Secretary of Agriculture may not agree to, and a court may not grant, a waiver of the requirements of subparagraph (A).

(3) STAY OF ADMINISTRATIVE ACTION.—During the 45-day period after the date of filing of a civil action under paragraph (2), the affected agency shall take no action to award a challenged timber sale.

(4) TIME FOR DECISION.—A civil action filed under this section shall be assigned for hearing at the earliest possible date, and the court shall render its final decision relative to any challenge within 45 days after the date on the action is brought, unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(5) EXPEDITING RULES.—The court may establish rules governing the procedures for a civil action under paragraph (2) that set page limits on briefs and time limits on filing briefs, motions, and other papers that are shorter than the limits specified in the Federal Rules of Civil Procedure or Federal Rules of Appellate Procedure.

(6) SPECIAL MASTERS.—In order to reach a decision within 45 days, the court may assign all or part of any proceeding under this subsection to 1 or more special masters for prompt review and recommendations to the court.

(7) NO ADMINISTRATIVE REVIEW.—A timber sale conducted under subsection (a) or (b), and any decision of the Secretary of Agriculture or the Secretary of the Interior in connection with the sale, shall not be subject to administrative review.

(d) EXPIRATION DATE.—Subsection (a) and (b) shall expire effective as of September 30, 1996, but the terms and conditions of those subsections shall continue in effect with respect to timber sale contracts offered under this Act until the completion of performance of the contracts.

(e) AWARD AND RELEASE OF PREVIOUSLY OFFERED AND UNAWARDED TIMBER SALE CONTRACTS.—

(1) AWARD AND RELEASE REQUIRED.—Notwithstanding any other law, within 30 days after the date of the enactment of this Act, the Secretary concerned shall act to award, release, and permit to be completed in fiscal years 1995 and 1996, with no change in originally advertised terms and volumes, all timber sale contracts offered or awarded before that date in any unit of the National Forest System or district of the Bureau of Land Management subject to section 318 of Public Law 101-121 (103 Stat. 745).

(2) THREATENED OR ENDANGERED SPECIES.—No sale unit shall be released or completed under this subsection if any threatened or endangered species is known to be nesting within the acreage that is the subject of the sale unit.

(3) ALTERNATIVE OFFER IN CASE OF DELAY.—If for any reason a sale cannot be released and completed under the terms of this subsection within 45 days after the date of enactment of this Act, the Secretary of Agriculture or the Secretary of Interior, as the case may be, shall provide the purchaser an equal volume of timber, of like kind and value, which shall be subject to the terms of the original contract, and shall not count against current allowable sale quantities.

(f) EFFECT ON PLANS, POLICIES, AND ACTIVITIES.—Compliance with this section shall not require or permit any revisions, amendment, consultation, supplementation, or other administrative action in or for any land management plan, standard, guideline, policy, regional guide or multi-forest plan because of implementation or impacts, site-specific or cumulative, of activities authorized or required by this section. No project decision shall be required to be halted or changed by such documents or guidance, implementation, or impacts.

SEC. 2002. Section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1995 (Public Law 103-329; 108 Stat. 2428) is amended by adding at the end of the section the following new subsection:

"(g) Notwithstanding the provisions of subsection (e)(1), any Office of Inspector General that employed less than four criminal investigators on the date of the enactment of this Act, and whose criminal investigators were not receiving administratively uncontrollable overtime before such date of enactment, may provide availability pay to those criminal investigators at any time after September 30, 1995.".

SEC. 2003. Section 5542 of title 5, United States Code, is amended by striking subsection (d).

SEC. 2004. Section 5545a(c) of title 5, United States Code, is amended by adding after the last sentence, "An agency may direct a criminal investigator to work unscheduled duty hours on days when regularly scheduled overtime is provided under section 5542, and that duty may be related to the duties for which the investigator was scheduled or other duties based on the needs of the agency.

SEC. 2005. Notwithstanding any other provision of law, beginning 30 days from the date of enactment of this Act and continuing thereafter, United States Customs Service Pilots compensated for administratively uncontrollable overtime under the provisions of section 5545(c) of title 5, United States Code, shall be provided availability pay authorized under the provisions of section 5545(a) of title 5, United States Code, and all other provisions of such title shall apply to such Customs Service pilots.

GENERAL PROVISIONS

SEC. 2006. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to require any state to comply with the requirement of section 182 of the Clean Air Act by adopting or implementing a test-only or IM240 enhanced vehicle inspection and maintenance program, except that EPA may approve such a program if a state chooses to submit one to meet that requirement.

SEC. 2007. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to impose or enforce any requirement that a state implement trip reduction measures to reduce vehicular emissions.

SEC. 2008. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency for listing or to list any additional facilities on the National Priorities List established by section 105 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9605, unless the Administrator receives a written request to propose for listing or to list a facility from the governor of the state in which the facility is located, or unless legislation to reauthorize CERCLA is enacted.

SEC. 2009. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES

SEC. 2010. Of the funds available to the agencies of the federal government, $225,000,000 are hereby rescinded: *Provided*, That rescissions pursuant to this paragraph shall be taken only from administrative and travel accounts; *Provided further*, That rescissions shall be taken on a pro rata basis from funds available to every federal agency, department, and office, including the Office of the President.

TITLE III—IMPACT OF LEGISLATION ON CHILDREN

SEC. 3001. SENSE OF CONGRESS.

It is the sense of Congress that Congress should not enact or adopt any legislation that will increase the number of children who are hungry or homeless.

TITLE IV—DEFICIT REDUCTION

DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. 4001. Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the discretionary spending limits (new budget authority and outlays) specified in section 601(a)(2) of the Congressional Budget Act of 1974 for each of the fiscal years 1995 through 1998 by the aggregate amount of estimated reductions in new budget authority and outlays for discretionary programs resulting from the provisions of this Act (other than emergency appropriations) for such fiscal year, as calculated by the Director.

PROHIBITION ON USE OF SAVINGS TO OFFSET DEFICIT INCREASES RESULTING FROM DIRECT SPENDING OR RECEIPTS LEGISLATION

SEC. 4002. Reductions in outlays, and reductions in the discretionary spending limits specified in section 601(a)(2) of the Congressional Budget Act of 1974, resulting from the enactment of this Act shall not be taken into account for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

This Act may be cited as the "Second Supplemental Appropriations and Rescissions Act, 1995".

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS

BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RESTRUCTURING

DEBT RELIEF FOR JORDAN

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans to Jordan issued by the Export-Import Bank or by the Agency for International Development or by the Department of Defense, or for the cost of modifying: (1) concessional loans authorized under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, and (2) credits owned by Jordan to the Commodity Credit Corporation, as a result of the Corporation's status as a guarantor of credits in connection with export sales to Jordan; as authorized under subsection (a) under the heading, "Debt Relief for Jordan", in Title VI of Public Law 103-306, $275,000,000, to remain available until September 30, 1996: *Provided*, That not more than $50,000,000 of the funds appropriated by this paragraph may be obligated prior to October 1, 1995: *Provided*, That the language under this heading in title V of this Act shall have no force and effect.

AMENDMENT NO. 546

At the appropriate place in the amendment add the following:

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide additional supplemental appropriations and rescissions for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I—SUPPLEMENTALS AND RESCESSIONS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

(TRANSFER OF FUNDS)

For an additional amount for necessary expenses of the Agricultural Research Service $2,218,000, to be derived by transfer from "Nutrition Initiatives", Food and Consumer Service.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for salaries and expenses of the Food Safety and Inspection Service, $9,082,000.

COMMODITY CREDIT CORPORATION FUND

FOOD FOR PROGRESS

Notwithstanding any other provision of law, no funds of the Commodity Credit Corporation in excess of $50,000,000 for fiscal year 1995 (exclusive of the cost of commodities in the fiscal year) may be used to carry out the Food for Progress Act of 1985 (7 U.S.C. 1736o) with respect to commodities made available under section 416(b) of the Agricultural Act of 1949: *Provided*, That of this amount not more than $20,000,000 may be used without regard to section 110(g) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(g)). The additional costs resulting from this provision shall be financed from funds credited to the Corporation pursuant to section 426 of Public Law 103-465.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

The second paragraph under this heading in Public Law 103-330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 per centum per year".

FOOD AND NUTRITION SERVICE

COMMODITY SUPPLEMENTAL FOOD PROGRAM

The paragraph under this heading in Public Law 103-330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": *Provided further*, That twenty per centum of any Commodity Supplemental Food Program funds carried over from fiscal year 1994 shall be available for administrative costs of the program".

GENERAL PROVISIONS

Section 715 of Public Law 103-330 is amended by deleting "$85,500,000" and by inserting "$110,000,000". The additional costs resulting from this provision shall be financed from funds credited to the Commodity Credit Corporation pursuant to section 426 of Public Law 103-465.

OFFICE OF THE SECRETARY

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $31,000 are rescinded: *Provided*, That none of the funds made available to the Department of Agriculture may be used to carry out activities under 7 U.S.C. 2257 without prior notification to the Committees on Appropriations.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330 and other Acts, $1,500,000 are rescinded.

COOPERATIVE STATE RESEARCH SERVICE

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $958,000 are rescinded, including $524,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i(c)); and $434,000 for necessary expenses of Cooperative State Research Service activities: *Provided*, That the amount of "$9,917,000" available under this heading in Public Law 103-330 (108 Stat. 2441) for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, is amended to read "$9,207,000".

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $6,000,000 are rescinded.

RURAL DEVELOPMENT ADMINISTRATION AND FARMERS HOME ADMINISTRATION

LOCAL TECHNICAL ASSISTANCE AND PLANNING GRANTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $1,750,000 are rescinded.

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 102-341, $9,000,000 are rescinded.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS

PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103-330, $1,500,000 for the cost of 5 per centum rural telephone loans are rescinded.

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 PROGRAM ACCOUNTS

Of the funds made available under this heading in Public Law 103-330, $142,500,000 are rescinded of which: $6,135,000 shall be from the amounts appropriated for ocean freight differential costs; $92,500,000 shall be from the amounts appropriated for commodities supplied in connection with dispositions abroad pursuant to title III; and $43,865,000 shall be from the amounts appropriated for the cost of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended.

GENERAL PROVISIONS

SEC. 101. PROHIBITION ON USE OF FUNDS TO DELINEATE NEW AGRICULTURAL WETLANDS.

(a) IN GENERAL.—Except as provided in subsection (b), during the period beginning on the date of enactment of this Act and ending on December 31, 1995, none of the funds made available by this or any other Act may be used by the Secretary of Agriculture to delineate wetlands for the purpose of certification under section 1222(a) of the Food Security Act of 1985 (16 U.S.C. 3822(a)).

(b) EXCEPTION.—Subsection (a) shall not apply to land if the owner or operator of the land requests a determination as to whether the land is considered a wetland under subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) or any other provision of law.

CHAPTER II DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

RELATED AGENCIES

National Bankruptcy Review Commission

(TRANSFER OF FUNDS)

For the National Bankruptcy Review Commission as authorized by Public Law 103–394, $1,500,000 shall be made available until expended, to be derived by transfer from unobligated balances of the Working Capital fund in the Department of Justice.

United States Information Agency

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations", $7,290,000, for the Board for International Broadcasting to remain available until expended.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading in Public Law 103–317, $5,000,000 are rescinded.

LEGAL ACTIVITIES

ASSET FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

Office of Justice Programs

DRUG COURTS

(RESCISSION)

Of the funds made available under this heading in title VII of Public Law 103–317, $17,100,000 are rescinded.

OUNCE OF PREVENTION COUNCIL

(INCLUDING RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317 $1,000,000 are rescinded.

In addition, under this heading in Public Law 103–317, after the word "grants", insert the following: "and administrative expenses". After the word "expended", insert the following: ": *Provided*, That the Council is authorized to accept, hold, administer, and use gifts, both real and personal, for the purpose of aiding or facilitating the work of the Council".

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $19,500,000 are rescinded.

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317 for the Manufacturing Extension Partnership and the Quality Program, $27,100,000 are rescinded.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $37,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $8,000,000 are rescinded.

Technology Administration

Under Secretary for Technology/Office of Technology Policy

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,500,000 are rescinded.

National Technical Information Service

NTIS REVOLVING FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $7,600,000 are rescinded.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSION)

Of unobligated balances available under this heading pursuant to Public Law 103–75, Public Law 102–368, and Public Law 103–317, $47,384,000 are rescinded.

THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services

UNITED STATES COURT OF INTERNATIONAL TRADE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,100,000 are rescinded.

RELATED AGENCY

Small Business Administration

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded: *Provided*, That no funds in that public law shall be available to implement section 24 of the Small Business Act, as amended.

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded.

DEPARTMENT OF STATE

Administration of Foreign Affairs

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $2,000,000 are rescinded.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $30,000,000 are rescinded.

International Organizations and Conferences

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $14,617,000 are rescinded.

RELATED AGENCIES

Arms Control and Disarmament Agency

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded, of which $2,000,000 are from funds made available for activities related to the implementation of the Chemical Weapons Convention.

Board for International Broadcasting

ISRAEL RELAY STATION

(RESCISSION)

From unobligated balances available under this heading, $2,000,000 are rescinded.

United States Information Agency

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

RADIO FREE ASIA

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

GENERAL INVESTIGATIONS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $10,000,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $50,000,000 are rescinded.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

OPERATION AND MAINTENANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

DEPARTMENT OF ENERGY

Energy Supply, Research and Development Activities

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $81,500,000 are rescinded.

Atomic Energy Defense Activities

Defense Environmental Restoration and Waste Management

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $113,000,000 are rescinded.

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $15,000,000 are rescinded.

DEPARTMENTAL ADMINISTRATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $20,000,000 are rescinded.

POWER MARKETING ADMINISTRATIONS

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $30,000,000 are rescinded.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $5,000,000 are rescinded.

CHAPTER IV

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

(RESCISSION)

Of the unearmarked and unobligated balances of funds available in Public Law 103–87 and Public Law 103–306, $125,000,000 are rescinded: *Provided*, That not later than thirty days after the enactment of this Act the Director of the Office of Management and Budget shall submit a report to Congress setting forth the accounts and submit a report to Congress setting forth the accounts and amounts which are reduced pursuant to this paragraph.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $70,000 are rescinded, to be derived from amounts available for developing and finalizing the Roswell Resource Management Plan/Environmental Impact Statement and the Carlsbad Resource Management Plan Amendment/Environmental Impact Statement: *Provided*, That none of the funds made available in such Act or any other appropriations Act may be used for finalizing or implementing either such plan.

CONSTRUCTION AND ACCESS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, Public Law 103–138, and Public Law 102–381, $2,100,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 102–381, Public Law 101–121, and Public Law 100–446, $1,497,000 are rescinded.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading or the heading Construction and Anadromous Fish in Public Law 103–332, Public Law 103–138, Public Law 103–75, Public Law 102–381, Public Law 102–154, Public Law 102–368, Public Law 101–512, Public Law 101–121, Public Law 100–446, and Public Law 100–202, $13,215,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, and Public Law 101–512, $3,893,000 are rescinded.

NATIONAL BIOLOGICAL SURVEY

RESEARCH, INVENTORIES, AND SURVEYS

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332 and Public Law 103–138, $12,544,000 are rescinded.

NATIONAL PARK SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $25,970,000 are rescinded.

URBAN PARK AND RECREATION FUND

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $7,480,000 are rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, Public Law 102–154, Public Law 101–512, Public Law 101–121, Public Law 100–446, Public Law 100–202, Public Law 99–190, Public Law 98–473, and Public Law 98–146, $11,297,000 are rescinded.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $814,000 are rescinded.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $11,350,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103–332 is amended by striking "$330,111,000" and inserting in lieu thereof "$329,361,000".

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $9,571,000 are rescinded.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

(RESCISSION)

Of the funds provided under this heading in Public Law 103–332, $1,900,000 is rescinded.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,900,000 are rescinded.

TRUST TERRITORY OF THE PACIFIC ISLANDS

(RESCISSION)

Of the funds available under this heading in Public Law 99–591, $32,139,000 are rescinded.

COMPACT OF FREE ASSOCIATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $1,000,000 are rescinded.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $6,000,000 are rescinded.

STATE AND PRIVATE FORESTRY

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332 and Public Law 103–138, $6,250,000 are rescinded.

INTERNATIONAL FORESTRY

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 102–381, $7,824,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103–332 is amended by striking "1994" and inserting in lieu thereof "1995".

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 102–381, $3,020,000 are rescinded.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $20,750,000 are rescinded.

NAVAL PETROLEUM AND OIL SHALE RESERVES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $11,000,000 are rescinded.

ENERGY CONSERVATION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, $34,928,000 are rescinded.

Of the funds available under this heading in Public Law 103–138, $13,700,000 are rescinded.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $2,000,000 are rescinded.

OTHER RELATED AGENCIES

Smithsonian Institution

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

(RESCISSIONS)

Of the funds available under this heading in Public Law 102–381, and Public Law 103–138, $1,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–154, Public Law 102–381, Public Law 103–138, and Public Law 103–332, $11,237,000 are rescinded: *Provided*, That of the amounts proposed herein for rescission, $2,500,000 are from funds previously appropriated for the National Museum of the American Indian: *Provided further*, That notwithstanding any other provision of law, the provisions of the Davis-Bacon Act shall not apply to any contract associated with the construction of facilities for the National Museum of the American Indian.

National Gallery of Art

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $407,000 are rescinded.

John F. Kennedy Center for the Performing Arts

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

Woodrow Wilson International Center for Scholars

SALARIES AND EXPENSES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,000,000 are rescinded.

National Foundation on the Arts and the Humanities

National Endowment for the Arts

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

National Endowment for the Humanities

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

General Provisions

SEC. 501. No funds made available in any appropriations Act may be used by the Department of the Interior, including but not limited to the United States Fish and Wildlife Service and the National Biological Service, to search for the Alabama sturgeon in the Alabama River, the Cahaba River, the Tombigbee River or the Tennessee-Tombigbee Waterway in Alabama or Mississippi.

SEC. 502. (a) None of the funds made available in Public Law 103-332 may be used by the United States Fish and Wildlife Service to implement or enforce special use permit numbered 72030.

(b) The Secretary of the Interior shall immediately reinstate the travel guidelines specified in special use permit numbered 65715 for the visiting public and employees of the Virginia Department of Conservation and Recreation at Buck Bay National Wildlife Refuge, Virginia. Such guidelines shall remain in effect until such time as an agreement described in subsection (c) becomes effective, but in no case shall remain in effect after September 30, 1995.

(c) It is the sense of Congress that the Secretary of the Interior and the Governor of Virginia should negotiate and enter into a long term agreement concerning resources management and public access with respect to Back Pay National Wildlife Refuge and False Cape State Park, Virginia, in order to improve the implementation of the missions of the Refuge and Park.

SEC. 503. (a) No funds available to the Forest Service may be used to implement Habitat Conservation Areas in the Tongass National Forest for species which have not been declared threatened or endangered pursuant to the Endangered Species Act, except that with respect to goshawks the Forest Service may impose interim Goshawk Habitat Conservation Areas not to exceed 300 acres per active nest consistent with the guidelines utilized in national forests in the continental United States.

(b) The Secretary shall notify Congress within 30 days of any timber sales which may be delayed or canceled due to the Goshawk Habitat Conservation Areas described in subsection (a).

SEC. 504. RENEWAL OF PERMITS FOR GRAZING ON NATIONAL FOREST LANDS.

Notwithstanding any other law, at the request of an applicant for renewal of a permit that expires on or after the date of enactment of this Act for grazing on land located in a unit of the National Forest System, the Secretary of Agriculture shall reinstate, if necessary, and extend the term of the permit until the date on which the Secretary of Agriculture completes action on the application, including action required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

CHAPTER VI

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

Employment and Training Administration

TRAINING AND EMPLOYMENT SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,508,700,000 are rescinded, including $46,404,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $2,500,000 for the School-to-Work Opportunities Act, $15,600,000 for title III, part A of the Job Training Partnership Act, $20,000,000 for the title III, part B of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $33,000,000 for carrying out title II, part A of such Act, $472,010,000 for carrying out title II, part C of such Act, $750,000 for the National Commission for Employment Policy and $421,000 for the National Occupational Information Coordinating Committee: *Provided*, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II–B and title II–C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

(RESCISSIONS)

Of the funds made available in the first paragraph under this heading in Public Law 103–333, $11,263,000 are rescinded.

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $3,177,000 are rescinded.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $20,000,000 are rescinded, and amounts which may be expended from the Employment Security Administration account in the Unemployment Trust Fund are reduced from $3,269,097,000 to $3,221,397,000.

Bureau of Labor Statistics

SALARIES AND EXPENSES

Of the funds made available under this heading in Public Law 103–333, $1,100,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $42,071,000 are rescinded.

Centers for Disease Control and Prevention

DISEASE CONTROL, RESEARCH, AND TRAINING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,300,000 are rescinded.

National Institutes of Health

BUILDINGS AND FACILITIES

(RESCISSION)

Of the available balances under this heading, $79,289,000 are rescinded.

Substance Abuse and Mental Health Services Administration

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $14,700,000 are rescinded.

Assistant Secretary for Health

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,320,000 are rescinded.

Agency for Health Care Policy and Research

HEALTH CARE POLICY AND RESEARCH

(RESCISSION)

Of the Federal funds made available under this heading in Public Law 103–333, $3,132,000 are rescinded.

Health Care Financing Administration

PROGRAM MANAGEMENT

(RESCISSION)

Funds made available under this heading in Public Law 103–333 are reduced from $2,207,135,000 to $2,185,935,000, and funds transferred to this account as authorized by section 201(g) of the Social Security Act are reduced to the same amount.

Social Security Administration

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading in Public Law 103–333, $67,000,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 to invest in a state-of-the-art computing network, $88,283,000 are rescinded.

Administration for Children and Families

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, there are rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(E) of the Social Security Act (as amended by Public Law 100–485) is amended by adding before the "and": "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,300,000,000 for the purpose of determining the amount of the payment under subsection (l) to which each State is entitled),".

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

(RESCISSION)

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $6,000,000 are rescinded.

COMMUNITY SERVICES BLOCK GRANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $13,988,000 are rescinded.

Administration on Aging

(AGING SERVICES PROGRAMS)

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $899,000 are rescinded.

Office of the Secretary

(POLICY RESEARCH)

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,918,000 are rescinded.

DEPARTMENT OF EDUCATION

EDUCATION REFORM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,100,000 are rescinded, including $6,300,000 from funds made available for State and local education systemic improvement, and $1,300,000 from funds made available for Federal activities under the Goals 2000: Educate America Act; and $2,500,000 are rescinded from funds made available under the School to Work Opportunities Act, including $729,000 for National programs and $1,771,000 for State grants and local partnerships.

EDUCATION FOR THE DISADVANTAGED

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,900,000 are rescinded as follows: $2,000,000 from part B, and $5,900,000 from part E, section 1501.

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $136,417,000 are rescinded as follows: from the Elementary and Secondary Education Act, title II–B, $69,000,000, title V–C, $2,000,000, title IX–B, $1,000,000, title X–D, $1,500,000, section 10602, $1,630,000, title XII, $20,000,000, and title XIII–A, $8,900,000; from the Higher Education Act, section 596, $13,875,000; from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000; and from funds for the Civil Rights Act of 1964, title IV, $7,412,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $32,380,000 are rescinded from funding for title VII–A and $11,000,000 from part C of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $60,566,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and III–B, $43,888,000 and from title IV–A and IV–C, $8,891,000; from the Adult Education Act, part B–7, $7,787,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $57,783,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 1, $11,200,000, title IV–A–2, chapter 2, $600,000, title IV–A–6, $2,000,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–E, $3,500,000, title IX–G, $2,888,000, title X–D, $2,900,000, and title XI–A, $500,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $6,424,000.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $3,300,000 are rescinded, including $1,500,000 for construction.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $322,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $15,200,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III–A, $5,000,000, title III–B, $5,000,000, and title X–B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,916,000 are rescinded from title II, part B, section 222 of the Higher Education Act.

Related Agencies

Corporation for Public Broadcasting

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $47,960,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $32,760,000 are rescinded.

Railroad Retirement Board

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,000,000 are rescinded.

GENERAL PROVISIONS

Federal Direct Student Loan Program

Sec. 601. Section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended—

(1) by striking "$345,000,000" and inserting "$250,000,000"; and

(2) by striking "$2,500,000,000" and inserting "$2,405,000,000".

Sec. 602. Of the funds made available in fiscal year 1995 to the Department of Labor in Public Law 103–333 for compliance assistance and enforcement activities, $8,975,000 are rescinded.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

Payments to Widows and Heirs of Deceased

Members of Congress

For payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $650,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $187,000 are rescinded.

ARCHITECT OF THE CAPITOL

Capitol Buildings and Grounds

SENATE OFFICE BUILDINGS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $850,000 are rescinded.

CAPITAL POWER PLANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $1,650,000 are rescinded.

GOVERNMENT PRINTING OFFICE

Congressional Printing and Binding

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $5,000,000 are rescinded.

BOTANIC GARDEN

Salaries and Expenses

(RESCISSION)

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $7,000,000 are rescinded.

GOVERNMENT PRINTING OFFICE

Office of Superintendent of Documents

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $600,000 are rescinded.

LIBRARY OF CONGRESS

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $150,000 are rescinded.

Books for the Blind and Physically Handicapped

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $8,186750,000 are rescinded.

CHAPTER VIII

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

Military Construction, Army

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307,283, $10,000,000 are rescinded.

Military Construction, Navy

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $13,050,000 are rescinded.

Military Construction, Air Force

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $33,250,000 are rescinded.

Military Construction, Air National Guard

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $1,340,000 are rescinded.

North Atlantic Treaty Organization Infrastructure

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $69,000,000 are rescinded.

Base Realignment and Closure Account, Part II

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,628,000 are rescinded.

Base Realignment and Closure Account, Part III

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $93,566,000 are rescinded.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

OFFICE OF THE SECRETARY

Working Capital Fund

(RESCISSION)

The obligation authority under this heading in Public Law 103–313 is hereby reduced by $4,000,000.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds made available under this heading, $5,300,000 are rescinded: *Provided*, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of Title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation: *Provided further*, That no funds under this head shall be available for payments to air carriers under subchapter II.

COAST GUARD

Operating Expenses

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $3,700,000 are rescinded.

Acquisition, Construction, and Improvements

(RESCISSION)

Of the available balances under this heading, $34,298,000 are rescinded.

Environmental Compliance and Restoration

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $400,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

Operations

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded: *Provided*, That the following proviso in Public Law 103–331 under this heading is repealed, "*Provided further*, That of the funds available under this head, $17,500,000 is available only for permanent change of station moves for members of the air traffic work force".

Facilities and Equipment

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $31,850,000 are rescinded.

Research, Engineering, and Development

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

Grants-in-Aid for Airports

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this account $2,000,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on General Operating Expenses

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $45,950,000.

Federal-Aid Highways

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $123,590,000, of which $27,640,000 shall be deducted from amounts made available for the Applied Research and Technology Program authorized under section 307(e) of title 23, United States Code, and $50,000,000 shall be deducted from the amounts available for the Congestion Pricing Pilot Program authorized under section 1002(b) of Public Law 102–240, and $45,950,000 shall be deducted from the limitation on General Operating Expenses: *Provided*, That the amounts deducted from the aforementioned programs are rescinded.

Federal-Aid Highways

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–211, $50,000,000 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Highway Traffic Safety Grants

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $20,000,000 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

Office of the Administrator

(TRANSFER OF FUNDS)

Section 341 of Public Law 103–331 is amended by deleting "and received from the Delaware and Hudson Railroad," after "amended,".

Northeast Corridor Improvement Program

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $7,768,000 are rescinded.

National Magnetic Levitation Prototype Development Program

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $250,000,000 are rescinded.

FEDERAL TRANSIT ADMINISTRATION

Discretionary Grants

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $17,650,000: *Provided*, That such reduction shall be made from obligational authority available to the Secretary for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.

Notwithstanding Section 313 of Public Law 103–331, the obligation limitations under this heading in the following Department of

Transportation and Related Agencies Appropriations Acts are reduced by the following amounts:

Public Law 102–143, $62,833,000, to be distributed as follows:

(a) $2,563,000, for the replacement, rehabilitation, and purchases of buses and related equipment and the construction of bus-related facilities: *Provided*, That the foregoing reduction shall be distributed according to the reductions identified in Senate Report 104–17, for which the obligation limitation in Public Law 102–143 was applied; and

(b) $60,270,000, for new fixed guideway systems, to be distributed as follows:

$2,000,000, for the Cleveland Dual Hub Corridor Project;

$930,000, for the Kansas City-South LRT Project;

$1,900,000, for the San Diego Mid-Coast Extension Project;

$34,200,000, for the Hawthorne-Warwick Commuter Rail Project;

$8,000,000, for the San Jose-Gilroy Commuter Rail Project;

$3,240,000, for the Seattle-Tacoma Commuter Rail Project; and

$10,000,000, for the Detroit LRT Project.

Public Law 101–516, $4,460,000, for new fixed guideway systems, to be distributed as follows:

$4,460,000 for the Cleveland Dual Hub Corridor Project.

GENERAL PROVISIONS

(INCLUDING RESCISSIONS)

SEC. 901. Of the funds provided in Public Law 103–331 for the Department of Transportation working capital fund (WCF), $4,000,000 are rescinded, which limits fiscal year 1995 WCF obligational authority for elements of the Department of Transportation funded in public Law 103–331 to no more than $89,000,000.

SEC. 902. Of the total budgetary resources available to the Department of Transportation (excluding the Maritime Administration) during fiscal year 1995 for civilian and military compensation and benefits and other administrative expenses, $10,000,000 are permanently canceled.

SEC. 903. Section 326 of Public Law 103–122 is hereby amended to delete the words "or previous Acts" each time they appear in that section.

CHAPTER X

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

General Services Administration

FEDERAL BUILDINGS FUND

(TRANSFER OF FUNDS)

Of the funds made available for the Federal Buildings Fund in Public Law 103–329, $5,000,000 shall be made available by the General Services Administration to implement an agreement between the Food and Drug Administration and another entity for space, equipment and facilities related to seafood research.

Office of Personnel Management

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE BENEFITS

For an additional amount for "Government payment for annuitants, employee life insurance", $9,000,000 to remain available until expended.

DEPARTMENT OF THE TREASURY

Departmental Offices

SALARIES AND EXPENSES

Of the funds made available under this heading in Public Law 103–329, $100,000 are rescinded.

Financial Management Service

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $160,000 are rescinded.

United States Mint

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

In the paragraph under this heading in Public Law 103–329, insert "not to exceed" after "of which".

Bureau of the Public Debt

ADMINISTERING THE PUBLIC DEBT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–123, $1,500,000 are rescinded.

Internal Revenue Service

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $1,490,000 are rescinded.

Administrative Provision—Internal Revenue Service

In the paragraph under this heading in Public Law 103–329, in section 3, after "$119,000,000", insert "annually".

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

The White House Office

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $171,000 are rescinded.

Federal Drug Control Programs

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For activities authorized by Public Law 100–690, an additional amount of $13,200,000, to remain available until expended for transfer to the United States Customs Service, "Salaries and expenses" for carrying out border enforcement activities: *Provided*, That of the funds made available under this heading in Public Law 103–329, $13,200,000 are rescinded.

INDEPENDENT AGENCIES

"General Services Administration

Federal Buildings Fund

Limitations on the Availability of Revenue

(RESCISSION)

Of the funds made available under this heading in Public Laws 101–136, 101–509, 102–27, 102–141, 103–123, 102–393, 103–329, $1,894,840,000 are rescinded from the following projects in the following amounts:

Alabama:

Montgomery, U.S. Courthouse annex, $46,320,000

Arkansas:

Little Rock, Courthouse, $13,816,000

Arizona:

Bullhead City, FAA grant, $2,200,000

Lukeville, commercial lot expansion, $1,219,000

Nogales, Border Patrol, headquarters, $2,998,000

Phoenix, U.S. Federal Building, Courthouse, $121,890,000

San Luis, primary lane expansion and administrative office space, $3,496,000

Sierra Vista, U.S. Magistrates office, $1,000,000

Tucson, Federal Building, U.S. Courthouse, $80,974,000

California:

Menlo Park, United States Geological Survey office laboratory building, $6,868,000

Sacramento, Federal Building-U.S. Courthouse, $142,902,000

San Diego, Federal building-Courthouse, $3,379,000

San Francisco, Lease purchase, $9,702,000

San Francisco, U.S. Courthouse, $4,378,000

San Francisco, U.S. Court of Appeals annex, $9,003,000

San Pedro, Customhouse, $4,887,000

Colorado:

Denver, Federal building-Courthouse, $8,006,000

District of Columbia:

Central and West heating plants, $5,000,000

Corps of Engineers, headquarters, $37,618,000

General Services Administration, Southeast Federal Center, headquarters, $25,000,000

U.S. Secret Service, headquarters, $113,084,000

Florida:

Ft. Myers, U.S. Courthouse, $24,851,000

Jacksonville, U.S. Courthouse, $10,633,000

Tampa, U.S. Courthouse, $14,998,000

Georgia:

Albany, U.S. Courthouse, $12,101,000

Atlanta, Centers for Disease Control, site acquisition and improvement, $25,890,000

Atlanta, Centers for Disease Control, $14,110,000

Atlanta, Centers for Disease Control, Roybal Laboratory, $47,000,000

Savannah, U.S. Courthouse annex, $3,000,000

Hawaii:

Hilo, federal facilities consolidation, $12,000,000

Illinois:

Chicago, SSA DO, $2,167,000

Chicago, Federal Center, $47,682,000

Chicago, Dirksen building, $1,200,000

Chicago, J.C. Kluczynski building, $13,414,000

Indiana:

Hammond, Federal Building, U.S. Courthouse, $52,272,000

Jeffersonville, Federal Center, $13,522,000

Kentucky:

Covington, U.S. Courthouse, $2,914,000

London, U.S. Courthouse, $1,523,000

Louisiana:

Lafayette, U.S. Courthouse, $3,295,000

Maryland:

Avondale, DeLaSalle building, $16,671,000

Bowie, Bureau of Census, $27,877,000

Prince Georges/Montgomery Counties, FDA consolidation, $284,650,000

Woodlawn, SSA building, $17,292,000

Massachusetts:

Boston, U.S. Courthouse, $4,076,000

Missouri:

Cape Girardeau, U.S. Courthouse, $3,688,000

Kansas City, U.S. Courthouse, $100,721,000

Nebraska:

Omaha, Federal Building, U.S. Courthouse, $9,291,000

Nevada:

Las Vegas, U.S. Courthouse, $4,230,000

Reno, Federal building-U.S. Courthouse, $1,465,000

New Hampshire:

Concord, Federal building-U.S. Courthouse, $3,519,000

New Jersey:

Newark, parking facility, $9,000,000

Trenton, Clarkson Courthouse, $14,107,000
New Mexico:
Albuquerque, U.S. Courthouse, $47,459,000
Santa Teresa, Border Station, $4,004,000
New York:
Brooklyn, U.S. Courthouse, $43,717,000
Holtsville, IRS Center, $19,183,000
Long Island, U.S. Courthouse, $27,198,000
North Dakota:
Fargo, Federal building-U.S. Courthouse, $20,105,000
Pembina, Border Station, $93,000
Ohio:
Cleveland, Celebreeze Federal building, $10,972,000
Cleveland, U.S. Courthouse, $28,246,000
Steubenville, U.S. Courthouse, $2,820,000
Youngstown, Federal Building-U.S. Courthouse, $4,574,000
Oklahoma:
Oklahoma City, Murrah Federal building, $5,290,000
Oregon:
Portland, U.S. Courthouse, $5,000,000
Pennsylvania:
Philadelphia, Byrne-Green Federal building-Courthouse, $30,628,000
Philadelphia, Nix Federal building-courthouse, $13,814,000
Philadelphia, Veterans Administration, $1,276,000
Scranton, Federal Building-U.S. Courthouse, $9,969,000
Rhode Island:
Providence, Kennedy Plaza Federal Courthouse, $7,740,000
South Carolina:
Columbia, U.S. Courthouse annex, $592,000
Tennessee:
Greeneville, U.S. Courthouse, $2,936,000
Texas:
Austin, Veterans Administration annex, $1,028,000
Brownsville, U.S. Courthouse, $4,339,000
Corpus Christi, U.S. Courthouse, $6,446,000
Laredo, Federal building-U.S. Courthouse, $5,986,000
Lubbock, Federal building-Courthouse, $12,167,000
Ysleta, site acquisition and construction, $1,727,000
U.S. Virgin Islands:
Charlotte Amalie, St. Thomas, U.S. Courthouse, $2,184,000
Virginia:
Richmond, Courthouse annex, $12,509,000
Washington:
Blaine, Border Station, $4,472,000
Point Roberts, Border Station, $698,000
Seattle, U.S. Courthouse, $10,949,000
Walla Walla, Corps Engineers building, $2,800,000
West Virginia:
Beckley, Federal building-U.S. Courthouse, $33,097,000
Martinsburg, IRS center, $4,494,000
Wheeling, Federal Building-U.S. Courthouse, $35,829,000
Nationwide chlorofluorocarbons program, $12,300,000
Nationwide energy program, $15,300,000

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $3,140,000 are rescinded.

CHAPTER XI

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster Relief" for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,900,000,000, to remain available until expended: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $4,800,000,000, to become available on October 1, 1995, and remain available until expended: *Provided*, That such amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL FLOOD INSURANCE FUND

(TRANSFER OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Reform Act of 1994, an additional amount not to exceed $331,000 shall be transferred as needed to the "Salaries and expenses" appropriation for flood mitigation and flood insurance operations, and an additional amount not to exceed $5,000,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood mitigation expenses pursuant to the National Flood Insurance Reform Act of 1994.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(RESCISSION

Of the funds made available under this heading in Public Law 103–327, $50,000,000 are rescinded: *Provided*, That $20,000,000 of this amount is to be taken from the $771,000,000 earmarked for the equipment and land and structures object classifications, which amount does not become available until August 1, 1995: *Provided further*, That of the $16,214,684,000 made available under this heading in Public Law 103–327, the $9,920,819,000 restricted by section 509 of Public Law 103–327 for personnel compensation and benefits expenditures is reduced to $9,890,819,000.

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MAJOR PROJECTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and prior years, $50,000,000 are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $50,000,000 are rescinded.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, $351,000,000 of funds for development or acquisition costs of public housing (including public housing for Indian families) are rescinded, except that such rescission shall not apply to funds for replacement housing for units demolished, reconstructed, or otherwise disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the existing public housing inventory, or to funds related to litigation settlements or court orders, and the Secretary shall not be required to make any remaining funds available pursuant to section 213(d)(1)(A) of the Housing and Community Development Act of 1994; and except that such rescission should not apply to $30,000,000 of funds for development or acquisition costs of public housing for Indian families (excluding replacement units); $2,406,789,000 of funds for new incremental rental subsidy contracts under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), including $100,000,000 from new programs and $350,000,000 from pension fund rental assistance as provided in Public Law 103–327, are rescinded, and the remaining authority for such purposes shall be only for units necessary to provide housing assistance for residents to be relocated from existing federally subsidized or assisted housing, for replacement housing for units demolished, reconstructed, or otherwise disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements or court orders, for amendments to contracts to permit continued assistance to participating families, or to enable public housing authorities to implement "mixed population" plans for developments housing primarily elderly residents; $1,000,000,000 funds for expiring contracts for the tenant-based existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), provided under the heading "Assistance for the renewal of expiring section 8 subsidy contracts" are rescinded, and the Secretary shall require that $1,000,000,000 of funds held as project reserves by the local administering housing authorities which are in excess of current needs shall be utilized for such renewals; $615,000,000 of amounts earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937 are rescinded and the Secretary may take actions necessary to assure that such rescission is distributed among public housing authorities, to the extent practicable, as if such rescission occurred prior to the commencement of the fiscal year; $106,000,000 of amounts earmarked for special purpose grants are rescinded; $152,500,000 of amounts earmarked for loan management set-asides are rescinded; and $90,000,000 of amounts earmarked for the lead-based paint hazard reduction program are rescinded.

(DEFERRAL)

Of funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, $465,100,000 of amounts earmarked for the preservation of low-income housing programs (excluding $17,000,000 of previously earmarked, plus an additional $5,000,000, for preservation technical assistance grant funds pursuant to section 253 of the Housing and Community Development Act of 1987, as amended) shall not become available for obligation until September 30, 1995: *Provided*, That, notwithstanding any other provision of law, pending the availability of such funds, the Department of Housing and Urban Development may suspend further processing of applications with the exception of applications regarding properties for which an owner's appraisal was submitted on or before February 6, 1995, or for which a notice of intent to transfer the property was filed on or before February 6, 1995.

HOUSING COUNSELING ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $38,000,000 are rescinded.

NEHEMIAH HOUSING OPPORTUNITIES FUND

(RESCISSION)

Of the funds transferred to this revolving fund in prior years, $17,700,000 are rescinded.

Administrative Provisions

Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) Notwithstanding any other provision of law, a public housing agency may use modernization assistance provided under section 14 for any eligible activity currently authorized by this Act or applicable appropriation Acts (including section 5 replacement housing) for a public housing agency, including the demolition of existing units, for replacement housing, for temporary relocation assistance, for drug elimination activities, and in conjunction with other programs; provided the public housing agency consults with the appropriate local government officials (or Indian tribal officials) and with tenants of the public housing development. The public housing agency shall establish procedures for consultation with local government officials and tenants.

"(2) The authorization provided under this subsection shall not extend to the use of public housing modernization assistance for public housing operating assistance.".

The above amendment shall be effective for assistance appropriated on or before the effective date of this Act.

Section 18 of the United States Housing Act of 1937 is amended by—

(1) inserting "and" at the end of subsection (b)(1);

(2) striking all that follows after "Act" in subsection (b)(2) and inserting in lieu thereof the following: ", and the public housing agency provides for the payment of the relocation expenses of each tenant to be displaced, ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act and shall not commence demolition or disposition of any unit until the tenant of the unit is relocated;";

(3) striking subsection (b)(3);

(4) striking "(1)" in subsection (c);

(5) striking subsection (c)(2);

(6) inserting before the period at the end of subsection (d) the following: ", provided that nothing in this section shall prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving the living conditions of or providing more efficient services to its tenants";

(7) striking "under section (b)(3)(A)" in each place it occurs in subsection (e);

(8) redesignating existing subsection (f) as subsection (g); and

(9) inserting a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law, replacement housing units for public housing units demolished may be built on the original public housing site or the same neighborhood if the number of such replacement units is significantly fewer than the number of units demolished.".

Section 304(g) of the United States Housing Act of 1937 is hereby repealed.

The above two amendments shall be effective for plans for the demolition, disposition or conversion to homeownership of public housing approved by the Secretary on or before September 30, 1995.

Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection:

"(z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—

"(1) GENERAL AUTHORITY.—The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of termination of a housing assistance payments contract (other than a contract for tenant-based assistance) only for one or more of the following:

"(A) TENANT-BASED ASSISTANCE.—Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

"(B) PROJECT-BASED ASSISTANCE.—Pursuant to a contract with an owner, to attach assistance to one or more structures under this section.

"(2) FAMILIES OCCUPYING UNITS FORMERLY ASSISTED UNDER TERMINATED CONTRACT.—Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

"(3) EFFECTIVE DATE.—This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.".

INDEPENDENT AGENCIES

Chemical Safety and Hazard Investigation Board

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $500,000 are rescinded.

Community Development Financial Institutions

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $88,000,000 are rescinded.

Corporation for National and Community Service

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $210,000,000 are rescinded.

Environmental Protection Agency

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $9,635,000 are rescinded.

ABATEMENT, CONTROL, AND COMPLIANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $9,806,805 are rescinded: *Provided*, That notwithstanding any other provision of law, the Environmental Protection Agency shall not be required to site a computer to support the regional acid deposition monitoring program in the Bay City, Michigan, vicinity.

BUILDINGS AND FACILITIES

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–389 and Public Law 102–139 for the Center for Ecology Research and Training, $83,000,000 are rescinded.

HAZARDOUS SUBSTANCE SUPERFUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $100,000,000 are rescinded.

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–327 and Public Law 103–124, $1,304,095,000 are rescinded: *Provided*, That $799,000,000 of this amount is to be derived from amounts appropriated for state revolving funds and $443,095,000 is to be derived from amounts appropriated for making grants for the construction of wastewater treatment facilities specified in House Report 103–715.

National Aeronautics and Space Administration

SCIENCE, AERONAUTICS AND TECHNOLOGY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under "Research and Development" in prior years, $68,000,000 are rescinded.

CONSTRUCTION OF FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389, for the Consortium for International Earth Science Information Network, $27,000,000 are rescinded; and any unobligated balances from funds appropriated under this heading in prior years, $49,000,000 are rescinded.

NATIONAL AERONAUTICAL FACILITIES

The first proviso under this heading in Public Law 103–127 is repealed, and the amounts made available under this heading are to remain available until September 30, 1997.

MISSION SUPPORT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $6,000,000 are rescinded.

National Science Foundation

ACADEMIC RESEARCH INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $131,867,000 are rescinded.

CORPORATIONS

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC AFFORDABLE HOUSING PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103-327, $11,281,034 are rescinded.

TITLE II—GENERAL PROVISIONS

SEC. 2001. TIMBER SALES.

(a) SALVAGE TIMBER.—

(1) DEFINITION.—In this subsection, the term "salvage timber sale"—

(A) means a timber sale for which an important reason for entry includes the removal of disease- or insect-infested trees, dead, damaged, or downed trees, or trees affected by fire or imminently susceptible to fire or insect attack; and

(B) includes the removal of associated trees or trees lacking the characteristics of a healthy and viable ecosystem for the purpose of ecosystem improvement or rehabilitation, except that any such sale must include an identifiable salvage component of trees described in the first sentence.

(2) DIRECTION TO COMPLETE SALVAGE TIMBER SALES.—Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary of Agriculture, acting through the Chief of the Forest Service, and the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall—

(A) expeditiously prepare, offer, and award salvage timber sale contracts on Federal lands, except in—

(i) any area on Federal lands included in the National Wilderness Preservation System;

(ii) any roadless area on Federal lands designated by Congress for wilderness study in Colorado or Montana;

(iii) any roadless area on Federal lands recommended by the Forest Service or Bureau of Land Management for wilderness designation in its most recent land management plan in effect as of the date of enactment of this Act; or

(iv) any area on Federal lands on which timber harvesting for any purpose is prohibited by statute; and

(B) perform the appropriate revegetation and tree planting operations in the area in which the salvage operations occurred.

(3) SALE DOCUMENTATION.—

(A) IN GENERAL.—For each salvage timber sale conducted under paragraph (2), the Secretary concerned shall prepare a document that combines an environmental assessment under section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(E)) (including regulations implementing that section) and a biological evaluation under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) and other applicable Federal law and implementing regulations.

(B) MATTERS TO BE CONSIDERED.—The environmental assessment and biological evaluation under subparagraph (A) shall, at the sole discretion of the Secretary concerned and to the extent that the Secretary concerned considers appropriate and feasible, consider the environmental effects of the salvage timber sale and consider the effect, if any, on threatened or endangered species.

(C) USE OF PREVIOUSLY PREPARED DOCUMENT.—In lieu of preparing a new document under this paragraph, the Secretary concerned may use a document prepared pursuant to the National Environmental Policy Act of 1969 before the date of the enactment of this Act, a biological evaluation written before that date, or information collected for such a document or evaluation if the document, evaluation, or information applies to the Federal lands covered by the proposed sale. Any salvage sale or preparation on the date of enactment of this Act shall be subject to the provisions of this section.

(D) SCOPE AND CONTENT.—The scope and content of the documentation and information prepared, considered, and relied on under this paragraph is at the sole discretion of the Secretary concerned.

(4) VOLUME.—In each of fiscal years 1995 and 1996—

(A) the Secretary of Agriculture, acting through the Chief of the Forest Service, shall—

(i) prepare, offer, and award salvage timber sale contracts under paragraph (1) on Forest Service lands to the maximum extent feasible to reduce the backlogged volume of salvage timber as described in paragraph (i); and

(B) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall—

(i) prepare, offer, and award salvage timber sale contracts under paragraph (1) on Bureau of Land Management lands to the maximum extend feasible to reduce the backlogged volume of salvage timber as described in paragraph (i).

(5) EFFECT ON OTHER LAWS.—Any timber sale prepared, advertised, offered, awarded, or operated in accordance with paragraph (1) shall be deemed to satisfy the requirements of all applicable Federal laws (including regulations, including—

(A) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(B) the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.);

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.);

(D) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(E) the National Forest Management Act (16 U.S.C. 472a et seq.);

(F) the Multiple-Use Sustained Yield Act (16 U.S.C. 528 et seq.); and

(G) other Federal environmental laws.

(6) SALE PREPARATION.—The Secretary concerned shall make use of all available authority, including the employment of private contractors and the use of expedited fire contracting procedures, to prepare and advertise salvage timber sales under this subsection. The provisions of section 3(d)(1) of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226) shall not apply to any former employee of the Department of the Secretary concerned who received a voluntary separation incentive payment authorized by such Act and accepts employment pursuant to this paragraph.

(7) REPORTING REQUIREMENTS.—Each Secretary shall report to the Committee on Appropriations and the Committee on Resources of the House of Representatives, and the Committee on Appropriations and the Committee on Energy and Natural Resources of the United States Senate, 90 days after the date of enactment of this Act and on the final days of each 90 day period thereafter throughout each of fiscal years 1995 and 1996, on the number of sales and volumes contained therein offered during such 90 day period and expected to be offered during the next 90 day period.

(b) OPTION 9.—

(1) DIRECTION OF COMPLETE TIMBER SALES.—Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary of the Interior, acting through the Director of the Bureau of Land Management, and the Secretary of Agriculture, acting through the Chief of the Forest Service, shall expeditiously prepare, offer, and award timber sale contracts on Federal lands in the forests specified within Option 9, as selected by the Secretary of the Interior and the Secretary of Agriculture on April 13, 1994.

(2) EFFECT ON OTHER LAWS.—Any timber sale prepared, advertised, offered, awarded, or operated in accordance with paragraph (1) shall be deemed to satisfy the requirements of all applicable Federal laws (including regulations) including—

(A) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(B) the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.);

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.);

(D) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(E) the National Forest Management Act (16 U.S.C. 472a et seq.);

(F) the Multiple-Use Sustained Yield Act (16 U.S.C. 528 et seq.); and

(G) other Federal environmental laws.

(c) JUDICIAL AND ADMINISTRATIVE REVIEW.—

(1) JUDICIAL AUTHORITY.—

(A) RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS.—No restraining order or preliminary injunction shall be issued by any court of the United States with respect to a decision to prepare, advertise, offer, award, or operate any timber sale offered under subsection (a) or (b).

(B) PERMANENT INJUNCTIONS.—The courts of the United States shall have authority to enjoin permanently, order modification of, or void an individual sale under subsection (a) or (b) if, at a trial on the merits, it has been determined that the decision to prepare, advertise, offer, award, or operate the sale was arbitrary, capricious, or otherwise not in accordance with law.

(2) TIME AND VENUE FOR CHALLENGE.—

(A) IN GENERAL.—Any challenge to a timber sale under subsection (a) or (b) shall be brought as a civil action in the United States district court for the district in which the affected Federal lands are located within 15 days after the date of the initial advertisement of the challenged timber sale.

(B) NO WAIVER.—The Secretary of the Interior and the Secretary of Agriculture may not agree to, and a court may not grant, a waiver the requirements of subparagraph (A).

(3) STAY OF ADMINISTRATIVE ACTION.—During the 45-day period after the date of filing of a civil action under paragraph (2), the affected agency shall take no action to award a challenged timber sale.

(4) TIME FOR DECISION.—A civil action filed under this section shall be assigned for hearing at the earliest possible date, and the court shall render its final decision relative to any challenge within 45 days after the date on the action is brought, unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(5) EXPEDITING RULES.—The court may establish rules governing the procedures for a civil action under paragraph (2) that set page limits on briefs and time limits on filing briefs, motions, and other papers that are shorter than the limits specified in the Federal Rules of Civil Procedure or Federal Rules of Appellate Procedure.

(6) SPECIAL MASTERS.—In order to reach a decision within 45 days, the court may assign all or part of any proceeding under this subsection to 1 or more special masters for prompt review and recommendations to the court.

(7) NO ADMINISTRATIVE REVIEW.—A timber sale conducted under subsection (a) or (b), and any decision of the Secretary of Agriculture or the Secretary of the Interior in connection with the sale, shall not be subject to administrative review.

(d) EXPIRATION DATE.—Subsection (a) and (b) shall expire effective as of September 30, 1996, but the terms and conditions of those subsections shall continue in effect with respect to timber sale contracts offered under this Act until the completion of performance of the contracts.

(e) AWARD AND RELEASE OF PREVIOUSLY OFFERED AND UNAWARDED TIMBER SALE CONTRACTS.—

(1) AWARD AND RELEASE REQUIRED.—Notwithstanding any other law, within 30 days after the date of the enactment of this Act, the Secretary concerned shall act to award, release, and permit to be completed in fiscal years 1995 and 1996, with no change in originally advertised terms and volumes, all timber sale contracts offered or awarded before that date in any unit of the National Forest System or district of the Bureau of Land Management subject to section 318 of Public Law 101–121 (103 Stat. 745).

(2) THREATENED OR ENDANGERED SPECIES.—No sale unit shall be released or completed under this subsection if any threatened or endangered species is known to be nesting within the acreage that is the subject of the sale unit.

(3) ALTERNATIVE OFFER IN CASE OF DELAY.—If for any reason a sale cannot be released and completed under the terms of this subsection within 45 days after the date of enactment of this Act, the Secretary of Agriculture or the Secretary of Interior, as the case may be, shall provide the purchaser an equal volume of timber, of like kind and value, which shall be subject to the terms of the original contract, and shall not count against current allowable sale quantities.

(f) EFFECT ON PLANS, POLICIES, AND ACTIVITIES.—Compliance with this section shall not require or permit any revisions, amendment, consultation, supplementation, or other administrative action in or for any land management plan, standard, guideline, policy, regional guide or multi-forest plan because of implementation or impacts, site-specific or cumulative, of activities authorized or required by this section. No project decision shall be required to be halted or changed by such documents or guidance, implementation, or impacts.

SEC. 2002. Section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1995 (Public Law 103–329; 108 Stat. 2428) is amended by adding at the end of the section the following new subsection:

"(g) Notwithstanding the provisions of subsection (e)(1), any Office of Inspector General that employed less than four criminal investigators on the date of the enactment of this Act, and whose criminal investigators were not receiving administratively uncontrollable overtime before such date of enactment, may provide availability pay to those criminal investigators at any time after September 30, 1995.".

SEC. 2003. Section 5542 of title 5, United States Code, is amended by striking subsection (d).

SEC. 2004. section 5545a(c) of title 5, United States Code, is amended by adding after the last sentence, "An agency may direct a criminal investigator to work unscheduled duty hours on days when regularly scheduled overtime is provided under section 5542, and that duty may be related to the duties for which the investigator was scheduled or other duties based on the needs of the agency.

SEC. 2005. Notwithstanding any other provision of law, beginning 30 days from the date of enactment of his Act and continuing thereafter, United States Customs Service Pilots compensated for administratively uncontrollable overtime under the provisions of section 5545(c) of title 15, United States Code, shall be provided availability pay authorized under the provisions of section 5545(a) of title 5, United States Code, and all other provisions of such title shall apply to such Customs Service pilots.

GENERAL PROVISIONS

SEC. 2006. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to require any state to comply with the requirement of section 182 of the Clean Air Act by adopting or implementing a test-only or IM240 enhanced vehicle inspection and maintenance program, except that EPA may approve such a program if a state chooses to submit one to meet that requirement.

SEC. 2007. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to impose or enforce any requirement that a state implement trip reduction measures to reduce vehicular emissions.

SEC. 2008. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency for listing or to list any additional facilities on the National Priorities List established by section 105 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9605, unless the Administrator receives a written request to propose for listing or to list a facility from the governor of the state in which the facility is located, or unless legislation to reauthorize CERCLA is enacted.

SEC. 2009. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES

SEC. 2010. Of the funds available to the agencies of the federal government, $225,000,000 are hereby rescinded: *Provided*, That rescissions pursuant to this paragraph shall be taken only from administrative and travel accounts; Provided further, That rescissions shall be taken on a pro rata basis from funds available to every federal agency, department, and office, including the Office of the President.

TITLE III—IMPACT OF LEGISLATION ON CHILDREN

SEC. 3001. SENSE OF CONGRESS.

It is the sense of Congress that Congress should not enact or adopt any legislation that will increase the number of children who are hungry or homeless.

TITLE IV—DEFICIT REDUCTION

DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. 4001. Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the discretionary spending limits (new budget authority and outlays) specified in section 601(a)(2) of the Congressional Budget Act of 1974 for each of the fiscal years 1995 through 1998 by the aggregate amount of estimated reductions in new budget authority and outlays for discretionary programs resulting from the provisions this Act (other than emergency appropriations) for such fiscal year, as calculated by the Director.

PROHIBITION ON USE OF SAVINGS TO OFFSET DEFICIT INCREASES RESULTING FROM DIRECT SPENDING OR RECEIPTS LEGISLATION

SEC. 4002. Reductions in outlays, and reductions in the discretionary spending limits specified in section 601(a)(2) of the Congressional Budget Act of 1974, resulting from the enactment of this Act shall not be taken into account for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

This Act may be cited as the "Second Supplemental Appropriations and Rescissions Act, 1995."

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS

BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RESTRUCTURING

DEBT RELIEF FOR JORDAN

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans to Jordan issued by the Export-Import Bank or by the Agency for International Development or by the Department of Defense, or for the cost of modifying: (1) concessional loans authorized under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, and (2) credits owned by Jordan to the Commodity Credit Corporation, as a result of the Corporation's status as a guarantor of credits in connection with export sales to Jordan; as authorized under subsection (a) under the heading, "Debt Relief for Jordan", in Title VI of Public Law 103–306, $275,000,000, to remain available until September 30, 1996: Provided, That not more than $50,000,000 of the funds appropriated by this paragraph may be obligated prior to October 1, 1995: *Provided*, That the language under this heading in title V of this Act shall have no force and effect.

BUMPERS (AND KERRY) AMENDMENT NO. 547

(Ordered to lie on the table.)

Mr. BUMPERS (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to amendment No. 461 submitted by Mr. BUMPERS to the bill (H.R. 1158) supra, as follows:

Strike "$0" and insert in lieu thereof the following: "$50,000,000. Provided, that none of these funds may be used for non-generic activities by recipients other than those identified at 7 C.F.R. 1485.13(a)(1)(i)(J), 1485.13(a)(2)(ii), 1485.15(c), substantially similar entities, or other recipients that are new-to-export entities. Provided further, that notwithstanding any other provision of this Act, no funds made available in Public Law 103–333 under the heading "SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION" under the subheading "SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES" shall be rescinded.".

KERRY (AND OTHERS) AMENDMENTS NOS. 548–549

(Ordered to lie on the table.)

Mr. KERRY (for himself, Mr. Hollings, Mr. Kennedy, Mr. Reid, and Mr. Pell) submitted two amendments intended to be proposed by them to amendment No. 547 submitted by Mr. Bumpers to the bill (H.R. 1158) supra, as follows:

Amendment No. 548

Strike "$50,000,000'. Provided, that none of these funds may be used for non-generic activities by recipients other than those identified at 7 CFR 1485.13(a)(1)(i)(J), 1485.13(a)(2)(ii), 1485.15(c), or other recipients that are new-to-export entities" and insert "'$50,000,000': *Provided*, That none of these funds may be used for nongeneric activities by recipients other than those identified in section 1485.13(a)(1)(i)(J), 1485.13(a)(2)(ii), or 1485.15(c) of title 7 of the Code of Federal Regulations, or other recipients that are new-to-export entities. Notwithstanding any other provision of this Act, no funds made available in Public Law 103–333 under the heading "SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION" under the subheading "SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES" shall be rescinded."

Amendment No. 549

Strike "$0." and insert "'$14,700,000'. Notwithstanding any other provision of this Act, $14,700,000 shall be transferred from this appropriation to the account containing funds made available in Public Law 103–333 under the heading 'SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION' under the subheading 'SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES'.".

DASCHLE AMENDMENT NO. 550

(Ordered to lie on the table.)

Mr. DASCHLE submitted an amendment intended to be proposed by him to an amendment submitted to the bill (H.R. 1158) supra, as follows:

In the pending amendment, strike all after the first word and insert the following:

IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $236,417,000 are rescinded as follows: from the Elementary and Secondary Education Act, title II–B, $69,000,000, title IV, $100,000,000, title V–C, $2,000,000, title IX–B, $1,000,000, title X–D, $1,500,000, section 10602, $1,630,000, title XII, $20,000,000, and title XIII–A, $8,900,000; from the Higher Education Act, section 596, $13,875,000; from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000; and from funds for the Civil Rights Act of 1964, title IV, $7,412,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $32,380,000 are rescinded from funding for title VII–A and $11,000,000 from part C of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $60,566,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and –B, $43,888,000 and from title IV–A and –C, $8,891,000; from the Adult Education Act, part B–7, $7,787,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $57,783,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 1, $11,200,000, title IV–A–2, chapter 2, $600,000, title IV–A–6, $2,000,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–E, $3,500,000, title IX–G, $2,888,000, title X–D, $2,900,000, and title XI–A, $500,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $6,424,000.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $3,300,000 are rescinded, including $1,500,000 for construction.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $322,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $15,200,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III–A, $5,000,000, title III–B, $5,000,000, and title X–B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,916,000 are rescinded from title II, part B, section 222 of the Higher Education Act.

Related Agencies

Corporation for Public Broadcasting

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $26,360,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $29,360,000 are rescinded.

Railroad Retirement Board

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,000,000 are rescinded.

GENERAL PROVISIONS

Federal Direct Student Loan Program

Sec. 601. Section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended—

(1) by striking "$345,000,000" and inserting "$250,000,000"; and

(2) by striking "$2,500,000,000" and inserting "$2,405,000,000".

Sec. 602. Of the funds made available in fiscal year 1995 to the Department of Labor in Public Law 103–333 for compliance assistance and enforcement activities, $8,975,000 are rescinded.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

Payments to Widows and Heirs of Deceased Members of Congress

For payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $650,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $187,000 are rescinded.

ARCHITECT OF THE CAPITOL

Capitol Buildings and Grounds

SENATE OFFICE BUILDINGS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $850,000 are rescinded.

CAPITAL POWER PLANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $1,650,000 are rescinded.

GOVERNMENT PRINTING OFFICE

Congressional Printing and Binding

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $5,000,000 are rescinded.

BOTANIC GARDEN

Salaries and Expenses

(RESCISSION)

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $7,000,000 are rescinded.

GOVERNMENT PRINTING OFFICE

Office of Superintendent of Documents

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $600,000 are rescinded.

LIBRARY OF CONGRESS

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $150,000 are rescinded.

Books for the Blind and Physically Handicapped

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $8,867,000 are rescinded.

CHAPTER VIII

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

Military Construction, Army

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,000,000 are rescinded.

Military Construction, Navy

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $13,050,000 are rescinded.

Military Construction, Air Force

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $33,250,000 are rescinded.

Military Construction, Air National Guard

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $1,340,000 are rescinded.

North Atlantic Treaty Organization Infrastructure

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $69,000,000 are rescinded.

Base Realignment and Closure Account, Part II

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,628,000 are rescinded.

Base Realignment and Closure Account, Part III

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $93,566,000 are rescinded.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

OFFICE OF THE SECRETARY

Working Capital Fund

(RESCISSION)

The obligation authority under this heading in Public Law 103–331 is hereby reduced by $4,000,000.

Payments to Air Carriers

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds made available under this heading, $5,300,000 are rescinded: *Provided*, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of Title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation: *Provided further*, That no funds under this head shall be available for payments to air carriers under subchapter II.

COAST GUARD

Operating Expenses

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $3,700,000 are rescinded.

Acquisition, Construction, and Improvements

(RESCISSION)

Of the available balances under this heading, $34,298,000 are rescinded.

Environmental Compliance and Restoration

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $400,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

Operations

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded: *Provided*, That the following proviso in Public Law 103–331 under this heading is repealed, "*Provided further*, That of the funds available under this head, $17,500,000 is available only for permanent change of station moves for members of the air traffic work force".

Facilities and Equipment

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $31,850,000 are rescinded.

Research, Engineering, and Development

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

Grants-in-Aid for Airports

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this account, $1,300,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on General Operating Expenses

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $45,950,000.

Federal-Aid Highways

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $123,590,000, of which $27,640,000 shall be deducted from amounts made available for the Applied Research and Technology Program authorized under section 307(e) of title 23, United States Code, and $50,000,000 shall be deducted from the amounts available for the Congestion Pricing Pilot Program authorized under section 1002(b) of Public Law 102–240, and $45,950,000 shall be deducted from the limitation on General Operating Expenses: *Provided*, That the amounts deducted from the aforementioned programs are rescinded.

Federal-Aid Highways

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–211, $50,000,000 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Highway Traffic Safety Grants

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $20,000,000 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

Office of the Administrator

(TRANSFER OF FUNDS)

Section 341 of Public Law 103–331 is amended by deleting "and received from the Delaware and Hudson Railroad," after "amended,".

Northeast Corridor Improvement Program

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $7,768,000 are rescinded.

National Magnetic Levitation Prototype Development Program

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $250,000,000 are rescinded.

FEDERAL TRANSIT ADMINISTRATION

Discretionary Grants

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $17,650,000: *Provided*, That such reduction shall be made from obligational authority available to the Secretary for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.

Notwithstanding Section 313 of Public Law 103–331, the obligation limitations under this heading in the following Department of Transportation and Related Agencies Appropriations Acts are reduced by the following amounts:

Public Law 102–143, $62,833,000, to be distributed as follows:

(a) $2,563,000, for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities: *Provided*, That the foregoing reduction shall be distributed according to the reductions identified in Senate Report 104–17, for which the obligation limitation in Public Law 102–143 was applied; and

(b) $60,270,000, for new fixed guideway systems, to be distributed as follows:

$2,000,000, for the Cleveland Dual Hub Corridor Project;

$930,000, for the Kansas City-South LRT Project;

$1,900,000, for the San Diego Mid-Coast Extension Project;

$34,200,000, for the Hawthorne-Warwick Commuter Rail Project;

$8,000,000, for the San Jose-Gilroy Commuter Rail Project;

$3,240,000, for the Seattle-Tacoma Commuter Rail Project; and

$10,000,000, for the Detroit LRT Project.

Public Law 101–516, $4,460,000, for new fixed guideway systems, to be distributed as follows:

$4,460,000 for the Cleveland Dual Hub Corridor Project.

GENERAL PROVISIONS

(INCLUDING RESCISSIONS)

SEC. 901. Of the funds provided in Public Law 103–331 for the Department of Transportation working capital fund (WCF), $4,000,000 are rescinded, which limits fiscal year 1995 WCF obligational authority for elements of the Department of Transportation funded in Public Law 103–331 to no more than $89,000,000.

SEC. 902. Of the total budgetary resources available to the Department of Transportation (excluding the Maritime Administration) during fiscal year 1995 for civilian and military compensation and benefits and other administrative expenses, $10,000,000 are permanently canceled.

SEC. 903. Section 326 of Public Law 103–122 is hereby amended to delete the words "or previous Acts" each time they appear in that section.

CHAPTER X

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(TRANSFER OF FUNDS)

Of the funds made available for the Federal Buildings Fund in Public Law 103–329, $5,000,000 shall be made available by the General Service Administration to implement an agreement between the Food and Drug Administration and another entity for space, equipment and facilities related to seafood research.

OFFICE OF PERSONNEL MANAGEMENT

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE BENEFITS

For an additional amount for "Government payment for annuitants, employee life insurance", $9,000,000 to remain available until expended.

DEPARTMENT OF THE TREASURY

DEPARTMENT OFFICES

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $100,000 are rescinded.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $160,000 are rescinded.

UNITED STATES MINT

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

In the paragraph under this heading in Public Law 103–329, insert "not to exceed" after "of which".

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–123, $1,500,000 are rescinded.

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $1,490,000 are rescinded.

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

In the paragraph under this heading in Public Law 103–329, in section 3, after "$119,000,000", insert "annually".

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $171,000 are rescinded.

FEDERAL DRUG CONTROL PROGRAMS

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For activities authorized by Public Law 100–690, an additional amount of $13,200,000, to remain available until expended for transfer to the United States Customs Service, "Salaries and expenses" for carrying out border enforcement activities: *Provided*, That of the funds made available under this heading in Public Law 103–329, $13,200,000 are rescinded.

INDEPENDENT AGENCIES

Of the funds made available under this heading in Public Laws 101–136, 101–509, 102–27, 102–141, 103–123, 102–393, 103–329, $1,842,885,000 are rescinded from the following projects in the following amounts:

Alabama:

Montgomery, U.S. Courthouse annex, $46,320,000

Arkansas:

Little Rock, Courthouse, $13,816,000

Arizona:

Bullhead City, FAA grant, $2,200,000

Lukeville, commercial lot expansion, $1,219,000

Nogales, Border Patrol, headquarters, $2,998,000

Phoenix, U.S. Federal Building, Courthouse, $121,890,000

San Luis, primary lane expansion and administrative office space, $3,496,000

Sierra Vista, U.S. Magistrates office, $1,000,000

Tucson, Federal Building, U.S. Courthouse $121,890,000

California:

Menlo Park, United States Geological Survey office laboratory building, $6,868,000

Sacramento, Federal Building-U.S. Courthouse, $142,902,000

San Diego, Federal building-Courthouse, $3,379,000

San Francisco, Lease purchase, $9,702,000

San Francisco, U.S. Courthouse, $4,378,000

San Francisco, U.S. Court of Appeals annex, $9,003,000

San Pedro, Customhouse, $4,887,000

Colorado:

Denver, Federal building-Courthouse, $8,006,000

District of Columbia:

Central and West heating plants, $5,000,000

Corps of Engineers, headquarters, $37,618,000

General Services Administration, Southeast Federal Center, headquarters, $25,000,000

U.S. Secret Service, headquarters, $113,084,000

Florida:

Ft. Myers, U.S. Courthouse, $24,851,000

Jacksonville, U.S. Courthouse, $10,633,000

Tampa, U.S. Courthouse, $14,998,000

Georgia:

Albany, U.S. Courthouse, $12,101,000

Atlanta, Centers for Disease Control, site acquisition and improvement, $25,890,000

Atlanta, Centers for Disease Control, $14,110,000

Atlanta, Centers for Disease Control, Roybal Laboratory, $47,000,000

Savannah, U.S. Courthouse annex, $3,000,000

Hawaii:

Hilo, federal facilities consolidation, $12,000,000

Illinois:

Chicago, SSA DO, $2,167,000

Chicago, Federal Center, $47,682,000

Chicago, Dirksen building, $1,200,000

Chicago, J.C. Kluczynski building, $13,414,000

Indiana:

Hammond, Federal Building, U.S. Courthouse, $52,272,000

Jeffersonville, Federal Center, $13,522,000

Kentucky:

Covington, U.S. Courthouse, $2,914,000

London, U.S. Courthouse, $1,523,000

Louisiana:

Lafayette, U.S. Courthouse, $3,295,000

Maryland:

Avondale, DeLaSalle building, $16,671,000

Bowie, Bureau of Census, $27,877,000

Prince Georges/Montgomery Counties, FDA consolidation, $284,650,000

Woodlawn, SSA building, $17,292,000

Massachusetts:

Boston, U.S. Courthouse, $4,076,000

Missouri:

Cape Girardeau, U.S. Courthouse, $3,688,000

Kansas City, U.S. Courthouse, $100,721,000

Nebraska:

Omaha, Federal Building, U.S. Courthouse, $9,291,000

Nevada:

Las Vegas, U.S. Courthouse, $4,230,000

Reno, Federal building-U.S. Courthouse, $1,465,000

New Hampshire:

Concord, Federal building-U.S. Courthouse, $3,519,000

New Jersey:

Newark, parking facility, $9,000,000

Trenton, Clarkson Courthouse, $14,107,000

New Mexico:

Albuquerque, U.S. Courthouse, $47,459,000

Santa Teresa, Border Station, $4,004,000

New York:

Brooklyn, U.S. Courthouse, $43,717,000

Holtsville, IRS Center, $19,183,000

Long Island, U.S. Courthouse, $27,198,000

North Dakota:

Fargo, Federal building-U.S. Courthouse, $20,105,000

Pembina, Border Station, $93,000

Ohio:

Cleveland, Celebreeze Federal building, $10,972,000

Cleveland, U.S. Courthouse, $28,246,000

Steubenville, U.S. Courthouse, $2,820,000

Youngstown, Federal Building-U.S. Courthouse, $4,574,000

Oklahoma:

Oklahoma City, Murrah Federal building, $5,290,000

Oregon:

Portland, U.S. Courthouse, $5,000,000

Pennsylvania:

Philadelphia, Byrne-Green Federal building-Courthouse, $30,628,000

Philadelphia, Nix Federal building-Courthouse, $13,814,000

Philadelphia, Veterans Administration, $1,276,000

Scranton, Federal Building-U.S. Courthouse, $9,969,000

Rhode Island:

Providence, Kennedy Plaza Federal Courthouse, $7,740,000

South Carolina:

Columbia, U.S. Courthouse annex, $592,000

Tennessee:

Greeneville, U.S. Courthouse, $2,936,000

Texas:

Austin, Veterans Administration annex, $1,028,000

Brownsville, U.S. Courthouse, $4,339,000

Corpus Christi, U.S. Courthouse, $6,446,000

Laredo, Federal building-U.S. Courthouse, $5,986,000

Lubbock, Federal building-Courthouse, $12,167,000

Ysleta, site acquisition and construction, $1,727,000

U.S. Virgin Islands:

Charlotte Amalie, St. Thomas, U.S. Courthouse, $2,184,000

Virginia:

Richmond, Courthouse annex, $12,509,000

Washington:

Blaine, Border Station, $4,472,000

Point Roberts, Border Station, $698,000

Seattle, U.S. Courthouse, $10,949,000

Walla Walla, Corps of Engineers building, $2,800,000

West Virginia:

Beckley, Federal building-U.S. Courthouse, $33,097,000

Martinsburg, IRS center, $4,494,000

Wheeling, Federal building-U.S. Courthouse, $35,829,000

Nationwide chlorofluorocarbons program, $12,300,000

Nationwide energy program, $15,300,000

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $3,140,000 are rescinded.

CHAPTER XI

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster Relief" for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,900,000,000, to remain available until expended: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $4,783,707,000.

ADMINISTRATIVE AND TRAVEL REDUCTION

SEC. . In the cases of all appropriations accounts in any Act from which expenses for administrative overhead, travel, transportation, and subsistence (including per diem allowances) are paid, there are hereby rescinded $16,293,000, *Provided*, that, reduction in such expenses shall be applied uniformly by appropriations account.

(b) Within 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall prepare and transmit to the Congress a report specifying the reductions taken in each appropriations account in compliance with this section.

DODD (AND LIEBERMAN) AMENDMENT NO. 551

(Ordered to lie on the table.)

Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by them to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

AMENDMENT NO. 551

At the appropriate place, insert the following:

SEC. . SENSE OF CONGRESS CONCERNING DISASTER RELIEF.

(a) FINDINGS.—Congress finds that—

(1) there have been a number of costly natural disasters in recent years, including flooding in the Midwest and California, hurricanes in Hawaii and Florida, and earthquakes along the West Coast;

(2) scientists at the United States Geological Survey and other prominent scientists predict the occurrence of several major natural disasters in coming years;

(3) if an earthquake equal in magnitude to the earthquake that recently hit Kobe, Japan, occurred in the United States, direct losses could exceed the total net worth of the entire United States property insurance industry;

(4)(A) taxpayers have paid over $45,000,000,000 during the last 10 years in disaster assistance; and

(B) studies estimate that the cost for just 1 major future natural disaster could run as high as $50,000,000,000 to $80,000,000,000; and

(5) the Federal Government must reform the current method of Federal financing costs associated with natural disaster relief and develop and implement a financing mechanism that does not add to the deficit or rescind funds that have already been committed to other purposes.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should—

(1) establish a disaster relief fund financed through a dedicated revenue source that provides sufficient reserves to respond adequately to extraordinary and catastrophic disasters;

(2) encourage sensible, cost-effective mitigation programs to prevent disaster losses before the losses occur;

(3) strengthen efforts to encourage persons living in areas at high risk of natural disaster to purchase private insurance; and

(4) encourage the insurance industry to establish privately funded pool to spread the risk of natural disasters and minimize the involvement of, and costs to, the Federal taxpayer.

GRAMM AMENDMENTS NOS. 552–554

(Ordered to lie on the table.)

Mr. GRAMM submitted three amendments intended to be proposed by him to an amendment to the bill H.R. 1158, supra; as follows:

AMENDMENT NO. 552

In the pending amendment, in lieu of the language proposed to be inserted, insert the following:

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317 for the Manufacturing Extension Partnership and the Quality Program, $27,100,000 are rescinded.

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSIONS)

Of the unobligated balances available under this headng, $30,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSIONS)

Of the funds made available under this hearing in Public Law 103-317, $37,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $13,000,000 are rescinded.

GOES SATELLITE CONTINGENCY FUND

(RESCISSION)

Of the unobligated balances available under this heading, $2,500,000 are rescinded.

TECHNOLOGY ADMINISTRATION UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $1,500,000 are rescinded.

AMENDMENT NO. 553

In the pending amendment, in lieu of the language proposed to be inserted, insert the following:

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317 for the Manufacturing Extension Partnership and the Quality Program, $27,100,000 are rescinded.

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $30,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $25,100,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $13,000,000 are rescinded.

GOES SATELLITE CONTINGENCY FUND

(RESCISSION)

Of the unobligated balances available under this heading, $2,500,000 are rescinded.

AMENDMENT NO. 554

In the pending amendment, in lieu of the language proposed to be inserted, insert the following:

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317 for the Manufacturing Extension Partnership and the Quality Program, $13,550,000 are rescinded.

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $30,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $32,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $13,000,000 are rescinded.

GOES SATELLITE CONTINGENCY FUND

(RESCISSION)

Of the unobligated balances available under this heading, $2,500,000 are rescinded.

TECHNOLOGY ADMINISTRATION UNDER THE SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,500,000 are rescinded.

DOLE AMENDMENTS NOS. 555–561

(Ordered to lie on the table.)

Mr. DOLE submitted seven amendments intended to be proposed by him to the bill H.R. 1158, supra; as follows:

AMENDMENT NO. 555

On page 47, after line 19, insert the following:

Public Law 103–331, $3,600,000, to be distributed as follows: $3,600,000, Boston-Portland, ME transportation corridor project

Public Law 103–122, $9,430,000, to be distributed as follows: $9,430,000, Boston-Poartland, ME commuter rail project

Public Law 102–388, $25,310,000, to be distributed as follows: $25,310,000, Boston-Portland, ME commuter rail project

AMENDMENT NO. 556

On page 47, after line 19, insert the following:

Public Law 103–331, $10,960,000, to be distributed as follows: $6,000,000, MTC project; $4,960,000, Twin Cities Central Corridor Project;

Public Law 103–122, $2,780,000, to be distributed as follows: $2,780,000, Twin Cities project

AMENDMENT NO. 557

On page 47, after line 19 insert the following:

Public Law 103–331, $188,720,000, to be distributed as follows: $163,760,000 for the Los Angeles MOS–2 and MOS–3 projects; $4,960,000 for the Orange County Transitway project; and $20,000,000 for the San Francisco BART/Extension/Tasman Corridor project.

AMENDMENT NO. 558

On page 13, line 25, insert the following before the period

: *Provided further,* That of the funds made available under this heading in Public Law 103–316 for Bassett Creek, Minnesota, Chaska, Minnesota, and Rochester, Minnesota, $6,038,000 are rescinded

AMENDMENT NO. 559

At the appropriate place insert the following:

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS

FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RESTRUCTURING

DEBT RELIEF FOR JORDAN

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans to Jordan issued by the Export-Import Bank or by the Agency for International Development or by the Department of Defense, or for the cost of modifying: (1) concessional loans authorized under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, and (2) credits owed by Jordan to the Commodity Credit Corporation, as a result of the Corporations's status as a guarantor of credits in connection with export sales to Jordan; as authorized under subsection (a) under the heading, "Debt Relief for Jordan", in title VI of Public Law 103–306, $275,000,000, to remain available until September 30, 1996: *Provided,* That not more than $50,000,000 of the funds appropriated by this paragraph may be obligated prior to October 1, 1995: *Provided,* That the language under this heading in title V, of this Act shall have no force and effect.

AMENDMENT NO. 560

In lieu of the matter proposed, insert the following:

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RESTRUCTURING

DEBT RELIEF FOR JORDAN

For the cost, as defined in section 502 of the Congressional Budge Act of 1974, of modifying direct loans to Jordan issued by the Export-Import Bank or by the Agency for International Development or by the Department of Defense, or for the cost of modifying: (1) concessional loans authorized under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, and (2) credits owed by Jordan to the Commodity Credit Corporation, as a result of the Corporations' status as a guarantor of credits in connection with export sales to Jordan; as authorized under subsection (a) under the heading, "Debt Relief for Jordan", in title VI of Public Law 103–306, $275,000,000, to remain available until September 30, 1996: *Provided,* That not more than $50,000,000 of the funds appropriated by this paragraph may be obligated prior to October 1, 1995: *Provided,* That the language under this heading in title V of this Act shall have no force and effect.

AMENDMENT NO. 561

Strike all after the first word and insert the following:

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RESTRUCTURING

DEBT RELIEF FOR JORDAN

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans to Jordan issued by the Export-Import Bank or by the Agency for International Development or by the Department of Defense, or for the cost of modifying: (1) concessional loans authorized under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, and (2) credits owed by Jordan to the Commodity Credit Corporation, as a result of the Corporations' status as a guarantor of credits in connection with export sales to Jordan; as authorized under subsection (a) under the heading, "Debt Relief for Jordan", in title VI of Public Law 103–306, $275,000,000, to remain available until September 30, 1996: *Provided,* That not more than $50,000,000 of the funds appropriated by this paragraph may be obligated prior to October 1, 1995: *Provided,* That the language under this heading in title V of this Act shall have no force and effect.

DOLE AMENDMENT NO. 562

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to an amendment to the bill H.R. 1158, supra; as follows:

At the appropriate place in the amendment add the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide emergency supplemental appropriations for the Department of Defense to preserve and enhance military readiness for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I

CHAPTER I

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army," $260,700,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy," $183,100,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps," $25,200,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force," $207,100,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve Personnel, Army," $6,500,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESERVE PERSONNEL, NAVY

For an additional amount for "Reserve Personnel, Navy," $9,600,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for "Reserve Personnel, Marine Corps," $1,300,000: *Provided,* That such amount is designated by

Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Reserve Personnel, Air Force

For an additional amount for "Reserve Personnel, Air Force," $2,800,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

National Guard Personnel, Army

For an additional amount for "National Guard Personnel, Army," $11,000,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

National Guard Personnel, Air Force

For an additional amount for "National Guard Personnel, Air Force," $5,000,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For an additional amount for "Operation and Maintenance, Army," $936,600,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Navy

For an additional amount for "Operation and Maintenance, Navy," $423,700,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Marine Corps

For an additional amount for "Operation and Maintenance, Marine Corps," $33,500,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Air Force

For an additional amount for "Operation and Maintenance, Air Force," $852,500,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Defense-Wide

For an additional amount for "Operation and Maintenance, Defense-Wide," $46,200,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Navy Reserve

For an additional amount for "Operation and Maintenance, Navy Reserve," $15,400,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PROCUREMENT

Other Procurement, Army

For an additional amount for "Other Procurement, Army," $8,300,000, to remain available until September 30, 1997: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For an additional amount for "Defense Health Program," $13,200,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER II

RESCINDING CERTAIN BUDGET AUTHORITY

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

Operation and Maintenance, Navy

(RESCISSION)

Of the funds made available under this heading in Public Law 103-335, $2,000,000 are rescinded.

Operation and Maintenance, Air Force

(RESCISSION)

Of the funds made available under this heading in Public Law 103-335, $2,000,000 are rescinded.

Operation and Maintenance, Defense-Wide

(RESCISSION)

Of the funds made available under this heading in Public 103-335, $68,800,000 are rescinded

Operation and Maintenance, Army National Guard

(RESCISSION)

Of the funds made available under this heading in Public Law 103-335, $15,400,000 are rescinded

Operation and Maintenance, Army Reserve

(RESCISSION)

Of the funds made available under this heading in Public Law 103-335, $6,200,000 are rescinded.

Environmental Restoration, Defense

(RESCISSION)

Of the funds made available under this heading in Public Law 103-335, $300,000,000 are rescinded.

Former Soviet Union Threat Reduction

(RESCISSION)

Of the funds made available under this heading in Public Law 103-335, $20,000,000 are rescinded.

PROCUREMENT

Aircraft Procurement, Army

(RESCISSION)

Of the funds made available under this heading in Public Law 103-335, $34,411,000 are rescinded

Procurement of Ammunition, Army

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102-396, $85,000,000 are rescinded.

Of the funds made available under this heading in Public Law 103-335, $55,900,000 are rescinded.

Other Procurement, Army

(RESCISSION)

Of the funds made available under this heading in Public Law 103-335, $32,100,000 are rescinded.

Aircraft Procurement, Air Force

(RESCISSION AND TRANSFER)

Of the funds made available under this heading in Public Law 102-396, $100,000,000 are rescinded.

Of the funds made available under this heading in Public Law 103-335, $27,500,000 are rescinded.

Of the funds made available under this heading in Public Law 103-335, $23,500,000 are hereby transferred and made available for obligation to Operation and Maintenance, Air Force.

Missile Procurement, Air Force

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102-396, $33,000,000 are rescinded.

Of the funds made available under this heading in Public Law 103-139, $99,000,000 are rescinded.

Of the funds made available under this heading in Public Law 103-335, $89,500,000 are rescinded.

Other Procurement, Air Force

(RESCISSION)

Of the funds made available under this heading in Public Law 103-335, $6,100,000 are rescinded.

Procurement, Defense-Wide

(RESCISSION)

Of the funds made available under this heading in Public Law 103-335, $32,000,000 are rescinded.

National Guard and Reserve Equipment

(RESCISSION)

Of the funds made available under this heading in Public Law 103-335, $30,000,000 are rescinded.

Defense Production Act Purchases

(RESCISSION)

Of the funds made available under this heading in Public Law 103-139, $100,000,000 are rescinded.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Research, Development, Text and Evaluation, Army

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-139 $5,000,000 are rescinded.

Of the funds available under this heading in Public Law 103-335, $43,000,000 are rescinded.

Research Development, Test and Evaluation, Navy

(RESCISSION)

Of the funds available under this heading in Public Law 103-335, $68,800,000 are rescinded.

Research, Development, Test and Evaluation, Air Force

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-138, $49,600,000 are rescinded.

Of the funds available under this heading in Public Law 103-335, $191,200,000 are rescinded.

Research, Development, Text and Evaluation, Defense-Wide

(RESCISSIONS)

Of the funds available under this heading in Public Law 103-139, $77,000,000 are rescinded.

Of the funds available under this heading in Public Law 103-335, $436,445,000 are rescinded.

RELATED AGENCIES

NATIONAL SECURITY EDUCATION TRUST FUND

(RESCISSION)

Of the funds available under this heading in Public Law 102–172, $75,000,000 are rescinded.

CHAPTER III

GENERAL PROVISIONS

SEC. 101. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 102. Notwithstanding sections 607 and 630 of the Foreign Assistance Act of 1961 (22 U.S.C. 2357, 2390) and sections 2608 and 2350j of title 10, United States Code, all funds received by the United States as reimbursement of expenses for which funds are provided in this Act shall be deposited in the Treasury as miscellaneous receipts.

SEC. 103. During the current fiscal year, appropriations available to the Department of Defense for the pay of civilian personnel may be used, without regard to the time limitations specified in section 5523(a) of title 5 United States Code, for payments under the provisions of section 5523 of title 5, United States Code, in the case of employees, or an employee's dependents or immediate family, evacuated from Guantanamo Bay, Cuba, pursuant to the August 26, 1994 order of the Secretary of Defense. This section shall take effect as of March 5, 1995, and shall apply with respect to any payment made on or after that date.

(INCLUDING TRANSFER OF FUNDS)

SEC. 104. In addition to amounts appropriated or otherwise made available by this Act, $28,297,000 is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard to cover the incremental operating costs associated with Operations Able Manner, Able Vigil, Restore Democracy, and Support Democracy: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SEC. 105. (a) Section 8106A of the Department of Defense Appropriations Act, 1995 (Public Law 103–335), is amended by striking out the last proviso and inserting in lieu thereof the following: ": *Provided further*, That if, after September 30, 1994, a member of the Armed Forces (other than the Coast Guard) is approved for release from active duty or full-time National Guard duty and that person subsequently becomes employed in a position of civilian employment in the Department of Defense within 180 days after the release from active duty or full-time National Guard duty, then that person is prohibited from receiving payments under a Special Separation Benefits program (under section 1174a of title 10, United States Code) or a Voluntary Separation Incentive program (under section 1175 of title 10, United States Code) by reason of the release from active duty or full-time National Guard duty, and the person shall reimburse the United States the total amount, if any, paid such person under the program before the employment begins".

(b) Appropriations available to the Department of Defense for fiscal year 1995 may be obligated for making payments under sections 1174a and 1175 of title 10, United States Code.

(c) The amendment made by subsection (a) shall be effective as of September 30, 1994.

SEC. 106. (a) Subsection 8054(g) of the Department of Defense Appropriations Act, 1995 (Public Law 103–335), is amended to read as follows: "Notwithstanding any other provision of law, of the amounts available to the Department of Defense during fiscal year 1995, not more than $1,252,650,000 may be obligated for financing activities of defense FFRDCs: *Provided*, That, in addition to any other reductions required by this section, the total amounts appropriated in titles II, III, and IV of this Act are hereby reduced by $250,000,000 to reflect the funding ceiling contained in this subsection and to reflect further reductions in amounts available to the Department of Defense to finance activities carried out by defense FFRDCs and other entities providing consulting services, studies and analyses, systems engineering and technical assistance, and technical, engineering and management support.".

(b) Subsection 8054(h) of the Department of Defense Appropriations Act, 1995 (Public Law 103–335), is amended to read as follows: "The total amounts appropriated to or for the use of the Department of Defense in titles II, III, and IV of this Act are reduced by an additional $251,534,000 to reflect savings from the decreased use of non-FFRDC consulting services by the Department of Defense.".

(c) Not later than 60 days after enactment of this Act, the Under Secretary of Defense (Comptroller) shall report to the Committees on Appropriations of the Senate and the House of Representatives as to the total, separate amounts of appropriations provided, by title and by appropriations account, in titles II, III, and IV of the Department of Defense Appropriations Act, 1995 (Public Law 103–335), as amended.

SEC. 107. Within sixty days of the enactment of this Act, the President shall submit to Congress a report which shall include the following:

(a) A detailed description of the estimated cumulative incremental cost of all United States activities subsequent to September 30, 1993, in and around Haiti, including but not limited to—

(1) the cost of all deployments of United States Armed Forces and Coast Guard personnel, training, exercises, mobilization, and preparation activities, including the preparation of police and military units of the other nations of the multinational force involved in enforcement of sanctions, limits on migration, establishment and maintenance of migrant facilities at Guantanamo Bay and elsewhere, and all other activities relating to operations in and around Haiti; and

(2) the costs of all other activities relating to United States policy toward Haiti, including humanitarian and development assistance, reconstruction, balance of payments and economic support, assistance provided to reduce or eliminate all arrearages owed to International Financial Institutions, all rescheduling or forgiveness of United States bilateral and multilateral debt, aid and other financial assistance, all in-kind contributions, and all other costs to the United States Government.

(b) A detailed accounting of the source of funds obligated or expended to meet the costs described in paragraph (a), including—

(1) in the case of funds expended from the Department of Defense budget, a breakdown by military service or defense agency, line item, and program; and

(2) in the case of funds expended from the budgets of departments and agencies other than the Department of Defense, by department or agency and program.

Sec. 108. None of the funds appropriated to the Department of Defense for the Technology Reinvestment Program under Public Law 103–335 shall be obligated for any new projects for which a selection has not been made until the Under Secretary of Defense for Acquisition and Technology certifies to the Congress that military officers and civilian employees of the military departments constitute a majority of the membership on each review panel at every proposal evaluation step for the Technology Reinvestment Program: *Provided*, That the Under Secretary of Defense for Acquisition and Technology shall submit to the Congress a report describing each new Technology Reinvestment Program project or award and the military needs which the project addresses.

Sec. 109. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for assistance to or programs in the Democratic People's Republic of Korea, or for implementation of the October 21, 1994, Agreed Framework between the United States and the Democratic People's Republic of Korea, unless specifically appropriated for that purpose.

Sec. 110. During the current fiscal year, none of the funds available to the Department of Defense for emergency and extraordinary expenses may be obligated or expended in an amount of $1,000,000 or more for any single transaction without prior notification to the Committees on Appropriations of the Senate and House of Representatives, the Senate Armed Services Committee, and the House National Security Committee.

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

Sec. 112. None of the funds made available to the Department of Defense for any fiscal year for military construction or family housing may be obligated to initiate construction projects upon enactment of this Act for any project on an installation that—

(1) was included in the closure and realignment recommendations submitted by the Secretary of Defense to the Base Closure and Realignment Commission on February 28, 1995, unless removed by the Base Closure and Realignment Commission, or

(2) is included in the closure and realignment recommendation as submitted to Congress in 1995 in accordance with the Defense Base Closure and Realignment Act of 1990, as amended (P.L. 101–510):

Provided, That the prohibition on obligation of funds for projects located on an installation cited for realignment are only to be in effect if the function or activity with which the project is associated will be transferred from the installation as a result of the realignment: *Provided further*, That this provision will remain in effect unless the Congress enacts a Joint Resolution of Disapproval in accordance with the Defense Base Closure and Realignment Act of 1990, as amended (P.L. 101–510).

(RESCISSIONS)

Sec. 113. Of the funds appropriated under Public Law 103–307, the following funds are hereby rescinded from the following accounts in the specified amounts:

Military Construction, Army, $3,500,000;

Military Construction, Navy, $3,500,000;

Military Construction, Air Force, $3,500,000;

North Atlantic Treaty Organization Infrastructure, $33,000,000;

Base Realignment and Closure Account, Part III, $32,000,000.

Of the funds appropriated under Public Law 102–136, the following funds are hereby rescinded from the following account in the specified amount:

Military Construction, Naval Reserve, $25,100,000.

SEC. 114. The Secretary of Defense shall not allocate a rescission to any military installation that the Secretary recommends for closure or realignment in 1995 under section 2903(c) of the Defense Base Closure and Realignment Act of 1990 (Subtitle A of title XXIX of Public Law 101–510; 10 USC 2687 note) in an amount in excess of the proportionate share for each installation for the current fiscal year of the funds rescinded from "Environmental Restoration, Defense" by this Act

SEC. 115. Funds in the amount of $76,900,000 received during fiscal years 1994 and 1995 by the Department of the Air Force pursuant to the "Memorandum of Agreement between the National Aeronautics and Space Administration and the United States Air Force on Titan IV/Centaur Launch Support for the Cassini Mission," signed September 8, 1994, and September 23, 1994, and Attachments A, B, and C to that Memorandum, shall be merged with appropriations available for research, development, test and evaluation and procurement for fiscal year 1994 and 1995, and shall be available for the same time period as the appropriation with which merged, and shall be available for obligation only for those Titan IV vehicles and Titan IV-related activities under contract as of the date of enactment of this Act.

SEC. 116. Section 8025 of the Department of Defense Appropriations Act 1995 (Public Law 103–335), is amended by striking out the amount "$203,736,000" and inserting in lieu thereof "$170,036,000".

SEC. 117. In addition to the rescissions made elsewhere in this Act, on September 15, 1995, $100,000,000 shall be rescinded from appropriations under title III of the Department of Defense Appropriations Act, 1993 (Public Law 102–396).

CHAPTER IV

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount to enable the Secretary of Transportation to make a grant to the National Railroad Passenger Corporation, $21,500,000 is hereby appropriated which shall be available until expended for capital improvements associated with safety-related emergency repairs at the existing Pennsylvania Station in New York City: Provided, That none of the funds herein appropriated shall be used for the redevelopment of the James A. Farley Post Office Building in New York City as a train station and commercial center: Provided further, That the $21,500,000 shall be considered part of the Federal cost share for the redevelopment of the James A. Farley Post Office Building, if authorized.

TITLE II

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

IMMIGRATION EMERGENCY FUND

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–317, $45,000,000 are rescinded.

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–317 for the Advanced Technology Program, $90,000,000 are rescinded.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

INFORMATION INFRASTRUCTURE GRANTS

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–317, $15,000,000 are rescinded.

RELATED AGENCIES

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317 for tree-planting grants pursuant to section 24 of the Small Business Act, as amended, $15,000,000 are rescinded.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317 for payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $15,000,000 are rescinded.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

And on line 17, page 17 of the House of Representatives engrossed bill, H.R. 889, delete "$100,000,000" and insert in lieu thereof "$200,000,000"

DEVELOPMENT ASSISTANCE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–306 and prior appropriations Acts, $12,500,000 are rescinded.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(RESCISSION)

Of the funds make available under this heading in Public Law 103–87 and Public Law 103–306, $7,500,000 are rescinded.

Of the funds made available under this heading in Public Law 103–87 for support of an officer resettlement program in Russia as described in section 560(a)(5), $15,000,000 shall be allocated to other economic assistance and for related programs for the New Independent States of the Former Soviet Union notwithstanding the allocations provided in section 560 of said Act: *Provided*, That such funds shall not be available for assistance to Russia.

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for new education infrastructure improvement grants, $65,000,000 are rescinded.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $35,000,000 made available for title IV, part A, subpart 1 of the Higher Education Act are rescinded.

FEDERAL AVIATION ADMINISTRATION

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading that remain unobligated for the "advanced automation system", $35,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

MISCELLANEOUS HIGHWAY DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available appropriated balances provided in Public Law 93–87; Public Law 98–8; Public Law 98–473; and Public Law 100–71, $12,004,450 are rescinded.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

The Congress finds that the 1990 amendments to the Clean Air Act (Public Law 101–549) superseded prior requirements of the Clean Air Act regarding the demonstration of attainment of national ambient air quality standards for the South Coast, Ventura, and Sacramento areas of California and thus eliminated the obligation of the Administrator of the Environmental Protection Agency to promulgate a Federal implementation plan under section 110(e) of the Clean Air Act for those areas. Upon the enactment of this Act, any Federal implementation plan that has been promulgated by the Administrator of the Environmental Protection Agency under the Clean Air Act for the South Coast, Ventura, or Sacramento areas of California pursuant to a court order or settlement shall be rescinded and shall have no further force and effect.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NATIONAL AERONAUTICAL FACILITIES

Public Law 103–327 is amended in the paragraph under this heading by striking "March 31, 1997" and all that follows, and inserting in lieu thereof: "September 30, 1997: *Provided*, That not to exceed $35,000,000 shall be available for obligation prior to October 1, 1996.".

TITLE IV—MEXICAN DEBT DISCLOSURE ACT OF 1995

SEC. 401. SHORT TITLE.

This title may be cited as the "Mexican Debt Disclosure Act of 1995".

SEC. 402. FINDINGS.

The Congress finds that—

(1) Mexico is an important neighbor and trading partner of the United States;

(2) on January 31, 1995, the President approved a program of assistance to Mexico, in the form of swap facilities and securities guarantees in the amount of $20,000,000,000, using the exchange stabilization fund;

(3) the program of assistance involves the participation of the Board of Governors of the Federal Reserve System, the International Monetary Fund, the Bank for International Settlements, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Bank of Canada, and several Latin American countries;

(4) the involvement of the exchange stabilization fund and the Board of Governors of the Federal Reserve System means that United States taxpayer funds will be used in the assistance effort to Mexico;

(5) assistance provided by the International Monetary Fund, the International Bank for Reconstruction and Development, and the Inter-American Development Bank may require additional United States contributions of taxpayer funds to those entities;

(6) the immediate use of taxpayer funds and the potential requirement for additional future United States contributions of taxpayer funds necessitates congressional oversight of the disbursement of funds; and

(7) the efficacy of the assistance to Mexico is contingent on the pursuit of sound economic policy by the Government of Mexico.

SEC. 403. PRESIDENTIAL REPORTS.

(a) REPORTING REQUIREMENT.—Not later than June 30, 1995, and every 6 months thereafter, the President shall transmit to the appropriate congressional committees a report concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall contain a description of the following actions taken, or economic situations existing, during the preceding 6-month period or, in the case of the initial report, during the period beginning on the date of enactment of this Act.

(1) Changes in wage, price, and credit controls in the Mexican economy.

(2) Changes in taxation policy of the Government of Mexico.

(3) Specific actions taken by the Government of Mexico to further privatize the economy of Mexico.

(4) Actions taken by the Government of Mexico in the development of regulatory policy that significantly affected the performance of the Mexican economy.

(5) Consultations concerning the program approved by the President, including advice on economic, monetary, and fiscal policy, held between the Government of Mexico and the Secretary of the Treasury (including any designee of the Secretary) and the conclusions resulting from any periodic reviews undertaken by the International Monetary Fund pursuant to the Fund's loan agreements with Mexico.

(6) All outstanding loans, credits, and guarantees provided to the Government of Mexico, by the United States Government, including the Board of Governors of the Federal Reserve System, set forth by category of financing.

(7) The progress the Government of Mexico has made in stabilizing the peso and establishing an independent central bank or currency board.

(c) SUMMARY OF TREASURY DEPARTMENT REPORTS.—In addition to the information required to be included under subsection (b), each report required under this section shall contain a summary of the information contained in all reports submitted under section 404 during the period covered by the report required under this section.

SEC. 404. REPORTS BY THE SECRETARY OF THE TREASURY.

(a) REPORTING REQUIREMENT.—Beginning on the last day of the first month which begins after the date of enactment of this Act, and on the last day of every month thereafter, the Secretary of the Treasury shall submit to the appropriate congressional committees a report concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall include a description of the following actions taken, or economic situations existing, during the month in which the report is required to be submitted:

(1) The current condition of the Mexican economy.

(2) The reserve positions of the central bank of Mexico and data relating to the functioning of Mexican monetary policy.

(3) The amount of any funds disbursed from the exchange stabilization fund pursuant to the program of assistance to the Government of Mexico approved by the President on January 31, 1995.

(4) The amount of any funds disbursed by the Board of Governors of the Federal Reserve System pursuant to the program of assistance referred to in paragraph (3).

(5) Financial transactions, both inside and outside of Mexico, made during the reporting period involving funds disbursed to Mexico from the exchange stabilization fund or proceeds of Mexican Government securities guaranteed by the exchange stabilization fund.

(6) All outstanding guarantees issued to, and short-term and medium-term currency swaps with, the Government of Mexico by the Secretary of the Treasury, set forth by category of financing.

(7) All outstanding currency swaps with the central bank of Mexico by the Board of Governors of the Federal Reserve System and the rationale for, and any expected costs of, such transactions.

(8) The amount of payments made by customers of Mexican petroleum companies that have been deposited in the account at the Federal Reserve Bank of New York established to ensure repayment of any payment by the United States Government, including the Board of Governors of the Federal Reserve System, in connection with any guarantee issued to, or any swap with, the Government of Mexico.

(9) Any setoff by the Federal Reserve Bank of New York against funds in the account described in paragraph (8).

(10) To the extent such information is available, once there has been a setoff by the Federal Reserve Bank of New York, any interruption in deliveries of petroleum products to existing customers whose payments were setoff.

(11) The interest rates and fees changed to compensate the Secretary of the Treasury for the risk of providing financing.

SEC. 405. TERMINATION OF REPORTING REQUIREMENTS.

The requirements of sections 403 and 404 shall terminate on the date that the Government of Mexico has paid all obligations with respect to swap facilities and guarantees of securities made available under the program approved by the President on January 31, 1995.

SEC. 406. PRESIDENTIAL CERTIFICATION REGARDING SWAP OF CURRENCIES TO MEXICO THROUGH EXCHANGE STABILIZATION FUND OR FEDERAL RESERVE.

(a) IN GENERAL.—Notwithstanding any other provisions of law, no loan, credit, guarantee, or arrangement for a swap of currencies to Mexico through the exchange stabilization fund or by the Board of Governors of the Federal Reserve System may be extended or (if already extended) further utilized, unless and until the President submits to the appropriate congressional committees a certification that—

(1) there is no projected cost (as defined in the Credit Reform Act of 1990) to the United States from the proposed loan, credit, guarantee, or currency swap;

(2) all loans, credits, guarantees, and currency swaps are adequately backed to ensure that all United States funds are repaid;

(3) the Government of Mexico is making progress in ensuring an independent central bank or an independent currency control mechanism;

(4) Mexico has in effect a significant economic reform effort; and

(5) the President has provided the documents described in paragraphs (1) through (28) of House Resolution 80, adopted March 1, 1995.

(b) TREATMENT OF CLASSIFIED OR PRIVILEGED MATERIAL.—For purposes of the certification required by subsection (a)(5), the President shall specify, in the case of any document that is classified or subject to applicable privileges, that, while such document may not have been produced to the House of Representatives, in lieu thereof it has been produced to specified Members of Congress or their designees by mutual agreement among the President, the Speaker of the House, and the chairmen and ranking members of the Committee on Banking and Financial Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House.

SEC. 407. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEE.—The term "appropriate congressional committees" means the Committees on International Relations and Banking and Financial Services of the House of Representatives, the Committees on Foreign Relations and Banking, Housing, and Urban Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.

(2) EXCHANGE STABILIZATION FUND.—The term "exchange stabilization fund" means the stabilization fund referred to in section 5302(a)(1) of title 31, United States Code.

SANTORUM AMENDMENT NO. 563

(Ordered to lie on the table.)

Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 1158, supra; as follows:

At the end, add the following:

Notwithstanding any other provisions of this Act the following number shall be deemed to be:

S. 617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide additional supplemental appropriations and rescissions for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I—SUPPLEMENTALS AND RESCISSIONS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

(TRANSFER OF FUNDS)

For an additional amount for necessary expenses of the Agricultural Research Service, $2,218,000, to be derived by transfer from "Nutrition Initiatives", Food and Consumer Service.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for salaries and expenses of the Food Safety and Inspection Service, $9,082,000.

COMMODITY CREDIT CORPORATION FUND

FOOD FOR PROGRESS

Notwithstanding any other provision of law, no funds of the Commodity Credit Corporation in excess of $50,000,000 for fiscal year 1995 (exclusive of the cost of commodities in the fiscal year) may be used to carry out the Food for Progress Act of 1985 (7 U.S.C. 1736o) with respect to commodities made available under section 416(b) of the Agricultural Act of 1949: *Provided*, That of this amount not more than $20,000,000 may be used without regard to section 110(g) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(g)). The additional costs resulting from this provision shall be financed from funds credited to the Corporation pursuant to section 426 of Public Law 103–465.

Rural Electrification Administration

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

The second paragraph under this heading in Public Law 103–330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 per centum per year".

Food and Nutrition Service

COMMODITY SUPPLEMENTAL FOOD PROGRAM

The paragraph under this heading in Public Law 103–330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": *Provided further*, That twenty per centum of any Commodity Supplemental Food Program funds carried over from fiscal year 1994 shall be available for administrative costs of the program".

General Provisions

Section 715 of Public Law 103–330 is amended by deleting "$85,500,000" and by inserting "$110,000,000". The additional costs resulting from this provision shall be financed from funds credited to the Commodity Credit Corporation pursuant to section 426 of Public Law 103–465.

Office of the Secretary

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $31,000 are rescinded: *Provided*, That none of the funds made available to the Department of Agriculture may be used to carry out activities under 7 U.S.C. 2257 without prior notification to the Committees on Appropriations.

Agricultural Research Service

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330 and other Acts, $1,500,000 are rescinded.

Cooperative State Research Service

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $958,000 are rescinded, including $524,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i(c)); and $434,000 for necessary expenses of Cooperative State Research Service activities: *Provided*, That the amount of "$9,917,000" available under this heading in Public Law 103–330 (108 Stat. 2441) for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, is amended to read "$9,207,000".

Animal and Plant Health Inspection Service

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $6,000,000 are rescinded.

Rural Development Administration and Farmers Home Administration

LOCAL TECHNICAL ASSISTANCE AND PLANNING GRANTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $1,750,000 are rescinded.

Alcohol Fuels Credit Guarantee Program Account

(RESCISSION)

Of the funds made available under this heading in Public Law 102–341, $9,000,000 are rescinded.

Rural Electrification Administration

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $1,500,000 for the cost of 5 per centum rural telephone loans are rescinded.

Food and Nutrition Service

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111, $35,000,000 are rescinded.

Foreign Agricultural Service

PUBLIC LAW 480 PROGRAM ACCOUNTS

Of the funds made available under this heading in Public Law 103–330, $142,500,000 are rescinded of which: $6,135,000 shall be from the amounts appropriated for ocean freight differential costs; $92,500,000 shall be from the amounts appropriated for commodities supplied in connection with dispositions abroad pursuant to title III; and $43,865,000 shall be from the amounts appropriated for the cost of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended.

CHAPTER II

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

RELATED AGENCIES

National Bankruptcy Review Commission

(TRANSFER OF FUNDS)

For the National Bankruptcy Review Commission as authorized by Public Law 103–394, $1,500,000 shall be made available until expended, to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

United States Information Agency

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations", $7,290,000, for the Board for International Broadcasting to remain available until expended.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

Office of Justice Programs

DRUG COURTS

(RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, $27,100,000 are rescinded.

OUNCE OF PREVENTION COUNCIL

(INCLUDING RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317, $1,000,000 are rescinded.

In addition, under this heading in Public Law 103–317, after the word "grants", insert the following: "and administrative expenses". After the word "expended", insert the following: ": *Provided*, That the Council is authorized to accept, hold, administer, and use gifts, both real and personal, for the purpose of aiding or facilitating the work of the Council".

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $19,500,000 are rescinded.

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317 for the Manufacturing Extension Partnership and the Quality Program, $27,100,000 are rescinded.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $37,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $8,000,000 are rescinded.

Technology Administration

Under Secretary for Technology/Office of Technology Policy

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,500,000 are rescinded.

National Technical Information Service

NTIS REVOLVING FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $7,600,000 are rescinded.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSIONS)

Of unobligated balances available under this heading pursuant to Public Law 103–75, Public Law 102–368, and Public Law 103–317, $47,384,000 are rescinded.

THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services

UNITED STATES COURT OF INTERNATIONAL TRADE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,100,000 are rescinded.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded: *Provided*, That no funds in that public law shall be available to implement section 24 of the Small Business Act, as amended.

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $2,000,000 are rescinded.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $30,000,000 are rescinded.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $14,617,000 are rescinded.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded, of which $2,000,000 are from funds made available for activities related to the implementation of the Chemical Weapons Convention.

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

From unobligated balances available under this heading, $2,000,000 are rescinded.

UNITED STATES INFORMATION AGENCY

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

RADIO FREE ASIA

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $10,000,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $50,000,000 are rescinded.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

OPERATION AND MAINTENANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $81,500,000 are rescinded.

ATOMIC ENERGY DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $100,000,000 are rescinded.

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316, and prior years' Energy and Water Development Acts, $15,000,000 are rescinded.

DEPARTMENTAL ADMINISTRATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $20,000,000 are rescinded.

POWER MARKETING ADMINISTRATIONS

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $30,000,000 are rescinded.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $5,000,000 are rescinded.

CHAPTER IV

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

(RESCISSION)

Of the unearmarked and unobligated balances of funds available in Public Law 103–87 and Public Law 103–306, $100,000,000 are rescinded: *Provided*, That not later than thirty days after the enactment of this Act the Director of the Office of Management and Budget shall submit a report to Congress setting forth the accounts and amounts which are reduced pursuant to this paragraph.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $70,000 are rescinded, to be derived from amounts available for developing and finalizing the Roswell Resource Management Plan/Environmental Impact Statement and the Carlsbad Resource Management Plan Amendment/Environmental Impact Statement: *Provided*, That none of the funds made available in such Act or any other appropriations Act may be used for finalizing or implementing either such plan.

CONSTRUCTION AND ACCESS

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, and Public Law 102–381, $2,100,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 102–381, Public Law 101–121, and Public Law 100–446, $1,497,000 are rescinded.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading or the heading Construction and Anadromous Fish in Public Law 103–332, Public Law 103–138, Public Law 103–75, Public Law 102–381, Public Law 102–154, Public Law 102–368, Public Law 101–512, Public Law 101–121, Public Law 100–446, and Public Law 100–202, $13,215,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, and Public Law 101–512, $3,893,000 are rescinded.

NATIONAL BIOLOGICAL SURVEY

RESEARCH, INVENTORIES, AND SURVEYS

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332 and Public Law 103–138, $12,544,000 are rescinded.

NATIONAL PARK SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $25,970,000 are rescinded.

URBAN PARK AND RECREATION FUND

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $7,480,000 are rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, Public Law 102–154, Public Law 101–512, Public Law 101–121, Public

Law 100–446, Public Law 100–202, Public Law 99–190, Public Law 98–473, and Public Law 98–146, $11,297,000 are rescinded.

Minerals Management Service

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $814,000 are rescinded.

Bureau of Indian Affairs

OPERATION OF INDIAN PROGRAMS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $11,350,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103–332 is amended by striking "$330,111,000" and inserting in lieu thereof "$329,361,000".

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $9,571,000 are rescinded.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

(RESCISSION)

Of the funds provided under this heading in Public Law 103–332, $1,900,000 is rescinded.

Territorial and International Affairs

ADMINISTRATION OF TERRITORIES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,900,000 are rescinded.

TRUST TERRITORY OF THE PACIFIC ISLANDS

(RESCISSION)

Of the funds available under this heading in Public Law 99–591, $32,139,000 are rescinded.

COMPACT OF FREE ASSOCIATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $1,000,000 are rescinded.

DEPARTMENT OF AGRICULTURE

Forest Service

FOREST RESEARCH

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $6,000,000 are rescinded.

STATE AND PRIVATE FORESTRY

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332 and Public Law 103–138, $6,250,000 are rescinded.

INTERNATIONAL FORESTRY

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 102–381, $7,824,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103–332 is amended by striking "1994" and inserting in lieu thereof "1995".

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 102–381, $3,020,000 are rescinded.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $20,750,000 are rescinded.

NAVAL PETROLEUM AND OIL SHALE RESERVES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $11,000,000 are rescinded.

ENERGY CONSERVATION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, $34,928,000 are rescinded.

Of the funds available under this heading in Public Law 103–138, $13,700,000 are rescinded.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $2,000,000 are rescinded.

OTHER RELATED AGENCIES

Smithsonian Institution

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

(RESCISSIONS)

Of the funds available under this heading in Public Law 102–381, and Public Law 103–138, $1,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–154, Public Law 102–381, Public Law 103–138, and Public Law 103–332, $11,237,000 are rescinded: *Provided*, That of the amounts proposed herein for rescission, $2,500,000 are from funds previously appropriated for the National Museum of the American Indian: *Provided further*, That notwithstanding any other provision of law, the provisions of the Davis-Bacon Act shall not apply to any contract associated with the construction of facilities for the National Museum of the American Indian.

National Gallery of Art

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $407,000 are rescinded.

John F. Kennedy Center for the Performing Arts

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

Woodrow Wilson International Center for Scholars

SALARIES AND EXPENSES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,000,000 are rescinded.

National Foundation on the Arts and the Humanities

National Endowment for the Arts

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

National Endowment for the Humanities

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

General Provisions

SEC. 501. No funds made available in any appropriations Act may be used by the Department of the Interior, including but not limited to the United States Fish and Wildlife Service and the National Biological Service, to search for the Alabama sturgeon in the Alabama River, the Cahaba River, the Tombigbee River or the Tennessee-Tombigbee Waterway in Alabama or Mississippi.

SEC. 502. (a) None of the funds made available in Public Law 103–332 may be used by the United States Fish and Wildlife Service to implement or enforce special use permit numbered 72030.

(b) The Secretary of the Interior shall immediately reinstate the travel guidelines specified in special use permit numbered 65715 for the visiting public and employees of the Virginia Department of Conservation and Recreation at Back Bay National Wildlife Refuge, Virginia. Such guidelines shall remain in effect until such time as an agreement described in subsection (c) becomes effective, but in no case shall remain in effect after September 30, 1995.

(c) It is the sense of Congress that the Secretary of the Interior and the Governor of Virginia should negotiate and enter into a long term agreement concerning resources management and public access with respect to Back Bay National Wildlife Refuge and False Cape State Park, Virginia, in order to improve the implementation of the missions of the Refuge and Park.

SEC. 503. (a) No funds available to the Forest Service may be used to implement Habitat Conservation Areas in the Tongass National Forest for species which have not been declared threatened or endangered pursuant to the Endangered Species Act, except that with respect to goshawks the Forest Service may impose interim Goshawk Habitat Conservation Areas not to exceed 300 acres per active nest consistent with the guidelines utilized in national forests in the continental United States.

(b) The Secretary shall notify Congress within 30 days of any timber sales which may be delayed or canceled due to the Goshawk Habitat Conservation Areas described in subsection (a).

CHAPTER VI

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

Employment and Training Administration

TRAINING AND EMPLOYMENT SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,521,220,000 are rescinded, including $46,404,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $15,000,000 for the School-to-Work Opportunities Act, $15,600,000 for title III, part A of the Job Training Partnership Act, $20,000,000 for the title III, part B of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $33,000,000 for carrying out title II, part A of such Act, $472,010,000 for carrying out title II, part C of such Act, $750,000 for the National

Commission for Employment Policy and $421,000 for the National Occupational Information Coordinating Committee: *Provided*, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II–B and title II–C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

(RESCISSIONS)

Of the funds made available in the first paragraph under this heading in Public Law 103–333, $11,263,000 are rescinded.

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $3,177,000 are rescinded.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $20,000,000 are rescinded, and amounts which may be expended from the Employment Security Administration account in the Unemployment Trust Fund are reduced from $3,269,097,000 to $3,221,397,000.

Bureau of Labor Statistics

SALARIES AND EXPENSES

Of the funds made available under this heading in Public Law 103–333, $1,100,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $42,071,000 are rescinded.

Centers for Disease Control and Prevention

DISEASE CONTROL, RESEARCH, AND TRAINING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,300,000 are rescinded.

National Institutes of Health

BUILDINGS AND FACILITIES

(RESCISSION)

Of the available balances under this heading, $79,289,000 are rescinded.

Substance Abuse and Mental Health Services Administration

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $14,700,000 are rescinded.

Assistant Secretary for Health

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,320,000 are rescinded.

Agency for Health Care Policy and Research

HEALTH CARE POLICY AND RESEARCH

(RESCISSION)

Of the Federal funds made available under this heading in Public Law 103–333, $3,132,000 are rescinded.

Health Care Financing Administration

PROGRAM MANAGEMENT

(RESCISSION)

Funds made available under this heading in Public Law 103–333 are reduced from $2,207,135,000 to $2,185,935,000, and funds transferred to this account as authorized by section 201(g) of the Social Security Act are reduced to the same amount.

Social Security Administration

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading in Public Law 103–333, $67,000,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 to invest in a state-of-the-art computing network, $88,283,000 are rescinded.

Administration for Children and Families

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, there are rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(E) of the Social Security Act (as amended by Public Law 100–485) is amended by adding before the "and": "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,300,000,000 for the purpose of determining the amount of the payment under subsection (l) to which each State is entitled),".

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

(RESCISSION)

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $6,000,000 are rescinded.

COMMUNITY SERVICES BLOCK GRANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $26,988,000 are rescinded.

CHILD CARE AND DEVELOPMENT BLOCK GRANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $8,400,000 are rescinded.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $42,000,000 are rescinded from section 639(A) of the Head Start Act, as amended.

Administration on Aging

(AGING SERVICES PROGRAMS)

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $899,000 are rescinded.

Office of the Secretary

POLICY RESEARCH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,918,000 are rescinded.

DEPARTMENT OF EDUCATION

EDUCATION REFORM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $82,600,000 are rescinded, including $55,800,000 from funds made available for State and local education systemic improvement, and $11,800,000 from funds made available for Federal activities under the Goals 2000: Educate America Act; and $15,000,000 are rescinded from funds made available under the School to Work Opportunities Act, including $4,375,000 for National programs and $10,625,000 for State grants and local partnerships.

EDUCATION FOR THE DISADVANTAGED

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $80,400,000 are rescinded as follows: $72,500,000 from the Elementary and Secondary Education Act, title I, part A, $2,000,000 from part B, and $5,900,000 from part E, section 1501.

IMPACT AID

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $16,293,000 for section 8002 are rescinded.

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $236,417,000 are rescinded as follows: from the Elementary and Secondary Education Act, title II–B, $69,000,000, title IV, $100,000,000, title V–C, $2,000,000, title IX–B, $1,000,000, title X–D, $1,500,000, section 10602, $1,630,000, title XII, $20,000,000, and title XIII–A, $8,900,000; from the Higher Education Act, section 596, $13,875,000; from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000; and from funds for the Civil Rights Act of 1964, title IV, $7,412,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $32,380,000 are rescinded from funding for title VII–A and $11,000,000 from part C of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $60,566,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and –B, $43,888,000 and from title IV–A and –C, $8,891,000; from the Adult Education Act, part B–7, $7,787,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $57,783,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 1, $11,200,000, title IV–A–2, chapter 2, $600,000, title IV–A–6, $2,000,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–E, $3,500,000, title IX–G, $2,888,000, title X–D, $2,900,000, and title XI–A, $500,000; Public Law 102–325, $1,000,000; and the Excellence in

Mathematics, Science, and Engineering Education Act of 1990, $6,424,000.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $3,300,000 are rescinded, including $1,500,000 for construction.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $322,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $15,200,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III–A, $5,000,000, title III–B, $5,000,000, and title X–B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,916,000 are rescinded from title II, part B, section 222 of the Higher Education Act.

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $26,360,000 are rescinded. Of the funds made available under this heading in Public Law 103–333, $29,360,000 are rescinded.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,000,000 are rescinded.

GENERAL PROVISIONS

FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 601. Section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended—

(1) by striking "$345,000,000" and inserting "$250,000,000"; and

(2) by striking "$2,500,000,000" and inserting "$2,405,000,000".

SEC. 602. Of the funds made available in fiscal year 1995 to the Department of Labor in Public Law 103–333 for compliance assistance and enforcement activities, $8,975,000 are rescinded.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $650,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $187,000 are rescinded.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

SENATE OFFICE BUILDINGS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $850,000 are rescinded.

CAPITAL POWER PLANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $1,650,000 are rescinded.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $5,000,000 are rescinded.

BOTANIC GARDEN

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $7,000,000 are rescinded.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $600,000 are rescinded.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $150,000 are rescinded.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $8,867,000 are rescinded.

CHAPTER VIII

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,000,000 are rescinded.

MILITARY CONSTRUCTION, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $13,050,000 are rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $33,250,000 are rescinded.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $1,340,000 are rescinded.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $69,000,000 are rescinded.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,628,000 are rescinded.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $93,566,000 are rescinded.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

OFFICE OF THE SECRETARY

WORKING CAPITAL FUND

(RESCISSION)

The obligation authority under this heading in Public Law 103–331 is hereby reduced by $4,000,000.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds made available under this heading, $5,300,000 are rescinded: *Provided*, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of Title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation: *Provided further*, That no funds under this head shall be available for payments to air carriers under subchapter II.

COAST GUARD

OPERATING EXPENSES

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $3,700,000 are rescinded.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(RESCISSION)

Of the available balances under this heading, $34,298,000 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $400,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded: *Provided*, That the following proviso in Public Law 103–331 under this heading is repealed, "*Provided further*, That of the funds available under this head, $17,500,000 is available only for permanent change of station moves for members of the air traffic work force".

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $31,850,000 are rescinded.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this account, $1,300,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $45,950,000.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $123,590,000, of which $27,640,000 shall be deducted from amounts made available for the Applied Research and Technology Program authorized under section 307(e) of title 23, United States Code, and $50,000,000 shall be deducted from the amounts available for the Congestion Pricing Pilot Program authorized under section 1002(b) of Public Law 102–240, and $45,950,000 shall be deducted from the limitation on General Operating Expenses: *Provided*, That the amounts deducted from the aforementioned programs are rescinded.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–211, $50,000,000 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HIGHWAY TRAFFIC SAFETY GRANTS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $20,000,000 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

(TRANSFER OF FUNDS)

Section 341 of Public Law 103–331 is amended by deleting "and received from the Delaware and Hudson Railroad," after "amended,".

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $7,768,000 are rescinded.

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available balances of contract authority under this heading, $250,000,000 are rescinded.

FEDERAL TRANSIT ADMINISTRATION

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $17,650,000: *Provided*, That such reduction shall be made from obligational authority available to the Secretary for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.

Notwithstanding Section 313 of Public Law 103–331, the obligation limitations under this heading in the following Department of Transportation and Related Agencies Appropriations Acts are reduced by the following amounts:

Public Law 102–143, $62,833,000, to be distributed as follows:

(a) $2,563,000, for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities: *Provided*, That the foregoing reduction shall be distributed according to the reductions identified in Senate Report 104–17, for which the obligation limitation in Public Law 102–143 was applied; and

(b) $60,270,000, for new fixed guideway systems, to be distributed as follows:

$2,000,000, for the Cleveland Dual Hub Corridor Project;

$930,000, for the Kansas City-South LRT Project;

$1,900,000, for the San Diego Mid-Coast Extension Project;

$34,200,000, for the Hawthorne-Warwick Commuter Rail Project;

$8,000,000, for the San Jose-Gilroy Commuter Rail Project;

$3,240,000, for the Seattle-Tacoma Commuter Rail Project; and

$10,000,000, for the Detroit LRT Project.

Public Law 101–516, $4,460,000, for new fixed guideway systems, to be distributed as follows:

$4,460,000 for the Cleveland Dual Hub Corridor Project.

GENERAL PROVISIONS

(INCLUDING RESCISSIONS)

SEC. 901. Of the funds provided in Public Law 103–331 for the Department of Transportation working capital fund (WCF), $4,000,000 are rescinded, which limits fiscal year 1995 WCF obligational authority for elements of the Department of Transportation funded in Public Law 103–331 to no more than $89,000,000.

SEC. 902. Of the total budgetary resources available to the Department of Transportation (excluding the Maritime Administration) during fiscal year 1995 for civilian and military compensation and benefits and other administrative expenses, $10,000,000 are permanently canceled.

SEC. 903. Section 326 of Public Law 103–122 is hereby amended to delete the words "or previous Acts" each time they appear in that section.

CHAPTER X

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(TRANSFER OF FUNDS)

Of the funds made available for the Federal Buildings Fund in Public Law 103–329, $5,000,000 shall be made available by the General Services Administration to implement an agreement between the Food and Drug Administration and another entity for space, equipment and facilities related to seafood research.

OFFICE OF PERSONNEL MANAGEMENT

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE BENEFITS

For an additional amount for "Government payment for annuitants, employee life insurance", $9,000,000 to remain available until expended.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $100,000 are rescinded.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $160,000 are rescinded.

UNITED STATES MINT

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

In the paragraph under this heading in Public Law 103–329, insert "not to exceed" after "of which".

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–123, $1,500,000 are rescinded.

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $1,490,000 are rescinded.

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

In the paragraph under this heading in Public Law 103–329, in section 3, after "$119,000,000", insert "annually".

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $171,000 are rescinded.

FEDERAL DRUG CONTROL PROGRAMS

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For activities authorized by Public Law 100–690, an additional amount of $13,200,000, to remain available until expended for transfer to the United States Customs Service, "Salaries and expenses" for carrying out border enforcement activities: *Provided*, That of the funds made available under this heading in Public Law 103–329, $13,200,000 are rescinded.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON THE AVAILABILITY OF REVENUE

(RESCISSIONS)

Of the funds made available under this heading in Public Laws 101–136, 101–509, 102–27, 102–141, 103–123, 102–393, 103–329, $241,011,000 are rescinded from the following projects in the following amounts:

Arizona:
Lukeville, commercial lot expansion, $1,219,000
San Luis, primary lane expansion and administrative office space, $3,496,000
Sierra Vista, U.S. Magistrates office, $1,000,000
California:
Menlo Park, United States Geological Survey, office laboratory buildings, $980,000
San Francisco, U.S. Court of Appeals annex, $9,003,000
District of Columbia:
Central and West heating plants, $5,000,000
Corps of Engineers, headquarters, $25,000,000
General Service Administration, Southeast Federal Center, headquarters, $25,000,000
U.S. Secret Service, headquarters, $8,900,000
Georgia:
Atlanta, Centers for Disease Control, site acquisition and improvement, $25,890,000
Atlanta, Centers for Disease Control, $14,110,000
Florida:
Tampa, U.S. Courthouse, $5,994,000
Illinois:
Chicago, Federal Center, $7,000,000
Indiana:
Hammond, U.S. Courthouse, $26,000,000
Maryland:
Avondale, DeLaSalle building, $16,671,000
Massachusetts:
Boston, U.S. Courthouse, $4,076,000
Nevada:
Reno, Federal building—U.S. Courthouse, $1,465,000
New Hampshire:
Concord, Federal building—U.S. Courthouse, $3,519,000
North Dakota:
Fargo, U.S. Courthouse, $1,371,000
Ohio:
Youngstown, Federal building and U.S. Courthouse, site acquisition and design, $4,574,000
Steubenville, U.S. Courthouse, $2,280,000
Oregon:
Portland, U.S. Courthouse, $5,000,000
Pennsylvania:
Philadelphia, Veterans Administration, $1,276,000
Rhode Island:
Providence, Kennedy Plaza Federal Courthouse, $7,740,000
Tennessee:
Greeneville, U.S. Courthouse, $2,936,000
Texas:
Ysleta, site acquisition and construction, $1,727,000
U.S. Virgin Islands:
Charlotte Amalie, St. Thomas, U.S. Courthouse Annex, $2,184,000
Nationwide chlorofluorocarbons program, $12,300,000
Nationwide energy program, $15,300,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $3,140,000 are rescinded.

CHAPTER XI

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster Relief" for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,900,000,000, to remain available until expended: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $4,800,000,000, to become available on October 1, 1995, and remain available until expended: *Provided*, That such amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL FLOOD INSURANCE FUND

(TRANSFER OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Reform Act of 1994, an additional amount not to exceed $331,000 shall be transferred as needed to the "Salaries and expenses" appropriation for flood mitigation and flood insurance operations, and an additional amount not to exceed $5,000,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood mitigation expenses pursuant to the National Flood Insurance Reform Act of 1994.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $50,000,000 are rescinded: *Provided*, That $20,000,000 of this amount is to be taken from the $771,000,000 earmarked for the equipment and land and structures object classifications, which amount does not become available until August 1, 1995: *Provided further*, That of the $16,214,684,000 made available under this heading in Public Law 103–327, the $9,920,819,000 restricted by section 509 of Public Law 103–327 for personnel compensation and benefits expenditures is reduced to $9,890,819,000.

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MAJOR PROJECTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and prior years, $50,000,000 are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $50,000,000 are rescinded.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, $451,000,000 of funds for development or acquisition costs of public housing (including public housing for Indian families) are rescinded, except that such rescission shall not apply to funds for replacement housing for units demolished, reconstructed, or otherwise disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the existing public housing inventory, or to funds related to litigation settlements or court orders, and the Secretary shall not be required to make any remaining funds available pursuant to section 213(d)(1)(A) of the Housing and Community Development Act of 1994; $2,406,789,000 of funds for new incremental rental subsidy contracts under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), including $100,000,000 from new programs and $350,000,000 from pension fund rental assistance as provided in Public Law 103–327, are rescinded, and the remaining authority for such purposes shall be only for units necessary to provide housing assistance for residents to be relocated from existing Federally subsidized or assisted housing, for replacement housing for units demolished, reconstructed, or otherwise disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements or court orders, for amendments to contracts to permit continued assistance to participating families, or to enable public housing authorities to implement "mixed population" plans for developments housing primarily elderly residents; $500,000,000 of funds for expiring contracts for the tenant-based existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), provided under the heading "Assistance for the renewal of expiring section 8 subsidy contracts" are rescinded, and the Secretary shall require that $500,000,000 of funds held as project reserves by the local administering housing authorities which are in excess of current needs shall be utilized for such renewals; $835,150,000 of amounts earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937 are rescinded and the Secretary may take actions necessary to assure that such rescission is distributed among public housing authorities, to the extent practicable, as if such rescission occurred prior to the commencement of the fiscal year; $106,000,000 of amounts earmarked for special purpose grants are rescinded; $152,500,000 of amounts earmarked for loan management set-asides are rescinded; and $90,000,000 of amounts earmarked for the lead-based paint hazard reduction program are rescinded.

(DEFERRAL)

Of funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, $465,100,000 of amounts earmarked for the preservation of low-income housing programs (excluding $17,000,000 of previously earmarked, plus an additional $5,000,000, for preservation technical assistance grant funds pursuant to section 253 of the Housing and Community Development Act of 1987, as amended) shall not become available for obligation until September 30, 1995: *Provided*, That, notwithstanding any other provision of law, pending the availability of such funds, the Department of Housing and Urban Development may suspend further processing of applications with the exception of applications regarding properties for which an owner's appraisal was submitted on or before February 6, 1995, or for which a notice of intent to transfer the property was filed on or before February 6, 1995.

HOUSING COUNSELING ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $38,000,000 are rescinded.

NEHEMIAH HOUSING OPPORTUNITIES FUND

(RESCISSION)

Of the funds transferred to this revolving fund in prior years, $17,700,000 are rescinded.

ADMINISTRATIVE PROVISIONS

Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) Notwithstanding any other provision of law, a public housing agency may use modernization assistance provided under section 14 for any eligible activity currently authorized by this Act or applicable appropriation Acts (including section 5 replacement housing) for a public housing agency, including the demolition of existing units, for replacement housing, for temporary relocation assistance, for drug elimination activities, and in conjunction with other programs; provided the public housing agency consults with the appropriate local government officials (or Indian tribal officials) and with tenants of the public housing development. The public housing agency shall establish procedures for consultation with local government officials and tenants.

"(2) The authorization provided under this subsection shall not extend to the use of public housing modernization assistance for public housing operating assistance.".

The above amendment shall be effective for assistance appropriated on or before the effective date of this Act.

Section 18 of the United States Housing Act of 1937 is amended by—

(1) inserting "and" at the end of subsection (b)(1);

(2) striking all that follows after "Act" in subsection (b)(2) and inserting in lieu thereof the following: ", and the public housing agency provides for the payment of the relocation expenses of each tenant to be displaced, ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act and shall not commence demolition or disposition of any unit until the tenant of the unit is relocated;";

(3) striking subsection (b)(3);

(4) striking "(1)" in subsection (c);

(5) striking subsection (c)(2);

(6) inserting before the period at the end of subsection (d) the following: ", provided that nothing in this section shall prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving the living conditions of or providing more efficient services to its tenants";

(7) striking "under section (b)(3)(A)" in each place it occurs in subsection (e);

(8) redesignating existing subsection (f) as subsection (g); and

(9) inserting a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law, replacement housing units for public housing units demolished may be built on the original public housing site or the same neighborhood if the number of such replacement units is significantly fewer than the number of units demolished.".

Section 304(g) of the United States Housing Act of 1937 is hereby repealed.

The above two amendments shall be effective for plans for the demolition, disposition or conversion to homeownership of public housing approved by the Secretary on or before September 30, 1995.

Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection:

"(z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—

"(1) GENERAL AUTHORITY.—The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of termination of a housing assistance payments contract (other than a contract for tenant-based assistance) only for one or more of the following:

"(A) TENANT-BASED ASSISTANCE.—Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

"(B) PROJECT-BASED ASSISTANCE.—Pursuant to a contract with an owner, to attach assistance to one or more structures under this section.

"(2) FAMILIES OCCUPYING UNITS FORMERLY ASSISTED UNDER TERMINATED CONTRACT.—Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

"(3) EFFECTIVE DATE.—This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.".

INDEPENDENT AGENCIES

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $500,000 are rescinded.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $124,000,000 are rescinded.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $210,000,000 are rescinded.

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $9,635,000 are rescinded.

ABATEMENT, CONTROL, AND COMPLIANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $9,806,805 are rescinded: *Provided*, That notwithstanding any other provision of law, the Environmental Protection Agency shall not be required to site a computer to support the regional acid deposition monitoring program in the Bay City, Michigan, vicinity.

BUILDINGS AND FACILITIES

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–389 and Public Law 102–139 for the Center for Ecology Research and Training, $83,000,000 are rescinded.

HAZARDOUS SUBSTANCE SUPERFUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $100,000,000 are rescinded.

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–327 and Public Law 103–124, $1,242,095,000 are rescinded: *Provided*, That $799,000,000 of this amount is to be derived from amounts appropriated for state revolving funds and $443,095,000 is to be derived from amounts appropriated for making grants for the construction of wastewater treatment facilities specified in House Report 103–715.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE, AERONAUTICS AND TECHNOLOGY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under "Research and Development" in prior years, $68,000,000 are rescinded.

CONSTRUCTION OF FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389, for the Consortium for International Earth Science Information Network, $27,000,000 are rescinded; and any unobligated balances from funds appropriated under this heading in prior years, $49,000,000 are rescinded.

NATIONAL AERONAUTICAL FACILITIES

The first proviso under this heading in Public Law 103–127 is repealed, and the amounts made available under this heading are to remain available until September 30, 1997.

MISSION SUPPORT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $6,000,000 are rescinded.

NATIONAL SCIENCE FOUNDATION

ACADEMIC RESEARCH INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $131,867,000 are rescinded.

CORPORATIONS

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC AFFORDABLE HOUSING PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $11,281,034 are rescinded.

TITLE II—GENERAL PROVISIONS

SEC. 2001. TIMBER SALES.

(a) SALVAGE TIMBER.—

(1) DEFINITION.—In this subsection, the term "salvage timber sale"—

(A) means a timber sale for which an important reason for entry includes the removal of disease- or insect-infested trees, dead, damaged, or downed trees, or trees affected by fire or imminently susceptible to fire or insect attack; and

(B) includes the removal of associated trees or trees lacking the characteristics of a healthy and viable ecosystem for the purpose of ecosystem improvement or rehabilitation, except that any such sale must include an identifiable salvage component of trees described in the first sentence.

(2) DIRECTION TO COMPLETE SALVAGE TIMBER SALES.—Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary of Agriculture, acting through the Chief of the Forest Service, and the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall—

(A) expeditiously prepare, offer, and award salvage timber sale contracts on Federal lands (except land designated as a Federal wilderness area); and

(B) perform the appropriate revegetation and tree planting operations in the area in which the salvage operations occurred.

(3) SALE DOCUMENTATION.—

(A) IN GENERAL.—For each salvage timber sale conducted under paragraph (2), the Secretary concerned shall prepare a document that combines an environmental assessment under section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(E)) (including regulations implementing that section) and a biological evaluation under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) and other applicable Federal law and implementing regulations.

(B) MATTERS TO BE CONSIDERED.—The environmental assessment and biological evaluation under subparagraph (A) shall, at the sole discretion of the Secretary concerned and to the extent that the Secretary concerned considers appropriate and feasible, consider the environmental effects of the salvage timber sale and consider the effect, if any, on threatened or endangered species.

(C) USE OF PREVIOUSLY PREPARED DOCUMENT.— In lieu of preparing a new document under this paragraph, the Secretary concerned may use a document prepared pursuant to the National Environmental Policy Act of 1969 before the date of the enactment of this Act, a biological evaluation written before that date, or information collected for such a document or evaluation if the document, evaluation, or information applies to the Federal lands covered by the proposed sale. Any salvage sale in preparation on the date of enactment of this Act shall be subject to the provisions of this section.

(D) SCOPE AND CONTENT.—The scope and content of the documentation and information prepared, considered, and relied on under this paragraph is at the sole discretion of the Secretary concerned.

(4) VOLUME.—In each of fiscal years 1995 and 1996—

(A) the Secretary of Agriculture, acting through the Chief of the Forest Service, shall—

(i) prepare, offer, and award salvage timber sale contracts under paragraph (1) on Forest Service lands to the maximum extent feasible to reduce the backlogged volume of salvage timber as described in paragraph (i); and

(B) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall—

(i) prepare, offer, and award salvage timber sale contracts under paragraph (1) on Bureau of Land Management lands to the maximum extent feasible to reduce the backlogged volume of salvage timber as described in paragraph (i).

(5) EFFECT ON OTHER LAWS.—Any timber sale prepared, advertised, offered, awarded, or operated in accordance with paragraph (1) shall be deemed to satisfy the requirements of all applicable Federal laws (including regulations), including—

(A) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(B) the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.);

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.);

(D) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(E) the National Forest Management Act (16 U.S.C. 472a et seq.);

(F) the Multiple-Use Sustained Yield Act (16 U.S.C. 528 et seq.); and

(G) other Federal environmental laws.

(6) SALE PREPARATION.—The Secretary concerned shall make use of all available authority, including the employment of private contractors and the use of expedited fire contracting procedures, to prepare and advertise salvage timber sales under this subsection. The provisions of section 3(d)(1) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226) shall not apply to any former employee of the Department of the Secretary concerned who received a voluntary separation incentive payment authorized by such Act and accepts employment pursuant to this paragraph.

(7) REPORTING REQUIREMENTS.—Each Secretary shall report to the Committee on Appropriations and the Committee on Resources of the House of Representatives, and the Committee on Appropriations and the Committee on Energy and Natural Resources of the United States Senate, 90 days after the date of enactment of this Act and on the final day of each 90 day period thereafter throughout each of fiscal years 1995 and 1996, on the number of sales and volumes contained therein offered during such 90 day period and expected to be offered during the next 90 day period.

(b) OPTION 9.—

(1) DIRECTION TO COMPLETE TIMBER SALES.— Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary of the Interior, acting through the Director of the Bureau of Land Management, and the Secretary of Agriculture, acting through the Chief of the Forest Service, shall expeditiously prepare, offer, and award timber sale contracts on Federal lands in the forests specified within Option 9, as selected by the Secretary of the Interior and the Secretary of Agriculture on April 13, 1994.

(2) EFFECT ON OTHER LAWS.—Any timber sale prepared, advertised, offered, awarded, or operated in accordance with paragraph (1) shall be deemed to satisfy the requirements of all applicable Federal laws (including regulations), including—

(A) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(B) the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.);

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.);

(D) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(E) the National Forest Management Act (16 U.S.C. 472a et seq.);

(F) the Multiple-Use Sustained Yield Act (16 U.S.C. 528 et seq.); and

(G) other Federal environmental laws.

(c) JUDICIAL AND ADMINISTRATIVE REVIEW.—

(1) JUDICIAL AUTHORITY.—

(A) RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS.—No restraining order or preliminary injunction shall be issued by any court of the United States with respect to a decision to prepare, advertise, offer, award, or operate any timber sale offered under subsection (a) or (b).

(B) PERMANENT INJUNCTIONS.—The courts of the United States shall have authority to enjoin permanently, order modification of, or void an individual sale under subsection (a) or (b) if, at a trial on the merits, it has been determined that the decision to prepare, advertise, offer, award, or operate the sale was arbitrary, capricious, or otherwise not in accordance with law.

(2) TIME AND VENUE FOR CHALLENGE.—

(A) IN GENERAL.—Any challenge to a timber sale under subsection (a) or (b) shall be brought as a civil action in the United States district court for the district in which the affected Federal lands are located within 15 days after the date of the initial advertisement of the challenged timber sale.

(B) NO WAIVER.—The Secretary of the Interior and the Secretary of Agriculture may not agree to, and a court may not grant, a waiver the requirements of subparagraph (A).

(3) STAY OF ADMINISTRATIVE ACTION.—During the 45-day period after the date of filing of a civil action under paragraph (2), the affected agency shall take no action to award a challenged timber sale.

(4) TIME FOR DECISION.—A civil action filed under this section shall be assigned for hearing at the earliest possible date, and the court shall render its final decision relative to any challenge within 45 days after the date on the action is brought, unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(5) EXPEDITING RULES.—The court may establish rules governing the procedures for a civil action under paragraph (2) that set page limits on briefs and time limits on filing briefs, motions, and other papers that are shorter than the limits specified in the Federal Rules of Civil Procedure or Federal Rules of Appellate Procedure.

(6) SPECIAL MASTERS.—In order to reach a decision within 45 days, the court may assign all or part of any proceeding under this subsection to 1 or more special masters for

prompt review and recommendations to the court.

(7) NO ADMINISTRATIVE REVIEW.—A timber sale conducted under subsection (a) or (b), and any decision of the Secretary of Agriculture or the Secretary of the Interior in connection with the sale, shall not be subject to administrative review.

(d) EXPIRATION DATE.—Subsection (a) and (b) shall expire effective as of September 30, 1996, but the terms and conditions of those subsections shall continue in effect with respect to timber sale contracts offered under this Act until the completion of performance of the contracts.

(e) AWARD AND RELEASE OF PREVIOUSLY OFFERED AND UNAWARDED TIMBER SALE CONTRACTS.—

(1) AWARD AND RELEASE REQUIRED.—Notwithstanding any other law, within 30 days after the date of the enactment of this Act, the Secretary concerned shall act to award, release, and permit to be completed in fiscal years 1995 and 1996, with no change in originally advertised terms and volumes, all timber sale contracts offered or awarded before that date in any unit of the National Forest System or district of the Bureau of Land Management subject to section 318 of Public Law 101-121 (103 Stat. 745).

(2) THREATENED OR ENDANGERED SPECIES.—No sale unit shall be released or completed under this subsection if any threatened or endangered species is known to be nesting within the acreage that is the subject of the sale unit.

(3) ALTERNATIVE OFFER IN CASE OF DELAY.—If for any reason a sale cannot be released and completed under the terms of this subsection within 45 days after the date of enactment of this Act, the Secretary of Agriculture or the Secretary of Interior, as the case may be, shall provide the purchaser an equal volume of timber, of like kind and value, which shall be subject to the terms of the original contract, and shall not count against current allowable sale quantities.

(f) EFFECT ON PLANS, POLICIES, AND ACTIVITIES.—Compliance with this section shall not require or permit any revisions, amendment, consultation, supplementation, or other administrative action in or for any land management plan, standard, guideline, policy, regional guide or multi-forest plan because of implementation or impacts, site-specific or cumulative, of activities authorized or required by this section. No project decision shall be required to be halted or changed by such documents or guidance, implementation, or impacts.

SEC. 2002. Section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1995 (Public Law 103-329; 108 Stat. 2428) is amended by adding at the end of the section the following new subsection:

"(g) Notwithstanding the provisions of subsection (e)(1), any Office of Inspector General that employed less than four criminal investigators on the date of the enactment of this Act, and whose criminal investigators were not receiving administratively uncontrollable overtime before such date of enactment, may provide availability pay to those criminal investigators at any time after September 30, 1995.".

SEC. 2003. Section 5542 of title 5, United States Code, is amended by striking subsection (d).

SEC. 2004. Section 5545a(c) of title 5, United States Code, is amended by adding after the last sentence, "An agency may direct a criminal investigator to work unscheduled duty hours on days when regularly scheduled overtime is provided under section 5542, and that duty may be related to the duties for which the investigator was scheduled or other duties based on the needs of the agency.

SEC. 2005. Notwithstanding any other provision of law, beginning 30 days from the date of enactment of this Act and continuing thereafter, United States Customs Service Pilots compensated for administratively uncontrollable overtime under the provisions of section 5545(c) of title 5, United States Code, shall be provided availability pay authorized under the provisions of section 5545(a) of title 5, United States Code, and all other provisions of such title shall apply to such Customs Service pilots.

GENERAL PROVISIONS

SEC. 2006. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to require any state to comply with the requirement of section 182 of the Clean Air Act by adopting or implementing a test-only or IM240 enhanced vehicle inspection and maintenance program, except that EPA may approve such a program if a state chooses to submit one to meet that requirement.

SEC. 2007. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to impose or enforce any requirement that a state implement trip reduction measures to reduce vehicular emissions.

SEC. 2008. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency for listing or to list any additional facilities on the National Priorities List established by section 105 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9605, unless the Administrator receives a written request to propose for listing or to list a facility from the governor of the state in which the facility is located, or unless legislation to reauthorize CERCLA is enacted.

SEC. 2009. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This Act may be cited as the "Second Supplemental Appropriations and Rescissions Act, 1995".

MCCAIN AMENDMENT NO. 564

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to an amendment to the bill H.R. 1158, supra; as follows:

At the appropriate place add the following: In Title II—General Provisions, SEC. 2001 Timber Sales, add the following to the end of subsection (6) SALE PREPARATION.: The Director of the Office of Personnel Management, and the Secretary of the relevant Department, shall advise the governmental affairs committees of the House and Senate regarding how the agencies will address the issue of compensation for individuals hired pursuant to this subsection who received an incentive payment, in order to ensure equity for the taxpayer and such federal employees.

This report shall not be conducted in a manner that would hinder the rehiring of any former employees under this Act.

DOLE (AND KYL) AMENDMENT NO. 565

(Ordered to lie on the table.)

Mr. DOLE (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1158, supra; as follows:

On page 65, line 13, strike "$210,000,000" and insert $416,000,000".

HOLLINGS AMENDMENT NO. 566

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to amendment No. 530 proposed by Mr. GRAMM to the bill H.R. 1158, supra; as follows:

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

For an additional amount for the Manufacturing Extension Partnership, $26,500,000 to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

(RECISSION)

Of the funds made available under this heading in Public Law 103-317, $32,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $13,000,000 are rescinded.

BUMPERS AMENDMENT NO. 567

Mr. BUMPERS proposed an amendment to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 6, after line 13, insert the following:

"SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

"The paragraph under this heading in Public Law 103-330 (108 Stat. 2441) is amended by inserting before the period at the end, the following:

": *Provided further*, That notwithstanding any other provision of law, up to $10,000,000 of nutrition services and administration funds may be available for grants to WIC State agencies for promoting immunization through such efforts as immunization screening and voucher incentive programs."

THE THEATER MISSILE DEFENSE ACT OF 1995

WARNER (AND OTHERS) AMENDMENT NO. 568

(Ordered referred to the Committee on Armed Services.)

Mr. WARNER (for himself, Mr. DOLE, Mr. THURMOND, Mr. LOTT, Mr. COHEN, Mr. NICKLES, Mr. KYL, Mr. STEVENS, Mr. COCHRAN, and Mr. SMITH) submitted an amendment intended to be proposed by them to the bill (S. 383) to provide for the establishment of policy on the deployment by the United States of an antiballistic missile system and of advanced theater missile defense systems; as follows:

At the end of the bill add the following:

TITLE II—DEVELOPMENT AND DEPLOYMENT OF THEATER MISSILE DEFENSES

SEC. 201. SHORT TITLE.

This title may be cited as the "Theater Missile Defense Act of 1995".

SEC. 202. POLICY ON DEVELOPMENT AND DEPLOYMENT OF THEATER MISSILE DEFENSES.

It is the policy of the United States that advanced theater missile defenses should be developed and deployed as soon as possible in order to provide protection for United States military forces stationed or deployed in foreign theaters of operation and for allied forces participating in operations with those United States military forces.

SEC. 203. POLICY ON USE OF FUNDS TO LIMIT THEATER MISSILE DEFENSES UNDER THE ABM TREATY.

(a) FINDINGS.—Congress finds that a missile defense system, system upgrade, or system component capable of countering modern theater ballistic missiles has not been tested in an ABM mode nor been given capabilities to counter strategic ballistic missiles and, therefore, is not subject to any application, limitation, or obligation under the ABM Treaty unless and until such missile defense system, system upgrade, or system component has been field tested against a ballistic missile which, in that field test, exceeded (1) a range of 3,500 kilometers, or (2) a velocity of 5 kilometers per second.

(b) PROHIBITION.—Appropriated funds may not be obligated or expended by any official of the Federal Government for the purpose of—

(1) prescribing, enforcing, or implementing any executive order, regulation, or policy that would apply the ABM Treaty, or any limitation or obligation under such treaty, to research, development, testing, or deployment of a theater missile defense system, a theater missile defense system upgrade, or a theater missile defense system component; or

(2) taking any other action to provide for the ABM Treaty, or any limitation or obligation under such treaty, to be applied to research, development, testing, or deployment of a theater missile defense system, a theater missile defense system upgrade, or a theater missile defense system component.

(c) COVERED THEATER MISSILE DEFENSES.—(1) Except as provided in paragraph (2), subsection (b) applies with respect to each missile defense system, missile defense system upgrade, and missile defense system component that is capable of countering modern theater ballistic missiles.

(2) Subsection (b) ceases to apply with respect to a missile defense system, missile defense system upgrade, or missile defense system component when such system, system upgrade, or system component has been field tested against a ballistic missile which, in that test, exceeded (A) a range of 3,500 kilometers, or (B) a velocity of 5 kilometers per second.

(d) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972, and includes to Protocol to that treaty, signed at Moscow on July 3, 1974.

SEC. 204. ADDITIONAL COMMITMENT.

While the other provisions of this title specifically address defenses to counter the growing threat of theater ballistic missiles, Congress also hereby affirms its commitment to ultimately provide the United States with the capability to defend the people and territory of the United States from attack by ballistic missiles.

Mr. WARNER. Mr. President, I rise today, in continuation of my longstanding efforts—working with many others—in support of missile defenses, to introduce the Theater Missile Defense Act of 1995. I am please to have as original cosponsors of this legislation Senator DOLE, Senator THURMOND, Senator LOTT, Senator COHEN, Senator NICKLES, Senator KYL, Senator STEVENS, Senator COCHRAN, and Senator SMITH.

Mr. President, few would argue with the compelling need we are facing for defenses against the growing threat of attack from theater ballistic missiles. Indeed, poll after poll has shown that the overwhelming majority of Americans believe that we already possess a highly effective capability to defend forward-deployed troops—and indeed the United States—from ballistic missile attack today are only slightly better than they were during the gulf war.

Iraqi SCUD missile attacks during Desert Storm brought home to all Americans the vulnerability of United States forward-deployed troops to short-range—theater—ballistic missile attacks from third world nations. Although the Iraqi SCUD's were rudimentary, comparatively inexpensive, weapons which were not considered "militarily significant," they wrought havoc on allied operations, alerts disrupted the front lines as well as the rear echelons. And on February 25, 1991, an Iraqi SCUD missile attack that struck a United States military barracks in Saudi Arabia represented the largest single cause of American casualties during Desert Storm.

Currently, over 30 nations have short-range ballistic missiles. And 77 nations have cruise missiles in their inventories. The defenses being developed to counter theater ballistic missiles will also incorporate some capabilities to counter cruise missiles. In addition, the Department of Defense is actively pursuing a dedicated effort to develop defenses which are focused specifically on the growing curse missile threat.

As the gulf war demonstrated, the threat such missiles pose to the men and women of the U.S. Armed Forces is real, immediate, and growing. We must accelerate the development and deployment of highly effective theater missile defense systems to protect our troops. We owe it to the brave men and women who serve in uniform to provide them with the most advanced defense systems which we are technically and financially capable of producing. Work on such defenses should not in any way be constrained by restrictive and erroneous interpretations of the ABM Treaty—a 23-year-old treaty with the former Soviet Union. I would also like to point out to my colleagues that the restrictions of the treaty currently hamper the defense efforts of only two countries—the United States and Russia. To the extent we allow the U.S. to be "handcuffed" by the limits of this Treaty, the U.S. fails to utilize its full scientific potential while other nations are free to pursue their defenses against ballistic missile attack unrestricted by this treaty.

Mr. President, the ABM Treaty was never intended to limit or restrict theater missile defense systems. The administration concedes this point. In addition, I have had the opportunity to discuss this issue recently with two individuals who were intimately involved in the ABM Treaty negotiations, John Foster and former Secretary of State Henry Kissinger. They both agreed that defenses against theater missiles were never contemplated during the ABM Treaty negotiations. According to Secretary Kissinger, the focus of the negotiations was on defenses against intercontinental ballistic missiles because, "Those were the only systems that were in existence."

But, unfortunately, this administration is pursuing a policy—and is in the process of negotiating some type of legal obligation, or "demarcation agreement," with the Russians—that would allow ABM Treaty limitations to restrict our theater missile defense efforts. Indeed, an administration delegation headed by Deputy Secretary of State Strobe Talbott left last evening for Moscow to discuss a number of issues, possibly including the demarcation talks. I note that Deputy secretary of Defense Deutch dropped off of this trip, in part because of concerns expressed by a number of Members of Congress that he intended to conclude a demarcation agreement wit the Russians while in Moscow.

I hope that the submission of this legislation today will send a clear and unequivocal signal to the administration, and particularly to that delegation headed to Moscow, that the Senate will not sit idly by and allow the administration to sacrifice our theater missile defense capabilities in the interest of concluding a deal with the Russians. I hope the Russians will come to the realization that they need effective, advanced theater missile defenses even more desperately than we do. They are facing hostile nations on their borders which posses these short-range ballistic missile systems.

Mr. President, in the Missile Defense Act of 1991, the Congress urged the President to pursue discussions with the parties to the ABM Treaty to clarify the demarcation line between theater missile defenses and antiballistic missile defenses for the purposes of the ABM Treaty. Those negotiations should have been undertaken for the sole purpose of making clear that theater missile defense systems were not limited by the ABM Treaty.

Unfortunately, those negotiations are seriously off-track. Recently, I joined with a number of Senators in sending two letters to President Clinton expressing our concern that the administration had indicated a willingness to accept significant performance limitations on our theater missile defense systems, and urging a suspension of those negotiations. Despite these clear expressions of congressional concern, subsequent meetings that I and other Republican Senators have had with high level administration officials in recent weeks have confirmed that the administration is intent on concluding an agreement with the Russians that would limit the great technological potential of the United States to develop and deploy the most effective theater missile defense system we can build. Who is willing to stand up and say we owe less to our armed forces?

In addition, it has become clear to me that the administration does not contemplate submitting any such "demarcation agreement" to the Senate for advice and consent, as required by legislation which I sponsored to last year's Defense authorization bill. I am troubled that the Senate will not be allowed a role in an international agreement that will impose major new limitations and obligations on the United States.

It is time for the Congress to act to ensure the development of the most capable, cost-effective theater missile defense architecture to protect our forward-deployed forces.

Therefore, I am submitting this amendment today, together with my cosponsors, to prohibit the obligation or expenditure of any funds by any official of the Federal Government for the purpose of applying the ABM Treaty, or any limitation or obligation under that Treaty, to the research, development, testing or deployment of a theater missile defense system, upgrade or component. The standard which we have used in this legislation to defined the demarcation between antiballistic missile defenses which are limited by the ABM Treaty, and theater missile defenses which are limited by the ABM Treaty, and theater missile defenses which are not, is similar to the one used by the administration at the beginning of the demarcation negotiations—that is, a missile defense system which is covered by the ABM Treaty is defined as a missile defense system which has been field-tested against a ballistic missile which, in that test, exceeded: First, a range of more than 3,500 kilometers, or second a maximum velocity of more than 5 kilometers per second. Put simply, if a missile defense system has not field-tested in an ABM mode—and therefore has not demonstrated a field-tested capability to counter intercontinental ballistic missiles—it should not be limited in any by the ABM Treaty.

In addition, this amendment declares that it is the policy of the United States that "advanced theater missile defenses should be developed and deployed as soon as possible in order to provide protection for United States military forces deployed in foreign theaters of operation and for allied forces participating in operations with those United States forces."

I don't know of anyone who would disagree with that goal. We should proceed expeditiously with this important mission, and remove the "handcuffs'" from our theater missile defense efforts. We should not permit the Russians to hold a veto over theater missile defense systems which are vitally needed by our armed forces.

Mr. President, I want to make clear that this amendment, narrowly drawn to the immediate issue of theater missile defenses, should in no way be interpreted as implying any lessening of the commitment of the co-sponsors to a national missile defense. Indeed, section 4 of the amendment states that,

> Congress also hereby affirms its commitment to ultimately provide the United States with the capability to defend the people and territory of the United States from attack by ballistic missiles.

In this amendment we have dealt in more detail with theater missile defense systems because it is those systems which are in a more advanced stage of development, and which are currently being jeopardized by limitations which the administration may soon sign up to with the Russians.

We are also not attempting with this legislation to either reaffirm or reject the ABM Treaty. That is a debate for another day.

I urge my colleagues to support this important piece of legislation.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

GORTON AMENDMENTS NOS. 569–571

Mr. GORTON proposed three amendments to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

AMENDMENT NO. 569

On page 17 of Amendment 420, strike lines 14 through 17.

AMENDMENT NO. 570

On page 26, after line 2, insert the following:

"This section shall only apply to permits that were not extended or replaced with a new term grazing permit solely because the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has not been completed and also shall include permits that expired in 1994 and in 1955 before the date of enactment of this Act."

AMENDMENT NO. 571

On page 23, strike lines 17–18 and insert in lieu thereof the following:

"Of the available balances under this heading, $3,000,000 are rescinded."

MURKOWSKI AMENDMENT NO. 572

Mr. GORTON (for Mr. MURKOWSKI) proposed an amendment to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 20, between lines 13 and 14, insert the following:

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332 for the Office of Aircraft Services, $150,000 of the amount available for administrative costs are rescinded, and in expending other amounts made available, the Director of the Office of Aircraft Services shall, to the extent practicable, provide aircraft services through contracting.

STEVENS AMENDMENT NO. 573

Mr. GORTON (for Mr. STEVENS) proposed an amendment to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On Page 81 after line 18, add a new section as follows:

SEC. .(a.) As provided in subsection (b), an Environmental Impact Statement prepared pursuant to the National Environmental Policy Act or a subsistence evaluation prepared pursuant to the Alaska National Interest Lands Conservation Act for a timber sale or offering to one party shall be deemed sufficient if the Forest Service sells the timber to an alternate buyer.

(b.) The provision of this section shall apply to the timber specified in the Final Supplement to 1981–86 and 1986–90 Operating Period EIS ("1989 SEIS"), November, 1989, in the North and East Kuiu Final Environmental Impact Statement, January 1993; in the Southeast Chichagof Project Area Final Environmental Impact Statement, September 1992; and in the Kelp Bay Environmental Impact Statement, February 1992, and supplemental evaluations related thereto.

HOLLINGS (AND OTHERS) AMENDMENT NO. 574

Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. BINGAMAN, Mr. BREAUX, Mr. GLENN, Mr. GRAHAM, Mr. LEAHY, Mr. LEVIN, Mr. KOHL, Mr. LIEBERMAN, Mr. KENNEDY, Mr. KERRY, Mrs. MURRAY, Mr. PELL, Mr. ROCKEFELLER, Mr. SARBANES, and Mr. ROBB) proposed an amendment to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 9 of the substitute amendment, strike line 1 through line 23 and insert the following:

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $3,100,000 are rescinded.

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $30,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $25,100,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103-317, $13,000,000 are rescinded.

GOES SATELLITE CONTINGENCY FUND

(RESCISSION)

Of the unobligated balances available under this heading, $2,500,000 are rescinded.

PRIVATIZATION ARRANGEMENTS ACT OF 1995

KEMPTHORNE (AND OTHERS) AMENDMENT NO. 575

(Ordered referred to the Committee on Armed Services.)

Mr. KEMPTHORNE (for himself, Mr. BROWN, Mr. DODD, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by them to the bill (S. 570) to authorize the Secretary of Energy to enter into privatization arrangements for activities carried out in connection with defense nuclear facilities, and for other purposes; as follows:

At the end of the bill add the following:

SEC. 3. DEFENSE EXPORT LOAN GUARANTEES.

(a) ESTABLISHMENT OF PROGRAM.—

(1) AUTHORITY.—Chapter 148 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—DEFENSE EXPORT LOAN GUARANTEES

"Sec.
"2540. Establishment of loan guarantee program.
"2540a. Transferability.
"2540b. Limitations.
"2540c. Fees charged and collected.
"2540d. Defense Export Loan Guarantee Revolving Fund.
"2540e. Full faith and credit of the United States.
"2540f. Definitions.

"§ 2540. Establishment of loan guarantee program

"(a) ESTABLISHMENT.—In order to meet the national security objectives in section 2501(a) of this title, the Secretary of Defense shall establish a program under which the Secretary may issue guarantees assuring a lender against losses of principal or interest, or both principal and interest, arising out of the financing of the sale or long-term lease of defense articles, defense services, or design and construction services to a country referred to in subsection (b).

"(b) COVERED COUNTRIES.—The authority under subsection (a) applies with respect to the following countries:

"(1) A member nation of the North Atlantic Treaty Organization (NATO).

"(2) A country designated as of March 31, 1995, as a major non-NATO ally pursuant to section 2350a(i)(3) of this title.

"(3) A country in Central Europe that, as determined by the Secretary of State—

"(A) has changed its form of national government from a nondemocratic form of government to a democratic form of government since October 1, 1989; or

"(B) is in the processing of changing its form of national government from a nondemocratic form of government to a democratic form of government.

"(4) A country that was a member nation of the Asia Pacific Economic Cooperation (APEC) as of October 31, 1993.

"(c) AUTHORITY SUBJECT TO PROVISIONS OF APPROPRIATIONS.—The Secretary may guarantee a loan under this subchapter only as provided in appropriations Acts.

"§ 2540a. Transferability

"A guarantee issued under this subchapter shall be fully and freely transferable.

"§ 2540b. Limitations

"(a) TERMS AND CONDITIONS OF LOAN GUARANTEES.—In issuing a guarantee under this subchapter for a medium-term or long-term loan, the Secretary may not offer terms and conditions more beneficial than those that would be provided to the recipient by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

"(b) LOSSES ARISING FROM FRAUD OR MISREPRESENTATION.—No payment may be made under a guarantee issued under this subchapter for a loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(c) NO RIGHT OF ACCELERATION.—The Secretary of Defense may not accelerate any guaranteed loan or increment, and may not pay any amount, in respect of a guarantee issued under this subchapter, other than in accordance with the original payment terms of the loan.

"§ 2540c. Fees charged and collected

"(a) IN GENERAL.—The Secretary of Defense shall charge a fee (known as 'exposure fee') for each guarantee issued under this subchapter.

"(b) AMOUNT.—To the extent that the cost of the loan guarantees under this subchapter is not otherwise provided for in appropriations Acts, the fee imposed under this section with respect to a loan guarantee shall be fixed in an amount determined by the Secretary to be sufficient to meet potential liabilities of the United States under the loan guarantee.

"(c) PAYMENT TERMS.—The fee for each guarantee shall become due as the guarantee is issued. In the case of a guarantee for a loan which is disbursed incrementally, and for which the guarantee is correspondingly issued incrementally as portions of the loan are disbursed, the fee shall be paid incrementally in proportion to the amount of the guarantee that is issued.

"(d) COLLECTIONS TO BE CREDITED TO REVOLVING FUND.—Fees collected under this section shall be credited to the Defense Export Loan Guarantee Revolving Fund.

"§ 2540d. Defense Export Loan Guarantee Revolving Fund

"(a) ESTABLISHMENT.—There is established on the books of the Treasury a fund to be known as the 'Defense Export Loan Guarantee Revolving Fund'.

"(b) ASSETS OF FUND.—The Fund is composed of sums credited to the Fund under section 2540c(d) of this title and under subsection (c).

"(c) INVESTMENT OF FUNDS.—Amounts in the Fund may be invested in obligations of the United States. Interest and any other receipts derived from such investments shall be credited to the Fund.

"(d) AVAILABILITY OF FUND.—Sums in the Fund shall be available, to the extent provided in appropriations Acts, to pay the cost of loan guarantee obligations under this subchapter.

"§ 2540e. Full faith and credit of the United States

"All guarantees issued under this subchapter shall constitute obligations, in accordance with the terms of those guarantees, of the United States, and the credit of the United States is hereby pledged for the full payment and performance of those obligations.

"§ 2540f. Definitions

"In this subchapter:

"(1) The terms 'defense article', 'defense services', and 'design and construction services' have the meanings given those terms in section 47 of the Arms Export Control Act (22 U.S.C. 2794).

"(2) The term 'cost', with respect to a loan guarantee, has the meaning given that term in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a).".

(2) CLERICAL AMENDMENT.—The table of subchapters at the beginning of such chapter is amended by adding at the end the following new item:

"VI. Defense Export Loan Guarantees .... 2540".

(b) REPORT.—

(1) REQUIREMENT.—Not later than two years after the date of the enactment of this Act, the President shall submit to Congress a report on the loan guarantee program established pursuant to section 2540 of title 10, United States Code, as added by subsection (a).

(2) CONTENT OF REPORT.—The report shall include—

(A) an analysis of the costs and benefits of the loan guarantee program; and

(B) any recommendations for modification of the program that the President considers appropriate, including—

(i) any recommended addition to the list of countries for which a guarantee may be issued under the program; and

(ii) any proposed legislation necessary to authorize a recommended modification.

Mr. KEMPTHORNE. Mr. President, I rise today to submit an amendment to S. 570 to create a defense export loan guarantee program at the Department of Defense. I am pleased that I am joined in this effort by the distinguished Senator from Colorado, my friend, HANK BROWN, and senior and junior Senators from Connecticut, Senators DODD and LIEBERMAN.

As many of my colleagues know, defense exports are currently prohibited from participating in Government financing systems available for the exports of other nondefense products. My amendment would eliminate this discriminatory treatment of legitimate defense exports while preserving all existing export controls. I want to be clear that my colleagues understand this last point: My amendment deals only with legitimate sales that are consistent with every existing export control and license requirement. My amendment also does not propose to sell destabilizing weapons to dangerous countries, but would only support sales of defense articles to a select number of countries. It would allow American defense companies and workers to compete on a level playing field for legitimate defense sales that promote our national interests.

Since the height of the Reagan buildup in 1985, the defense budget has been declining every year. In particular, the Department of Defense has reduced the procurement of weapons systems that our military personnel use to defend our Nation's interests. As a result of these cuts in procurement, large parts of our defense industrial base are closing their doors. Today, we have concerns about the ammunition industrial base, the small arms industrial base, the shipbuilding industrial base, the tank industrial base, and the helicopter industrial base. As the defense committees look at the defense industrial base, we know that we will need these manufacturing capabilities in the future as we struggle to find ways to preserve these assets.

One way we can help preserve this important industrial base is to allow defense companies to use export financing similar to that available to every other exporter in the United States. And that is what my amendment would do.

The United States currently dominates the international arms market. In my mind, our dominance in this market is a result of the superiority of our weapons, as demonstrated in Operation Desert Storm, and the sharp reduction in arms exports from the former Soviet Union. But we still have strong competition in the international arms market. Today, American defense exporters face stiff and increasing challenges from many of our European allies who have access to Government-supported export financing. American companies do not compete on a level playing field and this may erode U.S. marketshare at precisely a time when our own modernization program is in budgetary jeopardy. This situation is what my amendment seeks to address.

My amendment would give the Secretary of Defense the discretion to create a self-financing program to extend Government-backed loan guarantees for the export of defense articles and services. The buyer or the seller would pay fee which would cover the Federal Government's exposure cost of the loans. The list of eligible countries would be limited to NATO allies, major non-NATO allies, the emerging democratic states in Central Europe and members of the Asian Pacific Economic Cooperation [APEC]. Two years after enactment, my amendment calls for the President to issue a report that assesses the costs and benefits of the program and that recommends modifications.

Mr. President, my amendment has strong bipartisan support but I know some Members of the Senate oppose this type of program. I am open to any suggestion for improving this amendment, but this amendment represents a solid start for addressing this issue. The important point is that our defense companies and workers, the men and women who won the cold war for the United States, need our help to compete effectively on the international market. No one argues that defense exports alone will not make up for the effects of a 70-percent reduction in the defense procurement budget over the last 10 years. By providing this exports loan guarantee authority, however, we have a chance to help preserve at least some of the most important segments of the industrial base that our country will surely need in the future. We will also have a chance to save good, high-paying American jobs, and we owe it to ourselves, and to our future, to let our workers enjoy the benefits of a level playing field in the international defense marketplace.

GORTON AMENDMENT NO. 576

Mr. GORTON proposed an amendment to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 19, line 2, strike "$11,297,000" and insert: "$9,983,000".

On page 21, line 17, strike $3,020,000" and insert: "$3,720,000".

On page 21, line 17, after "rescinded" insert "and the Chief of the Forest Service shall not exercise any option of purchase or initiate any new purchases of land, with obligated or unobligated funds, in Washington County, Ohio, and Lawrence County, Ohio, during fiscal year 1995".

On page 44, line 77, insert the following:

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL AID HIGHWAYS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this heading in Public Law 100–17, $690,074 are rescinded.

DOLE (AND OTHERS) AMENDMENT NO. 577

Mr. DOLE (for himself, Mr. DASCHLE, and Mr. SANTORUM) proposed an amendment to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

Strike all after the first word and insert:

the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide additional supplemental appropriations and rescissions for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I—SUPPLEMENTALS AND RESCISSIONS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

(TRANSFER OF FUNDS)

For an additional amount for necessary expenses of the Agricultural Research Service $2,218,000, to be derived by transfer from "Nutrition Initiatives", Food and Consumer Service.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for salaries and expenses of the Food Safety and Inspection Service, $9,082,000.

COMMODITY CREDIT CORPORATION FUND

FOOD FOR PROGRESS

Notwithstanding any other provision of law, no funds of the Commodity Credit Corporation in excess of $50,000,000 for fiscal year 1995 (exclusive of the cost of commodities in the fiscal year) may be used to carry out the Food for Progress Act of 1985 (7 U.S.C. 1736o) with respect to commodities made available under section 416(b) of the Agricultural Act of 1949: *Provided*, That of this amount not more than $20,000,000 may be used without regard to section 110(g) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(g)). The additional costs resulting from this provision shall be financed from funds credited to the Corporation pursuant to section 426 of Public Law 103–465.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

The second paragraph under this heading in Public Law 103–330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 per centum per year".

FOOD AND NUTRITION SERVICE

COMMODITY SUPPLEMENTAL FOOD PROGRAM

The paragraph under this heading in Public Law 103–330 (108 Stat. 2441) is amended by inserting before the period at the end, the following: ": *Provided further*, That twenty per centum of any Commodity Supplemental Food Program funds carried over from fiscal year 1994 shall be available for administrative costs of the program".

GENERAL PROVISIONS

Section 715 of Public Law 103–330 is amended by deleting "$85,500,000" and by inserting "$110,000,000". The additional costs resulting from this provision shall be financed from funds credited to the Commodity Credit Corporation pursuant to section 426 of Public Law 103–465.

OFFICE OF THE SECRETARY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $31,000 are rescinded: *Provided*, That none of the funds made available to the Department of Agriculture may be used to carry out activities under 7 U.S.C. 2257 without prior notification to the Committees on Appropriations.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330 and other Acts, $1,500,000 are rescinded.

Cooperative State Research Service

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $958,000 are rescinded, including $524,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i(c)); and $434,000 for necessary expenses of Cooperative State Research Service activities: *Provided*, That the amount of "$9,917,000" available under this heading in Public Law 103–330 (108 Stat. 2441) for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, is amended to read "$9,207,000".

Animal and Plant Health Inspection Service

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $6,000,000 are rescinded.

Rural Development Administration and Farmers Home Administration

LOCAL TECHNICAL ASSISTANCE AND PLANNING GRANTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $1,750,000 are rescinded.

Alcohol Fuels Credit Guarantee Program Account

(RESCISSION)

Of the funds made available under this heading in Public Law 102–341, $9,000,000 are rescinded.

Rural Electrification Administration

RURAL ELECTRIFICATION AND TELEPHONE LOANS

PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–330, $1,500,000 for the cost of 5 per centum rural telephone loans are rescinded.

Foreign Agricultural Service

PUBLIC LAW 480 PROGRAM ACCOUNTS

Of the funds made available under this heading in Public Law 103–330, $142,500,000 are rescinded of which: $6,135,000 shall be from the amounts appropriated for ocean freight differential costs; $92,500,000 shall be from the amounts appropriated for commodities supplied in connection with dispositions abroad pursuant to title III; and $43,865,000 shall be from the amounts appropriated for the cost of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended.

General Provisions

SEC. 101. PROHIBITION ON USE OF FUNDS TO DELINEATE NEW AGRICULTURAL WETLANDS.

(a) In General.—Except as provided in subsection (b), during the period beginning on the date of enactment of this Act and ending on December 31, 1995, none of the funds made available by this or any other Act may be used by the Secretary of Agriculture to delineate wetlands for the purpose of certification under section 1222(a) of the Food Security Act of 1985 (16 U.S.C. 3822(a)).

(b) Exception.—Subsection (a) shall not apply to land if the owner or operator of the land requests a determination as to whether the land is considered a wetland under subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) or any other provision of law.

CHAPTER II

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

RELATED AGENCIES

National Bankruptcy Review Commission

(TRANSFER OF FUNDS)

For the National Bankruptcy Review Commission as authorized by Public Law 103–394, $1,500,000 shall be made available until expended, to be derived by transfer from unobligated balances of the Working Capital fund in the Department of Justice.

United States Information Agency

INTERNATIONAL BROADCASTING OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $27,710,000 are rescinded.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading in Public Law 103–317, $5,000,000 are rescinded.

LEGAL ACTIVITIES

ASSETS FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

Office of Justice Programs

DRUG COURTS

(RESCISSION)

Of the funds made available under this heading in title VII of Public Law 103–317, $17,100,000 are rescinded.

OUNCE OF PREVENTION COUNCIL

(INCLUDING RESCISSION)

Of the funds made available under this heading in title VIII of Public Law 103–317 $1,000,000 are rescinded.

In addition, under this heading in Public Law 103–317, after the word "grants", insert the following: "and administrative expenses". After the word "expended", insert the following: ": *Provided*, That the Council is authorized to accept, hold, administer, and use gifts, both real and personal, for the purpose of aiding or facilitating the work of the Council".

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $19,500,000 are rescinded.

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317 for the Manufacturing Extension Partnership and the Quality Program, $27,100,000 are rescinded.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $37,600,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $8,000,000 are rescinded.

Technology Administration

Under Secretary for Technology/Office of Technology Policy

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,500,000 are rescinded.

National Technical Information Service

NTIS REVOLVING FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $7,600,000 are rescinded.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSION)

Of unobligated balances available under this heading pursuant to Public Law 103–75, Public Law 102–368, and Public Law 103–317, $47,384,000 are rescinded.

THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services

UNITED STATES COURT OF INTERNATIONAL TRADE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $1,000,000 are rescinded.

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,100,000 are rescinded.

RELATED AGENCY

Small Business Administration

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded: *Provided*, That no funds in that public law shall be available to implement section 24 of the Small Business Act, as amended.

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $15,000,000 are rescinded.

DEPARTMENT OF STATE

Administration of Foreign Affairs

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $2,000,000 are rescinded.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $30,000,000 are rescinded.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $14,617,000 are rescinded.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $4,000,000 are rescinded, of which $2,000,000 are from funds made available for activities related to the implementation of the Chemical Weapons Convention.

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

From unobligated balances available under this heading, $2,000,000 are rescinded.

UNITED STATES INFORMATION AGENCY

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–317, $5,000,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

RADIO FREE ASIA

(RESCISSION)

Of the funds made available under this heading, $6,000,000 are rescinded.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $10,000,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Appropriations Acts, $50,000,000 are rescinded.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

OPERATION AND MAINTENANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $81,500,000 are rescinded.

ATOMIC ENERGY DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $13,000,000 are rescinded.

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $15,000,000 are rescinded.

DEPARTMENTAL ADMINISTRATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $20,000,000 are rescinded.

POWER MARKETING ADMINISTRATIONS

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 103–316 and prior years' Energy and Water Development Acts, $30,000,000 are rescinded.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $10,000,000 are rescinded.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–316, $5,000,000 are rescinded.

CHAPTER IV

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

(RESCISSION)

Of the unearmarked and unobligated balances of funds available in Public Law 103–87 and Public Law 103–306, $125,000,000 are rescinded: *Provided*, That not later than thirty days after the enactment of this Act the Director of the Office of Management and Budget shall submit a report to Congress setting forth the accounts and submit a report to Congress setting forth the accounts and amounts which are reduced pursuant to this paragraph.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $70,000 are rescinded, to be derived from amounts available for developing and finalizing the Roswell Resource Management Plan/Environmental Impact Statement and the Carlsbad Resource Management Plan Amendment/Environmental Impact Statement: *Provided*, That none of the funds made available in such Act or any other appropriations Act may be used for finalizing or implementing either such plan.

CONSTRUCTION AND ACCESS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, Public Law 103–138, and Public Law 102–381, $2,100,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 102–381, Public Law 101–121, and Public Law 100–446, $1,497,000 are rescinded.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading or the heading Construction and Anadromous Fish in Public Law 103–332, Public Law 103–138, Public Law 103–75, Public Law 102–381, Public Law 102–154, Public Law 102–368, Public Law 101–512, Public Law 101–121, Public Law 100–446, and Public Law 100–202, $13,215,000 are rescinded.

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, and Public Law 101–512, $3,893,000 are rescinded.

NATIONAL BIOLOGICAL SURVEY

RESEARCH, INVENTORIES, AND SURVEYS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–332 and Public Law 103–138, $12,544,000 are rescinded.

NATIONAL PARK SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $25,970,000 are rescinded.

URBAN PARK AND RECREATION FUND

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $7,480,000 are rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138, Public Law 102–381, Public Law 102–154, Public Law 101–512, Public Law 101–121, Public Law 100–446, Public Law 100–202, Public Law 99–190, Public Law 98–473, and Public Law 98–146, $11,297,000 are rescinded.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $814,000 are rescinded.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $11,350,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103–332 is amended by striking "$330,111,000" and inserting in lieu thereof "$329,361,000".

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $9,571,000 are rescinded.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

(RESCISSION)

Of the funds provided under this heading in Public Law 103–332, $1,900,000 is rescinded.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,900,000 are rescinded.

TRUST TERRITORY OF THE PACIFIC ISLANDS

(RESCISSION)

Of the funds available under this heading in Public Law 99–591, $32,139,000 are rescinded.

COMPACT OF FREE ASSOCIATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–332, $1,000,000 are rescinded.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $6,000,000 are rescinded.

STATE AND PRIVATE FORESTRY

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332 and Public law 103–138, $6,250,000 are rescinded.

INTERNATIONAL FORESTRY

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 102–381, $7,824,000 are rescinded: *Provided*, That the first proviso under this head in Public Law 103–332 is amended by striking "1994" and inserting in lieu thereof "1995".

LAND ACQUISITION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, Public Law 103–138 and Public Law 102–381, $3,020,000 are rescinded.

DEPARTMENT OF ENERGY

FOSSIL ENGERGY RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $20,750,000 are rescinded.

NAVAL PETROLEUM AND OIL SHALE RESERVES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $11,000,000 are rescinded.

ENERGY CONSERVATION

(RESCISSIONS)

Of the funds available under this heading in Public Law 103–332, $34,928,000 are rescinded.

Of the funds available under this heading in Public Law 103–138, $13,700,000 are rescinded.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $2,000,000 are rescinded.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

(RESCISSIONS)

Of the funds available under this heading in Public Law 102–381, and Public Law 103–138, $1,000,000 are rescinded.

CONSTRUCTION

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–154, Public Law 102–381, Public Law 103–138, and Public Law 103–332, $11,237,000 are rescinded: *Provided*, That of the amounts proposed herein for rescission, $2,500,000 are from funds previously appropriated for the National Museum of the American Indian: *Provided further*, That notwithstanding any other provision of law, the provisions of the Davis-Bacon Act shall not apply to any contract associated with the construction of facilities for the National Museum of the American Indian.

NATIONAL GALLERY OF ART

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $407,000 are rescinded.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $3,000,000 are rescinded.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $1,000,000 are rescinded.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

(RESCISSION)

Of the funds available under this heading in Public Law 103–332, $5,000,000 are rescinded.

GENERAL PROVISIONS

SEC. 501. No funds made available in any appropriations Act may be used by the Department of the Interior, including but not limited to the United States Fish and Wildlife Service and the National Biological Service, to search for the Alabama sturgeon in the Alabama River, the Cahaba River, the Tombigbee River or the Tennessee-Tombigbee Waterway in Alabama or Mississippi.

SEC. 502. (a) None of the funds made available in Public Law 103–332 may be used by the United States Fish and Wildlife Service to implement or enforce special use permit numbered 72030.

(b) The Secretary of the Interior shall immediately reinstate the travel guidelines specified in special use permit numbered 65715 for the visiting public and employees of the Virginia Department of Conservation and Recreation at Buck Bay National Wildlife Refuge, Virginia. Such guidelines shall remain in effect until such time as an agreement described in subsection (c) becomes effective, but in no case shall remain in effect after September 30, 1995.

(c) It is the sense of Congress that the Secretary of the Interior and the Governor of Virginia should negotiate and enter into a long term agreement concerning resources management and public access with respect to Back Pay National Wildlife Refuge and False Cape State Park, Virginia, in order to improve the implementation of the missions of the Refuge and Park.

SEC. 503. (a) No funds available to the Forest Service may be used to implement Habitat Conservation Areas in the Tongass National Forest for species which have not been declared threatened or endangered pursuant to the Endangered Species Act, except that with respect to goshawks the Forest Service may impose interim Goshawk Habitat Conservation Areas not to exceed 300 acres per active nest consistent with the guidelines utilized in national forests in the continental United States.

(b) The Secretary shall notify Congress within 30 days of any timber sales which may be delayed or canceled due to the Goshawk Habitat Conservation Areas described in subsection (a).

SEC. 504. RENEWAL OF PERMITS FOR GRAZING ON NATIONAL FOREST LANDS.

Notwithstanding any other law, at the request of an applicant for renewal of a permit that expires on or after the date of enactment of this Act for grazing on land located in a unit of the National Forest System, the Secretary of Agriculture shall reinstate, if necessary, and extend the term of the permit until the date on which the Secretary of Agriculture completes action on the application, including action required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

CHAPTER VI

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,508,700,000 are rescinded, including $46,404,000 for necessary expenses of construction, rehabilitation, and acquisition of new Job Corps centers, $2,500,000 for the School-to-Work Opportunities Act, $15,600,000 for title III, part A of the Job Training Partnership Act, $20,000,000 for the title III, part B of such Act, $3,861,000 for service delivery areas under section 101(a)(4)(A)(iii) of such Act, $33,000,000 for carrying out title II, part A of such Act, $472,010,000 for carrying out title II, part C of such Act, $750,000 for the National Commission for Employment Policy and $421,000 for the National Occupational Information Coordinating Committee: *Provided*, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II–B and title II–C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

(RESCISSIONS)

Of the funds made available in the first paragraph under this heading in Public Law 103–333, $11,263,000 are rescinded.

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $3,177,000 are rescinded.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $20,000,000 are rescinded, and amounts which may be expended from the Employment Security Administration account in the Unemployment Trust Fund are reduced from $3,269,097,000 to $3,221,397,000.

Bureau of Labor Statistics

SALARIES AND EXPENSES

Of the funds made available under this heading in Public Law 103–333, $1,100,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $42,071,000 are rescinded.

Centers for Disease Control and Prevention

DISEASE CONTROL, RESEARCH, AND TRAINING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $1,300,000 are rescinded.

National Institutes of Health

BUILDINGS AND FACILITIES

(RESCISSION)

Of the available balances under this heading, $79,289,000 are rescinded.

Assistant Secretary for Health

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,320,000 are rescinded.

Agency for Health Care Policy and Research

HEALTH CARE POLICY AND RESEARCH

(RESCISSION)

Of the Federal funds made available under this heading in Public Law 103–333, $3,132,000 are rescinded.

Health Care Financing Administration

PROGRAM MANAGEMENT

(RESCISSION)

Funds made available under this heading in Public Law 103–333 are reduced from $2,207,135,000 to $2,185,935,000, and funds transferred to this account as authorized by section 201(g) of the Social Security Act are reduced to the same amount.

Social Security Administration

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading in Public Law 103–333, $67,000,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333 to invest in a state-of-the-art computing network, $88,283,000 are rescinded.

Administration for Children and Families

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, there are rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(E) of the Social Security Act (as amended by Public Law 100–485) is amended by adding before the "and": "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,300,000,000 for the purpose of determining the amount of the payment under subsection (l) to which each State is entitled),".

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

(RESCISSION)

Of the funds made available in the second paragraph under this heading in Public Law 103–333, $6,000,000 are rescinded.

COMMUNITY SERVICES BLOCK GRANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $13,988,000 are rescinded.

Administration on Aging

(AGING SERVICES PROGRAMS)

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $899,000 are rescinded.

Office of the Secretary

(POLICY RESEARCH)

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,918,000 are rescinded.

DEPARTMENT OF EDUCATION

EDUCATION REFORM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,100,000 are rescinded, including $6,300,000 from funds made available for State and local education systemic improvement, and $1,300,000 from funds made available for Federal activities under the Goals 2000: Educate America Act; and $2,500,000 are rescinded from funds made available under the School to Work Opportunities Act, including $729,000 for National programs and $1,771,000 for State grants and local partnerships.

EDUCATION FOR THE DISADVANTAGED

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,900,000 are rescinded as follows: $2,000,000 from part B, and $5,900,000 from part E, section 1501.

SCHOOL IMPROVEMENT PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $136,417,000 are rescinded as follows: from the Elementary and Secondary Education Act, title II–B, $69,000,000, title V–C, $2,000,000, title IX–B, $1,000,000, title X–D, $1,500,000, section 10602, $1,630,000, and title XIII–A, $8,900,000; from the Higher Education Act, section 596, $13,875,000; from funds derived from the Violent Crime Reduction Trust Fund, $11,100,000; and from funds for the Civil Rights Act of 1964, title IV, $7,412,000.

BILINGUAL AND IMMIGRANT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $32,380,000 are rescinded from funding for title VII–A and $2,200,000 from part C of the Elementary and Secondary Education Act.

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $60,566,000 are rescinded as follows: from the Carl D. Perkins Vocational and Applied Technology Education Act, title III–A, and III–B, $43,888,000 and from title IV–A and IV–C, $8,891,000; from the Adult Education Act, part B–7, $7,787,000.

STUDENT FINANCIAL ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $10,000,000 are rescinded from funding for the Higher Education Act, title IV, part H–1.

HIGHER EDUCATION

(RESCISSION)

Of the funds made available under this hearing in Public Law 103–333, $46,583,000 are rescinded as follows: from amounts available for the Higher Education Act, title IV–A, chapter 5, $496,000, title IV–A–2, chapter 2, $600,000, title IV–A–6, $2,000,000, title V–C, subparts 1 and 3, $16,175,000, title IX–B, $10,100,000, title IX–E, $3,500,000, title IX–G, $2,888,000, title X–D, $2,900,000, and title XI–A, $500,000; Public Law 102–325, $1,000,000; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990, $6,424,000.

HOWARD UNIVERSITY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $3,300,000 are rescinded, including $1,500,000 for construction.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, for the costs of direct loans, as authorized under part C of title VII of the Higher Education Act, as amended, $168,000 are rescinded, and the authority to subsidize gross loan obligations is repealed. In addition, $322,000 appropriated for administrative expenses are rescinded.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $15,200,000 are rescinded as follows: from the Elementary and Secondary Education Act, title III–A, $5,000,000, title III–B, $5,000,000, and title X–B, $4,600,000; from the Goals 2000: Educate America Act, title VI, $600,000.

LIBRARIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $2,916,000 are rescinded from title II, part B, section 222 of the Higher Education Act.

Related Agencies

Corporation for Public Broadcasting

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112, $26,360,000 are

rescinded. Of the funds made available under this heading in Public Law 103–333, $29,360,000 are rescinded.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–333, $7,000,000 are rescinded.

GENERAL PROVISIONS

FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 601. Section 458(a) of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended—

(1) by striking "$345,000,000" and inserting "$250,000,000"; and

(2) by striking "$2,500,000,000" and inserting "$2,405,000,000".

SEC. 602. Of the funds made available in fiscal year 1995 to the Department of Labor in Public Law 103–333 for compliance assistance and enforcement activities, $8,975,000 are rescinded.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to the family trust of Dean A. Gallo, late a Representative from the State of New Jersey, $133,600.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $460,000 are rescinded.

JOINT COMMITTEE ON PRINTING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $238,137 are rescinded.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $650,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $187,000 are rescinded.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

SENATE OFFICE BUILDINGS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $850,000 are rescinded.

CAPITAL POWER PLANT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $1,650,000 are rescinded.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $5,000,000 are rescinded.

BOTANIC GARDEN

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available until expended by transfer under this heading in Public Law 103–283, $7,000,000 are rescinded.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $600,000 are rescinded.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $150,000 are rescinded.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $100,000 are rescinded.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–283, $8,186750,000 are rescinded.

CHAPTER VIII

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307,283, $10,000,000 are rescinded.

MILITARY CONSTRUCTION, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $13,050,000 are rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $33,250,000 are rescinded.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $1,340,000 are rescinded.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $69,000,000 are rescinded.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $10,628,000 are rescinded.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

(RESCISSION)

Of the funds made available under this heading in Public Law 103–307, $93,566,000 are rescinded.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

OFFICE OF THE SECRETARY

WORKING CAPITAL FUND

(RESCISSION)

The obligation authority under this heading in Public Law 103–313 is hereby reduced by $4,000,000.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds made available under this heading, $5,300,000 are rescinded: *Provided*, That the Secretary shall not enter into any contracts for "Small Community Air Service" beyond September 30, 1995, which require compensation fixed and determined under subchapter II of chapter 417 of Title 49, United States Code (49 U.S.C. 41731–42) payable by the Department of Transportation: *Provided further*, That no funds under this head shall be available for payments to air carriers under subchapter II.

COAST GUARD

OPERATING EXPENSES

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $3,700,000 are rescinded.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(RESCISSION)

Of the available balances under this heading, $34,298,000 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–331, $400,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(RESCISSION)

Of the available balances under this heading, $1,000,000 are rescinded: *Provided*, That the following proviso in Public Law 103–331 under this heading is repealed, "*Provided further*, That of the funds available under this head, $17,500,000 is available only for permanent change of station moves for members of the air traffic work force".

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $31,850,000 are rescinded.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $7,500,000 are rescinded.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the available contract authority balances under this account $2,000,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

(RESCISSION)

The obligation limitation under this heading in Public Law 103–331 is hereby reduced by $45,950,000.

Federal-Aid Highways
(LIMITATION ON OBLIGATIONS)
(HIGHWAY TRUST FUND)
(RESCISSION)

The obligation limitation under this heading in Public Law 103-331 is hereby reduced by $123,590,000, of which $27,640,000 shall be deducted from amounts made available for the Applied Research and Technology Program authorized under section 307(e) of title 23, United States Code, and $50,000,000 shall be deducted from the amounts available for the Congestion Pricing Pilot Program authorized under section 1002(b) of Public Law 102-240, and $45,950,000 shall be deducted from the limitation on General Operating Expenses: *Provided*, That the amounts deducted from the aforementioned programs are rescinded.

Federal-Aid Highways
EMERGENCY RELIEF PROGRAM
(HIGHWAY TRUST FUND)
(RESCISSION)

Of the amounts provided under this heading in Public Law 103-211, $50,000,000 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Highway Traffic Safety Grants
(HIGHWAY TRUST FUND)
(RESCISSION)

Of the available balances of contract authority under this heading, $20,000,000 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

Office of the Administrator
(TRANSFER OF FUNDS)

Section 341 of Public Law 103-331 is amended by deleting "and received from the Delaware and Hudson Railroad," after "amended,".

Northeast Corridor Improvement Program
(RESCISSION)

Of the amounts provided under this heading in Public Law 103-331, $7,768,000 are rescinded.

National Magnetic Levitation Prototype Development Program
(HIGHWAY TRUST FUND)
(RESCISSION)

Of the available balances of contract authority under this heading, $250,000,000 are rescinded.

FEDERAL TRANSIT ADMINISTRATION

Discretionary Grants
(LIMITATION ON OBLIGATIONS)
(HIGHWAY TRUST FUND)
(RESCISSION)

The obligation limitation under this heading in Public Law 103-331 is hereby reduced by $17,650,000: *Provided*, That such reduction shall be made from obligational authority available to the Secretary for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.

Notwithstanding Section 313 of Public Law 103-331, the obligation limitations under this heading in the following Department of Transportation and Related Agencies Appropriations Acts are reduced by the following amounts:

Public Law 102-143, $62,833,000, to be distributed as follows:

(a) $2,563,000, for the replacement, rehabilitation, and purchases of buses and related equipment and the construction of bus-related facilities: *Provided*, That the foregoing reduction shall be distributed according to the reductions identified in Senate Report 104-17, for which the obligation limitation in Public Law 102-143 was applied; and

(b) $60,270,000, for new fixed guideway systems, to be distributed as follows:

$2,000,000, for the Cleveland Dual Hub Corridor Project;

$930,000, for the Kansas City-South LRT Project;

$1,900,000, for the San Diego Mid-Coast Extension Project;

$34,200,000, for the Hawthorne-Warwick Commuter Rail Project;

$8,000,000, for the San Jose-Gilroy Commuter Rail Project;

$3,240,000, for the Seattle-Tacoma Commuter Rail Project; and

$10,000,000, for the Detroit LRT Project.

Public Law 101-516, $4,460,000, for new fixed guideway systems, to be distributed as follows:

$4,460,000 for the Cleveland Dual Hub Corridor Project.

GENERAL PROVISIONS
(INCLUDING RESCISSIONS)

SEC. 901. Of the funds provided in Public Law 103-331 for the Department of Transportation working capital fund (WCF), $4,000,000 are rescinded, which limits fiscal year 1995 WCF obligational authority for elements of the Department of Transportation funded in public Law 103-331 to no more than $89,000,000.

SEC. 902. Of the total budgetary resources available to the Department of Transportation (excluding the Maritime Administration) during fiscal year 1995 for civilian and military compensation and benefits and other administrative expenses, $10,000,000 are permanently canceled.

SEC. 903. Section 326 of Public Law 103-122 is hereby amended to delete the words "or previous Acts" each time they appear in that section.

CHAPTER X

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

General Services Administration
FEDERAL BUILDINGS FUND
(TRANSFER OF FUNDS)

Of the funds made available for the Federal Buildings Fund in Public Law 103-329, $5,000,000 shall be made available by the General Services Administration to implement an agreement between the Food and Drug Administration and another entity for space, equipment and facilities related to seafood research.

Office of Personnel Management
GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE BENEFITS

For an additional amount for "Government payment for annuitants, employee life insurance", $9,000,000 to remain available until expended.

DEPARTMENT OF THE TREASURY

Departmental Offices
SALARIES AND EXPENSES

Of the funds made available under this heading in Public Law 103-329, $100,000 are rescinded.

Financial Management Service
SALARIES AND EXPENSES
(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $160,000 are rescinded.

United States Mint
SALARIES AND EXPENSES
(TRANSFER OF FUNDS)

In the paragraph under this heading in Public Law 103-329, insert "not to exceed" after "of which".

Bureau of the Public Debt
ADMINISTERING THE PUBLIC DEBT
SALARIES AND EXPENSES
(RESCISSION)

Of the funds made available under this heading in Public Law 103-123, $1,500,000 are rescinded.

Internal Revenue Service
INFORMATION SYSTEMS
(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $1,490,000 are rescinded.

Administrative Provision—Internal Revenue Service

In the paragraph under this heading in Public Law 103-329, in section 3, after "$119,000,000", insert "annually".

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

The White House Office
SALARIES AND EXPENSES
(RESCISSION)

Of the funds made available under this heading in Public Law 103-329, $171,000 are rescinded.

Federal Drug Control Programs
SPECIAL FORFEITURE FUND
(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For activities authorized by Public Law 100-690, an additional amount of $13,200,000, to remain available until expended for transfer to the United States Customs Service, "Salaries and expenses" for carrying out border enforcement activities: *Provided*, That of the funds made available under this heading in Public Law 103-329, $13,200,000 are rescinded.

INDEPENDENT AGENCIES

"General Services Administration
Federal Buildings Fund
Limitations on the Availability of Revenue
(RESCISSION)

Of the funds made available under this heading in Public Laws 101-136, 101-509, 102-27, 102-141, 103-123, 102-393, 103-329, $1,894,840,000 are rescinded from the following projects in the following amounts:

Alabama:

Montgomery, U.S. Courthouse annex, $46,320,000

Arkansas:

Little Rock, Courthouse, $13,816,000

Arizona:

Bullhead City, FAA grant, $2,200,000

Lukeville, commercial lot expansion, $1,219,000

Nogales, Border Patrol, headquarters, $2,998,000

Phoenix, U.S. Federal Building, Courthouse, $121,890,000

San Luis, primary lane expansion and administrative office space, $3,496,000

Sierra Vista, U.S. Magistrates office, $1,000,000

Tucson, Federal Building, U.S. Courthouse, $80,974,000

California:

Menlo Park, United States Geological Survey office laboratory building, $6,868,000

Sacramento, Federal Building-U.S. Courthouse, $142,902,000

San Diego, Federal building-Courthouse, $3,379,000

San Francisco, Lease purchase, $9,702,000

San Francisco, U.S. Courthouse, $4,378,000

San Francisco, U.S. Court of Appeals annex, $9,003,000

San Pedro, Customhouse, $4,887,000

Colorado:

Denver, Federal building-Courthouse, $8,006,000

District of Columbia:

Central and West heating plants, $5,000,000

Corps of Engineers, headquarters, $37,618,000

General Services Administration, Southeast Federal Center, headquarters, $25,000,000

U.S. Secret Service, headquarters, $113,084,000

Florida:

Ft. Myers, U.S. Courthouse, $24,851,000

Jacksonville, U.S. Courthouse, $10,633,000

Tampa, U.S. Courthouse, $14,998,000

Georgia:

Albany, U.S. Courthouse, $12,101,000

Atlanta, Centers for Disease Control, site acquisition and improvement, $25,890,000

Atlanta, Centers for Disease Control, $14,110,000

Atlanta, Centers for Disease Control, Roybal Laboratory, $47,000,000

Savannah, U.S. Courthouse annex, $3,000,000

Hawaii:

Hilo, federal facilities consolidation, $12,000,000

Illinois:

Chicago, SSA DO, $2,167,000

Chicago, Federal Center, $47,682,000

Chicago, Dirksen building, $1,200,000

Chicago, J.C. Kluczynski building, $13,414,000

Indiana:

Hammond, Federal Building, U.S. Courthouse, $52,272,000

Jeffersonville, Federal Center, $13,522,000

Kentucky:

Covington, U.S. Courthouse, $2,914,000

London, U.S. Courthouse, $1,523,000

Louisiana:

Lafayette, U.S. Courthouse, $3,295,000

Maryland:

Avondale, DeLaSalle building, $16,671,000

Bowie, Bureau of Census, $27,877,000

Prince Georges/Montgomery Counties, FDA consolidation, $284,650,000

Woodlawn, SSA building, $17,292,000

Massachusetts:

Boston, U.S. Courthouse, $4,076,000

Missouri:

Cape Girardeau, U.S. Courthouse, $3,688,000

Kansas City, U.S. Courthouse, $100,721,000

Nebraska:

Omaha, Federal Building, U.S. Courthouse, $9,291,000

Nevada:

Las Vegas, U.S. Courthouse, $4,230,000

Reno, Federal building-U.S. Courthouse, $1,465,000

New Hampshire:

Concord, Federal building-U.S. Courthouse, $3,519,000

New Jersey:

Newark, parking facility, $9,000,000

Trenton, Clarkson Courthouse, $14,107,000

New Mexico:

Albuquerque, U.S. Courthouse, $47,459,000

Santa Teresa, Border Station, $4,004,000

New York:

Brooklyn, U.S. Courthouse, $43,717,000

Holtsville, IRS Center, $19,183,000

Long Island, U.S. Courthouse, $27,198,000

North Dakota:

Fargo, Federal building-U.S. Courthouse, $20,105,000

Pembina, Border Station, $93,000

Ohio:

Cleveland, Celebreeze Federal building, $10,972,000

Cleveland, U.S. Courthouse, $28,246,000

Steubenville, U.S. Courthouse, $2,820,000

Youngstown, Federal Building-U.S. Courthouse, $4,574,000

Oklahoma:

Oklahoma City, Murrah Federal building, $5,290,000

Oregon:

Portland, U.S. Courthouse, $5,000,000

Pennsylvania:

Philadelphia, Byrne-Green Federal building-Courthouse, $30,628,000

Philadelphia, Nix Federal building-courthouse, $13,814,000

Philadelphia, Veterans Administration, $1,276,000

Scranton, Federal Building-U.S. Courthouse, $9,969,000

Rhode Island:

Providence, Kennedy Plaza Federal Courthouse, $7,740,000

South Carolina:

Columbia, U.S. Courthouse annex, $592,000

Tennessee:

Greeneville, U.S. Courthouse, $2,936,000

Texas:

Austin, Veterans Administration annex, $1,028,000

Brownsville, U.S. Courthouse, $4,339,000

Corpus Christi, U.S. Courthouse, $6,446,000

Laredo, Federal building-U.S. Courthouse, $5,986,000

Lubbock, Federal building-Courthouse, $12,167,000

Ysleta, site acquisition and construction, $1,727,000

U.S. Virgin Islands:

Charlotte Amalie, St. Thomas, U.S. Courthouse, $2,184,000

Virginia:

Richmond, Courthouse annex, $12,509,000

Washington:

Blaine, Border Station, $4,472,000

Point Roberts, Border Station, $698,000

Seattle, U.S. Courthouse, $10,949,000

Walla Wallas, Corps Engineers building, $2,800,000

West Virginia:

Beckley, Federal building-U.S. Courthouse, $33,097,000

Martinsburg, IRS center, $4,494,000

Wheeling, Federal Building-U.S. Courthouse, $35,829,000

Nationwide chlorofluorocarbons program, $12,300,000

Nationwide energy program, $15,300,000

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–329, $3,140,000 are rescinded.

CHAPTER XI

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster Relief" for necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,900,000,000, to remain available until expended: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER RELIEF EMERGENCY CONTINGENCY FUND

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $4,800,000,000, to become available on October 1, 1995, and remain available until expended: *Provided*, That such amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL FLOOD INSURANCE FUND

(TRANSFER OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Reform Act of 1994, an additional amount not to exceed $331,000 shall be transferred as needed to the "Salaries and expenses" appropriation for flood mitigation and flood insurance operations, and an additional amount not to exceed $5,000,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood mitigation expenses pursuant to the National Flood Insurance Reform Act of 1994.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $50,000,000 are rescinded: *Provided*, That $20,000,000 of this amount is to be taken from the $771,000,000 earmarked for the equipment and land and structures object classifications, which amount does not become available until August 1, 1995: *Provided further*, That of the $16,214,684,000 made available under this heading in Public Law 103–327, the $9,920,819,000 restricted by section 509 of Public Law 103–327 for personnel compensation and benefits expenditures is reduced to $9,890,819,000.

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MAJOR PROJECTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and prior years, $50,000,000 are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $50,000,000 are rescinded.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, $351,000,000 of funds for development or acquisition costs of public housing (including public housing for Indian families) are rescinded, except that such rescission shall not apply to funds for replacement housing for units demolished, reconstructed, or otherwise disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the existing public housing inventory, or to funds related to litigation settlements or court orders, and the Secretary shall not be required to make any remaining funds available pursuant to section 213(d)(1)(A) of the Housing and Community Development Act of 1994; and except that such rescission should not apply to $30,000,000 of funds for development or acquisition costs of public housing for Indian families (excluding replacement units); $2,406,789,000 of funds for new incremental rental subsidy contracts under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), including $100,000,000 from new programs and $350,000,000 from pension fund rental assistance as provided in Public Law 103–327, are rescinded, and the remaining authority for such purposes shall be only for units necessary to provide housing assistance for residents to be relocated from existing Federally subsidized or assisted housing, for replacement housing for units demolished, reconstructed, or otherwise disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements or court orders, for amendments to contracts to permit continued assistance to participating families, or to enable public housing authorities to implement "mixed population" plans for developments housing primarily elderly residents; $1,050,000,000 funds for expiring contracts for the tenant-based existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), provided under the heading "Assistance for the renewal of expiring section 8 subsidy contracts" are rescinded, and the Secretary shall require that $1,050,000,000 of funds held as project reserves by the local administering housing authorities which are in excess of current needs shall be utilized for such renewals; $615,000,000 of amounts earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937 are rescinded and the Secretary may take actions necessary to assure that such rescission is distributed among public housing authorities, to the extent practicable, as if such rescission occurred prior to the commencement of the fiscal year; $106,000,000 of amounts earmarked for special purpose grants are rescinded; $152,500,000 of amounts earmarked for loan management set-asides are rescinded; and $90,000,000 of amounts earmarked for the lead-based paint hazard reduction program are rescinded.

(DEFERRAL)

Of funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under this heading in prior years, $465,100,000 of amounts earmarked for the preservation of low-income housing programs (excluding $17,000,000 of previously earmarked, plus an additional $5,000,000, for preservation technical assistance grant funds pursuant to section 253 of the Housing and Community Development Act of 1987, as amended) shall not become available for obligation until September 30, 1995: *Provided*, That, notwithstanding any other provision of law, pending the availability of such funds, the Department of Housing and Urban Development may suspend further processing of applications with the exception of applications regarding properties for which an owner's appraisal was submitted on or before February 6, 1995, or for which a notice of intent to transfer the property was filed on or before February 6, 1995.

HOUSING COUNSELING ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $38,000,000 are rescinded.

NEHEMIAH HOUSING OPPORTUNITIES FUND

(RESCISSION)

Of the funds transferred to this revolving fund in prior years, $17,700,000 are rescinded.

Administrative Provisions

Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) Notwithstanding any other provision of law, a public housing agency may use modernization assistance provided under section 14 for any eligible activity currently authorized by this Act or applicable appropriation Acts (including section 5 replacement housing) for a public housing agency, including the demolition of existing units, for replacement housing, for temporary relocation assistance, for drug elimination activities, and in conjunction with other programs; provided the public housing agency consults with the appropriate local government officials (or Indian tribal officials) and with tenants of the public housing development. The public housing agency shall establish procedures for consultation with local government officials and tenants.

"(2) The authorization provided under this subsection shall not extend to the use of public housing modernization assistance for public housing operating assistance.".

The above amendment shall be effective for assistance appropriated on or before the effective date of this Act.

Section 18 of the United States Housing Act of 1937 is amended by—

(1) inserting "and" at the end of subsection (b)(1);

(2) striking all that follows after "Act" in subsection (b)(2) and inserting in lieu thereof the following: ", and the public housing agency provides for the payment of the relocation expenses of each tenant to be displaced, ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act and shall not commence demolition or disposition of any unit until the tenant of the unit is relocated;";

(3) striking subsection (b)(3);

(4) striking "(1)" in subsection (c);

(5) striking subsection (c)(2);

(6) inserting before the period at the end of subsection (d) the following: ", provided that nothing in this section shall prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving the living conditions of or providing more efficient services to its tenants";

(7) striking "under section (b)(3)(A)" in each place it occurs in subsection (e);

(8) redesignating existing subsection (f) as subsection (g); and

(9) inserting a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law, replacement housing units for public housing units demolished may be built on the original public housing site or the same neighborhood if the number of such replacement units is significantly fewer than the number of units demolished.".

Section 304(g) of the United States Housing Act of 1937 is hereby repealed.

The above two amendments shall be effective for plans for the demolition, disposition or conversion to homeownership of public housing approved by the Secretary on or before September 30, 1995.

Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection:

"(z) Termination of Section 8 Contracts and Reuse of Recaptured Budget Authority.—

"(1) General authority.—The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of termination of a housing assistance payments contract (other than a contract for tenant-based assistance) only for one or more of the following:

"(A) Tenant-based assistance.—Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

"(B) Project-based assistance.—Pursuant to a contract with an owner, to attach assistance to one or more structures under this section.

"(2) Families occupying units formerly assisted under terminated contract.—Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

"(3) Effective date.—This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.".

INDEPENDENT AGENCIES

Chemical Safety and Hazard Investigation Board

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $500,000 are rescinded.

Community Development Financial Institutions

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $88,000,000 are rescinded.

Corporation for National and Community Service

NATIONAL AND COMMUNITY SERVICE PROGRAMS

OPERATING EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $105,000,000 are rescinded.

Environmental Protection Agency

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $9,635,000 are rescinded.

ABATEMENT, CONTROL, AND COMPLIANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $9,806,805 are rescinded: *Provided*, That notwithstanding any other provision of law, the Environmental Protection Agency shall not be required to site a computer to support the regional acid deposition monitoring program in the Bay City, Michigan, vicinity.

HAZARDOUS SUBSTANCE SUPERFUND

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $100,000,000 are rescinded.

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–327 and Public Law 103–124, $1,242,095,000 are rescinded: *Provided*, That $799,000,000 of this amount is to be derived from amounts appropriated for state revolving funds and $443,095,000 is to be derived from amounts appropriated for making grants for the construction of wastewater treatment facilities specified in House Report 103–715.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE, AERONAUTICS AND TECHNOLOGY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327 and any unobligated balances from funds appropriated under "Research and Development" in prior years, $68,000,000 are rescinded.

CONSTRUCTION OF FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–389, for the Consortium for International Earth Science Information Network, $27,000,000 are rescinded; and any unobligated balances from funds appropriated under this heading in prior years, $49,000,000 are rescinded.

NATIONAL AERONAUTICAL FACILITIES

The first proviso under this heading in Public Law 103–127 is repealed, and the amounts made available under this heading are to remain available until September 30, 1997.

MISSION SUPPORT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $6,000,000 are rescinded.

NATIONAL SCIENCE FOUNDATION

ACADEMIC RESEARCH INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $131,867,000 are rescinded.

CORPORATIONS

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC AFFORDABLE HOUSING PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–327, $11,281,034 are rescinded.

TITLE II—GENERAL PROVISIONS

SEC. 2001. TIMBER SALES.

(a) SALVAGE TIMBER.—

(1) DEFINITION.—In this subsection, the term "salvage timber sale"—

(A) means a timber sale for which an important reason for entry includes the removal of disease- or insect-infested trees, dead, damaged, or downed trees, or trees affected by fire or imminently susceptible to fire or insect attack; and

(B) includes the removal of associated trees or trees lacking the characteristics of a healthy and viable ecosystem for the purpose of ecosystem improvement or rehabilitation, except that any such sale must include an identifiable salvage component of trees described in the first sentence.

(2) DIRECTION TO COMPLETE SALVAGE TIMBER SALES.—Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary of Agriculture, acting through the Chief of the Forest Service, and the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall—

(A) expeditiously prepare, offer, and award salvage timber sale contracts on Federal lands, except in—

(i) any area on Federal lands included in the National Wilderness Preservation System;

(ii) any roadless area on Federal lands designated by Congress for wilderness study in Colorado or Montana;

(iii) any roadless area on Federal lands recommended by the Forest Service or Bureau of Land Management for wilderness designation in its most recent land management plan in effect as of the date of enactment of this Act; or

(iv) any area on Federal lands on which timber harvesting for any purpose is prohibited by statute; and

(B) perform the appropriate revegetation and tree planting operations in the area in which the salvage operations occurred.

(3) SALE DOCUMENTATION.—

(A) IN GENERAL.—For each salvage timber sale conducted under paragraph (2), the Secretary concerned shall prepare a document that combines an environmental assessment under section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(E)) (including regulations implementing that section) and a biological evaluation under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) and other applicable Federal law and implementing regulations.

(B) MATTERS TO BE CONSIDERED.—The environmental assessment and biological evaluation under subparagraph (A) shall, at the sole discretion of the Secretary concerned and to the extent that the Secretary concerned considers appropriate and feasible, consider the environmental effects of the salvage timber sale and consider the effect, if any, on threatened or endangered species.

(C) USE OF PREVIOUSLY PREPARED DOCUMENT.—In lieu of preparing a new document under this paragraph, the Secretary concerned may use a document prepared pursuant to the National Environmental Policy Act of 1969 before the date of the enactment of this Act, a biological evaluation written before that date, or information collected for such a document or evaluation if the document, evaluation, or information applies to the Federal lands covered by the proposed sale. Any salvage sale or preparation on the date of enactment of this Act shall be subject to the provisions of this section.

(D) SCOPE AND CONTENT.—The scope and content of the documentation and information prepared, considered, and relied on under this paragraph is at the sole discretion of the Secretary concerned.

(4) VOLUME.—In each of fiscal years 1995 and 1996—

(A) the Secretary of Agriculture, acting through the Chief of the Forest Service, shall—

(i) prepare, offer, and award salvage timber sale contracts under paragraph (1) on Forest Service lands to the maximum extent feasible to reduce the backlogged volume of salvage timber as described in paragraph (i); and

(B) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall—

(i) prepare, offer, and award salvage timber sale contracts under paragraph (1) on Bureau of Land Management lands to the maximum extend feasible to reduce the backlogged volume of salvage timber as described in paragraph (i).

(5) EFFECT ON OTHER LAWS.—Any timber sale prepared, advertised, offered, awarded, or operated in accordance with paragraph (1) shall be deemed to satisfy the requirements of all applicable Federal laws (including regulations, including—

(A) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(B) the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.);

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.);

(D) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(E) the National Forest Management Act (16 U.S.C. 472a et seq.);

(F) the Multiple-Use Sustained Yield Act (16 U.S.C. 528 et seq.); and

(G) other Federal environmental laws.

(6) SALE PREPARATION.—The Secretary concerned shall make use of all available authority, including the employment of private contractors and the use of expedited fire contracting procedures, to prepare and advertise salvage timber sales under this subsection. The provisions of section 3(d)(1) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226) shall not apply to any former employee of the Department of the Secretary concerned who received a voluntary separation incentive payment authorized by such Act and accepts employment pursuant to this paragraph.

(7) REPORTING REQUIREMENTS.—Each Secretary shall report to the Committee on Appropriations and the Committee on Resources of the House of Representatives, and the Committee on Appropriations and the Committee on Energy and Natural Resources of the United States Senate, 90 days after the date of enactment of this Act and on the final days of each 90 day period thereafter throughout each of fiscal years 1995 and 1996, on the number of sales and volumes contained therein offered during such 90 day period and expected to be offered during the next 90 day period.

(b) OPTION 9.—

(1) DIRECTION OF COMPLETE TIMBER SALES.—Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary of the Interior, acting through the Director of the Bureau of Land Management, and the Secretary of Agriculture, acting through the Chief of the Forest Service, shall expeditiously prepare, offer, and award timber sale contracts on Federal lands in the forests specified within Option 9, as selected by the Secretary of the Interior and the Secretary of Agriculture on April 13, 1994.

(2) EFFECT ON OTHER LAWS.—Any timber sale prepared, advertised, offered, awarded, or operated in accordance with paragraph (1)

shall be deemed to satisfy the requirements of all applicable Federal laws (including regulations) including—

(A) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(B) the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.);

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.);

(D) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(E) the National Forest Management Act (16 U.S.C. 472a et seq.);

(F) the Multiple-Use Sustained Yield Act (16 U.S.C. 528 et seq.); and

(G) other Federal environmental laws.

(c) JUDICIAL AND ADMINISTRATIVE REVIEW.—

(1) JUDICIAL AUTHORITY.—

(A) RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS.—No restraining order or preliminary injunction shall be issued by any court of the United States with respect to a decision to prepare, advertise, offer, award, or operate any timber sale offered under subsection (a) or (b).

(B) PERMANENT INJUNCTIONS.—The courts of the United States shall have authority to enjoin permanently, order modification of, or void an individual sale under subsection (a) or (b) if, at a trial on the merits, it has been determined that the decision to prepare, advertise, offer, award, or operate the sale was arbitrary, capricious, or otherwise not in accordance with law.

(2) TIME AND VENUE FOR CHALLENGE.—

(A) IN GENERAL.—Any challenge to a timber sale under subsection (a) or (b) shall be brought as a civil action in the United States district court for the district in which the affected Federal lands are located within 15 days after the date of the initial advertisement of the challenged timber sale.

(B) NO WAIVER.—The Secretary of the Interior and the Secretary of Agriculture may not agree to, and a court may not grant, a waiver the requirements of subparagraph (A).

(3) STAY OF ADMINISTRATIVE ACTION.—During the 45-day period after the date of filing of a civil action under paragraph (2), the affected agency shall take no action to award a challenged timber sale.

(4) TIME FOR DECISION.—A civil action filed under this section shall be assigned for hearing at the earliest possible date, and the court shall render its final decision relative to any challenge within 45 days after the date on the action is brought, unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(5) EXPEDITING RULES.—The court may establish rules governing the procedures for a civil action under paragraph (2) that set page limits on briefs and time limits on filing briefs, motions, and other papers that are shorter than the limits specified in the Federal Rules of Civil Procedure or Federal Rules of Appellate Procedure.

(6) SPECIAL MASTERS.—In order to reach a decision within 45 days, the court may assign all or part of any proceeding under this subsection to 1 or more special masters for prompt review and recommendations to the court.

(7) NO ADMINISTRATIVE REVIEW.—A timber sale conducted under subsection (a) or (b), and any decision of the Secretary of Agriculture or the Secretary of the Interior in connection with the sale, shall not be subject to administrative review.

(d) EXPIRATION DATE.—Subsection (a) and (b) shall expire effective as of September 30, 1996, but the terms and conditions of those subsections shall continue in effect with respect to timber sale contracts offered under this Act until the completion of performance of the contracts.

(e) AWARD AND RELEASE OF PREVIOUSLY OFFERED AND UNAWARDED TIMBER SALE CONTRACTS.—

(1) AWARD AND RELEASE REQUIRED.—Notwithstanding any other law, within 30 days after the date of the enactment of this Act, the Secretary concerned shall act to award, release, and permit to be completed in fiscal years 1995 and 1996, with no change in originally advertised terms and volumes, all timber sale contracts offered or awarded before that date in any unit of the National Forest System or district of the Bureau of Land Management subject to section 318 of Public Law 101-121 (103 Stat. 745).

(2) THREATENED OR ENDANGERED SPECIES.—No sale unit shall be released or completed under this subsection if any threatened or endangered species is known to be nesting within the acreage that is the subject of the sale unit.

(3) ALTERNATIVE OFFER IN CASE OF DELAY.—If for any reason a sale cannot be released and completed under the terms of this subsection within 45 days after the date of enactment of this Act, the Secretary of Agriculture or the Secretary of Interior, as the case may be, shall provide the purchaser an equal volume of timber, of like kind and value, which shall be subject to the terms of the original contract, and shall not count against current allowable sale quantities.

(f) EFFECT ON PLANS, POLICIES, AND ACTIVITIES.—Compliance with this section shall not require or permit any revisions, amendment, consultation, supplementation, or other administrative action in or for any land management plan, standard, guideline, policy, regional guide or multi-forest plan because of implementation or impacts, site-specific or cumulative, of activities authorized or required by this section. No project decision shall be required to be halted or changed by such documents or guidance, implementation, or impacts.

SEC. 2002. Section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1995 (Public Law 103-329; 108 Stat. 2428) is amended by adding at the end of the section the following new subsection:

"(g) Notwithstanding the provisions of subsection (e)(1), any Office of Inspector General that employed less than four criminal investigators on the date of the enactment of this Act, and whose criminal investigators were not receiving administratively uncontrollable overtime before such date of enactment, may provide availability pay to those criminal investigators at any time after September 30, 1995.".

SEC. 2003. Section 5542 of title 5, United States Code, is amended by striking subsection (d).

SEC. 2004. section 5545a(c) of title 5, United States Code, is amended by adding after the last sentence, "An agency may direct a criminal investigator to work unscheduled duty hours on days when regularly scheduled overtime is provided under section 5542, and that duty may be related to the duties for which the investigator was scheduled or other duties based on the needs of the agency.

SEC. 2005. Notwithstanding any other provision of law, beginning 30 days from the date of enactment of his Act and continuing thereafter, United States Customs Service Pilots compensated for administratively uncontrollable overtime under the provisions of section 5545(c) of title i5, United States Code, shall be provided availability pay authorized under the provisions of section 5545(a) of title 5, United States Code, and all other provisions of such title shall apply to such Customs Service pilots.

GENERAL PROVISIONS

SEC. 2006. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to require any state to comply with the requirement of section 182 of the Clean Air Act by adopting or implementing a test-only or IM240 enhanced vehicle inspection and maintenance program, except that EPA may approve such a program if a state chooses to submit one to meet that requirement.

SEC. 2007. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency to impose or enforce any requirement that a state implement trip reduction measures to reduce vehicular emissions.

SEC. 2008. None of the funds made available in any appropriations Act for fiscal year 1995 may be used by the Environmental Protection Agency for listing or to list any additional facilities on the National Priorities List established by section 105 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9605, unless the Administrator receives a written request to propose for listing or to list a facility from the governor of the state in which the facility is located, or unless legislation to reauthorize CERCLA is enacted.

SEC. 2009. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 2010. PROHIBITION ON USE OF FUNDS TO DELINEATE NEW AGRICULTURAL WETLANDS.

(a) IN GENERAL.—Except as provided in subsection (b), during the period beginning on the date of enactment of this Act and ending on December 31, 1996, none of the funds made available by this or any other Act may be used by the Secretary of Agriculture to delineate wetlands for the purpose of certification under section * * * of the Food Security Act of 1985 (16 U.S.C. * * *).

(b) EXCEPTION.—Subsection (a) shall not apply to land if the owner or operator of the land requests a determination as to whether the land is considered a wetland under subtitle C of title XII of the Food Security Act of 1986 (16 U.S.C. 3821 et seq.) or any other provision of law.

FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES

SEC. 2011. Of the funds available to the agencies of the federal government, $337,000,000 are hereby rescinded: *Provided*, That rescissions pursuant to this paragraph shall be taken only from administrative and travel accounts; *Provided further*, That rescissions shall be taken on a pro rata basis from funds available to every federal agency, department, and office, including the Office of the President.

TITLE III—IMPACT OF LEGISLATION ON CHILDREN

SEC. 3001. SENSE OF CONGRESS.

It is the sense of Congress that Congress should not enact or adopt any legislation that will increase the number of children who are hungry or homeless.

TITLE IV—DEFICIT REDUCTION

DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. 4001. Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the discretionary spending limits (new budget authority and outlays) specified in section 601(a)(2) of the Congressional Budget Act of 1974 for each of the fiscal years 1995 through 1998 by the aggregate amount of estimated reductions in new budget authority and outlays for discretionary programs resulting from the provisions this Act (other than emergency appropriations) for such fiscal year, as calculated by the Director.

PROHIBITION ON USE OF SAVINGS TO OFFSET DEFICIT INCREASES RESULTING FROM DIRECT SPENDING OR RECEIPTS LEGISLATION

SEC. 4002. Reductions in outlays, and reductions in the discretionary spending limits specified in section 601(a)(2) of the Congressional Budget Act of 1974, resulting from the enactment of this Act shall not be taken into account for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS

BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RESTRUCTURING

DEBT RELIEF FOR JORDAN

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans to Jordan issued by the Export-Import Bank or by the Agency for International Development or by the Department of Defense, or for the cost of modifying: (1) concessional loans authorized under Title I of the Agricultural Trade Development and Assistance Act of 1964, as amended, and (2) credits owned by Jordan to the Commodity Credit Corporation, as a result of the Corporation's status as a guarantor of credits in connection with export sales to Jordan; as authorized under subsection (a) under the heading, "Debt Relief for Jordan", in Title VI of Public Law 103-306, $275,000,000, to remain available until September 30, 1996: *Provided*, That not more than $50,000,000 of the funds appropriated by this paragraph may be obligated prior to October 1, 1996.

LEVIN (AND OTHERS) AMENDMENT NO. 578

Mr. LEVIN (for himself, Mr. ABRAHAM, Mr. SPECTER, Mr. KOHL, Mr. GLENN, Mr. SANTORUM, Mr. SIMON, Mr. D'AMATO, Mr. FEINGOLD, and Ms. MOSELEY-BRAUN) proposed an amendment to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

On page 9, line 16 strike "$13,000,000" and insert "$15,000,000".

On page 9, line 12, strike "$37,600,000" and insert "$35,600,000".

HARKIN (AND OTHERS) AMENDMENT NO. 579

Mr. HARKIN (for himself, Mr. LEAHY, Mr. REID, Mr. KENNEDY, Mr. SIMON, and Mr. WELLSTONE) proposed an amendment to amendment No. 420 proposed by Mr. HATFIELD to the bill H.R. 1158, supra; as follows:

Insert after page 7, line 18:

INTERNATIONAL BROADCASTING OPERATORS

(RESCISSION)

Of the funds made available under the heading to the Board for International Broad casting in Public Law 103-317, $40,500,000 are rescinded

On page 27, delete lines 4 through 12.

On page 36, line 10, strike "$26,360,000" and insert "$17,791,000".

On page 36, line 12, strike "$29,360,000" and insert "$11,965,000".

HATFIELD (AND BYRD) AMENDMENT NO. 580

Mr. HATFIELD (for himself and Mr. BYRD) proposed an amendment to the bill H.R. 1158, supra; as follows:

On page 26. line 12 reduce the sum named by "$200,000,000".

On page 26, line 20, reduce the sum named by "$200,000,000".

On page 27, line 21, strike "$3,221,397,000" and insert in lieu thereof: "$3,201,397,000".

HATFIELD AMENDMENTS NOS. 581–582

Mr. HATFIELD proposed two amendments to the bill H.R. 1158, supra; as follows:

AMENDMENT NO. 581

In Amendment number 437 to Amendment 435 strike the following:

Of the funds made available under this heading in Public Laws 101-136, 101-509, 102–27, 102-141, 102-393, 103-123, 103-329, $1,842,885,000 are rescinded from the following projects in the following amounts:

and insert in lieu, thereof:

Of the funds made available under this heading in Public Laws 101-136, 101-509, 102–27, 102-141, 102-393, 103-123, 103-329, $1,894,000 are rescinded from the following projects in the following amounts:

and strike:

Tucson, Federal building, U.S. Courthouse, $121,890,000 and insert in lieu thereof:

Tucson, Federal building, U.S. Courthouse, $80,974,000.

AMENDMENT NO. 582

On page 44 line 16 insert: ": *Provided further*, Of the available contract authority balances under this heading in Public Law 97-424, $13,340,000 are rescinded; and of the available balances under this heading in Public Law 100-17, $126,608,000 are rescinded."

LAUTENBERG AMENDMENT NO. 583

Mr. HATFIELD (for Mr. LAUTENBERG) proposed an amendment to the bill H.R. 1158, supra; as follows:

On page 43, line 17, strike the numeral and insert $1,318,000,000.

On page 46, strike all beginning on line 6 through the end of line 11.

BURNS AMENDMENT NO. 584

Mr. HATFIELD (for Mr. BURNS) proposed an amendment to the bill H.R. 1158, supra; as follows:

At the appropriate place insert the following:

(a) SCHEDULE FOR NEPA COMPLIANCE.—Each National Forest System unit shall establish and adhere to a schedule for the completion of National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analysis and decisions on all allotments within the National Forest System unit for which NEPA analysis is needed. The schedule shall provide that not more than 20 percent of the allotments shall undergo NEPA analysis and decisions through Fiscal Year 96.

(b) * * * other law, term grazing permits which expire or are waived before the NEPA analysis and decision pursuant to the schedule developed by individual forest Service System units, shall be issued on the same terms and conditions and for the full term of the expired or waived permit. Upon completion of the scheduled NEPA analysis and decision for the allotment, the terms and conditions of existing grazing permits may be modified or re-issued, if necessary to conform to such NEPA analysis.

(c) EXPIRED PERMITS.—This section shall only apply to permits which were not extended or replaced with a new term grazing permit solely because the analysis required by NEPA and other applicable laws has not been completed and also shall include permits that expired in 1994 and 1995 before the date of enactment of this Act.

MCCAIN AMENDMENT NO. 585

Mr. HATFIELD (for Mr. MCCAIN) proposed an amendment to the bill H.R. 1158, supra; as follows:

In Title II—General Provisions, SEC. 2001 Timber Sales, add the following to the end of subsection (6) SALE PREPARATION.: The Director of the Office of Personnel Management, and the Secretary of the relevant Department, shall provide a summary report to the governmental affairs committees of the House and Senate regarding the number of incentive payment recipients who were rehired, their terms of reemployment, their job classifications, and an explanation, in the judgment of the agencies, of how such reemployment without repayment of the incentive payments received is consistent with the original waiver provision of P.L. 103-226.

This report shall not be conducted in a manner that would delay the rehiring of any former employees under this Act, or effect the normal confidentiality of federal employees.

JEFFORDS AMENDMENT NO. 586

Mr. HATFIELD (for Mr. JEFFORDS) proposed an amendment to the bill H.R. 1158, supra; as follows:

On page 14, line 12 strike $81,500,000 and insert "$71,500,000".

On page 13, strike the figure on line 24 and insert "$60,000,000".

PELL (AND OTHERS) AMENDMENT NO. 587

Mr. HATFIELD (for Mr. PELL for himself, Mrs. FEINSTEIN, Mr. FEINGOLD, Ms. MOSELEY-BRAUN, and Mr. SIMON) proposed an amendment to the bill H.R. 1158, supra; as follows:

On page 33, line 9, strike "$236,417,000" and insert "$242,417,000".

On page 33, line 14, strike "$8,900,000" and insert "$14,900,000".

On page 34, line 4, strike "$60,566,000" and insert "$54,566,000".

On page 34, line 7, strike "$8,891,000" and insert "$2,891,000".

KENNEDY AMENDMENT NO. 588

Mr. HATFIELD (for Mr. KENNEDY) proposed an amendment to the bill H.R. 1158, supra; as follows:

On page 36 after line 5, insert:

"PROGRAM ADMINISTRATION

"(RESCISSION)

"Of the funds made available under this heading in Public Law 103–333, $4,424,000 are rescinded."

On page 34, line 18, strike "$57,783,000" and insert in lieu "$53,359,000".

On Page 35, line 2, strike "$6,424,000", and insert in lieu of "$2,000,000".

AKAKA AMENDMENT NO. 589

Mr. HATFIELD (for Mr. AKAKA) proposed an amendment to the bill H.R. 1158, supra; as follows:

On page 31, strike line 9 and insert the following: "Public Law 103–333, $10,988,000 are rescinded.".

On page 31, between lines 9 and 10, insert the following:

"Of the funds made available under this heading in Public Law 103–333 and reserved by the Secretary pursuant to section 674(a)(1) of the Community Services Block Grant Act, $1,900,000 are rescinded.".

On page 32, line 5, strike "$2,918,000" and insert "$4,018,000".

KEMPTHORNE AMENDMENT NO. 590

Mr. HATFIELD (for Mr. KEMPTHORNE) proposed an amendment to the bill H.R. 1158, supra; as follows:

On page 11, line 19, strike "$2,000,000 are rescinded." and insert the following: $2,500,000 are rescinded.

ADVISORY COMMISSION ON
INTERGOVERNMENTAL RELATIONS

For the Advisory Commission on Intergovernmental Relations for purposes of section 306 of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), $500,000.

INOUYE AMENDMENT NO. 591

Mr. HATFIELD (for Mr. INOUYE) proposed an amendment to the bill H.R. 1158, supra; as follows:

In chapter V of title I, under the heading "CONSTRUCTION" under the heading "SMITHSONIAN INSTITUTION" under the heading "OTHER RELATED AGENCIES" strike ": *Provided further*, That notwithstanding any other provision of law, the provisions of the Davis-Bacon Act shall not apply to any contract associated with the construction of facilities for the National Museum of the American Indian.".

WELLSTONE AMENDMENT NO. 592

Mr. HATFIELD (for Mr. WELLSTONE) proposed an amendment to the bill H.R. 1158, supra; as follows:

On page 29, line 16, strike "$2,185,985,000" and insert in lieu thereof $2,191,435,000".

At the appropriate place in the bill insert the following notwithstanding any other provision of this Act, administrative expenses and travel shall further be reduced by $5,500,000.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT

COHEN (AND OTHERS) AMENDMENT NO. 593

Mr. THOMPSON (for Mr. COHEN for himself, Mr. ROTH, and Mr. JEFFORDS) proposed an amendment to the bill (H.R. 1345) to eliminate budget deficits and management inefficiencies in the government of the District of Columbia through the establishment of the District of Columbia through the establishment of the District of Columbia Financial Responsibility and Management Assistance Authority, and for other purposes; as follows:

On page 7, line 2, strike "or".

On page 7, line 6, strike the period at the end and insert a semicolon.

On page 7, between lines 6 and 7, insert the following:

(3) to amend, supersede, or alter the provisions of title 11 of the District of Columbia Code, or sections 431 through 434, 445, and 602(a)(4) of the District of Columbia Self-Government and Governmental Reorganization Act (pertaining the organization, powers, and jurisdiction of the District of Columbia courts); or

(4) to authorize the application of section 103(e) or 303(b)(3) of this Act (relating to issuance of subpoenas) to judicial officers or employees of the District of Columbia courts.

On page 10, strike lines 7 through 9 and insert the following new paragraph:

"(4) maintains a primary residence in the District of Columbia or has a primary place of business in the District of Columbia.".

On page 12, strike lines 17 through 24 and insert the following:

(c) INAPPLICABILITY OF CERTAIN EMPLOYMENT AND PROCUREMENT LAWS.—

(1) CIVIL SERVICE LAWS.—The Executive Director and staff of the Authority may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(2) DISTRICT EMPLOYMENT AND PROCUREMENT LAWS.—The Executive Director and staff of the Authority may be appointed and paid without regard to the provisions of the District of Columbia Code governing appointments and salaries. The provisions of the District of Columbia Code governing procurement shall not apply to the Authority.

PAKISTAN RESOLUTION

PRESSLER AMENDMENT NO. 594

Mr. THOMPSON (for Mr. PRESSLER) proposed an amendment to the resolution (S. Res. 102) to express the sense of the Senate concerning Pakistan and the impending visit of Prime Minister Bhutto; as follows:

On line 4 of page 2, after "the", add the following—"people of the".

SEXUAL CRIMES AGAINST CHILDREN PREVENTION

GRASSLEY (AND OTHERS) AMENDMENT NO. 595

Mr. THOMPSON (for Mr. GRASSLEY for himself, Mr. HATCH, Mr. ROTH, and Mr. THURMOND) proposed an amendment to the bill (H.R. 1240) to combat crime by enhancing the penalties for certain sexual crimes against children; as follows:

On page 1, strike all after enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sex Crimes Against Children Prevention Act of 1995".

SEC. 2. INCREASED PENALTIES FOR CERTAIN CONDUCT INVOLVING THE SEXUAL EXPLOITATION OF CHILDREN.

The United States Sentencing Commission shall amend the sentencing guidelines to—

(1) increase the base offense level for an offense under section 2251 of title 18, United States Code, by at least 2 levels; and

(2) increase the base offense level for an offense under section 2252 of title 18, United States Code, by at least 2 levels.

SEC. 3. INCREASED PENALTIES FOR USE OF COMPUTERS IN SEXUAL EXPLOITATION OF CHILDREN.

The United States Sentencing Commission shall amend the sentencing guidelines to increase the base offense level by at least 2 levels for an offense committed under section 2251(c)(1)(A) or 2252(a) of title 18, United States Code, if a computer was used to transmit the notice or advertisement to the intended recipient or to transport or ship the visual depiction.

SEC. 4. INCREASED PENALTIES FOR TRANSPORTATION OF CHILDREN WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.

The United States Sentencing Commission shall amend the sentencing guidelines to increase the base offense level for an offense under section 2423(a) of title 18, United States Code, by at least 3 levels.

SEC. 5. TECHNICAL CORRECTION.

Section 2423(b) of title 18, United States Code, is amended by striking "2245" and inserting "2246".

SEC. 6. REPORT BY THE UNITED STATES SENTENCING COMMISSION.

Not later than 180 days after the date of the enactment of this Act, the United States Sentencing Commission shall submit a report to Congress concerning offenses involving child pornography and other sex offenses against children. The Commission shall include in the report—

(1) an analysis of the sentences imposed for offenses under sections 2251, 2252, and 2423 of title 18, United States Code, and recommendations regarding any modifications to the sentencing guidelines that may be appropriate with respect to those offenses;

(2) an analysis of the sentences imposed for offenses under sections 2241, 2242, 2243, and 2244 of title 18, United States Code, in cases in which the victim was under the age of 18 years, and recommendations regarding any modifications to the sentencing guidelines that may be appropriate with respect to those offenses;

(3) an analysis of the type of substantial assistance that courts have recognized as warranting a downward departure from the sentencing guidelines relating to offenses under section 2251 or 2252 of title 18, United States Code;

(4) a survey of the recidivism rate for offenders convicted of committing sex crimes against children, an analysis of the impact on recidivism of sexual abuse treatment provided during or after incarceration or both, and an analysis of whether increased penalties would reduce recidivism for those crimes; and

(5) such other recommendations with respect to the offenses described in this section as the Commission deems appropriate.

Mr. GRASSLEY. Mr. President, I rise to offer an amendment to H.R. 1240, the Sexual Crimes Against Children Prevention Act of 1995. H.R. 1240 seeks to enhance prison time as well as fines for child pornographers who use computers to trade in child pornography. I believe that this penalty enhancement is an important measure and the Grassley-Hatch-Thurmond amendment merely clarifies what the House intended to do in order to remove any possible confusion in the future.

Computers are now the preferred business forum for child pornographers. Due to modern technology, predatory pedophiles sell, purchase and swap the most vile depictions of children engaged in the most outrageous types of sexual conduct.

Simply put, child pornography on computers is dangerous and must be stopped. In the past, whenever, State or Federal law enforcement agents arrested a child pornographer, or ring of child pornographers, they seized and then destroyed the child pornography. This kept child pornography out of the hands of child molesters and preserved the privacy of the children who had been so callously exploited. But now, because of digital computer technology, it is nearly impossible to actually destroy child pornography. That means there will be more child pornography for child molesters and less privacy for abused children. We in Congress must do something.

H.R. 1240 and the Grassley-Hatch-Thurmond amendment would discourage child pornographers from using computers to trade in child pornography. And when the U.S. Sentencing Commission reports to us this fall on how computer child pornographers are being punished, I will take a close look to see if there is anything the Senate can do to provide even more protection to children.

Mr. HATCH. Mr. President, I am pleased to join with Senators GRASSLEY and THURMOND in offering the Sex Crimes Against Children Prevention Act of 1995.

Obsecenity is a plague upon the moral fabric of this great Nation. It poisons the minds and spirits of our youth and fuels the growth of organized crime. Child pornography, a particularly pernicious evil, is something that no civilized society can tolerate.

To this end, I am introducing legislation to increase the penalties imposed under sections 2251 and 2252 of title 18 of the United States Code, upon those who exploit and degrade the weakest and most helpless members of our society, our children. Those persons who choose to engage in sexual exploitation of children, whether to satisfy prurient desire or to gain filthy lucre, must be made to feel the full weight of the law and suffer a punishment commensurate with the seriousness of their offense.

In addition to increasing the penalties for distributing child pornography or otherwise sexually exploiting children, I am pleased to note that this legislation helps our law enforcement efforts in this area keep pace with changing technology by increasing the penalties for the use of computers in connection with the distribution of child pornography. As an ever-increasing percentage of Americans, and especially our young people, enter the information superhighway, it is critical that we act to ensure that this highway is not littered with the debris of child pornography.

The bill also directs the Sentencing Commission to assess the impact of these increased penalties and to report to Congress any necessary modifications in the law. The Sentencing Commission will also be required to survey the recidivism rates for those who commit sex crimes against children and analyze the effect of treatment for those offenders.

I commend my colleagues from Iowa, Senator GRASSLEY, and South Carolina, Senator THURMOND, for joining me in introducing this bill. I urge my colleagues to support this important legislation.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Forests and Public Land Management to review the coordination of and conflicts between the Federal forest management and general environmental statutes.

The hearing will take place Wednesday, April 26, at 9:45 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Mark Rey at (202) 224-2878.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider S. 537, to amend the Alaska Native Claims Settlement Act, and the House version of the bill, H.R. 402.

The hearing will take place Thursday, April 27, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Andrew Lundquist at (202) 224-6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, April 6, 1995 session of the Senate for the purpose of conducting an executive session and markup on S. 565.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet on Thursday, April 6, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on the consumer price index.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, April 6, 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, April 6, 1995, at 10:00 a.m. to held a hearing on "the right to own property."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on The FDA and the Future of the American Biomedical and Food Industries, during the session of the Senate on Thursday, April 6, 1995 at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the subcommittee on Acquisition and Technology of the Committee on Armed

Services be authorized to meet at 2:00 p.m. on Thursday, April 6, 1995, in open session, to receive testimony on the implementation of acquisition management reform in the Department of Defense in Review of the Defense authorization request for fiscal year 1996 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. SANTORUM. Mr. President, I ask unanimous consent that subcommittee on Securities, of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 6, 1995, to conduct a hearing on securities litigation reform proposals.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTIVE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct a hearing Thursday, April 6, 10:00 a.m. on legislation to approve the National Highway System; issues related to the Woodrow Wilson Bridge; and the innovative financing of transportation facilities.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MANY OBSTACLES TO BALANCING OF BUDGET

• Mr. SIMON. Mr. President, one of the more thoughtful observers of the political scene through the years has been Melvin Brooks, now retired as a professor at Southern Illinois University in Carbondale.

Recently, he had an op ed piece in the Southern Illinoisan, a newspaper published in Carbondale, IL.

He discusses the practical obstacles to balancing the budget and why it is important to the future of our country.

His concluding paragraph says it all: "Failure to balance Federal budgets without such an amendment appear almost certain and dreadful consequences of failure to pay as we go are virtually certain. Few people seem to realize how many shattering consequences are almost inevitable."

Mr. President, I ask that the Melvin Brooks op ed piece be reprinted in the RECORD.

The piece follows:

[From the Southern Illinoisan]

MANY OBSTACLES TO BALANCING OF BUDGET

(By Melvin Brooks)

The obstacles to balancing the federal budget are indeed formidable, some believe too formidable to overcome.

One key obstacle is the behavior of members of Congress, presidents, other politicians, and special interests seeking to influence national policies. Most members of Congress want to be re-elected, have good mental ability and are politically knowledgeable. They know (or at least think they know) how to obtain enough votes to get re-elected.

One way is to tell voters what they like to hear regardless of logical inconsistency, and by all means avoid disagreeing with the favorite prejudices of their constituents. This they do.

It seems like increasing majorities of candidates for Congress criticize big government and promise to make large reductions in government, reduce taxes, balance the federal budget, yet prevent any reductions in Social Security or in military expenditures in order to keep the United States strong.

This is, of course, an impossible combination and they know it. Yet they also know that if they omit some of these promises, opponents who make all of them are likely to obtain more votes.

They also know that if they support the policies desired by special interests, especially those strong in their districts or states, they are likely to receive campaign contributions which otherwise would probably be given to an opponent.

And the more money a candidate has the more he can spend on television and thus increase his chances of winning. The temptation to play along with special interest groups is great, even though it will tend to increase national deficits.

The other huge obstacle to reducing federal deficits is the apparently high percentage of the public that is not well-informed about federal financial problems and/or are easily influenced by political propaganda. That includes people who pay little attention to what elected officials do from day to day until near election dates and then do their duty by listening to an occasional campaign speech and short (but expensive) political commercials.

They do not realize that the records of politicians are a far more reliable indication of what a politician will do in the future than are sounding promises. And people who fail to vote because "all politicians are dishonest" or "my vote won't make any difference" make it easier for the candidate with the most to spend to get elected.

Of course the special interest groups which spend large sums on campaign contributions (in effect a form of bribery) and seek costly special privileges from the government, are a very important cause of our inability to eliminate deficits. As long as they can prevent passage of comprehensive campaign finance reforms such as those narrowly defeated by the Republicans and some moderate Democrats a year or two ago, expect little change.

Other causes of budget deficits are the failure of our educational system and the mass media to educate the public better concerning basic political functioning.

Can politicians who get elected to high office really be blamed for our dangerously high and still growing national debt of nearly five trillion dollars? After all, every one of them was elected by more votes than those who were defeated.

My answer is yes. Either most or many of them at times put their personal interests, the interests of their party and/or the interests of their key supporters ahead of the long-run best interests of the United States.

Let me illustrate with the issue of the extremely narrow defeat of the proposed balanced budget amendment to the Constitution.

Leading Democrats charge that Congress can balance the budget any time there is the will to do it. They claim that whenever the Republicans present a concrete plan showing the cuts they propose to achieve a balanced budget, then the Democrats will negotiate with them to achieve a balanced budget.

The Democrats know that the Republicans will not, probably cannot, do this. The president is still smarting over the way Republicans and Mountain State Democrats defeated his proposal to charge reasonable prices for logging, mining and grazing rights on federal forest land.

Many liberal Democrats feared that if the amendment were adopted, Republicans might succeed in raiding Social Security funds so extensively that the system would be bankrupted when the baby boom generation retired. There are very good arguments against both of these extreme positions.

A reasonable compromise would be an excellent solution but was not seriously considered by either side. Apparently many Republicans and Democrats alike feared that the amendment could force them to make very difficult decisions which might jeopardize retaining their positions in Congress.

Right-wing Republicans favor policies which could easily result in a bigger gap between the rich and the poor and even larger deficits as happened between 1981 and 1994. Many liberal Democrats point out the serious potential risks of passage of the proposed amendment to balance federal budgets. But these are only potential.

Failure to balance federal budgets without such an amendment appear almost certain and dreadful consequences of failure to pay as we go are virtually certain. Few people seem to realize how many shattering consequences are almost inevitable.

Melvin Brooks is a retired Southern Illinois University at Carbondale professor.•

HONORING MICHIGAN STATE UNIVERSITY BASKETBALL COACH JUD HEATHCOTE ON THE OCCASION OF HIS RETIREMENT

• Mr. ABRAHAM. Mr. President, I rise to pay tribute to a great man and a great head coach: Jud Heathcote of the Michigan State Spartans. After this season ends, players and fans of college basketball at Michigan State will have to learn to live without the institution that is Jud Heathcote. He will be sorely missed.

Jud Heathcote's 340 wins in 19 seasons at MSU make him State's all-time winningest coach. Jud passed the previous mark of 232 in February 1990. His teams hold the first through seventh-highest victory totals on MSU's all-time single-season list. To top it off, Coach Heathcote's Spartans won the NCAA championship in 1979 and won the Big Ten in 1978, 1979, and 1990.

As he retires, Jud, his wife Beverly, and their children Jerry, Carla, and Barbara can look back on a long-running, successful career. Jud capped off a very successful tenure as Head Coach at the University of Montana by serving as assistant coach of the U.S. Pan American team in 1975—a team which brought back the Gold Medal. Beginning at MSU in 1976, Coach Heathcote became Big Ten Coach of the Year by the 1977–78 season. He repeated this performance in 1985–85 and went on to become the National Association of Basketball Coaches [NABC] Coach of the Year in 1989–90 and College Sports Magazines's Coach of the Year in 1994–95.

Noted for his special expertise in coaching defense, Jud also produced at MSU a team that this year led the Big Ten in field goal percentage, and was ranked seventh nationally. His dedication to the game, his concern with the well-being of the players and the integrity of the MSU program and his personal warmth and decency all make him a coach for all seasons.

We will miss Coach Heathcote, but are grateful for his many contributions to basketball, MSU and Michigan, and wish him all the best in his retirement.•

TRIBUTE TO DR. MAURICE VANDERPOL

• Mr. KERRY. Mr. President, on April 22, 1995, many special guests from the Netherlands and this Nation will gather at the Wang Center in Boston to celebrate the permanent endowment of Young at Arts, the Wang Center's educational outreach program, with special recognition to Dr. Maurice Vanderpol for his enthusiasm and outstanding leadership in this effort.

In 1989 Dr. Vanderpol established the Walter Suskind Memorial Fund in memory of Water Suskind, whose courage saved the lives of hundreds of children from Nazi concentration camps during the Second World War. The fund was established as a permanent endowment for Young at Arts. This program teaches a curriculum in the arts to young children around Boston—possibly some of whom are the grandchildren of those Walter Suskind saved 60 years ago.

Due to Dr. Vanderpol's tireless effort over the past 6 years, the campaign to raise $1 million for the endowment was successful. This success, along with Dr. Vanderpol's exemplary leadership and extraordinary support in keeping alive the memories and the dreams of a people brutalized by the horrors of war, is why I wish to recognize Dr. Maurice Vanderpol on this day.•

FAREWELL TO BISHOP LOUIS HENRY FORD

• Ms. MOSELEY-BRAUN. Mr. President, Bishop Louis Henry Ford died last Friday, after many years of service to his church, and to the people of Chicago.

Bishop Ford was the presiding International Bishop of the Church of God in Christ, and the spiritual leader to over eight million people, as well as the founder and pastor of the St. Paul Church of God in Christ in Chicago.

Louis Henry Ford arrived in Chicago in 1933, after graduating from Saints College in Mississippi, and was soon ordained an Elder in the Church of God in Christ. Three years later he founded St. Pauls and embarked on his long career of saving souls and strengthening the community around him through religion. It is through his efforts that the membership of Church of God in Christ has risen to 8.7 million parishioners in 52 different countries, and is now the largest Pentecostal Church in the United States.

Indeed, Bishop Ford's involvement in the community was much more than just religious. He served many years on the Cook County Board of Corrections and often was called upon to consult with the city government, especially on Chicago schools and race relations issues. He was respected as a leader in the civil rights movement, and he continued that tradition as he rose to leadership in the Church of God in Christ. Throughout the years Bishop Ford has been given numerous honors and awards, including the declaration of October 25th, 1990, as Louis Henry Ford Day in Chicago. Indeed, his work was recognized by President Clinton in 1993, when he addressed the 86th Annual Holy Convocation.

Bishop Louis Henry Ford was a well-loved and important member of our community. he spent his life helping people through the church. My greatest sympathy is with his wife Mother Margaret Ford, and his children Charles H.M. Ford and Janet Oliver Hill, and all his family members.

It is clear that Bishop Ford's legacy in the church will continue to help inspire people, and strengthen the community he loved long into the future. Bishop Ford will be greatly missed, but never forgotten.•

BISHOP'S VIEWS ON WELFARE REFORM

• Mr MOYNIHAN. Mr. President, Howard J. Hubbard, Bishop of Albany, recently presented his views on welfare reform in the diocesan newspaper, the Evangelist. The bishop served for 4 years as chaplain at Community Maternity Services, a diocesan program for pregnant teens and their children, so his statement is based on practical experience. Having worked with many welfare mothers at CMS, he refers to a number of them by name in his reflections. Bishop Hubbard has been in the trenches, as they say, so I believe my colleagues would do well to examine his views on the subject.

Mr. President, I ask that Bishop Hubbard's column be printed in the RECORD.

The column follows:

HIS EXPERIENCES GIVE BISHOP IDEAS ON WELFARE REFORM

(By Bishop Howard J. Hubbard)

The present debate over welfare reform is very complex. Most everyone agrees that the current system isn't working. There seems to be a consensus as well that a major focus of attention must be the growing number of women, especially teenagers, having children out of wedlock.

Teenage pregnancy is a national crisis. Teens and their children are in danger of failing to develop to their full potential; and too often, they become dependent, rather than contributing, members of society. Adolescents who have children are still children themselves.

In the past decade, teen pregnancy in particular and child care in general have become key elements of our national agenda. Teenage sexual activity and childbearing have increased in recent years, and a growing proportion of births to teenagers takes place outside of marriage:

In 1989, more than one million U.S. babies were born to unwed women;

Almost 350,000 of those babies were born to women under the age of 20;

Nearly three-fourths of American children growing up in single-parent families experience poverty for some period during their first ten years;

Becoming a parent as a teenager increases the chances that a mother will not complete high school, that she will fare poorly in the job market, and that she and her children will live in poverty.

THOUGHT AND EMOTIONS

On the rational level, policymakers are seeking to address the aspects of the welfare system which foster dependency and contribute to a permanent underclass where lack of family stability, child abuse, drug usage and inferior education perpetuate the vicious cycle of poverty.

On the emotional level, however, there is the cry of frustrated citizens who feel that they are bearing the brunt of a system out of control.

That mentality—which is so often heard on the talk shows or reflected in letters to the editor—was captured in caricature form by Saundra Smokes in her Jan. 29 column in the Albany Times Union: "Get those baby-making, lazy welfare mothers out of here and let them take their school-lunch-eating, government-dependent children with them. Put them in orphanages, put them anywhere, just get them out of here."

MEETING THE WOMEN

As one who served as chaplain for four years at Community Maternity Services (CMS), our diocesan program for pregnant teens and their newborn children, I think it is important to get beyond the stereotypes. Then we can reflect carefully upon who these women are and what motivates their behavior before arriving at solutions. Let me share a few snapshots of the young women I came to know at CMS:

Sharelle was in a series of foster homes (her mother was 15 when she had Sharelle) and is now living on her own with her infant son. She dropped out of school, and her only hope is to meet someone who will support them.

Gail represents the young girls who had abortions in the past year. She made no plans for future sexual overtures and carried within her a gnawing need to bring the baby back. Pregnant again a year later, she thought maybe this was God's way of letting her repent. She thought her penance was to be a perfect mother to this child.

Tammi was an unpopular and unattractive teen who was unhappy with herself. She would respond to any attention from any of the young men of her acquaintance. She felt terribly lonely the morning after.

Amy, almost 16, has been dating Joe, 18, for a year Amy's parents have not talked to her about sexuality; much of what she has learned has come from afternoon soaps. By the time Amy and Joe had promised each other it wouldn't happen again, she was pregnant.

Cheryl was active in CYO, played her guitar at Mass and was the pride of her family. She fell madly in love with Tom. They occasionally agreed to intercourse because "love gives all" and because "maybe virginity is selfish." She prayed that soon she would be able to talk her boyfriend out of this; but before she could, she was pregnant.

While those young women come from a variety of economic and social backgrounds, they all show the same characteristics: lack of self-esteem, poor and no communication with parents, and a desire to escape their present situation by pursuing the type of happiness and fulfillment that MTV or the soaps promise.

SOLUTIONS

There is no simple or single solution to their situations. Each woman differs in terms of specific barriers she faces and resources she should have available to promote her self-sufficiency and to guide her to social and economic independence.

But, based upon my years of experience with these young women and so many others in similar straits, as well as documented research, I believe that any program of welfare reform designed to address their needs constructively must take into account several factors:

1. Welfare programs are not among the primary reasons for the rising number of out-of-wedlock births.

Greg Duncan and Jean Yeung, in a comprehensive report titled "The Extent and Consequence of Welfare Dependents," conclude that "most research examining the effects of higher welfare benefit levels on out-of-wedlock childbearing finds that benefit levels have no significant effect on the likelihood that black women and girls will have children outside of marriage, and no significant effect, or only a small effect, on the likelihood that whites will have such births. We strongly urge the rejection of any proposal that would eliminate the safety net for poor children born outside of marriage. Such policies do more harm than good."

In the short term, that means that more, not less, in assistance may be the appropriate and most effective approach in dealing with these women.

2. Policies and programs of intervention with mothers and their children must be cognizant of and sensitive to the unique circumstance and diverse needs each faces.

For example, there is a difference between the 19-year-old who has two years of college credits and needs some assistance in caring for her one-year-old son as she seeks employment or job training, and the 17-year-old who is a high school dropout and who has a learning disability as does her two-year-old child.

Therefore, public policies and programs to assist single-parent mothers must be tailored to fit specific needs, and will require appropriate goals and realistic individualized time frames for achieving such.

3. The major goal in working with pregnant women, especially adolescents, is to educate for the purpose of reducing teen pregnancies, and to facilitate movement to maturity, independence and non-repetitive behavior (which would include personal support, daycare and adoption options, etc.).

Those goals can best be accomplished, through building parenting skills, connecting families with resources in the communities where they live, and promoting a partnership with parents for the full and healthy development of their children.

4. Quality, affordable and accessible daycare and health care as well as ongoing education or job training are prerequisites for success.

5. There must be a strong moral component in any program for single mothers as well as a values-laden dimension which promotes marriage, family life, caring, truthtelling, the goodness of sexuality, and the importance of its discipline and the value of schooling and work.

6. There must be a pragmatic component which addresses handling finances, child care, house management, cooking, shopping, responsible decision-making and personal relationships.

7. Where possible, birth fathers must be part of the program, which should include a focus on their rights and responsibilities, especially their responsibility for supporting their child, at a minimum financially.

CHURCH'S ROLE

For all this is work, there cannot be hidden agendas on the part of government, families, social agencies and the teenagers involved. Rather, there must be a forthright presentation of issues and interactive responses that are proactive.

The Church—through the efforts of Catholic Charities—stands ready to participate in such a program of welfare reform. To do less is to try to address a complex and multicasusal problem by settling for a massive and unwieldy system that, in the long run, falls painfully short of its goals.●

TRIBUTE TO DR. MICHAEL H. MESCON

● Mr. NUNN. Mr. President, I rise today to recognize Dr. Michael H. Mescon, dean emeritus of Georgia State University, as he is honored by the United States Small Business Administration [SBA] with their 1995 award of SBA Georgia Veteran Advocate of the Year.

This SBA award recognizes Dr. Mescon's 12 years of volunteer contributions as a mentor, teacher, and supporter of the Georgia Vietnam Veterans Leadership Program Small Business Training initiative. In his position as dean of the Georgia State University School of Business, Dr. Mescon provided the Georgia Veterans Leadership Program with facilities, administrative support, and access to the Georgia State University Small Business Development Center. He also gave his own time as a lecturer at seminars and special functions. These contributions, along with Dr. Mescon's perseverance and leadership, helped the fledgling program gain the necessary attention, support, and credibility to successfully launch its training initiative.

This Small Business Training initiative, begun in Georgia in 1983, has now been replicated across the Nation. The Georgia Veterans Leadership Program has conducted seminars in 16 cities across the State of Georgia as well as in a dozen other States, reaching more than 10,000 veterans. The Georgia Veterans Leadership Program Small Business Training initiative has generated over 650 Small Business Administration-Veterans direct and guaranteed loans—for a total of nearly $400 million in loans.

Helping Dr. Mescon in his important work over the past 12 years has been a dedicated team of volunteers including Mr. Ron Miller, Mr. Tommy Clack, Mr. Rodney Alsup, Mr. Max Carey, Mr. Tom Carter, Mr. Ted Chernak, Mr. Andrew Farris, Mr. Dixon Jones, Ms. Mary Lou Keener, Mr. John Howe, Mr. Jim Mathis, Mr. Michael Mantegna, Mr. John Medlin, Mr. Steve Raines, Mr. Chuck Reaves, Mr. Richard Schuman, and Mr. Dan Wall and the Honorable Max Cleland.

Mr. President, I applaud the dedicated work of these Georgians and the many others who have helped with this initiative over the years. I congratulate Dr. Mescon for his receipt of the 1995 SBA Georgia Veteran Advocate of the Year and hope he will continue in his tireless work in support of Georgia's veterans.●

FRANK AuCOIN: SOUTH CAROLINA'S SMALL BUSINESS PERSON OF THE YEAR

● Mr. HOLLINGS. Mr. President, I rise today to pay tribute to Frank AuCoin, South Carolina's small-business person of the year for 1995. He is owner and president of Sign It Quick, a computerized sign-making company based in Charleston.

Success has not simply knocked on the door for Frank. He has done it the old fashion way—by working hard. He is a self-made businessman whose sign-making chain now boasts nine franchises in South Carolina, Florida, and Tennessee. The chain generated nearly $4 million in sales just last year.

While Frank and his wife, Teresa, were operating a chain of bookstores in South Carolina and Georgia in the early 1970's, they realized the potential of the sign-making business when they could not get their signs made quickly enough. So they started making their own. By the late 1980's when the technology became available to generate computer-aided signs, Frank realized that he could start a business to create and mass-produce signs easily. In 1987, Frank and his wife invested their life savings into the concept of a computer-generated sign-making company and Sign It Quick was born.

Mr. President, I am delighted to commend Frank AuCoin's many successes as a small businessman. When he opened his first store he created the world's largest sign—one that was the length of five football fields. Since then, he has created signs for two Super Bowls, the Hard Rock Cafe chain, Euro-Disney, and Donald Trump.

Recently, the Post and Courier in my hometown of Charleston, reported that

Frank was South Carolina's small-business person of the year. Now he is competing for the national honor from the U.S. Small Business Administration this month. I hope he wins.

I ask that the article be printed in the RECORD.

The article follows:

[From the Post and Courier, Mar. 18, 1995]

SIGN IT QUICK OWNER IS 1995 SBA HONOREE

Frank AuCoin, owner and president of Charleston-based Sign It Quick, has been named South Carolina's small-business person of the year for 1995.

The honor was announced Friday by its sponsor, the U.S. Small Business Administration.

"I'm really happy for the city of Charleston because this is the first time a company from here was ever in the running for this," AuCoin said.

Sign It Quick is a computerized sign-making company that operates nine franchises in South Carolina, Florida and Tennessee. The company, formed in 1987, is headquartered at 5101 Dorchester Road in Charleston Heights.

Sign It Quick has 60 employees. Companywide sales were $3.7 million last year. Coincidentally, South Carolina's small-business person of the year for 1994 was a Sign It Quick franchise owner, Julie Wetherell of Columbia.

The SBA will recognize its top small-business honorees next month in Washington, D.C. Companies represent each of the 50 states, the District of Columbia, Guam, and the Virgin Islands/Puerto Rico. The national small-business person of 1995 will be picked from the 53 business owners.

Also, AuCoin will be honored at a luncheon in Columbia May 4.

SBA bases its selections on factors such as innovations, staying power, employee growth and sales increases.•

DEFENSE EXPORT LOAN GUARANTEE AMENDMENT TO S. 570

• Mr. LIEBERMAN. Mr. President, I am pleased to join my colleagues as a cosponsor of this amendment to S. 570, to create a defense export loan guarantee program. I believe the loan guarantee program will be critical to preserving our defense industrial base and is, therefore, an investment in America's long-term security.

In the post-cold-war period, the United States has rightly reduced its procurement of expensive weapons systems. This has resulted in cost savings to the U.S. Treasury, but it has undermined the financial security of many of the manufacturers. We have encouraged conversion of some of the defense industry into production of other products. However, in the long run, we cannot afford to have all defense manufacturers convert to nondefense production. Even if the world's current trouble spots do not erupt into conflict, prompting another round of rearmament, the U.S. military must maintain an up-to-date inventory of the world's most capable equipment. To do that, we must preserve a minimum threshold of defense production, lest we face either astronomical startup costs or the disappearance of one or more critical defense producers altogether. Current U.S. defense procurement is not sufficient to keep some of these industries going; we must help them in their own efforts to export abroad.

I commend the administration for its recent review of arms export policy. That review concluded with the President's decision to preserve the current policy to discourage arms proliferation but to take into account as well U.S. domestic economic considerations in reaching a decision on applications for arms export licenses. I do not propose to change that policy in any respect.

While we do not want to make arms export licenses any more freely available than they are under current policy, I believe we should do more to level the playing field for U.S. manufacturers once an export license has been approved. U.S. defense industries face extremely tough competition for arms exports in the current international environment. Not only the United States, but also most of Western Europe have cut defense spending and military procurement budgets. In this shrinking market, U.S. defense manufacturers must compete against European and Canadian manufacturers who benefit from the extensive support—in some cases, including subsidies—of their governments.

Buyers have the advantage in the current, competitive, international arms market. Having the best product, track record, and support network is often not enough to win a competition. In many cases, one must also provide financing for the sale. At present, the only source of financing for U.S. weapons systems exports are commercial banks, whose loan rates often make the price for U.S. weapons exports uncompetitive. French, German, British, Italian, and Canadian defense manufacturers can get government-subsidized or guaranteed loans for weapons exports. These governments are prepared to pay a high price to preserve their defense industries and keep jobs at home.

In my own State of Connecticut, Norden, a corporation which produces advanced electronic systems for military vehicles, was forced to move some of its production to Canada in order to qualify for the Canadian export loan program essential to Norden's winning a contract for an export sale. Seventy-two Norden workers in Connecticut lost their jobs, good, skilled jobs, as a result. And they are not alone; defense industry workers in Rhode Island, Colorado and elsewhere have had their jobs exported for similar reasons.

In the current tight budgetary environment, we cannot afford a new subsidy for the defense industry, but neither can we afford to export highly skilled, good-paying jobs abroad in order to keep our defense industries alive. This draft legislation fits within those constraints. In many ways, it could serve as a model for the 104th Congress. It is not foreign aid and does not require appropriated funds, yet it leverages the credit of the United States to help a sector of America's manufacturing and high-technology industry compete in the world market. This program is entirely self-financing; exporters and buyers together would provide money to cover the exposure fees and administrative costs associated with each loan. Furthermore, this program could not be used by poor countries to purchase arms they can ill afford; it would only be available to NATO allies, Central European countries moving toward democracy and members of the organization for Asia Pacific Economic Cooperation. Although limited in scope and requiring financial contributions from participating corporations, this program would be significant for U.S. defense manufacturers. A similar program operated by the State of California since 1985 has produced a steadily growing business in exports of defense equipment to Germany, the Netherlands, Spain, Canada, Australia, and New Zealand at a consistent 1-percent default rate. By supporting economic competitiveness at very modest cost to the U.S. Treasury, this program could be a model for the 104th Congress.

Although I am persuaded that this program will make a significant contribution to U.S. defense manufacturers' competitiveness, I would like to see proof. That is why we have included in the legislation the requirement for a report from the administration on the program's impact after 2 years. If it does not prove to be constructive contribution to the viability of the defense industry that I expect it to be, it should be ended. However, I expect the administration will report that this program has made a big difference in keeping these industries in production and keeping good jobs at home. I invite my colleagues to join us in working for adoption of this legislation.•

URUGUAY ROUND AGREEMENTS ACT

• Mr. ROCKEFELLER. Mr. President, following the approval of the Uruguay Round implementing legislation, statements have been placed in the CONGRESSIONAL RECORD providing individual interpretations of the antidumping and countervailing duty provisions contained in title II of that act. As one who was also deeply involved in the development and passage of that legislation, I, of course, respect the right to make those statements, but I would like to offer some further clarification.

Initially, it is important to emphasize that it is the statutory language that Congress enacted which must guide the implementation and interpretation of this legislation by the International Trade Commission, the

Department of Commerce and their reviewing courts. To the extent that the statutory language is considered ambiguous, it is the Statement of Administrative Action, as well as the Senate and House committee reports—not the statements of individual Senators—which provide the primary sources of interpretation of H.R. 5110.

Given the representations that have been made, I also believe that it is important to provide the following clarification with respect to specific aspects of the antidumping and countervailing duty provisions contained in the Uruguay Round Agreements Act H.R. 5110.

International Trade Commission's determination of injury and threat. Several statements have addressed the Commission's implementation of H.R. 5110: Captive Production. I am the author of the Senate provision dealing with situations in which a captive production consideration should be used. Section 222 of H.R. 5110 was adopted to make clear to the Commission that, in certain captive production situations, it should consider primarily the data relating to competition in the merchant market, rather than data for the industry as a whole. Despite this language and clearly expressed legislative intent, it has been suggested that the Commission should continue to base its conclusions on an analysis of the industry as a whole, rather than of the merchant market. This suggestion is clearly contrary to the explicit language of section 222, as well as the intent expressed in the Statement of Administrative Action and the House and Senate committee reports.

Statements have also been made indicating that the Commission should apply the same criteria used in evaluating the domestic like product to evaluate whether it is appropriate to focus on noncaptive imports. These statements are also inconsistent with the plain language of section 222, which contains no restriction or direction as to how the Commission should analyze imports, whether captive or not. While there may be circumstances under which captive imports should be analyzed in a similar manner as captive domestic production, this should only be done after the Commission determines that captive imports do not compete with the relevant domestic like product—as was made explicitly clear in the implementing legislation that I authored.

Negligible imports. It also has been suggested that the Commission must terminate an investigation unless import levels are found to be very close to the statutory negligibility threshold at the time of the preliminary determination and above that threshold at the time of the final determination. This suggestion is contrary to the unambiguous statutory language, which provides that the Commission may treat such imports as non negligible in the threat context whenever it determines that there is a potential for such imports to increase to non negligible levels. Thus, the Commission is under no obligation, and indeed would be acting contrary to the statute, to automatically terminate an investigation merely because imports are below the statutory negligibility threshold at the time of either the preliminary or final investigations. This is particularly true given that, as the Commission's practice and section 222 recognize, the filing of a petition may itself have a dampening effect on import levels. As a result, it is expected that the Commission will consider the negligibility provision carefully and that it will only find imports to be negligible in the context of threat where there is no potential for an imminent increase in imports.

ANTICIRCUMVENTION

Statements have been made suggesting that section 230 of H.R. 5110 should be interpreted to limit Commerce's ability to apply the anticircumvention provisions and that, before Commerce enlarges the scope of an order, the Commission may be required to make an additional injury finding regarding that enlarged scope.

These statements, however, are contrary to the statute and the Statement of Administrative Action. As explained in the Statement of Administrative Action, this amendment was adopted because the former statute failed to provide a full or adequate remedy for the circumvention occurring in the marketplace. As a result, section 230 clearly provides Commerce with broad discretion in its application of the anticircumvention provisions, so that it can address the different types of circumvention encountered. Further, neither the statute nor the Statement of Administration Action require the Commission to issue a new injury determination before Commerce enlarges the scope of an order, although the two agencies will engage in consultations before Commerce makes its final determination.

SUNSET REVIEWS

Several statements have been made with respect to different aspects of Commerce's and the Commission's application of the new sunset provisions, particularly with respect to short supply, the extension of orders and duty absorption.

Short Supply. Both the House Committee on Ways and Means and the Senate Committee on Finance affirmatively rejected so-called short supply proposals during consideration of the Uruguay Round implementing legislation. Statements have been made, however, suggesting that the Commission and Commerce should use their authority under the sunset provisions to revoke orders where merchandise is not available from domestic sources. Further, it has been suggested that the Commission should find no adverse impact from imports where petitioning companies are not producing a competing product.

The newly adopted sunset provisions require both Commerce and the Commission to consider a multitude of factors in determining whether orders will be revoked. Consequently, it is expected that the Commission will continue to consider all aspects of this issue in reaching a final determination. Given that the lack of current domestic production may oftentimes be a symptom of the injury sought to be remedied, that factor in particular does not alone warrant revocation, even with respect to the product for which there is a lack of production. Finally, the Commission is expected to continue to consider all domestic production in its analysis, not just the production of the petitioning companies alone.

Extension of Orders. It also has been suggested that the sunset review provisions create a presumption against the extension of orders. This is, however, inconsistent with both the statute and the Statement of Administrative Action, which create no such presumption. Nor, as some statements have suggested, is the substantial evidence standard appropriate for all sunset reviews; where responses have not been filed or are inadequate, Commerce's and the Commission's final determinations are, by the express terms of the implementing legislation, reviewable under the arbitrary and capricious standard, and not the substantial evidence standard.

Duty Absorption. Pursuant to section 221 of the Uruguay Round legislation, Commerce and the Commission are authorized to consider the issue of duty absorption in the course of their sunset reviews. Some statements have suggested incorrectly, however, that (1) Commerce may not quantify the level of duty absorption or initiate a duty absorption investigation without evidence that duty absorption is occurring, and (2) the Commission must give less weight to duty absorption findings based on best information available.

None of these issues are addressed by the statute. While Commerce is not expressly required to quantify the level of duty absorption, it obviously retains the authority to do so and it is expected that Commerce will quantify duty absorption where circumstances so warrant. Given the difficulty in obtaining information on duty absorption, the Statement of Administrative Action makes it clear that Commerce must initiate a duty absorption review whenever it is requested to do so; thus, there is no additional evidentiary hurdle prior to initiation. Finally, the Commission is required to consider the issue of duty absorption whenever Commerce has made a duty absorption finding. It is within the Commission's discretion, however, to determine the weight to be given to this issue, including the significance of a respondent's failure to cooperate with Commerce's investigation and Commerce's use of best information available. There is simply no basis for the suggestion that less weight be given to Commerce's findings when they are based on best information available. In fact, such a requirement would create a significant incentive for foreign companies not to cooperate with Commerce so that best information available would be used and the Commission would give less weight to the issue of duty absorption. Clearly this is not what Congress or the statute intended.

CALCULATION OF ANTIDUMPING DUTIES

Several statements have also been made regarding specific aspects of Commerce's calculation of antidumping duties, as addressed below.

Fair comparison/normal value adjustments. Pursuant to Section 224 of the implementing legislation, Commerce is required to make a fair comparison between export price and normal value. Statements have been made, however, suggesting that this provision generally requires Commerce to adjust normal value and export price (or constructed export price) for the same costs and expenses and to make either a level of trade adjustment or a constructed export price offset adjustment to normal value whenever constructed export price is used.

This is not, however, what the statute or Statement of Administrative Action requires. Although expenses may be nominally the same in both markets, the actual circumstances surrounding the relationship between such expenses and claimed adjustments often differ. As a result, Commerce clearly has the authority to treat expenses differently in the U.S. and foreign markets. In fact, Commerce is expected to continue its practice of closely assessing all potential adjustments on a case-by-case basis and not mechanically making adjustments without an analysis of the circumstances involved.

Moreover, there is no requirement for Commerce to make a level of trade or offset adjustment in every case. Indeed, the express language of the statute and Statement of Administrative Action indicate that there are circumstances where neither adjustment is appropriate or permissible. For example, Commerce may only make a level of trade adjustment where there are different levels of trade and where that difference is shown to affect price comparability. Commerce's analysis of these issues must be based on the actual circumstances involved.

Constructed export price profit deduction. Section 223 of H.R. 5110 provides for the deduction of profit from constructed export price. It, however, has been incorrectly suggested that this provision only authorizes Commerce to base its calculation on data for the subject merchandise in the U.S. and foreign markets.

While the statute and Statement of Administrative Action indicate that the use of data specific to the costs of the subject merchandise is appropriate, they also allow for the use of alternative methodologies when full cost of production information is not on the record. In particular, it is expected that, if the necessary profit data for the subject merchandise is unavailable, Commerce will use the next broader category of merchandise to calculate this deduction.

Startup costs. Section 224 of the implementing legislation governs Commerce's treatment of start-up operations. In considering the circumstances surrounding start-up operations, Commerce should apply this provision strictly to prevent foreign producers from using it as a loophole to evade the application of antidumping duties in the early stages of a product's life-cycle. In particular, Commerce should carefully review the claimed duration of start-up periods so that they are not improperly expanded.

Export price and constructed export price definitions. Renaming "purchase price" to "export price" and "exporter's sales price" to "constructed export price" should not affect the "criteria" used to categorize U.S. sales as one or the other. The Statement of Administrative Action indicates that "no change is intended in the circumstances" under which a sale would be characterized as one or the other. Commerce continues to retain the authority to alter or augment the particular factors that it considers in making its determinations.

Reimbursement of antidumping duties. In the antidumping duty context, Commerce will increase the amount of antidumping duties when it finds that the exporter has reimbursed the importer for payment of such duties. Although there has been no change in the law, statements have been made suggesting that Commerce is expected not to treat reimbursed countervailing duties the same way that it treats reimbursed antidumping duties.

There is no such expectation. The Senate report language, written with the acquiescence of the administration, states that Commerce should promulgate a regulation to make an adjustment to U.S. price in antidumping cases for the amount of any countervailing duty which is reimbursed by the exporter to the importer. Since this reimbursement represents a reduction in price to the importer, the regulation suggested by the Senate report language is clearly an appropriate and equitable way to address the reimbursement of countervailing duties.●

HOUSE CONCURRENT RESOLUTION 58—PROVIDING FOR ADJOURNMENT OF THE TWO HOUSES OF CONGRESS

Mr. THOMPSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 58, the adjournment resolution, just received from the House; that the concurrent resolution be considered and agreed to; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 58) was agreed to, as follows:

Resolved by the House of Representatives (the Senate concurring),

That when the House adjourns on the legislative day of Friday, April 7, 1995, it stand adjourned until 12:30 p.m. on Monday, May 1, 1995, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns or recesses at the close of business on Thursday, April 6, 1995, Friday, April 7, 1995, Saturday, April 8, 1995, Sunday, April 9, 1995, or Monday, April 10, 1995, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, April 24, 1995, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after members are notified to reassemble pursuant to section 3 of the concurrent resolution, whichever occurs first.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT

Mr. THOMPSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 49, H.R. 1345.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1345) to eliminate budget deficits and management inefficiencies in the government of the District of Columbia through the establishment of the District of Columbia Financial Responsibility and Management Assistance Authority, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 593

(Purpose: To amend the bill in several respects)

Mr. THOMPSON. Mr. President, I send an amendment to the desk on behalf of Senators COHEN, ROTH, and JEFFORDS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. COHEN, for himself, Mr. ROTH, and Mr. JEFFORDS proposes an amendment numbered 593.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 2, strike "or".

On page 7, line 6, strike the period at the end and insert a semicolon.

On page 7, between lines 6 and 7, insert the following:

(3) to amend, supersede, or alter the provisions of title 11 of the District of Columbia Code, or sections 431 through 434, 445, and 602(a)(4) of the District of Columbia Self-Government and Governmental Reorganization Act (pertaining the organization, powers, and jurisdiction of the District of Columbia courts); or

(4) to authorize the application of section 103(e) or 303(b)(3) of this Act (relating to issuance of subpoenas) to judicial officers or employees of the District of Columbia courts.

On page 10 of the House engrossed bill, strike lines 7 through 9 and insert the following new paragraph:

"(4) maintains a primary residence in the District of Columbia or has a primary place of business in the District of Columbia.".

On page 12 of the House engrossed bill, strike lines 17 through 24 and insert the following:

(c) INAPPLICABILITY OF CERTAIN EMPLOYMENT AND PROCUREMENT LAWS.

(1) CIVIL SERVICE LAWS.—The Executive Director and staff of the Authority may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(2) DISTRICT EMPLOYMENT AND PROCUREMENT LAWS.—The Executive Director and staff of the Authority may be appointed and paid without regard to the provisions of the District of Columbia Code governing appointments and salaries. The provisions of the District of Columbia Code governing procurement shall not apply to the Authority.

Mr. COHEN. Mr. President, the District of Columbia's financial situation is in a state of crisis. The District government does not have sufficient funds to pay its bills which threatens the continued delivery of services to the residents of the District of Columbia and the many Americans that work in or visit our nation's capital.

I am pleased that we were able to reach agreement earlier today with the House on a package of amendments that we believe will improve the House-passed bill and enable the Senate to pass this important legislation before the Congress adjourns for the April recess.

The bill establishes the District of Columbia Financial Responsibility and Management Assistance Authority to aid the city in achieving financial stability while still preserving Home Rule. The concept of a financial control board is not new. A number of U.S. cities facing fiscal crisis have established similar boards.

The new Authority will work with the Mayor and the Council toward resolving the city's financial and management problems. The Authority will have the power to act, following consultation with congress, on recommendations it believes are necessary to ensure the financial stability and operational efficiency of the District.

I want to commend Congressman DAVIS and District of Columbia Delegate NORTON, the Chair and Ranking Minority Member of the House District of Columbia Subcommittee, and Congressman WALSH and Congressman DIXON, Chair and Ranking Minority Member of the House District of Columbia Appropriations Subcommittee, who have worked hard to craft a bill which received strong bipartisan support in the House. The financial recovery of the nation's capital is important to all Americans and I urge my colleagues in the Senate to move expeditiously to pass this important legislation .

Mr. ROTH. Mr. President, the financial crisis which requires the dramatic action we are taking today began sometime ago. I am not certain anyone can pick a particular date it began, but certainly it has been at least a decade since the signs of fiscal distress have been showing. Of all of the economic indicators, perhaps the most alarming is the continued loss of taxpayers. The District has lost nearly 50,000 people since 1985.

Five years ago, the Commission on Budget and Financial Priorities of the District of Columbia, known as the Rivlin Commission, warned that,

> The District of Columbia confronts an immediate fiscal crisis. The budget deficit for this fiscal year will be at least $90 million and will rise to at least $200 million in 1991 and $700 million in 1996 if actions are not taken quickly to reduce spending or raise revenue or both.

Congress responded to that warning and immediately passed a $100 million supplemental appropriation for the District in early 1991. Congress went on to increase the Federal payment and authorized the District to borrow $330 million to stabilize the local budget. Federal funds to the District increased nearly 30 percent between 1991 and this fiscal year. In all, the District has received a cash infusion of over $1 billion since 1991.

Revenues were increased but spending was not reduced. Between 1985 and 1994, general fund tax revenues increased by 61 percent. But expenditures increased by 87 percent. Now the trickle of red ink has turned into a raging river. Unfortunately, and despite our efforts, the Rivlin warning is about to come true.

Along with the fiscal crisis, the District appears to be locked in a perpetual management crisis as well. The city has been buffeted from one scandal to the next turmoil. The city's infrastructure is decaying. Crime, taxes, and schools continue to drive families out of the District.

During the entire time of this gathering storm, the Congress has time and again deferred to the local government to take corrective action. All opportunity have been afforded to the locally elected officials to avert the very action we are taking today. While there is no need to recite the history of this sad course of events we know all too well, it is sufficient to state for the RECORD that congressional warnings of intervention have been unmistakable.

The sweeping changes we are introducing into the current local structure must now be given every opportunity to succeed. The District of Columbia Financial Responsibility and Management Assistance Authority must have all of the powers it needs to restore the confidence of everyone concerned for the well-being of the Nation's Capital. I do have serious concerns as to whether the legislation is sufficiently clear in this regard and will raise those concerns with my colleagues.

Let me say is closing, today's action is not a victory of one political idea over another. Today's action is being taken because the path leading to it is littered with failure. We cannot fail the people of this city and the many people who visit it each year. I support the passage of H.R. 1345.

Mr. JEFFORDS. Mr. President, the Nation's Capital is in financial trouble. This bill provides the mechanism to restore the city to fiscal health, but make no mistake the responsibility for acting rests squarely on the shoulders of the elected leaders of the District of Columbia. This Authority has the tools to get the job done, but the District government has the responsibility and accountability to act.

This bill is not perfect. There are things that I would change, I am sure most Senators feel that way, however on balance it has the essentials to get the job started and deserves our support. The amendments proposed make improvements and clarifications, and I encourage our House colleagues to accept these changes and send the bill on to the President so that the Authority can begin its work.

There is a financial crisis in the city, we should not delay action and send the message to the citizens of the city, to the financial markets, and to the District government that the Congress does not consider this crisis worthy of our immediate attention.

Every Senator who has worked on this bill, and indeed probably every Senator in this body, wants to preserve home rule for the citizens of this city. Other cities have gotten into financial difficulty and their States established a financial control board which for a time assisted the city government in managing its fiscal affairs. But there are important features of those State statutes that are also part of this bill which preserves to the local citizens the right, and responsibility, to make difficult decisions. These features include provision for reduction of the Authority's powers upon certain events, principally achieving balanced budgets during 4 consecutive years. In short, there is a clear definable end to this intrusion on the city's sway over its fiscal matters, this bill preserves home rule.

I want to express my appreciation to Senators COHEN and ROTH for bringing this bill to the Senate for consideration. They and their staffs have worked tirelessly to make sure that this bill reached this point today. In the long-term this bill will make a positive difference to the citizens of the District.

Mr. ROTH. Mr. President, I would like to ask my colleague on the Governmental Affairs Committee, the chairman of the subcommittee with jursidiction over District affairs, about one aspect of this legislation in particular. I have been concerned that the bill does not make clear our intent that the District of Columbia Financial Responsibility and Management Assistance Authority will have sufficient authority to ensure that its recommendations are adopted. I have thought that such authority should be expressly stated in the statute, in order to leave no ambiguity about our purpose in enacting section 207. This authority is too important to the underlying purpose of the legislation to leave at all in doubt, which I am concerned it may be. Is it the Senator's belief that the intention of Congress is sufficiently clear, nonetheless, that the Authority may implement any recommendations it has made to the Mayor or Council, but which were rejected?

Mr. COHEN. The full scope of the authority's power to implement its rejected recommendations is well stated in the House report that accompanied the legislation. First of all, any non-response to a recommended action is deemed a rejection under the act. Likewise, if the District government does respond that it will adopt the recommendation, but then fails to do so to the satisfaction of the Authority, this shall be considered the same as if it had originally rejected the recommendation under section 207.

Mr. ROTH. The language of this section provides that in such a case, "the authority may by a majority vote of its members take such action concerning the recommendations as it deems appropriate". From reading the House report, I believe it is clear that this is very broad power, including the ability to enact local laws and ordinances, provided there is a period of congressional review of such legislation, as in the case of an act of the D.C. Council. Is this your understanding of that section's intent?

Mr. COHEN. Yes it is. Any recommendation made by the authority to the District government which either the Mayor or the Council has the authority to adopt, may itself be adopted by the Financial Responsibility and Management Assistance Authority, if rejected as I described previously, and if the Authority first consults with the Senate Committee on Governmental Affairs and the House Committee on Government Reform and Oversight. This includes the authority to enact local legislation, which would go into effect after a congressional review period, under the same conditions as if it had been enacted by the District government itself. It also includes such matters as personnel actions and structural reforms to the District government. It is clearly the intent of this section to give the authority as broad a range of legislative, executive, and administrative powers as the Mayor and Council possess, while expecting that the District government will be given the opportunity to act first.

Mr. JEFFORDS. As chairman of the District of Columbia Appropriations Subcommittee, I too have been closely involved in the development of this legislation, and I can say that the Senator from Maine [Mr. COHEN] has in his description accurately reflected my understanding of the effect of section 207.

Mr. ROTH. Is this also the understanding in the other body?

Mr. JEFFORDS. Yes. The Senator from Maine [Mr. COHEN] and I met with the chairman of the House Subcommittee on the District of Columbia and the District's congressional delegate to discuss this legislation, and both of them agreed that the language in the House report accurately reflects the scope of authority being granted this new entity, which we are here creating.

Mr. COHEN. I believe it is correct to say that the drafters of this legislation, in both Houses of Congress, understand that the authority is to have the full authority to adopt any recommendation that it deems appropriate, as submitted under this section of the act, if the District itself does not adopt such a recommendation, subject to the conditions that I have already mentioned.

Mr. ROTH. I thank my two colleagues for their explanations and for clarifying this important matter.

I have one other point. We are today adopting several useful modifications to this legislation, but I have other improvements that I would have liked to have seen added. I know that my colleagues are aware of these provisions that I think are important, and I hope that in the near future we will be able to make those improvements to this law.

Mr. JEFFORDS. I can assure the Senator that I will work with him to enact those provisions as soon as is feasible.

Mr. ROTH. I thank my friend for his support as I know the has a strong interest in making this legislation work. I know that we all have a great concern for our Nation's Capital, and especially for the citizens who live and work here, and that we look forward to the day when the actions taken under legislation are no longer necessary.

Ms. MOSELEY-BRAUN. Mr. President, the District of Columbia is facing the most serious financial crisis in its history. The District made a number of major mistakes and bears a major portion of the responsibility for the current debacle; however, the Federal Government also played an important part in creating this emergency because of its refusal to give the District the kind of home rule powers enjoyed by all 50 States.

Unlike every State from Alaska to Wyoming, the District does not have the right to full self-governance. Our country was founded on the principle of no taxation without representation, but the Federal Government denies the District this right. The notion that 600,000 American citizens are denied their fair voice in Congress offends the core principles of representative democracy on which this Republic was founded.

Residents of the District, unlike residents across the bridge in Arlington, VA, or residents of any other city in America, are not able to make basic decisions regarding their available resources. As the District is unable to control its resources, it faces this fiscal crisis, which Congress must step in to solve. The immediate solution to the problem the District faces lies in the bill before us today.

I reluctantly support the legislation before us today, only because it is a step towards bringing the District out of this financial emergency. Congress can not allow the District of Columbia to go bankrupt while we go on vacation. We have an obligation to assist the residents of the District of Columbia get its fiscal house in order. Unlike other cities, the District has no State to protect its interests, so Congress must act as a State would and help solve the fiscal problems that it has helped create.

There is no question that the District has mismanaged its finances; however, truth be told the District does not have the tools to deal with its problems. The District cannot do what States do. The District cannot truly receive revenue from its entire tax base because at least one-third of the land mass in the District of Columbia is nontaxable because it is owned by the Federal Government. Furthermore, the District of Columbia is unable to tax the wages of those who earn their living in the District but who reside elsewhere. Without the power to fully tax, the District fell into the fiscal crisis it faces today.

Because Congress is partially responsible for the District's fiscal problems, it should act quickly to avoid the District's further economic decline. That is why Congress should support H.R. 1345, which, quite literally, saves the city. It allows the District, which is now insolvent, to borrow and avoid payless paydays and the shutdown of city services. It allows the city to stretch out its huge deficit in order to protect its citizens.

Other cities have gotten into trouble and the legislation before us today is not unlike what we have previously encountered. The major difference is that the District is not a State. States have the ability to step in and help avoid fiscal problems within its cities. Since the District has not been granted statehood, Congress must step in at this point to establish this control board.

This bill establishing the D.C. control board has particular elements of the Philadelphia and the New York City boards. These great American cities worked constructively and fruitfully with similar authorities without any evidence that their monitors had somehow made them less self-governing. The boards in those cities did not have to use their strong powers because the elected city officials did what was necessary themselves to revive their own cities and I expect no less in the District.

As important as it is to save the city, however, I will not support a D.C. control board that undermines the autonomy of the District. That is why I am glad that the type of control board being proposed in this legislation has been used by a number of other major cities in the United States, such as New York, Philadelphia, and Cleveland, which no one has suggested did not remain fully self-governing.

To address the city's projected $722 million shortfall, H.R. 1345 establishes the District of Columbia Financial Responsibility and Management Assistance Authority. The Authority's five members will be appointed by the President, in consultation with Congress. The members will be responsible for managing the District's finances until the District balances four budgets in a row.

The bill authorizes the District's chief financial officer to prepare the financial plan and budget for the District and implement programs and policies for budgetary control. The bill also establishes an inspector general for the District, who will make an independent assessment of budget assumptions and report those findings to the board.

This bill allows the Mayor to retain his budgetary and operational authority and the council to retain its lawmaking powers. However, the Board is responsible for monitoring these activities to ensure that the city is not acting inconsistent with fiscal prudence.

I would hope that we can act today to pass this legislation in an effort to ensure that the District's fiscal crisis will be on its way to recovery when Congress reconvenes. But the truth be told, the real long-term solution is not control boards and less home rule; the real long-term solution is the expansion of the District's autonomy, increasing home rule. The citizens of the District of Columbia deserve to have full democratic privileges like all other United States citizens enjoy.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 593) was agreed to.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1345), as amended, was deemed read the third time and passed.

AUTHORIZING TESTIMONY BY FORMER SENATE EMPLOYEE AND SENATE REPRESENTATION

Mr. THOMPSON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 106) to authorize testimony by former Senate employee and representation by Senate legal counsel.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, the Pittston Coal Group has brought a civil lawsuit against the United Mine Workers of America alleging that the union breached an agreement by supporting provisions enacted in the Coal Act of 1992. The coal company has subpoenaed a former employee on Senator ROCKEFELLER's staff to testify at a deposition as part of its effort to develop its case about enactment of the Coal Act. The plaintiff wishes to ask the employee about two documents appearing to be from Senator ROCKEFELLER's office relating to enactment of the Coal Act. Senator ROCKEFELLER is concerned that questioning of a former Senate employee about her Senate employment will abridge legislative privilege.

This resolution would authorize the former employee to testify only about matters that do not trigger privilege concerns and would authorize the Senate Legal Counsel to represent Senator ROCKEFELLER, the former employee, and any other Member or employee of the Senate from whom testimony or documents may be sought, in order to protect the Senate's privileges.

The PRESIDING OFFICER. The question is on a agreeing to the resolution.

The resolution (S. Res. 106) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas, in the case of *Pittston Coal Group, Inc.* v. *I.U., UMWA*, Case No. 93-0162-A, pending in the United States District Court for the Western District of Virginia, a subpoena for testimony at a deposition has been issued to Marisa Spatafore, a former employee of the Senate on the staff of Senator Rockefeller;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1988), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That Marisa Spatafore is authorized to testify in the case of *Pittston Coal Group, Inc.* v. *I.U., UMWA*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent Senator Rockefeller, Marisa Spatafore, and any other Member or employee of the Senate from whom testimony or documents may be sought in connection with this case.

PAKISTAN AND THE VISIT OF PRIME MINISTER BHUTTO

Mr. THOMPSON. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Resolution 102, expressing the sense of the Senate concerning Pakistan and the visit of Prime Minister Bhutto; further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 102) to express the sense of the Senate concerning Pakistan and the impending visit of Prime Minister Bhutto.

There being no objection, the Senate proceeded to consider the resolution.

AMENDMENT NO. 594

Mr. THOMPSON. Mr. President, I send an amendment to the desk on behalf of Senator PRESSLER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. PRESSLER, proposes an amendment numbered 594.

On line 4 of page 2, after "the", add the following: "people of the".

Mr. THOMPSON. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 594) was agreed to.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 102), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas Pakistan and the United States have been allies since 1947, and throughout the difficult days of the Cold War;

Whereas Pakistan was a front-line state against Soviet totalitarian expansionism and worked with the United States to successfully end the Soviet occupation of Afghanistan;

Whereas Pakistan has been in the forefront of United Nations peacekeeping operations, recently being the largest contributor of forces to United Nations peacekeeping operations;

Whereas Pakistan has cooperated with the United States in the apprehension and swift extradition of Ramzi Ahmed Yousef, the alleged mastermind of the terrorist attack on the World Trade Center in New York City;

Whereas Pakistan's economy is being increasingly liberalized and opened to outside investors and businesses;

Whereas there are increasing opportunities for economic cooperation between Pakistan and the United States as a result of private sector agreements for investment in Pakistan's energy sector and other pending agreements; and

Whereas Prime Minister Benazir Bhutto, who has worked to strengthen Pakistan's close relationship with the United States, was reelected to office in October, 1993, and is scheduled to visit the United States on an official visit in April: Now, therefore, be it

Resolved, That the United States Senate—

(1) welcomes the visit of Prime Minister Benazir Bhutto to the United States as a sign of the warm, enduring friendship between the people of the United States and Pakistan; and

(2) pledges to work with the Government of Pakistan to strengthen the United States-Pakistan relationship in the years ahead.

SEXUAL CRIMES AGAINST CHILDREN PREVENTION ACT OF 1995

Mr. THOMPSON. Mr. President, I ask unanimous consent that the Senate now turn to consideration of H.R. 1240, just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1240) to combat crime by enhancing the penalties for certain sexual crimes against children.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 595

Mr. THOMPSON. Mr. President, I send an amendment to the desk on behalf of Senators GRASSLEY and HATCH.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. GRASSLEY, for himself, Mr. HATCH, Mr. ROTH, and Mr. THURMOND, proposes an amendment numbered 595.

The amendment is as follows:

On page 1, strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sex Crimes Against Children Prevention Act of 1995".

SEC. 2. INCREASED PENALTIES FOR CERTAIN CONDUCT INVOLVING THE SEXUAL EXPLOITATION OF CHILDREN.

The United States Sentencing Commission shall amend the sentencing guidelines to—

(1) increase the base offense level for an offense under section 2251 of title 18, United States Code, by at least 2 levels; and

(2) increase the base offense level for an offense under section 2252 of title 18, United States Code, by at least 2 levels.

SEC. 3. INCREASED PENALTIES FOR USE OF COMPUTERS IN SEXUAL EXPLOITATION OF CHILDREN.

The United States Sentencing Commission shall amend the sentencing guidelines to increase the base offense level by at least 2 levels for an offense committed under section 2251(c)(1)(A) or 2252(a) of title 18, United States Code, if a computer was used to transmit the notice or advertisement to the intended recipient or to transport or ship the visual depiction.

SEC. 4. INCREASED PENALTIES FOR TRANSPORTATION OF CHILDREN WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.

The United States Sentencing Commission shall amend the sentencing guidelines to increase the base offense level for an offense under section 2423(a) of title 18, United States Code, by at least 3 levels.

SEC. 5. TECHNICAL CORRECTION.

Section 2423(b) of title 18, United States Code, is amended by striking "2245" and inserting "2246".

SEC. 6. REPORT BY THE UNITED STATES SENTENCING COMMISSION.

Not later than 180 days after the date of the enactment of this Act, the United States Sentencing Commission shall submit a report to Congress concerning offenses involving child pornography and other sex offenses against children. The Commission shall include in the report—

(1) an analysis of the sentences imposed for offenses under sections 2251, 2252, and 2423 of title 18, United States Code, and recommendations regarding any modifications to the sentencing guidelines that may be appropriate with respect to those offenses;

(2) an analysis of the sentences imposed for offenses under sections 2241, 2242, 2243, and 2244 of title 18, United States Code, in cases in which the victim was under the age of 18 years, and recommendations regarding any modifications to the sentencing guidelines that may be appropriate with respect to those offenses;

(3) an analysis of the type of substantial assistance that courts have recognized as warranting a downward departure from the sentencing guidelines relating to offenses under section 2251 or 2252 of title 18, United States Code;

(4) a survey of the recidivism rate for offenders convicted of committing sex crimes against children, an analysis of the impact on recidivism of sexual abuse treatment provided during or after incarceration or both, and an analysis of whether increased penalties would reduce recidivism for those crimes; and

(5) such other recommendations with respect to the offenses described in this section as the Commission deems appropriate.

Mr. THOMPSON. Mr. President, I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 595) was agreed to.

Mr. THOMPSON. Mr. President, I ask unanimous consent the bill be deemed read a third time and passed, as amended; the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1240), as amended, was deemed read the third time and passed.

COMMENDING THE HUSKIES OF THE UNIVERSITY OF CONNECTICUT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 107, a resolution commending the University of Connecticut women's basketball team for capping a perfect season by winning the 1995 NCAA women's basketball championship, submitted earlier today by Senators DODD and LIEBERMAN; that the resolution and preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 107) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the UConn women's team won the school's first-ever national basketball championship by defeating the University of Tennessee by the score of 70–64;

Whereas the UConn Huskies became only the second women's basketball team in NCAA history to finish the season undefeated, and the first basketball team of any kind in NCAA history to finish 35–0;

Whereas UConn Head Coach Geno Auriemma was the recipient of the Naismith National Coach of the Year Award, as well as the Associated Press Coach of the Year and the United States Basketball Writers Association Coach of the Year awards;

Whereas UConn forward and co-captain Rebecca Lobo was the consensus choice of those same organizations as the National Player of the Year, and was named the Most Outstanding Player of the NCAA Women's Final Four;

Whereas Rebecca Lobo was also named the GTE Women's Basketball National Academic All-American of the Year for her outstanding achievement in the classroom;

Whereas the UConn Women Huskies enthralled the entire state of Connecticut, providing it with one of its finest moments;

Whereas the UConn Women Huskies elevated the sport of women's basketball to new heights, and inspired a generation of young girls in Connecticut to aspire toward their own "hoop dreams": Now, therefore, be it

Resolved, That the Senate commends the Huskies of the University of Connecticut for capping a perfect season by winning the 1995 NCAA Women's Basketball Championship.

NATIONAL ATOMIC VETERANS DAY

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 108, a resolution submitted by Senator WELLSTONE and others earlier today designating July 16, 1995 as "National Atomic Veterans Day"; that the resolution and preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements on this measure appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 108) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas July 16, 1995, is the 50th anniversary of the first detonation of an atomic bomb at Alamagordo, New Mexico;

Whereas the members of the Armed Forces who have been exposed to ionizing radiation as a result of the detonation of a nuclear weapon or device are considered to be America's "atomic veterans";

Whereas atomic veterans are in many ways one of the most neglected groups of United States veterans;

Whereas atomic veterans served their country patriotically and proudly, believing fully that the United States Government would protect them from any serious hazards to their health;

Whereas atomic veterans were not told of the hazards they faced from exposure to ionizing radiation, often were provided with little protection from such exposure even when deployed at or near ground zero immediately after test detonations of nuclear weapons, on occasion were not provided film badges to measure their exposure to radiation during such detonations, and were provided with no follow-up medical care or other monitoring to determine the health consequences of such exposure;

Whereas for 40 years after World War II Federal law contained no provisions specifically providing veterans compensation or health care for atomic veterans for service-connected radiogenic diseases; and

Whereas many of the 250,000 members of the Armed Forces who participated in post-World War II atmospheric nuclear testing were forbidden from publicly revealing such participation for reasons of national security and received no recognition for their important contributions to the United States and the Armed Forces: Now, therefore, be it

Resolved, That—

(1) July 16, 1995, is designated as "National Atomic Veterans Day"; and

(2) the President is authorized and requested to issue a proclamation calling on the departments and agencies of the Federal Government, State and local governments, and the people of the United States to observe that day with appropriate ceremonies and activities.

Mr. WELLSTONE. I was pleased to submit today, along with my colleagues, Senators SIMON, JEFFORDS, DASCHLE, PRYOR, ROCKEFELLER, AKAKA, REID, and LEAHY, a Senate resolution to designate July 16, 1995, the 50th anniversary of the first detonation of an atomic bomb at Alamagordo, NM, as "National Atomic Veterans Day."

Atomic veterans, members of the armed forces who were exposed to ionizing radiation as a result of the detonation of a nuclear weapon or device, for 50 years have been one of the most neglected groups of veterans. While they served their country patriotically, unquestioningly, and proudly, they were not informed of the dangers they faced from exposure to ionizing radiation, often were provided with little or no protection from such exposure, and for many years were provided with no follow-up medical monitoring or care to determine the health effects of their exposure. In fact, for 40 years after World War II, there were no provisions in Federal law specifically providing veterans compensation or health care for atomic veterans for service-connected radiogenic diseases.

Many atomic veterans who participated in atmospheric nuclear testing were forbidden from publicly revealing their participation for reasons of national security. Despite their valuable contributions to the United States and the Armed Forces, they have not received the recognition that is due them.

The National Association of Atomic Veterans, AMVETS, and the Vietnam Veterans of America have expressed their strong and unequivocal support for this resolution.

I urge my colleagues to show their support by cosponsoring National Atomic Veterans Day.

EXECUTIVE CALENDAR

Mr. THOMPSON. Mr. President, as in executive session, I ask unanimous consent that the Senate proceed to the immediate consideration of the following nominations on the Executive Calendar, en bloc: Calendar Nos. 49, 51, 63, 67 through 100, 102, 103, and 104.

I further ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of the nomination of Jacquelyn L. Williams-Bridgers to be Inspector General, Department of State; that the Senate proceed to its immediate consideration; further, that the nominations be confirmed, en bloc; that the motions to reconsider be laid upon the table, en bloc; that any statements relating to the nominations appear at the appropriate place in the RECORD; and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the nominations were considered and confirmed, en bloc, as follows:

FEDERAL TRADE COMMISSION

Robert Pitofsky, of Maryland, to be a Federal Trade Commissioner for the term of seven years from September 26, 1994.

CONSUMER PRODUCT SAFETY COMMISSION

Thomas Hill Moore, of Florida, to be a Commissioner of the Consumer Products Safety Commission for the remainder of the term expiring October 26, 1996.

NAVY

The following named officer for appointment to the grade of Admiral while assigned to a position of importance and responsibility under Title 10, United States Code, Sections 601 and 5035:

VICE CHIEF OF NAVAL OPERATIONS

To be admiral

Vice Adm. Joseph W. Prueher, xxx-xx-xxxx, United States Navy

DEPARTMENT OF THE INTERIOR

Wilma A. Lewis, of the District of Columbia, to be Inspector General, Department of the Interior.

NATIONAL COUNCIL ON DISABILITY

Yerker Andersson, of Maryland, to be a Member of the National Council on Disability for a term expiring September 17, 1996.

John A. Gannon, of Ohio, to be a Member of the National Council on Disability for a term expiring September 17, 1995. (Reappointment)

Audrey L. McCrimon, of Illinois, to be a Member of the National Council on Disability for a term expiring September 17, 1997.

Lilliam Rangel Pollo, of Florida, to be a Member of the National Council on Disability for a term expiring September 17, 1996.

Debra Robinson, of Pennsylvania, to be a Member of the National Council on Disability for a term expiring September 17, 1997.

Rae E. Unzicker, of North Dakota, to be a Member of the National Council on Disability for a term expiring September 17, 1997.

Ela Yazzie-King, of Arizona, to be a Member of the National Council on Disability for a term expiring September 17, 1996.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Robert G. Breunig, of Arizona, to be a Member of the National Museum Services Board for a term expiring December 6, 1998. (Reappointment)

Kinshasha Holman Conwill, of New York, to be a Member of the National Museum Services Board for a term expiring December 6, 1997.

Charles Hummel, of Delaware, to be a Member of the National Museum Services Board for a term expiring December 6, 1999.

Ayse Manyas Kenmore, of Florida, to be a Member of the National Museum Services Board for the remainder of the term expiring December 6, 1995.

Nancy Marsiglia, of Louisiana, to be a Member of the National Museum Services Board for a term expiring December 6, 1998.

Arthur Rosenblatt, of New York, to be a Member of the National Museum Services Board for a term expiring December 6, 1997.

Ruth Y. Tamura, of Hawaii, to be a Member of the National Museum Services Board for a term expiring December 6, 1996.

Townsend Wolfe, of Arkansas, to be a Member of the National Museum Services Board for a term expiring December 6, 1995.

Phillip Frost, of Florida, to be a Member of the National Museum Services Board for a term expiring December 6, 1996.

John L. Bryant, Jr., of the District of Columbia, to be a Member of the National Museum Services Board for a term expiring December 6, 1997.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

E. Gordon Gee, of Ohio, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1999.

Joseph E. Stevens, Jr., of Missouri, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1997.

Steven L. Zinter, of South Dakota, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1997.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

Peggy Goldwater-Clay, of California, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring June 5, 2000.

Lieutenant General William W. Quinn, United States Army, Retired, of Maryland, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring October 13, 1999. (Reappointment)

Lynda Hare Scribante, of Nebraska, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring October 13, 1999.

Niranjan Shamalbhai Shah, of Illinois, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring August 11, 1998.

NATIONAL SCIENCE FOUNDATION

Sanford D. Greenberg, of the District of Columbia, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2000.

Eve L. Menger, of New York, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2000.

Claudia Mitchell-Kernan, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2000.

Diana S. Natialicio, of Texas, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2000, vice Charles L. Hosler, Jr., term expired.

Robert M. Solow, of Massachusetts, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2000.

Warren M. Washington, of Colorado, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2000.

John A. White, Jr., of Georgia, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2000.

NATIONAL MEDIATION BOARD

Kenneth Byron Hipp, of Hawaii, to be a Member of the National Mediation Board for a term expiring July 1, 1997.

RAILROAD RETIREMENT BOARD

Jerome F. Kever, of Illinois, to be a Member of the Railroad Retirement Board for a term expiring August 28, 1998. (Reappointment)

NATIONAL INSTITUTE FOR LITERACY

Marciene S. Mattleman, of Pennsylvania, to be a Member of the National Institute for Literacy Advisory Board for the remainder of the term expiring October 12, 1995.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Joan Challinor, of the District of Columbia, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1999.

NUCLEAR REGULATORY COMMISSION

Shirley Ann Jackson, of New Jersey, to be a Member of the Nuclear Regulatory Commission for a term of five years expiring June 30, 1999.

DEPARTMENT OF STATE

Jacquelyn L. Williams-Bridgers, of Maryland, to be Inspector General, Department of State.

NOMINATION OF MR. ROBERT PITOFSKY

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering the nomination of Mr. Robert Pitofsky to serve on the Federal Trade Commission [FTC]. The President has indicated his intention to name Mr. Pitofsky as Chairman of the FTC, if he is confirmed.

Having previously served as a Commissioner and staff member, Mr. Pitofsky certainly understands the FTC's goals and duties. The Commission's two primary functions are first, to protect consumers from unfair and deceptive practices, and second, to ensure the operation of an efficient and competitive market-place. The Commission administers a number of Federal statutes, including the Federal Trade Commission Act—which provides the Commission its consumer protection authority—and the Sherman, Clayton, and Robinson-Patman antitrust statutes, as well as the Fair Credit Reporting, Fair Debt Collection Practices, and Truth in Lending Acts. A few of the specific duties include safeguarding the public from false advertisement of goods and services, telemarketing fraud, unfair pricing of products, unfair mergers and acquisitions, illegal boycotts, and other unfair methods of competition.

As we enter the 21st century, and a new era of global trade, the FTC undoubtedly will continue to face many challenges in fulfilling its responsibilities. Mr. Pitofsky will, if confirmed, chair the Commission at a time when Federal agencies are facing the possibility of severe budget reductions.

Mr. Pitofsky is aware of the tremendous challenges confronting the FTC. He is committed to the principles and goals of the Commission, and is prepared to take on the responsibilities of the FTC Chairman. I urge my colleagues to approve his nomination.

NOMINATION OF DR. JACKSON

Mr. LAUTENBERG. Mr. President, I rise to express my unequivocal support for Dr. Shirley Jackson's nomination to the Nuclear Regulatory Commission.

Dr. Jackson is a fellow New Jerseyan, and has spent most of her career teaching and working in our State. But that's only one of the many qualifications that make her so ideal for this position.

Dr. Jackson has devoted her life to the study of science. Over the course of her career, she has gained world-wide renown and she has also broken many societal barriers.

Dr. Jackson was the first African-American woman to receive a PhD from MIT.

She has accumulated more than two decades of research and management experience in high energy physics, nuclear physics and condensed matter physics. She has been a professor and a consultant. And she has also found time for public service, serving for 10 years as founding member of the New Jersey Commission on Science and Technology.

Dr. Jackson is currently a consultant to AT&T Bell Laboratories on Semiconductor Theory, vice chair of Governor Whitman's Economic Master Plan Commission and a member of the Executive Committee of the M.I.T. Board of Trustees.

And despite her heavy responsibilities, Dr. Jackson puts aside time to help recruit more women and more African-Americans to the sciences.

Dr. Jackson has always blended her advanced scientific research with an eye toward practicality. She has researched subjects as esoteric as the electronic and optical properties of strained layer semiconductor superlattices. But she has also worked toward basic goals that you and I can understand—like economic development in the State of New Jersey.

I understand that President Clinton has said he would like Dr. Jackson to head the NRC after her confirmation and I enthusiastically support that decision.

I am confident that her scientific and management backgrounds have been ideal preparation for that leadership position.

Mr. President, I believe that Dr. Jackson's background has made her a unique, unparalleled nominee for this position. I urge my colleagues to vote for in support of this excellent nomination, and I yield the floor.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. THOMPSON. Mr. President, I ask unanimous consent the committees have between 10 a.m. and 3 p.m. on Tuesday, April 18, to file legislative or executive reported items.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT—CONFERENCE REPORT

Mr. THOMPSON. Mr. President, I submit a report of the committee of conference on H.R. 889 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of April 6, 1995.)

Mr. STEVENS. Mr. President, I want to strongly urge the Senate to adopt today the conference report on H.R. 889, the emergency Defense supplemental appropriations bill.

On Wednesday, the conferees completed work on this bill, which will ensure that the readiness, quality of life and pay for our Armed Forces will not be impacted by the costs of overseas peacekeeping and humanitarian missions.

As chairman of the Defense Subcommittee, there is no question in my mind that we must act on this bill prior to the recess.

In summary, this bill provides $3.04 billion in new funding for the Department of Defense, and $28.3 million for the Coast Guard, to pay for these contingency operations, and other emergency requirements.

For DOD, in addition to the contingency operations amounts, $258 million is included to meet the increases in overseas personnel costs due to the decline in value of the dollar.

These amounts go directly to the men and women, and their families, stationed overseas, to defray the increased expenses they face because of this devaluation.

All new Defense spending in the bill is offset by rescission to DOD, defense related and foreign aid appropriations.

From available DOD funds, $2.26 billion is rescinded. Also, $200 million from function 050 nuclear facility funds, $100 million from military construction funds, and $120 million from foreign aid appropriations.

The conferees worked to ensure that no significant military program was damaged by these cuts. Most reductions come from savings in programs underway, or from reduced efforts in lower priority programs.

Some of these funds will need to be replaced in 1996, but will not reduce military readiness or capability this year.

The amount rescinded from DOD represents an increase of $300 million over the levels adopted by the Senate.

These reductions were necessary to ensure that these new appropriations did not increase the deficit, thus hampering our ability to provide needed funds for 1996.

All the military services have identified the severe cuts in training and readiness that will result if this bill is not enacted early this month.

Navy fleet steaming days will be reduced. Flight training will be reduced. Ships will not undergo needed overhauls at shipyards, resulting in substantial layoffs.

Air Force flight training will be slashed by 25 percent. Aircraft will be parked on the ramp, because they will not receive necessary depot maintenance.

In short, we face a return to the hollow force that many of us remember from the 1970's. We cannot permit this.

In the 1970's, that hollow force was the result of the Congress not appropriating the funds needed for military readiness. This crisis if the result of the President diverting the funds provided by Congress for the military.

Let me make clear, the 1995 Defense appropriations bill provided the funds needed to maintain military readiness and training for 1995.

During the last quarter of 1994, and the first quarter of 1995, the President used these funds to undertake the overseas missions in Kuwait, Korea, Bosnia, Iraq, Somalia, Cuba, and Haiti.

In no case did the President come to the Congress, to seek approval, and funding, for these missions.

The result was a $2.5 billion diversion of readiness and personnel appropriations.

I want the Senate to know that the appropriations committees of the House and Senate were unanimous in their commitment that this circumstance should not happen again.

Included in the statement of the managers on the conference report is an explicit statement of our objections to the course followed by the administration. This bipartisan, bicameral statement reflects our views. I ask unanimous consent that this statement be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONTINGENCY AND NONTRADITIONAL MISSIONS

The conferees express their deep concern over the process by which U.S. military forces are being deployed on major, large scale contingency operations. The conferees note that the Administration neither sought nor received advance approval of or funding for military operations from the Congress in support of peacekeeping and humanitarian missions. The missions involving Somalia, Rwanda, Haiti, and refugee relief in the Caribbean all mark significant departures from previous emergency deployments of American forces dealing with valid threats to the national security. The conferees strongly believe that military deployments in support of peacekeeping or humanitarian objectives both merit and require advance approval by the Congress.

This issue is of special concern to the conferees because of the effect these operations have had on the defense budgeting and planning process. There is no question but that the recent spate of "contingency" deployments, none of which was approved in advance by Congress nor budgeted for, have wreaked havoc upon the ability of the Department of Defense to maintain military readiness. These operations have led to substantial and repeated diversions of funds intended for training, equipment and property maintenance. From the Secretary of Defense to commanders in the field, there is universal acknowledgment that this practice has led to degradations in readiness.

A related issue involves the rapid increase in Defense Department participation in activities which under both law and tradition are the responsibility of other Federal departments. The principal example of this trend is the use of DoD funds, personnel, and facilities to deal with the issue of Cuban and Haitian refugees. The cost of these operations has been almost entirely borne by the Department of Defense, even though other Federal entities have long had primary responsibility for dealing with refugee and immigration issues and have, in the past, reimbursed the Department of Defense for such support in accordance with the Economy Act. At present, DoD is being forced to bear $1 million per day in costs for these operations, out of funds intended to be used for military operations, training, and readiness. The conferees believe DoD should not be forced to bear the cost of operations which are not its responsibility, especially when it results in a substantial diversion of funds provided by the Congress expressly for military activities.

These problems underline the need for the Executive Branch to seek congressional approval for unanticipated nontraditional military operations in advance. The conferees intend to address these issues in connection with the fiscal year 1996 appropriations process, in order to avoid the recurrence of situations such as those which created the need for the appropriations contained in this measure. The conferees strongly urge the Administration to provide detailed and timely proposals to assist in resolving these issues.

Mr. STEVENS. Mr. President, there was no reluctance on the part of the conferees to meet the needs of our Armed Forces. This was accomplished in a fashion that is fully offset in new budget authority, and virtually offset in new outlays for 1995 from rescissions.

The Senate-passed version of this bill fully offset all new outlays. This conference agreement results in only $4.3 million in additional outlays for fiscal year 1995, though it provides over $3 billion in new spending.

I want to thank our chairman, Senator HATFIELD, and Senator BYRD for their leadership and commitment to move this bill forward prior to the recess.

In our first conference with the new House team, I want to report the exceptional efforts of the Defense Subcommittee chairman, BILL YOUNG, and the full committee chairman, BOB LIVINGSTON, to work with us to move this bill forward.

They drove a hard bargain of many of the differences between the two bills, but we were united on our commitment to meet the needs of the military services.

As I stated when this bill was presented to the Senate last month, the work of the Defense Subcommittee reflects the longstanding partnership between myself and Senator INOUYE on defense matters.

His efforts were invaluable in seeking compromises with the House on matters of interest to the Senate, and I am indebted to him once again for his hard work and wise counsel.

Mr. President, I hope the Senate will act immediately to pass this conference report, and send this bill to the President.

Mr. BYRD. Mr. President, I support adoption of this supplemental appropriation bill, H.R. 889, and compliment the distinguished chairman, Mr. HATFIELD, for his excellent work in putting together this conference report prior to the April break. It was a difficult task, but it was driven by the need to replenish vital funding for the readiness accounts of our armed services.

The conference agreement includes a total of over $3 billion for these vital defense purposes. These accounts were seriously depleted in fiscal year 1995 because of unanticipated operations, in particular Somalia, Rwanda, and Haiti, as well as elsewhere, and the conference had to balance this need to restore DOD readiness funding with the goal of maintaining our progress toward deficit reduction. The result was to shift defense funding from lower-priority items in the defense budget to replenish these readiness accounts.

Mr. President, I note that the conferees, in the statement of managers, have addressed their deep concern and desire not to repeat the problem of engaging in expensive, non-traditional, humanitarian-oriented military operations without a more careful assessment of the costs. The conference agreement rightly recommends that prior congressional approval should be sought and obtained for such operations. Given the budgetary constraints we are facing in discretionary spending, including defense spending, I do not think that the Congress will easily approve supplementals in the future such as we have before us today, for operations which do not have the advance-approval of the Congress. Certainly it is in the interest of the President to have Congress on board if and when he decides to launch the Nation into these kinds of expensive, non-traditional operations, which are not directly related to the vital interests of the United States.

In addition to over $2 billion in DOD rescissions, the conference agreement includes a number of rescissions of international and domestic funds, including foreign operations, the Departments of Transportation, Commerce-Justice-State, Interior, Education, Veterans Affairs, and a variety of other accounts. The net effect of the bill on Federal spending is a reduction in excess of $700 million.

Again, I compliment the chairman of the committee, as well as the managers of the Defense Chapter, specifically, Mr. STEVENS and Mr. INOUYE, for a particularly workman-like job in rearranging, in a deficit-neutral manner, the department's accounts so as to support the basic readiness of our armed forces.

Mr. McCAIN. Mr. President, I want to commend my colleagues on the Appropriations Committee for a conference agreement which is, on the whole, an excellent bill.

It is fully paid for.

It contains needed funds to reimburse DOD for the costs of conducting humanitarian and peacekeeping operations.

It provides full funding for authorized military pay raises.

It rescinds $300 million from TRP and places restrictions on the ability to provide grants for projects with little or no military relevance.

It also rescinds $122 million from the Service R&D accounts for general science and technology programs—low-priority programs with little demonstrable relevance to defense requirements.

It puts in place a requirement to notify Congress in advance of large obligations from the Emergency and Extraordinary Expenses account.

It rescinds funding from excess Guard and Reserve equipment which was added by Congress.

It restores much of the funding in the BRAC cleanup and construction accounts that is recommended for rescission in H.R. 1158, the domestic rescission bill currently before the Senate.

I particularly want to thank my colleague from Montana, Senator BURNS, for his successful efforts in negotiating an excellent compromise with the House regarding elimination of military construction at closing bases. I understand the opposition he faced in defending the provision adopted by the Senate, and I appreciate his diligence. The compromise—which prohibits obligation of funds for military construction at closing bases or for realigning functions—is actually an improvement over the Senate position, since it makes these funds available for other high-priority defense needs, rather than returning them to the Treasury.

Mr. President, there are a few rescissions with which I am not in agreement, namely, the rescission of environmental cleanup funds in the Departments of Defense and Energy. I believe it is irresponsible to reduce these accounts at a time when all indications are that the cost of cleaning up Federal facilities is skyrocketing. These funds will likely have to be restored in the fiscal year 1996 appropriations process.

On March 1, I provided a list of more than $6 billion in suggested rescissions of low-priority and non-defense items funded in the fiscal year 1995 defense bill. With a few exceptions, the Senate chose not to rescind these funds, and they were therefore not within the scope of the conference. However, I believe rescinding earmarked funds would have been a much better decision for the conferees than rescinding environmental restoration funds.

In addition, I am disappointed that the conferees chose not to rescind $400 million for construction of two aeronautical wind tunnels, as proposed by the House. Our nation's fiscal crisis requires that we eliminate projects that do not return good value to the American people. I believe half a billion dollars for wind tunnels is one of those projects that should be cut in favor of a higher purpose—deficit reduction.

I also question the necessity to set aside additional funds in this emergency bill to renovate Penn Station in New York, when many other train stations in the country could probably use a portion of this funding to upgrade their facilities. I understand that this requirement arises from safety concerns and recent fires at the station, but I have not seen any official estimates of repair costs or safety modifications. In addition, last year, cost-sharing was an essential element of providing Federal funding for this project; I trust that will also be the case with these additional funds.

There are a number of other rescissions which were not accepted by the conferees which could have provided additional deficit reduction in this bill. While these projects are a very, very small part of this bill, I feel it is imperative that I bring to the attention of the Senate that certain Members are still able to protect their special interests at the expense of the American taxpayers.

Mr. President, again, I commend my colleagues, Senator HATFIELD and Senator BYRD, for this conference agreement. On the whole, it is a responsible balance between restoring military readiness funds and eliminating unnecessary Federal spending across-the-board. My outlook on the upcoming fiscal year 1996 appropriations season is much improved because of the excellent work in this bill. I hope we can eliminate, or at least minimize, as this bill does, the earmarks and pork barrel projects in the fiscal year 1996 appropriations bills.

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement accompanying H.R. 889, the emergency defense supplemental appropriations and rescission bill for the fiscal year 1995.

The bill provides for a net decrease in fiscal year 1995 budget authority and outlays of $4.0 billion and $1.3 billion, respectively. These are real cuts to the deficit.

Title I of the bill provides supplemental appropriations of $3.1 billion in budget authority and $1.2 billion in outlays for the Department of Defense. These funds, largely for unanticipated contingency operations, are necessary to maintain the readiness of our Armed Forces.

This title also rescinds $2.9 billion in budget authority and $1.2 billion in outlays for various defense programs to help offset the cost of this additional military spending.

Title II provides for non-defense rescissions amounting to $1.1 billion in budget authority and $0.1 billion in outlays for fiscal year 1995. Most of these savings are to be devoted to deficit reduction.

The final bill does include the emergency designation for these additional funds as requested by the President and approved by the House.

I must note, however, that the spending in this bill is largely offset by the rescissions in the bill, and I think this is an important achievement by both the Senate and House.

I thank my colleagues for the fine job they have done, and I urge the adoption of this bill.

Mr. President, I ask unanimous consent that tables showing the relationship of the pending bill to the Appropriations Committee 602 allocations and to the overall spending ceilings under the fiscal year 1995 budget resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 889, DEFENSE EMERGENCY SUPPLEMENTAL AND RESCISSIONS CONFERENCE REPORT

[FY 1995, in millions, CBO scoring]

Subcommittee	Current Status[1]	H.R. 889[2]	Subcommittee total	Senate 602(b) allocation	Total comp to allocation
Agriculture-RD:					
Budget Authority	58,117		58,117	58,118	−1
Outlays	50,330		50,330	50,330	−0
Commerce-Justice:					
Budget Authority	26,873	−180	26,693	26,903	−210
Outlays	25,429	−42	25,387	25,429	−42
Defense:					
Budget Authority	243,628	−2,685	240,943	243,630	−2,687
Outlays	250,661	−1,106	249,555	250,713	−1,158
District of Columbia:					
Budget Authority	712		712	720	−8
Outlays	714		714	722	−8
Energy-Water:					
Budget Authority	20,493	−200	20,293	20,493	−200
Outlays	20,884	−100	20,784	20,888	−104
Foreign Operations:					
Budget Authority	13,679	−142	13,537	13,830	−293
Outlays	13,780	−18	13,762	13,816	−54
Interior:					
Budget Authority	13,578	−2	13,577	13,582	−5
Outlays	13,970	−2	13,968	13,970	−2
Labor-HHS[3]:					
Budget Authority	266,170	−300	265,870	266,170	−300
Outlays	265,730	−12	265,718	265,731	−13
Legislative branch:					
Budget Authority	2,459		2,459	2,460	−1
Outlays	2,472		2,472	2,472	−0
Military construction:					
Budget Authority	8,836	−36	8,800	8,837	−37
Outlays	8,525	−2	8,523	8,554	−31
Transportation:					
Budget Authority	14,265	−72	14,193	14,275	−82
Outlays	37,087	−1	37,085	37,087	−2
Treasury-Postal[4]:					
Budget Authority	23,589		23,589	23,757	−168
Outlays	24,221		24,221	24,225	−4
VA–HUD:					
Budget Authority	90,256	−365	89,891	90,257	−366
Outlays	92,438		92,438	92,439	−1
Reserve:					
Budget Authority				2,311	−2,311
Outlays				1	−1
Total appropriations[5]:					
Budget Authority	782,655	−3,981	778,674	785,343	−6,669
Outlays	806,241	−1,283	804,957	806,377	−1,420

[1] In accordance with the Budget Enforcement Act, these totals do not include $1,394 million in budget authority and $6,466 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $877 million in budget authority and $935 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount as an emergency requirement.

[2] In accordance with the Budget Enforcement Act, these totals do not include $3,070 million in budget authority and $1,232 million in outlays in funding for emergencies that have been designated as such by the President and the Congress.

[3] Of the amounts remaining under the Labor-HHS Subcommittee's 602(b) allocation, $1.3 million in outlays is available only for appropriations from the Violent Crime Reduction Trust Fund.

[4] Of the amounts remaining under the Treasury-Postal Subcommittee's 602(b) allocation, $1.3 million, in budget authority and $0.1 million in outlays is available only for appropriations from the Violent Crime Reduction Trust Fund.

[5] Of the amounts remaining under the Appropriations Committee's 602(a) allocation, $1.3 million in budget authority and $1.4 million in outlays is available only for appropriations from the Violent Crime Reduction Trust Fund.

Note: Details may not add to totals due to rounding.

Prepared by SBC majority staff, Apr. 6, 1995.

FISCAL YEAR 1995 CURRENT LEVEL—H.R. 880, DEFENSE SUPPLEMENTAL AND RESCISSIONS BILL

[Dollars in billions]

	Budget authority	Outlays
Current level (as of Mar. 24, 1995[1])	1,236.5	1,217.2
H.R. 889, Defense supplemental and rescissions, conference report[2]	−4.0	−1.3
Total current level	1,232.5	1,215.9
Revised on-budget aggregates[3]	1,238.7	1,217.6
Amount over (+) / under (−) budget aggregates ..	−6.2	−1.7

[1] In accordance with the Budget Enforcement Act, the total does not include $1,394 million in budget authority and $6,466 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $877 million in budget authority and $935 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

[2] In accordance with the Budget Enforcement Act, these totals do not include $3,070 million in budget authority and $1,232 million in outlays in funding for emergencies that have been designated as such by the President and the Congress in this bill.

[3] Reflects revised allocation under section 9(g) of House Concurrent Resolution 64 for the deficit-neutral reserve fund.

ANote: Details may not add to totals due to rounding.

APrepared by SBC majority staff, Apr. 6, 1995.

Mr. MOYNIHAN. Mr. President, I am pleased to note that the conference report for the Department of Defense supplemental appropriations bill includes an appropriation of $21.5 million for capital improvements associated with safety-related emergency repairs to Pennsylvania Station in New York City.

Pennsylvania Station is the busiest intermodal station in the Nation, with almost 40 percent of Amtrak's passengers nationwide passing through every day. Unfortunately, it is also the most decrepit of the Northeast corridor stations, others of which, such as Washington, DC's own Union Station, have been renovated with Federal grants. Today, Pennsylvania Station handles almost 500,000 riders a day in a subterranean complex that demands improvement. According to the New York City Fire Commissioner, there have been nine major fires at the station since 1987. Luckily, these fires have occurred at off-hours; as it stands, the station could not cope with an emergency when it is crowded with the 42,000 souls who pass through every workday between 8 and 9 a.m. In addition, structural steel in the station has shown its age and needs immediate repair. And these are just the most pressing needs.

There is a redevelopment plan to change things for the better, a $315 million project to renovate the existing Pennsylvania Station and extend it partially into the neighboring historic James A. Farley Post Office, almost doubling the emergency access to the station's platforms which lie far below street level beneath both buildings. Moreover, there is a financing plan in place that could do this with $100 million from the Federal Government ($31.5 million has already been appropriated), $100 million from the State and city, and $115 million from a combination of historic tax credits, bonds supported by revenue from the project's retail component, and building shell improvements by the Postal Service, owner of the James A. Farley Building. Governor Pataki of New York and Mayor Giuliani of New York City strongly support the project and have made available funding in their budgets in accordance with a Memorandum of Agreement signed in August, 1994.

Thanks to our colleagues on the Committee on Appropriations, $21.5 million can now be used immediately for pressing safety repairs at the existing station, in the first step of the overall redevelopment effort. These are the first Federal funds into the project that will actually go toward construction, and they will count towards the Federal share of the $315 million project to transform the station into a complex capable of safely handling the crowds that have made Pennsylvania Station the Nation's busiest intermodal facility. For myself and the 75 million other people a year who use the station, I would like to thank all those who have labored hard to make the station safer, in particular our colleagues Senator HATFIELD, Senator BYRD, and Senator LAUTENBERG.

Mr. THOMPSON. Mr. President, I ask unanimous consent the conference report be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

ORDERS FOR FRIDAY, APRIL 7, 1995

Mr. THOMPSON. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:30 a.m. on Friday, April 7, and that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders be reserved for their use later in the day; that there then be a period for routine morning business until the hour of 1 p.m., with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. THOMPSON. Mr. President, for the information of all Senators, there will be no rollcall votes during Friday's session of the Senate. The Senate will conduct routine morning business only.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. THOMPSON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in recess under the previous order.

There being no objection, the Senate, at 10:43 p.m., recessed until Friday, April 7, 1995, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 6, 1995:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

ROBERTA L. GROSS, OF THE DISTRICT OF COLUMBIA, TO BE INSPECTOR GENERAL, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, VICE BILL D. COLVIN, RESIGNED.

DEPARTMENT OF AGRICULTURE

KARL N. STAUBER, OF MINNESOTA, TO BE UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS. (NEW POSITION.)

THE JUDICIARY

A. WALLACE TASHIMA, OF CALIFORNIA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE ARTHUR L. ALARCON, RETIRED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS TO TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. CHARLES G. BOYD [redacted]
GEN. JOHN M. LOH [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. JOSEPH W. RALSTON [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 501:

To be lieutenant general

MAJ. GEN. RALPH E. EBERHART [redacted]
MAJ. GEN. EUGENE D. SANTARELLI [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JOHN S. FAIRFIELD [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CARL G. O'BERRY [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. JAMES R. FITZGERALD [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate April 6, 1995:

FEDERAL TRADE COMMISSION

ROBERT PITOFSKY, OF MARYLAND, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF 7 YEARS FROM SEPTEMBER 26, 1994.

CONSUMER PRODUCT SAFETY COMMISSION

THOMAS HILL MOORE, OF FLORIDA, TO BE A COMMISSIONER OF THE CONSUMER PRODUCTS SAFETY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 26, 1996.

DEPARTMENT OF THE INTERIOR

WILMA A. LEWIS, OF THE DISTRICT OF COLUMBIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE INTERIOR

NATIONAL COUNCIL ON DISABILITY

YERKER ANDERSSON, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1996.

JOHN A. GANNON, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1995.

AUDREY L. MCCRIMON, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1997.

LILLIAM RANGEL POLLO, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1996.

DEBRA ROBINSON, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1997.

RAE E. UNZICKER, OF NORTH DAKOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1997.

ELA YAZZIE-KING, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1996.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ROBERT G. BREUNIG, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1998.

KINSHASHA HOLMAN CONWILL, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1997.

CHARLES HUMMEL, OF DELAWARE, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1999.

AYSE MANYAS KENMORE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 6, 1995.

NANCY MARSIGLIA, OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1998.

ARTHUR ROSENBLATT, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1998.

RUTH Y. TAMURA, OF HAWAII, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1998.

TOWNSEND WOLFE, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1998.

PHILLIP FROST, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1998.

JOHN L. BRYANT, JR., OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1998.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

E. GORDON GEE, OF OHIO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1999.

JOSEPH E. STEVENS, JR., OF MISSOURI, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1997.

STEVEN L. ZINTER, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1997.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

PEGGY GOLDWATER-CLAY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING JUNE 5, 2000.

GEN. WILLIAM W. QUINN, U.S. ARMY, RETIRED, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING 13, 1999.

LYNDA HARE SCRIBANTE, OF NEBRASKA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING OCTOBER 13, 1999.

NIRANJAN SHAMALBHAI SHAH, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING AUGUST 11, 1998.

NATIONAL SCIENCE FOUNDATION

SANFORD D. GREENBERG, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2000.

EVE L. MENGER, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2000.

CLAUDIA MITCHELL-KERNAN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2000.

DIANA S. NATALICIO, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2000.

ROBERT M. SOLOW, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2000.

WARREN M. WASHINGTON, OF COLORADO, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2000.

JOHN A. WHITE, JR., OF GEORGIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2000.

NATIONAL MEDIATION BOARD

KENNETH BYRON HIPP, OF HAWAII, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 1997.

RAILROAD RETIREMENT BOARD

JEROME F. KEVER, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR A TERM EXPIRING AUGUST 28, 1998.

NATIONAL INSTITUTE FOR LITERACY

MARCIENE S. MATTLEMAN, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 12, 1995.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOAN CHALLINOR, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1999.

NUCLEAR REGULATORY COMMISSION

SHIRLEY ANN JACKSON, OF NEW JERSEY, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM OF 5 YEARS EXPIRING JUNE 30, 1999.

DEPARTMENT OF STATE

JACQUELYN L. WILLIAMS-BRIDGERS, OF MARYLAND, TO BE INSPECTOR GENERAL DEPARTMENT OF STATE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5035:

VICE CHIEF OF NAVAL OPERATIONS

to be admiral

VICE ADM. JOSEPH W. PRUEHER [redacted]

EXTENSIONS OF REMARKS

TRIBUTE TO THE GOVERNMENT PRINTING OFFICE

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. REED. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to the Government Printing Office [GPO] for its outstanding work on the GPO Access Network. For its efforts, the GPO has received the James Madison Award for 1995.

The Madison Awards are presented by the Coalition on Government Information to those individuals or organizations who enhance citizens' knowledge while championing the public's right to know. Previous winners of these awards include Vice President ALBERT GORE, Secretary of Energy Hazel O'Leary, and Representative HENRY WAXMAN. The GPO is certainly worthy of joining this list of well-known and respected officials.

The GPO has developed an access system which allows American citizens to obtain information including congressional bills, the CONGRESSIONAL RECORD, Federal Register, the U.S. Code, and more than 6,000 other files from 25 Federal agencies. Additionally, the network can be accessed at no charge from libraries that act as Federal depositories 24 hours a day.

As James Madison stated, "a popular government without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy, or, perhaps both." Madison realized that a well-informed citizenry is the crucial ingredient for healthy debate. As all of my colleagues are aware, informed and spirited debate is the root of a healthy democracy. The GPO access network is a perfect example of how the new information "super highway" will heighten the level of public discourse.

In Rhode Island, the GPO has done an outstanding job of fulfilling Madison's vision of a politically aware and active citizenry. Because of the team effort of the GPO, Ocean State Free Net, and the Federal Depository libraries in the State, Rhode Islanders are now able to access all of the aforementioned information with their own home computers. Having such information available will enhance our citizens understanding of government and their desire to participate in the democratic process. I am confident that continued cooperation between the Federal Government, State agencies, and American citizens will yield rapid advancement into this new era of shared information.

Mr. Speaker, it gives me great pleasure to commend the outstanding achievement and continuing efforts of the Government Printing Office, and I would ask my colleagues to join me in saluting them.

TOBACCO HEALTH TAX AND AGRICULTURAL CONVERSION ACT OF 1995

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. STARK. Mr. Speaker, today my colleague from Utah, Mr. HANSEN, and I are introducing the Tobacco Health Tax and Agricultural Conversion Act of 1995, a bill to increase the cigarette tax to $2 per pack and to increase taxes on other tobacco products.

We are joined in this by Mr. DURBIN, Mr. COYNE, Ms. PELOSI, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. MORAN, Mr. OBERSTAR, Mrs. COLLINS of Illinois, and Mr. EVANS, as original cosponsors.

The revenues raised by this bill would finance health education and medical research efforts, help fund the health care costs of our Nation's elderly, and assist tobacco workers and agricultural regions that may be adversely affected by an increase in the tobacco tax. But most importantly, this bill creates a powerful disincentive for Americans—particularly youngsters—from taking up smoking.

We all know of the scourge that tobacco brings to America's families. The American Cancer Society, the American Lung Association, and the American Heart Association have reported that "tobacco is the single greatest cause of preventable death and disease."

There are 419,000 deaths each and every year due to smoking. This equates to more than 1,100 Americans dying every day. Smoking-caused deaths exceed the number of deaths caused from alcohol, drug abuse, homicide, suicide, automobile and airplane accidents, and AIDS combined; 27 percent of all Americans who die between the ages of 35 and 64 die from tobacco-related disease.

The scores of lives lost to tobacco provide sufficient reason to take the action I call for in this legislation. But lives lost is not the only cost fo smoking. Tobacco-caused illnesses tax our health care system, requiring more than $50 billion per year in direct health care expenditures, including $22 billion borne by the Federal Government. Losses in productivity suck tens of billions more out of our economy.

But if there is an area where Federal action can make a positive impact, it is with smoking. Tobacco is the single greatest cause of preventable death and disease—preventable. As proven by experiences in several States and in other countries, tobacco consumption—and the related costs—can be reduced. In my home State of California, through a modest rise in the cigarette tax and a statewide education campaign, a substantial reduction in smoking among California's teenagers resulted. The National Academy of Sciences' Institute of Medicine, a well-respected independent scientific organization, concluded that—

> If tobacco is made less affordable . . . consumption will tend to decline, especially among children and youth, whose smoking habits are not fully established. Therefore, policymakers have an effective means available to them—increasing the real price of tobacco by increasing excise taxes—to reduce the consumption of tobacco by youths and thereby to reduce the health toll of tobacco use in future years.

Most people who smoke today—about 90 percent—bagan smoking when they were kids. If the cost of a pack of cigarettes were raised to the equivalent of two Big Macs rather than the equivalent of just one today, youngsters might think twice before putting down the money for the cigarettes. And without continued waves of new smokers, the 400,000 Americans who die each year from smoking will not be replaced.

In order to prevent nicotine addiction in children and youth, the National Academy of Sciences recommends the following—

(1) Congress should enact a significant increase in the tobacco tax,

(2) All tobacco products should be taxed on an equivalent basis, and

(3) The real value of tobacco taxes should be maintained to account for inflation.

The Tobacco Health Tax and Agricultural Conversion Act of 1995, if enacted, would accomplish each of these steps.

In the past, concerns have been raised over the impact a tobacco tax hike would have on tobacco farmers. We believe this bill offers a solution, not a problem, for tobacco farmers.

U.S. tobacco farming has been declining for more than a decade. This has not been caused by increased tobacco taxes in the United States. This is not a result of reduced cigarette manufacturing in the United States. The decline in U.S. tobacco farmers, from 179,000 in 1993 to 137,000 today, is because U.S. cigarette manufacturers like Philip Morris and R.J. Reynolds have more than doubled their imports of less expensive foreign-grown tobacco over the past decade. Today, more than one-third of tobacco used in U.S.-manufactured cigarettes is imported. This trend is anticipated to continue, leaving U.S. tobacco farmers and their farming communities devastated.

The legislation we are introducing today would allocate 3 percent of the revenues raised to a Tobacco Conversion and Health Education Trust Fund. The purpose of this is to assist individuals and communities that today are reliant upon tobacco farming to convert to other crops and industries. These funds could be used to purchase tobacco allotments from farmers or to finance infrastructure construction and modernization for agricultural diversification. Affected communities would be able to use these funds to stimulate non-tobacco related economic development. Under this legislation, literally hundreds of millions of dollars annually would become available to tobacco farmers and tobacco-growing regions.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

A portion of moneys in the Tobacco Conversion and Health Education Trust Fund would be allocated to support health education efforts. Rather than rely solely on the increase in the price of cigarettes to educate American consumers of the true costs of cigarettes, the Secretary of the Department of Health and Human Services would conduct campaigns—building on efforts already underway in several States—to educate Americans on health risks, including the risks from tobacco use.

A larger portion of the funds raised would be used to fund expanded medical research efforts. A full 9 percent of the revenues raised, estimated at roughly $1.5 billion per year, would be placed in a newly created National Fund for Medical Research. These resources will augment the current effort underway at the National Institutes of Health and throughout the Nation to expand our understanding and ability to deal with complex medical problems. As we all know, only one-quarter of all worthwhile grant applications submitted to the NIH each year receive funding.

The remainder of the revenues raised by this legislation would be deposited into the Medicare Part A Hospital Insurance Trust Fund. The reason for this is simple. As stated by a former HHS Secretary who held responsibility for the Medicare program, "Smoking is the single largest drain on the Medicare trust fund, poised to take $800 billion over the next 20 years." The revenues from this bill may not cover Medicare's full smoking-related costs, but this bill provides a good start.

In sum, this legislation is good for America—for America's youth, America's families, and the American economy. Lives will be saved, suffering from disease will be diminished, long-term health care costs will be reduced, diversification in farming communities will be supported, and revenues will be generated for the health care needs of our elders.

Mr. Speaker, we could continue for hours to cite reason upon reason to support this legislation. Some may want me to do so, merely to delay taking action. But at some point we must take action. We must decide that this is a necessary step and that it can no longer be delayed. We believe that the time is now. We urge our colleagues to support this legislation.

A summary of the bill follows—

SUMMARY OF "THE TOBACCO HEALTH TAX AND AGRICULTURAL CONVERSION ACT OF 1995"

INCREASE IN TOBACCO EXCISE TAXES

This legislation would increase the excise tax on cigarettes by $1.76 per pack (from $.24 per pack to $2.00 per pack) and increase the excise taxes on other tobacco products.

The excise taxes would increase in future years by an amount equivalent to the rate of inflation.

This legislation would become effective after September 30, 1995.

USE OF REVENUES

Medicare Part A Trust Fund—88% of revenues—to strengthen the solvency of the Medicare Part A Hospital Insurance Trust Fund.

National Fund for Medical Research—9% of revenues—to augment the resources currently available to the National Institutes for Health for medical research.

Tobacco Conversion Account—1.5% of revenues—to assist individuals and communities that today are reliant upon tobacco farming to convert to other crops and industries.

Health Education Account—1.5% of revenues—to educate Americans on health risks, including tobacco use.

PINE PLAINS, NY, HOSE CO. AND RESCUE SQUAD CELEBRATE 100TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. SOLOMON. Mr. Speaker, I have always been partial to the charm and character of small towns and small town people. The town of Pine Plains, NY, is certainly no exception.

The traits which make me most fond of such communities is the undeniable camaraderie which exists among neighbors. Looking out for one another and the needs of the community make places like Pine Plains great places to live. The concept of community service is exemplified by the devoted service of the Pine Plains Hose Co. and Rescue Squad. For 100 years now, this organization has provided critical services for the citizens on a volunteer basis. As a former volunteer fireman myself, I understand, and appreciate, the commitment required to perform such vital public duties.

Mr. Speaker, it has become all to seldom that you see fellow citizens put themselves in harms way for the sake of another. While almost all things have changed over the years, thankfully for the residents of Pine Plains, the members of their fire department and rescue squad have selflessly performed their duty, without remiss, since the formation of this organization in 1895. From June 8, 1995 through June 10, 1995, the hose company will be hosting a celebration commemorating this milestone. Not only will this offer the residents of Pine Plains a chance to enjoy themselves at the planned festivities, including a parade, carnival and fireworks, but it will provide the perfect opportunity for them to extend their gratitude to this organization and its members.

Mr. Speaker, I have always been one to judge people by how much they give back to their community. On that scale, the members of the Pine Plains Hose Co. and Rescue Squad are great Americans. I am truly proud of this organization because it typifies the spirit of voluntarism which has been such a central part of American life. We would all do well to emulate the service of the men and women who comprise the Pine Plains Fire and Rescue Squads. To that end, it is with a sense of pride, Mr. Speaker, that I ask all members to join me in paying tribute to the Pine Plains Hose Co. and Rescue Squad on the occasion of their 100th anniversary.

LOVE STORY WITH A LONG HISTORY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MANTON. Mr. Speaker, I rise today to recognize Michael and Marion Duckworth Smith, a special couple who live in a unique place in my district. Within the boundaries of one of the most urban areas of our country, Marion and Michael live on the Riker Estate, the oldest New York City farmhouse still used as a residence.

Michael and Marion's relationship blossomed just as the residence has over the years. The 341 year old residence was originally built by Abraham Riker, who was awarded at least 120 acres by Peter Stuyvesant in the area then known as Bowery Bay. Later, it was expanded by Abraham Lent, a grandson of Abraham Riker. The home has remained largely untouched by the growing metropolis around it because the cemetery in the property is protected by law.

A new chapter for the Riker Estate began in 1960 when Michael Smith, a frequent visitor to the house, noticed its quaintness, but also the necessity of restoring the site. The house was declared a landmark in 1966, the same year Michael moved in. He was able to purchase the property in 1975, though his restoration work was far from finished. In 1979, Michael and Marion shared their second date at the house and continue to share their love with each other and the Riker Estate to this day.

Mr. Speaker, the Smiths continue to devote themselves to projects on the property over the years, including building a gazebo behind the house to commemorate their wedding where they renewed their vows in 1993. The couple looks forward to living and taking care of each other, as well as the historical house they share together for many years to come.

Mr. Speaker, I know my colleagues join me in recognizing this special couple and the outstanding job they have done bringing back to life a home and a special part of New York City's past that will continue to thrive for years to come.

THE JANE VORHEES-ZIMMERLI MUSEUM GALA HONORING PHILLIP DENNIS CATE'S SILVER ANNIVERSARY AS DIRECTOR OF THE MUSEUM

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. PALLONE. Mr. Speaker, on the afternoon of Saturday, April 29, 1995, a gala in New Brunswick, NJ, will celebrate Phillip Dennis Cate's 25 years as director of the Jane Vorhees-Zimmerli Museum.

Mr. Speaker, Phillip Dennis Cate deserves to be recognized for outstanding work in the field of museum studies. Mr. Cate attended Rutgers, the State University of New Jersey, graduating in 1967 as an art history major and as a Henry Rutgers scholar. Using his experience as director of the art gallery at Rutgers, Phillip Dennis Cate has been able to create one of the foremost collections of art within the State of New Jersey.

Under direction of Mr. Cate, the Jane Vorhees-Zimmerli Museum has been transformed from a well-kept local secret into a renowned museum that hosts a multitude of eclectric exhibits. Some of these exhibitions include French 19th century graphics, American and European art, children's literature, and the most recent addition of the Norton and Nancy Dodge collection of nonconformist art from the Soviet Union.

Phillip Dennis Cate seized on the opportunity to make the Jane Vorhees-Zimmerli Museum a prominent resource center for the art world. Without Mr. Cate's ambition and training, the Zimmerli would probably not have reached such a level of respect and admiration.

Mr. Speaker, it is a great honor for me to pay tribute to Mr. Phillip Dennis Cate, to look back on his accomplishments of the past 25 years and to look forward to the great work yet to come.

EAST HARTFORD HIGH SCHOOL CHOIR AND BAND

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mrs. KENNELLY. Mr. Speaker, I rise today to honor an outstanding group of students from my district, the East Hartford High School Choir and Band. They have been selected to represent the State of Connecticut in the 50th anniversary commemoration of World War II to be held in Washington at the end of April.

Inspired by the leadership of choir director, Mr. Leo Sayles and band director, Mrs. Kathy Neri, these students have earned a statewide reputation for excellence. Soon the entire Nation will recognize them as one of the premier high school musical groups in the country.

As we commemorate the end of World War II, I am especially pleased that so many young people will participate in the Washington event. History has many lessons to teach us—it is important for the leaders of tomorrow to learn from the heroes of yesterday. East Hartford High's participation is important not only because it will add to the ceremony, but because it will leave a lasting impression on these students, their teachers, parents, and friends.

I salute the East Hartford High School Choir and Band. They will be excellent ambassadors for the State of Connecticut.

TRIBUTE TO BOB SLADE

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to a good friend and an exemplary man, Bob Slade, who is retiring, after serving 18 years as a teacher in the Escanaba area public schools and 16 years as a representative for the Michigan Education Association in the central Upper Peninsula.

Bob Slade received a bachelor's degree from Northern Michigan University, a master's degree from the University of Pennsylvania, and did postgraduate work in labor law at the University of Michigan.

Bob Slade taught physics, physical science, math, and driver education at Escanaba area high school. During Bob's career as a teacher, he was twice awarded the Outstanding Teacher Award.

Always placing the needs of others before his own, Bob was rewarded for his dedicated and professional service by being recognized by the Escanaba City Council for assisting at the scene of an auto accident in which a youngster was seriously injured.

Bob was also honored by Mead Paper Corp. for serving on the original citizens committee which instituted the MEAD science essay contest for high school students in the areas of biology, chemistry, math, and physics.

He is strong when strength is needed, and possesses a sense of humor when things are too serious. Always dignified, he helps others before himself. He will be remembered by his friends and family for his good sense of humor and his interest in politics.

Mr. Speaker, it is not only my hope, but all Escanaba's, that Bob will continue to enjoy the fruits of his labor starting with his retirement party, April 8, 1995. A man of great character, his achievements and contributions remain unparalleled. We can never adequately express our gratitude for his tireless service. I would like to express my deep pride and admiration in having such a fine citizen in my district. A citizen that my wife and I can call our friend and our teacher. Congratulations Bob, and best wishes.

MEDICARE MENTAL HEALTH IMPROVEMENT ACT OF 1995

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. STARK. Mr. Speaker, today I am introducing the Medicare Mental Health Improvement Act of 1995. This bill will improve the mental health services available to Medicare beneficiaries. It represents an urgently needed change in benefits to reflect contemporary methods of providing mental health care and prevent unnecessary hospitalizations.

The bill expands Medicare Part A and Part B mental health and substance abuse benefits to include a wider array of settings in which services may be delivered. It eliminates the current bias in the law toward delivering services in general hospitals. It permits services to be delivered in a variety of residential and community-based settings. Through use of residential and community-based services, costly inpatient hospitalization can be avoided. Services can be delivered in the setting most appropriate to the individual's needs.

In 1991, as a nation we spent approximately $58 billion for treatment of mental illness and another $17 billion for substance abuse disorders. Medicare expenditures in these areas for 1993 were estimated at $3.6 billion or 2.7 percent of Medicare's total spending. Over 80 percent of that cost was for inpatient hospitalization.

In addition to these direct medical costs there are also enormous social costs resulting from these disorders. It has been estimated that severe mental illness and substance abuse disorders cost $78 billion per year in lost productivity, lost earnings due to illness or premature death, and costs for criminal justice, welfare and family care giving.

Mental disorders affect about 22 percent of the adult population in a 1 year period; 2 to 3 percent of the population experience severe mental illness or substance abuse disorders. This population is very diverse. Some people experience problems of recent origin that never recur, given appropriate treatment. Others have severe problems that persist for a long period of time. Mental illness and substance abuse disorders include many different diagnoses, levels of disability and duration of disability. Therefore, the people affected have many different needs.

Diagnosis and treatment of mental illness and substance abuse have changed dramatically since the Medicare benefit was designed. No longer are treatment options limited to large public psychiatric hospitals. The great majority of people can be treated on an outpatient basis, recover quickly and return to productive lives. Even those who once would have been banished to the back wards of large institutions can now live successfully in the community.

In recent years, the range of settings for care has diversified and providers have become more specialized. Treatments are more numerous and more effective than ever before. Treatment for mental disorders is in many cases just as effective as treatment for many physical disorders. For many people, however, appropriate treatment is inaccessible because they lack adequate insurance coverage. Medicare benefits have not kept pace with advancements in the field of mental health.

This bill would permit Medicare to pay for a number of intensive community-based services. In addition to outpatient psychotherapy and partial hospitalization that are already covered, beneficiaries would also have access to psychiatric rehabilitation, ambulatory detoxification, in-home services day treatment for substance abuse and day treatment for children under age 19. In these programs, people can remain in their own homes while receiving services. These programs provide the structure and assistance that people need to function on a daily basis and return to productive lives.

They do so at a cost that is much less than inpatient hospitalization. For example, the National Institute for Mental Health in 1993 estimated that the cost of inpatient treatment for schizophrenia can run as high as $700 per day, including medication. The average daily cost of partial hospitalization in a community mental health center is only about $90 per day. When community-based services are provided, inpatient hospitalizations will be less frequent and stays will be shorter. In many cases hospitalizations will be prevented altogether.

This bill will also make care management available for those with severe mental illness or substance abuse disorders. People with severe disorders often need help managing many aspects of their lives. Case management assists people with severe disorders by making referrals to appropriate providers and monitoring the services received to make sure they are coordinated and meeting the beneficiaries' needs. Case managers can also help beneficiaries in areas such as obtaining a job, housing, or legal assistance. When services are coordinated through a case manager, the chances of successful treatment are improved.

For those who cannot be treated while living in their own homes, this bill will make several residential treatment alternatives available. These alternatives include residential detoxification centers, crisis residential programs, therapeutic family or group treatment homes and residential centers for substance abuse. Clinicians will no longer be limited to sending their patients to inpatient hospitals. Treatment can be provided in the specialized setting best suited to addressing the person's specific problem.

Inpatient hospitalization, of course, will remain an important avenue of treatment for some beneficiaries. Currently, the law contains a bias toward providing inpatient services in general hospitals. That bias results from the payment differences between psychiatric hospitals and general hospitals.

Right now in psychiatric hospitals, benefits may be paid for 190 days in a person's lifetime. This limit was established primarily in order to contain Federal costs. In fact, CBO estimates that only about 1.6 percent of Medicare enrollees hospitalized for mental disorders or substance abuse used more than 190 days of service over a 5-year period.

In general hospitals, benefits are available for 90 days in a benefit period and a person may have numerous benefit periods throughout his or her lifetime. This can result in people who have almost used up their 190 lifetime days in a psychiatric hospital being forced to receive services in a general hospital.

They are also shunted into nursing homes. A recent study found that, among nursing home residents who did not have a cognitive impairment, such as Alzheimer's disease, 13 percent exhibit mental disorders. While some general hospitals and nursing homes are up to this task, others are ill-equipped to meet the needs of people with severe mental illness or substance abuse problems.

Under the provisions of this bill, beneficiaries who need inpatient hospitalization can be admitted to the type of hospital that can best provide treatment for his or her needs. Inpatient hospitalizations would be covered for up to 60 days per year. The average length of hospital stay in 1992 for an adult was 16 days and for an adolescent was 24 days. The 60 day limit, therefore, would adequately cover inpatient hospitalization for the vast majority of Medicare beneficiaries, while still providing some modest cost containment. Restructuring the benefit in this manner will level the playing field for psychiatric and general hospitals.

The bill I am introducing today is an important step toward providing comprehensive coverage for mental health. Timely treatment in appropriate settings will lessen health costs in the long run. It will also lessen the social costs of crime, welfare, and lost productivity to society. This bill will assure that the mental health needs of Medicare beneficiaries are no longer ignored. I urge my colleagues to join me in support of this bill.

A summary of the bill follows:

IN GENERAL

The bill revises the current mental health benefits available under Medicare to de-emphasize inpatient hospitalization and to include an array of intensive residential and intensive community based services.

PART A PROVISIONS

The bill permits benefits to be paid for 60 days per year for inpatient hospital services furnished primarily for the diagnosis or treatment of mental illness or substance abuse. The benefit is the same in both psychiatric and general hospitals.

The following "intensive residential services" are covered for up to 120 days per year: Residential detoxification centers; crisis residential or mental illness treatment programs; therapeutic family or group treatment home; and residential centers for substance abuse.

Additional days to complete treatment in an intensive residential setting may be used from inpatient hospital days, as long as 15 days are retained for inpatient hospitalization. The cost of providing the additional days of service, however, could not exceed the actuarial value of days of inpatient services.

A facility must be legally authorized under State law to provide intensive residential services or be accredited by an accreditation organization approved by the Secretary in consultation with the State.

A facility must meet other requirements the Secretary may impose to assure quality of services.

Services must be furnished in accordance with standards established by the Secretary for management of the services.

Payment for intensive residential services would be the lesser of reasonable cost under 1816(v) or customary charges less the amount the provider may charge under 1866(a)(2)(A).

Inpatient hospitalization and intensive residential services would be subject to the same deductibles and copayment as inpatient hospital services for physical disorders.

PART B PROVISIONS

Outpatient psychotherapy for children and the initial 5 outpatient visits for treatment of mental illness or substance abuse of an individual over age 18 have a 20-percent copayment. Subsequent therapy for adults would remain subject to the 50 percent copayment.

The following intensive community-based services are available for 90 days per year with a 20-percent copayment (except as noted below): Partial hospitalization; psychiatric rehabilitation; day treatment for substance abuse; day treatment under age 19; in home services; case management; and ambulatory detoxification.

Case management would be available with no copayment and for unlimited duration for "an adult with serious mental illness, a child with a serious emotional disturbance, or an adult or child with a serious substance abuse disorder (as determined in accordance with criteria established by the Secretary)."

Day treatment for children under age 19 would be available for up to 180 days per year.

Additional days of service to complete treatment can be used from intensive residential days. The cost of providing the additional days of service, however, could not exceed the actuarial value of days of intensive residential services.

A non-physician mental health or substance abuse professional is permitted to supervise the individualized plan of treatment to the extent permitted under State law. A physician remains responsible for the establishment and periodic review of the plan of treatment.

Any program furnishing these services (whether facility-based or freestanding) must be legally authorized under State law or accredited by an accreditation organization approved by the Secretary in consultation with the State. They must meet standards established by the Secretary for the management of such services.

THE CATO INSTITUTE'S DRUG DECEPTION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. SOLOMON. Mr. Speaker, I would like to bring attention to the truth about proposed legalization-decriminalization policies. Members have recently heard from the CATO Institute announcing a policy forum questioning the usefulness of continuing "the unwinnable war" on drugs. This forum is clearly just a thinly-veiled attempt to legitimize CATO's own prolegalization position.

However, what CATO refuses to publicly acknowledge are the devastating results of legalization-decriminalization policy, as evidenced in the Netherlands, where such a policy has been in place since the early 1980's. The president of the Dutch National Committee on Drug Prevention, K.F. Gunning, M.D., reports that crime and drug use have skyrocketed since the implementation of legalization in the Netherlands. According to the Dutch Government, their legalization-decriminalization has resulted in: A 250-percent increase in drug use since 1993; a doubling of marijuana use by students since 1988; armed robberies up by 70 percent; shootings up by 40 percent; car thefts up by 60 percent.

The number of registered addicts in the Netherlands has risen 22 percent in the past 5 years, and there were 25,000 new addicts in 1993 alone. In addition, the number of organized crime groups in the Netherlands has increased from 3 in 1988 to 93 in 1993. For good reason, the American public has zero tolerance for legalization schemes.

Mr. Speaker, drug legalization has clearly been a disastrous mistake for the Netherlands. If organizations like CATO achieve their goals, drug legalization will worsen the crime and drug problem in America as well.

IN HONOR OF HERIBERTO QUINDE-OBANDO

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MANTON. Mr. Speaker, I rise today to honor Mr. Heriberto Quinde-Obando, a gentleman I am proud to represent in the Seventh Congressional District of New York.

Mr. Speaker, on March 16, I had the pleasure of joining Mr. Quinde-Obando and members of his family in my Washington office to celebrate Mr. Quinde-Obando's 80th birthday.

Mr. Speaker, for more than half of his 80 years, Mr. Quinde-Obando has lived in

Woodside, Queens, which is part of my District. Mr. Quinde-Obando began his life in Guayaquil, Ecuador in South America. He moved to New York City in 1948 where he started a new life and began his career as an electronics technician. Mr. Quinde-Obando is well known for his contributions to his community and involvement in a number of civic organizations. Mr. Quinde-Obando's achievements demonstrate the great success immigrants have had in this country and his selfless devotion to our community serves as a shining example for all of us to follow.

Mr. Quinde-Obando has been particularly involved in the New York Intercontinental Lions Club since 1982. At the New York Intercontinental Lions Club, Mr. Quinde-Obando has successfully held several executive positions including director, chairman for social events, chairman of the health fair, club secretary, third, second, and first vice president, and president. He was selected Lion of the Year in 1984 and has received many other honors from his fellow Lions over the years. Mr. Quinde-Obando become a member of Lions International in 1980.

In addition to his charitable work, Mr. Quinde-Obando is a recognized leader within the Hispanic American community in Queens, helping unite his fellow Hispanic American neighbors on many issues important to Queens. He served as the president of the Queens Hispanic Day Parade Committee in 1992 and was also a member of the Hispanic task force in 1990. As a member of the Hispanic task force, Mr. Quinde-Obando was instrumental in helping retain Federal funds for transportation, education, job training, and housing.

Mr. Quinde-Obando also has served on the Woodside senior citizens advisory board and is a member of St. Sebastian's Parish. Having met many members of the Quinde family, I know that Heriberto Quinde-Obando has also been a loving and dedicated husband, father, and grandfather.

Mr. Speaker, I know that my colleagues will join me in commending Heriberto Quinde-Obando for his outstanding service to his family, church, and community.

TRIBUTE TO DAVID B. CRABIEL

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. PALLONE. Mr. Speaker, on Sunday, April 30, 1995, Mr. David B. Crabiel, director of New Jersey's Middlesex County's Board of Chosen Freeholders, will be presented the Hubert H. Humphrey Friend of Labor Award at the 4th annual Middlesex AFL–CIO awards and scholarship brunch.

Mr. Speaker, it is a great honor to pay tribute to David Crabiel, a dedicated family man who has, since he became the youngest member of the Milltown Rescue Squad at age 16, selflessly dedicated his adult life to public and community service. Having been in public service as an elected official in various positions since 1960, Mr. Crabiel has held himself to an exemplary standard of citizenry.

Entering public life as a councilman, in 1967 Mr. Crabiel was elected mayor of Milltown, a position in which he served for 11 years before being appointed to the Middlesex County Board of Chosen Freeholders. Elected a freeholder after his appointed term expired, Mr. Crabiel served on the board through 1991 and was reelected in 1993. Wielding a distinguished record of leadership and service, he has, unsurprisingly, risen to a leadership position on the board, where he currently serves as Freehold director.

While this record is impressive by itself, it tells only have the story. In addition to the public positions he has held, Mr. Crabiel has generously donated his talents to several different community causes. To cite just a few examples, he has served as honorary chairman of the Melvin H. Motolinsky Research Foundation, as a member of the board of directors of the Cerebral Palsy Association, and as honorary cochair of the Middlesex County Human Relations Commission.

Mr. Speaker, it is a great pleasure and honor for me to pay tribute to a man whose life has been dedicated to the betterment of his community and the service to others. Personifying altruism through public and community service, Mr. Crabiel has truly set a standard which members of all communities would do well to follow.

TRIBUTE TO BILL NYSTROM

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mrs. KENNELLY. Mr. Speaker, I rise today to honor the memory of Mr. Bill Nystrom, who passed away after a lifetime of service to his community, State and country.

A distinguished veteran, he served in Europe from the Siegfried Line to the meeting of the Russians, and earned a Silver Star for his efforts.

Mr. Nystrom, a distinguished member of American Legion Post 197, was an artist, writer and sculptor who enriched the community of Marlborough with his work. As a sign of his commitment to his community, he designed the Marlborough Town Hall Monument, the bicentennial emblem and the town seal.

Active in the American Legion and his church, he wrote both the post's and his church's newsletters, and for many years composed the details of their Memorial Day ceremony. It is very fitting that this year his memory will be honored at the Memorial Day ceremony—a day forever linked with his years of service.

During this year's ceremony, Mrs. Esther Nystrom will lay a wreath at the Marlborough Town Hall Monument in tribute to her late husband. As we honor those who served our Nation in the Armed Forces, it is fitting we remember one who served not only his country, but his community so well.

TRIBUTE TO JAMES C. CARR

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to my friend and law enforcement colleague, James C. Carr, who in February of this year retired from his post as undersheriff for Leelanau County, in Michigan's First Congressional District. Undersheriff Carr had held his position for the last 10 years and retires with the admiration of all who have known him.

Our paths criss-crossed 17 years ago when Jim and I were members of the Michigan State Police, assigned to the State Capital Post No. 1616. I retired from the State Police in 1984 and left Jim to continue serving our citizens. A short time later Jim joined me in retirement, but as fate would have it, both of us went back to serving the citizens of the great State of Michigan.

Little did Jim know at the time of his retirement that he was destined to give 10 more years of his life to law enforcement and the people of Leelanau County. When Jim first retired, Sheriff Charles Johnson knew that Jim would be a perfect candidate for undersheriff and asked him to share his law enforcement professionalism and skills with the people of Leelanau County. As a result, Jim has been Sheriff Johnson's faithful undersheriff for the past 10 years.

The job of undersheriff is a difficult and challenging one. Jim, however, always handled it with ease. It is not for this reason, however, that I wish to pay tribute to him. Rather, it is because when one goes out on the street in Leelanau County, it becomes apparent how much admiration and respect Jim commands of the people which he served. It is easy to find people who are pleased to stop and tell stories about a positive encounter they had with Undersheriff Carr, about how Undersheriff Carr fixed a problem, about how he went about his job with a degree of professionalism and compassion that made his sheriff, the citizens of Leelanau County, and those of us who were privileged to serve him, or to be served by him, very proud. We are all proud that he is "our cop."

Jim has always been an avid sportsman. I hope that he will enter into retirement in search of that "perfect buck" or that "perfect fish." If Jim pursues his hobbies the way he handled his professional life, I'm sure he'll find both. Thank you for your service Jim. We will all miss you, "old friend."

Thank you, Mr. Speaker.

TRIBUTE TO BETHEL PILOTS MEN'S BASKETBALL

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. ROEMER. Mr. Speaker, I rise today to recognize and pay tribute to a group of college athletes in my district who have distinguished themselves as the NAIA Division II Men's Basketball National Champions: The Pilots of Bethel College in Mishawaka, IN.

On Tuesday, March 14, the Bethel College Pilots defeated Northwest Nazarene College 103 to 95. The championship game topped off a 16-game-winning streak and brought a perfect ending to an outstanding season. In addition to claiming the national title, the team set the school season record for most wins, finishing 38 to 2. Pilots senior guard Mark Galloway netted the three-point buzzer-beater at the end of regulation and thus sent the game into overtime. Mark became Bethel's all time leading scorer and was named the Most Valuable Player of the tournament.

In their first year after moving up in to the NAIA, the young men of Bethel reached the top of their division. By their hard work and tenacity they have brought immeasurable pride and happiness to Bethel College, Bethel alumni and our entire community. I would also commend the leadership at Bethel College, particularly Dr. Norman Bridges, for his support of the athletic program.

Mr. Speaker, I commend Coach Mike Lightfoot, head coach of the Bethel College Pilots, for leading his team to victory, for being named the NAIA Division II Coach of the Year and for his career record of 235 wins, 65 losses. I am proud and honored to recognize this milestone in Pilots' history. I know that in the years to come these fine young men will continue to distinguish themselves with greatness in their careers, and in their communities.

TRIBUTE TO WILLIAM C. O'MALLEY

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MOAKLEY. Mr. Speaker, I rise today to pay tribute to William C. O'Malley, the district attorney of Plymouth County and a man I am proud to say was my friend. Bill O'Malley passed away suddenly on April 3, but I can assure you that he will not soon be forgotten.

Bill O'Malley served as Plymouth County District Attorney for nearly 17 years and was one of the finest trial attorneys in the country. Over the course of his public career, Bill earned a reputation as a tough prosecutor with an uncompromising commitment to public safety. He is credited with modernizing the Plymouth County District Attorney's office and his technological innovations have served as a model to other offices across the country.

Bill's commitment to justice and sense of fairness made him a natural leader. In the summer of 1993, he was called upon to serve as president of the 8,000-member National District Attorneys Association. In this capacity, he worked very closely with President Clinton, Attorney General Janet Reno and FBI Director Louis Freeh on several important anticrime initiatives. He played an important role in drafting the Violent Crime and Law Enforcement Act of 1994 and later worked on a measure to modernize the laws pertaining to wiretap procedures.

Bill O'Malley was driven by an overriding compassion for people. This compassion made him a staunch advocate for victim's rights, especially women and children. His contributions to the community did not stop in the courtroom. A frequent speaker at local schools, he was a strong supporter of crime prevention programs. Bill also served as a mentor for many young attorneys, readily sharing his wisdom and commitment to public service.

I know Bill O'Malley was devoted most of all to his family—his wife Amy, and his twin sons, Ryan and William. Of his many achievements, his love and commitment to them is his most important and lasting contribution.

IN HONOR OF MAYOR ALAN H. JEPSON

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Ms. DELAURO. Mr. Speaker, on Wednesday, April 12, the Milford District of the Quinnipiac Council of the Boy Scouts of America gathers to honor former Milford Mayor Alan H. Jepson with its annual Good Scout Award. This award is given to those who exhibit the high ideals that the Boy Scouts exemplify. Alan Jepson is such a man, and I would like to join the Milford Boy Scouts in paying tribute to this exceptional public servant who has also been a longtime family friend and personal mentor.

Alan Jepson has devoted his entire life to serving others. Few are more deserving of the Good Scout Award than this gentleman who has lived his entire life by the lessons he learned early as a Boy Scout. Duty, honor and country guided his choices as he enlisted in the Navy at age 17 and then went on to serve his community as mayor and city clerk.

Alan Jepson can still recite the Boy Scout oath from memory and has made those words the guiding force of his lifetime of service. The Boy Scouts helped prepare him for the rigors of World War II as he entered the Navy in service of our Nation. As with so many of the men and women who served our country during those trying times, Al Jepson was willing to make sacrifices on behalf of those who served with him.

The early lessons learned from scouting and the hard lessons learned during his time in the service helped prepare Al to become one of our most respected community leaders. He served three terms as mayor of the city of Milford in the 1960's. His energetic and compassionate style earned him the respect of the entire community. His creative initiatives, like civic day, which he founded, continues to allow Milford's young people to learn about city government and its important role in their lives. The legacy of this program has inspired generations since then and will forever enhance the city of Milford.

As the Milford Boy Scouts honor Alan H. Jepson, I am pleased to congratulate him, and to express my deep appreciation for all he has given us. He has earned a special place in the hearts of all of us whom he has touched and enriched through his leadership and guidance. Alan Jepson is well-deserving of the Good Scout Award, and I commend him for his many years of service.

FRANK R. BARNETT: A FIGHTER AGAINST TYRANNY THROUGHOUT THE WORLD

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to Mr. Frank R. Barnett, a former member, cofounder and director of the American Bar Association's Standing Committee on Law and National Security.

As a member of the Commission on Security and Cooperation in Europe, known as the Helsinki Commission, I, like Frank Barnett, have been outspoken in our opposition to human rights violations throughout the world. Frank Barnett not only opposed tyranny throughout the world, but he was a strong advocate in promoting freedom and democracy around the globe.

Mr. R. Daniel McMichael, of the Scaife Foundation in Pittsburgh, who joined in helping Frank Barnett create the Standing Committee on Law and National Security, provided a fitting tribute last year to Frank Barnett, which was printed in the January 1995 American Bar Association National Security Law Report. I am pleased to submit for my colleagues the story of Frank Barnett's struggle against tyranny and repression around the world, as well as his efforts in creating the Standing Committee on Law and National Security. I urge my colleagues to read this fitting tribute.

[From the American Bar Association National Security Law Report, January 1995]

DAN MCMICHAEL SALUTES FRANK BARNETT AT CONFERENCE DINNER

Simply put, Frank Rockwell Barnett hated tyranny. As unusually modest and low key as he was about himself and in his work with other people, whenever the subject of brutality came up, his voice would take a steely edge and his eyes would grow cold with a controlled kind of fury.

This was the dynamic that drove him through most of his professional life, that gave him the tireless energy and unfaltering will to help shape and build in this country new institutions and new cadres of young people who understood and were able to articulate the emerging role of the United States in a troubled and turbulent world.

He did not come by this naturally. Such awareness of tyranny and all that it stands for doesn't come naturally to an of us (would that it did). We have to learn it either directly or vicariously, and Frank learned it in a fairly direct manner.

As an Elizabethan scholar and teacher-turned-machine-gunner for the 69th Infantry Division that swept through Europe in 1945, Frank saw the dying embers—the legacy, if you will—of fascism, a pretty good lesson in itself as regards tyranny. But when his unit became the first to link up with the Red Army at the Elbe River—where Frank served as the interpreter between the forces and became involved in subsequent logistical matters—an even more stark lesson in tyranny emerged.

To quote The London Daily Telegraph of August 23 of last year [1993]:

"There [at the Elba River, Barnett] witnessed the negotiations over the repatriation of Red Army POWs captured by the Nazis, and was shocked to see weeping Russians hug the ground and beg to remain with the Americans. Barnett's worse fears were confirmed when the repatriated men were immediately placed before a firing squad. The experience marked him for life."

Indeed it did. Shakespeare became a hobby—beloved, but hobby all the same. Following the war there was, first, serving on the staff of General Lucius Clay in the Military Government of Berlin, and then off to Oxford as a Rhodes Scholar to read philosophy, politics, geopolitics and economics. Then back to Wabash College for a brief time—and with the specter of weeping Russian soldiers still hovering over him, Frank Barnett joined forces with former OSS Director "Wild Bill" Donovan and William J. Casey in a committee to assist anti-communist Russian escapees from Berlin and Vienna.

It was also then that Mr. Smith Richardson, Sr., found Frank and asked him to direct the programs of the then Richardson Foundation, which enabled Frank to begin the process of institutionalizing means to help raise the literacy rate of lay, political and intellectual leaders of the nation to understand better not only the issues of the Cold War, but to become more familiar with the imperatives for strong, consistent and rational leadership that had fallen upon the United States in the aftermath of World War II.

This was not an easy task, I can tell you, during the 1950's especially—given the McCarthy hearings and other too-shrill voices that overreached in their zeal to "protect America." Not that they weren't—most of them—sincere. They were for the most part. But they didn't have the hang of things, and more harm was being done than good. Polarization was occurring when consensus should have been taking place between Democrats, Republicans, liberals and conservatives about the realities of tyranny and oppression and how the United States should handle itself globally with its vital interests.

Nobody understood this dilemma better than Frank. By now it is late 1956—and the two of us had met and had had long talks in Chicago about these matters. By this time, Frank was well along in trying to find ways to build the kind of consensus the Nation needed if it was to upgrade the literacy of its leaders—lay and professional alike—in understanding more clearly the dynamics of geostrategic affairs in an increasingly more complex and dangerous world (a factor which still plagues us today in this post-Cold War era and for which this conference is particularly well tailored).

By the early 1960s, Frank had established an impressive, informed, ad hoc group of talented leaders—of respectable diversity, especially for those days—who shared the same concerns as did he. Among them; a patrician Richmond lawyer, name of Lewis F. Powell, Jr., an up-and-coming Northern Virginia lawyer, name of John O. Marsh, a brusque Navy JAG, name of William Mott, and an indescribably gifted Chicago lawyer, name of Morris I. Leibman.

There were, of course, quite a few others. But for tonight's purpose, I'll just stick with these extraordinary individuals, because they are the genesis of this Standing Committee.

It was Justice-to-be Powell's idea, you see, in answer to the critical question all of us had raised. How can we begin to institutionalize the increasing of geopolitical literacy in the United States in ways that are credible and have high leverage?

The law.

An understanding of the rule of law has to be the cornerstone if we are trying to frame geopolitical issues that delineate tyranny and political freedom.

So—supplied by Frank Barnett's conceptual guidance—Lewis Powell, with Morry at his side, took the matter to the ABA's House of Delegates in 1963, as I remember. And after a bit of spilled blood, what is now known as the ABA Standing Committee on Law and National Security was founded, with Frank as its first director. Frank subsequently founded the National Strategy Information Center, but he remained active with the Standing Committee until his death last year.

Those of you who follow the Committee's activities are well aware of this continuing impact of its work across the land, from high school classrooms and college campuses to boardrooms and the halls of government—and on distant battlefields. The Committee's leadership and composition have been consistently high in integrity and sense of mission, with people like John Norton, Moore, John Shenefield. Bob Turner and really all members of the Committee.

Frank Barnett was a man of extraordinary courage and vision, so that he was naturally attracted to others of courage and vision and they to him—which is what has given this Committee a life and vitality seldom seen elsewhere in volunteer activities.

And courage and vision are here tonight, not just a reference in paying tribute to Frank Barnett, but in the very people you have selected and the issues they are addressing. You have a tough, no fooling program. You have courageous and highly talented people to lay it out.

It is the kind of fare that Frank Barnett would have relished!

A TRIBUTE TO THE ROTARY CLUB OF MARYSVILLE

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. FAZIO of California. Mr. Speaker, I rise today to pay tribute to the 75th anniversary of the Rotary Club of Marysville, CA. Founded in 1920, the Rotary Club of Marysville has been a strong leader in encouraging and fostering community service in the Yuba-Sutter area.

This club has reached out to a wide variety of people, including business leaders, children, and the elderly. The Rotary Club of Marysville has contributed both financial and moral support to thousands of local organizations ranging from youth soccer to Habitat for Humanity. Throughout its long history of community service, the Rotary Club has promoted high ethical standards for the business and professional community.

But the focus of the Rotary Club is not limited to local groups. This club has lived up to its goal of fostering understanding and goodwill among people of different nations as well as its closer neighbors. Through the Rotary International Foundation, the Rotary Club of Marysville has been a vital participant in the Polio Plus Campaign. This program has provided crucial funding and services for the fight against polio in third world countries.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in celebrating the long history of achievement of the Rotary Club of Marysville on its 75th anniversary. I commend its membership's commitment to community service, and wish them continuing goodwill.

STOP THE WAR ON WOMEN

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. STUDDS. Mr. Speaker, I rise today to commend the Clothesline Project.

Five years ago, after several Cape Codders had been assaulted by people they loved and trusted, they aired their dirty laundry.

These women gathered in 1990 to create the Clothesline Project—a clothesline of 31 individually-crafted T-shirts bearing witness to violence each of them had experienced.

After the initial showing of the Clothesline at a Take Back the Night Rally in Hyannis, MA, it grew quickly and grimly. A year later, I was proud to welcome the line, which then had over 1,000 shirts, to Capitol Hill. The display has now grown internationally to 35,000 shirts—a sign that, while we are finally beginning to come to terms with these physical and psychological scars, this is a tragedy of enormous proportions.

These numbers are devastating, yet the work of the Clothesline Project ensures that the suffering of women and their families serves as a healing process for the abused and as an educating tool for our communities. Through this medium, nationally, public awareness of domestic violence has grown since the Clothesline Project last came to Washington.

In 1994, Congress enacted the Violence Against Women Act as part of the omnibus crime bill. This legislation combined stricter penalties for domestic violence crimes with funding for programs to combat violence against women. While harsh sentences and new financial resources comprise a new commitment on the part of Congress to combat this war on women, they are obviously not enough to stop the bloodshed. This is why the Clothesline Project is so critical.

While I hope for a day when we will no longer need T-shirts to heal the abused, I applaud the success of the Clothesline Project at helping raise public awareness about the tragedy of domestic violence.

CONGRATULATIONS TO REV. JOSPHTAN T. PHAM

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MANTON. Mr. Speaker, I rise today to honor Rev. Josphtan T. Pham on the silver jubilee of his ordination to the holy priesthood.

In this often all too materialistic and selfish society, it is reassuring to see that there are still those who dedicate their lives to serve others. Reverend Pham is a resident at the Our Lady of Mount Carmel Church located in Long Island City in the Seventh Congressional District of New York, which I have the pleasure of representing.

On September 15, 1944, Reverend Pham was born in North Vietnam where he lived until he was 10. Soon after, he moved to South Vietnam as a refugee. He entered St. Paul's Minor Seminary located in Saigon in 1957. In 1963, Reverend Pham entered St. Joseph's Major Seminary where he studied philosophy and theology.

Mr. Speaker, on April 30, 1970, Reverend Pham was ordained a priest in his home parish. In the autumn of that same year, he was sent to Rome to study canon law. Five years later, in 1975, he was awarded a doctorate degree in canon law by the Urbanianum University in Rome.

One year later, in 1976, Reverend Pham began his life in New York in the diocese of Brooklyn. While in New York, he continues to touch the lives of so many people not only as a priest, but a friend and confidant. In addition, he has been active in the Vietnamese community, helping out with issues pertaining to migration and refugees

Mr. Speaker, in 1978, Reverend Pham was transferred to the parish of St. Jua of Brooklyn as a parochial vicar. Today, he is settled at the parish of Our Lady of Mount Caramel where he has resided since 1983. In 1984, he was incardinated to the diocese of Brooklyn.

Mr. Speaker, I know my colleagues join me in commending Reverend Pham on this special day. He has led an outstanding life of service and devotion not only to his church, but to his community as well. I want to take this opportunity to let Reverend Pham know the community he serves is most grateful for his friendship and service.

IN RECOGNITION OF DR. SAM SCHAUERMAN

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Ms. HARMAN. Mr. Speaker, I rise today to recognize the work of an educational leader from my congressional district, Dr. Sam Schauerman, who is retiring after 7 distinguished years as president of El Camino College in Torrance, CA. He devoted his professional career to the college, starting in 1965 as dean of physical science and then serving as vice president of instruction before taking office as the college's president in 1987.

El Camino College serves 25,000 students, granting associate degrees in arts and sciences, and providing an Honors Transfer Program for students who choose to continue at area universities. It also offers numerous special and innovative programs, such as the Puente Project for Hispanic students, Project Success for African-American students, a child development center, and an extensive arts program. I recently had the opportunity to tour the Workplace Learning Resource Center, which works with area business and industrial partners to create customized workplace literacy courses directed to specific technical requirements. This effort will effectively help business in the South Bay become more successful, by providing it with a workforce equipped with the skills needed for today's and tomorrow's competitive environment.

Dr. Schauerman was first and foremost devoted to maintaining the highest quality of programs at the school, and he succeeded even during times of lean finances and economic austerity. He also focused his energies on expanding the relationship between the college and the community, through his participation and leadership in groups such as the YMCA, Methodist Church, Private Industry Council, Torrance Chamber of Commerce, and Rotary—both as president of the Del Amo Rotary and as district governor.

In addition, Dr. Schauerman brought to the college a new system of shared governance so to allow all those at the school to have a voice in the decision-making process. He began a college council, with representatives of the faculty, support staff, students, and administration and guided its development into an effective voice for local control.

The departure of Dr. Schauerman will leave a real void at El Camino College, but I am sure that he will continue to make significant contributions to the South Bay. I salute this community leader and wish him well in his retirement.

DOWNSIZING THE WEATHER SERVICE

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. ROEMER. Mr. Speaker, Mark Twain once said "Everybody talks about the weather, but nobody does anything about it." We are here today to do something about it.

Congressman KLUG and I are introducing a bill today to privatize those functions of the National Weather Service that duplicate private sector activities. I am also pleased that Congressman CHRYSLER has signed on as the first cosponsor.

This is simple, basic legislation. The bill eliminates the specialized functions of the Weather Service that are duplicative of private sector efforts. This legislation will codify language in the President's fiscal year 1996 budget request, and support of the administration is expected.

It is also the right approach to downsizing Government. Examine a program for merit: keep what you need, eliminate the rest. We are using a scalpel approach instead of a hatchet.

The bill also codifies the Weather Service Policy Statement of 1990, which will prohibit them from competing with the private sector. The Weather Service will continue their core functions: weather forecasting to the general public, and issuing warnings of severe weather and destructive natural events such as hurricanes, tornadoes, floods, and tsunamis.

The following functions are ended under the bill: services in support of aviation, marine activities, agriculture, forestry, and other weather-sensitive activities. The approximate savings are listed below, in annual costs:

	[Millions]
Fruit frost/agricultural forecasting ...	$2.3
Fire weather forecasting ...	.5
Dissemination of weather charts (Marine facsimile service) ...	.5
Marine weather forecasting ...	2.0
Regional climate centers ...	3.2
Aviation ...	4.1
Total ...	12.6

In addition, a number of the duties of the Data Information Services Network could be privatized. Data services has an annual budget of $36.6 million, another source of substantial potential savings.

Following are a few examples of why this is good legislation:

The Government provides frost forecasting for such giant conglomerates as Sunkist and Dole, who could easily pay for it themselves.

The airlines all have meteorologists on staff, who duplicate the services that the Weather Service provides to airlines and FAA.

The Weather Service sent a team of meteorologists to assist the Olympic Committee events coordinators to establish event schedules at taxpayer expense. There are a number of private U.S. weather companies that could have provided this service.

Marine weather forecasting is provided to private yacht clubs. The Government should not be in the business of subsidizing luxury boating.

Mr. Speaker, in order to make the large budget cuts we need to balance our budget, we must start with small steps. This legislation is a small but very significant step in the downsizing of the Federal Government, and I hope our colleagues will join Mr. KLUG, Mr. CHRYSLER, and me in supporting this bill.

SALUTING THE ST. THYAGARAJA MUSIC FESTIVAL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. STOKES. Mr. Speaker, in just a few days, on April 15, 1995, the city of Cleveland, OH, will begin the 18th annual celebration of the St. Thyagaraja Music Festival. The 6-day event is being held at Cleveland State University in cooperation with the university's Indian cultural studies program. I take pride in welcoming the St. Thyagaraja Musical Festival to my congressional district. I am pleased to share with my colleagues and the Nation some important information regarding the festival.

The Thyagaraja Music Festival has a rich heritage that can be traced to the immigration of Asian Indians to the Greater Cleveland area in the 1960's. As Indians immigrated to Cleveland, they maintained their cultural and religious ties. The Thyagaraja Festival offers a musical homage to the saint-composer, Sri Thyagaraja. Thyagaraja, who lived during the same period as Beethoven, is one of the most skilled and best known Indian composers. The first Cleveland Thyagaraja Festival was held on April 8, 1978. A group of 75 individuals assembled in the basement of Faith United Church of Christ in Richmond Heights, to sign Thyagaraja's "Five Gems of Songs."

Mr. Speaker, over the years the Thyagaraja Festival has grown in size and scope. Festival organizers were able to foster a close working relationship with Dr. T. Temple Tuttle, who serves as director of the Indian cultural studies program at Cleveland State University. Under the leadership of this distinguished individual, for the past 16 years, the Thyagaraja Festival has been held at Cleveland State. Last year, more than 2,000 individuals attended the festival. They came from across the United States, and as far away as Canada, Europe, India, Hong Kong, and Singapore.

This year, the Cleveland Thyagaraja Festival will welcome 22 artists from India. In addition, the festival will include music competitions in Vocal, Veena, Violin, and Mridangam. Another highlight of the festival is the essay-writing competition based on the theme, "What The Cleveland Festival Means To Me."

Despite its great expansion, the Thyagaraja Festival has kept to its basic purposes: remembering the great composer, Thyagaraja, by the performance of his works; maintaining broad-based participation of amateur devotees; encouraging children to keep the Indian classical music traditions strong; providing inspirational professional concerts and delicious south Indian food without charge; and encouraging non-Indians to participate, thus increasing multi-cultural understanding.

Mr. Speaker, I take pride in recognizing the 18th annual St. Thyagaraja Music Festival. I also take this opportunity to commend Professor Tuttle and the Cleveland State University family for their strong support of this important effort. I am certain that the festival will be great success.

STATEMENT FOR THE INTRODUCTION OF LEGISLATION ON AWARD OF THE PURPLE HEART

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. STUMP. Mr. Speaker, today I am introducing legislation to provide for the award of the Purple Heart to certain former prisoners of war. My distinguished colleagues, SONNY MONTGOMERY, DAN BURTON, JIM TRAFICANT, and MIKE BILIRAKIS join me in introducing this bill. It provides for award of the Purple Heart to persons held as prisoners of war before April 25, 1962, on the same basis as persons held as prisoners of war after that date.

Now, only former prisoners of war from the Vietnam and Persian Gulf wars are eligible to receive the Purple Heart for injuries received at the hands of the enemy while in captivity. This is because on April 25, 1962, President John F. Kennedy signed Executive Order 11016 to ensure that U.S. prisoners of war would be eligible to receive the Purple Heart for injuries received as prisoners of war, or if ill-treatment resulted in death.

Unfortunately, the Executive order has not been applied retroactively. Among other reasons, the Department of Defense felt that a retroactive award of the Purple Heart would contradict the decisions made by past military leaders who thought that injuries incurred while a prisoner of war during those actions were the result of war crimes, and not the result of legal acts of war. While I respect the prevailing reasons for these judgments at the time they were made, I believe it is of overriding importance to bestow this much-deserved recognition retroactively upon those individuals who suffered in so many ways as a result of their willingness to defend all that we hold sacred.

Differentiating among American prisoners of war on the basis of a date is a grave injustice to those men and women prisoners of war from World War I, World War II, and Korea. The inhumane treatment they often endured at the hands of the enemy ranged from physical and psychological torture to starvation and even execution.

Both the Bush and Clinton administrations have been urged on a bipartisan basis to rectify this injustice by executive action and nothing has been done. Now, on a bipartisan basis, we are introducing this legislation. The award of the Purple Heart to these former prisoners of war would serve as a reminder to Americans of all ages of the sacrifices made by its military men and women in service to their country.

IN TRIBUTE TO DR. BOSHRA MAKAR ON HIS RETIREMENT AS A PROFESSOR AT ST. PETER'S COLLEGE IN JERSEY CITY, NJ

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Dr. Boshra Makar, as he retires from his position as professor at Saint Peter's College in Jersey City, NJ. Dr. Boshra Makar is an exceptional human being who has dedicated 48 years to teaching students around the world. He is a pioneer in his field of mathematics and his work has been widely recognized.

Dr. Boshra Makar was the youngest graduate of his class and graduated No. 1 from Cairo University in 1947. He received a fellowship and began to teach at Cairo University while he was studying for his masters in mathematics. In 1995 he received his Ph.D. in mathematics.

Throughout his 48-year teaching career, Dr. Boshra Makar has spent time visiting, and teaching in universities around the world including Egypt, Russia, and Lebanon. In 1962 he was invited to attend a scientific exchange program at Moscow University. After teaching in Moscow, he spent several years teaching in Lebanon at the American University of Beirut. He then migrated to the United States to teach at Michigan Technological University. In 1967, Dr. Boshra Makar moved to Jersey City to teach graduate and undergraduate students at Saint Peter's College.

He has not only distinguished himself as a teacher, but as a scholar. Dr. Boshra Makar has published over 20 research papers in leading mathematical journals throughout the world. He has published articles in prestigious journals such as the Bulletin des Sciences Mathematiques in Paris, and for the American Mathematical Society. Dr. Boshra Makar has written research papers in the fields of functional analysis, complex variables, algebra, and cryptology.

Dr. Boshra Makar's accomplishments have been acknowledged in numerous reference works such as Who's Who in the World, Who's Who in America, Who's Who in the East, Who's Who in Education, Who's Who in Technology, and Personnage Contemporanei (Academia Italia). He has touched many lives with his dedication and commitment to scholarly pursuits.

Dr. Boshra Makar is truly an outstanding citizen, and I am very proud to have him living and working in my district. His contributions will be remembered through his publications, which will inspire future mathematicians. Even though he is retiring from teaching at Saint Peter's College I know he will remain an active citizen, and scholar. Please join me in wishing Dr. Boshra Makar a happy retirement.

POSTAL ADDRESSES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. YOUNG of Alaska. Mr. Speaker, today I rise to introduce legislation that will ameliorate problems stemming from the U.S. Postal Service policy that prohibits the users of commercial mail receiving agents [CMRA's] from submitting a standard change of address form to expedite routine mail delivery service.

In nearly all cases when an individual changes residency, the U.S. Postal Service facilitates prompt and accurate mail delivery by encouraging the postal customer to file a mail forwarding change of address form. Atypically, when a CMRA customer relocates, that individual is responsible for informing all potential mailers of any change of address. This policy creates delays and may exacerbate mail fraud as testimony has shown that the first line of defense against fraud is accurate information regarding postal addresses.

Current policy is contradictory to the Postal Service's charge to ensure prompt, accurate mail delivery service. This important legislation will benefit all parties in this particular mail delivery chain: the U.S. Postal Service, the CMRA's, and most importantly, the postal customer.

THE EMBASSY'S 11 YEARS OF WORKING WITH THE HOLY SEE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MANTON. Mr. Speaker, I rise today to share with my colleagues some thoughtful remarks delivered by my friend, the Honorable

Raymond L. Flynn, the United States Ambassador to the Vatican.

In this excerpt of a recent speech delivered by the Ambassador he discusses the important relationship between the Vatican and the U.S. Embassy to the Holy See. The Ambassador eloquently describes the role morality and a humanitarian spirit should play in the United States international policy. I urge my colleagues to read Ambassador Flynn's remarks and consider the special role that believers of all faiths can play in ensuring our world becomes a better place.

THE EMBASSY'S 11 YEARS OF WORKING WITH THE HOLY SEE

While the initiative on humanitarian aid delivery is new, it is not out of character with the close cooperation between the U.S. and the Holy See since formal diplomatic relations were established in 1984.

In the eleven years of full diplomatic relations, the U.S. Embassy to the Holy See has actively pursued U.S. foreign policy goals by working closely with the Vatican on political, economic, and social concerns. The U.S. has worked closely with the Vatican on the UN population conference in Cairo to produce a workable final document. We pursued our joint goals of sustainable and equitable development at the Copenhagen conference on social development held at the beginning of March. At the conference, Hillary Rodham Clinton made a strong appeal to the world community not to forget the most blatant victims of poverty in society today, women and children. The same compassionate appeal was delivered to the conference on behalf of Pope John Paul II by Monsignor Diarmuid Martin, the Catholic Church representative at the conference. The Catholic Church's view of what needs to be done to alleviate the suffering, pain, and lack of development in the Third World is, for the most part, not in conflict with what Mrs. Clinton told the conference nor with the Clinton Administration's stated policy. But it does conflict greatly with the views contained in the Contract With America and with the views of those in Congress who advocate budget-cutting at the expense of the poor and needy—at home and abroad. It is one thing to call for a balanced budget amendment to the Constitution; it is another to try to achieve such an amendment with the unbalanced policy of targeting poor and working families.

FALL OF COMMUNISM

Working towards common goals was also true in the case of the birth of democratic movements in Eastern Europe. The Catholic Church in general and Pope John Paul II in particular were instrumental, through work and example, in demonstrating the illegitimacy of the communist regimes. The U.S. and the Vatican worked together to support nonviolent opposition groups such as Poland's Solidarity. Soviet President Gorbachev has said the Pope was the most important cause of the fall of communism. It was remarkably perceptive and visionary of the College of Cardinals to elect Karol Wojtyla of Poland, who had lived and worked under communism in his native land. I personally saw the moral influence of Pope John Paul II at the height of political instability in Eastern Europe. I attended Catholic Church services with outlawed Solidarity workers at St. Brigid's Church in Gdansk and at the Lenin shipyards when a letter of support and encouragement sent by the Pope inspired people throughout the church and country.

Pope John Paul kept the Solidarity movement alive, which led ultimately to the fall of communism in Poland and inspired other Eastern bloc countries to move towards democracy.

Another example of convergence in policy goals was in the arena of human rights and religious freedom. The Holy See, as a full member of the Helsinki Process, drafted the language on religious freedom that set the benchmark against which the failings of totalitarian regimes could be measured.

The Embassy worked with the Vatican on several aspects of the crises in Central America during the 1980's. When Panamanian strongman Gen. Noriega took refuge in the papal nuncio's residence on Christmas Eve 1990, the Embassy negotiated his departure.

The Embassy had the unique opportunity to be involved with peacemaking in 1990–92 when it acted as observer and facilitator at the Rome talks between the two warring factions in Mozambique. The talks concluded successfully with a cease-fire in October 1992.

The Embassy has recently followed the Algerian national reconciliation talks which were held in Rome involving the main Algerian opposition parties. This process has a real chance to achieve peace in a country where thousands have already died in fighting.

HISTORIC CATHOLIC-JEWISH ACCORD

Our Embassy has been particularly active in furthering U.S.-Holy See cooperation on a number of issues. At the direction of President Clinton, we actively pursued establishing full diplomatic relations between the Holy See and Israel; this historic achievement was accomplished in 1993. I met extensively with Israeli political and religious officials in the cause of furthering Christian-Jewish and Vatican-Israeli understanding. At the same time, I keep close contact with the Catholic hierarchy that represents Lebanese and Palestinian peoples and others who do not yet feel full partners in the Middle East peace process. Holy See-Israel relations was the first topic President Clinton raised with the Pope at their first meeting in Denver in August 1993. During their discussion, the President highlighted three important outcomes of Holy See-Israel relations: they would help to further the peace process in the Middle East; show that two great religious faiths can bury centuries of misunderstanding and work together; and deal a blow to anti-Semitism around the world. These achievements are all in U.S., as well as Vatican, interest.

Humanitarian issues have always been prominent in my work at the Vatican, since they are extremely important both to the U.S. and the Holy See. In November 1993, I traveled to central Africa to visit AIDS hospitals in Uganda and relief workers in Sudan, and stayed with humanitarian representatives in Somalia. Over the past many months, my travels have taken me to such wide-ranging places as Haiti to meet with Catholic Church and business leaders and Paris to meet with President Jean-Bertrand Aristide. In April 1994, I was in Sarajevo and, in September 1994, visited Croatia and saw firsthand the devastation of the former Yugoslavia. While in Sarajevo, I met with Muslim, Jewish, and Catholic Church leaders. I put the issue of religious freedom in Asia on the agenda for a meeting in Rome between Secretary of State Warren Christopher, National Security Advisor Tony Lake, Cardinal Angelo Sodano, and Archbishop Jean-Louis Tauran.

OPEN DOOR DIPLOMACY

Another aspect of our work at the Vatican occurs outside the office and involves reaching out to groups across the religions spectrum. During my time in Rome, I have hosted at the Ambassador's residence a group of black Baptists, various Jewish groups, a Catholic-Mormon choir from Salt Lake City, Muslims from Egypt, prominent Cardinals, and a great number of Italian and American church leaders. This Embassy is in a prime position to show the importance to the U.S. government of all religious and beliefs, and I have actively pursued that role in Rome. The Embassy actively supported the historic Holocaust remembrance ceremony held at the Vatican in 1994 which brought together for the first time the Chief Rabbi of Rome, Elio Toaff, the Pope, the Italian president, and others to commemorate the Shoah within Vatican City.

The Vatican has an impressive if low-key record in dealing with the most important issues of social and economic justice on the world stage. The U.S. Embassy to the Holy See has worked closely with the Vatican on these issues, since our goals are the same on so many issues. I look forward to continuing cooperation on the important and critical issues that will confront us in the future. In naming Pope John Paul II its 1994 "Man of the Year," Time referred to the Pope as the world's foremost defender of human rights. It is thus most fitting that the U.S. should be one of the more than 150 countries with an ambassador to him and to the central government of the Catholic Church.

A BRIEF HISTORY OF U.S.-VATICAN RELATIONS

As we look to the future, I always find it helpful to keep in mind the past, in this case the long ties that have bound the U.S. and the Holy See together. The relationship itself has over two hundred years of history behind it. The first contact was in 1788 when a Vatican official contacted Ben Franklin, then the nascent repubic's representative in Paris. The Vatican wanted to know if the U.S. had any objections to the appointment of John Carroll as first bishop of Baltimore. Franklin's reaction was immediate and unequivocal; the new government guaranteed freedom of religion and had no interest in the internal affairs of the Catholic Church. Rome never asked for approval again, and the tradition of strictly separating Church business from diplomacy has been a hallmark of American governmental dealings with the Vatican ever since.

Until 1870, the Pope was also the temporal ruler of the city of Rome and much of central Italy. Washington maintained consular and diplomatic relations with the Papal government and in 1848 sent a charge d'affaires to head a legation. The mission was closed at the end of 1867 when Congress, fired by anti-Catholic sentiment, voted gainst funding it. In 1870, the King of Italy conquered Rome and the Pope withdrew inside the Vatican walls.

There were no formal diplomatic links between the Vatican and Washington until 1939. During that time, any business that arose, such as when President Harding encouraged the Pope to establish an American Catholic parish in Rome, was handled through the Vatican's apostolic delegate in Washington or through the American hierarchy.

POPE LEO XIII AND FDR: UNSPOKEN TIES

President Franklin D. Roosevelt made the first steps towards reestablishing diplomatic links when he sent Joseph Kennedy as his personal representative to the coronation of Pope Pius XII in 1939. Roosevelt, as much as any president, knew the invaluable nature of strong ties to the Vatican, both diplomatically abroad and politically at home, including the Vatican's important role in efforts to avert war and assist refugees and other displaced people. President Roosevelt was aware of papal encyclicals such as Rerum Novarum by Pope Leo XIII in 1891, which had such a profound impact on the rights of working men and women in the United States. Former FDR aide and Postmaster General James Farley once told me that President Roosevelt was guided by this historic encyclical when crafting his "New Deal" social and economic programs during the great depression.

President Roosevelt began dealing with the Holy See through various channels, including an American monsignor on the Pope's staff. That October, the President discussed with Archbishop Spellman of New York the idea of appointing a "personal representative" to the Vatican, thus avoiding the need for Senate approval, as would be the case were an ambassador to be named. Roosevelt correctly realized that the Senate, influenced by fears that a Vatican Embassy might get improperly involved in mixing church and state, would oppose appointing an ambassador. A personal representative was able to do the same things, anyway.

Roosevelt announced on Christmas eve 1939, that he was sending Myron Taylor as his personal representative to the Vatican to forward "parallel endeavors for peace and the alleviation of suffering." Myron Taylor was a former president of U.S. Steel and active in refugee affairs. He was not a Catholic, which alleviated fears by some that he might have mixed loyalties.

Since Taylor's arrival in Rome in February 1940, the United States government has been a privileged interlocutor of the Vatican. In Taylor's case, he first began a dialogue on Jewish and Eastern European refugees, as well as on Holy See efforts to prevent a general war. This reflected President Roosevelt's perception of the wide-ranging possibilities in the new Vatican-U.S. relationship.

When Italy entered the war in June 1940, Mussolini's government forced diplomats accredited to the Holy See to leave Italy. When the U.S. and Italy went to war in December 1941, it meant the U.S. Mission also had to move into cramped quarters within Vatican City so it could carry on its work. Special Envoy Taylor only visited the Vatican briefly during the war years, but the work was carried on by U.S. diplomat Harold Tittmann. He lived with his wife and two sons in a small apartment within the Vatican until Rome's liberation in June 1944. In addition to covering the Pope's efforts on behalf of peace and refugees, Chargé Tittmann and his British colleague quietly aided many escaped Allied soldiers and airmen who sought refuge in Rome.

Myron Taylor resigned as Special Envoy in 1950 and President Truman nominated Gen. Mark Clark, the liberator of Rome, as his successor, but with the title of Ambassador. That caused such a strong reaction among some of America's Protestant denominations that the nomination was withdrawn. The practice of nominating a special presidential representative to deal with the Vatican was not resumed until President Nixon appointed Henry Cabot Lodge, former Senator and Republican nominee for Vice President, in 1969. President Carter named David Walters envoy in 1977 and later named former New York Mayor Robert Wagner, Jr., in 1978.

It was President Reagan's Special Representative, William Wilson, who worked ceaselessly to have the mission to the Holy See upgraded to Embassy status. Times had changed and there was little opposition when full diplomatic relations were established between the United States and the Holy See in January 1984. Ambassador Wilson was succeeded in 1986 by Ambassador Frank Shakespeare, and in 1989 by Ambassador Thomas P. Melady. While some may be unclear as to the nature of Vatican-United States relations, it is very clear to U.S. Presidents, Republicans and Democrats alike.

NEW HOME FOR VATICAN EMBASSY

On November 9, 1994, the U.S. Embassy to the Holy See dedicated its new chancery on Rome's historic Aventine Hill. The building, built as a private home in the 1950's, has been completely refurbished to house offices appropriate to the Embassy's important and unique mission. It has a commanding view of the Circus Maximus and the ruins of the palaces of Augustus and Septimius Severus. Livy claimed that Remus stood on this spot when he challenged Romulus for control of the ancient city. Later, the Emperor Decius built public baths on the site; in modern times, the Aventine has been a desirable residential area which includes several of the earliest Christian churches, as well as the Priory of the Knights of Malta.

SUMMARY: BUILDING FOR THE FUTURE

I hope this discussion has given you a better idea of the important work that the U.S. and the Holy See carry out together. We are able to cooperate on a range of issues because our interests so often coincide. President Clinton has often told me of the high regard he has for Pope John Paul's judgment and leadership. But it is also because of President Clinton's judgment and leadership that we will be able to build on our successful partnership with the Vatican to achieve a more just world, one in which humanitarian issues get the attention they deserve.

When we act as a nation in a moral and ethical way, practicing the policy of compassion and inclusion, we are also carrying out sound policy. We do things best when we do the right things. While we don't always agree with the Vatican on some important issues, we often work together for the same goals on issues of social and economic justice and humanitarian assistance.

On March 1, the Pope told me how pleased he was to be once again visiting the U.S. in October. It's the first time anyone can remember that the Pope and a U.S. President have met with each other in three consecutive years, and this unprecedented series of meetings attests to the important open dialogue we have with the Vatican. The Pope's visit will give the U.S. the chance to develop our relationship even further. It really is a historic partnership.

A BILL TO ESTABLISH A COMMISSION TO REVIEW THE DISPUTE SETTLEMENT REPORTS OF THE WORLD TRADE ORGANIZATION

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. HOUGHTON. Mr. Speaker, I am joined today by my colleague, Mr. LEVIN, in introducing legislation which will create a process by which the Congress can act to ensure that the new World Trade Organization dispute settlement system is not abused by our trading partners to undermine U.S. interests.

Late last year, in consecutive special sessions, both Houses of Congress passed legislation implementing the new GATT agreement. That agreement establishes a new international body to oversee trade disputes, the WTO, and gives it unprecedented authority to enforce the decisions of its dispute settlement panels.

During the period leading up to the vote, many Americans voiced their concerns that this new international organization would undermine U.S. sovereignty and might harm rather than help U.S. interests in global trade. I spent a great deal of time and effort in developing the implementing legislation that ensures that U.S. industries and their workers would continue to have remedies available in U.S. law to protect against foreign unfair trade practices like dumping and subsidies. While it was not perfect, I supported the final version of the bill because I believed that on balance it served the interests of the United States. But this does not mean we can now ignore the legitimate concerns raised last year about the WTO and its new dispute settlement process. We must carefully scrutinize the actions of the WTO and its dispute settlement mechanism in order to ensure that our trade laws are not undermined through improper WTO decisions.

Under the WTO, as under the old GATT, trade disputes will be submitted to international panels for review. However, unlike the old GATT system, no WTO member nation will have the right to block the adoption of a panel report, even if that nation considers the panel report to be fundamentally flawed in its analysis. Thus, no WTO member nation will be able to ignore the findings of a dispute settlement panel without paying a price: international condemnation, weakened international respect for the trading rules, and possible internationally sanctioned retaliation against its goods. The enhanced power of the dispute settlement panels requires that this process be used prudently and administered wisely for the sake of the world trading system in general and American national commercial interests in particular.

The bill we are introducing establishes the WTO Dispute Settlement Review Commission composed of five Federal appellate judges, appointed by the President in consultation with Congress. The Commission will be empowered to review every decision adverse to the United States by a WTO dispute settlement panel. In cases where the dispute settlement panels adhered to the proper standard of review, and where they did not exceed or abuse their authority, no further action will be taken. But if the Review Commission determines that a panel reached an inappropriate result that amounts to abuse of its mandate, the Commission would transmit that determination to Congress. Any Member of Congress would then be permitted to introduce a privileged resolution and, if such resolution were enacted, the U.S. Trade Representative would be required to enter into negotiations to amend the WTO dispute settlement rules. After three determinations of inappropriate decisions by dispute settlement panels, any Member could introduce a privileged resolution and, if such resolution were enacted, the United States would be required to withdraw from the WTO.

This bill is very similar to legislation already introduced in the other body by Senator DOLE to implement an agreement he reached last year with the administration to protect against just such a threat to U.S. sovereignty by the WTO. It differs only in that it clarifies that it is the U.S. Trade Representative who is responsible for negotiations to amend the WTO rules if a joint resolution is approved by Congress. It is a farsighted proposal that permits the United States to exercise international leadership. Through the careful review of WTO decisions by the Review Commission, we will be able to prevent countries who engage in unfair trade practices from abusing the role of the WTO dispute settlement panels. The United States will be in a position to oversee the operation of these panels to ensure that any such abuse does not adversely affect U.S. trade laws and ultimately, American national commercial interests.

Another important feature of this bill is the provision permitting the participation of U.S. private parties in the consultations and panel proceedings. If a U.S. private party with a direct economic interest in a WTO proceeding supports the U.S. Government's position, then the USTR must permit the party to participate in the WTO panel process. The USTR must consult in advance with the party before submitting written briefs to a panel, include the party as an advisory member of the U.S. delegation dealing with the dispute, and in certain instances, permit the party to appear before the panel hearing the case.

Private party participation is a key aspect of this bill. Because the dispute settlement decisions will be binding, it is imperative that American interests be properly represented. Given the USTR's active schedule in representing the United States in a variety of trade matters, the assistance private parties can provide will be crucial.

We welcome the support of our colleagues in cosponsoring this important legislation.

WTO COMMISSION ACT

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. LEVIN. Mr. Speaker, I am pleased to join my colleague, the gentleman from New York, in introducing the WTO Dispute Settlement Review Commission Act. This is an important piece of legislation designed to ensure that our rights as a nation to defend industries and workers from foreign unfair trade practices are not diminished by the new World Trade Organization dispute settlement system.

Last year, Congressman HOUGHTON and I worked together in the Ways and Means Committee and helped secure GATT implementing legislation that preserved the effectiveness of our trade laws against dumping, subsidies, and other unfair trade practices. These laws are a critical last line of defense for American workers and companies facing unfair trade restrictions. These laws have been on the books in one form or another for over 70 years.

But writing good laws in the Congress is not enough. Under the new World Trade Organization, the United States will no longer have the ability to veto an international dispute settlement decision against us, even if we think it was wrongly decided. This creates a tremendous temptation for some of our trading partners who have been disciplined by our trade laws to use the new dispute settlement process to undermine the effectiveness of those laws. Many foreign trade negotiators have said they will attempt to use the WTO to invalidate section 301 or to force certain changes in the way the Department of Commerce enforces the antidumping laws.

We have a concrete example in our current negotiations with Japan in the Framework talks. The Japanese trade minister has threatened to bring a WTO case against the United States if we impose section 301 sanctions against Japan for its barriers to United States autos and auto parts. In effect, the Japanese want to use the WTO—which is supposed to keep markets open—to keep the Japanese market closed.

Mr. Speaker, we cannot allow this kind of abuse of the WTO. This bill is designed to create a fair and impartial process to review WTO decisions, and to provide the Congress with a mechanism to bring about changes in the WTO if it is misused.

The bill establishes a WTO Dispute Settlement Review Commission composed of five Federal appellate judges, appointed by the President in consultation with the Congress. The Commission will review every decision against the United States by a WTO panel. Where a panel has applied the proper standard of review, and did not exceed or abuse its authority, no further action would be warranted. But if the Commission determines that a panel reached an inappropriate result that amounts to abuse of its mandate, the Commission would so inform the Congress. Any Member of Congress would then have the right to introduce a privileged resolution directing the U.S. Trade Representative to negotiate amendments to the WTO dispute settlement rules to fix the situation.

And if the Commission determines that WTO panels have abused their mandate on three separate occasions in any 5-year period, Members would have the right to introduce a privileged resolution directing that the United States withdraw from the WTO by a date certain if one last effort to amend it fails.

This basic arrangement was agreed to by our U.S. Trade Representative Mickey Kantor during last year's GATT debate. I think Ambassador Kantor deserves credit for recognizing the legitimacy of this issue and working with Members of Congress, both Democrats and Republicans, to craft a fair solution.

The Commission may find that its very first case involves Japan and the auto sector. If Japan carries through on its threat to appeal to the WTO rather than open its markets, and if the WTO panel were to rule against us—an occurrence I do not foresee in view of the clearly exclusionary and discriminatory practices presently undertaken or tolerated by the Government of Japan—this would raise a serious question about whether the new WTO dispute settlement process is really in our national interest. I would expect a very careful review of that decision by the Review Commission, with appropriate recommendations to the Congress.

But it is my sincere hope that the mere existence of the Commission will encourage appropriate use of the WTO and will discourage WTO panels from acting beyond their authority when such cases are brought.

Finally, let me also speak to the final section of the bill, which provides that private parties may participate with the USTR in WTO dispute settlement proceedings. Under our legislation, if a U.S. private party with a direct economic interest in a WTO proceeding supports the U.S. Government's position, then the USTR must permit the party to participate in the WTO panel process. This private party participation is critical to protecting American jobs. Because the dispute settlement decisions will be binding, it is imperative that the interests of American companies and their workers be fully represented. This is not meant as a criticism of USTR in any way. But given the reality of USTR's many obligations in negotiating with countries around the world, they need the help of the private sector.

Mr. Speaker, this is an important piece of bipartisan legislation, and I hope we can move quickly to see it enacted into law.

RESIST IMPULSE TO BE PENNY WISE AND POUND FOOLISH

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. NADLER. Mr. Speaker, I rise today to add my voice to the growing concern expressed by many of my colleagues over the dangerous and devastating effects of many of the actions taken by this body in recent weeks, and actions that will be taken in the coming weeks.

I am gravely concerned that the frontal attack on low- and middle-income Americans that some are waging will have far-reaching effects that we cannot begin to fathom today.

Some Members of this body seem to be engaged in a race to cut, with little regard to what we are cutting, and what the effects of these cuts will be to Americans who are truly in need of assistance. While there is most certainly wasteful spending occurring which must be addressed by this body, we seem to be engaged in an exercise which is driven by a complete disregard to the content of what we do, with regard only to how much we do.

At the same time, we are transferring spending authority to our States, many of which are engaged in the same exercise.

We must remember that the cuts we make here are being echoed in our cities and our States. Even the most cost-effective programs are being cut at the city and State level—including a small and highly effective program in New York State called NORC, designed to assist moderate-income elderly remain in their homes, rather than cost taxpayers millions by financing nursing home care. This program receives only $1 million of State funding, and cutting it would likely end up costing much more.

We must resist the impulse to be penny wise and pound foolish. We must also be aware that, in our current climate, the cuts we make in Washington will be duplicated at the city and State level. We must equally resist the impulse shared by some in this House to punish those most in need of assistance—the poor, the elderly, the disabled, children, workers, legal immigrants—and to place the blame for our Nation's deficit on those who truly need assistance.

DO NOT FORGET MILITARY RETIREES

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MCHUGH. Mr. Speaker, today the United States stands as the world's only remaining superpower. Having won the cold war we set out to downsize our military and cut defense expenditures. As we continue this process, we must not forget those military retirees who, through their many years of service and dedication, helped secure our Nation's future.

I fear that those who served during the World War II, Korea, and Vietnam eras, and who have since retired from the military, are being asked to bear unfairly the brunt of this downsizing process. The closing of bases throughout the country will leave many retirees without immediate access to DOD medical facilities. For example, the 1993 BRAC Commission's ill-advised closure of Plattsburgh Air Force Base will leave thousands of military retirees in upstate New York and in nearby Vermont without the services of the base hospital. Retirees over the age of 65 will be forced to rely on other, more costly, means to secure health care. Many people joined the military with the understanding that DOD would provide them with health care for life.

If we renege on our commitment to these military retirees, it will only serve to harm future efforts to attract high-quality personnel. We cannot expect service members to make a long-term career out of the military if we continue to demonstrate that a promise made yesterday no longer counts today.

Mr. Speaker, we have come to be a nation of strength by holding steadfast to our commitments and not by shirking our responsibilities. We did not do it in the past and we should not start now, especially when it comes to those men and women who were willing to make the ultimate sacrifice for their country. I believe that we must do whatever is in our means to ensure that these military retirees are not left to fend for themselves.

NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT OF 1995

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MARKEY. Mr. Speaker, today I am introducing the National Beverage Container Reuse and Recycling Act of 1995. This important piece of legislation is especially relevant today as we approach the 25th anniversary of Earth Day. I have introduced this legislation in the past with my colleague, the late Paul Henry (R–MI), who was a true and dedicated champion for this important initiative, and hope that my colleagues will this year embrace this bill that combats the problems we have of shrinking landfill space, skyrocketing waste disposal costs, misspent energy and natural resources, and litter strewn roadsides by setting in place a national beverage container recycling program. If passed, this bill would save millions of dollars in energy costs, divert a significant portion of the solid waste stream, foster the growth of a recycling infrastructure, and help reverse the throwaway ethic our Nation has embraced.

Most importantly, this will be done at no cost to the taxpayer. This bill, which requires a deposit paid on beverage containers, will act as a positive economic incentive to individuals to clean up the environment and will result in a high level of reuse and recycling of such containers, and help reduce the costs associated with solid waste management. Such a system will result in significant pollution prevention, energy conservation and recycling.

We can conquer the problem of one-way, throwaway beverage containers as 10 States have already done. Under these deposit programs, which are in effect in California, Connecticut, Delaware, Iowa, Maine, Massachusetts, Michigan, New York, Oregon, and Vermont, consumers pay a deposit on each container purchased, and this is refunded when the container is returned. Consumers in these States have proven the effectiveness of such legislation by reaching recycling rates as high as 95 percent.

This bill will encourage the development and maintenance of a recycling infrastructure. The plastics industry, which already has a recycling infrastructure, would particularly benefit from this bill since it has been plagued by supply shortages.

Consumers have demonstrated the popularity of deposit laws. A General Accounting Office [GAO] study found that 70 percent of Americans support national deposit legislation. Perhaps more importantly, in States that have deposit laws, this level is even greater.

This bill allows States to recycle in any manner they wish, as long as they achieve a 70-percent recycling goal for beverage containers. Only States that fail to meet this challenge would be required to implement the deposit program outlined in this bill.

To further encourage recycling efforts, the unclaimed deposits collected under this bill, which could total as much as $1 to $1.7 billion annually, would be used to support other recycling programs. For example, deposit laws can help subsidize the costs of curbside recycling. Together, deposit laws and curbside recycling can result in greater recycling and reuse than either program could alone.

In celebration of Earth Day, just 2 weeks away, I introduce this legislation that will help us to reach our environmental goals by conserving our natural resources and reducing litter and pollution. I urge my colleagues to support comprehensive recycling by cosponsoring the National Beverage Container Reuse and Recycling Act of 1995.

REPEAL THE SHORT-SHORT TEST FOR REGULATED INVESTMENT COMPANIES

HON. MICHAEL PATRICK FLANAGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. FLANAGAN. Mr. Speaker, to qualify for taxation as a regulated investment company [RIC], a mutual fund must meet various tests. One of the tests is that a RIC must derive less than 30 percent of its gross income from the sale or distribution of certain investments, such as stocks, options, futures, securities, and forward contracts, held less than 3 months. This is known as the short-short test. Mr. Speaker, today I am introducing legislation to repeal the 30 percent of gross income limitation applicable to regulated investment companies.

The short-short test severely inhibits the ability of RIC's to adequately respond to fluctuating market conditions. Under present law, RIC's are not able to protect their investors as well as possible. This is because RIC's can not, for example, completely hedge their investments against adverse market trends. Similarly, if prices go up, a portfolio manager may not be able to sell certain securities, even if it is advisable to do so, solely because of the short-short test. They are stymied by the 30-percent barrier, even though it could be advantageous to go beyond that point and realize more than 30 percent of their gross income from certain investments. The inability to freely trade stocks, options, securities, and the like can adversely affect 401K's and various types of retirement funds invested in mutual funds.

Portfolio managers cannot totally maneuver to protect their investors without having their RIC status adversely impacted if they violate the 30-percent mark. The repeal of the short-short test will give those managers the capability to fully protect profitability for their shareholders. As it stands now, portfolio managers are often forced to make investment decisions based on tax strategy rather than investment strategy.

The short-short test is also an administrative nightmare. RIC's have to track the percentages of short-term and long-term gain realized daily and cumulatively throughout the year, and the holding periods of their assets. This, of course, creates extra costs for RIC's that are passed on to shareholders. Repeal of the short-short test will eliminate an inordinate amount of paperwork and accounting costs for the RIC's, and help their shareholders keep more of their investments.

Repeal of the short-short test has previously received strong bipartisan support. It passed the House unanimously on May 17, 1994, as part of the Tax Simplification and Technical Corrections Act of 1993. Unfortunately, the legislation was not enacted into law. I am bringing the issue forth for the 104th Congress because I believe it is still a much needed reform that can only help, and in no way hurt, the American economy.

TRIBUTE TO SAMUEL T. YANAGISAWA AND HIS WORK ON IMAGE INTENSIFIER NIGHT VISION EQUIPMENT

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today to recognize and commend the accomplishments of an outstanding individual and fellow Texan who has done exceptional work in the development and manufacture of night vision equipment. This equipment enabling armies to fight in the dark is one of the most profound changes in military capability in history. It was a critical factor in the low loss of life and played a major role in the success of Operation Just Cause in Panama and Operation Desert Storm in Kuwait. These examples alone prove conclusively that night vision technology has revolutionized military tactics and strategy.

Sam Yanagisawa was instrumental in the development and manufacture of the first generation of image intensifier night vision equipment and of subsequent generations of goggles for night flying and for use by ground troops. His leadership, dedication, innovation, and frankly, his genius, led the way in providing our fighting forces with a night fighting capability that has proved decisive. He has been in the forefront with both the public and private sectors.

Mr. Yanagisawa was one of the founders of the U.S. Night Vision Manufacturers Association that help persuade our forces to adopt this equipment and develop the necessary doctrine for its employment. His initiative, foresight, and professionalism contributed immeasurably to the success of this effort. At the same time, he served on the Army Science Board, chaired two summer studies, and currently serves on the Air Force Studies Board.

Mr. Yanagisawa served in various positions at Varo Inc., from 1967–1987 where he developed the first generation of night vision tubes and equipment at high rate of production and introduced special process computers for the complex production of photocathodes, an integral part of image intensified devices. He went on to facilitate the efficient production of second generation tubes and equipment so that night goggles could be practicable for ground and airborne applications. He retired as chairman and CEO of Varo in 1987.

Mr. Speaker, I salute Sam Yanagisawa for his hard work, diligence, and outstanding accomplishments in the development of night vision. We all owe him a debt of gratitude for his years of dedication and join together in commending him for showing great foresight and commitment to the night vision industry. We thank him for his genuine contributions to our Nation's security and wish all the best in his future endeavors.

H.R. 1378, REGARDING RENUNCIATION OF AMERICAN CITIZENSHIP

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. GIBBONS. Mr. Speaker, last week the Republicans in the House of Representatives, acting on behalf of powerful lobbyists representing unnamed clients, succeeded in stopping a provision that would have prevented wealthy Americans from avoiding billions of U.S. tax by renouncing their American citizenship.

Earlier this week, I introduced H.R. 1378, which would require that those unnamed clients be identified to the public. The legislation would require the Secretary of State to publish in the Federal Register the names of individuals who renounce their U.S. citizenship. Individuals enjoying enormous tax advantages through renunciation of their U.S. citizenship should be publicly identified.

In the debate last week, Republicans tried to faithfully follow the script prepared by lobbyists representing wealthy expatriates and those few wealthy Americans planning to renounce their allegiance to their native country in the near future. Their arguments were eloquently refuted by the Democratic Members participating in the debate and we need not repeat that debate.

However, the Republicans did stray from the script prepared by these lobbyists in several respects, and I want to respond to those arguments. They accused the Democrats of engaging in class warfare and attempting to tax wealthy individuals out of existence. They argued that these wealthy individuals would not have engaged in the despicable act of renouncing their allegiance to the United States but for the punitive levels of taxation in this country.

The Republican concern for the wealthiest among the privileged class is understandable given their political philosophy but, from the average taxpayer's perspective, it is seriously misguided. The wealthiest of the wealthy did quite well during the 1980s. The wealthiest of Americans saw their share of total income almost double in the 1980s. According to Treasury Department data, the share of total income reported by the top one-half of 1 percent of taxpayers increased from 6.05 percent in 1979 to 11 percent in 1989.

Their argument that our taxes are at punitive levels is totally false. The United States has one of the lowest tax burdens of all industrialized nations in the world. It is true that our rates exceed those provided by the tax havens to which these wealthy people are fleeing. However, those individuals can reside safely in those havens only by reason of the defense expenditures of this country which enable wealthy expatriates to live safely anywhere in the world. Many of these expatriates continue to live and work in this country for large portions of the year.

The argument that I find most appalling is the argument that we engaged in class warfare when we tried to prevent these billionaires from avoiding their tax responsibilities by renouncing their U.S. citizenship. Two weeks ago, Republican Members of this House compared poor Americans to "alligators" and "wolves" and engaged in crude stereotyping of welfare recipients by referring to "studs" outside their homes. They passed a welfare reform bill that took $66 billion away from the poorest of American citizens. None of this was considered class warfare by the Republicans. However, they condemn as class warfare our attempt to make a handful or two of the wealthiest of the wealthy bear the same burden of tax as all the rest of us.

I will continue to work toward making our tax system fair to all who benefit from this great country. H.R. 1378 is one small step in that direction.

CHECK-OFF FOR OUR CHILDREN ACT

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MINGE. Mr. Speaker, Representatives JAN MEYERS, PETER DEFAZIO, TILLIE FOWLER and I are introducing a bipartisan bill to provide the American taxpayer with a way to contribute directly to eliminating the national debt. This legislation allows citizens to check a box on their Federal tax return and indicate the amount of the tax refund each citizen would like to direct to retire the national debt. The Check-Off for Our Children Act will form a partnership for America's future between citizens and the Congress of the United States to reduce our national debt and to reclaim the economic future of the next generation of Americans.

I think that everyone would agree that America is at a crossroads in history. The next 20 years will determine whether we will let our staggering debt turn the American dream into a nightmare. The growth of our economy, creation of meaningful jobs, a reduction of Federal spending, revitalization of our infrastructure and the preservation of our environment for future generations all depend upon our ability to reduce our national debt. We have all benefitted from these deficits over the years, but now it is time to own up. Unless the Congress and our citizens act in unison now, the Federal Government's sole function will soon be to transfer tax dollars to meet interest payments on the debt and the rapidly expanding entitlement programs.

There is now a growing willingness in the hearts and minds of the American people to play an active role in retiring the national debt, thanks in part to the efforts of Lucile McConnell and The Fund to End the Deficit. Lucile has worked tirelessly to educate Americans about the threat the deficit poses to future generations and opportunities they have to help solve this problem. This desire can be met by a little known Federal statute, Public Law 87–58, which was signed into law in 1961 by President Kennedy. This law enables every citizen to contribute directly to retiring the national debt. In conjunction with the Check-Off for Our Children, taxpayers can simply mark a check-off box on their tax returns to designate a portion of their tax refunds on the condition that it be used only to retire the national debt.

The greatest principle of democracy is that we each have a choice. The Check-Off for Our Children gives each of us a choice to turn back to the principles underlying our democracy: responsibility, participation, citizenship, and fiscal restraint. Each of us must take responsibility for our country and our future. We in Congress have a responsibility to make the difficult choices required to cut Federal spending and balance our budget. The Check-Off will ensure that every American has the opportunity to make a direct contribution to retire the national debt.

As we reduce the national debt, we will realize at least three immediate benefits. We will reduce the risk of inflation as excess cash is applied to debt retirement. We will stabilize interest rates. And most important, as we reduce the amount we must spend on interest every year, we will also reduce overall Federal budget requirements. The benefit for future generations goes far beyond these three—the benefit to our children is the inheritance of a renewed America.

THE SAGINAW GANG CRIME TASK FORCE: COMMUNITY POLICING AT ITS BEST

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. BARCIA. Mr. Speaker, there is no doubt that the safety of our streets is a key concern for all Americans. And just as people have become more aware of our crime problems, many good citizens have become personally involved in developing creative solutions to augmenting the ability of our hard-working police departments in the fight against crime.

The city of Saginaw had been the victim of an unacceptably high crime rate. Murders, firearms violations, and aggravated assaults were greater than surrounding areas. A 1994 survey by the Michigan Prosecuting Attorney's Coordinating Council also documented the existence of at least 13 gangs in the Saginaw area, with membership in the hundreds. These gangs were responsible for the inordinate amount of crime in Saginaw.

The Saginaw County Sheriff, Tom McIntyre, along with local Chiefs of Police, State Police officials, agents of the FBI, the Drug Enforcement Agency, the Bureau of Alcohol, Tobacco and Firearms, and the Secret Service concluded that the police needed help to deal with these gangs. Continuing work by the office of Saginaw Mayor Gary Loster, Saginaw County Prosecutor Michael Thomas, and other community organizations confirmed the concerns about gang-related crime. It became clear that resources devoted to gang activities were insufficient and that a concerted effort to deal with these gangs was necessary.

Mayor Loster and FBI resident agent Phil Kerby were then responsible for creating the Saginaw Gang Crime Task Force. Each participating agency was asked to contribute human resources to the gang crime effort, and they did it. The Task Force garnered greater public support, and their resources grew.

Since the formal introduction of the Task Force to the public on April 6, 1995, the Task Force has been directly responsible for making many public events safer. Murders are down 20 percent. Violent crime is down 10 percent. People feel better about their neighborhoods, and Saginaw is on its way to restoring its reputation as a wonderful, inviting city.

Mr. Speaker, I urge all of our colleagues to join me in praising the dedicated men and women who make up the Saginaw Gang Crime Task Force and Saginaw community leaders who have worked so hard to deal with gang crime. It shows once again that there is no better resource for our nation than concerned, committed citizens working with public servants doing the best that they can under very difficult circumstances.

HONORING PONCHO SANCHEZ

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. PASTOR. Mr. Speaker, I would like to take this opportunity to congratulate one of the greatest jazz musicians in America, Poncho Sanchez. To recognize the accomplishments of Mr. Sanchez within the music industry, the city of Washington DC has proclaimed April 19 as "Poncho Sanchez Day."

Mr. Poncho Sanchez is a self-taught musician who has dedicated his life to the cultivation of the Latin jazz genre. He is considered one of the most prominent conga players and percussionists in America today.

Beginning his musical career in 1975 as a member of the Cal Tjader band, he toured and recorded with the band until Tjader's death. During that stage of his career he had the honor of sharing with Tjader, a friend who was also a mentor, one Grammy award for the album "La Onda Va Bein." Mr. Sanchez not only has enjoyed the opportunity to perform with the Cal Tjader band, he also has had the pleasure to performing and recording with other jazz stars, including Carmen McRae, Clare Fischer, and Woody Herman.

In 1982 Poncho Sanchez began his solo career with the album "Sonando" which helped reaffirm his place in the jazz world. His more recent achievement have included performing with Tito Puente, who played with Sanchez's band at the Playboy Jazz Festival and who appears in the album "Chile con Soul," as well as receiving three Grammy nominations. The unique style he has developed, blending powerful Latin music with lyrical jass notes, places him in a category all his own.

Mr. Speaker, Poncho Sanchez is an exceptional artist whom I am honored to recognize. His contribution to Latin music is a sample of the richness of the Latin community. Again, I would like to send my sincerest congratulations to Mr. Sanchez for this deserved recognition.

TRIBUTE TO KATE BYRNES

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Kate Byrnes, the 1995 California Teacher of the Year. Kate Byrnes works for the Marin County Office of Education as a teacher for the visually impaired and as an orientation and mobility specialist. She has served the people of Marin County well in this capacity, and earned a reputation for being one of the most exemplary teachers in her field.

Kate Byrnes has devoted countless hours to her students and demonstrates an uncommon commitment to her educational mission. Time and time again she has intervened on behalf of her students and their families. In addition, she has coordinated overnight ski trips for the blind and visually impaired in order to increase their recreational opportunities.

Kate Byrnes has been active in organizations, including the Low Incidence Regional Network for Northern California and the shared decision-making Leadership Team of teachers and administrators for the Marin County Office of Education's special education division. She has been an instructor and guest lecturer at San Francisco State University, helping to motivate others to become exceptional teachers for the visually impaired.

Mr. Speaker, it is my great pleasure to pay tribute to Kate Byrnes for being selected as the 1995 California Teacher of the Year. Marin County owes a great deal of gratitude for the tireless efforts of Kate Byrnes over the years. I extend my hearty congratulations and best wishes to Kate.

MACK GERALD FLEMING

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MONTGOMERY. Mr. Speaker, Friday, March 31, 1995, marked the end of an extraordinary career in public service. After 26 years on Capitol Hill, serving 21 years as chief counsel and 14 as staff director of the Committee on Veterans' Affairs, Mack Gerald Fleming retired.

Superlatives just naturally come to mind when describing Mack. As stated in the resolution presented to Mack by BOB STUMP and me, his service with the committee and the Veterans Administration was distinguished by visionary leadership, profound wisdom, sound political judgment, and a passion for meeting the needs of America's veterans.

His was the deep commitment of the true believer tempered by a unique practical sense of political possibilities and opportunities. His intuitive sense of timing and ability to reach an effective compromise resulted in the enactment of far-reaching veterans' legislation. Under his guidance, the measure elevating the Veterans' Administration to the Department of Veterans' Affairs was signed into law. Additionally, the new GI bill, which profoundly improved the ability of the Armed Forces to recruit smart, capable young men and women, was nurtured into reality by Mack Fleming. I think Mack would also say he is particularly proud of his efforts to provide an entitlement to inpatient health care for service connected and low-income veterans.

We all know Mack thrived in and was energized by the rough and tumble of politics, and he loved nothing better than a good fight on behalf of a cause he championed. He nevertheless was not swallowed up or overwhelmed by the sometimes heady Capitol Hill existence. There was something in his background or the way he was raised that kept him solidly grounded, and that made the difference:

The difference between a boastful person and one whom people boast of knowing;

The difference between a cynical man and one who only sees the good he can do for other people;

The difference between a man who looks for credit for his accomplishments and a man who accomplishes much.

Mack Fleming is a person who is still filled with wonder and seeks to learn new things every day. He has the quintessentially American outlook first observed by de Tocqueville that although man is not perfect, with a decent amount of effort, he can be improved.

Mack came from a humble background in Georgia and South Carolina. He graduated from Clemson University in 1956 and was commissioned as an officer in the U.S. Army. He served on active duty for 2 years with the Second Armored Division in Europe. He subsequently returned to South Carolina where he was a supervisor in a textile mill for 2 years. After coming to Washington in 1960 to serve as administrative assistant to William Jennings Bryan Dorn, Mack graduated from the Washington College of Law at American University in 1966.

Mack also met his wife Libby in Washington, whom he married in 1963. He has been a devoted husband and a supportive and proud father of their children, Katie (Katharine) and John. Mack has long been an active member of the Capitol Hill United Methodist Church and regularly serves as a volunteer at the soup kitchen sponsored by his church.

Mack Fleming loved his work. He was as loyal as they come—smart, tough, a savvy politician. He particularly admired Speaker Sam Rayburn and Presidents Abraham Lincoln and Lyndon Johnson—and one could see Mack's respect for these practical politicians reflected in his strong character and deep sense of personal honor. Now, I don't want anyone to get the idea that Mack was a saint. He was occasionally more passionate than logical, and serene is not a word I associate with Mack, but he never retreated from the consequences of his conviction.

Mack brought old-fashioned values with him when he arrived in Washington 35 years ago. Through his influence and powers of persuasion, those values are integral markers for much of the work carried out by the committee and its staff. I often said he was the best, and we will certainly miss him.

"TAKING" IT TOO FAR

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MILLER of California. Mr. Speaker, and fellow Members, I bring to your attention the attached article by Charles McCoy, from the April 4, 1995, edition of the Wall Street Journal.

Mr. McCoy presents an even-handed report of the congressional debate on the issue of private property rights and the "takings" issue, which, after passing the House, is now underway in the Senate. As Mr. McCoy notes, the House bill would require the Government to pay landowners full compensation when certain environmental protection actions trim the value of any portion of their land by 20 percent or more. In the Senate, majority leader BOB DOLE has introduced a measure (S. 605) that would lift the threshold to 33 percent and would apply to all Federal actions.

Proponents contend that the Republican bills aim merely to put common sense back in Government's attitude about private property. Perhaps these advocates can explain the logic behind these examples of litigation currently being fought under the guise of private property rights:

Summitville Mine. The Canadian company that operated Summitville Mine created a Superfund site that will cost the taxpayers about $120 million to clean up, filed bankruptcy and left the country. Now the owners of the mine site are suing the Governor of Colorado on the grounds that because the State permitted the mine, that gave the owners significant profit but also polluted their property, the value of the land was decreased due to regulatory action.

California Central Valley [CVP]: Big agricultural corporations now receive huge amounts of public water at subsidized rates to pour on their corps. Under the CVP legislation enacted in 1992, Federal and State regulators intend to divert some of that water to save and restore salmon runs. Now, the agriculture bigwigs are claiming that if these plans go through, and the takings legislation is enacted, they will claim reimbursement for any diversion of their subsidized water allotments—at market rates—not the subsidized rates.

The argument for "takings" legislation is not simply about that bedrock of American values: protection of private property. Unfortunately for those citizens who honestly believe in the rightness of their cause, it is more a ruse being played on the American people by the proposal's strongest supporters: industries such as mining, ranching, timber, oil and gas, and agriculture. These corporate players and their lawyers know that if enacted, this bill will not bring common sense to governmental actions, but will flagrantly inflate the number of lawsuits crowding our courts and cause governmental gridlock at all levels.

I urge you to take the time to read Mr. McCoy's article.

[From the Wall Street Journal, Apr. 4, 1995]

THE PUSH TO EXPAND PROPERTY RIGHTS STIRS BOTH HOPES AND FEARS—SOME CALIFORNIA FARMERS SEE WINDFALL IN GOP BILLS; OFFICIALS FRET ABOUT COSTS

DO GRAZING ELK "TAKE" GRASS?

(By Charles McCoy)

The new Republican-controlled Congress is on its way to passing the biggest expansion of property rights in U.S. history. In California, this could very well radically drive up the cost of saving salmon—and add to the tide of litigation those rescue efforts have already spawned.

Indeed, the Republican proposals, depending on their final form, promise a procession of policy zigzags and lawsuits at all levels of government, both critics and even some proponents agree.

MURKY CONSEQUENCES

Consider the salmon example: Big agricultural corporations in California's arid Central Valley now get huge amounts of public water at subsidized rates to pour on crops. But some of the state's historic salmon streams are drying up; under previous congressional mandates, federal and state regulators want to divert some of this water to restore salmon runs.

But, under "takings" legislation passed by the House last month, corporate farmers would have to be compensated for any diversion of their allotments. In fact, under some circumstances, the corporate farmers could claim reimbursement at market rates—meaning reimbursement out of the federal treasury at rates 10 times the subsidized rate they now pay. "We have a right to that water, and if the government wants it for fish, they have to pay us," says Jason Peltier, a top California farm lobbyist.

Until now, federal courts and the U.S. Supreme Court have, in a number of decisions, rejected this view. But the breadth and wording of the new Republican takings proposals would unquestionably give Central Valley farmers a potent new weapon; they are already preparing lawsuits in anticipation of passage of a generous takings law.

BLESSING OR DISASTER?

Environmentalists are naturally alarmed. Says Hal Candee, an environmental lawyer with the Nature Resources Defense Council: "This is insane—the public is already subsidizing irrigation that is devastating the environment, and now we have to pay even more to make it stop?"

Moreover, the takings movement is being watched with growing concern by numerous State and local governments, which fear a huge hit on the public treasury—or a sharp decline in their ability to enforce what they consider reasonable environmental, planning and other regulations. In Riverdale, Calif., a fast-growing Southern California city bedeviled by numerous endangered species, traffic and open-space conflicts, city planner Stephen Whyld calls the new takings proposals "prescriptions for total gridlock."

Nonsense, say proponents, who argue that such legislation is necessary to rein in overweaning regulators. "It's obvious that bureaucracies from the federal level down to the local school board have come to believe that the Fifth Amendment just doesn't apply to them," says R.S. Radford, a property-law expert at the Pacific Legal Foundation, a conservative legal think tank that has handled many takings lawsuits on behalf of landowners. The takings movement, he says, confronts "terrible abuses by government against individuals." Central Valley farmers, for example, have long painted efforts to save salmon as an example of government "worrying more about fish than people."

What is certain is that the takings campaign, both in Congress and in a number of States, seeks to significantly expand interpretation of the Constitution's so-called takings clause. This is a snippet of the Fifth Amendment that holds that government "shall not take private property for public use without just compensation."

KEEPING A PROMISE

The recent House proposal also fulfills a promise in the "Contract With America" and is strongly supported by large industries such as mining, ranching, oil and agriculture. It requires the government to pay landowners full compensation when certain government actions to protect the environment trim the value of any portion of their property by 20% or more. The Senate is considering a proposal championed by presidential hopeful and Senate Majority Leader Robert Dole that lifts that threshold to 33%—but it would apply to all federal regulations, not just environmental rules.

Whatever its final form, such a bill, if passed, would be a populist rallying point that may be difficult for President Clinton to veto. Even if he does, the movement has plenty of steam at a State and local level. Colorado, Oregon, Texas and other states are considering their own expanded takings bills.

In fact, some private-property interests have already begun to push novel legal theories under the current state of takings law—theories that they clearly hope will be enshrined under the more expansive Republican bills. Wayne Hage, a Nevada rancher and a leader of the West's private-property movement, alleges in a lawsuit pending in the federal court of appeals in Washington that the government owes him compensation because fish and game agencies don't prevent elk herds from drinking from his streams and munching range on his 7,000-acre spread. That is a taking of his water and grass, he contends.

Mr. Hage also is credited with devising another now-popular theory in the West: that ranchers have what amounts to a private-property right to graze on public range land. Thus, Mr. Hage and several other Western ranchers have sued the U.S. Forest Service and the Bureau of Land Management, claiming that they suffered takings when the agencies tried to restrict grazing on public range, which in many areas has been scalped by years of overgrazing.

In Mr. Hage's case, the Forest Service confiscated some of his cows because he repeatedly defied the agency's orders to stop grazing on public land that federal range experts considered "trampled, compacted, gullied."

For damage from regulators and elk, Mr. Hage seeks compensation of at least $28.4 million.

MOUNTAINS OF CONCERNS

Then there is the case of the Summitville Mine in south-central Colorado. Mining practices there have created a heap of cyanide-laced mine wastes; the Superfund cleanup is expected to cost taxpayers at least $120 million. The Canadian company that operated the mine for its owners has declared bankruptcy and left the country.

Now, the mine owners, Aztec Minerals Corp., Gray Eagle Mining Corp. and South Mountain Minerals Corp., have sued Colorado's governor and main environmental agencies. Their claim: Because regulators did as the companies wished and permitted mining that earned them substantial profits but polluted their property, their land has been devalued by regulatory action—a taking under the Colorado constitution. The mine owners also say their property values have been hurt because regulators' emergency cleanup of Summitville, undertaken to prevent further poisoning of their land, has closed down mining, possibly for good.

"Let me get this straight: It's a taking when you're allowed to mine, and a taking when you're prevented from mining?" scoffs Roger Flynn, an environmental attorney with the Western Mining Action Project.

Just so, says Tim Gablehouse, the mine owners' attorney: "Government action and inaction have damaged the value of private property, and we have a constitutional right to compensation."

INTANGIBLE COSTS

Colorado is one of many states considering local takings legislation modeled on the new congressional proposals, and indeed, it is at the state and local level, where planning commissions make numerous decisions on a daily basis, that such measures could really open the floodgates. For example, local governments often deny permission for landowners to subdivide lots or undertake high-density development, on the theory that approval would aggravate congestion or traffic. Yet such decisions often diminish land values by as much as one-third.

Jennifer Moulton, Denver's planning director, predicts that takings legislation pending in the Colorado state legislature would mean "a nightmare of dueling appraisers and dueling lawyers." The Colorado proposal says that any diminution of property values whatsoever requires compensation but leaves it to appraisers to determine how much. "Property owners will have their appraisers, and we'll have ours, and we'll all go around and around and around," Ms. Moulton says.

TEXAS NOTIONS

Other recent federal takings claims have featured coal companies alleging that they must be compensated because federal law requires them to pay money into a fund for miners stricken with black lung. And a company owned by Texas oil millionaire Clayton Williams has sued Wyoming wildlife agencies over limits and licensing requirements for hunting deer, elk and antelope. Mr. Williams' theory: He owns the wildlife on his 90,000-acre Wyoming hideaway, and state hunting restrictions are a taking of his private wildlife for which he must be compensated. Mr. Williams lost the first legal round in federal court, but he has appealed.

Not all the recent federal cases deal with environmental matters. International House of Pancakes Inc. has claimed that modifications to restaurants required by a 1990 handicap-access law are a taking for which it should be paid.

I-HOP made the claim in defense of a lawsuit brought by Theodore Pinnock, a San Diego attorney with cerebral palsy who sued after he allegedly couldn't get his wheelchair through a narrow restroom door and had to crawl into the men's room. Last summer, the U.S. Supreme Court refused to review a lower court decision against IHOP's takings claim. But many lawyers say IHOP probably would have prevailed under some of the new takings theories being pushed in Congress.

It is that kind of scenario that concerns people like Jerold S. Kayden, a Harvard University property-law scholar. In his view, the Republican takings bills would "vastly expand" the opportunities for claiming compensable takings—and would likely trigger a blizzard of such claims that will force a cash-strapped government to choose between enforcing regulations in the public interest or paying huge sums to landowners.

More fundamentally, the new takings proposals mark a drastic departure from how courts and policy makers have historically interpreted the Fifth Amendment's taking clause. In general, courts have allowed the government significant latitude to make regulations impinging upon private property in the interest of protecting public health and safety, building highways, limiting growth and the like, particularly when the regulation didn't wipe out all economic value of the private land.

NARROW RULINGS

The Supreme Court twice in recent terms has taken up major takings claims; both times the court ruled narrowly in favor of landowners, strengthening private-property rights without fundamentally altering past property-law concepts. The court is currently hearing another potential landmark private-property case involving how far regulators can go to enforce the federal Endangered Species Act on private land.

Mr. Kayden also posits another question: If property owners are going to be paid by the public when a regulation decreases property values, he asks, why shouldn't they have to repay the public when regulatory action—flood control, for example—enhances property values?

Takings proponents, however, contend that the Republican bills aim merely to put common sense back in government's attitude about private property, and they have their own list of abuses that they believe shows the need for a radical change in the takings law. There is the case of a Washington man who was barred from cutting down a few trees on his land because a spotted-owl nest had been discovered some five miles away. There is the South Carolina developer whose $1 million investment in residential property was totally wiped out by subsequent erosion-control rules, even though his lots were a football-field distance away from the beach. There are the various landowners who have been thrown in jail for dumping clean sand on slivers of their property that were classified as wetlands; in some cases, the "wetlands" had been dry for decades.

Backers also accuse their critics of fear-mongering when they suggest the bills invite landowners to raid the environment and the national treasury. Critics "have propounded the myth that private property and environmental protection are inconsistent," says Rep. Lamar Smith, a Texas Republican and a House leader on property rights.

The House takings proposal, for example, wouldn't apply to any activity that runs afoul of state nuisance laws; that, he and other supporters say, will prevent landowners from "getting paid not to pollute."

IN HONOR OF DR. J. HENRY ZANAZALARI, SUPERINTENDENT OF THE MIDDLESEX COUNTY VOCATIONAL AND TECHNICAL HIGH SCHOOLS AS HE RETIRES

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Dr. J. Henry Zanazalari, Superintendent of the Middlesex County Vocational and Technical High Schools. Dr.

Zanazalari, who has dedicated 47 years to educating our youngsters, will be retiring at the end of this school year. I would like to take this opportunity to acknowledge his accomplishments.

Throughout his career, Dr. Zanazalari has been a county and statewide advocate of vocational training. For 24 years, he has served as superintendent of the Middlesex County Vocational and Technical High Schools. Under his leadership, the school district was recognized by the New Jersey Department of Education with the Commissioners Cup Award for 5 of the 7 years it was presented. This award is given to the New Jersey school district which placed the highest percentage of graduates in jobs in the field for which they were trained.

Dr. Zanazalari has also expanded the vocational school program in Middlesex County. He spearheaded the construction of the fifth vocational school in Piscataway, thus increasing the opportunity for hundreds of students on waiting lists. He is also responsible for the construction of additions to the East Brunswick, Piscataway, and Woodbridge campuses, which provided special education vocational training programs for the increased number of students with disabilities. In doing this, Dr. Zanazalari demonstrated that he recognizes that there will be more and more people with disabilities in the work force in the years to come.

Dr. Zanazalari has received many awards for his work in the field of education. Among them are the Rutgers University Distinguished Service Award, and the National Vocational and Technical Honor Society Honorary Member Award. He was also inducted in the Perth Amboy High School Hall of Fame, and was a member of Phi Beta Kappa and Epsilon Pi Tau and the Phi Delta Kappa Honor Society. He is a member of numerous educational associations, including the American Vocational Association, the New Jersey Association of School Administrators, and the New Jersey Council of Local Administrators and Supervisors of Practical Arts.

On Friday, April 7, Dr. Zanazalari will be honored at a retirement dinner at the Landmark Inn, in Woodbridge, NJ. Please join me in wishing Dr. Zanazalari a happy and healthy retirement. He has set a great example for future generations. I am proud to have him as a constituent.

CENTRAL NEW YORK PEE WEES FIRST U.S. TEAM TO BE WORLD CHAMPIONS

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. WALSH. Mr. Speaker, last year I was as proud as I could be, or thought I could be, of some very special young athletes in my home district, the Syracuse Stars Pee Wee Hockey Team. They had won the U.S.A. Nationals and all of our hometown was awash in publicity and congratulations.

Today, I am eager to report that the same team has once again prevailed. They are now the holders of the World Cup of Pee Wee Hockey, having won on February 19 this year the 36th Annual Tournoi De Quebec in Quebec City. The tournament hosted 115 teams from 17 countries. The Stars defeated teams from Russia, Ukraine, Detroit, and Toronto on their way to becoming the first United States team to ever win the World Cup.

To put this tournament in perspective, more than 550 former or present NHL players have participated, including Wayne Gretzky, Brett Hull, and Mario Lemieux.

The players are: Daniel Bequer, goalie, of North Syracuse; Brain Balash, forward, of Auburn; Gary Baronick, forward, of North Syracuse; Drew Bucktooth, forward, of the Onondaga Indian Nation; Tim Connolly, forward, of Baldwinsville; Jeremy Downs, defense, of Syracuse; Joshua Downs, defense, of Syracuse; J.D. Forrest, defense, of Auburn; Todd Jackson, forward, of Cortland; Josh Jordan, forward, of Marathon; Tom LeRoux, forward, of Syracuse; Doug MacCormack, forward, of Cortland; Matt Magloine, defense, of North Syracuse; Freddy Meyer, defense, of New Hampshire; Anthony Pace, forward, of Cortland; Steve Pakan, defense, of Syracuse; Mike Saraceni, goalie, of North Syracuse; and Ricky Williams, forward, of McGraw. Head Coach Don Kirnan was assisted by coaches Mike Connolly and John Jackson and manager Chris Kirnan.

Freddy Meyer won the Tournament MVP trophy and Drew Bucktooth won the Grand Finale Game MVP. Tim Connolly was top scorer of the tournament and along with Anthony Pace was named a single-game MVP. Dan Bequer gave up only two goals in the last three games, which proved for some exciting hockey, especially in the Stars' 4–0 final game win over Czechoslavakia.

I ask that my colleagues join me in congratulating these young athletes for their performance, and for bringing home to the United States our first World Cup of Pee Wee Hockey.

THE CONTACT LENS PRESCRIPTION RELEASE ACT OF 1995

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. STARK. Mr. Speaker, in the final days of the last session of Congress, I introduced legislation to strengthen the ability of consumers to purchase contact lenses at lower prices, without compromising the quality of the products or services received. It was my hope that interested consumers, providers, and regulators would review and provide comment on the bill prior to reintroduction of the bill in the 104th Congress.

Over the past several months, I have received comments from constituents, consumers, providers and various other interested parties. The overwhelming message is that a Federal law requiring prescribers to release contact lens prescriptions will benefit consumers across American.

Today I am introducing "The Contact Lens Prescription Release Act of 1995." This legislation will require the Federal Trade Commission [FTC] to issue regulations mandating the release of contact lens prescriptions after the initial fitting process has been completed.

While some who provided comments favor mandating the immediate release of prescriptions, and others favor no requirements at all, the balance struck in this legislation ensures that consumers will have enhanced bargaining power when purchasing replacement contact lens without putting the quality of patient care in jeopardy.

Today, more than a dozen States require some form of contact lens prescription release. This experimentation by the States has allowed us to monitor whether unintended consequences have occurred—such as a reduction in the quality of patient care—as a result of mandatory release. To date, I have not seen reports that the quality of patient care has suffered as a result of requiring prescription release after the initial fitting process is complete.

While this legislation provides a minimum standard regarding prescription release, it is likely that some States will experiment with additional ways, such as immediate release of prescriptions, to advance the ability of consumers to purchase high quality contact lens products at the most competitive prices. This legislation allows States to continue to undertake such efforts. We in Congress would serve our constituents well if we continue to monitor these State efforts and follow-up with additional Congressional action if appropriate.

I'd like to take a moment to provide some background to "The Contact Lens Prescription Release Act of 1995."

In 1989, the Federal Trade Commission [FTC] restated their requirement that eyeglass lens prescriptions be released by ophthalmologists and optometrists. In the FTC's ruling on eyeglasses, their comments explaining why they did not require the release of contact lens prescriptions is instructive for why this legislation is necessary today. The Commission found the following:

> While the record suggests that it is not uncommon for practioners to refuse to give patients copies of their contact lens prescriptions, and that resulting costs to consumers could be significant, *we do not believe that the record contains sufficient reliable evidence to permit a conclusion that the practice is prevalent.*" [Emphasis added, Federal Register, Vol. 54, No. 47, Monday, March 13, 1989.)

One of the benefits and responsibilities of representing the 13th District of California is having constant contact with constituents. Over the past few years, I have had the opportunity to gather "sufficient reliable evidence" that nonrelease of contact lens prescriptions does result in higher costs for consumers and that this practice is sufficiently "prevalent" to warrant legislative action.

This legislation, Mr. Speaker, is rather simple—to allow greater competition in the marketplace. It achieves this goal by calling upon the Federal Trade Commission to issue a regulation requiring the release of contact lens prescriptions after the initial fitting process is complete. While there is strong sentiment in this body to forgo calling for any additional Government regulations, it would be shortsighted to turn aside this legislation for that reason. In enacting this legislation, this bill would eliminate dozens of State regulations that, however well-intentioned and well-suited to the technology and market conditions at the time, have come to block consumer choice today.

Mr. Speaker, I urge my colleagues to support this legislation. A copy of the legislation follows.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Contact Lens Prescription Release Act of 1995".

SEC. 2. PRESCRIPTIONS FOR CONTACT LENSES.

(a) IN GENERAL.—The Federal Trade Commission shall amend its trade regulation rule on ophthalmic practice published at 16 C.F.R. 456 to require the prescriber to offer to release a copy of the prescriber's prescription for contact lenses—

(1) after the contact lens fitting process is completed, or

(2) in the case of a renewal of a prescription, immediately if there is no change in the prescription's specifications,

regardless of whether or not the patient requests a copy of the prescription. Such a prescription shall expire 2 years from the date of its issue unless the prescriber otherwise specifies based upon the medical judgment of the provider.

(b) DEFINITIONS.—For purposes of subsection (a):

(1) The term "prescription" means the specifications necessary to obtain contact lenses and includes data on the refractive status of patient's eyes and clearly notes that the patient is suitable for contact lenses.

(2) The term "prescriber" means an ophthalmologist or optometrist who performs eye examinations under a license issued by a State.

(3) The term "contact lens fitting process is completed" means the process which—

(A) begins after the initial eye examination and includes an examination to determine what the lens specifications should be, the purchase of lenses, and an initial evaluation of the fit of the lens on the patient's eyes and follow-up examinations, and

(B) is completed when the prescriber is satisfied that a successful fit has been achieved.

SEC. 3. EFFECT ON STATE LAW.

The prescription release requirement of section 2 does not affect any State law which permits the release of prescriptions for contact lenses on terms which are not more restrictive than the terms of section 2 or regulates who is to be legally permitted to fit contact lenses.

THE CAREER PREPARATION EDUCATION REFORM ACT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. CLAY. Mr. Speaker, I rise today to introduce the administration's Career Preparation Education Reform Act.

The administration's legislation ensures that: First, funds for in-school youth are administered at the local level by schools; second, the governance structure for education which is determined by State law is respected; and, third, more funds are driven by a needs-based formula to local education agencies than in the current law.

I want to strongly emphasize that, as under the current Perkins Act, any State that receives a grant must designate an education agency or agencies to be responsible for administration. In addition, the State plan must be submitted by the State education agency. This requirement will ensure that funds are used to improve career education in our schools and help schools participate in the development of effective school-to-work opportunity systems to prepare students for college and careers.

I also want to emphasize that this bill ensures that funds will be distributed to local education agencies and postsecondary institutions based on need and directs more funds to local schools than before. It is critically important that we make sure that funds get down to those local schools and communities where the need is greatest.

One of my major concerns over the years has been to ensure that students who are members of special populations benefit from Federal education investments. The intent of this legislation is to focus on achievement for special populations and to ensure that they have the chance to participate in quality programs. The legislation requires that the State describe in its plan how it will serve special populations, and uses a substate allocation formula that drives funds to the neediest schools and communities. States must gather and disseminate data on the effectiveness of services and activities in meeting the needs of women and special populations. They must review applications and grants to ensure that the needs of women, minorities, and other special populations are addressed. They must work to eliminate bias and stereotyping in education, and recommend best practices for serving members of special populations and for training for nontraditional jobs. States must set performance goals for students and provide reports on their progress in achieving their goals, including information on the progress of students who are members of special populations.

I am committed to ensuring that students who are members of special populations receive quality services and the assistance they need to achieve the necessary skills to be successful. We intend to scrutinize this issue as legislation moves through the committee process to ensure that every effort is made to meet the needs of educationally disadvantaged young women and men.

Let me highlight some other key features:

First, the bill will encourage States to use their vocational education, elementary and secondary education, and second-chance program funds to develop comprehensive, quality school-to-work and education systems.

Second, it proposes a State grant and a national program authority, and it will increase the amount of the formula-driven State grant distributed to schools and colleages.

Third, it proposes that vocational education support the development of the in-school part of school-to-work opportunity systems.

Nonetheless, as I introduce this legislation, there are several areas where I continue to have concerns, and I look forward to working with our colleagues on many of these provisions as this bill proceeds through the legislative process. Among these concerns are:

The Perkins legislation should build more on the vocational system in place and improve upon those systems.

Section 101 and 103—I want to work with our colleagues to strengthen these sections and write them so that the Federal investment is more focused and States and locals are held accountable for implementing the priorities.

Section 104—I would like to see standards and limitations in the section permitting States and local education agencies to combine funds for any purpose in order to carry out services and activities.

Section 113—I have another concern with regard to the option for States to develop alternative formulas to distribute funds to local education agencies.

OPPOSING THE REPUBLICAN TAX PLAN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mrs. MALONEY. Mr. Speaker, I rise to explain my opposition to the tax and spending cut plan offered by the Republican leadership.

There are several individual tax cuts in this bill that I support. Unfortunately, all tax cuts were lumped into one bill and could not be voted on separately, due to the procedural rule under which the bill was debated.

Therefore, Members were compelled to vote "yea" or "nay" on the entire plan. In the final analysis, the plan as whole was fiscally irresponsible, extremely damaging to New York City, and not in the long-term best interest of our children and grandchildren.

Over the next 5 years, this bill will cost more $189 billion dollars, and over 10 years—because of the corporate tax giveaways tucked into the legislation—that cost will rise to as much as $600 billion.

The bill provides only the most illusory plan of how to pay for these tax breaks in the first 5 years. The specifics that the new leadership has provided are devastating to urban areas in general and to New York City in particular.

Further, the plan offers no provision whatsoever to deal with budget-busting corporate tax breaks in the second 5 years, when the deficit is projected to skyrocket specifically because of those tax breaks.

The plan will eliminate the corporate minimum tax and change the rules on depreciation, significantly boosting the deficit beginning in the year 2001.

For example, the depreciation changes will actually increase revenues slightly between 1996 and 2000, but cause a revenue loss of more than $120 billion between the years 2001 and 2005.

Only a small fraction of the tax breaks embodied in the bill—like indexing capital gains for inflation, which I support—will sufficiently stimulate the economy to begin to pay for themselves.

This year, interest on our national debt totals $235 billion. It is the third largest portion of the Federal budget. By 1997, it will overtake defense spending as the second largest portion of the Federal budget, second only to Social Security.

Why? Largely because in 1981, the Reagan administration sought to provide tax cuts and increased defense spending before deficit reduction. And Congress went along with it. The result was an explosion in our annual budget deficit from $40 billion in 1981 to nearly $300 billion in 1992; and an increase in the national debt from approximately $1 to $4 trillion.

With the exception of tax cuts which truly pay for themselves, tax cuts should be our reward after we cut the deficit. But until we get our fiscal house in order, it is irresponsible to engage in a frenzy of tax cuts that are not credibly paid for.

We have made great progress in deficit reduction since President Clinton took office. We have reduced the deficit for 3 consecutive years, thanks to the budget package that I voted for in 1993. In so doing, we are reducing the cruelest tax of all on our children. Now is precisely the wrong time to take a U-turn on our road to successful deficit reduction.

That being said, there are several individual tax cuts in the package which I think are important and I might well have supported were they stand-alone bills that were responsibly paid for. It is likely that the Senate will overhaul this plan, restoring fiscal sanity to it before it comes back to the House for a final vote. If so, I will strongly consider voting for a bill or bills which include various forms of tax relief.

I have always supported expanding IRA contributions, so that all Americans will be encouraged to save. I also support allowing families to use their IRA—without penalty—for purchasing their home, in the event of illness or to help pay for the education of a spouse, child, or grandchild.

Since I came to Congress in 1993, I have been an advocate of reducing the marriage penalty, which charges couples more taxes than if they were two unmarried people filing independently. I have worked closely with my good friend, Congressman JIM MORAN, and have cosponsored legislation that would completely eliminate this problem.

In 1993, I was one of the staunchest opponents of the provisions in the Omnibus Budget Reconciliation Act to raise the amount of Social Security benefits that could be taxed on recipients earning more than $25,000 a year or couples earning more than $32,000 a year. I was very proud to play a role in changing those thresholds, thus sparing thousands of middle-class recipients around the country from a tax increase. And I continue to support rolling back the increased benefits tax on those recipients earning more than $34,000 or couples earning $44,000.

Coupled with that change, I believe that we should also increase the amount that Social Security recipients can earn without losing their benefits. I think that raising that ceiling from $11,000 to $30,000 over the next 5 years is a good idea.

I emphatically support a meaningful capital gains tax reduction. I strongly believe that such a cut would provide a major boost to economic investment in the country and would be beneficial to individuals of all income levels.

Both individuals and corporations hold on to assets that have appreciated because they are unwilling to pay the Government almost 40 percent of the profits from their investment. This means that money that could be used for new investment or reinvestment remains locked into these assets and thus unavailable for the kinds of purposes that would help boost economic growth across the country.

But as much as I support these particular items, I could not, in good conscience, vote for a tax cut bill that will explode the deficit and result in massive tax increases to our children and grandchildren.

What few specific cuts that the new congressional leadership has specified to partially pay for these tax breaks will have a drastic, negative impact on New York City's economy.

Overall, the Republicans intend to squeeze $62 billion from their welfare reform bill to pay for a portion of their tax cuts. In my opinion, that bill—which among many other things, cuts school lunches and takes away protection for children in foster care—is an unmitigated disaster.

I voted for a Democratic welfare reform bill that offered welfare recipients the tools of economic empowerment—training, education, child care—to help them get back to work and take charge of their lives. The bill demanded work, responsibility, and child support. That Democratic substitute could be described as "tough love." The Republican bill just told defenseless children, "tough luck."

It won't fix what is wrong with the welfare system. It won't empower people to go to work. It will only put families with children out on the street, which will increase homelessness and desperation in New York City and damage quality of life for all of its residents.

The cuts from the GOP welfare plan will take more than $6 billion in Federal aid from the city and will cost tens of thousands of children—including many in my district—their basic nutritional benefits.

I recently issued a study on the welfare plan, which was reported in the New York Times, that stated the following:

Through cuts to Aid to Families with Dependent Children:

New York City will lose $1.3 billion because title I freezes Federal funding at fiscal year 1994 levels over the next 5 years. That will result in over 280,000 New York City children losing their AFDC benefits through the planned Republican family-cap and time-limit provisions.

New York City will lose $62 million in child care assistance because of the proposal's funding level cuts for fiscal year 1996 to 2000, resulting in 10,504 New York City children losing child care.

New York City will lose $200 million in funding for child nutrition provisions, including the school lunch and school breakfast programs, meaning that 60,000 New York City children will be dropped from the school lunch program because projected funding levels under the welfare plan won't be able to keep up with annual 3.5 percent inflation and annual 3-percent increases in school enrollments by fiscal year 2000.

Of the 641,000 New York City children enrolled in the school lunch program, 522,000 of these children, the children who receive free lunches, may be forced to begin paying for lunch, with money they simply do not have.

Of the 170,000 New York City children enrolled in the school breakfast program, 154,000 of these children, the children who receive free breakfasts, may be forced to begin paying for breakfast, with money that they simply do not have.

New York City will lose over $35 million in funding for family-based nutrition provisions.

The 316,000 children who participate daily in the Summer Food Program will see their food budgets cut by 50 percent as the result of massive cuts under the House-passed provisions.

The 85,000 children who participate daily in day care food programs will also see their food funding drop by 50 percent.

New York City would lose $1.75 billion in food stamp assistance through the Republican funding level cuts over 5 years.

One million four-hundred thousand New York City food stamp recipients would see their food stamps allotment decrease beginning in fiscal 1996; 640,000 of these recipients are children. By the year 2000, food stamp authorizations will decrease by at least 30 percent compared to current projected levels of need.

New York City would lose over $760 million in SSI benefits over 5 years under the welfare plan which means that 22,500 blind and disabled children in New York City alone would lose all benefits over 5 years, including AFDC and JOBS work training.

This litany describes just one-third of how the Republicans plan to pay for this tax plan. To make matters worse, the lion's share of the cuts—$100 billion—are coming through broad reductions in spending caps.

Although the individual, specific cuts are to be made later, the Budget Committee has offered some suggestions concerning what programs to cut in order to meet these new spending cap reductions. These so-called suggestions add to the damage done to New York City by the Republican welfare bill.

The chairman of the Budget Committee proposes slashing mass transit, which all New Yorkers need to get from one place to another. The suggested cut will take almost $1.5 billion out of New York City over the next 5 years.

The Republicans suggest eliminating LIHEAP, which provides heat in wintertime to low-income senior citizens and low-income families who are among our most vulnerable citizens. This ill-advised proposal will take close to $520 million out of New York City over the next 5 years.

They suggest cutting medical research by the National Institutes of Health, which will take more than $153.6 million out of New York City's research institutions like Rockefeller University, Sloan Kettering and NYU.

The Budget Committee's scheme to eliminate the National Endowments for the Arts and Humanities will not only result in a nation that is culturally poorer and spiritually malnourished, but will result in New York City losing a total of $259.1 million in grants over the next 5 years.

This is just a sample of what Republicans are suggesting that Congress cut in order to pay for this tax cut plan. And when all of these harsh cuts are made, this country will still be saddled with a growing deficit that the new House leadership does not even make a pretense of addressing.

And, this bill contains one final indignity for New York City. Tens of thousands of families, including more than 6,000 in my district alone, will have to pay for a $10 billion tax increase through changes to the retirement system that will more than triple the cost to Federal workers.

Mr. Speaker, as I said earlier, none of these spending cuts will go to deficit reduction. While it is widely recognized by both political parties that the deficit is the cruelest tax of all, the Republican plan provides absolutely no tax relief from it.

We must not repeat the irresponsible tax cuts of the 1980's, which have been so disastrous for our economy. And I believe that yesterday's vote will result in greater deficit increases.

I have little faith that having now passed some harsh cuts to pay for the popular part of the Contract With America, the Republican majority will not have the stomach or incentive to vote for even more unpopular cuts to Federal programs to further reduce the deficit.

Reinforcing my concerns about repeating the mistakes of the 1980's is the fact that the Republicans have pledged to increase defense spending again.

In all, Mr. Speaker, April 5 was a lost opportunity.

A lost opportunity for those of us who wanted to vote for tax cuts that would be both prudent and beneficial to the economy.

And, most importantly, a lost opportunity to help future generations of Americans who will pay for this tax folly. Ultimately, it is our children and grandchildren who will suffer the ill effects of the 104th Congress excesses here yesterday night.

JUST A PIECE OF PAPER

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. KINGSTON. Mr. Speaker, on April 3, 1895, one of the great cities of Georgia's First Congressional District and indeed America was born. The following article, written by Mrs. Lois Barefoot Mays talks about this event and the celebration of the Folkston, GA, U.S.A. centennial parade last Saturday on April 1.

[From the Charlton County (GA) Herald, Mar. 1, 1995]

JUST A PIECE OF PAPER

(By Lois Barefoot Mays)

To see me from afar, you would think I was just an ordinary piece of paper. But I'm very special. Why, I'm one hundred years old and still going strong. I am the charter for Folkston, Georgia, United States of America, North American Continent, God's little blue planet Earth, the Universe.

On April 1st, 1995, my little town will be the center of the universe. There will be a joyous homecoming of people who once lived within my borders and who will return for my one hundredth birthday. They'll celebrate together with the residents by dancing, eating tasty food, enjoying a patriotic parade and especially by greeting friends they haven't seen for a while.

There'll be lots of smiles, hugs and handshakes. They'll speak of friends that have died and maybe even take time for a thoughtful walk through the well-kept cemetery.

Perhaps they'll recall leaders of the Folkston community who made lasting impressions on their lives. People like Dr. McCoy, Mrs. Belle Roddenberry, L.E. Stokes, Miss Mayme and John Harris, William Mizell, Mary Stokes Davis, Scott and Ralph Johnson, Tom Gowen, John Southwell and others. And they will have good stories to tell about those leaders, stories worth remembering, that can be used in Sunday School rooms later when they study what integrity means.

I won't be able to hear all that's going on because I will be resting in a file somewhere, but my spirit is alive and well in this southeastern Georgia bit of heaven.

I was really born as the Town of Folkston in April, 1895, but before that date the Village of Folkston was here. As the cry of a new-born baby signals a brand new life, the wail of a steam engine on the newly-laid rails of the S.F & W. Railroad brought folks together and when stores and homes were built near the covered platform called "The Station", the Village of Folkston was born. That first loud train, scaring people and animals alike, thundered through what is now Folkston on March 30, 1881. Why, that's the same year President James A. Garfield began his term of office and the year the painter Pablo Picasso was born!

Fourteen years later the village had a splendid depot, large Masonic Lodge, at least six stores, two hotels, cotton gins, grist mill and homes for the nearby families. It was no longer called "The Station" but had been named for Dr. W.B. Folks of Waycross and called at first, "Folkstown" and quickly shortened to "Folkston".

As the men of the village, always eager to argue the merits of their favorite horse, leaned on the fence of the Roddenberry Hotel livery stable in the spring of 1895 and discussed events of the times, the main topic must have been local government and how to have some control over clearly illegal situations. They needed strict rules that would make it unlawful for anyone to indulge in card playing or dancing on the Sabbath; rules that made it against the law to fasten horses or mules to shadetrees or buildings in such a way that folks couldn't walk on the sidewalk or get in the door of a store. And they needed men elected by the majority of the other men of the village to be the ones to enforce these rules.

So, on the 26 day of March, 1895 a referendum was held, seeking the will of the people. A decision was to be made: did they really want a charter with printed laws with which to abide, or did they want to continue as just a group of families brought together by the common bond of living close to the railroad tracks.

Results of the election were probably predicted beforehand. Thirty-two men voted on that day and those thirty-two men voted a resounding unanimous "YES, we want to be a real TOWN of Folkston." Three of the community's leaders, J.S. Mizell, H.S. Matox and H.A. Renfroe were election superintendents that important day and immediately a short petition was drawn up, which twenty-three men signed, asking the Charlton Superior Court for permission to incorporate.

Eight days later, on April 3rd, 1895, probably as the first order of business of Superior Court Judge, J.W. Sweat at the April term of court of Traders Hill. I was born. The order creating me as the Town of Folkston was scratched with quill pen and ink on this yellowed sheet of ruled paper and signed by Judge Sweat.

So that's who I am—just a folded paper document—an object that means home and life-long friends to those who once lived within my borders . . . but to those fortunate ones who enjoy the privilege of strolling my sidewalks, or talking daily with friends made fifty years or more ago, or the unexcelled pleasure of standing on the depot porch hearing and watching a mile-long train roar through Love, Main and Martin Streets all at once. I'm a sacred piece of paper. . . . I'm the best!

In fact, right now I'm the center of the universe!

DR. L.D. BRITT, 1995 RECIPIENT OF THE GREAT AMERICAN TRADITIONS AWARD

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. SCOTT. Mr. Speaker, on behalf of the B'nai B'rith Foundation of the United States, I am pleased to announce that Dr. L.D. Britt is a 1995 recipient of the Great American Traditions Award.

Dr. Britt, a renown surgeon and educator, serves as professor, chairman of general surgery, and chief of trauma and critical care at Eastern Virginia Medical School. He is also medical director for the Shock Trauma Center at Sentara Norfolk General Hospital, is a general surgeon in the Norfolk and Suffolk Virginia area and serves on the boards of Norfolk State University and the University of Virginia.

He received a B.A. from the University of Virginia, a M.P.H. from the Harvard School of Public Health and a M.D. from the Harvard Medical School.

But as great as they are, Dr. Britt's professional accomplishments are not the reason he was chosen for this award. What distinguishes Dr. Britt from other accomplished men and women is his tireless service to the Tidewater Virginia community.

He has given freely of his time, talents, and resources to others. From church, to Boy Scouts, to cultural institutions, Dr. Britt has worked to bring all elements of the Tidewater community together regardless of race, ethnicity, or religion. It is in that tradition that the proceeds from his award dinner will go to the Dr. L.D. Britt Young Leaders Scholarship Fund.

Dr. Britt finds the time to give so freely of himself to others because he believes that we should reach out to those around us. It is for this spirit of giving to others that Dr. L.D. Britt is presented with the Great American Traditions Award.

THE OSHA CONSULTATION AUTHORIZATION ACT OF 1995

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. HAYES. Mr. Speaker, the Occupational Safety and Health Administration's [OSHA] Consultation Services [OSHCON] currently derive their authority from a shaky regulatory framework. OSHCON programs compete for very limited dollars with other OSHA education and training compliance assistance programs. Therefore, in an effort to enhance the Federal Government's responsiveness to the business community and to provide more effective solutions to the problems impacting safety and health in the workplace, I, along with my colleague Congressman CASS BALLENGER, am introducing the Occupational Safety and Health Administration Consultation Authorization Act of 1995.

Our bill would, simply put, statutorily codify the authority of the Department of Labor to establish the current scheme of cooperative agreements with States. There is overwhelming and widespread support for our language amongst representatives of both large industry and small business, officials from the Occupational Safety and Health Consultation Programs, and the Administration.

Businesses in Louisiana and throughout the country convey to me horror stories about the burdens that OSHA standards and paperwork requirements impose upon their fiscal stability without producing discernable corresponding benefits to safety and health. They would welcome initiatives that seek to distribute information on safety and health in a more timely and efficient manner. Businessmen realize that safe employment practices enable them to compete for and retain the most qualified employees.

State run consultation offices are overworked and understaffed. OSHA has consistently failed to allocate adequate resources to OSHCON programs. With the proposed fiscal year 1996 budget request, we are again faced with a budget recommendation heavily slanted toward enforcement rather than compliance assistance. We owe businesses and employees alike the opportunity to work in a safe environment. We can and should redirect our priorities toward productive and pro-active strategies, such as consultation assistance, and away from the reactive and cumbersome over-regulatory approaches of the past.

I welcome my colleagues to join Mr. BALLENGER and I in our fight to ensure the successful continuation of a health and safety program that works.

BELEN JESUIT SCHOOL KEY CLUB

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. DIAZ-BALART. Mr. Speaker, I rise today to pay special tribute to the Belen Jesuit School Key Club and their continuing meritorious service and assistance in providing relief to refugees from tyranny.

As my colleagues are aware, the massive Cuban exodus that occurred last summer has been just the latest sad chapter of a 36-year saga. The suffering faced by those brave rafters did not end when they were rescued from their rafts or when the television crews went home. Because of circumstances beyond their control, many are still suffering today from privations and indefinite detention.

From the onset of this latest crisis, the young men of the Belen Jesuit Key Club have been sacrificing and working to help alleviate the many hardships faced by these brave Cubans. Among other things, these selfless high school students have bottled water to be dropped to rafters while they were still at sea, collected donations for pillows, pencils, and paper for those in the camps, and traveled themselves to the camps to help distribute aid.

Most importantly Mr. Speaker, it should be noted that these young men continue to demonstrate time and time again their concern and humanity towards those who are suffering. They truly exemplify the Jesuit ideal and can be called "men for others". We as a country must be proud to have such men in our society. I for one am privileged that they reside in my community.

METRO ARBITRATION RELIEF ACT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. WOLF. Mr. Speaker, today I am introducing legislation for myself and Mr. DAVIS of Virginia, to provide financial relief to the Washington Metropolitan Area Transit Authority [WMATA] and to the citizens of the Washington metropolitan area by allowing for more flexibility in resolving labor disputes. Under the interstate compact establishing Metro, WMATA must have a balanced budget and Metro cannot provide service unless there are funds to pay for it. These funds are becoming more and more pinched by rising labor costs that threaten the affordability of the Metro system for the ridership.

Labor costs at Metro are among the highest in the Nation in terms of operator salaries and benefits. For example, starting operator wages for bus drivers in New York City are $12.35 per hour compared to $13.76 in the District. The average annual wage for a Metrobus operator is currently $45,683. This is higher than the average wage for teachers in our area and is more than a GS–12 starting salary for many professionals in the Government. With overtime, Metrobus operator salaries can approach $60,000 to $70,000 per year, the equivalent salary of a GS–14 or GS–15 or an assistant school principal.

In addition, Metro salaries and benefits are far higher than other transit operators in the region when compared with bus operators such as Montgomery County Ride-On or Fairfax Connector and Dash. The average annual wage for Ride-On, DASH, and Connector operators is $27,148, $25,459, and $23,400 respectively. These high comparative costs have made it very expensive for local governments to continue to contract with Metro bus service. As a result, local governments are increasingly choosing to provide their own service leaving Metro with fixed overhead costs to distribute among shrinking bus services.

This bill will allow arbitrators to take these local factors into consideration when evaluating wage scales. As a result, we will be simultaneously maintaining an affordable transit system, reducing the risk of massive job losses, and introducing more competition into area transit. This is a workable, practical and fair solution as we address the budget problems facing both the District and public transit in our area.

As fares increase, ridership dwindles and a downward spiral continues. Metro management has testified before the Transportation Appropriations Subcommittee that it is close to the point where higher rates will mean more Metro riders will return to their cars. For example, a single mother traveling from Vienna, VA, to downtown will spend approximately $8.50 per day in parking and Metro fares—nearly $200 per month. For a GS–7 earning some $24,000, and netting perhaps $1,600–$1,700 per month, this cost amounts to one-eighth of take home pay.

Affordable public transportation is essential to the economic vitality of the Washington metropolitan area and to reviving the sagging economic fortunes of our Nation's Capital. Many low income and working individuals and families depend upon public transportation as their primary means of travel. However, use of mass transit is substantially affected by the fares charged for such mass transit services.

Currently more than two-thirds of the cost of the Metro system is attributable to labor costs. Metro labor costs have increased at an alarming rate and are among the highest in the Nation. Salaries for Metro have gotten out of line with many other occupations in the area and with local bus systems. When evaluating and balancing competing needs, there has to be more flexibility in this area. That is what this legislation will do. It will provide for more consideration to be given to the impact that wage increases have on the ability of transit patrons and taxpayers to fund the increases through subsidies or at the fare box. This act will adopt standards governing the arbitration process when resolving disputes involving Metro labor issues.

Over the past 5 years, Metro has reduced staff by more than 500 positions—almost 10 percent of the workforce. In the past year alone, it has cut over 250 positions, bringing the current personnel level to that in 1988, even though Metro has increased rail service by 64 percent since that time. But labor costs still are the major driver of increasing fares. If fares continue to increase, ridership will decline and other competitive systems will enter the system further driving down Metro ridership.

At a time when we are facing severe budget limitations, we must think more creatively about how transit agencies can manage scarce Federal dollars. We must also face budgetary realities before they reach the crisis point. The current labor costs put the future of the Metro system on a collision course with the Metro ridership public. Already we have strongly competitive bus service in the area resulting in decreased bus ridership of Metro buses. When ridership goes down, jobs are lost and those in the areas with the least alternatives for transportation suffer the most. These areas usually serve the most economically disadvantaged neighborhoods.

The financial difficulties faced by the District of Columbia threaten the ability to make operating subsidy payments that could result in further bus service reductions or route terminations on a very broad scale. Metro bus service has already been reduced by $5 million to meet current budget needs.

As Metro general manager Lawrence Reuter recently testified before the Transportation Appropriations Subcommittee on which I serve, Metro is working closely with Maryland, Virginia, the District of Columbia, and Members of Congress from this region to minimize the impacts of the District's financial crisis on Metro's ability to provide transit service throughout the region. As we work to find better solutions for the District of Columbia, providing more flexibility to Metro in labor disputes will assist in the bigger financial picture for the District.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Capital Area Interest Arbitration Standards Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) affordable public transportation is essential to the economic vitality of the national capital area and is an essential component of regional efforts to improve air quality to meet environmental requirements and to improve the health of both residents of and visitors to the national capital area as well as to preserve the beauty and dignity of the Nation's capital;

(2) use of mass transit by both residents of and visitors to the national capital area is substantially affected by the prices charged for such mass transit services, prices that are substantially affected by labor costs, since more than ⅔ of operating costs are attributable to labor costs;

(3) labor costs incurred in providing mass transit in the national capital area have increased at an alarming rate and wages and benefits of operators and mechanics currently are among the highest in the Nation;

(4) higher operating costs incurred for public transit in the national capital area cannot be offset by increasing costs to patrons, since this often discourages ridership and thus undermines the public interest in promoting the use of public transit;

(5) spiraling labor costs cannot be offset by the governmental entities that are responsible for subsidy payments for public transit services since local governments generally, and the District of Columbia government in particular, are operating under severe fiscal constraints;

(6) imposition of mandatory standards applicable to arbitrators resolving arbitration disputes involving interstate compact agencies operating in the national capital area will ensure that wage increases are justified and do not exceed the ability of transit patrons and taxpayers to fund the increase; and

(7) Federal legislation is necessary under Article I of section 8 of the United States Constitution to balance the need to moderate and lower labor costs while maintaining industrial peace.

(b) PURPOSE.—It is therefore the purpose of this Act to adopt standards governing arbitration which must be applied by arbitrators resolving disputes involving interstate compact agencies operating in the national capital area in order to lower operating costs for public transportation in the Washington metropolitan area.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "arbitration" means—

(A) the arbitration of disputes, regarding the terms and conditions of employment, that is required under an interstate compact governing an interstate compact agency operating in the national capital area; and

(B) does not include the interpretation and application of rights arising from an existing collective bargaining agreement;

(2) the term "arbitrator" refers to either a single arbitrator, or a board of arbitrators, chosen under applicable procedures;

(3) an interstate compact agency's "funding ability" is the ability of the interstate compact agency, or of any governmental jurisdiction which provides subsidy payments or budgetary assistance to the interstate compact agency, to obtain the necessary financial resources to pay for wage and benefit increases for employees of the interstate compact agency;

(4) the term "interstate compact agency operating in the national capital area" means any interstate compact agency which provides public transit services;

(5) the term "interstate compact agency" means any agency established by an interstate compact to which the District of Columbia is a signatory; and

(6) the term "public welfare" includes, with respect to arbitration under an interstate compact—

(A) the financial ability of the individual jurisdictions participating in the compact to pay for the costs of providing public transit services; and

(B) the average per capita tax burden, during the term of the collective bargaining agreement to which the arbitration relates, of the residents of the Washington, D.C. metropolitan area, and the effect of an arbitration award rendered pursuant to such arbitration on the respective income or property tax rates of the jurisdictions which provide subsidy payments to the interstate compact agency established under the compact.

SEC. 4. STANDARDS FOR ARBITRATORS.

(a) FACTORS IN MAKING ARBITRARY AWARD.—An arbitrator rendering an arbitration award involving the employees of an interstate compact agency operating in the national capital area may not make a finding or a decision for inclusion in a collective bargaining agreement governing conditions of employment without considering the following factors:

(1) The existing terms and conditions of employment of the employees in the bargaining unit.

(2) All available financial resources of the interstate compact agency.

(3) The annual increase or decrease in consumer prices for goods and services as reflected in the most recent consumer price index for the Washington, D.C. metropolitan area, published by the Bureau of Labor Statistics of the United States Department of Labor.

(4) The wages, benefits, and terms and conditions of the employment of other employees who perform, in other jurisdictions in the Washington, D.C. standard metropolitan statistical area, services similar to those in the bargaining unit.

(5) The special nature of the work performed by the employees in the bargaining unit, including any hazards or the relative ease of employment, physical requirements, educational qualifications, job training and skills, shift assignments, and the demands placed upon the employees as compared to other employees of the interstate compact agency.

(6) The interests and welfare of the employees in the bargaining unit, including—

(A) the overall compensation presently received by the employees, having regard not only for wage rates but also for wages for time not worked, including vacations, holidays, and other excused absences;

(B) all benefits received by the employees, including previous bonuses, insurance, and pensions; and

(C) the continuity and stability of employment.

(7) The public welfare.

(b) COMPACT AGENCY'S FUNDING ABILITY.—An arbitrator rendering an arbitration award involving the employees of an interstate compact agency operating in the national capital area may not, with respect to a collective bargaining agreement governing conditions of employment, provide for salaries and other benefits that exceed the interstate compact agency's funding ability.

(c) REQUIREMENTS FOR FINAL AWARD.—In resolving a dispute submitted to arbitration involving the employees of an interstate compact agency operating in the national capital area, the arbitrator shall issue a written award that demonstrates that all the factors set forth in subsections (a) and (b) have been considered and applied. An award may grant an increase in pay rates or benefits (including insurance and pension benefits), or reduce hours of work, only if the arbitrator concludes that any costs to the agency do not adversely affect the public welfare. The arbitrator's conclusion regarding the public welfare must be supported by substantial evidence.

SEC. 5. PROCEDURES FOR ENFORCEMENT OF AWARDS.

(a) MODIFICATIONS AND FINALITY OF AWARD.—In the case of an arbitration award to which section 4 applies, the interstate compact agency and the employees in the bargaining unit, through their representative, may agree in writing upon any modifications to the award within 10 days after the award is received by the parties. After the end of that 10-day period, the award, with any such modifications, shall become binding upon the interstate compact agency, the employees in the bargaining unit, and the employees' representative.

(b) IMPLEMENTATION.—Each party to an award that becomes binding under subsection (a) shall take all actions necessary to implement the award.

(c) JUDICIAL REVIEW.—Within 60 days after an award becomes binding under subsection (a), the interstate compact agency or the exclusive representative of the employees concerned may file a civil action in a court which has jurisdiction over the interstate compact agency for review of the award. The court shall review the award on the record, and shall vacate the award or any part of the award, after notice and a hearing, if—

(1) the award is in violation of applicable law;

(2) the arbitrator exceeded the arbitrator's powers;

(3) the decision by the arbitrator is arbitrary or capricious;

(4) the arbitrator conducted the hearing contrary to the provisions of this Act or other statutes or rules that apply to the arbitration so as to substantially prejudice the rights of a party;

(5) there was partiality or misconduct by the arbitrator prejudicing the rights of a party;

(6) the award was procured by corruption, fraud, or bias on the part of the arbitrator; or

(7) the arbitrator did not comply with the provisions of section 4.

HONORING THE CESAR CHAVEZ WRITING CONTEST AWARD WINNERS OF THE EAST SIDE UNION HIGH SCHOOL DISTRICT

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Ms. LOFGREN. Mr. Speaker, I rise today to recognize the remaining winners of the first annual Cesar Chavez writing contest held by the East Side Union High School District in San Jose, CA. I had the great privilege of attending the award ceremony honoring the student winners on March 31, 1995, and would like to continue sharing the essays and poems written by the student award winners with my colleagues.

On April 4, 1994, I began by sharing the essays and poems of the grand prize winners and three of the first place winners. Yesterday, I shared the five remaining first prize entries, and the first three of eight second place winning entries. Today, I will share the remaining five essays and poems of the second place winners.

The second prize winning essays and poems of Marie Aloy of Mount Pleasant High School, Mark Papellero of W.C. Overfelt High School, Raymond Ramirez of Piedmont Hills High School, Ester Martinez Estrada of Santa Teresa High School, and Anthonette Pena of Silver Creek High School follow:

UNTITLED

(By Marie Aloy, Mount Pleasant High School)

It was all very irrelevant to me. I'm not a farmer. I didn't live during the Great Depression or the years following. I don't grow fruit or pick it for that matter, and I'm not even of Hispanic descent. The dates and strikes and marches are just another group of history facts that I am asked to know and memorize for one reason or another. So far my life and the life and accomplishments of Cesar Chavez have no relation or commonality to bind him to my memory . . . except for one thing.

Something that I value greatly, that earns my genuine respect and admiration, I found hidden in a comment made about the great and greatly known Cesar Chavez. Actually it was his nephew Rudy Chavez Medina who inadvertently helped me find my way to relate to Cesar Chavez. Rudy came and spoke to us a few days ago about his famous uncle and mentioned offhandedly that his uncle Cesar was never afraid to ask for help. He was not the type to put himself on a pedestal for everyone to worship. When a goal was achieved he didn't credit it to his magnificent leadership. He praised everyone involved, and humbly made himself equal to every individual in the crowd. In a position of such great power I am amazed and in awe that this man could remain so wonderfully humble.

The "equality" of the man staggered me. He had opportunities, as all celebrated leaders do, to leap from poverty into a more comfortable life. But I'm sure he knew that that separation between his life and the lives of the farmers and laborers he inspired would lessen his effectiveness as a leader. So he sacrificed his own comfort for the welfare of the organization, for the thousands who needed his guidance.

They say he is comparable to Gandhi and took his passive resistance techniques from Martin Luther King, Jr. as well. He never put peoples' lives in danger. He wanted only a better world and envisioned achieving that new existence in a peaceful manner. No riots or destruction, only marches and calm demonstrations. Usually human nature turns people to the dark side of things. It is uplifting to learn about someone who wanted only to help and made sure that he didn't hurt anyone in the process.

No facts or figures, just feelings. That is what binds us together and that is what creates a bond in my mind and heart. I never really knew who he was, and the bits and pieces I had grasped had little to do with my life. Now I know who he was and what he did. I know that he was humble to the core and self-sacrificing in all that he did and a truly great man.

THE LIVES OF WORKERS

(By Mark Papellero, W.C. Overfelt High School)

4:00 am
Wake up! Time for work!
Here's a piece of bread and tiny glass of powder milk.
Now go or you'll be late!
5:00 am
Plow. Have to work hard.
Plow. Need to support the family.
Plow. Need to survive.
Plow. Simple.
6:00 am
The sun rises.
Plow. Plant. Need clean water.
Plow. Plant. Pesticides in my lungs.
Plow. Plant. Tired.
7:00 am
The sun grows warm.
Plow. Plant. Lift. Need to rest.
Plow. Plant. Lift. Pesticide grows strong.
Plow. Plant. Lift. Sweat.
8:00 am
The sun is warmer.
The grower comes.
He demands. He orders. He pushes.
He is mad. He gets his way.
9:00 am
The sun gets hot.
Plow. Plant. Lift. Carry. The work is too much.
Plow. Plant. Lift. Carry. I am the pesticide.
Plow. Plant. Lift. Carry. The condition needs to change.
Plow. Plant. Lift. Carry. Sweat and Ache.
This treatment has to stop. We have to overcome.
Plow. Plant. Lift. Carry. Six more hours left.

CHAVEZ Y LA CAUSA

(By Raymond Ramirez, Piedmont Hills High School)

Just a man
No more, No less
Victim of intolerance
Who just wanted the best
For his people
The workers of the field
With words of compensation
For the crops that they yield

La Causa or The Cause
A movement without fear
It was forged by its people
And it streamed like a tear

They said it was impossible
Pero si se puede hacer
With hearts filled with determination
Y amor para la mujer

He carried on for years
Giving only of himself
He did it all for love
And cared nothing for wealth

His presents was mighty
His movements was strong
And although he is gone
His glory lives on!

A HERO TO THE MEXICAN COMMUNITY

(By Ester Martinez Estrada, Santa Teresa High School)

No words I can write can describe how Cesar Estrada Chavez dedicated his heart and soul to love and justice as we all know.

He was a leader that influenced strongly on rights.

A man that went out there and suffered with others day and night.

Cesar Chavez supported nonviolent actions on their part. For he declared, "truest act of courage, the strongest act of manliness, is to sacrifice ourselves for others in a totally nonviolent struggle for justice," and this came from his heart.

Farmworkers gathered in his demonstrations and his strikes to unite the true Mexican pride.

A pride no Mexican individual can hide.

They came together for the security of justice in peace.

They came together with strength to see their work environment rights be released.

They came together to rise out of the fields and stand up and never sit 'till they were treated with respect and good pay.

They came together to revise their situation and at least get minimum wage.

Cesar Chavez joined hands with his line of Mexican blood without fear.

Cesar Chavez led the Mexican community hoping their aim and dream was near.

For they all knew that they had to start today for the sake of the future's eye.

Together and always together they had to rise.

Together they all struggled and prayed.

Together they knew justice would serve one day.

Cesar Chavez and his fellow farmworkers came out of nowhere and bewildered all on their way to their destination.

Without the help of Cesar Chavez, injustice would have gone on for generations.

Cesar died peacefully in his sleep and is now up in heaven.

He symbolized the brown pride and that strength of respectible love.

Now is the time Mexicans can stand proud and say, "My bond is Cesar Estrada Chavez and no one can ask why."

CESAR CHAVEZ

(By Anthonette Peña, Silver Creek High School)

As a young boy, Cesar Estrada Chavez experienced the hardships of being the son of a migrant farm worker. As his family worked in the crops, they learned hoe to survive in the harsh conditions such as lack of shelter, money, and even food. Racism was also an issue that affected his life. Although his family were third generation Americans, because his ancestors are Mexicans, he was classified as a second-class citizen.

After working with the Community Service Organization from 1952 until 1962, he then moved on to found the National Farm Worker's Association. Under the NFWA, he organized nationwide boycotts of grapes, wine, and lettuce in an attempt to pressure California growers to sign a contract which would increase the farm worker's pay and provide them with a minimum amount of safety, Cesar Chavez became a symbol of hope for the people.

In particular, youth can look up to Cesar Chavez as a role model because it is at this point in our lives that we want to take an active role in mending society's flaws and begin to stand up for what we believe it. However, many of us are unsure of the role we should play and how far we are willing to go to stand by our decisions. As children, we had the vision of making a difference and had dreams of leading a successful life. At this age, reality begins to take its toll and we realize that if we really want to make a difference and lead a successful life there are things which we must do to accomplish these goals. Like Cesar Chavez, we must be willing to put ourselves on the line and uphold our principles and defend our sense of morality.

Cesar Chavez was a man who was not only determined, but courageous as well. "The only way is to keep struggling," he says. "Fighting for social justice is one of the most profound ways in which a man can say yea to man's dignity, and that really means sacrifice. There is no way on this earth in which you can say yes to a man's dignity and know that you're going to be spared some sacrifice."

ON HOW THE REPUBLICAN CONTRACT WITH AMERICA HELPS AMERICA'S SENIORS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. SMITH of New Jersey. Mr. Speaker, as we reach the end of the first 100 days of the session, it is fitting that the grand finale of the Contract With America honors our senior citizens by easing the burdens older Americans now face.

For instance, the comprehensive tax bill, which we approved by a substantial margin yesterday evening, includes a substantial reduction in the Social Security earnings test, which unfairly penalizes seniors for working to supplement their Social Security benefits.

If the November elections taught us anything it was that the American people want to see their fellow citizens begin to take more responsibility for their personal circumstances. Many seniors want to do just that, but have been hindered from doing so by the Social Security earnings test.

The earnings test was instituted during the Great Depression when the Federal Government wanted to encourage older Americans from remaining in the national work force and occupying much-needed jobs. Despite the fact that this provision is clearly obsolete, it continues to be an unfair penalty to industrious seniors.

Essentially, seniors who earn more than $11,280 a year face a supplemental tax of 33 percent on that income. This is in addition to the 7.65-percent FICA withholding tax and a 15-percent Federal income tax, bringing a hard-working, low-income senior's tax burden up to nearly 56 percent.

How many times have we all heard from constituents who acknowledge that they cannot survive on the meager Social Security benefits they are due? We cannot earnestly encourage these people to work to supplement these benefits while simultaneously taxing them at a highly unfair rate.

Furthermore, the earnings test deprives the American workplace of the talents and knowledge of our most experienced laborers.

The Contract With America, through H.R. 1215, increases the threshold at which the earnings test kicks in to $30,000 in annual income over a 5-year period.

While this does not represent perfect resolution on this issue, it is a step toward equity in the work force. In fact, I would encourage my colleagues to continue to work toward a full repeal of the earnings test, such as that represented by Representative HOWARD COBLE's H.R. 201, of which I am a cosponsor.

In addition, the tax relief bill includes a full repeal of the 1993 Clinton tax increase on Social Security benefits over a 5-year transitional period. In the mideighties, Congress instituted a tax on 50 percent of the Social Security benefits received by seniors earning $25,000 as individuals or $32,000 as couples.

Many of you voted against this tax—as I did—recognizing it as a double taxation on seniors who had taken the initiative to plan and save for their retirement. However, instead of repealing this unfair and counterproductive tax, President Clinton pushed through Congress in the first months of his administration—and over the vote of every House and Senate Republican, I might add—an increase in this tax.

The Clinton tax package allowed 85 percent of the Social Security benefits received by seniors making only $34,000 per year to be counted as taxable income. This runs entirely contrary to the pact between the Federal Government and seniors which the Social Security program is supposed to represent.

Seniors involuntarily turned over portions of their hard-earned paychecks to the Federal Government as a safety net for their retirement. They should not be taxed on this meager nest egg when they most need it and when many of them are living on fixed incomes.

I immediately introduced legislation to repeal the Clinton Social Security tax, but it was unfortunately stonewalled. I am very pleased that the Republican Contract With America includes a full repeal of President Clinton's unfair tax and that we have had the opportunity to relieve seniors of this burden.

The tax cut bill also makes great strides toward improving the provision of long-term care for seniors. Specifically, the bill provides a $500 nonrefundable eldercare tax credit to families caring for a dependent senior in their home.

Currently, 12.5 percent of our Nation's population is aged 65 and older. By the year 2030, when baby boomers peak in their golden years, fully one-fifth of our population will be in this age bracket. Already, American families nationwide have been faced with the difficult decision of how to best care for an aging parent or relative within their financial means. As society ages, more and more families will face this dilemma.

Many aging adults, particularly those suffering from Alzheimer's and other dementia, cannot lead a quality life without assistance and constant care. Often the full-time attention and individualized care these men and women require can only be found in a nursing home facility or in the privacy of their family home.

Providing the care at home can be costly and time consuming. However, this sort of personalized care is preferable to many families, especially since it affords a terrific opportunity to solidify the family unit. Children can learn so much from the knowledge and experiences of their grandparents. And having a loving family around does a world of good for an ailing senior.

Last year, the Alzheimer's Association reported that more than one-half of all working Americans have either provided long-term care for their friends or relatives or believe that it is likely in the near future. The Contract With America's eldercare tax credit will go a long way to help these well-intentioned people meet the needs of their loved ones.

The tax cut bill includes other improvements in the long-term care market as well to make it easier for seniors and their families to purchase long-term care insurance. In 1990, seniors aged 65 and older faced a 43 percent lifetime risk of requiring nursing home care. By 1992, the cost of such care was approximately $30,000 per year.

Too frequently, seniors are caught between a rock and a hard place as they get older and need this more constant medical attention. Private long-term care insurance as it currently exists is often too costly to be comfortably within reach and Medicaid assistance is only available if they spend down their savings.

This measure provides seniors and their families with the financial incentives they need to save for quality long-term care. For instance, it: First, gives long-term care insurance the same preferable tax treatment as accident and health insurance, second, excludes up to $200 per day in long-term care benefits from taxable income, third, excludes employer provided long-term care coverage from taxable income, fourth, allows long-term care expenses to be treated equal to medical expenses as an itemized tax deduction, fifth, excludes withdrawals from IRA's and other pension plans for the purchase of long-term care insurance from tax penalties, and sixth, allows the accelerated payment of death benefits from life insurance for the terminally or chronically ill to be paid tax-free.

These are commonsense approaches to a problem faced by more and more families every day and they are long overdue.

Finally, the tax relief bill increases the current estate and gift tax exemption over a 3-year period of time from $600,000 to $750,000. Through this modest change, seniors will be able to pass along their family business or family farm to their children and grandchildren without passing along an unmanageable tax burden as well.

In addition to these pro-senior provisions in the tax cut bill, the House overwhelmingly passed H.R. 660—which I am cosponsoring—to ensure that seniors will not be unfairly discriminated against for living in senior housing communities. These communities allow seniors to live amongst their peers and often provide access to services of particular need to seniors—such as periodic blood pressure screenings by local medical personnel.

Despite their increasing popularity amongst the senior population, vague language in the Fair Housing Act has left these communities vulnerable to litigation claiming that they discriminate against younger families. Furthermore, proposed HUD interpretations of this language have placed an insurmountable financial burden on these communities, requiring extravagant services and facilities to qualify for Fair Housing Act exemptions.

The language of H.R. 600 clarifies the definition of an "adult-only" housing community as a residential area consisting of a population of at least 80 percent seniors aged 55 and older. With this clarification, seniors will be able to form neighborhoods which conform to the unique needs of their retirement years without fear of unfair litigation or retribution.

I am proud to have supported each of these measures over my tenure in Congress and to have cosponsored them as part of the Contract With America as well. It is a credit to these past 100 days that we have soundly approved these proposals as the crowning achievement of the contract. America's seniors deserve no less.

THE 20TH ANNIVERSARY OF THE CLASP CHILDREN'S CENTER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents and residents of the Great Neck community in honoring the CLASP Children's Center as they celebrate this organization's 20th anniversary.

In 1975, with the support of a local chapter of the National Council of Jewish Women, CLASP was founded by a group of working parents. Over the years, CLASP has grown in size and developed such an exemplary program that it has been accredited by the National Academy of Early Childhood Programs. Set in a safe, challenging, and noncompetitive surrounding, children are offered a variety of activities that encourage them to express their creativity, and to develop friendships and positive social skills. CLASP reaches out to a variety of age groups and has established a preschool program for students 2 to 4 years old, before and after school programs for children attending the elementary schools in the Great Neck School District, and a 4–H Club for 8- to 10-year-old participants.

Realizing that CLASP is part of a most dynamic community, the organization joined in 1983 with the Great Neck Senior Center to provide an intergenerational program merging the children and the seniors of the area. This has resulted in a most successful and widely acclaimed effort, giving both age groups a feeling of support and appreciation.

CLASP has also had the good fortune to be able to draw upon the community for continuous support and creative leadership. On its 20th anniversary, as it celebrates this special milestone in this successful growth, CLASP is recognizing a group of individuals who have played a most effective role in helping it grow into such a renowned organization. Irene Lichtenstein has served as a founder and board member; Arlene Kase, current educational coordinator, was a president, board member, and a dynamic supporter of CLASP for legislative issues; Hon. May Newberger, town supervisor of North Hempstead, has for years championed family issues and consistently emerged as a supporter; Rabbi Robert S. Widom, spiritual leader of Temple Emanuel in Great Neck, has taken an ever-present role in community leadership that has greatly benefited CLASP; and Ann Durham, a long-time board member, was effective in assisting CLASP to obtain its initial funding.

Mr. Speaker, from its humble beginnings in a garage in Great Neck, CLASP has compiled over two decades of success, thanks to selfless individuals who have provided exemplary leadership and resources, and a dedicated parent group and a staff that has consistently sought to bring out the best in its students. I ask all my colleagues in the House of Representatives to join with me today in recognizing and applauding the CLASP Children's Center, and in congratulating CLASP on its 20 years of dedicated service and outstanding success.

TRIBUTE TO WESTMINSTER PRESBYTERIAN CHURCH

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. BROWN of California. Mr. Speaker, today I rise to pay tribute to the Westminster Presbyterian Church of Ontario, CA, which is celebrating its 100th anniversary on April 23.

The Westminster Church has a dynamic history which I would like to share with my colleagues. The Westminster Church was organized in 1895 when Rev. H.M. MacLeod and 58 members established a Presbyterian Church in Ontario. On August 4, 1895, services were held in the first unit of the new church building at Euclid and E Street in Ontario. This new building was formally dedicated on November 9, 1902.

Due to the rapid growth of the church after World War II, the need for a modern and enlarged church building became apparent. Under the leadership of Rev. C. Eugene Barnard and with the approval of the congregation, construction of a new church building began. A groundbreaking ceremony for the present sanctuary was held on June 15, 1958, with Rev. Raymond H. Gordon as interim pastor.

The Westminster Presbyterian Church operates a day care center, which has been its principal mission since the center's inception on October 6, 1969. The day care center building, known as the Christian education unit, was erected under the leadership of Rev. Don Hawthorne in April 1967 and is also used for Christian education on Sunday. Founded and organized by Directors Helen Brewster and Evelyn Hoehn, the day care center cares for approximately 128 preschool children. Over the years, the directors and staffs of the center have met the needs of each child with a spirit of Christian love and genuine concern.

In March 1975, David T. Anderson came from Paisley, Scotland, with his family to assume the pastorate of Westminster Presbyterian Church.

At this time, I would like to pay special recognition to the church's current minister, Rev. David Mote, who has been providing spiritual guidance for members of the Westminster Church since June 1993, and to Joanne McAleer, who recently became the new director of ministries and volunteer activities. Their dedication to their calling is to be commended.

This past year, the congregation participated in a miracle Sunday, collecting pledges of over $200,000 in 1 day, to refurbish the church facility in anticipation of its centennial celebration. In celebration of its anniversary, the church will be having a centennial high tea complete with period costumes and an old-fashioned songfest, tours, an art show, the opening of the church's 1958 time capsule, and refreshments.

Westminster Presbyterian Church has served the community in Ontario for over 99 years. Over the years, former ministers, assistant ministers, and church members have made valued contributions to the church. Although I am not able to mention them all by name, I wish to pay tribute to all who have been involved in the church's ministry over the years.

Mr. Speaker, it is a great honor to come before my colleagues today to recognize the dedication and care with which the Westminster Presbyterian Church has served Ontario and its surrounding communities. I ask my colleagues to take a moment and join me in congratulating the Westminster Presbyterian Church on the occasion of its 100th anniversary.

UNITED STATES-RUSSIAN PARTNERSHIP FOR PEACE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. TRAFICANT. Mr. Speaker, under the United States-Russian Partnership for Peace, the United States made a financial commitment to aid Russia's struggling economy in exchange for Russia's cooperation and compliance with international agreements. A reduced threat and defense burden were the expected outcome of the partnership. But after 12 billion dollars' worth of United States investment in Russia, we are no closer to international arms containment and nuclear nonproliferation.

On the contrary, Russia is the biggest supplier of arms and technology to Iran. To date, Russia has sold Iran three Kilo class submarines, of which two have been delivered;

MiG-29 and Su-24 deep airstrike aircraft, of which several have been delivered; and several hundred T-72 tanks, of which a few hundred have been delivered.

At the same time, China announced a 21-percent increase in its annual military budget, to approximately $7.5 billion. This new Russia-China venture could ultimately alter the balance of naval power in Southeast Asia. With the purchase of 22 new submarines, China would be free to pursue its claims in the South China Sea to Vietnam, Indonesia, Malaysia, and the Philippines.

Furthermore, on January 8, 1995, Russia signed an $800 million contract with Iran to complete two light water nuclear reactors at the unfinished Bushehr nuclear site, as well as attendant training and services. This action by Russia is in direct violation of the international Iran-Iraq Arms Non-Proliferation Act of 1992 (Title XVI of Public Law 102–484). The act imposes sanctions on countries that "contribute knowingly and materially to the efforts by Iran or Iraq, or any agency or instrumentality of either country, to acquire destabilizing numbers and types of advanced conventional weapons."

Similarly, Russia is in possible violation of many other United States laws which prohibit aid to countries that spread arms and nuclear weapons and related technology. The laws include, but may not be limited to: the Foreign Assistance Act Amendments, the Arms Export Control Act, the Export Administration Act, the Foreign Operations Appropriations Act of fiscal year 1994 and fiscal year 1995.

Finally, in the State Department's annual human rights report, Russia was identified as being in violation of international human rights agreements. In the report, Russia was criticized for the horrifying conditions of its jails and the cruel hazing of military recruits. The most serious violations, however, occurred in the Russian military assault on the breakaway republic of Chechnya where massive aerial bombardment of the capital, Grozny, and the dislocation of thousands of refugees "were in conflict with a number of Russia's international obligations." In its most recent action, Russia reportedly has blocked humanitarian assistance to Chechnya by the International Red Cross.

In my judgment, Russia's $800 million nuclear reactor contract with Iran is sufficient evidence alone to cut off United States assistance to Russia. With respect to Russia's human rights violations, let me remind you that China almost lost most-favored-nation [MFN] trade status with the United States, for less.

As a result, I have introduced H.R. 1418, a bill to prohibit all United States foreign aid and military assistance to Russia for fiscal year 1996, unless the President of the United States certifies to Congress that Russia is not exporting any nuclear technology, offensive military weapons, or other military technology. H.R. 1418, however, exempts U.S. aid in the form of humanitarian assistance or assistance for the purpose of dismantling nuclear and chemical weapons.

If Members support offensive military weapons containment and nuclear nonproliferation, I urge them to cosponsor H.R. 1418.

THE SECOND ANNUAL SALUTE TO VIETNAM VETERANS

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. BILIRAKIS. Mr. Speaker, a very special event will be taking place in my district later this month. The Hillsborough County Friends of the Parks and the Veterans Memorial Museum Committee are hosting the Second Annual Salute to Vietnam Veterans at Edward Medard Park.

This weeklong salute is to honor all Vietnam veterans and will include the moving wall. This event is dedicated to Vietnam veterans and their families.

The moving wall is a one-half scale replica of the Vietnam Veterans Memorial in Washington, DC. It is 250 feet long and contains the names of 58,191 Americans killed during the Vietnam war. The wall also includes the names of American servicemembers still unaccounted for.

Eight women are listed among the names listed on the Wall. Seven of them were Army nurses and one was an Air Force nurse. There are also 16 chaplains listed on the memorial. Two of these men were awarded the Congressional Medal of Honor.

The moving wall is a powerful symbol. Hundreds of thousands of people across the country have visited it in or near their communities. I am proud to say that on the previous occasions when it has been displayed in Florida, approximately 300,000 Floridians have visited the moving wall.

As of January 1, 1993, the memorial has been displayed in 315 communities throughout the United States and Canada. In addition, it has been displayed in Puerto Rico and Guam. Requests to have the wall have come from as far away as Australia, Ireland, and Germany.

I would like to take this opportunity to commend the organizers of this great event. It is a stirring reminder of just how blessed we are in the modern world to live in a free society, and will not allow us to forget that this blessing is due to the sacrifices of our friends, relatives, neighbors, and countrymen who served us all when duty called.

For as long as the American soldier stands ready to support his country and its allies, the forces of oppression and injustice will be held in check. For this, the American serviceman—the veteran—must never be forgotten.

CONGRATULATIONS TO ROBERT A. BURT

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mrs. VUCANOVICH. Mr. Speaker, I want to salute Robert A. Burt, a junior at Carson High School in Carson City, NV. Robert Burt was Nevada's winner of one of the 54 Voice of Democracy national scholarships awarded by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. Along with 126,000 secondary school students, he entered the broadcast scriptwriting contest whose theme was "My Vision For America."

I believe his essay states an important theme and shows an optimism that we should all share, and I ask that it be reprinted in the RECORD.

MY VISION FOR AMERICA

(By 1994–95 VFW Voice of Democracy Scholarship program Nevada Winner, Robert Burt, Post 3726, Carson City, Nevada)

America. My vision of this proud and glorious lady is not a dream of highways and skyscrapers, money and influence, but a scene of common, hardworking, honest people. A people who respect their neighbors, honor their families, and stand by their country. My vision of America is of a people and a land who are, as Alexandre Dumas phrased it, "All for one, and one for all."

My America is a place where people are not judged because of money and influence but through the work of their own two hands and intellect. My America is a land free of prejudice and ignorance. In my vision, a poor boy from Harlem will collaborate with the daughter of refugees and the son of white middle class workers in a scientific or on a medical breakthrough of the century. They will work not as individuals, but together as Americans. It will not matter what the participants' social background, or religious faith is, but their work as human beings that will be regarded. It will be a place where tolerance and acceptance of differences is not trampled by fear and hatred.

The America of the future is a place where we know and respect one another. It is a place where neighbors greet each other, a place where parents sit down with children and teach them to read.

America is not a place of "us" versus "them," it is a place of "we." The vision I see is one of a place where people are willing to give of themselves. It is a place where the people carry the spirit of Lexington and Concord, Vicksburg and the Marne, Pearl Harbor and Omaha. The spirit of the men who fought at these hallowed places, is the spirit we must carry. That spirit is not something easily defined. It is part sacrifice, part unwillingness to give up, but mostly, . . . the desire to move forward through cooperation.

It is because of this spirit that the vision I see will surely come to pass. When the odds seem to be too great, we unite, not as blacks, not as Christians, not as refugees, but, as our forefathers did on those cold and distant battlefields so long ago, we unite as *Americans*! We help each other, we serve each other, and if necessary, we die for each other.

It will not take years for my vision to take place. It is happening right now: a teacher in the inner city helping a struggling student; a parent playing with a child; two friends talking, regardless of their race or background. America's future is not dim; it is just beginning to shine! The future lies before us. It is up to us to undertake the journey.

JOE D'ADAMO, WINNER OF THOMAS D'ALESANDRO, JR. GOOD CITIZEN AWARD

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Ms. PELOSI. Mr. Speaker, I rise to honor Joe D'Adamo, the 1995 winner of the Thomas

D'Alesandro, Jr. Good Citizenship Award. Named for the late, great Mayor Thomas D'Alesandro, this recognition is bestowed on Mr. D'Adamo for his contribution to the Italian-American community.

Joseph G. D'Adamo, Sr., was born in Baltimore 66 years ago. While growing up in Little Italy, he went to St. Leo's School. D'Adamo studied at both Baltimore Polytechnic Institute and the University of Baltimore.

D'Adamo worked at the Baltimore Evening Sun for 42 years before retiring in 1987. D'Adamo rose to the position of chief makeup editor where he was responsible for graphics and deadlines. As the Baltimore Sun's restaurant critic for many years leading to his retirement, D'Adamo enjoyed sharing his culinary finds with Baltimore. He still loves food and writing restaurant criticism for the East Baltimore Guide.

Sports has always played an important role in this sports writer's life. Currently, he is the Baltimore correspondent for Sports Illustrated, a position he has held for 25 years. Beyond writing, D'Adamo refereed basketball games for two decades in Baltimore city schools. As commissioner of the Maryland Wrestling Association from 1988 to 1993, D'Adamo was responsible for assigning referees to wrestling meets throughout Maryland. He also coached wrestling at Catonsville Community College and Catholic High.

D'Adamo's involvement with youth also has included 6 years in the Boy Scouts of America. He has served as Scoutmaster of Troop No. 177. These activities naturally led to D'Adamo's service as president and board member of parent-teacher associations at the Catholic High School and Archbishop Curley High School.

He has been active with the Holy Name Society and in 1967, he received the President's Award. D'Adamo is a member of the Little Italy Lodge, OSIA. In 9 years, he has served in a variety of executive positions at the lodge. A proud achievement for D'Adamo is the very successful lodge cookbook, "Let's Cook Italian" which he conceived, edited, and compiled.

Joe is married to the former Anna Giorgilli, also a native of Little Italy and a member of the lodge executive council. They have three children and nine grandchildren.

Mr. Speaker, I am pleased to salute Joe D'Adamo for the honor he has brought to the Italian-American community by his personal, professional, and civic accomplishments. He truly deserves this award for his contributions in the tradition of Thomas D'Alesandro, Jr.

INTRODUCTION OF THE FAMILY FOOD PROTECTION ACT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. BROWN of California. Mr. Speaker, I am pleased to introduce The Family Food Protection Act of 1995 along with my colleague from New Jersey, Mr. TORRICELLI. USDA's recently proposed rule to implement a mandatory Hazard Analysis and Critical Control Point [HACCP] plan was a good first step toward modernizing our meat and poultry inspection system. However, we need to do more.

The meat and poultry inspection of this system needs to be modernized. There is broad consensus that our current system does not adequately address the most prevalent public health problem associated with our meat and poultry supply—microbiological contamination. The Economic Research Service estimates that microbial food contaminants and the foodborne illnesses that result from them cause between 6.5 and 33 million human illnesses and 6,000 deaths annually in this country. While we can debate the actual figures, it is clear that we can and should be doing a better job of preventing these illnesses and deaths.

The problem has been attributed to consumer's failure to prepare meat and poultry products properly. Consumer education is clearly an important way to minimize this problem. However, the problems that have arisen with institutional and retail food preparation and more recently in salami, a ready-to-eat meat product, illustrate the need for a much more comprehensive approach to the prevention of foodborne illness.

The Family Food Protection Act would require USDA to develop microbial testing procedures to control the presence of pathogenic microorganisms in meat and poultry products. It would enable the Secretary of Agriculture to require slaughter and processing plants to adopt processing controls that will ensure the safe handling and processing of these products. The bill also establishes voluntary guidelines for retail establishments to ensure that the food handled and served by retail stores and restaurants is safe for consumers. Under this bill, USDA will have the authority to recall products that are found to be unsafe if the products are not subject to an adequate voluntary recall process. In short, it represents a comprehensive farm-to-table approach to upgrading our meat and poultry inspection system so that the quality and safety of these food products is assured.

Modernization of our meat and poultry inspection system is overdue. Consumer confidence in the quality and safety of our food supply is essential to maintaining a healthy meat and poultry industry, and public health should be protected by a modern science-based meat and poultry inspection system. I urge my colleagues to join Mr. TORRICELLI and I in co-sponsoring this legislation which will provide USDA with the statutory tools necessary to improve and modernize our meat and poultry inspection system.

SALUTE TO HERBERT F. (BERT) BOECKMANN II

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. GALLEGLY. Mr. Speaker, I rise today to honor a selfless philanthropist, a successful businessman, a good friend, and recipient of the 1995 Horatio Alger Award—Bert Boeckmann.

A native Californian, Bert established early in life a commitment to hard work and a spirit of entrepreneurism that have served him well and have endured to this day.

In his early teens, when many of his peers were focused on the simple pleasures of youth., Bert began mowing the lawns, cleaning the basements, and washing the windows of local estates. He later put himself through the University of Southern California by working a weekend maintenance job and the graveyard shift at Lockheed Aircraft.

He took a job as a car salesman at Galpin Ford in 1957 and—less than 4 years later—was promoted to general manager of the company. His leadership ushered in an unprecedented period of prosperity for the struggling dealership, which he acquired in 1968.

Galpin has ranked first in profits among all Ford dealerships for 21 of the past 25 years, which is not surprising given Bert's dedicated leadership and the fact that he has created an environment that encourages his best people to stay with the company. Top Galpin managers have tenures ranging from 17 to 36 years, a nearly unheard of record of commitment in the industry.

But life for Bert has hardly been just about business. A husband and proud father, he has demonstrated time and time again that he cares more about others than he does about himself—that no demand is too great when there are people out there in need of assistance.

In 1991, Bert and his wife Jane joined Secretary of State and Mrs. James Baker in honoring Mother Theresa with the Prince of Peace Prize. Bert also helped raise $1 million in medical supplies, food, and clothing for Mother Theresa's charities.

Two years ago, Bert responded to a desperate plea from Russian farmers for seeds needed to ensure an adequate harvest. Not only did he orchestrate the donation of 56,000 pounds of seeds from several American companies and arrange for their transport by the Department of Defense, Bert and Jane met the transport plane in Russia and personally directed the distribution.

Mr. Speaker, these are only a few examples culled from a lifetime spent serving people. As his friend, I know that Bert is the kind of person who, when faced with a challenge, never wonders whether something can be done. He is the kind of person who is always willing to do whatever it takes to make a difference.

LOBBYIST DISCLOSURE REFORM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MILLER of California. Mr. Speaker, Kevin Phillips has called the Contract With America a "dubious mix of reforms, gimmicks and con jobs."

I call it a "friendly corporate take-over of the Congress" because the new Republican leadership has been encouraging lobbyists to serve as de facto official staff in drafting and amending legislation.

I am not being naive about the existence, or the value, of lobbyists. But with the carte blanche provided them by the Republican leadership, lobbyists can contaminate the legislative process. And they have.

The headline in last Friday's New York Times said it all: Business Leaves the Lobby and Sits at Congress's Table.

Time magazine says that the Republican leadership "has attached its fortunes to private lobbyists, and is relying on their far-flung influence to pass its agenda." Newsweek says that lobbyists are actually writing the bills. And they have it exactly right.

Corporate representatives, individually and through coalitions like the Thursday Group, have been writing whole bills and amendments, with no public review and often without hearings, to serve their clients' narrow interests. Little wonder that the Contract With America has been described as "a triumph for business interests, who * * * find themselves a full partner of the Republican leadership in shaping congressional priorities." The arm-length relationship between lobbyist and legislator has been brazenly abandoned.

The examples are stunning: A committee of lobbyists rewrites the Clean Water Act "to satisfy industry goups like the Chemical Manufacturers Association." Lobbyists, working from a Capitol office, plot the strategy and drafting of bills on regulatory reform and risk assessment. A lobbyist for the Wholesale Distributors develops the strategy on the product liability bill from an office provided by Republicans. A former Republican Congressman is allowed to sit on the committee dais during a hearing on matters affecting his current client.

With all due respect, what is going on here?

I frankly do not know what is more disturbing: that these abuses are occurring, or that the Republican leadership and membership appear unconcerned and unaware that these practices degrade the democratic process.

The American people did not vote last year to turn the legislative process over to lobbyists to rewrite our health and safety laws, our environmental laws, and our tax laws for the benefit of their corporate employers. And the Congress cannot allow this abuse to continue.

Today, I am introducing an amendment to the House rules to require full disclosure of the role of all nonpublic employees in the drafting of legislation, amendments, reports and other products of the legislative process.

I note that Speaker GINGRICH was questioned about the substantial role of lobbyists in drafting the Contract, and replied, "As long as it's out in the open, I have no problem."

My resolution assures that lobbyists' handiwork will be "out in the open," and I think the integrity of the Congress requires that it be adopted without delay.

REPORT ON HAITI

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. RICHARDSON. Mr. Speaker, I commend to my colleagues a report drafted by Congressman JACK REED. The report: "The Situation in Haiti—March 1995" is an excellent overview of what the United States has managed to accomplish since United States troops were introduced in Haiti in order to help restore democracy. The report also looks at Haiti's immediate future and provides insight into what can be expected in Haiti after the departure of many of the United States military personnel currently on duty there. Perhaps most important, the Reed report serves as an excellent primer on the security situation in Haiti, future United Nations involvement in Haiti, attempts to create a new Haitian police force, the re-creation of a justice system, the prospects for fair and open elections, and the outlook for economic development in Haiti.

Congressman REED wrote his remarks after a recent second visit in Haiti. Last year, JACK REED and I travelled to Haiti together. At that time, I found his perspective there to be very helpful. As a former company commander in the 82d Airborne Division, Army Ranger, and West Point graduate, JACK REED has the ability to look at a foreign policy problem from a soldier's point of view. JACK REED also is not afraid to do some heavy lifting when it comes to forming his own opinions. In the last few years, in addition to his trips to Haiti, Congressman REED traveled to Somalia twice and to Bosnia. After each trip, Representative REED sits down and drafts a report on what he learned from his travels. I ask that a summary of his most recent report, "The Situation in Haiti—March 1995" be printed in the CONGRESSIONAL RECORD. Members interested in reviewing the complete text of Congressman REED's report should contact the Congressman's Capitol Hill office.

THE SITUATION IN HAITI—MARCH 1995

(By Congressman Jack Reed)

INTRODUCTION

On March 10 and 11, I travelled to Haiti with a Congressional delegation led by Benjamin A. Gilman, Chairman of the House Committee on International Relations. The particular focus of my efforts was to assess the security posture of Haiti in light of the scheduled transition from the American-led Multi-National Force (MNF) to the American-led United Nations Mission in Haiti (UNMIH). Based on this assessment, a further evaluation of the prospects for developing a stable, democratic government in Haiti may be made.

AMERICAN MILITARY FORCES

As an initial point, the superb performance of American military personnel must be recognized. The skill, discipline and professionalism of the American forces are in keeping with the highest standards of our Armed Forces.

Outstanding leadership has been demonstrated by the principal commanders, including, but not limited to, MG George Fisher, Commanding General of the 25th LID, BG Paul Hill, the Assistant Division Commander of the 25th LID, and COL Charles Swannack, Commander of the 2d Brigade of the 25th LID.

The success of United States military forces is also attributable to the effective working relationship with the American embassy. Ambassador Swing is a consummate professional who continues to provide great leadership in a demanding situation.

SECURITY SITUATION

The assessment of the principal commanders and soldiers in the field is that there is no organized, military threat to the MNF or UNMIH. Sporadic violence exists, but it does not appear to be based on political motivation, rather it stems from criminal activity or domestic violence.

MG Fisher is confident that he has effectively accounted for all members of FAH'D (the former Haitian army/police). These individuals are part of the Interim Police (after proper vetting), employed by other ministries of the Haitian Government, or involved in public works programs.

In addition, there does not appear to be large scale stocks of military weapons which potentially could arm a dissident force. Shotguns and handguns are prevalent in private hands, but are increasingly rare on the streets.

Evidence of the improved security situations was obvious in my nighttime patrol of Port au Prince with COL Swannack. We observed several roadblocks being conducted by elements of the 2d Calvary. In the course of the evening, these control points stopped several hundred vehicles and no weapons were found.

The present, tranquil situation should not be allowed to mask continuing and fundamental tensions within Haitian society which could, in the absence of international forces or a capable local police, explode into destabilizing violence. Nevertheless, at this juncture, there does not seem to be any potential military threat to the transition to UNMIH. Although there is speculation that opponents of democracy may try to test UNMIH after the departure of MNF, the large and continuing presence of American personnel and the continued leadership of MG Kinzer significantly diminishes this potential.

From a security standpoint, the next critical crossroad is the scheduled departure of UNMIH in February of 1966. The ability of UNMIH to successfully depart and, conversely, the ability of the Government of Haiti to function without a large, international military present is dependent upon the accomplishment of several critical tasks. The major challenges that must be met are: (1) the creation of a professional and non-political police force, (2) the successful conclusion of scheduled elections, (3) the reform of the judicial and prison systems and (4) the initiation of sustainable economic development.

POLICE FORCES

Having visited Somalia twice during the recent deployment of United States personnel, I am particularly sensitive to the need to create a credible, stable and democratically oriented police force. In Somalia, the failure to even begin this effort was one of the major contributing factors to the overall failure of the mission there.

Efforts to date indicate that MNF and UNMIH are trying to avoid this mistake. The MNF quickly stood-up an Interim Police ("IPSF"). These police were culled from vetted members of the FAH'D and from Haitians in Guantanamo. They received six days of training. Their role is carefully circumscribed so that they do not operate independently of MNF forces and the International Police Monitors ("IPM").

The IPSF will be a bridge to a new permanent police force which is currently in training. Unlike the IPSF, the permanent police force has been recruited to avoid former members of FAH'D.

The MNF has established rigorous selection criteria and a demanding training program for the permanent police. Contrary to tradition, candidates for the permanent police were selected by both physical and academic examinations. The MNF specifically rejected the "recommendations" of local political leaders. The initial pass rate was 9% for the first exam (661/7,736). The pass rate is 19% for the current exam (164/868).

Although an impressive start has been made to constitute an effective police force, key questions remain. Primary among these questions is the command structure. Aristide has indicated that he would like the police to be controlled by local mayors, but with a national "Director General" who would be charged with overall supervision of the police. Since the police will emerge as the only effective armed force in the country, the control of the police will be a critical decision. A police solely under the control of a national leader could quickly come to dominate the political scene. On the other hand, local control could lead to multiple power bases throughout the country with the potential for conflict. Careful thought should be given to the command relationships of the police.

In a related point, Aristide has indicated that he does not favor the recreation of an army. If no army is created, then the permanent police will likely have to be expanded to take on the tasks of border patrol, customs collections and other functions that are carried out by uniformed forces.

The decision has been made to provide strong economic incentives to attract the best candidates and to ensure as much as possible that the police avoid corruption. As such, police are scheduled to receive compensation on the order of $365 a month which is roughly the annual per capita income of Haiti. This raises the possibility of creating an economic elite. Nevertheless, the alternative of an inadequately paid police raises the possibility of a quick reversion to the corruption of the police which existed under previous regimes.

THE SYSTEM OF JUSTICE

Closely related to the need for an effective police force is the necessity for effective judicial and penitential systems.

The judicial system is plagued by corruption, incompetence and archaic procedures. The result is a system where a prisoner can languish in jail for five years before he even sees a judge for a preliminary hearing.

The penal system is equally in disarray. I visited the jail adjacent to the police station in Petionville. Under the direction of United States military police, the jail had been cleaned and reorganized. On their arrival, it was filthy with inadequate sanitation. There was no real accountability of prisoners nor even rudimentary programs to maintain the health of the prisoners. The entire penal and judicial system has to be overhauled.

Since a fundamental reform of the Haitian judicial system may require a change of the Constitution, I asked President Aristide if he would support such efforts. He indicated strong support for such changes and spoke passionately in decrying the current shortcomings of the judicial system.

THE CONDUCT OF ELECTIONS

The credibility of the Haitian government and the international community will be decisively tested by the outcome of scheduled elections. At this time, parliamentary elections are scheduled for June 4, with a run-off scheduled for June 25. The national election to select the next President to succeed President Aristide is scheduled for December with the new President to assume office in February of 1996. (UNMIH will depart in February, 1996 coincident with the installation of the new President.)

The elections provide a daunting political as well as logistical challenge. Over 9,000 polling booths and 30,000 to 40,000 election officials must be organized. All of this in a country where communication and transportation are severely limited and the potential for violence is persistent.

To deal with these challenges, MG Kinzer will redeploy UNMIH forces to specifically prepare for the elections.

Another good sign for the election is the presence among the UN staff of Mr. Dong [phonetic] who has direct UN responsibilities for the election. Dong is a veteran of the Haitian elections in 1987 and 1990. Coincidentally, the Nepalese contingent commander just finished providing security for elections in Nepal. He brings immediate experience and expertise to the UN effort.

Successful conclusion of the parliamentary elections will be a significant first step in developing a stable political system. In addition, it will provide the institutional framework of a functioning parliament necessary to continue reforms in Haiti, particularly with regard to the judicial and penal systems. Finally, it will set the stage for the Presidential election in December. If the parliamentary elections fail, then the Presidential elections are likely to collapse also. This development could mortally wound efforts to restore democracy to Haiti, embarrass international efforts, and create a power vacuum which could see the continuation of President Aristide beyond his Constitutional term or the reemergence of anti-democratic forces.

ECONOMIC DEVELOPMENT

If UNMIH can stand-up a police force, help reform the judicial and penal systems, and broker successful elections, then Haiti can focus on the persistent and excruciatingly difficult task of sustained economic development.

Initial plans call for an international aid package of $1.2 Billion with the United States responsible for $200 Million.

This package recognizes that the United States should not bear the lion's share of the cost. Despite the outline of this aid package, actual donations have not been readily forthcoming.

The most visible aid program in Haiti at the moment is a jobs program run by USAID. This program puts Haitians to work on public works projects. The program is short-term and there is an ongoing debate on whether the program has reached the employment goals originally outlined to the Aristide government. Recently, a longer-term effort was announced by the signing of an agreement to create a credit facility with the Bank of Boston guaranteed by OPIC. This $68 Million facility will provide credit for businesses to locate in Haiti. Outside of these notable efforts, the development effort continues to lag.

Without adequate international aid and a coherent plan, economic development will not occur and the ultimate goal of a stable, market-oriented democracy will be frustrated. However, the task of economic development cannot be accomplished without effective action by the Haitians themselves. At present, the Aristide government is concentrating on four major issues: macroeconomic stabilization, trade liberalization, privatization of state-owned enterprises, and decentralization of government operations.

As part of the macroeconomic stabilization, the government is attempting to reform its tax policy. Present reform efforts are limited to increasing the rate of collection. Last year, collections represented 3.3% of GDP. The Haitian government has committed to the IMF that it will raise collections to 6.5% of GDP. Nevertheless, these figures are well short of 12% of GDP which is accepted as an international benchmark.

THE UNITED NATIONS

As the MNF departs and UNMIH assumes responsibility, it is appropriate to raise some cautionary points.

First, the presence of USAID and numerous NGO's indicate the UN coordination role should be handled by a minimal number of personnel. It would be a misuse of resources and a potential political liability if the UN effort was portrayed as an expensive and expansive operation.

Second, the current care and comfort of the troops is of the highest order.

Third, it seems that the aviation assets for UNMIH are unduly limited. Helicopter lift capacity is an extraordinary multiplier of military effectiveness in a country like Haiti.

Fourth, there is a huge need for basic infrastructure repairs and a complementary need to put Haitians to work. Both of these objectives can be served by civic action with UNMIH forces.

CONCLUSION

Through the leadership and skill of the MNF, Haiti enjoys a degree of public security and civic peace which is rare in its tumultuous history. An opportunity exists for fundamental economic and social reforms. The leading edge of these reforms is the successful completion of scheduled elections followed by governmental reforms of the judicial and penal systems. Undergirding these efforts is the constant imperative of economic development to sustain a viable democratic process.

Based on my observations, the transition from the MNF to the UNMIH is likely to be uneventful. The continuing strong United States presence in UNMIH is also likely to ensure a stable security environment through February 1996 when the UN mandate ceases.

After February 1996, the outlook is not so clear. So much depends on the confidence building steps of successful elections and the effectiveness of international aid and local economic reforms. I harbor a degree of skepticism that a society without a strong tradition of political participation and market economics can, in a short time build institutions that will endure, even if the international community makes good its promise of support.

After February 1996, I would not anticipate a dramatic uprising. Rather, the greatest danger would be a return to the corruption that dominated previous regimes; corruption that would gradually undermine reform efforts, frustrate economic progress and invite an abandonment of the democratic process.

The United States, as the leader of the international community, has taken a decisive stand against an illegal military dictatorship in the Hemisphere. It has restored a democratically elected government. It has purchased time to build a stable society. But ultimately, the fate of Haiti is in the hands of the Haitian people. In the next few months, the international community has the opportunity to give the people of Haiti a chance to forge a more decent and productive future.

JOB CREATORS

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. FORBES. Mr. Speaker, we in Congress are obligated to protect the interests of our small businessmen and women. These job creators make enormous contributions to the local economy on eastern Long Island. As a Member of Congress, I will always champion the cause of small business.

The recent cap levied on travel agency commissions could devastate small business. Most travel agencies are small businesses and a significant source of employment and tax revenues for our area. I am concerned about the outrageous action taken against the travel industry. Moreover, the impact on consumers will be harmful.

I have set up a meeting with Anne Bingaman, Deputy Attorney General for Antitrust, to express my outrage and request that the Justice Department take a more active role in investigating this situation. I will be very involved in fighting to restore fairness to the travel agents.

Following is a recent article that ran in the New York Times, describing this problem:

[From the New York Times, Mar. 29, 1995]

SOME AIRLINES BREAK RANKS OVER FEES PAID TRAVEL AGENTS

(By Adam Bryant)

Several airlines, following in their long tradition of breaking collective decisions, are already starting to chip away at the industry's recent move to cap commissions for travel agents.

In early February, in a bid to cut costs, the airline industry imposed a maximum commission of $50 on a round-trip domestic ticket. But some carriers—including Delta Air Lines, the pioneer of the limit on travel agent fees—are now offering new backdoor financial incentives that reward bigger agencies for exceeding sales goals. These moves mean some airlines are effectively giving back some of the money they said they would save when they announced the caps. Before the cap, airlines generally paid travel agents a 10 percent commission on the price of ticket.

"Continental wants all of your high-yield business—and we'll pay you for it!" reads a flier that Continental Airlines sent recently to only about one out of 10 of its travel agents. Continental, in outlining its new "Fast Cash" program, offered a $50 "bonus payment," in addition to existing incentive programs, for costlier round-trip tickets on transcontinental flights.

Similarly, travel agents said sales representatives from Delta had visited them recently with new contracts that offered extra payments for swinging business the airline's way.

Given the fiercely competitive nature of the business, other airlines will probably follow the lead of Continental and Delta. Except for Continental, the largest airlines declined to comment yesterday on whether such incentive programs were in place or were under consideration.

There are many implications of this new wrinkle in the way airlines compensate travel agents.

Perhaps the biggest losers will be smaller travel agencies, which often lack the volume of business to win extra payments. And some travel agents warn that the new incentives, if they spread, may force them to act against their customers' best interests by steering them to a certain airline. "People trust travel agents, and travel agents can influence some people's choices," said Blake Fleetwood, president of Planetarium, an agency in Manhattan affiliated with American Express.

Some travel agents, including Mr. Fleetwood, had predicted that the airlines would have trouble making the cap stick. History was certainly on their side. In 1983, for example, Delta, Eastern and United refused to go along when American Airlines and Trans World Airlines lowered their commission rates.

To the extent the cost savings that airlines had expected shrink, the latest moves could affect the stocks of a number of carriers. The stocks of several airlines jumped several points last month after they announced in rapid succession that they would follow Delta's lead in capping commissions for domestic tickets.

"This was viewed as a fundamental change in the industry," said Julius Maldutis, an airline analyst at Salomon Brothers. But now that at least some of those touted savings are going to be returned to travel agents, it "is going to cause investors to pause and rethink their exuberance," he added.

The American Society of Travel Agents said that such incentives would hurt smaller agencies the most because they were not being given the opportunity to make up the revenue they expected to lose because of the commission caps. The new caps angered thousands of agents who said the cuts would devastate their industry.

"It does appear that the airlines were essentially winking at some of the larger travel agent partners when they made their original announcement," said Steve D. Loucks, a spokesman for the travel agents' trade group. "The playing field is far from being level."

The Justice Department signaled its concern about such incentive programs in late 1993 when it announced that it was investigating Delta's deals with travel agents in Salt Lake City and the effect of those deals on a smaller competitor, Morris Air. That investigation has since been dropped, but the department said yesterday that it was continuing to investigate the possibility of socalled exclusionary practices, like extra commission incentives, by airlines that dominate certain cities.

Airlines have had difficulty making other industry-leading initiatives stick. The main reason is that every extra fraction of market share is so important to each airline that they often break away from the pack in the hope that they will gain a competitive advantage. That is one reason why America West and Southwest Airlines still offer travel agents a 10 percent commission.

American Airlines learned this lesson in 1992 when it tried to establish a new, simplified fare structure that it called Value Pricing. Many airlines immediately followed, but others did not, and the new system crumbled.

The fallout of the effort, however, offers a parallel to the current capping of commissions. The simplified fare structure from 1992 wiped out the earlier deals for discounted tickets that big corporations had made with airlines. Corporations insisted on restoring some kind of discount, but the break with the past gave the airlines an opportunity to negotiate new pacts.

Similarly, many large travel agencies have complained to some airlines after the recent capping of commissions that they need a way to make up the reduced revenue while others began charging fees to ticket purchasers to make up some of the loss. An executive at one major carrier, who asked not to be identified, said his airline was negotiating new contracts with those agencies whose support it needed the most.

CANDIS "CANDY" SNIFFEN

HON. G.V. SONNY MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MONTGOMERY. Mr. Speaker, on March 28, 1995, I had the bittersweet experience of saying goodbye and thank you to Candy Sniffen who retired from more than 25 years of exemplary service on the Veterans' Affairs Committee staff. I say bittersweet because, although Candy was looking forward to a well-earned period of comparative peace and quiet, I know that her extraordinary skills, deep dedication to veterans, and expansive knowledge of veterans' legislation and programs are nearly irreplaceable.

Candy worked with Mack Fleming, who recently retired as chief counsel and staff director of the committee, for 21 years. I want to stress that Candy worked with Mack. Theirs was a remarkably effective and professional partnership, and Mack would be the first to say that Candy was indispensable to him, both as a valued colleague and as a trusted friend. When I was told that Candy and Mack were going to retire at the same time, it seemed somehow very appropriate to me.

During her long tenure with the committee, Candy worked under five chairmen—Olin Teague, Bryan Dorn, Ray Roberts, BOB STUMP, and me. As you can imagine, dealing with these very different individuals was a challenge, but Candy met this challenge with great grace, and I am grateful that I had the benefit of her support and assistance for more than 14 years.

As a working mother, Candy somehow managed to balance all of her responsibilities and excel at all she did. At the same time she was training at least two generations of committee staff and keeping Mack on target, she also raised two beautiful daughters and contributed an enormous amount of time to her church.

Lest anyone think of Candy only as a solemn do-gooder, I am told she did a very funny Dolly Parton imitation and knew many ways to bring amused smiles to the faces of her fellow staff members. Candy's lightness of heart and quick wit frequently served to lessen the tension during stressful and sometimes very long days and endeared her to her colleagues.

Candy lived out and acted on her deep, sincere concern for other people—both in her professional and her personal life. Her spirit of caring and compassion, her professionalism, and her can-do attitude touched and improved the lives of countless individuals—many of whom will never know how much Candy Sniffen contributed to their well-being. On their behalf, then, and on behalf of the other members of the committee, I want to say thank you to Candy Sniffen for her dedication, her high principles, and her strong character and to wish her well in her future endeavors. Our world is a measurably better place because of her ideals and commitment.

TRIBUTE TO THE HONORABLE BEVERLY SAVITT

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Ms. WOOLSEY. Mr. Speaker, I rise today to honor one of my district's most dedicated public servants, Marin County Superior Court Judge Beverly Savitt. In 1983, Judge Savitt became the first woman to serve on the Superior Court bench in Marin County.

She has served the people of Marin County well in this capacity and earned the reputation for streamlining and humanizing the county justice system.

Judge Savitt earned her law degree at Boalt Hall School of Law at the University of California at Berkeley. She and two other attorneys formed the first all female law firm in the country. She has contributed her time and energy to the education of lawyers and judges, particularly in the area of family law.

As we celebrate Beverly Savitt's years of service to this community, I wish to recognize Judge Savitt for her commitment to the people of Marin County, and to thank her for her long record of public service. She has been a role model for women and a founding member of many organizations devoted to empowering women. She helped start the California Women Lawyers, the Marin Chapter of the National Women's Political Caucus, and the Center for Families in Transition. She has been very active in the Marin County Chapter of the League of Women Voters. Beverly Savitt has also served as Vice Chair of the Juvenile Justice Commission. She helped restructure the grand jury selection process and developed a questionnaire that is still in use today.

Beverly Savitt has been instrumental in planning and implementing changes that improve the quality of justice in Marin County. She initiated a new method of handling family law matters and promoting alternative dispute resolution. I continue to be impressed by her dedication and vision. Her latest achievement was being elected into the Marin Women's Hall of Fame this year.

Beverly and her husband, Jack, have been married for 48 years and have a son and daughter, both married. They live in Belvedere.

Mr. Speaker, it is my great pleasure to pay tribute to Superior Court Judge Beverly Savitt upon her retirement. Marin County owes a great deal of gratitude for the tireless efforts of Judge Savitt over the years. Time and time again she has extended herself on behalf of so many people and for so many causes. I extend my hearty congratulations and best wishes to Beverly and to Jack for continued success in the years to come.

TRIBUTE TO HUGH LYNN ANDERSON

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. PASTOR. Mr. Speaker, I rise today to recognize and congratulate the Arizona Agriculture Committee's 1995 Friend of Agriculture award winner, Hugh Lynn Anderson.

An Arizona native, Mr. Anderson has been a rancher, farmer, and community leader for over 50 years. His career in agriculture began at a young age while working on his parents' ranch in Adamana, AZ. He later attended the University of Arizona and received his bachelor of arts degree in animal husbandry and range ecology in 1934. After working for the U.S. Department of Interior and Agriculture, he moved with his wife to Maricopa County where they purchased a 1,900 acre ranch.

Throughout his life, Mr. Anderson has played an active role in community and agriculture-related organizations. He has served as the president of the Arizona Cattle Growers' Association, director of the Arizona Cotton Growers' Association and the Maricopa County Farm Bureau. He has also served as a mediator for the State land commission during the implementation of the Taylor Act. I am proud to know Mr. Anderson as a friend, and it is my pleasure to recognize his outstanding achievements and contributions to the people of Arizona.

A TRIBUTE TO LT. COL. MARY KRAWEC COX

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. FAZIO of California. Mr. Speaker, I rise today to pay tribute to Lt. Col. Mary Krawec Cox, who will retire effective July 1, 1995, after 26 years of dedicated service to the U.S. Air Force. Lt. Col. Cox has been the Chief, Primary Care Clinic, USAF Clinic, McClellan AFB in Sacramento, CA, for the past 6 years.

A native of West Roxbury, MA, Lieutenant Colonel Cox graduated, Emmanuel College, Boston, MA, BA degree in biology; Columbia University, New York, NY, BS in nursing; University of Minnesota, Minneapolis, MN, masters degree in public health. Her first job as a registered nurse was in labor and delivery, Kaiser Foundation Hospital in San Francisco, CA, October 68–May 69.

She began her Air Force career as a 2d Lieutenant, staff nurse, labor and delivery, Wilford Hall Medical Center, San Antonio, TX, May 69–70. Her Air Force career has taken her To Tachikawa, Japan, staff nurse, labor and delivery, USAF Hospital Tachikawa, March 70–March 72. Aibuquerque, NM, charge nurse, labor and delivery, USAF Hospital Kirtland AFB, NM, March 72–July 75. Minneapolis MN, USAF nurse recruiter, July 75–Sept 78. Mather AFB Hospital, Sacramento, CA, health education coordinator, June 79–June 85. Adana, Turkey, primary care nurse practitioner, Incirlik Hospital, June 85–Oct 86. Sacramento, CA, Mather AFB Hospital, primary care nurse practitioner, Oct 86–July 89, and McClellan AFB, chief, primary care clinic, July 89–Dec 94. Fairborn, OH, Wright-Patterson AFB Hospital, investigator-Desert Storm medical evaluations, January 95–May 95, and McClellan AFB, CA, June 95.

Lieutenant Colonel Cox has received several distinguished honors through her career. Tri Beta Biology Society, Sigma Theta Tau National Honor Society of Nursing, Meritorious Service Medal, Air Force Commendation Medal, Chief Nurse Insignia, California Air Force Association Meritorious Service Award, California AFA Outstanding Performance Award, and Mather AFB Nurse of the Year Award.

She has served with the American Heart Association, AHA Speakers Bureau, Greater Sacramento Hypertension Council, Chairman-Consumer Health Education Program Advisory Committee, Member-Medical Advisory Board: Sierra-Sacto Hypertension Council and McClellan AFB Health Consumer Education Committee.

The extraordinary leadership, outstanding dedication, and ceaseless efforts of Lieutenant Colonel Cox culminate a distinguished career in the service of her country and reflects great credit upon herself and the U.S. Air Force.

THANK YOU, CORINNE MARTIN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. BARCIA. Mr. Speaker, we each have the good fortune to encounter many talented and devoted people during our lives. Occasionally we have the very rare treat of being associated with someone so special that we should constantly give thanks for our good luck.

I have had such a rare opportunity in my association with Corinne Martin, who had served as the executive assistant to the city manager of Bay City, MI, and in the city attorney's office, the city clerk's office, the planning office and the personnel office. Her efforts significantly contributed to the betterment of the lives of thousands of Bay City residents over her term of service.

Corinne Martin has earned the respect of her colleagues, Bay City officials, and Bay City residents for her sense of professionalism and for her exemplary integrity. Her demonstrated capability to draft public proclamation for important local events have significantly contributed to the sense of understanding of our community and the appreciation of its history.

Her absence from city hall has been noticed by those of us who appreciate and respect her years of service. I know that her retirement has been a happy one, and that she continues to find new ways to be of help to her community.

Mr. Speaker, I invite you and all of our colleagues to wish Corinne Martin the very best after her many years of devoted, conscientious, and outstanding public service to the people of Bay City.

TIME TO ENERGIZE AND RENEW THE WAR ON DRUGS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. SOLOMON. Mr. Speaker, the time has come to refocus our sites on the No. 1 problem in this country, drugs. Today, I am submitting into the RECORD a recent statement by Bill Bennett and John Walters entitled "Renewing the War on Drugs".

Fortunately, the public has more sense than to believe the nonsense being sent out by the Cato Institute and other pro-legalization organizations. They would have us believe that since we have failed to make progress, as measured by them, it is time to give up the fight. For the sake of our children and our grandchildren we must never, never give up.

As the war on drugs goes on, it may be appropriate to remember the words of one of our greatest Presidents as he reassured the American people: "* * * the crisis we are facing today * * * requires our best effort and our willingness to believe in ourselves to believe in our capacity to perform great deeds, to believe that together with God's help we can and will resolve the problems which now confront us. After all, why shouldn't we believe that? We are Americans."—President Ronald Reagan.

As Americans we must win and we will win the war on drugs. As a Marine I can assure you that you don't win a fight, battle or a war by giving up.

The most serious problem with legalization is that it will hurt those communities who can least afford a significant increase in the number of addicts, violence and crime. But do the libertarian elites at the Cato Institute or the wealthy Hollywood cocaine users in Hollywood really care about this community? Don't kid yourself, they couldn't care less about the damage legalization would do to the inner-city poor so long as it helps them justify their self-centered and self-indulgent lifestyles.

They know legalization would be luckly to get more than three votes in the House or even one in the other body. Legalization was jettisoned with Joyclyn and is not coming back. However, it is useful if your real purpose is to influence young people to try and use drugs.

The message the American voters sent Washington last November had nothing to do with surrending the war against drugs. On the contrary, the public wants a Congress willing to stick with and win the war on drugs. This Congress should consider and enact the bold strategy for winning the war on drugs developed by past Drug Czar Bill Bennett:

First, empower and demand action from the largely irrelevant White House Drug Policy Office; second, place economic sanctions against drug exporting nations; third, transfer control of drug interdiction to the military; fourth, identify and dismantle drug trafficking organizations; fifth, block grant drug enforcement funding; sixth, demand some Presidential leadership in the War on Drugs; seventh, close open aid drug markets; and eighth, expand drug testing programs.

These are some of the legislative approaches we should move to enact when the Congress reconvenes. It is time to prove to the American people we are serious about winning the war on drugs and we now have the votes to make these accomplishments.

EXPAND DRUG TESTING IN THE PRIVATE SECTOR

I will soon be introducing legislation to make it easier to drug test in the private sector. I will also be offering amendments to the appropriations bills requiring drug testing of all applicants for employment with the Federal Government, including summer employment and random testing of all Federal employees. These amendments were narrowly defeated in the last Congress. We now have the votes to enact these provisions.

DENY STUDENT ASSISTANCE AND SUMMER JOBS TO DRUGS USERS

I will also be offering an amendment to the Higher Education Reauthorization Act to deny loans or grants to anyone convicted of using drugs. This amendment was narrowly defeated in the last Congress. We have just begun to use the tools at our disposal to win the war on drugs. What we have run out of is tolerance for policies which have failed.

END TAX EXEMPT STATUS TO DRUG LEGALIZATION ORGANIZATIONS

Today I am introducing legislation to end the tax exempt status of organizations which promote or advocate the legalization of drugs. I would ask all of my colleagues to join in sponsoring this bill. I will offer this as an amendment to the first appropriate vehicle.

The American family, trying to raise their children in a drug free environment, is under attack by organizations, which actually promote the use of illegal drugs. To make matters worse, these organizations receive favorable treatment under our laws. This is dead wrong and our Tax Code must be immediately corrected to end this travesty.

The pro-legalization message being sent out by these organizations is providing results. More kids are involved with drugs than anytime in the past 20 years. Consequently, the number of addicts on our streets will rise dramatically within a few more years. These organizations are not charitable organizations. Just the opposite. They are organizations which deliberately deceive the public and the media by using legitimate sounding names such as the Drug Policy Foundation, or the Organization for Responsible Drug Information. Yet, they are financed and run by people who advocate or condone the use of illegal drugs.

Mr. Speaker, I would also point out that these organizations have knowingly and willfully violated our laws by actively lobbying Congress. Officials from the so-called Organization for Responsible Drug Information has contacted my office to state their opposition to my drug prevention legislation and I received a flyer just today from the Cato Institute advocating drug legalization. Who is contributing to Cato? These organizations and the individuals involved with them are violating United States Tax Code. They need to be investigated and their contributors should be required to pay taxes on past contributions.

PLAYING ABC NEWS LIKE AN OLD FIDDLE

A pseudo new report airing tonight on ABC entitled "America's War on Drugs: Searching for Solutions" fails the most fundamental journalistic standards by portraying pro-legalization groupies as so-called "experts." The public relations efforts of these concerns come right out of a Dale Carnegie book and the news media is certainly giving them credibility. Whether duped or receptive the media in this country is influencing a generation to try drugs. Consequently, a higher percentage will try and never stop. Their lives and the lives of their families will be destroyed.

We have come to expect little more than violence, sex, and the glamorization of drugs from Hollywood but the news media should have a higher standard. I am submitting into the RECORD a statement by John Walters entitled "Tonight only; ABC Does Drugs". We would be doing the young people in this country a service a favor by requiring ABC news reporters and executives to take drugs—truth serums.

WORST OF THE WORST—DRUG POLICY FOUNDATION—DECEPTIVE, SINISTER AND SEEDY

The time has come to expose some of these more sinister organizations and the seedy individuals involved with them for what they really are * * * organizations engaged in immoral and unethical activity operating in the gray area of the law. They are sending a damaging message to the young people in this country and our tax law needs to more accurately reflect American people's tolerance level for this type of activity. The IRS has already threatened to revoke NORML's tax-exempt status for illegal activity. This is a step in the right direction.

THE TRUTH ABOUT THE DRUG LEGALIZATION IN THE NETHERLANDS

What pro-legalization organizations refuse to disclose about the disastrous human consequences which have occurred in the country where they have already tested legalization tells you a lot about their true intentions. You will never hear the truth about the failure of drug legalization in the Netherlands from Drug Policy Foundation.

According to the President of the Dutch National Committee on Drug Prevention, K.F. Gunning, M.D. crime and drug use has skyrocketed since legalization was implemented in the Netherlands. According to the Dutch Government, the results of their decriminalization/legalization drug policy has resulted in: A 250 percent in drug use since 1993; a doubling of marijuana use by students since 1988; armed robberies up by 70 percent; shootings are up by 40 percent; and car thefts are up by 60 percent.

The number of registered addicts in the Netherlands has risen 22 percent in the past 5 years. There were 25,000 new addicts in 1993 alone. Furthermore, the number of organized crime groups has grown from 3 in 1988 to 93 in 1993. The drug legalization has had a disastrous effect in the country where it has been tested.

CLINTON'S LEGACY, A DRAMATIC INCREASE IN DRUG USE AND DRUG VIOLENCE

Mr. Speaker, President Clinton is not going down in history for any great domestic policies or strides in economic improvement. Certainly, he isn't going to be known for any diplomatic or human rights breakthroughs. The only measurable difference the American people have witnessed during his tenure in office is that the crime and drug situation dramatically worsened. The crime and drug statistics will speak for themselves in 1996.

Today, 1 out of every 10 babies born in the United States is addicted to drugs. How can anyone honestly believe that selling drugs is a nonviolent crime when even newborns are the victims. And under this President's watch, according to the 1994 University of Michigan study of 50,000 high school students, drug use is up for all grades. These numbers reveal that drug use is up in all these grades for crack, cocaine, heroin, stimulants, LSD, and marijuana.

And let's face the facts about violence in this country. Drug users and drug pushers are responsible, directly and indirectly, for most of the violence in this country. According to the Partnership for a Drug Free America, drug use is related to half of all violent crime. Illegal drugs play a part in half of all homicides. In fact, over half of those arrested for homicides in this country test positive at the time of arrest.

Drug use is a factor in half of all family violence and most of this violence is directed against women. And over 30 percent of all child abuse cases involve a parent using illegal drugs. The Nation's health care system is straining from the war on drugs with nearly 500,000 drug-related hospital emergencies a year. Yet, under President Clinton's term in office, these visits continue to escalate. In fact, drug-related emergency room visits are up 8 percent over last year.

LEGALIZATION POSES GREATER HEALTH RISK FOR BLACKS AND WOMEN

Most of the new AIDS cases in this country are women. Legalization in the Netherlands led to a dramatic increase in the number of addicts in that country. More addicts translates into more intravenous drug users and more prostitution. An increase in the number of addicts in this country will translate into an increase in drug-related AIDS deaths for women.

Drug dealers and drug users are financing the violence which permeates many of the cities, towns, and schools of this country.

CRIME, VIOLENCE—DRUGS—THE COMMON DENOMINATOR

Mr. Speaker, I would simply conclude by quoting the Chairman of the Partnership for a Drug Free America, Mr. James Burke, "We cannot and will not make progress with crime, violence or other ills until we make a long-term commitment to addressing a common denominator in so many of these problems—drug abuse."

RENEWING THE WAR ON DRUGS

(By William J. Bennett and John P. Walters)

Through its indifference to rising drug use and its erosion of the moral and governmental foundations of the successful anti-drug efforts of the past two administrations, the Clinton Administration has put the nation on a dangerous path. The President bears the principal political responsibility for this record. And only he can use his office to begin to correct it. Congressional leaders in both parties should give him every possible incentive to do just that. If the Clinton Administration does not see the light, it should feel the political heat.

As the past two years demonstrate, the nation cannot sustain an effective anti-drug effort without leadership. Congress, governors, mayors, and community leaders, need to meet this challenge. There are specific roles to fill for federal, state, and local governments, as well as the private institutions that support our families and communities.

RESTORING EFFECTIVE FEDERAL ACTION

The cornerstone of national anti-drug efforts is to give force to the principle that drug use is wrong, harmful and will not be tolerated. This principle should be embodied in the institutions of society, which, in turn, should be organized to give force to that principle. Without the federal government doing its part, this endeavor will be much more difficult.

First, while efforts by the federal government are not sufficient, they are a necessary element of an effective national anti-drug effort. Executive leadership begins with the President and his appointees in relevant executive agencies. The White House drug policy office was created—at the insistence of a Democratic Congress—to organize and lead the war on drugs. Right now that office is not doing its job, and the Clinton Administration has made it largely irrelevant. The President should give someone the responsibility and the authority to get the executive branch, and the federal government, back in the fight.

Second, the world headquarters for the cocaine industry is Colombia. The era of meaningful partnership with that government has ended. And there are reliable press reports that the current president of Colombia received campaign money from the cartels. But the heart of the matter today is that U.S. and Colombian enforcement agencies know who the leaders of the cartels are and where they are. The Colombians could arrest or force into hiding the management of the cocaine industry, and disrupt the cocaine trade as they have done in the past. But there is no evidence the Colombian government has any intention of doing so. Occasional showy enforcement operations continue, but no real efforts are mounted and therefore no real progress is made. The U.S. government has done virtually nothing to give the legitimate interests in Colombian society reason to undertake the risk and effort of making their government put the cocaine trade out of business. It is time to give them such a reason. During the recent embargoes on Iraq and Haiti, experts warned that these measures are most effective when applied rapidly and totally against a trading ally. The U.S. accounts for more than 70 percent of Colombia's licit foreign exports. We need to tell the Colombians, in effect: "Stop sending the cocaine, or you can keep everything else. If the cocaine keeps coming we don't want your $[to be added] in coffee." Such action against Colombia would change the priority of anti-drug efforts throughout the international community.

Third, put the U.S. military in charge of stopping the flow of illegal drugs from abroad. Require federal law enforcement agencies responsible for drug interdiction to operate under the overall command and control of the military. This mission will require continuous adaptation because traffickers will inevitably try new avenues as the old ones become too costly. Some in the military will object to this non-traditional mission and its cost. But no law enforcement organization will ever have the intelligence and operational capabilities for the interdiction task that the military already possesses. Over the last few years the U.S. has used its military resources to protect poor and endangered citizens of other countries. It is time—it is past time—to stop overlooking the poor and endangered in our cities.

Fourth, the drug trade inside the U.S. relies on sophisticated senior management. Despite periodic law enforcement successes, federal domestic enforcement agencies have produced no serious disruption of major trafficking operations. And for the last two years the Clinton Administration has allowed the DEA, FBI, and other drug enforcement agencies to curry political favor with local authorities by assigning federal personnel to augment manpower for cases with no federal significance. This might be acceptable if important federal responsibilities were being met. But they are not. We therefore need to establish clear federal drug enforcement priorities and hold enforcement authorities accountable for meeting them. For example, the Attorney General should be required to prepare a report every six months identifying all major drug trafficking organizations known to be operating in the U.S. and a plan to deploy federal enforcement personnel to dismantle them. Congress should also make the funding for federal drug enforcement agencies contingent on effectively implementing this policy.

Fifth, the Congress should combine existing federal aid to the states and localities for drug enforcement, prevention, and treatment (now, roughly $3.5 billion per year) into a single block grant distributed on the basis of population. Individual program mandates should be abolished so states and localities can establish and pursue their own priorities for fighting drug use and drug crime. Law enforcement, drug treatment, and prevention education are local responsibilities. Washington's bureaucratic regulation has utterly failed to engender programs that foster local accountability. Therefore, the new block grant should be designed to restore local responsibility by phasing them out after three years. In this way, communities will have an incentive to use these funds for those activities that demonstrate sufficient merit to deserve long-term support entirely from local sources.

CREATING EFFECTIVE LOCAL ACTION

Sixth, drug prevention is central to all effective anti-drug efforts. Young people who do not use drugs in their teens are unlikely to ever become involved with illegal drugs. But each generation must be taught that illegal drug use is wrong and harmful. This lesson must be taught by the community as a whole; indeed, by our culture. Children learn about drugs by what the adults around them as a whole say and do. Parents teach by precept and example. The same is true of schools and the communities. If drug use and sale is not aggressively opposed and prevented, children learn it is acceptable, despite what some adults may occasionally tell them. Teaching drug prevention must be a part of teaching children right from wrong. It will always fall to parents to provide that education in the home and act to ensure that schools and their communities are teaching this lesson effectively. This task is easier if national leaders set the right example and speak in support of parents. But since that national support has seriously eroded, parents, churches, schools, youth organizations, and communities are more important than ever. They have always been, and will always remain, the first line of defense for children.

Seventh, open-air drug markets feed addiction and are a visible sign of the toleration of the drug trade in our nation. It is a national disgrace that such markets are tolerated in virtually every major American city. Drug pushers cannot operate effectively when law enforcement personnel are present. Forcing drug deals from open spaces makes their lives more difficult and dangerous and hence their activities less frequent. Many communities have demonstrated that creating a law-enforcement presence and maintaining it in response to relocation efforts by drug dealers is doable—but only if closing drug markets is made a priority. In the next year, mayors, city councils, and police chiefs should pledge to close all open air drug markets in their communities. Citizens should demand such a pledge and make clear that they will insist that these officials keep it. We need to stop claiming that the crime and drug problem in our communities is someone else's responsibility. Decisive action can be taken by local officials and community members now.

Eighth, drug testing is a proven tool to discourage drug use by individuals in treatment and those in the criminal justice system. Good treatment programs require regular testing and apply sanctions against individuals who relapse. Drug testing arrestees provides a basis for using bail, sentencing, release conditions and other aspects of the criminal justice system to compel individuals to stop using drugs. Including an extended period of regular testing after convicted drug-using offenders complete their sentences, discourages a return to drug use and crime. Positive drug tests must involve steadily escalating penalties (starting with a one or two-day return to jail or a half-way house and moving to reincarceration for an extended period). Most heavy drug users pass through the criminal justice system and any short-term costs of creating temporary detention facilities for the enforcement of a drug testing program will save larger costs to the community in repeated criminal justice expenditures on the same individuals and the damage their crimes do to the innocent.

These eight steps—involving federal, state, local, and individual action—will reverse the dangerous resurgence of drugs that has occurred during President Clinton's watch. These actions will help turn the country away from its present course and go a long way toward making progress in the war on drugs. And that, in turn, will help America to become a safer, more decent and more civilized society.

TONIGHT ONLY: ABC DOES DRUGS

(By John P. Walters)

Tonight, Jeff Diamond—the NBC "Dateline" producer who took the blame for rigging those exploding pickup-truck gas tanks—is back, and he's on drugs. Specifically, he is part of the team that created the ABC News special: "America's War on Drugs: Searching for Solutions."

The show, hosted by Catherine Crier, begins with the usual "we've lost the drug war" footage and rhetoric. Of course, the show never explains that drug use declined steadily and dramatically prior to the Clinton administration, which undermined anti-drug efforts on all fronts. But this is standard fare. Tonight's program is designed to break new ground.

It begins in earnest with the story of Jim Montgomery, who, we are told, was sentenced to life in prison for having two ounces of marijuana in the backpack of his wheelchair. This is the show's illustration of drug enforcement in America. Apparently, ABC couldn't find a grandmother on death-row for carrying a roach clip in her purse. ABC does not just want to keep alive the liberal myth that prisons are filled with "low-level drug offenders," ABC wants to take that myth to a new level. Never mind that the Bureau of Justice Statistics reports that federal inmates convicted of marijuana trafficking were involved, on average, in the sale of 3.5 tons of pot. And forget that only 21.3 percent of state prisoners are drug offenders and that more than 96 percent of state prisoners have prior convictions.

But this is all just an introduction to the "solution" ABC wants to offer for the drug problem. That solution is, of course, legalization.

First, Ms. Crier and Mr. Diamond present a loving portrait of—you guessed it—the Netherlands, especially Amsterdam. Drugs are accepted, addiction is limited, and, according to ABC, crime is not a serious problem. The only problem with this idyllic picture is that it is an utter fabrication. A 1992 study found that the Netherlands now ranks first in Europe in the category of threats and assaults; robberies increased by more than two-thirds from 1988 to 1992 (with 43 percent of burglars describing themselves as drug-users); gun-related deaths are on the rise (almost all involving drug disputes); and out of roughly 100 "highly organized" criminal gangs operating in the Netherlands, 73 are engaged in drug trafficking.

The Amsterdam Municipal Health Service reported a rise in hard-core addicts, attributed to a significant rise in the local heroin supply and a drop in price of as much as 75 percent in the last few years. ABC also missed the fact that the Rotterdam Municipal Council has reported that cocaine use has risen substantially, to 3.3 percent of the resident population over age 15. And in Amsterdam, cocaine users have been estimated at 5.8 percent of the population—vastly higher than anything in the United States.

After a fantasy trip to the Netherlands, Ms. Crier takes her audience to England for a loving look at the "successes" of legally prescribing heroin to addicts. ABC, however, does not review what happened the last time Britain experimented with legalization, back in the 1960's. As James Q. Wilson has written, that British Government experiment with controlled heroin distribution resulted in, at minimum, a 30-fold increase in the number of addicts in 10 years as heroin was diverted from patients to new users on the streets. And a British Medical Journal report on the "experiment" estimated that the number of heroin users doubled every 16 months from 1959 to 1968. Now some in the English medical community are trying to repeat this experience, and ABC seems to think Americans should join them.

If America's drug problem were not so serious, it would be possible to regard a program this bad and heavy-handed as comic. But America's drug problem is no laughing matter. Thus this show is not just inexcusably bad journalism—it is highly irresponsible broadcasting.

THE AMTRAK RESTRUCTURING ACT OF 1995

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. LIPINSKI. Mr. Speaker, at the request of the President Bill Clinton and Secretary of Transportation Federico Peña, Transportation and Infrastructure Committee Ranking Member Norm Mineta and I are today introducing the Amtrak Restructuring Act of 1995 and the Interstate Commerce Commission Sunset Act of 1995.

I have not agreed to introduce these two pieces of legislation at the request of the President because I support or endorse them in their entirety. Rather, I am introducing them in an attempt to bring the administration's views to the table on these important and controversial issues.

Mr. Speaker, these are but two of the bills that will be introduced this Congress on the restructuring of Amtrak and the sunset of the Interstate Commerce Commission. I may even introduce other legislation on these issues myself. These two bills are merely the Administration's contribution to the debate.

When we return from the April District Work Period, the Subcommittee on Railroads will be marking up legislation on Amtrak and the ICC. As the Ranking Democratic Member on the Subcommittee, it is my responsibility to evaluate every alternative—Democratic, Republican, bipartisan, or Administration—and provide the opportunity for the other members of the subcommittee to do the same. That's why I've agreed to introduce these bills today.

INTRODUCTION OF THE DELAURO-LOWEY WATER POLLUTION CONTROL AND ESTUARY RESTORATION ACT OF 1995

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mrs. LOWEY. Mr. Speaker, today Congresswoman DELAURO and I are once again joining with a geographically diverse group of our colleagues in reintroducing legislation to renew and expand the Federal Government's role in controlling pollution and in stewarding our coastal resources.

Our legislation—the Water Pollution Control and Estuary Restoration Financing Act—was first inspired more than 4 years ago by the dedication of citizens in our communities who have spearheaded the effort to save Long Island Sound. In fact, labor, business, and environmental groups in New York and Connecticut have taken the bold step of setting aside historic differences to work together to address the need for effective water pollution control. Just last fall, their hard work took a major step forward with the signing of the Long Island Sound Clean-up Plan by the States of New York and Connecticut and EPA Administrator Carol Browner.

Despite these achievements for Long Island Sound, much remains to be done to take our Nation's estuaries off the endangered list. Nationally, we face an appalling backlog of water quality infrastructure upgrade needs that threatens to choke our economy just as it is robbing our waters of life-giving oxygen. Quite simply, we need leadership at the Federal level to match the energy and ingenuity of our communities that are working toward a better environmental and economic future. Without strong Federal leadership and substantial funds to back it up, we run the risk of squandering over 20 years of progress in cleaning up and protecting our waters.

Therefore, our legislation will re-ignite Federal, State, and local cooperation in water pollution control by significantly increasing annual authorization levels for the State Revolving Fund [SRF] Program to $4 billion and then $5 billion beginning in 1998. In the context of our continuing budgetary problems, these authorizations may appear high. But without a renewed Federal commitment to clean water, the estimated $200-billion shortfall over the next decade in sewage treatment upgrades leaves our States with two unacceptable alternatives: swamp their residents with higher taxes, or allow vital waterways to die and their economies to stagnate. It is encouraging that the Subcommittee on Water Resources and Environment has recently approved an increase in the SRF to $3 billion. This is an important step in the right direction, but I hope this Congress can do better before the bill becomes law.

In addition to expanding and modernizing the Nation's water pollution control infrastructure, we must support efforts to spend clean water dollars as intelligently as possible. To that end, our legislation departs from past practice by earmarking a portion of the SRF funds for the implementation of comprehensive estuary management plans. These comprehensive conservation and management plans are designed to utilize the most cost-effective mix of policies to reduce water pollution in sensitive coastal regions. And, rather than heavy-handed mandates from Washington, these plans are founded on voluntary partnerships among people with a shared vision for reinvigorating our economy and revitalizing our bays, rivers, and beaches. At present, communities in and around 21 of our Nation's estuaries are at work developing plans; another half dozen will be added to the National Estuary Program [NEP] later this year.

Moreover, our legislation would strengthen section 320 of the Clean Water Act, which authorizes the National Estuary Program. First established under the Water Quality Act of 1987, the NEP provides a mechanism for bringing together Federal, State, and local authorities—and interested citizens—to develop comprehensive, watershed-based plans for cleaning up and protecting nationally significant estuaries. In Long Island Sound, Puget Sound, Massachusetts Bay, and a number of other estuaries, the NEP has helped bring about unprecedented cooperation aimed at saving these threatened waters and the economies that rely on them.

Our bill would build on the success of the NEP by clarifying the funding and staffing responsibilities of Federal agencies concerned with the program, including the Environmental Protection Agency [EPA] and the National Oceanic and Atmospheric Administration [NOAA]. Specifically, the bill states that implementation of estuary management plans is a non-discretionary duty of the EPA. The measure seeks to improve Federal leadership in the NEP by directing the EPA to promulgate guidelines for development, approval, and implementation of comprehensive management plans. Other important proposed changes include measures to improve coordination of clean-up efforts with other Federal activities in estuaries. In short, this bill is designed to make certain that those plans do not end up on shelves in bureaucrats' offices, but instead truly clean up these critical bodies of water.

In the 103d Congress, the DeLauro-Lowey Water Pollution Control and Estuary Restoration Financing Act received strong bipartisan support and backing from a unique nationwide coalition of business, labor, and environmental groups who recognize the ties that bind the condition of our waters and the state of our economy. Provisions similar to our bill were included in the clean water reauthorization bill reported last year by the Senate Environment and Public Works Committee.

As we reintroduce our legislation today, however, we do so at a time when the Clean Water Act is under attack. The act's reauthorization that is being developed in committee threatens to undermine much of the progress that has been achieved in approving our Nation's water quality. For example, by decreasing protection for our Nation's remaining wetlands and repealing provisions in the Coastal Zone Management Program that require coastal States to develop enforceable polluted runoff control programs, this legislation would turn back the clock on environmental protection and pose new threats to our Nation's vital waterways. We must not allow this to happen.

Mr. Speaker, our legislation is a call to action that says through sensible investments in water pollution control we can help ensure our economic and environmental future. Without Federal assistance, our estuaries will die while the long-term growth of our economies suffers.

In conclusion, I want to thank all 36 of my colleagues who have joined Ms. DELAURO and myself in introducing this legislation. We all are keenly aware that by failing to help our municipalities meet their infrastructure needs, we are forcing them to tie up scarce local dollars that otherwise could be used to improve schools, fight drugs and crime, provide housing and health care, or meet the needs of the elderly and disabled. In the end, every one stands to lose. We also understand that clean water is a national priority. Just as rivers and coastal waters affect and are affected by the policies of various States, an interstate commitment is essential to success.

The time has come to act, Mr. Speaker.

SALUTE TO MR. ROBERT A. BRADY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute Mr. Robert Brady of Philadelphia whose 50th birthday will be celebrated on April 7, 1995. Throughout his lifetime, Mr. Brady has contributed greatly to the people of the City of Philadelphia.

A graduate of Saint Thomas Moore High School and the Martin Technical School, Mr. Brady began a distinguished career in public service in 1975. Mr. Brady served as the Assistant Sergeant at Arms for the Philadelphia City Council and the Labor Liaison to the Mayor's Office from 1975 to 1986. A working man first, last and always, Bob Brady has served as Legislative Representative of the United Brotherhood of Carpenters and Joiners.

Since 1965, Mr. Brady has been a leader in the Democratic Party of Philadelphia, culminating in his election as Chairman of the Democratic County Executive Committee of Philadelphia. In addition, to his work with the Democratic Party, Mr. Brady has been appointed as a member of the Pennsylvania Turnpike Commission and the Delaware River Port Authority. In those two positions, he has made important contributions in creating jobs and protecting the rights of workers.

In his 50 years, Mr. Brady has already given more to the City of Philadelphia than many people give in a lifetime. I hope that he will continue to have a long and successful career for at least 50 more years, and I look forward to continuing to work with him. I hope all of my colleagues will join me in wishing Mr. Robert Brady a very happy 50th birthday.

VOICE OF REASON IN BOSNIA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. SMITH of New Jersey. Mr. Speaker, people from the Balkans are often characterized according to their ethnic background, and the assumption is made that each person—from the villager to the leader in society—looks out for the interests of only their own people. In Bosnia, that can be a very mistaken assumption.

Three years of aggression in Bosnia have admittedly sharpened the priority given to ethnic identity by all sides, Bosnian, Muslim, Croat and Serb, which is shaped largely by religious background. However, there remains a large number of individuals more committed than ever to the concept of a multiethnic Bosnian society in a unified state, where all are equal before the law, where all tolerate each other and respect their cultural differences.

Few, if any, symbolize this true Bosnian spirit, with which Americans find so much affinity, more than the Roman Catholic Archbishop of Sarajevo, Vinko Cardinal Puljic, who recently visited Washington. During his visit, he expressed a sense of optimism about the ability of the people of Bosnia-Herzegovina to live together in peace, but evoked as well a sense of urgency about the current plight of the Roman Catholic community. He also expressed a sense of frankness about the troublemakers that continue to exist among his fellow Bosnian Croats. Finally, he expressed a sense of outrage about the abandonment of Bosnia—Herzegovina by the international community.

On the latter point, I would like to quote an appeal for a just peace which the Cardinal released on March 30, prior to departing Washington. He said:

> I, like so many in Bosnia-Herzegovina, am astonished and bewildered, almost to the point of despair, at the international community's indifferent, half-hearted, inconsistent and ineffectual response to aggression and ethnic cleansing. Not only has the international community not acted decisively, it has even contributed to the ethnic division of Bosnia and has legitimized aggression by

failing to uphold basic moral and legal norms. * * * In Bosnia, the international community's tepid response has only encouraged those who would respond to extremism with extremism, to intolerance with intolerance, to aggression with aggression, and to ethnic cleansing with ethnic cleansing.

I ask that the full text of the Cardinal's appeal be printed in the RECORD, and I ask my colleagues to read it. While the politician, the diplomat or the soldier can bring about an end to hostilities in Bosnia Herzegovina, it will take people like Cardinal Puljic to bring about a real peace, a lasting peace through reconciliation and outspoken opposition to the evil forces of exclusivity that permeate his society. I applaud his efforts.

AN APPEAL FOR A JUST PEACE IN BOSNIA-HERZEGOVINA

I come to Washington, D.C. to offer another heartfelt plea that the United States, in conjunction with the international community, will take more decisive steps to support those of us in Bosnia-Herzegovina who are struggling to bring about a just peace, based on equal respect and equal rights for all ethnic and religious identities in my country.

1. The facts of Bosnia's tragedy are well known, but they bear repeating. In three years, I have seen the Catholic population of my archdiocese reduced from 520,000 to about 125,000 people, most of whom live in small enclaves. Less than a third of the parishes are still functioning. The situation is even worse in the Banja Luka Diocese, where more than 80% of the Catholics have been forced out by "ethnic cleansing." Overall, of the 830,000 Catholics who lived in Bosnia before the war, only half remain. If the war continues, Catholics risk being exterminated from large parts of Bosnia and Herzegovina, despite thirteen centuries of our organized presence there. The Catholic community does not have a monopoly on suffering in Bosnia and Herzegovina. I cite these statistics simply to remind Americans of the magnitude of the suffering that is being inflicted upon the people of Bosnia and Herzegovina.

2. Despite obvious obstacles, there can be no alternative to pursuing a just peace in Bosnia and Herzegovina. Time is running out but it is still not too late.

A just peace requires respect for the territorial boundaries of Bosnia-Herzegovina and its multi-ethnic and multi-religious character. The international community must support us in our efforts to rebuild a country in which ethnic Bosnian Muslims, Serbs and Croats can cultivate their respective identities at the same time that they respect the equal rights and equal legitimacy of the ethnic and religious identities of other citizens. Therefore, it is imperative that the Bosnian Federation receive the support it needs to succeed, but it would be a tragedy if the Federation and international peace plans were used to partition Bosnia along ethnic lines. A peace which does not correct injustices, which rewards aggression, which does not permit refugees and displaced persons to return to their homes, and which is based on ethnic division can be neither a just nor a permanent one.

3. I, like so many in Bosnia-Herzegovina, am astonished and bewildered, almost to the point of despair, at the international community's indifferent, half-hearted, inconsistent and ineffectual response to aggression and "ethnic cleansing." Not only has the international community not acted decisively, it has even contributed to the ethnic division of Bosnia and has legitimized aggression by failing to uphold basic moral and legal norms. If the principles of peace and international justice are buried in the soil of the Balkans, Western civilization will be threatened. In Bosnia, the international community's tepid response has only encouraged those who would respond to extremism with extremism, to intolerance with intolerance, to aggression with aggression, and to "ethnic cleansing" with "ethnic cleansing."

I am convinced that there are moral means to thwart immoral aggression. The international community must have the will to use the means available to it to protect threatened populations, to encourage demilitarization, and to establish other conditions necessary for progress towards peace. The solution can not be simply to give up and withdraw. If the United Nations and the international community do not now have effective means to respond to the humanitarian crises in Bosnia and elsewhere—and it is clear that they do not—then nations have the responsibility to take the steps necessary to develop more effective international structures.

4. This is not a religious conflict, but some would misuse religion in support of ethnic division and extreme nationalism. Therefore, as a religious leader, I believe I have a special responsibility to stand beside those who are victims of injustice and aggression, regardless of their religious, ethnic, or national identity. I also believe that, even though a just peace seems far off, religious and other leaders must not wait for an end to war to begin the daunting task of reconciling deeply divided communities. We must promote a moral and spiritual renewal that can heal the hatred, despair and division which this war has brought. Only by rebuilding the spiritual life of our people can we ensure that the horrors we have lived through for the last three years will not be repeated. With God's grace, we will succeed.

5. Amidst the great suffering we have been forced to endure, we have found the grace to persevere in hope, for we know that this war is not our destiny. We have also found hope in the prayers and moral and financial support we have received from the Catholic Bishops Conference and its aid agencies, and countless individuals and organizations in the United States. For these generous acts of solidarity, we are deeply grateful.

I conclude where I began. The ordinary people of my archdiocese and my country are tired of war; they yearn to be allowed to live together in peace. But we cannot do it alone. We need more decisive action by the international community. I implore you: Do not continue to abandon us! Do not continue to acquiesce in the practical victory of injustice and war! Help us to realize the justice, peace and reconciliation for which we so ardently pray and struggle!

There are many forces fueling this conflict, some of them coming from within my own Croatian community. This is not, however, a religious conflict, nor is it simply a consequence of the resurgence of "ancient hatreds" between different religious, ethnic, and national groups who cannot live together in peace. Ethnic, religious differences certainly do exist, and, regrettably, they have been depended by the war. But they cannot explain adequately what is happening in my country. The main cause of the conflict and suffering in Bosnia-Herzegovina is an attempt by extreme nationalists and others who fear democracy to create an ethnically pure Greater Servia.

LONG-TERM CARE INSURANCE TAX TREATMENT AND CONSUMER PROTECTION ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. STARK. Mr. Speaker, today I am introducing the Long-Term Care Insurance Tax Treatment and Consumer Protection Act of 1995. This bill establishes critically needed standards for long-term care insurance policies. It makes changes that will protect elderly consumers from the misleading practices that leave them without adequate insurance coverage for nursing home and home care.

The bill establishes minimum standards that long-term care insurance policies must meet. The standards include requirements for standardized outlines of coverage and terminology that will enable consumers to make intelligent choices about which policy to purchase. The standards will prevent discrimination in regard to certain disabling conditions. They assure that benefits will be delivered in the full range of settings available for the care of the elderly.

The Ways and Means Committee recently passed H.R. 1215. That bill includes provisions that allow individuals to include long-term care insurance premiums as a part of their itemized expenses for medical care, to the extent that those expenses exceed 7.5 percent of adjusted gross income. In effect, H.R. 1215 encourages people to purchase long-term care insurance by permitting favorable tax treatment of the premiums. My bill contains the same long-term care insurance provisions as in H.R. 1215, but with an important difference: my bill contains the standards that are needed to prevent consumer abuse.

Abuses of consumers in the long-term care insurance market are severe—so severe that a past president of the National Association of Insurance Commissioners [NAIC] has said that the very viability of this product is in question. The NAIC has developed model standards that each State may adopt in order to regulate long-term care insurance. States vary widely, however, in their application of the standards. For example, Washington, DC enforces none of the recommended standards, while Connecticut has adopted 24 of the 28.

This bill would require the States to certify that long-term care insurance policies being sold in the State meet the consumer protection standards. The premiums for policies that do not meet the standards could not be used as an itemized tax deduction. This structure would provide incentives to States to enforce consumer protection standards. It would also provide incentives to consumers to purchase long-term care insurance policies, not only because they could get a tax deduction but also because they would be assured that the policies are good products.

When a consumer decides to purchase a policy, there is a dizzying array of policies and riders available. Benefits and terminology vary greatly. It is almost an impossible task for a consumer to make an effective choice of policy.

This bill would require the insurance company to provide the consumer with an outline of coverage. The outline of coverage would be in a standard format, contain specific information and use standardized terminology. The outline of coverage would enable a consumer to compare plans and to choose the policy that best meets his or her needs.

The outline of coverage would also assure that the consumer knows in advance the criteria for receiving benefits under the policy. Policies currently are so confusing, that it is often unclear when and where benefits can be used. A senior may think that, when she becomes unable to care for herself, she can get assistance with activities of daily living in her own home, and later find out that benefits are only available in a certified nursing home or when she needs skilled nursing care. By clearly defining the threshold conditions for receiving benefits, there will be no doubt about exactly what services an individual can receive and where they can be delivered.

Currently, long-term care insurance policies often do not provide for an examination period. When a consumer is dissatisfied with a policy, there is no way to return it without forfeiting the premium already paid. This bill allows a 30-day examination period during which the policy can be returned for a full refund. If a person purchased long-term care insurance through a health plan at work, the bill would assure that the person was given the opportunity to continue coverage when he or she leaves that job.

Right now insurance companies can cancel or refuse to renew a policy because the policyholder has developed an illness that the company thinks is too big a risk. This bill would prohibit companies from canceling a long-term care insurance policy unless the policyholder failed to pay the premiums, committed fraud, or did not disclose relevant information to the company.

Another important feature that most policies now do not include is nonforfeiture benefits. Nonforfeiture benefits assure that, when a policy is dropped or canceled, the policyholder gets back at least a portion of the premiums paid. This is accomplished either through a refund of money or eligibility for services when they become needed. Up to 60 percent of policyholders drop their policies within 10 years of purchase. People who drop their coverage stand to lose significant amounts of money. They should not be penalized if they can no longer afford the policies as they get older.

Policies are usually held for 10 to 20 years before the policyholder needs to use the benefits. Long-term care insurance is basically worthless unless it includes inflation protection. Inflation protection assures that most of the cost of care will continue to be covered after 10 or 20 years. Without inflation protection or with inadequate inflation protection, a policy held for 10 to 20 years, pays only a small fraction of the cost of nursing home care.

By purchasing inflation protection, a policyholder is also protected from having to buy additional coverage at a later date. Some policies currently do allow a person to buy additional coverage. When bought later, however, additional coverage is more expensive. This is because the person pays the then-current price based on his attained age. This bill would require the insurer to offer the purchaser the option to purchase inflation protection. In addition the insurer would have to provide the consumer with a comparison of the benefits over 20 years with and without inflation protection. The consumer then can make an informed decision about whether the coverage under the policy will be adequate many years in the future.

One of the ways in which insurance companies are able to avoid paying benefits to policyholders is to put restrictions on the diagnoses that will be covered. The protections in this bill would prevent discrimination against people with Alzheimer's disease and other disabling conditions. A policy could not use different criteria to receive benefits and could not pay different amounts of benefits for people with those disabling conditions.

When a consumer has a policy that provides benefits for home care, he or she expects to be able to get assistance with things like bathing and dressing. Yet some policies that cover home care will cover only the services of a registered nurse in the person's home. This practice defeats the purpose of providing coverage for home care. Many people can remain in their own homes for a much longer period of time and avoid more costly nursing home care, if they receive needed assistance with activities of daily living. That does not necessarily mean, however, that they need a nurse to provide skilled care. This bill requires that policies covering home care include those services that are most beneficial to people in their own homes. It also allows services to be delivered in all types of residential facilities, such as assisted living facilities, rather than just in skilled nursing facilities.

Last year, the Ways and Means Committee came to a bipartisan consensus on standards for long-term care insurance. Those consensus standards are embodied in this bill. In testimony on January 20, 1995, before the health subcommittee, 8 of the 14 witnesses testified as to the need for standards to protect consumers. Groups as diverse as the Health Insurance Association of America, the Partnership States of California, New York, and Connecticut, the Coalition on Long-term Care Financing and Consumers Union all firmly support appropriate consumer protection.

Long-term care insurance has been promoted in this Congress as a way to reduce the rising costs of nursing home care under Medicare and Medicaid. For the 10 percent to 15 percent of seniors who can afford to buy this insurance, it is likely to provide some modest cost savings several years in the future. More importantly, it is our responsibility to assure that the consumer abuses that have occurred in the past do not continue. I urge my colleagues to join me in support of this bill.

A summary of the bill follows:

IN GENERAL

The bill would provide that long-term care insurance contracts that meet the requirements of the bill received the tax treatment set forth in the bill. Similarly, the bill would provide a safe harbor with respect to the deductibility of certain expenses for long-term care services. Expenses for premiums and services that satisfy the requirements of the bill would be deductible as medical expenses.

QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS

In order to receive the tax treatment set forth in the bill, a long-term care insurance contract would have to meet certain requirements. A qualified long-term care insurance contract would be defined as one that meets the following requirements: the only insurance protection provided under such contract is coverage of qualified long-term care services; if Medicare is the primary payer, the contract does not cover expenses that are reimbursable under Medicare; the contract is guaranteed renewable; the contract has no cash surrender value; all refunds of premiums (other than on surrender or cancellation of the contract), any dividends, or similar amounts are applied toward future reduction in premiums or to increase future benefits; and the contract has been certified under the State regulatory program that has been approved by the Secretary of Health and Human Services.

QUALIFIED LONG-TERM CARE SERVICES

The bill would define qualified long-term care services as necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative, and maintenance or personal care services that are required by a chronically ill individual, pursuant to a plan of care prescribed by a licensed health care practitioner.

A chronically ill individual would be defined as one who is unable to perform at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity or due to cognitive impairment or having a similar level of disability (as determined by the Secretary of the Treasury in consultation with the Secretary of Health and Human Services).

The activities of daily living would be defined as eating, toileting, transferring, bathing, dressing, and continence.

EXCLUSION FOR BENEFITS AND FOR EMPLOYER PROVIDED COVERAGE

The bill would provide that benefits paid under a qualified long-term care insurance contract are excludable from gross income to the extent that benefits do not exceed $200 per day (indexed for inflation after 1996).

An employer's contributions for qualified long-term care insurance would be excludable from gross income.

The bill would not permit qualified long-term care insurance to be provided through a cafeteria plan or flexible spending arrangement.

The bill would provide that distributions from individual retirement arrangements and 401K plans are excludable from gross income to the extent that they are used to pay premiums on qualified long-term care insurance contracts.

FEDERAL STANDARDS FOR LONG-TERM CARE INSURANCE

Standard formats

Each long-term care insurance policy would be required to contain an outline of coverage under the policy, using a uniform format and standard terminology, that accurately reflects the contents of the policy, reflecting specific elements. The format and standard terminology would be defined by the Secretary of Health and Human Services, in consultation with the National Association of Insurance Commissioners.

The outline of coverage would be required to include: a description of the benefits covered; the principal exclusions from and limitations on coverage; the conditions, if any, upon which the insured can obtain upgraded benefits; the threshold conditions for entitlement to receive benefits; a statement of the circumstances in which a policy may be terminated and the refund or non-forfeiture benefits, if any, applicable to each circumstance including death, nonpayment of premiums, non-renewal by the insured, any other circumstance; a statement of the total annual premium and the portion of premium attributable to each covered benefit; any reservation of the insurer of a right to change premiums any limits on annual premium increases; any expected premium increases associated with automatic or optional benefit increases, including inflation protection; circumstances under which the payment of premium would be waived; information on average costs and variation in such costs for nursing facility care and other covered benefits; comparison of benefits over 20 years for policies with and without inflation protection; a declaration as to whether the amount of benefits will increase over time and, if so, the type and amount of any limitations on, and any premium increases for, such benefit increases.

Benefit standards

Benefits under long-term care insurance policies could not be conditioned upon any of the following: the need for another type of service, such as prior hospitalization or a higher level of care; a particular medical diagnosis; compliance by the providers with conditions not required by Federal or State law; the provision of such service by a provider or in a setting providing a higher level of care than required by an insured individual.

A long-term care insurance policy that provides benefits for home care or community-based services: may not limit benefits to services provided by registered nurses or licensed practical nurses; may not limit benefits to services furnished by persons or entities participating in programs under title XVIII and XIX of the Social Security Act; must provide, at minimum, benefits for personal assistance with activities of daily living, home health care, adult day care and respite care.

A long-term care insurance policy that provides benefits for nursing facility services must provide benefits for services in all types of nursing facilities licensed by the State and may provide benefits for care in other residential facilities.

A long-term care insurance policy may not discriminate in the treatment of Alzheimer's disease or any other dementia of organic origin, any organic or inorganic mental illness, mental retardation or any other cognitive or mental impairment, or HIV infection or AIDS from the treatment of any other medical condition, for purposes of determining whether the threshold conditions for the receipt of benefits have been met, or the amount of benefits under the policy.

Inflation protection

A long-term care insurance policy would be required to offer the consumer the option to purchase inflation protection. The inflation benefits shall not be less than 5 percent per year of the full value of benefits for the previous year or such other rate of increase as the Secretary may determine adequate to offset increases in the costs of long-term care services covered under the policy.

Nonforfeiture benefits

A long-term care insurance policy would have to include a non-forfeiture benefit after being in effect for a specified period.

Right to cancel

A long-term care policy would have to provide that the insured has 40 days to cancel and obtain a full refund of any premium paid.

Guaranteed renewal

In order to be certified, a long-term care policy could not be canceled or refused to be renewed (or replaced with a substantial equivalent) except for non-payment of premium or for fraud or non-disclosure on the part of the insured.

Continuation and conversion rights of group policies

A group long-term care insurance policy would be required to provide the opportunity to continue coverage when the policy would otherwise terminate.

Approval of State Long-Term Care Insurance Certification Programs

The Secretary of Health and Human Services would be required to review and approve State long-term care insurance certification programs meeting the following requirements: The State certification program would be required to assure compliance with the standards for long term-care insurance policies as specified in this bill. State programs would be required to provide administrative procedures under which an insured individual may seek reconsideration of any denial or partial payment of a claim.

THE NEED FOR MORE THOROUGH BACKGROUND CHECKS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. OWENS. Mr. Speaker, recent background checks of public officials and candidates for public office have appropriately caused concern. The legal practices of a professional physician have been thoroughly scrutinized. A sitting Cabinet secretary has been cited for not telling absolutely everything about a personal sin. It may be that the background checks by the FBI have been assigned too great a role in deciding who is fit to serve in public office. Or it may be that the well developed skills of the brigade handling these background checks could perform a higher service for this increasingly mean-spirited and merciless nation. Why not go deeper with background checks and tell us about the ancestors of our public spokespersons? The world can clearly see that some of us are the descendants of the victims of the criminal slave industry. We do not know which officials are the descendants of the oppressors who were the beneficiaries of the heinous slave industry. Such identities were not important in the past; however, now a new level of evil has been unleashed and all kinds of knowledge is needed to compare this attempt to wipe out all progress achieved by the descendants of slaves. As the scorched earth fiscal policies of the Republican majority escalate in unison with a blitzkrieg attack on affirmative action, it would be illuminating to review a more detailed background of the leaders in this public policy assault. To increase their profits, over a 200 year period, whose ancestors promoted slave breeding with teenage pregnancies? Whose ancestors for two hundred years worked mightily to obliterate all sense of family and humanity from slaves in order to make them more efficient beasts of burden? Backgrounds should be checked and it should be a crime to tell a lie to the FBI.

IT'S A CRIME TO TELL A LIE

It's a crime
 To tell a lie
To the background brigade
 Of the FBI
Did your great
 Great grandfather
Rape his slaves
 Or torture the males
Are you the descendant
 Of greedy knaves
Enriched by human sales
 It's a crime
To tell a lie
 To honest interrogators
From the FBI
 To meet their labor need
Did your ancestors
 Make teenage girls breed
Were young females
 Forced to go
Or could they choose
 Their own Romeo
Slavery was legal
 In white men's eyes
But judged a moral crime
 By the ruler of all skies
Don't tell a lie
 To the background brigade
Of the FBI
 List deeds done
To cleanse the shame
 Attach records
Which clear
 Your family's name
Remember
 It's a crime
To tell a lie
 To the background brigade
Of the FBI.

COMMENDING SABRINA NEKAY LEWELLEN

HON. BLANCHE LAMBERT LINCOLN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mrs. LINCOLN. Mr. Speaker, I would like to recognize the accomplishments of an extraordinary young woman from my district. Ms. Sabrina Nekay Lewellen of Jonesboro, AR, was named the State winner in the annual Veterans of Foreign Wars and Ladies Auxiliary's "Voice of Democracy" broadcast audio-essay contest. Ms. Lewellen wrote and delivered an inspiring and challenging speech on her vision for America. After reading her speech, I have a renewed confidence in the future of our great country. I would like to include a copy of her speech to be printed in the record and I would encourage my colleagues to read it and to accept Ms. Lewellen's challenge. Thank you.

MY VISION FOR AMERICA

(Sabrina Lewellen)

All across America members of the class of 1995 are contemplating which college to attend, what major to choose, what career to pursue, and even who to take to the senior prom. We are fortunate in that we can make these decisions as individuals. We are not plagued with the same uncertainties as some previous classes. The class of 1945 was filled with loyal Americans who put their dreams on hold to serve the cause of world peace. Similarly, the brave souls of the class of 1965 put their personal visions aside so that thousands of people in Vietnam could experience democracy.

No, my class does not face these immediate tasks, but we do have an obligation to each other, this country, and the thousands of Americans before us who gave their loyal services and even their lives.

Throughout our history countless people have worked toward an "ideal" America. One of freedom of expression, economic possibility, toleration of uniqueness, and peaceful resolutions. They contributed wholeheartedly for everyone's prosperity until the end. As well known playwright Thornton Wilder stated in his play Our Town, "Gradually, gradually, they let go hold of the earth—and the ambitions they had—and the pleasures they had—and the things they suffered—and the people they loved." They never stopped trying to turn the mediocre into the superior. They fought to make the country the best that it could be and we as the inheritors of the fruit of their imagination must make the best even better.

We have to realize that in order for a working unit to function properly each element must make its contribution. My vision for America is not one of apathy and selfishness, but of caring and involvement. Not one of violence and confusion, but one of peace and understanding. Sure, it's easy for me to sit and visualize a better society, but if I do not dedicate myself to this endeavor, how can I expect others to do the same? Therefore, my vision for America begins with me.

I plan to attend college and pursue a career in human environmental science. With this knowledge, I will strive to make not only a stronger America, but a healthier one. Additionally, I will utilize my gift as a public speaker to inform others, not only on my specific area of expertise, but on a variety of issues to help improve their every day lives.

This is what I plan to do. Now, what about you? Do you have a vision? How committed are you to making a change in this country?

We live in one of the greatest nations on earth. Our democracy grants us many freedoms and choices other nations only dream of having. We, first as individuals, then as a people must realize that we have to start today in order to make a better tomorrow. We can no longer stare at our Constitution in a glass chamber and view it only as a piece of paper. We must rekindle its flame, make it eternal, and transform it into a "living" document.

All it takes is one person, in one city, in one country, in one state, in these great United States. All it takes is one.

THE 50TH ANNIVERSARY OF FRANKLIN DELANO ROOSEVELT'S DEATH

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. GONZALEZ. Mr. Speaker, I rise today to inform my colleagues that I have formally asked the President to honor the 50th anniversary of the death of President Franklin Delano Roosevelt by reissuing and updating the proclamation signed by President Harry Truman in 1945 declaring April 12th as a national day of mourning and prayer.

It is fitting, but a bit ironic and actually quite sad, for this landmark anniversary to occur this year at a time when at once the strength of Franklin Roosevelt is admired and longed for and yet the programs of this great President are under attack. I never thought I would live to see the day when Social Security, for instance, was placed on the chopping block as the new majority in Congress has so willingly done in refusing to exempt it from the balanced budget amendment. I certainly never thought I would see the day when the House would vote on the Constitution—the 4th amendment in this case—and reject it. What a sad legacy we have become to the great leaders who have preceded us such as Roosevelt—a man whose beliefs and programs embodied the preamble to the Constitution:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

I am saddened by the reality that a great deal of the greatest constitution on Earth would undoubtedly be rejected by today's Congress if put to a vote, certainly the protections for minority viewpoints, for freedom of speech, and for the separation of church and State would be thrown out in an instant.

It is a perfect time to recall the strength, vision, and perseverance of President Roosevelt and to remember that the Government should be used as a tool for the betterment of all and not as a wedge to divide us for the benefit of a few. When the most dire economic times this country has faced confronted Roosevelt, he did not blame illegal immigrants, he did not blame the poor, and he did not blame the Government—instead, he used the resources of the Government to pull us out of the Great Depression. When confronted with evil from abroad, he used the resources of the Government not only to protect our country but to protect liberty worldwide.

Never before today has there been such anger toward and distrust of Government—not even during the Vietnam war or during Watergate. Those whose tactic has been to create distrust through lies and innuendo have trampled on the legacy of one who believed in Government, who believed in truth and justice, and who believed in the inherent wisdom and goodness of the American people. As sad as it is to remember the premature death of such a great man as Roosevelt, the timing is perhaps perfect to force us to look ourselves in the eye, to force ourselves to face our history, our present, and our future, and to force ourselves to remember the tradition of compassion, justice, and honesty that gave us definition for many years.

In this respect, then, I have asked the President bring the national focus to President Roosevelt on April 12th by declaring a national day of mourning and prayer. The following is President Truman's original proclamation from 1945 on the death of President Roosevelt:

> A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA
>
> To the People of the United States:
>
> It has pleased God in His infinite wisdom to take from us the immortal spirit of Franklin Delano Roosevelt, the Thirty-second President of the United States.
>
> The leader of his people in a great war, he lived to see the assurance of the victory but not to share it. He lived to see the first foundation of the free and peaceful world to which his life was dedicated, but not to enter on that world himself.
>
> His fellow countrymen will sorely miss his fortitude and faith and courage in the time to come.
>
> The people of the earth who love the ways of freedom and of hope will mourn for him.
>
> But though his voice is silent, his courage is not spent, his faith is not extinguished. The courage of great men outlives them to become the courage of their people and the peoples of the world. It lives beyond them and upholds their purposes and brings their hopes to pass.
>
> Now, therefore, I, Harry S. Truman, President of the United States of America, do appoint Saturday next, April 14th, the day of the funeral services for the dead President, as a day of mourning and prayer throughout the United States. I earnestly recommend the people to assemble on that day in their respective places of divine worship, there to bow down in submission to the will of Almighty God and to pay out of full hearts their homage of love and reverance to the memory the great and good man whose death they mourn.
>
> In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.
>
> Done at the City of Washington, the 13th day of April, in the year of our Lord, one thousand nine hundred and forty-five, and of the independence of the United States, the one hundred and sixty-ninth.
>
> By the President:
>
> HARRY S. TRUMAN,
> EDW. R. STETTINIUS, Jr.,
> *Secretary of State.*
>
> The White House, Washington, April 13, 1945.

REMEMBERING HENRY ATHALONE

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. RUSH. It is with great sadness that I rise today to honor the late Henry Athalone, who passed from this life on March 4, 1995.

Henry Athalone was born on July 20, 1918, in the town of Steiner, MS. After moving to Chicago in 1952, he worked at the Lindberg Engineering Co. until his retirement.

Active in his community, Mr. Athalone was a member of the Holy Garden of Prayer Church under the leadership of Elder Jeffro Williams.

Henry was a devoted family man. He was married for nearly 56 years to his wife, the former Elnora Overton. To this union were born six loving daughters, Edna, Rosie, Louvenia, Daisy, Martha, and Denise; and one son, Samuel.

Mr. Speaker, Henry Athalone was a very dear friend to his family and neighbors, and was a loving father figure to those around him. He touched those who knew him with his intelligence, humor and sensitivity. He will be truly missed.

I am honored to enter these words of tribute to Mr. Henry Athalone into the RECORD.

TRIBUTE TO CHARLES R. SIMPSON, JR.

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MOAKLEY. Mr. Speaker, I would like to take this opportunity to honor Charles R. Simpson, Jr., former Chairman of the South Shore Chamber of Commerce in Massachusetts. Mr. Simpson began working as a teller in the Quincy Savings Bank in Quincy, Massachusetts in 1963. Through a combination of old fashioned hard work and state-of-the-art innovative solutions, he earned steady promotions, eventually becoming President and CEO of the bank.

Throughout his professional career, Mr. Simpson has shown outstanding community leadership as director of the Quincy Community Action Organization, Inc., the Beechwood Community Life Center, and the Quincy Neighborhood Housing Services. On top of this, he was a member of the Salvation Army Advisory Board and the Project Head Start Advisory Board.

Charles Simpson's leadership abilities are best exemplified by his strong record as the Chairman of the South Shore Chamber of Commerce, the organization that will be honoring him on April 21, 1995. I, too, would like to honor him for his years of service to his community, and wish him the best of luck for the future.

A TRIBUTE TO REBECCA LOBO

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. OLVER. Mr. Speaker, I rise today to pay tribute to Rebecca Lobo of the town of Southwick, MA. A senior student athlete at the university of Connecticut, Ms. Lobo has distinguished herself as an excellent scholar and superb basketball player. The entire First Congressional District is proud of her considerable achievements.

In addition to being a key contributor on this year's NCAA Women's Basketball National Championship team, Ms. Lobo has received numerous prestigious awards. She is College Sports Magazine's National Player of the Year, Women's Basketball News Service's National Player of the Year, a unanimous first team All-American, and the Big East Conference Player of the Year (for the second consecutive year). Equally impressive athletic honors are certain to follow.

A political science major, Ms. Lobo is just as intimidating in the classroom as on the hard court. Indeed, she earned a 4.0 grade point average during the last three semesters at the University of Connecticut. This dedication to her studies has brought her the distinction of being a Rhodes Scholar finalist, and the only Big East basketball player ever to be named both the Big East Player of the Year and the Big East Scholar-Athlete of the Year. Even more impressive is the fact that Ms. Lobo has accomplished this latter feat two times!

Rebecca Lobo's unparalleled excellence in sports and in school makes her a fine role model for young people all across the country. The people of Southwick, MA, took the lead in recognizing Ms. Lobo's example when the board of selectmen voted to rename the road to Southwick-Tolland Regional High School the "Rebecca Lobo Way." The board's chairman, Paul Salzer, explained that the town chose "Rebecca Lobo Way" as opposed to "Rebecca Lobo Street" because, "It is indicative of a 'WAY' to get ahead in education, in athletics."

In fact, during their successful quest for a championship, Rebecca Lobo, and her teammates on the Huskies, have already served as inspiration for hundreds of girls across the country, as well as igniting interest in women's basketball for thousands of men and women. No collegiate basketball team, male or female, has ever won more games than this team, and they did it through teamwork, while upholding the best traditions of this country's true scholar-athletes.

I ask my colleagues to join me in congratulating Rebecca Lobo on her successful college career. Her academic and athletic achievements do, indeed, lead the way and are an inspiration to us all.

CAMPUS GREEN VOTE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. VENTO. Mr. Speaker, I want to applaud the spirit and vitality of the Campus Green Vote contingent that visited our Nation's Capital from April 1–3, 1995. Students from 42 States gathered in Washington for an Earth Day Campus Summit and "Eco-Show-and-Tell." Their purpose was to send a clear message to the 104th Congress: "Stop attacking the environment and start working with us to craft a blueprint for better Government environmental policies!"

Campus Green Vote is a national non-profit, non-partisan organization dedicated to registering students to vote and training students in electoral and legislative skills that empower them to be catalysts for green campuses and Government policies.

Students are rightfully concerned about the future of their natural legacy. They noted that while citizens all across America prepare to celebrate the 25th Anniversary of Earth Day, policymakers in Washington, DC deem intent on tarnishing that silver anniversary celebration with a corrosive and concerted assault on decades of environmental law and policy.

Students demonstrated their concern through an "Eco-Show-and-Tell"—powerful displays of the environmental threats facing their communities. It was certainly inspiring to talk with these students about their hopes and fears surrounding the health of planet Earth.

The students were very knowledgeable about the problems in their communities—I tested them and didn't find them lacking in knowledge or understanding! However, they were very frustrated and concerned. They pleaded with me to work hard to stop the congressional nonsense and politely reminded me of the commitment to the future that we should all share—to hand down to the next generation a healthy planet. They reassured me that the destruction of sound environmental policies is not endorsed by Republicans, Democrats or Independents; not by the American people.

Mr. Speaker, our constituents are speaking to us loudly and clearly. Let's do them the courtesy of listening. I applaud the efforts of Campus Green Vote and thank them for sharing their concerns with us.

IN HONOR OF ALLEN UNIVERSITY'S 125TH ANNIVERSARY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Allen University in Columbia, SC, as they celebrate their 125th anniversary.

Allen University has produced local and national leaders who have served their communities and the Nation in an exemplary manner, and it is fitting and proper that the accomplishments of the university be recognized.

The late Bishop John Mifflin Brown and the people of the Columbia Conference of the African Methodist Episcopal Church had the vision to establish a school for the education of newly freed slaves in 1870 in Cokesbury, SC. The school was named for Bishop Brown's predecessor, Bishop Daniel Alexander Payne. Professor J.W. Morris was the school's first president.

In 1880, the school was transferred to Columbia, SC, and was renamed for Bishop Richard Allen, the founder of the African Methodist Episcopal Church.

During its early years, Allen University satisfied the needs of the African-American community by providing courses leading not only to degrees in law, theology and the arts, but also courses of study at the elementary and high school levels.

The school has since produced numerous scholars, attorneys, physicians, teachers, business and governmental leaders, and other professionals who have risen to positions of honor in the African-American community.

Today, the university, under the leadership of Bishop John Hurst Adams and President David T. Shannon, is equipping itself to serve nontraditional students and others who would otherwise not have the opportunity for a college education, as well as remaining faithful to its traditional goals of clergy and leadership education.

Mr. Speaker, I commend Allen University for its 125 years of progress, commitment and dedication in the shaping of productive lives as it strives to live up to its motto—"Heads to Think, Hands to Work, and Hearts to Love."

TRIBUTE TO MAYOR ROSEMARY KAPTUR

HON. WILLIAM O. LIPINSKI

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. LIPINSKI. Mr. Speaker, I rise today to honor Ms. Rosemary Kaptur, an outstanding leader and resident of the Third Congressional District. After 17 years of dedicated public service, Rosemary Kaptur is resigning as mayor of Palos Park, Illinois.

Ms. Kaptur began her political career in 1975 when she became the first woman to be elected Commissioner to the Village Council. Prior to entering the political arena, Ms. Kaptur, who earned a degree in journalism and public relations, worked as an advertising manager. She was also very involved with community organizations and served as the public relations liaison for the Palos Park Library Board. In 1978, Ms. Kaptur was appointed as the first woman mayor of Palos Park. Since then, she has been elected by her constituents for three consecutive terms as Mayor of the Village.

During her tenure as mayor, Ms. Kaptur has accomplished a tremendous amount on behalf of the residents of Palos Park. A strong advocate for the arts, Ms. Kaptur instituted the Fine Arts Committee, allowed the continued use of the Village Hall by the Palos Village Players, and hosted the Concert in the Park and the Taste of Palos. Her beautification efforts and the development of a Tree Body Committee have earned Palos Park Tree City USA Awards for 1994 and 1995. In addition, the Village parking lot was recently paved and the Heritage Court, a historic brick patio, was constructed. Mayor Kaptur also utilized her political and public relations skills to secure various State and Federal grants for Palos Park. For example, Palos Park received a $2.5 million Build Illinois grant to defray the cost of installation of a new sanitary sewer, a $1.5 million Metropolitan Water Resources Development grant for sanitary sewer lift station and force main, and a $450,000 Department of Conservation grant to rehabilitate the Village Hall. Mayor Kaptur has introduced 911 emergency services, a cable television franchise, and a cost-saving trash removal franchise to Palos Park while expanding the boundaries of the village through annexation of several properties.

After 17 years of public service, Mayor Kaptur has decided to retire in order to spend more time with her husband Joseph, her three grown sons, and her seven beautiful grandchildren. Mayor Kaptur has been a loving and strong influence on the Village for many years. I ask my colleagues to join the residents of Palos Park and myself in expressing our gratitude to Mayor Kaptur for her years of devotion to public service. I wish Mayor Kaptur good health in her retirement and, again, I thank her for her devotion to the residents of Palos Park.

TRIBUTE TO TUFTS UNIVERSITY—TUFTONIA'S DAY 1995

HON. EDWARD J. MARKEY

OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Thursday, April 6, 1995

Mr. MARKEY. Mr. Speaker, I rise today to recognize Tufts University in Medford, MA, and to commemorate the 11th annual observance of Tuftonia's Week. This holiday derives its name from the title of the venerable Tufts football fight song written by E.W. Hayes, class of 1916. This is a special time for the 85,000-plus alumni of Tufts University to turn their thoughts to Tufts and to reminisce with old friends.

In 1852, Charles Tuft founded this eminent university, and the brightest and best students have been graduating ever since. I am fortunate and proud to have such an outstanding university in my district. I am also proud that two of my esteemed colleagues are graduates of Tufts: Congressmen PETE DEFAZIO of Oregon, class of 1969, and BILL RICHARDSON of New Mexico, class of 1970.

This year's annual celebration, named TuftServe, is especially important, for its focus is on community service. This is an important time for fellow Tuftonian's to focus on volunteer alumni involvement in community activities. Their contributions to the community—locally, nationally, and globally—should serve as an inspiration to us all. I congratulate the alumni of Tufts University for their hard work, their dedication, and their loyalty. Your efforts have not gone unnoticed, nor unappreciated.

SENATE—*Friday, April 7, 1995*

(Legislative day of Wednesday, April 5, 1995)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Lord God, Sovereign of this Nation, we praise You for the gift of authentic hope. More than wishful thinking, yearning, or shallow optimism, we turn to You for lasting hope. We have learned that true hope is based on the expectation of the interventions of Your spirit that always are on time and in time. You are the intervening Lord of the Passover, the opening of the Red Sea, the giving of the Ten Commandments. You have vanquished the forces of evil, death, and fear through the cross and the resurrection. All through the history of our Nation, You have blessed us with Your providential care. It is with gratitude that we affirm, "Blessed is the Nation whose God is the Lord"—Psalm 33:12.

May this sacred season culminating in the Holy Week before us, including both Passover and Easter, be a time of rebirth of hope in us. May Your spirit of hope displace the discordant spirit of cynicism, discouragement, and disunity. Hope through us, O God of hope. Flow through us patiently until we hope for one another what You have hoped for us. Then Lord, give us the vision and courage to confront those problems that have made life seem hopeless for some people. Make us communicators of hope. We trust our lives, the work of the Senate, and the future of our Nation into Your all-powerful hands. In the name of the Hope of the World. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

Mr. DOLE. Mr. President, has leader time been reserved?

The PRESIDENT pro tempore. Leadership time is reserved.

Mr. DOLE. I have two brief statements. I will use part of my leader time.

THE FIRST 100 DAYS

Mr. DOLE. Mr. President, it's been 40 years since a Republican-controlled Congress had the opportunity to mark any milestones. But when Republicans became the majority party after all those years, we wasted no time in making history.

As we approach the end of the first 100 days of the Republican Congress, I want to take a moment to offer my congratulations to House Speaker NEWT GINGRICH and the House Republican majority for their spectacular success with the Contract With America. In his 1992 campaign, Bill Clinton promised to start his administration with "an explosive 100-day action period." Obviously, he had not met NEWT GINGRICH or a Republican Congress.

Last November, the American people sent a powerful message to Washington. They told us they wanted a Government defined by its limit, not by its reach. They demanded a return to freedom and a renewal of opportunity. And they told us they were tired of Government promising too much, and delivering too little.

From day one, the new Republican Congress demonstrated its commitment to something all too rare in this town—keeping our promises to the American people. On January 4, we rolled up our sleeves, and started turning the message from the people into action.

They gave us the message on last November 8, and now we are turning it into action.

Action is precisely what House Republicans provided with the Contract With America. They can be proud that they did what they said they would do—all ten initiatives were put to a vote, with dramatic, and often bipartisan, results.

If people didn't already know that the Senate is a far different institution with different rules, they know now. At times, it seemed like the Democrat minority wanted to spend 100 days on every bill. But, despite all the filibusters and delays, the Senate also achieved what I believe will be seen as remarkable success.

Instead of taking most of January off, we got right down to business. Like the House, we acted immediately to lead by example, forcing Congress to live under the same laws we apply to everyone else. President Clinton quickly signed this long overdue initiative. With a strong bipartisan majority, we approved S. 1, to stop Congress from passing unfunded mandates on to States and local governments, unless we send the money to pay for them. I'm proud to say that the unfunded mandates bill is now the law of the land, and has been signed by President Clinton.

Again, leading by example, Senate and House Republicans put our budget cutting zeal to the test right here on Capitol Hill. Senate Republicans cut staff and overhead, reducing committee budgets by 15 percent.

We voted to give the President the line-item veto, a long overdue tool in our efforts to rein in Government. To bring real discipline to Federal spending, the House approved the balanced budget amendment to the Constitution. Regrettably, the Senate fell one vote short. But, we're not giving up, and we hope one of our colleagues, somebody out there, wherever, who may have voted "no" will understand, if we are going to have the discipline and force the Congress to make these tough decisions, the balanced budget amendment is very, very important.

And I must say I welcome anyone who wanted to be converted on that issue because I think it is critical. To me it is sort of the centerpiece of all the efforts we are making on both sides of the aisle. It is not a partisan issue. There is a new poll out today indicating that 78 percent of the American people support the balanced budget amendment. I believe they understand probably better than we do that we need the discipline. We need to be able to say to people, Oh, we cannot do that. It is a great idea, but we have a constitutional amendment now for a balanced budget and we cannot start a lot of new programs, which start low and end up in the millions and billions of dollars.

So it is my hope that, before this Congress ends, the balanced budget amendment will be before the States for ratification. It seems to me that is very, very important.

Then just last night, we made a very important downpayment on deficit reduction by cutting $16 billion in unnecessary Government spending—not over 5 years. The President advocated $16 billion over 5 years. This year it is $16 billion in the Senate bill and $17 billion in the House version. They will go to conference when we return after the recess. My view is that we will have a very tough but a very fair spending reduction proposal to send to the President. I hope that he will see fit to sign it.

We acted swiftly to ease burdens on working Americans, and those who create jobs and opportunities. We restored the tax deduction for more than 3 million self-employed Americans for the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

cost of health insurance premiums. We eased burdens on job-created businesses by approving the Paperwork Reduction Act. And we took an important first step in regulatory reform by approving a 45-day congressional review of excessive regulations which cost America money and jobs.

The Republican Congress' first 100 days stand in stark contrast to the first 100 days of the Clinton administration. Instead of an explosive action period, President Clinton's first 100 days in office will be remembered for big Government policy bombs, such as the biggest tax increase in American history, including retroactive tax increases and tax hikes on Social Security recipients, and a misguided, unpaid-for stimulus package that would have added billions to the deficit Americans are demanding we control.

And in 1995, while Republicans were reining in Government during our first 100 days, the Clinton administration was at it again, producing a budget that gave up on trying to ever balance the Nation's books. And the President protected Washington's chronic wild spending by fighting the balanced budget amendment, and the will of the American people.

The good news is, during the next 100 days, the Republican Congress is determined to protect our children, grandchildren, and future generations of Americans by producing a budget plan that will lead to a balanced budget by 2002. It would be a lot easier if we had that one more vote on the Democratic side, and I do not think anyone in this Chamber would think that it would make it much easier for us to do that if we had that discipline. I really believe that someone will see the light, I hope.

Mr. President, while the focus during the past 100 days has been on the House—and rightfully so—I believe the next 100 days will belong to the Senate, probably maybe the next 100 nights, too. There will be fewer recesses on the Senate side. The House is going out for 3 weeks. We are going out for 2 weeks. We have to catch up.

I do not quarrel with that because the Founding Fathers realized that they needed one body that could move very quickly. They wanted another Chamber where they would be more deliberate and certainly nobody can argue the point that we are very deliberate.

In fact, we deliberate and deliberate and deliberate sometimes. We are not setting any deadlines. And no one expects the Senate to be a rubberstamp for the House. But we will continue to be guided by the common principles of reining in Government, returning power to the people, and expanding opportunity.

It is my hope that the Senate will address many of the following issues, putting the budget on a path to balance: welfare reform. That is a big issue, not partisan. It is bipartisan, as it should be. The President says he supports welfare reform; cutting taxes for families. There will be a tax cut, a substantial tax cut measure passed in the Senate; reforming our legal system, regulatory reform, tough anticrime measures, voting on term limits and protecting U.S. interests in U.N. peacekeeping.

Mr. President, on January 4, I walked across the Capitol to the floor of the House because I had never had the privilege of seeing a Republican Speaker. Now I have, and I know I speak for all of my Republican colleagues when I say I like the change. Tonight, Speaker GINGRICH will report to the Nation on the historic first 100 days of the Republican Congress. I look forward to watching, and I look forward to tackling the important work that remains ahead.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. COVERDELL). Under the previous order, there will now be a period for the transaction of morning business that will not extend beyond the hour of 1 p.m., with speakers permitted to speak therein for up to 5 minutes each.

Mr. CONRAD. Mr. President, I ask unanimous consent that I be able to proceed for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. I thank the Chair.

REPUBLICAN ACTION TO BALANCE THE BUDGET

Mr. CONRAD. Mr. President, this week does mark the final action in the House of Representatives on the so-called Contract With America. This week, there will be all kinds of analysis of what the Contract With America has meant, and I wanted the chance to take stock and share my view as people comment on the first 100 days of the so-called Contract With America.

Let me say, as I said in a speech in January, there are some parts of the contract that are good, some parts of the contract that I strongly support. In fact, we already have two parts of it that have become law—the Congressional Accountability Act that will apply to Members of Congress the laws that apply to everyone else. I support it. We tried to get it passed last year. It is now the law of the land. That is positive; and the unfunded mandates bill, which will make it more difficult for the Federal Government to send orders out to the States to fund something that we deem necessary and appropriate. That had gone too far. We have reined it in through legislation that is now also the law of the land. Those are both positive things, in my view.

When we turn to the fiscal side of the House, when we look at how the Contract With America impacts the long-term economic health of America, quite a different picture emerges. Very frankly, the numbers just do not add up.

The proponents of the contract have said they are going to balance the budget; they are going to cut taxes; they are going to increase defense spending, and it is all going to work.

Mr. President, we heard that same old song back in the 1980's, when the Republicans captured control of the Senate, they had the White House, and they told us they could cut taxes dramatically, increase defense spending, and balance the budget.

What happened? Well, they cut taxes. They increased defense spending, but the deficit and the debt of this country exploded. And now, Mr. President, we are seeing a repeat of that tragic, tragic economic policy for this country. Now we are seeing a repeat, déjà voodoo. We saw the economic policy of the 1980's referred to as voodoo economics, and indeed it was because it told the American people, when we already had a deficit, that we could cut taxes, raise defense spending and somehow it would all add up. It did not add up then, it is not going to add up now, and we ought not to repeat that experience.

That dug a deep hole for America—quadrupled the national debt in this country. Now we are faced with a circumstance in which we see the same old economic nostrums peddled to us once again.

Mr. President, I think it helps if we look at what is our current circumstance. This chart shows what it would take to balance the budget over the next 7 years. What are the cuts necessary to balance the budget if we do nothing to make the problem worse before we begin to solve it? This chart shows it would take $1.2 trillion of cuts over the next 7 years to balance the budget.

Mr. President, unfortunately, our friends in the Contract With America, before beginning to solve this problem, have taken the first steps which are to make it worse. It makes no sense. Just this week, they passed in the House tax cuts of $345 billion over the next 7 years. So instead of starting by reducing the deficit, they have started by digging the hole deeper instead of starting by filling in the hole.

Mr. President, this chart shows on top of the $1.2 trillion of cuts necessary to balance the budget over the next 7 years, our colleagues in the House have added $345 billion of tax cuts over that period, so now we have a hole that is $1.555 billion.

Mr. President, one might ask: Where are the spending cuts from our friends in the House of Representatives, from those who are advocates of the Contract With America, where are the spending cuts to match the problem that we have of balancing the budget over the next 7 years?

Mr. President, here is what they have come up with so far, $485 billion—$485 billion of cuts matched up against the need of $1.54 trillion necessary to balance the budget over the next 7 years.

Unfortunately, the full picture is even more serious. Let us just go to the next chart because the charts I have shown before this one assume we are going to take Social Security trust fund surpluses to reduce the size of the deficit over this next 7 years.

If instead we were to balance the budget honestly and not be raiding Social Security trust funds to balance the budget, what we find is instead of a $1.5 trillion hole to fill, we have a $2.2 trillion hole to fill. We have the $1.2 trillion of spending cuts necessary to balance the budget over the next 7 years, we have $636 billion of Social Security trust fund surpluses that will be generated over that period, and now because of House action we have the $345 billion of tax cuts that they have passed. To balance the budget honestly over the next 7 years we would need a whopping total of $2.191 trillion.

Mr. President, again, let us see what they have done with the Contract With America in terms of meeting that need. We need nearly $2.2 trillion of cuts. They have come up with $485 billion so far. That looks to me like a $1.6 trillion gap.

Our friends with the Contract With America have a $1.6 trillion—not million, not billion—$1.6 trillion credibility gap with the people of America, because if we are going to honestly balance the budget, we are going to close the gap between spending and revenue over the next 7 years, that takes $1.2 trillion. If we are not going to use Social Security surpluses, that is another $636 billion, and now they have stacked on top of that $345 billion in additional tax cuts—nearly $2.2 trillion necessary to balance the budget over the next 7 years and they have come up with a measly $485 billion of cuts.

Mr. President, they are not getting the job done.

Now, if we look at the spending over the next 7 years, the projection is that we will spend $13.2 trillion over the next 7 years.

Remember, we need now, based on the action they have taken over in the House, to save $2.2 trillion. We are intending to spend $13.2 trillion over that period of time.

Well, that looks like a manageable thing to do. Look at where the money is going. Interest on the debt, over $2 trillion. In fact, we are going to spend more on interest on the debt over the next 7 years than we are going to spend on the national defense. We are going to spend $2.072 trillion on defense. We are going to spend $2.082 trillion on the interest on the debt.

What are the other big areas of spending? Well, Social Security is the biggest—$2.894 trillion on Social Security. We have Medicare, $1.847 trillion over the next 7 years; Medicaid, $962 billion. So those are real, the big pots of money. And domestic discretionary spending, just over $2 trillion. Those are the big pots—Social Security, interest on the debt, defense, Medicaid, Medicare, and domestic discretionary spending.

In fact, one of the interesting things you find is in just five areas on the budget, we are spending 75 percent of the money—Social Security, interest on the debt, defense, Medicare, and Medicaid.

But our friends have said, well, there are parts of this that we cannot touch. Obviously, you cannot cut interest on the debt. That is owed. We have to pay that. That is $2 trillion over the next 7 years. So that is off the table.

In addition, our friends have said Social Security is off the table. We are not going to touch that, because that is the most fundamental contract with America. We have taken taxes from people in order to assure that they receive the benefits they have been promised. That is $2.9 trillion over the next 7 years. That is off the table.

In addition, in the Contract With America, they have said we are not going to touch defense. It is off the table. That is over $2 trillion over the next 7 years. In fact, they say we ought to increase defense spending.

Well, when you take Social Security, interest on the debt, and defense off the table, you have to achieve those $2 trillion of savings out of about $6.2 trillion of spending, because we have taken half of the budget off the table.

Mr. President, that means we would have to cut everything that is left by a third in order to achieve the savings. Everything else would have to be cut by a third.

I do not think that makes much sense—cut the highway program in this country by a third; cut veterans benefits by a third, after we made a solemn promise and pledge to them; cut education by a third; cut every nutrition program; every program to make this country a better place, cut them all by a third.

Mr. President, there has to be a better way of going about this. The Contract With America so far is certainly not delivering on its promise to make the economic lives of Americans better. One of the most disturbing aspects of what has been done is to look at how they have targeted the tax benefits.

Because, let us be frank, they have targeted the tax benefits right at the richest, wealthiest people in this country. They have said to those who are at the top, "You get the lion's share of benefits." And they have said to everybody else, "You get the scraps."

Mr. President, let me just make this clear. We have had 100 days of the Contract With America, and the tax plan that they have passed gives 100 times the benefits to somebody earning over $200,000 as it gives to a family earning $30,000. If you are earning over $200,000 in America today, you get an $11,200 tax cut under what they have done in the other House under the Contract With America.

If you earn over $200,000, you get an $11,200 tax cut. If you are a family earning $30,000, you get a $124 tax cut. That is nearly 100 times as much going to those earning $200,000 as to those earning $30,000.

This is their idea of tax equity. This is their idea of fairness. This is their idea of somehow making America better.

Mr. President, this is the same old trickle-down economics that we have seen before. It is great if you make a lot of money, but it does not do much for you if you are in the middle income in this country.

Frankly, the middle-income taxpayer will really pick up the tab, because we know what happened in the 1980's with this economic theory. The debt exploded, the deficits exploded, and interest rates exploded and, as a result, the things that cost middle Americans money—home mortgage, college tuition—all of those things skyrocketed. So they get a $124 tax reduction. They will get many times that in increased expenses because of increased interest rates.

Mr. President, this shows the Republican contract. Fifty-two percent of the proposed tax cuts go to the top 12 percent of our population. Taxpayers with incomes of less than $100,000, 48 percent of the proposed Republican tax cut goes to taxpayers with incomes of less than $100,000. The 12 percent at the top, those earning more than $100,000, they get 52 percent of the benefits.

Again, I think a lot of people wonder: Gee, how is it? I read that in this Contract With America, they had a $500 tax credit for children. How could it be that a family earning $30,000 a year only gets $124 of benefit?

Well, you know why that is true, Mr. President? Because they have played a little trick. They played a little trick in this tax plan. They did not make that credit refundable. And so if you look at what people are paying now and the tax relief they will get, you find that it is a big hoax; it is a big trick.

A family earning $30,000 gets $124 of benefits. Those with $200,000 of income get $11,000 of benefit. That is fair? I do not think so. I do not think that is what the American people had in mind when they were told there was this Contract With America. I do not think they had in mind, when they talk about a 50-percent cut in the capital gains tax, that 75 percent of the benefit goes to the top 12 percent in this country; and that the other 88 percent of the people in this country get 25 percent of the benefit. I do not think that is what they had in mind.

Mr. President, this last chart shows what is happening to the deficit. I thought under the Contract With America, they were going to balance the budget. But let us look at, after the enactment of the Contract With America, what is happening with the deficit.

Do you know what one finds? The deficit is going up. The deficit is not going down. The deficit is going up.

I thought with this Contract With America, they were going to be reducing the deficit. I thought they were going to be moving toward a balanced budget.

They have now passed the whole Contract With America and the deficit is going up. What happened? What happened? They said in this Contract With America that they were going to reduce the deficits, reduce the debt, and balance the budget.

But after the Contract With America is passed, the deficit is not going down, the deficit is going up. It is because the same old voodoo economics does not add up. It does not add up.

Mr. President, this is going to be pretty sobering for the American people to find out that they put their trust in something and, once again, they are disappointed. It is time for us to honor the most basic Contract With America, the pledge we took to uphold and defend the Constitution of the United States.

That is the real Contract With America that every Member of the House and the Senate have. And we have a duty and an obligation to secure the economic future of this country—a duty and an obligation. We ought to move immediately upon our return to balance the budget of this country, to do it in an honest way without raiding Social Security trust funds and to secure a future for our children that is as full of promise and hope as what was turned over to us by previous generations.

Mr. President, I think the Contract With America has some good points—congressional accountability, the notion that we are no longer going to put off responsibilities on States that are beyond their ability to pay for. But this economic game plan is bankrupt. It does not add up. It is not fair, and it must be rejected. Then we must turn in a bipartisan way to doing what we all know must be done: to get our fiscal house in order, to get America back on track and to create economic opportunity for the people that we all represent.

I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HUTCHISON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Madam President, it is my understanding that, under a previous order, each Senator is allowed to speak up to 5 minutes.

The PRESIDING OFFICER. The Senator is correct.

BUDGET DEFICITS

Mr. COVERDELL. Madam President, I have been presiding, as you are, over the Senate for the last couple of days, and I would like to make some remarks about what I have heard from the other side, not the least of which we just heard from the good Senator from North Dakota.

First, I will say that the charts that he has described do one thing. They very clearly paint a picture of the enormous financial crisis that our country faces. It was just the other morning that I spoke before the Senate and I pointed out that within 10 years, Madam President—and that puts virtually every American I have spoken with at the table—all U.S. revenues will be consumed by just five things: Social Security, Medicare, Medicaid, Federal retirement, and the interest on our debt. Every dime of U.S. revenue will have been expended by those five outlays in just 10 years. So it is going to be this generation that has to come to grips with this issue.

We cannot pass the baton to anybody else. It is going to happen on our watch. The clock has run out. It will be this generation of Americans that come to grips with this.

But as I listened to the Senator from North Dakota as he was analyzing what our side of the aisle is coming with, he left out a couple salient facts.

The first is that the new majority's budget has yet to be presented. He was talking about the tax cut provisions that have come from the House, but we do not yet have the budget that has been presented from the House or Senate Budget Committees.

I am comfortable that both those committees are going to come with budgets that move toward balance and do not add to the deficit. After all, it was the new majority that had to fight through this body the rescission cuts from the House which were $17 billion and, as the majority leader noted this morning, on the Senate side late last night, $16 billion. I might add, that is a stark contrast from what the President came to Washington to do, which was to add $16 to $19 billion just 2 years ago straight to the deficit if it had not been defeated by our side of the aisle. So he failed to address the fact that the new budgets have yet to be seen.

The second point he left out is that the only budget that has been given that we have seen has been given to us by the President of the United States. We do have that budget. That budget adds $200 billion to the deficit for as far as the eye can see. If he had put the President's proposal on his chart, it would have had to have reached clear to the top of the ceiling. The President has totally ignored the deficit—totally ignored it.

The President was in Atlanta just this past week, and the President and the Secretary of the Treasury both said—this is an unbelievable statement—but they both said that the United States is actually operating in an operational surplus. That is a stunning statement from the President, the Chief Executive of the United States of America, that we are actually operating—he told a group of 2,000 students that we are actually operating with a surplus.

He went on to say—asterisk—"that is, if you do not count the interest on the debt."

Of course, most people I go to work with every day and who live in my hometown and my State recognize that if they go to the bank and they ask for a loan and the loan officer says, "Your financial statement just won't allow the loan," they would say to the loan officer, "Yeah, but if you don't add all the interest I am paying on my mortgage, I'd be in great shape," you would either be laughed out of the loan office or thrown out of the loan office.

Madam President, I am just going to leave two points: One, the Senator from North Dakota completely overlooked that the budget they presented is $200 billion in debt for as far as the eye can see; that this administration, through the budgets that they have offered and the actions they have taken, are doing the equivalent of adding $2.2 trillion to the debt—$2.2 trillion to the debt. He left that completely out of his remarks.

And the second point I want to make is you cannot talk about what the new majority planned until the new majority puts its budgets on the table. They will be here soon, and they will move to a balanced budget by the year 2002.

I might also add, if the Senator from North Dakota had voted for a balanced budget amendment, we might be on a near course to getting this job done. I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

U.S. INTELLIGENCE AND MEDICAL COMMUNITY PARTNERSHIP

Mr. KERREY. Madam President, I rise to issue a challenge that I hope will be answered with the creation of a stimulating partnership between business, medicine, and the Government, in this case the Federal Government. An important relationship is developing today between U.S. intelligence and the medical communities.

Technology to support intelligence analysis is being adapted to improve significantly a doctor's ability to detect breast cancer in its earliest stages. Over 46,000 women die each year. The early estimates are, with this technology, that up to one-third of these women could be saved as a consequence of this technology conversion.

The technology being developed is simple to describe but very difficult to achieve. Daily, intelligence analysts deal with the problem of detecting changes in photographic images they are reviewing. As they watch foreign airfields, they want to know arrivals, bed-down, and departures of aircraft. As they watch foreign seaports, they want to know the arrivals, unloading, and departures of ships carrying cargo of interest. Computer software can be of great assistance in automatically detecting these sorts of changes at airfields and at seaports. It is this intelligence technology that is being adapted for the medical community.

Early detection of breast cancer currently relies heavily on the judgment and professional experience of doctors who review mammograms and magnetic resonance images. A significant part of their judgment is based on comparing previous images with the current image of a woman's breast. As in the intelligence world, detecting change is fundamental to understanding what is going on.

Through some exciting developments managed by the National Information Display Lab at the David Sarnoff Labs in Princeton, NJ, computer analytical techniques are being developed for the medical community. Relying on the technology developed for intelligence, they are adapting the technology to combat a dreaded disease that attacks 1 in 8 women in America today.

Madam President, I want to emphasize that the tens of thousands of lives that already have been saved as a result of intelligence technology by providing more effective national defense will be complemented by the thousands of lives that will be saved through the earlier detection of breast cancer.

This is an excellent example of the sound investment of taxpayers' dollars being paid off by saving thousands of lives in both national defense and medicine.

The National Information Display Lab, or NIDL, is an inspiring arrangement that needs to be duplicated by other Government/private-sector relationships. NIDL provides the bridge between Government/civilian-sector requirements and Government/civilian-sector technology. By understanding both requirements and technologies, NIDL is able to help close the gap between the Government and the private sector. Perhaps the most significant part of NIDL's story is their funding. NIDL relies on Government funding to begin to develop technology, which is then spun off to the commercial world for civilian and Government applications.

On Tuesday of this week, Madam President, the chairman of the Intelligence Committee, Senator ARLEN SPECTER, and I announced intelligence community funding to begin the technology transfer for breast cancer research. The community is providing $375,000 to the NIDL to push the technology ahead. We are all aware of the intelligence community's keen sense of urgency, great technical expertise, and excellent planning skills which will ensure that the push forward has an effective start.

I also want to personally thank President Clinton for making all of this happen. His commitment to breaking down the walls between defense technology and commercial technology, and his passion to attack the Nation's health problems with every weapon in our arsenal are the reasons this project is going forward. Once he knew that intelligence systems could bring earlier detection of breast cancer, this Government acted with determination and dispatch.

I began, Madam President, by saying that I was issuing a challenge. The challenge is this: Will all the interested parties—Government, medical, and commercial—now pick up the ball that has been put into play and carry it forward so that within 12 to 24 months—I emphasize this, Madam President, because this start will not come to completion unless we set a deadline and say that within 12 to 24 months, we are going to carry this technology forward into the clinical labs and clinics of this country, so that within this period of time, more women's lives will be saved through the earlier detection of breast cancer. The National Information Display Lab must be put on a sound financial basis, and everyone must help. I hope the challenge will be met.

I yield the floor.

Mr. BENNETT. Madam President, I ask unanimous consent that I be allowed to speak in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GUIDE TO SMALLER GOVERNMENT

Mr. BENNETT. Madam President, I have several matters I would like to call to the attention of the Senate.

First, in this morning's Wall Street Journal, we have "A Bureaucrat's Guide to Smaller Government."

> The following was sent in by a Federal employee who asked to remain anonymous so she can keep her cushy Government job.

She describes the way in which she talked to her other Federal employees or fellow Federal employees, asking them, "How will you know that the Government is truly shrinking?" They came up with their top 10 list.

These are the top 10 ways we can know that the Government is truly shrinking:

> (10) When the Equal Employment Opportunity [EEO] office has a layoff.

She says:

> Our EEO chief gets paid more than $70,000 a year to coordinate "diversity" events and spout aphorisms at meetings. When that sacred cow gets a real job, I'll know the change has come. Which brings me to * * *
>
> (9) No more paid time off for diversity or charity events.

She says employees can get away with murder because of the Federal culture. It lacks an urgency to produce.

A lazy but savvy employee can spend most of his or her workweek attending such vital events as Earth Week, Women's Equality Day, AIDS Awareness Day, or helping in the annual United Way shakedown.

She says:

> I'll know the cuts have had an impact when agencies like mine no longer can afford to have an $80,000-a-year employee take "a few months off" to work on the United Way fund drive.
>
> (8) When upper management is replaced for not making cuts fast enough.
>
> (7) When the entourage for agency heads disappears.

She says:

> My agency has about 600 people—small by Federal standards. Even so, the guy who runs the place has a scheduler who's paid $70,000 a year, a public relations staff to write his speeches and press releases, and a clutch of assistants and advisers * * *. A Congressman or Senator can get by with fewer helpers. Why not a bureaucrat?
>
> (6) When the newspaper subscriptions stop. Scientific or trade journals are one thing, but why does the Federal Government need to buy thousands of subscriptions to The Washington Post or the New York Times?
>
> (5) When somebody gets canned—and quickly—for running a business from his desk.

This one struck me, interestingly. She says:

> I saw my first answering machine in 1979 on the desk of a Federal employee who was running a real estate business "on the side." Moonlighting on the job is still lucrative, as the chance of being punished, let alone fired, is very small. If the White House caves in to union pressure and won't push for streamlined firing procedures, then the Hill should do it and get these thieves off the payroll.
>
> (4) When top management takes cuts, too.

She talks about the hiring freezes at lower levels, but not at the top.

> (3) When nobody says "because we've always published this report."

"Hundreds of Federal documents," she says, "are published out of habit, not need."

No. 2, Madam President, as to how we will know the Government is being cut back:

> When they take "solitaire" off the computer.

And (drum roll) the No. 1 way Federal workers will be able to tell when big Government is being cut: When there's nobody in the cafeteria at 2 p.m.

She says:

I believe the Federal culture can change. But does the GOP Congress have the guts to give the Federal bureaucracy a long-overdue kick in the pants? Some of us will be watching for the signs.

I found that amusing, and having served in the executive branch myself, somewhat familiar, Madam President.

I ask unanimous consent to have the entire article printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

A Bureaucrat's Guide to Smaller Government

The following was sent in by a federal employee who asked to remain anonymous so she can keep her cushy government job:

Does tough, bureaucracy-busting talk from the new Congress and the White House scare the average federal worker? I'm a federal employee and have yet to see any signs of fear among my colleagues. Perhaps that's because I have yet to see any signs of real change in the federal government.

Yes, there are some grumblings about pensions. But we've seen administrations and Congresses come and go, with their blue-ribbon commissions on cutting budgets, pay and jobs. Yet, budgets always continue to grow, hiring expands, and people get paid more for doing less.

I recently asked a few of my federal-worker friends, "How will you know that the government is truly shrinking?" Here's our top 10 list:

(10) When the Equal Employment Opportunity (EEO) office has a layoff. Our EEO chief gets paid more than $70,000 a year to coordinate "diversity" events and spout aphorisms at meetings. When that sacred cow gets a real job. I'll know the change has come. Which brings me to . . .

(9) No more paid time of for diversity or charity events. Today, the lazy but savvy employee can spend most of his or her workweek attending such vital events as Earth Week, Women's Equality Day, AIDS Awareness Day, or helping in the annual United Way shakedown.

Employees can get away with this because the federal culture, in general, lacks an urgency to produce, I'll know the cuts have had an impact when agencies like mine no longer can afford to have an $80,000-a-year employee take "a few months off" to work on the United Way fund drive.

(8) When upper management is replaced for not making cuts fast enough. Politically appointed managers serve at the pleasure of the president. If he's displeased by an appointee's not being willing to cut, the appointee should go. Likewise, the appointee should threaten transfers or demotions to senior civil servants who don't or won't hustle.

(7) When the entourage for agency heads disappears. My agency has about 600 people—small by federal standards. Even so, the guy who runs the place has a scheduler who's paid $70,000 a year, a public-relations staff to write his speeches and press releases, and a clutch of assistants and advisers. These people are mostly civil servants, and they represent a bloat at the top as they pamper and package their boss. A congressman or senator can get by with fewer helpers. Why not a bureaucrat?

(6) When the newspaper subscriptions stop. Scientific or trade journals are one thing, but why does the federal government need to buy thousands of subscriptions to the Washington Post or the New York Times?

(5) When somebody gets canned—and quickly—for running a business from his desk. I saw my first answering machine in 1979 on the desk of a federal employee who was running a real estate business "on the side." Moonlighting on the job is still lucrative, as the chance of being punished, let alone fired, is very small. If the White House caves in to union pressure and won't push for streamlined firing procedures, then the Hill should do it and get these thieves off the payroll.

(4) When top management takes cuts too. Hiring freezes and "reductions-in-force" are two tricks politicians and upper-level civil servants use, probably because lower-level employees get shuffled around while the top-heavy structure remains intact. Corporate America has known for years that a flatter management structure is more efficient. A smaller budget coupled with a results-oriented Congress might do the trick for the federal sector.

(3) When nobody says "because we've always published this report." I heard Mike Espy did something right at the Agriculture Department. He stopped publishing the agency's yearbook because nobody read it. Hundreds of federal documents are published out of habit, not need.

The original need for all this paper came from the days when the federal government was one of the few reliable sources of information—and when the kind of information it provided was difficult to get otherwise. Economists call that "market failure," since the market couldn't give the service. Today, there is no market failure in information, thanks to modems and the Internet. Except for the Census (which is constitutionally mandated), the feds should stop handing out information for free, cut the staffs, and let the market take over.

(2) When they take "solitaire" off the computer. Gov. George Allen of Virginia did it to his state's computers, and he was right. He didn't think Virginia could afford to have such addictive time-wasters on people's desks, and the same goes for the federal government.

And (drum roll) the No. 1 way federal workers will be able to tell when big government is being cut: When there's nobody in the cafeteria at 2 p.m.

There's a story that now-Supreme Court Justice Clarence Thomas was hated when he was a commissioner at the Equal Employment Opportunity commission, because he would scour the coffee shops in the afternoons and order people back to work. Someday, I hope a manager will find an empty cafeteria at 2 p.m. because his employees can't afford to goof off.

I believe the federal culture can change. But does the GOP Congress have the guts to give the federal bureaucracy a long-overdue kick in the pants? Some of us will be watching for the signs.

SENATE VOTES $16 BILLION IN CUTS

Mr. BENNETT. Now, Madam President, I rise this morning to talk about what happened in this Chamber last night.

I am interested in the fact that neither the Washington Post nor the New York Times—the paper that considers itself the paper of record in the United States—took proper notice of what happened here last night.

I would like to correct that and talk about it for just a minute. I have here a copy of the Washington Times, the upstart newspaper, and it says in the headline "Senate Votes 99 to 0 for $16 Billion in Cuts."

Now, Madam President, we were here 2 years ago, when the Senate was fighting about $16 billion—interesting symmetry in numbers—for a stimulus package which we were told was absolutely essential to get the economy on its feet. Indeed, we were told on this floor that if we did not pass this stimulus package of $16 billion in increased spending, the economy would collapse, people would be out of work, everything would fall apart.

We Republicans opposed the stimulus package. We did not have enough votes to defeat it, but we had enough votes to prevent cloture, and we kept talking about it and ultimately it was taken down.

That is, for those who do not understand the language of this place, "taken down" means that the majority leader removed it from the floor and it was left for dead.

We were told at that time, we have dealt the economy a serious blow. Indeed, that stimulus package was an appropriations bill referred to as "an emergency." It was an emergency appropriations bill, the advantage of that being that it did not have to come under the budget requirements.

You see, we have budget caps here and they say this is what is required. But if you have an emergency appropriation, that goes above the budget caps. We had this $16 billion stimulus emergency before us and promises of all kinds of dire disastrous events that would occur if we did not pass it. We did not pass it. The disastrous events did not come to pass. And then, in this Congress, to show the difference, we had a bill on the floor, a rescission bill—meaning we were cutting out of the present fiscal year's activities $16 billion. In business terms this is a $32 billion turnaround.

While we were debating these $16 billion in rescissions, in cuts, we were told, again on this floor: Disaster. If you make those cuts you will be throwing children out into the snow. If you make those cuts you will be trying to balance the budget on the backs of those people least equipped to handle it. We were told how terrible that would be. And we persisted. We stood firm.

When I came on the floor last night to vote I expected the vote on this bill to be as close, if you will, as the vote on the stimulus package was, because we had heard all these terrible things.

Then, when the vote started to come in, I was stunned to hear the people who were voting for these $16 billion in cuts. I thought maybe I am on the wrong side. Maybe this is a motion to table, because I am going to vote for this. But the other kinds of Senators, who are voting for it, are not the ones I expected to be for these cuts, having heard all this rhetoric. But I looked around—no, everybody was voting for it. As the headline says in this morning's paper, "Senate Votes 99 to Zero for $16 Billion in Cuts."

That demonstrates the change that has occurred in just 2 years. We have gone from $16 billion in a stimulus package that we had to have or the economy would collapse, bitterly fought over, highly partisan, narrow vote—to a unanimous vote in the Senate that says $16 billion can come out of the current fiscal year's activities without hurting the economy. Indeed, I would suggest, it would help the economy.

So I am delighted to have been 1 of the 99 that voted for those cuts. I am delighted to welcome the new converts to the side of those of us who believe that the Government can survive, that we can downsize the bureaucracy, that we can get some progress toward bringing our fiscal affairs in order, regardless of the rhetoric that has gone around.

SMALL BUSINESS

Mr. BENNETT. There is another point I want to make, Madam President. During the debates 2 years ago there was a lot of conversation about small business. Everyone loves small business. Everyone recognizes that small business is the engine that drives the economy, because all of the new job growth comes not in the big businesses but in small business. The new job growth comes from the entrepreneurial effort, the young man or young woman who starts his or her own business, hires a couple of neighbors, then takes on a few more and pretty soon you have 8, 10, 12 employees where you had none before.

If you multiply that by the thousands, tens or hundreds of thousands of opportunities around the country, you realize that is where the new jobs come from. As the big businesses are downsizing, the small businesses are providing the new job engine and opportunity.

In the debate that went on with respect to the economy 2 years ago, everyone said kind things about small business. But when it came to talking about the realities of small business I, as a former small businessman, found an enormous amount of misunderstanding or, frankly, plain ignorance about the way small businesses work. Two areas concerned me the most and I am hoping that this vote that occurred last night signals as big a change in understanding of these two areas as it does with respect to how we are going to handle our fiscal affairs.

The first area that upsets small business people the most, as I go around and talk to them, is the area of regulation, overregulation, but perhaps even more frustrating, simply stupid regulation—lack of common sense. It has been my experience that we in the Congress write legislation and we have a relatively focused attitude as to what will be regulated—about the distance between my two hands. We legislate to this regard.

Then, when the people in the executive branch receive that piece of legislation they move the hands out and they start writing regulations within these parameters—like the fish that got away, when it is being discussed later on around the campfire. Then, after these regulations are sent out the enforcers get ahold of them and they enforce them as if there are no parameters, and the hands spread even wider. So the small business person comes to us in Congress and says, "What are you doing to us?"

We say, "This is the legislation that we wrote"—back to the original distance between the hands.

And they say, "But we are faced with inspectors who are regulating as if there are no parameters at all."

We have, within this Congress, a proposal that would say after we legislate, and then the regulations are written, the regulations have to come back before the Congress and for 45 days we get an opportunity to cut them back to the level that we had in mind when we passed the law. If we can make that stick we will make a significant contribution to the health and welfare of every small business in this country and, indeed, back to my comments about the anonymous Federal bureaucrat, we might even see some signs that Government is being brought under control, and not so many people are in the cafeteria after 2 p.m.

The second area that was discussed last year with respect to small business that frustrated me as a small businessman coming to the Senate had to do with tax policy. It was very clear to me, with all of the wonderful things people were saying about small business, that most of the Members of this body did not understand how small businesses really operate, and did not understand the impact of our tax changes on small businesses. We were told, for example, that the tax increase would fall only on the rich. I remember clearly the chart which President Clinton referred to in his address to the Nation, where he had a series of bar graphs and the bar graphs at this end were very small. He said these are the people in this income bracket who will pay more taxes and these are the people in this income bracket who will pay more taxes. These are the people in this income bracket.

Now look at the people in this income bracket. These are the people who earn over $250,000 a year. They are going to pay all the increased taxes and that is what we want. It is for the rich people to pay the taxes. As if only Michael Jordan was going to have to pay more taxes; nobody else was going to have to pay any more taxes.

Now, $250,000 a year is a lot of money for an individual, but it is not a lot of money for a small business that is growing. Many times, $250,000 a year is a problem. Why? Because the business is growing and it needs money for inventory, it needs money for receivables, it needs money for additional facilities. Where is the money going to come from? It is going to come from the profits being generated. And the business, for tax reasons, is being taxed as an individual.

I said in this body before, has anyone here ever heard of a K–1? That is the tax form that a small businessman or small businesswoman uses to report that income on his or her individual tax return. I pointed out in that bar graph that the President pointed to, 77 percent of the tax returns filed by people who were represented in that bar graph contained K–1 income. They were people who were reporting business income as if it were personal income in order to avoid double taxation. Yet, in this body, we were saying they were the rich and they had to have the tax increase put on them.

I hope that on the basis of last night's vote, we will recognize that the way to balance the budget is not to say let us soak the rich, let us soak those who show this kind of income on their personal tax returns, ignoring the fact that in many, many instances, it is not personal income, it is business income that is being reported. And the business needs that money desperately to continue the job creation pattern.

We would say, on the basis of last night's vote, the way to balance the budget is the way we did it last night, with a 99–0 vote in favor of spending cuts rather than the siren song of tax increases.

I conclude with this comment, Madam President, with respect to this question of tax increases and spending cuts.

In a business, you know what your costs are. And I look at what would happen if you were to cut your costs, cut your overhead. You can project that with some degree of accuracy. The thing you cannot project in a business with any degree of accuracy—well, maybe some degree, but it is pretty dicey—is how your sales are going to go, how your revenue is going to go up.

So if you were facing a shortfall in your business, you can cross your fingers and hope that the sales will go up to cover that shortfall. I assure you, I have done that many times in my career, hoping against hope that the sales will go up. But the one thing you can be sure of is that if you cut your overhead, those savings will be there in the following month even if the increased profits that you are hoping for, the increased revenues that you are hoping for are not there in the following month.

Last night, we cut the overhead in ways that are predictable. When we raise taxes we are doing the same thing a business does when it raises prices and then hopes that the customers will not react negatively, hopes that it can raise prices and still continue to sell the same number of units it sold before the price increase. We in the Federal Government have a miserable track record of projecting how those price increases are going to work.

I will give you two quick examples. Back as a result of the 1990 budget summit, we raised prices—"we," the Government—raised prices on two items, luxury boats and luxury cars. We projected that we would get more revenue out of both of these. To show what wonderful forecasters we are, on the luxury boat side, we took an industry that had over capacity, that desperately needed a price cut to survive, and mandated a price increase that destroyed the industry, caused massive layoffs and huge unemployment compensation bills. We missed that forecast terribly.

But before we say, "Oh, is that not awful that we missed that forecast," let us look at the forecast for the price increase on luxury cars. We missed that one just as bad, Madam President. But fortunately, for the Treasury, we missed that one on the other side. The revenue that came in from the increase in tax on luxury cars was three times what we forecast it would be.

What is the lesson to be drawn from that? To me, it is very simple; it is that the Federal Government, regardless of how much we have invested in computers and economists and experts, does a lousy job of forecasting what will happen as a result of its changes in tax policy. But we can do a better job of forecasting what will happen as a result of changes in spending policy.

So I think the lesson that comes out of last night's action and our examination of the contrast between this year and 2 years ago is this: We can get our fiscal affairs under control. We can cut through all of the rhetoric and the crying wolf and the horror stories and produce bipartisan support for spending cuts. Let us put the primary emphasis, like good business people would, on controlling the spending rather than crossing our fingers and hoping for the increased sales.

If we do that, we are on the right course. And I, for one, take great comfort out of what happened here last evening and hope it will be the harbinger for many more headlines that say that the Senate votes unanimously for substantial spending cuts.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Chair, in her capacity as a Senator from Texas, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be allowed to speak for up to 15 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROMISES KEPT

Mrs. HUTCHISON. Mr. President, I think it is a phenomenal thing that happened in America. In the last 3 months, the people asked for something different. And in the last 3 months, we have done exactly what the people asked.

If you ask a person to bring down to one or two words what the last 3 months mean, I would say "promises kept." I think the people of America were despairing that ever again, a politician would promise something and deliver.

That is what is happening right now in the Congress of the United States. I commend the House of Representatives for giving themselves a very heavy load and then succeeding in doing what they said they would do.

There are those who disagree with what the House did. Probably no one agrees totally with what the House did. But if you look at the spirit and the intent and the strain of what they did, I think the people of America agree that they did what they said they were going to do, and I think the Senate of the United States will agree with many of the concepts that the House has put forward.

If we are going to let the people of this country know that in fact their voices did make a difference in 1994, that the signal was received in Washington, DC, that the people want a different Congress and a different Government, then I think we are going to have to continue into the second and third 100 days going in the same direction that we are now going.

What does that mean? First and foremost, Mr. President, it is what you just talked about on the floor of the Senate a minute ago, a balanced budget. First and foremost, we have to start showing that we are serious about balancing the budget. Last night, we started on that road. We took some very serious and tough steps right in this 1995 budget, and we cut almost $16 billion that will not be able to be spent between now and October 1 of this year.

So that is a beginning. It is a very small beginning when you look at what we really must do. We must get on a track that says between now and the year 2002 we are going to go toward a balanced budget, that the $5 trillion debt that is sitting out there will not be increased but in fact we will start whittling away at the deficit so that in the year 2002 we can start looking at the long-term solutions to bringing down the actual debt.

A lot of people do not realize that when we get to the balanced budget in 2002, we still have the massive debt that we have to decide exactly how much of which we are going to pay down. But that is for the second phase. The first phase is to come to a balanced budget every year, and that is our first commitment.

The second commitment is a reform of Congress. If we are going to look at the long term, if we are going to look at the future, we are going to have to look at the reforms of Congress that will keep from happening what we have seen over the last 30 years, which is a buildup of this massive intrusion of the Federal Government on our States, on our local governments, and on the lives of our people, especially our small business people. If we are going to do that, it is going to be not only bringing down the bigness and vastness of Government, not only bringing down the arrogance of Washington, DC, but it is bringing down the power base of Congress.

I think the most important first step that was made by the House of Representatives was on the first day—hardly any press about it, but the reform of their leadership when they voluntarily voted themselves term limitations on chairmanships and the Speaker of the House himself. That began the process of bringing down the vast power that has accumulated in these Halls and really caused the massive increases in spending in the Federal bureaucracy. So when the Speaker says voluntarily I am not going to serve more than 8 years, and when committee chairs say I am not going to serve more than 6 years, you have really taken away a lot of the incentive to do things that build power bases and instead have given the incentive to do what is right from the public policy standpoint.

The Senate is now looking at just such changes, and I think it is going to be healthy for us to also in this body look at ways that we can pass the leadership around. It is a very important reform. It is internal. It will not be that well known outside the beltway. But it is a very important internal reform that will have far-reaching consequences.

The third area that I think is most important to get our country back on track is regulatory reform. If we are going to free our businesses to compete in this new global marketplace, we must have the harassment of Federal regulatory excesses stopped now. Stop right now. By every standard, the cost of complying with Federal regulations is holding down our small business and our large business from growing and expanding and creating the new jobs that will get this economy going again.

By conservative estimates, they say that business costs of regulatory compliance are about $430 billion a year. If you add the cost of regulatory compliance of States and local governments, it is about $900 billion a year.

To put that in perspective, Mr. President, the income tax brings in just under $800 billion a year. So as you are getting ready on April 15 to send your tax bill in, when you sign that tax bill, you should remember that what you are giving to the Federal Government is less than the stealth tax of regulatory compliance. That is the cost that is holding our business down, from growing and creating the new jobs. So if we are going to free our business to compete, we must take off those regulatory excesses.

Does that mean we are going to stop striving for clean air, clean water, protection of endangered species, safety in the workplace? Heavens no. Of course, not. What we must put in the equation is common sense. We are getting horror stories every day about some silly, stupid thing a regulator does that is unnecessary, that does not help the Government and most certainly hurts business. And it is the business that is the economic engine of America. So if we can stop that regulatory excess, that will be the most important thing we can do to get this economy going once again.

So these are the areas that I think we must address in the second 100 days. These are the areas that I think are going to be very difficult as we go forward. I have heard Democrats in the Chamber here, I have heard Democrats on radio programs talk about starving the children. The people of America are smarter than that. The people of America understand that we are not starving children when we give the States the responsibility for school lunch programs instead of running it from the Federal Government. The people of America are tired of silly, ridiculous statements like that that underestimate their intelligence, because I think the people of America who are raising our children understand that if our children are going to have a future at all, it is only if we begin to act responsibly in getting this huge Federal debt off the backs of those very children.

If they are going to have jobs in their future, if they are going to have education in their future, it is going to be only if we get this economy going again. We cannot do it if we have a program of spend now and pay later. That is what our program has been for the last 30 years in this country, save 1 or 2 years of responsibility.

Mr. President, I think the people of America need to listen very carefully. As we are going home for the next 2 weeks in the Senate, 3 weeks in the House, I hope that the people of America will listen carefully to what their elected representatives are saying because the messages could not be more different. Our message is one of providing for the future, of trying to make sure that there is a healthy America for our children, of trying to get the 10th amendment back in place, which says the powers not specifically given to the Federal Government will be left to the States and to the people. We must return the 10th amendment and we must let the States do what they know best, which is the needs of their people, rather than somebody in Washington sitting in an office who may not have ever been to Iowa or New Hampshire or Texas or California or Utah deciding what the priorities in that State should be.

My Governor, a Yale graduate, said, "You know, I'm beginning to be a little offended by those people up in Washington. Do they think I'm going to serve potato chips to the children of Texas? Come on. I think the people are smarter than that."

So, Mr. President, I think we have had a very exciting beginning. I think the people of America can say one thing right now and that is: things are changing in Washington. Their voices are being heard.

Is it easy? No. It is going to be very tough. But is it a commitment on our part to do what is right, not necessarily for tomorrow but for the long-term, for 3 years, for 5 years, for 10 years? That is the commitment that the people of America must see and that is what we must talk about as we go home and get the input from our constituents.

I hope that every one of us will take this opportunity to do that, because I think we have had a great beginning. I think the people of America should be assured that things are changing inside the beltway. And, with their support, we are going to keep right on plugging and try to make sure that the small business people of this country are able to grow and create the jobs that will let every American family see a better future for their children.

Thank you, Mr. President.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. CRAIG assumed the chair).

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

POLICY PROLONGS BOSNIAN HERZEGOVINA WAR

Mr. DOLE. Mr. President, this week marks the third anniversary of the war against Bosnia and Herzegovina. It also marks the third anniversary of the international community's failure in Bosnia—a failure the United States, under both the Bush and Clinton administrations, has participated in.

The biggest mistake made by world leaders was extending, in practice, the arms embargo on the former Yugoslavia to the Government of Bosnia and Herzegovina—which is an internationally recognized state and member of the United Nations. In addition to violating Bosnia's fundamental right of self-defense—a right which is recognized in article 51 of the U.N. Charter—this policy has had the effect of prolonging the war. It has prolonged the war by ensuring that the Serbs maintain such a superiority in weapons that they are not compelled to sign any deal—even one which rewards them with half of Bosnia as envisioned by the so-called contact group.

Now, the administration says that this European-designed policy has managed to contain the war and prevented further humanitarian disasters. We should not rush to pat ourselves on the back for our great humanitarianism until we look at the facts.

The facts are that over 200,000 people have been killed over the past 3 years, 17,000 of them children. Hundreds of thousands of civilians have been expelled from their homes because of their ethnicity and religion. Concentration camps, rape, and mass graves have become the tolls of ethnic cleansing—which is just another word for genocide. Homes, churches, and monuments have been reduced to rubble. Putting aside the human factor, from an international legal perspective, the world has watched as a U.N. member state has been attacked and occupied. And, now international leaders want to reward those attackers and occupiers, ostensibly in the pursuit of peace.

Yes, we must give credit to those brave aid workers and U.N. soldiers who have sacrificed and risked their lives to bring food and medicine to those in need. The policy is not their fault; they do not make policy—policymakers in Washington and European capitals do. Nevertheless, we should not fool ourselves, feeding people who are trapped in U.N. safe havens that are anything but safe, while denying them the means to defend themselves is bad policy.

Yesterday, the Bosnian Prime Minister said in an interview that the

Bosnians should prepare for a decade of war. It may sound pessimistic to some, but in my view it's pretty realistic if the present policy continues. Why should Bosnian Serb leaders agree to a settlement? Why should Bosnian Serb forces give up any of the 70 percent of the territory they occupy? Because U.N. forces on the ground? Because of NATO planes that fly overhead but do not bomb?

It is clear that the international community does not have the will to live up to its commitment to protect the Bosnians, so why can't we allow them to protect themselves? The present policy of keeping the U.N. forces in Bosnia indefinitely amounts to occupation. UNPROFOR should be withdrawn and the arms embargo should be lifted. That is the only policy that makes legal, political, and moral sense. And, it is the only policy that offers any hope of bringing this war to an end by creating a military balance on the ground.

Mr. President, if the cease-fire due to expire on May 1 is not extended and a peace settlement has not been agreed to by the Serbs, I intend to take up the Dole-Lieberman legislation on the Senate floor shortly after the April recess. Three years of monitored genocide is enough.

The PRESIDING OFFICER. The Senator from South Dakota.

EXTENDING THE APPRECIATION AND GRATITUDE OF THE U.S. SENATE TO SENATOR ROBERT C. BYRD

Mr. DASCHLE. Mr. President, on behalf of myself and Senator DOLE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

> A resolution (S. Res. 109) extending the appreciation and gratitude of the United States Senate to Senator Robert C. Byrd, on the completion by the Senator of the 4 volume treatise entitled "The History of the United States Senate", and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. I would just say I thank the Senator from South Dakota for letting me be a cosponsor. Senator BYRD is certainly a unique figure in the history of this country, let alone the Senate. I extend my congratulations for his continued commitment to the institution as reflected in the four volumes. I certainly congratulate him for his effort.

THE SENATE AND ITS HISTORY

Mr. DASCHLE. Mr. President, 206 years ago yesterday—April 6, 1789, U.S. Senate achieved a quorum and got down to business for the first time. This is a fitting occasion to commemorate both the history of the Senate and the Senator who has become the Senate's foremost historian. All of us have heard ROBERT C. BYRD expound upon the history of this institution, about the Constitutional Convention that created it, and about its antecedents, the British Parliament and Roman Senate. In addition, he has regularly applied his historical knowledge to current floor debates. If anyone questions the need for studying history, the senior Senator from West Virginia has offered living proof of its worth.

Those Members new to the Senate and those viewers recently addicted to C-SPAN-II might understandably assume that Senator BYRD spent his early years in the Nation's finest schools pursuing a rich classical education. ROBERT C. BYRD enjoyed none of those early advantages. On Armistice Day, November 11, 1918, shortly before his first birthday, his mother fell victim to that year's devastating influenza epidemic. Unable to cope alone, his father gave the child to an aunt and uncle who raised him in the hardscrabble coal fields of southern West Virginia. Although he graduated at the head of his high school class, the hardships and poverty of those Depression-era years in the early 1930's made college a luxury about which he could only dream. His early life was one of unremitting labor, as a grocery clerk, a butcher, and a shipyard welder. In 1946, he won a seat in the West Virginia Legislature, the first step toward a rich and productive career of public service.

Sixteen years after graduating from high school, ROBERT BYRD enrolled in college while serving in the State legislature. Driving great distances between campus and capitol, he managed to complete 70 credit hours of straight-A course work while building an impressive legislative record. In 1952, he won a seat in the U.S. House of Representatives. Although without a college degree, he was admitted to law school with the understanding that he maintain at least a B average. In 1963, at age 45, and nearly 5 years into his Senate career, ROBERT BYRD became the first and only person to earn a law degree while serving as a U.S. Senator. Not surprisingly, he earned that degree cum laude.

As he worked his way up the Senate leadership ladder—party secretary, party whip, party floor leader, President pro tempore, Appropriations Committee chairman—he systematically pursued his study of the Senate's rules, precedents, and history; of the American Constitution; of the history of England and of ancient Rome. Blessed with a keen intelligence, a photographic memory, and seemingly limitless energy, he devoured countless volumes by such authors as Plutarch, Tacitus, Montesquieu, Gibbon, Hamilton, Madison, Jefferson, and many more.

Consequently, it should have come as no surprise to his colleagues in the Senate Chamber on a quiet Friday afternoon in March 1980, when he delivered the first in what would become a series of 100 richly textured addresses on the Senate's history and traditions. His speeches appeared serially in the CONGRESSIONAL RECORD and were later combined into a magnificent four-volume series published by the Government Printing Office. I urge all who hear or read what I say here today to explore these volumes, as I have. Today I would like to take a few minutes to outline their rewarding content.

Senator BYRD's first volume takes the form of a chronological history of the United States from the point of view of the Senate. In it, he describes the events, personalities, and issues that affected the Senate from 1789 to 1989. Here are just a few examples:

He outlines the remarkable achievements of the First Congress, which fleshed out the form of our Federal Government by establishing the Federal judiciary, adopting the Bill of Rights, and providing sources of revenue.

He demonstrates that conflict between the President and Congress did not begin in the 20th century by recounting the dramatic tale of Andrew Jackson's struggles with the Senate over the Second Bank of the United States. For the only time in its history, the Senate in 1834 actually passed a resolution censuring a Chief Executive, although 3 years later Thomas Hart Benton succeeded in persuading the Senate to expunge that action, thus vindicating the aging Jackson before his presidential term expired.

Senator BYRD relates the story of how Senators came to be elected by direct popular vote after more than a century of being selected by the State legislatures. He traces the flaws in the original process and the efforts made to improve it before a constitutional amendment finally entrusted the citizens of each State with the choice of their Senators. He also describes the later reforms included in the Legislative Reorganization Act of 1946 that set the stage for the operation of the Senate we know today.

Unlike most histories of the United States, Senator BYRD views the Nation's great landmark events, like the Civil War, World War I, the Progressive Era, the Great Depression, and World War II, through the eyes of the Senate. He describes the way the body responded to each, showing how the Civil War, for example, stimulated such civilian legislation as the Pacific Railroad Act and the Land-Grant College Act.

Senator BYRD's second volume takes a topical approach to the Senate's history, discussing the way the institution has used its powers to approve treaties, confirm nominations, and conduct impeachment trials. Made up of individual chapters on such topics as Senate leadership, organization, and officers, this book provides essential background on many matters that we still debate today. A chapter on congressional salaries, for example, tells us that the subject has been controversial throughout the Nation's history, with a public outcry forcing Congress to rescind a salary increase on more than one occasion.

The four chapters on extended debate that discuss the development of filibusters and the evolution of the cloture rule offer perspective on the way delaying tactics have been used in Senate debates and the techniques that have been gradually developed to counteract them.

A chapter describing the history of the Senate Chaplain helped us earlier this year when questions arose regarding whether the House and Senate needed their own chaplains. The chapter not only explained the origin of the office but related that in the 1850's the House and the Senate for a time stopped electing official Chaplains and instead used local clergymen, who took turns offering the opening prayer. The Senate's experiment lasted only 2 years, as the practice became a burden on the Washington ministers who participated. The House, too, soon returned to electing an official Chaplain.

Because of his interest in preserving the quality of senatorial oratory, Senator BYRD pored over countless speeches delivered by Senators since the 1830's to select a sampling of more than 40 for the third volume of his history, "Classic Speeches." This collection gives a flavor of the best of 19th-century rhetoric, combined with examples of addresses from this century that have been carefully crafted by the speaker to be affecting and persuasive. Samples range from old favorites like Daniel Webster's "Seventh of March" 1850 address on "The Constitution and the Union" and moments of high drama like Jefferson Davis' emotional 1861 farewell to the Senate after Mississippi seceded from the Union, to an example of campaign oratory by Stephen A. Douglas from the 1858 Lincoln-Douglas debates. From this century, Senator BYRD's, varied choices include Robert M. LaFollette's impassioned 1917 plea for "Free Speech in Wartime," Richard Nixon's televised "Checkers" speech during his 1952 Vice-Presidential campaign, and Everett M. Dirksen's moving exhortation to his party colleagues to vote for cloture on the 1964 civil rights bill.

An introductory note preceding each speech provides biographical information about the speaker and places the event in historical context. While some of these addresses deal with topics like slavery that are no longer current, many of the broader themes, like the relative roles of the State and Federal governments, remain lively topics of debate even now.

The fourth volume of the history is a statistical appendix that not only offers a collection of fascinating facts about the Senate but is constantly useful in helping us to place events in historical context. How many former Senators have ever served as Secretary of the Treasury? Twenty-five. Who was the oldest Senator ever to serve? Theodore Francis Green at 93 years and 3 months. One Member today is close to reaching or exceeding that record. How many incumbent Senators have been nominated for President? I suspect quite a few of our current Members might be disappointed to learn that the total is only 14, of whom only 2 won election. How often have Vice Presidents cast the tie-breaking vote in the Senate? No one has yet matched the record 29 such votes cast by the first Vice President, John Adams. And in these days of budget cutting, how has the number of Senate employees fluctuated over the years? It has not always increased, as some may believe. Has the number of cloture votes taken by the Senate in each Congress increased in recent years?

The philosopher George Santayana said that "those who cannot remember the past are condemned to repeat it." By this he means that a knowledge of history can keep people from making the same mistakes over again, and from reinventing the wheel. That is a legitimate concern for Members of the U.S. Senate entrusted as we are with enacting the laws of the Nation. But Senator BYRD has demonstrated that there are many other compelling reasons for Senators to know their history. He has reminded us that we are driven by a document that was written in the 18th century and that has been amended only 27 times—most recently by an amendment drafted more than 200 years ago by the principal author of the Constitution, James Madison.

Senator BYRD's history has shown that the Senate's original constitutional powers and missions remain remarkably intact. It retains its original influence over the enactment of legislation, the confirmation of nominations, and the ratification of treaties. The formal rules of the Senate are few in number and have undergone only seven general revisions in their more than two centuries of operation. The precedents of the Senate are more voluminous, representing the practical application of those rules, and the strategies and tactics employed by generations of legislators to achieve their objectives.

The precedents are simply another form of history: what was done in the past, why it was done, and how it affects what we do today and tomorrow. As Senator BYRD's speeches have illuminated, some of these precedents date back to an era when Senators wore powdered wigs and knee breeches. Others from the days when the Nation was divided in Civil War. Others from the great Depression, the World Wars, and the cold war. Although these epochs are receding in time, the precedents set by Senators who served in those earlier eras still guide our daily business, just as what we do today will guide the future. The Senate, as ROBERT C. BYRD has repeatedly pointed out, is a continuing body, with at least two-thirds of its Members continuing through each election, and with its rules and procedures continuing uninterrupted from one Congress to the next.

As an institution, we value our traditions—from the 19th century furnishings to the spittoons and snuff boxes here in the Chamber that link us to our past.

Great Senators also left a legacy for their successors. We sit at their desks in the Chamber, pass their portraits and statues in the Halls. As part of his four-volume history, Senator BYRD has provided us with a collection of their most memorable speeches. He has helped us recall their examples, as we defend and amend their past legislative handiwork.

Those of us who serve today wish to leave our own imprints on this institution for those who follow us in the next century. We want to be remembered for solving the problems that confronted us, and for leaving the United States as strong or stronger than when we entered it. The Senator from West Virginia has amply accomplished that in his many legislative roles and as the chronicler of the Senate's rich history. There could be no more fitting way to commemorate this singular anniversary date than to reflect for a moment on our indebtedness to this wise, learned, and deeply respected colleague.

On the occasion of the Senate's bicentennial in 1989, ROBERT C. BYRD offered the following historical assessment. His words should be inscribed over the entrance to this Chamber. Each of us should commit them to memory. He said:

> After two hundred years, [the Senate] is still the anchor of the Republic, the morning and evening star in the American constitutional constellation. * * * It has weathered the storms of adversity, withstood the barbs of cynics and the attacks of critics, and provided stability and strength to the Nation during periods of civil strife and uncertainty, panics and depressions. In war and peace, it has been the sure refuge and protector of the rights of a political minority. And, today, the Senate still stands—the great forum of constitutional American liberty!

The **PRESIDING OFFICER.** The question is on agreeing to the resolution.

The resolution (S. Res. 109) was agreed to.

The preamble was agreed to.

The resolution, with the preamble, reads as follows:

S. Res. 109

Whereas Senator Robert C. Byrd on Friday, March 21, 1980, delivered on the floor of the Senate, an extemporaneous address on the history, customs, and traditions of the Senate;

Whereas on the following Friday, March 28, 1980, the Senator delivered a second, and once more spontaneous, installment of his chronicle on the Senate;

Whereas the first 2 speeches generated such intense interest that several Senators and others asked Senator Byrd to continue the speeches, particularly in anticipation of the forthcoming bicentennial of the Senate in 1989;

Whereas over the following decade Senator Byrd delivered 100 additional addresses on various aspects of the political and institutional history of the Senate;

Whereas in anticipation of commemorating the 200th anniversary of the Senate, Congress in 1987 authorized publication of the addresses in suitable illustrated book-length editions;

Whereas between 1988 and 1994, Senator Byrd meticulously supervised preparation of 4 volumes, including a 39 chapter chronological history, a 28 chapter topical history, a compilation of 46 classic Senate speeches, and a 700 page volume of historical statistics;

Whereas volumes in this series have received national awards for distinction from organizations such as the American Library Association and the Society for History in the Federal Government;

Whereas the 4 volume work, entitled "The History of the United States Senate", is the most comprehensive history of the Senate that has been written and published;

Whereas Senator Byrd has devoted tireless energy and tremendous effort to the preparation and publication of the historical books, enabling citizens of the United States to better understand the history, traditions, and uniqueness of the Senate; and

Whereas a better understanding by people of the Senate and the role of the Senate in our constitutional system of government will foster respect and appreciation for the democratic traditions of the United States: Now, therefore, be it

Resolved, That the United States Senate extends congratulations and appreciation to Senator Robert C. Byrd for completing "The History of the United State Senate", a monumental achievement that will educate and inspire citizens of the United States about the Senate for generations to come.

Mr. DASCHLE. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE SELECT POLICY EXPANSION

Mr. GORTON. Mr. President, I inquire of the Chair if H.R. 483 has arrived from the House of Representatives.

The PRESIDING OFFICER. Yes; it has.

Mr. GORTON. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes.

Mr. GORTON. Mr. President, I now ask for the second reading.

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

EXECUTIVE SESSION

Mr. GORTON. Mr. President, I move the Senate go into executive session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE CALENDAR

Mr. GORTON. I ask unanimous consent that the Senate immediately proceed to the consideration of Executive Calendar No. 105.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

DEPARTMENT OF VETERANS AFFAIRS

The legislative clerk read the nomination of Dennis M. Duffy, of Pennsylvania, to be an Assistant Secretary of Veterans Affairs.

Mr. GORTON. I ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and that any statements relating to the nomination appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed.

Mr. ROCKEFELLER. Mr. President, I am delighted to join the chairman of the Committee on Veterans' Affairs, the Senator from Wyoming [Mr. SIMPSON], in bringing the nomination of Dennis Duffy to be VA Assistant Secretary for Policy and planning before the Senate and urging his confirmation.

Dennis is a career VA employee who began working for VA in the Pittsburgh regional office in 1974, 2 years after he returned from Vietnam, where he served with the American division. For most of his career, he worked on benefits matters, both in the field and in VA central office. Most recently, Dennis has been working in Congressional Affairs, where he is now the Deputy Assistant Secretary for Congressional Liaison.

The White House first indicated its intention last year to nominate Dennis for this position, but his nomination was not received until after adjournment, so we were unable to take it up. I was delighted when the President again submitted this nomination early in this Congress.

I think the job for which Dennis has been nominated—the VA Assistant Secretary for Policy and Planning—is terribly important. This vital position has been vacant for nearly a year, and it is important that the Senate act on this nomination quickly so as to restore leadership to the office.

I had a very strong interest in the role VA's Office of Policy and Planning played in health care reform during the last Congress, and I anticipate that there is an important ongoing role in that area as the Congress seeks to address eligibility reform and other health care matters. I am also very interested in many other exciting issues that the office undertakes, which I look forward to working on with Dennis in the weeks and months ahead.

I am very excited that Dennis will join another VA Assistant Secretary, Mark Catlett, as the second career VA employee nominated to an advice and consent position within VA. Dennis' nomination to this position—a key position within VA—is a very positive message for career employees throughout VA.

Mr. President, Dennis Duffy has a wonderful opportunity to serve the veterans of the Nation in this new office. President Clinton has shown great confidence in him, his work, and his commitment to veterans by nominating him to serve in this important position. I urge my colleagues to give their unanimous support to this nomination.

MALIGNMENT OF THE INTEGRITY OF THE NATION'S LAW ENFORCEMENT OFFICERS

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate Judiciary Committee be discharged from further consideration of Senate Joint Resolution 32, the joint resolution by Senators HATCH and BIDEN, and further that the Senate proceed to its immediate consideration; that the joint resolution and preamble be agreed to, the motion to reconsider be laid upon the table; that any statements relating to the joint resolution be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (S.J. Res. 32) was passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

[The joint resolution was not available for printing. It will appear in a future issue of the RECORD.]

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

DO NOT VETO H.R. 831

Mr. DOLE. Mr. President, I would like to address a certain letter that is being passed around in the House to be sent to the President. I understand that the President may have already received it. The letter urges the President to veto H.R. 831, Permanent Deduction of Health Care Insurance Costs of Self-Employed Individuals. The letter has over 139 House Democrats' signatures.

The conference report to H.R. 831 passed the House last week, and we passed it in the Senate on Monday. The President received the bill on Tuesday, April 4, and it lies there waiting for the President to sign it into public law.

It is critical to 3.2 million tax filers that this bill be enacted prior to April 17—tax day. If it is not, then 11 days from now, less than 2 weeks, 3.2 million filers will find that they cannot use a deduction that they have had since 1986. Mr. President, 3.2 million filers will find that they will have to pay more taxes than they did last year. And Mr. President, these 3.2 million filers are farmers, and small business owners all across America.

THE LETTER

Now, this letter alludes that Republicans somehow carved out a special exception for one pending deal. I want to set the record straight.

The conference report simply clarifies the definition of a binding contract, and let me add that this clarification was raised by a Democrat Member, not a Republican.

Second, the letter insinuates that during conference, Republicans took out a provision imposing a tax on U.S. citizens who renounce citizenship.

Mr. President, we have already been through this. We explained earlier this week, that in the Senate we agreed to impose taxation on U.S. citizens who renounce citizenship. But, this measure was adopted without the benefit of hearings. Subsequently, the Finance Committee's oversight subcommittee held a preliminary hearing. This proposal raises important questions, and the hearings exposed some serious concerns. We simply decided to not delay action on H.R. 831 while we continued to consider alternatives to this expatriate provision. That is right, let me set the record straight once again—we are not opposing this in any way. Just the opposite, we want to get this done.

The conferees asked the Joint Committee on Taxation to study this provision and other alternatives and get back to us by June 1, 1995. It is also clear that this provision will be effective as of February 6.

But while concerns remained with the provision, we did not include it in H.R. 831.

Also, Mr. President, during floor debate in the House on the tax bill, one of the signatories of the letter, Congressman GEPHARDT, tried to put a similar expatriate tax provision in the tax bill—with an effective date of October 1, 1996, much later than the Finance Committee provision.

The letter to the President claims that House Democrat Members want to close an important tax loophole for millionaires, but it seems like they want to close it very slowly.

CONCLUSION

It is my sincere hope that the President gets the record straight. Because if he does not, and he decides to play politics as usual, then 3.2 million farmers, ranchers, small businesses, and taxpayers will suffer for it.

It has been 3 days since the President received H.R. 831, and I urge the President to sign it into law. There is no reason to delay any longer. It should be signed as soon as possible so that taxpayers can finish preparing their tax returns in time.

TRIBUTE TO NELLE M. BIGBEE

Mr. HEFLIN. Mr. President, Mrs. Nelle M. Bigbee, a native of Tuscumbia, AL, passed away on March 8 at the age of 92. An accomplished writer, news commentator, artist, poet, and public speaker, Nelle was the first female newscaster in the State of Alabama. Her daily radio and television programs, which were such a fixture of the Tuscumbia community, won many awards from the American Women in Radio and Television Organization.

Nelle Bigbee wrote for numerous publications and received many awards from the Associated Press as well. She participated in many community, church, civic, and professional activities, including the American Cancer Society, American Heart Association, and United Way, just to name a few. She was instrumental in organizing the first Helen Keller play, and acted the part of "Aunt Ev" for several years. She held the distinction of being the first female candidate to run for elected representative to the Alabama Legislature.

She was a wonderful neighbor of mine. She and her departed husband Hatton were great friends. She was admired and loved by all who knew her.

Nelle Bigbee indeed lived a long, rich, and multifaceted—even trailblazing—life. The talented Alabama journalists and commentators of today owe her a great deal of thanks for her pioneering spirit and determination. I extend my condolences to her entire family in the wake of their loss, and join her many friends and admirers in reflecting on the many outstanding accomplishments that defined her life and work.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, April 6, the Federal debt stood at $4,872,967,679,626.75. On a per capita basis, every man, woman, and child in America owes $18,497.87 as his or her share of that debt.

PRESSLER AMENDMENT: STAY THE COURSE

Mr. PRESSLER. Mr. President, I join the President, Members of Congress, and the American people in welcoming the Prime Minister of Pakistan, Mrs. Benazir Bhutto, to the United States. I wish her well during her visit. I had the opportunity to meet with her in Pakistan just a few months after her reelection as Prime Minister in October 1993. I enjoyed visiting her beautiful country. The opportunity for lasting peace and economic growth both within Pakistan and throughout South Asia should be a top priority for the United States and all the countries of that region.

I suspect that it is largely due to the visit of Prime Minister Bhutto that the Clinton administration once again is publicly questioning the effectiveness of the so-called Pressler amendment, the law that prohibits direct United States aid to Pakistan.

As my colleagues know, it was 10 years ago that I successfully offered an amendment in the Foreign Relations Committee to cut off aid and military sales to Pakistan if the President could not certify that Pakistan did not possess a nuclear explosive device. The Reagan administration supported the amendment. In fact, they helped write it. Even the Government of Pakistan did not object to the amendment because they claimed they were not pursuing a nuclear option.

In fact, my amendment was considered a compromise. Our former colleague from California, Senator Alan Cranston, had another amendment that immediately would have cut off aid to Pakistan, without Presidential certification, because he believed Pakistan already possessed the materials needed to assemble a nuclear bomb.

In October of 1990, nearly 5 years after the Pressler amendment became law, the Bush administration was unable to certify that Pakistan was not in possession of a nuclear explosive device. As a result, all U.S. direct aid and military sales were terminated. At the time of the aid cutoff, Pakistan was attempting to purchase a fleet of F–16's from the United States. Because of the enforcement of the Pressler amendment, delivery of the aircraft never took place.

Despite claiming to have a strong policy on nuclear nonproliferation, the Clinton administration consistently has shown hostility toward the Pressler amendment—the only nuclear nonproliferation law with teeth. In the fall of 1993, the Clinton administration called for the repeal of the Pressler amendment, but backed off after pressure from Members of Congress.

The Clinton administration last year began to float a new proposal to grant a one-time waiver of the Pressler amendment to allow for the delivery of at least 22 of the F-16 aircraft sought by Pakistan—aircraft that can carry and drop a nuclear bomb. The administration's proposal was originally unconditional, but was later modified with a condition that Pakistan promise to cap its nuclear weapons arsenal.

In recent weeks, the Clinton administration has been at it again, proposing a $1 billion package of military equipment, consisting mainly of the F-16's. Frankly, Mr. President, I find simply preposterous any proposal that would transfer even one F-16 to Pakistan without first securing that nation's compliance with the Pressler amendment and its signature on the nuclear non-proliferation treaty [NPT].

The latest Clinton F-16 transfer plan—like the first—is unacceptable. I am astounded that an administration that pays so much lip service to the cause of nuclear nonproliferation would consider providing Pakistan with aircraft capable of carrying a nuclear weapon.

Never before in history has a nation sought to transfer nuclear delivery vehicles to a country that has nuclear weapons and say it is doing so in the interest of nuclear nonproliferation. The Clinton plan defies basic common sense.

Indeed, President Clinton's proposed military aid package to Pakistan would have the worst of consequences: It would strike a serious blow against regional peace and worldwide nuclear nonproliferation; undermine the tremendous economic progress that has occurred in South Asia; launch a nuclear arms buildup in South Asia; and perhaps most frightening, increase the likelihood of nuclear weapons falling into the hands of terrorists. Indeed, any individual who has an interest in the future economic development of South Asia should have serious concerns with the Clinton administration's proposal.

I recognize that a number of U.S. aerospace firms have a strong interest in this issue. The transfer of F-16's would mean new business, new contracts, and new jobs here at home. I suspect these firms are putting tremendous pressure on the Clinton administration to push for military aid to Pakistan.

Mr. President, the aid package may mean more jobs at home, but it would come at a heavy price on a global scale. I do not believe any issue is more important to the security of all free people than nuclear nonproliferation, particularly in potential hot spots such as South Asia. I am concerned that the transfer of F-16's would spark a nuclear arms race in South Asia.

The Clinton administration has traveled this same road before. The catalyst for the nuclear tightrope walk that occurred in North Korea was the perception by officials in Pyongyang that the United States was not serious about nuclear nonproliferation. I would have thought that after North Korea, the Clinton administration would have learned an important lesson. It does not appear they have learned.

Once again, the administration is willing to be the catalyst for destabilization. The wrong signals are there. I fear India will be forced to rethink its current military force structure if Pakistan takes delivery of the F-16's, including resumption of their nuclear program, deployment of short-range weapons, and even development of long-range options.

Further, Mr. President, we must consider not just the instability between India and Pakistan, but instability within Pakistan itself. With all due respect to Prime Minister Bhutto, I have very serious concerns about the ability of her civilian government to hold its military leaders accountable to civilian-based policies. I urge my colleagues to examine closely this military-civilian chain-of-command issue.

We also must examine the inability of Mrs. Bhutto's government to respond effectively to the shocking wave of violence sweeping her country. Terrorist groups, such as the Harkatul Ansar—the Movement of Friends—are based in Pakistan, but have links to similar groups in Iran. The New York Times recently reported that a massive worldwide network of Islamic terrorism was traced to a university in Peshawar—the University of Dawat and Jihad. This is not a run-of-the-mill institution of higher learning. Students go there to seek advanced degrees in worldwide terrorism. Graduates of this university have applied their lessons of death in North Africa, the Middle East, and Asia.

Terrorist violence is a mortal plague within Pakistan, leaving more than 1,000 people dead since the beginning of last year. This wave of terror recently claimed the lives of two American diplomats, who were tracked down and killed in cold blood. Even Prime Minister Bhutto questioned whether or not she had the resources necessary to crack down on the militant organizations operating within her country. Others question whether or not Prime Minister Bhutto has enough political capital to take the tough action needed to restore stability.

Therefore, I shudder at the thought of a nuclear capable government in South Asia that is incapable of controling its own military command or restoring order at home. This internal instability increases the possibility that nuclear weapons could fall into the hands of a terrorist state or organization. It boggles my mind that President Clinton would propose an aid package that would add both to the Government's nuclear capability and to the region's instability.

This fact raises yet another problem, which gets to the very essence of the Pressler amendment. Mr. President, the Pressler amendment was meant to be a strong warning to an ally: If you go nuclear, it will come at the expense of U.S. aid. The United States cannot condone—through taxpayer assistance—the Government of Pakistan becoming a nuclear power.

This policy has worked to a large degree. Pakistan has at least frozen the development of its nuclear program. A number of states that pursued active nuclear weapons research programs in the 1980's have abandoned them, including Argentina, Brazil, South Korea, Taiwan, and South Africa. They responded to American diplomacy and their own good common sense. It is worth noting that both South Korea and Taiwan have antidemocratic neighbors and the temptation to hide behind a nuclear shield is undoubtedly high.

In one of the worst ways imaginable, the Clinton administration's proposed military aid package would be seen as a certification and acceptance of Pakistan as a full-fledged nuclear power—a signal that runs counter to our own support and insistence for the ratification of the NPT. Pakistan is not a signatory of the NPT. It does not allow inspections. Yet, these facts do not seem to be important to the Clinton administration. Just as ominous, the proposed military aid package tells other countries that there are no long-term penalties for going nuclear.

Mr. President, I have made this point: The administration's proposal to change the Pressler Amendment is a bad policy. I urge my colleagues to review it carefully, but skeptically. Let me reiterate: I want to see Pakistan succeed economically. I want to see peace achieved both within and beyond Pakistan's borders. I want to see our nuclear nonproliferation goals achieved. The administration can achieve all those policies by withdrawing its proposed aid package and standing firmly behind the Pressler amendment.

THE REAL MEANING OF THE CONTRACT WITH AMERICA

Mr. DASCHLE. Mr. President, for almost 100 days now, we have been hearing about the Contract With America—here in Washington and in my home State of South Dakota.

This week we get their contact with America. Every time you open a newspaper or turn on your TV or your radio—or even your computer—some Republican is speaking in superlatives about what is happening in Congress. Not everyone shares that enthusiasm.

One of the most astute assessments I have heard of the Republicans' 100 days was offered last week by a Capitol tour guide. When someone asked him what had passed so far in this Congress, he said, "About 12 weeks."

I can tell you a lot more has happened in South Dakota during those 12 weeks. Farmers and ranchers, who have been gearing up for the spring planting and helping their livestock through the calving season, are grappling with the harsh realities of low commodity and livestock prices, hoping there will be enough to support their families.

On Main Streets in cities and towns across South Dakota, small business owners and employees are working longer and harder just to maintain their incomes.

In other words, life is going on in South Dakota, and people are trying to move forward, looking toward change in Washington to help them realize their dreams.

The tradition of scrutinizing the first 100 days really began, as you know, with President Franklin Roosevelt. Most students of government still consider the first 100 days of the New Deal to be the most successful in the history of the Federal Government. And no wonder. By the end of President Roosevelt's first 100 days, Congress had passed an extraordinary package of 15 bills that fundamentally changed the relationship between business and Government, and individuals and Government.

It was an agenda that was firmly rooted in FDR's belief, as he said, that "the future lies with those wise political leaders who realize that the great public is interested more in good government than in politics." That is a sentiment you won't find in the Republicans' Contract With America. For it was politics pure and simple—the 1994 election and a mountain of polling data—that gave us the so-called contract.

Franklin Roosevelt knew to be skeptical of people, like so many in this new Republican majority, who promise easy solutions to hard problems. He could easily be speaking of today's Republican majority when he commented on their predecessors more than 60 years ago.

"Let me warn you and let me warn the Nation," he said, "against the smooth evasions of those who say, 'Of course we agree with all these things.

"'We believe in Social Security. We believe in work for the unemployed. We believe in saving homes. Cross our hearts and hope to die, we believe in all these things. But we do not like the way the present administration is doing them. Just turn them over to us. We will do all of them. We will do more of them. We will do them better. And most of all, the doing of them will not cost anybody anything.'"

Does this sound familiar? It should. That is the Big Lie on which the contract is constructed: "We can balance the budget. We can increase military spending. We can give more tax breaks to the rich. And it will not cost anybody anything. In fact, you and your family are going to get money back."

Clearly, the promise to fundamentally change the Federal Government sounded very good to some people last November. But were they voting for the Republican contract? The fact is, they were not. Less than 5 percent of Americans had even heard of the contract on Election Day. Even now, polls show that the more people hear about the contract, the more nervous they get. And with good reason. To paraphrase Pogo, we have met the enemy in the Republicans' contract, and it is us.

It is not big-money special interests the Contract targets—Republicans have invited the lobbyists into their offices to rewrite the laws. The enemy in the Republican contract is not even the infamous waste, fraud, and abuse.

It is working families and their children in South Dakota and across the Nation.

They can wrap it up in new spinmeister packaging, but the struggle at the center of the contract is the same struggle that has defined the difference between the Republican and Democratic Parties for generations.

It is the struggle between the rich and the rest of us.

We do not have any billionaires in South Dakota who will benefit from the tax loophole Republicans are fighting to protect that allow billionaires to renounce their citizenship to avoid paying taxes on the fortunes they have made in our country.

We do not have a lot of powerful corporate lobbyists who have gained unprecedented access to the Congress.

What we do have in South Dakota are hard-working families who wamt change, who want more opportunities for themselves, and a better future for their children.

Republicans were on the wrong side of this struggle before, and they are on the wrong side now. We have heard a lot about the casualties of the contract, but the biggest casualty is not a person or a group. It is Americans' sense of values—our sense of fairness. Most of all, it is our fragile but essential belief that if we work hard, we can make a better life for ourselves and our kids.

This ethic, this belief, was ingrained in all South Dakotans. This belief, this value, is essential to our survival as a democracy.

De Tocqueville wrote that it is our values, even more than our laws, that enable Americans to maintain this democracy, and that fundamental insight into our character remains true to this day.

If people do not know the difference between right and wrong, all the prisons in the world will not keep us safe. If children come to school with no sense of discipline, no respect for authority, the best teachers and, the best computers in the world will not make a difference. And if young people grow up in a society that does not reward honest work, no welfare reform plan in the world will work.

We cannot solve our problems with a law or a check—or even the threat of no check. If we want to restore the American dream, we have got to restore American values. And that means strengthening America's families. Families are where values are taught and learned. But teaching values takes time. It takes time.

And time is something that most families have less of every year. I hear this every time I go home.

One story this year that didn't get perhaps quite as much attention as it deserved was a series of strikes by autoworkers who were protesting mandatory 50- and 60-hour workweeks.

The workers said the extra pay just wasn't worth the price they were paying in burnout and in time spent away from their families.

The conflict many workers feel between trying to be both good providers and good parents was best summed up by a single mother at a GM factory in Michigan who had just put her son in counseling and just learned that her 18-year-old daughter was pregnant.

You know what she said? She said, "I keep thinking that maybe if I'd been able to spend more time with them this wouldn't have happened."

That is a conflict more parents live with each year. From the late 1960's to the late 1980's, the average workyear for American workers increased by 163 hours. You know what that is? That's an extra month each year.

Today, fewer than one-third of American families have time to eat even one meal a day together. And nearly 7 million children—including half a million pre-school kids—spend at least part of each day all alone.

Why are parents spending less time with their kids? The answer is simple: In spite of an unprecedented effort by the Clinton administration to create more than 6 million new jobs, the real income of most Americans is declining.

Each year, it takes more people working more hours in a family just to afford the basic. Eighty percent of America's families have not seen their incomes rise since the 1970's. Eighty percent. And this is true despite huge increases in two-income and even three-income families.

Even in the 1990's, the richest one-third of Americans are getting richer, while incomes for everyone else keep falling. And let me tell you, that is fundamentally wrong. And Democrats must fight it.

Not long ago I had a young father tell me, "Either I can spend time with my family or support them—but not both." Those are not conditions for teaching moral values. They are an invitation to moral anarchy. And the extreme agenda of the new majority—despite all its pious and populist rhetoric—is almost certain to make matters worse.

Because it is designed to reward the rich and the well-connected at the expense of America's middle-class families. That is wrong and Democrats must fight it, make no mistake: The new Republican agenda is worse than indifferent to the needs of working families. It is downright hostile to them. It is trickle-down economics with a vengeance. And if it is enacted, it will destroy much of the middle class.

If you doubt it, just look at some of the tax changes Republicans are proposing:

One of the more moderate members of the Republican party is proposing that we repeal income taxes on stock profits. In other words, let's tax only wages. And some Republicans want to protect the tax loophole that allows billionaires to renounce their U.S. citizenship to avoid paying taxes on the fortunes they have made in this country.

You know, when George Washington found out that Benedict Arnold was a traitor he probably thought about a lot of things. He probably thought about flogging him. He probably thought about hanging him. He probably thought about taking everything he owned. But I guarantee you one thing he never thought about was giving him a tax break.

What kind of contract is that?

Of course, many of us feel that the contract is more noteworthy for what it leaves out than for what little it actually does. The contract offers no blueprint to create more jobs or better-paying jobs. And, it offers no plan to fix any of the other problems that are undermining Americans' economic security.

Quite the opposite, the Republican agenda makes it harder for people to climb the economic ladder by gutting worker training programs and college loans.

Under the Republican contract, 27,165 South Dakota college students will pay more for their student loans. Who knows how many who cannot afford the higher priced loans will simply drop out.

It makes it harder for poor families to escape welfare by blocking any increase in the minimum wage.

The Republican agenda leaves virtually every American family at risk of financial ruin by refusing to reform health care. For some, the past 100 days simply means that more people are without health insurance in South Dakota and a lot of people—and hoping they do not end up like some of their neighbors—the 1,200 retirees of the Morrell meatpacking company in Sioux Falls, who suddenly lost their health benefits 2 months ago.

And, the contract undermines our effort to enforce laws protecting Americans from polluted air and water, from spoiled meat and killer toys and a whole host of other dangers.

The big winners in the contract are the lobbyists and special interests, who Republicans have invited—quite literally—into committee rooms to write the laws as they choose.

The big losers, of course, are working families, who are going to end up picking up the tab for the special interests—the same as they did in the 1980's. That is wrong, too, and Democrats will fight it.

The biggest problem with the contract is not simply that it threatens to bankrupt working families economically. It is also morally bankrupt. Democrats have a responsibility to challenge not just the details of the contract, but the underlying values as well. We need to raise our voices, particularly in the face of the extreme new agenda of the Republican Party.

We need to find new ways, new technologies, to communicate our basic beliefs, and, we need to expand the debate to include values that matter to working families. Values like fairness and tolerance, genuine opportunity, and generational progress.

More important, we need to make sure that our values shape our public policy. Too often, government policies do not reflect our Nation's values. Sometimes they have actually exacerbated the conditions they were created to eliminate.

No matter how noble their original purpose, when we try to protect failed programs, we undermine the credibility of government and thus the ability of government to help the people who deserve help.

So, making sure our values shape our public policies mean, first of all, acknowledging when something is not working. Making sure our values shape our public policies also means reforming our welfare system so that it rewards work. It means encouraging families to be strong and to stay strong. Making sure our values shape our public policies means we need truth-in-sentencing laws. We need to hold people responsible for their actions. And we need to protect people from crime in the first place.

President Clinton and a Democratic Congress last year passed a tough new crime bill that puts 100,000 more police on the street, including 77 in my home State. Now Republicans want to gut that bill. That is dead wrong. And Democrats will fight it.

Making sure our values shape our public policies means we need to listen to average people, not campaign contributors. In Washington and in every State capitol in this country, holy wars are being waged with unholy amounts of money. People don't know where the buck stops anymore. They only know it stops the debate.

And this is wrong. And Democrats will fight it—by pushing for real campaign finance reform—in this session of Congress.

Making sure our values shape our public policies means helping workers learn new skills so they can keep their job or get a new one. Not long ago, Speaker GINGRICH called unemployment insurance "vacation pay for freeloaders." Republicans may think that makes a good sound bite, but it's small and insensitive. If we value work, then let us treat workers with dignity. Give them the tools and training they need to earn their own way, and they will not need unemployment insurance or anything else from government.

Finally, making sure our values shape our public policies means helping middle-class pay for college with affordable loans or the sweat equity that comes from national service.

In asking Congress to do these things, Democrats are only asking the Republican majority to do what the American people expect them to do: to lead. Their refusal to even discuss our proposals makes it clear that Republicans do not oppose the way we Democrats have done the job of fighting for working families and children. They are fundamentally opposed to the job being done at all.

I said at the beginning of my remarks that the American people did not vote for the Republican contract because most had not even heard of it. Instead, they were voting to continue the original Contract With America. They voted to make America a place, once again, where people still believe in values like tolerance and fairness, and parents still have the time to teach those values to their children.

America can be what America was, a place where you can get ahead if you work hard. We can make America that kind of place again. But it's going to take more than angry demagoguery and more than the mad dash of 100 days.

Americans understand that. Because leaders like Franklin Roosevelt taught us. President Roosevelt led this Nation through a Depression and a World War. He knew that good government is government which unites this country, not divides it. It is government that offers hope, not fear—that proposes real solutions where there are real problems. He led, so others were willing to follow.

As a former history professor, NEWT GINGRICH should remember the words of his favorite President who said that "the only limit to our realization will be our doubts of today."

While Democrats do not advocate going back to the programs of the New Deal, we believe that the values that shaped that agenda are as valid today as they have ever been. The realization of tomorrow must be built from the realization of strong national leadership today, the kind of leadership the American people have turned to throughout our history, and to which future generations must turn, not just for 100 days, but for that many years, and more.

SCHOOL-TO-WORK: A LARGER VISION

Mr. PELL. Mr. President, in November of last year, Mr. Sam Halperin of the American youth policy forum addressed a statewide conference in Rhode Island on implementation of the new School-to-Work Opportunities Act of 1994. His thoughts bear careful consideration not only as we move this act from legislative provision to program but also as we approach reauthorization of the Vocational Education Act.

Mr. Halperin is a distinguished educator whose views merit careful consideration. He has served as Deputy Commissioner in the old Office of Education, Deputy Assistant Secretary at the Department of Health, Education, and Welfare, and the director and first president of the Institute for Educational Leadership.

I would ask that the full text of Mr. Halperin's remarks be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SCHOOL-TO-WORK: A LARGER VISION

(By Dr. Samuel Halperin)

Thank you for your invitation to help develop Rhode Island's plans for implementation of the School-to-Work Opportunities Act of 1994 (hereafter STWOA). I have no doubt that you will soon win one of the federal implementation grants, grants already awarded to eight other states.

My only doubt is whether your vision will be as large-spirited and as bold as the federal Act itself. Will you seize the opportunity to rethink the essential nature of schooling at the dawn of the 21st Century? Will you construct a total quality system in which each of the parts supports and advances the welfare of all the other parts? That is the challenge. That is the opportunity.

SCHOOL-TO-WORK OPPORTUNITIES ACT: "HISTORIC, LANDMARK" LEGISLATION

Five features of the new Act qualify it for designation as "historic," even "landmark," legislation:

One, previous federal legislation focussed mostly on the disadvantaged (Job Training Partnership Act, JOB Corps, ESEA Title I). STWOA is the most universal, non-means-tested effort to date. It is intended to help all students who have not yet completed high school, regardless of their economic status.

Two, STWOA is the first federal education legislation to declare that preparation for earning a living is one of the legitimate and important roles of schooling for all students, including the college-bound.

Three, previous federal legislation implied that learning is the near-exclusive province of the schools. STWOA affirms that learning takes place in families, communities, schools and workplaces. Employers and worksite learning are central in the new legislation. So are parents and community-based organizations. All of these agencies are specifically recognized as major stakeholders and partners in every local STW partnership.

Four, previous federal legislation (with the exception of Vocational Education) largely bypassed the high schools. (Title I compensatory education funds, the largest program, are concentrated largely in the early grades.) STWOA focusses on high school and the transition to postsecondary education. While it addresses the needs of all students, it "remembers" the needs of "The Forgotten Half" who are not going to four-year colleges immediately after high school graduation.

Five, previous federal legislation provided annual funding over many years. STWOA, accommodating to harsh federal fiscal realities, seeks to leverage change through limited financial incentives. Federal "venture capital" over a seven-to-ten-year period is intended to help you form voluntary partnerships and consortia of all the stakeholders. STWOA also encourages you to re-assess how you are using other federal, state and local funding streams and, possibly, combine them for greater impact.

Overall, the hope is that the new ways of doing business that you will develop will produce greater student achievement and far greater satisfaction with the graduates of your community's total educational enterprise.

WHAT SCHOOL-TO-WORK IS NOT

Now, having told you why I think the new Act presents such a large historic challenge, I'd like to emphasize what the Act is not.

First, it's not another one of those small federal programs that soon becomes overlaid with reams of federal and state guidelines and regulations. The last thing in the world you need is another categorical program, another "flavor of the month!"

STWOA is not a fancy euphemism for existing programs like vocational education or career exploration, although each of these endeavors has a vital role to play in School to Work.

It's not a way for America to beat the Japanese and Germans in international economic competition.

It's not another tracking device to separate winners and losers in the education race or to offer second-class schooling to students who may not see themselves as college-bound.

WHAT SCHOOL-TO-WORK COULD BE

Now let me tell you what I think STW could be here in Rhode Island and around the country.

Ideally, STW is a systematic, comprehensive, community-wide effort to help all young people (1) prepare for high-skill and high-wage careers, (2) receive top quality academic instruction, and (3) gain the foundation skills to pursue post-secondary education and lifelong learning. I stress all young people, including those with disabilities and those who are headed for a four-year degree at our finest colleges and universities.

When carried out effectively, STW offers a high school experience that challenges and motivates our youth to develop the skills, knowledge and behaviors they need to achieve economic earning power and, in turn, achieve the American dream.

STW will also help to provide American employers with the qualified workers they need. Through new or expanded local partnerships, employers will work with teachers to develop and implement curricula that span both the school and work sites, setting high standards for student performance and credentialing youth for good careers.

To the architects of STWOA, the Act is a way to rethink what we adults are doing to prepare our young people for success in life. It offers us the opportunity to fundamentally alter the high school experience—which currently is not working well for many, if not most, students. It brings high school into alignment with more effective ways of teaching and learning and promises a brighter future for far more young people. It also gives adults far greater personal and professional satisfaction from their work with young people.

A CRITIQUE OF AMERICAN HIGH SCHOOLS

STWOA was created out of a widespread belief that most high schools are not working well, particularly for the 75 percent of our young people who are unlikely to earn a baccalaureate degree. Consider these contemporary comments on the American high school:

"Most employers look at the high school diploma as evidence of staying power, not academic achievement. They realized long ago that it is possible to graduate from high school in this country and still be functionally illiterate. As a result, the non-college-bound youth know that their performance in high school is likely to have little or no bearing on the type of employment they manage to find." (Commission on the Skills of the American Workforce, America's Choice: high skills or low wages!, 1990)

"Most kids think [academic] education methods are torture devices invented by teachers . . . they got that idea because they can see that no one in the workplace is doing these things." (Stephen Hamilton, Cornell University Youth and Work Program.)

"It's evident that the vast majority of kids in high school are not motivated. We don't seem to be approaching them in ways that engage them in learning." (John f. Jennings, U.S. House of Representatives Committee on Education and Labor.)

"Students not bound for college need the most help, receive the least assistance, are equipped with the most limited information, and experience the greatest risks in the job market." (Gary Orfield and Faith Paul, High Hopes, Long Odds, 1994)

Over the twenty-year period from 1967–1987, the percentage of jobs held by workers with less than a high school diploma declined from 40 percent to only 15 percent. Over the same period, inflation-adjusted incomes of families headed by high school graduates without any postsecondary education fell fully 30 percent. Only half of the high school graduates under age 20 and not in college are employed fulltime and worse yet, about one-third of young people fail to find stable employment by the time they reach age 30. (Bureau of Labor Statistics and Paul Osterman of MIT.) (For a larger discussion of these points, see Richard Mendel, The American School-to-Career Movement: A Background Paper for Policymakers and Foundation Officers, American Youth Policy Forum, 1994.)

Against this dire and worsening background we know that many well-paying careers do not require a baccalaureate degree. We also know from research (e.g., the SCANS reports, 1991 and 1992, and the National Assessment of Vocational Education, 1994) that certain things do pay off in the labor market: (1) cognitive skills, (2) broad technical skills (especially computer literacy and its applications), (3) postsecondary education and, (4) human relations and workplace skills, like getting along with colleagues and supervisors, working well in teams and demonstrating reliability, responsibility and initiative.

BASIC PREMISES OF SCHOOL-TO-WORK

Building on this knowledge base, STWOA offers no precise blueprint, no road map or rule book. Rather, the new Act is one of the least prescriptive laws on the statute books. It acts like a compass, pointing to a set of concepts or basic premises. These premises are based on recent research about how people learn best and what employers say young people need in order to cope with a fast-changing world.

First, STW is a new way of looking at the development of young people and particularly at their needs in the critical adolescent transition years from high school into further education and the world of work. STW asserts that youth need active, not passive learning—in schools, in worksites, in voluntary service. Therefore, STW views the entire community as one great learning laboratory where young people grow, develop and find networks of support.

Second, STW is a systematic effort to change the time-based assumptions on which most high schools are currently based. STW says that young people are expected to exhibit or demonstrate mastery of rigorous academic and behavioral skills, not be judged by how many years they have sat in classrooms or how many written tests they have passed by rote memorization. Actual demonstrations of competence will be the touchstone of STW.

Third, STW builds on extensive research that says that one of the most critical ingredients in young people's success is their close attachment to a caring and successful adult, a mentor, a role model, a coach, a youth advocate who supplements what teachers, neighbors and family members provide, particularly when traditional supports are lacking.

When a Congressional committee asked Cornell University's Urie Bronfenbrenner to summarize everything he had learned in a long and distinguished career in human development research, Bronfenbrenner replied: "Some adult has got to be crazy about the kid, and truly be there for that kid, and let that kid know that his life is important and has meaning."

Fourth, STW also builds on powerful recent research finding that most students learn best in context, when they see how knowledge is actually used outside the school, especially in a work setting. Therefore, STW views the employers' workplace as a learning laboratory where young people can experience the relevance of knowledge in the "real world." Young people like to work. They blossom in the workplace if they are treated as respected members of a team that is expected to perform responsibly and productively. Generations of inquiry concerning European adolescents undergird these truths. Young people in Europe report pride in their workplace roles. They look forward to the company and the counsel of their adult supervisors and coworkers. And, to a considerable extent, they avoid the epidemic of pathologies which beset so many American youth.

Fifth, because STW is outcome- or performance-centered, young people in their dual roles as learners and as workers can demonstrate their proficiency at the highest standards. That accomplishment is then certified by a credential that is recognized and honored by schools, by employers, by parents and by institutions of higher education.

These, then, are five basic premises on which many of the new STW initiatives around the United States are based. To be sure, few existing STW efforts will articulate all of these premises clearly. Nor will these initiatives give equal weight to each of these premises. Let me assert my firm belief, however, that the most successful and the most enduring STW efforts will be those that incorporate all five of these premises. There simply are no short cuts to excellence.

Now let us see if we can put these premises together in a comprehensive vision of a high school learning community based on them. I am indebted by my friend in the U.S. Department of Education, Deputy Assistant Secretary Patricia McNeil, for suggesting how a vision of STW in the context of "systemic school reform" might be portrayed.

ANYTOWN HIGH: AN ATTAINABLE DREAM

Close your eyes for a few moments. Imagine that you are an entering freshman at Anytown High School. It is the first day of school. You are seated in the school auditorium with your new classmates. I am the principal, giving you a preview of what kind of school this is, and the kinds of experiences and opportunities available to you.

"Welcome to Anytown High School! All the adults on the stage with me this morning and around the room—teachers, office staff, counselors, food service and building staff, coaches, community leaders, local employers, labor union representatives, members of our town's workforce development system, alternative schools, city government, parents and volunteers—we all welcome you.

Not long ago, I told similar freshmen classes that half of you might not be here to complete your senior year. Today, I want to give you quite a different message. All of us here today pledge that we are here to help each of you get the high level skills and knowledge you will need to become successful citizens, productive workers and lifelong learners. When you complete your experience here or when you finish your secondary schooling at a job training program or community college or alternative school, you will have all you need to enter and complete a two- or four-year college degree program, a registered apprenticeship program, the military, or an entry-level career ladder job. All the adults in this school and in this community are pledged to work together to help you succeed. That is because we accept the wisdom of that old African adage: 'It takes a entire village to raise a child.

Everything we do here at Anytown High school is based on three simple and important ideas:

One, what we expect you to learn here is important in the world outside these walls, important to your future as citizens, neighbors, parents and workers.

Two, we on the teaching staff and in school administration know that you can learn. Every single one of you has the ability to master the subject matter in our curriculum. This school is constructed in such a way that it respects your different learning styles. Some of you will need more time and extra help and, here at Anytown High, you will get it. Every one of you can graduate knowing, and being able to do, the things that assure success in the world of work and in life generally.

Three, we won't let you fail. When I say 'we', I mean the entire community which is mobilized to ensure your success. Together, we will support you and provide many kinds of opportunities for learning, for earning and for fun.

Because we in Rhode Island have restructured our entire K-12 school system, most of you have been hearing this message in one way or another from pre-school, through primary and middle school, but it bears repeating today:

You are intelligent and capable individuals. No one is born with the knowledge and skills they need to succeed in this world. You get smart through effort. Our job as adults is to help you develop your skills and knowledge to a high level. You'll be asked to work hard, and we'll be working equally hard alongside you on your behalf.

We have a wide range of opportunities for you at Anytown High. In elementary and middle school you participated in a variety of learning experiences; you learned about possible careers; you planned projects and worked in teams to complete them. You will do more of that active learning in new and different ways. We have a broad range of learning options—all designed to give you the skills and knowledge you need to go on to college and into the workplace. Some of you may choose to do most of your learning in a classroom setting; others may choose more interactive work-based learning options. You will work in small academic and career clusters with a team of teachers who, in some cases, will remain with you during your entire time in our school. All of you will engage in hands-on learning where academic and occupational subjects are integrated. All of you will participate in community and public service learning experiences where you will practice the skills and behaviors which employers highly value. We also have a wide range of courses and information available for independent study via computer and satellite hook-up, opening the entire world to your curiosity.

As you begin to think about choosing a career major, you will learn about many aspects of particular industries, and you will see how knowledge and skills are actually used in those industries and occupations. In these choices, you will be supported by our guidance counselors and by job specialists who will open doors to future employers and show you what you need to be able to do in real workplaces.

Of course, you can change your career clusters in this school. Since you'll all be learning the same core of essential skills and knowledge, you won't be locked into one cluster or one narrow job, either here or after you graduate.

An essential part of your experience in this school is the worksite placements which we offer in your junior and senior years and which in some cases, like Tech Prep, will continue beyond high school. Some of you will choose co-op education and internships with local employers for part of the school year. Some of you, as part of your Tech Prep or youth apprenticeship experience, will be working part-time in industries based on the technologies you will be studying in school. Some of you will be paid for your part-time work with employers after school and in the summers. Some of you will find your work opportunities in hospitals, libraries and other non-profit community services.

Others of you will choose to enroll in our Career Academies, the small mini-schools on this campus which specialize in careers with good prospects for future professional employment. For example, we have a Financial Services Academy where you can learn about banking, insurance, real estate, investments and tourism. We have an Environmental and

Maritime Academy where you can learn about everything connected with earning a living from the sea and how to protect that fragile resource. We have a Health and Bioscience Acadmeny based on modern health care, hospital and laboratory management and exciting new careers in biotechnology. And we have other academies as well. Regardless of which one you choose, you will receive high quality instruction and be able to form close associations with your fellow students and with employers in your career field.

Regardless of the kind of worksite placement you have chosen, you will graduate well prepared to continue your studies in higher education or to win an entry-level position with an employer. Above all, you will have experienced the joy of learning and you will excel, no matter how radically the world may change in the future.

Even though your elementary and middle school experience was set up so that you would not fall behind, every year presents different challenges. If you are having trouble keeping up or understanding something, we have extra help available in many forms—after-school, on weekends and in the summer. Team sports, clubs, community service and one-on-one help are after-school options from which you can choose.

You will wonder how your teachers are so sharp, how they keep up with rapidly changing knowledge. Well, first of all, your teachers see themselves as lifelong learners, constantly striving to know more and to discover more effective ways to help you learn. This school offers many opportunities for professional development on and off this campus. Most important, we build in ample time for your teachers to meet together, to plan your studies, to learn from each other, from your worksite mentors, and from experts around the country, in person and through interactive television, video and satellite sessions.

During the summer and at various times in the school year, some of your teachers and counselors will be working alongside you in the plants and offices of our employer partners. They will be learning about the latest changes in technology and management so that your curricula can be kept relevant and so that they understand what you are learning in the worksite. (Incidentally, your teachers will simultaneously be helping to upgrade the basic academic skills of the adult workers you will be working with in your worksite placements.)

If you change schools, the skills and knowledge you have demonstrated here will be transferable electronically to your new school. You will also have your portfolio of work and skills/knowledge inventory to take with you. If you want to find another learning experience, we will help you. We work closely with a wide range of alternative schools, with community colleges, with the Job Corps, with youth service and conservation corps, with the new National Civilian Community Corps and others. We also work closely with the local workforce development system which operates career advancement centers where you can get referrals to further training or qualify for a grant or loan package to help you complete secondary school training on your own

Whenever and wherever you complete your secondary experience, you will receive a high school diploma signifying mastery of a high level of skills and knowledge. That diploma will be accepted by two- and four-year colleges, by employers, by the military and the registered apprenticeship system. Depending on your course of study, you may also receive a certificate of mastery in some advanced level academic or occupational skills. Some of you may take advance placement or other studies in this school that will qualify you to receive college credits. Some of you may graduate in less than four years because you have demonstrated mastery of our core curriculum.

While we will do everything to support your learning, there may be personal and family problems that come up in your life so that you need some outside help. As a member of the Anytown Partnership for Families, Anytown High's Human Services Mall hosts a broad array of community agencies that will assist you and your families with nonacademic problems. Many of these social services were available to you throughout primary and middle school, so you are familiar with them. You can get information about other services from the computer files in your academic cluster, in the library or the cafeteria. Each of you will also have opportunities to have an adult mentor or coach. It may be an employee at your worksite, a community service volunteer or a parent in the community. Here at Anytown High, we have almost as many community partners as students. Each brings their expertise and their caring into the school and the worksite.

Your teachers have worked hard to design the curriculum—in school, at the worksite and in your community service experiences—to support your learning in every way we know. Your guidance counselors and job specialists are working with your teachers and employers in the community to make sure you have access to information about postsecondary schools and careers and that you can use it effectively to plan your further education and careers.

The basic message I want to leave with you today is this: you are capable and intelligent young people in transition to adulthood and each adult here is on your side. We are committed to helping you get the skills and knowledge you need to be successful learners, workers and citizens. You can do it; we are here to help; and you can count on us. Welcome to Anytown High!"

Our opening day assembly is now over. Those of you who haven't been put to sleep by the principal's long oration may open you eyes * * *

It's true, of course, that most of the students in the auditorium probably did not absorb the full promise of what awaits them at Anytown High. Yet, I think few of them will fail to grasp the central message: That they are important and that they are going to be successful in life.

All of the adults in the community, too, should now clearly understand that this description of a radically different kind of learning community requires their fullest participation. Education at Anytown High is a serious full-time partnership of the entire community. Its objective is simple and straightforward: success in work, success in life for each and every young person who enters our schools.

Undoubtedly, some of you are thinking: "What a nice, Utopian dream. Halperin is just a dreamer." Yes, I do have a dream! However, there is not one element in my dream that is not a living reality someplace in this country. Everything in this dream is being practiced somewhere * * * now, today. All that Patricia McNeil and I have done is put it all together to meet our personal vision. I hope you will do the same with your own ideas about education, youth development and the world of work.

So, I end where I began. The challenge before the people of Rhode Island is to dream your own dream for the State and for your own communities. Rethink the essential nature of schooling at the dawn of the 21st Century. Construct a total quality system in which all the parts of your dream come together to produce success for all of Rhode Island's young people.

SISTER CAROL McGOVERN—LET'S CELEBRATE HER LIFE

Mr. PELL. Mr. President, I ask that the Senate join in celebrating the life of Sister Carol McGovern, RSM. Often we find that life gains meaning through our service to others, and our greatest personal ambition seems empty and illusory compared to such service.

Sister Carol McGovern, who died Wednesday of breast cancer, was executive director of Amos House, a soup kitchen and social service center in the poorest neighborhood of Providence, Rhode Island's capital city. To this position she brought tremendous energy and great vision. Her vision arose from spiritual commitment and was informed by an extraordinarily active life.

Sister Carol was involved: She served on many boards of directors, working with Sunrise House, the Rhode Island Rape Crisis Center, the Campaign To Eliminate Childhood Poverty, and the Rhode Island Right to Housing Now.

When one first meets a person such as Sister Carol, an initial elation often gives way to the question: Where will the energy come from to sustain such commitment?

The problems of humanity, even at a local level, seem so vast, complex, and intractable that they would quickly consume one entirely. Yet, year after year, on issue after issue, Sister Carol was there.

Her energy never diminished, but grew deeper. Service that one would have thought to be all consuming, revealed itself to be vitalizing. In the end, she was a force. The name Sister Carol McGovern resounds with meaning unattainable by pursuit of individual interest.

In 1959, she joined the Sisters of Mercy, in 1967 she took her final vows. She earned her bachelor's degree from Salve Regina College and her master's degree from St. Michael's College.

She was given awards for her work, the John Kiffney Award from the Providence Newspaper Guild, an honorary doctorate from Rhode Island College, to name two. For anyone this would be a record of outstanding accomplishment and well deserved recognition, but this record never defined her.

Her essence was her commitment to service, her real presence was to be found among those most in need. Her life was claimed by an illness that afflicts many women, she faced it bravely, and again she set a fine example.

My office and I were deeply fortunate to be able to work with her over the years. Many times she enlightened us and gave us courage to address difficult issues squarely.

She didn't ask for answers, only effort. We shall miss her greatly. I am truly saddened by her passing. Yet it is her life of service that I ask this body to celebrate and commemorate.

Mr. President, I ask unanimous consent that an article from the Providence Journal of April 6, 1995, entitled "Sister Carol McGovern, 53, Champion of the Poor, Dies," be inserted into the Congressional Record as if read.

There being no objection, the article was ordered to be printed in the Record, as follows:

Sister Carol McGovern, 53, Champion of the Poor, Dies

(By S. Robert Chiappinelli and Thomas J. Morgan)

Pawtucket.—Sister Carol McGovern, RSM, executive director of Amos House in Providence and one of Rhode Island's best known advocates for the poor, died yesterday at her home on Blodgett Avenue.

Sister Carol, 53, has been ill with breast cancer for the past year and a half. The disease had seemed to be in remission, but then spread to her liver.

Experimental treatment allowed her to resume an active outdoor life and to continue her 12-hour work days until her health failed less than a month ago.

Henry Shelton, another longtime activist, said, "Carol lived her life to the fullest with a smile that signaled joy and love, and faced death with more courage than anyone I ever knew.

"My prayer is that her life and death will inspire in Rhode Island's religious and political leaders a commitment similar to hers to support the effort of Rhode Island's powerless to help each other out of poverty."

"What does one say about so remarkable a woman?" said Richard J. Walton, former president of the board of Amos House, a soup kitchen and social service center in South Providence.

"She was a woman who cared very deeply and worked with passion, I guess you could say, and with humor. And I've never seen anyone bear up under what she's borne up under these last few months. She seemed to be more concerned about making people feel okay about her illness. She kept such a brave front that unless you knew she was sick, you couldn't know."

Born in Providence, she was a daughter of Eleanor V. (Peterson) of Cranston and the late James V. McGovern.

Sister Carol arrived at Amos House along a curious path.

She spent her early years teaching but in the 1970s she joined four other Sisters of Mercy knocking on doors in Woonsocket and meeting struggling residents.

The nuns taught residents, particularly women alone with young children, about available resources, and in a few years turned their jobs over to neighborhood people they had trained.

So by 1983, Sister Carol was out of a job and decided to take some time to refocus. She got a job as manager of the Yarney, one of the stores in the then-new Davol Square shopping center in Providence.

Using skills from her early years, she taught customers how to knit, and often chatted with Sister Eileen Murphy the Amos House founder who regularly strolled through Davol Square.

After Sister Eileen died unexpectedly in December 1983, Sister Carol decided to apply as part of a team at Amos House. Eventually she became co-director with Jim Tull. (Tull stepped down earlier this year.)

Despite her illness, Sister Carol continued her Amos House work and was showered with love and concern by those who used its services.

"I have a real passion for the people who come here," she said. "They are my family, they truly are my family."

Despite setbacks inherent in fighting for the needy, Sister Carol said, she drew sustenance from the example of her widowed mother and the words of anthropologist Margaret Mead, who said that small groups of truly committed people are the only things that have ever changed the world.

She entered the Sisters of Mercy in September 1959 and took her final vows in August 1967.

She received a bachelor's degree from Salva Regina College in 1964, and a master's in 1974 from St. Michael's College in Vermont.

Sister Carol was a founder of the Rhode Island Coalition for the Homeless, and was president of its board. She was a member of the board of directors of Sunrise House, a member of the board and a counselor-advocate of the Rhode Island Rape Crisis Center, a member of the Campaign to Eliminate Childhood Poverty and the Rhode Island Right to Housing NOW.

She was a lobbyist for the Sisters of Mercy for the last four years, dealing with peace, justice and women's issues.

In February Sister Carol and Tull received the John Kiffney Award of the Providence Newspaper Guild.

She also received the Bronze Key Award fro Substance Abuse. She was to receive an honorary doctorate in May from Rhode Island College.

Surviving besides her mother are two brothers, Robert F. McGovern of Cranston and James V. McGovern of Oxford, Mass., and a sister, Marcia E. O'Connor of Providence.

A concelebrated Mass of Christian Burial will be celebrated Saturday at 10 a.m. in St. Michael Church, Oxford, Street, Providence. Burial will be in Resurrection Cemetery, Cumberland.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 483. An act to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes;

H.R. 660. An act to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons; and

H.R. 1421. An act to provide that references in the statutes of the United States to any committee or officer of the House of Representatives the name or jurisdiction of which was changed as part of the reorganization of the House of Representatives at the beginning of the One Hundred Fourth Congress shall be treated as referring to the currently applicable committee or officer of the House of Representatives.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 1345) to eliminate budget deficits and management inefficiencies in the government of the District of Columbia through the establishment of the District of Columbia Financial Responsibility and Management Assistance Authority, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 660. An act to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following measure was read the first time:

H.R. 483. An act to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 115. A bill to authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection, and administration of Colonial National Historical Park, and for other purposes (Rept. No. 104–30).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 127. A bill to improve the administration of the Women's Rights National Historical Park in the State of New York, and for other purposes (Rept. No. 104–31).

S. 134. A bill to provide for the acquisition of certain lands formerly occupied by the Franklin D. Roosevelt family, and for other purposes (Rept. No. 104–32).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 188. A bill to establish the Great Falls Historic District in the State of New Jersey, and for other purposes (Rept. No. 104–33).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 197. A bill to establish the Carl Garner Federal Lands Cleanup Day, and for other purposes (Rept. No. 104–34).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment.

S. 223. A bill to authorize the Secretary of the Interior to provide funds to the Palisades Interstate Park Commission for acquisition of land in the Sterling Forest area of the New York/New Jersey Highlands Region, and for other purposes (Rept. No. 104–35).

S. 357. A bill to amend the National Parks and Recreation Act of 1978 to establish the Friends of Kaloko-Honokohau, an advisory commission for the Kaloko-Honokohau National Historical Park, and for other purposes (Rept. No. 104–36).

S. 363. A bill to improve water quality within the Rio Puerco watershed, New Mexico, and to help restore the ecological health of the Rio Grande through the cooperative identification and implementation of best management practices that are consistent with the ecological, geological, cultural, sociological, and economic conditions in the region, and for other purposes (Rept. No. 104–37).

S. 378. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes (Rept. No. 104–38).

S. 392. A bill to amend the Dayton Aviation Heritage Preservation Act of 1992 with regard to appointment of members of the Dayton Aviation Heritage Commission, and for other purposes (Rept. No. 104–39).

S. 551. A bill to revise the boundaries of the Hagerman Fossil Beds National Monument and the Craters of the Moon National Monument, and for other purposes (Rept. No. 104–40).

S. 587. A bill to amend the National Trails System Act to designate the Old Spanish Trail and the Northern Branch of the Old Spanish Trail for potential inclusion into the National Trails System, and for other purposes (Rept. No. 104–41).

S. 601. A bill to revise the boundaries of the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, and for other purposes (Rept. No. 104–42).

S. 610. A bill to provide for an interpretive center at the Civil War Battlefield of Corinth, Mississippi, and for other purposes (Rept. No. 104–43).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute.

H.R. 400. A bill to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes (Rept. No. 104–44).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment.

H.R. 440. A bill to provide for the conveyance of lands to certain individuals in Butte County, California (Rept. No. 104–45).

H.R. 536. A bill to extend indefinitely the authority of the Secretary of the Interior to collect a commercial operation fee in the Delaware Water Gap National Recreation Area, and for other purposes (Rept. No. 104–46).

H.J. Res. 50. A joint resolution to designate the visitors center at the Channel Islands National Park, California, as the "Robert J. Lagomarsino Visitors Center" (Rept. No. 104–47).

By Mr. ROTH, from the Committee on Governmental Affairs:

Special Report prepared by the Permanent Subcommittee on Investigations entitled "Criminal Aliens in the United States" (Rept. No. 104–48).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation:

Charles T. Manatt, of the District of Columbia, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1997.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on the Judiciary:

Eldon E. Fallon, of Louisiana, to be U.S. District Judge for the Eastern District of Louisiana.

Joseph Robert Goodwin, of West Virginia, to be U.S. District Judge for the Southern District of West Virginia.

Joe Bradley Pigott, of Mississippi, to be U.S. Attorney for the Southern District of Mississippi for the term of 4 years.

Curtis L. Collier, of Tennessee, to be U.S. District Judge for the Eastern District of Tennessee.

Maxine M. Chesney, of California, to be U.S. District Judge for the Northern District of California.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAMM:

S. 711. A bill to provide for State credit union representation on the National Credit Union Administration Board, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BRYAN:

S. 712. A bill to amend title 28, United States Code, to authorize the award of fees and expenses to prevailing parties in frivolous civil litigation, and for other purposes; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 713. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that the preemption provisions shall not apply to certain State of Oregon laws applicable to health plans; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself, Mr. KERREY, and Mr. KOHL):

S. 714. A bill to require the Attorney General to study and report to Congress on means of controlling the flow of violent, sexually explicit, harassing, offensive, or otherwise unwanted material in interactive telecommunications systems; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. INHOFE, and Mr. HATCH):

S. 715. A bill to provide for portability of health insurance, guaranteed renewability, high risk pools, medical care savings accounts, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM:

S. 716. A bill to amend the Social Security Act to provide for criminal penalties for acts involving medicare or State health care programs, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. PRYOR, and Mr. ROCKEFELLER):

S. 717. A bill to extend the period of issuance of medicare select policies for 12 months, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 718. A bill to require the Administrator of the Environmental Protection Agency to establish an Environmental Financial Advisory Board and Environmental Finance Centers, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. DOLE):

S. Res. 109. A resolution extending the appreciation and gratitude of the United States Senate to Senator ROBERT C. BYRD, on the completion by the Senator of the 4 volume treatise entitled "The History of the United States Senate", and for other purposes; considered and agreed to.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BRYAN:

S. 712. A bill to amend title 28, United States Code, to authorize the award of fees and expenses to prevailing parties in frivolous civil litigation, and for other purposes; to the Committee on the Judiciary.

FRIVOLOUS LAWSUIT PREVENTION ACT

• Mr. BRYAN. Mr. President, today I am introducing the Frivolous Lawsuit Prevention Act of 1995. This legislation will increase sanctions on lawyers who file frivolous lawsuits.

Almost daily we hear stories about some individual or business settling a lawsuit which has little merit just to avoid the costs associated with a drawn-out case. The manhours and resources that can be drained from a business while it goes through such a process can be devastating.

Many of us had hoped that the rules governing the conduct of court behavior would deter frivolous lawsuits. Rule

11 of the Federal Rules of Civil Procedure authorize judges to impose "an appropriate sanction" upon an attorney which is "interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." Unfortunately, rule 11 has not lived up to our expectations in curbing abusive lawsuits and, in fact, has been recently watered down.

This legislation is intended to force judges to punish lawyers or litigants who file or pursue cases which the judge regards as frivolous. Judges would be required to impose sanctions when they find frivolous suits, thereby, taking away their discretion. This step needs to be taken because judges have been reluctant to impose sanctions on fellow attorneys. It has always been difficult to get any group to discipline their colleagues, where it is doctors, lawyers or realtors. That is why we must force judges to impose sanctions when frivolous case are filed.

Frivolous lawsuits are a terrible drain on the competitiveness of our Nation. We must provide those who want to fight these frivolous suits rather than settle them the power to go after the perpetrators. I urge my colleagues to support this legislation.•

By Mr. HATFIELD.

S. 713. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that the preemption provisions shall not apply to certain State of Oregon laws applicable to health plans; to the Committee on Labor and Human Resources.

UNIVERSAL ACCESS AND THE OREGON HEALTH PLAN

• Mr. HATFIELD. Mr. President, during the 1989 and 1991 legislative sessions, Oregon's Legislature passed a comprehensive health care reform proposal known as the Oregon Health Plan. The Oregon Health Plan consists of four major reform packages. First, the Medicaid expansion which received a Federal waiver and has provided an additional 100,000 Oregonians with basic health care since it was implemented in February 1994. Second, the high-risk insurance pool which covers Oregonians who are unable to obtain insurance coverage due to preexisting conditions or the exhaustion of their current benefits. Third, the small employer basic health plan which provides for a low-cost insurance plan for small businesses of 25 or fewer employees. And finally, the employer mandate which by 1998 will require all employers in Oregon to provide health benefits for their employees or to pay into a State pool which will then purchase insurance for uninsured employees. When fully implemented the Oregon Health Plan will provide near universal access to health care for all Oregonians.

As my colleagues know, I have spoken many times on this floor about the need to allow States to proceed with innovative health care reform proposals. That is why I have joined with the Senator from Florida [Mr. GRAHAM] in introducing the Health Partnership Act of 1995. The Congress' failure to act on comprehensive national health care reform should not prevent innovative States like Oregon, Florida, Washington, Minnesota, and others from enacting their own health care reform proposals.

Unfortunately, the Federal Government has stymied these efforts in several ways. It took Oregon two administrations and almost 3 years to get the approval necessary to move forward with the Oregon Medicaid expansion. The current waiver process at the Health Care Financing Administration is burdensome and at times overregulatory.

Another major roadblock to State reform is the Employee Retirement Income Security Act, otherwise known as ERISA. Due to the broad interpretation courts have given to the so-called ERISA preemption clause contained in section 514(a) of the act, which states that ERISA "shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan", States have been limited in enacting comprehensive reforms that attempt to provide universal access to all their State's citizens and to control costs throughout the entire insurance market.

Mr. President, once again I find myself before this body asking for another waiver of Federal law to permit Oregon to go forward with reform that has been advanced by my State. This time it is to allow Oregon to implement the last part of the Oregon Health Plan—the employer mandate.

Oregon's employer mandate is a pay-or-play mandate—in other words, the State will tax employers who choose not to provide health benefits which will be defined by the State for their employees, and then provide health insurance to those uninsured employees through a State insurance pool. While the U.S. Supreme Court has not ruled that this kind of access mechanism violates the ERISA preemption clause, it is certainly subject to an ERISA challenge based on the premise that Oregon is trying to regulate self-insured plans in a way that relates to employee benefit plans.

Under the current ERISA statute, only Congress may statutorily grant ERISA waivers to States. At this time, only one State, Hawaii, has an ERISA exemption and that is only because Hawaii enacted its law before ERISA was enacted. Hawaii's waiver has not been updated since it was granted 20 years ago.

While Senator GRAHAM and I have proposed a mechanism for broad ERISA changes in our health care reform bill which will begin to address the ERISA roadblocks States face, I feel it is necessary to introduce legislation which provides for a specific waiver of ERISA for the State of Oregon. I introduce it as a separate vehicle to underscore the point that one way or another, Oregon needs a green light from the Federal Government in order to fully implement the Oregon Health Plan.

Of course, I understand the concern multi-State employers have about the prospect of administering fifty different health plans across the Nation. This is a valid concern which I hope we can accommodate as we continue to debate the issue of ERISA reform further.

Let me conclude by saying that I hope my colleagues will make note of this problem. Oregon is not the only State that is attempting to enact comprehensive health care reform and if the Supreme Court continues its broad application of ERISA, it is likely that the voices of other States will soon be heard. Comprehensive national reform may be dead for now, but let us not give up on the States to help us find the right answers and make health care available to all Americans.•

By Mr. LEAHY (for himself, Mr. KERREY, and Mr. KOHL):

S. 714. A bill to require the Attorney General to study and report to Congress on means of controlling the flow of violent, sexually explicit, harassing, offensive, or otherwise unwanted material in interactive telecommunications systems; to the Committee on the Judiciary.

CHILD PROTECTION, USER EMPOWERMENT, AND FREE EXPRESSION IN INTERACTIVE MEDIA STUDY ACT

• Mr. LEAHY. Mr. President, I introduce a bill calling for a study by the Department of Justice, in consultation with the U.S. Department of Commerce on how we can empower parents and users of interactive telecommunications systems, such as the Internet, to control the material transmitted to them over those systems. We must find ways to do this that do not invite invasions of privacy, lead to censorship of private online communications, and undercut important constitutional protections.

Before legislating to impose Government regulation on the content of communications in this enormously complex area, I feel we need more information from law enforcement and telecommunications experts. My bill calls for just such a fast-track study of this issue.

There is no question that we are now living through a revolution in telecommunications with cheaper, easier to use, and faster ways to communicate electronically with people within our own homes and communities, and around the globe.

A byproduct of this technical revolution is that supervising our children takes on a new dimension of responsibility. Very young children are so adept with computers that they can sit at a keypad in front of a computer screen at home or at school and connect to the outside world through the Internet or some other on-line service. Many of us are, thus, justifiably concerned about the accessibility of obscene and indecent materials on-line and the ability of parents to monitor and control the materials to which their children are exposed. But Government regulation of the content of all computer and telephone communications, even private communications, in violation of the first amendment is not the answer—it is merely a knee-jerk response.

Heavy-handed efforts by the Government to regulate obscenity on interactive information services will only stifle the free flow of information, discourage the robust development of new information services, and make users avoid using the system.

The problem of policing the Internet is complex and involves many important issues. We need to protect copyrighted materials from illegal copying. We need to protect privacy. And we need to help parents protect their children. Penalties imposed after the harm is done is not enough. We need to find technical means from stopping the harm before it happens.

My bill calls for a study to address the legal and technical issues for empowering users to control the information they receive over electronic interactive services. Instead of rushing to regulate the content of information services, we should encourage the development of technology that gives parents and other consumers the ability to control the information that can be accessed over a modem.

Empowering parents to manage what their kids access over the Internet with technology under their control is far preferable to some of the bills pending in Congress that would criminalize users or deputize information services providers as smut police.

Let's see what this study reveals before we start legislating in ways that could severely damage electronic communications systems, sweep away important constitutional rights, and undercut law enforcement at the same time.

Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY ON MEANS OF RESTRICTING ACCESS TO UNWANTED MATERIAL IN INTERACTIVE TELECOMMUNICATIONS SYSTEMS.

(a) STUDY AND REPORT.—Not later than 150 days after the date of enactment of this Act, the Attorney General shall complete a study and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report containing—

(1) an evaluation of whether current criminal laws governing the distribution of obscenity over computer networks and the creation and distribution of child pornography by means of computers are fully enforceable in interactive media;

(2) an assessment of the Federal, State, and local law enforcement resources that are currently available to enforce those laws;

(3) an evaluation of the technical means available to—

(A) enable parents to exercise control over the information that their children receive and enable other users to exercise control over the commercial and noncommercial information that they receive over interactive telecommunications systems so that they may avoid violent, sexually explicit, harassing, offensive, or otherwise unwanted material; and

(B) promote the free flow of information consistent, with Constitutional values, in interactive media; and

(4) recommendations to encourage the development and deployment of technical means, including hardware and software, to enable parents to exercise control over the information that their children receive and enable other users to exercise control over the information that they receive over interactive telecommunications systems so that they may avoid harassing, violent, sexually explicit, harassing, offensive, or otherwise unwanted material.

(b) CONSULTATION.—In conducting the study and preparing the report under subsection (a), the Attorney General shall consult with the National Telecommunications and Information Administration of the Department of Commerce.•

By Mr. D'AMATO (for himself, Mr. INHOFE, and Mr. HATCH):

S. 715. A bill to provide for portability of health insurance, guaranteed renewability, high risk pools, medical care savings accounts, and for other purposes; to the Committee on Finance.

HEALTH INSURANCE PORTABILITY AND GUARANTEED RENEWABILITY ACT

• Mr. D'AMATO. Mr. President, I rise today to introduce the Health Insurance Portability and Guaranteed Renewability Act of 1995. I am pleased to be joined by Senators INHOFE and HATCH in introducing this important legislation.

President Clinton, in his 1993 joint session address, said that "Millions of Americans are just a pink slip away from losing their health insurance, and one serious illness away from losing all their savings."

While the President's statement was right, his prescription for reform—as the American people told us in no uncertain terms—was dead wrong. We must find a way to give Americans greater health security without turning the whole system over to the Federal Government, as the President had proposed. We must address the public's insecurities regarding their health insurance while preserving what works in the American health care system and allowing the free market to work.

That is why I am today introducing the Health Insurance Portability and Guaranteed Renewability Act of 1995. This is a bill which I am confident will go a long way toward accomplishing these goals.

First, our bill would eliminate job lock by guaranteeing that people who change jobs will be covered by their new employer's plan without regard to preexisting medical conditions.

It will expand COBRA to provide for continuation of coverage for all individuals employed by firms of two or more employees, and extends COBRA coverage from 18 to 36 months. Therefore, employees losing their jobs will have the opportunity to continue their health coverage for an additional 18 months under their current plan. Present COBRA law benefits only those employers with more than 20 employees.

It will help control health costs by changing the tax law to allow tax-free medical savings accounts. Empirical evidence demonstrates that medical saving accounts can control costs and promote wellness without jeopardizing quality of care. Money saved in such accounts by employees can be used to pay COBRA premiums, if needed.

It will provide a safety net for people who cannot qualify for health insurance by giving them access to health insurance through high-risk pools.

Finally, it will prevent insurance companies from singling out any individual or small group for rate increases or cancellation based on claims experience.

I believe this bill goes a long way toward giving the American people what they want—greater health security without a Big Government takeover of our Nation's health care system. The fact that it can be implemented without new taxes, and without adding to the deficit, is further reason that the Health Insurance Portability and Guaranteed Renewability Act of 1995 should be enacted without delay.•

By Mr. GRAHAM:

S. 716. A bill to amend the Social Security Act to provide for criminal penalties for acts involving Medicare or State health care programs, and for other purposes; to the Committee on Finance.

HEALTH REFORM ENHANCEMENT ACT

• Mr. GRAHAM. Mr. President, I introduce legislation to clarify that States which already use, or which seek to utilize, Medicaid dollars to pay private health insurance premiums would be allowed to do so.

Unfortunately, a recent interpretation of the anti-kickback statute by the Department of Justice and the Department of Health and Human Services has placed at risk innovative Government programs that attempt to channel Medicaid and Medicare dollars through the private sector through mechanisms such as the purchase of health insurance policies or the payment for managed care. That interpretation, which could apply the antikickback statute to insurance agent commissions, came as part of Florida's waiver request for a Medicaid demonstration project. Such an interpretation ignores the fact that insurance agents are an integral part of any system relying in whole or in part on private health insurance coverage.

In the State's submission of its Florida Health Security [FHS] waiver on February 9, 1994, the proposal would—if enacted—provide 1.1 million additional Floridians with insurance coverage up to 250 percent of the poverty level. FHS participants would buy a standard benefit package offered through a community health purchasing alliance and receive, according to their income, a premium discount to make the package affordable.

Florida's proposal is innovative but in many ways simple. As the State has explained in its proposal,

> Through the managed competition system developed in Florida and improved program management, the [State] expects to reduce the cost of health care, thereby increasing the funds available for subsidizing insurance for Florida's uninsured. The net result of this arrangement will be lower health care costs overall in the State and greater access to health care for a significant portion of Florida's currently uninsured residents.

Through the community health purchasing alliances established by the State, private sector small businesses are already seeing reductions in their health premiums of between 10 to 50 percent across the State. The State would like to see its Medicaid Program and other small businesses achieve similar results.

On September 14, 1994, after 7 months of negotiations with the Department of Health and Human Services and the Department of Justice, the Federal Government granted a conditional waiver approval to allow Florida to implement the State's proposed reforms. By granting this important request, Florida would be allowed to use Medicaid funds to provide insurance premium discounts to working, uninsured Floridians traditionally ineligible for Medicaid.

As a result, despite the Federal Government's failure to move toward the goals of health reform such as increased access, cost containment and quality, Florida could do so through Florida health security.

First and foremost, let me reemphasize that this waiver program would allow an additional 1.1 million Floridians to obtain health insurance coverage—thereby reducing the State's uninsured rate by over 40 percent. Moreover, of the 2.7 million Floridians presently without health insurance, 1 million are children. With the plan's requirement that 80 percent of the enrollment spaces be reserved for lower-income, uninsured families, children will disproportionately benefit from this initiative.

In addition, this waiver would eliminate the all-or-none approach of Medicaid by creating a sliding scale of contributions for those above the Medicaid poverty threshold and up to 250 percent of poverty. At present, Medicaid's all-or-none approach creates the perverse incentive of encouraging people to remain unemployed and in poverty in order to continue to have health care coverage. Florida's approach would clearly help get people off welfare and be a much fairer system than what we have now.

The waiver also allows Florida and the Federal Government better control over the costs of the Medicaid Program. Since 1982, Florida's Medicaid Program has increased from $1 billion to $7 billion. From 1990 through 1993, Florida saw its Medicaid budget expand by 30, 26, and 19 percent, respectively. Instead, over the 5-year period of Florida's waiver program, costs would be controlled and managed through the increased use of case management and managed care in the private sector. Through these savings, the State and the Federal Government will be able to provide coverage to over 1 million previously uninsured Floridians without spending additional revenue.

In short, Florida's Health Security Program would expand access and health coverage without raising taxes, control costs and break the categorical link between health care and welfare.

To implement this program, Florida Health Security will utilize the already successfully established community health purchasing alliances, which have reduced premiums for participating small businesses by 10 to 50 percent this year. As a result of this, private health plans and insurance agents will be integrally involved in the Florida health security program.

In fact, under Florida Health Security, accountable health partnerships would submit bids on premium rates for the standard benefit plan, with a portion of the premium to be paid by Medicaid. Insurance agents would be directly involved in the process due to the fact that they are an integral part of this process. The alternative would be to employ a statewide force of State workers to provide such enrollment services, which would be wasteful and inefficient in comparison such agents are already trained and available in all areas across the State.

Unfortunately, HHS and the Department of Justice have expressed concern that payments to insurance agents by accountable health plans might violate the Social Security antikickback statute. Clearly, the 1977 antikickback statute was not intended or even contemplated to apply to programs like Florida's demonstration project.

In fact, there are already numerous and widespread examples of Medicare and Medicaid funds being used for the payment, directly or indirectly, to insurance agents. These include Medicaid revisions in the Family Support Act of 1988, which creates a Medicaid wraparound option allowing States to use Medicaid funds to pay a family's expenses for premiums, deductibles, and coinsurance for any health care coverage offered by the employer.

As the State argued while pursuing the waiver, since insurance companies use insurance agents, the purchase of insurance and the payment of premiums of necessity results in the payment of a commission to an insurance agent. This is also true when Medicaid funds health maintenance organizations [HMO's], the Medicare Risk Program, and various State plans relating to areas such as the enrollment of Medicaid eligibles in group health plans.

Through the section 1115 Medicaid demonstration project waiver process, Florida is attempting, for the first time, to use Medicaid funds to purchase private health insurance on a wide scale. However, by mistakenly applying the antikickback statute beyond its intended scope to insurance agent commissions, the Departments of Justice and Health and Human Services would effectively and radically alter the demonstration. As noted before, insurance agents are an integral part of the existing health insurance system and our critical to the implementation of Florida's health security program.

As a result, this legislation focuses narrowly on clarifying that the 1977 antikickback statute would not unnecessarily be applied to Medicaid demonstration projects and Medicaid managed care programs, which were initiatives that were not anticipated in the original adoption of the statute. Failure to adopt this language, with Justice's and HHS's present interpretation of the statute, could very well jeopardize every State or Federal health plan which already uses, or which seeks to use, Federal moneys to fund private health insurance coverage.

Through either payments to employers or directly to individuals, many States have Medicaid programs that buy private insurance policies and thereby result in the payment of insurance agent commissions. States such as Oregon, California, Vermont, Kansas, Kentucky, South Carolina, Massachusetts, Missouri, Iowa, Virginia, Ohio, and New Jersey have such arrangements and do not withhold payment for commissions or limit the commissions which can be paid. These innovative Medicaid programs and Medicare risk contracts could all be jeopardized without language clarifying the intent of the antikickback statute.

I urge my colleagues to support this legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRIMINAL PENALTIES FOR ACTS INVOLVING MEDICARE OR STATE HEALTH CARE PROGRAMS.

Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F)(i) any premium payment made to a health insurer or health maintenance organization by a State agency in connection with a demonstration project operated under the State medicaid program pursuant to section 1115 with respect to individuals participating in such project; or

"(ii) any payment made by a health insurer or a health maintenance organization to a sales representative or a licensed insurance agent for the purpose of servicing, marketing, or enrolling individuals participating in such demonstration project in a health plan offered by such an insurer or organization.".•

By Mr. GRAHAM (for himself, Mr. PRYOR, and Mr. ROCKEFELLER):

S. 717. A bill to extend the period of issuance of Medicare select policies for 12 months, and for other purposes; to the Committee on Finance.

HEALTH CARE LEGISLATION

• Mr. GRAHAM. Mr. President, I introduce legislation with Senators PRYOR and ROCKEFELLER to extend the reauthorization of the Medicare Select Program from July 1, 1995, to July 1, 1996. Florida is one of the 15 States originally authorized to participate in the program and more than 20,000 people in Florida were participating in Medicare select by the end of 1994.

Medicare select has created a more uniform and understandable set of policies for seniors to choose from in the Medicare supplemental market. As the August 1994 article entitled "Filling the Gaps in Medicare" in Consumer Reports said:

> The law has had positive effects. It eliminated the bewildering variety of benefits that insurance companies had been selling. It made agents wary of selling a prospect more than one Medicare-supplement policy, a useless and costly duplication of coverage.

The Blue Cross Blue Shield of Florida's select policy ranks among the best values in the Nation.

However, the expiration date is quickly approaching for this demonstration program. Florida Blue Cross Blue Shield would have preferred the program to have already been extended by April 1, 1995, so that Florida's Medicare beneficiaries and providers could have avoided any disruption in the program. That date has passed. In fact, if not extended shortly, health plans and providers will have to prepare to close the program to new Medicare enrollees on June 30. The consequences would be to significantly increase premiums for current Medicare select enrollees and could lead to deterioration of networks as providers choose to leave the expired program.

In S. 308, the Health Partnership Act, that I introduced with Senator HATFIELD on February 1, 1995, our legislation would have made the program permanent and expanded the program to all 50 States. I no longer believe this is possible in time to prevent disruption to plans. Although the House passed a version to extend the program for 5 years with an accompanying study to determine whether the program results in savings to enrollees, reduces expenditures in the Medicare Program, and impacts access to and quality of care, Senate review of the program could not take place quickly enough to prevent disruption in the 15 States.

Moreover, a study of the items called for by the House is already being conducted by the Health Care Financing Administration through the Research Triangle Institute. Rather than commissioning yet another analysis of Medicare select, wasting the money already being spent to study the program and waiting another 3 years to make potential improvements in the program, it would be better to immediately move forward with a 1-year reauthorization of the program. In the meantime, Congress should consider improvements to Medicare select based upon the forthcoming study and other information we will receive. At that time, Congress should extend the program to all 50 States.

During the next year, there are many questions we should be asking of this program. For one, what impact is this program having on Medicare? Moreover, there have been questions raised as to the rating methods used to price and sell these products. According to Consumer Reports,

> Unless state regulations outlaw attained-age pricing or national health reform makes community rating mandatory for Medicare-supplement policies . . . attained-age pricing will take over the marketplace, with serious consequences to the oldest policyholders.

This is something both Congress and the States should be reviewing.

As a result, Mr. President, I urge urgent and immediate consideration of this legislation by the Senate and ask unanimous consent that the text of the bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 12-MONTH EXTENSION OF PERIOD FOR ISSUANCE OF MEDICARE SELECT POLICIES.

(a) IN GENERAL.—Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1320c–3 note) is amended by striking "3½-year" and inserting "54-month".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.•

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 718. A bill to require the Administrator of the Environmental Protection Agency to establish an Environmental Financial Advisory Board and Environmental Finance Centers, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL FINANCE ACT

• Mr. MOYNIHAN. Mr. President, on behalf of myself and Senator D'AMATO, I introduce the Environmental Finance Act of 1995. This bill will make permanent the Environmental Protection Agency's Environmental Financial Advisory Board.

As my colleagues are well aware, Congress has appropriated billions of dollars in the last 20 years for environmental improvements. While great progress has been made, much remains to be done. Over the last several years the EPA has produced significant data showing a shortfall between the need for environmental infrastructure and the resources available to meet that need.

Environmental problems are some of the more compelling, complex, and controversial issues confronting the more than 83,000 local governments in the United States. Government officials are increasingly held liable for violations of environmental statutes, and have to finance environmental requirements imposed from Washington. Reporting requirements are increasing not only in frequency but in technical difficulty.

With this burden now falling heavily on State and local governments, new means to pay for environmental services and infrastructure must be found. This is imperative if we are to maintain and build upon the significant environmental gains made thus far.

In 1989, the Environmental Financial Advisory Board [EFAB] was created for the reasons I have just described. Over the last 4 years, the EFAB has provided advice and analysis to the EPA on how to pay for environmental protection and leverage public and private resources. The EFAB was initially a committee of the National Advisory Council for Environmental Technology Policy, and in 1991 it became an independent advisory board consistent with the requirements of the Federal Advisory Committee Act.

The EFAB has been assigned the role of providing advice on environmental financing. Its objectives include the following: Reducing the cost of financing environmental facilities and discouraging pollution; creating incentives to increase private investment in the provision of environmental services; removing or reducing constraints on private involvement in environmental financing; identifying approaches specifically targeted to small community financing; assessing government strategies for implementing public-private partnerships; and reviewing governmental principles of accounting and disclosure standards for their effect on environmental programs.

The EFAB charter terminated on February 25, 1993. I am greatly pleased that EPA has initiated a renewal of the EFAB charter. It is, indeed, the intention of this legislation to help the EPA by creating in statute this most worthy program. Former EPA Administrator William K. Reilly testified before the House Appropriations Committee in 1991 and expressed his hope that the EFAB would eventually become for the financing field what the Science Advisory Board has become to the field of environmental science. I share his determination.

Mr. President, my legislation also will establish Environmental Finance Centers at universities throughout the country. This legislation will establish environmental finance centers in each of the 10 Federal regions. These permanent centers will be effective vehicles for the promotion of innovative financing techniques. Currently, two pilot environmental finance centers at the Universities of New Mexico and Maryland promote new financing options by providing training to State and local officials, distributing publications, giving technical assistance targeted to local needs, and hosting meetings and workshops for State and local officials. These centers will work in conjunction with the EFAB to help States build their capacity to protect the environment. The Environmental Finance Centers are initially to be partially funded through Federal grants, with the goal that they eventually will become self-sufficient.

In my own State, Syracuse University's Maxwell School of Citizenship and Public Affairs, drawing on the talents of Syracuse's Schools of Engineering and Law, and the State University of New York's School of Forestry, is the EPA's Region II Environmental Finance Center. The Maxwell School ranks among the country's finest institutions; its applied research centers in public finance, metropolitan studies, and technology and information policy are ranked among the Nation's top three such centers. The metropolitan studies program is a national leader in examining a broad range of issues involving regional economic development and public finance in the United States.

The Maxwell School has established a Center for Environmental Policy and Administration in which analysis of environmental issues, such as those envisioned for the EFAB and the regional Environmental Finance Centers, will play a major role. In addition, the Syracuse Law School is establishing an environmental law center that will complement the Finance Center.

Mr. President, I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Finance Act of 1995".

SEC. 2. PURPOSE.

The purpose of this Act is to require—

(1)(A) the Administrator of the Environmental Protection Agency to establish an Environmental Financial Advisory Board to provide expert advice and recommendations to Congress and the Administrator on issues, trends, options, innovations, and tax matters affecting the cost and financing of environmental protection by State and local governments; and

(B) the Board to study methods to—

(i) lower costs of environmental infrastructure and services;

(ii) increase investment in public and private environmental infrastructure; and

(iii) build State and local capacity to plan and pay for environmental infrastructure and services; and

(2)(A) the Administrator to establish and support Environmental Finance Centers in institutions of higher education;

(B) the Centers to carry out activities to improve the capability of State and local governments to manage environmental programs; and

(C) the Administrator to provide Federal funding to the Centers, with a goal that the Centers will eventually become financially self-sufficient.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BOARD.—The term "Board" means the Environmental Financial Advisory Board established under section 4.

(3) CENTER.—The term "Center" means an Environmental Finance Center established under section 5.

SEC. 4. ENVIRONMENTAL FINANCIAL ADVISORY BOARD.

(a) IN GENERAL.—The Administrator shall establish an Environmental Financial Advisory Board to provide expert advice on issues affecting the costs and financing of environmental activities at the Federal, State, and local levels. The Board shall report to the Administrator, and shall make the services and expertise of the Board available to Congress.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Board shall consist of 35 members appointed by the Administrator.

(2) TERMS.—A member of the Board shall serve for a term of 2 years, except that 20 of the members initially appointed to the Board shall serve for a term of 1 year.

(3) QUALIFICATIONS.—The members of the Board shall be individuals with expertise in financial matters and shall be chosen from among elected officials and representatives of national trade and environmental organizations, the financial, banking, and legal communities, business and industry, and academia.

(4) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the Board shall elect a Chairperson and Vice Chairperson, who shall each serve a term of 2 years.

(c) DUTIES.—After establishing appropriate rules and procedures for the operations of the Board, the Board shall—

(1) work with the Science Advisory Board, established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), to identify and develop methods to integrate risk and finance considerations into environmental decisionmaking;

(2) identify and examine strategies to enhance environmental protection in urban areas, reduce disproportionate risks facing urban communities, and promote economic revitalization and environmentally sustainable development;

(3) develop and recommend initiatives to expand opportunities for the export of United States financial services and environmental technologies;

(4) develop alternative financing mechanisms to assist State and local governments in paying for environmental programs;

(5) develop alternative financing mechanisms and strategies to meet the unique needs of small and economically disadvantaged communities; and

(6) undertake such other activities as the Board determines will further the purpose of this Act.

(d) RECOMMENDATIONS.—The Board may recommend to Congress and the Administrator legislative and policy initiatives to make financing for environmental protection more available and less costly.

(e) OPEN MEETINGS.—The Board shall hold open meetings and seek input from the public and other interested parties in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) and shall otherwise be subject to the Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1996 through 2000.

SEC. 5. ENVIRONMENTAL FINANCE CENTERS.

(a) IN GENERAL.—The Administrator shall establish and support an Environmental Finance Center in an institution of higher education in each of the regions of the Environmental Protection Agency.

(b) DUTIES AND POWERS.—A Center shall coordinate the activities of the Center with the Board and may—

(1) provide on-site and off-site training of State and local officials;

(2) publish newsletters, course materials, proceedings, and other publications relating to financing of environmental infrastructure;

(3) initiate and conduct conferences, seminars, and advisory panels on specific financial issues relating to environmental programs and projects;

(4) establish electronic database and contact services to disseminate information to public entities on financing alternatives for State and local environmental programs;

(5) generate case studies and special reports;

(6) develop inventories and surveys of financial issues and needs of State and local governments;

(7) identify financial programs, initiatives, and alternative financing mechanisms for training purposes;

(8) hold public meetings on finance issues; and

(9) collaborate with another Center on projects and exchange information.

(c) GRANTS.—The Administrator may make grants to institutions of higher education to carry out this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 1996 through 2000.•

ADDITIONAL COSPONSORS

S. 277

At the request of Mr. D'AMATO, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 277, a bill to impose comprehensive economic sanctions against Iran.

At the request of Mr. MCCONNELL, his name was withdrawn as a cosponsor of S. 277, supra.

S. 328

At the request of Mr. SANTORUM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 328, a bill to amend the Clean Air Act to provide for an optional provision for the reduction of work-related vehicle trips and miles traveled in ozone nonattainment areas designated as severe, and for other purposes.

S. 384

At the request of Mr. BROWN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 384, a bill to require a report on United States support for Mexico during its debt crisis, and for other purposes.

S. 394

At the request of Mr. D'AMATO, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 394, a bill to clarify the liability of banking and lending agencies, lenders, and fiduciaries, and for other purposes.

S. 457

At the request of Mr. SIMON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

S. 508

At the request of Mr. BREAUX, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 508, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 584

At the request of Mr. ROBB, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 584, a bill to authorize the award of the Purple Heart to persons who were prisoners of war on or before April 25, 1962.

S. 641

At the request of Mr. KENNEDY, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Iowa [Mr. HARKIN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Dakota [Mr. DORGAN], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 704

At the request of Mr. SIMON, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

SENATE JOINT RESOLUTION 26

At the request of Mr. SIMPSON, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of Senate Joint Resolution 26, a joint resolution designating April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition Day."

SENATE JOINT RESOLUTION 32

At the request of Mr. HATCH, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of Senate Joint Resolution 32, a joint resolution expressing the concern of the Congress regarding certain recent remarks that unfairly and inaccurately maligned the integrity of the Nation's law enforcement officers.

SENATE RESOLUTION 109—EXTENDING THE APPRECIATION AND GRATITUDE OF THE U.S. SENATE TO SENATOR ROBERT C. BYRD

Mr. DASCHLE (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 109

Whereas Senator Robert C. Byrd on Friday, March 21, 1980, delivered on the floor of the Senate, an extemporaneous address on the history, customs, and traditions of the Senate;

Whereas on the following Friday, March 28, 1980, the Senator delivered a second, and once more spontaneous, installment of his chronicle on the Senate;

Whereas the first 2 speeches generated such intense interest that several Senators and others asked Senator Byrd to continue the speeches, particularly in anticipation of the forthcoming bicentennial of the Senate in 1989;

Whereas over the following decade Senator Byrd delivered 100 additional addresses on various aspects of the political and institutional history of the Senate;

Whereas in anticipation of commemorating the 200th anniversary of the Senate, Congress in 1987 authorized publication of the addresses in suitable illustrated book-length editions;

Whereas between 1988 and 1994, Senator Byrd meticulously supervised preparation of 4 volumes, including a 39 chapter chronological history, a 28 chapter topical history, a compilation of 46 classic Senate speeches, and a 700 page volume of historical statistics;

Whereas volumes in the series have received national awards for distinction from organizations such as the American Library Association and the Society for History in the Federal Government;

Whereas the 4 volume work, entitled "The History of the United States Senate", is the most comprehensive history of the Senate that has been written and published;

Whereas Senator Byrd has devoted tireless energy and tremendous effort to the preparation and publication of the historical books, enabling citizens of the United States to better understand the history, traditions, and uniqueness of the Senate; and

Whereas a better understanding by people of the Senate and the role of the Senate in our constitutional system of government will foster respect and appreciation for the democratic traditions of the United States: Now, therefore, be it

Resolved, That the United States Senate extends congratulations and appreciation to Senator Robert C. Byrd for completing "The History of the United States Senate", a monumental achievement that will educate and inspire citizens of the United States about the Senate for generations to come.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Subcommittee on Social Security and Family Policy of the Finance Committee be permitted to meet on Friday, April 7, 1995, beginning at 9:30 a.m. in room SD–215, to conduct a hearing on 1995 Board of Trustees annual report of the Social Security and disability trust funds.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONTRACT WITH AMERICA

• Mr. SIMPSON. Mr. President, I rise to join my colleagues who have expressed their congratulations to our counterparts in the House who this week completed work on the "Contract With America."

In the past few days, Mr. President, I have heard some powerful and stirring remarks from the other side about the nature of the "Contract With America." I have heard allegations that Republicans are plotting to break ketchup bottles over children's heads, to snatch their school lunches from their grasping mouths, and to send the seniors of America into the streets to forage from garbage cans.

Of course, this is an attempt to cast a judgment on the substance of the legislation that was brought forth under the contract. I would instead prefer to focus my remarks on what I consider to be the real point of the contract, which was a commitment by newly elected leaders to—hold on to your hats—to keep their campaign promises.

Small wonder that this effort has produced so much discomfiture and fury on the other side. I remember a

Presidential election in 1992, in which a Democratic Presidential candidate campaigned against the Bush policy in China, against the Bush policy in Bosnia, promised massive tax cuts—then delivered unprecedented tax increases—and on and on and on. And this is, to the mindset of the other side, what "responsibility" is all about. You don't keep your campaign promises, because it would be "irresponsible" to do so.

My view is rather quite different. My view of responsibility is that, while campaigning, one only makes promises that one intends to keep. But apparently it is a novel idea in Washington, and is described by phrases such as "pandering" and "irresponsibility."

Now also, before discussing the substance of the contract itself, let me also commend by House colleagues for adhering to the principle that, whether or not the votes were there to pass these items, these matters should be brought forth for a vote. That was the real point of the contract—to bring matters up for a vote.

I need not tell American citizens why that is so important, but I would like to refresh my colleagues' understanding of that point. The point is simply that the American public has a right to know where its representatives truly stand on these issues. That is a fundamental responsibility of representative democracy.

This principle should be supported by all legislators, whether or not they agreed with all of the substantive content of the "contract." Clearly, these were matters of importance to the American people. Many legislators—on both sides of the aisle—have run for office claiming that they supported such measures. They would say that they favored balanced budgets, favored the line-item veto, favored term limits, favored holding Congress accountable to the laws that it passed—and yet these measures were never passed. Those who voted for these legislators had a right to know who really favored these measures and who did not.

I think it is a measure of how truly "out of touch" Washington has become if the definition of "responsibility" has become—"refusing to vote on matters of importance to the American people." What House Republicans have accomplished, essentially, is to demonstrate that they believed that Americans did have a right to know where their legislators really stood, instead of Congress' engaging in the age-old practice of refusing to bring matters to a vote simply because it was feared they would pass. That is not my idea of representative democracy—gimmicking the system to avoid having to cast a politically unpopular vote. And we saw a terrible lot of that in the House for 40 years.

Finally, I would like to address the rather silly charge that tne "Contract With America" was a special boon for rich Americans only.

If we run down the various items of the contract—and I do not support every single one of them—we see several measures that have nothing to do with being "rich" or "poor." We simply see measures designed to give Washington some long-overdue accountability to the people we represent.

For instance—the Congressional Accountability Act. I do not understand why it would be catering to the "rich" to make Congress accountable to the laws that it passes.

Nor do I understand why a halt to unfunded Federal mandates is a special benefit for "the rich." It is an irrelevant, nonsensical argument to say that somehow it is the height of egalitarianism for Washington to send endless unfunded mandates on to the States.

The balanced budget amendment; there's another one. Simply the proposition that Government should live within its means. I would be very curious to know what tenet of economic theory holds that it is necessary for Government to go into hundreds of billions in debt every year in order to treat "rich" and "poor" appropriately.

Even many of the attacks on the proposed tax cuts struck me as disingenuous, at times even hypocritical. Many Congressmen and Senators waxed eloquent about how unfair it was to give any sort of tax break to the "rich," but when it comes to shelling out billions in Federal entitlement benefits to the "rich," they are strangely silent. If it is unjust to have any sort of tax relief affecting anyone of means, please explain to me why a billionaire should get a full Social Security COLA, or to have 75 percent of his Medicare part B premium paid by the taxpayer. If you want to know where we have really indulged the "rich," it's not through the Tax Code. It's through Government spending.

So this was never about "rich" versus "poor." It was about big Government versus small Government.

In the end, Mr. President, many of the attacks on the Republican legislative effort are nothing more than the same shopworn, trite, ridiculous rhetoric of class warfare that got us into this spending nightmare, and most assuredly will not get us out.

We will hear much more of it in the weeks to come.

When we attempt to hold the growth of Government spending to a reasonable level—not to cut it, but just to restrain its growth—we will hear how we are "cutting" and "slashing" and so forth.

I just cannot believe—and I say this in all earnestness to my Democratic colleagues and their pollsters—that the American people will swallow that one. I remember those charges during the Reagan years. Last I looked, we had a Federal budget of, now, $1.6 trillion. Doesn't look like a lot of "slashing" and "cutting" to me. Does anyone seriously believe that the American public will buy the notion that we are tearing spending to ribbons when we have a Federal budget of $1.6 trillion? Something just doesn't add up there.

The reality is that we have programs like Head Start that are going up 140 percent over the course of 6 years—and the opposition comes down here, still, to charge that it is being torn apart by Republican budget cuts.

It is a mode of argument that simply will not work anymore. There is simply too much clear evidence to the contrary.

There is still much to do to bring our Government's house into order. But by any measure, the first 100 days of this Congress have been a darn good start. We owe the House our rich congratulations.●

SHORTSIGHTED RESCISSIONS

● Mr. LEVIN. Mr. President, the rescission bill approved by the Senate last night included a very short-sighted cut, which I strongly opposed. The bill we sent to conference with the House rescinds $93.5 million for the base realignment and closure account for the 1993 round of military facility closures, and another $10.6 million for the base realignment and closure account for the 1991 round of facility closures. These BRAC accounts provide the funds to close and realign military bases including, most urgently, to clean up an environmental contamination that the military services caused while they occupied those facilities.

During consideration of the bill, I voted for the Mikulski amendment, which would have restored funds for cleanup of closing bases and funds for other important national programs. Now, I strongly encourage the conference committee to restore these funds.

When we voted for base closures over the last 5 years, we also committed to complete environmental restoration and remediation at those facilities quickly, in fact within a maximum of 5 years from the time closure was approved. I consider that a solemn commitment from us, and from President Clinton to the affected communities, which spent years as good neighbors to the military, providing all kinds of support. Each of those communities was serving our country with their support of local military facilities. The President and Department of Defense have tried to keep this commitment by requesting full funding for BRAC activities. We appropriated most of what was asked for last year. It would be a mistake to rescind more funding.

Mr. President, not only is it wrong to renege on the commitment we made to cleanup swiftly the military bases we have ordered to close, so that reuse there is possible. Underfunding this activity by rescinding fiscal year 1995 BRAC funds is also short-sighted. It's probably not even penny-wise, but it is certainly pound-foolish.

In many cases, Federal and State laws require this cleanup. At some bases, consent agreements now dictate specific cleanup activities and deadlines, the cost of which must be paid from the BRAC accounts. So BRAC rescissions are false savings. We still have to complete these environmental restoration activities. When we delay, it becomes more expensive, because the contamination in many cases gets worse. Soil and groundwater contamination can spread. And if consent agreements are violated because of lack of funds, the Federal Facilities Compliance Act says the Federal Government may be subject to fines and penalties.

The Governor of California, Pete Wilson, recently wrote to the Secretary of Defense on this subject, saying:

> The continued erosion of cleanup funding inevitably will threaten the health of armed services personnel and civilians who work at military bases where contamination is present. It will also exacerbate economic suffering in communities that are struggling to redevelop closing bases. And, if the federal government will not meet its cleanup obligation, how can we expect private industry to do so? DOD is contractually obligated to seek sufficient funding to permit environmental work to proceed according to the schedules contained in those agreements. California will not hesitate to assert its right under those agreements to seek fines, penalties and judicial orders compelling DOD to conduct required environmental work.

The attorney general of Texas expressed similar sentiments in a letter to the Pentagon, saying:

> If, in other words, the DOD and the federal government do not comply with all applicable cleanup laws, then other entities may begin to question why they should comply with cleanup laws. Hopefully, we have not reached the point of the federal government taking the position of "do as I say, and not as I do."

I would ask that the entire letter of January 25, 1995 from Governor Wilson to Secretary Perry, and the December 29, 1994 letter from Attorney General Dan Morales to Under Secretary of Defense Sherri Wasserman Goodman be printed in the RECORD.

SACRAMENTO, CA,
January 25, 1995.

Hon. WILLIAM PERRY,
Secretary of Defense, The Pentagon,
Washington, DC.

DEAR SECRETARY PERRY: I would like to express may deep concern about recent actions at the Department of Defense (DOD) and in Congress regarding cuts in funding for environmental restoration of military bases.

The recent decision by Congress to cut $400 million from the Defense Environmental Restoration Account (DERA) for FY95 continues a disturbing trend begun last year when Congress rescinded $507 million from the Base Realignment and Closure (BRAC) Account. California was reassured that the BRAC recission would not affect environmental work at closing military bases, but work was indeed scaled back at several California military bases due to the cut. The DERA cut presumably means that DOD will seek to postpone or eliminate environmental work at operational military bases.

At the same time, the DOD Comptroller has announced an additional $437 million in cuts for cleanup programs through FY97. Such actions can only encourage members of Congress who would like to redirect DOD environmental spending into more traditional defense programs.

The continued erosion of cleanup funding inevitably will threaten the health of armed services personnel and civilians who work at military bases where contamination is present. It will also exacerbate economic suffering in communities that are struggling to redevelop closing bases. And, if the federal government will not meet its cleanup obligation, how can we expect private industry to do so?

California expects DOD to comply with the federal/state cleanup agreements it has signed at California military bases. DOD is contractually obligated to seek sufficient funding to permit environmental work to proceed according to the schedules contained in those agreements. California will not hesitate to assert its right under those agreements to seek fines, penalties and judicial orders compelling DOD to conduct required environmental work.

I would be happy to work with you to strengthen support in Washington for full funding of DOD cleanup work. One way to reduce oversight costs would be to delist military bases from the National Priorities List and give states the exclusive responsibility for overseeing base cleanups. Please do not hesitate to contact me if I can be of assistance in these areas.

Sincerely,

PETE WILSON.

OFFICE OF THE ATTORNEY GENERAL,
Austin, TX, December 29, 1994.

Re additional comments to the Defense environmental response task force fiscal year 1994 annual report to Congress.

Ms. Sherri Wasserman Goodman,
Deputy Under Secretary of Defense (Environmental Security), Defense Pentagon, Washington, DC.

DEAR MS. GOODMAN: I continue to believe that much progress has been made in the cleanup program of the Department of Defense ("DoD") as a result of the work done by you and your office. It is important, however, that the policies declared at the headquarters level continue to permeate down through the Services to the base or facility level. I am not quite sure at this point, in other words, that all of the policies and efforts set forth at the headquarters level have been fully embraced or implemented at the facility level.

Because of possible adverse effects on future cleanups at closing bases, I am deeply concerned about recent action taken by the DoD Comptroller with regard to the DoD environmental remediation and compliance budget. I understand that the Comptroller desires to cut over a half-billion dollars from the DoD's request for environmental cleanup and compliance. Not only would such a cut be short-sighted, I firmly believe that it would be unlawful if it is the case that all of the legal requirements facing the DoD could not be met (as a financial or budgeting matter) in accordance with Executive Order 12088 (Federal Compliance with Pollution Control Standards (Oct. 10, 1978)) and the many federal facility and state cleanup agreements entered into in good faith by the DoD. While saving taxpayers' money and ensuring military readiness are surely critically important objectives, the compliance by DoD with all applicable laws purposed at protecting our citizens' health and safety is also extremely important. Unfortunately, DoD appears to be sliding towards the purposeful disregard of its cleanup obligations.

More fundamentally, I am perplexed that a certain element within DoD apparently does not believe that a safe and healthy work and living environment for our servicemen and women (and their families) is important for their well-being, as well as for our national security. Surely, the people who are responsible for defending this country should be accorded the same degree of protection from carcinogens and other hazardous substances accorded workers and their families in the private sector.

Furthermore, I assume that the Comptroller does not intend for the DoD to shirk its responsibility to protect the health and safety of the communities surrounding defense bases, especially if those communities consist of groups, such as Hispanics and African-Americans, which have historically been the victims of environmental injustice. We cannot pull the ladder up on these groups by cutting the environmental cleanup and compliance budget so soon after finally initiating environmental justice efforts.

Lastly, regarding the remediation funding issue, it is clear that if DoD does not take its cleanup responsibilities seriously enough to request adequate funding, then DoD will be sending the worst possible signal to the private sector and the local and state governments facing similar cleanup responsibilities. If, in other words, the DoD and the federal government do not comply with all applicable cleanup laws, then other entities may begin to question why they should comply with cleanup laws. Hopefully, we have not reached the point of the federal government taking the position of "do as I say, and not as I do."

Aside from comments regarding the DoD Comptroller budget cutting issue, I hereby submit additional comments to the 1994 Defense Environmental Response Task Force ("DERTF") Annual Report to Congress:

1. Future Land Use. Whether future land use should be a factor in determining if DoD property is contaminated, or to what standards the property must be cleaned up, are policy questions ultimately to be decided by Congress. Until Congress expressly decides, however, whether the consideration of future land use is appropriate in the cleanup context, DoD must comply with all existing applicable requirements of the U.S. Environmental Protection Agency ("EPA") and the respective states in determining what constitutes "all remedial action" necessary to protect the human health and environment. Thus, whether future land use is a legitimate or legal consideration in establishing appropriate cleanup levels currently depends upon whether the regulators allow such consideration, either explicitly or implicitly.

As my office has frequently stated during the DERTF proceedings, attempts to subsidize economic redevelopment of bases by allowing the cleanup standards to be loosened may be problematic in the long run for our communities, citizens, and base transferees, as well as short-sighted for DoD. It is still unclear to me whether the following issues have been carefully thought through:

(1) Who or what entity decides future land use?

(2) What happens when a community decides in the future to change the use of the transferred property?

(3) What happens when cleanup standards related to a certain use are ratcheted upwards by EPA or by the respective states?

Until the answers to such issues are further refined and a consensus is reached by all stakeholders, I caution against moving too quickly to short-term solutions that may be more budget-based than health and safety-based.

2. Harmonization with Private Sector Standards. The goal of trying to quickly-transfer bases to our communities is to ensure quick development in order to create jobs and promote the economic health of our communities—it is not the quick transfer of bases for the mere sake of quick transfer. Unless, however, private sector lenders, developers, and investors are sufficiently comfortable that they will not face potential environmental liability, they simply will not get involved in the redevelopment of a closed base.

Thus, it is critical that DoD's investigative, remedial, and transfer processes mirror the processes found in the private sector. For example, the investigation and remediation processes established by the Services should reflect and fulfill the same requirements, roles, and functions as environmental due diligence efforts in the private sector. Failure to harmonize efforts between the DoD and the private sector in this regard will only result in delay subsequent to the transfer of closed bases. I have instructed my office to continue to encourage DoD to make every effort to harmonize, to the extent allowed by law, its investigative, remedial, and transfer practices with private sector practices.

3. Base Transfers Prior to Remedial Action. The DERTF Annual Report indicates that the DERTF proposes to examine possible changes in the law to allow property to be deeded before remedial actions are in place and properly and successfully operating, so long as there is no increased threat to human health and the environment.

Section 120(h)(3) of CERCLA requires that each deed transferring federal property contain a covenant warranting that all remedial action necessary to protect human health and the environment has been taken and that any additional remedial action found to be necessary after the transfer shall be taken by the government. Generally this means that base property cannot be transferred before it is cleaned up. This important statutory requirement helps to protect future occupants from harm, and the United States from liability. In light of the Anti-Deficiency Act and other barriers to the ensuring of sufficient funding for cleanups, the requirement of base cleanup before transfer provides the one sure means of ensuring that there will indeed be cleanup of the facility to be transferred.

The risks involved in deeding property before cleanup is completed in accordance with all applicable law outweigh any potential benefits of such premature deeding, in my opinion. Even if deeding contaminated property does not actually increase the threat to human health, it will reduce DoD's control over the transferred property, breach an important regulatory checkpoint, and increase the legal risks to all parties. I continue to believe that this option should be rejected by the DERTF.

There is, furthermore, no statutory cleanup completion requirement for leases. While it may be, as the Services are claiming, that leases are not being used by the Services in order to avoid their cleanup responsibilities or to circumvent the ultimate purpose of CERCLA, long-term leases are clearly being used to avoid—strictly speaking—the provisions of CERCLA §120(h)(3). While leases can and have been used to facilitate reuse in conjunction with remediation on terms that are fully protective of human health and the environment, it is critical that the Services maintain adequate control over the leased property in order to ensure that public health and safety are protected, that cleanup activities are facilitated, and that the lessee is not doing anything that might increase the legal liability of the government or any other party. I am not confident at this point that sufficient institutional controls akin to those established in the private sector long-term property management have yet been developed by DoD in the base closure context.

4. Indemnification of Future Owners. The Annual Report points out that the Defense Authorization Act for Fiscal Year 1993 ("Act") contains provisions to indemnify transferees from environmental liability, and implies that no further study of indemnification is needed. The Act indemnifies states, political subdivisions and any other person or entity that acquires ownership or control of a closing base from suits arising out of any claim for personal injury or property damage resulting from the release or threatened release of hazardous substances.

Clearly, the federal government is solely responsible for cleaning up contamination caused by its activities prior to base closure. CERCLA, however, provides as a general matter that the current owner (*i.e.*, the transferee receiving title to the closed base) is jointly and severally liable for response costs. Thus the transferee may be found jointly and severally liable for the cost of clean up residual contamination left from military activities notwithstanding the provisions of CERCLA §120(h)(3). I am unsure whether the indemnity provision cited above unambiguously provides otherwise. I recommend that DERTF study this issue and that the Act be clarified to comply with the common understanding of the government's responsibilities.

In any event, while who ultimately is responsible for response costs is a relatively straightforward legal issue, determining whose "molecules" are contaminating the groundwater or soil may be a very difficult factual issue—an issue that may only be determined after much litigation and much expense for all parties concerned.

I look forward to continuing my office's participation in the DERTF proceedings. As we move on to the next round of base closures, it is critical that we continue to improve the base cleanup and transfer process. Thank you for the opportunity to add my comments to the DERTF Annual Report to be submitted to Congress.

Sincerely,

DAN MORALES,
Attorney General of Texas.

Mr. LEVIN. Mr. President, the Senate bill rescinds fiscal year 1995 BRAC funding that DOD did ask for and that we appropriated, as we should have. If the conference committee accepts these rescissions in the BRAC accounts, it will further slow cleanup that has already been delayed by previous cuts. Last year Congress rescinded half a billion dollars from BRAC accounts to pay part of the cost of earthquake recovery in California. That reduction was spread by the Department of Defense among many facilities, and the pace of cleanup was slowed.

I know some in Congress have attacked environmental restoration as not a legitimate Pentagon expenditure. But where the military caused environmental damage, especially where it now interferes with productive reuse of land and property in the middle of severely dislocated communities, that damage constitutes a real cost of military activities. It is just a deferred cost created by the Federal Government, a bill that has not yet been paid. We must pay it. We promised to pay it, and the BRAC accounts hold the funds.

The Department of Defense strongly supports these BRAC expenditures. Air Force Secretary Sheila Widnall told the Armed Services Committee:

> I cannot think of anything more shortsighted than to not fund for to rescind environmental cleanup money for BRAC bases.

Secretary of Defense Perry told the Budget Committee:

> That work has to be done, there's no doubt. This environmental cleanup we're doing is legislatively required. It's not as if it's a discretion on the part of the Defense Department.

Reducing our excess military facility capacity is necessary, Mr. President, but it is extremely painful for local communities whose economics have become reliant on a facility over many decades. Base closure causes a huge economic and social disruption, especially in smaller, rural communities where a base has dominated the local job picture. At least 30 States are already directly affected by base closures initiated in the 6 years, and additional bases are scheduled to be identified this summer for closure.

The base closure process has been devastating to military facilities in my own State of Michigan. We have now lost all three of our active Air Force bases, a number of smaller facilities, and still more closures have been proposed in Michigan for the current BRAC round IV. If the reductions proposed in this Senate bill are approved by the full Congress and signed into law by the President, the impact will be felt in many communities with closing bases from BRAC rounds II and III that are currently struggling to survive, including Wurtsmith Air Force Base in Oscoda and K.I. Sawyer in Gwinn, MI. These communities are trying to attract new businesses with new jobs, and the land and property that has been contaminated by the military cannot be made available for other use until it is cleaned up. That takes money, and the money must come from these BRAC accounts.

Mr. President, last month 17 of my colleagues in the Senate wrote to the chairman and ranking member of the Senate Appropriations Committee. We urged the committee to fully fund environmental cleanup at closed military bases, and specifically to not rescind fiscal year 1995 funds. I ask that the full letter, signed by 18 Senators, be printed at this point in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, February 27, 1995.
Hon. MARK O. HATFIELD,
Senate Appropriations Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: When the President and Congress initiated the process of closing military bases, we made a solemn commitment to complete environmental restoration and remediation at those facilities quickly. We recognized that cleanup is essential before property can be released by the government and reused by local communities trying to rebuild their economies and attract new jobs. Congress must not now renege on this commitment by underfunding the Base Realignment and Closure (BRAC) accounts that pay for this cleanup.

Our nation's military facilities infrastructure must be reduced commensurate with the downsizing of armed forces. At least 30 states are already directly affected by base closures initiated in the first three rounds of the closure process, and additional bases are scheduled to be identified for closure this summer. Where the federal government has caused environmental contamination during its tenancy, that damage must be substantially repaired before property can be transferred to a state, locality or private owner for productive reuse. Environmental damage is a real cost incurred as a result of DOD activities and it should be paid for out of the DOD budget.

In many cases, federal and state laws govern the cleanup activities required, and at some bases the relevant parties have negotiated consent agreements mandating specific cleanup deadlines. Costs associated with thses activities are paid for from the BRAC accounts, which the Administration and Congress have funded adequately in recent years.

Defense Secretary William Perry recently testified to the Senate Budget Committee that "This environmental cleanup we're doing is legislatively required. It's not as if it's a discretion on the part of the Defense Department. That work has to be done, there's no doubt." And Air Force Secretary Sheila Widnall testified last year that "I cannot think of anything more short-sighted than to not fund or to rescind environmental cleanup money for BRAC bases."

For all of these reasons, we request that you reject any rescission of FY 1995 funds in this area, and that you support full funding of the Department of Defense FY 1996 request for Base Realignment and Closure cleanup activities.

Thank you for your consideration.

Sincerely,
Patrick Leahy, Daniel K. Akaka, Barbara Boxer, Ben Nighthorse Campbell, John Lieberman, Frank R. Lautenberg, John F. Kerry, Carl Levin, Claiborne Pell, Patty Murray, David Pryor, Herb Kohl, Chuck Robb, Paul Sarbanes, Tom Daschle, Dianne Feinstein, Olympia Snowe.

Mr. LEVIN. We hope that the committee would heed our advice. Now it is vital that the conference committee restores these funds so that cleanup goes forward without delay, and productive reuse in communities with closing bases can be accomplished swiftly.●

THE DEATH OF FDR

● Mr. HATFIELD. Mr. President, President Franklin Delano Roosevelt will live forever in the hearts and minds of Americans. This memorable leader helped to lead this country through both a worldwide depression and a world war, and when he died he left the country positioned to take its place as the leader of the free world. Fifty years ago April 12, the people of our great country lost a President, a statesman, and a leader.

Since 1971 I have had the honor to have served on the Franklin Delano Roosevelt Memorial Commission, the past 5 years of this time serving as the cochairman with my distinguished colleague from Hawaii, Senator INOUYE. This Commission was formally established by Public Law 372 in 1955 with the responsibility of constructing an appropriate memorial to the 32d President of the United States. That memorial, which is to be unveiled in 1997, is a tribute not only to Roosevelt the President, but also to an era.

I was 10 years old when Franklin Roosevelt was elected President, I was a 20-year-old naval officer in the waters off Okinawa when I heard the news that the President had died. Millions of Americans, like myself, had grown up with the Roosevelts. To many it seemed that he would be President forever. Suddenly, while the United States are still engaged in war, our Commander in Chief was gone. The feeling was one of loss and uncertainty, Roosevelt was to many Americans the only President we had known, to millions he was a hero and a friend. The future suddenly became uncertain for those at home and overseas.

That uncertainty soon turned to confidence as the war was won and the United States took its place not only as the champion of freedom and peace but as the most prosperous nation the world has ever known. Roosevelt had ensured the future of the country by preparing it for the demands of the 20th century.

It was Roosevelt's dedication to the future of this country which instigated such universally accepted successes as the GI bill of rights and the Social Security Act. The GI bill assisted over 50 percent of the returning soldiers, sailors, marines, and airmen, guaranteed for the United States an educated and skilled populace unrivaled in the world. While the GI bill provided for those upon whose backs the future lay, the Social Security Act helped those who had already carried the burden.

As is now well known, Franklin Roosevelt fought a constant battle with the crippling effects of polio even as he waged war against the Great Depression and the forces of fascism. His accomplishments as President serve as the greatest testament to his personal victories, and he survives still as an example of the human ability to challenge and overcome even the greatest of obstacles.

Mr. President, the life and Presidency of Franklin Delano Roosevelt serves as a reminder to each of us, to my colleagues in the Senate and to the people all across this country, of the ability of the American people to face up to and overcome any and all challenges. To look the uncertainties of the future in the face and to move forward with confidence and an unshakable faith. This is indeed Roosevelt's longest and best lived legacy, his eternal challenge to each and every one of us. For as he wrote soon before his death, "The only limit to our realization of tomorrow will be our doubts of today. Let us move forward with strong and active faith."●

BOSNIA SPRING

● Mr. MOYNIHAN. Mr. President, spring has arrived here in Washington, the Grounds of the Capitol are looking their best and we welcome the change. Unfortunately, spring in Bosnia is not a welcome event. Spring in Bosnia means the cease-fires of winter melt away and the war will resume with all its ferocity.

I have taken this floor many times to decry the ethnic cleansing that continues in Bosnia and to urge our Government, and the U.N. Security Council, to act more responsibly in addressing this terrible tragedy. It comes as no surprise that those affected by our inaction are astonished at our apparent indifference, and chastise us for failing to uphold basic moral and legal norms.

On Wednesday, the Washington Post printed a portion of a statement by Vinko Cardinal Puljic, archbishop of Sarajevo. While the United States, along with the U.N. Security Council and NATO sit on our hands, we cannot also cover our ears. The archbishop of Sarajevo knows of what he speaks. The Senate would do well to listen.

I ask that the article be printed in the RECORD.

The article follows:

[From the Washington Post, Apr. 5, 1995]

FOR THE RECORD

(By Vinko Cardinal Puljic)

I, like so many in Bosnia-Herzegovina, am astonished and bewildered . . . at the international community's indifferent, half-hearted, inconsistent and ineffectual response to aggression and "ethnic cleansing." Not only has [it] not acted decisively, it has even contributed to the ethnic division of Bosnia and has legitimized aggression by failing to uphold basic moral and legal norms.

If the principles of peace and international justice are buried in the soil of the Balkans, Western civilization will be threatened. . . . I am convinced that there are moral means to thwart immoral aggression. The international community must have the will to use the means available to it to protect threatened populations, to encourage demilitarization and to establish other conditions necessary for progress toward peace. The solution cannot be simply to give up and withdraw. If the United Nations and the international community do not now have effective means to respond to the humanitarian crisis in Bosnia and elsewhere—and it is clear that they do not—then nations have the responsibility to take the steps necessary to develop more effective international structures.

This is not a religious conflict, but some would misuse religion in support of ethnic division and extreme nationalism. Therefore, as a religious leader, I believe I have a special responsibility to stand beside those who are victims of injustice and aggression, regardless of their religious, ethnic or national identity. I also believe that, even though a just peace seems far off, religious and other leaders must not wait for an end to war to begin the daunting task of reconciling deeply divided communities.●

THE SUPPLEMENTAL APPROPRIATIONS BILL

● Mr. LEVIN. Mr. President, last night, I voted for final passage of the supplemental appropriations bill.

The bill, as amended by the compromise substitute, is a distinct improvement over the legislation reported by the Appropriations Committee. The compromise reduces Federal spending by nearly $16 billion and restores funding to a number of critical programs affecting children and education.

This includes a broad range of programs that I very strongly support: Head Start, education reform, safe and drug free school programs, the Women, Infants, and Children Program, the childcare block grant program, title I programs to improve reading, writing, and math skills for educationally disadvantaged kids, impact aid, and the TRIO Program for first generation college-bound students, and the national service college scholarship program—AmeriCorps.

However, the legislation still cuts too deeply into important programs which the American people approve of such as assisting the States in protecting the quality and safety of our drinking water, the opening of Jobs Corps centers already announced, and for which communities across the country have expended funds and resources and funding for the promised environmental cleanup of military bases.

One of the great disappointments on this bill was the defeat of the Mikulski amendment by a vote of 68 to 32.

The Mikulski amendment would have restored funds for a number of important national programs such as the housing program, and also would have funded the EPA Center in Bay City, the CIESIN facility in Saginaw, and announced Job Corps centers in nine cities across the country, including Flint.

I have already begun discussions with colleagues in an effort to restore some of these cuts in conference between the House and the Senate.●

UNITED STATES-HONG KONG POLICY ACT REPORT

● Mr. MACK. Mr. President, the March 31, 1995 report required by the United States-Hong Kong Policy Act made some useful contributions to the historical record of Hong Kong's transition from a dependent territory of the United Kingdom to a special administrative region of the People's Republic of China. The report correctly assessed Governor Patten's highly touted legislative reforms as modest.

The account given of threats to press freedoms was also important, in light of the People's Republic of China's recent actions against Hong Kong and other journalists. While the report included the case of Xi Yang, the Hong Kong reporter imprisoned inside mainland China for "stealing state financial secrets," it would have been appropriate for the report to have included the detail that the secrets were planned increases in interest rates and the sale of gold.

Most important, the report expressed U.S. support for "continued development of democratic institutions * * * and the conduct of free and fair elections after July 1." I hope the United States Government is making this position clear to the People's Republic of China in no uncertain terms.

The report neglected to discuss a number of important developments which I highlight here because they are so critical to the future of the territory.

Much as China's treatment of the press has had a chilling effect on Hong Kong journalists, the People's Republic of China's harsh and arbitrary treatment of businessmen is having pernicious effects in Hong Kong. The People's Republic of China frequently arrests, imprisons, and holds incommunicado, foreign businessmen—almost 20 in the past 3 years—particularly those with whom People's Republic of China state-owned enterprises have commercial disputes. For example, at the instigation of the People's Republic of China, James Peng, an Australian citizen, was arrested by Macau police and deported to Shenzen in Guandong Province. Mr. Peng's offense was that he won a legal battle to retain control of his company, a Sino-foreign joint venture listed on the Shenzen stock exchange. Another businessman, Zhang Guei-Xing, who holds an American green card, was jailed under horrific conditions in a detention camp in Zhengzhou for 2½ years. A Miami businessman, Troy McBride, has been detained in Anhui province since mid-March, his passport confiscated, because of a commercial dispute. In the People's Republic of China today, economic disputes have become economic crimes. Arrests, detention, and harassment of businessmen are just one more business practice. The ultimate goal is a settlement involving the surrender of property or other assets—in effect, a ransom payment.

Hong Kong's Independent Commission Against Corruption [ICAC] reports a sharp increase in corruption complaints as the People's Republic of China and Hong Kong markets become more intertwined. The People's Republic of China's treatment of businessmen, the absence of the rule of law, and the insidious spread of corruption from the mainland to Hong Kong, must be included in future United States-Hong Kong Policy Act reports.

The report's recognition of the lack of progress and even stalling on rule of law issues within the joint liaison group is also important. However, the report should have acknowledged that the role the joint liaison group has assumed in this transition period is contrary to the terms of the joint declaration, which expressly states that the joint liaison group is "not an organ of power." Under the joint declaration's terms, Great Britain has the authority to govern Hong Kong until June 30, 1997.

The People's Republic of China's manipulation of the joint liaison group is part of the People's Republic of China's 10-year pattern of reneging on its commitments under the joint declaration. Notwithstanding the recent public relations tour through the United States by Lu Ping, Beijing's top Hong Kong official, the People's Republic of China has repeatedly displayed its contempt for the joint declaration. Five years ago this week, in April 1990, Beijing codified significant deviations from the joint declaration in the basic law, the so-called miniconstitution for post-1997 Hong Kong that Beijing wrote and rubberstamped in its National People's Congress. The basic law subordinates the Hong Kong Legislature to the Beijing-appointed executive, and assigns the power of judicial interpretation to the standing committee of the National People Congress rather than to Hong Kong's judges. The basic law's provisions on the legislature may become moot however, since the People's Republic of China has promised or threatened to dismantle the Legco and Hong Kong's two other tiers of government.

Beijing also threatens to abolish the Bill of Rights, enacted by the Legco in 1991 in reaction to the Tiananmen Square Massacre, and over the objections of the Hong Kong government. Finally, a high official of the Chinese supreme court has suggested that Beijing will replace Hong Kong's common law system, which is synonymous with individual rights and the rule of law within a civil law system. China's own civil law system is explicitly subordinated to the Communist Party.

The status of plans for establishing a high court before 1997 is cause for concern as well, and here the report's brief treatment of the issue is troubling. The details of a Court of Final Appeal, to replace the Privy Council in London, as the territory's highest court were agreed to in the joint declaration. The United States-Hong Kong Policy Act report mistakenly accepts the 1991 agreement between the British Government of Hong Kong and China as a basis for the Hong Kong government's legislation implementing the court. The 1991 agreement explicitly violates the joint declaration and basic law. Accordingly, democratic legislators plan to amend it to bring it into accord with the joint declaration.

I was surprised and disappointed that the report did not address two matters of tremendous significance in this transition period and to post-1997 Hong Kong. First, the report omitted any discussion of the Patten government's rejection of proposals by Hong Kong's democrats for an official human rights commission. Over the next 27 months, the commission could define a human rights standard against which to judge the Hong Kong SAR government. The People's Republic of China's expressed hostility to independent and democratic government institutions after 1997 is an argument for moving full-speed ahead with a human rights commission and other institutional reforms, not for backing off.

Also missing from the report was any mention of Great Britain's failure to report on human rights in the colony according to its obligations under the International Covenant on Civil and Political Rights.

As 1997 draws near, there will be a greater need for accurate and timely reporting on developments in Hong Kong. There is also a need for a clearer recognition of the implications of the People's Republic of China's behavior for the people of Hong Kong. I look forward to future reports and hope that, in the intervals between reports, my colleagues in the United States. Congress and other friends of Hong Kong will pay close attention to the statements and actions of the Beijing and Hong Kong governments. Above all, there must be more attention to the voices and concerns of the Hong Kong people.•

IMPACT AID

• Mr. SPECTER. Mr. President, last night we completed action on H.R. 1158, the supplemental appropriations and rescissions for fiscal year 1995. I wanted to briefly discuss one provision included in the leadership amendment adopted last evening to restore funding for impact aid. As my colleagues know, the Impact Aid Program is designed to provide aid to assist communities which have significant Federal presence in meeting education objectives. Specifically, this funding is important to Hatboro-Horsham school district in eastern Pennsylvania. My colleague, Senator SANTORUM, and I have heard from the local school district regarding this funding.

I am aware of the importance of this funding to other areas of the country. In particular, I want to note the efforts of my friend and colleague from South Dakota, Senator PRESSLER, to preserve the impact aid funding. He personally told me of the adverse effect of the proposed rescission would have on a number of South Dakota schools, including the Pollock School District in northern South Dakota. I commend Senator PRESSLER for his leadership and for looking out for the educational interests of South Dakota schools, students, and families.•

ORDERS FOR MONDAY, APRIL 24, 1995

Mr. GORTON. Mr. President, when the Senate completes its business today, I ask unanimous consent that it stand in adjournment, and on Monday April 24, 1995, at 12 noon, following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; that there then be a period of morning business until 1 p.m., with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GORTON. Mr. President, at the hour of 1 p.m., it will be the intention of the majority leader to proceed to the consideration of H.R. 956, the product liability bill. For the further information of all Senators, the Senate will begin the product liability bill at that point but no votes will occur before 3 p.m. on Monday.

ORDER FOR RECESS UNTIL MONDAY, APRIL 24, 1995

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that following my own remarks, the Senate stand in adjournment under the provisions of House Concurrent Resolution 58.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECORD TO REMAIN OPEN

Mr. GORTON. I ask unanimous consent that the RECORD remain open until 2 p.m. today for the introduction of bills and statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACCOMPLISHMENTS OF THE 104TH CONGRESS

Mr. GORTON. Mr. President, I wish briefly to add my reflections on the accomplishments of this Congress and especially of our colleagues in the House of Representatives during this first 100 days of that historic Congress.

The new leadership of the House of Representatives made certain commitments, ambitious commitments to the people of the United States in the course of last year's campaign covering a number of vitally important subjects to the people of the United States. Those commitments were repeated after the election was over. Those commitments have been kept to the letter by our colleagues in the House.

I believe that this remarkable record of achievement has created a distinct resonance on the part of the American people whose opinion of Congress, extremely low as recently as 6 months ago, has at least begun to recover. Perhaps more significant in the long run will be the content of the 100 days' promises, dramatic changes in the way in which Congress does its business, a very real attack on the problem of violent crime in our society, a major step forward toward welfare reform, toward tax relief for families, and for the creation of jobs, toward our national security, and toward legal reform, Mr. President.

As each of us knows in this body, on the other hand, no one can safely make 100-day promises. The right of unlimited debate, vital to the liberties of the people of the United States, causes more careful consideration frequently of particular items and often frustration on the part of Members of the Senate and of the country itself. Nevertheless, at least three items in the contract for America have passed this body as well as the House.

The announcement I just made on behalf of the majority leader indicates that a portion of the legal reform agenda will be the first item to be discussed by the Senate upon its return, and I would hazard the estimate that before this year is over every one of the items on the Contract With America will have been discussed and voted on in the Senate. We can no more promise than the Speaker of the House can that all will be passed. Each and every one of these items requires at least a degree of bipartisan support in the Senate given the rules of this body. But it is clear that this Congress as a whole has acted more decisively and has created a greater change in course and direction for the country than any Congress literally in decades.

Finally, Mr. President, I would be remiss if I did not express my personal pride in the new Members of the House of Represenatives from my own State. My own State has provided more new Members from my party, more freshmen Members than any other State in the United States of America, five men and one woman of great distinction in their previous careers, enthusiastically dedicated to the goals of the contract on which they ran, and major participants, even though they are freshmen Members, in the wonderful successes which the House of Representatives has shown. I am proud to be a part of that delegation and express my great gratitude to them for all they have accomplished in as yet short but highly distinguished congressional careers.

Mr. President, I yield the floor

ADJOURNMENT UNTIL MONDAY, APRIL 24, 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in adjournment until 12 noon Monday, April 24.

Thereupon, at 12:48 p.m., the Senate adjourned until Monday, April 24, 1995.

NOMINATIONS

Executive nominations received by the Senate April 7, 1995:

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601(A) AND 3033:

CHIEF OF STAFF OF THE ARMY

To be general

GEN. DENNIS J. REIMER, [redacted]

CONFIRMATION

Executive nomination confirmed by the Senate April 7, 1995:

DEPARTMENT OF VETERANS AFFAIRS

DENNIS M. DUFFY, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (POLICY AND PLANNING).

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Friday, April 7, 1995*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. BURTON of Indiana].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker.

WASHINGTON, DC,
April 7, 1995.

I hereby designate the Honorable DAN BURTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With the words of the Psalmist we pray that You would search us, O God, and know our hearts, try us and know our thoughts, and see if there be any wicked way in us, and lead us in the way everlasting.

We pray, Almighty God, that through reflection and meditation, through study and edification, and above all through prayer and renewed faith, we will speak with truth, our minds will point to justice, and our hearts will be full of mercy, that in all things, You will be our God and we will be Your people. Bless us now in all we do and may Your spirit remain with us always. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. SOLOMON] come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 58. Concurrent resolution providing for an adjournment of the two Houses.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1240. An act to combat crime by enhancing the penalties for certain sexual crimes against children; and

H.R. 1345. An act to eliminate budget deficits and management inefficiencies in the government of the District of Columbia through the establishment of the District of Columbia Financial Responsibility and Management Assistance Authority, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 889) "An Act making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes."

DESIGNATING THE HONORABLE FRANK WOLF AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH MAY 1, 1995

The SPEAKER pro tempore laid before the House the following communication from the Speaker of the House of Representatives:

WASHINGTON, DC,
April 7, 1995.

I hereby designate the Honorable FRANK R. WOLF to act as Speaker pro tempore to sign enrolled bills and joint resolutions through May 1, 1995.

NEWT GINGRICH,
Speaker of the House of Representatives.

LEGISLATION PASSED BY THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I am pleased to inform the House that I have informed the Speaker that the Committee on Transportation and Infrastructure will be prepared to bring to the floor after our recess three major pieces of legislation that passed the committee: The Clean Water Authorization Act, which passed by a voice vote, the Mine Safety Act, which passed by voice vote, and the clean water amendments, which were adopted by the committee with very strong bipartisan support, a 42-to-16 vote, with over half of the Democrats supporting the bill and an overwhelming 29 Republicans supporting the bill.

Mr. Speaker, we hear somewhere word that the radical environmentalists are preparing an all-out attack on this. In fact, we have been informed that there may be an effort to block this bill in the other body, the thought being that if the bill can be blocked, then the flawed old law will apply with continued appropriations.

So I want to particularly thank the distinguished chairman of the Appropriations Committee, the gentleman from Louisiana [Mr. LIVINGSTON], for his statement this week that where authorizations do not exist there will be no appropriations.

So, for those who think that they can somehow block the clean water bill, I would urge them to think twice because that kind of activity could mean that there would be no funding for clean water.

Our bill provides over $3 billion a year authorization. It is a strong environmental bill with overwhelming bipartisan support, and I am pleased to announce this to the House.

ENVIRONMENTAL CLEANUP

(Mr. BROWDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWDER. Mr. Speaker, the American taxpayer is getting it again. There are chemical stockpiles all over the United States that have to be destroyed. The Army and FEMA have been assigned to destroy those stockpiles. Last month GAO came out with a study called Chemical Weapons Emergency Prepared Program Financial Management Weaknesses. This concluded that after 6 years the program, I think, has tripled, the cost has tripled. The communities are not ready to deal with an emergency. The Army and FEMA cannot account for how the money has been spent.

But, Mr. Speaker, I just found out that next month there is a big conference going on, and the Army and FEMA are sending a bunch of people to it. Where are they sending them?

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

France, the Riviera. Congress and the American taxpayer deserve some answers.

TRIBUTE TO ANTHONY F. "TONY" TARTARO

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, sitting next to me, as people can see, is someone by the name of Anthony F. Tartaro.

Keep on going there, Tony.

Known simply as "Tony" to his many friends, Members of Congress, staff people, and a surprising number of tourists as well, he has announced his retirement as a floor reporter with the Official Reporters of Debates, effective May 1.

Boy, are we going to miss this wonderful guy. He is truly the dean of the Reporters of this House, having joined the staff of the Official Reporters of Committees in 1966, and serving there for a period of time as the Chief Reporter. Tony then transferred to the staff of the floor reporters in the mid-1970's.

A native of Brooklyn, NY, my home State, Tony attended Boys High School there, and he later completed a course in court reporting at the Heffley & Brown School. His fine record of scholastic achievement at that school truly paved the way for his appointment as an instructor there and later to a job offer at the Columbia Reporting Company here in Washington, where he worked for another 19 years.

During World War II, Tony was in the Army, with most of his service taking place at Fort Myer, in Arlington, VA, from 1942 through 1945.

Tony's reputation as a model of old-fashioned values is well known and well deserved on the floor of this House. A true patriot, he feels pride, not embarrassment, in displaying this flag that you see on his lapel right now. And, of course, Tony loved his holidays.

Among Tony's hobbies, perhaps the most prominent has been dancing. Would you believe that? And he has been a lifelong ardent swimmer. One of Tony's other great interests has been the collecting of memorabilia and souvenirs relating to Congress and this Capitol. One of his good friends, noting the size of Tony's collection, once said, "You know, Tony must have either a museum or a warehouse out there in Falls Church, to house all that material." and I feel sorry for his wife, Helen.

A legend in friendliness and outgoing helpfulness, and certainly he has to be the best in my 16 years in this body, Tony has often taken his own time to guide visitors and tourists to their various destinations around the Capitol and to share with them his knowledge and his enthusiasm for the House of Representatives.

But if Tony should be known for one and only one thing, it must be his recognition that having a loving family is truly life's greatest reward. Tony and Helen will celebrate their 50th wedding anniversary—and is that not a wonderful event—on January 6, next year. And Helen is not at all shy to say how lucky she was to have married this guy sitting next to me here.

They have had two daughters, Patricia and Laura, and a set of grandtwins, Ian and Alyssa, to whom they are extremely devoted. Members of Tony's family are with us today, as we note his retirement.

Have you looked around the room here, Tony?

All of the reporters, transcribers, and clerks in HG–60, where Tony has maintained his office for the past 15 years, will feel a keen sense of emptiness when Tony does leave.

We wish Tony and Helen all the best in happiness and health in their coming years of retirement.

They expect to remain in the Washington area, as I understand it, and we look forward to Tony's visiting us as often as he possibly can, because it will not seem right not seeing him here on this floor after all of these years.

Tony Tartaro, ladies and gentleman, is a good man. He is a dear friend. He is a great patriot. He is a true credit to this House, and we sure are going to miss you, Tony. You are a great American.

God bless you.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The gentleman's long 1 minute has expired.

And the House will miss Tony, and the Chair hopes that the transcription is correct.

□ 1110

INTRODUCTION OF BALANCED BUDGET ENFORCEMENT ACT OF 1995

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, now is the time to get serious about balancing the budget. Today I am joined by my colleagues, Representatives CHARLIE STENHOLM, CALVIN DOOLEY, and TOM BARRETT, in introducing legislation that would put in place tough new measures to balance the budget by the year 2002. This bill, the Balanced Budget Enforcement Act of 1995, would force us to make the tough decisions required to balance the budget. It would do so by setting spending caps and using across-the-board cuts if the caps are not met.

There are no exceptions. Everything is on the table and, unlike Gramm-Rudman, it has teeth.

I would say to my colleagues who really want to balance the budget, here is your chance to move beyond the rhetoric. For those of my colleagues who do not want to balance the budget, do not cosponsor this bill because under this legislation, that is exactly what would happen.

Mr. Speaker, it is time to put our money where our mouth is. Let us start balancing the budget now.

WINNERS AND LOSERS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, now that the 100 days are over, and the politics, rhetoric from the Contract With America have been fulfilled, maybe now we can get back to work as Americans and not as Republicans or Democrats.

The Republicans have had their shot and now I hope the American people listen to what Democrats and the President have to offer in the days ahead as alternatives. It is critical that we have alternatives and not be viewed as obstructionists.

Mr. Speaker, who are some of the winners in the first 100 days? Lobbyists, Exxon, people who make over $200,000, Rupert Murdoch, big business. At times the contract did not seem like a revolution, but an auction.

Who are some of the losers? Kids, students, minorities, women, environmentalists, and the middle class.

Mr. Speaker, I will give this to the Republicans: They deserve credit for their tenacity and discipline. The question is, are they ready to govern in a bipartisan basis or is the 100 days Contract With America simply going to be politics as usual?

LOSERS IN THE REPUBLICAN CONTRACT

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, the first 100 days has made clear what the Republicans are up to. The contract on America gives new meaning to the words "women and children first." Programs that benefit working Americans are being cut, not for deficit reduction, but for rewards and tax reductions to special interests. Who lost? Women, children, students, working middle-class families and the elderly. Spending for school lunches, nutrition programs like WIC, senior housing, and even Medicare have been slashed. Summer jobs programs for disadvantaged youth, low income heating, housing assistance for over 5 million low-income and elderly families have been terminated.

□ 1115

Cuts in the program have taken place for more than 100,000 police on our city's streets. New school loans, programs for students are being targeted and being cut. Even Social Security is at risk.

Half the tax cuts benefit Americans with incomes over $100,000. That is the richest 12 percent of Americans. In fact, the top 1 percent of the wealthy people get more benefits than 65 million families at the bottom.

Repeal of corporate minimum tax provisions will result in many of our largest and most profitable corporations paying no taxes.

The contract effectively repeals major provisions of environmental law meant to preserve human health and the quality of our air, water, soil, and, indeed, our life.

Republicans pushed term limits because they know it could not pass rather than addressing the real problem by reforming our broken campaign finance system.

Who Won, Who Lost—A Summary

The story of who won and who lost in the first 100 days of the Republican Congress is clear.

Who won: Billionaires, corporate interests, and wealthy Americans who can hire lobbyists to protect and promote their interests in the GOP Congress. They clearly won, as the GOP Congress sought to: Provide special access for GOP lobbyists; provide tax cuts for the wealthiest Americans; wipe out the corporate minimum tax; ignore Democratic efforts to reform lobbying and gift rules and campaign financing; transferred $1.1 billion that was feeding women, infants and children into a windfall profit for big drug companies; and, let lobbyists undo Federal protection for food, health, and safety.

Who has paid for this unprecedented array of special breaks and privileges is equally clear.

Who lost: America's working families and their children, and our senior citizens. They clearly lost, as the GOP Congress sought to: Cut school lunches and nutritional standards for meals served in schools; slash national college scholarships and increase the cost of student loans for almost five million families; cut the 100,000 cops program to put more police in neighborhoods; cut aid for needed school reform; decimate job training and eliminate more than one million summer youth jobs; cut funds for Big Bird and Sesame Street as well as other educational TV programming; weaken Federal protection for our drinking water, food, and automobiles; make huge cuts in Medicare; abandon America's promise to our senior citizens by opposing Democratic efforts to protect Social Security from budget balancing plans; and, eliminate home heating assistance for senior citizens and working * * *.

A Contract on Michigan

Winners: Billionaires, Washington lobbyists and well-heeled special interests got huge tax breaks and unprecedented access and influence in the GOP's first 100 days.

Who Paid For It: Working families, children and seniors in Michigan.

1. Michigan Loses Education and Job Opportunities.

151,594 Michigan students will pay more for student loans.

620 of Michigan's kids won't participate in national service and earn college tuition.

458,200 Michigan residents will not benefit from an increase in the minimum wage.

527 entire Michigan schools districts will lose money to make schools safe and drug free.

3,800 Michigan special needs students will lose the extra help they need to learn and succeed.

42,900 Michigan kids will lose summer jobs.

2. Michigan Loses: Feeding and Housing Our Children and Senior Citizens.

743,665 Michigan children are in danger of losing their school lunches.

188,089 mothers will lose some or all of the help they receive to provide nutritious food and milk to their infants and children.

9,930 Michigan children are at risk of losing access to safe, affordable child care.

377,883 Michigan senior citizens, families and kids will lose heating assistance they depend on to get through the winter.

32,852 Michigan families who could have counted on an FHA loan to buy their first homes are in danger of losing their only access to an affordable loan.

3. Michigan Loses: Safer Streets.

387 fewer cops will walk Michigan's streets as a result of the Republican Contract.

561 new cops are keeping Michigan communities safer because of Democratic initiatives in 1994.

CONTRACT ON THE ENVIRONMENT

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, with the new Republican majority, Americans had hoped for the best. Now we know, after 3 months, to expect the worst in terms of Republican partisanship, serving special interests, not the American people and family.

As citizens all across America prepare to celebrate the 25th anniversary of Earth Day, the silver anniversary, tarnished and corrosive effect is taking place on the environment. I am deeply troubled, and Americans are, that in our Nation's Capital the 104th Republican Congress is working furiously to destroy almost all that has been accomplished in the last three or four decades.

This Contract on America has turned into a contract on America's landscapes, on our parks, on our wildernesses, on America's air, contract on America's drinking water, on America's rivers and natural and historic resources and this contract will take a terrible toll.

This environmental assault is an insult to the American people. But the American citizens can do something about it the next 3 weeks. You can make our policymakers see the light or feel the heat. They need to be forcefully reminded that environmental policies and laws are not brutally attacked, were not forged through partisan warfare. They were not the work of Democrats or Republicans alone; rather, they are uniquely derived from years of deliberation, of listening and responding to core conservation values.

That is right, let us have some conservation in those that claim to be conservatives in this Congress.

Those environmental laws and policies have been derived from the ethic of the American people. These policies are based on the wisdom of Americans who by experience, education, and ethics understand that there are some areas of this vast Nation that should not be despoiled.

Let us take back the environment. Let us make these individuals that are advancing these policies see the light or feel the heat.

THE NEXT 2,000 DAYS IN CONGRESS

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, as I watched the celebration that was misdirected on the Capitol steps this morning, Republicans celebrating what was 100 days of gimmickry, I wondered whether or not we really needed to listen to those who were not able to come to the U.S. Capitol, for as we look at some of the headlines saying "Senate Battle Lines Forming Over Possible Tax Cuts," when we see the headlines "GOP Gets Mixed Review From Public Wary on Taxes," and when we find out that "Despite Change on Hill, Public Still Remains Critical," then we must ask the question, did we come here to follow political polls or to be statesmen and stateswomen.

Thomas Jefferson did not have a poll, but he tried to do what was right, and Ben Franklin, Abe Lincoln, and Franklin Delano Roosevelt.

This past week marked the 27th anniversary of the killing of Dr. Martin Luther King, a simple American who tried to do what was right.

I wonder what the bus drivers, I wonder what the waitresses and teachers and people who work think about what we have done.

I tell you what they want, and I hope that we go forward to make sure that we have summer jobs for our young people this summer and not long, hot summers. I hope we will get an energy policy that will help create jobs in this Nation so that people can truly work. I hope that we will have job training for those people who have lost their jobs because of transition and technology and put the middle-class working man and woman back to work who have lost their jobs.

And then I hope we do something about children who are being molested in our streets and develop a national registration for child molesters so you will know when they come into your neighborhoods.

Lastly, I hope this country recognizes that each and every American deserves an affordable house to live in.

That is what this Government should be about, not about gimmicks and admiration of one man who is the Speaker, because we think we are following campaign pledges.

I hope the next 2,000 days in the U.S. Congress will be representative of the people of America, diverse, different, speaking different languages, looking differently, but caring about one thing, and that is freedom and opportunity.

CONTRACT WITH AMERICA WAS WILDLY SUCCESSFUL

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the Contract With America was a wildly successful effort in large part because the American people were promised something specific in terms of legislation, not generalities, but specific promises, and those promises were kept.

Day in and day out on this floor a group of politicians came together and kept their promises to the American people.

Today we have heard the reply of the Democrats on the floor. The Democrats can reply only out of fear and only with negativism.

Time and time again we have brought to the floor pieces of specific legislation, and all we have heard is criticism. They have no program. They have only criticism. They have no positive view of America. They have only negativism. They have no program for the future. They have only fear.

Day in and day out we have heard them bring this to the floor, and we have heard it again today. That is too bad.

If we are going to have a real debate about where America should go, they ought to have a program.

I heard a little bit of a program in one speech earlier today. It sounded to me as though they are willing to countenance across-the-board cuts in Social Security. Now, that would be an interesting debate. I hope that we have that kind of debate on the floor.

Republicans have said in our budget we will protect Social Security. We are going to balance the budget by the year 2002. That is going to be the chief work of the days ahead. We will not touch Social Security.

Today I heard on the floor the beginnings of an effort by some Democrats to say that what they are willing to do is balance the budget and do it by countenancing an across-the-board cut in Social Security. It should be a very interesting debate.

We would like to hear something positive out of them, not just criticism.

YES, AMERICA, WE ARE LISTENING

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the gentlewoman from Texas spoke about hopes. She enumerated hopes. We all share the hopes for our country. We all have great aspirations. We all are doing our best to meet the challenges of this Nation. I think it is fair to say our hopes are the same.

It is just how we achieve those hopes is a little different. We come to Washington with a plan. We are putting that plan into effect, and we hope it is going to solve problems rather than sustain problems, which is what the program of the previous 40 years has done.

This is a great country, and this is a great Chamber. We can express different views here and still have the same hopes for our great Nation.

The gentlewoman has said that we have followed the polls. That is backwards. The polls have followed us in this.

The gentlewoman has said that our agenda is somehow gimmickry. I do not think so. It has achieved a great deal of bipartisanship and support. If you look at every single vote that was taken, it had people from both sides of the aisle supporting our agenda.

The difference is we have been listening to America while they have been defending 40 years of programs that do not work.

Yes, America, we are listening, and we are beginning, and we are going to go forward, and together in a bipartisan way we are going to achieve reality for those hopes so that everybody in America is truly an American with a quality of life that measures the American dream we all have.

WE KEPT EVERY PROMISE

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, to listen to the strident shrieking, incredibly hard words and tone from the other side of the aisle, you would think there was only one party that was voting for the items that we call the Contract With America.

But when you analyze the votes, you find out some very interesting things. First of all, this had bipartisan support for every single vote that was cast. If you look at the average vote for contract legislation in the House, excluding eight contract items the very first day, you had an average of 316 "yes," 110 "no." If you include those eight items from the first day, you have an average of 337 "yes," 90 "no." Seventy-seven percent, 77 percent of the House voted "yes" on contract items.

That means that we were not voting as Republicans and Democrats, but occasionally we were also voting as Americans, Americans first, and when the gentleman from Florida says that we were listening to America, he is absolutely right, because there was another very powerful intuitor of what the American people want, in 1992, and he promised to end welfare as we know it, he promised a middle-class tax cut, he promised to lift the Social Security earnings test, he promised a line-item veto, and he reneged on every single promise, and we have kept every single one of those promises.

JOIN US IN MAKING AMERICA STRONG

(Mr. SHADEGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHADEGG. Mr. Speaker, this is a new day in America, a great new day. It is a day where we talk about promises made and promises kept.

The speaker before me made the point this is not a contract that was partisan. It is a contract which captures the American people's dreams and begins the process of starting change in America.

The eight first-day reforms received an average of 397 votes; 160 of my colleagues on the other side joined us in those reforms. The average of the bills in the Contract With America received 316 votes. That is more than 70 of our Democratic colleagues who joined us in passing those reforms.

Our predecessors promised to end welfare as we know it. They promised a middle-class tax cut. They promised to begin making Government smaller and more responsive, and they failed over and over again.

The American people want change. The Contract With America delivered change. It is the beginning of a tremendous process.

Now, the challenge ahead of us is to balance the budget. I invite the American people, I invite my colleagues to join us in that challenge. It is immoral to continue to put the burden of the debt and the deficit they created in the last 40 years on our children and our grandchildren.

Join us, I urge you. We are going forward to make America strong and better and to give it back to the people, the people who own it, the people who made it, the people whose taxes make it run and who believe in this agenda and in us.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT OF 1995

Mr. DAVIS. Mr. Speaker, I ask unanimous consent to take from the Speakers' table the bill (H.R. 1345) to eliminate budget deficits and management inefficiencies in the government of the District of Columbia through the establishment of the District of Columbia Financial Responsibility and Management Assistance Authority, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Page 7, line 2, strike out "or"

Page 7, line 6, strike out "States." and insert "States;"

Page 7, after line 6, insert:

(3) to amend, supersede, or alter the provisions of title 11 of the District of Columbia Code, or sections 431 through 434, 445, and 602(a)(4) of the District of Columbia Self-Government and Governmental Reorganization Act (pertaining to the organization powers, and jurisdiction of the District of Columbia courts); or

(4) to authorize the application of section 103(e) or 303(b)(3) of this Act (relating to issuance of subpoenas) to judicial officers or employees of the District of Columbia courts.

Page 10, strike out lines 7 to 9 and insert:

(4) maintains a primary residence in the District of Columbia or has a primary place of business in the District of Columbia.

Page 12, strike out lines 17 to 24, and insert:

(c) INAPPLICABILITY OF CERTAIN EMPLOYMENT AND PROCUREMENT LAWS.—

(1) CIVIL SERVICE LAWS.—The Executive Director and staff of the Authority may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(2) DISTRICT EMPLOYMENT AND PROCUREMENT LAWS.—The Executive Director and staff of the Authority may be appointed and paid without regard to the provisions of the District of Columbia Code governing appointments and salaries. The provisions of the District of Columbia Code governing procurement shall not apply to the Authority.

Mr. DAVIS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Virginia?

Ms. NORTON. Mr. Speaker, reserving the right to object, I yield to the subcommittee chairman, the gentleman from Virginia [Mr. DAVIS], to explain the nature of the Senate amendments.

Mr. DAVIS. Mr. Speaker, I thank the gentlewoman for yielding.

The Senate has passed the District of Columbia Financial Responsibility and Management Assistance Act with several technical and clarifying amendments and has returned it to the House.

The Houses are not in formal disagreement on the issue. I do not find the amendments to be in conflict with the nature or the purpose of the bill as passed by the House, and I am prepared to accept them and send them, send the bill, to the President for his signature.

The amendments deal with such items as ensuring that the courts are protected, the application of District laws to the Authority, and a clarification of the qualification of the members of the Authority.

Ms. NORTON. Mr. Speaker, I further reserve the right to object.

Mr. Speaker, further reserving the right to object, I, too, have examined the amendments, and I will not object to them.

I am inserting a statement from the gentlewoman from Illinois [Mrs. COLLINS], the ranking minority member of the Committee on Government Reform and Oversight, and the gentlewoman from Texas [Ms. JACKSON-LEE] at this point in the debate.

Mr. WALSH. Mr. Speaker, will the gentlewoman yield?

Ms. NORTON. Further reserving the right to object, I yield to the gentleman from New York.

Mr. WALSH. Mr. Speaker, I will be very brief.

I just would like to say that it has been my great pleasure to work with the distinguished Delegate from Washington, our Nation's Capital, who serves with such grace and distinction, the gentlewoman from the District of Columbia [Ms. NORTON], and it has been my pleasure also to work on this bill with the gentleman from Virginia [Mr. DAVIS], a freshman Member from Virginia, and the people of Northern Virginia showed great wisdom in sending this young man to us at this time.

This was a bipartisan bill, passed unanimously by the House under the leadership of the committee chairman, the gentleman from Pennsylvania [Mr. CLINGER], who guided all of us in this endeavor.

This will bring closure to the first step in restoring our Nation's Capital City.

I have enjoyed working with all the Members and with the truly responsible members of city government.

Again, it is a bipartisan effort that we all can take pride in, and I urge unanimous support.

Mr. Speaker, I rise in strong support of H.R. 1345, the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by the Senate last night.

The amendments made by the Senate are, for the most part, clarifying in nature. The amendment on page 7 involves the relationship of the Authority with the District of Columbia courts. The amendment on page 12 clarifies the applicability of certain employment and procurement laws to the Authority's Executive Director and staff.

The amendment on page 10 of the House engrossed bill modifies a provision of the legislation dealing with the required qualification for appointment to the District of Columbia Financial Responsibility and Management Assistance Authority. As the bill now before us reads, persons appointed to the Authority must all "be individuals who maintain a primary residence in the District of Columbia or who have a primary place of business in the District of Columbia."

This is a useful change because while maintaining the requirement that all appointees have clear ties to the District, it at the same time broadens the pool of persons eligible to be selected. In that regard, I think it is clear that having "a primary place of business in the District" is broader than having to own a business here. There are certainly many people who are not the actual owners of a business located in the District, but whose primary place of business is there. For example, an accountant who works for an accounting firm in the District of Columbia can surely be said to have the District as their primary place of business.

Owning a business, and doing business are not necessarily the same thing, and not everyone who has a primary place of business is the owner of that business.

Mr. Speaker, this is a good compromise with the Senate and I urge my colleagues to agree to H.R. 1345 as amended by the State.

Mr. CLINGER. Mr. Speaker, will the gentlewoman yield?

Ms. NORTON. Further reserving the right to object, I yield to the gentleman from Pennsylvania, the distinguished chairman of the full committee.

Mr. CLINGER. Mr. Speaker, I thank the gentlewoman for yielding to me.

I just want to rise and commend you and the gentleman from Virginia [Mr. DAVIS], the gentleman from New York [Mr. WALSH], and the gentleman from California [Mr. DIXON] for a truly, I think, historic bipartisan effort to bring to the District of Columbia the kind of control that I think is going to be necessary to restore the District to fiscal sanity.

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You have been absolute giants in achieving this, and I think it is so important this has been a bipartisan effort. I think it was absolutely essential that we got together as a Congress to accomplish this, so my hat is off to all of you. It was not an easy job. I know the hours, the days, the weeks that were involved in it. The gentleman from Virginia [Mr. DAVIS] particularly who was the chief architect of this, he deserves all the credit that he is going to receive for accomplishing this, and to the gentlewoman from the District of Columbia [Ms. NORTON] I say, "Again thank you so much for all you have done to make this happen."

Ms. NORTON. Mr. Speaker, I thank the distinguished gentlemen for their kind and gracious remarks and for all of their unyielding help and determination during this very difficult process. I am pleased that it is at an end and it has received such remarkable support in this House, in the Senate, and I applaud especially the efforts of the subcommittee chairman, the gentleman from Virginia [Mr. DAVIS], who has worked untiringly for fair results.

Ms. NORTON. Mr. Speaker, in the bill originally passed by the House, we set out to require that members of the Authority have a stake in this city, and used as evidence the payment of personal income or business taxes in the District. As part of the technical amendments adopted in the Senate, this language, for the purpose of clarification, was modified to require members to maintain a primary residence or have a primary place of business in the District. As with the original House provision, it is intended that members of the Authority have a clear tax-based stake in the District. Such a stake exists where a person pays personal income taxes or, because his or her primary place of business is headquartered in the District, pays business taxes to the District. Such a stake, however, clearly does not exist where a person merely, by virtue of employment, works in the District but pays no business taxes in the District. As an indication of this intent, the Senate agreed to eliminate a requirement of employment in one of its proposals. By so doing they agreed to the elimination of individuals who work for the government or for private employers but live elsewhere and pay no personal or business taxes in the District of Columbia. As reiterated in each of the hearings on this legislation held by the House Subcommittee on the District of Columbia, such basic stakeholdership is critical to the ultimate legitimacy and success of such authorities.

Section 202(g) allowing line-item authority by the Mayor and the city council is necessary during the control period because the finances all of the revenue of the District must be treated as a whole and the same financial discipline applied in the same fashion to all units that are funded by the District of Columbia government. Home rule requires that first the school board and then the Mayor and the city council initiate any necessary designation and realignment of expenditures before any action may be taken by the Authority. Therefore, there was no way to avoid line-item authority by any of the city's elected leaders. However, Congress intends no interference with the Home Rule Act jurisdiction of the elected board of education. Although no agency is protected from cuts that may be necessary to bring the city's budget as a whole into line, Congress does not intend that there be raiding of the school system budget. The Authority and, if necessary, the Congress itself will enforce the board of education's existing legal prerogatives.

Nor does the Congress endorse recent implications that it would be best for the Board of Education, the school system, or the Superintendent to be under the jurisdiction of other elected officials. The residents of the District, elected officials, or the Authority may make appropriate recommendations in this regard. However, it is not appropriate for Congress to make such a significant change without receiving a recommendation pursuant to hearings and a thoughtful process, and Congress has no evidence that would warrant such a change at this time. In H.R. 1345, Congress has made only those changes necessary to meet the financial emergency that is the subject matter of this legislation.

The Home Rule Charter establishes the Board of Education as an independent agency of the District government and gives it the statutory authority and jurisdiction to determine all questions of general policy related to the schools, direct expenditures, appoint the superintendent of schools, enter into negotiations and binding contracts, provide state certification for personnel, and control the use of public school buildings and grounds. While H.R. 1345 gives line-item authority over the school system's budget to the Mayor and city council, it is not intended to change the relationship between the board of education and city council. Just as the Authority should not be able to reorder the priorities of the Mayor and the city council, the Mayor and the council should not be able to reorder the board of education's educational priorities.

Elected officials and the Authority need to be especially vigilant in guarding the school board's independence. Because there is no bright line between budget and policy, it would not be difficult to trespass into the legitimate areas reserved for the school board. One important way to avoid this problem is, before a final decision is made on any line-item cut in the school system's budget, there should be collaboration and an effort to reach consensus among elected officials and the superintendent of schools. This is how the Mayor and the council will relate to the Authority and it is how they in turn should relate to the schools.

We note that District of Columbia elected officials have worked collaboratively in the past to establish a formula for public school funding similar to funding formulas in many school districts, and these efforts should be continued.

Since Congress gave the district authority to cut the school system's budget during the fiscal year, that authority has been used to make large cuts in the school system's budget late in the fiscal year. September is the time in the fiscal year when the city scrambles to balance its budget by ordering cuts to make up for agency overspending. These actions destabilize school operations and directly impact on local funding. While it is true that the school system spends most of its budget at the beginning of the fiscal year, and spending activities drop during the summer months, the system needs its budgeted money to reopen schools in September, the last month in the fiscal year. If the council is able to raid the school system's budget late in the fiscal year, the board may be unable to balance its budget. Every effort should be made to do careful planning to avoid sudden and unplanned cuts.

Finally, the Congress is particularly concerned that there be no political influence in the operation of the schools or in matters such as the awarding of contracts.

Mrs. COLLINS of Illinois. Mr. Speaker, I am delighted that the District of Columbia Subcommittee's ranking member, ELEANOR HOLMES NORTON, and the subcommittee's Chair, TOM DAVIS, were able to reach agreement with members of the other body on minor technical changes in this bill. Their determination to produce a bipartisan and bicameral piece of legislation has paid off for them and for the residents of the District of Columbia. These two members are to be commended for their fine work.

H.R. 1345, the District of Columbia Financial Responsibility and Management Assistance Act, is a carefully crafted bill which balances the interests of the District and Federal Governments. It provides the District with the relief it desperately needs from the extreme financial crisis confronting it, while it also assures the continued delivery of essential public services to local residents, Federal agencies, and the many millions of our constituents who visit the Nation's Capital each year.

I will continue to work closely with Chairmen CLINGER, TOM DAVIS, and ELEANOR NORTON, to ensure that the Congress does its fair share to help restore the District's financial health and bring an end to the need for this new Authority. I want to see the District back on its feet, and soon.

I am pleased that this bill won the unanimous support of our Members when it was considered on the House floor earlier this week. It deserved the same here today.

Ms. JACKSON-LEE. Mr. Speaker, I rise today in support of the District of Columbia Financial Responsibility and Management Assistance Act. This act will create a presidentially-appointed Financial Control Board to oversee the budget and finances of the District of Columbia government.

The city of Washington, DC, is our Nation's Capital and I believe that the U.S. Congress has a responsibility to ensure that this city remains financially solvent and a shining example of our Nation's commitment to cities.

As a former member of the city council of the city of Houston, TX, I clearly understand the critical issues confronting many of our Nation's cities, such as a shrinking tax base, high unemployment, an increase in crime and, in many instances, a loss of hope among many residents.

Some Americans believe that we should abandon our cities. However, I still strongly believe in our Nation's cities. They deserve our unequivocal support to become economically viable again. Our cities also deserve our support because they serve as central places where all Americans can assemble to celebrate our common cultural heritage.

I applaud my colleagues, ELEANOR HOLMES NORTON of the District of Columbia and THOMAS DAVIS of Virginia for their efforts to secure passage of this bill. After this bill becomes law and the Financial Control Board completes its work, I believe that the District of Columbia will emerge as an even greater city and a powerful symbol of our Nation's promise.

Ms. NORTON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is there objection to the initial request of the gentleman from Virginia?

There was no objection.

A motion to reconsider was laid on the table.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, MAY 3, 1995

Mr. WALSH. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, May 3, 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AUTHORIZING THE SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. WALSH. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, May 1, 1995, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONGRESS MUST ACT NOW TO PRESERVE INTEGRITY OF DEPOSIT INSURANCE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, today I am introducing several bills designed to address the serious problems posed for the Savings Association Insurance Fund [SAIF] by the current obligations imposed on the thrift industry and the pending disparity between the premiums paid by BIF-insured and SAIF-insured institutions.

Not too many weeks ago, many were denying that a problem even existed. The discussion has now proceeded past that stage, and I believe there is a substantial consensus the problem is real and should be addressed quickly—before it becomes a crisis.

There are a multitude of competing interests involved in the resolution of this difficult problem. These bills need not, and are not intended to, satisfy anyone's or everyone's concerns, and the options I have incorporated are not exhaustive, nor are they mutually exclusive. But I believe they do set forth the major issues we must address, and provide mechanisms for doing so that are reasonably calculated to put this problem behind us. They are intended to move the dialog on this issue to the next stage.

The regulators have now presented quite clearly the nature, extend, and urgency of the problem, and discussed a range of options available to the Congress in general terms. It is my hope that these bills will now move us to focus more concretely on the elements of any meaningful resolution, and allow us to begin to work with the administration, the regulators, and affected parties to identify the specifics of alternative solutions, assess and evaluate them, and then select a course of action.

I. THE PROBLEM

The art of governance is not addressing crises. It is anticipating them and developing public policy options that will preclude their occurrence. In this sense, the Congress now has a rare opportunity.

Had we anticipated and addressed the problems posed by an undercapitalized thrift insurance fund in the mid-1980's, we would never have faced the thrift crisis of 1989. Despite warnings from myself and others, the Congress did not anticipate, and the result was an enormous burden placed on the American taxpayer in the FIRREA legislation.

A. DIFFICULTIES CONFRONTING SAIF

How, different but related problems confront us again. All of the relevant regulators, the Treasury Department, and the GAO—in a report commissioned by myself and Senator D'AMATO—have officially alerted the Congress that we have serious problems which must be addressed in the near term. In summary, those problems are as follows:

The SAIF insurance fund is seriously undercapitalized just at the point it will newly have to assume responsibility for thrift failures from the RTC effective July of this year; the mechanism by which thrift premiums are diverted to pay the interest on the FICO bonds, which were issued to pay for the thrift failures of the 1980's, is no longer viable. According to the FDIC, there is no question that there will eventually not be sufficient thrift premium income to service the FICO obligations. The only question is when that deficiency will occur; and, finally, within the next few months there will be a premium disparity between BIF-insured and SAIF-insured institutions of as much as 20 basis points. Such a substantial differential could adversely affect the thrift industry in a number of ways, inhibiting its ability to raise capital; placing it as a serious competitive disadvantage; causing higher rates of thrift failures; and providing incentives for legal and regulatory maneuvering that will further reduce the moneys available to recapitalize the SAIF and service the FICO obligations.

B. FINDING A SOLUTION

Some have voiced concerns that the regulators or the administration have not recommended a specific solution. I believe they have done as they should have done, at least thus far—alerted us to the problem, defined it fairly and clearly, and provided several alternative solutions which would address it, which discussing the policy advantages and disadvantages of each. None of the alternatives is clearly substantively correct, intuitively appealing, or politically easy. No regulatory or administration imprimatur will make them so.

Others have suggested that the affected industries need to sit down at the table and arrive at an agreed-upon solution. I welcome the input of the affected thrift institutions, and I believe the industry has behaved responsibly in helping to bring the problem to our attention. I also believe the banking industry has both a policy and a political interest in helping to craft an intelligent and fair solution. But we cannot allow any industry's opinion to finally shape our views. Bank and thrift industry members have an obvious interest in minimizing their own losses. That is a legitimate interest on their part. But it is not our interest as policymakers.

The choice between the various alternatives is a choice for the Congress to make. In making that choice, we must be concerned about questions of equity and ensure that we do not place an undue burden on members of either the thrift or banking industry, and certainly that we not place an inappropriate burden on the taxpayer. But I believe we must not take any reasonable option off the table at this point. Our primary goal must be to safeguard the depositor and preserve the integrity of the deposit insurance system.

Both industries also have an interest in our doing that successfully. No one wins there is a crisis of confidence in the deposit insurance system. Any alternative that will maintain that confidence merits serious consideration.

In preparing these bills, I have explored a multitude of options. I am open to suggestions of other options, but I see only three realistic sources which can provide the funds to solve these problems: The thrift industry; use of the resources already authorized and appropriated to the RTC to handle thrift failures; and some form of participation by BIF-insured institutions. I am willing to consider seriously any and all of these approaches, and combinations thereof, and welcome recommendations about how best to refine them. The best solution may well be that which combines some or all of these options. The best solution clearly will be one on which a majority of the House and the Senate can agree before June 30.

There is, however, yet another option—lowering the standards which govern the reserves which must be held by the insurance funds to protect the depositor. That is an option I would hope we'd reject.

Some of the options I put forward may be viewed as hitting the thrifts too hard. Others may be seen as placing unjustified burdens on the banking industry. Still others may be criticized for their reliance on excess RTC funds which have already been authorized and appropriated for what I believe are comparable purposes. Those criticisms are not my key concerns, although I will certainly take any legitimate criticism into account. But our primary goal must be to safeguard depositors and ensure the integrity of our deposit insurance system.

Any solutions advanced, or any combinations thereof, will necessarily be subject to legitimate criticism and can easily be tossed aside as politically unfeasible. The challenge for the Congress is to avoid the easy path of naysaying and risk avoidance, and work together to craft a reasonable solution.

C. TIMING OF A RESPONSE

Because this issue will be politically difficult to address, it may prove virtually impossible to move independent legislation. Some have suggested attaching a solution to the pending financial services modernization bill or regulatory consolidation legislation. But I believe these bills will move too slowly for us to address the BIF–SAIF problem in a timely manner—that is, before June 30.

I believe a more appropriate legislative vehicle would be the pending regulatory relief bill. Such relief, if properly crafted, is long overdue and the legislation can be expected to move quickly. I also believe the BIF–SAIF issue appropriately arises in this context. It is reasonable, as part of an effort to reduce regulatory and supervisory burdens, to also move to ensure that the deposit insurance program is stabilized and any risks to that system are removed.

We must act quickly. As a policy matter, the problem is upon us. The FDIC has already issued draft regulations which will reduce bank premiums substantially, while leaving thrift premiums at current high levels. In doing so, the FDIC is meeting its statutory obligation. But the premium disparity will be in place in just a few months, and will exacerbate existing thrift industry problems. Politically, it is essential that we act before a change in the premium structure is put in place. Should Congress choose to require any financial participation by the banking industry, it would be much more difficult to impose new financial obligations than to make slight changes in the level of reduction of those existing obligations.

Most importantly, on June 30 of this year, the SAIF will assume responsibility for thrift failures. According to the FDIC, it will do so in a seriously undercapitalized state. A serious economic downturn or the unanticipated failure of a large thrift could bankrupt the fund. We cannot afford to run that risk.

As we move to devise a solution, we must have an eye to the longer term. Some have suggested that it is time to stop talking about banks and thrifts and start talking about moving toward one industry, one charter, and one regulator. That is an issue which merits serious deliberation, and issues like the bad debt reserve which could inhibit such movement from occurring naturally warrant examination.

But if that is our ultimate goal—a question we have yet to decide—we must have an intelligent approach to making the transition. It cannot be achieved by default, because public policy toward the thrift industry is so bankrupt that flight from the industry is the only sensible business solution. In the nearer term, we must make sure our policies do not inadvertently destroy an industry before we even have an opportunity to determine if and how we might wish to restructure it as part of a broader restructuring of our financial services system.

If we are to legislate intelligently on a solution, we must have some perspective regarding how we got to where we are today and some criteria to govern our action going forward. In the balance of my statement, I will discuss the source of the problems we face, the criteria which should govern our search for a solution, and the major issues we must confront as we continue our deliberations.

II. THE SOURCE OF THE PROBLEM

A. STATUS OF THE DEPOSIT INSURANCE FUNDS

In the late 1980's and early 1990's, the Banking Committee and the Congress focused considerable attention on enhancing regulatory oversight of the thrift and banking industries and stabilizing the condition of their insurance funds, through passage of FIRREA in 1989 and FDICIA in 1991.

THE BANK INSURANCE FUND [BIF]

We have arguably been more successful in the context of the Bank Insurance Fund [BIF]. The FDIC reports that the BIF is in very good condition and its prospects are favorable. The BIF is expected to reach its designated reserve ratio, 1.25 percent of insured deposits—the amount reserved to handle anticipated losses and protect depositors—within the next few months. Current law requires that the FDIC move to reduce bank premiums when that occurs, and the FDIC is proposing to lower premiums from the current level of about 24 basis points to approximately 4.5 basis points.

THE SAVINGS ASSOCIATION INSURANCE FUND [SAIF]

In contrast, the FDIC and the OTS report that, while the thrift industry itself is in very good condition, the Savings Association Insurance Fund [SAIF] is deeply troubled. On June 30 of this year, the SAIF must newly assume responsibility for thrift failures from the RTC, yet it is seriously underfunded. While the BIF is approaching its 1.25 reserve ratio, the SAIF has only $1.9 billion, or 28 cents in reserves for every $100 in insured deposits. Faced with that situation, the FDIC is constrained to keep thrift premiums at current levels. The result will be a premium disparity in the neighborhood of 20 basis points.

Such a disparity will place thrift institutions at a significant competitive disadvantage, inhibiting their ability to raise capital, encouraging them to look to other funding sources which will reduce the assessment base even further, and providing incentives to escape the industry, its charter and its problems. We have already seen Great Western and several other thrift institutions make initial moves to obtain new bank charters. Such efforts are legally permissible and market driven. But they will exacerbate the industry's problems.

B. STRUCTURAL PROBLEMS CONFRONTING THRIFT INDUSTRY

The premium disparity is in fact only an outward manifestation of more fundamental difficulties which become obvious when we examine why the SAIF is so underfunded. Certainly, it should be the industry's obligation to adequately capitalize its insurance fund, and capitalizing that fund should be our priority as policymakers. From 1989 to 1994, SAIF assessment revenue amounted to $9.3 billion. If that revenue had been put solely toward recapitalizing the SAIF, the thrift insurance fund would have been fully capitalized long before now. However, $7 billion of that money—95 percent of SAIF assessments—were diverted from the SAIF to pay off obligations from thrift failures in the 1980s through either the Resolution Funding Corporation—REFCORP—$1.1 billion; the Federal Savings and Loan Insurance Corporation Resolution Fund—FRF—$2 billion; or the Financing Corporation—FICO—$3.9 billion to date. REFCORP and FRF no longer have claims on the SAIF, but the FICO claim will remain as an impediment to recapitalizing SAIF for 24 years.

Establishing parity between the BIF and the SAIF today would require approximately $15.1 billion—$6.7 billion to move the SAIF to the $8.6 billion which would constitute the amount necessary to achieve the designated reserve ratio, and $8.4 billion, which is the amount necessary at current interest rates to defease the FICO obligation. As OTS Director Jonathan Feichter points out, simple mathematics indicates that SAIF members will be unable to generate sufficient premium flows to both recapitalize the SAIF and service the FICO obligations. The SAIF assessment base is declining, and is likely to decline further, and that will worsen both problems.

The situation is further aggravated by the fact that the premiums from the so-called Oakar and Sasser banks are considered unavailable for FICO purposes—making a large portion of the assessment base unavailable for that purpose. Yet making those funds available—if done alone—provides no real solution as it just depletes the funds available to capitalize the SAIF.

1. FICO

The FICO Program was flawed from its inception. I was one of the few Members of Congress to finally vote against the CEBA legislation incorporating this change in 1987. First of all, the level of funding provided—$10.8 billion—was totally insufficient to meet the need. Further, such stringent restrictions were imposed on the expenditure of the money as to render the funding almost useless. The legislation placed an annual $3.75 billion cap on the issuance of FICO bonds in response to industry pressure to minimize the industry's burden of servicing the bonds. In a letter to President Reagan urging him to veto the legislation, I urged that the amount provided was woefully inadequate and would require the Congress to revisit the issue. I noted at the time, "a poorly funded plan is guaranteed to perpetuate the crisis atmosphere and could eventually result in a taxpayer bailout."

2. FIRREA

Unfortunately, we have revisited the issue—again and again and again—and the taxpayer bailout devised in the FIRREA legislation became a cornerstone of what proved to be only another partial solution. I opposed FIRREA as I had opposed the 1987 legislation for a number of reasons, but most basically because I not only believed it would not work, but I strongly believed it would make the situation far, far worse. I believed in 1987, and in 1989, and I believe today that a fully funded recapitalization scheme is the only way to restore public confidence in the thrift insurance fund and in the deposit insurance program more generally. Despite repeated efforts, we have still not achieved that goal.

The FIRREA legislation had many laudable goals. Unfortunately it did not strike the proper balance in achieving them. It was no accident that under FIRREA the thrifts remained responsible for the FICO obligation. There was an intentional effort to place as much of the burden of paying for failed thrift institutions and recapitalizing the thrift insurance fund on the thrift industry as possible, so as to minimize the taxpayer contribution.

In the abstract, these are laudable goals. But they are meaningless if the plan devised to achieve them does not work. The ability of the thrift industry to sustain these and other obligations placed on it was justified by FIRREA's proponents on the basis of economic and other assumptions that have proved grievously flawed. Most notably, in 1989 the administration projected annual thrift deposit growth of 6 to 7 percent a year. Since SAIF's inception, however, total SAIF deposits have declined an average of five percent annually.

That should not have been surprising, and I questioned these assumptions and others at the time. The FIRREA legislation was otherwise so punitive to the industry that I believe it forced potentially viable thrifts into failure. The result was to leave fewer thrifts and a smaller assessment base to bear the brunt of the obligations imposed, and increase pressures on the declining number of healthy thrifts which remained.

The previous administration and the Congress constructed a solution that has not worked. The obligations imposed on the thrift industry are not obligations it alone can sustain without once again posing a risk to the taxpayer. We have revisited this issue time and again. It appears we must now do so one more time. If we are to sustain confidence in the Government's ability to manage its deposit insurance system and meet its commitment to depositors, it is imperative that this time we construct a workable and permanent solution.

III. STANDARDS TO BE BROUGHT TO BEAR IN FORMULATING SOLUTIONS

In attempting to do so, we should bring certain standards to bear on the solutions we examine. Most basically, any solution we devise should not rely on optimistic assumptions and projections about what will happen sometime in the future—whether about economic growth, thrift failures, thrift profits, deposit growth, et cetera—for its success. The solution should be workable and permanent.

Beyond that basic point, I concur with the standards that the FDIC has suggested. First of all, any solution should reduce the premium disparity and eliminate to the extent possible the portion of SAIF premiums diverted to FICO assessments. Optimally, the SAIF institutions should and can capitalize their own insurance fund. However, they cannot do so if other obligations eat up a substantial portion of the premium flow. Second, any solution should result in SAIF being capitalized relatively quickly. Third, any solution should address the immediate problem presented by the fact that on June 30 of this year, the SAIF will take over from the RTC the responsibility of handling thrift failures in a seriously undercapitalized state.

I have tried to be sensitive to all of these standards in crafting the various solutions I am putting forward. Not all of them meet all of these goals to the maximum degree I would hope. But I believe if we give serious attention to the specific problems and opportunities posed by various solutions, we can craft an ultimate solution which will.

I am hopeful that the bills I have introduced will focus attention on the relative legitimacy and effectiveness of various specific alternatives. I would now like to discuss some of the major issues we must consider in making the necessary judgments.

IV. THE MAJOR ISSUES

A. BURDENS ON THE THRIFT INDUSTRY

1. UTILITY OF A SPECIAL ASSESSMENT

There is much to commend some reliance on a reasonable one-time special assessment on the thrift industry, as part of a broader solution which otherwise addresses the current problems. Such an assessment could never be sufficient to solve the problems we confront, or even to fully capitalize the fund. Any onerous assessment would simply place the industry, and especially weaker institutions, in an even more difficult position than the one in which they now find themselves. But a reasonable assessment provides a real opportunity to frontload the capitalization of the SAIF and that is an important goal.

Certain principles should govern any such assessment. It should be reasonable. It should be structured to be paid in installments so it is not necessarily an immediate hit on capital. Some flexibility should be granted to institutions in terms of the payment schedule. The FDIC should be given some discretionary authority to exempt, or reduce the assessment for, institutions which are troubled or would become troubled if the assessment were imposed.

Any special assessment should be structured so as to capture current members of the SAIF. Otherwise, the potential for such an assessment will simply provide yet another incentive for thrifts to move out of the system.

2. CAPITALIZATION OF THE THRIFT FUND

There are various approaches to sharing the two primary obligations which arise—capitalizing the SAIF and servicing the FICO obligations. However, from my point of view it is more intuitively appealing and has more substantive merit to have the thrifts focus their primary effort on recapitalizing their insurance fund. Premiums are intended for insurance fund purposes and ideally we should minimize diversion of those monies, in either fund, for other purposes. We may not be able to totally honor that standard and solve the problem, but we should try, and in the future we should avoid diverting insurance fund premiums to multiple uses.

It is also true that the FICO bond servicing imposes the more onerous obligation, not so much in overall amount—although the amount needed to defease the bonds is somewhat greater than the amount needed to recapitalize the fund—but because it creates the prospect of a long-term and substantial premium disparity if the thrifts alone must service the bonds. These bonds are 30-year bonds and noncallable. They will not be paid off until 2019. Such a long-term disparity is fundamentally debilitating for the thrift industry and will simply create greater incentives for legal and regulatory maneuvering.

3. PREMIUM DIFFERENTIAL

Any solution should attempt to minimize the premium differential between BIF and SAIF institutions. A differential of the size currently pending places thrifts at a serious competitive disadvantage, will reduce thrift ability to raise capital, and could induce additional failures, creating further problems for the industry and its fund.

I believe the ability of the thrifts to sustain the adverse impact of such a differential depends on its size and longevity: a modest disparity—nothing as large as the pending disparity—might be manageable for three or four years, if the certainty of parity were to follow. But a long-term disparity of any consequence—for example, double digits—is fundamentally debilitating and only provides incentives for thrifts to reduce their assessment base, change their charter, or otherwise remove themselves from the line of fire.

I have tried to generally construct options that would keep any disparity at no more than a 9-basis-point level. Even that may be too high. Moreover, I am disposed toward those options which minimize not only the size but the term of the differential.

B. APPROPRIATE USE OF EXCESS RTC FUNDS

Some argue that it is politically impossible for the Congress to make any use of the taxpayer money represented by the estimated $10 to $14 billion in excess RTC funds that have been authorized and appropriated, but not expended, on thrift losses. If there is conceptual justification for utilizing those resources—and I believe there is—we should not be too timid to even discuss it. I am unwilling to take any option completely off the table without some reasonable substantive discussion. Some or all of these moneys could, in theory, be made available to help capitalize the SAIF or help service the FICO obligations, or at least to provide a backstop against thrift losses while the SAIF fully recapitalizes.

I have always tried to minimize the adverse impact of the SAIF recapitalization effort on taxpayers. In fact, I voted against FIRREA because I believed that, in two important respects, it did not minimize the taxpayer burden.

First of all, I believed that borrowing to pay for the legislation unnecessarily increased the costs to the taxpayer and passed those costs on to future generation. I believed that borrowing was both fiscally and morally irresponsible, and I offered an amendment on the House floor which would have required that we pay for what we were doing. Unfortunately that amendment failed, the final legislation required that the Government once again borrow, and the cost to the taxpayer—and burden on future generations—has been greater as a result.

My opposition to FIRREA was also based on the fact that I believed that the rapid imposition of much stricter standards on thrifts precipitated the failure of otherwise viable institutions, increasing the cost of thrift failures and the burden on the taxpayer. Had more thrifts survived, the then optimistic projections about deposit growth and the size of the assessment base might have proved more accurate and we might not be confronting the problems we face today.

While I believe we must try to minimize the burden on the taxpayer, that does not mean we should not consider using moneys already authorized and appropriated for the purposes it was intended to be used. It is clear from the legislative history that Congress fully realized that its assumptions in FIRREA might prove overly optimistic, and that additional Treasury funds would be required to fully capitalize the SAIF. The legislation did in fact provide for that contingency.

FIRREA authorized the appropriation of funds to the SAIF in an aggregate amount of up to $32 billion to supplement assessment revenue by ensuring an income stream of $2 billion each year through 1999 and to maintain a statutory minimum net worth through 1999. Subsequent legislation extended the date for receipt of Treasury payments to 2000. Despite repeated requests by the FDIC, however, appropriations for these purposes were never requested and SAIF never received any of these intended funds. Had they been received, the SAIF would have been capitalized by now.

The FDIC again raised the looming problems in the thrift industry at the time Congress considered the RTC Completion Act. As the FDIC noted at that time, the legislation left "unresolved issues regarding the viability and the future of the thrift industry and the SAIF." The failure to address the issue then has only postponed the inevitable.

The fundamental tension on this issue is reflected in existing legislative provisions intended to deal with the possibility that additional Treasury moneys might be necessary, although these provisions limit their use to covering losses. The excess RTC money is technically available to pay for losses until 1998. In fact, two other funding sources are in theory available to pay for losses: First, an authorization for payments from the U.S. Treasury of up to $8 billion for losses incurred by the SAIF in fiscal years 1994 through 1998; and second, unspent RTC money during the 2 years following the RTC's termination on December 31, 1995.

However, to obtain these funds, the FDIC must certify to Congress that an increase in SAIF premiums would reasonably be expected to result in greater losses to the Government, and that SAIF members are unable to pay assessments to cover losses without adversely affecting their ability to raise and maintain capital or maintain the assessment base. The certification requirement was made onerous to make taxpayer money the last resort. In theory, that is appropriate. But I believe that the standard was made so high that certification is virtually impossible.

There is ample evidence that Congress anticipated the need for, and attempted in various ways to provide for, greater use of taxpayer dollars to capitalize the SAIF or cover losses. Moneys to help capitalize the SAIF were, however, never requested of the Congress or made available by it, and FDIC access to additional resources even for purposes of covering losses has been unduly restricted. Using excess RTC moneys to service FICO obligations, help capitalize the SAIF, or serve as a backstop against losses while the fund recapitalizes are conceptually consistent with that original congressional intent and merit consideration.

It was also anticipated in FIRREA that the bulk of thrift failures would have been resolved by the time the SAIF assumed responsibility from the RTC. However, repeated delays in providing adequate funds to the RTC delayed the resolution process. As a result, the burden and risk the SAIF will be assuming this summer is greater than it might have been. At the very least, we should therefore consider using excess RTC funds as a backstop for the SAIF to cover additional losses until the SAIF is better capitalized.

There may indeed be some intractable Budget Act or pay-go problems associated with using the excess RTC funds, although the problems may be more readily addressed if the funds are somehow used as a backstop. Whether, and to what extent, these problems exist, and how they might be resolved, merit exploration before the option is dismissed. If the administration and the Congress believed use of these funds in any of these fashions were appropriate, and were committed to such an option, I would imagine a solution to these problems might be found.

C. POSSIBLE USE OF FUNDS FROM BIF-INSURED INSTITUTIONS

Some have suggested that BIF-insured institutions participate financially in the solution, either through participation in the FICO obligation, a fund merger, or both. I appreciate their reluctance to be called upon to do so. They argue it is not their industry and not their problem, and that they have committed substantial resources to putting their own insurance fund on a sound footing. These arguments have substantial merit. But they are not the whole story.

First of all, I believe both the banking and thrift industries have a common interest in the integrity of the deposit insurance program. No constituent of mine has ever spoken of the confidence generated in his financial institution by the soundness of the BIF or the SAIF. In most cases, consumers have little idea which fund insures their deposits. What they have confidence in is the fact that their deposits are FDIC insured. A breach of that confidence adversely affects both thrifts and banks.

Moreover, we have only to look at the degree to which the FIRREA legislation and associated taxpayer costs have poisoned the well as we have considered legislation on financial modernization and safety and soundness issues affecting our banks to know that a problem in one industry is a problem for both. We have yet to pass modernization legislation. We may yet be unable to do so, because of concerns about safety and soundness and putting taxpayer dollars at risk. While FDICIA incorporated some real accomplishments, it was also in many ways an extreme regulatory overreaction to the thrift crisis that we are still trying to ameliorate. The relationships drawn in the public's mind between these issues demonstrates that neither industry can afford to be indifferent to the concerns of the other.

On a more practical level, the relationships between the industries, and the desire for fuller relationships, are real. Banks hold at least one-third of SAIF deposits. They use the Federal Home Loan Bank advance window. They have purchased thrifts—often less expensively than might otherwise been possible because onerous burdens placed on the industry put many thrifts on the auction block at the same time—to enhance their branching network or make use of the benefits of a broader thrift charter. Banks can and do become Federal savings banks which, while BIF-insured, constitute a variant of the thrift charter. Bank holding companies have thrift subsidiaries. It seems then unreasonable to suggest that thrift holding companies cannot form comparable relationships with banks.

Many banks support modernization legislation that would remove arbitrary barriers between types of financial institutions—yet they seem to want to maintain some arbitrary barriers in this instance. These industries are not two completely segregated subgroups that have nothing to do with each other. Clear relationships exist. It is somewhat disingenuous to suggest that those relationships should only exist when they are of benefit to the banking industry.

I do have great sympathy for the desire of the banking industry to see bank premiums reduced substantially later this year. I believe such a reduction is rightfully expected and warranted, given the provisions of current law. It has also been earned by the substantial contributions the banks have made to their fund in recent years. Many banks have already incorporated such anticipated changes into their business plans, as they might reasonably do. Once the fund is appropriately recapitalized, moneys which have been put into premiums can usefully be made available to provide loans to bank customers.

In my view, any solution involving the banks should not delay a reduction, or substantially intrude upon the level of such a reduction. I do believe, however, a reasonable argument can be made that it might be prudent not to take the premiums below 6 basis points this year until a solution to the broader problems the FDIC has identified in the thrift component of the deposit insurance program is found.

I also believe that the idea of merging the funds merits serious discussion. Even if this is not effected in the near term, I believe an eventual move to one fund, one charter, and one Federal regulator is something we should seriously consider. Were we to consider such an option in the short term, however, it would need to be done with great care. In order for bank premiums to come down substantially this year, as the industry has a right to expect, additional time might be required to allow the combined fund to meet its designated reserve ratio, and a special assessment on the thrifts might reasonably be considered in order to provide coverage for any new risks they bring to the combined fund.

I understand and appreciate the banking industry's argument that it did not solve the thrift industry problems of the 1980's and should not be responsible for solving them. But the healthy thrifts which remain did not create those problems either. Moreover, a focus on placing blame makes no meaningful contribution to the debate. Banking industry funds may or may not need to be part of any solution to pending thrift industry problems, but in either case I believe the quality of the solution will be enhanced by their participation in the discussion.

D. FDIC AUTHORITY

1. RESERVE RATIO

In recent testimony before the Banking Committee, one of the witnesses, Professor Kenneth Thomas of Wharton, argued that the 1.25 reserve ratio was an inadequate safeguard and should be increased to 1.5. I have not proposed that such a change be made, and the bills I am introducing do not include a proposal that the reserve ratio be increased. Nor should any proposal I am including delay a premium reduction once the BIF reaches the 1.25 reserve ratio. I do believe, however, that the proper level of that ratio is a serious issue which merits examination.

Some have characterized such a suggestion as outrageous. I believe it is only responsible and prudent. It is critical that the insurance funds maintain sufficient reserves to protect depositors and taxpayers. To the best of my knowledge, there has been no meaningful analytical work demonstrating clearly that 1.25 is the appropriate ratio. Certainly, no fund could realistically be sufficient to address the kinds of structural problems both the banking and thrift industries have faced in the past decade, and that should not be our goal. We should also try to avoid excessive fund build-up. Once the fund is adequately protected, resources are better used for lending and community investment than to an unnecessary piling up of reserves. Nevertheless, we should be prudent. I will be looking to the FDIC and the GAO for more substantial analysis of this important issue.

I do believe, however, that it is important to clarify that the 1.25 ratio is not an absolute and precise target. It should be viewed as a floor, with some limited discretion available to the FDIC to maintain a cushion above that level without permitting an excessive build-up. I believe it is excessive to require that the FDIC establish significant risk of substantial future losses to the fund for the year before being permitted to increase the reserve even very modestly above that level.

Chairman Helfer has made a convincing argument that the FDIC should refocus its mission, seeing its role less as resolving failed institutions and more as anticipating future problems. I believe there is overwhelming merit in that argument. Economic conditions change, as do the risks posed by bank portfolios. If the FDIC is to effectively play that new role, it must have some flexibility. There have in fact been recent indications that bank investment strategies have changed, some of the sources fueling bank incomes will not continue to be available over the long-term and some banks might be at risk in an economic downturn. We cannot ignore the lessons of the past.

We must however balance concerns about protecting depositors with the need to increase credit availability. Money going into an insurance fund is not going to consumers. I believe the FDIC should proceed to reduce bank premiums substantially, as planned, once the BIF reaches the 1.25 ratio set under current law. If a further cushion is deemed prudent, it can be built up gradually without impeding the near-term reduction.

2. FDIC DISCRETION

I also believe it is time to examine the issue of FDIC discretion more broadly. As Chairman Helfer has emphasized, the FDIC is precluded by a variety of statutory provisions from addressing the problems it has identified on its own authority. I would not casually give congressional authority over to a regulatory agency. However, I believe that some of the strictures under which the FDIC is currently operating are excessive and unnecessary. One of the legislative options I suggest would clarify or expand the FDIC's regulatory authority in a number of regards: provide it with greater authority to administer the FICO bond obligation; modify the certification requirements; provide discretionary authority to impose a modest special assessment on thrift institutions to frontload the capitalization of the fund; provide greater discretion to maintain a small cushion beyond the target reserve ratio in each fund; and provide limited authority to transfer resources between funds.

The last item may be particularly controversial. But that does not mean we should not examine it. In general, I concur that the premium levels for each fund should be set independently. However, the job of the FDIC is not to manage two funds. It is to manage a deposit insurance program and protect depositors of both banks and thrifts. It cannot do so effectively if its hands are tied so that it is forced to explicitly ignore the impact that the status of one fund has on the members of the other. The FDIC should have some flexibility to address that problem.

E. POSSIBLE PROBLEMS POSED BY GOODWILL CASES

Some of the bills I have introduced address the issue of creating a reserve to have available should adverse judgments against the Government be made in the pending goodwill cases. These cases point out yet again that the consequences of FIRREA are with us still.

In the 1980's, some healthy thrift institutions entered into contracts with the Government under which they purchased failed or failing thrift institutions the then thrift insurance fund—FSLIC—did not have the funds to resolve. Since the Government could not make depositors whole by covering the loss, the acquiring institutions were instead permitted to count as tangible capital for a limited period of time an intangible asset called "supervisory goodwill" which they were to work off their books over time, thus absorbing those losses slowly.

In FIRREA, supervisory goodwill was no longer permitted to count as tangible capital and institutions holding this asset were required to remove it from their books precipitously. I never questioned that the Government could break these contracts. But I consistently argued that it could not do so without being subject to damages. Recent court cases indicate the courts have considerable sympathy for my argument. The FDIC has already paid out claims on two such cases; many others are pending. Rulings adverse to the Government could cost the taxpayer additional billions.

Again, this is a problem we should have anticipated. I argued that an undue emphasis on being tough on the thrift industry in FIRREA would result in yet greater cost to the taxpayer in the long-term, and argued against the rapid imposition of the new standards, unfortunately to no avail. The possibility I foresaw may unfortunately now become a reality.

It is sometimes cost effective to be temperate, and I hope the lessons of the past will help encourage some temperance as we deal with current problems.

V. CONCLUSION

The problems are real, and I believe we have an obligation to address them now. It is my hope that placing some more specific options on the table will generate useful information, reactions, discussion, debate, and then, resolution.

CALL FOR CLARIFICATION OF ETHICS COMMITTEE'S RULES

The SPEAKER pro tempore. There being no designee of the majority leader, under the Speaker's announced policy of January 4, 1995, the gentleman from New Jersey [Mr. TORRICELLI] is recognized for 60 minutes as the designee of the minority leader.

Mr. TORRICELLI. Mr. Speaker, several weeks ago in one of those moments that comes to define an individual's values and sense of responsibility, several members of the executive branch came to me with extraordinary information. It was revealed to me that several years ago an American citizen in Guatemala was murdered by a contract employee of the Central Intelligence Agency. It was further revealed to me that in the years that passed there was a conscious effort to prevent that information from being known. Indeed the person responsible for the murder of an American citizen was never brought to justice. This was, Mr. Speaker, a difficult moment because I recognized the importance of maintaining confidentiality of sources of intelligence information, and indeed, as a member of the Intelligence Committee, I signed an oath not to reveal classified information. It was my judgment to ascertain from the Intelligence Committee confirmation that I never participated in classified briefings and had never received classified information with regard to Guatemala. This was a measure of how seriously I took my oath to preserve confidentiality.

I then proceeded to consult with the ranking member of the Committee on International Relations where I serve and with the minority leader, the gentleman from Missouri [Mr. GEPHARDT], to receive their advice and good counsel before proceeding in writing to the President of the United States to reveal this rather extraordinary information. Their counsel was that I should be guided by my own sense of ethics and responsibility, but proceed in informing the President and the American people.

In the days that have followed this country has learned a good deal. Indeed the President and this Congress have learned a great deal about activities of the Central Intelligence Agency in Guatemala, their adherence to the law, the intelligence community's sense of responsibility, informing the President and this institution.

In more recent days the Speaker of the House and the chairman of the Permanent Select Committee on Intelligence have raised the issue that while indeed I may never have participated in classified briefings or had classified information as a member of the Intelligence Committee, that since the 103d Congress each Member of this institution has also had a separate oath not to disclose classified information. That oath is no less serious. It is, however, in my judgment, under these circumstances, where the issue is criminal activity on behalf of an intelligence agency of this Government, that involves a question of the taking of life and a felony, and potentially concealing that information from law enforcement authorities; that oath is in direct conflict with the oath every Member of this Congress also takes as prescribed in the Constitution of the United States to adhere to the Constitution and the laws of the United States. It also is in direct conflict with the statutory responsibility of every American citizen to uphold the laws of our country and not to engage in conspiracies, to maintain silence in the face of criminal activity, or indeed take any action that would maintain silence regarding those activities. It also in my judgment is in conflict, Mr. Speaker, with the basic ethical responsibility of Members and their duty to reveal illegal activities and the inherent oversight responsibilities of the U.S. Congress to assure that the agencies of this Government are adhering to the laws.

Finally, Mr. Speaker, in my judgment, in this day while the majority is celebrating the conclusion of the 100 days of their Contract With America, invites the most ironic conflict of all. On the first day of this 104th Congress on a bipartisan basis this Congress came to the judgment that we would live by the laws that govern all other Americans. All other Americans have a duty, Mr. Speaker, not to conceal criminal activity, to take no action to further a criminal conspiracy.

Mr. Speaker, when I faced the ethical dilemma of whether to disclose the murder of an American citizen by a contract employee of a member of the Central Intelligence Agency, I was guided by my oath as a Member of this institution as prescribed by the Constitution of the United States, the statutes of this country governing the duty not to participate in concealing criminal activity, by my own ethical sense of responsibility as a citizen of this country, and finally by my duty to abide by the laws that govern all other

Americans. I do not, however, make light of the Speaker's observation that there is an obligation for these last 2 years to also, as a Member of this institution, not to disclose classified information, though I do so while vigorously denying, as I think is now beyond question, that I never did receive classified information as a member of the Intelligence Committee and am, therefore, not in violation of this separate and distinct oath.

Recognizing that there is this conflict of judgment between my interpretation and interpretation shared by the minority leader, Mr. GEPHARDT, and, I believe, many Members of this institution and the public, and a judgment that appears to be shared by the Speaker of the House, Mr. GINGRICH, and the gentleman from Texas, Mr. COMBEST, I have informed Mr. GINGRICH and Mr. COMBEST of my intention to write to the Ethics Committee on this day, inform them what I believe is a legitimate conflict of laws and obligations, that I should receive, and this institution should receive, some guidance in what I think is a clear conflict of responsibility between those oaths and the governing authorities and that the Ethics Committee should reach some judgment, if only for guidance purposes, because the conflict that I received, the conflict in which I found myself, is unlikely to be the last time a Member of this institution faces exactly the same circumstances.

Mr. Speaker, while I welcome the Ethics Committee's addressing of this issue, I want finally to simply say to my colleagues on both sides of the aisle that reforming government, the new relationship this Congress seeks with the American people is not simply about reforming budgets or governmental programs. The most important reform that this Congress requires to restore faith to the American people is to tell the truth. If we cannot tell the truth to the American people, when one of our own citizens is murdered, in violation of our laws, by an intelligence community that is operating at variance with our national purpose, when there has been a clear conspiracy to prevent the truth from being known, and our Government has not proceeded with the prosecution of the person who was known and is responsible, Mr. Speaker, how can we ever keep faith with the American people?

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I know that people take issue with my own moral judgment in this instance, but I believe on reflection they will find that in the final analysis I had no choice, and that to keep faith with the American people, my colleagues who find themselves in the same dilemma in the future would do best for our country and this institution to do the same.

Mr. Speaker, there are times in the life of this country, and indeed in any republic, when no matter how noble our purposes, there are compromises that must be made. The first obligation of any free people is to preserve their system of government and their freedom.

There are times of great international struggle, and indeed of the cold war, when it was necessary for our Nation to compromise some of our most important principles. We did things and we made agreements with people, we compromised judgments, because we had no choice. Indeed, in some instances that will still be the case. But no one can argue that the struggle in Guatemala requires a compromise that involves shielding the murder of an American citizen.

Indeed, when this controversy passes, I hope if nothing else is achieved, it is that this Congress and this President face the threshold issue that there simply in nations like Guatemala, in places that were the battleground of the cold war, no great issue is at stake that involved the expenditure of our national treasures, the compromise of principles, or the taking of lives, of Americans or others, for what are certainly internal struggles with legitimate purposes by other nations that do not involve the United States.

I do not take issue with clandestine, covert operations or contract relationships in foreign intelligence or military services when it involves the security of the United States. But I do take issue with doing so when our national security is not involved, and when the laws of this country are violated.

We were not protecting the security of the United States by maintaining secrecy in Guatemala. We were protecting the Central Intelligence Agency from the laws of the United States and embarrassment by our own people.

Mr. Speaker, we did not come to this institution as Members, Democrats or Republicans alike, to defend an agency of this Government. We came here to protect the interests of the American people. Whether the Central Intelligence Agency long endures, whether it exists decade to decade, is of no great moment. What matters is whether the people of this country keep faith with this Government. Lying to our people, covering the crimes of any agency of this Government, will not keep faith with our people.

I know that different Members in the same circumstances may have reached a different judgment. I did what I thought was right, I did what I think is consistent with the laws of our country, my oath of office under the Constitution of the United States, in keeping with what I think are the great traditions of our country and the desires of my constituents. In that I make no apology.

But I do ask now that the Speaker, the chairman of the committee, join with me and the minority Members of this institution in seeking guidance from the Committee on Ethics to assure that we have a common understanding of how to deal with this conflict of oath and this ethical question in the future.

Mr. Speaker, I thank you for this opportunity, and yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TORRICELLI) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

(The following Member (at the request of Mr. WALSH) to revise and extend her remarks and include extraneous material:)

Mrs. CHENOWETH, for 5 minutes, today.

(Mr. GINGRICH (at the request of Mr. WALKER), and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,275.)

ADJOURNMENT

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. KIM). Pursuant to the provisions of House Concurrent Resolution 58, 104th Congress, the House stands adjourned until 12:30 p.m. on Monday, May 1, 1995.

Thereupon (at 11 o'clock and 53 minutes a.m.), pursuant to House Concurrent Resolution 58, the House adjourned until Monday, May 1, 1995, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

697. A letter from the Under Secretary of Defense, transmitting the Secretary's Selected Acquisition Reports [SARS] for the quarter ending December 31, 1994, pursuant to 10 U.S.C. 2432; to the Committee on National Security.

698. A letter from the Secretary of Education, transmitting a draft of proposed legislation entitled, "Carl D. Perkins Career

Preparation Education Act;" to the Committee on Economic and Educational Opportunities.

699. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled, "Amtrak Restructuring Act of 1995", pursuant to 31 U.S.C. 1110; to the Committee on Transportation and Infrastructure.

700. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled, "Interstate Commerce Commission Sunset Act of 1995;" to the Committee on Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EDWARDS (for himself and Mr. MONTGOMERY):

H.R. 1468. A bill to amend title 38, United States Code, to revise and improve veterans' health care programs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY:

H.R. 1469. A bill to amend the Internal Revenue Code of 1986 to clarify the tax treatment of certain contributions made pursuant to veterans' reemployment; to the Committee on Ways and Means.

By Mr. LAFALCE:

H.R. 1470. A bill to provide for sufficient funding to cover the costs of the Financing Corporation, to provide funds to carry out the purposes of the Savings Association Insurance Fund, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 1471. A bill to provide for sufficient funding to cover the costs of the Financing Corporation, to provide funds to carry out the purposes of the Savings Association Insurance Fund, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 1472. A bill to provide for sufficient funding to cover the costs of the Financing Corporation, to provide funds to carry out the purposes of the Savings Association Insurance Fund, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 1473. A bill to provide for claims against the United States arising from changes in the statutory treatment of supervisory good will on the books of saving associations; to the Committee on Banking and Financial Services.

H.R. 1474. A bill to amend the Federal Deposit Insurance Act to improve the requirements relating to the designated reserve ration for the deposit insurance funds and the procedures for funding the reserves in such funds, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 1475. A bill to merge the Bank Insurance Fund and the Savings Association Insurance Fund, to require savings associations to continue to pay assessments to the Financing Corporation, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 1476. A bill to merge the Bank Insurance Fund and the Savings Association Insurance Fund, to improve funding for the Financing Corporation, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 1477. A bill to merge the Bank Insurance Fund and the Savings Association Insurance Fund, to improve funding for the Financing Corporation, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 1478. A bill to provide for adequate funding for the Savings Association Insurance Fund, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 1479. A bill to provide for adequate funding for the Savings Association Insurance Fund and the Financing Corporation, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 1480. A bill to stabilize the condition of the Savings Association Insurance Fund, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 1481. A bill to clarify the regulatory authority of the Federal Deposit Insurance Corporation with respect to deposit insurance fund management, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. EVANS (for himself, Mr. MONTGOMERY, Mr. MASCARA, Mr. FILNER, and Mr. GUTIERREZ):

H.R. 1482. A bill to amend title 38, United States Code, to improve certain veterans programs and benefits; to the Committee on Veterans' Affairs.

By Mr. EVANS (for himself, Mr. MASCARA, Mr. FILNER, and Mr. GUTIERREZ):

H.R. 1483. A bill to amend title 38, United States Code, to allow revision of veterans benefits decisions based on clear and unmistakable error; to the Committee on Veterans' Affairs.

By Mr. KILDEE:

H.R. 1484. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Economic and Educational Opportunities.

By Mr. VENTO:

H.R. 1485. A bill to exclude certain electronic benefit transfer programs established by State or local governments from provisions of the Electronic Funds Transfer Act; to the Committee on Banking and Financial Services.

By Mr. HERGER (for himself, Mr. FAZIO of California, Mr. DOOLEY, Mr. RIGGS, Mr. GALLEGLY, Mr. POMBO, Mr. CALVERT, Mrs. SEASTRAND, Mr. MATSUI, Mr. FARR, Mr. CONDIT, Mr. THORNTON, Mr. BISHOP, Mr. BROWN of California, and Mr. THOMAS):

H.R. 1486. A bill to provide for a nationally coordinated program of research, promotion, and consumer information regarding kiwifruit for the purpose of expanding domestic and foreign markets for kiwifruit; to the Committee on Agriculture, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER of Louisiana (for himself and Mr. CHRYSLER):

H.R. 1487. A bill to reform and modernize the Federal Home Loan Bank System; to the Committee on Banking and Financial Services.

By Mr. BARR (for himself, Mr. MCCOLLUM, Mr. BRYANT of Tennessee, Mrs. CHENOWETH, Mr. STOCKMAN, Mr. BARTLETT of Maryland, Mr. BREWSTER, Mr. TAUZIN, and Mr. VOLKMER):

H.R. 1488. A bill to control crime by increasing penalties for armed violent criminals; to the Committee on the Judiciary.

By Mr. BONILLA:

H.R. 1489. A bill to designate the U.S. Post Office building located at 508 S. Burleson, McCamey, TX, as the "Claude W. Brown Post Office Building;" to the Committee on Government Reform and Oversight.

By Mr. VENTO:

H.R. 1490. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

By Mr. CASTLE (for himself, Mr. LAFALCE, Mr. MCCOLLUM, Mr. BAKER of Louisiana, Mr. KING, Mr. FRANK of Massachusetts, Mr. ROYCE, Mrs. MALONEY, Mr. CHRYSLER, and Mr. FOX):

H.R. 1491. A bill to expand credit availability by lifting the growth cap on limited service financial institutions, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. CRANE:

H.R. 1492. A bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Mr. RANGEL, and Mr. COX):

H.R. 1493. A bill to amend the Internal Revenue Code of 1986 to allow nonitemizers a deduction for a portion of their charitable contributions and to exempt the charitable contribution deduction from the overall limitation on itemized deductions; to the Committee on Ways and Means.

By Mr. DIAZ-BALART (for himself, Mr. BURTON of Indiana, Ms. ROS-LEHTINEN, and Mr. FUNDERBURK):

H.R. 1494. A bill to amend the National Security Act of 1947 to establish the positions of Director, Deputy Director, and Senior Directors of the National Security Council and to require that their appointments be subject to confirmation by the Senate, and for other purposes; to the Committee on National Security, and in addition to the Committees on International Relations, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FIELDS of Texas (for himself and Mr. MARKEY):

H.R. 1495. A bill to amend the Investment Company Act of 1940 to promote more efficient management of mutual funds, protect investors, and provide more effective and less burdensome regulation; to the Committee on Commerce.

By Mr. FIELDS of Texas (for himself, Mr. MCDERMOTT, Mrs. MINK of Hawaii, Mr. KING, Mr. FATTAH, Mr. YATES, Mr. OXLEY, Mr. LIPINSKI, Mr. CALVERT, Mr. FRAZER, Mr. BROWN of Ohio, Mr. GENE GREEN of Texas, Mr. JEFFERSON, Mr. HANSEN, Mr. HALL of Texas, Mrs. CLAYTON, Mr. FOX, Ms. DELAURO, Ms. LOFGREN, Mr. MONTGOMERY, Mrs. KENNELLY, Mr. HORN, Mr. PALLONE, Mr. JACOBS, Ms. LOWEY, Mr. FROST, Mr. EVANS, Mrs. MEEK of Florida, Mr. OLVER, Ms. PELOSI, Mr. SANDERS, Mr. SCHUMER, Mr. ENGEL, Mr. GUTIERREZ, Mr. GEJDENSON, Mr. ROMERO-BARCELÓ, Mr. BORSKI, Mr. WYNN, Mr. HALL of Ohio, Mr. BOUCHER, Mr. MCHALE, Mr. JOHNSON of South Dakota, and Mr. FOGLIETTA):

H.R. 1496. A bill to amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under part B of the medicare program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER (for himself and Mrs. CHENOWETH):

H.R. 1497. A bill to amend the Internal Revenue Code of 1986 to revise the limitation applicable to mutual life insurance companies on the deduction for policyholder dividends and to exempt small life insurance companies from the required capitalization of certain policy acquisition expenses; to the Committee on Ways and Means.

By Mr. HAMILTON:

H.R. 1498. A bill to modernize the Federal Reserve System, to provide for a Federal Open Market Advisory Committee, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. HEINEMAN (for himself, Mr. COBLE, Mr. TAYLOR of North Carolina, Mr. BURR, Mr. JONES, Mrs. MYRICK, Mr. ACKERMAN, Mr. BLUTE, Mr. BONO, Mr. BRYANT of Tennessee, Mr. CALVERT, Mrs. COLLINS of Illinois, Mr. COOLEY, Mr. CUNNINGHAM, Mr. FOX, Mr. HOKE, Mr. HOLDEN, Mr. KING, Mr. LIPINSKI, Mr. MCHUGH, Mr. METCALF, Mr. PAXON, Mr. SENSENBRENNER, Mr. SMITH of Texas, and Mr. BALLENGER):

H.R. 1499. A bill to improve criminal law relating to fraud against consumers; to the Committee on the Judiciary.

By Mr. HINCHEY (for himself, Mr. ACKERMAN, Mr. BEILENSON, Mr. BERMAN, Mr. BONIOR, Mr. BROWN of California, Mr. BROWN of Ohio, Mr. CONYERS, Mr. DELLUMS, Mr. EVANS, Mr. FARR, Mr. FILNER, Mr. FRANK of Massachusetts, Ms. FURSE, Mr. JACOBS, Mr. JOHNSTON of Florida, Mr. KLUG, Mr. LANTOS, Mr. LEWIS of Georgia, Ms. LOFGREN, Mrs. LOWEY, Mr. MARTINEZ, Mr. MCDERMOTT, Mr. MEEHAN, Mr. MINETA, Mrs. MINK of Hawaii, Mr. MORAN, Mrs. MORELLA, Mr. MURTHA, Mr. NADLER, Mr. OWENS, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. RANGEL, Ms. ROYBAL-ALLARD, Mr. SANDERS, Mrs. SCHROEDER, Mr. SERRANO, Mr. SHAYS, Ms. SLAUGHTER, Mr. SMITH of New Jersey, Mr. SPRATT, Mr. STARK, Mr. TORRES, Mr. TORRICELLI, Mr. TOWNS, Mr. WAXMAN, Ms. WOOLSEY, Mr. DEFAZIO, Ms. NORTON, and Mr. SKAGGS):

H.R. 1500. A bill to designate certain Federal lands in the State of Utah as wilderness, and for other purposes; to the Committee on Resources.

By Mr. ISTOOK (for himself, Mr. BAKER of Louisiana, Mr. BOEHNER, Mr. BONO, Mrs. CHENOWETH, Mr. DOOLITTLE, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. SAM JOHNSON, Mr. KASICH, Mr. KIM, Mr. KLUG, Mr. MCINTOSH, Mr. MILLER of Florida, Mr. NORWOOD, Mr. PORTER, Mr. SAXTON, Mr. SCARBOROUGH, Mr. TALENT, Mr. WATTS of Oklahoma, and Mr. WELLER):

H.R. 1501. A bill to amend the Federal Credit Reform Act to improve budget accuracy of accounting for Federal costs associated with student loans, to phase out the Federal Direct Student Loan Program, to make improvements in the Federal Family Education Loan Program, and for other purposes; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LINCOLN:

H.R. 1502. A bill to amend title XIX of the Social Security Act to prohibit a State from requiring any child with special health care needs to receive services under the State's plan for medical assistance under such title through enrollment with a capitated managed care plan until the State adopts pediatric risk adjustment methodologies to take into account the costs to capitated managed care plans of providing services to such children, and to direct the Secretary of Health and Human Services to develop model pediatric risk adjustment methodologies for such purpose; to the Committee on Commerce.

H.R. 1503. A bill to amend title XIX of the Social Security Act to require State Medicaid plans to cover services of certain clinics operated by children's hospitals and to reimburse such clinics for such services in an amount equal to 100 percent of the costs which are reasonable and related to the cost of furnishing such services; to the Committee on Commerce.

By Mr. MATSUI (for himself, Mr. CRANE, Mrs. JOHNSON of Connecticut, Mr. JACOBS, Mr. LEVIN, Mr. PORTMAN, Mr. CHRISTENSEN, Mr. STARK, Mr. SAM JOHNSON, Mr. KLECZKA, Mr. ENGLISH of Pennsylvania, Mrs. KENNELLY, Ms. ROS-LEHTINEN, and Mr. BENTSEN):

H.R. 1504. A bill to amend the Internal Revenue Code of 1986 to modify the treatment of governmental plans under the rules governing retirement plans; to the Committee on Ways and Means.

By Mr. MCKEON (for himself, Mr. GOODLING, Mr. CUNNINGHAM, and Mr. RIGGS):

H.R. 1505. A bill to amend the Portal to Portal Act of 1947 to limit the award of liquidated damages to employees of States and political subdivisions; to the Committee on Economic and Educational Opportunities.

By Mr. MOORHEAD (for himself, Mr. HYDE, Mr. CONYERS, and Mr. GEKAS):

H.R. 1506. A bill to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions, and for other purposes; to the Committee on the Judiciary.

By Ms. NORTON (for herself, Mrs. MALONEY, Mr. NADLER, Miss COLLINS of Michigan, Ms. VELAZQUEZ, Mr. SERRANO, Mrs. SCHROEDER, Mr. FILNER, Ms. ROYBAL-ALLARD, Mr. PAYNE of New Jersey, Mr. MARTINEZ, Mr. TUCKER, Mr. GONZALEZ, Mr. FROST, Mr. LEWIS of Georgia, Mrs. MINK of Hawaii, Mr. EVANS, Ms. MCKINNEY, Mr. HINCHEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. LOWEY, and Ms. BROWN of Florida):

H.R. 1507. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Ms. NORTON:

H.R. 1508. A bill to require the transfer of title to the District of Columbia of certain real property in Anacostia Park to facilitate the construction of National Children's Island, a cultural, educational, and family-oriented park; to the Committee on Resources, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. NORTON (by request):

H.R. 1509. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to permit certain tax revenues of the District of Columbia to be pledged to pay debt service on obligations issued by an agency or instrumentality of the District government to finance certain costs of a downtown sports arena and convention center; to authorize such agency or instrumentality of the District government to expend such tax revenues without the requirement that such tax revenues be appropriated by the District of Columbia and the Congress; to provide that the obligations issued by any such agency or instrumentality of the District government shall not be considered general obligations of the District of Columbia for purposes of calculating limitations on borrowing and spending by the District of Columbia, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. ROEMER (for himself, Mr. DOYLE, Mr. JACOBS, and Mr. KLUG):

H.R. 1510. A bill to prohibit the Department of Energy from acting as the agency of implementation, with respect to nondefense Department of Energy laboratories, for certain environmental, safety, and health regulations, and to require reduction in personnel at such laboratories; to the Committee on Science.

By Mr. SANDERS:

H.R. 1511. A bill to provide for the termination of nuclear weapons activities, and for other purposes; to the Committee on National Security, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON (for himself, Mr. TORRICELLI, Mr. LOBIONDO, Mr. MARTINI, Mr. ROEMER, Mr. UPTON, and Mrs. VUCANOVICH):

H.R. 1512. A bill to amend the Indian Gaming Regulatory Act to bring more balance into the negotiation of Tribal-State compacts, to require an individual participating in class II or class III Indian gaming to be physically present at the authorized gaming activity, and for other purposes; to the Committee on Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON:

H.R. 1513. A bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans benefits from August 5, 1964, to December 22, 1961; to the Committee on Veterans' Affairs.

By Mr. TAUZIN (for himself, Mr. Hall of Texas, Mr. Cramer, Mr. Roemer, Mr. Blute, Mr. Gillmor, Mr. Stump, Mr. Emerson, Mr. Hancock, Mr. Gejdenson, Mr. Minge, Mr. Callahan, Mr. Gene Green of Texas, Mr. Baesler, Mr. Collins of Georgia, Mr. Bishop, Mr. Everett, Mr. Bevill, Mr. Taylor of North Carolina, Mr. Bachus, Mr. Klug, Mr. Hilliard, Mr. Parker, Mr. Jefferson, Mr. Lewis of Kentucky, Mr. Paxon, Mr. Bonilla, Mr. McIntosh, Mr. Traficant, Mr. Oxley, Mr. Talent, Mr. Browder, and Mr. Jacobs):

H.R. 1514. A bill to authorize and facilitate a program to enhance safety, training, research, and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS:

H.R. 1515. A bill to amend the Internal Revenue Code of 1986 to provide for fair treatment of small property and casualty insurance companies; to the Committee on Ways and Means.

By Mr. VISCLOSKY (for himself, Mr. Stenholm, Mr. Dooley, and Mr. Barrett of Wisconsin):

H.R. 1516. A bill to achieve a balanced Federal budget by fiscal year 2002 and each year thereafter, achieve significant deficit reduction in fiscal year 1996 and each year through 2002, establish a Board of Estimates, require the President's budget and the congressional budget process to meet specified deficit reduction and balance requirements, enforce those requirements through a multiyear congressional budget process and, if necessary, sequestration, and for other purposes; to the Committee on the Budget, and in addition to the Committees on Ways and Means, Rules, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS:

H.R. 1517. A bill to amend title XII of the National Housing Act to establish a national property reinsurance program to ensure the availability and affordability of property insurance in underserved areas; to the Committee on Banking and Financial Services.

H.R. 1518. A bill to amend the Internal Revenue Code of 1986 to provide an incremental investment tax credit to assist defense contractors in converting to nondefense operations; to the Committee on Ways and Means.

H.R. 1519. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the construction and renovation of nonresidential buildings in distressed areas; to the Committee on Ways and Means.

By Mr. WILLIAMS:

H.R. 1520. A bill to amend the National Foundation on the Arts and the Humanities Act of 1995; to establish the American Cultural Trust Fund and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. WYDEN (for himself, Mrs. Morella, and Mr. Fox):

H.R. 1521. A bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence; to the Committee on Commerce.

By Mr. TORRES (for himself, Mr. Ackerman, Mr. Beilenson, Mr. Berman, Mr. Bonior, Mr. Brown of California, Mr. Bryant of Texas, Mr. Dellums, Ms. Eshoo, Mr. Evans, Mr. Fattah, Mr. Fazio of California, Mr. Filner, Mr. Frank of Massachusetts, Mr. Frost, Ms. Harman, Mr. Lipinski, Ms. Lowey, Mr. McDermott, Mr. Miller of California, Mr. Mineta, Mr. Moran, Ms. Pelosi, Mr. Romero-Barcelo, Ms. Roybal-Allard, Mrs. Schroeder, Mr. Serrano, Ms. Slaughter, Mr. Vento, Mr. Walsh, Ms. Waters, Mr. Waxman, Ms. Woolsey, and Mr. Yates):

H.R. 1522. A bill to amend the Solid Waste Disposal Act to provide management standards and recycling requirements for spent lead-acid batteries; to the Committee on Commerce.

By Mr. TORRES (for himself, Mr. Ackerman, Mr. Beilenson, Mr. Berman, Mr. Bonior, Mr. Brown of California, Mr. Bryant of Texas, Mr. Dellums, Ms. Eshoo, Mr. Evans, Mr. Fattah, Mr. Fazio of California, Mr. Filner, Mr. Frank of Massachusetts, Mr. Frost, Ms. Harman, Mr. Kleczka, Mr. Lipinski, Ms. Lowey, Mr. McDermott, Mr. Miller of California, Mr. Mineta, Mr. Moran, Ms. Pelosi, Mr. Romero-Barceló, Ms. Roybal-Allard, Mrs. Schroeder, Mr. Serrano, Ms. Slaughter, Mr. Vento, Mr. Walsh, Ms. Waters, Mr. Waxman, Ms. Woolsey, and Mr. Yates):

H.R. 1523. A bill to amend the Solid Waste Disposal Act to require producers and importers of newsprint to recycle a certain percentage of newsprint each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such newsprint, and for other purposes; to the Committee on Commerce.

By Mr. TORRES (for himself, Mr. Ackerman, Mr. Beilenson, Mr. Berman, Mr. Bonior, Mr. Brown of California, Mr. Bryant of Texas, Mr. Dellums, Ms. Eshoo, Mr. Evans, Mr. Fattah, Mr. Fazio of California, Mr. Filner, Mr. Frank of Massachusetts, Mr. Frost, Ms. Harman, Mr. Lipinski, Ms. Lowey, Mr. McDermott, Mr. Miller of California, Mr. Mineta, Mr. Moran, Ms. Pelosi, Mr. Romero-Barcelo, Ms. Roybal-Allard, Mrs. Schroeder, Mr. Serrano, Mr. Vento, Mr. Walsh, Ms. Waters, Mr. Waxman, Ms. Woolsey, and Mr. Yates):

H.R. 1524. A bill to amend the Solid Waste Disposal Act to require producers and importers of tires to recycle a certain percentage of scrap tires each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such tires, and for other purposes; to the Committee on Commerce.

By Mr. TORRES (for himself, Mr. Ackerman, Mr. Beilenson, Mr. Berman, Mr. Bonior, Mr. Brown of California, Mr. Bryant of Texas, Mr. Dellums, Ms. Eshoo, Mr. Evans, Mr. Fattah, Mr. Fazio of California, Mr. Filner, Mr. Frank of Massachusetts, Mr. Frost, Ms. Harman, Mr. Kleczka, Mr. Lipinski, Ms. Lowey, Mr. McDermott, Mr. Miller of California, Mr. Mineta, Mr. Moran, Ms. Pelosi, Mr. Romero-Barcelo, Ms. Roybal-Allard, Mrs. Schroeder, Mr. Serrano, Mr. Vento, Mr. Walsh, Ms. Waters, Mr. Waxman, Ms. Woolsey, and Mr. Yates):

H.R. 1525. A bill to amend the Solid Waste Disposal Act to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out recycling of used oil, and for other purposes; to the Committee on Commerce.

By Mr. HASTINGS of Washington (for himself, Mr. Wamp, Mr. Graham, Mr. Nethercutt, and Mr. Dicks):

H.R. 1526. A bill to authorize the Secretary of Energy to enter into privatization arrangements for activities carried out in connection with defense nuclear facilities, and for other purposes; to the Committee on Commerce, and in addition to the Committees on National Security, Government Reform and Oversight, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself, Mr. McCollum, and Mr. Schumer):

H. Con. Res. 61. Concurrent resolution expressing the sense of the Congress regarding certain recent remarks that unfairly and inaccurately maligned the integrity of the Nation's law enforcement officers; to the Committee on the Judiciary.

By Mr. SERRANO (for himself, Mr. Ackerman, Mr. Frost, Mr. Gonzalez, Mr. Gene Green of Texas, Mr. Hilliard, Mr. Jefferson, Ms. Eddie Bernice Johnson of Texas, Mr. McDermott, Mrs. Maloney, Mr. Manton, Mrs. Meek of Florida, Mr. Moakley, Mr. Nadler, Mr. Owens, Mr. Richardson, Mr. Romero-Barceló, Mr. Studds, Ms. Velazquez, Mr. Waxman, and Mr. Yates):

H. Con. Res. 62. Concurrent resolution expressing the sense of the Congress with respect to pediatric and adolescents AIDS; to the Committee on Commerce.

By Mr. SOLOMON (for himself, Mr. Torricelli, Mr. Lantos, Mr. Burton of Indiana, Mr. Ackerman, Mr. Brown of Ohio, Mr. Deutsch, Mr. Gejdenson, and Mr. Faleomavaega):

H. Con. Res. 63. Concurrent resolution relating to the Republic of China (Taiwan)'s participation in the United Nations; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. Klug.

H.R. 367: Mr. Barrett of Wisconsin.

H.R. 460: Mr. Rohrabacher, Mr. Peterson of Minnesota, Mr. Minge, Mr. Orton, Mr. Camp, and Ms. Lofgren.

H.R. 530: Mr. Sam Johnson, Mr. Talent, Mr. Greenwood, Mr. Engel, and Mr. Gekas.

H.R. 540: Ms. Rivers, Mr. Bishop, Mr. Conyers, Mr. Fattah, Mr. Oberstar, Mr. Kildee, Mr. Serrano, Mr. McDermott, Mr. McHugh, Mr. Clyburn, Mr. Barcia of Michigan, Ms. Velazquez, Mr. Gilman, Mr. Ackerman, Mr. Manton, Mr. Deutsch, Ms. Brown of Florida, and Mr. Gejdenson.

H.R. 563: Mr. RIGGS and Mr. POMBO.

H.R. 682: Mr. LAUGHLIN and Mr. MINETA.

H.R. 770: Mr. FAZIO of California.

H.R. 931: Mr. SPENCE, Mr. GILMAN, Mr. CLYBURN, Mrs. MINK of Hawaii, Mr. BISHOP, Mr. FATTAH, Mr. SERRANO, and Mr. MARTINEZ.

H.R. 942: Mr. ENGEL.

H.R. 997: Mr. DICKEY, Mr. CALVERT, Mr. ANDREWS, Mr. ACKERMAN, and Mr. BENTSEN.

H.R. 1020: Mr. EVERETT, Mr. ROTH, Mr. DEAL of Georgia, Mr. KINGSTON, Ms. RIVERS, Mr. CRAMER, Mr. HAYES, Mr. MONTGOMERY, Mr. SISISKY, Mr. SAXTON, Mr. HOLDEN, Mr. KING, Mr. LAZIO of New York, Mr. JONES, Mr. CHAPMAN, Mr. STUMP, Mr. TRAFICANT, Mr. BURTON of Indiana, Mr. ROSE, Mr. SOLOMON, Mrs. MEYERS of Kansas, Mr. MCCOLLUM, and Mr. ROGERS.

H.R. 1023: Mr. MCCOLLUM.

H.R. 1172: Mr. GREENWOOD, Mr. ACKERMAN, Mr. MEEHAN, Mr. KLUG, Mr. HYDE, Mr. SCHUMER, Mr. DOYLE, and Mr. BALLENGER.

H.R. 1233: Mr. DOYLE, Mr. GENE GREEN of Texas, Mr. POMEROY, and Mr. TORRES.

H.R. 1234: Mr. STENHOLM.

H.R. 1251: Mr. FRANK of Massachusetts, Mr. FROST, Mrs. COLLINS of Illinois, Mr. STUDDS, Mr. BISHOP, Mr. LIVINGSTON, and Mr. LIPINSKI.

H.R. 1255: Mr. FIELDS of Texas, Mr. ROHRABACHER, and Mr. STOCKMAN.

H.R. 1302: Mr. TORRES.

H.R. 1386: Mr. SOLOMON, Mr. HANCOCK, Mr. ROHRABACHER, Mr. PAXON, Mr. TALENT, Mr. CHRISTENSEN, Mr. BARTLETT of Maryland, Mr. EHLERS, and Mr. MCCRERY.

H.R. 1400: Ms. NORTON.

H.R. 1405: Mrs. COLLINS of Illinois and Mr. TORRES.

H.J. Res. 84: Mr. CLAY and Mr. BERMAN.

H. Con. Res. 4: Mr. CALVERT, Mr. HOSTETTLER, and Mr. BILIRAKIS.

H. Con. Res. 5: Mr. FUNDERBURK.

H. Con. Res. 12: Mrs. MORELLA.

H. Con. Res. 21: Mr. JOHNSON of South Dakota.

H. Res. 122: Mr. COSTELLO, Mr. HILLIARD, Mr. PALLONE, and Mr. SANDERS.

PETITIONS, ETC.

Under clause 1 of rule XXII,

5. The SPEAKER presented a petition of Marlene Y. Green from Pittsburgh, PA, relative to national health care: which was referred to the Committee on the Judiciary.

DISCHARGE PETITIONS

Under clause 3 of rule XXVII, the following discharge petition was filed:

Petition 3, April 5, 1995, by Mr. VOLKMER on H.R. 920, was signed by the following Member: Harold L. Volkmer.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. CHAPMAN on H.R. 125: J.D. Hayworth and Tom A. Coburn.

Petition 2 by Mr. STOCKMAN on House Resolution 111: John E. Ensign, Dave Weldon, Bernard Sanders, John T. Doolittle, Wally Herger, Randy Tate, Jim Bunn, Robert K. Dornan, Joel Hefley, Steven C. LaTourette, James M. Talent, and Phil English.

Petition 3 by Mr. VOLKMER on H.R. 920: Harold L. Volkmer.

EXTENSIONS OF REMARKS

CHAMPIONSHIP FEVER

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. COBLE. Mr. Speaker, there is championship fever at a high school in our congressional district these days, because for the first time in its history, Eastern Guilford High School in Greensboro, NC, won its first state title in any sport. This distinction was accomplished by the wrestling team when it captured the North Carolina 1A/2A team championship on February 25 in what was called the closest championship match in state history.

Now that the Wildcat wrestlers have won the first state crown, all of the other teams at Eastern Guilford are trying to win championships, too. Athletic Director Leigh Hebbard told the Greensboro News & Record that, "There has been some talk among our athletes in other sports that they want to get the next one. I think this has stirred up a little desire in our other athletes."

Most of the credit for stirring things up must go to Head Coach Robbie Harris and his wrestling squad. They completed an outstanding season with an exciting win in Charlotte. Going into the final match, Eastern Guilford held a 4½-point lead over Mount Pleasant High School. If the Mount Pleasant wrestler had secured a major decision (five points) or a pin (six points) in the heavyweight title match, the Wildcats' championship would have been lost. But the Mount Pleasant wrestler could only salvage a tie in his match, thus securing the victory for Eastern Guilford.

Congratulations for this title goes to each member of the Wildcat wrestling squad: Hugh Armstrong, Alan Aufderhar, Mike Baker, Kevin Bowman, Nick Campbell, Travis Coleman, Richard Mai, Thien Mai, Braxton McIntyre, Cory Phoenix, Anthony Poole, Tony Taylor, Matt Tolbert, Paul Vanness, Brooks Williams, Garrett Williams, and Roy Wilson. Additional thanks for their assistance goes to the Eastern Guilford Wrestlerettes/Mat Maids: Cassa Allison, Crystal Barfield, Kristi Bettini, Erica Busick, Amber Cunningham, Amy Frazier, Sharon Garrett, Christina Hughes, and Katie Tolbert. Special thanks also goes to athletic trainer Cher Frauenhoffer and to student trainers Tracie Peeples and Jamie Russell.

To all of Eastern Guilford's students, faculty, staff, families, and friends, we say thanks for your support of the Eastern Guilford High School wrestling champions. Everyone from Principal Jane Teague to Athletic Director Leigh Hebbard to Head Coach Robbie Harris should be praised for bringing the first State high school championship to Eastern Guilford High School.

VOLUNTEER OF THE YEAR

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. FORBES. Mr. Speaker, I rise today to commend an exceptional citizen. Al Philips, Jr., who as president of the Sag Harbor Ambulance Corps for 10 years, was recently named Member of the Year. Mr. Philips is a training officer, a cardiopulmonary rescusitation instructor, and an emergency medical technician certified in critical care. Mr. Philips has made great sacrifices to ensure that he has been there for the corps and the community of Sag Harbor.

Today, more and more people are seeking to get involved in their communities. The unsung leaders of this community movement are volunteers. From our volunteer firemen to the high school jazz band playing concerts for senior citizens, from child mentors to literacy volunteers, these people are the glue that keep our communities together.

But what exactly is community service? Most people think of it as the act being performed, such as a rescue of a child by an emergency service volunteer. But in fact, service is not isolated to what we call "the action of". Rather, service is the sacrifice one makes to be a volunteer. This may include the sacrifice of time with your family, the sacrifice of money, or even one's life. A volunteer fireman understands this every time he enters a burning building. And what about the volunteer's family? They obviously are forced to join him or her in the world of volunteerism, because they too make sacrifices.

The most important aspect of service occurs after what we are calling "the action of." This is when the stories of the volunteers are relayed to others. When a college kid decides to spend an afternoon volunteering at a soup kitchen, the more important act of service occurs soon after he leaves. It occurs when he goes back to his dorm and tells the story of the grateful man who broke down in tears because the student had taken the time to help him in his time of need. It occurs when those listening might catch the bug and get involved also. It is the testimony of a volunteer's experience that is usually the best way to recruit others. Thus, it is the act of sharing and telling that becomes the greatest service.

Mr. Speaker, the sacrifices Mr. Philips has made, along with his continuing involvement to ensure the safety and well-being of the citizens of Eastern Long Island, make him worthy of the honor Volunteer of the Year.

EARTH DAY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. VENTO. Mr. Speaker, with a new Republican majority, Americans hoped for the best—now we know after 3 months, to expect the worst: Republican partisanship serving special interests, not the American people and their families.

As citizens all across America prepare to celebrate the 25th anniversary of Earth Day, I am deeply troubled that in our Nation's Capital, the 104th Congress is working furiously to destroy almost all that has been accomplished in the last three to four decades. This "contract" on America—on America's landscapes, on America's air, on America's water, on America's parks and wilderness, will take a terrible toll. This environmental assault is an insult to the American people.

That first Earth Day, in 1970, was based upon an enthusiastic grassroots movement that fueled a conservation ethic and commitment to the environment for future generations. In the 1970's Americans were rightly concerned about clean air and clean water and even the threatened extinction of our national symbol—the bald eagle. In response Congress enacted landmark conservation legislation, which today are household words—the Clean Air Act, the Clean Water Act, and the Endangered Species Act.

Our Nation was energized about the progress in addressing these concerns and extended this American conservation ethic and vision to challenge global problems of rainforest destruction, Antarctica's preservation, biodiversity, ozone depletion, and global warming. In response the United States has been an architect in the development of international conferences and numerous treaties to save the spaceship Earth.

But on this silver anniversary of Earth Day, we face a new challenge—a corrosive and embarrassing tarnish to America's Earth Day 1995. In Washington we have a new congressional majority with "an attitude": pay back the Democrats, antiregulation, antienvironment and anti-Federal Government. A Congress set to set back the environment to the thrilling days of yesterday. A new majority inexperienced and arrogant and legislating by anecdote based upon misinformation, misperceptions, and fraud, but hell bent on destroying our Nation's public commitment to preservation, conservation, and restoration of future generations' natural legacy.

The intense assault on our national environmental policy and laws isn't stated clearly in the "contract," but between the lines and veiled from public scrutiny under the guise of "regulatory reform," property rights, unfunded mandates—the examples and justification for

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

such action is the mosaic of environmental law. This new Congress seems intent on walking away from science and decades of environmental policy and serving as the complaint tool to special interests whose only interest is the bottom line.

Today, everything is at stake: clean air, safe drinking water, park and wilderness protection, forest conservation preservation and protection of our endangered species. The pace of the assault is purposeful and relentless—a "hundred days" of force fed legislation without deliberation or accountability.

Last month the House passed appropriations legislation that savages our national forests by mandating sales which would double the timber harvest nationwide in just 2 years—without regard to any current environmental law and shut off from public comment as required by law. Last week, by a single vote, the Senate refused to moderate this policy. The same House appropriations bill slashed funding needed to implement the Clean Air Act, the Safe Drinking Water Act, and the Endangered Species Act.

This month a House committee is considering legislation to rewrite the Clean Water Act. It was reported that this new proposal was actually written with the help of lobbyists in closed-door sessions without input from the Environmental Protection Agency or other Members with environmental concerns. This is not good clean water policy—the measure has been aptly dubbed "the polluters' bill of rights."

All this follows House-passed legislation now making its way through the Senate, that puts a freeze on all regulations with a special 2-year hold on the Endangered Species Act, forces the Federal Government to pay regulatory compensation to property owners impacted by environmental laws and requires agencies that promulgate rules to do elaborate analysis before issuance subjecting all to court challenge—simply a formula to paralyze the Federal Government.

Laws like the Endangered Species Act serve as the "canary in the coal mine." Rather than denying the problem or blaming the messenger, Congress should be solving the problem-stop rationalizing excuses and promoting paid critics who justify reneging on the laws. We should become engaged in the tough job of problem solving and changing our Nation's behavior, to live in balance with the limitations of the natural environment.

Regulations are the wheels which carry the laws into effect. They are based upon the perception, knowledge, and views of the people we represent. Frustration in America has grown. In the easy politics that bemoans government and redtape and seeks instant gratification, the environmental laws have become the stumbling block, the symbol that complicates life and limits behavior. The Federal Government leads such policy because the problems don't know political lines. But it is a collaborative role—environmental policy cannot be taken for granted, cannot be permitted to be politically expedient. Rather, environmental policy is a special trust. Its application should work with States—but especially and most importantly, with citizens.

The American citizen during the next 3 weeks, while Members are in their Districts, can help stop this assault. Challenge your policymaker to see the light—or feel the heat. They need to be forcefully reminded that environmental policies and laws now brutally attacked were not forged through partisan warfare. They are not the work of Democrats or Republicans alone—rather they are uniquely derived from years of deliberation, of listening and responding to the core conservation values and ethics of the American people.

These policies are based on the wisdom of Americans who by experience, education, and ethics understood that there are some areas of this vast Nation that shouldn't be despoiled. They are based on the right of all Americans to breathe clean air and drink clean water. They are based on a commitment to the future that we all share—to hand down to the next generation a healthy planet. These views are basic to the definition of us as a people and culture.

Americans will not turn over our natural legacy to those who would destroy it. We must educate those in office with on-the-job training or by removal from office if they are incorrigible.

This vast and beautiful planet is like the design of a rare and complex tapestry. The weaving is made valuable not by any one thread but by the way that hundreds of strands are arranged. Each section is connected to the next in innumerable ways, as each thread in our eyes is connected to the next in innumerable ways to make an impression—a mosaic.

Understandably, difficult environmental policy questions follow from this example. As policymakers our task is to use this ecologically sensitive and irreplaceable resource, without arbitrarily cutting it to pieces and destroying this biosphere forever.

This involves understanding the impact of activities, measuring of the biodiversity, and the relationship of the physical and natural environment, which are all part of a larger cycle. A thread that is pulled one place changes the rest of the picture. Every action has a consequence. For these reasons and many more, the Federal Government enacted environmental laws and policies to help us be reasonable stewards of our land and resources. The intent was to guide us and limit our individual actions—a policy path that would optimize our utilization today while maintaining and enhancing the prospects for tomorrow's generations.

Citizens after all are a significant and much-needed force in these policy debates. Recruit more people, continue to make yourselves heard. Have faith. Americans haven't stopped caring, they have assumed that these issues were once achieved and are cemented in place. Americans—make yourselves heard—if the people lead, the Members of Congress will follow.

THE INTRODUCTION OF FAIR PAY ACT OF 1995

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Ms. NORTON. Mr. Speaker, in enacting the Equal Pay Act [EPA] in 1963, Congress hoped to close the wage gap between men and women by prohibiting wage discrimination based on the gender of the employees performing the work. Some progress has been made, but much of it is illusory. In 1982, women earned 62 cents to a man's dollar; in 1992, they earned 71 cents. However, this movement reflects an alarming decrease in male wages as well as the new presence of highly educated women in entry level positions. The wage gap persists largely because most women are still segregated into a few low-paying occupations. A supplementary remedy is needed.

This bill, the Fair Pay Act, amends the Fair Labor Standards Act to ensure equal pay not just for equal work, but also for comparable work—jobs that are equivalent in skill, effort, responsibility, and working conditions. More than 30 years of EPA experience demonstrates that if we are serious about gender and race-based wage discrimination, we must sharpen our remedies.

When we look closely and objectively, can we honestly say that an emergency services operator—a female dominated profession—should be paid less than a fire dispatcher—a male dominated profession? Or that a social worker should earn less than a probation officer simply because the social worker is usually a woman? Shouldn't the market set these rates? Too often the habits of employers over the decades have been built into distortions in the market. Women and minorities pay the price in reduced wages.

The Fair Pay Act also expands protections provided in the Equal Pay Act by prohibiting wage discrimination based on the race and national origin of employees. In 1992, African-American men earned 72 percent as much as white men, while African-American women earned only 64 percent as much as white men. Hispanic men earned 65 percent as much as white men, while Hispanic women earned only 55 percent as much. While some of the wage gap results from differences in education, experience, or time in the work force, studies estimate that 75 percent of this differential may be a result of discrimination.

A remedy that exorcises only the discrimination factor is necessary. As with sex discrimination and all other kinds of discrimination, the plaintiff who alleges discrimination must carry the burden to show that discrimination is the proximate cause of the violation.

Most American families are wholly or significantly dependent on women's wages. Fair pay has become increasingly a family necessity and an urgent issue. Families cannot meet the challenge unless Congress takes up its challenge to enact a wage statute that meets the needs of the nineties as the Equal Pay Act did in the sixties.

SECTION-BY-SECTION ANALYSIS, THE FAIR PAY ACT OF 1995

SECTION 1—SHORT TITLE AND REFERENCE

Section 1 (a) states that this Act may be cited as the "Fair Pay Act of 1995."

Section 1 (b) provides that all amendments in this bill refer to the Fair Labor Standards Act of 1938.

SECTION 2—FINDINGS

Section (1) states that there are differences in wages for equivalent jobs in Government employment and in industries engaged in commerce or in the production of goods for commerce. These wage differences are based on sex, race, or national origin.

Section (2) states that the existence of the wage differentials causes the following:

Subsection (2)(A) provides that wage differentials depress wages and living standards for employees. Both which are necessary for their health and efficiency.

Subsection (2)(B) provides that wage differentials result in the prevention of maximum use of available labor resources.

Subsection (2)(C) provides that wage differentials cause labor disputes therefore burdening, affecting and obstructing commerce.

Subsection (2)(D) provides that wage differentials burden commerce and the free flow of goods in commerce.

Subsection (2)(E) provides that wage differentials constitute an unfair method of competition.

Section (3) states that a segregated workforce has been maintained due to discrimination in hiring and promotion of women and people of color.

Section (4) states that many women and people of color work in occupations dominated by individuals of their same sex, race, and national origin.

Section (5)(A) provides that a General Accounting Office analysis of wages in Washington State civil service found that, in 1985, of the jobs studies that paid less than average, approximately 39 percent were female dominated and approximately 16 percent were male dominated.

Subsection (5)(B) provides that a study of wages in Minnesota using 1990 census data found that 75 percent of the wage differential between white and non-white workers was unexplained and may be a result of discrimination.

Section (6) states that Section 6(D) of the Fair Labor Standards Act prohibits discrimination in compensation for "equal work" on the basis of sex.

Section (7) states that the United States Supreme Court has held that the prohibition against discrimination in Title VII of the Civil Rights Act of 1964 extends to jobs which do not constitute "equal work." However, lower court decisions have demonstrated that further clarification of jobs that do not constitute "equal work" is necessary.

Section (8) states that artificial barriers to the elimination of discrimination in compensation based upon sex, race, and national origin continue to exist more than 30 years after passage of the Equal Pay Act. Elimination of such barriers would have positive effects:

Subsection (8)(A) providing a solution to problems in the economy created by discriminating wage differentials.

Subsection (8)(B) reducing the number of working women and people of color earning low wages, thereby reducing the dependence on public assistance.

Subsection (8)(C) promoting stable families by enabling working family members to earn a fair rate of pay.

SECTION 3—EQUAL PAY FOR EQUIVALENT JOBS

Section 3(a) provides that Section 6 of the Fair Labor Standards act is amended by adding a new section. The new section states the following:

Section (g)(1)(A) states that no employer having employees subject to any provisions of this section shall discriminate between employees based on sex, race, or national origin by paying wages at a rate less for work of equal value, except where the payment is made based on a seniority system, a merit system or a system where earnings are measured by quantity or quality of production.

Section (g)(1)(B) states that an employer who is paying a wage differential in violation of subparagraph (A) shall not reduce the wage rate of any employee.

Section (g)(2) states that no labor organization or its agents representing employees of an employer subject to any provision of this section shall cause or attempt to cause the employer to discriminate against an employee in violation of paragraph (1)(A).

Section (g)(3) provides for employers to pay any amounts which have been withheld in violation of paragraph (1)(A). Any amounts owing to any employee shall be deemed unpaid minimum wages or unpaid overtime compensation under this or section 7.

Section (g)(4) provides that the following definitions apply to this subsection:

Section (g)(4)(A) defines 'labor organization' as an organization of any kind, or an agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Section (g)(4)(B) defines 'equivalent jobs' as those jobs that may be dissimilar, but whose requirements are viewed as equivalent in a composite of skills, effort, responsibility and working conditions.

SECTION 4—PROHIBITED ACTS

Section 4 states that section 15(a) (29 U.S.C. 214(a)) is amended by adding after paragraph (5) a new subsection (6) which provides the following:

Section 15(a)(b) prohibits the discrimination of any individual who has opposed any act or practice made unlawful by section 6(g) or because such an individual made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under section 6(g).

Section 15(a)(7) prohibits the discharge or any other form of discrimination, coercion, intimidation, threat, or interference with any employee or any other person because the employee asked about, disclosed, compared, or otherwise discussed the employee's wages or the wages of any other employee, or because the employee exercised, enjoyed, aided, or encouraged another person to exercise or enjoy any right granted or protected by section 6(g).

SECTION 5—REMEDIES

Section 5 states that section 16 (29 U.S.C. 216) is amended by (1) adding the following:

Section 16(f) authorizes the court, if any action is brought, to award to the prevailing plaintiff(s), in addition to any other remedies, expert fees as part of the costs. Any such action may be maintained as a class action as provided by Federal Rules of Civil Procedure.

SECTION 6—RECORDS

Section 6 states that section 11(c) (29 U.S.C. 211(c)) is amended by inserting "(1)" after the current section (c), and by adding a section which provides the following:

Section c(2)(A) states that every employer subject to section 6(g) shall have records which document and support the method, system, calculations, and other bases used by the employer in establishing, adjusting, and determining the wages paid to the employees of the employer. Every employer subject to section 6(g) shall keep records for a period of time and make a report to the Equal Employment Opportunity Commission as shall be prescribed by regulations.

Section c(2)(B) states that every employer subject to section 6(g) shall file an annual report with the Equal Employment Opportunity Commission containing information in such detail as necessary to accurately disclose the wage or salary rates paid to each job classified, position, job title, or other wage or salary group of employees employed by the employer, as well as the sex, race and national origin of employees at each wage or salary level in each classification, position, job title, or other wage or salary group. The report shall not include the name of any individual employee.

Section c(2)(C) states that the reports filed with the Equal Employment Opportunity Commission shall be public information. The Equal Employment Opportunity Commission may publish any information or data it obtains through the reports. The Equal Employment Opportunity Commission is also authorized to use the information and data for statistical and research purposes, and to compile and publish such studies, analyses, reports, and surveys based thereon as it may deem appropriate.

Section c(2)(D) states that the Equal Employment Opportunity Commission shall by regulation make reasonable provision for the inspection and examination by any persons of the information and data contained in any report filed with it pursuant to subparagraph (B).

Section c(2)(E) states that the Equal Employment Opportunity Commission shall by regulation supply copies of the report filed to anybody upon payment of a charge; charge depends on the cost of the service.

Section c(2)(F) authorizes the Equal Employment Opportunity Commission to issue rules and regulations prescribing the form and content of reports required to be filed under subparagraph (B) and such other reasonable rules and regulations as it may find necessary to prevent the circumvention or evasion of the required report. The Equal Employment Opportunity Commission may prescribe by general rule a simplified report for those employers for whom it finds that by virtue of size a detailed report would be unduly burdensome.

SECTION 7—RESEARCH, EDUCATION, AND TECHNICAL ASSISTANCE PROGRAM; REPORT TO CONGRESS

Section 7 amends section 4(d) (29 U.S.C. 204(d)) by adding the following at the end:

Section 4(d)(4) states that the Equal Employment Opportunity Commission shall undertake studies and offer information and technical assistance to employers, labor organizations, and the general public concerning effective mean available to implement the provisions of section 6(g) prohibiting wage discrimination between employees performing work in equivalent jobs on the basis of sex, race, or national origin. The studies, information, and technical assistance shall be based upon and make references to the declared policy of such section to eliminate such discrimination. The Equal Employment Opportunity Commission must further carry on a continuing program of research, education, and technical assistance including the following:

Subsection (A) states that it shall include undertaking and promoting research with the intent of developing means to expeditiously correct the conditions leading to section 6(g).

Subsection (B) states that publishing and otherwise making available to employers, labor organizations, professional associations, educational institutions, the various media of communication, and the general public the finding of studies and other materials for promoting compliance with section

6(g) is included in the further continuance of the research.

Subsection (C) includes sponsoring and assisting State and community informational and educational programs.

Subsection (D) includes providing technical assistance to employers, labor organizations, professional associations and other interested persons on means of achieving and maintaining compliance with the provisions of section 6(g).

Section 4(d)(5) states that the annual report submitted by the Equal Employment Opportunity Commission to Congress shall include a separate evaluation and appraisal regarding the implementation of section 6(g).

SECTION 8—EFFECTIVE DATE

Section 8 states that the amendments made by this Act shall take effect one year after the date of its enactment.

CHABAD HOUSE ANNUAL DINNER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. PALLONE. Mr. Speaker, on Sunday, April 30, 1995, the Les Turchin Chabad House at Rutgers, the State University of New Jersey, will hold its annual dinner in Somerset, NJ.

For 15 years, Chabad House has served as a focal point for students seeking to supplement their educational experience with a deeper sense of culture, faith, and fellowship. By rediscovering and embracing regular observance of the Torah, the Students of Chabad House have gained spiritual insights and a strong sense of values that will be of invaluable support throughout their lives. And for parents who naturally worry about the influences that their children will encounter at college, Chabad House offers the assurance of a positive environment.

I would particularly like to extend my congratulations on the construction of the new Les Turchin Student Center, which will further the good works of Chabad House. Mr. Turchin's tireless dedication to the community serves as an inspiration to us all. The founder, chairman of the board and chief executive officer of Tops Appliance City has somehow found time to lead an extremely impressive fund-raising effort to make the Chabad House a reality. The new Chabad House will provide a synagogue, a kosher kitchen, and dinning area for 300 students, and housing for 48 students. The Publication Office will house L'Chaim, the university's student-run newspaper, and *The Chabad Times*, the largest Jewish newspaper in central New Jersey with a circulation of 60,000. A unique array of programs for the community will bring Rabbis and volunteers to shut-in, hospital patients, nursing home residents and prison inmates. Family services will be provided and expanded, including family counseling and a drug prevention program.

Mr. Speaker, it is a great honor for me to pay tribute to Chabad House at Rutgers, to Les Turchin for his hard work and energy in making the new facility a reality, to all the religious leaders and volunteers who make these programs work and to the fine young men and women who, by embracing their timeless and enduring heritage, are working to make their campus and their community a better place.

TRIBUTE TO THE 2506 BRIGADE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today in remembrance of a group of courageous men that 34 years ago fought and died for the cause of freedom. Much has been written about this battle, but most historical accounts only record the event in the context of the cold war. We must not forget the men that landed on that April morning at a remote beach called Giron at the Bay of Pigs.

On that 17th day of April, the battle began. The members of the 2506 Brigade, who sought to liberate their country from the brutal Castro dictatorship, were not military men. They were not professional soldiers of fortune. Rather, these men came from a cross section of Cuban society. They were young, middle-aged, seniors, professionals, farmers, students and factory workers. They were from the ranks of the middle class, the poor, and the upper class. Among them, one could find people who fought alongside Fidel Castro. Some had belonged to the Cuban military. They were representative of all political persuasions, from left to right. But they were united in one quest: Democracy, freedom, and true equality for their homeland, Cuba.

Mr. Speaker, I would like to recount a few passages from "The Bay of Pigs: The Untold Story," by Peter Wyden, of the events that took place on this remote and lonely bay.

At the traffic circle on the northern outskirts of Playa Larga, the members of the Brigade had dug in for the major engagement of the Bay of Pigs, the Battle of the Rotunda as is now known. Reinforcement had arrived from the main landing at the beach of Giron: Most of the Fourth Heavy Weapons Battalion ammunition, and two more tanks. At 7:45 p.m., four batteries of Soviet-made 122 millimeters howitzers had opened fire on the positions. They kept pounding more than 2000 shells in 4 hours. The concussions were terrible. Many went into shock. They were too dazed to hear orders. But, they did not break. The first three Stalin tanks rumbled into the rotunda about midnight. They were the vanguard of 20 tanks, but these freedom fighters had set a superb trap. With the roads bordered by swamps, Castro's troops were forced to try breaking through the Rotunda.

Tank was pitted against tank. They were firing point blank, twenty yards apart. The first two Stalin tanks were knocked out, one of them by a tiny fighter who used to cut the men's hair in the Guatemalan camps and was known as "Barberito." He ran around the tank and peppered it with shells for his recoilless rifle. They made no dent in the tank but the sound scared the crew into surrendering. The commander of the Brigade later wanted to meet the man who accomplished this feat. By then, "Barberito" has been killed by a machinegun burst.

One Brigade tank ran out of ammunition quickly. The driver, Jorge Alvarez, known as "little egg" blew up an energy tank with his last shell. Another tank roared up Alvarez hurled his tank at it. The Stalin tank tried to position his gun against the Brigade's tank. Alvarez kept bumping the enemy so furiously that the Stalin gun barrel split. The fighting was so confused and confined that the threads of Castro's tanks ran over their own wounded.

Hour after hour, men fought and fell and died. More Castro tanks rumbled into the Rotunda. The freedom fighters were out of food and water and almost out of ammunition, they began to run. Their commander seized a cannon and a shell and faced the oncoming tank from the center of the road. The fleeing men saw him and stopped. So, amazingly, did the tank. The driver got out and surrendered. The Castro forces had numbered 2100 men. Those who were not dead or wounded were retreating on the run.

Another account that should be told to emphasize the bravery and dedication of these men was the one of Armando Lopez Estrada, a dark-haired, communications officer of the paratrooper battalion. He was one of the last in the group to retreat to the beach. He wanted to "hold until we die." Only when they ran out of ammunition for a second time and it was clear that no more was coming did Lopez Estrada, who was 20, let himself be convinced by his comrades that there was no point in waiting to be captured.

About a mile offshore, Lopez Estrada saw an empty sailboat. On the entire Giron beach, he counted 27 men. Stalin's tanks were machine-gunning them. Castro's artillery pounded in from overhead. In the distance, two American destroyers were moving away.

He swam toward the sailboat that was a 22 foot craft, 20 men reached the boat, followed by Castro's jets and their bullets. Frantically, they tried to move the boat by paddling with their hands. After 15 days at sea, 12 survivors were rescued by an American oiler, the rest of the men died of thirst and starvation.

The above account is but one of many which emphasize the bravery and patriotism of those men in Playa Giron on April 17, 1961. As a Member of Congress of Cuban descent I want to honor the memory of these men. On this April 17, I join with the freedom-loving Americans in commemorating the death of these men who fought so that Cuba could be free and democratic and independent. May they not have died in vain.

INTRODUCTION OF LEGISLATION TO SIMPLIFY THE FORMULA UNDER WHICH SKI AREAS PAY RENTAL FEES TO THE UNITED STATES FOR THE USE OF NATIONAL FOREST LANDS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing legislation to simplify the formula under which ski areas pay rental fees to the United States for the use of national forest lands.

Nationwide, there are 132 ski areas on national forest land occupying 90,000 acres, or a mere one-twentieth of 1 percent of the National Forest System. For this use, the ski industry paid an estimated $20 million in rental fees in 1994.

This new fee system passed the Senate during the 102d Congress but time ran out before the House could consider the legislation. At that time, a Congressional Budget Office review determined that the new fee system was revenue neutral to the United States. The new fee proposal is intended to return at least the same rental dollars to the U.S. Treasury as the current system created by the Forest Service. It will also guarantee increasing revenues in the future by utilizing ski area gross receipts as the measure for determining rental fees. Therefore, as ski area revenues grow, so will the return to the public for the use of those Federal lands.

Furthermore, this legislation will assist in meeting our goals of reducing the size of the Forest Service by eliminating significant management problems with their existing fee system. The existing system is encompassed in approximately 40 pages of the Forest Service manual and handbook. The new system would change that by reducing the fee calculation to a simple formula based on gross revenue from clearly defined sources. This new system will greatly reduce bookkeeping and administrative tasks for both the Forest Service and the ski areas.

This bill enjoys bipartisan support and I hope others will join us in supporting this sensible and efficient proposal which provides fairness to ski areas and the United States regarding rental fees and, at the same time, helps to downsize the Federal Government. This bill is intended to serve as a starting point to begin debate on this issue. I hope to hold hearings on this proposal soon after the recess and anticipate reporting this legislation out of our committee quickly.

Mr. Speaker, I would also like to advise the House that I intend to consider a proposal for ski area permittees to purchase the Forest Service land on which they operate. Such a move toward privatization would further our goal of downsizing Government and thus reduce the size of the Forest Service budget. If we are going to achieve these goals, we need to consider every aspect of Federal land management. Therefore, the committee is in the process of reviewing a proposal to sell certain ski areas on the National Forest System to the private entities that operate them. While we are developing this proposal, we will be hearing from those ski areas that want to purchase the Federal land they operate on as well as State governments, local governments, and others affected by this proposal.

Presently ski areas have permits from the Forest Service that allow them to operate for up to 40 years. The Forest Service reviewed these areas and designated them as recreation sites utilizing the NEPA process. There is no question that the intention of the Forest Service is to maintain these sites as ski areas and that no other use is intended. This further supports the need for us to review privatization of these lands now dedicated to this recreational use. Many of these sites have been permitted ski areas for 30 years or more. If we have private individuals prepared to purchase the Federal lands that they operate a ski area on, it is logical that we appraise that land and sell it to the operator and remove the Federal management responsibility.

The new fee system legislation that I have introduced today is a first step toward reducing Federal management responsibility and costs associated with ski areas on Federal land. However, I also intend to consider the next logical step of removing all Federal management and costs.

LEGISLATION ON BIF-SAIF ISSUES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. LAFALCE. Mr. Speaker, today I am introducing several bills designed to address the serious problems posed for the Savings Association Insurance Fund [SAIF] by the current onerous obligations placed on the thrift industry and the pending disparity between the premiums paid by SAIF- and BIF-insured institutions.

The FDIC, other relevant regulators, the Treasury, and the GAO, in a report commissioned by myself and Senator D'AMATO, have now apprised the Congress quite clearly of the nature, extent, and urgency of the problem. It is my hope that these bills will now move the discussion along and allow us to focus more concretely on the specific requirements of a meaningful solution. There is a multiplicity of options. In my view, the right one is the one which can garner substantial bipartisan support in the near term. Taking no action is not a responsible course if we are to protect the integrity of the deposit insurance system.

There are three key problems: First, the SAIF is seriously undercapitalized just at the point it will newly have to assume responsibility for future thrift failures; second, the premium flow from existing thrifts will be insufficient to continue to pay the interest on the FICO bonds issued to cover the losses of the 1980's over the long term; and third, within the next few months, there will be a substantial premium disparity between BIF- and SAIF-insured institutions which could have a significant adverse impact on the now-healthy thrift industry.

The thrift industry is generally profitable, well-capitalized, and well-managed. But it is impossible for the thrifts alone to adequately capitalize their insurance fund and continue to pay interest on the FICO bonds issued to cover the losses of the 1980's without adverse effects on the industry and possibly depositors and taxpayers.

These problems are not the fault of current industry members who did not cause, and have worked hard to survive and help pay for, the industry problems of the 1980's. There are structural flaws in the mechanisms devised to deal with past problems. As a result, of the more that $9 billion in assessment revenues from the thrifts paid between 1989 and 1994, only $7 billion went into the SAIF. The balance was diverted to other uses, primarily to payment of the interest on the bonds.

Congress intended that the thrifts, through the bonding program and otherwise, pay as much of the cost of past industry losses as possible, in an effort to reduce taxpayer costs. That was appropriate. But the amount of the burden placed on the industry was based on certain assumptions which I argued at the time were overly optimistic and which have proved false. Most notably, deposit growth in the thrift industry was estimated at 6–7 percent. Instead, it has declined by 5 percent per year in recent years, reducing far below expectations the premium income which is relied on to pay SAIF and FICO.

There are three possible sources of funds which have been broached by the regulators to solve this problem: the thrifts; the BIF-insured institutions, either through a merger of the insurance funds or otherwise; and some portions of the moneys already authorized and appropriated to the RTC to cover past thrift losses, but which have not been expended. Some of my bills may be criticized as hitting the thrift industry too hard; some may be criticized as hitting the banks too hard. My concern is finding the proper balance to protect the depositor. The best solution may ultimately be one that distributes the pain to the maximum degree possible.

I have always tried to minimize the adverse impact on the taxpayer. In fact, I opposed the FIRREA legislation because I thought it unduly increased the burden on the taxpayer and on future generations. But I believe we should not be too timid to discuss using the unexpended RTC funds for the purpose for which they were intended and related purposes, rather than have those funds revert to the Treasury.

Congress, in fact, anticipated that the mechanism devised in FIRREA might be inadequate to capitalize the SAIF and cover the FICO bonds, and included provisions in FIRREA allowing the additional appropriation of Treasury funds to the SAIF as a supplement. Unfortunately those anticipated appropriations were never made, and the excess RTC funds are not now available to solve the SAIF or FICO problems without further congressional action. Had the original intent of the law been fulfilled, the SAIF would have been capitalized. We should at least consider recognizing that original intent and making a modest amount of these excess RTC funds available as part of a solution.

BIF-SAIF RESOLUTION OPTIONS

OPTION 1: FINANCING CORPORATION AND SAVINGS ASSOCIATION INSURANCE FUND REFORM ACT OF 1995

Summary: Uses investment income from unexpected RTC funds for FICO debt obligation; SAIF-insured institutions recapitalize SAIF with possible special assessment and premium disparity.

Authorizes use of investment income from unexpended RTC funds to pay FICO debt obligation.

Authorizes use of remaining unexpended RTC funds to be held in reserve by FDIC to cover potential insurance fund losses at SAIF-insured institutions until the SAIF fund achieves designated reserve ratio of 1.25 percent of insured deposits. Any unused RTC funds revert to U.S. Treasury upon recapitalization of fund.

Provides FDIC with discretionary authority to require SAIF-insured institutions to pay a special, one-time assessment of up to 40 basis points toward recapitalization of the SAIF fund. The assessment could be collected over a number of years, with a larger portion of the assessment due in the first year to address the immediate problem of inadequate fund capitalization. The FDIC is authorized to provide exemptions from this assessment, or reduce such assessment, for troubled institutions or institutions which would become troubled if such an assessment were imposed.

Eliminates the mandatory 18 basis point minimum annual assessment rate for SAIF-insured institutions in current law to permit FDIC to set annual SAIF premiums at levels that balance the rate of recapitalization of SAIF with concern for competitive position of SAIF-insured institutions.

Directs FDIC to limit annual BIF-SAIF premium disparity to not more than 9 basis points during period of recapitalization of SAIF.

Clarifies that FICO debt repayments are insurance outlays for purposes of budgetary scoring.

OPTION 2: FINANCING CORPORATION AND SAVINGS ASSOCIATION INSURANCE FUND AMENDMENTS OF 1995

Summary: Uses unexpended RTC funds to recapitalize SAIF; FICO debt obligation funded with interest from invested RTC funds, SAIF premiums and Oakar/Sasser premiums.

Authorizes use of unexpended RTC funds to recapitalize the SAIF.

Authorizes the use of investment income from remaining RTC funds to pay portion of the annual FICO bond interest.

Includes portion of premiums paid by Oakar and Sasser institutions toward payment of the annual FICO debt obligation.

Eliminates the mandatory 18 basis point minimum annual assessment rate for SAIF-insured institutions in current law to permit FDIC to set annual SAIF premiums at level necessary to supplement RTC investment income to meet annual FICO debt obligation and to meet estimated SAIF fund expenses.

Directs FDIC to limit annual BIF-SAIF premium disparity to not more than 9 basis points during period of recapitalization of SAIF.

OPTION 3: FINANCING CORPORATION AND SAVINGS ASSOCIATION FUND RESTORATION ACT OF 1995

Summary: Uses unexpended RTC funds to supplement premium income to recapitalize SAIF consistent with FIRREA; FICO debt obligation funded with interest from invested RTC funds, SAIF premiums and Oakar/Sasser premiums.

Authorizes the use of unexpected RTC funds to help recapitalize the SAIF fund and to cover losses consistent with the original intent of the 1989 FIRREA legislation.

Authorizes investment of remaining RTC funds with annual interest income used to pay portion of annual FICO bond interest.

Includes portion of premiums paid Oakar and Sasser institutions toward payment of FICO debt obligation.

Eliminates the mandatory 18 basis point minimum annual assessment rate for SAIF-insured institutions in current law to permit FDIC to set SAIF premium at level that would balance use of RTC funds and concern for competitive position of SAIF-insured institutions.

OPTION 4: FUNDING FOR SUPERVISORY GOODWILL ADJUDICATIONS ACT OF 1995

Summary: Uses unexpended RTC funds to establish a special reserve fund to satisfy claims arising from supervisory goodwill cases.

Authorizes unexpended RTC funds to continue to be made available and set aside in a special reserve fund.

Authorizes the use of principal and interest income available to the special fund to be used to satisfy judgments against the federal government in cases brought by thrift institutions in response to changes made in FIRREA in the treatment of supervisory goodwill for the realization of losses from acquisitions of failed thrift institutions.

OPTION 5: DEPOSIT INSURANCE FUNDS MANAGEMENT IMPROVEMENT ACT OF 1995

Summary: Provides the FDIC with greater flexibility in managing the BIF and SAIF insurance funds and in setting annual BIF and SAIF premiums.

Clarifies that the designated reserve ratio of 1.25 percent of insured deposits for the BIF and SAIF insurance funds is a minimum reserve ratio rather than a target to be maintained.

Authorizes the FDIC to maintain the BIF and SAIF funds at reserve levels that provide an appropriate cushion against anticipated losses without allowing excessive reserves to build up in either fund.

Authorizes the FDIC to make appropriate reductions in annual BIF and SAIF premium assessments when reserve funds meet or exceed the minimum designated reserve ration of 1.25 percent of insured deposits.

Eliminates the mandatory 18 basis point minimum annual premium assessment in current law for SAIF-insured institutions.

Authorizes the FDIC to consider the impact of any potential disparity in annual premiums paid by BIF- and SAIF-insured institutions, where appropriate, to protect the safety and soundness of either insurance fund and its members and the deposit insurance system as a whole.

OPTION 6: DEPOSIT INSURANCE FUND MERGER ACT OF 1995

Summary: Merges the BIF and SAIF funds; Scheduled reduction in BIF premiums; SAIF-insured institutions continue to fund FICO debt with inclusion of Oakar/Sasser institutions.

Authorizes the merger of the BIF and SAIF funds into a single insurance fund.

Directs the FDIC to make the scheduled 1995 reduction in annual premiums paid by former BIF-insured institutions to a level that reflects estimates of expenses for the current BIF fund plus any additional assessment required to capitalize the merged BIF-SAIF fund, except that the average assessment shall under no circumstances exceed 6 basis points.

Provides FDIC with discretionary authority to require SAIF-insured institutions to pay a special, one-time assessment of up to 40 basis points toward recapitalization of the merged BIF-SAIF fund. The assessment could be collected over a number of years, with a larger portion of the assessment due in the first year to address the immediate problem of inadequate fund capitalization. The FDIC is authorized to provide exemptions from this assessment, or reduce such assessment, for troubled institutions or institutions which would become troubled if such an assessment were imposed.

Requires current SAIF-insured institutions to continue to pay the FICO bond debt obligation.

Includes premiums paid by Oakar and Sasser institutions toward payment of FICO debt obligation.

Eliminates the mandatory 18 basis point minimum annual assessment rate for SAIF-insured institutions to permit FDIC to set separate annual premiums for SAIF-insured institutions that reflect estimates of expenses to the current SAIF fund, plus amounts necessary to pay a *pro rata* share of the additional fund capitalization and the annual FICO bond debt obligation.

OPTION 7: BANK INSURANCE FUND AND THE SAVINGS ASSOCIATION INSURANCE FUND MERGER ACT OF 1995

Summary: Merges the BIF and SAIF funds; Scheduled reduction in BIF premium; Excess RTC funds loaned to FDIC to fully capitalize merged BIF-SAIF fund; SAIF-insured institutions repay loan of RTC funds with special annual assessment; All institutions funded FICO debt obligation on *pro rata* basis.

Authorizes the merger of the BIF and SAIF insurance funds into single insurance fund with the combined fund fully capitalized no later than 2000.

Requires both BIF-insured and SAIF-insured institutions to pay the annual FICO bond debt obligation on *pro rata* basis.

Directs the FDIC to make the scheduled 1995 reduction in annual premiums paid by former BIF-insured institutions to level reflecting original estimates of expenses to the BIF fund, plus amount necessary to pay a *pro rata* share of the annual FICO debt obligation, except that the average assessment shall under no circumstances exceed 6 basis points.

Authorizes unexpended RTC funds to be made available to FDIC as a loan to capitalize the merged BIF-SAIF fund at the designated reserve ratio of 1.25 percent of insured deposits.

Authorizes the FDIC to set a separate annual assessment for institutions insured by the SAIF as of December 31, 1994 (and any successor institution) for the purpose of repaying the loan of RTC funds used to capitalize the merged BIF-SAIF fund.+ The annual amount of the special assessment and the repayment term would be determined by the FDIC in consultation with the Treasury.

The disparity between the annual premium assessments paid by former SAIF-insured institutions, including the annual assessment to repay the loan of RTC funds, and the annual premium assessments paid by other insured institutions would be capped at 9 basis points.

Eliminates the mandatory 18 basis point minimum annual assessment rate for SAIF-insured institutions.

OPTION 8: DEPOSIT INSURANCE FUND MERGER ACT OF 1995

Summary: Merges the BIF and SAIF funds with recapitalization of combined fund within five years; Scheduled reduction in BIF premium; SAIF-insured institutions contribute to combined fund shortfall with special assessment and capped premium differential; All institutions fund FICO debt obligation on *pro rata* basis.

Authorizes the merger of the BIF and SAIF deposit insurance funds into a single insurance fund with recapitalization of combined fund at designated reserve ratio of 1.25 percent of insured deposits within 5 years.

Requires both BIF-insured and SAIF-insured institutions to pay annual FICO bond debt obligation on *pro rata* basis.

Directs the FDIC to make the scheduled reduction in annual premiums paid by BIF-insured institutions to a level that reflects estimates of expenses to the current BIF fund, plus amounts necessary to pay the *pro rata* share of annual FICO debt obligation.

Provides FDIC with discretionary authority to require SAIF-insured institutions to pay a special, one-time assessment of up to 40 basis points toward recapitalization of the merged BIF-SAIF fund. The assessment could be collected over a number of years, with a larger portion of the assessment due in the first year to address the immediate problem of inadequate fund capitalization. The FDIC is authorized to provide exemptions from this assessment, or reduce such assessment, for troubled institutions or institutions which would become troubled if such an assessment were imposed.

Provides the FDIC with discretion to set annual premiums paid by SAIF-insured institutions separately from premiums paid by BIF-insured institutions until combined BIF-SAIF fund is recapitalized at the designated reserve ratio.

Eliminates the mandatory 18 basis point minimum annual assessment rate for SAIF-insured institutions.

OPTION 9: SAVINGS ASSOCIATION INSURANCE FUND RECAPITALIZATION ACT OF 1995

Summary: Uses unexpended RTC funds to help recapitalize SAIF; No BIF-SAIF Merger; BIF and SAIF institutions fund FICO debt obligation on a *pro rata* basis.

Authorizes the use of unexpended RTC funds to help recapitalize the SAIF fund and to cover losses consistent with the original intent of the 1989 FIRREA legislation.

Requires both BIF-insured and SAIF-insured institutions to pay the annual FICO bond debt obligation on *pro rata* basis.

Eliminates the mandatory 18 basis point minimum annual assessment rate for SAIF-insured institutions in current law to permit FDIC to set SAIF premium at level that would balance use of RTC funds and concern for competitive position of SAIF-insured institutions.

OPTION 10: SAVINGS ASSOCIATION INSURANCE FUND AND FINANCING CORPORATION REFORM ACT OF 1995

Summary: BIF and SAIF-insured institutions fund FICO debt obligation on *pro rata* basis; No merger of BIF-SAIF funds; SAIF-insured institutions capitalize SAIF with special assessment and premium disparity.

Requires both BIF-insured and SAIF-insured institutions to pay the annual FICO bond debt obligation on a *pro rata* basis.

Provides the FDIC with discretionary authority to require SAIF-insured institutions to pay a special, one-time assessment of up to 40 basis points toward recapitalization of the SAIF fund. The assessment could be collected over a number of years, with a larger portion of the assessment due in the first year to address the immediate problem of inadequate fund capitalization. The FDIC is authorized to provide exemptions from this assessment, or reduce such assessment, for troubled institutions or institutions which would become troubled if such an assessment were imposed.

Eliminates the mandatory 18 basis point minimum annual assessment rate for SAIF-insured institutions in current law.

OPTION 11: SAVINGS ASSOCIATION INSURANCE FUND STABILIZATION ACT OF 1995

Summary: BIF and SAIF-insured institutions fund FICO debt obligation on *pro rata* basis; SAIF-insured institutions capitalize SAIF with special assessment and premium disparity through 1999; RTC funds used as backup loss reserve for SAIF.

Requires both BIF-insured and SAIF-insured institutions to pay annual FICO bond debt obligation on a *pro rata* basis.

Provides the FDIC with discretionary authority to require SAIF-insured institutions to pay a special, one-time assessment of up to 40 basis points toward recapitalization of the SAIF fund. The assessment could be collected over a number of years, with a larger percentage payment due the first year to address the immediate problem of inadequate fund capitalization. The FDIC is authorized to grant exemptions from this assessment, or reduce such assessment, for troubled institutions or institutions which would become troubled if such an assessment were imposed.

Authorizes the use of unexpended RTC funds to be held in reserve by the FDIC to cover potential insurance fund losses for SAIF-insured institutions until SAIF achieves the designated reserve ratio. Unused funds revert to U.S. Treasury upon recapitalization of the fund.

Eliminates the mandatory 18 basis point minimum annual assessment rate for SAIF-insured institutions in current law.

OPTION 12: FEDERAL DEPOSIT INSURANCE CORPORATION REGULATORY FLEXIBILITY ACT OF 1995

Summary: Regulatory changes to provide the FDIC with flexible authority to address problems of SAIF recapitalization and FICO debt repayment with a variety of potential revenue sources, including unexpended RTC funds, SAIF premiums and special assessment, BIF-SAIF transfers and Oakar/Sasser FICO contributions.

Authorizes the FDIC to administer repayment of the FICO bond debt obligation.

Authorizes the FDIC to administer the unexpended RTC funds and investment income and to allocate such funds for purposes of: payment of FICO debt obligation; capitalization of the SAIF; creation of a reserve to cover potential insurance fund losses in SAIF-insured institutions until SAIF achieves designated reserve ratio; creation of a reserve against federal liability in goodwill cases.

Authorizes the FDIC to borrow temporarily from either fund limited amounts to permit the other fund to achieve or maintain the designated reserve ratio. The authority to borrow assets or revenue from a fund would be limited at any time to an amount representing .03 percent of the assessment base of the fund.

Provides FDIC with discretionary authority to require SAIF-insured institutions to pay a special, one-time assessment of up to 40 basis points toward recapitalization of the SAIF. The assessment could be collected over a number of years, with a larger percentage payment due the first year to help reduce immediate concern for inadequate fund capitalization. The FDIC would have authority to grant exemptions from this assessment, or reduce such assessment, for troubled institutions or institutions which would become troubled if such an assessment were imposed.

Provides clarification that the reserve ratio of 1.25 percent of estimated insured deposits in the minimum designated reserve ratio required of the BIF and SAIF funds rather than an absolute level that must be maintained or cannot be exceeded.

Authorizes the FDIC to make appropriate reductions in annual BIF and SAIF premium assessments when the reserves of a fund meet or exceed the minimum designated reserve ratio.

Provides clarification that insurance fund revenues be used primarily for insurance fund purposes and that premium revenues not be unduly diverted for other purposes.

Authorizes the FDIC to include a portion of premiums paid by Oakar and Sasser institutions toward payment of FICO debt obligation.

Eliminates the mandatory 18 basis point minimum annual assessment rate for SAIF-insured institutions in current law.

INDUSTRY-FUNDED CHECKOFF PROGRAM FOR PROPANE GAS

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. TAUZIN. Mr. Speaker, today I am introducing legislation that would allow the propane industry to establish an industry-funded checkoff program for propane gas, an environmentally sound and economical energy source relied on each year by some 60 million Americans.

Last Congress, I introduced similar legislation; H.R. 3546, that was cosponsored by 124 members and formally acted upon by the Energy and Power Subcommittee of the Commerce Committee. Final action on the measure could not be completed before the 103d Congress adjourned.

The legislation I am introducing today has been modified to address issues raised during consideration of the bill last Congress. These changes have made the bill better and as I introduced the measure today, I am not aware of any likely opposition.

Propane is one of this Nation's most versatile energy sources, supplying 3 to 4 percent of our total need for energy. Since it is distributed in liquefied form by trucks, not carried in pipelines, propane is the fuel of choice in residential areas outside of the natural gas distribution system. Propane is also used by farmers to dry crops, power tractors, or warm greenhouses, by millions of recreational vehicle owners and camping enthusiasts, and by the construction and other industries as a source of heat and power.

In a checkoff program, a small fraction of the wholesale price of a product is set aside and forwarded to a specially created checkoff board. The propane board, which would be known as the Propane Education and Research Council, would use those pooled funds for a variety of activities that would benefit the propane consumer, the propane industry, and the public. The Propane Education and Research Council would undertake specific activities including: First, research and development of more efficient, cleaner burning appliances; second, research and training in safety for both the industry and the public; third, education in regulatory compliance and cooperative activities with States; and fourth, cooperative activities with State associations and builder outreach efforts. All of these activities will provide substantial benefits to propane consumers and the public.

There are currently more than 150 Federal and State checkoff programs. They operate primarily in agricultural industries, which benefit from checkoffs for beef, eggs, cotton, milk, and soybeans.

There are some similar programs in energy industries, however, such as the Gas Research Institute, the Electric Power Research Institute, the Texas Railroad Commission propane checkoff and similar State programs in Louisiana, Missouri, and Alabama. Oil producers in Oklahoma have recently created the Oklahoma Energy Resource Board.

The Gas Research Institute [GRI], for example, boasts a 400-percent return for each dollar collected and invested. While GRI's work primarily benefits urban and suburban natural gas consumers, the propane checkoff would benefit rural and agricultural users of propane, as well as urban and suburban propane consumers.

The agricultural industry, for example, which accounts for 7 to 8 percent of all propane consumed in the United States, will see substantial benefits from the propane checkoff. Much of the large industrial and agricultural equipment now in use is not as efficient as residential and commercial equipment. The propane checkoff will permit research and development into better, more efficient equipment for the industry. With even marginal increases in equipment efficiency, the agriculture industry would reap great returns. Obviously, better and more efficient utilization of propane would benefit other industries, such as construction, in still other ways, further increasing the value of the return.

A checkoff program is particularly needed for propane because, unlike all other major forms of energy and many minor energy sources, propane receives virtually no Federal support for research, development, education, or other activities. Rather than turn to the Federal Government for support in a period of deficit spending and tight funding restrictions, the propane industry has developed this self-help proposal to help ensure that propane is most effectively and efficiently utilized. While this program is paid for by the propane industry, propane consumers and the public will be primary beneficiaries.

This legislation only provides the propane industry with the opportunity to establish this program. The legislation I am proposing would not actually establish the propane checkoff. Instead, it calls upon the propane industry, propane producers, and retail marketers, to hold a referendum among themselves to authorize establishment of the checkoff before it can go into effect. If the experience with the program is not as positive as the industry projects and experience with checkoff programs suggests, it could be terminated by a majority vote of both classes, or a two-thirds vote by a single one. It is the propane industry's own request that we would help provide it with this coordinated opportunity to voluntarily pool its resources.

This bill is an important self-help measure for the propane industry based on a proven legislative precedent from other industries. Moreover, as a self-help measure, rather than a request for direct Government funding, this measure may well become a model for future legislation in many fields. I encourage my colleagues to join me in cosponsoring this legislation.

THANK YOU LESTER McFADDEN FOR 35 YEARS OF DEDICATED SERVICE TO THE FRANKLIN COUNTY DEMOCRATIC PARTY

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to Mr. Lester McFadden, a constituent and friend who is stepping down as a Democratic precinct committeeman in Benton, IL, after 35 years of dedicated service. In 1970 Lester officially entered the political ring when he became a committeeman and was elected Benton's town clerk.

Lester was born on February 15, 1911, in Logan, IL, and has lived his entire life in Franklin County. He worked 25 years as a carpenter before working more than 20 additional years in the coal industry of southern Illinois. He did all this while balancing the responsibilities of being a husband, devoted father of four, and a committeeman. Being a precinct committeeman is hard work, but Lester is no stranger to rolling up his sleeves and digging in to whatever challenge faces him.

Lester is a person that believes in the value of community involvement and always makes time for his neighbors. For approximately 15 years he coached Little League Baseball in Benton, he is a member of the West City Church of God, the Masonic Lodge, and the Shrine. He has a tough schedule, but always manages to make time for the people of Franklin County.

I have always known Lester to be a hardworking, dedicated, and honest individual. He has always been a trusted and a valued friend and it is with great sadness that I see him step down as precinct committeeman. While Lester may be leaving his role as committeeman I am sure he will continue to be active in Franklin County politics. I wish him all the best as he enters this new stage of life and I am honored to represent this distinguished gentleman in Congress.

CONGRATULATIONS TO OUR LADY OF THE HAMPTONS

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. FORBES. Mr. Speaker, I rise today to congratulate the exceptional students at Our Lady of the Hamptons Regional Catholic School in Southampton, Long Island, NY, who will be inducted into the National Junior Honor Society on April 26.

It comes as no surprise to me that the parents, teachers, and students at Our Lady of the Hamptons have produced such outstanding scholars and future community leaders. For years, Our Lady of the Hamptons has been known throughout eastern Long Island as an institution unrivaled for its dedication to educating young adults and providing them with the moral compass they will need to navigate their way through the rough seas of life. Last year, the President of the United States likewise recognized the accomplishments of this fine institution and named Our Lady of the Hamptons a Blue Ribbon School of Excellence.

As a blue ribbon school, Our Lady of the Hamptons is a model for the entire Nation. While violence wrecks classrooms in other parts of the country and drugs infest school yards in both cities and suburbs, Our Lady of the Hamptons is a beacon of responsibility and success that shines as an example for students and teachers everywhere.

What makes Our Lady of the Hamptons so unique, I believe, is its conviction that education is more than a matter of books and tests or homework and quizzes. Education at Our Lady of the Hamptons is ultimately about character. It's about morals and values. It is about learning the difference between right and wrong.

At Our Lady of the Hamptons, success is not necessarily defined as a straight A-plus average. Rather, success is a combination of academic excellence and responsible leadership.

These students chosen for membership in the National Junior Honor Society are certainly very intelligent, but more importantly, they are also role models for their peers. They are examples of decent and generous young adults.

They have helped with lunch duty and they have organized food drives. They have made AIDS quilts to show their compassion for their brothers and sisters who are suffering, and they have distributed milk to their classmates during lunchtime. They have collected clothes and toys to send to their adopted classmates in Ecuador and they have helped their teachers on countless occasions just by their very example of good conduct.

Through all of these acts of generosity both big and small, these exceptional students have proven that true leadership is about service. I was once told that the strongest people are those who share their strength with others. If that really is the case, and I do believe it is, these are some of the strongest people on the planet.

Mr. Speaker, I hope the entire House of Representatives joins me in expressing well-deserved congratulations to these terrific students as well as their families, their teachers, and everybody else who makes up the wonderful community at Our Lady of the Hamptons. On behalf of all of our neighbors throughout eastern Long Island, I am truly proud to represent them in Congress.

INTRODUCTION OF THE HMONG VETERANS NATURALIZATION ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. VENTO. Mr. Speaker, today I am introducing the Hmong Veterans Naturalization Act which would ease naturalization requirements for the Hmong, of Laos, who fought alongside the United States Armed Forces during the Vietnam war. On April 2, I had the privilege to participate in an event held to honor those Lao-Hmong veterans who fought on the side of the United States in the Vietnam war at great sacrifice to themselves, their families, and their entire community. Hmong of all ages fought and died alongside United States soldiers and as a result of the brave position they took and their loyalty to the United States the Hmong, tragically, lost their homeland. The Hmong people have endured these sacrifices and losses. They have worked hard to ensure that their culture endured.

Many who survived the conflict were welcomed to the United States and today should be honored for the contributions they are making to our communities in my district in Minnesota and to our Nation. Their success in rebuilding their families and communities in the United States stands as a tribute to them but their cause would be greatly helped by passage of the legislation I am introducing today, the Hmong Veterans Naturalization Act.

Although it was not apparent then, their actions had a major impact on achieving today's global order and the positive changes of the past decade. This time was difficult and extreme sacrifices were made by those engaged in the jungles and the nighlands whether in uniform or in peasant clothing and for those whose homeland was the battlefield.

The Lao-Hmong veterans deserve this recognition and consideration. The Vietnam conflict is a page in history for some and forgotten or even unknown by our youth, but surely it is an event burned deeply and vividly into the minds of the Lao-Hmong veterans and their families who shoulder the duty. Between 10,000 and 20,000 Hmong were killed in combat and over 100,000 had to flee to refugee camps to survive. While it is clear that the Hmong served bravely and sacrificed dearly in the Vietnam war, many of those who did survive and made it to the United States, are separated from other family members and are having a difficult time adjusting to life here. Fortunately there is something we can do to speed up the process of family reunification and ease the adjustment of Hmong into United States society, at no cost to the Federal Government.

My legislation makes the attainment of citizenship easier for those who served in the Special Guerrilla Units by waiving the English language test and period in residence requirement. The greatest obstacle for the Hmong in becoming a citizen is passing the English test. Written characters for Hmong have only been introduced recently, and whatever chances most Hmong who served may have had to learn a written language were disrupted by the war.

This bill would also waive the residency requirement for those who served in order to speed up the process of family reunification. Current law permits aliens or noncitizen nationals who served honorably during World War I, World War II, the Korean conflict, and the Vietnam war to be naturalized regardless of age, period of residence or physical presence in the United States. There is a well-established precedent of modifying naturalization requirement for military service, recently reaffirmed by passage of legislation granting citizenship to those who served in the Filipino Scouts during World War II.

The Hmong stood by the United States at a crucial time and that service deserves recognition and today we should stand with the Lao-Hmong in their struggle to become citizens and to live a good life in our Nation.

THE INTRODUCTION OF REVENUE BOND AUTHORITY BILL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Ms. NORTON. Mr. Speaker, today I am introducing legislation that presents a unique and extraordinary economic opportunity for the District of Columbia. This bill offers this unprecedented opportunity through revenue bonding authority, including the authority to build a new convention center, as well as a new sports arena downtown. These are not only remarkable projects. In light of the District's need for revenue in the midst of a severe economic crisis, these projects are remarkably timed. These two buildings hold virtually the only promise for indispensable economic development for a city that otherwise faces an unprecedented and painful fiscal crisis. The bonding authority authorized in this bill will mark a critical step toward the revival of the economy of the District.

Today, the Washington Convention Center operates at a 90-percent occupancy range. In this year alone, the District will lose over $80 million in economic impact because of the loss of shows that are too large for the present center. However, the new convention center will be three times the size of the current center. That translates into over $2.8 billion in direct convention revenue for the District between 1998 and 2003. On the other hand, without the new center, the District will lose $968 million in direct convention revenue by the year 2002.

A new sports arena also could not come at a better time for the District. Moving the arena from the Maryland suburbs to downtown Washington will result in more than $100 million in net new spending in the District annually from people buying tickets and purchases from concessions at events, as well as patronizing restaurants in the area. The arena also will create a minimum of 540 full-time equivalent jobs in the city.

It is important to note that these projects are not pipe dreams that may or may not come true. The District's Hotel Association has agreed to an increase in the hotel tax to back the convention center bonds and the owner of the two sports franchises has agreed to pay the cost of building the arena. The only thing that stands in the way of making these a reality is congressional approval of revenue bonding authority for the District.

I strongly urge support for this legislation. It will help give the District of Columbia the tools to become again the master of its own economic destiny.

SILVER JUBILEE OF PORICY PARK

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. PALLONE. Mr. Speaker, on Saturday, April 22, Poricy Park in Middletown, NJ, will celebrate its Silver Jubilee. It is a great honor for me to pay tribute to this wonderful resource for the people of Middletown and the surrounding communities of Monmouth County. Owned by Middletown Township, Poricy Park is a 250-acre facility operated by the Poricy Park Citizens Committee, a private, nonprofit group. The park includes a Nature Center, opened in 1978, and restored historic buildings.

Mr. Speaker, Poricy Park has a long and illustrious history. In 1667, John Throckmorton received a grant of lands that included the area where the park is now located. Part of the land was purchased in 1767 by Joseph Murray, a Scots-Irish immigrant from Londonderry, who joined the Monmouth Militia during the Revolutionary War and was murdered on his farm on June 8, 1780. The farmhouse and barn are still standing at the site. Owned by the Murray family until 1861, and a series of other owners thereafter, the land functioned as a farm until 1972.

The creation of the farm was born of the efforts of the Poricy Park Citizens Committee who, in 1969, worked to save this area from development. The committee raised more than $7,000 to secure properties, which were turned over to the township. This donation began a process of acquiring lands that ultimately led to the acquisition of the current 250 acres. Almost three-quarters of the land is left undisturbed, for nature to manage. There is a hardwood forest, a pond, wet meadows and a freshwater marsh. There is a 60-acre area of open fields, the ecology of which supports hawks, mice, foxes, woodchucks and dozens of varieties of field wildflowers. Interest in historical restoration efforts began in the late 1960's, with work beginning in earnest in the late 1970's, leading to the Murray farm buildings being registered as a New Jersey historic site. Some 600 programs are presented every year for schools, community groups and the general public, attracting some 13,000 visitors per year. There are programs for arts and crafts, a store and an artisan market. None of the great work at the park would be possible without the hard work of volunteers.

Mr. Speaker, Poricy Park represents one of the best examples I know of dedicated community activists and local governments working together, pooling their resources and creating something special to benefit of all the community. Poricy Park is an excellent resource that preserves the special history and natural beauty of central New Jersey. I am honored to pay tribute to this great facility and all the fine people whose hard work and dedication has made it all possible.

IN MEMORY OF MICHAEL ANTHONY LANNI

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Michael Anthony Lanni, to honor his memory, and to stand in solidarity with his family and friends. All their lives were richer because of Mike and he will be sorely missed but never forgotten.

Mike was Jersey born on December 29, 1956 and baptized at our Lady of Sorrows Church in Jersey City. As a youth, Mike enriched the lives of his classmates, first at St. Paul's Grammar School in Jersey City and later at Bergen Catholic and St. Mary's High School. Throughout his childhood, Mike's love of sports and academic achievements was always present. Mike was a little league all star, a Babe Ruth all star, a varsity football player and a record setting track star. At the same time, Mike's academic achievements included being named to the principal's list, receiving first honors and serving a member of the National Honor Society. His achievements were recognized by his peers who selected him as senior class president and voted him as best all around for the class of 1974. Mike's receipt of the Bob Blum Trophy as outstanding student/athlete in 1974 was a tribute to both his abilities and his determination.

College posed new challenges and triumphs for Mike Lanni. At Lafayette College he overcame a knee injury to continue his active participation in collegiate sports, particularly football and rugby. At the same time, Mike's leadership qualities were recognized by his peers who selected him as an officer of his fraternity, Theta Chi. He was the obvious choice for that role.

After college Mike returned to New Jersey and conquered the new obstacles of the work world. He demonstrated his personal qualities of loyalty, determination and smarts which are all too rare a combination these days. These qualities served Mike well as a sales associate for Mueller Brothers and later with BASF where he rose through the ranks to become a regional manager for four States. Mike's ability and always-evident charm and good nature made his advance as inevitable as it was relentless.

However, work and school provide a snapshot and not the measure of the man himself. Mike was above all a dedicated family man; who loved and treasured his parents Anthony and Mary Lanni, his wife of nearly 10 years, Margaret "Midge" Lanni, his siblings, Mary, Patricia, Louise, Christopher, and Stephen and most of all his precious and treasured sons, Timothy and Patrick. Mike was dedicated to his two boys and Patrick and Timothy must know that he will continue to look out for them today, tomorrow and always from his heavenly perch.

Although Mike has left this world prematurely and can no longer be with us, his memory will continue to occupy a warm place in the hearts of all who knew Mike. I know that his family and the hundreds of friends who attended his memorial service felt honored and privileged to have known Mike, a good man and loving father. Mr. Speaker, it has been a privilege to share with you the achievements of Mike Lanni and all he has meant to his family and those who knew him.

ESTABLISHING MORE EQUITABLE RELATIONSHIPS BETWEEN THE FEDERAL GOVERNMENT AND THE PUBLIC LANDS STATES OF THE WEST

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. YOUNG of Alaska. Mr. Speaker, the leadership of the 104th Congress is seeking to establish more equitable relationships between the Federal Government and the public lands States of the West. Before last November, Washington saw a resurgence of the misguided idea that central government control over the public domain must be expanded. The new congressional majority believes it is time to downsize the Federal bureaucracy, shift public lands to governments closer to the people, and recognize the role that the public lands in the West play in putting people back to work.

Many Western States have also been told that the national interest demands that State and local concerns be accorded second-class status. In my State of Alaska, over half of our public lands were designated parks, wilderness areas, and refuges in the name of the national interest without any form of consideration in return. There are indeed times when the interests of the country compel action, but the interests and concerns of States and local governments must be recognized and addressed in such cases. Our public policy will be that there can be no unilateral action by the Federal Government without special consideration being afforded by the affected State and local governments.

The controversial matter of nuclear waste storage offers an opportunity to implement this principle. A series of administrations and Congresses has deliberated and decided to proceed with waste storage facilities on public lands in Nevada. Unfortunately this Federal action has not been matched by the special consideration that the governments and people of Nevada, or any other similarly situated public lands State, deserve. I am considering an amendment to pending nuclear waste legislation to provide appropriate special consideration to Nevada and affected county governments.

This amendment would provide to the State and the affected counties a combination of specific parcels of valuable land as well as an entitlement to select from a pool of public lands. These lands would be provided to offset the withdrawal of multiple use public lands for waste storage and related purposes and to afford special consideration. Some lands would be immediately available and others would be eligible for selection and transfer as the waste storage project proceeds.

We welcome comments on this general proposal and are open to specific suggestions on how to make it address the needs in Nevada.

It is time to redress the balance in public lands policy between the Federal Government and affected States and local governments. I look forward to working with the elected representatives in Nevada in applying this important principle to the waste storage issue.

INTRODUCTION OF LEGISLATION TO ELIMINATE THE GROWTH CAP ON LIMITED PURPOSE BANKS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. LAFALCE. Mr. Speaker, I am happy to join my colleague, Congressman CASTLE, in introducing the Castle-LaFalce bill lifting the cap on the annual asset growth of limited purpose banks. This growth cap, imposed under the 1987 Competitive Equality Banking Act [CEBA] imposes an arbitrary and unnecessary regulatory burden. Its removal will enhance the ability of these financial institutions to serve their customers and communities, increase the availability of credit, and maintain assets on their balance sheets.

I always believed these restrictions were anticompetitive and should never have been imposed. But, in any case, Congress intended these restrictions to be only a temporary measure which were ultimately to be reconsidered as part of comprehensive banking legislation, so that Congress—not the regulators or the courts—could define more precisely the regulatory supervision over financial service institutions and competition among financial service providers.

Although many years have passed, such comprehensive reform has never passed. I am hopeful that we can accomplish that important goal in this Congress. But the changes Mr. CASTLE and I are recommending in this legislation can no longer wait. This is virtually the only financial services arena in which time is standing still. There have otherwise been substantial changes in the laws and regulations governing the financial services industry that have enhanced diversification opportunities for other financial services providers, and made full service banks more efficient, strong, and competitive. In that context, these arbitrary CEBA restrictions are even more untenable and unreasonable.

There is also no regulatory need for these restrictions. In 1989 and 1991, Congress enacted legislation to increase the ability of regulators to ensure that all banks are run in a safe and sound manner.

If we are truly committed to reducing the regulatory burden on financial institutions and allowing them to better serve their communities, these restrictions must be eliminated as part of that effort.

KEEP FUNDING FOR CORPORATION FOR PUBLIC BROADCASTING IN THE BUDGET

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. TAUZIN. Mr. Speaker, I wholeheartedly support efforts to cut unnecessary programs out of the Federal budget but I believe funding for the Corporation for Public Broadcasting and our local PBS stations certainly doesn't fall in that category.

I think of Federal funding for Louisiana Public Broadcasting as an investment, not a subsidy; 75 percent of the CPB money goes back to the local PBS stations and networks like LPB. Federal funding for the Corporation for Public Broadcasting also helps public stations to generate more money from viewers and other sources.

Every weekday, LPB provides 8½ hours of commercial-free, nonviolent educational programming for children to help them learn how to count, write, and get along with each other. Since more than 600,000 homes in my State do not have cable television, LPB is the only source of quality programming available to 40 percent of the households in the State.

Louisiana Public Broadcasting is also an invaluable educational resource for teachers. Not only does LPB provide instructional television shows which teachers can incorporate into their lesson plans, it has also set up satellite receiving stations in all 64 parishes so that school systems can broaden their curriculum through distance learning.

Through LPB satellite courses, teachers can become certified to teach adult education, special education, environmental science, and English, as a second language, classes. LPB is one of only 25 PBS stations and networks in the country taking part in PBS Mathline, a nationwide effort by public television stations to improve math instruction in schools.

Stephanie Fournier and Roslyn Dempster, two teachers from Terrebonne Parish, are part of the mathline project. They sent me a letter detailing what LPB and Public Broadcasting has meant to them.

> Public Broadcasting has opened a communication network between teachers through Mathline, not just here in Louisiana but throughout the United States, that we could not have entered otherwise.
>
> Teachers have a wealth of information but very limited resources for sharing with others. Mathline has allowed new and innovative teaching ideas to be available to teachers at the touch of a button.
>
> Representative Tauzin, there is so much we can say about the mathline project. If PBS funds are cut, and the mathline project could not be continued, it would be a great loss to Louisiana, the United States and the entire educational community. We strongly support PBS and we strongly urge Congress to continue funding.

It is signed "Sincerely in Support of PBS." Roslyn Dempster and Stephanie Fournier".

I would also like to read an excerpt from a letter sent by Felicia Harry, another one of my constituents.

> LPB is the State's only television network with a community-based educational mission. LPB makes it easier for our children to learn, easier for parents to allow their children to watch television, and easier for all citizens to be better informed and entertained.

Federal funding also allows LPB to provide programs to help adults get their GED, improve their literacy level and take college courses at home.

In a State with alarmingly high dropout and illiteracy rates, damaging one of the few public entities making a difference in the fight to educate our population would be counterproductive. Let us not do something that we are going to regret after irreversible damage has been already done. Let's keep funding for the Corporation for Public Broadcasting and local public television stations in the budget.

CONGRATULATIONS TEUTOPOLIS GIRLS BASKETBALL WOODEN SHOES; 1995 STATE CHAMPS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to the Lady Wooden Shoes of Teutopolis High School. The Wooden Shoes recently captured the Illinois High School Association, Class A State Basketball Championship for the fifth time since 1983. This powerhouse basketball team has been in the elite eight 10 times in 13 years. The Wooden Shoes won this year's crown in dramatic fashion when, with 1.1 seconds on the clock, Maria Niebrugge sunk the winning basket and guaranteed victory for her team.

Pacing the sidelines for the Wooden Shoes is "The Legend," Coach Dennis Koester, whose overall 13 year record is an astonishing 364 wins and only 28 losses. Coach Koester, along with his assistant coaches, Kim Beckman and Laurie Thompson, have transformed the way people in central Illinois view high school basketball.

With the help of their coaches this years Wooden Shoes, Gina Bloemer, Sara Gobben, Crystal Worman, Marcia Meyer, Amy Niebrugge, Stormy Young, Kim Walk, Emily Probst, Kari Probst, Karen Droeger, Karla Campbell, Marie Niebrugge, Monica Tegeler, Elizabeth Ordner, Sarah Neibrugge, and Christine Sehy have established themselves as one of the greatest teams in the history of Illinois basketball.

Being the best takes more then just fancy footwork; it also takes knowing and understanding the fundamentals. Assisting with this task were Mindy Dhom and Lisa Hewing who not only played, but video taped the games for in-depth study, and Kathy Weber and Vickie Kremer, who kept the score and the statistics.

Mr. Speaker, Illinois is steeped in basketball legend. This year, with a record of 33 wins and 1 loss the Lady Wooden Shoes of Teutopolis realized their dream and became the best girl's basketball team in Illinois.

I am proud of the hard work and dedication the Wooden Shoes showed throughout the season, and I am sure we will see this devoted team chasing the title when the ball is tipped again next season. I am honored to represent this fine team and its coaches in Congress. Congratulations Wooden Shoes, you are the best girl's basketball team in the State.

DOWNSIZING THE DOE LABS

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. ROEMER. Mr. Speaker, I am introducing legislation today to continue my efforts to downsize our Government in a commonsense manner.

This legislation will require the non-defense DOE labs to downsize the level of full-time employees by one-third over a period of 10 years, with the half of these reductions occurring in the first 5 years.

The result will be either that each lab accomplishes its current mission more efficiently, or it will narrow its focus to more closely meet its original mission. I believe this is a significant step in the right direction.

This bill requires the DOE lab structure to terminate research and facilities that duplicate work being done in the private sector, to cease activity that is not relevant to its programmatic objectives, and to use, whenever feasible universities or other private sector facilities to complete its objectives.

The bill allows, but does not require, closing or scaling back of labs to meet these objectives. The bill also requires fundamental changes in how the DOE labs follow health and safety regulations.

Currently, the DOE labels are required to follow Federal, State and local environmental regulations. The bill does not change this. However, DOE currently uses an intricate and cumbersome internal system of regulation to meet these requirements. The bill requires termination of this practice, known as "self-regulation." Instead, the Labs will follow such requirements directly, as any business would do. This will eliminate a large bureaucratic layer of the DOE, and should result in downsizing of a sector of the DOE Washington headquarters.

The bill also contains requirements that the Secretary report on the progress of implementing this legislation to Congress. I have stated before that we need to downsize Government with a scalpel and not a hatchet, and I believe this bill represents the right approach.

TRIBUTE TO LASALLE D. LEFFALL, JR.

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Ms. NORTON. Mr. Speaker, I am pleased to rise in celebrating Dr. Leffall's appointment as the president-elect of the American College of Surgeons, as well as his commitment to his students, and his dedication to the study of cancer specifically within the African-American community.

Dr. Leffall is a scholar we can all respect and admire, graduating suma cum laude from Florida A&M, and first in his class from Howard University Hospital College of Medicine. Since that time has he served at the highest level of many civic and professional organizations, including: president of the American Cancer Society; president of the Society of Surgical Oncology; member of the board of directors of the Medical Education for South African Blacks; member of the National Cancer Advisory Board; member of the American Board of Surgery; and secretary of the American College of Surgeons.

Beyond his personal scholarly achievement, Dr. Leffall has served as a professor and an inspiration for approximately 3,500 medical students and more than 150 general surgery residents instructed during in his 33 years on Howard's faculty. For his teaching, he has also received commendation—named outstanding teacher by the student council honoree and recipient of the Howard University Distinguished Scholar-Teacher Award.

Since that 1979, as the national president of the American Cancer Society, Dr. Leffall's professional concentration has been on the increasing incidence and mortality of cancer in the African-American community. His never-ending commitment has affected the District's community, as well as the national African-American community, and he has received commendation from both. Dr. Leffall received the Humanitarian Award from the District of Columbia branch of the NAACP and the National Achievement Award from the Black Caucus of the Democratic National Committee. He also received the Presidential Award from the Metropolitan Washington Chapter of the American College of Surgeons, been named a Washingtonian of the Year and listed as one of the best doctors in Washington, DC in the Washingtonian.

Therefore, we commend Dr. Leffall's past work, his dedication to medicine, çancer within the African-American community, and look forward to his continued commitment and achievement as the first African-American president of the American College of Surgeons.

IN HONOR OF FRED STANKIEWICZ AND MAURO ANDREULA IN RECOGNITION OF THEIR VALOR AWARDS

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. MENENDEZ. Mr. Speaker, I stand here today to honor two brave firefighters, Mr. Fred Stankiewicz and Mr. Mauro Andreula. Their relentless efforts and courage helped rescue the lives of three innocent people. They are both being honored at a Valor Award Dinner on April 29, 1995.

On July 2, 1994, the Ladder Company Two of the Hoboken Fire Department responded to a fire alarm on Madison Street in Hoboken. When the firefighters arrived on the scene they were confronted with heavy smoke and fire coming from the first floor of a five story building. It was impossible to enter the building because of the extreme heat and smoke. Therefore, Capt. Fred Meyer ordered firefighters Stankiewicz and Andreula to go to the roof so that the building may be ventilated. While on the roof the two firefighters received a radio transmission from their captain stating that there were people trapped in the upper floors of the building.

Firefighters Stankiewicz and Andreula began their search for the victims on the fifth floor of the building. The conditions of the building were terrible. They had nearly no visibility because of the smoke, and the intense heat radiating from the flames was excruciating. However, they did not give up. Instead, they proceeded forward and crawled on their hands and knees feeling the heat through their gloves and all over their necks and ears.

The firefighters finally located the victims. Two young children, an 8-year-old and a 3-year-old and their mother were found laying on the ground of a smoke-filled room. The two firefighters radioed down to their captain stating they had located the victims and needed assistance. However, manpower was low and the captain was still waiting for assistance. The room was becoming unbearably hot and smokey. Firefighters Stankiewicz and Andreula wasted no time, they immediately picked up the two children and placed them on the fire escape. Firefighter Andreulo went back into the building to rescue the mother. By this time, both firefighters were running out of air. They were extremely tired and firefighter Stankiewicz had been injured. Nevertheless, firefighters Stankiewicz and Andruela, with the help of firefighter James Nardello and Capt. Pat O'Brian, were able to rescue the young children and the mother and carry them to safety.

Firefighters Stankiewicz and Andruela went above and beyond their call of duty. Their bravery and courage is highly commendable. They performed dutifully and exceptionally under an unbearable and life-threatening situation. I am proud and honored to have such two outstanding men serving the community. Please join me in congratulating Mr. Fred Stankiewicz and Mr. Mauro Andreulo for their heroic actions.

LEGISLATION CLARIFYING FLSA

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. MCKEON. Mr. Speaker, the State of California is currently embroiled in a lawsuit which could cost California taxpayers as much as $500 million. The case revolves around an alleged violation by the State under the Fair Labor Standards Act [FLSA]. What makes this case worthy of note, is that the State may be forced to pay damages even though none of the plaintiffs can prove they were actually harmed. Today, I am introducing legislation to clarify the law to protect State and local governments from such frivolous and costly claims.

Under the FLSA, nonexempt employees may file for liquidated damages—cash awards equal to the amount of unpaid wages—should their employer violate the minimum wage and/or overtime provisions of the FLSA. The alleged violations by the State of California were the result of budget impasses in 1991 and 1992. In 1991, a budget impasse prevented California, in accordance with State law, from paying some State employees on time. A Federal district court judge ruled that the failure to distribute paychecks on payday, notwithstanding the circumstances of the budget impasse, constituted a violation of the implied "prompt payment" requirement under the FLSA. The Ninth Circuit Court of Appeals went one step further and ruled that regardless of the circumstances, any delay in the disbursement of paychecks violates the FLSA. Thus, in the rare instance of a natural disaster which could delay the distribution of paychecks for even 1 day, a State or local government could be sued for liquidated damages.

During the 1992 budget impasse, the State of California paid its employees with registered warrants in order to avoid liability under the "prompt payment" requirement of the FLSA. These warrants, which accrued interest and are legal negotiable instruments in the State of California, were accepted by nearly all banks and employees were able to cash the warrants as they would their regular paychecks.

In spite of the fact that the plaintiffs could not prove actual harm, a Federal district court judge initially ruled in favor of the employees, finding that the State violated the "cash or cash-equivalent" requirement of the FLSA. Even though the judge is reconsidering his decision, the State of California remains exposed to extensive liability and court costs. If the State had intentionally paid its employees late or if the employees were actually harmed by the State's actions, then employees should be eligible for liquidated damages. However, the taxpayers in California should not be forced to pay for liquidated damages to State employees who have suffered no actual harm.

This legislation, which I am introducing with several of my colleagues from the State of California and the Economic and Educational Opportunities Committee, would amend the Portal-to-Portal Pay Act of 1947 to address the issue of liquidated damages. The legislation would relieve States and their political subdivisions from liability for liquidated damages if: First, the employer shows to the satisfaction of the court that the employees were paid with a legal, negotiable instrument; second, the employee cannot demonstrate to the satisfaction of the court that he or she suffered any actual harm; and third, the employer shows to the satisfaction of the court that its failure to provide prompt payment was the result of a natural disaster, failure to enact a budget, insolvency, or other condition beyond the control of the employer.

This House has already demonstrated its commitment to relieving States and local governments of the burden of unfunded mandates and ending the practice of frivolous lawsuits. My legislation would continue the process which has already begun and end a clear abuse of the FLSA. I urge my colleagues to support this legislation.

THE FEDERAL HOME LOAN BANK SYSTEM MODERNIZATION ACT OF 1995

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. BAKER of Louisiana. Mr. Speaker, today I am introducing comprehensive legislation to provide the Federal Home Loan Bank System the tools it needs to expand on the significant contributions it has already made to the nation's housing finance delivery system. It is especially fitting today, as we debate the future of housing and housing finance in the

104th Congress, to work with an existing private entity to deliver a much need public purpose.

Since 1932, the Bank System has served as a link between the capital markets and local housing lenders, quietly making more money available for housing loans at better rates for Americans. Today the Federal Home Loan Banks' 5,400 member financial institutions provide for one out of every four mortgage loans outstanding in this country, including many loans that would not qualify for funding under secondary market criteria. The Bank System accomplishes this without a penny of taxpayer money through an exemplary partnership between private capital and public purpose.

More than 3,200 of the Bank System's current members are commercial banks, credit unions, and insurance companies that became eligible for Bank membership in 1989. They demonstrate the market's value of the Bank System by investing in the capital stock of the regional home loan banks. These institutions have recognized the advantages of access to the Bank System's credit programs and have responded to their local communities' needs for mortgage lending. As the financial marketplace grows larger and more complex, I envision the Bank System as a necessary vehicle for serving community lending needs especially in rural and inner-city credit areas.

The Federal Home Loan Bank System serves an active and successful role in financing community lending and affordable housing through the Affordable Housing Program [AHP] and the Community Investment Program [CIP]. The AHP program provides low-cost funds for member institutions to finance affordable housing, and the CIP program supports loans made by members to community-based organizations involved in commercial and economic development activities to benefit low-income areas.

The Federal Home Loan Banks' loans—advances—to their members have increased steadily since 1992 to the current level of more than $122 billion. Since 1990, the banks have made $7.1 billion in targeted Community Investment Program advances to finance housing units for low-and moderate-income families and economic development projects. In addition, the banks have contributed more than $350 million through their affordable housing programs to projects that facilitate housing for low- and moderate-income families.

While these figures are impressive, the Federal Home Loan Bank System needs some fine tuning to enable it to continue to meet the needs of all its members in a rapidly changing financial marketplace. My legislation recognizes the changes that have occurred in home lending markets in recent years which is reflected in the present composition of the Bank System's membership. Enacting this legislation will enhance the attractiveness of the banks as a source of funds for housing and related community development lending, and will encourage the banks to maintain their well-recognized financial strength. Specifically, my legislation: Articulates the Bank System's mission in statute to emphasize the System's important role of supporting our nation's housing finance system by providing long term credit and liquidity to housing lenders; establishes voluntary membership and equal terms of access to the System for all institutions eligible to become Bank System members, and eliminate artificial restrictions on the Banks' lending to member institutions based on their Qualified Thrift Lender status; equalizes and rationalizes Bank members' capital stock purchase requirements, preserving the cooperative structure that has served the System well since its creation in 1932; separates regulation and corporate governance of the Banks that reflect their low level of risk while ensuring the Banks can meet their obligations; and modifies the methodology for allocating the Bank System's annual $300 million REFCORP obligation so that the individual Bank's economic incentives are consistent with their statutory mission to support home lending.

Taken together, these interrelated provisions address the major issues identified in a recent series of studies of the Bank System that Congress required from the Federal Housing Finance Board [FHFB], the Congressional Budget Office [CBO], the General Accounting Office [GAO], the Department of Housing and Urban Development [HUD] and a Stockholder Study Committee comprised of 24 representatives of Federal Home Loan Bank stockholder institutions from across the country.

My legislation will make the banks more profitable by enabling them to serve a larger universe of depository institution lenders more efficiently, and it will return control of the banks to their regional boards of directors who are in the best position to determine the needs of their local markets. At the same time, it will provide for the safety and soundness oversight necessary to ensure that this large, sophisticated financial enterprise maintains its financial integrity and continues to meet its obligations.

I first offered comprehensive legislation to modernize the Bank System in 1992. The legislation is the culmination of efforts over the last 3 years to address in a balanced way the concerns of the bank's member institutions, community and housing groups, and various government agencies. I look forward to passage of this important legislation to modernize an institution that works to improve the availability of housing finance and the opportunity of home ownership for all Americans.

CONGRATULATIONS STEWARDSON-STRASBURG HIGH SCHOOL COMETS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. POSHARD. Mr. Speaker, I rise today to congratulate the Stewardson-Strasburg High School Comets on their outstanding basketball season. Lead by head coach Monte Nohren, and assistant coach John Giesler the Comets tipped off this season and never looked back.

Throughout the 1994–95 varsity season the Comets were determined to make it to the State tournament in Champaign. With hard work and dedication the Comets blazed into assembly hall this March as part of the "elite eight."

The Comets players: Ryan Moomaw, Ryan Cox, Mark Giertz, Christian Merriman, Craig Ogle, Eric Roley, Phil Manhart, Bock Friese, Patrick Merriman, Scott Meers, Dustin Rothrock, and Derrick York are to be especially congratulated for their performance this season. These fine young men exemplify the concept of good sportsmanship, and understand that while they did not take home the state trophy, they are still champions.

Mr. Speaker, I am honored to represent this excellent team in Congress and I look forward to next season when the Comets once again set their sights on Champaign.

THE INTRODUCTION OF THE NATIONAL CHILDREN'S ISLAND ACT OF 1995

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Ms. NORTON. Mr. Speaker, today, at the request of the District of Columbia, I am introducing the National Children's Island Act of 1995, which will transfer the national park service land on Heritage and Kingman Islands in the Anacostia River to the District of Columbia. These lands will then be developed by National Children's Island, a nonprofit organization, as a year round recreational and educational park and playground free to the public. National Children's Island is a fully private enterprise project in the District of Columbia.

The District estimates that the park will mean not only recreational and educational facilities for residents and tourists, but also over 1,500 full- and part-time jobs, with at least 51 percent of such jobs going to District residents. The park will bring revenue to the District projected at $12 million. A share of the park profits and revenues will be earmarked for educational grants, scholarships, and other programs. The park also will have educational pavilions that will feature a number of the sciences, especially computers, medicine, and the environment.

THE ACCESS TO CHILDREN'S HEALTH CARE ACT OF 1995 AND THE CHILDREN'S HEALTH EQUITY ACT OF 1995

HON. BLANCHE LAMBERT LINCOLN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mrs. LINCOLN. Mr. Speaker, I rise today to introduce the Access to Children's Health Care Act of 1995 and the Children's Health Equity Act of 1995.

The first bill will allow children's hospitals to qualify as federally qualified health centers [FQHC], Thus strengthening the vital safety net of services for low-income and underserved children with special health care needs.

As the number of children in poverty has grown and private coverage of dependents has declined, children's hospitals have increasingly become the primary care pediatrician and pediatric specialist for children. In addition, children's hospitals accept all children regardless of their ability to pay and substantially underwrite outpatient care. By allowing children's hospitals to qualify as FQHC's, the hospitals will receive reimbursement based on reasonable costs as defined by Medicaid.

The second bill, The Children's Health Equity Act of 1995, will require States that establish Medicaid managed care programs to continue enrolling children with special health care needs in traditional fee-for-service plans.

Today, more and more States are moving to Medicaid managed care plans, which can potentially present problems for very sick or disabled children. Specifically, HMO-type plans can systematically deny care to very sick children by not having enough or any pediatric specialists on contract.

This bill seeks to protect children with special health care needs by requiring States who adopt Medicaid managed care programs to keep such children enrolled in traditional fee-for-service programs. Most often, traditional Medicaid fee-for-service plans provide necessary access to pediatric specialists for children with special health care needs.

I believe mainstreaming the Medicaid population holds many advantages for those enrolled in Medicaid. But we cannot put the children in the greatest need of access to specialty health care at additional risk of being denied necessary services.

I urge my colleagues to take a serious look at these important bills to guarantee appropriate health care for the children in their districts with special health needs.

ENSURE TAX FAIRNESS, HELP SMALL BUSINESS AND REDUCE THE DEFICIT

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. FILNER. Mr. Speaker, I am joined today by my colleague, Congresswoman HELEN CHENOWETH of Idaho, in introducing the Insurance Tax Fairness and Small Insurance Company Economic Growth Act that will amend the Internal Revenue Code of 1986 to close a glaring tax loophole. When passed, this bill will assure fiscal responsibility in our debt management and help ensure tax fairness.

It is an honor to be joined by my colleague in this bipartisan effort and I am certain that, as more Members become familiar with this issue following the upcoming recess, we will have additional cosponsors.

The 104th Congress has seen numerous proposals for tax cuts, budget cuts, rescissions, and deficit reduction. Everyone has his or her own idea about what should be spared and what should be eliminated—and at whose expense. And despite our efforts at deficit reduction, the national debt continues to threaten our economic stability.

Today, we present a proposal to reduce the deficit, help pay for these budget-cutting proposals and, at the same time, help small business. Our proposal requests no new funding, attacks no one's programs, does not increase the Federal deficit and raises no new taxes.

This legislation is designed to do away with section 809 of the Tax Code that both the U.S. Treasury and the General Accounting Office [GAO] have termed as flawed and unworkable, and contrary to what Congress intended.

Our bill would close a $2 billion dollar loophole—that is $2 billion per year. Currently, a few giant mutual life insurance companies benefit from this loophole and do not pay their fair share of taxes. Closing this loophole would only require that these companies pay their full share of taxes. All that is required is a technical correction to existing tax laws affecting life insurance companies. At the same time, the Nation's small insurance companies would be helped by our efforts and would receive significant tax relief.

Under the terms of section 809 of the Federal Tax Code, the few giant mutual life insurance companies are able to increase or decrease taxes on their business activities by manipulating the sale of assets. That legislation would repeal section 809 of the Tax Code and place a cap on the amount of dividends that are tax deductible. This action would help achieve the revenue which Congress and the treasury intended for the mutual life insurance industry.

This $2 billion annual windfall dates back to 1984 when Congress attempted to correct the taxation of mutual life insurance companies. That corrective action was intended to provide income to the U.S. Treasury based on equity among life insurance companies—both stock and mutual. After a short-term increase in taxes received, the revenue actually began decreasing. Four years later, the Treasury and the General Accounting Office [GAO] admitted something was wrong. The intended revenues were not being generated.

In fact, certain large mutual insurance companies have been paying no tax on earnings from business activity since approximately 1986. Obviously, this was contrary to congressional intent. Congress asked the insurance industry 5 years ago to come up with a solution to the shortfall. Our request is still valid, Mr. Speaker, and we can no longer wait for a response.

We must get to the bottom of this matter by having a congressional hearing that lays all of the facts on the table and presents all sides of the issue. This legislation will lead to full disclosure of all relevant material—and settle what the U.S. Treasury and other tax experts agree is the fundamental fairness involved.

There has been considerable interest in our legislation, including national columns supporting the goals of the bill. There is bipartisan support across the political spectrum. The national Coalition to Close the Loophole and Put Our Kids First brings 173 grass-roots groups to this effort.

Mr. Speaker, the state of the current budget deficit threatens our Nation's fiscal security and requires immediate and decisive action. Of all the difficult choices Congress faces, none are more agonizing than those involving taxpayer dollars. The loss of $2 billion in annual revenue makes the choices between military spending, middle class tax cuts, welfare reform, veterans' programs, and social services even more difficult than need be. Our legislation is about the ability of this Nation to tax all citizens equally, and making sure that Federal dollars are spent on programs that are truly in the national interest.

Closing the section 809 loophole makes a lot of sense—and it would be a courageous decision. It would show the Nation that Congress has its priorities back in order.

I urge the bill's careful consideration through the congressional process.

I ask that an information sheet entitled "What is Section 809 and Why Is It an Issue?" and a recent editorial from the San Diego Union-Tribune be included in the RECORD.

[From the San Diego (CA) Union-Tribune, Mar. 26, 1995]

CORPORATE WELFARE—MUTUAL INSURANCE AVOIDS FEDERAL TAXES

Historian Richard Hofstadter pointed out in his Pulitzer Prize-winning book "The Age of Reform" that special interests are especially adept at evading the spirit and intent of government reforms directed at them.

That certainly seems to be the case with the mutual insurance industry, which has managed for the last 11 years to evade paying its fair share of federal taxes.

In 1984, Congress rewrote the tax code to ensure that mutual insurance companies were taxed at the same level as stock insurance firms. Both companies sell the same type of policies. The difference between them is that mutuals are owned by policyholders, while stock companies are owned by stockholders.

But a funny thing happened on the way to implementing this equitable change in the tax code: The mutuals figured out a way around the revision.

By simply altering the way they accounted for their assets, the mutual firms discovered they could pay much less in taxes than the reform intended. Some mutuals, moreover, have been able to avoid paying any federal taxes on their earnings.

Not long after arriving in Washington in 1993, Rep. Bob Filner, D-San Diego, introduced a bill to remedy the situation. His measure was intended to close the tax loophole that enables mutual companies to avoid coughing up what Congress intended them to pay.

As a former history professor, Filner should have known from the beginning what he was up against. Even so, he was shocked at the ease with which his bill was stonewalled in committee and ultimately buried by the politically powerful insurance lobby.

In 1989, the mutual insurance lobby blocked House Ways and Means Committee Chairman Dan Rostenkowski from trying to close the same loophole. Instead, the industry assured lawmakers that it would come up with a tax proposal to solve the problem.

Nearly six years have passed, and still there is no plan from the industry. Nor is one likely soon, because the mutuals are content with the status quo.

Not so for Filner. He intends to reintroduce his measure, and with bipartisan support this time.

Problem is, there is little enthusiasm on Capitol Hill these days for any tax increase. What's more, the Republican majority in the House is preoccupied with passing the "Contract With America." And many lawmakers on both sides of the aisle are loath to take on the insurance lobby.

But the insurance industry's evasion of the clear intent of Congress should not go unchallenged. Filner's reform would recoup nearly $2 billion in taxes that the mutual companies avoid paying each year.

Republicans have taken a great deal of flak for their efforts to pare runaway welfare benefits. Here's an opportunity for them to go after one of the many abuses in "corporate welfare" that also are a drain on the federal treasury.

WHAT IS SECTION 809 AND WHY IT IS AN ISSUE?

Section 809 is a provision of the Federal Tax Code authorized by Congress in 1984 to limit the deduction of dividends paid by mutual life insurance companies.

While both mutual and stock companies sell identical products (life insurance), mutual companies are owned by their policyholders and stock companies are owned by their shareholders. Congress recognized a separate provision of tax code was needed to account for this difference in ownership that distinguishes these two corporate structures. Congress intended that Section 809 would make the tax treatment of mutual life insurance companies equal to that of stock life insurance companies.

Mutual life insurance companies are among the largest financial services corporations in the United States. Like the rest of corporate America, shareholder owned life insurance companies pay dividends to their owners after federal income tax. Section 809 was enacted to treat part of the dividends that mutual life insurers pay to their owners in the same way.

Insurance companies gather income from two sources. One is income from current operations (wages and salary) and the other is from capital gains, or the appreciation in value of property held by the taxpayer that occurs from general economic conditions.

Since 1984, large mutual life insurance companies have been able to manipulate their treatment of capital gains income in an unintended way. Section 809 allows large mutual life insurers to drive their tax on operating income to zero by claiming enough income from capital gains to offset the operating income. Any other corporation or individual tax payer, however, would have to pay federal income taxes on both sources of income. This result was not anticipated by Congress in 1984, as mutual life insurance historically recognized very little capital gains income before 1984.

This unique provision allows large mutual life insurance companies to escape an estimated $2 billion in income taxes on corporate earnings annually, a unique form of corporate entitlement and a gross example of corporate welfarism.

The American public will be outraged if they learn of this loophole before Congress has the courage to stand up and close it. This is particularly understandable since Congress is cutting the benefits and programs of millions of ordinary American citizens. Closing this loophole—this gross example of corporate welfare—would mean $10 billion dollars toward deficit reduction over the next five years.

HELSINKI COMMISSION HEARINGS MARK THIRD YEAR OF WAR IN BOSNIA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. SMITH of New Jersey. Mr. Speaker, this week marked the third anniversary of the war in Bosnia-Herzegovina. At this time, in 1992, Serb militants in the hills surrounding Sarajevo began their shelling of the people of the cosmopolitan and culturally rich Bosnian capital.

On the one hand, it seems like this war—with the constant, almost daily reports of the senseless slaughter of innocent people—has been going on forever. On the other hand, when the war began, no one would have imagined that it would get as bad as it subsequently did, or that we would allow it to continue that way for so long.

This week, the Helsinki Commission, of which I am chairman, held two hearings to note Bosnia's 3-year agony. At the first hearing, we heard witnesses explain that this may not even be classified as a war. Yes, there are opposing sides, but, instead of direct, military engagements, most of the violence can be characterized as a heavily armed group of Serb thugs committing genocide against those in Bosnia, and particularly the Moslem population.

Yes, Mr. Speaker, genocide. Our hearing on Tuesday focused on the extent to which ethnic cleansing, the destruction of cultural sites, and associated war crimes and crimes against humanity constitute genocide in Bosnia and other parts of former Yugoslavia. Our witnesses included Cherif Bassiouni, a law professor at DePaul University who chaired the U.N. War Crimes Commission, who discussed the ethnic cleansing that has taken place in the former Yugoslavia, and Bosnia-Herzegovina in particular. Andras Riedlmayer, a bibliographer at Harvard University, followed with a fascinating slide presentation of how the reminders of Bosnian Moslem culture—mosques, libraries, and historic sites—have been targeted for destruction in an attempt to deny the earlier existence of those who were ethnically cleansed. Roy Gutman of Newsday and author David Reiff presented us with first-hand accounts of what happened in Bosnia beginning in 1992.

We learned at the hearing that the atrocities appear to follow such a similar pattern, from region to region, that one simply has to conclude that they were carried out systematically. These crimes, as they were being committed, were at least known to, and perhaps ordered by, the Bosnian Serbs and maybe even Serbia's political and military leadership.

A prime example—the eastern Bosnian town of Foca, with its slight Moslem majority, was seized by Serb paramilitaries early in the conflict under the direction of three of Bosnian Serb leader Radovan Karadzic's close associates, Velibor Ostojic, Vojislav Maksimovic, and Petar Cancar. The sports hall, located right next to the police station, was a rape camp for about 2 months soon thereafter. About 50 women were subjected to multiple and gang rape night after night. An isolated incident, out of the view of Bosnian Serb authorities? Do not count on it.

There is, however, no real smoking gun—like the files left by the Nazis documenting the Holocaust—what has happened. The Bosnian Serb leadership, and their leaders in Belgrade, made sure there was what Professor Bassiouni called "plausible deniability." But, what has happened in Bosnia is genocide, without a doubt. The systematic way the Bosnian genocide has been carried out, and the openness with which concentration and rape camps have operated, leave no question of its orchestrated nature. We also learned that the genocide extended into Croatia. Each victim has a dramatic and tragic account to relate, but the dry statistics—200,000 killed, 800 prison camps with at least 500,000 prisoners, over 50,000 torture victims, 151 mass graves, and over 20,000 rape victims—where sobering in themselves.

As a result of the hearing, the Helsinki Commission will help ensure that all evidence of war crimes and crimes against humanity held by the United States Government are made available to the International Criminal Tribunal for the former Yugoslavia, based in The Hague. We will also seek to increase U.S. financial support for the tribunal and the prosecutor's office, so that justice is not forfeited due to a lack of resources.

Genocide is directed toward people in a collective sense, but the gruesome acts are committed against individuals, moms, dads, sons, and daughters, friends and colleagues. I have tried to imagine daily life for Bosnians, being forced out of their homes, being publicly and repeatedly raped, being tortured in a camp, facing execution in the next second, or—perhaps worst of all—watching these things happen to loved ones. It is hard for us to imagine what has been the reality for the people of Bosnia and Herzegovina for these last 3 years. One year before that, people in Croatia faced the same thing.

There is also the question of who is guilty of these crimes, and who is innocent. A recently released CIA report confirmed that Serb militants have been responsible for nearly 90 percent of the atrocities committed during Yugoslavia's violent breakup. There crimes also were most likely to have been orchestrated, in order to carry out a policy directed from above.

This does not translate into the popular notion that the Serbs are an evil people. Indeed, in previous decades, others were infected by the same evil intentions, and innocent Serbs were at times the victims. Similarly, deeds of Serbian political and military leaders, as carried out by their militant minions, do not make Serbs collectively guilty. I made this point at the hearing for two reasons. First, should we engage in the now popular Serb-bashing, we ignore the vulnerability of all peoples in this world to fall into the trap of racist ideology that has ensnared so many Serbs today. Second, Serbs in the former Yugoslavia and around the world, including in the United States, can do no more to defend their national heritage than to face squarely what their militant brethren have done, to condemn them for actions which cannot be justified by history or anything else, and to seek a reconciliation between Serbs and their neighbors in the former Yugoslavia. They should place the guilt squarely on the Serbian leadership, not share the guilt with those leaders.

Indeed, the hearing noted examples of Serbs of conscience. Professor Bassiouni relayed a story of a Bosnian Serb commander who, upon taking a new position, released several women being held captive. As his men approached the women, hoping to have their last chance to rape them, the commander stood in front of the door, with machine gun in hand, and warned his own soldiers he would shoot any who dared touch these women again. Roy Gutman quoted a recent article in Nasa Borba, a Belgrade-based Serbian opposition paper, calling the war a senseless and "unoriginal product of the unbridled Serb view of things," and bemoaned that Serbs "are obviously still far away from realizing that they have to take certain moral responsibility for evil deeds committed by their compatriots in this war." Andras Riedlmayer informed the Commission of a Serbian architect and former Belgrade mayor who condemned the destruction of beautiful cities like Osijek, Vukovar, and Dubrovnik simply because that they were not Serbian.

Mr. Speaker, this hearing on genocide was of critical importance. We on the outside have become fatigued by the daily developments there, and the endless discussion of policy options. It is perhaps human nature that explains why, in the end, we look at Bosnia in terms of percentage of territory lost and casualty figures. Similarly, our desire is to bring those fighting together—at the negotiating table—to work out a mutually acceptable compromise. In the meantime, we work to get a humanitarian aid convoy to this town or that town, or to deploy U.N. peacekeepers here or there, with this or that mandate.

As admirable as these efforts may be, they miss the central fact that what we are confronting here is something inherently evil, a racist force so irrational that it cannot be satisfied by a positive gesture. Genocide must be condemned, confronted and stopped, not tolerated and appeased. Until then, we will continue to see more fighting, more death, and more destruction in the Balkans.

That brings me to the second hearing, which focused on policy questions regarding the former Yugoslavia, and specifically issues surrounding the international presence there. United Nation peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia, and NATO assistance to U.N. efforts are of utmost importance, but efforts of other organizations merit attention as well.

Assistant Secretary of State Richard Holbrooke appeared before the Commission to present the current views of the Clinton administration on these missions and the realistic prospects for a just peace. I told the Ambassador that one thing the Helsinki Commission has learned at its 16 hearings on the former Yugoslavia, since the conflict began there in 1991, is that the conflict could have been stopped. Witness after witness, with experience on the ground, has told the Helsinki Commission that credible military threats continually caused the Serb militants to back off and be more cooperative. Had they faced international resolve, during the Bush or the early Clinton administration, we would not have needed these hearings this week. Opportunities were lost, one after another, as our ultimatums were revealed only as political bluffs.

The Commission does not say this only after the fact, as the Monday morning quarterback. From the beginning, we called for strong action to get humanitarian aid convoys through the lines, no matter what, to stop the bombardment of large, vulnerable civilian centers—to stop the war. We always met opposition. And now, our Government and those of Europe, seem to suggest that damage perpetrated against Bosnia has been so great that the reestablishment of a unified, multiethnic state is, at best, a dream. Even a 51/49 split, as proposed by the contact group, is out of reach. Military options are now riskier. What concerns me is the fact that the same officials who now find it too late to act, had other excuses when it was not too late. One can conclude that at least some of them simply never had the courage to act in the first place, or the foresight to see how American interests were affected by all of this.

To be clear, Mr. Speaker, I do not oppose finding solutions to problems at a negotiating table, but the parties involved should be given no choice but to find solutions at the table, and not from the hills surrounding defenseless Bosnian towns and cities. No parameters for acceptable behavior were established and upheld, and negotiations continue to be a dismal failure.

And what frustrates me most is that governments, and European governments in particular, are unwilling to acknowledge their incredible error, and to change course.

It was with some regret that I had to express these views before Ambassador Holbrooke, who, since becoming Assistant Secretary last August, has shown a personal interest in getting something done in the Balkans. I highlighted, in particular, the seriousness with which he has pursued the development of the Bosnian Federation, which perhaps, along with the Sarajevo ultimatum of February 1994, is the most innovative and positive effort undertaken by the Clinton administration in Bosnia. While I question the viability of the federation absent a real response to Serb aggression, I see no choice but to move forward with the federation as best we can.

Ambassador Holbrooke reported that international efforts leading to a new peacekeeping mandate in Croatia "have helped prevent, at least for the moment, the wider war we all feared." He expressed disappointment, however, that diplomacy has been unable to prevent the likely resumption of the tragic conflict in Bosnia. "I bring you no optimism on Bosnia." Following Holbrooke, two expert witnesses—John Lampe of the Woodrow Wilson Center for International Scholars, and Steve Walker of the Action Council for Peace in the Balkans—presented views on various policy options. While they disagreed on what to do, they both expressed dismay that a full and fair settlement remains so elusive.

INTRODUCTION OF THE INVESTMENT COMPANY ACT AMENDMENTS OF 1995

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. FIELDS of Texas. Mr. Speaker, today I introduce legislation amending the Investment Company Act of 1940. Entitled the Investment Company Act Amendments of 1995, this legislation will promote more efficient management of mutual funds. It will result in reduction of operating costs that will save investors money, and allow a greater percentage of the assets of the fund to work on their behalf. This legislation will also provide for more effective and less burdensome regulation of mutual funds by the Securities and Exchange Commission, and it will increase and improve investor protection.

Enacted in 1940 and amended in 1970, the Investment Company Act built the foundation for a system that regulators and regulated entities alike agree has protected investors. For the most part it has not interfered with the development of new products and the creation of investment opportunities. There is a need, however, to reexamine the operation of the act, as our financial markets have expanded in size, complexity, and investment opportunities.

The goal of this legislation is to revise the provisions of the law that no longer reflect the demands of modern markets. We must be vigilant in our efforts to relieve mutual funds of the remaining unnecessary and duplicative regulatory burdens that remain in the current law. The operating costs of mutual funds represent the expenditure of moneys that reduce the pool of assets owned by the shareholders, and a reduction in the capital that is at work earning a return for them. Government imposed regulations that do not increase investor protection fail the cost/benefit analysis to which all regulations should be subjected. They mandate the waste of potentially productive resources. They represent, in effect, an undesirable tax on capital, the most pernicious form of tax. Unnecessary regulations do nothing except reduce the wealth of American citizens.

To this end, the Securities and Exchange Commission conducted its own review of the operation of the Investment Company Act. On the occasion of the 50th anniversary of the adoption of the statute, the SEC produced a comprehensive and valuable report. Entitled "Protecting Investors: A Half Century of Investment Company Regulation," the legislation introduced today is based, in part, on a number of its recommendations.

For example, the SEC report recommended amending the act to expand exemptions for private investment companies, pools of money from sophisticated investors, from its registration requirements. This legislation will do that, but in a way that will ensure that only pools of the most sophisticated investors, people who are not in need of the protection of registration under the act, are exempted. Regulation imposes costs, and sophisticated investors not in need of or desiring the protection of the act should be free to voluntarily accept greater risk return for the opportunity of greater reward. Exemptions from registration and regulation, however, will not be made available for those products that will be sold, perhaps, to less sophisticated investors. There is no intention in this legislation to allow a generation of unregistered investment companies to be offered to the general public.

This bill also proposes to implement the SEC recommendations for improving and modernizing mutual fund governance. This will include requiring a majority of the boards of directors of mutual funds to be composed of independent directors, and increasing the authority and responsibility of independent directors in running the fund.

The legislation will also make mutual fund regulation more efficient by eliminating requirements that are expensive to comply with and which do not increase investor protection. This includes eliminating the requirements of the existing law for shareholder ratification of certain routine corporate actions, including approval of the selection of auditors.

Provisions of this legislation will stimulate a reexamination of the rules governing investment company advertising. As introduced, it will break existing regulatory restraints on promotion and sales literature of investment companies. Current law requires the contents of fund advertising to be keyed exclusively to information which is either specifically or "the substance of which" is in the prospectus. This requirement is so inflexible it stifles the development of effective investor communications by those who market mutual funds. Although advertising puffery will never be tolerated in the sale of these important investments, and the antifraud provisions of the Act will remain in force and unchanged to govern statements made in connection with the sale of these investments, a new era of generally improved communications to mutual fund investors will begin with the enactment of this legisation.

Finally, in 1970 Congress adopted restrictions on the investment in mutual funds by other funds. This arose from concerns about the possibility of investors paying duplicative expenses and layers of fees. Restrictions on "fund of fund" investments may not be necessary in the modern markets of the 21st century which include negotiated commissions, technological oversight of the markets, increased competition, and improved Government regulation of mutual funds.

Reexamination of fund of funds restrictions is necessary because professional money management should be available to all investors, including those who themselves invest on behalf of mutual fund investors; that is, professional money managers. Fund managers may wish to benefit, on behalf of the investors in their mutual fund, from the expertise of other professionals in investments with which they themselves may not be familiar. With the opening of new markets around the world, and the constant development of new and often complex instruments for investment and hedging, it is unrealistic to believe that every fund manager can be knowledgeable in every product offered in every market. Fund managers should have available to them the opportunity to commit moneys to investments which are managed by individuals with particular expertise in certain instruments or markets. Mutual funds allow this to be done in a manner which provides for the diversification of risk. The decision of whether a mutual fund is a worthwhile investment should be left to the investor, whether individual or professional, and not be artificially restrained by statutory provisions the reasons for which may no longer be valid.

The legislation introduced today is a work in progress, intended to stimulate discussion of these proposals for modernization. Our subcommittee will actively seek input from investors, regulators, and the financial service industry for additional reforms as this bill moves through the legislative process. Inevitably there will be refinements of the specific proposals of the bill as introduced.

I encourage my colleagues, on behalf of their constituents, Government regulators, and the affected industries to offer their suggestions for improving the efficiency of the mutual fund market by removing unnecessary regulatory burdens. Efficient markets create additional opportunities for investors to earn returns on their savings. This is how the American people, a nation of investors, provide for their general welfare, the education and needs of their children, and the security of their retirements. The legislation I introduce today will help them accomplish their goals.

CONGRATULATIONS SHELBYVILLE HIGH SCHOOL RAMS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. POSHARD. Mr. Speaker, I rise today to congratulate the Shelbyville High School Rams on their "Elite Eight" season. Shelbyville has historically been the place to be in central Illinois during basketball season. This year was no different, and when the Rams made it to Champaign for the big dance no one was surprised.

Led by freshman Head Coach Sean Taylor, and his assistant coaches, Bob Herdes and Jarret Brown, the Rams were able to compile a new all-time season high record of 28 and 4, win their first regional title in 6 years, and only their second sectional and super-sectional titles in the school's history.

You might think that this is the season of a veteran basketball team, but each of the Rams' starting five were underclassman. The future of Shelbyville basketball looks brighter than ever and I commend this fine group of young people on their accomplishments.

The roster of Shelbyville cagers is one of the best to ever hit the hardwood and includes: Kevin Herdes, Roger Jones, Rich Beyers, Mike Steers, Todd Wilderman, Joshua Forsythe, Alex Miller, James Brix, Tim Hardy, Harlan Kennell, Aaron Rohdemann, Ryan Shambo, Ben Short, Aaron Clark, Derk Williams, Jefrey White, Dirk Herdes, and Tom Hammond. They should all be proud of their role in the Rams' success.

I am honored to represent these excellent ballplayers in Congress, and I look forward to seeing the Rams take to the court for another season next fall.

THE KANOTIN CLUB

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. BARCIA. Mr. Speaker, one of the greatest abilities demonstrated by people is their ability to come together on behalf of a common purpose. This joining takes place in many ways, but one of the most important to our society is through the formation of a club.

One of the oldest clubs within my congressional district is the Kanotin Club, dating back to the late 1800's. This club is located is Iosco County, and is named for the Indian chief who signed treaties with the United States conveying land, including Iosco County, which was originally known as Kanotin County.

The purpose of this club is to provide a location and forum for political, economic, and social leaders of northeastern Michigan to exchange ideas, wisdom and knowledge to further the economic and social development and well being of the area. This laudatory purpose has succeeded in bringing together a diverse group of skilled and insightful community leaders who have keenly devoted themselves to the purpose of improving their community.

While many organizations like to identify a long list of specific achievements, the Kanotin Club is truly interested in listing only one: Members working together to make the quality of life in their community better and better. They do not seek recognition for any specific project, preferring the satisfaction of knowing that what they did was right to the fleeting moment of notoriety in the Sun. This combination of humility and service is to be praised.

In this day of finding ways of forging new partnerships, of getting government officials, local businessmen, and other community leaders to work together. I strongly believe that we need look no further than the Kanotin Club for a model of what will guarantee strong and hopeful future for every community throughout our great Nation. Mr. Speaker, I urge all of our colleagues to join me in saluting the quiet efficacy of the Kanotin Club through those many years.

SOCIAL SECURITY 1993 TAX INCREASE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. SCHUMER. Mr. Speaker, I rise in opposition to the Republican tax cut bill. It will bust the budget and give most of the benefits to the very wealthy and to corporations that have historically tried to avoid paying taxes.

One part of the bill that I strongly support is the repeal of the Social Security tax increase from the 1993 deficit reduction bill. As you may recall, I fought against this increase in 1993 and I was successful in helping to increase the income threshold for this unfortunate tax. Nevertheless, I felt then, and I feel now, that many seniors with modest incomes are hit by this tax increase.

It is my hope that the Senate will moderate this tax giveaway to the very wealthy and keep the repeal of the Social Security tax increase so that I may vote for the Conference agreement. It is a shame that the Republicans decided to put one good item in a bill that is nearly all bad. We should repeal the Social Security tax increase, but not use it to blackmail Members to vote for a bad bill.

THE CONSUMER FRAUD PREVENTION ACT OF 1995

HON. FREDERICK K. (FRED) HEINEMAN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. HEINEMAN. Mr. Speaker, I am proud to introduce my first bill today, the Consumer Fraud Prevention Act of 1995.

Last Friday, the North Carolina Attorney General filed another telemarketing fraud suit against individuals who prey on senior citizens. The victim, a 71-year-old woman. The cost—her life savings of $57,000. An elderly man in Raleigh recently lost $37,000. In Durham, an elderly lady lost $212,000 in a scam directed at seniors.

Unfortunately, these have not been isolated incidents. Telemarketing scams are defrauding senior citizens and those who are especially vulnerable, like the mentally retarded, all across the United States. Another appalling story is that of the 79-year-old blind woman from Minnesota who lost her life savings in a sweepstake scam. She responded to a solicitation which invited her to enter a contest for large cash prizes. Along with a small entry fee she was required to answer a simple question. To advance in the contest she had to answer more questions and pay additional fees. In all, she lost $25,000.

These fraudulent activities are not performed by legitimate companies, but by those who prey on the vulnerability of certain groups. That is why I am introducing this legislation.

The Consumer Fraud Prevention Act directs the U.S. Sentencing Commission to increase penalties for those who purposefully defraud the vulnerable in our society and those who utilize international borders to evade prosecution. The legislation also requires mandatory victim restitution first, then asset forfeiture. Once the victim is repaid, the property seized from the defendant will be used to fund the national hotline to combat fraud.

As a senior citizen myself, I am proud to offer this bipartisan legislation today on behalf of our Nation's senior citizens.

THE LIMITED-PURPOSE BANK GROWTH CAP RELIEF ACT

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. CASTLE. Mr. Speaker, today I am introducing legislation to lift an arbitrary, unnecessary and outdated regulatory burden from well-run financial services companies that provide much needed credit to American consumers. My colleague, Mr. LAFALCE of New York and I are sponsoring this legislation to lift the 7-percent growth cap on the annual asset growth of limited-purpose banks. We are pleased to have Representatives BILL MCCOLLUM, RICHARD BAKER, BARNEY FRANK, PETER KING, ED ROYCE, CAROLYN MALONEY, DICK CHRYSLER, and JON FOX join us as original cosponsors of the Limited-Purpose Bank Growth Cap Relief Act.

Limited-purpose banks are specialized lenders—most of these banks are credit card lenders operating on a national basis. They make consumer credit more available to all Americans. The growth cap on these banks was imposed under the 1987 Competitive Equality Banking Act [CEBA]. At the time of CEBA's enactment, it was argued that because limited-purpose banks could be affiliated with firms whose businesses were not permissible for bank holding companies (securities, insurance and commerical enterprises) they had a competitive advantage over full-service banks. The cap was intended only to be temporary, and Congress would lift it when interstate banking and branching and expanded bank activities were approved. Interstate banking and branching became law in 1994, Federal regulators have already greatly expanded approved bank financial activities, and Congress is providing regulatory relief to commercial banks. Limited-purpose banks are not a competitive threat to commercial banks. The growth cap has become an unprecedented restriction on a healthy, well-regulated industry and it no longer serves any useful purpose. The cap is actually forcing these banks to turn away customers.

Will lifting the growth cap give these banks an unfair edge over their competitors? No, the CEBA banks are still subject to many other restrictions not applicable to commercial banks. For example, they cannot accept checking and demand deposits or engage in commercial lending; they can only accept savings or certificates of deposit of $100,000 or more; and, they cannot cross market financial services with their affiliates. We are not proposing to lift those restrictions, but simply to lift the growth cap for the 23 existing CEBA banks. The original fear was that a proliferation of limited-purpose banks would be a competitive threat to full service banks. This was addressed in CEBA by prohibiting the creation of new limited-purpose banks. Allowing the assets of the surviving CEBA banks to grow by more than 7-percent annually will not result in the creation of new banks, change the limitations to which the grandfathered banks are subject, or otherwise threaten full service banks.

This legislation will simply allow limited-purpose banks to grow in response to their customers' needs. It will not undermine the safety or soundness of any institution or pose an unfair competitive threat to any other financial institution. If you believe in regulatory relief and allowing well-run companies to fully serve their customers, we hope our colleagues will join us in supporting this legislation to lift the 7-percent asset growth cap from all limited-purpose banks.

CELEBRATING NATIONAL MEDICAL LABORATORY WEEK

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. DIXON. Mr. Speaker, I rise to recognize National Medical Laboratory Week, April 16–22. This year's theme is "The Lab Professional: A Key Member of Your Health Care Team." I want to specifically extend my personal thanks to the key members of the health care team at Washington Medical Center Clinical Laboratory in Culver City in my congressional district for their pursuit of excellence in providing vital health services.

Medical laboratory personnel constitute the largest segment of the allied health field. There are more than 265,000 laboratory personnel, including pathologist, medical technologists, specialists, and phlebotomists, at work in almost 40,000 hospital and independent laboratories in the United States. These highly trained and dedicated health professionals make an invaluable contribution to quality health care and save countless lives each day by providing reliable laboratory test results required for the prevention, detection, diagnosis, and treatment of disease.

We often overlook these health professionals who are rarely seen by patients but who make invaluable contributions to the high standards of health care enjoyed in the United States. I urge my colleagues to join me in extending my thanks to medical laboratory personnel for their commitment to providing quality health services to the Nation, and my best wishes for a successful National Laboratory Week.

INSURANCE TAX FAIRNESS AND SMALL INSURANCE COMPANY ECONOMIC GROWTH ACT OF 1995

HON. HELEN CHENOWETH

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mrs. CHENOWETH. Mr. Speaker, Mr. FILNER of California, and I are introducing legislation today that strikes at the very heart of why those of us elected to the 104th Congress feel so strongly about our national purpose and identity. In this instance the issue is tax fairness; all Americans and American companies must pay their fair shares of taxes. This is the sum and essence of my legislation which is entitled the "Insurance Tax Fairness and Small Insurance Company Economic Growth Act of 1995."

To amend the Internal Revenue Code of 1986 to revise the limitation applicable to mutual life insurance companies on the deduction for policyholder dividends and to exempt small life insurance companies from the required capitalization of certain policy acquisition expenses.

Mr. Speaker, we have been hearing a great deal about corporate welfare these days; it appears to be what the New York Times, in its op-ed page referred to, on Wednesday, April 5, as a "new political catch phrase" that has entered "the Washington lexicon."

This is not a liberal or a conservative issue, Mr. Speaker, but an American issue. In fact the matter I cited above was Stephen Moore, director of fiscal policy studies at the Cato Institute. A strong voice for conservative thinking in America.

We have heard the distinguished chair of our Budget Committee, my colleague from Ohio, JOHN KASICH, use the phrase on several occasions. And the Senator from Texas, PHIL

GRAMM, has also been cited for his concern with huge losses suffered by the Federal Treasury.

In fact, the Cato Institute states, according to Mr. Moore, that "Congress finances more than 125 programs that subsidize private businesses at a net cost of $85 billion a year."

I have no reason to doubt these figures, Mr. Speaker, even as I am shocked by simply stating the facts. We must get to the bottom of this issue, and it would be another great legacy of the 104th Congress if we could look at corporate welfare in the light of day, and rectify the mistakes of the past.

Our legislation, which will also be cosponsored by others who will join us after the recess, is perfectly timed for the huge problems we face as a nation. How we use our resources, both material and spiritual, remain the most important questions of our time.

I face these issues each day in both the Agriculture and Resources Committees I serve on. In terms of fiscal matters, I am often confronted with the issue of how are we going to pay for such and such a program, and still remain true to our principles of fiscal responsibility.

Our legislation will restore approximately $2 billion annually to the Federal coffers for use as Congress designates. It will mean that a few of the giant mutual insurance companies begin to pay taxes that Congress intended them to pay in the first place through section 809 of the U.S. Tax Code.

It is not intended in any way to divide the insurance industry; the overwhelming number of insurance companies are exempt from this legislation. It is intended, simply and specifically, to close a loophole that has long concerned many students of our tax system, and restore a level playing field for all corporate taxes.

By closing this loophole, Mr. Speaker, we will take a giant step toward restoring faith and confidence in the American political process. I urge the Ways and Means Committee to give it immediate consideration, and I am looking forward to joining with additional cosponsors. The time for the enactment of this legislation is now; it will make the 104th Congress the historic Congress that confronted and solved the problems of the past and looks forward to the new century with hope and optimism. We can do no less, Mr. Speaker. This legislation must be enacted.

TRIBUTE TO ZACH NUSSBAUM

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. CUNNINGHAM. Mr. Speaker, I rise today to salute the heroism of one of my younger constituents, Zach Nussbaum, of Fairbanks Ranch, CA. As the article below details, Zach saved his mother's life several weeks ago.

When Susan Nussbaum collapsed from dehydration on February 23, young Zach went to the phone and dialed 911, summoning an ambulance to his home. Zach remained on the line for 15 minutes and helped to direct the emergency crew to his house.

All of this happened on Zach's fifth birthday, which points out the importance of teaching our kids at an early age about 911 and how to get help in an emergency. I'm pleased to report that Susan Nussbaum has fully recovered and that Zach has returned to his normal routine.

Mr. Speaker, I know my colleagues join me in saluting the courage and heroism of Zach Nussbauum.

[From the Sun, Mar. 9, 1995]

5-YEAR-OLD SAVES MOM'S LIFE—FAIRBANKS RANCH BOY KNEW HOW TO DIAL 911

(By John P. Lyons)

As Zach Nussbaum cuddles his two favorite stuffed animals, Sonic and Tails, it's hard to believe that not too long ago he saved his mother's life.

But that's exactly what he did.

On Feb. 23, Zach's fifth birthday, his mother succumbed to dehydration and collapsed on the floor of the family's Fairbanks Ranch home.

Unfazed, Zach went to the phone and dialed 911, ultimately remaining on the phone for more than 15 minutes, and leading medical workers to his unconscious mother.

"It was his birthday present to his mother," said Susan Nussbaum, who has since recovered.

But Zach, who said he learned how to dial 911 practicing on his mother's car phone, was characteristically nonchalant about the entire incident.

"We practiced 911 in the car and didn't press the send button," he said. "I take care of my mom."

According to his mother Zach was calm throughout the incident, and showed no signs of trauma later.

But the authorities were impressed.

Most children Zach's age are not as helpful or competent when confronted with a real 911 situation, according to Sheriff's Deputy Roy Casteneda.

Zach, however, is no ordinary kid, and is already an avid workbook reader.

On the 911 tape, Zach could be heard giving medics directions to the Nussbaum house and then attempting to wake his mother, according to Susan Nussbaum.

"And when the ambulance arrived he simply said 'I'm done here' and went back to playing with his tops," She said.

Since saving his mom, Zach has returned to his full time occupation: playing pogs and video games with his three older brothers—Gabe, 7, Josh, 9, and Benji 10.

SAINT LARRY: OKLAHOMAN OF THE YEAR

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to my very dear friend, the Reverend Larry Jones, head of Feed the Children, a humanitarian organization dedicated to feeding hungry children and helping people to lead normal and productive lives.

Feed the Children has delivered food and medical supplies to such countries as Haiti, Ethiopia, Somalia, Uganda, Kenya, Armenia, and war-torn Bosnia. He has also delivered food to cities across the United States. On several occasions, Feed the Children has distributed tons of food to needy families in my congressional district in New York. For these efforts, and a lifetime of humanitarian service, Reverend Jones has been recognized as Oklahoman of the Year for 1994 by the magazine, Oklahoma Today.

Reverend Jones discovered his calling to help suffering children while on an evangelical mission in Haiti where he witnessed heart-wrenching scenes of hunger. Then he vowed to dedicate his life to service in behalf of hungry people all around the world.

I recall toward the end of the Haiti crisis last year, Reverend Jones and I arranged to have two planeloads of medical supplies and food delivered to aid the suffering people of Haiti. The military dictators then in power attempted to block the visit, but Reverend Jones persevered and after a few days delay, he took the plane full of supplies to Port-au-Prince.

Reverend Jones has a very deep understanding of the problems of the suffering of the poor. Earlier this year in testimony to the Ways and Means Committee on the welfare reform bill, he reminded Congress that in its zeal to reform the system, they must not forget those who have been left out of the mainstream of our wealthy society. Reverend Jones was joined at the hearing by spokesmen from Jewish, Catholic, and Protestant denominations in an appeal for compassion that has crossed religious lines.

Mr. Speaker, I am very proud to be a friend of Rev. Larry Jones who has dedicated his life to helping those who are less fortunate. In tribute to him and for the edification of my colleagues, I call attention to an excerpt from an article in Oklahoma Today, in which he was recognized as the Oklahoman of the Year for 1994.

The profile of his organization, on the other hand, has never been higher. In 1994, Jones' Oklahoma City-based charity delivered truckloads of donated canned vegetables, antibiotics, wheelchairs, hams, coats, underwear, water purification tablets, books, powdered milk, Christmas candy, and stuffed animals to seventy countries around the world. His organization has heated orphanages in Romania, started loan programs in the Philippines, and supported prenatal clinics in Russia and a home for disabled children in Africa. Jones traveled to Rwandan refugee camps, to Bosnia and Croatia in the midst of war, and during last summer's trade embargo, delivered a planeload of food and medicine to Haiti just hours after President Bill Clinton announced the U.S. Marines were going in.

Here in the United States, Jones' trucks delivered millions of pounds of supplies to food pantries in places known to be wanting, like Appalachia and Harlem, and places where hunger is more hidden, like Vermont and Denver. He bought a vacant college campus in the heart of Oklahoma City and established a job training program there, then loaned one of the buildings to Head Start. His organization provided disaster relief during catastrophic flooding in south Texas and pinpointed the eight most destitute school systems in each of the fifty states and sent each student a care package at Christmas.

All of this—the $90 million charity, the fleet of trucks, the rides sitting on sacks of food in armored cars into countries at war—has happened, Jones maintains, without any planning on his part.

"Imagine," he says, "you're standing there, and someone hands you a rope and asks you to hold it. Turns out the rope is attached to a hot air balloon, and you just go.''

For fifteen years, that ride has been Feed the Children.

TRIBUTE TO RICH BECKER

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mrs. MEYERS of Kansas. Mr. Speaker, April 20, 1995, marks the retirement as mayor of Lenexa, KS, of one of Kansas' leading citizens, Mayor Rich Becker.

During Rich Becker's 8 years as mayor, Lenexa has experienced phenomenal economic and residential growth and offers its citizens an extremely high quality of life.

In 1994, Rich Becker reached out to all Kansans and ran for Governor. He conducted his campaign with honor and integrity never saying a bad word about any other candidate. He and his wife, Nancy, traversed Kansas' 400,000 square miles from north to south, from east to west, visiting all 105 Kansas counties and all 627 towns and cities which have mayors—a more vigorous and rigorous campaign than any in history.

Rich Becker has distinguished himself as a selfless public official. The enthusiasm, energy, and integrity with which he has pursued his personal and public goals sets a standard of excellence in public service to which we all should aspire.

MORRISTOWN, NJ: THE SPIRIT OF AMERICA

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to pay tribute to the town which is the heart of my Congressional District, the historical town of Morristown, NJ, which celebrated the 130th anniversary of its incorporation into Morris County on April 6.

Like many early colonial American towns, Morristown was settled by Puritans searching for religious freedom, as well as industrious newcomers from the coast hoping to capitalize on the wealth of the land. In 1738 the Puritans established their church on the town's square or "Green" and proceeded to harvest the bounty of the land and the richness in the hills. This spirit of freedom and industriousness proved to be the rock upon which was built one of our Nation's greatest towns.

Perhaps, Morristown is most famous for being the military capital of the American Revolution. Gen. George Washington chose the town for its strategic location, iron industry, and citizens' loyalty to the cause of colonial independence. The Continental Army camped there for two bitter winters, with Washington making his headquarters at the home of the early industrialist Jacob Ford. In 1933, President Herbert Hoover established Washington's headquarters at the Ford Mansion as our Nation's first National Historic Park.

After the war and throughout the 19th century, Morristown prospered as the region's industrial capital, in addition to being the county seat of government and an area retail center. The town started to take on a new look with the advent of the railroad. Now only a short train trip from Hoboken, the wealthy financiers and industrialists of New York City could get away to the rolling hills and healthy climate of Morristown during the summer months. In fact, one of the town's main thoroughfares, Madison Avenue, became known as "Millionaires' Row."

Less celebrated at the time, yet more important to the town's future, were the other new groups of people locating in the town—immigrants. Since the middle of the 19th century, Morristown has been rejuvenated each generation by a new group of ethnic Americans. Germans, Irish, Italians, African-Americans from the South after the Civil War, Jews, Hispanics, Asians, and East Europeans from the former Soviet Union; all leaving an indelible mark on the history and culture of the town.

Today, Morristown is not known for its celebrity residents such as when it was graced by the likes of inventor Alfred Vail or the infamous cartoonist Thomas Nast. Instead, the citizens of Morristown, and the spirit that they harbor, are the beacon that attracts people and businesses from across the country and around the world to this small but vibrant town. So congratulations Morristown—you are the spirit of America.

YORK-ADAMS COUNTY CENTRAL LABOR COUNCIL ANNUAL WORKERS MEMORIAL DAY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. GOODLING. Mr. Speaker, I want to congratulate the York-Adams County Central Labor Council on their fifth annual workers Memorial Day. This event is held annually in order to recognize and remember workers who have been injured or have lost their lives in the workplace.

Over the last few years, we have made considerable progress in reducing serious injuries and deaths in the workplace, but much more needs to be done in order to achieve safety for all workers. Each year many avoidable workplace fatalities occur, and each time a great loss is suffered by both their families and their country.

As chairman of the Economic and Educational Opportunities Committee, I hope to consider different means of achieving a secure workplace and even improve the Occupational Safety and health Act to ensure that todays workers have the safest workplace possible.

Job safety is in everyones interest. Most responsible companies believe their employees are their best asset. Normally, the products these companies produce are of the highest quality.

In todays competitive market, quality products are the mark of a quality nation. Our workers are our future link to the world market and they should be able to work in an environment that is safe and secure.

We must find new and more effective ways for employers and employees to work together. It must be done in order to help American workers compete in the world marketplace and work in safe conditions.

We must remind ourselves of the contributions and sacrifices made by our workers every day. Workers Memorial Day is a fitting tribute for those who were injured, or died in the workplace.

THE VOICE OF THE PEOPLE

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. ROYCE. Mr. Speaker, I want to take this opportunity to highlight the results of a survey conducted by one of the leading senior citizens advocacy groups in the Nation, 60 PLUS, which is dedicated to tax fairness for seniors.

This organization, which has over 250,000 members and is headed by former Congressman Roger Zion, polled 100,000 of its members, and by a 3-to-1 margin, they support the Republican tax fairness bill. Representative Zion and 60 PLUS Chairman Jim Martin delivered thousands of mailgram petitions to the Capitol steps earlier this week in support of this measure, noting that it lifts the outside earnings limit on Social Security beneficiaries, repeals the 1993 Clinton tax increase on seniors, increases the exemption from Federal estate taxes, reduces the capital gains tax, reforms SSI, and provides a tax credit for elderly care in the home.

Mr. Speaker, as Representatives of the people, we need to listen to their voices, and act accordingly.

HONORING THE CESAR CHAVEZ WRITING CONTEST AWARD WINNERS OF THE EAST SIDE UNION HIGH SCHOOL DISTRICT

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Ms. LOFGREN. Mr. Speaker, I rise today to recognize more of the winners of the first annual Cesar Chavez writing contest held by the East Side Union High School District in San Jose, CA. I had the great privilege of attending the award ceremony honoring the student winners on March 31, 1995, and would like to continue sharing the essays and poems written by the student award winners with my colleagues.

On April 4, 1995, I began by sharing the essays and poems of the grand prize winners and three of the first place winners, and today I will share the five remaining first prize entries, and the first three of eight second place winning entries. On April 6, 1995, I shared the remaining five essays and poems of the second place winners.

The first prize winning essays and poems of Lisette Munoz of W.C. Overfelt High School, Ahmed Desai of Piedmont Hills High School, Brenda Reyes of Silver Creek High School and Eulala Reynolds of Yerba Buena High School follow:

CESAR CHAVEZ

(By Lisette Munoz of W.C. Overfelt High School)

To some he was a hero but he only saw himself as a man.
A man I believe put on this earth to help the disadvantage.
His struggle was not easy for he faced much prejudice.
An acquired prejudice brought upon by ignorance.
His people, he saw hunched over in the fields, sweat upon their brows, pain in their backs, hands blistered and skin darkened from the sun.
All eyes were wide open, everyone looked around but no one took a stand.
Cesar Chavez felt something in his gut, this was 'El Movimiento.'
He stood amid the mist of the pesticides and began to walk, and surprisingly, the people followed.
He then knew that all the people needed was a leader who was dedicated to his cause.
He fasted so that people would listen.
He pointed out the forgotten ones.
Babies deformed by the hands and inventions of man.
He did what he needed to so change would come about.
He did all this but his body couldn't withstand the battle.
He entered the souls of all of his followers, and his spirit became the agila on our flag, soaring to continue the unfinished struggle.

DEDICATED TO A DEDICATOR

(By Ahmed Desai of Piedmont Hills)

In a modern world dominated by models who are athletic superstars, rarely is society given the gift of a true hero. The late Cesar Estrada Chavez was and continues to be such a unique individual who deserves the title of "genuine model." Chavez is an inspiration to many, and a teacher to all. There is much that he stood for, and even more that today's youth can learn from him.

A servant not to his own wants and desires, but rather to those of his community, Cesar Chavez reminds the young to put the needs of others before one's own. He utilized the tactics of civil disobedience and peaceful protests only to bring about change for the better and for society, and not for his personal gains or rewards. Armed with a strong dedication, yet a descendant of a poor background and a minority ethnic group, Chavez proved that anyone, anywhere, with perseverance, can succeed and make a difference. Withstanding and conquering numerous obstacles, he neither gave up nor lost hope. He worked long and hard, rested little, and made nothing come between him and his goal. As a result of years of continuous struggles, Cesar Chavez achieved his goal and gained rights for farm laborers. Youths of today can see themselves in Chavez, as they prepare their future aspirations and discover ways to accomplish them. As a model, Cesar Chavez teaches youngsters that the best and only method for success is through dedication and persistence.

Cesar Chavez lives on as a leader to whom teens can relate and look up. He was human and knew his strengths and limits. He did not only talk about ideas, but took charge and did things to make them a reality. Chavez, even with his short stay on earth, proved that a lot can be done in and with so little. Moreover, he made the most of what he had and did not ask for more than what he felt was deserved. The lifestyle that he led includes many lessons that can be beneficial to today's new generation. Let us reflect the past actions of Cesar Estrada Chavez, a great humanitarian. Feliz Cumpleaños, señor Chavez.

BATTLE

(By Maria Gonzalez of Santa Teresa High School)

He fought for what was right,
It didn't matter if it was Day or Night.
He fought for our race,
And battled face to face
With the dangers we find
When we are the alien race.

Latino, Hispanic, Chicano
Some of the names he was called.
Proud to be who he was,
And what he stood for, Equality.

He was a leader urging us to Fight.
A leader explaining our rights.
Our rights as people
Our rights for freedom
Our right to come to this
Country, fight the odds, and Win.

"WHO IS HE?"

(By Brenda Reyes of Silver Creek High School)

The fields were his life.
Los files eran su vida.
The crops in the fields were his life.
Las cosechas que crecian en los files, eran su vida.
The people picking the crops in the fields, were his life.
La gente que cortaba la cosecha en los files, eran su vida.
The pesticides that fell upon the people, became his enemy.
Los insecticidas que caian sobre la gente en los files, se convirtieron en su enemigo.
They became his concern.
Ellos se hicieron su preocupacion.
His struggle.
Su batalla.
His fight.
Su pelea.
But no one cared.
Pero a nadie le importo.
"I will make a difference" he said.
El dijo, "Yo hare la diferencia."
"I will bring justice" he said.
El dijo, "Yo traire justicia."
"Something will be done!" El dijo.
But no one listened.
Pero nadien escucho.
"No grapes" he yells.
"Uvas no" El grita.
"Who is he mommy?" a little girl asked.
"Quien es el mami?" una nina pregunto.
"I do not know" the mom answers.
"No lo se" contesto la madre.
"One day I will be like him, mommy." the girl said.
"Un dia sere como el mami." dijo la nina.
"I will fight for what I believe, and I will be a leader."
"Yo peleare por mis creancias y sere una lider."
"Many will believe in me, and I will believe in myself too."
"Muchos creran en mi, y yo crere en mi misma tambien."
"Crowds will come to listen to my words of wisdom, and there will be those that will want to stop me."
"Grupos bendran a oir mis palabras de sabiduria y habran unos que quedran interponer."
"But no one will suceed."
"Pero nadie lo hara possible."
"I will organize may own march's, and those who believe in me will follow."
"Yo organisare mis propias marchas, y esos que crean en mi, me seguiran."
"The sore blistered feet will be my reward."
"Los pies mayugados y ampollados, seran mi rcompensa."
"I will have hunger strikes, as he."
"Yo trende guelgas de hambre, como el."
"And the grumbling of my stomach, will be my reward."
"Y los grunidos de mi estomago, seran mi recompensa."
"I can't wait to grow up mommy."
"No pudo esperar para crecer mami."
"I want to be just like Cesar Chavez."
"Quiero ser igualita que Cesar Chavez."
"It can be done, huh mommy?"
"Si se puede, eh mami?"
"Yes honey, it can be done." The mom smiles.
"Si mija, si se puede." La mama sonrie.

CESAR CHAVEZ

(By Eulala Reynolds of Yerba Buena High School)

Raw, callous, sun, rain
Eternal work, labor, pain
Grief, hurt, no reward
Living land a sharpened sword
Struggle, family, one thing clear
Survival, essential, defeat near
Uprooted and adrift behold!
For this an endless story told!
What one voice and truth is heard?
A man with whom a piercing word?
Loud for absorbed by truckloads of women and men
Who fight for justice again, again
The power of nonviolence but yet a war
Lead by him to soothe the wound
The wound an open cut, a pool
desolate, defeat, doom
The union "La Causa" it's birth not a breech
Gallo wine, grapes, lettuce beseech
For had "La Causa"slowly climbed its way
The picket march exist today
Child labor put to ends
By well pronounced fighting friends
Cesar Chavez stood brave, tall
His lifelong dream, "live for the cause"
For now over is the war
Still the wound remains, the scar.

The second prize winning essays and poems of Lauren Droira of Andrew Hill High School, Eva Zuniga of Independence High School and Troy Arevalo of James Lick High School follow:

CESAR CHAVEZ'S TESTIMONY TO MODERN SOCIETY

(By Lauren Droira of Andrew Hill High School)

A splendorous eagle soars through the boundless skies above on a quest to grasp the seemingly unattainable star.
Off in the horizon a muffled road:
Come accompany us in accomplishing such a dream which appears so far.
Ferocious winds encompass the creature, though it valiantly persists onward, an astonishing feature.
Cesar Chavez: a dauntless, intrepid warrior;
One who strived throughout his entire existence to eradicate the actual barrier.
Racism? Latino farmers impetuously toil throughout the day,
Hoping to be paid by the sun's final ray.
Injustice? Living conditions were quite squalor,
Personal wages as meager enough to leave a child's stomach hollow.

Such reasons fed the brewing red fire of desecration;
Protests, tumults, riots were born Mr. Chavez as the chieftain.
"SOCIAL JUSTICE!" exclaimed the impoverished multitude,
And the truth was revealed bare and crude.
Now this great moment in time,
Has influenced the viewpoints of society's mind.
One can rationalize that such minorities stand beneath the human category, if you will,
Regardless of their customs, ethnic backgrounds, or skill.
Regressing to the era of John Locke and his corresponding theories,
One recalls the Natural Rights: the right to life, liberty, and property.
To whom was such theory directed towards?
Why the people of the world, of course!
Analyzing this statement, one can discover some significant aspects;
CORRECT! Humans possess rights to live independently, to survive, and to own, though obliged to comply with the present-time precepts.
For instance, this world can be pictured as a vast rainforest filled with thousands of different species,
Among such myriad of creatures exists humanity.
Each member must stand in one accord in order to endure
The process in maintaining freedom and composure.
Sacrificing every ounce of material obtained for his fellow agriculturers,
Including the faithful supporters,
Chavez eventually was depicted as a unique, symbolic figure for migrant worker's ethics,
Simultaneously promoting social justice.
Influentially, Chavez's devotion and dedication in transforming the "old society",
Has conclusively become our tenacity to continue striving for equality.
Yet beyond its effects on society's established regulations,
Chavez's perseverant character has modified even the most desperado of people into diligent beings possessing substantial aspirations.
During his amazing fulfillment,
Cesar Chavez's speaking contained moral relevance.
"The beauty of life is not what surrounds us, but the compassion and charity we have within our hearts."
Human beings tend to rank others according to outer bearings,
Though interior values possess greater meanings.
Considerate, abased, and anxious,
Cesar Chavez could very well represent a golden sack of morals, so virtuous.
Similar to Dr. Martin Luther King and Ghandi,
Who both likewise elevated the social rights of their corresponding people utilizing a manner of fiery resolution and obstinacy,
Cesar Chavez can be illustrated as the deliverer of his own compatriots,
The stalwart defender who blanched the obscure unrighteous spots.
In history such standard bearer that prominently
Exudes in determination to conquer the epitomy,
Specifically for his fellow workers and racial minorities,
Is highly commended in the present times,
And will be in the future minds.

CHARITY

(By Eva Zuniga of Independence High School)

All too many times while I was young, I was asked who my hero was. I had never stopped to think about the importance of this question until recently. Throughout my education I was given research assignments that required me to learn the lives of many people. I knew that these people were important to many people and I thought what they done was great but, I never felt a touching emotion for these people. I asked many people including teachers and friends what makes a hero heroic? However, I never found an answer that was suitable to me. I decided to compose a search of my own on what a hero should be and I realized that the characteristics of a hero couldn't be found in an encyclopedia article nor in a definition in a dictionary. It was a feeling you feel in your heart. It's a definition you create on your own to fit your personal beliefs.

After reading about the life of Cesar E. Chavez I finally felt gratitude for a man who has brought so much knowledge to the lives of many. Cesar was born into a family with little of their own and nothing to spare. He learned the ways of life from his work in the farming fields of California. With little education and a strong will in life Cesar grew to be a leader, a man who took action, someone who speaks up, a man who will fight until he wins or die trying. He helped his fellow farm workers by gathering people who believed that working in the fields where poisonous gases are sprayed and threaten the lives of men, women and children. He rallied against every health problem, every underpaid and overworked individual farm worker. This wasn't a job for Chavez, it wasn't something he was paid to do. It was what he believed and what he knew his people deserved.

Many times Chavez risked his life for the welfare of his people. He starved himself for long periods of time to express his strong beliefs and he sacrificed anything to bring his people to a better way of life.

Chavez fought for the dreams of thousands of people and their families. The time, the effort, and the courage that Cesar has shown us we should honor and respect. He has taught many lessons, fought many battles and he has left us with the knowledge to fight on.

CESAR CHAVEZ

(By Troy Arevalo of James Lick High School)

He struggled, with persistence, for the rights of the oppressed, And in striving to bring about a change, he did not rest. Despite the disheartening atmosphere in which he matured and grew, Chavez became the type of leader only of which there are a few. The needs of his people fell upon uncaring ears, And through his fight for liberation, there fell many, many tears.

Although many Mexicans were helped by Cesar Chavez in bringing an end to their plight, he emphasized that his crusade was for all people, it was not just a Mexican fight.

Chavez's organization of unions attracted many powerless people who would not confront the growers who proved to be formidable, but to gain liberation, he was surely capable.

Because of his efforts in trying to help the California farm workers, his movement gained empathy from much of the nation, but there was still prejudice from many, many people against the workers in the organization.

In order to form the union, Chavez went from door to door. In the end, when the workers had gained their liberation, it did not matter that they were all poor .

After spending five years of life for his people's liberation, Chavez finally succeeded, but these rights were by far not easily gained, but greatly needed.

CONGRATULATIONS PIONEER CITY RODEO

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. POSHARD. Mr. Speaker, I rise today to congratulate the Pioneer City Rodeo of Palestine, IL, on being named the best small outdoor rodeo in America. The Pioneer City Rodeo was selected from a field of over 700 small outdoor rodeos by a distinguished panel of livestock contractors, top cowboys, and specialty rodeo acts.

Recently in Las Vegas, NV, the Professional Rodeo Cowboy Association awarded the Pioneer City Rodeo a commemorative flag, ceremonial belt buckle, and a check for $1,000. Continuing an annual tradition, the Pioneer City Rodeo donated their winnings to the Cowboys Crisis Fund to help families of injured cowboys. This is a true showing of cowboy honor and while the Rodeo's selection as the best in America is a grand achievement the example these fine people set is an even greater accomplishment.

Being voted the best small outdoor rodeo in America is a great achievement and I am honored to represent these award winning cowboys in Congress. Congratulations Pioneer City Rodeo, you are the best in America.

FEDERAL RESERVE REFORMS INTRODUCED

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. HAMILTON. Mr. Speaker, today I am introducing important legislation that would make substantial improvements in the structure and practices of the Federal Reserve System—the Federal Reserve Reform Act of 1995. Senator BYRON DORGAN is introducing similar legislation in the Senate.

This bill addresses the three issues of great importance to the American economy and our system of democratic government—the public accountability of those who make important monetary policy decisions, the current absence of any channel of formal communication between the Federal Reserve and the administration, and the veil of secrecy surrounding policymaking at the Federal Reserve.

During the past year, the Federal Reserve has demonstrated the power it exerts over the U.S. economy through its ability to influence the level of interest rates. Since February, 1994, the Federal Reserve has raised interest rates seven times for a cumulative increase of 3 full percentage points—from a target Federal

Funds rate of 3 percent in early 1994 to 6 percent currently. The recent decline in the housing sector—both sales and starts of single-family homes have fallen significantly during recent months—indicates that the rise in interest rates is starting to slow economic growth and may slow job growth in the months ahead.

The Federal Reserve occupies an anomalous position within the Government of the United States. It is an enormously powerful institution, but it does not conform to the normal standards of Government accountability. Power without proper accountability simply does not fit into the American system of democracy.

Through its control over monetary policy the Federal Reserve affects the lives of all Americans. It has the power to decide who prospers and who fails. The path that the Federal Reserve sets for monetary policy and interest rates affects every businessperson, worker, consumer, borrower and lender in the United States and has a major impact on the overall performance of the economy, as we became painfully aware during the 1990–91 recession and the anemic recovery since.

The independence that the Federal Reserve must have to insulate monetary policy from political pressures also removes the Fed from the normal processes of accountability that apply to every other agency of the Federal Government. We must address a very difficult and perplexing problem—how to make the Federal Reserve more accountable to the American people without jeopardizing its independence and its ability to conduct monetary policy free of political pressure.

No other government agency enjoys the Fed's prerogatives.

Monetary policy is decided in secret, behind closed doors.

The Federal Reserve is not required to consult with Congress or the administration before setting money or interest rate targets, even though its power affects the financial well-being of every American.

The President, who is responsible for the performance of the economy and is blamed if things go wrong, often must wait until late in his term to appoint a new Chairman of the Federal Reserve Board. President Clinton, for example, will not be able to appoint a new Fed Chairman until March 1996.

The Fed's budget is not published in the U.S. Government Budget, even though it spends about $1.7 billion per year. Only 7 percent of Federal Reserve expenditures are detailed in the U.S. Government Budget for fiscal year 1996—the $177 million spent by the Board of Governors.

The presidents of the 12 Federal Reserve Banks, who participate in monetary policy decisions on the Federal Open Market Committee [FOMC], are neither appointed by the President nor confirmed by the Senate.

Even though the Federal Reserve engages in more than $1 trillion in transactions in the money markets each year, most of these activities are exempt from audit by the GAO or any other outside agency.

The bill that I am introducing today aims to make the Federal Reserve more accountable to the American people, not by giving politicians control but by making duly appointed public officials solely responsible for the conduct of monetary policy, by creating a formal channel of communication between the President and the Federal Reserve, and by providing Congress and the American people with more and better information on the Federal Reserve's policies and procedures. This bill updates similar bills I introduced to previous Congresses.

The Federal Reserve Reform Act has six major provisions:

ROLE OF FEDERAL RESERVE BANK PRESIDENTS

First, it would vest sole responsibility for the conduct of monetary policy and open market operations in the seven-member Board of Governors of the Federal Reserve System and would create a special new Federal Open Market Advisory Council through which the presidents of the regional Federal Reserve Banks could advise the Board on monetary policy.

The Federal Reserve System consists of the Board of Governors in Washington and the 12 regional Federal Reserve Banks. The Board of Governors has seven members, who are appointed by the President and confirmed by the Senate to 14-year terms. The governors of the Federal Reserve are thus duly appointed Government officials who are responsible to the President and Congress, and through them to the American people, for their conduct in office.

The Federal Reserve Bank presidents, in contrast, owe their jobs to the Boards of Directors of the regional banks—boards dominated by local commercial banks. Neither the President nor Congress has any role in selecting the presidents of the Federal Reserve Banks Some of the bank presidents are career employees, others have backgrounds in banking, business, and academics; none are duly appointed Government officials. Nonetheless, they participate in monetary policy decisions through their membership on the FOMC, where they cast 5 of the 12 votes that determine monetary policy and interest rates.

The role of the Federal Reserve Bank presidents—and the broader issue of the influence of the Nation's banks and of private interests on the Federal Reserve—has been a source of concern ever since Congress decided to establish the Federal Reserve in 1913.

In the initial draft of the Federal Reserve Act, there was a debate between some Members of Congress and President Wilson over whether the Nation's banks should be allowed to appoint members of the Federal Reserve Board, with the President arguing that there should be no individuals on the Board representing private interests. During the 1920's, when uncoordinated open market operations by the Federal Reserve Banks were disrupting the markets for Treasury securities, Treasury Secretary Andrew Mellon argued that the properly appointed public officials on the Federal Reserve Board should have sole responsibility for regulating open market operations.

And when Congress rewrote the banking laws during the 1930's, President Roosevelt, who proposed to vest sole responsibility for open market operations in the Board, ultimately compromised on a provision of the Banking Act of 1935 under which a rotating group of five Federal Reserve Bank presidents was allowed to share voting responsibility for open market operations with the seven members of the Federal Reserve Board.

This situation, in which private individuals who are neither appointed by the President of the United States nor confirmed by the Senate nonetheless directly participate in monetary policy decisions, is an anomaly in our system of democratic government. It is true that almost all Government agencies make extensive use of private citizens in an advisory status. The Federal Reserve, for instance, has three major advisory panels which meet with the Board of Governors three to four times a year, including the Federal Advisory Council, a panel of 12 bankers which advises the Board of Governors "on all matters within the jurisdiction of the Board."

But nowhere other than the Federal Reserve are representatives of private interests permitted to have a vote on Government policy. This is the proper function of Government officials who have either been elected by the people or duly appointed and confirmed in the appropriate manner, and that is the way it should be at the Federal Reserve as well.

The bill that I am introducing today would address this controversy by going back to the first principles laid out by Presidents Wilson and Roosevelt, that properly appointed Government officials should be responsible for the conduct of monetary policy at the Federal Reserve.

First, the bill would dissolve the Federal Open Market Committee and make the Board of Governors of the Federal Reserve responsible for monetary policy and open market operations. Second, it would create a Federal Open Market Advisory Council, through which the presidents of the 12 Federal Reserve Banks could advise the Board of Governors on regional economic conditions and other factors affecting the conduct of monetary policy and open market operations. The Bank presidents would no longer have a vote on monetary policy, but the Board of Governors would still have the benefit of their advice.

Power without accountability does not fit the American system of democracy. In no other government agency do private individuals make government policy. The Federal Reserve Reform Act 1995 will now apply this same principle of democracy to the Federal Reserve.

CONSULTATION ON ECONOMIC POLICY

Second, it would require the Secretary of the Treasury, the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget to meet three times a year on a non-voting basis with the Board of Governors, to consult on monetary and fiscal policy.

Two of the required meetings would take place just before the FOMC sets its annual money growth targets in February and July and reports to Congress, as required by the Full Employment and Balanced Growth Act of 1978. The third meeting would occur in the fall at the start of the administration's annual budget cycle. These meetings will bring together the key members of the fiscal and monetary policymaking teams.

The purpose of the meetings is to improve the flow of information between the administration and the Federal Reserve. Currently, there is no formal channel of communication between the President and the Fed. At times, various Presidents and their economic advisers have been reduced to carrying on policy disputes by publicly sniping at the Fed through the press.

In the past, the Fed Chairman and the Treasury Secretary have tried to maintain some communication through informal meetings, but this process depends too heavily on the personalities involved. While Nicholas Brady was Treasury Secretary, the process apparently broke down and the meetings became very sporadic, while I understand that Chairman Greenspan and former Treasury Secretary Lloyd Bentsen worked together very well. But with the appointment of a new Treasury Secretary, Robert Rubin, the process will have to be sorted out all over again.

But informal meetings are not enough. These meetings do not involve all the major participants in monetary policy decisions and this process requires no formal presentation or discussion of economic goals or plans. Under the Federal Reserve Reform Act, the administration will have a formal avenue to present its program for the economy to the Federal Reserve Board and lay out its goals and targets for monetary policy. The members of the Board will also have an avenue to convey their concerns about fiscal policy to the administration. Communication will flow both ways.

TERM OF THE CHAIRMAN OF THE FEDERAL RESERVE

Third, the bill would allow the President to appoint a Chairman of the Federal Reserve Board—with the advice and consent of the Senate—1 year after taking office, at the time when the first regular opening would occur on the Federal Reserve Board. This would make the Fed Chairman's term basically coterminous with the term of office of the President of the United States.

The current chairman of the Board of Governors, Alan Greenspan, was appointed by President George Bush and will hold that office until March 1996, more than 3 years into President Clinton's term. Fortunately, Chairman Greenspan and President Clinton appear to work well together. Even though Mr. Greenspan was not appointed by President Clinton, this does not appear to have caused any significant problems with monetary policy or the progress of the economy. But if they had not been able to work together, the result could have been serious damage to the American economy and a paralysis of economic policy. This is a risk the country should not take.

The Federal Reserve Reform Act would address this by having the President appoint the Fed Chairman to a 4-year term beginning 1 year after taking office, when there will be a new vacancy on the Board in any event. Each appointee will still be subject to Senate confirmation, as under current law. Giving the President 3 years of a term with a Federal Reserve chairman of his own choosing is surely preferable to the possibility under current law of a lengthy period where the President and Fed chairman cannot work together.

IMMEDIATE DISCLOSURE OF CHANGES IN MONETARY POLICY

Fourth, this bill would require the FOMC to disclose immediately any changes in the targets of monetary policy, including its targets for monetary aggregates, credit aggregates, prices, interest rates, or bank reserves.

This provision would codify the Fed's new practice of announcing policy decisions immediately, which it implemented with the first of its recent increases in interest rates on February 4, 1994. Prior to that time, the Fed would keep its policy decision secret. Any change in monetary policy or interest rate targets would have to be inferred by the financial markets and investors from the Fed's subsequent actions. This process was akin to reading tea leaves or gazing into crystal balls, and gave powerful financial institutions that could pay enormous salaries to professional Fed-watchers an advantage over small investors in Indiana and much of the rest of the Nation.

I am very pleased by the Fed's decision to announce its policy decisions immediately. It was a change that I and other members of Congress had been recommending for some time and I think it was an excellent decision. Small investors now have the same information at the same time as the money-center banks and other financial institutions. While my bill would not make any changes in the Fed's new procedures, it would write them into law, confirming the approval of Congress for what the Fed has done.

GAO AUDITS OF THE FEDERAL RESERVE

Fifth, the bill would permit the Comptroller General to conduct more thorough audits of Federal Reserve operations, by removing selected current restrictions on GAO access to the Federal Reserve.

The General Accounting Office is the watchdog of Congress. It carries out that responsibility through financial and program audits of government agencies. These audits are of tremendous value to Congress. Not only do they ferret out waste, fraud and abuse, they perform the even more important function of telling Congress when programs are not working and where programs can be improved.

For many years, from the mid-1930's to the late 1970's, the Federal Reserve was exempt from GAO audits along with the other bank regulatory agencies, on the grounds that it funds were not appropriated by Congress. In 1978, the Federal Banking Agency Audit Act authorized the GAO to audit the bank regulatory agencies, allowing full audits of the Comptroller of the Currency and the Federal Deposit Insurance Corporation and limited audits of the Federal Reserve. Since then, the GAO has conducted numerous audits of the Fed's regulatory activities. These audits have provided useful suggestions for reducing costs at the Federal Reserve, improving regulatory programs, and strengthening the banking system with no noticeable harm to the Federal Reserve or its effectiveness in regulating member banks.

Currently, the GAO is prohibited access to any Federal Reserve function involving, first, transactions with a foreign central bank or foreign government, second, any deliberations or actions on monetary policy matters or third, any transactions made under the direction of the FOMC. Thus, even though the Federal Reserve engages in more than $1 trillion in transactions in the money markets each year, most of these activities are exempt from audit by the GAO or any other government agency.

My bill would remove the last two restrictions, and thus provide for more thorough audits of the Fed, while retaining the restriction against GAO access to transactions with foreign central banks or foreign governments.

PUBLICATION OF FEDERAL RESERVE BUDGET

The final provision of the bill would require that the Federal Reserve's annual budget be published in the Budget of the U.S. Government. The Fed would submit its budget for the current year and the two following years to the President by October 16 of each year, and the President would be required to print the Fed's budget in the Government Budget without change.

The Federal Reserve's expenditures are not subject to approval by either the President or Congress, unlike the budgets of other government agencies.

Despite the fact that the Federal Reserve takes in and spends billions of dollars each year, the Federal Reserve's budget is not conveniently available to Congress or the public. Only a small fraction of the Fed's $1.6 billion of operating expenses were included in the U.S. Government Budget for fiscal year 1996—just the $177 million of expenses incurred by the Board of Governors in Washington. The details on this part of the Fed's budget, only 7 percent of the Federal Reserve's total spending, appeared in Appendix of the Budget, at the very end of the section entitled "Government-Sponsored Enterprises."

During 1996, the revenues of the Federal Reserve System will be about $20 billion. A small fraction of these revenues, less than $1 billion, will consist of payments by banks for services provided by the Fed. Most will consist of interest received from the Treasury on the Fed's holding of U.S. Government securities, which the Fed acquired during open market operations conducted for monetary policy purposes. Out of this $20 billion, paid mostly by taxpayers, the Federal Reserve will incur approximately $1.7 billion in operating expenses. About $1 billion of this will be for personnel costs. The rest will be for supplies, travel expenses, telephone and postage, printing money, maintenance of equipment, amortization of buildings, etc. The remainder of the Fed's revenues will be returned to the Treasury, where it is listed in the Budget as an offsetting receipt.

The Federal Reserve Reform Act will not reduce the Federal Reserve's control over its own budget. The bill will not subject the Federal Reserve to the Congressional appropriations process, nor will it give either Congress or the administration any control over the Federal Reserve's spending. All it does is require that the data be published conveniently in the U.S. Government Budget, where spending by every other government agency is already listed. This includes the Supreme Court, which has its budget published in the Government budget without any loss of independence.

Adopting the bill would thus implement a basic principle of democracy that no Government agency should take in and spend billions of dollars without having its budget readily accessible to the public.

In conclusion, in our Nation the Government must be accountable to the people. The Federal Reserve, with its enormous power over the economy and the well-being of the American people, does not meet the normal standards of accountability in a democracy. The bill that I am introducing today will make the Fed more accountable without impairing its ability to conduct monetary policy. The bill does not impose presidential or congressional or other outside controls on Fed policy. Instead, my bill addresses the complex problem of increasing Federal Reserve accountability in a democratic society without jeopardizing the Federal Reserve's independence or injecting politics into monetary policy.

In the 80 years since the Federal Reserve System was created, Congress has made a number of changes in its structure and procedures, adding responsibilities and powers from time to time and periodically revising its relationship with Congress and the administration. The bill that I am introducing today continues this process by proposing a handful of evolutionary changes in the practices and structure of the Federal Reserve.

THE BALANCED BUDGET ENFORCEMENT ACT OF 1995

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. VISCLOSKY. Mr. Speaker, today, I am joined by our colleagues, Representatives CHARLIE STENHOLM, CALVIN DOOLEY, and TOM BARRETT, in introducing the Balanced Budget Enforcement Act of 1995. This legislation would put in place tough, new measures to reform the budget process and eliminate the Federal budget deficit by the year 2002.

I cosponsored the predecessors to this bill when they were introduced in the 102d and 103d Congresses by our former colleagues, Leon Panetta and Tim Penny. This Balanced Budget Enforcement Act of 1995 would force us to start now and begin bringing the budget into balance by the year 2002. It would do so by setting spending caps and using across-the-board cuts if the caps aren't met. Here's how:

THE BALANCED BUDGET ENFORCEMENT ACT OF 1995 SUMMARY

(1) Deficit Reduction Targets (in addition to the amounts required by current law) to reach balance in 2002.

	1996	1997	1998	1999	2000	2001	2002	Total
Discretionary caps	12.9	30.1	53.9	73.8	98.9	121.7	144.6	535.9
Entitlement/revenue scorecard	31.9	59.6	80.6	105.6	125.3	147.4	169.4	719.9
Debt service	1.7	6.2	13.6	24.2	38.4	56.2	77.9	218.1
Grand total	46.5	95.9	148.1	203.6	262.6	325.3	391.9	1,473.9

(2) Setting Sound Economic Estimates: The President appoints a "Board of Estimates," consisting of the Chairman of the Federal Reserve and four private citizens nominated by House and Senate party leaders. The Board must choose either CBO's or OMB's estimates of how much deficit reduction is needed in that Session. The Board's choices would be binding on the President and Congress, so that the deficit reduction requirement for each would be identical. Finally, the Board would meet again after adjournment to pick either CBO's or OMB's estimates of how much deficit reduction was actually accomplished by Congress during the Session.

(3) Requirement of President to Submit Balanced Budget: The President must propose a budget that will reach balance by 2002. Further, the President's budget must use the assumptions chosen by the Board of Estimates, meet all discretionary caps and entitlement/revenue deficit reduction targets, achieve balance in 2002 and each year thereafter, and be voted on by Congress.

(4) Requirement of Budget Committees to Report Balanced Budget: Likewise, the congressional budget resolution must lay out a plan to reach balance by 2002. Budget resolutions also must use the estimating assumptions chosen by the Board of Estimates, meet all discretionary caps and entitlement/revenue deficit reduction targets, and achieve balance in 2002 and each year thereafter.

(5) Enforcement:

A. Discretionary savings—Appropriations. The discretionary savings will be achieved by keeping appropriations bills within a single annual cap, and enforced by across-the-board sequestration of discretionary programs.

B. Entitlement/revenue savings—Reconciliation. The entitlement/revenue deficit reduction priorities will be set through the annual budget process. The budget resolution (conference agreement) will include a reconciliation directive targeting by committee the dollar amount of deficit reduction to be achieved from entitlements and/or revenues and will generate a "spin-off bill" (to be sent to the President) putting those targets into law.

C. Sequestration: Overall reconciliation requirements will be enforced by sequestration; the type of sequestration in any year depends on whether a spin-off bill has been enacted.

(1) Targeted sequestration to enforce reconciliation: (applies if a spin-off bill has been enacted, either as a result of a budget resolution or, later, as a title in a reconciliation bill). If a committee misses its entitlement target, entitlement programs within that committee's jurisdiction will be sequestered by a uniform percentage to meet the target. If revenues do not meet the revenue target, a uniform personal and corporate surtax will be imposed to meet the target.

(2) Comprehensive sequestration: (applies if a spin-off bill has not been enacted; this would generally occur if the President first vetoes the spin-off bill, then vetoes a reconciliation bill containing the committee targets). There will be a comprehensive sequestration of entitlement spending and some revenue provisions in the amount needed to hit the overall target for entitlement/revenue deficit reduction. For revenues, a surtax would be imposed upon personal annual incomes greater than $250,000 and corporate incomes over $10 million. This formula will produce $4 in entitlement spending cuts for every $1 in revenue increases.

(6) Tax cuts/Investment: Tax cuts and/or investment policies can be enacted if they are paid for.

I believe that balancing the budget is our moral responsibility as Members of Congress. I have always supported a balanced budget, and the responsibility to achieve this is not one that I take lightly. Over the years, I have frequently taken the political road less traveled in the name of deficit reduction. When I am in northwest Indiana, I tell my constituents that I am opposed to cutting their taxes because it would undermine serious efforts to reduce the deficit. In March, I was one of only six Democrats to support the rescissions bill because I believe we need to start making tough spending decisions now. In January, I supported a constitutional amendment to balance the budget for the first time because I finally lost faith that the Congress has the resolve to balance the budget without being required to do so.

Regardless of the amendment's defeat in the Senate, we must not give up the fight for a balanced budget. We have the power to do this without a constitutional amendment, and it is critical that we now demonstrate the collective courage necessary to eliminate deficit spending. A majority of the House and Senate has demonstrated its support for balancing the budget, and it would be a cruel hoax on the American people to fail to do so simply because we do not have a constitutional imperative.

Nations, like families, have to plan for the future. As a nation, we have failed to plan. We have borrowed to achieve a false sense of security today, leaving the bills for our children to pay tomorrow. In 1994, alone, we spent $203 billion more than we had. This means that $783 was borrowed from every single person in America. Over the past 20 years, the average budget deficit has grown from $36 billion in the 1970's, to $156 billion in the 1980's, to the unprecedented $248 billion hole we have dug for ourselves so far in the 1990's. This irresponsible spending has resulted in a money pit so deep that this year's interest payment—$235 billion—will be larger than this year's deficit of $176 billion. The Balanced Budget Enforcement Act of 1995 would stop this destructive trend. It would set us on the path to achieve a balanced budget by 2002.

In closing, Mr. Speaker, I urge my colleagues to cosponsor this important legislation. The sooner we begin a serious effort to balance the budget, the better off our children and grandchildren will be.

WHERE WE GO FROM HERE: A DIALOGUE OVER THE TRANSFORMATION TO A BETTER AMERICAN FUTURE APRIL AND MAY 1995

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. GINGRICH. Mr. Speaker, I submit the following for the RECORD.

The American Opportunity:

Creating a Safe and Prosperous Future for our Generation and Our Children.

The Coming Debate:

Is not about just the Budget.

It is about America's Future.

It is about the Doing the Right Thing.

It is about an opportunity to create the potential for prosperity, safety and a better life for virtually every American.

It will take hard systematic work and real change, but it can be done and it will improve our lives and our children's lives.

"Doing the Right Thing" Means:

Being Truly Compassionate by replacing the Welfare State with an Opportunity Society.

Restoring Freedom by ending Centralized Bureaucratic Micromanagement.

Promoting Prosperity, Economic Growth, and Take Home Pay by Reducing Taxes, Litigation and Regulation.

Creating Opportunity for every American by Leading the Transformation to a Third Wave, Information Age Society.

Creating a Safe Future for Our Children and Our Retirement Years by Balancing the Budget and Solving the Financial Crises in funding Medicare and Social Security.

The Majority Party in American Politics Is Responsible for Leading the Civic Discussion About the American Idea.

It is our Moral Responsibility.

The Majority Party must lead a New Dialogue to achieve the needed changes. That New Dialogue will lead to a New Partnership with the American People.

Through our New Dialogue, we can change Today's Public Opinion into Tommorrow's Public Judgment.

In 1995 we are at a crossroads. America has been in similar situations and always risen to the challenge.

"Our Generation has a Renedezvous with Destiny"—*Franklin Delano Roosevelt, 1936.* (Facing Nazi Germany, Fascist Italy and Imperial Japan.)

"We have nothing to fear but fear itself"—*Franklin Delano Roosevelt, 1933.* (Facing 25% unemployment in the Great Depression.)

"We have every right to dream heroic dreams * * * the crisis we are facing today * * * requires our best effort and our willingness to believe in ourselves and to believe in our capacity to perform great deeds, to believe that together with God's help we can and will resolve the problems which now confront us. After all, why shouldn't we believe that? We are Americans."—*Ronald Reagan, 1/81*—(Facing 13% inflation, 22% interest rates, the Iranian hostage crisis and the Soviet Empire's invasion of Afghanistan.)

We have the opportunity to improve every American's life through 5 strategic improvements:

1. Being Truly Compassionate by replacing the Welfare State with an Opportunity Soviety;

2. Restoring Freedom by ending Centralized Bureaucratic Micromanagement;

3. Promoting Prosperity, Economic Growth, and Take Home Pay by Reducing Taxes, Litigation and Regulation;

4. Creating Opportunity for every American by Leading the Transformation to a Third Wave, Information Age Society;

5. Creating a Safe Future for Our Children and Our Retirement Years by Balancing the Budget and Solving the Financial Crises in funding. To Embrace change on this scale, we must use an appropriate Planning Model: Vision, Strategies, Projects, Tactics.

We have living proof America can succeed in the 21st Century.

All around us scientists and entrepreneurs are inventing a better future.

All around us corporations are re-thinking and re-engineering to produce more, better and faster, with fewer resources.

All around us the private sector and private citizens are changing, adapting and improving.

When we have our plan thought out, we must lead by listening to others about their plans, their hopes and their fears.

Listen, Learn, Help, Lead.

These are the 4 key steps to getting people to implement change on a large scale.

Five Strategic Improvement will help us create a better government and a better America:

The First Strategic Improvement *Being Truly Compassionate* requires: Replacing the Welfare State with an Opportunity Society.

It is a failed model of delivering goods and services to help people. It actually hurts the poor.

Its failure is reflected by the violence, brutality, child abuse and drug addiction in every local TV news broadcast.

The culture of violence increasingly permeates our entertainment and denigrates our civilization.

The non-working, non-productive part of our society is a factor in the deficit and declining American competitiveness in the world market.

The Human Cost of the Welfare State Poor Americans are:

Trapped in Unsafe Housing.

Maintained in Unsafe Neighborhoods.

Saddled with rules that are anti-work, anti-family, and anti-property.

Forced to have their children attend public monopolies that cost a lot but accomplish little.

In the name of "compassion" we have funded a system that is cruel and destroys families.

A Failed Welfare State.

Welfare spending now exceeds $305 billion per year, for a total of $5 trillion since 1965—more than the cost of winning WWII.

This $305 billion is roughly 3 times the amount needed to raise all poor Americans above the poverty line.

Since 1970, the number of children in poverty has increased 40%.

Since 1965, the juvenile arrest rate for violent crimes has tripled.

Since 1990, the number of unmarried pregnant teens has nearly doubled and teen suicide has more than tripled.

As Welfare Spending has Grown, So has illegitimacy.

As Education Spending has Risen, SAT scores have fallen.

The failure of the welfare state strikes at the heart of the American belief that every citizen is endowed by Our Creator with certain unalienable rights among which are life, liberty, and the pursuit of happiness.

No Civilization can survive with:

12 Year olds having babies, 15 year olds killing each other, 17 year olds dying of AIDS, and 18 year olds receiving diplomas they can't read.

Furthermore, no civilization can survive with parents and grandparents cheating their children by refusing to Balance the Budget and live within their means.

The legacy we're leaving to our children: Moral and Fiscal Bankruptcy.

A program for a Better American Future begins with replacing the Welfare State with an Opportunity Society. A cheap Welfare State is an inadequate response.

Transforming the Welfare State into an Opportunity Society for the Poor requires:

- Shift from caretaking to caring—Morris Shechtman, *Working Without a Net.*
- Welfare Reform that emphasizes work, family and opportunity—Charles Murray, *Rethinking the Social Welfare System, Losing Ground.*
- Volunteerism and Spiritual Renewal—Marvin Olasky, *The Tragedy of American Compassion.*
- Renewing the Basic Values of American Civilization.
- Tax Incentives for work, investment, and entrepreneurship—Jack Kemp, *An American Renaissance*, Desoto, *The Other Path: Introduction.*
- Re-establishing property ownership and full citizenship for the poor—Manhattan Institute, *City Journal*, Spring 1993.
- Learning as the focus of Education—Polly Williams, Wisconsin State Legislature.
- Government protection for the poor against violence and drugs—James Q. Wilson, *Crime*; William Bennett, Heritage Foundation, *Policy Review.*

The Second Strategic Improvement *Restoring Freedom* by Ending Centralized Bureaucratic Micromanagement by the Government in Washington.

The Centralized, Washington-based system of bureaucratic micromanagement has failed in a diverse, continent-wide country.

Reforms should emphasize decentralization from Washington and return authority to state and local governments.

A general rule for decision making: For local problems, local government is better than national government and the private sector is better than local government.

The private sector includes non-profits as well as for-profit activities.

Elected Leaders have Four Roles in this New Opportunity Society:

Visionary Definer and Value Articulator.

Symbol of Community Power and Standing.

Recruiter of Talent and Energy for Private Sector Solutions.

Administrator and Manager of the Government.

When Re-Thinking the Federal Government, we must ask:

1. Does the Community Leadership have an interest in making this happen even without Federal intervention?

2. Is it something which is morally and spiritually more appropriate in a nonprofit, voluntary system?

3. Does the project symbolize and communicate the values we want the society and culture to be reinforcing?

4. Can a private, for-profit business achieve the same goal as well or better than the government?

5. If there a Third Wave Information Age technology that improves service or lowers cost or does both?

6. If government is the best place to do it, can it be done at the state or local level?

7. If the Federal government is the best place to do it, where is it on the priority list? Can we afford to do it?

8. Have we thought through the least expensive, most citizen oriented, most entrepreneurial way to do it with maximum satisfaction and minimum resources?

The Third Strategic Improvement *Promoting Economic Growth, Jobs and Prosperity* by Reducing Taxes, Litigation and Regulation.

The American Economy needs to grow within an increasingly competitive world market: to provide more jobs and increased take home pay, to provide resources for charities, local and state governments, to increase revenues so the Federal government budget can be balanced without raising taxes, to pay for Social Security and Medicare in the 21st Century.

As Washington Grows, the Economy Slows

The Middle Class Squeeze:

Today most families are working harder—they're just not getting ahead.

Federal Taxes as a Share of Median Household Income have risen steadily.

Middle Class Anxiety is Justified.

Creating more effective government that needs fewer resources will allow us to lower taxes and increase take home pay for working middle class families.

Re-engineering government to cut out waste, lower costs, increase productivity and increase quality will also allow us to lower taxes on entrepreneurs and inventors so we can create more Economic Growth.

Economic Growth is the consistently underestimated contributor to our economic well-being.

In 7 years, the difference between the high and low economic growth projections means:

$1,826 billion swing in the size of the Federal budget deficit, $1,432 billion swing in Federal revenues.

$19,007 swing in what individuals could make over 7 years.

High Growth Rates can be achieved and sustained and are a response to following the right policies—just as good health comes from good nutrition and exercise.

Example:

Japan 1975—1993: 18 Years without a Recession; 4.3% Annual Growth Rate; 3.7% Annual Personal Income Increase.

Compared with America's performance: 1975-1993: Three Recessions during that period; 2.6% Annual Growth Rate; 1% Annual Personal Income Increase.

Imagine if America had matched the Japanese in Economic Growth over a similar period:

Real GDP would have been $1.7 trillion greater.

Per Capita Income would have been $8,519 greater.

Federal Revenues would have been $365 billion greater.

The Federal Budget Deficit would have had a $179.6 billion Surplus rather than a $185.7 billion deficit in 1984.

Greater American Competitiveness and Increased Economic Growth Requires:

A Tax Code that favors work, savings and investment.

Less litigation.

Less regulation and Red Tape.

Lean and Effective Bureaucracies.

Lifetime learning.

Entrepreneurial culture.

Sensible government investments in infrastructure.

Government research and development leading to corporate product development and marketing.

More aggressive U.S. government support of exports and more effective enforcement of trade agreements.

The Fourth Strategic Improvement *Creating Opportunity* by Leading the Transformation to a Third Wave, Information Age Society.

America needs to lead the world into the emerging Third Wave Information Revolution and its new technologies.

The Information Age will create opportunities in a wide range of areas:

Computers.

Worldwide Electronics.

Molecular Medicine.

Breakthroughs in Material Technology.

Exploring and Manufacturing in Space.

Microminiaturization.

Virtual Reality.

In the Third Wave Information Age, we can do Far More for Far Less.

All over America, companies and institutions are finding ways of doing more for less.

Over the last 15 years, one major automotive company has transformed itself through new technology and a new culture of quality and productivity.

They produce the same number of cars at 2½, but ½ the work-force.

Consider what a government that matched that standard would look like.

Consider how much we could improve services, reduce spending, reduce taxes and balance the budget with this approach.

Re-inventing the old government isn't good enough.

New Breakthroughs do not fit into the traditional model of government.

New Breakthroughs require Bold Rethinking based on Druker, Deming and others.

We must apply these New Breakthroughs as part of replacing the Welfare State with an Opportunity Society.

In a Successful 21st Century government, we can replace the wasteful bureaucracies of today with programs that serve citizens and save tax dollars.

The Fifth Strategic Improvement *Creating a Safe Future for Our Children and Ourselves* by Balancing the Budget and Solving the Financial Crises in Medicare and Social Security.

The Budget Deficit combined with the Baby-Boomers' coming retirements will cause a crisis of Historic Proportions unless the problem is honesty faced and managed well in advance.

The Debt Consumes America.

The defenders of the Welfare State know a crisis is coming.

"Social Security will face a cash deficit in 2013, the unified deficit will increase unless taxes are raised or benefits reduced and (it) could come even earlier (1999)."—OMB Director—Alice Rivlin, 10/94.

Their debt numbers actually understate the problem because they fail to account for 4 additional powerful factors:

1. The taxpayers' burden in paying interest on the debt;

2. The cost of higher interest rates caused by federal government's borrowing;

3. The imminent financial crisis in Medicare;

4. The soon to be retiring Babyboomers and their effect on the Social Security Trust Fund.

Fact: Every Citizen will have to pay a lot in taxes for interest on the debt.

The Current Budget Deficit is Projected by to continue growing into the future without solution.

Debt in 1995 $4,800,000,000,000.

Interest for Debt in 1995 $235,000,000,000.

Debt in 2005 $7,533,000,000,000.

Interest on Debt in 2005 $412,000,000,000.

Cumulative Interest, 1995-2009 $5,212,000,000,000.

Over the next 15 years, we'll pay as much in taxes just to pay interest on the debt as today's entire debt:

Debt in 1995, $4.8 trillion.

Interest on the Debt, 1995-2009, $5.2 trillion.

The following Americans will pay a lot just on interest on the debt that builds up over their entire lives:

Interest payments over a lifetime of 75 years.

Year of birth:	
Robert, 1959	$75,851
Mary, 1974	115,724
Sally, 1995	187,150

Our spending today saddles our children with debt tomorrow. Sally will have to pay $187,150 in taxes for interest on the debt to finance her parents and grandparents' Medicare and Social Security before she begins paying taxes for any government services that benefit her.

In 1997, we will pay more for interest on the debt than we'll pay for National defense.

In just 17 years, spending on entitlements and interest on the debt will consume all tax revenues.

The only item in the budget we'll be able to afford is interest on the debt and entitlements—discretionary spending will be beyond our means.

Fact: Budget deficits raise interest rates and cost everyone additional money.

What a Balanced Budget will mean for most Americans:

One recent estimate is that a balanced budget would reduce interest rates up to 2%. 2% lower on your car, your mortgage, your credit card, your family farm. These lower interest rates will make America a much more competitive economy in the world market.

With a Balanced Budget lowering interest rates (the Balanced Budget Dividend), experts believe the American economy will:

Create 4.3 million more jobs in 10 years.

Increase per capita incomes 16.1%.

Generate $235 billion more revenue for the Federal Government without a tax increase.

Generate $232 billion more revenue for State and Local Governments without a tax increase.

Fact: The imminent crisis in Medicare funding is real and unavoidable. It must be corrected within the next few years.

Medicare Spending will soon outrun Revenues, and its deficit will climb.

Medicare goes bankrupt in 6 years.

Because a centralized government monopoly is inherently inefficient, wasteful and too slow to adopt to new ideas and new solutions.

Medicare Must be Transformed.

Fact: When the Baby-Boomers begin to retire, they will put enormous pressure on the Federal Budget.

The Baby-Boomers' retirement threatens the Social Security Trust Fund.

It drains the Social Security Trust Fund, and adds to the already massive deficit.

Faced with combined deficits on this gigantic scale, the politicians of 2013 will only have four choices:

Ruthless Spending Cuts of Unprecendented Depth.

Massive Tax Increases.

Cuts in Social Security.

Financial crises leading to inflation.

Recap: The Four Fiscal Facts that make change in the Federal Government unavoidable are:

1. Rising cost to taxpayers of interest on the debt;

2. Cost to everyone of higher interest rates caused by the deficit;

3. Imminent crisis in Medicare funding;

4. Shift in Social Security from surplus to deficit as the Baby-Boomers start retiring.

5. Strategic Improvements define "Doing the Right Thing":

Restoring Freedom by ending Centralized Bureaucratic Micromanagement.

Promoting Prosperity, Economic Growth, and Take Home Pay by Reducing Taxes, Litigation and Regulation.

Creating Opportunity for every American by Leading the Transformation to a Third Wave, Information Age Society.

Creating a Safe Future for Our Children and Our Retirement Years by Balancing the Budget and Solving the Financial Crises in funding Medicare and Social Security.

The story of two children provide questions about the future:

Danny: A successful suburban 18 year-old whose family is well-off and his otherwise bright future is threatened and he doesn't even know it. If Danny can't provide for his own future, how can he provide for America's?

Theresa: A poor inner-city 15 year-old whose life is bleak and future uncertain. If Theresa is unable to break the cycle of poverty, violence and drug addiction, how will she be able to contribute to America's?

All of the world's children rely on American leadership for a safe, free and prosperous future.

There is no alternative Leader.

The alternative to a strong America is a dark and bloody planet: Bosnia, Somalia, Rwanda, Haiti, Chechnya.

For our Children's sake, our country's sake, and the world's sake, we must wrest control from those who refuse to take responsibility and insist on a plan to create a Safe and Prosperous Future for our children and our own retirement years.

The Steps to a Do-able, Practical, Common Sense Balanced Budget Plan Follow:

1995 Revenues—$1.419 Trillion.
2002 Revenues—$1.788 Trillion.
2002 Spending=2002 Revenues.
$1.788 trillion=$1.788 trillion, Budget Balanced.

Total Spending for Last 7 Years 1989–1995: $9.5 Trillion.

Total Spending for Next 7 Years Under a Balanced Budget 1996–2002: $11.7 Trillion.

Social Security is off the table.

Social Security Spending:
1989–1995=$1.997 Trillion.
1996–2002=$2.892 Trillion.

Non Social Security Spending will still go up every year:
1989–1995=$7.5 Trillion.
1996–2002=$8.8 Trillion.

The Key to getting to a Balanced Budget is to be sufficiently Innovative, Creative and Transformational to meet America's Key needs while spending $11.7 trillion over the next 7 years.

If we Fulfill our Destiny, we'll achieve: Our Vision of a 21st Century America.

Every American safe from violence and drugs.

Every person will be integrated into the world of work, property, and achievement.

A healthy environment will be managed through sound science and a common sense, effective and economical approach.

New technologies and new approaches will extend opportunities in learning, health and jobs to the poorest rural and inner-city neighborhoods.

Government will be lean, customer responsive and effective.

A Renewed American Civilization with a renewed understanding of "Our Creator", our traditions and our institutions and in voluntary and non-profit charities and activities.

The best system of health in the world.

Effective lifetime learning.

New technologies and approaches to create the fullest possible participation of every American with disabilities.

A pro-entrepreneur, pro-science and technology, pro-savings and investment America that is inventing the best products with the highest values in the world.

Job opportunities for every American with the greatest value-added, highest productivity, largest incomes and best job security in the world as the best exporting country that creates American jobs through world sales.

Low taxes so incomes translate into take home pay and the family budget has precedence over the government budget.

A regularly balanced federal budget with declining national debt so money will maintain honest value without inflation, taxes to pay interest will be declining and interest rates will be low.

The Time for Cheating our Children has Ended.

The Time to Balance the Budget has Arrived.

America's Future requires a New Dialogue and a New Partnership with the American People.

Senate—Monday, April 24, 1995

The Senate met at 12 noon and was called to order by the President pro tempore.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Almighty God, our hearts are at half-mast with grief over the catastrophic bombing of the Federal building in Oklahoma City. We mourn for the victims, especially the children, of this senseless crime and reach out with profound empathy to their families. We ask You to strengthen them as they endure incredible suffering. Graciously grant physical and emotional healing to those who survived. Most of all, comfort the children who ask "why?" and give wisdom to parents as they search for words to answer. We all need help in understanding an ignominious act of tyranny like this.

We only can imagine the agony of Your heart, Father. If our indignation burns white-hot, it must be small in comparison to Your judgment. You have given us freedom of will and made us responsible for the welfare of our neighbors. Our hearts break with Your heart over those who willfully cause suffering. Therefore, we boldly ask for Your divine intervention for the speedy capture and punishment of these traitors against our Nation and the sacredness of human life. As You have given us victory in just wars, now give us a strategy to defeat the illusive and dangerous forces of organized terrorism.

Lord God of this Senate, we are never more of one mind and heart than when dealing with a threat to our national security or in responding to a catastrophe in any one of our States. We rally in support of Senators NICKLES and INHOFE as they continue to care for their people.

We press on to the issues of this day with the strong inspiration of the 40 years of leadership of John Stennis in this Senate. May the memory of his faith in You and his courage in conflict give us determination to seek, as he did, to do our best. In the Lord's name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. DOLE. Mr. President, I thank the Chaplain for his timely and comforting words.

TRAGEDY IN OKLAHOMA CITY

Mr. DOLE. Mr. President, on behalf of all the Senate, I extend my sympathies to Senator NICKLES, Senator INHOFE, Members of the House Oklahoma delegation, Gov. Frank Keating, and, through them, to all the citizens of Oklahoma for the loss they suffered last Wednesday.

Kansas and Oklahoma share a common border. And our citizens also share common values. Values like love of God. Love of family. Perseverance through tough times. And a commitment to help those in need. The citizens of Oklahoma displayed these values time and time again this past week, and in doing so, they inspired America and the world.

While all the people of Oklahoma deserve our admiration, the citizens of Oklahoma City are worthy of special praise. It is their friends and family members who were lost as a result of this brutal crime. But while many of Oklahoma City's buildings were shattered, its spirit has stood strong.

I am reminded of the words of the great World War II journalist Ernie Pyle, who once wrote, "Oklahoma City is an especially friendly town. People there have a pride about their town * * * They just wouldn't live anywhere else." That pride has never left the people of Oklahoma City, and it will guide them during the difficult days ahead.

I salute the firemen, the paramedics, the rescue workers, and all those who have generously volunteered their time and their labor to the relief effort; the members of the Red Cross and the Salvation Army.

I commend President Clinton for the way he and his administration have responded to this tragedy. The criminal investigation has been thorough and swift, and the tone set by the President right on the mark: Those who have perpetrated this unspeakable evil are cowards. There is absolutely no justification, no excuse, for what took place last Wednesday in Oklahoma City. Killing innocent children and other defenseless citizens is the depraved act of depraved minds.

I also want to commend Attorney General Reno for publicly stating that she will seek the death penalty. If ever there was a crime deserving of the ultimate sanction, this is it.

As the rebuilding process continues in Oklahoma City, we must also begin looking to the future. Although there is no such thing as absolute security in a free society, we have an obligation to do everything within our power to minimize the chances that other, similar tragedies will occur elsewhere in the United States.

Last week, I wrote to President Clinton to tell him that Senate Republicans stand ready to work with the administration to develop a comprehensive antiterrorism plan for America. Senate Republicans have sponsored a variety of antiterrorism proposals, ranging from the Alien Terrorist Removal Act, to increased penalties for certain terrorist-related activities, to proposals designed to give our law enforcement officials the tools they need, such as expanded wiretap authority.

I am also familiar with the administration's own antiterrorism package, as well as the ideas mentioned by the President last night on television. These ideas will be fully considered.

Republican staff have also been working closely with the FBI on a comprehensive antiterrorism initiative, and we are prepared to give this initiative the fast-track consideration it deserves.

Mr. President, during World War II, the great Senator Arthur Vandenberg often repeated his belief that "partisanship stops at the water's edge."

Terrorists—both foreign and domestic—should have no doubt that partisanship also stops at evil's edge—an edge those responsible for the Oklahoma City bombing have clearly stepped over. I know I speak for all Members of the Senate when I say that we stand with the people of Oklahoma, committed to doing all that is needed to protect America from the terrorist threat.

SCHEDULE

Mr. DOLE. Mr. President, following the leaders' time, there will be morning business until 1 o'clock, with Senators permitted to speak for up to 5 minutes each.

Shortly, Senator NICKLES will submit a Senate resolution regarding the bombing in Oklahoma City.

It is also my intention to begin consideration of H.R. 956, the Product Liability Act.

I am prepared to say there will be no rollcall votes today, but that will be up to the managers on the product liability bill. There will be a vote on the Nickles resolution, if agreeable, at noon tomorrow.

ORDER TO PROCEED TO H.R. 956

Mr. DOLE. Mr. President, this has been cleared by the Democratic leader.

I ask unanimous consent that at 1 o'clock today, the Senate proceed to H.R. 956, the product liability bill.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

BILL READ THE FIRST TIME—H.R. 1380

Mr. DOLE. Mr. President, I inquire of the Chair if H.R. 1380 has arrived from the House of Representatives.

The PRESIDING OFFICER. The Senator will be advised it has arrived.

Mr. DOLE. I, therefore, ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 1380) to provide a moratorium on certain class action lawsuits relating to the Truth in Lending Act.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I now ask for its second reading and, on behalf of the Democratic leader, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

TRIBUTE TO JOHN STENNIS

Mr. DOLE. Mr. President, I will just take a moment to talk about our departed friend who served here for many, many years, Senator John Stennis. When he left the Senate in 1989, he had served in this Chamber for 41 years—nearly one-fifth of the Senate's history. And those of us privileged to serve with him knew that he was one of the true giants of that history.

Senator Stennis passed away yesterday at the age of 93, and I join all Senators in expressing our condolences on the death of our former colleague and in extending our sympathies to members of his family.

Senator Stennis and I came from different regions of the country, from different political parties, and we had different views on many issues. But no one could know or serve with John Stennis without admiring his character, his integrity, or his patriotism.

John Stennis loved the Senate and worked to make it a better place. He was the first chairman of the Senate Committee on Standards and Conduct and was the author of the Senate's first code of ethics.

John Stennis also loved America, and as chairman of the Armed Services Committee, he never wavered from his belief that America's national defense should be second to none.

John Stennis was also a man of remarkable courage. In his seventies, he was shot and left for dead by robbers outside his Washington home. And in his eighties, he lost a leg to cancer. On both occasions, he not only recovered, but he was also back at work long before anyone thought possible.

Those of us who were here at the time will always remember the days when Senator Stennis returned to the Chamber and the outpouring of respect and admiration that he received.

Mr. President, during his final years in this Chamber, Senator John Stennis was asked in an interview how he would like to be remembered, and he responded: "You couldn't give me a finer compliment than just to say, 'He did his best.'"

Today, his family, friends, and former colleagues can take solace in the fact that he will be remembered exactly how he wished—as a man who always gave nothing less than his best.

Mr. President, if no other Senator is seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADERSHIP TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Oklahoma.

CONDEMNING ACTS OF VIOLENCE AND TERRORISM IN OKLAHOMA CITY

Mr. NICKLES. Mr. President, first, I wish to thank the majority leader for allowing us to consider a resolution condemning the acts of violence and terrorism that occurred in Oklahoma City last Wednesday.

Also, I want to thank the majority leader, Senator DOLE, for his support of this resolution and for his help in putting it together, as well as his personal friendship in calling me and offering whatever support he could do to assist the families and the victims of this terrible, violent, and criminal act. Senator DOLE is not the only colleague who has offered his support. I have had several of my colleagues who have called to express their outrage over this violent act as well as their concern for those affected.

I appreciate the fact that President Clinton called me early on and expressed his support for whatever could be done to assist the victims of this terrible tragedy. He stated that in his speech to Oklahoma City at the prayer service that we had yesterday. I appreciate the President doing that, as well as the Reverend Billy Graham who also participated in the service.

It was a time for coming together. We had over 20,000 people in the State of Oklahoma—many people came from outside the State as well—who wished to express their sympathies and condolences to the families, to the victims, but also their outrage at such a violent and terrible tragedy.

This is the deadliest terrorist attack on our Nation's soil in our history. The death toll continues to climb. The latest figures I heard were 81 that are confirmed dead, 150 still missing and now presumed dead, and over 400 injured.

I visited some of those injured people. I visited Children's Hospital and saw some of the children who were very significantly maimed. Hopefully and prayerfully they will recover and recover fully.

Mr. President, this becomes very, very personal when you tie it down to families. When you talk to a couple and they lost both children, it becomes very, very personal. Or when you talk to a couple and they lost their daughter, it becomes very personal. Or when you talk to an individual and they see their daughter or their son maimed almost beyond recognition, it becomes very, very personal. And it certainly almost takes adjectives to where they are not significant because you can use the word "terrible" and you can use the word "outrage," but they really do not describe the horror that happened in Oklahoma City to some individuals.

So, Mr. President, shortly we will be submitting a resolution condemning this act of violence, condemning it in the strongest manner possible, and also expressing our support and our sympathies and our prayers for the families of the victims of this terrible crime.

Mr. President, maybe one of the blessings that might help us overcome this very difficult tragedy is the outpouring of love and support that we have seen from thousands and thousands of people, not only in Oklahoma but all across the country. I have had individuals call me and offer support—dollars, prayers and comfort—for those families. We have seen gifts that are very large and gifts that are very small but very, very precious. We have seen children donate their lunch money. We have seen individuals and corporations donate a million dollars. We have had people say, "I'll do anything I can do to assist the families."

It does make you feel good, and it is so striking to think that out of such a tragedy you can see so much generosity, so much love, so much sympathy invoked by Oklahomans and by Americans everywhere. It does make you feel good. Reverend Graham, in his comments yesterday to not only the families but really to the American people, when he called for a time of healing, was exactly right. Mr. President, I want to compliment not only Reverend Graham but also Governor Keating and Cathy Keating for their outstanding leadership at this time of crisis.

I want to compliment the organizations who have done such a responsive, outstanding job in helping to assist those people who really needed help. The volunteers that have come together—I am talking about the firefighters and the policemen, the Red Cross volunteers, the people to assist people who are hungry—have just been phenomenal.

I was in Dallas when I heard this fateful news and caught the first plane I could back and was sitting next to three firefighters who were flying up from Dallas on their own time on their own money to assist the victims. My guess is they are still there crawling through the rubble. And this is extremely difficult.

It is estimated something like 150 people are still trapped in that building, in all likelihood deceased. There is very little hope of survival at this late point, and yet you have volunteers coming from I do not know how many different cities who are crawling over the rubble and, in some cases, doing it by hand to recover those victims.

I have had the pleasure of meeting some—not all. But I just want to say thank you to them because they not only work 10 hours a day or 12 hours a day, they are working 24 hours a day. They are working all night long. They are working in the rain. They are working in the wind. They are working in the cold. We just want to say thank you.

It has really been a blessing to see the outpouring of love from so many people, not only the rescue workers, but so many other people throughout this country, and for that we are very, very grateful. All Oklahomans say thank you for, indeed, the generosity and the love we have seen in the last few days.

Mr. President, we condemn this act of violence, this act of terrorism in the strongest possible language, and that is what this resolution will do.

That is what it states. We compliment the President for taking his swift action to lend the law enforcement personnel, and they have responded with a great deal of expertise and professionalism—to date, with some real success—although, there is still a lot of work to be done. So my compliments to the FBI, to the Drug Enforcement Agency, to the Bureau of Alcohol, Tobacco and Firearms, the Oklahoma Highway Patrol, and the city police, because they have worked together. This has probably been one of the largest and best coordinated efforts both on the rescue side and also on the efforts to apprehend those people who were responsible for this terrorist act. I compliment all the Federal, State, and local officials for putting this effort together.

Mr. President, there is still a lot of work to be done. Unfortunately, there are still a lot of bodies to be recovered. There are buildings to be repaired. There is a lot of damage, a lot of damage, not just in one building. I might mention there are several buildings that have significant damage and, unfortunately, there were people that worked in other buildings that also lost their lives or were severely injured.

So, Mr. President, I pray for those victims and for the families of the victims. This resolution states that we support them, that we are going to do everything within our power to help them, that we are going to do everything within our power to apprehend those people who are responsible and that they should be punished to the maximum extent of the law.

As the President, Attorney General and Senator DOLE stated, they also should pay the maximum price. The death penalty is warranted in this case, and this resolution states that as well.

I appreciate the majority leader's willingness to let us bring this up at the first possible moment. I appreciate the fact that he is willing to let the Senate vote tomorrow at 12 o'clock on this. I appreciate the support of our colleagues.

This resolution also says that the Senate should act as expeditiously as possible in enacting antiterrorism measures, both domestic and the international. I know Senator HATCH has scheduled hearings later this week on this subject. I hope the Senate and House will concur and pass that legislation as soon as possible.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I thank my colleagues from Oklahoma, Senator NICKLES and Senator INHOFE. I know they have been under a great deal of stress. They have performed outstanding service for their constituents. All of us in this Chamber appreciate that very much.

We do have permission to go to the liability bill at 1 o'clock. I indicated earlier there would be no votes before 3. I am now advised that there are a great number of Senators who are not here. Because of that, I will say that there will be no votes today.

I urge my colleagues that we have to catch up with the House. We are not going to be able to do that if we come back after a 2-week vacation and only half of us show up. It is pretty hard to have much meaningful happen. This time, OK; next time we will have votes. I want to give everybody advance notice on both sides of the aisle that when we say no votes before 3, it means probably votes after 3. But, also, there might be an amendment that might take the rest of the day. I do not like to have Sergeant at Arms votes to see who is in town and who is not at town. I know many of my colleagues are at work wherever they may be. We need to finish this bill as quickly as we can and move on to either telecommunications, or maybe because of the urgency, the antiterrorism bill will be ready by next week. I think we can move very quickly on that.

Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

THE DEATH OF FORMER SENATOR JOHN STENNIS

Mr. THURMOND. Mr. President, we in the Senate were shocked to hear the news of the passing of a cherished friend and a former colleague: former Senator John Stennis from Mississippi.

Senator Stennis served in this Senate Chamber for 40 years—from the time of his election to the Senate in 1947, through his retirement in 1989. During that time, he dedicated himself to giving our Nation the gift of wisdom and leadership.

Senator Stennis was greatly admired by all who had the honor to serve with him. As chairman of the Armed Services Committee, he served with several Presidents; during that time he led the committee through the darkest days of the Vietnam war. Although he often saw his position on that war opposed by some of his fellow Democrats, he always did what he believed to be correct and in the best interest of our Nation.

For many years, Senator Stennis and I were neighbors in the Russell Building. I recall with great fondness the kindness and good cheer he showed to me and my office staff on the many occasions he stopped in to say hello. Senator Stennis completed his Senate career by serving with great distinction as President pro tempore of the Senate.

I had the honor of serving with Senator John Stennis for almost my entire Senate career. Throughout the years, I came to appreciate and respect his qualities of integrity, ability, and dedication.

Mr. President, John C. Stennis was a great American. He was a dedicated Senator who proudly represented the people of Mississippi with great distinction. We have lost a colleague, we have lost a leader; but most of all, we have lost a friend.

THE OKLAHOMA CITY BOMBING

Mr. THURMOND. Mr. President, last week, when most of us were home visiting our constituents, our two colleagues from Oklahoma faced a terrible disaster in their State. A 4,000-pound bomb detonated outside the Murrah Federal Office Building in Oklahoma City, not only destroying that structure and killing dozens of innocent men, women, and children, but taking a tremendous toll on the psyche of all Americans as well.

For years the United States has largely been spared the indignity of terrorist acts within its borders, but all that seems to have changed recently. In the last 2 years, we have suffered two deadly bombing attacks in the United States, one in New York City and last week's in Oklahoma City. While the images of injured and shocked people stumbling through the streets of Manhattan were disturbing, there was perhaps no sight as unsettling as seeking the near lifeless body of a young baby that was caught in last week's blast being passed from a police officer to a firefighter. Tragically, the child died and with it died a piece of our innocence. For the bomb that destroyed that building was not built by the hands of cold-hearted, calculating, and well financed foreign terrorists. Quite the contrary, the man who authorities believe is responsible for the bombing is a young American.

How, we all wonder, could an American do this to his fellow citizens? While we despise those responsible for bombing the World Trade Center, the attack in Oklahoma City, America's Heartland, seems so much more disturbing. When we think of terrorist actions against the United States, we think only those outside our borders would wish to do us harm. It is inconceivable to us that a fellow countryman would possess a hatred so deep and inflamed that he would be motivated to act against our Nation. How could one American commit an act that equates with premeditated, mass murder against other Americans? There is no answer and perhaps that is what is so disturbing to us.

The events of the last several days have happened at a breakneck pace and it is sometimes hard to maintain a focus and perspective on just what has occurred. We must remember, that as of this morning, 78 people, many of them Government servants, too many of them children, lost their lives for no logical or explicable reason. That thanks to tireless efforts of hundreds of Federal, State, and local law enforcement officials, suspects in this crime were quickly identified and are being rapidly brought to justice.

We discovered that there is a whole subculture of people who are fearful of their lawfully elected representatives. Some of these people believe that the Government is involved in the conspiracy to go to war against the citizens of the United States, and that they must protect themselves from their own Government.

While we truly do live in a world that is filled with dangerous people, it is also a world where the good outnumber the bad. Volunteers and relief supplies continue to pour into Oklahoma City, and people throughout the United States have banded together in shows of faith and sympathy for those who died or lost loved ones.

Most of all, we were reminded that America is still a very unique place, and it is a shame we must literally fear one of our neighbors might wish to destroy what is so special to all.

Mr. President, I yield the floor.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONDEMNATION OF THE BOMBING IN OKLAHOMA CITY

Mr. NICKLES. Mr. President, I send a resolution to the desk, and I ask unanimous consent that it be considered at this time.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 110) expressing the sense of the Senate condemning the bombing in Oklahoma City.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. NICKLES. Mr. President, this resolution is one that I referred to earlier in my comments, cosponsored by Senator INHOFE and myself, Senator DOLE, and many other Senators.

We are going to hotline this and ask Senators if they wish to cosponsor it. I very much appreciate the cooperation of the majority leader in allowing us to bring up this resolution. The majority leader has already mentioned his intentions that we vote on the resolution at 12 o'clock tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATION'S RESPONSE TO THE OKLAHOMA BOMBING

Mr. HATCH. Mr. President, I appreciate my colleague's kindness in this matter. I just have a few words to say here this morning following the Oklahoma bombing.

Today, we all continue to mourn the senseless loss of life in Oklahoma City. My heart and my prayers go out to the families and loved ones of those killed and injured in this tragic bombing. This vicious destruction of human life, particularly of the lives of so many innocent children, is tragic beyond belief.

We must not rest until all of the perpetrators are discovered and punished. I have full confidence in the ability of Federal law enforcement officials to bring the perpetrators to justice. The Judiciary Committee will support the President, the Attorney General, Director Freeh, and the hundreds of law enforcement officials involved in this effort. We will provide them with any assistance, legislative or otherwise, that they may need in that regard. I want to compliment each and every one of them, especially Director Freeh and the FBI, for their leadership in the work they have done in uncovering all the things they have, thus far.

President Clinton was correct when he described the terrorists who committed this act as "evil cowards." If the barbaric individuals responsible for this venomous, wicked act believe they could intimidate, punish, or coerce the United States of America, they were wrong. Dead wrong. We must and we will guarantee that any terrorist, be he domestic or international, know that our Nation's policy will be one of swift and effective retribution.

For years, many in Congress have been fighting for passage of legislation aimed at enhancing our domestic and international counterterrorism efforts. I have been one of those. Much of this legislation is embodied in the Dole-Hatch crime bill that was introduced on the first day of this Congress. Recently, the administration forwarded to Congress its own counterterrorism bill that is similar to the Dole-Hatch proposal.

Since the tragic incident of last week, Senator DOLE and I have been working with Senators NICKLES and INHOFE on a comprehensive bill that will combine the better provisions from both the Dole-Hatch and administration bills into a single vehicle. Although this legislation is ready, we will delay its introduction until we can incorporate the additional provisions the President referred to last evening in his 60 Minutes interview. We will also hold hearings in the Judiciary Committee later this week to determine what can be done to fight terrorism.

The heinous attack on innocent men, women, and children underscores the need for tough, effective laws to fight the scourge of terrorism. We must ensure that Federal law enforcement officials have the tools to prevent and detect future terrorist attempts. Legislation is needed, and it is needed now, to give them those tools.

In addition to whatever recommendations the President may promulgate, our bill will certainly do the following:

It will increase the penalties for committing terrorist acts here in the United States;

Our legislation will add the crime of conspiracy to terrorism offenses, thus, permitting the Federal law enforcement agencies to stop terrorist organizations at their formation rather than waiting until after they have committed their terrorist acts;

Although the tragedy in Oklahoma appears to have been committed by individuals who are from the United States, it is important that we protect our citizens from foreign terrorists as well. Our bill will provide law enforcement and courts the tools they need to quickly remove alien terrorists from our midst without jeopardizing national security or the lives of law enforcement personnel;

Our legislation also seeks to prevent individuals who support or engage in terrorist activities from ever entering the United States. The bill would permit the Secretary of State to withhold visas from certain individuals who come from nations that sponsor terrorism, or from individuals who are members of organizations suspected of terrorist activities;

Our bill further includes provisions making it a crime to knowingly provide material support to groups designated by a Presidential finding to be engaged in terrorist activities;

Finally, our bill provides for numerous other needed improvements in the law to fight the scourge of terrorism. I would note that many of the provisions of this bill enjoy broad bipartisan support, and in several cases, have passed the Senate on previous occasions.

We must, however, resist the urge to leap to conclusions and unfairly tar certain political minorities with recriminations for last Wednesday's tragic events. As President Clinton said last evening, "We must be careful not to stereotype people from other groups." Once all of the perpetrators of this act are apprehended, there will be time enough to ensure that justice is done.

As a final note, I want to commend President Clinton for his leadership that he has exhibited in the face of this tragedy. He and his administration have done a superb job in responding to this tragedy. The Department of Justice, the FBI, and all of the police and rescue workers in Oklahoma must be acknowledged for their efforts to date.

In closing, what is shocking to so many is the apparent fact that those responsible for this atrocity are U.S. citizens. To think that Americans could do this to one another, it is unbelievable.

Yet these killers are not true Americans, not in my book. Americans are the men, women, and children who died under the sea of concrete and steel. Americans are the rescue workers, the volunteers, the law enforcement officials and investigators who are clearing up the chaos that has occurred in Oklahoma City. The genuine Americans are the overwhelming number who will forever reel at the senselessness and horror of April 19, 1995. It falls on everyone as Americans in heart and spirit, to condemn this sort of political extremism. Anarchistic radicalism of this sort—be it from the left or the right—will not prevail in our freedom-loving democracy.

The rule of law and popular government will prevail. We intend by this legislation to see that it prevails, and that it prevails with the force that really should be behind the rule of law.

There are a lot of other things I will say about the bill we will file in the future, but suffice it to say these are some of the matters I wanted to cover in these few short remarks here.

Again, my lasting prayers, and that of my family, go out to those who have suffered so much through this ordeal, those who have suffered the loss of loved ones, those who have been maimed, and those who are related to those who have died or been maimed.

My love goes out to our Federal workers, too, for they are hard-working people who try to do the best they can. We want to make sure the Federal installations, as well as all other installations in this country, are secure from terrorism, terrorist activities, and from those who would subvert the very freedom fabric of our country.

Mr. President, I yield the floor.

AN UNSPEAKABLE TRAGEDY

Mr. DORGAN. Mr. President, let me join my colleague, Senator DOLE from Kansas, and my colleague, Senator NICKLES from Oklahoma, and others, I am sure, who will today speak of the nearly unspeakable tragedy that occurred in Oklahoma City.

It is very hard to even describe the horror that has been visited on so many families, so many innocent victims. My hope is that in this period of national discussion and reconciliation dealing with this tragedy that we will find ways, again, as Americans, to speak of how we resolve differences and how we deal with grievances in our country without resorting to violence.

We have been offered as a people far too many sights and sounds on television of acts of terror visited on people living in foreign lands. Often it passes before the television screen and does not make much of an impact.

Obviously, this tragedy is more immediate. It occurs in the heartland of our country. It is the worst tragedy of its type in the history of our country. It comes at a time when there is a great deal of debate and unsettled feelings in our country about a lot of things. I hope it will require all of us again to decide that in our country, we make decisions in a process by which we debate and discuss and then peacefully resolve our differences in a democratic way and in a democratic system.

So my heart and prayers go to those in Oklahoma City, those who have lost family members, those victims who lost their lives, and those many others who devoted their lives in recent days and nights—often 24 hours a day—trying to help their fellow man and woman.

COMMEMORATING THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. KENNEDY. Mr. President, today marks the 80th anniversary of one of the most tragic events in world history—the genocide that brought death to more than 1½ million Armenian men, women, and children at the hands of the Ottoman Empire. As we honor the memory of these individuals, we renew our commitment that the world will never forget their tragic suffering.

Between 1915 and 1923, officials of the Ottoman Empire carried out a systematic campaign to eradicate all Armenians. Innocent Armenians were murdered and those who survived were forced to flee their homeland and live in exile. Many of the survivors later made their way to the United States.

The campaign of genocide began with the execution of the Armenian leadership and proceeded with the targeting of the entire male population. It continued with the persecution of Armenian women, children, and the elderly, who were sent on forced death marches to be raped, tortured, and murdered. During this brutal 8-year period, over 1½ million Armenians died through massacres, disease, and starvation.

Unfortunately, even today, the Armenian people face continued violence and ethnic hatred. Since 1988, the conflict between Christian Armenians and Moslem Azerbaijanis for control of Nagorno-Karabakh has resulted in over 10,000 deaths and almost 1½ million refugees. Despite the May 1994 cease-fire and the armistice agreement signed the following month, a permanent solution to the conflict has yet to be found.

The United States has provided substantial humanitarian assistance to Armenia, but it has become increasingly difficult to deliver this assistance because of the continuing blockade by the Governments of Azerbaijan and Turkey. As a result, Armenia suffers from a long-standing shortage of food, fuel, and medical supplies. We need to redouble our efforts to end the current crisis and promote peaceful development of the region.

I commend the tireless efforts of the Armenian-Americans for their efforts to promote a peaceful solution to the conflict, and for keeping their Armenian heritage alive in the United States.

As we commemorate and honor the victims of the Armenian genocide, we renew our commitment to combat ethnic hatred and to end injustice and conflicts throughout the world.

THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. BRADLEY. Mr. President, today marks the 80th anniversary of the Armenian genocide, the first great crime of the 20th century. Over 1½ million Armenians were murdered by the Ottoman Empire and its successor between 1915 and 1923. Many in this country and throughout the world still mourn the relatives they lost in the Armenian genocide. It is important that we take a moment to remember this terrible crime against humanity.

The 20th century has been not only a century of mass murder, but also a century of culpability in which the nations of the world have failed to act to prevent or halt genocide. The slaughter of Armenians was ignored. The international community was too slow to act when the Nazis began killing Jews and Gypsies. Our response to the ethnic cleansing in Bosnia and Rwanda has been feeble.

However, on this day, we not only mourn the losses sustained by Armenia, we also celebrate the contributions of Armenians to our civilization and culture, such as fellow New Jerseyans Christopher Babigian, a prominent physician and community leader, Krikor Zadourian, a leading businessman and community leader, and Haigaz Grigorian, a community leader active in relief work in Armenia, to name a few. Indeed, the American-Armenian community has done much to enrich New Jersey and the United States.

Armenia itself, Mr. President, has now reemerged as an independent state in which Armenians can control their own destiny for the first time in centuries. Tragically, though, Armenia is a country which has thus far been forced to devote its resources to war rather than to building a peaceful, prosperous, life for its people.

It is our responsibility to educate future generations about the dangers of intolerance and to fulfill the pledge of "never again." Remembering the horrors of 1915–23 is one way of rousing ourselves to give meaning to this pledge.

THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. SARBANES. Mr. President, I rise to join my colleagues in commemorating one of this century's most tragic events. Today marks the 80th anniversary of the Armenian genocide of 1915–23, recognized by some as the first genocide of this century when 1½ million Armenian men, women, and children lost their lives as a result of the brutal massacres and wholesale deportations conducted by the Turkish Ottoman rulers.

Mr. President, on this day 80 years ago began one of the great martyrdoms of modern history, a systematic and methodical campaign to exterminate an innocent people. An entire nation was uprooted from its homeland scattering thousands of survivors around the world. Thus this human tragedy, having left few families unaffected, and its anniversary have special meaning to Armenians everywhere.

The 1915 genocide represented the culmination of decades, and the development of an insidious pattern, of persecution against the Armenian community living in the Ottoman Empire. During the period 1894–96 and again in 1909, thousands of Armenians lost their lives at the hands of their ruthless persecutors. On April 24, 1915, Armenian intellectual, religious, and political leaders, were rounded up by Ottoman authorities, taken to remote parts of Anatolia and murdered.

At least 250,000 Armenians serving in the Ottoman Army were expelled and forced into labor battalions where executions and starvation were common. Men, women, and children were deported from their villages and obliged to march for weeks in the Syrian Desert where a majority of them perished.

There was no shortage of contemporaneous newspaper accounts in the United States of the Ottoman Turkish atrocities—a simple review of headlines appearing in the New York Times in mid-1915 yields the following: "Wholesale Massacres of Armenians by Turks," "Tales of Armenian Horrors Confirmed," "800,000 Armenians Counted Destroyed," "Thousands Protest Armenian Murders." In fact, through a congressionally chartered organization called Near East Relief, Americans contributed $113 million in humanitarian assistance from 1915 to 1930 to help the surivors. In addition, 132,000 Armenian orphans were adopted in this country.

Perhaps America's most notable observer of the Armenian genocide was its distinguished ambassador to Turkey at the time, Henry Morgenthau, who published an article in the Red Cross magazine in 1918 describing the wide-scale and deliberate orchestration of Ottoman atrocities against the Armenian people as "the Greatest Horror in History." Morgenthau has also written the following about the Armenian genocide in this now famous passage:

> Whatever crimes the most perverted instincts of the human mind can devise, and whatever refinements of persecutions and injustice the most debased imagination can conceive, became the daily misfortunes of this devoted people. I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915. The killing of the Armenian people was accompanied by the systematic destruction of churches, schools, libraries, treasures of art and of history, in an attempt to eliminate all traces of a noble civilization some three thousand years old.

Indeed, Morgenthau and other diplomats who witnessed and reported in great detail the enormous devastation of the Armenian community by the Ottomans would be astonished to learn today that the abundant evidence they collected, much of which is held in our own National Archives, and the testimony of survivors who are still with us, continue to be challenged without a trace of contrition. Despite the irrefutability of the documentation and testimony, including extensive accounts from survivors, witnesses, and historians, there are those who refuse to come to grips with the past, blame the victims, and deride reconciliation.

Remembrance and understanding, however, are universal imperatives essential to all decent people and decent societies. To be sure, Armenians themselves are committed to the proposition that their experience has meaning for all of us—it must not remain the special province of the survivors. In other words, to ignore or forget the past is to remain its captive, and coming to terms with the past is an indispensable part of building for the future.

Elie Wiesel, speaking at a Holocaust memorial service here in the Congress during the early 1980's, expressed eloquently the importance of recognizing the Armenian genocide when he said:

> Before the planning of the final solution, Hitler asked, "Who remembers the Armenians?" He was right. No one remembered them, as no one remembered the Jews. Rejected by everyone, they felt expelled from history.

From the darkness of this experience, Armenians have risen to demonstrate great courage and strength in their pursuit of human dignity and freedom. After enduring years of struggle under Soviet rule the Armenians gained independence at last. They now face the effects of a devastating earthquake in 1988, an inhumane economic blockade which continues to hamper the delivery of needed humanitarian assistance, and the hostile forces arrayed against them in their volatile area of the world.

Perhaps the Armenian-American community is one of the best examples of this indomitable human spirit of the Armenian people. The contribution of the Armenian community to the cultural, social, economic, and political life of America is a source of great strength and vitality in our Nation. Americans of Armenian origin have kept alive, and not let tragedy shatter, the rich faith and traditions of Armenian civilization.

Mr. President, in keeping with our country's highest principles and ideals, we pause and pay tribute today to the survivors and the victims who perished in the midst of a deliberate attempt to rid the world of the entire nation. As we recall the events that began on the night of April 24, 1915, we are reminded yet again of the fundamental importance of freedom and respect for human rights, and of the terrible consequences of their abuse.

I ask unanimous consent that a recent column appearing in the New York Times entitled "For Old Armenians, April is the Cruelest Memory" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 19, 1995]

FOR OLD ARMENIANS, APRIL IS THE CRUELEST MEMORY

(By Michael T. Kaufman)

The forsythia at the Armenian Home in Flushing are blooming cheerily and the dandelions wink from the lawn, but for the old people who live there, April remains a time of heavy sorrows. They sit silently in sunny rooms, keeping to themselves what they saw and heard and smelled 80 years ago when their people were scattered and killed in the first of the century's many genocides.

"We don't talk to each other about it because everybody has their own terrible stories," said Alice Dosdourian, who is 89 years old. They also no longer go to the commemorative gatherings, such as the one to be held this Sunday in Times Square, where younger people mark the years of Armenian agony that began when the Turks killed 235 intellectuals on April 24, 1915. The home's administrators say the memorials were too upsetting for the residents.

"But I never forget," Mrs. Dosdourian said. "I think about what happened all the time. Sometimes I dream about it and I wake up and I hold myself and tell myself, 'No, you do not have to worry, now you are in America.'" Mrs. Dosdourian has been in America since 1924.

But if the old Armenians discreetly avoided making each other cry, they eagerly took advantage of a stranger's visit to tell what they had seen and endured as children. They are, after all, among the last ones alive who had seen the horrors with their own eyes. They need to reveal their recollections to those who were not there, not to seek redress or make politics, but simply to have the facts acknowledged. And so, one after another, the Armenians clasped a stranger's arm and testified.

Mrs. Dosdourian had been born in Mazhdvan, a village in that part of Turkey where the Armenians had lived for many centuries. She was 6 years old in 1915 when soldiers came and took away her father, a shoemaker. She never saw him again. "My mother took me and my brother, who was 12, and we walked. We went from village to village. We went to the mountains. I do not know how many months we walked. Once we were in a village where all the men were Armenian heroes, big men who fought until they died. But then the soldiers came and made us walk again."

There were more than a million who walked, mostly women, children and old men forced across Mesopotamian deserts into Syria. Many drowned and died of hunger. Some, like Mrs. Dosdourian's brother, were shot to death during the exodus. In all, the estimates of the dead ranged between 600,000 and 1.5 million. Until World War II and the destruction of the Jews, it was the sufferings of the Armenians, well documented by journalists and writers, that set standards of horror and contemporary barbarism.

"Every night," Mrs. Dosdourian said, "I heard people shouting that they were robbed by the gendarmes. We were always hungry. People were dying and we had no shovels to bury them. People stayed up at night to protect bodies from dogs and wild animals. People sang out to God, 'How could you let this happen to us?'" The woman spoke unhesitatingly, sitting erect and keeping her clear blue eyes on her listener.

"One day we came to a river. There were many dead around but in the water there was the body of a young woman floating. I could see her long black hair spread out like a beautiful fan." She shuddered and her clear blue eyes filled with tears.

Annahid Verdanian also remembers. She was 4 years old when she was forced from her home with her mother and her father. She and her nurse became separated from the others. At one river she watched as a ferry full of people was turned over. She thinks her family may have been on the boat and drowned. She was adopted by people, some good, some exploitative. She worked as a maid, as a seamstress. She went to Greece and then to Marseille, and then in 1934 she came to Massachusetts, where she worked in textile mills.

Hagop Cividian, who is 86, did not come here until 1990. In French and German he explains his story. With difficulty he talks about a woman named Diana, saying it is important to remember her because she was a real hero. He has written her story but only in Armenian. "Americans should know," he said with passion. "She was an American." She was married to his cousin and they had a 7-year-old boy who was a prodigy on the piano. "The authorities told her that because she was American she could go but she would have to leave the boy," Mr. Cividian said. "She stayed and died with her husband and son."

Mr. Cividian managed to live. "For four years I was hungry, and beaten," said the stocky and still muscular man. Later he made his way to Romania, where he became a chemical engineer. "As a child I saw the Turks kill the Armenians, later I saw Hitler and then Ceaucescu," Mr. Cividian said. "The only time I knew freedom was when I came to America five years ago. Only here I can do what I want. I can think, speak and remember."

IS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the impression simply will not go away; the enormous Federal debt greatly resembles that well-known energizer bunny we see, and see, and see on television. The Federal debt keeps going and going and going—always at the expense, of course, of the American taxpayers.

A lot of politicians talk a good game—when they go home to campaign about bringing Federal deficits and the Federal debt under control. But so many of these same politicians regularly voted for one bloated spending bill after another during the 103d Congress, which could have been a primary factor in the new configuration of U.S. Senators as a result of last November's elections.

In any event, Mr. President, as of yesterday, as of Friday, April 21, at the close of business, the total Federal debt stood—down to the penny—at exactly $4,837,382,183,299.27 or $18,362.79 per person.

FATHER ROBERT J. FOX

Mr. PRESSLER. Mr. President, I am pleased to pay tribute to an outstanding South Dakotan and good friend, Father Robert J. Fox of Alexandria, SD. Today, April 24, 1995, marks the 40th year of his dedicated service to the Catholic church and the people of South Dakota.

It has been my personal pleasure to work with Father Robert over the past 6 years in establishing National Children's Day. As national chairman of National Children's Day activities for the Catholic church, he has tirelessly promoted this special day for our children. As a result of his efforts, I expect to see National Children's Day successfully celebrated on the second Sunday of October for many years to come.

Father Robert Fox began his pastoral career at the age of 27 after graduating from St. Paul Seminary school. A little over a year later, on April 24, 1955, he was ordained into the priesthood, and gave his first sermon soon afterward at the Immaculate Conception Church in his hometown of Watertown, SD.

Over the years Father Robert has faithfully served the Catholic church in many different parishes across eastern South Dakota. He has been ministering in Alexandria since 1985. During his career Father Robert has authored 20 books and numerous articles in Catholic publications. He also has taken pilgrimages with 3,000 youth. Certainly, South Dakotans of all ages have benefited from his very active career of service.

I am just one of many South Dakotans who have profited from Father Robert's wisdom. His valuable advice will always be greatly appreciated. He is loved and respected by many. I am honored to join in observing this very special occasion for Father Robert.

THE DEATH OF JOHN F. BLAKE

Mr. SPECTER. Mr. President, the CIA, the Senate Intelligence Committee and our country lost a loyal servant on March 27 when Jack Blake passed away after a long illness. Jack was an OSS veteran who became one of the CIA's premier managers, serving as its director of logistics, Deputy Director for Administration and acting Deputy Director of Central Intelligence. He also served as president of the Association of Former Intelligence Officers.

In 1981, when Senator Barry Goldwater became the first Republican to chair the Select Committee on Intelligence, he chose Jack Blake to be staff director of the committee. Together, Senator Goldwater and Jack Blake established the principle that the transfer from a Democratic to a Republican majority would not mean an end to the Senate's bipartisan oversight of sensitive national security matters. They also made the point that the intelligence community's best friends were capable of examining its activities with a critical eye, for the sake of improving this vital function and safeguarding the liberties of our citizens.

Jack Blake went on to become a professor at the Defense Intelligence College and frequently brought his classes back to the Hill to meet with congressional overseers and see for themselves that we were not monsters, but people of good will. His tremendous good humor and perseverance served him and his country well. We will miss Jack Blake, but we will also continue to profit from his life of good works. The Senate was fortunate to have known him.

THE DEATH OF RICHARD E. CURL

Mr. SPECTER. Mr. President, our Nation lost a valuable member of its national security team recently, when Richard E. Curl died at the age of 77. Dick Curl was Director of the Office of Intelligence Resources in the State Department's Bureau of Intelligence and Research. He was not the former Director, not the retiring Director, but very much the active Director of that office, even at the age of 77.

Dick Curl devoted his life to intelligence. He served as a naval intelligence officer in both World War II and the Korean war, and with the State Department between those wars. And Dick began his work for INR in 1952. Overall, he gave his country over half a century of service.

Mr. Curl's obituary states that his work "involved contact with various foreign intelligence services as well as U.S. intelligence agencies." Suffice it to say that his role was often that of a mediator between the two different cultures, explaining the uses of intelligence to policymakers and Foreign Service officers while also ensuring that the risks and benefits of intelligence operations were weighed in light of broader U.S. policy interests that might be affected if something went wrong. Much of Dick Curl's career was spent teaching the policy and intelligence communities to listen to each other.

The staff of the Senate Select Committee on Intelligence knew Mr. Curl since at least the early 1980's. They found him a valuable source of information and good counsel. Dick Curl will be missed by both the committee and his country.

RURAL SUMMIT

Mr. DORGAN. Mr. President, I come to the floor for a different purpose today, however. I want to describe something that is happening tomorrow in Ames, IA, and something that happened last Friday in Bismarck, ND.

Some many months ago, I and Congressman DICK DURBIN, from Illinois, asked President Clinton to host a rural summit in our country prior to the writing of the new 5-year farm bill in Congress this year. The President took our suggestion and set December 1 of last year as a date for a rural summit. It would be the first ever of its kind held in this country prior to the writing of a new farm bill.

On December 1, it turned out that the Senate was going to reconvene and vote on the GATT treaty, and the result was the rural summit had to be postponed. The President was required to remain in Washington, and others who were to participate were to remain here as well. A new date was set, and that new date is tomorrow.

The President, the Vice President, the Secretary of Agriculture, and other Cabinet Members will go to Ames, IA, and they will convene a rural summit. The purpose of that is to discuss, before the new farm bill is written, what works and what does not in rural America, what kind of a farm program works to save family farmers, to try to provide an injection of economic life into rural economies; how can we improve on it, how can we change it, how can we offer more hope to rural America?

I give great credit to President Clinton for his willingness to do this. It is long overdue that we take a fresh look at all of the programs and all of the initiatives and all of the efforts that are designed to try to help rural America. This is, after all, one country, not many countries, and the one country includes, yes, some of the biggest cities but also some of the smallest counties.

In my home county in rural North Dakota, as an example, where fewer than several thousand people live in the entire county, they lost 20 percent of their population in that county in the 1980's. In the first 5 years of the 1990's, from 1990 to 1995, the new census report shows they lost another 11 percent of their population.

The flip side of economic stress, that we register in the cities by taking a look at poverty and unemployment, for rural America is out migration, people getting in their car and leaving because there is no opportunity, they feel, in rural counties. What is happening in rural America is that many rural counties and rural areas are shrinking like prunes. The lifeblood is leaving these rural counties.

And so the question is what works and what does not, what kind of a farm plan, what kind of a rural economic development policy should we have in rural America to give everybody in this country a chance; yes, even those who live in sparsely populated areas.

Prior to the summit that will be held in Ames, IA, tomorrow, the President asked the new Secretary of Agriculture, Dan Glickman, to hold six regional forums around the country, and he has done that. I believe the last one is today in Illinois. He held one of those six forums in Bismarck, ND, last Friday.

At that forum, the Secretary of Agriculture brought along most of the Assistant Secretaries, and they were all there as a team from the U.S. Department of Agriculture to listen to family farmers. About 700 to 800 people crowded into this facility, the Farmers Livestock Exchange, to spend 3 hours at this forum. Another probably 200 people could not get into the facility, but because it was broadcast on a couple of radio stations, there were people sitting in the parking lot listening to their radios to hear the discussion during these 3 hours about rural America, about the farm bill, and about what works to try to rescue, revive, and breathe some life into rural America.

I know this subject would not sound very interesting or important to a lot of Americans. Most Americans take a look at rural America or farmers and they do not think much about them. They go to the store and buy elbow macaroni, and it is in a carton. Well, elbow macaroni does not come in a carton. That is the way it is sold, but it comes from semolina flour. You get that by grinding durum wheat that comes from the wheat field of someone who, most often, is a family farmer who risks all of his economic strength and crosses his fingers and hopes he will not get rained on too much, or that it will not be too dry, or that insects do not destroy the crop. They hope to harvest it, and when they harvest it, they hope the price will not be so low that they lose a ton of money. Those are the risks and uncertainties they face.

Why did anywhere from 800 to 1,000 people show up Friday in Bismark, ND, to meet Secretary Glickman and talk to him for 3 hours about what they think ought to be done? Because it is their livelihood, their future. This is not a case of it being inconvenient if things do not work out. This is a case of losing everything you have if you are on a family farm and things do not work out.

The basic message Friday in North Dakota by all of those family farmers and others speaking to the Agriculture Secretary was a message that the current farm program is not enough and does not work very well. That does not mean that we need more in order to make it work better. The resources we now spend on the farm program in this country, better applied, could provide a better life for family farmers by providing a safety net to give family farmers a chance to make a decent living.

We do not need to provide farm price support to the biggest corporate agrifactories in America for every bushel of grain they produce; yet, we do—a loan rate for everybody in the program for every bushel of wheat they produce, no matter how large they are.

We have all seen reports that the Prince of Liechtenstein was getting benefits for farming in Texas, and a group of Texans who concocted a consortium or amalgamation partnership of sorts and they farm in Montana, section by section, by dropping seeds out of the helicopters. They are not farming the land; they are farming the farm program. We have seen those abuses. We ought to eliminate them.

We ought to change the farm program so that we have a farm program that is actually able to spend less money but provide more help to family-sized farmers. I have submitted a proposal, and I have entered it into the RECORD, and I have written about it, and I will provide a piece I have written on the subject.

This proposal is substantially different than the current farm program. It says let us retain a basic safety net of support prices, and do it in a way that provides the strongest support for the first increment of production, which has the ability to provide the most help for family-sized farms. Above that, you do not need price supports. If you want to farm the whole county, God bless you. But the Federal Government does not have to be your financial partner. You can assume those risks alone.

Second, in addition to a better price support for production designed to help family farmers, let us get government off farmers' backs and stop having government describe what they can plant, when they can plant, and where they can plant it. Let us get family farmers better prices for the output of their production, and let the rest of the people above that—if you want to plant above that—get their signals from the marketplace. More help, less government, at less cost. That is what I want to see from a farm program.

If the purpose of the farm program is not to help family farmers, if that is not the first sentence or preamble of the farm program—we design a farm program because we want the farm program to try to provide a safety net under family farmers, because for social and economic reasons it is important for America to have a network of family farms, and family farmers do not have the financial strength to withstand price depressions that are international price swings; they do not have the financial strength to withstand crop failures and price depressions, so that is why we have a safety net.

If that is not the first line of the farm bill, saying this farm bill is designed to provide a safety net for family-sized farms, then scrap the whole farm bill. We do not need a farm bill to help corporations plow. They will do fine. They are big enough, strong enough, and they can plow enough land to farm the whole country. That is fine. I do not happen to think that is good for the country, but if that is who is going to plow the ground in America, they do not need the farm program.

If it is about helping farmers get a decent price support, make that the first line in the farm bill and make the bill comport to that.

In the early 1860's, President Abraham Lincoln created a U.S. Department of Agriculture. By the way, he had nine employees in the Department of Agriculture in the 1860's. One and a third centuries later, we have a USDA, but it has 100,000 employees, that is adding the Forest Service to it. It is a behemoth organization. My central premise is that it is either going to help family farmers, or we do not need any of the USDA.

The President has done the right thing in having regional farm forums. They are having a rural summit at Ames, IA, tomorrow to listen and hear what farmers are saying in this country and then write a new farm plan that does real good for family farmers.

Let us not just do what we have done for the past couple of farm plans and say we will have the same farm plan but a little less. I do not support that. Let us change it in a way that says this farm program relates to the needs of family farmers, and do it in a way that costs less money to the Federal Government and also has less Government interference in the lives of our farmers.

I am not going to be able to be in Ames, IA, tomorrow. The President invited me to go. He invited Congressman DURBIN to go. Since the House of Representatives is not in session, I expect that Congressman DURBIN will be there. I was not able to take advantage of the President's invitation because it appears we are going to have votes in the Senate tomorrow.

I was pleased to participate in the regional forums, and I am delighted to have been a small part in doing what I think we should do in this country—having the President convene a rural summit and start thinking and talking about what works and what does not, what can work to breathe economic life into our rural counties and towns, what can give people in those areas an opportunity for the same kinds of jobs and hope and future that many others in our country now have.

Mr. President, I want to say that I appreciate the indulgence of the Senator from Washington. I will be coming to the floor to speak on the subject that is on the floor—product liability—at some point in the future. I am on the Senate Commerce Committee and am interested in the subject. I appreciate his allowing me to speak in morning business on another matter.

With that, I yield the floor.

IMPLEMENTATION OF USDA DISASTER ASSISTANCE PROGRAMS IN CALIFORNIA

Mrs. BOXER. Mr. President, I was a strong supporter in the last Congress of the bill passed and signed into law by President Clinton regarding the reorganization of the Department of Agriculture and Federal crop insurance reform. I would like to again extend my congratulations to Senator LUGAR and Senator LEAHY for their outstanding efforts on the passage of this very important legislation.

A driving force behind crop insurance reform was to make basic crop insurance obligatory in an effort to avoid ad hoc disaster bills in Congress. Under crop insurance reform, crops that are not eligible for insurance will qualify for disaster relief under the newly created Non-Insured Assistance Program [NAP]. We are not sure how the NAP Program will work and how effective it will be in helping farmers of noninsurable crops who have suffered a natural disaster. The NAP regulations are still being drafted by the Department of Agriculture.

California agriculture has recently experienced devastating floods. California Food and Agriculture Secretary Henry J. Voss has estimated that damage resulting from the March winds, rains, and flooding in California is over $665 million.

Commodities suffering severe losses statewide include almonds, $208 million; strawberries, $63 million; plums and prunes, $53 million; lettuce, $40 million; and apricots, $20 million.

One of the hardest hit counties is Monterey County, which has suffered over $240,000 million in damages. Over 70,000 acres of agricultural land have been lost or damaged. I share Congressman SAM FARR's grave concern about how the Department of Agriculture will help these farmers get on their feet again.

My purpose in raising this issue today is to ensure that implementation of crop insurance reform is successful, that it achieves the goal of helping farmers recover quickly, and that it avoid the need for another ad hoc disaster bill.

The Department of Agriculture, in implementing the new Non-Insured Assistance Program and other disaster relief programs, should do so in a way that appropriately meets the needs of California agriculture.

We have the situation in California, especially in the case of specialty crop growers, where farmers may not qualify for the Non-Insured Assistance Program, due to various criteria. Note that of the 250 crops grown in California only about 10 are covered by crop insurance.

There are two specific issues which I hope, with your help, and with the ongoing efforts of Congressman FARR, we can urge the Department of Agriculture to resolve administratively.

At this point, I would like to ask my colleagues Senator LUGAR and Senator LEAHY several questions regarding the implementation of the agriculture disaster assistance programs by the U.S. Department of Agriculture.

Would the Senators agree with me that we must urge the Department of Agriculture to ensure that "area" is defined in a fair and equitable manner?

Mr. LUGAR. Yes, I agree that the Department of Agriculture must ensure that "area" is defined in a fair and equitable manner, consistent with the need for fiscal responsibility and program integrity. The issue should be resolved administratively so that the definition of "area" is sufficiently flexible and sensitive to the agronomic practices of the area that has suffered the disaster.

Mr. LEAHY. I concur.

Mrs. BOXER. Another issue of critical importance to farmers in California and their ability to recover from the disastrous floods they are experiencing is the issue of crop losses in cases where a grower plants and harvests multiple crops in 1 year. To qualify for the Non-Insured Assistance Program, a farmer must lose 50 percent of the crop in a crop year. Loss is counted differently depending on whether a farmer plants the same crop over and over again—as in the case of lettuce growers—or whether a farmer grows and harvests different crops in 1 year.

In the case of a lettuce producer who raises multiple crops of lettuce in 1 year, for example, the producer won't be eligible for non-insured assistance based on losses for a single harvest even if he loses 100 percent of his crop. In comparison, a producer who raises wheat followed by soybeans—which commonly occurs in the south—would be eligible if the grower lost 50 percent of the wheat crop. The grower would again be eligible for his soybeans if he had significant losses. In contrast, the lettuce producer who suffered 100 percent loss of his crop would receive nothing.

Would the Senators agree with me that we must urge the Department of Agriculture to ensure that the multiple planting issue is dealt with in an equitable manner?

Mr. LUGAR. I agree that we must urge the Department of Agriculture to ensure that the "multiple planting issue" is dealt within an equitable manner, consistent with the need for fiscal responsibility and program integrity.

Mr. LEAHY. I concur.

Mrs. BOXER. I thank very much Senator LUGAR and Senator LEAHY for their support on this issue. I hope that our statements today will help guarantee that farmers are treated equitably.

There is another issue I am very concerned about regarding the implementation of agriculture disaster assistance programs by the USDA in California. Many small- and medium-sized farmers may not qualify for low-interest loans because they may not be considered a family farm, given the working administrative definition regarding "the substantial contribution of labor." Many specialty crops, including strawberries, by there very nature require intensive labor. It is simply not fair to exclude them from disaster assistance.

We seem to have a disaster assistance policy that is not equitable where small- and medium-sized farmers are concerned. I believe that just as the Federal Government steps in to help small- and medium-sized businesses with disaster relief low-interest loans to help business men and women rebuild, so too it should step in to help families who have staked out their business interests in agriculture. Why should a shop owner who sells fruits and vegetables be eligible for help from the Small Business Committee and not the farmer who planted and harvested those fruits and vegetables?

I urge the Department of Agriculture to ensure that family farm is interpreted to take into account the cultural practices in the area where the damaged crop is being grown, as well as the common agricultural practices of the particular crop in question. I also urge the Department of Agriculture to be as flexible as possible with the working administrative definition regarding "the substantial contribution of labor" to ensure that growers of crops that by their very nature require intensive labor not be excluded them from disaster assistance.

I would like to reiterate that the issues I have raised today can be resolved easily if the Department of Agriculture were to carefully consider and take into account the cultural practices in the area where the damaged crop is being grown, as well as the common agricultural practices of the particular crop in question. On the issue of the definition of "area" I would like to add the following:

As I previously mentioned, we have the situation in California, especially in the case of specialty crop growers, where farmers may not qualify for the Non-Insured Assistance Program, due to various criteria. Note that of the 250 crops grown in California only about 10 are covered by crop insurance.

To qualify for the Non-Insured Assistance Program, there has to have been a loss in 30 percent of an "area." The term "area" was not defined in the legislation and the Department of Agriculture is currently looking into just how this will be implemented. There is talk of "area" being defined as a county, or as 250,000 acres or as 35,000 acres. We have crops in California where this definition would automatically exclude many of our farmers. For example, in the counties of Monterey and Santa Cruz, about 45 percent of the strawberry crop for the Nation is grown on a total of 10,000 acres. We must ensure that "area" is defined equitably in a way that does not exclude California farmers.

On the multicrop issue I would like to add the following:

To be fair to California farmers, the Department of Agriculture should consider each harvest as a separate crop for the purposes of eligibility for disaster assistance. It is my understanding that this was the policy until 1994 and that the 1995 floods will be the first test case of the new policy. Although it may appear that all crops are treated equitably, this is not the case in reality, given the fact that most program crops are not planted over and over again; they are always intermixed; that is, soybeans after corn, and so forth. Again, I strongly urge the Department of Agriculture to take into account the common agricultural practices of farmers when looking at how crop loss is counted for eligibility to the Non-Insured Assistance Program.

Mr. LUGAR. Mr. President, I understand and applaud the Senator's concern for her constituents. However, I must also urge the Department to be cautious in approaching the definition of "family farm." In years past, the Farmers Home Administration made emergency loans to large farmers in California and other States that led to millions of dollars in individual indebtedness and enormous losses to taxpayers. On March 31, a hearing in the Agriculture Committee pointed up the substantial losses that we are still likely to incur on these loans and made it clear that the Department has continued to write off debt owed by million-dollar borrowers, despite statements of outrage at past lending practices.

Given this unfortunate history, I believe the Department should move with extreme caution and should act to avoid a repetition of past abuses. The Farmers Home Administration—now a part of the Consolidated Farm Services Agency—was intended to serve family farmers, and the agency's experience in lending to farms of extremely large size is not a happy one.

TRIBUTE TO STATE SENATOR LES KLEVEN

Mr. PRESSLER. Mr. President, last week South Dakota lost a great public servant, State Senator Les Kleven. Les lost a brave and courageous fight against cancer. His leadership and innovation will be greatly missed.

A native of North Dakota, Les moved to Sturgis, SD, in 1962 to start KBHB radio station. Under his direction and leadership, KBHB grew to become one of the premier radio stations in western South Dakota. To this day, it remains an important source of news, information, and entertainment to thousands of listeners in western South Dakota and nearby States. Over the years, Les often had his station broadcast live the meetings I held in the Sturgis area on agricultural disasters, the farm bill, and other important issues. I always appreciated his valuable advice on issues important to the South Dakota broadcast and radio industry, as well as many other issues.

Les was a past president of the South Dakota Broadcasters Association. His love for South Dakota and service to the State did not begin and end with radio. He served three terms in the South Dakota State House of Representatives in the 1970's. In 1992, Les was elected to the South Dakota State Senate. Of course, much as he did on the airwaves, he significantly affected South Dakota political currents. Throughout his career as a member of the South Dakota State Legislature, Les distinguished himself as a leader and fiscal conservative. His constituents and his colleagues knew him to be independent, straightforward, and fair. Indeed, his contributions to the State of South Dakota will long be remembered.

Most important, Les was a family man. Though all who knew Les held him in high respect and admiration, none could be more proud of him than his mother Alice, his lovely wife, Marguerite, and his two children, Andy and Jazal.

Les Kleven's honesty and integrity will be greatly missed. His accomplishments as a radio innovator, a State legislator, and a proud father provide an inspiring example of the South Dakota spirit—a man who gave to his profession, his community, his State, and to his family. Les was a family man, a pillar of the community, and a good friend.

We will all miss him.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

ARMENIAN GENOCIDE

• Mr. LAUTENBERG. Mr. President, I rise today to commemorate the 80th anniversary of the Armenian genocide.

The Armenian genocide marks an ignominious chapter in world history. It reminds us how low unchecked hatred can drag the human spirit, unleashing cruelty and brutality. As we memorialize the Armenians who died needlessly in the genocide, we must resolve never to forget how they suffered at the hands of the Ottoman Empire.

Nor can we forget how the Armenian people continue suffering today as the country struggles to cope with the devastating impact of Azerbaijan's blockade. The blockade has put a stranglehold on the Armenian people. Necessities—like food and heating oil—are in scarce supply. Such shortages endanger the lives of many in Armenia, especially during the harsh winter months.

While humanitarian assistance provided by the United States can help alleviate the suffering, it cannot lift the blockade. Only the Government of Azerbaijan can do that. That is why we must continue to apply pressure. We should not provide United States foreign assistance to Azerbaijan as long as it maintains its blockade of Armenia. The blockade should be lifted without delay.

Mr. President, I hope my colleagues will join me in commemorating this anniversary. It is important that we remember the atrocities of the past, and support efforts to allow the Armenian people an opportunity to live in peace in the future.•

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 956, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate proceeded to consider the bill.

Mr. PRESSLER. Mr. President, as the Senate begins its debate of H.R. 956 I wish, as chairman of the Senate Committee on Commerce, Science, and Transportation, to discuss the provisions of S. 565—the Product Liability Fairness Act—as reported by our committee. S. 565 as reported will be offered as a substitute for H.R. 956, therefore I shall discuss the Senate bill as we begin this debate. Earlier this month, the Commerce Committee conducted extensive hearings over 2 days and then voted 13 to 6 to report the legislation with an amendment on April 6. S. 565 as reported is a fair and balanced bill.

Mr. President, as we begin I cannot help but point out: Here we are again—product liability reform being debated by the Senate of the United States. Do not get me wrong. As chairman of the Commerce Committee, I am proud to bring S. 565 to the floor. So why do I say, "Here we are again"? It is not that I do not think this is an important issue. Far from it. This bill is vital. It is vital not just to America's businesses but also to our Nation's workers and consumers. It also is vital to the victims of injuries caused by products.

THE HISTORY

It is just that we have come this far before. Indeed, since 1981, the Senate Committee on Commerce, Science, and Transportation has held 23 days of hearings on product liability reform. S. 565 marks the seventh piece of product liability reform legislation reported by the Commerce Committee over that 15-year period. It is my fervent hope this time we can achieve meaningful results.

Mr. President, I see no reason why we cannot. This year's bill is balanced and reasoned. I consider it superior to legislation debated in the last Congress in that it does not include a provision to disallow punitive damage awards in lawsuits for certain manufacturers receiving premarket certification from the Federal Aviation Administration.

As my colleagues know, that section of last year's bill made this Senator extremely uncomfortable, so uncomfortable as to put me in the equally uncomfortable position of voting against cloture on legislation addressing other legal reforms I have supported and voted for many times over the years.

I personally have been involved in the product liability reform movement since the early 1980's. I am proud of that. I was an original cosponsor of the Risk Retention Act that became law in 1981 and provided for liability insurance pools—or risk retention groups—for businesses. Throughout the 1980's I cosponsored numerous uniform product liability bills with Senators Kasten, Danforth, and GORTON. The early bills were supported strongly by the business community but lacked bipartisan support in Congress. I chaired Small Business Committee field hearings in Sioux Falls and Rapid City, SD, on this issue in 1985.

I commend the efforts to Senators GORTON and ROCKEFELLER with regard to S. 565. They are, indeed, tireless advocates for meaningful reform of America's product liability system. They demonstrated serious leadership in the committee on this issue and the bill reflects their commitment.

KEY PROVISIONS

I would now like to take a few minutes to briefly highlight some of the key provisions of S. 565 as reported.

ALTERNATIVE DISPUTE RESOLUTION

This legislation provides either party in a product liability suit may offer to participate in a voluntary, nonbinding state-approved alternative dispute resolution [ADR] procedure. If a defendant in a products suit is asked to participate in ADR and refuses and later a judgement is entered for the plaintiff, the defendant will be required to pay the claimants reasonable legal fees and costs if the court determines the defendant acted unreasonably or not in good faith in refusing to participate in ADR. There is no penalty for claimants who refuse to participate in ADR.

The bill's ADR provisions should be particularly helpful to those who experience injuries the system considers minor—generally speaking, injuries that amount to less than $100,000. These individuals often have difficulty finding a lawyer to take their case on a contingency basis due to the expense of preparing for trial. The section also puts claimants squarely in control of whether to choose ADR procedures as a quicker and cheaper mechanism of handling their claim.

PUNITIVE DAMAGES

Although you would not know it to listen to those on the other side of the issue, S. 565 does not remove a plaintiff's ability to recover punitive damages. It does, however, make their imposition more rational.

Punitive damages are not designed to compensate those who have been injured. They are punishment, punishment of defendants found to have injured others in a conscious manner. They are used much as fines are used in the criminal system. However, there are two big differences. First, unlike the criminal law system, there are virtually no standards for when punitive damages may be awarded. Second, when they are awarded, there are no clear guidelines as to their amount.

Under this bill, punitive damages can be awarded if a plaintiff proves, by "clear and convincing evidence" that his or her injuries were caused by the defendant's "conscious, flagrant indifference to the safety of others." Thus, S. 565 provides a meaningful standard for when punitives may be awarded.

In addition, the legislation before us allows punitive damages to be awarded in the amount of three times economic damages or $250,000, whichever is greater. This provision provides a measure of certainty as to the amount of punishment a wrongdoer will suffer.

STATUTES OF LIMITATIONS AND REPOSE

The bill also establishes a statute of limitations of 2 years from when the claimant discovered or reasonably should have discovered both the harm and its cause. This is another example of how this legislation will benefit those injured by products. Under current law, some States establish the "time of injury" as the point at which the time for bringing a claim begins to run. Often this is not a problem. However, where the harm has a latency period or becomes manifest only after repeated exposure to the product, the claimant may not know immediately he or she has been harmed or the cause of that harm.

S. 565 will reduce the number of plaintiffs who, having otherwise meritorious claims, would be denied justice solely on the basis of the statute of limitations in the State in which they choose to file a claim. The bill also establishes a statute of repose of 20 years for durable goods used in the workplace. After such goods have been in the workplace 20 years or longer, no suit may be filed for injuries related to their use unless the defendant makes an express warranty longer than 20 years.

The need for a Federal statute of repose was presented well by one of my fellow South Dakotans, Art Kroetch, chairman of Scotchman Industries, Inc., a small manufacturer of machine tools located in Philip, SD. Earlier this month, he told the committee how vital product liability reform is to the ability of American manufacturers to compete in the global marketplace. Art told me that under the current patchwork of liability laws, his company pays twice as much for product liability insurance as it does for research and development.

JOINT AND SEVERAL LIABILITY

The doctrine of joint and several liability provides that any defendant in a lawsuit may be required to pay all damages, regardless of the degree of fault or responsibility. What are the consequences? One person is held responsible for the conduct of another. True wrongdoers are not always punished. Indeed, the average citizen ultimately pays the claim—either through higher prices, loss of service, or higher insurance premiums.

S. 565 would abolish joint liability for noneconomic damages such as pain and suffering and emotional distress. Thus, each defendant would be liable for noneconomic damages only in proportion to the defendant's share of responsibility for the harm. This section goes a long way in correcting many of the inequities of the joint and several liability doctrine and is essential to any tort reform effort. This section would provide some relief. It is an issue in which I have been particularly interested for many years.

In 1986, I attempted to strengthen proposed product liability legislation, S. 2760, with an amendment regarding joint and several liability. My amendment, which passed the Commerce Committee, would have curtailed the joint and several liability abuse that is all too common in our current system. The amendment abrogated joint and several liability for noneconomic damages in product liability cases. As such, defendants would be held liable based only on their degree of fault or responsibility, not the deepness of their pocket. Unfortunately, that bill was never enacted. I am proud the concept underlying my amendment a decade ago is part of the bill before us today.

ALCOHOL AND DRUGS

S. 565 also provides a defendant will have an absolute defense if the plaintiff was under the influence of intoxicating alcohol or illegal drugs and as a result of this influence was more than 50 percent responsible for his or her own injuries.

I think across the country this is something that is much misunderstood. We see the use of alcohol or drugs by a person operating equipment causing that person to be injured. In these cases, the manufacturer can be held liable, which seems ridiculous. This bill will correct that and will put greater responsibility on everybody to avoid those situations.

BIOMATERIALS ACCESS ASSURANCE

During markup of S. 565, the committee accepted an amendment I offered. In addition to making technical corrections to the legislation, my amendment added a new title to the bill. This title II is identical to S. 303, the Biomaterials Access Assurance Act of 1995 introduced by Senators MCCAIN and LIEBERMAN.

This title would allow suppliers of raw materials—so called biomaterials—used to make medical implants, to obtain dismissal, without extensive discovery or other legal costs, in certain tort suits in which plaintiffs allege harm from a finished medical implant. Specifically, it would allow raw material suppliers to be dismissed from lawsuits if the generic raw material used in the medical device met contract specifications, and if the biomaterials supplier cannot be classified as either a manufacturer or seller of the medical implant.

During its hearings, the committee heard compelling testimony that without such changes in the law, the millions of Americans who depend upon a variety of implantable medical devices will be at risk. Suppliers of biomaterials have found the risks and costs of responding to litigation related to medical implants far exceeds potential sales revenues, even though courts are not finding such suppliers liable.

Indeed, three major suppliers of raw materials used in the manufacture of implantable medical devices recently announced they will limit, or cease altogether, their shipments of crucial raw materials to device manufacturers. All three companies have indicated these were rational and necessary business decisions given the current legal framework.

PRODUCT LIABILITY AND SMALL BUSINESS

Mr. President, from my comments it should be apparent product liability reform is essential to the future health and success of America's businesses. This is particularly true for our small businesses. According to a 1992 Small Business Administration [SBA] study, small firms may be affected more negatively than large firms by nonuniform product liability laws.

This is because small businesses do not enjoy economies of scale in production and litigation costs. In addition, they are less able to bargain with potential plaintiffs. Finally, their limited assets make adequate insurance much more difficult to obtain. The cost of product liability insurance in the United States is 15 times higher than that of similar insurance in Japan and 20 times higher than in European countries.

America's small businesses need rationality and uniformity in the product liability system if they are to compete effectively in the global marketplace. As I explained previously, this point was at the heart of the testimony given by Art Kroetch of Scotchman Industries in Phillip, SD, at the Commerce Committee hearings earlier this month.

It also was the point made to me by Jim Cope of Morgen Manufacturing in Yankton, SD. Jim calls product liability reform a jobs issue for our State. Morgen has had to lay off workers and has been unable to give raises to other employees because of losses due to product liability claims, claims that never resulted in a verdict against his company. Nevertheless, Morgen was forced to spend tens of thousands of dollars defending itself. To Jim Cope, tort reform means more jobs for South Dakota.

PRODUCT LIABILITY REFORM AND CONSUMERS

Aside from the jobs issue, product liability reform also benefits consumers in other ways. It would lower the cost of U.S. goods. The current product liability system accounts for 20 percent of the cost of a ladder, 50 percent of the cost of a football helmet, and up to 95 percent of the cost of some pharmaceuticals—up to 95 percent of the cost of some pharmaceuticals arises from product liability.

Reform of our product liability system also would foster competition and provide consumers with a greater selection of products from which to choose. Studies tell us 47 percent of U.S. companies have withdrawn products from the market and 39 percent have decided not to introduce products due to liability concerns. As a result, Americans depend on single companies to provide such vital needs as vaccines for polio, measles, rubella, rabies, diphtheria, and tetanus.

Finally, S. 565 would encourage safety improvements. The current system encourages companies to discontinue research. Many companies fear research to improve an existing product will be used against them in court to demonstrate they knew the product was not as safe as it might be. Certainty in the system would reduce this counterproductive effect.

In addition, the bill would encourage wholesalers and retailers to deal with responsible and reputable manufacturers. This, in turn, would lead to better products for consumers. Under our bill, product sellers would be legally responsible for products manufactured by companies that are insolvent or do not have assets in the United States. This should increase the quality of the products found on the shelves of U.S. businesses.

Mr. President, I have quickly outlined five ways in which this bill will benefit consumers. First, it will mean more jobs. Second, it will lower the cost of the goods they purchase. Third, it will mean a greater selection of goods from which to choose. Fourth, it will encourage testing to make goods safer. Finally, it will help to maintain and, in some cases, improve the quality of products available to consumers.

PRODUCT LIABILITY REFORM AND THE INJURED

The present product liability system is unfair to those injured by products in at least two ways. The system is full of delay, and compensation that eventually is received, often is inequitable.

Product liability suits take a very long time to process. A General Accounting Office study found, on average, that product liability cases took 2½ years to move from filing to trial court verdict. Most product liability cases are settled before trial, but even these cases suffer from delay. One plaintiff's attorney explained that "most settlement negotiations get serious only a week or so before trial is scheduled to begin."

Delay can result in undercompensation of victims. Many injury victims are forced to settle their claims for less than their full losses so they can obtain compensation more quickly. These individuals often are forced into this decision because of inadequate resources to pay for their medical and rehabilitation expenses.

Another way in which the current system inequitably compensates victims concerns proportionality. Numerous studies have found the tort system grossly overpays people with small losses, while underpaying people with the most serious losses.

Mr. President, this provides a brief overview of S. 565 and the variety of ways in which it will help business—both large and small—consumers, and those injured by products. In short, product liability means jobs for American workers. It means innovative products for American consumers. It means swifter and more equitable compensation for victims. It means international competitiveness for American companies.

This is why I strongly support S. 565. It is good for small business. It is good for their workers. It is good for consumers. It is good for those injured by products. In other words, Mr. President, it is good for America.

I might add, I have been in my State these past days and many people have come up to me saying we need to end frivolous lawsuits. That is a term that is understandable. We need to preserve people's right to sue when something is really wrong. But everybody is suing everybody. It is a sort of lottery out there. The average person is beginning to understand this increases the costs of goods and services. We do want to preserve people's rights to sue. Certainly when there has been a wrong done, there should be punishment, but we want to try to improve our legal system, and this bill is a step in that direction.

I want to commend Senator GORTON and Senator ROCKEFELLER and others, who have worked so long and hard on this. We are very blessed to have their leadership. I stand in strong support of S. 565.

Mr. ROCKEFELLER. Mr. President, the issue of product liability reform is well known to many Senators. I look forward to the debate we begin today because I believe that the bill that we will be considering, S. 565, the Product Liability Fairness Act, builds upon past deliberations of this body to achieve reform in the moderate, bipartisan manner that has characterized this effort in recent years.

Let me pause a moment to thank my colleague and friend, Senator SLADE GORTON, for all his efforts and counsel in crafting the bill that we have introduced. In addition, Senator LIEBERMAN, Senator DODD, Senator HATCH, and Senator MCCONNELL have played critical roles in writing this legislation and bringing us to the point of floor deliberation.

Mr. President, the Senate has considered the topic of product liability reform for over 14 years, and six times the Commerce, Science, and Transportation Committee has reported bills favorably to the floor. Most recently, the committee reported out the current bill, S. 565, by a vote of 13 to 6 on April 6.

We have persisted in our efforts to reform the laws governing product liability because we believe that the current system is broken and that we can make changes that will benefit both consumers and makers of products. We have tried, and I think succeeded, in achieving balance in our effort to streamline the law in this area. We have simultaneously reduced costs and delays for both plaintiffs and defendants.

In 1985, when I first came to the Senate and joined the Commerce Committee, I voted against a product liability reform measure. The committee vote was tied at that time, and I felt strongly that the version of the bill then being considered aided manufacturers at the expense of safe products for American consumers.

Since then, the product liability effort has changed 180 degrees. The legislation has evolved into the even-handed, moderate approach we are considering today. Senator GORTON and I have worked diligently over recent months to hone the bill we are looking at today to ensure that it strikes the right balance between the interests of both consumers and business. Adjustments were made to reflect substantive and other concerns which we concluded were obstacles to the enactment of this bill. We believe we have significantly improved the legislation from earlier drafts and have been responsive to the issues which prevented earlier enactment of this legislation.

Let me draw my colleagues' attention to the substantive changes made in this year's bill compared with the version introduced in the last Congress. The most significant change addresses concerns that have been raised about excessive punitive damages—damages that are awarded to punish and deter wrongdoing. This year's bill establishes a standard for awarding punitive damages that is essentially unchanged from last year's bill. We have, however, added a provision that requires punitive damages to be awarded in proportion to the harm caused at a ratio of three times a claimant's economic loss or $250,000, whichever is greater. Our rationale for this ratio is the goal of bringing to punitive damages some relationship between the size of the harm and the punishment, a goal supported by the American Bar Association, the American College of Trial Lawyers, the American Law Institute, and the U.S. Supreme Court.

Also concerning punitive damages, we eliminated the Government standards defenses in last year's bill, referred to as the FDA and FAA defenses, which would have prevented punitive damages for instances in which certain classes of products, such as drugs, medical devices, or certain types of aircraft had been certified by the Federal Government as safe. While I remain supportive of the concept of a Government standards defense, a number of Senators expressed reservation during last year's debate about this provision, and we have accommodated those concerns by removing the provision.

Another change in this year's legislation concerns the statute of repose, which we have slightly modified to include a category of products known as durable goods used in the workplace. Last year's bill was restricted to workplace capital goods, a slightly narrower category. Workplace durable goods are defined as having an economic lifespan of 3 years or greater or being depreciable under the Tax Code. The workplace distinction, identical to last year's bill, preserves the intent of increasing incentives for employers to maintain the safety of equipment used in a place of employment, rather than shifting that responsibility off to a manufacturer even after the useful life of the product in question has expired. In addition, we have moved the statute of repose period to 20 years from 25 years in last year's bill, which is still longer than any State statute of repose, the longest of which is 15 years.

The third significant change made prior to introduction of this year's bill concerns the addition of a provision that had been part of last year's House companion bill that requires a reduction of a claimant's award due to unforeseeable misuse or alteration of the product. For example, if someone purchases a hair dryer that has attached to it a large warning label stating, "Do not use in the bathtub," and the purchaser immediately uses the hair dryer in the bathtub with adverse consequences, it does not make sense to hold the manufacturer liable for such misuse, and this provision would prevent that.

In addition to the changes made prior to introduction, several substantive changes were made in the Commerce Committee markup of the bill. First, we incorporated a bill, S. 303, the Biomaterials Access Assurance Act, introduced by Senator LIEBERMAN and Senator McCAIN, as title II of our committee-reported product liability bill. This title of the bill is designed to ensure that needed raw materials are available to the manufacturers of medical devices by limiting the liability for firms that supply biomaterials. The title only limits liability for suppliers who have done nothing wrong; the ability of consumers to recover from negligent device manufacturers is preserved.

We made several other substantive changes in the committee markup. We modified our product seller provision to extend protection to blameless rental and leasing companies. This will address the fact that in 11 States car rental companies can be forced to pay for damage caused by people who rent their cars, even though the car rental companies did nothing wrong. We made a change to the statute of repose that will ensure that manufacturers keep their promises by enabling injured workers to sue for damage caused by products over 20 years old if the manufacturers guaranteed their products' safety for a longer period.

Finally, we modified our alternative dispute resolution provision, which gives States an incentive to create proplaintiff, voluntary, nonbinding arbitration mechanisms. This provision contains a penalty for defendants who "unreasonably refuse" to participate in the arbitration, and a criticism was raised during hearings on the bill that greater specificity was needed for the definition of "unreasonable refusal," so a set of factors was added to address that concern.

Mr. President, I will have a lot more to say about the substance of the bill as debate unfolds, but I know that other Senators wish to speak, so I would like to keep my remarks brief. Let me conclude by restating the reasons that we must pass national product liability reform this year.

Under our current system, injured consumers often find it impossible to get a just and prompt resolution, and just as frequently, blameless manufacturers are forced to spend thousands of dollars on baseless lawsuits. The system frequently allows negligent companies to avoid penalties and even rewards undeserving plaintiffs.

Product liability law should deter wasteful suits and discipline culpable practices but not foster hours of waste and endless litigation.

The adverse effect of having a hodgepodge of rules is severe for everyone. Injured persons and those who make products alike face a 55-unit roulette wheel when it comes to determining rights and responsibilities. The results hurt everyone. Injured persons have testified that they may be unable to obtain needed medical devices for their continued health and well-being. Manufacturers have indicated that good and useful products are not placed on the market. The Brookings Institution has documented many instances where safety improvements were not made because of fear about uncertainties in our legal system. Included in their discussion were built-in child seats and air bags.

As I have studied this complex area, I have found that incentives for preventing accidents are often not in the right place. In formulating our bill, we have striven to place incentives on the person who can best prevent an injury. This is a matter that has not been given adequate attention during past debates, but given the opportunity to carefully study our bill, Senators will see that care and thought has been invested to assure that no wrongdoer goes unpunished and that positive prosafety behavior is encouraged.

For all of these reasons, I look forward to our debate, and I welcome the criticisms, insights, and suggestions for improvements that I'm sure our colleagues will contribute during this process.

I yield the floor.

AMENDMENT NO. 596

(Purpose: Substitute reported committee language of S. 565 for H.R. 956)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 596.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. GORTON. Mr. President, what I have sent to the desk to be treated as the matter before the Senate is the text of S. 565 as it was passed by the Senate Commerce Committee just over 2 weeks ago. H.R. 956 is, of course, the text of the bill which was passed by the House of Representatives.

I hope that we will debate the bill and the report that was passed by the Commerce Committee and will use that as our text. It is for that reason that I have offered this substitute.

Mr. President, the debate over product liability legislation, which begins here this afternoon, is both important and controversial.

It has both of those qualities because it deals with two elements of our life as Americans that are vitally important to everyone. The first of those qualities is the openness of our courts for the redress of grievances to individuals or to groups of individuals by other individuals, groups of individuals, or corporations doing business in the United States. That is a value and a set of rights cherished, of course, by all Americans.

The other good—sometimes a conflicting one—is the desire of the American people for a growing and a prosperous society, for the development and marketing of new goods and services, and for the creation of economic opportunity to our young people, indeed beyond our young people, to all Americans.

At its base, of course, the economic prosperity and viability of our country. So, we here in the two Houses of the Congress of the United States are constantly faced with the necessity, in a dynamic economy and a dynamic society, of balancing these goals with other goals in our society. And it is the restoration of that balance, a balance often distorted to one side of the equation, which is the goal both of H.R. 956, a bill on the subject that has already passed the U.S. House of Representatives, and S. 565, which now is before this body.

This is far from the first occasion on which we have debated product liability, either on a broad scale or a narrow scale, in the U.S. Senate. At least since 1982, bills on this subject have been before the Commerce Committee of this body and frequently before the Senate itself. Already in the course of this debate, however, at its outset, we have gone farther down the road toward reform than in any Congress since the early 1980's. On some occasions, bills have been recommended by the Commerce Committee but never taken up on this floor. On at least two occasions, including the last Congress, bills have been reported favorably by the Commerce Committee. The following motions to proceed to the debate, however, were debated and in fact debated successfully, under the guise of a quasi-filibuster, and cloture was not attained on the motion to proceed. So never have we been in a position to debate the merits of product liability reform itself or, indeed, to offer amendments to those bills which have been reported by the Senate Commerce Committee.

In the last Congress, my friend and colleague from West Virginia, Senator ROCKEFELLER, and I had a bill not dissimilar from this reported from the Commerce Committee by a not dissimilar vote and debated here on the floor for the better part of a week. Before, on two occasions, cloture on the motion to proceed was defeated in spite of having received a substantial majority of the votes of the Members of the Senate. So I know I speak both for the primary sponsor of the bill, the Senator from West Virginia, as well as for myself, in expressing our gratification at the fact that, for the first time in the career of either one of us, we are literally discussing a bill on this subject, and of this importance.

The last Congress, however, did succeed in passing a bill which ultimately became law on one narrow element of product liability. The last Congress created a 1-year statute of repose with respect to product liability actions concerning small private aircraft. And I submit that Members of this body should carefully consider the debate on that proposal, which also lasted over the period of several Congresses, the arguments made on either side, and the results of the passage into law of that aircraft statute of repose.

It had been the claim of small aircraft manufacturers in the United States that their business had effectively been destroyed by product liability litigation. Several famous manufacturers of small aircraft had literally gone out of business. Others were no longer engaged in the manufacture of such aircraft. And those who stayed in the business had their business very significantly reduced, to the point at which, if my memory serves me correctly, the production of such aircraft in the United States over a 20- or 30-year period had declined by close to 90 percent. The industry, in other words, was almost dead in this country.

The opponents of the statute of repose argued, among other things, that litigation had nothing to do with that loss of business. The proponents, including the manufacturers, argued that even this relatively minor relief would result in a substantial recovery of that business. Ultimately, after several Congresses, less than 2 years ago such legislation passed and was signed into law, and already that recovery has begun. Already some of those manufacturers have opened up lines of production, have begun new assembly lines and are back in business.

Has litigation against negligence in the manufacture of private aircraft been terminated by that bill? Of course not. All that Congress passed was a simple statute of repose of 18 years. Already, however, we have seen the creation of jobs, the beginning of the renaissance of an industry, and the return of American companies manufacturing in America to a business out of which they had been almost totally driven. Yet, as Members of this body will learn during the course of debate on this legislation, there are many States with no statutes of repose at all. For other products or equipment, we still face the actuality and the possibility of product liability litigation involving equipment and manufactured items manufactured and originally sold in the 19th century, over 100 years ago.

So in this case we are attempting, on a broader basis, to restore a balance between the fundamental and undoubted right of people to sue when they have been injured by faulty products and the protection of manufacturers and sellers against unwarranted litigation. We will show how this imbalance has caused perfectly good products had to be withdrawn from the market and caused manufacturers to go out of legitimate and important businesses, businesses important to the people of the United States. In turn, this has discouraged research into many important areas and has discouraged the development of products resulting from that research.

So, Mr. President, when Members of this body listen to the kind of doomsday scenarios, threats about the end of justice in our legal system, they may wish to reflect on similar arguments made by many Members of this body less than 2 years ago with respect to the aviation industry, and look at the actual results of such legislation.

I believe that there is a carefully balanced proposal equalizing the right to sue with the encouragement of the American economy and a right to be free from frivolous suits and huge legal bills in connection with matters that do not arise out of any degree of negligence, or which are overcompensated.

So, Mr. President, I am especially pleased to support the Product Liability Fairness Act of 1995. Legislation carefully crafted to reflect a bipartisan spirit that takes a moderate and sensible approach in reforming the product liability system of United States.

What are our goals? Our goals are a system that is fair and efficient; a system that is, to the greatest possible extent, yields predictable results; one that awards damages both proportional to the harm suffered as a result of negligence and in a timely manner, and one which reduces the overwhelmingly wasteful transaction costs associated with the present product liability system.

Finally, this is a bill which builds on the genius of those who wrote the Constitution of the United States, those who placed plenary authority in the hands of Congress to regulate interstate commerce. No occupation can be more intimately involved with interstate commerce than the system by which liability is adjudged with respect to the impact of products manufactured, sold and utilized in every one of the 50 States of the United States.

(Mr. THOMAS assumed the chair).

Mr. GORTON. Mr. President, there are in fact few valid arguments against a greater degree of uniformity and a greater degree of predictability with respect to impacts of such transactions. Estimates of total court costs of litigation and assorted transactional costs range from $80 to $117 billion a year to manufacturers and sellers in this country. It goes without saying that these costs are immediately forced back onto consumers through higher prices for products which Americans use every day.

The current product liability system accounts for approximately 20 percent of the cost of the simple ladder and one-half of the cost of a football helmet. Injured parties receive less than half of the money spent in product liability litigation. More than half goes to the lawyers, and those who work with them in prosecuting and defending that litigation. Nearly 90 percent of all manufacturers and many retailers and wholesalers in the United States can expect to become a defendant in a product liability case at least once. The cost of product liability insurance is 15 times greater in the United States than it is in Japan, and 20 times greater here in the United States than it is in Europe.

As I have already said, manufacturers can still be sued today for products manufactured in the 1800's, simply because the present potential defendant purchased, at some time or another, the company that was engaged in manufacturing in that century.

As I have just pointed out, the product liability system in the United States is the world's most costly. The editors of a book entitled "The Liability Maze" published by the Brookings Institute in 1991 notes:

> Regardless of the trends in tort verdicts, most studies in this area have concluded that, after adjusting for inflation and population, liability costs have risen dramatically in the last thirty years, and most especially in the last decade.

Mr. President, the cost of litigation, court proceedings, attorney fees, and expert fees—in other words, transaction costs associated with the current system—are absolutely outrageous. A 1992 study indicates that for every $10 paid to claimants by insurance companies for product liability cases, another $7 is paid for lawyers and other defense costs. That is defense costs only. If the contingent fee of plaintiff's attorneys is factored in, lawyers' fees account for more than 60 percent of the funds expended on product liability cases.

Obviously, liability insurance costs reflect these increased transaction costs, and insurance rates rise accordingly. Over the past 40 years, general liability insurance costs have increased at more than four times the rate of growth of the national economy. One small manufacturer in my own State of Washington, Connelly Water Skis, Ltd. pays $345,000 a year for liability insurance, even though that company has never lost a product liability case.

Paradoxically, the victims of this system are very often the claimants, the plaintiffs themselves, who suffer by the actual negligence of a product manufacturer, and frequently are unable to afford to undertake the high cost of legal fees over an extended period of time. Frequently, they are forced into settlements that are inadequate because they lack resources to pay for their immediate needs, their medical and rehabilitation expenses, their actual out-of-pocket costs.

In 1989, a General Accounting Office study found that on average, cases take 2½ to 3 years to be resolved, and even longer when there is an appeal. One case studied by the GAO took 9½ years to move through our court system. In an insurance industry study, it was found that it took 5 years to pay claims with an average dollar lost and that "larger claims tended to take much longer to close than smaller claims."

An early insurance offices product liability study found that injured plaintiffs with losses of between $1 and $1,000 received on average 859 percent of their actual losses, while those with losses over $1 million received on average 15 percent of their losses, even before attorneys fees were paid.

This is to be contrasted with the results of those lawsuits we often see in the newspapers, or hear about on television, in which a particular plaintiff has received a bonanza, a lottery style set of winnings.

In today's system, consumers, manufacturers, and product sellers are trapped in a product liability litigation system that is essentially a lottery. Identical cases in two different States often produce strikingly different results. And, of course, here in the United States we have 51 separate product liability systems—in 50 States and the District of Columbia, while the European Economic Community, Australia, and Japan each have adopted a uniform, predictable product liability statute. In one of the many hearings held on this issue over the years, University of Virginia law professor Jeffrey O'Connell explained, and I quote him:

> If you are badly injured in our society by a product and you go to the highly skilled lawyer, in all honesty the lawyer cannot tell you what you will be paid, when you will be paid or, indeed, if you will be paid.

Three distinguished judges: Chief justice, Richard Neely, of the supreme court of West Virginia; Federal district court judge, Warren Eginton, author of the "Product Liability Journal;" and New Jersey Court of Appeals judge, William Dreier, author of the "Product Liability Journal of New Jersey," have presented congressional testimony attesting to the need for uniformity. While they state that there will naturally be different interpretations of any law, conflicting interpretations will obviously be fewer with a single law than with 51 different ones.

Uncertainty in the present system is a reason for change. Plaintiffs, those injured by faulty products, need quicker, more certain recovery—recovery that fully compensates them for their genuine losses. Defendants, those who produced the products, need greater certainty as to the scope of their liability.

Mr. President, under the current system, consumers are required to pay increased and unnecessarily high prices on necessary goods. Here again the excessive costs of an out-of-control tort system fall on the shoulders of consumers through increased prices.

An example. Lederle Labs, the lone maker of diphtheria, pertussis, and tetanus vaccine, raised its dose from $2.80 to $11.40 simply to cover the costs of lawsuits. According to Prof. George Priest of Yale Law School in testimony before the Senate Judiciary Committee this month, excessive punitive damages awards have increased the general price level for products and services provided in the U.S. economy, harming consumers—and low income consumers most of all.

In addition to higher prices, Americans suffer from the current system because of the lack of choice. At the present time, for example, only one company is willing to supply vaccines for polio, measles, mumps, rubella, rabies, and DPT. In 1984, two of the three companies manufacturing the DPT vaccine decided to stop production because of product liability costs. Can it seriously be asserted that we should abandon that vaccine?

Later that same year, the Centers for Disease Control recommended that doctors stop vaccinating children over the age of 1 in order to conserve limited supplies of the DPT vaccines for the most vulnerable infants.

Next, product development is hindered in many ways by the existing system. The unpredictability of the product liability system discourages the development of innovative products and cutting edge technology. Innovation is frequently stifled because scientific research essential for advanced product development is foregone or abandoned, due to the excessive costs of product liability.

In 1984, a closed claims study by the ISO found that U.S. industries spent more on product liability defense costs than on buying equipment to boost productivity.

In an American Medical Association report titled "The Impact of Product Liability on the Development of New Medical Technologies," we read, and I quote:

> Innovative new products are not being developed or are being withheld from the market because of liability concerns or inability to obtain adequate insurance. Certain older technologies have been removed from the

> market, not because of sound scientific evidence indicating a lack of safety or efficiency, but because the product liability suits have exposed the manufacturers to unacceptable financial risks.
>
> Rawlings Sporting Goods, Mr. President, a leading manufacturer of competitive football equipment for more than 80 years, announced in 1988 that it would no longer manufacture, distribute or sell football helmets. Joining Spalding, McGregor, Medalist, Hutch, and others who have stopped manufacturing helmets, Rawlings was the 18th company in as many years to give up the football helmet business because of increasing liability exposure. Two manufacturers out of the 20 that existed in 1975 remain in the helmet business today.

A recent article in Science magazine reported that a careful examination of the current state of research to develop an AIDS vaccine, and I quote, "Shows that liability concerns have had negative effects." It points out that Genentech, Inc., halted its AIDS vaccine research after the California Legislature failed to enact State tort reform. Only after a favorable ruling did that company resume its research.

And consider—perhaps because of its history this is the most important quotation of all—the comment by Jonas Salk, inventor of polio vaccine:

> If I develop an AIDS vaccine, I don't believe a U.S. manufacturer will market it because of the current punitive damage system.

Think of where we would be had we had the present system when Dr. Salk developed the polio vaccine. Would it not have been marketed? Would we still be faced with that scourge?

Not only does the present system hurt medical innovation, it also inhibits small companies from producing everyday goods.

Again, in my own State, for example, Washington Auto Carriage of Spokane distributes various kinds of truck equipment throughout the United States. Here is what its owner, Cliff King, says. And I quote him:

> We have been forced out of selling some kinds of truck equipment because of the exorbitant insurance premiums required to be in the market. As a result, this type of equipment tends to be distributed only by a few very large distributors around the country, who can afford to spread the cost over a very large base of sales. Ultimately, there is much less competition in those markets.

In other words, Mr. President, as tough as the present system is on large corporations, it is even tougher on small companies—companies who can be driven out of business by a single lawsuit.

Mr. President, I spoke a few moments ago about the undoubted interstate nature of our product manufacturing and distribution system and the overwhelming justification for a greater degree of uniformity than we have today, and for the obvious constitutional basis in the commerce clause for such legislation.

One would expect, however, that many of those connected with State government would oppose any further limitation of their control over their tort systems. Yet, the representatives of the top organization of State elected officials, the National Governors Association, recognizes both the need for product liability reform and the necessity of such reform at the Federal level. A resolution adopted by the National Governors Association last January summarizes both the need and the support of State Governors for change in the product liability system here by the Congress of the United States. In part, the resolution adopted by the NGA reads:

> The National Governors Association recognizes that the current patchwork of U.S. product liability laws is too costly, time-consuming, unpredictable and counterproductive, resulting in severely adverse effects on American consumers, workers, competitiveness, innovation, and commerce.
>
> The issues of product liability reform has increasingly pointed to Federal action as a way to alleviate the problems faced by small and large businesses with regard to inconsistent State product liability laws. This lack of uniformity and predictability makes it impossible for product manufacturers to accurately assess their own risks, leading to the discontinuation of necessary product lines, reluctance to introduce product improvements and a dampening of product research and development. American small businesses are particularly vulnerable to disparate product liability laws. For them, liability insurance coverage has become increasingly expensive, difficult to obtain, or simply unavailable. Further, the system causes inflated prices for consumer goods and adversely affects the international competitiveness of the United States.
>
> Clearly, a national product liability code would greatly enhance the effectiveness of interstate commerce. The Governors urge Congress to adopt a Federal uniform product liability code.

It should be noted at this point, Mr. President, that this resolution reflects the position that former-Arkansas Governor, William Clinton, supported during his many terms as Governor.

Mr. President, I believe it appropriate, briefly at this point, to outline for Members the chief reform features of this proposal. While it makes more uniform laws related to product liability in many fields, it continues to defer to the States in many other areas. As such, it retains a balance between Federal and State concerns over this branch of interstate commerce. It does so, however, in a thoughtful and sober fashion by eliminating those elements of the present system that cause the greatest degree of uncertainty and have the most adverse impacts on interstate commerce, on productivity, on the creation of jobs, and on the competitiveness of American business.

First, Mr. President, we reform the almost uniform system of joint and several liability. In most States, when there are multiple defendants in a product liability action, a deep-pocket theory applies. Under the joint and several liability rule, any defendant who has contributed in any way, to an injury can be held responsible for the entire amount of the damage award. Such a deep-pocket rule encourages plaintiffs and their lawyers to target the wealthiest defendant in each case, even if that defendant can be, and has been found, by the jury to be only minimally at fault.

S. 565 provides for only several liability and not for joint liability on noneconomic damages. This means that each defendant is liable only for his, hers or its portion by reason of its proportion of the fault in causing the injury. This is currently the law in the State of California.

It does, however, apply only to noneconomic damages, those that include pain and suffering and emotional distress. Under this bill, States will be permitted to retain joint liability, if they wish to do so, for economic damages—medical costs, lost wages, and so forth—so that an injured plaintiff can be assured of recovering fully, no matter who the source of that recovery, for those actual out-of-pocket damages themselves.

Pain and suffering and other noneconomic losses under this bill will be tied to the concepts of both fault, and also responsibility.

Mr. President, it is unfair and highly unproductive to make defendants pay for damages of a nature that are literally beyond their control or beyond their fault. In California, it has been found, under this new law, that juries are much more likely to apportion liability fairly according to each defendant's fault.

Mr. President, the particular kind of damages about which we read most frequently are punitive damages. Punitive damages, of course, are damages awarded to punish the defendant, rather than to compensate the victim either for the victim's economic or noneconomic emotional damages. As such, they are a troubling concept in our system of law.

Generally speaking, we punish for criminal activities through the Criminal Code, a code which provides a multitude of protection for those accused under it—proof beyond a reasonable doubt, a right against self-incrimination, limited sentences designed to fit the crime. None of these concepts, however, applies to the imposition of punitive damages. A handful of States, my own included, do not generally permit punitive damages in civil litigation at all. And, Mr. President, there is nothing to indicate that justice is denied in those States, that recoveries on the part of the injured plaintiffs are inadequate, or that companies operate in a less safe and responsible fashion.

I can express a personal preference, dating from the time at which I was admitted to the bar for such a system, for the use of nonpunitive damages only, in civil litigation. But because the vast majority of the States utilize such a system, this bill continues to permit it in States that allow it at the present time, but with a number of limitations.

Under this law, claimants would be required to provide, by clear and convincing evidence proof, that a defendant engaged in egregious misconduct and there would be a degree of proportionality in punitive damages—a cap of $250,000, or three times the economic damages awarded, whichever is greater. A separate jury consideration of punitive damages would also be required from the determination of the jury for compensatory damages.

Reforms of this nature are supported by mainstream academic groups in the American Bar Association and the American College of Trial Lawyers. More recently, these reforms were recommended in a 5-year report studied by scholars of the prestigious American Law Institute.

Third, this bill deals in general terms with exactly the subject of last year's aviation product liability bill, a statute of repose. Under the current product liability system, manufacturers are liable for injuries caused by products without regard to the age of these products, even when the equipment has been rebuilt, altered, or used improperly. Mr. President, it is clearly unreasonable to hold a manufacturer liable for a product that may have been made 30 or more years ago, particularly when it has no control over the use or maintenance of that product.

S. 565 adopts a 20-year statute of repose for workplace durable goods, or less if State law provides a lower statute of repose. By this provision, we inject a degree of predictability in a system, which literally at the present time calls for endless liability.

One example, Mr. President. Since 1830, the firm of Davis & Ferber was one of the largest textile machinery manufacturers in the world. Recently, that company was required to defend itself against a claim involving a machine that left its plant in 1895 and had been modified again and again by different owners for 88 years. In 1982, Davis & Ferber was forced out of business because of the high cost of settlement in this case.

There is one other element of this bill notable for this opening debate, and that element arises out of the fact that at the present time, consumers can sue, not only the manufacturer of an alleged faulty product, but also the retailer who sold it or the firm that rented or leased the product. In over 95 percent of all such actions, the manufacturer ultimately pays any judgment that is awarded, but the web of litigation adds to spiraling unnecessarily legal costs to the wholesaler or the retailer that are ultimately paid for by the consumer.

Under S. 565, product sellers, as well as those who engage in the leasing and renting of products, will be liable for their own negligence or failure to comply with an expressed warranty but not for the negligence of the manufacturer. These provisions will reduce litigation among retailers, wholesalers, distributors, lessors, renters and manufacturers saving legal costs that, at the present time, are passed on to the consumer in the form of higher prices. Unless they are directly responsible for product failure due to negligence or misrepresentation, a seller, lessor, or renter shall not be held liable for injuries caused by a product. If the manufacturer is negligent, that manufacturer should be liable.

Mr. President, in summary, this proposal is aimed at a very real challenge and a very real problem in our society today. It is aimed at spiraling costs of litigation, far more often than not, on the part of manufacturers and sellers in successful litigation, but costly and risky nevertheless.

It is aimed at limiting recovery to those who are responsible by their own negligence for injury to a far greater extent than is the case today; to providing an end to that responsibility after two decades, in the case of certain manufactured equipment; to limiting the arbitrary nature of punitive damages, as the Congress has been invited to do by the Supreme Court of the United States and fundamentally to seeing to it that a greater share of the recovery in litigation of this sort gets to the injured party and less to transactional costs, the present division of which is a disgrace.

Mr. President, as I said at the beginning, I am gratified that for the first time in a debate, which has lasted in the Congress of the United States for almost two decades, we are actually discussing the merits of this kind of legislation. I look forward to a spirited and contested debate, but I also look forward to a conclusion, which creates a greater degree of balance and restores a degree of fairness, competitiveness and common sense to American industry and to its employees.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, in the words of our fearless leader, President Ronald Wilson Reagan, "Here we go again."

As we begin the proceedings, Mr. President, the issue is whether the Members of this body will agree to have an open and full debate on this legislation.

Each time this legislation has been brought before the Senate, the proponents have offered up one anecdote after another to justify the bill. We have attempted to ensure that, at a minimum, this bill is fully examined and debated.

I am particularly concerned about the manner in which the current bill has been rushed through without much time for review. The legislation was introduced on March 15. A couple of weeks later, the Commerce Committee held 2 days of hearings and then a markup a day and a half later. The substitute offered at markup—which was not received until 6 p.m. The preceding evening—contained a number of changes and amendments. None of the changes was ever considered by the committee, at the hearings or before the markup. Now, less than a week after the bill was reported, the bill is up for consideration on the floor.

I am not certain what is driving this process. I understand that there may be a desire by some to act in accordance with the House Republicans' Contract With America agenda. However, I did not sign the so-called contract, and as far as I know, neither did any other Senator.

The sole purpose of this bill is to erect barriers regarding the use of the civil justice system for redress of injuries caused by dangerous products. However, I would like to remind the supporters of this bill that unlike the judicial systems of other countries, the American judicial system is rooted in democratic principles of individual redress, the right to a jury trial, and reliance on the people to resolve disputes. These were principles established by the Founding Fathers when they proposed the adoption of the 7th and 10th amendments to the Constitution. Surely, issues such as whether to limit access to courts, limit redress remedies, or penalize citizens for merely bringing suits were considered by the Founding Fathers, as well as the judges and State officials that have administered our system of justice for over 200 years. But they decided against such measures, and opted instead to maintain a system that features free access to the courts, common law, and giving the people the ultimate authority to resolve conflicts. The supporters of this bill, however, are seeking to overturn this longstanding American history and judicial precedent.

I am, in fact, confounded by the fact that the Senate is even considering this legislation. At the beginning of this Congress, Member after Member came to the floor during consideration of S. 1, the unfunded mandates bill, to declare that this would be the Congress of "States rights," where government would be returned to the people. The Jeffersonian democracy of government was revived. If I heard it once, I heard it a million times, that State and local governments know best how to protect the health and safety of their citizens, and that they do not need Congress telling them what to do. How many times did I hear that the one clear message sent by the voters last November was that the people wanted to get the Federal Government off their backs and out of their pocket?

The 10th amendment, lost in the shuffle for many years, was given new light. The majority leader himself, in his opening address to the new Congress, proclaimed:

> America has reconnected us with the hopes for a nation made free by demanding a Government that is more limited. Reigning in our government will be my mandate, and I hope it will be the purpose and principal accomplishment of the 104th Congress.
>
> We do not have all the answers in Washington, DC. Why should we tell Idaho, or the State of South Dakota, or the State of Oregon, or any other State that we are going to pass this Federal law and that we are going to require you to do certain things.

The majority leader went on to say:

> Federalism is an idea that power should be kept close to the people. It is an idea on which our nation was founded. But there are some in Washington—perhaps fewer this year than last—who believe that our States can't be trusted with power. If I have one goal for the 104th Congress, it is this: That we will dust off the 10th Amendment and restore it to its rightful place.

Those are the words of the majority leader himself. These words, spoken so eloquently, make it clear why the Congress should stay out of the business of the States.

During consideration of the balanced budget amendment, Senator BYRD made a compelling argument with respect to the need and obligation of this body to give thorough deliberation to bills that impact our Nation's constitutional structure. He spoke of the need of Members to carefully read and study legislation.

I ask, Mr. President, how many Senators have carefully read this bill? How many are aware of how this bill will affect their constituents? For example, how many Members know that this bill will result in disparate treatment of working-class Americans? How many Members know that this bill stands to perpetuate discrimination against women and children? How many Members know that this bill will make it much more difficult for workers who suffer product-related injuries to recover for their injuries?

How many Members are aware of how this bill will affect the comfort level we have in the drugs we buy, and the health and safety devices we use? How many are aware of how it will impact their State laws, judicial order, and constitutions? These are the important questions that must be answered, and deeply debated before we consider passing this bill.

The proponents claim that this is a modest bill, one that is different from the House bill, and more reasonable than previous Senate bills. First, Mr. President, this is not an accurate statement. This bill actually has reincorporated many provisions of previous Senate bills that many sponsors of the current bill once opposed. Second, we all know that, if a Senate bill goes to conference with the House bill, House Members will be pushing their version of the bill.

The proponents have offered a number of explanations regarding the need for this legislation. However, every claim that has been made about the need for this bill has been refuted.

The proponents initially lamented that the legislation was needed because of a liability insurance crisis. The alleged crisis became the impetus for the entire tort reform movement. According to Prof. James Henderson, a major supporter of tort reform, and Prof. Theodore Eisenberg of Cornell University, tort reformers were concerned mostly about convincing the American public that there was a crisis and linking the alleged crisis to product liability. They showed less concern over the reality of the crisis itself. The idea was to tie the product liability system to the crisis in a way that reshaped public opinion. Efforts were forcefully made to link the so-called crisis to basic American activities, such as Little League baseball and the Boy Scouts—almost literally motherhood and apple pie. To quote Professors Henderson and Eisenberg, "using every technique of modern media-shaping, tort reform groups sought to ensure that the public believed that products liability law was the cause of this threat to their way of life."

This, Mr. President, is according to Prof. James Henderson, a supporter of tort reform. Numerous studies have shown, however, that product liability had nothing to do with the availability or affordability of insurance. In fact, during the midst of the so-called crisis, the director of government affairs for the Risk and Insurance Management Society—an association of corporate risk managers which includes more than 90 percent of the Fortune 1000 companies—himself expressed concern about linking tort reform and the insurance availability crisis. Studies by the GAO, and numerous other studies, have shown that to the extent there was a crisis, it was caused by insurance companies themselves, not product liability.

But what is conspicuously missing from this bill, Mr. President, is any requirement that insurance companies submit data to justify the premiums charged to businesses. Former Texas Insurance Commissioner Robert Hunter has stated clearly that unless the insurance problem is resolved, the whole matter concerning legal or transaction costs will not be addressed by this bill.

Next, the sponsors contended that the bill was needed because of a litigation explosion. Some continue to make this claim, despite ample evidence that there never was, and is not now, any litigation explosion.

A recent study by the Rand Corp. found that less than 10 percent of the people who are injured by products ever even consider filing a lawsuit, and only 2 percent actually go forward with filing a suit. According to recent statistics published by the National Center for State Courts, product liability cases are only 4 percent of State tort filings, and a mere thirty-six-hundredths of 1 percent of all civil cases.

Throughout this debate, there has been an inordinate degree of contempt toward the American jury system. Some have even characterized the system as an open lottery. However, this is part of a well organized misinformation campaign. The evidence unequivocally demonstrates that our Nation's jury system has not run amok. Last June, the New York Times featured a front page story on how juries are growing tougher on plaintiffs. Citing the latest research by Jury Verdicts Research, Inc., the Times states that plaintiffs' success rates in product liability cases have dropped from 59 to 41 percent since 1989.

Professors James Henderson and Theodore Eisenberg of Cornell University released a study in 1992, which showed that product liability filings had declined by 44 percent by 1991. They concluded that by "most measures, product liability has returned to where it was at the beginning of the decade," beginning in the 1980's.

A 1991 New York University Law Review article by Prof. James Henderson, along with Brooklyn Law School Prof. Aaron Twerski—another major supporter of tort reform—stated that:

> With sharper focus and fewer distractions, American products liability may be better equipped than ever to provide appropriate incentives for product manufacturers and distributors to act responsibility in the public interest. But the days of wretched excess are over, very probably for the indefinite future.

Where is the real litigation explosion, Mr. President? It is in the corporate board rooms. According to Prof. Marc Galanter of the University of Wisconsin Law School, the real litigation explosion in recent years has involved businesses suing each other, not injured persons seeking redress of their rights. He found that business contract filings in Federal courts increased by 232 percent between 1960 and 1988, and by 1988 were the largest category of civil cases in the Federal courts.

Reports by the National Law Journal show that since 1989, of the 83 largest civil damage awards nationwide, 73 percent have involved business suits. Between 1987 and 1994, just 76 of the top business verdicts alone have accounted for more than $10 billion. In 1993, the top 13 business verdicts alone amounted to approximately $3 billion. They included: Litton Systems versus Honeywell, a patent infringement dispute—$1.2 billion; Rubicon Petroleum versus Amoco, a breach of contract dispute—$500 million, including $250 million in punitive damages; Amoco Chemical versus Certain Lloyds of London, a breach of contract dispute—$425 million, including $341 million in punitive damages; Avia Development versus American General Realty Investment, a breach of contract—$309 million, including $262 million in punitive damages. Of course, this does not include the greatest verdict of them all—the $10.5 billion awarded in 1985 in the Pennzoil versus Texaco case. According to the testimony of Jonathan Massey, an expert on punitive damages, the total punitive damage awards since 1965 come to only a fraction of the $3 billion punitive award in Pennzoil versus Texaco. However, the proponents of S. 565 refuse to even discuss that businesses themselves might be the primary reason for increasing litigation—which leads me to their new claim that product liability is stifling competitiveness.

Like the refutation of the insurance crisis and litigation explosion, it has been clearly proven that product liability has nothing to do with American business competitiveness. According to a survey of 232 risk managers of the largest corporations in the country, product liability for most businesses is less than 1 percent of the final price of products, and has little, if any, impact on larger economic issues, such as market share or jobs.

The Office of Technology Assessment conducted an extensive study of the competitiveness of American businesses and did not, among its findings, list product liability as a primary problem or concern. The GAO recently stated that it "could find no acceptable methodology for relating product liability to competitiveness, and that businesses refuse to release the information needed to conduct such an analysis." Mr. President, we should not be debating this bill without having the information necessary to make an informed decision, information that businesses and insurance companies are unwilling to provide.

To the extent that American businesses are having competition problems, it has nothing to do with products liability. It could, however, have a lot to do with our Nation's trade and economic policy. In fact, I am somewhat surprised that we are even discussing competitiveness after the passage of GATT and NAFTA. It was my understanding that these were the so-called panacea to our trade dilemma. The fact of the matter, Mr. President, is that if we are going to have a discussion about trade policy, then let us have that debate, and quit wasting time with these nonessential issues.

The proponents have had ample time to make their case, and have yet to produce any evidence to justify the passage of this legislation. It is for these reasons that I believe that this legislation must be defeated.

It would be irresponsible of us as Members of Congress, to consider a bill that has such serious consequences for American consumers, without, at the very least, requiring the sponsors of such a bill to provide factual data—not anecdotal arguments—to support their claims.

Mr. President, as we talk about "Here we go again," and in listening to my distinguished colleague from Washington, he has a very, very reasonable demeanor, and as he pleads how this, after years, has been worked out and is so reasonable, I would not want my colleagues to be misled.

First, this is not a more reasonable bill and the distinguished Senator knows it.

For the past three Congresses, we have not had caps on punitive damages. But now we do have caps in this particular bill. In the past Congresses, we never had misuse, the failure to follow directions. Now we have a provision in here for misuse. I could go right on down the list. The argument is that years of having this idea turned back is the reason now to come forward; however, the very reasons for having been turned back persist even more strongly.

It persists more strongly, Mr. President, because that is the theme of this particular Congress. Whether we like it or not, we have the Contract With America. Whether we like it or not, we have what they call a revolution. And the theme of that revolution and contract, Mr. President, is that the Government here in Washington is the enemy; the Government is not the solution, the Government is the problem. And whether we like it or not, the only way to do it is tear it down and get rid of it and maybe some day rebuild. But for now, get rid of the department of Congress; get rid of the Department of Housing and Urban Development; abolish the Department of Energy; abolish the Department of Education; cut out the revenues, give everybody a tax cut. Of course, we are operating at over a $300 billion annual deficit. We do not have any revenues to cut. But in this pollster exercise behind political reelection, cut the revenues, cut the taxes, increase the deficit, get rid of the departments, and send it all back to the States. That is the very old theme—Jeffersonian.

I have never heard so many Republicans fall in love with Jefferson. They all say that the best government is that closest to the people. Get it back there. When it comes to crime, the bill that we passed really should be reduced to block grants. We debated it and we had Republican support for that crime bill. But now, all of a sudden, that same crime bill that we debated for some 3 years before it was passed needs to be block granted to get it away from the Washington bureaucrats. With respect to welfare reform, get that back to the States. The States know better how to handle these things. Housing—get that back to the States. Whatever it is, abolish the entity up here at the Washington level and get it back to the States and the local level.

That is the theme of the contract save, Mr. President, this fix—and this is a fix. This is a fix. They ought to get my friend down there who has been fixing it for years, Victor Schwartz. That is who O.J. needs. He has taken a little time to get it fixed, but Victor Schwartz, representing this small little manufacturing entity is fixing it. The chambers of commerce, the National Association of Manufacturers, the Business Roundtable, all of those are not interested in injured parties; they are interested in injured pocketbooks.

Of course, they are making more profits than they ever made in their lives. That is what we heard on the GATT: Do not worry about it, we are competitive now, and we have to get a mindset for global competition. And do not worry about the pharmaceutical companies which, they pointed out, with truth and distinction, are making their biggest profits.

But now, under this bill here, we are told that the pharmaceutical industry cannot produce a drug at all on account of product liability. The chemical industry, the biotechnology industry, all of the industries that have been leading in wealth and corporate profits, they have reached higher ceilings than you have ever seen in the history of this land. But now, to justify this bill, we are told America's industry has gone broke, and we finally have found a real solution here in product liability. If we can only get this Federal fix, can you imagine that? With all of the things going on in this town. The tax cut was given the very same day they had the circus out on the east front, trampling around. After that, they want to finally come and ask, "Who can do it better than the States and the people that sent us here?"

That is a sort of interesting thing to this particular Senator. The people back home are so wise, so studied, so alert, so sensible with the issues of the contract, and the very same people that sent us here to Washington all of a sudden have lost their minds when it comes to product liability. They do not really know how to make a judgment. Of course, they are the only ones who heard the sworn testimony; they are the only ones who are familiar with the facts. But irrespective of the facts, and particularly the English law, the tort system, adopted by the several 50 States over the 200-some year history of this land, all of a sudden we do not single out herein and say automobile accident cases, we do not single out and say, well, there are contract cases exploding. They talked about a litigation explosion. That is where it is, not here. We do not single that out. But we single out this unique fix. And, as I say, here we go again, because nothing has changed.

The American Bar Association, Mr. President, appeared and testified against this bill despite this quick fix because they just had summary hearings before our Commerce Committee that reported the bill out, just as we were leaving town, and we were told it was going to be the first thing called. You can bet your boots they will file cloture tomorrow. They do not want to debate this and understand the law. Just a bunch of business Senators on the Commerce Committee with this fix are going to take care of manufacturers. Just at a time that what we really need to do is get the welfare recipients more responsible, we want to make the manufacturer more irresponsible.

It is the darnedest experience I have ever seen in a mature group. It shows how controlling pollster politics has become, because if you have been in a recent race back home, they are obviously conducted in accordance with the polls. The candidates have too many things to say grace over, and when it comes to product liability, when the chamber of commerce comes, and the business group comes, and they all seek to see the particular candidates, it shows up in the polls. It makes the candidate say it is a terrible problem and, yes, I am for product liability at the Federal level.

Well, how did we start this? We started this under President Ford, and our distinguished President Ford had the good, common sense to realize that it was an onrush of business nonsense, because we have the safest products and we have business booming, and we have, as they talk about, lack of competitiveness. I have foreign industries just diving into my State and saying: We want to come under your product liability law, South Carolina. We love it. One hundred German industries and over 50 Japanese industries have come in—I could go right on down the list.

I have worked in the field now almost 40 years, working and bringing industry in. Never once—never once—have I heard a business leader or industrialist say, "Representative or Governor or Senator, what about this product liability? We are worried about juries and runaway verdicts," and that kind of talk that you hear up here at this level.

We never heard that, and we do not hear it today. When they had the hearing, it was an actual embarrassment, having worked in the vineyards over these many years, to see the witnesses that they brought in to try to give credence to their hearing. They had some makeshift, unnamed organization, and they came with what? They came with statistics about businesses suing businesses down in Alabama.

We could go on over to Texas. We have the business of Pennzoil suing Texaco, and I remember that was a $12 million verdict. That is more than all the product liability verdicts put together over the history of product liability in this land. Add them up. One business verdict, Pennzoil. But the sponsors of the bill started out first saying there was a litigation explosion. Again, we studied it out and we find that actually in tort cases, in civil filings in the courts of the several States over this land, tort only represents 9 percent of all civil filings, and that 4 percent of the 9 percent, or .36, is product liability.

The trend, in the State's justice system, it was firmed up again in our hearings, is lowering, going down. There has been one exception that has held constant, and that is the asbestos cases. Other than that, tort filings and product liability are diminishing rather than increasing. They are receding rather than exploding.

What has exploded is business suing business—and we will have plenty of time, I am sure, with the amendments we will have at hand, to cite the various verdicts. If they are really worried about money, if businesses are worried about money, they better stop suing each other and keep their contracts.

So we had first the litigation explosion. Then they said that they could not get insurance. They were using these little vignettes, anecdotal examples. They use that Little League and some babble, that same nonsense, about the cost of insurance being more than the bats and the uniforms and everything else.

I guess kids do get hurt. Mine played in the Little League, but we never had any trouble with the Little League in my town of Columbia, SC, at that time, and later on in Charleston, SC, we have not had any real problem with the Little League. It is a very viable, wonderful group. I guess in certain instances they take out insurance, but they have not been denied on account of product liability.

They tried, more recently, to update it into the McDonald's coffee case, saying what a terrible thing, this lady who had been burned by the coffee ought to have known better. She really did not have a claim.

I was very much interested, Mr. President, in that treatment given by Newsweek magazine for product liability. In the Newsweek magazine, in the account of the juror in the McDonald's coffee case, she said she thought at first it was a frivolous claim. Thereafter, on listening, she found out there were 700 cases of individuals being burned by the coffee.

Of course, the question that this Senator asked was, "Why?" It comes to my attention now, of course, if the heat of the water is increased inordinately over the coffee beans, you get more coffee. Money—money—is the answer here. It is the answer in this particular case.

The Conference Board questioned 232 particular risk managers. These risk managers overwhelmingly said product liability was less than 1 percent of the cost of the operation. Even the business study showed it was not a litigation explosion.

The availability of insurance problem was studied and found to be bad real estate investments they made in the early and mid-1980's. Like our S&L crisis, the savings and loan industry principally based in the investment in homes, real estate, shopping centers, and what have you—the insurance companies in their real estate portfolio had similarly used bad judgment. The result was that the cost had gone up, but more recently the availability has been there and everything else of that kind.

Then they said we should be more like the European system, the EEC, so we could compete with them. During 1988, 1989, 1990, we found out the European system became more similar to ours, and we put those documents in the record, with joint and several liability moving toward the American system rather than the other way around.

Now they say "compete"—we want Government to compete. If they had listened to our debates with respect to NAFTA and GATT, we would have found out how this Government can compete, because this is what it is: government-to-government competition in international and global trade. Forget David Ricardo and Adam Smith and comparative advantage and free market. We will discuss in this debate where the Japanese approached Alexander Hamilton—incidentally, the approach of using the Government to determine what decisions can be made in the theory of free market, but whether or not it strengthens the economy or whether it weakens the economy.

On that governmental approach with business, immediately you say, "Wait a minute. That is industrial policy." Well, you are right. I think after 45 years of trying for free market, free market, free trade, free trade, we finally learned our lesson. We cannot do as we do or do as we say; we have to find out the predominance. The global competition is the Japanese model. The Japanese model has been emulated not only throughout the Pacific rim but by Germany and countries in Europe and particularly now the East European countries.

The Japanese have schools. They have instructors in the system, as South Korea has done, Taiwan and Singapore, Malaysia, and the others have done. That is why we just had our Secretary of the Treasury in Bali on an economic summit and monetary conference and they cannot seem to understand why they are not going for free trade, free trade, free trade. This crybaby whining about opening up your markets—the fact is, we are losing our industrial and manufacturing backbone.

I was at a conference not many years back with Akio Marita, of Sony, in

Japan. He came, and Marita at that time, talking of emerging countries, said that you had to have a strong manufacturing sector if you were going to be a nation-state. Then he went on to say, "Look, that country that loses its manufacturing power ceases to be a world power." And that is what has happened with merry old England. They told the Brits some years back, rather than a nation of brawn we are going to be a nation of brains. Instead of producing products we are going to provide services, "service economy, service economy." We have heard that same chant here on the floor of the U.S. Senate. "Instead of creating wealth we are going to handle it and be a financial center." And England has gone to hell in an economic handbasket. They have two levels of society there. And that is exactly the road your country and my country is on at this present time.

So, with respect to competing on product liability, being a deterrent, let me invite you to any State in America, and particularly mine, where you will find foreign entities, as a result of the lack of a competitive trade policy, have come in now and bought up, with gusto, the American entities and are now producing those Japanese cars and other products here in the United States, like gangbusters. They are down right now, with the devaluation of the dollar, into Miami. I read that in the Wall Street Journal, where they are buying it up down there right and left, because the dollar has lost 20 percent of its value against the mark since the first of January.

The sponsors of the bill have used every argument that they could possibly think of. And again and again and again the States involved say, "No; we don't need this." Again and again and again that bipartisan group, the American Bar Association, has said, "No; this is bad legislation." And, again and again and again, the Conference of State Supreme Court Justices has come in and testified that, as a group, they oppose this.

Then the sponsors come in and say, with a straight face, that what they are trying to do is get uniformity. Now, now, now—uniformity. Uniformity. It is very interesting that this particular bill provides no uniformity; no uniformity when it comes to holding the manufacturer responsible. Oh, yes; we want uniformity for the customer, the consumer, the user of the particular product, but not for the manufacturers themselves.

There is no better example of an unfunded mandate than this particular bill. Everyone has attested to the fact that, because the bill has not given a Federal cause of action, you leave it at the State level, with words of art enunciated by this high and almighty Congress up here that knows best, exactly what to do and what caps there are and what tests there are, all to be interpreted by the 50 supreme courts of the 50 States. And then, if there is a further appeal, up to the U.S. Supreme Court. So what is started, is a surge against lawyers, "Get rid of the lawyers." Now more lawyers are going to be hired under this particular bill just for product liability, which is not a national problem whatever. But they manufacture it and rig it so, even in contradiction to their own theme of trying to give meaning and cause to the 10th amendment that those things not delegated under the Constitution to the Federal Government shall be reserved to the several States.

No, no. They do not want this one reserved to the States. In spite of the legislatures, in spite of the attorneys general, in spite of the Supreme Court Justices, in spite of the American Bar Association, and in spite of—oh, heavens above—the list of different groups here that we have who oppose this so-called product liability bill—they, all of a sudden, are being so reasonable. They do not really care what passes. They are going to get into conference with that House crowd and that House crowd has gone amok now. Look at what's going on over there—I mean they can really sell them on voting to cut revenues that they do not have. They have a $300 billion deficit but they say we have to buy the vote, we have to get to the middle class. Unfortunately, I do not speak in a partisan fashion, the President of the United States says the same thing. There are a group of Senators here, in a bipartisan fashion, who say we cannot afford tax cuts. But here it is.

Mr. President, I ask unanimous consent this list of entities be printed in the RECORD at this particular point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

WHO OPPOSES THE "CONTRACT WITH AMERICA'S" LIABILITY REFORM?

Action on Smoking and Health.
AIDS Action Council.
Alabama Citizen Action.
Alaska Public Interest Research Group.
Alliance Against Intoxicated Motorists.
Alliance for Justice.
American Association for Retired People (AARP).
American Association of Suicidology.
American Bar Association.
American Board of Trial Advocates.
American Coalition for Abuse Awareness.
American Council on Consumer Awareness.
American Public Health Association.
Americans for Democratic Action.
American Federation of Labor and Congress of Industrial Organizations.
Arab American Anti-Discrimination Committee.
Arizona Citizen Action.
Arizona Consumers Council.
Arkansas Fairness Council.
Association of Trial Lawyers of America.
California Citizen Action.
California Crime Victims Legal Clinic.
California Public Interest Research Group.
Center for Public Interest Law at University of San Diego.
Center for Public Interest Research.
Center for Public Representation, Inc.
Center for Women Policy Studies.
Children NOW.
Citizen Action.
Citizen Action of Maryland.
Citizen Action of New York.
Citizens Action Coalition of Indiana.
Citizen Advocacy Center.
Citizens Clearinghouse for Hazardous Waste.
Citizens Coalition for Chiropractic.
Clean Water Action Project.
Coalition for Consumer Rights.
Coalition of Labor Union Women.
Coalition to Stop Gun Violence.
Colorado Public Interest Research Group.
Command Trust Network.
Connecticut Citizen Action Group.
Connecticut Public Interest Research Group.
Consumer Action.
Consumer Federation of America.
Consumer Federation of California.
Consumers for Civil Justice.
Consumers League of New Jersey.
Consumer Protection Association.
Consumers Union.
Cornucopia Network of NJ.
Democratic Processes Center.
DES Action of New Jersey.
DES Action USA.
DES Sons.
Empire State Consumer Association.
Essex West Hudson Labor Council.
Fair Housing Council of San Gabriel Valley.
Families Advocating Injury Reduction (FAIR).
Federation of Organizations for Professional Women.
Florida Consumer Action Network.
Florida Public Interest Research Group.
Fund for Feminist Majority.
Georgia Citizen Action.
Georgia Consumer Center.
Gray Panthers.
Handgun Control, Inc.
Harlem Consumer Education Council.
Help Us Regain the Children.
Hollywood Women's Political Committee.
Idaho Citizens Action Network.
Idaho Consumer Affairs, Inc.
Illinois Council Against Handgun Violence.
Illinois Public Action.
Illinois Public Interest Research Group.
Institute for Injury Reduction.
International Association of Machinists and Aerospace Workers.
International Brotherhood of Teamsters.
International Ladies Garment Workers Union.
International Longshoremen's and Warehousemen's Union.
Iowa Citizen Action Network.
Judge David L. Bazelon Center for Mental Health Law.
Justice for All.
Kentucky Citizen Action.
Lambda Legal Defense and Education Fund.
Latino Civil Rights Task Force.
Lead Elimination Action Drive.
Local 195, International Federation of Professional and Technical Engineers.
Louisiana Citizen Action.
Maine Peoples Alliance.
Maryland Public Interest Research Group.
Massachusetts Citizen Action.
Massachusetts Consumer Association.
Massachusetts Public Interest Research Group.
Michigan Citizen Action.
Michigan Consumer Federation.

Minnesota COACT.
Minnesotans for Safe Foods.
Missouri Citizen Action.
Missouri Public Interest Research Group.
Montana Public Interest Research Group.
Mothers Against Drunk Drivers.
Mothers Against Sexual Abuse.
Motor Voters.
National Asbestos Victims Legal Action Organizing Committee.
National Association of School Psychologists.
National Black Women's Health Project.
National Breast Implant Coalition.
National Council of Senior Citizens.
National Coalition Against the Misuse of Pesticides.
National Conference of State Legislatures.
National Consumers League.
National Council of Jewish Women.
National Fair Housing Alliance.
National Farmers Union.
National Head Injury Foundation.
National Hispanic Council on Aging.
National Organization for Women, Virginia Chapter.
National Rainbow Coalition.
National Women's Health Network.
Nebraska Citizen Action.
Network for Environmental & Economic Responsibility.
United Church of Christ.
New Hampshire Citizen Action.
New Jersey Citizen Action.
New Jersey Environmental Federation.
New Jersey Public Interest Research Group.
New Mexico Citizen Action.
New York Consumer Assembly.
Niagara Consumer Association.
North Carolina Consumers Council.
NOW Legal Defense Fund.
Nuclear Information and Resource Service.
Ohio Citizen Action.
Ohio Consumer League.
Ohio Public Interest Research Group.
Oregon Consumer League.
Oregon Fair Share.
Pennsylvania Citizen Action.
Pennsylvania Citizens Consumer Council.
Pennsylvania Institute for Community Services.
Pennsylvania Public Interest Research Group.
People's Medical Society.
Public Citizen.
Public Citizen's Texas Office.
Public Interest Research Group in Michigan.
Public Voice for Food and Health Policy.
Purple Ribbon Project.
Ralph Nader.
Safety Attorneys Federation.
Southern Christian Leadership Conference.
Southern Poverty Law Center.
Stephanie Roper Committee, Inc.
Tennessee Citizen Action.
Texas Alliance for Human Needs.
Texas Citizen Action.
Third Generation Network.
Truth About Abuse/S.O.F.I.E.
Uniformed Firefighters Association of Greater New York.
United Auto Workers.
United States Public Interest Research Group.
Violence Policy Center.
Voices for Victims, Inc.
Vermont Public Interest Research Group.
Virginia Citizen Action.
Virginia Citizens Consumer Council.
Virginia NOW.
Washington Citizen Action.
Washington Public Interest Research Group.
West Virginia Citizen Action.
White Lung Association of New Jersey.
Wisconsin Public Interest Research Group.
Wisconsin Citizen Action.
Women Against Gun Violence.
Women's Institute for Freedom of the Press.
Women's Legal Defense Fund.
Young Women's Christian Association.
Youth ALIVE.

Mr. GRAMS assumed the chair.

Mr. HOLLINGS. Mr. President, there are over 100 of these organizations all over the country, not only the trial advocates, of course, but the consumer organizations, the AFL–CIO, the working people, and everything else of that kind.

I will dwell, later on, on what good has really come of product liability. We never hear that. We act like it is one of the most torturous things in the world. The truth is that under product liability the using public here in the United States of America can pretty well count on the safety of particular products. What happens in rare cases, and they are rare ones, is that something goes wrong—with respect to medical devices, the Dalkon shield and the different other devices of that kind; the Pinto case. I can tell you, the other day 4 million Chrysler minivans were pulled off the market to change the back door switch. That multimillion-dollar effort on behalf of the traveling public in America was certainly not brought about by the National Association of Manufacturers or the chamber of commerce or the Business Roundtable. It was as a result of the product liability system that we have in America.

The sponsors could not produce a Governor. I was waiting at the hearing for a Governor to come in and say we need a national law. The truth is that 46 of the 50 States over the last 15 years have treated their particular problems. In my State they debated it. They got together, not only with the chamber of commerce and the trial lawyers, but the insurance companies and all other business groups, consumer groups, and they worked out upgrading, as they thought needed to be done, the State law on product liability in South Carolina.

Now we are going to come and say, "Well, you did not know what you were doing. We know best up here. In fact, we do not have any work to do. We are going to meddle into your State entity under the 10th amendment here that which has historically been under the States. We are going to want it handled still by the States, but with our guidelines."

Heavens above, to come at this particular hour here, right at the so-called climax of the Contract With America, based upon the idea that "that government closest to the people is the better government," to come now and say, "no, no, no" with respect to this matter, product liability, we have to get it up to the Federal level—I want to see that Governor who comes and says so, because he is just politically answering the Contract With America and political polls.

I have been a Governor. You go before your legislature and you change things that need changing, whatever they are. If you have a good enough case, that legislature, that is very close to the people, is going to respond. But this has been a national fix for over 15 years.

President Ford had a study commission. The result of that study commission said to leave it to the States. They did not like that. So they come in year in and year out, nibbling here and there, "Well, can I get your vote if I change this? Can I get your vote if I change that?" There's a fix on this side of the Capitol to get together with the House crowd to move forward with the English system, with caps, with all the other particular interests that they may be able to tag on.

Like the sheepdog that has tasted blood now with that contract, they are going to turn to product liability and gobble up the rest of the flock while they can. Maybe so. Maybe so. But I hope my colleagues in this supposedly most deliberative body would stop and look and listen and understand that this is not any fairness act whatever. Everyone who has really treated with this, as lawyers—I will have to make a talk later on about the lawyers.

We can go to Shakespeare where he said the first thing we do is kill all the lawyers. That was because the only thing standing between tyranny and freedom were lawyers. Jefferson was a lawyer. All these others, we could go down and mention these forefathers, outstanding lawyers, and, of course, they really drew that Constitution and they really had a feel for individual freedoms and the right of trial by jury under that seventh amendment. There are not any restrictions on that seventh amendment—until now. But now we are going to put on a national restriction that says a trial by jury should conform to these particular guidelines that we on high have decided, because you do not have sense enough at the local level to listen to the judge that charges that jury.

I am going to yield because I see the distinguished chairman of our Judiciary Committee, who I am sure is proud of lawyers and is ready to speak.

We could take murder cases like the O.J. Simpson case, and federalize that. I can give them some guidelines where they can move through in a judicious and expedited fashion rather than the theater that they have going on out on the west coast. No one would really dream of putting in a bill to federalize murder and murder cases with Federal guidelines.

One big interest I have had as an attorney is: Give me a Federal cause of action. Let us get some uniformity amongst the 50 States.

The 50 States, incidentally, do not mind taking some 50 to 75 insurance policies—and I have been in the insurance business—the 50 States do not mind going before the 50 State commissions and filing their particular policies. They say with insurance they have a very difficult time trying cases under different jurisdictions. Well, they do it with respect to all business and contracts. We have certain uniformity under the Restatement of Torts. But with respect to insurance itself, they will not give the Judiciary Committee or the Commerce Committee the facts as to how they have been losing money. They came in the mid-1980's and said there was a big insurance problem. We had an amendment which we will propose again—requiring information that they file.

We have the Senators from the insurance State of Connecticut who are going to be heard later on. That crowd up there, Aetna, Hartford, the different insurance companies that are benefiting and making even more money will not tell you where they have had their losses. We have tried to get that information. I have been chairman of that committee for years on end, and now ranking member at this moment. But you cannot find the facts about insurance because they file them separately in the 50 States and they tell you they do not have a correlation. I know you have to have an actuary if you are going to have good insurance. I can tell you there are actuaries in those particular outstanding companies. They know whether they are winning or losing. They know where their costs are. But they will not give them to the National Congress.

So, we are flying blind without the truth in a very abbreviated hearing with the arrogant assumption that the people who sent us here to Washington had the good sense and judgment to make you and I a Senator but all of a sudden they have lost their minds when it comes to trying a little law case in the courtroom back home. They are the only ones who have heard the sworn testimony. We have not heard any sworn testimony. All we have heard is from the fixers downtown. When we get to the chairman of the Judiciary Committee to talk about lawyers, we are going to have a good heyday. They have 60,000 downtown in the District of Columbia—60,000 lawyers. I doubt if many of them have ever been in the courtroom. They are all hired to fix you and fix me. They all are lobbyist lawyers to take anything they can for someone. I never heard of such fees around here. A poor fellow gets charged under ethics, and he has to hire a lawyer for $400 an hour to peruse all of his records and start looking at this and what happened 15 years ago, and all of that kind of nonsense.

They do not come cheap. Billable hours is their theme. I practiced law for 20 years and never had a billable hour. If we won the case, we got a fee. If we did not win, that was my responsibility. That is the retainer system. We have many an injured party that is out of work. There is no salary, large medical bills, and everything else. Yes. I have taken those under a one-third contingent basis. I tell that poor client not to worry about it. I am going to pay for the investigation. I am going to pay for the court costs. I am going to pay for the interrogatories. I am going to pay for the depositions. We are going to pay for the trial. I am going to pay for my time. If it goes up on appeal, I am going to pay for the printing of the record. I will appear before the Supreme Court. And, unless we prevail, you do not owe me one red cent.

That worked in America for the poor folks, middle-class America. That would not work for the middle class, if they had to come under billable hours at $200, $300, $400. I think we maybe ought to have an amendment that we limit billable hours for defense lawyers, not put caps on punitive damages, but let us put caps on billable hours to, let us say, $50 an hour. If we had that, they would be making over $100,000, making as much as a Senator. That is just 40 hours a week for 52 weeks. But if they worked overtime like trial lawyers have to do, then they would make even more money. But they do not want to talk about caps on billable hours.

That is the group of lawyers that are moving this thing. Nobody that represented an injured party is coming to this National Government and saying we have a national problem. They know differently. It is not easy. You have to get all 12 jurors to agree. The defense side has the investigative staff. When the plaintiff prevails, they are not runaway juries. In my State of South Carolina, the trial judge can look and say, such as recently was done in a case in Greenville, "I do not like that finding under punitive damages. I am ruling out all punitive damages with respect to the actual verdict. Actual damages, I do not believe you should get but so much. You can take this much or get a new trial. One or the other. You can count on that." We have responsible, conservative jurors in my State. And I do not know where in the Lord's world the business community thinks this Congress is going to be more conservative and responsible than my State of South Carolina. That is why I feel so keenly about this.

They might have the Gingrich leadership and the contract and the conservative bunch at this particular hour. But give it time. Give it time. This crowd is way more liberal than what we are back home. That business crowd, in the years to come, are going to find that you will trip up on the carpet and go over to the window and get your money. You watch how they move in on you when you get these national trends.

This is not in the interest of business. It is not in the interest of consumers. It is not in the interest of good, sound law, and certainly does not respond to any need other than the political fix that has been worked in here. We have thwarted it time and again, by thoughtful Senators looking at it and understanding. We have a lot of work to do up here in the National Government. But certainly tort reform is not one of the great needs in this land.

We have investors coming from all over the world because they like our system here as compared to the systems they have in their own countries. The particular industries involved, whether chemical, pharmaceutical and all, just under GATT were making profits, their biggest return, and they were being able to compete. Now the purposes of this particular bill is to try to allow them to put on the market certain pharmaceuticals that they are being prohibited from putting on the particular market because of product liability.

It is a false chant and claim that should not be honored in this particular bill before us. The Commerce Committee members, I know them intimately. They know better but they are caught up in this particular jam, and we will have a good debate as we move along.

I do thank my colleagues for their attention here this afternoon.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I understand the distinguished Senator from Utah is here to speak on this bill and I want to allow him to do so. I simply have a mechanical motion to make at this point.

Mr. President, I ask unanimous consent that the other sponsors of S. 565 be added as cosponsors to my substitute amendment: Mr. ROCKEFELLER, Mr. MCCONNELL, Mr. LIEBERMAN, Mr. DODD, Mr. PRESSLER, Mr. HATCH, Mr. EXON, Mr. INHOFE, Mrs. HUTCHISON, and Mr. CHAFEE, and also added as cosponsors of the substitute amendment Mr. HATFIELD, Mr. LUGAR, and Mr. FRIST.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I always enjoy hearing my colleague from South Carolina. He is one of the more intelligent people in this body. He is certainly a great lawyer, and I agree with many of the things he says. In fact, I consider him one of my dearest friends in the Senate and I learned how effective he was many, many years ago as a brandnew, freshman Senator when we worked together on a variety of issues. Nothing would please me more than to always be together, on every issue.

So I just want to say that I have a lot of respect for him. I know that he believes in what he is doing, and that is very important to me.

Mr. President, I am extremely pleased to speak in support of the Product Liability Fairness Act of 1995. As an original cosponsor of this legislation, it has been my pleasure to work with Senators ROCKEFELLER and GORTON, and many others, in addressing the significant issues underlying product liability litigation reform.

I particularly commend Senator ROCKEFELLER and GORTON for the hard work they have gone through in trying to bring people together on this very significant bill, and for their longstanding leadership and their dogged pursuit of meaningful product liability reform. It is long overdue. It is my hope that we in the 104th Congress will finally be able to pass some of the needed reforms that the American people have demanded for years.

This act represents a bipartisan effort to correct what many observers have long recognized to be serious malfunctions in our product liability system. This act aims to help American business to grow, to provide more jobs and more affordable consumer goods, to reduce unnecessary and outrageous insurance and litigation costs, and to encourage the medical and technological breakthroughs that benefit the people of Utah and all Americans.

If passed, this act will do that at the same time it ensures that those who are wrongfully harmed by truly defective products are compensated through a prompt, effective system in which the bulk of their compensation will not be eaten up by court costs and attorneys' fees.

Under the current system, however, American manufacturers and others have been forced to devote far too many resources to the costs of product liability actions. Too often those actions have been frivolous attempts to vex and harass American businesses into unwarranted and unjustified settlements. American consumers in all States have had to bear those costs.

PUNITIVE DAMAGES

I have studied these problems and listened to experts, including those who testified at a tort reform hearing I chaired in the Judiciary Committee in early April. I am particularly concerned about the effect arbitrary punitive damage awards have on our economy and civil justice system. They are sought with an alarming frequency that adversely affects our manufacturers, distributors, and retailers with threats of potentially unpayable damages.

Arbitrary punitive damage awards adversely affect consumers. George L. Priest, professor of law and economics at Yale Law School, testified before the Judiciary Committee on April 4. He has taught in the areas of tort law, products liability, and damages for 21 years and has directed the Yale Law School Program in Civil Liability since 1982. He testified as a private citizen, not on behalf of any client. He said, "The reform of punitive damages alone—even reforms that would cap punitive damages or introduce a proportionality cap—will help consumers * * *." He added, "Where punitive damages become a commonplace of civil litigation * * * or even where they become a significant risk of business operations, consumers are harmed because expected punitive damages verdicts or settlements must be built into the price of products and services."

We have all heard about astronomical punitive damage awards for spilled coffee and other horror stories. The dollar amounts of those awards have rapidly grown to reach the mind-numbing highs we hear about today. In California, for example, the largest punitive damage award upheld on appeal in the 1960's was $250,000. In the 1970's, the largest award of punitives upheld climbed to $750,000. But in the 1980's, the largest punitive damage award upheld in California soared to $15 million.

It is not simply the amount of the awards that have been granted that is a problem, however. It is the alarming frequency with which punitive and other damages are sought that has a distorting impact on our economy and our civil justice system. Plaintiffs who feel they may hit the litigation jackpot will hold out for large settlements, prolonging litigation and its attendant costs. The mere threat of punitive damage awards raise the settlement value of a case, regardless of its merits.

JOINT AND SEVERAL LIABILITY

Often, this problem is compounded when parties are joined as defendants in the hopes that those parties—as deep pockets—can be forced to cough up a settlement.

I think most Americans have heard about the McDonald's coffee case, in which the jury awarded a tremendous amount of punitive damages to a woman who spilled hot coffee on herself. But how about the McDonald's milkshake case?

In a 1994 New Jersey case, *Carter* v. *McDonald's Corp.*, (640 A.2d 850, N.J. 1994), the plaintiff was injured when his car was hit by another car driven by a motorist named Mr. Parker. Mr. Parker had purchased a milkshake at McDonald's and had placed the milkshake between his legs while he was driving. He inadvertently squeezed his knees together and popped the top off of the milkshake. This spilled the milkshake all over his legs. He became distracted and drove into the plaintiff's car.

I would not argue with the fact that the plaintiff was injured or the fact that Mr. Parker played a key role in that car accident. I would not argue that Mr. Parker should not be liable for any injuries he caused to Mr. Carter through his negligence.

However, in that case, the plaintiff not only sued Mr. Parker, but he also sued McDonald's. You might ask on what theory? He sued McDonald's on a product liability theory. He alleged that McDonald's had sold Mr. Parker the milkshake, knowing that Mr. Parker would consume it while driving and without warning Mr. Parker of the dangers of eating and driving.

Now I do not think anybody would disagree that that is ridiculous. It simply flies in the face of common sense.

Of course, as a matter of law, ultimately McDonald's was legally vindicated and won the case. The New Jersey trial court granted McDonald's a summary judgment and reached the unsurprising conclusion that McDonald's did not owe a duty to its customers to warn them not to eat and drive.

Even that did not satisfy the plaintiff, however, who forced McDonald's to endure an appeal. Again, and not surprisingly, the appellate court agreed with the trial court. But even that still did not satisfy the plaintiff. He sought review in the New Jersey Supreme Court, which eventually denied review.

In the end, and after nearly 3 years of litigation, three levels of courts passed on the case. None of them concluded that McDonald's could be held responsible on that far-fetched theory. But was McDonald's really vindicated?

As that case unfortunately shows, in product liability lawsuits it is too often the case that even a so-called win is a loss. McDonald's had to endure almost 3 years' worth of legal proceedings under a cloud of potentially high damages and had to bear its legal costs. If a corner ice cream shop had sold the allegedly offending milkshake rather than McDonald's, it is highly likely that the milkshake seller would not still be in business today. Does that make sense? Does that benefit consumers? Does it satisfy justice?

Now, it is not unsafe to conclude that the cost to McDonald's of those three levels of trial and appeals was in the thousands and thousands of dollars, all passed on, of course, to you and me as consumers.

The problem with the current product liability environment is that the law actually fosters such abuses by encouraging trial lawyers to file suit against various parties who have little real responsibility for whatever harm is caused. Those trial lawyers do so because they can extract settlements from parties who may not be at fault at all but who may be unable or unwilling to endure the cost and uncertainty of legal proceedings. Those trial lawyers have their own economic incentives to enter these suits: their share will be in the neighborhood of 30 percent or more of whatever they can force the defendants to pay.

Now, I have to say, these are matters that concern me greatly. Frankly, these abuses are encouraged. In fact, it has gotten so widespread that it would almost be malpractice for a lawyer not to claim punitive damages in these cases, because juries have been giving punitive damages, I guess not realizing that all those costs, even though some of them may be paid by third parties, are passed on to consumers in this society. All of those costs are part of the reason litigation is so expensive.

I might add, that same type of reasoning is what is demoralizing America as we watch the O.J. Simpson case go on for months and months of ridiculous histrionics, with attorneys playing PR people outside of the courtroom and with jurors telling the judge what to do. This is ridiculous. I do not know of any other State in the Union that would allow that kind of travesty to continue.

Yet, those are only two things I would mention at this time.

Take another case. This one comes from New York State. [*Kerner* v. *Waldbaum's Supermarket, Inc.*, 149 A.D. 2d 411 (N.Y. App. Div. 2d Dep't 1989)]. In that case, a woman cut her hand while using a knife to separate frozen hors d'oeuvres. She had not allowed them to thaw and was cutting into them when they were frozen. What did she do? She brought a lawsuit. Whom did she sue? She sued the supermarket and the manufacturer and packager of the frozen hors d'oeuvres.

Yet again, all the defendants were ultimately vindicated as a matter of law. The trial court issued a judgment for the defendants, saying in effect that they were not responsible, and that judgment was upheld on appeal.

Again, however, legal vindication was not necessarily justice. It came only after a costly legal defense and lengthy legal proceedings were foisted on the defendants. That is not fair, and it is not just. How can that possibly be called a win?

Cases like these demonstrate the power that can be wielded over individuals or companies who may have at best a tenuous connection to the cause of an injury. Once those parties are named in a lawsuit, they will face significant costs even if they win on the legal merits.

This specter of large and potentially unlimited liability has fueled irresponsible litigation in our country again and again. That is an injustice that we must correct. It is a needless expense our economy cannot afford to bear.

The fact is—whether the terrific sums expended in such litigation come from large awards imposed by juries, from settlements that have been extracted from parties, or from attorneys' fees and costs that are expended in successfully defending lawsuits—those amounts impose a tremendous cost on our economy and that cost crosses State lines.

That cost ultimately hits us most in the impact it has on where those dollars could be going. The moneys spent on litigation are not funds being invested in new research, expanding inventory, hiring employees, rewarding employees, building new facilities, acquiring new equipment, or paying dividends to shareholders. These huge sums are coming from the budgets of small business, individuals, insurance companies, and others every day. If not spent on irresponsible litigation, those dollars could create jobs and spur innovation and research. But, by forcing the reallocation of those dollars away from productive, job-creating uses, product liability lawsuit abuse has created serious interstate economic damage.

The crux of the problem is that all of this harms our economy and our consumers. It removes companies' incentives to invest and discourages them from engaging in research and development of newer and safer products. The threat of expensive and dragged-out litigation raises the risk of innovation.

Moreover, not only does our current tort system limit the amounts companies can spend on wages, research, and technology by increasing the amounts companies must spend on liability insurance and litigation costs, that is, it imposes high opportunity costs, but it also raises the direct costs necessary for a person or company to protect against litigation. In short, the increasing demand for liability insurance and the increasing amounts of the settlements raise the price of the premiums.

The costs that companies must pay to cover their expected liability are passed on to consumers.

Of the price of a simple ladder, for example, a shocking 20 percent goes to paying the costs of product liability litigation; equally appalling, one-half of the price of a football helmet goes to liability insurance. Unnecessary litigation and insurance costs impact the prices we pay for those and all sorts of other goods and services that we need and use every day.

WHAT SHOULD BE THE ROLE OF CONGRESS?

Critics of this legislation have pointed out that this is an area in which the States should be involved. I do not disagree with that, and I applaud State innovations to curb excessive litigation. However, it has become clear that some of these problems cannot be addressed comprehensively without a uniform, nationwide solution to put a ceiling on at least the most abusive litigation tactics.

This bill addresses a national need and the regulation of interstate commerce. James Madison observed in Federalist No. 42 that the ability of the Federal Government to protect interstate commerce was one of the central facets of the Federal Government's authority and its reason for being. Alexander Hamilton, in Federalist No. 11, agreed with that sentiment when he noted that one of the key purposes of the Constitution was to prevent interstate commerce from being "fettered, interrupted and narrowed" by differing State regulation.

I agree that national power has overreached in some areas and has been overly involved in areas in which it cannot be justified. I agree that in many areas the Federal Government has imposed excessive regulatory burdens on the American people.

That is why we are working so hard on a regulatory reform bill that will end that.

It has become evident over the years, however, that Federal action is needed here precisely to protect citizens of some States from the litigation costs imposed on them by other States' legal systems.

For example, the fact that a company may be subject to huge punitive damage awards in one State—say, Texas or Alabama—and none in another State—say, Massachusetts, which outlaws punitive damages unless expressly authorized by statute—has led to a troubling result. The cost of those differing State standards will not be borne solely by those in the respective States.

Plaintiffs' trial lawyers cross State boundaries to bring suits in certain States rather than other States. They seek to join certain defendants just to bring suit in a given State. The higher costs pass directly across State lines in those cases to harm those businesses that are dragged into another State's courts. The fact is that Massachusetts or Utah or any other State may be unable to protect its businesses from suit in other States.

Moreover, in a more pervasive effect, the insurance and litigation costs that are forced on the system by the laws in some States will be passed on to consumers and workers in other States. These harmful effects cannot be contained in one State, nor can the costs be passed on to consumers only in one State or another. Both unpredictability of litigation and the interstate character of markets—whether for insurance, products, or services—has prevented that.

Critics of this legislation are also wrong in contending that the States can address these problems adequately. A number of States have attempted reforms, only to be thwarted by State courts.

Many States have enacted statutes of repose similar to the one included in our product liability bill. Our bill sets a 20-year statute of repose for durable goods. It prevents manufacturers from being sued for old equipment or machinery, and ensures that after a sufficiently long period of time after which the manufacturer has no longer controlled a particular machine or piece of equipment, responsibility will lie with those who are responsible for its use and upkeep.

Unfortunately, State efforts in this area have been thwarted. State statutes of repose have been struck down in at least 14 States based on State constitutional grounds. [*See Berry* v. *Beech Aircraft Corp.*, 717 P.2d 670, 677–678 (Supreme Court of Utah 1985) (citing cases)].

More sweeping efforts have been equally frustrated. In Alabama, tort reform legislation passed by the Alabama State Legislature in 1987 required independent court review of punitive damage awards, and placed a $250,000 flat cap on punitive damages for most civil cases. However, in 1991, the Alabama Supreme Court struck down the provision requiring independent court review of punitive damages [*Armstrong* v. *Roger's Outdoor Sports*, 581 So.2d 414 (Ala. 1991)]; and, in 1993, the Alabama Supreme Court ruled that the Alabama Legislature does not have the authority under the State constitution to impose any cap on punitive damages [*Henderson* v. *Alabama Power Company*, 627 So.2d 878 (Ala. 1993)].

Given the inability of State legislatures to carry through on reforms that they conclude are necessary, Federal action in the area is the only viable course through which to attack lawsuit abuses.

The bill corrects a variety of problems, and it does so in a reasonable, modest manner. This is not a radical bill. In fact, it is a very modest bill. It has been criticized for being too modest.

As for the details of how this bill works, the specific provisions of the bill correct certain inequities in the law as it stands and makes those corrections uniform nationwide. At the same time, it allows State-to-State variation of the law within certain protective boundaries so that, for example, States will be free to prohibit punitive damages altogether or take other steps to toughen the law. In that way, the bill seeks to balance and accommodate the State and Federal roles.

The alternative dispute resolution section of the bill, for example, encourages resort to alternative dispute resolution—so-called ADR—by providing procedures through which parties can arrange to go through ADR and by providing for some fee-shifting to any defendant that unreasonably refuses an offer to proceed through alternative dispute resolution.

I have strongly favored using means outside the court system for resolving disputes. This bill encourages the use of those procedures, but leaves it to the States to experiment with providing various sorts of ADR, such as mediation or arbitration, to determine what works best for their citizens.

Other provisions of the bill encourage responsible litigation. For example, the bill contains a 2-year statute of limitations provision. Under that provision, a product liability action must be filed within 2 years of the date on which the injury occurred or on which the plaintiff, in the exercise of reasonable care, should have discovered the injury and its cause.

This requires parties to take action within a reasonable time after they know of an injury and its cause. It will prevent late-in-the-day lawsuits, like one that was filed in my own State of Utah.

In that suit, the plaintiff purchased a Cannondale bicycle from the Bicycle Center in Salt Lake City in July 1986. In August 1986, the plaintiff fell off the bicycle when, he claimed, it suddenly stopped. Now, at that point, he knew he was injured and knew that his injury was caused by falling off the bike. However, it was not until 3 years later, in August 1989, that he filed suit against Cannondale and against the bike shop.

The plaintiff acknowledged in court papers that he did not think of filing suit at the time of the accident. He admitted that he only became interested in litigation after seeing a report on television about a successful personal injury lawyer from San Francisco. That was the sole reason explaining why the lawsuit was delayed for so long.

I have nothing against parties seeking representation of counsel and getting legal advice so they know what their legal rights are. And I have nothing against the plaintiff being compensated for his injuries if the bicycle manufacturer and the bicycle shop really were at fault.

However, I do have a problem with lawsuits driven solely by aggressive trial lawyers rather than by real people who face real injuries for which they deserve compensation. Potential defendants should not be forced to wait for a prolonged period of time with no idea that an injury may have occurred involving a product they made or sold. When that happens, key employees with relevant facts may have moved on, memories may have faded, and records may be lost or discarded.

Even if defendants can successfully defend such suits on the merits, as occurred in the Utah case, substantial litigation costs are once again incurred.

This product liability bill includes numerous other provisions to encourage responsible litigation and to ensure that liability is imposed only on truly responsible parties rather than on whatever deep pocket a plaintiff's attorney thinks can be picked successfully.

To that end, for example, the bill imposes liability on product sellers—rather than manufacturers—only under certain circumstances in which the product seller actually is responsible for the safety of the product it sells. If, for example, the seller fails to exercise reasonable care with respect to a product and in so doing causes an injury, then the product seller may be liable. A product seller should not be able to be held hostage to a lawsuit, however, where the damage is the responsibility of the manufacturer and where the plaintiff can and should be suing the manufacturer.

Along similar lines, the bill provides that those who rent or lease products should only be liable in situations similar to those in which product sellers can be liable—that is, where they themselves have actually been negligent or otherwise responsible for the harm and not where they are simply in the chain of supply and have done nothing wrong.

Likewise, liability against biomaterials suppliers—who supply raw materials for use in life-saving and life-enhancing medical devices—is also limited to apply only in circumstances where the raw material supplier should be responsible for the ultimate end use of the material, for instance, where it supplied material in accordance with certain specifications and the material did not meet those specifications.

The bill also provides a defense if the injured party was intoxicated or under the influence of drugs at the time of the accident and if the intoxication or drug-use was more than 50 percent responsible for the harm caused.

The bill reduces damages if harm is caused by any misuse or alteration of the product. And, the bill provides that an employer may not be able to recover from a manufacturer any workers compensation benefits that the employer paid out to an injured employee if that employer was, in fact, responsible for the harm—for example, if the employer encouraged the worker to operate a machine improperly.

In another provision that places responsibility where responsibility should lie, the bill limits joint and several liability. Under joint and several liability law as it stands in many States, manufacturers and others in the chain of production can be held responsible for striking amounts of damages for harm that they did not cause—just because another defendant cannot or will not pay its fair share.

How is it fair that a party judged to be only 30 percent at fault pays 100 percent of the damages? This bill strikes a fair balance by providing that joint and several liability in product liability cases, in State or Federal court, is limited only to economic damages. Thus, an injured person will always be ensured of receiving full compensation for economic loss so long as some defendant who is legally liable is capable of paying that loss.

As to noneconomic loss, the bill provides that responsible parties will be responsible for covering that share of the loss for which they are responsible. This fairness approach means that defendants will for the most part be responsible for the harm they cause rather than the harm of other defendants.

As one final point, I note that the threat of having to bear responsibility for harm caused by another party is not the only threat that has skewed the incentives in our legal system. The possibility of exorbitant punitive damages awards has grown so that it effectively amounts to legalized extortion.

The threat alone of excessive punitive damages forces parties to settle under conditions in which they otherwise would not. We need to put an end to extortion by litigation and curb practices further harming our economy and threatening our small businesses with claims that exceed their net worth.

In my own view, limitations on punitive damages should apply to all civil actions—not just product liability actions. Volunteer organizations, blood banks, restaurants, and everyone else subject to punitive damages deserve these commonsense safeguards. And, whether businesses face product liability lawsuits or some other civil lawsuits, the same harm is done to our economy, our interstate commerce, and to our society.

If businesses face outrageous punitive damage awards in some States, they must impose the increased litigation and insurance costs on consumers in all States. Likewise, the costs to workers are passed on throughout the Nation when a company must defend outrageous claims in one State and then has correspondingly fewer resources to spend on expansion and growth in other States. That occurs whether the lawsuits are product liability actions or are fraud, breach of contract, or other types of civil lawsuits.

I intend to join Senator DOLE and others in seeking adoption of an amendment to address these matters.

Similarly, I believe the joint and several liability reform in this bill should be extended to all civil actions.

I hope that we will soon consider addressing those problems as debate on this legislation progresses. Again, I thank Senators ROCKEFELLER and GORTON for their leadership and commend them for their efforts.

I yield the floor.

Mr. GORTON. Mr. President, I want to thank and congratulate my friend from Utah not only on his support, but on his eloquence and on his understanding of the values involved in this debate and for his eloquent statement of the case for this bill.

I believe that we will have several other opening statements during the course of the afternoon. And my friend and colleague, the primary cosponsor of the bill, the Senator from West Virginia, will be here momentarily. I believe the Senator from Kentucky [Mr. MCCONNELL] wishes to speak.

I will make only one brief comment with respect to the position stated by my friend, the Senator from South Carolina, and that has to do with the alleged inconsistency of believing that it is appropriate to delegate some responsibilities on which Congress has done a poor job to the States, while to a certain extent providing for uniform rules with respect to product liability. If the position of the Senator from South Carolina is that it is appropriate to delegate those other responsibilities and inappropriate to federalize these and that had been the position of those who wrote the Constitution of the United States, I suppose we would still be operating under the Articles of Confederation.

But, Mr. President, those who did write our Constitution expressly gave to Congress control over interstate commerce. That is an express line, an express section in the Constitution of the United States. It is up to the Congress to determine the degree to which interstate commerce is so implicated in a particular business or profession as to not only authorize but perhaps to require legislation at this level. And it is very difficult, Mr. President, to think of a single field in which interstate commerce is so important as it is in the manufacture and distribution of actual hard goods in our national economy.

It really does not matter in the American system whether or not goods are manufactured in South Carolina and sold in the State of Washington or in the State of Minnesota, or manufactured in the State of Minnesota or Washington and sold in South Carolina. Almost every significant manufacturer sells its goods in every State in the country. As a consequence, the burden of a legal system which encourages litigation in which results are likely to be dramatically different in one State than in another—a fact, incidentally, known to most trial lawyers who see, obviously, the most favorable forums for their litigation—calls for a degree of uniformity. The desire that American industry be more competitive, the desire that American industry spend freely on research, the desire that American industry develop products as a result of that research, the desire for the kind of competition which causes lower prices to consumers is obviously in the national interest. When it has been demonstrated so dramatically that the present system discourages research and development, it causes many manufacturers that abandon particular fields, sometimes totally and sometimes leaving them to monopolies or quasimonopolies. When consumer prices in certain areas are so adversely affected, it is appropriate that we seriously consider whether or not we cannot consistently, with justice, provide for a more uniform system than we have at the present time.

Does this bill entirely nationalize it? No, of course not. It would be inappropriate to do so. Does it make it more uniform? Yes, Mr. President, it does. That has no more relevance to whether or not we should continue to maintain a nationalized welfare system or perhaps a myth that it has been a failure and that we need State experimentation. There is no relevance between the two. Each should be judged on its own merits. This should be judged on its own merits. And to say that there are somehow or another seventh amendment of the Constitution implications, again, Mr. President, seems to me to be an equally bizarre argument.

Every jury is subject to the law. Every jury is instructed as to what the law is. Juries are instructed on the degree of the burden of proof and the like, and juries determine facts. Nothing, not one line, not one phrase of this bill, deprives any jury of the right to determine matters of fact which come before it. It sets up a framework—we believe a just and balanced framework—for one relatively small but vitally important field of litigation, perhaps the single field of litigation in which interstate commerce is most implicated. It does that, and it does that in a way which does not deny justice or full compensation for any injury subject by reason of the negligence of a manufacturer, Mr. President.

There are no caps in this bill on compensation, on compensatory damages of any kind. But it does make somewhat more predictable the course of litigation, somewhat lowers the cost of litigation. And, Mr. President, I suspect that no actual victim is likely to suffer at all. But I am convinced that the transaction costs for lawyers and expert witnesses and the like, which now eat up way more than half of all of the money that goes into the product liability system, that those transactional costs will be significantly lessened by the passage of this bill.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

PRIVILEGE OF THE FLOOR

Mr. HOLLINGS. I ask unanimous consent that the privilege of the floor be granted to the following members of the Senators staffs. I send the list to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, what you have is, as the Senator from Washington just talked about, punitive damages. You have a procedure whereby you might have willful misconduct, but under this particular section, 107(2):

> Inadmissibility of evidence relative only to a claim of punitive damages in a proceeding concerning compensatory damages. If either party requests a separate proceeding under paragraph (1), in any proceeding to determine whether the claimant may be awarded compensatory damages, any evidence that is relevant only to the claim of punitive damages as determined by applicable State law, shall be inadmissible.

That tells you they have really worked this measure over, and they want to keep out the evidence in the regular trial of a case of willful misconduct. They want to keep that out of the attention of the jury hearing the case.

Right to the point of punitive damages, Mr. President. I have listened to Jonathan S. Massey, an attorney who testified in our recent hearings as having handled punitive damage awards before the U.S. Supreme Court. I asked him, "You know, I was just thinking that the award of punitive damages in the Pennzoil versus Texaco case of $3 billion in punitive damages, how did that compare to all product liability cases?"

Just go back 30 years to 1965 and see what we really can find out. I ask unanimous consent to have printed in the RECORD a letter to me, along with punitive damage awards from 1965 to the present.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 13, 1995.

Hon. ERNEST F. HOLLINGS,
U.S. Senate Committee on Commerce, Science, and Transportation, Washington, DC.

DEAR SENATOR HOLLINGS: At the hearing on April 4, 1995 before the Consumer Affairs, Foreign Commerce, and Tourism Committee of the Committee on Commerce, Science, and Transportation on S. 565, the Product Liability Fairness Act of 1995, you asked me to compare the $3 billion in punitive damages awarded in the *Pennzoil* v. *Texaco* case with the sum of punitive damage awards in all product liability cases since 1965.

The attached pages show that punitive damage awards in products liability cases since 1965 come to a fraction of the $3 billion figure. For products liability cases in which the punitive damage award is known, the total comes to $953,073,079. There are 109 additional cases in which the punitive damage award was not reported by the court or either party, most likely because it was not large. If one were extrapolate for those 109 cases by taking the average award in cases in which the punitive award is known—which would err on the side of inflating punitive damage awards in products liability cases—the total of punitive damage awards in all products liability cases—the total of punitive damage awards in all products liability cases since 1965 would come to only $1,337,832,211—less than half the award in *Pennzoil* v. *Texaco*.

I hope this information is of assistance.

Sincerely,

JONATHAN S. MASSEY.

PRODUCT LIABILITY PUNITIVE AWARDS, 1965–PRESENT

AL, 20 cases, $58,604,000; 9 additional cases with unknown amounts.

AK, 2 cases, $2,520,000; 1 additional cases with unknown amounts.

AZ, 6 cases, $3,362,500; 3 additional cases with unknown amounts.

AL, 1 cases, $25,000,000; 0 additional cases with unknown amounts.

AK, 1 cases, $1,000,000; 0 additional cases with unknown amounts.

AR, 2 cases, $6,000,000; 3 additional cases with unknown amounts.

CA, 17 cases, $35,854,281; 9 additional cases with unknown amounts.

FL, 1 cases, $1,000,000; 0 additional cases with unknown amounts.

CT, 1 cases, $688,000; 0 additional cases with unknown amounts.

FL, 1 cases, $519,000; 0 additional cases with unknown amounts.

CA, 4 cases, $3,618,653; 0 additional cases with unknown amounts.

FL, 1 cases, $750,000; 0 additional cases with unknown amounts.

CA, 3 cases, $2,425,000; 0 additional cases with unknown amounts.

CO, 3 cases, $7,350,000; 1 additional cases with unknown amounts.

CT, 0 cases, $0; 1 additional cases with unknown amounts.

DE, 2 cases, $75,120,000; 0 additional cases with unknown amounts.

FL, 26 cases, $40,607,000; 9 additional cases with unknown amounts.

CA, 1 case, $30,000; 0 additional cases with unknown amounts.

FL, 2 cases, $3,500,000; 0 additional cases with unknown amounts.

GA, 10 cases, $43,378,333; 3 additional cases with unknown amounts.

HI, 1 case, $11,250,000; 0 additional cases with unknown amounts.

ID, 0 cases, $0; 1 additional case with unknown amounts.

IL, 16 cases, $44,149,827; 3 additional cases with unknown amounts.

MN, 1 case, $7,000,000; 0 additional cases with unknown amounts.

IL, 3 cases, $5,000,000; 0 additional cases with unknown amounts.

IN, 1 case, $500,000; 0 additional cases with unknown amounts.

IA, 1 case, $50,000; 2 additional cases with unknown amounts.

KS, 7 cases, $47,521,500; 1 additional case with unknown amounts.

KY, 2 cases, $6,500,000; 0 additional cases with unknown amounts.

LA, 2 cases, $8,171,885; 0 additional cases with unknown amounts.

ME, 3 cases, $5,112,500; 0 additional cases with unknown amounts.

MD, 3 cases, $77,200,000; 2 additional cases with unknown amounts.

MI, 2 cases, $400,000; 0 additional cases with unknown amounts.

MN, 4 cases, $10,000,000; 1 additional cases with unknown amounts.

MS, 4 cases, $2,790,000; 1 additional cases with unknown amounts.

MO, 9 cases, $20,785,000; 1 additional cases with unknown amounts.

MT, 2 cases, $1,600,000; 1 additional cases with unknown amounts.

NV, 1 cases, $40,000; 1 additional cases with unknown amounts.

NJ, 4 cases, $900,000; 5 additional cases with unknown amounts.

NM, 4 cases, $1,715,000; 1 additional cases with unknown amounts.

NY, 7 cases, $6,019,000; 6 additional cases with unknown amounts.

NC, 2 cases, $4,500,000; 0 additional cases with unknown amounts.

OH, 6 cases, $4,395,000; 1 additional cases with unknown amounts.

OK, 6 cases, $15,390,000; 1 additional cases with unknown amounts.

OR, 3 cases, $62,700,000; 0 additional cases with unknown amounts.

PA, 5 cases, $16,298,000; 8 additional cases with unknown amounts.

RI, 1 case, $9,700,000; 0 additional cases with unknown amounts.

SC, 5 cases, $2,945,500; 4 additional cases with unknown amounts.

RI, 1 case, $100,000; 0 additional cases with unknown amounts.

SD, 1 case, $2,500,000; 0 additional cases with unknown amounts.

TN, 4 cases, $4,720,000; 3 additional cases with unknown amounts.

TX, 38 cases, $217,098,000; 19 additional cases with unknown amounts.

UT, 1 case, $300,000; 0 additional cases with unknown amounts.

VA, 2 cases, $340,000; 0 additional cases with unknown amounts.

WV, 3 cases, $2,433,100; 4 additional cases with unknown amounts.

WI, 7 cases, $10,622,000; 4 additional cases with unknown amounts.

FL, 1 case, $2,500,000; 0 additional cases with unknown amounts.

WI, 2 cases, $26,000,000; 0 additional cases with unknown amounts.

DC, 1 case, $2,500,000; 0 additional cases with unknown amounts.

Grand total 270 cases, $953,073,079; 109 additional cases with unknown amounts.

Average punitive award; $3,529,900; Extrapolated total of all awards, $1,337,832,211.

Mr. HOLLINGS. Mr. President, that goes right to the heart of what they are really concerned about. They are concerned about these manufacturers making more money. They are not concerned about punitive damages. If they were concerned about punitive damages—and we will list, when we have more of the Senators in town here that are not present here on this Monday afternoon, we will list the punitive damage awards with respect to these corporations suing corporations.

My understanding of punitive damages is willful misconduct. But if there is an abuse of the awards of punitive damages to justify this national concern, it would be at the manufacturer or the business or the contract level, not that of individuals injured on account of the defective product bringing their cases in tort for product liability. There is no question about it.

Now, the distinguished Senator points out how he is concerned about consumers. He says this money goes to consumers, consumers, consumers. I refer to the distinguished chairman of our Judiciary Committee, the Senator from Utah, my good friend, for whom I have the greatest regard.

We have listed and already put into the RECORD certain organizations, and among those organizations opposing S. 565, is the American Council on Consumer Awareness, the Arizona Consumers Council, the Coalition for Consumer Rights, the Consumer Federation of America, Consumer Federation of California, Consumers for Civil Justice, Consumers League of New Jersey, Consumer Protection Association, Consumers Union, Florida Consumer

Action Network, Massachusetts Consumer Association, Michigan Consumer Federation, the National Consumers League, the New York Consumer Assembly, the Oregon Consumer League, Pennsylvania Citizens Consumer Council, and it goes right on down to Virginia Citizens Consumer Council. I can keep reading on and on.

Every responsible consumer organization in this country opposes this bill. So we should not say that we are trying to protect consumers with this particular measure. The sponsors are trying to make more money for the manufacturer. They are not looking after consumers. Consumers know differently.

As the distinguished Senator from Utah points out in his studied presentation, in the prepared comments—I know, as the Senator knows, how we get these prepared comments. Senators tell the staff—and he has a Judiciary Committee staff and a personal staff—"Get out and find the most horrendous cases. I want to take these trial lawyers and put them to rout, and I want to find the most egregious kind of claims that can be thought of so in my prepared remarks I can show there is a national need."

Heavens above, look what he comes up with. If I try a law case I would win before a fair jury.

This is a fixed jury, the U.S. Senate, Mr. President. This jury is fixed. We have 60,000 lawyers downtown here—billable hours—they come in and lobby for fixes. But if I had an unfettered jury and found out that the best of the best, the chairman of our Judiciary Committee, that conducted hearings, came up with the milk shake case of 1994 and found out it went all the way to the Supreme Court of New Jersey against McDonald's, and they were vindicated, that tells me that there is an incompetent lawyer or he has nothing else to do. I know unless I have a pretty good, strong case, I am not going to be bringing suits and appealing all the way about "a milk shake that popped the top open as I put it between my legs as I drove off from McDonald's." I have real work to do.

That case is in my favor. That shows the law is working, and it is working in the State of New Jersey. One other case he had, and that was a New York State case in 1989, and again the defendant was vindicated.

Now, is that the best they can bring to the U.S. Senate on a national need? Come on here, we can cite cases like contracts, if we want to. We will list a few of them. We have that, if that is the basis on which they want to argue.

Here in 1989 Uncle Ben's sued General Foods over advertisements claiming that Minute Rice outperformed Uncle Ben's in the slotted spoon test.

In 1989, Walt Disney Co. sued to force a public apology from the Academy of Motion Pictures, Arts, and Sciences, for an unflattering representation of Snow White in the opening sequence of the 1989 Academy Awards ceremony.

In 1987, Kellogg filed a $100 million suit against General Mills arguing that Post natural raisin bran was not natural as advertised because it is coated with coconut oil and that comparative television ads were misleading because "extraneous material that would cling to the raisins had been cleaned off." Here is Kellogg suing General Mills. People here are talking about individuals bringing ridiculous suits—look at these cases here. I think we ought to look at these manufacturers.

Mr. CRAIG assumed the chair.

Mr. HOLLINGS. In 1986, the producer of Minute Maid Orange Juice, Coca-Cola, sued Procter & Gamble, charging that ads for Citrus Hills Select falsely claimed that the juice was made from the heart—heart—of the orange.

In 1982, McDonald's sought a temporary restraining order to prevent the airing of ads comparing McDonald's Big Mac unfavorably with the Burger King's Whopper.

Come on. Is that what we are going to consider? We have work to do up here. The plea here about the interstate commerce clause, taken at the Senator's insistence, just repeals the 10th amendment and the responsibility of the several States for tort litigation. I agree with him. I agree with him. Let us extend the interstate commerce clause. But let us extend it to insurance companies which are, all of them, engaged in interstate commerce. I had one, an insurance company before the Securities and Exchange Commission. I guess the year was around 1960 or 1961. I know Manny Cohen was the Chairman of the Securities and Exchange Commission. And I asked that that company be able to operate in several States. I got it approved in 13 days. I know about interstate commerce and insurance.

I can tell you here and now, you put in a bill—if you want to see the insurance lawyers all fill up that hall outside, put in there, under the interstate commerce clause, an Insurance Commission for the United States of America, and say, "Quit having to file your policies and hire lawyers racing around to the capitals of 50 States, every one of your policies must be justified and administered in that particular State under that particular law; what we are going to have is uniformity. We are going to have a Federal Insurance Commission." Oh boy, talk about acting under the interstate commerce clause—you will see them fight it.

We have to expose this fraud that has been going on for 14 to 15 years. Jerry Ford was right. President Ford put it to the study commission and he said leave it to the States. In the 15-year period, the States have all acted and they have revised their laws and come up with responsible provisions as time evolves with respect to the conduct of product liability litigation. But it is certainly not a national problem. This thing about competitiveness, it is just totally out of whole cloth.

I have been in the game, and we can name the industries, one after the other. Not long ago, I was at Bosch, which is a German company that is located just outside of my hometown of Charleston, SC. They have a 10-year contract to make the antilock brakes for all the General Motors cars. They make the antilock brakes for the Toyota; they make the antilock brakes for the Mercedes-Benz—foreign cars as well as domestic.

When you go in to inspect their plant, they put covering over your shoes and a smock all the way around that you have to wear over your clothing, and a headpiece to make sure no dust or any kind of solutions come from your hair into their particular product. In fact, it is much like going through a pharmaceutical company, or film. Incidentally, I got Fuji Film in South Carolina, and Fuji Film from Japan is now doubling the size of their plant. They have had one there for the last 10 years. Now they are doubling the size. They are not worried about product liability.

But I turn to the Bosch man—because we are awfully proud. I put in a system for technical training and have expanded upon it by sending my teams, having graduated, to Munich, Germany, where they—in this particular case, Stuttgart—go over the German apprenticeship system and then instruct the employees in the German apprenticeship system in my own backyard.

I know about productivity. I said to the gentleman who is the head of Bosch there, "What about product liability?"

He said, "Senator, what is that?"

I said, "Product liability claims; have you had any claims against any of these antilock brakes for defective brakes?"

"Oh, no, no," he said. "We have never had a claim."

He said, "If we did—" he reached over and pulled one off the line. He said, "Do you see this little number?" He said, "We mark every one of those brakes on every wheel on a car. We have a number. We would know immediately, if there was a defect, where it comes from."

That, Mr. President, is the quality production that has been brought about by trial lawyers. They can cuss them; they can fuss. They can talk about getting the fees. These cases read by the distinguished Senator from Utah, the two cases he had, one in New York, for the supermarket; and in New Jersey, for McDonald's—those lawyers did not get a red cent. They wasted 3 years in time. Lawyers do make mistakes. I guess they made a mistake.

But do not put that down as a reason for nationalization of product liability up here at the Washington level.

What happens here is that we have quality production. Companies have come south to my State, having learned you have to really be outgoing toward your employee force—I have watched with a certain amusement over the years, where we called them workers; then we called them employees; now we have to call them associates. You do not dare refer to the work force other than as associates. Rather than the head of the plant parking right up at the front door, they have the Associate of the Month. He parks up at the front door, or she parks up at the front door, and the manager of the plant parks way down in the boondocks. They know how to do it.

When they eat—and I have eaten in these restaurants; they do not have a Senators' eating place, and the regular folks eating otherwise, like we have here. Oh, no; this is not on productivity up here. They all eat in the same restaurant. Yes, we know about productivity.

All of that has come about by not only the treatment of the work force on the one hand, but the absolute care that has come about in relation to the Occupational Safety and Health Act: safe machinery; safe working place; and, yes, the assumption that the product, for whatever particular use it is designated, is going to be a safe product. We can count on that. That housewife does not have to run home and test it on her children and see if it is going to blow up in their faces or make them sick or any of those other things. We count on it in our society and it has worked and is working, and is working well.

To come now with this charade here that has been going on for 14 years, because they can grab us Senators up in campaigns and say, "Are you for or against product liability?" and get 15 organizations, the Business Roundtable, the chamber of commerce, and they are all coming in and saying, "Are you going to be for that product liability?" Product liability? You are interested in votes, and trying to move on and get something done. And so, yes, you say so, and that ends that. And I am having to talk against a fixed jury.

But I hope some of them are listening and someone will engage in the debate as we have over the past 15 years so that we can hold up this bad mistake. Because if we make this mistake relative to product liability, then we should federalize medical malpractice; we should federalize automobile wreck cases; we should federalize the whole thing. Then we will have to build some more courthouses.

I think we just cut the construction money for courthouses. But let us—in the name of trying to bring down the size of the Government here in Washington, and the bureaucracy—let us build some more courthouses. Let us get some more Federal judges. We can all give them a lifetime job, we Senators. And we can have more clerks of court. Man, I am telling you, we have a growth industry up here. The best way I know to get this growth industry going is to federalize product liability.

It is a sham. It is a bad mistake. The American Bar Association opposes it absolutely. They came up again and testified against it. All the different consumer organizations are against it. Yet the sponsors come here and act like they are for the consumers. They know differently. The State legislatures that handle this problem, the Conference of State Legislatures, testified against it; the Conference of State Supreme Court Justices is against it.

Later on I will include in the RECORD more than 100 deans and law professors from over the entire country who will go into detail and analyze this particular bill, and show how instead of this really giving uniformity it gives complexity, and how, instead of saving money and the procedures and the bureaucracy, it increases it. And if they have such a thing as the lawyers' full employment act, this would be the one because you have all kinds of motions to make now under this particular bill and meetings to be had, and everything else of that kind at the Federal level and at the State level. It is just fundamentally flawed; bad law. They know it, and they try to doctor it up so they can get this into a particular conference committee. And then, of course, go right into what they call the English rule that they have over in the House bill.

That really shows how garish this Congress can get; to take a system where people without means can have their day in court in civil litigation and now are going to be denied, which I myself have taken on as a trial lawyer. Let me divert for a second.

Let me say I represented the bus company or the South Carolina Electric and Gas. So I represented the defendant in numerous cases of tort claims as well as plaintiff. But tell the average citizen who cannot pay for billable hours, and tell them they have no claim? And, yes. We had the contingent basis whereby, as I reiterated and I reiterate because I cannot emphasize it too much, I take on the cost as a trial lawyer. I assume that for the investigation, for the interrogatories, for the discovery proceedings, for the actual trial, the settlement, conferences that we had, the actual trial of the case, the appeal, the printing of the briefs, the appearances, the entire time spent. Yes. These cases take—in serious cases—2 or 3 years to get them finally determined. This trial lawyer assumes all of those costs. If I win, I get a third. If I lose, I get nothing. I paid those costs. That is the system that has worked.

If you are going to have the loser pay all, I am going to say, "Now, wait a minute. I have a wife and children. Now I have grandchildren. I like to help. But unless you can get me a bargain and assume the cost, I cannot go totally broke in this business. I have to have you take care of the costs in case we don't prevail. I think you have better than an even chance to prevail."

However, I never can tell in the draw of a jury. That is what Judge Ito is having to deal with now, the mindset of jurors. I cannot tell the mindset. They could come in with selection of a jury, and I not know it and they have some peculiar feel or prejudice, and I get 11 but I do not get that 12th juror. I end up losing the case, and I have to pay it all. I think that at least you ought to be able to take care of your costs if you believe in your case that much. Yes. That is the day in court, the trial jury.

The distinguished Senator from Washington says they all get their trial by jury. But you read this bill based on what evidence can be submitted, you read the test to be used and the thrust that they have and how they allocate some of these provisions not to manufacturers. You can read on page 36, line 7, "actions excluded." Here is the unmitigated gall of this draftsmanship.

> Actions for damage to product or commercial loss, a civil action brought for loss of, or damage to, a product itself, or for commercial loss, shall not be subject to the provisions of this title governing product liability actions but shall be subject to any applicable commercial or contract law.

The States have their volition as to the Uniform Commercial Code and how much and how they interpret it. They have their volition in the 50 States as to contract law. Yes. When it comes to manufacturers under this particular section, yes. We believe in States' rights there. But when it comes to injured parties, you do as we say to do. They talk about a fair and balanced reasonable bill. Come on. They know better. They can read. We pointed this out at the hearings. They had no excuse for it. We pointed it out at the markup. They continue to insist upon it, and we will have amendments. We will have to come along I guess, if they get cloture because they do not want to have debate. They will have to have these amendments and we will have to vote on them.

But I think the original document itself is a pretty good example of what they have in mind. It is not a balanced bill. They had no caps heretofore in previous Congresses on punitive damages. They have it in this one. They say they are going in a reasonable fashion, a more restrictive fashion. They have the misuse provision in here now that they never had before in the three previous Congresses. We will be able to go down on those things and see if they want to insist upon them.

But I can tell you what we ought to do, in this Senator's opinion, is table this bill and move on to those problems that are national problems. The State of Idaho is looking out for its people. It has a Governor. It has a legislature. It has juries that are sworn to listen to the facts and bring in a verdict in accordance with the facts. It has the option of the trial judge to set aside punitive damages, to restrict the actual damages.

I am sure the States of Idaho, South Carolina, and Washington would much rather have its law than a national law up here wherein they think, yes, with the Contract With America crowd in town, that we are going to start being conservative. I can tell you here and now, that might last for a little while. But after a few years go you are going to find the liberal National Government—which has been persistent throughout the years as compared to the State government, State law, and State practices in tort, and with respect to criminal law and otherwise—you are going to find there is a much more conservative government at the State level, and more responsible in my opinion, than the National Government.

We do not have a national problem. That is the point. Yet. They have really been on a roll up here for big industry and against the individuals. They know how to handle the lawyers downtown.

I hope to have perhaps an amendment on the interests of companies. Perhaps we ought to have that, and maybe some of my distinguished colleagues would like to sponsor an amendment on billable hours in addition to caps on punitive damages. Let us have caps on billable hours here in this town. Let us see if that lawyer crowd that is out trying to fix the U.S. Senate can go back to work and try their cases in court before a jury of 12 jurors without meddling with the State precedents here in the United States.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. PELL. Mr. President, every year at this time, people of Armenian descent throughout the world commemorate the anniversary of the genocide perpetrated against the Armenian people between 1915 and 1923. This tragedy is one of the most horrible in the history of humankind, yet it is often overlooked.

Eighty years ago today, on April 24, 1915, the Ottoman Empire launched a systematic campaign to eradicate the Armenian people from Ottoman territory. In that year, hundreds of Armenian religious, political, and intellectual leaders were rounded up, exiled, and murdered. During the next 8 years, an estimated 1.5 million Armenians were killed through executions, during death marches, or in forced labor camps. Many women, children, and elderly people were raped, tortured, or enslaved. In addition to those killed, an estimated 500,000 Armenians were exiled from the Ottoman Empire, many of whom found their way to freedom in the United States.

Recently, the campaigns of ethnic slaughter in the former Yugoslavia and Burundi have focused much attention on crimes against humanity. Silence in the face of genocide effectively encourages those who would commit such atrocities in the future. As the horrors in Bosnia and Burundi demonstrate, ethnically based campaigns of murder are still possible, even as the world approaches the 21st century.

Mr. President, despite a long history of persecution and tragedy, the Armenian people have demonstrated remarkable moral strength, resilience, and pride, as demonstrated by the successes of Armenian-Americans and the great contributions they have made to our society. These qualities are also evident in the effort of the newly independent state of Armenia to build a prosperous and democratic country after decades of Soviet oppression, and despite the ongoing conflict with Azerbaijan—an effort which I personally witnessed when I visited Armenia in January 1992.

During the last year, there have been some hopeful signs with regard to the conflict between Armenia and Azerbaijan—most notably the implementation of a cease-fire. I hope that the memory of the Armenian genocide, as well as the sight of the suffering of the Armenian and Azeri peoples, will spur a peaceful resolution to the dispute.

The legacy of the Armenian genocide has not succeeded in deterring subsequent acts of genocide. However, it is only by continuing to remember and discuss the horrors which befell the Armenian and other peoples that we can hope to achieve a world where genocide is finally relegated to the realm of history books, rather than newspaper headlines. I hope my colleagues and leaders throughout the world will join me in commemorating the anniversary today, and thus ensure that the tragedy of the Armenian genocide will not be forgotten.

DIMINISHING PROSPECTS FOR PEACE IN THE BALKANS—A FOREIGN RELATIONS COMMITTEE STAFF REPORT

Mr. PELL. Mr. President, during the recess, two members of my Foreign Relations Committee staff traveled to Croatia, Bosnia, and Serbia to examine the wide range of issues related to the conflicts in the region, and their implications for United States policy.

The situation in Bosnia is unraveling quickly, and with the Senate likely to consider legislation concerning Bosnia in the coming weeks, I think it is important for my colleagues to be aware of the staff's findings.

Among other things, the staff found that as the situation in Bosnia deteriorates, the United Nations may be forced to withdraw from Bosnia and Croatia for any number of reasons, including: a worsening security situation, a shortage of world food stocks, a loss of local employees to the draft, or a lifting of the arms embargo.

The United States has pledged to participate in a NATO effort to withdraw U.N. troops. According to the staff report, a NATO operation in Bosnia would be costly, would require a long lead time, and would likely occur under hostile circumstances. The report finds that NATO is not prepared to extract U.N. troops immediately should that become necessary.

The report also raises some serious questions about the federation agreement between Bosnia's Croats and Moslems as well as about Croatia's intentions. It questions the prospects for peace negotiations regarding the Serb-held Krajina region of Croatia.

Finally, the report finds that Serbia is continuing to fuel both the Krajina and Bosnian Serb war machines. Despite this fact, last Friday, the United Nations voted to extend sanctions relief for 75 days. The report recommends that the United Nations resist further sanctions relief until Serbia ends all assistance to the Bosnian and Krajina Serbs.

Mr. President, as I mentioned, we may be asked next month to vote to lift the arms embargo against the Bosnian Government. I believe that the staff report may be a useful resource as we move into the debate. Accordingly, I ask unanimous consent that the key findings of the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, April 24, 1995.
Hon. JESSE HELMS,
Hon. CLAIBORNE PELL,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR HELMS AND SENATOR PELL: On behalf of the Committee on Foreign Relations, we travelled to Croatia, Bosnia, and Serbia from April 7 through 15 to examine the wide range of issues related to the conflicts in the region, and their implications for U.S. policy.

In Croatia, we visited Zagreb, Osijek, and in Sector East, Vukovar, the border crossings at Batina Bridge, Lipovac, and other areas. We visited Mostar, the largest city in the part of Bosnia controlled by the Muslim-Croat federation. We were unable to visit Sarajevo as planned due to the closing of the Sarajevo airport as our plane was enroute to the city. The airport remained closed throughout our visit to the region. In Serbia, we visited Belgrade and the Sremska Raca border with Bosnia.

We met with Croatian and Serbian government officials, opposition leaders, religious leaders, foreign and local journalists, academics, local citizens, military and civilian representatives of the United Nations Protection Force (UNPROFOR), the United Nations High Commissioner on Refugees (UNHCR), NATO, and of international and local non-governmental organizations. We also met representatives of U.S. and foreign embassies, the European Community Monitoring Mission (ECMM), Sanctions Assistance Monitors (SAMs), and monitors of the International Conference on former Yugoslavia (ICFY).

We are grateful to Ambassador Peter W. Galbraith and his staff in Zagreb as well as to Rudolph Perina, the U.S. Chief of Mission and his staff in Belgrade. Their cooperation was instrumental to this report. We would particularly like to thank Foreign Service officers Rick Holtzapple, Andrew Hamilton, and Madeline Seidenstricker as well as Tim Knight, of the Disaster Assistance Response Team (DART), for their able assistance.

The conclusions in this report are our own, and do not necessarily reflect the views of the Committee on Foreign Relations or its Members.

Sincerely,

EDWIN K. HALL,
Minority Staff Director and Chief Counsel.
MICHELLE MAYNARD,
Minority Professional Staff Member for European Affairs.

SUMMARY OF KEY FINDINGS

The situation in Bosnia is unraveling. The Bosnian Serbs are responding to recent limited Bosnian Government military gains with brutal attacks against civilians and U.N. peacekeepers.

The United Nations may be forced to withdraw from Bosnia and Croatia for any number of reasons, including: a deteriorating security situation, a shortage of world food stocks, a loss of local employees to the draft, or a lifting of the arms embargo.

The United States has pledged to participate in a NATO effort to withdraw U.N. troops. A NATO operation in Bosnia would be costly, would require a long lead time, and would likely occur under hostile circumstances. NATO is not prepared to extract U.N. troops immediately should that become necessary.

Croatia is supporting a federation between Bosnian Croats and Muslims as a means to retake Serb-controlled territory by force and to annex Hercegovina.

Croatia's military strategy, if continued, will make impossible the successful conclusion of peace negotiations and lead to full scale war in the Serb-held Krajina region of Croatia.

The agreement bringing an end to fighting between Bosnian Muslims and Croats was a tremendous achievement for U.S. diplomacy. That being said, however, Croats and Muslims have made no progress in implementing a political and economic alliance. Despite significant U.S. and European financial and political support for the Bosnian federation, prospects for such an alliance appear dim.

Serbia is continuing to fuel both the Krajina and Bosnian Serb war machines. The land border between Serbia and Bosnia may be "effectively closed" as called for by U.N. Security Council Resolutions 943 (1994) and 970 (1995) but oil, military equipment, and other sensitive material pass daily from Serbia through Croatia's Sector East and into other parts of Serb-held Croatia and Bosnia. The United Nations recently voted to extend sanctions relief for 75 days. It should resist further sanctions relief until Serbia ends all assistance to the Bosnian and Krajina Serbs.

International sanctions against Serbia and Montenegro are not working. Belgrade is awash in consumer goods; gasoline costs less than it does in Germany; and Serbia's basic infrastructure continues to function.

Sanctions against Serbia appear to have strengthened rather than weakened President Slobodan Milosevic, who effectively uses the state-controlled media to blame Serbia's economic conditions on the West. Even if sanctions are not having their desired impact, Serbia should not be rewarded with a lifting of sanctions unless it recognizes the borders of all the states of the former Yugoslavia and ends its support for the Bosnian and Krajina Serbs.

Mr. PELL. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. MCCONNELL. Mr. President, I am pleased that the Senate is considering the Product Liability Fairness Act this week. The time for legal reform is long overdue. I am anxious, as one Senator, to get this debate underway. I particularly want to congratulate the bill's chief sponsors, Senator GORTON and Senator ROCKEFELLER, for guiding the bill swiftly through the Commerce Committee, and I applaud Senator DOLE's leadership in bringing the issue promptly to the floor.

I might say, having been involved in this issue for now 11 years, going back to a prior period of Republican majority as chairman of the Court Subcommittee of the Judiciary Committee, we listened to lots of hearings and lots of talk, and I am glad we may finally have a realistic shot at civil litigation reform in this country.

Mr. President, while I am a cosponsor of S. 565, I also support the effort that will be made this week to broaden the scope of this bill. The American people are frustrated with our legal system. Everywhere I turn, I read and hear about terrible experiences people have when they find themselves inside the liability maze. People with real injuries too often do not get fairly treated. Meanwhile, too many frivolous cases clog the courts. The truth is the litigation system is like a day in Las Vegas or Atlantic City: Sometimes you can win big, but more often the house—that is the system, the lawyers and the courts—win the biggest profits. And the money that goes to the lawyers and the court system is significantly more than the money received by the injured parties. According to the Rand Corp., a full 57 cents of every dollar spent in the liability system is eaten up by the system itself. The injured get less than half, only 43 cents, Mr. President, of every dollar.

What does this mean for the American people? It means they pay more for the goods and services they buy in the economy, and it also means that businesses develop fewer new products, pursue less innovation and create fewer jobs.

The tort tax, Mr. President, is real, and reforming our legal system would mean a real tax break for the American people, a tax cut that will not require an offset and will not risk the Social Security System trust fund. One firm, Tillinghast, estimates that the litigation system costs every individual in our Nation $1,200 annually.

In a recent study, the Rand Corp. looked at the overuse and abuse of our health care system which is driven by the litigation system. In examining only the auto tort system—just for automobiles, Mr. President—Rand found that excess medical claiming, driven by the prospect of reaping a windfall from the legal system consumed $4 billion worth of health care resources in 1993 alone. That is the same year Mrs. Clinton's task force proposed a restructuring of our health care system. Evidently, the real answer is right here in our legal system. That same Rand study estimated consumers paid in 1993, $13 billion to $18 billion in excess auto insurance premiums because of the litigation craze.

So, make no mistake about it. This debate is about the economy and it is about taxes. If we are serious about tax relief for the middle-class family, let us reform our legal system. Let us cut the cost of an 8-foot ladder by 20 percent or the doctor's fee for a tonsillectomy by 33 percent. We can do it by reforming the legal system.

The American people want us to change our civil justice system. Survey after survey show the frustration of the American people with our legal system. For example, a couple months ago, U.S. News & World Report wrote that 69 percent of Americans find that lawyers are only sometimes or not often honest. Can you imagine? Honesty in the legal profession is not seen as normative behavior. As a lawyer myself, I have to say that I am horrified that such a huge majority of the American people have reached that conclusion. Yet, the organized bar resists any serious or meaningful changes to the legal system.

Last month, the Luntz Research Group found that an overwhelming 83 percent of the American people think our liability lawsuit system has major problems and needs serious improvement. Sixty-four percent of the people believe the liability system is out of control, costing everyone a lot of money and doing a whole lot of damage to our economy. And 79 percent to 83 percent of Americans support specific reforms, such as reasonable limits on punitive damages, abolishing joint liability for noneconomic damages, and loser pays where the judge finds the case to be completely frivolous.

Two generations ago, lawyers acted as statesmen who moderated their clients' behavior. In that bygone era of the 1950's, there was 1 lawyer for every 695 people. Today, there is 1 lawyer for every 290 people; and since lawyers thrive on conflict, they operate as gladiator-litigators, "ransack[ing] the legal cupboard for nostrums to rectify every wrong, to ward off every risk and to cure every social and economic ill," as Harvard Professor Mary Ann Glendon has written in her new book, "A Nation Under Lawyers: How the Crisis in the Legal Profession Is Transforming American Society."

The result is a sue-happy America, destructive to our democratic culture of debate, persuasion, accommodation, and tolerance.

So, make no mistake about it. We have embarked on a fundamental debate about the nature of American society. The legal system, and law in general, is too pervasive a force in people's lives. The reforms debated this week will be about returning the legal system to its appropriate place and to restoring fairness and certainty to the liability system.

The product liability arena is a good place to start. This bill will give some relief to those who sell goods but have no role in their manufacture.

The injured party will be able to recover, but only from the company that caused the injury, that is, the company that made the product. Sellers will only be liable for those warranties they make, or if they commit some act of negligence regarding the product, or in the rare situation that the manufacturer cannot be sued or has no money to pay the damages.

This bill also relieves defendants of liability where the plaintiff was primarily responsible for his or her own injuries due to the use of alcohol or drugs. And, the manufacturer will have limited liability if the plaintiff has misused or altered the product. The bill also restores the element of punishment to punitive damages, by linking them to the economic harm caused.

And, it will eliminate the deep pocket lawsuits, where a defendant with a remote connection to the injuring event is held responsible for all the harm caused. For noneconomic damages, the bill provides for several, not joint, liability.

This bill also includes an important title on biomaterials access, an issue championed by Senator LIEBERMAN and one which we included in our medical malpractice reform bill.

Excessive litigation is causing important suppliers of raw materials used in medical devices to withdraw their raw materials from the marketplace. The result is that individuals with rare medical disorders find themselves without access to lifesaving medical implants.

The bill will shield these raw materials suppliers from liability, where they can establish they had no involvement in the design or production of the medical device. Without this reform, the litigation system will bear the responsibility for the death and injuries of countless Americans. We cannot allow our runaway liability system to harm innocent people.

So, this is a good place to start the debate. We will have a number of amendments, including the addition of medical malpractice reform to this bill, as well as amendments to broaden the punitive damages and joint and several liability provisions, and some provisions from a bill I introduced earlier this session with Senator ABRAHAM, on attorneys' fees and an early offer or rapid recovery mechanism.

This will be a watershed debate in the Senate. There will be many accusations thrown at the reformers this week. The opponents will charge that we reformers just want to deprive injured people of fair compensation. Nothing could be further from the truth. The proponents of reform want to give the American people what they deserve: a legal system that is rational and fair, one that is available when they need it to resolve disputes, and that has some predictability and certainty to it, affording the injured in our society fair and adequate compensation, and holding those truly responsible for the injuries properly accountable.

The American people will be watching us and waiting for results.

Again, Mr. President, I want to commend the Senator from Washington, Senator GORTON, the Senator from West Virginia, Senator ROCKEFELLER, my colleague from Michigan, Senator ABRAHAM, who has also been heavily involved in this issue and thank them for the contributions that they have made and to say I look forward with great anticipation to the week's debate on this most important subject.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, the issue of product liability reform is very well known now to Senators after many years. I look forward to the debate that we begin today and in these coming days, because I believe the bill we are going to be considering, S. 565, Product Liability Fairness Act, builds upon past deliberations of this body to achieve reform in the moderate, bipartisan fashion which has been the nature in which we have approached this problem.

I want to pause for a moment to thank my remarkable colleague and friend, SLADE GORTON, for all of his efforts and counsel in crafting this bill and for setting a feeling about it which is efficient, temperate, wise, unemotional and lends itself to the collection of votes.

In addition, Senator LIEBERMAN, Senator DODD, Senator HATCH, Senator MCCONNELL, have played really critical roles in rating this legislation and bringing us to this point in our deliberation. The Senate has considered the topic of product liability reform for over 14 years. And six times the Commerce Committee has reported bills favorably to the floor. Most recently, the committee reported out the current bill, S. 565, by a vote of 13 to 6 on April 6. We have persisted in our efforts to reform the laws governing product liability because we believe that the current system is broken and that we can make changes that will benefit both consumers and makers of products. We have tried and, I think, succeeded, in achieving balance in our effort to streamline the law along these lines. We have simultaneously reduced costs and delays for both plaintiffs and defendants.

In 1985, when I first came to the Senate—that was my first year in the Senate—and joined the Commerce Committee, I in fact voted against a product liability reform measure pending at that time. The committee vote, because of my vote, was tied and the vote, therefore, failed. I felt strongly that the version of the bill then being considered aided manufacturers at the expense of safe products for American consumers. That was my view.

Since then, the product liability effort has changed 180 degrees. The legislation has evolved gradually into an evenhanded, moderate approach that we are considering here today. Senator GORTON and I have worked diligently over recent months to hone the bill that we are looking at today to ensure that it strikes the right balance between the interests of both consumers and business, and we do mean that. Adjustments were made to reflect substantive and other concerns which we concluded were obstacles to the enactment of this bill. We believe we have significantly improved the legislation from earlier drafts and have been responsive to the issues which prevented earlier enactment of this legislation.

Let me draw my colleagues' attention to the substantive changes made in this year's bill compared with the version introduced in the last Congress. The most significant change addresses concerns that have been raised about excessive punitive damages, damages that are awarded to punish and to deter wrongdoing. This year's bill establishes a standard for awarding punitive damages that is essentially unchanged from last year's bill. We have, however, added a provision that requires punitive damages to be awarded in proportion to the harm caused, at a ratio of three times the claimant's economic loss, or $250,000, whichever is greater. I might say that this approach to punitive damages is well within the construct of the law in many areas. Our rationale for this ratio is the goal of bringing to punitive damages some relationship between the size of the harm and the punishment, a goal supported by the American Bar Association, the American College of Trial Lawyers, the American Law Institute and, in fact, the U.S. Supreme Court.

Also concerning punitive damages, we eliminated the Government standards defenses in last year's bill, referred to as the FDA and FAA defenses, which would have prevented punitive damages for instances in which certain classes of products such as drugs, medical devices, or certain types of aircraft had been certified by the Federal Government as safe. While I remain supportive of the concept of a Government standards defense, nevertheless, a number of Senators expressed reservation during last year's debate about this provision, and we have accommodated those concerns by removing the provision.

Another change in this year's legislation concerns the statute of repose which we have slightly modified to include a category of products known as durable goods used in the workplace. Last year's bill was restricted to workplace capital goods, a slightly narrower category. Workplace durable goods are defined as having an economic lifespan of 3 years, or being depreciable under the Tax Code. The workplace distinction, identical to last year's bill, preserves the intent of increasing incentives for employers to maintain the safety of equipment used in the place of employment, rather than shifting that responsibility off to a manufacturer even after the useful life of the product in question has expired. In addition, we have moved the statute of repose period to 20 years. Last year it was 25 years. People will say, well, that is 5 years less. Well, it may be, but it is still longer than any State statute of repose anywhere in the Nation by at least 5 years. I think the average is around 10 to 12 years. One State has 15 years. Ours is 20 years. We think that is trying to lean a little bit toward the consumer.

The third significant change made prior to introduction of this year's bill concerns the addition of a provision that had been part of last year's House companion bill that requires a reduction of a claimant's award due to unforeseeable misuse or alteration of the product. For example, if someone purchases a hair dryer that has attached to it a large warning label stating "please do not use this in the bath tub," and the purchaser immediately uses the hair dryer in the bath tub with probable adverse consequences, it does not make sense to hold the manufacturer liable for such misuse, and this provision would prevent that.

In addition to the changes made prior to introduction, several substantive changes were made in the Commerce Committee markup of the bill itself. First, we incorporated a bill, S. 303, the Biomaterials Access Assurance Act, introduced by Senator LIEBERMAN and Senator MCCAIN, as title II of our committee-reported product liability bill. This title of the bill is designed to ensure that needed raw materials are available to the manufacturers of medical devices by limiting the liability for firms that supply biomaterials. The title only limits liability for suppliers who have done nothing wrong. The ability of consumers to recover from negligent device manufacturers is preserved.

We made several other substantive changes in the committee markup. We modified our product seller provision to extend protection to blameless rental and leasing companies. This will address the fact that in 11 States car rental companies can be forced to pay for damage caused by people who rent their cars, even though the car rental companies obviously did not make the car and did not do anything wrong. We made a change to the statute of repose that will ensure that manufacturers keep their promise by enabling injured workers to sue for damage caused by products over 20 years old if the manufacturers guaranteed their product's safety for a longer period.

Finally, we modified our alternative dispute resolution provision which gives States an incentive to create proplaintiff, voluntary, nonbinding arbitration mechanisms.

This provision contains a penalty for defendants who unreasonably refuse to participate in the arbitration. A criticism was raised during our committee hearings on the bill that greater specificity was needed for the definition of unreasonable refusal, so a set of factors was added to address that concern.

Mr. President, I will have a lot more to say about the substance of the bill as this debate unfolds, but I know there is at least one other Senator who wishes to speak, so I will keep my remarks brief. Let me conclude by stating the reasons we must pass product liability reform this year after all of these years.

Under our current system, injured consumers often find it impossible to get just and prompt resolution. Just as frequently, blameless manufacturers are forced to spend thousands of dollars on baseless lawsuits. The system frequently allows negligent companies to avoid penalties and even rewards undeserving plaintiffs.

Product liability law should deter wasteful suits and discipline culpable practices, but not foster hours of waste and endless, endless, endless litigation. The adverse effect of having a hodgepodge of rules is severe for everyone. In fact, is a rather major fact in American life, I might add.

Injured persons and those who make products alike face a 55-unit roulette wheel when it comes to determining rights and responsibilities. The results hurt everyone.

Injured persons have testified that they may be unable to obtain needed medical devices for their continued health and well-being, and there is a lot of very powerful testimony on that front. Manufacturers have indicated that good and useful products are not placed on the market. The Brookings Institution has documented many instances where safety improvements were not made because of fears about uncertainties in our legal system, which brings up the sort of fascinating concept that manufacturers will decline to improve a product for fear that that lends the implication that the product that they previously had was somehow insufficient.

It is now a fact of life in many places where they simply, therefore, do not improve the product so as not to make themselves liable to that interpretation, all of which, of course, is absolutely ridiculous. Included in the Brookings discussion were, for example, built-in child seats and air bags.

As I have studied this complex area, I found incentives for preventing accidents are often not in the right place. In formulating our bill, we have striven to place incentive on the person who can best prevent an injury. This is a matter that has not been given adequate attention during past debates, but given the opportunity to carefully study our bill, Senators, I believe, will see that care and thought has been invested to assure that no wrongdoer goes unpunished and that positive prosafety behavior is encouraged.

For all of these reasons I very much look forward to our debate. I welcome the criticisms, the insights, and the suggestions for improvements that I am sure our colleagues will contribute during the process of this debate.

I yield the floor.

TRAGEDY IN OKLAHOMA—THE LESSONS FOR THE FUTURE

Mr. DEWINE. Mr. President, I rise today to express on my own behalf, and on behalf of the people of the State of Ohio, our deepest sympathy with and for the people of the State of Oklahoma as they cope with the devastating tragedy that took place last Wednesday. Our hearts go out to victims and the victims' families. No one, Mr. President, could watch yesterday's memorial service and see the pictures of the victims, the pictures of the children, without a lump in their throat or having to turn away from the screen.

Mr. President, I want to congratulate the rescue workers and all the volunteers, as well as the police—both the Federal Bureau of Investigation and the local police officers—who have proven to a concerned America that we will, in fact, fight back against terrorism.

Mr. President, when Oklahoma State trooper Charlie Hanger arrested one of the suspects in Oklahoma, he was acting on behalf of all Americans. He did not know at the time, of course, that he was arresting a terrorist. He was simply doing his job, the job that he does day in and day out.

He pulled over a motorist apparently for suspicion of speeding. The motorist said he was driving cross-country—but the officer noticed the driver had not gotten comfortable the way most cross-country drivers do. He still had his jacket on. He did not have any luggage.

Mr. President, noticing details like that is the very heart of good police work. When the motorist leaned over, the policeman saw the bulge of a concealed weapon and at that point arrested him.

Officer Hanger brought in the suspicious motorist. Subsequently, it turned out that the man he arrested for carrying a concealed weapon was one of the most wanted individuals in America. All in a day's work.

That, Mr. President, is really what police work is. It is not glamorous. In fact, many times it is downright laborious, boring. To get that one terrorist, it takes thousands of police chasing down thousands of leads. Most of the leads do not go anywhere, but they all have to be pursued so that ultimately the guilty can be captured. I am sure, Mr. President, in the days since this tragedy occurred, thousands and thousands of police officers thousands of thousands of different times across this country have analyzed what they were doing and tried to identify the composite picture and have done things that they do in their good police work, things that in most cases turn out not to lead anywhere, but they know that they have to do that.

Mr. President, the pursuit of the suspects in the Oklahoma City bombing proves the immense value of hard work and patience in American police work. It also proves the awesome importance of technology in the war against terrorism and other kinds of crime.

Technology and good police work have really been the key to making the progress that has been made thus far in solving the mystery of this horrible tragedy. Federal agents recovered a confidential vehicle identification number from a fragment of a truck found at the bombing scene. This number led the FBI to a Ryder truck rental office in Junction City, KS—and that is where the composite pictures of the suspects were made.

Mr. President, we need to do everything we can at the Federal level to promote the kind of cutting-edge Federal technology that makes this possible. I will be introducing in the near future a comprehensive Federal crime bill that would help hook up all of America's police departments into this Federal information data bank. It will help maintain a national DNA bank to allow the local law enforcement officers to identify and capture sex offenders and other violent criminals. It will be a data base, Mr. President, that deals not only with DNA, but also with fingerprints, also with ballistic comparisons, and also with information about individuals who have been convicted of serious offenses.

Mr. President, as we deal with the aftermath of the bombing in Oklahoma City, I think there are three important tasks ahead for the U.S. Senate.

First, the Senate does need to increase the availability of crime-fighting technology to make this available to every law-enforcement officer in every town and every community in the country.

Second, the Senate needs to take a very close look at how we deal with the entry into the United States of individuals who are affiliated with international terrorist groups. We must look, also, at what we should do when we determine aliens already in this country are members of such groups.

Third, the Senate needs to examine the issue of domestic terrorist groups to figure out the best way to infiltrate these extremist groups and then to keep tabs on their dangerous activities.

Mr. President, over the next few days I will be discussing my own legislation in greater detail. I think that the level of attention the Senate gives these issues in the days to come will be one factor, a major factor, lessening the chance of another tragedy of the kind that took place this past week.

Again, Mr. President, let me offer to the victims, the families of the victims, the loved ones, our deepest sympathy for this horrible and senseless tragedy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks to be recognized?

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized.

COMMON SENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. BREAUX. Mr. President and my colleagues, here we go again, back on the famous product liability reform bill. I think one of the things that Members do in an effort to try to get legislation passed, I would say sort of tongue in cheek, when they are uncertain about the merits, they label it "reform." We have had the Tax Reform Act, we have had the Health Reform Act, we have had the Product Liability Reform Act, and no matter whether it is real reform or not, if you call it reform long enough and loud enough and enough people hear it, then a lot of constituents will start writing and saying, "You have to be for that reform act that is pending in the Senate or pending in the House. I am not really sure what it does, but if it says that it is reform, it must be good and you had better vote for it if you ever want to come back and get reelected or speak with your constituents in any kind of civilized fashion." I say here we are again, because once again in this Congress, the Senate is going to be called upon to address what some have called a Product Liability Reform Act.

I raise the question at this time as to why we need to be doing this because, in fact, I think this is something that, over the many decades, years and years of our country's history, has been an area that has been reserved to the States in order for the various State legislators to look at these issues and make decisions based on what is appropriate and proper when it comes to dealing with the personal injuries of the people who reside in their respective States.

Now, there are some in this Congress who will say no, we are going to do it all from Washington, and we do not care how long the States have done it or how intense they have been in their efforts at laying out systems that make sense for the people of their respective States—no, we do not care about that. We are going to take it all here, here in Washington. We are going to do it all from Washington because we know best.

I suggest just this. People in some parts of our Government here in Washington, and some parties here, are saying when it comes to some subjects like product liability reform—again, the word reform is attached to everything you want to change; let us reform it—they make the point that States are so backwards and so inefficient and so ineffective in handling personal injury cases, they would say that we are going to bring it all to Washington, but that with welfare reform, the Federal Government is so ignorant and so slow and so messed up that when it comes to welfare reform, we are going to send that to the States.

They say we are going to block grant all the welfare programs and rules and regulations on welfare and send it to the various States—all 50 States. Let each State decide what is best for the people of that State when it comes to welfare programs and how to reform it because the States know best and the Federal Government is really too slow and too ignorant to make the right decision. But when it comes to product liability, the States are so slow and so dumb and do not know what to do we are going to take that jurisdiction away from them and bring that jurisdiction to Washington because Washington will do a much better job. The inconsistency of those positions in my opinion is irreconcilable.

I would suggest that in areas where the States have worked their will and where they have done a good job we should leave it alone. I would suggest that when it comes to product liability, the phrase "if it ain't broke don't fix it" applies. I would also suggest that those who say this is such a crisis of litigation that it threatens the very legal institutions by which we govern ourselves, look at the facts at what is happening out there. Is there an explosion of litigation? Ask anybody in this body who would be willing to answer this question of the amount of litigation that says we have to supercede what the States have done and bring it all here to Washington.

I think the facts are clearly just the opposite. In all State courts in 1992, all tort cases or cases that people sued because of personal injury in civil courts amounted to just 9 percent of the total civil cases filed. And product liability suits, of which we are talking about today, accounted for only 4 percent of all the tort filings in all of the civil courts, in all of the State courts, in the Nation. That amounted to .0036 percent of the total civil case load of all of the State courts in the United States of America—.0036 percent.

When we read those figures, one might ask the question. Why in the world does anybody think that there is a problem? Why does anybody think, if it is that small a number of lawsuits being filed that represent product liability suits, that it is such a mess that we would have to take it away from the States and we are going to do it in Washington, we are going to make it right in Washington because we in Washington know best what is best for the people of my State of Louisiana, or any other State in the Union, that we know so much more about how to solve this we are going to do it in Washington. People back in Louisiana say, "Senator, are not you saying at the same time that we do such a lousy job on handling personal injury product liability legislation in my State that you are going to take it to Washington but when you talk about welfare reform, Washington does such a lousy job you want all the States to handle it?" Why is it any different?

We are talking about laws that affect the health and safety and the future of the people of a prospective State. When it comes to those areas I am a strong States rights Senator. I believe the rights of the States should not be trampled on. The rights of the States to govern what happens within their territorial boundaries should not be superseded by the Federal Government without a legitimate and an overriding mandate as to why we should do it on the Federal level.

I would suggest that when only .0036 percent of all civil cases filed in State courts amount to cases filed dealing with product liability, that it is not a national problem, justifying jerking the rug out from under the States and say, no. Here in Washington we are going do it, and we are going to do it a lot better than you have been able to do it back home. I do not buy that.

I will say to my colleagues in the Senate that my own State of Louisiana has addressed these problems, and they have handled it in the State legislative bodies. Interestingly enough, some people say, "Well, this is a big battle between business and plaintiffs. It is a big battle between the people who get sued and the people who do the suing. And there are too many people doing the suing. So we have to pass legislation in Washington to protect those who are getting sued." That is not so where I come from because I asked the Congressional Research Service to compare the legislation that is pending in the Senate, and legislation passed the House as well with the laws that we already have on the books in Louisiana. Do you know what they found? Here is the concluding paragraph. This ought to knock somebody's socks off who is saying we should be doing what some have suggested.

Conclusion: H.R. 956, which I understand is the pending bill, the House passed product liability bill. H.R. 956 would be more favorable to the plaintiffs than is Louisiana law with respect to product seller liability.

I repeat that again. The bill before the Senate would be more favorable to plaintiffs than is Louisiana law with respect to product seller liability. This is from the Congressional Research Service dated March 17, 1995. Therefore, if businesses say we get sued too much, we know we need changes in the law and we want more protection, my goodness. The bill that we have pending before us today on the Federal level is more favorable to the plaintiffs than what Louisiana has already done to limit product liability suits and to make it more difficult to prove damages and to recover. Louisiana has already drafted legislation. It is on the books. It is the law of the land in my State.

Therefore, I argue not whether we should be benefiting plaintiffs or whether we should be benefiting those who make defective products. My argument is that we should not be taking this jurisdiction away from the States who have had to address these issues, for countless numbers of years. The States know the needs of people and they know the needs of the companies that produce products that operate in their respective States. The question is; and I will ask it until someone can give me a good answer. Why is it necessary to usurp the jurisdiction of the States and make the argument that some things the Federal Government knows best and we are going to handle it here in Washington?

When I was in law school they used to call it forum shopping. They used to say you pick the district where you want to file the suit depending on the type of judge you have, and you file it where you have the best judge for your particular cause. If you are a defendant or a plaintiff, you forum shop. I would suggest that the companies that are concerned about defective products that they may have produced, say in some States we get a good deal but I bet we can get a better deal if we bring it to Washington. So let us forum shop. Let us see if the U.S. Congress can take away all the jurisdiction from the States and bring it all to Washington because big brother in Washington knows better than the people of our respective States.

I just cannot get passed the point argued by some people. On welfare reform, the Federal Government is so dumb we are going to give it all to the States. But on product liability the States are so dumb we will give it to the Federal Government. That is forum shopping. Pick the issue and find where you are going to handle it, pick the best forum, the best results on a particular issue.

The point I am trying to make here today is the States have in fact addressed product liability. For my State, as the CRS has concluded, the Federal bill is better for plaintiffs than our State law. But I side with the States. I side with my legislatures who have looked over Louisiana and said this is what the people of my State want. This is what is best for our State. They passed it by majority vote. The laws have been signed into law by the Governor of our State, and it is the law of the land. For the life of me I cannot decide why that should be changed and have everything sent to Washington for a change.

In addition to that, I am concerned about the fairness of this legislation. I do think it is one-sided. I do think on the Federal bill we do not treat people who are injured with the same rights and the same standards as we do the people who have made defective products. That is not fair. If there is anything we ought to be following as our guideline on legislation that affects human health and safety, it is fairness. It is how people are treated, both who make the products that are defective and that cause injuries and how we treat people who are injured by those defective products. Nobody should have an advantage. We should speak of fairness. We should speak of a level playing field. Everybody should be treated equally.

But I will assure you that my reading of the legislation S. 565 does not provide any basic system of standard of fairness. Let me give you an example. The bill S. 565 provides a series of hurdles and limitations on the ability of people who are injured, that they have to cross over in order to be able to recover from manufacturers who make defective products. But it expressly exempts business from many of the same requirements that we put on individuals who are injured, many of them quite seriously by defective products. The standards, in other words, for the people who are injured and what they have to show and what they have to prove in order to get recovery from their bodily injury is different from the standards that this bill places on business, when they have injuries that are economic injuries caused by the same defective products.

I would suggest that is wrong; that is not fair; that is not balanced; that is not a level playing field. Let me give you an example. If company A, for instance, purchased a piece of equipment from company B, and that piece of equipment was defective and one day explodes, company A that bought it could sue company B that manufactured for the economic injury they suffered. They could sue for the loss of profits they would have made if that piece of equipment had not broken or exploded. They could sue the company that sold them that product for all of their lost profits caused by the disruption of that accident.

On the other hand, let us take the family of the poor worker who was operating that machinery which exploded in the same factory. When he or she brings their case to the courts of the land under this legislation, they must face limitations and hurdles in order for them to recover.

To make matters even worse, under the Senate Commerce Committee's version of the bill, if that machinery, for instance, had been in place for 20 years or more, the injured person in the family could not even bring litigation to recover any of their losses for their injuries while the business would not be restricted in any way.

Why is it all right for the business to be able to sue for lost economic profits because of a piece of defective equipment but the individual who may be injured physically by this same piece of defective equipment is somehow prohibited from bringing a case against the company merely because it had been in place for maybe 20 years?

What is fair about that? Why should they not both be prohibited from bringing the case or both allowed to bring a cause of action for defective equipment? How can you say this is fair?

I talked a little bit about punitive damages. It is really interesting; remember when I talked about Louisiana, that we have already addressed this? In Louisiana, there are no punitive damages, period—none—for product liability. You cannot get punitive damages for a product liability case in Louisiana. That is what the legislature said. That is the law of our land. This bill allows it. This bill says we can have punitive damages limited to $250,000 or three times economic losses of the person who is injured.

Now, I do not know why there is a huge rush to do this in the first place. My State has done it. I wish they had not done it. I disagree with it. But this bill says punitive damages—which are intended to say to a manufacturer, you have done wrong; do not do it again; you will be penalized—will be limited to $250,000 or three times the economic damages. That sounds like an awful lot if it is a mom and pop product manufacturer, but if it is an international business? Does it mean a lot to them, when they may make more than that in profits in an hour? Is it really a deterrent to say you are only going to be able to have punitive damages of $250,000 or three times economic losses? If I was a big international manufacturer and I saw that my punitive damages were going to be limited, why worry about it. That is just the cost of doing business. I am going to make the product, sell a lot of it and if somebody litigates this and takes 4 or 5 years to finally get a judgment against me, I will just pay the judgment and if the punitive damage is so low, why worry about it?

This is the point I wish to make here. I do not know why people think there is such a rush of litigation that provides for punitive damages that we need to change the law. The statistics I have show only 355 punitive damage awards in product suits occurred from 1965 to 1990. That is in the Nation. Only 355 cases between the years 1965 and 1990 ever awarded punitive damages, and half of these awards were reduced or overturned on appeal. And in three fourths of these cases the defendants took steps to improve the safety of their product. Of course, that is the point of having punitive damages. They say to a manufacturer of a product that they knew was defective or likely to be, we want you to make some changes; we want you to do things differently. The threat, even a small threat of punitive damages for detective products makes a great deal of sense and should not be changed.

This portion of the bill, quite frankly, discriminates against low and middle income people. I think it discriminates against women, infants and children by limiting the damages to three times the economic injury or $250,000.

I give you an example. The same type of lawsuit for a defective product against company A. The product causes injury to an insurance executive or a businessman who is making $1 million a year and doing very well in society. Now, compare that with the same injury from the same product to perhaps an ordinary housewife who is not employed except within the home, is not employed as a salaried person. If the injury causes the executive to miss 1 year of work and causes the housewife to miss 1 year of work, the executive would be able to receive $3 million in punitive damages—three times his economic loss. And, for the same conduct, the housewife would only receive a very small amount, $250,000, for the same type of injury, in the same case, with the same defective product. I do not think that is fair.

So I will conclude. We will have a lot of time to debate this over the period of time that is allotted for us to consider this legislation. But the two points I have tried to make today are quite simple. No. 1, the States are already doing this. And to all Members of Congress who have stood in the Chambers of the House and Senate over the years and said I am for States rights, the Federal Government should not interfere where it is not necessary, the Federal Government does not always know best—the people of the States know what is best as communicated through their State legislatures—I say that we should not be yanking the rug out from under the States. We should not be usurping the power of the States to handle personal injury legislation affecting the people of that State concerning products that injure them.

Point No. 2, I think, is equally simple and not difficult to understand. The legislation that is before the Senate at this time is simply not fair. It is simply a piece of legislation that discriminates against those who have and those who do not have. The goal of this legislation should not be for us to try to make it better for one category of Americans over another category of Americans; that the goal should be to create a system of balance, a level playing field, and a system of fairness for all of our citizens, whether they be businesses that make products or people who use those products. It should not be a guiding light for us to say we are going to do everything we can to help those who make the products but discriminate against those who use the products.

I think in the couple of cases that I have tried to cite this bill does not provide the fairness that we as Members of this body should be striving to accomplish through this legislation.

Mr. President, I will have more to say on this legislation as the debate continues but at this point I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, I have sought recognition to comment preliminarily on the pending legislation, and it is my view that some reform would be useful—illustratively, the alternative dispute resolution or perhaps the collateral source rule which would limit a recovery where the plaintiff has already been compensated by insurance proceeds.

It is true, as to the collateral source rule, that the plaintiffs contend they should not be foreclosed because they have paid for the insurance, but there are valid considerations, I think, in such a situation where having been compensated there should not be a double recovery.

In looking at this legislation, it is my view that we must exercise care in what we do here and that we must proceed with a scalpel and not a meat ax, and that, as the Founding Fathers declared it, the Senate should function as the saucer to cool the tea which has come from the House of Representatives.

As a practicing lawyer, I represented both plaintiffs and defendants in personal injury cases, represented both sides in security act cases. In my early days in the practice of the law with the Philadelphia firm Barnes, Dechert, Crassmeier and Rhoads, which later became Dechert, Price and Rhoads, I represented the Pennsylvania Railroad in the defense of personal injury cases. I represented a plaintiff in a widely noted product liability case.

In the course of that activity in the practice of law and having been on the Judiciary Committee for the past 14 years-plus, it is my view that the Congress should proceed with caution in altering the decisions of the courts which have been built up over many years, many decades, really many centuries.

As was pointed out in the treatise on the "American Law of Torts" by Stewart M. Speiser, Charles F. Krause, and Alfred W. Gans, tort law has been used to control behavior for over 2,000 years. As Prosser and Keeton on the law of torts point out, the tort rules, including product liability, are evolutionary accretions, and the decisions on which they are based have been handed down by the courts in a very methodical way with extraordinary analysis over long periods of time.

The seminal case was the decision in England in Winterbottom versus Wright, where the broad language of Lord Amiger laid down the first rule that the original seller of goods was not liable for damages caused by their defects to anyone except his immediate buyer or one in privity with him. That rule stood for a very long period of time until the celebrated case of McPherson versus Buick Motor Co., where Judge Cardozo of the New York Court of Appeals, the highest appellate court in New York, later Justice Cardozo, ruled that a manufacturer was liable for negligence to the buyer of an automobile, a rule that now seems strange that it had to be a change in the law to say that the manufacturer would be liable to the person who ultimately bought the automobile as opposed to limiting the claim of the buyer of the automobile to a company which sold him the car and then leaving it up to that company to go back to the manufacturer.

Early in my own legal career, I had an occasion to litigate in some depth a product liability case captioned Thompson versus Reidman and General Motors. That case achieved some note, having been reviewed in law review articles because it established a new rule which enabled a passenger in an automobile to sue the seller of the automobile, Reidman Chevrolet Co., and also the manufacturer, General Motors.

It seems that such a decision back in 1961, when it was cited as one of the important cases in the law of the development of product liability in the law of torts by Prosser and Keeton that by the hindsight of the intervening years seems strange that there would be any question about the standing of a passenger in an automobile to sue the seller of the automobile, Reidman Motor Co., and the manufacturer. But it was. And it is an indication of the kind of accretion, or what I call encrustation, of the common law that I studied in great depth in the course of bringing that litigation as a plaintiff's lawyer. When I represented the passenger, a man named Pete J. Thompson, against the driver of the automobile, William Gray, who was a sergeant in the military, and did not learn until some 2 years and 9 months after the incident that the cause was a stuck accelerator pedal and then found that the statute of limitations, 2 years in the State of Pennsylvania, had expired. Then I took a look at the Uniform Commercial Code, which had a 4-year statute of limitations, and sought to sue on behalf of the passenger against Reidman, which sold the car, and General Motors, the manufacturer. I faced a motion to dismiss. And the prevailing law at that time was that a passenger could not collect because the passenger was not in privity. And that is the legal term where the individual did not have a contract with the seller of the automobile, Reidman Motor Co., as did the buyer, William Gray. And there was no privity that the passenger had with General Motors.

I argued that the court ought to create an exception to the privity rule because it was an analogy to the guest in a household. The Uniform Commercial Code had established a standing of a guest in a household to sue the seller of a product, like a toaster or an oven, or the manufacture of the product. The U.S. District Court for the Eastern District of Pennsylvania decided in my favor.

As I say, the case was noted in some of the law reviews. And then, a plaintiff in Allegheny County noted it and filed a lawsuit out of privity and the case went to the State supreme court which decided that privity was necessary as a matter of Pennsylvania law. The rule is that on substantive decisions, under Erie versus Tompkins, it is the State law which governs. Then General Motors and Reidman Chevrolet Motor Co. came back to the eastern district court and moved to dismiss and the judge reversed himself and my case was thrown out of court, as the expression goes.

In the course of that litigation, it was quite an extensive research job that I undertook to give me some substantial appreciation of how we come to these rules of law.

While not directly relevant from the point of view of product liability, I then found an exception to the statute of limitations under the Soldiers and Sailors Civil Relief Act of 1940, even though this was many years later, and was able to press the claim in tort and ultimately took the case to trial and after several days of trial received a settlement in the case.

But I refer to the decision at some length because of the insights which I gained from that decision. And as I sit through the markups in the various committees—and the markup, for those who may be listening on C-SPAN and are not familiar with precisely what we do, is where we take a bill in a committee and decide how we ought to change the law or what law we ought to make as a matter of public policy. These markups, where we write the legislation which later comes to the floor, follow hearings where very frequently, although there are maybe 18 members of the committee, as, for example, on the Judiciary Committee, there are only one or two present. It has been my observation that our markups do not necessarily reflect the epitome of reason and experience as we do the best we can.

So that, by contrast, to the way the encrustations occurred in the judicial decisions since 1842, when these issues were considered, through the 1916 case in Buick versus McPherson and the 1961 decision that I personally participated in in Thompson versus Reidman and General Motors, I approach the field of legislative changes in tort liability with some substantial concern.

The issues which we are considering were considered, to a substantial extent, in a law review article which I think is worthy of some reference by Prof. Gary T. Schwartz from the UCLA law school, as published in the Georgia Law Review in the spring of 1992. And the point that Professor Schwartz makes, which I think is worth noting here, is the way that the courts have responded in a rational, case-by-case, stare decisis way to important public policy considerations.

Professor Schwartz points out at page 697 of the Georgia Law Review, volume 26, as follows:

> Consider the New Jersey Supreme Court which had voted unanimously in favor of hindsight liability in failure to warn cases in Chadha and then voted again unanimously against hindsight liability in Feldman 2 years later. In explaining the turnabout in Feldman, the court acknowledged the heavy criticism that the Chadha case had provoked in the law reviews.

Then Professor Schwartz goes on to point to other changes when he notes the evolution of the views of the distinguished supreme court justice of California's highest court, Justice Stanley Mosk. He says:

> As a member of the California court in the 1960's and 1970's, Justice Mosk was deeply involved in the fashioning of the strict products liability doctrine. In 1978, the court majority, in a somewhat conservative vein, ruled the principles of comparative negligence can reduce the plaintiff's recovery in a strict products liability action. Justice Mosk's dissenting opinion began with the complaint that "this will be remembered as a dark day when this court, which heroically took the lead in originating the doctrine of products liability, beat a hasty retreat almost to square one. The pure concept of products liability so pridefully fashioned and nurtured by this court is reduced to a shambles.

Professor Schwartz continues:

> Ten years later, however, Justice Mosk authored the California court's opinion in Brown versus Superior Court ruling that negligence principles, rather than hindsight strict liability, apply in a prescription drug case. Three years after Brown, however, Justice Mosk concurred in the court's ruling in Anderson versus Owens-Corning Fiberglas Corp. that a hindsight analysis should be rejected in all cases involving a failure to warn even when the product is asbestos. Indeed, Justice Mosk's concurring opinion suggests that the entire doctrine of failure to warn in products liability should probably be reclassified under the heading of negligence. In this concurrence, Justice Mosk quotes his own pure concept of products liability words from the Daily and then goes on, in essence, to eat his words.

I do not expect the casual listener to be able to follow the details of this kind of commentary on this very complex, opaque, and difficult-to-understand products liability matter. But for those who are conversant in the field, it shows the evolution of a very learned and very thoughtful supreme court justice as he works through the rules.

I would suggest that when the Congress of the United States seeks to make changes on this very carefully calibrated law, which is a matter of accretion, as Professors Prosser and Keeton articulated, or incrustation, as others have, that there ought to be very great care exercised by the Congress in the procedures we undertake. Especially in the context where we are functioning now in response to a mandate from last November, that we ought to in this body exercise the Senate's traditional prerogative of the saucer which cools the tea which comes from the House of Representatives.

Without going on at much greater length than what Professor Schwartz had to say, I will quote his comments at page 702 of the Georgia Law Review to this effect, citing how there are modifications in the judicial decisions:

> The last decade has witnessed a number of judicial rulings. Thus, New Jersey has reversed itself on manufacturer's liability on unknowable hazards, Illinois has engaged in an interesting effort to abrogate the traditional tort of attorneys' malpractice, the fifth circuit has essentially overruled its presumption of causation for inherent risk-warning cases, Tennessee has eliminated joint and several liability, and Maryland has overturned precedents in reducing the availability of punitive damages. Still, for the most part in recent years, we have seen the marking by courts' unwillingness to extend precedent and by their resolution of open legal questions in a liability-restraining way.

When you take a look at some of the provisions of the current legislation where we exonerate the seller from responsibility but leave the purchaser to the manufacturer, how problemsome may that be in cases where the manufacturer may turn out to be insolvent. That determination may not be made until long after the statute of limitations has expired as to the seller or provisions under the workmen's compensation sections where the employer may be entitled to greater compensation than he has actually paid out.

It may be that useful attention may be directed to the question of service or process of foreign manufacturers who come to the United States to sell, but inordinately complex rules limit the ability of buyers in the United States to bring in those foreign sellers or changes in the rule where the issue arises as to the collection from foreign sellers.

The issue of joint and several liability is a very complex one, and it may be that there is some intermediate ground which will not subject someone liable for a tiny fraction, a percent or two, which is decided for the entire award where all others are judgment-proof. That is something which I think has to be very carefully considered as we work through the amendments on the pending legislation.

Also, the issue of damages as to what will occur where you have a case like the one involving the tragic death of our late colleague Senator John Heinz where there were tragic deaths and injury on the ground when the plane in which Senator Heinz was flying had a landing gear which apparently was not going down and a helicopter from Sun Oil came to try to help out. There was a collision, and the plane fell to the ground in a school yard in suburban Philadelphia—tragic deaths, tragic burning injuries which would not have been compensated as this bill would limit joint liability, a liability which has been eliminated in some States but something which I think we have to very, very carefully consider.

There are a series of cases which have illustrated the very dastardly conduct—searching for a right word not to be overly condemnatory—where you have the Ford Pinto case where there would be a classic case for the imposition of punitive damages if ever one existed.

It was brought to light in litigation where the defendant had the matter brought to light in a letter which was sent by Ford's chief safety officer to the National Highway Traffic Safety Administration. It was noted in that case that Ford had sought to avoid liability or responsibility to make changes in its fuel system which was located too close to the rear bumper and lacked critical safeguards where minor collisions caused the car to burst into flames upon impact.

This letter, which contained a remarkable cost analysis saying that there ought not to be a change in the fuel system because the savings from 180 burn deaths and 180 serious burn injuries and 2,100 burn vehicles would cost $49.5 million, evaluating the deaths at $200,000 per death and the injuries at $67,000 per injury, and the vehicles at $700 per vehicle, contrasted with the cost of what the National

Highway Traffic Safety Administration wanted done to change 11 million cars and a million and a half light trucks at $11 million per car and trucks which would cost $137 million.

When this effort was brought to light, it showed in as clear a way as you can conceive the necessity for a liability which would exceed the kind which is talked about here under punitive damages. Or if you deal with the Dalkon shield IUD case or the asbestos cases, where in the face of known damage the manufacturing was done again and again and again; or in the Playtex case of tampons causing toxic shock syndrome, or the flammable pajamas case, or the Dalkon shield. These instances have to be very carefully considered when this body is undertaking a review of the punitive damage issue.

There are several relatively recent decisions by the Supreme Court of the United States in this field, including one captioned TXO Production Corp. versus Alliance Resources Corp., decided by the Supreme Court in 1993, and another case is captioned Pacific Mutual Life Insurance Co. versus Haislip. Both of these decisions have opinions written by Justice Scalia, who is noted for his conservatism. While these cases involve the constitutional issues regarding punitive damages, they have some bearing on a public policy analysis which, as we know, when the Supreme Court of the United States takes up constitutional issues, they very frequently move over into being a super legislature. Some of those matters, I think, are worthy of our analysis.

So, Mr. President, I make these preliminary observations as we move to open debate on this product liability legislation, saying as I did at the outset that some reform would be appropriate, but urging my colleagues to subject this legislation to very, very careful analysis, because we are looking at tort law developed over some 2,000 years to influence human conduct and a stream of product liability cases originating in Great Britain in 1842, subject to very, very intensive litigation in the United States; product liability, which is not made by the plaintiff's bar or the defense bar but made by the courts of the United States, and issues on punitive damages which have reached the Supreme Court of the United States, which have been upheld in the constitutional context by justices like Justice Scalia.

I think the debate will prove useful. There are many issues to be considered. And as has been said earlier, I look forward to the debate and to an opportunity to participate extensively as we move through consideration of this important legislation.

Mr. President, I thank the Chair and yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I, too, wish to address Senate bill 565, the Gorton-Rockefeller Product Liability Fairness Act of 1995. As the Senator from Pennsylvania has just mentioned, today marks the beginning of a historic debate in the Senate on the need for civil justice reform, because more than ever in recent years there appears to be an opportunity for us to make some real changes in law. For the first time in more than two decades, the House of Representatives has debated and passed comprehensive legal reform legislation, including product liability reform, as part of its Contract With America.

According to a Luntz Research Co. survey, "83 percent of Americans continue to believe that our liability lawsuit system has major problems and needs serious improvements."

Now the Senate, I suggest, must do its part to make meaningful legal reform a reality to respond to this concern on the part of the American people.

I want to begin by commending my colleagues from Washington and West Virginia for their 15-year effort to bring needed reform to the Nation's product liability laws.

I also agreed with the comments of the Senator from Pennsylvania who noted that it is important for us to be careful in the process of changing this law, because our States have different versions of product liability laws and because the law has built up expectations over the years. I also note, however, that the roughly 2,000-year development of this law, as the Senator from Pennsylvania mentioned, has changed rather dramatically just in the time since I attended law school, and that was not that long ago, Mr. President. In fact, the law was quite stable until about that time.

So I think that because of the changes in the law and the dramatic impact that those changes have had on our economy and on our society, it is time to reexamine what might be done and that it is important for the Congress to enact reasonable reforms to protect our Nation's manufacturing base from unreasonable litigation.

Historically, of course, America's strength has been in manufacturing, where much of the wealth of our Nation has been created. Although product liability law is but a small area of tort law generally, it is also a critical area in which America is losing its competitive edge. I noted, Mr. President, that this law has changed dramatically since I was in law school. The year was 1964 when I began law school. Some important decisions came down, starting with decisions from the State of California, which created a new concept called "liability without fault." It is a concept that some Americans might have difficulty in understanding. I myself still have difficulty understanding why someone who is not at fault can be held liable for literally millions of dollars in damages. That is what the doctrine is called, liability without fault.

Why is the doctrine called liability without fault? Because a plaintiff who is injured has the right now to bring an action against a manufacturer for a defective product, even though it is impossible to prove that there was any negligence in the creation of that defect. In other words, Mr. President, a manufacturer cannot have exerted every bit of care possible, has been as careful as one could be in developing the plans and hiring the people to produce the product, and they could have been as careful as possible; yet, notwithstanding all of the care exercised in the creation of the product, as happens, we all know it is part of life, a mistake is made, a defect is created and someone is injured as a result. Because of that injury, and only because there was an injury, in this one limited area of our law the manufacturer can be held liable for an unlimited amount of dollar damage because of the defect, even though there was no negligence.

Mr. President, I said Americans might find this difficult to understand because of the historic notion in our tort law that you can recover against someone who is negligent, who was not careful, as a result of which you were injured and sustained damage. That has been the law for 2,000 years, until 20 years ago, or 25 years ago, when the notion began to be accepted that the status of the victim was the most important thing and that it did not really matter what the consequences were to the manufacture of a product or to our society as a result of holding manufacturers of products to this standard of liability without fault.

In other words, it did not matter with respect to the financial status of a business; it did not matter whether or not it puts the United States at a great competitive disadvantage; it does not matter that all due care was exercised. The only thing that mattered was that someone who was hurt had to be able to recover against someone.

It is so bad, Mr. President, that persons do not even have to recover just against the manufacturer of the product. It is enough to find someone in the case persons can sue and recover from.

So we identify the manufacturer of the product, we identify the wholesaler and we identify the retailer, just to make it a simple case, although there are more complex cases. And we then find that the manufacturer has gone out of business or does not have enough insurance to cover the loss. The wholesaler, too, has gone out of business or does not have adequate insurance.

So despite the fact that the seller had nothing to do with this except that he unwrapped the box, put it on the shelf, and sold it to the consumer, who was then injured because of the defect, despite that fact, the seller can also be held responsible.

In a case where we get a judgment against all three—the manufacturer, the wholesaler, and the retailer—there is what is called joint and several liability. They are each liable for all of the dollar damage, irrespective of the relative degree of their involvement. None of them, remember, were negligent, but one of them produced a product which turned out to have a defect in it that caused the damage. All of them can be held liable. The notion has been accepted that all of them can be liable for the entire amount, so that the retailer in this case, if that is the one that has the deepest pockets, as they say, the one that can afford to pay, ends up paying the bill.

A lot of folks think that is wrong. I agree. That is why we have joint and several liability reform. But it does not go nearly far enough in this bill, as I will get to in a moment.

The point of this little discourse in law is simply to note the fact that some things have happened to our law over the years that have, in my view, not been based on common sense, not been based upon sound principles of law, but rather have been based upon the overriding notion that no matter what, someone who is hurt must recover. Even if he cannot find anybody that did anything wrong, and even if the party you recover against did not do anything wrong, if persons can find somebody that has deep enough pockets and they have something to do with the incident, then nail them.

That has resulted in a lot of people in our country deciding not to get into certain forms of business. Last year, fortunately, the Congress amended the law very slightly with respect to the manufacturer of airplanes because nobody was building airplanes in this country anymore. I am talking not about the big commercial jets, but the planes that a person would fly on the weekend, for example, or a small plane for business purposes.

Companies have stopped making things and people have stopped selling things because of this potential liability. That is why it is important to reform the law of product liability and why this legislation is so important.

I suggest, Mr. President, that we must ultimately go beyond product liability to comprehensively reform the entire civil justice system, and that this bill will be one of the ways in which we can do that.

In effect, we must repeal the regressive tort tax, as someone called it, that depletes our economy, raises prices, destroys jobs, stifles innovation, and reduces exports, making America less competitive in the world. This tort tax creates a capricious legal lottery that stimulates the filing of lawsuits.

One result, a very important result, is that it causes doctors to add billions to our national medical care costs each year because they must practice defensive medicine. They must order unnecessary tests or perform unnecessary procedures simply to cover the possibility that someone could claim that that last procedure or test was necessary to prevent some kind of harm to a patient; in other words, to do defensive medicine rather than the medicine that makes the most sense.

In Arizona, my own State, Mr. President, medical malpractice premiums have increased by nearly 200 percent just in the last 14 years. That is obviously reflective of the cost of the medical care which we provide. It is one of the areas that requires specific attention as we reform health care in this country today.

Attorney's fees and transaction costs are increasingly a large part of litigation expenses; in fact, approaching 50 percent. I think people would be interested to note, those who argue that we would be denying victims the right to recover, that, in fact, half of the money collected or nearly half of it goes to the lawyers—not to the victims.

The U.S. Department of Commerce has estimated that only 40 cents of each dollar expended in product liability suits ultimately reaches the victims. A Rand Corp. study showed that 50 cents of each liability dollar does not go to victims but to attorney's fees and other transaction costs.

Toward the goal of national legal reform, S. 565 represents a small but critical first step. This bill and the House bill, H.R. 956, contain many similar provisions.

They are, very quickly, a product seller provision that extends coverage of the bill to rented and leased products as well; a drug and alcohol defense provision does not go far enough; a provision creating incentive for biomaterial suppliers to make available raw material for use in medical implant devices sponsored by my colleague from Arizona, JOHN MCCAIN, and a very important provision; and finally, a provision reducing judgment amounts where a product has been misused or altered.

Beyond the provisions, the House bill is significantly broader in scope, and I support most of its additional provisions. It is my understanding this body will consider more comprehensive legal reform legislation later this year: Senator HATCH's Civil Justice Reform Act of 1995, and Senator MCCONNELL's Lawsuit Reform Act of 1995, and I will support those efforts.

I will plan to offer and support amendments to S. 565 that would broaden the legislative scope of this bill, more consistent with the House product. For example, I support expanding the scope of Senate bill 565, punitive damage reform provisions of three times a claimant's economic loss or $250,000, whichever is greater, now applicable only to product liability actions, to all civil actions.

It is important in the medical malpractice arena, in particular, where we very seldom have a product that has created a problem, to limit the liability of the physician or hospital or other health care provider in order to contain the cost of health care.

Second, I would support expanding the scope of S. 565, joint and several liability reform with respect to noneconomic damages for product liability actions to all civil actions, which I spoke to a moment ago. I will be offering an amendment to that effect.

Third, expanding Senate bill 565's $250,000 limitation on noneconomic damages in product liability actions to medical malpractice actions, as well.

I will also support the amendment of my colleague from Michigan regarding attorney disclosure requirements which would require that attorneys appearing in Federal court fully disclose at the time of retention all of the clients options, including a clear statement of the terms of compensation, and to provide an itemized accounting at the termination of representation.

I will be introducing an amendment that would preclude punitive damages from being awarded if the health care producer of a medical device or drug successfully completes the FDA approval process, unless there is a situation of fraud involved. I also believe that there may be three other amendments necessary to this bill in order to preclude it from, I would say, Mr. President, having fatal flaws.

There is one provision which relates to alternative dispute resolution where the parties seek to resolve their dispute outside of the tort lawsuit, and try to shorten the time and reduce the expenses. There is a penalty involved for the defendant in one of those situations. I believe that those provisions should be fair, equal to both the plaintiffs and the defendant, and that if there is any penalty attached for not agreeing to participate in an alternative dispute resolution mechanism, that that penalty should be provided both equally to the plaintiffs and the defendant, rather than only being a penalty for defendants.

Second, there is a good provision that says, where a plaintiff has been impaired by drug or alcohol use and is therefore more than 50 percent culpable or responsible—in some States it is called contributory negligence, where plaintiff himself or herself is at least half responsible for the injuries—there could not be recovery. It seems to me that the principle is sound but the limitation is too restrictive. Whether it is because of drug or alcohol use or because of lack of care or concern or negligence, if plaintiff is 50 percent responsible then either there should be comparative negligence or contributory negligence should preclude a recovery. It should not just be limited in that one situation. In fact, I can think of far more egregious actions on the part of the plaintiff than simply being drunk or under the influence of alcohol.

Third, there is a provision that I spoke to earlier that says that, in a product liability case, the seller should not have to pay for the manufacturer's liability. It seems to me that should apply in any kind of situation. In no case should the seller be required to pay for the manufacturer's liability simply because you cannot find the manufacturer or the manufacturer does not have insurance to pay. If the seller was not responsible in any way, then the seller should not have to pay the damages.

As I said, notwithstanding these areas in which I believe S. 565 could be broadened, I think it is important we not allow the perfect to be the enemy of the good, and therefore we should support whatever reforms we can accomplish. In the last 5 years cloture motions have effectively barred votes on the merits of bills similar to this that were supported by a majority of the Senate. We should not allow this to happen again.

So I would like to close by addressing one of the most frequently cited and most unpersuasive arguments employed by the opponents of the national legal reform, only one, but I think it is important to establish this right up front because it has the superficial sense of States rights about it and suggests that those of us who support this legislation do not trust the States.

As someone who is a very strong States' rights supporter, who is very interested in allowing local decision-making, I want to make very clear our basis for supporting this legislation. This legislation would not prohibit a State from enacting more restrictive provisions so we are not saying the Federal Government should take over this area of law to the exclusion of the States at all. We are simply establishing a standard. If the States wish to be more restrictive they are entitled to do so.

It is not appropriate to argue it would be an unconstitutional preemption of State authority if we were to act in this fashion. The commerce clause clearly grants the United States the authority to act. No individual State can solve the problems created by abusive litigation of the kind we have been discussing here and that is particularly true with product liability where a product may be manufactured in one State, sold in another State, and cause injury in a third State. In fact, Government figures establish that on average over 70 percent of the goods manufactured in one State are shipped out of State for sale and use. So it is clear that a national solution is required and justified by the fundamental interstate character of produce commerce.

The threat of disproportionate unpredictable punitive damages awards exerts an impact far beyond the borders of individual States, and this threat influences investment strategies, it dampens job creation and prevents new products from reaching the marketplace. In an increasingly integrated national and international economy, the confusing inconsistent patchwork of State liability awards has created a major obstacle to America's economic strength. And I think this is precisely the kind of problem the Framers gave Congress the power to address through the commerce clause of the U.S. Constitution. The Framers clearly realized the National Government needed the power to prevent the chaos that would result if every State could regulate interstate commerce. That is one of the reasons, as a matter of fact, that the Articles of Confederation were required to be amended.

Opponents of legal reform profess concern about the preemption of State law and interference with States rights, but I note that many of these same interests are enthusiastic supporters of intrusive Federal regulations imposed on the States by OSHA, by the FDA, by the EPA, and other Federal regulators. In truth, States rights is not what is being defended here but rather the status quo or else.

Why is the multimillion-dollar litigation industry the only segment of the economy that opponents of legal reform believe is beyond the reach of Federal law? Legal reform will not cause the creation of a single new Federal program or the expenditure of a single new appropriation. Legal reform will not impose new taxes or new regulations on our citizens. Legal reform will simply create clear, consistent legal standards covering civil actions brought in State and Federal court. It will enhance the essential principle of due process and, as the U.S. Supreme Court has said, due process, criminal and civil, is fundamental to our concept of ordered liberty.

So, Mr. President, I hope we keep these thoughts in mind as we debate this important, and as I said at the beginning, historic legislation, and that in the end we will have found the wisdom and courage to make these reforms so we can pass them on to the President for his signature and begin the process of restoring more sensibility, more common sense, more fairness into the U.S. tort system.

I yield the floor, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. KYL. Mr. President, I have several announcements and requests for unanimous consent. I would note all of these have been cleared with the minority and therefore I wish to make them at this time.

First, Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of January 4, 1995, the Secretary of the Senate on April 7, 1995, during the adjournment of the Senate received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 889. An act making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes;

S. 178. A bill to amend the Commodity Exchange Act to extend the authorization for the Commodity Futures Trading Commission, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 244. An act to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

The enrolled bills were signed on April 7, 1995 by the President pro tempore (Mr. THURMOND).

Under the authority of the order of January 4, 1995, the Secretary of the Senate on April 12, 1995, during the adjournment of the Senate received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 1345. An act to eliminate budget deficits and management inefficiencies in the government of the District of Columbia through the establishment of the District of Columbia Financial Responsibility and Management Assistance Authority, and for other purposes.

The enrolled bills were signed on April 12, 1995 by the President pro tempore (Mr. THURMOND).

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to

the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and two treaties which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 483. An act to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1380. An act to provide a moratorium on certain class action lawsuits relating to the Truth in Lending Act.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of April 6, 1995, the following reports of committees were submitted on April 18, 1995:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 719: A bill to provide for the conservation, management, and administration of certain parks, forests, and other areas, and for other purposes (Rept. No. 104–49).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 694: A bill entitled the "Minor Boundary Adjustments and Miscellaneous Park Amendments Act of 1995" (Rept. No. 104–50).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 268: A bill to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes (Rept. No. 104–51).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 534: A bill to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes (Rept. No. 104–52).

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 441: A bill to reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes (Rept. No. 104–53).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 84: A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Bagger*, and for other purposes (Rept. No. 104–54).

S. 172: A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *L.R. Beattie* (Rept. No. 104–55).

S. 212: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Shamrock V* (Rept. No. 104–56).

S. 213: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Endeavour* (Rept. No. 104–57).

S. 278: A bill to authorize a certificate of documentation for the vessel *Serenity* (Rept. No. 104–58).

S. 279: A bill to authorize a certificate of documentation for the vessel *Why Knot* (Rept. No. 104–59).

S. 475: A bill to authorize a certificate of documentation for the vessel *Lady Hawk* (Rept. No. 104–60).

S. 480: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Gleam* (Rept. No. 104–61).

S. 482: A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Emerald Ayes* (Rept. No. 104–62).

S. 492: A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Intrepid* (Rept. No. 104–63).

S. 493: A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Consortium* (Rept. No. 104–64).

S. 527: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Empress* (Rept. No. 104–65).

S. 528: A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for three vessels (Rept. No. 104–66).

S. 535: A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsement for employment in coastwise trade for each of 2 vessels named *Gallant Lady*, subject to certain conditions, and for other purposes (Rept. No. 104–67).

S. 561: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Isabelle*, and for other purposes (Rept. No. 104–68).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 565: A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes (Rept. No. 104–69).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BROWN:

S. 720. A bill to amend rule 11 of the Federal Rules of Civil Procedure, relating to representations in court and sanctions for violating such rule, and for other purposes; to the Committee on the Judiciary.

By Ms. SNOWE (for herself and Mr. COHEN):

S. 721. A bill to impose a moratorium on sanctions under the Clean Air Act with respect to marginal and moderate ozone nonattainment areas, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NICKLES (for himself, Mr. INHOFE, Mr. DOLE, Mr. DASCHLE, Mr. HATCH, Mr. HELMS, Mr. BROWN, Mr. SMITH, Mrs. FEINSTEIN, Mr. DODD, Mr. BYRD, Mr. CONRAD, Mr. FORD, Mr. KOHL, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. ROBB, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BENNETT, Mr. BOND, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DOMENICI, Mr. FAIRCLOTH, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mrs. HUTCHISON, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KYL, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. McCAIN, Mr. McCONNELL, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PRESSLER, Mr. ROTH, Mr. SANTORUM, Mr. SHELBY, Mr. SIMPSON, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, and Mr. WARNER):

S. Res. 110. A resolution expressing the sense of the Senate condemning the bombing in Oklahoma City; which was considered.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROWN:

S. 720. A bill to amend rule 11 of the Federal Rules of Civil Procedure, relating to representations in court and sanctions for violating such rule, and for other purposes; to the Committee on the Judiciary.

LEGISLATION TO DETER FRIVOLOUS LITIGATION

• Mr. BROWN. Mr. President, the United States has become the most litigious society in history. The filing of frivolous or baseless claims has begun to jeopardize our system of redress for legitimate claims. Neither the parties nor the courts can or should shoulder the costs of the frivolous, baseless, or harassing suits.

Last Congress, changes were proposed to rule 11. By law, unless Congress acted to prevent or modify those changes, they would automatically become law. This body refused to consider the changes to rule 11. Protection against frivolous lawsuits included under rule 11 were repealed by

Congress's refusal to act. As a consequence, rule 11 no longer provides clear deterrance to frivolous lawsuits. The changes of last year in effect protect the abuser, not the abused.

If this Congress wishes to address civil justice reform, the first place to start is with rule 11 and frivolous litigation.

I have introduced a bill that would breath life back into rule 11 and once again deter those who abuse the court system.

Last Congress, rule 11 was changed in significant ways. Under the new, ineffective rule 11, if a court finds the rule was violated, sanctions are no longer mandatory—they are now permissive. In other words, if a court finds a party was using the court system to harass another party or was filing papers or charges which were untrue, the court does not have to sanction the guilty party.

Under the new, ineffective rule 11, a party is given a 21-day safe harbor in which the party can file harassing motions and then withdraw them after they are exposed without fear of sanction.

Under the new, ineffective rule 11, a party may allege facts which the party does not know to be true.

The new rule 11 says: Sue first and ask questions later. The bill we are introducing today puts teeth back in rule 11 so that lawyers and parties will be deterred from filing baseless or harassing lawsuits.

Why the rule was changed to begin with is not clear. According to a Federal Judiciary Center study, 80 percent of district judges believe rule 11 has an overall positive effect and should have been retained in the then-present form, 95 percent believed that the rule had not impeded development of the law, and 75 percent said that benefits justify the expenditure of judicial time.

Rule 11 can be the most effective tool Congress has to control litigation abuses and frivolous lawsuits. At a time when the Federal courts are overburdened with filings, we should not accommodate baseless claims.

The bill makes four important, restorative changes to rule 11. First, it requires that if rule 11 is violated, sanctions are mandatory. Second, it requires that there be some factual or evidentiary support for factual contentions. Third, it returns the preference for awarding attorneys' fees to the innocent party. Fourth, it clarifies that attorneys' fees can be awarded against attorneys.

We have limited resources for the Federal courts. These four restorative changes aim to make sure the resources are properly allocated to resolve legitimate disputes. Swift action against frivolous lawsuits saves time and money, and promotes public respect for the integrity of the courts.•

By Ms. SNOWE (for herself and Mr. COHEN):

S. 721. A bill to impose a moratorium on sanctions under the Clean Air Act with respect to marginal and moderate ozone nonattainment areas, and for other purposes; to the Committee on Environment and Public Works.

LEGISLATION IMPOSING A 1-YEAR MORATORIUM UNDER THE CLEAN AIR ACT

Ms. SNOWE. Mr. President, today I am introducing legislation that will impose a 1-year moratorium on sanctions under the Clean Air Act for States that have marginal or moderate nonattainment areas within their borders.

All across the country, from Maine to Texas, citizens are voicing their dissatisfaction with some of the requirements of the Clean Air Act Amendments of 1990. In particular, they are objecting to the imposition of enhanced vehicle inspection and maintenance programs. Many governors, frustrated over the difficulty of implementing this and other measures mandated by the act, have joined in this chorus of dissatisfaction and discontent, and have petitioned the Environmental Protection Agency for flexibility and assistance in meeting the act's requirement. Neither the people nor the Governors question the act's goals—clean and healthy air for everyone. But they do question the equity and reasonableness of the way that the act has been implemented to date.

In response to the widespread criticisms, the Administrator of EPA, Carol Browner, announced late last year that the Agency would provide the States with the greatest possible flexibility in implementing the act. She singled the enhanced inspection and maintenance program out for special mention, stating that EPA would review alternatives to a centralized enhanced I&M program, which had been required initially.

Although the EPA deserves credit for making a commitment to greater flexibility, much uncertainty and trepidation regarding the act's requirements remains. Maine provides a stark example of the serious problems that still exist and that must be addressed.

My home State led the Nation in implementing the enhanced inspection and maintenance program. Maine began its program 6 months ahead of time, on July 1, 1994, to avoid situations in which motorists might face long lines or technical problems at testing facilities in the middle of winter. The program was beset with problems almost before it began, with motorists complaining about long lines, inconsistent test results, and ill-informed attendants. In combination with serious concerns about potential repair costs, and legitimate questions about the need for such extensive tests in a small, sparsely populated State, these problems created a swell of popular opposition to the program.

By September, the State legislature and the Governor decided to suspend implementation of the program until March 1, 1995. People in other States facing the enhanced I&M requirements, hearing about the problems with Maine's program, and realizing what the enhanced program would require of them, began to express concerns as well. Their elected officials at the State and Federal levels relayed there concerns to the EPA. In response to the many criticisms coming from States across the country, EPA made its December announcement on alternatives and flexibility.

Unfortunately, since that time, little has been settled. There is great confusion in Maine, and probably other States, about exactly what will be required of them, especially with regard to ozone nonattainment. Not only is it unclear what kind of emissions testing program will be acceptable, but questions persist about whether states subject to significant transported polluted air will be able to account for this transported air in their plans to attain the federal ozone standard.

Maine sits at the tail and of the Northeast ozone transport region, which includes the 11 Northeastern States and the District of Columbia. No area in the State is classified higher than moderate nonattainment. But under the Clean Air Act, Maine is required to reduce volatile organic compounds by 15 percent in all of these areas. Given the uncertainty and confusion surrounding emissions inspection and the act's requirements for ozone in general, the State has not yet adopted its 15 percent reduction plan, and it faces a statutory deadline of July 26, 1995. After that date, EPA is required by law to impose stiff sanctions, either withholding highway construction funds, or imposing a strict 2-to-1 offset requirement for new sources of emissions.

With the threat of painful sanctions weighing heavily over their heads, the Governor and the Maine Legislature are scrambling to devise a VOC reduction plan and an alternative I&M program. But people in Maine are understandably reluctant to move forward with expensive and complicated emissions reductions measures if a significant amount of the air that accounts for the nonattainment classification is transported in from outside state boundaries. Yet, the data that could determine the amount of transported pollution is unavailable at the present time. Maine is caught between a rock and a hard place. If it moves forward, it could impose burdensome requirements on its citizens without knowing the full extent to which they contribute to the pollution in Maine. If they do not proceed by July 26, the EPA will be forced to levy serious penalties. And they do not know, in precise terms, what is acceptable to EPA now, and what will be acceptable 6 months from now.

Maine faces similar uncertainty with regard to enhanced emissions inspection and maintenance programs. Because Maine is included in the Northeast ozone transport region, the act mandates that, at a minimum, the cities of Portland and Kittery implement the enhanced emissions testing program that has generated intense controversy in Maine and other States across the country. My legislation protects States from sanctions related to this requirement as well, provided the area subject to the enhanced I&M requirement has been designated as marginal or moderate nonattainment.

Mr. President, I do not believe that States like Maine should be required to develop these sensitive programs under the duress of Federal Sanctions. They should have sufficient time to sort out the new developments on the issue, to collect data on transported air, and to negotiate with the EPA on a range of acceptable compliance measures. In the absence of a more deliberative process that allows States to carefully analyze all of their options, we could provoke a repeat of last year, when States like Maine tried to implement programs but met stiff public opposition. That kind of scenario will not bring us any closer to cleaner air.

States need a temporary break from the sanctions threat, and my bill will provide that break. It establishes a 1-year moratorium on sanctions and penalties related to marginal and moderate ozone nonattainment areas. It applies only to States, and it simply gives the States with these areas a reprieve from the Clean Air Act's heavy-handed sanctions so that they are not forced to act too hastily in what appears to be an evolving regulatory landscape.

Mr. President, my bill offers a reasonable approach to a major controversy affecting many States. I think it will advance the cause of clean air by allowing States to develop emissions reductions plans that have some credibility in the eyes of the public. I invite my colleagues from other States facing similar problems to join me in cosponsoring this legislation, and to work with me for prompt passage of it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OZONE NONATTAINMENT AREAS.

(a) IN GENERAL.—During the 1-year period beginning on the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall not initiate or continue in effect an enforcement action against a State with respect to an area that, before, on, or after that date, is designated nonattainment for ozone and classified as a Marginal Area or Moderate Area under section 181 of the Clean Air Act (42 U.S.C. 7511), including such an area that is located in the ozone transport region established by section 184(a) of that Act (42 U.S.C. 7511c(a)).

(b) DEFINITION.—In this section, the term "enforcement action" includes—

(1) the withholding of a grant under section 105 of the Clean Air Act (42 U.S.C. 7405);

(2) the promulgation of a Federal implementation plan under section 110(c) of the Clean Air Act (42 U.S.C. 7410);

(3) the imposition of a sanction under section 110(m) or 179 of the Clean Air Act (42 U.S.C. 7410(m), 7509); and

(4) any other action intended to obtain compliance (unless the action is agreed to by the State) or punish noncompliance with a requirement applicable to an area described in subsection (a) under the Clean Air Act (42 U.S.C. 7401 et seq.).

ADDITIONAL COSPONSORS

S. 216

At the request of Mr. INOUYE, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 216, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 245

At the request of Mr. COHEN, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Wisconsin [Mr. KOHL], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 245, a bill to provide for enhanced penalties for health care fraud, and for other purposes.

S. 254

At the request of Mr. LOTT, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 254, A bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the U.S. merchant marine during World War II.

S. 258

At the request of Mr. PRYOR, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 258, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 277

At the request of Mr. D'AMATO, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 277, a bill to impose comprehensive economic sanctions against Iran.

S. 332

At the request of Mr. CONRAD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 332, a bill to provide means of limiting the exposure of children to violent programming on television, and for other purposes.

S. 388

At the request of Ms. SNOWE, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Idaho [Mr. CRAIG], the Senator from New Hampshire [Mr. SMITH], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 388, a bill to amend title 23, United States Code, to eliminate the penalties for noncompliance by States with a program requiring the use of motorcycle helmets, and for other purposes.

S. 390

At the request of Mr. BIDEN, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 390, a bill to improve the ability of the United States to respond to the international terrorist threat.

S. 448

At the request of Mr. GRASSLEY, the names of the Senator from Arizona [Mr. KYL], the Senator from Maine [Mr. COHEN], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 448, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

S. 469

At the request of Mr. GREGG, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 469, a bill to eliminate the National Education Standards and Improvement Council and opportunity-to-learn standards.

S. 512

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 512, a bill to amend title XVIII of the Social Security Act to provide for a 5-year extension of the Medicare-dependent, small, rural hospital payment provisions, and for other purposes.

S. 526

At the request of Mr. GREGG, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 526, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes.

S. 559

At the request of Mr. SIMPSON, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 559, a bill to amend the Lanham Act to require certain disclosures relating to materially altered films.

S. 565

At the request of Mr. ROCKEFELLER, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 565, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 588

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Ms.

MOSELEY-BRAUN] was added as a cosponsor of S. 588, a bill to amend the Employee Retirement Income Security Act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health benefits.

S. 692

At the request of Mr. GREGG, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 692, a bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.

SENATE JOINT RESOLUTION 32

At the request of Mr. HATCH, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of Senate Joint Resolution 32, a joint resolution expressing the concern of the Congress regarding certain recent remarks that unfairly and inaccurately maligned the integrity of the Nation's law enforcement officers.

SENATE RESOLUTION 97

At the request of Mr. THOMAS, the names of the Senator from Illinois [Mr. SIMON] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of Senate Resolution 97, a resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

AMENDMENT NO. 568

At the request of Mr. WARNER the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of amendment No. 568 intended to be proposed to S. 383, a bill to provide for the establishment of policy on the deployment by the United States of an antiballistic missile system and of advanced theater missile defense systems.

AMENDMENTS SUBMITTED

COMMONSENSE PRODUCT LIABILITY REFORM ACT

GORTON (AND OTHERS)
AMENDMENT NO. 596

Mr. GORTON (for himself, Mr. ROCKEFELLER, Mr. MCCONNELL, Mr. LIEBERMAN, Mr. DODD, Mr. PRESSLER, Mr. HATCH, Mr. EXON, Mr. INHOFE, Mrs. HUTCHISON, Mr. CHAFEE, Mr. HATFIELD, Mr. LUGAR, and Mr. FRIST) proposed an amendment to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act of 1995".

TITLE I—PRODUCT LIABILITY

SEC. 101. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) CLAIMANT.—The term "claimant" means any person who brings a product liability action and any person on whose behalf such an action is brought. If an action is brought through or on behalf of—

(A) an estate, the term includes the decedent; or

(B) a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means an amount equal to the sum of—

(A) the amount paid to an employee as workers' compensation benefits; and

(B) the present value of all workers' compensation benefits to which the employee is or would be entitled at the time of the determination of the claimant's benefits, as determined by the appropriate workers' compensation authority for harm caused to an employee by a product.

(3) CLEAR AND CONVINCING EVIDENCE.—

(A) IN GENERAL.—Subject to subparagraph (A), the term "clear and convincing evidence" is that measure of degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

(B) DEGREE OF PROOF.—The degree of proof required to satisfy the standard of clear and convincing evidence shall be—

(i) greater than the degree of proof required to meet the standard of preponderance of the evidence; and

(ii) less than the degree of proof required to meet the standard of proof beyond a reasonable doubt.

(4) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage to a product itself, loss relating to a dispute over its value, or consequential economic loss the recovery of which is governed by the Uniform Commercial Code or analogous State commercial law, not including harm.

(5) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which has a normal life expectancy of 3 or more years or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(6) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including any medical expense loss, work loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent that recovery for the loss is permitted under applicable State law.

(7) HARM.—The term "harm" means any physical injury, illness, disease, or death, or damage to property, caused by a product. The term does not include commercial loss or loss or damage to a product itself.

(8) INSURER.—The term "insurer" means the employer of a claimant, if the employer is self-insured, or the workers' compensation insurer of an employer.

(9) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product), and who designs or formulates the product (or component part of the product), or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, constructs, designs, or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another person; or

(C) any product seller that is not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(10) NONECONOMIC LOSS.—The term "noneconomic loss"—

(A) means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; and

(B) does not include economic loss.

(11) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(12) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; and

(ii) electricity, water delivered by a utility, natural gas, or steam.

(13) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(14) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who—

(i) in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(15) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, or any political subdivision thereof.

(16) TIME OF DELIVERY.—The term "time of delivery" means the time when a product is delivered to the first purchaser or lessee of the product that was not involved in manufacturing or selling the product, or using the product as a component part of another product to be sold.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY.—

(1) ACTIONS COVERED.—Subject to paragraph (2), this title applies to any product liability action commenced on or after the date of enactment of this Act, without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

(2) ACTIONS EXCLUDED.—

(A) ACTIONS FOR DAMAGE TO PRODUCT OR COMMERCIAL LOSS.—A civil action brought for loss or damage to a product itself or for commercial loss, shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable commercial or contract law.

(B) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable State law.

(b) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes a State law only to the extent that State law applies to an issue covered under this title.

(2) ISSUES NOT COVERED UNDER THIS ACT.—Any issue that is not covered under this title, including any standard of liability applicable to a manufacturer, shall not be subject to this title, but shall be subject to applicable Federal or State law.

(c) STATUTORY CONSTRUCTION.—Nothing in this title may be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601(8)) or the threat of such remediation.

(d) CONSTRUCTION.—To promote uniformity of law in the various jurisdictions, this title shall be construed and applied after consideration of its legislative history.

(e) EFFECT OF COURT OF APPEALS DECISIONS.—Notwithstanding any other provision of law, any decision of a circuit court of appeals interpreting a provision of this title (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 103. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) IN GENERAL.—

(1) SERVICE OF OFFER.—A claimant or a defendant in a product liability action that is subject to this title may, not later than 60 days after the service of the initial complaint of the claimant or the applicable deadline for a responsive pleading (whichever is later), serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(2) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in paragraph (3), not later than 10 days after the service of an offer to proceed under paragraph (1), an offeree shall file a written notice of acceptance or rejection of the offer.

(3) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in paragraph (2), extend the period for filing a written notice under such paragraph for a period of not more than 60 days after the date of expiration of the period specified in paragraph (2). Discovery may be permitted during such period.

(b) DEFENDANT'S PENALTY FOR UNREASONABLE REFUSAL.—

(1) IN GENERAL.—The court shall assess reasonable attorney's fees (calculated in accordance with paragraph (2)) and costs against the offeree, incurred by the offeror during trial if—

(A) a defendant as an offeree refuses to proceed pursuant to the alternative dispute resolution procedure referred to subsection (a)(1);

(B) final judgment is entered against the defendant for harm caused by the product that is the subject of the action; and

(C) the refusal by the defendant to proceed pursuant to such alternative dispute resolution was unreasonable or not made in good faith.

(2) REASONABLE ATTORNEY'S FEES.—For purposes of this subsection, a reasonable attorney's fee shall be calculated on the basis of an hourly rate, which shall not exceed the hourly rate that is considered acceptable in the community in which the attorney practices law, taking into consideration the qualifications and experience of the attorney and the complexity of the case.

(c) GOOD FAITH REFUSAL.—In determining whether the refusal of an offeree to proceed pursuant to the alternative dispute procedure referred to in subsection (a)(1) was unreasonable or not made in good faith, the court shall consider—

(1) whether the case involves potentially complicated questions of fact;

(2) whether the case involves potentially dispositive issues of law;

(3) the potential expense faced by the offeree in retaining counsel for both the alternative dispute resolution procedure and to litigate the matter for trial;

(4) the professional capacity of available mediators within the applicable geographic area; and

(5) such other factors as the court considers appropriate.

SEC. 104. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action that is subject to this title filed by a claimant for harm caused by a product, a product seller other than a manufacturer shall be liable to a claimant, only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant; or

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect a product if the product seller had no reasonable opportunity to inspect the product that allegedly caused harm to the claimant.

(b) SPECIAL RULE.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(14)(B)) shall be subject to liability in a product liability action under subsection (a), but shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 105. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) General Rule.—Notwithstanding any other provision of law, a defendant in a product liability action that is subject to this title shall have a complete defense in the action if the defendant proves that—

(1) the claimant was under the influence of intoxicating alcohol or any drug that may not lawfully be sold over-the-counter without a prescription, and was not prescribed by a physician for use by the claimant; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for the accident or event which resulted in the harm to the claimant.

(b) Construction.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

SEC. 106. REDUCTION FOR MISUSE OR ALTERATION OF PRODUCT.

(a) General Rule.—

(1) In general.—Except as provided in subsection (c), in a product liability action that is subject to this title, the damages for which a defendant is otherwise liable under applicable State law shall be reduced by the percentage of responsibility for the harm to the claimant attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, the express warnings or instructions of the defendant if the warnings or instructions are determined to be adequate pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) Use intended by a manufacturer is not misuse or alteration.—For the purposes of this title, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) State Law.—Notwithstanding section 3(b), subsection (a) of this section shall supersede State law concerning misuse or alteration of a product only to the extent that State law is inconsistent with such subsection.

(c) Workplace Injury.—Notwithstanding subsection (a), the amount of damages for which a defendant is otherwise liable under State law shall not be reduced by the application of this section with respect to the conduct of any employer or coemployee of the plaintiff who is, under applicable State law concerning workplace injuries, immune from being subject to an action by the claimant.

SEC. 107. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) General Rule.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in a product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) Limitation on Amount.—The amount of punitive damages that may be awarded to a claimant in any product liability action that is subject to this title shall not exceed 3 times the amount awarded to the claimant for the economic loss on which the claim is based, or $250,000, whichever is greater. This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(c) Bifurcation at Request of Either Party.—

(1) In general.—At the request of either party, the trier of fact in a product liability action that is subject to this title shall consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) Admissible evidence.—

(A) Inadmissibility of evidence relative only to a claim of punitive damages in a proceeding concerning compensatory damages.—If either party requests a separate proceeding under paragraph (1), in any proceeding to determine whether the claimant may be awarded compensatory damages, any evidence that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

(B) Proceeding with respect to punitive damages.—Evidence that is admissible in the separate proceeding under paragraph (1)—

(i) may include evidence of the profits of the defendant, if any, from the alleged wrongdoing; and

(ii) shall not include evidence of the overall assets of the defendant.

SEC. 108. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Statute of Limitations.—

(1) In general.—Except as provided in paragraph (2) and subsection (b), a product liability action that is subject to this title may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered, the harm that is the subject of the action and the cause of the harm.

(2) Exceptions.—

(A) Person with a legal disability.—A person with a legal disability (as determined under applicable law) may file a product liability action that is subject to this title not later than 2 years after the date on which the person ceases to have the legal disability.

(B) Effect of stay or injunction.—If the commencement of a civil action that is subject to this title is stayed or enjoined, the running of the statute of limitations under this section shall be suspended until the end of the period that the stay or injunction is in effect.

(b) Statute of Repose.—

(1) In general.—Subject to paragraphs (2) and (3), no product liability action that is subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed after the 20-year period beginning at the time of delivery of the product.

(2) State law.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 20-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) Exceptions.—

(A) A motor vehicle, vessel, aircraft, or train that is used primarily to transport passengers for hire shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety of the specific product involved which was longer than 20 years, but it will apply at the expiration of that warranty.

(c) Transitional Provision Relating to Extension of Period for Bringing Certain Actions.—If any provision of subsection (a) or (b) shortens the period during which a product liability action that could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action pursuant to this title not later than 1 year after the date of enactment of this Act.

SEC. 109. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) General Rule.—In a product liability action that is subject to this title, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) Amount of Liability.—

(1) In general.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) Percentage of responsibility.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 110. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) General Rule.—

(1) Right of subrogation.—

(A) In general.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this title.

(B) Written notification.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) Insurer not required to be a party.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) Settlements and other legal proceedings.—

(A) In general.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this title, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) Written consent.—Except as provided in subparagraph (C)—

(i) an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without the written consent of the insurer; and

(ii) no release to or agreement with the manufacturer or product seller described in clauses (i) through (iv) of subparagraph (A) shall be valid or enforceable for any purpose without the consent of the insurer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER OR COEMPLOYEE.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this title, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the employer.

(B) RIGHTS OF EMPLOYER.—

(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an employer shall, in the same manner as any party in the action (even if the employer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) LAST ISSUE.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is presented to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS OF SUBROGATION NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

SEC. 111. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under section 1331 or 1337 of title 28, United States Code, over any product liability action covered under this title.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1995".

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) QUALIFIED SPECIALIST.—With respect to an action, the term "qualified specialist" means a person who is qualified by knowledge, skill, experience, training, or education in the specialty area that is the subject of the action.

(9) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(10) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(11) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section; or

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if the biomaterials supplier—

(1) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(A) the manufacture of the implant; and

(B) the entrance of the implant in the stream of commerce; and

(2) subsequently resold the implant.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary,

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) Motion To Dismiss.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) Procedural Requirements.—

(1) In general.—The procedural requirements described in paragraphs (2) and (3) shall apply to any action by a claimant against a biomaterials supplier that is subject to this title.

(2) Manufacturer of implant shall be named a party.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(A) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(B) an action against the manufacturer is barred by applicable law.

(3) Affidavit.—At the time the claimant brings an action against a biomaterials supplier the claimant shall be required to submit an affidavit that—

(A) declares that the claimant has consulted and reviewed the facts of the action with a qualified specialist, whose qualifications the claimant shall disclose;

(B) includes a written determination by a qualified specialist that the raw materials or component parts actually used in the manufacture of the implant of the claimant were raw materials or component parts described in section 205(d)(1), together with a statement of the basis for such a determination;

(C) includes a written determination by a qualified specialist that, after a review of the medical record and other relevant material, the raw material or component part supplied by the biomaterials supplier and actually used in the manufacture of the implant was a cause of the harm alleged by claimant, together with a statement of the basis for the determination; and

(D) states that, on the basis of review and consultation of the qualified specialist, the claimant (or the attorney of the claimant) has concluded that there is a reasonable and meritorious cause for the filing of the action against the biomaterials supplier.

(c) Proceeding on Motion To Dismiss.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) Affidavits relating to listing and declarations.—

(A) In general.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) Response to motion to dismiss.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) Effect of motion to dismiss on discovery.—

(A) In general.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) Discovery.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) Affidavits relating status of defendant.—

(A) In general.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) Responses to motion to dismiss.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) Basis of ruling on motion to dismiss.—

(A) In general.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) Motion for summary judgment.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) Summary Judgment.—

(1) In general.—

(A) Basis for entry of judgment.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) Issues of material fact.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) Discovery made prior to a ruling on a motion for summary judgment.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) Discovery with respect to a biomaterials supplier.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) Stay Pending Petition for Declaration.—If a claimant has filed a petition for a declaration pursuant to section 205(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) Manufacturer Conduct of Proceeding.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) Attorney Fees.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 207. APPLICABILITY.

This Act shall apply to all civil actions covered under this title that are commenced on or after the date of enactment of this title, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this title.

NOTICE OF HEARING

SUBCOMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. ROTH. Mr. President, I would like to announce that the Subcommittee on Post Office and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on May 8, 1995, to review the Ramspeck Act.

The hearing is scheduled for 10 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Pat Raymond, staff director, at 224–2254.

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

• Mr. McCONNELL. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for Jennifer R. Markley, a member of the staff of Senator MURKOWSKI, to participate in a program in Japan sponsored by the Japan Center for International Exchange, Inc., April 16–23, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Markley in this program.

The select committee received notification under rule 35 for Mark Foulon, a member of the staff of Senator BRADLEY, to participate in a program in Munich sponsored by the Herbert Quandt Stiftung May 18–21, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Foulon this program.

The select committee received notification under rule 35 for Marc Thiessen, a member of the staff of Senator HELMS to participate in a program in Taiwan sponsored by the Tamkang University April 9–16, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Thiessen in this program.

The select committee received notification under rule 35 for Gregg Rickman, a member of the staff of Senator D'AMATO, to participate in a program in Taiwan sponsored by the Tamkang University April 9–16, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Rickman in this program.

The select committee received notification under rule 35 for Mary Jo Archibold, a member of the staff of Senator GRASSLEY, to participate in a program in Chile sponsored by the Chilean-American Chamber of Commerce from April 19–21, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Archibold in this program.

The select committee received notification under rule 35 for Dave Balland, a member of the staff of Senator SIMPSON, to participate in a program in Japan sponsored by the Japan Center for International Exchange from April 16–23, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Dave Balland in this program.

The select committee received notification under rule 35 for Kraig Siracuse, a member of the staff of Senator D'AMATO, to participate in a program in Chile sponsored by the Chilean-American Chamber of Commerce from April 16–20, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Siracuse in this program.

The select committee received notification under rule 35 for William Triplett, a member of the staff of Senator BENNETT, to participate in a program in Taiwan sponsored by the Institute for National Policy Research from April 12–14, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Triplett in this program.

The select committee received notification under rule 35 for Jeff Conway, a member of the staff of Senator EXON, to participate in a program in Taiwan sponsored by the Tamkang University from April 17–24, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Conway in this program.•

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through April 7, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 218), show that current level spending is below the budget resolution by $5.6 billion in budget authority and $1.4 billion in outlays. Current level is $0.5 billion over the revenue floor in 1995 and below by $9.5 billion over the 5 years 1995–99. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $238.0 billion, $3.1 billion below the maximum deficit amount for 1995 of $241.0 billion.

Since my last report, dated March 27, 1995, the Congress has cleared, and the President has signed, the 1995 Emergency Supplementals and Rescissions Act, Public Law 104–6 and the Self-Employed Health Insurance Act, Public Law 104–7. These actions changed the current level of budget authority, outlays and revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 24, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through April 7, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated March 27, 1995, the Congress has cleared, and the President has signed, the 1995 Emergency Supplementals and Rescissions Act (Pub. L. 104–6) and the Self-Employed Health Insurance Act (Pub. L. 104–7). These actions changed the current level of budget authority, outlays and revenues.

Sincerely,

JUNE E. O'NEILL.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS APRIL 7, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 218)[1]	Current level[2]	Current level over/under resolution
On-budget:			
Budget authority	$1,238.7	$1,233.1	−5.6
Outlays	1,217.6	1,216.2	−1.4
Revenues:			
1995	977.7	978.2	0.5
1995–99	5,412.2	5,405.7	−9.5
Deficit	241.0	238.0	−3.1
Debt subject to limit	4,965.1	4,746.8	−218.3
Off-budget:			
Social Security outlays:			
1995	287.6	287.5	−0.1
1995–99	1,562.6	1,562.6	*0
Social Security revenues::			
1995	360.5	360.3	−0.2
1995–99	1,998.4	1,998.2	−0.2

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

*Less than $50 million.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS APRIL 7, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions			
Revenues			978,466
Permanents and other spending legislation	750,307	706,236	
Appropriation legislation	738,096	757,783	
Offsetting receipts	(250,027)	(250.027)	
Total previously enacted	1,238,376	1,213,992	978,466
Enacted this session			
1995 Emergency Supplementals and Rescissions Act (Pub. L. 104–6)	(3,386)	1,008)	
Self-Employed Health Insurance Act (Pub. L. 104–7)			(248)
Total enacted this session	(3,386)	1,008)	(248)
Entitlements and mandatories			
Budget resolution baseline estimates of appropriated entitlements other mandatory programs not yet enacted	(1,887)	3,189	
Total current level[1]	1,233,103	1,216,173	978,218
Total budget resolution	1,238,744	1,217,605	977,700
Amount remaining:			
Under budget resolution	5,641	1,432	
Over budget resolution			518

[1] In accordance with the Budget Enforcement Act, the total does not include $3,905 million in budget authority and $7,442 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $841 million in budget authority and $917 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirements.

*Less than $500 thousand.

Notes: Numbers in parentheses are negative. Detail may not add due to rounding.•

TRIBUTE TO 1995 HUTCHISON BROWARD SENIOR HALL OF FAME INDUCTEES

• Mr. GRAHAM. Mr. President, I am delighted to recognize and congratulate a group of exemplary citizens upon their induction into the 1995 Dr. Nan S. Hutchison Broward Senior Hall of Fame. These 11 volunteers have shown enduring commitment to the community and have brought about positive change through their selfless concern for and dedication to helping others.

It gives me great pleasure to salute each of the 1995 inductees for their laudable accomplishments:

Elaine Appel has been a guardian ad litem and savior for numerous abused, neglected, and mentally and physically challenged children. With limitless energy, Ms. Appel has given hope to some of those most in need of a loving care giver.

Bernard Bernhardt has worked diligently to empower visually impaired citizens so that they might lead productive and independent lives. By also visiting many clients' homes, Mr. Bernhardt has brought assistance to some who might otherwise not have been able to benefit from his caring efforts.

Norman Birger is a dynamic volunteer with loyal devotion to the Southeast Focal Point Senior Center. Placing concern for the center before concern for himself, Mr. Birger has worked tirelessly to keep the center a vibrant resource for its members.

Constance Caloggero has displayed commendable concern for a wide variety of causes. Her commitment to seniors, women, children, and the infirm—while at the same time serving as Hillsboro Beach Commissioner—enables her to enjoy her work 7 days a week.

Oscar Davis has worked on diverse causes and is an example of limitless energy and devotion. From collecting and distributing food for the Salvation Army, to picking up visually impaired citizens so they may attend his talking-book club, to organizing health fairs and blood drives, Mr. Davis works vigorously in helping others.

Irving Friedman has used his caring nature and fine leadership abilities to help numerous seniors enjoy a better quality of life. By making support groups and counseling services available, by arranging for transportation to medical facilities, and by visiting seniors in hospitals and nursing homes, Mr. Friedman is a friend for those most in need of one.

Dr. Shirley Schaffer Kaufman has donated her professional skills for providing psychiatric and bereavement counseling to seniors and for improving their self-confidence. Dr. Kaufman's distinguishable fund-raising and leadership abilities in aiding the Area Agency on Aging have further assisted countless seniors.

Eleanor Locasicio has volunteered numerous hours to bringing care to numerous seniors. In using her personal and professional skills to evaluate infirm elderly in their homes, to instruct seniors in the AARP 55/Alive Mature Driving Course, and to protect wildlife and nature at Flamingo Gardens, Mrs. Locascio has shown a distinct concern for others and for the environment.

Juanita C. Phillips has worked diligently to bring children's and minority concerns to the forefront. Her endeavors with several children's organizations, as well as with the Democratic Black Caucus of Broward County, demonstrate her excellent leadership skills and commitment to helping others.

Edward Pudaloff has immersed himself into the plight of abused and neglected children. As the founder of HANDY—Helping Abused Neglected Dependent Youth—Mr. Pudaloff provides scholarships and such necessities as clothing, glasses, and medication to needy youths. He has further assisted children in working as a guardian ad litem and speaking for them in the courts.

Sybil Scheinman has translated her gift of and love for the theatre into fund-raising assistance for several charitable organizations. Ms. Scheinman's passion is performing, but she is just as enthusiastic helping at the ticket window or backstage—so long as she knows she is bringing happiness to others.

Florida and the residents of Broward County alike are fortunate to have been heir to the fine endeavors of these 11 vibrant, caring seniors who have bettered the community and served as an inspiration to others.•

ALABAMA BUSINESS CONNECTIONS 1995

• Mr. SHELBY. Mr. President, on June 27–29, more than 5,000 individuals and businesses will gather in Birmingham for Alabama Business Connections '95. This event is the Alabama Minority Supplier Development Council's largest and most important of the year. It represents an opportunity for suppliers and purchasing personnel from majority and government organizations to network and exchange information.

This important event also gives suppliers and purchasers the chance to develop mutually beneficial business opportunities. During the past 12 years, the Alabama Minority Supplier Development Council has represented a unique partnership of buyers and suppliers, serving as an important resource for identifying certified minority suppliers as well as a clearinghouse for business development news and purchasing information.

Mr. President, the members of the Alabama Minority Supplier Development Council acknowledge that suppliers can provide quality goods and services. The board of directors, membership and staff are committed to promoting economic development opportunities for minority businesses, and I am proud to recognize them here in the Senate for all of their important work. I wish them the best for a successful event in June and congratulate them on more than a decade of service to the members of Alabama's business community.•

TRIBUTE TO GINGER ADAMS

• Mr. McCONNELL. Mr. President, today I rise to mourn the death and celebrate the life of Ms. Ginger Adams, whose life was cut tragically short at 20 after an automobile accident in western Kentucky.

Ginger Adams of Murray, KY, was an inspiration to all those who knew her. An honor student at Murray State University, Ms. Adams was also a popular campus leader and accomplished athlete.

Her love of athletics led her to join the nationally recognized Murray State cheerleading squad. Late last month, the squad accompanied the school's basketball team to its appearance in the NCAA Tournament in Tallahassee, FL. Returning home from the game, the van carrying Ginger and 12 other cheerleaders overturned on the highway injuring all aboard and, tragically, taking Ginger's life after a 2-week struggle in a Nashville hospital.

In his touching eulogy, Murray State University President Kern Alexander said of Ginger, "We know she was a grand achiever and student leader, cheerleader, superb athlete and outstanding student, but the supreme measure is not in those accomplishments. The measure of her life is in the great wealth of love and affection that was engendered in all she touched."

Mr. President, please join me in extending our heartfelt sympathy and prayers to Ginger's parents, Hank and Joanna Adams, and to all those whose lives she touched. She will be missed very, very much.

Mr. President, I ask that Dr. Alexander's eulogy be printed in the RECORD.

The eulogy follows:

EULOGY OF GINGER ADAMS, DELIVERED BY DR. KERN ALEXANDER, PRESIDENT, MURRAY STATE UNIVERSITY

Ginger was given only 20 years, but her brief years were no measure of the importance of her life. She accomplished more in those few years than most persons achieve in 80. We know she was a grand achiever, student leader, cheerleader, superb athlete, outstanding student, but the supreme measure is not in those accomplishments, but rather the measure of her life is in the great wealth of love and affection that was engendered in all she touched; fellow students, sorority sisters, neighbors, her University, and her community.

Sir Christopher Wren, the architect who rebuilt London after the great fire, died. In his remembrance it was said, "For his monuments look ye around." For Ginger's accomplishments "look ye around." Look at all those of you here today who cherish and love her. This love and devotion to Ginger are her monuments and these are the monuments that are most enduring.

This outpouring here today of so many in this solemn ceremony is the ultimate measure of one's achievements on this earth. Here, they are Ginger's in abundance.

When death allies itself with youth and beauty it is the most difficult for us to understand.

When the most beautiful and radiant among us dies, we are all the more profoundly stricken with grief and wonderment as to its reasons and purposes.

When beauty dies our own limitations and frailties as human beings become more obvious and less comprehensible.

This week we lost the most beautiful and talented among us and none of us can understand. Consolation can only come in prayer to those who love Ginger, the prayer that:

"The Lord God will wipe away the tears and will swallow up death in final victory."

It helps us in our own poverty of comprehension if we know that life and death are not absolutes, but merely transition of the human soul. This we know in our faith and trust in God.

Prayer: Dear Heavenly Father, please help Ginger's mother and father, JoAnna and Hafford, and her brothers, in this time of great sorrow. Help them in this moment of overpowering grief.

O God, we give back to you those whom You gave us. You did not lose Ginger when You gave her to us, and we do not lose her by her return to You. Your dear Son has taught us that life is eternal and love cannot die. So death is only an horizon, and an horizon is only the limit of our sight. Open our eyes to see more clearly, and draw us closer to You that we may know that we are nearer to our loved ones, who are with You. You have told us that You are preparing a place for us. Prepare us also for that happy place, that where You are we may be always.

O Lord, You have made us very small, and we bring our years to an end like a tale that is told. Help us to remember that beyond our brief day is the eternity of Your Love. Amen.

God bless Ginger and her family.●

MEASURE PLACED ON THE CALENDAR—H.R. 483

Mr. KYL. Mr. President, I understand that there is a bill at the desk that is due its second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes.

Mr. KYL. I object to further proceedings on the bill at this time, Mr. President.

The PRESIDING OFFICER. The bill will be placed on the calendar pursuant to Rule XIV.

TRUTH IN LENDING CLASS ACTION RELIEF ACT OF 1995

Mr. KYL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1380, that the bill be deemed read a second and third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MACK. Mr. President, I urge my colleagues to support H.R. 1380, which temporarily suspends class action lawsuits filed under the Truth in Lending Act until October 1, 1995.

This bill will give Congress time to address a U.S. Court of Appeals decision, Rodash versus AIB Mortgage Co., which allowed a borrower to rescind a mortgage based on a technical violation of the disclosure and notice requirements provided for in the Truth in Lending Act. Nearly 50 class action suits have been filed based on the Rodash decision.

The Truth in Lending Act is a complex law with almost no room for forgiveness if an honest technical error is made by the lender. Under truth in lending, for a mistake as little as $11 in how a charge is disclosed, the lender could be forced to reimburse all fees and costs to the borrower, including all interest paid for up to 3 years. In addition, the lender must release the mortgage lien, leaving the lender with an unsecured loan. These laws encourage cookie-cutter lending in order to avoid mistakes. Consumers are then hurt by higher rates and less lending.

The enormous number of loans that have been refinanced since 1991 makes this a potentially system-wide problem. I do not believe that the authors of the Truth in Lending Act intended to stifle creative lending and punish the mortgage industry for technical violations of its complex disclosure provisions. If the courts were to permit borrowers to rescind loans as part of class action lawsuits, the impact could be felt from the financial institutions and the secondary markets all the way to the Federal deposit insurance funds, which are ultimately backed by the U.S. taxpayer.

In Florida, we have seen ads with banner headlines, "collect money back from your lender," encouraging borrowers to rescind their loan. There is no mention of harm done to the consumer in the ads. In fact, even if the amount disclosed was more than what was actually charged, a borrower can rescind the loan. I have heard that some attorneys are trying to amass a large number of plaintiffs in order to increase their fees. In the end, the biggest beneficiaries of this wave of class action suits will be the lawyers. Consumers will be left with small settlements, higher costs, and fewer choices of mortgage lenders.

This bill, H.R. 1380, gives Congress time to examine the Truth in Lending Act and correct the problems created by the Rodash decision. At a minimum, we need to clarify the disclosure provisions of this highly complex law, provide a greater tolerance for honest mistakes, and make sure that the penalties are in line with the violations.

This bill is narrowly drawn to temporarily end the abuse of the Truth in Lending Act through class-action suits. Individual consumers will still be allowed to bring suit during the moratorium on class actions. I urge my colleagues to support this bill.

Mr. D'AMATO. Mr. President, I rise today to voice my support for the Truth in Lending Class Action Relief Act of 1995. Our colleagues in the House recently passed this legislation. It is a product of bipartisan cooperation and is intended as a temporary measure to deal with an urgent situation. As chairman of the Banking Committee, I believe that immediate action is warranted. I would therefore encourage my colleagues to consider and pass H.R. 1380 immediately.

Mr. President, I made reference to an "urgent situation." The situation to which I refer is the potential for devastating liability that threatens our housing finance system in the wake of the 11th Circuit Court of Appeals' recent decision in Rodash versus AIB Mortgage Co. The Rodash decision has resulted in a wave of litigation and created a threat of wholesale rescissions of mortgages. The threat of rescissions on so massive a scale could wreak havoc on our mortgage lending system and the secondary mortgage markets.

If a class-action rescission is granted, every class member would be released from their mortgage lien, and the obligation to pay finance charges and other charges. Class members would also be entitled to reimbursement of all finance charges, as well as other charges that are outside the scope of the finance charge. The 3-year right of rescission in truth in lending entitles the borrower to reimbursement of these charges. The potential for massive rescissions, based on technical disclosures errors of as little as $10, creates a potential for liability that has been estimated to be as high as $217 billion.

The granting of wholesale rescissions, and the liability that such rescissions would create, could be devastating to both mortgage lenders, and to the secondary markets that provide the mortgage-market with liquidity. And we must remember that the liquidity of the mortgage markets has helped millions of Americans obtain their dream of home ownership at lower costs.

This bill will permit time for careful consideration of this problem. This legislation provides a short-term moratorium that only applies to class action certifications in connection with certain first-lien refinancings and consolidations. This moratorium is narrowly focused on a specific, technical disclosure problems, and will last only until October 1, 1995. This provision is not intended to impede the settlement of class actions. If, for purposes of settlement, the parties stipulate to the certification of a class, a court can approve the stipulation and solely for the purposes of settlement, can certify the class. A class action cannot be settled without certification of the class. This moratorium will provide time to remedy this problem and ensure the continued safety-and-soundness of the mortgage-finance markets.

Mr. BOND. Mr. President, I state my support for H.R. 1380, the Truth in Lending Class Action Relief Act of 1995. This important legislation is designed to impose a class action moratorium on certain lawsuits under the Truth in Lending Act. This legislation is narrow but necessary to give the Congress an opportunity to review the requirements of the Truth in Lending Act and the possible unintended consequences of the Rodash case and the possible impact of Rodash on the mortgage finance industry.

Rodash is a Florida case that allowed for the rescission of a mortgage where the lender disclosed certain delivery fees and an intangible tax in an improper place on the settlement sheet. This case has now been used as precedent for nationwide lawsuits that could potentially disrupt and damage our mortgage finance industry. I emphasis that the violation in Rodash was a technical violation of the Truth in Lending Act, and that the fees in question were small and that any improper disclosure was unintended. Nevertheless, a complete rescission of the mortgage was permitted.

In addition, since 1991, some 11.8 million loans totaling $1.3 trillion have been refinanced. The cost of rescinding these mortgages is about $217 billion. To apply Rodash to the mortgage industry is like killing a mosquito with an atomic bomb. I believe we need to consider these consequences.

Thank you, Mr. President.

The bill (H.R. 1380) was deemed read three times and passed.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 104-3 AND TREATY DOCUMENT NO. 104-4

Mr. KYL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following two treaties transmitted to the Senate on April 24, 1995, by the President of the United States: Extradition Treaty with Jordan (Treaty Document No. 104-3); and Protocol Amending the 1980 Tax Convention with Canada (Treaty Document No. 104-4).

I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty between the Government of the United States of America and the Government of the Hashemite Kingdom of Jordan, signed at Washington on March 28, 1995. Also transmitted for the information of the Senate is the report of the Department of State with respect to this Treaty.

The Treaty establishes the conditions and procedures for extradition between the United States and Jordan. It also provides a legal basis for temporarily surrendering prisoners to stand trial for crimes against the laws of the Requesting State.

The Treaty further represents an important step in combatting terrorism by excluding from the scope of the political offense exception serious offenses typically committed by terrorists, e.g., crimes against a Head of State or first family member of either Party, aircraft hijacking, aircraft sabotage, crimes against internationally protected persons, including diplomats, hostage-taking, narcotics trafficking, and other offenses for which the United States and Jordan have an obligation to extradite or submit to prosecution by reason of a multilateral international agreement or treaty.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States.

This Treaty will make a significant contribution to international cooperation in law enforcement. I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 24, 1995.*

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification, a revised Protocol Amending the Convention Between the United States of America and Canada with Respect to Taxes on Income and on Capital Signed at Washington on September 26, 1980, as Amended by the Protocols Signed on June 14, 1983, and March 28, 1984. This revised Protocol was signed at Washington on March 17, 1995. Also transmitted for the information of the Senate is the report of the Department of State with respect to the revised Protocol. The principal provisions of the Protocol, as well as the reasons for the technical amendments made in the revised Protocol, are explained in that document.

It is my desire that the revised Protocol transmitted herewith be considered in place of the Protocol to the Income Tax Convention with Canada signed at Washington on August 31, 1994, which was transmitted to the Senate with my message dated September 14, 1994, and which is now pending in the Committee on Foreign Relations. I desire, therefore, to withdraw from the Senate the Protocol signed in August 1994.

I recommend that the Senate give early and favorable consideration to the revised Protocol and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 24, 1995.*

ORDERS FOR TUESDAY, APRIL 25, 1995

Mr. KYL. Finally, Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m., on Tuesday, April 25, 1995; that following the prayer the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, there then be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon with Senators permitted to speak for up to 5 minutes each with the exception of the following: Senator DOMENICI, 60 minutes; Senator THOMAS, 30 minutes; Senator BAUCUS, 15 minutes.

I further ask that at 12 noon, Tuesday, the Senate proceed to a vote on the adoption of Senate Resolution 110, regarding the bombing in Oklahoma City; further that the Senate recess between the hours of 12:30 and 2:15 tomorrow for the weekly policy luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

* * *

PROGRAM

Mr. KYL. Mr. President, for the information of my colleagues, the leader has advised that there will be a rollcall vote on the Oklahoma City resolution at 12 noon tomorrow. Following the conclusion of the policy luncheons at 2:15 the Senate will return to the consideration of the product liability bill, H.R. 956.

* * *

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. KYL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:40 p.m., recessed until Tuesday, April 25, 1995, at 9:30 a.m.

* * *

NOMINATIONS

Executive nominations received by the Senate April 24, 1995:

DEPARTMENT OF STATE

A. PETER BURLEIGH, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALDIVES.

DAVID C. LITT, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED ARAB EMIRATES.

LARRY C. NAPPER, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LATVIA.

R. GRANT SMITH, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TAJIKISTAN.

DONALD K. STEINBERG, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ANGOLA.

LAWRENCE PALMER TAYLOR, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ESTONIA.

PATRICK NICKOLAS THEROS, OF DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF QATAR.

PETER TOMSEN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ARMENIA.

JENONNE R. WALKER, OF DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC.

JAMES ALAN WILLIAMS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS THE SPECIAL COORDINATOR FOR CYPRUS.

FEDERAL INSURANCE TRUST FUNDS

STEPHEN G. KELLISON, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND THE FEDERAL DISABILITY INSURANCE TRUST FUND FOR A TERM OF 4 YEARS, VICE DAVID M. WALKER, TERM EXPIRED.

MARILYN MOON, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND THE FEDERAL DISABILITY INSURANCE TRUST FUND FOR A TERM OF 4 YEARS, VICE STANFORD G. ROSS.

EXECUTIVE OFFICE OF THE PRESIDENT

IRA S. SHAPIRO, OF MARYLAND, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SENIOR COUNSEL AND NEGOTIATOR IN THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. GORDON R. SULLIVAN [redacted]

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. MARVIN L. COVAULT [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. ROBERT E. GRAY [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. JOHN E. MILLER [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. WILLIAM G. CARTER II [redacted]

THE FOLLOWING UNITED STATES ARMY NATIONAL GUARD OFFICER FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF SECTIONS 3385, 3392, AND 12203(A), TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. SAM C. TURK [redacted]

THE FOLLOWING UNITED STATES ARMY NATIONAL GUARD OFFICERS FOR PROMOTION TO THE GRADES INDICATED IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF SECTIONS 3385, 3392, AND 12203(A), TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. JAMES J. HUGHES, JR. [redacted]
BRIG. GEN. WILLIAM D. JONES, [redacted]
BRIG. GEN. MELVIN C. THRASH [redacted]

To be brigadier general

COL. JOHN W. HUBBARD [redacted]
COL. JOHN D. HAVENS [redacted]
COL. RONALD D. TINCHER [redacted]
COL. PETER B. INJASOULIAN [redacted]
COL. ALFRED E. TOBIN [redacted]
COL. JAMES W. O'TOOLE [redacted]
COL. FRANCIS D. VAVALA [redacted]
COL. MICHAEL H. HARRIS [redacted]
COL. ALBERT A. MANGONE [redacted]
COL. DAVID P. RATACZAK [redacted]
COL. THOMAS D. KINLEY [redacted]
COL. JOSEPH J. TALUTO [redacted]
COL. NORMAN A. HOFFMAN [redacted]
COL. EWALD E. BETH [redacted]
COL. GENE SISNEROS [redacted]
COL. GUS L. HARGETT, JR. [redacted]
COL. HAROLD J. STEARNS [redacted]

IN THE AIR FORCE

THE FOLLOWING INDIVIDUAL FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 12203 WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067 TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be colonel

JAMES C. INGRAM, JR. [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

CHAPLAIN CORPS

To be colonel

DANNY N. ARMSTRONG [redacted]
JOHN R. BLAIR [redacted]
EDWARD T. BROGAN [redacted]
JOHN M. COLLINS [redacted]
WALTER M. COURTER II, [redacted]
SHARON M. FREETO [redacted]
HENRY B. HIGHFILL [redacted]
RICHARD A. JOHNSON [redacted]
RONALD H. KELLING [redacted]
JOSEPH F. MC CAHON, JR. [redacted]
JAMES P. REVELLO [redacted]
EVERETT C. SCHRUM [redacted]
JAMES R. WILSON [redacted]

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be colonel

JAMES W. CLEVENGER, JR. [redacted]
WILLIAM R. FURR [redacted]
STEPHEN C. HOFFMAN [redacted]
VERN P. HOUGH [redacted]
WILLIAM G. LAFLEUR [redacted]
JAY W. LYTLE [redacted]
RICHARD R. MICHAELS [redacted]
DIRCK G. TERWILLIGER [redacted]
ROBERT J. WEITZEL, JR [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

WALTER R. CYRUS [redacted]
PAUL F. HULSLANDER [redacted]
KEVIN R. MC BRIDE [redacted]
JOHN W. PAULSEN [redacted]
AMBERT P. PETRONI II [redacted]
JOHNNY L. RUSSELL [redacted]
ANTHONY M. STANICH, JR. [redacted]
MICHAEL C. STERLING [redacted]
MICHAEL K. SWEENEY [redacted]
LINDELL M. WEEKS II, [redacted]

DENTAL CORPS

To be lieutenant colonel

CHARLES M. KING [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS IN THE LINE OF THE NAVY FOR PERMANENT PROMOTION, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be captain

CHRISTOPHER J. REMSHAK [redacted]
THOMAS G. SOBIECK [redacted]

UNRESTRICTED LINE OFFICER

To be lieutenant commander

MIKE A. BRYAN [redacted]
MICHAEL S. CUSHANICK [redacted]
ROBERT W. ERNST [redacted]
BRYAN J. LOWER [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED MAJORS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF LIEUTENANT COLONEL, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be lieutenant colonel

ACKER, WILLIAM E. [redacted]

ALBO, MICHAEL C., [redacted]
ALDRICH, JAMES V., [redacted]
ALLEN, BERNAL B., [redacted]
ALLEN, GEORGE J., [redacted]
ARBOGAST, STEVEN M., [redacted]
BAILEY, THOMAS B., III, [redacted]
BAKER, ROBERT G., [redacted]
BALLENTINE, RICHARD J., JR., [redacted]
BARBER, DAVID R., [redacted]
BARILE, DAVID J., [redacted]
BARND, DANIEL J., [redacted]
BARTON, LORNA M., [redacted]
BATY, ROGER L., [redacted]
BECK, PHILLIP W., [redacted]
BEDWORTH, DAVID, [redacted]
BELL, RUSSELL H., [redacted]
BENNETT, DREW A., [redacted]
BENSON, TIMOTHY P., [redacted]
BERGMAN, INGRID E., [redacted]
BICK, DAVID W., [redacted]
BIXLER, DAVID B., [redacted]
BIZZELL, BARRY B., [redacted]
BLANCO, RICARDO J., [redacted]
BLUM, JOHN A., [redacted]
BOCH, RICHARD K., [redacted]
BOLIN, MARK G., [redacted]
BOLITHO, KIM D., [redacted]
BOYD, DENNIS G., [redacted]
BRADY, ROBERT M., [redacted]
BREAULT, CHRISTIAN G., [redacted]
BRITTON, RICHARD W., [redacted]
BROWN, WILLIAM N., JR., [redacted]
BRUSH, DANNY L., [redacted]
BUCHER, STEPHEN A., [redacted]
BUMGARDNER, SHERROD L., JR., [redacted]
CALLAHAN, WILLIAM H., JR., [redacted]
CALLEROS, SALVADOR J., [redacted]
CALLIHAN, WILLIAM M., [redacted]
CARTER, TANDY P., [redacted]
CATLIN, BRIAN D., [redacted]
CHANDLER, JOHN W., [redacted]
CHRISTBURG, CHARLES A., JR., [redacted]
CHRISTIE, RICHARD A., [redacted]
CLUBINE, DOUGLAS L., [redacted]
COBURN, ROBERT A., [redacted]
COMBS, MICHAEL L., [redacted]
COMER, DOSIE O., [redacted]
CORBETT, ARTHUR J., [redacted]
CORBETT, THOMAS M., [redacted]
CORBIN, PAUL T., [redacted]
CORCORAN, MICHAEL A., [redacted]
CROISETIERE, PAUL, [redacted]
CRONIN, ROBERT B., [redacted]
CRONIN, ROBERT F., [redacted]
CRONIN, WILLIAM R., [redacted]
CURRY, JAMES V., [redacted]
CUSHING, DANIEL E., [redacted]
CVRK, CHARLES C., [redacted]
DALLAS, GEORGE M., [redacted]
DAMBRA, CRAIG W., [redacted]
DANCHAK, RICHARD, [redacted]
DANIELS, EUGENE T., JR., [redacted]
DAVIS, CLETIS R., [redacted]
DEITZ, DANIEL D., [redacted]
DESTAFNEY, ROBERT W., [redacted]
DEWEESE, JEFFREY L., [redacted]
DEWEY, HENRY C., III, [redacted]
DIPMAN, DAVID A., [redacted]
DODD, STEPHEN P., [redacted]
DODSON, RONALD G., JR., [redacted]
DONIGAN, HENRY J., III, [redacted]
DOUMA, STEPHEN M., [redacted]
DRUMMOND, ROBERT J., [redacted]
DUDA, JOHN S., [redacted]
DUNLAP, RICHARD C., [redacted]
ECKHOFF, GEORGE H., [redacted]
EDWARDSON, DALE R., [redacted]
EISENMANN, GARY A., [redacted]
FAVORS, ROSE M., [redacted]
FAZIO, ANTHONY P., [redacted]
FEBUARY, WILLIAM S., [redacted]
FELL, WILLIAM G., JR., [redacted]
FIELDER, EDWIN E., [redacted]
FINDLAY, RICHARD J., [redacted]
FIROVED, KENNETH N., [redacted]
FISHER, MARC W., [redacted]
FLEMING, RICHARD A., III, [redacted]
FLORYSHAK, DANIEL M., [redacted]
FLOYD, MOSE L., [redacted]
FOLEY, SYLVESTER R., III, [redacted]
FONDAW, JEFFREY E., [redacted]
FORAND, STEPHEN L., [redacted]
FOREMAN, STEPHEN H., [redacted]
FORT, MARK E., [redacted]
FRACASSA, MARK, [redacted]
FRANCIS, DAVID C., [redacted]
FUSCA, VINCENT J., III, [redacted]
GAILLARD, JOHN D., [redacted]
GANDY, BRUCE A., [redacted]
GARDINER, KENNETH P., [redacted]
GARRETT, GEORGE P., [redacted]
GEIGER, BRADLEY K., [redacted]
GEORGE, MICHAEL A., [redacted]
GERENCSER, LADISLAUS P., [redacted]
GLEASON, PHILLIP B., [redacted]
GORDON, MICHAEL S., [redacted]
GRAHAM, ROBERT B., [redacted]
GREGORY, MICHAEL L., [redacted]
GREGORY, THOMAS E., [redacted]
GRISIER, DARCY E., II, [redacted]
GROTZKY, CRAIG L., [redacted]
GUILMAIN, RODNEY A., [redacted]
HABBESTAD, GORDON B., [redacted]
HABEL, JOHN X., [redacted]
HAIG, JAMES A., [redacted]
HAMLIN, WILLIAM A., [redacted]
HAMM, WALTER B., [redacted]
HANIFEN, TIMOTHY C., [redacted]
HANKS, THOMAS L., [redacted]
HARBISON, JAMES E., [redacted]
HARDEMAN, ANDRE J., [redacted]
HARDY, WILLIAM E., [redacted]
HASLAM, ANTHONY M., [redacted]
HATCHER, EDWARD M., JR., [redacted]
HEINZ, DAVID R., [redacted]
HENDRICKSON, ALAN G., [redacted]
HIBBERT, RICHARD E., [redacted]
HILL, RANDOLPH L., [redacted]
HOEY, KEVIN A., [redacted]
HOLDORF, WILLIAM E., [redacted]
HOLM, RANDALL W., [redacted]
HOPPER, HERBERT A., III, [redacted]
HOSTETTER, MARY L., [redacted]
HOWARD, TIMOTHY B., [redacted]
HUDSON, FRED S., JR., [redacted]
INHOFF, KENNETH G., [redacted]
ISLEIB, DOUGLAS R., [redacted]
JOHNSON, MICHAEL K., [redacted]
KARCHER, DAVID P., JR., [redacted]
KARLS, DANIEL L., [redacted]
KATZ, ELLIOT S., [redacted]
KEADLE, JAMES S., [redacted]
KEARNS, DARIEN L., [redacted]
KELLEY, KEVIN L., [redacted]
KIDD, DANIEL W., [redacted]
KINNERUP, JAMES J., III, [redacted]
KLEPAC, ERIC L., [redacted]
KNOTTS, KENNETH J., JR., [redacted]
KOLB, TIMOTHY J., [redacted]
KOONTZ, THOMAS F., [redacted]
KRATZER, DALE L., JR., [redacted]
KURTZHALTS, MARK W., [redacted]
KVIGNE, KELLY W., [redacted]
LAMONT, ROBERT W., [redacted]
LANE, LAWRENCE B., [redacted]
LAWSON, WALTER S., [redacted]
LEBRESCU, RHONDA G., [redacted]
LEE, JAMES M., JR., [redacted]
LINDBOE, DONALD T., [redacted]
LOBB, MICHAEL J., [redacted]
LOCKARD, TERRY M., [redacted]
LOCKETT, KEITH V., [redacted]
LONGCOY, LAWRENCE W., [redacted]
LOVE, ROBERT E., [redacted]
LUCENTA, WILLIAM, [redacted]
LYONS, GERARD J., [redacted]
MAHAFFEY, MARK D., [redacted]
MALCOLM, DAVID S., [redacted]
MAMZIC, CURTIS E., [redacted]
MARLETTO, MICHAEL P., [redacted]
MARSHALL, CRAIG A., [redacted]
MARTINEZ, ADOLFO, [redacted]
MATTOS, STEVEN H., [redacted]
MC BRIDE, LANCE R., [redacted]
MC FARLAND, RONNEL R., [redacted]
MC GOVERN, JEROME P., [redacted]
MC KEON, MARK F., [redacted]
MC KNIGHT, JOHN E., III, [redacted]
MC LAWHORN, DAVID W., [redacted]
MC LEAN, JOHN E., II, [redacted]
MC MANNUS, DANIEL L., [redacted]
MILES, WILLIAM J., [redacted]
MILLER, THOMAS D., [redacted]
MITCHELL, CHARLES F., [redacted]
MITCHELL, J.S., [redacted]
MOHR, MITCHELL A., [redacted]
MOORE, TIMOTHY E., [redacted]
MOSELEY, CHARLES T., [redacted]
MOTZ, DWIGHT R., [redacted]
MUEGGE, RICHARD A., [redacted]
MULCAHY, SEAN T., [redacted]
MURRAY, GEORGE W., JR., [redacted]
NEFF, ALAN J., [redacted]
NELSON, LAURENCE H., [redacted]
NORTHING, JAMES H., [redacted]
O'KEEFE, KEVIN P., [redacted]
OLIVER, MAHATHA M., JR., [redacted]
OLMSTEAD, STEPHEN G., JR., [redacted]
OTTO, STEPHEN W., [redacted]
OURSO, FREDERICK J., JR., [redacted]
PAGE, JOHN E., [redacted]
PASCO, JONATHAN T., [redacted]
PEECOOK, MARK S., [redacted]
PELLISH, RICHARD B., [redacted]
PETERS, DANIEL G., [redacted]
PETERSON, DAVID, D., [redacted]
PHILLIPS, ROY E., [redacted]
POMEROY, STEPHEN M., [redacted]
PONTANI, VINCENT, JR., [redacted]
PTAKOWSKI, JOHN C., [redacted]
QUINLAN, MICHAEL W., [redacted]
RAFTERY, RICHARD J., [redacted]
RALPH, MICHAEL P., [redacted]
RATHGEBER, DAVID G., [redacted]
RAY, JONATHAN S., [redacted]
REA, ROBERT S., [redacted]
REECE, RICK L., [redacted]
REED, JOHN M., [redacted]
REED, RICHARD M., [redacted]
REEDER, THOMAS A., [redacted]
REHRIG, THOMAS L., [redacted]
REIST, DAVID G., [redacted]
RICHMOND, MARCUS E., [redacted]
RILEY, VICTOR J., III, [redacted]
ROGERS, MELVIN, [redacted]
RUDZIS, JOHN D., [redacted]
SANDLIN, PAUL M., [redacted]
SASSER, JAMES L., [redacted]
SAVARESE, MARK R., [redacted]
SCHARFEN, JONATHAN R., [redacted]
SCHOOLFIELD, DONALD J., [redacted]
SCHULTZ, MARK G., [redacted]
SCHWARTZ, RAYMOND E., III, [redacted]
SEIFERT, DANIEL R., [redacted]
SHARP, WALTER G., [redacted]
SHAW, GARY P., [redacted]
SHELTON, DAVID L., [redacted]
SHOULTS, EUGENE E., JR., [redacted]
SHUSKO, JOSEPH C., [redacted]
SHUTT, DAVID H., [redacted]
SIDERS, RANDY S., [redacted]
SIMPSON, ROCKY D., [redacted]
SKINNER, GARY F., [redacted]
SMITH, COLBY B., [redacted]
SMITH, GARY W., [redacted]
SMITH, NICHOLAS J., [redacted]
SPEGELE, JOHN J., [redacted]
SPILLERS, KEVIN P., [redacted]
STEELE, MICHAEL L., [redacted]
STOLAR, GERARD M., [redacted]
STONE, SHIMON, [redacted]
STREET, ROBERT S., [redacted]
STRINGER, WILLIAM F., [redacted]
TAKEHARA, MARK R., [redacted]
TARBUTTON, WILLIAM R., [redacted]
TARPEY, DANIEL F., JR., [redacted]
TAYLOR, JAMES F., JR., [redacted]
TAYLOR, ROBERT W., [redacted]
TERRELL, JOHN A., [redacted]
THOMAS, THOMAS W., II, [redacted]
THOMPSON, STEVEN J., [redacted]
THORSON, TIMOTHY L., [redacted]
TIBBITS, KEITH A., [redacted]
TOMON, ROBERT F., [redacted]
TONNACLIFF, BRIAN L., [redacted]
TULLY, ROBERT S., [redacted]
VALORE, JOSEPH P., JR., [redacted]
VANDYKE, ANTHONY E., [redacted]
VANPEURSEM, DENISE R., [redacted]
VOHASKA, MICHAEL J., [redacted]
WALKER, JAKE, JR., [redacted]
WALSH, FRANK E., [redacted]
WARNER, JAMES S., [redacted]
WASHINGTON, CLIFTON E., [redacted]
WATSON, DAMON T., [redacted]
WEBER, ERIC C., [redacted]
WEDERBROOK, EARL S., [redacted]
WELDON, CHRISTOPHER M., [redacted]
WESTERN, THOMAS F., [redacted]
WHITE, CHARLES M., [redacted]
WIENERS, ROBERT B., [redacted]
WILLIAMS, DENICE T., [redacted]
WILLIAMS, DOUGLAS G., [redacted]
WILLIAMS, JOHN D., [redacted]
WILLIAMS, WILLIAM J., [redacted]
WILLS, PATRICK E., [redacted]
WILSON, DAVID C., [redacted]
WINGARD, JOSEPH R., [redacted]
WINSTON, DAVID P., [redacted]
WINTERS, FREDERICK, [redacted]
WISSLER, JOHN E., [redacted]
WITTLE, STEPHEN B., [redacted]
WOODARD, BRUCE R., [redacted]
WOODS, CARL J., [redacted]
WUNDER, DAVID M., [redacted]
YEARY, LON M., [redacted]
YODER, RICHARD W., [redacted]
YOUNT, PETER E., [redacted]
YOWELL, RONNY L., [redacted]

IN THE NAVY

THE FOLLOWING-NAMED COMMANDERS IN THE STAFF CORPS OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

MEDICAL CORPS OFFICERS

To be captain

ADAMS, ROBERT J., [redacted]
AMBROSE, MICHAEL R., [redacted]
BAYER, JON D., [redacted]
BETTS, LAWRENCE S., [redacted]
BIGHAM, WILLIAM J., [redacted]
BOWDEN, HERBERT H., JR., [redacted]
BOZMAN, RAYMOND E., [redacted]
CALLAN, DANIEL J., [redacted]
COHEN, BARRY D., [redacted]
COLEMAN, CLAUDE L., [redacted]
COLLINS, CHARLES M., [redacted]
COOTS, LAWRENCE E., [redacted]
CORSE, WILLIAM R., [redacted]
DUNTEMANN, THOMAS J., [redacted]
EDWARDS, RUSSELL P., [redacted]
ELLIOTT, KENT C., [redacted]
FULTON, DWIGHT C., [redacted]
GILBERT, RICHARD M., [redacted]
GREEN, JIMMY W., [redacted]
GREEN, JOHNNY B., [redacted]
HANSON, ROGER W., [redacted]
HIMES, THOMAS R., [redacted]
HOYLE, KENNETH S., [redacted]
HUNTER, CHRISTINE S., [redacted]
KANG, DONGKYOO R., [redacted]
KISER, WILLIAM R., [redacted]

KNOWLAN, MICHAEL N. [redacted]
KUEHNE, RICHARD F. [redacted]
LAVIN, BRUCE S. [redacted]
LAWRENCE, DAVID P. [redacted]
LAWSON, JOHN M. [redacted]
LEHNER, WILLIAM E [redacted]
LINENGER, JERRY M [redacted]
LOUP, DAVONNE S. [redacted]
LOVELL, LAVERNE R. [redacted]
MACRI, CHARLES J [redacted]
MARIANO, ELEANOR C. [redacted]
MAYS, LUTHER M. [redacted]
MC CLELLAND, SCOTT R. [redacted]
NORTH, ROBERT B., JR [redacted]
NYQUIST, BRIAN O. [redacted]
O'LEARY, MICHAEL J [redacted]
OLSON, PATRICK E. [redacted]
RUDOCK, ALBERT S. [redacted]
SCHINDLER, WILLIAM R. [redacted]
SCHULTZ, ROBERT G. [redacted]
SELBY, STEPHEN J [redacted]
SHARPE, ROBERT W. [redacted]
SOLLOCK, RONALD L. [redacted]
STANLEY, MARK D. [redacted]
STEVENS, MARK K. [redacted]
TORREY, STEPHEN A., JR [redacted]
TUELLER, JOHN E. [redacted]
WALLACE, RICHARD B. [redacted]
WESSON, STANTON K. [redacted]
YERKES, SANDRA A. [redacted]
ZUKOWSKI, CHRISTOPHER W. [redacted]

SUPPLY CORPS OFFICERS

To be captain

APPLE, CHRIS L [redacted]
BALES, RANDLE D. [redacted]
BARNES, WILLIAM A. [redacted]
BICKERT, WILLIAM E., JR [redacted]
BILLIOURIS, JOEL L [redacted]
BLAND, PAUL M. [redacted]
BODIN, KENNETH C. [redacted]
BOYD, RICHARD A. [redacted]
BROWN, GREGORY A. [redacted]
BROWN, WILLIE A. [redacted]
CALDWELL, GIGETTE P. [redacted]
COUCH, HOWARD W., JR. [redacted]
COWLEY, ROBERT E., III [redacted]
CULVYHOUSE, FRED S. [redacted]
DEALY, DAVID M. [redacted]
DRERUP, JOHN W., JR [redacted]
ELLIOTT, PATRICK A [redacted]
FARGO, KEITH B. [redacted]
FREIHOFER, JAMES T [redacted]
GRAHAM, JOHN M. [redacted]
GRAY, RICHARD D. [redacted]
HUFF, KURT R. [redacted]
HUNTRESS, DIANA E. [redacted]
KNAGGS, CHRISTOPHER D. [redacted]
MAGUIRE, WILLIAM J. [redacted]
MATHIEU, RONALD C. [redacted]
MORRIS, STEPHEN H. [redacted]
NANNEY, ROBERT G. [redacted]
RAUSCH, DAVID L. [redacted]

SLIGH, ALBERT B., JR. [redacted]
SMITH, DONALD F., JR. [redacted]
SUTTON, BOBBY L., JR. [redacted]
TISON, DONALD C. [redacted]
VADALA, LAWRENCE E. [redacted]
VARGO, JEANNE K. [redacted]

CHAPLAIN CORPS OFFICERS

To be captain

BUCHMILLER, RONALD J. [redacted]
ERB, RICHARD D. [redacted]
GIBSON, ARLO R., JR. [redacted]
GOMULKA, EUGENE T. [redacted]
HARWOOD, JAMES G., [redacted]
LAWSON, DOUGLAS W. [redacted]
MC NABB, JERRY E. [redacted]
MORRIS, DONALD A. S. [redacted]
OHICKEY, EILEEN L. [redacted]
OLAUSON, DOUGLAS J. [redacted]
POPE, JOHN W., [redacted]
SHIELDS, JERRY K [redacted]
VIEIRA, JANE F. [redacted]

CIVIL ENGINEER CORPS OFFICERS

To be captain

AYARS, ARTHUR D., JR. [redacted]
DUBA, STEPHEN C. [redacted]
FOWLER, BRAD J. [redacted]
JOHNSON, STEVEN W. [redacted]
KATZWINKEL, ERNEST J [redacted]
LIEDKE, THOMAS R., JR. [redacted]
LOFASO, JOSEPH M. [redacted]
LOOSE, MICHAEL K. [redacted]
MC AFEE, RICHARD J. [redacted]
MC CONNELL, JAMES A. J. [redacted]
MEHULA, JOSEPH A., I [redacted]
OSTAG, WILLIAM P. [redacted]
PHILLIPS, ROBERT L [redacted]
PRUETT, DAVID D. [redacted]
WYMAN, JON C. [redacted]
ZORICA, JOSEPH W. [redacted]

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be captain

ALLEN, CHARLES A. [redacted]
ALMAND, LAWSON R. [redacted]
DUFFY, JAMES F [redacted]
LOHR, MICHAEL F. [redacted]
LORD, MICHAEL W. [redacted]
MC CULLOUGH, LARRY A. [redacted]
QUINN, JOHN P. [redacted]
SERAFINI, JAN R [redacted]
TAYLOR, THOMAS R. [redacted]
UTECHT, MARK S. [redacted]
WILLIAMS, RICHARD G. [redacted]
YOUNG, TIMOTHY C. [redacted]

DENTAL CORPS OFFICERS

To be captain

AMRHEIN, EDWARD S. [redacted]

ARENDT, DOUGLAS M. [redacted]
DUGGER, JOE M. [redacted]
FAIRCHILD, CHARLES J., JR [redacted]
HAGUE, RICHARD J. [redacted]
LEWIS, ERIC [redacted]
MAYNARD, ROBERT D. [redacted]
MIEDEMA, MARK W. [redacted]
MILLER, WILLIAM W. [redacted]
ROYER, JAMES E. [redacted]
RUMANES, KIMON A. [redacted]
STURDY, KEVIN A. [redacted]
WALLACE, STEVE W. [redacted]

MEDICAL SERVICE CORPS OFFICERS

To be captain

ALEXANDER, MARTHA B. [redacted]
ARMSTRONG, CURTIS G., JR. [redacted]
AYERS, JAMES L. [redacted]
BALLY, RALPH E. [redacted]
BRANNMAN, BRIAN G. [redacted]
CURLEY, MICHAEL D. [redacted]
DUDLEY, CHARLES T. [redacted]
GALLIS, JOHN N. [redacted]
GIBSON, JOHN S. [redacted]
JOHANSON, DAVID C. [redacted]
KRASICKY, MARCIA W. [redacted]
LA FONTAINE, RICHARD L. [redacted]
LEYSATH, JOHN R., JR. [redacted]
LILIENTHAL MICHAEL G. [redacted]
LONG, ALBERT B., III [redacted]
LUNDY, JOHN A. [redacted]
PETHO, FRANK C. [redacted]
RICE, STEPHEN C. [redacted]
SHORE, JOHN E. [redacted]
SIMPKINS, HARVEY L. [redacted]
SPOLNICKI, HENRY G. [redacted]
STILL, KENNETH R. [redacted]
STODDARD, SHELDON T. [redacted]
TRACY, JOHN E. [redacted]
WYNKOOP, DAVID A. [redacted]

NURSE CORPS OFFICERS

To be captain

BAILEY, KATHLEEN J. [redacted]
BENTON, ALANA M. [redacted]
BULL, PARTICIA M. [redacted]
CORRENTI, PATRICK S. [redacted]
FLOOD, SUE A. [redacted]
HIATT, KATHLEEN A. [redacted]
KELLOGG, JANICE S. [redacted]
KOSSLER, SANDRA L. [redacted]
LAUERMANN, PATRICIA G. [redacted]
MC CONNAUGHEY, RANDALL A. [redacted]
MOUNT, CHARLES B. [redacted]
MURPHY, PATRICIA C. [redacted]
RHODEY, DONNA K. [redacted]
TURPIN, LORI A. [redacted]
WAECKER, GEORGENE B. [redacted]

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 25, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 26

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for energy conservation.
SD–116

9:30 a.m.
Armed Services
Strategic Forces Subcommittee
To continue hearings on proposed legislation authorizing funds for fiscal year 1996 for the Department of Defense and the future years defense program, focusing on the Ballistic Missile Defense Organization, and to examine the future of the ABM Treaty.
SR–222

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Environment and Public Works
Transportation and Infrastructure Subcommittee
To hold oversight hearings on the General Services Administration activities on the U.S. Food and Drug Administration consolidation project, the proposed Federal Communications Commission lease consolidation, and the U.S. Patent Trademark Office consolidation.
SD–406

Finance
To resume hearings to examine welfare reform proposals, focusing on programs for children.
SD–215

9:45 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume oversight hearings on the U.S. Forest Service land management planning process, focusing on the coordination of and conflicts between Federal forest management and general environmental statutes.
SD–366

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Food and Consumer Service, Department of Agriculture.
SD–138

Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Legal Services Corporation.
S–146, Capitol

Judiciary
Business meeting, to resume markup of S. 343, to reform the Federal regulatory process.
SD–226

Select on Intelligence
To hold hearings on the nomination of John M. Deutch, of Massachusetts, to be Director of Central Intelligence.
SH–216

10:15 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for fossil energy, clean coal technology, Strategic Petroleum Reserve, and the Naval Petroleum Reserve.
SD–116

APRIL 27

9:00 a.m.
Armed Services
Readiness Subcommittee
To hold hearings on the near and long term readiness of the Armed Forces as it relates to the future years defense program.
SR–232A

Environment and Public Works
Superfund, Waste Control, and Risk Assessment Subcommittee
To hold oversight hearings on the implementation of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).
SD–406

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 537 and H.R. 402, bills to make certain technical corrections to the Alaska Native Claims Settlement Act of 1971.
SD–366

Finance
To continue hearings to examine welfare reform proposals.
SD–215

Labor and Human Resources
Education, Arts and Humanities Subcommittee
To hold hearings to examine vocational education programs.
SD–430

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, Department of Transportation.
SD–192

Budget
Business meeting, to mark up a proposed concurrent resolution on the fiscal year 1996 budget for the Federal Government.
SH–216

Foreign Relations
European Affairs Subcommittee
To hold hearings to examine the future of NATO, focusing on problems, threats and U.S. interests.
SD–419

2:00 p.m.
Judiciary
To hold hearings to examine the nature and extent of the threat of international terrorism in the United States, focusing on possible legislative responses.
SD–226

APRIL 28

9:30 a.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on issues of waste, fraud and abuse in the Medicaid program.
SD–138

MAY 1

2:00 p.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine the crisis in Chechnya.
2172 Rayburn Building

MAY 2

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Forest Service of the Department of Agriculture.
SD–138

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on the ballistic missile program.
SD–192

Labor and Human Resources
To hold hearings on the nomination of Henry W. Foster Jr., of Tennessee, to be Medical Director in the Regular

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Corps of the Public Health Service, Department of Health and Human Services.
SH–216

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to review the Navy class oiler contract.
SD–342

MAY 3

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Agriculture.
SD–138

MAY 4

9:00 a.m.
Labor and Human Resources
To hold hearings to examine primary health care services, focusing on access to care in a changing health care delivery system.
SD–430

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Coast Guard, Department of Transportation.
SD–192

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to review the Navy class oiler contract.
SD–342

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Institutes of Health, Department of Health and Human Services.
SD–192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Treasury and the Office of Management and Budget.
SD–138

MAY 5

9:30 a.m.
Joint Economic
To hold hearings to examine the employment-unemployment situation for April.
SD–562

MAY 10

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Service and the Selective Service System.
SD–192

MAY 11

9:30 a.m.
Labor and Human Resources
Disability Policy Subcommittee
To hold hearings to examine proposed legislation relating to the education of individuals with disabilities.
SD–430

Special on Aging
To hold hearings to examine ways the private sector can assist in making long term care more affordable and accessible.
SD–562

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Bureau of Indian Affairs, Department of the Interior.
SD–116

1:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Indian Health Service, Department of Health and Human Services.
SD–116

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine access to abortion clinics.
SD–192

MAY 12

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Environmental Protection Agency, the Council on Environmental Quality, and the Agency for Toxic Substances and Disease Registry.
SD–192

MAY 16

9:30 a.m.
Labor and Human Resources
Disability Policy Subcommittee
To resume hearings to examine proposed legislation relating to the education of individuals with disabilities.
SD–430

MAY 17

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine the National Academy of Public Administration's study on the Environmental Protection Agency.
SD–G–50

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Park Service, Department of the Interior.
SD–192

MAY 19

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Housing and Urban Development.
SD–192

MAY 24

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Fish and Wildlife Service, Department of the Interior.
SD–192

JUNE 6

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Interior.
SD–138

POSTPONEMENTS

APRIL 27

9:30 a.m.
Small Business
To hold hearings on the Small Business Administration's 7(a) Business Loan Program.
Room to be announced

10:00 a.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine the costs of the legal system.
SD–226

SENATE—*Tuesday, April 25, 1995*

(Legislative day of Monday, April 24, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Holy spirit of God, the greatest counselor in the world, we open our minds, hearts, wills, and bodies to the infilling of Your power. Infinite Intelligence, grant us power to understand Your solutions to our problems. Unlimited Love, fill our hearts with healing love from which flows the affirmation that others need. Liberating Spirit, set us free from bondage of our wills, so intent on what we want that we miss the guidance of what You have for us. Artesian Strength, energize our bodies for the arduous pressures of the day ahead.

Spirit of the living God, fall afresh on us. Peel back the icy fingers of the fist of fear that hold our hearts in the grip of grimness, that make us cautious when faced by great challenges, and cause us to be timid in life's testing hours. Spirit of Life, help us pull out all the stops so You can make great music of joy in our souls. Radiate Your hope through us. Make us positive people who are expectant of Your best for us and our Nation. Give us the authentic charisma that comes from Your grace: gifts of wisdom, knowledge, discernment, and love.

And today, as we begin our work, we remember Senator and Mrs. Heflin and ask You for Your continued healing power in Mike, his wife. We thank You for the good reports of yesterday, and ask You to place Your loving arms around her with healing grace and hope.

This is the day the Lord has made. So lead on, O Lord. We rejoice and are glad in You. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from New Mexico is recognized.

SCHEDULE

Mr. DOMENICI. Mr. President, this morning the leader time has been reserved, and there will be a period for morning business until the hour of 12 noon with Senators permitted to speak for up to 5 minutes each, with the exception of the following: Senator DOMENICI for 60 minutes; Senator THOMAS for 30 minutes; and Senator BAUCUS for 15 minutes.

At noon today the Senate will proceed to a 15-minute vote on the adoption of Senate Resolution 110, a resolution condemning the bombing of the Federal building in Oklahoma City.

The Senate will recess between the hours of 12:30 and 2:15 for the weekly policy luncheons.

At 2:15, following the luncheons, the Senate will resume consideration of H.R. 956, the product liability bill.

Members should, therefore, be aware that further rollcall votes can be expected throughout today's session of the U.S. Senate.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon with Senators permitted to speak therein for not to exceed 5 minutes with the following Senators to be recognized for the time specified: The Senator from New Mexico [Mr. DOMENICI], is recognized to speak for up to 60 minutes. The Senator from New Mexico may proceed.

Mr. DOMENICI. Thank you very much, Mr. President.

Mr. President, Senator NUNN from Georgia will be along soon and I intend to share my 60 minutes with him. If he were here, I would let him open the discussion and follow him. But in his absence, I am sure he would want me to proceed.

(The remarks of Mr. DOMENICI and Mr. NUNN pertaining to the introduction of S. 722 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Twenty-five minutes fifteen seconds.

Mr. DOMENICI. Would the Senator from Nebraska like 10 minutes, 5 minutes?

Mr. KERREY. Ten minutes.

Mr. DOMENICI. I yield 10 minutes to the Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent to be added as an original cosponsor to this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nebraska is recognized.

Mr. KERREY. I thank the Chair.

(The remarks of Mr. KERREY pertaining to the introduction of S. 722 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Pennsylvania.

FRESHMAN FOCUS

Mr. SANTORUM. Mr. President, I rise today as a replacement, pinch-hitting for the Senator from Wyoming, Senator THOMAS, who usually guides this half hour of time for the freshmen. We call this our freshman focus, 11 freshman Republicans who on Tuesday and Thursday mornings come to the Senate floor to talk about issues of importance to the Senate, to the country. Senator THOMAS has done a fine job in doing that. He is at the National Press Club today, so he is not available to do that. But I will do my best to fill in for him and try to lead the discussion this morning with my colleague from Maine and others who will appear on the floor to talk about our theme for today, which was a question I received a lot in town meetings and other meetings when I was back in Pennsylvania, when I was home in the last few weeks: What is ahead for the Senate? What is the Senate going to be doing with not just the Contract With America, but a whole bunch of other things?

So we thought we would take on that question head on: What is the agenda for the Senate? What are we going to be doing? Is it relevant, and how relevant is it, for the American public and what they are concerned about?

I had lengthy discussions at home at these town meetings and I got a good feel that we are on the right track. What is in our sights here in the U.S. Senate is on track with where the American public would like us to go.

The issue we are debating here on the floor today and for the next week or so is an issue of very great importance to the economic well-being of this country, legal reform. We have a much too costly legal system. It is one that makes us uncompetitive and inefficient, and one that is not fair to society as a whole. While we may have people, individuals, who hit the jackpot and win the lottery in some cases, that is not exactly what our legal system should be designed to do. It should have the societal benefit of spreading

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risk around, and also creating justice not just for the individual but for society as a whole. I do not think our system achieves that as well as it can, and I think legal reform we are facing here on the Senate floor will be a help to everyone in our society. That, I believe, is very relevant for the average American.

The other thing we are obviously going to be bringing up, that may be somewhat expedited as a result of the tragedy in Oklahoma City, is a crime bill with very tough provisions on antiterrorism that is going to be, I believe, a bipartisan effort. Senator HATCH has talked about moving forward the crime bill, parts of which have passed the House, and moving it to the Senate floor with some tough antiterrorism measures, to quickly respond. Hopefully, the crime bill we are trying to push through will get an expedited path as a result of some of the activities over the last week or so. Hopefully, the Senate can quickly respond. Again, it is a matter of whether the other side is going to allow this body to move in an expeditious though thoughtful way or whether we are going to play delaying tactics and stalling tactics, to be a roadblock to progress.

There are two other things I want to focus on. If I heard about an issue back home from folks who were trying to make a living, small businessmen in particular, it was regulatory reform. More than anything else, having the Government regulators be more reasonable in dealing with the laws that we put forward and for the Congress and for the regulators to work together to put forward regulatory schemes that make common sense, not these overly bureaucratic and harmful procedures we put in place today to overregulate our society. Again, they cause a lot of personal pain and suffering and problems and affect lives in ways that are almost incalculable as a result of the scheme we put in effect over the last 30 or 40 years. We need to look at this, recreate Government anew, do something commonsense oriented to make Government work better for people back home. I believe the regulatory reform measures we will be considering here in the next month or so will go a long way toward doing that.

The last thing we are going to be looking at, and I will combine these two, is we are going to be looking at a tax cut bill and we are going to be looking at a budget resolution that is going to put this country on a road to a balanced budget in 7 years. I know the Senator from Maine is going to talk about this in detail as a member of the Budget Committee. In fact, we are going to have on the floor of the Senate a budget that will bring us to balance in 7 years. We will be able to vote for a balanced budget. I think it is the first time that has been the case, that the majority party in one of the bodies has proposed a balanced budget, since 1969. So it is in fact historic and it is a great opportunity. It is a great challenge for not only the Members of the Senate, but for this country, to take a step back and look and see what we are going to do, not just to get the numbers to add up right but simply how are we going to save this country? How are we going to provide for some stability and financial future of this country?

This is not about just balancing the budget; this is about saving the country. Because if we do not take this course, if we do not act seriously on this fiscal crisis we are in right now, it is only going to get harder in the future. It does not get easier. Anyone who will tell you we can just put this off a little bit and it will get easier in the future is wrong. The budget deficit gets worse and worse the longer we wait. You jeopardize programs like Medicare and Social Security and every other popular program that is here in Washington by delaying and playing politics with this issue.

I am hopeful we will not play politics, that we will be able to stand up here and have an intelligent debate on the floor of the Senate and talk about what we are going to do to set priorities and put this country on a sound fiscal footing in the future so we can make sure people who are banking on Social Security and Medicare in their retirements, people who need the welfare systems that we have and hopefully will be able to reform, that those systems will be available and are not just going to be squeezed out because of our inability to set fiscal priorities today. The chance of them being squeezed out in the future is not just a possibility, it is a certainty. We will squeeze these programs out, a lot of them, if we do not set our house in order now.

So I am excited about that. I think it is a great opportunity for the Senate to shine, for us to really step forward and have this kind of deliberative discussion about issues at the core of who we are as a country and what direction we are going to take. I am anxious to get ahead, to look ahead at the next few months and see what we are going to do here in the U.S. Senate. I think it bodes well for this country for us to have this kind of aggressive agenda for the American public.

I will be happy to yield 5 minutes to the Senator from Maine.

A BALANCED BUDGET

Ms. SNOWE. Mr. President, I thank the Senator for yielding. I am pleased to be able to join my freshman colleagues in talking about the agenda for the coming weeks and months as we return from our spring recess and have the opportunity to discuss with our constituents exactly what is on their minds. I can assure you, it is the same thing that it was in November.

People are still clamoring for institutional, economic, and political change. They recognize that some of the monumental achievements that we have already made in the first 100 days, many of the issues that have laid dormant in this institution for years and years, have been acted upon, such as requiring Congress to live by the same rules that apply to the rest of society, stopping the tide of unfunded mandates, and giving the President line-item veto authority. So we have made progress. But they want to continue our assault on the status quo. I cannot think of a better way to demonstrate our commitment to changing the status quo than to show the American people that deficit reduction and balancing the Federal budget is going to be on the top of our agenda.

I know that many people have said here on the floor of the Senate when we were debating a constitutional amendment to balance the budget that we do not need a constitutional amendment, that it is not necessary. Unfortunately, history has just disproved us in that regard because we have had a fiscal losing streak with 26 years of unbalanced budgets. Mr. President, 1969 is the last time in which we had a balanced Federal budget.

I hope that we can disprove history. I hope that we are able as we meet this week in the Senate Budget Committee on Thursday to begin the process of marking up the budget resolution that we will engage in a bipartisan effort to balance the Federal budget. Our goal is to put our budget on a glidepath toward balancing it by the year 2002.

So I hope all who have mentioned that we do not need a constitutional amendment will join us in that effort to ensure that we will in fact have a statutory commitment toward the balancing of the Federal budget.

The administration unfortunately has perpetuated the fiscal status quo with a budget that was submitted by the President several months ago. In fact, back in 1992 the President said he would offer a 5-year budget plan that would balance the Federal budget. He has not done that. He then said that he would reduce the Federal budget deficit by half by 1996. Of course, that has not occurred. Instead, we received a budget that only eliminates one agency, the Interstate Commerce Commission, out of a grand total of a budget of $1.2 trillion. In fact, the Congressional Budget Office reestimated the administration's projections on deficits. And it is quite alarming as well as disturbing when you see the upward trend of the deficits as well as the interest payments. That is what makes our action on the budget deficit and balancing the Federal budget so compelling.

According to the CBO, the 1996 deficit will be $211 billion, not the $197 billion projected by the administration. The 1998 deficit will rise to $231 billion, not the $196 billion projected by the administration. In 1999, the deficit will reach an estimated $256 billion, far from the $197 billion the administration had forecasted. Finally, in the fiscal year 2000, the Congressional Budget Office said the deficit will reach $276 billion rather than the $194 billion the administration has projected.

It means according to CBO reestimates that the size of our national deficit over the next 5 years will increase by 55 percent. It will grow from 2.5 percent of the gross domestic product to 3.1 percent of the GDP, which is contrary to what the administration had indicated, that in fact they had said that the deficit would be 2.5 percent of GDP and decline to 2.1 percent of GDP. Obviously, that is not now the reality. The gap between the administration's projections on the deficits and the Congressional Budget Office really amounts to more than $209 billion that will be spent over the next 5 years; $209 billion. It is incredible when you consider the fact that by the year 2000 we will in fact have had our revenues exceed the 1995 revenues by $323 billion.

So you would say then we must have a much smaller deficit in the fiscal year 2000. Well, no. We are not going to. We are going to have a deficit of $273 billion. It will be $100 billion more than it will be in 1995, even though we will have $323 billion more in additional revenue.

We will be spending $422 billion over the next 5 years. That represents a 28-percent increase during a time when inflation is projected to rise by half that rate.

The administration said it is going to cut the budget over the next 5 years by $144 billion. In fact, it is being reestimated by the Congressional Budget Office. In fact, the administration's budget will only reduce Federal spending by $32 billion over the next 5 years, meaning just about $6 billion a year, thirty-nine one-hundredths of 1 percent of total Federal spending, hardly enough, and certainly is not going to put us on a stable fiscal path for the future. And that is what we are talking about, the future for this country because deficits are affecting not only taxes but productivity, savings, the deficit, and employment. It affects all of those categories. We need to be investing in the future. Otherwise, we are going to create a second-rate economy.

That certainly is not exaggerated because 1969, the last time the Federal Government had a balanced Federal budget, the dollar traded for 4 German marks and 360 Japanese yen. And, since then, while the Federal debt has increased by 1250 percent, or $4.5 trillion, the dollar has lost two-thirds of its value against the mark, and three-fourths against the yen.

I guess in reality what we are saying is that it will continue to cost the American people millions, if not billions, of dollars because the link between a lackluster and unfocused and uncontrolled Federal budget policy and a decline of the dollar is indisputable. In fact, the Federal Reserve Chairman, Alan Greenspan, told the House Budget Committee recently that all told a Federal program of fiscal restraint that moves the deficit finances to sounder footing almost surely will find a favorable reception in financial markets. He added that a key element in dealing with the dollar's weakness is to address our underlying fiscal balance. In layman's terms that means only one thing. It means balancing the Federal budget.

So I hope we can work in unison on a Republican and Democratic basis and in conjunction with the administration to produce just that, a balanced Federal budget, not only for this generation but future generations to come.

Mr. President, I yield the floor.

Mr. SANTORUM. Mr. President, at this time I would like to yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. KYL. Mr. President, I thank my colleague from Pennsylvania, and would also just say in response to the remarks of our colleague from Maine that she has been a long-time advocate beginning with her service in the House of Representatives for sensible fiscal policy, and in particular support for the balanced budget amendment. I just again express my appreciation to her for all of the hard work that she did there and for what she has since carried forward to this body in attempting to get us to support the balanced budget amendment this year. We failed by one vote. But I think, as has been noted, we are going to get it passed sooner or later.

One of the things my constituents told me during the last 2 weeks when I was out in Arizona was that we need to balance the Federal budget. In fact, if there was any one theme that came across during the visits that I had with people all over the State in my tour of the State, it was that the Senate needed to keep up the good work that the House began, and that includes passing the balanced budget amendment. When I asked them what they thought about the first 100 days and the House Contract With America, they were overwhelmingly in support of it.

We traveled during the first week. We got in my old Suburban and traveled to Miami and Globe and Thatcher, and Pima. These are names that are not known to very many of you, but they are little towns in Arizona. We had a town hall meeting in Safford with 130 people one night. They were all just as interested and engaged as you would hope that our American citizens would be on these issues that we have been working on here.

Their primary message was we are appreciative of what the House did. Now you in the Senate need to do the same thing. They were pleasantly surprised when I noted we had already passed three of the contract items here in the Senate. That message had not really gotten out too much. They were also somewhat skeptical that the Senate would do as well as the House, and in particular with regard to the budget issues.

We went on to the small towns of Willcox and Benson. These are ranching communities primarily, and regulatory reform is very high on their agenda. They deal with the Federal Government every day because many of them ranch on Federal lands and in other respects have dealings with the Federal Government, which are not always the most pleasant.

So their view was that regulatory reforms, the kind of things that the Senate will be marking up in the Judiciary Committee tomorrow, the Dole regulatory reform bill, are the kind of reforms that they want us to carry forward. Of course, that was done in the House of Representatives as part of its Contract With America.

Then over to Yuma, AZ, up to Flagstaff, AZ, the Grand Canyon, where there is obviously a need to support our National Park System to begin to make it a better experience for the now millions of people who visit the Grand Canyon every year and also to balance very carefully the environmental concerns with the other economic needs of our citizens.

All of these subjects were discussed during these 2 weeks as I went around the State, but there is a sense of optimism that we have actually changed things. There is a desire that we keep going. I think there is still a residuum of skepticism that the Congress really will follow through with these promises, but people are very pleasantly surprised that so far it seems to be happening.

Then finally, Mr. President, when the very tragic events of just a week ago began unfolding in Oklahoma City, it began to remind people all over this country of how unified we are as a people in condemning that kind of violence, in feeling the most heartfelt sympathy for the victims of the tragedy, and for sharing a commitment to bring to justice the people who are responsible.

I spent a good deal of my time, since I serve on both the Intelligence Committee and the Judiciary Committee, talking to people about the threats that are out there and for the need to support the agencies that we count on to prevent these threats or to bring to justice the people responsible when they occur. Our agencies, such as the Central Intelligence Agency and the Federal Bureau of Investigation, we are extremely pleased with the way this investigation has gone so far, but we know that there is much work to be done.

It is important for us to recognize that this does not just happen automatically. It happens because hundreds of dedicated Americans are working very long hours under difficult circumstances to find out what these kinds of groups are up to, to try to prevent them from acting and, when they do, to bring them to justice. We cannot reflect on it just when there is a tragic event such as this. We have to support these agencies throughout the year and year in and year out.

I am very disturbed by the calls that I have heard in the beginning part of this year from those who would dismantle the Central Intelligence Agency, for example, because the cold war is over, not appreciating the fact that there are hundreds of organizations around the world, some State sponsored, others not, but all of which have in mind conducting the kind of terrorist activities that occurred in Oklahoma City. It can happen from without our borders as well as within, and it is critical that we remember that and support these organizations when the appropriations issues come before us very soon. It is the only way we will be able to bring to justice the people responsible for this kind of heinous activity.

So, Mr. President, it was an Easter recess that was edifying for all of us and at the end something that because of the tragedy I think unified us all in expressing support for the people in Oklahoma City.

I thank the Chair.

Mr. SANTORUM. I thank the Senator from Arizona for his fine remarks and for his zealous participation in trying to get the Senate moving and working. This is a tough place to get activated, but the Senator from Arizona has been a delightful thorn in the side of a lot of folks around here to try to get things going, and I commend him for his activity.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Eleven minutes and forty seconds remain.

Mr. SANTORUM. I yield 6 minutes to the Senator from Tennessee, Senator THOMPSON.

The PRESIDING OFFICER. The Senator from Tennessee.

NO TIME TO GO LUKEWARM

Mr. THOMPSON. Mr. President, I thank my colleague from Pennsylvania.

I, first of all, wish to also commend the Senator from Arizona. I think his remarks concerning the need for our strong law enforcement agencies was most timely and most eloquent. Before I address the main point I wanted to make, I must reinforce that.

I think too often in this country, whether it be our law enforcement agencies or our military, once we pass a crisis, it is as if we do not need them anymore; once we have won a war, it is as if we do not need the military anymore. And historically we have downsized too rapidly and too much. I think sometimes when things are peaceful here domestically, we feel we do not need a strong CIA, we do not need a strong FBI and law enforcement authorities. These people are out here every day and, as the Senator pointed out, they need our support on a continuous basis. They need the support of the Congress on a continuous basis, not just when there is a crisis, when people tend to overreact.

So I am very proud of these agencies. We must do everything we can to make sure that they remain strong, not talking about cutting back the budgets of these agencies, certainly not talking about eliminating them as some have done because they have gotten in a little trouble, and certainly they need oversight. But I think the tragic events of the last several days have just gone to underscore the fact that we must remain strong both domestically and with regard to foreign matters.

I was also impressed with what my colleague from Arizona said concerning the time he had over this last recess. I shared many of the same experiences he had. We ran the last campaign based on a very simple notion, and that was the notion of changing the way we do business in this town, in the Congress of the United States. And now we begin to see in newspaper articles, people have gone back home, and the President indicates that some people are not so sure, maybe things are moving too fast, people are not willing to make sacrifices—sure, they want these things done in the broad sense of the word, but when it comes to them, individuals are too selfish to be willing to make any kind of incremental adjustment if it affects them directly; et cetera, et cetera, et cetera.

That is not my experience. I have gone back to Tennessee every weekend since I was elected to the Senate. These last few days have been no different than any other days I have spent out in the country, in country stores, in cafes, talking to people. The message that I get consistently is that this is no time to go lukewarm on our basic commitments, on basically what we ran on. It is not time to go soft on our commitment for a balanced budget amendment. It is not time now to get cold feet on deregulation. It is not time to get lukewarm on welfare reform.

These things are our commitments, these things they expect us to follow up on, and they look forward to the leadership that they think we are providing. They only ask that we be fair.

I have never talked to a grandparent in the State of Tennessee who was not willing to make some incremental adjustment if they thought it would go to the benefit of their grandchild. And that is the message we have to bring back here. For all of those among our colleagues and in the media who think that Americans are so individually self-centered and selfish that we are not willing on an individual basis to do the things necessary to make for a stronger country, to make a stronger country for our children and grandchildren, I will have to point out to them that they are very much mistaken. The House of Representatives, of course, has been very active and very busy. They have gotten a lot of attention over their agenda and what they have done.

I would just like to say this. Regardless of what any individual might think about the Contract With America or any particular provision of the contract, the House of Represenatives did a very, very significant thing that overshadows any individual provision in that contract or the contract in its totality, and what they did was what they said they were going to do. Never before in the history of this country was a program so plainly and simply laid before the American people which said, if we get elected, this is what we will do.

They got elected and then they went about doing it. Now it has come to the Senate. It has been pointed out many times that the Senate is not the House. It has been pointed out that things will move slower in the Senate because that is what it is designed to do. This is where the coffee is poured into the saucer to cool.

All of that is true. All of that is well and good. I have no problem in spending days on end in the Senate debating the national issues, debating the issues of strong contention where people have legitimate concerns over issues of broad policy that affect the future of this country. I have no problem with debating those matters on end. We do not have any agenda over here except to do the right thing in the right amount of time.

What I have problems with is taking days on end on matters which essentially are not controversial, where at the end of the day they pass by 90 or 95 votes to 5. I see no reason why we should get hung up on delay over here for delay's sake. I hope that does not happen. If we have controversial matters that take days, let us take them. But if we have things that we know the American people want and we know that most of the Members of this body want, I say let us get on with it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THOMPSON. I thank the Chair. I yield the floor.

Mr. SANTORUM. Mr. President, I thank the Senator from Tennessee for his fine remarks and very cogent points on a number of issues, particularly his comments on our downsizing too quickly, not just with the military but with our domestic intelligence agencies, law enforcement agencies. I think the Senator has hit the nail right on the head there and I congratulate him for his statements on that matter.

I would like to yield our remaining time that was allocated to us this morning to the Senator from Oklahoma, who I know will be in the Chamber shortly with a resolution concerning the tragedy in his home State of Oklahoma, to talk about the agenda for the future here in the Senate.

Senator INHOFE.

The PRESIDING OFFICER. There are 4 minutes and 50 seconds remaining.

The Senator from Oklahoma.

THE AGENDA

Mr. INHOFE. Thank you, Mr. President, and I thank the Senator from Pennsylvania for the time.

As he stated, in just a few minutes, Senator NICKLES and I will make some comments concerning a resolution that will be voted on at noon today having to do with the disaster that struck Oklahoma less than a week ago.

However, I do think on this subject of the agenda that there is a misconception that is floating around out there that the Senate has not been doing anything because most of the focus has been on the other body. And it is understandable, because that is where most of the activity was. Procedurally, things happen quicker in the House than they do in the Senate.

For those of us who have served in the House of Representatives and are now serving in the U.S. Senate, I can understand for the first time in my lifetime why our Founding Fathers perceived that we should have a bicameral system. And, in fact, things are more deliberate here. And I think it is, without pointing any fingers or being critical, that many things pass the House of Representatives with the understanding that they know that it will get a more thorough examination when it gets to the Senate.

But, having said that, I would have to say that the Senate has done an incredible amount of work. While I cannot document it, I would suggest that the Senate has accomplished more in the first 90 days or the first 100 days of this session than they have at any other time. We passed the line-item veto. We passed congressional accountability, forcing Members of Congress to live under the same laws that they pass. We passed unfunded mandates. Those of us who have previously been mayors of major cities understand that that is a major problem facing the cities and other political subdivisions around the country. And we have done that. We have had moratoriums passed. I really believe that the Senate has acted responsibly, but in a much more deliberative way.

Now the time has been pretty much occupied on what are we going to do on the budget. I think it is somewhat tragic, and I have to be critical of our President. When he talks about the deficit reduction, he makes comments as if we are actually doing something about reducing the debt. And it is a matter of terminology, that if there is anything that can come from this debate, I hope that the American people, and I think they are, are aware right now that we are talking about two different things when you talk about debt and deficit.

In fact, the President's budget that has come in has built into it deficits each year that will have a dramatic increase on our Nation's debt.

I am still of the belief that we in Congress, in both Houses of Congress, as well as the administration, are incapable of fiscally disciplining ourselves in the absence of a balanced budget amendment to the Constitution. And I really believe it is going to happen. Of course, it did pass the other body, and it lacked one vote of passing in the U.S. Senate.

I would remind those who share my concern for this nonpassage that it is under a motion for reconsideration and that we are going to be able to do something about it, I believe, before this term is over.

So, Mr. President, Senator NICKLES will be joining me in just a moment and we will have an opportunity to talk a little bit about the tragedy that struck my State of Oklahoma.

I yield back my time.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask that I might be allowed to speak for up to 12 minutes on the matter which the Senator from Oklahoma indicated will be the subject of the remaining of our morning debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

THE PARANOID STYLE IN AMERICAN POLITICS

Mr. MOYNIHAN. Mr. President, as we think and, indeed, pray our way through the aftermath of the Oklahoma City bombing, asking how such a horror might have come about, and how others might be prevented, Senators could do well to step outside the Chamber and look down The Mall at the Washington Monument. It honors the Revolutionary general who once victorious turned his army over to the Continental Congress and retired to his estates. Later, recalled to the highest office in the land, he served dutifully one term, then a second, but then on principle not a day longer. Thus was founded the first republic, the first democracy since the age of Greece and Rome.

There is not a more serene, confident, untroubled symbol of the Nation in all the Capital. Yet a brief glance will show that the color of the marble blocks of which the monument is constructed changes about a quarter of the way up. Thereby hangs a tale of another troubled time; not our first, just as, surely, this will not be our last.

As befitting a republic, the monument was started by a private charitable group, as we would now say, the Washington National Monument Society. Contributions came in cash, but also in blocks of marble, many with interior inscriptions which visitors willing to climb the steps can see to this day. A quarter of the way up, that is. For in 1852, Pope Pius IX donated a block of marble from the Temple of Concord in Rome. Instantly, the American Party, or the Know-Nothings—"I know nothing," was their standard reply to queries about their platform—devined a Papist plot. An installation of the Pope's block of marble would signal the Catholic uprising. A fevered agitation began. As recorded by Ray Allen Billington in "The Protestant Crusade, 1800–1860":

> One pamphlet, "The Pope's Strategem: 'Rome to America!' An Address to the Protestants of the United States, against placing the Pope's block of Marble in the Washington Monument" (1852), urged Protestants to hold indignation meetings and contribute another block to be placed next to the Pope's "bearing an inscription by which all men may see that we are awake to the hypocrisy and schemes of that designing, crafty, subtle, far seeing and far reaching Power, which is ever grasping after the whole World, to sway its iron sceptre, with bloodstained hands, over the millions of its inhabitants."

One night early in March 1854, a group of Know-Nothings broke into the storage sheds on the Monument Grounds and dragged the Pope's marble slab toward the Potomac. Save for the occasional "sighting," as we have come to call such phenomena, it was never to be located since.

Work on the monument stopped. Years later, in 1876, Congress appropriated funds to complete the job, which the Corps of Engineers, under the leadership of Lt. Col. Thomas I. Casey did with great flourish in time for the centennial observances of 1888.

Dread of Catholicism ran its course, if slowly. Edward M. Stanton, then Secretary of War, was convinced the assassination of President Lincoln was the result of a Catholic plot. Other manias followed, all brilliantly described in Richard Rofstadter's revelatory lecture "The Paranoid Style in American Politics" which he delivered at the Herbert Spencer Lecture at Oxford University within days of the assassination of John F. Kennedy. Which to this day remains a fertile source of conspiracy mongering. George Will cited Hofstadter's essay this past weekend on the television program "This Week With David Brinkley." He deals with the same subject matter in a superb column in this morning's Washington Post which has this bracing conclusion.

> It is reassuring to remember that paranoiacs have always been with us, but have never defined us.

I hope, Mr. President, as we proceed to consider legislation, if that is necessary, in response to the bombing, we would be mindful of a history in which we have often overreacted, to our cost, and try to avoid such an overreaction.

We have seen superb performance of the FBI. What more any nation could ask of an internal security group I cannot conceive. We have seen the effectiveness of our State troopers, of our local police forces, fire departments, instant nationwide cooperation which should reassure us rather than frighten us.

I would note in closing, Mr. President, that Pope John Paul II will be visiting the United States this coming October. I ask unanimous consent that Mr. Will's column be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 25, 1995.]

FEVERED MINDS, MARGINAL MEN

(By George F. Will)

The Tennessee marble on the side of the Morgan bank building in lower Manhattan still bears, defiantly, scars inflicted on Sept. 16, 1920, when a horse-drawn wagon loaded with sash weights exploded amid a lunchtime crowd. Among those blown to the pavement was Joseph P. Kennedy. He was one of the fortunate. The blast, which shattered windows over a half-mile radius killed 30 and injured more than 100.

There were no arrests, or explanations. Someone probably had taken too seriously some socialist critique of capitalism, but the incident fed J.P. Morgan Jr.'s many phobias, which included: "The Jew is always a Jew first and an American second, and the Roman Catholic, I fear, too often a papist first and an American second."

Today, as the nation sifts and sorts the many jagged and tangled fragments of emotions and ideas in the aftermath of Oklahoma City, it should remember that this was not America's baptism of lunacy. Bleeding Oklahoma City is a few hundred miles down the road from Pottawatomie in what once was bleeding Kansas, scene of a memorable massacre. John Brown's body lies a-moldering in the grave, but his spirit—massacres in the name of God—goes marching on in the paranoia of a few.

A very few, on society's far fringes. Which is progress. After Brown killed the mayor of Harpers Ferry and seized the arsenal, he was sentenced to be hanged. Yet America's preeminent intellectual, Ralph Waldo Emerson, said of him, "That new saint, than whom nothing purer or more brave was ever led by love of men into conflict and death will make the gallows glorious like the cross." Morgan wrote the words above about Jews and Catholics to A. Lawrence Lowell, president of Harvard, of which institution Morgan was an overseer. It is unthinkable that such sentiments could be expressed in such circles today.

Today when the fevered minds of marginal men produce an outrage like the Oklahoma City bombing, some people rush to explain the outrage as an effect of this or that prominent feature of the social environment. They talk as though it is a simple task to trace a straight line from some social prompting, through the labyrinth of an individual's dementia, to that individual's action.

Now, to be sure, it is wise to recognize that ideas, and hence the words that bear them, have consequences. Those who trade in political ideas should occasionally brood as William Butler Yeats did when he wrote this about the civil war in Ireland:

Did that play of mine send out
Certain men the English shot?
Did words of mine put too great strain
On that woman's reeling brain?
Could my spoken words have checked
That whereby a house lay wrecked?

However, an attempt to locate in society's political discourse the cause of a lunatic's action is apt to become a temptation to extract partisan advantage from spilled blood. Today there are those who are flirting with this contemptible accusation: If the Oklahoma City atrocity was perpetrated by individuals gripped by pathological hatred of government, then this somehow implicates and discredits the current questioning of the duties and capacities of government.

But if the questioners are to be indicted, the indictment must be broad indeed. It must encompass not only a large majority of Americans and their elected representatives but also the central tradition of American political thought—political skepticism, the pedigree of which runs back to the Founders.

The modern pedigree of the fanatics' idea that America's government is a murderous conspiracy against liberty and decency—a money-making idea for Oliver Stone, director of the movie "JFK"—runs back to the 1960s. Those were years John Brown could have enjoyed, years when the New York Review of Books printed on its cover directions for making a Molotov cocktail, and a student died when some precursors of the Oklahoma City fanatics practiced the politics of symbolism by bombing a building at the University of Wisconsin.

Today, when some talk radio paranoiacs spew forth the idea that the AIDS virus was invented by Jewish doctors for genocide against blacks, it is well to remember that the paranoid impulse was present in the first armed action by Americans against the new federal government. During the Whiskey Rebellion 200 years ago a preacher declared:

"The present day is unfolding a design the most extensive, flagitious and diabolical, that human art and malice have ever invented. . . . If accomplished, the earth can be nothing better than a sink of impurities."

It is reassuring to remember that paranoiacs have always been with us, but have never defined us.

Mr. MOYNIHAN. Mr. President, seeing the distinguished Senators from Oklahoma on the floor, I know we all look to hear from them. I thank the President and yield the floor.

Mr. INHOFE. I ask unanimous consent to proceed as in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oklahoma is recognized.

DISASTER IN OKLAHOMA

Mr. INHOFE. Mr. President, 5 days ago we had a disaster that occurred in Oklahoma. I happened at the time to be in Dallas in a regional meeting on base closure when I got a call from the President of the United States. At that time, the entire Nation, only hours after the blast, was watching as the smoke still had not yet cleared.

The President advised me as to what the Federal Government was doing. He told me about the FEMA team that was coming in, about the FBI, about law enforcement, all having to do with the tragedy, and asked if there was anything more that I could think of that could be done from the Federal level. Of course, I told the President there was nothing else I could think of that could happen, and I proceeded back to Oklahoma.

When you see something like this that happens and you see the resources that are poured in from the Federal Government, the State government, the city government, but then most of all from the individuals, it is, indeed, heart warming. I agree with Billy Graham, during the memorial service, when he made the statement that it draws us together, it brings out the best in people when a tragedy of this nature takes place. It is one thing to watch it on the television, and it is another thing to experience it knowing that you have personal friends that are inside the building. And as we speak today, I have personal friends that are inside the building. It was 5 days ago—5 days and 1 hour ago—that the blast went off. When you look at the building and see that it happened from the north side, the lower half of the building on the south side is still intact to some degree. I have hope and faith that there will be some individuals who are still alive in the building.

But when I think back and remember the 4 days that I spent over there, some of the experiences that we have had are very difficult to describe. My son is an orthopedic surgeon. There is a doctor who practices with him. The doctor had to go in and amputate a lady's leg, in order to extract her alive from the rubbish—it was a decision that she had to make—with no anesthetic. Do you want to die or do you want us to take your leg off and pull you out? And she chose the leg.

On the first night when the rains came and it turned cold, I watched in cadence some 200 firemen marching down with all their regalia on—their crash helmets, their fire suits, their boots—knowing that 40 at a time would have to go inside this building and crawl around on their hands and knees, not knowing whether the structure of the building would hold up and allow them to remain alive. They did risk their lives. I was told that there was not one that went in that was ordered in. They all volunteered to do it. As you know, we have lost some lives of those who have been a part of the medical and rescue teams.

During this time, we had an occasion to look at where do we go from here? I was asked by the President 2 hours after the blast, "What could be done to preclude something like this from happening?" I have come to the conclusion that nothing in terms of added security or nothing in terms of taking away more freedoms is going to preclude some mad person from doing something like this if he has his mind set on doing it. This was a mobile unit, it was an explosion put together using fertilizer, using things that are certainly legal on the market. And if we were to take those things off the market, they would find something else, we know that. It would just make it more challenging to them.

I think that if we try to approach this providing more security, we are wasting our time. However, I do think there are some things that can be done. Senator NICKLES, Senator DOLE and I have submitted a resolution which we will be voting on in just a few minutes.

The resolution calls for condemning the violence in the strongest possible terms. We send condolences to the families. It applauds the rescue workers and supports the death penalty and commends the President and the Attorney General for their quick action. But it also pledges to approve legislation to combat terrorism.

I remember in 1990 when we had the airport security bill. I had an amendment on the floor—at that time, it was in the other body—to have the death penalty in cases where a terrorist was carrying out a hijacking and it resulted in a death. You never heard so many bleeding hearts in your life standing up saying, "You can't do that, that's inhumane." I believe something like that today will pass. While nothing good comes from tragedies like this, if anything good were to come, it would be that we are going to be able to get tough on these guys and actually punish them.

I look at our system—I am not a lawyer—but when I see Roger Dale Stafford, of the Sirloin Stockade murder, sitting there watching color TV year after year, when I see that it takes an average of 9½ years to carry out an execution, then something is wrong.

I had a debate during the course of this with Mr. Ron Cubie, who is the defense lawyer in the World Trade Center case. He was contending that the 1994 crime bill was one that could take care of problems like this, that it provided the death penalty in case of terrorism. That is not true. The 1994 crime bill was a farce. It did not provide any exclusionary rule reform. It did not provide any habeas corpus reform. So while they had on record the death penalty, they did not do anything about the endless delays that keeps the invocation of the death penalty from becoming a reality.

That being the case, there is no deterrent. It is no deterrent for a terrorist who is proposing to do something as was done in Oklahoma 5 days ago. If he thinks the very worst scenario, the worst thing that can happen to him, is that he is going to wait 9½ years and then be executed, he looks at our system and laughs at our system.

I am one of those rare individuals who honestly believes in his own heart that punishment is a deterrent to crime. And when we wait for the punishment, long delayed periods, many of those people are waiting in an environment that is more livable than the environment that they are accustomed to. And to many of the people who might be involved from some other nations, Middle Eastern nations, that is not a deterrent. I have long sensed, in the years that I spent in the other body, that one of the problems we have in combating crime in this country is that the majority of people in Congress prior to the election of November 8 honestly did not believe in their hearts that punishment was a deterrent to crime. Now we have the ACLU and these organizations sitting around saying that we are so concerned about these poor people who are involved in these crimes. We have been much more concerned about the criminals than we have been about the victims.

Mr. President, that is something that is going to change. Maybe it took this tragedy in Oklahoma to make that change. I suspect that is the case. There are some bills that have been introduced prior to this tragedy—one was introduced by Senators BIDEN and SPECTER—that are going to do something about our ability to use resources out there to bring people to justice. Wiretapping for law enforcement officers to use. Is that an invasion of privacy? Yes, maybe it is. But somebody has to do something about it. We have a lot of procedural things that can be done that are addressed in that legislation that I think should pass.

I think the resolution submitted by my colleague from Oklahoma, Senator NICKLES, and our majority leader, Senator DOLE, and others, is going to set the stage for the passage of tough legislation, providing tough and swift penalties for those people in America that are involved in terrorist activities or those people who are proposing to become involved in any other crime.

I think that it may be that we will look back 10 years from now and say that because of those individuals that died painful deaths out in Oklahoma, maybe that resulted in doing something about crime in America.

I do not think that it is over yet. As we speak today, there are firefighters and rescue workers crawling through the rubbish on their hands and knees, hearing the cracks. When you walk by, as Senator NICKLES and I did, and see the human flesh that is on jagged pieces of iron—my office is located three blocks away, my Senate office in Oklahoma City. Our windows were blasted out. It is very difficult to explain to people the magnitude of that explosion—one that they originally said was a 1,200-pound explosion. They now say it had to be 5,000 pounds. To put that in perspective, in World War II, that was about 10 of the largest nonatomic bombs they used in the war. And this was all perpetrated by one or two deranged minds, who somehow feel people had to be murdered to prove some type of a point.

Lastly, I am going to hope that those individuals—and there are some around—who would try to exploit this tragedy into saying that we were wrong in the elections of 1994 in rebelling against some of the intrusions into our lives by Government, or that somehow this philosophy is tied into this far extreme fringe right wing that appears to be responsible for this tragedy, when in fact the revolution, as I have referred to it, that took place in the ballot box on November 8, 1994, should not be reversed and people should not try to exploit this tragedy in reversing it.

Finally, I want to commend those who have joined me and those whom I have joined in putting together this resolution. I am sure it will pass at noon today. I think that will be the predicate for doing something very meaningful about this type of activity in America.

As we speak, there is a funeral taking place in Oklahoma City. It is for a daughter of a very close, personal friend of DON NICKLES and myself. There will be many more funerals. I think the Nation will be standing by and watching. I am sure that all the Nation grieves with us. I have been called by people not just from all over the Nation but all over the world. We should take any action necessary to make sure that something like this does not happen again. It has been said many times that if it can happen in the heartland of America, in Oklahoma City, it could happen anywhere. No one is immune.

I yield the floor.

Mr. NICKLES. Mr. President, I compliment my colleague, Senator INHOFE, for his statement and appreciate his assistance in putting this resolution together. It is with a sense of sadness that we have this resolution before the Senate today. We will be voting on it at 12 o'clock. I wish that we were not here. I wish the tragic disaster that happened last Wednesday, April 19, had not happened. The deadliest terrorist attack that ever happened on our soil happened in Oklahoma City at 9 o'clock.

This resolution is cosponsored by Senators INHOFE, DOLE, and DASCHLE, and a total of 75 of our colleagues have cosponsored. My guess is that many more will join in cosponsoring by the time we finish our vote.

This resolution speaks for the Senate but really speaks for America when it says we want to condemn this type of violence. It is a cowardly act, an evil act, one that is responsible for at least 80 deaths that now have been confirmed, with 150 missing and will probably be recovered in the next couple of days. Most of those are expected to be fatalities. In excess of 400 were injured. I visited some of those injured. Some were injured very severely. Some will be significantly injured for the rest of their lives as a result of this cowardly terrorist attack.

Mr. President, it becomes very personal when you see and know the individuals affected. Senator INHOFE mentioned that we have a very good friend who is having a funeral today for his daughter. I talked to another friend today whose wife almost lost her life. She is a very good friend of ours as well. I talked to another friend who actually worked for the Senate, worked for my colleague, Senator Boren, for several years. His child was almost killed and is still listed in critical condition.

At the memorial service or prayer service on Sunday, I talked to a lot of the victims. I talked to one young couple that lost two children, and that experience makes it all become very personal. I talked to two children who lost their mother.

I talked to an individual who lost a spouse. The stories go on and on. This is a real tragedy of immense proportions with great damage inflicted on those lives.

This resolution expresses our condolences, sympathies, and prayers for the families of the victims, to the injured and also for the deceased. We pray for them and we want them to know of our outrage for the crime and our compassion for those individuals as well.

This resolution states our strong support for the President and for the law enforcement officials who are doing everything within their power to apprehend and try and punish those people who are responsible, and it states that we support the President and the Attorney General as they say this is certainly a case in which the death penalty is appropriate. I concur with that.

This resolution also goes a little bit further and says we want to thank the volunteers and the countless people who have put so much into alleviating the pain. Senator INHOFE mentioned some of the firefighters. I remember I was also in Dallas, and I flew up in the first plane available, returning to Oklahoma City, and I was accompanied by three firefighters who donated their time and money. They wanted to be there to help rescue innocent people. We have met countless people, and not just from Oklahoma. We have had firefighters across our State, but we met firefighters from Arizona and from Maryland and from all corners of the country. They are working unbelievable hours, and it is not easy work. I might mention that the work was very difficult at that time and very dangerous. It is not any easier now, because the likelihood of finding survivors is diminishing by the day.

So their task right now is very gruesome, very difficult, and it continues to be dangerous. And our heartfelt thanks—and I am speaking on behalf of all Oklahomans, but really all Americans—for their courageous efforts.

When we see this type of evil deed, it makes people think, how in the world could society degenerate to such a low level, or how could evil be so prevalent to have such an act of violence destroy so many innocent lives.

I might also mention, maybe the light that comes after this evil is to see so much good that has come from so many people, so many thousands of people, all across the State of Oklahoma and all across the country, who are not only condemning the violence but reaching out to help those people who have been injured, to help those families that have been torn apart, to comfort and console.

It has been heartwarming to hear President Clinton's remarks, Reverend Graham's remarks, Governor Keating, Mayor Norick, all of which I will say did an outstanding job not only at the prayer service, "the time for healing," as Mrs. Keating referred to it, but really to reach out to the families and to comfort and console those families and let them know that we really do care.

It is very heartwarming and it made us feel good, and as Reverend Graham said, "Good will overcome evil." We want to thank the volunteers, all the people that worked in the hospitals. I talked to a survivor's family, and he said had it not been for the outstanding work of so many volunteers and the rescue operation, his wife would not have survived, and she is now anticipated to be a healthy survivor.

We want to thank those countless people who risked their lives and were willing to make that kind of sacrifice for other people. It makes me very proud of my State. It makes me very proud of my country. Instead of this being the low mark which devastated not only our city and our State and our Nation, I think it is giving us the chance to rally around and say, yes, good will prevail. There are a lot of good people in this country, and people are reaching out and trying to assist and trying to help. We thank them for that.

Mr. President, I want to address just another item, a development that has happened in the last day or so that I find very troubling in relation to this event. The issue is pointedly noted and cautioned against by columnist George Will, who noted that an attempt to locate the cause of a lunatic's action is "apt to become a temptation to extract partisan advantage over spilled blood." With respect to this tragedy, the contempt for those people who try to gain political advantage from the Oklahoma City bombing will only be exceeded by the contempt for the perpetrators of this crime.

Mr. President, where should our hearts be? What should our goals be? Where should our compassion be? Surely it should be to reach out to those families that are affected, and that has to be our focus, and then to arrest and convict and punish those people who are responsible for this atrocious, cowardly, evil act.

Yet, even before the missing have been recovered, I see politicians and some pundits contemptibly jockeying for position, trying to blame the other side for the evil actions of a few individual criminals.

The bombing in my State was not the work of the left or the right, of conservatives or liberals, Republicans or Democrats, or even right-wing extremists, as some people would say. The Reverend Billy Graham laid the blame on the proper place, noting that the tragic event has proved again that "Satan is very real, and he has great power." He noted that the Bible tells us evil is real and the human heart is capable of limitless evil when it is cut off from God and cut off from moral law. I agree 100 percent.

I am ashamed, I am bothered, even appalled by hearing politicians or pundits who would stoop so low as to play politics with this tragedy.

A reporter on a talk show, Juan Williams, just recently linked the attack to Republicans in Congress saying, "It's the same kind of idea that has fueled so much of the right-wing triumph over the agenda here in Washington."

In an attempt to blame Republican leaders in general, columnist Carl Rowan was quoted in the Washington Post as saying, "I am absolutely certain the harsher rhetoric of the Gingriches and the Doles * * * creates a climate of violence in America."

I do not know who the President was talking about yesterday when he said "loud and angry voices" spread hate and "leave the impression that, by their very words, that violence is acceptable."

Mr. President, this tragedy took the lives of innocent young children and adults alike. Surely in the effort to lay blame, our focus must rest with the criminals—the evil, cowardly, individuals who took the lives of so many innocent people. Surely, the focus of our hearts and our passion and our prayers must remain with the families that have been devastated.

I just hope and pray that those people who may be tempted to extract partisan advantage from this unbelievable act will look inwardly and find compassion in their hearts and not resort to playing politics with the lost lives of my fellow Oklahomans.

If you were there—Senator INHOFE and I were there, Governor Keating and others—and walked around in the ruins, and talked to the firemen and talked to the rescue people who were struggling to find additional survivors, the very idea that someone might be playing politics with this is almost beyond comprehension. It is offensive. I hope we do not hear it again.

Let us find those people responsible and punish them and show compassion for the families. Those families have had their lives ruined. They lost loved ones. They lost a child, a daughter, a spouse. They lost a father or a mother. Their lives in many cases have been more than devastated by a tragedy from which they may not be able to recover. If it were not for the grace and comfort of God, they may not be able to recover.

This Senate, by our resolution today, I think, will be expressing comfort and consolation to those families, our outrage at this unbelievable, unspeakable crime, and our sense that we in Congress want the law enforcement people to apprehend them and to punish them.

We compliment the law enforcement people for the outstanding job that they have done. We compliment the rescue efforts that are going on today and will probably be going on for some days ahead. We compliment our political leaders from President Clinton, Governor Keating, and the city officials, Mayor Norick, and many others who have put in so many tireless efforts, including fire officials and others.

We want them to know we support them and we appreciate their efforts. We appreciate the sacrifices they made to show that good can overcome evil. I think we have seen that in my State. I am very proud of the State of Oklahoma and our country as a result. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may consume such time as I may require.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR JOHN STENNIS

Mr. BYRD. Mr. President once again, the silver cord has been loosened and the golden bowl has been broken: "Then shall the dust return to the earth as it was: and the spirit shall return unto God who gave it." These words from Ecclesiastes—spoken probably ten centuries before the birth of Christ—bare the indelible stamp of permanency. Somewhere, every day, every hour, every minute, they are brought home to someone, and in their train, follow the inevitable pain and sorrow and tears, that we all must bear when loved ones and friends depart from us in this earthly life. The angel of death is no respecter of persons, and each of us will one day hear the beating of his wings—

Leaves have their time to fall,
And flowers to wither at the north wind's breath,
And stars to set—but all,
Thou hast all seasons for thine own, O Death!

Mr. President, it was with sorrow that I heard the sad news over the past weekend that our former colleague and friend, John Cornelius Stennis, had passed away at the age of 93. When I came to the United States Senate in January 1959, John Stennis was a Member of this body, and we served together 30 years—until he retired at the close of the 100th Congress in 1989. So, it is with sadness that I pay tribute to the memory of this departed colleague today. As we grow older, we are obliged to bid farewell to some friend almost every day, and thus does the circle gradually, and all too rapidly, diminish; for—

There is no union here of hearts
That finds not here an end.

Mr. President, John Stennis was a man who achieved greatly in life. For 41 years and 2 months, he represented a great and patriotic constituency in this Chamber, where some of the greatest men of the Republic have served and aspired to serve, and that achievement alone would mark him as a man among men. When we add to this the fact that he served as a member of the Mississippi State House of Representatives for 4 years, as district prosecuting attorney from 1932 to 1937, and as a circuit judge from 1937 to 1947, we begin to realize what a wonderful career we are remembering today—60 years in the public service—in elective positions, where neighbors and friends, who are often more critical than strangers, are the electors! What more could be said by way of eulogy? Volumes could be written and less said. Yet, that is the record of our former colleague and friend, who, in the merciful dispensations of an all-wise Providence, has now passed on to the other side.

John Cornelius Stennis was born near DeKalb, Kemper County, Mississippi, on August 3, 1901. He attended the county schools; graduated from the Mississippi State College in 1923, and graduated from the University of Virginia Law School in 1928. He was admitted to the bar in 1928 and commenced practice in his home town of DeKalb. I had the honor of serving on the Armed Services Committee and on the Appropriations Committee with Senator Stennis, of both of which committees he had served as chairman before his voluntary retirement at the close of the 100th Congress.

John Stennis was an honest man, and he was a good man, as good men go in this life—plain and modest. He was amiable, courteous, and courtly—a southern Christian gentleman, in every sense of the word. He was intellectually honest, a man of great moral rectitude, simple in his habits, and completely devoid of hypocrisy. He was a Senator who loved the Senate and who was dedicated to its traditions. He was conscious at all times, of the great trust confided in him by the people he represented, and he carried in his heart a great reverence for this institution and for the Constitution of our country. His was a steady hand, an upright character. He was a man of justice and fairness to all. He was unassuming in his manner, sincere and firm in his convictions. Devoid of envy, he was ambitious only to serve the cause of justice and humanity, and being of, for, and from the people, he gave his life to their service. In him, the great people of Mississippi had an ever faithful friend and servant.

Mr. President, John Stennis was not a large man physically. He was actually rather slight. But he was a giant. The breadth of his character was huge, and the steel of his courage was formidable. Nothing defeated him—not the bruises of the legislative battlefield; not the frightful attack by thugs in the street, who almost caused his death, near his home; not the death of his beloved wife; not the loss of his leg to cancer.

Nothing defeated him. Nothing held him down for long. He always got up again and went on. He struggled, but he prevailed and endured. And he did it all with a quiet, unassuming dignity.

He was courtly—ever the gentleman. I called him a Senator's Senator. He represented everything fine about the Senate and everything fine about the human spirit. He was the cream of all things decent that one looks for in a leader and in a man.

Had he lived in another age he would have been just as great, as respected, as beloved, and as revered as he has been in his own time. He would have enhanced any company in any situation in any age.

But most of all, the indomitable fortitude stands out. There is a courage possessed by some men which is extraordinary—far beyond what most individuals can ever muster in even their best and bravest moments. It is rarely accompanied by bombast and breast beating. It is carried with a quiet and calm demeanor. No outward show is necessary. In his case, the kindly visage gave no clue to the inner steel. He bore his duties and his crises, his joys and his sorrows, with equal dignity.

But it was awesome actually to watch. How many times have I come to this Chamber for a vote, bone-weary, and at some dreadful hour in the morning, and seen him sitting straight as an arrow at his desk! There he would be, 17 years my senior, frail, missing one leg, with a pleasant greeting for all, in spite of the hour. In this age of clock-watching, and quality-of-life advocation, that kind of dedication may seem an anachronism. But John Stennis was dedication and duty epitomized in the human flesh. He showed us by his example. He never lectured, never said, "Do as I do." He just lived an exemplary life, and that was enough to teach all who were fortunate enough to be around to learn. He taught us how to be Senators, he taught us how to bear sadness and brutality without bitterness or surrender or despair. He did so by just being what he was.

Mr. President, all that even the greatest of scientists can do is to try to interpret and apply the laws, the immutable laws, the eternal laws of God. Scientists cannot create matter and they cannot create life. They can mold and develop and shape and use them, but they cannot call them into being. They are compelled to admit the truth of the old nursery rhyme, which I am sure the Presiding Officer and the other distinguished Senator from Oklahoma will remember along with me:

Nor you, nor I, nor nobody knows,
how oats, peas, beans, and barley grows.

But the Scriptures tell us of the laws of God, and reveal to us the Source from whence this Earth, the universe, and all of us who dwell here—for a split second, as it were—between two eternities: "In the beginning, God created the heaven and the earth." The Scriptures also reveal to us that God created man from the dust of the ground, and "breathed into his nostrils the breath of life, and man became a living soul." God then gave Adam a helpmate, Eve, and from those ancient parents, we have all descended, and from them, we have all inherited death. Only a Milton could so incisively provide a fitting epilogue to man's fall from grace.

They, looking back,
all the eastern side beheld of Paradise,
so late their happy seat,
waved over by that flaming brand; the gate
with dreadful faces thronged and fiery arms.
Some natural tears they dropped,
but wiped them soon;
the world was all before them where to choose
their place of rest, and Providence their guide.
They, hand in hand, with wondering steps and slow,
through Eden took their solitary way.

As so, it is our inevitable lot to die. But the Scriptures also tell us that we may live again in that long lost paradise from whence our parents came. There was a man in the land of Uz, whose name appears in extra-Biblical texts as early as 2000 years before Christ. His name was Job, and from his patient, suffering lips came the age-old question, "If a man die, shall he live again?", and later from his lips came the answer to his own question: "Oh, that my words were written and engraved with an iron pen upon a ledge of rock forever, for I know that my Redeemer liveth and some day He shall stand upon the earth; and though after my skin worms destroy this Body, yet, in my flesh shall I see God; whom I shall see for myself, and mine eyes shall behold, and not another."

Mr. President, many years ago I read a story of an old Anglo-Saxon king who had his barons at a great banquet. They were eating their venison and quaffing their ale. It was a bitter night outside. The storm raged. The snow was falling thick and fast. Suddenly, into the rude chamber in which they were gathered, there flew through some crack or crevice in the roof a little bird. Blinded by the light and perplexed, it flew wildly here and there and beat itself against the rude beams. Finally, it found another crevice and out it went again into the night. The king, advanced in years, spoke to his barons and said,

That bird is like a life;
it comes from out of the night.
It flits and flies around a little while,
blinded by the light,
and then it goes back out into the night again.

Mr. President, as we witness the passing of a great and good man like John Stennis, we may well take appraisal of our own public and private merits and remember that we, too, only flit about for a little while, our voices resound in this Chamber for a few days or months or years, and then we are gone. These things are evanescent. Real substantial qualities of honesty, integrity, gentleness, modesty, and generosity will make the life of John Stennis remembered when much of what we say and do here in this Chamber shall have passed away and perished. John Stennis is gone,

. . . with your skysail set
For ports beyond the margin of the stars . . .

And those of us who had the honor and privilege of serving with him may say of him:

His life was gentle,
and the elements so mixed in him
that Nature might stand up and say to all the world,
"This was a man."

To the family and friends of John Cornelius Stennis, my wife Erma and I extend our deepest sympathy.

I saw the sun sink in the golden west,
No angry cloud obscured its latest ray.
Around the couch on which it sank to rest
Shone all the splendor of a summer day.
And long, though lost to view, that radiant light,
Reflected from the sky, delayed the night.
Thus, when a good man's life comes to a close,
No doubts arise to cloud his soul with gloom.
But faith triumphant on each feature glows,
And benedictions fill the sacred room.
And long do men his virtues wide proclaim,
While generations rise to bless his name.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to compliment my friend and colleague, Senator BYRD, for the tribute to our colleague, Senator Stennis, who served in this body so ably, so well, for so long. His service of 41 years—only the Senator from West Virginia would know who has exceeded that besides Senator Hayden, I guess—but he had a remarkable tenure in the Senate.

I had the pleasure of serving with Senator Stennis. He was a person that had enormous credibility and reputation prior to my coming to the Senate going back for many years. He was even referred to in the Senate as a person known as the ethical watch guard of the Senate, and certainly a Southern gentleman in every single way. He was a real asset to this body, certainly to the State of Mississippi and to our country, as well. We shall all miss him, but not forget the contributions that he made to his State and country.

I compliment my colleague from West Virginia for a beautiful tribute to a wonderful colleague and Senator.

Mr. BYRD. Mr. President, I thank my friend.

Mr. PELL. Mr. President, today the Senate formally adds its voice of condemnation and outrage of the mindless and heartless massacre carried out in Oklahoma City last week. I join my colleagues in stating in absolute and unequivocable terms that such acts will never be tolerated in this country and that we resolve to do all in our power to make sure that the perpetrators of this heinous crime are found and brought to justice. In our society, the rule of law reigns over the rule of terror and it follows that swift and assured retribution must await those who harbor the thought that such acts can somehow alter that equation. The victims deserve no less; the criminals can expect no more.

As this tragic event causes us to pause and reflect upon a myriad of questions as to how and why such an event could occur, I urge us all to exercise the temperance and reason which are the characteristics of a civilized society. This most uncivil and unhuman of acts cannot be explained simply or logically by rational thought. In the rush to pinpoint blame and cause, already occurring it seems in the public discourse about this incident, too often we overstep the mark and compound the harm already suffered. For the moment, let us attend to the most immediate tasks at hand, that of the continued efforts to search for survivors, to care for the wounded, to comfort the families and friends who have lost loved ones, and to apprehend and punish those responsible. That is more than enough for now and it will keep us busy for days to come. Then we will have the time for reflection on the broader, though not any less important, questions as to what we may be able to do to thwart such acts in the future.

My heart goes out to those families and friends grievously affected by this unthinkable tragedy. The losses they have suffered are immeasurable and I join the entire country in expressing the consolation and sympathy. I also salute the heroic efforts being made to deal with this event and in particular commend the Oklahoma City Police, Fire, and Emergency Medical Departments, President Clinton, Attorney General Reno, the Justice Department, the FBI, FEMA, and all others for their excellent work in dealing with this incident. I pledge whatever assistance I may be able to give and will work to do what I can to diminish the chances of such an event from occurring in the future.

Mr. MCCAIN. Mr. President, I rise to support Senate Resolution 110 and join with my colleagues in denouncing the violent attack on Federal workers and their children last week in Oklahoma City.

Our world is full of daily tragedies, so much so, that each of us runs the risk of growing numb to the pain. But this violence struck close to home in many ways. Those murdered by the cowardly terrorists who planned and carried out this bombing appeared to be targeted because they worked for the U.S. Government, or were the children of these workers. I urge the administration to employ the strongest efforts under law and our Constitution to bring the killers to justice.

These killings also struck home in another way for me. In my current role as chairman, and previously as vice chairman of the Committee on Indian Affairs in the Senate, I have seen firsthand the squalid housing conditions that plague many Indian and native American communities. I have also noted the many fine efforts of dedicated Federal employees who try to counteract these conditions with funds and authorities that are all-too-often inadequate to address the overwhelming need.

Among those killed in this bombing were a number of Federal employees who have dedicated their lives to improving Indian and Alaska native housing conditions. Killed in the blast, or still missing or unaccounted for as of yesterday, are 10 individuals who have played very prominent roles in supporting the development of housing opportunities in Indian communities. While I do not give up hope that those missing or unaccounted for will still be located alive, I do wish to take this opportunity to describe what I know about 10 of these employees.

These 10 people have worked for the Office of Native American Programs [ONAP] within the U.S. Department of Housing and Urban Development [HUD], or for the HUD Area Counsel's Office on Indian housing issues. Under Secretary Cisneros' leadership, HUD recently had announced a substantial streamlining of its administrative structures so that it could dramatically bolster its efforts to improve housing conditions in Indian communities. These employees were part of the new thinking underway at HUD, and I, and many tribal leaders, will sorely miss each one of these HUD workers and their dedicated efforts.

Most Americans would be shocked if they saw the housing conditions that Indian and Alaska Native families must endure day in and day out. Approximately 90,000 Indian families are homeless or underhoused. One out of every five Indian homes lacks complete plumbing facilities. According to 1990 census figures, 18 percent of all American Indian households on reservations are "severely crowded." The comparable figure for non-Indians is 2 percent. Likewise, while 33 percent of all reservation households are considered crowded, the comparable figure for all households nationally is 5 percent. The typical Indian home on a reservation has 4.4 rooms, nearly a whole room less than the national median of 5.3 rooms.

These are the conditions that the 10 Oklahoma HUD workers who are confirmed dead or missing sought to improve. I am outraged that their constructive efforts are cut short by the destructive acts of cowardly terrorists.

HUD officials have informed me that ONAP maintained a staff of 26 in Oklahoma City. Another 10 Oklahoma City HUD employees, including the Office of Area Counsel, provided support to the native American programs. I know from the reports of Indian tribes in Oklahoma, Kansas, Louisiana, and Texas that ONAP staff had developed a very cooperative and productive relationship with the native American communities there. I am told that the Oklahoma HUD staff have been exemplary in their professional respect for the rich cultural traditions of their counterparts among tribal Government staff. It was not unusual to see ONAP staff at pow-wows and other native American events on the weekends, joining with those they served in celebration of the beauty and enduring cultures of these communities.

The bombing exacted an extremely heavy toll on ONAP personnel. As of yesterday, two staff members were confirmed as casualties, George Howard and Lanny Scroggins. Three additional staff members were still unaccounted for—Jules Valdez, Don Burns, and Dave Burkett. From the Area Counsel's Office, Clarence Wilson, Mike Weaver, Kim Clark, and Lee Sells remain unaccounted for. Susan Ferrell, the lead attorney for native American programs and one of HUD's top Indian law attorneys, has been confirmed as a casualty.

Mr. President, these staff were some of HUD's best. They were dedicated, loyal, hardworking, and personally committed to the goal of providing decent, safe, and sanitary housing and community development for this Nation's native American communities. Their contributions over the years have been extremely important to HUD's vital work in Indian country. Their loss at the hand of these senseless killers means the tribes and Indian families they served in that region will pay a high personal cost. Equally high will be the price paid by the dedicated colleagues left behind in HUD's ONAP and Area Counsel's Office. Many of these survivors carry physical injuries from the blast, some quite serious. All of them carry emotional scars that understandably run quite deep. I hope these survivors can find courage for these days.

The bombing was the act of cowards. I condemn it in the strongest of possible terms. I mourn the loss it has caused to the family members of its victims, to its survivors who now must live with this great pain, and to HUD's Indian offices and the Indian tribes who must now piece back together a program that has always struggled against nearly insurmountable odds.

Mr. FEINGOLD. Mr. President, like every Member of this body and millions of people around the globe, I deplore in the strongest possible terms the senseless murders of the innocent children and adults in Oklahoma City. This was an atrocity and a barbaric act against humanity that truly shocks the conscience. I have joined in voting for the resolution presented by the majority leader and the minority leader because I wholeheartedly agree with virtually every statement made in the resolution.

Congress must condemn, in the strongest possible terms, the heinous bombing attack against innocent children and adults.

Congress should sent its heartfelt condolences to the families, friends, and loved ones of those whose lives were taken away and injured by this abhorrent and cowardly act; and express its hopes for the rapid and complete recovery of those wounded in the bombing.

Congress should commend the rapid actions taken by the President to provide assistance to the victims and apprehend the perpetrators of this horrible crime. I also believe that we should be sure that Federal laws aimed at combating acts of terrorism are comprehensive and effective in preventing and punishing these acts.

At the same time, I must express one reservation concerning one provision of the resolution that indicates cogresssional support for the President and the Attorney General's position that Federal prosecutors will seek the maximum penalty authorized by law, including the death penalty, for those responsible. I am opposed to the death penalty, but I recognize that current Federal law provides for the death penalty in cases such as Oklahoma City.

I understand the feelings which lead people to call out for imposition of the death penalty in heinous cases, such as this. However, I do not believe that it is generally the Senate's role to make a statement on what specific type of penalty the prosecutors should seek in any particular case, whether it be the death penalty of life imprisonment or whatever. Congress should not endeavor to step across the line which separates the judicial functions of the United States to attempt to direct prosecutors in the discharge of their functions. The law currently provides for the death penalty in this case and regardless of whether I support or oppose these provisions in existing law, it is for the Federal prosecutors, not Congress, to determine what penalty should be sought and ultimately, it is for a jury of Americans to make the final judgment as to guilt and punishment for those who are brought to trial in this case.

Ms. MIKULSKI. Mr. President, I rise today to ask my colleagues to continue mourning the brave and innocent men, women, and children who lost their lives this past Wednesday in Oklahoma City.

As I speak, I know that search and rescue workers continue to dig toward the bottom of the Alfred Murrah Federal Building where the bodies of more Federal workers lay. These public servants paid the ultimate price in the service of their country.

Mr. President, most of the victims of this tragedy were men and women of our Federal Government. These people put their lives on the line just by being associated with the U.S. Government. These were common, decent human beings that were trying to make their Government work better. I urge my colleagues to always remember the countless, nameless Federal workers who work long, hard hours, committed to making our system of Government work for the better who put their lives on the line for the U.S. Government.

It was also an American community—working women and men with families providing for their children, who were affected by this horrible tragedy. The past week, this American community has come together as a shining example of why America is so strong. Local police and firefighters, Federal law enforcement agents of the FBI, ATF, Secret Service, and Federal Emergency Management Agency personnel show us what Americans want from their public servants: efficiency, competence, cooperation. Americans rallying to overcome a crisis that threatens their stability. This is the American spirit.

I urge my colleagues to keep the victims and their families in your thoughts and honor them with your prayers. Thank you, Mr. President, and I yield the floor.

Mr. FORD. Mr. President, I rise today to join my colleagues in expressing our outrage at the senseless, brutal murders and injuries sustained by defenseless citizens and children in Oklahoma City last week.

We all know that Oklahoma City, and indeed our Nation, will never be the same again. We all know that we will never have all the answers as to why something this tragic can happen. But one thing we can know is that we will not rest until the perpetrators of this heinous act are brought to justice.

The resolution we will approve overwhelmingly today is just the first step Congress will take in attempting to address this tragedy. We will work with the administration to pass legislation expanding the FBI's powers to combat such acts of terrorism. We will work to do all we can to see that no one has to go through this experience again.

Mr. President, there are not words to express the sorrow we feel for the families who have lost loved ones. No one can prepare themselves for a tragedy of this magnitude. No one can prepare themselves to see innocent infants robbed of their futures. And no one can prepare themselves for the grief and loss we know those personally affected by this tragedy will experience for the rest of their lives.

One thing we can do is reach out to them, offer our prayers, our comfort and support. As the President recently said, "you have lost so much, but you have not lost everything. And you certainly have not lost America, for we will stand with you for as many tomorrows as it takes."

In closing, Mr. President, I want to personally express my sincere thanks and appreciation for the tireless efforts of this administration, the Oklahoma officials, the rescuers, investigators, police officers, and firemen, our clergy, and so many thousands of others who have given of themselves in this tragedy. They are all heroes and their work will never be forgotten, just as we as a nation will never forget April 19, 1995.

MILITIA GROUPS AND THE OKLAHOMA CITY BOMBING

Mr. BAUCUS. Mr. President, 2 weeks from today, we mark the 50th anniversary of the Nazi surrender in World War II. And just a week ago, we witnessed an event that should remind us all of just what we were fighting.

I am speaking, of course, of the bombing in Oklahoma City. Our sympathy and solidarity go out to the victims of this terrible crime and their families. And we learn that 50 years after the war, the battle against hate is not over.

We Montanans like to call our State the "last, best place." We take pride in our low crime rate and our civil society. And we like to think we are immune to the crime and violence that so sadly affects our country.

But we are not immune. Our easygoing ways now seem to attract some of the worst elements in our country. We find that anti-Semites, right-wing extremists, and terrorists believe they can find a home in our State.

THE MILITIA AND THE FREEMEN

In the aftermath of the Oklahoma City bombing, you may have heard about the so-called Militia of Montana. Let me tell you something about this group and its friends.

The Militia of Montana was founded by a few people associated with the neo-Nazi Aryan Nations group. Their literature and videos talk about international conspiracies, shadow governments, and banking elites—code words that anyone familiar with the history of anti-Semitism recognizes immediately.

Associated with the militia leaders is the even more extreme Freemen movement. This group says in public that the income tax is illegal and the Federal Government is a conspiracy. In private, it says people who are not white are beasts; the Bible was written for the white race.

With these organizations come hate, lawlessness, and terror.

The Federal Government and Federal officials are targets. Jews are targets. We had a swastika painted on a house in Big Timber last month. A Jewish child taunted in Helena. Militia members have gone so far as to distribute hate literature—Nazi-style pamphlets called "Strength of a Hero" and "Warrior Song"—in the Montana Legislature.

Women are targets. In the past year, fanatical opponents of abortion rights bombed a clinic in Kalispell and burned the Blue Mountain Women's Clinic in Missoula to the ground.

And law enforcement is a target. Just a few weeks ago, seven armed militia members threatened the marshal in the small town of Darby with guns after he had pulled over one of them for driving in a car whose license plates expired 3 years ago. On the other side of the State, Freemen have posted bounties for law enforcement officials, saying they were to be executed by hanging.

Thoughtless politicians and radio broadcasters encourage this by loose talk of revolution, and intemperate attacks on Federal bureaucrats—which is to say, our neighbors who work for USDA, the Forest Service, and law enforcement. Some have even brought militia proposals before the Montana Legislature.

The results of this toleration for hate are obvious. In March, an eastern Montana county attorney wrote me to say:

> The more the federal and local law enforcement agencies behave with a "hands-off" attitude, the more bold and daring these groups become.

And a constituent from Ravalli County writes, just 9 days before the bombing:

> You see Freemen with guns in the post office, grocery store and gas stations. If it gets to any one of them that a person doesn't like

the "Freemen," they will call or confront a person face to face. They tell people that we are all going to "die like the Jews."

NO PLACE FOR HATE

The situation is serious. But if we face up to it, we can solve it before it gets worse.

The ringleaders of the hate groups are few in number. Garfield County Attorney Nick Murnion has studied them closely. He believes the Freemen and militia have no more than 25 to 30 core members around the State.

The hard-core leaders, in many cases, are common criminals. They refuse to pay their taxes and will not live by the laws. Those who have broken the laws should be arrested, tried and put in jail. And we can do it if we give law enforcement the support it requires.

But dealing with the rank and file is a responsibility of the entire community. Most militia members are not Nazis or potential terrorists—merely loud, deluded people who are an embarrassment but not a threat. And all of us need to show them that hate has no place under Montana's big sky, and no place in America.

Hate groups, threats of violence and racism must be met in the open. They grow and spread in darkness and silence but they vanish in the sunlight. The entire American family must show them that they are not welcome.

THE BILLINGS MENORAH MOVEMENT

And that will work. I know, because I have seen it work. When the vast majority of ordinary, decent people stand together, the small number of haters and extremists are always defeated.

In November 1993, a group of skinheads came to a Jewish house in Billings, MT, and threw a bottle through the glass door. A few days later they put a brick through the window of another Jewish house, with a 5-year-old boy in the room. Then they smashed the windows of Catholic High School, which had a "Happy Hanukah" sign on its marquee.

Events like these can isolate their victims. They can silence people of good will and open broader campaigns of hate and violence. But that did not happen. Instead, Billings rallied with the Jewish community.

The Billings Gazette printed up thousands of paper menorahs. People all over town pasted them in their windows as a sign of solidarity. Billings held the largest Martin Luther King Day march ever in our State. And the skinheads left town.

As good people again speak out, that will happen with the militias and Freemen too. They must know they are not welcome in our churches, our grocery stores, our towns. We must stand with law enforcement as they track down clinic bombers and arrest radical tax protesters. And when the American family stands together against the hate groups, as Billings stood against the skinheads, they will vanish.

Mr. President, nothing will undo the pain in Oklahoma City. But the suffering of the bombing victims and their families need not be in vain.

Let us reflect on this horrible event. Let us remember the sacrifice our fathers made across the seas 50 years ago.

And let us rededicate ourselves to ending hate here at home in America.

THE ENVIRONMENT OF EXTREMISM

Mr. HOLLINGS. Mr. President, on the matter of the extremism which the distinguished Senator from Montana so thoughtfully addressed, I want to just address the environment; not necessarily the extremists, not the hate groups—I want to address our conduct, namely the public servants.

We read in the morning's paper, for example, where David Broder uses that description of this Government here in Washington, the greatest gift to free people the world around, a representative form of government that works so well—he uses the words of our distinguished Speaker, "the corrupt liberal welfare state."

You know Mr. GINGRICH is not going to blow up any buildings and neither is Senator HOLLINGS. But what has come from my experience is a reaction against this particular environment, because it is created by pollster politics.

I ran for 20 years without ever seeing a political poll. You addressed the issues as concern the citizenry, going down the Main Street, out into the farms, the rural areas, the small towns, as well as the civic club meetings in the cities. You had a feel for what is going on. But that is not allowed today in the pollster world. What you do is you take a poll, find out what they call the six or seven hot button issues, and take the popular side of those particular issues and blame everybody else.

Specifically, if you want to run for office up here in Washington, it has gotten to an environment of running against the Government. This is sheer nonsense, but this is the fact. I think we are elected to make this Government work. The approach of the environment, under the contract and otherwise, is to get rid of the Government, dismantle it. It is not needed. Cut the money so they cannot do the job or whatever else it is. But as long as you can run against the Government, with the cry, "The Government is not the solution, the Government is the problem," that is the problem I wish to address here. Because all the attention and editorials will now go with respect to the hate groups.

Unfortunately, they have prospered over the past 15 years. I was inaugurated as Governor of South Carolina in 1959. After I took the oath of office, I ran back up the steps to get on different clothes for the parade. I looked on my desk and I found a green envelope, gold embossed, from the Ku Klux Klan, Grand Klavern of America, giving me a lifetime membership. Well, I was lawyer enough. I said, "We are going to return that with a return receipt requested." But I asked for the head of my law enforcement division, Mr. Pete Strom, I said, "Have him here at the end of the parade. I want to see about this."

At the end of the parade, I asked Chief Strom. I said, "We have the Klan in South Carolina?" I was down in Charleston, and we did not have that activity in the city of Charleston, not that we were any better than any part of the State.

But he says, "Yes. We got 16,721 members."

I said, "You keep a count?"

He said, "Yes. We keep a count of them but none of the Governors wanted to do anything."

I said, "Do anything?"

He said, "Yes. Get rid of the crowd."

I said, "Well, I agree with you. We ought to get rid of them. What do you need?"

He said, "I need your cooperation. If you can get me a little money for informant fees, if you can help me infiltrate this group, we will get rid of them."

And at the end of my 4-year term we integrated now Clemson University—then Clemson College—without incident, because we were able to bring it down from 16,721 to less than probably 200.

In fact, they told me. I did not know about any meetings. But some of my informants were called in the meetings and informing and everything else, and we dispelled the Klan from South Carolina. But unfortunately, Mr. President, that now has grown back.

When they talk, and write in erudite fashion in the morning news, do not worry about this violence and racism, that we had it back in the 1920's. Do not give me the 1920's. Let us go back just 30 years ago or 40 years ago, from 1954 with the Brown against the Board of Education decision and come on up 40 years to 1994. I can tell you categorically we have more racism today in my home State than we had at that particular time.

This environment really bothers me in the context of what I experienced back home just this past Easter break. We had an annual meeting of our State Chamber of Commerce. To that meeting I was invited, of course, the two Senators, and the six Congressmen. Most of us, of course, were in attendance and we answered the questions. One of our distinguished Congressman had gotten on to the matter of the abolition of, getting rid of, closing down the departments of Government. I was just sort of taken aghast. But I thought I would hit them right head on.

When my turn came, I said, "Wait a minute. You folks are talking now of abolishing the Department of Commerce?" Here I am meeting with the State Chamber of Commerce, and I could see the faces light up, and they started almost clapping saying, yes. I said, "The Department of Commerce, Education?" We had former Governor, very popular and outstanding Governor, Dick Riley, who is the Secretary of Education up here now. They said, yes, yes. They got even louder. I said, "Energy, and HUD?" Yes. They were almost standing up cheering. They were almost standing up cheering.

Let us do not talk of the extreme. That is easy to address. Let us talk of the responsibility of middle America. Everybody wants to buy the vote around here of middle America. We are it. We are middle America and we are developing that attitude of dismantling it and getting rid of the very thing we are supposed to build and represent to respond to. We certainly are not responding by paying for any bills.

I fought that, now years on end, trying to get fiscal responsibility. But I want to emphasize that my feeling is not just on account of the disaster in Oklahoma, which I think is reflective. When we set up the environment of that kind, then extremism can prosper. I saw it in 1963 under our hero John Fitzgerald Kennedy. I will never forget at that particular time the anti-Kennedy environment that persisted. I have never thought anyone was more eloquent, more intelligent, more dynamic than John Fitzgerald Kennedy. And he did attract in a sense the best and the brightest to our Government at $1 a year and we had things moving.

But an environment had developed somewhat similar to this environment today that I feel when I go to these meetings and see these reactions—President Kennedy was about as popular as an itch. I can tell you here and now when the news came over that he had been assassinated, public schoolchildren in my backyard stood and clapped.

We are responsible—not the extreme groups—we in Government are responsible for these responses, with this kind of environment, and this kind of feel amongst the people. Yes. The talk show hosts. Good heavens above. They cannot plead not guilty now. They are as guilty as get out. They have talked of arms and shooting. And, yes, this morning as they talk now they refer to ourselves up here as the corrupt liberal welfare state. They have got all the buzzwords. The Republican Party gives instructions on using the proper buzzwords. The Senator from North Dakota put that in the CONGRESSIONAL RECORD. We know those particular buzzwords, and they will tell you to use those buzzwords because that fires up the people and engenders support for your particular position. That is what has been going on, to my dismay.

I felt after the election in November that rather than a Contract With America, that what we needed was a challenge. Rather than reinventing Government, we needed to restart it. After all, we had 12 years of Reagan-Bush, and Heaven knows they had cut enough spending, except in the field, of course, of defense. We had cut, cut, cut—this minute with even further cuts, 50 percent of WIC, 50 percent of Head Start, 50 percent of title I for the disadvantaged. All of those have been not embellished and fleshed out to their fulfillment whereby we save money—$3 for every $1 invested in WIC, $4.50 for every $1 invested in Head Start, $6.50 for every $1 invested in title I for the disadvantaged. Yes, health research has been cut. We saved $13.50 for every $1 we invest there.

Some were talking about the flu. I just was reading David McCullough's book on Truman, and after World War I; 1918, 1919. We had 500,000 deaths from a flu epidemic, more than was killed in World War I. We had 25,000 GI's in camp that never got to war that died as a result of the flu. With problematic research, we have saved those lives, and the report now is we have less than 5,000 here in the year 1994, or 1995, the most recent figures.

So we save and we ought to understand by investing in education, investing in these various programs, we actually are saving money. But the drumbeat to election has gotten so that there is a total disrespect for anybody that serves in public office almost today, and particularly at the Washington level.

I thought with the problems that we had what needed to be done is a challenge for America in the context of a Marshall plan on the one hand, and a competitive trade policy on the other hand. Specifically, as we started the year, we have 39.9 million in poverty in the United States of America, and that has not diminished. We have over 10 million homeless on the sidewalks tonight when you are on the way home. We have 12 million children going hungry. We have 39 million without health care. Those who have a full-time job are making 20 percent less than what they were making 20 years ago. According to the census figures last year, that is the groups from 17 to 24—73 percent of that age group cannot find a job or they cannot find a job out of poverty. And with our lack of a trade policy whereby 10 percent of manufactured goods, back in 1970, 25 years ago, only 10 percent of manufactured goods consumed in your and my United States represented imports; now over 50 percent. If we had gone back in the last few minutes or as of today back to the 10 percent, that is 10 million manufacturing jobs. We are going out of business. We are headed the way of England. As they told the Brits some years back, "Don't worry; instead of a nation of brawn, we are going to be a nation of brains, and instead of producing products, we are going to provide services and have a service economy. Instead of creating wealth, we are going to handle it and be a financing center." And England has gone to hell in an economic handbasket.

When you lose your economic power, Mr. President, you lose your power in foreign relations. As of today, we are not the biggest contributor to foreign aid. Japan is the biggest contributor. They are holding the schools on Fredrich List, the Japanese model, whereby the wealth of the economy is measured not by what it can buy but by what it can produce and the decision is not based on be fair, be fair, level-the-field nonsense. It is whether the decision strengthens or weakens the economy. And this is the competition we have in the Pacific rim, and even now the emerging nations in Eastern Europe are not adopting the free trade of Adam Smith and David Ricardo but, rather, following the Fredrich List model, and that is the competition we have to wake up to.

So I thought the first order of business now with the fall of the Wall was that we could start rebuilding this land and we are immediately going to the distinguished President George Bush, who, in his State of the Union, said we have got more will than wallet. False. We have got more wallet than will. I can tell you that. We have the money. We are spending it $1 billion a day for interest costs, for nothing. We are wasting it. If they want to get a Grace Commission—and I was very sorry to see my friend passing here, Peter Grace, who headed up that Commission, just this last week. I served on that Commission, and he acted with tremendous distinction for the good of the Government here in Washington.

But if you want to get waste, fraud and abuse, the biggest we have—and nobody wants to talk about it—is the increase of the debt. And all you need to do, if you want to find out what the real deficit is, is see what the debt was in 1994, what it is going to be in 1995—we will go backward—and what it was in, say, 1990 and how much it increased in 1991, and then in 1991, how it increased in 1992. And you can see, not of this structural debt or other kind of debt that they describe, but you can see we are spending on an average of $300 billion more than we are taking in. That is the deficit as I see it.

In January, they estimated $338 billion, but we have had six increases in the interest rate since that time. So it is going to be $350-some billion no doubt—$1 billion a day—and we are into a downward spiral. You can have all the freezes, and I favor them. You can have all the spending cuts, and I favor them. I absolutely oppose any tax cut. We do not have the money to cut. I can tell you that now. But that is buying the vote, the pollster will tell you, not only to use the pejorative terms but to come out for middle America.

That is what distresses me. The leadership of the Republicans and the leadership of the Democrats are both talking about middle-class bills of rights and buying that vote and leaving us who have been in Government and trying to work to get us operating in the black and get this Government going again scrambling back to the environment. We can put in a value added tax along with spending freezes, along with spending cuts, along with closure of the loopholes, tax expenditures and along with a tax increase.

I knew in my heart—and I can see Howard Baker there, the leader back in 1981, 1982 when we talked about a freeze. In 1981, Howard turned to me and he said, "Now, Fritz, I can't come out and endorse it, but we are going to have to get on top of this. We are going up to the hundred billion deficit."

We never had had that before. We do not even blink at the $300 and $400 billion deficits that we are having today. He said, "You come out with your freeze, and I will support it in the context of I will say, 'Well, that is interesting; let's study it and let's see if we can go from there.'" And when I did, the next morning Don Regan, the Secretary of Treasury, tackled us from behind and said, "No way; we are not going to do that." And as a result the rest is history.

Under President Reagan, we got the $100 billion deficit, the first $200 billion deficit. Under President Bush, we got the first $300 billion deficit and the first $400 billion deficit. Now, yes, President Clinton came to town and cut $500 billion in spending. He taxed Social Security. He taxed cigarettes. He taxed liquor. He taxed gasoline. He let go some 100,000 Federal employees, and he was on the right track until November when the contract now is the attention, almost like spectator sport up here. And so it is Annie get your gun; anything you can do, I can do better.

We are not really talking in terms of substance. We are only talking in terms of symbols. You can adopt the Contract With America in the next 10 minutes and not a single bill is paid and not a single job is created. So if we could put in the Marshall Plan and start investing in people—we are talking about putting people first—if we can go back to the theme upon which the distinguished President was elected and then turn to a competitive trade policy, we can start rebuilding our economy and our strength and thereby our influence.

Our foreign policy and security as a nation is like a three-legged stool. You have the one leg of the values of the country, and we feed the hungry in Somalia; we build democracy in Haiti. We have the second leg unquestioned there, too, that of the military. The third leg, the economic leg, has been fractured, intentionally so, over the past 45 years with the special relationship that we had to support the fight of the cold war against communism. But now with the fall of the Wall, it is our opportunity not to dismantle the Government but to rebuild the Government, not to reinvent the Government but to rebuild it.

I ask unanimous consent, Mr. President, that "Perspective—Challenge for the New America," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Charlotte Observer, Mar. 12, 1995]

CHALLENGE FOR THE NEW AMERICA

(By Ernest Hollings)

Our economy is broken. Our society is splitting apart. Our nation is in decline. Forty million Americans live in poverty; 10 million Americans are homeless; 12 million children go hungry every day; and more than 39 million of us don't have health care.

America, land of opportunity, today is a frightening picture. The cities have become centers of crime and violence, the schools have become shooting galleries, the land drug-infested. The hard-working have no job security. Those with full time jobs are making 20% less than they did 20 years ago. And 73% of the generation of the future—those who are 17 to 24 years old—can't find a job or can't find one that will lift them out of poverty. For the first time in our history, today's younger generation will not live better than their parents. We're developing into a two-tiered society of the haves and have-nots.

And what does the Contract with America promise? Procedure Process. Delay. Adopt the Contract in the next 10 minutes and no job would be created, no bill would be paid. It's true that the Contract makes a lot of headlines about issues of concern. But it makes no headway.

We in Washington act as if we were elected to cheer rather than to govern. Our duty is to get out of the grandstand, get down on the field and score. To score, the United States needs to launch a Marshall Plan to rebuild America. But many feel we don't have the money. Like George Bush, they contend we "have more will than wallet." Nonsense. We have more wallet than will. We just refuse to pay our bills. As a consequence, our wealth is wasted on paying the interest costs of a soaring debt.

Pretending that economic growth and spending cuts alone could cure the deficit, David Stockman said, "We have incessantly poisoned the political debate with a mindless stream of anti-tax venom." The result today? A spending spree of $1 billion a day that services a debt that grows like topsy. To put a tourniquet on this hemorrhage, we must freeze spending, cut spending, close tax loopholes and enact a 5% value-added tax, which would put the government on a pay-as-you-go basis. With this in place, we can provide a Marshall Plan to rebuild America.

First, we must invest in proven programs that save money and people, such as the WIC (Women, Infants and Children) nutrition program: childhood immunizations; Head Start; education; biomedical research and more. Next, we should promote savings and investment with revamped Individual Retirement Accounts and research tax credits for industry. And we should reinstitute revenue-sharing to pay for unfunded mandates and to rebuild the decaying infrastructure—roads, bridges, schools—of our cities and states.

COMPETITIVE TRADE

At another time of crisis, Abraham Lincoln said we must think anew, act anew and disenthrall ourselves. If we can think anew, about spending and taxes to develop an American Plan for America, we must disenthrall ourselves from the buzzwords of this town—"protectionism," "industrial policy" and "distrust of government."

The very fundamental of government is protection. We have the Defense Department to protect us from enemies without, and the FBI to protect us from enemies within. Medicare and Medicaid protect us from ill health. Social Security protects from the ravages of old age. We have clean air and clean water provisions to protect the environment. And of course, we have a raft of protections against free market forces—minimum wage, unemployment security, anti-trust laws, safe machinery, safe working places, plant closing notices, parental leave—which all added to the costs of production. All of these protections have sweeping bipartisan support so we can maintain our high standard of living.

In today's low-wage, controlled global competition, the U.S. living standard must be protected. But after 50 years of operating—and losing—under the free trade model developed by Adam Smith, the United States must realize that it needs a competitive trade policy to win the war of ever-increasing trade deficits. Unlike Smith, who believed the wealth of a nation was measured by what it could buy, we live in a world where wealth is measured by what a nation can produce. Trade policy is not a moral question of "being fair," but a question of whether it strengthens or weakens the economy.

Our government should stop kowtowing to the multinationals and start protecting our economy. Instead of having 28 departments and agencies in government that deal with trade, we need to orchestrate them into one entity to guide national trade policy. Similar to the National Security Council, we need a statutory National Economic Council to direct trade policy and globalize our industrial policy. We don't need a bunch of new laws. We need to enforce the trade and dumping laws that are on the books now.

To augment a competitive trade policy, we need to embellish the Advanced Technology Program, regional manufacturing centers and small business loans for technological development. We should use market access to encourage voluntary restraint agreements for those products important to our national security. We must change archaic securities laws to favor long-term investment. And if forced, we can translate the inspection practices and nontariff barriers of our competitors into English by withholding market access until the United States is permitted market access.

Ten years ago, 26% of our work force was engaged in manufacturing. Now, it's dwindled to 16%. If we lose our manufacturing power, we'll cease to be a world power. We need a competitive trade policy and an American plan for America to get the country moving.

U.S. CAN-DO

The United States is a can-do country. Since the beginning, it always has looked to the people's government in Washington to lead the way. And today, as spiraling deficits and free trade threaten our standard of living, our challenge is to use government to get us out of this mess. Look how successful we've been:

It was the Washington government that enacted the land ordinances that opened the West to pioneers.

The Washington government built the roads, canals, harbors and the transcontinental railroad that poured our rich resources into factories.

The Washington government produced the water projects that transformed the Midwest desert into the breadbasket of the world.

The Washington government brought electricity to rural America.

When free enterprise failed in the Depression, the Washington government lifted us from despair and rebuilt our economy.

The Washington government saved the world from fascism.

The Washington government broke the back of racial discrimination and set us on the road to equal justice.

The Washington government joined science, industry and education and put a man on the moon.

We can repeat our past successes. Enough of this chant to get rid of the government. As John Adams said, "The declaration of hostility by a people to a government made by themselves, for themselves and conducted by themselves is an insult."

And enough of these information-age buzzwords of reinvention, reassignment, dismantling and devolution. Now is the time to quit playing with symbols and go to work on substance.

Mr. HOLLINGS. Let me just read this because this is what we had in mind and spoke of back right after they submitted the contract and talked about in November so reverently, and I read now because I do not want people now to think I am joining the comments with respect to extremism. I do not differ with them. I salute the distinguished Senator from Montana, the Senator from Minnesota and others, but I read because we have got to give the people hope in this environment. And I read this.

The United States is a can-do country. Since the beginning, it has always looked to the people's government in Washington to lead the way. And today, as spiraling deficits and free trade threaten our standard of living, our challenge is to use Government to get out of this mess. Look how successful we have been.

It was the Washington government that enacted the land ordinances that opened the West to pioneers.

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It was the Washington Government that brought electricity to rural America. When free enterprise failed in the Depression, the Washington Government lifted us from despair and rebuilt our economy. The Washington Government saved the world from fascism. The Washington Government broke the back of racial discrimination and set us on the road to equal justice. And it was the Washington Government that joined science, industry and education and put a man on the Moon.

We can repeat our past successes. Enough of this chant to get rid of the Government. As John Adams said, "The declaration of hostility by a people to a Government made by themselves for themselves and conducted by themselves is an insult."

I yield the floor.

LOUD AND ANGRY VOICES

Mr. GRAMS. Mr. President, I rise this afternoon with a question: Where are the loud and angry voices?

President Clinton traveled to my home State of Minnesota yesterday to speak out against what he called the "loud and angry voices * * * the purveyors of hatred and division" that he claims have fostered a climate of profound distrust in government.

Mr. President, I will concede that there is indeed deep discontent in the heartland, some of it focused on the Federal Government; discontent was reflected at the ballot box in November.

People are fed up with a government they believe has grown too big, too overpowering, too unresponsive. They heard the conservative message of less government and it hit home. Just as Americans have done time and time again throughout the history of this Nation, they started a revolution of ideas by voting for a change.

Now, that is what courageous Americans do—they vote. Courageous Americans do not plant bombs. Courageous Americans do not murder their neighbors and their neighbors' children. Cowards do.

I have been receiving telephone calls from angry constituents, furious that—simply because they consider themselves opponents of bigger government or higher taxes—that their President would seek to somehow tie them to the actions of the desperate few who committed unspeakable violence in Oklahoma City. Why stop there? Why not blame fertilizer producers and the folks who sell it? Why not blame the employees who rented out the truck that carried the bomb? Or the Federal Government itself?

I will tell Americans why we cannot—and must not—play the blaming game: because the only individuals responsible for this tragedy are the very cowards who built the bomb, parked in front of that building, and in that horrible explosion, took innocent American lives.

For some things that happen, there is no reason, and out of anger we tend to blame. We must not blame each other.

Those who did this—they alone are responsible, and they should be brought forth in the American tradition of justice and held accountable for their actions.

We must remember the pain of Oklahoma City, but this is not a time to score political points or to somehow use the victims of this tragedy as the pawns of some crazy chess match. This is a time for healing, for sticking together. We should be drawing ourselves closer to our fellow Americans—not pushing each other apart.

Mr. President, democracy can be a hazardous endeavor. There are deep risks—but equally deep riches to be gained—every time a civilization is entrusted with the freedom to govern itself. A government "of the people, by the people, and for the people" can never be sealed off from the world.

We cannot pass enough laws to prevent what happened in Oklahoma City. But with the promise of punishment that is swift and severe, we make a bold statement that the vicious actions of a few will not be tolerated within a democracy.

If President Clinton had listened carefully during his visit to Minnesota, he would have heard the same loud and angry voices that I hear echoing across this country. The loud and angry voices I hear are not political or ideological. They are the voices of real people—in Oklahoma, in Minnesota, and across the country—who have witnessed this awful tragedy and are demanding justice.

We would not serve them well by politicizing tragedy. Instead, we must punish those who committed this act, stand by those who were injured in the blast, and keep forever in our memories respect for those who lost their lives on April 19, 1995.

Mr. CRAIG. Mr. President, my heart goes out for the families and friends of those brutally murdered by the senseless bombing in Oklahoma City last week. It was a cowardly act, perpetrated against fathers and mothers, children, aunts and uncles, brothers and sisters, friends and fellow Americans. While our prayers go to the survivors, the community and the brave soles doing the gruesome work of recovery, I am sure each of us, in our own way have uttered, why and "there but by the grace of God go I."

There is not justification for such an act of barbarism; no circumstances under which our society can tolerate such actions. Those who would wantonly take the lives of innocent citizens, also destroy the fabric of our freedom. They must be caught. If found guilty, they must be dealt the harshest penalty the law will allow.

As a nation, we must draw a clear line between what is acceptable disagreement with Government and what is just plain lawless brutality. But in our sorrow and anger, we must be mindful to draw that line carefully.

Our Constitution dictates the middle ground between measured justice and reckless retribution. It is a time tested outline for what is too much Government and what is too little. It is the very framework of our liberty. Even so, there are plenty of instances in the history of our Nation where its umbrella of protection was bent by public outrage or fear and the rights of individuals or groups have been suspended for what was viewed as "the public good." And in almost every case, those have been mistakes.

In retrospect, few of us can really defend the wholesale incarceration of Americans of Japanese descent at the outset of World War II. It must have seemed the proper action at the time.

None of us can now defend Senator Joe McCarthy's witch hunt for communists in the entertainment business, although we were a nation in fear of spreading communism.

Few of us who remember the civil disobedience of the late sixties, can defend the excess of Federal investigators who tapped the phones of dissidents, investigated the lives of civil rights leaders or spied on those whose only crime was having strongly held opinions that opposed the official position of our Government.

Make no mistake. Those who executed this bombing are outlaws of the worst kind; misguided and sick people hiding behind some cause so they can inflict human suffering on people they don't even know.

But they in this case doesn't include everyone in America who opposes Government excess.

It doesn't include people who choose to exercise their constitutional right to assemble, right to free speech, right to keep and bear arms, to practice responsible civil disobedience, or to disagree with the Federal Government.

Neither the ultra right nor the ultra left, neither conservative radio programs nor the liberal media are guilty of this crime. The criminals who did it are responsible.

Those who would use this act of barbarism to lay blame on their political or ideological enemies, do every citizen of this Nation a great disservice. They are attempting to place the blame somewhere other than on the shoulders of the criminals themselves, not because of their grief, but the callous political self interest.

It also shows they have a shallow understanding of what makes our country great.

In this Nation, the rights of the individual come first. The guilty must be found, tried and punished.

The rights of the innocent must be preserved.

In this Nation, ideas and beliefs are not crimes. God forbid that they ever will be.

That is the constitutional prescription for our freedom. It should not be sacrificed for the short term political gain or national comfort.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

• Mr. HATFIELD. Mr. President, the sense of the Senate resolution offered by the Senators from Oklahoma and the majority leader and minority leader reflects the desire of the U.S. Senate to voice its outrage at the horrible bombing of the Federal building in Oklahoma City as well as our desire to see swift punishment for those responsible. The resolution also offers the Senate an opportunity to express concern and sympathy for the lives tragically affected by this crime.

To the families of those injured or lost in the bombing, I offer my deepest sympathies. We all offer our thanks to the rescue workers, volunteers and law enforcement officials who have responded to the crisis with bravery, compassion, and extraordinary professionalism. Out of the depths of the despair caused by this criminal act, Americans are finding renewed unity and strength as we face together this adversity.

Right after the blast I was asked if this type of attack is the price our Nation must pay for a free and open society. I do not accept the thesis that we must live in fear—for our lives, for the safety of our children, or for our own ability to express ourselves. After all, our Nation is founded on the principles of protecting life, liberty and the pursuit of happiness. None of these precepts was honored by the terrorists who ended or forever altered the lives of the victims of the Oklahoma City blast.

I personally rely upon my faith to help understand this tragedy and gain a sense that justice will be served. As a Senator, I will join every other government official in the effort to ensure that the hunt for the perpetrators of this crime is successful and swift. And although I cannot support the imposition of the death penalty because of my longtime conscientious objection to it, I nonetheless condemn the crime in the harshest terms and am eager to know that the criminals are behind bars.•

THE 100TH ANNIVERSARY OF THE COMBINED JEWISH PHILANTHROPIES

Mr. KENNEDY. Mr. President, it is a privilege to join today in celebrating the 100th anniversary of the Combined Jewish Philanthropies.

The Combined Jewish Philanthropies has always been at the forefront of issues vital to the Jewish community, and I have been proud to work with members of this organization. As an organization that grew from 5 Jewish agencies in 1895 to more than 80 agencies in 1995, it has developed into one of the most successful charitable organizations in the world. Throughout these years, the CJP has had extraordinary success in improving the lives of countless people.

The CJP has helped to alleviate the horrors of the past by assisting in the rescue and resettlement of hundreds of thousands of survivors of the Holocaust, and it has faced the challenges of the present by assisting in the emigration and resettlement of large numbers of Soviet Jews. It has also laid a solid foundation for promoting social justice through programs that create jobs, help the needy, care for the elderly, and educate children.

During my years in the Senate, I have been proud to work with members of the CJP on many social programs in Massachusetts, including Jewish vocational services, family services, and Big Brother/Big Sister programs. We have worked together to develop counseling and job training initiatives for the Jewish community in our State, and we have helped over 5,000 Jewish immigrants during the past 6 years find jobs in Massachusetts. We have also worked together to ensure that young persons in need of role models have the opportunity to participate in the Big Brother/Big Sister programs in Massachusetts. It has also been a privilege to work with the CJP against antisemitism in the former Soviet Union and for the right of emigration.

The CJP's centennial celebration comes during a time of great challenge and great opportunity for the friends of Israel. All of us deplore the tragic violence that continues to plague the peace process in the Middle East. But I look forward to working closely with the CJP, the Clinton administration, and my colleagues in Congress, to secure a just and lasting peace and to ensure that Israel's vital security interests are protected.

I extend my respect and warmest wishes as the CJP enters its second century.

VOLUNTEERS HELP KEEP CALIFORNIA BEAUTIFUL

Mrs. BOXER. Mr. President, I rise today in support of thousands of California volunteers who have contributed their time and hard work this month to ensure California remains the Golden State that its people, the rest of the country, and the world have come to treasure.

April is Keep California Beautiful Month, and the nonprofit Keep California Beautiful, Inc., supported by thousands of individuals and businesses, as well as county, State and Federal agencies, have organized more than a hundred community-based projects to improve and maintain our publicly owned lands and facilities, from parks in inner cities to the wide-open spaces we all love. The specific objectives are to reduce litter, remove graffiti, expand recycling, and enhance natural resources in urban and rural areas.

This year, 1995, is the beginning of what we all hope will be an ever-increasing annual event in the years to come. As we tighten our belts and streamline government at all levels, volunteer efforts like Keep California Beautiful become even more important. In fact, the synergy created by the private-public partnership of this effort will, I believe, actually multiply our capability to do the hands-on work needed in all parts of the State.

This year's success will be the first of an ongoing annual event for years and years to come. That way, not only are we improving California for our children, but hopefully our children will improve it for their children. It is that kind of spirit that makes California special.

I commend my fellow Californians for their efforts and encourage everyone to get involved in Keep California Beautiful Month next year.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the skyrocketing Federal debt, which long ago soared into the stratosphere, is in a category like the weather—everybody talks about it but almost nobody had undertaken the responsibility of trying to do anything about it until immediately following the elections last November.

When the 104th Congress convened in January, the U.S. House of Representatives approved a balanced budget amendment. In the Senate only 1 of the Senate's 54 Republicans opposed the balanced budget amendment; only 13 Democrats supported it. Thus, the balanced budget amendment failed by just one vote. There will be another vote later this year or next year.

As of the close of business yesterday, Monday, April 24, the Federal debt stood—down to the penny—at exactly $4,839,548,467,525.15 or $18,371.01 for every man, woman, and child on a per capita basis.

A NATIONAL DAY OF SERVICE

Mr. ROCKEFELLER. Mr. President, I commend Americans who are participating in the National Day of Service. Today, people all across this Nation are working together in community service. As we speak, people of all ages and backgrounds are using their hands and hearts to show their American spirit.

This day should remind us all of what it means to be an American, for today, our people are standing side by side. They are gathering, not to discuss their differences, but to pursue common goals.

Today, Americans are standing side by side immunizing infants. They are standing side by side tutoring school-age children. They are standing side by side restoring urban parks, feeding and sheltering the homeless, and rehabilitating housing and community centers. Today, we stand united as Americans.

In West Virginia, people in Braxton County will work together to create a nature trail near the Braxton County Middle School so students can learn more about their environment. In Welch, people are working to clean a vacant school so it can be converted in a facility to offer a safe shelter for victims of domestic violence by the local agency known as SAFE, Stop Abusive Family Environments. These activities for National Youth Service Day are just a few examples of important community work sponsored by the West Virginia Commission National and Community Service.

This day strikes a warm, familiar chord for me personally. From personal experience, I know the benefit of working with others to build better communities.

In 1964, the VISTA program brought me to a coal camp community in Emmons, WV. There, I followed Kennedy's call to service and worked with the people of Emmons, trying to do my small part in building a stronger community.

Together, we built a baseball field and a community center. We brought the people much needed preventative health care. We rallied to bring a schoolbus to Emmons and helped to keep Emmons' kids in school.

From personal experience, I know that community service benefits participants as much as it benefits communities. My work with VISTA taught me a very important lesson: That I can make a difference.

Today, the people of America celebrate that same lesson: Each and every American can make a difference.

Let us all be careful not to forget that important lesson at the end of the National Day of Service. Let us remember and reaffirm that lesson every day of the year.

Why must we remember the lesson every day of the year? The reason is simple: Community service programs work.

Just look at the resounding success of AmeriCorps. AmeriCorps gives thousands of young Americans the tools to make a difference in their own lives and in the lives of others.

AmeriCorps participants perform vital services in America. Just over 6 months ago, 85 West Virginians were sworn into AmeriCorps. Today they are working with 20,000 people nationwide to keep schools safe, restore natural resources, tutor teenagers, and more—all in exchange for education.

Programs like AmeriCorps simultaneously open doors to higher education and help build stronger communities. They allow Americans to help each other, and build trust, understanding, and hope.

Mr. President, I am proud to stand in support of the National Day of Service. I salute everyone working in community service. I congratulate each of them for making a difference.

TRIBUTE TO DAVIL MARTIN

Mr. DODD. Mr. President, I rise today to pay tribute to David Martin, a distinguished public servant, an inquisitive adventurer, and a uniquely warm individual.

I came to know David when he served on the staff of my father, the late Senator Thomas J. DODD. To my siblings and me, however, David Martin was much more than an employee of one of our parents. He was more like a beloved uncle and insightful teacher wrapped into one.

I recall spending a number of delightful evenings at David's home with my family engaged in stimulating conversation. One could not come away from talking with David Martin without learning something new. He was a gripping conversationalist.

He was very unassuming and did not aggressively advertise his superior knowledge. You had to probe to find that rich vein, but once you succeeded, your reward was real and immediate.

David had such a dynamic and engaging intellect that he was a magnet for some of the 20th century's foremost authors and thinkers. He counted Ralph Ellison, George Orwell, Norman Mailer, William F. Buckley, Jr., and Edward Teller among his friends.

David's biography is so varied and fascinating that it reads more like that of a protagonist in a novel than a real-life individual. He was a veteran, a war correspondent, a noted author of political science, a human rights advocate and a legislative expert. He even coordinated Richard Byrd's last expedition to the South pole. David Martin was a true renaissance man.

His three books on Yugoslavia are still required reading for anyone who wants to understand that troubled part of the world. He was a passionate advocate for refugees, and as executive director of the Refugee Defense Committee from 1946 to 1947, he was instrumental in ending the inhumane practice of forcible repatriation of war time refugees to the Communist eastern bloc.

David was legendary in the Senate for the breadth and depth of his expertise. During the 11 years he served on my father's staff, David was a key mover behind the eventual adoption of the limited test ban treaty. He also advised my father on a range of foreign policy hot spots, from Germany to Africa, from the Dominican Republic to Southeast Asia.

After working for my father, David went on to the Senate Judiciary Committee, where he organized hearings on marijuana that are generally credited with alerting the public to the true danger of the drug.

David's first wife, Judy Asti, whom he married in 1947, died in 1971. He remarried in 1974 to Virginia Worek Levy. He is survived by Virginia, as well as his two children, Joe and Rebecca; his brother, Maurice Manson; and two stepsons, Ian and Raoul Levy.

Today we live in a better country and a better world thanks to David Martin.

I think that is among the highest praise that can be given to an individual who has passed away, and in David Martin's case it is richly deserved.

ANNIVERSARY OF COL. CHARLES SHELTON CAPTURE IN LAOS

Mr. FORD. Mr. President, Saturday, April 29 marks the 30th anniversary of Col. Charles Shelton's capture in Southeast Asia.

Colonel Shelton grew up in my hometown, Owensboro, KY, where you could find him playing football for the high school team, courting his wife, and developing the values that would later serve him so well as he served his country.

Like so many other dedicated American soldiers, the day he left the United States to fly secret reconnaissance missions over Laos, he put his life on hold, whether that meant the dreams and ambitions of an individual life, or the simple pleasure of watching his five children grow into adults.

But, when he was shot down on April 29 and captured, the notion of putting a life on hold took on a new and horrible dimension for Colonel Shelton and his family. That's because for the next 29 years, Colonel Shelton remained an official prisoner of war—the final U.S. military personnel to be so listed by the American Government.

Because of numerous reports of sightings and escape attempts well into the 1980's, it wasn't until 1994 that his children requested the Pentagon to change his status to presumed killed in action.

While we can't begin to imagine what this wait was like for Colonel Shelton or his family, we can pay tribute to his service and to the ordeal he and his family endured in order to protect the freedoms we all enjoy in this country.

Mr. President, let me close by saying to the children of Colonel Shelton that we can never replace the years you lost with your father, but his marker in Arlington National Cemetery will serve as a reminder for generations to come of his heroism, his courage, and his unyielding love for this country.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I appreciate your recognition. I would like to use my leader time to make a statement on the pending resolution prior to the time to take our vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONDEMNING THE BOMBING IN OKLAHOMA CITY

Mr. DASCHLE. Mr. President, 7 days ago, a brutal attack on a Federal office building in Oklahoma City left over 80 people dead, more than 400 injured, and a city and Nation shaken to its core.

On Sunday, the Nation observed a day of mourning. All Americans joined President Clinton, the families of victims, and the people of Oklahoma City in thought and prayer at the memorial service. With them, we thanked and honored the brave men and women who have aided in the rescue efforts at the bomb site. It was an added tragedy to learn Sunday that one of the rescuers, a nurse, lost her own life in the course of helping others.

The swift and efficient work of FBI and other Federal law enforcement in apprehending suspects reinforces the well-earned reputation of those agencies. Terrorists must know that no matter who they are, domestic or foreign, there is no place to hide from the reach of our law. President Clinton has made clear that those who committed this act will be pursued, found, convicted, and punished to the full extent of the law. He has the support of every law-biding American in that determination.

An act of terror—the intentional murder of innocent men, women, and small children—shattered the sense of security that Americans have enjoyed in an increasingly violent world. Our world has made us all vulnerable to the deranged and to the enraged. No one's security can be guaranteed against people determined to attack, to kill, to pursue their mad plans, Security cannot be guaranteed against those who have no concern for human life.

But that does not mean we are doomed to give in to the forces of insanity or mad rage. The human world has always been one of risks and dangers. Throughout human history, violence has erupted in wars and between individuals; human beings have been at risk from the forces of nature, from disease and accident.

Today's violence and terrorism come into our homes through television images. They have an impact that written reports of battles and tornadoes could never have.

No sooner had Wednesday's bombing been reported than scores of faked bomb threats began to be received from coast to coast. Federal buildings in Kansas City; Miami; Portland, OR; Dayton and Steubenville, OH; Casper, WY, and Boise, ID, were closed. In Omaha, the Zorinsky Federal Building was closed, and its day center emptied, by a bomb threat.

Television and wire service stories reported all these threats and others. No wonder Americans all over the country immediately felt at risk. The immediacy of live television, the awful images of wounded, bleeding, shaking people staggering out of the Federal building in Oklahoma City made every American watching a participant in this hideous tragedy. No one who saw the small children covered with blood, dazed and bewildered, will ever forget their eyes.

The deaths and injuries, have brutalized families all across America. A young woman from Spearfish, SD, serving in the Air Force, is among the missing. Married just 4 days before the bombing, she left her duty station at Tinker Air Force Base on Wednesday morning to go to the Social Security office in the Federal building in Oklahoma City to register her married name, and she has not been found. Her father, David Koch of Rapid City, her high school classmates from the 1993 graduating class at Spearfish High, and all who knew her have been devastated by this terrorist attack. That is true for literally hundreds of families and people nationwide.

The immediacy of television brings us closer together as a Nation mourning national tragedies, but it also makes each of us feel less safe, less secure in our daily lives.

We should not let ourselves forget that outbreaks of insane violence have occurred before. In 1927, for instance, a Michigan farmer unable to pay his property taxes bombed a school full of children, killing more than 40, because he blamed the construction of the school for his high property taxes.

Incidents like that were not as frequent in a smaller, younger nation. But they did not occur and despite the fact that they occurred, Americans in every generation remained true to the constitutional structure of Government that has given us the world's most free society.

We need to remember this fact, as my colleagues from Oklahoma said so eloquently this morning, of our history in the face of the Oklahoma City tragedy. This act of terrorism will have achieved a purpose if it robs Americans of their sense of security. It will have achieved a purpose if it leads us to respond irrationally. It will have achieved a purpose if public discourse turns to invective.

The deaths and injuries caused by the bombing of the Federal building must not be allowed to rip apart the fabric of our society.

The resolution the Senate is about to pass expresses the outrage and sadness of the Senate and the American people with respect to the bombing in Oklahoma City. It commends all those involved in the rescue efforts and the investigation. It offers our sincere condolences to all those who lost family members and friends in, and all those who were injured by, the bombing.

I want to clarify one point with respect to the resolution. It states correctly that the law authorizes the death penalty for terrorist murderers.

Although the death penalty is not a sentencing option for those convicted of the World Trade Center bombing, the 1994 crime bill, which was enacted after the World Trade Center bombing, does provide for the death penalty in cases such as the bombing of the Federal building in Oklahoma City.

The resolution also expresses support for the President's and the Attorney General's statements that Federal prosecutors will seek the maximum punishment allowed by law for those convicted of the bombing. While some Senators support the death penalty for certain crimes and others oppose the death penalty as a matter of principle, there is a strong belief among all Senators that the apprehension, prosecution, and punishment of those who commit heinous crimes such as this one should be pursued as aggressively as possible. That belief is reflected in the strong support for this resolution.

Of course, words can never express the depth of our emotions at a time like this. Furthermore, our national response must be multifaceted.

We have to relearn the hard fact that our technologically advanced society has created new ways to make us vulnerable. And it will never be possible to develop enough technological security to make us invulnerable. Metal detectors and x-ray machines, and electronic ID cards all have their place in necessary security actions. But the bombing in Oklahoma City proves that you need not even enter a building to blow it up.

At the same time, we must become more vigilant and more aware. The number of bombing incidents in the United States has gone up more than fourfold in the last decade. In 1983, the FBI reported 683 bombing incidents. In 1993, the last year for which complete figures are available, the FBI reported 2,980 bombing incidents.

Few Americans realize this, but in an increasingly violent and fragmented world, we cannot afford to be complacent. There are some steps we can take to respond more forcefully and pro-actively to the threat of terrorism, whether it is home-grown or comes from abroad.

We must do more and focus more attention on the intelligence resources that may help detect potential terrorist attacks before they can be consummated. We should take up and pass President Clinton's anti-terrorism proposals. We should determine what additional tools the FBI and other law enforcement agencies may need to carry out their missions.

We should examine proposals for improved visa tracking of overseas visitors to the United States, so that those who overstay their visa time cannot simply vanish into society without a trace. We should take steps to alter our asylum procedures, so that those legitimately seeking political refuge can be admitted, while those using asylum backlogs as a pretext are not allowed to stay indefinitely, but let us remember, as well, that this tragedy was not the work of overseas terrorists, but of Americans, people who enjoyed the great freedom our Nation offers.

We have become accustomed to seeing terrorist attacks in other parts of the world—Bosnia, the Middle East, Europe, and Latin America. Americans have seen hundreds of smoke-stained people streaming out of the World Trade Center Buildings in New York City. In response, we have been quick to explain that the causes are nationalism, or religious fanaticism, or some other belief system with which Americans have nothing in common.

Americans have always been quick to seek reasons to explain what happens in the world around them. But there are events so monstrous, so evil, that they cannot be explained away. No human reasons can account for the minds that could conceive, or the hands that could carry out, this deed.

Nevertheless, it is natural and healthy for each of us to question and try to understand how this could have happened, and to think—beyond laws—about what we as a society might do to reverse the trends of violence and intolerance in America.

It is imperative that we find ways for Americans from diverse backgrounds with sometimes very divergent points of view to live harmoniously.

The first step toward that goal is for us to talk to each other. We must find better ways to do that. We must restore civility to private, and especially public, discourse. We should not permit our political or racial or ethnic or other differences to blind us to each other's truths.

If we listen to one another, we are likely to find our differences are not as great as some of the intemperate rhetoric makes them appear. We are likely to remember that what divides us is much less important than what unites us as a nation. We will never eliminate all our differences, but we will learn that we can live with them.

Each of us—as parents, neighbors, teachers, elected officials, candidates for office, journalists—has an affirmative responsibility to promote that kind of environment.

The bombing in Oklahoma City is the result of evil, misguided people. We do not yet know what their motivation was; we can only speculate. But we can ask ourselves if our increasingly hateful public discourse is falling on ears receptive to hate, if it is providing a context for hands ready to undertake hateful acts.

No one believes that the actions of any man are the fault of the speech of another, but people are inspired and uplifted by words and ideas. We saw that at the memorial service in Oklahoma City. Words and ideas can and do inspire and uplift. But they can mislead and delude. All of us who speak and act in the public arena have an obligation to bear that in mind, for every time we speak, in effect, we are making a choice about what kind of environment we promote. The privilege of serving our community carries with it the obligation not to damage that community.

Americans now can and must do what earlier generations of Americans have done. We must mourn with the families of victims and pray for all the shattered lives and hopes. We must identify changes in the law that have the promise of making us safer. And we must continue to live our lives, saddened by the enormous loss, but rededicated to the social contract that binds us together and allows all of us from different backgrounds, with different ideas, to live together in peace.

CONDEMNING THE BOMBING IN OKLAHOMA CITY

The PRESIDING OFFICER (Mrs. HUTCHISON). Under the previous order, the hour of 12 noon having arrived, the Senate will now proceed to consideration of Senate Resolution 110, which the clerk will report. Under the previous order, the Senate will proceed to vote on the resolution. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 110) expressing the sense of the Senate condemning the bombing in Oklahoma City.

The Senate proceeded to consider the resolution.

Mr. NICKLES. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Vermont [Mr. JEFFORDS] are necessarily absent.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—97

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig

D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—3

Harkin
Hatfield
Jeffords

So the resolution (S. Res. 110) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 110

Whereas, on Wednesday, April 19, 1995, a car bomb exploded outside the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, collapsing the north face of this nine-story concrete building, killing and injuring innocent and defenseless children and adults;

Whereas, authorities are calling this the deadliest terrorist attack ever on U.S. soil;

Whereas, federal law authorizes the imposition of the death penalty for terrorist murder; and,

Whereas, additional anti-terrorism measures are now pending for consideration in the United States Senate: Now, therefore, be it

Resolved, That the Senate of the United States:

(1) Condemns, in the strongest possible terms, the heinous bombing attack against innocent children and adults at the Alfred P. Murrah Federal Building in Oklahoma City;

(2) Sends its heartfelt condolences to the families, friends, and loved ones of those whose lives were taken away by this abhorrent and cowardly act; and expresses its hopes for the rapid and complete recovery of those wounded in the bombing;

(3) Applauds all those courageous rescue and volunteer workers who are giving unselfishly of themselves and commends all law enforcement officials who are working determinedly to bring the perpetrators to justice;

(4) Supports the President's and the United States Attorney General's position that federal prosecutors will seek the maximum penalty allowed by law, including the death penalty, for those responsible;

(5) Commends the rapid actions taken by the President to provide assistance to the victims of the explosion and for promptly beginning an investigation to find the perpetrators of this crime, and it urges the President to use all necessary means to continue this effort until the perpetrators and their accomplices are found and appropriately punished;

(6) Will expeditiously approve legislation to strengthen the authority and resources of all federal agencies involved in combating such acts of terrorism.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:37 p.m., recessed until 2:16 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KYL].

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. The clerk will report pending business.

The legislative clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Gorton amendment No. 596, in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, awaiting others who wish to address this particular problem, I would like to emphasize, of course, the good that has been done over the many, many years when we have debated product liability. The sponsors of the bill here are looking for a problem to solve and disregarding the fact that the United States of America is the safest society with respect to manufactured products in the history of the world. That has been done in large measure due to that group of trial lawyers, damage suits, punitive damages, and other verdicts. With respect to punitive damages, they can only come about as a result of gross negligence and willful misconduct. And in my State, and in many of the States, some States do not even allow them. But in my State, if the trial judge himself does not find proof of willful misconduct to his own satisfaction, he just throws out that particular finding.

So punitive damages have been used very judiciously, and in reality, are seldom used. For example, we asked the particular witness who appeared before us at the hearings who had presented the issue of punitive damages before the U.S. Supreme Court, we asked him to please study and come back and report to us over the past 30 years the total amount of punitive damages found. I know from my own experience and otherwise that it was a small amount, relatively speaking. I cited at that particular time the $3 billion punitive damage verdict in the *Exxon Valdez* case.

And the gentlemen studied the particular findings of punitive damages over the 50 States in the past 30 years and it was $1.3 billion. Of all punitive damage findings, in all product liability cases, there was an amount less than one-half in one manufacturer's case.

That has been the problem, Mr. President, in the sense that the great number of punitive damages are industries suing industries. An example again was down in the Pennzoil case, in Pennzoil against the Texaco Co. in the State of Texas some years ago. Again there was another $3 billion finding. So I can just cite two manufacturer's cases where all the punitive damage findings in product liability cases amounts to one-sixth of the amounts of those two cases.

But look at the magnificent good that the tort system has done over many, many years. I think, for example, Mr. President, of the 4 million minivan recalls by Chrysler Corp. here in the last several weeks. Quite to the point. You do not find Chrysler Corp. recalling minivans to correct that faulty latch on the back door because they think it is just good business. They know good and well that they are going to get socked for actual and punitive damages if they willfully allow that particular defect to continue, to knowingly, willfully, heedlessly—recklessly is the language used in punitive damage awards—allow that to continue.

And as a result we will give the body before long over at the Department of Transportation information about the millions and millions of car recalls by the various automobile companies over the past several years, which means what? Which means exactly what we are trying to say. If you want to talk about Medicare, limit the damages, limit the recovery of the injured parties as a result of the neglect of these manufacturers as this bill does, and what will happen is that you and I will pick them up in Medicare and Medicaid costs.

In all my years of trial work, I have never really seen an injured party make money. And I can tell you less and less of those in the trial bar are joining that particular trial bar because the other is much more luxurious. If you can represent the industry, the business, the manufacturer, if you can represent, as some 60,000 lawyers here in the District of Columbia represent, lobbyist consultant causes, hardly ever entering the courtroom, you are into the game of billable hours. In my 20 years of active practice and over 40 years at the bar—almost 50 years now at the bar—I have never had a billable hour case. We are always practicing law from the standpoint of the success of the trial and the representation of that particular client.

But be that as it may, let me emphasize going right to the different studies made by the Rand Corp. and others, large manufacturers have responded to product liability suits by establishing corporate level product safety officers. In the 1987 Conference Board report, 232 risk managers reported that over two-thirds of the companies in this survey had responded to product liability by making their products safer.

I can go down the list of the various trials and findings that led to a change of practice, whether it is in the Dalkon shield case, or the Drano case. The evidence showed in the Drano case that, subsequent to the plaintiff's injury, the screw top on the can was changed because it caused it to explode. That particular design was changed on account of the plaintiff being awarded $900,000 in compensatory damages and $10,000 in punitive damages. With regard to firefighter respirators, three firefighters in Lubbock, TX, were killed as a result of a defect in their respirators, a hole in the diaphragm. A lawsuit revealed that the company knew that the respirator was unsafe. The manufacturer later corrected the mask as a result of the lawsuit.

I have a whole documentary of product after product after product being made more safe than ever before on account of product liability. We are all talking like product liability is a burden on society. It is an advantage to the American body politic because it brings out this safe conduct.

Specifically, Mr. President, just a few years ago, originally some 15 to 20 years ago, I went into Bosch, a manufacturer of fuel injectors in my backyard, which now has graduated up to making antilock brakes. I would think that any investor on the New York Stock Exchange would say wait a minute, before I invest in the antilock brake manufacturer, I can see that after a year one might go awry, after 10 years a car with an antilock brake might go and cause the one wheel to lock and the rest spill them over and cause, without even running into somebody else, a serious accident. I better not invest in an antilock brake manufacturer.

The truth of the matter is that I was introduced into the manufacturing plant itself, and I put coverings over my shoes, a smock around my clothing, a head cover over my hair and my head and everything else as if we were producing pharmaceuticals or film. We have the film-making plants of Fuji that is doubling their size right now in Greenwood, SC. I have Hoffmann-La Roche actually building the most modern pharmaceutical plant in the world in Florence, SC, right this minute. And we have brought in Parke-Davis and Baxter and Norwich and the other medical pharmaceutical manufacturers. So we know about them.

I thought I was already into one of those film-making plants where you could not stand the slightest speck of dust. I asked the manager at the Bosch plant, I said, "Let me ask you about this plant. How many product liability claims have you had?" He said, "What's that?" I said, "Product liability claims. Defective antilock brakes, some of them going bad." He said, "Oh, Senator, we have never had a product liability claim. If we had"—and he quickly ran over on the line there and picked up one—he said, "See that little number. Every antilock brake that goes out of this particular plant has a serial number and we could immediately identify where and at what stage any kind of defect occurred, but we have never had it."

Now, that particular corporation makes the antilock brakes for the Toyota, for the Mercedes-Benz, and was recently awarded a 10-year contract for all General Motors cars. This is what we have going on as a result of product liability. It is not the stultification or denial of the development of manufactured products or pharmaceuticals or whatever else. What has developed is far more safe to the consuming public.

We know that, and we appreciate it. The Consumer Federation of America, Consumers Union, every consumer organization of any credibility whatsoever in the United States of America, is absolutely opposed to this so-called reasonable bill. They know it, and I know it. It is not reasonable.

The bill in the last three Congresses never had caps. They have caps on punitive damages now in this bill. We never had in the last three Congresses the matter of misuse. Now they have a misuse provision. It allows them to get out from under the particular claims exemption. They have the exclusion for rental car exemptions, the matter of component parts. We can go right on down the different things that have been sneaked into this particular bill.

To talk in terms that I have heard recently about how you cannot pass product liability reform at the State level absolutely begs the question. The distinguished Presiding Officer knows that. He has it in his own State.

In 1988, in South Carolina, under a Republican administration, a Republican Governor, we had a get-together of the chamber of commerce, the textile manufacturers, the pharmaceutical groups, the trial lawyers, the medical bar and all insurance companies, and we got a product liability reform bill passed and signed by the Governor. Forty-six States have done that.

I heard just recently that, to do that at the State level would take 4 or 5 years because those trial lawyers would come in and delay it, because they like delay. Totally false. The sponsors of this bill do not understand that.

I am a trial lawyer. That is the last thing I want is delay. I know the game. The insurance company is going to ultimately pay, if at all, if there is going to be any recovery. The insurance company and the manufacturers' attorneys win every time if they can delay the case. Witnesses get lost, they "malaccuse," and everything else of that particular kind, and all along that trial lawyer is having to pay for what? For the investigative costs, the medical experts, the depositions, interrogatories, the court costs, his own time and everything else on a contingent-fee basis.

You get 5 to 10 fairly substantial cases in your practice and you are carrying those for 2 to 3 years now. Do not tell me it will take 4 to 5 years, I will go broke. So I as a trial lawyer am trying my best to bring those cases to a conclusion. Yes, the trial lawyer does have a self-interest in bringing that case to a conclusion and as quickly as he can. The delay is on the other side. I know, because I represented the electric and gas company and the bus operator in my own hometown in defending injury claims against that bus company. Any time I got the investigators—and we can sit up there with the mahogany desk and nice Karastan rug, answer the phone and act dignified and do not have to worry about looking for any witnesses or talking to any doctors or anything else, just tell the investigatory team of the large corporation—and it was the largest corporation we had in the State of South Carolina at the time I represented them—"Go ahead and get all of those statements. Don't worry about it." "Miss so and so, fill out interrogatories No. 52 and send that to the lawyers and I'll send them another bill."

Oh, man, that is luxury practice. That is what you have downtown here. That is what you have with this crowd that is sponsoring this particular bill. They wrote it. The game plan now is quite obvious. The game plan is ooze and cruise. How reasonable and how fair and they call it the fairness act and all that nonsense, like somebody is fast asleep, and then go over there and get with the Gingrich contract.

Republicans are rolling over on this side with the Gingrich contract. He writes it over there. He tells them, "You do this or you're out of it. You're not going to have your funds raised by us, you're not going to have our support in the next year's election and if you want to be on the team, you have to come out for practice and vote as we say vote."

Right now they have in the morning news how they are trying to get them to sign a pledge about a budget. Can you imagine that? Like joining some organization or fraternity. I never was in a fraternity. They were against the rules at the campus of the college I attended. But you take an oath. So they have an oath of loyalty to whatever else—not to the people they represent or their conscience but what Mr. GINGRICH and the contract finds.

So we are in a dangerous strait here in this particular body. We will be asking for time to debate every one of these particular measures. You have not only the matter of the punitive damages provision in here, you have the exemption for the manufacturer. You would think that the conscience would get them, if you please, and they say, "Well, it makes no difference." If it does not make any difference, I want them to go along with the amendment when we put it up that the manufacturer will also be under the provisions of this particular measure.

They have it for everybody but who? The manufacturer. The manufacturer is not subject to the provisions of this bill. It is a manufacturer's scapegoat if there ever was one. In good conscience, I just could not put up a bill like that and try to defend it amongst my colleagues. I would lose all my credibility. But that is what they have. They say it is not restrictive. Yet, certain evidence is not admissible. They say it is simplicity, eliminating duplication, the multiplicity of suits. They asked for a bifurcated system on the one hand for action and on the other hand for punitive damages and say you cannot on the willfulness part submit that kind of evidence in the actual damage claim over here for compensatory damages.

The Conference of State Supreme Court Justices came up, the National Conference of State Legislatures came up and said this is really going to bog us down taking the guidelines from Washington and trying to administer with new words of art and provisions at the State level. If there is ever one unfunded mandate, this is it. This is an unfunded mandate back at the States to cost more money, more legal costs and everything else of that kind, and they have the audacity to come forth with a straight face and say they are interested in the consumers getting the money because the lawyers are getting too much. That is out of the whole cloth.

Of all tort claims in the United States of America, rather of all civil claims filed in the United States of America, tort represents 9 percent of all civil claims filed. Of the 9 percent of tort claims filed, product liability represents 4 percent of the 9 percent, or thirty-six one-hundredths. We are not talking about medical malpractice. We are not talking about businesses suing businesses. We are not talking about Securities and Exchange Commission suits and class actions. We are not talking about automobile wreck cases. We are not talking about any of those kinds of injury cases. We are talking solely about product liability. It is not a national problem.

President Ford took this up starting back in 1976 with a special study commission, and after 4 years of findings, they found that the States were doing it. Sure enough, over the past 15 years, as I pointed out, 46 of the 50 States have just done that, they have upgraded, in a sense, their product liability laws.

Now cometh the theme, so to speak, of the revolution of the Contract With America. I never heard so many Republican friends of mine quote Jefferson, but all of a sudden Thomas Jefferson has gotten very popular around here in Washington these days. "That Government closest to the people is the best Government." So when it comes to welfare reform, block grant it back, give it to the States. When it comes to housing, give them the money. When it comes to the crime bill, eliminate the cops on the beat, give them block grants back there. The people back home know how to better spend the money. They have the better judgment at the local level. You would think that 12 jurors having sworn under oath to listen to the particular evidence would better be able to make a judgment in a case. But, no, no, not with this manufacturers' bill. Corporate America has come to the scam here and they come and say: "No, wait a minute, we have to reverse fields and we have to bring this to Washington, and do not worry about it, Washington, we are really not going to get uniformity because we are not going to give you a Federal cause of action," which I have been debating for 15 years. If you believe it is a Federal problem, give us a Federal cause of action. They said: "No, what we are going to do is give you Federal regulatory guidelines." That is what this whole body is up against—regulatory measures at the State level. Here with this bill we are going to heap it upon them.

The body is up against the Washington bureaucracy to give it back to the local level. This whole body is all wound up about unfunded mandates here now. Come the end of April, we are going against the contract, and we are going to give them an unfunded mandate, and they know it. The whole body is saying that in welfare we have to make the recipient more responsible. Here we say that the manufacturer is not going to be responsible. We have all kinds of bars in here to protect the manufacturer. If you have any doubt about it, we will show you the section where the manufacturer itself is exempt from the bill. That is what we have going here with respect to product liability.

We have serious problems in this country of ours. But torts, historically, under the English system for 200 some years, has been a matter of the jurisdiction of the States. They are trying to give meaning to the 10th amendment. When I go home and turn on C-SPAN, I see the speakers about the contract say we are going to give meaning to the 10th amendment. Those responsibilities, not delegated specifically under the Constitution to the Federal Government, shall be reserved to the States. Oh, no, they say, on this one, if we can put over this one—how do you put it over? When you get in a campaign, Mr. President, you know how they have been putting it over because I get it from the other side. They come to me, the National Association of Manufacturers, in my campaign over the last 15 years, elected three times. They say, "Why do you not go along with this thing? We have product liability problems".

The chamber of commerce comes to you and the Business Roundtable members come to you, responsible civic leaders and all think there is a real problem. Why? Because Victor Schwartz, and the hired hands up here, a bunch of 60,000 lawyers, have been paid off. They say, "Get ahold of that Senator and get a commitment from him because he has not committed." We tried to tell the business leaders, "Look, wherein do you ever think that the National Congress in Washington, DC, is more conservative than your own legislature back in the State capital?" I know from 40 years in government that temporarily, yes, you might have a more conservative government and group over in the House of Representatives. But give it a few more years and I can tell you from my experience up here, I would much rather have the State legislature find on this particular score. You might think you get temporary relief but in a few years, you will trip up on this rug and go up to the window and get your money. Business does not have a problem. The 232 risk managers under the Conference Board study showed that it was less than 1 percent of the cost of doing business.

When they get to talking about competitiveness, competitiveness, competitiveness, I have to smile, because I have been in the game for years and I wish they would point out—and they cannot—that we have over 100 German industries—recently BMW, recently Hoffmann-La Roche, and over 50 Japanese industries, and I got the blue chip corporations of America that came to my home State. Not once have they said: "What about this product liability? We need some kind of solution to it."

The fine businesses that like and respect safety are willing to put it into the cost of the product and into the practices, with safety offices and everything else in these particular entities all over the United States.

If you want safe manufacturing, you come to the United States of America. We take it for granted and we are about to strip it today and tomorrow and the next day, whenever we vote, trying our best to put in a fixed situation which is, frankly, an embarrassment to me having been on both sides of this particular problem in the courtroom representing businesses as well as representing injured parties. It is difficult, difficult, difficult in this day and age. You do not get runaway juries. They all know about insurance. They are very sophisticated. They have all good businesses. They know there is no free lunch. You have to prove by the greater weight of the evidence to all 12 jurors—all 12. If you miss one, your case is over with; you get a mistrial and you have a hard time getting back into the courtroom and all that time your costs and all are going up.

So in these civil claims of tort, if we want to get to the problem, let us go to the businesses suing businesses that have billions and billions of dollars, where these fellows sit around in the boardroom and say, "I do not care, let us go to trial and let us show what we can do." I put in the RECORD here yesterday the most spurious of claims by different businesses for millions and billions of dollars, really, which says to me perhaps there is a problem. The most objective group—and if you had to characterize it, it could be characterized "corporate"—is the American Bar Association. They have various divisions. The American Bar started really with the utilities and the railroad and other lawyers. They are the ones who had the money to go all the way to Chicago, all the way to New York or Los Angeles to a meeting. Working lawyers for individual clients never had that kind of money. They found out they were not represented. As a result, that is why you have ATLA, the American Trial Lawyers Association. I was in on the early days when it was organized. Now we have almost as many defense lawyers attend our ATLA conferences as plaintiff's lawyers. The defense lawyers come and learn and understand the various issues, the various demonstrative evidence that was started out years ago on the west coast by Lou Ashe and Mel Belli, and others, to keep a record, rather than an operation by ambush. Give everybody everything you have and say here is what I am going to prove. As a result, we have the Restatement of Torts and otherwise, and wonderful progress has been made in the field of law in the trial of cases over many, many years.

That has been done at the State level. What happened as a result is that the American Bar Association, once again, for the sixth time, has opposed this bill. They have prepared testimony and testified against the bill. You have the American Bar Association; you have the Association of Law School Deans and Professors—over 121—opposing this as bad law. You have the National Conference of State Legislatures and the Conference of State Supreme Court Justices. We have the credibility and the concern of the responsible consumer groups and other wise individuals—the AFL–CIO and everyone else who really understands the plight of injured parties. They all oppose this as a bad, bad, bad, prejudicial kind of measure that should not be in the National Congress. If there is a problem, the States are handling it well. This is part of the contract. I hope that in this context these folks will keep their contract with the American people.

Mr. BREAUX. If the Senator will yield, I would like to ask the Senator a question. One of the arguments I have heard on the side of the proponents of the legislation is that we have to do this in Congress, in Washington, because we have to have what they call uniformity among all of the States, and all of the States have to have the same laws when it deals with personal injuries that are derived from defective products that hurt people, that we have to have the same laws in all of the States.

It is my understanding that this legislation says you have to have uniformity, unless the State wants to make it even more difficult for an injured person to recover, and then we can have 50 States having 50 sets of different rules, if the rules make it more difficult for an injured person to recover. That is not uniformity.

Mr. HOLLINGS. Mr. President, that is not uniformity; the Senator is quite correct. More restricted measures are permitted.

The fact of the matter is that it is not uniform with respect to one of the big issues of concern, the matter of punitive damages.

In the distinguished State of Washington, home of the manager of this bill and the principal author, they do not have punitive damages. Where they have punitive damages, they are limited to $250,000, but they are not required by this bill in those States that do not have punitive damages.

There is no uniformity here. If they really wanted uniformity, we would have had ipso facto a Federal cause of action. Then we would have the rules, the simplicity, and the uniformity.

There is no attempt to produce true uniformity, even though we have had this measure up time and time again, everyone has wondered about this particular measure and requirement of the States in their jurisdiction. There is a constitutional question involved, but they have said: "Wait a minute; if we really want uniformity, please give a Federal cause of action and we will go from there."

If we want a finding under the interstate clause, Congress has that authority and responsibility to make the finding and get a Federal cause of action. Then we have uniformity. But they use every gimmick to make sure it is not.

Mr. BREAUX. It is my understanding, does the Senator agree, that this uniformity argument really does not apply; if each State wants to make it more difficult for an injured person to recover, they have the right to do that?

Under this proposal, we could have 50 different States with 50 different sets of rules with regard to an injured person's ability to recover damages, if it is more restrictive than this bill.

Mr. HOLLINGS. That is right. Take every page of the bill—every page of the bill has certain legislative, congressional language. That is to be interpreted, the intent of that particular language is to be interpreted by the 50 several supreme courts of the 50 several, separate States. Then, in certain instances, it could go all the way to the U.S. Supreme Court. So they know that.

We would not have that if we had a Federal cause of action. We would have one jurisdiction and we would move with that and the lawyers and the parties would know where they are. They do not want them to know where they are.

There are certain roadblocks, restrictions, as indicated in your question. This bill says that, if we want to get more restrictive or want to put a greater burden to the injured party, fine. We do not mind at the national level.

If we approve this bill, we are saying as a Government up here, if people want to do that, the Government in Washington, the great white father, we approve that. If a State wants to be more considerate of the injured party; no, no. We, the Federal Government, the end-all, be-all of wisdom up here, the Washington bureaucrats, we say no.

Mr. BREAUX. If the Senator will yield, I think he has very clearly made the point we are talking about—fairness. This legislation does not represent fairness at all. I think the Senator from South Carolina has made that point very well. I thank him.

Mr. HOLLINGS. I thank the distinguished Senator from Louisiana. He has been a leader on this measure.

I can say manufacturers are not all that steamed up. They would have long since gotten rid of me. They have tried, and they have come pretty close the last time, so I am not bragging.

I can say right now, the manufacturers understand it. I met time and again with manufacturers, business leaders, bankers, and everyone else of that kind, and they begin to realize that.

I have asked, I challenged them, get a judge in the State of South Carolina that has just been put up to the circuit court of appeals, as has Billy Wilkins. Remember Judge Wilkins, who headed up a sentencing commission for President Reagan and was considered for the head of the FBI? Go back to Billy and say, "Is product liability a problem here, really?" He would say, "Not in South Carolina, not in the State. They handle it well."

This has not come from the judiciary or the American bar. This has not come from the consumers, whose interest it is supposed to—with that title, Fairness Act—supposed to represent. On the contrary, it is a manufacturers scam.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, in the nature of attempting to correct a few, I think, inadvertent misstatements during the course of the last 24 hours, and also in the interest of speaking philosophically on at least one of the points made by my friend and colleague from South Carolina, I would like to speak briefly on three or four subjects.

Yesterday in his opening statement, the distinguished junior Senator from Louisiana [Mr. BREAUX] commented that although Louisiana State law does not allow punitive damages, S. 565 would preempt this refusal to allow such damages. It is quite important for me to correct that misapprehension, as my own State of Washington, like Louisiana, is one of roughly five in this country that does not permit punitive damages in most civil litigation at all.

As I said in my opening statement, if I had my way, I would abolish punitive damages in civil litigation. It amounts to an unlimited form of punishment, the risk of unlimited punishment in civil litigation at the absolute discretion or whim of the jury. My view of civil litigation is that it should be designed to redress grievances, to compensate fully individuals for actual damages that they have suffered, but should not be used for punishment.

So I would be extremely disturbed if we were dealing with a bill that included the preemption to which the Senator from Louisiana referred.

S. 565, which, in essence, is what we are dealing with in my substitute amendment, does not preempt the ability of a State to restrict punitive damages to a greater extent than are restricted in S. 565 itself.

Section 107, subsection (A) reads:

> General ruling. Punitive damages may, to the extent permitted by applicable State law, be awarded against the defendant in a product liability action that is subject to this title.

And then it goes on to limit punitive damages in such actions. That is to say, that it does put certain limitations on punitive damages, but it does not mandate that a State must permit even up to that limitation in product liability litigation in those States.

While we are on the subject of preemption, there are two other similar areas in which there is no preemption in the sense, at least, that there is no preemption of a State prohibition against punitive damages. We have in this bill a statute of repose for certain manufactured items of 20 years. But if a State has a statute of repose as broad or broader than the one in this bill with a limit of fewer than 20 years, that statute of repose is not preempted.

Section 108, subsection (B)(2) reads:

> Notwithstanding paragraph 1—

Which establishes a 20-year statute of repose—

> If pursuant to applicable State law an action described in such paragraph is required to be filed during a period that is shorter than the 20-year period specified in such paragraph, the State law shall apply with respect to such a period.

And, finally, if a State law does not allow joint liability at all, S. 565, which bans joint liability for noneconomic damages, does not require a State to ban joint liability for economic damages.

All of this is relevant because in a conversation an hour or so ago on this floor between the distinguished Senators from Louisiana and South Carolina, the criticism was raised that if we are going to go for uniformity, we should require absolute uniformity; that there is something perverse or something wrong about a preemption in one direction without a preemption which is all encompassing in nature.

In fact, I believe the Senator from South Carolina went beyond that point to say that if we desired uniformity in product liability litigation, we should transform what is now a State cause of action to exclusively a Federal cause of action and have identical rules applicable in every State in the country.

I find it curious that we should so frequently in this body be faced with an argument that because we seek to reach a certain goal, we have to do it absolutely and without exception.

I believe that it is the essence of our system that we are constantly adjusting our rules to meet the present needs of the society. I do not believe that we must act mechanistically and, of course, we do not act mechanistically. Usually, this kind of argument is brought up simply because the entire concept is opposed by whoever presents it.

I began my remarks on this bill yesterday by saying that obviously there are two purposes of society on which sometimes the margins come into conflict. Clearly, in connection with this litigation, one is the regressive grievances, is the proposition that courts should be open to citizens of the United States and of the respective States to sue when they feel that they have been wronged. The other is economic efficiency, is the encouragement of the creation of jobs, of research, of development resulting from that research, the marketing of new and improved goods and pharmaceutical drugs, and the prevention of the irrational and unreasonable withdrawal from the market of goods and services which are of great use to most of society but which occasionally are accompanied by adverse reactions on the part of a few consumers.

So what we are trying to do here is to deal with the proposition that the proponents of this bill—and I think the clear majority of the Members of this body—feel that the pendulum has swung too far in favor of litigation. This should not be a surprise. We read about this constantly, we hear about it constantly, and we know that we are the most litigious society, literally, in the history of the world. It seems quite evident to most citizens that the operations of our society and of our economy are often inhibited by the amount and the nature of much of the litigation with which the people of America are faced.

And so here we seek, in a modest way, in one field of litigation, to put some limits on that litigation. We do not do so by depriving anybody of a cause of action. Every cause of action that exists at the present time will exist if this bill becomes law. But we do put some inhibitions in the way of the pursuit of punitive damages, damages which do not, by their very nature, compensate for an injury. We put limitations on the ability of plaintiffs to recover from defendants beyond the responsibility of those defendants with a particular harm. And, yes—I must correct myself—we do under some circumstances deprive people of causes of action with respect to equipment and manufactured items which are more than 20 years in age.

That does not mean that we feel we have done everything that might appropriately be done. We feel that these limitations are reasonable and should be universal in nature. But that does not automatically carry with it the philosophy that no one else, no other State, can feel that other limitations, greater limitations, are also appropriate. We need the experimentation of a federal system in that connection. Nor do we feel that because we desire somewhat greater uniformity in the law, we have to have absolute uniformity. Now, with 50 States and the District of Columbia, each with a different legal code, there is a total lack of imposed uniformity in the law relating to product liability, in spite of the fact that the production and marketing of products is national in nature. Of course, I suppose we can say we should go from no mandatory uniformity at all to 100 percent mandated uniformity. Personally, I think that would be absurd. I think most Members of this body think it would be absurd. There is not the slightest chance that this body, in its wisdom, would federalize the entire product liability system. But that does not mean that a greater degree of uniformity that we have at the present time is not socially desirable. We—and even more important than we—the market thinks that a greater degree of uniformity is essential. So we go toward the center. We attempt to get that pendulum back into a centerpiece. We are seeking balance. So we do not intend to go to the extremes with respect to product liability, and we do not in this bill.

We do not intend to go to the extremes with respect to joint liability, and we do not in the course of this bill. We do not adopt the shortest possible statute of repose in this bill, and we do not demand absolute uniformity in this bill.

In the four most important elements of this bill, we seek not some kind of pure ideology, but an appropriate balance, a greater degree of encouragement for the economy to create jobs, competitiveness, new and improved products, certain limitations on the kind of litigation problems which plague our society, and we feel it is this middle ground that is the appropriate ground. That is the rationale that, I think, is overwhelmingly appropriate for the way in which we treat preemption in each of these areas.

Mr. President, I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I rise in opposition to this bill. It is entitled the Product Liability Fairness Act. In my judgment, that is the biggest misnaming of any bill that I have seen come before this body. It is a misnomer because, in my judgment, it is very unfair and one-sided. It is sort of like you have seen in the fine print—you know, everybody's choice—they say it is a contract you entered into. It is one of those take-it-or-leave-it sort of things, in that here we have a very unfair bill. I will be going into that as we discuss this over the next several days.

I want to discuss several things. First, my friend from the State of Washington says that he would like to do away with all punitive damages, and I wonder if he has thought that when a company hires employees—chemists, engineers, and so forth—who have had a record of alcoholism or drug abuse and nevertheless the manufacturer exposes the public to those types of people and a person is injured, should not that company be punished?

Let us consider a case—this is not in product liability situation—where a person is driving where an automobile accident occurs, and the driver of one car has 10 beers, crosses the center line, causes an accident, and man loses his leg, as compared to an accident in which a bare distraction causes damage to someone.

I think both the people who lose legs regardless should be entitled to recover compensation, but the man who was under the influence of 10 beers, and who got behind the wheel and injured someone, ought to be punished.

The concept of tort liability is that there is a wrongdoer and someone is injured as a result thereof. The whole basis of our law that has developed over the common law over the years is being that the wrongdoer must pay.

So are we talking about a situation in which we want to put all wrongdoers on the same level? Human beings differ. In regard to injuries, the loss of one, two, three fingers—if I were to be injured by a machine that did not have a proper guard on it—those three fingers that I lose may be different from the three fingers that a violinist loses.

So we make distinctions in regard to individuals. There are a lot of aspects of noneconomic damage that we fail to give appropriate attention to. A young woman who loses the capacity to have a child, a young woman whose face is scarred in a fire—all of those are noneconomic pain and suffering.

In Russia, when Chernobyl, the nuclear plant, experienced a meltdown, the people who suffered radiation and who suffered in many ways, many of those suffered noneconomic damages, but they ought not to be limited in their compensation.

Now, I realize that in some aspects there have been changes in the bill before the Senate. Changes that have been made, designed to be able to get it passed in the Senate. I do not think anybody here fails to realize that the House of Representatives passed a bill that was written with one purpose in mind—to see that awards are substantially reduced and that the injured party does not receive what they really are entitled to.

Whatever the Senate were to pass, if cloture is obtained, will go to conference. What will come out of conference will be the bill that will go to the President.

Looking at who the players are, the cast of characters, who will be in conference, I do not think there is much question as to who will prevail. I think the Speaker of the House will prevail, relative to the bill that comes out of conference.

There is no question that he has shown superb leadership in getting legislation passed in the House and in being able to bring about party discipline and to attract others. I do not sell him short on what the conference version of this bill will be like.

Now, I want to go over a few things in this bill and in the House-passed bill, and list what in my judgment I think the final version will be.

Both bills exclude commercial loss. Commercial loss by business—which includes loss of profits, destruction to facilities, everything else—does not come under this bill or the House bill.

Why, then, if the provisions of this bill are so great and so needed that corporate America is excluded from it? There are a lot of examples. We have a machine that blows up in a factory because of defective manufacturing. That machine blows up and people on the sidewalk and other places are injured. They come under the provisions of this bill. However, the company itself can sue the manufacturer of the machine for lost profits, for the destruction done to the physical property, for numerous elements of damage. They do it outside the purview of this particular bill.

If something is good for the goose, it ought to be good for the gander. But businesses do not want to come under this bill.

Where have the large damage verdicts occurred? The biggest one that we know about was Pennzoil versus Texaco, for $11 billion. It was not a product liability case, but a commercial case.

Go down the list and we will see most of the largest verdicts that have occurred relative to civil litigation are where businesses suing businesses. They do not attempt to take care of that in this bill. They do not want to be put under this bill.

The fact that they do not want to be put under this bill indicates that there are provisions that they do not want that could affect their lawsuits, when they suffer a loss, and when they sue a wrongdoer, to have to live with and to have to comply with.

When we stop and think, there are other aspects we should consider. The bill does exclude airlines for hire, but there are other aircraft that we ought to look at. Two planes crash in the air. Persons that are injured in those planes come under this proposed bill as to their damages. The airplane does not. One of the planes drops parts of its body down on Yankee Stadium and Yankee Stadium suffers a financial loss. The spectators are injured. They come under this bill; the owner of the Yankees for the loss of business profits, destruction to grandstands or to bleachers or what else might be, they do not come under it. What is good for the goose is good for the gander.

The bill talks about an ongoing business. I even got to thinking about it, and this may apply or may not apply, but if part of that airplane falls on a house of ill repute, if it is legitimate in a town—and there are States and towns where they are—then the ongoing business can recover for the loss of profits. That may be an extreme example, but it shows you how they have crafted this bill to take care of situations pertaining to commercial use, to business losses, yet the human elements of loss of limbs and of pain and suffering are restricted under this bill.

In the product liability bill during the 103d Congress, there was a provision for a defense against punitive damages where the FDA had given premarket approval to a drug or medical device. Last time there were several Senators who were very concerned about this provision, so this time the proponents left it out with the idea of picking up some votes. The House, on the other hand, left it in. They left in the FDA provision whereas statistics have shown, over a 10-year period 51.6 percent of all products that have been approved for the market by FDA have been recalled. But when this gets to conference, you can rest pretty well assured that the House provisions on that will control and be maintained.

This bill has a 20-year statute of repose. A statute of repose says that regardless of what happens, after 20 years of it being built—and where it says "construct"—that thereafter, regardless of what was the reason, you cannot bring a lawsuit. You have a complete defense. This language of the bill is broad enough, in my judgment, with the use of the word "construct" to include a bridge, which if it collapses, will be subject to a statute of repose of 20 years. Yet the House bill has a statute of repose of only 15 years, and I think it will end up being 15 years.

You had the general aviation awhile back, where a bill was passed, agreement was worked out by most of the people involved here. They put in an 18-year statute of repose, which I think was a serious mistake since the figures show that 60 percent of the small planes in use were 20 years old or older. But, anyway, the House would even reduce that down further—20 years or 15 years. I mentioned a nuclear power plant, Chernobyl, and the pain and suffering that had incurred. Practically every nuclear powerplant in the United States today is at least 15 years of age. Most of them are older than 20 years.

Maybe it might not cover it. It uses the word "construct" and as I read the various language, I think it does. But regardless whether it does as a unit object as a whole, component parts in a nuclear powerplant which have been there for 20 years or longer, or 15 if the House prevails and I think they will. I am not sure, but it seems to me I read awhile back the last nuclear power plant that was started in construction was more than 20 years ago.

I think we do not realize the breadth of this bill and its effort to try to encompass all situations and what it will do.

I think there was testimony before the Commerce Committee on machine tools. The indications were that over 50 percent were at least 30 years old or older. Design conflicts, metal stress on airplanes and metal stress on airplanes that cause damages frequently, in the decision of the national safety investigation board—I do not remember the exact name—would indicate that metal stress on airplanes does not occur until after 15 or 20 years.

On the House side there are caps on noneconomic damages on drug companies, on pharmaceuticals. That cap is $250,000 on noneconomic damages, and there are provisions throughout on pharmaceuticals and drugs. This new section that was added, this biomaterials section, you first read it and it looks like raw materials. I was told that is like a fluid such as silicone that is in a breast implant, or the tissue that is sewed together in regards to making it, that gives them some immunity and protection against these suits.

But then you read further in that and it says "component parts." I have a pacemaker. I do not know all the component parts. But, as I understand it, it has batteries and some computers and other component parts. There are wires that go down from that pacemaker, and its battery, into my ventricle—into the chambers of my heart. There are several component parts.

If it is defective, it would mean that for implants—and this biomaterial provision deals with implants—that an individual would practically have no way of recovering for defective products.

In pharmaceuticals, manufacturers are just almost given complete immunity in any suits. Drugs, and those implants I was mentioning a while ago, the silicone breast implant, the Copper IUD, and the Dalkon shield, as I understand it, are implants. So some people were worried about those as it would affect women for punitive damages. We ought to be concerned about this new section that they put in the bill on biomaterials.

The House bill abolishes joint and several liability for noneconomic damages as to all civil lawsuits. The House-passed bill, which again I think will prevail in conference, does not limit it to products but it says to all civil suits. I do not know who is responsible for the Oklahoma City bombing, but someone could bring a civil suit. I know in my home State that civil action was brought against the Ku Klux Klan and really did a great deal to stop the Ku Klux Klan through that civil lawsuit because the Klan had some land and other assets that were collectible. In the Oklahoma City situation, in the Alfred Murrah Building, if there were four people that were involved in it and a court would have to determine the part that each played relative to a conspiracy. But what if one of the conspirators happens to inherit 5,000 acres of land or has other assets, and it is determined that he is the one with the most knowledge, it may be that a plaintiff could not collect damages.

The present law is let the parties themselves determine among themselves the apportionment of the damage rather than having the plaintiff responsible relative to the apportionment of damages and the determination on each and every individual case. I think they have worked it out over the years.

There are some States that have contributions from joint tort feasors. There are others that do not. But as a general rule, it has been worked out in a manner where it is not a difficult situation that has caused any tremendous injustice among the defendants to apportion that responsibility.

We mention caps on punitive damages, and the House has caps on noneconomic damages on drug companies, pharmaceuticals. The language is that it is a cap of $250,000, or three times the economic loss. How does that apply? Let us take an example. We have a 55-year-old CEO of a company. He has 10 years of work expectancy say, and at 65 he would retire. He makes $5 million a year. So you take $5 million, multiply it by the annuity tables, which would we will say 10 years is what he would have. You have $50 million that would be then a part of his cap. You then multiply it by three. He would have a $150 million cap on punitive damage, or on the matter of the cap on noneconomic damages that the House has on drugs.

Then we compare the $150 million, which takes care of the wealthy, to the housewife. She has no economic loss because she does not work outside the home. So the housewife has a cap of $250,000, as opposed to $150 million for the CEO. The 65- or 70-year-old retired person has no economic loss, and he is not working. Mr. President, $250,000 is the cap. The CEO 55 years of age is capped at $150 million. And you can go on down the list of the inequities. The provisions as it would apply on factual situations shock your conscience.

There is a provision that allows you to collect workers compensation. Perhaps you collect under the workman's compensation, $40,000 or $30,000. You get your medical bills paid and other expenses. They are subrogated. That means, if a claimant recovers against a third-party wrongdoer, the insurer is entitled to get its workman's compensation insurance back. But this bill has the language that a claimant cannot settle his lawsuit without that workman's compensation insurer's permission. You have to have the permission of the insurer to settle, unless that workman's compensation insurer is paid in full. You come to the point that, well, I do not want to gamble. The case is probably worth $500,000. Maybe if somebody does not want to go through a lawsuit so they say, "Well, I will settle my damages for basically about two-thirds on the dollar. But the workman's compensation company says, "No. I want 100 percent on the dollar," and this is shocking to one's conscience.

I also remind you that we have an exemption under antitrust laws for insurance companies, and they can get together and in effect reach some sort of an agreement. There is also the situation that it could well be that they are the same insurance company for the employer as well as the manufacturer. Therefore, they are bargaining for a cheaper figure, putting a claimant in a disadvantageous situation.

There are all sorts of factual situations that can arise which show this question is which really shocks your mind to consider from a viewpoint of what is right and wrong and gives them a hammer over a claimant's head.

Shocking your conscience further, there is a provision in this bill that says that if you sue for punitive damages, then either party, the plaintiff or defendant or any of the defendants, has a right to have a separate trial on the issue of punitive damages as opposed to the trial in chief in which compensatory damages are sought. This bill provides for bifurcated, separate trial.

Then the language of this bill provides that you cannot prove the elements of culpability, the fault, the evidence of punitive damages in the compensatory damage lawsuit.

So you have evidence of a drunk chemist that was involved with a company making a drug. That evidence would go to punitive damages, but it could not be introduced in the compensatory damage lawsuit. I think that shocks your conscience.

Consider the example of where a person is intoxicated. The bill has a provision which gives a complete bar to recover if the intoxication of the plaintiff amounted to 50 percent of the causation and the damages. On the other hand, if a punitive damage case was brought under this bill, the drunkenness or the alcoholic activity of the chemist or whoever the actor might be that was involved in the production of the product could not be shown in the compensatory damage lawsuit. You would have to show it only in the punitive damage part of the lawsuit.

Now, this bill does not have the loser pay in regard to the attorney's fee. But when it comes out of conference, I think you better be extremely watchful as to whether the conference report will contain such a provision.

I think it is important that we look at this bill carefully. I pointed out some of the provisions, and every time I read the bill I see more and more fine print, methods by which there is an advantage that is sought for manufacturers. I have not had the time to review this yet, but in the punitive damage aspect of it, they have changed the language where it was generally accepted throughout as either willful or wanton or gross negligence depending on the State standards. It uses the words "conscious, flagrant indifference to the safety of others," and so on. I am interested in seeing where that language came from and the reason.

I do not in my recollection remember the use of conscious, but I remember that under certain circumstances—and I am hazy on this, and I have asked staff to do some research, to contact a tort professor at a university pertaining to this—there seems to me to be a body of law that for a corporation to be conscious, it requires activity on the part of the board of directors. I am vague on that, and I do not want to make a statement because I am not sure as to that. But that is something that is troubling and something that I wish to look at further and perhaps say something else at a later time. But these words are new words. And, of course, they would be interpreted by the courts as they come along, and there may be basic case law in regards to it at the present time that has given some type of interpretation which means that there is an existing precedent. It may not have to be followed from one State to another.

But that brings up the interpretation which to me is just entirely inconsistent by the original motivation that brought forth the idea of some federalized tort law. That was the concept that we live in a world in which interstate commerce goes from one State to the other and products are sold and everything else. Therefore, we need a uniform Federal products liability.

Well, this is far from being uniform. First, it only preempts the State laws in the specific matters that are listed within the bill. The interpretation that is given is placed upon the State court system and in diversity cases on the circuit court of appeals. Under the original bill that they proposed, they had the State courts reviewing this as well as the territories. You could have had 55 different interpretations of law and little uniformity in that regard.

The proponents made a change somewhat in that whereby it says that the 11 Federal circuit courts will be involved in interpretations. So you have got all of at least 11 circuits that could have different interpretations, and you could have conflicts of law. They made a change which says basically does away with the concept of the old line of cases of Erie which say that the Federal courts shall follow the State law and they say now the State laws pertaining to interpretation of this shall follow each circuit, but instead of uniformity you can still have at least—well, it would take, in my judgment, 20 to 25 years before you would finally get the matter to the Supreme Court, and you would have uniform interpretation of a particular language or particular provision. It is devoid of uniformity. There is no uniformity except for the few instances in which they preempt in this, and the ones they preempt are in effect the guts of a civil lawsuit. But you have a situation where you do not have uniformity relative to the motivation that many businesses argued for relative to that. So there is no uniformity that is involved here.

There has been this lawsuit about McDonald's and the woman with the cup of coffee, and there is an article by Roger Simon in the Baltimore Sun on February 22, 1995. He says:

> Forget about the millions won by sue-happy lawyers.
>
> Just about everybody knows about the woman who spilled a cup of coffee on herself and sued McDonald's because it was too hot.
>
> Just about everybody knows the jury awarded her millions of dollars and this is what is wrong with America.
>
> It is so wrong, in fact, that the Republican "Contract With America" has promised to fix it and hearings are now under way before Congress to make it much harder for consumers to sue for large amounts of money.
>
> But the real story of what happened to that much-maligned woman tells us something else about America.
>
> Stella Liebeck was 79 years old in 1992 and sitting in her grandson's car when she bought a 49-cent cup of coffee at a McDonald's drive-through window in Albuquerque, N.M.
>
> The car was stationary when she lifted the lid to put in cream and sugar, but she spilled the coffee on her lap.
>
> She received third-degree burns on her groin, thighs, and buttocks. She was hospitalized for 8 days and underwent skin grafts. According to her lawyer, she was disabled for more than 2 years. Her hospital bills were in excess of $10,000.

McDonald's offered the woman $800 to settle, and she had a $10,000 hospital bill.

> She sued.
>
> At trial, Liebeck's attorney, S. Reed Morgan of Houston, told the jury that McDonald's serves its coffee between 180 and 190 degrees, which, he argued, is 40 degrees hotter than most food establishments. McDonald's says coffee tastes better at the higher temperature.
>
> Morgan presented an array of expert witnesses who testified that serving coffee at such a high temperature presents an unacceptable risk to consumers.
>
> The jurors also learned that between 1982 and 1992, more than 700 claims had been filed against McDonald's for coffee burns and that McDonald's had settled claims for more than $500,000.
>
> After a 6-day trial, the jury awarded Mrs. Liebeck $200,000 in compensatory damages for her injuries, but reduced that by 20 percent because the jury felt the spill was 20 percent her fault.
>
> Then the jury awarded her $2.7 million in punitive damages, a figure it did not pick out of a hat.
>
> Having been told during the trial that McDonald's sold $1.35 million worth of coffee per day, the jurors assessed McDonald's a fine equal to 2 days of gross coffee sales.
>
> The trial judge, however, reduced the amount of punitive damages to $480,000 or triple Mrs. Liebeck's actual damages.
>
> Both sides could have appealed, but it was now 1994. Mrs. Liebeck was 81, and her lawyer felt McDonald's was hoping she would die before the case was concluded.
>
> So he negotiated a settlement with McDonald's. He is not allowed to say for how much, but let's say it was roughly $500,000.
>
> Mrs. Liebeck's attorney would get one-third of that amount and the expert witnesses, who can cost tens of thousands of dollars, would be paid out of Mrs. Liebeck's share.
>
> So Mrs. Liebeck did not become a millionaire or anything close to it. Which is typical of such cases.

"I have been an attorney for 20 years and I have received two awards for punitive damages in all that time"—

The lawyer Morgan told Roger Simon.

in a telephone interview * * *. "And you know how many times I have gotten full punitive damages as the jury intended? Never."

An American Bar Association study of over 25,000 jury awards between 1981 and 1985 found that the median punitive damage award was only $30,000. According to a U.S. News & World Report, the current average award in personal injury cases is $48,000.

And, contrary to claims that there has been an explosion of personal injury lawsuits, the number of such suits have been dropping since 1990.

It is important to keep in mind, however, that punitive damages are supposed to serve a purpose.

"It's all economics," Mr. Morgan said. "If some companies can make more money injuring you with a bad product than keeping you safe with a good one, they will injure you. I am not saying all companies; I am saying some companies."

In other words, the fear of being socked with large punitive damages is all that keeps some companies from doing us harm.

So why should we "reform" away our ability to hit them where it hurts?

I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. THOMPSON). Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEFLIN. Mr. President, there are many other aspects, and I will speak further in regard to it but, at this time, I yield the floor.

EXHIBIT 1

FORGET ABOUT THE MILLIONS WON BY SUE-HAPPY LAWYERS

(By Roger Simon)

Just about everybody knows about the woman who spilled a cup of coffee on herself and sued McDonald's because it was too hot.

Just about everybody knows a jury awarded her millions of dollars and this is what is wrong with America.

It is so wrong, in fact, that the Republican "Contract with America" has promised to fix it and hearings are now under way before Congress to make it much harder for consumers to sue for large amounts of money.

But the real story of what happened to that much-maligned woman tells us something else about America:

Stella Liebeck was 79 years old in 1992 and sitting in her grandson's car when she bought a 49-cent cup of coffee at a McDonald's drive-through window in Albuquerque, N.M.

The car was stationary when she lifted the lid to put in cream and sugar, but she spilled the coffee on her lap.

She received third-degree burns on her groin, thighs and buttocks. She was hospitalized for eight days and underwent skin grafts. According to her lawyer, she was disabled for more than two years. Her hospital bills were in excess of $10,000.

McDonald's offered Mrs. Liebeck $800. She sued.

At trial, Liebeck's attorney, S. Reed Morgan of Houston, told the jury that McDonald's serves its coffee at between 180 and 190 degrees, which, he argued, is more than 40 degrees hotter than most food establishments. McDonald's says coffee tastes better at the higher temperature. (McDonald's declined to be interviewed for this column.)

Morgan presented an array of expert witness who testified that serving coffee at such a high temperature presents an unacceptable risk to consumers.

The jurors also learned that between 1982 and 1992 more than 700 claims had been filed against McDonald's for coffee burns and that McDonald's had settled claims for more than $500,000.

After a six-day trial, the jury awarded Mrs. Liebeck $200,000 in compensatory damages for her injuries, but reduced that by 20 percent because the jury felt the spill was 20 percent her fault.

Then the jury awarded her $2.7 million in punitive damages, a figure it did not pick out of a hat.

Having been told during the trial that McDonald's sold $1.35 million worth of coffee per day, the jurors assessed McDonald's fine equal to two days of gross coffee sales.

The trial judge, however, reduced the amount of punitive damages to $480,000 or triple Mrs. Liebeck's actual damages.

Both sides could have appealed. But it was now 1994, Mrs. Liebeck was 81, and her lawyer felt McDonald's was hoping she would die before the case was concluded.

So he negotiated a settlement with McDonald's. He is not allowed to say for how much, but let's say it was roughly $500,000.

Mrs. Liebeck's attorney would get one-third of that amount and the expert witnesses, who can cost tens of thousands of dollars, would be paid out of Mrs. Liebeck's share.

So Mrs. Liebeck did not become a millionaire or anything close to it. Which is typical of such cases.

"I have been an attorney for 20 years and I have received two awards for punitive damages in all that time." Morgan told me in a telephone interview yesterday. "And you know how many times I have gotten full punitive damages as the jury intended? Never."

An American Bar Association study of over 25,000 jury awards between 1981 and 1985 found that the median punitive damage award was only $30,000. According to a U.S. News & World report, the current average award in personal injury cases is $48,000.

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It is important to keep in mind, however, that punitive damages are supposed to serve a purpose.

"It's all economics," Morgan said. "If some companies can make more money injuring you with a bad product than keeping you safe with a good one, they will injure you. I am not saying all companies; I am saying some companies."

In other words, the fear of being socked with large punitive damages is all that keeps some companies from doing us harm.

So why should we "reform" away our ability to hit them where it hurts?

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I have been waiting my turn to comment on the observations of my distinguished colleague from Washington. I have been waiting with anticipation.

The distinguished author and manager of the bill, the Senator from Washington, said, as best I can remember that here in the Senate, if we seek to accomplish a certain goal, we should do it absolutely. It is very, very curious to me, if we seek to accomplish a certain goal, we should do it absolutely.

Now if what is attempted is uniformity, then why not require uniformity? It is not about whether it is an absolute or a balanced measure, or any forensic approach. It is a matter of law and what is provided. We go right to the idea of uniformity and its inconsistency with respect to the States.

Very interestingly, Mr. President, this bill—which I have a copy of—starts off, if we look at the front page of S. 565, as "A bill to regulate interstate commerce by providing for a uniform product liability law."

Well, they got into that pollster nonsense that I was talking about earlier. They do not want to call it a uniform law, rather they now want to focus on fairness. The buzzword now is everything has to be "fair." I do not know who it is going to be fair to. They say here that "This act may be cited as the Product Liability Fairness Act." However, what they ought to call it is the "Product Liability Generosity Act to Manufacturers of 1995." Very, very generous to the manufacturers.

Now let us go to the matter of punitive damages. Let us look at S. 687, the 1993 bill, at page 22. S. 687, page 22, says in the proof of punitive damages:

> In determining the amount of punitive damages, the trier of fact shall consider all relevant evidence, one, the financial condition of the manufacturer of product seller; two, the severity of the harm caused by the manufacture of product seller; three, the duration of the conduct or any concealment of it by the manufacturer or product seller; four, the profitability of the conduct to the manufacturer or product seller; five, the number of products sold by the manufacturer or product seller of the kind causing the harm complained of by the claimant.

These are the elements that you have, generally, at the State court level on the proof of punitive damages, so it is not just a runaway jury. Many times I have heard—and the distinguished Presiding Officer has tried these cases—a judge turn and say there is going to be a fine to make sure they do not engage in this reckless course of conduct again. And in determining whether there is going to be punitive damages, it's important to look at the worth of the organization and whether or not it is a customary violation, the duration of the conduct or concealment of it and all of these elements.

Now look at the matter with respect to this particular bill, S. 565, on punitive damages. They do not list those things at all. It says here at the bottom of page 47: "Proceeding with respect to punitive damages." Line 24: "Evidence that is admissible in the separate proceeding under paragraph 1—(i) may include evidence of the profits of the defendant, if any, from the alleged wrongdoing; and (ii) shall not include evidence of the overall assets of the defendant."

That is all. They don't spell out what you can look at in this bill, Mr. President. You can consider evidence of the profits from the wrongdoing, but not any evidence whatsoever of the overall assets, or the nature or the duration of the conduct, or concealment of the manufacturer, or the number of products sold, or the financial condition of the manufacturer. In fact, they say: "Shall not include evidence of the overall assets of the defendant."

In the *Exxon Valdez* case, how do you think Exxon Corp. profited from running into the ground? There would not be any profit there. I could go through the list of different manufacturers' cases. I refer to the matter of the illusory part position on the Ford automobile, whereby the users of Ford cars between 1970 and 1979 thought that when they had a car in the park position, it was giving the operator the impression that the car was secured. Of course, it was the slamming of the car door or vibration caused the car to move in reverse. We have one case here, and several others, about a car that backed up into a particular individual that was walking by the rear of the automobile and was run down, and they gave $4 million in punitive damages.

Under this particular test against Ford, if you put this into law, I do not see where Ford gained an advantage or made profits—if they could call it profits—from the misconduct that caused the injury to the pedestrian that the car all of a sudden backed into. Of course, Ford Motor Co. could change the thing. When they got the punitive damages, they understood and changed the park position in the gear of the Ford automobile.

But to come now, and rather than list commonsense provisions that they had in the 1993 and 1991 bills and everything else, they put these kinds of restrictive provisions in, and then claim it is a fairer bill. I go right to the punitive caps there on page 47. They have in the bill what purports to be uniform standards for punitive damages. But when get beneath the cover, Mr. President, you discover the real deal. That is, if you have punitive damages in your State, it's preempted. But if in a State that does not provide for punitive damages, you are not given the benefit of uniformity. The Senator from Washington does not want uniformity for the State of Washington since they do not have punitive damages, but, yet, he is talking about uniformity. Of course, it is all uniformity so long as it is advantageous, so to speak, for the manufacturer, but not the injured party. So this does not provide for punitive damages in all States and for all citizens, even though the so-called goal of the bill is uniformity. In this particular bill, he said, even though we want uniformity, if you do not have punitive damages, no way, you still do not get them. On the other hand, even if you were injured, you cannot exceed $250,000 or three times the economic loss which, in many instances, is a lot less than the $250,000 cap. So you do not teach the lesson there.

With respect to a more reasonable bill, again, you have the matter of misuse on page 44. Regarding the previous bills, they are talking about how reasonable they have gotten now. "Reduction for misuse or alteration of the product." This provision was not in the three previous bills. The statute of repose, as has already been pointed out, for no good reason, has been reduced now to 20 years. So pass this, with the House at 15 years, it is going to be reconciled downward.

The liability shield for component parts manufacturers was not in the three previous bills. As the distinguished Senator from Alabama, having a heart beeper in his own body, which is obviously comprised of component parts, said wait a minute, if this thing is defective, do not give me this particular bill or I am a definite loser. There will be no recovery there.

On the morning of the markup, they added this rental car provision to exempt rental car companies from liability. If you get a rental car and you run into somebody, the rental car owner is not responsible. But if you borrow my car, and run into somebody, I am still responsible. They have many more severe provisions, if you read down, as we have in covering this particular measure. The fact of the matter is that this bill is not intended to be more reasonable but rather more restrictive on those seeking recovery for their particular injury.

And I want to go here to the uniformity part where it does not apply to the manufacturer, and they talk now about the Uniform Commercial Code.

Mr. President, I ask unanimous consent at this particular point—it is not that long—to have printed in the RECORD an overview of the Uniform Commercial Code.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNIFORM COMMERCIAL CODE—AN INTRODUCTION

1. NATURE AND ORIGINS

As of 1988, one of three different Official Texts of the Uniform Commercial Code was in force in each of the American states except Louisiana, as well as the District of Columbia and the Virgin Islands. The 1962 Official Text (or a predecessor with minor variations) was in force in 3 states. The 1972 Official Text was in force in 14 states. The 1978 Official Text was in force in 32 states. Unless otherwise indicated, all references in this book are to the 1978 Official Text of the Code. The Code is law in these jurisdictions by virtue of "local," state by state, enactment. The United States Congress did not enact the Code as general federal statutory law, although it did enact the Code for the District of Columbia. The 1978 Code is divided into eleven articles as follows:

Article 1. General Provisions.
Article 2. Sales.
Article 3. Commercial Paper.
Article 4. Bank Deposits and Collections.
Article 5. Letters of Credit.
Article 6. Bulk Transfers.
Article 7. Warehouse Receipts, Bills of Lading and Other Documents of Title.
Article 8. Investment Securities.
Article 9. Secured Transactions; Sales of Accounts and Chattel Paper.
Article 10. Effective Date and Repealer.
Article 11. Effective Date and Transition Provisions.

In all but Articles Ten and Eleven, the Articles are subdivided into "Parts." Thus, in Article One there are two "Parts" while in Article Two there are seven. Each Part is in turn subdivided into "sections." Sections are numbered in a manner that indicates both Article and Part. Thus, section 2-206 on "Offer and Acceptance in Formation of Contract" is in Article Two, Part Two. The first number of a section always indicates the Article and the second number the Part within that Article in which the section appears. The Official Text of The Code includes "Official Comments" on each section. The enacting jurisdictions did not enact these comments, although they did enact both the section headings and the sections (except insofar as they amended the Official Text, a topic which will be considered below.) The various jurisdictions, on enacting the Code, generally followed the arrangement and sequence of the Official Text. In almost all instances, they also preserved the Code's numbering system. For example, in the great State of Oregon, a seven appears before the first digit in the Code's numbering system and a zero after the last digit. Otherwise, the Code's numbering system is left intact. Thus, in Oregon, 1-101 is 71-1010.

The National Conference of Commissioners on Uniform State Laws was the originating sponsor of the Code. This was hardly the first venture of the Conference into the field of commercial law reform. The Conference had earlier sponsored a number of "uniform acts" in this field. Those acts that were adopted in one or more jurisdictions are listed below, with dates of promulgation.

Uniform Negotiable Instruments Law, 1896.
Uniform Warehouse Receipts Act, 1906.
Uniform Sales Act, 1906.
Uniform Bills of Lading Act, 1909.
Uniform Stock Transfer Act, 1909.
Uniform Conditional Sales Act, 1918.
Uniform Trust Receipts Act, 1933.

All states adopted the Uniform Negotiable Instruments Law and the Uniform Warehouse Receipts Act. Roughly two-thirds of the States adopted the Uniform Sales Act and the Uniform Trust Receipts Act. The other acts were less well received.

By the late 1930's, the foregoing uniform acts had become outdated. Changes had occurred in the patterns of commercial activity prevalent when the acts were promulgated. Also, wholly new patterns had emerged which gave rise to new kinds of legal needs. Moreover, a major objective of the uniform acts had been to promote uniformity. But not all states enacted the acts, and the courts of the states rendered countless nonuniform "judicial amendments." By 1940, there was growing interest in large scale commercial law reform. The Conference was already at work revising the old Uniform Sales Act and was giving consideration to a revision of the Uniform Negotiable Instruments Law.

In 1940, Mr. William A. Schnader conceived the idea of a comprehensive commercial code that would modernize and displace the old uniform acts. That same year, with the support and advice of Professor Karl N. Llewellyn, Mr. Schnader, as President of the National Conference of Commissioners on Uniform State Laws, persuaded the Conference to adopt a proposal to prepare a comprehensive code. Shortly thereafter, Schnader and others sought the co-sponsorship of the American Law Institute. Initially, the Institute agreed only to co-sponsor a revision of the old Uniform Sales Act, but on December 1, 1944 the two organizations formally agreed to co-sponsor a Uniform Commercial Code project, with Professor Karl N. Llewellyn of the Columbia Law School as its "Chief Reporter" and Soia Mentschikoff as Associate Chief Reporter. The co-sponsors also set up a supervisory Editorial Board of five members which was later enlarged. Professor Llewellyn then chose various individuals to serve as principal drafters of the main Code Articles:

Article 1. Karl N. Llewellyn.
Article 2. Karl N. Llewellyn.
Article 3. William L. Prosser.
Article 4. Fairfax Leary, Jr.
Article 5. Friedrich Kessler.
Article 6. Charles Bunn.
Article 7. Louis B. Schwartz.
Article 8. Soia Mentschikoff.
Article 9. Allison Dunham and Grant Gilmore.

Between 1944 and 1950, the foregoing team formulated (not without extensive consultation) the first complete draft of the Code. The co-sponsors then circulated this draft widely for comment. After revision, the cosponsors promulgated the first Official Text of the Code in September 1951 and published it as the "1952 Official Text." In 1953, Pennsylvania became the first State to enact the Code, effective July 1, 1954. In February of 1953, the New York State Legislature and Governor Thomas E. Dewey referred the Code to the New York State Law Revision Commission (located at the Cornell Law School) for study and recommendations. Between 1953 and 1955, the Commission dropped all other work to study the Code. In the end, the Commission concluded that the Code idea was a good one but that New York should not enact the Code without extensive revision. Meanwhile, the Code's Editorial Board had been studying the Commission's work (as well as proposals for revision from other sources) and in 1956 the Board recommended many changes in the 1952 Official Text. In 1957, the co-sponsors promulgated a 1957 Official Text that embodied numerous changes, many of which were based on the Commission's study. Another Official Text was promulgated in 1958, and still another in 1962. The latter two made relatively minor changes in the 1957 Official Text.

Meanwhile, Massachusetts became the second state to enact some version of the Code in September 1957. By 1960, Kentucky, Connecticut, New Hampshire, and Rhode Island had followed suit. In 1961, eight more States joined the fold. In 1962, there were four more, including New York. In 1963, there were eleven more enacting States, in 1964 one, in 1965 thirteen, and in 1966 five more. By 1968, the Code was effective in forty-nine states, the District of Columbia, and the Virgin Islands. Louisiana is the only State not to have adopted the entire Code. In 1974, however, that State did enact Articles 1, 3, 4, 5, 7 and 8 of the 1972 Official Text, with amendments.

In 1961, the Code sponsors set up a Permanent Editorial Board for the Code which continues in operation to this day. After its first written report on October 31, 1962, the Board made three further reports. During the 1960's and early 1970's, the Board was concerned mainly with two tasks: (1) promoting uniformity in State by State enactment and interpretation of the Code and (2) evaluating and preparing proposals for revision of the 1962 Official Text. For example, the Board devoted great energy to revision of Article Nine on personal property security. Eventually, the American Law Institute and the National Conference of Commissioners on Uniform State Laws approved a revised Article Nine which West Publishing Co. published in 1972 as part of a new 1972 Official Text of the entire Code (incorporating all officially approved amendments thereto).

In the mid and late 1970's the Code sponsors and others studied possible revisions of Article Eight on investment securities. A committee called the 348 Committee of the Permanent Editorial Board reviewed proposals and made recommendations to the Board. Eventually, the Code sponsors adopted a revised Article Eight and in 1978 promulgated a new Official Text embodying these revisions. As of January 1, 1988, thirty-two states had adopted most of this Official Text.[22]

No one has published an authentic "inside" story of the evolution of the Code. Judged by its reception in the enacting legislatures, the code is the most spectacular success story in the history of American law. We know that the design and text of the Code bears the inimitable imprint of its chief draftsman, Karl N. Llewellyn, and that his spouse, Soia Mentschikoff, had a major hand in the entire project. We know, too, that many individuals whose names have not appeared so prominently as draftsmen or as reporters had great influence on aspects of the final product. One example is Professor Rudolf B. Schlesinger of the Cornell Law School who was not only responsible for the idea of a Permanent Editorial Board,[24] but also provided most of the ideas for the radical revision of Article Five on letters of credit that appeared in the 1957 Official Text. Another example is the extensive work of the late Professor Robert Braucher of the Harvard Law School (subsequently Mr. Justice Braucher of the Massachusetts Judicial Court). His efforts began in the 1940's and continued until his death in 1981. We know, too, that politically and in other ways, William A. Schnader of the Philadelphia Bar was the Code's prime mover. It seems safe to say that without his efforts, the Code would not have come into being. Llewellyn and Schnader are now dead (deceased 1962 and 1969 respectively), a fact that imposes a real handicap on anyone who seeks to prepare an authentic history of the Code project. A British scholar, Professor William Twining, has catalogued Llewellyn's papers at the University of Chicago Law School, and any future history of the Code project must take account of these papers.

2. COMMERCIAL LAW NOT COVERED; FREEDOM OF CONTRACT

The Uniform Commercial Code does not apply to the sale of realty nor to security interests in realty (except fixtures), yet these are undeniably commercial matters. The Code does not apply to the formation, performance, and enforcement of insurance contracts. It does not apply to suretyship transactions (except where the surety is a party to a negotiable instrument). It does not govern bankruptcy. It does not define legal tender. It is not a comprehensive codification of commercial law.

The Code does not even cover all aspects of transactions to which its provisions do apply. For example, it includes several innovative provisions on the formation of sales contracts, but it still leaves most issues of contract formation to general contract law. To cite one more example, the code includes provisions on the purchaser's title to goods, but one of these provisions turns on the distinction between void and voidable title, a distinction that requires courts to invoke non-Code law. Section 1–103 is probably the most important single provision in the Code, and will be discussed in section five of this Introduction. The provision reads:

"Unless displaced by the particular provisions of this Act, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause shall supplement its provisions."

As Professor Grant Gilmore once put it, the Code "derives from the common law [and] assumes the continuing existence of a large body of pre-Code and non-Code law on which it rests for support, [without which the Code] could not survive." Much of the pre-Code and non-Code law to which Professor Gilmore refers is case law from such fields as contracts, agency, and property, which comes into play via 1–103.

Of course, federal commercial law overrides the Code. The Federal Bills of Lading Act is illustrative. So, too, is the Carmack Amendment to the Interstate Commerce Act. Federal regulatory law overrides the Code, too. Today there are federal statutes such as the National Consumer Credit Protection Act, and the Magnuson-Moss-Warranty-Federal Trade Commission Improvement Act regulating aspects of consumer warranty practices. Similarly, state regulatory statutes also override the Code. Thus, there are state retail installment sales acts, state usury laws, state laws on consumer credit, and so on. The Code itself includes a few regulatory provisions.

Finally, most of the Code's provisions are not mandatory. The parties may vary their effect or displace them altogether: freedom of contract is the rule rather than the exception. Most commercial law is therefore not in the Code at all but in private agreements, including course of dealing, usage of trade, and course of performance.

3. VARIATIONS IN ENACTMENT AND IN INTERPRETATION; CONFLICT OF LAWS RULES

The Uniform Commercial Code is not uniform. As early as 1967, the various jurisdictions enacting the Code had made approximately 775 separate amendments to it. Article Nine on security interests in personal property was the chief victim of the nonuniform amendments. As of December 15, 1966, 47 of the 54 sections in the Article had been amended; California, in particular, liberally rewrote or deleted segments of it. The new Article Nine, embodied in the 1972 and 1978 Official Texts, had become law in forty-six states (including California) by January 1, 1987. Article Six on bulk transfers was also the subject of many nonuniform amendments. New York amended Article Five in a way that renders it inapplicable to many letter of credit transactions, and yet New York does more letter of credit business than any other state.

Another source of nonuniformity lies in the various "optional" provisions in the Official Texts of the Code. Thus, for example, Section 9-401 offers enacting states three alternatives with respect to the place of filing of financial statements. Section 7-403(1)(b) offers two versions of the burden of proving the bailee's negligence. Section 6-106 imposes a duty on the bulk transferee to see that the transferor's creditors are paid off, but it is wholly optional. Section 2-318 includes three options on third party beneficiaries of warranties. And the Code includes still other optional provisions. In almost every instance, some states have adopted one version while other states have adopted another.

So-called "open-ended' drafting is another source of nonuniformity. In Articles Two and Nine, the draftsmen used such phrases as "commercial reasonableness" and "good faith." That different courts will give such phrases different meanings should surprise no one. And, after any uniform law has been on the books for very long, disparate judicial interpretation and construction of even quite detailed provisions become another source of nonuniformity. Today, many Code sections have been the subject of judicial interpretation and construction in more than one jurisdiction and the courts disagree over the meaning of many sections.

The foregoing sources of nonuniformity signify that the Code's conflict of laws rules are becoming especially important. Section 1-105 sets forth the basic Code provisions.

(1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state shall govern their rights and duties. Failing such agreement this Act applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this Act specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 2-402.

Applicability of the Article on Bank Deposits and Collections. Section 4-102.

Bulk transfers subject to the Article on Bulk Transfers. Section 6-102.

Applicability of the Article on Investment Securities. Section 8-106.

Perfection Provisions of the Article on Secured Transactions. Section 9-103.

Various scholars of conflict of laws have offered their thoughts on 1-105, and we have collected some of their writings in the footnote. Later in this book we also address ourselves to specify conflicts problems in the context in which they arise.

4. AIDS TO INTERPRETATION AND CONSTRUCTION

The principal aids to interpretation and construction of the Code are these:

Case law.

Prior drafts and prior official texts.

Other legislative history—New York Law Revision Commission Reports—State legislative hearings and committee reports.

Official Comments to each section.

Periodic Reports of the Permanent Editorial Board.

Treatises and other secondary sources.

Rules of interpretation and construction.

Standard interpretation technique.

Mr. HOLLINGS. Mr. President, I will read the very first line:

As of 1988, one of the three different Official Texts of the Uniform Commercial Code was in force in each of the American States except Louisiana. . . . The United States Congress did not enact the code as general Federal statutory law.

It is talking of the nature and origins. Then it goes on to point out that what we have under the code is a selective process. It says here in the section two, titled "Commercial Law Not Covered; Freedom of Contract":

Finally, most of the Code's provisions are not mandatory. . . . Most commercial law is therefore not in the Code at all but in private agreements, including course of dealing, usage of trade, and course of performance.

The Uniform Commercial Code is not uniform. Now that is the manufacturers.

I ask unanimous consent to have printed in the RECORD a particular law review article on the conflict of laws under the Uniform Commercial Code at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Arkansas Law Review]

CONFLICT OF LAWS UNDER THE U.C.C.

(By Robert A. Leflar)

When do conflict of laws problems arise under the Uniform Commercial Code, now that it is law in all the states and other subdivisions of the United States except Louisiana?

Conflicts do still occur. Obviously they can occur when part of a commercial transaction takes place in Louisiana or in a foreign nation whose law differs from the Code. But they occur more frequently between the laws of states that have adopted the Code. Why? Because (1) several states have enacted variant amendments to some sections of the Code, and (2) the courts of a number of states, careless of the function of uniformity in a uniform act, have given nonuniform interpretations to some sections of the Code. Conflicts are not now as inevitable as in the 1950's and early 1960's, when only a few states had enacted the Code, but they can be even more frustrating than they were then. The answers to the conflicts problems, however, are reasonably definite.

The history of choice-of-law provisions in the Code is, in a very real sense, a pre-outline of the more recent history of American conflicts law generally. It is a history of increased emphasis upon substance over form and of deliberate preference for an approach that would result in application of better, sounder rules of commercial law as distinguished from mechanical choice-of-law rules applied for their own sake. The approach is primarily designed by commercial law specialists whose concern was with what they conceived to be good commercial law, rather than by conflicts scholars. Most conflicts scholars, however, ultimately agreed with the approach.

Joe C. Barrett of Arkansas was one of the practical lawyer-Commissioners whose interests lay in the substantive law areas, not in choice-of-law theory. His voice was an influential one almost from the beginning of work on the Code, and he agreed with the pragmatic approach to conflicts issues. Though he left it to others, for the most part, to frame the conflicts language, he supported their ideas, particularly as the sections were reviewed by the Permanent Editorial Board of which he was a longtime member. He had much to do with the thinking and rethinking that is reflected in the successive drafts as they are presented in the next few pages. Above all, he was satisfied by section I-105 as it finally emerged, first in the 1958 Official Text, then with one further change in 1972. The section as it now stands is as follows:

SECTION 1-105. TERRITORIAL APPLICATION OF THE ACT; PARTIES' POWER TO CHOOSE APPLICABLE LAW

(1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this Act applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of the Act specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 2-402.

Applicability of the Article on Bank Deposits and Collections. Section 4-102.

Bulk transfers subject to the Article on Bulk Transfers. Section 6-102.

Applicability of the Article Investment Securities. Section * * *.

Perfection provisions of the Article on Secured Transactions. Section 9-103.

The first 25 years

From the beginning the effort was to make the new Code applicable to as many transactions as could constitutionally be brought under it. The due process clause of the federal Constitution, and possibly the full faith and credit clause, set the outer limits. The leading case was (and is) *Home Insurance Co. v. Dick*, which held that due process was violated by a state's holding a transaction to be governed by the substantive law of a state which had no substantial connection with the transaction.

The October, 1949 draft of section 1-105 attempted to achieve the desired maximum application of the new Code by providing that this Act shall apply to any contract or transaction within its terms if:

(a) the contract is completed, or the offer made or accepted, or the transaction occurs within this state; or

(b) the contract is to be performed or the transaction is to be completed within this state; or

(c) the contract or transaction relates to or involves goods which are to be or are in fact located, delivered, shipped or received within this state; or

(d) the contract or transaction involves a bill of lading, warehouse receipt or other document of title which is to be or is in fact issued, delivered, sent or received within this state; or

(e) the contract or transaction involves commercial paper which is made, drawn, transferred or payable within this state; or

(f) the contract or transaction involves a commercial credit made, sent or received within this state; or involves a commercial credit issued in this state or confirmation or advice of which is sent or received within this state, or involves any negotiation within this state of a draft drawn under a credit; or

(g) the contract or transaction involves a foreign remittance drawn, transferred or payable within this state; or

(h) the contract or transaction involves an investment security issued or transferred within this state; or

(i) the contract or transaction involves a security interest created within this state or relating to tangible personal property which is or is to be actually within this state or to intangible personal property which has or is to have its situs within this state; or involves a bulk transfer of property to the extent that such property is within this state; or if the borrower's principal place of business is within this state; or

(j) whenever the contract, instrument or document states in terms or in substance that it is subject to the Uniform Commercial Code.

(2) Notwithstanding the provisions of the foregoing subsection, the parties to a contract or transaction involving foreign trade may agree in writing that the law of a specified jurisdiction shall apply.

The objective had been to list all the factual connections that were substantial enough to permit forum law (the Code) to be constitutionally applicable.

At the same time an alternative section 1-105 was drafted, for inclusion in a proposed enactment of the Code by the federal Congress, on the supposed authority of the commerce clause. This draft generally tracked the language of the state section.

The reaction to this section came near to being violent. A part of the reaction was automatic resistance to change: "If it's different from what I learned in law school it must be wrong." A number of conflicts scholars joined in unanimous adoption of a resolution introduced by the respected Professor Elliott E. Cheatham of Columbia University Law School:

"Resolved, that the undersigned, participants in the 1949 Institute of International and Comparative Law, Ann Arbor, Michigan, are of the opinion that Section 1-105 (in both forms) of the May, 1949, draft of the Uniform Commercial Code, dealing with conflict of laws, is unwise and should be omitted from the Code; and the Executive Secretary of the Institute of International and Comparative Law is requested to transmit a copy of this resolution to the President of the American Law Institute and the Chairman of the Commissioners on Uniform Laws."

This reaction induced the Institute and the Commissioners to revise the section by lengthening it considerably, deleting the alternative proposed for federal enactment, but retaining the same objective that the Act, as a state statute, apply to as many transactions as the Constitution would permit. The 1952 draft of the section, instead of providing that "this Act" shall apply to all the enumerated situations, called for application of particular parts (articles) of the Act to the fact situations:

SECTION 1-105. APPLICABILITY OF THE ACT; PARTIES' RIGHT TO CHOOSE APPLICABLE LAW.

(1) Article 1 applies to any contract or transaction to which any other Article of this Act applies.

(2) The Articles on Sales (Article 2), Documentary Letters of Credit (Article 5) and Documents of Title (Article 7) apply whenever any contract or transaction within the terms of any one of the Articles is made or occurs after the effective date of this Act and the contract

(a) is made, offered or accepted or the transaction occurs within this state; or

(b) is to be performed or completed wholly or in part within this state; or

(c) relates to or involves goods which are to be or are in fact delivered, shipped or received within this state; or

(d) involves a bill of lading, warehouse receipt or other document of title which is to be or in fact issued, delivered, sent or received within this state; or

(e) is an application or agreement for a credit made, sent or received within this state, or involves a credit issued in this state or under which drafts are to be presented in this state or confirmation or advice of which is sent or received within this state, or involves any negotiation within this state of a draft drawn under a credit.

(3) The Articles on Commercial Paper (Article 3) and Bank Deposits and Collections (Article 4) apply whenever any contract or transaction within the terms of either of the Articles is made or occurs after the effective date of this Act and the contract

(a) is made, offered or accepted or the transaction occurs within this state; or

(b) is to be performed or completed wholly or in part within this state; or

(c) involves commercial paper which is made, drawn or transferred within the state.

(4) The Article on Investment Securities (Article 8) applies whenever any contract or transaction within its terms is made or occurs after the effective date of this Act and the contract

(a) is made, offered or accepted or occurs within this state; or

(b) is to be performed or completed wholly or in part within this state; or

(c) involves an investment security issued or transferred within this state.

But the validity of a corporate security shall be governed by the law of the jurisdiction of incorporation.

(5) The Articles on Bulk Transfers (Article 6) and Secured Transactions (Article 9) apply whenever any contract or transaction within their terms is made or occurs after the effective date of this Act and falls within the provisions of section 6-102 or sections 9-102 and 9-103.

(6) Whenever a contract, instrument, document, security or transaction bears a reasonable relationship to one or more states or nations in addition to this state the parties may agree that the law of any such other state or nation shall govern their rights and duties. In the absence of an agreement which meets the requirements of this subsection, this Act governs.

This, too, produced negative reactions. These were largely based on the assumption, actually not justified, that section 1-105 followed the mechanical choice-of-laws theories of Professor Joseph H. Beale of Harvard, as those theories were embodied in the American Law Institute's Restatement I of Conflicts of Laws, for which Professor Beale was the Reporter. Two facts tended to support the assumption. One was the designation of specific fact situations as being determinative of the stated choices of law. That was the way Beale had set forth his hard and fast jurisdiction-selecting rules, and the critics tended to overlook the fact that the Code's choices would be different from Beale's. The other was that Judge Herbert F. Goodrich, Director of the American Law Institute and Chairman of the Code's Editorial Board, was a former student and long-time disciple of Beale and was at least to some extent responsible for the successive drafts of section 1-105. On this point, the tendency was to overlook the fact that Judge Goodrich, in his support of these early drafts of section 1-105, had moved far away from Beale's still earlier rules. These reactions were, nevertheless, part of the reason for the slow acceptance of the Code by state legislatures in the next few years. Reconsideration of the language was called for, but there was no serious thought of abandoning the objective of having the Code apply to all the fact situations to which the due process clause would permit its application. It was sincerely believed to be a better body of commercial law than any other anywhere, and the best basis for choice of law was deliberate application of this "better law."

Simplification was the principal result of the reconsideration. The 1958 official draft of the Code, substantially completed in 1957, put section 1-105 in very nearly its present form. It became apparent that, apart from permitting parties to agree on what law should govern their transactions, the effect of the detailed listing in the 1952 Code of the fact situations to which the various portions of the Code were to apply was nearly the same as a simple statement that all the transactions listed were to be governed by the relevant parts of the Code. The listed fact situations, it was believed, all bore a constitutionally "appropriate relation" to the forum state in which the Code was the law. But if any of them did not, the new phrasing, "this Act applies to transactions bearing an appropriate relation to this state," evaded possible unconstitutionality. At the same time it avoided hard-and-fast rules of the Bealian kind and left the choice-of-law limits open-ended so that they would fit in with whatever new developments the future might bring to that small branch of constitutional law.

The next conflicts change came in 1972. It was not a modification of section 1-105 as such, but rather a deletion of all choice-of-law provisions from section 9-102 and a revision of the choice-of-law provisions in section 9-103, both dealing with secured transactions. This increased somewhat the scope of the first paragraph of section 1-105, but left as before the separate applicability of choice-of-law rules laid down for the five separate areas identified in the second paragraph of section 1-105, including the revised section 9-103. Section 8-106, on the law governing certain investment securities transactions, was revised in 1977, and another minor change was at the same time made in section 9-103, correlating it with the revised section 8-106. That is where the Code's conflicts sections stand today. There are still a number of doubts and unresolved questions not only under section 1-105 but under the other listed sections as well.

Party autonomy—reasonable relation

With specified exceptions, "when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties." What constitutes a "reasonable relation"? How far afield may the parties go in deciding for themselves what law is to govern their transactions?

The theory of party autonomy in choice of law has not always been accepted by American jurists, though it has for a century been a factor affecting choice of governing law in contracts cases. Acceptance of the parties' stated intention, or even their implied intention, as to what law should govern their contract is a part of the common law of conflict of laws today. To that extent the Code merely follows the common law. The unanswered question is only as to where the outer limit lies. The term "reasonable relation" sets an outer limit, and suggests that common sense defines it, but still does not locate it, geographically or otherwise.

The Official Comment on section 1–105 is not very conclusive. The Comment's principal reliance is on *Seeman v. Philadelphia Warehouse Co.*, a case in which, actually, no choice-of-law clause was involved. The holding was that a contract calling for a rate of interest usurious by New York law but valid by Pennsylvania law should be governed by Pennsylvania's law, and the contract sustained. There were substantial elements of both making and performance in each state. The court did rely upon an inference that parties contracting in good faith would have intended their contract to be governed by the law of the one of the only two related states that would validate it. This was not so much party autonomy in choice of law as it was a preference for the law that would validate a contract made in good faith—a "basic rule of validation" approach.

The Restatement (Second) of Conflict of Laws is somewhat more in point. It specifies an outer geographic limit on the contracting parties' freedom to name the governing law by providing that their choice will not control if "the chosen state has no substantial relationship to the parties or the transaction and there is no other reasonable basis for the parties' choice." This of course is only a negative, not an affirmative, statement as to how far afield the choice may go. Yet the implication that the parties are free to choose the law of a state unrelated to the transaction or to themselves is significant. The significance is increased by the implication that a "reasonable basis" for such an extraneous choice may exist. And the Official Comment on section 1–105 does say:

"an agreement as to choice of law may sometimes take effect as a shorthand expression of the intent of the parties as to matters governed by their agreement, even though the transaction has no significant contact with the jurisdiction chosen."

The argument that follows is that agreements by contracting parties as to what law shall govern their transaction are not essentially different from other parts of their contract upon which they are completely free to agree. The only limitation should be that they cannot lawfully do something that would be violative of the strong public policy of a concerned state. Reasonableness should have to do with good reasons for wishing a particular system of law to govern their transaction, not necessarily limited to states having physical contacts with them or it. That is the view taken by most academic interpreters of the Section.

A set of facts suggested by the most recent commentator illustrates the argument. Suppose a contract completed in Florida for sale of goods to be delivered to a Canadian buyer in Montreal by a seller incorporated in Delaware but operating factories in Arkansas, Louisiana and Wisconsin. The contract stipulates that New York law shall govern its validity, construction and enforcement. "The stipulation could be upheld based upon the parties' familiarity with New York law, its fuller development in dealing with issues of the type presented by the particular contract or perhaps the parties' preference for a particular substantive doctrine established under New York law. Unless the selection offends a fundamental public policy of the forum state or constitutes a wilful evasion that smacks of bad faith or overreaching, the court would have no cause to interfere with the choice of the parties." The same author, however, cites two cases both holding that similar contract stipulations were ineffectual because New York had no physical connection with the transaction sued on. Despite such cases, it is not unlikely that the "reasonable relation" required by section 1–105 will some day, in some courts, be held to be satisfied simply by the parties' deliberate designation of a relevant law that in their opinion best serves the purposes of their voluntary transaction.

It must not be thought that every choice-of-law clause in every commercial contract that any parties execute is deserving of enforcement. Such clauses can be hidden in the fine print of take-it-or-leave-it form contracts which casual customers have little or no opportunity to study. Adhesion contracts are always suspect. Something turns upon the meaning of the Code word "agree." The take-it-or-leave-it party may not have "agreed" to a strange and unread choice-of-law clause in the fine print that was never called to his attention. At least there can be as much justification for avoiding these clauses as there is for avoiding any other harsh and unanticipated provision in any kind of adhesion contract. Other Code provisions also afford means for avoidance of unfair choice-of-law clauses. Section 1–103 preserves defenses based on "estoppel, fraud, misrepresentation, duress, coercion, mistake, * * *"; section 1–203 "imposes an obligation of good faith" in all contracts; and section 2–302 permits refusal of enforcement as to any unconscionable clause in a sales contract. The enforceability of choice-of-law clauses is no more required than for any other sort of contract clause.

It must be admitted, also, that choice-of-law contract clauses have been avoided by simply neglecting to notice section 1–105 as a controlling statute.

One of the worries that was discussed when the party-autonomy part of section 105 was first drafted was whether third persons, not parties to the contract but affected by it might be prejudiced by the parties' selection of a state law unfavorable to the third persons' interests. Such third persons may include creditors of a seller who retained possession of the sold goods, other creditors of either party or nonbuyers in whose favor a warranty might or might not run.

The drafters' quick answer to this worry is in the wording of section 1–105 itself. It says that the parties may agree on what law is to "govern *their* rights and duties." This does not refer to the rights and duties of third persons. That may not be conclusive in all situations. More in point is subparagraph (2) of the section, which in its five specific exceptions identifies the situations in which the interests of third persons are most likely to be involved, and takes them out of the party-autonomy category. There may be other situations, but at least the problem is minimized.

"This act applies . . . appropriate relation"

"Except as provided hereafter in this section . . . [and] failing such agreement this Act applies to transactions bearing an appropriate relation to this state." One purpose behind section 1–105 from its beginning was that the Code ("this Act"), believed to be the most nearly perfect system of commercial law yet devised by man, should be as widely applicable as possible. Within the United States, the only limitations upon territorial applicability of an otherwise valid state statute (which was what was contemplated for the Code), are to be found in the Federal Constitution. What are they?

The due process clause in the fourteenth amendment is the traditional one, and probably still the principal one. *Home Insurance Co. v. Dick* is the leading case. In it, the United States Supreme Court held that for Texas to apply Texas law to invalidate a time-for-suit clause in a Mexican insurance contract, valid by Mexican law, was a violation of due process. The constitutional requirement, broadly stated, is that no state's substantive law may be applied to govern a transaction unless the transaction had some fairly substantial connection with that state. In *Dick*, the only Texas connection was that the plaintiff, assignee of claims under the Mexican contract, was a Texas domiciliary. That was not enough. There are many contacts that will suffice, but they must be significant ones.

The 1949 and 1952 drafts of section 1–105 listed a considerable number of specific contacts which the drafters believed, or at least hoped, would be accepted by the Supreme Court as sufficiently substantial to permit application of "this Act" or the designated one of the Act's articles. One of the frequently-voiced objections to these early drafts was that several of the listed contacts were so casual, so insignificant as elements in the total transaction, that they would not satisfy the constitutional standard. Some of them probably would not have. That was one reason why the specificity of the early drafts was abandoned in the present (1958) revision. Yet the basic thought that the Code was a superior body of commercial law that ought to be widely applied was not abandoned. Making it applicable whenever the facts bore an "appropriate relation" to the forum state having the Act preserved the potential for maximum applicability, without risking specific unconstitutional possibilities.

Another concern also was involved. This one arose partly from the fact that probable wide adoption of the Code, plus variant interpretations of it and local amendments to it, made it less urgent that "this Act" as it was operative in any given state be there applied to essentially extrastate transactions. Assurance that the Code as amended and interpreted in any given state was clearly the "better law" could not be maintained. Forum shopping by plaintiffs not interested in "better law" but only in law most favorable to their private interests would be encouraged by a choice-of-law rule always requiring application of the forum's version of the Code. The original purpose of the earlier section 1–105, to compel application of "this Act," in every state that adopted the Code, to every commercial lawsuit filed in the state, was no longer the worthy purpose that it had at first appeared to be.

Also important was the modernization of American choice-of-law law was occurring at about the same time, breaking away from the old hard-and-fast mechanical rules that had been accepted during most of the century. The infusion of Brainerd Currie's concepts of "governmental interest," of Ehrenzweig's idea of a "basic rule of validation, of Cavers' "principles of preference," and of the fundamental "choice-influencing considerations" into the mainstream of conflicts law has made that body of law far more reasonable than it used to be, and far more acceptable as an intelligent basis for choosing between competing laws.

Choice-of-law problems in commercial litigation do not arise as often today as they did before the Code or in the Code's early days. Many of them are resolved beforehand by agreement of the parties. Others are covered by the specific rules set out in the second paragraph of section 1–105. For the rest, the governing words "appropriate relation" can well be taken to refer to what appears to be appropriate under sensible modern choice-of-law principles. There is good reason to believe that this is the approach which the majority of courts are taking to the problem.

There may be infrequent cases not covered by either of the two sentences in the first paragraph in section 1–105, nor by any of the five possibilities specified in the second paragraph. These will involve transactions in which the parties have not agreed to as to what state's law shall govern and in which the transaction does not bear "an appropriate relation to this [the forum] state." The situation will arise when the plaintiff has for reasons of his own filed his lawsuit in what has been called a "disinterested third state." It might be resolved by a forum non conveniens dismissal. But if jurisdiction is retained, since the Code simply prescribes no choice-of-law rule for the case, the court must of necessity fall back on its preexistent statutory or common law of conflicts law, whatever that may be.

Paragraph (2) of the section

The second paragraph of the 1958 draft of section I–105 named five areas, identified by numbered Code sections, that were not to be governed by the rather loose provisions of the first paragraph. These areas, for the sake of maximum predictability of results in the transactions covered by them, were to be subject to hard-and-fast choice-of-law rules, explicitly laid down. The governing law was to be that of a designated place, so that the parties could know beforehand, by knowing that law, what the legal consequences of their transaction would be.

Maximum assurance of this predictability was provided by requiring, for each of the five areas, that the whole relevant law "including the conflict of laws rules" of the designated place be applied. Reliance upon this *renvoi* technique was designed to make certain that the forum court trying the case would handle the issue in exactly the same way that a court at the designated place would handle it, by applying the same choice-of-law rules that court would apply and thus reaching exactly the same decision that would be reached by a court at that place. Accidents might interfere with this absolute predictability, but that came as close to it as could be planned.

The section as thus drafted in 1958 remains unchanged except for the scope of the last (fifth) area. That was modified in 1972, and the modification has now been accepted in a majority of the states. Each of the five excepted areas will now be noted.

Section 2–402. This section in part of the Article on sales of goods. It deals with the rights that a creditor of the seller may have against the sold goods by reason of the seller's misleading retention of possession or other allegedly fraudulent conduct with reference to the goods. The Code itself provides that certain types of conduct are either fraudulent or not fraudulent. Apart from those provisions, section 2–402 prescribes a specific choice-of-law rule, that the law governing the creditor's rights, if any, in the sold goods (as against both buyer and seller) is that of the state where the goods are situated. This is the sort of case in which one related state's law is likely to be as good as another's, and about as relevant. The goods' situs is an ascertainable extrinsic fact on the basis of which a firm determination of governing law and resultant rights can most readily be made not only by a court but by the parties themselves.

Section 4–102. Article 4 of the Code deals with bank deposits and collections. Section 4–102 provides:

"The liability of a bank for action or non-action with respect to any item handled by it for purposes of presentment, payment or collection is governed by the law of the place where the bank is located. In the case of action or non-action by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located."

Here again the purpose was to lay down a clear and simple choice-of-law rule that would prescribe the law of an obvious and readily ascertainable place to govern the literally millions of elementary transactions that occur on every banking day in the United States. The Official Comment makes it clear that the rule is to "apply from the inception of the collection process of an item through all phases of deposit, forwarding, presentment, payment and remittance, or credit of proceeds." Unity of governing law is part of the objective. At the same time, however, section 4–103 permits the parties, "by agreement," to vary the choice-of-law rule laid down by section 4–102. Thus the party autonomy which is a central feature of section I–105 is available for this area also.

Section 6–102. The law governing bulk transfers of tangible goods is covered by Article 6 of the Code. The paragraph numbered (4) of section 6–102 provides:

"Except as limited by the following section all bulk transfers of goods located within this State are subject to this article."

The following section (6–103) does not deal with choice of law, but rather lists eight kinds of transfers that are not governed by Article 6 at all, therefore not by section 6–102.

Again, situs of the affected goods is made the controlling choice-of-law fact. There has been criticism of sections 6–102 and 6–103 of the Code, but the criticism has apparently not been directed at the choice of law provision in paragraph (4) of section 6–102.

Section 8–106. Investment securities (stocks, bonds, and the like) constitute the subject matter of Article 8. Section 8–106 does not lay down conflicts rules for all matters covered by the article, but only for a specified part of it. The first paragraph of section 1–105 governs as to the rest. The 1972 version of section 8–106 was as follows:

"The validity of a security and the rights and duties of the issuer with respect to registration of transfer are governed by the law (including the conflict of laws rules) of the jurisdiction of organization of the issuer."

That version is still the law in most states. In 1977, however, the section was changed to read:

"The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the validity of a security, the effectiveness of registration by the issuer, and the rights and duties of the issuer with respect to:

"(a) registration of transfer of a certificated security;

"(b) registration of transfer, pledge, or release of an uncertificated security; and

"(c) sending of statements of uncertificated securities."

It is interesting that both versions of the section repeal, presumably for the sake of emphasis, the *renvoi* provision which is in any event applicable to it, as well as to all the others of the five specified exceptions listed in the second paragraph of section 1–105.

The modification of the section does not change the rule as to what law governs the validity of a security as issued, nor as to the transfer of certificated securities. What it does is clarify the aspects and effects of registration, particularly of uncertificated securities, that are to be governed by the designated law. As under the earlier version, the first paragraph of section 1–105 relates the rest. Application of the law of the issuer's "jurisdiction of organization" to registrations and closely related matters present no real difficulties and is in keeping with normal expectancies.

Section 9–103. Secured transactions, the subject covered by Article 9 of the Code, includes some of the most difficult areas of commercial law, and the choice-of-law sections of the article have been among its most controversial. In the 1958–1962 version of the Code, section 9–102 applied most of the article's provisions to "any personal property and fixtures within the jurisdiction of this state." The 1972 revision deleted this choice-of-law clause completely. The 1958–1962 version, in section 9–103, dealt with choice-of-law issues as to validity, perfection and the effects of default in security transactions. The 1972 revision eliminated the conflicts parts dealing with validity and defaults, leaving only as hard-and-fast choice-of-law rules those parts dealing with perfection and the consequences of non-perfection of security interests. These obviously are substantial legal areas. But the deleted areas, from both sections, were also substantial. The choice-of-law rules applicable to them are now those set out in the first paragraph of section 1–105.

There are many ways in which movable goods can be pledged as security for discharge of obligations owed to creditors or other obligees, and many ways in which third persons may acquire conflicting claims. Removal of the goods from one state to another may be contemplated or not contemplated by the secured party (obligee), and removal may occur even though it was not contemplated. Removal increases the risk that third persons may, possibly in good faith, acquire conflicting claims to the goods. Official recordation of the security transaction ("perfection" of the security interest) is the accepted method for validating the security holder's interest as against most of such conflicting third-person claims. But recordation where?

That is the principal question which section 9–103 undertakes to answer, along with companion questions as to the effects of non-perfection. Potential fact situations and the variant rules prescribed for them by section 9–103 are too elaborate for detailed explanation in this short article. They are much clearer, however, under the 1972 revision than they were before, also more fair and more efficient. They are sufficiently specific that not a great deal of litigation on choice-of-law questions has developed in states, now a substantial majority, that have enacted the 1972 revision, and commentators on the section have envinced general agreement as to its scope and applicability. By 9–103(1)(b) perfection of security interests is governed by the law of the state where the chattel was located at the time of the transaction, except that under 9–103(1)(c) if at the time a purchase money security interest is created the parties contemplate removal of the chattel to another state then the law of the other state governs, subject to a 30-day recordation requirement. A certificate of title thus issued will in most situations protect the holder of security interests noted on it for four months after the chattel is removed to a different state, after which time an innocent purchaser, under 9–103(2)(b), will take free of a locally unrecorded security interest.

There are still problems, especially with reference to inherently movable chattels such as motor vehicles. Most of the states have motor vehicle title certificate laws, under which motor vehicle titles are integrated in properly issued certificates, but not in improperly issued ones. In the ten states which have enacted the Uniform Motor Vehicle Certificate of Title and Anti-Theft Act, there is coordination with the corresponding provisions of the Code, but in some other states there may not be. Perfection of security interests in chattels the title to which is supposed to be integrated in a title certificate is referred by the Code to the relevant title certificate law. Under the Code, however, if a title certificate though improperly issued in a second state (fraudulently procured, as after a theft or by an absconding buyer after a conditional sale) is fair on its face, a buyer of the chattel who purchases it in good faith and for value in reliance on the bad certificate, and "who is not in the business of selling goods of that kind," gets good title even against the owner of a prior properly "protected" security interest. A used car dealer who relies on such a bad certificate, on the other hand, would not prevail over the prior security interest.

* * * * *

Mr. HOLLINGS. Mr. President, I will read this little example to show exactly what we are getting at:

Suppose a contract is completed in Florida for the sale of goods to be delivered to a Canadian buyer in Montreal by a seller incorporated in Delaware, but operating factories in Arkansas, Louisiana, and Wisconsin; the contract stipulates that New York law shall govern its validity, construction, and enforcement.

Now, there we are. Talking about foreign shopping, New York lawyers sitting up there on the top floor of the World Trade Center Building, having their martinis at lunch, they say, "We do not care what State this is in, we have the Universal Commercial Code and for us we will select where we are, where it is convenient for us to try cases, or any other forum that is available to us." But not the injured party.

They claim all they want is uniformity, but have the unmitigated gall to include an exclusion for manufacturers—for manufacturers. They boldface put it in there as an exemption for manufacturers for this particular law that they say is such a national necessity.

I have seen a lot of activity in my service here as the junior Senator over the years, but I have never seen a provision where they come in, absolutely representing the manufacturers and saying they are trying to get money to the injured parties. They really say that. I will go back to the CONGRESSIONAL RECORD and show it.

Where all the representative organizations of injured parties, whether it is the lawyers themselves or otherwise the consumer groups of Americans say "No, no, no, do not give us this," yet they put in all the favorable provisions for the manufacturers. With respect to the joint and several, we know there are some 10 States that do not include joint and several but rather, several only for the proof of compensatory damages.

Do we think they make that uniform? Just as they do not extend punitive damages to those States that do not have it, they do not extend the joint and several provision to those States that only have several.

If it was the intent to get uniformity, we would have it there, but they do not provide it there.

So, we can go right on down the list in all regards to this particular bill with respect to uniformity on the one hand, or how far they have come over the past several years and made it more reasonable, when the truth of the matter is they have included a lot of things here in this particular measure that were included in the House bill, so that when it passes the Senate, of course, it will not be conferenceable at all. It will not be subject to the conference because it will be a provision not in dispute but contained in both measures.

I yield the floor.

AMENDMENT NO. 597 TO AMENDMENT NO. 596

(Purpose: To provide for equity in legal fees, and for other purposes)

Mr. ABRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DEWINE). The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM] proposes an amendment numbered 597 to amendment No. 596.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the reading be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment add the following new title:

TITLE III—EQUITY IN LEGAL FEES

SEC. 301. EQUITY IN LEGAL FEES.

(a) DISCLOSURE OF ATTORNEY'S FEES INFORMATION.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term "attorney" means any natural person, professional law association, corporation, or partnership authorized under applicable State law to practice law;

(B) the term "attorney's services" means the professional advice or counseling of or representation by an attorney, but such term shall not include other assistance incurred, directly or indirectly, in connection with an attorney's services, such as administrative or secretarial assistance, overhead, travel expenses, witness fees, or preparation by a person other than the attorney of any study, analysis, report, or test;

(C) the term "claimant" means any natural person who files a civil action arising under any Federal law or in any diversity action in Federal court and—

(i) if such a claim is filed on behalf of the claimant's estate, the term shall include the claimant's personal representative; or

(ii) if such a claim is brought on behalf of a minor or incompetent, the term shall include the claimant's parent, guardian, or personal representative;

(D) the term "contingent fee" means the cost or price of an attorney's services determined by applying a specified percentage, which may be a firm fixed percentage, a graduated or sliding percentage, or any combination thereof, to the amount of the settlement or judgment obtained;

(E) the term "hourly fee" means the cost or price per hour of an attorney's services;

(F) the term "initial meeting" means the first conference or discussion between the claimant and the attorney, whether by telephone or in person, concerning the details, facts, or basis of the claim;

(G) the term "natural person" means any individual, and does not include an artificial organization or legal entity, such as a firm, corporation, association, company, partnership, society, joint venture, or governmental body; and

(H) the term "retain" means the act of a claimant in engaging an attorney's services, whether by express or implied agreement, by seeking and obtaining the attorney's services.

(2) DISCLOSURE AT INITIAL MEETING.—

(A) IN GENERAL.—An attorney retained by a claimant shall, at the initial meeting, disclose to the claimant the claimant's right to receive a written statement of the information described under paragraph (3).

(B) WAIVER AND EXTENSION.—The claimant, in writing, may—

(i) waive the right to receive the statement required under subparagraph (A); or

(ii) extend the 30-day period referred to under paragraph (3).

(3) INFORMATION AFTER INITIAL MEETING.—Subject to paragraph (2)(B), within 30 days after the initial meeting, an attorney retained by a claimant shall provide a written statement to the claimant containing—

(A) the estimated number of hours of the attorney's services that will be spent—

(i) settling or attempting to settle the claim or action; and

(ii) handling the claim through trial;

(B) the basis of the attorney's fee for services (such as a contingent, hourly, or flat fee basis) and any conditions, limitations, restrictions, or other qualifications on the fee the attorney determines are appropriate; and

(C) the contingent fee, hourly fee, or flat fee the attorney will charge the client.

(4) INFORMATION AFTER SETTLEMENT.—

(A) IN GENERAL.—An attorney retained by a claimant shall, within a reasonable time not later than 30 days after the date on which the claim or action is finally settled or adjudicated, provide a written statement to the claimant containing—

(i) the actual number of hours of the attorney's services in connection with the claim;

(ii) the total amount of the fee for the attorney's services in connection with the claim; and

(iii) the actual fee per hour of the attorney's services in connection with the claim, determined by dividing the total amount of the fee by the actual number of hours of attorney's services.

(B) WAIVER AND EXTENSION.—A client, in writing, may—

(i) waive the right to receive the statement required under subparagraph (A); or

(ii) extend the 30-day period referred to under subparagraph (A).

(5) FAILURE TO DISCLOSE.—Except with regard to a claimant who provides a waiver under paragraph (2)(B) or (4)(B), a claimant

to whom an attorney fails to disclose information required by this section may withhold 10 percent of the fee and file a civil action for damages resulting from the failure to disclose in the court in which the claim or action was filed or could have been filed.

(6) OTHER REMEDIES.—This subsection shall supplement and not supplant any other available remedies or penalties.

(b) EFFECTIVE DATE.—This title shall take effect and apply to claims or actions filed on and after the date occurring 30 days after the date of enactment of this Act.

Mr. ABRAHAM. Mr. President, my esteemed colleague from Kentucky and I are proposing here an amendment which would establish a consumer of legal services' right to know how much he or she is paying and for what services. This is a right we recognize in most other markets for goods and services, and one which is no doubt recognized and respected by most reputable attorneys.

Nonetheless, Mr. President, there are too many cases in this country in which tort victims and other consumers of legal services have real difficulty determining whether they are getting a fair shake from their attorney.

As a result, victims receive less of their rewards than they should, the legal system costs everyone too much, and ever-higher fees are encouraged by a lack of competition.

Mr. President, this amendment will give consumers of legal services the means with which to make informed decisions concerning their legal representation. By establishing a consumer's right to know in the legal services market it will encourage competition and fair dealing. It will help make our system more fair to litigants and reduce the total cost of our legal system.

The unfairness of our current system is shown by the fact that tort victims receive only 43 cents of every $1 awarded from damages—the other 57 cents going to pay lawyers and court fees and to cover the litigants' lost time.

A significant portion of the 57 cents taken by the legal system goes directly to attorneys. Plaintiff's attorneys, in particular, collected from 33 to 40 percent of the average award in a contingency fee case—that, plus fees for all costs related to the litigation.

Now, I am not begrudging the hardworking attorney for his or her hard-won fee. Nor am I proposing that we establish any set fee. But it seems clear to me that something is wrong with a system in which, as was noted by Professor Lester Brickman of the Cardozo School of Law, 25 to 30 percent of all contingency fee cases have no real contingency.

In particular, in cases such as those involving airline crashes, fault often is not in doubt as a practical matter. This means that plaintiff's lawyers, who still collect their full 33-to-40 percent fee, may receive the equivalent of $10,000 or even $30,000 per hour.

I was struck in particular by a 1989 case Professor Brickman noted out of Alton, TX, in which a school bus was hit by a delivery truck. In this tragic incident 21 children were killed and 60 were injured. Obviously and rightfully there was a large judgment in favor of the plaintiff/children.

While there was no doubt about who was at fault, the lawyers still charged their full fees. As a result, according to Professor Brickman, the attorneys received as much as $30,000 an hour for their services—money for which they did little and which could have done much more to help the victims and their families.

Mr. President, victims are losing out, and so are the rest of us, because legal costs are too high. Professor Brickman estimates that contingency fees now run $13 to $15 billion annually. This represents a substantial portion, more than 10 percent, of the $132 billion which Tillinghast research estimates we spend as a nation on our legal system each year. This $132 billion acts as a huge, business-stifling liability tax on consumer goods and services.

Now, again, most attorneys recognize their duty to inform clients of how much they will be paying and for what services. Indeed, this is a standard for professions in general.

Doctors provide fee schedules to insurers. Architects and even furniture movers provide written, binding estimates upon request. Consumers of legal services, I believe, deserve the same treatment.

This is what our reforms would provide: At the initial meeting with the prospective client the attorney would be obligated to inform the client of his or her right to obtain a written fee statement within 30 days. This statement would contain, first, the estimated hours of the attorney's services that will be spent settling or attempting to settle the claim and handling the claim through trial; second, the basis on which the attorney proposes to charge the client—hourly, contingent, or flat fee; and third, the hourly rate, contingent fee, or flat fee the attorney proposes to charge.

The attorney would be obligated to give this statement to the client within 30 days unless the client in writing waives the right to receive it or extend the attorney's time within which to provide.

Similarly, within 30 days after completion of the litigation either by settlement or trial, the attorney would be obliged to furnish the client a written statement describing, first, the number of hours the attorney expended in connection with the claim; second, the total amount of the fee; and third, the actual fee per hour charged, regardless of how the fee was structured. Again, the client could waive the right to the statement or extend the 30-day deadline.

A claimant who does not receive the requisite disclosures has the right to withhold up to 10 percent of the fee charged and to file a civil action for any damages the client incurred as a result of the failure to disclose.

Mr. President, we need these reforms to help potential clients make informed decisions concerning legal representation.

The legal services market is in particular need of open information because clients may never have dealt with the legal system before. This lack of client experience establishes a significant information and expertise imbalance, one that can lead to a client's receiving less favorable treatment than he or she might obtain with better information.

Moreover, this problem is made worse when an attorney is hired to provide services for a single piece of litigation. That lawyer does not have the same incentives to keep the clients happy at the conclusion of the lawsuit as an attorney providing services to a longstanding firm or client on an ongoing basis.

The right to know established by this amendment will facilitate an exchange of information concerning the quality of legal services provided, and even single-issue relationships.

Thus we can empower clients in their dealings with attorneys while actually increasing the ability of market forces to work in the legal services markets. The result will be increased competition, better service, lower fees, and savings for everyone.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the amendment proposed by my friend, the distinguished Senator from Michigan, is the first amendment that has been proposed to this bill in something over 24 hours of debate. It is a most interesting amendment. I hope that any Member who feels that he or she can contribute to the debate on the amendment will appear on the floor and share with Members of the Senate that Senator's views.

The amendment is relatively modest in one respect, and in another sense is expansive. It is not directly connected with the other provisions of this bill in that it is not limited to product liability litigation. It is, on the other hand, limited, as I understand it, to actions in Federal court—basically in the U.S. district courts—and applies to all such litigation in those courts.

The concept that there should be disclosure, both in the initial stages of an attorney-client relationship and at the end of that relationship, over a particular case is, of course, an appropriate one. On its surface, the amendment seems to be constructive. I hope we will very promptly get the views of other Senators on the subject.

I would like to conclude the debate on this relatively narrow amendment before we adjourn this evening.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. While I am trying to obtain a copy of the amendment, I have in hand from the distinguished Senator from Michigan a copy of a letter dated April 24, I take it, outlining the amendment itself. It says here:

> Under our proposal, at the initial meeting the attorney would be obligated to inform the client of his or her right to obtain, within thirty days, a written statement containing (1) the estimated hours of the attorney's services that will be spent (a) settling or attempting to settle the claim and (b) handling the claim through trial; (2) the basis on which the attorney proposes to charge the client (hourly, contingent or flat fee); and (3) the hourly rate, contingent fee, or flat fee the attorney proposes to charge. The attorney would then be obligated to provide that statement to the client within thirty days unless the client in writing waives the right to receive it, or extends the time.

Mr. President, on the matter of fees, I was in the practice actively for 20 years and I never had outlined this. I have always had an understanding, and a written one. I wish I had one of the forms here, because it was the minimum fee schedule, approved by the Charleston bar, my hometown, where we had a minimum fee schedule—at a formal meeting that was agreed upon—and that was a contingency contract. And wherein I was retained, I had that contingency contract signed not only by, of course, the client, but by myself.

In 20 years I have never found this problem. You can get this professor. I doubt he has tried a case, because I find that is the case with most professors and that is why they are professors.

But right to the point, this so-called estimated hours. Let me go to one of the cases that was taken all the way to the Fourth Circuit Court of Appeals and then finally abandoned before the Supreme Court. It was a case of the C&S Bank as the trustee for Harold Tummestone versus the Morgan Construction Co. The reason I got the bank as a trustee is because the particular individual had been severely damaged, brain damaged, which I will be glad to go into because, unless others want to speak to this particular amendment, until I can get a copy of it I want to say a few words.

But we wanted to get comity or the trustee to bring that particular case. I knew the bank had credibility. I wanted to bring credibility to this so-called damage suit. Of course I got the bank to go over there and handle it and have them review all of my activities.

With respect to that, I can tell you the bank would not have required, and the bank would not have had any idea, nor would I have had any idea about the estimated hours of the attorney's services that will be spent (a) settling or attempting to settle the claim.

Excuse me, let me rescind that particular statement by saying, yes, I could have put on there an estimation of (a) the hours spent settling or attempting to settle the claim. But, I can tell you here and now, they never offered any settlement. We tried that case. It was not until the jury came in that they wanted to try to even talk about settlement. I will never forget it. The trial judge in court recommended that we settle the case. The truth of the matter is I had proven a very, very strong case. I felt very confident. In spite of the admonition of the trial judge, I told him to go ahead and write his order, whatever it was, but I was not going to yield 1 red cent on that particular verdict because I knew what we had done. And I was not offered any settlement.

I never had billable hours. That is annoying to this particular Senator and lawyer. I have no idea how you can really make it. You might sit in an office and talk about so many hours you are going to try to settle. But it depends on how you reach the case on the docket and what the pressure is that you can bring on the defendant, if they can get a continuance and everything else of that kind, and there is such a tremendous variable it does not help the client and it does not help the lawyer. It is a sort of spurious thing.

We believe in the client being informed. The information that I have always had with respect to the contract and agreement with my clients is just exactly as I have pointed out. It is a contingent basis of one-third, whereby we assume, as the attorney for that particular case, all costs and all court costs, all medical fees to get examined by doctors and specialists' fees.

I remember in this particular case I had to get a neurosurgeon to come down and spend several days and later on testify. So not only were his fees billed to me—you have to pay the doctor's fee if you do not want a witness who feels like he has not been paid. You want him to be a happy witness, so you pay his medical fees. You pay the investigative fees. You pay all the interrogatory fees, discovery fees, all the time. You pay for the appeals and the brief and the court, the transcript of record and everything else, the printing of that on appeal.

And of course all your hours and time—I did not sit down and start computing hours and time. But for the poor, indigent client, "Look. Don't worry. We will do our level best to get you any recoveries made, and any offers made we are obviously going to tell you what the offer is and make sure you know about it. And you have the approval or disapproval of any kind of settlement offer." Because, of course, we have malpractice in law as well as malpractice in medicine. So you have to protect yourself and deal open and on top of the table with the particular client.

But I can tell you now. Being at the bar, this particular thing here is the first I ever heard of it. I started in 1947; 1997 would be 50 years. So in almost 47 years of practice, I never heard this as a problem. Let me go further. I can tell you what I find as a problem. But the basis on which the attorney proposes to charge the client an hourly contingent or flat fee, I think I can answer that and just say what I have said here.

Three, the hourly rate contingent fee or flat fee the attorney proposes to charge.

So mine again would be just the contingent fee. I could comply with two and three. But I have no idea about the estimated hours of settling or attempting to settle the claim and estimated hours of handling the claim through trial. Of course, it says nothing here about the appeal.

It says similarly, within 30 days after completion of the litigation, either by settlement or trial, the attorney would be obliged to furnish the client a written statement describing, first, the number of hours the attorney expended in connection with the claim; second, the total amount of the fee; and, third, the actual fee per hour charged regardless of how the fee was structured. That brings us back.

I really object to bringing it back to billable hours because we have to work and represent clients. I am not in Michigan in one of these large law firms. We are in a relatively small town. I guess speaking with respect to large law firms in any event, and I have to spend, not bureaucracy and regulatory. Here we have regulatory reform. Now they have regulations here about actual fee per hour charged. We will have to hire someone to keep track of this thing because I have work to do, study the law, interview the witnesses, and talk about not only the pleadings and everything else of that kind but the chances of prevailing. All of that is tied up as we have been hearing about 2 to 3 years. I would rather just put it on a contingent basis trying my best to get it to trial and get it to a conclusion, and not be into the proposition of the actual fee per hour charged and trying to compute it.

There is nothing wrong with disclosure. Like I say, I disclose. I want a clear understanding. I cannot represent a client fully and fairly unless there is absolute trust. You build that up. You do not write that into law up here in Washington. I practice law. You get a reputation. You get a reputation for trust and for accomplishment, and by that reputation of being able to be successful at the bar and totally trustworthy, the word spreads. You get a client and you get a successful law practice. Incidentally, I had it. I had at least three times what I made when I got here in 1966.

But one of the things I really did not like was charging clients. I never did charge enough. A client told me that later on, as did several lawyers. I would rather come up here where I do not have to worry about charging the clients. I can talk to the jury and then go in with the jury and vote. I like this much better. I get a variety of cases, too. I do not get a reputation just by bringing one set of cases on the claimant side. You get any and every case whether it is a terrorism case, whether it is a product liability case, or whether it is going to be telecommunications or whatever it is. So it is the enrichment of the learning experience up here that attracted me and not the fees.

But having said that, what really disturbs me is this trying to bureaucratize the law practice which I have resisted. But if we are going to go ahead and bureaucratize the law practice, what really is outrageous in my opinion is this billable hours whereby this crowd downtown here is charging $300, $400, $500 an hour.

I will never forget when I was first up here and I put in on the case statute the textile amendment. I got help from the distinguished Senator from New Hampshire on the other side of the aisle, Norris Cotton.

After we succeeded in passing that textile bill over 25 years ago, Senator Cotton said, "You know what so and so downtown was paid to pass that bill?"

I said, "I did not know he had anything to do with the bill."

He said, "No. But he was retained by the industry and given $1 million to get that bill through."

I said, "Did you ever talk to him?"

He said, "No. I never did talk to him. But I just found that out." I never talked to him.

But these lawyers in this town get these enormous fees. I found since that time regarding drugs—that is a terrible menace to our society—that these lawyers that are successful in the drug cases immediately demand and receive a $50,000 retainer, $100,000 retainer, large, exorbitant fees of that kind. I think that is really the thing that discourages society against the lawyers. I think what we ought to do really is limit the attorneys' fees. I think what we ought to do is limit the billable hours, the attorneys' fees in all cases, the billable hours to $50 an hour.

Mr. President, at $50 an hour, at a 40-hour workweek, and a 52-week year, you would exceed over $100,000. That is just $50. Of course, if you work on weekends and overtime like any trial lawyer would work overtime. Everybody was off to the football game and Sunday afternoon driving with the family, and I was working in the office and Sunday night getting ready to go to court on Monday morning. You could easily at $50 an hour, if you work as a lawyer, make $150,000 to $175,000 a year. I think that is a good salary for a working lawyer. Senators get less, of course, and work harder. We start out early in the morning around here, and then when you supposedly get time off like Easter break, that is constituent service.

What I want to do is send an amendment to the desk to limit attorneys' fees in all civil actions to $50 per hour. And at the end of the matter proposed to be inserted, I want to add section 302, limitation on fees. If an attorney at law brings a civil action, or is engaged to defend against any civil action, the word "action" should be inserted there because I was not familiar with this particular amendment and never had heard of it until the distinguished Senator from Michigan submitted it. But if any attorney at law brings a civil action or is engaged to defend against any civil action, the attorneys may not be compensated for legal services provided in connection with that action at a rate in excess of $50 an hour.

I expect to get reelected on this amendment. I can tell you here and now, if we can bring that down to $50 an hour. I remember my poor colleagues on ethics charges having to go back on this particular record.

You have my colleagues here right now who would elect me President of the Senate if they could get a fair vote because they were charged $400 an hour, and they all owe their lawyers downtown. You come to this place and in the legal game of bringing ethics charges and everything else of that kind and then having to go through all the records and what have you and pay the lawyer downtown, you have got $400, $500 an hour. I have heard of all kinds of charges of that nature. And I think that what we ought to do is get to the real problem in these civil actions, not just in product liability, if we are going to have an amendment that goes into all of this disclosure like there is some kind of secret hocus pocus.

Now, let me agree with the distinguished Senator from Michigan. I noted in that letter as I was reading, and I quote, "This concern is not merely hypothetical." So says the Senator from Michigan.

To give just one example: According to the Washington Post, last month, attorneys collected $16 million in a settlement of antitrust claims against several airlines. Their clients received coupons worth $10 to $25 redeemable toward the purchase of airline tickets, under limited and restricted conditions. According to Prof. Lester Brickman of the Cardozo School of Law, in many tort cases lawyers are charging standard contingent fees even though the contingency is in name only. Similarly, professionals who audit law firm fees find significant overcharging in many of the cases they examine.

If you got the contract that this lawyer has had, you cannot find any overcharging. If you get the one-third, you have to pay all the costs and you have been paying for doctors; you have been paying for printing costs; you are paying for interview costs; you are paying all kind of costs over the 2- to 3-year period, and that comes out of your fee. That does not come out of the claimant's award or verdict, I can tell you here and now.

I do not know the background of this particular case, but it is obvious to me this antitrust claim—and that is what these lawyers get in so much billable hours. I noticed in one they had on another bankruptcy, and so forth, if someday we can retire and get to be a referee in bankruptcy and sit around on golf courses, learning how to finally settle the bankrupt nature of the entity, we can pay really thousands and thousands of dollars in fees, which to me is a disgrace. I have seen that happen in my own backyard, and I have complained about it in our hearings on bankruptcy cases.

But this $16 million in the antitrust claim no doubt was approved by the Court itself. Now, they had a claim and they had all of these billable hours. I know how to get that $16 million down to about $2 or $3 million by coming down to my amendment with $50 an hour maximum at that particular time. I think that is one way to rectify what the distinguished Senator from Michigan finds is an abuse.

It is not really lack of disclosure because when you get an antitrust case of this kind, you bring a class action, which apparently this was, you really produce a case that was not in existence. You go around and fetch people who do not have any idea that they are being recharged and you tell them I wish to get and bring a class action; I happen from research to believe that you have a case here; you are not obligated to pay anything to me unless we succeed.

So the clients, while the distinguished Senator from Michigan may complain and I may complain at an inordinately high $16 million fee, you can bet your boots that the people themselves had nothing to complain about because they did not have anything in the first place. They did not even know they had a claim. They did not even know they could get involved and help bring this abusive practice of overcharging by the airlines to a halt.

So they have performed a public service. Whether the lawyers in that particular case deserved $16 million, at least the Court thought so. And the clients could well have appealed, and it could have been adjusted, and it could be subject now to adjustment and that kind of thing. I just really do not know. I agree that I am, as the Senator from Michigan, disturbed not about disclosure because clients can find out. And I can tell you now, if you have a client and you come around and all of a sudden win a case and you do not have an understanding, that client can go to another lawyer and you have malpractice on your hands. You can be hit with a malpractice suit, whether they win or lose. What happens is that hurts your reputation. So irrespective of the merit of the particular case, you are supercautious in this day and age to not engage in any kind of misunderstanding with clients. So, yes, write it down, write down the contingent fee.

But I would have to oppose the amendment with respect to the billable hours. But if there is to be billable hours in product liability claimants attorneys' restrictions, then I think maybe, if that is the will of the body, they want to consider limiting attorneys' fees in all civil actions to $50 per hour.

AMENDMENT NO. 598 TO AMENDMENT NO. 597

(Purpose: To limit attorneys' fees in all civil actions to $50 per hour)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk to the amendment of the Senator from Michigan and ask that the clerk report.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows.

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 598 to amendment numbered 597.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the matter proposed to be inserted, add the following:

SEC. 302. LIMITATION ON FEES.

If an attorney of law brings a civil action or is engaged to defend against any civil action, the attorney may not be compensated for the legal services provided in connection with that action at a rate in excess of $50 an hour.

Mr. HOLLINGS. I have explained the amendment and read it to my colleagues.

I thank the Chair. I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I am pleased to be a cosponsor of the amendment by the distinguished Senator from Michigan [Mr. ABRAHAM] requiring lawyers to disclose to their clients information about fee arrangements.

The amendment of the Senator from Michigan is a very simple consumer protection amendment. Too often, those in need of legal services are inexperienced in evaluating whether they are getting good value for the money they pay. After all, choosing a lawyer is not exactly like choosing a lawn mower. No objective specifications, to my knowledge, exist. It is virtually impossible to compare prices. The only thing a prospective client may know in selecting the lawyer is what law school he or she attended, and that he or she passed the State bar examination. The client may not even know if it took the lawyer more than one try to pass the bar exam. And unfortunately, some lawyers take advantage of unsuspecting clients. In contingent fee cases, lawyers charge standard rates, regardless of how much effort or how much risk is involved in the particular case, typically, to take one-third of any settlement, 40 percent of any award resulting from trial, and frequently 50 percent if the case gets appealed. Many jury verdicts are eventually reduced on appeal, so often an injured person will recover less money the further the case is litigated.

A few weeks ago, the Washington Post reported on the settlement of an antitrust case against several airlines. The clients got $10 to $25 coupons redeemable under restricted and limited conditions. The lawyers shared $16 million in fees.

Lawyers who bill their clients on an hourly basis create problems of a different sort. Consider the case of the Denver law firm that claimed it did not bill its clients for the first class airfare. A legal auditor hired by a client discovered that the firm bought business class tickets but individual lawyers were upgrading to first class at the airports and then billing the clients. In another firm, a lawyer was discovered to have billed for 62 hours in a single day—quite an accomplishment, I might say.

Still, another lawyer drafted a motion for a client that could be used in thousands of asbestos cases that the lawyer was defending. The lawyer billed his clients 3,000 separate times for the same motion—3,000 separate times, I repeat, Mr. President, for the same motion.

These anecdotes are related in a recent U.S. News & World Report story entitled "Lawyers Who Abuse the Law." Add on to a few lawyers who take advantage of their clients the reality that the legal system does not fairly compensate those who seek redress. Someone injured because of another's negligence has as much chance of winning in a lawsuit as he or she does by taking a turn at the gaming tables of Las Vegas. Sometimes, as at the casinos, it is possible to win big. But we know that in gambling, the house is usually the big winner. The same is true in the legal system, only the house is the system itself—lawyers and court costs.

After all, more than half of every dollar spent in the liability system, 57 cents goes to the lawyers and to the courts. The injured get only 43 cents of that dollar.

These experiences are causing the American people to lose confidence in our legal system. The same U.S. News & World Report article found that 69 percent of the American people believe lawyers are only sometimes or not usually honest.

Restoring integrity to our legal system is a fundamental goal of this reform effort. This amendment is designed to give clients some reasonable information about the financial aspects of the relationship with a lawyer.

Under the amendment of the Senator from Michigan, the lawyer would be required to provide the client with two statements, one at the outset of the representation and another when the case is concluded.

The attorney must provide the client with the following information at the beginning: How many hours will be spent trying to settle the case; how many hours it will take to bring the case to trial; how the attorney will charge the client—hourly, contingent, or flat fee; and, the precise rate.

A final statement at the end of the case must include the following: The number of hours the lawyer spent on the case, the total amount of the fee and the effective hourly rate, regardless of the rate actually charged.

This basic information will go a long way toward restoring America's faith in our legal system, and it will enable those who need legal counsel to be better informed in selecting counsel. The scope of the amendment is limited. It applies only to those cases filed in Federal courts. So the Senator from Michigan has narrowed the scope of this considerably.

While there is no reason for these disclosure requirements not to apply to State courts, we are trying to be mindful of imposing too many requirements upon the States in this particular instance. So we have left the scope of this effort quite narrow, and the States are free to adopt these disclosure requirements on their own, obviously.

Let me close by stating what the amendment does not do. First of all, it does not prohibit or restrict contingent or hourly fees. It does not mandate the use of contingent or hourly fees.

We recognize the importance of contingent fees. In some situations, a contingent fee may be the only way a person can afford to hire a lawyer to pursue a case. But the Abraham amendment affords consumers important information. It will help those choosing lawyers to be good consumers, and it will put consumers on a more level playing field with the lawyers whose services they need.

So I want to commend the distinguished Senator from Michigan for his amendment. I think it is an excellent amendment. I hope it will be adopted by the Senate at the appropriate time.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, of course, you can see now what is entering into this particular issue, and that is what I would call candor. The reason this issue has survived over 15 years but never passed the Senate, the reason it hasn't gotten anywhere is the antipathy to lawyers. And here in the middle of the treatment of product liability, a very restricted part of civil actions—you take all the civil actions in the United States filed, 9 percent of all civil actions filed comprise tort claims. And if you take all the tort claims filed, only 4 percent of the 9 percent comprise product liability.

What you have is thirty-six one-hundredths of the civil actions being treated in product liability. But superimposed on top of that comes the first amendment, and the first amendment is: "Kill all the lawyers," they said in King Henry VI, Shakespeare. We will kill all the lawyers here. We have the disclosure of attorneys fees and information.

They take an anecdotal measure that they refer to in the newspaper relative to antitrust, having nothing to do with product liability, and they put in an antitrust charge which is no doubt a class action—not class action on product liability—and a class action that has been conducted over the many years. I have to go back and find out what it was.

Quite to the point, the $16 million, with the inference here, they do not tell you how many millions went to the claimants. Obviously, millions went to the claimants, but when you had thousands and thousands of claimants, maybe millions of claimants, then it did reduce it to a $10 to $25 redeemable toward the purchase of an airline ticket.

Those things come out when you get the full facts. But this anecdotal approach, and taken with all civil cases in Federal court and putting down lawyers' disclosure amounts gets to the candor that really is behind the movement here at hand.

Product liability has been handled at the State level and in a very judicious and forceful fashion. We know it is not a national problem. All the little things that they tried to bring up over the years—incidentally, Mr. President, by way of amusement to this Senator, I remember when they brought up the Little League, and the Little League had the right and said, "No, no," we are not a part of this case. Then they had an anecdotal amount of Girl Scout cookies and they had the right and said, "No, we are not into this at all". Then our former colleague who, incidentally, sat right here in the Senate, the Senator from South Dakota, George McGovern, was on a little TV exposé, how he went out of business on account of product liability, and then he reversed field and said, "No, no," they had cut that particular little 30-second bite that they had him and former Congressman and then Secretary Jack Kemp on, which they were trying to build up.

They tried every amusing thing in the world to give some force and credence to our product liability problem. There is none. There is no national problem in product liability. Now if we cannot get the votes for that, then what we ought to do is get lawyers fees here and call it disclosure, like the lawyers are running around cheating their clients. Come on. If the lawyers do that, they are not going to last long. I do not know what town they practice in, but reputation means everything in the profession. Oh, yes; we object to doctors and doctors' fees and everything else, until we get sick, and then we want the best and we love our doctors. In a similar fashion, yes; they all complain about the lawyers, until they get in trouble and then they get a lawyer of their choice and have complete trust.

Like I say, at the bar we require a minimum fee kind of schedule and contract, and the lawyers of the local bar associations police their groups. And, yes, there are many cases being brought up now before our State supreme court for malpractice, disbarment, and everything else of that kind, where they have taken the client's money. But that was not because they did not disclose. You are going to find those kinds of lawyers and those kind of individuals in every practice, profession, trade, or business.

It is unfortunate, but you certainly do not need here at the Federal level to try and burden product liability with a lawyer fee act. But if we are going to do it, let us get to the real heart of the matter, because there is a cleavage of division. When, Mr. President, I work for you as my client, I do not get paid until I succeed and you understand the percentage or the contingent basis. If I go to you under billable hours, in addition to trying to win your case, I am trying to win myself more fees, and on a billable hour basis, the more I can say that I worked on Saturday and I spent some hours reading here and I looked there and everything else—in other words, I am trying my case and not the client's case.

I think that is unethical. I think it is basically unethical. There are a lot of things that I think are unethical. Perhaps our conference that we have around here every Tuesday trying to ambush each other is. We never had that before. We had policy committees. As the distinguished Parliamentarian who has been here for years knows, the policy committee set the seriatim of the treatment of measures. But we never had parties meeting, the Republican conference and the Democratic conference, to meet in ambush of the other side and come around here and talk about ethics.

When you get these billable hours, you begin to work for your billable hours, you begin to work for your case rather than the client's case. I never did like it. I never charged billable hours. I resent it and reject it. But if we are going to have it, let us limit it because it is unforgivable what they are trying to charge. If that is what the market forces are, I never heard of all the hours charged. Look at the O.J. Simpson case, what they say those high-powered lawyers are charging. Maybe we can have a hearing before the Judiciary Committee and find out. I know we have not had any hearings on this.

The product liability measure was referred to the Commerce Committee and there was not one word of testimony on this matter. That made me withhold the matter of lawyers' fees. I was waiting for somebody to raise the subject of let us get the lawyers. Now that it has been raised in the Abraham-McConnell amendment, I have to amend that amendment with my particular one of a limitation of $50, at the most, on any billable hours.

As I pointed out, I am confident that the anecdotal antitrust case—not a product liability case—would reduce the $16 million. Oh, that would reduce it down to $2 or $3 million.

So we are moving in the right direction in the Hollings amendment. But more than that, I would challenge those who sponsored this amendment to bring me the product liability case wherein the claimant represented by an attorney was misled, misinformed, or not disclosed fully what the fee basis was. I do not know of any; I never have heard of any. I cannot understand it. Maybe it happened here in this antitrust case. But if that is what they are disturbed about, do not just reach around in a magazine article having nothing to do with product liability or reach around in a newspaper article in the Washington Post having to do with antitrust and a class action brought over a series of years and court approved that we do not have the facts for, having nothing to do with product liability. I want to ask them to please bring—if that is their intent now on disclosure—evidence of where it is a national problem.

Heavens above, we have enough work to do around here. But if we are going to start debating lawyers' fees at the national level, and disclosures, and how many hours, and what do you expect, and how many hours on settlement, and how many hours on trial, and then the actual fee per hour charge, regardless of how the fee was structured, and all of these things of that kind, this is a solution looking for a problem. What the real problem is, is lawyers. So they say we can enhance this product liability initiative by going at lawyers. And we will find out who is for lawyers and against lawyers.

Well, I happen to be for lawyers. We will have to get that saying of "kill all the lawyers." But that was really a laudatory comment, whereby lawyers stand between tyranny and freedom. In Shakespeare, you will find that reference with respect to lawyers not being against all the lawyers, but the tyrant was saying the only way we can prevail and continue this tyranny is to get the lawyers because they are the only ones that understand and know and stand in our way of freedom, and we can continue this tyranny. So it was not a pejorative saying of "kill all the lawyers."

We can go through to the Founding Fathers who were all lawyers and drew the Constitution and worked at it overnight. We can come right on down the line with respect to the lawyers in the history of this land, whether it be President Lincoln in the days during the Civil War, or most recently here, in civil rights cases, Thurgood Marshall and others. If they had not had those lawyers, I can tell you now, having been at the local level over the many years, had Thurgood Marshall not succeeded in Brown versus Board of Education, you would not have found the advancements made.

Advancements were not made as a result of the Civil Rights Act of 1964 so much as the advancement made in the 1954 Brown versus Board of Education decision by the U.S. Supreme Court, brought by the trial lawyer for the NAACP, Thurgood Marshall.

I will bring the cases, when we have time, to the attention of my colleagues. The hour is late and I want to yield to others to be heard on this.

Since it has just come up, I have represented to the distinguished manager of the bill, it is not our intent to delay. We will survey colleagues on this side of the aisle and see what amendments they want to present. I want to see if there are those who want to talk on this particular measure before we vote. And pending that, Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, my staff brought to my attention—I wish we had billable hours for Senators. We could make a living up here. Maybe that is the next amendment we will have if they insist on this amendment, Mr. President.

Pending that, we have the Model Rules of Professional Conduct and the Code of Judicial Conduct by the American Bar Association.

I look at rule 1.4, "Communication" and I read:

> A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
>
> A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

That is the American Bar Association Model Rule that we all are governed by.

With respect to the fees themselves, rule 1.5:

> (A) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a file include the following:
>
> (1) the time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly;
>
> (2) the likelihood, if apparent to a client, that the acceptance of the particular employment will preclude other employment by the lawyer;

I take that, Mr. President, to be no conflict of interest.

> (3) the fee customarily charged in the locality with similar legal services;
>
> (4) the amount involved and the results obtained;
>
> (5) the time limitations imposed by the client or by the circumstances;
>
> (6) the nature and length of the professional relationship with the client;
>
> (7) the experience, repetition, and the ability of the lawyer or lawyers performing the services;
>
> (8) where the fee is fixed, whether the fee is fixed or contingent.

It goes on in detail on the basis of the rate of fee, the terms of payment, and all the necessary things—the divisions of fee, how to settle if there is a dispute about the fee, all are matters of disclosure.

What they are really coming with on product liability is an assault against the bar. I know the former distinguished Vice President of the United States thought it was good politics, and he brought up about lawyers at the American Bar Association.

If a person practices law, they are under the rule and guidelines. It is still a profession. Just like I have resisted actually the TV coverage of the proceedings here of the U.S. Senate because we could get a lot more work done and we did a lot more work and we got things done.

I also have resisted the so-called advertisement by attorneys with the neon sign "Divorces, divorces," or "If you think you are hurt," or, "We get more money in our claims than anybody else." I think that is unethical. I hate to see that coming about with the particular profession.

If we take the television out of the O.J. Simpson courtroom, that case could be handled in the next 3 weeks. But it will take the next 3 months at least with TV there. The idea is to get justice and not to amuse the public generally.

I hope we get the television out of this body, the television out of the courtroom, and get back to some economic sense, go to work for the people of America, and certainly not take what never has been recognized as a national problem, except with respect to the American Bar Association and its code of conduct which it has over the many, many years. It has never made a national problem to be legislated upon.

I know what they have in mind, and I think that my amendment will help them get at the 60,000 billable hour lawyers, and not the trial lawyers. They really go after the trial lawyers and product liability.

I want to talk about the corporate lawyers and that billable hour crowd that extends out. I have heard my colleague from West Virginia. He does not have any understanding of the law practice. He says, why, at the State level it is very difficult to get product liability reform. False. We have it in 46 of the 50 States in the last 15 years.

He says one of the reasons we cannot get it are these trial lawyers holding things up because they like to extend their cases and get more money. Extend more cases, I get more expenses.

I am paid on a contingency basis. I am not paid by a billable hour. The fellow who gets more money is the insurance company lawyer, the corporate lawyer. They love it. They try to stretch it out, get continuances, make more motions and everything else. I got 10 or 15 good cases in the office that I have taken for seriously injured clients. I have hundreds of thousands of dollars in time and costs wrapped up. I am really having to carry and finance, which we do. I have done it in my private practice.

We know how it is in corporate law. They have the mahogany desks and the Persian rugs, and they sit down there with the paneled walls and just answer the phone and everything. Answer the phone and say, by the way, charge him that I talked to him on the phone. I never heard of a contingency fee lawyer say I talked to somebody and charged so much. They charge so much per telephone call, so much per letter, so much per hour, so much per this. There is more per fees in the practice than we could ever contemplate.

Heavens, let us not write this bureaucracy into the law.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent I be permitted to speak as in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORY OF SENATOR JOHN C. STENNIS

Mr. DASCHLE. Mr. President, I would like to take a few minutes to discuss the life and career of Senator John C. Stennis, who passed away earlier this week.

Senator Stennis served in this Chamber for 41 years. His work here included serving as chairman of the Senate Armed Services and the Senate Appropriations Committees and as President pro tempore of this body.

Among his legislative achievements was his ability to bend and flow with the times. Once a staunch segregationist, Senator Stennis cast his vote for the Voting Rights Act of 1982.

One area in which he never changed, however, was in upholding the safety and security of this great country. Senator Stennis warned against overextending our military capacity. He also warned against wasteful defense spending. But he never wavered in his support of the country's national defense and ensuring that it maintained the military capacity to guarantee our freedoms and our liberties.

During his four decades in the U.S. Senate, Senator Stennis was always an abiding example of integrity and fortitude. His respect for the institution of the Senate and the law of the United States made him an early opponent of the excesses and abuses of Senator Joe McCarthy. As a result, he and Senator Sam Ervin were named as the two Democratic members on the Watkins committee that investigated the recklessness of Senator McCarthy and led to his censorship.

In July 1965, the Senate created the Select Committee on Standards and Conduct, the forerunner of our current Select Committee on Ethics. This was a controversial creation, and everyone knew that whoever chaired it would be in a difficult position. The Senate had traditionally relied upon the voters of a State to discipline a Senator for improper behavior, and institutional discipline is a painful problem in an institution that depends on the collegiality of its Members. The only logical choice for this important and difficult leadership position was Senator Stennis. The Mississippi Senator became so successful and so respected in this position that the committee quickly became known as the "Stennis Committee."

Mr. President, the career of Senator John C. Stennis was marked, not only with legislative triumphs, but with numerous personal triumphs over personal adversity.

In 1973, he was shot by robbers in front of his house and left for dead.

In 1983, his beloved wife of 52 years, Coy Hines Stennis passed away.

In 1984, a battle with cancer resulted in the loss of one of his legs and confined him to a wheelchair. While in the hospital recuperating from the surgery, he was visited by the President of the United States, Ronald Reagan. President Reagan later said that he had dreaded going to the hospital that day, for he feared the impact such a life-altering operation would have on a fiercely independent man like Senator Stennis. But the President explained, "when I left, it was I who had been strengthened."

He had been strengthened by the Senator's confidence, his faith, and his optimism.

Those qualities defined Senator Stennis' outlook on life. On his Senate desk he kept a plaque that simply read: "Look Ahead."

"That's my philosophy," he explained. Don't waste time lamenting the past. "You have got to look ahead. I realize that life's not altogether what you make it. But that's part of it, what you make it yourself."

Senator Stennis made for himself a wonderful life, and the Senate and the country can be grateful for it.

When he retired from the Senate in January 1989, Senate Majority Leader ROBERT BYRD called it "the end of an era." And indeed it was.

Perhaps a greater compliment came from a Republican Member of Congress from Mississippi, who said, "We'll miss him. Even if he's a Democrat, he's a great man."

As the Senate Democratic leader, I say that is a great statement, even from a Republican.

In 1988, Congress established the John C. Stennis Center for Public Service Training at Mississippi State University. The center covers a range of historical projects, including an excellent oral history program. When a congressional historian approached him about an oral history of his own life and career, Senator Stennis initially opposed the idea, saying it would be too self-aggrandizing. The historian proceeded to explain that it was not only an honor, it was his duty to record for posterity his personal account of the historic events and decisions in which he had been involved.

"Well, sir," responded Senator Stennis, "If you say its my duty, then I must do it, because I've always done my duty."

Indeed he did.

It was not only his legislative accomplishments—and they were many—for which we so loved and remember him, it was also his commitment to God and country.

No person who has ever served in the U.S. Senate was ever quicker to tell you what was wrong with this country. But no person was ever quicker to tell you what was right about it, either.

Mr. President, Linda and I extend our most heartfelt condolences to the family of John C. Stennis: we share their grief and their loss. But we also thank them for sharing him with us, and I thank the people of Mississippi for selecting him to serve in the Senate for seven terms.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

SENATOR JOHN C. STENNIS

Mr. COCHRAN. Mr. President, I first want to commend the distinguished Democratic leader for his comments about our departed colleague and my good friend, Senator John C. Stennis. Today, there was a very appropriate editorial published in the Clarion-Ledger, in Jackson, MS, describing the effect that Senator Stennis had, by virtue of his service in the Senate, on the State of Mississippi.

I commend the editor for such a fine article and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Clarion-Ledger, Apr. 25, 1995]

JOHN C. STENNIS: INTEGRITY SET STANDARD FOR CONGRESS

The accomplishments of former U.S. Sen. John C. Stennis could fill pages.

Stennis' long and full life ended Sunday at age 93, and during the next few days, Mississippians, will hear many of the senator's accomplishments recounted.

His long and distinguished career in government left his mark on many of the policies of the United States, especially in military matters. There are many institutions that bear his name, even an aircraft carrier.

Mississippi is a much different place, and a much better place, because of the policies and economic development projects he brought to the state.

But, all of the political achievements, the things that most politicians are measured by, fall short when it comes to Sen. Stennis.

Stennis was, above all else, a man of integrity, a true statesman, whose adherence to honor and code of conduct made him legendary in the U.S. Senate, which he loved so dearly.

That is indeed a rare quality, especially in the mean-spirited politics of today.

Sen. Stennis' reputation for fairness made him a trusted colleague and confidant of presidents of both parties. He was known as the "conscience of the Senate" because of his high ethical standards and respect for the institution.

Throughout his long career, integrity and service were watchwords. It is appropriate that, of the institutions that bear his name, the Stennis Center for Public Service at Mississippi State University seeks to encourage young people to public service careers.

In his 1947 campaign, Stennis stated a simple creed: "I want to plow a straight furrow right down to the end of my row."

Sen. John C. Stennis succeeded with that pledge.

Mr. COCHRAN. Mr. President, I want to invite the attention of the Senate to a couple of points that are made in this fine tribute. After talking about many of the things that Senator Stennis did for the State the editorial writer then says:

> But, all of the political achievements, the things that most politicians are measured by, fall short when it comes to Senator Stennis.
>
> Stennis was, above all else, a man of integrity, a true statesman, whose adherence to honor and code of conduct made him legendary in the U.S. Senate, which he loved so dearly.

Mr. President, as I was beginning to think about putting this in the RECORD for the information of Senators, I realized that I sit at the desk that was occupied by Senator Stennis during the time he served in the Senate.

As you know, there is a tradition here to put your name in the desk drawer like schoolboys used to. Senator Stennis' name is in this desk drawer which he wrote in there and put the date that he began service, 1947, and a dash, and never did, of course, put the date on which his service ended, which the distinguished Democratic leader pointed out was in 1989.

One other aspect of this desk is that not only has it been occupied by many Mississippians over the years, Jefferson Davis, to name one, John Sharp Williams, a very distinguished Senator who had served as Democratic leader in the House before he was elected to the Senate, and then served three terms in the Senate and probably was one of the most respected national figures of his day serving in the Congress. And serving from Mississippi it made our State very proud. But Senator Stennis occupied this desk from 1947—well over 41 years, as the Senators know.

But toward the end of his career he lost a leg to cancer and his desk was located in the rear of the Chamber so his wheelchair could move right up to the desk. But he never failed to rise and address the Senate even though he was confined to the wheelchair and had only one leg. He had the carpenters put a special place here where a bar could be fitted. There are two holes carved for wooden inserts in this desk to hold that bar. And the bar would rest inside the desk. Most Senators put the rule books of the Senate and a couple of other reference books in the top of their desk. But that had simply a bar there. He would put it there and pull himself up, and with that one leg stand erect to address the Senate because he respected the institution so much, its traditions, and its customs, always pointing out to other Senators that we should be in order; and having a tremendous influence because of his presence in this body.

The Senate is much better off because of his service here. The State of Mississippi is truly blessed to have been the State represented in the U.S. Senate by John C. Stennis.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORY OF THE LATE JOHN C. STENNIS

Mr. NUNN. Mr. President, I would like to speak for a few minutes this evening on a subject close to my heart, and that is the memory of our former colleague, John C. Stennis, who passed away on Sunday, April 23, at the age of 93. Senator Stennis served in this body for over 41 years, from 1947 to 1989.

For a long number of years, as I was growing up and following the activities of the Congress of the United States, Senator Stennis was one of my heroes, and that was long before I came to U.S. Senate. John Stennis personified for me the image of what a Senator should be, and that image inspired me as I considered whether to seek a seat in the U.S. Senate in the 1972 election. From my first days in the Senate, John Stennis was a patient mentor, a strong and valuable colleague, and a cherished friend.

It has been said that "Great men are like eagles, they do not flock together. You find them one at a time, soaring alone, using their skills and strengths to reach new heights and to seek new horizons." Such an eagle was John Stennis.

John Stennis was a Senator's Senator. He was gentle and courteous in conduct, but tough and strong in conviction and in character. He was a man of singular purpose and broad vision—yet he was sensitive, very sensitive, to the needs and the wishes of others.

John Stennis personified the highest ideals of honor and integrity within the U.S. Senate. Members of the Senate from both parties and from widely divergent philosophical points of view treasured his steadfast leadership, his fearless courage, his kindness toward others, his unselfish devotion to public service, his love and respect for the U.S. Senate, the Congress, his reverence for the U.S. Constitution, and his unshakable faith in God.

Senator Stennis was an outstanding lawyer and judge before he came to the Senate, and his judicial temperament marked every aspect of his Senate service. Time after time, the Senate turned to him to address the most difficult and divisive issues, such as the conduct of Senator Joseph McCarthy.

When the Senate established the first Select Committee on Standards and Conduct, which was the predecessor of the Ethics Committee, it was only natural that Senator Stennis was selected as the first chairman. From 1969 to 1981, he served as chairman of the Armed Services Committee. As chairman, he set a standard that all of his successors strive to meet. He was a man of conviction, strong, moral character, and absolute and total courage. Despite much adversity—a life-threatening gunshot wound in 1973, right after I came to the Senate that tragedy happened, also the loss in 1983 of his beloved wife, Miss Coy, and the challenges of serious operations in later years, through all of that he served the people of Mississippi and the people of this Nation with courage and with strength.

Chairman Stennis was the Senate's preeminent authority on military affairs. His career spanned the period of the cold war. He came to the Senate in 1947, the year the Marshall plan was announced. He left in 1989, the year the Berlin Wall came down. He played a very large role in those events and all the events in between. He had guided this body through the difficult years of the post-Vietnam era and through the subsequent revitalization of America's Armed Forces.

Senator Stennis consistently supported a strong national defense even in times when it was not popular to do so. I recall clearly the first few years after I came to the Senate in the early 1970's, when virtually all defense programs were being challenged one after another on the Senate floor. Senator Stennis remained in the Chamber steadfast for hours and weeks and sometimes even months while the bill was pending in the Senate, making the case for maintaining a strong defense for our Nation.

At the same time, Senator Stennis was downright intolerant of wasted and misspent dollars, and he consistently opposed those who simply wanted to write a Pentagon blank check.

Senator Stennis remembered well the lessons of pre-World War II isolationism and he constantly opposed the recurring isolationist impulse, especially during the difficult post-Vietnam years. He was a rock of support for NATO at a time when there was strong opposition in the country to foreign military alliances. One of the first assignments he gave me when I got to the Senate was going to NATO and coming back and reporting to him on what I found there.

Yet he remained skeptical of excessive military involvement overseas and he expressed great concern about the plans for intervention in Vietnam before that intervention occurred. Once the Nation was committed to war, however, he always believed that American forces should be provided with the means necessary and the backing to accomplish the objectives assigned to them.

It was my privilege to serve with him since coming to the Senate in 1973 until he left in 1989. He was my friend. He was my mentor. He remained my hero. I will miss him, and I will miss his sound advice and wise judgment. During my first campaign for the Senate in 1972, I came to Washington to meet with Senator Stennis. This was before I was elected in November but after I had won the Democratic primary. I told him of my strong interest in military affairs, and I asked for his support in obtaining a seat on the Armed Services Committee if I should be elected.

I will always be grateful for his assurances of support and his assistance once I arrived, and certainly all of that played a very important part in my Senate career. With his support, I obtained a seat on the Committee on Armed Services, and I promptly sought his advice on how I should fulfill my duties. He told me, and I recall it well, that the best way to learn about the Defense Department and the military services was to deal directly and extensively with the men and women in uniform as well as the civilian employees of the Department of Defense. He encouraged me to listen to their advice and understand their point of view, to remain open and objective but always to at least listen.

He appointed me to be the chairman of the newly created Manpower and Personnel Subcommittee which gave me the opportunity to follow his advice in a great number of details and with considerable amount of time.

Over the years, I listened to and learned from Senator Stennis as we debated the great issues of national security and other national affairs that faced our country in the 1970's and 1980's, and the lessons learned then still apply almost every day in the Senate in the 1990's. It was a marvelous education in the ways of the Senate, the conduct of national security affairs and the Constitution of the United States.

In 1987, Senator Stennis became chairman of the Appropriations Committee, and I became chairman of the Armed Services Committee. It was my good fortune to have him continue to sit on that committee, to be able to begin my chairmanship with Senator Stennis at my side, because I frequently consulted with him and benefited from his advice on the problems and issues that arose under the jurisdiction of the Armed Services Committee as well as many other matters that came to the floor of the Senate.

When Senator Stennis first came to this body, he said in his classic direct style, "I wish to plow a straight furrow right down to the end of my row." There is no doubt he did exactly that. Senator Stennis grew up on a farm and he knew how difficult it was to plow a straight furrow with a mule. You cannot plow a straight line to your immediate goal or mark a stake in the field unless you keep your eye on the distant point that establishes your sight line. That is the way John Stennis lived. He staked out his immediate goals, but he always kept his eye on the distant goal, the values and principles that enabled him to plow a straight furrow right to the end of the row.

Mr. President, I also remember well his advice to me when I came to the Senate. I hope I never will forget this. He said, "Sam, some new Senators grow and some simply swell. Make sure you continue to grow."

Mr. President, no higher honor has come my way than serving in the Senate with John Stennis. When he retired a few years back, I said then it was hard for me to imagine the Senate without John Stennis at his desk. It is now hard for me to imagine the Nation without the benefit of his talent, counsel, and his sterling example. We will miss him. We will all miss him. But his legacy of integrity and devoted service to the country will inspire the Senate and the Nation and young people particularly for generations to come.

Mr. President, Colleen, my wife, and I extend our sympathies to his son, John Hampton Stennis, his daughter, Mrs. Margaret Stennis Womble, and to all of his grandchildren and great grandchildren, indeed, to all of his family and his friends, and we thank the people of Mississippi for sending this giant to the Senate for the number of years that he served. The people of Mississippi and the people of this Nation can be very proud of Senator Stennis. He will be remembered in history as one of the giants of the Senate. As long as there is a Senate, John Stennis will be remembered for his service, for his integrity, and for his character.

I thank the Chair.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

JOHN STENNIS—A LIFETIME OF SERVICE

Mr. HOLLINGS. Mr. President, I wish to pay honor today to one of the great Senators of this century, John Cornelius Stennis. His roots began at the turn of the century as a young farmboy, in the fertile soil of Kemper County, MS. And while his subsequent career was to take him to far away places, and to positions of great honor in our Nation's Government, his beloved home country was never far from his mind. Second only to service to his Nation, his dedication to the State of Mississippi was legendary.

He had amassed a distinguished record a public service, even before coming to the Senate in 1947. A Phi Betta Kappa law school graduate, he served as a State Representative, district attorney, and State circuit court judge. But it was here in the Senate where we shall best remember him. For more than 42 years, this Nation had the benefit of his wisdom and his guidance. He was the epitome of a Southern gentleman, and fairness and integrity were constants in his conduct. It was no mere happenstance that he was our first chairman of the Select Committee on Standards and Conduct. He was for decades the foremost guardian of our Nation's defense, forcefully and relentlessly pursuing strong defense programs throughout the Cold War years. His credentials as "Mr. Defense" made even more remarkable his misgivings and warnings to the Nation on involvement in combat in Vietnam, and he was a major author of our first war powers legislation. Chairman of Armed Services, chairman of Appropriations, President Pro Tem—his achievements here on this floor and in this body have been equaled by few.

And who among us who knew him will ever forget his quiet courage? He quietly brushed aside the impacts of being shot and robbed while walking home. Years later, after loosing a leg to cancer, he refused to yield to adversity—always rising to address this body, exuding dignity and determination with every action.

John Stennis was a patriot—a statesman—a Senator in the finest traditions of the word. He was one of the great lions of our assembly, and we will miss him. I read today where he once responded to a question about how he would like to be remembered. He said he hoped that one could say of him that "He did his best." Well, that he did. And his best will serve as a reminder and a standard to all of us, for generations to come.

Mr. President, the distinguished Senator from Georgia has touched on it when he said I wish to hoe a straight furrow right down the field, that was John Stennis. I can hear him now. He had those sayings about not swelling but growing in experience. The reverence and respect at that particular time was for Senators listening and learning and profiting from experience. Now the pledge is when you come to town you are not going to listen to anybody; you have a contract. You are going to vote for it. And by the way, do not give me any of your experience because in 6 years I am gone. It is an entirely different atmosphere.

And when you see, as the Senator from Georgia has said in such eloquent terms, one of the finest, I am just deeply moved.

John Stennis and I became very close amid serving on committees together, particularly the Appropriations Committee later on.

But his family—the Peden clan—was from Fountain Inn, SC, where Mr. Quillen was born and other persons of eminence.

Invariably he would come back to South Carolina for the annual Peden clan reunion.

I figured, like the Senator from Georgia, that he was my sort of patron and leader. I listened to him many a time. I can tell you this. John Stennis was a man of this institution. We have Senator BYRD, who really reveres the Senate as an institution. John Stennis revered the U.S. Senate as an institution.

And as much as we liked each other and as close friends as we were, when I was chairman of the Budget Committee, he followed it very, very closely. When I was chairman back in 1980, he would say, "Fritz, you're right. We have to somehow pay our bills. We are eating our seed corn." He would make a little talk on the floor, not only with respect to military affairs, with tremendous authority, but with respect to fiscal matters.

And later on, when I was not the chairman of the committee, but I talked to him and tried to get a vote with respect to that budget, he would say, "I'm sticking with the chairman. I know how you feel about this, but we have got to stay with the chairman."

I can hear him now. He was an institution man. And that says a lot for the stability of the body and the courtesy here and the ethics that we have. He set the highest standard of anybody I have ever known.

I will never forget the afternoon he was shot. Invariably, we would get together down at the gym there at this time, 6:30 going on 7 o'clock, and get a workout. He said, "You've got to try to keep up with Strom." That is my senior Senator. He said, "You will find if you stay in good physical shape, you will be able to keep up with Strom."

We would work out. They had this wheel that you get down on your knees and you go forward and pull it backward and forward, and everything else. He was on that wheel the afternoon he was shot. He left, if I remember correctly, about 6:15 and he was shot about 6:30 or 6:45.

He later related, when I went to see him, he said:

> You know, I'm lucky. These fellows told me they wanted money and I did not have any money. And I said, "Take my watch, anything else, my ring."

And they cursed him and just fired five shots into his middle, his stomach, pancreas, and lungs—his insides.

He walked up to his house and talked to Miss Coy, Mrs. Stennis, his wife. He said, "Call an ambulance and call Walter Reed."

The ambulance came. And as they lifted him up, he remembered well hearing the chief of police, who had reached the home at that time, saying, "All right, take him over to George Washington Hospital." He raised up on that stretcher—the last he ever remembered, he said, prior to coming to some 9 hours later—and said, "Take me to Walter Reed. They are waiting for me there."

He said that was the real fortunate part, because when he got to Walter Reed, they had two Army surgeons who had finished a 2-week lecture course to the Army surgeons around the country on bullet wounds and shrapnel wounds and battlefield surgery and that kind of thing, particularly with respect to the loss of blood.

His operation took 9 hours. I will never forget him saying that. He said, "Had they not had that hard experience of when to stop and replenish and when to move forward * * *" They had to sew up all his innards or he would have been long since gone.

He came back and, as Senator NUNN points out, he did not slow down at all. Later, when the cancer got his legs, he did not.

As Senator COCHRAN pointed out—who sits at the Stennis desk—he believed in this institution. He attended regularly all the sessions. He attended these debates.

I think television has ruined us all. Perhaps some would listen back in their offices. But you do not have the open exchange in the most deliberative body. You are here and get quips that staff gives you. They have prepared remarks and they run out and the RECORD is full and it appears it is a deliberative effort. Not at all.

Senator Stennis did not like that, and he said so. He attended the debates. He attended all the votes and he kept going until the very, very end.

Unfortunately, he was not as conscious and alert as he could have been the last few years. I wanted to go to see him, but my staff who worked intimately with him on the Armed Services Committee and later on on the Appropriations Committee, said that, "Poor John would not recognize you right now."

So he has gone to his just reward after the most distinguished career in the U.S. Senate of over 41 years.

He was a Senator's Senator if there ever was one in this body. He was not only, as pointed out, an outstanding authority on military affairs, but he had that fundamental feel of paying the bills and being straightforward in his treatment here with all the Senators and setting the highest standard of ethical conduct that you could possibly imagine.

We need that inspiration today that, unfortunately, we do not have. We are all going to miss him very, very badly.

I am sorry tomorrow I cannot be at the session relative to the continued debate on product liability. I want to attend those services. But we will be back here at 4:45.

But it is good that we have those who have served with him and remember him so well that will be there and be with his family. His daughter retired first in Charleston, where her husband was the dean at the College of Charleston and later up in Greenville, SC. So I am looking forward to seeing that family.

But I will never forget the inspiration he has given for all of us who have served with him to continue to serve.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. GORTON. Mr. President, I am going to submit a unanimous-consent which I believe has been cleared by both sides of the aisle.

I ask unanimous consent that there be 60 minutes of debate equally divided between Senators ABRAHAM and HOLLINGS, with debate to begin at 5 p.m. on Wednesday, April 26, on amendment No. 598, and that following the debate on the Hollings amendment the Senate proceed to a vote on or in relation to the Hollings amendment, to be followed immediately by a vote on or in relation to the Abraham amendment No. 597, as amended, if amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. I further ask unanimous consent that the pending Abraham amendment be laid aside in order that an amendment by Senator BROWN be offered, regarding rule 11.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. I further ask that following the two stacked votes, the Senate then resume consideration of the Brown amendment, and that following the disposition of the Brown amendment, Senator DOLE be recognized to offer his amendment on the subject of punitive damages.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. GORTON. Mr. President, for the information of all Senators, Members should be aware that there will be two rollcall votes at approximately 6 p.m. on Wednesday. Senators interested in speaking on any of these issues or other issues related to product liability or legal reform should be prepared to speak throughout the day on Wednesday.

AMENDMENT NO. 599 TO AMENDMENT NO. 596

(Purpose: To restore to rule 11 of the Federal Rules of Civil Procedure the restrictions on frivolous legal actions that existed prior to 1994)

Mr. GORTON. Mr. President, I send the Brown amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. BROWN, proposes an amendment numbered 599 to amendment No. 596.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . REPRESENTATIONS AND SANCTIONS UNDER RULE 11 FEDERAL RULES OF CIVIL PROCEDURE.

(a) IN GENERAL.—Rule 11 of the Federal Rules of Civil Procedure is amended—

(1) in subsection (b)(3) by striking out "or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery" and inserting in lieu thereof "or are well grounded in fact"; and

(2) in subsection (c)—

(A) in the first sentence by striking out "may, subject to the conditions stated below," and inserting in lieu thereof "shall";

(B) in paragraph (2) by striking out the first and second sentences and inserting in lieu thereof the following: "A sanction imposed for violation of this rule may consist of reasonable attorneys' fees and other expenses incurred as a result of the violation, directives of a nonmonetary nature, or an order to pay penalty into court or to a party."; and

(C) in paragraph (2)(A) by inserting before the period ", although such sanctions may be awarded against a party's attorneys".

(b) EFFECTIVE DATE.—The provisions of this section shall take effect 30 days after the date of the enactment of this Act.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–712. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to recover costs of carrying out Federal marketing agreements and orders; to the Committee on Agriculture, Nutrition, and Forestry.

EC–713. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 93–2; to the Committee on Appropriations.

EC–714. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–05; to the Committee on Appropriations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

Harriet M. Zimmerman, of Florida, to be a member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1999, vice William R. Kintner, term expired.

The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself, Mr. NUNN, and Mr. KERREY):

S. 722. A bill to amend the Internal Revenue Code of 1986 to restructure and replace the income tax system of the United States to meet national priorities, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS:

S. 723. A bill entitled the "Badger-Two Medicine Protection Act"; to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself and Mr. SPECTER):

S. 724. A bill to authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention Programs to make grants to States and units of local government to assist in providing secure facilities for violent and chronic juvenile offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. ROCKEFELLER (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. DORGAN, and Mr. WELLSTONE):

S. 725. A bill to amend title 38, United States Code, to extend certain authorities relating to the provision of community-based health care by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. NUNN, and Mr. KERREY):

S. 722. A bill to amend the Internal Revenue Code of 1986 to restructure and replace the income tax system of the United States to meet national priorities, and for other purposes; to the Committee on Finance.

USA TAX ACT

Mr. DOMENICI. Mr. President, today for Senator NUNN and myself, this is a very exciting day because—after more than 2 years of study, research, and tremendous help from a lot of people and a lot of experts—we are today going to introduce a totally new income tax law for this land, both as to individuals and corporations.

Today we are going to introduce a totally new Tax Code. We will explain it to the Senate and the American people for the next 40 or 50 minutes. And it is our hope, since we have gone to extreme lengths to develop a totally new tax code in all respects —and indeed we will today introduce that totally new tax code—which will replace and get rid of the current income tax system in its totality both as to corporations, businesses and individuals in the United States.

We are hopeful that this document will begin a serious debate and that this approach, which we will explain today, will find its rightful place very high on anyone's list as they look at the needs of the United States for the future.

Before I go to my prepared remarks, let me suggest that for the Senator from New Mexico these are very exciting times because I believe the vision that most of us have is for a better America, for a better America for our children, a more competitive America with more good solid high-paying jobs for which we can train and educate our people and provide them with an opportunity for a satisfactory and happy life from the standpoint of material well-being.

The two things that haunt us in our efforts as leaders who say we are going to do our best to provide that for America are the enormous amount of debt that we incur in our Federal budget processes because we refuse to find a way to pay for the programs and actions of the Federal Government rather than to borrow for them. Thus we gobble up huge amounts of savings of U.S. citizens and corporate savings just to pay that debt, thus minimizing our future growth potential and increasing interest rates dramatically, and in a very real way diminish the productivity of our country.

The second thing is that we have a U.S. Tax Code that instead of promoting and prompting savings and investment is actually a disincentive to both. Instead of saying to the American people and American corporations we want you to invest more, we want you to save more, we have a Tax Code that says just the opposite. If you do either of those things, you are penalized under the American Tax Code; that is, the savings or investment. If you spend your money, in a sense you only pay taxes on that money which you spend once.

We very much hope in our new bill to create a level playing field from the date that it is adopted by the U.S. Congress forward, a level field in that people have a real choice as between investing and saving some of their disposable income and spending it. And as to American corporations, we hope we will greatly simplify the process by which they pay taxes to their country and at the same time dramatically encourage capital investment as compared with a Tax Code today which penalizes that.

So in order to get where we want to go, you have to know how to get there. This is common sense. The advice for a traveler seeking a destination and for a nation that is in quest of its destiny, and when leaders talk about their vision for the future, they invariably speak of creating a higher standard of living, better-paying jobs, and stronger economic growth. We do not do that or say that just because those are nice sounding words, but because they are indeed at the heart and soul of what America ought to offer to its people when we say this is a land of opportunity. We know where we want to go. But how do we get there?

The challenge facing the American economy, and those who work, those who invest, those who start companies, and those who continue companies in a prosperous way, the challenge facing them and the best way to improve the Nation's prosperity, in almost everyone's opinion, is to increase savings and investment.

When Americans save, they are really investing in America, and our Tax Code should reflect that national priority. Our major trading partners encourage in their tax codes savings, and so should we. There are many causes of inadequate private savings and investment, and I have already indicated that our inability to develop a budget year by year and over decades, whereby we pay for what we give our citizens instead of borrowing to give to them, is one very serious way that we do not save, or use our savings to pay for our profligacy.

The other very serious problem and perhaps most important is the disincentive in our Nation's tax policies. The Federal Income Tax Code is un-American in spirit and wrong in principle because it levies a double tax on dividends and taxes savings. It discourages risk taking, entrepreneurship, and the creation of jobs. It is hostile to savings and investment and tilted toward consumption. It adds one-third to the cost of capital. It favors debt over equity financing. It encourages corporate management to neglect long-term investment in favor of focusing on short-term profits.

The way a country taxes its people deeply influences its potential for economic growth and thus for prosperity.

Our current code penalizes savings by taxing income when it is earned and then taxing interest and dividends that are generated by the initial investment. When an activity is penalized in the Tax Code, it stands to reason that it influences behavior. Taxpayers do less of those disfavored activities, and the current code is doing a good job of discouraging savings. Americans are only saving 2.8 percent of GDP.

This lack of savings leads to a shortage of investment which in turn leads to insufficient growth, stagnating incomes, and the loss of high-wage jobs.

The Congressional Budget Director, Robert Reischauer, testified before the Senate Budget Committee earlier this year. The report accompanying his testimony cautioned, and I quote:

> . . . the best way for the nation to prepare for [the] future is to save and invest more now. Greater investment, the main engine of growth, would enlarge the future economic pie. . . Investment in turn, fundamentally depends upon the available pool of saving, whether private (personal and corporate) or Government (federal, state and local).

Our current Tax Code taxes capital gains far higher than our competitors. We have created a "backdoor" capital gains differential by raising the top personal income tax rate to 39.6 percent but keeping the top rate on capital gains at 28. Thus, if we have any capital gains differential, it is that, and it is quite by accident and sort of a backdoor.

The differential is subpar when compared to our competitors, be it Malaysia, South Korea, Taiwan, or Belgium. They do not tax capital gains at all. Germany does not tax capital gains on assets held longer than 6 months. Canada, France, and Japan tax capital gains at rates from 16 to 20 percent.

Our current Tax Code is far too complex. The tax industry absorbs more resources than the gross domestic product of a country like Ireland. Companies complain about the IRS agents being permanently housed in their corporate headquarters, and the IRS is years behind in their auditing. Others perversely brag about needing supercomputers to calculate certain foreign tax computations.

As our Supreme Court Justice Potter Stewart noted: "Our economy is 'tax relevant' in almost every detail." Taxes have become an increasingly important factor in investment decisions as other barriers to international capital flows have disappeared.

The philosophy of the USA tax Senator NUNN and I introduce today is to tax income that is not saved or invested rather than to tax all income that is earned.

The best way to achieve a prosperous destiny for our country is to improve the Nation's productivity through sustained investment by the private sector. Job creation is especially dependent on new products entering new markets, and we all know this. This does not happen automatically. It requires hard work and competition, and to a great extent investments that must be financed with equity capital.

Our tax proposal is a quest for the best tax system we can develop, one that should vastly expand the pool of savings and achieve significant simplicity in the bargain. We estimate that of the 700 Internal Revenue Code sections, over 75 percent would disappear and be eliminated with the adoption of our proposed code.

The USA tax base is total gross domestic product. The business tax and the individual tax are two parts of a single tax on a single tax base. The business tax is intended to be the first in a two-step tax collection process. The business tax would begin with gross domestic product—the sum of all goods and services produced and sold by all businesses together, minus, in order to avoid double taxation, those things that they have bought from one another.

The first taxable event would take place when businesses create income by producing and selling goods and services; the second taxable event, when individuals receive income, net of the business tax, in the form of wages, salaries, interest, dividends, and similar distributions to the owners of business.

This is a new Tax Code. This is a totally new approach to taxing events in our economic life. It is not a concept. It is a totally new Tax Code built on two concepts and greatly simplifies what we have.

Now, at this point, while I have more to say, Senator NUNN and I have ample time and I am going to yield to my friend from Georgia and first say thanks to him for all the work he has done and for the people he has brought into this fold who have helped us put this together.

The PRESIDING OFFICER. The Senator from Georgia [Mr. NUNN], is recognized.

Mr. NUNN. Mr. President, I think my friend from New Mexico has explained very well the current Tax Code and all of its problems and what it is doing to Americans' competitive position in the world and, most importantly, what it is doing to the real income of the American people.

This bill that we are introducing today had its origin several years ago when the two of us, on a bipartisan basis, one Democrat and one Republican, had the privilege of chairing the CSIS Strengthening of America Commission. The plan that our Commission released a little over 2 years ago, and that Senator DOMENICI and I cochaired with a number of other people from around the country as key members of that panel, was just that. It was a plan to strengthen our Nation, to strengthen our country, to strengthen our people, to strengthen our economy, and to strengthen our competitive position in the world.

That plan had three key elements. The first element was to get our fiscal house in order by embarking on a long-term plan to balance the budget. And we proposed that plan without using the Social Security surplus as we do today, without relying on any kind of dynamic scoring, without a constitutional amendment, and without a line-item veto. We proposed a plan that would lock in spending restraints first, before raising new revenues.

We have a long way to go to implement that plan. The Senator from New Mexico and I have struggled in this Chamber for several years trying to get caps on entitlement programs, and I suspect he will be leading the charge again this year as chairman of the Budget Committee.

The key to this part of our plan is controlling the growth of entitlement programs, as most of us who have studied it understand, but which neither Congress nor any administration, Democratic or Republican, has been prepared to do.

The second element, which my friend from New Mexico and I are here to talk about today, and a very important part of this overall plan, was to completely replace the individual and corporate income Tax Code of this country and create in its place a tax code that promotes savings and investment, rather than discouraging savings and investment, as does our current Tax Code.

The third element of our plan was an investment strategy that called for improved job training and apprenticeship programs to strengthen the workplace; national service; selected investments in infrastructure, including the so-called information highway; adequate funding for programs to help young children start school ready to learn, such as immunizations and Head Start; and a system of national educational standards. Some progress has already been made on many aspects of this third element of the Strengthening of America plan, thanks to the leadership of President Clinton, who has worked very hard on these areas, both before and since he became President.

The Commission was not saying that Government alone can solve our Nation's problems. In the final analysis, only the American people—working through their Government, but more importantly working in their own communities—can strengthen America. These three elements, however—balancing the budget, reforming the Federal Tax Code, and making the needed investments in our future—represent the action items for the federal government. Government cannot do it alone, but if Government does not do its part, we will never get our economic house in order.

Even though the proposed constitutional balanced budget amendment did not pass the Congress this year, I believe the Congress will still undertake a serious statutory effort this year to begin to balance at least the unified Federal budget. I expect my colleague from New Mexico will be one of the real leaders in that effort. While that is a laudable goal, and I have supported the constitutional balanced budget amendment every time the Senate has voted on it, I still believe, and our Commission concluded, that we need to do more than that. We need to balance the budget excluding the Social Security surplus.

The constitutional amendment we voted on earlier this year would have continued to use the Social Security surplus as an offset to the operating deficit in the rest of the budget, which means that this surplus would continue to be used to pay current bills rather than to prepare to pay for the retirement of the baby boom generation. As my colleague from Nebraska, Senator KERREY, has made abundantly clear, we are facing—or rather, we are failing to face up to—a real crisis when the Social Security trust fund begins to run annual deficits instead of surpluses.

The two most difficult tasks the Commission identified as the keys to putting our Nation's fiscal house in order—balancing the budget and reforming the Federal Tax Code—are still awaiting action. Today my colleague from New Mexico and I are introducing legislation that has been in the works for quite awhile. It has taken a good bit of time, more than we originally anticipated, because this legislation would implement the most revolutionary part of the Commission's plan, and that is the complete replacement of the current individual and corporate Federal income tax.

THE TIME HAS COME FOR FUNDAMENTAL REFORM

The House of Representatives, as part of their Contract With America, has already passed and sent to the Senate a bill that proposes to change several components of the current Tax Code—additional child care tax credits; expanded IRA proposals; increased depreciation of investments; and a lower tax rate on capital gains—without attempting fundamental reform of the Tax Code. This is an incremental, business-as-usual approach.

Senator DOMENICI and I, along with other people on the Strengthening Commission, concluded that tinkering with our Tax Code will not get the job done. Our fear is that incremental changes, however well intentioned, will complicate an already Byzantine Tax Code without yielding the increased savings and investment we all seek. Helping working families is a worthy goal, but without steady economic growth there is little that child care tax credits can do to help the middle class permanently raise its standard of living. Unlocking old capital is important, but it is crucial that we also create new savings and investment.

My colleague from New Mexico and I believe there is a better way. Today, Senator DOMENICI and I are introducing, along with Senators KERREY and BENNETT, the USA Tax Act of 1995, a comprehensive tax reform proposal that we believe represents the best way to accomplish everything the other reform proposals—both the incremental approach the House has passed, as well as the other proposals to replace the current income tax—are trying to accomplish, and much more. We welcome debate, comments, suggestions, and constructive criticism on this legislation.

Our tax system, Mr. President, needs more than a Band-Aid. It needs a transplant. If we are serious about our Nation's future, we have to scrap the current tax system and put in its place a system that will work for our people and for our country.

Over the past 2 years, Senator DOMENICI and I and others have been working on the details of such a system, the USA Tax System that we are introducing today. We call it the USA Tax System because USA stands for unlimited savings allowance, which is the key, fundamental part of this proposal. We believe it represents a fundamental change in the way America taxes itself, the way America saves, and the way America invests.

What do we mean by a tax system that works? We mean a system that encourages savings and investment. We mean a system that is perceived to be fair and is fair. We mean a system that is understandable. We mean a system that reduces the complexity of paying taxes for ordinary Americans by taking less time, fewer forms, and fewer dollars to comply with. We mean a system that is attuned to the international competitive realities and gives U.S. companies and their employees a chance to compete fairly in the global marketplace, which we do not have today.

We mean a tax system that is fiscally responsible. There is no point in creating a system that increases the private sector component of the national savings with one hand, while further reducing the public sector component of national savings, by increasing the deficit, with the other hand. We do not intend to increase the deficit under this proposal.

Our plan is intended to be revenue neutral. And I would say from the outset, if the official estimates indicate that this is not revenue neutral, one way or another that there will be adjustments made so that it will indeed be revenue neutral.

When Senator DOMENICI and I began advocating our concept of a complete overhaul of the Tax Code 3 years ago, the prospect of fundamental reform appeared to be several years off at best. Today, however, the clock has moved up. It is clear that, while we are just beginning the process of debating how to change the Tax Code, there is already a broad consensus in this country and in this Congress that fundamental reform is necessary.

In addition to our USA proposal, there are already two other proposals to completely replace the current income tax code being discussed—a flat tax and a national sales tax. In the coming months, all these proposals, and perhaps others as well, are likely to be discussed and examined. I am hopeful that as early as next year, Congress will attempt to enact one of these proposals. We welcome this debate, and we are introducing this legislation today to make sure that our proposal is fully included in this important national debate.

THE IMPORTANCE OF SAVING

Mr. President, we believe the central goal of any reform of our tax system should be to raise the level of national savings. We are proposing a tax system that we believe is smarter, and better for all taxpayers, because it removes the current bias in our Tax Code against the saving and investment that is the key to higher living standards. Higher savings, Mr. President, lead to more investment. More investment means that we have more productivity from American workers. The more productivity we have from our workers, the more competitive we are in the international arena. The more competitive we are in the international arena, the better jobs we have. The better jobs we have, the higher income we have as Americans.

That is a very important chain. That is the bottom line. The bottom line, in other words, is what happens to the real income of the American people in the future. There is a direct connection between how much we save and the real income of American people. That is the direct connection that we have to make sure our country understands. If we cannot make that connection in the American mind, there is no point in talking about a fundamental reform of the tax system. If they do agree that this proposition is true, then I think there is a tremendous opportunity here to make the fundamental changes we are proposing.

There is a direct connection between savings and higher real income for our people. That is the essence of our proposed USA Tax System.

The national savings rate in the United States is lower than that of any of our major competitors. In the 1980's, our savings rate dropped to an average of 3.6 percent, half the level of the 1960's and 1970's, and far below the comparable figures of 10 percent in Germany and 18 percent in Japan. In the first 5 years of this decade, 1990 to 1994, the U.S. savings rate has fallen almost 50 percent from the already low levels of the 1980's, to just 2.1 percent.

Without increased savings and investment, we cannot raise our long-term standard of living, meet our financial obligations, and build a better society for today and for the generations that follow. The United States cannot continue to be the major competitive force in the world if other countries continue outsaving us and outinvesting us. It simply cannot happen over a long period of time. That is fundamental.

It is often said that the best way to increase national saving is to reduce the Federal budget deficit. I agree with that proposition. The Strengthening of America Commission concluded we needed to do just that, but that we needed to do more. We not only need to reduce the share of our national savings being soaked up by the Federal budget deficit—we also need more savings. And we believe our proposal can turn the Tax Code from a major roadblock to higher savings into an important tool to promote higher savings.

I do not believe anybody could argue that the Tax Code is not used to encourage socially desirable behavior. Would anybody argue that the deductions for home mortgage interest and charitable contributions that have been in the Tax Code for decades do not encourage home ownership and donations to charities? Yet the current Tax Code not only fails to encourage private saving, which is vital to our future, it actually discourages it. Yet there is no doubt that future generations will not have the same level of entitlement benefits from the Government that we have today. Our present entitlement programs are not sustainable at their current growth rates. That means that Americans are going to have to save more, to take more personal responsibility for their own futures.

That is why our Strengthening of America report contained a plan to both balance the budget by reforming entitlement programs and to reform the Tax Code to promote greater personal savings. We need to get the Tax Code working for us, not against us, to get people to once again adopt the mentality of savers who think about tomorrow as well as today. We need to start an education process in this country to make saving a national issue—not just a tax issue. People need to understand the fundamental importance of saving, both for their own future and for America's future. We literally and figuratively must save America.

The heart of our proposal, Mr. President, is the unlimited savings allowance, or USA. That is why we call it the USA Tax System. In essence, it allows individuals a deduction for the portion of income they save, and allows businesses to expense their new investments when they make them rather than depreciating them over a long period of time. If Americans want to consume more, both now and in the future, then America must save more and invest more. These new deductions for savings and investment will provide the impetus for higher economic growth, higher productivity, higher paying jobs, and a higher living standard for all of us. I think a higher living standard for all Americans is the ultimate test of fairness.

THE USA TAX SYSTEM IS A SINGLE TAX IN TWO PARTS

The USA proposal consists of a single, integrated tax in two parts: a progressive tax on individual incomes, and a low, flat rate tax on all businesses. These two parts are meant to work together. It is important that people not try to consider the two parts separately, because if they do they will not grasp the significance of the whole concept. It is a single tax levied in two places: at the business level where wealth is created and at the individual level where wealth is received.

This proposal allows an unlimited deduction at the business level for capital investment and, more important, it permits all citizens an unlimited deduction for the amount of their annual income they save and invest. The USA Tax System directly and systematically addresses our saving and investment problem.

To the individual, our system says, "If you choose to defer some of your consumption in favor of saving income for your future and the future of your children, the Tax Code will not penalize you for doing so."

And to the business enterprise, whether very small or very large, manufacturing, service, or agricultural, the USA Tax System says, "If you choose to invest your profits in a new machine or a new process that will help you grow and put more people to work, the Tax Code will help you." The USA Tax System, by its very nature, would align the way we tax with our common desire to provide our children with a better tomorrow.

Mr. President, I will not go into detail on the individual and business component.

But there are other parts of the proposal that I think need some emphasis this morning.

THE INDIVIDUAL TAX

Let me describe the key features of the individual part of our proposal first. The individual tax would function in a manner similar to that of the current income tax. From your gross income, you would make subtractions before you figure your tax, just as you do now. You would subtract personal exemptions, a new family living allowance, a new savings allowance, and a limited number of itemized deductions. Gross income would include wages, salaries, interest, dividends, earnings withdrawn from unincorporated businesses, proceeds from asset sales—basically the same concept of income we have today.

First, the USA proposal contains a family living allowance that is similar to the current standard deduction except that it is in addition to any itemized deductions, not an alternative to itemized deductions. This family living allowance exempts the first dollars spent on consumption from taxation, because we know that people in low income brackets spend a higher proportion of their incomes on necessities than people in high income brackets.

In addition to the family living allowance, you would have personal exemptions just as you do under current law. A family of four filing a joint return would have its first $17,600 of income exempt from taxation by adding this family living allowance to its four personal exemptions.

THE UNLIMITED SAVINGS ALLOWANCE

In addition to these deductions, there would be a new deduction for the amount of income that is saved called the unlimited savings allowance. We define savings in this proposal as net new savings. That is key. If you add to the national savings pool, you would deduct that money before you pay taxes. In other words, to make it simple, if someone makes $40,000 a year and saves $5,000, they would pay taxes on $35,000, instead of today paying taxes before the savings on the entire $40,000. That is fundamental. We encourage people to save.

The unlimited savings allowance is similar to the IRA concept, but it is unlimited. It is not limited to $2,000 or any other dollar amount. It is not limited to saving for retirement. But it is for net new savings. We do not give a deduction for merely shifting savings around. That has always been one of the problems with the IRA.

The unlimited savings allowance is fundamentally different from the current Tax Code, which penalizes savings. Under the present Tax Code, savings are taxed twice, once when you earn the income that you save, and again when you receive a return on those savings; consumption is taxed only once.

The USA Tax System also reflects a fundamentally different philosophy in that we do not focus on where your income came from. We do not have different rates for wage income or dividends or capital gains. Under the USA Tax System, the point is not where the income comes from, it is what you do with it. The portion of your income you save, whether you are rich or poor, you do not pay tax on. The portion you spend, above the level for basic necessities, is subject to tax at progressive rates.

The deduction for individual saving also permits a new perspective toward designing a business tax. Because our proposal defers taxes on individual saving until they are spent, we can eliminate enormous complexities in today's Tax Code. There is no reason to be concerned about people sheltering their savings in corporations, which creates a huge portion of the complexity in today's Tax Code. We do not need elaborate rules to force businesses to distribute sheltered saving.

I am sure some people say that there is no proof that savings will respond to changes in the Tax Code, so how do we know your proposal will work? In response to that, I would say that first, you could just as easily argue is no proof regarding any proposition of economics. Economics happens in the real world, with complex interactions that will never be exactly repeated, not in a lab.

Second, it misses the point to compare the USA proposal to the experience we had with individual retirement accounts in the early 1980's. With the IRA, you did not have to save more to get a deduction, you merely had to move your savings into an IRA. Since the Government was handing out tax deductions for moving savings from your right pocket to your left pocket, is it not surprising that those IRA provisions did not increase national savings.

But there is a crucial difference between the unlimited savings allowance that Senator DOMENICI and I are proposing and the IRA's of the 1980's. Our proposal rewards true increases in savings and does not reward shifting assets from one type of account to another.

Finally, I would say that a perfect world Tax Code would not affect people's economic decisions at all. But we all know we do not live in such a perfect world, and it is unlikely we ever will. We all know people do things sometimes that do not make a lot of sense, just to lower their taxes. To say that people do not respond to economic incentives simply flies in the face of everything we know about economics and human nature. What the Senator from New Mexico and I are saying is, recognizing that it is human nature to respond to incentives like tax deductions, let us give people an incentive to do the right thing, for our country and our economy, not the wrong thing.

OTHER DEDUCTIONS FOR INDIVIDUALS

In addition to the family living allowance, the personal exemptions and the savings allowance, we propose a limited number of additional itemized deductions. The higher the number of deductions, as we all know, the higher the marginal tax rates would have to be. So, there is a tradeoff. We are proposing to retain a deduction for home mortgage interest and charitable deductions. We could have more deductions, of course, and certainly we welcome debate on which deductions people think should be added to, or subtracted from, our proposal—with one word of caution. The higher the number of deductions, the higher the rates will have to be to avoid increasing the deficit. There is a direct tradeoff between the number of deductions and the tax rate.

Our proposal does have one such additional deduction which I feel very strongly about, and that is a deduction for tuition expenses for post-secondary education, whether it is college, trade or vocational school, or remedial education. We feel it is important that the tax system provide a deduction for investment in human capital that parallels the deductions on the business side for investments in physical capital, since both investments raise the productivity and real incomes of workers.

THE USA TAX SYSTEM IS PROGRESSIVE

The USA Tax System is a progressive tax. Our system will have three graduated rates. We are proposing a progressive system, not a flat tax. We do not believe it is necessary to abandon the principles of fairness and progressive taxation in order to get a simpler, more efficient, growth-oriented Tax Code. It is important to keep in mind that the graduated rates in the USA Tax System will not create the same disincentives on saving and growth as today's tax system, since taxes will be deferred on income that is saved and invested.

There are four main elements that make the USA tax on individuals progressive. First, we have progressive rates. Second, we have a family living allowance that does not tax the first several thousand dollars of consumption for basic necessities. Third, we retain some progressive elements of the current code, such as an earned income tax credit—which we increase—and the tax-exempt status of food stamps and other safety-net benefits. Finally, we have a new payroll tax credit which I will discuss in a moment.

We would apply progressive tax rates to the amount of income that is consumed, after subtracting the family living allowance, personal exemptions, and deductions for mortgage interest, charitable contributions, and education expenses.

The tax rates in the USA system are not directly comparable to the rates in the current Income Tax Code, however. I know people are going to find that a little hard to understand at first, but the reason why they are not comparable is very important, and that is our payroll tax credit.

THE PAYROLL TAX CREDIT

Under the USA system, after you determine the amount of tax resulting from applying graduated rates to your taxable income, as I have just described, you would subtract from that income tax the amount withheld from your salary for the employee share of your Social Security payroll, or FICA, tax. We think that is a very important feature of the USA system that would reduce the regressive nature of the present payroll tax. The payroll tax, which is absolutely essential to fund Social Security, to fund Medicare, also has become the most regressive part of our Tax Code—the most regressive part of our Tax Code. It does not apply except to the first $60,000 of earnings. Higher income people do not pay it above that except a limited portion on Medicare. But low-income people, medium-income people, are paying a very large percentage of their overall taxes on FICA tax.

In fact, there are literally millions of Americans today that pay more FICA tax than they do income tax.

Our payroll tax credit would be refundable so that if you had more withheld in payroll taxes than you owed in taxes, as is the case for many people, the difference would be refunded to you. Therefore, people with earned income can, in effect, subtract 7.65 percent, the amount of pay withheld for the employee's share of the Social Security and Medicare payroll taxes, from our tax rates.

It is very important for people to understand this. When you see a 20 percent tax rate or 19 percent or 27 percent tax rate under the USA proposal, the 7.65 percent credit has to be subtracted to get the real tax rate—a 20 percent rate under the USA system is, in effect, equal to a marginal rate of 12.35 percent under today's system after you take the payroll tax credit.

The payroll tax is a perfect example of why fundamental tax reform is needed. As my colleague from New York, the ranking member of the Finance Committee, Senator MOYNIHAN, has so frequently and eloquently pointed out, the payroll tax is a very regressive tax. It discourages hiring additional workers, especially lower wage workers. Nobody designed the system that way, of course.

The payroll tax started out at a low rate, but that rate has grown considerably over the years. In the late 1960's and early 1970's, the payroll tax working people paid grew considerably to finance large cost-of-living increases for retirees that were enacted in years of high inflation. It was increased again in the 1980's, ostensibly to build up a surplus for the retirement of the baby boomers. Unfortunately, as Senator MOYNIHAN has also pointed out, that is not what the surpluses are actually being used for.

So we now find ourselves with a combined employer-employee payroll tax rate of 15.3 percent, a very high rate that adds significantly to the cost of labor. The system was set up for one purpose—to provide income security in retirement—but it is actually hurting working people in ways that I am sure were never intended by the authors.

Mr. President, our proposal does not abolish the payroll tax. It does not affect the operation of the Social Security System in any way. What it does do is to offset the unintended negative effects of the payroll tax by crediting the payroll tax against an individual's or business' tax liability under the USA tax. The employer would also get the 7.65 percent credit against their taxes—not a deduction, but a tax credit. Employees get a credit for the FICA taxes against the individual income tax, and employers get a credit for the employer share against the business tax.

So the same amount of revenue will continue to be deposited in the Social Security Trust Fund. We do not affect that, but the payroll tax will be integrated into the income tax in a way that offsets its regressive nature. This is important for fairness purposes. It is also important so that we eliminate one of the major impediments to people with low skills being hired. Now people with low skills, minimum-wage-type jobs, the employer has to look very, very carefully before they hire because they are not only paying for the minimum wage, or whatever the wage is, they are also paying another, in effect, 15.3 percent because of these very high payroll taxes that continue to go up.

THE BUSINESS TAX

Mr. President, I will take just a moment on the business side of the Tax Code because I know that Senator KERREY from Nebraska, who has been very involved in this concept for a long time and has been a major help to us, is on the floor and would like to speak. Let me make a few comments about the business tax.

The second component of our new tax code is the business tax. The business tax would work like this: Under the USA Tax System the business would add up its sales receipts during the year, then add up the cost of the goods and services it purchased for use in its business. The cost of these business purchases would be subtracted from the sales receipts. The difference would be subject to a business tax at a flat rate of 11 percent.

I am sure many people will ask, "Why is the business rate so much lower than current law?" The answer is that the two rates are really not comparable, because our tax would not be applied to corporate income as currently defined, but rather to a company's gross profits. It is a fundamentally different concept from what we have today, and it applies to all businesses, not just those that are incorporated. I think everyone who studies this business tax needs to understand we have a fundamentally broader base for the business tax so we are dramatically lowering the rate but we are producing the same amount of revenue. We are not lowering the overall proportion that businesses are paying. They are paying the same proportion. But we are able to lower the rate because we are greatly broadening the base, and that needs to be understood.

It is important also to understand that under the USA Tax System, the cost of investment in plant and equipment and inventory would be fully deductible when spent. There would be no need for depreciation schedules. Investment would be deducted up front. Investment creates jobs. New plant and equipment creates productivity opportunities and that increases the income of our people. So that is the behavior we should be encouraging rather than discouraging.

Investment in plant and equipment is what we need in this country, and yet the amortization of these investments over a long period of time under current law discourages businesses from investing as much as they would otherwise.

THE USA TAX PROMOTES U.S. COMPETITIVENESS

Another very important feature is that our USA Tax System puts U.S. companies on the same footing with our competitors. The USA business tax is territorial—meaning it applies to all sales on U.S. soil no matter where the business is headquartered—and it is border adjustable.

We want to encourage exports, and we do in this proposal. We exclude the proceeds from export sales from taxation by rebating the tax on goods exported for sale abroad. And when a company, foreign or U.S. owned, manufactures abroad and sells to the United States market, the company is, through the operations of a new import tax, taxed essentially the same as if the factory were located in the United States. That is border adjustability, the tax is rebated on exports and added to imports, which is exactly the situation American exporters to Europe and Japan face today. We believe our business tax will place American companies and workers on an equal and level playing field.

This is no small matter, Mr. President. The share of our economic output that is exported, and the share of our national income that we spend on imports, have both doubled over the past 25 years. Yet the current U.S. Tax Code has not kept pace with the rapidly changing face of international competition. While our economy has shifted dramatically since this Tax Code was put into effect, our we have not made a comparable shift in our Tax Code. We have simply tinkered with it year in and year out.

Our tax system is a holdover from another era, when international trade was a small component of our economy, when having a tax rule that applied to all American corporations equally was enough. But today American companies do not just compete with each other, they compete globally. And the U.S. Tax Code puts our companies at a disadvantage.

Under the rules of the General Agreement on Tariffs and Trade, or GATT, certain types of taxes can be levied on imports and rebated on exports—border adjustability—while other types of taxes cannot. Our competitors in Europe and Japan have business taxes that can be rebated under GATT, while we do not. We believe the USA business tax is legal under the GATT, since it would work essentially the same way as European and Japanese value-added taxes, which are GATT-legal.

Let me give a simple example of how our business tax applies to exports and imports. If a company has $2.5 million in sales, of which $500,000 are export sales, for purposes of the business tax its receipts would be only the $2 million it had in domestic sales, not $2.5 million. But it will not have to go through a lot of complicated calculations to allocate its production costs between its domestic and foreign sales. All domestic input costs will be deductible regardless of whether the sales are domestic or export sales. Under our proposal there will no longer be a tax incentive to move production overseas.

Conversely, if the facilities used for the production of the $2 million in domestic sales are moved overseas and the $2 million of goods are imported into the United States, an 11 percent import tax of $220,000 will be collected on those goods.

In order to comply with the requirements of the GATT, businesses would not deduct wages. This is a key point, and I know there will be concern about this. But there are two important things to remember. First, our rates are much lower—11 percent —than the rates currently imposed on corporate profits.

The second thing that we need to remember is that under our proposal, the deduction for wages would be replaced by the credit for the employer's share of the Social Security payroll tax—which is 7.65 percent of its payroll—which is the other half of the credit that employees get under the individual tax that I have already described. Businesses would get a credit back on that tax up to the maximum Social Security wage.

THE USA TAX IS DESIGNED TO BE DEFICIT-NEUTRAL

Under our proposal, the individual and the corporate shares of our total revenue would remain the same. We are not trying to shift the tax burden from businesses to individuals, or vice versa. We are not trying to shift the burden from the rich to the poor, or from the poor to the rich. We are not looking for the fellow behind the tree to tax. We are designing this system to produce the same amount of revenue as the current Tax Code. It is not a proposal to cut taxes or raise taxes.

Because of the comprehensive nature of our proposal, and the enormous workload the Joint Committee on Taxation has had this year, they were not able to perform an official revenue analysis or a distributional analysis of this proposal before we introduced it. It is our intention that this system retain the progressivity of the current system, and that it be revenue neutral compared to the current system. Should the official estimates indicate that the bill we have introduced fails to completely meet either of those goals, we intend to work with the Joint Committee to refine this proposal so that we meet both, because we think they are very important.

THE USA TAX IS SIMPLER AND MORE EFFICIENT

The USA Tax System also makes great strides in making our Tax Code simpler and more economically efficient. The USA tax eliminates the need to calculate depreciation year after year, because investments are expensed immediately. We also eliminate the complicated, and in many cases counterproductive, alternative minimum tax, or AMT.

The USA business tax puts debt and equity financing on an equal footing. We treat all forms of businesses the same—corporations, partnerships, and proprietorships.

One of the greatest contributions the USA system will make to simplification is that no longer will people have any reason to seek out unproductive, economically wasteful tax shelters in order to cut their taxes. If you want to lower your taxes, put your money in savings where it can work for all of us—buy a CD, invest in a mutual fund. It might take a few minutes to do your net savings calculation once a year, but the net savings calculation should result more efficient use of our national income, as well as higher economic growth as saving and investment increase.

In an economy with a gross domestic product of over $6 trillion, taxation will never be a completely simple affair. But because the USA Tax System eliminates the need for rules against sheltering income in corporations, and because it is based on cash rather than accrual accounting, it promises major advances in simplicity and clarity.

Under the USA system, we believe whole volumes of Tax Code complications would fall away into welcome oblivion. The tax shelter industry would shrink and compliance costs would plummet. All income would be treated alike. The key is what they would do with their income. If it is reinvested, then the taxation on it would be deferred. It is not reinvested, if it is consumed, then ordinary tax rates would apply. Those rules would be the same for everyone; for the factory worker and for the investor.

There would be no more need for fights over capital gains, investment tax credits, individual retirement accounts, and other targeted incentives for saving. The USA Tax System eliminates these issues because it offers a blanket deduction for personal saving and business investment.

And under the USA system, taxpayers will not have to keep track of the basis of their newly purchased savings assets such as stocks and mutual funds, the way they do now, and most taxpayers will not have to worry about the basis of savings assets they already hold. Finally, the USA tax system will not take a whole new bureaucracy to administer.

THE USA TAX SYSTEM IS A REVOLUTIONARY CONCEPT

In a way, the USA Tax System could be described as simply taking the current tax system and adding a deduction for savings. That may be the major change most people would notice. But the USA Tax System represents a much more profound change in its effects than in its form.

For any given level of income, those who save and invest more will pay lower taxes. The taxpayers in the top bracket would pay roughly the same total amount of taxes they do now. But within that bracket, there will be those who pay less and those who pay more. The same will hold true whether you are in a higher or a lower tax bracket. That is the essence of our proposal. Those who help our economy, help create jobs, and boost productivity by saving and investing, will pay less than their neighbors with similar incomes who do not.

We are basically going to tax people on what they take out of the economy—above a tax free level for necessities—rather than what they put into the economy by working and saving. Our proposal represents a revolution in the philosophy of the income tax system. But we do not have to make major changes to the system already in place to administer the tax system to make our proposal work.

By contrast, a consumption or expenditure tax, such as a value-added tax, would impose enormous administrative expenses on American businesses, without the progressivity, and without creating the same incentive to save and invest, that the USA Tax System has.

The distinguished economist and former chairman of the Council of Economic Advisers, Murray Weidenbaum, very clearly summarized the benefits of moving to a tax system that, in his words "puts the fiscal burden on what people take from society—the goods and services they consume—rather than on what they contribute by working and saving."

Professor Weidenbaum argues that we need a Tax Code that promotes saving because saving is the seed corn for economic expansion. The money you save does not just sit there, it works for all of us by being invested. Increased savings and investment generates more production of goods and services, more employment, and a higher living standard for all of us.

A tax system that exempts saving raises the same amount of revenue as the existing tax system, with far less damage to the economy. We get a faster growing economy with more people working, fewer people needing public assistance, and the increased revenues that come from a growing tax base instead of from raising tax rates.

CONCLUSION

Mr. President, this is a revolutionary concept. The advantages are, I think, very, very important to our country.

The first advantage: This proposal will increase national savings by eliminating the bias in the current Tax Code against savings, without increasing the budget deficit. Increasing the pool of private savings will in turn allow increased investment at lower cost, which will increase the productivity of our workers.

Second, it will level the international playing field for U.S. companies, and promote U.S. exports of domestically produced goods, by rebating the business tax on goods sold for export, and it will equalize the tax treatment of American-made and imported goods by having foreign companies pay their fair share of taxes, just as American exports are taxed when they are sold in foreign markets.

Third, it will make our Tax Code more understandable and more efficient which will save, I believe, both millions of dollars and millions of hours preparing individual and business tax returns, and it will do so without sacrificing the principle of fairness in allocating the tax burden.

Fourth, the USA tax credit for the employer share of payroll taxes will help create jobs for workers who might not otherwise be hired by reducing the current disincentive to hire low-skill workers that results from the regressive payroll tax which applies to the entire wage of lower paid workers but to only part of the wage of higher paid workers.

Finally, we believe it will foster greater personal responsibility by clearly showing the costs and benefits of saving versus consuming.

Today, Mr. President, every family in America, if they are saving money for a washing machine, an automobile, or a college education, has to pay taxes before they save. We would give the people in the lower and middle-income brackets who need to save, but who think they cannot afford to save—and who do not have any incentive to save under the current Tax Code, because any money they do save out of their after-tax income is taxed again when it earns interest or dividends—we would give them a way to save. I believe our proposal will help all American families save, and that as a result, all of us will be better off.

The current tax system is broken and, in my opinion, it cannot be fixed. In a very real way, it has aided and abetted our irresponsible tendency to live beyond our means. Our current Tax Code must be abolished and replaced.

We must being anew. The USA Tax System provides a way to eliminate the cynical complexities, the special subsidies, the crippling biases present in the current Code. By enacting real reform of the tax system, this Congress can take a giant step toward securing our future.

Mr. President, I thank the Senator from New Mexico. Without his leadership there would have been no Strengthening America Commission, there would have been no tax proposal today. He has been a key player in this from the very beginning. He is a pleasure to work with. I look forward to working with him on this proposal, as well as on his important responsibilities on the other side of our national economic challenge, and that is getting our deficit under control, which also directly drains our savings.

Mr. President, I yield the floor.

Mr. KERREY. Mr. President, it is awfully difficult to estimate the economic impact of tax law. I must say, it is a lot easier for us to estimate the political impact of tax laws because we hear from a whole range of interest groups constantly that are concerned about preserving some deduction or perhaps expanding some deduction. So it is genuinely difficult to estimate what the economic impact is going to be, though it is easy to estimate what the political impact is going to be, of various changes in the law.

What is not difficult with this particular piece of legislation is to estimate what the impact is going to be upon American families who desire to save and on American businesses who are willing to make job-creating investments.

Mr. President, this piece of legislation, though I am quite certain there will be critics who will point out defects in it—indeed, there may be plenty of room for improvement of this legislation—there is no question that this tax law change is allowed, in my judgment, by the rather dramatic change in the political situation last November, which has permitted us, the Congress, to begin to consider things that had previously been off limits. There is no question, in my judgment, that this piece of legislation would have the impact of simultaneously allowing American families to save more by providing a powerful incentive for them to save, and it would enable American businesses to make job-creating investments by enabling them to expense off the cost of those investments.

Let me say, Mr. President, as a part of this debate, that I am continuing to be one of the diminishing numbers of the Senate that is a Member of the Democratic Party and should assert that as a Member of the Democratic Party, I do believe that labor is superior to capital. By that, I mean you must have people who are willing to work before the capital is worth anything; capital without labor is worthless. So I believe in the superiority of labor, and I believe in the training of labor, and I believe in universal education and the preparation of people so that they have the skills needed to compete, so they have the skills needed to earn the living that they desire.

But I do not believe in declaring war on capital, nor do I believe in declaring war on the wealthy. Indeed, it seems to me that the heart of the Democratic message ought to be that equal opportunity means providing every single American, regardless of their status in life, an opportunity to become wealthy in this country.

Unfortunately and regrettably, Mr. President, there is no shortcut to becoming wealthy. There is no easy way, no free lunch to do it. In order to become wealthy, one must acquire wealth. And in order to do that, one must save. Occasionally, there are people who hit the lottery or some bonanza of some sort. But, generally speaking, the acquisition of wealth occurs as a consequence of people being willing to defer gratification to set aside something they would like to purchase today in favor of the desire to purchase something later.

I remember, Mr. President, in 1988, during my first campaign for the U.S. Senate—I will not tell the gentlemen's name—standing at a farm site at an event thrown in my behalf, standing next to a farmer approximately a generation older than I, along with a friend of mine who is a salesman. He was talking to this farmer and he said, "It is well known that you are one of the wealthiest men in the country. How did you get so wealthy?" He said, "It is real simple. I do not spend my money." And in making an observation about this gentleman who was a salesman, he said "You are wearing very nice clothes that cost you a lot of money." The salesman said, "I have to in order to do my work." The farmer said, "You will notice that I am wearing a very attractive shirt that I bought for a dollar at your garage sale last fall."

Mr. President, in order to acquire wealth, individuals must be willing to save. There is no short cut to it. Senator SIMPSON and I will, in the next few days, I hope, if we can get the bill language put together, present legislation that will reform a program that is supposed to be a savings program but it is not, and that is our Social Security system. One of the things I will do in the process of describing the legislation is describe the magic of compounding interest rates.

Mr. President, there are three variables that will determine the impact of your savings and your acquisition of wealth.

Variable number one is the length of time that you contribute to that savings account.

Variable number two is the amount of money you contribute.

Variable number three is the rate of return.

The most important variable is number one, the length of time that you contribute. An individual that contributes $75 a year starting at age 20, over a 50-year period, will have more at the end of that 50-year period than somebody who contributes $1,500 a year if they wait until they are age 50 to start. I am 51 and, generally, it occurs to you when you are about 50 that, Oh, my gosh, I am going to retire in 15 years, I have to start saving money. The dilemma is that if you wait until you are 50, you are giving up the significant impact of compounding rates.

Let me give a little mathematics for the listening audience. Mr. President, if you got a 10-percent real rate of return by investing in equities, which is not that difficult to do, that would mean that you would have a compound every 7.2 years. Thus, if your parents took $1,000 and opened a savings account for you when you were born, you would get 10 compounds on that thousand dollars that would be worth a million dollars by the time you reach age 70. This piece of legislation, in my judgment, Mr. President, would change the culture and attitude of savings in the United States of America.

Mr. President, to be clear, there are not very many situations where the interest of the individual and the interest of the Nation intersect, where they are the same. As much as we talk about it being the same, there are very few situations where that is the case. With savings, there is an intersection. It is in the interest of American families to acquire and accumulate wealth. It is in the interest of the Nation to do the same. Unless both the individual has an incentive to save and the Nation has the discipline to save, then the standard of living of the United States of America simply will not rise.

Mr. President, I will identify four features that I think unquestionably will have a dramatic and powerful and positive impact on the United States of America.

First, this piece of legislation permits a full and unlimited deferral of the taxation of savings. A clear signal, unequivocal. There would be no need to consult with an accountant. You would know precisely that if you save money, you can defer taxation on that savings.

Second, it allows wage earners an offset for the employee portion of the payroll tax. That is a very powerful incentive. The payroll tax is extremely regressive and very often uncalculated when people are politicians and are looking at the overall rates of taxation. It is an extremely regressive tax, difficult for individuals, and very often a barrier for businesses to hire new employees.

Third, Mr. President, it allows those individuals who are willing to roll the dice, to sign their name on the dotted line to put some savings into land, building, equipment, which will hire and employ Americans. It allows them, in the operation of their business—a risky venture in the 1990's—to expense every single one of their real investments.

Fourth, Mr. President, it enables the United States of America to exclude export sales from taxation imposed, as well a tax on imports. Every single one of our industrial competitors does precisely the same thing. They have to be laughing under their breath as they look at the taxation system of the United States of America that puts our workers at a competitive disadvantage, and puts our businesses at a competitive disadvantage as well.

Mr. President, I am pleased to join the distinguished Senator from New Mexico and the distinguished Senator from Georgia as an original cosponsor. This is a piece of legislation that has been several years in the making. It is a very thoughtful piece of legislation. It has been well thought through. I attended a number of these meetings long before the issue was popular. The Senator from New Mexico and the Senator from Georgia were leading this effort. I hope that, with the new permission granted in this new Congress, this kind of legislation, serious legislation, will not only be considered but will be enacted as soon as possible. Mr. President, it will be good for American families and good for American workers, and it will be good for American businesses and, as a consequence of all three, good for our country.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes, and Senator NUNN would like 5 to wrap this up, so I will yield 5 to him.

Mr. President, I would like Members of the Senate and those interested in this legislation to know that we set some very difficult parameters for those who helped us draft this. We said we want to replace the income tax system with a whole new system, and we want to replace it both in substance and in dollars. We want the exact same amount of revenue to come in from this new code as before. No more, no less. We want it to be neutral. It was a pretty hard mandate imposed on those who are doing the modeling, the rate making, and other things.

Second, we said to them that we have a tendency in the United States to judge progressivity based on things we understand. So we took progressivity to mean that each 20 percent of the American taxpayers—frequently called quintiles—the low 20 and the high 20 would pay the same proportion of the total tax when we were finished with this as the current code—another very difficult and onerous instruction, but we did those two things because we wanted to prove that you could totally overhaul the income tax structure and get the same amount of revenue from corporations and businesses and the same amount from each quintile —that is, 20 percent of the American taxpayers in a progressive manner.

Now, obviously, we have followed that rule religiously. Thus we have some guidelines, some milestones, and proof that it can be done.

On the other hand, we suggest to the tax writers in the various committees, including our Ways and Means Committee, our Finance Committee, and the Ways and Means Committee in the House, that they might very well, in trying to adopt this major concept changes that are incorporated in detail, they might want to look at some variance in those. But we wanted to send it to them and say we have living proof that it can be done and yet tremendously encourage savings and investment.

The second point. All of the modeling and estimating was done on a basis of static economics. That is, we used the conservative—acceptable to the CBO and everyone else—approach to the tax yields.

Not for a minute do Senator NUNN and I believe that the savings, that the tax yields over time will be precisely the same. As a matter of fact, we believe that in the future years—because of the savings and investment, we might indeed have slightly less tax receipts in early years and very significantly higher ones in future years with better jobs.

We do not take credit for that in the modeling and estimating. We do it on this neutral, conservative basis.

Having said that, I want to say to my friend, and certainly he is Senator NUNN's friend, Senator KERREY from Nebraska actually hit right at the heart of our proposal with his four summary items.

There is no question that this is a totally new concept. We think it is better. As I view it, when people sit around and decide what they are going to do with their earnings, currently there is no real incentive to look at savings and investment because we pay double tax on both—the incentive is against it instead of in favor of it.

We only want a neutral arena. We understand Americans must spend their money. We understand we will be asked, "Are you sure you will not hurt the economy by causing Americans to spend less?" We think, over time, the pluses are our way.

All we want to do is put that on a level playing field. As we sit around and talk about disposable income we want people to look at the unlimited IRA's that are part of this, or starting your own investment money and leaving it there.

In conclusion, the concept is that the savings and investment pool is good for America. The bigger it is, the better for our working people, for jobs and for our children. So if the money is left there in the savings or investment pool, you do not bring it back into your income and spend it, people do not pay taxes. It is deferred.

This seems to Washington to be rather revolutionary when coupled with the corporate advantages with our border adjustable. Clearly, American companies will be given a better opportunity to use more of this savings pool here in America, which many will ask, if we are going to have all these savings and investments, will American companies get a fair shot?

What we will say, I think, is, "Absolutely yes." We cannot keep all of our money at home, but when we create the advantages for American corporations and take away the disadvantages of engaging in world markets, I believe we will keep much of our money here at home under this proposal.

The PRESIDING OFFICER. The Senator from Georgia has 9 minutes 40 seconds remaining.

Mr. NUNN. Mr. President, I want to thank a few people, and I inadvertently may not name everyone. There have been many people involved in this effort.

On my staff, Mike McCord and Rocky Rief; on Senator DOMENICI's staff, Bill Hoagland and Denise Ramonas.

I would like to thank David Abshire and his entire team at CSIS—Dick Fairbanks, Debbie Miller, and John Yochelson—who worked on the Strengthening of America report, and the many people who have worked so hard to help us develop the concept we endorsed in that report into the detailed proposal we are introducing today.

Barry Rogstad and John Endean of the American Business Conference have helped immensely. Barry was on the commission and we asked him to work with us after we came out with this report. Ernest Christian and George Schutzer of the Center for Strategic Tax Reform, who have been very, very, instrumental in helping us turn this overall concept in a working tax system, because they have great expertise in the tax area. I also want to thank Rudy Penner, the former Director of the Congressional Budget Office, who has done a great deal in coming up with rate structure and conceptual framework of the USA tax, and Lin Smith and Paul Burnham who are part of Rudy's team at KPMG Peat Marwick.

Barry, Ernie, and Rudy in particular have spent countless hours helping Senator DOMENICI and I develop this proposal. These key players deserve great credit. I also want to thank Bob Lutz, Paul O'Neill, Barbara North and all the members of Alliance USA for their support.

While he has not reviewed the legislation we are introducing today, and may not necessarily agree with everything in it, this proposal has benefited from the pioneering conceptual work in this area over the past 20 years by David Bradford.

The cash-flow business tax component of our proposal has also built on the foundation of several years of work by our two distinguished friends and former colleagues, Senator DAVID BOREN and Senator JACK DANFORTH, and their very able staffers, Beth Garrett, and Mark Weinberger, who also served as Chief of Staff of the Kerrey-Danforth Bipartisan Commission on Entitlement and Tax Reform.

I would also like to thank Jim Fransen and Mark Mathiesen of the Senate Legislative Counsel's office, and the staffers from the Joint Committee on Taxation, especially Jon Talisman, Joe Mikrut, Tom Bowne, and Tom Barthold, who have spent many hours working with us on this legislation. I know that the Legislative Counsel's office and the Joint Committee have both been extremely busy this year, and probably will continue to be, given the large numbers of both incremental and fundamental tax reform proposals being introduced, marked up, and debated this year.

I have no doubt that if we and they had the luxury of having all the time needed to produce a bill that contained every detail necessary to implement such a comprehensive reform as the USA Tax System, we would be able to improve it still further. While all these individuals have shared their time and talents with Senator DOMENICI and I and our staffs, and we have spent hours and days and weeks and months working on this proposal, I would be the first to say that the legislation we are introducing today is not complete, it is not perfect, it is not the last word on tax reform that will ever need to be written.

But we believe it is important to put our proposal—which I believe is far more detailed than any of the other reform proposals being discussed—before the American people at this time so that the American people can learn more about our proposal, and so that we can learn from them. We believe our proposal can and will be further improved as people study it and debate it. In the end, we believe we can make a compelling case why our USA proposal best serves the needs of the American people, and addresses the competitive realities of the global marketplace for the next century.

Let me see if I can summarize the USA tax proposal in a very brief time. The fundamental premise is that the United States has a serious savings problem. The private savings in this country have continued to go down, down, down, while the Federal deficit has eaten up the savings by going up, up, up.

We have the lowest savings rate in the industrial world, as Senator KERREY from Nebraska and Senator DANFORTH from Missouri pointed out so clearly in their study, as we pointed out in the Strengthening of America Report, and as many other commissions, including Warren Rudman, Paul Tsongas, and PETE PETERSON of the Concord Coalition, who have done so much work in that area, have reported in the work they have done on trying to reduce the Federal budget deficit.

The fundamental premise is we have much too low a rate of savings, and we have to do something about that. The other fundamental premise is that higher savings is directly connected with real income, because higher savings produces more investment, higher productivity and improved competitiveness, better jobs, and a higher standard of living for our American workers.

The goals of our tax reform effort is to promote savings and investment; to ensure fairness while we are doing that; to not increase the budget deficit, which is enormously important; to strengthen America's competitive position—and I have talked about that at length this morning on the export/import matter—to make our Tax Code as simple and as efficient as possible in a complicated, complex world; to give individual Americans at all income levels a chance to save, to invest for their future, for their children's future, and to raise the standard of living for themselves and their families; and, finally, to produce the revenue required for the U.S. Government with the least detrimental effect on our economic growth.

The advantages of the USA tax system are many. I will try to capture those very briefly. No. 1, we eliminate the bias against savings in the current Tax Code.

No. 2, we do not increase the budget deficit, we break even if there is adjustment required. That is the fundamental premise. We will adjust to accommodate whatever tax estimates come forward.

The third point is increase the national savings and thereby we give ourselves an opportunity to increase investment and to increase productivity and real income.

No. 4, we help level the international playing field for U.S. business by not taxing exports and by having the same tax on imports as on domestically-produced goods.

This equalizes the tax treatment with our competitors. Both Japan and Europe have a value-added tax where they rebate on exports and they tax our imports. So we are doing the same thing that they are doing, equally, and leveling the playing field. It gives our American producers a level playing field with workers abroad. That is enormously important.

Finally, it makes our Tax Code more understandable and more efficient.

The other dimension that I emphasized this morning that I think bears repeating, is that this is a major step toward giving unskilled people at the bottom end of the economic ladder a chance to get started, to get the foot on the bottom rung of the economic ladder, and to get a job, because we basically merge the FICA tax, the Social Security, with the income tax and we give full credit back to employees for the portion of that tax they paid, even if it is refundable. Even if their FICA tax exceeds the amount they owe on income tax, they will get a refund.

So this eliminates the most regressive feature of our current tax system and removes a very large obstacle to employment.

Mr. President, we welcome constructive criticism. We know that we do not have a perfect Tax Code—there is no such thing. We understand that there are going to be changes that need to be made. We understand there are things we have overlooked. We welcome suggestions. We welcome constructive criticism. I know we will have a lot of debate and discussion on this proposal and I am delighted, with my friend from New Mexico, as partners, to jointly send this proposal to the desk and ask it be reported and properly referred.

I also ask the cosponsors be listed: Mr. DOMENICI, introducing the bill with myself, Senator KERREY, and Senator BENNETT—so those will be the cosponsors. I believe Senator LIEBERMAN has indicated an interest and I believe later he would like to be added as a cosponsor, but we have not yet heard from him. He has been enormously interested in this proposal.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank the Senate for the time it gave Senator NUNN and me this morning. Both of us have had opportunities in our Senate careers to do some exciting things for our country, but I think we both agree that if we can change the tax laws of the land to accomplish the goals and purposes described here and get the Federal deficit down where in a few years it would be zero, I think we would be rather satisfied that these would be major accomplishments in our time here in the U.S. Senate.

Does my colleague not agree?

Mr. NUNN. I certainly agree with my friend from New Mexico.

Mr. President, I ask this legislative proposal also be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I yield the remainder of our time.

Mr. DOMENICI. Yes, we yield the remainder of our time.

• Mr. LIEBERMAN. Mr. President, I applaud the efforts of the Senator from Georgia and the Senator from New Mexico. They have spent not weeks, not months, but years in developing this USA tax proposal.

It should come as no surprise that this proposal was such a long time in the making since it replaces our current individual and business income tax system. This was an enormous task. But each year, American taxpayers face an enormous task of their own—trying to make sense of the dazzlingly unwieldy and frighteningly complex U.S. Tax Code.

In addition to being complicated, our current Tax Code does little to encourage savings and investment and this is in a time when real incomes are down, making Americans even less certain about their economic futures.

Our current Code discourages the savings that create the savings pool from which investments can be made. In fact, our Code penalizes savings not once, not twice but three times—first by taxing that money before it can be invested, second by taxing it again as corporate profits, and third by taxing that money when it is distributed as dividends to shareholders. By any yardstick, the savings rate in this country is at a near-crisis point. Our falling private savings combined with our rising deficits have left our net national saving—the amount available for investment in job-creating activities—at record lows. That net national savings has fallen from about 10 percent of GDP in 1973 to less than 2 percent in 1993.

As the Senator from Georgia has said, "by definition what we do as individuals to invest in the collective future of our country comes from our savings." I agree with that observation and I would add to that observation by saying that by definition what we should be doing as the creators of the Tax Code is to remove the disincentives in our Code that discourage that investment.

The proposal that Senators NUNN and DOMENICI are introducing today clearly provides an incentive for that saving that we as individuals, and we as a country, so desperately need. This proposal imposes no taxes on savings—until those savings are spent. It also maintains a few important deductions like the home mortgage deduction and the charitable contribution deduction. In addition the proposal adds a critically important deduction to help families pay for the cost of higher education—as a way to encourage this all-important human investment. And it is significant to note that the proposal allows a full credit for the 7.65 percent of wages that workers pay into the Social Security system.

This proposal also goes to great pains to ensure fairness and progressivity. It allows for a living allowance as well as the deductions and credits I have outlined—for a family of four, the living allowance would mean that over $17,000 a year in spending would be tax exempt. In addition, the figures that have been run on this proposal show that it would actually decrease the tax liability for a family making less than $50,000 and leave the tax liability for those making between $50,000 and $100,000 unchanged. In addition, the tax liability of those making between $100,000 and $200,000 would increase by 3 percent and would increase by 4 percent for those making over $200,000. It also ensures that the great majority of people who have been saving all along will not be penalized when they withdraw those savings in their retirement.

On the business side, this proposal encourages capital investment by providing for unlimited expensing and encourages the reinvestment of capital gains by deferring taxes on those gains if those gains are reinvested. And while it increases the overall pool of what is subject to the business tax, the proposal also lowers the tax rate overall on businesses.

This proposal holds out real promise and I am grateful that my colleagues from Georgia and New Mexico have devoted so much time and effort to ironing out the thousands of necessary details and putting this proposal into legislative form. I look forward to discussing the proposal in greater detail with them and, from what I have seen, their proposal certainly moves us a big step forward toward a tax system that is simpler and fairer as well as a system that increases our capacity as a country to grow and create new jobs.•

By Mr. KOHL (for himself and Mr. SPECTER):

S. 724. A bill to authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention Programs to make grants to States and units of local government to assist in providing secure facilities for violent and chronic juvenile offenders, and for other purposes; to the Committee on the Judiciary.

JUVENILE CORRECTIONS ACT

• Mr. KOHL. Mr. President, I rise to introduce the Juvenile Corrections Act of 1995, which I am proud to sponsor with my friend and colleague, Senator SPECTER. The act dedicates approximately 10 percent of the 1994 Crime Act's adult prison resources to the construction and operation of State and local juvenile corrections facilities.

Juvenile violence, as we all know, is at the heart of the crime problem in America. Every 5 minutes a child is arrested for a violent crime in the United States; every 2 hours a child dies of a gunshot wound. Unfortunately, there is good reason to believe that this problem may get worse before it gets better. Demographics tell us that between now and the year 2000, the cohort of children between the ages of 14–17 will increase by more than 1 million. The likely result: a serious increase in the number of violent juvenile offenders in the coming years—above already unacceptable levels.

Despite this state of affairs, the Federal Government has treated juvenile corrections as the poor stepchild of the Federal anticrime effort. The 1994 Crime Act contained billions of dollars for policing and adult prisons at the State and local level, but no significant program to help States alleviate the increasing burdens on their juvenile corrections systems.

These burdens are real and substantial, Mr. President. A recent Department of Justice survey indicated that the majority of juvenile corrections facilities nationwide are seriously overcrowded and understaffed—in short, bursting at the seams. Between 1979 and 1991, juvenile detention centers faced a 30 percent increase in daily average population—a gain of about 65,000 youthful offenders. As a result of the demographic trend we highlighted above, we will probably see even worse overcrowding in the future.

Mr. President, the consequences of overcrowding should trouble us all. In part due to the combination of overcrowding and understaffing, juvenile offenders attacked detention facility staff 8,000 times in 1993. In countless U.S. cities, juvenile offenders who require detention are nonetheless released into the community because of a lack of space. And finally, it is clear that overcrowding breeds violence and ever more violent juvenile offenders who, when eventually released, are much more dangerous to society than when they were first institutionalized.

For all these reasons, we introduce today the Juvenile Corrections Act. Our legislation provides crucial assitance—$770 million in funding over 5 years—to State and local governments for the construction, expansion, and operation of juvenile corrections facilities and programs. And, I should note, the act has no impact on the deficit, as it draws its funding from the $8 billion adult corrections component of the 1994 Crime Act.

Mr. President, we cannot afford to turn a blind eye to the juvenile corrections problem. So I hope my colleagues will join with me and Senator SPECTER to enact the Juvenile Corrections Act. In light of the spiralling juvenile violence problem, we believe it makes good sense to dedicate roughly 10 percent of the crime act's adult prison resources to State and local juvenile corrections.•

By Mr. ROCKEFELLER (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. DORGAN, and Mr. WELLSTONE):

S. 725. A bill to amend title 38, United States Code, to extend certain authorities relating to the provision of community-based health care by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' COMMUNITY-BASED CARE ACT

Mr. ROCKEFELLER. Mr. President, VA, like other Federal departments, is taking a hard look at its programs in order to improve the way it operates, and in so doing, improve the services it provides to its beneficiaries—in the case of VA, veterans and their families. I am committed to providing VA with the legislative authorities and management flexibility needed to renew its health care system to meet the current and the future needs of our Nation's veterans.

One of the steps VA must take is to revamp its infrastructure to use the most clinically appropriate, most effective, and most efficient approaches to health care delivery available in this country. VA plans to restructure by shifting from a system which is heavily oriented toward inpatient hospital care, to a system which provides more care in outpatient and noninstitutional settings, such as care in the community and in veterans' homes.

The bill I am introducing today is designed to support VA's reengineering efforts by extending existing authorities to provide health care to eligible veterans in community settings. I am proud that Senators DASCHLE, AKAKA, DORGAN, and WELLSTONE have joined with me as original cosponsors.

SUMMARY OF PROVISIONS

Mr. President, this legislation contains amendments to title 38, United States Code, and to various public laws that would:

First, extend until December 31, 2000, VA's authority to contract with non-VA halfway houses for treatment and rehabilitation services for veterans with substance abuse problems.

Second, extend until December 31, 2000, VA's authority to conduct a pilot program of noninstitutional alternatives to nursing home care.

Third, reauthorize until December 31, 2000, VA's Homeless Chronically Mentally Ill Program, which provides outreach and contract care in non-VA facilities for homeless veterans with severe mental illnesses.

Fourth, reauthorize until December 31, 2000, the Compensated Work Therapy/Transitional Residence Program for certain veterans, including those who suffer from substance abuse problems and homelessness.

Fifth, extend until December 31, 2000, VA's authority to enter into enhanced-use leases.

BACKGROUND

Clearly, veterans who are eligible for VA health care services need access to a full range of institutional and noninstitutional services to meet their medical and health-related needs. Ideally, every patient would be provided the most appropriate type and level of care needed, and that care would be delivered in the most appropriate and least restrictive setting.

TREATMENT FOR ALCOHOL OR DRUG DEPENDENCE OR ABUSE DISABILITIES

This legislation would extend VA's authority to contract with non-VA halfway houses for treatment and rehabilitation services for veterans with substance abuse problems. Current law authorizes VA, through December 31, 1995, to provide veterans who are suffering from substance abuse disabilities with care on a contract basis through community halfway houses. Such community facilities provide a supervised, substance-free environment, maintain residents' health, and help residents improve their independent living and social skills.

This contract program provides an important step in a veteran's transition from inpatient substance abuse treatment and detoxification to independent living in a community. The contract program currently operates at 106 medical centers; 6,300 veterans were treated through the program in fiscal year 1994. First authorized in 1979, the program has been an integral step in the treatment of substance abuse for veterans.

NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE

This legislation would extend VA's authority to provide health and health-related services for veterans needing long-term care. Under current law, this program will expire on September 30, 1995.

Authorized by Public Law 101–366 and expanded by Public Law 103–452, the program is targeted to those veterans who, but for the receipt of these services, would need to be placed in a nursing home. Homemaker and home health aide services furnished under this program provide veterans with assistance in performing fundamental activities of daily living, such as eating, bathing, dressing, transferring, and other personal care activities. VA staff provide the case management, and public and private sector agencies deliver the services in veterans' own homes. Veterans can continue to live at home and receive, at less cost to VA and to the taxpayer, the same type of services that would otherwise be provided in a hospital or nursing home.

With a budget of $10 million in fiscal year 1994, 110 VA medical centers purchased homemaker and home health aide services for more than 3,000 veterans.

HOMELESS CHRONICALLY MENTALLY ILL PROGRAM

This legislation would reauthorize for 5 years the Homeless Chronically Mentally Ill [HCMI] program. Under current law, the HCMI program will expire on September 30, 1995.

The HCMI program, one of the two major VA homeless programs, authorizes VA outreach workers to contact homeless veterans in the community, assess and refer veterans to community services, and place eligible veterans in contracted community-based residential treatment facilities. The HCMI program was enacted in 1987 as a pilot program with a budget of only $5 million. Since that time, the program has grown significantly. In fiscal year 1994, it had a $24.5 million budget and operated out of 57 medical centers in 31 States and the District of Columbia. Similar to the contract program for veterans with chronic substance abuse problems, the HCMI program continues to prove its worth.

COMPENSATED WORK THERAPY/TRANSITIONAL RESIDENCES

This legislation would reauthorize through fiscal year 2000 a demonstration program that provides veterans with compensated work therapy and transitional residence [CWT/TR]. The current authority for this program expires on October 1, 1995.

Currently, section 7 of Public Law 102–54, enacted in 1991, authorizes VA to conduct a CWT/TR demonstration program with two components. Under one component, VA is authorized to purchase and renovate no more than 50 residences as therapeutic transitional houses for chronic substance abusers, many of whom are also homeless, jobless, and have mental illnesses. Under the second component, VA is authorized to contract with nonprofit corporations which would own and operate the transitional residences in conjunction with existing VA compensated work therapy programs.

Under both components, veterans pay rent from money earned by working for private businesses or Federal agencies which have contracts with VA to employ the veterans. Once the residence is fully renovated and operational, the rent collected from the veterans participating in the program is intended to pay the operating costs of the residence.

Thirty-six transitional residences run by VA were fully operational in 1994. Fourteen additional residences are currently in the process of being purchased or of activating operational beds. A preliminary VA evaluation of the existing programs indicates that well over half of participating veterans complete the program and have enjoyed substantially better sobriety, employment, and housing status than before entering the program. The analysis notes that, while these programs need additional study, they seem to have enjoyed some initial success.

While VA has implemented the first component of the demonstration program as originally envisioned by the Congress, I note that VA has only implemented the second component of this program, which requires VA to enter into agreement with nonprofits to purchase and run the transitional houses, as part of its HCMI program. Of the 29 VA contracts with nonprofits for the HCMI program, VA provides compensated work therapy at 27 of them. I remain concerned that VA has not formally implemented the second component of the demonstration program.

ENHANCED-USE LEASE AUTHORITY

This legislation would extend the authority for VA to enter into enhanced-use leases for an additional 5 years. This authority will expire on December 31, 1995. Under current law, the Secretary has the authority to enter into enhanced-use leases under which another party can use VA property so long as at least part of the property will provide for an activity which contributes to the mission of the Department and enhances the use of the property.

This program was enacted in 1991 as a test program in an effort to fund cost-effective alternatives to the manner in which VA traditionally acquired and managed its facility and capital holdings. The program was based on the concept that by out-leasing underused VA property on a long-term basis to non-VA users for uses compatible with VA programs, the Department would be able to obtain facilities, services, or money for VA requirements that would otherwise be unavailable or unaffordable.

According to VA, the initial results of this program are promising, and have significantly reduced costs to the Department and provided corresponding benefits to the local community. For example, through enhanced-use leasing, a Veterans Benefits Administration regional office is scheduled to open at the VA Medical Center in Houston, TX, this spring, at 56 percent of the cost initially appropriated for traditional acquisition, plus an annual income to VA. This summer, the Department is expected to open a new child care facility at the Washington, DC, VA Medical Center operated by a private child care provider; child care will be provided at a discounted cost to VA employees—all at no cost to VA.

The Department is pursuing other enhanced-use leasing projects, including child care projects for nine sites based on the Washington, DC, VA Medical Center model; parking garages at VA medical centers in St. Louis (John Cochran), Chicago (West Side), and Pittsburgh; training on emergency procedures at the West Palm Beach VA Medical Center; a Managed Care Clinical Research and Education Center at the Minneapolis VA Medical Center; new research space, a new outpatient clinic, and added parking at the Durham VA Medical Center; a new energy facility at the North Chicago VAMC; shared energy agreements at various VAMC's; and potentially, a continuous care retirement community at the Murfreesboro VAMC.

CONCLUSION

Mr. President, many veterans who have suffered from chronic illnesses have, in the past, had little, if no, choice as to where they could live and receive the long-term care they needed. Fortunately, there are more options today, including receiving care in one's own home. A long-term illness is no longer synonymous with institutionalization. If medical, health-related, and social services are available, it can make the difference between a veteran being able to live his or her last years in the comfort of his own home, or having to be placed in an institution. Among other goals, the Veterans Community-Based Care Act of 1995 will help make this possible for the men and women who have worn the country's uniform.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Community-Based Care Act of 1995".

SEC. 2. EXTENSION OF EXPIRING AUTHORITIES RELATING TO COMMUNITY-BASED CARE.

(a) ALCOHOL OR DRUG DEPENDENCE AND ABUSE.—Section 1720A(e) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 2000".

(b) NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.—Section 1720C(a) of such title is amended by striking out "September 30, 1995," and inserting in lieu thereof "December 31, 2000,".

(c) COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL VETERANS AND OTHER VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "September 30, 1995" and inserting in lieu thereof "December 31, 2000".

(d) DEMONSTRATION PROGRAM OF COMPENSATED WORK THERAPY.—Section 7(a) of

Public Law 102–54 (38 U.S.C. 1718 note) is amended by striking out "fiscal years 1991 through 1995" and inserting in lieu thereof "the period beginning on October 1, 1990, and ending on December 31, 2000".

SEC. 3. EXTENSION OF AUTHORITY FOR ENHANCED-USE LEASES OF REAL PROPERTY.

Section 8169 of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 2000".

ADDITIONAL COSPONSORS

S. 256

At the request of Mr. DOLE, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 356

At the request of Mr. SHELBY, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 356, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 440

At the request of Mr. WARNER, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 440, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 457

At the request of Mr. SIMON, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

S. 495

At the request of Mrs. KASSEBAUM, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 495, a bill to amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes.

S. 607

At the request of Mr. WARNER, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 615

At the request of Mr. AKAKA, the names of the Senator from Alaska [Mr. STEVENS], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 615, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 626

At the request of Mr. HATFIELD, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 626, a bill to amend the Watershed Protection and Flood Prevention Act to establish a waterways restoration program, and for other purposes.

S. 641

At the request of Mr. KENNEDY, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 650

At the request of Mr. SHELBY, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Arizona [Mr. KYL] were added as cosponsors of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

SENATE JOINT RESOLUTION 31

At the request of Mr. HATCH, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of Senate Joint Resolution 31, a joint resolution proposing an amendment to the Constitution of the United States to grant Congress and the States the power to prohibit the physical desecration of the flag of the United States.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. SIMON, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Concurrent Resolution 3, a concurrent resolution relative to Taiwan and the United Nations.

SENATE RESOLUTION 110

At the request of Mr. NICKLES, the names of the Senator from Nevada [Mr. REID], the Senator from New Mexico [Mr. BINGAMAN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Resolution 110, a resolution expressing the sense of the Senate condemning the bombing in Oklahoma City.

At the request of Mr. BIDEN, his name was added as a cosponsor of Senate Resolution 110, supra.

At the request of Mr. WELLSTONE, his name was added as a cosponsor of Senate Resolution 110, supra.

AMENDMENTS SUBMITTED

COMMONSENSE PRODUCT LIABILITY FAIRNESS ACT

ABRAHAM (AND MCCONNELL) AMENDMENT NO. 597

Mr. ABRAHAM (for himself and Mr. MCCONNELL) proposed an amendment to amendment No. 596 proposed by Mr. GORTON to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

At the end of the pending amendment add the following new title:

TITLE III—EQUITY IN LEGAL FEES

SEC. 301. EQUITY IN LEGAL FEES.

(a) DISCLOSURE OF ATTORNEY'S FEES INFORMATION.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term "attorney" means any natural person, professional law association, corporation, or partnership authorized under applicable State law to practice law;

(B) the term "attorney's services" means the professional advice or counseling of or representation by an attorney, but such term shall not include other assistance incurred, directly or indirectly, in connection with an attorney's services, such as administrative or secretarial assistance, overhead, travel expenses, witness fees, or preparation by a person other than the attorney of any study, analysis, report, or test;

(C) the term "claimant" means any natural person who files a civil action arising under any Federal law or in any diversity action in Federal court and—

(i) if such a claim is filed on behalf of the claimant's estate, the term shall include the claimant's personal representative; or

(ii) if such a claim is brought on behalf of a minor or incompetent, the term shall include the claimant's parent, guardian, or personal representative;

(D) the term "contingent fee" means the cost or price of an attorney's services determined by applying a specified percentage, which may be a firm fixed percentage, a graduated or sliding percentage, or any combination thereof, to the amount of the settlement or judgment obtained;

(E) the term "hourly fee" means the cost or price per hour of an attorney's services;

(F) the term "initial meeting" means the first conference or discussion between the claimant and the attorney, whether by telephone or in person, concerning the details, facts, or basis of the claim;

(G) the term "natural person" means any individual, and does not include an artificial organization or legal entity, such as a firm, corporation, association, company, partnership, society, joint venture, or governmental body; and

(H) the term "retain" means the act of a claimant in engaging an attorney's services, whether by express or implied agreement, by seeking and obtaining the attorney's services.

(2) DISCLOSURE AT INITIAL MEETING.—

(A) IN GENERAL.—An attorney retained by a claimant shall, at the initial meeting, disclose to the claimant the claimant's right to receive a written statement of the information described under paragraph (3).

(B) WAIVER AND EXTENSION.—The claimant, in writing, may—

(i) waive the right to receive the statement required under subparagraph (A); or

(ii) extend the 30-day period referred to under paragraph (3).

(3) INFORMATION AFTER INITIAL MEETING.—Subject to paragraph (2)(B), within 30 days after the initial meeting, an attorney retained by a claimant shall provide a written statement to the claimant containing—

(A) the estimated number of hours of the attorney's services that will be spent—

(i) settling or attempting to settle the claim or action; and

(ii) handling the claim through trial;

(B) the basis of the attorney's fee for services (such as a contingent, hourly, or flat fee basis) and any conditions, limitations, restrictions, or other qualifications on the fee the attorney determines are appropriate; and

(C) the contingent fee, hourly fee, or flat fee the attorney will charge the client.

(4) INFORMATION AFTER SETTLEMENT.—

(A) IN GENERAL.—An attorney retained by a claimant shall, within a reasonable time not later than 30 days after the date on which the claim or action is finally settled or adjudicated, provide a written statement to the claimant containing—

(i) the actual number of hours of the attorney's services in connection with the claim;

(ii) the total amount of the fee for the attorney's services in connection with the claim; and

(iii) the actual fee per hour of the attorney's services in connection with the claim, determined by dividing the total amount of the fee by the actual number of hours of attorney's services.

(B) WAIVER AND EXTENSION.—A client, in writing, may—

(i) waive the right to receive the statement required under subparagraph (A); or

(ii) extend the 30-day period referred to under subparagraph (A).

(5) FAILURE TO DISCLOSE.—Except with regard to a claimant who provides a waiver under paragraph (2)(B) or (4)(B), a claimant to whom an attorney fails to disclose information required by this section may withhold 10 percent of the fee and file a civil action for damages resulting from the failure to disclose in the court in which the claim or action was filed or could have been filed.

(6) OTHER REMEDIES.—This subsection shall supplement and not supplant any other available remedies or penalties.

(b) EFFECTIVE DATE.—This title shall take effect and apply to claims or actions filed on and after the date occurring 30 days after the date of enactment of this Act.

HOLLINGS AMENDMENT NO. 598

Mr. HOLLINGS proposed an amendment to amendment No. 597 proposed by Mr. ABRAHAM to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

At the end of the matter proposed to be inserted, add the following:

SEC. 302. LIMITATIONS ON FEES.

If an attorney at law brings a civil action or is engaged to defend against any civil action, the attorney may not be compensated for the legal services provided in connection with that action at a rate in excess of $50 an hour.

BROWN AMENDMENT NO. 599

Mr. GORTON (for Mr. BROWN) proposed an amendment to amendment No. 596 proposed by Mr. GORTON the bill H.R. 956, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . REPRESENTATIONS AND SANCTIONS UNDER RULE 11 FEDERAL RULES OF CIVIL PROCEDURE.

(a) IN GENERAL.—Rule 11 of the Federal Rules of Civil Procedure is amended—

(1) in subsection (b)(3) by striking out "or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery" and inserting in lieu thereof "or are well grounded in fact"; and

(2) in subsection (c)—

(A) in the first sentence by striking out "may, subject to the conditions stated below," and inserting in lieu thereof "shall";

(B) in paragraph (2) by striking out the first and second sentences and inserting in lieu thereof the following: "A sanction imposed for violation of this rule may consist of reasonable attorneys' fees and other expenses incurred as a result of the violation, directives of a nonmonetary nature, or an order to pay penalty into court or to a party."; and

(C) in paragraph (2)(A) by inserting before the period ", although such sanctions may be awarded against a party's attorneys".

(b) EFFECTIVE DATE.—The provisions of this section shall take effect 30 days after the date of the enactment of this Act.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled before the Committee on Energy and Natural Resources for Thursday, April 27, in room SD–366 to consider S. 537 and H.R. 402, bills to amend the Alaska Native Claims Settlement Act, will begin at 9:45 a.m. instead of 9:30 a.m., as previously scheduled.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for an executive session, during the session of the Senate on Tuesday, April 25, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet on Tuesday, April 25, 1995 at 2 p.m. in open session to receive testimony on the Department of Energy's Environmental Management Program in review of the defense authorization request for fiscal year 1996 and the future years defense program; Defense Nuclear Facilities Safety Board reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MORRIS K. UDALL PARKINSON'S RESEARCH, EDUCATION, AND ASSISTANCE ACT

• Mr. HATFIELD. Mr. President, since the introduction of the Morris K. Udall Parkinson's Research, Education, and Assistance Act, S. 684, on April 6, 1995, I have received subsequent letters of support from many groups and individuals around the country.

I ask that a list of these groups and individuals be printed in the RECORD following a letter of support from the chairman of the National Parkinson Foundation, Inc.

The material follows:

NATIONAL PARKINSON FOUNDATION, INC.,
Miami, FL, March 27, 1995.

Hon. MARK HATFIELD,
U.S. Senator,
Washington, DC.

DEAR SENATOR HATFIELD: The National Parkinson Foundation was founded with a dual purpose. Firstly, to find the cause and cure of Parkinson's Disease and secondly, to improve the quality of care for Parkinson patients and their caregivers.

Our fifty thousand square foot headquarters building, located in Miami, Florida, comprises clinical offices, research facilities, therapeutic departments and a Parkinson day care center.

In addition, our dedication has caused us to create and to support twenty additional centers located in the most prestigious medical schools in the United States as well as to create seven more such centers world wide.

Thus, it is evident how all encompassing our representation is in and for the Parkinson community.

I assure you of the utmost support of the entire National Parkinson Foundation organization on behalf of the "Morris K. Udall Parkinson's Research, Assistance, and Education Act of 1995".

I also wish to assure you that I personally am available in any manner you see fit to assist you in support of the bill.

Sincerely,

NATHAN SLEWETT,
Chairman.

LETTERS OF SUPPORT

Letters of support were received from: Orange Elderly Services, Inc., Orange, CA; the Grand Strand Parkinson's Support Group, Calabash, NC; The Parkinson's Disease and Movement Disorders Center at the Graduate Hospital, Philadelphia, PA; Parkinson's Support Group of Santa Maria, CA; Parkinson's and Other Neurological Discorders, Inc., Joplin, MO; Social Service Federation, Parkinson's Support Group, Englewood, NJ; Parkinson's Disease Support Group, Sioux Valley Hospital, Sioux Falls, SD; San Joaquin Valley Parkinson Support Group, Turlock, CA; Parkinson's Support Group of Greater Syracuse, NY; Tri-State Pittsburgh Chapter, American Parkinsons Disease Association, Pittsburgh, PA; Houston Area Parkinson Society; Houston, TX; Chestnut Hill Rehabilitation Hospital Parkinson's Disease Support Group, Wyndmoor, PA; Parkinson Foundation of Harris County, Houston, TX; American Parkinson Disease Association Information and Referral Center, National Capital

Area, Fairfax, VA; Norfolk Parkinson Support Group, Norfolk, NE; Parkinson Support Group of Tarrant County, TX, Fort Worth, TX; Lake County, Illinois Parkinson's Support Group, Mundelein, IL; Wellness Interaction Network, Encino, CA; Palo Alto Parkinson's Support Group, Palo Alto, CA; Parkinson Partners of NW Pennsylvania, Erie, PA; South Sound Parkinson's Support Group, Olympia, WA; Rockford, Illinois Parkinson's Support Group, Rockford, IL; Greater Daytona Parkinson's Support Group, Ormond Beach, FL; American Parkinson Disease Association, Oahu chapter, Honolulu, HI; Greencroft Retirement Community Parkinson's Support Group, Goshen, IN; Parkinsonian Publications; Harvey Checkoway, PhD, Professor of Environmental Health and Epidemiology, University of Washington, Seattle, WA; Walter C. Low, Ph.D., professor of neurosurgery, University of Minnesota, Minneapolis, MN; Parsippany Parkinson Support Group, Parsippany, NJ; Wise Young, Ph.D., MD, professor of neurosurgery, physiology, and biophysics, New York University Medical Center, New York, NY; Chico Parkinson's Support Group, Chico, CA; Colonial Club Senior Center Parkinson's Support Group, Sun Prairie, WI; American Parkinson Disease Association Information and Referral Center, Suffolk County, Smithtown, NY; Longmont, Colorado Parkinson's Disease Support Group, Longmont, CO; North Central Mississippi Parkinson's Support Group, Greenwood, MS; Central New York Parkinson Support Group, Herkimer, NY; Erwin B. Montgomery, Jr., MD, associate professor of neurology, the University of Arizona Health Sciences Center, Tucson, AZ; Nebraska Parkinson's Action Information Network, Lincoln, NE; Parkinson Support Group of North Jersey, Verona, NJ; Parkinson's Enrichment Program Support Group, New York, NY; William C. Koller, MD, Ph.D., Professor and chairman, department of neurology, the University of Kansas Medical Center, Kansas City, KS; Dallas Area Parkinsonism Society, Dallas, TX; the Movement Disorder Society, Houston, TX; Eisenhower Medical Center Parkinson Center of Excellence, Rancho Mirage, CA; American Parkinson Disease Association Information and Referral Center, Reno, NV; Parkinson Support Group Foundation of Long Island, Inc., Rockville Centre, NY.•

McKENDREE COLLEGE'S NEW PRESIDENT

• Mr. SIMON. Mr. President, James W. Dennis will be inaugurated as McKendree College's 32d president on April 29. Whether as a faculty member or administrator, Dr. Dennis has had an exceptional commitment to young people.

Throughout his career, Dr. Dennis has been active in both the academic and nonacademic communities. For instance, Dr. Dennis founded the National Youth Program which offers educational and sports opportunities to disadvantaged youth. He has also provided learning opportunities for high school and college educators by establishing the educational seminars. A world class advocate and educator, Dr. Dennis has promoted student voluntarism and supported area alcohol and drug-abuse education efforts.

As Illinois' oldest college, McKendree will prosper with Dr. Dennis' activism and commitment. I extend my best wishes to Dr. Dennis and McKendree College.•

TRIBUTE TO LOUISVILLE MALE HIGH SCHOOL

• Mr. McCONNELL. Mr. President, I would like to recognize Louisville Male High School, from Kentucky, who won first place at the State competition of the We the People . . . The Citizen and the Constitution. This victory entitles these young scholars to compete in the national finals held in our Nation's Capital.

The members of the Louisville Male High School team are: Shannon Bender, Josh Bridgwater, Shilo Burke, Katie Callender, Scott Embry, Jessi Followwill, Adam Greenwell, John Grissom, Christy Jones, Jonathan Keith, Stephanie McAlmont, Stephen McAlmont, Shannon McMillan, Travis Moore, Kristi Mosier, Adam Pedigo, Melanie Rapp, Amber Rowan, Chris Rutledge, Shannon Simms, Eric Stevens, April Stivers, Ricky Suel, Danyaun Vandgrift, Shaniqua Wade.

I would also like to recognize their teacher, Sandra D. Hoover, who deserves much of the credit for the success of the team. The district coordinator, Tommy Dowler, and the State coordinator, Tami Dowler also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People . . . the Citizen and the Constitution program, funded by Congress, is designated to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues. Members of Congress and their staff enhance the program by discussing current constitutional issues with both students and teachers.

Mr. President, I would like my colleagues to join me in recognizing these students. It is refreshing to see young people wanting to gain an informed perspective about the history and the principles of the United States constitutional government. I wish the members of the Male High School We the People team the best of luck and look forward to their future in politics and government.•

JAMES R. SCHLESINGER: PAUL H. NITZE AWARD RECIPIENT

• Mr. MOYNIHAN. Mr. President, the Center for Naval Analyses in Alexandria, VA, annually presents the Paul H. Nitze Award in recognition of important contributions to national and international security affairs. This year's recipient of the Nitze Award is the Honorable James R. Schlesinger, who received the award on April 6, 1995.

Dr. James Schlesinger is of course one of the most experienced and able public servants of our time. A distinguished economist, he served during the Nixon administration in several prominent capacities in the Bureau of the Budget, ascending to Assistant Director in 1970, when the Bureau became the Office of Management and Budget. And, as Senators are well aware, he went on to become Director of Central Intelligence and Secretary of Defense in the Nixon and Ford administrations, and Secretary of Energy under President Carter. Dr. Schlesinger has also served for many years as senior advisor at Lehman Brothers, and he is widely respected for his scholarship arising out of his long association with the Center for Strategic and International Studies at Georgetown University.

On receiving the Paul H. Nitze Award, Jim Schlesinger delivered an outstanding lecture on "American Leadership, Isolationism, and Unilateralism" in which he points out the need for close attention to the leadership role of the United States in international affairs in the post-cold-war era.

Mr. President, when a scholar and public eminence of James Schlesinger's wisdom and stature addresses himself to an issue of such significance to world affairs, I believe it is incumbent on all of us to take notice. Every Senator will benefit from a careful reading of Dr. Schlesinger's speech, and I therefore ask that it be printed in the RECORD.

The speech follows:

SOME REFLECTIONS ON AMERICAN LEADERSHIP, ISOLATIONISM, AND UNILATERALISM

Ladies and Gentlemen: It is a special pleasure as well as an honor to have been chosen to receive the Paul H. Nitze Award. It is a special pleasure because Paul and I have been collaborating directly for almost a quarter of a century—and indirectly for even longer. I started working for Paul in the early 60's, when I was at the RAND Corporation, and he was head of International Security Affairs at the Pentagon. Years later when I was Secretary of Defense, Paul also worked for me. That clearly was the way it read on the organization chart, though, for those of you who may not be aware of this, such charts do not necessarily convey the whole of reality.

Of course, it is also a great honor for reasons that must be obvious—Paul's many contributions to this nation, his keenness of intellect (not the most common characteristic among high officials), his abiding role as a senior statesman. But perhaps one of Paul's most remarkable strengths is the cool and detached view that habitually he has taken with regard to national security affairs—rising above the hubbub of controversy. That characteristic has been displayed most prominently in matters such as the Palestine crisis of 1947, the Watergate crisis, and a "walk in the woods". Paul has displayed not only staying power, but (to avert to an issue that first brought us together) great throwweight in national security affairs. So it is a distinct honor as well as a personal pleasure to have been selected for this year's Nitze Award.

As most of us will recall, Paul Nitze was one of the principal authors of NSC–68, which, in the aftermath of World War II, charted that transformed role for the United States in international affairs—of leadership and continuous engagement. In a sense, the intellectual underpinnings of NSC–68 guided American policy for more than 40 years. But we all realize the era of NSC–68 is now over. It ended, rather abruptly, with the demise of the Soviet Union. Of course, it was Soviet misbehavior in the postwar world that formed the national consensus which gave sustenance to the design that underlay NSC–68. It manifested itself in the Greek-Turkish aid program, the Marshall Plan, the NATO Alliance—and, shortly later, the response to aggression in the Korean peninsula and the U.S.-Japan Security Treaty.

Yet, with the fall of the Soviet Union, this nation has been stripped both of guideposts to our foreign policy and of the national consensus that underpins that policy. Both the uncertainties and the challenges are substantial. This nation is deeply enmeshed in world affairs. For better or worse, it is the leading world power. No longer is it free, as it felt itself to be through much of its history, to stand aloof, to isolate itself from political events abroad. Yet, the clear guidelines that marked those past periods of engagement are now lacking.

For this reason I want to spend some time this evening reflecting on American leadership, on isolationism, and on unilateralism. In his inaugural Nitze Award lecture, Sir Michael Howard looked back in time to review lessons from the Cold War Period. I seek to look forward—to what comes next. Of late, one may have noticed the demands for "American leadership" and the charges of "isolationist" that have reverberated across the political landscape. That the charge of "isolationist" is so widely used as a political epithet reveals that the notion that America can stand aloof has little resonance with the American public. The public fully accepts that its economic ties, its political interests, even its residual vulnerability in an era of nuclear weapons, preclude a wholesale American withdrawal from international affairs. Moreover, even if we could stand aside, the voice of conscience insists that it would not be right for America to be indifferent to political travail, particularly when it affects long-time allies of the United States.

By contrast to these rejected charges of isolationism, the image of American leadership has a grand resonance. Unhappy events overseas, whether or not there is any serious American interest, are regularly blamed on the "failure of American leadership". Everybody seems to urge American leadership. Americans like to flatter themselves with the notion that this country is the "sole surviving superpower"—and expect action to make those unhappy events go away—so long as it does not cost us very much. Our European allies—sometimes rightly, sometimes wrongly—have demanded: Where is American leadership? (Of late that cry has diminished in intensity, as European expectations regarding American leadership have faded.) Our Asian associates have resented our continuous preaching, yet all are concerned that an erosion over time of American power in the Pacific will allow an instability from which until now they have been protected. Preachers, teachers, editorial writers, if not little children in the street, seem to presuppose American leadership—but fundamentally treat it as a panacea—as a ready antidote for most, if not all, of the world's problems.

Thus, the real issue comes down, not to withdrawal or isolation—those are epithets—but to when, where, and how we choose to intervene. In part the charge of isolation really comes down to a suspicion of unilateral moves by the United States on the international scene. For those who embrace multilateralism and who prefer to work through international bodies, the charge of isolationist comes readily as a riposte to those who do not agree with them. But multilateralism can readily be a cover for inaction. It can also be, and frequently is, a vehicle for ineffective action. Of course, those who instinctively prefer to work through international bodies are frequently right that their opponents are short sighted or even blindly chauvinistic. But their actions are scarcely isolationist. Rightly or wrongly, they are regularly intended to achieve international objectives. But such unilateralist impulses may be equally flawed or ineffective.

The Clinton Administration has chided its foes for being isolationists. It is perhaps merely the most recent assertion of "assertive multilaterialism". Their critics, in turn, have responded in kind. The Administration may fervently believe in the collaboration among nations, yet it has shown a distinct proclivity to become embroiled in quarrels with individual nations, sometimes including old allies, over issues which are either only remotely our business or over which our influence is modest. Endangering ties with those that have been reliable allies, along with ineffectual, if irritating, advocacy of policies over which our influence is slight runs the risk of weakening the ties between ourselves and other nations—in effect isolating the United States. In terms of its accolades to international engagement, the Administration is clearly beyond criticism. It is only those specific actions that the Administration takes, which properly comes out and which understandably alarms its critics. Irrespective of the good intentions, such actions may weaken the international position of the United States.

Thus, the question is not one of isolation or withdrawal. The question is where, when, and on what terms does the United States become engaged. What is our foreign policy to be—now that the conceptually easy task of containment has come to an end. It is perhaps unnecessary to remind this audience that such questions are antecedent to the issue of shaping our military forces. The shaping of those forces depends upon the role that the United States wishes to play in the world—and the circumstances under which those forces may become engaged.

II

Thus, we seek a new paradigm for an effective foreign policy. We seek, in effect, a successor to NSC–68. But it is not easy to come by. Some of the difficulty in finding that new paradigm is inherent. It is probably unavoidable that we flounder to some degree at historic turning points. We did so after World War II. It was not until 1947–1948 that we began to find our bearings—and to do that we had the indispensable help of Joseph Stalin. Now the international scene is vastly more complex and yet there is much less direct danger to the United States. Though there are numerous eruptions on the international scene, there is little to concentrate the mind.

In every such eruption, somewhere someone will call on the United States to do something. "Concentrating the mind" is indispensable to some degree. It is better that we recognize that simple fact rather than having reality thrust upon us. No nation can do everything; we would be wise not to aspire to do so.

I can recall over 40 years ago listening to a debate at Harvard regarding the resolution of one of our seemingly perennial steel strikes—during which John Dunlop, later Secretary of Labor, commented: "It is important for a democracy not too frequently to demonstrate its own ineffectiveness". I have never forgotten that injunction. But what is true for domestic policy is even more true for foreign policy. Becoming engaged in numerous disputes, particularly if one lacks public backing, is the high road to ineffectiveness.

Perhaps it is obvious to say that the problem is especially difficult for the United States, which, as a world power, might find its attention drawn in any one of many directions—and for which public backing is a sometime thing and must be carefully fostered.

In the past and for other great powers, the choice of foreign policy tended to be far simpler. For most it was geographically determined. There likely would be an historic enemy. For, say, France or Germany, there was little uncertainty as to who one's foe might be and where one must be prepared to fight. To be sure, for Britain, whose imperial interests were more far-flung, the problem was broader: to protect communications with the empire and to prevent any single power from dominating the Continent. Yet for the United States today, our interests are even more diverse, and the challenge of being a world power has grown since the era of European dominance.

Moreover, the task was far easier in another respect. Given what was seen as clear national interests, the unquestioned rule for the European powers stressed the priority to be assigned to foreign policy. The phrase from Bismarckian German puts it simply: das Primat der Aussenpolitik—the primacy of foreign policy. Yet, the primacy was far easier to establish in a dynastic regime. Even in the case of England, the problem was not insuperable—in light of its clearly defined foreign policy, the preservation of the balance of power, and a continued willingness of the British public to defer to a strong governing class.

But here in the United States we now show signs of turning das Primat der Aussenpolitik on its head and allowing foreign policy to be determined by domestic politics. In any democracy that is a continuing temptation; it is particularly a problem in the United States where the vicissitudes of public opinion can so easily determine public policy. And, particularly is this so in the absence of an overriding fear (as with the Soviet Union) or an overriding anger as with Japan or Spain in an earlier era (Remember Pearl Harbor, Remember the Maine). In sustaining public support, it is frequently helpful if the anger has focused on a weak foe (Mexico, Spain, or Grenada) for then one can count on public exultation in a "glorious little war".

When, however, there is no clear and formidable foe and when only a few Middle Eastern countries seem to generate public anger, it is difficult to sustain a priority in foreign policy (as George Bush belatedly discovered). It is thus seductively easy to accept the primary of domestic politics.

In addition to the absence of a clear focus and the existence of diverse areas of potential responsibility for the United States, which alone is a world power, there is a further problem. There are too many distractions, most of them transitory in nature. It is difficult to concentrate on those issues that might represent "permanent interests", given the worldwide domain of television with a power, if not an agenda, that exceeds that of "yellow journalism" in the past. Rather than permanent interests, we experience sudden passionate interest in the Bosnians, the Kurds, the Rwandans, the flight of Haitian or Cuban refugees, then the Kurds again that lasts a few weeks or months at most—until the story pales, the public tires of it, and then moves on. Surely that complicates the task of selecting those interests and issues to which we should adhere. It makes the challenge of sustaining support for long term interests, as opposed to momentary distractions, immensely difficult.

Need I add that these factors also make immensely difficult the task of force planning. There is uncertainty as to what our foreign policy may be. Consequently, there is an uncertainty as to where we might fight. Choosing two major regional conflicts as "representative" is hardly an ideal solution—reminding us of the locale of past conflicts rather than of the likely future conflicts. Moreover, under these circumstances there are genuine conflicts regarding specific foreign objectives. With respect to our Asian policies, for example, the DOD's International Security Affairs opines: "the United States remains dedicated to strengthening alliances and friendships". Yet, this scarcely describes the motives that guide the actions of the U.S. Trade Representative, who is predisposed to confrontations with the same Asian states—by implicitly, if not explicitly, threatening to weaken those alliances and friendships. In U.S. policy there is a growing mixture of economic rivalry and alliance reassurance. Perhaps this is unavoidable, yet clearly it undercuts any joint planning with those allies on whom we should be able to count.

III

I have now devoted some time to explaining why in this postwar world the inherent difficulties for this nation shaping its foreign policy have grown. Now let me turn to analyzing how our own actions have been compounding those difficulties inherent in this altered world—and have seemed to undercut that role of world leader which we ostensibly cherish. But first I must portray the general behavior and the style necessary to sustain the role of world leader. One does not require any special knowledge or erudition to understand these requirements; they should be obvious to any long time observer of politics.

First, to be accepted as a leader, a nation must be seen not to be acting primarily for its own account. It must understand and take into account the interests of its followers. It must also be seen to be genuinely interested in international affairs—rather than blindly follow the dictates of its own domestic politics. AND it must focus on matters of real consequence.

Second, it must be reasonably consistent. Changes in policy should be few in number—and taken for what are seen as valid reasons. One must be steadfast. A great power does not lightly enter into commitments, but when it does so it must be with the serious intent of carrying them out. In brief those who wish to retain a position of leadership must avoid capriciousness. Otherwise one's credibility rapidly diminishes, and one's influence fades with almost equal rapidity.

Of late the United States has failed to observe these obvious rules. While we flatter ourselves as the world's sole remaining superpower, we seem to be amazed that our influence seems to be shrinking. To be sure, some such shrinkage is inherent in the change of circumstances. With the demise of the Soviet threat, other nations, previously dependent upon the United States for protection, are now less dependent and so less inclined to defer to our wishes. But the erosion of our influence proceeds more rapidly than required by the circumstances. If we are to arrest that decline, we must understand the causes.

If a nation is to lead, it must seem to be genuinely concerned about international affairs—and not driven primarily by domestic pressures. Nonetheless, in recent years our policies being driven by domestic constituencies appear to be the rule rather than the exception. In Northern Ireland, in Haiti, in respect to Cuba or Haitian refugees, in much of the Middle East, our policies seem to be driven by domestic pressures—and we appear largely indifferent regarding the international repercussions. A hungerstrike and pressures from the Black Caucus brought a shift in our policies toward Haiti. A senior official backgrounds to the press that: "No one will get to the right of us on Iran". The President's National Security Advisor reveals that the United States will attempt once again to tighten sanctions on Libya by persuading our European partners to cease buying Libyan oil. This revelation occurs, not in a regular diplomatic forum, but in a meeting with the families of the victims of Pan Am 108.

Disappointed as they may have been, Europeans were not really surprised that the United States did not regard Bosnia as primarily our business. (Especially was this so in light of the European Union's having previously told us that Europe would handle Bosnia, and there was no need for our intervention.) They were, however, non-plussed that we would regard the affairs of Northern Ireland as primarily our business. Northern Ireland is, after all, a province of the United Kingdom, part of its sovereign territory. For us to butt in (no other expression seems suitable!) for domestic political reasons appeared both ignorant and bumptious. Such behavior is scarcely consistent with the solidarity of NATO, let alone the "special relationship". I cannot overstate the dismay of other Europeans regarding our treatment of the British. The general reaction is: If the Americans will behave this way to their most intimate partner, what can the rest of us expect? The diplomat's word for this episode is: "disappointment".

This Administration is explicitly vulnerable to the conservative charge that it is soft—most notably soft on Saddam Hussein. For this reason it seeks, with ever lessening support and growing desperation to maintain the sanctions on Iraq that were adopted in 1990. Three of the five permanent members of the Security Council have now introduced a resolution to terminate those sanctions. Even Iraq's neighbors regard our policy as no longer productive, though they are reluctant to say so to our highest officials. If the United States is seen primarily for domestic political reasons to be stretching out sanctions believed to be unproductive, if not unjust, how ready will others again be to follow American leadership in imposing sanctions? The answer is clear. A willingness to put domestic pressures in front of international considerations will undermine the very multilateral mechanisms that the Administration believes ideal for abiding international stability. Indeed, with respect to Libya, Iran, and Iraq, rather than achieving its declared goal isolating those countries, our diplomacy tends to isolate the United States itself.

The effect of these altogether too many cases of putting domestic politics first is to obscure those instances in which the Administration has rightly focused our policies on the longer term interests both of this nation and of international stability—most notably our relations with Russia and the spread of nuclear weapons. Other nations doubt that we understand their interests, let alone take them into adequate account. When the United States proclaims that providing (6000 thermal megawatts of) light water reactors to North Korea is the best remedy for curbing North Korea's drive to acquire nuclear weapons, it makes it somewhat difficult, to say the least, to persuade the Russians that providing light water reactors in Iran creates an open road to nuclear spread. To be effective, even with respect to common long-term interests, a leader needs to maintain its credibility.

The problem goes well beyond the Administration. One can think of many advantages of divided government—in vetting domestic proposals. However, I myself can think of virtually no advantages in divided government with respect to international affairs. It weakens the voice of any Administration—and it undermines the credibility of American diplomacy. This Congress now seems inclined to inflict on the Clinton Administration's policies regarding Bosnia and regarding Russian aid the same kind of cavalier treatment with which its Democratic predecessor treated President Bush's policies toward China after Tiananmen Square. Whatever the merits or defects of our policy on the so-called Mexican bail out or toward Iran, Congressional intervention does not seem likely to improve them.

Our policies have been changeable rather than consistent. Our commitments do not appear to be reliable. Our policies appear excessively driven by domestic constituencies. The result is that the call for American leadership is diminishing in strength. Increasingly American leadership appears to be a problem rather than a solution.

We are tempting fate. Some years ago Paul Nitze suggested that "other nations can be expected to coalesce to cut us down to size". Unless we are prepared to deflect our own domestic pressures, to take international considerations primarily into account, to understand the differing interests of other nations, and to pursue worthy long-term, common interests, we shall regrettably accelerate that process. Writing in 1950 in his splendid work, "American Diplomacy," George Kennan observed: "history does not forgive us our national mistakes because they are explicable in terms of our domestic politics". He also states: "A nation which excuses its own failures by the same sacred untouchableness of its own habits can excuse itself into complete disaster".

With the end of the totalitarian threat, with the remarkably changed international circumstances, the danger to the United States has visibly receded, and there is little likelihood of a "complete disaster". Nonetheless, despite the lessened danger, the possibility remains of cumulative small setbacks and the erosion of our position. We may ignore such possibilities—and it is unlikely to be fatal. Still the rules are quite simple. To be a leader, a nation must sustain its credibility.

Ladies and Gentlemen, you have been more than patient. I must draw to a close—and must also offer a few conclusions.

During the Cold War the stakes were immense: the preservation of the Western democracies and, if I may say so, the substantial preservation of Western Civilization itself of which the United States was the security mainstay. (I say this despite the probable assault of the multiculturalists.) But with the end of the cohesion and menace of the Soviet empire, the stakes have now shrunken. The United States, the world's most powerful nation, is in a sense free to be capricious, to be irresponsible. Yet, it will not soon fall into direct and serious danger. Nonetheless, there are restraints—and there are prospective consequences of our actions. The price of capriciousness will inevitably be a loss of credibility—and of our position of leadership.

While the United States is a powerful country, it is not all-powerful. At the close of the Nineteenth Century, Secretary of State Richard Olney could declaim during the Venezuelan dispute with Great Britain that the United States' "word was fiat on this continent". Whatever we may wish, it is *not* fiat around the world. To pretend otherwise will make us look foolish. The focus of our foreign policy concern, as Paul Nitze has said, should be "what kind of relations among the leading powers". We must be cautious about involving ourselves in matters of lesser consequences. We should be restrained in word as well as deed. The United States is not obliged to comment on everything. Meddling in issues in which our interests are only tangentially involved, nagging others about their defects, real or imaginary, may make us feel good for the moment. It is not the road to successful or long-term leadership.

To provide long-term leadership, other nations must understand that we do not speak casually or loosely. When we do choose to make a commitment, other nations need to know that we can and probably will live up to it. Always remember: leadership is not an inheritance; it must be earned anew, each decade, each year.●

TRIBUTE TO MARTHA COMER

● Mr. McCONNELL. Mr. President, I rise today to pay tribute to an outstanding Kentuckian who has been selected for induction into the Kentucky Journalism Hall of Fame. Mrs. Martha Comer of Maysville, KY, is devoted to her profession, to the Ledger-Independent, formerly the Daily Independent, and to her community.

Martha Comer was born in 1906, the same year that her father founded the Daily Independent. It is not surprising that Martha displayed her journalistic qualities at a young age. She served as the editor of the school annual at Maysville High School. Upon her graduation from high school she began working on the editorial staff of the Daily Independent. She assumed the duties as editor in 1935, although her name did not appear as editor until 1941.

In 1968 the Daily Independent was sold to the Maysville Publishing Corp. and became the Ledger-Independent. At this time Martha became the editor and was responsible for publishing both the morning and afternoon editions. Although Mrs. Comer retired on January 7, 1977, she continued to remain on as an editorial consultant. For many years she continued to write a daily column and editorials. And to this day, Martha Comer still writes editorial commentary two or three times a week for the Labor-Independent.

Mrs. Comer's editorial involvement allowed her to become actively involved with her community. She has campaigned tirelessly for many organizations and causes, such as advocating public policy and teaching in the literacy program.

Mr. President, I would like my colleagues to join me in paying tribute to Martha Comer, a new inductee into the Kentucky Journalism Hall of Fame. I am positive that Mrs. Comer will continue to display the great qualities in which she has in the past. I know that her community appreciates her involvement and dedication.●

TRIBUTE TO DENNIS GRIFFIN

● Mr. McCONNELL. Mr. President, I rise today to pay tribute to Dennis Griffin, a resident of Bowling Green, KY, who is being recognized as one of the top local developers in the Nation. Mr. Griffin is 1 of 10 economic developers who received a leadership award from the American Economic Development Council.

Mr. Griffin has been president of the Bowling Green-Warren County Chamber of Commerce since 1986, the same year he moved to Kentucky. Since taking over as president of the chamber of commerce the local economy has soared. Mr. Griffin is best described by Bowling Green Mayor Johnny Webb in a recent article in the Daily News. Mayor Webb said,

> Things were not going too well in Bowling Green. It had been some time since we had recruited a new industry. It was almost like a lightbulb coming on when (Griffin) came in and got his feet on the ground. He is the catalyst to development.

Mr. President, during the last 9 years, Mr. Griffin has worked hard to develop the region. He is responsible for starting 56 new companies, and establishing 6,000 new jobs; an investment of more than $400 million in the community. But that's not all, Mr. Griffin also worked hard to help 72 existing industries expand, which created an additional 2,500 jobs, investing another $100 million in the community.

Mr. Griffin, just like the Energizer Bunny, is still going strong even after 9 years of service. In the last year alone, 10 new plants have decided to call Bowling Green their home and 9 companies have expanded.

Mr. President, I ask my colleagues to join me in paying tribute to this outstanding Kentuckian. I think that all will agree that through his hard work and dedication for his community, Mr. Griffin proves that he truly deserves the honor of being one of the country's top local developers.●

MORNING BUSINESS

ALASKA NATIVE CLAIMS SETTLEMENT AMENDMENT ACT

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 43, H.R. 421, the Cook Inlet Region bill, that the bill be deemed read a third time, passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, the Senate is about to take up H.R. 421, the Alaska Native Claims Act Amendment Act of 1995. I wish to take a few moments to describe H.R. 421 and importance of passing the bill this evening.

On March 15, 1995, the Committee on Energy and Natural Resources unanimously reported nearly identical legislation for consideration by the full Senate.

The bill allows the Cook Inlet Region Incorporated Native corporation, called CIRI, to consider creating a system to buy back the stock of willing sellers, provided that stockholders vote to set up such a system. It will serve as a test for an alternate system of stock distribution that could later be expanded for use by any of the State's Native regional corporations.

The goal of H.R. 421 is simple: to provide a responsible middle ground so that shareholders will have access to the capital value of their stock, while preserving the Native control and ownership of the ANCSA corporations.

Originally under the 1971 Alaska Native Claims Settlement Act, Native shareholders were prevented from selling their stock for 20 years. This was to give the corporations time to mature. As part of a series of 1991 amendments to the corporations, Congress changed the law, at the request of the Natives, so that stock restrictions on alienability—the right of Natives to sell their shares—automatically continued unless and until the shareholders of a corporation voted to remove them.

H.R. 421 will provide another alternative. Shareholders will be able to sell their stock back to the corporation, helping preserve Native control if: First the corporation's board votes to participate; second, the majority of the entire membership of the corporation votes to permit buybacks; and third, if individual shareholders then want to participate. All three conditions must be met before any sale of stock is possible.

When the legislation was considered in the House, an issue arose regarding that section of the bill that provides protection from liability to CIRI, its directors and officers and evaluation advisors when making an offer to purchase stock. I have reviewed the amendment and find it acceptable. It contains the protection needed by CIRI, and is consistent with the Alaska Native Claims Settlement Act. The protections from liability provided in the language are intended to apply to all causes of action under any provisions of State or Federal law and are limited to stock repurchase offerings made pursuant to this legislation.

H.R. 421 provides a test case for Native corporation stock distribution. Senator STEVENS and myself have proposed this bill at the request of CIRI and the Alaska Federation of Natives. The other corporations have said they would like to see how this works in CIRI's case before deciding whether they would like the option extended to them.

The important thing to remember is that this legislation has several safeguards to ensure that any stock repurchases will be conducted fairly—the biggest safeguard is that the program can't happen unless approved by a majority vote of shareholders.

This bill provides a fair alternate means for distributing corporation stock while preserving Native control of the ANCSA corporations.

I have worked with Alaska's Native community for the last 15 years and I am sure that the Native people are more than capable of making their own decisions that affect their own corporate affairs. The Alaska Native people should have the same choices that all other stockholders in America have.

I urge my colleagues to support H.R. 421.

The bill (H.R. 421) was deemed read three times and passed.

ORDERS FOR WEDNESDAY, APRIL 26, 1995

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10:30 a.m. on Wednesday, April 26, 1995; that, following the prayer, the Journal of proceedings be deemed approved to date; the time for the two leaders be reserved for their use later in the day; and the Senate then immediately resume consideration of H.R. 956, the product liability bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GORTON. Mr. President, for the information of my colleagues, under the provisions of the agreement entered earlier, at 5 p.m. tomorrow the Senate will begin 60 minutes of debate to be followed by two consecutive rollcall votes. Members should, therefore, be aware that there will be two stacked votes at approximately 6 p.m. There will be no rollcall votes prior to those votes in order to accommodate Members attending the funeral of Senator Stennis.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:21 p.m., recessed until tomorrow, Wednesday, April 26, 1995, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 25, 1995:

THE DEPARTMENT OF STATE

MOSINA H. JORDAN, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CENTRAL AFRICAN REPUBLIC.

LANNON WALKER, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COTE D'IVOIRE.

SANDRA J. KRISTOFF, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS U.S. COORDINATOR FOR ASIA PACIFIC ECONOMIC COOPERATION (APEC).

THE JUDICIARY

TERENCE T. EVANS, OF WISCONSIN, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT, VICE RICHARD D. CUDAHY, RETIRED.

WILLIAM A. FLETCHER, OF CALIFORNIA TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE WILLIAM ALBERT NORRIS, RETIRED.

SENATE—*Wednesday, April 26, 1995*

(Legislative day of Monday, April 24, 1995)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer this morning will be delivered by the Reverend Dr. T. Warren Moorhead, of the First Baptist Church of Trion, GA.

PRAYER

The guest Chaplain, the Reverend Dr. T. Warren Moorhead, offered the following prayer:

May we pray:

Holy God, You are almighty, You alone are holy. As Lord of the universe, Sovereign Ruler of nations and men, and Holy Redeemer of the unborn, the living, and the dead, we join this Senate today confessing our unworthiness in Your presence. You are total love. Through the example of Your son, You taught us to love one another and to reach out to our neighbor, as well as our enemy. But too often we have been consumed by our own selfish concerns. Why must it take, O God, a tragedy as occurred last week to shock our Nation into realizing the potential evil inherent in every man's heart and our ultimate hopelessness without the manifestation of Your love in each of us through Your son, Jesus Christ.

You are God and we are but persons of clay. We begin this congressional day by acknowledging Your power and requesting Your guidance in all deliberations. Holy Father, give the Members of this body not only the wisdom to know right but also the courage to do what is right. The Members of this Chamber are accountable to the people of these United States but ultimately to You. Psalms 72 reminds us that You, God, give rulers Your justice that they may judge Your people with righteousness, Your poor with compassion, that they may defend the cause of the destitute, give deliverance to the needy, and crush the oppressor. Lord, may You give to the esteemed men and women of this sacred Chamber the willingness to cooperate with You in promoting justice and righteousness, establishing peace and tranquility across our troubled land. May we strive for the day when peace covers the Earth as water covers the sea.

Holy God, today, great pressures will be brought to bear on the men and women of this room. Remind them now that You allowed the people to elect them because of their inner strengths that will protect them from outside pressures. May the words of their mouths, the meditations of their hearts, and the actions of their hands be acceptable in Your sight this day. In Jesus' name I ask this. Amen.

The PRESIDENT pro tempore. The distinguished Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 956, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

Pending:

(1) Gorton amendment No. 596, in the nature of a substitute.

(2) Abraham amendment No. 597 (to amendment No. 596) to provide for equity in legal fees.

(3) Hollings amendment No. 598 (to amendment No. 597) to establish a limitation on attorneys' fees in all civil actions to $50 per hour.

(4) Gorton (for Brown) amendment No. 599 (to amendment No. 596) to restore to rule 11 of the Federal Rules of Civil Procedure the restrictions on frivolous legal actions that existed prior to 1994.

The Senate resumed consideration of the bill.

Mr. GORTON. Mr. President, is there a pending amendment?

The PRESIDING OFFICER. The pending amendment is amendment No. 599 offered by the Senator from Washington on behalf of the Senator from Colorado.

Mr. GORTON. Mr. President, we are engaged in the debate over the public liability bill. The pending business is an amendment basically sponsored by the Senator from Colorado [Mr. BROWN], having to do with rule 11 of the Federal Rules of Civil Procedure.

There will be no votes until at least 6 o'clock this evening, at which time there will be votes both on an amendment by the Senator from Michigan [Mr. ABRAHAM], and a second-degree amendment to that amendment sponsored by the Senator from South Carolina [Mr. HOLLINGS].

As a consequence, there are essentially three amendments to the basic product liability bill before the Senate at this point. It is appropriate to debate each one of them.

In addition, I wish all Senators and their staffs who are listening to this debate to understand that while many Members of the Senate are in Mississippi for the funeral of our former colleague, Senator Stennis, it is appropriate at any time during the day to come and speak to any potential future amendment to this bill. We know that it is controversial. We know that there will be amendments to narrow the bill. We know that there will be amendments to broaden the bill. Anything that Members can do to discuss some of their proposals or their general attitudes on the bill itself during the course of the day will be appreciated.

How long this evening the majority leader will wish to keep us in session I do not know. But I do know that we will vote on the Hollings second-degree amendment and the Abraham first-degree amendment at approximately 6 o'clock. I know that the majority leader hopes thereafter to deal with the Brown amendment by vote today.

After that, under the order, the majority leader himself will present an amendment broadening the scope of the bill as it respects punitive damages. That will be a major amendment to the bill, and it is perfectly appropriate for people to express their views on that subject at any time during the day, even before the amendment itself is adopted.

Simply to summarize, this is the first time that the Senate has actually dealt with amendments, engaged in a formal debate on the subject of product liability or, more broadly, tort reform. In spite of the fact that there have been product liability bills introduced and sometimes reported by the Commerce Committee, at least since 1982, and perhaps earlier than that, the bill, in my view and that of my colleague, the Senator from West Virginia [Mr. ROCKEFELLER], is a balanced approach, balancing the interest of judgment and the prosecution of claims and product liability cases against the undoubted negative impact of product liability

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

litigation on the creation of jobs, on American competitiveness, on the research and development of new products, of the marketing of valid products.

The impact of product liability litigation on the marketplace has been distinctly negative. It has dramatically reduced the number of producers of many important medicines, of commodities like football helmets, for example—almost anything that is ever associated with dangerous kinds of activities. We hope not to restrict the access to the courts on the part of people who are injured by the genuine negligence of manufacturers but to see to it that there is a balance in that litigation, a balance which more greatly encourages economic development in this country and encourages fairness by not subjecting manufacturers or wholesalers or retailers to litigation over matters which are not their fault or which subjects them to charges beyond their fault in the case of any such accident.

Mr. President, I spoke in general terms the day before yesterday, when this debate began, to the proposition that we now had precise information as to the impact of product liability legislation and did not have to deal with this question entirely in the abstract.

In spite of my statement just a few moments ago, there has, in fact, been action by this Congress on one very narrow, focused field of product liability in one very narrowly focused area.

For almost a decade, our colleague, the Senator from Kansas [Mrs. KASSEBAUM] has attempted to get relief for the manufacturers of small aircraft. Finally, last year, this Congress passed, with respect to small aircraft, one aspect of this product liability legislation: simply a statute of repose, an 18-year statute of repose, which frustrated lawsuits against the manufacturer with respect to aircraft more than 18 years in age.

The fact of so much product liability litigation against those aircraft manufacturers had reduced the production of private aircraft in the United States by companies like Piper and Cessna by some 95 percent over a period of about 20 or 30 years—95 percent, Mr. President.

For all practical purposes, that business was defunct in the United States of America, not only, of course, harming the companies, their employees, and their past employees, but limiting the availability of such aircraft to those who wished to purchase them and to fly them.

The mere passage into law 1 year ago of a statute of repose for that type of aircraft has already had a remarkably positive impact.

Quoting from testimony by the president of the General Aviation Manufacturers Association on this bill, the bill that is before us right now:

> After stopping the production of piston engine aircraft in 1986 because of spiraling liability costs, Cessna Aircraft recently announced construction of a new production facility for piston-powered airplanes in Independence, Kansas. Cessna plans to build 2,000 planes per year at the new facility and create over 1,500 new jobs. This will generate thousands of additional jobs among suppliers and vendors in Kansas and throughout the United States.
>
> Piper Aircraft, which was forced into bankruptcy in 1991 largely due to the costs of product liability suits and the threat of future litigation, is now planning to emerge from bankruptcy in the near future. Piper has increased both its employment and production schedules by thirty percent.

There is further testimony on Mooney Aircraft in Kerrville, TX.

But, Mr. President, if a modest statute of repose of that nature in one industry, albeit one graphically impacted by product liability litigation, can have such an immense recovery, benefiting, obviously, not only itself, its employees, and its suppliers, but obviously the people, the market out there for these aircraft, how much greater impact—100 times greater, or 1,000 times greater, we do not know—can general, fair, and balanced product liability legislation have in the United States of America, legislation that includes a statute of repose slightly longer, a statute of repose of 20 years, but one which also limits the arbitrary nature of punitive damage awards, one of the greatest fears of all manufacturers, but particularly small manufacturers, in the United States.

One such manufacturer who testified before the Commerce Committee shrugged his shoulders and said: "A single such lawsuit could drive me out of business and destroy the work of an entire lifetime, whether I really had a major responsibility or not." Not only because of the unlimited nature of potential punitive damage awards but because of the doctrine of joint liability under which, when there is more than one defendant, one, the deep pocket, can have imposed on it the entire judgment, even though the responsibility of that defendant was, say, only on the order of some 10 percent.

So reforms in joint liability, reforms in punitive damages, reforms by reason of a statute of repose, the removal of responsibility from a wholesaler for judgments against the manufacturer, each of these is an important step forward, which not only does not undercut justice but advances the cause of justice. At the same time, reforms can have an impact, perhaps not as dramatic as these to which I have spoken in private business driven aircraft, but across our entire economy vitally important and positive.

This, Mr. President, is an important bill. The general subject of legal reform beyond this is important, as well. Just yesterday afternoon, the Senate Labor Committee reported a bill similar to this on the subject of medical malpractice, a vitally important element in any health care reform, in the view of this Senator.

So I hope that, certainly by sometime next week, we will be able to bring this bill in its then form to some final vote. But, in order to do so, we need the cooperation of Members. We need them to appear. We need them to speak to their amendments or speak to the bill, to let their views be known, to carry on the debate in the better traditions of the Senate.

So, Mr. President, I summarize by saying we are open and ready for business and any Member who wishes to do business will be welcome through the door.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

TRIBUTE TO SENATOR DAVID PRYOR

Mr. KOHL. Mr. President, I come to the floor today for just a few moments to express my admiration and appreciation and my respect for DAVID PRYOR, our colleague, who has announced that he will not be running for reelection next year.

For those of us in Washington and, of course, for those people in public life all over the country, we meet all manner of different human beings, both in terms of the constituents that we meet and, of course, the colleagues with whom we work. While none are bad, some are different from others and some are better and some are best. And in the category of best, I would put DAVID PRYOR, the best kind of a human being, the best kind of a friend, the best kind of a public representative.

The people in Arkansas know very well what an outstanding person DAVID PRYOR is and what a great public servant DAVID PRYOR has been. He is beloved by virtually everybody in Arkansas to the extent that when he ran for reelection last time, he had no opposition, and had he run for reelection in 1996, it is undoubtedly true that he would have received an enormous majority of the votes cast in that election.

So DAVID PRYOR's record of accomplishment and achievement, the esteem in which he is held by people in Arkansas, is well known. Those of us here who have worked with him in the Senate are equally well aware of what it is that DAVID PRYOR has accomplished and what kind of a person he is. In my judgment, DAVID PRYOR is the best kind of a public servant, the best kind of a Senator, for many reasons, chief among which, in my judgment, is the fact that he is a person who can and does work with all of his colleagues, regardless of which side of the aisle they happen to occupy. I believe that is an enormous virtue in a public servant, and that it is invaluable in the Senate where, in order to get things done in a constructive fashion, in order to keep the place working, people have to have a willingness and an ability to compromise their differences in order to get things passed, in order to keep legislation moving and, more importantly perhaps, in order to assure the people that we represent all over the country that this is an institution that can work.

DAVID PRYOR understands that as well as anybody I have met in my now 6 years here in the Senate. He practices that. Although we Democrats, of course, know how comfortable and how easy it is to work with him, I know it is equally true that Republicans recognize in DAVID PRYOR a person who, more than anything else, wants to get things done and in no way, ever, is interested in just impeding the work of the Senate.

So he is an outstanding person. Personally, DAVID PRYOR, when I came here 6 years ago, befriended me immediately. He went out of his way, recognizing that I was new to the process, and he went out of his way to see to it that I got along here and got to know my colleagues, got to know a little bit about how the Senate works, and in every way and at every turn, when I ran up against an obstacle or had a problem I did not know how to deal with, I felt comfortable talking to him. He was always receptive and always willing to put aside whatever it was he was occupied with in order to take care of my needs and to help ensure that I became a working Member of this body.

So DAVID PRYOR has been not only a great Senator but he has been a wonderful human being. I think that we can celebrate what he has accomplished in his career here in the Senate and celebrate it in a way which really does not, in any way, suggest that his career is over. He is not running for reelection in 1996. He says he wants to return to the private sector. Whatever he does, he is going to be good and effective at it. He is a person of public service, and his career in politics may go on at another time in another place and in another job. If it does, we will all be very well served.

So DAVID PRYOR, we love you and we respect you. We have great regard for what you have accomplished here among us, and we wish you well during these next 18 months when you will continue to serve with us. We certainly wish you, Barbara, and your family continued good health and happiness as you wend your way along the path of life.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

Mr. SIMON. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR DAVID PRYOR

Mr. SIMON. Mr. President, I happened to turn my television set on in my room and caught Senator KOHL making his brief remarks about our colleague, Senator PRYOR. It occurred to me that I should come over here and just say a few things also, about DAVID PRYOR, who has announced that he is not going to be running for reelection.

I can remember when I was in the House and I heard DAVID PRYOR speak to a breakfast meeting. I had known him just to say hello, but I was very favorably impressed and I have been favorably impressed through the years.

Two things I think of specifically in connection with our colleague, Senator PRYOR. One is the Taxpayer Bill of Rights. The Internal Revenue Service does excellent work, but whenever you have human beings, occasionally there are those who abuse their privileges and that is true in any organization—the U.S. Senate, the Internal Revenue Service. So DAVID PRYOR introduced his Taxpayer Bill of Rights, which gives the ordinary taxpayer, who may be abused, or feels he or she is abused by the IRS, an option and an ombudsman who can say: Let us take a look at whether we are doing the right thing.

The second thing I can remember is DAVE PRYOR standing here on the floor and going through an amazing list of consultants being hired by virtually every agency of Government. It was an astounding accumulation. I do not remember what the figure was, but it was absolutely astounding. I remember then the next appropriations, and the next budget, we whacked away at that. It may very well be creeping back up again, I do not know, but it is one of those areas that is very easily abused by Government. We hire consultants for everything from the Department of Energy, Department of Defense, foreign aid—whatever it is, we hire consultants.

I also think of DAVE PRYOR as someone who is genuinely interested in the well-being of our country. Yes, he is a partisan as we all are partisans, but frequently this body gets too partisan. I hear it in our Democratic caucuses. I am sure my colleague hears it from Republican caucuses. He has not invited me to any of his Republican caucuses, but I am sure he hears the same. And I think one of the things the public wants from us is that we say, "What is good for the country?" And we follow that. DAVE PRYOR really has done that.

He has been just a distinguished Member of this body in addition to being a friend of all of us. It has been a real privilege to serve with him in the U.S. Senate. He has served Arkansas well, but I think more important than that, he has served the United States of America well. I am proud to have him as a colleague here in the Senate.

Mr. GORTON. Will the Senator from Illinois yield?

Mr. SIMON. I will be pleased to yield to my friend from Washington.

Mr. GORTON. I enjoyed the description by the Senator from Illinois of the Senator from Arkansas. I agree with it. I may also say I believe the Senator from Illinois has described himself.

Mr. SIMON. My friend from Washington has been too generous in that remark, but I thank him anyway.

Mr. President, if no one else seeks the floor—I see my colleague from Colorado does not look as if he is quite ready. He is still making notes.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee.

Mr. FRIST. Mr. President, I ask unanimous consent that I be permitted to speak as if in morning business for a period of not more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE: THE TICKING TIME BOMB

Mr. FRIST. Mr. President, I rise to discuss the approaching insolvency of our Medicare Program.

The Clinton administration has confirmed that Medicare is going bankrupt. We must act now to save it. We must reform Medicare to protect it, to preserve it, and to improve it.

Next year, for the first time in its 30-year history, the program will begin deficit spending. And on April 3, the Medicare Board of Trustees announced that Medicare will go bankrupt by the year 2002. In 7 years—well before I will be eligible for benefits—the program will have exhausted all of its resources and will cease to exist in its current form. We must act now.

This is not new information—Congress has been warned repeatedly of the Medicare time bomb. Mr. President, the clock is ticking—we must take action this Congress to save this vital program. I come before you today to discuss the successes and failures of this program, and to begin to look for ways to protect and preserve its long-term health.

What is Medicare? It is a Government program which gives 32 million older Americans and 4 million individuals with disabilities access to the private health care system. Medicare is actually made up to two entirely different programs: A hospital insurance program, which is compulsory for seniors, and a physician insurance program, which is voluntary, with 96 percent of all seniors participating in this voluntary insurance program.

Medicare's hospital insurance program—part A—is funded by a payroll tax on working citizens, a tax which entitles them to future benefits.

The physician insurance program, part B, in contrast, is funded by a combination of general tax revenues and premiums paid by the beneficiary.

Medicare has been very successful, successful in providing access to quality care. More than 37 million Americans today are covered by the program. Today's elderly live longer, live healthier lives, and enjoy a better quality of life than ever before. Medicare participants are extremely satisfied with the overall care they receive. Yet, Medicare has become a victim of its own success. All will be lost if we do not act to save Medicare.

Over the years, many have found fault with the program: it does not cover comprehensive benefits; it does not protect out-of-pocket costs; it does not really provide incentives for consumers to maintain cost-conscious behavior; it does not reward providers with keeping people healthy; and its costs clearly are growing out of control faster than the Nation's economy, faster than the budget as a whole, and faster than twice the rate of inflation. Medicare spending rose by 11 percent last year, while private sector health care spending rose by only 4 percent.

Thus, each of us comes to the Medicare Program with the hope of addressing one or more of these problems. As a citizen legislator, one who comes to the Senate directly from the private sector, I approach this challenge wearing many hats. I come to the table as a health care provider, a physician who on a daily basis has served the personal health care needs of thousands of Medicare patients. I come to the table as the son of two active parents, both of whom are 84 years of age. They have been beneficiaries of Medicare as they were treated for heart attacks, colon cancer, pulmonary edema, a fractured neck, bleeding ulcers, kidney failure, a broken arm, phlebitis, and a stroke. I come to the table as a father of three boys whose generation will be working to the pay the bills for my generation. And I come to the table as a legislator who sees the looming crisis of Medicare staring us straight in the face.

When Medicare was designed in 1965, the goal very clearly was to provide senior citizens with greater access to our country's health care system. Medicare at that time was structured to mirror the private system of the time which in 1965 was primarily Blue Cross and Blue Shield fee for service. That means Congress paid providers based solely on the cost of the care delivered. There was no fee schedule of negotiated rates with providers. There was no real justification of costs. Furthermore, at that time Medicare insulated providers from the Government by allowing them to work through fiscal intermediaries and carriers, similar to private insurance.

Now, Medicare is an insurance program that pays for private services. Great Britain took quite a different approach. I spent almost a year as a physician in England, and I as a physician worked directly for the English Government receiving a salary from the English Government as an employee of the National Health Service. The English have replaced their national insurance program and moved directly into Government provision of services. Whereas our country relies on the private sector for control and direction, England relies on direct Government intervention. This underlying philosophy is fundamental to our understanding of Medicare. Medicare was established to give seniors access to the very same health care system available to all other Americans.

But as the American medicine delivery systems have changed over the last 30 years, and matured and diversified, Medicare has remained stagnant. Medicare fails to give seniors access to the full range of plans currently available to all other Americans. The private system has evolved and Medicare has failed to keep up. Changes and improvements are required today before seniors and the disabled fall even further behind.

Managed care illustrates that point. Today, 63 percent of working Americans obtain their care through some type of managed care program. In contrast, only 9 percent of seniors are enrolled in some type of managed care. Yet, it is important for people to understand managed care is only one of the options in the private system today. There are many others. And reasoned Medicare reform would open the Medicare Program broadly to the many options that are available to all other Americans in our private system today. It would allow seniors the freedom to direct their Medicare money to the plan of their choice. For some, that would mean an employer-sponsored plan. For others, it would mean an indemnity-type plan, and for still others a looser form of managed care. But the bottom line is that the Government should no longer restrict a senior's choice of health plans.

New to this body, I find it hard to understand why Congress has failed to pay attention to the ticking time bomb—Medicare. By failing to address the issue head on, we only delay the inevitable and make it more difficult for our successors. If we choose not to preserve Medicare's integrity, we resign ourselves to either substantial benefit reductions for seniors or repetitive tax increases. We must act now. Either my generation, the children of today's Medicare beneficiaries, will have greatly reduced opinions in the future, or our children will incur unprecedented tax increases.

Now, the President of the United States has failed to address this imminent financial crisis. In fact, the Clinton administration predicts Medicare expenditures will grow by a staggering 66 percent over the next 5 years. Yet, despite this forecast and despite the findings of the Medicare trustees and the entitlement commission, the President failed in his fiscal year 1996 budget to recommend even one measure to save Medicare.

We must act now. I expect that the President will rely simply on tax increases to maintain the program in the future, and that will work only for a short time, because it fails to address the underlying cause of the crisis. If nothing is done, the Medicare portion of FICA taxes would have to be raised by 125 percent. That is more than $700 taken out of a $40,000 salary. That is intolerable. Structural improvement is necessary if we are to protect and preserve Medicare in the long run. We can and will protect and save Medicare if we act now.

I will be taking time over the next several days to come back to the floor to continue this discussion of how best this Congress is to save Medicare.

I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair.

Mr. President, I ask unanimous consent I be allowed to speak for a period of time not to exceed 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. I thank the Chair.

WELFARE REFORM

Mr. BRYAN. Mr. President, we are about to be engaged in a debate in this

Chamber on welfare reform, an issue which has failed the recipients, has failed the American taxpayer, and on which I think men and women of good will on both sides of the political aisle agree we must undertake some major structural reforms. I think that we can do so in a bipartisan fashion.

It was in this context during the recent April recess that I spent an entire morning at one of the busiest welfare offices in Las Vegas, the West Owens District Welfare Office. May I say, Mr. President, to my colleagues, it was an educational opportunity, and if my colleagues have not previously done so, I would urge each of them to avail themselves of this opportunity.

I first sat in on a welfare eligibility interview, a process that lasts for approximately 1 hour. I observed this process from the beginning to its conclusion.

In the Owens Welfare Office, eligibility workers sit in very small interview rooms, somewhat affectionately referred to as the "chutes." The eligibility worker has a desk literally surrounded on all sides with shelves full of various forms and regulations that deal with the nearly 20 different programs a person in need of welfare assistance may be eligible to receive. The client comes into the interview room from the reception area, sits across from the eligibility worker's desk, and the interview process begins.

Now the interview I observed, contrary to some of the stereotypical images that are often projected, was of a young Caucasian woman. She was married, living with her husband and two children. Her situation represents the prototype of the kind of problem that many people in America face who seek welfare assistance.

She and her husband had moved to Nevada from California, and currently both are working. Although their jobs pay above the minimum wage, they are still unable to provide for their family of four. Her employer structures her workweek so that her hours do not exceed 20 hours per week, and so she is ineligible for the medical benefits which her employer pays for those who work full time. One of her children has a preexisting medical condition, so medical care is a necessity. Her husband's employer provides no medical insurance. She also needs to pay for the cost of child care, and her child care cost is more than 50 percent of the gross hourly wage that she makes each hour.

Following this eligibility determination interview, I sat down to a very frank discussion with eligibility workers concerning the areas of the welfare system that they believe need reforming.

Let me say, Mr. President, I had anticipated the thrust of the comments would be that you all in the Congress need to provide more money; the system works. In effect, I thought I might be hearing a defense of the status quo, because these are eligibility workers, the committed and dedicated people who choose, in terms of their own educational background and their work experience, to provide care to others. So these are highly compassionate, sensitive people who see the travail of life before them every day.

To my great surprise, they are as enraged and as frustrated and as angry as are the American people and each of us who, as Members of Congress, have had a chance to look at this system that has failed so abysmally. Their suggestions and comments to us, I think, are extremely worthwhile for us to consider. They are the people that are on the front lines. They know the nuances of the system. They know how the system is ripped off. And they also know of its shortcomings in providing help to those who all of us in this body would acknowledge are in genuine need of help.

As one of the underpinnings of the welfare system, I think all of us can agree, whether we position ourselves in the political spectrum to the left of center, to the right of center, or in the middle, that we want a system that encourages people to work.

Most of us in America have a work ethic that is part of our background. It is part of what our parents shared with us. And, for whatever measure of success we may have achieved in life, it is the presence of that work ethic that contributed to that success.

But a person who is on welfare, who gets a job, who achieves that first rung on the job ladder, oftentimes is confronted with a horrific choice. Immediately that individual may be cut off from all medical care, all child care assistance, and that individual may, in fact, find herself in a more disadvantageous position than before she attained employment.

That part of our system, it seems to me, ought to be fundamentally changed. We ought to be encouraging and rewarding those people like the young applicant whose interview I observed, who is going out, getting a job, and trying to help herself and her family.

Our present system provides all of the disincentives by not providing transitional help for her, so she can get a little better job, that pays a little bit more, so that she is able to provide for herself and her family. That, it seems to me, ought to be one of the structural incentives that any welfare reform ought to encourage.

The welfare system is replete with conflicts, both indefensible and maddening. It is the sort of thing that encourages the American public to react as it does when the word "welfare" is mentioned.

I would like to talk about a few of those, if I may, Mr. President.

One of the key policy problem areas the eligibility workers brought to my attention is how the term "household" is defined for determining the eligibility of individuals living together at one residence for different welfare assistance programs.

One of the most egregious examples of how policy and effect conflict is the Food Stamp Program definition of "household." Assume with me for the moment that two families have the same number of family members, and the same income. Applying the "household" definition can mean a family where everyone is a legal citizen is ineligible for food stamps, while a similar family with one member, who is an illegal alien, is eligible for such assistance.

Let me be more specific.

Let us assume family A and family B both have a total monthly household income of $1,200, and each parent individually earns $600. Family A's two working parents are both legal citizens. Family B also has two working parents, but one is an illegal alien.

Under the present system, in determining eligibility, the eligibility worker looks at the household members, and finds two working parents who are legal citizens. The worker must count family A's full $1,200 monthly income. Since family A's total household income is more than the monthly gross income allowed for food stamp eligibility, which is $1,066 for a two-person family, family A is ineligible.

However, with family B, the eligibility worker looks at the household members, and does not count the $600 income from the illegal alien parent. Only the half of family B's gross monthly household income earned by the legal citizen parent is counted. Family B's gross monthly household income is only $600 a month, well under the maximum allowed.

Family B, with the illegal alien, receives food stamp assistance. Although technically the illegal alien member of family B does not directly receive food stamps, it is the member's presence as part of the household that allows for this incongruous and indefensible result.

Why, I would ask, are we penalizing the two-parent working family whose members are legal citizens by denying eligibility for food stamp assistance, while allowing a two-parent working family with an illegal alien family member to receive assistance? Would it not be fairer to determine a family's eligibility for assistance by looking at the total income of the household rather than by who is in the household?

That is whether the individual parent is illegal or a legal alien. This is a situation that must be corrected.

On the other hand, the Food Stamp Program specifically requires welfare offices to report any illegal alien who tries to apply for benefits. However, there is no similar requirement for the Aid to Families with Dependent Children Program. Why? It makes no sense as a matter of policy.

Throughout this country, people are justifiably angry about illegal aliens who have access to our Nation's welfare system. We can and we ought to, at the very least, require all of our welfare assistance programs to provide information and to report illegal aliens to the Immigration Service. We have all heard from INS that there is simply not enough staff and funding available to investigate every alleged illegal alien, and that priority decisions must, by necessity, be made. But we are creating an atmosphere where those who test the welfare system feel relatively safe in attempting to defraud it. If we do not want illegal aliens to receive benefits they are not entitled to, we need to ensure adequate resources are available to prevent it from occurring.

Another area of policy conflict occurs with young teenage parents. We require young teenage parents under 20 years of age to participate in education and training programs or lose their eligibility for AFDC assistance. But once that same young parent turns 20, she continues to be eligible for AFDC benefits, while no longer being required to participate in any education or training program or to work.

So what kind of an incentive do we create for those mothers not to participate in education or job training programs and not to work?

Millions of American women in this country are single heads of households who get up every morning, get their kids ready to go to school, get themselves out in the job force, and yet we provide no assistance for these women. And the welfare system, as it is currently structured, provides assistance for those who neither seek employment nor participate in job training programs. Again, this is a policy conflict we ought to correct.

The eligibility workers also pointed out to me the difference in treatment under the Food Stamp Program between disabled seniors living on limited incomes and homeless people. Disabled seniors who usually have a house many times are eligible to receive only $10 a month in food stamp benefits. I was told by one eligibility worker that she actually sees seniors with cases of obvious malnutrition, something she said would just break your heart, but she is unable to provide more than $10 under the system the way it is currently structured.

On the other hand, a homeless person gets expedited service, has benefits available in 5 days, and is able to get the full benefit of $115 a month. It seems to me there is a dichotomy here that is irreconcilable. In the one instance, everyone agrees the deserving senior, who currently gets only $10 a month, desperately needs more to survive, and yet she is not provided that assistance.

Another example of a policy and an effect in conflict occurs when an unmarried man and woman live together. Each person is considered separately to determine eligibility for food stamp benefits, even if the woman is pregnant with the man's child. It is only after their baby is born that the man and woman are considered to have a child in common, and are then treated as a married couple, and are no longer eligible for separate individual benefits.

Also, couples who were married, who divorce, but continue to live together can be certified as separate persons for food stamps as long as they do not have a child in common. We ought to be encouraging, as a matter of public policy, people to be married and to raise their children as a family. Allowing this aberration—two people living together, previously married, divorced, and now able to receive welfare assistance—clearly is a disincentive we must correct.

Intentional welfare fraud can also result in a conflict between policy and effect. If a person receiving aid to families with dependent children benefits is discovered to have committed an intentional welfare fraud, the fraud sanction is to reduce benefits by up to 10 percent or to eliminate the AFDC benefit. The same family may then be eligible for more food stamps and a higher housing allowance because of the reduced AFDC cash benefit, a benefit which was reduced as a consequence of their intentional fraud perpetrated upon the system.

That creates the situation in which there is essentially no penalty for this person, because the reduction in AFDC cash benefits is likely to be offset by increases in benefits from other programs.

Under the Food Stamp Program, the penalty for fraud is either a 10- or 20-percent reduction in benefits. However, the reality of this situation is when someone commits a fraud, the welfare system basically ends up paying such people to pay the system back for the previous fraud from one program, by increasing that person's benefits from other programs. It makes absolutely no sense at all, Mr. President.

I have long been a supporter of strengthening our ability to enforce the payment of child support from irresponsible parents. It came as a surprise to me to learn that the Food Stamp Program, that I have long supported as an essential part of our safety net program, does not require—does not require—its recipients to participate in efforts to try to retrieve unpaid child support payments. All Federal welfare assistance programs must require its recipients to cooperate in State and Federal efforts to recover outstanding child support payments. We need to use every available option to bring delinquent parents back to the reality of their financial responsibility for their children.

The eligibility workers also brought to the table suggestions for ways to help eliminate these policy conflicts.

First, they suggest more standardization of eligibility requirements for all welfare programs. This would particularly help to prevent a fraud penalty reduction in benefits in one welfare program resulting in an increase in benefit eligibility in other programs, the net effect of which is to provide no net income loss or penalty for the individuals seeking to defraud the system.

They also suggest the penalty percentage reduction be made more flexible to allow for differences in the degree of frauds. Additionally, the eligibility workers would like to see fraud penalties follow the person. By that, Mr. President, we mean that under the current system, an individual who is identified as having perpetrated a fraud in one State can collect and apply for benefits in another State.

If a person commits a welfare program fraud in one State, and then moves to another State, the person's fraud penalty from the first State should follow the person to the second State for collection.

Also, all welfare programs should require their recipients to participate in State and Federal efforts to collect delinquent child support. As I stated before, we need to avail ourselves of all options available to ensure child support payment is enforced. When I reintroduced my child support enforcement legislation, my new bill will provide all welfare program recipients cooperate in child support enforcement efforts, as a condition of their receipt of assistance.

I want to reemphasize how much each of us can learn from the practical knowledge these frontline eligibility workers have about how the welfare system works, where the problems are, and what the possible solutions are to address them. They are not defenders of the welfare system status quo. They see both the positive and the negatives of the current welfare system, and they are just as frustrated with the welfare system as are the public and Members of Congress.

The welfare system must be substantially changed, and on that we can all agree. We can all agree too that there will always be people who will need the safety net welfare assistance provides at some time in their lives, and we must ensure the net is there for them.

But as the Senate begins its deliberations on welfare reform, we need to heed the lessons learned by these eligibility workers. As we make the necessary changes, let us always remember to work to ensure the current policy conflicts are not carried forward. Let us not create more unintended consequences when we change the system.

I yield the floor.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Colorado.

Mr. BROWN. Parliamentary inquiry. What is the business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is amendment No. 599.

Mr. BROWN. Mr. President, I rise to advocate the adoption of the Brown amendment No. 599 that proposes to restore the sanctions against frivolous actions of the Federal Rules of Civil Procedure.

Most Americans would be shocked, I believe, to find that the Congress has acted to gut the restrictions against bringing frivolous legal action. Many will ask in this Chamber, "How is that possible? Who in this Chamber would possibly vote or even advocate doing away with restrictions on bringing frivolous actions in Federal courts?" And the answer is that the previous Congress did it through neglect. The last Congress took what I believe most Americans will find to be an absolutely outrageous act by neglect, by refusing to consider the proposed changes to the Federal Rules of Civil Procedure. Proposed changes in the Federal Rules of Civil Procedure become effective automatically if Congress fails to act, and that is what Congress did—fail to even consider them.

There literally was not a bill brought up in the Judiciary Committee which allowed Congress to voice its concern about the proposed changes to the Federal Rules of Civil Procedure.

To make matters worse, the changes to rule 11 eliminated the deterrence against frivolous lawsuits. Let me quote the dissent from the Supreme Court opinion with regard to this matter:

> It takes no expert to know that a measure which eliminates, rather than strengthens, a deterrent to frivolous litigation is not what the times demand.

Mr. President, that is true, and what we attempt to do with this amendment is simply restore to the Federal Rules of Civil Procedure a form of sanctions and admonitions against bringing frivolous litigation. I intend to ask for a record vote on this, and it will be an opportunity for Members of the Senate to go on record: Do they favor our Federal courts being used to bring frivolous action, groundless action, or do they oppose it? It is a very clear vote. It is a very clear amendment. It is not complicated.

I think a legitimate question at this point is how in the world could a change of this kind ever possibly have taken place without someone standing up and calling the attention of this body to it and making sure it did not happen?

Let me address that because I think it is a relevant question and one to which Members deserve an answer.

In transmitting the changes to the Federal Rules of Civil Procedure, Chief Justice Rehnquist, in his letter of April 22, 1993, said the following:

> This transmittal does not necessarily indicate that the Court itself would have proposed these amendments in the form submitted.

For those in this Chamber who think the fact this was transmitted to us by the Supreme Court means they agreed with it, they need to take a look at the very transmittal document itself. The Chief Justice makes it clear that this does not involve, or necessarily indicate, the Court favors these changes.

Mr. President, I think it is important to note that none other than Justice White issued a separate statement with regard to that, and I intend to go into his statements voicing his concern about the procedure, and the dissent was filed by Justices Scalia in which Justice Thomas joined and Justice Souter joined as well.

I might mention that dissents with regard to changes in civil procedure are very unusual, and it is an exceptional case in which anyone ever dissents because, frankly, as Justice White points out, it is their view that there is some constraint on the Court through questions of constitutionality and of what role they should play in this activity, which is basically a form of legislation.

Let me quote Justice White because I think he explains this process in a clear fashion:

> 28 U.S.C. Section 2072 empowers the Supreme Court to prescribe general rules of practice and procedure and rules of evidence for cases in the Federal courts, including proceedings before magistrates and the court of appeals. But the Court does not itself draft and initially propose these rules. Section 2073 directs the Judicial Conference to prescribe the procedures for proposing rules mentioned in section 2072. The Conference has been authorized to appoint committees to propose such rules. These rules advisory committees are to be made up of members of the professional bar and trial and appellate judges. The Conference is also to appoint a standing committee on rules of practice and evidence to review recommendations of the advisory committees and to recommend to the Conference such rules and amendments to those rules as may be necessary to maintain consistency and otherwise promote the interest of justice. Any rules approved by the Conference were transmitted to the Supreme Court which, in turn, transmits any rules prescribed pursuant to section 2072 to the Congress.

Mr. President, what he has outlined quite clearly is that these changes in the rules, while transmitted through the Supreme Court, do not necessarily represent the views of the Court—a view echoed by the Chief Justice.

Further, Justice White states:

> The Justices have hardly ever refused to transmit the rules submitted by the Judicial Conference. And the fact that aside from Justices Black and Douglas it has been quite rare for any Justice to dissent from transmitting such rules suggests that a sizable majority of the 21 justices who sat during this period concluded that Congress intended them to have a rather limited role in the rulemaking process. The vast majority, including myself, obviously have not explicitly subscribed to the Black-Douglas view that many of the rules proposed dealt with substantive matters the Constitution reserved to Congress, and that in any event were prohibited by 2072 in injunctions against abridging, enlarging, or modifying substantive rights.

Mr. President, I mention this because I think it is critical as Members consider this subject to ask themselves whether or not the changes that went into effect automatically carried with them an aura that we should respect and honor and not question or even review. Justice White concludes in his opinion that was transmitted stating this:

> In conclusion, I suggest it would be a mistake for the bench, the bar, or the Congress, to assume that we are duplicating the functions performed by the standing committee of the Judicial Conference with respect to changes in the various rules which come to us for transmittal.

Mr. President, I believe the record is quite clear. It is a mistake for anyone to come before this body and to suggest that the fact that the Supreme Court transmitted these proposed rules changes means that they think they are good rules changes. I think the statement of Justice White, and particularly the dissent of the three Justices, which is almost unprecedented, indicates very clearly that the Court itself has serious concerns.

Mr. President, the reality is this: Congress has the power in the Constitution to enact statutes. Congress did not perform its function because no vehicle was allowed to be considered. That is why I think it is important that we provide for the consideration of these changes right now. Let me state quite clearly, I would like to go back to the old rules. I think the old rules were not only far superior to the changes that happened by default, but I think they were much stronger. But the amendment before you is a version that is somewhere between the old rules and the new rules. The amendment adopts or accepts many of the changes that seemed to have articulable support behind them or for which the Trial Lawyers Association could come forward with reasonable arguments. So this amendment does not go as far as I would like it to. It does not restore the old rules. But it does restore a portion of the old rules in areas where I felt there was literally no reasonable justification for accepting the gutting changes proposed by the Judicial Conference.

Mr. President, rule 11 is one of the most important tools courts have to fight frivolous, baseless, and harassing suits. This amendment gives Members a chance to go on record on that question. Do you want frivolous actions brought? Do you want baseless and harassing suits cluttering up our courts or not? That is what this amendment is all about.

Swift action against frivolous lawsuits and claims save time and money and taxpayers' dollars and promotes public respect for the integrity of the Federal court. I think that may be the most single important question raised by this amendment and those rule changes. Shouldn't our Federal courts require integrity in their process and substance in the allegations? Those who want to gut rule 11 will say, no, we should not have any restrictions in this area. But I believe maintaining the integrity of the Federal court system is important, and that is why this amendment is brought before the Senate.

The new version of rule 11, which was changed upon the recommendation of the Judicial Conference, eviscerates the deterrent value of rule 11. That is not just my opinion. It is the opinion of attorneys and judges who have reviewed the action and who share my concern about our turning our backs on ensuring the integrity of the Court.

The December 1, 1993, version of rule 11 allows frivolous lawsuits to go forward. It allows baseless lawsuits. It actually allows attorneys to file allegations without knowing them to be true. Let me repeat that because I think it is the core of what we are talking about. It allows attorneys to go into court and to file allegations without knowing them to be true.

How can anyone come before this body and say that makes sense? How can anyone come before the American people and say we are going to set up a court system in which you are going to have filings in which even the paid advocate of the cause does not know to be true? Mr. President, the rules allow attorneys to make assertions without any factual basis and before they have done their research. Let me repeat that. It allows attorneys to literally make assertions without having any factual basis for those assertions. It is scandalous to suggest that our courts are going to be used for hearings on allegations that have no factual basis and before any research is done. That is ludicrous, it is shameful, and it is why it is so important for us to move ahead and to correct what is clearly an abuse by and neglect of previous Congresses.

In short, the December 1, 1993, version encourages the kind of baseless suits and claims which rule 11 was literally enacted to prevent. The new rule 11 says, "Sue first and ask questions later."

Mr. President, that is not an exaggeration. That is literally what rule 11 allows in its current form. Sue first and do research later.

What this amendment does is put teeth back into rule 11. It does so by making sanctions for frivolous suits mandatory, as they once were.

Mr. President, I want to take a few minutes and go through specifically what this amendment does, how it compares with the old rule, and how it compares with the new rule.

I think it is important for Members to know and understand that what is before them is a very moderate version. The amendment adopts many of the changes the Judicial Conference wanted. But it does not adopt the concept that we will gut rule 11 and threaten the integrity of the court system.

How can anyone looking at our Federal court system want to allow courts to be cluttered up with frivolous actions? The facts are these: In 1990, over 10 percent of the Federal district court cases were over 3 years old. Mr. President, we have such a huge backlog that we literally have more than 10 percent of the cases who, after 3 years, have not been resolved.

The current trend of more and more cases filed in Federal court continues. In 1992, over 226,000 cases were filed, and literally, under the current trends, the number of cases will double every 14 years. In the face of eviscerating rule 11, Congress did not act to save the one effective tool that deters frivolous litigation. Congress allowed a new rule to be adopted that weakens the process despite evidence and opinions of judges and lawyers.

Mr. President, I want to go into those opinions because the judges and lawyers that work with this are alarmed at the changes in rule 11. Someone will say, well, now, wait a minute, at least there was a committee, there are some people who admit they like these changes, and that is the Judicial Conference Committee that dealt with this. Take a look at the attitudes of the bar in general, because one should not assume that the fact that the Judicial Conference or, more specifically, a committee of that conference, made the recommendations, that they speak for attorneys and judges across this country.

Here are the facts: In a recent study by the Federal Judicial Center, they found that a strong majority of Federal judges support the old rule 11, not new rule 11, but the old rule 11. The study found that 95 percent of Federal judges who responded believed that rule 11 does not impede the development of law. They found that 71.9 percent believe that the benefits of rule 11 outweighed any additional requirement of judicial time. They found that 80.9 percent believe the old version of rule 11 had a positive effect on litigation in the report. Mr. President, let me repeat that: Over 80 percent of the judges felt the old version of rule 11 had a positive impact on litigation in the Federal courts. The proponents of the new form of rule 11 that come to this body and claim this somehow has the blessing of the legal community have not looked at the facts. This had the blessing of a group of insiders, of a committee, but it did not have the blessing of the bar as a whole. Over 80 percent believe the old rule 11 should be retained in its current form.

Mr. FORD. Mr. President, would the distinguished Senator from Colorado take a question?

Mr. BROWN. I would be happy to take a question at the completion of my remarks.

Mr. FORD. I wanted to insert because the Senator said "of those judges responding," and I did not know whether half responded, 25 percent responded—the Senator is using the 80 percent—or whether 100 percent responded and the Senator is using 80 percent. "Of those who responded," I wonder if it was a large number or a small number.

Mr. BROWN. I appreciate the question of the distinguished Senator. I think he may not have heard in my remarks I quoted the 1990 study of the Federal Judiciary Center, and I will be happy to supply the Senator with the study.

It might also be noted that rule 11 issues were raised in only 2 to 3 percent of all cases; that they concluded that rule 11 imposes only modest burdens on Federal judges and that rule 11 sanctions have typically been taken in the form of monetary charges payable to the injured party.

Mr. President, I want to turn now to the rules changes themselves. I will, of necessity, deal and focus particularly on three of them. There are additional nuances, but I think these three are the most important and at the heart of the amendment that is before this body.

Mr. President, the first one that we want to look at is the old rule, which required that the attorney or the party must sign the pleading of the motion and indicate that the facts designated therein represent the best of the signer's knowledge and that they are based on information and belief formed after a reasonable inquiry that is well grounded in fact and that is not interposed for improper purposes such as to harass or cause unnecessary delay or needlessly increase the cost.

Mr. President, the new rule guts those provisions that are meant to ensure integrity in the process. Here is how it reads:

> By presenting to court, an attorney is certifying the allegations and other factual contentions have evidentiary support, or if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

The option which then controls is "or likely to have support, if investigated." In other words, they do not have to certify any longer that they are true or that they have investigated them. They are literally saying we can bring filings in the court that have not been investigated and which a person does not know are true.

Here is what we do with the version that is presented in this bill. We say, "by presenting to court, an attorney is certifying the allegations and other factual contentions have evidentiary support or are grounded in fact." It is less severe than the old rule. I would like to go back to the old rule. But at least this amendment requires that the allegations are grounded in fact or have evidentiary support.

Now, that is a clear question. Should filings in Federal court be grounded in fact? Should they have evidentiary support? Or should a person be allowed to find anything they want without a requirement of knowing that it is true? Or even having been required to investigate it before it is filed? It is a very clear question. It is one I think Members will be anxious to cast their vote on and let citizens know how they feel.

The second change deals with an additional question. Let me read the old rule:

> If a pleading, motion or other paper is signed in violation of this court rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party or both, an appropriate sanction.

In other words, if a person is guilty of violating the rules, that person will get sanctioned. That must not sound very unusual for observers. Why would we want to change that?

The new rule does a couple of things. What it says is that if a person is guilty, if they violate the rules, a person does not have to be sanctioned. In other words, an opposing counsel can point out that this was done without any background, and when the attorney—who has made an inaccurate filing, when an attorney who has violated the rules—is caught, the new rules say that even though you are guilty, even though you have been caught, even though you have caused the other party harm, you can get off scot-free. That is not my idea of justice and I do not think it is the American people's idea of justice.

Here is what we do. We restore that portion of the old rules that says if you are guilty you are going to get sanctioned. It leaves it up to the court to decide what the appropriate sanction is, but at least we say if you are guilty of violating the rules and it is shown to the court, you will be sanctioned. Those who want violators to get away without being sanctioned will want to vote against this amendment. But those who think if you are guilty you ought to be sanctioned will want to vote for it.

The third one I want to summarize is one that I think Members will find hard to imagine that the committee recommended. The new rule says that if you are guilty of violating the rules, and even though under their changes you do not have to be sanctioned, but if you are sanctioned even though you do not have to be sanctioned, then they say the penalty for this misbehavior can be paid to the court and not to the injured party. Talk about rigging the rules. They are saying: First of all, we are going to dilute what is impermissible behavior; but if you are found guilty of impermissible behavior even under the diluted rules, you do not have to be sanctioned; and even if under the diluted rules you are found guilty and you are sanctioned, the money does not go to the injured party. In other words, they pull the rug out from under any incentive of the injured party to seek redress.

The amendment addresses the third area in a pretty basic and simple way. It restores the preference that if you are guilty and if you are sanctioned, the awards first go back to the injured party, not to the court. The amendment reads as follows:

> A sanction imposed for violation of this rule may consist of reasonable attorneys' fees and other expenses incurred as a result of the violation, directives of a nonmonetary nature, or an order to pay penalty into court or to a party.

In other words, we eliminate the priority that the sanction go to the court and give the court discretion in that area. That is basically what we are talking about in this amendment. We restore to the rules some of the integrity of the process. We indicate that there will be sanctions if you are guilty, and we eliminate the favored status of having the penalty, if it is imposed, go to the court and allow it to go to the injured party if they wish.

This does not solve all the problems with frivolous litigation. I wish it did. But it does restore some of the integrity to rule 11 and some of its effectiveness.

I want to quote the dissent signed by three Justices of the Supreme Court when they forwarded these. It is very unusual for dissents to be written in these transmittals, but I think the words speak for themselves.

> In my view, the sanctions in the new rule are not strong enough; thus, the new rule eliminates a significant and necessary deterrent to frivolous litigation . . . and perhaps worst of all introduce into the trial process an element that is contrary to the nature of our adversary system.

That is what this is all about. Will we eliminate a deterrent to frivolous litigation? Will we burden the district courts? That is really what this is all about. I think a reasonable question could be raised at this point and that reasonable question would be simply this: Do lawyers, do attorneys behave differently if these sanctions, monetary sanctions exist? If there are mandatory sanctions for violating the rules, does it affect the behavior of attorneys? That is the assumption this process is based on anyway, that by having a rule that prohibits frivolous litigation and provides mandatory sanctions, that counsel will behave differently; they will behave different if they have to pay a mandatory penalty than they will if they do not.

There is some evidence on that. There is some evidence because before 1983 you did not have mandatory sanctions and after 1983 and before this recent change you did have monetary sanctions. So there was a study done. It is known as the Nelken study, by Melissa L. Nelken. She did a study of rule 11 and she considered the impact on the Federal practices of both lawyers and judges in the northern district of California. It is confined to that area. It was part of the ninth circuit.

The survey questionnaire was sent to some 17 judges, 7 magistrates, and 107 attorneys. All of these individuals had been involved in rule 11 proceedings. That was done to make sure the survey was conducted among people who had some knowledge of the process and some experience with it. Mr. President, 68 attorneys, 64 percent of them, responded; 12 judges or magistrates, or 50 percent of those, responded to the survey. Here is what it showed.

The question was, "Has amended rule 11 changed your practice, if any, in the following areas?"

The change they are talking about is the change of making sanctions mandatory in 1983. Mr. President, 46 percent of the respondents indicated that they had engaged in additional prefiling factual inquiry. What we are literally seeing is 46 percent of those attorneys, those practitioners, those on the line, had said when sanctions are mandatory they engaged in more prefiling factual inquiry than they did when they were not mandatory. I think that is a plus. I think that improves the integrity of the system.

Mr. President, 33 percent indicated additional prefiling legal inquiry; that is, when sanctions were mandatory, 33 percent indicated—admitted that they had done additional prefiling legal inquiry over and above what they did when sanctions were not mandatory.

This is only one study. It is a limited area. But I think it is real proof of what our common sense would tell us. When sanctions are required there is more work that goes into making sure the filings are correct than when there is no sanction.

I want to take one more quote out of the opinion of the Supreme Court accompanying the recommended changes in 1993. This is at the conclusion of the dissent. It says as follows:

> It takes no expert to know that a measure which eliminates rather than strengthens a deterrent to frivolous litigation is not what the times demand.

I do not think it could be said any clearer. Should we eliminate deterrence to frivolous litigation? That is what this amendment is all about. If you favor deterring frivolous litigation, you will want to vote yes. If you do not want to deter frivolous litigation, then you will vote no.

It boils down to these substantive changes in the rules—to efforts to restore these basic rules: First, should filings be grounded in fact? I think they should.

Second, should sanctions be required if you file frivolous actions? If you are found guilty of filling frivolous actions, should sanctions be required? I think they should.

Third, should the injured party have a standing for compensation, or more particularly should the priority of the court be to have a sanction for someone who is guilty, and should the priority be for that money to go to the court, or should it be the priority or at least the option for that money to go to the injured party? I think the injured party should not be shortchanged in this process.

These are moderate changes in rule 11. Again, they do not go back to the old rule 11 which I would like to. They do adopt some of the changes proposed by the conference. But, Mr. President, this is an important matter because this is an effort to restore the integrity to the legal process. It is an effort to restore integrity to our courts and discourage frivolous actions by restoring rule 11. I think it is appropriate for this bill. I do not think the amendment could be more appropriate because at the heart of addressing the problems with the litigation system in the United States—at the heart of it—is to restore integrity to the system. That is what this amendment is intending to do.

Mr. GORTON. Mr. President, I would like to comment very briefly on the eloquent remarks of my friend from Colorado. His remarks are equally and highly thoughtful and persuasive. There is no question but that this Senator strongly supports his judgments with respect to rule 11 and the desirability of a return to a much more fair and balanced such rule.

At the same time, Mr. President, I must say that rule 11 has little if anything to do with the subject before the Senate, the product liability bill, which almost universally will apply to litigation brought in State courts and, therefore, whether or not it is appropriate to be included with this bill is a question which I think relates primarily to the attitude of Members of the body itself.

This is an extremely controversial bill. Should this strengthen its chances for passage, it would be welcome. If it weakens the chance for passage of something as important as product liability, I hope at some point or another the bill would be withdrawn and dealt with at a more appropriate time.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I rise today in support of the Product Liability Fairness Act which I consider to be a very important piece of legislation. I believe it is the principal first step in reforming our increasingly irrational, often unfair and very costly civil justice system. This system is burdening our economy, it is burdening America's consumers and its middle class; ultimately it is weighing down the community institutions and organizations that help us live together as friends and neighbors. By enacting product liability reform, we can begin reinvigorating our economy, giving consumers a choice of products and decreasing the expense and unpredictability of our tort system.

This bill makes a number of much-needed reforms. First, it caps punitive damages in product liability suits. This reform does not limit anybody's right to recover in full for any damages suffered. That right remains intact even if the recovery runs into the millions. Rather, it merely limits the punitive damages that can be awarded over and above what is needed to compensate those injured by defective products.

These punitive damages are supposed to function as a punishment for the defendant. But because they are awarded to claimants, their potential availability attracts lawsuits whenever somebody thinks he or she might get lucky and hit the jackpot.

Capping these damages will place a real limit on windfall profits in product liability lawsuits and thus lead to fewer frivolous claims being filed and less unnecessary extension of lawsuits which could be settled.

In addition, the bill would eliminate joint liability for noneconomic damages in product cases, and replace it with proportionate liability. It thus would end the costly and unjust practice of making a company pay for all damages when it is only responsible for, say, 20 percent, just because the other defendants already have gone bankrupt. Instead each defendant would have to pay only for the noneconomic damage he or she actually caused.

The bill also establishes important limits to the liability of product sellers, as well as suppliers of raw materials critical to the production of life-saving medical devices. Generally speaking, the bill makes clear that these sellers and suppliers can be held liable only for their own misconduct in connection with the product. If, for example, the purchaser misuses the product, then that purchaser is responsible to the extent he or she is injured on account of his or her own misuse.

These provisions go a good way toward restoring individual responsibility as the cornerstone of tort law. They also recognize an important problem with our legal system: Ultimately, in its current form the system is profoundly anticonsumer.

The tort tax imposed by our legal system raises prices on many important goods, rendering them unavailable to poor people. And in extreme cases, our legal system can literally bring death or misery; it does so by driving off the market drugs that can cure terrible but rare diseases, or medical devices for which raw materials are unavailable on account of liability risks.

Mr. President, this is not mere hyperbole. There are some 5,000 diseases that affect small numbers of Americans. Many of these diseases, such as cystinosis, a fatal kidney disease, and leprosy, are extremely serious. But a number of them go untreated. Pharmaceutical companies cannot afford to market drugs to treat these diseases because the cost of liability insurance is prohibitive.

To give just one example: A West German chemical company at one time supplied Americans with botchyoulinum. If properly used this drug, otherwise a paralytic poison, can control a rare but incapacitating disease, characterized by uncontrollable twitching of the eye muscles. Unfortunately the company cut off American supplies to avoid the risk of being held liable should people misuse its product.

And this is no isolated instance. A recent Gallup survey found that one out of every five small businesses decides not to introduce a new product, or not to improve an existing one, out of fear of lawsuits. And, according to a Conference Board survey, 47 percent of firms withdraw products from the market, 25 percent discontinue some form of research, and 8 percent lay off employees, all out of fear of lawsuits.

Mr. President, this bill takes important steps to address these problems. The reforms I have specifically noted, as well as others in the bill, will help consumers. They will help our economy. And they will help our legal system. I pledge my full support for this well-considered legislation.

However, I would also like to take this opportunity to urge my colleagues to go further. And I mean go further in two respects. First, the reforms under consideration apply only to product liability. That is, they affect only suits involving manufacturers' and sellers' liability for defects in manufacturing and handling products. And second, the reforms do not address certain key flaws in our civil justice system.

The problems with our current system are deep and pervasive. They are not limited to product liability. They affect homeowners, accountants, farmers, volunteer groups, charitable organizations, small businesses, State and local governments, architects, engineers, doctors and patients, employers and employees. In short, they affect all of us.

We need to repair our system for all Americans. And doing that will require reforms that go beyond the field of products liability. We must replace our litigation lottery with a civil justice system that is less costly, more predictable, and ultimately more fair to everybody. And we must replace the current incentives to sue with incentives to settle disputes before they get into court.

This is why in the course of the next few days I intend, along with others, to offer and support amendments that would broaden the legislation currently under consideration.

These amendments fall in two classes. The first class takes valuable reforms currently in the current product liability reform bill and applies them to other kinds of cases. Thus I will be leading an effort to broaden application of this bill's joint and several liability reform and supporting an effort to broaden application of this bill's punitive damages reform.

The other category of amendment I am supporting would reorient our current system's distorted incentives. Today, Mr. President, our tort system encourages people to spend money on lawyers and litigation rather than on resolving disputes quickly and compensating deserving claimants.

The right to know and rapid recovery amendments I have introduced with my colleague from Kentucky will promote speedy compensation for claimants, save attorney's fees, greatly reduce the cost of liability insurance and change our culture of litigation, which brings me to my last point, Mr. President. A broad approach to legal reform will help our communities. Our current system discourages the voluntarism and civic participation that hold our towns and neighborhoods together. A Gallup survey found that 8 percent of nonprofit organizations had volunteers resign over liability concerns; 16 percent reported volunteers withholding their services due to fear of liability, and 49 percent reported seeing fewer volunteers willing to serve in leadership positions.

This is disastrous, Mr. President. When almost half our nonprofit organizations are finding it more difficult to get people to serve in leadership positions, we are in trouble. When our citizens are afraid to serve their neighbors out of fear of being sued, we are in danger of losing that sense of common cause and mutual reliance that is at the heart of any community.

We have been hearing a good deal lately about the breakdown of our communities. And it is a real problem. This problem arises in part from peoples' understandable fear of local bullies and strangers who prey on them in their streets and homes.

But today our law-abiding citizens suffer from another even more debilitating fear: a fear of each other.

Too many Americans are afraid to get involved with their local little league or Girl Scouts or volunteer fire department because they seriously believe that if they make an honest mistake they will be sued and lose everything they have merely for trying to help.

So long as Americans see one another as potential plaintiffs, they cannot see one another as neighbors. So long as we encourage lawsuits rather than personal responsibility and early dispute resolution our citizens will fear even those they know well—and come to see them as strangers whom they themselves will sue at the slightest provocation.

Neighbors no longer trust one another enough to look out for each other, and each others' children. The result is a breakdown of mutual support and pride in the community, leaving it easy prey for other social ills like crime and delinquency.

We must break this destructive cycle, Mr. President, for the sake of our families and our children. We must begin to rebuild our communities by restoring the sense that we can count on one another's good will and forgiveness for innocent mistakes. We must restore trust among our citizens, and health and vigor to our economy, by remaking our civil justice system to reward neighborliness rather than stubborn greed.

Mr. President, we must reform our tort system so that we encourage people to come together on their own to settle disputes before they end up in court, costing time, money, and bad feelings.

The result will be a reinvigorated economy, more jobs and necessary products for us all, and a revival of that civility and common feeling some of us remember with regret from an era not too long ago; an era in which Americans thought of one another not as potential plaintiffs and defendants but as neighbors trying to help each other in making their community a better place.

Mr. President, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I thank the Chair.

I am starting my seventh year in the Senate, and every year it seems as if we always come up with a product liability bill. I have served on the Commerce Committee under the leadership of Senator HOLLINGS and under the leadership also of Senator Danforth, who was a great champion of product liability reform.

I want to thank Senator GORTON, who has picked up the traces, so to speak, and especially to Senator ROCKEFELLER who through all of the years I have been here, starting the seventh year, has also played a very strong part in leadership on this issue, diligently trying to seek reform.

I have supported product liability reform primarily because I believe it is time now for Congress to act on what some would term barriers to economic growth in this country. And the need to reform our product liability system is no less urgent now while the economy is seemingly healthy than if we would experience economic downturn.

The current system drives up costs in nearly every sector of the economy and does very little to improve our quality of life and does very little to increase safety at the workplace. In the last 30 years, the number of cases filed in Federal courts has more than tripled, to over 250,000 a year.

Now, this issue, yes, is a jobs issue; it is a competitiveness issue, and some would term it even a moral issue. Currently, the typical American manufacturer faces product liability costs that are 20 to 50 times higher than that of his or her foreign competitor. This additional cost makes American companies less competitive; they lose market share to foreign competition.

So what do they do? They raise prices and they lay off workers. The costs of runaway litigation are felt by American companies, workers and, yes, consumers alike. It is not just a big business issue either. It affects small businesses as much if not more than our large businesses.

The 1,100-percent rise in the number of Federal product liability cases in the 1970's and 1980's has driven up the cost of liability insurance to astronomical amounts. The burden of this increased cost is proportionately much greater for small business and in some cases it is the element that is a "make or break" issue for them.

This issue is most often presented as a consumer issue, Mr. President. I disagree with those who say that if you are for product liability reform, you are against the consumer. I reject that argument. Consumers do not benefit when the business community has to protect itself from runaway lawsuits. They pay for it. As we have often been told, it just goes into the operating costs; that companies and corporations do not pay taxes either. People pay taxes. And the threat of lawsuits keeps the vital consumer products from the market and discourages safety and other improvements that would make it a better product. Moreover, liability stifles research and development for new consumer and medical products.

This bill seeks to bring fairness to a system without taking away an injured person's right to a fair and speedy trial and, yes, just settlement. Right now the system fails to compensate those injured in proportion to their losses and it takes them far too long to receive the compensation.

The people who benefit the most in the current system, let us face it, are the principals involved, the lawyers. Studies say that 50 to 70 cents of every dollar a jury awards to an injured person goes to the attorney. This hardly seems like a system that benefits the consumer.

There is a tremendous amount of support for this liability lawsuit reform in my home State of Montana. In a recent poll, 89 percent of Montanans indicated that the current system has problems and it should be fixed. There is a growing awareness that the only winners in the lawsuit lottery game are the attorneys and the professional plaintiffs.

S. 565 will reform the current system to make it more effective. We must protect people from careless manufacturers and defective products. This bill does not compromise that objective. It just ensures that we do so in a fashion that still allows American businesses to compete and grow in a global economy.

Congress has the opportunity to reform our product liability system, and I hope that we do not miss this window of opportunity and that we take advantage of it. This bill must become law. I ask my colleagues to support it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I want to signal my strong support for S. 565, the Product Liability Fairness Act. My distinguished colleagues, Senators GORTON, ROCKEFELLER, and PRESSLER, are to be commended for their leadership on this particular legislation.

This legislation is needed for several reasons. Our present system of liability has been estimated to cost the American economy an astounding $117 billion. In addition to this tort tax, our system of liability stifles innovation and prevents better—often safer—products from reaching the marketplace. The present system of liability also undermines American competitiveness, both here and abroad.

There has been a concerted effort to spread misinformation about these reforms—scare tactics—in order to hide the real issues. So let me be clear: The reforms contained in this bill, despite efforts to portray them otherwise, do not prevent persons who are harmed from recovering full compensation for their injuries. In fact, this legislation addresses abuses that undermine such compensation. Nor does this legislation alter civil rights and environmental laws in any way. In fact, the legislation explicitly excludes such Federal laws.

What this legislation is about is fairness. Our legal system is one of the bedrocks of our free society. But over the last 25 years, it has succumbed to efforts to turn it away from American principles, individual responsibilities and justice. In many cases, our system of liability resembles a lottery, where damage awards become windfalls and often deserving plaintiffs do without.

Thus, I strongly support the provisions of this bill that seek to rein in abusive punitive damages. Punitive damages are not intended to compensate victims, as the name suggests, they are intended to punish wrongdoing. But punitive damages have been widely abused in recent years, and the problem now affects every American.

Mr. President, I plan to offer an amendment later today. As I understand, after a couple of votes and after disposition of the Brown amendment, I will be recognized to offer an amendment. That may be later tonight, 7 or 8 o'clock or it may be sometime tomorrow morning. In any event, I will offer the amendment later and expand on these protections at that time and what I believe the amendment does and does not do.

But I am talking about protection for Little League players, the Girl Scouts, and small business. Groups like that are at risk from abusive lawsuits and overwhelming punitive damages. I hope to give you some examples of how this affects the Girl Scouts, Little League, and others—how many boxes of cookies they have to sell to protect themselves from frivolous lawsuits, in some cases.

We cannot allow the threat of liability to keep hard-working Americans from volunteering their time to help. We must not allow the threat of liability to sink small businesses who often can barely keep their doors open.

Although I support the Rockefeller-Gorton bill, I believe we cannot simply stop with reforms that help big business alone. We have to take a look at small business and some of the charitable groups and other groups that most American families have contact with. It is as much our responsibility to help the little guy, and that is what my amendment will achieve.

This amendment leaves the underlying provisions on the measure of punitive damages intact. Thus, punitive damages would be limited to three times economic damages, or $250,000, whichever is greater.

What my amendment would do is to take the same provision in the underlying bill and extend these protections to Americans who are often least able to cope with outrageous punitive damages.

Thus, instead of limiting these protections to product liability actions, my amendment would extend them to "any civil action affecting interstate commerce."

I emphasize again that this amendment in no way undermines full compensation to victims, nor does it alter Federal laws.

Most of the issues raised by the Rockefeller-Gorton bill are well known. The Commerce Committee has considered similar legislation in the 97th, 99th, 100th, 101st, and 102d Congresses, and a similar bill was considered on the floor in the 102d and 103d Congresses. We will have a reasonable time to debate these issues, but it is my hope we will not engage in dilatory tactics to distract the Senate from moving forward on this important legislation.

Having said that, I hope we will complete action on this legislation sometime midweek next week. I know that on Friday of this week the Democrats have a conference outside the city and Republicans have a conference inside the city. But we will be in session late tonight and late, late tomorrow night and, hopefully, we can at that point see the end when we might complete action on the legislation.

It would be my intention to file a cloture motion if it appears we cannot complete action in a timely fashion. I will say, as I have said before, the Senate has a lot of work to do to catch up with many things that have been sent to us from the House. My view is we will get it done. It will mean we will have fewer recesses in the Senate. It means we will be here many more days probably than the House will be in the next 100 days. It will mean long evenings. But I hope my colleagues on both sides of the aisle understand that we have a responsibility, that we all made statements to get here to the voters of the United States, and we intend to keep our word to the American voters, win, lose, or draw.

So it is my hope we will have a very productive several weeks before the brief Memorial Day recess and that will be about the last recess, maybe with the exception of a couple of days July 4 and 5 before we decide what to do with the August recess. It is not a statutory recess. It can be changed by resolution and it may be if we cannot complete our work in time we might have to abbreviate the August recess. I hope that is not the case, because many of my colleagues have made plans to be with their families and made other plans. So we will do the best we can to accommodate people on both sides of the aisle.

I do believe that we have a responsibility. We know it takes longer in the Senate. We know the Founding Fathers planned it that way. This was to be the deliberative body and we are deliberate, believe me. Sometimes it is almost too deliberate. Today is an exceptional day because many of our colleagues are attending services for former Senator John Stennis. I think 25 of our colleagues are in Mississippi today. So that necessarily means we may not accomplish much until they return about 5 o'clock.

RECESS UNTIL 2:30 P.M.

Mr. DOLE. Mr. President, I am advised by staff and the manager of the bill on this side, Senator GORTON, that it will be about an hour before there will be speakers available. They are now in a private session, as I understand it, discussing this measure.

I move that the Senate stand in recess until the hour of 2:30 p.m.

The motion was agreed to.

Thereupon, the Senate, at 1:22 p.m. recessed until 2:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ABRAHAM).

Mr. DOLE. Mr. President, I understand there are speakers on the way to the floor. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONDOLENCES TO CITIZENS OF OKLAHOMA CITY

Mrs. BOXER. Mr. President, I wanted to add my voice, on behalf of the people of California, my voice that is going to say today that we send our love, our condolences, and our sympathies to our friends in Oklahoma.

A couple of California residents happened to be in that building at the time of the blast so we certainly share in this tragedy. I send my words of thanks to the incredible people who have shown up from all parts of this country to help the people of Oklahoma City cope with this tragedy.

I have a lot of thoughts and feelings, but rather than say them today, I will be writing them down because I do not want to misspeak or in any way say anything that could be misconstrued.

Today I just wanted to say that I am very fearful that what occurred in Oklahoma City could be a signal that America is losing something very special that we have always had, which is an ability to take our dissent and take it right to the ballot box.

If we lose that, and if we all do not guard against violence, we will lose the very essence of our Government, the Government of, by, and for the people. When we attack people who work for the Government, we are attacking our neighbors and friends, and indeed we are attacking ourselves.

One of the things that has concerned me for a long time is the dropoff in voter participation that I have seen. There are many people that are disgruntled and discontented with laws that are passed, the debates that we have here.

I encourage them to participate, to take that frustration and those feelings and organize politically and get your candidates here to the U.S. Senate, to the House of Representatives—whatever a person's philosophy, be it on the left, right, in the center, it matters not.

The beauty of what we have in America is this incredible democracy where everyone has a chance to get here. Certainly I got here very unexpectedly myself, a first-generation American—my mother never even graduated from high school—and I got to the U.S. Senate.

This is an open country and there is no need to harbor bad feelings toward one another. Here in this Senate we debate many times and we sometimes get angry at each other because we disagree with each other. However, it is done with respect. I only hope in the years that I am here it will continue to be done with respect.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mrs. BOXER. Mr. President, we have many problems that need fixing in our country. I just have to say that product liability law should not be one of the problems. It is not a problem. Yet we are here, facing this bill, S. 565, the Product Liability—it is called Fairness—Act when this is not a problem.

Why do I say this? First, this country has an enviable record of producing safe products. All the countries in the world wonder how we do it. Well, we have laws that hold people responsible if they produce a dangerous product. The people who want this bill want to change that law.

Why should we tinker with laws that contribute to one of the best safety records for products known to human kind? The only thing I can imagine is that there are some special interests who do not like it.

That is why, I think, we are here discussing S. 565, because it certainly is not going to contribute to safer products. Indeed, I say, if it passes—and I am doing everything I can so that it does not pass and it does not become law—it is going to contribute to unsafe products, products that harm the people of my State and products that will harm the people of this country.

Second, there are those who say that we have an explosion of frivolous lawsuits related to product liability, to dangerous products. I want to say unequivocally, and I will repeat it many times during this debate, that it is a figment of someone's imagination that there is an explosion of litigation around dangerous products.

Let me give the facts, because there is a lot of rhetoric around here. Product liability lawsuits are only one-third of 1 percent of all civil lawsuits in State courts. Let me repeat: They are one-third of 1 percent of all civil lawsuits in State courts.

Listen to this: In 25 years, the last 25 years, there have only been 355 punitive damage awards. Now, what is a "punitive damage award?" Punitive—meaning to punish. When a company harms an American citizen, a person using a product, because of shoddy manufacturing and a mistake was made, and the person is injured, say, burned beyond recognition, that company is sued for punitive damages, meaning, "Let us punish the people who caused this grief"—sometimes for loss of life and limb.

In a single year during that 25-year time period, there were an average of 11 punitive damage awards. Yet this bill is going to limit punitive damages—the ability of an average person to walk into court and get justice—because this Congress has decided it knows better than a jury. There is no wave of frivolous lawsuits here. We know where the frivolous lawsuits are: businesses suing businesses. That is where the explosion is, but this bill does not deal with that. This is the Business Protection Act.

I find it really intriguing that many of the Senators who were pushing this bill, which would take precedence over State law, are the very ones who say let the States do everything else. "Oh, let the States do the School Lunch Program. But we know better, all of a sudden, than the States and the State legislatures, when it comes to products liability." I find that really astounding.

This is a rigid law. How could we determine now what the cap on punitive damages should be? I assure my colleagues, if a multibillion-dollar corporation makes a mistake in building a bus and the bus explodes, to punish a multibillion-dollar corporation $250,000 or three times economic damages is not going to cut it. Why not just repeal punitive damages while you are at it? The reason is they cannot get the votes to do that.

This law would pretend to know all the facts of every case in advance without seeing them. We are the all-seeing Senators here. We are the all-knowing Senators here. We know every case in advance here, and we can say here, without any problem, we ought to limit the ability of juries and judges to make awards. We know all the scientific evidence, I suppose, and all the circumstances under which a product was sold and manufactured. That is what this bill says.

There are billions of products manufactured each and every year, and this bill says we can foresee that under no circumstances should a company have punitive awards greater than $250,000, or three times economic damages. We, the almighty Senators, know—better than a jury, better than the States.

S. 565 would shift the current level playing field against the average person in favor of big corporations and there is no question about it. It would remove much of the responsibility of manufacturers and sellers of dangerous products. They do not have to fear a big jury award. They can just write it off as a cost of business. So what if a drug you took made you infertile? So what if a product your child got a hold of caused that child great damage to his brain or his limbs? It would take away the hard-won rights of average citizens to a safe marketplace for goods. That is why every major consumer group is fighting against this bill. There are many groups fighting against this bill.

But one group of companies love this bill. The tobacco companies love this bill. Because some day in the future, when some court finds out that they knew their products were addictive, they will be shielded by this bill. And each and every Senator voting for it will have to say to the people who lose their loved ones to smoking, "You know, I didn't realize it when I voted for this S. 565. You're right, it would limit punitive damages for cigarette companies." But that is what we are about to do here.

Current law, that S. 565 seeks to change, contains incentives for manufacturers to consider possible dangers before selling products to the unsuspecting public. That law would be changed. This law gives corporations and sleazy, marginal retailers an incentive to sell a dangerous product. Consumer safeguards will be displaced.

I believe this bill is nothing more than special interest legislation dressed up with a virtuous title: fairness. These are the words you hear so much around Congress these days: fairness; products liability fairness. It is really not fairness, it is a repeal of sensible product liability law, law that has worked, law that has not resulted in an explosion of lawsuits. That is a myth.

The backers of this bill are powerful. I can say that. I mentioned the tobacco companies. Many of them are unseen. You do not see the tobacco companies lobbying around here, but they are behind this. I say the public has a right to safe products. They have a right to a legal system that deters the sale of unsafe products. And the public has a right to fair compensation if they are harmed by a dangerous product. Let me say that again. The public has a right to safe products. They have a right to a legal system that deters the sale of unsafe products. And, finally, they have a right to adequate and fair compensation if they are harmed by a dangerous product.

I had a press conference in California with women who were harmed by silicone gel breast implants, and women who are called DES daughters. DES is a drug that was given to their mothers to help them sleep during pregnancy, which wound up giving them terrible, terrible problems and pain and suffering. The DES daughters and the silicone breast implant victims are lobbying against this bill.

What is their special interest? They have none. They are just sounding a warning cry to future victims if we pass this bill. This bill would prevent juries from imposing deterrents to future sale of defective products.

Mr. ROCKEFELLER. Will the Senator yield?

Mrs. BOXER. Yes, I will be happy to yield.

Mr. ROCKEFELLER. Is the Senator aware in this bill about DES?

Mrs. BOXER. DES.

Mr. ROCKEFELLER. We had that discussion, the Senator and I did, yesterday.

Mrs. BOXER. The Senator said DES was not approved by the FDA, did the Senator not?

Mr. ROCKEFELLER. By the modern FDA.

Mrs. BOXER. It was approved by the former FDA.

Mr. ROCKEFELLER. But not by the one by which the law was formerly interpreted.

Mrs. BOXER. The FDA——

Mr. ROCKEFELLER. If the Senator will yield? What the Senator fails to understand is that if this law before the Senate had been in effect at the time that, for example, Representative PATSY MINK went through her horrible circumstances, that in fact she would have had the recourse to sue that she does not have under the present law. Because under the present law in some cases the statute of limitations runs out in 2 years after time of injury. She did not know something was wrong for quite a while.

Very specifically, in our bill, it is explicitly laid out that if something happens 20 years later, 30 years later, 40 years later, the statute of limitations does not begin until a person knows, first, that they have been hurt; and, second, why they have been hurt—what is the cause, why they have been hurt. It is at that point that the statute of limitations begins to run. So that Representative PATSY MINK could have indeed gone, even today, had this bill been in effect back then.

Mrs. BOXER. Mr. President, if I might say to the Senator, Representative MINK is opposed to this bill and so are the DES daughters. They think this bill is a terrible bill. They think this bill is a step backward. There are many other parts of the bill, as my friend knows because he is so involved in it, that do not deal with the statute of limitations but that deal with capping damages.

I say to my friend again, it is very nice to hear that the Senator from West Virginia feels that the bill would be good for victims of DES, but the victims of DES oppose this bill. The victims of breast implants oppose this bill. Women's groups oppose this bill. So they do not see it the way the Senator from West Virginia sees this bill.

Mr. ROCKEFELLER. I did not try to explain that they did see it the way the Senator from West Virginia sees it. What I was suggesting is that they do not know that in this bill, they are not eliminated by the statute of limitations. The statute of limitations changes entirely. Whether or not they know it, that is the fact. That is just something I want those who are listening to understand.

It is the same thing as last year, when we had the FDA in and the consumer groups that the good Senator refers to. They were constantly saying, "Well, that would mean that if you had a problem with the Dalkon shield or breast implants, you did not have a cause of action." All of which was totally an untruth, but it was said—megaphoned and megaphoned so loudly—that because they had never been approved by the FDA, therefore, they will have no defense whatsoever.

Mrs. BOXER. I say to my friend, maybe he misunderstood. What the groups were saying is that this is a bill about what happens in the future, and that a full one-half of the FDA-approved pharmaceuticals are recalled.

Mr. ROCKEFELLER. On this bill——

Mrs. BOXER. My friend raised the issue. It was in the bill last year and, as he knows, it is in the House bill. The FDA excuse is in the bill. That was passed the House. And if this bill passes—I know the Senator is working toward that end and I am working toward an opposite end—but if the bill does pass, and it has a chance of passing, it will go to conference and I hope my friend will in fact oppose it if the FDA excuse is in it.

The point is the Senator from West Virginia raised the issue of the FDA excuse and said that the groups did not really understand what we were doing when they mentioned silicone breast implants. The fact is, the silicone breast implants were grandfathered into an approval process, No. 1. But even if that is not as clear as a sure FDA approval, what the groups were trying to say—and they have no ax to grind, in my view, these are people who consumed, these are people who are victims of these terrible drugs, whether it is DES or silicone breast implants or the Dalkon Shield is one thing. Whether or not they were approved by the FDA, what they were talking about last year was the fact that since half of the drugs that are approved by the FDA are recalled, that FDA approval does not necessarily carry with it total and complete safety.

And in this bill, what you did not do last year, you capped punitive damages, and many women who understand this bill understand that women are going to be penalized because, if it is a choice between $250,000 or three times economic damages, women still in our society earn 71 cents for every dollar earned by men. Many do not work, many more do not work, and their economic damage of lost wages, et cetera, will be lower.

So I think that the Senator has every right to support this bill. I admire him and respect him for his belief in this bill. But when the Senator gets up and says PATSY MINK would have been better off, I think an average listener would have assumed that Congresswoman PATSY MINK, who had a DES daughter, would support this bill. She not only opposes it, she opposes this bill with passion.

Mr. ROCKEFELLER. I understand that very well. I simply was responding to the point that the Senator made about the DES. And the point is that had this bill been in effect at the time that PATSY MINK went through her terrible situation, she would have been in an entirely different circumstance. I wanted the Senator to know that.

When the Senator mentions that women are hurt by this bill, women in America now have long been deprived. If the Senator wishes to further yield—

Mrs. BOXER. I am happy to yield. I wanted to make a point. Since the Senator brought up Congresswoman MINK, her daughter was harmed by a defective product. I am not sure, but I believe her daughter did recover some damages.

Mr. ROCKEFELLER. Good.

Mrs. BOXER. I am happy to continue to yield to my friend.

Mr. ROCKEFELLER. I thank the Senator very much.

Understand that this bill would not in any way protect anybody who makes a product, the Dalkon shield or any harmful product, such as silicone breast implants. The Senator does understand that?

Mrs. BOXER. No, I do not, because my friend under this bill is capping their punitive damages. Current law is much tougher on the people who make these products. This bill would cap punitive damages. So, therefore, it is a great step back. That is why the big business community supports his bill and consumers oppose it, because whereas each State would decide, there would be a cap on punitive damages. By the way, in California, we have no cap on punitive damages. We have other caps in place, but there is no cap on punitives. My people in California who would be victims of a future Dalkon shield would suffer under this bill.

Mr. ROCKEFELLER. I am trying to give a different point of view, that the Dalkon shield and breast implants are not covered because they are not approved by the FDA and besides the FDA defense from last year's bill is not even a part of this bill.

It is interesting. The New England Journal of Medicine indicated that women, and particularly women, I believe, who are pregnant, are now being excluded from clinical studies of different pharmaceuticals. That is not helpful for women. Benedictine is a morning sickness drug that in fact was approved and is used all over the world, and is not used in this country because they felt that they were unable to withstand litigation and potential charges. So there must be millions of women who do not have the advantage of that particular drug, which is approved everywhere else in the world.

Mrs. BOXER. If I could say to my friend, since I am yielding, and I think it is best we have a dialog on each point with respect to thalidomide, which was a drug made in England. My friend and I are from the same generation. We remember the tragedy of babies born without limbs and brains, and the rest of it. The FDA did not approve that drug here. And maybe our product liability laws kept that company out of America.

I want to say, in behalf of the women, at least from the State that I represent, they do not want any more Dalkon shields and they do not want thalidomide and they do not want unsafe products and silicone breast implants. That is just what they are going to get if bills like this go forward, because you are protecting companies in this bill and, therefore, they will be less vigilant. And that is why of consumer group in this Nation opposes this bill.

Mr. ROCKEFELLER. I say to the Senator further that where she refers to big business, about 30 percent of the businesses in this country are run by women, owned or run by women. The great majority of them are in fact small businesses. The guess is that by the end of this century, about 40 percent of all small businesses in this country will be run by women. Of course, it is the small businesses who are the least able to take on the risk of litigation and often withdraw products rather than subject themselves to that because they could be thrown out of business because maybe of a jury decision.

Julie Nimitz, obviously a woman, in Senate testimony—she runs a sporting goods company and is the chief executive officer of it, in fact.

She is one of the two CEO's who run a U.S. manufacturer of football helmets, and she said, "Our employees hold their breath every time a case goes to the jury because a runaway award would mean the end of the company."

Norma Wallace, who is head of an engineering company, said that the current situation with litigation—and evidently her company is in the machine tool industry—is made a great deal less competitive by the product liability system.

So the question of will women be helped or will women be hurt, I think, is not quite as easy as my friend indicates.

Mrs. BOXER. If I could respond to my friend.

Mr. ROCKEFELLER. Please.

Mrs. BOXER. It is not small businesses that brought these drugs to the market. My friend knows that. These drugs are developed over years. Millions of dollars go into these drugs, and they are sent to the marketplace. The fact that we——

Mr. ROCKEFELLER. I was not——

Mrs. BOXER. Excuse me. I believe that I am making a point here. I raised the issue of women, not women who own businesses or women who work for business. I raised the issue of women as consumers.

What I am saying to my friend is I believe I speak for the vast majority of women who would say to my friend today if they had the opportunity—and I am standing in here for some of them—please do not make it easier to push on us silicone breast implants. Please do not make it easier to push on us the Dalkon shield. Please do not make it easy for us to get thalidomide. Please do not change the legal system in such a way that we are no longer protected by the best system in the world.

Everybody always says this is the greatest country in the world. I have heard my friend say it. We have the best marketplace in the world, even though we do recall 50 percent of the drugs the FDA approves. We are the envy of the world.

I would say to my friends in small business—and my friend is right, small business is the engine of this economy—we are talking about this very narrow bill that focuses on basically product liability and mostly on punitive damages caps, that in a study, there were 355 punitive damage awards in 25 years. And was it last year there were 11—excuse me. I stand corrected. The last year of the study was 1990. There were an average of 11 cases per year. So my friends who are in small business, when it comes to punitive damage awards, they should know that there have been 300 plus in 25 years. So when I talk about the women of this country, I am talking about them as, frankly, people who have been victimized by dangerous products.

It is hard to know what it is worth if your mate is sterile and you cannot have a child. I am going to be a grandmother. It is one of the most exciting things that has ever happened to me. My friend is a proud dad. If I did not have that opportunity—and many DES daughters never had that opportunity—what kind of cap could I put on that? How can I tell you what it is worth? If I was to ask my friend what are his children worth, I do not think he could even measure it. But we are saying right now to future victims of products which might make them sterile, male or female, $250,000 or three times economic damages; that is all it is worth. And I do not believe in many cases that will punish these huge businesses and corporations that can write off $250,000 as easily as most Americans can write off a dollar or 10 cents.

Mr. ROCKEFELLER. Let me say to my friend from California, if she has time to engage in this, let me just go on further on this business of women and the effect on them.

Phyllis Greenberger is the executive director of the Society for Advancement of Women's Health Research, and she has said this year, "The current liability climate is preventing women from receiving the full benefits that science and medicine provide. There is evidence," she says, "that maintaining the current liability system harms the advancement of women's health research."

I would point out to my good friend from California, with whom I agree on 95 percent of matters, 98 percent perhaps, under the current product liability system there is only one major pharmaceutical company still investing in contraceptive research. So whether it is Benedictine for morning sickness or it is contraceptives or whatever, it is not the fact that there have only been *x* number of punitive damages awarded. It is the fact that punitive damages are always out there and that they have the effect of deterring people.

In fact, we have come to the point where I think 47 percent of business—no. I forget the exact number. It was a big percentage of businesses have indicated that when they want to improve a product that they already have, they often reject the chance to improve the product for fear that it will indicate their previous product was somehow deficient, which is just not the way things work in America. So it is not the number just of punitive damage awards. It is the chilling effect of the possibility of what could happen. It is, in fact, cutting off enormous amounts of research which affect women's health, all of which is basically what I am trying to say to my good friend.

Mrs. BOXER. Let me say to my friend I come from a State that has one of the largest pharmaceutical fields in the whole country. It is very robust. It is very exciting. And I say to my friend, I wish he would come with me. There is one company called Shaman Pharmaceutical. Shaman is sort of a doctor in the rain forest. And Shaman Pharmaceutical was founded by a young woman who said there are many of these products among the flora and fauna that hold promise. So the current liability laws did not stop Lisa Contey, who is the CEO of that company, from starting a new company from scratch, from building it up to the point where she has three products before the FDA.

What I am saying to my friend is I think the people who support this bill because they say there is a crisis are making up a crisis. There are many new drugs on the market. We want to work with the FDA to get swifter approval in some cases, and we will. But I say to my friend be very, very cautious. We are the envy of the world. I do not want to rush to get a new contraceptive that might hurt and maim and destroy people. You do not either, I say to my friend. So why mess with a law that has protected us? If we did not have laws like this, we might have gotten thalidomide on the market. If we did not have laws like this, we might have gotten many more dangerous drugs that you read about in other countries that are not as careful.

So I say that if, in fact, there is only one company doing this research and they are being careful and they are testing carefully and we do not have to—how many more times do women have to be used as guinea pigs in this country? It is not once that it has happened. It has happened with contraceptives continually. And maybe these companies will start making contraceptives for men. Maybe they will be a little more careful because, contrary to my colleague's remarks, it happens to be that these large pharmaceuticals are mostly dominated by men.

That is a fact of life. But I say that the laws we have in place are part of the patchwork approach to safe products, and I feel very differently than does he. I am not that concerned that there are not seven new contraceptives coming on the marketplace because, frankly, I would rather that they come slowly and that they be safe than that we expose women to the torture of some of these DES daughters. The one I met at my press conference, I tell you, it will haunt me for the rest of my life. She went through menopause in her twenties, and she has struggled ever since with the most life-threatening diseases because of DES.

So I do not want to have a law passed that will say to everyone out there, "Come on. Bring your products onto market, because you can be taken to court but you're pretty well protected with a cap on punitive damages."

I think it is a big mistake to do it. And I say that in behalf of, frankly, tens and tens of groups who really oppose this bill, many women's groups and consumer groups who represent both men and women.

Mr. ROCKEFELLER. I would just conclude, because my friend from Wisconsin has been more than patient in waiting to speak, by just saying two things.

No. 1 is, I ask unanimous consent to have a letter from the American Small Business Leaders on Product Liability Reform printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JOINT LETTER TO MEMBERS OF CONGRESS FROM AMERICAN SMALL BUSINESS LEADERS ON PRODUCT LIABILITY REFORM—APRIL 3, 1995.

DEAR MEMBERS OF CONGRESS: On behalf of the nation's more than 21 million small and growing businesses, we are writing to strongly urge your support of S. 565, The Product Liability Fairness Act of 1995.

You know the problem: A single lawsuit can and has put many small business owners out of business.

For many small businesses, the explosion in product liability cases means it is simply impossible to find and keep affordable liability insurance.

You've heard the horror stories. (If you haven't, give us a call.)

Why should you care? Small business create virtually all the net new jobs in the economy. And businesses owned by women now employ more people than the entire Fortune 500 combined. While most of our company names are not household words, small business comprises the backbone of the nation's economy—from Main Street to Wall Street.

We need your help!

Product liability reform was the #1 issue at the White House Conference on Small Business in 1986. Finally, after more than a decade of struggle, product liability reform seems within our reach.

Please support of S. 565. The Product Liability Fairness Act of 1995, and help protect U.S. consumers, workers and small businesses. Our future, and the future of our nation's economy, depends on it.

Thank you for your support.

Gary Kushner, President, Kushner & Company, Inc., President, National Small Business United, Kalamazoo, Michigan; Carol Ann Schneider; President, Seek, Inc., President, Independent Business Association of Wisconsin; Patty DeDominic, President, National Association of Women Business Owners (NAWBO), Los Angeles, California; Willis T. White, President, California Black Chamber of Commerce, Burlingame, California; Thomas Gearing, President, The Patriot Company, Federal Reserve Board, Small Business Advisory Committee, Milwaukee, Wisconsin; Margaret M. Morris, NAWBO Chapter President, Chevy Chase, Maryland; Lewis G. Kranick, Chairman of the Board, Krandex Corporation, Wisconsin Delegation Chair—1986, White House Conference on Small Business, Milwaukee, Wisconsin; Linda Pinson, Principal, Out of Your Mind, and Into the Marketplace, NAWBO Financial Services Council, Tustin, California; Dale O. Anderson, President, Greater North Dakota Association, Bismark, North Dakota; Chellie Campbell, President, Cameren Diversified Management, Inc., NAWBO Public Policy Council, Pacific Palisades, California; Brooke Miller, NAWBO Chapter President, St. Louis, Missouri, John F. Robinson, President & C.E.O., National Minority Business Council, Inc., New York, New York; Lucille Treganowan, President, Transmissions by Lucille, Inc., NAWBO Chapter President, Pittsburgh, Pennsylvania; Wanda Gozdz, President, W. Gozdz Enterprises, Inc., NAWBO Public Policy Council, Plantation, Florida.

Frank A. Buethe, Manager, Advance Business Development Center, Green Bay Chamber of Commerce, Green Bay, Wisconsin; Rachel A. Owens, Family Business Specialist, Mass Mutual, NAWBO Chapter President, Irvine, California; Brenda Dandy, Vice President, Marine Enterprises International, Inc., NAWBO Financial Services Council, Baltimore, Maryland; Terry E. Tullo, Executive Director, National Business Association, Dallas, Texas; Tana S. Davis, Owner, Tana Davis C.P.A., NAWBO Chapter President, Encino, California; Mary G. Zahn, President, M.G. Zahn & Associates, NAWBO Public Policy Council, Philadelphia, Pennsylvania; Gary Woodbury, President, Small Business Association of Michigan; Hector M. Hyacinthe, President, Packard Frank Organization Inc., New York Delegation Chair—1986, White House Conference on Small Business, Ardsley, New York; Mary Ellen Mitchell, Executive Director, Independent Business Association of Wisconsin, NSBU Council of Regional Executives, Madison, Wisconsin; Susan J. Winer, President, Stratenomics, Illinois Delegation Chair—1986, White House Conference on Small Business, Chicago, Illinois; Lucy R. Benham, Vice President, Keywelland Rosenfeld, P.C., NAWBO Public Policy Council, Troy, Michigan; Beverly J. Creamer, Chief Executive Officer, I & S Packaging, NAWBO Chapter President, Kansas City, Missouri; C. Virginia Kirkpatrick, President/Owner, CVK Personnel Management & Training Specialists, NAWBO Financial Services Council, St. Louis, Missouri; Mary Ann Ellis, President, American Speedy Printing, NAWBO Chapter President, Boynton Beach, Florida; Shaw Mudge, Jr., Vice President, Operations, Shaw Mudge & Company, Connecticut Delegation Chair—1986, White House Conference on Small Business, Stamford, Connecticut; Eunice M. Conn, Executive Director, Small Business United of Illinois, NSBU Council of Regional Executives, Niles, Illinois; Ronald B. Cohen, President, Cohen & Company, Immediate Past President, NSBU, Cleveland, Ohio; Hilda Heglund, Executive Director, Council of Small Business Executives, Metropolitan Milwaukee Association of Commerce, Milwaukee, Wisconsin; Karin L. Kane, Owner/Operator, Domino's Pizza, NAWBO Chapter President, Salt Lake City, Utah; Suzanne F. Taylor, President & Owner, S.T.A. Southern California, Inc., Vice President—Public Policy Council, NAWBO, South Laguna, California.

Suzanne Pease, Owner, Ampersand Graphics, NAWBO Chapter President, Morganville, New Jersey; Mary Jane Rebick, Co-Owner, Executive Vice President, Copy Systems, NAWBO Public Policy Council, Little Rock, Arkansas; Arlene Weis, President, Heart to Home Inc., NAWBO Public Policy Council, Great Neck, New York; Deepay Mukerjee, President, R.F. Technologies, 1995 Delegate, White House Conference on Small Business, Lewiston, Maine; David Sahagun, Dealer, Castro Street Chevron, 1995 Delegate, White House Conference on Small Business, San Francisco, California; Dona Penn, Owner, Gigantic Cleaners, NAWBO Public Policy Council, Aurora, Colorado; Barbara Baranowski, Owner, Condo Getaways, NAWBO Chapter President, North Monmouth, New Jersey; Sheelah R. Yawitz, President, Missouri Merchants and Manufacturers Association, Chesterfield, Missouri; David R. Pinkus, Executive Director, Small Business United of Texas, Texas Delegation Chair—1986, White House Conference on Small Business, Austin, Texas; David P. Asbridge, Partner, Sunrise Construction, Inc., 1995 Delegate, White House Conference on Small Business, Rapid City, South Dakota; Marj Flemming, Owner, Expeditions in Leadership, 1995 Delegate, White House Conference on Small Business, Signal Mountain, Tennessee; Jo Lee Lutnes, Owner, Studio 7 Public Relations, 1995 Delegate, White House Conference on Small Business, Columbus, Nebraska; Margaret Lescrenier, Vice President, Gammex RMI, Small Business Committee Member, Wisconsin Manufacturers and Commerce; Gordon Thomsen, Chief Executive Officer, Trail King Industries, Inc., 1994 Small Business Administration National Exporter of the Year, Mitchell, South Dakota; Leri Slonneger, NAWBO Chapter President, Washington, Illinois; Shalmerdean A. Knuths, Co-Owner/Director of Administration, Rosco Manufacturing Company, 1995 Delegate, White House Conference on Small Business, Madison, South Dakota; Allan M. Shaivitz, President, Allan Shaivitz Associates, Inc., 1995 Delegate, White House Conference on Small Business, Baltimore, Maryland; Linda Butts, President/Owner, Prairie Restaurant & Bakery, Member, NFIB, Carrington, North Dakota; Malcolm N. Outlaw, Owner/President, Sunwest Mud Company, Board Member, Small Business United of Texas, Midland, Texas; Suzanne Martin, Council of Small Enterprises, Greater Cleveland Growth Association, NSBU Council of Regional Executives, Cleveland, Ohio.

David L. Condra, President, Dalcon Computer Systems, 1995 Delegate, White House Conference on Small Business, Nashville, Tennessee; Doris Morgan, Vice President, Cherrybark, 1995 Delegate, White House Conference on Small Business, Hazlehurst, Mississippi; Dr. Earl H. Hess, Lancaster Laboratories, Inc., Pennsylvania Delegation Chair—1986, White House Conference on Small Business, Lancaster, Pennsylvania; Ralph S. Goldin, President, Goldin & Stafford, Inc., 1995 Delegate, White House Conference on Small Business; Landover, Maryland; John C. Rennie, President, Pacer Systems, Inc., Past President, NSBU, Billerica, Massachusetts; Murray A. Gerber, President, Prototype & Plastic Mold Company, Inc., Connecticut Delegation Chair—1986, White House Conference on Small Business, Middletown, Connecticut; Robert E. Greene, Chairman & CEO, Network Recruiters, Inc., 1995 Delegate, White House Conference on Small Business, Bel Air, Maryland; Julie M. Scofield, Executive Director, Smaller Business Association of New England, Waltham, Massachusetts; Jack Kavaney, President, Gateway Properties, 1995 Delegate, White House Conference on Small Business, Bismarck, North Dakota; Leo R. McDonough, President, Pennsylvania Small Business United, Pittsburgh, Pennsylvania; H. Victoria Nelson, Proprietor, Jamel Iron & Forge, 1995 Delegate, White House Conference on Small Business, Hagerstown, Maryland; Helen Selinger, President, Sloan Products Company, Inc., 1995 Delegate, White House Conference on Small Business, Matawan, New Jersey; Charles B. Holder, President, Hol-Mac Corporation, 1995 Delegate, White House Conference on Small Business, Bay Springs, Mississippi; Marguerite Tebbets, President, Window Pretties, Inc., President, Women Business Development Center, Kennebunk, Maine; Catherine Pawelek, NAWBO Chapter President, Coral Gables, Florida; Max Gonzenbach, Vice President, Valley Queen Cheese Factory, Inc., 1995 Delegate, White House Conference on Small Business, Milbank, South Dakota; Geoff Titherington, Owner, Bonanza, American Franchisees Association, Sanford, Maine; Richard Watson, Executive Vice President, Walker Machine Products, Inc., National Screw Machine Products Association, Collierville, Tennessee; Tonya G. Jones, President, Mark IV Enterprises, Inc., NFIB Guardian Advisory Council, 1995 Delegate, White House Conference on Small Business, Nashville, Tennessee.

Mr. ROCKEFELLER. Mr. President, this is a letter from Patty DeDominic, who is the president of the National Association of Women Business Owners, and others, in which they write: "On behalf of the Nation's more than 21 million small and growing businesses," we ask you to support this bill.

This is just not the idea, therefore, that this is all big business. I mean that really is not the case.

Second, and finally, and with great respect to my friend from California, who cares passionately that people be protected, as do I. I think the Senator knows my heart as well as the Senator's, not as well as the Senator knows her own heart, but she knows what I stand for and who I am.

But I think the statement is fine, which is one company which is doing research on contraceptives, or if you put that over into other areas such as Alzheimer's.

I had dinner last night with a person who has Parkinson's. He was describing to me a little bit of what that was like. That happened to be a man and not a woman. But I really never, ever want, as in the Soviet Union, where there is one company which is doing research on Alzheimer's and Parkinson's and some of these enormous diseases that affect men and women. I mean, the whole point is competition in the marketplace. And even worse is the fact that companies are withdrawing the amount of money that they spend on research in general.

Mrs. BOXER. I say to my friend, what I said—because I do not want to be mischaracterized—is that it is fine that unproven drugs are not being pushed on the marketplace because in many cases if unproven drugs are pushed on the marketplace they will kill people.

Mr. ROCKEFELLER. They certainly will.

Mrs. BOXER. They will maim people. They will hurt people. And nowhere could this be more true than when it comes to contraceptives or drugs given during pregnancy and the like. And women have been used as guinea pigs.

So when my friend says, in terms of contraceptives, that he is very worried that it is this legal system that is stopping these drugs, I say better that we go slowly, better that we move wisely, better err that we test these products and not have another case of the Dalkon Shield or the DES. We do not need these.

We learned a lesson and the lesson should not be that you open up the floodgates by protecting companies. The lesson should be that we should be very, very cautious.

Mr. ROCKEFELLER. And the lesson should also be that we open up the floodgates of the courthouse door to people who might be afflicted by anything that might happen in the future.

Mrs. BOXER. I think the courthouse door is fine right now. I mean, on the one hand——

Mr. ROCKEFELLER. Are you satisfied with the system the way it is?

Mrs. BOXER. With product liability; I think it is fair to say that we do not have the problem with product liability. If you want to talk about other areas of the law where there is frivolous lawsuits, that is fine.

But when I see that there were an average of 11 punitive damages awards for products cases in a single year, nationally, I do not think we have an explosion.

And then my friend says let us open up the courthouse door, on the one hand, when many on his side say already the courthouse door is too wide open.

I just want to say to my friend when it comes to Alzheimer's, I am very interested, and his heart is there. We know that a new drug was put on the market last summer. We also know for Parkinson's there is a new operation that holds some promise. We are making progress.

I do not think we need to take a system that has acted as a protector of the American consumer and destroy it, as this bill would.

Now this bill only goes halfway to destroy it. The one in the House, that some of my friends here on the Republican side of the aisle like, goes to the heart of it, goes to the heart of it. They just want to get this bill in conference and go all the way with this bill if they can do it, and keep the votes together. I think we are playing a very dangerous game here.

Mr. ROCKEFELLER. Final question, with apologies to both the Senator from California and the Senator from Wisconsin.

Mrs. BOXER. The Senator does not have to apologize, I say to my friend. I enjoy this give and take.

Mr. ROCKEFELLER. Sure.

The Senator appeared to be saying that she is, Mr. President, entirely satisfied with our present system. I believe she did say that.

Mrs. BOXER. I said, on product liability, I think that we have a good system.

Mr. ROCKEFELLER. The status quo on product liability is absolutely fine and there does not need to be any changes made. I mean, most trial lawyers will not say that.

So what I was going to ask my friend from California, if there was a bill that was able to balance the requirements of getting more opportunities for research and discoveries, more opportunities for new drugs, and balance the needs of business in that respect and also the question of how business is treated so business, even though there were only 11 punitive damage cases in one particular year, that, in fact, the chilling effect of those 11 cases hangs over hundreds of thousands of businesses and, therefore, affects, in effect, hundreds of thousands of businesses and, on the other hand, was able to protect consumers and open up new avenues of protection for consumers, if it were possible to develop such a bill, would the Senator be interested?

Mrs. BOXER. I will work with my friend to make sure that we can encourage the best and the brightest people in this country to work on research. That is why I am such a proponent of NIH grants. Because, as my friend knows, right now we are only approving one in five grants. We are only funding one in five approved NIH grants.

I will work with my friend if he can show me part of the law that he thinks is hurting the people of this country. I am just saying to my friend that we have, with all of its faults and all of its problems, the safest products in the world. And I am saying to my friend, even though we have had our share of problems, we are still the safest.

Why would we go back from that? I think that is where my friend and I disagree. He does not seem to think that the current law has protected people. I mean, my friend has stated here and to me in other settings that he thinks his bill is good for future victims.

Mr. ROCKEFELLER. This Senator thinks that the bill before us offers a number of areas which would make it substantially a more protected situation, a more have-your-chance-at-the-courthouse situation, have access to alternative dispute resolutions on a voluntary basis where the claimant never has to pay anything but the defendant does.

I think there are a number of areas where this bill does, in fact, open up new opportunities for protection and due process to women.

This will be my fourth attempt to close, and I am picking on myself, not the distinguished Senator from California.

There is one more thing that I notice here. Again, the New England Journal of Medicine, 1993, concluded that the manufacturers' liability concerns are contributing to the exclusion of women, which I indicated earlier, from clinical studies.

Now, that is a terribly serious statement. That is the same thing as I ran into in the Persian Gulf war syndrome with the use of the drug pyridostigmine, which when used in connection with other chemicals may be a contributing factor to the tens of thousands of men and women in this country who have a so-called mystery illness, which is no mystery to me but which evidently seems to be to our scientists.

And women in the test that the Department of the Defense conducted to test this pill were entirely excluded. Not one single woman, even though the bodyweight of women obviously is not as great as that of the average man and, therefore, the effect of the pill, which was made on men and women, would be much worse on women. So the importance of having women in clinical studies in this research is very, very important.

Having said that, for my part I want to thank my friend from California, and apologize to my friend from Wisconsin and yield the floor.

Mrs. BOXER. Thank you very much.

Mr. President, I am very pleased that the Senator from West Virginia and I were able to engage in this dialog. I think today people have to know that when there is disagreement among friends, you still talk to each other. We do that too seldom, even on the floor of the Senate. "No, I won't yield. I want to say my piece. I don't agree with you and I won't yield."

I think the fact that we can go back and forth—and we are really in disagreement on this bill, there is no question about that—is a good thing.

I say to my friend that I know he is doing what he is doing because he thinks it is best for everyone. But I think at some point one has to take a look at who opposes you and listen to the groups that oppose your bill, and to stand on the floor and say, "I'm doing it for DES people, I'm doing it for consumers, I'm doing it for women," how about giving these people the credit to know themselves whether this bill is good for them?

I told a story about this Boy Scout who saw this little old lady and went over to her and took her across the street. And he wondered why she did not say thank you. Finally, he said, "Why didn't you say thank you to me?"

She said, "Because I didn't want to go across the street."

Why are we taking the consumers across the street? They do not want to go. Why are we telling the women in this country to go across this street? They do not want to go. I understand why one would support this bill. There are some big businesses that desperately want this bill. The tobacco companies want this bill. They do not like the threat of large punitive damages. Why would they? They would just as soon put a product on the market, take the risk and know they are protected.

I am talking for consumers, I am talking for women, and I am not making it up. I am going to read you the list, and it may take a while. I am not going to read the whole list:

Action on Smoking and Health opposes liability reform. AIDS Action Council opposes it. Alabama Citizen Action opposes it.

Here are others in opposition: The American Bar Association; American Coalition for Abuse Awareness; American Council on Consumer Awareness; American Public Health Association; American University Washington College of Law; Americans for Nonsmokers Rights; Arizona Citizen Action; Arizona Consumers Council; Aviation Consumer Action Project; California Citizen Action; California Public Interest Research Group.

This is an unprecedented group of people across the political spectrum, in my opinion.

The American Bar Association has lawyers on both sides of this; Center for the Public Interest Law at the University of San Diego; Center for Public Representation, Inc.; Center for Women Policy Studies; Children Now; Citizen Action; Citizen Action of Maryland and New York; Citizen Advocacy Center; Citizens Action Coalition of Indiana; Clean Water Action Projects; Coalition for Consumer Rights; Coalition of Labor Union Women; Colorado Public Interest Research; Communications Workers of America; Connecticut Citizen Action Group; Connecticut Public Interest Research Group; Consumer Action; Consumer Federation of America.

All these groups oppose liability reform, and people will get up and say this bill is good for the consumers, and people will get up and say it is good for women, and people will get up and say it is good for victims. Well, that is the best kept secret in America because here are the groups that oppose it:

Consumer Federation of California; Consumer Protection Association; Consumers for Civil Justice; Consumer League of New Jersey; Consumers Union.

It goes on: DES Action USA. We heard the Senator from West Virginia get up and say he thought it would be better for DES people if this bill was law. Interesting. DES Action USA opposes the bill. So do DES Sons. So they do not want this bill to become law.

Empire State Consumers Association; Families Advocating Injury Reduction; Fair Housing Council of San Gabriel Valley; Federation of Organization for Professional Women oppose.

My friend talked about how women want this. Well, there is no such thing. Some women, I guess, who are in business want it and some do not.

Georgia Citizen Action; Fund for Feminist Majority.

It goes on.

Hollywood Women's Political Committee; Idaho Citizens Action Network; Idaho Consumer Affairs; Illinois Council Against Handgun Violence; Illinois Public Action; International Brotherhood of Teamsters; Iowa Citizen Action Network; Kentucky Citizen Action; Latino Civil Rights Task Force; Lambda Legal Defense and Education Fund. I am going to lose my voice. I might have to save this for a later debate.

I think I have made my point.

And I have not even told you all the prestigious, important, decent organizations that do not want this bill to pass. This is America. They do not want this bill to pass.

National Organization on Disability; the National Rainbow Coalition; the National Women's Health Network. They do not think liability reform is good for women.

Nebraska Citizen Action; New Hampshire Citizen Action; New Jersey Environmental Federation; New Mexico Citizen Action; North Carolina Consumers Council. It goes on. I am only on the O's.

Public Citizen; Uniformed Firefighters Association of Greater New York.

Mr. ROCKEFELLER. Will the Senator yield?

Mrs. BOXER. Yes, I will be happy to yield. I am getting tired.

Mr. ROCKEFELLER. When you go on to the R's, that would be an appropriate time to yield to me.

Mrs. BOXER. Go ahead. I yield to you now.

Mr. ROCKEFELLER. I noticed that the Senator mentioned one AIDS interested group. That compels me to say something which, again, I think is so important, that one of the reasons that the list is so long is people on a subject like this, and when you have a very intense group fighting so hard—the Senator mentioned lawyers in general—but there is a particular group of lawyers that is fighting this thing very, very hard, a tremendous amount of sensationalism.

I have a letter which is being passed around West Virginia written by one of these particular kinds of lawyers basically saying that if you have been exposed to asbestos, ROCKEFELLER is trying to cut off your chance for recourse, which is an absolute falsehood because this bill is entirely prospective and asbestos does not enter into it at all.

What I am suggesting is that many, in fact, amazingly, many of these consumer groups are so completely wedded to the status quo that they do not want to see any change.

I can remember—every year I do this. I ask the president of the American Trial Lawyers Association to come into my office, which they always do with one of their particular lobbyists. And I say, "Is there anything I can do to work with you on this problem because I want to solve it in a way which is fair to both business and consumers."

I come from a State where consumers far outnumber businesses, and I want to make sure it is a fair bill.

Every year the answer is, "No, the bill is fine exactly the way it is. There is no need for any kind of change whatsoever. Which is a remarkable attitude when you consider, for example, what Abbott Laboratories said. Abbott Laboratories has made the decision to drop plans for human trials of the drug to prevent HIV-infected mothers from transmitting the AIDS virus to their unborn children. Abbott Laboratories is not a small operation. They are not doing that anymore.

Dr. Fauci, who is Director of AIDS research at the National Institutes of Health called these liability concerns "very real," and "something we have to address." This is the area of AIDS. A pharmaceutical company and a major Government research organization agree on the need to make some reforms in our product liability system.

All the junior Senator from West Virginia is trying to suggest to my friend from California is that somehow—here is another, Dr. Elizabeth Connell, Chair of FDA's obstetrics and gynecology devices panel, said that the United States is losing its leadership role in the area of contraceptive technology "with potentially disastrous consequences for women and men in this country and elsewhere."

All I am trying to say to my good friend from California is that I think one of the real problems on this piece of legislation, frankly, is that people really have not looked at the bill; that there is this atrocious mindset on the part of those who oppose it—I hope not on the part of those who propose it—that it is atrocious to bring it up. Often, in my State's legislature, somebody would bring up the beginning of an idea, an amoeba, and the lobbyist would crush it immediately before it had a chance to grow in any direction, so that it might in fact become something.

All I am saying is that opposing any change, praising the status quo, when such things as testing for AIDS passed from a mother to a child could no longer be carried out is beyond my understanding.

Mrs. BOXER. Mr. President, my friend should come to me about this situation, no drugs are being developed. The pharmaceutical industry is basically the fastest growing industry in California. I might tell my friend that the Pediatric AIDS Foundation is intimately involved in making sure that we do research on pediatric AIDS. I happen to know the doctor who actually made the finding that the AIDS virus passed through the mother's milk to the baby. The fact of the matter is, I do not see one reason that has been offered by any of my friends in the U.S. Senate on either side of the aisle that there is an explosion of lawsuits that is chilling this whole Nation.

I think that we have a system of justice in this country regarding product liability that is working. The truth is, with all of the talk about this great explosion of lawsuits, we heard all that and nobody put down one statistic about it. We finally got the statistic, and now they are coming up with another reason for the bill. Oh, it is a chilling effect. Yes, there are only 355 cases over 25 years, but it is a chilling effect. I say to my friends, if you want to see an explosion of litigation, it is in the business law area. That is where businesses are suing businesses and an explosion in litigation is taking place in that arena.

So there is no case to be made that there is this explosion of litigation. This is, in fact, an area of the law where the law serves as a deterrent from terrible, harmful products, be they drugs, medical devices, toys, or be they buses that explode. I am not a lawyer—which is a little refreshing around here—but I am not stupid when it comes to what is important for the rights of the people. I am not stupid when it comes to thinking about what it would mean if I did not have a baby because I was a DES daughter or I took a drug that was not carefully thought through. And then to say $250,000 capped for any horrible damage that was done to me, you know, if you lose your ability to bear a child, if that is your damage, you may be able to work. You may have very low economic damages. And if you can tell me that we know better in this U.S. Senate than they do in the States and on a jury in any and all cases what that punitive damage award can be, I say that is being "Big Brother" at its worst, and I might say "Big Sister," depending on the gender of the Senator involved.

I am very concerned about this bill, very concerned about this bill. I have to say, I think it is an offense to the names of the groups that I read here to say that these people have somehow been hoodwinked—that was not my friend's word; I tried to write down what he said—riled up, made to believe that this is a bad bill when really it is a good bill for them.

I know some groups. You try to tell the Hollywood Women's Political Committee what is good for them and they will show you the door because they are going to figure out what is good for them. I have tried it on things on which they do not agree with me. They are not going to believe me in the American Trial Lawyers or the American Bar Association. They are going to look and they are going to decide. They have a very simple idea in their mind: They are going to oppose legislation that hurts people. That is what they believe. Do not blame it on the fact that they are so naive that they will follow the lawyers.

I do not know whether my friend knows it, but lawyers are not that well thought of these days. I happen to like lawyers. I am married to one. My father was one and my son is one. If you ask the average person, they are not going to follow lawyers, they are going to make up their own minds. If they agree with the lawyers, they will follow them. But to say some of these groups would follow blindly, I find that insulting on behalf of these groups. How about the YWCA, the Young Women's Christian Association? They oppose certain liability reform. I do not think they did it because they follow the lawyers.

In any event, there is going to be a lot more debate. I am going to close and again thank my friend for engaging me in this dialog.

I want to remind my colleagues of a few people: 14-year-old Shannon Fair, of Kentucky, in 1988, was in a school bus and it was hit by a drunk driver. No one was hurt by the collision itself, but the entire bus was engulfed in flames because the manufacturer decided against installing a metal safety cage for the fuel tank. Reckless frugality. Sixty-four children and four adults lost their lives. And we are going to cap, in this bill, the punishment to a company like that? We ought to be ashamed of ourselves.

Let us remember people like James Hoscheit of Minnesota, who at age 14 lost both of his arms when they were caught in a forage blower. If the piece of farm equipment had a simple safety guard, which cost the company $1, James Hoscheit would have his arms. And we are going to say, in our great wisdom, from Washington, DC, in the U.S. Senate, that we know better what kind of award James Hoscheit should get? I would rather leave that up to the people on the jury. Maybe they will find he should get $100,000. Maybe they will find he should get $200,000 or $1 million, because he lost both of his arms. I am not going to say what that should be. I think anyone who votes to do that is not fair to the future victims.

Don Taylor, Moreno Valley, CA, was driving his morning commute—and it could be any one of us—when another car cut him off. The Ford Bronco he was driving rolled three times and the roof caved in. The seat belts failed to retract. He was paralyzed from the shoulders down. Ford had notice of the defective seat belts, and he was still driving with the defective seat belt, and he is permanently paralyzed. Am I going to tell the jury from here what that is worth to him and his family? Not this Senator. I am going to fight against that.

Punitive damages are meant to punish and discourage flagrant or wanton conduct. And, as I said, punitive damages are awarded only rarely in product liability cases, and that is what we want. We want them used rarely—this is an important point, I say to my friends—because if they are used rarely, it means punitive damages are working because their very existence shapes up these companies, makes them think twice and three times and 10 times and 100 times before they put a potentially dangerous product into the hands of American consumers.

That is what we want. We want these punitive damages set on an individual basis, but we do not really want them at all. If everyone produces safe products, we will not have these awards. Why mess with a system that is deterring dangerous products?

You know, these caps they are talking about here are going to hurt women because they do not earn as much as men do. If you have a woman and a man and in the same bus and you have the exact same injury, but the man has a top-level job. You know, 95 percent of all of the top jobs in this country are held by men; it is just true.

It is just true. We women have a long way to go. We are getting there. However, it is slow.

If you have a woman and a man in the same bus, and they suffer the same injury, under this bill—under this bill—the man is going to receive more punitive damage awards because we will figure if he was not paralyzed, he would have earned so much more money, and he will be rewarded, and he will get a higher award. And the woman, who may not have been working at the time or worked at a lower job, will get less.

This is discriminatory on its face. Take the case of the Copper-7 IUD, intrauterine device. My friend and I talked a lot about these devices. The manufacturer knew for more than 10 years that their product could cause loss of fertility, serious infection, and the need to remove reproductive organs. The manufacturer continued to produce the Copper-7 IUD.

Now, the jury awarded one $7 million punitive damage award for this intentional misrepresentation of its birth control device. Under this bill, it would have been $250,000, or three times the plaintiff's economic damages. This is not a good bill.

I say to my friends, we should put a human face on this issue. We should remember the people who have suffered. However, they were able to go to court and be made whole because the law allowed that to happen. We should not jump in and preempt 50 States on this. We should allow the jury system to work.

I hope that after long debate—and I think we will have long debate on this; we already have had several days of debate—our colleagues will realize a couple of things. They will realize there is no explosion in this area of the law, no explosion of litigation. And they will realize that, by having a good, strong product liability law in all the various States that we have, that acts as a deterrent against unsafe products.

We have had our fill of the DES problem, of the silicone breast implant problem, of the Copper-7 IUD problem, of trucks and cars that explode. We should protect the people we were sent to represent, and we should not approve this bill. I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Wisconsin.

Mr. KOHL. I ask unanimous consent, and with permission from Senators ROCKEFELLER and GORTON, I be allowed to speak as in morning business for a brief period.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPREME COURT DECISION STRIKES BIPARTISAN LAW

Mr. KOHL. Mr. President, I am quite disappointed and even puzzled today by the Supreme Court's decision in the United States versus Lopez case. Usually, the courts speak with one voice, but today the majority of the court spoke for several separate opinions.

By a slim 5 to 4 margin, the court struck down the bipartisan Gun-Free School Zones Act, a law that prohibits possession of firearms within 1,000 feet of a school.

In my judgment, this is a classic example of judicial activism, and it ignores the safety of our American children.

I will briefly say something about the facts that the court today ignored. Each day in our country more than 100,000 students bring guns into our schools. One-fifth of urban high school students have been threatened with firearms, and several hundred thousand schoolchildren are victims of violent crimes in or near their schools every year. Moreover, the problem of youth violence is rapidly escalating. In 1984, a total of 1,134 juveniles were arrested for murder; by 1993, that figure had more than doubled. According to the Justice Department, the vast majority of these murders were committed with firearms and many with handguns.

Democrats and Republicans in Congress, together, tried to do something about this disturbing trend when we enacted the gun-free school zones legislation in 1990. Today, a slim majority of the court has shot Congress down, and in so doing, put America's children at greater risk.

Now, because we reenacted and perfected the Gun-Free School Act last year as part of the crime bill, the current law may still be constitutional. Indeed, we may yet be able to ensure the constitutionality of the law with a technical amendment, and I plan to introduce a bill to do that next week.

Broadly interpreted, however, the reasoning of the majority in this case could have far-reaching consequences that may undermine a variety of crucial Federal laws, like the Drug-Free School Zones Act on which the Gun-Free School Zones Act was based, or the bans on cop-killer bullets, or our Federal wetlands laws, and many of our civil rights statutes.

Mr. President, I agree with the strong dissent by Judge Souter, joined by Justices Ginsburg, Stevens, and Breyer, who labeled this ruling today by the Supreme Court a step backward.

I again want to express my disappointment with today's decision.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. FEINGOLD. Mr. President, I rise today to express my strong opposition to S. 565, the Product Liability Fairness Act of 1995. It is because I really see it as the worst of both worlds.

First, I think it is a bill that has been shown to have little, if any, demonstrated need; second, I think it will have drastic and undue effects on some of our most vulnerable citizens in this country.

Those who support this legislation have stated over and over that the bill is to everyone's benefit. It supposedly will benefit manufacturers, investors, business owners, workers, and consumers, they say.

Yet, I have still not heard of a single major U.S. consumer organization that has endorsed this legislation. The legislation is, in fact, opposed by virtually every group in the country representing working people, consumers, children, and the elderly.

The Product Liability Fairness Act says that it seeks to set uniform Federal standards for product liability legislation that would override certain existing State laws.

It is not really a bill that provides uniformity at all. Those State laws that are more protective of injured consumers are preempted under this bill while those State laws that go beyond what this bill would do in terms of shielding negligent manufacturers are left intact. They are left the same. It is not a bill that has anything to do, really, with uniformity.

In addition, Mr. President, it establishes a heightened—that is, more difficult—conscious and flagrant standard for the rewarding of punitive damages in product liability cases, and it would arbitrarily cap damage awards for punitive damages at $250,000, or three times economic damage.

Again, those State laws with higher caps or no caps are preempted. Those States with lower caps or no punitive damages awards are left completely untouched.

The bill would also set a 20-year statute of repose, unless, of course, a State law has a lower statute and is, therefore, left alone and also a 2-year statute of limitation.

Finally, Mr. President, this legislation would eliminate joint liability for noneconomic damages and create new standards for seller liability.

There are several reasons why I oppose this bill. Before I talk about the specific flaws of this legislation, I think it is important to note the larger context that the issue of product liability reform fits into. That is why, as I look at this whole bill, I oppose the whole approach. It is not a question of fixing this and fixing that. I think the whole concept driving this bill is an error and should be defeated.

For the past several months, all of us, Republicans and Democrats, have, of course, been trying to interpret the meaning of the November election. Many of our Republican colleagues have interpreted those elections as being a statement against big, inefficient and bureaucratic government. I disagree with a lot of the statements that have been made about what the November elections have been about. But I think that maybe is one legitimate interpretation of the elections, to say that people have had it with big government. And I think in many cases that is a legitimate complaint that our constituents have, and that they did express on November 8.

It would make no sense to argue that all Government programs should be run by Washington, DC, or that all Government programs should be run by the States. Some programs do address underlying problems that are national in scope, across State borders. But others are more local in nature and are best left to the local and State governments to determine how they can best address problems that they are more familiar with than are the folks that work in Washington, DC.

With regard to this matter I, for one, strongly believe that there are many issues that should clearly be left to the

State and local governments to address. One of the reasons I opposed last year's crime bill was precisely because it shifted power away from our State and local courts and the law enforcement officials there, who have been dealing with crime problems in their own regions and are best equipped with the knowledge and creativity to solve those problems. So that is one reason why I opposed the crime bill, because I did not think we should have an overarching Federal Government controlling all aspects of that issue.

Many on the other side of the aisle have been among the strongest proponents for the so-called States' rights issue. Indeed, our distinguished majority leader has stated repeatedly this year his intention to dust off the 10th amendment and give greater control over local problems to the State governments. It was the Speaker of the other body who stated the following in his address to the Nation on April 7, about the intent of the congressional Republicans in the 104th Congress. He said:

> We must restore freedom by ending bureaucratic micromanagement here in Washington. This country is too big and too diverse for Washington to have the knowledge to make the right decision on local matters. We've got to return power back to you, to your families, your neighbors, your local and State governments.

Given those statements, how does this square with the legislation we are considering today? What happened to the need to address local problems on the local level? All this talk about States' rights is about to go right out the window, as we usurp over 200 years of State control over their tort systems. It seems a very odd trend indeed.

It should come as no surprise that this legislation is vehemently opposed by the American Bar Association, the National Conference of State Legislators, and the Conference of State Chief Justices. But those who support this legislation do not want to listen to State legislators or State judges or consumer organizations. They do not even want to listen to those individuals who have been tragically maimed or injured by the negligence of a small but powerful group of manufacturers.

Of course, those who support this legislation justify the bill by saying that such drastic action is needed to curb the so-called litigation explosion that has supposedly resulted in a court system totally bogged down in product liability litigation. Let us take a quick look at just how bogged down are our courts with product liability claims. The Department of Justice, using data compiled by the National Center for State Courts, recently released a study of 378,000 State tort cases which apparently represents about half of all tort suits completed between July 1991 and June 1992. According to the study, only 3 percent of all tort claims involve product liability, just 3 percent of all tort claims. The bulk of the tort claims come in the form of automobile accidents and premises liability.

This study also found that in 1993 tort claims comprised only about 10 percent of all civil case filings. That means that the so-called massive usurping of State sovereignty because of a so-called explosion is occurring to address an area that represents less than 1 percent, actually less than a half a percent of all civil case filings. So, this is no panacea for our civil justice system.

Despite these statistics supporters continue to claim that our small business and manufacturing communities are suffocating under the burden of liability insurance and the constant threat of litigation. Yet just 2 years ago the National Association of Manufacturers—clearly one of the biggest backers of this legislation—announced their own results of a survey they had conducted of their own members in which they asked their members what specific issues were of concern to them and what problems in their minds pose the largest impediments to growth in the manufacturing industry. The results are very interesting and I think somewhat at variance with the claims of those who are so strongly supportive of this bill.

Somewhat incredibly, given the rhetoric, just 8 percent of the respondents listed product liability as a major problem in the manufacturing industry, only 8 percent. This is not a survey of the whole public. This is a survey of manufacturers. In fact, almost three times as many of the respondent manufacturers listed the Federal budget deficit as undermining the growth of the manufacturing sector.

So who is on the side of the manufacturers here? Those who support reforming the legal system, which less than 1 in 10 manufacturers listed as a major impediment to growth in investment? Or those of us who have consistently been out here voting for legislation that slashes Government spending and reduces the deficit, such as the President's 1993 budget bill that has cut our annual projected deficits by almost $100 billion.

I guess I am a little surprised at the eagerness of those on the other side to usurp the authority of the States to address a problem that has traditionally been a State issue. Unfortunately, though, I am no longer surprised at the continued pecking away at the provisions and principles contained in our Constitution. In this case I think this has something to do with some of the principles embodied in the Bill of Rights. I think it is astonishing the number of different efforts underway in this Congress that would dramatically alter the U.S. Constitution. Let us just start with the proposed constitutional amendments.

We had the balanced budget amendment, which was thankfully defeated in this body. We had a constitutional amendment being proposed for line-item veto authority. Soon we will apparently be considering term limit constitutional amendments, which in my view represent a profoundly undemocratic viewpoint, that we need to limit people's voting rights by telling the voters back home for whom they can and cannot vote.

There are other things this Congress apparently has in store for rewriting, redrafting, and in my view gutting the Bill of Rights. Constitutional amendments have been introduced on school prayer and flag desecration which, to my knowledge, would mark an unprecedented historical event by amending the first amendment. And in the Judiciary Committee recently, Mr. President—you sit on that committee as well—the Republicans have all but stated their intention to toss out the exclusionary rule, a key legal principle derived from the fourth amendment, on unlawful search and seizures. Perhaps we will soon be holding hearings in the Judiciary Committee on the eighth amendment and what may be obsolete principles, according to some, of excessive bail and cruel and unusual punishment.

In a sense I think this bill unfortunately turns us to another provision of the Bill of Rights, the seventh amendment. This product liability legislation in my view really, at least in principle, contradicts an important legal principle that has been the cornerstone of our judicial process for the last 200 years, and that is the right to trial by jury. True, there have been no proposals in the 104th Congress, at least not yet, to eliminate an individual's right to a jury trial. But I am concerned about it, especially after the senior Senator from West Virginia has described the efforts of some in this Congress to relegate the Constitution to the rare book room of the library.

But I think it is clear what a tremendous emphasis our Founders placed on the notion of allowing a panel of your peers to determine your fate, and that it is the jury, representative of the American people as a whole, that is best equipped to hear the facts of a case, filter out the truth, determine who is at fault in a case, and then finally determine the appropriate degree of punishment. That is a jury function in our common law tradition, not a judge function, traditionally, and certainly not the function of the Federal Government as embodied in the U.S. Congress in Washington.

I will speak in more detail about this at a later time but I view this measure as nothing more or less than an assault on the concept of trial by jury.

Mr. President, in addition this legislation is riddled with complications and contradiction. Let me discuss this cap on punitive damages for a moment. Under this legislation, punitive damages are capped at $250,000, or three times a plaintiff's economic damages, whichever is greater.

First, I find it interesting that those who support this legislation claim that it provides uniform Federal standards with respect to product liability. How can they even stand up with a straight face and say that? It is simply not true because, if this was truly a uniform standard, that would mean the punitive damages would be capped at $250,000, or three times economic damages in all of our 50 States. But that is not the case. Those States that currently prohibit punitive damages would be permitted to continue to completely prohibit punitive damages. They would not have to comply with this new Federal standard of allowing at least up to $250,000 or three times economic damages in punitive damage awards.

So let us be clear about what this means. This is the opposite of uniformity. If two individuals living in States with different sets of product liability laws are injured by defective products produced in those respective States the two individuals have substantially different legal rights and remedies available to them. But that is not all. One of the foremost purposes of punitive damage awards is not only to punish those manufacturers who deliberately and willfully market a product they know to be effective and dangerous, it also is to deter other manufacturers from engaging in such practices. I would presume that the reason some punitive damage awards are permitted under this bill—at least I hope this is the view—is because the supporters of this bill presumably agree that punitive damages have at least some sort of role, some purpose to play in deterring such abuses and protecting consumers.

Mr. President, this just does not add up. Under this bill, those States that currently prohibit punitive damages would be able to continue to completely prohibit punitive damages. That means consumers, children, and the elderly living in different States with different sets of laws will have substantially different protection from injuries and defective products.

So much for this notion that this bill is all about uniform Federal standards, and so much for the idea that this bill is fair, equitable, and beneficial to consumers. But again, I assume that most of the supporters of this legislation do have a feeling of supporting some concept of punitive damages, recognizing that there are clearly a set of cases where punitive damage awards are appropriate and necessary to sanction a manufacturer who has been willfully negligent.

Mr. President, I ask: Why do we not force those States that currently have this absolute rule prohibiting any punitive damage awards to change their laws and to meet this new Federal standard that is proposed in this bill?

I guess I am going to have to take a crack at predicting the answer to that question. I presume that the answer would be that we here in Congress should defer to the State legislatures that have made the determination that there should be no punitive damage awards in their State's product liability cases.

But how does this rationale justify the preemption of State laws, such as those in my home State of Wisconsin, that allow punitive damage awards where appropriate? Why do we not respect the State of Wisconsin enough to defer to the wisdom and judgment of its legislature and its Governor on this matter?

It appears to me to be completely contradictory to say that you support uniform Federal standards for product liability laws, and also support the notion that States can have different standards for punitive damage awards. The bottom line for those on the other side of this aisle is clear: Giving more power to the State and local governments is a great idea, but only when you agree with the principles and policy that those entities are pursuing.

Second, I assume that those who support limiting punitive damages do so because they believe that these awards are out of control and that limiting punitive damages will allow us to somehow simultaneously improve our productivity and innovation and somehow continue to constrain the abuses—sometimes very willful abuses—of manufacturers who market defective products.

I would like to now examine those premises. First, with regard to the frequency and size of punitive damage awards, I think that the evidence that has been presented thus far has made it clear that punitive damage awards have been grossly mischaracterized. They are not out of control. They are not adversely affecting the competitiveness of American manufacturers.

Recently, the Senate Judiciary Committee on which I serve held a hearing on punitive damage. At that hearing Dr. Stephen Daniels of the American Bar Foundation reported findings of a study that he completed of over 19,000 civil jury verdicts in 89 counties in 12 States plus the entire States of Alaska, Idaho, and Montana for the years 1988 through 1990.

Not only did this study find that punitive damages are awarded in a small percentage of all civil cases—that figure was roughly 4.8 percent—the study also excluded that punitive damage awards were modest and more often awarded in financial property harm cases than in product liability cases. This study was consistent with an earlier study of Dr. Daniels of punitive damage awards in the early 1980's. That study at that time produced very similar results.

The bottom line is that in recent years there has been virtually no proliferation in the size or frequency of punitive damage awards.

As has been cited by others as well, another study by Professors Michael Rustad and Thomas Koening found that during the years 1965 through 1990, a 25-year period, there were a total of just 355 punitive damage awards in both State and Federal courts. Roughly a quarter of these awards were reversed or remanded upon appeal. Mr. President, 91 of these cases were related to the asbestos issue. That means excluding asbestos cases there has been an average of about 10 punitive damage awards a year in both Federal and State courts for the past 25 years.

Clearly these studies and others demonstrate the inaccuracy of claims that punitive damages are increasing in size and frequency. Those who believe we need to cap punitive damage awards in product liability cases, as this bill prescribes, should understand that we are only talking apparently about roughly 10 cases per year.

What will happen to the quality of American-made products under this legislation? How concerned will multimillion-dollar corporations be about the safety and quality of their products when they are most likely to face a punitive damage award that would only be equal to a fraction of their profits in one day—just a fraction of one day's corporate profits? It does not sound like much of a deterrent.

Just last year, a California jury ordered Dow Corning Corp. to pay $6.5 million in punitive damages for knowingly manufacturing faulty silicone gel breast implants. This verdict was upheld by the ninth circuit court of appeals that found that Dow Corning knew that the product had possible defects and exposed thousands of women to a potentially painful and debilitating disease.

Under this legislation, that punitive damage award would have been reduced to three times economic damages, or about $1.4 million. It would have been a 78-percent reduction in that judgment. Measured against Dow Corning's assets of $1.4 million, punitive damage award for these acts would have only represented about 0.04 percent of that corporation's assets; just four one-hundredths percent.

What does this mean? It means that a corporation was able to knowingly market a product that they knew to be defective, and they knew it threatened the health of thousands of women. And yet under this bill they would only have had to pay a penalty of four one-hundredths of 1 percent of their assets of a huge corporation.

That is what happens when you replace the jury's knowledge and familiarity with the particulars of a case and replace it with an arbitrary cap on certain damage awards. That clearly illustrates just who stands to benefit from this legislation and demonstrates the absurdity of the notion that anyone could say that this bill is fair to consumers.

I also want to discuss the elimination of joint liability for noneconomic damages under this legislation. Opponents of the principle of joint liability make a pretty compelling case. I have to concede that on the surface it is one you really have to examine in order to counter it. It is hard to understand. Why should someone who is held to only 50 percent, or 25 percent, or even 10 percent liable for an individual's injury be forced to assume a much greater burden of compensatory damages if another liable party is financially unable to pay the damages? Certainly there is a force behind that when you just look at it on the surface. Why should a party that is held to be partially liable for an injury be forced to pay an entire damage award if the other party or parties are unable to pay?

Some believe this is a good argument for supporters of this bill. It sounds good; it sounds fair, unless, of course, you are a 10-year-old child who has lost his vision for the rest of his life because of the negligence and irresponsibility of a manufacturer who is held not entirely but the manufacturer is held partially liable for the damages. The manufacturer is partly responsible for the horrible thing that has happened to this 10-year-old.

Suppose in this case the manufacturer is held 60 percent liable while the large multi-million-dollar retail chain that sold the product is held 20 percent liable, and other parties involved make up the remaining 20 percent. Suppose the manufacturer then files for bankruptcy. What happens then? Sure, the child's family will be reimbursed for their hospital bills and maybe for the lost wages of the 10-year-old for the lawns he used to mow or the driveways he used to shovel.

When we talk about noneconomic damages—noneconomic damages—the child under this law, under this bill before the Senate, will only get a fraction of that to which he is entitled.

I notice that the interests that support this legislation have cleverly chosen to highlight kids in that age group, using the Little League of America as an example of the need for tort reform. But what about the baseball games that this 10-year-old boy could no longer participate in because of his loss of vision? What about the fact that this 10-year-old boy could no longer even watch a baseball game either at a stadium or on television? Baseball is finally back, as of yesterday and today. But this bill cuts out those considerations and caps them for a child such as this.

Is it fair that supporters of this legislation are more concerned about the manufacturer who is 10 or 20 or even 30 percent liable for an accident, partially liable, more concerned about that manufacturer than the child who is zero percent responsible, zero percent responsible, and completely innocent of any wrongdoing? Is that the right balance?

Of course, those corporate interests backing this legislation are not terribly concerned about those questions. They are preoccupied with stock reports and profit margins. You have to recognize that asking the retailer to pay more is much more fair than forcing an injured child who is 100 percent innocent of any wrongdoing to receive only a fraction of the compensation that will allow him to return to as close a life as possible before the accident, which the retail chain is partially to blame for, actually occurred. And I think this provision, this provision that I am discussing now—and it is hard to choose because there are a lot of bad ones in the bill—more than any other one in the bill as revealing the outlandish proposition that this bill is fair. It is this provision that changes the complexion of our legal system.

This legislation will alter the precept of our legal system to say that a victim of wrongdoing and negligence is no longer the principal concern of the tort law. The principal concern will now be the profits and economic health of a business interest that has been convicted by a jury of negligence in the manufacture, sale, and use of a defective product. This is about companies that have been adjudicated guilty of making something that did not work right and that can hurt people. This is not about companies that have been found to be innocent. This legislation is grounded in a belief that it is more important for our business and manufacturing communities to remain prosperous, very prosperous in many cases, and shielded from liability than it is to return an innocent victim of a defective product back to a state as close as possible to their well-being before the accident occurred.

So, Mr. President, I look forward to returning to discuss a lot of the specific amendments and issues in the bill. Let me just conclude my opening statement by saying that I believe these choices here are fairly clear, the lines are fairly well drawn, and that bill is a bill that definitely deserves to go down to defeat in the Senate.

I thank the Chair and I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, first I ask unanimous consent that the Senator from North Carolina [Mr. FAIRCLOTH] be added as a cosponsor both to S. 565, the Product Liability Fairness Act of 1995, and to the Gorton substitute amendment to H.R. 956.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I think perhaps at this point in the debate, it may be appropriate to speak not so much to the broad nature of the bill but to two or three arguments advanced by the last two opposing Senators, the distinguished Senators from Wisconsin and from California.

Together with Senator HOLLINGS, the Senator from Wisconsin was somehow or another implicating the seventh amendment right of trial by jury into this debate and has implied at least that the bill before us somehow or another restricts that constitutional right to trial by jury.

This is a curious, perhaps a bizarre argument. It is an argument which is equally applicable to every statute, State or Federal, which sets legal parameters which juries must follow in reaching verdicts. To say somehow or another that a limitation on punitive damages is a violation of the seventh amendment is to say that a jury instruction limiting actual damages to those that have really been suffered by a victim is somehow unconstitutional, that any instructions to any jury as to what the law is under any circumstances are unconstitutional.

Even more strange, more bizarre to this Senator, is the proposition coming from Members of this body who when we are dealing with the criminal code want very strict legal limitations on sentences that can be imposed on convicted criminals. I have not heard either of these Senators argue that a jury which finds an individual guilty of a misdemeanor under Federal law should be permitted to impose life imprisonment on that convict, and yet that is exactly the proposition for which they argue here in connection with a civil case.

They argue that as a form of punishment, punitive damages, a jury's discretion should be absolutely unlimited, no matter how egregious the conduct; no matter whether we are dealing with an individual, a small company, or a large corporation, the jury's discretion should be untrammeled, and that the jury should be permitted to impose punitive damages of whatever limit.

Mr. President, that is analogous to saying a jury ought to be able to sentence a jaywalker to hanging if for some reason or other the discretion of the jury should reach that point.

Why is it—this is one question I have not heard answers to, directly or indirectly. Why is it that in our entire criminal code we have as a protection against convicted defendants limits on sentences, but in civil actions in which proof does not need to be adduced beyond a reasonable doubt but only by a preponderance of the evidence in many States, and by clear and convincing evidence should this bill pass, why here alone should that discretion be absolutely unlimited?

It is a question I would like to have answered by those who oppose any kind of limitations. A debate against the specific limitations of this bill and adjustment, a feeling that we can do better, is something that I know both the Senator from West Virginia and I are both open to. We may not have gotten the formula exactly right.

But the proposition that there should be some kind of limit seems to me to be obvious and has even moved the Supreme Court of the United States to say, without coming up with what those limits are, that there may be some constitutional limits, with the clear implication that Congress could make just exactly such a decision.

The next point that I should like to clear up at this stage, Mr. President, is the confusion, I think—and I can only ascribe it to that—which is the inevitable result of listening to opposition speakers about whether or not there is some kind of limitation in this bill on the recovery of all of the damages which an individual actually suffers as a result of the negligence of a manufacturer.

Mr. President, the only limitations in this bill are limitations on punitive damages, which by definition are not direct compensation for losses suffered as the result of an accident or of someone's negligence. No limitations are imposed by this bill on the recovery of actual damages—loss of wages, medical expenses, and the like. No limitations are included in this bill on the recovery of noneconomic damages. "Pain and suffering" is the usual phrase for such damages. There are those who propose such limitations, but they are not included in this bill, and this Senator does not intend to vote for any. And I believe I also speak for the Senator from West Virginia in that connection.

So no individual, none cited by the Senator from California, none cited by the Senator from Wisconsin, none cited by the Senator from South Carolina, will be deprived by the passage of this bill of his or her right to recover all economic and all pain and suffering damages which a jury determines they have suffered in a product liability action.

The only limitations are on the amount of punishment to which a negligence defendant can be subjected. And there, as I have already said, we have the curious argument that in the civil courts that punishment should be unlimited while in the criminal courts it should be subjected to very, very real limits.

I also found interesting and somewhat curious the argument of the Senator from Wisconsin with respect to joint damages. He said—and I believe I am paraphrasing him correctly—why should an innocent victim be deprived of all of the damages that victim suffered even from a party not responsible for all of those damages? That, if a retailer, for example, is responsible for only 30 percent of the losses of an individual plaintiff, the plaintiff should nonetheless be able to collect 100 percent of his total damages from that retailer.

Well, why not from you or me, Mr. President? Under those circumstances, what difference is there? Once we have determined the defendant is responsible for more than what that defendant was responsible for, there really is not any distinction between one citizen and another.

Should we, for example, in the Criminal Code, when two brothers, one wealthy and one not wealthy, are sentenced for a crime, each, in addition to a jail sentence, is fined $100,000, say that the wealthy brother should pay the other brother's fine because the other brother cannot pay it? Well, of course not. We would never think of doing that in a criminal case. And yet we do that constantly in connection with joint liability.

That is not justice, Mr. President. And if we feel that the victim should always be fully compensated, then perhaps that is a duty of society as a whole, but it should not be imposed on one party not responsible for the particular harm for which compensation is being sought.

I want to congratulate the Senator from West Virginia on his marvelously logical answers to the Senator from California on research and development of new products. Of course, if you look only at a particular victim, that victim and that victim's attorneys want the maximum possible recovery. But when the net result of the system which causes that tells one very large company that it should logically give up AIDS research or contraceptive research lock, stock, and barrel because the flame is not worth the candle, that there are simply too many risks in the development of a new product, it is not an answer to say that there are other companies that are still engaged in research. We in our society want the maximum possible number of people, of individuals and of companies, to attempt to deal with all of the ills which afflict the human race.

We were not advantaged, to take another example, when 20 years ago 20 companies made and developed football helmets and now only two are left. That is not an advantage.

Mr. INHOFE. Will the Senator yield?

Mr. GORTON. The Senator is happy to yield.

Mr. INHOFE. That is a good point to yield on.

If you will forgive me for this observation. I have been watching the debate on this most significant bill. It seems as if we have been hearing from no one except lawyers. And I do not want to lose sight of the fact that this bill is not so much a legal reform as a potential of being the largest jobs bill passed in probably a decade.

When the Senator talks about the football helmets, there are so many products that used to be produced exclusively in America that are not produced here any more for that one very reason. You mentioned football helmets. I could name a number of things.

But what comes to my mind, in the real world, I was in the field of aviation. In fact, I have the distinction of being the only Member of Congress to ever fly an airplane around the world.

I remember, when I did that, going across Europe and seeing where all of the aircraft are being made today that used to be made in America. Prior to 1980, we manufactured about 17,000 single-engine aircraft each year. In the last 4 years, we have averaged about 400 a year.

And there is not any big mystery as to why that happened. It happened because you cannot be globally competitive and offset the costs of product liability.

In fact, in the other body, when I was in the Aviation Subcommittee, we had a bill up that we were successful in getting passed finally this last year, the Aviation Revitalization Act of 1994. We had testimony from Beech Aircraft that the average cost to offset the exposure of product liability was $83,000 a vehicle. Obviously, if you are talking about a large jet aircraft, that $83,000 is not all that significant. But when you are talking about a single-engine plane or a four-passenger aircraft, you cannot be competitive.

We actually had the repose bill that I think you remember and you were participating over on this side on it.

I remember when Russ Meyer, who is the president of Cessna Aircraft, testified before our committee. Now this is a product liability bill that did one thing. It said that once a manufacturer of an aircraft or of aircraft parts had had that aircraft or those parts functioning as they were designed to function for 18 years, beyond that point they could not be held liable for something that went wrong with the product.

They had some exceptions to it. That seemed to be very reasonable. Russ Meyer, the president of Cessna Aircraft, said on the record, "INHOFE, if you pass that bill, we at Cessna Aircraft will start manufacturing single-engine aircraft which we quit manufacturing in 1986 and we commit that we will manufacture 2,000 airplanes in the first year after the bill is passed after our tooling up."

That is exactly what has happened. You might remember when Piper Aircraft went into bankruptcy. There was a news conference. The president of Piper said that the reason they went into bankruptcy was because they could not be competitive on a global basis. In fact, they even suggested they could move their tooling up to Canada and make the same airplanes and make a profit, while they could not in this country.

Anyway, as a result of all that, we were successful in passing that bill. I remember when it started out as being a 12-year repose and then went to 15 years. When they finally agreed to settle on 18 years, I went to the underwriting community and said, "I think that is too long." They said, "No."

The point is there has to be some point in the future in which lawsuits cannot be lodged against manufacturers. It is now a reality. Since that time, Cessna Aircraft has done what they said they would do, they are producing aircraft.

I have heard estimates as to how many jobs will be created nationwide, and it is in excess of 25,000 jobs, just in one industry where product liability reform was the cause of the increase in jobs.

We know in Kerrville, TX, Mooney is now increasing their production rate by 40 percent. We know that Unison is now making electronic ignition systems. In my State of Oklahoma, there is a single-engine manufacturer whose first model will be coming off the assembly line in the next few weeks. It is a composite single-engine airplane. We know in Nowata, OK, they are making cylinders, all because of one thing. We reformed product liability in one industry and that industry happened to be the aircraft industry.

So I think sometimes when we become too theoretical and try to guess what the future will bring if we do this, this is an actual case as to how many jobs in America are being created as a result of product liability reform only in one industry.

I was very glad to be a part of that, and you were, too. I certainly think that is the most convincing evidence that we should expand that to other manufactured items.

Mr. GORTON. Mr. President, I thank the Senator from Oklahoma for that eloquent statement. It does seem to me that the experience of just the past year, since the passage of that small aircraft statute of repose, indicates much more graphically than can any theoretical argument the actual positive impact on jobs, on the availability of new products, of American competitiveness. We do not have to argue theory anymore. We can now argue from fact, and the burden of proof, it seems to me, is on those who say "that far and no further" is overwhelming.

I must tell you, when the Senator from California stated that she felt that no changes were needed in our product liability laws, and when we got the same implication from the Senator from Wisconsin, I looked up their record last year in voting on that aircraft bill expecting to find they voted against it, but they voted for it. So their position must be that aircraft is the only thing where any kind of reform is needed. Nothing else. It was the only industry adversely affected by product liability litigation.

Of course, that proposition is insupportable. If a statute of repose alone could have such a dramatically positive impact on the small aircraft industry, it is obvious that balance changes, such as these are which, as I already said, does not restrict anyone's right to recover all of their actual provable damages in any product liability case, that the positive impact of change is going to be dramatic and significant.

For those who look back and say here are terrible things that happened and we want an absolutely risk-free society in any and all circumstances, they see, I think quite erroneously, one set of consequences. Those who feel that we have not developed all of the products that we ought to develop in the history of the United States, that we should encourage new developments and that we should encourage competition, and that while those who make serious mistakes, purposeful or negligent mistakes, should be responsible for the consequences of those mistakes, we are not going to add to that responsibility, absolutely unlimited, unfettered by any discretion, punishment without any of the protections of the criminal code that we should do that, seems to me, as I believe it does to the Senator from Oklahoma, overwhelmingly obvious.

As I said in the beginning, and as the Senator from Oklahoma said so eloquently, we now have one very positive example of how this kind of legislation works. Now let us do more of it, and I think we will see an even more dramatic recovery in many industries which have been constricted on the part of many companies that have abandoned lines of products and many new companies, entrepreneurs who would like to go into new businesses and who are discouraged from doing so by the specter of lawsuits.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, during the course of the discussion this afternoon, it seems that the debate has centered on the premise that somehow there isn't anything wrong with the present system.

Let me try to lay out some of the reasons why we need to change the product liability system, not radically, but change it in a way which makes it fair to consumers and to businesses.

Let us just start out by saying the consumers lose often under the current system. They receive inadequate compensation through product litigation. Severely injured consumers only recover about a third of their actual damages, while their mildly injured counterparts recover approximately five times their economic losses. There is a disparity there which is not good.

Consumers wait forever. They have to wait 2½ years to receive their compensation because of the whole process of a trial and depositions and then appeals, particularly where punitive damages are concerned, which can force people to wait even longer. So an injured person can be forced to wait between 2½ to 4 years to get compensated for something that happened to them, let us say in a machine shop where their hand was mangled which puts them in a position of having to depend entirely on their own resources, worker's compensation, and health insurance, if they have any health insurance. The consumer pays heavily for our current product liability system, and that is because the costs of liability insurance increase the costs of products that people need. Consumers also suffer because manufacturers decide not to introduce needed new products, and thus the consumers do not get the products they need. Consumers may be paying 50 percent of the cost of the ladder in insurance costs for liability. For some pharmaceuticals it is up to 95 percent. Under our system, consumers can pay outrageous costs.

The current tort system pays more to lawyers and transaction costs than it does to claimants. That is really a quite remarkable statement. How can we have a product liability system where somebody is injured and the lawyers on both sides end up getting more money than does the injured person? I do not understand why that is not something that somebody would want to change and make better. I think the consumer loses on that.

The consumer also faces a closed courthouse door under the current law, and that is because in some States the statute of limitations simply does not allow the consumer to take his or her request for due process into the courtroom because it is already closed; the door is closed. And we are saying in our bill that, in fact, we are going to make sure that anybody who has been injured, but may not even know it at the time because it may be a toxic injury or a chemical injury of some sort, will still be able to be compensated. Under our bill, injured persons will still be able to seek compensation 15 or 20 years after they have been injured if they do not discover that injury until that much time has elapsed. This is called the discovery rule, and it applies not only to the discovery that the individual is sick, but also to the cause of the illness, and once that has been discovered, the statute of limitations for 2 years begins to run.

This is a very proconsumer change, particularly in the world that we are moving into, which has so many toxic chemicals that can threaten the health of consumers.

I think, also, because we have talked about consumers—and this is meant to be a balanced bill so let us also talk about manufacturers. I think manufacturers lose under the current system.

Liability stifles research, and it stifles development. This has been amply recorded in the literature. Many businesses spend a lot more on litigation than on research and development. That may not be the only reason. Companies tend to be pulling back on R&D anyway. But the fact that they spend more on litigation—many do—than on R&D does not sound to me like an American sort of system. Well, that is our current system. I would think people would want to make it a better one. Liability makes successful products unmarketable.

I have already talked this afternoon about Bendectin, the antinausea medication, different AIDS-related and pre-AIDS-related vaccines and medicines, football helmets, and others. They simply are not made available because it is decided they are too big a risk and therefore Bendectin, which is available in Canada and has been for years, is not available in the United States, and thus our consumers and our manufacturers lose under this because they are precluded from doing something for fear of litigation.

Liability decreases funding. That is fairly obvious. The fear of product liability has diminished investment in basic scientific research. Now, that is important because you have basic research and you have applied research leading to commercialization of a product, and they are very different. Basic research is sort of the seminal research. That is the kind of thing where you really have to have a sense of stability and predictability and confidence in the future, and that is now way down, and part of the reason for that is the fear of product liability litigation.

I think that the United States itself, as a country, loses under the current system of product liability. Insurance rates disable manufacturers. American manufacturers pay 10 to 50 times more product liability insurance rates than do their foreign competitors. Well, at some point, when you are fighting over every nickel in a car or in some vaccine, or something else, these things matter, and the foreign country wins out and we lose out. So America loses out.

In fact, in Texas, in a single year, they have estimated that the liability system has cost the State of Texas 79,000 jobs. I cannot prove that, but that is what has been said. Texas stands behind that. Seventy-nine thousand jobs in West Virginia would be as if a substantial part of the population simply moved out. And then the funny thing also is that there is no real proof that the current product liability system does not enhance product safety. It is interesting that the number of tort suits rose dramatically in the 1980's, even though consumer injury rates declined steadily. Tort goes up, injuries go down, and now that was not just in the 1980's but also in the 1970's. For 20 years, injuries were going down and tort actions were going up.

Let me spend a moment discussing the costs of the tort system in the United States. Estimates of the cost of tort litigation, of which product liability litigation is part, range from $80 billion to $117 billion a year. Concerning the need for uniformity, the United States has 51 separate product liability systems. The European Economic Community, which is 13 countries, has one product liability system. Japan has one system. I have worked very hard in Japan. For years we had something called the structural impediment talks with the Japanese, and we would tell each other what we thought each country ought to do to improve their performance so that our trade deficit would get better and theirs would get less better, and one of the things the Japanese kept saying to us was that you ought to get more uniformity into your product liability laws because you are getting eaten alive by a lot of countries, including ourselves.

This is staggering, and I hope that those who hear my voice will listen to this. Nearly 90 percent of all companies in the United States of America can expect to become a defendant in a product liability case at least once. It has been suggested that there were only 11 cases in which punitive damages were awarded in 1990. But if 90 percent of all businesses can expect to be sued at some point, this is the so-called chilling effect. Are 90 percent of American businesses doing the wrong thing each day?

Manufacturers today can be sued for products that were manufactured in the 1800's. I do not think that is the American way.

Companies can be forced to pay damages to persons whose abuse of alcohol and illegal drugs caused their injuries. That is wrong; that is unfair. In 1994, the Gallup survey said that one in five small businesses reported that they have decided not to introduce a new product or not to enhance an existing one out of concern for potential product liability. That is 20 percent of all small businesses saying we are not going to improve our product, or we are going to withdraw the products we are about to introduce.

Interestingly, the Brookings Institution found no link between lawsuits and the safety of products. That is an important statement. And they documented many instances where safety improvements are not made, again, because of the fear of litigation. That being, if they made an improvement, it would imply that the previous iteration was somehow not safe and therefore they might get sued.

The United States is the only nation in the world that allows a safety improvement to be admitted as evidence that the preceding product was less safe. We do it legally. Therefore, companies have reason to be afraid.

I note that it is 5 o'clock. I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). Under the previous order there will be 1 hour of debate equally divided between the Senator from Michigan and the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the Senator from Michigan would amend his amendment to provide not just "claimant" but "parties"—which would be both the plaintiff and the defendants.

Therein, Mr. President, goes right to the reason—one of the big reasons—I put in my amendment to his. It was quite obvious to me, quickly reading on last evening the amendment of the distinguished Senator from Michigan, that here they were getting plaintiffs' lawyers. In my amendment I wanted to get at all lawyers.

Now, right to the point, in this limited time, once again what we have, Mr. President, is an issue that searches for justification, or a solution looking for a problem that has been going on for some 15 years.

It started, of course, back in the Ford administration whereby they said it was a national problem, and President Ford appointed a commission. The commission found it was not a national problem and recommended leaving it to the States.

They were not satisfied with that, Mr. President. They came in and said insurance was impossible to obtain. We, of course, refuted this argument, and they do not even contend for it today.

Otherwise, they came with the claim that there was a litigation explosion and we needed massive product liability reform in order to confront the national litigation explosion, which, of course, was decreasing not increasing.

Then they came and said they were not developing certain products out of fear of litigation, this was particularly true in the drug and chemical industry. Of course when we were debating NAFTA and GATT these industries proclaimed that they were world class and could compete with anybody in the world. So then they came with competitiveness. There was a buzz word that went on around here for about 5 years, that the market—by the way, which now we will leave everything to the market forces—the market was insufficient and what we needed was a Congress to pass a law to make us competitive, and that unless we legislate product liability we could not be competitive.

Of course, we pointed out in our own backyard we had some 100 German industries, 50 Japanese industries, blue-chip corporations of America, who all were coming to my State and never once complaining about product liability.

I have been the Governor and the Senator there now for numerous years, and the attraction of industry and we can relate industry after industry almost get a habit of asking the question. So it was not competitiveness.

Then they started with various gimmickry with respect to the Little League. They said, no, they were not involved. And then they went, of course, to the matter of the Girl Scouts. The Girl Scouts said, "Wait, wait. That is not the case at all. We do not have a problem with product liability."

Then they had a little TV show where a former colleague, Senator George McGovern of South Dakota, came on and said he went broke on account of product liability. Now they have quit running that because that is not the case at all.

Still a solution searching for a problem, now they place their ace card—lawyers, aha. Any time we take a poll in America, immediately the disdain for lawyers. So they say, if we cannot get this bill passed on lawyers, it will never pass.

It talks here in the amendment, as I was just reading it, of "equity in legal fees." I challenged the distinguished Senator from Kentucky and the Senator from Michigan on last evening to bring me the series of product liability cases where somehow the clients had been done in by the plaintiff's lawyers.

Of course, the amendment by the Senator from Michigan termed it "claimants." Now I guess he would like to say, just a minute, we will change "claimants" to "parties" and get attorneys on both sides.

But there is not any question that these men are very erudite and very learned and have written books in law and everything else of that kind, and they knew what they were doing until, of course, we put up our amendment, and said, wait a minute, we will bring into focus the real issue here, and that is not product liability, but lawyers.

Now, if I could put in a bill to solve the lawyers problem, I would do it. However, I do not know that we are that good here in the Senate of the United States.

Be that as it may, the idea is, as was said in Henry VI "Kill all the lawyers." Take any poll, and if we can convince the individual Members, who are busy on so many different issues, to come now and vote whether for or against lawyers, they will vote against the lawyers, and we will get this bill passed.

I think of the saying:

> Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? . . . I know not what course others may take, but give me liberty or give me death.

Patrick Henry, the lawyer.

We can see, Mr. President, that young leader sitting with his bill in hand, crafting the Declaration of Independence, Thomas Jefferson, the lawyer, or the father of the Federalist papers.

> But what is government, save the best of reflections on human nature? If men were angels, the government would not be necessary. And if angels governed man, there would be no need for controls over the government. So the task in formulating a government to be administered by man over man is first, frame that government with the capacity to control the government and thereupon oblige that same government to control itself.

James Madison, father of our Constitution.

Again, going up all Presidents right on up to Abraham Lincoln. We can see him, "equal justice under law," signing the Emancipation Proclamation. Abraham Lincoln, the lawyer.

Or the darkest days of the Depression, people searching for hope. "All we have to fear is fear itself." Franklin Delano Roosevelt, a lawyer.

I can see now in December 1952, standing before the Supreme Court of the United States.

> But your honor, if the State-imposed policy of separation by race is removed, the young children will have the freedom to choose their school and their own classmates and play together.

The beginning of the end of segregation in this land. Thurgood Marshall, of the NAACP, a lawyer.

Even today, we find Ralph Nader crusading for safety and health. On last evening's TV Morris Dees down in Alabama, working around the clock—or Mississippi, I forget. I know Morris but I have forgotten. I just came back from Mississippi, but I know he has this Southern policy on poverty, Southern law center on poverty where he has been tracking that Ku Klux Klan. And now the Michigan Militia and the others, against terrorism, at the risk of his own life; Morris Dees, a lawyer.

We begin to wonder, if these lawyers had been silenced what we would have in this land? Obviously I am very proud to be an attorney at the bar and I am not going to join in this derision, save of those who just really are fixers rather than lawyers at the bar, and Heavens knows this city of full of them—60,000 lawyers and the majority of them come now to fix us, the jury, on billable hours.

Pat Choate wrote his book, "Agents of Influence," how the Japanese have those attorney firms, over 100, retained at a cost of over $110 million. The country of Japan, by pay, is better represented than the people of the United States in Washington. The consummate pay of 535 House Members and Senators is only $71 million. But they are all over us, and that is the genesis of this thing that has been going on for 15 to 16 years—the power of the lobby. Because the problem does not exist. It is not a national problem. We do have product liability; 46 of the 50 States have reformed their product liability laws in the last 15 years. But now comes the ace card, if we can play this with respect to the equity of legal fees. What is the equity? That is the most amazing thing, to this particular Senator, to have the parties sponsoring this legislation and trying to amend it talking in terms of the consumer, how they are looking out for the consumer. Every consumer organization in the country is absolutely opposed to this bill. The American Bar Association, they do not have lobbyists up here. The Association of State Legislators, they do not have lobbyists up here. The Association of State Supreme Court Justices, they do not have lobbyists up here.

But yes, the Business Round Table, the Conference Board, the National Association of Manufacturers, the chamber of commerce—yes, they keep big buildings full of lobbyists. So we got this legal reform movement going and it has been a faltering point. So now they will bring in equity in legal fees on last evening—of course for plaintiff and not for the defendant. Now the distinguished Senator says, "I want to make it for both sides." That is what my amendment said.

Billable hours—we are paid at $133,000. I figured it out. If we could have, rather than a minimum wage, have a maximum wage for these fixers, we would have a $50 a billable hour limitation. If they work 51 hours, I would give them $133,000 a year and then if they work some on the weekend they could go on up to a couple of hundred thousand dollars—pretty good. But I figure we ought to pay them as much as we pay the Senators, and that would be a goodly plenty and I think it would clear out 30,000 of the 60,000—if we want to get rid of the lawyers. If we want to get rid of the lawyers.

So there is the amendment to bring into focus the absolutely empty nature of this particular initiative. And it is lobbyists moved, organized, financed, motivated, committed for in the campaigns. Yes, when I ran in 1992 I had the different groups come to me: "Can't you help us this time on product liability?" I said, "They just passed the reform here in South Carolina. What is the problem? Ask the judges; go to talk to our judges. Most of them are Republicans, obviously, in South Carolina. They had been appointed by President Nixon, President Reagan, President Ford, President Bush. They will tell you in a flash it is not a problem." But they have to find some reason. Now they are playing the ace card, and that is why I put up this particular amendment.

I do not guess I will be able to control them. I would like to. But, be that as it may, we have had our time at bat to expose the nature of this particular amendment and the nature of this particular legislation. It is absolutely not in the interests of consumers, not in the interests of good law. We have the professors, 121 professors at law have come as a group to attest against this particular measure. They do not have lobbyists up here. No, it was not considered in the Judiciary Committee where fundamental law is considered. There was a quick 2-day turn, adding on amendments in the evening, destroying any idea of uniformity.

That is what they started with. At least they had the good conscience to change the title. I thought maybe it was a gimmick, but I will give them credit for conscience. You will find this bill over on the House side, "To regulate interstate commerce by providing for a uniform product liability law." But when you get over to the Senate side it is some kind of fairness act they call it now. They at least got away from the uniformity, not trying to continue that particular charade. "This act may be cited as 'The Product Liability Fairness Act Of 1995.'"

So we have the amendment relative to fees and instituting regulatory measures—bureaucracy at its worst. I have time to practice law but not to keep all the records. I have a simple, clear-cut contingent fee. I assume all the costs, assume all the expenses, assume all the bills for the doctors, the witnesses, assume all the printing measures for the transcript of the record, the appeal record and everything else of that kind going up to the court—I assume all of those. And when I get through, if we win then we get the third. If we lose we get nothing and I have paid all the bills.

It goes right to the heart of the misunderstanding of the distinguished Senator from West Virginia, Senator ROCKEFELLER, when he talks about delays, the trial lawyers delay. Heavens above, you get 10 or 15 of these cases you have backed up in the office thousands of dollars of cost and hours spent and never paid for. Billable hours? I never had a client with billable hours in 20 years of law practice, but you got that backed up. It is in my interests to bring that to a conclusion. I have to move on these cases. We are not trying to delay.

The ones who can sit up in the ivory tower on the 32d floor with the mahogany walls and Persian rugs and all the secretaries running around and all the investigators and you press buttons and say "Well, yes, I am having this coffee but mark it down as thinking. Give me another billable hour."

Come on. You are worried about lawyers and their fees? Let us get to the defense counsel that is running up the majority of the costs. He is absolutely wrong. He is not for the consumers, the Senator from West Virginia. They are getting their money. They are not complaining. And they are getting the majority of it. When it comes to who gets the majority of the fees, plaintiff or the defendant, the defendants do. The national insurance study, we put it in the committee report, shows they are the ones running up the costs. We have no time or interest in running up any kind of costs whatever.

It is a proud thing in America that the poor and middle class can get competent representation. It has worked. It continues to work. It is not a national problem. They never have had a hearing in any particular body about lawyers' fees. But if that is the game, then when we take up medical malpractice we will go into doctors' fees. And we will try these amendments and initiatives that they have because they cannot prove their case otherwise. I wait for the distinguished Senators from Kentucky and Michigan to show me the series of cases in product liability where there was not any, as the title says here, "equity in legal fees."

I retain the remainder of my time.

The PRESIDING OFFICER. The distinguished Senator from South Carolina retains the remainder of his time. It is 11 minutes.

The distinguished Senator from Michigan is recognized.

AMENDMENT NO. 597, AS MODIFIED, TO AMENDMENT NO. 596

Mr. ABRAHAM. Mr. President, I yield myself such time as I desire.

Mr. President, following discussions with my colleague from South Carolina, and the managers, I ask unanimous consent to modify the underlying first-degree amendment. I send the modification to the desk.

The PRESIDING OFFICER. Is there objection to that modification?

Mr. HOLLINGS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 597), as modified, to amendment No. 596, is as follows:

At the end of the amendment add the following new title:

TITLE III—EQUITY IN LEGAL FEES

SEC. 301. EQUITY IN LEGAL FEES.

(a) DISCLOSURE OF ATTORNEY'S FEES INFORMATION.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term "attorney" means any natural person, professional law association, corporation, or partnership authorized under applicable State law to practice law;

(B) the term "attorney's services" means the professional advice or counseling of or representation by an attorney, but such term shall not include other assistance incurred, directly or indirectly, in connection with an attorney's services, such as administrative or secretarial assistance, overhead, travel expenses, witness fees, or preparation by a person other than the attorney of any study, analysis, report, or test;

(C) the term "party" means any person who retains an attorney in connection with a civil action arising under any Federal law or in any diversity action in Federal court;

(D) the term "contingent fee" means the cost or price of an attorney's services determined by applying a specified percentage, which may be a firm fixed percentage, a graduated or sliding percentage, or any combination thereof, to the amount of the settlement or judgment obtained;

(E) the term "hourly fee" means the cost or price per hour of an attorney's services;

(F) the term "initial meeting" means the first conference or discussion between the party and the attorney, whether by telephone or in person, concerning the details, facts, or basis of the claim; and

(G) the term "retain" means the act of a claimant in engaging an attorney's services, whether by express or implied agreement, by seeking and obtaining the attorney's services.

(2) DISCLOSURE AT INITIAL MEETING.—

(A) IN GENERAL.—An attorney retained by a party shall, at the initial meeting, disclose to the party the party's right to receive a written statement of the information described under paragraph (3).

(B) WAIVER AND EXTENSION.—The party, in writing, may—

(i) waive the right to receive the statement required under subparagraph (A); or

(ii) extend the 30-day period referred to under paragraph (3).

(3) INFORMATION AFTER INITIAL MEETING.—Subject to paragraph (2)(B), within 30 days after the initial meeting, an attorney retained by a party shall provide a written statement to the party containing—

(A) the estimated number of hours of the attorney's services that will be spent—

(i) settling or attempting to settle the claim or action; and

(ii) handling the claim through trial;

(B) the basis of the attorney's fee for services (such as a contingent, hourly, or flat fee basis) and any conditions, limitations, restrictions, or other qualifications on the fee the attorney determines are appropriate; and

(C) the contingent fee, hourly fee, or flat fee the attorney will charge the client.

(4) INFORMATION AFTER SETTLEMENT.—

(A) IN GENERAL.—An attorney retained by a party shall, within a reasonable time not later than 30 days after the date on which the claim or action is finally settled or adjudicated, provide a written statement to the party containing—

(i) the actual number of hours of the attorney's services in connection with the claim;

(ii) the total amount of the fee for the attorney's services in connection with the claim; and

(iii) the actual fee per hour of the attorney's services in connection with the claim, determined by dividing the total amount of the fee by the actual number of hours of attorney's services.

(B) WAIVER AND EXTENSION.—A client, in writing, may—

(i) waive the right to receive the statement required under subparagraph (A); or

(ii) extend the 30-day period referred to under subparagraph (B).

(5) FAILURE TO DISCLOSE.—Except with regard to a party who provides a waiver under paragraph (2)(B) or (4)(B), a party to whom an attorney fails to disclose information required by this section may withhold 10 percent of the fee and file a civil action for damages in the court in which the claim or action was filed or could have been filed.

(6) OTHER REMEDIES.—This subsection shall supplement and not supplant any other available remedies or penalties.

(b) EFFECTIVE DATE.—This title shall take effect and apply to claims or actions filed on and after the date occurring 30 days after the date of enactment of this Act.

Mr. ABRAHAM. Mr. President, the distinguished Senator from South Carolina indicated, as we discussed the effect of the modification, it is to correct the transpositional error that took place when we took language from another piece of legislation and created this amendment. My intent was, and remains, to apply the amendment that I offered initially, not just to the clients of plaintiffs' attorneys but to the clients of defense attorneys as well. That is the purpose of the modification, to fundamentally change the word from "claimant" to "party" so it would apply to all cases.

Mr. President, what I would like to do is talk briefly about why this amendment was offered initially and to clarify some ambiguities and some misunderstandings that appeared to exist and comment a little bit about the merits of the amendment.

First of all, let me begin by saying that I am an attorney, as is the Senator from South Carolina and many other Members of this body. I respect my colleagues who are lawyers. I respect the attorneys who practice in my State and those who practice in the other States. I believe most lawyers are doing an outstanding job, and I think that consequently the amendment I am offering is not going to really have much effect on the overwhelming percentage of attorneys in America. In fact, the goal of my amendment is essentially to eliminate bad practices undertaken by some attorneys who do not attempt to keep their clients well informed as to the arrangements into which they enter.

Often we have, particularly in cases where clients who are less experienced in the legal system, clients who are unsophisticated about the ways in which attorney-client relationships work, we have situations where clients are less informed than they should be about the arrangements they are entering into. Such is the case when I go to have my television or my automobile repaired and inquire ahead of time for some assessment of what the cost will be and what is wrong with the car or the television set. I think many clients of attorneys need similar help to make informed decisions about the types of arrangements that they will enter into.

That is basically the purpose of my amendment. People are unhappy in my State and elsewhere with respect to the way the current system of legal fees is entered into.

Just to mention a couple of cases in point, I recently received a letter from a Michigan resident who wrote that the U.S. District Court for the Northern District of Illinois had just notified him that he was included in a class action case, and the court soon would be holding a hearing whether to give final approval to a settlement with Chrysler Corp. under the proposed settlement. Under the alleged defect in the Chrysler credit leases, each class member was going to be paid between $2 and $2.50. The attorney who brought the case would be paid up to $175,000. Under this agreement, the lawyer would get enough money to buy a big, new house. The victims would get enough to buy a Big Mac.

That struck me as hardly the kind of appropriate practice that we should tolerate without the clients having full information as they become engaged in the matter. That is the reason a number of organizations that represent consumers have called for the kind of amendment which I am offering here today.

Bill Pride, the executive director of an organization of Americans who are for legal reform—and the only consumer group, I might add, that has publicly stated that it accepts no money from big business, supports disclosure of attorney fees, and the sort of approach I am taking with this amendment—recently testified before the House Judiciary Subcommittee on Courts and Intellectual Property. He stated that because of its complexity and expense of lawyers, the legal system is inaccessible to more than half the population when they have legal problems. For low-income people, legal help is almost nonexistent except for the most poor, who qualify for legal aid. Millions of middle-income people cannot get any help from lawyers for simple remedies because of the complex and expensive and intimidating procedures established by the legal profession.

He went on to indicate the need for reform. One of the reforms that his organization supports is the kind of fee disclosure proposal which I am offering here today because of its potential value to the clients as they enter into legal relationships and negotiate fees.

So indeed there are people who are not satisfied with the information they have with regard to entering into legal arrangements and who are not sophisticated enough in dealing with entering into those relations to enter into them in a knowledgeable way, or to even know what their options are.

My coming here today is not to argue that fees are too high or too low or wrong or right. I did not come before the Senate with this amendment to affect the fees that are paid. What I came here for was to try to provide a system by which fee arrangements would be entered into by the less sophisticated among us on a knowledgeable basis.

The requirements I am suggesting in the amendment I believe are both simple and fundamentally fair. Without going into all of the details again, as I did yesterday, basically the amendment requires attorneys—and under the modification, this will be for the defense as well as for plaintiffs' counsel—prior to the entering into an arrangement to provide the potential client with information as to an estimated amount of time that would be involved in handling the matter with an explanation of the various options available as far as the nature of the arrangements that would be entered into, whether it would be hourly billing, or a national fee, or a contingent fee, and then an explanation as to the type of fee as well as the specific amounts that would be employed; in other words, the per-hour amount, the contingent percentage, or the national fee. Following completion of the matter, a similar kind of accounting would take place in which the actual hours would be made available to the client, the amount of the fee which was ultimately calculated or charged, and then the computation of what the hourly rate would be.

I recognize that for some small law firms, this may be more burdensome than for others. But like the Senator from South Carolina, who I gathered was in a small firm at one time in his career, I began my legal career when I left law school in a small firm in Lansing, MI. We did not have a lot of fancy computer equipment or access to accountants. But we did maintain a pretty good recordkeeping of our own efforts and the hours that we put in on matters, regardless of the nature of those matters because, simply, we thought it was to be able to operate our offices in an efficient fashion, as well as to serve our clients better and to be able to satisfy requests of this sort if they were to come from clients who knew their rights included the ability to make such requests. But I will add a few other points.

The amount that I am offering has several options in it. One is a waiver option. Clients may, under the amendment, waive their rights to this information either preliminary to or following the transaction of a legal matter. It does not require, therefore, that in each case the attorney provide this information.

Second, I think it is very consistent with a recent formal opinion, formal opinion No. 94-389, addressing attorneys' contingent fees, which was recently entered into by the American Bar Association Standing Committee on Ethics and Professional Responsibility. That section, at page 7, said that, among other things, regardless of whether the lawyer and the prospective client, or both, are initially inclined toward a contingent fee, the nature and details of the compensation arrangement should be fully discussed by the lawyer and client before any final agreement is reached.

It went on to say that among the factors that should be considered and discussed are the following: The likelihood of success, the likely amount of recovery or savings if the case is successful, the possibility of an award exemplary or multiple damages, and on and on. And included in the things that were recommended was the amount of time that is likely to be invested by the lawyer.

In other words, the proposal I am making is not the only one that I think many lawyers already follow. It is also something which the American Bar Association, which may be on different sides of other parts of this pending legislation, has in its own recent opinion suggested ought to be followed.

Finally, I will just say that we are not in this legislation telling the States what to do. This amendment is limited to actions within the Federal court; in short, within the purview of what I believe is the appropriate purview of this Congress in determining the areas in which we might apply these types of regulations; in short, the matters before our Federal courts.

So I would just conclude by saying that when I proposed this and brought it to the floor, I really did it with a belief it essentially was a matter which would give consumers more information, a right to know what the legal fees they were entering would be like, what they should anticipate, what their options were, an accounting for those fees. In no way was it my intention to cast aspersions on the legal profession. Certainly it was not my intention to be critical of the many fine lawyers who are referenced by the speech of the Senator from South Carolina. I hope that was not the case.

We are always hearing in the Congress the concerns that virtually all of us have I think about consumers, about the interest of consumers, about the interests of people who are frequently finding themselves in a disadvantaged position with respect to big business, with respect to big Government, with respect to other big institutions. Many of those individuals find themselves from time to time in circumstances where they would like to litigate a concern or defend one. If they are not well informed, it seems to me they are at an even greater disadvantage, and I believe that this amendment provides a chance to help them and at the same time improve the legal system.

It is the case that there is a lot of criticism about lawyers and the way the legal system works. One of the reasons this legislation on product liability was generated obviously was because of concerns about the system. I do not want to kill all the lawyers. I wish to improve the legal system. I think by eliminating from the many concerns people have the concern that they are brought into legal arrangements without the full knowledge of their options, without the full accounting of the time and the dollars involved, that it would substantially improve the system and the way it functions.

Finally, as I said a little earlier, I think we are asking here lawyers to do nothing more than we ask of many other professionals in many other service parts of the economy. As I mentioned, when I go to the auto shop with a car problem, I am given information as to what is likely to be wrong, what the likely cost of repairs are, and so on, so that I can make an informed decision whether I wish to pursue repair.

We are told that it is harder to do that in this context because it is a more complex area, and I agree it is more complex. But I think, because of its complexity, because it is a more difficult area, that is all the more reason why we should try to get the people who come into this often intimidating setting the sort of information that would allow them to make knowledgeable decisions. That is the purpose of my amendment.

At this time, Mr. President, I reserve the remainder of whatever time I have remaining.

The PRESIDING OFFICER. The Senator from Michigan has 17 minutes remaining.

Who yields the Senator from West Virginia time?

Mr. ROCKEFELLER. Mr. President, I yield myself time.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, at 6 o'clock, we are going to have two votes, and as the Democratic manager of this bill I wanted to alert colleagues on both sides as to the plan that the Senator from Washington [Mr. GORTON] and myself have, what we are going to do so that Senators might be appraised of the situation.

The PRESIDING OFFICER. Will the Senator suspend for a moment. Since we are under a time agreement, the Chair asks who yields the Senator from West Virginia time?

Mr. ROCKEFELLER. I yield myself 3 minutes.

The PRESIDING OFFICER. The time remaining is divided between——

Mr. ABRAHAM. Mr. President, I so yield.

The PRESIDING OFFICER. The Senator from Michigan yields the Senator from West Virginia time. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Again, I want to let my colleagues know of the situation and what Senator GORTON and I will do at 6 o'clock. We are here to consider repairing something called the product liability bill. We are not here to determine the hourly rates of lawyers. We are not here to do a variety of other things.

Therefore, the Senator from Washington will move to table the amendment of the Senator from South Carolina, and I will move to table the amendment of the Senator from Michigan.

We are not here, again, to determine how lawyers' fees should be publicized. That is my reason. I understand the interest that both Senators have in raising these questions. But I want the Senate to consider a bill that has been the subject of hearings, close scrutiny, and careful work, and that is called the product liability bill. I do not think this bill is the bill to use as a vehicle for regulating the fees of lawyers, telling them how to publicize their fees or intervening into the lawyer/client relationship.

In moving to table these amendments, the managers and authors of this bill want to make a point, however. We are discouraging, actively discouraging amendments outside the scope of the product liability bill itself. We welcome constructive revisions to this bill within the context of the bill, but we do not welcome the phenomenon of loading up on this bill for the purpose of making points, some of which might be valid, but we just do not want to do that. And we do not want to have amendments scoring points against lawyers.

So we are here to do the serious work of the product liability bill, and I want my colleagues to be informed as to how the managers will proceed.

I thank the Senator from Michigan and I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Michigan retains 14¾ minutes. The Senator from South Carolina has 11 minutes remaining.

Who seeks recognition? The Senator from South Carolina is recognized.

Mr. HOLLINGS. I thank the distinguished President.

Mr. President, I am trying to find—I thought we had found it. After the day was over last evening, I went back to my office and I said on that airline case, several airlines really of overcharging, and the lawyers steamed up a class action, and as the distinguished Senator from Michigan reported in a letter to the colleagues, the lawyers got some $16 million and others got coupons worth $20 or $25, one of my secretaries said, "Yes, that got lost in the mail. You had a chance to do it." But I said I never heard it, but I had plenty of money left on the table, I guess, because I never knew anything about the case. So a young attorney in my office said, "Well, I denied knowing anything about the case, but I got $150 when I got notice." I said, "Well, who are the lawyers?" He said, "I don't care. I do not know who the lawyers were and don't care. They got me some money."

Now, no one is complaining about the lawyers and no one is inventing equity. The truth of the matter is we had some 15 years ago, I say to the Senator from Michigan, a big debate about the Federal Trade Commission coming in and regulating attorneys and attorneys' fees and everything else of that kind.

And we can have the hearings again and come back and go over that thing. But in the last dozen years we have not had hearings on this. The best the Senator from Michigan refers to is a letter from Michigan about a class action and one gentleman over on the House side who testified supporting disclosure of fees. I hope he does support disclosure of fees. All of us at the bar do.

Here I hold in my hand "Model Rules of Professional Conduct and the Code of Judicial Conduct" from the Center of Professional Responsibility of the American Bar Association. And we practice under this. And it has on page 18 rule 15 about the fees and it runs down—I do not want to spend all my time, but it has not only the time and labor required, much better than the amendment of the Senator from Michigan, the amount involved, the time limitations, the nature and length of professional relationship, the experience, whether the fee is fixed or contingent, right on down, all in writing.

I never have found that client—I guess that is the nice experience of mine—complain to me about the handling of product liability.

And we have had it up five times before the Commerce Committee, five times with hearings, five times the report and we had every ramification that you can think of on product liability, and here we come again and without ever having any testimony whatsoever or the subject raised about fees, a Senator or a couple say, well, let us go to lawyers. We cannot get them on the Girl Scouts or the Little League. We cannot get them about their former colleague going broke.

There is no litigation explosion. The only explosion is businesses suing businesses. And after all, remember, we are representing consumers. Now, if anybody believes that, I happen to represent the consumers in this instance and not the manufacturers. They are trying to take advantage here, when we are talking about welfare reform, making the recipients more responsible, we are going backward and saying manufacturers be more irresponsible. We have got a long litany in this debate about the good in America for the safety of products. We can count on it. It redounds to our safety and our health; we almost take it for granted. Where there have been some adjustments, the States have taken care of it. But fees, the equity in fees, to assume that there is not any and that you need to pass a law in Congress to get it is ludicrous, really laughable.

I mean any lawyer go down here, or anybody else, to my billable hours friends. They will tell you the American Bar and everything else like that. They do have an understanding with the billable hours. They like it. The phone rings. "Wait a minute." "There is another $25. I answered the phone."

"You got a copy of that? Twenty-five cents for every copy. Run some extra copies. We have to pay for the copy machine."

"Put a little fee on the computer."

Senator ABRAHAM and I can get computers now. Put fees on those. Little internal fees for computers, like these MRI's at the hospitals, paid for five or six times. They have bought every computer downtown 10 or 15 times with little fees on the computers.

Lawyers know how to look at these. I am one trying to look out for the clients. Let us not diminish the rights of the clients.

I can tell you now, yes, in Henry VI, Dick the butcher says, yes, that the first thing we must do is kill all the lawyers. That was not, in a sense, a demeaning or pejorative term. He was saying, if tyranny was to succeed, the tyrants must first kill the lawyers. And if demagoguery is going to persist and succeed, then we are going to have to get rid of all the lawyers who are going to expose the demagoguery that is going on in our Government today.

I can tell you here and now, I am proud of that expression "Kill all the lawyers," because it is the best of all compliments. We stand in the way of the takeover of the big business and the clients that have kept this going for 15 years, again and again and again and again, with commitments and elections and everything else working. And it is that poor, injured client in middle-class America, they cannot pay any billable hours, so they come in.

And, yes, you know, no matter how thin the pancake, there are two sides to every pancake and every question. And you do not have a sure shot. You have to get all 12 jurors. You do not try a case and get a majority vote as we do in the Senate. You have to get a unanimous vote by the greater weight of the preponderance of the evidence, or for punitive, willful misconduct, by the greater weight of the preponderance of the evidence.

Do not act as though there is a problem out there with respect to the trial of cases. If there is runaway verdicts, it is businesses suing businesses upon suing businesses upon suing businesses. They love to come all dressed up and go in the boardroom and say, "Well, take them on." Of course, the lawyers, billable hours, "Hot dog. That will take care of the family and send my boy through college during the next 4 years. Billable hours, whoopee. We had a board meeting today, and let me tell you who we are going to sue. I have no idea if they are going to win it, but it will take care of me."

That is what has been going on in the courtroom and cluttering it up, and not these tort claims because, yes, they are more safe. There is less injury, and if there is less injury, there is less tortuous injury.

I cannot understand the logic of the Senator from West Virginia, who uses his hands up and down, whatever it is. It is not relevant whatsoever, or not responsive.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina retains the remainder of his time. He has a little over 2 minutes remaining.

Who seeks recognition?

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. I yield myself such time as I desire.

Mr. President, I just want to reiterate a couple of points I made. The purpose of the amendment which I have offered is not defined to affect legal fees. In fact, it is the second-degree amendment that the Senator from South Carolina has offered which would attempt to put constraints on those fees.

Again I express, all I am trying to do is provide information, both before as well as after the entering into of a legal arrangement between clients and their attorneys.

I think the descriptions of such an amendment as being overly bureaucratic and so on is really inconsistent with several facts. First, the fact is that whether it is the distinguished Senator from South Carolina or other Members of this Chamber who are attorneys that I have spoken to on this or heard from about it—and I have heard from several—virtually to a person, they indicate that in one way or another they already perform the function of information and transmission that we are talking about.

The attorneys in my State who have talked to me prior to the offering of this amendment and since have likewise said that in their current arrangements, they provide similar information. But they all acknowledge, at least the ones in my State, that there are people in the practice of law who do not. And the people who are unfortunate victims in these situations are the less knowledgeable, the people who are less familiar with the legal process and what their rights are when they enter into these kinds of arrangements. They frequently are in a disadvantaged position because they are the victim of an injury or a harm and in a disadvantaged position because they are intimidated entering into the legal process itself.

Again, I stress that this is really, in my judgment, a choice between helping consumers or inconveniencing those attorneys who do not follow the various American Bar Association and State bar association guidelines that both the Senator from South Carolina and I have referred to or the practices of most attorneys.

It seems to me that to inconvenience those attorneys who do not feel it is their responsibility to at least inform their clients as to the kind of fee arrangements they are going to enter into and the likely amount of time involved, as well as to inform them after the fact of what the costs are and how much time was involved, to worry about inconveniencing them rather than worrying about protecting those consumers of legal services that are at least the victims I am trying to help with this legislation is to have the balance struck the wrong way.

So, for that reason, I believe the amendment makes sense.

I would also just reference back to the example we used yesterday that was in a letter we sent around regarding the airline matter. It was brought to my attention by an article in the Washington Post. The article was written from the perspective of one of the various people who were part of the class of people that were affected and received these awards. It was not a complimentary position that was taken by that plaintiff. It was a position of somebody who apparently was representative of a lot of other plaintiffs that were not happy. They were unhappy with the outcome. That is often the case. I think it is particularly the case when people have no information as to what the fee structures will be. And for that reason, I think the amendment that I am offering, as I say, will help consumers.

It may prove to be an inconvenience for some attorneys, but those attorneys who will be inconvenienced are the ones who are not following the kinds of practices and recommendations of the bar association as are those of the profession who I think are doing an outstanding job.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan reserves the remainder of his time. He has 10 minutes and 42 seconds remaining.

Who seeks recognition?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, just in the minute or so that I have remaining, I ask unanimous consent to have printed in the RECORD the full text of this Monday edition.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 20, 1995]

IN SETTLING WITH AIRLINES, THERE'S NO FREE RIDE; COUPONS FOR TRAVELERS, $16 MILLION FOR LAWYERS

(By Anthony Faiola)

When a number of the nation's major airlines agreed to settle a price-fixing lawsuit by offering passengers discount coupons on air fares, it looked as if the flying public was getting a plum.

But passengers soon discovered, after the coupons arrived in January, that there would be no free rides because the terms of the settlement limited savings on any one trip.

Meanwhile, the airlines—defendants in the class-action lawsuit that led to the settlement—found themselves with a wonderful marketing tool. Although the coupons had a total face value of $438 million, they could be redeemed only a few dollars at a time.

And the lawyers who represented the members of the class in the suit were the ones to make real money—$16,012,500.

The legal fees and the limited benefits to the flying consumers have led many travel and legal experts, including the federal judge in Atlanta who signed the settlement, to label this a "lawyers' case."

"Defendant and plaintiff attorneys have learned to fall in line with each other" in class-action cases, said Cornish Hitchcock, an attorney with Washington consumer activist group Public Citizen. "A sweet settlement deal for the defendants can be cut, and the plaintiffs can get their huge attorneys' fees, then everyone is happy. Everyone, that is, except for the class," he said. Hitchcock was among those who argued for lower legal fees in the case.

The 4.2 million plaintiffs in the airline case had little choice in who represented them. Thirty-seven law firms nationwide raced to file antitrust suits on behalf of air travelers, then went in search of a class of clients.

Five firms, in particular, came away with the most in fees, court documents showed. They included the offices of the four lawyers who chaired the steering committee representing the plaintiffs and the Atlanta firm that oversaw the administration of the case.

In Washington, the firm Cohen, Milstein, Hausfeld & Toll received $326,912,08. In Philadelphia, considered by legal experts as the power center of class-action firms, Fine, Kaplan and Black received $155,685.75; Cohen, Shapiro, Polisher, Shiekman and Cohen received $261,117.03; and Kohn, Nast, Savett, Klein & Graf received $382,277.14. In Atlanta, the firm Carr, Tabb & Pope received $504,980.16, according to court records.

Attorneys calculated the awards based on an estimate that 2.3 million travelers would request coupons. Instead, almost double that number responded, which led to lower awards for all plaintiffs.

FRUSTRATION FOR TRAVELERS

The coupons cannot be used for flights during certain blackout dates and cannot be pooled for significant discounts. The largest discount on a $240 ticket, for instance, is $10.

Travelers such as Adams Morgan resident Geraldine Triana, one of 4.2 million passengers who gathered years-old flight receipts in the hopes of gaining an award, said the case amounted to frustration and wasted time.

Triana, who flies primarily between Long Island and Washington on fares of less than $200, doubts she'll get much use from her four coupons, each valued at $25. To get a full $25 credit, she has to buy a ticket worth at least $250.

"Where is the justice in that?" she said.

The coupons do offer sufficient incentive that consumers want to use them, making them an effective marketing tool for the airlines. In fact, Alaska Airlines, one of the few large carriers not named in the original case, asked to be a defendant when it learned of the coupon program and was accommodated.

"The airlines using those coupons are going to see substantial additional ticket sales because of them," said Louis Cancelmi, a spokesman for Alaska Air. "We asked to be named in the case because, once we saw the settlement, we realized it was to our competitive disadvantage not to do so."

Spokesmen for the other defendant airlines—American, Continental, Delta, Northwest, TWA, United and USAir—cited the court-approved agreement that provided the coupons and declined to comment further. Under the agreement, the defendant airlines did not admit fault. Eastern and Pan American World Airways, both now defunct as operating entities, also were among the original defendants.

In her Philadelphia office, Dianne Nast, one of four lawyers who served as co-chair of the plaintiffs' committee, said that the 4.2 million plaintiffs "should be satisfied" with what they got. Coupons, she said, "are better than nothing."

"Just because a settlement may benefit a defendant doesn't mean it won't benefit the plaintiff; that's not logical," said Nast, a partner in Philadelphia's Kohn, Nast, Savett, Klein & Graf. She now is working on class-action cases against tobacco and silicon-breast implant manufacturers.

BEST JOB POSSIBLE

Nast said she and her colleagues expended thousands of hours of legal time wrangling against some of the best corporate attorneys in the business. Class-action cases, she said, remain the best way to bring together scores of people commonly wronged, but who could never gain retribution on their own.

"Considering the circumstances, we did the best job possible," Nast said. "I don't feel the fees were too high. In fact, in this case, I would say they were low."

The lawyers had asked for $24 million in fees and expenses. The federal judge in the case lowered that amount to slightly more than $16 million.

The case started in the shadow of Washington Dulles International Airport, where the Airline Tariff Publishing Co. (ATP) has its headquarters.

The company is owned by 30 domestic and international air carriers and was created by the airline industry to distribute fares to travel agencies through one database.

But in 1989, the U.S. Justice Department was alerted by reports in the aviation trade press of suspicions that the database was being used for electronic fare negotiations among its member carriers.

Mark Schechter, deputy director of operations for the department's antitrust division, said an investigation was begun in the summer of 1989. Schechter said the Justice Department believed the airlines were comparing fares through the computer system before they were listed on travel agents' computers.

For example, according to Justice Department interrogatories filed in connection with its case, United Airlines inserted a "proposed" fare into the ATP computer on Dec. 15, 1988, that would increase prices by $15 between Chicago and several cities. Two weeks later American, Braniff, Continental, Delta, Northwest, TWA, USAir and Piedmont, which later merged into USAir, also posted "proposed" increased fares in the computer, matching United's and essentially ratifying its increase. On Jan. 14 all these airlines implemented the suggested $15 increase.

On Dec. 21, 1992, the department filed a civil antitrust suit against most major airlines in U.S. District Court. The Justice Department settled its case with the airlines last March. The airlines agreed to stop using the database to compare fares but did not admit fault.

"This was a major case, probably the most important civil antitrust case brought since AT&T," Schechter said. "It was hotly contested and hotly litigated, there were nine defendants out there and each of them had top legal talent, they were very well represented and ready for a fight."

On June 28, 1990, long before the Justice Department settlement, lawyer Nast read about the department's investigation in the Wall Street Journal. She immediately asked her Philadelphia firm's researchers to begin investigating.

Dozens of other lawyers saw the Journal story too and launched their own investigations. In Washington, Philadelphia, Atlanta, San Francisco and more than a dozen other cities, firms specializing in class-action litigation rushed in.

"I had heard some things, you know, some hints at Washington parties, that this airline case was brewing," said Jerry Cohen, a Washington lawyer who was co-lead counsel on the case. Cohen is a former member of the Senate antitrust and monopoly subcommittee and his firm, Cohen, Milstein, Hausfeld & Toll, played a key legal role in the Exxon Valdez case. The tanker Exxon Valdez ran aground in 1989 in Alaska's Prince William Sound, spilling 10 million gallons of oil.

"But when we saw the Journal article, we assigned a couple of people to look into it, and we prepared a complaint. Before we filed, we talked to several other law firms to find out how they were going to handle it."

By August, 37 firms had filed suits.

The attorneys, Cohen said, used a complicated formula to quantify the airlines' liability, and came up with a total of $3 billion.

"These lawyers don't waste their time on the small stuff," said Laurance Schonbrun, a San Francisco attorney who argued before the court that the plaintiffs' attorneys should be paid in coupons, not cash, because that's what they won for their clients.

When the suits were filed, attorneys listed specific individuals as plaintiffs. These plaintiffs were, in many cases, friends or pre-existing clients of the law firms, said Federal District Judge Marvin Shoob, who presided over the case in Atlanta.

The 42 named plaintiffs took home as much as $5,000 each, for a total of $142,500. They were the only members of the plaintiffs to receive money, court records show.

Judah I. Labovitz, also a co-chair in the case, said the 42 plaintiffs "are more than just names on a piece of paper." His law firm's plaintiff was a longtime friend and client, Labovitz said. "He dug up his travel records and gave a deposition. The entire class benefited from his actions, why shouldn't he get some money?" Labovitz said.

In September 1990 the cases were consolidated in Atlanta and a steering committee was established to coordinate the efforts of the 37 law firms. Some of the largest and best-known firms became the leaders and Nast, Labovitz, Cohen and Philadelphia attorney Allen D. Black became co-chairs.

COUPONS, NOT CASH

Several factors pushed the parties toward a settlement with coupons rather than cash, attorneys for both the airlines and the plaintiffs said.

The airline industry was in financial chaos in the midst of a recession that would see it lose more than $10 billion over three years. If the case were won and cash settlements were huge, it could bankrupt the industry, lawyers for both the plaintiffs and the airlines agreed.

Meanwhile, the plaintiffs' lawyers faced the prospect of proving electronic collusion in front of a jury that might not have the patience for a technical trial potentially lasting three years or more.

"You've got to have a little common sense. All the airlines were in serious trouble at the time," Cohen said. "They literally had no money. Eastern and Pan Am had already gone belly up, and Continental, Northwest and TWA were in serious trouble."

But opponents, primarily consumer activists, cried foul. "It would have been better for the plaintiffs if the lawyers took the case to trial," said Edward M. Selfe, a corporate attorney from Birmingham who filed a motion to stop the settlement on the grounds consumers should receive rebates, not coupons.

However, plaintiffs counsel had invested considerable time and effort in developing the case, with no guarantee they could win and recover even their costs, much less their legal fees.

$16 MILLION IN LEGAL FEES

So the settlement was reached: $438 million worth of coupons to an unknown number of passengers for up to a maximum of 10 percent of the cost of their air fares, and $16 million in legal fees to plaintiffs' counsel.

Each individual plaintiff, however, did not receive even as many coupons as originally expected because there were many more applicants than the settlement presumed, and there was a ceiling on the payout.

The plaintiffs' lawyers had estimated that 2.3 million people would seek coupons, Shoob said. The plaintiffs' attorneys formulated that number based on the advice of experts, and relying on the history of plaintiffs' response in similar cases.

The number of travelers responding came in at 4.2 million. Included were huge corporations, such as International Business Machines Corp. and AT&T Corp., which entered claims of more than $1 billion and ended up getting most of the coupons. However, AT&T and several other companies now say the coupon restrictions make them extremely difficult to redeem.

"Obviously, we were surprised," Nast said. "We believe it was due to all the publicity the case received."

The miscalculation had the effect of making the settlement appear more lucrative then it actually was, Shoob now said. The minimum payback per person worked out to $73 in coupons, with a limit per flight of a 10 percent discount. Earlier projections had put the minimum payback at almost $140 in coupons per person, he said.

"I based my approval on the belief that claimants would get much more back than they actually did," Shoob said. "I believe [the attorneys made] an honest mistake—there was no attempt to purposely mislead the court. But it was a mistake nonetheless."

Nast said: "We looked at the historical response to this type of situation to calculate—but this was an extraordinary case. I feel it's a comment on how good a job we did for the class that so many people responded."

Shoob said, "in this case, even in the event of a cash settlement, chances are, each person in the class would have received an extremely small amount of money in comparison to the return to the lawyers."

"I think [class-action] cases are absurd," he said. "So many are generated by lawyers not to benefit the class, but to generate legal fees. The lawyers are just doing their job under the law. The flaw is with the law that allows it."

Mr. HOLLINGS. The amount of money in that case referred to by the distinguished Senator in the justification for his amendment, the airlines case, with the total verdict of $438 million, that is where the lawyers got $16 million. There were 4.2 million plaintiffs. They had law firms racing all over; 37 law firms were racing around. They have all the law firms listed.

But rather than a third or 20 percent or 10 percent or 5 percent or 1 percent, it is less than 1 percent that the lawyers got.

Now, you have all of those clients in there. I knew that this particular fee, even though it sounded outrageous in the news story, was based in reason by the court. The court would not approve giving the clients $25 and giving the lawyers $16 million. That is the garish nonsense that you find going on as justification for product liability reform.

On that basis, if Senators want to vote on that basis not only for the amendment of the distinguished Senators from Michigan and Kentucky, but on product liability, let them do that. But that is how extreme they have gotten.

Now, here is the case. I hope everybody will read about the 37 law firms and the 4.2 million plaintiffs and the $438 million obtained, to be divided up. And the lawyers, all those 37 law firms, got $16 million. I rest my case, Mr. President.

I hope you do not table our amendment. If we can get a good vote on this amendment, it will bring attention to the really fanciful nature of this entire exercise on product liability.

We have welfare reform, we have the budget, we have telecommunications, we have terrorism, we have a crime bill to come up, we have more work to do that is good work of national significance, rather than manufacturing amendments through halfway stories in the Washington Post.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back the remainder of his time. There are 10 minutes 42 seconds remaining to the Senator from Michigan.

Who seeks recognition?

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Thank you, Mr. President. I just will make several comments.

One, in the case the Senator from South Carolina and I have been discussing, I just will point out, again, this is a quote from the media, the judge in that case actually later said that he regretted having approved of the fees that were involved for the reasons that he believed they were inappropriate.

Again, my point is not to talk about excessive fees or fees that are inadequate. I have not yet encountered any attorney who says they did not earn the fees that they charged, and since they feel that way, my guess is they should not object to the requirements of this amendment, which would simply ask that prior to and following the conclusion of matters, accountings be made and the fees, as well as the hours involved, be tabulated.

I would also stress though, as I did earlier, the amendment provides a waiver provision so that those attorneys who feel this is too burdensome and cumbersome can at least seek to have their clients waive this right to have both prior- as well as post-litigation or settlement accounting occur.

But basically, again, Mr. President, I think that the thrust, at least of my underlying amendment, is one of disclosure, it is one of providing consumers with the right to know the kind of legal arrangements that they are getting into, and the right to know what has transpired and how the fees that they are paying will be structured.

I believe it is pro-consumer. I believe the only people who might find this inconveniencing are those attorneys who are not following the common practice that is outlined by so many legal organizations of calling upon attorneys to provide that sort of information.

Mr. President, at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 598 TO AMENDMENT NO. 597

Mr. GORTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business before the body is now the amendment by the Senator from South Carolina.

Mr. GORTON. Has all time for debate expired?

The PRESIDING OFFICER. All time has expired for the debate.

Mr. GORTON. Mr. President, I move to table the Hollings amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 598

The PRESIDING OFFICER. The question is on the motion to lay on the table amendment No. 598, by the Senator from South Carolina.

All those in favor of the tabling motion will vote aye, those opposed will vote no.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. EXON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—94

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Dorgan
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—3

Daschle
Hollings
Inouye

NOT VOTING—3

Bond
Exon
Hatfield

So the motion to lay on the table the amendment (No. 598) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I am generally a supporter of disclosure requirements, but I will vote to table the Abraham amendment for two reasons.

First I believe that the States are more familiar with the issues raised by this amendment and that it is inappropriate for us to take over this area of the law in a floor amendment which has not even been considered in committee.

Second, the amendment would impose a cumbersome new regulation on attorneys—not just in product liability cases, but in all cases in Federal court. Attorneys would have to send not one, but two notices of fees to each client in a case. That may sound simple, but the chief case that has been cited as the basis for this amendment was a class action brought on behalf of some 4.2 million individuals. That means, presumably, that 8.4 million separate notices would have to be mailed out in that case alone.

Moreover, the amendment would require attorneys to calculate hourly fee rates even in cases where the client is being charged on a basis other than hourly rates—such as a contingent fee or a flat fee. That means that every attorney would have to keep records of every hour spent on every case, even in cases where those hours are not the basis for the attorney's fees, and the actual basis for those fees is fully disclosed to the client. That is a huge new paperwork requirement, the cost of which would inevitably be borne not by lawyers, but by their clients.

I believe that we should avoid these cumbersome new requirements and leave requirements for disclosing attorneys' fees in the hands of the State governments unless and until a clear need is shown for the Federal Government to take over.

I also intend to vote to table the Brown amendment to revise rule 11 of the Federal Rules of Civil Procedure. The Rules Enabling Act delegates to the Supreme Court the power to prescribe rules of procedure for the Federal district courts. The courts have far greater expertise in rules of judicial procedure than does the Congress. Accordingly, I do not believe that we should step in and overturn the courts' decision without hearings and without a clear showing of need.

VOTE ON MOTION TO TABLE AMENDMENT NO. 597, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the question now occurs on amendment 597, as modified, offered by the Senator from Michigan.

Mr. ROCKEFELLER. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia [Mr. ROCKEFELLER] to table the amendment of the Senator from Michigan [Mr. ABRAHAM]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. EXON] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAMS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—45

Akaka
Biden
Bingaman
Breaux
Bryan
Bumpers
Byrd
Cochran
Cohen
D'Amato
Daschle
Dodd
Ford
Gorton
Graham
Gramm
Harkin
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Leahy
Levin
Lieberman
Mack
Moseley-Braun
Moynihan
Murray
Nickles
Nunn
Pell
Pryor
Reid
Rockefeller
Roth
Sarbanes
Shelby
Simon
Specter
Thompson

NAYS—52

Abraham
Ashcroft
Baucus
Bennett
Boxer
Bradley
Brown
Burns
Campbell
Chafee
Coats
Conrad
Coverdell
Craig
DeWine
Dole
Domenici
Dorgan
Faircloth
Feingold
Feinstein
Frist
Glenn
Grams
Grassley
Gregg
Hatch
Helms
Inhofe
Kassebaum
Kempthorne
Kohl
Kyl
Lautenberg
Lott
Lugar
McCain
McConnell
Mikulski
Murkowski
Packwood
Pressler
Robb
Santorum
Simpson
Smith
Snowe
Stevens
Thomas
Thurmond
Warner
Wellstone

NOT VOTING—3

Bond
Exon
Hatfield

So the motion to lay on the table the amendment (No. 597) was rejected.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the Abraham amendment.

So the amendment (No. 597) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. ABRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 599 TO AMENDMENT NO. 596

Mr. GORTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment numbered 599.

Mr. BROWN. Mr. President, I believe the next item for consideration is amendment numbered 599, which is an amendment that I proposed which would restore the deterrence against bringing frivolous actions and frivolous lawsuits.

Mr. President, it is my personal feeling, and I believe the feeling of the distinguished senior Senator from Alabama, that this debate could be concluded fairly quickly, perhaps as short as 20 minutes on each side; and then it would appear that it is the will of Senators to move to a vote at that point.

Mr. President, rule 11 is a very important part of civil procedure. Rule 11 changed in 1983 to provided strong admonishment against attorneys bringing frivolous actions.

It was changed again in December of 1993. It was changed, unfortunately, not through a vote or deliberation of this body, but by our failure to act.

Tragically, that automatic change in the Federal Rules of Civil Procedure resulted in the gutting of the protection against frivolous actions embodied in rule 11. The new rule 11 now allows someone to allege facts, bring facts before the court without knowing that they were true or without having fully investigated the facts.

This amendment restores parts of the old rule 11 that more effectively deter frivolous action. I will be dealing with rule 11 in detail in a few minutes. I wanted simply to alert Senators that we will be moving to a vote on this, I believe, within 40 minutes or so. This vote is about discouraging frivolous action and frivolous lawsuits.

Our hope is that this amendment will play an important part in this bill, because stopping inappropriate actions and frivolous lawsuits is very much an essential ingredient, I believe, in reform of the judicial process. I yield the floor.

Mr. HEFLIN. Mr. President, I rise in opposition to the Brown amendment.

Let me first explain a little bit about the procedure, what happens regarding the Federal Rules of Civil Procedure, which include rule 11.

There has been controversy over the history of this country as to how courts ought to take care of its rule making authority. The prevailing view is that the judiciary—and this includes the States—has inherent power to determine its own rules.

However, Congress felt it had a role, and so it adopted the Rules Enabling Act by which rules of procedure would be changed by first having a committee appointed by the Judicial Conference of the United States, to study any proposed change or changes.

After the committee made its report to the Judicial Conference, which is a body composed of judges from all levels of the judiciary, the Judicial Conference would study any proposals and then make recommendations to the Supreme Court of the United States. Then the Supreme Court of the United States would consider the issue and make recommendations to Congress. Under the Rules Enabling Act, Congress has 6 months to either adopt the recommendations, to modify them, or to delete them.

This particular rule 11 that came up was submitted to the Congress and the 6-month time period expired prior to Congress taking any action, and so all of the proposed Rules of Civil Procedure, including rule 11, went into effect on December 1, 1993. We knew toward the end of the Congress in 1993 that if any changes had to be made, they had to be made before December 1, 1993.

If a Senator was interested in making a change to a rule, he or she could introduce a bill, but no bill was introduced proposing to change rule 11.

During that 6-month period in 1993 in the House or in the Senate, if there were reasons for change, a bill could have been introduced in the House or the Senate.

In all fairness to Senator BROWN, he said that he did not like rule 11, but he never took the steps to modify the proposed changes, and now he is now belatedly taking steps on this particular bill, which is unrelated and not germane to the pending legislation.

My colleague from Colorado raises issues about frivolous lawsuits and let me say that this has been considered by many concerned groups of people. The Brown amendment is completely opposed by the civil rights community. The Brown amendment is opposed by the Department of Justice. Six members of the Supreme Court approved rule 11 that is now in effect. Senator BROWN quoted from Justice Scalia's dissent. There are always going to be dissents over at the Supreme Court, but if you have a 6 to 3 vote in the Supreme Court of the United States, that is a pretty good vote.

As I have listened to the criticisms of the new rule 11 from Senator BROWN and others, I do not agree with them. I have before me a memorandum from the Administrative Office of the U.S. Courts which says:

> I am writing to address criticism raised during the markup of H.R. 2814 that the amendments to Rule 11 of the Federal Rules of Civil Procedure will eviscerate the rule's effect on parties filing frivolous proceedings and papers.
>
> The amendments to Rule 11 retain the rule's core principle to "stop and think" before filing: By broadening the scope of Rule 11 coverage and tightening its application, the amendments reinforce the rule's deterrent effect and also eliminate abuses that have arisen in the interpretation of the rule. Although the amendments strike a balance between competing interests, the changes strengthening the rule have been neglected by those critical of the amendments and need to be highlighted.
>
> First, the amendments expand the reach of the rule by imposing a continuing obligation on a party to stop advocating a position once it becomes aware that that position is no longer tenable.

What they would like to go back to under the old rule, as I interpret it, would be to allow "a party to continue advocating a frivolous position with impunity so long as it can claim ignorance at the time the pleading was signed, which could have been months or years ago."

> Second, the amendments specifically extend liability to a law firm rather than limiting the liability to the junior associate who actually signs the filing.
>
> Third, the amendments specifically extend the reach of Rule 11 sanctions to individual claims, defenses, and positions, rather than solely to a case in which the "pleading-as-a-whole" is frivolous. Some court decisions have construed the rule to apply only to the whole pleading, relieving a party of the responsibility for maintaining a single or several individual frivolous positions.

So rule 11 that went into effect on December 1, 1993 was designed to strengthen this matter.

> Fourth, the amendments equalize the obligation between the parties by imposing a continuing obligation on the defendant to stop insisting on a denial contained in the initial answer. Frequently, answers are general denials based on a lack of information at the time of the reply. The amendments impose a significant responsibility on the defendant to act accordingly after relevant information is later obtained.

> It is also important to highlight the provisions of the rule that the amendments retain. A party must continue to undertake "an inquiry reasonable under the circumstances" before filing under the amendment. In those cases where a party believes that a fact is true or false but needs additional discovery to confirm it, the amendments allow filing but only if such "fact" is specifically identified. The provision does not relieve a party of its initial duty to undertake a reasonable prefiling investigation. In cases of abuse, the court retains the power to sanction sua sponte and the aggrieved party can seek other remedies, e.g., lawsuit for malicious prosecution.
>
> The existing rule does not require a court to impose a monetary sanction payable to the other party. Instead, the rule does provide a court with the discretion to impose an appropriate sanction, including an order requiring monetary payments to the opposing party and to the court.

Now, as to the hearings that we had in the Judiciary Committee, the old rule 11—that is one that was in effect before December 1 of 1993—had language that said that signature to a pleading demonstrated that the pleading "is well grounded in fact."

Senator BROWN at the subcommittee hearings on July 28, 1993, grilled the chairman of the Rules Advisory Committee that had proposed to the Judicial Conference this aspect of the rule change.

Senator BROWN claimed that under the new rule 11, a party "no longer has to research a claim and know that it is true." He feels that a party "no longer has to know his facts" before bringing a lawsuit.

Well, what Senator BROWN ignores from the testimony and the response the chairman of the committee, Judge Sam Pointer, gave is that the new rule 11 "still calls for and demands that attorneys have made a reasonable investigation under the circumstances."

As Judge Pointer demonstrated, oftentimes a party does not get all the facts until the discovery is finished, and the new rule does, indeed, require high standards and is not an egregious loosening of standards.

The point is that under this new rule 11, "if a plaintiff is going to make an allegation that he does not have hard support for, the plaintiff should say, I do this on information and belief, and be under a responsibility to withdraw that or not continue to assert it, if after reasonable opportunity for discovery, it turns out there is no basis for it."

Now, the new rule 11 has changes from the old rule in that if a violation regarding a pleading is found, then the court may impose sanctions.

Under the old rule, the language was that a court must impose a sanction if it found a violation of the rule.

As Judge Pointer demonstrated in his testimony, a court needs the flexibility or discretion to impose sanctions because a complaint, or for that fact an answer or motion to dismiss may contain a technical violation, but the rest of that pleading could be perfectly acceptable. Why, then, should a court be required to impose a sanction? Such discretion would not, in my judgment, giveaway to mass, irresponsible pleading.

Obviously, those who are purporting to change rule 11 raise the possibility that a party could intentionally bring a frivolous action and, upon a finding of such by the court, might escape a penalty. The response to that concern is that well, yes, there could be no penalty, but in that type of egregious intentionally frivolous pleading a court will most likely impose a sanction.

Under the new rule—

> [I]f warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion.

Also, a court on its own initiative may begin a show-cause proceeding as to whether a party has violated the rule. This should take care of concerns by Senator BROWN that plaintiffs could irresponsibly plead, claim, et cetera. The court has its own power to initiate an inquiry as to whether rule 11 has been violated.

As the Senate can clearly see, this is a highly technical matter that we are being called upon to consider, and it is attempting to be amended onto an unrelated bill without the Members of this body having an adequate opportunity to study the issues. For us here in Congress to have to consider this amendment on an unrelated bill seems to me to be an irresponsible way of legislating.

So it is my opinion that we ought not to be involved in this at this time. The Judiciary Committee had hearings, and there was ample opportunity for action to be taken. But no action was brought forth through the form of a bill being introduced to make any changes to rule 11.

There are always efforts to look at matters and matters can always be considered by this body. But the Judicial Conference is designed and is much better equipped than this body to make the decisions pertaining to that matter.

It seems to me that it is just improper and an inappropriate time to bring this matter up at such a late stage as this. If there had been a real sincere effort, it could have been done within the 6-month time period allowed pursuant to the Rules Enabling Act. It seems to me that we ought not to be dealing with this amendment at this time on this unrelated bill.

It may be that a bill could be introduced later, if they wanted to, and at other times go through the process.

But I feel that the new rule is a flexible rule and has provisions that strengthen—not weaken—the efforts to prevent frivolous lawsuits. The new rule is expected to reduce the number of inappropriate motions requesting sanctions, thereby allowing courts to focus more attention on legitimate sanction requests.

Mr. President, let me read from Rule 11 as it now exists. This is about representations in a pleading.

> By presenting to the court, whether by signing, filing, or submitting, or later advocating a pleading, a written motion, or other paper, the attorney or unrepresented party is certifying to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that it is not being presented for any improper purpose, such as to harass, or to cause unnecessary delay, or needless increase in the cost of litigation. The claim, the defenses, and other legal contentions therein are warranted by existing law, or by nonfrivolous argument for the extension, modification, or reversal of existing law, or the establishment of the new law. The allegation and other factual contentions have evidentiary support, and if specifically so identified are likely to have evidentiary support of a reasonable opportunity for further investigation or discovery. The denials of fact show contentions are warranted to the evidence, and, if specifically so identified, are reasonably based on a lack of information or belief.

This is strong language. I want to point out basically what the difference is. The current rule 11 allows a judge some discretion rather than making sanctions mandatory.

That is the guts of the rule, whether or not a judge ought to have some discretion pertaining to a matter or whether, on the other hand, it ought to be absolutely mandatory.

This is being opposed by the civil rights community and by a number of others.

I ask unanimous consent that a letter that was addressed to the Honorable George J. Mitchell, from the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, Judge Alicemarie H. Stotler, be printed in the RECORD.

I ask unanimous consent that a letter from the Alliance for Justice relative to this issue also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> COMMITTEE ON RULES OF PRACTICE
> AND PROCEDURE OF THE JUDICIAL
> CONFERENCE OF THE UNITED
> STATES,
> *Washington, DC, March 15, 1994.*
>
> Hon. GEORGE J. MITCHELL,
> *Majority Leader, U.S. Senate,*
> *Washington, DC.*
>
> DEAR SENATOR MITCHELL: I am requesting your assistance in opposing Senator Brown's amendment (No. 1496) to S. 4, the "National Competitiveness Act of 1993." Senator Brown's amendment would change certain parts of the amendments to Rule 11 of the Federal Rules of Civil Procedure, which became effective on December 1, 1993. The Rule 11 amendments were submitted to Congress in May 1993 only after extensive scrutiny by the bench, bar, and public in accordance with the Rules Enabling Act.

Serious consideration of amendments to Rule 11 began about four years ago. The rule had been the subject to thousands of decisions and widespread criticism since it was substantially amended in 1983. In an unusual step, the Advisory Committee on Civil Rules issued a preliminary call for general comments on the operation and effort of the rule. It also requested the Federal Judicial Center to conduct two extensive surveys on Rule 11.

After reviewing the comments and studies, the committee concluded that the widespread criticisms of the 1983 version of the Rule, though frequently exaggerated or premised on faulty assumptions, were not without merit. There was support for the following propositions:

Rule 11, in conjunction with other rules, has tended to impact plaintiffs more than defendants;

It occasionally has created problems for a party which seeks to assert novel legal contentions or which needs discovery to determine if the party's belief about the facts can be supported with evidence;

It has too rarely been enforced through nonmonetary sanctions, with cost-shifting being the normative practice;

It provides little incentive, and perhaps a disincentive, for a party to abandon positions after determining they are no longer supportable in law, or in fact; and

It sometimes has produced unfortunate conflicts between attorney and client, and exacerbated contentious behavior between counsel.

The draft amendments broadened the scope of the obligation to "stop-and-think" before filing or maintaining a position in court, but placed greater constraints on the imposition of sanctions. The amendments were later revised by the advisory committee and the Standing Committee on Rules and approved by the Judicial Conference of the United States and then adopted by the Supreme Court, with two justices dissenting.

The amendments strike a fair and equitable balance between competing interests, remedy the major problems with the 1983-version of the rule, and should reduce both the extent of court-involvement with Rule 11 motions and the time spent on frivolous claims, defenses, and other contentions.

The amendments represent the end product of a rigorous public rulemaking process that worked as contemplated by Congress under the Rules Enabling Act. The issues were fully aired in a public forum. Interested individuals and organizations were provided, and responded to, opportunities to comment on the changes. The language of the amendment was meticulously drafted only after the Judicial Conference committees, which consist of prominent lawyers, law professors, and judges, had the benefit of this public examination.

Senator Brown's amendment to Rule 11 would undercut the Rules Enabling Act process frustrating not only the intent of the Act but also the participants in the rulemaking process, including the public and many advocates of Rule 11 change. Your leadership in maintaining the integrity of the Rules Enabling Act would be greatly appreciated.

Sincerely yours,

ALICEMARIE H. STOTLER.

ALLIANCE FOR JUSTICE,
April 26, 1995.

U.S. Senate,
Washington, DC.

DEAR SENATOR: The undersigned organizations urge you to oppose the changes to Federal Rules of Civil Procedure 11 that have been offered as an amendment to the Products Liability Fairness Act. This amendment poses a grave threat to civil rights and public interest litigation.

The proposed changes would roll back advances in Rule 11 that were recently enacted following careful and thoughtful discussion involving all concerned parties across the political spectrum. We know from experience that returning to the old Rule 11 will be particularly devastating to underrepresented Americans.

Under the old rule, threats of sanctions quickly became the standard ammunition in the arsenal of defense counsel. The result was an avalanche of satellite sanctions litigation that occupied a great deal of judicial resources and was often as frivolous as the litigation Rule 11 was designed to eliminate.

The old rule had a particularly harsh effect on civil rights and public interest organizations and their clients. As the Judicial Conference's Advisory Committee on Civil Rules found:

(1) Rule 11 . . . has tended to impact plaintiffs more frequently and severely than defendants; (2) it occasionally has created problems for a party which seeks to assert novel legal contentions or which needs discovery from other persons to determine if the party's belief about the facts can be supported by the evidence; [and] (3) it has too rarely been enforced through nonmonetary sanctions.

Noting these concerns, the Judicial Conference offered amendments that made sanctions permissive; created a 21-day "safe harbor" period; and made clear that the purpose of sanctions was to deter frivolous claims. These amendments garnered broad support among judges, bar associations, legal scholars, litigators and the Department of Justice, and were ultimately adopted by Congress.

The safe harbor provision was a particularly significant and welcome change. Once a party raised a Rule 11 objection to a pleading, the opposing party has 21 days to consider the objection and, if warranted, withdraw the challenged claims—drawing the courts into further litigation.

The Rule 11 amendment threatens to roll back these achievements and resurrect the very problems that prompted the Judicial Conference, the Supreme Court and many others to take action. The amendment would have an especially heavy impact on plaintiffs, placing the cost of litigation beyond the reach of ordinary Americans, particularly public interest and civil rights litigants. It compromises the very notions upon which our legal system is based—fairness and equity.

We urge you to reject any amendments to Rule 11.

Respectfully,

NAN ARON,
Alliance for Justice.

LOU BOGRAD,
American Civil Liberties Union.

LESLIE HARRIS,
People for the American Way Action Fund.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I want to commend the distinguished Senator from Alabama for his thoughtful comments. He is a delight to work with even when we do not always see eye to eye. This is an area where we do not see eye to eye.

I wanted to comment briefly on his remarks. First of all, there was the implication that these suggested changes have only been considered for a short period of time and we have not had a real opportunity to look at what effect they would have on the rules. That would not be my assessment of them. Let me explain why.

The rule changed originally in 1983 from having permissive sanctions for a violation of the rule to having mandatory sanctions for a violation of the rule. That is, when someone has brought a frivolous action prior to 1983, the rule was as it is now: that is, you did not have to have mandatory sanctions.

So the fact that this has not been tried before really does not square with our experience. The fact is we did try this permissive approach to sanctions prior to 1983. I think one could reasonably ask what were the results of that experiment when the sanctions were not required? There was a study done of that, and it studied the reaction of practitioners and judges in changing from permissive to mandatory sanctions.

Here are the results of that study.

I might mention that this study was conducted of both lawyers and judges in the northern district of California, which is part of the ninth circuit. The questionnaire was sent to 17 judges, 7 magistrates, and 107 attorneys, all of whom had been involved in rule 11 proceedings, so these were not inexperienced people. They were people who had understood the process and worked with it.

Sixty-eight lawyers, 46 percent of them, responded; 12 judges and magistrates, 50 percent, responded to the survey, so there was a good response. Here is the response: 46 percent of the respondents indicated that they had engaged in additional prefiling factual inquiry when the sanctions were mandatory. That is, when sanctions were mandatory, it resulted in the attorneys doing additional prefiling factual inquiry.

Now, if you favored more factual inquiry before filings are made, you are going to want mandatory sanctions because that is what mandatory sanctions resulted in. If you do not care about the additional prefiling inquiry, if that is not one of your objectives, then you will not want the mandatory sanctions and you will want the rules as they currently stand.

The survey also indicated that 33 percent indicated additional prefiling legal inquiry when the rule in effect employed mandatory sanctions. That is, before they filed, they did additional work to make sure they were right on the law before they filed.

Is that not what we want? Is that not what we should be hoping for, that people take the time to find out what the facts are and find out what the law is before they bring the lawsuit?

The survey indicated clearly that having sanctions required resulted in additional legal work and additional factual work before lawsuits were brought. That is the essence of mandatory sanctions and mandatory sanctions are the essence of this amendment.

So the suggestion that this is some wild idea that has never been tried does not square with the pre-1983 and post-1983 experience. The fact is we had permissive sanctions prior to 1983, and it resulted, at least according to the survey, in less legal research before you filed and less factual research before you filed.

Mr. President, it was alleged earlier that the issue of rule 11 could have been brought up earlier, but it was not, somehow implying that the people who are concerned about the gutting of rule 11 had been dilatory.

Mr. President, let me be very clear about that. I did introduce a bill, but that bill was not brought up for a vote.

What happened is that the Supreme Court transmitted to us the rule changes and made very clear in that transmittal that they were not necessarily endorsing them—let me read it because that is a serious comment, a serious charge. The letter from the Chief Justice of the Supreme Court, William Rehnquist reads:

> Transmittal does not necessarily indicate that the Court itself would have proposed these amendments in the form submitted.

It cannot be more clear than that.

The reality is that this was not voted on before, and the reason it was not voted on before was because we could not get it put on the agenda and we could not get a recorded vote. But a bill was introduced, and I did do all I knew how to have the issue come before the Senate. That is why it has to be brought up here.

Now, when you do not allow a vote on a bill, to say somehow the proponents of that position have been dilatory I think raises real questions. What actually happened here is that these changes became law because we did not have a vote. And the Supreme Court's own documents say that their transmittal of it does not necessarily mean they agree.

Now, Mr. President, for those who have read the report, Justice White also commented on this, and he made a very important point. He made a point that the practice of the Court has generally been—except for two Justices, the practice of the Court has generally been not to interfere with this process, to simply transfer proposed changes on, because they have some questions as to whether or not it is a proper role for the Court to draft these changes.

Justices felt so strongly about this that three of them did dissent, which is highly unusual in this matter, and let me read to the Senate from that dissent. This is a dissent by Justices Souter, Thomas, and Scalia. All three of them dissented. Remember, Justice Rehnquist indicated it was not necessarily endorsement; they passed it on, and remember Justice White's comments as well. But here is a quote from the dissent.

> In my view, the sanctions proposed will eliminate a significant and necessary deterrent to frivolous litigation.

That is a direct quote out of the Justice's comments.

The dissent goes on:

> Under the revised rule, parties will be able to file thoughtless, reckless, and harassing pleadings secure in the knowledge that they have nothing to lose.

Mr. President, that is it in a nutshell. If we fail to address this question, it is very clear what the new rules do. Let me read what he said.

> Under the revised rule, parties will be able to file thoughtless, reckless, and harassing pleadings secure in the knowledge that they have nothing to lose.

Now, Members of this body are going to have a chance to go on record to see whether or not they favor allowing the filing of "thoughtless, reckless, and harassing pleadings secure in the knowledge that they have nothing to lose."

Lastly, Mr. President, it was suggested on this floor that there are people who would object to my motion.

Let me assure this body I have personally sought out the groups that were discussed. I have called them repeatedly. I have asked for meetings. I have asked for their suggestions. They have not been willing to respond or meet with us. And this happened not just once but on many occasions.

If Members have questions about this amendment, I hope it is not on the basis that this Senator was not willing to go out and ask for advice, was not willing to contact the parties that might have concern, and was not willing to try and work with them, because I did. I did ask for their advice. I did offer to work with them. And as a matter of fact, the measure that is before the Senate is not a full restoration of the old rulings but willingly adopts a number of the measures that were proposed.

Mr. President, I could not come to this body and acquiesce, as the dissent says, in revised rules that will enable parties "to file thoughtless, reckless, and harassing pleadings" or acquiesce in allowing them to do so "secure in the knowledge that they have nothing to lose." That would be wrong. And these new rules are wrong.

Now, it has been suggested that this amendment will eliminate a judge's discretion with regard to sanctions. The facts are these. The old rules and the amendment that I offer this body does restore the requirement that you have sanctions when someone is guilty. This is not a game where you blow the whistle and say start over. When you are wrong and your actions impede the process in the court, I think sanctions are important. But to suggest that we eliminate judge's discretion is not accurate. The judge retains discretion under the rules to decide what type of sanction is appropriate as well as how substantial the sanction is.

Mr. President, I say that because I think it is important to take care of the questions that were raised.

I simply want to ask the body three questions that I think come full circle on this issue of frivolous lawsuits and capture the essence of it.

Should filings be grounded in facts or not? If the Members of this body feel filings in Federal court should be founded in facts, they should vote for this amendment. If they do not think it is necessary that the filing should be founded in facts, they will want to vote "no."

Two, should sanctions be required if you file frivolous actions? I believe if you file frivolous actions and they are found to be frivolous actions that sanctions should be required. But if you do not think there should be sanctions if you file frivolous actions, then you will want to vote "no."

Mr. President, finally, should an injured party be compensated for the costs or not? That is, let us say someone files a frivolous action, a party is injured because they have to respond and they have to pay for attorneys' fees and expenses. The question before us is, should the injured party be compensated for costs or not?

I think they should be. But if you do not think they should be, or if you think that priorities should be given to having the sanction go to the court and not to the injured party, which is what the new rules give priority to—the new rules give priorities to having the sanction, if there is any, go to the court instead of the injured party. If you think the injured party should not be compensated or that should be the low priority, then you are going to want to vote "no."

Mr. President, the summation of the concern of the Justice who dissented in the transmittal closes with this quote.

> It takes no expert to know that a measure which eliminates rather than strengthens a deterrent to frivolous litigation is not what the times demand.

Mr. President, it cannot be said better than that. If Members of this Senate think that our times demand that you ought to eliminate sanctions for frivolous action, then vote no. But I agree with the Justice when he says:

> It takes no expert to know that a measure which eliminates rather than strengthens a deterrent to frivolous litigation is not what the times demand.

Mr. President, it is wrong to bring frivolous actions. It is wrong to file and not know the facts. It is wrong and I believe personally it is unethical for an attorney to bring frivolous actions before our courts. That is what the question is in this amendment. Do we favor frivolous filings or do we think there ought to be some sanctions for them?

I yield the floor, Mr. President.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much.

Mr. President, the Senate is currently engaged in what is, in my opinion, a constructive debate on the subject of product liability. The pending amendment, unfortunately, is destructive. It is destructive, certainly, of the relationship between the Congress and the courts, a relationship established pursuant to the Rules Enabling Act, that has worked and is working. And it is destructive of efforts to craft a product liability bill under the guidance of the Commerce Committee.

Mr. President, the fact is that the Brown amendment is, as you can no doubt tell from the "legalistic" nature of the debate, a Judiciary Committee issue. To the extent that this issue should be taken up and debated, it should be done under the auspices of the Judiciary Committee.

I know the distinguished Senator from Colorado feels strongly about this. But the question is whether or not it belongs as part of our effort to address the issue of product liability reform. I want to strongly express my opinion that it does not. This amendment does not belong on a Commerce Committee bill.

In the first instance, Mr. President, the whole argument that we should make rule 11 sanctions for the filing of frivolous pleadings mandatory—and overturn what was established pursuant to the Rules Enabling Act, and what has been accepted by the legal community—presumes that there is a single definition of what is frivolous.

I submit to my colleagues that there is no single definition of what is frivolous. Indeed, in many instances, what one person may consider to be frivolous another might not.

I would remind my colleagues that there have been instances in our history, instances that we look back with some pride at this point, which, at first blush, might have been considered frivolous claims. Under a mandatory sanctions regime similar to the one being proposed by the pending amendment, those cases may not have ever been brought, due to the chilling effect of mandatory sanctions. These novel, but legitimate, cases may never be given an opportunity to be heard if this type of amendment were to be passed willy-nilly, without the reasoned consideration that I believe it ought to have.

I remind my colleagues that it is often necessary to come up with novel theories in cases in the areas of civil rights and discrimination cases. Rule 11, as amended, reduces this incentive to filing novel pleadings. If you think back in the history for a little bit, I think this issue becomes clear. When Thurgood Marshall filed the Brown versus Board of Education case, to challenge the notion of "separate but equal," the plaintiffs relied a great deal on psychological arguments—the so-called Brandeis brief. The plaintiffs in Brown relied on psychological and sociological evidence that proved the devastating impact our separate educational systems were having on the educational and human development of minority youths. Who is to say that at first impression someone might have said, "Well, this is a silly argument. This is a silly idea." Who is to say that Thurgood Marshall might not have been intimidated from ever bringing the Brown case under a mandatory sanctions regime.

But because there was not the prospect of mandatory sanctions, because Linda Brown could file her novel claim without the threat of satellite litigation over whether the claim was frivolous, the doctrine of separate but equal was struck down. I could cite several examples of that sort of thing happening.

And so I believe that it makes sense for Congress to allow the court discretion in sanctioning parties for the filing of frivolous pleadings.

Mr. President, Congress has established a procedure to amend the Federal Rules of Civil Procedure, and that procedure is called the Rules Enabling Act.

Under the Rules Enabling Act, the Judicial Conference appoints a committee to consider proposed changes to the Federal rules. The committee recommends any necessary changes to the Judicial Conference, which then studies the issue and then decides whether or not to transmit those proposed changes to the Supreme Court.

The Supreme Court then decides whether or not to transmit those changes to Congress, to us, and then we then have 180 days either to reject or modify those changes. If Congress does nothing, then the changes go into effect.

Mr. President, the changes to rule 11 that Senator BROWN opposes were adopted by the Supreme Court on April 22, 1993. Congress had until December 1, 1993, to reject or modify the rule 11 changes. The Senate Judiciary Committee, on which I served with Senator BROWN, held a hearing on this issue on July 28, 1993. Yet in that time Congress took no action to reject the rule 11 provisions. I believe that Congress should take no action now.

There is no evidence to indicate that the revised rule 11, which will be thrown out by this amendment, has had an adverse impact on Federal litigation. Preliminary indications are that it has produced cost savings by decreasing the amount of "satellite litigation"—litigation on the side—as to what is frivolous, and by encouraging parties to withdraw frivolous pleadings within the 21-day safe harbor.

It is not as though the 1993 amendments to rule 11 completely repeals the rule. The amendments gave attorneys the 21-day safe harbor in which to withdraw challenged pleadings and made sanctions discretionary in the judges, not mandatory.

In addition, sanctions would normally be paid to the court in the form of a fine, rather than to opposing counsel in the form of compensation.

Mr. President, these changes have been strongly supported by the civil rights community. As I stated earlier, it is often necessary to come up with novel theories in order to pursue civil rights cases. This proposed change, I think, would have an extremely detrimental effect.

In fact, I have a correspondence here from the NAACP Legal Defense Fund in which they state that, "The Brown amendment would be extremely detrimental to civil rights litigation."

But, again, to get back to what the studies say, the studies back up the claim that the rule, as amended, is working.

A Federal Judiciary Center study demonstrated that, under the mandatory sanctions regime, sanctions were imposed in a disproportionately higher percentage of civil rights cases than in tort or contract cases. Inherent in this problem, of course, is the vagueness of the term "frivolous."

In the same study, a group of judges asked to study a complaint divided evenly over whether or not the complaint was frivolous, prompting one commentator to observe that "one man's frivolous complaint is another man's serious question."

And so, Mr. President, I would argue this afternoon that while the Senator from Colorado has obviously a concern in this area, this is the wrong forum and the wrong time. He spoke about the timeliness of the issue. This is the wrong time to take this issue up, and certainly this is the wrong bill on which this issue should be taken up.

If, indeed, further changes, further debate about whether or not judges should have discretion with regard to rule 11 issues, if that debate is to happen, then it should happen in the context in which we can make a judgment about it that is a sensible judgment and not just a rush to judgment.

I submit to my colleagues that the effect of this amendment would not only be to limit the kind of cases that can be filed but also to limit the court's discretion, because in this instance, with this amendment in place, all that a judge could do would be to choose an either/or—either the case is frivolous and thrown out altogether, or he has to apply mandatory sanctions.

That is not the direction in which to go. That is going to increase the cost of litigation. That is not going to help the process to work, and certainly I come back to my original point, that will then create a further imbalance and a further disruption in a relationship that has been established giving the courts a process for deciding on amendments to the Rules of Civil Procedure. That relationship will have been greatly impaired by this kind of rush to judgment.

So I reluctantly, again—understanding that I serve on the Judiciary Committee with the Senator from Colorado—submit to my colleagues, at this point in time, on this legislation, this amendment is ill founded, and I ask my colleagues to reject it.

Thank you.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I say to the Senator from Iowa, I am going to be literally 2 minutes.

I just want to explain the position of the manager of the bill on this, and for the benefit of my colleagues who are listening to this debate and their staff who are listening.

We are now considering an amendment of the Senator from Colorado, Senator BROWN, that tries to repeal part of the Federal Rules of Civil Procedure dealing with rule 11 and the way it serves to inhibit so-called frivolous pleading.

This rule was modified as a result of action taken in 1993 following the work of the Federal Judicial Conference. I have listened to the concerns expressed by the Senator from Alabama and the Senator from Illinois, and others, pointing out this amendment is outside the scope of the bill before us, which is the product liability bill. From my previous tabling motions and votes, I think my colleagues know that I am dead serious about trying to keep this bill limited to the bill, unloaded, unadorned with amendments that are not directly related to it.

I think that every Senator would agree that frivolous lawsuits should be curbed, but I just want to say that at the proper time, I will move to table the amendment. It was received very recently and one would hope there could be full hearings on the amendment. I wanted people to understand what my plan was.

Mr. BROWN. Will the Senator yield?

Mr. ROCKEFELLER. Of course.

Mr. BROWN. Mr. President, I just simply will say to the Senator, I am very sensitive to the remarks he made. I understand fully his concerns. He has a very important bill that he has brought forward. I want to assure the Senator that it would be the last thing I would want to do, to somehow burden his bill so that it could not pass. I want to assure the Senator, in the event it is adopted but proves later to be a burden for the Senator in terms of getting his underlying measure passed, that I will work with him in that regard.

Mr. ROCKEFELLER. I am thoroughly grateful to the Senator from Colorado.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, when is it time to take up an amendment in the Senate? When is it appropriate to discuss any amendment? Everybody knows the rules of the Senate. Almost any time in the Senate is a time to discuss anything that you can get before the body. Particularly in the case of this approach, it seems to me very appropriate now because we are talking about an underlying piece of legislation that is basic to making the courts a more effective tool for the settlement of disputes.

In the particular case of the underlying piece of legislation, it is to establish some standards in the courts so that those cases that are going to be considered by the courts will have some continuing thread running through them from State to State to make sure the cases are fairly heard. And this issue that is before us, that is presented by Senator BROWN, is such an amendment as well, an amendment that is going to make the Federal courts a more effective body for the determination of disputes.

It has become otherwise because courts can be very easily loaded down with frivolous suits. The Brown amendment, which I support, is about making the courts serve the intent of the Constitution writers, to be an impartial body for the settlement of disputes, but not just any suit that might come to people's minds, very serious suits.

So I want to associate myself with this amendment, and I want to say to my dear friend from Alabama, we very seldom disagree. This is one of those times because I think it is time now to restore the effectiveness of rule 11. A strong, effective rule 11 is one of the most important tools that the courts have to fight frivolous, baseless, and even sometimes harassing lawsuits.

A strong effective rule 11 preserves judicial resources for litigants who truly need access to our court system, and to give a swift action against frivolous lawsuits and claims is, in the end, going to save time and going to save money and, by the way, that happens to be taxpayers' dollars, and it is going to, most importantly, promote public respect for the integrity of the Federal courts.

Now, on the other hand, the current version of rule 11, the one that Senator BROWN wants to modify, the current version is of little value as a deterrent to baseless lawsuits. It actually allows attorneys to file allegations without knowing them to be true. It allows lawyers to make assertions without having any factual basis and before any research is done.

In short, the current version of rule 11 encourages the kind of baseless suits and claims that rule 11 was originally enacted to prevent.

The current rule eventually says "Sue first and ask questions later."

Senator BROWN's amendment puts teeth back into rule 11. It does so by making sanctions for frivolous suits mandatory, as they once were. In fact, Mr. President, rule 11 was amended years ago to make sanctions mandatory because rule 11, up to that time, was ineffective when sanctions were discretionary, as they are under the current version of the rule.

This amendment thus forces people who come into court to present the facts and to present the law in a reasonable and honest way. It deters frivolous claims and frivolous suits by denying litigants the opportunity to overreach with unresearched facts and to shoot for the Moon with unresearched law.

This amendment also provides the courts with a variety of tools to defer frivolous suits, from attorney's fees and expenses to court penalties to nonmonetary sanctions. It also accounts for the innocent party who has to spend time and money defending against baseless claims, which the current version of the rule fails to do.

This amendment would enable the court to make the moving party whole for the money spent defending against frivolous lawsuits or claims.

Let me use a very specific example. The milkshake case that Senator HATCH talked about yesterday. A driver, as we recall, bought a milkshake at a McDonald's restaurant and placed it between his legs. When he reached for something, he squeezed the milkshake and it spilled into his lap. He became distracted and drove into the car of another driver who sued the milkshake purchaser and McDonald's. His attorney's theory was that McDonald's failed to warn the driver of the danger of eating and driving at the same time.

Now, in reality, he was after McDonald's deep pocket because the driver who caused the accident was uninsured. This case was thrown out of trial court but was appealed up to the New Jersey Supreme Court—consuming, if we can believe this, 3 years of the court system's time, and thousands and thousands of dollars of McDonald's money for defense of a baseless action.

Now, when McDonald's asked for reimbursement for these fees, the judge refused, saying of the plaintiff, "He's creative and imaginative and should not be penalized for that."

Now, how ridiculous can we get when we talk about frivolous suits? This case shows that far from discouraging frivolous litigation, the current rule actually encourages it.

Senator BROWN's relatively modest changes will restore the deterrence value of rule 11 and will have a positive impact on the ability of the Federal courts to deal with the ever-increasing onslaught of litigation, because cases delayed is justice denied for some people who have a legitimate suit.

I support and I ask my colleagues to support the needed change suggested by Senator BROWN.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to have a brief colloquy or discussion with the proponent of this amendment, the distinguished Senator from Colorado, Senator BROWN. I have already talked with him about the matter, and I think it is useful to make it a matter of record as to the meaning of this amendment, which I think is reasonably apparent from the language.

There is always a consideration as to legislative intent as derived from these discussions, but I think that it is especially appropriate when we have an amendment to have the view of the author of the amendment.

As I understand the amendment, it essentially restores the old rule 11 which was in existence prior to its amendment. In general terms, is that true?

Mr. BROWN. Yes, it restores the rule that was in effect prior to December 1, 1993.

Mr. SPECTER. As I understand the interpretation of the old rule, it provided some reasonable flexibility with respect to the imposition of sanctions. My question to Senator BROWN is, does his amendment leave it to the discretion of the court as to what sanctions would be imposed?

Mr. BROWN. It does leave to the discretion of the court as to what sanctions are appropriate.

Mr. SPECTER. So that there is no requirement that there be an imposition of attorney fees or a loser-pays rule for a violation of the rule arising from this amendment to rule 11?

Mr. BROWN. That is correct.

The fact is, in the past, before December 1, 1993, there were occasions on a number of times when the judges would find that it would be inappropriate to award those fees although they found—

Mr. SPECTER. It would be appropriate?

Mr. BROWN. It would not be appropriate to award those fees, even though they did find a frivolous action.

Mr. SPECTER. Although the language is mandatory that there has to be some sanction, the scope of the sanction is up to the judge? That is, it is discretionary with the court?

Mr. BROWN. That is correct.

Mr. SPECTER. And the amendment does not require that attorneys fees be paid or that the rule of loser pays be a consequence of a violation of the rule under the amendment that is being offered?

Mr. BROWN. That is correct.

Mr. SPECTER. Mr. President, this, I think, is something which is important to have clear, which we have now clarified.

It is my sense that the adoption of the tightening provisions by Senator BROWN achieves a purpose of further discouraging frivolous litigation. That is already discouraged to some extent, under the existing rule 11, but it further discourages frivolous litigation.

There is legislation in one of the bills passed by the House which would impose the loser-pays rule, which is not in the House product liability legislation, but their companion bill and it might be applicable to all litigation so that it might apply to product liability cases.

It is my sense, given the concern about whether there is frivolous litigation or the extent of frivolous litigation, that there is merit to try to reduce frivolous litigation to the extent that we can, and to discourage some more drastic, draconian measure, which I think would be presented by a loser-pays rule.

The United States has had a tradition throughout the judicial experience we have had, that a loser-pays rule is not appropriate for our society. Without getting into the pros and cons and the extent of what may or may not be the rule in Great Britain, loser pays has not been our rule.

My experience as a practicing attorney has demonstrated to me that we ought not to make that kind of a drastic rule which would, in effect, close the courts.

What Senator BROWN has done here in proposing a tightening of the rule against frivolous lawsuits, it seems to me, would tend to discourage any more drastic approach in this field.

I wonder if my colleague from Colorado would agree with that generalization?

Mr. BROWN. I might say that I concur in the view of the Senator.

It seems to me if there is a reasonable and a fair procedure to discourage frivolous actions in place, that will act as the strong deterrent to go to the loser-pays provision that, for example, England has incorporated.

On the other hand, if the rule stays without significant restrictions against frivolous lawsuits, my guess is there will be much greater strength in this country of movement to go to loser pays.

Mr. SPECTER. I thank my colleague. Moving on to the one other provision I wanted to discuss, with respect to the knowledge of the attorney who prepares the pleadings.

As I understand the amendment of Senator BROWN, and I pose this question to my colleague from Colorado: does the amendment permit a good-faith interpretation as to what the attorney for the plaintiff knows; that it is to the best of the person's knowledge, information, and belief, as the language says, formed after an inquiry, reasonable under the circumstances.

So in essence, it is a good-faith representation by the attorney who signs the pleadings.

Mr. BROWN. Indeed, that is correct. Rule 11 before and after my amendment allows filings for which the party has a reasonable belief that it is true. The basic notice pleading system is not affected. One can still make a general, encompassing pleading, and then conduct discovery.

I might add, the proposals in the new rule which were meant to discourage rule 11 proceedings are retained in this amendment. In other words, 21-day safe harbor that is part of the new rules, I retain.

What that does is require someone who is going to bring rule 11 proceedings to identify what they think is frivolous, then allow the person who has brought the action to correct that within 21 days, and indeed if they do it ensures that they are totally free from sanctions.

That safe harbor provision, that I think is protection against rule 11 proceedings, was retained. I retained it basically because I thought that part of the change seemed to have merit and could be helpful.

Mr. THURMOND. Mr. President, I rise today in support of the amendment offered by my good friend from Colorado, Senator BROWN. This amendment is appropriate to restore rule 11 of the Federal Rules of Civil Procedure to its proper role. Rule 11 is an important weapon to prevent the filing of frivolous claims and contentions in Federal courts. Significant alterations to rule 11 went into effect on December 1, 1993, and several of these changes are not desirable.

This is not an issue of favoring one party or group over another, but relates to the standards of veracity which apply to all advocates in Federal courts. The issue is whether we in the Congress are going to accept changes in rule 11 which lower the standards that attorneys must satisfy when filing claims and assertions in Federal court.

This is an issue which is of importance to the American people, too many of whom already hold lawyers and our system of justice in low regard. The Congress is ultimately responsible for both the laws and the procedures under which our Federal courts operate. We simply should not accept the lower standards in Federal courts which are made by the 1993 changes to rule 11.

The amendment by Senator BROWN will correct undesirable changes in rule 11, while maintaining other changes in the rule which improve the administration of justice. The most critical correction made by the Brown amendment would require all factual contentions made in writing to a court to have evidentiary support or be well grounded in fact. The 1993 changes in rule 11 permit a party to make contentions which are likely to have evidentiary support after further investigation or discovery. It is important to correct this change in rule 11 to prevent litigants from making broad assertions in the hope that they will be able to support them through future discovery. On the other hand, I am pleased that Senator BROWN agreed to my suggestion to incorporate the long-standing standard that contentions must be well grounded in fact, because requiring every contention to have evidentiary support prior to discovery might be too high a standard and preclude claims and assertions that should be permitted.

Mr. President, I consider the Brown amendment to be desirable to restore the standards of rule 11. I urge my colleagues to support this amendment.

Mr. SPECTER. Mr. President, I would further inquire of my distinguished colleague from Colorado, whether the legislative intent here is to allow discovery as to matters that a plaintiff could not know about? So that when there is language here which says that, "by presenting to the court * * * an attorney * * * is certifying * * * the allegations and other factual contentions have evidentiary support or are well-grounded in fact," if a plaintiff makes representations to the attorney which the attorney has reason to accept, that that would be a sufficient evidentiary basis for the allegations in the complaint?

Mr. BROWN. Yes, I believe the Senator has said it correctly. All rule 11 requires is an objectively reasonable belief that it is true. Certainly the case the Senator has outlined would fit that.

Mr. SPECTER. If there is something which plaintiff does not know about, which the attorney does not know about, there would be an opportunity for discovery to ascertain facts which are not within the knowledge of the plaintiff before there could be a challenge that there was a violation of rule 11?

Mr. BROWN. It is my understanding of the workings of this rule that it is quite clear that you can still make general encompassing pleadings and then conduct discovery.

Mr. SPECTER. Because a plaintiff would know on many matters what had happened, but if there were some technical matter, some defect in a mechanism, for example, in a product, that could not be within the knowledge of the plaintiff, it might require some discovery. But you have to state a sufficient claim to withstand a motion to dismiss, or perhaps just notice pleading. There would be an opportunity for an attorney to undertake discovery before there would be a basis for seeking sanctions under rule 11?

Mr. BROWN. Yes. It would be my feeling that this could well come under the general pleadings and all it would require is a general belief it was true. And it would, under those circumstances, allow the discovery.

Mr. SPECTER. I thank my colleague from Colorado. It is my intention to support this amendment and I do so because I think the experience under the old rule—if I might ask the specifics of Senator BROWN, when was the old rule in effect specifically?

Mr. BROWN. The provision that required sanctions if indeed someone had made frivolous filings was adopted in 1983 and lasted through December 1, 1993.

Mr. SPECTER. Within the 10-year period, I think that rule had sufficient flexibility to deter frivolous suits but was not so rigid and burdensome as to make it impossible to work in a reasonable fashion. And by returning to the old rule, which had been in effect for that period of time, it is my sense that there will be a tightening of the legal procedure and that it will make an improvement and satisfy those who are concerned about the filing of frivolous lawsuits.

It is my sense generally that in seeking congressional changes in rules governing judicial proceedings that we have to proceed with substantial caution. In my comments on Monday I pointed out some of my experience. As a practicing lawyer, I represented both plaintiffs and defendants in personal injury cases and had a major piece of litigation, which I had discussed on Monday, and have a sense that, as we have had accretion or encrustation by the courts since the early 19th century on the rules of law, where the cases are very, very carefully analyzed and considered—I have read many of those cases personally in connection with the litigation which I handled many years ago, described in some detail in my earlier presentation—that the courts have a much better opportunity to handle changes in the law than we do in Congress, where frequently only one or two Senators may be present at a hearing and our markups do not have the kind of careful and close analysis of an issue which judicial decisions have.

So that when Senator BROWN seeks to return to a rule which had been in effect for 10 years, which tightens the procedures and which may well foreclose a more drastic or draconian change on loser pays, I think it is worth enacting. So I compliment my colleague from Colorado and I also compliment my colleague from Alabama, who has no peer here in terms of his knowledge of the judicial system and of judicial temperament. We do not always agree, but Senator HEFLIN and I have been on the Judiciary Committee for 14-years plus together and we have agreed most of the time.

I might say we are going to miss you, Senator HEFLIN. But on this one I must respectfully disagree and decide with Senator BROWN.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I ask unanimous consent to add Senator Abraham as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, first let me apologize to Senator BROWN, when I said that he had not filed a bill on this. It was my understanding—I was told that, that was done after a reasonable search. My staff or someone, must not have done it.

That sort of illustrates why there ought to be discretion in regards to facts, sometimes, that might be stated or alleged. You ought to have an opportunity to correct a mistake. There ought to be discretion when a party makes an honest mistake.

But basically this is an issue on whether or not we should return to a rule that was in effect for 10 years from 1983 up until December 1, 1993. The Judicial Conference, through an advisory committee, looked at the way rule 11 then was operating and it felt that there ought to be some changes made. So they proposed changes and the Judicial Conference of the United States agreed that there ought to be some changes made in rule 11, and that the rule ought not to be mandatory, but should be discretionary.

It went to the Supreme Court and six out of the nine members of the Supreme Court, agreed with the Judicial Conference and the Supreme Court recommended the changes to the Congress. And the 6-month deadline went by and therefore the new rules of civil procedure, including rule 11 went into effect because there was no vote trying to amend them or trying to prevent them from going into effect.

So we have a situation in which I feel we ought to see how rule 11 is going to work. The judiciary studied it for 10 years, the 10 years that the old rule operated and basically this amendment attempts to take us back to the old rule. Basically, the Brown amendment has a lot of different language but it really comes down to whether or not rule 11 ought to be mandatory in every instance or whether it ought to be discretionary with the judge.

Senator GRASSLEY talked about the milkshake case. There are bad cases. They say bad cases make bad law. You will have, probably, 1 out of 1,000 bad cases, but that ought not to necessarily be the controlling factor relative to a determination of whether or not the rule ought to be mandatory or whether it ought to be discretionary.

I think the procedure that was followed by the judiciary was a very deliberate procedure. It involved a studied approach, and scholars spent hours and days considering this issue. And here we are going to consider this bill on the floor of the Senate, highly technical in nature, in about 1 hour and 10 minutes and are going to vote on it. It seems to me that the proper course that we ought to follow is to follow what the advisory committee of the Judicial Conference did, and what the Supreme Court recommended to the Congress.

So, in my judgment I feel it is a mistake to adopt the Brown amendment.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I wanted to note that I previously indicated that I wanted to have a tabling motion to establish the fact that I want this bill to be kept a product liability bill alone and not to have outside material added to it. But the prevailing sentiment of the chairman clearly is for an up-or-down vote, and I have yielded to that.

The PRESIDING OFFICER. Is there further debate on the amendment. If not, the question is on agreeing to the amendment of the Senator from Colorado. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Nebraska [Mr. EXON], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 37, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—56

Abraham
Ashcroft
Baucus
Bennett
Brown
Bryan
Burns
Chafee
Coats
Cohen
Conrad
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kerry
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Reid
Robb
Roth
Santorum
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—37

Akaka
Bingaman
Boxer
Bradley
Breaux
Byrd
Campbell
Cochran
Daschle
Dodd
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatch
Heflin
Hollings
Inouye
Jeffords
Kerrey
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Rockefeller
Sarbanes
Shelby
Simon
Wellstone

NOT VOTING—7

Biden
Bond
Bumpers
Exon
Hatfield
Kennedy
Pryor

So, the amendment (No. 599) was agreed to.

MORNING BUSINESS

Mr. SANTORUM. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

APOLOGY TO THE GOVERNOR OF THE STATE OF NEW YORK

Mr. MOYNIHAN. Mr. President, as the senior senator from the State of New York, and as a Democrat, I rise to offer an apology to our Governor, George E. Pataki, for the inexcusable conduct of the national chair of the Democratic National Committee yesterday in Albany.

As has now been reported, and not disputed, Mr. Donald L. Fowler referred to our Governor as a "quasi-Governor". This, he said, is self-defining. "It means almost a governor, a governor who's not quite there, a governor who doesn't quite have it together * * *" Later he volunteered to reporters, "You know what 'quasi' means. It means half-assed."

In the annals of political invective, there has been yet more vulgar calumny, but in this already sufficiently raucus time, this will serve. But will not be allowed to stand.

Mr. Pataki is our duly elected Governor; a person of manifest ability and quiet dignity. It defies reason that the national chair of the Democratic Party should journey to the State capital for the purpose of summoning New Yorkers to support President Clinton in the next election, whilst simultaneously insulting the person New Yorkers chose to be Governor in the last election.

I am sure Mr. Fowler regrets his remarks. I await his apology. And, to say again, tender my own on behalf of the great majority of Democrats who would not wish to be associated with what has now taken place, and who will insist that it not occur again. The President's task in New York will be difficult enough; that would make it impossible.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let's have that little pop quiz again:

Question: How many million dollars are in $1 trillion? While you are arriving at an answer, remember that it was the U.S. Congress that ran up the Federal debt that now exceeds $4.8 trillion.

To be exact, as of the close of business Tuesday, April 25, the total Federal debt—down to the penny—stood at $4,842,767,648,608.66—meaning that every man, woman, and child in America now owes $18,383.23 computed on a per capita basis.

Mr. President, again to answer the pop quiz question, How many million in a trillion? There are a million million in a trillion; and you can thank the U.S. Congress for the existing Federal debt exceeding $4.8 trillion.

IN MEMORY OF MARY BINGHAM

Mr. FORD. Mr. President, I would like to take a few moments to express my sadness over the passing of Mary Bingham, philanthropist and former owner of the Louisville Courier-Journal.

It has been said that "we are defined by those we have lost," and this could not be more true than with Mary Bingham and the city she called home for over 60 years.

Her husband, Barry Bingham Sr., brought her to Louisville, and though they forged a partnership that gave the city a spark it had not known before, her personal contributions both to the newspaper and to the community at large, stood alone.

The Louisville Courier-Journal wrote that "for those who understood the remarkable partnership that shaped this region's intellectual, political and cultural climate for a century, Mary Bingham's own stature and contributions were never in doubt."

And while Mary Bingham was not a native Kentuckian, she quickly embraced the place she would live out her life and we were proud to call her our own.

Throughout the years, she was always the picture of grace and loveliness, a charming hostess and much-in-demand guest. But Mary Bingham was not afraid to reveal the fierce fighter within, when it came to battles on issues most important to her from the environment to high education standards.

And if those passionate beliefs placed her at odds with the powers that be, than so be it—whether they were foes of civil rights or President Roosevelt himself.

But mostly, a woman who had experienced so much personal loss in her own life, wanted simply to care for others. So much so, that I am sure that upon hearing the news of her death, an entire city grieved not only for the loss of a great philanthropist, but also for a close friend.

In the days following her death, you often heard those describe her as being of a different era. Let us hope not. Her grace, her intellect, her sharp wit, and perhaps most important, her deep sense of compassion, are qualities desperately needed in these confusing times.

I know her life of accomplishment, commitment, and kindness will set a standard for generations of leaders to come in a city she led so well.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–715. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report on base closures; to the Committee on Armed Services.

EC–716. A communication from the Chairman of the National Research Council, transmitting, pursuant to law, the report on the F-22; to the Committee on Armed Services.

EC–717. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report on unit cost; to the Committee on Armed Services.

EC–718. A communication from the Acting Secretary of the Army, transmitting, pursuant to law, a report on program acquisition unit cost; to the Committee on Armed Services.

EC–719. A communication from the Director of the Defense Finance and Accounting Service, transmitting, pursuant to law, the report on multifunction cost comparison studies; to the Committee on Armed Services.

EC–720. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "The National Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion Act"; to the Committee on Armed Services.

EC–721. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on the Future Years Defense Program; to the Committee on Armed Services.

EC–722. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on the Cooperative Threat Reduction Program plan for fiscal years 1996 through 2001; to the Committee on Armed Services.

EC–723. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on the National Security Education Program; to the Committee on Armed Services.

EC–724. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the report on the selected acquisition for the period October 1, 1994 through December 31, 1994; to the Committee on Armed Services.

EC–725. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, the report on the manpower request; to the Committee on Armed Services.

EC–726. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report relative to biological weapons; to the Committee on Armed Services.

EC–727. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report on base closures; to the Committee on Armed Services.

EC–728. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on baseline environment management; to the Committee on Armed Services.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN (for himself and Mr. LIEBERMAN):

S. 726. A bill to amend the Iran-Iraq Arms Non-Proliferation Act of 1992 to revise the sanctions applicable to violations of that act, and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. DASCHLE, Mr. COCHRAN, and Mr. LOTT):

S. Res. 111. A resolution relative to the death of the Honorable John C. Stennis, late a Senator from the State of Mississippi; considered and agreed to.

By Ms. SNOWE (for herself, Mr. SIMON, Mr. PRESSLER, Mr. SARBANES, Mr. D'AMATO, and Mr. DODD):

S. Con. Res. 11. A concurrent resolution supporting a resolution to the long-standing dispute regarding Cyprus; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself and Mr. LIEBERMAN):

S. 726. A bill to amend the Iran-Iraq Arms Non-Proliferation Act of 1992 to revise the sanctions applicable to violations of that Act, and for other purposes; to the Committee on Foreign Relations.

THE IRAN-IRAQ ARMS NONPROLIFERATION AMENDMENTS ACT

• Mr. McCAIN. Mr. President, 4 years after the defeat of Iraq in the Persian Gulf war, Iran has emerged as a growing threat to the region. Bellicose statements are issued regularly from Tehran regarding the foreign presence in the Persian Gulf. More importantly, this rhetoric has been accompanied by disturbing reports of new arms shipments to Iran and the deployment of weapons which pose a direct threat to shipping in the Persian Gulf.

Today, Senator LIEBERMAN and I are introducing legislation to assist the President in his efforts to deal with this situation. The 1992 Iran-Iraq Arms Non-Proliferation Act, which I cosponsored with then-Senator GORE, established sanctions against third parties which assist Iran and Iraq in their efforts to rebuild their weapons capabilities. It was a start, but it did not go far enough. Efforts by Senator LIEBERMAN and I last year to expand the legislation were unsuccessful.

The 1992 bill was intended to target not only the acquisition of conventional weapons, but weapons of mass destruction as well. In the process of amending the bill to the 1993 Defense Act, however, the explicit references to weapons of mass destruction were dropped.

The bill we are introducing today attempts to make these applications absolutely clear. It also removes from the proposed sanctions exceptions for assistance under the Freedom Support Act, thereby removing the benefit of the doubt Congress may have given Russia in 1992. As I will explain later in my statement, Russia has perhaps used this exception to the detriment of United States policy in the Persian Gulf.

To the current list of sanctions against persons assisting Iran and Iraq in its weapons programs, which already include procurement and export sanctions, the amendments we are offering today add the denial of visas, denial of commercial credit, and denial of authority to ship products across United States territory. To the list of sanctions against countries offering similar assistance, the amendments add the denial of licenses for export of nuclear material, denial of foreign military sales, denial of the transfer of controlled technology, denial of the transfer of computer technology, suspension of the authority of foreign air carriers to fly to or from the United States, and a prohibition on vessels that enter the ports of sanctioned countries.

The comprehensive international U.N.-mandated sanctions against Iraq make the invocation of sanctions against third party suppliers of Iraq unnecessary in the near future, unless of course, the embargo is violated or revoked. Presently, the more pressing need with regard to Iraq is for the international community to remain firm on the embargo.

But given the history of the Iraqi military buildup before the gulf war, the sanctions included in the Iran-Iraq Act may, at a later date, be as important with regard to Iraq as they are currently in the case of Iran. Once the embargo is lifted, there will be a great temptation for cash-strapped economies to resume sales of military hardware to Iraq. Outside forces may once again be compelled to maintain a balance in the region through arms sales and a dangerous escalation of firepower.

Before Iraq's efforts to develop weapons of mass destruction were ended in the aftermath of the gulf war, it had made substantial progress. Iraq had several workable nuclear weapon designs, many key components, a multibillion dollar nuclear manufacturing base and a global supply network able to exploit lax Western export controls. Its Western-trained scientists had produced small amounts of weapons grade plutonium and enriched uranium. Even today, despite our best efforts, Iraq maintains the equipment and expertise that may permit it to resume its pursuit of a nuclear weapon once the embargo is lifted.

Saddam Hussein's efforts to develop chemical and biological weapons capabilities are also well known and, as with its nuclear program, there is some lingering concern about whether Iraq retains a capacity to produce these weapons.

The Congressional Research Service did two illuminating studies 2 years ago on the sources of Iraq's weapons of mass destruction programs. The list of Iraq's nuclear suppliers included 3 French firms, 11 German firms, 2 Italian firms, 2 Swedish firms, 4 Swiss firms, 4 British firms, and 2 Russian firms. The list of Iraq's chemical weapons suppliers included 7 Austrian firms, 2 Belgian firms, 2 French firms, 34 German firms, 3 Dutch firms, 3 Italian firms, 1 Spanish firm, 3 Swiss firms, and 1 British firm.

This is all in the past now. But we should take note that so many corporations displayed an interest in supplying Iraq without regard to the consequences. These corporations must be confronted with disincentives in order to keep them from once again serving as Saddam's supplier base.

It is also vitally important to prevent the reemergence of an Iraqi conventional military threat. One need only to observe the origins of the weapons which constituted the Iraqi threat in 1990 to know that the key to any postembargo containment strategy will depend on our ability to influence Iraq's trading partners in Europe, Russia, the People's Republic of China, and North Korea.

It is my hope and intention that the sanctions detailed in this legislation help us exercise the influence necessary to prevent another dangerous arms buildup in Iraq.

The threat from Iran is more immediate. Recent reports indicate a substantial increase in the Iranian military presence in the Persian Gulf. In addition to Silkworm missiles and two Russian-built submarines, Iran has deployed on the islands, it controls in the Straits of Hormuz thousands of additional troops, surface-to-air missiles, and artillery. These reports are particularly disturbing in that they are a part of a well-established pattern. Iran is importing hundreds of North Korean-made Scud-C missiles. It is expected to acquire the Nodong North Korean missiles currently under development; and it is reportedly assembling its own shorter-range missiles.

In the course of preparing this legislation, I asked the Congressional Research Service to compile a chronology of reported arms shipments to Iran since the passage of the original Iran-Iraq bill in 1992. The record is quite disturbing. I ask unanimous consent that the chronology be inserted into the RECORD following my remarks.

Iranian efforts to develop nuclear weapons are public and well established. Successive CIA Directors, and Secretaries Perry and Christopher have all testified to the effect that Iran is engaged in an extensive effort to acquire nuclear weapons. In February, Russia signed an agreement to provide Iran with a 1,000-megawatt light water nuclear reactor. The Russians indicate that they may soon agree to build as many as three more reactors—another 1,000-megawatt reactor, and two 440-megawatt reactors.

I have raised my concerns regarding this sale with the administration on a number of occasions. I have maintained that under the Freedom Support Act of 1992, which the Iran-Iraq Act of 1992 was intended to reinforce, the President must either terminate assistance to Russia or formally waive the requirement to invoke sanctions out of concern for the national interest.

The State Department informed me in a letter dated April 21, 1995, that "to the best of its knowledge, Russia has not actually transferred relevant material, equipment, or technology to Iran," and so there is no need to consider sanctions. I was further informed that "they are examining the scope of the proposed Russian nuclear cooperation with Iran, and as appropriate, they will thoroughly evaluate the applicability of sanctions," presumably, if at a later date they can confirm the transfer.

I have no reason to question the State Department's evaluation of the facts on the ground. However, I would note that there have been public reports of as many as 150 Russians employed at the site of the proposed reactor. There seems to be a dangerously fine line in determining when material, equipment, or technology useful in the manufacture of nuclear weapons has actually been transferred, especially when, as is the case with Iran, the reactor may already be partially complete.

At what point in the construction of the reactors does the transfer become significant? Do we allow the Russians to build portions of the reactor which do not strictly involve the transfer of dangerous equipment or technology while Iran obtains the most vital assistance from other sources? Although I cannot make this determination myself, common sense and an appropriate sense of caution would dictate that any assistance provided Iran in its efforts to acquire nuclear technology is significant. If the appropriate point to make this decision is not when technicians have been dispatched to the site and construction may have begun, I hope the administration can identify an equally obvious point at which the transfer has become the grounds for sanctions.

More importantly perhaps, I would point out that although the administration may have technical grounds for arguing that it is not yet required to invoke sanctions, making a determination on the applicability of sanctions sooner, rather than later, would serve as necessary leverage in resolving the issue. My intention is not to gut United States assistance to Russia. It is to prevent Russia from providing Iran dangerous technology. Waiting to make a determination until the transfer is complete defeats the purpose of the sanctions.

Ultimately, I fear that the reason the administration has not made a determination is that it does not want to jeopardize our relationship with Russia.

Based on this assumption and anticipating that the State Department may at a later date find other ways to avoid compliance with the Freedom Support Act, the legislation we are introducing today makes the President's legal responsibility under the act more explicit.

We sent our Armed Forces to war in the Persian Gulf once in this decade. They endured hardship to themselves and their families. Some will live with the injuries they incurred in service to our Nation for the rest of their lives. And as is the case with every war, some never returned. With the cooperation of our friends in Europe, whose own sacrifices to the effort to free Kuwait should not be forgotten, we must see that the service of these brave men and women was not in vain.

Stability and security in the Persian Gulf is vital to the world economy and to our own national interests. Aggressors in the region should know that if we must, we will return to the Persian Gulf with the full force of Operation Desert Storm. At the same time, our friends and adversaries elsewhere in the world should understand that the United States will do everything in its power to preclude that necessity. It is my sincere hope that this legislation will serve as an indication of just how serious we are.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, March 30, 1995.

To: Office of Senator John McCain, Attention: Walter Lohman.

From: Kenneth Katzman, Analyst in Middle Eastern Affairs, and Elizabeth Dunstan, Foreign Affairs and National Defense Division.

Subject: Arms and Technology Transfers to Iran.

This memorandum responds to your request to provide an unclassified chronology of reported weapons and technology transfers or agreements to Iran. Please call 7–7612 if you have any questions.

CHRONOLOGY OF WEAPONS AND TECHNOLOGY TRANSFERS TO IRAN USING PRESS REPORTS: OCTOBER 1992-PRESENT

10/8/92—The International Institute for Strategic Studies reported that China would supply a nuclear reactor under construction at Qazvin in northwestern Iran.

10/24/92—An editorial in the Washington Times reported Iran bought Sukhoi–24 light bombers from Russia and three diesel submarines, for $750 million per submarine. Most other sources cite a figure of $450 million a piece. Also, F–7 jet fighters were purchased from China. China reportedly agreed on September 10, 1992 to sell Iran a large nuclear reactor.

11/21/92—According to Defense Weekly, Russia delivered to Iran the first Kilo class submarine with a surface to air missile capacity in the form of manportable SA–14 Gremlin or SA–16 Gimlet.

2/10/93—According to the Jerusalem Israel Television Network, Iran recently took delivery of some Scud-C surface to air missiles with a range of about 500 km, as well as a number of launching pods, in accordance with a deal signed with North Korea. These are in addition to about 250 Scud missiles supplied to Iran before the Gulf War.

2/17/93—According to the U.S. Director of Naval Intelligence Iran has been negotiating for the purpose of five mini-submarines from an unspecified source to augment its Kilo submarines.

4/8/93—According to the New York Times, Iran was close to concluding a deal with North Korea to buy a new intermediate-range missile that the Koreans are developing. (The missile, called Nodong I, is said to have a range of 600 miles, although an extended range version may be able to reach up to about 800 miles).

5/11/93—Iran has taken delivery of eight supersonic, sea-skimming cruise missiles from the Ukraine, according to the Washington Times. The Sunburst missiles, to be based in the Strait of Hormuz, have reportedly been bought as part of a $1.5 billion barter agreement between Tehran, Moscow, and Kiev. Also included in the reported deal are 50 MiG–29, and other combat aircraft, more than 200 T–72M1 battle tanks and S–300 air defense system missiles.

8/8/93—Iran took delivery of its second Russian made Kilo-class submarine.

1/17/94—Defense News reported that Iran was negotiating with China to purchase a rocket-propelled mine called the EM52 that is planted on the sea floor until it detects a target. The report added that Iran had purchased 1,000 modern mines from Russia, including those that detect approaching ships with magnetic, acoustic, and pressure sensors.

3/28/94—China's Xian Aircraft Corporation will fly its Jian Hong-7 bomber on March 28, 1994, to Iran for a series of flight demonstrations, according to a Chinese defense industry source.

5/7/94—Iran will take delivery of its third Kilo-class diesel-electric submarine within five months, according to Jane's Defense Weekly. Iran reportedly bought an estimated 1,800 mines of various types from Russia when it received its first "Kilo" in November 1992.

9/19/94—Iran has acquired four or five fast attack missile (FACM) boats from China, according to US Vice Admiral Douglas Katz. The Hegu class vessel is 68 tons and is capable of being armed with C–801 and C–802 surface-to-surface missiles (Delivery of the missiles has not been confirmed).

9/26/94—Director of Central Intelligence James R. Woosley said Iran had acquired MiG29's, Su 24's, and T–72 tanks, as well as two Kilo-class attack submarines, from Russia. He added that Iran had turned to suppliers in "both East and West," using intermediaries to purchase military technology clandestinely.

9/27/94—A senior U.S. official reportedly said in the Washington Post that Russia has given Iran sophisticated aircraft missiles to go along with the jets it sold to Iran.

12/14/94—Iran is trying to buy weapons technology in Germany for use in building Scud missiles, according to Reuters. In October 1994, the International Institute for Strategic Studies said Tehran had obtained 20 Chinese CSS–8 surface-to-surface missiles, armed with conventional weapons.

1/5/95—The New York Times reported that Russia had entered into a deal with Iran to provide up to four nuclear power reactors at the Bushehr nuclear reactor complex, a deal valued at nearly $1 billion. Later reports said the first reactor would be a water-pressurized reactor with a capacity of 1,000 megawatts. Russia might construct an additional 1,000 megawatt reactor and 2,440 megawatt reactors under the deal. The deal, formally announced January 8, 1995, also provides for Russia to train Iranian nuclear scientists and possibly provide research reactors as well. Russia reportedly is also required to recycle nuclear fuel for Iran. The New York Times report added that China has sold Iran two similar reactors and has provided two research reactors, but that those projects have been delayed. China reportedly has also sold several calutrons-magnetic isotope separation devices that can be used to derive uranium for an atomic bomb. In addition, according to the Times, China was setting up an assembly plant in Iran to produce intermediate range ballistic missiles (M–9's and M–11's).

1/30/95—The Washington Times reported that Iran has secured the aid of Indian companies in the construction of a poison-gas complex, according to a classified German intelligence report. The Indian companies have told authorities in Europe and elsewhere that they are engaged in building a pesticide factory just outside Tehran.

2/1/95—Belgian officials impounded a Russian-built surface to air missile bound for Iraq, according to the Washington Times.

3/2/95—The Associated Press said Israel had claimed Iran signed a contract with Argentina to buy fuel rods for reactors and then negotiated over the purchase of heavy water, considered essential for a nuclear weapons program. The report did not make clear whether or not the United States had succeeded in blocking the deal.

3/15/95—The New York Times reported that Iran had developed a vast network in Europe, Russia, and the Central Asian Republics to smuggle to Iran weapons parts and nuclear technology.

3/17/95—Poland announced that it will honor any existing contracts to supply tanks to Iran. Poland did not reveal the details of any tank sale to Iran, however.

4/3/95—The New York Times reported that the United States had provided intelligence to Russia about Iran's nuclear program, as part of any effort to dissuade Russia from providing nuclear technology to Iran. The intelligence reportedly showed that Iran is importing equipment needed to import nuclear weapons, that it has sought to but enriched uranium from former Soviet republics, such as Kazakistan, and that it is using many of the same smuggling techniques and routes that Iraq and Pakistan used in their efforts to acquire nuclear technology.•

• Mr. LIEBERMAN. Mr. President, as a cosponsor of the original Iran-Iraq Non-Proliferation Act, I am pleased to join Senator MCCAIN as well in this amendment to the 1992 act. Regrettably, Iran and Iraq have become no more law abiding during the past 2 years than they were when this law was first enacted. On the contrary, Iraq has attempted by persuasion or force to get the international community to lift economic sanctions while preserving as much as possible its catastrophic weapons capability. Iran, meanwhile, has continued its support for international terrorism.

The United States must remain vigilant in its effort to inhibit the destructive capability of these two renegade states. We must do everything we can to prevent them from receiving assistance from any source to pursue international lawlessness.

I believe this amendment will strengthen the current legislation and send a strong signal both to the renegade states and to other states which trade with Iran and Iraq that the United States remains committed to tight economic sanctions. There will be consequences for those who trade in embargoed goods with Iran and Iraq, just as there will be consequences for us all if renegade states are able to pursue their destructive objectives without hindrance. I urge my colleagues to join us in supporting this amendment to strengthen Iran-Iraq sanctions.•

ADDITIONAL COSPONSORS

S. 198

At the request of Mr. CHAFEE, the name of the Senator from Alaska [Mr.

MURKOWSKI] was added as a cosponsor of S. 198, a bill to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes.

S. 252

At the request of Mr. LOTT, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 252, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 253

At the request of Mr. LOTT, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 253, a bill to repeal certain prohibitions against political recommendations relating to Federal employment, to reenact certain provisions relating to recommendations by Members of Congress, and for other purposes.

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 306

At the request of Mr. DORGAN, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 306, a bill entitled the "Television Violence Reduction Through Parental Empowerment Act of 1995."

S. 351

At the request of Mr. HATCH, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 351, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities.

S. 356

At the request of Mr. COATS, his name was added as a cosponsor of S. 356, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 440

At the request of Mr. COATS, his name was added as a cosponsor of S. 440, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 506

At the request of Mr. CRAIG, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 506, a bill to amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, and for other purposes.

S. 565

At the request of Mr. PRESSLER, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 565, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

At the request of Mr. GORTON, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 565, supra.

S. 584

At the request of Mr. ROBB, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 584, a bill to authorize the award of the Purple Heart to persons who were prisoners of war on or before April 25, 1962.

S. 602

At the request of Mr. BROWN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 602, a bill to amend the NATO Participation Act of 1994 to expedite the transition to full membership in the North Atlantic Treaty Organization of European countries emerging from communist domination.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of Senate Resolution 85, A resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

AMENDMENT NO. 596

At the request of Mr. GORTON the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of amendment No. 596 proposed to H.R. 956, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

SENATE CONCURRENT RESOLUTION 11—RELATIVE TO CYPRUS

Ms. SNOWE (for herself, Mr. SIMON, Mr. PRESSLER, Mr. SARBANES, Mr. D'AMATO, and Mr. DODD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 11

Whereas the long-standing dispute regarding Cyprus remains unresolved;

Whereas the military occupation by Turkey of a large part of the territory of the Republic of Cyprus has continued for over 20 years;

Whereas the status quo on Cyprus remains unacceptable;

Whereas the United States attaches great importance to a just and peaceful resolution of the dispute regarding Cyprus;

Whereas the United Nations and the United States are using their good offices to resolve such dispute;

Whereas on January 5, 1995, President Clinton appointed a Special Presidential Emissary for Cyprus;

Whereas the United Nations has adopted numerous resolutions that set forth the basis of a solution for the dispute regarding Cyprus;

Whereas paragraph (2) of United Nations Security Council Resolution 939 of July 29, 1994, reaffirms that a solution must be based on a State of Cyprus with a single sovereignty and international personality, and a single citizenship, with its independence and territorial integrity safeguarded, and comprising two politically equal communities as described in the relevant Security Council Resolutions, in a bicommunal and bizonal federation, and that such a settlement must exclude union in whole or in part with any other country or any form of partition or secession;

Whereas the United Nations Secretary General has described the occupied part of Cyprus as one of the most highly militarized areas in the world;

Whereas the continued overwhelming presence of more than 30,000 Turkish troops on Cyprus hampers the search for a freely negotiated solution to the dispute regarding Cyprus;

Whereas the United Nations and the United States have called for the withdrawal of all foreign troops from the territory of the Republic of Cyprus; and

Whereas comprehensive plans for the demilitarization of the Republic of Cyprus have been proposed: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) reaffirms that the status quo on Cyprus is unacceptable;

(2) welcomes the appointment of a Special Presidential Emissary for Cyprus;

(3) expresses its continued strong support for efforts by the United Nations Secretary General and the United States Government to help resolve the Cyprus problem in a just and viable manner at the earliest possible time;

(4) insists that all parties to the dispute regarding Cyprus agree to seek a solution based upon the relevant United Nations resolutions, including paragraph (2) of United Nations Security Council Resolution 939 of July 29, 1994;

(5) reaffirms the position that all foreign troops should be withdrawn from the territory of the Republic of Cyprus;

(6) considers that demilitarization of the Republic of Cyprus would meet the security concerns of all parties involved, would enhance prospects for a peaceful and lasting resolution of the dispute regarding Cyprus, would benefit all of the people of Cyprus, and merits international support; and

(7) encourages the United Nations Security Council and the United States Government to consider alternative approaches to promote a resolution of the long-standing dispute regarding Cyprus based upon relevant Security Council resolutions, including incentives to encourage progress in negotiations or effective measures against any recalcitrant party.

• Ms. SNOWE. Mr. President, today I am submitting a resolution calling for the end of the long-standing dispute on Cyprus. I am pleased to be joined as original cosponsors by my distinguished colleagues, Senators SIMON, PRESSLER, SARBANES, D'AMATO, and DODD.

Mr. President, last year marked the 20th anniversary of the Turkish invasion of Cyprus. Year after year the political deadlock over Cyprus has endured. But elsewhere in the world these same two decades has seen the end to the Soviet Union, mutual recognition between Israel and the PLO, a peaceful transition to majority rule in South Africa, and a renunciation of terrorism by the Irish Republican Army and movement toward an enduring peace in Northern Ireland. It is long past time for a similar breakthrough for peace on Cyprus.

That is the purpose of this resolution. This resolution speaks with moderation with the hope of bringing together all sides to the conflict. But despite its moderate tones, the resolution calls for looking at the problem of Cyprus in a radically new way. The resolution: declares the status quo on Cyprus to be unacceptable; welcomes President Clinton's appointment of a special emissary for Cyprus; calls on all parties to seek a solution based on the U.N. Security Council resolution of July 29, 1994, which stated that any solution must be based on a single State of Cyprus with its independence and territorial integrity safeguarded; calls for the withdrawal of all foreign troops; states that proposals for a total demilitarization of Cyprus would enhance the security of all the Cypriot people and merits support; and urges the Security Council and the United States Government to consider alternative approaches to promote a resolution to the long-standing dispute, including incentives to encourage progress or sanctions against recalcitrant parties.

Mr. President, two decades ago, Turkey's brutal invasion drove more than 200,000 Cypriots from their homes and reduced them to the status of refugees in their own land. More than 2,000 people are still missing, including five American citizens. The Turkish Army seized 40 percent of the land of Cyprus, representing 70 percent of the island's economic wealth. Today, Turkey continues to maintain over 35,000 troops on the island, which forms the bedrock of the continuing political impasse.

The phrase "35,000 Turkish troops" may sound familiar, because this is the number of troops Turkey has used, with tragic sameness, in its invasion last month of U.N.-protected Kurdish areas of northern Iraq. For the benefit of the Kurdish people of Iraq, who have been subject to genocidal attacks by their own government, I only hope that they will not suffer the same fate as the people of Cyprus. On Cyprus, Turkey initially pledged to stay only for a brief time to protect the Turkish-Cypriot minority on Cyprus. Now, we are beginning the third decade of Turkish occupation.

In an effort to transform this paradigm of deadlock, last year Cypriot President Glafcos Clerides offered to totally demilitarize the island of Cyprus in the context of a Turkish military withdrawal and political agreement to reunify the country. The Government of Cyprus, then, has volunteered to entirely disband its military forces, giving up this fundamental sovereign attribute for the purpose of peace.

The need to transform the terms of the debate over Cyprus is self-evident for all who choose to see. I was first elected to the House in 1978, 4 years after the Turkish invasion. That was the same year that President Carter succeeded in getting the United States arms embargo on Turkey lifted on the promise of an imminent breakthrough on ending the tragic and illegal division of the island.

Every year I have been in Congress I have noted a sad, cynical process unfold. Each year, there are hints of movement and glimmering hopes of ending the Turkish occupation and reuniting Cyprus. The most recent opportunity has been the U.N.-sponsored talks over "Confidence Building Measures," which would certainly be constructive if the talks had been undertaken in good faith by all sides and if they could set the stage for moving rapidly toward a final resolution of the dispute. But neither has been the case, so the talks ultimately atrophied into endless discussions and disagreements over the same kind of modest half-measures that have been the subject of endless talk ever since 1974.

Mr. President, we must continue to press for a negotiated settlement to the illegal division of Cyprus, and we must neither accept nor become comfortable with the status quo. This resolution is moderate in tone, and refrains from laying blame on any party. I believe that all parties can and must take a new look at the problem of Cyprus and work in good faith to bring this tragedy to an end. But as this resolution makes clear, our Nation must also be prepared to work alone or through the Security Council to ensure that all parties also understand that a continued impasse on Cyprus will not be tolerated.●

SENATE RESOLUTION 111—RELATIVE TO THE DEATH OF THE HONORABLE JOHN C. STENNIS, LATE A SENATOR FROM THE STATE OF MISSISSIPPI

Mr. DOLE (for himself, Mr. DASCHLE, Mr. COCHRAN, and Mr. LOTT) submitted the following resolution which was considered and agreed to:

S. RES. 111

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable John C. Stennis, late a Senator from the State of Mississippi.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Senator.

AMENDMENTS SUBMITTED

THE COMMONSENSE LEGAL STANDARDS REFORM ACT OF 1995

ABRAHAM (AND OTHERS) AMENDMENTS NOS. 600–601

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. MCCONNELL, and Mr. KYL) submitted two amendments intended to be proposed by them to amendment No. 596 proposed by Mr. GORTON to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

AMENDMENT NO. 600

Strike out section 109 and insert in lieu thereof the following new section:

SEC. 109. SEVERAL LIABILITY FOR NONECONOMIC DAMAGES.

(A) FINDINGS.—The Congress finds that—

(1) because of the joint and several liability doctrine, municipalities, volunteer groups, nonprofit entities, property owners, and large and small businesses are often brought into litigation despite the fact that their conduct often had little or nothing to do with the harm suffered by the claimant;

(2) the imposition of joint and several liability for noneconomic damages frequently results in the assessment of unfair and disproportionate damages against defendants that bear no relationship to their fault or responsibility;

(3) producers of products and services who are only marginally responsible for an injury risk bearing the entire cost of a judgment for noneconomic damages even if the products or services originate in States that have replaced joint liability for noneconomic damages with proportionate liability, because claimants have an incentive to bring suit in States that have retained joint liability; and

(4) the unfair allocation of noneconomic damages under the joint and several liability doctrine disrupts, impairs and burdens commerce, imposing unreasonable and unjustified costs on consumers, taxpayers, governmental entities, large and small businesses, volunteer organizations, and nonprofit entities.

(b) GENERAL RULE.—Notwithstanding any other section of this Act, in any civil action whose subject matter affects commerce brought in Federal or State court on any theory, the liability of each defendant for noneconomic damages shall be several only and shall not be great.

(c) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic damages allocated to their defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in

an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic damages allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person, including the claimant, responsible for the claimant's harm, whether or not such person is a part to the action.

(d) APPLICABILITY.—Nothing in this section shall be construed to—

(1) waive or affect any defense or sovereign immunity asserted by the United States, or by any State, under any law;

(2) give rise to any claim for joint liability;

(3) supersede or alter any Federal law;

(4) preempt, supersede, or alter any State law to the extent that such law would further limit the applicability of joint liability to any kind of damages;

(5) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(6) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(7) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED.—Nothing in this section shall be construed to establish any jurisdiction in the district courts of the United States on the basis of section 1331 or 1337 of title 28, United States Code.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "claimant" means any person who brings a civil action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) The term "commerce" means commerce between or among the several States, or with foreign nations.

(3)(A) The term "economic damages" means any objectively verifiable monetary losses resulting from the harm suffered, including past and future medical expenses, loss of past and future earnings, burial costs, costs of repair or replacement, costs of obtaining replacement services in the home (including, without limitation, child care, transportation, food preparation, and household care), costs of making reasonable accommodations to a personal residence, loss of employment, and loss of business or employment opportunities, to the extent recovery for such losses is allowed under applicable State law.

(B) The term "economic damages" shall not include noneconomic damages.

(4) The term "harm" means any legally cognizable wrong or injury for which damages may be imposed.

(5)(A) The term "noneconomic damages" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(B) The term "noneconomic damages" shall not include economic damages or punitive damages.

(6) The term "punitive damages" means damages awarded against any person or entity to punish such persons or entity or to deter such person or entity, or others, from engaging in similar behavior in the future.

(7) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision of any of the foregoing.

AMENDMENT No. 601

Strike out section 109 and insert in lieu thereof the following new section:

SEC. 109. SEVERAL LIABILITY FOR NONECONOMIC DAMAGES.

(a) FINDINGS.—The Congress finds that—

(1) because of the joint and several liability doctrine, municipalities, volunteer groups, nonprofit entities, property owners, and large and small businesses are often brought into litigation despite the fact that their conduct often had little or nothing to do with the harm suffered by the claimant;

(2) the imposition of joint and several liability for noneconomic damages frequently results in the assessment of unfair and disproportionate damages against defendants that bear no relationship to their fault or responsibility;

(3) producers of products and services who are only marginally responsible for an injury risk bearing the entire cost of a judgment for noneconomic damages even if the products or services originate in States that have replaced joint liability for noneconomic damages with proportionate liability, because claimants have an incentive to bring suit in States that have retained joint liability; and

(4) the unfair allocation of noneconomic damages under the joint and several liability doctrine disrupts, impairs and burdens commerce, imposing unreasonable and unjustified costs on consumers, taxpayers, governmental entities, large and small businesses, volunteer organizations, and non-profit entities.

(b) GENERAL RULE.—Notwithstanding any other section of this Act, in any product liability or libel action whose subject matter affects commerce brought in Federal or State court on any theory, the liability of each defendant for noneconomic damages shall be several only and shall not be joint.

(c) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—for purposes of determining the amount of noneconomic damages allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person, including the claimant, responsible for the claimant's harm, whether or not such person is a party to the action.

(d) APPLICABILITY.—Nothing in this section shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by the United States, or by any State, under any law;

(2) give rise to any claim for joint liability;

(3) supersede or alter any Federal law;

(4) preempt, supersede, or alter any State law to the extent that such law would further limit the applicability of joint liability to any kind of damages;

(5) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(6) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(7) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED.—Nothing in this section shall be construed to establish any jurisdiction in the district courts of the United States on the basis of section 1331 or 1337 of title 28, United States Code.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "claimant" means any person who brings a civil action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) The term "commerce" means commerce between or among the several States, or with foreign nations.

(3)(A) The term "economic damages" means any objectively verifiable monetary losses resulting from the harm suffered, including past and future medical expenses, loss of past and future earnings, burial costs, costs of repair or replacement, costs of obtaining replacement services in the home (including, without limitation, child care, transportation, food preparation, and household care), costs of making reasonable accommodations to a personal residence, loss of employment, and loss of business or employment opportunities, to the extent recovery for such losses is allowed under applicable State law.

(B) The term "economic damages" shall not include noneconomic damages.

(4) The term "harm" means any legally cognizable wrong or injury for which damages may be imposed.

(5)(A) The term "noneconomic damages" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(B) The term "noneconomic damages" shall not include economic damages or punitive damages.

(6) The term "punitive damages" means damages awarded against any person or entity to punish such persons or entity or to deter such person or entity, or others, from engaging in similar behavior in the future.

(7) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision of any of the foregoing.

ABRAHAM (AND OTHERS) AMENDMENT NO. 602

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. MCCONNELL, and Mr. KYL) submitted an amendment intended to be proposed by them to an amendment to the bill H.R. 956, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. 109. SEVERAL LIABILITY FOR NONECONOMIC DAMAGES.

(a) Findings.—The Congress finds that—

(1) because of the joint and several liability doctrine, municipalities, volunteer groups, nonprofit entities, property owners, and large and small businesses are often brought into litigation despite the fact that their conduct often had little or nothing to do with the harm suffered by the claimant;

(2) the imposition of joint and several liability for noneconomic damages frequently results in the assessment of unfair and disproportionate damages against defendants that bear no relationship to their fault or responsibility;

(3) producers of products and services who are only marginally responsible for an injury risk bearing the entire cost of a judgment for noneconomic damages even if the products or services originate in States that have replaced joint liability for noneconomic damages with proportionate liability, because claimants have an incentive to bring suit in States that have retained joint liability; and

(4) the unfair allocation of noneconomic damages under the joint and several liability doctrine disrupts, impairs and burdens commerce, imposing unreasonable and unjustified costs on consumers, taxpayers, governmental entities, large and small businesses, volunteer organizations, and non-profit entities.

(b) General Rule.—Notwithstanding any other section of this Act, in any civil action whose subject matter affects commerce brought in Federal or State court on any theory, the liability of each defendant for noneconomic damages shall be several only and shall not be joint.

(c) Amount of Liability.—

(1) In general.—Each defendant shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) Percentage of responsibility.—For purposes of determining the amount of noneconomic damages allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person, including the claimant, responsible for the claimant's harm, whether or not such person is a party to the action.

(d) Applicability.—Nothing in this section shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by the United States, or by any State, under any law;

(2) give rise to any claim for joint liability;

(3) supersede or alter any Federal law;

(4) preempt, supersede, or alter any State law to the extent that such law would further limit the applicability of joint liability to any kind of damages;

(5) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(6) preempt State choice-of-law rules with respect to claims brought by a foreign nation; or

(7) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(e) Federal Court Jurisdiction Not Established.—Nothing in this section shall be construed to establish any jurisdiction in the district courts of the United States on the basis of section 1331 or 1337 of title 28, United States Code.

(f) Definitions.—For purposes of this section:

(1) The term "claimant" means any person who brings a civil action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) The term "commerce" means commerce between or among the several States, or with foreign nations.

(3)(A) The term "economic damages" means any objectively verifiable monetary losses resulting from the harm suffered, including past and future medical expenses, loss of past and future earnings, burial costs, costs of repair or replacement, costs of obtaining replacement services in the home (including, without limitation, child care, transportation, food preparation, and household care), costs of making reasonable accommodations to a personal residence, loss of employment, and loss of business or employment opportunities, to the extent recovery for such losses is allowed under applicable State law.

(B) The term "economic damages" shall not include noneconomic damages.

(4) The term "harm" means any legally cognizable wrong or injury for which damages may be imposed.

(5)(A) The term "noneconomic damages" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(B) The term "noneconomic damages" shall not include economic damages or punitive damages.

(6) The term "punitive damages" means damages awarded against any person or entity to punish such persons or entity or to deter such person or entity, or others, from engaging in similar behavior in the future.

(7) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision of any of the foregoing.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Wednesday, April 26, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on child welfare programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 26, 1995, at 10 a.m. to hold an open confirmation hearing on the nomination of John Deutch to be Director of Central Intelligence.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, April 26, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:45 a.m. The purpose of this oversight hearing is to review the coordination of and conflicts between the Federal forest management and general environmental statutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A CHANCE FOR JUSTICE IN EAST TIMOR

• Mr. LEAHY. Mr. President, on January 12 of this year, the Indonesian military tortured and murdered six unarmed civilians in Liquisa, near Dili, in East Timor.

The Indonesian Army Chief of Staff, while reportedly admitting "procedural violations," claimed the victims were supporters of the guerrillas. However, the National Human Rights Commission of Indonesia, which released a scathing report on March 2, accused the military of "unlawful" killings of innocent civilians.

As anyone who follows events in East Timor knows, the Liquisa shootings were not an isolated incident. They were part of a pattern of political violence on the island in which Indonesian troops have been implicated for decades.

However, the fact that the National Human Rights Commission published such a conscientious report is encouraging. The Indonesian Government now has two choices.

One choice is to repeat its mistakes after the November 1991 Dili massacre. Many here will recall how back then, the unarmed demonstrators were sentenced to long prison terms, while a handful of lower ranking soldiers who fired the deadly shots went to jail for a few months and the officers who gave the orders and tried to cover up the crime went scot-free.

The other choice is to take responsibility, and use this opportunity to punish severely all those implicated in these crimes, and by doing so deter others from committing such atrocities in the future. Only when the impunity ends will the abuse of human rights end.

Let us hope that the Indonesian Government seizes this opportunity to demonstrate that no one is above the law, because it is long overdue in a country that seeks to be accepted as a respectable world power.●

TRIBUTE TO RAYMOND J. LANDRY

● Mr. SMITH. Mr. President, I rise to pay tribute to one of New Hampshire's finest law enforcement officials, Raymond J. Landry, chief of police of the city of Nashua, on the occasion of his retirement on May 1, 1995.

As a veteran of the U.S. Navy, I am particularly proud of the distinguished professional accomplishments of Chief Landry, who is a Navy man himself.

A Nashua native, Chief Landry has held progressively more responsible positions within the Nashua Police Department since he first joined it in 1964. After serving as a front line police officer for 7 years, Chief Landry was promoted to sergeant in 1971.

Less than 2 years later, in 1973, Chief Landry became a lieutenant. Five years after that, in 1978, Chief Landry was promoted to captain. by 1984, he was named major. Finally, Mr. Landry attained his current high rank as chief of police of the city of Nashua in 1988.

By any measure, Chief Landry has had a most impressive career in the law enforcement field. Throughout his career, he has demonstrated the initiative, dedication, and foresight to gain the best available training to serve the citizens of Nashua. A graduate of the Federal Bureau of Investigation [FBI] National Academy, Chief Landry also is an alumnus of the Command Training Institute and the Advanced Management Practices Program of Babson College. Finally, Mr. President, Chief Landry is a graduate of the Police Executive Development Program of the Pennsylvania State University.

Beyond his first-class training and professional development efforts, Chief Landry has been active in numerous leadership organizations in the law enforcement field. He is a member of the International Association of Chiefs of Police, the New England State Police Information Network, the New Hampshire Association of Chiefs of Police, the New England Association of Chiefs of Police, and the Hillsborough County Chiefs Association. In addition, Chief Landry serves on the executive board of the drug task force of the office of the attorney general of New Hampshire.

Mr. President, I understand that there will be a surprise gathering of upwards of 700 people in Nashua on May 5 to honor Chief Raymond Landry as he retires. Law enforcement officials from throughout New Hampshire, as well as State and local dignitaries, will be in attendance.

Mr. President, our Nation's police officers richly deserve the respect in which they are held by our citizens. They serve quietly and effectively, protecting the public and keeping the peace. All to often, they risk their lives in the line of duty. Having risen to the very top of his profession, Chief Landry can take a great measure of pride in his accomplishments and the admiration in which his colleagues and his constituents in Nashua and throughout New Hampshire hold him.

So, Mr. President, I salute Chief Raymond Landry. I will be with him and his friends in spirit as they celebrate his magnificent career on May 5. May God bless him and grant him a long, happy, and healthy retirement.●

SOCIAL SECURITY—FAMILY SECURITY

● Ms. MIKULSKI. Mr. President, I rise today to discuss the real contract with America. This contract was not written last summer, and it was not designed to last 100 days. It was written 60 years ago and was designed to last indefinitely. Mr. President, I am referring to Social Security, our primary contract with the American family.

There has been a lot of talk recently about Social Security, much of it negative. There are many misconceptions about what Social Security stands for, what it does, and how it works. Today, I want to set the record straight.

Social Security is a sacred compact between the U.S. Government and the American people. It is a system that gives help to people who practice self-help. Since it was created by President Roosevelt during the New Deal, it has provided financial security, and most importantly, family security for millions of Americans. There are so many problems in our Nation today that are robbing our families of their security. Crime, violence, drugs and divorce are some of the biggest fears that American families face. I do not want to add Social Security to that list of fears.

Social Security is family security. If any of my colleagues doubt that, consider this fact: Twenty-four million Americans rely on Social Security to provide more than half their income. Almost 5½ million Americans rely on Social Security as their only source of income. To all those millions of Americans, Social Security means the ability to put food on the table, to support their families, and to live independently.

Let me address some other misconceptions about Social Security. It is not the cause of our budget deficit. It has never added one penny to our deficit or our national debt. It is an independent, self-financed, and dedicated fund. Social Security is not welfare either. Today's retirees paid into the system and have earned a secure retirement, not a handout.

I will not rob American families of their secure retirement. I will not vote to cut benefits and I will not support legislation that threatens the Social Security trust fund. Throughout my career, I have voted to defend Social Security. I have defended cost of living adjustments, which protect against the erosion of benefits by inflation. I have opposed a reduction in the Social Security tax, which would jeopardize the trust fund. I supported making Social Security an independent agency, which will ensure that it is run efficiently and smoothly. Finally, I voted to exempt Social Security from the balanced budget amendment to the Constitution.

If we do not exempt Social Security from a balanced budget amendment, the trust fund will be in jeopardy. Right now there is a surplus in the trust fund. In other words, there is more money being paid into the system by working people than there is being paid out to retirees. By law, this surplus can only be used to pay benefits, the administrative costs of Social Security, and to buy Government securities. These Government securities become part of the trust fund and earn interest, just like Government bonds that we might purchase as an investment. I strongly believe that without it being exempted, this surplus will be raided by politicians in the name of deficit reduction. This would result in emptying the trust fund of the current Government securities, which must be paid back to Social Security. Make no mistake, this means cuts. It means going back on promises we made. It means saying no to people who have spent a lifetime playing by the rules and contributing to the success of this country. It means that the Government cannot hold up its end of the primary contract with American families. And it means robbing families of their security.

My colleagues on the other side of the aisle said, "Don't worry. We won't touch Social Security. We want to protect it just like you do." Yet they were not willing to write a protection into the constitutional amendment. I know I will not vote to raid the trust fund, and it may be true that my friends on the other side of the aisle won't either. But I cannot speak for members of a future Congress, and I don't believe they can either. This is the danger that we faced during the balanced budget amendment debate. I am happy to say that it is a danger that we have temporarily avoided.

I am a middle-class Senator. I have spent my career helping those who are not in the middle class get there, and making sure that those who are in the middle class have the security to stay there. Social Security is the linchpin that holds the majority of our retired citizens in the middle class. Promises made must be promises kept. I will continue to fight for the promise of family security that America's retirees have earned.●

TRIBUTE TO CENTRAL FALLS (RI) JR./SR. HIGH SCHOOL

• Mr. CHAFEE. Mr. President, I would like to recognize the achievements of 25 students from Central Falls Jr./Sr. High School of Central Falls, RI.

These students, Kelly Bianchi, Janeth Blandon, Melissa Casto, Berta Couto, Yolanda DaSilva, Daisy Diaz, Elizabeth Diaz, Michelle Doucet, Susan Freitas, Elizabeth Garstka, Martha Gutierrez, Melanie Kowal, Linda Layous, Rebecca Lussier, Michael Macedo, Juan Manzano, Nelci Paiva, Beatriz Patino, Christine Patricio, Celena Sackal, Kathleen Siwy, Hannah Tarawali, Helena Taveira, Agnes Wec, and Alexandra Zaldana have distinguished Central Falls and the State of Rhode Island through their selection as Rhode Island's delegation to the "We the People . . . The Citizens and the Constitution" national finals competition.

I would also like to recognize their teacher, Mr. Bertrand Brousseau, who deserves much of the credit for the success of the team. The district coordinators, John Waycott and Charles Golden, and State coordinator Henry Cote also contributed a great deal of time and effort to help the team reach the national finals.

This program, supported and funded by Congress, has been developed to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, "We the People . . . The Citizens and the Constitution," has provided curricular materials at upper elementary, middle, and high school levels for more than 60,000 teachers, 22,000 schools, and 20 million nationwide.

This tremendous program provides an excellent opportunity for students to gain a perspective about the history and principles of our Nation's constitutional Government. I wish these budding constitutional experts the best of luck and look forward to their future participation in our Nation's political arena.•

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I would like to proceed as if in morning business, but I would like a period longer than 5 minutes.

Mr. FORD. Mr. President, would the Senator allow us to do this and then we will give her what time she might desire, then we will close out. I do not think we will be over 5 or 6 minutes.

Ms. MOSELEY-BRAUN. Thank you.

Mr. FORD. I thank the Senator.

THE NAVAJO-HOPI RELOCATION HOUSING PROGRAM ACT

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 52, S. 349, the Navajo-Hopi Relocation Housing bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 349) to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the bill be deemed read for a third time, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 349) was deemed read for a third time, and passed, as follows:

S. 349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF APPROPRIATIONS FOR THE NAVAJO-HOPI RELOCATION HOUSING PROGRAM.

Section 25(a)(8) of Public Law 93-531 (25 U.S.C. 640d-24(a)(8)) is amended by striking "1989," and all that follows through "and 1995." and inserting "1995, 1996, and 1997.".

TRIPLOID GRASS CARP INSPECTION FEE COLLECTION ACT

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 73, S. 268.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 268) to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the bill be deemed read for a third time, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 268) was deemed read for a third time, and passed, as follows:

S. 268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COLLECTION OF FEES FOR TRIPLOID GRASS CARP CERTIFICATION INSPECTIONS.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Fish and Wildlife Service (referred to in this section as the "Director"), may charge reasonable fees for expenses to the Federal Government for triploid grass carp certification inspections requested by a person who owns or operates an aquaculture facility.

(b) AVAILABILITY.—All fees collected under subsection (a) shall be available to the Director until expended, without further appropriations.

(c) USE.—The Director shall use all fees collected under subsection (a) to carry out the activies referred to in subsection (a).

INDIAN CHILD PROTECTION REAUTHORIZATION ACT

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 75, S. 441.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 441) to reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the bill be deemed read for a third time, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 441) was deemed read for a third time, and passed, as follows:

S. 441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF PROGRAMS.

Sections 409(e), 410(h), and 411(i) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3208(e), 3209(h), 3210(i), respectively) are each amended by striking "and 1995" and inserting 1995, 1996, and 1997".

RELATIVE TO THE DEATH OF THE HONORABLE JOHN C. STENNIS

Mr. SANTORUM. Mr. President I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 111, submitted earlier today by Senators DOLE, DASCHLE, COCHRAN, and LOTT.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 111) relative to the death of the Honorable John C. Stennis, late a Senator from the State of Mississippi.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

So the resolution (S. Res. 111) was agreed to, as follows:

S. RES. 111

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable

John C. Stennis, late a Senator from the State of Mississippi.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Senator.

Mr. SANTORUM. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Illinois.

PRODUCT LIABILITY FAIRNESS ACT

Ms. MOSELEY-BRAUN. Mr. President, I would like to speak for a few moments about product liability reform. The bill the Senate is now considering, the Product Liability Fairness Act of 1995, would establish national standard to be applied by State and Federal courts in product liability lawsuits. Let me say at the outset that I do believe some national product liability standards are needed, for reasons I will outline below.

This concept—the concept of Federal product liability standards—is not entirely new to Congress; one version or another of the legislation has been pending before this body for the past 15 years. In past years the majority of the product liability debate has focused on whether the Federal Government should get involved in this area, rather than on what the Federal standards should be. This focus has, in my opinion, been unfortunate.

I believe the Senate must begin to focus on the issue of what standards should apply to product liability cases. Indeed, I stood on the Senate floor after the product liability bill failed last year, stating my intention not to filibuster this bill again, and stating my desire to debate what alterations the Federal Government should make in the area of product liability law.

That is not to imply that determining Federal product liability standards will be easy. It is often said when considering difficult legislation that "The devil is in the details." This is one vote where the details really do matter. Any bill passed by the Senate must be fair not only to the manufacturers who place products on the market; it must also be fair to the workers who help build those products, and to the consumers who purchase them.

The nature of the American marketplace has changed; commerce is no longer local, but is national and international in scope. American manufacturers ship their goods throughout the 50 States and beyond; this is true not only of our biggest companies, like Motorola, but of small businesses like Rockwell Graphic Systems in Westmont, IL, or Oxy Dry Corp. in Itasca, IL.

Given the increasingly global nature of the marketplace, I believe it makes sense to have some basic, national product liability standards that apply across the board. In the absence of uniform standards, companies find themselves being sued in one State for conduct that would not be actionable in another. In States without a statute of repose, for example, companies are forced to defend lawsuits for products that are 50 or 60 years old, while other States limit the right to sue on those products after 15 or 20 years. In States with vicarious liability statutes, companies that rent or lease products may find themselves sued for actions over which they had no control—while in States without vicarious liability, such suits cannot go forward.

Holding manufacturers accountable to 50 different standards in 50 different States may have been justified when products were shipped down the street to be sold in the corner grocery store; it does not make sense when products are shipped for sale throughout the 50 States. The Constitution of the United States, in article 1, section 8, grants Congress the power to regulate interstate commerce. Enactment of product liability legislation is nothing more than a valid and necessary exercise of this constitutional power.

Nor does establishing different standards in different States benefit consumers. There is no reason why a consmer in Massachusetts or Arizona should have greater or lesser rights than a consumer in Illinois. All consumers should have the same ability to access the courts. The bill introduced by Senators ROCKEFELLER and GORTON is not perfect in this regard, as I will discuss. But it is a good beginning, and it does, at long last, allow the U.S. Senate to address the product liability issue. I would like at this time to congratulate Senator ROCKEFELLER, who recognized years ago that product liability was an issue the U.S. Senate had to address. He has worked tirelessly to craft legislation that strikes an appropriate balance between preserving access to the courts on the one hand, and providing a measure of certainty and predictability to manufacturers on the other. We owe him a debt of gratitude.

Mr. President, I know that Senators on both sides of this issue point to numerous studies which purport to prove their support or opposition to this legislation. Supporters of the bill cite studies which conclude that product liability reform will spur job creation. Opponents of the bill, conversely, cite studies which conclude that product liability reform will have no effect on job creation. Supporters of the bill cite studies to show that product liability reform will result in lower prices to consumers, while opponents cite studies that show the bill will have no effect on consumer prices. I have considered all these studies, and I do not believe that the benefits of product liability reform can be proven with studies or statistics.

That is not to say, however, that this bill will not make a difference. Based on countless conversations members of my staff and I have had with Illinois manufacturers, with Illinois small business men and women, and with major Illinois corporations, I am convinced that the bill being debated by the Senate will help give employers a level of certainty, a level of predictability, and will create jobs. As one example, consider the statute of repose. I have talked to manufacturers who have been sued in the 1980's for products their company manufactured in the 1920's. The fact that a manufacturer can be sued in 1995 for a piece of machinery that was manufactured 50, 75, even 100 years ago, creates a substantial disincentive for manufacturers to create quality products that will stand the test of time. If American manufacturers do not create quality products, American workers don't work. The U.S. Senate should not be perpetuating a system that acts as a disincentive to the manufacturing of quality products; the statue of repose in S. 565 will help ensure that we do not.

In addition, I think it is important to keep in mind that no individual has just one role in this debate, Consumers are not just consumers, they are also workers whose ability to find a job may hinge on how many products are manufactured in this country. They are also small business men and women, whose ability to keep their firms afloat and meet their payroll may hinge on the amount of money they have to spend on product liability insurance. They are retirees, whose pensions are dependent on the solvency of their former employers.

That being said, it is also true that establishing Federal standards for tort liability represents a fundamental change in the structure of the product liability system, one that Congress must consider very carefully. I am pleased that our focus today is not limited to whether the Federal Government should be involved in product liability reform; instead, we are finally addressing what standards are necessary and appropriate to apply in product liability actions. Those standards must, however, be evaluated carefully. The Federal Government must strike an appropriate balance between the right of consumers to access the courts for legitimate lawsuits, and the need for employers and manufacturers to have some predictability about the standards by which their products will be judged. The Federal Government must strike a balance that prevents manufacturers from placing dangerous products on the market, but that also encourages manufacturers to develop new products that could save lives. This is not an all-or-nothing debate. We can craft a bill that is fair to everyone.

Mr. President, much of the debate that has swirled around S. 565 has focused on provisions that are not included in the Senate bill, but were instead passed by the House of Representatives. As you know, the House recently passed a series of bills designed to reform the civil justice system. A number of Senators have taken to the floor to criticize provisions in the House legislation that are grossly unfair to consumers, and would limit the right of ordinary Americans to access the courts. I too would like to address those provisions at this time, in the hopes that the U.S. Senate will reject them; if it does not, I will be forced to vote against a product liability bill that I want to support.

First and foremost, I cannot support legislation that imposes any form of a loser pays, or English rule system in the U.S. courts. I firmly believe that loser pays provisions run counter to the most fundamental notion of American jurisprudence, namely, that our courts serve all our citizens, not merely the rich and powerful. Loser pays provisions seriously undermine our efforts to open the courts to all Americans, regardless of income level. Instead, loser pays guarantees a system of justice where the most important factor is wealth. I cannot think of anything more un-American than charging an entry fee at the courthouse door. For that is what loser pays provisions do—if they are enacted, access to the courts will be determined not by who is right and who is wrong, but will be determined by how much an individual makes. Americans can and should be proud of the fact that, under the American legal system, all individuals have access to the courts. In America, the poorest worker who has been wronged by the richest corporation can go to court, can prove the corporation was wrong, and can get justice. But if the English rule is adopted, that situation will change. Even those individuals with meritorious claims cannot afford the risk of paying not only their own legal fees, but those of the defendant as well. As a result, only those with enough financial security to risk paying for their own legal fees and those of the defendant—a very small segment of the population indeed—would have the "luxury" of pursuing their claim in court.

I know some have claimed that the loser pays system passed by the House of Representatives is actually very moderate. Under the House-passed bill, plaintiffs in Federal court who reject a settlement offer, and then receive a lower award at trial, would be required to bear the opposing sides legal fees from the time of the settlement offer. Supporters of this provision—what they refer to as a "modified" English rule—maintain such fee shifting is necessary to deter frivolous lawsuits. In reality, such an amendment would have a much more detrimental effect. The amendment would also deter meritorious lawsuits by requiring a party prevailing on the merits to pay the losing side's attorney fees. Think about that for a minute. Under the bill passed by the House, a party who wins in court, who proves that the defendant manufactured a dangerous product, engaged in employment discrimination, or was guilty of medical malpractice, could still be forced to pay the other side's legal fees. I believe it is bad public policy to allow wrongdoers to escape paying their own legal bills when they are proved on the merits in a court of law to be at fault.

I do not disagree that Congress should encourage parties to settle their claims. Certainly all Americans, including victims of unsafe products or medical malpractice, prefer a quick and certain resolution of their claims. That is why plaintiffs will, in all likelihood, accept settlements offers if they are just and reasonable. There is no need to impose draconian measures that greatly infringe on the ability of all individuals to access the courts. I cannot think of anything in the history of American jurisprudence that would support the enactment of such a provision, and I urge my colleagues in the Senate to reject this approach.

Nor do I support efforts to place arbitrary caps on noneconomic damages. The fact that noneconomic damages are difficult to precisely value does not mean that the losses in those areas are not real. Noneconomic damages compensate individuals for the things that they value most, the ability to have children, the ability to have your spouse or child alive to share in your life, the ability to look in the mirror without seeing a permanently disfigured face. If a company acts in a manner that robs people of these precious gifts, we should ensure that the injured party can recover fully for their loss through the jury system. We should not limit the ability to recover with an arbitrary cap.

In addition, I will oppose attempts to broaden this bill beyond the area of product liability. I know that a number of Senators have broader "civil justice reform" amendments, that would extend the provisions of this bill to every civil litigation claim filed in State court, or medical malpractice amendments. As I mentioned above, my support for product liability reform is based both on the constitutional power given Congress to regulate interstate commerce, and the need that has been demonstrated—after many years of study—for a uniform approach in the product liability area. The debate on civil justice reform and medical malpractice should be left for another day.

This is particularly true considering the wide-ranging implications that a number of proposed amendments would have on the enforcement of our Nation's civil rights and antidiscrimination laws. Enacting the broader "civil justice reform" bills that have been proposed could cause title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, or the reconstruction-era civil rights legislation to become "toothless tigers." We must not stand by and let Congress repeal our Nation's civil rights protections under the guise of civil justice reform.

Finally, I would like to express my continued opposition to the FDA excuse, a provision that Senator DORGAN and I worked to remove last year. I am pleased that Senator ROCKEFELLER and GORTON did not include the FDA excuse in this year's bill.

Mr. President, as I stated at the outset, I do not oppose some product liability reform at the Federal level. Indeed, I am pleased to see Congress debating the standards that should apply in the product liability area, and I hope to work with Senators ROCKEFELLER and GORTON to craft moderate, bipartisan legislation. I believe the Product Liability Fairness Act that was reported out of the Commerce Committee strikes a reasonable balance between the need to preserve access to the courts, and the need to curb frivolous lawsuits.

That is not to say I believe this bill is perfect. I have a number of concerns with the legislation as currently drafted, concerns that I have raised with Senator ROCKEFELLER, and concerns that my staff has made clear to Senator ROCKEFELLER and Senator GORTON's staff. In the first instance, I would like to see the punitive damage provisions altered to accord equal treatment to noneconomic damages. Under S. 565 as currently drafted, punitive damages are limited to $250,000 or three times economic damages, whichever is greater. By excluding noneconomic damages from this calculation, the bill shortchanges the women who do not work outside the home, children, the elderly, and others who may not have large amounts of economic damages. While I support the notion of making punitive damages proportionate to the harm cased by the product—the goal that the punitive damage limitation is intended to accomplish—that harm should not be limited to out of pocket costs or lost wages. Noneconomic damages can often be difficult to calculate, but that does not make them any less real. As a notion of fundamental fairness, any congressional attempts to create a punitive damage standard should include both economic and noneconomic damages in its formula.

Nor do I feel the bill as currently drafted strikes the proper balance in the area of creating "National, uniform standards," it will not completely level the playing field in all 50 States. If anything, I wish the current bill went farther in pre-empting State law in the product liability area. National standards should be just that; standards that apply in all 50 States. For example, if the Federal Government wishes to establish a 20-year statute of repose, that should be the statute of repose, States should not be allowed to establish a lower statute that will prevent consumers from suing after only 12 or 15 years. Again, I have raised this concern with Senator ROCKEFELLER, and I will continue to raise it in the coming days.

Yet while S. 565 is not perfect, it represents a good start. If this bill remains substantially the same, I intend to vote for cloture, as I stated very clearly on the floor of the Senate last year. It is not appropriate for the Senate to continue to filibuster an issue that clearly needs to be addressed. The current system is too slow. The transaction costs are too high. Given that our markets are now national and global in scope, Congress, which has authority over interstate commerce, has a responsibility to examine this problem.

The issue of product liability reform has been before the Senate for well over a decade now. I believe that everyone who is interested in our Civil Justice System should have come to the table and worked with the Commerce Committee, with Senators ROCKEFELLER and GORTON to address and resolve the underlying issues. If you do not feel this bill is the right one, submit a counterproposal. If you feel there are still changes that need to be made, put them forward.

But to simply refuse to even discuss the issue is, in my opinion, irresponsible. It is gridlock. It is not in the best interest of consumers, it is not in the interests of business men and women, it is not in the interests of employees, and it is not in the interest of our country.

I do want to caution, however, that my commitment to vote for cloture is limited to the bill as reported by the Senate Commerce Committee. I do not think that I am alone in that respect; indeed, I believe that the prospects of enacting a product liability bill will be vastly improved if the Senate rejects amendments to broaden the bill beyond its current scope, or to add the dangerous, anticonsumer provisions in the House legislation. If cloture is not able to be invoked, there will be many who will try to blame the democrats. In truth, however, if this bill does not clear the Senate, it will be because the majority on the other side of the aisle was more interested in making a political point than in making a law. It will be because they failed to keep the bill narrow enough and fair enough to command the supermajority necessary to move this bill to final passage.

So, Mr. President, in conclusion I would just say I hope in the ensuing weeks we will be able to debate, and I am sure we will debate in detail, the particular provisions of S. 565. But at this point, based on the legislation before us, I am prepared to support a vote for cloture so we can actually get on the legislation and get beyond filibuster. I yield the floor.

ORDERS FOR THURSDAY, APRIL 27, 1995

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Thursday, April 27, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator LOTT for 10 minutes, Senator THOMAS for 15 minutes, Senator PRYOR for 10 minutes, Senator HATCH for 5 minutes, Senator HARKIN for 10 minutes, and Senator DORGAN for 10 minutes; further, at 10:30, the Senate immediately resume consideration of H.R. 956, the product liability bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. For the information of all Senators, votes can be expected to occur throughout Thursday's session of the Senate and the Senate may be asked to be in session into the evening in order to make progress on the pending bill.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. SANTORUM. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that, in further respect of the passing of the Senator from Mississippi, Senator John Stennis, the Senate stand in recess under the provision of Senate Resolution 111.

There being no objection, the Senate, at 9:10 p.m, recessed until Thursday, April 27, 1995, at 9:30 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 27, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 28

9:30 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings on issues of waste, fraud and abuse in the Medicaid program.

SD–138

MAY 1

2:00 p.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on the Oklahoma City bombing.

SD–106

Commission on Security and Cooperation in Europe

To hold hearings to examine the crisis in Chechnya.

2172 Rayburn Building

MAY 2

9:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Forest Service of the Department of Agriculture.

SD–138

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings to examine the costs of the legal system.

SD–226

9:30 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on the ballistic missile program.

SD–192

Armed Services

Strategic Forces Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1996 for the Department of Defense and the future years defense program, focusing on space programs, and to review the Department of Defense's Space Management Initiative.

SR–222

Labor and Human Resources

To hold hearings on the nomination of Henry W. Foster Jr., of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, Department of Health and Human Services.

SH–216

10:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to review the Navy class oiler contract.

SD–342

3:00 p.m.

Armed Services

To hold hearings on the nominations of Gen. Dennis J. Reimer, USA, to be Chief of Staff of the Army, and for reappointment to the grade of general, and Lt. Gen. Charles C. Krulak, USMC, to be Commandant of the Marine Corps, and for appointment to the grade of general.

SR–222

MAY 3

9:00 a.m.

Armed Services

SeaPower Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1996 for the Department of Defense and the future years defense program, focusing on the Marine Corps modernization programs and current operations.

SR–232A

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Agriculture.

SD–138

Environment and Public Works

Transportation and Infrastructure Subcommittee

Business meeting, to mark up S. 440, to provide for the designation of the National Highway System.

SD–406

2:15 p.m.

Judiciary

Antitrust, Business Rights, and Competition Subcommittee

To hold hearings to examine antitrust issues as contained in proposals to reform the telecommunications industry.

SD–G50

MAY 4

9:00 a.m.

Labor and Human Resources

To hold hearings to examine primary health care services, focusing on access to care in a changing health care delivery system.

SD–430

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Coast Guard, Department of Transportation.

SD–192

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to review the Navy class oiler contract.

SD–342

10:30 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs.

SD–138

2:00 p.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the National Institutes of Health, Department of Health and Human Services.

SD–192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Treasury and the Office of Management and Budget.

SD–138

Judiciary

To hold hearings on the nominations of Peter C. Economus, to be United States District Judge for the Northern District of Ohio, John Garvan Murtha, to be United States District Judge for the District of Vermont, Mary Beck Briscoe, of Kansas, to be United States Circuit Judge for the Tenth Circuit, and George A. O'Toole Jr., to be United States District Judge for the District of Massachusetts.

SD–226

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MAY 5

9:30 a.m.
Joint Economic
To hold hearings to examine the employment-unemployment situation for April.
SD–106

MAY 8

10:00 a.m.
Governmental Affairs
Post Office and Civil Service Subcommittee
To hold hearings to review the implementation of the Ramspeck Act, which allows congressional employees to transfer to executive branch positions under certain circumstances, focusing on procedures and restrictions of the law.
SD–342

MAY 9

9:45 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on National Guard and Reserve programs.
SD–192

MAY 11

9:30 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, Department of Transportation.
SD–192

Labor and Human Resources
Disability Policy Subcommittee
To hold hearings to examine proposed legislation relating to the education of individuals with disabilities.
SD–430

Special on Aging
To hold hearings to examine ways the private sector can assist in making long term care more affordable and accessible.
SD–562

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Bureau of Indian Affairs, Department of the Interior.
SD–116

10:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs, focusing on the Agency for International Development.
SR–325

1:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Indian Health Service, Department of Health and Human Services.
SD–116

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine access to abortion clinics.
SD–192

MAY 12

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Environmental Protection Agency, the Council on Environmental Quality, and the Agency for Toxic Substances and Disease Registry.
SD–192

MAY 16

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on environmental programs.
SD–192

Labor and Human Resources
Disability Policy Subcommittee
To resume hearings to examine proposed legislation relating to the education of individuals with disabilities.
SD–430

MAY 17

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine the National Academy of Public Administration's study on the Environmental Protection Agency.
SD–G50

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Park Service, Department of the Interior.
SD–192

MAY 18

10:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs.
SH–216

MAY 19

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Housing and Urban Development.
SD–192

MAY 23

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on financial management.
SD–192

MAY 24

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Fish and Wildlife Service, Department of the Interior.
SD–192

JUNE 6

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on intelligence programs.
S–407, Capitol

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Interior.
SD–138

JUNE 7

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Service and the Selective Service System.
SD–192

JUNE 13

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on health programs.
SD–192

JUNE 20

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on counternarcotic programs.
SD–192

JUNE 27

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense.
SD–192

POSTPONEMENTS

APRIL 27

9:30 a.m.
Small Business
To hold hearings on the Small Business Administration's 7(a) Business Loan Program.
Room to be announced

10:00 a.m.
Budget
Business meeting, to mark up a proposed concurrent resolution on the fiscal year 1996 budget for the Federal Government.
SH–216

SENATE—*Thursday, April 27, 1995*

(Legislative day of Monday, April 24, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Gracious Lord of all life, help us never to separate what You have joined together. All of life is sacred to You. Forgive our imposed dichotomy between the sacred and the secular. Every person, situation, and responsibility is sacred because everyone and everything belongs to You. Give us a renewed sense that all that we have and are is Your gift. So may we cherish the wonder of life You have entrusted to us and live with an attitude of gratitude. May this gratitude be the motive of our work today in this Senate. We want our work to be an expression of our worship of You. Therefore we make a renewed commitment to excellence in everything we do and say.

All this is rooted in the inseparable relationship between intimacy with You and the integrity of our leadership. You've shown us that authentic intimacy results when the real I meets the true You in an honest, open, unpretentious relationship. It's when we come to You as we are that You whisper in our souls, "You are loved now!" Then the consistent experience of Your unqualified love gives us the courage to be genuine, loyal, and faithful to You in our relationships with others and our responsibilities as leaders to whom You can entrust authority and power to govern this Nation.

Thank You for this time of quiet with You in which we can receive the peace of knowing that we are loved and forgiven, the healing of the hurts of harbored memories, the answers to problems that seem unsolvable, and the vision for our Nation that otherwise would be beyond our human understanding. We praise You that to know You is our greatest joy and to serve You is life's greatest delight. In the name of Him who is the way, the truth, and the life. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning at 10:30, following morning business, the Senate will resume consideration of H.R. 956, the product liability bill.

All Members should be aware that amendments are expected throughout the day. Therefore, Senators should be on notice that there will be rollcall votes during today's session which probably will go into the evening.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Missouri is recognized.

ORDER OF PROCEDURE

Mr. ASHCROFT. Madam President, I ask unanimous consent that I be allowed to allocate 15 minutes of time from Senator THOMAS of Wyoming, with whom I agreed that I should spend the time in his stead this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10:30, with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Missouri is recognized.

Mr. ASHCROFT. Thank you, Madam President.

THE RESPONSIBILITY OF CONGRESS

Mr. ASHCROFT. Madam President, the opportunities of this 104th Congress are substantial. They are substantial not only because every Congress has great opportunity, but they are substantial because we have a significant opportunity to change the direction in which the country has been going for at least the last three decades.

The elections of November 8 provided a new chemistry for the Congress and a new potential for a change in direction. It is a change in direction which the people of America sorely need and desperately want. It is a change brought about by the popular recognition that over the last three decades or so, the Government of the United States has not been advocating a set of values necessary for the success and survival of this society in the next generation.

The Government has been validating irresponsibility through the Congress' conduct and Congress' programs since at least the midsixties, if not before.

Most of us know that responsibility is the key to a successful survival for this society in this century and in the next. If we want to sink, we can continue on our current track. But if we want to swim and survive, we are going to have to change, and the opportunity of this Congress is to change the way that Washington does business.

Let me just suggest a few ways in which Government has been validating irresponsibility. For the past several decades, the modus operandi of this Congress has been to spend more than it receives.

This deficit problem which we have had year after year after year, which has been growing larger and larger and larger, has been a way that the Government has subtly, if not intentionally, been teaching irresponsibility. It is just that simple. When Government tells us what is legal and what is illegal, it begins teaching us, and when by its conduct it shows that it is not important to pay your debts, that you can simply pile up irresponsibly mountains of debt that the next generation will have to sustain, that is a way of teaching irresponsibility. It is a way of saying to this society that you do not have to be responsible. It displays before the entire Nation, before every man, woman, and child, a kind of conduct which is destined to failure over the long term, designed inevitably to fail and to sink.

Similarly, for the last 30 years or so, Congress has been passing laws and then exempting itself from them. I cannot imagine a less noble thing for leadership to do than to enact laws which it says apply to everyone else but do not apply to leaders. We know that real leadership is to carry the burden forward first, to catch the vision of the noble first, to do what is right first; not to send someone else into battle first, not to push others into good behavior while we lag behind and languish in behavior which is unacceptable.

The Congress has validated irresponsibility by saying the rest of the world has to have a level of responsibility and care but that we could exempt ourselves.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Of course, the Congress was similarly irresponsible when it tried to run everyone else's business and not run its own.

The unfunded mandates of the last three decades are another way that Government has validated irresponsibility in the culture. Congress said to the people of America that we are not going to be responsible and it is not important to be responsible because, rather than take care of our own business responsibly, we are going to try with mandates to tell State and local governments how to do their business. We will even try to tell business how to conduct their business, but we will not do our own business that way. We will exempt the Federal operations from many of the regulatory impacts to the society, and we will direct the spending of State and local governments in spite of the fact that their view of the circumstances and understanding of the challenges is far superior to our own.

This character of conduct by the Government over the last three decades has literally validated irresponsibility in the society, and it is no wonder that the news magazines of late have headlined things like shame, or the absence of shame, in society, the absence of responsibility, the absence of the internal guideposts to good behavior.

When the biggest, perhaps, teacher of all in America, the Government, has by its own behavior been teaching irresponsibility over the last three decades, we have really hurt this culture. We have validated irresponsibility, not, however, just in the way we conduct our own affairs. Government has been validating irresponsibility in the kind of programs it promulgates.

Look at the welfare system. We have not said to this society, on welfare, that you will have to be good, that you will have to be moving in the right direction in order to have our assistance. We have not said that you will have to stop illegitimacy or that you will have to start to work or that you will have to be industrious. No, we have not. We have just said that no matter how irresponsible you are, we will continue to write the check and to pay the bills.

Or in the criminal law area we have not really been a society of responsibility. We have been confused about who the victim was and who the criminal was. We have said that the guy pulling the trigger was really the victim, that society had not treated him well and he was probably excused for pulling the trigger. The person who took the bullet probably was encouraged to say: "I should not have been walking in this neighborhood at this time. After all, I probably invited the crime or the assault."

The truth of the matter is that is the height of irresponsibility. Our criminal law system, our programs, have not been oriented toward responsibility. They have validated irresponsibility. Our program for welfare has not been an encouragement for responsibility but has validated irresponsibility.

For three decades we have been looking at this validation of irresponsibility, and now we come to 1995, to the 104th Congress, and our chance is to change from a culture of irresponsibility to a culture which demands responsibility.

That is what the first 100 days were about, that is what the next 100 days are about. And that is why we need to move forward with an agenda for the American people to reinvest our society with governmental leadership that points toward responsibility.

Let me just suggest how fundamental those changes are. Instead of spending beyond our means, instead of spending without regard to who will pay, we are going to start producing balanced budgets; instead of validating the irresponsibility of not paying our debts, we are going to demand a culture of responsible behavior by paying for what we consume; instead of saying that there is a set of laws for the Congress and then a bigger and broader set of laws for the citizenry, we are going to say, no, we want to be responsible.

With the Congressional Accountability Act, the first thing we did was to pass laws that said we would live under the same laws under which the citizens of America live. That pushes us toward a culture of responsibility. Instead of telling other governmental entities and jurisdictions how to consume their resources and deploy them with unfunded mandates, we have said we will stop doing that; we will start acting responsibly.

The real challenge for us is to move from a culture of irresponsibility to a culture of responsibility and for Government to take the lead.

Look at what is happening in the welfare area, and this is why it desperately needs reform. Instead of saying to people, no matter how irresponsible you are, we will promote that and validate it and as a matter of fact we will fund it—instead of doing that, we are going to say, no, you have to behave in certain ways; you have to improve your performance; you have to work; you have to treat your children with dignity and give them a chance to break the cycle of dependency and poverty. That is responsibility, and we are moving in that direction.

I submit to you that in the area of the criminal law, we will have a move toward responsibility. We will deny the culture of irresponsibility, and we will demand the culture of responsibility. And that is what Government should do. It should set an example. It should teach with its conduct and with the programs that it promulgates. It should promote responsibility. And that is why the first 100 days were important, 100 days that began this session, and that is why the rest of this session is of monumental importance.

It is very important that we carry through on this change from validating irresponsibility, which is the past, to promoting responsibility and demanding accountability, which is the future.

So we must again visit the balanced budget question. We must move forward with a real balanced budget to respond to the demand of the people that we institute a culture, at least a governmental culture of responsibility that will set an example for this society. We must move forward on the reforms which are before us. We cannot stop now. We must continue to address the agenda of the American people.

This is the great opportunity of this Congress, that we change the way Washington does business. And by changing the way Washington does business, we signal to America that there is a new demand for accountability and responsibility in this society: We no longer spend money we do not have; we no longer fail to live under the laws which we pass; we no longer try to direct the activities of other governmental entities. No, our conduct will be responsible instead of irresponsible—pay our debts, live under the laws we pass. Yes, we will stop telling governments much better prepared to make decisions than we are how those decisions ought to be made. All of those things are included in the monumental changes sweeping through the Congress. But the sweeping through is not complete. Sweeping through is a process, and it is a process which we must continue, which we must extend, which we must, as a matter of fact, complete. We must have the discipline and the determination to carry through on these programs.

We are in the midst of a debate on the question of product liability. The question is whether companies will be held responsible for things they really had nothing to do with, whether rental car companies that had nothing but ownership of a car which was stolen or otherwise wrongfully taken will be held accountable for millions of dollars of damage done with the car.

We have a tremendous energy that is pent up, a momentum in the culture of irresponsibility, and it is not easy for us to stop the spending, to stop the conduct which has promoted and validated irresponsibility for the last several decades. It is something on which we have made a great start and from which we should not turn. It is a task which we must continue.

So as we review, looking back, the significant achievements of the first 100 days, let us never forsake the potentials of the next 100 days. I think we have reached a threshold, a tipping point. We have reached an opportunity to continue to institute as a regular means of operation this culture of responsibility in Government. Let us make sure that in these next 100 days we do not turn back; that we continue to move forward on the agenda of the American people.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 727 and S. 728 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. LOTT and Mr. BAUCUS pertaining to the introduction of S. 729 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, the Senator from Arkansas is recognized to speak for up to 10 minutes.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

AN IRRESPONSIBLE LETTER

Mr. PRYOR. When President Clinton recently issued a warning against intemperate speech, Mr. President, a lot of people took those remarks as an attack on radio talk show hosts. But I would like to point out that the talk show hosts by no means have a corner on that market, and that we should all focus our attention on the rhetoric that is used by certain public interest groups and ourselves alike when we try to raise money through the coffers of public interest groups for our political campaigns.

I would particularly, Mr. President, like to call your attention to a recent letter issued by the National Rifle Association under the signature of its executive vice president, Wayne LaPierre.

This 5-page poison-pen letter is a revolting example of hateful, incendiary, irresponsible speech. It seeks to whip the readers into a frenzy against the Federal Bureau of Alcohol, Tobacco and Firearms.

Mr. President, this letter is obscene. While the ostensible purpose of this letter is to raise money for the National Rifle Association, it may well have the unintended and unfortunate side effect of stoking the fires of militant groups across this country of whom our citizens now have cause to fear.

In his letter, Mr. LaPierre says that the Federal ban on semiautomatic weapons "gives jack-booted Government thugs more power to take our constitutional rights away, break in our doors, seize our guns, destroy our property, and even injure or kill us."

Mr. LaPierre further continues in his letter:

> In Clinton's administration, if you have a badge, you have the Government's go-ahead to harass, intimidate, even murder law-abiding citizens.
>
> Randy Weaver at Ruby Ridge . . . Waco and the Branch Davidians . . . Not too long ago, it was unthinkable for Federal agents wearing Nazi bucket helmets and black storm trooper uniforms to attack law-abiding citizens.
>
> Not today, not with Clinton.

In another part of the letter, Mr. LaPierre warns that what he sees as the attack on the second amendment to the Constitution "is only the first in a long campaign to destroy the freedoms at the core of American life." The letter continues:

> You can see it when jack-booted Government thugs, wearing black, armed to the teeth, break down a door, open fire with an automatic weapon, and kill or maim law-abiding citizens.

Mr. LaPierre calls for a "major show of force" by America's 80 million gun owners. Mr. LaPierre concludes:

> This, the battle we're fighting today, is a battle to retake the most precious, the most sacred ground on Earth. This is a battle for freedom.

Well, Mr. President, these are very stirring words indeed, and I am sure it has been quite a success for the national fundraising activities of the National Rifle Association. It has been a great fundraising tool.

I noticed yesterday that Mr. LaPierre told a reporter, and I quote, "the last thing the NRA wants is a fight with the ATF." Mr. President, I would be hard pressed to conclude that, based upon the incendiary, obscene nature of this letter that Mr. LaPierre sent across our country.

Let me make it very clear that I am not today blaming the National Rifle Association for the explosion in Oklahoma City, but I am suggesting that I think that any reasonable person would conclude that the words Wayne LaPierre has been using, the images he has been conjuring up has played directly into the fears that exist in the types of groups that apparently are responsible for the bombing and other terrorist attacks.

In that regard, the paid lobbyists and the chief fundraiser for the National Rifle Association have been tossing kerosene onto the fire. The leaders of the National Rifle Association must realize that these words have consequences and rights are accompanied by responsibilities. A loose tongue, Mr. President, can be just as dangerous as an unholstered gun when either is employed by an irresponsible person.

The National Rifle Association takes great pride in touting its programs to train responsible gun owners. I hope that its leadership today will now realize the need to teach and practice itself the responsible use of free speech.

Before the folks at the National Rifle Association start accusing this Senator of trying to take away their first amendment rights, as well as their second amendment rights, let me make it very plain that I have no intention of taking action to forcibly muzzle any of them through any action by the Congress of the United States. I am not questioning the right of the NRA to say what it wishes in its fundraising letters. But I do believe, Mr. President, that Wayne LaPierre should be absolutely ashamed of what he has written in this letter to his members of the National Rifle Association.

Just because in our society one might have the right to do something or to say something does not mean that he should say it. Just because one has the protection of the first amendment in our Constitution is no reason to abuse that protection or to abuse the first amendment.

Politicians and lobbyists, unfortunately, have relied much too heavily on the language of hyperbole to claim its share of the marketplace of ideas. This letter, written by the executive vice president of the National Rifle Association, is certainly not the only instance of hyperbole and the National Rifle Association is certainly far from its only practitioner.

Mr. President, I today am not attacking the members of the National Rifle Association, but I cannot believe—knowing many good members of that organization—I cannot believe that the National Rifle Association members support their organization, their leadership demonizing a Federal law enforcement official or an agency.

Mr. President, how much time do I have, I might ask?

The PRESIDING OFFICER. The Senator has 1 minute 20 seconds.

Mr. PRYOR. Mr. President, I can remember about 35 years ago when I was first elected to a position of State representative of Ouachita County. During my first term in office, I first heard of the National Rifle Association. I would like to tell you about it, if I might.

Over one weekend during that first term of my first session, a young child, 5 or 6 years of age, in a grocery store parking lot saw a gun rack in a truck in the next vehicle, got out of his parents' car while they were in the store, got into the truck, took the rifle from the gun rack and killed himself accidentally. The town became very upset, and they asked me to see if there was anything we could do about it.

I introduced the next week, at the behest of the Arkansas Game and Fish Commission, with the support of law enforcement officials throughout the State, a very simple proposal that said something like this: That no automobile—truck or car—in the incorporated city limits of any community in our State of Arkansas shall be able to carry a loaded shotgun or a rifle. Pretty simple. It passed 99–0 in the house of representatives.

It went to the State senate and, Mr. President, that is when I first heard of the National Rifle Association. All of a sudden, throughout America, there was a bulletin that Representative PRYOR is trying to take your guns away in the State of Arkansas, and if this happens, it is going to happen all across the country and we need to stop it now.

Needless to say, Mr. President, my bill did not become law. It died in the State senate of Arkansas. I remember still getting hundreds of telegrams and letters from all over our country protesting this legislation.

But there is one I especially recall, one specific letter I received during that battle. It was from a former college roommate I had from the University of Arkansas, and it went something like this: Dear DAVID, I never knew all that time that I was your friend and roommate at the university that you were a Communist.

Well, Mr. President, that is what we have today—the selling of fear. It is continuing and it must stop. I am hopeful, Mr. President, that the membership of the National Rifle Association will question some of the positions of its leadership in attempting to sell fear at this most incendiary time in our Nation's history.

Mr. President, I ask unanimous consent that the letter from Mr. LaPierre be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL RIFLE ASSOCIATION.

DEAR FELLOW AMERICANS: I've worn out a lot of shoe leather walking the halls of Congress. I've met key leaders, I've talked with old allies, I've met with the new Congressmen and many staff members.

What I'm hearing and seeing concerns me. Many of our new Congressmen are ignoring America's 80 million gun owners. Some have forgotten what we did to elect them. Others say our demands to restore our Constitutional freedoms are "politically out of line."

Don't get me wrong, not all of them are like this. Senator Phil Gramm, House Speaker Newt Gingrich, and Congressman Bill McCollum, Bill Brewster and Harold Volkmer are all coming to our aid. But too many others are not.

And without a major show of force by America's 80 million gun owners, America will resume its long march down the road to gun bans, destruction of the Constitution and loss of every sacred freedom.

I want you to know I'm not looking for a fight.

But when you consider the facts of our current situation, you too, will see we have no other choice.

Fact No. 1: The Congress' leading anti-gunners, Senators Dianne Feinstein, Ted Kennedy and Congressmen Charles Schumer and Major Owens all survived their last elections.

They've pledged to fight us to the bitter end for Brady II and its ammo taxes, licensing and registration schemes, gun rationing, bureaucrats with the power to determine if you "need" a gun and yes, the repeal of the Second Amendment.

It doesn't matter to them that the Brady Law is a failure.

It doesn't matter to them that the Brady Law has become one more tool that government agents are using to deny the Constitutional rights of law abiding citizens.

It doesn't matter to them that the semi-auto ban gives jack-booted government thugs more power to take away our Constitutional rights, break in our doors, seize our guns, destroy our property, and even injure or kill us.

Schumer, Feinstein, Kennedy, Owens and the rest of the anti-gunners want more and more gun control.

It can be something small and subtle like a regulation expanding the disqualification criteria for the Brady Law. They're fighting for anything that makes it harder for you to own a gun.

The gun banners simply don't like you. They don't trust you. They don't want you to own a gun. And they'll stop at nothing until they've forced you to turn over your guns to the government.

Fact No. 2: If the anti-gunners fail to achieve their goals in Congress, they have a fall-back position in Bill Clinton, the most anti-gun President in American history.

In two short years, Bill Clinton launched two successful attacks on the Constitution. He signed two gun control bills into law. He has sworn to veto any repeal of the semi-auto ban and any restoration of our Constitutional rights.

His Interior and Agriculture Departments have set their sights on closing hunting lands.

And his Environmental Protection Agency is attempting to take jurisdiction over existing uses of lead. This, of course, includes gun ranges and spent shot.

What's more, gun owners aren't the only ones Clinton's EPA has set its sights on. They're after fishermen, too. They want to BAN the use of small lead fishing sinkers and, of gravest concern, they want to stop the home casting of these sinkers.

If fishing sinkers are on the Clinton bureaucrat's list, you know what's next: lead shot, lead bullets, bullet casting and reloading.

Clinton's State Department is also adding to the attacks on gun owners and our Constitutional freedoms. In December, he signed the Summit of the Americas agreements which pledges that the U.S. Government will push for additional gun control.

Over in the Justice Department, Clinton's Attorney General Janet Reno has signaled her intent to "squash" the states' rights movement and deny states their Constitutional power.

And worst of all,

Fact No. 3: President Clinton's army of anti-gun government agents continues to intimidate and harass law-abiding citizens.

In Clinton's administration, if you have a badge, you have the government's go-ahead to harass, intimidate, even murder law-abiding citizens.

Randy Weaver at Ruby Ridge . . . Waco and the Branch Davidians . . . Not too long ago, it was unthinkable for Federal agents wearing nazi bucket helmets and black storm trooper uniforms to attack law-abiding citizens.

Not today, not with Clinton.

Our calls to investigate these outrageous assaults on our Constitutional freedoms are routinely silenced by the anti-gun media. But that's no surprise.

Fact No. 4: They've launched a new wave of brainwashing propaganda aimed at further destroying our Constitutional freedoms.

CBS, ABC, NBC, USA Today, Time, Newsweek and The New York Times have launched another round of phony polls and slanted stories to help the anti-gunners achieve their goals.

Their latest phony poll shows 70% of America support the "semi-auto" assault weapon ban.

That's simply not true. When it's explained that "semi-autos" are used in less than a fraction of one percent of crimes; that the ban only affects the law-abiding; and, that the ban is only one more way to deny Constitutional rights to the law-abiding, support for the ban drops to 30%.

But the media still uses this 70% statistic to trumpet the call for gun control.

What scares me the most about this 70% number is that the media has brainwashed 70% of Americans into believing that the government—and not each individual—is responsible for their personal protection.

Even worse, this 70% number means that there are enough people who can be brainwashed by the media to vote for a repeal of the Second Amendment if it were put to a vote.

The media, Clinton, the anti-gunners in Congress . . . this combination is a powder keg that could blow at any moment and it's set squarely underneath the Constitution.

And what this means is:

Fact No. 5: Congress must be forced to restore the Constitution, repeal the gun bans, investigate abuse by government agents and focus the public debate on criminal control, not gun control. . .

. . . Or what we're seeing now will only be a momentary patch of sunshine on the road to doom for the Second Amendment and our Constitution.

There is hope, though. Despite the current situation, I'm encouraged by you and your fellow NRA members.

Everywhere I go, to every gun show, every NRA-ILA grassroots operation, every Friends of NRA Dinner, even in cabs and airports around the country, I run into NRA members who understand the stakes and stand ready to fight.

The question I hear from almost every one of these NRA members is the same: "*What can I do next*?"

If you're one of those members, I want to thank you for your courage, your conviction and your spirit. You keep me going. You keep me on the road. You give me strength to lead the battle.

And if you want to join me in taking the next step, I need you to do these two things today.

First, I need you to sign the enclosed Petitions to the United states Congress.

These petitions are addressed to the leaders of the U.S. Congress, Senator Robert Dole and Speaker Newt Gingrich, and your U.S. Senators Daniel Patrick Moynihan, Alfonse M. D'Amato and Congresswoman Sue Kelly.

Please be sure to sign all five petitions, then fold them and place them in the enclosed, postage-paid envelope addressed to me at NRA Headquarters.

These petitions spell out, in black and white, our agenda of repeal, reform, investigate and limit government power.

In the first amendment of the Bill of Rights, we are guaranteed the right to "petition our Government for a redress of grievances."

And that's exactly what we're going to do: redress our grievances in the biggest and most powerful display of political clout and commitment to the Constitution.

I want to personally deliver your five petitions, and the petitions of all 3.5 million of your fellow NRA members—17.5 million petitions in all—to Congress.

And I want to show the leadership in Congress, and your Senators and Congressmen from New York, that the number one priority in their Contract With America must be defending and restoring our Constitutional freedoms.

17.5 million Petitions to Congress is the largest "redress of grievances" since the Constitution and the Bill of Rights were written.

So I KNOW Congress will get the message. And I know they'll act on our agenda of Repeal, Reform and Investigate if only you and I speak out.

Your Petitions to Congress also sends another message—a message not spelled out on the Petitions themselves.

Each Congressman, on the average, will receive 8,000 Petitions from NRA members demanding action. 8,000 messages from angry voters sounds an alarm in every Congressman's head.

You see, most Congressional elections were won or lost by 5,000 votes or less. So, they'll realize that failing to defend the Second Amendment and failing to retake the Constitutional freedoms lost to the anti-gunners, could result in big losses at the next election!

That's why it's critical you take a few minutes to sign your Petitions to Congress and return them to me as soon as possible.

These petitions are our D-Day.

Armed with these petitions and our First Amendment rights, we are going to storm Congress, knock out anti-gunner strongholds and recapture every bit of ground we lost since Bill Clinton took office.

And if we're successful, these petitions will be the turning point in the history of the Constitution. . . . A day when our sacred right to keep and bear arms will be secure for the next generation of law-abiding Americans.

Second, when you return your signed Petitions to Congress, I need you to make a special contribution to the NRA of $15, $20, $25, $35, $50 or the most generous amount you can afford.

Most Americans don't realize that our freedoms are slowly slipping away.

They don't understand that politicians and bureaucrats are chipping away at the American way of life.

They're destroying business, destroying our economy, destroying property rights, destroying our moral foundation, destroying our schools, destroying our culture . . .

. . . Destroying our Constitution.

And the attack, either through legislation or regulation, on the Second Amendment is only the first in a long campaign to destroy the freedoms at the core of American life.

You can see it in the gun bans, certainly. But you can also see it in closed ranges, closed hunting lands, confiscated collectors' firearms, banned magazines and ammunition taxes.

You can see it when jack-booted government thugs, wearing black, armed to the teeth, break down a door, open fire with an automatic weapon, and kill or maim law-abiding citizens.

America's gun owners will only be the first to lose their freedoms.

If we lose the right to keep and bear arms, then the right to free speech, free practice of religion, and every other freedom in the Bill of Rights are sure to follow.

I am one American who is not going to sit on the sidelines and watch this happen.

And if you want to help me stop this destruction of the Constitution, then I hope you can make that special contribution of $15, $20, $35, $25 or $50 to the NRA today.

With your special contribution, I'll have the financial ammo I need to keep Congress focused on the mission we've assigned them.

First, with your help, I will expand our petition campaign to involve as many of America's 80 million gun owners as possible.

If we can double the number of Petitions flooding Congress, we'll double the speed Congress deals with our demands to Repeal, Reform and Investigate. And with double the show of clout, we'll wipe out anti-gunner opposition.

Second, with your special contribution, I can increase the NRA's public exposure on talk shows, at rallies and shows, in radio and T.V. advertising and through broadcasts like the NRA's Town Meeting that first sounded our alarm in 16 million households, last summer.

Part of our problem is that far too few Americans understand what's at stake in these battles.

My ultimate goal is to educate the American people that this issue is not just about guns, not just about hunting, not just about personal protection; this issue is about freedom—Your Freedom.

I want to use the power of T.V. and radio to show the American people that, if the NRA fails to restore our Second Amendment freedoms, the attacks will begin on freedom of religion, freedom of speech, freedom from unreasonable search and seizure. . . .

. . . And that unless we take action today, the long slide down the slippery slope will only continue until there's no freedom left in America at all.

I know you see it. The elbow room you have to hunt, shoot and live life the way you see fit is slowly disappearing.

And the truth is, NRA members have been hardened by legislative battles. And only NRA members have the courage, the conviction to draw the line in the sand.

That's why I'm hoping you can take a few moments to sign and date the enclosed Petitions and return them to me with your special contribution of $15, $20, $25, $35, $50 or more in the enclosed postage-paid envelope today. Or, you can charge by phone by calling 800–547–4NRA today.

You know, besides going shooting, I love to go to football games. And every time I go, I always hear my fellow fans talk about the impact of "the 12th man."

The 11 players calling the plays and doing the hitting get a lot of their motivation from the 12th man in the stands. I'm talking about the crowd who cheers wildly when our team is on the offense, and drowns out the signals of the opposing team when they're on the defense.

I need you to be that 12th man.

I need you to sign your Petitions to Congress and return them to me today. That simple act will give our allies the political courage to do what's right, to push ahead with our agenda of Repeal, Reform and Investigate.

Likewise, your signed Petitions to Congress will confuse and demoralize the anti-gun team and their agenda of bans, taxes, intimidation, harassment and destruction of the Constitution.

I know I've said what I'm about to say before. But this is a message that resonates with NRA members across the land. It's something I hope you, too, will say whenever you have the occasion to defend our Constitutional freedoms.

This, the battle we're fighting today, is a battle to retake the most precious, most sacred ground on earth. This is a battle for freedom.

Please tell me you're ready to take the next step by returning your signed Petitions to Congress and special gift to me in the enclosed postage-paid envelope today.

Thank you, I look forward to hearing from you soon.

Yours in Freedom,

WAYNE LAPIERRE,
Executive Vice President.

P.S.—As a special thank you for making a special contribution of $25 or more, I'd like to send you a copy of my national best-selling book, *Guns, Crime, and Freedom. Guns, Crime, and Freedom* is 263 pages of truth about guns, gun control, gun owners, the anti-gun media and what's happening to our freedoms.

I hope you'll read it and use it in your own personal campaign in New York to defend the Constitution. Use *Guns, Crime, and Freedom* to help you keep the pressure on Congress, write letters to the editor and teach other Americans about the battle we're fighting today. Thanks again for your support and friendship.

Mr. HARKIN. Mr. President, before I commence my remarks I want to congratulate Senator PRYOR on the very bold and very strong statement that he has made this morning. I think he is right on the mark. I say to Senator PRYOR that, like he, we have a lot of good, decent, hard-working, law abiding NRA members in the State of Iowa—there are hundreds—like I am. I know that they are as repulsed by Mr. LaPierre's letter as the Senator from Arkansas. It is a shame when you have an organization with a lot of fine people in it that do abide by the law, that do want to instill in people a respect for guns and to teach them how to use them legitimately, responsibly, and to have an organization, then, taken over by the likes of Wayne LaPierre, and to really take what could otherwise be a decent organization which could instill in young people a healthy respect for firearms and hunting, and to move that organization, as he has done with this kind of letter, into almost an organization that would be disrespectful of our Constitution and disrespectful of the United States of America, I know he does not speak for the members of the NRA that live in Iowa.

Mr. PRYOR. If I might say, I appreciate the Senator's remarks.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa [Mr. HARKIN] is recognized to speak for up to 10 minutes.

(The remarks of Mr. HARKIN pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FRIST. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for a period of not more than 10 minutes

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE TICKING TIME BOMB

Mr. FRIST. Mr. President, yesterday I began discussions on the pending insolvency of Medicare, predicted to occur in the year 2002, just 7 years from today.

I called Medicare a ticking time bomb. I expressed my concern that this body has not addressed that ticking time bomb. We must act now to preserve Medicare, to protect it, to save it, to disarm that ticking time bomb.

I will continue those discussions this morning.

Congress and all Americans must realize that it is the Federal Government, through the Medicare program, that is the purchaser of health care for this country's seniors and people with disabilities. The same Government that brought you $100 hammers is also shopping for scalpels and stethoscopes. The Federal Government spends more money on health care than individuals, and more than employers. But, it's not our money. If it were, we would likely be more prudent consumers. We would likely react more quickly and more responsibly to skyrocketing costs.

So whose money do we spend? For the answer, we should revisit the creation of the program and remind ourselves of its intended role in our health care system when it was created in 1965. Also it is time to understand the shortfalls of the program.

Because the program was created to increase seniors' access to acute care, Congress mandated participation for hospital services, called Medicare part A. After seniors pay for a relatively low deductible—$716 in 1995, Medicare fully covers expenses for 60 hospital days. If a senior's hospitalization exceeds the 60 days in 1 year, he or she is responsible for a co-insurance fee—$179 per day for the 61st through 90th days, and $358 per day beyond that.

Medicare part A comprises 63 percent of all Medicare spending. It is funded by the Medicare portion of the Social Security payroll tax—a tax of 2.9 percent of all income—split evenly between employer and employee. Taxes collected from today's workers go directly to pay for services delivered to today's beneficiaries. It is important to understand that contributions to Medicare do not actually sit in the hospital insurance [HI] trust fund and wait for you. Rather, they are paid out immediately to meet the needs of today's seniors and people with disabilities. Beginning in 1997, the part A expenditures will exceed total income annually.

Medicare's part B goes to pay doctor bills and is voluntary. It is funded 30 percent from beneficiary premiums and 70 percent by automatic withdrawals from Treasury general revenues. Today, a senior opting for Medicare part B pays $46.10 each month and is responsible for a $100 annual deductible and 20 percent co-insurance for most services. General revenues provide a 70 to 75 percent premium subsidy and cover 80 percent of most services.

Theoretically, the funding arrangement for part A—the hospital insurance—would work fine if the demographics of the population were constant, if medical technology were constant, and if the growth of overall expenditures were constant. But, as we all know, this is not the case.

First—and most importantly—the elderly population is growing much faster than the overall population. In 1990, 2.1 million Americans qualified for Medicare. But in the year 2020, 3.9 million new enrollees will qualify—almost twice as many new enrollees will be qualifying that year. And who pays the bill? The working generation, which is not growing nearly as fast. When Medicare was created, two workers would cover the costs of the Medicare beneficiary. By the time I qualify for the program, it will take four workers to cover the same cost.

Consider the consequences of delaying Medicare reform. I have three sons: Bryan is 7 years old, Jonathan is 9, and Harrison is 11. In the year 2020, they will be 32, 34, and 36 years old. I will be 68 and eligible for Medicare benefits. My sons and their generation will pay for the services for my generation. It will take the taxes of all my three sons plus another individual just to pay for my own Medicare benefits. It is intolerable to punish our children, the next generation, with this inequity.

Second, medical breakthroughs are allowing people to live healthier and longer lives. Take my own field of heart disease as an example. Thirty years ago, there were few heart intensive care units in the country. Coronary artery bypass surgery had never been performed. Cardiovascular drugs were in their infancy. Heart transplants were but a dream for the future. Today, because of advances in medical science and technology, people who used to die of their heart disease are living 10, 20, or 30 years longer, and those new technologies are expensive.

Back to my earlier question, "Whose money is this?" Medicare is paid for by three vehicles: a 2.9 percent payroll tax, split by employers and employees; general revenue tax dollars; and beneficiary premiums, copayments, and deductibles.

I think it is safe to say that taxpaying workers are more watchful of the money coming out of their pockets than is the Federal Government. I know the employers are. We have recently seen their impact on the health care system as they have struggled with increasing costs. I have witnessed through my own parents that seniors are prudent purchasers of health care services. Since Medicare was not designed as a comprehensive insurance program, seniors already shop for additional health care coverage. Most seniors today live within a fixed budget. They are careful to judge the value of their health care dollar.

By failing to mend this program, we are failing all of these groups who will suffer from our inattention in the years to come. Yet, there is an ongoing premise that the Federal Government should not attempt to manage its spending of the Medicare dollar. Every other purchaser has to manage his or her money. Why should the Federal Government be exempt?

And, how does this country pay for our failure to manage the Medicare Program? First, employers pay in the form of higher health care costs. For the last 10 years, Congress has chosen to repeatedly cut payments to physicians and hospitals for services delivered. This reduces program costs incrementally, but does little to reduce the overall rate of growth of expenditures. Lower Medicare payments, especially when coupled with even lower Medicaid payments, simply lead providers to shift costs and to charge self-pay and privately insured patients more. This increases everyone's insurance premiums. In east Tennessee, a recent survey of physician fees found that the private sector is paying physicians, on average, 220 percent above Medicare rates. Depending on the specific procedure, these private plans are paying anywhere from 43 to 461 percent above Medicare rates. Without Medicare reform, private health insurance will continue to climb even further out of reach and all Americans will suffer reduced access and thus reduced overall quality.

Second, the working generation pays for our mismanagement of Medicare through increased taxes. Over the last 30 years, Congress has dramatically expanded both the tax base and the tax rate supporting the Medicare trust fund. Initially, Medicare relief on a 0.6-percent payroll tax on the first $6,600 earned. Today, the program relies on nearly a 3-percent payroll tax on all income earned. Next year for the first time in its history, the trust fund will begin spending more money than it is taking in. Without reform, a tax increase is around the corner. And at best, this tax increase would only prolong the program a few years.

Third, beneficiaries pay for Medicare's failures. Skyrocketing costs of the program force the same rate of growth on the direct expenditures by our seniors and disabled. Their out-of-pocket costs are directly related to overall program costs. Medicare does provide a generous subsidy, making it a better deal than anything else out there. But not all services are covered, the coinsurance and deductibles are substantial, and premiums are calculated to cover a defined amount of program costs. Only 1 out of 10 or 11 percent of seniors rely solely on Medicare for their health care insurance. Most seniors still purchase private supplemental medical coverage or have access to additional employer-sponsored coverage. Beneficiary costs will continue to climb as the overall program spending spins out of control.

Medicare is an entitlement. I do not suggest we take away that concept. However, I do ask us to remember what it entitles us to. Quite simply, the entitlement was intended to provide access to the private system. Our predecessors did not create a system which limited beneficiaries to public hospitals or Government-employed physicians. Rather, it provided financial access to private physicians and hospitals, the same providers Americans used before they turned 65.

If we viewed the Medicare subsidy today as it was originally intended—allowing beneficiaries to use it to access private coverage—seniors would then be able to choose health care plans that better meet their needs. Today they do not have that choice. We should provide that choice to our seniors.

Mr. President, I will continue this discussion over the next several days as we look forward to better ways to save, to preserve our Medicare Program.

I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that I be permitted to speak for 15 minutes, and that a period for morning business be extended accordingly.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

LETTER FROM THE NATIONAL RIFLE ASSOCIATION

Mr. DODD. Mr. President, earlier today my colleague from Arkansas, Senator PRYOR, spoke about a very disturbing letter circulated by the National Rifle Association [NRA]. I commend him for his remarks. I do not want to get into a lengthy discussion of this issue, but I urge all of my colleagues, regardless of where you stand on the issue of gun control, to read this letter, which was sent out by the NRA under the signature of Mr. Wayne LaPierre, the executive vice president.

I do not know of anyone here, no matter how strongly they feel about the legitimate issue of what we do about gun control, that would not be offended by this letter and the language in it.

Again, I am not going to spend a great deal of time here this morning, but there is language in the letter which talks about:

> . . . jack-booted government thugs [given] more power to take away our Constitutional rights, break in our doors, seize our guns, destroy our property, and even injure or kill us;

That is how the letter refers to our Government and the hard-working members of our Federal law-enforcement agencies. And the letter goes on, in reference to the Clinton administration:

> . . . if you have a badge, you have the Government's go ahead to harass, intimidate, even murder law-abiding citizens;

And there is even more:

> Waco and the Branch Davidians . . . Not too long ago it was unthinkable for Federal agents wearing Nazi bucket helmets and black storm trooper uniforms to attack law-abiding citizens.

Law-abiding citizens? People who shot Federal agents, who burned their own buildings, and killed their own families and friends? I mean this is incredible.

And this is not a letter from some fringe organization. It is a letter from the NRA—a national organization that usually has credibility. Quite simply, the NRA ought to know better.

Please read this letter. It is five or six pages. And if you are not as offended as I have been by reading it, I will be surprised.

Someone needs to ask for a retraction of this letter. Put aside the tragic events in Oklahoma for a moment, I do not want to suggest that this letter is linked to that terrible tragedy. I do not want to cloud the issue. But someone needs to apologize for this letter. It goes way beyond the kind of rhetoric that is appropriate on these issues.

Remember this letter went, apparently, to millions of homes. I have no problem with people sending out fundraising letters and even using strong language in those solicitations. But the NRA's letter goes way beyond the pale. At first, I was so shocked, I thought it might be a hoax. But apparently it was not. I understand the NRA has confirmed that it sent the letter.

Again, I urge my colleagues to read the letter and I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> NATIONAL RIFLE ASSOCIATION.
>
> DEAR FELLOW AMERICANS: I've worn out a lot of shoe leather walking the halls of Congress. I've met key leaders, I've talked with old allies, I've met with the new Congressmen and many staff members.
>
> What I'm hearing and seeing concerns me.
>
> Many of our new Congressmen are ignoring America's 80 million gun owners. Some have forgotten what we did to elect them. Others say our demands to restore our Constitutional freedoms are "politically out of line."
>
> Don't get me wrong, not all of them are like this. Senator Phil Gramm, House Speaker Newt Gingrich, and Congressmen Bill McCollum, Bill Brewster and Harold Volkmer are all coming to our aid. But too many others are not.
>
> And without a major show of force by America's 80 million gun owners, America will resume its long march down the road to gun bans, destruction of the Constitution and loss of every sacred freedom.
>
> I want you to know I'm not looking for a fight.
>
> But when you consider the facts of our current situation, you too, will see we have no other choice.
>
> Fact No. 1: The Congress' leading anti-gunners, Senators Dianne Feinstein, Ted Kennedy and Congressmen Charles Schumer and Major Owens all survived their last elections.
>
> They've pledged to fight us to the bitter end for Brady II and its ammo taxes, licensing and registration schemes, gun rationing, bureaucrats with the power to determine if you "need" a gun and yes, the repeal of the Second Amendment.
>
> It doesn't matter to them that the Brady Law is a failure.
>
> It doesn't matter to them that the Brady Law has become one more tool that government agents are using to deny the Constitutional rights of law abiding citizens.
>
> It doesn't matter to them that the semi-auto ban gives jack-booted government thugs more power to take away our Constitutional rights, break in our doors, seize our guns, destroy our property, and even injure or kill us.
>
> Schumer, Feinstein, Kennedy, Owens and the rest of the anti-gunners want more and more gun control.
>
> It can be something small and subtle like a regulation expanding the disqualification criteria for the Brady Law. They're fighting for anything that makes it harder for you to own a gun.
>
> The gun banners simply don't like you. They don't trust you. They don't want you to own a gun. And they'll stop at nothing until they've forced you to turn over your guns to the government.
>
> Fact No. 2: If the anti-gunners fail to achieve their goals in Congress, they have a fall-back position in Bill Clinton, the most anti-gun President in American history.
>
> In two short years, Bill Clinton launched two successful attacks on the Constitution. He signed two gun control bills into law. He has sworn to veto any repeal of the semi-auto ban and any restoration of our Constitutional rights.
>
> His Interior and Agriculture Departments have set their sights on closing hunting lands.
>
> And his Environmental Protection Agency is attempting to take jurisdiction over existing uses of lead. This, of course, includes gun ranges and spent shot.
>
> What's more, gun owners aren't the only ones Clinton's EPA has set its sights on. They're after fishermen, too. They want to BAN the use of small lead fishing sinkers and, of gravest concern, they want to stop the home casting of these sinkers.
>
> If fishing sinkers are on the Clinton bureaucrat's list, you know what's next: lead shot, lead bullets, bullet casting and reloading.
>
> Clinton's State Department is also adding to the attacks on gun owners and our Constitutional freedoms. In December, he signed the Summit of the Americas agreements which pledges that the U.S. Government will push for additional gun control.
>
> Over in the Justice Department, Clinton's Attorney General Janet Reno has signaled her intent to "squash" the states' rights movement and deny states their Constitutional power.
>
> And worst of all,
>
> Fact No. 3: President Clinton's army of anti-gun government agents continues to intimidate and harass law-abiding citizens.
>
> In Clinton's administration, if you have a badge, you have the government's go-ahead to harass, intimidate, even murder law-abiding citizens.
>
> Randy Weaver at Ruby Ridge . . . Waco and the Branch Davidians. . . . Not too long ago, it was unthinkable for Federal agents wearing nazi bucket helmets and black storm trooper uniforms to attack law-abiding citizens.
>
> Not today, not with Clinton.
>
> Our calls to investigate these outrageous assaults on our Constitutional freedoms are routinely silenced by the anti-gun media. But that's no surprise.
>
> Fact No. 4: They've launched a new wave of brainwashing propaganda aimed at further destroying our Constitutional freedoms.
>
> CBS, ABC, NBC, USA Today, Time, Newsweek and The New York Times have

launched another round of phony polls and slanted stories to help the anti-gunners achieve their goals.

Their latest phony poll shows 70% of America support the "semi-auto" assault weapon ban.

That's simply not true. When it's explained that "semi-autos" are used in less than a fraction of one percent of crimes; that the ban only affects the law-abiding; and, that the ban is only one more way to deny Constitutional rights to the law-abiding, support for the ban drops to 30%.

But the media still uses this 70% statistic to trumpet the call for gun control.

What scares me the most about this 70% number is that the media has brainwashed 70% of Americans into believing that the government—and not each individual—is responsible for their personal protection.

Even worse, this 70% number means that there are enough people who can be brainwashed by the media to vote for a repeal of the Second Amendment if it were put to a vote.

The media, Clinton, the anti-gunners in Congress . . . this combination is a powder keg that could blow at any moment and it's set squarely underneath the Constitution.

And what this means is:

Fact No. 5: Congress must be forced to restore the Constitution, repeal the gun bans, investigate abuse by government agents and focus the public debate on criminal control, not gun control. . .

. . . Or what we're seeing now will only be a momentary patch of sunshine on the road to doom for the Second Amendment and our Constitution.

There is hope, though. Despite the current situation, I'm encouraged by you and your fellow NRA members.

Everywhere I go, to every gun show, every NRA–ILA grassroots operation, every Friends of NRA Dinner, even in cabs and airports around the country, I run into NRA members who understand the stakes and stand ready to fight.

The question I hear from almost every one of these NRA members is the same: "*What can I do next?*"

If you're one of those members, I want to thank you for your courage, your conviction and your spirit. You keep me going. You keep me on the road. You give me strength to lead the battle.

And if you want to join me in taking the next step, I need you to do these two things today.

First, I need you to sign the enclosed Petitions to the United states Congress.

These petitions are addressed to the leaders of the U.S. Congress, Senator Robert Dole and Speaker Newt Gringrich, and your U.S. Senators Daniel Patrick Moynihan, Alfonse M. D'Amato and Congresswoman Sue Kelly.

Please be sure to sign all five petitions, then fold them and place them in the enclosed, postage-paid envelope addressed to me at NRA Headquarters.

These petitions spell out, in black and white, our agenda of repeal, reform, investigate and limit government power.

In the first amendment of the Bill of Rights, we are guaranteed the right to "petition our Government for a redress of grievances."

And that's exactly what we're going to do: redress our grievances in the biggest and most powerful display of political clout and commitment to the Constitution.

I want to personally deliver your five petitions, and the petitions of all 3.5 million of your fellow NRA members—17.5 million petitions in all—to Congress.

And I want to show the leadership in Congress, and your Senators and Congressmen from New York, that the number one priority in their Contract With America must be defending and restoring our Constitutional freedoms.

17.5 million Petitions to Congress is the largest "redress of grievances" since the Constitution and the Bill of Rights were written.

So I KNOW Congress will get the message. And I know they'll act on our agenda of Repeal, Reform and Investigate if only you and I speak out.

Your Petitions to Congress also sends another message—a message not spelled out on the Petitions themselves.

Each Congressman, on the average, will receive 8,000 Petitions from NRA members demanding action. 8,000 messages from angry voters sounds an alarm in every Congressman's head.

You see, most Congressional elections were won or lost by 5,000 votes or less. So, they'll realize that failing to defend the Second Amendment and failing to retake the Constitutional freedoms lost to the anti-gunners, could result in big losses at the next election!

That's why it's critical you take a few minutes to sign your Petitions to Congress and return them to me as soon as possible.

These petitions are our D-Day.

Armed with these petitions and our First Amendment rights, we are going to storm Congress, knock our anti-gunner strongholds and recapture every bit of ground we lost since Bill Clinton took office.

And if we're successful, these petitions will be the turning point in the history of the Constitution . . . . A day when our sacred right to keep and bear arms will be secure for the next generation of law-abiding Americans.

Second, when you return your signed Petitions to Congress, I need you to make a special contribution to the NRA of $15, $20, $25, $35, $50 or the most generous amount you can afford.

Most Americans don't realize that our freedoms are slowly slipping away.

They don't understand that politicians and bureaucrats are chipping away at the American way of life.

They're destroying business, destroying our economy, destroying property rights, destroying our moral foundation, destroying our schools, destroying our culture . . .

. . . Destroying our Constitution.

And the attack, either through legislation or regulation, on the Second Amendment is only the first in a long campaign to destroy the freedoms at the core of American life.

You can see it in the gun bans, certainly. But you can also see it in closed ranges, closed hunting lands, confiscated collectors' firearms, banned magazines and ammunition taxes.

You can see it when jack-booted government thugs, wearing black, armed to the teeth, break down a door, open fire with an automatic weapon, and kill or maim law-abiding citizens.

America's gun owners will only be the first to lose their freedoms.

If we lose the right to keep and bear arms, then the right to free speech, free practice of religion, and every other freedom in the Bill of Rights are sure to follow.

I am one American who is not going to sit on the sidelines and watch this happen.

And if you want to help me stop this destruction of the Constitution, then I hope you can make that special contribution of $15, $20, $25, $35 or $50 to the NRA today.

With your special contribution, I'll have the financial ammo I need to keep Congress focused on the mission we've assigned them.

First, with your help, I will expand our petition campaign to involve as many of America's 80 million gun owners as possible.

If we can double the number of Petitions flooding Congress, we'll double the speed Congress deals with our demands to Repeal, Reform and Investigate. And with double the show of clout, we'll wipe out anti-gunner opposition.

Second, with your special contribution, I can increase the NRA's public exposure on talk shows, at rallies and shows, in radio and T.V. advertising and through broadcasts like the NRA's Town Meeting that first sounded our alarm in 16 million households, last summer.

Part of our problem is that far too few Americans understand what's at stake in these battles.

My ultimate goal is to educate the American people that this issue is not just about guns, not just about hunting, not just about personal protection; this issue is about freedom—Your Freedom.

I want to use the power of T.V. and radio to show the American people that, if the NRA fails to restore our Second Amendment freedoms, the attacks will begin on freedom of religion, freedom of speech, freedom from unreasonable search and seizure. . . .

. . . And that unless we take action today, the long slide down the slippery slope will only continue until there's no freedom left in America at all.

I know you see it. The elbow room you have to hunt, shoot and live life the way you see fit is slowly disappearing.

And the truth is, NRA members have been hardened by legislative battles. And only NRA members have the courage, the conviction to draw the line in the sand.

That's why I'm hoping you can take a few moments to sign and date the enclosed Petitions and return them to me with your special contribution of $15, $20, $25, $35, $50 or more in the enclosed postage-paid envelope today. Or, you can charge by phone by calling 800–547–4NRA today.

You know, besides going shooting, I love to go to football games. And every time I go, I always hear my fellow fans talk about the impact of "the 12th man."

The 11 players calling the plays and doing the hitting get a lot of their motivation from the 12th man in the stands. I'm talking about the crowd who cheers wildly when our team is on the offense, and drowns out the signals of the opposing team when they're on the defense.

I need you to be that 12th man.

I need you to sign your Petitions to Congress and return them to me today. That simple act will give our allies the political courage to do what's right, to push ahead with our agenda of Repeal, Reform and Investigate.

Likewise, your signed Petitions to Congress will confuse and demoralize the anti-gun team and their agenda of bans, taxes, intimidation, harassment and destruction of the Constitution.

I know I've said what I'm about to say before. But this is a message that resonates with NRA members across the land. It's something I hope you, too, will say whenever you have the occasion to defend our Constitutional freedoms.

This, the battle we're fighting today, is a battle to retake the most precious, most sacred ground on earth. This is a battle for freedom.

Please tell me you're ready to take the next step by returning your signed Petitions to Congress and special gift to me in the enclosed postage-paid envelope today.

Thank you, I look forward to hearing from you soon.

Yours in Freedom,

WAYNE LAPIERRE,
Executive Vice President.

P.S.—As a special thank you for making a special contribution of $25 or more, I'd like to send you a copy of my national best-selling book, *Guns, Crime, and Freedom*. *Guns, Crime, and Freedom* is 263 pages of truth about guns, gun control, gun owners, the anti-gun media and what's happening to our freedoms.

I hope you'll read it and use it in your own personal campaign in New York to defend the Constitution. Use *Guns, Crime, and Freedom* to help you keep the pressure on Congress, write letters to the editor and teach other Americans about the battle we're fighting today. Thanks again for your support and friendship.

Mr. DODD. I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

TRIBUTE TO SENATOR JOHN STENNIS

Mr. INOUYE. Mr. President, Senator John Stennis will long be remembered as the "conscience of the Senate" for his personal religious convictions and his many years of work on the Senate code of ethics. I will always think of him as a friend, and as one of the most effective chairmen of the Defense Subcommittee of the Appropriations Committee. We shared many of the same beliefs in that the United States should always strive for the most effective Armed Forces in the world, and his leadership was always deserving of respect and admiration.

Despite physical ailments and the death of his beloved wife of 52 years, Senator Stennis remained committed to this body and to his countrymen. He could always be found in his offices, never leaving until the Senate had adjourned for the day. He never gave up when he believed that he was right.

We need men and women who will fight for what they believe, and we should look to John Stennis as an excellent example of the forthrightness and dedication necessary to be effective leaders today.

Since Senator Stennis retired from this body in 1989, the Senate has been denied his wisdom and his leadership. Our entire country mourns his loss.

KOREAN AGREED NUCLEAR FRAMEWORK

Mr. THOMAS. Mr. President, I find myself in the unfortunate position of once more coming to the floor to briefly discuss the lack of progress being made in the implementation of the United States-North Korea Agreed Nuclear Framework.

During the recent recess, talks in Berlin between us and the North Koreans broke down. The point of contention continues to be the DPRK's obstinate refusal to accept two light-water reactors of South Korea manufacture as called for in the agreement. Mr. President I—and, I am sure, our negotiators headed by Ambassador Galucci—have grown weary of the North's negotiating tactics. Last-minute brinkmanship has failed to work for them in the past; I am unsure why they think if they continue to pursue that course we will eventually relent.

Korean's have a saying about the futility of trying to influence someone too stubborn to listen: "reading into an ox's ear." At the risk of reading into the "Pyongyang ox's" ear, let me say it one more time. As I have said before as the chairman of the Subcommittee on East Asian and Pacific Affairs, we should not accept any deviation from the agreed framework on the part of the DPRK. As called for in the agreement, North Korea must accept the two light-water reactors from South Korea. It must not refire its Yongbyon reactor. It must cease its attempts to produce fissile material. It must take steps toward initiating and maintaining a bilateral relationship with the South. The consequence for their failure to live up to the agreement is very straight-forward: a return to the Security Council and the imposition of tough sanctions.

Mr. President, this is their choice—in black and white. There is no subtlety, no innuendo, no hidden message. Our negotiators have done an admirable job in continuing to press the North Koreans; I urge them to stick to their guns.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that the Founding Fathers, two centuries before the Reagan and Bush Presidencies, made it very clear that it is the constitutional duty of Congress to control Federal spending, which they have not for the past 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,876,206,792,345.50 as of the close of business Wednesday, April 26. This outrageous debt—which will be saddled on the backs of our children and grandchildren—averages out to $18,403.01 on a per capita basis.

THE GUN-FREE SCHOOLS ACT OF 1994 REMAINS IN PLACE

Mrs. FEINSTEIN. Mr. President, yesterday, the Supreme Court overturned the Gun Free Schools Zones Act, a 1990 law sponsored by Senator KOHL and others that made it a felony to bring a gun within 1,000 feet of a school. The case revolves around a San Antonio youth who was tried for bringing a .38 caliber to school, and the decision has ignited widespread debate because it reverses decades of Supreme Court precedent.

However, as a result of this controversy, it is extremely important to clarify the status of a separate, recently passed law, which has a similar name—the Gun-Free Schools Act of 1994—but remains firmly in place.

Parents, teachers, and school officials must know that gun possession on campus cannot be tolerated, that the Gun-Free Schools Act of 1994 remains in place, and that in order to receive Federal education funds every school district in the Nation must soon have in place and functioning a policy that assures that any youngster who brings a gun to school will be expelled for not less than 1 year.

The following points must be clearly understood:

First, the Gun-Free Schools Act of 1994 was not struck down by the Supreme Court yesterday.

Instead, the Court struck down a 1990 criminal law with a similar-sounding name—but a different legal status.

Second, the Gun-Free Schools Act of 1994 will not be swept away by the Court's decision.

By simply requiring schools to have a zero tolerance policy as a condition of receiving Federal education funds, the Gun-Free Schools Act does not rely on the commerce clause for its authority.

Third, the Gun-Free Schools Act remains in place, and zero tolerance policies are already showing positive results.

Many school districts such as New York, Los Angeles, and San Diego that have already implemented zero tolerance policies are seeing fewer guns brought to school, and as a result fewer student expulsions.

In San Diego, gun possession on campus was cut in half during 1993, the first year of that district's policy, and there have been only 5 gun possession cases during this year.

Under the Gun-Free Schools Act, States have until October 1995 to enact or revise their own zero tolerance policies for school districts, requiring that students caught with guns on campus be expelled for not less than a year.

Fourth, the Court's decision to revoke Federal law does not affect State laws outlawing gun possession on campus.

Forty States, including California, have their own criminal statutes making gun possession on or near a school a State crime.

California's statute, signed into law by Pete Wilson, makes possession of a gun within 1,000 feet of a school a felony crime.

The Gun-Free Schools Act of 1994, which I have strongly supported, was passed last year in response to the increasing gun violence on school grounds, and the failure of many schools to respond clearly and forcefully to the presence of guns on campus.

In 1993, a Los Angeles high school student was shot waiting in line for lunch, and two other California high school students were killed within a 1-month period.

Over 100,000 guns are brought to school each day, according to several recent surveys and national projections.

There have been 105 violent school-related deaths in just the last 2 years, according to the Centers for Disease Control—caused by guns, knives, and other weapons.

In a nationwide survey, the CDC also found that 1 in 12 students brought a gun to school in 1993—up from 1 in 24 just three years before.

However, in too many school districts students who bring guns to school are simply given a short suspension, counseling, or transferred to another school.

By requiring that offenders be expelled from the regular school program, the Gun-Free Schools Act mirrors policies in a growing number of State education codes and urban school district policies.

School violence—especially deadly violence—must be the Nation's top educational priority.

Sixty-five students and six school employees were shot and killed at U.S. schools during 1985–90, according to the Center To Prevent Hand Violence.

Without being safe in school, neither teachers nor students can be expected to focus on learning.

In conclusion, there must be no uncertainty about the status of the Gun-Free Schools Act of 1994. Gun possession on campus cannot be tolerated, the Gun-Free Schools Act of 1994 remains in place, and in order to receive Federal education funds every school district in the Nation must soon have in place and functioning a policy that assures that any youngster who brings a gun to school will be expelled for not less than 1 year.

TULLAR BROTHERS NAMED KENTUCKY'S SMALL BUSINESS PERSONS OF THE YEAR

Mr. FORD. Mr. President, I rise today to celebrate the accomplishments of two fellow Kentuckians who exemplify the American entrepreneurial spirit. William and Michael Tullar are brothers from Grand Rivers, KY, who are being honored in our Nation's Capitol on May 2, 1995, as Kentucky's Small Business Persons of the Year by the Small Business Administration.

The Tullars' Livingston County business, known as Patti's 1880s Settlement, began in 1977 as a six-room motel and expanded to include Hamburger Patti's Ice Cream Parlor which was named for the Tullars' mother.

Over the last few years, Tullar Enterprises, Inc., has grown into a family retreat which reflects the historical heritage of the region. Log cabins purchased throughout Kentucky and Tennessee were restored and are used for clothing boutiques, gift shops, and a clubhouse for the settlement's miniature golf attraction. In addition, the Tullars have created a country escape with landscaping that includes creeks and waterfalls.

The Tullars were selected for this honor on the basis of their staying power, growth in number of employees, increases in sales, current and past financial reports, their innovative ideas, and their contributions to community oriented projects. I am also pleased to note that they were the Small Business Administration's 1994 Kentucky Blue Chip Winners.

I applaud the Tullars' can-do attitude and their belief in running a first-rate business. These qualities have earned them distinction within Kentucky's small business community and I am proud to witness their recognition at the national level. My best to them on this auspicious occasion and my wishes for continued success.

TAKE OUR DAUGHTERS TO WORK DAY

Mrs. MURRAY. Mr. President, I rise today to encourage girls and young women throughout the Nation to aspire and work hard to make their dreams a reality. In honor of national Take Our Daughters to Work Day, I have with me today my own daughter, Sara.

When I was young, many women did not work outside the home. The women who did work were teachers, nurses, and waitresses. Life has changed a lot since then. Young women today have more options and greater opportunities than ever before. There are over 58 million working women in this country today. There are 3.8 million women working in jobs not traditionally held by women—occupations such as engineering, medicine, mechanics, construction trades, farming, forestry, and transportation. They are even Members of the U.S. Senate.

Although it is encouraging to reflect on the changes that have been made by women since my childhood, I believe that the job choices available to young women today are not merely a matter of luxury. The reality is that many of our young women ultimately will be responsible for the financial well-being of their families. Women's employment is often critical to keeping families above the poverty line. Children whose mothers work are less likely to be poor, whether they live with one parent or two.

The ability of young women to realize their goals of good paying, rewarding employment are hampered, however, by lack of involvement by parents toward their child's education. I was reading the Seattle Times last Sunday, and Erik Lacitis, a staff columnist for the Times, suggested that parents visit their child's school, a sort of Take Your Parent To School Day. Mr. Lacitis comments that,

> In talking to teachers over the years, what they tell me is that a number of you [meaning parents] are strangers to your kid's schools * * * have you ever spent time in their classrooms, say, volunteering to carry out a project with the kids?

He ends his editorial by saying that one of the best things that could happen to schools is the presence of parents in the classroom regularly.

I could not agree more. I wholeheartedly support the idea of taking a child to work. I believe it is important for young people to see what their parents, and role models, do for 8 hours or more a day. It is important for us to show them they can achieve the same thing, and even more. However, I also feel that we need to see and experience what our children are doing for 8 hours of their day. It would show our children that we care about what they are learning in school, and would emphasize the importance of education in achieving their long-range goals.

Mr. President, I feel that it is very important for me as a woman, as a mother, and a Member of the U.S. Congress to encourage girls and young women throughout the Nation to realize their potential.

I never dreamed that I would become an elected official, much less a U.S. Senator. Today, I have the opportunity to be a role model for my daughter Sara and for other women across the country. Young women need to understand that they don't have to give up one part of their lives for another. Women should not have to choose between careers and families. I work long hours for the citizens of my home State of Washington as a U.S. Senator, but also dedicate a lot of energy, caring, and love as a parent to my son and daughter.

Today is an important day in America. Across this Nation, parents are taking their daughters and other young women to work. They are helping to broaden young women's horizons, to show them the range of options available to them in the future.

I hope this day is a day when young women everywhere recognize that if they work hard and believe in themselves, they can be whoever they want to be. I am a U.S. Senator today because I learned to face tough challenges with courage, to take risks, not to be afraid to try, and to always dream the impossible.

Finally, I would like daughters across this Nation to remember a lesson I was taught early on: When others say you can not make a difference, they are usually just afraid you will.

Thank you, Mr. President.

TRIBUTE TO DAVID JOLLY

Mr. BAUCUS. Mr. President, tomorrow, in Missoula, MT, a man who has done a great service for our Nation's national forests will be honored by his friends, family, and colleagues. David Jolly, the Regional Forester for the U.S. Forest Service's northern region, is retiring after almost 34 years of public service.

Dave's career in the forestry and natural resources field has been long and distinguished. His work has taken him around the country where he has lived in eight States and in Washington, DC. Dave was born in Knoxville, TN. He grew up in a small town called Norris, TN, where his father worked as an economist for the Tennessee Valley Authority's Forestry Department headquarters. In this environment, Dave developed a great passion for forestry as a young boy. He completed a pre-forestry program at the University of Tennessee then went on to receive a degree from North Carolina State in forestry in 1961. During his college years, Dave served his country in the U.S. Naval Reserve.

Dave began his forestry career in the summer of 1961 working as a research aid for the Weyerhauser Co. in Centralia, WA. Later that same year, he got his first job with the U.S. Forest Service as a forester on the Francis Marion National Forest in South Carolina. From there, his career took off as he went on to become district ranger on the Ouachita National Forest in Arkansas, then deputy forest supervisor on the Ozark and St. Francis National Forests in Arkansas.

In 1972, he furthered his education in public policy at the University of Washington, then went on to work in the Forest Service's southern regional office in Atlanta. In 1976, he became forest supervisor of the Shawnee National Forest in Illinois. In 1982, he became deputy director of the Forest Service's Timber Management Program in Washington, DC. From there his career continued to flourish as he became deputy regional forester, then regional forester, of the agency's southwestern region overseeing the National Forests in Arizona and New Mexico. In 1992, I am proud to say, he came to Montana to oversee the northern region. This was no easy task managing such a vast region of forests and rangeland in Montana and Idaho but Dave did an exemplary job.

I personally came to gain a deep respect for Dave when the Department of Agriculture last year announced its intention to close region 1. Dave played no part in this misguided decision. And, personally, I suspect he shares my view that region 1 should remain open.

Yet Dave is a professional. He has never let his personal views be known. But he has done a first-rate job of communicating with me, region 1's employees, and the people of Montana. He has heard our concerns. He has provided the best information possible. In short, Dave Jolly is a class act.

I understand that Dave and his wife Peggy share a love of Montana and the great outdoors. I am pleased to hear that they plan to stay in Montana for awhile. Dave plans to do a lot of fishing in his retirement—what better place than Montana? I am sure than in between fishing trips, Dave will maintain his lifelong interest in forestry. He is a member of the Society of American Foresters, Rotary International, and the Society for Range Management. I wish Dave and his family much happiness in the coming years.

CRIME VICTIMS' RIGHTS

Mr. LEAHY. Mr. President, this week is Crime Victims' Rights Week. It was so designated by the President long before the devastating events in Oklahoma City last Wednesday. Our hearts go out to the families and victims of that terrible criminal act.

I know that the Attorney General and entire Federal, State, local, and international law enforcement community are dedicated to bringing those responsible for this heinous act to justice.

I rise today to commend those who are working so hard on behalf of all crime victims in crime victims' assistance and compensation programs.

Over the last 15 years we have made strides in recognizing crime victims' rights and providing much needed assistance. I am proud to have played a role in passage of the Victims and Witness Protection Act of 1982, the Victims of Crime Act of 1984, and the Victims' Rights and Restitution Act of 1990 and the other improvements we have been able to make.

Indeed, only last year, in the Violent Crime Control Act of 1994, Congress acted to make tens of millions of dollars available to crime victims. No amount of money can make up for the harm and trauma of being the victim of a crime, but we should do all that we can to see that victims are assisted, compensated, and treated with dignity by the criminal justice system.

With this in mind, I was shocked to find that the House-passed legislation that would devastate funding for crime victims' assistance programs and funding for child advocacy centers in the so-called Personal Responsibility Act, H.R. 4. Among the most important advances achieved over the last few years has been our attention to crime victims. We need to do more, not less.

The House bill would have the effect of reversing recent progress by prohibiting the use of the crime victims fund for victims' assistance. That is the effect of section 371(b)(2) of the House-passed bill. Buried in the fine print in a section entitled "other repealers" is the end of the Federal Crime Victims' Assistance Program. That is wrong and I strenuously oppose such efforts.

We in the Senate should use this week, Crime Victims' Rights Week, to declare our opposition to the House's short-sighted legislation. No one should need a reminder of how important our crime victims' assistance programs are.

For those who do, there is the recent, tragic examples of the bombing of the Oklahoma City Federal building and the gut-wrenching events that occur all too often in all too many of our urban and rural jurisdictions throughout the country.

Recognizing appropriate rights of crime victims is essential to securing dignity and a proper place in the criminal justice process for crime victims and their families. Last year, the Violent Crime Control Act included provisions to ensure a right of allocation for victims of crimes of violence or sexual abuse. This is the right to be heard at sentencing, the opportunity for the crime victim to speak to the court either directly or through a family member or legal representative. I fully support that addition to Federal law.

Indeed, I plan to introduce a bill that would extend that right to all Federal crimes.

TRIBUTE TO THE VICTIMS OF OKLAHOMA CITY BOMBING

Mrs. FEINSTEIN. Mr. President, much has been said and written in the last 8 days since the bombing in Oklahoma City. And we have all been shocked and angered by the panoply of images dominating our television screens and newspapers.

One hundred and ten dead have so far been recovered from the rubble, and there is fear that many more lie beneath slabs of cement and twisted girders.

So many of those killed or injured were public sector employees, and I believe we should take a moment to consider their sacrifice.

All too often, its easy to abuse those who work in Government jobs. They are called bureaucrats and accused of wasting time around water coolers or with their feet up on their desk.

But the blast offers another image—as survivors huddled on the sidewalk waiting amid the smoke and debris, as investigators swarmed to the site and rescue workers began probing through the chasm that had been the Alfred T. Murrah Federal Building.

In the faces of that day we see Federal employees devoted to their jobs. We see them as people who deserve great respect. They were already hard at work that Wednesday morning when the bomb exploded at 9:04 a.m. They were serving the public in 1 of 15 Federal agencies, including Social Security, Secret Service, Veterans Affairs, Customs, the Drug Enforcement Agency, housed in that Federal building.

Among those who gave their lives was a Secret Service agent who worked for five Presidents and a Department of Defense special agent who happened to stop by the Federal building shortly before 9 a.m.

In fact, at the Oklahoma Office of Housing and Urban Development, 35 out of 100 employees in the office at the time of the blast are either dead or missing and believed dead.

Of course, Federal employees were not the only casualties.

There was the 37-year-old nurse who ran into the building after the explosion to save lives only to lose hers.

There were those in the Social Security office to enroll a 3-month-old, and, then there were the children in the day care center. Who shall ever forget the picture of the infant in the firefighter's arms?

The men and women who worked in the Murrah Building did not take their jobs for the money, for these were not high-paying jobs. They did not take these positions because they were glamorous, for these positions often meant simply trying to solve everyday problems of ordinary Americans.

I submit to you that the unsung heroes of the public sector—the many workers who perished in this terrorist attack—were doing their best to serve the public.

It is their memory I honor today.

AMONG THE DEAD

At least six agents from the Secret Service agency, located on the ninth floor of the Federal building:

Donald Leonard had helped protect seven Presidents in his 25-year career. Before joining the service, he was an Army military police officer and worked for the Treasury Department.

Agent Alan Whicher, 40, had protected President Clinton and just 2 months ago had taken a promotion to assistant special agent in charge of the Oklahoma City office.

Agent Cindy Campbell Brown had married a fellow agent 40 days earlier. Her new husband was still working in the Phoenix, AZ office. They were waiting for transfers so they could work in the same office.

Agent Mickey Maroney worked his entire career for the agency and that morning he had swapped shifts.

The Social Security Administration, located on the first floor allowing for easy access for constituents, was another agency with severe casualties:

Sharon Louise Wood-Chesnut, 47.

Julie Welch, 23, worked with Spanish-speaking customers at the Social Security Administration. She was engaged to marry an Air Force lieutenant who was assigned to Tinker Air Force Base, east of Oklahoma City.

Ethel Griffin, 55, was a service representative for the Social Security Administration. She was an avid craftswoman and loved her hobby. She is survived by her husband, Bruce, two sons, and three grandchildren.

Other agencies, too, lost valuable workers:

Drug Enforcement Agency office assistant Carrol J. "Chip" Fields worked on the ninth floor of the building. She is survived by her husband and a 21-year-old son.

Highway ·safety inspector Michael Carrillo, 44, had just returned to Oklahoma to raise his three children. He was a veteran of the Vietnam war.

Department of Housing and Urban Development's five attorneys, many supervisors and support staff.

Army Recruiter Sgt. Lola Rene Bolden. Her two children, ages 13 and 11, will now go to Alabama to live with their grandmother.

Marine Corps recruiter Sgt. Benjamin Davis, 29, was at the recruiting station when the bomb exploded. He is survived by his wife and one daughter.

Building inspector Steven Curry, 40, who worked for the General Services Administration. He leaves behind his wife and two teen-age children.

Department of Defense special agent, Larry Turner, was heading out of town on assignment. He stopped by the Oklahoma City office shortly before 9 a.m. He, too, was among those killed.

Federal Credit Union loan officer Robbin Huff, who was expecting her first child in June, was killed.

Other credit union employees who died included: 32-year-old Christi Jenkins and 23-year-old Frankie Merrell.

Many other Government workers who survived saw their lives shattered:

Edye Smith works as a secretary at the IRS office located just five blocks away from the Federal building. That morning, she took her two sons—3-year-old Chase and 2-year-old Colton—to the child care center located on the first floor of the Federal building. Her 2-year-old ran up to her as they said goodbye and said: "I love you, Mommy." It was the last time Edye ever could see her children. Edye's brother, police officer Daniel Cross, found the two young boys. Both had been killed.

Twenty-year-old Aren Almon had just taken a new job at an insurance company. On April 18, her daughter, Baylee, had her first birthday. The next morning, at 7:45 a.m., Aren took her daughter to the child care center. Her daughter was the child wearing yellow booties who was carried out by a young firefighter shortly after the bomb exploded. The photo of the young victim and the firefighter, Chris Fields, appeared on newspapers all across the country and—without words—conveyed the horror of this attack.

Still, too, innocent taxpayers looking to the Federal Government for help also saw their lives taken away:

Mike and Kathleen Turner left their 4-year-old daughter, Ashley, with Mike's parents that Wednesday morning. At first, when news of the explosion was reported, neither parent worried since their daughter was safely tucked under the care of doting grandparents. Mike's parents, however, had made a morning appointment at the Social Security office. They, of course, would have made sure to take Ashley with them. Ashley's name appeared on the list of those killed by the bomb. Ashley's grandparents appear to have died as well.

Thirty-six-year-old Pamela Argo worked hard—during the day as a hospital administrator and moonlighting as a caterer. Seven weeks before, her husband died. On Wednesday morning, she had gone to apply for SSI benefits. She, too, died.

Cheryl Hammon accompanied her daughters, Felicia and Dana, to the Federal building to get a Social Security card for Dana's 3-month-old son Gabreon. Cheryl, Gabreon, and Dana's daughter, Peachlyn, were presumed dead. Dana survived after having her lower right leg amputated.

Joe Mitchell was about to turn 65, so he and his wife of 30 years, Leigh, headed down to the Social Security office in Oklahoma City. Shortly after 9 a.m., a Federal worker took Joe to a back office in the Social Security office to fill out some paperwork. His wife stayed in the lobby. The building was then rocked by the explosion. Joe survived. There has been no sign of his wife since then.

The list, of course, goes on and on. For many, there is no final word about a colleague or loved one as the gruesome work continues in Oklahoma City.

One survivor who worked at the HUD office in Oklahoma who has already spoken at the funeral of colleague, Susan Ferrell, recently remarked:

> [Susan] was one of our attorneys, a beautiful blonde who twisted her hair when she talked to you; who was so full of energy; who fed the birds with sacks of seed; who named the stray cats; who planted a million plants.
>
> That's what makes us so mad. We're not faceless bureaucrats. We're people like you and me, with kids and families.

As mayor and now as Senator, I have seen the hard work of public workers—paving our streets, serving in hospitals, fighting fires, patrolling our neighborhoods, assuring Social Security checks arrive on time, serving in our armed services, assisting our veterans.

It's fitting that we pay tribute to the dedication of those who were busily working in the public's interest at the moment of that terrible blast.

TRAGEDY IN OKLAHOMA CITY

Mr. SIMPSON. Mr. President, I rise to speak briefly about the recent tragedy in Oklahoma.

Mr. President, throughout our land, so many have already spoken out so eloquently about this, that I can add but little to what has already been said. The suffering of the victims, the inhumanity and cowardice of the bombers, the compassion and heroism of our community of citizens, and our solemn resolution to exact justice and punishment—all of these have been powerfully attested to already.

I will therefore limit myself to praise a particular aspect of our President's handling of this crisis.

There has been so much of our American democracy which has shown itself to be worthy of praise and of pride in this last week—from the behavior of ordinary citizens in a time of trial, on up through the labors of rescue and medical teams, through to the highest ranks of our law enforcement agencies, and up to the conduct of the President. I trust that terrorists the world over would be rightly awed and cowed by the great skill, energy, and resolution that has been displayed.

In the wake of such a horrible tragedy, there is a terrible feeling of powerlessness, and it exists for all of us, even those of us at the highest levels of government. We had to hope that the perpetrators would be caught. Many had to wait and to hope that loved ones would be found alive. Even those who were actively engaged in bringing relief and justice had to contend with so many factors outside of their control.

When I think of what the President faced, I am reminded in a small way of Dwight Eisenhower's recollection of the Normandy invasion. He had done all he could to plan and to provide, but once he issued the fateful order—"Let's go!"—his subordinates scrambled to carry out their tasks, and he was left alone with a sudden realization: that he was now powerless to do more than to hope that his orders would be carried out successfully.

I can only imagine that a similar anxiety must have gripped the President as he issued orders which he hoped would bring answers—and arrests—in the wake of this tragedy. He must indeed believe himself to be fortunate that law enforcement agents across the country worked so doggedly and so well, and so successfully, even as much remains to be done.

But even with everything the President had to hope for in terms of carrying out an investigation, there still remained a duty that was his, and his alone, as President of the United States. There is no way for a President to delegate the responsibility of speaking for the Nation, and of providing a voice of resolution and reason when events have gone awry.

This action of the President has served this country so well in the days after the tragic event. Yet now there appears to be some scapegoating by him today. He first voiced the Nation's determination to bring the criminals to justice. He had steadfastly resisted the temptation to blame the tragedy on specific ethnic or ideological groups. And he gave voice to what so many Americans were feeling, the fundamental commitment to law and to peaceful order shared by nearly all Americans, no matter where they stand politically.

It is not a duty to be underestimated. At a time when so many Americans must necessarily feel themselves powerless to fight back against this cowardly attack, the need is great to have their feelings expressed, and to have them channeled into a constructive collective response to this tragedy.

In those first few days, the President, even as he worked to comfort the victims of the attack, succeeded in drawing a clearly understood line as to where this Nation stands. He asserted with great force and clarity that, on the one hand, Americans have a right to be suspicious of government, and to exercise their first amendment rights, their second amendment rights, and every other protected right. But this Nation cannot and will not tolerate the exercise of rights that include violent attacks on Federal officials, on their children, or anyone else.

I pray that none of us, including the President, become vindictive toward any group in America—whether they are Islamic Americans, conservative organizations, talk show hosts, or anyone else—we must remember that virtually all of these people are as horrified by this violence as are we.

The President spoke well soon after the tragedy when he left no doubt that Americans are not divided over these matters, but united in our commitment to law and order, in a way that law-abiding Americans as well as terrorists should be able to understand. And this was an important cathartic process for Americans as we coped with this tragedy.

I close by giving my thanks to those in our government who have worked so hard in these last days to "bind the Nation's wounds."

Mr. BRYAN. Mr. President, I was pleased to join with my colleagues in adopting Senate Resolution 110 which condemns the horrendous violence that happened in Oklahoma City and urges the administration to bring to justice those responsible for committing this evil crime. In addition, the measure expresses our deepest sympathy to the families that have lost so much and conveys our gratitude to all the Americans who have been assisting in rescue efforts.

Today, I would like to recognize those individuals from Nevada who have joined in the heartbreaking struggle to help our friends in Oklahoma. Dr. Scott Bjerke, a specialist in critical care at University Medical Center's trauma unit, Dave Webb, a fire specialist with the U.S. Forest Service, Metro Police Sgt. Bill Burnett, and Clark County fire paramedic coordinator chief Steve Hanson all are members of Clark County's elite 60 member Urban Search and Rescue Task Force which headed to Oklahoma City to assist rescue workers. In addition, the Clark County American Red Cross has sent Caroline Johnson, officer for the disaster computer operations, to Oklahoma City. In times of tragedy, there are always heroes. All the Americans who have been devoting endless time and emotions to ease the pain of so many are the true heros of this tragedy. I am proud that Nevadans have united together with the country during this time of such need. I thank these individuals for their commitment to others.

Although we cannot ever heal all the wounds both emotional and physical from this tragedy, I hope that those in Oklahoma will know that Nevadans are praying for them and somehow that will lessen their pain.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

COMMON SENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 956, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

Pending:

Gorton Amendment No. 596, in the nature of a substitute.

The Senate resumed consideration of the bill.

Mr. DODD. Mr. President, I rise this morning to express my strong support for the Product Liability Fairness Act, which is the pending legislative business before the Senate. Balanced reforms in this measure will help to promote fairness in the product liability system, help injured people get fair compensation for their injuries, allow businesses to get out of unjustified lawsuits, and improve safety conditions for working men and women in this country. With these reforms in place we will help alleviate the problems that undermine the present system.

I want to commend at the outset the principal authors of this legislation, Senator ROCKEFELLER of West Virginia and Senator GORTON of the State of Washington, for their hard work. They have worked tirelessly on this effort for a number of years. I am pleased to have joined them in that effort over the last several years, and as an original cosponsor of this legislation.

It is very clear that our current product liability system does not work. It is broken. I think we have a need and an obligation to try to fix it. Over the years a wide range of my constituents—consumers, manufacturers, small businesses, and working men and women—have identified the key problem. Far too often the results you obtain in a product liability case depend not on the merits of your claim but on your ability to afford good counsel.

The statistics confirm what our constituents have been telling us. Under the present system, injured people must wait too long for compensation. Generally it takes an average of 2½ years for a claim to be resolved. A recent study by the GAO found that it can take up to 5 years for a victim to receive their justified compensation. The delays in the present system can—and I think do—lead to inadequate compensation. Many seriously injured people who lack the resources to pay their medical bills and support their families while waiting a decision cannot afford to go 5 years without compensation. They have no choice but to settle, and to settle in many cases for inadequate amounts.

While the present system is not serving the needs of our injured citizens well, it is also failing to meet the needs of American industry and business. Many of these industries are reluctant to introduce new products. When they look at their potential future liability, they see the different and distinct laws of 55 different States and territories staring back at them.

This uncertainty is particularly difficult for smaller businesses who cannot afford the huge legal costs of the present system. In too many cases companies are forced to run up enormous legal bills only to be vindicated by the courts at a far later date. Who is well served by a system that stifles innovation? Who benefits when businesses are forced to defer investment on research and development? Who wins under that kind of system? Of course, no one does. If American businesses are unable to bring innovative products to the marketplace or are forced to take healthful products off the market then we all lose.

Let me be specific. The search for an AIDS vaccine is a good example. The Commerce Committee of this body has heard testimony from Biogen, a company in the State of Massachusetts. It stopped work on an AIDS vaccine because of product liability fees.

Even more disturbing is the way in which the current product liability system threatens entire industries. The contraceptive industry is one example. A 1990 report issued by the National Research Council and the Institute of Medicine concluded:

> Product liability litigation has contributed significantly to the climate of disincentives for the development of contraceptive products.

As the American Medical Association points out, 25 years ago there were 13 American pharmaceutical companies researching potential products in the areas of contraception and fertility. Now there is only 1—from 13 companies down to 1. Clearly, we need to change the system that has bred these kinds of results. I think we can and we must do better.

Mr. President, with the passage of the Product Liability Fairness Act we will do better. This legislation would improve the product liability system for everyone. I want to emphasize that. This ought not to be a case of pitting attorneys against businesses and businesses against consumers. Everyone will benefit as a result of the improvements in this bill—the injured people who need fast and fair compensation, consumers who need quality products to choose from, and those American enterprises who are on the cutting edge of international competition, and the workers who depend on a strong economy to support their families.

The moderate reforms in this measure would reduce the abuses in the current system without eliminating solid protections for those who are victimized by defective or dangerous products.

I know my colleagues, Senators ROCKEFELLER and GORTON, have already gone through the bill in great detail. So I will just highlight some of the key provisions.

First, this measure would provide a far more uniform system of product liability. By adding more certainty to the system, the excessive costs in the present system would come down. This potential benefit motivated the National Governors Association to support this product liability reform measure. The association has said:

> The United States needs a single predictable set of product liability rules. The adoption of a Federal uniform product liability code would eliminate unnecessary costs and delay the confusion in resolving product liability cases.

Why is it important to quote the Governors here? Because some of the opponents of the bill have asked why we should be making changes at the Federal level when tort law is usually left to the States. That position ignores the fact that 70 percent of all products now move in interstate commerce. If the Governors of this country contend that a uniform Federal code in this area makes sense, then I think we ought to listen to what they are saying.

The provision in the bill that encourages the use of alternative dispute resolution would also help reduce the excessive costs in the current system. Currently, too much money goes to transaction costs—primarily attorneys' fees—and far too little goes to the legitimate victims that have been hurt.

A 1993 survey of the Association of Manufacturing Technology found that every 100 claims filed against its members cost a total of $10.2 million. Out of that total of $10.2 million, the legitimate victims receive only $2.3 million, with the rest of the money going for legal costs and transactional costs. Clearly, we need to implement a better system in which the money goes to those who need it—injured people.

Consumers would also benefit from a statute of limitations provision that preserves the claim until 2 years after the consumer should have discovered the harm and the cause. In many cases today injured people are not sure what caused their injuries, and by the time they figure it out they have often lost their ability to sue. This legislation would provide relief for people in such situations and allow them adequate time to bring a lawsuit.

This legislation also includes a number of provisions that are simply common sense. Under the bill defendants would have an absolute defense if the plaintiff, the one who is claiming the injury, was under the influence of intoxicating alcohol or illegal drugs and the condition was more than 50 percent responsible for that person's injuries.

This provision, it seems to me, is nothing more than simple common sense. Why should a responsible company have to pay for the actions of someone who has, unfortunately, used alcohol or illegal substances? The company should not be held responsible, it seems to me, for that kind of an injury.

The bill also institutes reforms to assist product sellers. They would only be liable for their own negligence or for failure to comply with an express warranty. Product sellers who are not at fault could get out of cases before running up huge legal bills.

But as an added protection for injured people, this rule would not apply if the manufacturer could not be brought into court or if the claimant would be unable to enforce a judgment against the manufacturer. So we have provided a sense of balance here to try to see to it that people are not left without any recourse at all.

Striking a balance is at the heart of this bill. Again I wish to commend my colleagues from Washington and from West Virginia. This is a balanced approach. We need to keep that in mind. There are a lot of amendments that will be offered, and some may seem appealing, but when you consider them keep in mind the totality of what has been done and the balance we have struck.

This bill also contains an important section on biomaterials authored by my colleague from Connecticut, Senator LIEBERMAN. That provision is designed to ensure that manufacturers of lifesaving and life-enhancing medical devices would have access to raw materials which are absolutely critical in this important industry. In recent years, the supply of raw materials has been threatened by litigation. Those are the facts. I commend my colleague from Connecticut for crafting a very promising solution to that problem.

The provisions that I have outlined here, Mr. President, demonstrate the balance that this legislation strikes between consumers and businesses. In the final analysis, the reforms in this bill should strengthen our product liability system for everyone.

Of course, some of my colleagues are opposed to the measure—that is to be expected. They have raised some concerns, and certainly we look forward to the debates in the coming days. But I hope that we can avoid some of the inflammatory rhetoric that has characterized the debate on this issue in the past. This is a critically important issue involving the rights and responsibilities of injured people, of working people, of American industry, and we ought to treat it with the seriousness it deserves.

My involvement with this issue goes back to the early 1980's, Mr. President. At that time I had serious concerns about some of the product liability proposals before Congress. Along with our colleague who retired from the Senate, Jack Danforth, of Missouri, and with the help of Judge Guido Calabresi, who was the dean of Yale Law School at the time, we put together several proposals to deal with product liability. We never got very far with them. In fact, I do not think we got our ideas out of the Commerce Committee. We have come a long way. We are getting closer and closer to passing much-needed legislation in this area.

So I hope my colleagues will support, if necessary, cloture motions to allow us to at least have a chance to debate these issues and to determine whether or not the majority of this body wants to support this legislation.

Let me also say—and my colleague from Washington certainly is aware of this particular concern—there is a lot of attention being paid to the punitive damages section. I have concerns about setting limits in this area. I would much prefer a system that has been tried in a few of our States where the jury determines whether punitive damages should be awarded, but then have the judges determine the amount. In determining the amount, the judge would follow a set of guidelines. This approach, which is the law in Kansas, addresses the concern about excessive or "runaway" jury verdicts, while preserving the court's ability to punish certain egregious behavior.

I will not take the time here this morning to go into a longer discussion of this issue because I want the thrust of my remarks to be focused on the totality of the bill.

Again, Mr. President, I think this bill strikes an excellent balance. It is long overdue and represents a great step forward. Because we are so close to enacting these responsible reforms, I caution my colleagues against expanding the scope of the bill. For example, I know that some of my colleagues want to add medical malpractice provisions to the bill. I think that would be a mistake because it would jeopardize our ability to get this legislation enacted.

Because of these concerns, I will not be offering as an amendment a securities litigation reform bill that I coauthored with my colleague from New Mexico, PETE DOMENICI. Clearly there is a temptation to deal with various areas of the law under the broader heading of legal reform. But we need to be sensitive to the particular problems in each area of the law and not lump matters together.

So I will oppose efforts to expand the scope of this bill. If someone were to offer my bill on securities litigation reform as an amendment, I would oppose it. As many years as I have spent on it, it does not belong on this bill. So I hope my colleagues will keep this measure narrowly focused and help move it forward.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. What is the pending business? Are we operating under any unanimous-consent agreement?

The PRESIDING OFFICER. There was an agreement to recognize the majority leader to offer an amendment.

Mr. GORTON. I am authorized to report that the majority leader does not intend to take advantage of his right to offer an amendment at this point. As a consequence, the floor is open for amendments. I understand that the Senator from Kentucky intends to offer an amendment on medical malpractice, which is a very broad and significant amendment, and I hope can be concluded during the course of the day but nevertheless deserves considerable debate.

I think I also should like to announce that, of course, it is really the turn of the opponents to this bill to offer an amendment, and if any of them wish to do so at the conclusion of this debate, I would appreciate their informing me or my colleague from West Virginia so that we can try to see to it that amendments are dealt with in a fair order.

Before I yield the floor, Mr. President, I should like to say how much I admire the forceful and cogent and persuasive remarks of my friend from Connecticut, Senator DODD.

If I may make one or two more comments on a point of the Senator from Connecticut.

Perhaps the most important of all of the points had to do with the balance that adheres in this bill. It is the result of the work of many years and work among Members of somewhat varying opinions other than the proposition that something is broken and needs to be fixed in connection with our product liability laws. So we have not gone all the way as far as we might in drafting this bill.

We have attempted not to go from one extreme to the other extreme, but to come up with a solution that is fair to litigants, and that nonetheless will encourage the research and development of new products, marketing the new products, and the creation of economic opportunity in this country.

I was particularly struck by the forceful way in which the Senator from Connecticut spoke of the balance, the way we reached these goals. I also understand his concern with the present provisions on punitive damages. We and others are working together to see whether or not we cannot come up with a superior solution to that which is included in the bill at the present time.

But I do want to thank him for his most eloquent statement.

Mr. DODD. I thank the Senator.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Kentucky.

Mr. MCCONNELL. I thank the Chair.

Mr. President, I will shortly be offering an amendment, as the distinguished Senator from Washington indicated, with reference to the medical malpractice crisis that we have in our country. I will be offering this amendment on behalf of myself, Senator LIEBERMAN, and Senator KASSEBAUM.

This amendment, Mr. President, would expand the product liability bill to include health care liability cases. Medical malpractice reform is a perfect fit with the product liability reform effort underway here in the Senate. Overlap exists between these two issues, and if we do not reform them together, we could make the liability system even more complicated than it is now.

Take, for example, Mr. President, a lawsuit over an adverse reaction to a drug. The injured patient is likely to sue the doctor who prescribed the drug, as well as the manufacturer and the seller.

Now, Mr. President, if we only pass a narrow product liability bill, the drugmaker and seller would be covered under the product liability reform, but the case against the doctor would proceed under different rules. The result could be two separate cases involving the same set of facts.

Is that an improvement in the legal system? I think hardly is that an improvement.

So I say to my colleagues who support product liability reform, let us take a new look. Medical malpractice reform needs to accompany product liability reform. The problems within our health care liability system establish the need for the reforms contained within this amendment.

First of all, Mr. President, the liability system impedes access to affordable health care for many in our country. The Office of Technology Assessment reports that half a million rural women do not have access to an obstetrician to deliver their babies. Now, I know that is an acute problem in rural areas of Kentucky. The American College of Obstetricians and Gynecologists state that more and more obstetricians are giving up the practice and restricting themselves only to gynecology, one of every eight, according to their 1990 study.

Let me share a few statistics with you. In Georgia, 75 counties lack maternity care; in Alabama, 2 counties; in Colorado, 19 counties have no maternity care whatsoever.

During the health care debate last year, I received a letter from Dr. Leonard Lawrence, president of the National Medical Association, whose membership consists of African-American doctors. He wrote, Mr. President:

> Minority physicians are particularly impacted by the current medical malpractice crisis. The combined costs of liability insurance and the threat of malpractice suits have caused many of our members to stop practicing in high-risk areas. The effects of these trends are painfully evident in minority communities. Minority physicians who have traditionally made a commitment to serve Medicaid patients are being forced to discontinue these services.

Mr. President, I know many of my colleagues who are opposing the legal reform effort argue that reform will have an adverse effect on women and low-income minority individuals. Well, this information demonstrates that our failure to enact reform is what harms the women and minorities in the United States who need medical care.

The second problem caused by the medical liability system is the decline in medical innovation. While doctors, as we know, practice defensive medicine by ordering unneeded tests and procedures, they are also less likely to take risks with treatment procedures and surgery because of the chances of getting sued. According to the General Accounting Office, a doctor has a 37-percent chance of being sued during the course of his or her practice.

And there is the related issue of biomaterial access on which Senator LIEBERMAN has been our most conspicuous leader. We need to ensure that raw material suppliers will sell their products to those who make important lifesaving devices.

A third problem, Mr. President, concerns the erosion of the doctor-patient relationship caused by defensive medicine. The dean of the University of Kentucky Medical School called my office this week to stress the importance of health care liability reform. He explained how hard it is to get young doctors to develop clinical skills when they can order a battery of expensive tests which will protect them in case of a lawsuit. Apparently, the chance of being sued has nothing to do with whether the doctor acted negligently. GAO reports that nearly 60 percent of all claims are dismissed without a verdict or a settlement.

Medical malpractice victims suffer from the same unpredictability of our civil justice system as other injured persons. Cases take too long to conclude, anywhere from 2 years to more than a decade. Of every dollar spent in the liability system overall in the United States, only 43 cents goes to the injured party. A full 57 cents of every dollar goes to the system itself, the lawyer and the court costs.

So, Mr. President, our goals here are basic and fundamental. First, to promote patient safety. Second, to compensate injured patients fully and fairly, but not to enrich the lawyers and the system; make health care more affordable and accessible; contain the costs of the liability system; strengthen the doctor-patient relationship; and, finally, encourage medical innovation.

Before I explain what our amendment does, I want to be clear about what it does not do. First of all, there is no cap on pain and suffering in this amendment. Doctors' groups advocate a cap on noneconomic damages of $250,000. The House included such a provision in its legal reform bill last month, but we chose to omit a cap on pain and suffering for several reasons.

First, there are circumstances where an individual suffers a serious injury but may have minimal or no economic losses. It seems harsh—not only seems harsh, it would be harsh—to tell such victims who have lost a limb or a sense of hearing, for example, that because they can go back to work, their damages are limited.

For too long, the proponents of reform have been attacked as trying to deprive victims of their rightful compensation. So we felt in introducing our medical malpractice bill that we could offer many, many significant improvements to the system short of limiting pain and suffering. Pain and suffering are part of compensatory damages awarded in an effort to make the victim whole. We can reform the liability system to make it more certain and more fair without limiting an injured party's right to be made whole, and that is why we omitted such a provision. There may be amendments offered to put a cap on pain and suffering, but that is not something that this Senator could support.

The second issue we omitted from our bill was the so-called FDA defense. That provision enables a company which obtained FDA approval for its device or a drug to be shielded from punitive damages. During last year's debate on a motion to invoke cloture on a motion to proceed to product liability, this issue was prominently discussed. Several Senators cited their opposition to this provision which was included in last year's product liability bill, and they cited that as their reason for opposing cloture.

So we wanted to avoid that controversy connected with the full medical malpractice bill. The FDA amendment may or may not be offered at some course during this debate and, as with the cap on noneconomic damages, I welcome the debate. There is no reason not to discuss those issues and let them come to a vote if others would like to proceed with that. But it is important to remember that with regard to the concern drug manufacturers have, they still would benefit to some extent by the cap on punitive damages.

As for our amendment, let me explain what is in it. I talked about what is not in it, now let me talk about what is in it.

First of all, it is basically the same bill with some changes —no, it is basically the same bill that myself, Senator LIEBERMAN and Senator KASSEBAUM introduced which was referred to the Labor Committee.

She, along with other members of that committee, made significant changes in the bill from its introduction as S. 454. The amendment contains a uniform 2-year statute of limitations, which is the same statute of limitations contained in the product liability bill.

The amendment addresses punitive damages in much the same way that they are handled in the product liability bill. Our amendment sets out the standard for awarding punitive damages, either intent to injure, understood the likelihood of injury and deliberately fail to avoid injury, or acted with conscious, flagrant disregard of a substantial and unjustifiable risk. Punitive damages may be handled in a separate proceeding, and the amendment sets out the eight factors that the court may consider in determining the amount. The amount of punitive damages is limited to three times the economic damages or a quarter of a million dollars, whichever is greater.

The definition of "economic damages" specifically includes replacement services in the home, such as child care, transportation, food preparation and household care. We sought to be as comprehensive as possible to make clear that those individuals who do not work outside the home would be made whole for their losses. The fact that an injured individual does not earn a significant or, for that matter, any salary will not mean that there would be no economic losses.

I am aware in the Labor Committee that Senator DODD successfully offered an amendment to eliminate the cap on punitive damages. We have declined to incorporate that amendment into this floor amendment because without a cap on punitive damages, you do not have uniformity, you have no chance of getting predictability into the system. To do so would make the medical malpractice section inconsistent with the product liability provisions, and it is important to keep these two issues on very similar tracks.

The amendment provides for periodic payment of future damage awards that exceed $100,000. Periodic payments must be made in accordance with the Uniform Periodic Payments of Judgments Act.

The amendment abolishes joint liability for noneconomic damages, including punitive damages.

Like the product liability proposal, the medical malpractice amendment provides that defendants are only responsible for their proportionate share of the harm caused. Like the proponents of the product liability bill, we seek to put an end to lawsuits brought against a party because of its deep pocket. The amendment also reforms the collateral source rule to prevent double payment for the same injury. Amounts received by the individual from other sources, except those amounts paid by the individual or close family member, would be deducted from any damage award. The amount of the reduction would be determined in a pretrial proceeding, and evidence regarding the reduction could not be introduced at trial.

Further, Mr. President, the amendment limits lawyers' contingency fees to one-third of the first $150,000 and 25 percent of any amount over $150,000. Clearly, that benefits the victim so that the victim gets more of the money in these cases.

The amendment encourages States to adopt alternative dispute resolution and requires the Attorney General to develop guidelines for the States. The amendment sets forth a number of ADR options, including arbitration, mediation, early neutral evaluation, early offer, use of certificates of merit, and no fault.

The amendment also contains a separate subtitle on protecting the health and safety of patients. It provides that 50 percent of punitive damage awards go to the State for licensing and disciplining health care professionals, as well as for reducing malpractice-related costs for health care providers who volunteer in underserved areas.

In addition, this subtitle requires the Agency for Health Care Policy and Research to establish a panel on patient quality and safety. Within 2 years, this agency would take the work of the panel and establish guidelines for health care quality assurance, patient safety, and consumer information. In the interim, this agency would report to Congress on the work of the panel in these areas. Credit goes to Senator JEFFORDS for his hard work on this provision and the great improvement he made on the original bill.

Finally, I want to mention the preemption provision. The opponents of legal reform have all of a sudden become advocates for States rights. They accuse the proponents of reform of hypocrisy for wanting to establish Federal standards in these areas. But I argue we are not the hypocrites. First of all, we are not changing the substantive law of negligence. Whether a doctor or hospital was negligent in the provision or administration of health care will still be a matter of State law. We are not creating any Federal cause of action where none exists. Neither product liability cases nor medical malpractice cases will wind up in Federal courts if they could not be there today.

Second, Congress has the ample power to set national standards in this area. As in the product liability arena, health care is a national issue. We spent weeks debating this subject last year. Medical products and drugs are in the stream of interstate commerce. Health maintenance organizations and other health care providers are national—I repeat national—organizations operating throughout many States. And health insurance is generally sold on a nationwide basis. While a particular doctor-patient relationship may be local in nature, the delivery of health care is part of interstate commerce.

Moreover, the Federal Government, through Medicare and Medicaid, funds a substantial part of the health care system. So the preemption provisions strikes a balance in creating a minimum national standard. Those States which have enacted, or which in the future enact additional restrictions on limitations, will supplement these national standards.

I am aware that Senator ABRAHAM, in the Labor Committee markup, successfully offered an amendment to allow States to opt out of national standards contained in this amendment. We have declined to include his amendment since we believe that preemption strikes the delicate balance needed in this area.

There is much more to say about this amendment, and I am sure we will all have an opportunity to express our points of view during the course of the debate. The effort here is to improve and strengthen the bill so doctors and hospitals are treated similarly to medical device and drug manufacturers and sellers.

Mr. President, this is indeed a national problem.

AMENDMENT NO. 603 TO AMENDMENT NO. 596

(Purpose: To reform the health care liability system and improve health care quality through the establishment of quality assurance programs)

Mr. MCCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. LIEBERMAN, and Mrs. KASSEBAUM, proposes an amendment numbered 603 to amendment No. 596.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MCCONNELL. I yield to the Senator from Wyoming [Mr. THOMAS].

AMENDMENT NO. 604 TO AMENDMENT NO. 603

(Purpose: To provide for the consideration of health care liability claims relating to certain obstetric services)

Mr. THOMAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. THOMAS] proposes an amendment numbered 604 to amendment No. 603.

Mr. THOMAS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

The assistant legislative clerk read as follows:

At the appropriate place in the amendment insert the following new section:

SEC. . SPECIAL PROVISION FOR CERTAIN OBSTETRIC SERVICES.

(a) IN GENERAL.—In the case of a health care liability claim relating to services provided during labor or the delivery of a baby, if the health care professional or health care provider against whom the claim is brought did not previously treat the claimant for the pregnancy, the trier of the fact may not find that such professional or provider committed malpractice and may not assess damages against such professional or provider unless the malpractice is proven by clear and convincing evidence.

(b) APPLICABILITY TO GROUP PRACTICES OR AGREEMENTS AMONG PROVIDERS.—For purposes of subsection (a), a health care professional shall be considered to have previously treated an individual for a pregnancy if the professional is a member of a group practice in which any of whose members previously treated the individual for the pregnancy or is providing services to the individual during labor or the delivery of a baby pursuant to an agreement with another professional.

Mr. THOMAS. Mr. President, this is an amendment to the amendment of the Senator from Kentucky which addresses, overall, malpractice liability. This has to do with specific problems that arise in rural areas. It seems to me that rural area families across America deserve access to quality health care, and that is a problem we deal with from time to time. We need to search for solutions that reduce infant mortality rates, provide comprehensive prenatal care and yet allow for us to stand ready to serve in times of emergency. The rural obstetric care amendment is part of that solution.

This amendment to rural obstetric care complements the effort of the Senator from Kentucky. It addresses a specific problem in rural areas, recruiting and retaining obstetric providers. It helps women obtain quality prenatal care and assists rural communities in developing a reliable and successful health care delivery system.

Some of these liability problems are unique to rural areas, such as limited access, of course, to patient medical care and the history of these patients through a period of time. Some areas in my State have little or no opportunities for prenatal care. The long distance of driving exists. I think, particularly, of one good-sized town of Rawlins, WY, in which, quite often, expecting mothers do the prenatal care in Rock Springs or in Laramie, WY, both of which are more than 100 miles away; and, quite often, they need emergency care in Rawlins when the delivery time comes, and they find themselves going for emergency care to a different physician. That is basically what we are really talking about here. Because of these distances and because of the unique rural problems, there is a dropout rate in delivery. So that providers delivering a baby often are providers that have not had an opportunity to see the mother prior to the treatment.

Shortage of practitioners in obstetrics, to a large extent, is due to high insurance premiums. So this amendment simply raises the evidentiary standards to clear and convincing for health care services provided during labor or delivery of a baby. It only applies to health care professionals who did not previously treat the individual. It does not apply to providers who are on call or filling in for colleagues who are expected to have that information.

So it is a rather simple amendment that provides for this movement to a higher level of evidentiary standard. There are, of course, a number of questions that could be asked that are somewhat mythical, I think. For instance, does this exempt certain groups of providers? It does not. The usual standard—the preponderance of evidence—remains in place for the doctor's own patient. Two is that it imposes an unusually high burden of proof. That is also not true. The clear and convincing standard is only slightly higher than the standard preponderance of the evidence and is significantly less than the standard of beyond a reasonable doubt. Some ask, does it eliminate the right to trial? It does not. Women are still permitted to sue the provider. And if negligence is found, the woman recovers full damages.

Does it discriminate against women? Wrong. Women in rural areas would benefit. The intent of the amendment is to encourage health care professionals to continue providing obstetrics to women who may not have a physician or who are unable to get to their physician.

Let me quote from Phyllis Greenberg, executive director of the Society for the Advancement of Women's Rural Health Research:

> Unintended adverse reactions in a few should not create a threat of liability so great as to disadvantage the many who benefit.

Part of the benefit of the amendment would be to have an impact and to reduce malpractice premiums for obstetric providers in rural areas.

Let me share a little bit of the problem that we have in some rural areas. Let me compare the premium rates in Wyoming for health care providers: $42,275 a year for OB/GYN specialists, compared to $9,800 for pediatricians, $9,700 for internal medicine, $27,000 for general surgery, $17,000 for emergency physicians, $10,000 for general practitioners without OB/GYN services coverage. On the other hand, $26,000 for general practitioners who have OB/GYN.

We can see clearly that practitioners in small towns that have relatively few opportunities for obstetric services simply do not do it unless it is an emergency and because of the cost.

Further comparing Wyoming's $42,000 average malpractice premium for OB/GYN among the Rocky Mountain States, $22,000 in Idaho, $23,000 in Utah, $25,000 in Montana. So we have a problem and one that I think could be relatively easily mitigated here.

It complements State obstetric liability laws; 25 States have statutes on the book recognizing the need to provide relief for obstetric providers, full-fledged immunities for drop-in delivery cases.

We think, also, that it would help recruit and retain obstetric providers. In rural areas of 105 family practitioners, in Wyoming only 27 provide obstetric services. For specialists, there are only 25 OB/GYN providers in the State delivering babies. That is 52 physicians trained in obstetrics to cover 90,000 square miles.

In the city of Sheridan there are only two providers. We used to have eight. One current provider watched his premium rise from $4,000 a year in 1978 to $35,000 a year in 1995.

There is some background for this proposal, and this amendment was included in Jim Cooper's Managed Competition Act last year and the Rowland-Bilirakis Consensus Act of last year. Bob Michel's Affordable Health Care, a new act, included provisions of this kind. Majority leader BOB DOLE's alternative health reform proposal includes this as well.

So, Mr. President, this amendment to the bill of the Senator from Kentucky helps women and families across rural America obtain quality care. It helps rural communities fend off physician shortages, plaguing health care service delivery systems. It lowers health care costs, so consumers may pay the true cost of medical service instead of that cost inflated by malpractice premiums, and it complements overall malpractice reform.

I yield the floor.

Mr. KENNEDY. Would the Senator be good enough to yield briefly for a question or two on his amendment?

Mr. THOMAS. Happy to.

Mr. KENNEDY. I appreciate the chance to address the Senator on the amendment. I believe this was a matter that was given some consideration in the Human Resources Committee and eventually dropped in the final legislation that was passed out of the committee.

Let me ask a question: For example, effectively this immunizes a doctor from any negligence suit, am I correct, if that doctor had not treated the patient prior to the time of delivery?

Mr. THOMAS. No, I think the Senator is not correct. It simply raises the standard of evidence to the immediate level. It does not immunize if there is malpractice here, if liability is here. The difference and the purpose here is that this physician who delivers this baby has not been a physician that has been in the case for prenatal care and, therefore, is given, under this amendment, simply a clear and convincing standard as opposed to the preponderance of evidence. I think the Senator is not correct.

Mr. KENNEDY. Could the Senator explain why we are having a different standard for the delivering of babies, why we have a different standard than the preponderance of the evidence?

What is the Senator's reason, again, if the Senator would share it. This is somewhat different. I asked to have the amendment read because we had an amendment that was also focused upon obstetricians in the earlier draft of the malpractice legislation, and now we have another approach.

I am just trying to understand. I think it is a different standard that would be for those doctors that would come on and treat an expectant mother. Can the Senator indicate to the Senate why we ought to have a different standard, why doctors ought to be held to a different standard at the time of the delivery of a baby from the preponderance of the evidence standard? What is the rationale? What is the justification of that?

Mr. THOMAS. I think the justification is to provide delivery services for mothers in a community where there would not be services otherwise.

For instance, a general practitioner who might normally deliver babies, because of the cost of malpractice insurance simply does not do that. So the expectant mother has, through the pregnancy, gone to Laramie, 150 miles away.

But then comes an emergency. What we are doing is we are saying to this physician, although the physician does not do this as a normal thing, who is not able to pay this extraordinary amount of money, that we will provide some sort of a higher standard here because the physician is doing this not as a regular practice but as an emergency treatment process.

It is not designed to have anyone with less competency. It is not designed to do that, but to encourage services where there are none.

Mr. KENNEDY. Well, Senator, is this limited just to emergency provisions? I am still trying to get from the desk a copy of the amendment. I apologize to the Senator.

Is this applied solely to an emergency situation as described in the response to my question?

Mr. THOMAS. It applies only to people, to physicians and providers who have—they are either on call or they are part of a group. In that case we would have expected them to participate in the previous information regarding this patient.

So this applies only when we go to this physician not having been involved with them previous to that.

So, basically, yes, it does limit it only to that circumstance where this physician has not been a party to the care prior to the delivery. That is our intention, Senator. If that is not the case, we would like to make it clear.

Mr. KENNEDY. Well, I have the amendment. As the Senator knows well, effectively the Senator is saying to the mother and the child, effectively, that under this amendment it says, "The trier of the fact may not find that such professional or provider committed malpractice and may not assess damages against such professional." You are immunizing, getting a different standard for those doctors.

Does the Senator know, could the Senator indicate what the basis is for the amendment, where the hearings were, what the testimony has been, who we have heard from?

Mr. THOMAS. Let me suggest a couple of things. First of all, the whole world is not in boxes. There are differences in terms of the availability of services, and we are seeking to deal with that.

Second, it does not immunize, and I already have spoken to that. It simply raises that level of evidence. In fact, it says in the amendment, the Senator I am sure read that, it may not assess damages against such professional unless malpractice is proven by clear and convincing evidence. So it certainly does not immunize it.

Let me say, further, as I said before, the Senator talked about the previous consideration, and it was part of Representative Cooper—we worked, as the Senator knows, and the Senator worked very hard last year in health care. These things were not out of the blue. It was in Mr. Cooper's bill and in the Rowland-Bilirakis bill. It was in BOB DOLE's bill. It is not a new idea, and indeed has been discussed at great length.

Mr. KENNEDY. The Senator's reference with regard to Boston—this applies to Boston as well as rural America. The fact is, you have, in this language, "* * * the trier of the fact may not find that such professional or provider committed malpractice * * *." and then you have, "* * * and may not assess damages * * *."

It says it "* * * may not find that such professional or provider committed malpractice * * *" That is what the amendment says. You can define it in whatever way you want, but that is what it says. Then it continues, "* * * and may not assess damages against such professional or provider unless the malpractice is proven by clear and convincing evidence." This says "* * * professional or provider committed malpractice * * *."

I just wonder why we are, with the amendment—we will have a chance to talk about this in greater detail—but why we are suggesting this particular amendment to the families of this country? I think whether a doctor is delivering—I can see a circumstance where he is immunizing, a particular doctor in a group practice, that they are going to send in the person who has not been working with the expectant mother because they want to have a lesser standard, or immunizing the doctor against malpractice.

Are we trying to encourage the practice of obstetricians who may have lost their licenses or may be under some other kind of penalty? Are we immunizing them against practicing in terms of gross negligence or other kinds of negligence?

This amendment is very clear, and it does apply to Boston. There is nothing in here about rural America. It is talking about all doctors: "* * * may not find that such professional or provider committed malpractice * * *" It says "* * * and may not assess damages * * *" "* * * and may not assess * * *" But it says "* * * committed malpractice * * *."

I do not know—is the Senator familiar with where the greatest number of obstetricians are in this country at the present time? And what the rates for malpractice insurance are in those particular areas? You have the highest number of obstetricians in the country now out in Long Island. They have the highest rates of malpractice insurance. What is the point the Senator is talking about?

Where is the testimony that this is going to produce greater services to people in either urban or rural areas?

Mr. THOMAS. If the Senator will yield, it was my understanding you were going to ask questions and not——

Mr. KENNEDY. I am asking the question where is the testimony, where is the hearing? I will be more precise.

Mr. THOMAS. Yes, I already went through that. I told you we went through that last year in several places.

If the Senator will support this, we would be happy to put in, in our second one here, that is only under the definition by the Public Health Service of rural areas.

I am sure that is not the case. I am sure the Senator is not talking about my amendment. He and I have quite a different view of what we ought to do on malpractice, and I understand that.

Mr. KENNEDY. I am just trying to find out what the amendment says. I am just reading the language in here——

Mr. THOMAS. You are—you are misreading.

Mr. KENNEDY. What it says on it, and asking for your explanation.

Mr. THOMAS. We do not read it the same.

Mr. KENNEDY. We have urban areas as well as rural areas. Public health does that. We have what is in the nature of underserved areas in urban areas. So I do not know that helps the Senator's position. I do not understand the Senator.

The PRESIDING OFFICER. If the Senator from Massachusetts will suspend, the Senator from Wyoming has the floor.

The Senator from Wyoming.

Mr. THOMAS. I have tried to explain the answers. No. 1—let me go on just a little bit further.

If the Senator would feel more comfortable, we will be happy to put in "* * * as defined by the Public Health Service." So it would be, indeed, rural areas.

Mr. KENNEDY. Senator, may I ask you, on this point that you just mentioned, are you suggesting that the Public Health Service only defines underserved areas as being rural areas?

Mr. THOMAS. There is a definition, as the Senator well knows. I will cite it for him if he would like; section 330 (b)(3), or 130-27 of the Public Health Service Act, which defines underserved areas.

Mr. KENNEDY. That also includes urban areas; does it not?

Mr. THOMAS. I suspect so. It defines rural areas.

Mr. KENNEDY. What is the Senator's point? Are you trying to say you would offer this if I would agree with it? The point I am making is I do not want poor practice in rural areas or urban areas.

Mr. THOMAS. We are not talking about poor practice. We are talking about providing services where there is none, Senator.

Furthermore, and then I conclude here, I think if the Senator wants to read it fairly, it says "* * * may not find that such professional or provider committed malpractice and may not assess * * *." That is all one sentence. The Senator divided that.

I understand you do not agree. You do not want malpractice insurance. I understand you do not want to change the legal system, Senator, but I do. These are the reasons, and I think very legitimate ones.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I was going to ask of the Senator, finally, whether he was familiar with the fact the Senator from Kansas, Senator KASSEBAUM, dropped this very provision when these matters were brought to her attention in the course of the committee. They were dropped by the Senator. That, you know, happens to be the chairman of the Human Resources Committee, where many of these measures were read.

I am asking and inquire why the Senator from Wyoming is convinced of it when the other members of that committee, who have prime jurisdiction, felt they ought to drop it?

Mr. THOMAS. I will answer the question. I ask if the Senator always agrees with the Energy Committee if they drop something?

Mr. KENNEDY. If you could explain why?

Mr. THOMAS. I will. I have explained. I shall explain one more time.

This comes from experience in our own State, Senator. We worked with this sometimes. We have difficulties in recruiting physicians for these areas. We are seeking to find a way to provide services, in my case, for areas that are basically rural. I am here to defend my constituency, as you are. We have problems and they are unique problems, and I think this is an approach to do that. That is what I am seeking to do.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I cannot possibly understand the rationale. If I could just have the attention of my friend from Wyoming?

I am prepared to see that the people in Wyoming make up their own judgment of malpractice. It is the Senator from Wyoming who is supporting the position that is going to preempt the States. The Senator's point is absolutely correct. Malpractice ought to be decided in the States. It ought to be decided by Wyoming what is in the interests of Wyoming. I am for it.

I think Wyoming ought to make a judgment and decision in terms of the standards, whatever you want to do out there. That is the position of the Senator from Massachusetts. That is not what this bill is going to, and what the Senator is amending. They are basically preempting the States with one Federal standard. And that is different from the product liability.

Product liability applies to products that are shipped interstate. This is the most sensitive relationship between a doctor and a patient. And why does Washington know best on this? The Senator has made my case. He ought to oppose the McConnell amendment for the very reasons that the conditions in Wyoming are different from Massachusetts.

Mr. THOMAS. May I ask a question?

Mr. KENNEDY. They are different from Boston. I will yield for a question, but I—I will be glad to yield for a question.

Mr. THOMAS. Will you explain to me why you were the major proponent of Federal health care last year?

Mr. KENNEDY. Of course. I will be glad to do that. There are very few people who have not heard me explain it.

That is because I think decent quality health care for all Americans ought to be a right and not a privilege, Senator, for Members of the Congress of the United States like you.

Mr. THOMAS. And the Federal Government ought to provide it?

Mr. KENNEDY. Regular order, Mr. President. I have the floor.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. I have a very good program. I pay $103 a month. The Senator from Wyoming pays about $300 a month.

The difference with the Senator from Wyoming and Massachusetts is that I want the American people—in Massachusetts and Wyoming—to have the same thing that we have. I was also interested during the time of the Contract With America that we came in and said, "Look. Whatever applies to Congress ought to apply to the American people." And everyone made their speeches and supported it. That is what we did.

The other side of the coin is all of those Members that have the Contract With America have national health care. They have good health care. They are covered. The Senator from Wyoming is covered, like 40 million other Americans are not covered, like the additional 1 million that became not covered in the last year of which 800,000 are children who are not covered. The difference with the Senator from Wyoming and the Senator from Massachusetts is I would like to make sure that the people of my State and the State of Wyoming have the same thing the Senator from Wyoming and I have. That is entirely different from what we are talking about in terms of the malpractice and the whole question of liability.

Mr. THOMAS. And States rights.

Mr. KENNEDY. States rights—the Senator is arguing my position on this issue. If I could, I have the floor. I would like to continue.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Massachusetts has the floor.

Mr. KENNEDY. I would like to continue.

The PRESIDING OFFICER. The Senator from Wyoming will suspend.

Mr. KENNEDY. Under Senator MCCONNELL's position, effectively you have preemption of the States under any of the State laws that apply anything that is more favorable than is differentiated from the Senator's legislation that advantages the consumers. You preempt State law; preempt them. This great body of leadership that says, "Why don't we block grants that Washington does not know best, let us let the States do that", that is what I am for on the malpractice. That is not what the McConnell bill does. And the Senator from Wyoming is offering an amendment on the McConnell bill that will set Federal standards, and preempt States rights. The McConnell bill preempts States rights.

When we offered an amendment in the Human Resources Committee to effectively eliminate the preemption of States, it was defeated. I would welcome the opportunity to cosponsor a second-degree amendment that will preserve that on the McConnell amendment right now. I welcome the opportunity. If you want to preserve the States rights of what Wyoming knows and Wyoming knows best, Massachusetts knows and Massachusetts knows best, let us do a joint amendment right now to the McConnell amendment. I propose that.

Mr. THOMAS. I am a little puzzled. May I ask a question?

Mr. KENNEDY. Yes; certainly.

Mr. THOMAS. First of all, the Senator from Massachussetts talked about the committee, that that which was proposed was dropped at the staff level. It is supported by the chairman. No. 2, the Senator has gone on. I watched. Here is the Senator's States rights business from last year. Do not tell me that you are for States rights. Look at this. Here is your health care package. Tell me there is States rights in that.

Mr. KENNEDY. Would the Senator read the malpractice provisions in there where we do not preempt the States? Will the Senator at least be honest enough in terms of talking about this measure of malpractice, be honest enough to look and find out what our committee did with regard to States rights last year? That is all we are asking. I mean, let us not get away from the fundamental issue which is before the Congress on the McConnell proposal. That is whether we are going to have a Federal preemption of States on the issues of tort reform or whether we are going to let the States make that judgment and that decision. That is the essential part on the whole tort reform debate that we are having here in the U.S. Senate.

The Senator has offered an amendment to that, not to preserve the State of Wyoming rights to make its own judgment. That was not in the Senator's amendment. You have gone to effectively immunize obstetricians from the malpractice and use a whole different standard of evidence at times of trial. That is an entirely different kind of issue. If the Senator wants to have Wyoming do what Wyoming wants on this malpractice, the Senator is welcome to have the opportunity to do so.

Mr. President, unless there is anything further or any other inquiry that the Senator would want, I would like to address the underlying measure that we have before us.

I see the Senator from Kentucky is now here. If I could just ask. As I understand it, this effectively, just for general clarification or point of information, this is basically the measure that was reported out of the Human Resources Committee without the Dodd amendment and without the Abraham amendment and as currently being amended by the Senator from Wyoming.

Mr. MCCONNELL. I say to my friend from Massachusetts, this amendment essentially is not what was reported out of the Labor Committee but rather the bill introduced earlier in the year by myself, Senator LIEBERMAN and Senator KASSEBAUM.

Mr. KENNEDY. The point probably does not make much difference to the Members. Here we have had the measure that was before the Human Resources Committee and had gone through a period of markup by the members of that committee and was reported out just a few days ago reflecting the members' judgment on the Human Resources Committee. Now we have a different measure here on the floor of the Senate. The Senator is obviously entitled by the rules of the Senate to proceed in that way.

There was a time when we Republicans and Democrats alike were trying to see if we could not work out some of the particular measures. Last year, when we dealt with the malpractice provisions, we ended up with a virtually unanimous vote on the malpractice provisions as part of the overall health care reform—a lot of diversity in this body, a lot of willingness to spend 2½ days in our Labor and Human Resources Committee considering this issue, and, at the end of it, we ended up with a unanimous vote. During the course of the consideration of what is basically the underlying McConnell amendment, I offered that as an alternative. The measure which had Republican and Democrat support. I will get into more description of it later in the course of this debate. And it was rejected. But, nonetheless, the Human Resources Committee reported out that measure. It was reported out. I thought at least if we are going to be debating the malpractice issue that we would have an opportunity to do so. But that is not the circumstance.

Mr. President, let us take in the McConnell amendment the health care liability reform. Let us take the findings. Findings become more important particularly in the wake of what has happened in the last hours over in the Supreme Court on the whole issue of handguns. With these findings we are finding out that the Supreme Court is paying attention, that they have to relate to the follow-on provisions of the legislation. We are reminded about that. We have been reminded over a period of years in circuit courts and now certainly by the Supreme Court.

Let us just begin by taking a look at the McConnell amendment on the findings. It says Congress finds on health care the following: Effect on health care access and costs. And from the title of this finding one would think that this bill is just what the doctor ordered. At the heart of health care crisis facing working families and health care access and cost is that we have 40 million citizens who have no health insurance to protect them against the high cost of medical care, and even those who have insurance cannot be confident that it will be there to protect them in the future if they become seriously ill. The cost of medical care is burgeoning the family budgets all over this country. But just read on.

So we would expect that the rest of the measure will have some relevancy to the effect of health care access and cost. Those are the two elements in the health care crisis, the 40 million Americans who do not have any, increasing numbers that are losing in the employer-paid system, and the continued escalation in terms of the health care cost.

It goes on. The next provision says the civil justice system of the United States is a costly and inefficient mechanism for resolving claims of health care liability and compensating injured patients. I certainly agree with that where we have only 10 percent of the victims of malpractice ever bringing a suit. I have here in my hand Business Week, March 27, shown to me by my good friend, Senator HOLLINGS, from South Carolina, who was here just a few moments ago. It points out in this article of just a few weeks ago:

> One issue often neglected in the debate over malpractice insurance is the system's efficiency in compensating injured patients. The most exhaustive look at this issue is a recent study of 31,000 hospital admissions in New York State by a Harvard University team headed by Paul Weiler, Howard Hiatt, and Joseph Newhouse. Its findings: Some 4 percent of admissions involved treatment-caused injuries. One-fourth of the injuries involved negligence. One-seventh resulted in death.
>
> On average, only one malpractice claim was filed for every 7.5 percent of the patients suffering a negligent injury and only half of these were ultimately paid. So, "The legal system is paying just 1 malpractice claim for every 15 torts inflicted in hospitals." Those suffering nonnegligent injuries—that is, caused by care not yet deemed inappropriate—got nothing. Thus, the study concludes that rather than a surplus, there is a litigation deficit because so many injured people wind up uncompensated.

You have the question now about whether the civil system is working in a way to try and deal efficiently with the malpractice which is taking place and how can it be done more effectively. We had an option and an alternative to do that, which was bipartisan, which has effectively been rejected and now we are back to the McConnell amendment that goes on and talks about, "The civil justice system of the United States is a costly and inefficient mechanism for resolving claims of health care liability and compensating injured patients."

I would certainly agree with that. And all the material that we have looked at would certainly underscore that.

Only 10 percent of the victims of malpractice bring a suit. Many victims who receive awards are undercompensated, due to the caps on damages imposed by almost half of the States. When cases go to trial, doctors win 60 percent of the cases in which, independent studies have concluded, they were, in fact, negligent.

So I would support a bill that addresses these problems, although it certainly would not be a serious solution to the problems of cost and access. But this bill only tips the balance further in favor of the health providers and farther against the working men and women who are the victims of the practice.

Let me read on.

> And the problems——

This is from the measure that we have before us.

> And the problems associated with the current (malpractice) system are having an adverse impact on availability of, and access to, health care services and cost of health care in the United States.

Two million people lose their health insurance every month, and if you can find one who lost it because of the medical malpractice liability system, I would like to meet him.

We will spend $1 trillion on health care this year. That number will double in the next 10 years. Medical malpractice premiums account for about 1 percent of that total and premiums are not even rising significantly.

Even the AMA cites estimates that the costs of "defensive medicine" account for only 2.5 percent of health spending. Both the OTA and CBO concluded that tort reform like the kind provided in this bill would simply not produce any reduction in those figures. Is it not time we got serious about dealing with the health care costs instead of pretending that bills like this will do anything other than victimize patients to benefit providers?

It is interesting that one of the first measures that we are dealing with on health care, with all of the problems that we are facing, with the number of Americans who are not covered, with the increasing number of children who are not covered—and those numbers are increasing—with all the problems that our seniors are having in terms of affording prescription drugs, all the needs that are there in terms of home delivery services, all the difficulties and challenges that we have in terms of the health care crisis, we are dealing with this issue of the malpractice reform in a way that is going to preempt the States from dealing with this issue, which they have had for some 200 years, and at a time where the case I think has yet to be made why this is necessary.

And let me just mention very briefly, I hope those who are going to support it will explain to the Senate why we need it. First of all, the number of malpractice cases has been declining over the period of the last 5 years.

Second, the malpractice premiums for the medical profession have been declining over the period of the last 5 years.

Third, the awards for malpractice that have been made in the various courts have been declining for the last 5 years.

And finally, the profits of the industry, the insurance industry in dealing with malpractice have been going up through the roof, going up through the roof. We are not where we had been a number of years ago when we saw many of these companies saying, look, we just cannot—we are going to get out of this whole area of malpractice. We just cannot afford it. We just cannot go forward with it. We just cannot deal with it.

The fact is this malpractice insurance is enormously profitable to the insurance industry. And rather than leaving the insurance industry, it is highly competitive and more and more companies are going into this kind of coverage. The publications of the insurance industry reflect that and the profits of the various companies sustain it.

And so we have a situation where there is, Mr. President, an important need in terms of covering the American people. The best estimate is anywhere from 80,000 to 100,000 people die a year from negligence and malpractice—80,000 to 100,000 people die a year, where only a small fraction of negligent malpractice cases are even brought, and where review after review of even those that are brought, where there have been findings that there has been review of those cases by doctors and professional groups, suggests that those findings by and large have been fair and that any review of the total numbers of cases that have been brought over the period of the years would justify additional kinds of findings as well.

Here is Business Insurance: "Insurance Malpractice Coverage in Stable Condition."

> Despite the rapid change in health care delivery, the price of medical malpractice and professional liability coverage for health care organizations remains stable and capacity is plentiful. Most hospitals and health care systems will renew their liability coverage as in 1994 in part because of a decrease in claims severity and frequency for most health care organizations.

It goes on and talks about there is more capacity, there are more players than 3 years ago.

> It seems like every month a new insurer wants to underwrite medical liability coverage for health care organizations.

Business Insurance, the publication for the insurance industry, says this is an area to get in, the profits are there. The total numbers, the statistics show that the awards, the numbers of cases, the judgments are going down and that the principal problem that is out there is people who are subject to malpractice are not being compensated. And what are we doing here with the McConnell proposal?

What are we doing here? We are effectively saying to Wyoming, to all 50 States, that we know best on the issue of tort reform; that we are going to have a preemption, one-way preemption. If your State, for example, was to provide some additional kinds of protections in terms of consumers, we will preempt you.

Now, in the Labor and Human Resource Committee, the Abraham amendment said: All right, we will preempt you, but if the State wants to get out from underneath the preemption, that will be accepted. And that was accepted by the committee.

But not in the McConnell amendment; not in the McConnell amendment. It is a one-way preemption.

I see other Members who want to speak to this issue, so at this time I will just conclude.

It is difficult for me to understand, Mr. President, why we are taking an issue which is so personal, involving a doctor and a patient, in which the States have worked out their own accommodations, where the Congress is not being pleaded to by the States for Federal action, and while the industry itself is successful, experiencing record profits in this area—I will get into that later on in the discussion—why we are being compelled to say that we will have a one size fits all, effectively saying that we here on this issue, which is so personal between a doctor and a patient, so personal, that we are going to have to have a Federal solution. And that is what the McConnell amendment is doing.

I find it just troublesome, as I mentioned earlier, where we have all the challenges that hard-working families are facing in this country, that workers are facing, wondering whether they are going to continue to have the coverage that they have today, where working families are worried about whether their parents are going to be covered, where working families read about the cuts in Medicare that are going to be coming down the road, where most of our seniors are paying $1 out of $4 in terms of out-of-pocket expenses for additional health care needs. They are concerned about them. They are concerned about their children, whether their children are going to get decent quality health care.

And we see, with the Carnegie Commission report and the other reports, the total number of children that are not being covered. With all the needs that are out there, here comes the U.S. Congress and Senate saying, "On this one, we are going to look out for the industry and the AMA." That is what this is all about. That is what this is all about.

Mr. President, basically, there should be adjustments, there should be changes made in the current system. We ought to be encouraging alternative dispute resolutions. We ought to give experimentation to the States to be able to do that.

In our proposal last year, we even had limitations in terms of the contingency fees in a bifurcated way, in terms of the early payments and later kinds of payment. We dealt with collateral issues. We dealt with the experimentations that would be taking place in States so that they could develop practice guidelines and consider, if they used practice guidelines, whether we could create rebuttable presumptions.

We talked about encouraging States to develop enterprise liability. We even supported creating no-fault liability so that States would create the funds and all that individuals would have to be able to do is show that need, not even negligence, to be able to recover. We were prepared to consider all of those measures.

Those of us who are opposed—at least this Senator is opposed—to the McConnell amendment understand that we have to provide some changes and some alterations. We were prepared to do so and are prepared to do so. We made some changes even in this proposal that was initially put forward before our committee during the course of the deliberations. But we, at this time, do not have that measure before us.

I see other Members who want to speak, and I will come back to address this issue at a later time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I have the floor. I wonder if I could just for a moment have a discussion with my colleague from Connecticut. I know he was here for a while, but I stayed on the floor. I do not want to push in front of him. Would my colleague mind if I went forward with my remarks right now?

Mr. LIEBERMAN. Mr. President, I appreciate the courtesy of my friend from Minnesota. It may sound a little strange, but if he is prepared to speak at length, I would be happy to allow him to go forward.

Mr. WELLSTONE. I say to my colleague, I am prepared to speak at length.

Mr. LIEBERMAN. I had guessed that.

Mr. WELLSTONE. Would that be all right?

Mr. LIEBERMAN. Yes. I appreciate the Senator's kindness.

Mr. WELLSTONE. Mr. President, I was at a gathering yesterday with citizens from all over the country. Their personal stories are often not a part of this debate, but they should be. Many of them have been injured, many of them have been hurt, some of them have lost loved ones. God forbid that any of this should happen to any of us or our families or our loved ones.

Mr. President, the question that they were asking was: What is the purpose of the underlying bill, this "Product Liability Fairness Act?" I see nothing fair in it, and I will talk about that, or this amendment, the McConnell amendment, or the second-degree amendment to the McConnell amendment.

What is this rush to somehow protect whom from claimants? Why the effort to tip the scales of justice against people who have been hurt, all too often in behalf of people who have been negligent, all too often on behalf of large corporations, insurance companies, you name it?

Mr. President, I will get to the specifics of this medical malpractice amendment, and I will talk about the underlying bill as well, but I would like to start out on a more personal note as a Senator of Minnesota.

Mr. President, let me first of all make it clear that in some editorials it has been suggested that this debate is really a debate between the trial lawyers of the United States of America and the rest of the country. That is just simply not true. There are many citizens, the consumers of this Nation, that I think also need to be and have been present in this debate.

So with a little bit of hesitation, I will use some pictures—but this comes with the permission of Minnesotans, of the families affected—because I think the faces of people that are affected by this, I think the people themselves, their voice ought to reach into this Chamber now.

Kristy Marie Brecount was a happy—"was," past tense—active 7-year-old girl from Edina when she went to the hospital to get her tonsils removed, as many children her age do.

I do not know where the hospital was and in no way am I suggesting that this was in Edina. That is not the point.

It was an elective procedure. The hospital personnel improperly hooked up the machine that was to provide the anesthesia for the operation. They attached the hoses backward. As a result, she received 10 times the amount of anesthesia she was supposed to get, leading to a fatal cardiac arrest.

This is a picture of Kristy.

Here are the questions I would ask about this amendment, as I understand it. And I have not even had a chance to look at all of it, because it just came up on the floor.

If it was clear that the hospital personnel had acted intentionally or "with conscious, flagrant disregard" for Kristy's safety, do you think, I ask my colleagues, that $250,000 is enough to punish and deter the hospital personnel from doing it again?

Is $250,000 too much? And if my colleagues say it all depends on the history or the size of the hospital, then I would say that is precisely the point. It is a case-by-case situation. So why at the Federal level preempt this? Why take away from aggrieved citizens their right to seek redress for grievances within our court system?

Is $250,000 too much? And if you do not know the statistics, this does happen to citizens—80,000 deaths a year from negligence, 300,000 citizens hurt or injured a year. And we put caps on punitive damages?

Gina Barbaro. Gina had just turned 6 when she got sick with flu-like symptoms. Her mother took her to a chiropractor. Her symptoms at the time were headaches, fever, vomiting, shakes, delirium, rash on her foot, ear, knees, and down her legs. The chiropractor prescribed herbs and oils and sent Gina home.

By the way, we are not talking about the vast majority of doctors, chiropractors, you name it. We are talking about a few, sometimes, if you will, rotten apples in the basket.

The chiropractor prescribed herbs and oils and sent Gina home. The next day she was back with worsened conditions and severe redness to her right eye. The chiropractor, believing the problem stemmed from Gina's pancreas, sent her home again. Her temperature reached 105, and the color of the iris of her right eye changed.

Upon the third trip to the chiropractor, the chiropractor finally suggested that Gina go to the hospital for evaluation. The hospital staff determined Gina had a virulent strep infection that resulted in her losing the sight in her right eye. She also had numerous other complications. The eye had to be removed. A year and a half later, Gina continues to have continuing care, including cardiology, ophthalmology, infectious disease, and pediatrics.

I just showed you a picture of Gina, and now I ask the following questions: Assuming that the jury finds that the chiropractor's negligence in failing to send Gina to a hospital sooner was 70 percent responsible for her damages, and the negligence of the practice for which the chiropractor worked was 30 percent responsible because they hired the chiropractor in the first place. The jury awards Gina $100,000 in noneconomic damages for her pain and suffering and disability and fear.

If the chiropractor is unable to pay the full amount of his fair share, who should be stuck with the loss, Gina or the practice? And by the way, Mr. President, to go to one of the points that my colleague from Massachusetts, Senator KENNEDY, made, in the Labor and Human Resources Committee, one of the more important things we did to the medical malpractice amendment yesterday is that we had an opt-out provision.

In my State of Minnesota, we have struggled with this question of joint liability. I am not a lawyer, but I can see it is a really difficult question. The question: If you are not really responsible for the whole extent of the damage, and maybe only a small percentage because another party says they are insolvent, bankrupt or whatever, should you have to assume the whole cost? So we tried to work out different kinds of formulas at the State level.

This amendment preempts States from doing that. I am, in part, here to fight for my State. And by the way, Mr. President, it makes no sense whatsoever to me that if you are going to have a Federal preemption—and you should not—there are two issues: Why do we have a Federal preemption which, as I understand this amendment, goes in only one direction: States are preempted if they want to have stronger consumer protection than the norm we set here, but not preempted from having less consumer protection. Talk about a stacked deck. In any case, why would we not, as we did yesterday in committee, at least allow States to opt out of this?

This amendment professes to reform medical malpractice, but it is less about cutting back on the incidence of medical malpractice—how do we prevent this in the first place—than it is about making it harder for people to avoid becoming the victims of medical malpractice, making it more difficult for those victims to receive compensation for their injuries and making it easier for those who commit medical malpractice to get away with it.

This amendment is an attack on consumers. First and foremost—and I use the word "attack" carefully—it is an attack on the elderly and on families with children and on working Americans. Why else would this bill devalue compensation for low- and middle-income victims? That is right, this amendment says that when a person is hurt, it is their economic damages, usually including lost wages, that they have the best chance of getting back. But for noneconomic damages, it will be harder to get compensated. In other words, if your damages tend to be more in pain and suffering and less in lost wages, since you make less money, you are more likely to walk away with a smaller percentage of your compensation, and that is wrong if you have lost a child, or if you are infertile because of malpractice of a doctor, maybe an obstetrician. If you have been maimed, then I do not know why your loss is any less important than someone else's loss. Since when did we start making a calculation about justice based upon the income and wealth of families?

Mr. President, with regard to the second-degree amendment, lessening standards so that an obstetrician does not have to live up to the same standards by way of consumer protection, thus making it more possible to be able to deliver that kind of care in rural areas, makes no sense whatsoever.

I am from the State of Minnesota and greater Minnesota, rural Minnesota is an important part of our State. Minnesotans want to make sure that we have more doctors, nurses, advanced nurse practitioners in our communities delivering health care. But I do not believe the citizens in my State believe that the way to get that done is by moving away from consumer protection by lessening standards. People want affordable care, they want dignified care, they want humane care, and they want high-quality care.

Mr. President, yesterday in committee I offered an amendment, and I certainly will offer this amendment on the floor of the Senate. I did not believe we were actually going to have a medical malpractice amendment on the floor. I offered an amendment in markup that would have opened up the National Practitioner Data Bank—and for those who are now listening to this debate, I need to spell out what that is—granting consumers access to the same kind of information about their doctors that hospitals and HMO's currently receive.

In other words, if we are really interested in the problem of medical malpractice and we want to prevent it, that is really what people want to see happen, that is what doctors and chiropractors and nurses and nurse practitioners want to see happen, then one would think that consumers could have the same information, access to the same kind of information about their doctors that hospitals and HMO's currently receive. Eighty thousand people die every year due to medical negligence, and consumers should have the right to know whether or not there has been a finding against the doctor because of malpractice or if a doctor has essentially been barred from practicing at a hospital or, for that matter, within a State. By the way, sometimes—and I could give examples—doctors move to other States, change their names, and then harm other citizens in the country, and those citizens have no way of finding out, unless they want to go all around the States in 50 different court systems. But that amendment was defeated yesterday. Once again, consumers lose and a variety of different powerful trade associations and their Washington lobbyists win. I will most definitely, Mr. President, offer that amendment on the floor.

Mr. President, the plaintiffs ask the question: Why the legislation? Why the legislation that essentially tips the scales of justice against us? Victims of malpractice do not know they are victims until they are injured. Perpetrators of malpractice know who they are. They have been sued before, and if they do it again, they can expect to be sued again. So they can walk the Halls of Congress in droves, but the victims—the people who will be affected by this amendment—do not even know who they are yet. We can only talk about them in the abstract, though I have tried to give specific examples.

Mr. President, I recognize that many of my colleagues feel they have to vote for something they can call tort reform, so they can go home and tell their constituents that they have struck a blow against the lawyers. But I urge them to see past this temptation to the real truth. They are striking a blow, if they support this second-degree or its underlying amendment, against their own constituents, against regular people who, God forbid, one day will be the victim of a bad doctor, bad drug, or defective product. If we pass these amendments, we will be hurting people, and that is not something that any of us were elected to do.

Mr. President, I have to say, on the health care front—and I have a few comments on this overall product liability bill as well—that it is amazing to me that we go through a health care debate for the better part of the last Congress and we have the General Accounting Office and the Congressional Budget Office and they talk about the trillion-dollar industry and how we can contain costs. As I remember the numbers, the cost of purchasing medical malpractice insurance, combined with defensive medicine—in other words, doctors say it is not just the cost of purchasing insurance—the total amounts to about 2 percent of the overall costs in the health care industry. Again, I, too, quote from a Business Week piece:

> On an average, only one malpractice claim was filed for every 7.5 patients who suffered a negligent injury, and only half of these were ultimately paid. So, "the legal system is paying just one malpractice claim for every 15 torts inflicted in hospitals." Those suffering nonnegligent injuries—that is, caused by care not yet deemed inappropriate—got nothing. Thus, the study concludes that rather than a surplus, there is a litigation deficit because so many injured people wind up uncompensated. So many injured people wind up uncompensated—overall, a very small percentage.

But let me shout this from the mountaintop that is the floor of the U.S. Senate: When the insurance industry moves into this debate and they want to get their way, they do quite well, apparently, given this kind of amendment. Last session we learned that the way you can most effectively contain health care costs would be to put some limit on what insurance companies charge. But nobody talks about that. That proposal is off of the table.

That is not what we want to do. We do not want to focus on containing health care costs in some kind of fair, rational way. We do not want to focus on how to cover children and women expecting children. We do not want to focus on how we can move forward on home-based long-term care so that elderly people, people with disabilities, can live at home in as near to normal circumstances as possible and with dignity. We do not want to talk about situations where young people, because they have diabetes or because they have had a bout with cancer, find they are no longer covered by an insurance company, or their rates are so high they cannot afford to purchase that insurance.

None of that is being done. We do not want to talk about the 40 million Americans that are uninsured. We do not want to talk about all of the American citizens in this country who are underinsured. We do not want to apply the standards we live by, where we have good coverage and make sure the citizens we represent get the same coverage.

No. Instead, we have an amendment here that is stacked in favor of large companies and against consumers, against regular people, against people who are injured, against people whose loved ones, in fact, in some cases have died as a result of medical malpractice; there is no way people can have information and knowledge about those doctors who have been found guilty of this kind of practice. No, we do not do that, nor do we take any effort to prevent it.

We do not do anything to protect the consumers. We move away from those standards and we have these caps on punitive damages; we say that when a child passes away, that is what she is worth. Not to mention the fact—and I hate to say this on the floor of the Senate because I admire the vast majority of the medical profession and, for that matter, the health care industry in this country—but, by golly, one of the ways you stop some of this practice by those who really have done irreparable harm to citizens, whether they be a doctor or a hospital or corporation, you name it, is you make sure that they know if there is a repeat of this, or they do it again, they will pay dearly.

Mr. President, yesterday I took part in an event that I only wish could have been witnessed by every one of my colleagues in the Senate. Had they seen it, I cannot believe that we would be here today on the floor of the Senate considering this underlying product liability bill, much less these amendments.

The event was a meeting of people who had been harmed by defective products and negligent doctors. All of these people have been claimants—the very people that this legislation is designed to protect against, the very people that these amendments are designed to protect against. They have all been through the legal process, and without its protections, they would not have gotten what compensation they did receive.

Do not let me hear people frame this debate as if it is a debate between everybody in the United States of America versus the trial lawyers. Not true. Having been through the process and seen how difficult it is to even get compensation today for their injuries and punish those who hurt them, these people yesterday—and they are here today as well—have an angry question for supporters of this so-called Product Liability Fairness Act: Why are we doing this? Why are we trying to make it harder for citizens who have been injured by products or malpractice, or citizens who have sometimes even been killed because of this, to seek redress of grievances in our court system?

These citizens I met with yesterday are not the ones with the money and sophistication. Rather, they are the ones that are taken advantage of. They are the ones that are hurt, the ones that wrongdoers try to force into unacceptable settlements. They were here yesterday bearing witness to the damage that could be wrought by manufacturers of defective products and negligent doctors.

They represent the downside of supporting this amendment. They are a reminder of why we have a civil justice system that has been called the great equalizer.

Why through this amendment and why through this underlying bill are we trying to move away from a court system that has been a great equalizer? It is especially so for citizens who have been hurt, for citizens who sometimes have died as a result of defective products or medical negligence.

Mr. President, in this underlying bill there are three basic provisions that have people up in arms. I agree with them 100 percent. Limiting punitive damages—which is part of this amendment as well—would have allowed corporations that hurt them to avoid punishment. It would have allowed industry to work them into what is called the death calculus. For those who were listening, that is the calculation by which a company can decide whether it is economically worth it to keep marketing a product that harms consumers. It is where a company can ensure that the bottom line is the only line.

The cap on punitive damages in this bill also works to discriminate against lower- and middle-income plaintiffs. People—as I said before—like the elderly, children, and the vast majority of working Americans.

Under this bill, a manufacturers' egregious behavior will receive a lesser punishment if that behavior is against a person who makes less money and therefore has lower economic damages. Same with this amendment on medical malpractice. That is for exactly the same behavior, exactly the same harm and exactly the same defendant. This is an absurd result and it is an indefensible one.

Mr. President, let me take an example. Jack, a data entry clerk, is severely injured by the explosion of a defective diesel generator made by the Acme Generator Co., leaving him in a wheelchair for the rest of his life. His hospital bill is $40,000, but he misses out on 1 year of work, which amounts to $30,000 in lost wages. So his total economic damages are $70,000. The jury determines that Acme's behavior was egregious enough to merit $500,000 in punitive damages. But this bill operates to cap these damages at $250,000.

On the other hand, Bob, who sells commercial real estate, receives the identical injury when he uses one of Acme's generators. His hospital bill also amounts to $40,000 and he, too, is confined to a wheelchair for the rest of his life. When he misses a year of work it costs him $200,000. When the jury tries to punish Acme with $500,000 in punitive damages in his case, the punishment sticks.

This raises a good question: Why is it less punishable to hurt Jack? There is another good question. Was $250,000 enough to properly punish Acme?

I say to my colleagues again, it also applied to the amendment on medical malpractice where there is a cap set and it applies again. If a person does not know, if a person has followed these two examples and the answer is they do not know because a person needs more details, then that person has no business voting to support this one-size-fits-all underlying legislation or this one-size-fits-all amendment.

If the State of Minnesota and the State of Illinois have their own models and have attempted to deal with some of these tough problems so that we avoid some of the excessive litigation, so that we can figure out, I think, a really tough issue with joint liability, then we should let them do so.

We certainly should not have an amendment or a bill that represents a Federal preemption against State standards only if those standards protect consumers or are stronger on consumer protection. Lower consumer protection is fine. This is the inevitability of a stacked deck.

Mr. President, let me put a face on these questions. I want to make it clear I have thought long and hard about this. I feel so strongly that this debate has not dealt with people that I have sought permission for this, and I would not do it otherwise. Let me put a face on this.

Think of LeeAnn Gryc, from my State of Minnesota, who was 4 years old when the pajamas she was wearing ignited, leaving her with second- and third-degree burns over 20 percent of her body.

An official with the company that made the pajamas had written a memo 14 years earlier stating that because the material they used was so flammable, the company was "sitting on a powder keg." When LeeAnn sued for damages, the jury determined that her economic damages were $8,500, and also awarded $1 million in punitive damages.

This is a picture of LeeAnn, what happened to her. Let me ask, was the jury wrong? Should the company have gotten away with only $250,000 in punitive damages, as this bill would have required? Unless a person is comfortable answering the question yes, a person should not be supporting this underlying bill.

Was this too great an award for this family? Unless a person is in favor of a cap and a person thinks more than $250,000 would be too much for this child and her family, a person should not support this bill.

This legislation will have a very, very, real negative impact on consumers. It is unconscionable.

Mr. President, when I saw the damage done by defective products to so many people as I did yesterday, I could not help but feel some of the pain they must have felt and still must be experiencing.

What is it like to be blinded, confined to a wheelchair, unable to parent a child, lose a child, live with brain damage? These are real and palatable harms that many plaintiffs in product liability and medical malpractice actions have to deal with. We should not pass amendments or legislation that provide them with less protection or restrict their ability to seek legitimate and fair redress for grievances in compensation for what has happened to them and to prevent it from happening again to others.

Historically, the primary goal of tort law was to compensate the victim, to make the victim whole. This reflects the view that it is better to have a wrongdoer who was partly responsible for the harm pay more than their fair share, if that is what is necessary to make sure that the victim is fully compensated.

It is not an easy choice, Mr. President, to require somebody to pay more than their fair share. This is an issue that I really struggle with. But it is a choice that this legislation seems to be willing to let stand.

If the harm is of a particular type, a type that can be shown in medical bills, lost wages, and other things that a person can get receipts for, that is one thing. But for noneconomic damages, like juries award for disfigurement, pain and suffering, and inability to bear children, the bill says that it is not important to make victims whole if that is the kind of damage they sustain. Two different standards between economic and noneconomic damages.

I would be very interested in why some of my colleagues think that people who suffer that kind of harm should be relegated to second-class status.

Mr. President, again, there are faces, there are real people who will be hurt by this legislation.

Think of Nancy Winkleman from Minnesota who was in a car crash. I met her a few weeks ago. Because a defective car underride bar failed to operate properly, the hood of her car went under the back of a truck and the passenger compartment came into direct contact with the rear end of the larger vehicle. Without the benefit of her car's own bumper to protect her, she was severely injured, losing part of her tongue and virtually all of her lower jaw.

Despite extensive reconstruction surgery, her face and her ability to speak will never be the same.

Real people, real faces. I cannot imagine the pain that Nancy must have undergone, or the pain that she undergoes every day. If one of the responsible parties in her case was unable to pay its fair share, should she go uncompensated for some of that pain? Or should the other responsible parties have to make it up? Unless you are certain that it is more important to protect those other responsible parties than to compensate Nancy for her pain, you should not support this bill. If you do, you will be hurting people, real people.

Finally, there is the statute of repose prohibiting suits to recover damages for harm caused by defective products that are over 20 years old. This is one of the most arbitrary and indefensible provisions of the bill. What possible justification is there for this? After all, if a product is defective and does not hurt anybody until it is over 20 years old, is the harm of the victim any less? Is the responsibility of the manufacturer any less?

Here is a face you can attach to these questions as you consider them. Think of Jimmy Hoscheit—with his permission—who was at work on his family farm when he was a boy. Jimmy, too is a Minnesotan. I met him a few weeks ago. He was using common farm machinery, consisting of a tractor, a mill, and a blower, all linked together with a power transfer system much like the drive train on a truck. The power of the tractor is transferred to the other equipment by way of a spinning shaft, a shaft covered by a freely spinning metal sleeve. The sleeve is on bearings so that if you were to grab the sleeve it would stop moving while the shaft and side would continue to powerfully rotate at a very high speed.

Apparently when Jimmy leaned over the shaft to pick up a shovel, his jacket touched the sleeve and got caught on it. However, instead of spinning free of the internal shaft, the sleeve was somehow bound to the shaft, became wrapped in Jimmy's jacket and tore Jimmy's arms off. His father found him flat on his back on the other side of the shaft.

The manufacturer could have avoided all of this if it had just provided a simple and inexpensive chain to anchor the shaft to the tractor.

Now I ask you: Should Jimmy be able to bring a suit against the manufacturer? What if the product was over 20 years old?

A similar question can be asked about 6-year-old Katie Fritz, another Minnesotan whose family I was actually privileged to meet yesterday. Katie was killed in 1989 when a defective garage door opener failed to reverse direction, pinning her under the door and crushing the breath out of her.

I met the Fritz family yesterday, her mother Patty and her sons. It is a really courageous family. And it is really hard for them to talk about it. Patty Fritz had tears in her eyes—who would not? I am a father and a grandfather. Mr. President, you are a father. But you know Patty and her family have the courage to take what has happened to them and be able to speak out in behalf of others.

We all know how long some of these machines can last. If that garage door opener was over 20 years old, Katie's family could not have sued the manufacturer. There would not be any question of capping punitive damages or having joint liability for noneconomic damages they simply would not be allowed in the courthouse door.

That is what this legislation does. Explain to me the justice in that? What is the overriding public policy interest that is so important that this bill should shut Katie's family out of court, or other families like Katie's family, out of court? If you are not clear about this, if you are not sure that there is such a public policy interest here, you should not support this legislation.

This legislation and these amendments right now before us will hurt people, real people. To me, as I look at this legislation and I look at this amendment before us, this is not a close call. At a time when many in Congress are bent on cutting back on regulations that protect the health and safety of our citizens and on reducing public support for people if they get hurt and need help, the courts are the last resort. We cut back on the regulation, we cut back on the protection, we cut back on the ability of public agencies to protect people, and now we shut off the courts, the last resort. That is where regular people can try to deal with wealthy, sophisticated defendants on a relatively level playing field. And now what we are trying to do is change that and make it an unequal playing field. And even now it is extremely hard to get a reasonable settlement or award. Why are we considering legislation to make it even harder?

So I started out talking about the second-degree amendment. Then I talked about the McConnell amendment. Now I have talked about the underlying bill. I urge my colleagues from the bottom of my soul to please oppose not only these amendments, which I did not think would be on the floor, but this bill. Do not close your eyes. See the faces of the people the bill would hurt. See the faces of the people the bill would hurt. See their faces.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, once this second-degree amendment of my colleague from Wyoming is disposed of, it is my intention to offer an amendment to the underlying amendment offered by my colleague from Kentucky that will strike from that amendment the cap on punitive damages that amendment places on a specific area and that specific area is sexual assaults of patients by doctors.

Understandably this is a rarity, but the facts are that many times when punitive damages are awarded by juries against doctors, against medical providers, the juries do it in cases where there have been sexual assaults—a case where the patient has been put under anesthesia, the doctor then proceeds to sexually assault the patient. It is certainly a rarity. But, Mr. President, I cannot find any moral justification for this U.S. Congress saying to the 50 States, saying to the people across this country, in that particular case we deem it wise to impose our will on the States and to say, in the case of that sexual assault, there is going to be a cap, there is going to be a limit on what that jury can return in punitive damages against that particular individual.

I hope and would anticipate that this amendment will not be a controversial amendment, it will be something we can all agree on. But I wanted to notify my colleagues and Members in the Chamber that in a short period of time I do in fact intend to offer that particular second-degree amendment.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

Mr. President, I have sought recognition to comment briefly on the pending amendment offered on health care liability reform. I heard about it this morning at about 11:15. Today, like so many days in the Senate, is a very complicated day. Shortly we will be conducting hearings in the Judiciary Committee on terrorism, which I am due to chair. There is a ceremony starting in a few minutes on the steps of the Capitol to commemorate the victims of the Holocaust. But I wanted to come over for just a few minutes to comment about this pending amendment on health care liability reform.

My review so far has been cursory because of the limited time available, but it is my understanding that this amendment, which is a fairly thick document, is the bill which was reported out of the Labor and Human Resources Committee earlier this week. It is my thought that this legislative proposal now offered in the form of an amendment really warrants some very, very considerable study. It is being added onto the bill on product liability, which is already complex. The health care liability reform amendment is really a piece of legislation which I think requires a committee report, requires time to study and to reflect, and some judgment.

When we are dealing with the whole area of tort reform, we are building on a field which has had encrustations of judicial decisions over decades, or really centuries. As I said earlier this week in a brief statement on product liability, some reform, I think, is necessary. And in the practice of law, my profession, I have represented both plaintiffs and defendants in personal injury cases. But the reform process needs extraordinary care because the common law has developed one case at a time with very careful analysis, contrasted with the legislative process where frequently in hearings only one or two Senators may be present, and the markups, as carefully as we can do them, do not really produce the kind of legal and factual analysis which the courts have developed in the common law. But I do think there is room for improvement.

Last night, I spoke in favor of Senator BROWN's amendment to tighten up rule 11 to deter frivolous lawsuits. So there are places where we can improve the system with a very, very careful analysis. But I do not think it is realistic to take up this entire legislative package on health care liability reform with the kind of analysis which is required to protect the interest of all the parties, both plaintiffs and defendants.

As is the custom of the Senate under the rules of the Senate on the pending legislation of product liability, we have a different committee report which analyzes the hearings, sets forth the facts and conclusions that Senators may use as a basis for their consideration of the legislation, which we do not have on this amendment.

It would be my expectation that the managers would move to table. I have not consulted with them. But the Senator from West Virginia, Senator ROCKEFELLER, has commented about his interest at least in keeping the current legislation limited to product liability, and the distinguished Senator from Washington has commented about making sure that any amendment has at least 60 votes so that we do not have legislation that will not stand the 60-vote rule on cloture.

I note that the majority leader has come to the floor. I shall be very brief.

I would like to put in the RECORD two studies of the malpractice field which I think would be of interest to my colleagues to review, and I will read just a couple of paragraphs which articulate the conclusions of these studies.

First, I refer to an article in the Annals of Internal Medicine of 1992 entitled "The Influence of Standard of Care and Severity of Injury on the Resolution of Medical Malpractice Claims" by a distinguished group of doctors.

> Objective: To explore how frequently physicians lose medical malpractice cases despite providing standard care and to assess whether severity of patient injury influences the frequency of plaintiff payment.

This is a study of a "total of 12,829 physicians involved in 8,231 closed malpractice cases."

Under the conclusions section, the study essentially reports that, "Our findings suggest that unjustified payments are probably uncommon."

There is a fair amount to the analysis and a fair amount more to the conclusions. But I leave that for the readers in the CONGRESSIONAL RECORD.

I would next cite an article in the New England Journal of Medicine from July 25, 1991, captioned "Relation Between Malpractice Claims and Adverse Events Due to Negligence":

> Abstract—Background and Methods. By matching the medical records of a random sample of 31,429 patients hospitalized in New York State in 1984 with statewide data on medical-malpractice claims, we identified patients who had filed claims against physicians and hospitals.

And the conclusion:

> Medical-malpractice litigation infrequently compensates patients injured by medical negligence and rarely identifies, and holds providers accountable for, substandard care.

I would also like to put into the CONGRESSIONAL RECORD, Mr. President, an article from the New York Times of Sunday, March 5, which is particularly applicable to the second-degree amendment which has been filed here relating to obstetrics. This article reported on a study of New York hospitals with the captioned headline: "New York's Public Hospitals Fail, and Babies Are the Victims." It is a fairly lengthy article. But a couple of paragraphs are worth quoting.

> Each year, for the last decade, dozens of newborn babies have died or have been left to struggle with brain damage or other lifelong injuries because of mistakes made by inexperienced doctors, poorly supervised midwives and nurses in the teeming delivery rooms of New York City's public hospitals.
>
> Some of the most prestigious medical schools and private hospitals are paid by the city to provide care in its sprawling hospital system. But an examination by the New York Times shows that many of these private institutions have left life-and-death decisions to overworked nurses and trainee doctors who are ill prepared to make them.
>
> The effects can be seen across the system, from the surgical suites to the clinics. But nowhere are the consequences more devastating than in the delivery rooms where the course of a young life will be changed forever by a few minutes delay in the malfunctioning monitor or a lapse of attention.
>
> Some hospital and city officials have known about the problem for years, and have worked mightily to keep them from the public. They fear a loss of public confidence and a flood of lawsuits.

Quoting further from the report:

> These cases are catastrophic and costly. Many of these infants are now grown children suffering from multiple and severe disabilities who require lifetime hospitalization or intensive home care.

I would also cite a report by the Congressional Budget Office, the independent arm of Congress, and their conclusions in 1992:

> Restructuring malpractice liability would not generate large savings in U.S. health care costs. Malpractice premiums amount to less than 1 percent of national health care expenditures. Thus, the premiums directly contribute little to the Nation's overall health care costs.

These are just a few comments, Mr. President, which I say I am abbreviating because the distinguished majority leader is on the floor. I have other commitments, having come over just when I heard the introduction of the amendment.

I ask unanimous consent at this point that the articles that I referred to from the New England Journal of Medicine, the Annals of Internal Medicine, and the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows;

[From Annals of Internal Medicine, Vol. 117, No. 9, Nov. 1, 1992]

THE INFLUENCE OF STANDARD OF CARE AND SEVERITY OF INJURY ON THE RESOLUTION OF MEDICAL MALPRACTICE CLAIMS

(By Mark I. Taragin, MD, MPH; Laura R. Willett, MD; Adam P. Wilczek, BA; Richard Trout, PhD; and Jeffrey L. Carson, MD)

Objective; To explore how frequently physicians lose medical malpractice cases despite providing standard care and to assess whether severity of patient injury influences the frequency of plaintiff payment.

Design: Retrospective cohort study.

Setting: Physicians from the state of New Jersey insured by one insurance company from 1977 to 1992.

Participants: A total of 12,829 physicians involved in 8231 closed malpractice cases.

Measurement; Physician care and claim severity were prospectively determined by the insurance company using a standard process.

Result: Physicians care was considered defensible in 62% of the cases and indefensible in 25% of the cases, in almost half of which the physician admitted error. In the remaining 13% of cases, it was unclear whether physician care was defensible. the plaintiff received a payment in 43% of all cases. Payment was made 21% of the time if physician care was considered defensible, 91% if considered indefensible, and 59% if considered unclear. The severity of the injury was classified as low, medium, or high in 28%, 47%, and 25% of the cases, respectively. Severity of injury had a small but significant association ($P < 0.001$) with the frequency of plaintiff payment (low severity, 39%; medium severity, 42%; and high severity, 47%). The severity of injury was not associated with the payment rate in cases resolved by a jury (low severity, 23% medium severity, 25%; and high severity, 23%).

Conclusions: In malpractice cases, physicians provide care that in usually defensible. The defensibility of the case and not the severity of patient injury predominantly influences whether any payment is made. Even in cases that require a jury verdict, the severity of patient injury has little effect on whether any payment is made. Our findings suggest that unjustified payments are probably uncommon.

The fear of medical malpractice has resulted in significant physician dissatisfaction and has contributed to the decrease in the number of persons entering the field of medicine (1, 2). Further, physicians have stimulated legislation for tort reform, increased the practice of defensive medicine, and avoided "risky" patients (3–7).

Physicians' apprehensions about malpractice stem from several perceptions (7). Perhaps foremost is the concern that the malpractice resolution process is unfair (8). Because standards are unclear and possibly inconsistent, physicians are afraid of being sued and of losing the case despite their having provided standard medical care (9). Further, juries are seen as unjustifiably rewarding patients solely on account of the severity of their injuries.

We explored the influence of physician care and the severity of patient injury on the malpractice process. Contrary to many perceptions, our study suggests that physicians usually win cases in which physician care was deemed to meet community standards and that the severity of patient injury has little bearing on whether a physician loses a case.

METHODS

Data source

We obtained our data from The New Jersey medical Inter-Insurance Exchange, a physician-owned insurance company. This company insures approximately 60% of the physicians in New Jersey. Since 1977, demographic information on physicians and detailed descriptive information on every malpractice claim have been entered into a standardized computer data-base.

Study design and population

We did a retrospective cohort study that included physicians insured for any time between 1977 and 1992. During this period, 12,829 physicians were insured and 11,934 cases were filed, of which 80% are currently closed. Because the time from an incident until its resolution can vary greatly, we chose 1 January 1986 as a cutoff point for the incident data because 96% of cases that occurred before this date were closed by 1992. After excluding 14 cases that lacked peer review results, we evaluated 8,231 closed cases.

Study variables

The insurance company's assessment of whether a physician's actions represent standard medical care is based on medical criteria and is not supposed to be influenced by legal concerns. First, the physician is contacted, and if he or she admits error, the case is labeled "indefensible—insured admits deviation," and no further review is done. Otherwise, the case is reviewed by a claims representative employed by the insurance company. If the physician's performance is thought to be clearly medically defensible, the case is labeled "no peer review, clearly defensible." Otherwise, a peer review process ensues in which a physician from the same specialty is chosen from volunteer physicians, many of whom have performed this service regularly for several years. This physician-reviewer then participates in a discussion of the case with the claims representative, the defense attorney, and the defending physician or physicians. Based on the standard of medical care currently practiced by physicians of similar training and experience in the community, the physician-reviewer classifies the claim as "defensible" if standard care was provided, "indefensible" if not, and "defensibility unclear" if the reviewer is unsure. A slight variance to this standard procedure occurs for neurosurgery and orthopedics cases because, historically, experts hold divergent opinions about the appropriate approach to some routine problems. Therefore, a panel of physicians is used instead of one physician-reviewer, and the majority vote is considered final. For every case, we summarized this process of the assessment of physician care as defensible, indefensible, or unclear.

If a plaintiff receives financial compensation through either a settlement or a jury verdict, the terminology "payment" is applied. For the subset of payments resulting from a jury verdict, the term "award" is used. We created four categories of payment: less than $10,000; $10,000 to $49,999; $50,000 to $199,999; and $200,000 or more. All dollar amounts are adjusted to represent 1990 dollars.

The insurance company classifies the severity of the patient's injury using the industry standard National Association of Insurance Commissioners Index (10). This index has nine categories of increasing severity. We collapsed this into three categories: low (no injury, minor injury with no disability, or minor injury with temporary disability); medium (major injury with temporary disability, minor injury with moderate disability, or major injury with moderate disability); and high (grave injury with moderate disability, brain injury with impaired life expectancy, or death).

The stage of resolution is the point in the legal process at which the case is resolved. A case is created when the insurance company is notified of a plaintiff's claim of damages. A suit occurs when this complaint is filed with the court. Discovery refers to the process by which lawyers collect information about the case.

Statistical analysis

Statistical significance was assessed by chi-square tests as appropriate (11).

RESULTS

The characteristics of the 8231 closed cases are summarized in Table 1. Physician care was considered defensible in 62% of the cases and indefensible in 25%. In almost half of the latter cases, the physician admitted error. The remaining 13% of cases were unclear as to defensibility. Payment was made in 43% of all cases, with 52% for less than $50,000 and only 15% for greater than $200,000. The median payment was $45,551 (range, $24 to $3,965,000). The severity of the injury was classified as low in 28% of cases, medium in 47%, and high in 25%.

TABLE 1.—MEDICAL MALPRACTICE CLAIM FACTORS

Factor	Closed Cases (n = 8231) n(%)
Physician care:	
Defensible	5132 (62)
No peer review, clearly defensible	2378 (29)
Insured found defensible by peer review	2754 (33)
Indefensible	2000 (25)
No peer review held, insured admits deviation	881 (11)
Indefensible (breach of standard)	1119 (14)
Unclear	1099 (13)
Payment:	
No	4730 (57)
Yes	3515 (43)
<$10,000	744 (21)
$10,000 to <$50,000	1089 (31)
$50,000 to <$200,000	1141 (33)
$200,000 or more	541 (15)
Severity of injury:	
Low (no injury or minor injury with no or temporary disability)	2334 (28)
Medium (minor or major injury with moderate disability or major injury with temporary disability)	3824 (47)
High (grave injury, brain injury, or death)	2087 (25)

Physician care

Evaluation of physician care correlated closely with the likelihood of financial payment. A payment was made in 21% of the cases considered defensible, in 91% of the cases considered indefensible, and in 59% of the cases considered unclear. The amount was not directly related to judgments of defensibility ($P = 0.16$ [for linear trend]).

Most cases closed early in the process (Fig. 1 not reproducible in RECORD); 67% were closed before discovery was completed. Only one quarter of the 12% of cases requiring a jury verdict resulted in payment to the plaintiff. Of these awards, the median payment was $114,170 (range, $3281 to $2,576,377). For each stage, the percent of cases that resulted in payment strongly correlated with physician care ($P<0.001$). For example, in those cases that closed before a suit was filed, payment was made to the plaintiff in 6% of defensible cases, in 69% of cases in which physician care was deemed unclear, and in 93% of indefensible cases. In addition, physician care influenced the stage of resolution. A jury verdict was required for 15% of defensible cases, for 10% of cases in which defensibility was unclear, but in only 5% of indefensible cases ($P<0.001$ [for linear trend]). Even in the 12% of cases that required a jury verdict, physician care correlated with the likelihood of a jury award: 21% if defensible, 30% if unclear, and 42% if indefensible ($P<0.001$ [for linear trend]).

Severity of injury

The influence of the severity of the claimant's injury on the resolution process is summarized in Table 2. A similar distribution of physician care was seen in every severity category. The likelihood of obtaining any payment showed a small (<8% difference between low and high claim severity) but statistically significant ($P<0.001$) trend toward an association between increasing severity and the likelihood of payment. These findings remained consistent when all nine severity-of-injury levels were analyzed.

TABLE 2.—RELATION BETWEEN SEVERITY OF INJURY AND PHYSICIAN CARE, PAYMENT, AND STAGE OF RESOLUTION

Variable	Severity of injury Low (*n* = 2326)	 Medium (*n* = 3820)	 High *n* = 2085)
	n (%)		
Physician care:			
Defensible	1407 (61)	2456 (64)	1269 (61)
Indefensible	525 (23)	907 (24)	568 (27)
Unclear	394 (17)	457 (12)	248 (12)
Payment:			
No	1420 (61)	2186 (57)	1111 (53)
Yes	906 (39)	1634 (43)	974 (47)
<$10,000	521 (70)	181 (24)	41 (6)
$10,000 to <$50,000	276 (25)	534 (58)	179 (16)
$50,000 to <$200,000	97 (9)	637 (56)	407 (36)
$200,000 or more	12 (2)	182 (34)	347 (64)

TABLE 2.—RELATION BETWEEN SEVERITY OF INJURY AND PHYSICIAN CARE, PAYMENT, AND STAGE OF RESOLUTION—Continued

Variable	Severity of injury Low (*n* = 2326)	 Medium (*n* = 3820)	 High *n* = 2085)
	n (%)		
State of resolution:			
Before suit filed	891 (38)	544 (14)	219 (11)
After suit, before discovery complete	930 (40)	1927 (50)	1005 (48)
After discovery, more than 45 days before trial	80 (3)	189 (5)	142 (7)
Within 45 days of trial	140 (6)	395 (10)	238 (11)
During trial, before verdict	102 (4)	270 (7)	186 (9)
Verdict or after	183 (8)	497 (13)	296 (14)

The amount of payment correlated closely with the severity of the injury. The median payments for injuries of low, medium, and high severity were $7,189, $50,000, and $115,089, respectively. These findings also remained consistent when all nine severity-of-injury levels were analyzed, except in the case of death. In cases of death, the median payment was $94,346, whereas for the remaining high-severity injuries, the median payment was $210,807.

In contrast to the overall findings, in cases requiring a jury verdict, the severity of injury was not related to the likelihood of payment ($P>0.2$). However, the severity of the injury did correlate with the payment amount ($P=0.03$) (Table 3).

TABLE 3.—CASES REQUIRING A VERDICT: RELATION OF PHYSICIAN CARE AND INJURY SEVERITY TO FINAL AWARD STATUS

Variable	*n*(%) Award No (*n*=740)	 Yes (*n*=236)	 Total	Payment < $10,000	 $10,000 to < $50,000	 $50,000 to < $200,000	 $200,000 or more	 Total
Physician care:								
Defensible	605 (79)	161 (21)	766 (100)	8 (5)	33 (20)	62 (39)	58 (36)	161 (100)
Indefensible	59 (58)	42 (42)	101 (100)	0 (0)	8 (19)	13 (31)	21 (50)	42 (100)
Unclear	76 (70)	33 (30)	109 (100)	2 (6)	8 (24)	11 (33)	12 (36)	33 (100)
Severity:								
Low	141 (77)	42 (23)	183 (100)	3 (7)	15 (36)	16 (38)	8 (19)	42 (100)
Medium	372 (75)	125 (25)	497 (100)	5 (4)	24 (19)	52 (42)	44 (35)	125 (100)
High	227 (77)	69 (23)	296 (100)	2 (3)	10 (14)	18 (26)	39 (57)	69 (100)

DISCUSSION

In most of the malpractice cases included in our analysis, a physician was judged to have provided medical care that was defensible, and the plaintiff did not receive any payment. Although physician care strongly influenced the overall process, the severity of the patient injury had little effect on the probability of any payment. Most cases closed at an early state, so a jury verdict was rarely needed. For the small number of cases that required a jury verdict, only 24% resulted in payment to the plaintiff and the severity of injury did not influence the probability of payment.

The determination of physician care was a good predictor of the outcome of a case. For the cases that were felt to be indefensible, the payment rate was 91%. This high payment rate is expected because the insurance company uses the determination of physician care to decide whether to offer to settle a case. In contrast, in the cases where physician care was classified as defensible, the payment rate was 21%.

Several factors may explain why payment occurred in cases class classified as defensible. First, the determination about physician care was made very early after a claim was generated and may have been inaccurate as more information became available. Second, a physician-based review process may be biased toward assessing physician performance in the physician's favor. Third, the insurance company may err toward an initial determination of physician care as defensible to avoid unnecessary payments. The possibility that new information rendered the original assessment of defensibility incorrect was supported by the fact that 68% of defensible cases that resulted in payment were settled before trial, in half of these before discovery was complete. Further, only 15% of defensible cases that resulted in payment represented awards made to the plaintiff by a jury. In addition, because the physician has the right to refuse to settle and the insurance company is physician-owned, many of the defensible cases that resulted in payment were probably misclassified as defensible. Therefore, although we can only speculate on the number of cases that were inappropriately lost by the physician, our data suggest that inappropriate payments are probably uncommon.

Severity of injury

Although the findings of previous studies are inconsistent (7, 8, 12, 13), we found that the severity of patient injury had little influence on the probability of plaintiff payment. We anticipated that a jury would be more likely to rule in favor of the plaintiff if the patient had a more severe injury. Similarly, we expected that the plaintiff's attorney might negotiate a payment for the plaintiff more frequently in cases in which injury was of higher severity than those in which injury was of lower severity.

We also found that the assessment of the standard of care by a peer review panel was not related to the severity of injury. This finding differs from that of a recent study, which found that the patient's outcome strongly influenced reviewers' opinions of the appropriateness of care (14). The contradictory findings may reflect the fact that the physician-reviewers in that study had only abstracted data of selected cases. In our study, the malpractice cases were judged during the actual processing of the case, with the medical records available for review and with the treating physician available for additional insight.

We suspect that our results can be generalized even though our study was done in a subset of physicians from one state. In a previous study, we found that the demographic characteristics of the physicians in our database were similar to the overall population of physicians in New Jersey and varied only slightly from national figures (10, 15, 16). In addition, the frequency of payment, average amount of payment, severity of injury, stage of resolution, and proportion of claims involving only one physician are consistent with the findings of other studies (10, 13, 17). Thus, despite the implicit nature of judgments about defensibility, our results should be generalizable to other physician-patient populations.

These results have implications for tort reform. This insurance company felt liability was unclear for only 13% of cases, and a jury verdict was required for only 12% of all cases. This suggests that much of the efforts in the malpractice process involves determining the facts of the case and negotiating the amount of settlement rather than resolving disagreements about the presence of liability. Neither the patient nor the physician is served by this extremely inefficient and costly process, which results in delayed payments to injured parties and casts a prolonged cloud over physicians. Our experience in determining physician defensibility suggests that arbitration panels may be successful in assessing liability. Unfortunately, our data shed little light on the costs and benefits of a "no-fault" system because most injuries do not enter the current malpractice resolution process (18).

In summary, our analyses suggest that, in malpractice cases, the physician's care is usually defensible and that the plaintiff usually does not receive any payment. The severity of patient injury affects the payment amount but has little influence on whether monetary damages are received by a plaintiff, especially in cases that are decided by a jury. Further efforts to clarify the frequency of unjustified payments are needed, but our data suggest that such payments are uncommon.

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RELATION BETWEEN MALPRACTICE CLAIMS AND ADVERSE EVENTS DUE TO NEGLIGENCE—RESULTS OF THE HARVARD MEDICAL PRACTICE STUDY III

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Abstract Background and Methods. By matching the medical records of a random sample of 31,429 patients hospitalized in New York State in 1984 with statewide data on medical-malpractice claims, we identified patients who had filed claims against physicians and hospitals. These results were then compared with our findings, based on a review of the same medical records, regarding the incidence of injuries to patients caused by medical management (adverse events).

Results. We identified 47 malpractice claims among 30,195 patients' records located on our initial visits to the hospitals, and 4 claims among 580 additional records located during follow-up visits. The overall rate of claims per discharge (weighted) was 0.13 percent (95 percent confidence interval, 0.076 to 0.18 percent). Of the 280 patients who had adverse events caused by medical negligence as defined by the study protocol, 8 filed malpractice claims (weighted rate, 1.53 percent; 95 percent confidence interval, 0 to 3.2 percent). By contrast, our estimate of the statewide ratio of adverse events caused by negligence (27,179) to malpractice claims (3570) is 7.6 to 1. This relative frequency overstates the chances that a negligent adverse event will produce a claim, however, because most of the events for which claims were made in the sample did not meet our definition of adverse events due to negligence.

Conclusions. Medical-malpractice litigation infrequently compensates patients injured by medical negligence and rarely identifies, and holds providers accountable for, substandard care. (N Engl J Med 1991; 325:245–51.)

The frequency of malpractice claims among patients injured by medical negligence has been the subject of much speculation and little empirical investigation. Two fundamental questions about malpractice litigation have been how well it compensates patients who are actually harmed by medical negligence, and whether it promotes quality and penalizes substandard care. If negligent medical care infrequently leads to professional censure or a malpractice claim, then the deterrence of substandard care may be suboptimal[1,2] and the civil justice system will compensate few patients for their medical injuries.[3] If, as some allege,[4] sizable numbers of malpractice claims are filed for medical care that is not negligent, then the costs of claims may be excessive, and the credibility and legitimacy of malpractice litigation as a means of obtaining civil justice may be reduced.

Footnotes at end of article.

Danzon[5] estimated on the basis of reviews of medical records and claims data from California in the mid-1970's[6] that for each malpractice claim, 10 injuries were caused by negligent care. That study estimated only the relative frequency of claims and negligence; without a method of determining the fraction of claims that did not involve negligence, Danzon could not estimate the probability that a claim would follow medical negligence.

To calculate this probability, the Harvard Medical Practice Study linked clinical reviews of 30,195 inpatient records with statewide records of malpractice claims. Linking these two data sets permitted a determination of the frequency with which negligent and nonnegligent medical care, as evaluated by a team of physician-reviewers, led to malpractice claims.

METHODS

Data from medical records

Our review of the records of a random sample of 31,429 patients discharged in 1984, drawn from 51 hospitals across New York State, is described in detail elsewhere.[7] In brief, the review proceeded in three stages.

In the first stage, a group of specially trained nurses and medical-records administrators used standard protocols to screen records for at least 1 of 18 events signaling a possible adverse event.

In the second stage, medical records that met at least 1 of these 18 criteria were referred to two physicians who independently evaluated the cause of the patient's injury and whether there had been negligence. The physicians first decided whether the patient had suffered an injury caused at least in part by medical management. Injuries that either prolonged hospitalization or led to disabilities that continued after discharge were deemed to be adverse events. Negligence was considered to have occurred if the medical care that caused the adverse event was below the expected level of performance of the average practitioner who treated problems such as the patient's at that time.

Physicians recorded their judgments about causation and negligence on an ordered, categorical scale ranging from "no possible adverse event (or negligence)" to "virtually certain evidence of an adverse event (or negligence)." Reviewers also judged the degree of disability resulting from the adverse event and described briefly the nature of the injury, its relation to medical management, and the negligent act or omission.

In the third stage, when the two physicians disagreed on the existence or description of an adverse event, the discrepancy was resolved by a supervising physician who was blinded to their decisions and made his or her own judgment about causation and negligence.

Injuries were classified as adverse events, and then as negligent, when the average of the two final physicians' evaluations represented a judgment of at least "more likely than not." Multiple reviews permitted the analysis of results under alternative assumptions about thresholds for identifying causation and negligence.

The record review produced five groups of cases: (1) cases that met no screening criteria for adverse events or negligence, (2) those referred for review by the physicians but without evidence of an adverse event, (3) cases of "low-threshold adverse events" with judgments of causation that were borderline or lower, (4) cases of adverse events with no evidence of negligence, and (5) cases of adverse events due to negligence.

We performed sensitivity analyses to identify possible biases due to missing records or misclassified reviews. To assess the effect of false negative findings in the stage 1 screening by medical-records administrators, we conducted a second review of a random sample of 1 percent of all the records located.[7] A second team of physicians independently reviewed 318 records from two hospitals to assess the reliability of the initial physicians' reviews.[8]

Several months after the initial visits, the participating hospitals searched against for missing records and explained why some charts remained unavailable. At six randomly selected facilities, our medical-review team conducted another three-stage review to determine whether adverse events were more likely to have occurred when records were missing. At the remaining hospitals, the medical-records administrators referred for physician review only cases for which there was evidence of legal action in the patients' charts. At all hospitals, we obtained identifying data on patients for later use in matching the records with data on malpractice claims.

Data on malpractice claims

The data on malpractice claims included all formal claims filed against physicians and hospitals and reported to the Office of Professional Medical Conduct (OPMC) at the New York Department of Health. The data base at the OPMC lists claims according to the defendant, not the patient making the claim. We have referred to each claim in the OPMC records as a "provider claim." Because one patient could sue several defendants for a single injury, the number of defendants exceeded the number of patients. We have referred to counts of claims by patients as number of "patient claims."

New York statutes and regulations require regular reporting of claims by domestic and out-of-state insurance carriers,[9] self-insurance programs,[10-12] and all hospitals.[13] Both the Insurance Department and the Department of Health formally advised all insurance and health care organizations about the needs of our study and about the reporting mandates.[14] The OPMC allowed us complete access to all computer files and paper abstracts. The OPMC data base, which contained 67,900 provider claims reported from 1975 through May 1989, became our starting point for estimating patient claims, computing lengths of time between injuries and claims, determining the chances that payment would result from a claim, identifying claimants in the sample, and linking their claims to the sampled patients' hospital records. When necessary, members of the study team contacted and visited individual hospitals to supplement the OPMC data with more comprehensive information.

To test the robustness (resistance to errors in assumptions) of the estimate of the frequency of claims, we calculated the number of patient claims for 1984 in three ways. First, we summed the case-sampling weights (the population of patients represented by each sampled record) of the claims linked to medical records through the matching process described below and extrapolated from the sample to the New York State population. Second, we calculated the number of patient claims from the OPMC's statewide records for injuries that occurred in 1984, regardless of when the patient filed the claim. Third, we estimated the annual frequency of patient claims by averaging the number of claims filed by year from 1984 through 1986. Averse events discovered in 1984 would probably have been reflected, if at all, in malpractice claims filed during this period.

Matching process

Our study protocol precluded interviews with patients about malpractice claims. Claimants were identified by linking their hospital records to OPMC claims records. This linkage proceeded only after the completion of the review of medical records. Physician-reviewers were unaware of the existence of a claim unless the medical record mentioned it.

We used both computer-based and manual matching techniques to link the records of patients in the sample to malpractice claims. Identifying characteristics for linking patients to claimants included the patient's name, address, ZIP Code, social security number, and age, the geographic location where the injury occurred, and the hospital from which he or she was discharged. Lack of complete data on the identifiers with strong discriminating power such as the social security number forced us to rely on a combination of matching characteristics. The matching algorithm, described in detail elsewhere,[7] allowed for errors of differences in the spelling of names, so that actual matches were erroneously excluded.[15] Manual matching, a common step in record-linkage procedures,[16] helped to confirm links because of the amount of descriptive information not in machine-readable format. The OPMC requested additional descriptive data from the insurers to assist us in confirming or ruling out matches.

After identifying the sampled patients who had filed claims, we considered whether their allegations of malpractice referred to the medical care delivered or discovered in the sampled hospitalization. A team consisting of an attorney experienced with malpractice data, a health services researcher, and a physician-lawyer compared clinical information from the review of medical records with coded data and summary descriptions from the OPMC claims records. This team rated by consensus its degree of confidence in the match by first eliminating cases for which the group was confident that no match existed and those that lacked sufficient information to permit a judgment. For all other cases, the team's degree of confidence in the match was rated on a six-point confidence scale (Table 2).

Estimates of statewide rates of adverse events and claims

The medical-record-sampling design permitted us to extrapolate from the sample to the population of all patients discharged from hospitals in New York State in 1984. The analysis of the cases that produced claims required separate adjustments sampling weights to account for missing records. These adjustments assumed that the rate of claims among the patients whose hospital records were never found equaled the rate among those whose records were initially not located but were found on follow-up. The standard errors of rates of claims account for the effects of a stratified, unequal-cluster sampling design."

RESULTS

Adverse events and adverse events due to negligence

As we reported in detail earlier,[8] the three-stage review of medical records detected 1133 adverse events (after adjustment for double counting of the same hospitalizations). Two hundred eighty adverse events, representing 1 percent of all discharges (95 percent confidence interval, 0.8 to 1.2 percent), were judged to have been caused by negligence (Table 1).

TABLE 1.—RESULTS OF THE REVIEW OF A SAMPLE OF 31,429 MEDICAL RECORDS FROM NEW YORK STATE, 1984 [1]

Category	Number of records	Comments
Sample selected	31,429	Random sample from 51 hospitals.
Records not located on initial visit.	1,234	
Records screened for possible AE (first stage).	30,195	
Records referred for physician review after screening.	7,817	Satisfied 1 or more of 18 screening criteria.
Reviewed by physicians for presence of AE and neglience (second stage).	[2]7,743	Two physicians judged the likelihood of AE and neglience indepenently.
Reviewed by a third physician to resolve disagreement (third stage).	1,808	Third review provided majority opinion.
AE's identified	1,133	Majority of reviewers' combined confidence level at least "more likely than not" (adjusted for incidence).
AE's due to negligence identified.	280	Majority found AE caused by negligence with confidence level at least "more likely than not" (adjusted for incidence).

[1] AE denotes adverse event.

[2] Seventy-four of the 7817 records referred for review in stage 2 were not reviewed. Case-sampling weights were reallocated among the 7743 cases actually reviewed.

Analysis of Matched Records

Ninety-eight patients in the sample filed claims against 151 health care providers (Table 2). Not all these patients alleged malpractice during the episodes of care covered by the study. When we considered only matches designated "more like than not," we linked 47 of these malpractice claims to the sampled hospitalizations. These 47 cases represent a rate of malpractice claims per discharge in New York State of 0.11 percent (95 percent confidence interval, 0.06 to 0.16 percent).

TABLE 2.—RESULTS OF MATCHING MALPRACTICE CLAIMS TO HOSPITALIZATIONS IN NEW YORK STATE, 1984 [1]

Decision on Matching (Confidence Score)	Number	Percent
Claimants in sample	98	
Medical records reviewed	[2]30,121	
Claimants linked to sampled hospitalizations:		
Virtually certain (6)	41	41.8
Strong evidence (5)	2	2.0
More than likely (4)	4	4.1
Subtotal	47	
Claimants in sample but not linked to sampled hospitalizations:		
Not quite likely (3)	1	1.0
Slight-to-modest evidence (2)	0	0.0
Little evidence (1)	1	1.0
Definite nonmatch	44	44.9
Insufficient data	4	4.1
AE discovered after discharge [3]	1	1.0
Subtotal	51	

[1] AE denotes adverse event. Because of rounding, percentages do not total 100.

[2] Seventy-four of 30.195 records located were not reviewed. None of the cases involved claimants. Case-sampling weights have been reallocated among the usable observations.

[3] AEs that occurred during the sampled hospitalization and were discovered after discharge have been omitted.

In most cases, the reviewing team's judgments went clearly for or against linking the claim to a sampled hospitalization. For example, in 30 of the 44 cases in which there was considered to be no possible match, the main reason was a mismatch between the date of the injury or the date when the claim was filed and the date of the sampled hospitalization. In the four cases for which there were insufficient data, we chose to vote against linkage rather than guess. None of these cases involved adverse events. Another matched case did not qualify for inclusion according to the sampling design because the adverse event was discovered after the sampled hospitalization, rather than before or during it.[7]

Table 3 shows the distribution of malpractice claims according to the five groups of cases defined by the outcome of the medical-record review. The percentage of claimants in each subgroup increased as the findings of the reviewers increased in severity from "no screening criteria met" to "adverse events caused by negligence." For all outcomes groups, the rate of malpractice claims was low. The chance that an injury caused by medical negligence would result in litigation was 1.53 percent (95 percent confidence interval, 0 to 3.24 percent).

TABLE 3.—RATE OF PATIENT MALPRACTICE CLAIMS IN THE SAMPLE OF 30,121 MEDICAL RECORDS FROM NEW YORK STATE, 1984[1]

Group of Records	Number of Discharges in Sample	Number of Claimants in Sample	Estimated Number of Claimants in new York	Estimated Rate of Claims per Discharge (95% CI)[2]	Comments
Cases not referred by MRA	22.378	12	899	0.045 (−)	5 Cases: alleged failure to diagnose during outpatient visit.
Cases referred: no possibility of AE	6,275	14	1,000	0.18 (−)	9 Cases: physician-reviewers knew about claim, found no AE. 4 Cases: disagreement settled by third reviewer.
Low-threshold AEs (less than likely)	335	3	92	0.30 (−)	1 Case: one of two reviewers found negligence.
AEs (more than likely) not caused by negligence	853	10	561	0.79 (−)	6 Cases: one of two reviewers found negligence.
AEs (more than likely) caused by negligence	280	8	415	1.53 (0–3.24)	1 Case: single reviewer only.
Total	[3]30.121	47	2967	0.11 (0.06–0.16)	

[1] CI denotes confidence interval, MRA medical-records administrator, and AE adverse event.

[2] Based on population-based estimates on discharges. For example. 1.53 percent = 415 of 27,179. See Figure 1.

[3] Seventy-four of 30,195 cases did not undergo physician review; they were dropped from the calculations of population estimates, and their weights were reallocated among the usable observations.

For 12 of the 47 matched observations, the medical-records administrators found that none of the 18 screening criteria were satisfied, and the review process ceased without participation by the physicians. Five of these 12 claimants alleged the failure to diagnose a condition during outpatient visits before the sampled hospitalizations. Among the remaining 35 cases, all of which were reviewed by physicians, clinical judgments about the cause of the adverse outcome and the contribution of negligence were often contradictory. In some cases the two physicians disagreed on the presence of an adverse event in the second stage of the process, and a third physician resolved the issue by finding no adverse event. In others the physicians agreed on causation but differed about the occurrence of, or their levels of confidence about, negligence. In nine cases, the reviewing team knew of pending malpractice claims but found no evidence of adverse events. (Details of the reviews of the 47 cases are available elsewhere.*)

Statewide estimates of adverse events due to negligence not resulting in malpractice claims

Ninety-eight percent (weighted rate) of all adverse events due to negligence in our study did not result in malpractice claims (Fig. 1—not reproducible in RECORD). The group of these cases for which the reviewers could determine the existence of disability and for which their combined score indicated either "strong" or "certain" evidence of negligence can be extrapolated to about 13,000 discharges statewide in 1984. Within this group, 58 percent of the patients had only moderately incapacitating injuries and recovered within six months. the remaining patients—those with moderate-to-severe disability—correspond to about 5400 patients discharged from hospitals in New York State. Over half these patients were under 70 years of age and thus likely to have lost wages as a result of the injury.

Follow-up reviews of medical records and claims

Medical records located after intensive follow-up were a richer source of claims than those found on the initial hospital visits, but there was no difference in the rates of adverse events or negligence between the initial review and follow-up.[7] twelve of the 580 patients whose records were found during follow-up filed malpractice claims against 18 providers, and four of these claims related to the treatment received during the sampled hospitalizations. The rate of claims among these patients (0.66 percent; 95 percent confidence interval, 0 to 1.37 percent) was six times higher than the rate for the initial review (0.11 percent), but the difference was not statistically significant.

In the cases of three of the four newly identified patient claims related to the sampled hospitalizations, one physician-reviewer found evidence of negligence whereas the other did not. Thus, the combined scores were below the threshold for a finding of negligence. The fourth case was not reviewed because the follow-up protocol for that hospital did not call for physician review.

Relative frequency of negligence and malpractice claims

By combining the results of the initial and follow-up reviews, we estimated the number of claims statewide to be 3570, or a rate of claims per discharge of 0.13 percent (95 percent confidence interval, 0.08 to 0.18 percent) in 1984. This estimate suggests a ratio of negligence to claims of 7.6 to 1 (27,179 to 3570). Our inability to link four claims to hospitalizations (or to rule out linkage) because of insufficient data had little effect on this figure. If two of these four claims had been matched to the sample, the relative frequency would have changed little (7.3 to 1). The sample-based estimate of the number of patient claims statewide (3570) is comparable to the estimate based on the OPMC records of the number of patient claims for injuries in 1984 (3780) and the average annual number of patient claims filed from 1984 through 1986 (3670). thus, claims occur only 13 to 14 percent as often as injuries due to malpractice. Our estimate of the fraction of adverse events due to negligence that led to claims is, however, far lower (1.53 percent).

DISCUSSION

Other studies have examined the frequency of negligence in relation to the total number of claims.[5,6] Our study has taken the next step by matching individual clinical records with individual claims records to determine what fraction of instances of negligence leads to claims. Our data suggest that the number of patients in New York State who have serious, disabling injuries each year as a result of clearly negligent medical care but who do not file claims (5400) exceeds the number of patients making malpractice claims (3570). Perhaps half the claimants will eventually receive compensation.[7,18]

Why so few injured patients file claims has not been widely researched. Many may receive adequate health or disability insurance benefits and may not wish to spoil long-standing physician-patient relationships. Others may regard their injuries as minor, consider the small chance of success not worth the cost, or find attorneys repugnant.[19] Trial lawyers usually accept only the relatively few cases that have a high probability of resulting in a judgment of negligence with an award large enough to defray the high costs of litigation. A final possible explanation is that many patients may fail to recognize negligent care.[20]

Our results also raise questions about whether malpractice litigation promotes high quality in medical care. Historically, there has been scant empirical analysis of this issue.[21] Our data reflect a tenuous relation between proscribed activity and penalty and thus are consistent with the view that malpractice claims provide only a crude means of identifying and remedying specific problems in the provision of health care. Our findings also support recent comments about the limited usefulness of the rate of claims as an indicator of the quality of care.[22] Unless there is a strong association between the frequency of claims and that of negligence, the rate of claims alone will be a poor indicator of quality[23] because rates can easily vary widely at the same underlying frequency of negligence or adverse events. The filing of a claim could, however, signal a need for further investigation because of the likelihood that an actual adverse event or actual negligence prompted the complaint.

Our study differs from previous work in that it goes beyond statements about the rate of negligence in relation to the rate of malpractice claims. The relative frequency 7.6 to 1 does not mean, as is commonly assumed,[24] that 13 to 14 percent of injuries due to negligence lead to claims. As the linking of the medical-record reviews to the OPMC claims files has shown, the fraction of medical negligence that leads to claims is probably under 2 percent. The difference is accounted for by injuries not caused by negligence, as defined by our protocol, that give rise to claims.

This finding does not mean that the 39 cases of claims in which our physician-reviewers did not find evidence of an adverse event due to negligence are groundless under prevailing malpractice law. Our study was not designed to evaluate the merits of individual claims. Patients sometimes file claims regarding medical outcomes that do not qualify as adverse events by our definitions; without access to the full insurance records, we cannot assess the prospects of individual cases.

More generally, the process of and criteria for making decisions about causation and negligence differ in a scientific study and in civil litigation. In this study, majority rule determined whether there had been an adverse event or an adverse event due to negligence. Our reviewers sometimes disagreed about causation and negligence; when only one found negligence, the case did not qualify as an adverse event due to negligence (except in the rare case when there was only a single reviewer). In a lawsuit, a single expert opinion might be sufficient to support a finding of negligence; under our protocol it would not. When experts differ, the final judgment is especially sensitive to the process of decision making.[25] Thus, our findings are not directly comparable to the results of civil litigation.

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*See NAPS document no. 04877 for three pages of supplementary material. Order from NAPS c/o Microfiche Publications. P.O. Box 3513. Grand Central Station, New York, NY 10163-3513. Remit in advance (in U.S. funds only) $7.75 for photocopies or $4 microfiche. Outside the U.S. and Canada add postage of $4.50 ($1.50 for microfiche postage). There is an invoicing charge of $15 on orders not prepaid. This charge includes purchase order.

Although this lack of strict comparability should warn us against drawing conclusions about the merits of individual malpractice claims, it does not undermine our findings about the small probability (under 2 percent) that a claim would be filed when medical negligence caused injury to the patient. This result remains robust in spite of the possibility of misclassification of individual cases, the effect of using different criteria for negligence, and the likelihood of missing medical records and missing data on malpractice claims.

Disagreement about or misclassification of an individual case need not bias our results. In the duplicate review of subsample of 318 medical records, reported earlier,[8] a second team of physicians did not identify the same group of adverse events as did the first team, but they did find about the same incidence of adverse events and adverse events due to negligence. A replication of the study might generate the same rates of adverse events and negligence but would not necessarily classify the same claims as backed up by evidence of negligence. Therefore, as in other studies based on implicit review of medical records,[26] disagreement about individual cases does not imply bias in our estimates.

The use of less criteria for negligence would not alter the rate of claims among the cases of adverse events due to negligence, but it would affect the overall frequency of negligence as well as estimates in this and earlier studies of the ratio of adverse events due to negligence to claims (7.6 to 1). New criteria for negligence would change our estimate of 1.53 percent only if they affected the rate of negligence among the claims differently from the rate of negligence among cases in which no claim was made. Our data suggest, however, that an increase in the rate of adverse events due to negligence among cases in which no claim was made matches any increase in the rate of negligence among claims. Had a judgment by either physician-reviewer that negligence had occurred been sufficient to count a case as an adverse event due to negligence under our protocol, the probability that an adverse event due to negligence would result in a malpractice claim would remain virtually unchanged (1.51 percent).

The existence of overlooked adverse events due to negligence would also not influence this estimate unless the proportions of cases of negligence missed among the claimants and among the nonclaimants were unequal. The medical-records administrators might have overlooked adverse events due to negligence during the first-stage screening. As reported earlier, however, the medical-records administrators missed evidence of negligence in only 4.5 percent of the charts randomly selected for a duplicate review.[8] Alternatively, the hospital records might have met none of the criteria for further review but still have involved negligent care.

On the one hand, undercounting instances of negligence among the cases in which malpractice claims were made would cause the estimate of 1.53 percent to be low. Although we cannot calculate the probability that an adverse event due to negligence took place among the 12 malpractice claims that were classified as having no evidence of negligence, we can calculate that probability for the claims found on screening to have evidence of negligence (0.20) (Table 3). The assumption that these 12 cases should have been identified as positive (as having evidence of a possible adverse event) would raise the estimate of the probability of litigation among adverse events due to negligence from 1.53 to 2.2 percent.

On the other hand, the medical-records administrators might also have missed adverse events due to negligence that were not in litigation, thus causing our estimate to be too high. Medical-records administrators may have been more likely to miss adverse events in the records of nonclaimants than in those of claimants because evidence of legal action was 1 of the 18 screening criteria. Assuming that 4.5 percent of the negative screens were falsely negative, as suggested by the duplicate review, and that the rate of adverse events due to negligence among these missed cases equaled the rate among the cases in which no claim was made that were identified as positive on screening, there would be additional adverse events due to negligence among the nonclaimants. Assuming further a much lower rate of negligence among the cases in which no claim was made that had truly negative screens, for example 1/20 the rate of those identified on screening as positive, the estimate of the rate of claims among the adverse events due to the negligence would be lowered from 1.53 to 1.2 percent.

These potential biases in the medical-records review are small as compared with the size of the confidence interval produced by sampling variation. Even with a rate at the upper limit of the 95 percent confidence interval (3.2 percent), the probability that a claim would be filed when a patient was injured as a result of medical malpractice remains well below previous estimates.

Malpractice claims would have been missed—another possible source of bias—if we had failed to locate a claimant's medical record and could not identify a claim through the record-matching process. The results of the extensive follow-up search for missing records suggest that hospitals may have selectively withheld the medical records of some claimants, but not of large numbers of them. The higher rate of claims per discharge in the records identified at follow-up is within the degree of variation expected with small samples. In addition, hospitals may have relinquished all records without regard to patient out-come but may have failed to report malpractice claims to the OPMC. The effort of the state government to achieve complete reporting suggests that we used the most complete, reliable data available, although no external sources can substantiate the completeness of the data.

Unrestricted access to medical records and full reporting of claims would not eliminate potential bias due to claims relating to medical care received in 1984 but not yet filed by May 1989, when our data collection ended. According to the OPMC data base, 90 percent of claims were filed within 4.4 years of the date of the injury. In addition, 43 percent of the adverse events were due to medical care that was provided before the sampled hospitalization in 1984.[7] Thus, we expect that fewer than 10 percent of all possible claims were absent from the OPMC data base and that our estimates of the incidence of litigation are no more than 10 percent too low.

The similarity of sample-based and population-based estimates of the frequency of patient claims makes substantial bias due to missed claims unlikely. The similarity of the estimates suggests that in linking claims to medical records we missed few actual matches, and that by 1989 few claims related to our sample of hospitalizations from 1984 remained to be filed.

The results of this study, in which malpractice claims were matched to inpatient medical records demonstrate that the civil-justice system only infrequently compensates injured patients and rarely identifies and holds health care providers accountable for substandard medical care. Although malpractice litigation may fulfill its social objectives crudely, support for its preservation persists in part because of the perception that other methods of ensuring a high quality of care[27,28] and redressing patients' grievances[29] have proved to be inadequate. The abandonment of malpractice litigation is unlikely unless credible systems and procedures, supported by the public, are instituted to guarantee professional accountability to patients.

[We are indebted to Matthew Jaro, M.S., record-linkage consultant, for his expertise in computer-based record linkage.]

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[From the New York Times, Mar. 5, 1995]

NEW YORK'S PUBLIC HOSPITALS FAIL, AND BABIES ARE THE VICTIMS

(By Dean Baquet and Jane Fritsch)

Each year for the last decade, dozens of newborn babies have died or been left to struggle with brain damage or other lifelong injuries because of mistakes made by inexperienced doctors and poorly supervised midwives and nurses in the teeming delivery rooms of New York City's public hospitals.

Some of the most prestigious medical schools and private hospitals are paid by the city to provide the care in its sprawling hospital system. But an examination by The New York Times shows that many of these private institutions have left life-and-death decisions to overworked nurses and trainee doctors who are ill prepared to make them.

The effects can be seen across the system, from the surgical suites to the clinics. But nowhere are the consequences more devastating than in the delivery rooms, where the course of a young life can be changed forever by a few minutes' delay, a malfunctioning monitor or a lapse of attention.

The delivery room disasters affect a broad spectrum of women, from those who do not visit a doctor until their labor pains begin to the healthiest and most conscientious of mothers-to-be.

Vilma Martinez, a 25-year-old Brooklyn factory worker, languished in the delivery room of Woodhull Medical and Mental Health Center in Brooklyn for 14 hours in July 1993, as nurses first struggled to deliver her baby, then desperately searched for a doctor. The baby's father watched in horror as a monitor showed the baby's heartbeat fade, then stop. In the end, no doctor came. The baby was stillborn.

Miriam Miranda, 35, was diabetic and H.I.V.-positive when she entered North Central Bronx Hospital in February 1994 to deliver her baby. Her problems would have tested the skills of the most experienced doctor, but a midwife was put in charge. When complications arose, the midwife struggled on by herself. Deprived of oxygen during labor, the baby died after 77 days. In internal documents, the hospital has conceded that the delivery should have been handled by a doctor.

These cases are more than the isolated tragedies that can occur in any hospital. Serious injuries to newborns are frequent in the delivery rooms of some of New York City's public hospitals. And delivery room crises have flared periodically in most of the public hospitals over the last decade.

It is not possible to say precisely how many of the 31,000 deliveries each year are mishandled. Most records detailing medical mistakes are kept secret, even from the parents of the children involved.

But a computer analysis by The Times showed that the death rate for babies of normal weight born at the public hospitals was substantially higher than the rate at private hospitals in New York City. For babies weighing more than 5.5 pounds, the cutoff doctors use as a gauge of general good health, the death rate in the first four weeks after birth at the public hospitals was 80 percent higher than that for babies born at private hospitals: For every 1,000 births of normal-weight babies at a private hospital, there was one death, while at the public hospitals, there were 1.8.

The public hospital also had higher rates in most categories of serious birth injuries, the study showed. And the rates were higher even after taking into account the differences in the health of mothers at the private and public hospitals. The Time analyzed city and state records of all births in the city in 1993, the latest year available.

Some hospital and city officials have known about the problems for years, and have worked mightily to keep them from the public. They fear a loss of public confidence and a flood of lawsuits."

In a striking 1992 report, never made public, City Comptroller Elizabeth Holtzman analyzed the lawsuits of 64 children who had been left brain-damaged or permanently crippled because of negligence in the delivery rooms. Some of the suits were more than a decade old, and all had been settled in the previous three years.

Those lawsuits alone cost the city $78 million, the report said, and another 793 were pending.

"These cases are catastrophic and costly," the report said. "Many of these infants are now grown children, suffering from multiple and severe disabilities, who require lifetime hospitalization or intensive home care."

In a third of the deliveries, no senior physician was present, even though complications were evident before the deliveries began, the report said.

The New York City Health and Hospitals Corporation, the agency that runs the public hospitals, is the nation's biggest urban hospital system. Its network of 11 hospitals, 76 clinics and 5 chronic care centers is used by one in five New Yorkers. One quarter of the 130,000 babies born in the city are delivered in public hospitals.

With 50,000 employees and a $3.8 billion budget, the hospital corporation is a major economic force in some of the poorest communities. It has stood for decades as a testament that New York, more than any American city, is committed to equal health care for all.

But in recent years, events have converged to raise questions about the system's survival. It faces increasing competition from private hospitals, internal problems and a governor and mayor who believe that New York can no longer afford its expensive array of social services.

In a six-month examination of the agency, The Times reviewed confidential hospital documents, court filings and other public records, and interviewed more than 100 physicians, administrators and city officials. Four current and former high-level officials of the hospital agency confirmed that delivery room problems are grave and have plagued the system for years.

Efforts to resolve the crisis over the last decade have been halting and ineffective, even though a quarter of the babies born in New York are delivered at public hospitals, and obstetrics is a major portion of the hospitals' business.

Dr. Bruce Siegel, who became president of the hospital agency a year ago, said in a recent interview that he had not seen a pattern of problems in delivery rooms, but acknowledged that in some hospitals, young doctors are poorly supervised.

"I would certainly not be surprised that we had more adverse outcomes" than in private hospitals, he said, "figuring that we treat poor people, sick people, that the concentration of people have drug problems, low socioeconomic status, various infectious diseases and many other things is going to be clustered in our hospitals."

The computer analysis by The Times showed that over all, women who deliver babies in public hospitals are at higher risk for problems than women who use private hospitals, though a vast majority are healthy and get prenatal care. But it also showed that the difference in the women's own risk factors was not large enough to explain the higher rates of newborn deaths and injuries at public hospitals.

Dr. Siegel said the data used in the analysis were not reliable because the public hospitals did not accurately report risk factors to the state. The Times analysis found little evidence, however, that underreporting was greater at public hospitals than at private ones.

New York City has run public hospitals for more than a century, but the system was reorganized three decades ago in an ambitious attempt to raise the quality of medical care for the poor to the standards of the best private hospitals. To shore up the public hospitals, each was paired with a private hospital or medical school that was paid by the city to provide doctors and oversee care.

Last year, the city paid more than $500 million to such prestigious institutions as the Albert Einstein College of Medicine, Mount Sinai Medical Center, Montefiore Medical Center and the Columbia University College of Physicians and Surgeons.

But a review of current and historic documents shows that the plan never lived up to expectations.

Nearly 30 years later, there are still two classes of medical care in New York City: one for people who can afford private doctors and hospitals, and another for those who must rely on the public hospitals.

In private hospitals, women are met by their own doctors, who oversee their labor and deliveries. But in public hospitals, babies are delivered by whomever is on duty, and a woman may never see a doctor.

Officials of the private institutions that provide care in the public hospitals acknowledge that many delivery rooms are understaffed, and that midwives and trainees have sometimes been given more responsibility than they can handle. But they contend that the city has not given them money to provide enough experienced doctors to handle every shift adequately in overcrowded hospitals.

WITHOUT A DOCTOR, A TINY BEAT FADES

Vilma Martinez remembers the time, 10:04 P.M., and the silence and, most particularly, the wordless message of the nurse, who drew a finger across her throat as if she were slashing it with a knife. The meaning was clear: The baby was dead.

After that, she remembers little. But she can return to the morning of the day, when the labor pains started, and recall with some precision the 14 hours that led up to the stillbirth of her only child. It was a boy—6 pounds 13 ounces—and his heart had been beating steadily and strongly when she entered Woodhull Medical and Mental Health Center at 8 A.M. on July 23, 1993.

Officials of the hospital will not discuss what happened to Ms. Martinez or explain why no doctor came to her aid. Ms. Martinez and her boyfriend, Tomas C. Abreu, the baby's father, have filed a lawsuit against Woodhull and the New York City Health and Hospitals Corporation. They, too, declined to discuss the case, but their recollections are recorded in court depositions that provide searing accounts of a day of joy that dissolved into worry, then panic, the despair.

Their version of what happened is supported in large part by the notes of the nurses who tried, with increasing desperation, to find a doctor, and when they could not, tried to deliver the baby themselves.

Ms. Martinez, an emigrant from the Dominican Republic, was 23 when she learned in December 1992 that she was pregnant. She and Mr. Abreu, who was also from the Dominican Republic, had minimum-wage jobs at a glass and mirror company and had been living together for about two years in the East New York section of Brooklyn.

Her health was good and her pregnancy was uncomplicated. She took her vitamins conscientiously and went to Woodhull for monthly, and later weekly, checkups.

So there was no cause for concern when the labor pains began about 7 A.M. on that Friday morning in July. By 7:45 A.M. she was in the car with Mr. Abreu and her mother, and by 8 A.M., they had arrived at Woodhull, the strikingly modern medical complex that rises above the warehouses, storefronts and working-class homes of Greenpoint and Williamsburg.

After an hour, a nurse on the seventh floor, the maternity floor, motioned for her to climb on a gurney.

Because Ms. Martinez understood little English and the nurses and midwives spoke no Spanish, their communication was limited to gestures and facial expressions. It went that way the entire day. Forty percent of the people in the area around Woodhull speak primarily Spanish, but no one on the staff translated for Ms. Martinez.

Eventually, she was put in a little room where she spent the long day. About noon, a nurse inserted an intravenous line in her arm. The contractions gathered strength as a monitor kept track of the baby's heartbeat, and her mother and Mr. Abreu hovered near the bed.

About 5 P.M. she began bleeding heavily and it seemed to go on and on "like a blood bath," she recalled.

Near 7:30 P.M., she was screaming from pain, and someone who seemed to be a doctor went to the door of the room. He spoke to the nurses, but left almost immediately. "He didn't even touch me or anything," she recalled.

A nurse's note at 7:40 P.M. described another sign of trouble—"prolonged decelerations" in the fetal heart rate. The rate often drops during contractions, but should rise again. Prolonged drops can mean the baby is not getting enough oxygen.

So the nurse called for the doctor and the midwife, according to the log. The doctor examined Ms. Martinez and gave instructions that she should not push, the log said. Neither Ms. Martinez nor Mr. Abreu recalled the doctor's actually having examined her. The nurse's notes do not explain why the doctor left.

Soon, the baby's head was visible and the nurse and the midwife shooed Ms. Martinez's mother out of the room.

They began struggling to get the baby out, Ms. Martinez said, turning her this way and that, even face down for a while. They tried turning the baby's head, too, but nothing seemed to work. The baby was stuck. She recalls being "crazy, desperate with pain."

* * * * *

The final two hours were the most harrowing, the couple said. They were left mostly alone in the room, with no idea where the nurses had gone, as the heart monitor bleeped, spewing yards of paper that recorded the baby's struggle for life.

Mr. Abreu recalled watching the glow of the monitor and the tiny heart-shaped light, "like a little heart that seemed to be beating." He kept up a constant patter to reassure her, but she kept asking for a doctor. "She was saying, 'I am going to die.'"

Mr. Abreu left the room in search of a doctor, and was told that the doctors on duty were on the eighth floor performing a Caesarean section. He returned to the room and stood vigil. Then he noticed that the baby's heartbeat was slowing markedly. Ms. Martinez recalled that he left the room again, "just desperate." And she remembered hearing him ask—beg—for a doctor.

But all he could find was a nurse, so he took her back to show her the monitor. "I was also looking at the heart, at the little heart," he said. "It had stopped."

An entry in the nurse's log at 9:20 P.M. notes "continuous" fetal heart rate decelerations. At that point, the midwife "said to call in an M.D.," according to the log. But two doctors were busy doing a Caesarean section and a third was occupied in the emergency room, the log said.

"We cannot get an M.D. to see the patient," the nurse wrote.

To Ms. Martinez, the midwife seemed desperate. "She didn't even put on her gloves in order to grab the child," Ms. Martinez said. The midwife shouted for her to push and someone pressed on her abdomen. They got the baby out, and started slapping and pounding, but he did not draw a breath or make a sound.

Finally, a doctor entered the room. The midwife turned to him, and silently drew a finger across her neck.

"I started to scream and scream," Ms. Martinez said. "A mother, while she is giving birth, how can she feel when that is happening? I was desperate."

Others came, and as the doctors and nurses whispered among themselves, Mr. Abreu asked them to explain what had happened. "But they wouldn't tell me a thing," he said. "All they were saying was that the baby was dead."

DISASTER REPORTS ARE SUPPRESSED

Delivery room disasters became frequent a decade ago, when a wave of new immigrants began crowding into aging hospitals, increasing pressure on medical staffs already overburdened.

As deliveries rose more than 30 percent in the 1980's, even the most diligent staffs were overwhelmed. The overflow fell to nurses, midwives and residents, doctors in their first years after medical school.

Then, at some busy obstetrics wards, including Lincoln Medical and Mental Health Center in the South Bronx and North Central Bronx Hospital, the residents were pulled out. Their training programs had been shut down because the national officials who accredited them feared that the public hospitals were tossing young medical school graduates in over their heads.

The effects of the crowding and staff shortages were felt immediately.

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For example, Dr. Wayne Cohen, who in 1984 ran North Central Bronx Hospital's obstetrics department, recalled that a number of newborns were injured as the hospital became more reliant on nurse-midwives, who were not trained for the frenetic pace and difficult deliveries. A typical big-city hospital might have five or six serious birth injuries a year, he said. But, at North Central Bronx, he said, "There were twice that number of everything, and I didn't get to hear of everything."

At Metropolitan Hospital Center, in East Harlem, officials called in the police in the late 1980's because several newborns mysteriously suffered broken arms or legs. Police officials say they never determined the cause, or or when the babies were injured.

About that time, officials of the hospitals corporation grew so alarmed after some serious incidents at Lincoln that they complained to New York Medical College, which provides the medical care at Lincoln.

But in a vast system that bounces from crisis to crisis, from budget shortfalls to political scandals, officials of the Health and Hospitals Corporation were unable to put together all of the pieces to perceive what was rapidly becoming a systemwide crisis.

In 1983, alarmed by a rise in malpractice awards, analysis for the city's Office of Management and Budget began a far-reaching, confidential study. After poring over 2,000 lawsuits, they found a disturbing patter: Many of the worst cases involved residents in the delivery rooms and elsewhere who nervously bumbled through with little guidance from senior doctors.

The 165-page report, completed in 1991 was ignored. Its authors said the patterns had continued, but by the time the study was printed and bound, lawyers for the city said it was based on old information.

A year later, Ms. Holtzman, the City Comptroller, finished her report. "The enormous cost of impaired newborn cases in both human suffering and taxpayer dollars requires the City's attention," it said.

Among its findings were these: In 12 of the 64 cases reviewed, the staff failed to react promptly to signs of fetal distress; in 5, the staff failed to perform adequate fetal monitoring; in 9, the staff "unreasonably delayed" Caesarean sections; in 11, oxytocin, a drug used to induce labor, was improperly administered.

As Ms. Holtzman prepared to make her report public, the hospitals corporation blocked its release, arguing that it was based on privileged information.

Alan G. Hevesi, her successor, said he was unaware of the report until The Times requested it. He released a copy, saying that it was too important to remain secret.

Delivery room disasters had become a recurring theme in confidential weekly meetings held by the hospital agency to analyze its most mishandled cases. In these discussions, known as quality assurance meetings, officials speak bluntly, naming doctors and upbraiding administrators with the understanding that by state law, none of what they say leaves the room.

Most delivery rooms in the system have come up for sharp criticism at these sessions, usually because of mistakes by unsupervised trainee-doctors and midwives, said four participants in the weekly meetings, who spoke on the condition that they not be identified. Over the last five years, the delivery rooms of four hospitals have been cited more frequently than the others, said the participants. These hospitals are Woodhull, Kings County Hospital Center in Brooklyn, North Central Bronx and Lincoln.

Over the same five years, the State Health Department, which regulates hospitals, has rebuked the four hospitals and Coney Island Hospital in Brooklyn for delivery room mistakes, state records show.

Regulators found instances in which overworked staffs, including residents, misdiagnosed serious conditions and made patients wait perilously long for treatment.

In interviews, officials of most of the hospitals acknowledged delivery room problems, but said that they had made significant improvements in recent years.

At Woodhull, for example, officials said the director of obstetrics was forced out late last year after a series of mistakes by the staff in the delivery room.

"I'm not going to make any apologies for Woodhull," said Dr. Siegel, the head of the hospitals agency, who added that he was replacing the private corporation that runs Woodhull, Woodhull Medical Associates. He said that many of the hospital's patients were going elsewhere because of Woodhull's reputation for poor care.

"That obstetrics department is closing down on its own," Dr. Siegel said.

At Lincoln Hospital, officials said they were working on their problems, which they said were caused by poor supervision of residents and unreasonable waiting times for women seeking prenatal care. "We were asking for trouble," said Roberto Rodriguez, the executive director. "We were taking a risk."

Jean Leon, the executive director of Kings County Hospital, said she has seen no delivery room problems since she arrived in July, 1994.

Howard Cohen, the director of Coney Island Hospital, said any problems at his hospital were caused by the press of high-risk patients.

Officials at North Central Bronx said their problems resulted from poor supervision and understaffing.

LIFE OR DEATH WITHOUT A DOCTOR

By the time Michael Elias Cottes was born on Feb. 11, 1994, his left shoulder and arm were broken. He was so hopelessly stuck after 20 hours of labor that the obstetrician cracked his tiny bones trying to wrest him free.

Still, his birth was a moment of triumph for his mother, Miriam Miranda. She had come to terms with her having the AIDS virus, and had sought out prenatal care with something approaching zeal. At 35, she had beaten back gestational diabetes and even learned to give herself insulin injections.

So, when the doctor at North Central Bronx Hospital finally extracted the silent child and rushed him out of the delivery room, Ms. Miranda allowed herself to rejoice, savoring the minutes as she waited for the doctor to bring her baby back. "I was so happy," she recalled in an interview.

But the doctor returned alone and in tears "Miranda," she said, "we did what we could. The baby was without oxygen for 10 minutes."

Michael lived for 77 days, probably deaf and blind.

Throughout the torturous hours of labor, Ms. Miranda had been in such pain that she was only vaguely aware of the drama unfolding around here. She did not know that the midwife had seen signs of serious trouble on a monitor. And she did not know that by the time the doctor arrived, it was already too late to do much for the baby.

Last March, officials of North Central Bronx held a private meeting and admitted among themselves that the hospital had made some mistakes in her case. Specifically, they acknowledged, such a complex delivery should have been handled by a doctor from the start, according to an internal report obtained by The Times.

From the time of her first prenatal visit at North Central Bronx, Ms. Miranda was seen almost exclusively by midwives. They did the pelvic exams, weighed and measured her and drew blood for routine tests. "They told me it was a boy," she said in a recent interview, "a boy who was doing good."

As soon as she learned she was pregnant, Ms. Miranda did everything she could think of to have a healthy baby. She quit a steady job as a cafeteria worker in Puerto Rico, and with her two children moved to New York City, where, she believed, she would get the best possible care.

"She wanted to have this baby," said Tracy Stockham, the state case worker who helped Ms. Miranda navigate the complex bureaucracy of services for H.I.V. positive women. "She said, 'This will be my last child because I'm infected.' "

In her seventh month, when a test showed that she had developed diabetes, her midwife said that she lacked the expertise to continue with the case. But instead of turning Ms. Miranda over to an obstetrician, the midwife referred her to another midwife.

Still, Ms. Miranda did well. At 10 A.M. on Feb. 10, 1994, at the end of her 40th week, she entered the warren of small labor and delivery rooms on the hospital's seventh floor, where a midwife administered Pitocin, a powerful drug that induces labor.

By 3 A.M. the next day, 17 hours later, the baby was still not out: According to hospital records, the fetal monitor, which keeps track of the baby's heartbeat, showed irregularities.

This meant one of two things: Either the baby was not getting enough oxygen through the umbilical cord, or the monitor was not giving an accurate reading, a common occurrence.

So the midwife faced life-and-death choices. She could prick the baby's scalp with an electrode to check its blood for oxygen, possibly exposing him to the AIDS virus. She could let the labor take its course and hope that all was well. Or, she could summon a doctor to perform an emergency Caesarean section.

There is no explanation in the hospital records for why a doctor did not intervene earlier.

She recalled that he cried only once during the final two weeks of his life. As it turned out, he was not infected with H.I.V.

Once, she bundled him up and proudly brought him to visit Ms. Stockham, the caseworker who had sent her to North Central Bronx.

"The baby was constantly gasping for air," Ms. Stockham recalled. "Miriam said: 'People are saying Michael can't see or hear. But when I sing to him, he turns to me.'

"I had to look inside myself," Ms. Stockham said, "and say, 'Did I do the right thing by sending her to this hospital?' "

YOUNG TRAINEES LEFT UNSUPERVISED

Young doctors just out of medical school are the backbone of New York's public hospitals. There are more than 3,500 of these trainees, or residents, working in the system to get experience and learn specialties.

Because the system depends so heavily on them, it is crucial that the hospitals attract top graduates. A need to improve the quality of residents was one reason the city entered into its partnership with New York's most renowned private medical institutions 30 years ago. The theory was that the private hospitals could use their reputations to attract the best medical school graduates, then rotate them through the public system.

But for a variety of reasons, some of these private institutions have set up separate residency programs for the city hospitals, which have generally attracted graduates with poorer qualifications.

Virtually all the residents working at Presbyterian are graduates of medical schools in the United States, including some of the most prestigious in the country. But only 34 percent of the residents working at Harlem graduated from schools in this country. The rest were trained at foreign schools, many in developing nations.

Foreign medical school graduates, especially those from developing countries, are generally less desirable to hospitals because they may be unfamiliar with the newest technology and treatments, hospital corporation officials say. Dr. J. Emilio Carrillo, who was president of the corporation from 1990 to 1991, said he frequently complained that some training programs had far too many students educated overseas.

Columbia officials said that Harlem Hospital decided decades ago to have its own residency program in order to attract black graduates who might one day practice in the neighborhood. Dr. Edward B. Healton, associate dean of Columbia and medical director of Harlem Hospital, said that the Harlem program was not as popular as Columbia's, and had difficulty attracting graduates of United States medical schools.

Mount Sinai School of Medicine runs three hospitals, one private and two public. Most of its residents rotate through all three. But in some specialties, there are separate residency programs at each hospital. In these fields, more than 95 percent of the residents working at Mount Sinai are graduates of medical schools in the United States. But that is true of only half the residents at the city-owned Queens Hospital Center. And only 68 percent of the residents in the program set up separately for Elmhurst Hospital Center in Queens graduated from schools in this country.

Under their city contracts, the private hospitals are also supposed to supply attending physicians, the senior doctors who supervise residents. But virtually every study has accused the private hospitals of leaving residents largely unsupervised.

The hospital most frequently cited for leaving care to residents is Kings County Hospital Center, one of the nation's busiest and biggest.

In November 1991, the State Health Department concluded in a scathing report that there was "inadequate, and in some cases nonexistent" supervision.

A month later, on Dec. 23, Roxane Murray, a healthy 24-year-old who had just received an honorable discharge from her Army Reserve unit, entered Kings County to deliver her second child. By Christmas Eve, Ms. Murray was in a coma, and 17 days later, she was dead.

Her medical records relate a chaotic 27 hours, during which much of her care was provided by residents. The chain of events that led to her death began when a fetal monitor malfunctioned, making it impossible to determine the baby's condition. So a decision was made to do a Caesarean section, and a first-year resident in obstetrics was allowed to perform the operation. In the recovery room, a first-year resident in anesthesiology supervised Ms. Murray's care.

She hemorrhaged for at least one hour before the attending physician, the senior doctor on duty, checked on her and then left. Because Ms. Murray continued to hemorrhage, the residents ordered intravenous prostaglandin, the drug of choice to stop the bleeding, but the hospital pharmacy did not have any. So they tried a prostaglandin suppository, a less effective treatment.

Later, as Ms. Murray lapsed into unconsciousness, the attending physician and the chief resident performed a hysterectomy to control the bleeding. It didn't work.

Several hours passed and senior doctors in the obstetrics department did exploratory surgery. They found four liters of blood in her abdomen and quickly tried to tie off an artery that was gushing, but accidentally sliced through a nearby vein. She never regained consciousness. The baby, an 8-pound 14-ounce boy, and his brother are being reared by Ms. Murray's mother.

State regulators, called in by the family's lawyer, Michael V. Kaplen, excoriated the hospital for "ineffective, inappropriate treatment." At no point did any doctor or resident call in an expert in hematology, who might have got the bleeding under control, the regulators said.

In addition to residents, there is a little-known class of trainee doctors working in New York hospitals. They are house doctors, medical school graduates who have either failed or not yet taken licensing examinations.

Hospitals turn to them when they have trouble attracting fully qualified doctors, or cannot fill night and weekend shifts. The graduate is granted a two-year "limited permit" by the state to practice only in one hospital under close supervision.

Dr. Siegel, the head of the hospital agency, said he was not happy with the use of house doctors and was moving to phase them out.

Until last December, shortly before his limited permit expired, Narpat S. Panwar was one of them. A native of India and a graduate of the University of Guadalajara Medical School in Mexico, Dr. Panwar had been trying unsuccessfully to pass the national examinations for 14 years when he was hired by Woodhull hospital in 1993 to work as an obstetrician.

Dr. Panwar was on duty over the Fourth of July weekend in 1993 when Paula Toala arrived to deliver her baby. He saw her through an extremely difficult 10-hour labor.

Eventually, he got the baby out, but only then found what the trouble had been: The infant, whose mother was average size, weighed an extraordinary 13 pounds.

Dr. Panwar had twisted and stretched the neck and shoulders severely enough to cause nerve damage, the family's lawyer, Jesse S. Waldinger, said in papers filed in a malpractice suit. The child suffers from Erb's palsy, a nerve injury that has limited movement in her right arm, he said.

"This is a case that was screaming for a Caesarean section," Mr. Waldinger said. In the court papers, he argued that Dr. Panwar should have called for assistance.

Dr. Panwar, 51, is now practicing in West Virginia and has obtained a full license after passing his examinations. He declined to discuss the case. The city is fighting it.

BRONX MUNICIPAL TAKES GIANT STEPS

Bronx Municipal Hospital Center, a sprawling complex that has served the east Bronx for 40 years, is one public hospital that has made significant progress toward solving its delivery room problems.

Hospital officials have acknowledged that through the 1980's newborns were injured there because of mistakes by unsupervised residents working in an overcrowded maternity ward.

In June 1992, jolted by major lawsuits, the hospital pushed the Albert Einstein College of Medicine, which oversees care at Bronx Municipal, to revamp the delivery room.

Midwives were instructed to call for help at the first sign of trouble, and residents were told not to perform Caesarean sections without a senior doctor in the room. One nurse was specifically assigned to spot the problem cases and try to make sure that a similar mistake did not occur again.

"The city was spending so much money defending obstetrics suits, they just made a decision that it would be cheaper to hire people who knew what they were doing," said Dr. Wayne Cohen, the medical director of Bronx Municipal Hospital.

The drop in delivery injuries to mothers and infants was swift. The program cost about $750,000.

In 1993, the change was noticed at the hospital agency's headquarters, where Edna Wells Handy, the general counsel, said she had already concluded that injuries to newborns were among the worst problems facing a troubled system.

Ms. Handy said she asked the city for $1.5 million in 1993 to expand the Bronx Municipal program to two other hospitals struggling with delivery room problems. But by the time the proposal made its way through the bureaucracy, there was a new mayor and a new administration at the hospital corporation with little knowledge of the delivery room crisis or her proposal.

"If it really works, I'll do it," Dr. Siegel said in an interview Feb. 15. "I'm disturbed that I hadn't heard about it before."

Mr. SPECTER. I thank the Chair. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The majority leader.

Mr. DOLE. Mr. President, thank you.

(The remarks of Mr. DOLE pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AMENDMENT NO. 604 TO AMENDMENT NO. 603

Mr. LIEBERMAN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Thomas amendment, amendment No. 604.

(Mr. McCONNELL assumed the Chair.)

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to speak first on the underlying bill, S. 565, and then to take the opportunity to say a few words on behalf of the underlying amendment offered by the distinguished occupant of the chair, the Senator from Kentucky [Mr. McCONNELL], of which I am proud to be a cosponsor.

Mr. President, I want to first discuss the Product Liability Fairness Act of 1995 and particularly congratulate Senators GORTON and ROCKEFELLER for producing a product liability bill that really has garnered broad bipartisan support. I am hopeful, finally, after all these years of effort, that this bill will, in fact, not only be a good bill but will become a very good law.

Thanks are also due to Senator PRESSLER and others on the Commerce Committee for enabling us to take this bill up so early in this session, all of us having seen similar bills supported by a majority of Members of the Senate nonetheless go down to defeat because of gridlock caused by a clock that was running out.

Mr. President, this debate is now a few days old. Perhaps what has surprised me most in the debate are those arguments that have been made on behalf of the status quo in our civil justice system. There is certainly room for disagreement about how best to make our civil justice system fairer and more rational, but, frankly, it is hard for me to understand how anyone can say that our current system does not need substantial reform. It is inefficient, unpredictable, costly, slow, and unfair. Its lottery-like nature costs everyone too much—plaintiffs, defendants, manufacturers, product sellers, and consumers.

Mr. President, in my view, you can add the civil justice system to the list of fundamental institutions in our country that are broken and in need of repair. For me, repair begins with remembering what may be lost in the debate and the reality of the system today, which is that the purpose of the system is first to compensate people who are injured as a result of someone else's negligence; that compensation is at the heart of the system. And, second, and in doing so, to deter future negligence by that or other parties.

In our time, unfortunately, the civil justice system has too often become a game of legalistic sophistry, of bullying, of bluffing, a game which overcompensates lawyers, undercompensates victims, particularly seriously injured victims, and costs all the rest of us an awful lot of money in higher prices for consumer products, for health care, higher premiums for insurance, fewer jobs, and fewer new products to improve and protect our lives.

And, of course, all of that, in sum, contributes to the cynicism and mistrust of our legal system felt by average Americans, no matter what the participants in the system feel about it, and that cynicism and mistrust is profoundly corrosive and ultimately may be the most significant cost of our civil justice system in America today.

Mr. President, opponents of this bill like to cast the debate in either/or terms—either you are pro-business or pro-consumer; either you are pro-innovation or pro-safety.

But I respectfully suggest that sort of rhetoric misses the point and prevents us from discussing this issue in a fair and rational manner. The fact is that this bill, the underlying bill, S. 565, is both pro-business and proconsumer, pro-innovation and pro-safety.

It is aimed at putting liability back where it should be, on the parties who are actually responsible for any harm caused to an individual, and so best able to prevent that injury and compensate the victim.

Mr. President, I did not always support a national or Federal approach to product liability reform or tort reform generally, and I can understand the hesitancy, particularly of some of the Members, to support Federal involvement in what traditionally has been a province of the States.

In fact, in my previous public incarnation as attorney general of Connecticut, and a member of the National Association of Attorneys General, I had some real skepticism about some of the earlier Federal product liability legislation. It would have swept away virtually all State product liability laws and repealed the doctrine of strict liability for product defects.

This bill is not that extreme, but what changed my mind was listening to people in Connecticut. As I traveled the State, I kept finding that product liability laws were being raised as a major concern of business men and women from small and large manufacturing companies who were trying to make a living, who were trying to create jobs. They told me of problems they experienced with the product liability system, and of the expense of defending themselves, even when they win. They told me of the costs of settlement to avoid paying litigation costs—not because there was real negligence—and of the time and energy that product liability suits diverted away from the business of designing new products and bringing them to market.

So I listened to those folks, and I came to understand the necessity of Federal action and, of course, to understand the reality and appreciate the reality that we are one country; that products travel from State to State; that people using them travel from State to State; and that there is a crying need out there in the interest of every State and our country, our economy, the equity of our society, to build a floor of fairness, a common system that will protect the rights of all.

Mr. President, the debate really should center around users and consumers, because ultimately it is the consumers who suffer most from the status quo. Consumers are the ones who do have to pay the higher prices in order to cover product liability-related costs. If a ladder costs 20 percent more because of liability-related costs, it is consumers, not the businesses, who end up paying the 20 percent premiums.

Consumers are the ones who suffer when valuable innovations do not occur or when needed products, like life-saving medical devices, do not come to market or are not available in our country any longer because no one will supply the necessary raw materials. The inadequacies and excesses of our product liability system are quite literally matters of life and death for some people whose lives depend on medical devices that may no longer be available in the United States.

This is not a theoretical problem. Life-saving and life enhancing products are at risk today—now—and doctors and patients are justifiably worried because raw material suppliers have stopped selling their materials to medical device manufacturers.

I am very proud to say that included in the underlying bill, S. 565, is a bill that I was privileged to introduce last year and again this year with my friend and colleague from Arizona, Senator MCCAIN, the Biomaterials Access Assurance Act of 1995, which is intended to address this emerging crisis in the medical device sector of our economy, which is a lifesaving sector. I know there will be amendments addressed to that section of this bill, and I look forward to speaking in more detail at that time.

Mr. President, even for its intended beneficiaries, people who are injured by defective products, the legal system hardly can be said to work well. The GAO, in a five-State survey, found that product liability cases took an average of 2½ years just to reach trial. If the case was appealed, it took on average another year to resolve. That is a very long time for an injured person to wait for compensation.

The underlying bill, S. 565, will shorten that time. In some instances, too, our product liability laws have enacted barriers to a lawsuit that just do not make sense. For instance, in some States, the statute of limitations—that is the time within which a lawsuit can be brought—begins to run even though the injured person did not know they were injured and could not have known that the product was the cause. In those States, the time in which to bring a suit can expire before the person injured knows or could ever know there is a suit to bring.

No one will argue that this bill will cure all the ills in our product liability system. That would require a truly gargantuan overhaul, and I doubt we could reach agreement as to what that would look like. But we can, I believe, work to enact a balanced package of reforms that work step by step to eliminate the worst aspects of the current system, to restore some balance to our product liability system. I am confident that S. 565 does just that.

Mr. President, I want to speak now about the underlying amendment, which I have been pleased to offer with the occupant of the chair, Senator MCCONNELL, and also Senator KASSEBAUM. This legislation was introduced in February and subsequently considered and reported out, though in slightly different form, by the Labor Committee. To put it simply, this bill is designed to reduce the inefficiencies and mitigate the unintended effects of our malpractice system.

This amendment is aimed at trying to improve a series of problems in our medical malpractice system that are comparable to those which the underlying product liability bill attempts to resolve or improve in our basic product manufacturing system. And again, it is consumers who are paying the extra money to support the current inefficient system that overcompensates the less injured, undercompensates the more seriously injured, and gives an awful lot of money to those who are keeping the system going, particularly lawyers.

Our present system for compensating patients who have been injured by medical malpractice is ineffective, inefficient and, again, in many respects, unfair. The system promotes the overuse of medical tests and procedures defensively by doctors who have told me, and I am sure told every other Member of this Chamber, they would not order this test, it is not medically necessary, but they do it to protect themselves from the fear of a possible lawsuit.

The Rand Corp. has estimated the ways in which the current defensive practice of medicine actually costs the victims of malpractice. Rand has estimated that injured patients receive only 43 percent of the money spent on medical malpractice and medical product liability litigation. That is 43 cents out of every dollar, and victims often receive their awards only after many, many years of delay because of the ornate process, the bullying and bluffing that the current rules of malpractice encourage.

In fact, I would say that our current medical malpractice system is a stealth contributor to the high cost of health care. It is why those of us who worked to adopt a bipartisan health care reform bill always felt that if we could do something about medical malpractice and the cost it adds to the system, we could reduce concretely, not speculatively, the cost of health care.

The American Medical Association tells us liability insurance premiums have grown faster than any other physician practice expense. The cost of liability insurance is estimated at $9 billion—that is just for the insurance—$9 billion in 1992.

Incidentally, my friend and colleague from Massachusetts, Senator KENNEDY, opposing the underlying amendment, said that the insurance companies are doing very well, making a lot of money in medical malpractice coverage.

That is a strange argument to make against this amendment. This amendment was not put in for the benefit of the insurance industry. This amendment was put in for the benefit of patients, doctors, and all of us who pay health insurance premiums or pay the cost of doctor care, which is inflated because of the current system.

So it is an interesting argument that the insurance companies are doing well at it. But it is not relevant to the purpose of this amendment. In fact, it may in some ways justify our amendment. It may suggest another reason why the current system needs to be shaken up.

Let me go back to defensive medicine and try to detail briefly its impact on the current system because it is even greater than the direct cost of liability insurance. The Office of Technology Assessment—our own office here—has found that as high as 8 percent of diagnostic procedures are ordered primarily because of doctors' concerns about being sued. That does not sound like a high percentage, but it amounts to billions of dollars. These defensive practices alone—sometimes difficult to measure—present a hidden but very significant burden on our health care system.

There is a well regarded consulting firm called Lewin-VHI. They have stated that hospital charges for defensive medicine were as high as $25 billion in 1991. That is an enormous figure. Basically what they are saying is that as much as $25 billion of the costs—this is not paid by strangers out there, this is paid by each of us in our health insurance premiums—is the result not of medical necessity but because of defensive practice occasioned by the existing medical malpractice legal system.

Taxpayers and health care consumers bear the financial burden of these excessive costs. Liability insurance and defensive medicine insurance premiums also drive up the cost of Medicare and Medicaid and therefore exacerbate an increased Federal budget deficit. Further, in specialties such as obstetrics—the subject of the second degree amendment pending in the Senate—where malpractice premiums have skyrocketed, malpractice liability is reducing access to quality health care.

The American College of Obstetricians and Gynecologists reports that malpractice costs for their professionals increased 350 percent between 1982 and 1988; and that by 1988, 41 percent of the obstetricians and gynecologists surveyed indicated that they had made changes in their practice patterns, including stopping seeing high-risk patients—the people who most need their care—because of their concerns about medical malpractice suits.

I can mention a group of doctors I know in the greater New Haven area, where I am from in Connecticut, who have ceased delivering babies and have changed their practice exclusively to gynecology because of their concern about medical malpractice lawsuits.

The amendment we are discussing today that Senator McCONNELL and I have put in will begin to address these problems—these perverse, unfair effects, inefficiencies of our current system, and they will do so by directing a greater proportion of malpractice awards to victims. That is what the system, as I said at the outset, was supposed to be all about. How can we compensate the victim of genuine malpractice?

Let us be clear. There is nothing in this bill that would at all limit the liability of a physician who was guilty of malpractice and injured a patient. The whole aim is to put the burden of the law on that negligent physician so that that physician is being called upon to compensate the victim of that malpractice—not to impose a collective burden that results in everybody's premiums being raised and everybody's costs of health care being raised. The current system compels the practice of defensive medicine and in settling out lawsuits for fear of suffering greater liability in the current malpractice system, which too many people think is really a kind of lottery.

The current bill also will discourage frivolous lawsuits and enhance the quality assurance programs we all want. Key provisions of the reform include, No. 1, establishing a uniform statute of limitations, 2 years; No. 2, allowing periodic payments for awards greater than $100,000; No. 3, applying several—not joint and several—liability for noneconomic damages, pain and suffering. There is a concept—joint and several liability started out in the law as a way of proportioning responsibility when an accident was caused by a number of different parties working together in a way that caused negligence, and often it was not clear which one actually caused it. So they said everybody could be held liable regardless of the percentage of negligence. It now has grown to a point where what it really means is that somebody who is not liable, or liable very little, if they happen to have deep pockets, they can be held fully liable. That is the wrong message to send.

The whole idea of our civil justice system should be to establish a basic principle, which is, if you do something wrong, you have to pay. If you hurt somebody, you have to pay. If you do not, you should not have to pay. What kind of cynicism is developed when somebody who did little or no wrong ends up having to pay the whole bill because somebody else slipped away?

Our amendment also adopts the basic proposal of the underlying bill that punitive damages—which have been much discussed here and are an essential part of the continued bullying and bluffing that goes on in our tort system—be limited to $250,000 or three times economic damages, whichever is greater. Attorneys fees will be limited in our amendment—contingency fees to 33⅓ percent of the first $150,000 award and 25 percent on anything above $150,000. As my mother would say, I suppose, do not worry about the lawyers, they are still going to be able to live pretty good lives.

In medical malpractice cases, it would strengthen the standards for awarding punitive damages, strengthen State licensing boards and quality improvement programs by using 50 percent of punitive damage awards to fund investigations and disciplinary actions to prevent malpractice.

That is a great section of this proposal. I am proud to have worked on it with Senator McCONNELL. As far as punitive damages are awarded, let us not take 50 percent of that money and throw it into the pot for a contingency legal fee, but let us use it to fund investigations by the States into the way medicine is being practiced, to ferret out those doctors who are practicing in a way that may be negligent, and to make sure they are subjected to disciplinary actions.

Mr. President, the bill also provides Federal leadership to strengthen health care quality in another way. The Senator from Vermont [Mr. JEFFORDS] has helped improve this amendment and bill in committee in this regard—by requiring the Agency for Health Care Policy and Research to convene an advisory panel to coordinate and evaluate methods, procedures, and data to enhance the safety and effectiveness of health care services. The panel will report on how to get better information into the hands of medical consumers, patients, so they can reward high-quality doctors and health plans with their business, let the market speak with full information and, of course, avoid risky practitioners or health plans that do not have adequate records in this regard.

It is part of the effort of the advisory panel to look at ways to strengthen the national practitioner data bank. It is a very helpful data base the Federal Government keeps on penalties, such as license revocation, taken by State licensing boards and hospitals against doctors who have or might put patients at risk, particularly doctors that may move from State to State. The data bank contains data on malpractice awards. These data are now available to hospitals and group practices, and it helps them screen doctors. Ultimately, I think we ought to make it available to the public as well. This amendment would set that process into motion.

Mr. President, many of the reform ideas in the Liability Reform and Quality Assurance Act were proposed and cosponsored by both Democrats and Republicans in the last Congress as part of a comprehensive health care reform effort. A number of those ideas were embraced last year by a group of us who participated in the bipartisan Senate so-called mainstream coalition.

We did not have a chance to debate those issues here on the floor in the last Congress. I am delighted that we now have that opportunity, and I am very proud to again join with the occupant of the chair, the Senator from Kentucky [Mr. MCCONNELL], in proposing this amendment, this underlying bill, which I believe is a genuinely moderate malpractice reform bill.

I hope my colleagues will join in supporting this amendment.

I yield the floor.

Mr. KYL. Mr. President, let me begin by complimenting the Senator from Connecticut for his very fine remarks in support of the legislation that we have introduced. I have had the pleasure to work for 8 years with his House colleague, NANCY JOHNSON, in the House of Representatives, who has been a leader in this area, and who has educated me and assisted greatly in the development of reform measures. I know that he shares with me his deep regard for his colleague and my former colleague from the House of Representatives, NANCY JOHNSON. I want to compliment both for the fine work that has been done in developing legislation and proposing it as an amendment to the underlying bill here today.

I support the McConnell-Lieberman amendment to the Gorton-Rockefeller product liability bill. As I have traveled around my own State of Arizona for several years now, the cry has been that we have too much taxation, regulation, and litigation.

There is simply a growing awareness by so many small business people, by so many other representatives of business or families, that there is something out of whack here. There is something out of balance in our society that is preventing America from competing, that is pitting citizen against citizen, that is removing the element of responsibility from our society, and most of all, hurting all as citizens and as consumers because of what some have called the litigation lottery.

I think that the Senator from Connecticut is correct that what the opponents of this legislation must argue is that the status quo works. Yet, I think that almost no person can deny that fundamental reform is necessary.

I practiced law for 20 years in my home State, Mr. President. I have a deep respect for the legal system as a result of that. Individuals who have been injured through the negligence of physicians or other parties do have their day in court. They are fairly, and I suggest, proportionately compensated for the injuries which are sustained as a result of the negligence of those who have treated them.

It cannot be suggested that people today are not permitted full and complete recovery and all of the opportunity the law brings for their recoveries. Clearly, a strong and equitable civil justice system is an essential component of a free society like ours.

Having said all of that, it is also true that what has served the few well, the injured plaintiffs well over the years, has come to ill serve society as it has gotten out of balance. The net result is that everyone as consumers are suffering as a result of the litigation lottery that I spoke of a moment ago.

The high cost of civil litigation and the excessive medical malpractice recoveries have greatly contributed both to the high cost of insurance and high consumer prices.

There is another way in which this explosion has hurt. It has hurt the doctor-patient relationship. As has been noted, a physician now treats in fear that what he does may result in a lawsuit, with the result that too many diagnostic services are ordered or prescriptions or other kinds of treatments are ordered, with the result that the costs go up.

The same kind of psychological well-being that a patient seeks from a physician is broken down when that physician sees the patient as a potential lawsuit. This is not good for either the physician community or for the individuals who are being treated.

In addition, the current medical malpractice system actually encourages litigation and resulting exorbitant out-of-court settlements. Let me cite some examples:

The Senator from Connecticut cited Lewin-VHI, a consulting firm, which in 1994, studied and concluded that the direct medical liability costs have been growing at four times the rate of inflation—four times the rate of inflation. I do not think we can suggest that somehow this system has simply kept up with everything else in society. It is exploding at the rate of four times the rate of inflation.

In 1998, according to the study, defensive medicine is projected to add $38 billion or more per year to national health care costs.

If we are going to talk about true health care reform, Mr. President, we cannot do so honestly, without addressing this issue. It is not the sole answer. There is much else that must be done. But clearly this is one of the things which must be done. To pretend that we can have health care reform without addressing this problem in the bill that has been introduced is to deny a fundamental reality of our society today.

The practice of defensive medicine, of course, is understandable. No one likes to be sued. According to a 1994 study by the Institute of Medicine, 40 percent of all physicians and 70 percent of all OB/GYN's will be sued during their careers.

Mr. President, I believe it was you earlier this morning who talked about the fact that in many communities we do not have any more OB/GYN's. We have GYN's, but nobody is wanting to deliver babies any more because of the large number of cases in which, when something has gone wrong or the baby is not perfect, the physician ends up being sued.

There are many communities in my own State that are no longer served by obstetric physicians because of this phenomena. Mr. President, it was discussed this morning, the number of communities, particularly smaller communities, in your State and around the country that no longer have this service.

So in order to bring this potential recovery in the litigation lottery for a very few, women all over the United States and families all over the United States suffer the consequences because their communities no longer provide this kind of service, and it puts a health risk to the people in the communities.

Mr. President, my wife was involved in the March of Dimes effort for several years helping to raise money for something they called the "Mom mobile," a large van that would provide prenatal services in the outlying areas of our State where there were no physicians to provide those services anymore. Among the reasons is this problem that we are talking about here today.

Mr. President, also discussed was the extraordinarily negative impact that this has on the minority physician. I think, therefore, we all must recognize that when too many people are creating too much of a burden on the system, it affects all of America. It affects all Americans. When that occurs, we must acknowledge that something is wrong, that reform is necessary, and that it is not a matter of not wanting people who deserve to be compensated to recover. No one is arguing that. We are simply saying that we need to both permit their recovery, but also ensure that there are not excessive costs built into the system because the system has gotten out of balance.

With this matter of defensive medicine having achieved the degree of cost in our society that it has, I think it is undeniable that the problem has to be addressed.

Medical liability costs do not result in a productive use of our health care resources. Another study I would like to cite, the Competitiveness Center of the Hudson Institute, noted that of the billions of dollars spent on medical liability insurance, 57 cents out of each premium dollar goes to lawyers rather than to the injured patient.

This study also found that medical liability costs add $450 in direct and indirect costs to each hospital admission.

So where is the benefit to the people for whom we have so much compassion, who deserve to recover for injuries that they have sustained because of someone's fault when over half of the money goes to the system, goes to the lawyers? And these large costs are added to the hospitals and eventually, of course, to the insurance premiums, and when added to the other defensive medicine practices drive insurance costs up for everyone, preventing some people from being able to afford insurance.

In other words, again, millions of Americans are suffering because the system, which is designed to help the few who are injured, has gotten so far out of balance.

There is another study, a Rand study, which I believe has it somewhere in the neighborhood of 40 percent of the funds that are recovered going to victims and almost 60 percent going to administration or to the attorneys involved in the handling of the cases.

The Hudson Institute study that I referred to a moment ago concluded the fear of lawsuits contributes more than 5 percent to hospital operating expenditures. That is again part of defensive medicine, of which we have been speaking.

Ironically, our tort system also inhibits reimbursement for legitimate malpractice claims because of the high cost of retaining legal counsel and the length of time between the date the suit is filed and the resolution of the claim. In other words, these high costs have a tendency to snowball because of the cost of defense. The plaintiffs have to spend more time, their lawyers, so the costs of defending increase. That is another factor driving up the costs of the premiums. Again, that affects all of us and prevents some people from actually being able to be insured.

I just had to make one reference to a comment that the Senator from Minnesota made earlier today on the floor. He talked about compensation in the form of punitive damages. I think it is important to make it very clear that while punitive damages are a component of our legal system, they have a very narrow and specific purpose in a very limited number of cases. Punitive damages were never intended as compensation. Punitive damages were intended to act as a disincentive for bad conduct in the future, to punish someone who was so recklessly in disregard of the rights of others that that party had to be punished so that the bad act would not be repeated.

There is a lot of discussion of whether or not the punitive damages that are recovered should even go to the plaintiff, because they are not designed as compensation. You cannot get punitive damages unless you have already been compensated. That is the law. The compensation is in two forms. The so-called economic damages, which have two components: All of the medical bills and costs associated with the treatment and recovery for the injury, and the loss in economic wages or other cost factors associated with the effects of the injury on the injured party and the party's family. Those are designed to fully compensate for all of the dollar losses, past, present, and future.

In addition to that, because we are a caring society and understand that there is more than just dollar loss, we compensate for what are called non-economic damages, or sometimes called pain and suffering. And this is just. This is fair. This is necessary.

We often say that no amount of money can compensate for certain kinds of injuries, and that is true. Yet, as a society, we recognize that some kind of payment is appropriate for those who have suffered. So we provide for that kind of compensation.

There may be an amendment later on that suggests that there needs to be an upper limit to that compensation; that beyond a certain amount, we are talking about a litigation lottery and not something that would reasonably compensate for this pain and suffering. That will be reserved for a later time. But that is not involved in the bill that you, Mr. President, have introduced, the Senator from Kentucky and the Senator from Connecticut have introduced.

As a result, I do not think we should be confused about this matter of punitive damages. By putting a cap on punitive damages, as this legislation does, we are not detracting from the compensation of the victim. We are simply adding a disincentive for further bad conduct. And there is a point at which you are not adding to the disincentive, by providing multiple punitive damages awards, for example.

I am confident that in the discussions we engage in here, ultimately a reasonable balance can be achieved that will both restrain the spiraling tort litigation costs and recoveries and also afford citizens injured through the negligence of others just and reasonable compensation. That is our goal.

I believe the amendment that has been offered here is a step in the right direction. I will not review the contents of the amendment. It has been well described by both the Senator from Kentucky this morning and a moment ago by the Senator from Connecticut. But it does reform the statute of limitations to make it uniform. It does cap the punitive damages. It provides for joint and several liability reform so, in effect, innocent parties do not end up paying the expense just because one of the so-called guilty parties cannot be found or is unable to economically respond in damages. And it also has a limitation on attorney's fees.

I guess I will just conclude by reflecting on that for just a moment. As I said, I practiced law for 20 years and I have a deep respect for the legal profession. It is very important that lawyers be adequately compensated in order to have the incentive to take cases. That clearly is a part of the contingent fee aspect of many of these kinds of cases.

But it is not too much, I think, to say that as we all begin to look on how we can reduce the cost of health care in our society, so that we do not have to resort to a kind of socialized medicine that many of us feared was going to be the result of the debate last year in the Congress, if we are going to reform it ourselves, then we have to look at a variety of things, including ways in which we can make it easier for Americans to buy insurance, to reduce the cost of health care, and a part of that is to reduce the overhead, including the attorney's fees that are involved.

To a point, it is necessary to provide an incentive to take the cases. But beyond that point, it again becomes a part of this lottery, when in these multimillion-dollar recoveries the attorney receives over half of what is awarded to the plaintiff. This amendment is an effort to try to return some balance and provide that a good share of the recovery, if there is a recovery, goes to the plaintiff, to the injured party, rather than to the system and to the lawyers.

So I am very much in support of the McConnell-Lieberman amendment, and I am hopeful when we have concluded the debate on this, there will be sufficient support in this body to approve the amendment so this bill can go to conference and, in conjunction with our House colleagues, develop a piece of legislation that the President can sign and finally get us on the road to reform in our litigation system in the United States of America.

I yield the floor.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in opposition to this amendment. I heard Senator KYL say this is one important issue in the whole issue of health care that should be addressed. And I agree with that. The difficulty that we face is we tend to go—and the Presiding Officer is a new Member here and he will see this in his years here—we tend to swing the pendulum from one extreme to the other, instead of finding a sensible middle ground.

I remember some years ago—maybe 8, 10 years ago—I had a dinner meeting with the president of the American Trial Lawyers Association and a few others, and I said, "Let's try to see if we can find a sensible middle ground here."

Unfortunately, I think at that point, many of my friends in the Trial Lawyers Association felt no change was necessary, nothing was needed. Now, the pendulum is going to swing much further than I think is in the national interest. And if we swing the pendulum way over here, it will not be too many years and the pendulum will swing back in the opposite direction too far, unless we can find a sensible middle ground.

The big issue is the reality that we have 41 million Americans without health care coverage. The most conservative estimate is that by the end of this century, just 5 years from now, it will be 50 million. No other Western industrialized nation has anything like that. In every other Western industrialized nation, everyone is covered.

If you live in Italy, everyone is covered. If you live in Denmark, everyone is covered, as you are if you live in Japan, if you live in Germany, Norway, Sweden, Great Britain, France, and so forth. We clearly have to do better by the citizens of our country.

But the question I face is a question in the State of Illinois where, in the Labor Committee the other day, I mentioned the Chicago Sun-Times story from February of this year, talking about the medical malpractice watchdog agency that ensures that we maintain quality care for the citizens of Illinois. My guess is what is true in Illinois is true in other States.

That watchdog agency is dominated by members of the medical profession. And the Chicago Sun Times aptly said the watchdog agency is "not a watchdog. It is a pussycat." And they went into all the statistics.

Just as an example, 86 percent of the physicians who were found to be on drugs in the State of Illinois were given probation and 14 percent suspended for any amount of time at all. You are more likely to be suspended if you are a college athlete or a pro football player or basketball player in Illinois than if you are a physician where you are dealing with the lives of people. That just does not make sense.

I look at this bill. I say will this help? On the contrary. It reduces the penalties that may be available. They have the story of one physician who has now been sued 119 times for malpractice. They have had complaints. They went into some gruesome stories, and the State disciplinary board has done nothing. He has been sued not 9 times, not 19 times, but 119 times, and the State disciplinary board does nothing. Is this bill going to improve quality of care in Illinois? The answer, unfortunately, is it will not.

Yesterday a man named Jim Fairly from Illinois stopped by my office. He was walking with a cane. He had broken a hip, and had consulted a physician about a remedy. The physician, who had never practiced this type of medicine, recommended a prosthesis, which was unnecessary and which became infected, causing lifetime damage. He sued his physician and won. I do not think we should reduce the penalties in this kind of a situation.

Is there a problem? Yes. I frankly think what we put into the health care bill that came out of the Labor and Human Resources Committee last year dealt properly with it by reducing the awards to lawyers. I think that is the way you deal with it, not some of these other changes that are in here.

And in terms of punitive damages, it is very interesting. I see my colleague from Nevada on the floor. I cannot think of a single instance in my years in the House and the Senate—and I would guess he cannot think of a single instance in his years here —where we have reduced the penalty for anything, for any crime. We have increased the penalties for drug possession, selling drugs, use of weapons, all kinds of things, increased mandatory sentences, and everything else. Here for the first time in my 21 years in Congress we will be saying, even if you violate commonsense, humanitarian impulses, even if you as a physician or a hospital do not use due diligence in protecting the lives of people, we are going to reduce your penalty. I cannot think of another instance where we have done that. I just do not think it makes sense.

Limit punitive damages to $250,000? What about the hospital in Tampa, FL, which just a few weeks ago amputated the wrong leg of a patient? Should a punitive damages award there be limited to $250,000? Or the same hospital, ironically, because of not handling a situation well with a 77-year-old person, where a therapist disconnected the ventilator and the person died? Should punitives there be limited to $250,000? I do not know what damages should be, but I do not know why we should limit it to $250,000.

What about the Boston Globe health columnist—ironically a health columnist—39 years old, mother of two, who was administered an overdose of chemotherapy and she died? Or the story last week of the 8-year-old boy in Denver who went in for a routine ear operation and the person administering the anesthesia fell asleep and the boy died? Should we decree a maximum award of $250,000 on punitive damages? I do not think we ought to be doing that.

I also would add—I hope maybe that our colleague from Michigan, our new colleague, Senator SPENCER ABRAHAM, will introduce the same amendment he introduced in the Labor Committee giving the States the right to opt out of the Federal standard. Right now this amendment says States can be less firm, less tough, but you cannot be tougher than this bill. Senator ABRAHAM says let us give the States the option. I think that makes sense. Establish a standard, if you will, but give States the option. And the suggestion by Senator DODD that was accepted in our committee that a jury could find whether there are punitive damages, and then the judge would assess the damage, should also be restored.

There are other problems here. One is a problem suggested by the Supreme Court decision yesterday, a 5-to-4 decision. I happen to disagree with it. But it says you cannot limit guns near a school. They said this in a 5-to-4 decision. You cannot limit guns near schools because you are not dealing with interstate commerce. What about a physician who takes off the wrong leg of a patient? Is that interstate commerce? I think there is a real question on that.

I do not think this has been touched upon in the debate so far, but this bill does away completely with joint and several liability for noneconomic damages. I do believe that is an area that ought to be changed. If you are 1 percent responsible, you should not have 100 percent of the damages assessed against you. But to simply eliminate all joint and several liability in this area makes no sense at all.

Finally, I would add, the amendment offered by Senator THOMAS from Wyoming on the question of obstetrics practices, it is dealing with a real problem, but I think it provides a standard that we don't normally require in civil cases, and it is a standard that is much too severe. I would be pleased to work with him and with the others in this body to see that we get health care in rural areas. It is a real problem. I think this is the wrong way to deal with this problem.

Finally, again, Mr. President, I would just remind this body that we should not be going from one extreme to another. We ought to find a sensible middle ground. This is not a sensible middle ground. If this passes and if it should be signed by the President —and I hope the President will not sign it if it passes—but if it should be passed and be signed by the President, then inevitably there are going to be enough abuses that we will see the pendulum swing way back in the other direction. I think we ought to try to fashion a good, sensible, middle ground, bipartisan agreement. And I hope somehow out of the coalitions that take place on this floor we can move in that direction.

Mr. President, I do not see anyone else here seeking the floor. I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, several of our colleagues made some assertions earlier in the debate today on the underlying amendment that I would like to respond to.

First, the number and frequency of health care liability claims is, in fact, increasing. This is not in dispute. It cannot be because we are turning out more doctors who commit more negligence. It is, in fact, the prospect of a willful verdict or a settlement that encourages people to sue.

According to estimates based on the AMA physician masterfile and other liability data from the AMA, the average rate of claims have increased every year since 1987.

Let us just look at the 3-year period from 1991 to 1993. In 1991, 33,424 medical professional liability claims were filed. In that year 1991, 33,424 medical professional liability claims were filed. In 1992, 38,430 claims; in 1993, 42,828. In just a 2-year period, the number of claims jumped by 28 percent.

As far as the assertion that malpractice insurance costs are not increasing, the data shows otherwise. While premiums stabilized in the late 1980's, rates are starting to climb again.

According to the Medical Liability Monitor, more than half of the doctors have experienced, for both 1993 and 1994, in the area of 9 to 15 percent increases, far in excess of the inflation rate.

As for the assertion that 80,000 people die each year from malpractice, it is just not true. That claim is made by the Consumer Union based on a 1991 study done by Harvard. Harvard researchers studied New York City in 1984, 1 year. Of the 51 hospitals studied in that year, 1984, they found 71 deaths out of 31,000 patient records where malpractice was the reason for death. There is simply no statistically sound way to get 80,000 deaths nationwide from 71 deaths in New York City in 1984. In other words, Mr. President, let me repeat. There is just no statistically sound way to get to 80,000 deaths nationwide from 71 deaths in New York City in 1984 alone.

The Harvard researchers themselves rejected the Consumer Union conclusion during last year's health care debate. In fact, that was in a letter to Representative PETE STARK.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I rise today to express my support for the McConnell amendment before us. As the Senator from Kentucky has stated, it reflects the work of the Committee on Labor and Human Resources. We worked cooperatively on this product. The committee held hearings last month to review the issues of medical malpractice in greater depth.

As I understand the amendment of the Senator from Kentucky, this bill does not include two of the amendments that were brought forward during our committee markup. I would like to point out that one of these amendments was omitted with the agreement of the Senator who authored the amendment, and the other related to punitive damages.

Mr. President, this country needs legal reform. We are now, by far, the most litigious country on Earth, and we are paying a huge price as a result.

I speak today as a physician and as a U.S. Senator—as a physician who has practiced for the last 17 years, every day, taking care of patients, one on one. As a physician, I have seen firsthand on a daily basis the threat of litigation and what it has done to American medicine. I have watched my medical colleagues order diagnostic tests that were costly and unnecessary to the diagnosis or to the care of a patient, and they are ordered for one purpose: To create a trail—in many cases a paper trail—to protect them in the event a lawsuit were ever to be filed. It is called defensive medicine, and it happens every day in every hospital across America. It alters the way medicine is practiced and it is wasteful.

So who pays for all of this? The American people do. Insurance companies simply pass these costs along in terms of higher premiums. Physicians, providers, hospitals pass the costs along in the form of higher health care costs, all of which contribute to making overall health care more inaccessible.

Rural providers have a particular problem. They have nowhere to shift these increased costs. In my own practice, I practiced in a large academic institution. I had a large patient base. I had a good mix of payers to share these costs. However, the rural physician—and we have seen this specifically in the field of obstetrics, obstetrical care in rural areas—the rural physician has nowhere to go. As a result, the rural doctor either decides to cease services in areas of medicine where litigation risks are high, or worse, but all too often, the rural doctor simply packs up and goes somewhere else where the cost can be spread over an adequate population base. The result hurts these rural areas. There is a maldistribution of physicians, and this contributes to that maldistribution. The result threatens, again, both access and quality of care in this country.

Every State has passed some type of medical liability reform. However, these reforms vary widely. The McConnell amendment serves to establish national minimum standards such as a uniform statute of limitations. Some of my colleagues have expressed concern that this bill preempts State laws.

Mr. President, I would like to address the issue of States rights. We, as policymakers, must determine what and when the Federal role is appropriate. In the case of civil justice reform, the Federal role is to respond to the failures of the system and to respond to the impact on overall health care costs. As a physician, as one who deals daily with patients, one on one, who has devoted his life to caring for individuals, this system is failing and we need to respond appropriately.

Medical liability judgments have tripled since the 1970's. Yet, less than half of the billions paid in medical liability rewards each year actually go to the injured patients.

If we fail to reform the malpractice system, we fail the victims of malpractice. The amendment before us will not prevent a plaintiff with a meritorious claim from suing and recovering; it will in fact improve his or her chances. The courts will be clogged with fewer spurious lawsuits in cases that now lag on for 1, 2, 3, 4, or more years. They will move more quickly.

In closing, I fully support this amendment. It will make our civil justice system more responsible, more accessible, more predictable, and most important, more equitable. As a physician, I truly believe that better medicine will be practiced, to the benefit of each and every American.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I am concerned about the circumstances under which the underlying McConnell amendment is being considered. The Labor Committee considered this very language earlier this week. Yet, two of the amendments passed in committee have been stripped from this version of the bill.

So what is the point of the committee process if in looking at these things deliberatively, investigating them, if the product of the committee actually is dropped? I might add it has been dropped in a matter of 1 day. Even the bill that passed the committee was too extreme a measure to receive my vote, but it was at least better than the amendment we have before us.

Mr. President, it is clear that medical malpractice liability is having an impact on health care costs and on the availability of medical services, especially in rural areas. I have had a number of physicians and hospital groups come into my office to express concern about the costs of malpractice premiums and defensive medicine.

I would like to speak about the Thomas amendment that is now before the Senate. I understand the concerns of my colleague from Wyoming.

Over the years I have fought hard to recruit and maintain health care providers in rural areas. We changed Medicare reimbursement for physicians practicing in rural areas. I have been a strong supporter of increasing Federal support for telemedicine that helps providers in rural areas. What's more, I have been a long-time supporter of the National Health Service Corps.

Clearly, we have not done enough to get physicians in rural areas. During the health care debate, I supported a whole range of provisions to increase the number of providers in our rural communities. So this is a goal I support strongly.

But I believe that the Thomas amendment before the Senate is the wrong way to go in trying to get more physicians in rural areas. The procedure adopted by the Senator from Wyoming is overly broad and unnecessary. The usual liability standard that applies to a physician who has never seen a patient before is to act as a reasonable physician would under the circumstances.

It is unnecessary to raise the evidentiary standard to clear and convincing. This action would create a unique, protected class out of all potential defendants.

Black's Law Dictionary says that clear and convincing proof is proof beyond a reasonable—that is, well-founded—doubt. The level of proof is extremely high.

So Mr. President, if we adopt the Thomas amendment, we would have one class of providers, OB/GYN's who saw the woman for the first time when they delivered the baby. This is the narrowest of the narrowest of the narrowest of classes. We would say in that one specific case that the evidentiary standard would have to be clear and convincing. All the others, of course, are a preponderance of the evidence.

Again, it makes no sense to do this because the same standard should apply for all physicians; that is, reasonable care under the circumstances.

As long as the OB/GYN delivering the baby has, in fact, utilized procedures that are reasonable under the circumstances, then that physician cannot be held liable. It is when they do not use procedures that are reasonable under the circumstances that they may become a potential defendant.

My concern extends beyond the Thomas amendment, however, to the whole area of medical malpractice. Studies have shown about 1 percent of all hospital patients suffer from that sort of negligent injury. Many of them do not receive compensation for those injuries from any source.

However, three to five times as many cases are filed where the patient suffered no compensable injury or where the injury was not negligently inflicted. The policymakers need to address how to reduce the number of claims brought with no good reason while assuring justice for the claims that are justified.

However, the McConnell amendment does not do that. Instead, it is clearly anticonsumer and would move America in the wrong direction. This bill would impact those with the clearest cases of injury who are being undercompensated under the current system and would not reduce the number of cases brought when no compensable injury occurred.

Some suggest that this bill would reduce the cost of medical malpractice. Unfortunately, that is not the case. The only way to reduce the real cost of medical malpractice in financial and human terms is to reduce the incidence of medical malpractice. Once the malpractice occurs, the only question being determined by the courts is, Who should bear the cost? Should it be the injured patient or the people or the institutions that inflicted the injury?

While malpractice events are very rare, it is clear that when these events do occur, the party responsible should make the party whole. We should attack malpractice the same way we fight highway accidents. No one, I believe, has suggested that the way to reduce the cost of motor vehicle accidents is to make it harder for people to get compensation. Would any reasonable person argue that we can cut down the number of highway accidents if we only make it harder for people to get compensation for those accidents? I do not think anyone could make that kind of an argument.

We have, however, reduced costs by making vehicles safer by the use of seatbelts, by vigorous enforcement of drunk driving laws, and by raising the drinking age, among other actions. All of these attacked costs of accidents by preventing the accidents from happening in the first place. This bill does little to help get the small number of physicians who are repeatedly found liable for malpractice out of the operating rooms and out of their medical offices.

Further, we are in different circumstances this year than last. If the Federal Government is going to develop a comprehensive national health care strategy, it would be appropriate to consider malpractice reform as one aspect of that strategy. However, a freestanding bill such as the one before the committee today—that is, the amendment before the committee today—is an unjustified interference with a matter traditionally under control of the States, with no strong Federal regulatory interests.

I find it quite curious that the very people who are arguing everything else should be turned over to the States, in this instance say the Federal Government knows what is best.

I am not one of those who say that it ought to all be one way or all the other way. I think there are some areas in which the Federal Government's interest is prevalent; there are others in which the State government's interest is prevalent.

When I look at questions of Federalism, I base my approach on whether something ought to be done by the States or the Federal Government by looking at the past, whether or not there is any overriding reason why things should be changed from what we have done in the past.

For instance, for the entire past history of the United States, product liability malpractice cases compensation has all been under the jurisdiction of the States. I now see no overriding reason why the Federal Government must now step in. States can handle it, and they have handled it and they are handling it, and they ought to continue to handle it.

Again, I have in the past supported civil justice reforms in instances where a convincing Federal connection has been shown. I believe such was the case in the general aviation product liability reform bill introduced by Senator KASSEBAUM, and which I voted for last year. It did pass and was signed into law by the President. I believe there was an overriding Federal interest.

However, in this instance I see no convincing reason to deprive the States of their traditional role.

I think, Mr. President, that when we look at medical malpractice we really have to separate fact from fiction and understand the mythology that is out there. About 1 percent, as I say, of hospital patients become victims of negligent medical injury. That is not very many, 1 out of 100. Roughly half of those are very minor. But about a quarter of them result in death or serious disability.

The Harvard Medical Practice Study estimates that about 150,000 patients die annually as a result of medical mishaps. About half of those deaths due to negligence.

Of patients who suffer negligent injuries, only about 2 percent file claims for compensation. I think that is very important. Of all of the patients who suffer negligent injuries, only about 2 percent file claims for compensation, and many of these will receive no compensation at all for their injuries. Of those who do, the compensation on average is less than the economic losses suffered. More precisely and more perversely, as the size of the losses goes up the fraction covered by the settlement or award goes down. That is, those who suffer the least serious injuries generally receive compensation two or three times their actual losses. But those who suffer the most devastating injuries and losses receive compensation equal to only a fraction of the losses they have suffered.

On the other side of the ledger, cases of nonnegligent injuries—noninjuries—the 99 percent of hospital patients not entitled to compensation under the law, the best estimate was that about 0.8 percent of these people file claims for compensation. About 0.8 percent. What we are saying is for every valid claim brought there are three to five filed that should not be. Most of those are dismissed somewhere along the litigation process.

This is a system, I think, in which there has been a lot of myth and a lot of misunderstanding. The tort liability system provided compensation of only about $7.7 billion, according to a Rand Corporation study, about 4 percent of the total. They pointed out in a recent year Americans suffered about $175.9 billion in direct losses. The tort system only compensated for $7.7 billion of that. So, as an accident compensation system, the tort system really does not do a very good job, frankly. But it may yield a very powerful deterrent effect. Perhaps that is really the basis for keeping the tort system, because we do want to send a strong signal that people have to act prudently. People have to act reasonably. People cannot act negligently. And if they act negligently then they have to be responsible for their actions.

We hear a lot of talk around here about responsibility. I introduced a welfare reform bill today. A lot of people talked about responsibility on behalf of welfare recipients. I agree with that. But I think people ought to act responsibly, and if they do not act responsibly and people get injured then the people who acted negligently have to be held accountable.

This is not a new concept. As I stated earlier, this goes back in common law for hundreds of years. I think it has provided in our country, and in Great Britain, a system that does engender responsibility. So that is really what we are talking about. We should not turn our back on centuries of practice without good cause.

In the area of medical malpractice I agree there are some problems, and I may offer amendments dealing with some of them. But I would proffer this question to those who want to drastically change the medical malpractice system, the tort liability system, as we would under the McConnell amendment and the Thomas amendment thereto. I would question, then, if we really want to lose the quality of care that Americans have come to reasonably expect in our health care system.

I do not think anyone doubts that we have a very high quality of care. We may lack access in rural areas and other areas, and we may lack coverage of certain people, but no one can doubt that the quality of care of our health care system is very high. I heard speech after speech last year, on both sides of the aisle, about how we do not want to denigrate in any way or reduce in any way the quality of care. We want to keep a high quality of care. We want to do whatever we can to promote a higher quality of health care in this country.

My question, then, to those who would change the medical malpractice tort liability system is how are you going to keep a high quality of care if those who are the practitioners of medicine are told that if they act negligently and without reasonable care and concern, they do not have to worry, that they are not going to be held liable, because there will be limits on recovery. Or in the case of the Thomas amendment, which would require a mother to prove her case of malpractice by clear and convincing evidence—what would that do to the quality of care? That is missing in this debate. I was listening to the others talk today earlier. I think we have to bring it down to that. If we want a high quality of care we better hold those who practice medicine to a very high standard.

Doctors are perhaps the highest compensated of any profession in our country, and I do not deny them that. I could not be a doctor. I have said many times that those who practice medicine, God bless them—especially in rural areas where they are on call 24 hours a day, 7 days a week—frankly I do not think they get paid enough, many times. So I am not saying they should not be paid well—they earn it in most cases.

What I am saying is that they are well compensated and we should hold them to a high quality of care. I do not know of any doctor who would purposely inflict injury or damage on a patient. I suppose there may be a twisted mind out there somewhere that would do that, but I do not believe that is the case. But there are those who may be in a hurry, they may think "I will cut a corner here, cut a corner there. It will be all right. Maybe I will not have to do this procedure." When in fact there is a set procedure, there are standards to which doctors are supposed to adhere. And if they adhere to those, if they act in a reasonable manner under the circumstances, they are not liable. They are not liable for what happens to an individual because of unforeseen circumstances, things beyond their control.

There is not a jury in this country, I do not believe, that would convict a doctor or a hospital if something happened to a patient that was totally beyond their control, unforeseen. It is the things that are in their control that can be foreseen—it is that lack of due care and diligence—that causes tort feasors to be held accountable and liable.

Again, we get back to this quality of care. We want to keep a high quality of care and therefore we want our medical practitioners to be highly trained, highly qualified. We want them to continue their education, their medical education; to be recertified all the time. And we want to make sure when they practice medicine they adhere to the highest possible standards.

One way to do that is to say, "Look, if you do not, you are going to be held liable in a tort liability system that has been time-tested over 600 years to make sure people do in fact act responsibly."

Mr. President, I read over some recent malpractice cases. I think, if you read them, what you find is that these are people like you and me. These are people, ordinary citizens, going on about their business. Yet, the medical practitioners who treated them did not adhere to reasonable procedures under the circumstances and are liable.

I think there is always concern when any of us go to a hospital and are put under a doctor's care. We put a lot of faith and trust in our doctors, we really do. And 99 percent of the time, that trust is well placed. I think, as Senator WELLSTONE said earlier, one rotten apple can spoil the basket. It could spoil the basket even more if we do not have a tort system that holds these people accountable.

I sum up by saying the Thomas amendment is way out of the ballpark because it exempts a very narrow class from being responsible at all. The McConnell amendment takes the malpractice bill that passed the Labor Committee just 2 days ago, strips out the amendments that were offered, and then offers it as an amendment on this bill. As I said, I could not even support the bill as it came through the committee even with the amendments. Now this makes it even worse.

So I assume motions will be made to table the Thomas amendment and the McConnell amendment. I hope those motions are successful. I think the quality of care, especially the quality of health care in this country, would drop precipitously if either one or both of those amendments were adopted.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I rise in strong support for and to offer a few remarks on behalf of the amendment put forward by my colleague Senator MCCONNELL, Senator LIEBERMAN, and myself.

I think this amendment is a moderate, measured approach to medical liability reform. It is very difficult for us to debate any type of liability reform in the Congress, in the Chamber of the Senate or in the House of Representatives, without getting into worst case scenarios. There is none that we are more sensitive regarding, I think, than medical liability reform.

I have a great deal of confidence in the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Connecticut [Mr. LIEBERMAN], who have spent a lot of time trying to bring forth the difficult aspects of this issue in the most acceptable consensus that really does give us some successful and constructive results to a problem that really troubles everyone in one way or another.

I know that we have already heard some of the specific provisions of the McConnell amendment, but if I may, Mr. President, I would like to reiterate some of them that I think are particularly useful and important to remember. One, that there is full recovery of economic and noneconomic damages. The amendment allows injured patients to recover complete compensatory damages. It places no limitations on the amount claimants may recover for economic damages such as out-of-pocket medical expenses, rehabilitation costs, lost wages, cost of domestic services, and noneconomic damages such as pain and suffering, mental anguish, and loss of companionship. The amendment that is before us currently contains a cap on punitive damages of $250,000 or three times the economic losses, whichever is greater.

I understand there are discussions ongoing now with Senator SNOWE and others about punitive damages. I would just like to say for myself, Mr. President, whatever agreement can be reached—I think Senator MCCONNELL as well is a party to this—if we can reach an agreement with the chairman, Senator GORTON, on what type of punitive damages language we would want to have, I think there would be strong support for that. So that is still ongoing and debated.

There is a limit on attorneys' fees to ensure that injured patients recover a greater share of their medical liability awards. The attorneys' contingency fees are limited to 33⅓ percent of the first $150,000 award and 25 percent of awards in excess of $150,000. This is identical to the provisions contained in the bill that Senator KENNEDY introduced last year.

There is also the State alternative dispute resolution. Many in the legal profession and outside the legal profession believe we need to do more to encourage alternative dispute resolution, to promote the resolution of claims in a more convenient and timely—and let me stress timely—manner because years can go by in which most of those who need assistance are frequently tied up in the courts waiting to see what happens. This will be a means of getting a more timely redress and in an affordable manner.

The amendment encourages States to experiment with the alternative dispute resolution and requires the U.S. Attorney General to provide technical assistance to States regarding various ADR mechanisms.

Finally, thanks to the contributions of Senator JEFFORDS, the amendment requires the Agency for Health Care Policy and Research, in consultation with public and private sector entities, to establish guidelines on quality assurance, patient safety, and consumer information.

This is a small step in the right direction and one that has to be taken with some care, but I think we would all agree that a better means of obtaining information for consumers would be beneficial and useful.

Much has been said in the Chamber today both pro and con, and I do not like to be repetitive, but I think there are some things that are worth repeating. While we have different thoughts on this, I think all of us are struggling to find some better means of addressing tort reform and answering the problems that exist today in a society in which we have all become so very litigious, that as we weave this web of ever greater litigiousness, I think we are doing a great disservice to those perhaps most in need of redress in the courts.

The current liability system carries great human and economic costs. It does not work well for anyone—not for doctors, not for hospitals, not for families, and not for injured patients.

Under the present system, it takes an average of 5 years from the time a patient is injured to resolve a malpractice case. That is really inexcusable.

The Rand Corp. has found that only 40 cents of every dollar spent in medical liability litigation reaches injured patients. The rest goes to court costs and attorneys' fees.

The United States has the world's most expensive tort system. At 2.3 percent of GDP, U.S. tort costs are substantially higher than those of any other country and two and a half times the average of all developed countries.

The Harvard Medical Practice Study, based on a review of 31,429 medical records in 51 New York hospitals, found that only 1 in 16 injured patients actually received compensation. On the other hand, the study concluded that half of the malpractice claims that were filed were without merit.

Moreover, according to a 1992 survey by the American College of Obstetricians and Gynecologists, 12.3 percent of the OB/GYN's nationally gave up obstetrics in 1992 as a direct result of liability concerns.

I know in my own State of Kansas, it is becoming increasingly difficult, if not impossible, to find obstetricians and gynecologists who will go into the smaller, more rural communities because of the high cost of insurance that they must carry versus the number of patients that they may see. So it becomes an increasingly difficult problem in ways that we perhaps do not realize.

I would just like to say a few additional words about the preemption provisions of the McConnell amendment. I know this is a concern to some and I am sympathetic to that. How far do we go at the Federal level to preempt the various State laws that provide, in this case, guidance for litigation?

I do not believe there is a need for absolute uniformity in this area. But I do believe it is important to set some very clear, minimum Federal standards that all States must meet.

Let me just explain why I think that is important.

The amendment does not preempt States from going further with medical malpractice reforms that they may decide are necessary. They may go further.

California, for instance, now caps noneconomic damages at $250,000. I think this is the best way to balance the need for some State flexibility with the need for greater certainty and predictability in the system.

When I mention California capped noneconomic damages, let me just reiterate, this amendment does not cap noneconomic damages. But California would not be preempted because it would go even further.

What this does, to a certain extent, is set a floor below which there could not be changes made and, therefore, it adds a certainty and a predictability that I think will enable cases to be resolved in a timely fashion. Without some sense of specificity, I think we lose this timeliness, lose the ability to move the process forward.

I believe that setting a minimum level of medical liability reforms is necessary to continue development of a cost-effective private health care system.

Moreover, there is a direct and compelling Federal interest in reforming our outmoded medical liability system. One-third of the total health care spending in this country is paid by the Federal Government through Medicare and Medicaid Programs.

Finally, as my colleague, Senator FRIST, knows perhaps better than anyone else in this body, health care services are increasingly becoming regional, if not national. Senator FRIST from Tennessee was a surgeon prior to his coming to the U.S. Senate.

For example, some of the finest medical facilities in the United States, such as the Mayo Clinic in Minnesota, Stanford University in California, Barnes Hospital in Missouri, and the Cleveland Clinic in Ohio—and I do not want to leave others out—are examples of important regional centers that treat patients from across the Nation and around the world.

That is why, it seems to me, the more we can begin to start with some very important but moderate approaches to medical liability reform, I think we take a big step forward in assuring not only the access and timely access to redress, but we also provide the stability and some assurance of what actually is out there in the way of costs.

It should not, in any way, close the doors to those who need redress in the courts. But it should make us all mindful of being able to change the system that is getting out of hand. And in our own responsibility, whether it is here on the floor of the Senate or individually, we have to address and take responsibility for a growing environment that I think creates problems for each and every one of us.

Mr. President, I would just like to strongly urge my colleagues to support the McConnell-Lieberman-Kassebaum amendment. I know that we have a somewhat bumpy path ahead on this, but I am hopeful that we can move forward with the debate. Those who object have laid out some of their objections. But I think it is time for us to vote and move forward and get to the heart of the matter.

Thank you, Mr. President.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I should like to say how much I appreciate the thoughtful presentation of my colleague, usually seatmate, the chairman of the Labor Committee, on which I serve, the Senator from Kansas, in this connection. She has felt the necessity of moderate, not extreme, reforms in medical malpractice legislation for many years. And she now, I believe, has had the first opportunity ever to discuss legislation of that sort on the floor of the U.S. Senate. I strongly suspect it may not be the last such time, but it at least marks a thoughtful and balanced beginning presentation of a serious challenge to our entire health care system.

Mrs. KASSEBAUM. Mr. President, I thank the Senator from Washington. Senator GORTON has provided, I believe, a very important vehicle in his product liability legislation to which we are wanting to add this amendment and want to do so in a constructive way that will be an addition to the product liability bill before us.

I know that Senator MCCONNELL, Senator LIEBERMAN, and myself want to do all that we can to be supportive of the product liability bill and we want to work to make any changes in the medical liability reform amendment that would fit with the broader product liability bill. To that end, I think, as the Senator from Washington knows, we will do all we can to be helpful.

Thank you, Mr. President.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Thank you, Mr. President. I rise today as a supporter of product liability reform to discuss an important issue which this reform effort has so far failed to address and I believe should be addressed.

The problem is excessive court secrecy. Far too often the court system allows vital information that is discovered in product liability litigation and which directly bears on public health and safety to be covered up, to be shielded from families whose lives are potentially at stake and from the public officials that we have appointed to protect our health and safety. All this happens because of the so-called protective orders, which are really gag orders, issued by courts and which are designed to keep information discovered in the course of litigation secret and undisclosed.

Typically, injured victims agree to a defendant's request to keep lawsuit information secret. They agree because defendants threaten that without secrecy, they will refuse to pay a settlement. Victims cannot afford to take such chances, and while courts in these situations actually have the legal authority to deny requests for secrecy, typically they do not, because both sides have agreed and judges have other matters that they prefer to attend to.

So, Mr. President, secrecy has become the rule in civil litigation, even though it causes harm and suffering to millions of other Americans. For example, 1 million women who received silicon breast implants in the 1980's were denied crucial information demonstrating the hazards of implants. The information was uncovered in a 1984 lawsuit, but it was kept secret by a court order until 1992. So what do we say to these women? How do we, as a civilized society, justify the secrecy orders that prevented them from making informed choices about what they were putting into their bodies?

What do we say to the scores of young children injured while playing on defective merry-go-rounds that remained on the market for over a decade because many lawsuit settlements concerning this sickening product were kept secret from the public and from the Consumer Product Safety Commission. These children, most of them under 6 years of age, lost their fingers, their hands, and feet.

Another case involves Fred Barbee, a Wisconsin resident whose wife, Carol, died because of a defective heart valve. We learned in a Judiciary Committee hearing more than 4 years ago from Mr. Barbee that months and years before his wife died, the valve manufacturer had quietly, and without public knowledge, settled dozens of lawsuits in which the valve defects were clearly demonstrated.

So when Mrs. Barbee's valve malfunctioned, she rushed to a health clinic in Spooner, WI, thinking, as did her doctors, that she was suffering from a heart attack. As a result of this misdiagnosis, Mrs. Barbee was treated incorrectly, and she died.

To this day, Mr. Barbee believes that but for the secret settlement of heart valve lawsuits, he and his wife would have been aware of the valve defect and his wife would be alive today.

As a last example, Mr. President, let me tell you about a family which we must call the Does because they are under a secrecy order and afraid to use their own names when talking to us. The Does were the victims of a tragic medical malpractice that resulted in serious brain damage to their child. A friend of the Does is using the same doctor, but Mrs. Doe is terrified of saying anything to her friend for fear of violating the secrecy order that governs her lawsuit settlement. Mrs. Doe is afraid that if she talks, the defendant in her case will suspend the ongoing settlement payments that allow her to care for her injured child.

What sort of court system prohibits a woman from telling her friend that her child might be in danger? Mr. President, the more disturbing question is this: What other secrets are currently held under lock and key which could be saving lives if they were made public?

Last year, during debate on the product liability bill, we began a discussion about court secrecy reform, and we should continue that discussion today. I favor a simple change in the system that would not prohibit secrecy but merely send a signal to judges to more carefully consider the public interest before drawing the veil of confidentiality over crucial information.

That change would work as follows: In cases affecting public health and safety, courts would apply a balancing test. They could permit secrecy only if the need for privacy outweighs the public's need to know about potential health or safety hazards. This change in the law would ensure that courts do not carelessly and automatically sanction secrecy when the health and safety of the American public is at stake.

At the same time, it would still allow defendants to obtain secrecy orders when the need for privacy is significant and substantial. The court secrecy reform I have suggested is not antibusiness. Business people want to know about dangerous and defective products, and they want regulatory agencies to have the information necessary to protect the public.

And so in summary, Mr. President, the product liability bill that we are debating today is all about striking a better, more reasonable balance between plaintiffs and defendants in product liability lawsuits. The change that I propose in our court secrecy laws is also about striking a better balance in product liability lawsuits, a better balance between the private parties involved in litigation and the millions of American consumers who today are being kept in the dark in many cases because of court secrecy.

I hope my colleagues who support product liability reform will recognize the need to deal with this very serious issue. Reform, after all, is a two-way street. I thank the Chair and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GREGG). The clerk will call the roll?

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. KOHL. Mr. President, I ask unanimous consent that my Judiciary Committee law clerk, Julie Selsberg, be given floor privileges during the debate on the product liability legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I rise this afternoon in support of the McConnell amendment to the Product Liability Reform Act that is now being considered before this body. If there was one thing that was made clear last year during the health care debate, it was a need for medical malpractice reform, not just to curb the need for defensive medicine—and some still argue about the extent to which that contributes to our rising costs in medical care—but to get a handle on this incredible amount of litigation our society now seems to take part in.

In Montana I have talked with several of our rural doctors who, through no fault of their own, have outrageous malpractice premiums. I recently had a primary care doctor in my office who pays $38,000 a year in premiums. To those folks who practice in more urban areas and have extended practices, $38,000 might not sound like much. But it is a big ticket in a rural State. To top that off, he is yet to be sued. But, yet, to protect himself, he cannot avoid paying this premium. Of course, we know who pays for that—the people who use his services. On top of this cost of practice, he has overhead expenses, too. It is no wonder the cost of services and fees continues to go up. In fact, I was astounded to find out the other day from a group of doctors what an office call would cost if it were not for a lot of extenuating rules, regulations, insurance, and, yes, Government regulations in their life, and how that increases just the price of an office call.

The McConnell amendment is a perfect fit on this product liability reform bill. I am glad to see the House has included it and that this body is considering it now. The product in this case is health care services. I am not trying to say that people do not deserve malpractice awards. As in any business, people are fallible, judgment is not always true, and accidents do happen. I think we tend to hold health care providers to a higher standard because much of the time they hold our lives in their hands.

But malpractice claims are made more often than necessary. Of the billions of dollars spent on medical liability, 50 cents of every premium dollar goes to the attorneys and not to the injured patients that this system was meant to help. If our goal is to direct health care dollars into the legal system for the attorney fees and court costs, then we should not enact liability reform. However, if the patient is our priority, and if quality of care is important to us, then this provision is essential.

One area that I am very interested in is the contingency reform provisions in this amendment. This provision will help to address some of the sizable costs in the system by limiting an attorney's contingency fee to 33⅓ percent for the first $150,000 and 25 percent of any amount over $150,000. The real travesty of justice here is the amount of the health care liability award that goes to the attorneys. The contingency fee was intended to be the poor man's key to the courthouse. According to the evidence from a 1990 Harvard medical malpractice study in New York, the contingency fee is not serving this function very well.

Most folks with small health care injury claims never get access to the civil justice system because the contingency fee stimulates lawyers to be primarily interested in the big ticket cases. It is the same incentive that drives the lawsuit lottery, encouraging lawyers to take cases with a sympathetic plaintiff even if there is no negligent care. In many States, the contingency fee is growing. Though traditionally the norm is one-third of the plaintiff's payment, the standard is growing to 40 percent and, yes, 50 percent contingency fees are becoming more and more common. This fee covers only the attorney's professional fee. Litigation expenses are deducted separately from the plaintiff's recovery and they, too, can be quite high.

I am proud to say that the Montana Legislature has just passed legislation to cap the fee and reform our medical liability system, the Montana State Legislature that just adjourned prior to the Easter break. I take my lead from my constituents. I always have and I always will. But I also keep a pulse on what is going on around the Nation.

In a recent public opinion strategist poll linking people to groups that represent America's values, I tell you what, attorneys, kind of with us, are running pretty low. But for the sure reason for that, maybe we should examine the system. Incidentally, doctors were near the top of the poll.

So I urge my colleagues to support the McConnell-Kassebaum amendment. After all, it was just a couple of years ago that Senator KASSEBAUM worked on a medical plan, and this was included in her plan then so this is not a new idea. It is an idea that has been accepted by the American people and it is an idea whose time has come. These two amendments together will meet the needs of the injured patients who deserve to be fairly compensated and society which needs to reduce transaction costs and eliminate windfall judgments. But above all, it will allow us to continue to promote the highest quality medical care for our people, our consumers in this country, and maintain that high quality for years to come. It is very important that this be a part of this package whenever we go to conference and when it becomes law.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I wish to review for the Members where we are this afternoon on the malpractice insurance proposal offered by Senator MCCONNELL, and now added to by Senator KASSEBAUM.

Process is really not always important, but the Senate has a process to ensure adequate consideration to measures such as these. We will have a chance to revisit the substance of some of these measures during the course of consideration of the McConnell amendment. But since I referred earlier to the actions of our committee, I wanted to at least give the Senate an idea of what we have been doing, and what the result of our deliberations has been.

The amendment described by the Senator from Kentucky is not the product of consideration by the Labor and Human Resources Committee. That committee, under the chairmanship of Senator KASSEBAUM, spent a full day this week and half a day earlier this month debating a bill virtually identical to the amendment Senator MCCONNELL has offered today. Members heard each other's arguments, compared their experiences in their own States, and worked in a collegial and good-faith fashion to craft a better bill.

Three very important amendments were adopted. First, there was an amendment offered by Senator DODD that removed the cap on punitive damages, providing a more structured process by which the jury determines whether the punitive damages are warranted and the judge sets the amount.

Now, I just want to mention that punitive damages in malpractice cases are extremely rare. However, of those cases that do merit punitive damages, 68 percent involve sexual abuse of patients by the medical profession. So in addition to a very high standard that was established in the McConnell bill, there is also a cap on the punitive damages. They establish a very high standard, but make it virtually impossible to reach that very high standard.

In the consideration of this bill by the committee, we talked about the egregious nature of sexual abuse in a medical setting, cases in which a woman is anesthetized and then abused, for instance. We thought, even if you are going to have a cap on punitive damages, those circumstances are so outrageous that we should allow an exemption—if women are able to reach the burden of proof established in the legislation, there should be the ability to go above the cap in the McConnell amendment. This was virtually unanimously supported by the members of the committee. This is a matter of great interest to the women of this country; not just those who have been involved in cases with punitive damages, but as a message to all that this is an issue so reprehensible it is going to receive the attention of the Congress of the United States.

Now, that is out. That is out in the McConnell amendment.

We had a good deal of consideration. We had evidence not only of that kind of activity, we also had evidence where we had doctors who are practicing medicine and committing negligence when they are under drugs and also under alcohol. We wanted to have that as an exemption of punitive damages. No, that was rejected and it is rejected in the McConnell amendment.

We wanted to also lift from punitive damages those circumstances where doctors have their license suspended and still go ahead and perform operations. That was not considered during the course of the discussion and debate.

But we did accept the particular circumstances where punitive damages in malpractice, that there was going to be a recognition that in those cases that are so heinous with regard to taking advantage of women, that that was going to be addressed.

We had a second provision on the issue of damages and that was offered by our friend and colleague, the Senator from Connecticut, that was accepted. That provided that the jury would make the determination as to whether there should be the punitive damages and the judge would make the judgment to set the amount and there would be a criteria as to how that amount would be reached. That was accepted by the committee after good debate and discussion about reviewing what had happened in the States.

I was interested to hear my friend and colleague from Montana say, "Well, Montana has just adopted a good program on the issue of malpractice."

Well, he might as well kiss that goodbye, because we are going to preempt that under the McConnell amendment.

I am not sure that everyone understands in this body, when I listen to my colleague say we adopted a program out in Montana and it is on the books now and, thank God, we are going to have a bill that is going to reach the needs of the people of program. Well, I am telling you this program is probably going to preempt it in some form or shape and that will be true about Wyoming and Montana and other States.

But, nevertheless, we brought about some changes with the Dodd amendment on the punitive damages.

And then we had the Abraham amendment that permitted the States to opt out of any and all reforms in this bill. I would have preferred a broader form of nonpreemption language, but the committee debated the matter at length and, with great thoughtfulness, it was the will of the committee that the preemption should be addressed through the mechanism of the Abraham language. And that was after a lot of discussion and debate and a lot of give and take on it. But, effectively, that consideration and those hours of discussion and debate are by the board, and that is gone.

Now 2 days have passed since the markup of the committee. No report has been filed explaining what is either in this bill or reported out of our committee's bill. At least you should have a report of what came out of the committee and then you could explain how that is different in the McConnell amendment. But we have not even waited for that report.

And the text of the bill itself, as amended in the committee, is not even publicly available in typeset for the members of the committee; not even available. And so we are acting on the basis of the explanation of the comments of the Senator from Kentucky and others about the legislation itself.

And now the Senator from Kentucky offers the amendment that basically ignores the work of the committee. That is his right. But it should give some Members pause. Either the committee process is to be respected as a way to improve or refine the legislation or it is a joke. The language of the McConnell amendment has been rejected, much of it, by the Labor and Human Resources Committee. We considered it and decided it should be reported without taking into consideration the Dodd and the Abraham amendment.

So I hope the Members will recognize the circumvention of the committees process. He has the right to do so. But it does disregard the orderly and important consideration of complex and far-reaching legislation.

But it is interesting, Mr. President, that during the course of the consideration of the amendment in the committee, the whole question about how we should deal with the professional liability premiums for obstetricians and gynecologists was considered by the committee as well. That is in the Thomas amendment.

And I refer now to an article by the American Medical News that is right on point of the Thomas amendment.

I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From American Medical News, Feb. 22, 1993]

QUALITY ASSURANCE PRENATAL SYSTEMS REDUCE RISK FOR OBs

(By Greg Borzo)

Professional liability premiums for some obstetrician-gynecologists have fallen dramatically in recent years because of greater physician participation in risk management, quality assurance and documentation of care.

Patient flow charts, checklists, practice guidelines and comprehensive office-wide management systems have played a big part in the drop, even though many physicians regard such tools as cookbook medicine.

"Because obstetrics is a high-risk area, we and other insurance companies have concentrated our efforts on it," said Julie Pofahl, director of risk management, Physicians Insurance Co. of Wisconsin (PIC–W). "Physicians are improving the quality of care and their record-keeping in a variety of ways, and as a result, we have seen lower frequency and severity of claims."

Their work is paying off. Over the last four years, premiums charged by physician-owned insurance companies have fallen more for obstetrician-gynecologists than for any other specialists, according to the Medical Liability Monitor, an independent newsletter. In 1992, half the companies did not change their premiums, while 35% reduced them an average of 8.3%. In 1989, ob-gyns insured by commercial and physician-owned companies saw rates cut an average of 14.5%; in 1990, 16.3%, and 1991, 10.9%.

One risk management and quality assurance plan, Prenatal Care, appears to be so successful in reducing obstetrics claims that at least three insurance companies are providing it free to any physician they insure, even though it costs more than $500 per system and about $5.40 per patient for materials. Two of them, Colorado Physicians Insurance Co. (COPIC) and Physicians Insurance Co. of Ohio (PICO), also offer a 15% premium rebate to physicians using the system.

Prenatal Care, a comprehensive, integrated system marketed by Advanced Medical Systems in Tulsa, Okla., includes a detailed patient questionnaire and a flow sheet to monitor a pregnancy and remind physicians to perform critical tests. It also includes physician and staff training materials and extensive patient educational handouts.

A 50-form introductory unit costs $395, an instructional videotape $95 and quarterly updates run $99 a year.

COPIC began promoting the system about six years ago, and it appears to have contributed significantly to falling liability rates for obstetricians in Colorado. Statewide, premiums fell from $61,000 five years ago to $33,000 for OBs and remained stable for family physicians who deliver babies.

Only one claim has been filed against Colorado physicians who used the system during the past six years, when it was used for more than 70,000 pregnancies and births, according to Arnold Greensher, MD, a co-developer of the system. Nationwide, two claims have been filed in 150,000 cases since the system was developed 14 years ago.

"The system helps organize patient care and makes sure that nothing gets overlooked or forgotten," said George Thomasson, MD, a family physician and COPIC's vice president of risk management. "This is especially important with the growth of managed care, which leads to fragment the delivery of care."

SLOW ACCEPTANCE OUTSIDE COLORADO

Nationwide, more than 1,500 physicians use the system in 44 states, and more than 55,000 forms were shipped in 1992, Dr. Greensher said. Physician-owned insurance companies in at least eight states are testing, promoting or giving away the system.

Louisiana Medical Mutual Insurance Co. (LAMMICO), for example, began providing the system to some of its physicians three months ago and plans to make the system available to as many physicians as possible.

But the system isn't in widespread use outside Colorado.

Even though PICO provides the system free and offers its doctors a 15% rebate for using it, only one-third of its OBs and family physicians that deliver babies use it. PICO has been promoting the system for two years.

"Physicians have been reluctant to try this because of two things: inertia and the fact that many hospitals mandate the use of certain forms of flowcharts that preclude the use of something else," said Mark Hannon, vice president of the doctor-owned firm.

PIC-W also provides Prenatal Care to physicians. After 1½ years, it has given away materials to about 250 physicians. "Some obstetricians say that some of the forms are redundant and the manual is too basic to be very useful," Pofahl said. "The system could be more appropriate for family practitioners than for obstetricians."

CROWDED FIELD

Users and promoters of the system speculate that it has not caught on more quickly because of cost and competition. For years, a host of prenatal care forms and computerized systems have been available.

Chief among them is the Antepartum Record, a five-page form introduced in 1989 by the American College of Obstetricians and Gynecologists. More than 600,000 forms were sold in 1992, one version for about 20 cases per form, the other for a dollar.

"A lot of obstetricians already use the ACOG form and have developed other forms and office procedures based on it," Pofahl said. "Many say they like Prenatal Care's system better but that they don't want to switch because they are just getting adjusted to ACOG or other forms."

Others complain about the cost of switching and the inconvenience of using two systems during the interim.

While proponents claim Prenatal Care is so comprehensive that it's in a class of its own, physicians, tend to lump all systems and forms together.

"Our is the only true system," Dr. Greensher said, "The other products are just forms."

Steven Komadina, MD, agrees. Last year, he switched from ACOG's form to Prenatal Care's system, which he describes as nearly foolproof and far more comprehensive. He especially likes the patient education component, which helps the patient realize that she is responsible for her health.

The Albuquerque obstetrician has less use for the manual, but says it's helpful for nurse practitioners, physician's assistants and family physicians.

"It's helping to relieve a crisis in rural Torrance County, about 100 miles away, by giving family physicians there the competence and confidence to provide prenatal care," Dr. Komadina said. "Over half the 250 women delivering there receive no prenatal care."

Risk-management directors, however, wonder whether the system is used by physicians who need it most. LAMMICO told several "problem" physicians last year that it would not insure them unless they used Prenatal Care.

"Doctors who have tried the system up until now are probably the ones with a high awareness of the issues surrounding risk management," Gunter said. "We want to see the impact on those with high claims frequencies."

Mr. KENNEDY. I will read a portion of it at this time.

Professional liability premiums for some obstetrician-gynecologists have fallen dramatically in recent years because of greater physician participation in risk management, quality assurance and documentation of care . . .

"Because obstetrics is a high-risk area, we and other insurance companies have concentrated our efforts on it," said Julie Pofahl, director of risk management, Physicians Insurance Co. of Wisconsin. "Physicians are improving the quality of care and their record-keeping in a variety of ways, and as a result, we have seen lower frequency in severity of claims."

Their work is paying off. Over the last four years, premiums charged by physician-owned insurance companies have fallen more for obstetrician-gynecologists than for any other specialists, according to the Medical Liability Monitor, an independent newsletter. In 1992, half the companies did not change their premiums, while 35 percent reduced them an average of 8.3 percent. In 1989, ob/gyns insured by commercial and physician-owned companies also saw rates cut an average of 14.5 percent; in 1990, 16.3 percent; and 1991, 10.9 percent.

One risk management and quality assurance plan, Prenatal Care, appears to be so successful in reducing obstetrics claims that at least three insurance companies are providing it free to any physician they insure, even though it costs more than $500 per system and about $5.40 per patient for materials.

Then it continues.

Only one claim has been filed against Colorado physicians who used the system during the past 6 years, when it was used for more than 70,000 pregnancies and births.

One claim, one claim, in 70,000. And we have an amendment to try and escape from any kind of important liability of malpractice claim in "70,000 pregnancies and births, according to Arnold Greensher, MD, a codeveloper of the system. Nationwide, two claims have been filed in 150,000 cases since the system was developed 14 years ago."

In Colorado, the quality assurance system is credited for falling professional liability rates. Premiums fell from $61,000 five years ago to $33,000 for obstetricians.

This makes the case with regards to obstetricians. And they are identified as being the number one specialty in need. And here we have in the American Medical News that spells this out.

Now the fact of the matter is obstetrics and gynecology had significant problems 10 years ago, in 1985, according to the annual liability claims for 100 physicians by the Specialty and Census Division. They were clearly the No. 1 in 1985, virtually double from anyone else.

But since that time, they have had the greatest reduction, some 22.7 percent, from all the other specialities.

And that just makes the point that we made earlier and that is that the greatest problem that we are facing in terms of malpractice today is what is happening to the patients that are being left out in the cold and left behind.

You know, before we begin to shed a great deal of tears for the insurance companies and for other medical professionals, it is important to recognize that you, the taxpayer, are picking up about $60 billion a year in unpaid health bills as a result of malpractice. Someone has to pay. Many of these individuals are without any kind of health insurance or they lose their health insurance. Who do you think pays? It ends up being a burden on the system.

And what we are being asked to do is further immunize the insurance industry that has experienced substantial profits from doing what they were charged to do, and that is to provide insurance in these areas.

And second, and importantly, the McConnell amendment fails to take the kind of thoughtful steps that have been supported by Senator JEFFORDS, Senator DEWINE, and others to take steps to prevent malpractice. We ought to be debating this afternoon what steps are being taken to prevent malpractice in the first place, to keep people healthy.

I know my friend and colleague, Senator WELLSTONE, will be offering an amendment on that particular issue. We made some progress on it in the consideration of the bill before the committee, but not in this bill, not in the McConnell bill. That has all been left out.

Why are we not trying to prevent malpractice before it takes place? Why are we not trying to find out through the data bank who the bad apples are?

The data that is collected and sent to the National Practitioner Data Bank is information about malpractice cases and disciplinary actions taken against doctors. That information is made available to hospitals and to HMO's and to professional associations but is not made available to the general public. Why are we not making it available to the general public? Do you know the answer we heard in our committee? We cannot do that in the committee because the data bank is not insured enough.

I showed in the course of our considerations a book that was 5 inches tall that is published by Public Citizen, "10,000 Questionable Doctors." This book documents State by State information that is available to the public, about the number of licenses revoked, surrendered, or suspended; fines against doctors; criminal convictions; sexual abuse or sexual misconduct with a patient; substandard care; misprescribing or overprescribing drugs; drug or alcohol use; and other offenses.

This is a matter of public record. It is collected in this document by Public Citizen and made available so people can find out about it. We want to make sure that it is done in a comprehensive way, updating information through the data bank. The consumers can find it if they can find this book. If they know the book exists and they know how to find it, they can look up various doctors.

Why do we make it so difficult? Why, if we are trying to prevent malpractice, are we not giving information to the public? What are they scared of? What are the doctors scared about? What are they frightened of? We know. They just do not want to have that information available, which is understandable for their profession, but do not say to us that a prime need for us on the floor of the U.S. Senate in a health care debate is to deny the American consumer the kind of information that is available already and should be made more accessible.

The data bank ought to be strengthened. We had CBO studies and GAO studies about how its information can be strengthened. And it should be. That is something that we tried to do under the leadership of Senator JEFFORDS in our committee, which was included in the bill, though not as strongly as I would like to see.

So there are some matters that I think are of importance that were considered in some very important debates and discussions in the committee; they are the kind of matters that ought to have been included or addressed in the McConnell bill.

Mr. President, I want to take a few moments of the Senate's time just to review where we are on the issue of the insurance industry, and I refer to the National Insurance Consumer Organization report, which is a March 1993 report, because we now evidently are prepared to say that Montana does not know best how to treat these problems, or Wyoming does not know best how to deal with this; we need to have these Federal standards on the issue involving a doctor and his patient.

I, quite frankly, think this is dramatically different from even the underlying bill, the tort liability bill, where you are talking about various products that go into a State. We are talking, in this circumstance, about the very sensitive personal relationship between a doctor and a patient. There are not many other relationships which are more important and more personal.

We hear so much, we know what we really need locally. But, oh, no, the McConnell amendment is virtually going out to preempt State activities. So we have to know we have a declining need or declining burden on the profession, as we mentioned the OB/GYN, what the recent statistics show.

Consider the number of gynecologists that are graduating from our fine medical schools. That number is not diminishing. The Department of Health and Human Services finds the relationship between needs and supplies in six specialities are far from having a shortage. There is actually an oversupply of obstetricians and gynecologists.

I am glad to work with our colleagues about how we find out how to deal with underserved areas, but this is not the answer. You have the underserved areas. You have to deal with the burden a young person has when they graduate from college or from medical school, what their financial burden is, because they cannot make the sufficient resources, if they are going to go into a rural and underserved area, as they do in an urban area or in some of these specialities. You have to understand that they do not get the kind of support they would get if they would practice their medicine in one of the fine medical institutions. They are denied that.

Third, they fall further behind their classmates in terms of upgrading their skills. That is troublesome.

Fourth, in too many areas that are underserved, they do not have as good an opportunity for education for the children of these young people that want to go to school, and the parents, as dedicated as they are, do not want to disadvantage their children.

There are a whole series of reasons. But to tie in the fact that we have underserved areas in this country and that the principal reason is because of the insurance to the OB/GYN just does not hold.

Mr. President, I want to just again refer to the studies that were done by the various State organizations, insurance associations and their review of what is happening on medical malpractice insurance in their particular States. One of the States that they have reviewed is a State that has a number of the features that have been included in the McConnell amendment, and this is what they point out.

In 1991—and I will include the appropriate parts of this study in the RECORD for reference for Members over the weekend—in 1991, insurers writing medical malpractice insurance in the United States earned a return of $1.419 billion or 15.9 percent of net worth. This is the profit after dividends to doctors and hospitals of 4.2 percent, over $200 million. Investment income amounts to almost 50 percent of premium, due to lost reserve. Economists testified in insurance rate matters that returns of 13 to 16 percent on net worth are appropriate for this line of insurance. Here it is for this line of insurance, 13 to 16 percent guaranteed. I think most Americans would want to have that kind of investment if they could be assured of that kind of profit.

According to studies undertaken by the California Department of Insurance, properly capitalized insurers should hold only about a dollar of net worth for every dollar of premium for this line of insurance. This is medical malpractice. Had insurers not retained so much previous profit, America's medical malpractice insurance return on net worth would have been 29.2 percent. Mr. President, 29.2 percent—a remarkable high return—which is almost double the profit required to reward the risk of underwriting medical malpractice. And in the six States that undertook tort reform, studied by the GAO office, profits in 1991 averaged 122 percent above the national average, implying possible insurer profiteering in these States.

(Mr. SANTORUM assumed the chair.)

Mr. KENNEDY. It is those provisions which are basically and fundamentally included in the McConnell amendment, at a time when you have 100,000 Americans that are dying, you have no pressure in terms of the increased premium costs, a decline in judgments and in the number of cases that are brought. And in the six States which have effectively brought about these kinds of no joint and several—the collateral charges, the limits on the fees for doctors and all the rest, they are having 122 percent above the national average. Here we are debating a health matter before the U.S. Senate, with all of the health issues that are affecting working families in this country, for all those parents that are going to go home tonight and wonder whether they are going to still have jobs because of downsizing or cutbacks in defense, or because of all the challenges in our economy, wondering whether they are going to have it; or whether those families know whether they are going to get it tomorrow, or the 800,000 new children are not covered on the basis of last year alone.

Here we are taking action that is going to provide that kind of a guarantee to the insurance industry. I thought we were here to represent the working families, working men and women, the children, the older people. We hear the reports that are coming out of our Budget Committee about further cutbacks in Medicare for elderly people. That is an enormously important problem. I think we ought to have some adjustments if it is part of an overall and comprehensive reform. But here in the first order of business in the Senate we are looking out after these insurance companies. This has to be a matter that must be of concern to all Americans.

I will include the segments of the most recent report which came out in the last 2 days, Mr. President. I will mention just one interesting observation about the most recent reports. Insurance companies have now reduced malpractice liability premiums commensurate with a drop in malpractice claims payments in recent years in California and the Nation. Insurance companies have reaped excessive profits—in 1993, paid out 38 cents of every premium dollar.

Well, Mr. President, that is what we are addressing here. We will hear a great deal about, well, can we not do something about the person that is the victim of malpractice? Yes, we can and we should. That is why out of our Human Resources Committee last year we came out urging the States to have alternative dispute resolutions, and to build on the existing programs adopted in the States that go for early resolutions, to experiment with practice guidelines and enterprise liability, even no-fault liability programs, all of those matters to try and look out after the consumer. All of that has passed and gone out. All of that experimentation is out. All of the efforts to try and prevent malpractice, all of those are out. All we are dealing with is bottom-line issues. What is going to happen on the bottom line for those medical insurance companies? That is the issue. Let us not fool ourselves about it.

A recent article that gives a characterization of malpractice coverage in a stable condition says this—and this is Business Insurance, March 28, 1994, 2 months ago:

> Insurers view medical malpractice, hospital professional liability, and related coverage as profitable lines these days, Broker says. In fact, some insurers are looking to increase malpractice accounts in an attempt to offset the meager earnings in the commercial market.

There is more capacity and there are more players than 3 years ago. More market and capacity than there were 3 years ago. It seems like every month a new insurer wants to underwrite medical liability and coverage for health care organizations.

Is this what we are hearing from our colleagues that are crying crocodile tears about all of our specialties that cannot do it and are not able to serve our poor, underserved people in this country? That is hogwash. See what the insurance industry says, not what some of us who have serious concerns about this whole kind of approach say. Look at what Business Insurance says about it. It seems like every month a new insurer wants to underwrite medical liability coverage for health care organizations. As long as companies are making profits that exceed the average property casualty profit line, they will want to underwrite this coverage.

In other words, boys and girls, you want to get on the gravy train, get on the malpractice gravy train, as it is today. We are going to even make it better for you with the McConnell amendment.

Mr. President, we must have other measures which are of greater urgency and importance for us to be addressing than that particular measure.

It seems to me that at the appropriate time—and I see others that want to address the Senate—I will offer the amendment which I offered in the committee, which basically was the substitute amendment which was accepted unanimously last year in the Human Resources Committee by all Republicans and Democrats.

Let me tell you what it is about. It is a reasonable question to say, all right, we know what you are against. We have problems. What are you for?

Let me briefly summarize what this amendment would do.

The amendment that I will offer at an appropriate point is identical in content to the malpractice reform subtitle of the health care reform, favorably reported by the Labor Committee. It seems to me that this is the appropriate vehicle to report to the full Senate because it was the product of carefully measured bipartisan deliberation. In that regard, it stands in sharp contrast to what the measure is that is before the Senate this evening.

Many of the current members of the Labor Committee will remember that we spent the better portion of 2 days thoroughly discussing and improving the malpractice title of the health care bill. For example, there was considerable debate about the preemption issue. We resolved that by accepting a Coats amendment striking preemption language that had been in the original mark.

It was a debate in a series of amendments regarding attorneys' fees and the result was a deliberative process. We limited those fees from the percentage that originally appeared in the Clinton bill. We sharpened the State demonstration programs authorized in the bill, adding a proposal by Republicans to explore no-fault liability programs. That said, if you have injury, you are able to collect right away; you do not have to prove negligence, and you can be reimbursed right away. It will not be as much as if you had gone through a court procedure, but you will get resources quickly in response to medical injury. A few States are doing that. We are encouraging that as a way to assist fellow citizens and to see whether it works. Eventually, we reached a bipartisan consensus on sensible medical malpractice reform provisions.

There are some who wish to go further in the area of damage caps, which my impression of the language in that subtitle, was broadly acceptable to every member of the committee.

The reforms the Labor Committee approved last year included mandatory alternative dispute resolutions; a limitation on attorney's contingency fees, collateral source reduction, periodic payments of awards, a State option to require certificates of merit before filing actions, and State demonstration projects to determine alternative approaches to malpractice.

These are meaningful, major kinds of reforms to the system that we had, and not only with regard to the malpractice. We had important and significant reforms in the areas of preventive health care, which I will not get into at this time.

These are the provisions we all agreed upon. They are sane, rational reforms which we crafted ourselves over lengthy bipartisan deliberation.

Although I would greatly prefer to see them included in a far more reaching health reform bill that would guarantee health security, they remain acceptable to me as an alternative to the measure which we are considering on the floor of the Senate. They will improve the malpractice system without unduly limiting the right of consumers to compensation for injuries sustained as a result of negligent medical care.

I submit that it is preferable to adopt these carefully consider reforms, rather than rushing to approve a bill that we have not sufficient time to address.

Now, Mr. President, it seems to me that that is a responsible, thoughtful product of give and take by Members, that come here with a wide variety of different thinking on the issue of malpractice reform.

We saw considerable debate that took place for a day and a half in our committee. We were able to make some adjustments. Still, it was not reported out in a bipartisan way. Nonetheless, we made some progress. That has effectively been discarded.

At an appropriate time I will offer that amendment perhaps as a second-degree amendment to the McConnell amendment. An additional amendment, Mr. President, that I intend to offer, would make clear that the reforms in this bill do not preempt State law.

I see the Senator from West Virginia. I have about 10 more minutes. If the Senator had a statement or intervention to make, I would be glad to yield, but otherwise if it is agreeable, it would be about 10 more minutes.

The preemption amendment would make clear that the reforms in the bill do not preempt State law, but apply in situations where there is no relevant State law. But where a State legislature has enacted a reform or affirmatively chosen not to enact to reform, the State's choice would prevail.

We hear much from the new majority in Congress about the States rights and the decentralization of power. We see proposals to turn over the administration of Federal entitlement programs to the States in the form of block grants, and we are told that there is much wisdom in State governments which are closer to the people than the Federal Government. However, in this bill, the opposite philosophy prevails.

Suddenly States cannot be trusted. States cannot even be allowed to write the laws to govern consideration of tort cases that have been their responsibility for over 200 years, about 100 years, recognized in court opinion.

Apparently in this area, Congress has all of the answers. It is especially strange that this bill preempts State laws very selectively. Only laws that benefit consumers are preempted, while those that benefit doctors and insurance companies are allowed to stand. Preemption of State tort laws is generally disfavored, but this result-oriented brand of preemption is especially unfair. One sided preemption. One sided.

We can make the case on the issues of tort that States should be able to make their own judgments. That is certainly the conclusion that we reached last year. However, in this particular program they say, all right, the States can make it as long as they are making what is favorable to the industry and not the consumer. That is the bottom line.

It is one-way preemption against the consumer, against those working families, against those children, against those parents, in favor of those insurance companies that are making the record profits.

There is a product liability bill on the floor, and I have serious concerns about many aspects, but at least there is a plausible basis for Congress to create Federal standards to govern the liabilities of manufacturers who sell products in a nationwide market.

Undoubtedly, interstate commerce is at stake in the context of product liability, but the medical malpractice is typically a legal dispute between an individual, between his and her doctor, within the boundaries of a single State. Interstate commerce is hardly at the heart of the transaction, so there is no justification for imposition of Federal standards.

When we considered malpractice in last year's health bill, Members of both sides of the aisle were anxious to protect the reforms that their legislatures had enacted. Everyone recognized the need to proceed slowly for overturning 200 years of law in 50 States, and by unanimous vote we deleted that language that would have preempted inconsistent State lawsuits.

The amendment basically carries forward that valuable lesson from last year's debate that States that the basic principle, that this bill does not preempt State law. If a State has taken no action in a particular area, this Federal law will apply; but if a State has found a better way to address a problem in light of conditions in that State, we should not substitute a Federal solution in a field that States have occupied for 200 years of American history.

So there would be a preemption amendment. I would hope that this would be successful. There are other approaches that have been mentioned, by Senator ABRAHAM and others, who have addressed that.

Finally, I would just say that many were absolutely amazed at the inclusion of a loser-pays concept, included in the legislation which was included in the bill that was before our committee. I understand it has been changed. I think, wisely so.

We could be in the extraordinary case where an individual was able to win their case in the courts, and because they had not accepted a previous kind of offer, effectively would have been required to pay the attorney's fees for the other side, even though they got a finding that there had been negligence and they had been endured medical malpractice.

Now, the loser-pays system has been a part of English law. There is an excellent article from the bar association, recently pointed out, and as the Economist magazine, one of the distinguished magazine commentaries both on American and English public affairs has pointed out, they are moving in the direction of the United States for well-documented reasons. And that is because the unfairness and injustice that that creates.

We had a proposal before to move in their direction. It was not enough to have the punitive damage caps or the repeals of joint and several, which have been out there for many years which had loser pay. We had one-way preemption and we have no access to the data bank.

That was the major flaw—the cap on punitive damages, no matter how egregious the circumstance was going to be, in spite of the high standard that would have to be reached in order to be able to claim punitive damages, the repeal of joint and several so that even in a circumstance we could see the tragic circumstances where that individual in Florida that lost one leg, he was also a diabetic, so he was disabled. Hence, he did not have the loss of much wages and economic damages. Since he is getting disability, the disability was paying in, that would be an offset to what the insurance would have to pay if there was negligence in that particular case. That is absolutely crazy. That is absolutely crazy.

Those are the kinds of circumstances. When we have joint and several, and we eliminate those, and we eliminate the payment, the legitimate payment, to those individuals that ought to be decided on the basis of the jury, someone pays—and it is the American taxpayers—$60 billion. That is who ends up paying, if the insurer that is supposed to provide that kind of coverage, and is obligated to do so, if they are in the insurance business, does not do so.

We also know the dangers of adding onto that the collateral provisions, which in many instances diminishes in a dramatic way the payments to individuals who otherwise would be entitled to payments in a court of law. That has been a factor.

Then one of the most extraordinary matters we were facing in our bill is, even if you got the punitive damages, if you were able to get some punitive damages, part of those punitive damages were going to go to fund some quality control measures. That made absolutely no sense at all.

So I hope we will have a chance. We are glad to work with the leadership to try to get an orderly way of addressing some of these issues. It is not our intention—at least not my intention—to delay Senate action. But I do think we just had the measure that came up this afternoon when many of us were over on the Judiciary Committee. My colleague, Senator SIMON, and other members of our committee were at the Judiciary hearing on terrorism; and we had the mark-up on the Judiciary Committee earlier today on regulatory reform, which a number of us are involved in. We want to meet our responsibilities. But on important measures like this, the Senate is entitled to at least give some consideration to matters which are going to have an enormous impact on fairness and on justice and on the quality of health care for the American people.

One of the aspects of health challenges that we are faced with—we have the issue of access and the availability of health care. We have the costs of health care, the fact that it continues to rise. From $1 trillion, it will double by the year 2002 to $2 trillion. We have to do something about getting a handle on those health care costs. We have to do something in terms of making it available, particularly to the children. Of the 40 million people who have no health care coverage, about 15 million children in our country have no health care coverage. We have to do something about those. But we have to do something about quality as well, and this is something that deals with quality and it is a step backwards, not a step forward. And it should not be accepted.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, what is interesting about all of this is that the business at hand is something called the Product Liability Fairness Act. I want to be very frank about my disposition towards the amendment which is at this moment before us.

This is not a unique situation in the Senate. Senators have the right to come forward and offer amendments to legislation that are outside the scope of the legislation before the Senate. We have seen that done ever since I came to the Senate, from both sides of the aisle. And sure enough, Senators from Kentucky and Connecticut and Wyoming are using their rights to ask the Senate to decide whether to attach a series of provisions dealing with malpractice to a bill dealing solely and only with product liability.

An entire day disappears. Whether there is passage or not, it will not be a part of the final version of this legislation. It will get vetoed, it will get taken out one way or other. It is an exercise of folly, which is sad. And I will express my views.

I am deeply committed, as committed as anybody in this body, to health care reform. And I see malpractice reform as an integral part of the solution to the crisis that faces the self-esteem and the condition of our physicians, our hospitals, and the American people, and I think of those in my own State of West Virginia in particular.

Mr. President, I have watched the Senate come very close to the point where we might enact a product liability bill during the past 6 years. We actually got 60 votes several years ago; 60 was written down on the table here in front of us. The majority leader at that time, under the rules, stopped the vote and we spent the next 45 minutes while he found two Senators who had voted yes to change their votes to no. So we lost.

Now that we have 20-minute votes, that is much harder to do. I am very happy for that. But we have come very close. And I take product liability reform extremely seriously. I think it is something that needs to happen both for consumers and for businesses in this country. I think it is important for America. I think it is important for the American people. I take product liability seriously and anything which comes in the way of product liability, and a chance—and perhaps the last chance that we ever have—to assemble a coalition that is willing to go for this. Now we have other amendments.

You have to understand, as I am sure the President does, that people better start making a decision around here. Do you want to have the fun of making wonderful speeches and putting on what I think is very good legislation, amendments in terms of malpractice reform? Or do you want to have product liability? You are probably not going to have both.

Today has been interesting. I did not schedule a lot because I thought we were going to be dealing with product liability, and all of a sudden we are dealing with something called malpractice reform that has to do with health care.

Now the Senator from Massachusetts is talking about a whole series of amendments, so I assume this will go on for a long time. There are some people in this body who have not yet quite decided whether this bill, called product liability reform, is in fact good public policy. That may be more on this Senator's side than the side of the Presiding Officer. But there are some people who have not quite decided whether this bill should be used to enact good public policy on product liability.

Or are we just making points about other things that we are interested in? Which I might be interested in. But at some point people have to make a choice. Are we going to do product liability or are we going to do a whole series of things which then end up negating the chance to get product liability?

I have been working on product liability for 9 years; some have for 13. I made a variety of tabling motions yesterday to express very clearly my view about that. In fact, there was one that was a Heflin-Rockefeller amendment, which does not comport with the natural tendencies that surround product liability. I am trying to make the point that I want this to be a pure product liability bill.

The Senator from the State of Washington, Senator GORTON—extraordinarily skillful, extraordinarily insightful, extraordinarily disciplined—believes, as I do, that if we are going to get 60 votes to stop the filibuster that will surely be there and will come at some point, it is going to be very close. And he agrees that we should focus, as I agree we should focus, on product liability.

It is a very complicated subject. It is a very complicated subject to explain, particularly when explained by a nonlawyer such as myself, much less a skilled lawyer such as my colleague from the State of Washington.

The majority leader can schedule a separate time, its own special time to take up malpractice reform such as the malpractice reform legislation that, in this case, was adopted just on Tuesday by the Senate Labor Committee. But in good conscience I, as manager on the Democratic side of the aisle, cannot take the risk when the chances are good of enacting product liability reform, making reforms to a broken, dysfunctional product liability system—that these will all be torn asunder, weakened, scattered about by a series of other amendments, in this case dealing with a very, very important subject called malpractice reform. I do not have any choice but as to my conclusion, and at the appropriate time I will move to table this amendment and the underlying amendment, and other amendments associated with it. I have no choice.

With cosponsors from both sides of the aisle, with a long history of strong support in this body, Senator GORTON and I have been on this floor all week talking about our rather grave concern about the problems in the current patchwork of unpredictable, unfair matters associated with product liability. This Senate has before it a very carefully constructed bill to improve the system to make it less costly, to make it more predictable, to make it more fair for everyone. And enacting product liability reform is what I believe the goal should be for the Senate at this moment, as of all of this day, as of all of the moments that remain.

Yesterday, as I indicated, we moved to table a number of amendments which were related to a legal system and lawyers, but were beyond the scope of product liability legislation. So I moved to table them. The malpractice reform amendments offered today are analogous to previous broadening amendments which were offered and then tabled.

I hope that we can reach an agreement on a course of action that provides for a meaningful debate on the pros and cons of malpractice reform, and in the near future. As I have indicated, I think if we could do this before July 4, it would be very, very good. That might be an option which would address any concern that there will not be another timely opportunity to deal with malpractice reform.

The medical community in my State wants malpractice reform more than anything else that exists. They want it desperately. I also do. Given another moment on another day, a bill in the range of what has been presented this day would have my vote; that is, the kind of amendment on malpractice which has been presented by Senator MCCONNELL would have my vote. I would argue for it vociferously. I might disagree with some of the points that have been made about it, but not the majority of its provisions. I hear from doctors all the time, I hear from hospitals all the time about the importance of malpractice reform to them as essential health care professionals in my State. We have had ongoing dialog on this issue, and I know I can say that I understand what they want. I understand the problems of health care.

I have done a lot of work on health care over the last 8 years or so. I very much want to be able to improve the climate for practicing medicine in West Virginia for all providers. I want to do all I can to make sure that we have an adequate supply of all needed health care professionals in my State, particularly OB-GYN's and health care providers which are in short supply in almost every county—in some counties in the State of the Presiding Officer; in most counties in my State.

I also believe good malpractice reform will help improve the quality of health care services in my State, malpractice reform can be in the best interests of patients and their health care professionals alike.

What is interesting is that malpractice is also a state of mind preventing a lot of people from going into medicine. There are a lot of doctors now who have told me they do not want their sons or daughters to go into medicine. It is not worth it, they say. Every patient they face is a potential litigant. We are a litigious society, sadly and shockingly so.

Yesterday, I had a long visit with Dr. Jim Todd, executive director of the American Medical Association; Dick Davidson, of the American Hospital Association; and Tom Skully, of the Federation of American Health Systems, another group representing a large number of hospitals in this country. They said nationwide the doctors and hospitals whom they represent, and that is a very large collective membership, want strong malpractice reform enacted as soon as possible. I shared with them my strong desire to help toward passage of that end. But let me say that we cannot do both things at the same time.

If we pass medical malpractice and it is incorporated into the product liability bill, some votes from this side will fall off and the entire tree will collapse. You put too many decorations on a Christmas tree, and at some point the bow simply falls and everything drops off.

I do not think it is very complicated. I think this really is a test of who wants product liability reform and who does not. I can understand the opponents of product liability reform adding on all kinds of amendments. I can understand that to deter, to generally scatter attention, and to dilute. But I cannot understand those who favor product liability doing that.

This is not just a question of the House agenda, the Contract With America. There is a lot of concern on my side, Mr. President, about this bill—it is very real on my side—that it is going to be loaded up with what came over from the House. I think one of the things that the other side is learning now is that, if they were to put forward a series of amendments, they will not get as many votes as they thought they would, and the votes really will not be there to do the job. It will not be there on our side, almost for certain, and they will not be there on the other side.

So here we are. I may not agree with every provision of malpractice reform advanced by some. But I want to see it done. I want that clear. This is, in a sense, my issue as much as any issue in this body. I have physicians, hospitals, and others—and patients in West Virginia—who need to have this happen. I just want to be certain that no one misunderstands my position. Despite the concern that other Members have expressed about attaching malpractice reform onto product liability, I have no intention of ducking the issue of the need to deal with malpractice reform. I understand what is going on.

I am interested in why the Senator from Kentucky chose to offer his original malpractice bill as an amendment as opposed to what was marked up in the Labor Committee. The majority of the provisions of Senator McCONNELL's bills are ones which most of us supported in the past on one piece of legislation or another. I am also interested in hearing the rationale for Senator THOMAS' second-degree amendment regarding rural care.

But, in the end, I just return to Senator McCONNELL's underlying malpractice reform amendment and I say, do we not have to choose? I feel we do. We cannot have it both ways. I fear that, if this amendment, as much as I might be interested in it, were to prevail, it would peel off votes from my side of the aisle, and product liability would lose. I do not want that to happen. The Senator from Washington does not want that to happen. It has been our pledge from the beginning that we are going to try to keep this bill as clean as possible; clean—only product liability. Anything outside, we work against.

So I hope my views on this are understood. I repeat that at the appropriate time, I will move to table the various amendments that deal with this subject.

I thank the Presiding Officer and I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I wish to comment just briefly on the comments of the minority manager of the bill. I wish to assure him that coming from a State that suffered as much from the problems of product liability reform, having lost much of our machine tool industry and a big cause of that being the big differences between the liability of our own businesses in this country and those of our foreign competitors, I will not do anything in any way to destroy the opportunity to have product liability pass, and I think I speak for the Members on my side of the aisle.

However, I feel I must bring to his attention and the attention of my colleagues that there is a very noncontroversial aspect of the McConnell amendment which, if passed, would move us a long way toward two very important matters in the health care area. First of all, it would assist in preventing medical malpractice, which is probably the most important thing we can do. What we want to do is to provide the opportunity to gather the information which would be necessary to be able to prevent the occurrence of malpractice by having sufficient guidelines and information available to doctors so that the number of incidents of malpractice will be decreased.

And second is to protect consumers. We are moving into an area right now where we have managed care throughout this country. Health care reform is going on. Notwithstanding the fact that we failed to pass anything of any substance last year, health care reform is going on. But the managed care concept raises real serious problems for consumers as to how they can be protected when they get into situations where choice of the doctor may not be what they intend or even available to them. How can they get information on what is available to see if the care they are going to get or the doctor or physician they have is one that is qualified?

So I am referring to a part of the McConnell amendment that is under subtitle B that is called "Protection of the Health and Safety of Patients," and most particularly section 32, which is entitled, "Quality Assurance, Patient Safety, and Consumer Information."

We are now in the information age, and with all of the computer internets, all the information that is able to flow back and forth, we have an opportunity to give to the health care providers the ability to know what is good care and what is not good care, to have information on outcomes to be able to determine as to what should be done and what is good care and what is not good care.

All this bill does is to provide an organized system for obtaining this information in various ways and making it available for those purposes. No one disagrees with that.

So I would hope, if nothing else, we can include these things which are totally noncontroversial to this bill if it should prove the malpractice provisions otherwise might bring the bill down. What it does is establish an advisory panel to coordinate and evaluate methods, procedures and data to enhance the quality, safety and effectiveness of health care services provided to patients. No one disagrees with that.

In order to do that, the panel that would be set up will assure that the members of the panel include representatives of the public and private sector, entities having expertise in quality assurance, risk assessment, risk management, patient safety and patient satisfaction.

What it does, it establishes these objectives, again for which there is absolutely no problem with anyone.

The survey shall include gathering data with respect to, first, performance measures of quality for health care providers and health plans; second, developments in survey methodology, sampling, and audit methods to try to determine what is going on; third, methods of medical practice and patterns and patient outcomes; and fourth, methods of disseminating information concerning successful health care quality improvement programs, risk management and patient safety programs, practice guidelines, patient satisfaction and practitioner licensing, all things we know are essential to be able to give us the kind of information we must have to protect the consumer and as well to give guidance to the medical profession to reduce the opportunity for malpractice.

In addition, "the administrator shall * * * establish health care quality assurance, patient safety and consumer information guidelines. Such guidelines shall be modified periodically. Such guidelines shall be advisory in nature and not binding."

So we are not doing anything that anyone can disagree with but will be so important to provide the information that is necessary, made available through internets and whatever else, to ensure that we are getting the best care possible that is available. So I do not think anyone can disagree with these provisions which the McConnell substitute attempts to accomplish.

So I would urge my colleagues, be assured that there are many good things that are noncontroversial and very important to the improvement of our health care system which are in the McConnell substitute and which are not things that should give us any concern at all.

So I hope, as we go forth here, if the minority manager of the bill is correct in that malpractice is going to be so controversial that it will not pass, that something which the sooner we get started the sooner we will be able to prevent medical malpractice and the sooner we give protection to consumers ought to go forward in some way along with this bill rather than have to wait, so that we can get to the business of providing that kind of information and that kind of assistance to both practitioners and to consumers.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, might I ask, are there other colleagues who want to speak right now? If not, I wonder if I could suggest the absence a quorum for a moment with the understanding that I would have the floor.

Mr. DOMENICI. Mr. President, I am going to speak at length, but I would like to take 2 minutes now and then I will sit down and come back later or whatever time is available. Could I do that?

Mr. WELLSTONE. Mr. President, that would be fine.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, later on I will speak to the overall issue of judicial and jury reform as it applies to civil litigation in the United States, but I thought I might just tonight express for the Senators at least what my head tells me about this system. I was looking around for some judicial stalwart who might have addressed the issue, and I found that Supreme Court Justice Lewis Powell described punitive damages as follows:

> It invites punishment so arbitrary as to be virtually random.

Now, the reason I bring that up is because I believe that it is absolutely true, and so what we get in certain advertisements across the country and in statements in the Chamber, is the random damage award that was proper or somewhat proper. But we do not hear the hundreds that were randomly wrong, wherein the jury was taken advantage of by emotions and awarded huge punitive damages when they were not warranted. We also don't hear about the even bigger issue of what this does overall to our litigation system. Clearly it invites more litigation because the random winner may be a big winner.

Now, what does the random nature of the potential for a big win mean to our litigation system? Mr. President, it means cases get settled that are not worth anything. That is obvious. A company has to settle lawsuits because they cannot take the chance of the random verdict.

Now, I am very pleased that Justice Powell said it that way. I have said it is the worst way to regulate human behavior in America. If you are trying to find standards to have people hold their performance to, the worst way is to ask juries to set the standard. For nobody knows what it will mean and clearly juries have all the latitude in the world when you add punitive damages to the system. It leaves all kinds of impressions with those who are supposed to be bound in some way, by changing their conduct to a high or better standard.

Now, the Justice went on to say the following, which sort of hits my last remarks: Because juries can impose virtually limitless punitive damages, in Justice Powell's words, they act as—And I say this to my good friend from Washington, let me quote it perfectly as he said it—they act as a "legislator and judge without the training or experience or guidance of either."

That is a pretty good way to say it. Who told juries what the standard of conduct is or what a company ought to pay if they violate some kind of standard of the ordinary man or ordinarily prudent man? No one. So they are told that by words that lawyers express, when they are not trained in the law and they are not trained in what kind of damages we ought to extract from people who do not behave according to a norm.

So I come to the floor to laud those who are looking for reform in this system. And I specifically tonight just had a few remarks with reference to punitive damages. Clearly, there are cases where punitive damages should lie. On the other hand, there is not going to be a perfect solution to the dilemma we find ourselves in. If we conclude that since we cannot come up with a perfect system on punitive damages since there are a few cases that are entitled to extraordinary kinds of punitive damages for one reason or another, that we cannot solve that problem, we will never do anything.

We will leave in place a system that is so arbitrary as to be virtually random. We will run around this country talking about that as if it were a real, bona fide, honest-to-God system when it is nothing like that. It is so arbitrary as to be virtually random. And that is no system. That is no system of assessing damages.

Mr. President, obviously I have not been down here during the past week. Some will probably say, "You have already said enough." But obviously, I will say a little more, because I have some pretty strong feelings about it.

I close with a parting shot. I wonder if our Founding Fathers and the common law of England from which we continue to say we derived all these marvelous rights, I wonder if they ever would have had in mind that we would send a malpractice case of the type we are sending the juries, or product liability of the type we are sending to the juries. I believe if you had asked the Founders, they would have said, "Of course not. They ought to be arbitrated by people who know something about it."

I yield the floor.

Mr. WELLSTONE. Mr. President, I had a chance to speak at some length today, so I will not respond to my colleague from New Mexico. I appreciate his remarks. I tell him as a good friend, I should have known when he said it would be 2 minutes, it would be a little more than 2 minutes. But he is eloquent and he is a very, very important voice here in the Senate.

Mr. President, I ask unanimous consent that the Thomas amendment be set aside so that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Senator from Washington.

AMENDMENT NO. 605 TO AMENDMENT NO. 603

(Purpose: To modify provisions regarding reports on medical malpractice data and access to certain information)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 605 to the McConnell amendment No. 603.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section ___32(c)(1) of the amendment, strike subparagraph (B) and all that follows through the end of the section and insert the following:

(B) an estimation of the degree of consensus concerning the accuracy and content of the information available under subparagraph (A); and

(C) a summary of the best practices used in the public and private sectors for disseminating information to consumers.

(2) INTERIM REPORT.—Not later than 1 year after the date of enactment of this title, the Administrator shall prepare and submit to the Committees referred to in paragraph (1) a report, based on the results of the advisory panel survey conducted under subsection (a)(3), concerning—

(A) the consensus of indicators of patient safety and risk;

(B) an assessment of the consumer perspective on health care quality that includes an examination of—

(i) the information most often requested by consumers;

(ii) the types of technical quality information that consumers find compelling;

(iii) the amount of information that consumers consider to be sufficient and the amount of such information considered overwhelming; and

(iv) the manner in which such information should be presented;

and recommendations for increasing the awareness of consumers concerning such information;

(C) proposed methods, building on existing data gathering and dissemination systems, for ensuring that such data is available and accessible to consumers, employers, hospitals, and patients;

(D) the existence of legal, regulatory, and practical obstacles to making such data available and accessible to consumers;

(E) privacy or proprietary issues involving the dissemination of such data;

(F) an assessment of the appropriateness of collecting such data at the Federal or State level; and

(G) the reliability and validity of data collected by the State medical boards and recommendations for developing investigation protocols.

(3) ANNUAL REPORT.—Not later than 1 year after the date of the submission of the report under paragraph (2), and each year thereafter, the Administrator shall prepare and submit to the Committees referred to in paragraph (1) a report concerning the progress of the advisory panel in the development of a consensus with respect to the findings of the panel and in the development and modification of the guidelines required under subsection (b).

(4) TERMINATION.—The advisory panel shall terminate on the date that is 3 years after the date of enactment of this title.

SEC. ___33. REQUIRING REPORTS ON MEDICAL MALPRACTICE DATA.

(a) IN GENERAL.—Section 421 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131) is amended—

(1) by striking subsections (a) and (b);

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(3) by inserting before subsection (d) (as redesignated by paragraph (2)) the following subsections:

"(a) IN GENERAL.—

"(1) REQUIREMENT OF REPORTING.—Subject to paragraphs (2) and (3), each person or entity which makes payment under a policy of insurance, self-insurance, or otherwise in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim shall report, in accordance with section 424, information respecting the payment and circumstances of the payment.

"(2) PAYMENTS BY PRACTITIONERS.—Except as provided in paragraph (3), the persons to whom paragraph (1) applies include a physician, or other licensed health care practitioner, who makes a payment described in such paragraph and whose act or omission is the basis of the action or claim involved.

"(3) REFUND OF FEES.—With respect to a physician, or other licensed health care practitioner, whose act or omission is the basis of an action or claim described in paragraph (1), such paragraph shall not apply to a payment described in such paragraph if—

"(A) the payment is made by the physician or practitioner or entity as a refund of fees for the health services involved; and

"(B) the payment does not exceed the amount of the original charge for the health services.

"(b) INFORMATION TO BE REPORTED.—The information to be reported under subsection (a) by a person or entity regarding a payment and an action or claim includes the following:

"(1)(A)(i) The name of each physician or other licensed health care practitioner whose act or omission is the basis of the action or claim.

"(ii) To the extent authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.), the social security account number assigned to the physician or practitioner.

"(B) If the physician or practitioner may not be identified for purposes of subparagraph (A)—

"(i) a statement of such fact and an explanation of the inability to make the identification; and

"(ii) the name of the hospital or other health services organization for whose benefit the payment was made.

"(2) The amount of the payment.

"(3) The name (if known) of any hospital or other health services organization with which the physician or practitioner is affiliated or associated.

"(4)(A) A statement describing the act or omission, and injury or illness, upon which the action or claim is based.

"(B) A statement by the physician or practitioner regarding the action or claim, if the physician or practitioner elects to make such a statement.

"(C) If the payment was made without the consent of the physician or practitioner, a statement specifying such fact and the reasons underlying the decision to make the payment without such consent.

"(5) Such other information as the Secretary determines is required for appropriate interpretation of information reported under this subsection.

"(c) CERTAIN REPORTING CRITERIA; NOTICE TO PRACTITIONERS.—

"(1) REPORTING CRITERIA.—The Secretary shall establish criteria regarding statements described in subsection (b)(4). Such criteria shall include—

"(A) criteria regarding the length of each of the statements;

"(B) criteria for entities regarding the notice required by paragraph (2), including criteria regarding the date by which—

"(i) the entity is to provide the notice; and

"(ii) the physician or practitioner is to submit the statement described in subsection (b)(4)(B) to the entity; and

"(C) such other criteria as the Secretary determines appropriate.

"(2) NOTICE OF OPPORTUNITY TO MAKE A STATEMENT.—In the case of an entity that prepares a report under subsection (a)(1) regarding a payment and an action or claim, the entity shall notify any physician or practitioner identified under subsection (b)(1)(A) of the opportunity to make a statement under subsection (b)(4)(B)."; and

(3) by adding at the end the following new subsection:

"(f) DEFINITIONS OF ENTITY AND PERSON.—For purposes of this section—

"(1) the term 'entity' includes the Federal Government, any State or local government, and any insurance company or other private organization; and

"(2) the term 'person' includes a Federal officer or a Federal employee.".

(b) DEFINITION OF HEALTH SERVICES ORGANIZATION.—Section 431 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11151) is amended—

(1) by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively; and

(2) by inserting after paragraph (4) the following paragraph:

"(5) The term 'health services organization' means an entity that, directly or through contracts or other arrangements, provides health services. Such term includes a hospital, health maintenance organization or another health plan organization, and a health care entity.".

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.) is amended—

(A) in section 411(a)(1), in the matter preceding subparagraph (A), by striking "431(9)" and inserting "431(10)";

(B) in section 421(d) (as redesignated by subsection (a)(2)), by inserting "person or" before "entity";

(C) in section 422(a)(2)(A), by inserting before the comma at the end the following: ", and (to the extent authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.)) the social security account number assigned to the physician"; and

(D) in section 423(a)(3)(A), by inserting before the comma at the end the following: ", and (to the extent authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.)) the social security account number assigned to the physician or practitioner".

(2) APPLICABILITY OF REQUIREMENTS TO FEDERAL ENTITIES.—

(A) APPLICABILITY TO FEDERAL FACILITIES AND PHYSICIANS.—Section 423 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11133) is amended by adding at the end the following subsection:

"(e) APPLICABILITY TO FEDERAL FACILITIES AND PHYSICIANS.—

"(1) IN GENERAL.—Subsection (a) applies to Federal health facilities (including hospitals) and actions by such facilities regarding the competence or professional conduct of physicians employed by the Federal Government to the same extent and in the same manner as such subsection applies to health care entities and professional review actions.

"(2) RELEVANT BOARD OF MEDICAL EXAMINERS.—For purposes of paragraph (1), the Board of Medical Examiners to which a Federal health facility is to report is the Board of Medical Examiners of the State within which the facility is located.".

(B) APPLICABILITY TO FEDERAL HOSPITALS.—Section 425 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11135) is amended by adding at the end the following subsection:

"(d) APPLICABILITY TO FEDERAL HOSPITALS.—Subsections (a), (b), and (c) apply to hospitals under the jurisdiction of the Federal Government to the same extent and in the same manner as such subsections apply to other hospitals.".

(C) MEMORANDA OF UNDERSTANDING.—Section 432 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11152) is amended—

(i) by striking subsection (b); and

(ii) by redesignating subsection (c) as subsection (b).

SEC. ___34. ADDITIONAL PROVISIONS REGARDING ACCESS TO INFORMATION; MISCELLANEOUS PROVISIONS.

(a) ACCESS TO INFORMATION.—Section 427(a) of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137(a)) is amended to read as follows:

"(a) ACCESS REGARDING LICENSING, EMPLOYMENT, AND CLINICAL PRIVILEGES.—The Secretary (or the agency designated under section 424(b)) shall, on request, provide information reported under this part concerning a physician or other licensed health care practitioner to—

"(1) State licensing boards; and

"(2) hospitals and other health services organizations—

"(A) that have entered (or may be entering) into an employment or affiliation relationship with the physician or practitioner; or

"(B) to which the physician or practitioner has applied for clinical privileges or appointment to the medical staff.".

(b) ADDITIONAL DISCLOSURES OF INFORMATION.—Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended by adding at the end the following subsection:

"(e) AVAILABILITY OF INFORMATION TO PUBLIC.—

"(1) REPORTS, GUIDELINES AND REGULATIONS.—

"(A) INITIAL REPORT.—Not later than 3 months after the date of enactment of the Health Care Liability Reform and Quality Assurance Act of 1995, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report that contains recommendations for improving the reliability and validity of such information.

"(B) GUIDELINES AND REGULATIONS.—Not later than 180 days after the date of enactment of the Health Care Liability Reform and Quality Assurance Act of 1995, the Secretary shall establish guidelines and promulgate regulations providing for the dissemination of information to the public under sections 421, 422, and 423 of the Health Care Quality Improvement Act of 1986. With respect to such guidelines and regulations the Secretary shall determine whether information respecting small payments reported under section 421 shall be disclosed to the public. In addition, the Secretary shall ensure that such information shall include information on the expected norm for information reported under such section 421 for a physician's or practitioner's specialty. Such expected norm shall be based on assessments that are clinically and statistically valid as determined by the Secretary, in consultation with individuals with expertise in the area of medical malpractice, consumer representatives, and certain other interested parties that the Secretary determines are appropriate.".

(c) CONFORMING AMENDMENTS.—Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (b)(1), in the first sentence, by striking "Information reported" and inserting "Except for information disclosed under subsection (e), information reported"; and

(2) in the heading for the section, by striking "**MISCELLANEOUS PROVISIONS**" and inserting "**ADDITIONAL PROVISIONS REGARDING ACCESS TO INFORMATION; MISCELLANEOUS PROVISIONS**".

Mr. WELLSTONE. Mr. President, I really look forward to what will be, I believe, broad-based support for this amendment.

I say to my colleague from Washington, my understanding is that, hopefully, we will be able to submit amendments tonight, there will be time for debate on Monday, and sometime Monday we hope there will be votes on these amendments; is that correct?

Mr. GORTON. Mr. President, the Senator from Minnesota is correct. That is what we are trying to do.

Mr. WELLSTONE. Mr. President, let me simply say that this amendment deals with the National Practitioner Data Bank. The data bank contains really important information on adverse actions that are taken against doctors, and in some cases information on actual payments made in malpractice judgements.

Mr. President, the problem is not most of the doctors in the country; most of the doctors are very good doctors. The problem is that this information right now is readily available to managed care plans and hospitals and medical societies but not available to consumers.

I have talked with a number of colleagues on both sides of the aisle. I think that this amendment which I have worked on for some time now really is an effort to provide consumers with this kind of information. I think it will be well received.

We have done some good work on, first of all, strengthening the data collection; good work in responding to some of the concerns that have been raised by doctors; very good work in terms of responding to concerns raised by consumers across the country and by many consumer organizations.

Mr. President, the idea, of course, is that we would ask the Secretary of HHS [Health and Human Services], within 6 months to develop essentially a plan to make sure that this information is available to consumers so that they could have some sense about the record of doctors who are treating them.

Unfortunately, sometimes, too many times—and I have some really heart-rendering testimony by citizens in the country that have, in a tragic way, been on the receiving end of this—you will have a doctor who will move, who will have had an adverse action taken against him by a State medical society or hospital as a result of whole patterns of malpractice, and then move to another State, and sometimes even change his name. Then the same kind of egregious practice is committed again at great harm to consumers. It happens too often.

There is just simply no reason why in this, if you will, more highly sophisticated data entry and computer age, we cannot make this information available to consumers.

I say to my colleagues, that we are not talking about cases in which somebody has just launched a complaint against a doctor. We are talking about cases where there has actually been an adverse action taken against a practitioner's license or clinical privileges or where there has actually been a malpractice payment made with the record being clear.

So I have submitted this amendment tonight, and I look forward to the debate on Monday.

In 3 months, the HHS Secretary comes back to the Senate and then 3 months after that, the Secretary of Health and Human Services then has to have promulgated regulations to disclose the information to consumers in a useable way.

So we have a real opportunity to do something that I think would be extremely important in preventing malpractice from taking place in the first place, which is really, I think, the goal of any kind of reform effort.

I yield the floor. I thank the Senator from Washington for his courtesy.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, first of all, I note with interest the Senator from Minnesota's liberal interpretation of 2 minutes, as well. But it was well worth it when you listen to him, because I not only agree with his approach in this amendment, but his eloquence on the floor today and throughout this piece of legislation is a very important part of dealing with the amendment and dealing with what this bill is all about. So I appreciate his courtesy.

AMENDMENT NO. 603

Mr. FEINGOLD. Mr. President, I rise today to oppose the underlying amendment offered by the junior Senator from Kentucky. I do so on the same grounds that I oppose the underlying legislation.

This sort of liability reform is not needed, it is not justified, and it is certainly not fair to injured consumers and patients.

I am very glad I was on the floor a few moments ago to hear the junior Senator from West Virginia indicate his intention to move to table this underlying amendment. Even though we may disagree on the underlying legislation as a whole, I am pleased to see his consistent effort to make sure that this bill does not get completely out of control and try to revamp our entire civil legal system when we are supposedly debating one particular aspect of it.

Mr. President, I know that others have already spoken out against the underlying amendment and spoken directly to the question of how justified and how needed it is.

I would like to add my voice to this particular chorus and make two points about this amendment and the direction it is taking us.

First, I have to note with a lot of regret that the first issue raised in the new Republican Congress dealing with the tremendous health care dilemma this Nation is facing has to do with malpractice and health care liability reform.

We are not talking about providing universal health care coverage to all Americans. We are not talking about legislation that says if you get sick, you have a right to see a doctor. We are not you talking about providing community-based, long-term care for the elderly and people with disabilities. We are not talking about addressing the skyrocketing costs of prescription medicines so the elderly will no longer have to choose between their prescription drugs and their food and heating bills.

No, Mr. President, we are not talking about any of these issues that were so frequently debated by both parties last year. Everybody said they were important issues that merited our attention, but none of those have come forward in these months that we have been in the 104th Congress.

We are not talking about these issues because it is the belief of some on the other side that most of our health care problems are based on the so-called liability crisis faced by doctors and hospitals.

Mr. President, that is not to say it is not an important issue. That is not to say it does not deserve our attention in the broader context of health care reform. But I think that right now the 38 million Americans who do not have health insurance, if they hear this, must be saying, "Are you kidding me?" Because there are people who are walking around right now without health insurance at all. It might be the factory worker who has lost his job and his health insurance along with it. It might be the young mother who has a preexisting condition and is unable to find an insurer. It might be the young child who was paralyzed in an automobile accident and whose health benefits have run out because of an arbitrary cap.

Instead of addressing true reforms that would actually improve some of these situations, we are instead debating an amendment that would limit the judicial remedies of those who have been the victims of malpractice and negligence by a few bad actors in the health care profession. Proponents have compared it to the malpractice reforms passed by the State of California several years ago, and there seems to be some disagreement about the actual success of those reforms in terms of their effect on liability insurance premiums and also about the overall costs to the California health care system.

But there is one fact that cannot be disputed: Despite the so-called liability reforms in California, there are millions and millions of Californians today who lack affordable and adequate health insurance. In fact, a recent study by the UCLA Center for Health Policy Research shows that there are 6.5 million Californians without health insurance; 6.5 million people in one State. There are more uninsured children, workers, and families in California than there are residents of my State, and my State is one of the top 20 States in population. Almost 23 percent of the State of California is currently uninsured, well above the national average of over 18 percent.

What does this tell us? It tells us that these kinds of liability reforms are not that much help to those who are most at risk in our health care system. And it tells us that suggesting liability reform is beneficial or central to health care consumers is a little bit farfetched.

But there is another point I want to make about this amendment. The supporters of this amendment have tried to make the argument that such reforms will save many health care dollars and, in the end, will be beneficial to all involved—health care consumers as well as doctors and administrators. This is analogous to the arguments put forth by supporters of the underlying legislation, that in the end, the reform on product liability laws will be of benefit to consumers as well as the manufacturers, who are principally to benefit.

But they certainly are not beneficial or fair to the victims of negligence in the health care system. It seems that just about every day you pick up a newspaper and there is a story of some horrible tragedy that was needlessly caused by negligence, error or even worse. One recent headline in the Washington Post reads: "Hospital Gave Two Men Fatal Overdoses." This Associated Press story describes how a Boston hospital just recently disclosed an incident in 1991 where two skin cancer patients were mistakenly given overdoses of a treatment drug. They were, in fact, given three times the recommended dosages. Both men first lost their hearing, then their livers and kidneys failed. Within weeks, both men were dead.

According to this news account, there have been at least 10 chemotherapy dosage errors since 1990 in hospitals located in eastern Massachusetts. Six of those patients have died.

Mr. President, for me, it is the case of Karin Smith that most reminds me of the tragedies that often take place in the health care system and often needlessly.

Karin Smith was just 22 years old and an ambitious certified public accountant living in my State in Nashotah, WI, when she first went to her HMO concerned about some vaginal bleeding she had experienced of late. For 3 years, Karin tried to convince her doctors at her HMO that she was sick. She made 15 office visits and 10 phone calls.

At one point, she had bled for 35 straight days before passing out. During this time, the HMO took three Pap smears and sent them out to a clinical laboratory to be analyzed. Unfortunately, the results were misread.

How were they misread? It turns out that the director of the laboratory had paid the lab's technician on a piecework basis for reading Pap smears. In 1989, the technician had read 31,000 slides for the laboratory in question and another 16,000 slides for a different laboratory. That is a total of 47,000 slides just in 1989. The American Society of Cytology recommends a maximum of 12,000 slides a year for the sake of quality control.

So this person had overdone this practice to the detriment, potentially, of his or her ability to do the job right four times more than the recommended amount of slides.

In 1991, Karin left her HMO and saw a gynecologist outside of that plan. Within 2 weeks, her doctor correctly diagnosed Karin as having advanced cervical cancer. Last summer, Karin testified before a Senate subcommittee looking into the health care problems facing our country. I would like to read very briefly from the statement Karin gave that day, Mr. President. Karin said:

> Although the doctors at my HMO kept telling me I was basically OK, I knew better. My

> only alternative was to see a gynecologist outside of the plan, who immediately suspected I had cervical cancer. His suspicions were confirmed by a surgeon shortly after our initial visit.
>
> Had my cancer been diagnosed at the time the first Pap smear was misread by my HMO, I would have had a 95 percent chance of survival. However, due to their gross incompetence and shameful errors, I am now dying.
>
> I am only 28 years old and am told by my doctors that I will probably not live to see my 30th birthday. My cancer has spread through my lymphatic system, from my pelvis to my abdomen, and as of 2 weeks ago to my neck. The fifth vertebrae of my upper spine is so completely infiltrated with cancer that at any moment I may become paralyzed.
>
> Since my diagnosis 2½ years ago, my life has been consumed by one horrifying medical procedure after another. I have endured three separate courses of radiation, 6 months of inpatient chemotherapy and seven surgeries. At times, I have laid in a hospital bed, isolated from my family, friends, even my husband, because my immune system was so suppressed that a minor cold could destroy me, or my frail body was riddled with infection, or radioactive materials were implanted into my internal organs and I writhed in pain. . .
>
> Although the physical treatment has left me with disfiguring scars from my pelvis to my neck, the emotional scars cut much deeper. I'm so young, yet my career as a CPA is over. . . I'm married to a wonderful man, but I'll never bear his children. . . Our lives have been forever changed by this unnecessary and senseless tragedy.
>
> In addition to myself, several other women in the Milwaukee area have been forced to suffer this plight because of the HMO's gross failure to provide safe and competent medical care. One woman died last year, she was only 40. . . Her Pap smear was misread just like mine. Another woman, whose tests were also misread is just waiting to die.

Those are Karin's remarks. In September 1993, Karin Smith wrote an op-ed piece in the Milwaukee Journal on the very issue we are debating today, tort reform. Karin did some extensive research for this article and found that in Wisconsin, between the years 1976 and 1988, just four physicians accounted for nearly 18 percent of losses paid in claims.

In short, Karin discovered a trend in Wisconsin that reflected a national pattern, and that pattern is that a few bad actors in the health care field were causing a plurality of the problems. And instead of focusing on appropriate sanctions for these few individuals, we are instead considering limitations on the ability of injured consumers, such as Karin, to recover damages that will make them whole once again.

Mr. President, last year I met Karin Smith in the reception room a few feet from where I am right now. Today, Karin Smith is dead. Unfortunately, Karin's fight against her cancer has come to an end. Karin Smith passed away in March of this year. She was 29 years old.

On April 12, just weeks ago, the district attorney of Milwaukee County announced that he was filing criminal charges against the laboratory for the deaths of Karin Smith, as well as Dolores Geary, a 40-year-old mother of three who also was a victim of the laboratory's errors. This is believed to be the first time that a medical laboratory as opposed to a doctor has been charged with a crime. In this case the crime is reckless homicide.

Mr. President, I have spoken out today because Karin did everything in her power while she was alive to make her story known. She wrote letters to the newspaper; she testified before Congress, and she never stopped fighting for the rights of victims like herself. Karin Smith was the victim of not mere negligence or error but of reckless behavior by a few bad actors in what is otherwise an honorable and very dedicated profession.

In the Milwaukee Journal Karin wrote:

> It is a common perception that tort reform is strictly a battle between doctors and attorneys. What is painfully ignored is that victims are in the middle of this war. This is ironic, because these are the very people whom the tort system was designed to protect.

Mr. President, I could not have said it any better. It was designed to protect innocent consumers like Karin, the victims of that negligent behavior. Remedies should be available to make injured individuals whole again. It was not designed in order to protect the economic interests of those who are the cause of the injuries.

Mr. President, I think it is relevant to briefly comment on how the underlying McConnell amendment would have affected the case of Karin Smith. For starters, the McConnell amendment would extend the cap on punitive damages that is contained in the underlying bill for product liability cases to cases of medical malpractice. That means that had she not reached a settlement, a Wisconsin State jury would have been prohibited by Federal law from awarding more than $250,000 or three times the economic harm in punitive damages.

Mr. President, what are Karin Smith's economic injuries? I am not sure, honestly. I do not know what the earnings of a CPA in her early twenties are. I know the parties involved should be punished for their actions, and, hopefully, with a strong enough sanction that will send a message to others in the health care system that such conduct will not be tolerated. In the end, this decision should be made by a jury in Wisconsin, comprised of everyday Americans, who for over 200 years have been capable of administering justice in a fair and equitable manner. Most importantly, how dare any Member of the U.S. Congress tell a Wisconsin jury that the appropriate punishment for the taking of Karin Smith's life must be no more than $250,000?

Where does this Congress get the right to make that decision? That is not all this amendment would do. The extension of the elimination of joint liability for noneconomic damages to medical malpractice cases is equally mortifying for individuals who find themselves in the same predicament Karin Smith found herself in. I cannot even begin to imagine, Mr. President, what Karin's noneconomic damages were—her pain, her suffering. How do you put a price tag or a cap, for that matter, on Karin's inability to bear children and raise a family? How do you quantify the pain and suffering associated with a cancerous growth that spreads from your pelvis to your neck? I am not sure I could. I do not envy any judge or jury that would be charged with the responsibility of calculating that.

But imagine if Karin's case had gone to trial, suppose the lab had misread Karin's test results and the HMO that sent the results to the lab were found to be liable in this case; suppose the lab became insolvent and was unable to pay the percentage of noneconomic damages that it was found to be responsible for? What would happen in that case under the underlying amendment? Should we watch out for the best interest of the HMO here and deny Karin her due compensation for the incredible degree of pain and suffering she went through? Should we say that the HMO is partly, if not largely, responsible for Karin's injury, and they must shoulder the responsibility for making sure that Karin and her family are adequately compensated?

I think when you ask these questions in terms of the real people involved, the right answers become quite clear. Karin Smith was right, Mr. President. This is not really a battle between lawyers and doctors. The medical profession in this country is outstanding and should not be maligned because of the foolish actions of a few in the health care system. We clearly have a health care crisis in this country. Millions and millions are uninsured, costs are skyrocketing, and the health of our Nation is being compromised. I strongly urge the supporters of this amendment to join with those of us who believe that we need comprehensive health care reform, and we need it now. Only that kind of real reform will solve the problems that this amendment claims to address.

Mr. President, I ask unanimous consent that two items be printed in the RECORD. The first is a statement that Karin Smith delivered at a Senate hearing last year, and the second item is the op-ed piece from the Milwaukee Journal in 1993.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF KARIN SMITH

My name is Karin Smith and I am grateful for the opportunity to speak before this subcommittee on an issue that is so crucial to us all. Today, I want to share with you my personal story of how an HMO has cost me my life.

I am a member of a staff model HMO called Family Health Plan. It's headquartered in Milwaukee, Wisconsin and has 105,000 members.

I am 28 years old and have advanced cervical cancer, which is the direct result of a three year misdiagnosis by my HMO. For three years, which consisted of 15 office visits and 10 phone calls, I complained about gynecological problems I was experiencing. And even though my medical records were documented with the classic physical characteristics and symptoms of cervical cancer, no doctor at my HMO ever made the correct diagnosis.

Because of my continual complaints, the HMO did perform three biopsies and three pap smears. All of which indicated cancer. Yet, all but one were misinterpreted as benign by the lab my HMO had contracted with.

During those three years, my symptoms progressed rapidly. . . Minor bleeding became profuse, accompanied by fatigue and passing out. I was frustrated by the medical care I was receiving and I was scared by what appeared to be an obvious deterioration in my condition. Although the doctors at my HMO kept telling me I was basically okay, I knew better. My only alternative was to see a gynecologist outside of the plan, who immediately suspected I had cervical cancer. His suspicions were confirmed by a surgeon shortly after our initial visit.

Had my cancer been diagnosed at the time the first pap smear was misread by my HMO, I would have had a 95% chance of survival. However, due to their gross incompetence and shameful errors, I am now dying. I am only 28 years old and am told by my doctors that I will probably not live to see my 30th birthday. My cancer has spread, through my lymphatic system, from my pelvis to my abdomen and as of two weeks ago, to my neck. The fifth vertebrae of my upper spine is so completely infiltrated with cancer that at any moment I may become paralyzed.

Since my diagnosis two and a half years ago, my life has been consumed by one horrifying medical procedure after another. I have endured three separate courses of radiation, six months of inpatient chemotherapy and seven surgeries. At times I have laid in a hospital bed, isolated from my family, friends, even my husband, because my immune system was so suppressed that a minor cold could destroy me, or my frail body was riddled with infection or radioactive materials were implanted into my internal organs and I writhed in pain.

I have spent countless days and nights nauseated and sick from both the radiation and the chemotherapy. The chemotherapy alone, caused me to vomit almost every day for the six months I was in treatment. Every third week I would be admitted into the hospital for six days where drugs that made me so terribly sick would flow through my body. I was bald for nearly a year and all of my activities were severely restricted.

Next week, I am scheduled to begin radiation to the left part of my neck and under my left arm. One can only imagine, in fear, what the side effects to this treatment will be . . . And as my last hope, I am currently, awaiting news from my doctors to find out whether or not, I am a candidate for a bone marrow transplant.

Although the physical treatment has left me with disfiguring scars from my pelvis to my neck, the emotional scars cut much deeper. I'm so young, yet my career as a CPA is over . . . I'm married to a wonderful man but I'll never bear his children . . . My parents will outlive their youngest child . . . This hasn't only affected me. This has shattered the lives of everyone around me. How does one explain this to my husband, my parents, my sister and brother, my friends . . . All of our lives have been forever changed by this unnecessary and senseless tragedy.

At this point, my personal medical future is plagued by this nightmare. Now, I feel I must focus my concern on the medical future of our country. If we allow HMO's to be the foundation of the proposed medical system, we are encouraging one of the most important professions of our country, to put the financial interests of their bottom line before the medical needs of their patients.

It was no coincidence that the lab which was contracted by my HMO performed inferior work, the owner was on the HMO's board of directors and in order to retain the HMO's business, he was forced to "meet or beat" lab prices from the competition. I think that's what President Clinton now calls "managed competition . . ." All of the contracts will be negotiated this way. It's a system that encourages the lab to provide services at artificially low prices, which leads to lack of quality control and excessive work loads.

To add insult to injury, the technician who misread all of my pap smears was reading 5 times the federally recommended number of slides. She also worked at as many as four other labs in Milwaukee at the same time. And when she was fired from my HMO's contracted lab for falsifying records in 1991, the HMO hired her directly to supervise their new in-house gynecological laboratory.

In addition to myself, several other women in the Milwaukee area have been forced to suffer this plight because of the HMO's gross failure to provide safe and competent medical care. One woman died last year, she was only 40 . . . her pap smear was misread just like mine. Another woman, who's tests were also misread, is just waiting to die.

We can't change my future. But I can give you a look into your own. I am an example of what health care in this country will become as proposed by the Clinton administration and it horrifies me. I have experienced, first hand, the overwhelming lack of continuity of care, lack of communication, lack of responsibility, lack of accountability and lack of humanity which are the hallmarks of managed care plans in this country today.

We all know that there is a serious health care crisis in this country . . . no one should be denied access to care. We need a realistic, rational health care system that will prevent financially self interested groups from continuing to prey on unsuspecting medical consumers. We need a health care system that allows choice, provides accountability and incorporates a serious medical malpractice prevention program. As a victim of malpractice, I implore you . . . please do not let this administration strip away the rights of victims like me. Please let my HMO experience be your guide . . . Understand that managed care is part of our health care problem . . . It is not the solution.

[From the Milwaukee Journal, Sept. 15, 1993]

TORT REFORM ISN'T SOLUTION TO EASING HEALTH CARE WOES

(By Karin Smith)

The President's health care proposal is going to be released within the next few weeks. It is well known that tort reform will be included in his package. There is speculation that the proposed plan will limit pain-and-suffering awards for medical malpractice victims to $250,000. This would not only be unconstitutional, but grossly unfair.

Let me explain.

Five years ago, I was a healthy, 22-year-old woman. Today, I am a victim of both cervical cancer and medical mismanagement. In 1988, I belonged to Family Health Plan (FHP), a Milwaukee-based health maintenance organization. When I began to experience vaginal bleeding, I sought care from FHP.

Between June of 1988 and May of 1991, my symptoms gradually progressed from minor bleeding to profuse bleeding, to fatigue and passing out. During this time, I made nearly 20 calls to doctors within my HMO to complain of the problems. Also during this time, three Pap smears and three biopsies were performed.

Unfortunately, my cries for help were not heard, and all of my laboratory tests, with the exception of one Pap smear, were misread. When I left FHP in May of 1991 and sought the opinion of a gynecologist outside of that plan, my diagnosis was made within two weeks.

Since my diagnosis two years ago, I have undergone five surgeries, three separate two-month courses of radiation and six months of chemotherapy. I was recently informed that unless I have radical surgery this fall to remove a part of my spine and replace it with a piece of my rib, I will probably be paralyzed by spring.

Because of the three-year delay in diagnosis, my chance for cure has dropped from 95% to around 10%. Even if I am fortunate enough to survive this tragedy, I will be plagued with chronic health problems and a lifetime of uncertainty.

Few would disagree that this is an egregious case that has led to needless emotional and physical pain. Certain legislators and health care specialists believe that my non-economic damages should be limited to $250,000. The state Senate has passed a bill to that effect.

According to the Health Care Financing Administration, national health care expenditures total $675 billion. The American Medical Association says doctors pay $5.6 billion in medical insurance premiums. As an accountant, I can easily calculate the cost of malpractice premiums to be less than 1% of all health care expenditures. Even the Congressional Budget Office has said that changing the medical liability system will have little effect on total health spending.

Furthermore, several states have already placed caps on pain-and-suffering awards. History has shown this has not reduced malpractice premium expenses. The reality is that very few plaintiffs are awarded high amounts. In Wisconsin, almost 70% of claimants have received no payment at all, and only 85 claims have ever exceeded $200,000.

It is important to mention that our country could save an enormous amount of health care dollars by adopting a strict national policy for disciplining doctors.

In Wisconsin, between 1976 and 1988, the top 10 physician defendants accounted for 2.4% of the 2,904 claims filed and 23% of the total payments made. During this time, four physicians were involved in more than one claim over $400,000. The four physicians accounted for 17.8% of all losses paid in that year. Clearly, a small percentage of doctors is responsible for a large portion of claim dollars.

It is common perception that tort reform is strictly a battle between doctors and attorneys. What is painfully ignored is that victims are in the middle of this war. This is ironic, because these are the very people whom the tort system was designed to protect.

The issue of capping pain-and-suffering awards comes down to one question: Do we allow all citizens the right to a jury trial at which their peers decide a fair level of compensation for pain and suffering, based on the extent of the individual's damages and the facts?

If the answer is no, we are violating the constitutional rights of the most seriously injured victims, while protecting the careers of the most grossly negligent doctors.

Mr. FEINGOLD. I thank the Chair and I yield the floor.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I advise my colleagues that it is our hope to have an agreement here in the next few minutes. And if the agreement is reached, then there will be no more votes this evening and no votes on Monday. There will be a number of votes starting at 11 o'clock on Tuesday morning, maybe as many as four or five.

So I indicate to my colleagues that I do not believe there will be any more votes this evening. We will know for certain in a matter of minutes.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, we have reached an agreement on the medical malpractice amendments. It has been cleared by the Democratic leader, Senator DASCHLE. I will now read the consent.

I ask unanimous consent that all amendments regarding medical malpractice only be in order for the duration of Thursday's session of the Senate and Monday's session of the Senate, except for one amendment each, which may be offered by the majority and minority leaders, or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I further ask that any votes ordered on or in relation to the pending Thomas amendment, or on or in relation to the Wellstone amendment, and any other second-degree amendments that may be offered to the McConnell amendment occur in sequence at 11 a.m. on Tuesday, May 2, and that the final vote in sequence be on or in relation to the McConnell amendment No. 603, as amended, if amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. For the information of all Senators, this agreement means that any Senator who wishes to offer an amendment regarding medical malpractice must offer and debate that amendment today and/or Monday, and those votes will occur beginning at 11 a.m. on Tuesday, and thereafter medical malpractice amendments would no longer be in order to the bill except for an amendment that may be offered by each leader or their designee. I assume that would be the managers of the bill.

So having reached that agreement, I can announce there will be no more votes this evening. The Senate will not be in session tomorrow because both the Republicans and the Democrats have conferences tomorrow.

The Senate will come in at noon on Monday, be back on the bill on Monday. We may come in at 11 a.m. for morning business. There will be no votes on Monday, but we expect a lot of debate on Monday. And then rollcall votes will start at 11 a.m. on Tuesday.

Mr. GORTON. Mr. President, will the majority leader yield?

Will the Senate come in on Tuesday and have any time before 11 o'clock on Tuesday in which Members can speak to their amendments?

Mr. DOLE. I would be happy to make that arrangement. In other words, come in at 10:30 and speak for 5 minutes on amendments which we have already discussed. They can offer amendments on Monday.

Mr. GORTON. They can offer amendments on Monday. But I suggest to the leader that there be at least an hour before 11 o'clock for Members to summarize their amendments.

Mr. DOLE. We set aside the hour between 10 and 11 to discuss any of the amendments. We try to divide it up so everybody is treated fairly. We may come in at 9:30 for a half hour of morning business.

So there will be no more votes tonight. There will be no votes tomorrow, and no votes on Monday, except I assume there will be considerable debate on Monday. And then, as suggested by the Senator from Washington, Senator GORTON, there will be an hour set aside before the votes start for discussion of any of the amendments that may be offered.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I want to speak briefly in opposition to the pending product liability reform legislation. I have not been vigorous in the debate to this point because there has been so much vigor expressed that I thought I would simply wait for a calmer moment.

Let me assure all that it gives me no pleasure at all to be in the position of opposition to many of my good Republican colleagues on this issue. But I have a number of concerns about this legislation—always have had about this type of legislation—which I will just review briefly which compel me to oppose this measure.

Mr. President, like many of my colleagues, I was a lawyer by trade—as was my father, as was my grandfather, his father before him, and my two sons now; 100 years of Simpsons practicing law in the State of Wyoming and, in fact, practicing law in the same community in the State of Wyoming, Park County and Cody, WY. And so I take great pride in my profession. When I graduated from the University of Wyoming law school, I believed that the profession was very reputable, indeed honorable, and that it meant something, something ennobling, to be a lawyer.

And, indeed, I think there are few professions outside of the law where one has the opportunity to directly rectify an inequity or injustice. And this is, I feel, the motivation for many of us who entered the profession.

I remember doing lots of pro bono work. I remember charging 35 bucks an hour. I remember doing these things. I was in everything from replevining a one-eyed mule to reorganizing railroads, as the guy said. So I took great pride in the profession.

I believe the legislation before us addresses a concern that is very real. There are, indeed—and sadly so—serious abuses and excesses within the practice of law—the profession I love—as there are in every other profession. And one thing that has clearly worsened the public perceptions of our profession is action by a seemingly ever-increasing number of greedy—and that is the word, greedy, avaricious—attorneys who have used the profession solely for their own gain and not for the public gain. Their sole purpose, at least in some that I have observed, is padding their own particular bank accounts.

Time and again I hear accounts of attorneys who have charged many hundreds of dollars for preparing a simple will when the only thing they did was spend 5 minutes cranking the client's name into a computer-generated form. And these abuses do indeed occur. And there are the attorneys, I am sure, who take the 3-hour lunches and play the 18 holes of golf every day and still manage to make a million bucks or more during the course of a year.

The point I make in citing those examples is to note that one motive for this legislation is to attack irresponsible, costly behavior by those who practice law. But I would argue that this legislation specifically chooses to weed out the results of such ethical transgressions rather than to correct their root causes in the irresponsible practice of law. It is for lawyers to clean up their own act and to weed from their profession those who soil it and belittle it.

Assuredly, irresponsibility may lie behind some of the large awards that are given out in product liability suits. But it does not necessarily follow that the solution is to limit punitive damages so as to affect even those which may be properly arrived at and properly computed.

Particular concerns I have about such an approach include the preemption of State tort law and excluding joint and several liability. The latter measure could conceivably eliminate the only recourse of many citizens against substantial harm to their health, at no real cost to the unscrupulous in the legal profession.

I believe one of the better results of the November 1994 elections has been to arrest the concentration of power in Washington, and to begin a correction of transferring some of it back to the beleaguered States and localities. And we have done some of that already. Partly for this reason, I oppose any federalizing of the major areas of tort law. This certainly would expand the scope of Federal Government activity by assuming 10th amendment powers that have been properly under the jurisdiction of the individual States for more than 200 years.

We must remember that federalization of tort law would, in my mind, severely limit the local citizenry's ability to influence tort law at the local or State legislative level. Greater proximity to the individual citizen would allow us to make certain that the laws adopted are those which best serve the local community's best interest.

Federalization also sends the message that we in Congress do not trust the average citizen sitting on a jury to render a fair and equitable award. I can assure you I certainly do not agree with every award about which I have read and studied. But I just do not believe that the solution lies in taking that power away from the citizenry and in having the Federal Government fix the boundaries.

I also believe that a statutory limitation on punitive damages will remove a very key motivating factor that now forces companies to design the safest products possible. I in no way imply that American companies as a rule seek to design unsafe products. That would be absurd. But I do believe it would be very poor policy to fix and to limit the cost of such irresponsibility right up front in a way that could maybe be planned around.

And by that I mean by limiting punitive damages and setting a figure could—could—result in company officials developing liability scenarios of what they expect to lose from such suits and to ring it up on the scorecard. A hypothetical, unscrupulous company could calculate: "Well, if we make modification A here in the product, we project only 500 people a year will be injured, or some killed. That would still result in a 20 percent yearly profit margin, even after paying the maximum punitive damages for every one of these injuries or lost lives."

Now, is that a pipe dream? I do not know. Possibly so. I do not know. But it is unseemly to me to facilitate the attachment of dollar values potentially to the cost of human lives.

As a general principle, I believe it is clear that more often than not prescribing local actions at the Federal level does not work—that "one size fits all" is not a practical approach.

Let us not, therefore, repeat the mistakes of other recent Congresses, and instead leave alone an area which is traditionally under the purview of the States.

So let us address the real root of the problem that is found in the legal profession itself—and there are plenty of them, and, I must say, they are grievous in many cases. But it is not in the legal system's infrastructure. It is in the legal profession itself. And the legal profession evolved as a means of protection for our citizens from its beginning.

I hear often the quote from Shakespeare, "Kill all the lawyers." Well, there was a reason for that request and that admonition. And that was if they got the lawyers out of the way, they could get on with their nefarious conduct. You want to reread that one.

And that is an interesting part of that remarkable phrase in Shakespeare: Kill all the lawyers; because they could not get done what they intended to do if the lawyers had been there to protect.

So I just wanted to share those things. I am well aware of what is going to happen to lawyers in this session of the Legislature. I wish there were always the most pristine reasons for that, but one of the most vivid ones in a political body will be simply the fact that the trial lawyers of America and affiliates gave $1,626,000 to those of the other faith in the 1994 election and only $101,000 to those of our faith, and they are looking for them, hunting them down.

So we have to be a little careful in that atmosphere, I would suggest. Not only did they bet on the wrong horse, they bet everything they had on all of the horses, and they all went backward down the track. That is a part of this that we want to keep in mind, that in the spirit of punishing the trial lawyers who showered forth their worldly goods upon those of the other faith, that we do not react in a way which is injurious to a profession that has protected us all. We all hate lawyers, except we love the one that represents us. Just like politicians, they have a lot of disgust for us, except for those who represent them.

So I want to share those views and indicate my opposition to the measure, which has been consistent throughout my time here. I thank the Chair.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I ask unanimous consent to set aside the pending Wellstone amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 608 TO AMENDMENT NO. 603

(Purpose: To limit the amount of punitive damages that may be awarded in a health care liability action)

Ms. SNOWE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. SNOWE] proposes an amendment numbered 608.

Ms. SNOWE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 22, insert:

In section 15 of the amendment, strike subsection (e) and insert the following new subsection:

(e) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded to a claimant in a health care liability action that is subject to this title shall not exceed 2 times the sum of—

(A) the amount awarded to the claimant for economic loss; and

(B) the amount awarded to the claimant for noneconomic loss.

(2) APPLICATION BY COURT.—This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

Ms. SNOWE. Thank you, Mr. President. This legislation, unlike any other we have debated this year, touches each and every one of our daily lives. It touches our society as few bills do. In our homes. In our schoolrooms, In our work rooms. And in our hospital rooms.

There is a compelling case for product liability reform in this country, and this bill provides for a positive foundation on which we can build in the future. It may not be the end-all to the liability reform debate. And it is not a panacea to the legal labyrinth that millions of Americans have found themselves caught in at some time in their lives.

But it is a critical and long overdue first step in the process.

Mr. President, many Americans may ask a very simple question as we begin this debate, and that is this: In this time of downsizing Government and devolving power back to the States, why do we need Federal legislation on product liability?

It is a good question that merits a good answer.

The problem involves a vast patchwork of product liability laws in 50 States and the District of Columbia that send confusing and often conflicting signals to those who make, sell, or use products in the United States. Moreover, it is the uncertainty of this product liability system that creates unnecessary legal costs, impedes interstate commerce, and stifles innovation. And it unnecessarily places consumers—those we are trying to protect—at risk.

Despite recent product liability reforms in various States around the country, there is still an overriding and strong need for a protective, uniform, and all-encompassing Federal product liability law.

The problem with State product liability legislation—apart from the simple fact that different States have different rules—is that State legislation cannot capture or control the product liability problem outside its own borders.

Every suit filed and every judgment rendered has a potential impact on every other consumer in America by leading to possible changes in the product itself, increasing the item's price, and potentially affecting the price and availability of a wide range of other products. In extreme cases, manufacturers may even cease production of some products.

Even States in which product liability lawsuits are infrequent and judgments have been deemed appropriate are not immune from the impact of disparate State laws. I am proud to say that in my home State of Maine, it has been said that our jury verdicts have been reasonable and our judges fair. But the effect of the judgment in one State is shouldered by the consumers of that product in every other State. Therefore, the State of Maine residents pay a premium on every product they buy that has come in from outside the State of Maine—and on every product they buy from a local company that also distributes outside our State's borders.

The simple fact is that the residents of Maine are impacted by the product liability laws of every other State. And just as States cannot single-handedly address the problems caused by our spiraling national debt, they cannot address the national product liability problem. I have come to the conclusion that a Federal product liability law is the only mechanism to assure that a fair and uniform law will apply evenly throughout the United States.

I also recognize the role that uniformity plays in protecting the common good in certain circumstances. Civil rights laws and many environmental laws reflect the understanding that serving the common good may be best accomplished by maintaining similar standards across State borders. Not every issue affecting both States warrants a Federal standard, but some issues are pervasive enough—significant enough—that we cannot help but recognize the need for some level of agreement.

Mr. President, as a member of the Commerce Committee, I certainly have stressed the need for balance in this legislation and I offer my own personal check-list of the issues this legislation must address so that it is fair and equitable.

First, we must allow safe consumer products to be developed to meet consumer needs, and ensure that consumers can seek reasonable compensation when injuries and damages occur.

Second, the law must dissuade consumers from filing lawsuits frivolously, without discouraging Americans with substantive complaints from filing their own suit.

Third, a uniform law must encourage companies to police the safety of their own products, both by offering incentives for excellence in safety and strong punishment when product safety is breached.

Lastly, and perhaps most importantly, one of our fundamental goals must be to ensure this legislation protects the interests of the average American consumer who makes hefty use of products, but knows little of their innate safety or risk—much less their rights under the law.

Although I believe the call for product liability reform is justified, I certainly understand the concerns of those who testified before the committee regarding the potential discriminatory impact of this bill—particularly the dual standards created within the cap on punitive damages.

To understand the issue of a punitive damage cap, I think it is valuable to remember what punitive damages are—and are not. Punitive damages are punishment that serve an invaluable role in deterring quasi-criminal behavior by businesses. They have nothing to do with providing compensation to a person who has been harmed and are not intended in any way to make the plaintiff whole.

That purpose is served by compensatory damages, which provide recovery for both economic damages—which include lost wages and medical expenses—and noneconomic damages, which include pain and suffering and other losses.

However, I also understand the concerns of those who would contain runaway juries by capping punitive damages. One of the overriding problems in our current system is the absence of any consistent, meaningful standards for determining whether punitive damages should be awarded and—if so—in what amounts.

The absence of consistent standards not only leads to widely disparate and runaway punitive awards, but it also affects the settlement process. Individuals and companies that are used often face a catch-22: pay high legal fees to fight a case through trial, verdict, and appeal—or simply settle out of court for any amount less than these anticipated legal fees.

Even for the defendant who recognizes the cost of proving innocence to be too great, or simply hopes to avoid the lottery nature of a possible punitive award—seeking a settlement carries a hidden cost. The lack of a uniform national standard—or simply the existence of vague State standards—forces the defendant to include a punitive premium in their settlements, even when the likelihood of a punitive award is small or even nonexistent.

The high reversal rate of punitive damage awards underscores the absence of clear and understandable rules. Moreover, appealing the initial award is extremely costly and unnecessarily wasteful of both private and judicial resources. Although businesses and related entities pay the initial price of punitive awards, the impact of runaway awards is felt by consumers who pay higher prices in goods and services.

And health care is not different. Malpractice is an issue that should concern every American because it directly impacts the amount of money they pay for health care and their access to care. A 1993 Lewin-VHI study estimates that the combined cost of physician and hospital defensive medicine to be as high as $25 billion. And the 1994 Physician Payment Review Commission Annual Report to Congress noted a "widespread concern that the current functioning of the malpractice system may promote the practice of defensive medicine and impeded efforts to improve the appropriateness and cost effectiveness of care."

Access to quality care was an issue that received a great deal of attention—as well it should—over the last 2 years as Congress looked at ways to reform our health care system. The cost of malpractice has a direct impact on access to care, especially for women. A 1990 survey found that liability concerns caused 12 percent of doctors to give up their obstetrical practices, 24 percent to reduce their treatment of high-risk patients, and 10 percent to reduce their number of deliveries.

Concern has been expressed this afternoon during the debate that this is a matter that should be left up to the individual States. But the American taxpayers from Maine to Oregon have a direct stake in malpractice reform because the U.S. Government—in other words the American taxpayer—pays 32 percent of all the health care costs in this country. They are already paying a heavy price for the patchwork system of malpractice laws that currently exist and they deserve our best effort to provide a uniform standard that will help bring down the cost of health care and help ensure access to providers.

As we establish a cap, it is vital that we ensure the measure we choose is fair, uniform, acts as adequate punishment, and serves as an effective deterrent. I believe the amendment I have offered accomplishes all of these objectives.

I should mention that Senator GORTON, the primary sponsor of this legislation, has indicated that he will certainly support my amendment. And I thank the underlying sponsors, Senator McCONNELL and Senator KASSEBAUM, for their support as well for this amendment.

My amendment is fair because it is blind to the socioeconomic position of the plaintiff. The current cap contained in the McConnell amendment would cap punitive damages at the greater of $250,000 or three times economic damages.

Economic damages—again—are the out-of-pocket expenses incurred by the plaintiff, such as their lost wages and medical expenses. Although this measure might serve as adequate punishment and act as an adequate deterrent in many cases, it relies too greatly on the economic position of the plaintiff in establishing a sufficient level of punishment.

I believe that all plaintiffs—regardless of their income—must be in a position to levy adequate punishment on those medical providers who have performed a particularly egregious act. We must not allow a medical provider to suffer only a slap on the wrist because his conduct harmed an individual of modest means.

As a very basic example, assume that two individuals—a truck driver with an annual income of $24,000 and one a corporate executive with an annual income of $1.2 million—suffer from similar medical malpractice injuries from two separate defendants and are each hospitalized for 1 month due to these injuries. Further assume that the medical expenses for these individuals are nearly identical at $100,000—an amount I am sure is far too low.

Under the three times economic damages formula, the potential punitive damage award—or punishment—that could be levied in the suit involving the millionaire would be up to approximately $600,000. This would be derived by adding the individual's lost income—$100,000—with his or her medical expenses—$100,000—and multiplying by three.

Conversely, the defendant in the lawsuit involving the truck driver could only be subjected to punitive damages of up to $306,000—or 51 percent that of the millionaire's defendant. This amount is derived by trebling the sum of the plaintiff's lost wages—$2,000—and medical expenses $100,000.

Although some would argue that the lower cap imposed in the suit involving the truck driver may serve as sufficient punishment, I believe it is fundamentally unfair. If the language of my amendment is adopted, the potential punitive award in the suit involving the truck driver will be far more in line with that of the millionaire. By including noneconomic damages—which are less tangible and include pain and suffering and the loss of one's eye, hand, or other faculty—the discriminatory effect of the cap will also be removed.

Continuing with the example already described, let us further assume that the jury award for noneconomic damages caused by the loss of one of the plaintiff's eyes is $500,000 for both the millionaire and the truck driver.

Using the two times compensatory measure, the possible punitive award would be $1.2 million for the millionaire and $1.004 million for the truck driver. In this way, the possible punitive award that could be imposed is nearly identical in both cases as the cap for the truck driver is 84 percent the size of the millionaire's cap.

Although hard statistics on this issue are difficult to find, the 1989 General Accounting Office report on product liability found that there was a strong correlation between the size of punitive awards and the size of compensatory damages. Excluding one extreme case in which compensatory damages far exceeded punitive damages, the punitive damages had a correlation of 0.71 with compensatory damages—which is just shy of a one-to-one ratio.

Although each of the five States contained in the study had varying levels of correlation, this average demonstrates that a reasonable cap based on compensatory damages can be drafted.

The Supreme Court has also expressed its concern with the manner in which punitive damages have been awarded—and lends credence to the argument in favor of a uniform cap. In the case of Pacific Mutual Life Insurance Company versus Haslip, the Supreme Court found that a four-to-one ratio of compensatory to punitive damages was "close to the line" of being unconstitutional, and expressed a strong concern that punitive damages in the United States have "run wild." Similar sentiments were expressed in TXO Production Corp. versus Alliance Resources Corp., a case involving a commercial land dispute.

In both cases, Justices made clear that this was an area for reasonable and rational reform. Although no clear standard was identified, I believe the measure of two times compensatory damages would be deemed appropriate by the Supreme Court.

Finally, the American College of Trial Lawyers [ACTL]—a respected organization of experienced plaintiff and defense attorneys—recommended a cap based on a two times compensatory damages in their 1989 report on punitive damages.

The ACTL report also recommended that the two times compensatory damage cap be combined with a minimum cap of $250,000, but I do not believe such a measure is advisable or necessary. I believe a single measure—such as the measure contained in my amendment—is the most easily understood and ensures that all relevant cases are subject to the same standard. Multiple measures and standards imply that there is an imbalance in the formula being utilized.

I believe the measure of two times compensatory damages will work for everyone and will subject egregious offenders to strong punishment. This standard is fair and nondiscriminatory. It will apply to all litigants equally—whether you are a man or woman, wealthy or poor, a child or an adult.

Mr. President, if we have to include a cap on punitive damages in this legislation, we must ensure it is the best cap possible. So I ask my colleagues to join me in support of this amendment to the McConnell amendment today, and during further consideration of the underlying bill next week, because I do intend to offer this very same amendment to the underlying legislation as well.

I think the legislation, which is named the Product Liability Fairness Act, must live up to its name and therefore I think that my amendment will correct this discriminatory impact of punitive damages as it is currently drafted in this amendment as well as the underlying bill.

I believe my amendment is the best alternative available and I encourage my colleagues to support it.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask to speak in morning business and use part of my leader time to do so.

The PRESIDING OFFICER. The Senator has that right.

COUNTERTERRORISM INITIATIVE

Mr. DASCHLE. Mr. President, the day after the tragic bombing in Oklahoma City, when it became more evident that the terrorist attack was launched by Americans, President Clinton said he would seek prompt action on counterterrorism proposals he had already made, and promised to develop additional tools for Federal law enforcement to use.

Yesterday evening, the President hosted a meeting of the bipartisan congressional leadership to present his proposals and ask for timely, bipartisan consideration and enactment.

The President's proposals result from the well-considered experience of Federal law enforcement officials. They are designed to provide the additional legal authority Government needs to effectively combat terrorism, whether domestic or foreign.

These additional authorities will give Federal law enforcement agencies tools to combat terrorism more effectively without undermining or curtailing the constitutional rights of law-abiding American citizens.

Briefly, the proposal would extend the authority the FBI now has in national security cases to access credit reports and financial data for counterterrorism investigations.

The same standards as now apply in routine criminal cases would be used in counterterrorism cases for the orders that permit the FBI to use pen registers and trap-and-trace devices in investigations. These devices are not wiretaps; they simply capture phone numbers dialed, like a caller ID device that many people use in their own homes.

It would require hotel and motel operators and common carriers to provide records to the FBI for national security cases as they now routinely do for State and local law enforcement purposes.

It would fully fund the costs of implementing the digital telephony law, so that the ability of law enforcement to carry out court-authorized electronic surveillance would not be impeded by the shift to digital transmissions.

It would add 1,000 additional agents, prosecutors, and other personnel to increase the resources devoted to counterterrorism investigations, and establish an interagency counterterrorism center that would make sure the information and expertise of all Federal law enforcement agencies in this field are properly integrated in investigations.

It includes practical issues such as the requirement that chemical taggants be included in the raw materials from which explosive charges are created. This is essential to tracing the sources of such explosions as the one in Oklahoma City in the future.

Additionally, the proposal would enhance the penalties for crimes related to explosives, and directed against Federal employees. The proposal has been released by the White House, so all my colleagues have the opportunity to review these proposals in detail.

In addition, the President asked that we approve the Omnibus Counterterrorism Act of 1995, legislation which is primarily directed at foreign terrorists.

This package of proposals, along with the existing legislation, are carefully designed to give additional tools to law enforcement without weakening in any way the constitutional rights of any American.

The President has been particularly clear that we will fight against terrorists at home and abroad with all constitutional tools. Anything less would give the terrorists the victory over us that they seek: They would have destroyed the fundamental rule of law in our country.

As Americans, we all understand that we cannot and must not allow the cowardly attack on civilian Federal workers to incite us to such anger that we take shortcuts with American citizens' rights.

The President's proposals are sound, moderate, and effective. They reflect the advice of practical, hands-on law enforcement agents who have experience in this field. They deserve careful and thorough review by the Congress, and they deserve timely enactment.

It had been the President's hope, and mine as well, that on this matter, where there is truly broad agreement across partisan lines, the Congress could work in a bipartisan fashion to enact this package of security enhancements in the not too distant future.

I also hoped that we could have a bipartisan, narrowly tailored package of proposals that could be enacted without divisive debates over controversial issues of long standing.

I believe that the American people expect us to put partisanship and political advantage aside and respond with unity to the immediate and urgent needs of Federal law enforcement agencies.

Last night, at the meeting with the President, there was every indication that there would be a bipartisan, focused proposal on which Congress and the President could agree to move us forward in the effort to combat terrorism. Each of us in attendance pledged our support toward that end. Regrettably, today the majority leader introduced a bill that threatens to slow our progress and mire the Senate in divisive, partisan, rhetorical debate.

Americans know that we can and undoubtedly will debate matters such as habeas corpus reform later this year. We have debated the issue in virtually every Congress in the past decade. But that debate involves persons who are already incarcerated with no chance for parole and who no longer pose a threat to society.

I think this is a time when we should instead be concentrating on measures that will have an effect on those who may be planning an attack, and from whom we are not at all safe, as the bombing in Oklahoma City so dramatically proved last week.

I sincerely hope prompt action on these needed law enforcement tools will not be held hostage to political priorities. I believe Americans expect more of us. I know the Federal workers who lost their lives and their children certainly deserve that and more.

Mr. KYL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, pending one other matter of business, I am going to ask for some unanimous-consent agreements that have been cleared with the minority and represent the minority's position as well as the majority leader's position.

TO PREVENT AND PUNISH ACTS OF TERRORISM

Mr. KYL. Mr. President, I understand that Senate bill, S. 735, introduced earlier today by Senators DOLE and HATCH is at the desk.

The PRESIDING OFFICER. That is correct.

Mr. KYL. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

> A bill (S. 735) to prevent and punish acts of terrorism, and for other purposes.

Mr. KYL. I now ask for its second reading, and the minority leader objects.

The PRESIDING OFFICER. Objection is heard, and the bill will lay over and will receive its second reading on the next legislative day.

EULOGIES FOR THE LATE SENATOR JOHN STENNIS OF MISSISSIPPI

Mr. KYL. Mr. President, I ask unanimous consent that all Senators have until the close of business on May 10, 1995, to submit eulogies for our former colleague, the Senator from Mississippi, Mr. Stennis, and that at that time eulogies be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF THE SENATE ENROLLING CLERK, BRIAN HALLEN

Mr. KYL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 112 submitted earlier today by Senators DOLE, and DASCHLE concerning the retirement of Brian Hallen, the Senate enrolling clerk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 112) commending the Senate Enrolling Clerk upon his retirement.

The Senate proceeded to consider the resolution.

BRIAN HALLEN RETIREMENT

Mr. DOLE. Mr. President, Brian Hallen, the Senate Enrolling Clerk, will retire from the Senate effective May 26, 1995, after almost 30 years of Government service. Brian's Government career started in January 1966 as a linotype operator at the Government Printing Office. He later became a proofreader and in 1975 was detailed to the Office of the Senate Enrolling Clerk. In December 1981, he became the Senate's first Assistant Enrolling Clerk, a position he held until March 1986 when he was promoted to his current position as the Senate Enrolling Clerk.

Brian has dedicated his Senate service to improving the operation of the Enrolling Clerk's office and has gladly and efficiently assisted in an ongoing effort to reduce congressional printing costs. During his tenure many innovative and cost-saving changes have been implemented. Among his accomplishments was the computerization of the very detailed engrossing and enrolling process. This enabled his office to have complete control over the accuracy and efficiency of the work and a substantial reduction in the cost and amount of time necessary to produce the printed legislation.

Brian is retiring with the satisfaction of knowing that he has done his best. His decisions were made with the best interests of the Senate in mind, and because of that mindset the institution itself is a better place.

I know all Senators will join me in thanking Brian for his long, dedicated, and distinguished service, and extending our best wishes for a long and healthy retirement.

Mr. DASCHLE. Mr. President, today marks the end of the Senate career of Brian Hallen, the Senate Enrolling Clerk.

Brian began his career of Government service in January 1966 as a linotype operator at the Government Printing Office. Over the years, he assumed other positions in the Government and eventually in 1981, became the Senate's first Assistant Enrolling Clerk.

Brian served admirably as Assistant Enrolling Clerk and was promoted to the position of Enrolling Clerk in 1986. As the Assistant Enrolling Clerk and as Enrolling Clerk, Brian has had the Arduous task of ensuring the accuracy of every provision—sections and titles—of the bills enacted by this body.

During the appropriations season, I understand that on many occasions, prior to the innovations of computerization, Brian could be found in his office burning the midnight oil working diligently on appropriations bills—checking and double checking—making sure every "t" was crossed and every "i" dotted—to ensure that the product that was delivered to the House or to the White House was an actual reflection of the Senate's work.

I applaud him for the fine service he has given to this body and to his country. The Senate is a better place because of people such as Brian Hallen.

As Brian retires after almost 30 years of Government service, I wish him the very best and say "Thank you" for your many years of service and for your dedication to this institution.

I am sure all of my colleagues join with me in saying "have a long and happy retirement," and "Good luck."

Mr. KYL. Mr. President, I ask unanimous consent that the resolution be considered and agreed to, that the preamble be agreed to, and that the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the record.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the resolution (S. Res. 112) was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 112

Whereas Brian Hallen will retire from the United States Senate after almost 30 years of Government service;

Whereas he served the United States Senate for over 20 years; the last 9 years as the Enrolling Clerk;

Whereas his dedication to the United States Senate resulted in the computerization of the engrossing and enrolling process;

Whereas he has performed the duties of his office with remarkable diligence, perseverance, efficiency and intelligence;

Whereas he has faithfully performed his duties serving all Members of the Senate and House of Representatives with great professional integrity; and

Whereas Brian Hallen has earned the respect, affection and esteem of the United States Senate: Now, therefore, be it

Resolved, That the United States Senate commends Brian Hallen for his long, faithful and exemplary service to his country and to the Senate.

SEC. 2. The Secretary shall transmit a copy of this resolution to Brian Hallen.

COLORADO RIVER BASIN SALINITY CONTROL AMENDMENTS ACT

Mr. KYL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 46, S. 523.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 523) to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. AMENDMENTS TO THE COLORADO RIVER BASIN SALINITY CONTROL ACT.

The Colorado River Basin Salinity Control Act (43 U.S.C. 1571 et seq.) is amended—

(1) in section 202(a)—

(A) in the first sentence—

(i) by striking "the following salinity control units" and inserting "the following salinity control units and salinity control program'; and

(ii) by striking the period and inserting a colon; and

(B) by adding at the end the following new paragraph:

"(6) A basinwide salinity control program that the Secretary, acting through the Bureau of Reclamation, shall implement. The Secretary may carry out the purposes of this paragraph directly, or may make grants, commitments for grants, or advances of funds to non-Federal entities under such terms and conditions as the Secretary may require. Such program shall consist of cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources that the Secretary considers appropriate. Such program shall provide for the mitigation of incidental fish and wildlife values that are lost as a result of the measures and associated works. The Secretary shall submit a planning report concerning the program established under this paragraph to the appropriate committees of Congress. The Secretary may not expend funds for any implementation measure under the program established under this paragraph before the expiration of a 30-day period beginning on the date on which the Secretary submits such report";

(2) in section 205(a)—

(A) in paragraph (1) by striking "authorized by section 202(a) (4) and (5)" and inserting "authorized by paragraphs (4) through (6) of section 202(a)"; and

(B) in paragraph (4)(i), by striking "section 202(a) (4) and (5)" each place it appears and inserting "paragraphs (4) through (6) of section 202";

(3) in section 208, by adding at the end the following new subsection:

"(c) In addition to the amounts authorized to be appropriated under subsection (b), there are authorized to be appropriated $75,000,000 for subsection 202(a), including constructing the works described in paragraph 202(a)(6) and carrying out the measures described in such paragraph."; and

(4) In subsection 202(b)(4) delete "units authorized to be constructed pursuant to paragraphs (1), (2), (3), (4), and (5)" and insert in lieu thereof "units authorized to be constructed or the program pursuant to paragraphs (1), (2), (3), (4), (5), and (6).".

AMENDMENT NO. 610

(Purpose: To make technical correction in the authorization of appropriations for the Colorado River Basin salinity control program)

Mr. KYL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Arizona [Mr. KYL], for Mr. DOMENICI, proposes an amendment numbered 610.

The amendment is as follows:

On page 7, strike "such paragraph" on line 1, and insert the following: "such paragraph. Notwithstanding subsection (b), the Secretary may implement the program under paragraph 202(a)(6) only to the extent and in such amounts as are provided in advance in appropriations Acts."

Mr. KYL. Mr. President, I ask unanimous consent that the amendment be agreed to, that the committee substitute be agreed to, as amended, that the bill be deemed read a third time, and passed, and that the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the amendment (No. 610) was agreed to.

So the bill (S. 523), as amended, was deemed read a third time, and passed as follows:

[S. 523 was not available for printing. It will appear in a future issue of the RECORD.]

CHACOAN OUTLIERS PROTECTION ACT

Mr. KYL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 42, H.R. 517.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 517) to amend title V of Public Law 96-550, designating the Chaco Culture Archeological Protection Sites, and for other purposes.

The Senate proceeded to consider the bill.

Mr. KYL. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 517) was deemed read a third time and passed.

Mr. KYL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-729. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 92-82; to the Committee on Appropriations.

EC-730. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, a draft of proposed legislation to extend, reauthorize and amend the Defense Production Act of 1950; to the Committee on Banking, Housing, and Urban Affairs.

EC-731. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to a transaction with a Bermuda company; to the Committee on Banking, Housing and Urban Affairs.

EC-732. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC-733. A communication from the Chairperson of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC-734. A communication from the Chairman of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC-735. A communication from the Acting Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, notice of the details of the compensation plan for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC-736. A communication from the Acting Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the annual consumer report for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC-737. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report of the evaluation of the Home Equity Conversion Mortgage Insurance Demonstration; to the Committee on Banking, Housing, and Urban Affairs.

EC-738. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on the Interstate Land Sales Registration Program for calendar years 1993 through 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC-739. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on seismic safety property standards; to the Committee on Banking, Housing, and Urban Affairs.

EC-740. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on community development programs; to the Committee on Banking, Housing, and Urban Affairs.

EC-741. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to a transaction involving exports to the People's Republic of China; to the Committee on Banking, Housing and Urban Affairs.

EC-742. A communication from the Acting Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report on the preservation of minority savings associations; to the Committee on Banking, Housing, and Urban Affairs.

EC-743. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "The National Defense Authorization Act for Fiscal Year 1996"; to the Committee on Armed Services.

EC-744. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within 5 days of enactment; to the Committee on the Budget.

EC-745. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within 5 days of enactment; to the Committee on the Budget.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 225. A bill to amend the Federal Power Act to remove the jurisdiction of the Federal

Energy Regulatory Commission to license projects on fresh waters in the State of Hawaii (Rept. No. 104–70).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 359. A bill to provide for the extension of certain hydroelectric projects located in the State of West Virginia (Rept. No. 104–71).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 421. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes (Rept. No. 104–72).

S. 461. A bill to authorize extension of time limitation for a FERC-issued hydroelectric license (Rept. No. 104–73).

S. 522. A bill to provide for a limited exemption to the hydroelectric licensing provisions of part I of the Federal Power Act for certain transmission facilities associated with the El Vado Hydroelectric Project in New Mexico. (Rept. No. 104–74).

S. 538. A bill to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, and for other purposes (Rept. No. 104–75).

S. 549. A bill to extend the deadline under the Federal Power Act applicable to the construction of three hydroelectric projects in the State of Arkansas (Rept. No. 104–76).

S. 737. An original bill to extend the deadlines applicable to certain hydroelectric projects, and for other purposes (Rept. No. 104–77).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 395. A bill to authorize and direct the Secretary of Energy to sell the Alaska Power Marketing Administration, and for other purposes (Rept. No. 104–78).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 727. A bill to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes; to the Committee on Armed Services.

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 728. A bill to authorize certain construction at military installations for fiscal year 1996, and for other purposes; to the Committee on Armed Services.

By Mr. BAUCUS (for himself and Mr. LOTT):

S. 729. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one Committee reports, then the other Committee have 30 days to report or be discharged.

By Mr. CHAFEE:

S. 730. A bill to amend title 38, United States Code, to provide that receipt of disability compensation for dependents not depend upon the waiver of receipt of an equal amount of retired pay; to the Committee on Veterans Affairs.

S. 731. A bill to amend title 38, United States Code, to provide that the reduction by waiver of retired pay due to reciept of compensation or pension not apply to retired pay attributable to pay for extraordinary heroism; to the Committee on Veterans Affairs.

By Mrs. BOXER:

S. 732. A bill to amend chapter 81 of title 5, United States Code, to prohibit Members of Congress from receiving Federal workers' compensation benefits for injuries caused by stress or any other emotional condition, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROTH (for himself, Mr. BIDEN, Mr. JEFFORDS, Mr. LEAHY, Mr. MOYNIHAN, Mrs. MURRAY, Mr. CHAFEE, Mrs. BOXER, Mr. COHEN, and Mr. LAUTENBERG):

S. 733. A bill to amend title 23, United States Code, to permit States to use Federal highway funds for capital improvements to, and operating support for, intercity passenger rail service, and for other purposes; to the Committee on Environment and Public Works.

By Mr. REID (for himself and Mr. BRYAN):

S. 734. A bill to designate the United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, as the "Bruce R. Thompson United States Courthouse and Federal Building", and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOLE (for himself, Mr. HATCH, Mr. NICKLES, Mr. THURMOND, Mr. SIMPSON, Mr. BROWN, Mr. KYL, and Mr. GRAMM):

S. 735. A bill to prevent and punish acts of terrorism, and for other purposes; read the first time.

By Mr. HARKIN (for himself and Mr. BOND):

S. 736. A bill to amend title IV of the Social Security Act by reforming the aid to families with dependent children program, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 737. An original bill to extend the deadlines applicable to certain hydroelectric projects, and for other purposes; from the Committee on Energy and Natural Resources; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 112. A resolution commending the Senate Enrolling Clerk upon his retirement; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. NUNN) (be request):

S. 727. A bill to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes; to the Committee on Armed Services.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, a bill to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strength for fiscal year 1996, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and a section-by-section analysis explaining its purpose be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, April 20, 1995.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The Department of Defense proposes the enclosed draft of legislation, "To authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes."

This legislative proposal is part of the Department of Defense legislative program for the 104th Congress and is needed to carry out the President's budget plans for fiscal year 1996. The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

This bill provides management authority for the Department of Defense in fiscal year 1996 and makes several changes to the authorities under which we operate. These changes are designed to permit a more efficient operation of the Department of Defense.

Enactment of this legislation is of great importance to the Department of Defense and the Department urges its speedy and favorable consideration.

Sincerely,

JUDITH A. MILLER.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

SECTION-BY-SECTION ANALYSIS

Title I—Procurement

Authorization of Appropriations

Section 101. Army
Section 102. Navy and Marine Corps
Section 103. Air Force
Section 104. Defense-wide activities
Section 105. Defense Inspector General
Section 106. Chemical demilitarization program
Section 107. Defense health program

Sections 101 through 107 provide procurement authorization for the Military Departments and for Defense-wide appropriations in amounts equal to the budget authority included in the President's budget for fiscal years 1996 and 1997.

Section 108. Repeal of requirement for separate budget request for procurement of reserve equipment

Section 108 repeals the provisions of section 114(e) of title 10, United States Code, requiring a separate budget request for the procurement of Reserve equipment.

Title II—Research, Development, Test, and Evaluation

Section 201. Authorization of appropriations

Section 201 provides for the authorization of each of the research, development, test, and evaluation appropriations for the Military Departments and Defense Agencies in amounts equal to the budget authority included in the President's budget for fiscal years 1996 and 1997.

Title III—Operation and Maintenance

Subtitle A—Authorization of Appropriations

Section 301. Operation and maintenance funding

Section 301 provides for authorization of the operation and maintenance appropriations of the Military Departments and Defense-wide appropriations in amounts equal to the budget authority included in the President's budget for fiscal years 1996 and 1997.

Section 302. Working capital funds

Section 302 authorizes appropriations for the Defense Business Operations Fund and the National Defense Salified Fund in amounts equal to the budget authority included in the President's budget for fiscal years 1996 and 1997.

Section 303. Civilian Marksmanship Program fund

Section 303 amends the provisions of section 4308 and 4313 of title 10, United States Code, relating to the Civilian Marksmanship Program, to reflect the President's Budget proposal that the Program be funded exclusively from reimbursements received in the execution of the program.

Section 304. Repeal of limitations on activities of Defense Business Operations Fund

Section 304 amends section 316(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 to repeal limitations on the activities of the Defense Business Operations Fund

Section 305. Amendments relating to the Ready Reserve Force Component of the Ready Reserve Fleet

Section 305 amends the provisions of section 2218 of title 10, United States Code, relating to the National Defense Sealift Fund, to reflect the funding for the Ready Reserve Component of the Fleet by the Department of Defense as requested in the President's budget.

Subtitle B—Reserve Component

Section 321. Reimbursement of pay and allowances and accountability of Reservists supporting cooperative threat reduction with States of the Former Soviet Union.

This section amends section 1206 of the National Defense Authorization Act for Fiscal Year 1995, which authorizes funds for the execution of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160) by adding two new subsections.

New subsection (c) would permit funds appropriated to execute programs authorized by the Cooperative Threat Reduction Act to be utilized to reimburse the military personnel appropriations accounts for the pay and allowances paid to reserve component personnel for service while engaged in any program authorized by this Act. The utilization of Reserve component personnel, particularly in expansion of military-to-military and defense contacts, is particularly advantageous.

Permitting these funds to be used to reimburse the active military appropriations accounts removes a significant resource impediment to increasing the opportunities for ordering individual reserves to active duty with their consent as specified in section 513 of the National Defense Authorization Act for Fiscal Year 1995. A similar provision was passed by the 103rd Congress in section 1316 (a) of the National Defense Authorization Act for Fiscal Year 1995 for Military-to-Military Contracts and Comparable Activities.

New subsection (d) would exempt members of a reserve component participating in activities or programs specified in the Cooperative Threat Reduction Act of 1993 who served over 180 days from counting against the authorized end strength for members of the armed forces on active duty under section 115(a)(1) of title 10 and against the senior grade strength limitations of sections 517 and 523 of title 10. Approval of this exemption from end strength and senior grade strength limitations removes an impediment to increasing the opportunities for ordering individual reserves to active duty with their consent as specified in section 513 of the National Defense Authorization Act for Fiscal Year 1995. A similar provision was passed by the 103rd Congress in section 1316 (c) of the National Defense Authorization Act for Fiscal Year 1995 for Military-to-Military Contacts and Comparable Activities.

There are no additional costs associated with enacting this legislation.

Section 322. Authority for Department of Defense funding for National Guard participation in joint exercises with the Army and Air Force for disaster and emergency assistance

This section would authorize the Secretary of the Army and the Secretary of the Air Force to provide for personnel of the National Guard, using funds appropriated for National Guard training exercises, to participate in joint exercises with the Army and Air Force to train for disaster and emergency response, and would thus allow these personnel to participate in such exercises in a Federally paid (title 32) status under state authority.

Under current law, Department of Defense funding for the National Guard may not be used for training the National Guard for disaster and emergency response. Funding for this training is the responsibility of the states and FEMA, and such training must be done in a state active duty status. This provision would authorize a limited exception to this allocation of responsibility by permitting use of Department of Defense funds and title 32 status for the Guard when engaged in joint exercises with the Army or Air Force for disaster and emergency response training. Disaster and emergency response training and exercises of the National Guard when not conducted in conjunction with the Army or the Air Force would continue to be a state and FEMA responsibility.

This amendment will ensure that National Guard personnel participating in joint exercises with members of the other components of their armed forces are eligible for the same protections and benefits as their counterparts from the Army Reserve, Air Force Reserve, and Regular components with whom they are participating. It will also avoid situations where lack of state or FEMA funds preclude participation by Guard units in joint exercises and thereby undermine the efficacy of those exercises.

Subtitle C—Other Matters

Section 331. Aviation and vessel war risk insurance

The purpose of this legislation is to provide a means for rapid payment of claims and the rapid reimbursement of the insurance funds to protect commercial carriers assisting the Executive Branch from catastrophic losses associated with the destruction or damage to aircraft or ships while supporting the national interests of the United States. Allowing the Department of Defense to transfer any and all available funds will allow the United States, in these two vital reinsurance programs, to match standard commercial insurance practice for the timely payment required by financial arrangements common in the transportation industry today. Reporting and the requirements for supplemental appropriations, if any, ensures Congressional oversight at all stages.

Subsections (a) and (b) of the proposed legislation set forth the short title and the findings and purposes, respectively.

Subsection (c) of the proposed legislation amends section 44305 of title 49, United States Code, by adding a new subsection (c).

Subsection (c)(1) allows transfer of any funds available to the Department of Defense, regardless of the purpose of those funds. Although other authorities may exist to transfer funds, limitations as to amounts and priorities make these authorities insufficient to rapidly respond to the obligations of the Department of Defense under the current law, especially if contingencies or war-time conditions exist. Proposed language would not distinguish between types of insurance or risk, so long as the Federal Aviation Administration had issued a policy covering the risk. The language would not limit the authority to a specific fiscal year, but would be ongoing without need for reenactment periodically by Congress. Such Congressional oversight is already in place through the reauthorization of the Aviation Insurance Program, next scheduled to take place in 1997.

Subsection (c)(2) provides specific time limits with which the Secretary of Defense must pay claims and reimburse the Federal Aviation Administration. Notification to Congress and the 30 day delay before transfer required in other statutes is waived. The most important issue for the air carriers is the replacement of the hull so that they may continue operations, including supporting the requesting agency, without idling crews or having to lay off personnel due to the lack of airframes. A longer time frame is provided for other claims, such as liability to third parties, as normal claims procedures can adequately protect their interests.

Subsection (c)(3) requires reports to Congress within 30 days of loss for amounts in excess of one million dollars, with periodic updates to ensure Congress is aware of amounts being transferred and paid out under the chapter 443 program. As supplemental appropriations may be necessary, Congress will have sufficient information on which to base a decision regarding the supplemental appropriations.

Subsection (d) of the proposed legislation amends section 1205 of the Merchant Marine Act, 1936, (46 App. U.S.C. §1285) by adding a new subsection 9c).

Subsection (c)(1) authorizes the Secretary of Defense to transfer funds available to the Department to pay claims by contractors, for the damage or loss of vessels and death or injury to personnel, insured pursuant to Title XII of the Merchant Marine Act, 1936, or loss or damage associated therewith. Proposed language would not distinguish between types of insurance or risk, so long as the Maritime Administration had issued a policy covering the risk. The language would not limit the authority to a specific fiscal year, but would be ongoing without need for reenactment periodically by Congress. Such Congressional oversight is already in place through the reauthorization of the Vessel War Risk Insurance Program, next scheduled to take place before the 30 June 1995 expiration (46 App. U.S.C. §1294).

Subsection (c)(2) provides specific time limits within which the Secretary of Defense must reimburse the Secretary of Transportation.

Subsection (c)(3) requires reports to Congress on a periodic basis for claims paid in amounts in excess of one million dollars to ensure Congress is aware of amounts being transferred and paid out under the Title XII program. As supplemental appropriations may be necessary, Congress will have sufficient information on which to base a decision regarding the supplemental appropriations.

The addition of subsection (c) to section 44305 of title 49, United States Code, and subsection (c) to section 1205 of the Merchant Marine Act, 1936, (46 App. U.S.C. §1285) would allow the Department of Defense to rapidly pay claims resulting from damages or injuries caused by risks covered by the respective programs as a consequence of providing transportation to the United States when commercial insurance companies refuse to cover such risks on reasonable terms and conditions. The requirement to reimburse the Federal Aviation Administration or the Maritime Administration already exists; however, the only method for payment currently available may involve requesting supplemental appropriations from Congress. Such a process historically has taken six months or longer. Many air carriers have indicated their financial obligations may not allow them to continue to support the United States if rapid payment for losses cannot be made. Commercial aircraft insurance policies and practice require payment in less than 30 days when cause is not an issue, usually within 72 hours.

If enacted, this legislation would not result in an increase in the budgetary requirements of the Department of Defense.

Section 332. Testing of theater missile defense interceptors

The purpose of this legislation is to eliminate the requirement to attempt complex, multi-shot-engagement scenarios with relatively immature Engineering Manufacturing Development hardware when these same scenarios must be performed with production-representative hardware during the Initial Operational Test and Evaluation (IOT&E) phase.

The requirement to demonstrate interceptor performance under operationally realistic conditions with production-representative hardware already exists. The premature duplication of this testing will only add greater technical complexity, cost, and risk to the program and provide little if any technical value.

Theater Missile Defense (TMD) interceptor performance will be performed during the Initial Operational Test and Evaluation (IOT&E) phase and results reported to Congress prior to the system being allowed to enter production. The Director of Operational Test and Evaluation, Office of the Secretary of Defense, will prepare and submit a Beyond Low-Rate Initial Production Report. This report will confirm that adequate testing, including multi-shot scenarios, has been completed. This testing must be conducted in operational environments and scenarios, consistent with conditions that the interceptor will be expected to operate in when fielded.

Section 333. Authority to assign overseas school personnel to domestic schools and vice versa

This section would authorize the Secretary of Defense to assign personnel of either the school system established under section 2164 of title 10 or the school system established by the Defense Dependents' Education Act of 1968 (title XIV of the Education Amendments of 1978; 20 U.S.C. 921 *et seq.*) to provide administrative, logistical, personnel, and other support services to the other system, either in addition to, or in place of, their normal duties. Such assignments may be for the period prescribed by the Secretary.

Section 334. Authorization for expenditure of O&M and procurement funds for the accelerated architecture acquisition initiative

This section amends title 10 by adding a new section 2395a the purpose of which is to allow the Central Imagery Office (CIO), as a Combat Support Agency, to expend currently-programmed O&M and Procurement funds to establish, implement, and deploy a worldwide imagery architecture. Having flexibility to use these funds will provide the Central Imagery Office the ability to meet changing imagery requirements, ensure readiness, and provide timely support to military operations.

In the past, numerous studies and evaluations have indicated that the United States imagery system was unable to provide required imagery support in a timely manner. The experience of Desert Shield/Desert Storm reinforced those evaluations. The Central Imagery Office was created and assigned responsibility for enhancing the ability of the military departments, Unified Commands, their components, Joint Task Forces, tactical units, and other activities to make use of all imagery assets in a timely manner. The Accelerated Architecture Acquisition Initiative is a key program through which the Central Imagery Office will develop and field systems to provide real-time access to and dissemination from existing and planned imagery collection systems (national and theater) to defend and national users worldwide, real-time access to distributed digital imagery and imagery-product archives, and enhancements to and increases in the capacity of existing Department of Defense data networks to accommodate increased requirements from the imagery assets.

Critical to the success of the Accelerated Architecture Acquisition Initiative is centralized management and oversight to balance requirements to ensure successful development, procurement, and development of necessary hardware, software, communications, and services. Central Imagery Office must ensure the standardization, compatibility, and interoperability of equipment and processes to provide a worldwide system for required, timely imagery support. A key element the Accelerated Architecture Acquisition Initiative is the near-term provision to JCS-selected users of that equipment necessary to receive and use digital imagery products.

The Central Imagery Office's proposal provides the express language needed in the 1996 Appropriations Act for authority to purchase and deploy hardware, software, and communications, using Central Imagery Office funds, for activities funded in the Department of Defense-funded portion of the NFIP. Without this special provision, 31 U.S.C. section 1301A would prevent the Central Imagery Office from using funds appropriated to it in the defense-wide appropriation in this manner. The Central Imagery Office will be unable to carry out its intended emission to deliver Accelerated Architecture Acquisition Initiative capabilities to the organizations that require them and to establish successfully the Accelerated Architecture Acquisition Initiative architecture worldwide. This legislation will allow for an efficient and highly flexible way for the Central Imagery Office to deploy needed capabilities during crisis and emergencies, to meet changing imagery requirements, ensure readiness, and provide timely support to military operations.

Enactment of this proposal will not increase the budgetary requirement of the Department of Defense.

Section 335. Establishment of a Department of Defense Laboratory Revitalization Demonstration Program

The authority would establish a test program to allow the heads of selected defense laboratories greater flexibility to undertake facilities modernization without the requirement to seek approval from higher levels. The purpose of the program is to reduce the amount of time required to upgrade research and development capabilities at Department of Defense laboratories. The provision would recognize that facilities construction in support of research and development is historically more expensive than similar-sized projects in other construction categories. For test program laboratories, the provision would raise the threshold from $1.5 million to $3.0 million for minor military construction projects that the Secretary of Defense may carry out without specific authorization in law. The provision would also raise the threshold for minor military construction projects requiring prior Secretary of Defense approval from $500,000 to $1.5 million. Finally, the provision would raise for selected laboratories the threshold from $300,000 to $1.0 million for the value of any unspecified military construction project for which operation and maintenance funds may be used.

The test authority would expire on September 30, 2000. It would also require the Secretary of Defense to designate participating laboratories before the test may begin and to report to Congress on the lessons learned from the test program one year before it is terminated.

Subsection (a). A healthy and responsive defense laboratory system is essential to the national defense and security, and to foster the growth and development of new technologies having both military and civilian applications. A strong and flexible defense laboratory system, staffed by top quality scientists, technicians, and engineers, with state-of-the-art equipment and facilities is critical to meeting new and changing world threats, as well as maintaining America's technological military leadership.

The ability of defense laboratories to rapidly introduce technological innovation into military systems, and to respond to technological exigencies has been significantly degraded by requirements that the laboratories conduct their facilities modernization functions under a set of complex and time consuming procedures inappropriate to laboratory operations. The inability of our laboratories and centers to modernize antiquated facilities in a prompt fashion has resulted in an ineffective and inefficient use of tax dollars.

The Secretary of Defense has determined that many of the problems in the defense laboratory system stem from the application of procedures and processes to the laboratories that are inappropriate to the research and development community. The Secretary anticipates that the elimination of certain unnecessary and cumbersome restrictions would result in much more efficient and effective laboratories. The Secretary has already selected laboratories from each of the military departments to participate in a demonstration program to substantiate the hypothesis. Currently, internal procedures and regulations are being updated, streamlined, or abolished for the purpose of the demonstration program. This proposal is intended to make those legislative changes identified by the Secretary of Defense as necessary to partially implement the Demonstration Program.

In implementing any authorizations in this Act that are waivers or exceptions to existing law or laws, the Secretary will assure that the basic purposes and interests of the original laws will be carried out and protected in a manner most appropriate to the research and development community.

The Secretary will review and evaluate the findings of the demonstration program, and make appropriate recommendations as to the applicability of legislative changes to all Department of Defense laboratories.

Subsection (b). This section is aimed at improving the research and development facility based by enhancing the process for upgrading the facilities including built-in equipment necessary for performing state-of-the-art research and development.

The inherently complex nature of conducting modern research requires facilities, equipment and support infrastructure that are simply more expensive, on a unit basis, than other types of military support activity. For example, representative examples of minor facilities construction obtained from each of the three Services from their fiscal year 1993 minor military construction (MILCON) requests, show laboratory construction, expansion or reconfiguration costing, on a square foot basis, about three times what a similarly sized office building cost.

Aside from meeting and responding to military crises such as Desert Storm, the very nature of the experimental process requires a rapid response to a scientific discovery. Often significant new information can be acquired by building on an existing experiment if that "add on" experiment can be put in place in a coherent fashion. Time is of the essence if experimental opportunities are to be maximized and efficiently exploited.

Operating and maintaining a government owned research and development facility base is in the best interests of the nation for the following reasons;

The Department of Defense research and development operations perform research and development activities quickly in response to operational needs. Examples of government scientists involved in the Desert Storm operation attest to the efficacy of the Department of Defense laboratory programs. Having Federal employees dedicated to defense research and development assists in assuring accurate communications and continuity of research and development assistance.

The cadre of government scientists with contemporary facilities assures that government managers have knowledgeable unbiased advisors on research and development, i.e., the "smart buyer" model. To stay current, scientists must not only continue their academic education, but need to be actively involved in contemporary research and development.

There are certain types of research and development that the government needs to maintain, due to their sensitive nature. Specific examples include chemical and biological agents, and nuclear effects.

There are some types of research and development that are not accomplished in private institutions, but are necessary for military operations. Specific examples include fuzing, communications network defense, special sensors, special military related medical research, and night vision equipment.

There are certain types of generic research in exotic or speculative areas which may have significant future military impact. Our laboratories, at least on a limited and selective basis, must have the ability to promptly pursue such research as opportunity dictates.

Subsection (b)(1). Sections 2805 (a) and (b) (1) of title 10 were established under Public Law 97-214 and were effective October 1, 1982. This provision is available to the agency to perform minor construction which was not specified in the Military Construction requests. The dollar limitations contained in 2805 (a) and (b) of title 10 were last revised in 1991.

The construction of laboratory and supporting facilities in direct support of state-of-the-art research and development historically is more expensive than similar sized projects in other construction categories. Specifically, there are unique safety, security, and operational requirements which inherently increase the cost for laboratory facilities. Increasing the limit of unspecified minor military construction to $3,000,000 for facilities in support of research, development, test, and evaluation (RDT&E) would allow the head of the laboratory the same relative latitude as the commander of other military programs.

Subsection (b)(2). The provisions contained in section 2805(b)(2) were intended to insure proper Congressional control and oversight of the minor military construction flexibility granted to the Service Secretaries. While the provisions of this Bill would modify the dollar threshold level at which such notification to the Congress would be required for this demonstration program, an effective evaluation of this demonstration program does require an appropriate reporting function. Consequently the Department of Defense, through already existing internal mechanisms, intends to identify the scope, nature and dollar amount of the use of this authority. The Services will report to the Director of the Defense Research and Engineering at the end of each fiscal year on how this authority was utilized describing dollar amounts, sources of funds and projects undertaken. This data could be made available to the Congress as part of the evaluation of the program.

Subsection (b)(3). The current provision found at section 2805(c)(1) setting a limit of $300,000 operation and maintenance funds for minor modifications and construction is appropriate for typical government office buildings, such as establishing walls and electrical outlets for an office. However, this dollar amount has been unduly restrictive for accomplishing laboratory modifications. To establish a state-of-the-art research and development environment, there are often special needs such as special "clean room" requirements, and special plumbing or ventilation requirements for safety equipment that cannot be met for $300,000. Raising the amount to $1,000,000 would allow the type of minor work available to most Commands but precluded to most Heads of Laboratories.

Subsection (c). It is the intention of the legislation to conduct an experiment to determine the effectiveness and benefits of granting this authority. Consequently, some baseline participation must be established for comparative purposes to permit effective evaluation of the program.

Subsection (d). The Department intends to document the performance and results of this program in order to effectively recommend to the Congress whether and with what changes this initiative should be made permanent.

Subsection (e). This section is included to assure that the language of this Act does not limit any existing authority that may have been granted to one or more of the laboratories under this Program.

Subsection (f). This section provides the definitions common to this Act.

Subsection (g). This section is included to insure that appropriate recommendations are made to the Congress.

Section 336. Repeal of certain depot-level maintenance provisions

This section repeals sections 2466 and 2469 of chapter 146, title 10, United States Code. These sections impose limitations on the amount of depot-level maintenance of materiel that can be performed by non-federal government employees and place restrictions on changing the performance of maintenance workloads currently performed in depot level activities of the Department of Defense to other depots and to private industry.

Section 2466 provides that not more than 40 percent of the funds made available in a Fiscal Year to a military department or a Defense Agency, for depot-level maintenance and repair workload may be used to contract for performance by non-Federal Government personnel of such workload for the military department or the Defense Agency. Repeal of Section 2466 will provide the Department of Defense and the military departments the needed flexibility to accomplish more than 40 percent of their depot maintenance workload by non-Federal Government employees when needed to achieve the best balance between the public and private sectors of the Defense industrial base. The repeal of Section 2466 will not increase the budgetary requirements of the Department of Defense.

Section 2469 prohibits the Secretary of Defense or the Secretary of a Military Department from changing the performance of a depot-level maintenance workload that has a value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense unless, prior to any such change, the Secretary uses competitive procedures to make the change. The Department has suspended cost competitions for depot maintenance workloads because the data and cost accounting systems of the Department are not capable of determining actual costs for accomplishing specific depot maintenance workloads in the depots. Repeal of Section 2469 will permit the Department of Defense and the military departments to shift workloads from one depot to another or to private industry as required to resize the depot maintenance infrastructure to support a smaller force structure. The repeal of section 2469 will not increase the budgetary requirements of the Department of Defense.

This legislation will enable the Department to structure its organic Defense depot maintenance activities consistent with satisfying core logistics capability requirements that are based on providing effective support for national defense contingency situations and other emergencies.

The proposed repeal of sections 2466 and 2469 will permit the Department of Defense to accomplish depot maintenance for weapon systems and equipment in the most cost effective and efficient manner. The Department is establishing core depot maintenance centers of excellence to retain the best quality products and services to support its combat forces. The Department's core depot maintenance concept promotes sharing of workload between Defense depots and private industry to accommodate teaming efforts and supports the best application of modern technology for accomplishing depot maintenance.

The repeal of sections 2466 and 2469 will allow the Department to shift workloads from current depots to other Defense depots and to compete workloads in the private sector to achieve the lowest costs and best efficiency in support of the core depot maintenance concept. It will also enable the Department to size its depot maintenance infrastructure to best support emergency and contingency scenarios with the required levels of weapon systems readiness.

The enactment of this proposal will not increase the budgetary requirements of the Department of Defense.

Title IV—Military Personnel Authorizations

Subtitle A—Active Forces

Section 401. End strengths for Active Forces

Section 401 prescribes the personnel strengths for the Active Forces in the numbers provided for by the budget authority and appropriations requested for the Department of Defense in the President's budget for fiscal years 1996 and 1997.

Subtitle B—Reserve Forces

Section 411. End strengths for Selected Reserve

Section 411 prescribes the strengths for the selected Reserve of each reserve component of the Armed Forces in the numbers provided for by the budget authority and appropriations requested for the Department of Defense in the President's budget for fiscal years 1996 and 1997.

Section 412. End strengths for Reserves on active duty in support of the Reserves

Section 412 prescribes the end strengths for reserve component members on full-time active duty or full-time National Guard duty for the purpose of administering the reserve forces.

Subtitle C—Military Training Student Loads

Section 421. Authorization of training student loads

Section 421 provides for the average military training student loads in the numbers provided for this purpose in the President's amended budget for fiscal years 1996 and 1997.

Title V—Military Personnel Policy

Subtitle A—Officer Personnel Policy

Section 501. Equalization of accrual of service credit for officers and enlisted members of the Armed Forces

Subsection (a) amends section 972 of title 10 by combining and redrafting paragraphs (3) and (4) and by replacing "liable" with "required". These changes are intended to clarify the provision and do not make substantive change to the current law. Section 972 states that enlisted members must make up lost under certain circumstances before that time can be counted toward service for retirement.

Subsection (b) amends title 10 by adding a new section 972a. The purpose of this new section is to prevent accrual of service credit to an officer of the armed forces under the following circumstances: (1) while in a deserter status; (2) while absent from duty, station, or organization for more than one day without proper authority; (3) while confined by military or civilian authorities for more than one day before, during or after trial; or (4) while unable for more than one day to perform duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from an officer's misconduct. These circumstances are the same as those under which an enlisted member is required to make up time lost under section 972 of title 10. Such time would not count in computing the officer's length of service for any purpose except the computation of basic pay under section 205 of title 37, including, but not limited to, voluntary retirement for length of service under chapters 367, 571, or 867 of title 10.

Sections 3925 and 8925 of title 10 address computation of years of service for voluntary retirement by regular enlisted members of the Army and the Air Force, subject to the provisions of section 972. As noted above, section 972 states that enlisted members must make up time lost under certain circumstances before that time can be counted toward service for retirement. This made-up time ensures that the Army and the Air Force receive a full commitment based on an enlistment or induction contract. Comparable provisions relating to the Navy in chapter 571 of title 10, do not reference section 972 and do not have a provision comparable to sections 3925 and 8925.

Sections 3929 and 8926 of title 10 address computation of years of service for voluntary retirement by regular and reserve commissioned officers of the Army and the Air Force. Comparable provisions relating to the Navy in chapter 571 of title 10, do not have a provision comparable to sections 3929 and 8926. Presently, there are no limitations placed on officers for actions similar to those in section 972. Officers continue to receive service credit towards retirement eligibility, higher longevity pay, and increased multiplier for retired pay purposes. At the same time, highly-qualified officers selected for early retirement cannot be extended past their mandatory retirement date to reach a pay increase point. This proposal will rectify these inequities.

Subsections (c) and (e) amend sections 3926 and 8926 of title 10 to make reference to new section 972a in the same fashion that section 972 is referenced in sections 3925 and 8925 of title 10. Subsection (d) amends title 10 by adding a new section 6328 in chapter 571 to make reference to both sections 972 and 972a.

The enactment of this proposal will not increase the budgetary requirements of the Department of Defense.

Section 502. Changes in general officer billet titles resulting from the reorganization of headquarters, Marine Corps

The purpose of this legislation is to replace the current Sections 5041(b), 5044 and 5045 of Chapter 506 of title 10, United States Code, with language to reflect reorganization of Headquarters Marine Corps to more efficiently support the Commandant in his two roles as a member of the Joint Chiefs of Staff and as a Service Chief.

Based on a Headquarters Marine Corps Reorganization Study, proposed changes were recommended to establish a viable organization that incorporates coherent, timely and forceful resource management and advocacy; General Officer efficiencies; and the ability to respond rapidly to emerging issues in a coordinated and comprehensive method.

The following changes in general officer billet titles were proposed to more efficiently accomplish support to the Commandant:

The Assistant Commandant of the Marine Corps to Vice Commandant of the Marine Corps;

Deputy Chiefs of Staff of the Marine Corps to Deputy Commandants of the Marine Corps;

Assistant Deputy Chiefs of Staff of the Marine Corps to Assistant Deputy Commandants of the Marine Corps;

Assistant Chiefs of Staff of the Marine Corps to Assistant Commandants of the Marine Corps.

This proposal will be effected at no cost to the Department of Defense or the Department of the Navy

Section 503. Increase in the transition period for officers selected for early retirement

Paragraphs (1) of subsections (a) and (b) would amend sections 581 and 638 of title 10, United States Code, to extend the transition period for officers selected for early retirement by three months. Under subsections 581(b) and 638(b)(1)(A) of title 10, an officer must be retired "not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement." Subsections (a) and (b) of this proposal would require officers selected for early retirement to be retired not later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement.

Paragraphs (2) of subsections (a) and (b) would authorize the Secretary concerned to defer the retirement of an officer otherwise approved for early retirement under section 581, 638 or 638a of title 10 for not more than 90 days, in order to prevent a personal hardship for the officer or for other humanitarian reasons.

Subsection (c) would exclude from counting for the purpose of determining authorized end strength under section 115 of title 10, those officers selected for early retirement whose mandatory retirement date has been deferred, for up to 90 days, by the Service Secretary for reason of personal hardship or other humanitarian reasons.

Under current law, officers selected for early retirement have six months and some fraction of a seventh month to prepare for an involuntary transition to civilian life. In most cases, these officers have career expectations which are limited only by statutory restrictions on years of commissioned service and, therefore, are not prepared to make this sudden, unwanted transition. Many of the officers selected for early retirement must seek and attain post-military service employment, move families to retirement locations, meet current financial obligations such as mortgage payments and college tuition costs for older children and work around secondary and elementary education school schedules for younger children.

Compressing these major events into a six month period is difficult, particularly if the officer is deployed or stationed overseas. Extending the transition period by three months would not only permit officers selected for early retirement to plan a more orderly transition to civilian life while still performing in their military positions, but would also provide the Services more time in which to identify and detail reliefs for these officers while still meeting fiscal year officer end strength requirements.

This proposal to increase the transition period for officers selected for early retirement by three months is a modest, but necessary change which will positively affect one of the military's most negative personnel reduction processes. While this change will not eliminate an officer's shock of being forcibly retired early from a Service, it will soften the impact for affected officers and their families who have dedicated 20 or more years of faithful and professional military service to the United States.

There is no cost associated with this proposal. Selective Early Retirement Boards could be convened three months earlier to offset any net increase in total pay and allowances expended as a result of the three month extension in the transition period.

Section 504. Revision in the authorized strength limitations for Air Force commissioned officers on active duty in the grade of major

This section would authorize the Secretary of the Air Force to raise temporarily the ceiling on the number of majors on active duty in the Air Force by 1,100. Such statutory authority would allow the Air Force to accelerate promotion timing to meet congressional intent as expressed through the Defense Officer Personnel Management Act. This proposal will not increase the total number of commissioned officers authorized by the Air Force and will not impede planned reductions in the officer force.

Section 505. Revision in the authorized strength limitations for Navy commissioned officers on active duty in grades of lieutenant commander, commander, and captain

This section temporarily and uniformly raises the ceilings on the numbers of lieutenant commanders, commanders and captains on active duty in Navy by 910, 722 and 300, respectively. This temporary increase in ceilings is necessary to provide sufficient grade authorizations to maintain Unrestricted and Nurse promotion flow and opportunity within Defense Officer Personnel Management Act (DOPMA) guidelines. This temporary authority would expire on the 30th of September, 1997, by which time Navy post-draw down officer requirements and end strength will have stabilized, and a more precise determination of permanent grade table relief requirements can be made. For the long term, Navy requires permanent grade table relief to maintain officer career progression within Defense Officer Personnel Management Act guidelines. Navy will pursue this permanent relief as part of a joint Service effort coordinated by the Department of Defense.

Navy's Unrestricted Line O-4 flow point will exceed the Defense Officer Personnel Management Act guideline of 11 years in fiscal year 1999, and peak at 13 years and 6 months in fiscal year 2003, despite the use of forced attrition programs to control this increase. As the significant career milestone of promotion to O-4 slips further off into the future, Navy will find it increasingly more difficult to attract high-caliber officers and retain its best junior officers, particularly in the current climate of declining strength, increased forced attrition and reduced retirement benefits.

To provide Nurse Corps officers with comparable promotion opportunity and, Navy has had to provide substantial internal compensation to the Nurse Corps. Without this "compensation" Nurse Corps promotion opportunity and timing would remain outside of the Defense Officer Personnel Management Act promotion system guidelines indefinitely at the grades of commander and captain. In the current environment of declining strength this compensation is becoming increasingly more difficult to provide.

The proposed temporary change to the grade table will provide sufficient grade relief to maintain Unrestricted Line and Nurse Corps promotion opportunity and timing within Defense Officer Personnel Management Act guidelines and ensure Navy's ability to attract and retain the high-caliber officers it requires.

The approximate cost to implement this initiative is estimated as follows (in millions): Fiscal Year 1996: 00.00; Fiscal Year 1997: 10.00.

These amounts have not been included in any estimates for appropriations submitted through budget channels by the Department of Defense.

Section 506. Authorization of general or flag officer promotion zones

This section amends section 645 of title 10 to clarify the definitions of promotion zones which are applicable to Chapter 36 of title 10. The modified definitions will not require executive level officers (grades 0-6 and above) to be placed in a promotion eligibility category (above the zone) for officers who have failed of selection for promotion. Executive level officers become eligible to be selected for promotion when they have one year service in grade, and remain eligible unless selected for promotion or retired.

In part, the Defense Officer Personnel Management Act (DOPMA) was enacted to make uniform the provisions of law relating to promotion of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps. The Defense Officer Personnel Management Act was, however, enacted primarily for the purpose of field grade officer management.

At the time of the Defense Officer Personnel Management Act's enactment, it was apparent that executive level officers were not intended to be subject to all of the provisions of the Defense Officer Personnel Management Act. The House of Representatives Report of the Committee on Armed Services which accompanied Senate bill 1918 states "this category of executives is in many ways unique and can and should be managed accordingly. The small numbers involved permit this, and the importance of the resource demands this." The House report further states that "the concept of failing selection for promotion does not apply when officers are not selected for promotion to the flag and general officer grades."

Given that executive level officers do not fail selection for promotion and, therefore, should not be placed in an "above the promotion zone" category, it is proposed that the definition of "promotion zone" be modified to include executive level officers considered previously for promotion. The proposed amendment would, therefore, clarify that such officers are not above the zone, and thereby eliminate any stigma of failing of selection, bringing the statute squarely within the apparent intent of Congress. There are no other provisions of the Defense Officer Personnel Management Act which are affected by the proposed modifications.

There are no costs associated with this legislation.

Subtitle B—Reserve Component Matters

Section 511. Repeal of requirement for physical examination on calling militia into Federal service

This section repeals section 12408 of title 10, United States Code, which requires that each member of the National Guard receive a physical examination when called into, and again when mustered out of, Federal service as militia. For short periods of such service, this requires two complete physical examinations during a period of days or weeks. In view of other statutory and regulatory requirements for periodic medical examinations and physical condition certifications for members of the National Guard, this additional examination requirement is unnecessary, administratively burdensome, and expensive, and could impede the rapid and efficient mobilization of the National Guard for civil emergencies.

There is no corresponding statutory requirement for physical examinations when members of the National Guard or other reserve components are ordered to active duty as reserves.

Section 512. Military leave for public safety duty performed by members of the Reserve components of the Armed Forces

This section amends section 6323(b) of title 5 by permitting employees to elect, when performing duties described in that section, either military leave under that subsection or annual leave or compensatory time to which they are otherwise entitled. This amendment would not permit use of sick leave for the performance of military duty described in section 6323(b).

Section 513. Change to Reserve Officers' Training Corps advanced course admission requirements

This section amends section 2104(b)(6)(A)(ii) of title 10 to permit the Secretary of the military department to prescribe the length of the field training or practice cruise that persons who have not participated in the first two years of Reserve Officers' Training Corps must complete to be enrolled in the Reserve Officers' Training Corps Advanced Course. Currently, the preliminary training must last at least six weeks.

This proposal authorizes the Secretary concerned to prescribe the length of the field training or practice cruise required for admission to the Reserve Officers' Training Corps Advanced Course.

Section 514. Clarifying use of military morale, welfare, and recreation facilities by Retired Reservists

This section amends section 1065(a) of title 10, United States Code, to give members of the Retired Reserve who would be eligible for retired pay but for the fact that they are under 60 years of age (gray area reservists) the same priority for use of morale, welfare, and recreation (MWR) facilities of the military services as members who retired after active-duty careers.

Currently, section 1065(a), enacted in 1990, gives the retired reservists the same priority as active-duty members. They, therefore, have preference over retirees from active duty. This section amends the current section 1065(a) by revising the last sentence to correct this inequity.

Enactment of this section will not result in an increase in the budgetary requirements of the Department of Defense.

Section 515. Objective to increase percentage of prior active duty personnel in the Selected Reserve

Section 1111(a) of the National Defense Authorization Act for Fiscal Year 1993 provides that the Secretary of the Army shall have an objective of increasing the percentage of prior active duty personnel in the Army National Guard to 65 percent in the case of officers and 50 percent in the case of enlisted members. This change would amend section 1111 and eliminate from the law what may be seen as essentially an arbitrary percentage as a target. It will also facilitate increasing the active duty percentage of the career officer and enlisted leadership under Department objectives established by the Army's Section 1111 Congressional Plan submitted to Congress in January, 1994. The plan, developed after months of extensive modeling and analysis by the Deputy Chief of Staff for Personnel, supports objectives of 65 percent for warrant officers and commissioned officers in the grades above first lieutenant and below brigadier general. It also limited the grades for enlisted members to sergeants and above and increased the objective from 50 to 60 percent.

Section 516. Wear of military uniform by National Guard technicians

This section would amend section 709 of title 32, United States Code to provide that National Guard technicians who are required as a condition of such civilian employment to be members of the National Guard are also required to wear military uniforms in the course of performing their duties as technicians. These technicians are currently required to wear uniforms in their civilian jobs, and this requirement has been upheld by the Federal Labor Relations Authority and the courts. Recent decisions by the Federal Labor Relations Authority and the FSIP have required state National Guard organizations to negotiate with employee unions on the civilian clothing allowance under 5 U.S.C. 5901. These decisions may result in state Guard organizations being required to provide monetary civilian clothing allowances to compensate technicians that have already been furnished the required military uniforms under the military wear and tear replacement provisions of 37 U.S.C. 418.

Subsection (b) would allow a period of service as a technician by a person who is an officer in the National Guard to be considered active duty for the purposes of uniform allowances for officers under title 37. This would place technician officers on the same footing as AGRs as to eligibility for uniform allowances. This subsection would also provide that these allowances are exclusive of civilian uniform allowances authorized under titles 5 and 10.

Subsection (c) would authorize more frequent issuance of military uniforms to members of the National Guard who are technicians, as a result of wear and tear from wear during the course of their civilian employment. It would also provide that the issuance of uniforms or provision of a uniform allowance to these technicians under 37 U.S.C. 418 would be exclusive of authority to provide civilian uniforms or allowances under 5 U.S.C. 5901 or 10 U.S.C. 1593.

Section 517. Active duty retirement sanctuary for reservists

This section amends sections 1163(d) of title 10 to provide for an exception to the active duty retirement sanctuary provision for a member of a reserve component, who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system. This proposal would provide authority for the Secretaries of the military departments to issue regulations requiring that the length of active duty be at least 180 days before members of a reserve component could request retention on active duty until they become eligible for active duty retired pay. Such regulations would require reservists with 18 or more years of qualifying service for active duty retired pay to serve on active duty for special work for a period of 180 consecutive days or longer in order to request active duty retirement sanctuary. Certain reservists involuntarily recalled to active duty would be exempt from the 180-day requirement. There are no costs associated with the provision.

Section 518. Involuntarily separated military reserve technicians

This section amends section 3329 of title 5 which requires that certain eligible Department of Defense military reserve technicians who were involuntarily separated from their positions are given competitive service job offers in the Department of Defense within 6 months of application. Eligibility consisted of those who:

Separated on or after October 23, 1992, with 15 years technician and 20 years of service creditable for non-regular retirement under title 10, United States Code, section 1332;

Lost military membership not due to misconduct or delinquency;

Are not eligible for immediate or early retirement; and

Apply within one year of separation.

This would eliminate the requirement that separated technicians receive a job offer giving them placement rights above other separated Department of Defense civilian employees (including veterans). It also eliminates the requirement that a vacancy be artificially created. The proposed amendment would accord eligible technicians the same priority placement consideration as other displaced Department of Defense employees.

Subtitle C—Amendments to the Uniform Code of Military Justice

The legislative proposals in this subtitle are the result of an annual review of the Uniform Code of Military Justice by the Joint Service Committee on Military Justice. The Joint Service Committee on Military Justice was established in response to Executive Order 12473, as amended by Executive Orders 12484, 12550, and 12708, and consists of representatives from each of the five services and from The United States Court of Appeals for the Armed Forces. The purpose of the Joint Service Committee is to assist the President in his responsibilities under article 36 of the Uniform Code of Military Justice (10 U.S.C. 836) to ensure that the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States District Courts are applied, so far as practicable, to cases triable by court-martial. The enactment of this proposed legislation would result in no additional cost to the Government.

Section 551. Definitions

This section amends article 1 of the Uniform Code of Military Justice (10 U.S.C. 801) by providing definitions of the terms "classified information" and "national security". These definitions are identical to those used in the Classified Information Procedures Act (18 App. U.S.C. 1). The section also provides a definition of the term "armed conflict". This definition is similar to the definition of "contingency operation" found in section 101(a)(13) of title 10, United States Code.

Section 552. Jurisdiction over civilians accompanying the forces in the field of time of armed conflict

This section amends article 2(a)(10) of the Uniform Code of Military Justice (10 U.S.C. 802(a)(10)) by extending jurisdiction over civilians accompanying the forces in the field to situations of armed conflict. This amendment recognizes that armed conflict may exist without a declaration of war and overturns *United States v. Averette*, 41 C.M.R. 363 (C.M.A. 1970). Determining whether an armed conflict exists in the absence of a formal declaration of war is a factual determination based on the totality of the circumstances, including: the nature of the conflict (whether it involves armed hostilities against an organized enemy); the movement to and the numbers of United States forces in the combat area; the casualties involved and the sacrifices required; the maintenance of large numbers of active duty personnel; legislation by Congress recognizing or providing for the hostilities; executive orders and proclamations concerning the hostilities; and expenditures in the war effort.

Section 553. Investigations

This section amends article 32 of the Uniform Code of Military Justice (10 U.S.C. 832) by adding a new subsection which authorizes an article 32 investigating officer to investigate uncharged offenses when, during the course of a hearing under this article, the evidence indicates that the accused may have committed such offenses. An article 32 proceeding frequently eliminates weak or baseless charges saving the government the time and expense of having to address them at trial. It also serves the defense as a valuable discovery tool permitting it to cross-examine government witnesses under oath before trial. The investigation's swift completion saves the accused from the anxiety and uncertainty of what charges, if any, he will have to defend against and assures his right to a speedy resolution of the issues. Authorizing an investigating officer to broaden the scope of the investigation beyond those offenses charged benefits both the government and the accused. Under current procedure, the investigating officer would at a minimum, have to delay the proceeding in order to allow the Government time to prepare and serve additional charges should a basis for such charges arise during the investigation. Such delays are contrary to the interests of both the accused and the government in ensuring the swift and efficient administration of justice.

The proposed legislation should allow the investigating officer to investigate the uncharged allegation of allegations without having to delay the proceeding, but still insure that the accused's due process rights were protected. The investigating officer would be required to advise the accused of the nature of the uncharged offense or offenses and that the offense or offenses will be investigated during the current investigation. The accused would retain the same rights with regard to the uncharged offenses as existed with regard to the charged offenses, i.e., the right to be present and represented by counsel, to confront and cross-examine available witnesses, to examine real and documentary evidence, to examine statements of unavailable witnesses, to request that the investigating officer call witnesses, and to present evidence in defense or remain silent. After hearing all the evidence, the investigating officer may then recommend the preferral and referral of additional charges in the formal report on finding that a sufficient factual basis for doing so exists.

Section 554. Refusal to testify before court-martial

This section amends article 47(b) of the Uniform Code of Military Justice (10 U.S.C. 847(b)) by removing the limitations on punishment which may be imposed by a Federal District Court for a civilian witness's refusal, after being subpoenaed, to appear or testify before a court-martial. Under the present statute, the Federal District Court may only impose "a fine of not more than $500.00, or imprisonment for not more than six months, or both" on a recalcitrant witness. This proposal leaves the amount of confinement or fine to the discretion of the Federal Court having jurisdiction over the case and is based on 18 U.S.C. 401–402. This approach provides the court greater flexibility in determining a punishment more appropriately designed to elicit cooperation from a recalcitrant witness.

Section 555. Records of trial

This section amends article 54(c)(1)(A) of the Uniform Code of Military Justice (10 U.S.C. 854(c)(1)(A)) by changing the triggering factors which require a verbatim record of trial in general courts-martial. It eliminates verbatim records of trial in general courts-martial where the adjudged sentence does not require mandatory review by a Court of Criminal Appeals under article 66(b)(1) of the Uniform Code of Military Justice, i.e., a sentence which does not extend to death, dismissal, discharge, or confinement for one year or more. As a result, staff judge advocates would have the option of preparing the records for such cases in either summarized or verbatim format, as their available resources dictate. Courts-martial affected by this legislation are examined under article 69(a) of the Uniform Code of Military Justice (10 U.S.C. 869(a)) in the Service office of The Judge Advocate General and can be fairly and efficiently examined through use of a summarized record of trial, as is currently the case with records of special courts-martial in which no punitive discharge is adjudged.

Section 556. Effective date of punishments

This section amends article 57(a) of the Uniform Code of Military Justice (10 U.S.C. 857(a)) by making forfeitures of pay and allowances and reductions in grade effective immediately upon being adjudged by a court-martial. It discontinues the current practice of allowing a convicted member to retain the privileges of his rank until the record of trial has been prepared, the accused presents matters for the convening authority's consideration (up to ten days from service of the record upon the accused), and the convening authority reviews the record and takes action on the sentence. This situation can last from several weeks to months depending upon the length and complexity of the trial. The immediate application of forfeitures and reduction in grade would not only have the desired punitive and rehabilitative impact upon the accused, but would also impress upon other members the costs of misconduct, thus engendering an enhanced deterrence to future criminal behavior by military members.

Section 557. Deferment of confinement

This section adds a new article 57a of the Uniform Code of Military Justice (10 U.S.C. 857a) which combines the existing provision authorizing deferment of confinement, *i.e.*, article 57(d) of the Uniform Code of Military Justice, with two new provisions describing additional circumstances under which such action is authorized.

The first of the new provisions, article 57a(b), permits the Secretary concerned, or his designee, to defer the service of an accused's confinement when a Judge Advocate General orders a case reversed by a Court of Military Review to be sent to the United States Court of Military Appeals for further review under article 67(a)(2). The latter court has directed that, when the government appeals a court of military review's reversal of the findings or sentence to confinement, the accused must be released from confinement pending the government's appeal unless it can be shown that the accused is a flight risk or a potential threat to the community should release be granted. See *Moore v. Adkins*, 30 M.J. 249 (C.M.A. 1990). Since current law only allows deferment prior to ordering the execution of the sentence to confinement, this legislation is necessary for the purpose of establishing procedures to satisfy the mandate of the court.

The second of the new provisions, article 57a(c) allows the convening authority to defer the running of a sentence to confinement when a state or foreign country has temporarily released the accused from its custody to allow the military to try the accused before a court-martial and the military is then obligated by agreement such as the Interstate Agreement on Detainers Act, 18 App. U.S.C., or a treaty to return the accused to the sender state's custody after the court-martial is completed. Since article 57(b) provides that an accused's sentence to confinement begins to run upon the date it is adjudged, any sentence of confinement imposed by the court-martial would have to run concurrently with the accused's confinement by the sender state in the absence of this legislation. This would be the case regardless of the fact that the court-martial conviction was based on different crimes than those prosecuted by the sender state. The military courts have been determined to be federal courts for the purpose of complying with the Interstate Agreement on Detainers Act. See *United States* v. *Greer*, 21 M.J. 338 (C.M.A. 1986).

Section 558. Submission of matters to the convening authority for consideration

This section amends article 60(b)(1) of the Uniform Code of Military Justice (10 U.S.C. 860(b)(1)) by inserting the word "written" in the first sentence. The amendment requires matters submitted by an accused for consideration by a convening authority with respect to the findings and sentence of a court-martial to be limited to written matters.

Section 559. Proceedings in revision

This section amends article 60 of the Uniform Code of Military Justice (10 U.S.C. 860) by adding a new paragraph (3) to subsection (e). It provides that a proceeding in revision may be ordered, prior to authentication of the record of trial by the Military Judge, to correct an erroneously announced sentence. The sentence may be corrected even if, in doing so, the severity of the sentence is increased. The amendment applies only to correction of an erroneously announced sentence and does not authorize reconsideration. The amendment overrules *United States v. Baker*, 32 M.J. 290 (C.M.A. 1991). The previously designated subsection (e)(3) is redesignated as subsection (e)(4).

Section 560. Post-trial review of courts-martial

Subsection (a) of this section amends article 61(c) of the Uniform Code of Military Justice (10 U.S.C. 861(c)) by adding the phrase "or an application for relief under section 869(b) of this title (article 69(b))". Subsection (b) amends article 69(b) of the Uniform Code of Military Justice (10 U.S.C. 969(b)) by adding the phrase "Unless the accused has waived or withdrawn the right to appellate review under section 861 of this title (article 61)". These amendments address a statutory loophole which permits an accused to formally waive or withdraw appellate review under the provisions of article 66 or 69(a) and up to two years later submit an Application for Relief under the provisions of article 69(b). The proposed change limits an accused to a single avenue of post-trial review.

When an accused formally waives or withdraws appellate review, he or she knowingly waives the right to bring issues to the attention of a Court of Criminal Appeals or the Office of The Judge Advocate General. Most legal issues are best resolved through the normal appellate review process. Permitting an accused who has waived or withdrawn appellate review much later to submit an Application for Relief to The Judge Advocate General allows that accused to equivocate at the expense of judicial efficiency and economy and in effect to "shop" for the most effective forum.

Section 561. Appeal by the United States

This section amends article 62 of the Uniform Code of Military Justice (10 U.S.C. 862) by allowing the Government to file an interlocutory appeal of rulings or orders issued by the military judge which direct the government to disclose classified information, impose sanctions for nondisclosure of classified information, or refuse a protective order sought to prevent the disclosure of classified information. It makes applicable to courts-martial the same protections with regard to classified information as apply to orders or rulings issued on Federal District Courts under the Classified Information Procedures Act (18 App. U.S.C. 7).

Section 562. Flight from apprehension

This section amends article 95 of the Uniform Code of Military Justice (10 U.S.C. 895.) to proscribe fleeing from apprehension without regard to whether the accused otherwise resisted apprehension.

The proposed change responds to the United States Court of Military Appeals decisions in *United States* v. *Harris*, 29 M.J. 169 (C.M.A. 1989), and *United States* v. *Burgess*, 32 M.J. 446 (C.M.A. 1991). In both cases, the Court held that resisting apprehension does not include fleeing from apprehension, despite the explanation in Part IV, paragraph 19c(1), MCM, 1984, of the nature of the resistance required for resisting apprehension: "The resistance must be active, such as assaulting the person attempting to apprehend or flight" (emphasis added). The 1951 and 1969 Manuals for Courts-Martial also explained that flight could constitute resisting apprehension under article 95, an interpretation affirmed in the only early military case on point, *United States* v. *Mercer*,11 C.M.R. 812 (A.F.B.R. 1953).

Flight from apprehension should be expressly deterred and punished under military law. Contrary to civilian jurisdictions, military personnel are specially trained and routinely expected to submit to lawful authority. Rather than being a merely incidental or reflexive action, flight from apprehension in the context of the armed forces may have a distinct and cognizable impact on military discipline. The present alternatives for reaching and punishing flight from apprehension are unsatisfactory, in that they lack uniformity and are potentially unfair. Reliance on local regulations (*e.g.*, installation traffic regulations requiring drivers to stop for a police vehicle with its lights and siren on), or assimilation of state statutes makes prosecution dependent upon the vagaries of inconsistent and sometimes nonexistent law. Punishing a fleeing suspect for disobedience of a law enforcement officer's order is both problematic (it requires that the suspect receive an order, which is often not the case or is impossible to prove) and unfair to the accused (the maximum punishment for disobedience far exceeds the misdemeanor-type nature of fleeing apprehension). Finally, proceeding under article 134 as the Court suggested in *Harris*, typically would raise several difficult legal issues, including preemption and notice.

The Uniform Code of Military Justice must be amended in order to uniformly proscribe fleeing apprehension under military law; the *Harris* and *Burgess* decisions are premised upon statutory interpretation, not Manual provisions. The proposed Manual changes will be included in the Joint Service Committee's 1994 Annual Review after the legislation passes.

Section 563. Carnal knowledge

Subsection (a) of this section amends article 120(b) of the Uniform Code of Military Justice (10 U.S.C. 920(b)) by making the crime of carnal knowledge gender neutral, bringing article 120 of the Uniform Code of Military Justice into conformity with the spirit of the Sexual Abuse Act of 1986 (16 U.S.C. 2241-2245).

Subsection (b) of this section amends article 120 of the Uniform Code of Military Justice (10 U.S.C. 920) by adding a new subsection (d) permitting an affirmative defense of mistake of fact for alleged carnal knowledge, regarding the age of the person with whom the accused committed the act of sexual intercourse. It allows the accused to defend against a charge of carnal knowledge on the basis that he or she lacked a criminal intent while protecting children under 12 years of age from sexual abuse and, thus causes the military offense of carnal knowledge to more closely conform to its federal civilian counterpart (18 U.S.C. 2243).

Section 564. Instruction in the Uniform Code of Military Justice

This section amends article 137(a)(1) of the Uniform Code of Military Justice (10 U.S.C. 937(a)(1)) by lengthening the period of time in which training in certain provisions of the Uniform Code of Military Justice is provided to new enlistees from six to fourteen days.

Subtitle D—Other Matters

Section 571. Indefinite reenlistments for career enlisted members

Currently, section 505(d) of title 10, United States Code, authorizes the Secretaries of the military departments to accept reenlistments in regular components for a period of at least two but not more than six years. Accordingly, even senior enlisted members of the armed forces who have made military service a career must periodically reenlist. This proposal would eliminate the administrative efforts and associated costs that occur as a consequence of the requirement to reenlist continually senior enlisted members.

Under this section, the Secretaries of the military departments could accept indefinite reenlistments from enlisted members who have at least ten years of service on active duty and who are serving in the pay grade of E-6 or above. The vast majority of enlisted members with these characteristics will make military service a career. Thus, an enlisted member who serves 30 years would avoid the necessity of continually reenlisting over a 20-year period. The paperwork for reenlistment and its processing is not burdensome, but it is not insignificant. Savings should result. The proposal would also increase the prestige of the noncommissioned officer corps.

Section 572. Chief Warrant Officer promotions

This section amends sections 574(e) and 575(b) of title 10 to reduce the minimum time in grade necessary for promotion to two years rather than three, and to authorize the below-zone selection for promotion to the grade of chief warrant officer, W-3.

Reduction of the minimum time in grade required for promotion would result in actual promotion after three years in grade. It is not now possible for below zone consideration, even to chief warrant officer, W-4. This legislation would also authorize chief warrant officer, W-3, below-zone selection opportunity. This change will permit recognition of the small number of chief warrant officers, W-3, deserving of promotion ahead of their peers. The average chief warrant officer, W-2, has almost eighteen years enlisted service when commissioned in that grade.

Prior to 1 February 1992 when the Warrant Officer Management Act became effective, temporary warrant officer promotions were made under such regulations as the service secretary prescribed, as authorized by section 602 of title 10. Under this section, repealed by the Warrant Officer Management Act, warrant officers were temporarily promoted well ahead of the criteria for permanent regular warrant officer promotions under section 559 of title 10, also repealed, and it was also possible for a limited number of outstanding individuals to be selected early from among below-zone candidates for the grade of chief warrant officer, W-3.

Under section 574(e) of title 10, a chief warrant officer is not eligible to be considered for promotion to the next higher grade until he or she has completed three years of service in current grade.

Additionally, section 575(b)(1) of title 10 limits below-zone selection opportunity to those being considered for promotion to chief warrant officer, W-4, and chief warrant officer, W-5.

This legislation is intended to improve the management of the Services' chief warrant officer communities by reducing the minimum time in grade required for chief warrant officers to be considered for promotion to the next higher grade from three years to two years, thereby allowing the opportunity for early selection, and to authorize below-zone selection opportunity for promotion to the grade of chief warrant officer, W-3, similar to that currently authorized for promotion to the grades of chief warrant officer, W-4, and chief warrant officer, W-5.

With due-course promotions occurring after four years' time in grade, as they now occur in the Department of the Navy, the requirement for chief warrant officers to have three years in grade to be considered for promotion has the effect of not permitting any early selections. Reducing the minimum time in grade for promotion consideration to two years would allow for a small number of individuals to be selected from among below-zone candidates, and to be promoted one year early after actually serving three years in grade. Additionally, authorizing early selection to chief warrant officer, W-3, would permit recognition as appropriate of the experience and competence of these individuals. For example, the average Navy chief warrant officer, W-2, has almost 18 years enlisted service when commissioned in that grade.

Chief warrant officers provide the services with commissioned officers who possess invaluable technical expertise, leadership and managerial skills developed during enlisted service and through formal education. This legislation is needed to identify and reward the small number of exceptionally talented chief warrant officers whose demonstrated performance and strong leadership are deserving of special recognition by being selected for promotion ahead of their peers, thereby enhancing morale and maintaining the vitality of the entire community.

This proposal would not result in any increased cost to the Department of the Navy, other services, or the Department of Defense.

Section 573. Retirement of Director of Admissions, United States Military Academy, for years of service

This section would amend section 3920 of title 10 to authorize the Secretary of the Army to retire the Director of Admissions, United States Military Academy, after 30 years of service as a commissioned officer. Currently, under section 1251(a) of title 10, the permanent professors at the Academy and the Director of Admissions can serve until the age of 64. Under section 3920, however, the Secretary of the Army may direct the retirement of a permanent professor after 30 years of service. This section would provide the Secretary of the Army with the same retirement authority over the Director of Admissions.

Title VI—Compensation and Other Personnel Benefits

Subtitle A—Pay and Allowances

Section 601. Military pay raise for fiscal year 1995

The purpose of this section is to obtain one-time relief from the provisions of 37 U.S.C. 1009 and, thereby, permit an adjustment to monthly Basic Allowance for Quarters (BAQ) rates that exceeds the overall average percentage increase permitted in subsection (b)(3) without recourse to Presidential action authorized in subsection (c). With regard to January 1, 1996, the annualization of the General Schedule rates by statute would result in a basic allowance for quarters average rate increase of 2.4 percent to those rates in force on January 1, 1995. As the result of the recent Department of Defense study addressing military quality-of-life issues, the Secretary of Defense, in consultation with the Chairman, Joint Chiefs of Staff agreed to the programming and budgeting of an additional $43 Million in Fiscal Year 1996 and equivalent out-year Basic Allowance for Quarters funding through Fiscal Year 2001 to improve service member reimbursement and living accommodations. Execution of the Fiscal Year 1996 program at this funding level, as an augment to annualization of the General Schedule rates, will result in an overall Basic Allowance for Quarters rate increase of 3.4 percent to those rates in force on January 1, 1995.

As noted by the joint House-Senate Conference Committee that considered the 1988/1989 Defense Authorization Act, "in 1985 the basic allowance for quarters rates [were] restructured so that they would cover 65 percent of national median housing costs in each pay grade." Since the 1985 restructuring, BAQ rates have declined to under 59 percent of the national housing median. Combined with funding caps to the variable housing allowance program, service members now absorb over 21 percent of their housing costs instead of the congressional intent of 15 percent. Support for the use of this additional funding and establishment of the 3.4 percent increase in basic allowance for quarters for Fiscal Year 1996 is executed to reduce the percent of out-of-pocket housing costs service members pay by one percent through Fiscal Year 2001.

This improvement of quality-of-life initiative will help defray the cost of off-base housing for military members, improve the adequacy of these quarters and, as result, contribute to force readiness via improved morale, individual readiness and retention of personnel.

The following amounts are included in the President's Fiscal Year 1996 budget submission to reflect enactment of this legislation:

[In millions of dollars]

Fiscal year 1996	43.0
Fiscal year 1997	43.8
Fiscal year 1998	44.6
Fiscal year 1999	45.6
Fiscal year 2000	46.9
Fiscal year 2001	48.2

Section 602. Evacuation allowances that permits equal treatment of military dependents to civilians and their dependents

Subsection (a) amends section 405a(a) of title 37 by changing "ordered" each place it appears to "officially authorized or ordered" in each instance. The purpose for this change is to equalize evacuation allowances to ensure that treatment of dependents of military personnel is equal to that of civilian dependents.

The Foreign Service Act of 1980 (Public Law 96-465) broadened section 5522 of title 5 to allow advance pay along with travel and transportation allowances to civilians and their dependents whenever they are officially authorized or ordered to leave an overseas area due to unsettled conditions. Congress believed this change was in the best interest of the Government and the individual by providing flexible requirements in this area and by allowing the Government to more easily order departures of dependents and nonessential personnel without ordering a full scale evacuation. Similar treatment for military dependents is required as a matter of equity since military dependents are evacuated from an overseas location along with civilian employees and their dependents. This small change will allow the Chief of Diplomatic Mission authority to treat military dependents identical to civilians and their dependents by "authorizing" as well as "ordering" military dependents to evacuate and ensure our policies are consistent with the Department of State's evacuation procedures.

Enactment of this legislative proposal will not cause an increase in the budgetary requirements of the Department of Defense.

Section 603. Continuous entitlement to career sea pay for crewmembers of ships designated as tenders

The purpose of this section is to modify current law by specifying duty on board submarine and destroyer tenders as qualifying for career sea pay, removing the requirement for the tender to be away from homeport in order to support career sea pay eligibility.

Title 37 distinguishes between ships with a primary mission accomplished underway (continuous career sea pay entitlement) and ships with a primary mission accomplished in port (non-continuous career sea pay entitlement).

In 1980, when the Secretary of the Navy Hidalgo presented to Congress the proposal that led to the current career sea pay legislation, he explained that tenders were the most representative class of ships that met non-continuous career sea criteria because their primary mission, at that time, was accomplished in port.

In 1988, the fact that assignment to tender duty involved the same intensive, arduous operational environment as other shipboard duty (with accompanying continuous career sea pay entitlement) was recognized by Congress when section 305a(d)(2) of title 37 was amended by Public Law 100-456 to credit tender crewmembers with all time performed (both underway and in port) aboard those ships as cumulative day-for-day longevity for sea service time. Before that time, both sea service time (longevity) *and* the actual entitlement to career sea pay for non-continuous entitlement ships accrued only after the ship was underway for more than 30 consecutive days.

Navy's drawdown in recent years has added to the demands on tender crews, making them unquestionably deserving of continuous career sea pay entitlement. This considerable increase in operational tempo has resulted from continuing demands preparing deploying units for overseas duty, as well as being required to assist in the numerous decommissioning as a result of Navy's ship drawdown.

These demands on the crews of our tenders are further exacerbated by the drawdown of the tenders themselves. By October 1, 1995, the tender fleet will have been reduced from 17 to 4 ships (two homeported overseas (La Maddalena, Sardinia and Guam) and the remaining two in the United States (one per coast)).

Today, tender crews, on fewer ships, are experiencing more underway time and, when in port, are facing the same or more rigorous demands and working hours as the crews of the continuous career sea pay ships they support. The proposed legislation would remove the significant pay inequity that currently exists for crewmembers assigned to those submarine and destroyer tenders.

Enactment of this proposed legislation would result in the following expenditures by the Department of Defense (Dollars in Millions):

	Fiscal year 1996	Fiscal year 1997	Fiscal year 1998	Fiscal year 1999	Fiscal year 2000
Army N/A	....	....	....	....	....
Air Force	N/A	....	....	....	....
Navy	10.0	10.0	10.0	10.0	10.0
Marine Corps[1]	....	....	....	....	....

[1] Negligible (<50K/yr)

Section 604. Increase in the subsistence allowance payable to a member of the Senior Reserve Officers' Training Corps

This section would increase the monthly subsistence allowance for Senior Reserve Officers' Training Corps cadets/midshipmen to $200 per month, effective August 1, 1996 (start of 1996-97 school year). The current stipend, using cumulative increases in the Consumer Price Index, CPI-Food component, and subsistence allowances of active duty members, is worth only $25 to $28 in 1994 dollars. The increase would be in addition to the $50 monthly increase authorized in section 603 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2782), and is necessary to reverse a growing shortage in Reserve Officers' Training Corps enrollment. Currently, the Army and the Air Force are operating approximately 20 percent short of enrollment goals. Navy is meeting overall enrollment objectives, but the mix of academic disciplines does not fully match its objectives.

Section 605. Dislocation allowance (DLA) for base realignment and closure (BRAC) moves

This section would authorize the current dislocation allowance entitlement to Service members who must relocate in a base realignment and closure location when their mission has not changed. Current law requires that a Service member must change jobs (receive orders) and have a government funded movement of household goods to be entitled to dislocation allowance. The requirement to change jobs to be authorized this entitlement places a financial strain on some Service members at base realignment and closure locations. Most members move to a new duty station with base realignment and closure but some (recruiters, ROTC instructors, etc.) must remain in the area because their mission has not changed. Although most of these members move locally, the costs (security and utility deposits) incurred during preparation for and during the move require an outlay of funds that should be defrayed by a dislocation allowance.

Section 606. Family separation allowance (FSA-II)

This section would continue the authorization for entitlement to FSA-II for members embarked on board a ship (away from their home port) or on temporary duty (away from their permanent duty station) for 30 consecutive days, whose dependents were authorized under 37 U.S.C. 406 (permanent change of station (PCS)) to accompany the member to the homeport or permanent duty station, but voluntarily chose not to do so. Although this allowance historically has been paid to continental United States (CONUS) geographic bachelors, and continued payment is funded in Service budgets, the Defense Finance and Accounting Service has advised that recent legal interpretations prohibit continued payments unless the statute is amended. This would apply needed corrections. Since this action simply sustains the status quo, there are no new funding demands associated with enactment.

Section 607. Authorization of payment of basic allowance for quarters to certain members of the uniformed services assigned to sea duty

This section would provide the entitlement of basic allowance for quarters (BAQ) and variable housing allowance (VHA) (or overseas housing allowance (OHA) if assigned to ship homeported overseas) to single E-6 (Petty Officer First Class) personnel assigned to shipboard sea duty. Currently only pay grades E-7 (Chief Petty Officer) and above are entitled to BAQ-VHA (or OHA) based on section 403 of title 37 while assigned to shipboard sea duty. This proposal would provide quality of life/compensation relief to a small-but-senior leadership group (ages 26-40+; 4,000 people) whose 60 month-at-sea/24-to-36-month-ashore assignment rotations prevent them from establishing and maintaining permanent residence ashore commensurate with their leadership position.

Subtitle B—Income Tax Matters

Section 611. Exclusion of combat pay from withholding limited to amount excludable from gross income

There is no income tax withholding under section 3401(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 3401(a)(1)) with respect to military pay for a month in which a member of the Armed Forces of the United States is entitled to the benefits of section 112 of the Internal Revenue Code of 1986 (26 U.S.C. 112) (sec. 3401(a)(1)). With respect to enlisted personnel, this income tax withholding rule parallels the exclusion from income under section 112; there is total exemption from income tax withholding and total exclusion from income. With respect to officers, however, the withholding rule is not parallel; there is total exemption from income tax withholding, although the exclusion from income is limited to $500 per month. The bill makes the income tax withholding exemption rules parallel to the rules providing an exclusion from income for combat pay.

Subtitle C—Bonuses and Special and Incentive Pays

Section 621. Aviation career incentive pay (ACIP) gates

This section would reduce the initial ACIP operational flying requirement (known as the "flight gate") from 9 of the first 12 years to instead stipulate 8 of the first 12 years. As a result of the drawdown, the loss of flying billets, the increased time to promotion, and the increased emphasis on non-flying duty (Washington, joint duty, graduate education), nearly 30% of Naval aviators in year groups '86, '87, and '88 will fail to meet their initial flight gate. Similar patterns are found in other Services. This proposal would provide a more reasonable (based on prevailing career patterns) way for aviators to "make their gates" and continue to receive ACIP, while still generating a tougher standard than that which existed immediately prior to enactment of the current (9/12) gate. There are no new costs associated with enactment, because affected Services have budgeted under the assumption that waivers (which currently are authorized under law) would continue to be Service-approved. This change adjusts the standard, to recognize the current density of career-enhancing (non-flying) duty demands, while reducing the overhead associated with processing of those waivers.

Section 622. Expiring authorities

Subsections (a) through (e) amend sections 308b(f), 308c(e), 308e(e), 308h(g) and 308i(I) of title 37, United States Code, to extend the authority to pay bonuses for (1) enlistment, reenlistment or affiliation with the Selective Reserve, (2) enlistment, reenlistment or extension of an enlistment in the Ready Reserve other than the Selected Reserve, and (3) enlistment in the Selected Reserve of individuals with prior service. These authorities currently expire on September 30, 1996. Termination of these Reserve bonus programs would adversely impact the readiness of Reserve component units by limiting the ability to recruit individuals possessing critical skills or qualified to train for critical skills and to ensure necessary manning levels in specific critical units.

Subsections (f) through (h) amend section 2130a(a)(1) of title 10, United States Code, and sections 302d(a)(1) and 302e(a)(1) of title 37, United States Code, to extend the authority to pay (a) a nurse officer candidate accession bonus, (b) an accession bonus for registered nurses, and (c) incentive Special pay to military Certified Registered Nurse Anesthetists. The original legislation was effective November 29, 1989 as part of the National Defense Authorization Act for Fiscal Year 1990. Under current legislation, the authority for these programs will expire on September 30, 1996. Each of these valuable programs has been successful in helping the Military Departments obtain needed numbers of professional nurses on active duty. Shortages of nurses with a qualifying degree continue to make recruiting of nurses difficult in light of intense competition with the private sector. The Department believes that the nurse accession bonus is necessary to attract new graduates from colleges and universities that award a Bachelor's of Science in Nursing.

Subsection (i) amends section 308(g) of title 37, United States Code, to extend the authority to pay reenlistment bonus to active duty service members who reenlist or who extend their enlistment in a regular component of the service concerned for at least three years. This authority currently expires on September 30, 1996.

Subsection (j) amends section 308(c) of title 37, United States Code, to extend the authority to pay enlistment bonus to a person who enlists in an armed force for at least four years in a skill designated as critical, or who extends his initial period of active duty in that armed force to a total of at least four years in a skill designated as critical. This authority currently expires on September 30, 1996.

Subsection (k) amends section 308f(c) of title 37, United States Code, to extend the authority to pay enlistment bonus to a person who, among other qualifications, enlists in the Army for at least three years in a skill designated as critical. This authority currently expires on September 30, 1996.

Subsection (1) amends section 308d(c) of title 37, United States Code, to extend the authority to which permits the payment of additional compensation to enlisted members of the Selected Reserve assigned to high priority units, so designated by the Secretary concerned because that unit has experienced or reasonably might be expected to experience, critical personnel shortages. This authority currently expires on September 30, 1996.

Subsection (m) amends section 2172(d) of title 10, United States Code, to extend the authority which permits the repayment by the Secretary concerned of educational loans of health professionals who serve in the Selected Reserve and who possess professional qualifications in a health profession that the Secretary of Defense has determined to be needed critically in order to meet identified wartime combat medical skill shortages. This authority currently expires on October 1, 1996. Termination of Reserve health professional incentive programs would limit the ability of the Reserve components to fill shortages in the designated health professionals.

Subsection (n) amends section 613(d) of the National Defense Authorization Act for Fiscal Year 1989 (37 U.S.C. 302 note) to extend the authority which permits payment of special pay to a health care professional who is qualified in a specialty designated by regulation as a critically short wartime specialty and who agrees to serve in the Selected Reserve for at least one year. This authority currently expires on September 30, 1996. Extension of this authority will allow the Department of Defense to conclude a test program of a reserve medical bonus.

Subsections (o) through (q) amend sections 312(e), 312b(c), and 312c(d) of title 37, United States Code, to extend the authority to pay certain bonuses to attract and retain top quality nuclear career officers. These authorities currently expires on September 30, 1996 or October 1, 1996. Nuclear officer shortfalls still exist, and the Department of the Navy is experiencing a climate of particularly law retention among junior nuclear trained officers. Submarine junior officer retention is at a 15-year low. Historically, the special pay for nuclear qualified officers extending period of active service and the nuclear career annual incentive bonus have been instrumental in correcting these shortfalls. The Department of the Navy continues also to come short of nuclear officer accession goals (92% of goal reached in fiscal year 1994). The nuclear career accession bonus is a tool that allows the Department of the Navy to attract top junior officers into the nuclear program.

Subsections (r) through (t) amend sections 3359(b), 8359(b), 3380(d) and 8380(d) of title 10, United States Code, and section 1016(d) of the Department of Defense Authorization Act, 1984, to extend certain reserve officer management authorities extended by section 514 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1649). These authorities currently expire on September 30, 1995. No further extension will be necessary; the Reserve Officer Personnel Management Act, which takes effect on October 1, 1996, provides permanent fixes for the problems addressed by the extension of these expiring authorities.

Subsection (u) amends section 1214 of the Merchant Marine Act, 1936, to extend the authority to provide war risk insurance. This authority currently expires on June 30, 1995. Use of the self-insurance authority saved $500 million during Operation Desert Shield and Operation Desert Storm.

Subsection (v) amends section 301b(a) of title 37, United States Code, to make permanent the aviation officer retention bonus. This authority currently expires on September 30, 1996. Making this authority permanent is necessary to counter a decade-long problem in aviator retention that has not been solved, and will not be solved by the time the current authority expires in September 1996. This bonus represents a vital component of aviation readiness since it keeps seasoned aviators in the military, assuring a higher level of performance and safety. Moreover, the cost of this bonus represents a fraction of the costs associated with training new aviators to overcome retention deficits that would worsen if this authority were allowed to lapse.

Aviation continuation pay is a Congressionally authorized incentive program paid to eligible aviators who, upon completion of their minimum service requirement, agree to remain on active duty in a flying status through their fourteenth year of commissioned service. The sole purpose of aviation continuation pay is to ensure adequate inventories of pilots and other flight officers to meet each aviation sub-community's department head requirements.

Despite the drawdown in the Department of Defense, aviation continuation pay is still used as a valuable tool to ensure critically manned aviation sub-communities maintained enough aviators to fill department head billets. For example, Naval Aviation has sub-communities that did not downsize. As a matter of fact, the FA–18 community continued to grow through the downsizing years.

As aviation forces begin to stabilize, retention of qualified and well trained aviators will continue to be an issue. For example, the numbers of aviators accessed into the Navy in the 1990's is considerably less than what was brought in the 1980's. Although the Navy is paying aviation continuation pay to only 6 to 14 aviation sub-communities today, that number is predicted to increase in the out years because of the need to keep a higher percentage of the smaller force throughout Naval Aviation. In addition, the airline industry will have 20,000 of 57,000 pilots that will reach retirement age between 1994 and 2004, opening up employment opportunities for military pilots. The Navy will have a tougher job keeping qualified aviators in the service, and aviation continuation pay is the one tool the Navy has to ensure enough aviators remain in the service to meet requirements. The Army and the Air Force are similarly situated.

Pilot retention in the military departments is not a temporary problem; the effect of airline hiring and the persistent strength of the economy of the United States is likely to exert a steady demand for military trained pilots in the commercial airline industry for the foreseeable future. Additionally, a need exist; to provide permanent and increased bonus authority in order to have the flexibility to solve critical skill shortages as they manifest themselves in projections, rather than incur losses in critical skills and lose the time and experience levels that would result while training replacement aviators.

Subsection (w) amends section 5721 of title 10 to make permanent the authority for temporary promotions of certain Navy lieutenants.

The Navy has a shortage of available qualified officers to fill key engineering billets. To counter this shortage, some exceptional lieutenants are assigned to lieutenant commander engineering related assignments. These are extremely difficult and challenging assignments that include Engineer Officer on nuclear powered submarines, Engineer Officer on Nuclear powered cruisers, Engineer Officer on Ticonderoga class cruisers, Engineer Officer on CLF ships, Members of the fleet Commander-in-Chief's Nuclear Propulsion Examining Board or Propulsion Examining Board.

SPOT promotion authority provides a flexible *low cost solution* to precisely target the shortfall of skilled engineering officers. It is limited by the Secretary of the Navy's policy to only key engineering billets for which a shortage of available *qualified officers exists*. SPOT promotions occur within statutory lieutenant commander ceilings with a 1:1 reduction of regular promotions to lieutenant commander. Officers are promoted only while serving in a qualifying billet. The program accounts for 100–120 SPOT promotions a year.

An absolute shortage of permanent lieutenant commanders exists within those line communities that fill Lieutenant Commander SPOT billets. The table below summarizes the specific shortages of permanent Lieutenant Commanders by community.

Designator	Total inventory	Community specific billets	Shortfall
1110	1,317	1,406	89
1120	635	819	184
6400	62	67	5
6130	55	73	18
6230	25	24	−1
Total	2,094	2,389	295

The shortfall becomes significantly more pronounced if the inventory is limited to those permanent Lieutenant Commanders with the skills required for SPOT promotion billets.

Designator	Total inventory	Community specific billets	Shortfall
1110	1,095	1,406	311
1120	436	819	383
6400	62	67	5
6130	55	73	18
6230	25	24	−1
Total	1,673	2,389	716

The qualified lieutenant commander inventory includes those officers who are Engineering Officer of the Watch qualified (for conventional assignments) or have current nuclear engineer qualifications (for nuclear assignments).

The number of community specific billets actually understates the billet fill requirements in the case of unrestricted line officers who must also fill a fair share of 1000/1050 billets.

The following table summarizes the distribution of SPOT promotions that have helped correct some of the depicted shortfalls:

Designator	Total SPOT billets	Filled by lieutenant[1]	Filled by SPOT promoted LCDR	Filled by permanent LCDR
1110	171	37	49	85
1120	187	33	81	73
6400,6130,6230	62	15	32	15
Total	420	85	162	173

[1] These lieutenants have not met the three month evaluation time in billet requirement to be recommended and approved for SPOT promotion.

The continued use of SPOT promotions remain necessary due to the critical shortage of officers qualified to fill engineer officer, engineering departmental principal assistants, engineering material officer and engineering staff billets directly supporting fleet engineering readiness. Originally enacted in 1965, SPOT promotion has proven its value as a strong incentive and retention tool for our top officers. It remains a very effective management tool to ensure our ability to fill extremely demanding billets with the best officers.

Subsection (x) amends section 1105 of title 10, United States Code, as enacted by the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160, Nov. 30, 1993; 107 Stat. 1691) by repealing subsection (h) which is a sunset clause for the provision to expire as of September 30, 1995.

The specialized treatment services program (STS) established new requirements for CHAMPUS beneficiaries to obtain certain highly specialized health care services from selected sources, either military or civilian. The program will not be fully implemented by its expiration date. Full implementation is necessary for managed care within the Department of Defense. This program will provide for DOD beneficiaries quality care while assuring for appropriate utilization of specialized medical health care services at the most reasonable cost.

Certain military and civilian treatment facilities, based on demonstrated capability, are being designated as Specialized Treatment Services Facilities for some highly specialized types of medical care. The mechanism for requiring CHAMPUS beneficiaries to use the STS Facilities is similar to the familiar Non-availability Statement but with either a nationwide or 200-mile catchment area instead of the normal 40-mile catchment area. Criteria for demonstrated capability for STS designation have been developed by the Assistant Secretary of Defense for Health Affairs and provided to the military departments. Nationwide STS designations have been approved for bone marrow transplantation and liver transplantation. The Regional Lead Agents are in the process of developing mechanisms for approving STS designation within their respective regions. STS authority should be extended to allow completion of this program.

Subtitle D—Travel and Transportation Allowances

Section 631. Authority to expend appropriated funds to pay certain actual expenses of Reservists

This section amends section 404(j) of title 37 (as added by section 622 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2784)) by authorizing the expenditure of appropriated funds to pay for contract quarters as lodging in kind when on-base quarters are not available during annual training or inactive duty training for Reservists who are otherwise entitled to travel and transportation allowances in conjunction with their duty. The Department of Defense Appropriations Acts for Fiscal Years 1993, 1994 and 1995 have included a provision which authorizes such expenditures. This recurring provision also provides that "if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid directly from funds appropriated for operation and maintenance of the reserve component of the member concerned." The recurring provision in the Appropriations Act reaffirms actual practice over more than two decades which has provided cost-efficient accommodations to Reservists who travel at their own expense to components for skilled and trained manpower.

Section 632. Flexibility when authorizing shipment of a motor vehicle incident to permanent change of station orders

Subsection (a) of this section amends section 2634(a)(4) of title 10 to authorize the shipment of privately owned motor vehicles for a member of the armed forces by the most economical means. Current statute only authorizes shipment by surface means. In some underdeveloped or remote areas of the world, shipment by air is oftentimes more economical than shipment by surface transportation.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense. By amending this section, the permanent change of station (PCS) funding would not increase, and should actually decrease. Significant numbers of privately owned vehicles would not be shipped by air; however, cost savings would be realized. Personnel quality of life improvements would also be realized since surface transportation in these areas often take many months in addition to being an expensive mode of transportation.

Section 633. Authorization of return to United States of formerly dependent children who attain age overseas

This section would authorize the return of certain formerly-dependent children to the United States. By law, a child 21 or 22 years of age who is a full-time student may travel at government expense to a member's overseas duty station. However, if the child loses that dependent status while in the overseas area, the government will not return the child to the United States until the member receives subsequent permanent change of station (PCS) orders. This proposal would expand the entitlement to include those dependents over 21 who are full-time students and subsequently lose their dependency eligibility by either turning 23 or because they are no longer enrolled full-time in school. In other words, this simply would permit acceleration of the final-authorized trip to the continental United States (CONUS). This is a no-cost initiative.

Subtitle E—Retired Pay, Insurance, and Survivor Benefits

Section 641. Retired pay for non-regular service

This section amends section 1331 of title 10, United States Code, by inserting a new subsection (d), and by redesignating the existing sections (d) and (e) as (e) and (f), respectively. The new subsection (d) provides that a non-regular member is not eligible for retired pay if he or she is convicted by court-martial of an offense under the Uniform Code of Military Justice, and the executed sentence includes death, dishonorable discharge, a bad-conduct discharge, or dismissal from the service. The new subsection conforms a nonregular members's eligibility for retired pay with that of a regular member who is convicted by court-martial, and whose executed sentence includes death, dishonorable discharge, a bad conduct discharge or dismissal from the service. See generally, 44 Comp. Gen. 51 (1964); 44 Comp. Gen. 227 (1964). See also 5 U.S.C. 8312–8322 concerning forfeiture of annuities and retired pay.

Section 642. Fiscal Year 1996 cost-of-living adjustment for military retirees

This section makes the military retired pay cost-of-living adjustment payable for March 1996 rather than September 1996.

Section 643. Automatic servicemember's group life insurance (SGLI)

This section would automatically enroll members at the maximum insurance level of $200,000 instead of the $100,000 level currently in law. Members may now increase their coverage up to $200,000 by making an election for such coverage. However, sometimes such elections are not passed to the finance offices for immediate collection of premiums, and survivors have complained that their member did not have the proper opportunity to elect the highest benefit level. Having automatic coverage at the maximum would ensure coverage is no less than desired. Coverage could be declined or reduced if the member does not want the maximum. Those who currently are insured and who have not made elections and are in receipt of coverage of $100,000 would automatically have their coverage increased to $200,000.

Section 644. Improved death and disability benefits for Reservists

This section amends sections 1074a and 1481 of title 10 and sections 204 and 206 of title 37 by providing reservists performing inactive duty training the same death and disability benefits as active duty members. Although previous authorization bills have corrected some of the inequities, there are still instances when a reservist is not covered for certain disability or death benefits if the occurrence happens after sign-out between successive training periods.This proposal would extend death and disability benefits to all reservists from the time they depart to perform authorized inactive duty training until the reservist returns from that duty. Reservists who return home between successive inactive duty training days would be covered portal to portal only. There are no additional costs associated with this provision.

Subtitle F—Separation Pay

Section 651. Transitional compensation for dependents of members of the Armed Forces separated for dependent abuse

This section would amend authorization to include transitional compensation for dependents whose sponsor forfeited all pay and allowances, but was not separated from the Service (e.g., members court-martialed). Current language of section 1059 of title 10, as added by section 554(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1663) and redesignated and amended by sections 535 and 1070(a)(5) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2762 and 2855) does not allow this payment. This appears to be an administrative oversight. This change would allow payment as apparently intended by Congress. No additional cost would result, since costs associated with this technical amendment would previously have been recognized in the course of enactment of the National Defense Authorization Act for Fiscal Year 1995.

Subtitle G—Other Matters

Section 661. Military clothing sales stores, replacement sales

This section amends title 10, United States Code, to add new section 7606. The purpose of this amendment is to provide the Navy and Marine Corps the same statutory authority currently granted to the Army and Air Force under title 10, United States Code, section 4621 and section 9621 respectively.

Based on a variety of studies and tests, the Marine Corps has determined that it is most cost effective to conduct in-kind replacement sales through the Military Clothing Sales Stores managed by the Marine Corps Exchange system. These in-kind replacement sales are lost, damaged, or destroyed individual equipment for which individual Marines and sailors are responsible to the Government.

Unlike the authority granted to the Army and Air Force under title 10, United States Code, section 4621 and section 9621 respectively, there is no specific statutory authority allowing the Navy or Marine Corps to sell individual equipment. This legislation will create parity throughout the Department of Defense.

This proposal will be effected at no additional cost to the Department of Defense or the Department of the Navy.

Title VII—Civilian Employees

Subtitle A—Civilian Personnel Policy

Section 701. Holidays and alternative work schedules

This section would amend title 5 to change the designation of holidays for employees on alternative work schedules. When Monday holidays fall on an employee's day off, under section 6103 of title 5, he or she must take the preceding Friday off. This creates a severe staffing shortage on Fridays before holiday weekends. The proposed language would make Tuesday the employee's day off rather than the preceding Friday.

Section 702. Elimination of 120-day limit on details

This section amends section 3341 of title 5 to eliminate the requirement that temporary assignments (details) of employees be made in 120-day increments and allows details to be documented and authorized up to the time required (within the limits specified in other statutory, regulatory and administrative provisions).

Section 703. Elimination of part-time employment reports

This section strikes section 3407 of title 5 which requires that agencies report progress on the part-time career employment program to the Office of Personnel Management twice yearly. Information for reports is available through the Central Personnel Data File and agencies can monitor the program through personnel management evaluation programs.

Subtitle B—Compensation and Other Personnel Benefits

Section 711. Repeal of prohibition on payment of lodging expenses when adequate Government quarters are available

The purpose of the proposed legislation is to repeal section 1589 of title 10, which prohibits the Department of Defense from paying a lodging expense to a civilian employee who does not use adequate available Government lodgings while on temporary duty. Although the purpose of section 1589 is to reduce the Department of Defense travel costs, the law can increase travel costs because it considers only lodging costs, not overall travel costs. Deleting the provision would enable Department of Defense travelers, supervisors and commanders to make more efficient lodgings decisions, with potential cost savings for the trip as a whole.

The title 10 provision (added in 1985 to codify similar provisions in the Department of Defense Appropriations Acts from 1977) prohibits payment of a lodging expense to civilian employees who don't use adequate available Government quarters. The Fiscal Year 1978 Committee Report on Department of Defense Appropriations (H. Rep. No. 95–451) notes that if employees on temporary duty at military installations for school, training and other work assignments were directed to use available Government quarters, "many thousands of dollars could be saved."

When a temporary duty trip involves business on and off-base, the cost-effective business decision, considering factors such as rental car costs, must be made on a case-by-case basis. The current law allows no flexibility for the cost-conscious resource manager. To be reimbursed for lodging, the traveler must stay on-base whether it is efficient or not. Further, in temporary travel when team integrity is essential, the mission may preclude employees staying in available government lodgings. To maintain team integrity under current law when quarters are adequate for only the less senior members of the team, quarters must be determined "not available" for each member of the team, imposing an unnecessary administrative cost.

The Department is committed to improving the efficiency of the temporary duty travel system to enhance mission accomplishment, reduce costs, and improve customer service. The proposal would be a significant step in this direction.

Enactment of the legislative proposal will not cause an increase in the budgetary requirements of the Department.

Section 712. Overtime exemption for nonappropriated fund (NAF) employees

This section amends section 6121(2) of title 5 so that nonexempt NAF employees may be put on a compressed schedule without the entitlement to overtime for hours worked in excess of 40 hours a week.

Subtitle C—Separation Provisions

Section 721. Continued health insurance coverage

Section 8905a of title 5, as amended by this proposal, extends continued health insurance coverage and payment of employer portion of the premium plus administrative fee for surplus employees who voluntarily resign in response to realignments, installation closures, and downsizing of the Department of Defense. This proposal will help avoid reduction-in-force (RIF) by increasing the number of surplus employees voluntarily resigning. Currently, employees must wait to receive a RIF notice to qualify for this benefit. Increased cost would be more than offset by the savings generated by earlier separation of 120 days or more. This benefit would only apply to employees who have been designated as surplus by the Department of Defense.

Section 722. Lump sum severance payments

This section concerns lump sum payment of severance pay. Currently severance pay is paid on a bi-weekly basis for up to one year based on years of service and age of the employee. This proposal would permit, at the discretion of the agency, lump sum payment of the severance pay credit to the employee upon request. Many eligible employees would prefer to receive the total amount in order to start new businesses or relocate.

Section 723. Civilian Voluntary Release Program

This section would allow employees who are not affected by a reduction-in-force (RIF) to volunteer to be RIF separated in place of other employees who are scheduled for RIF separation. Some employees (e.g., retirement eligible, employees with their own businesses, employees with good prospects for employment elsewhere), whose RIF retention standing them from RIF, can afford to volunteer to be RIF separated in place of other employees who are scheduled for RIF separation. The proposal would permit these more senior employees to volunteer to be RIF separated. Management would be tasked to publish implementing regulations.

Title VIII—Health Care Provisions

Subtitle A—Health Care Management

Section 801. Codification of CHAMPUS Physician Payment Reform Program.

This section would codify a provision of the Department of Defense Appropriations Act for 1995, section 8009, which establishes a process for gradually reducing CHAMPUS maximum payments amounts down toward the limits for similar services under Medicare, with special consideration given to preserving access to care and limiting balance billing by providers. The payment limits in use for Medicare are the product of long-term efforts to achieve a rational payment system for physicians, using resource-based relative values to determine appropriate payments rather than basing payment on the historical charges submitted by providers. The Medicare payment limits represent a determination by the largest Federal payer of what is fair and reasonable payment for health care services; as such, they provide appropriate target values for CHAMPUS. Additionally, this provision includes special authority to exceed the allowable amounts in cases where managed care plan enrollees obtain emergency care from non-network providers, to enhance the benefits of enrollment.

Additionally, this provision would build on the successful example set for inpatient hospital reimbursement: the CHAMPUS DRG-Based Payment System is modeled closely on the Medicare Prospective Payment System, with modifications as necessary to reflect the differences in the programs and the beneficiaries they serve. The Department of Defense Authorization Act, 1984 (Public Law 98-94), provided CHAMPUS with statutory authority to reimburse institutional providers following Medicare reimbursement rules.

Under the authority proposed in this section, the Department would make a transition from its current system of prevailing charges for professional services to payment limits similar to the Medicare Fee Schedule. CHAMPUS allowable payment limits for physicians are approximately 30 percent higher than those under Medicare, so there is room for constraint without unduly penalizing providers or limiting beneficiary access to high quality care. Exceptions to the Fee Schedule limits would be made to maintain higher payments when needed to assure adequate access to care for our beneficiaries. In order to assure a smooth transition to the new payment limits, reductions in payments for specific procedures would be restricted to no more than 15 percent per year.

In order to protect beneficiaries, limitations on balance billing for CHAMPUS would be established similar to those in effect for Medicare, which limits balance billing to 15 percent above the allowable amount. This step will complement the Congress' action in the Department of Defense Authorization Act for 1992 to require providers generally to file claims for beneficiaries.

This section amends Section 1079(h) of title 10, United States Code, to limit CHAMPUS payments to the amounts payable under Medicare for similar procedures, and provides for a gradual transition of CHAMPUS payment amounts to Medicare levels. Additionally, it provides for exceptions if needed to protect beneficiary access to care, and limits beneficiary liability for excess charges (balance billing) to the limits established for Medicare. It also includes a provision to permit payment of amounts greater than allowable amounts when needed to protect managed care plan enrollees from balance billing when they obtain emergency care from nonparticipating providers.

Because CHAMPUS payment limits were substantially higher than Medicare's, implementing this approach for individual professional providers should produce cost avoidance of approximately $500 million over the next five years. These estimates of cost avoidance have been incorporated into Department of Defense budget projections, which assume continuation of the current Appropriations Act provisions for physician payment reforms.

Section 802. Repeal of certain limitations on reductions of medical personnel

This purpose of this section is to repeal the following provisions of law:

Section 711 of the National Defense Authorization Act for Fiscal Year 1991, as amended by section 718(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993;

Section 718(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993; and

Section 518 of the National Defense Authorization Act for Fiscal Year 1993, as amended by section 716 of the National Defense Authorization Act for Fiscal Year 1995.

Section 711 prohibits reductions in military and civilian health care personnel below the number of such personnel serving on September 30, 1989, unless the Department of Defense certifies to Congress that the number of personnel being reduced is excess to current and projected needs of the Services and that the reduction will not increase Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) costs.

Section 718(b) requires that effective fiscal year 1992, the total number of Navy officers serving on active duty in health professions specialties be not less than 12,510, unless Department of Defense certification is accomplished.

Section 518, as amended by section 716 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2803), requires certification for any reduction in Reserve Component medical personnel. Any Reserve reduction must be excess to the current and projected needs of the military department and be consistent with the wartime requirements identified in the final report on the comprehensive study of the military medical care system pursuant to section 733 of the National Defense Authorization Act for Fiscal Years 1992 and 1993.

With the implementation of TRICARE, the adoption of capitation based financing, and the completion of the "733 Study", the Department has in place the tools necessary to size and shape the Military Health Services System, without increasing CHAMPUS costs. The Department will maintain sufficient active duty and Reserve Component medical personnel to meet all wartime requirements (consistent with the "733 Study"), and using military treatment facilities and at risk managed care support contractors, meet the peacetime health care needs of Department of Defense beneficiaries. This prohibition on personnel reductions contained in current law significantly and unnecessarily restricts the Secretary's capability to manage the Department's military and civilian personnel strengths as the Department of Defense downsize its manpower inventories.

This provision will not increase the budgetary requirements of the Department of Defense.

Subtitle B—Other Matters

Section 811. Recognition by States of military advance medical directives

Subsection (a) of this section amends title 10 by inserting a new section 1044c in chapter 53. The purpose of the amendment is to ensure that advance medical directives prepared by members of the armed forces, their spouse, or other persons eligible for legal assistance under section 1044 of title 10 are recognized as valid even though a directive might not meet the precise requirements of the state where the member, spouse, or other person is located at the time of incapacitation.

An advance medical directive is a document that indicates a person's desire concerning the medical care to be received if that person becomes incapable of making health care decisions or gives to another person the authority to make those decisions under like circumstances. The Patient Self-Determination Act (42 U.S.C. 1395cc(f)(1)) requires certain medical facilities to have procedures to handle advance medical directives. The Act, however, left the substance of the law concerning the preparation of advance medical directives to the states. The states have adopted different procedures and requirements. Because members of the armed forces and their family members travel so frequently from state to state due to reassignments and duty requirements, it is very difficult to ensure that an advance medical directive they prepared in one state will be honored in another. The American Bar Association has endorsed this proposed legislation.

Subsection (a) of the proposed section 1044c would exempt a military advance medical directive from any state requirement concerning "form, substance, formality, or recording" and require that a military advance medical directive be given full legal effect.

Subsection (b) of the proposed section 1044c defines a military advance medical directive.

Subsection (c) of the proposed section 1044c would require a military advance medical directive to include a statement that clearly identifies it as such and, thus, would put health care professionals on notice of the requirement to give the advance medical directive full effect.

Subsection (d) of the proposed section 1044c defines a "state" to include the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

Subsection (b) of this section would amend the table of sections at the beginning of chapter 53 of title 10 to reflect a new section 1044c. Subsection (c) of this section would clarify that a military advance medical directive declared prior to enactment of the amendment would be covered under the amendment.

Section 812. Closure of the Uniformed Services University of the Health Sciences

This section requires an orderly phase-out and closure of the Uniformed Services University of the Health Sciences.

Subsection (a) repeals the statutory authority for the University.

Subsection (b) establishes and orderly phase-out process, beginning in fiscal year 1996, and ending with the closure of the University not later than September 30, 1999. Under the phase-out, the Secretary of Defense will have all necessary authorities to operate the University so as to achieve an orderly phase-out. The last student class will enter in fiscal year 1995 and graduate in fiscal year 1999.

Subsection (c) makes clear that the closure of the University will not affect previously established service obligations of University graduates, nor other medical education, research, and related activities of the Department of Defense that are conducted under other authorities under law.

Subsections (d) and (e) sets forth conforming and clerical amendments.

Section 813. Repeal of the statutory restriction on use of funds for abortions

This section repeals section 1093 of title 10, United States Code, which prohibits using funds available to the Department of Defense to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. The provision being repealed is sometimes referred to as the "Hyde Amendment".

Title IX—Department of Defense Organization and Management

Subtitle A—Secretarial Matters

Section 901. Additional Assistant Secretary of Defense

This section increases the number of Assistant Secretaries of Defense by one. This increase will allow the Secretary of Defense to change the position of Director of Program Analysis and Evaluation to the Assistant Secretary of Defense for Program Analysis and Evaluation.

Section 902. Change in name of Assistant to the Secretary of Defense for Atomic Energy to Assistant to the Secretary of Defense for Nuclear and Chemical Programs

This section would change the name of the Assistant to the Secretary of Defense for Atomic Energy to the Assistant to the Secretary of Defense for Nuclear and Chemical Programs. Section 142 currently provides a statutory designation for the subject position. The revision is required to reflect more precisely the current functions of the position. Further the term "atomic energy" is obsolete with regard to current lexicon. Within the Department of Defense, the Assistant to the Secretary is responsible for advising the Secretary on nuclear energy, nuclear weapons, and chemical and biological defense program matters. The Assistant to the Secretary also serves as the Staff Director for the Nuclear Weapons Council. That function is reflected in section 179 of title 10. The amendment to title 5 is a conforming amendment necessary to reflect the proposed change in name designation.

Subtitle B—Professional Military Education

Section 911. Inclusion of Information Resources Management College in the National Defense University

The purpose of this legislation is to add the Information Resources Management College (IRMC) to the definition of the National Defense University (NDU) contained in section 1595(d)(2) of title 10 and to add it and the Institute for National Strategic Studies (INSS) to the definition of the National Defense University contained in section 2162(d)(2) of title 10. This legislation would update the statutes to include all of the component parts of the University in both definitions and to eliminate the inconsistency between the two definitions. Further, it would clarify the authority of the Secretary of Defense to hire professors, lecturers, and instructors for the Information Resources Management College under section 1595 just as he does for the other integral components of the National Defense University. It also would update the Institute for National Strategic Studies name from "Study" to "Studies."

The National Defense University was founded by the Joint Chiefs of Staff in 1976 and initially consisted of the National War College (NWC) and the Industrial College of the Armed Forces (ICAF). The University's mission has grown as joint education and interservice strategic thought have become more dynamic and vastly more significant. Though the passage of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 dramatically highlighted the significance of its joint mission, the National Defense University has been continually evolving to meet its enhanced mission requirements since its inception. In 1981, the Armed Services Staff College (AFSC) joined it. In 1982, what is now the Information Resources Management College was established, and, in 1984, the Institute for National Strategic Studies became the last major component of the National Defense University.

Through this evolution, the statutory definition of the National Defense University has not kept pace with the University's adjustment to its enhanced mission. The existence and mission of the National Defense University were first recognized statutorily in the Goldwater-Nichols Act (e.g., see 10 U.S.C. 663(b)); however, the University was not statutorily defined until the National Defense Authorization Act for Fiscal Year 1990 added section 1595 to title 10 (Public Law 101–189; 103 Stat. 1558). There the University was defined as consisting of the Air War College, the Industrial College of the Armed Forces, and the Armed Services Staff College. The National Defense Authorization Act for the Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1626) enacted the same definition of the National Defense University by adding section 2162(d)(2) to title 10. The Institute for National Strategic Studies was added to the definition in section 1595(d) of title 10 in 1991 by the National Defense Authorization Act for the Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1452). However, that amendment did not add Institute for National Strategic Studies to section 2162(d)(2) of title 10 nor add Information Resources Management College to either sections 2162(d) or 1595(d) of title 10. This legislation will cure that inconsistency.

The proposed legislation also would further clarify the Secretary of Defense's title 10 hiring authority for the faculty of the Information Resources Management College. As with the other components of the National Defense University, the General Service grading system does not meet the needs of the traditional academic ranking system. This legislation would ensure that the Secretary has the same latitude in employing civilian faculty for all components of the National Defense University as the Service Secretaries have for their professional military schools. This is appropriate as the Information Resources Management College's mission is commensurate in importance with those of the other components of the University.

The Information Resources Management College's mission is to provide an intensive graduate level curriculum for senior Department of Defense officials, both civilians and military, in an exponentially expanding field of knowledge crucial to twenty-first century national defense. That field is the joint management of information resources as a component of national power and the integration of those resources into national strategy. The keystone of the curriculum, the Advanced Management Program, is an accredited course of graduate study. The course content includes the latest in information technology, information based warfare, acquisition and functional analysis. It demonstrates the sophistication and complexity of the subject matter as well as the Information Resources Management College's success in addressing it to date. However, Information Resources Management College is also recognized by the Defense Acquisition University to be among its level-3 Acquisition Corps granting consortium. More recently, Information Resources Management College has launched a pilot, 10-month, senior military course in the information component of national power. This course, of equal stature to National War College and Industrial College of the Armed Forces, educates future defense leadership in the art of possible future conflict and operations other than war. These courses underscore the necessity for nationally recognized faculty to maintain the highest level of instruction. To attract and retain such faculty, the Information Resources Management College needs title 10 hiring authority, just as the other components of the University do.

Enactment of the proposed legislation would not result in an increase in the budgetary requirements of the Department of Defense.

Section 912. Employment of civilians at the Asia-Pacific Center for Security Studies

The purpose of this section is to grant the Secretary of the Defense the authority to appoint, administer and compensate the civilian faculty to the Chester W. Nimitz Asia-Pacific Center for Security Studies. The National Defense University (10 U.S.C. 1595), United States Naval Academy (10 U.S.C. 6952), the United States Military Academy (10 U.S.C. 4331), the United States Air Force Academy (10 U.S.C. 9331), the Naval Postgraduate School (10 U.S.C. 7044), the Naval War College (10 U.S.C. 7478), the Army War College (10 U.S.C. 4021), the Air University (10 U.S.C. 9021) and the George C. Marshall European Center for Security Studies (10 U.S.C. 1595) have such authority for their civilian faculty.

The Asia-Pacific Center for Security Studies is a new institution chartered by the Secretary of Defense to be under the authority, direction and control of the Commander in Chief, United States Pacific Command. The center's mission is to facilitate broader understanding of the United States military, diplomatic, and economic roles in the Pacific and its military and economic relations with its allies and adversaries in the region. The center will offer advanced study and training in civil-military relations, democratic institution and nation building, and related courses to members of the United States military and military members of other Pacific nations. The mission of this critically important and innovative center will require first-rate faculty and scholars with international reputations.

Under current authority available to the Commander in Chief, United States Pacific Command, civilian faculty for the Asia-Pacific Center for Security Studies must be appointed, administered and compensated under title 5. The faculty must be classified under the General Schedule (GS) and recruitment and compensation must be limited to GS grade, occupational series and pay rates. However, the GS grading system does not meet the needs of the traditional academic ranking system wherein faculty members earn and hold rank based on educational accomplishment, experience, stature and other related academic and professional endeavors. The GS grading system also will not allow the center to hire non-United States citizen academics from international institutions. Legislation is required for the Commander in Chief, United States Pacific Command to utilize title 10 excepted service authority which will provide greater flexibility to appoint, administer and compensate the center's civilian faculty.

Section 1595 of title 10 provides for employment and compensation of civilian faculty at certain Department of Defense schools. There is no provision for civilian faculty of the Asia-Pacific Center for Security Studies.

The proposed legislation provides excepted service authority for appointing, administering and compensating the civilian faculty of the Asia-Pacific Center for Security Studies.

Subtitle C—Other Matters

Section 921. Reduction of reporting requirements

The purpose of this proposal is to reduce the Department of Defense reporting requirements determined to be unnecessary or incompatible with efficient management.

Subsection (a)—Closure of Military Child Development Centers for Uncorrected Inspection Violations.—Section 1505(f)(3) of the Military Child Care Act of 1989 requires the Secretary of Defense to inspect military child development centers not less than four times a year. All inspections should be unannounced and at least one each should be carried out by an installation representative and a major command representative. If a violation occurs, the centers have 90 days to correct it or be forced to close down. If after 90 days the violation is still not corrected, the Secretary of the military department concerned shall forward a report to both the House and Senate Armed Services committee notifying them of the closure. The report shall include (a) notice of the violation that resulted in the closing and the cost of remedying the violation; and, (b) a statement of the reasons why the violation had not been remedied as of the time of the report.

The Department of Defense has instituted a comprehensive inspection system that mirrors a check and balance system. Unannounced inspections are carried out at least four times a year at each child development center and all levels including the installation, major command, service, and Department of Defense, are inspected in this system. The Department of Defense inspection system is extremely aggressive. Additionally, there is even a multi-disciplinary Department of Defense team in place that inspects random installations each year to check the military services inspection procedures. Based on the provisions now in place the requirement for this report is no longer necessary.

Subsection (b)—Energy Savings at Military Installations.—Section 2865(e) of title 10 authorizes the Secretary of Defense to carry out a military construction project for energy conservation, not previously authorized. It directs the Secretary of Defense to notify in writing the Armed Services and Appropriations Committees in both the House and the Senate of his decision to carry out a project. The project may then only be carried out after a 21 day period after official notification of the committees.

This requirement should be eliminated since it is a notification requirement only. Currently all new military construction project plans incorporate programs to reduce energy usage and procedures to protect our environment.

Subsection (c)—Military Relocation Assistance Programs.—Section 1056 (f) of title 10 requires the Secretary of Defense to submit a report to Congress not later than 1 March of each year outlining assessments on available/affordable private-sector housing available for military members and their families, actual nonreimbursed costs associated with a permanent change of station for military members and their families, numbers of members who live on military installations and those who do not live on military installations, and the effects of the relocation assistance programs on the quality of life for members of the Armed Forces.

The Department has met all requirements outlined in this section of title 10 related to relocation assistance. Recommend termination of this report because it is a more cost-effective use of limited manpower resources of the Armed Forces to provide information when requested. The information outlined in this report could be furnished to Congress or an outside agency as needed in response to requests, saving extremely needed personnel manhours.

Subsection (d)—Limitation on Source of Funds for Nicaraguan Democratic Resistance.—Section 1351 of the National Defense Authorization Act for Fiscal Year 1987 requires the Secretary of Defense not to expend any operations and maintenance or other supplied funds in providing support to the Nicaraguan democratic resistance forces. If funds appropriated or otherwise made available to the Department of Defense are authorized by law to be used for such assistance, such funds may only be derived from amounts appropriated for procurement (other than ammunition). Before such funds are used the Secretary of Defense shall submit a report to Congress describing the specific source of the funds.

The Nicaraguan resistance is no longer in operation, so the requirement for this report is no longer valid.

Subsection (e)—Limitation on Reductions in Medical Personnel.—Section 711 of the National Defense Authorization Act for Fiscal Year 1991 requires that before the Secretary of Defense can reduce the number of medical personnel, he must certify to Congress that the number of personnel being reduced is in excess to the current and projected needs of the military departments and such a reduction will not result in an increase in Civilian Health and Medical Program of the Uniformed Services.

This certification/report was required by Congress to ensure that as the military departments and Department of Defense downsized that the medical personnel were not affected by the drawdown. Congress felt that any drawdown affecting military medical personnel could both jeopardize the care provided to members not affected by the drawdown and also drive up the cost of Civilian Health and Medical Program of the Uniformed Services. During the drawdown both military and civilian medical personnel were prohibited from participating in the reduction of forces thus protecting the medical personnel levels.

As the downsizing nears its completion and the TRICARE implementation program gets underway, the Department of Defense needs to have the flexibility to tailor its medical staff levels to correspond to the needs of the population. This certification limits the Secretary of Defense management authority and should be terminated.

Subsection (f)—Foreign National Employees Salary Increase.—Section 1584(b) of title 10 requires the Secretary of Defense to submit a report to the Appropriations and Armed Services Committees of both the House and the Senate when any salary increase granted to direct and indirect hire foreign national employees, stated as a percentage, is greater than percentage pay authorized for civilian employees of the Department of Defense or when the percentage increase is greater than the salary increase of the national government employees of the host nation.

Due to continuing annual appropriations acts these payments have been limited. The report has never been necessary and the reporting requirement should be deleted.

Subsection (g)—Civilian Positions: Guidelines for Reduction.—Section 1597 (c) and (e) of title 10 outlines the requirements for three reports from the Secretary of Defense. The first report requires the Secretary of Defense to annually submit along with budget requests a report outlining a master plan for civilians. The master plan should include the tracking of accessions and losses of civilian positions, numbers of civilian personnel both stateside and abroad, a breakdown of civilians by service and major commands, a total number of civilian employees, the number of foreign national employees, and various other requirements.

The second report permits the Secretary of Defense to provide a variation from the requirement outlined above if deemed necessary in the interest of national security. If a variation is needed, the Secretary of Defense shall immediately notify the Congress of any such variation and the reasons for such variation.

The third report prohibits the Secretary of Defense from implementing any involuntary reduction or furlough of civilian positions in a military department, Defense Agency, or other component of the Department of Defense until the expiration of a 45-day period beginning on the date which the Secretary submits to Congress a report outlining the reasons for the reduction or furlough and describing any change in workload or position requirements that will result from such reductions or furloughs.

Based on the fact that the civilian force is not as structured as the military force, data to support such a report is quite difficult to obtain. Through the submission of O&M Justification Materials and the Defense Manpower Requirements Report, information required by this report is already accessible. Based on this, the Department of Defense recommends that the first two reporting requirements be deleted.

The third reporting requirement should be deleted based on the fact that the Department of Defense already has in place procedures in DOD Directive 5410.10 to notify Congress of involuntary reductions affecting 50 or more federal civilian employees or 100 or more contractor personnel. Any additional requirements for reporting on such measures causes a significant administrative burden on the entire department including the services.

Subsection (h)—Industrial Fund Management Reports.—Section 342 of the National Defense Authorization Act for Fiscal Year 1993 requires the Secretary of Defense to submit a report at the same time the President submits the budget to Congress outlining the condition and operation of working-capital funds. A report should be furnished for each industrial fund or working capital fund. There are five separate funds, one for each service and one for the Department.

This reporting requirement should be deleted due to the nonexistence of these reports within the Department of Defense.

Subsection (i)—Elimination of Use of Class I Ozone-Depleting Substances in Certain Military Procurement Contracts.—Section 326(a) of the National Defense Authorization Act for Fiscal Year 1993 outlines a reporting requirement of the Secretary of Defense in relation to use of certain class I ozone-depleting substances. The provision noted states that no Department of Defense contract awarded after June 1, 1993, may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard in the contract is approved by the Senior Acquisition Official for the procurement covered by the contract. The Senior Acquisition Official may grant the approval only if the Senior Acquisition Official determines (based upon the certification of an appropriate technical representative of this official) that a suitable substitute for the class I ozone-depleting substance is not currently available. Each official who grants an approval shall submit to the Secretary of Defense a report on that approval or determination. The Secretary of Defense shall promptly transmit to the committees on Armed Services of the Senate and House of Representatives each report submitted to him by the Senior Acquisition Official. The Secretary of Defense shall transmit the report in classified and unclassified forms.

Based on the fact that the production of halons was phased out in January 1994, only recycled/reclaimed products may now be procured. Production class I ozone depleting substances, refrigerants, and solvents will be phased out on January 1, 1996. Report uses a large quantity of Department of Defense resources and provides no useful management tool for Department of Defense or Congress.

Subsection (j)—Kinds of Contracts: Multiyear Contract Certification.—Section 2306(h)(9) of title 10 states that a multiyear contract may not be entered into for any fiscal year for a defense acquisition program that has been specifically authorized by law to be carried out using multiyear contract authority unless each of the following conditions are satisfied: 1) the Secretary of Defense certifies to Congress that the current 5-year defense program fully funds the support costs associated with the multiyear program; and 2) the proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

Currently the Comptroller must provide a justification package with the budget when any multiyear production contracts are requested. Also, multiyear contracts are more difficult to sustain during the current post cold-war defense environment where the major focus now is towards the United States maintaining its technology base capabilities. Outside of the report mentioned from the Comptroller to Congress, all other reports concerning multiyear production contracts should be deleted.

Subsection (k)—Notice to Congress Required for Contracts Performed over Period Exceeding 10 Years.—Section 2352 of title 10 states that the Secretary of a military department shall submit to Congress a notice with respect to a contract of that military department for services for research or development in any case in which—(1) contract is awarded or modified, and contract is expected, at the time of award or as a result of the modification to be performed over a period exceeding 10 years or (2) the performance of the contract continues for a period exceeding ten years and no other notice has been provided to Congress.

This reporting requirement should be deleted due to the fact there are very few contracts, if any, for services for research and development which extend over a period exceeding 10 years. In addition, internals controls currently exist in regulation (*e.g.* FAR 17.204(e)) that preclude contracts being written for, or being extended to encompass, 10 years or more.

Subsection (l)—Major Defense Acquisition Program Defined.—Section 2430(b) of title 10 defines a "major defense acquisition program" as a program of the Department of Defense acquisition program, is not classified, and (1) that is designated by the Secretary of Defense as a major defense acquisition program; or (2) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $300,000,000 (based on fiscal year 1990 constant dollars) or an eventual total expenditure for procurement of more than $1,800,000,000 (based on fiscal year 1990 constant dollars.)

The section states that the Secretary of Defense may adjust the amounts (and the base fiscal year) on the basis of Department of Defense escalation rates. Any adjustment shall be effective after the Secretary transmits a written notification of the adjustment to the Committees on Armed Services on the Senate and House of Representatives.

The adjustments noted above was utilized recently in updating Department of Defense directives which are published in the Federal Register and made available to the public. Annual reports to Congress should be deleted because the information is available to the public.

Subsection (m)—Weapons Development and Procurement Schedules.—Section 2431 of title 10 states that the Secretary of Defense shall submit to Congress each calendar year, at the same time the President submits the budget to Congress under section 1105 of title 31, a written report regarding development and procurement schedules for each weapon system for which fund authorization is required by section 114(a) of title 10, and for which any funds for procurement are requested in that budget.

The reporting requirement should be deleted since any necessary information should be included in the Selected Acquisition Reports. No additional reports should be necessary.

Subsection (n)—Selected Acquisition Reports for Certain Programs.—Section 127 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 requires the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives a selected acquisition report for each of the following programs: (1) the advanced technology bomber program; (2) the advanced cruise missile program; and (3) the advanced tactical aircraft program.

These reports should be deleted. The programs were terminated by the Secretary of Defense and selected acquisition reports are no longer needed for these programs.

Subsection (o)—Core Logistics Functions Waiver.—Section 2464(b) of title 10 states that the Secretary of Defense may waive the requirement that performance of a logistics activity identified by the Secretary and performance of a function of the Department of Defense, may not be contracted for performance by non-Government personnel under the procedures of OMB Circular A-76. This waiver will be in the case of such logistics activity or function and provide that performance of such activity or function shall be considered for conversion to contractor performance in accordance with OMB circular A-76. Any such waiver shall be made under regulations prescribed by the Secretary of Defense and shall be based on a determination by the Secretary that government performance of the activity or function is no longer required for national defense reasons. Such regulations shall include criteria for determining whether government performance of any such activity or function is no longer required for national defense reasons. A waiver may not take effect until the Secretary of Defense submits a report on the waiver to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

This reporting requirement is eight years old—is no longer required and should be deleted. Public Law 100-320 and OMB Circular A-76 provides proper safeguards for contract conversions.

Subsection (p)—Improved National Defense Control of Technology Diversions Overseas.—Section 2537 of title 10 requires the Secretary of Defense and the Secretary of Energy to each collect and maintain a data base containing a list of, and other pertinent information on, all contractors with the Department of Defense and the Department of Energy, respectively, that are controlled by foreign persons. The data base shall contain information on such contractors for 1988 and thereafter in all cases where they are awarded contracts exceeding $100,000 in any single year by the Department of Defense or the Department of Energy. The Secretary of Defense, the Secretary of Energy, and the Secretary of Commerce shall submit to Congress, by March 31 of each year, beginning in 1994, a report containing a summary and analysis of the information collected for the year covered by the report. The report shall include an analysis of accumulated foreign ownership of U.S. firms engaged in the development of defense critical technologies.

Based on the fact that there are currently no existing data bases to identify which contractors are foreign controlled and the amount of additional work this requirement will place on contractors and the Department of Defense, recommend termination of the reporting requirement.

Subsection (g)—Real Property Transactions: Reports to Congressional Committees.—Section 2662 of title 10 covers three reporting requirements for the Secretary of Defense. The first reporting requirement requires that the Secretary of a military department, or his designee, may not enter into any of the following listed transactions by or for the use of that department until after the expiration of 30 days from the date upon which a report of the facts concerning the proposed transaction is submitted to the Committee on Armed Services of the Senate and the House of Representatives: 1) an acquisition of fee title to any real property, if the estimated price is more than $200,000; 2) a lease of any real property to the United States, if the estimated annual rental is more than $200,000; 3) a lease or license of real property owned by the United States, if the estimated annual fair market rental value of the property is more than $200,000; 4) a transfer of real property owned by the United States to another federal agency or another military department or to a state, if the estimated value is more than $200,000; 5) a report of excess real property owned by the United States to a disposal agency, if the estimated value is more than $200,000; and 6) any termination or modification by either the grantor or grantee of an existing license or permit of real property owned by the United States to a military department, under which substantial investments have been or are proposed to be made in connection with the use of the property by the military department.

The second reporting requirement requires that the Secretary of each military department shall report annually to the Committees on Armed Services of the Senate and the House of Representatives on transactions described above that involve an estimated value of more than the small purchaser threshold under section 2304(g) of title 10 but not more than $200,000.

The third and final reporting requirement for this section requires that no element of Department of Defense shall occupy any general purpose space leased for it by the General Services Administration at an annual rental in excess of $200,000 (excluding the cost of utilities and other operation and maintenance services), if the effect of such occupancy is to increase the total amount of such leased space occupied by all elements of Department of Defense until the expiration of 30 days from the date upon which a report of the facts concerning the proposed occupancy is submitted to the Committees on Armed Services of the Senate and the House of Representatives.

All three of these reporting requirements should be deleted based on the fact these reports are incompatible with efficient management (threshold of $200,000 is .00001% of proposed fiscal year 1995 budget) and unnecessary. This section is not an authority for the transaction so, any action must meet another statute's requirements.

Subsection (r)—Acquisition: Interests in Land When Need Is Urgent.—Section 2672a(b) states that the Secretary of a military department may acquire any interest in land that—(1) he or his designee determines is needed in the interest of national defense—(2) is required to maintain the operational integrity of a military installation; and (3) considerations of urgency do not permit delay necessary to include the required acquisition in an annual military construction authorization act. The Secretary of a military department contemplating action under this section shall provide notice in writing to the Committees on Armed Services of the Senate and House of Representatives at least 30 days in advance of any action being taken.

This reporting requirement should be terminated because of the problems the 30-day delay causes. Actions that were needed in an urgent manner during Operations Desert Shield/Storm were hindered by this reporting requirement.

Subsection (s)—Operations of Department of Defense Overseas Military Facility Investments Recovery Account.—Section 2921 of the National Defense Authorization Act for Fiscal Year 1991 requires the Secretary of Defense not later than January 15 of each year, to submit to the Congressional defense committees a report on the operations of the Department of Defense overseas military facility investment recovery account during the preceding fiscal year and proposed uses of funds in the special account during the next fiscal year. This requirement appears in the Base Closure and Realignment Act of 1990, section 2921(f) and appears as other provisions in the committee print for fiscal year 1994.

Should be included in the quarterly report to Congress on the status of residence value negotiations prepared by the Office of the Under Secretary of Defense (Economic Security). The Comptroller would have collateral action and coordination on the report.

Subsection (t)—Environmental Restoration Requirements at Military Installations To Be Closed.—Section 334(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 allows the Secretary of Defense, as it relates to environmental restoration requirements at military installations to be closed and in consultation with the Environmental Protection Agency, to extend for a 6-month period of time the cleanup process at a facility scheduled for closure. The Secretary of Defense submits to Congress a notification containing a certification that, to the best of the Secretary's knowledge and belief, the requirements cannot be met with respect to the military installation by the applicable deadline because one of the conditions set forth exists; and a period of 30 calendar days after receipt by Congress of such notice has elapsed.

Status of these installations is contained in the DERP annual report to Congress required by Public Law 103-160. The Environmental Protection Agency consultation is obtained by detailed coordination and teamwork between the Environmental Protection Agency, state regulators, and the Department of Defense in the development of each closing installation's BRAC cleanup plan.

Subsection (u)—Environmental Restoration Costs for Installation To Be Closed Under 1990 Base Closure Law.—Section 2827 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 states that each year, at the same time the President submits to Congress the budget for a fiscal year, the Secretary of Defense shall submit to Congress a report on the funding needed for the fiscal year for which the budget is submitted, and for each of the following four fiscal years, for environmental restoration activities at each military installation separately by fiscal year for each military installation.

This requirement is already contained in the defense annual environmental restoration program report to Congress required by PL 103-160. The reporting requirement should be deleted.

Subsection (v)—Fuel Sources for Heating Systems; Prohibition on Converting Certain Heating Facilities.—Section 2690(b) of title 10 states that the Secretary of the military department concerned shall provide that the primary fuel source to be used in any new heating system constructed on lands under the jurisdiction of the military department is the most cost effective fuel for that heating system over the life cycle of that system. The Secretary of a military department may not convert a heating facility at a United States military installation in Europe from a coal-fired facility to an oil-fired facility, or to any other energy source facility, unless the Secretary—(1) determines that the conversion is required by the government of the country in which the facility is located, or is cost effective over the life cycle of the facility; and (2) submits to Congress notification of the proposed conversion and a period of 30 days has elapsed following the date on which Congress receives the notice.

The language directing the use of the least life cycle cost fuel should be retained. Since conversions from coal will be done only if they meet the least life cycle cost requirement, Congressional notification should not be required.

Subsection (w)—Architectural and Engineering Services and Construction Design.—Section 2807 of title 10 states that within amounts appropriated for military construction and military family housing, the Secretary of the service concerned may obtain architectural and engineering services and may carry out construction design in connection with military construction projects and family housing projects. Amount available for such purposes may be used for construction management of projects that are funded by foreign governments directly or through international organizations and for which elements of the Armed Forces of the United States are the primary user. In the case of architectural and engineering services and construction design to be undertaken for which the estimated cost exceeds $300,000, the Secretary concerned shall notify the appropriate Committees of Congress of the scope of the proposed project and the estimated cost of such services not less than 21 days before the initial obligation of fund for such services.

This reporting requirement should be deleted based on the fact that design and project fees have since enactment of this requirement and so the notice is required for too many projects. The notification process delays execution and should be deleted.

Subsection (X)—Construction Projects for Environmental Response Actions.—Section 2810 of title 10 states that the Secretary of Defense may carry out a military construction project not otherwise authorized by law (or may authorize the Secretary of a military department to carry out such a project) if the Secretary of Defense determines that the project is necessary to carry out a response action under the Comprehensive Environmental Response, Compensation, and Liability Act. When a decision is made to carry out a military construction project, the Secretary of Defense shall submit a report, in writing, to the appropriate Committees of Congress on that decision. Each report shall include the justification for the project and the current estimate of the cost of the project; and the justification for carrying out the project.

Environmental cleanup requirements are contained in the annual Department of budget justification material provided with the Department of Defense budget each year. Cleanup requirements are identified in the DERP annual report to Congress required by Public Law 103-160. The reporting requirement should be terminated.

Subsection (y)—Improvements to Family Housing Units.—Section 2825(b)(1) and section 2825(c)(1) of title 10 outlines two reporting requirements. The first requirement states that funds may not be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units that are to be converted into or are to be used as a single family housing unit, if the cost per unit of such improvement will exceed (a) $50,000 multiplied by the area of construction cost index as developed by the Department of Defense for the location concerned at the time of contract award, or (b) in the case of improvements necessary to make the unit suitable for habitation by a handicapped person, $60,000 multiplied by such index. The Secretary concerned may waive the limitations if such Secretary determines that, considering the useful life of the structure to be improved and the useful life of a newly constructed unit the improvement will be cost effective, and a period of 21 days elapses after the date on which the Committees on Appropriations of the Senate and of the House of Representatives receive a notice from the Secretary of the proposed waiver together with the economic analysis demonstrating that the improvement will be cost effective.

The second reporting requirement states that the Secretary concerned may construct replacement military family housing units in lieu of improving existing military family housing units if—(a) the improvement of the existing housing units has been authorized by law; (b) the Secretary determines that the improvement project is no longer cost-effective after review of post-design or bid cost estimates; (c) the Secretary submits to the committees on Armed Services and Appropriations of the Senate and the House of Representatives a notice containing (i) an economic analysis demonstrating that the improvement project would exceed 70 percent of the cost of constructing replacement housing units intended for members of the Armed Forces in the same pay grade or grades as the members who occupy the existing housing units and (ii) the replacement housing units are intended for members of the Armed Forces in a different pay grade or grades, justification of the need for the replacement housing units based upon the long-term requirements of the Armed Forces in the location concerned.

Both reports should be terminated and replaced by internal reports. The Reporting requirements are unnecessary.

Subsection (z)—Relocation of Military Family Housing Units.—Section 2827 of title 10 states that the Secretary concerned may relocate existing military family housing units from any location where such units exceeds requirements for military family housing to any military installation where there is a shortage. A contract to carry out a relocation of military family housing units may not be awarded until (1) the Secretary concerned notifies Congress of the proposed new locations of the housing units to be relocated and the estimated cost of and source of funds for the relocation, and (2) a period of 21 days has elapsed after the notification has been received by the Committees.

The report is unnecessary. It should be terminated and replaced by a Department of Defense report for management if needed for management.

Subsection (aa)—Annual Report to Congress With Respect to Military Construction Activities and Military Family Housing Activities.—Section 2861 of title 10 requires the Secretary of Defense to submit a report to the Appropriate Committees of Congress each year with respect to military construction and military family housing activities. Each report shall be submitted at the same time that the annual request for military construction authorization is submitted for that year. Otherwise, information to be provided in the report shall be provided for the two most recent fiscal years and for the fiscal year for which the budget request is made.

This reporting requirement should be terminated. The data supplied by this report can be furnished by the service concerned on an as needed basis.

Subsection (bb)—Energy Savings at Military Installations.—Section 2865 of title 10 requires the Secretary of Defense to designate an energy performance goal for the Department of Defense for the years 1991 through 2000. To achieve the goal designated, the Secretary of Defense shall develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum of energy conservation measures under the plan shall be limited to those with a positive net present value over a period of 10 years or less. The Secretary of Defense shall provide that ⅔ of the portion of the funds appropriated to Department of Defense for a fiscal year that is equal to the amount of energy cost savings realized by the Department of Defense, including financial benefits resulting from shared energy savings contracts and financial incentives described for any fiscal year beginning after fiscal year 1990 shall, remain available for obligation through the end of fiscal year following the fiscal year for which the funds were appropriated, with additional authorization or appropriation. The Secretary of Defense shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts with respect to military installations and will reduce the administrative effort and cost on the part of Department of Defense as well as the private sector. The Secretary of Defense shall permit and encourage each military department defense agency, and other instrumentality of Department of Defense to participate in programs conducted by any gas or electric utility for this management of electricity demand or for energy conservation. Not later than, December 31 of each year, the Secretary of Defense shall transmit an annual report to Congress containing a description of the actions taken to carry out energy savings at military installations and the savings realized from such actions during the fiscal year ending in the year in which the report is made.

This reporting requirement has been superseded by the Energy Policy Act of 1992 which established conservation goals for the year 2005 and requires annual agency reports to Congress through the Department of Energy.

Subsection (cc)—Reports on Price and Availability Estimates.—Section 28 of the Arms Export Control Act requires the President to submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, within fifteen days after the end of each calender quarter, a report listing each price and availability estimate provided by the United States Government during such quarter to a foreign country with respect to a possible sale under this chapter of major defense equipment for $7,000,000 or more, of any other defense articles or defense services for $25,000,000 or more, or of any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the possible sale).

This report is redundant. The provision for this report requires reporting of potential foreign military sales which may or may not result in actual sales. Sales offers to foreign purchasers as well as actual sales are being reported in a broader scope at the $1 million threshold on a quarterly basis, as required by section 36(a) of the Arms Export Control Act (22 U.S.C. 2765). The reporting requirement should be deleted.

Subsection (dd)—Annual Report on the Status of the Exercise of the Rights and Responsibilities of the United States Under the Panama Canal Treaty of 1977.—Section 3301 of the Panama Canal Act of 1979 requires the President to submit a report annually on the status of the exercise of the rights and responsibilities of the United States under that treaty and includes the following: (1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce; (2) the effect on canal operations of the military forces under General Noriega; and (3) the commission's evaluation of the effect on canal operations if the Panamanian government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal treaties.

The report has been overtaken by events and should be discontinued. Report requirements are superseded by those of Public Law 103–129.

Subsection (ee)—Monitoring and Research of Ecological Effects of Organotin Antifouling Paint.—Section 7 of the Organotin Antifouling Paint Control of 1988 in regards to estuarine monitoring, states that the Secretary of the Navy, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after the date of the enactment of this act (enacted June 11, 1988). The Administrator shall submit a report annually to the Speaker of the House of Representatives and to the President of the Senate detailing the results of such a monitoring program for the preceding year. As such, the Secretary shall submit a report annually to the Secretary and to the Governor of each state in which a home port for the Navy is monitored detailing the results of such monitoring in the state. Regarding home port monitoring, the Secretary shall provide for periodic monitoring, not less than quarterly, of waters serving as the home port for any navy vessel coated with an antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and organisms of such waters.

The Navy currently has fewer than six ships using organotin coatings. By the end of fiscal year 1994, only two ships with organotin coatings will remain in the fleet. Current Navy policy does not allow use of organotin coatings. By fiscal year 1998 no ships will have organotin coating. With organotin use going to zero, this report should be terminated.

Subsection (ff)—Minority Group Participation in Construction of Tennessee-Tombigbee Waterway Project.—Section 185 of the Water Resources Development Act of 1976 requires the Secretary of the Army, acting through the Chief of Engineers, is directed to make a maximum effort to assure the full participation of members of minority groups, living in the states participating in the Tennessee-Tombigbee Waterway Development Authority, in the construction of the Tennessee-Tombigbee Waterway project, including actions to encourage the use, wherever possible, of minority owned firms. The Chief of Engineers is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendations for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary.

This report should be terminated because this project has been completed.

Subsection (gg)—Presidential Recommendations Concerning Adjustments and Changes in Pay and Allowances.—Section 1008 of title 37 requires the President, after an annual review of the adequacy of the pays and allowances authorized to members of the uniformed services, to submit a report to Congress summarizing the results of such annual review together with any recommendations for adjustments in the rates of pay and allowances.

The pay adequacy report, required on an annual basis by section 1008(a) of title 37, was mandated in an era when there was no regular annual military pay raise. This report would provide information on a number of economic indicators, and when it was determined that an annual pay raise was needed, the raise would be requested. The law on military compensation has changed. Current law (Public Law 101-509) pegs military pay raises to the employment cost index. Pay raises are annual and are based upon changes in private sector wages and salaries for the average worker. The information contained in the pay adequacy report is no longer needed and media coverage of the pay raise system is widespread. The reporting requirement should be deleted.

Subsection (hh)—Adjustments of Compensation.—Section 1009(f) of title 37 outlines a report by the President that is owed with the quadrennial review of military compensation when the President decides not to give equal percentage pay raise to all military members.

This report is due from the quadrennial review group only when there is a reallocation of the basic pay raise. This rarely happens; when it does, it would not appear useful to require that such a fact be reviewed and reported by a quadrennial review group that meets every fourth year. The reporting requirement should be deleted.

Subsection (ii)—Travel and Transportation Allowances: Dependents; Baggage and Household Effects.—Section 406 of title 37 requires the Secretary of Defense to submit to the Committees on Armed Services of the Senate and the House of Representatives a report at the end of each fiscal year stating (1) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were authorized by the Secretary concerned to receive allowances or transportation for dependents; and (2) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were not authorized to receive allowances or transportation.

Neither the Office of the Secretary of Defense nor the services have ever submitted such reports, insofar as we can determine. We are skeptical of the interest this report holds for Congress; therefore, the reporting requirement should be deleted.

Subsection (jj)—Health-Care Sharing Agreements Between Department of Veterans Affairs and Department of Defense.—Section 8111 to title 38 states that for each of fiscal years 1993 through 1996 the Secretary of Defense shall submit a report on opportunities for greater sharing of the health care resources of the Veterans Administration and the Department of Defense which would be beneficial to both veterans and members of the Armed Forces and could result in reduced costs to the government by minimizing duplication and under use of health care resources. The fiscal year 1996 report will also include—(1) an assessment of the effect of agreements entered into on the delivery of health care to eligible veterans, (2) an assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the Armed Forces dependents of members or former members, and beneficiaries, and (3) any plans for administrative action, and any recommendations for legislation, that the Secretary of Defense considers appropriate.

Public Law 97-174 requires the Secretaries of the Departments of Veterans Affairs and Defense to submit a joint annual report to Congress on the status of health care resources sharing. After careful review of the reporting requirements of Congress, recommend combining this report with the report entitled "Sharing of Department of Defense Health-Care Resources." Combining these reports will avoid redundancy and allow for a succinct review of health care resources sharing activity between the departments.

Subsection (kk)—Water Resources Projects.—Section 221(e) of the Flood Control Act of 1970 requires the Secretary of the Army, acting through the Chief of Engineers, shall maintain a continuing inventory of agreements and the status of their performance, and shall report thereon to Congress. This shall not apply to any project the construction of which was commenced before January 1, 1972, or to the assurances for future demands required by the Water Supply Act of 1958, as amended. Following the date of enactment, the construction of any water resources project, or an acceptable separable element thereof, by the Secretary of the Army, Chief of Engineers or by a nonfederal interest where such interest will be reimbursed for such construction under the provisions of the Flood Control Act of 1960 or under any other provision of law, shall not be commenced until each nonfederal interest has entered into a written agreement with the Secretary of the Army/Chief of Engineers to furnish its required cooperation for the project. The agreement may reflect that it does not obligate future state legislation appropriations for such performance and payment when obligating future appropriations would be inconsistent with state constitutional or statutory limitations.

This annual report contains only the total number of agreements executed (according to six types of agreements) and states whether maintenance of any projects has been found to be deficient. However, the inventory requires substantial effort to track agreements, and report relevant data. When this requirement was new Congress was curious as to its effectiveness. However, over 2,000 agreements have been executed since 1972, and Congress has shown no interest in this report. This reporting requirement should be deleted.

Subsection (ll)—Public Health Service Hospitals.—Section 1252 of the Department of Defense Authorization Act of 1984 states that the Secretary of Defense, in consultation with the Secretary of Health and Human Services, and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy, shall submit annually to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a written report on the result of the studies and projects carried out. The first such report shall be submitted not later than one year after the date of enactment. The last report shall be submitted not later than one year after the completion of all such studies and projects.

This reporting requirement should be terminated. Assessment reports were completed in the 1980s. No such studies and projects are underway or planned.

Subsection (mm)—Review of Contracts.—Section 3(b) of the Act of August 28, 1958 states that all contracts entered into, amended, or modified pursuant to authority contained in this act shall include a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of and involving transactions related to such contracts or subcontracts. If the clause is omitted, after taking into account the price and availability of the property or services from United States sources, that the public interest would be best served, by the omission of the clause, the agency head will submit a report to Congress in writing.

Recommend termination of this report. This report is required when the agency head concerned determines that public interest would best be served by omitting the clause permitting examination of functional and other records as otherwise required for inclusion in contract where relief has been granted.

Subsection (nn)—Special Defense Fund (SDAF) Annual Report.—This provision would repeal section 53 of the Arms Export Control Act (22 U.S.C. 2795b). This is an extensive and time consuming report that provides information readily available through numerous other resources.

Subsection (oo)—Annual Department of Defense Conventional Standoff Weapons Master Plan and Report on Standoff Munitions.—Section 1641 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2431, note) requires the Department to provide to the Congressional defense committees an annual plan on the development of those standoff weapons that can adequately address the needs of more than one of the Armed Forces.

Much staff work is required to generate the report. We believe that the specific report content is dated and no longer useful to the recipients. The specific report contains an accounting of the Department's standoff weapons programs in the budget, which can be found in other documentation supporting the budget. The programs described in the Conventional Munitions Master Plan, submitted to Congress every other year. Request this reporting requirement be deleted.

Subsection (pp)—Special Defense Acquisition Fund (SDAF) Annual Report.—Due to the decapitalization of the Special Defense Acquisition Fund (SDAF), the requirement for a year end report to the Congress pursuant to section 53 of the Arms Export Control Act is not longer necessary. Subsections (a)(1), (a)(4) are no longer applicable since new procurements under the fund have not been authorized since fiscal year 1993. Reports pursuant to subsection (a)(3) are also unnecessary; while ongoing, transfers of Special Defense Acquisition Fund stocks will decrease over time as they are sold off. Further, such transfers are already notified to the Congress pursuant to other applicable reporting requirements in the Arms Export Control Act.

Section 922. Repeal of prohibition of contracting for firefighting and security guard functions at military facilities

This proposed legislation is the result of cumulative recommendations by our military services to remove this prohibition so the installation commanders and facility managers can improve the efficiency and effectiveness of their fire and security guard functions.

Adoption of this proposal will be implemented within existing Department of Defense appropriations. This proposal will permit the Department to become more efficient in the conduct of business directly supporting the installation operations and maintenance resources. Our firefighting and security guard functions will become more effective and efficient through competition.

It is essential that we get our firefighting and security guard functions in the most effective and efficient posture during the dramatic reductions the Administration desires and approved by the Congress. Getting the best value out of smaller budgets demands better performance, not keeping the status quo. We firmly believe that this legislative proposal will allow our military leaders and facility managers to get the job done with less resources.

The purpose of this section is to repeal section 2465 of title 10, United States Code, and thereby authorize the Department of Defense to enter into contracts for firefighting and security guard functions at military installations and facilities. This repeal restores the ability of the Department of Defense to manage the firefighting and security guard functions in an efficient and effective manner.

The Department of Defense has been prohibited from contracting for firefighting and security guard functions since 1983. This broad prohibition has four limited exceptions:

When the contract is to be performed overseas;

When the contract is to be performed on Government-owned but privately operated installations; and

When the contract (or a renewal of the contract) is for the performance of a function under contract on or before September 24, 1983.

When the contract is with a local government, for a closing base, and not earlier than 180 days before base closing (Pub. L. 103–160, Section 2907).

Prior to 1983, firefighting and security guard functions were successfully competed using the OMB Circular A–76 process.

The prohibition against contracting firefighting and security guard functions prevents the Department of Defense from realizing savings in circumstances where private firms or state and local governments could provide the services for lower cost at equal or better performance. It also prohibits commanders from obtaining contract services for temporary requirements at remote locations or at leased facilities outside military installations.

Section 2465 of title 10, United States Code currently provides that Department of Defense funds may not be spent to enter into contracts for the performance of firefighting and security guard functions at any military installation or facility. The prohibition does not apply to contracts for services at locations outside the United States where armed forces members, otherwise involved in unit readiness, would be performing the function. Nor does it apply to contracts for services at GOCO facilities or for contracts extant on September 24, 1983.

This section was first enacted by the Department of Defense Authorization Act for Fiscal Year 1987 (Pub. L. 99–661, Section 1222(a), 100 Stat. 3976). The Senate version of that Bill had contained a provision that would extend for one year a freestanding, public law provision setting forth the same prohibition. The Senate language also contained a reporting requirement to review the performance standards and inherently governmental activities within the firefighting function, and an estimate of cost savings associated with such contracting out over a five year period. The Senate Report indicated that firefighting would continue co be exempted until the congressional report indicated that positions could be contracted out in the future (Senate Report No. 99–331, October 8, 1986, p. 526).

The House version of the Bill proposed codification of a prohibition on firefighting functions currently being performed by Department of Defense civilians, with the exception as currently listed. In conference, the House version was adopted. The conferees also agreed to extend the current prohibition on conversion of security guard functions for one additional year, unless the Secretary of Defense determines that such conversion would not adversely affect installation security, safety and readiness (House Report No. 99–1001, October 14, 1986, p. 526).

The importance of repealing section 2465 is underscored by downsizing of the Defense budget and personnel when the infrastructure is not downsizing proportionately. Commanders need all of their tools to manage reducing operating budgets. One tool is competing commercial activity functions such as firefighting and guard service.

The repeal of section 2465 will not automatically result in the loss of civilian firefighters and security guards from the workforce. Reductions in force may occur as a result of competitions performed under chapter 146 of title 10 and OMB Circular A–76.

(a) Existing Procedures. In accordance with existing procedures, the Department provides Congressional notification of the intent to study specific functions, and will provide the results of the competition if the decision is to convert to contract. Separations from Federal Service may result from the development of the most efficient organization, or a contract with the private sector when the costs are lower than that estimated for in-house performance. The Department fully supports the basic employee protections requiring contractors to offer displaced Government employees the right of first refusal for comparable employment with the contractor.

(b) Benefits of Contracts with local governments. Many installations adjoin or are surrounded by local municipalities which provide firefighting and security guard services to their communities. Some of these municipalities could provide these services to military commanders at little additional cost or at considerable savings. To engage in a cost comparison under these circumstances would waste government and contractor resources needed to prepare estimates for the cost comparison process. Where local governments can provide security guard and firefighter services at reduced costs, the Secretaries of the military departments should be authorized to contract directly with such governments non-competitively without regard to chapter 146 of title 10 and OMB Circular A–76.

OMB Circular A–76 specifically recognizes that firefighting and security guard functions are commercial activities and can be outsourced if a contractor can provide the service effectively and at a lower cost. Defense Firefighting and security guard functions are no different than other commercial activity functions at our installations and facilities from other Federal agencies. The Department is unaware of any rationale for excluding firefighting and security guard functions from the Government-wide process of determining the least expensive method for performing Government work.

Based on past cost comparisons, competition for the Departments firefighting and security guard functions could potentially generate a 240 million dollar savings while retaining in-house about 50 percent of the firefighting and security guard functions competed.

Section 923. Increase in unspecified minor construction threshold from $1.5 million to $3.0 million and the operation and maintenance threshold from $300 thousand to $1 million

This section amends section 2805 of title 10, United States Code, to change the minor construction thresholds to $1,700,000 and $350,000 respectively. The current law limits minor construction projects to less than $300,000 and unspecified minor construction for a single undertaking to an approved cost equal to or less than $1,500,000. There are no provisions for adjustments caused by high costs encountered in non-Continental United States locations.

The primary factor that creates the problem with the existing $300,000 limit is the large variation in area cost factors. The area cost factors for almost half of the installations in the Continental United States is less than 1.0, while area cost factors for Alaskan and other Pacific overseas installations often exceed 2.75, and go as high as 3.0 which means the cost to construct an item in the Pacific theater is up to 3 times that for a similar item in Continental United States. This severely limits the amount and kinds of work that can be accomplished because of the ever present danger of violating the statutory limits.

Section 924. Annual report on National Guard and Reserve component equipment

Subsection (a) of this section amends section 115b(a) of title 10, United States Code, to extend the submission date of the report from February 15 to March 1. The Department has been aggressively pursuing quality improvements in the report within the time constraints for submission that would significantly increase report usefulness. Currently, the Reserve components must submit data quickly after the end of the fiscal year which begins report data detail. For the Fiscal Year 1996 report due to Congress on February 15, 1995, the data cutoff is September 30, 1994. These data, which were collected before the end of October, must reflect actual deliveries, withdrawals and ending balances that occurred during the fiscal year. An additional two weeks for the Reserve components to collect, edit and verify their data would materially increase accuracy. Understanding the requirement by Congress to have this information at the onset of budget hearings, the March 1 report submission date beginning with the next following report will be very helpful to the Department to improve the quality of the report while at the same time support Congressional needs.

Subsection (b) of this section amends section 115b(b) of title 10, United States Code, to delete all references to "major items of equipment" and replace with "combat essential items of equipment." The term "major items" is a broadly defined term that embraces thousands of items in each Service. The Department interprets Congressional interest to be focused on "combat essential items" of equipment which comprises the several hundred most important equipment in each component. Also, the term "combat essential" is clearly defined by the Joint Staff, unlike "major item."

Subsection (c) of this section provides that the requested changes to section 115b of title 10, United States Code, shall take effect on October 1, 1995.

Section 925. Revision of date for submittal of joint report on scoring of budget outlays

The current submittal date of 15 December does not allow sufficient time for the Office of Management and Budget and the Congressional Budget Office to meet the requirements of the joint report. For the past two years the submittal date has not been met. The published letter, if sent out on 15 December would be incomplete as budget decisions of the President and the Secretary of Defense have not generally been finalized by this date or in sufficient time for the Office of Management and Budget and the Congressional Budget Office to meet this joint reporting requirement. A report of this magnitude shall reflect all of the scoring agreements and disagreements between the Office of Management and Budget and the Congressional Budget Office, and at the present date, this requirement is not being met. Should this reporting date remain in effect, it is likely that multiple scoring letters would be forwarded to Congress for each legislative session in order to properly document the Office of Management and Budget and the Congressional Budget Office outlay scoring approaches. If the submission date is revised to match the submission of the President's budget, then only one joint letter should be necessary to document the outlay scoring that will be used for Department of Defense appropriations.

Section 926. Repeal of annual report to Congress on contractor reimbursement costs of environmental response actions

Section 2706(c) of title 10, United States Code, is an annual report of the Secretary of Defense to the Congress. It is to be provided to the Congress before 30 days after the President submits the budget for the following fiscal year. The data collected for this report are not necessary for properly determining the allowability of environmental response action costs on Government contracts. Furthermore, the Department does not routinely collect data on any other categories of contractor overhead costs. This reporting requirement needlessly is burdensome on both the Department of Defense and defense contractors. It also diverts limited resources for data collection efforts that do not benefit the procurement process.

Title X—General Provisions

Subtitle A—Financial Matters

Section 1001. Appointment and liability of disbursing and certifying officials

This section provides for the designation and appointment of disbursing officials and certifying officials within the Department of Defense (including the military departments and defense agencies and field activities). In addition, this section defines the responsibilities and liabilities of disbursing and certifying officials as well as provide for their relief from liability in appropriate cases.

Section 1002. Due process exemptions for minor adjustments in indebtedness actions

This section amends section 5514(a) of title 5 to insert a new subparagraph (3). The purpose of this amendment is to exempt from the due process provision routine adjustments of pay that are attributable to clerical or administrative errors or delays in the processing of pay documents that have occurred within four pay periods preceding the recoupment and any adjustment that amounts to fifty dollars or less.

The Debt Collection Act of 1982 provides for due process safeguards prior to involuntary salary offset. Under the provisions of the Act, prior to effecting an offset the indebted party has the right to a minimum of a thirty days written notice, the opportunity to inspect and copy Government records relating to the debt, the opportunity to enter into a written repayment agreement, the right to a hearing by an individual who is not under the supervision or control of the head of the agency, and the right to request a waiver of the debt.

These provisions apply to all indebtedness with the exception of underdeduction of Federal benefit premiums for health and life insurance which accumulated over four pay periods or less. Strict adherence to these provisions subjects all indebtedness to full panoply of due process regardless of the cause or amount.

The proposed legislation exempts from full pre-offset due process those debts resulting from routine adjustments of pay attributable to clerical or administrative errors or delays in the processing of pay documents that have occurred within the four pay periods preceding the adjustment and any adjustment of fifty dollars or less. The legislation also proposes that at the time of the adjustment, or as soon thereafter as practical, the individual be provided written notice of the nature and the amount of the adjustment.

The most common occurrence of this type of routine adjustment would be a corrected time and attendance report submitted by an employee's supervisor that changes the amount of a previously reported pay which has already been disbursed to the individual. One example of this type of adjustment would be the downward correction of the number of hours previously reported as overtime. This downward adjustment would decrease entitlement on the part of the individual and result in an indebtedness, usually of a small dollar amount. Providing the full panoply of due process to these types of adjustments, which most likely has already been discussed by the employee and supervisor, is administratively burdensome and the costs often far outweigh the relatively small dollar amounts recovered.

Federal agencies experience a multitude of these adjustments each pay period due to the rapidly changing nature of entitlements, benefits, allowances, and the remote location of many personnel. For example, a survey of one large Department of Defense consolidated civilian payroll office revealed approximately five hundred such adjustments were being made each pay period. Proving full due process for these routine adjustments are time consuming and costly and could result in the wholesale writeoff of certain debts as not cost effective to collect.

Passage of the legislation would bring adjustment procedures for clerical and administrative errors in line with those of Federal benefit premiums and greatly benefit all Federal agencies by decreasing the overall cost of administering the debt collection process while still providing the individual with full disclosure of the adjustment.

Section 1003. Amendments to Chapter 131, Title 10, United States Code, and to the National Defense Authorization Act of fiscal year 1991

Subsection (a)(1) amends title 10, United States Code, by adding a new section 2219, "Authority to incur readiness obligations." It would authorize the incurability of readiness obligations during the last half of the fiscal year in excess of contract authority and amount available to the Department of Defense. The authority could only be exercised to the extent provided in an appropriations act and would require approval of the Office of Management and Budget. If the Authority were exercised it could only be for essential readiness obligations; it would be limited in amount to not more than 50 percent of the amount provided to the Department for Operation and Maintenance, Budget Category 1; budget proposals for the liquidation of obligations would have to be accompanied by offsetting rescission proposals, unless the President determined that emergency conditions precluded such rescissions; and the Secretary of Defense would have to notify the Congress promptly of any obligations incurred pursuant to the authority provided by section 2219.

Subsection (a)(1) also amends title 10, United States Code, by adding a new section 2220, "Closed and expired accounts: procedures." New section 2220 contains provisions pertaining to subdivided appropriations of the Department. It defines a current account as being any subdivision of such a legally subdivided appropriation and provides that in calculating the amount that may be charged to a current account the 1% limitation on such charges shall be calculated on the basis of the cumulative total of the amounts appropriated in the subdivisions of the subdivided appropriation.

Subsection (b) amends section 1405 of the National Defense Authorization Act for Fiscal Year 1991 to add provisions pertaining to charging of current appropriations when records of the Department indicate that an expired or closed account may have been over expended or over obligated in violation of the Anti-Deficiency Act. Under the current law, payment cannot be made while the apparent violation is being investigated. In those cases where the investigation reveals that there was an accounting error, and that there are sufficient funds in the account, payment of valid vendor invoices would have been held in time during the period of the investigation. This results in numerous contract payments not being paid in a timely manner and can result in interest payments under the Prompt Payment Act.

The amendment provides that an obligation or an adjustment to an obligation in such an account for a fiscal year before fiscal year 1992 may be charged to any current appropriation of the Department available for the same purpose. Obligations could not be charged in such a circumstance unless the Congress were notified by the Secretary of Defense of the facts and circumstances for the negative balance and that an investigation had been initiated into any possible violation of the "Anti-Deficiency Act" that might have occurred; if such a violation occurred, that a report of such a violation would be promptly submitted to the Congress as required by law; and, if such a violation did not occur with respect to an account that is expired but not closed, that any charge to a current account would be reversed and the obligation would be charged to the account that would have been charged but for the need to conduct an investigation to determine whether the Anti-Deficiency Act had been violated.

Section 1004. Claims of personnel for personal property damage or loss

Subsection (a) adds a new paragraph (3) to section 3721(b) of title 31. It provides that the Secretary of Defense, or the Secretary of a military department not part of the Department of Defense, may waive the settlement and payment limitation of paragraph (b) for claims by personnel under the jurisdiction of the concerned Secretary for damage or loss of personal property where the concerned Secretary determines that such claims arose from an emergency evacuation or from extraordinary circumstances that warrant such a waiver. It also provides for the promulgation of regulations and grants delegation authority. Subsection (c) provides that the amendments made by this section shall apply with respect to claims arising on or after June 1, 1991.

Subtitle B—Counter-drug Activities

Section 1011. Clarification and amendment of authority for Federal support of drug interdiction

This section amends section 112 of title 32, United States Code to clarify and amend the authority for Federal support of drug interdiction and counterdrug activities of the National Guard.

Subsection (a) reenacts present subsection 112(f) which provides definition for certain terms used in section 112. Subsection (a)(1) defines the activities for which funding may be provided. Specifically, the term "drug interdiction and counterdrug activities" is defined as the use of National Guard personnel, while not in Federal service, in any drug interdiction and counterdrug law enforcement activities authorized by state law and requested by the governor. The use of the term "authorized by law" is not intended to imply that the activities in question must be explicitly authorized by statutory law. For purposes of this term, the activities may include any such activities that may lawfully be conducted by the National Guard under the law of the state, whether statutory or not. Subsections (2) and (3) reenact the corresponding subsections of subsection 112(f) without change, except for a minor wording change in subsection (3). Subsection (4) provides a new definition of "counterdrug duty" as a special type of full-time National Guard duty.

Subsection (b) reenacts present subsection 112(a), expands it to provide explicit statutory authority for the conduct of drug interdiction and counterdrug activities by members of the National Guard in full-time National Guard duty status, and makes additional minor changes for clarity. Specifically present subsection (1)(B) is renumbered to clarify that funds may be provided for operation and maintenance costs of counterdrug activities as well as for pay and allowances of personnel. This section would be the authority for providing funds to a state for reimbursement of state pay and allowances as well as for operation and maintenance (O&M) costs. Present section 112 was initially interpreted by the National Guard Bureau to permit Federal pay and allowances for members of the National Guard used for counterdrug activities in a full-time National Guard duty status under 32 U.S.C. 502(f), but the present language is not entirely clear on this point. The amendment would explicitly provide authority to the Secretary of Defense to authorize full-time National Guard duty, while still allowing a state at its option to request, and the Secretary in his discretion to provide, Federal funds for the payment of state pay and allowances under state active duty, for all or any part of its counterdrug activities funded under this section. Section 502(f) would be the authority for the use of National Guard personnel in full-time National Guard duty status with Federal pay and allowances for drug interdiction and counterdrug activities.

Specific congressional consent would be granted, pursuant to Article I, section 10 of the Constitution, for up to 4,000 members of the National Guard to be on counterdrug duty on orders for more than 180 days, or on orders for more than 180 days for counterdrug activities with state pay and allowances reimbursed under this section, at the end of any fiscal year. The Secretary of Defense would be authorized to increase this end strength by up to 20% at the end of any fiscal year, in order to accommodate unexpected needs. The fluid nature of the counterdrug program necessitates this flexibility. As of June 1994 there were estimated to be 3100 members of the National Guard on orders for counterdrug duty tours in excess of 180 days. It is not anticipated that the cap of 4,000 will be met or exceeded in the next few years, but substantial leeway for rapid response to new requirements should be provided to avoid delays that would result from need for Congressional action. Tight statutory limits without flexibility for unexpected changes, such as exist for the end strengths for the AGR program, would unduly constrain the ability of the States to respond to changes, and would require excessive control of allocations by the Department of Defense to the States of this end strength. Since these personnel would not be on duty for administering the National Guard, they would not be subject to annual end strengths for AGR personnel, or to the grade strengths in sections 12011 and 12012 of title 10.

Section (c) restates present subsections 112(b) and (c) and expands the requirements for plans submitted by governors. Requirements are included for certification by State civil officials that the activities proposed under a state's plan are authorized by and consistent with state law and that any activities in conjunction with federal agencies serve a state law enforcement purpose. These requirements are included to lessen the likelihood of successful legal challenges to funded operations or to arrests or evidence resulting from National Guard support to civil authorities under funding authorized by this section. New subsection (c)(2) includes a technical change to include reference to ordering personnel to counterdrug duty as well as to providing funds to a governor.

Subsection (d) restates present subsection 112(d) without change.

The proposed amendments will not result in an increase in the budget requirements of the Department of Defense.

Section 1012. Authorization to conduct outreach programs to reduce demand for illegal drugs

This section amends chapter 18 of title 10, United States Code, to add a new section 381, which authorizes the Secretary of Defense to establish outreach programs to reduce the demand for illegal drugs by youths. These programs are to be directed toward youths in general and at-risk youths in particular.

New section 381 derives from section 1045 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 410 note), which authorized the Secretary of Defense to establish a pilot outreach program to reduce the demand for illegal drugs. Pursuant to the section 1045(e), the Secretary of Defense, on November 2, 1994, provided an assessment of the pilot program to the Congress and recommended that the pilot program be replaced by permanent community outreach programs. He noted that in order to continue the outreach programs beyond the end of Fiscal Year 1995, permanent legislative authority would be required.

The new section 381 converts the pilot program into the permanent outreach programs the Secretary of Defense desires. The proposal deletes any reference to pilot programs and to a termination date for the outreach programs. It instead provides only that the Secretary of Defense may establish outreach programs aimed at reducing the demand for illegal drugs among youth.

The programs to be conducted under the new permanent authority are volunteer-based and require limited funding. Consequently, this proposal will allow expansion of the outreach programs, but the programs will be funded at approximately the same level as is currently budgeted. The programs would continue to be included in the Drug Interdiction and Counterdrug Activities central transfer account.

Subtitle C—Other Matters

Section 1021. Authorization of transportation between residence and place of employment

Subsection (a) of this section amends section 1344 of title 31, United States Code, to redesignate the extension period of transportation for a federal employee or officer from four 90 day extensions to a single extension of one year and to delete the requirement for the written agency requirement to include the name of the affected employee or officer. The purpose of this amendment is to authorize the head of a federal agency to extend the effective date of an agency determination for transportation of an employee or officer between residence and place of employment if a clear and present danger, an emergency, or a compelling operational consideration exists.

Currently, four 90-day extensions are required in order to maintain the home-to-work authorization. However, the overseas billets for which this transportation has been authorized by the Secretary of the Navy typically do not change in each 90-day reporting cycle. To extend the authorizations for up to one year rather than the present 90-day cycle would alleviate a redundant reporting requirement. Since the requirements are long-term, an annual review should ensure high-level oversight of home-to-work requirements.

This proposal would also delete the requirement for the written agency determination to include the name of the officer or employee affected and only require the name of the affected position. This would alleviate additional reporting requirements each time the name of the incumbent changed. In addition, this proposal would permit the delegation of the authority to make determinations from the Secretary of Defense to the Heads of Department of Defense Components and from the Secretary of the Military Departments to an officer at or above the level of Vice Chief of each military service. This delegation of authority would maintain control at a high enough level to ensure full compliance while eliminating the administrative delays associated with the signature of the service secretary.

No additional costs or budget requirements are incurred by the Department of Defense from this proposed legislation.

Section 1022. National Guard Civilian Youth Opportunities Program

This section amends section 1091 of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) to provide permanent authority for the National Guard Civilian Youth Opportunities Program, presently established as the National Guard Civilian Youth Opportunities Pilot Program. The program is now in its third year of operation and has proven successful in meeting the statutory objectives.

This section also provides authority for the United States Property and Fiscal Officer of each state or other jurisdiction to requisition and lease Government Services Administration vehicles to be furnished to the National Guard for use in support of the Civilian Youth Opportunities Program.

Section 1023. Clarification of authority for requisitioning and lease of general services vehicles for the National Guard

This section clarifies the authority for requisitioning and lease of General Services Administration motor vehicles for use in the training and administration of the National Guard. The United States Property and Fiscal Officer for each state or other jurisdiction would be identified as the requisitioning authority for leasing vehicles to be furnished to the state National Guard. Such use of GSA vehicles has been made for many years. This provision would provide a clear statutory basis for this practice.

Section 1024. Armed Forces Historical Preservation Program

This section amends section 2572(b)(1) of title 10 to clarify which historic preservation programs may be authorized by the service secretaries. The current statute authorizes "restoration services," but is ambiguous regarding the scope of that term. The proposed amendment clarifies the statute to include the full range of modern historic preservation activity by inserting additional specific terms.

"Conservation and preservation" services include treatment of historic books and documents, metal and wooden artifacts to reduce deterioration. "Restoration" is often not possible. Most historic documents were not printed on acid free paper and thus deteriorate with the passage of time. This has been described as "a silent fire" threatening historic collections. This proposal contemplates both preservation of items and conservation of their contents by microfilm, photographic and digital means.

"Educational programs", while inherent in the mission of all preservation activity, includes such programs as videotaped tours to provide access by the handicapped to historic ships and aircraft, publications and cooperative programs with universities and other educational institutions.

"Supplies or conservation equipment, facilities and systems" includes equipment and supplies for conservation laboratories used to treat documents and artifacts, museums with associated storage facilities and equipment and the H.V.A.C. systems necessary to maintain proper temperature, humidity and air quality conditions essential for preservation of historical collections.

Other provisions of the statute would not be changed by this proposal. These ensure administration of historical collections of the armed forces and will remain under the control of the respective service secretaries and subject to their oversight.

No additional cost or budget requirements are incurred by the Department of Defense from this proposed legislation.

Section 1025. Amendments to education loan repayment programs

This section amends sections 2171, 16301, and 16302 of title 10 to include in the existing loan repayment programs authority to repay loans made by borrowers under the William D. Ford Federal Direct Loan Program as authorized by the Student Loan Reform Act of 1993 and codified at section 1087a *et seq.* of title 20. There are no new costs associated with the enactment of this proposal, as loan repayment under the expanded authority would be made within existing program and budget levels for this incentive.

Title XI—Matters Relating to Allies, Other Nations, and International Organizations

Section 1101. Burdensharing contributions: Accounting

This section amends section 2350j of title 10, United States Code, to authorize the United States to accept burdensharing contributions in the currency of the host nation or in dollars, and to manage it as a separate account, available until expended. Current law requires that the money be "credited to . . . [and] merged with" existing Department of Defense appropriations.

There are a number of problems which arise because of the requirement to "credit" and "merge." In law, the term "merged" usually means that when "A" is merged with "B", "A" loses its separate identity and becomes part of "B." Thus, the "merging" of host nation funds into our appropriated funds subjects them to the same limitations on use that govern appropriated funds. However, the practical fact cannot be overlooked that the host nation contribution is not United States taxpayers' money, but rather that of the host nation taxpayers. The source of the host nation contribution constrains the United States' authority to treat those funds in the same way that appropriated funds are treated.

Primarily, the following three limitations on use of appropriated funds create problems with burdensharing contributions:

a. The Competition in Contracting Act. For example, the Republic of Korea provides money on the condition that the money go to Republic of Korea contractors and suppliers, where possible. Under the Competition in Contracting Act, we cannot limit competition to Republic of Korea contractors and suppliers when using appropriated funds; applying the same limitation to contracts funded with burdensharing contributions which have merged with appropriated funds results in an inability to meet the condition placed by the Republic of Korea on the money it contributed.

b. The Foreign Currency Fluctuation Account. For example, the United States accepts contributions from the Republic of Korea in won. Since appropriations are in dollars, not in won, in order to be credited to the Department of Defense appropriation, the won provided by the Republic of Korea must be converted to dollars at the market rate. The dollars then are converted to won for expenditures through a formula which, in the case of won, usually results in less won than if the market rate were used. Similarly, where the contributions from the Republic of Korea are accepted in dollars and then credited to the appropriation, applying the Foreign Currency Fluctuation Account conversion rate when expending those dollars usually results in less won than it took the Republic of Korea to obtain the dollars.

c. The Fiscal Year. For example, the question of what happens when money contributed by the Republic of Korea cannot be expended in the United States fiscal year in which we receive it. This can happen since the Republic of Korea is on a calendar year fiscal year; their supplemental appropriations bill usually passes in July or August with money coming to the Department of Defense in August or September. If the burdensharing contributions cannot be spent for the purpose for which it was provided, it should not expire along with the appropriation to which it is credited. In addition, unobligated appropriations usually revert to the Treasury; this should not happen to unused contributions from the Republic of Korea.

Establishing a separate account which can accept, manage, and disburse in the currency of the host nation and which does not expire at the end of the United States fiscal year solves these problems. The money is not confused with appropriated funds, thus the Competition in Contracting Act and the Foreign Currency Fluctuation Account do not apply; further since it is available until expended, it does not expire and the question of reversion to the United States Treasury General Fund does not arise.

Section 1102. Relocation of United States Armed Forces in Japan and the Republic of Korea

This section adds a new section 2530k to title 10, United States Code, which establishes authority and procedures for the Secretary of Defense to accept contributions from Japan and the Republic of Korea for the purposes of relocating United States armed forces within the host nation when such relocation is being accomplished at the convenience of the host nation and for the purpose of deploying United States troops to the host nation during a contingency deployment. Currently, relocation expenses are not considered burdensharing.

Congress has made it clear that burdensharing consists of our allies sharing a greater portion of the United States forces overseas basing costs. Most relocations of United States forces are done at the convenience of the host nation and are not for any military purposes. It is clear that Congress does not consider the payment of these relocations driven by the host nation's convenience to be burdensharing. Examples of relocations that would fit this category are the relocation of United States forces from Yongsan to the Osan-Camp Humphreys area in Korea, and the relocation of ammunition storage facilities in Okinawa, Japan, for the expansion of the Zukeyama Dam Water Reservoir.

In addition, by having a separate account to be set up in the host nation currency, Fly America Act problems with the use of Korean Airlines (KAL) in a contingency to transport United States troops to the host nation, in particular to the Republic of Korea, could be avoided. As the host nation currency and separate account would not be United States funds, the Competition in Contracting Act and other restrictions would not apply. Liability issues would still exist, but the payment for Korean Airlines flights could be accomplished in a reasonable manner.

This legislation further outlines the types of expenditures authorized, the method of contributions, and annual reporting requirements to Congress.

Enactment of this provision will not increase the budgetary requirements of the Department of Defense.

Section 1103. Rationalization, standardization and interoperability

This section amends section 515(a)(6) of the Foreign Assistance Act of 1961 to remove references to specific countries and organizations where it states military personnel assigned to Security Assistance Officers may promote rationalization, standardization and interoperability. Section 515(a)(6) of the Foreign Assistance Act currently indicates that the President may assign to members of the United States armed forces in a foreign country the function of "promoting rationalization, standardization, interoperability, and other defense cooperation measures among members of NATO, and the armed forces of Japan, Australia and New Zealand. . . ." This initiative seeks removal of specific country references.

In the post-Cold War international environment, it is becoming increasingly likely that the forces we fight alongside may be other than those of NATO, Japan, Australia or New Zealand. However, as specified in Section 515 of the Foreign Assistance Act, these are the only countries with which United States military personnel may promote rationalization, standardization and itneroperability.

Especially in the Central Region, this self-imposed limitation in the Foreign Assistance Act precludes the United States from achieving the greatest possible degree of interoperability with out coalition partners. For example, during deployment for Desert Shield, United States forces derived considerable benefit from the commonality of weapon and support systems possessed by several of the Middle Eastern states.

To the extent that interoperability existed, it facilitated the deployment and employment of a multinational force, many parts of which were mutually supporting due to common equipment and training. This interoperability, which was achieved entirely without legal sanction, has only served to emphasize the need to promote rationalization, standardization and interoperability with all our potential allies.

Section 1104. Cost of leased items which have been destroyed by the lessee

Paragraph (1) of this section amends section 61(a)(3) of the Arms Export Control Act to allow leased items, if destroyed, to be priced at less than replacement value if the United States Government does not plan to replace the item.

Current legislation requires the leasing country to pay "The replacement cost (less any depreciation in the value) of the articles if the articles are lost or destroyed while leased." In circumstances in which the leased item is not going to be replaced by the United States Government, the rationale that justified charging the foreign government the full replacement cost is no longer valid or just. Section 21(a)(1)(A) of the Arms Export Control Act contains a provision regarding the pricing of items to be sold that the United States does not intend to replace: "The President may sell, if such country agrees to pay, in the case of a defense article not intended to be replaced at the time such an agreement is entered into, not less than the actual value thereof." This same rationale should be used in the pricing of lost or destroyed leased items.

Paragraph (2) of this section authorizes the Secretaries of the military departments to use amounts paid by the foreign country or international organization to reimburse for defense articles lost or destroyed to replace the items (if the United States intends to replace the item) or to fund upgrades or modifications of similar systems (if the United States does not intend to replace the item). These funds would otherwise go to Miscellaneous Receipts account of the United States Treasury.

Section 1105. Exchange and returns of defense articles previously transferred pursuant to the Arms Export Control Act

This section authorizes repairable exchange programs and permits the Department of Defense to accept for return defense articles sold previously through Foreign Military Sales. This section provides clear statutory authority in both of these areas, increasing the readiness of both the US and its allies and friends, particularly in contingency situations.

Exchange for Repair. Under the present procedure for the repair of items for Foreign Military Sales customers, the item is received into the repair system and tracked through the repair cycle to ensure that the exact same item is returned to the Foreign Military Sales customer. Both the cost and the time taken to repair the item is increased by the requirement to track the item through the process.

For many components and spare parts, the United States Armed Forces use a different system for their own needs. An unserviceable item is returned for repair and the United States unit immediately receives a serviceable replacement from Department of Defense stocks. When the unserviceable item is repaired it is added to Department of Defense stocks for future use. No tracking of individual items is required.

The proposal would simply allow repairs for Foreign Military Sales customers to follow the same procedure as that used for United States forces, reducing the time customers must wait to receive a serviceable item dramatically (often by months) and increasing the readiness of Foreign Military Sales customers.

Repair and exchange would only be allowed for items for which stock levels are sufficiently high that providing this service would not adversely affect United States readiness. The proposal would not place foreign customers ahead of United States forces—it would simply place them on an equal footing in the use of the repair process.

Incoming items would be inspected to ensure that repair is possible and to prevent abuse of the system by foreign customers. The foreign customer would be charged the same price as the Department of Defense customer plus a Foreign Military Sales administrative surcharge.

It is estimated that at least 20,000–25,000 repair and exchange transactions would be requested each year, with a value in the range of $60–$70 Million. Most of the items repaired would be aircraft and electronic components. The service would be especially useful for allies who cannot afford to maintain high inventory levels.

Return. The return proposal would allow the Department of Defense to accept the return of items previously sold to a foreign government when either the United States has a requirement for the item or when another eligible foreign country or international organization wishes to receive the item pursuant to Foreign Military Sales procedures.

For example, United States stocks of helicopter engine blades for T–64 engines became dangerously low during Desert Shield/Desert Storm. The Navy located stocks of these blades which had previously been sold to Germany and which Germany offered to return to the United States. In this instance the United States bought these blades under a slower authority (NATO Mutual Logistics Support Agreement). This authority would have allowed this transaction to occur quickly.

This proposal would not circumvent FAR and DFAR requirements. Materiel previously sold through Foreign Military Sales has already been subjected to these requirements in the process of the original Foreign Military Sales sale. If the materiel had to be bought back through the FAR process, it would be subjected twice to these requirements.

Section 1106. Foreign disaster assistance

A requirement for the President to notify Congress of all foreign disaster assistance financed with Department of Defense funds was added this year to title 10 by section 1412 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2912). The intent of the Senate, who added the requirement, was concern over costly and long duration foreign operations. The Senate cited as examples Bangladesh, the Philippines, northern Iraq, Somalia, and the former Yugoslavia.

Preparation of these reports is a burden and a diversion for Department of Defense personnel when they are expeditiously developing and executing disaster relief missions.

This proposal significantly reduces the burden of reporting by requiring notification only on foreign disaster missions that are not natural disasters and are expected to cost $10 million or more or last longer than three (3) months. Congressional intent, as expressed in Senate Report 103–282, page 221, is preserved.

Section 1107. Humanitarian assistance

This reporting requirement was enacted by section 304 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2361).

In its current form, reports are required twice a year on the use of Humanitarian Assistance (HA) funds. Information is required on total funds obligated, the number of missions and descriptions of cargo, their recipient, and cost. Reports are required sixty days following enactment of a Department of Defense Authorization Act and again on June first of each year.

This initiative reduces reporting to once a year consistent with the principle of reducing the burden of reporting to a level consistent with efficient management by Department of Defense and oversight by Congress. The annual report would accompany the submission of other justification material supporting the annual President's budget request.

To further reduce the burden of reporting, the contents of the report would be reduced by eliminating detailed reporting of the current and acquisition value of cargo delivered by mission. However, the total cost for distributing and transporting the cargo as charged against humanitarian assistance funds would continue to be reported. Further, since "flights" are not the only mechanism for transporting relief the language is revised to refer to "transportation missions". This recognizes the use of land and sea transportation in addition to air deliveries.

Section 1108. Humanitarian assistance program for clearing landmines

Permanent title 10 authorization language is needed for the Department of Defense humanitarian demining program with extended authorities to permit more efficient application of the program to world-wide needs than currently allowed under section 1413 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2913).

The provisions of this section extend the use of demining funds to the rudimentary construction and repair of facilities supporting the program. This is identical to the existing authority under section 401 of title 10 for the Humanitarian and Civic Assistance program.

The language permits the United Nations and other international organizations to participate in the program.

Lastly, expanded language identifies the uses of funds for cooperative agreements and grants, and permits relevant equipment and technology to be sold or donated to all program participants.

Section 1109. Reimbursements, credits, and limited payments for assessments relating to international peacekeeping and peace enforcement activities

This section amends title 10 by adding a new section 406 which establishes the International Peacekeeping and Peace Enforcement Activities Account and authorizes the use of Department of Defense funds to pay for a share of assessments, the furnishing of personnel, supplies, services, and equipment in support of United Nations peace operations, and the reimbursement to the appropriate department of the Department of Defense for any incremental costs incurred in the provision of such assistance.

The provisions of this section authorizing the use of Department of Defense funds to pay for a share of assessments are designed to ensure that there is adequate funding for United Nations peace operations in which United States combat forces participate. The authority to use Department of Defense funds to pay United Nations peacekeeping assessments applies only to Chapter VI and Chapter VII United Nations peace operations in which United States combat forces participate. The Department of State would continue to have financial responsibility for all other peace operations.

Section 1110. Extension and amendment of counterproliferation authorities

This section would extend through fiscal year 1996 the International Nonproliferation Initiative contained in section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2567; 22 U.S.C. 5859a), as amended by sections 1182(c)(5) and 1602 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1772 & 1843) and by sections 1070(c)(1) and 1501 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2857 & 2914).

In addition, this section would authorize the Department to provide assistance and support in the destruction and elimination of weapons of mass destruction outside the states of the former Soviet Union. Activities of this nature demonstrate United States willingness to assist other nations to dismantle weapons of mass destruction. As new arms control or assistance agreements come into effect, such efforts could increase, especially in the chemical, biological, and ballistic missile weapons arena.

Section 1111. Cooperative research and development agreements with NATO organizations—technical and conforming amendments

This is a technical and conforming amendment to bring section 2350b of title 10 into line with section 2350a of such title. Section 2350a was amended by section 1301 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2888) in a similar manner as the instant proposal. The following section, section 2350b, requires a similar amendment for consistency of treatment.

TITLE XII—ACQUISITION REFORM

Section 1201. Waivers from cancellation of funds

This proposal would provide that, notwithstanding section 1552(a) of title 31, United States Code, funds for satellite incentive fee and shipbuilding contracts shall remain available for obligation and expenditure until the purpose intended to be achieved by the contract is achieved.

The Department believes that these funds, when properly obligated on a contract should remain available for the purpose originally intended, *i.e.*, making payments for the performance of the contract to which they were obligated. Clearly such funds should not be diverted for any new work or other purpose unrelated to performance of that contract. However, with these unique programs, the funds should remain available to pay for completion of uncompleted work, contract price adjustments, close-out costs, settlement of claims, or any other action arising from performance of the work for which the funds were originally obligated.

Section 1202. Amendment to conform procurement notice posting thresholds

This section would conform the defense procurement notice posting threshold (currently $5,000) to the same threshold as exists for the civilian agencies (currently $10,000). There is no logical reason for applying unique notification rules to DOD rather than setting a government-wide standard. This proposal would correct this anomaly.

Section 1203. Competitiveness of United States companies

Section 2761(e) of title 22, United States Code, currently provides for recoupment of non-recurring research and development charges for products sold through the foreign military sales program. Repeal of the provision in 22 U.S.C. 2761(e) concerning recoupment of non-recurring research and development charges would increase United States competitiveness in global markets and enhance the national security and industrial base. This proposal will assist efforts by defense oriented companies to shift toward commercial activities by eliminating a major barrier to the free flow of technology between the commercial and defense sectors of the United States economy. The proposal will also enhance the ability of American firms to compete for billions of dollars of business that they might otherwise lose.

Section 1204. Inapplicability of prohibition on gratuities

This section would amend 2207 of title 10 to provide an exemption for contracts under this simplified acquisition threshold and for contracts for commercial items. This would eliminate a contract clause that is inappropriate for simplified purchases and for commercial item contracts.

Section 1205. Prompt resolution of audit recommendations

This section would delete a requirement that audit recommendations be acted upon within 6 months, as this requirement currently exists in regulation. The requirement can be maintained in regulation without a statutory mandate. Retaining this requirement in statute is excessive oversight and removes managerial flexibility from the Department of Defense.

Section 1206. Repeal of domestic source limitation

This section would repeal 10 U.S.C. 4542, which currently sets forth limits on the technical data packages that may be provided to defense contractors for certain armament production. Only the Secretary of Defense should determine the appropriate balancing of industrial base, technology transfer and defense trade policies. Statutory constraints on that authority hinder effective management of these sometimes-conflicting policies, especially in a time of drawdown.

Section 1207. Extraordinary contractual relief

This proposal would repeal a restriction on the use of extraordinary contractual relief under Public Law 85-804, limiting its applicability to wartime or national emergency. Extraordinary contractual relief should be available during peacetime as well as during wartime or national emergencies. Relief under Public Law 85-804 is used for many purposes unrelated to the existence of national emergency, *e.g.*, indemnification and recognition of contingent liability. This limitation has not yet had any direct impact because the United States has been under a state of national emergency since the Korean War. However, should this condition be lifted, this authority would immediately be unavailable.

Section 1208. Disposition of naval vessels

This section proposes a technical correction to section 7306(a)(1) of title 10, U.S. Code. The National Defense Authorization Act for Fiscal Year 1994 consolidated several statutes dealing with this subject into a single, consolidated statute. However, the drafting of the consolidated provision did not exactly duplicate the previously existing coverage. Some corrections to reconcile the consolidated provision with previously existing law were made by FASTA, but this correction was omitted. If this proposal is adopted, the consolidated statute will then be identical in scope to the previously existing law, and permit the transfer of vessels in United States territories as well as states.

Section 1209. Test program for negotiation of comprehensive subcontracting plans

This section would amend the Test Program for Negotiation of Comprehensive Subcontracting Plans (Section 834 of Public Law No. 101-189, 15 U.S.C. 637 note). Current statutory language limits purchasing activities allowed to participate in the test to one activity in each of the Military Departments and Defense Agencies. Subsection (a) proposes to remove this limitation. This deletion will enhance the underlying purpose of the law, which is to improve business opportunities for small and disadvantaged businesses as well as small businesses, and to require that efforts be made to include in the program contracting activities purchasing a broad range of the supplies and services acquired by the Department of Defense.

This subsection also proposes a technical correction to a provision of this same law. The proposal would require that contractors' ability to participate in the test to be based on the contracts that they received during the preceding fiscal year rather than the fiscal year ending September 30, 1989, as the current law states. This amendment also reduces the number of contracts and aggregate dollar value of those contracts that are required to establish a condition for a contractor's participation in the test from five contracts worth $25 million to three contracts worth $5 million.

Finally, the proposal would delete paragraph (g) of this public law in its entirety and redesignate paragraph (h) as paragraph (g). Paragraph (g) currently limits participation in the program after fiscal year 1994 to those firms that had participated in the program before October 1, 1993.

All of these amendments would greatly facilitate more meaningful tests. The test as currently established does not result in participation of sufficient number of firms to provide a valid statistical sample of the contractors doing business with the Department of Defense and does not cover a representative sample of the supplies and services that the Department acquires.

For example, the restriction placed upon the conducting of the test, i.e., allowing only one contracting activity in each of the military departments and defense agencies to participate; and limiting contractor participants to those receiving at least five contracts and being paid at least $25 million, has severely limited both the number of contractors that are involved and the types of supplies and services being acquired. As a result of this limitation, of the eight contractors participating in the program, six are in the aerospace industry. One of the remaining firms is involved in shipbuilding and the other is an electronics firm. The participating contractors represent the very largest prime contractors and are involved in the development and manufacture of major weapons systems. Generally, the larger the prime contractor the more likely that there is a need for subcontractors that are manufacturers in the high technology product area. High technology manufacturing is where the least amount of capability exists in the small and small disadvantaged business community. As a result, neither the number of firms involved in the test nor the supplies and services that they are providing is sufficiently representative of the Department's acquisition programs. Therefore, it is not possible to apply the results of the test to date as representative of what could be achieved by all of the 1863 defense prime contractors participating the Department of Defense subcontracting program.

Section 1210. Civil Reserve Air Fleet

This proposal would modify authority newly-enacted by FASTA that permits the DOD to contract with Civil Reserve Air Fleet (CRAF) contractors to grant them limited commercial use of CONUS military airfields. Currently, however, the authority to permit limited commercial use is limited to times of full CRAF activation. Deletion of the word "full" before "CRAF" as proposed will permit use of this valuable authority during a military operation requiring less than full CRAF activation. This flexibility is important because of the need to mobilize civil and reserve fleets in advance of declaration of war.

Section 1211. Eighteen-month shipbuilding claims

Under section 2403 of title 10 as amended by the FASTA, contractors may bring shipbuilding claims within 6 years of the accrual of the claim, for contracts entered into after the date of enactment of the FASTA. For contracts entered into before date of enactment, the prior, 18 month claims limit period appeals. Under a recent decision of the Federal Circuit Court of Appeals, the statute's limitations period was interpreted to apply only to the secretaries of the military departments, not to the Boards of Contract Appeals or courts. This technical amendment would clarify that the 18 month limit on shipbuilding claims, to the extent that it still exists for contracts entered into before enactment of the Federal Acquisition Streamlining Act, applies to the Boards of Contract Appeals and courts as well as the secretaries of the military departments.

Section 1212. Naval salvage facilities

This proposal would consolidate all statutes pertaining to naval salvage facilities' contracting currently in chapter 637 of title 10. The consolidate includes a deletion of an outdated limit on salvage appropriations. This consolidation would contribute to the streamlining of the acquisition laws.

Section 1213. Factories and arsenals: Manufacture at

This section would consolidate and amend two service specific statutes dealing with manufacture of supplies at inhouse, United States owned arsenals and factories. Currently, the Army authority is mandatory—it must produce supplies inhouse unless the requirement is waived. Conversely, the Air Force authority is discretionary—it may produce supplies inhouse. The consolidation would establish one authority Department of Defense-wide that is clearly discretionary. The discretion to make judgments about inhouse production is critical in this era of downsizing.

Section 1214. Bar on documenting economic impact

This section would repeal a bar on the use of government contract funds to demonstrate the economic impact of a government contract. It is inappropriate to maintain this level of oversight in statute. It is also unnecessary because this bar is currently maintained in regulation.

Section 1215. Fees for samples, drawings

This section would amend a newly-enacted statute, §2539b. This statute was intended to provide, among other things, authority for private sector use of Department of Defense testing facilities. However, commercial use of a certain subset of those test facilities, Major Range Test Facility Bases (MRTFBs), is also authorized by another newly enacted statute, §2681. Both statutes were enacted by the National Defense Authorization Act for FY 1994. However, the two statutes prescribe different rules on government fees for the use of such test facilities. Section 2539b provides that the government can charge only direct costs, thus precluding the government from charging for indirect costs. Conversely, §2681 permits charges for indirect costs as well. This amendment would resolve that discrepancy by requiring, under §2539b, at least the charge of direct costs, but not prohibiting the charge of indirect costs when appropriate.

Section 1216. Contracts: Delegations

This section would repeal 10 U.S.C. 2356. That statute provides authority for a secretary of a military department to delegate specified research contracting authorities to listed officials. It is not considered necessary because it duplicates a secretary's inherent authority to delegate. In addition, the statute is not currently relied upon by any pertinent Department of Defense components.

The proposal would eliminate unnecessary and duplicative authorities, thereby increasing efficiency and streamlining the acquisition process.

Section 1217. Defense acquisition pilot programs

This section would amplify the statutory waivers available to the defense acquisition pilot programs that were authorized by the FASTA.

Section 1218. Testing

Section 2366 of title 10 provides for survivability and lethality testing of major systems with an Office of the Secretary of Defense-level report to Congress. Survivability testing must be on the full-up system as configured for combat unless the Secretary of Defense waives the requirement for full-up testing. This provision would change the requirement to realistic vulnerability or lethality testing rather than require costly testing of actual products. The provision makes other changes to ensure the integrity of the testing process by appropriate contract sources, when necessary.

Section 1219. Coordination and communication of Defense research activities

Currently this section establishes a requirement for the Secretary of Defense to promote, monitor, and evaluate programs for the communication and exchange of technological data among Department of Defense Components. It also requires that technological issues be considered and made part of the record at Milestone O, I, and II decisions.

The proposed technical change to this section deletes the specific references to, and definitions of, the Milestone decisions and substitutes references to acquisition program decisions. This change retains the intent of the statute, but does not tie accomplishment of the requirements to events which may change over time as the acquisition process changes or may be tailored out of a particular program's acquisition approach. Rather, it provides for the requirement to be satisfied at all decision reviews for the program, whether or not they are milestone decisions.

Section 1220. Undefinitized contract actions

Section 2326(b)(4) of title 10, United States Code, permits the head of an agency to waive the limits on the use of undefinitized contract actions if such waiver is necessary to support contingency operations. This amendment would exclude peacekeeping, humanitarian assistance and disaster relief operations from the scope of these limits on the use of undefinitized contract actions. This amendment is needed to provide the Department's contracting personnel with maximum flexibility during these specialized operations. Contracting personnel supporting these types of operations should be granted the same tools as contracting personnel supporting contingency operations. For example, during disaster relief operations, the Department often needs authority to purchase and take delivery of relief supplies prior to final agreement on price.

Section 1221. Independent cost estimates

This amendment would permit military departments or agencies, independent of their respective Acquisition Executives, to prepare independent cost estimates for acquisition category I C programs (component-overseen major defense acquisition programs). These offices are the Army Directorate of Cost Analysis, Naval Center for Cost Analysis, or Air Force Office of Cost and Economics, all three of which report to the Assistant Secretary for Financial Management in their respective departments. The proposed language would align the responsibility for independent cost estimating with the level of the decision authority.

Section 1222. Unit cost reports

This section would amend the unit cost report requirement at 10 U.S.C. 2433 to (1) delete the reference to "current fiscal year," (2) restore a former provision to report to the appropriate service acquisition executive further unit cost increases of 5 percent or more, and (3) replace the phrase "contract as of the time the contract was made" with "contract cost baseline."

The current law, as amended by the Federal Acquisition Streamlining Act of 1994, contains reference to "current fiscal year." Use of this phrase will result in the second reporting of the *same* program breach when a new acquisition program baseline is not approved prior to the end of the fiscal year in which the unit cost breach occurred. The references to "current fiscal year" were appropriate when the President's budget was used as the unit cost reporting baseline. But it is not appropriate for the acquisition program baseline, which is not automatically revised each new fiscal year. The deletion of these references will eliminate the duplicative reporting of unit cost breaches.

In addition, the newly amended statute does not now require reporting of subsequent increases in unit cost after a unit cost breach occurs and before a new acquisition baseline is approved. Therefore, there is no motivation to have a new acquisition program baseline approved in a timely manner after a unit cost breach. The former provision to report to the appropriate service acquisition executive further unit cost increases of 5 percent or more is thus proposed to be restored, as amended for the use of the acquisition program baseline as the unit cost reporting baseline.

This revision would also replace "contract as of the time the contract was made" with "contract cost baseline." This amendment would provide the Department with the flexibility to define the basis for determining contract cost breaches.

Section 1223. Repeal of spare parts quality control

This proposal would repeal 10 U.S.C. 2383, requiring contractors providing critical aircraft or ship spare parts to provide parts that meet specified quality requirements (using quality requirements for original parts unless written determination to the contrary).

DOD must move away from the use of government unique specs and standards that are outdated and do not recognize modern industrial manufacturing methods. Failure to do this may result in the procurement of higher-priced, inferior quality goods. Specifically, qualifications and quality standards should be a matter for engineering and technical judgment based on current needs, technology and experience with the use of the particular item.

Section 1224. Patent and copyright cases

This section proposes a technical amendment to update the statutory terminology. It would amend 10 U.S.C. 2386 to substitute "designs, processes, technical data and computer software" for "designs, processes and manufacturing data" as "manufacturing data" is an outmoded phrase.

Section 1225. Defense Acquisition Workforce Act improvements

This proposal, at subsection (a), would amend section 663 of title 10 to authorize the Secretary of Defense to exclude from the mandatory joint duty requirement for military members of the Acquisition Corps, as defined in section 1731 of title 10, who have graduated from the Senior Acquisition Course at the Industrial College of the Armed Forces. This exemption is permitted if they are assigned to Critical Acquisition Positions, as defined in section 1733 of title 10, upon graduation.

This amendment will allow the Acquisition Corps to exploit the talents of these high-potential officers by assigning them to billets in the correct career field where they can employ the skills developed through attendance at the Senior Acquisition Course. Section 1205(a)(4) of the Defense Acquisition Workforce Improvement Act (Public Law 101-510) directed the Department to create a Senior Acquisition Course as a substitute for and equivalent to, existing senior professional military education school courses, specifically designed for personnel serving in critical acquisition positions. The Industrial College of the Armed Forces (ICAF) was selected as the location for the Senior Acquisition Course because a significant portion of the existing curriculum addressed subjects essential to any advanced program of study in acquisition.

Consequently, the Senior Acquisition Course is composed of the standard ICAF curriculum, augmented by specifically tailored electives, writing projects and additional classes for acquisition students. While the use of ICAF to present the Senior Acquisition Course offered significant benefits derived from the existing curriculum, it also invoked the joint duty assignment requirement established for officers graduating from a Joint Professional Military Education School, as provided in section 663(2)(A) of title 10. This section requires that ". . . a high proportion (which shall be greater than 50 percent) of the officers graduating from a joint professional military education school who do not have a joint specialty shall receive assignments to a joint duty assignment as their next duty assignment or, to the extent authorized in subparagraph (B), as their second duty assignment after such graduation."

The problem, however, is that there are generally more acquisition graduates than expected joint billets at the appropriate grade levels. This career field mismatch leaves the Department with three unsatisfactory alternatives: (1) assign officers into acquisition career fields in which they are not certified; (2) assign them to joint billets that do not require acquisition expertise; or (3) require line officers to have an increased requirement disproportionately imposed on them to account for the acquisition personnel not going into joint assignments. The first alternative conflicts with the statutory requirement (section 1723(a)) to apply qualification standards to all acquisition positions. The second alternative is counter to the basic concept for establishing a Senior Acquisition Course, is counter to the concept that the Acquisition Corps officers should serve in critical acquisition positions, and could disadvantage officers competing for promotion. Finally, the third alternative is not feasible due to the existing claims for line officers.

Subsection (b) of this proposal would repeal subsection (a) of §1734 of title 10 and redesignate the remaining sections.

Currently, section 1734(a) of title 10, United States Code, requires individuals assigned to critical acquisition positions (CAP) to serve in that position for a period of time not less than three years. Additionally, it establishes a requirement for individuals entering a CAP to sign a written agreement to remain in that position for at least three years. While these provisions were envisioned to promote stability and professionalism within the acquisition workforce, they are having a direct and detrimental impact on civilian professional development and the implementation of innovative management initiatives to reengineer the acquisition process.

Specifically, the tenure requirement, with its associated written agreement, adversely affects the acquisition workforce in five areas: (1) civilian promotions are tied directly to changing jobs. Any barrier, such as a three year tenure requirement, serves only to inhibit and discourage individuals from advancement; (2) current management initiatives seek to employ integrated product/process development teams. This concept has been endorsed as an excellent management initiative; however, it requires moving people into different jobs and positions. The process of establishing these teams frequently results in team members moving into positions prior to meeting the three year tenure mark in their former position; (3) cross-functional expertise is another attribute desirable in today's acquisition workforce. Yet in order to develop the requisite skills, individuals must be assigned to a variety of positions to develop the background experience and exposure to multiple functional areas. A three year tenure requirement in each position inhibits the breadth of the developmental events that someone can experience; (4) the realities of today's environment in terms of force reductions, realignments and BRAC all place our acquisition professionals in tenuous positions. The tenure agreement obligates the acquisition professional to remain in Federal service for at least three years. Enforcement of this agreement deprives the individual of taking advantage of the early out and early retirement incentives that accompany the on-going force reductions. Further, with the uncertainties associated with the BRAC process and subsequent relocation of major organizations (*e.g.*, NAVAIR with approximately 4,700 jobs) people are reluctant to sign tenure agreements they probably would not honor because they do not want to move out of their current geographic region; and (5) finally, if rigidly enforced, the tenure agreements could create the situation where critical acquisition positions are filled by the most available, not the best qualified person, because the best qualified individual for the job has not completed three years in their current position.

The Department is provided the authority to waive these provisions. However, waivers are viewed negatively, especially given the annual GAO audit of all waivers executed under the provisions of Chapter 87. Waivers should be used for exceptional situations, but the requirements of this section generate waivers as a routine and normal event.

Today's acquisition workforce is significantly different from when this provision was enacted. We now have a cadre of trained and experienced acquisition professionals. This provision serves only to constrain viable career paths that contribute to developing cross-functional expertise through career broadening assignments. It stifles the opportunity to assign the best qualified people to critical positions and to employ innovative management practices. Consequently, this provision is counterproductive to good management practices and should be repealed.

Section 1226. Technical amendment to authority to procure for experimental or test purposes

This section would amend a newly codified authority, at 10 U.S.C. 2373, that currently permits a narrow category of noncompetitive procurement of limited quantities for test or experimental purposes, to conform the new codified section to the full scope of the prior, existing service specific statutes.

Section 1227. Repeal of certain depot level maintenance provisions

Section 2466 provides that not more than 40 percent of the funds made available in a Fiscal Year to a military department or a Defense Agency, for depot-level maintenance and repair workload may be used to contract for performance by non-Federal Government personnel of such workload for the military department or the Defense Agency. Repeal of Section 2466 will provide the Department of Defense and the military departments the needed flexibility to accomplish more than 40 percent of their depot maintenance workload by non-Federal Government employees when needed to achieve the best balance between the public and private sectors of the Defense industrial base. The repeal of Section 2466 will not increase the budgetary requirements of the Department of Defense.

Section 2469 prohibits the Secretary of Defense or the Secretary of a Military Department from changing the performance of a depot-level maintenance workload that has value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense unless, prior to any such change, the Secretary uses competitive procedures to make the change. The Department has suspended cost competitions for depot maintenance workloads because of problems with the data and cost accounting systems of the Department. Repeal of Section 2469 will permit the Department of Defense and the military departments to shift workloads from one depot to another or to private industry as required to resize the depot maintenance infrastructure to support a smaller force structure. The repeal of section 2469 will not increase the budgetary requirements of the Department of Defense.

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 728. A bill to authorize certain construction at military installations for fiscal year 1996, and for other purposes; to the Committee on Armed Services.

THE MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, a bill to authorize certain construction at military installations for fiscal year 1996 and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and a section-by-section analysis explaining its purpose be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, April 24, 1995.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The Department of Defense proposes the following draft of legislation that would authorize certain construction at military installations for Fiscal Year 1996, and for other purposes. The bill would be called the "Military Construction Authorization Act for Fiscal Year 1996." This proposal is necessary to execute the President's Fiscal Year 1996 budget plan. It is drafted to be a principal division of the departmental authorization legislation.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to Congress, and that its enactment would be in accord with the program of the President.

This proposal would authorize appropriations in Fiscal Year 1996 for new construction and family housing support for the Active Forces, Defense Agencies, NATO Infrastructure Program, and Guard and Reserve Forces. The proposal establishes the effective dates for the program. The proposal includes construction projects resulting from base realignment and closure actions. Additionally, the Fiscal Year 1996 draft legislation includes General Provisions.

Enactment of this legislation is of great importance to the Department of Defense and the Department urges its favorable consideration.

Sincerely,
JUDITH A. MILLER.

DEPARTMENT OF DEFENSE—FACILITY PROGRAMS LEGISLATIVE SECTIONAL ANALYSIS

SALE AND REPLACEMENT OF EXCESS AND/OR DETERIORATED MILITARY FAMILY HOUSING (SEC. 2801)

This provision authorizes the Secretaries of the Military Departments to sell, at fair market value, military family housing at non-base closure United States or U.S. Overseas installations which has deteriorated beyond economical repair or is no longer required, along with the parcel of land on which the structures are located. The provision also authorizes the Secretary concerned to use the proceeds from the sale of the property to replace or revitalize housing at the existing installation or at another installation with a continuing requirement.

As a result of planned force structure reductions and base closures, the Services are divesting themselves of military family housing deteriorated beyond economical repair or no longer required. Currently there is no statutory authority available to enable the proceeds from the sale of these properties at non-base closure installations to be used specifically for the replacement of revitalization of family housing. The proceeds from the disposal of excess military family housing at non-base closure locations must be deposited in a special account in the Treasury of the United States to be used by DoD for maintenance and repair and for environmental restoration (40 U.S.C. 485(h)). Allowing the military departments to sell and reinvest the proceeds will accelerate the revitalization of military family housing and reduce the requirement for appropriated funds.

WAIVER OF MAXIMUM AMOUNTS FOR FAMILY HOUSING FOREIGN LEASE (SEC. 2802)

Notwithstanding the overseas drawdown, the Department's requirements for overseas high cost leases continues to grow. This increase is attributable to the growth of the Department's presence in overseas cities rather than at U.S. installations or enclaves, particularly in extremely high-cost Asian cities, such as Singapore. In Singapore, the rents range from $25,000 to $44,000 per year, and those rental costs are below market rates, in accordance with an agreement with the government of Singapore. Without the increase in the number of high cost leases allowed to the Department, military members assigned to duties that require them to live on the economy in high cost areas will have to pay the difference out of their own pocket. In some instances, the cost difference will be prohibitive.

INCREASE IN SQUARE FOOTAGE WHEN ACQUIRING EXISTING FAMILY HOUSING (SEC. 2803)

This modification to 10 U.S.C. 2826(e) would make permanent the authority to waive statutory square foot limits established in Fiscal Year 1992. This modification would permit the military departments, in situations where family housing construction has been authorized, to continue to acquire rather than construct existing family housing units that are larger than the current statutory limits, provided the purchase price is within the amount authorized for construction.

EXPANSION OF AUTHORITY FOR LIMITED PARTNERSHIPS (SEC. 2804)

Section 2837 of Title 10, United States Code provides the Department Of the Navy with authority to invest in limited partnerships for developing privately owned family housing near installation if there is a shortage of suitable housing. The rationale that supported the provision for the Navy applies equally as well to the Army and Air Force installations in areas with reasonably large private sector housing markets. The additional housing units this authority would generate would have minimal effect on total local market assets, and if military requirements were reduced in the future, the units would be readily absorbed into the private sector.

MILITARY CONSTRUCTION COST NOTIFICATION REPORTS (SEC. 2805)

The proposed change would modify existing subsection (d) by dropping the requirement for notification to Congress on cost increases which exceed the limitations of subsection (a) when the increase is to settle a court ordered contract claim. This requirement is considered an unnecessary administrative burden as these settlements are preexisting legal liabilities, their payment is not discretionary to the military departments.

CLARIFICATION OF UNSPECIFIED MINOR CONSTRUCTION AUTHORITY (SEC. 2806)

This clarification provision will make the definition of a minor military construction project in section 2805(a)(1) consistent with the definition for a military construction project in section 2801(b) by removing the portion of section 2805(a)(1) that is inconsistent with section 2801(b). All other provisions, including the monetary limitation on minor construction, are unaffected.

CLARIFICATION OF FUNDING FOR ENVIRONMENTAL RESTORATION AT INSTALLATIONS TO BE CLOSED OR REALIGNED (SEC. 2807)

Environmental restoration at bases selected for closure or realignment as the result of BRAC 95 is restricted to the Base Realignment and Closure (BRAC) account as the source of funding. Environmental restoration costs for Fiscal Year 1996 at those bases were submitted in the President's budget for Fiscal Year 1996 as part of the Defense Environmental Restoration Account (DERA); the recommendations from the 1995 BRAC Commission will not be final until September 1995 and the Fiscal Year 1996 budget was submitted in February, 1995. This provision permits the environmental cleanup at installations selected for closure pursuant to BRAC 95 to be funded from the DERA account for Fiscal Year 1996 only. After Fiscal Year 1996, environmental restoration must be funded from the BRAC account.

CONTRACTS FOR CERTAIN SERVICES AT INSTALLATIONS BEING CLOSED (SEC. 2808)

P.L. 103–160, Section 2907, authorized the Secretary to obtain certain caretaker services from local governments at installations being closed. As written, however, Section 2907 requires the use of a standard government contract executed in accordance with applicable procurement laws and regulations. Local governments are reluctant, and in some cases have refused, to enter into such standard government contracts.

The proposed legislation authorizes the use of less formal agreements with local governments while still protecting the Government's interests, thereby providing the military departments with the maximum degree of flexibility in obtaining caretaker services at closing installations during the transition from military to civilian use. The primary benefit is the ability to obtain caretaker services by the most practical and cost effective means.

CLARIFICATION OF COVENANTS APPLICABLE TO LEASES (SEC. 2809)

Environmental remedial actions may take several years to complete and to demonstrate their effectiveness. This amendment allows DoD to enter into an agreement with prospective purchasers and the environmental regulator to assure all remedial actions will be undertaken by DoD after a lease transfer. This agreement is similar to purchase agreements private parties can enter into to transfer cleanup liability with the additional protection of regulator concurrence. Without this amendment, interim leases and the associated economic redevelopment at closing military installations are impeded.

CONTENTS OF CERTAIN DEEDS AND LEASES (SEC. 2810)

This provision allows EPA or a state to defer the Superfund (Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended) Section 120(h)(3)(B)(I) determination if an agreement between DoD and the potential buyer has been entered and appropriate measures will be undertaken assuring future remedial action, if necessary. This determination requires the completion of all environmental remedial action before DoD can convey title to property at closing bases.

This amendment allows DoD to enter into long-term leases while any phase of cleanup, which can be a lengthy process, is ongoing. Long-term leases at closing military installations are an important tool for both the government and the community in stimulating the local economic redevelopment following the base closure. However, a recent court decision questioned DoD's ability under CERCLA 120(h)(3)(B) to enter into long term leases before remedial action is complete. Without this amendment, both the Government's ability to enter into such long-term leases at closing bases and the community's ability to begin economic redevelopment as soon as possible are impeded.

UTILITY TRANSFER AT FORT DIX, NEW JERSEY TO BURLINGTON COUNTY, NEW JERSEY (SEC. 2811)

This provision will authorize the Secretary of the Army to transfer the Resource Recovery Facility at Fort Dix, New Jersey, which receives solid waste from the Fort Dix Military Reservation, McGuire Air Force Base, and other operations at Fort Dix, including a federal prison, to Burlington County, New Jersey.

The Fort Dix Resource Recovery Facility has failed to produce the cost savings originally anticipated. Moreover escalating O&M expenses continue to increase solid waste disposal costs beyond projections. With the reduced activities of Fort Dix due to base realignments and closure, the Fort is unable to collect enough solid waste to utilize the facility effectively. In addition the facility is currently in violation of its Air Permit issued by the New Jersey Department of Environment Protection and Energy (NJDEPE).

The transfer of the Resource Recovery Facility to Burlington County will result in present worth savings of approximately $20.6M, which translates into annual savings to the Army of $1.94M, as calculated by a life cycle costs analysis. Further, as the incinerator operator, Burlington County would bear all costs related to operations and maintenance of the facility, including ash testing and disposal, and utilities. This would eliminate O&M costs, including operator, auxiliary fuel and off-site disposal costs associated with incinerator by-products from the Army's annual budget. With Burlington County operating the facility at full design capacity, additional steam would be generated, displacing fuel oil that would otherwise be used to supply steam to the steam loop. The Army would realize fuel savings from increased utilization of the resource recovery facility since the county would credit the installation for steam purchase from the facility. Additionally, conveyance to the county will relieve the Army of safety and environmental compliance requirements associated with the operation of the facility.

UTILITY TRANSFER AT FORT GORDON, GEORGIA, TO THE CITY OF AUGUSTA, GEORGIA (SEC. 2812)

The provision will authorize the Secretary of the Army to transfer a water plant and a wastewater treatment plant and their collection and distribution systems at Fort Gordon, Georgia to the City of Augusta, Georgia. An Army analysis comparing the cost of private ownership of the water distribution and wastewater collection systems to the status-quo of Government-related ownership of the utility systems with constructed operation and maintenance of the systems demonstrates that it is most beneficial to the Army to transfer the systems to the City of Augusta, Georgia.

The transfer of the water and wastewater treatment plants and related collection and distribution systems to the City of Augusta will result in transferring all costs related to operations and maintenance of the facilities, including testing, permitting, and environmental compliance, to the city. This would reduce O&M costs from the post's annual budget. The conveyance also eliminates the Army's funding future major capital system improvements and shifts safety and environmental regulation compliance from the Army to the City of Augusta.

UTILITY TRANSFER AT FORT IRWIN, CALIFORNIA TO THE SOUTHERN CALIFORNIA EDISON COMPANY, CA (SEC. 2813)

This provision will authorize the Secretary of the Army to transfer an electrical distribution system at Fort Irwin, California to the Southern California Edison Company, CA. Fort Irwin, California owns and operates an existing on-post 12-kV electrical distribution system. The Ft. Irwin electrical distribution system is aging and a planned maintenance and replacement program is not included in the Army budget, nor is the inclusion of the cost of such a program in the Army budget practicable.

It is vital to the continued operation of the National Training Center that planned maintenance and a replacement program be in place. The transfer of the electrical distribution system to the Southern California Edison Company will result in Southern California Edison implementing a planned maintenance and replacement program in compliance with the California Public Utility Commission standards, while providing the Army utility credits toward the purchase of electrical power. The Army will also be relieved of the costs of massive capital improvements and of future environmental liability.

SALE OF ELECTRICITY (SEC. 2814)

This provision expands the Department of Defense's authority by providing greater flexibility to allow the military departments to take advantage of changing electric power marketing conditions. This revised authority increases private sector electric generating plant investment opportunities on military installations. This change also increases the ability to outsource for energy, as recommended by the National Performance Review.

The Energy Policy Act of 1992 provisions for increased competition of independent power producers has created considerable private sector interest in locating electric generating facilities on military bases. Current authority permits the military departments to retain revenues from only those facilities that use renewable energy or are cogeneration facilities. The current limitation restricts the potential benefits of making military bases available to improve energy independence, improve efficiency, facilitate private sector investment in energy plants at military bases, and improve electrical reliability.

ENERGY AND WATER CONSERVATION SAVINGS AT MILITARY INSTALLATIONS (SEC. 2815)

This provision specifically includes water conservation in the Department's overall conservation efforts, making the incentives to the Department available for water conservation efforts, in addition to other energy conservation efforts.

CONVEYANCE OF PRIMATE RESEARCH LABORATORY AND AIR FORCE OWNED CHIMPANZEES TO THE COULSTON FOUNDATION (SEC. 2816)

The provision authorizes the Air Force to transfer a new primate research laboratory located at Holloman Air Force Base (AFB) and a colony of Air Force owned chimpanzees to the Coulston Foundation, a not-for-profit corporation engaged in primate research. In 1989, and 1990, New Mexico State University (NMSU) received federal grants totaling ten million dollars for the construction of a new, state-of-the-art primate research laboratory within the boundaries of Holloman AFB. The new building was to replace certain outworn facilities which had been leased to NMSU for primate research. A colony of approximately 150 Air Force owned chimpanzees were used in NMSU's research program and this colony, along with additional NMSU research animals, was to occupy the new laboratory. The General Services Administration (GSA) was responsible for grant administration and transfer of the completed building. On July 8, 1994, NMSU indicated it no longer wished to conduct a primate research program and would terminate its leases with the Air Force on September 30, 1994. In light of NMSU's termination of its primate research program, GSA deemed it inappropriate and inconsistent with the grant terms to transfer the new building to NMSU. GSA transferred the building to the Air Force since the building is on property under the custody of the Air Force and was intended to house the Air Force chimpanzees.

The Air Force has no further requirement for its chimpanzee colony and desires to divest itself completely of chimpanzee ownership. The Coulston Foundation is a private organization with demonstrated expertise with primate research programs. The Coulston Foundation is familiar with the Holloman chimpanzee research program and, pursuant to an agreement with NMSU, and with the Air Force consent, has been operating the primate research facility on a day-to-day basis since July, 1993. In that time, Coulston has demonstrated its interest, commitment of resources, and expertise in program management. Coulston is therefore a well qualified and appropriate transferee.

The transfer of the laboratory and the Air Force owned chimpanzees will be without consideration in light of the value of Coulston's primate research activities and its caretaking of the chimpanzee population. The Air Force will continue to provide to Coulston, by lease, the underlying land and the security of location of the primate laboratory on a military installation. In the event Coulston declines to accept the facility and the chimpanzee colony at the time of conveyance, the Air Force is authorized to convey the facility and the colony to another not-for-profit entity the Air Force determines capable of caring for the colony and conducting research.

SPECIAL OPERATIONS LAND LEASE AUTHORITY (SEC. 2817)

The amendment making the Special Operations leasing authority permanent. The amendment also makes permanent the reporting requirement of activities carried out under this section.

CONSTRUCTION OF ELEMENTARY AND SECONDARY SCHOOLS ON DOD INSTALLATIONS (SEC. 2818)

Section 2008 of title 10, United States Code, enables DoD to fund repair and maintenance and construction projects on school buildings constructed by Department of Education pursuant to section 10 of the Act of September 23, 1950 (20 U.S.C. 640). Section 10 of P.L. 81–815 was repealed as part of the Improving America's Schools Act of 1994 (P.L. 103–382) as of October 20, 1994. Under section 8008 of the Elementary and Secondary Education Act (ESEA), the Department of Education is now authorized to continue to provide assistance for school facilities that were supported under section 10 prior to its repeal. Section 2008 would be amended in a similar fashion.

By Mr. BAUCUS (for himself and Mr. LOTT):

S. 729. A bill to provide off-budget treatment for the highway trust fund, the airport and airway trust fund, the inland waterways trust fund, and the harbor maintenance trust fund, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one committee reports, then the other committee have 30 days to report or be discharged.

TRUST FUND RESTORATION ACT OF 1995

Mr. BAUCUS. Madam President, I want to thank the majority whip, Senator LOTT, for joining me in the introduction of this bill.

Madam President, today Senator LOTT and I are introducing a bill to take four transportation trust funds off budget, the highway, aviation, inland waterways, and harbor maintenance trust funds. This is a bipartisan effort.

Transportation issues tend to be bipartisan. Members on both sides of the aisle generally support highway construction, bridge repair and airport improvements. This support is there because infrastructure improvements are needed for increased efficiency and mobility across this country.

As the Senator from Mississippi said this bill also provides truth in budgeting. By taking these four trust funds off-budget, revenue generated from fuel and other excise taxes will be available for the intended purpose of infrastructure improvements.

Without the enactment of the principals of this bill, not all of the money paid into these trust funds by American consumers will be available. Right now, excess revenue and the balances of these trust funds is used to mask the size of the Federal deficit. The bill we are introducing today will fix this problem. It will put truth in our budgeting process. We need to give American taxpayers confidence that their taxes do not go down a black hole but that these tax dollars are used for infrastructure improvements.

This act will restore the trust in our transportation and infrastructure trust funds, by taking those trust funds off-budget. Thus, it will make sure we spend the money on the things the American public expects it to buy—better highways, bridges, airports, and waterways.

The act would also end the practice of considering this money—collected by user fees and held for a specific public purpose—as general revenue which can be used to reduce the deficit. That will make sure we have an honest accounting of the size of the deficit.

Specifically, the bill would take the highway, aviation, inland waterways, and harbor maintenance trust funds off-budget. These trust funds now have balances of over $30 billion. But our ability to use the money is restricted because they are counted as part of the general Treasury funds, and thus subject to budget laws.

HIGHWAY TRUST FUND

The highway trust fund is the biggest and most egregious example. This fund was established in 1956, to develop the system of highways on which our economy and millions of jobs depend. It is financed by excise taxes on gasoline, diesel, special fuels, and other items.

The fund now has a cash balance of over $19 billion—over $9 billion in the highway account and $10 billion in the transit account. This money was collected to pay for our Nation's infrastructure.

That is why people are paying these taxes, to pay for our Nation's infrastructure, and that is what I submit we must use those dollars for.

There are unmet needs across the country. The Department of Transportation estimates that we will need to spend $212 billion to eliminate the backlog of highway deficiencies and $78 billion to fix our decaying bridges, and that is without even considering new needs.

Today, 24 percent of Montana's bridges are deficient and in need of repair. There are highway projects that desperately need funding—projects such as the expansion of Highway 93 in the Kalispell-Whitefish area. You can find similar problems across the State—across the West—across the country. And it is galling beyond belief that a lot of money is right there, today, in the highway trust fund waiting for us to spend it.

But it cannot be. Why? Because it is held hostage by arcane, backward budget laws.

A sensible budget policy situation would let us use it for what it is supposed to be used for—highways. That would mean continued growth in travel and tourism. And it would give our businesses increased mobility and efficiency, making us more competitive in this global economy. And it would mean jobs. Remember that $1 billion in transportation spending generates 60,000 direct and indirect jobs.

CONCLUSION

Madam President, it is time to put trust back into these trust funds. Let us use some common sense. Let us take these trust funds off-budget so that the transportation user gets what he or she pays for—a better transportation system, not an accounting gimmick that disguises the size of the deficit.

I look forward very much to working with the Senator from Mississippi and others to pass this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trust Fund Restoration Act of 1995".

SEC. 2. DEFINITIONS.

In this Act:

(1) AIRPORT AND AIRWAY TRUST FUND.—The term "Airport and Airway Trust Fund" means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986.

(2) HARBOR MAINTENANCE TRUST FUND.—The term "Harbor Maintenance Trust Fund" means the Harbor Maintenance Trust Fund established by section 9505 of the Internal Revenue Code of 1986.

(3) HIGHWAY TRUST FUND.—The term "Highway Trust Fund" means the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986.

(4) INLAND WATERWAYS TRUST FUND.—The term "Inland Waterways Trust Fund" means the Inland Waterways Trust Fund established by section 9506 of the Internal Revenue Code of 1986.

SEC. 3. BUDGETARY TREATMENT OF HIGHWAY TRUST FUND, AIRPORT AND AIRWAY TRUST FUND, INLAND WATERWAYS TRUST FUND, AND HARBOR MAINTENANCE TRUST FUND.

(a) IN GENERAL.—The receipts and disbursements of the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund—

(1) shall not be included in the totals of—

(A) the budget of the United States Government as submitted by the President under section 1105 of title 31, United States Code; or

(B) the congressional budget (including allocations of budget authority and outlays provided in the congressional budget);

(2) shall not be—

(A) considered to be part of any category (as defined in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4))) of discretionary appropriations; or

(B) subject to the discretionary spending limits established under section 251(b) of the Act (2 U.S.C. 901(b));

(3) shall not be subject to sequestration under section 251(a) of the Act (2 U.S.C. 901(a)); and

(4) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

(b) DISBURSEMENTS SUBJECT TO APPROPRIATIONS.—The disbursements referred to in subsection (a) shall be subject to appropriations.

SEC. 4. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF AIRPORT AND AIRWAY TRUST FUND.

(a) IN GENERAL.—Chapter 471 of title 49, United States Code, is amended by inserting after section 47129 the following:

"§ 47130. Safeguards against deficit spending

"(a) ESTIMATES OF UNFUNDED AVIATION AUTHORIZATIONS AND NET AVIATION RECEIPTS.—Not later than March 31 of each year, the Secretary, in consultation with the Secretary of the Treasury, shall estimate—

"(1) the amount that would (but for this section) constitute the unfunded aviation authorizations at the termination of the first fiscal year that begins after that March 31; and

"(2) the net aviation receipts at the termination of the fiscal year referred to in paragraph (1).

"(b) PROCEDURE IF EXCESS UNFUNDED AVIATION AUTHORIZATIONS.—If, with respect to a fiscal year, the Secretary determines that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of the excess.

"(c) ADJUSTMENT OF AUTHORIZATIONS IF UNFUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

"(1) DETERMINATION OF PERCENTAGE.—If the Secretary determines, in accordance with subsection (b), that there is an excess amount with respect to a fiscal year, the Secretary shall determine the percentage that the excess amount is of the sum of—

"(A) the amounts authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year; and

"(B) the amounts available for obligation from the Airport and Airway Trust Fund for the next fiscal year.

"(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary determines, in accordance with subsection (b), that there is an excess amount with respect to a fiscal year, each amount authorized to be appropriated or available for obligation from the Airport and Airway Trust Fund for the next fiscal year shall be reduced by the percentage determined in accordance with paragraph (1).

"(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—

"(1) ADJUSTMENT OF AUTHORIZATIONS.—Any amount authorized to be appropriated or available for obligation from the Airport and Airway Trust Fund that is reduced under subsection (c)(2) shall be further adjusted in accordance with paragraph (2) if, after an adjustment has been made under subsection (c)(2) for a fiscal year, the Secretary determines that, with respect to the fiscal year—

"(A) the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2); or

"(B) an excess amount determined under subsection (b) is less than an excess amount determined as a result of a previous determination.

"(2) ADJUSTMENT.—Each amount that is subject to a further adjustment under paragraph (1) shall be increased by an equal percentage determined by the Secretary under paragraph (3).

"(3) PERCENTAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the percentage referred to in paragraph (2) shall be the maximum percentage that does not cause the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2).

"(B) LIMITATION.—The amount of any increase determined under this subsection may not exceed the amount of the corresponding reduction under subsection (c)(2).

"(4) APPORTIONMENT.—The total amount of any increases determined for a fiscal year under paragraph (3) shall be made available to the Secretary for apportionment. The Secretary shall apportion the amount in accordance with this subsection.

"(5) PERIOD OF AVAILABILITY.—Any funds apportioned under paragraph (4) shall remain available for the period for which the funds would be available if the apportionment were made under appropriations and obligations for the fiscal year in which the funds are apportioned under paragraph (4).

"(e) REPORTS.—The Secretary shall report to Congress—

"(1) any estimate made under subsection (a); and

"(2) any determination made under subsection (b), (c), or (d).

"(f) DEFINITIONS.—In this section:

"(1) AIRPORT AND AIRWAY TRUST FUND.—The term 'Airport and Airway Trust Fund' means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986.

"(2) NET AVIATION RECEIPTS.—The term 'net aviation receipts' means, with respect to any period, the amount by which—

"(A) the receipts (including interest) of the Airport and Airway Trust Fund during the period; exceeds

"(B) the amounts to be transferred during the period from the Airport and Airway Trust Fund under section 9502(d) of the Internal Revenue Code of 1986 (other than under section 9502(d)(1) of the Code).

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(4) UNFUNDED AVIATION AUTHORIZATIONS.—The term 'unfunded aviation authorization' means, at any time, the amount by which—

"(A) the total amount authorized to be appropriated or available for obligation from the Airport and Airway Trust Fund that has not been appropriated or obligated; exceeds

"(B) the amount available in the Airport and Airway Trust Fund at that time to make the appropriation or to liquidate the obligation (after all other unliquidated obligations at that time that are payable from the Airport and Airway Trust Fund have been liquidated).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 of title 49, United States Code, is amended by adding at the end of subchapter I the following:

"47130. Safeguards against deficit spending.".

SEC. 5. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF INLAND WATERWAYS TRUST FUND AND HARBOR MAINTENANCE TRUST FUND.

(a) ESTIMATES OF UNFUNDED INLAND WATERWAYS AUTHORIZATIONS AND NET INLAND WATERWAYS RECEIPTS.—Not later than March 31 of each year, the Secretary, in consultation with the Secretary of the Treasury, shall estimate—

(1) the amount that would (but for this section) constitute the unfunded inland waterways authorizations and unfunded harbor maintenance authorizations at the termination of the first fiscal year that begins after that March 31; and

(2) the net inland waterways receipts and net harbor maintenance receipts at the termination of the fiscal year referred to in paragraph (1).

(b) PROCEDURE IF EXCESS UNFUNDED AUTHORIZATIONS.—If, with respect to a fiscal year, the Secretary determines with respect to a Trust Fund that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of the excess.

(c) ADJUSTMENT OF AUTHORIZATIONS IF UNFUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

(1) DETERMINATION OF PERCENTAGE.—If the Secretary determines, in accordance with subsection (b), that there is an excess amount with respect to a fiscal year, the Secretary shall determine the percentage that the excess amount is of the sum of—

(A) the amounts authorized to be appropriated from the Trust Fund for the next fiscal year; and

(B) the amounts available for obligation from the Trust Fund for the next fiscal year.

(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary determines, in accordance with subsection (b), that there is an excess amount with respect to a fiscal year, each amount authorized to be appropriated or available for obligation from the Trust Fund for the next fiscal year shall be reduced by the percentage determined in accordance with paragraph (1).

(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—

(1) INCREASE OF AUTHORIZATIONS.—Any amount authorized to be appropriated or available for obligation from a Trust Fund that is reduced under subsection (c)(2) shall be further adjusted in accordance with paragraph (2) if, after an adjustment has been made under subsection (c)(2) for a fiscal year with respect to the Trust Fund, the Secretary determines that, with respect to the Trust Fund and the fiscal year—

(A) the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2); or

(B) an excess amount determined under subsection (b) is less than an excess amount determined as a result of a previous determination.

(2) ADJUSTMENT.—Each amount that is subject to a further adjustment under paragraph (1) shall be increased by an equal percentage determined by the Secretary under paragraph (3).

(3) PERCENTAGE.—

(A) IN GENERAL.—Subject to subparagraph (B), the percentage referred to in paragraph (2) shall be the maximum percentage that does not cause the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2) with respect to the Trust Fund.

(B) LIMITATION.—The amount of any increase determined under this subsection may not exceed the amount of the corresponding reduction under subsection (c)(2).

(e) REPORTS.—The Secretary shall report to Congress—

(1) any estimate made under subsection (a); and

(2) any determination made under subsection (b), (c), or (d).

(f) DEFINITIONS.—In this section:

(1) NET HARBOR MAINTENANCE RECEIPTS.—The term "net harbor maintenance receipts" means, with respect to any period, the receipts (including interest) of the Harbor Maintenance Trust Fund during the period.

(2) NET INLAND WATERWAYS RECEIPTS.—The term "net inland waterways receipts"

means, with respect to any period, the receipts (including interest) of the Inland Waterways Trust Fund during the period.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Army.

(4) TRUST FUND.—The term "Trust Fund" means the Inland Waterways Trust Fund or the Harbor Maintenance Trust Fund, as the case may be.

(5) UNFUNDED HARBOR MAINTENANCE AUTHORIZATIONS.—The term "unfunded harbor maintenance authorizations" means, at any time, the amount by which—

(A) the total amount authorized to be appropriated or available for obligation from the Harbor Maintenance Trust Fund that has not been appropriated or obligated; exceeds

(B) the amount available in the Harbor Maintenance Trust Fund at that time to make the appropriation.

(6) UNFUNDED INLAND WATERWAYS AUTHORIZATIONS.—The term "unfunded inland waterways authorizations" means, at any time, the amount by which—

(A) the total amount authorized to be appropriated or available for obligation from the Inland Waterways Trust Fund that has not been appropriated or obligated; exceeds

(B) the amount available in the Inland Waterways Trust Fund at that time to make the appropriation.

SEC. 6. ENFORCEMENT.

An officer or employee of the United States Government who fails to comply with this Act and the amendments made by this Act shall be subject to the penalties specified in section 1350 of title 31, United States Code.

SEC. 7. APPLICABILITY.

This Act and the amendments made by this Act shall apply to authorizations and obligations made for fiscal years 1996 and thereafter.

Mr. LOTT. Madam President, I have seen a quote, "As transportation trust funds sit unused, so do Americans sit in traffic jams on beat-up roads or in dingy airport lounges."

That is a fact. For many years, going back to my years in the House, I always felt as if our transportation trust funds were abused. The American people pay funds through taxes, or fees, if you will, directly into trust funds for highways and for airports, and yet those funds are quite often not used. They are used, I guess, but only to make the deficit look better.

We should have a system where, when the American people pay into a trust fund for a specific purpose, those funds in a logical way would be used so that the people will have the transportation infrastructure they want; so that they will be safer; so that we will not have highways falling apart and bridges collapsing. It is time we do something about it.

What we have now does not make fiscal sense, and it does not make infrastructure sense. So today I am introducing a bill with the distinguished Senator from Montana [Mr. BAUCUS] and it will move to restore the integrity of America's transportation trust funds.

I know the Senator from Montana has worked on this issue for a long time. He is on the committee that has jurisdiction in this area, but I also serve as chairman of the Surface Transportation Subcommittee of the Committee on Commerce, Science, and Transportation, so I am delighted to join with him in this effort.

The bill will require that the funds be used to complete maintenance and expansion of America's infrastructure that is long overdue and is already authorized. I am talking about a procedural budget change for the following funds: highway trust; airport and airway trust; inland waterways trust; and harbor maintenance trust.

The effect of our bill is to remove the transportation trusts from: Calculations of the on-budget deficit; congressional budget resolution's spending allocations; and spending points of order under the Budget Act.

Daily, $80 million pours into these trusts through fuel taxes while $360 billion in documented infrastructure needs are neglected. This has permitted a $33 billion cash balance to build up in these trusts. This balance does not help those Americans who need their transportation infrastructure repaired or upgraded. This balance only helps Federal budgeteers—and I am one of them—who are using these funds to mask the real deficit, while not doing what needs to be done in the infrastructure.

Our legislative proposal offers a simple and direct solution—take these transportation trust funds off budget.

We have proposed a responsible and appropriate legislative solution because the American Government made an implied contract with taxpayers who are paying these user fees. Why collect the fees if it is not really going to be used for the stated purpose? The American people are being deceived by hiding the true size of the Federal deficit. These misleading arguments mask the real intent of the unified budget.

The American people want to get a more accurate and reliable budget. This will not unravel the unified budget process.

Besides, transportation trusts have a unique, special antideficit mechanism unlike other trust funds. Let me tell you why these trust funds are different.

They are wholly self-financed by user fees. They must be self-supported because of a pay-as-you-go requirement. They are deficit proof because of spending limits and it only buys capital assets, not operating expenses.

Opponents will say that taking transportation trusts off budget is bad because unified budgets only work if we have everything included and that the off budget status will skew national priorities.

Transportation trusts are neither more special than the other 160 trusts nor will they escape congressional review.

There is a House companion bill, a very good bill. This one is very similar, and I presume will be basically identical, although we are making some improvements in the bill. It was introduced by the chairman of the appropriate committee there, Congressman BUD SHUSTER, of Pennsylvania.

In the House, they already have 147 cosponsors. So I am inviting our colleagues here in the Senate to take a look at this bill and join in cosponsoring it. I think we will have a large majority of our colleagues who will support it.

Let me be very clear; this bill is not about playing budget gimmicks. It is more about trying to do what really needs to be done and what we committed to the American people that we will do.

In fact, this is really truth in budgeting. It is time that we face up to the infrastructure needs of America. There are dangers out there in this country. The money is there and it is not being spent. This would give us a logical, reasonable process in a bipartisan way to get that done.

By Mrs. BOXER:

S. 732. A bill to amend chapter 81 of title 5, United States Code, to prohibit Members of Congress from receiving Federal worker's compensation benefits for injuries caused by stress or any other emotional condition, and for other purposes; to the Committee on Labor and Human Resources.

FEDERAL WORKERS' COMPENSATION BENEFITS LEGISLATION

• Mrs. BOXER. Mr. President, today I am introducing legislation that would prohibit Members of Congress from receiving Federal workers' compensation benefits based on claims of psychological stress. I am sure it would surprise most Americans that Members of Congress are eligible for these benefits, but it is true.

In California, a public official who pled guilty to a felony has been able to collect hundreds of thousands of dollars in stress benefits under the State workers compensation system. This elected official, a former member of the Board of Equalization pled guilty in 1992 to falsifying expense accounts. After being forced to resign in disgrace, he claimed that the stress of political life, exacerbated by the stress of evading the law, caused him such emotional trauma that he was unable to work. Unbelievably, the State Workers Compensation Board agreed with him, and awarded him $73,788 in workers compensation benefits plus a lifetime disability pension.

Several bills have been introduced in the California Legislature to correct this problem with State law, but until now, no corrective proposal has been introduced at the Federal level. It is important to note that this legislation applies only to stress claims by Members of Congress and does not infringe on the ability of States to set workers compensation law.

Mr. President, being a Member of Congress is a stressful job. I know that and all my colleagues know it. We knew it when we ran for the job and we know it now. There is no reason why we should be able to claim stress and collect a taxpayer-funded lifetime Government entitlement.

I look forward to working with my colleagues on this issue and I hope the Congress will enact this bill when it considers pension reform later this year.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON WORKERS' COMPENSATION CLAIMS BY MEMBERS OF CONGRESS.

(a) IN GENERAL.—Section 8101(5) of title 5, United States Code, is amended to read as follows:

"(5) 'injury'—

"(A) includes, in addition to injury by accident, a disease proximately caused by the employment, and damage to or destruction of medical braces, artificial limbs, and other prosthetic devices which shall be replaced or repaired, and such time lost while such device or appliance is being replaced or repaired; except that eye-glasses and hearing aides would not be replaced, repaired, or otherwise compensated for, unless the damages or destruction is incident to a personal injury requiring medical services; and

"(B) shall not include, with respect to a Member of Congress, injuries or occupational diseases caused by stress or any mental or emotional condition.".

(b) EFFECTIVE DATE.—This Act shall take effect 30 days after the date of the enactment of this Act, and shall apply only to claims filed under chapter 81 of title 5, United States Code, on or after such effective date.●

By Mr. ROTH (for himself, Mr. BIDEN, Mr. JEFFORDS, Mr. LEAHY, Mr. MOYNIHAN, Mrs. MURRAY, Mr. CHAFEE, Mrs. BOXER, Mr. COHEN, and Mr. LAUTENBERG):

S. 733. A bill to amend title 23, United States Code, to permit States to use Federal highway funds for capital improvements to, and operating support for, intercity passenger rail service, and for other purposes; to the Committee on Environment and Public Works.

INTERCITY RAIL INVESTMENT ACT

Mr. ROTH. Mr. President, The legislation I am introducing today has a very simple and important purpose: To give States the much needed flexibility to use Federal transportation money for Amtrak passenger rail service.

Since late last year, Amtrak has begun a much needed restructuring. This restructuring has required substantial participation by State governments in determining which rail lines will stay in service. While States currently have wide authority in allocating Federal transportation dollars—whether it be on pedestrian walkways, bikeways, buses, light rail, highway and other intermodal and commuter based transit needs—a damaging double standard exists which by law prevents them from utilizing these funds to improve, expand or simply maintain vital Amtrak service if they so choose.

My legislation would eliminate this double standard and allow States to utilize their Federal transportation dollars for Amtrak passenger rail service.

There are a number of realistic, sensible ways this flexibility can be achieved.

One option is to allow States to use funds available in the Congestion Mitigation and Air Quality Program [CMAQ] for passenger rail service. This program, created in the Intermodal Surface Transportation and Efficiency Act, provides an incentive to focus on transportation alternatives which reduce traffic congestion, improve air quality and lower fuel consumption. Amtrak passenger rail service clearly meets these criteria, potentially better than any other transportation alternative currently available. My bill would allow States to use CMAQ funds for passenger rail service if they so choose.

More rural regions, that are less congested, receive proportionately less CMAQ funds, but also receive additional funds through the Rural Public Transportation Program, known as section 18. These funds can be used for capital costs, and would be particularly appropriate for those more rural areas that depend on passenger rail service. In addition, funds in excess of the annual State allocation can be transferred into this category, so expenditures on passenger rail would not detract from other services being funded through section 18. These services include intercity bus service. My bill would ensure that States—if they choose to do so—could use section 18 funds for Amtrak passenger rail service.

Another important way to achieve flexibility is to designate appropriate Amtrak routes as part of the National Highway System, eligible for National Highway System funding. Many of Amtrak's rail corridors meet the definition of an arterial route serving major national population centers, popular travel destinations and key intermodal transportation facilities and hubs. However, current law prevents States from using their Federal transportation allocation for Amtrak. My legislation would amend the National Highway System map to include the Northeast rail corridor and other high speed routes—giving States the flexibility to use National Highway System funds for Amtrak passenger rail service if they so choose.

Passenger rail plays a critical role in this country's transportation infrastructure. But current law does not take this into account. Most projects that are in the same corridor as, or in proximity to, a National Highway System segment, or that will improve the level of service on an National Highway System segment, are eligible for National Highway System funding. However, passenger rail, which is often in the same corridor as an National Highway System segment, is not eligible to receive National Highway System funding. My legislation would eliminate this contradiction and give States the flexibility they need to use National Highway System funds wisely and productively to encourage passenger rail service.

Congress has recognized the need for States to have flexibility with Federal subsidies in important local transportation decisions. I believe it is time that that recognition be extended to allowing States to go with something that works. This proposal is an optimal mix of alternatives that will support long distance, intercity commuter rail service and the benefits that we know it accrues. Amtrak is safe, fuel efficient, speedy and the best transportation alternative for millions of Americans. It is time for the Federal Government to remove the barriers in place that prevent States from deploying resources in their best interest and allowing Amtrak to reach its potential.

Mr. President, this legislation calls for no new spending. It does not change Federal transportation allocation formulas, nor does it mandate States to spend their Federal transportation dollars on passenger rail service. As I have said, it simply gives States the ability to spend Federal transportation money as they see fit and in ways which have been repeatedly found to be good for them and good for the country.

Mr. JEFFORDS. Mr. President, I would like to commend Senator ROTH for his work on this important legislation.

This Monday, May 1, residents of my State will celebrate the introduction of a revitalized passenger rail link to Vermont. This new service, called the Vermonter, will replace the Montrealer, which previously ran from Washington to Montreal.

As Amtrak moved to restructure America's national passenger rail corporation this past winter, they indicated that train service across the country would be scaled back. The proposal called for the elimination of the Montrealer, the last passenger rail service to northern New England. In an effort to maintain rail service to our region, Senator LEAHY and I, along with the State of Vermont, held extensive negotiations with Amtrak. The result is the Vermonter. This new train will operate from Springfield, MA, to St. Albans, VT. This daytime service will allow visitors from across the country to conveniently visit our State and allow residents of northern New England to access the national passenger rail system.

Continuation of this rail service would not have been possible without the financial support from the State of Vermont. In fact, the Vermont State Legislature recently agreed to provide over $700,000 to support this service for the year. In addition, the Vermont Legislature has included funding to study yet another passenger rail link to the western side of Vermont. This new route would allow passengers from New York City to reach some of Vermont's most beautiful recreation areas in under 5 hours. I predict that many travelers will choose to take this new train over driving or flying.

Both of these rail lines represent an opportunity to get commuters, tourists, and travelers out of their cars. This will alleviate congestion, reduce air pollution and reduce our reliance on imported oil.

As noted, these rail lines also require State funding. The funding mechanism contained in this legislation will allow States to utilize Federal funding to maintain their rail infrastructure. Such efforts will assist in the establishment of intercity rail travel and the servicing of rail infrastructure for freight and other commercial rail options.

Mr. President, this legislation will allow States to decide how they will best use their Federal transportation dollars. I hope my colleagues will support these efforts.

By Mr. REID (for himself and Mr. BRYAN):

S. 734. A bill to designate the U.S. courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, NV, as the "Bruce R. Thompson United States Courthouse and Federal Building," and for other purposes; to the Committee on Environment and Public Works.

BRUCE R. THOMPSON U.S. COURTHOUSE AND FEDERAL BUILDING

Mr. REID. Mr. President, I rise to offer legislation designating the new Federal building and courthouse in Reno the "Bruce R. Thompson United States Courthouse and Federal Building." After considering the recommendations of many first-rate candidates, I have decided to support the naming of this new Federal building after the late Judge Bruce Thompson.

As a member of the Nevada Bar, I take great pride in our many distinguished members—both past and present—and believe that this selection will enjoy widespread support throughout the State's legal community. Judge Thompson was a honorable jurist whose years of service on the bench contributed greatly to the betterment of the Reno community.

One of the responsibilities I enjoy as a senior Senator is the naming of Federal buildings. This responsibility is an honor requiring that thoughtful deliberation be given to all of the recommendations from the people of Nevada. Other well-qualified names recommended to me for this building included the Laxalt family, Felice Cohn, Sarah Winnemucca, and Alan Bible.

The Laxalt family has contributed greatly to the betterment of the lives of many Nevadans. This family includes a distinguished former Senator, an author, a successful attorney, and a woman who has dedicated her life to the service of others as a Roman Catholic nun.

Felice Cohn is another prominent Nevadan whose name was recommended by a great number of supporters. Felice Cohn was a famous woman's suffrage activist who was admitted to the Nevada Bar in 1902 at the age of 18.

I also received a number of letters recommending a more historic designation honoring the truest native Nevadans, the American Indians. These supporters promoted naming the courthouse in honor of Sarah Winnemucca, a historic American Indian whose name all Nevadans associate with the city of Winnemucca, NV.

Finally, I must mention the tremendous support for naming the courthouse in honor of Senator Alan Bible. Senator Bible's dedicated service to the State of Nevada will always be remembered and honored by the people of Nevada.

The great number of letters and phone calls in support of these names evidences that their significant contributions and accomplishments are also well known and much appreciated throughout Nevada. The abundance of well-deserving nominees made my decision that much more difficult.

In the end, however, I concluded that Judge Thompson merited this honor. By naming the new Federal courthouse in Reno after Judge Thompson, we honor the memory of his exemplary years of service on the bench.

By Mr. HARKIN (for himself and Mr. BOND):

S. 736. A bill to amend title IV of the Social Security Act by reforming the Aid to Families With Dependent Children Program, and for other purposes; to the Committee on Finance.

THE WELFARE TO SELF-SUFFICIENCY ACT OF 1995

Mr. HARKIN. Mr. President, just a short while ago, I spoke in front of the Senate Finance Committee regarding welfare reform. I want to take this time on the floor to outline my thoughts on welfare reform and to announce that Senator BOND from Missouri and I are introducing a bipartisan bill today on the issue of welfare reform.

Mr. President, Franklin Roosevelt sounded the alarm 60 years ago. Listen to what he told Congress in 1935:

> Continued dependence on relief induces a spiritual and moral disintegration, fundamentally destructive to the national fiber. To dole out relief in this way is to administer a narcotic, a subtle destroyer of the human spirit.

Well, the current welfare system stands as a monument to all that Roosevelt warned against. Mr. President, today, Senator BOND and I are introducing a bipartisan plan to cut off that narcotic of dependence and inject a good strong dose of common sense into the welfare system.

It is a responsible, flexible, bipartisan plan that transforms the system from the ground up, moving families off the dead end of welfare and on the road to self-sufficiency.

These days, there are a lot of different approaches to reforming welfare. But there is also a lot of common ground. We all agree that the system is broken. It punishes work, rewards dependence, cripples opportunity and wastes tax dollars.

We all agree that there should be a change. We have heard it on the floor and in the other body. We have heard it from the administration, and we have certainly heard it from our constituents.

But what have we seen? Well, we have seen plans with a lot of tough talk but no real action. We have seen too much partisanship and not enough results. When you get down to the bottom line, what is the ultimate goal in welfare reform? Well, it is simple: To help families achieve self-sufficiency.

I choose my words carefully. I did not say that the goal in welfare reform is helping families move into a job after 2 years. I did not say that the goal of welfare reform was creating Government dead-end, make-work jobs for welfare recipients. I said self-sufficiency, a path to real independence; not simply getting families off of welfare, but keeping them off permanently.

That is the goal. So with any reform plan, let us ask the questions: What does it do to help families achieve self-sufficiency? What about responsibility? What about results?

Let us put the House plan to the test. Now they called it the Personal Responsibility Act. But it is just the opposite; it is totally irresponsible. I will give the plan credit for one thing—it reforms welfare all right; it reforms it from bad to worse.

Well, we do not want to trade one large failed dependency-inducing system for 50 varieties of the same thing.

We also hear a lot about flexibility. But under the House plan, States must cut off benefits for unwed teens. States must cut off benefits after 5 years. States must impose a family cap. And the list goes on.

So the House says they want to give the States flexibility but they take that flexibility right away. So that is not flexibility, it is more micromangement from the Federal Government that we have seen from the House of Representatives. It is not change, it is more of the same.

There are other plans. The administration has one, and others are floating around. There are some good ideas but, in the end, they all fail the test of achieving the basic goal: self-sufficiency and independence.

Some say we should stick a 2-year straitjacket on families on welfare. Two years maximum and you are out. One size fits all. But how responsible is an inflexible time limit? I have said, Mr. President, if you have a 2-year maximum, it will become a 2-year minimum. People will be on it for 2 years, and most people do not need to be on welfare for 2 years. Where are the real incentives for families to escape the welfare trap?

The fact is, as I said, many families do not need it for 2 years. With a hand up, they can start climbing the ladder or ramp of opportunity and move into the job market a lot sooner than that.

The legislation that Senator BOND and I are introducing today passes the test for true welfare reform. It is tough but realistic. It puts people on the path to self-sufficiency on day one, not after year two.

The centerpiece of our plan is the Family Investment Agreement, which requires all families on welfare to enter into an individualized contract with the State in order to receive welfare benefits.

Under our plan, each family would sit down with a case manager and chart a course to self-sufficiency.

How can we help you get back on your feet? Do you have a high school degree? What are your skills? Do you have a disability? Do you need training? Do you need child care? Do you need transportation?

The plan is put on paper. The recipient signs her or his name on the dotted line, and the State signs on the dotted line, and they put that contract to work. The contract spells out not how someone may stay on welfare but how they must get off.

It is based on a simple notion: We, as a society, are willing to help you, but only if you are willing to help yourself.

We can give a person a boost through education, through health care, through child care, or transportation, but the person must use it to lift himself up the ladder of opportunity and become self-sufficient.

If a welfare recipient says, "I am sick of school. I do not want training. Just give me my check, and you keep the contract," what happens then? Simple: Their benefits will be cut and ultimately terminated.

Our plan also rewards work. Instead of keeping incentives for people to stay on welfare, our bill helps people work their way out. If a welfare recipient is working, we will let them keep more of what they earn. If they are investing in themselves—saving to start a business, buy a first home, or pay for education—the Government will no longer hold that against them. Their assets will no longer be a liability.

This plan is about responsibility—for people and for States. The State has a responsibility to help families in need by providing the tools to achieve independence. Families have a responsibility to use those tools to build a path to self-sufficiency.

Our plan is also about real flexibility for people and for States. Instead of taking a cookie-cutter approach, each family investment agreement is tailored to a family's unique needs. And individualized time limits based on those circumstances are then set.

In some cases, benefits will be needed for 6 months. Others may require more time; others less. But we recognize one size does not fit all, whether they are individuals or whether they are States.

We also recognize that the States need more flexibility. What works in Brooklyn, IA, may not work in Brooklyn, NY. Instead of dictating how States must run every aspect of their programs, our plan cuts Federal redtape and leaves States with the option of choosing policies best for them. We also block grant the funds States use to administer welfare programs.

So our plan is flexible for people on welfare. It is flexible for States, but it is inflexible when it comes to the bottom line—we demand results.

When fully implemented, our plan would require 90 percent of recipients to sign agreements and find work.

We also know that a critical part of welfare reform is to crack down on deadbeat parents who fail to pay child support. At least $5 billion in court-ordered child support goes uncollected every year. There is over $560 million in delinquent child support owed to Iowa children.

Our bill turns the collection of some past due child support over to the IRS—most of these cases involve parents who have crossed State lines. And we provide States with several options for improving paternity establishment, requiring community services, revoking licenses, and publishing the names of deadbeat parents.

So deadbeat parents may try to run, but under our plan, they cannot hide.

Our bill puts States in the driver's seat by giving them the option of requiring minor parents to live with their parents or another responsible adult. Our plan also increases funding for the title X family planning program by $100 million to improve education services.

So our bill is a pragmatic, commonsense bill. It demands responsibility from day one, expands State flexibility, improves child support collection, and addresses the increase in illegitimate births.

One more thing, Mr. President. This plan works. How can I be so sure? Because it is working right now in my home State of Iowa. If people have not heard about it, do not feel bad. Not many people have.

I call the Iowa welfare reform plan the Rodney Dangerfield of welfare reform. It does not get any respect, or at least not enough attention.

Mr. President, several years ago, the State of Iowa embarked upon experimentations on how to best deliver welfare and get people off of welfare. Based upon those experiments, a year and a half ago, Iowa passed a welfare reform bill.

I might point out, Mr. President, that that bill passed the Iowa Legislature with the support of conservative Republicans and liberal Democrats. It was signed—in fact, it only got one dissenting vote—into law by a conservative Republican Governor, Governor Branstad.

What has happened in Iowa since we have put our welfare reform to work? The number of welfare recipients holding jobs has grown by 80 percent. These charts will show that. These are the number of families on welfare who are working. When we started, we had about 6,500, and it has now gone up to 12,000—almost double. We now have the distinction, Mr. President, of having a higher percentage of people on welfare working in Iowa than in any State in the Nation. We are proud of that. So the plan is working. It is getting people to work.

Second, look what has happened to our case load. Now, initially, we knew the case load would go up because we allowed people to work to keep more of their earnings, and people were able to get on, and then the case load started coming down dramatically in the State of Iowa as people became self-sufficient and got off of welfare.

Here is the real icing on the cake. That is the total expenditures on our AFDC grants in Iowa. The yellow line is just for fiscal year 1994; the blue line is fiscal year 1992; the green line is fiscal year 1993; the red line is fiscal year 1995.

We can see since last October what has been happening to the cost in our program. It has dropped precipitously in the State of Iowa. In fact, the average recipient payment has gone from $373 a month to $343 a month.

Therefore, what we have done is we have more people working, we are reducing the case load by getting people off of welfare earlier, and we are reducing the cost. What more could anyone want in a welfare reform program?

It is tough. Sure, it is tough. In fact, Iowa is, I believe, now the only State that has actually cut welfare benefits to people who refused to sign these contracts or who violate their contracts. We have actually stopped cash payments. Other States talk tough, but

Iowa has done it. We had the carrot and we have had the stick, and it is working in the State of Iowa. Therefore, Mr. President, we know the right way to go.

Iowa and Missouri have worked together for meaningful welfare reform. I urge my colleagues to examine the Harkin-Bond plan and join us in this commonsense, bipartisan approach to reaching common ground on welfare reform.

Mr. President, I ask unanimous consent that a summary of the legislation appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 736, WELFARE TO SELF-SUFFICIENCY ACT OF 1995—A BIPARTISAN APPROACH TO WELFARE REFORM

The Welfare to Self-Sufficiency Act of 1995 is a common-sense, bipartisan plan that transforms welfare. It changes today's failed dependency-inducing system to one that demands responsibility from day one on the part of welfare recipients and provides them the helping hand they need to get off welfare and become self-sufficient. Unlike other reform plans it does not apply a one-size fits-all two year time limit, but sets individualized time limits (most of which should be well under two years) based on the particular circumstances of each family. It makes work more financially attractive than welfare by expanding work incentives. This plan also emphasizes moving recipients into private sector jobs, not government jobs created solely for placement purposes.

The legislation also provides much greater flexibility to the states so they can design welfare programs to fit their unique characteristics. It eliminates federal bureaucracy and red tape by consolidating the administrative costs of major welfare programs into a block grant, while maintaining uniform federal eligibility criteria for benefits.

In addition, the Welfare to Self-Sufficiency Act combats the unacceptable rise in teenage pregnancy by demanding responsibility from teens and providing them positive incentives, but without measures that primarily punish children who bear no responsibility for the conditions surrounding their birth. It also fundamentally overhauls our failed child support enforcement system, cracking down on deadbeat parents that escape their responsibilities by moving across state lines and failing to fulfill their obligations to their children.

The bill is paid for by reforming and ending the rapid growth in federal payments to states for the administration of welfare programs, requiring sponsors of immigrants to take greater financial responsibility for ensuring that immigrants don't fall onto welfare rolls and through other savings achieved in related welfare programs.

TITLE I—FAMILY INVESTMENT AGREEMENT

The centerpiece of the legislation is the Family Investment Program which requires AFDC families to negotiate and sign individualized Family Investment Agreements in order to receive benefits. This agreement is a contract between the state and family which outlines the steps each individual family must take to become self-sufficient and move off of welfare. The contract would outline activities such as job training, education, job search and work that family would have to participate in. States would have to provide necessary services, including child care, to keep their end of the contract. Unlike other proposals which set a one-size-fits-all two year time limit, this plan provides for time limits that will vary from family to family based on the unique circumstances of each family. In Iowa, where this plan has been put into effect, most contracts contain time limits shorter than two years.

Families who refuse to negotiate and sign a contract or fail at any time during the contract to meet the obligations outlined in the individual agreement would enter a limited benefit plan that leads to the termination of welfare benefits. Under the limited plan, families would continue to receive full benefits for three months, for the next three months benefits would be reduced to the children's portion of their benefits and benefits would be completely cut off at the end of this six month period. These families would be ineligible for AFDC benefits for six additional months.

TITLE II—INCREASING WORK AND SELF-SUFFICIENCY

This bill promotes work in private sector jobs that are needed to enable a family to become self-sufficient. States would be given the option of providing the following incentives that will encourage families to work and save:

The disregard for work expenses could be increased from $90 a month to 20% of gross earnings.

Under current law, an individual has a 12 month work transition period. During the first 4 months, $30 per month plus 1/3 of gross earnings are disregarded. For the following 8 months $30 is disregarded. The bill permits states to disregard 50% of gross earnings until a family has reached self-sufficiency.

The resource limitation for families applying for AFDC could be increased from $1000 to $2000. To encourage saving by AFDC families, the resource limitation for recipients already on public assistance could be increased from $1000 to $5000. In order to assure more reliable transportation to and from work, recipients could be allowed to own a car worth $3,000, rather than the current limit of $1,500.

Families are also encouraged to save and plan for long-term expenses such as starting a small business, buying a first home or for job training or education programs. AFDC families could be allowed to save up to $10,000 for these purposes. Training programs for small business development are also included.

At state option, earnings of teen-age members of the household would no longer be counted in determining a family's eligibility for AFDC.

In order to promote private sector job opportunities for welfare recipients, states would also be given the option to implement wage supplementation programs in which employers could add to value of AFDC and food stamp benefits to the wages earned by AFDC eligible workers.

TITLE III—IMPROVING STATE FLEXIBILITY

To help states implement education and training programs for welfare recipients, the federal contribution for the JOBS program is increased. This enhanced match is provided for funds that a state spends over their 1995 level.

States need more flexibility to design welfare programs that meet the individual characteristics of each state. The waiver authorization of the 1988 Family Support Act was a good start. However, too often the waiver process has been cumbersome and time-consuming.

To provide states with added flexibility, the bill authorizes several policy options which will not require federal waivers. The bill provides these additional state options:

Provides for the equivalent treatment of stepparent and parent income; and

To make children healthier, requiring AFDC parents to have their children receive appropriate preventive health care, including timely immunization.

In addition, considerable federal red tape would be cut by block granting the administrative costs associated with AFDC, Food Stamps and Medicaid. Payments to states would be frozen at the 1995 level. The HHS Inspector General has reported that such an approach would save approximately $8 billion over 5 years.

TITLE IV—COMBATTING TEENAGE PREGNANCY

The rapid increase in out-of-wedlock births to young women must be addressed in a logical manner. We must educate teenagers about the problems of becoming parents at an early age, stabilize young families, and require teen age parents to finish high school. The bill attacks teen pregnancy on a number of fronts.

Continues the state option requiring minor parents to live with their parents or another responsible adult.

Provides a state option that requires teenage parents to stay in school.

Autorizes an additional $100 million for Title X Family Planning Grants targeted at combating teen pregnancy.

TITLE V—IMPROVING CHILD SUPPORT COLLECTION

Many families are forced onto the welfare rolls when an absent parent refuses to meet child support obligations. Only one-third of court ordered child support is paid today. This bill strengthens child support enforcement by referring collection of certain delinquent child support orders to the Internal Revenue Service. Cases in which less than 50% of ordered child support was collected by the state within a year (mostly involving out of state parents) would be referred to the IRS for collection. The IRS would be able to garnish wages of the deadbeat parents to recover ordered payments.

To encourage additional improvements in the collection of child support, the bill provides several new state options.

States may revoke the drivers, professional and occupational licenses of delinquent parents.

States may release the names of delinquent parents to the news media for publication.

Provides several new options to improve the process for establishment of paternity.

TITLE VI—FINANCING

The Welfare to Self Sufficiency Act would be paid for through savings achieved in three major areas:

Welfare payments to immigrants would be reduced by requiring the sponsors of these individuals to take greater responsibility for assuring that they don't become dependent on Federal assistance. The income of sponsors would be counted as available to the immigrant for purposes of determining eligibility for Food Stamps, SSI, AFDC and Medicaid until the immigrant becomes a U.S. citizen. Exceptions are made for non-citizens who are American veterans and those who have paid taxes for five or more years.

Payments to states for the administration of the AFDC, Food Stamps and Medicaid program would be block granted and frozen at 1995 levels.

Payments from the AFDC Emergency Assistance program would be capped. This program has experienced rapid growth and has been used for purposes beyond that originally intended.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

• Mr. BOND. Mr. President, I am pleased to be an original cosponsor of the welfare bill my friend from Iowa has just introduced. Our proposal represents a fundamental change in the way we would approach public assistance.

Since the creation of aid to families with dependent children, public aid has been regarded as an entitlement. If you meet the requirements for eligibility, you receive the cash, with no strings attached.

The current system has been rightly maligned by persons from all walks of life, including researchers, advocates, pastors, politicians, and even the recipients. The system is impersonal, inefficient and encourages continued dependency. Recipients can continue to receive cash month after month after month without having to think about their futures, and without being given any help in thinking what they might do to become self-sufficient.

Our proposal changes that way of thinking and requires something from the recipients in return for benefits. By the year 2003, 90 percent of recipients would be required to sign a binding contract with the State. The contract would outline the specific steps that each recipient will take to move off of welfare and into self-sufficiency. The contract states clearly when benefits will end. If a recipient fails to live up to the terms of the agreement at any time, benefits will be reduced and ultimately terminated.

I believe a large reason for the malaise and stagnation in today's welfare programs is that we have not required anything in return for benefits. This one way street, this lack of reciprocity, has bred an ethic of dependence rather than a work ethic. The only way we can turn this around is to require something in return for the generosity of the American taxpayer. Most Americans believe our Government has a responsibility to help families in need, but also believe that individuals have a responsibility to help themselves. This plan will help people who want to help themselves to create a better life.

The contractual arrangement between recipients and the State—representing the taxpayer donors—is the only requirement we would impose on the States. I believe it is fundamental to ensuring that we move people from welfare into productive private sector work. The House-passed bill requires States to implement a number of ideas that make good sense, but this notion of a contract is not among them. I am concerned that if we do not require that recipients of public assistance work, or behave responsibly, or take steps to wean themselves from public assistance in every case, then our efforts at reform will result in more of the same. The principle that Senator HARKIN and I have agreed on that should govern welfare reform efforts at every level is this: Public assistance is a two-way street. If you want to receive benefits, you must work and behave responsibly in return.

That said, we have also learned that our Nation's Governors are far ahead of Washington in generating reform ideas and in implementing them. Currently States must undertake a lengthy and cumbersome waiver process in order to obtain permission to implement common sense reforms. States that want to require welfare recipients to obtain preventive health care for their children, or to ensure that their children stay in school, or wish to allow recipients to keep more of their earnings from a part-time job—good ideas all—must now obtain a waiver from HHS. This is costly, time-consuming, and silly. Our bill permits States to implement any one, a combination of, or all of a variety of options to reform welfare without permission from the feds.

The current system penalizes work and saving by placing severe restrictions on outside income and on assets. Our plan permits States, at their discretion, to increase the earnings limits and amounts families can save prior to losing benefits. We also permit States to disregard the income of a teenage worker in the family. The current system encourages a high rate of teenage unemployment among AFDC households. The last thing stressed, low-income neighborhoods need is more unemployed teenagers.

One of the major problems low-income families face today is cycling on and off welfare. Mothers who leave welfare must often return within a matter of months, because their child-care arrangements have fallen through or because they simply cannot make their bills. Our bill would extend transitional child care benefits from 1 year to 2. We permit States to allow families to keep more outside income before losing benefits, and to save more prior to leaving welfare so that the transition from welfare to work runs more smoothly.

We provide a menu of welfare reform options, but leave it up to the States to decide which combination will best suit their needs. I hope the version that is eventually passed by the Senate will expand State flexibility, not restrict it further. We recognize that our plan is not the be all and end all of welfare reform. I will be open to other options that expand State flexibility and innovation. But I believe this bill contains many good ideas which are not being widely discussed and hope to draw the attention of my colleagues to those ideas.

I commend the efforts of my friend from Iowa and urge other Senators to review our bipartisan effort as we begin debating this contentious issue.•

By Mr. DOLE (for himself, Mr. HATCH, Mr. NICKLES, Mr. THURMOND, Mr. SIMPSON, Mr. BROWN, Mr. KYL, and Mr. GRAMM):

S. 735. A bill to prevent and punish acts of terrorism, and for other purposes; read the first time.

ANTITERRORISM LEGISLATION

Mr. DOLE. Mr. President, America will not be intimidated by the madmen who masterminded last week's vicious and cowardly bomb attack in Oklahoma City.

America will not be paralyzed into inaction by those who have committed this evil deed.

And, yes, justice will be rendered. The guilty will be punished. And America—slowly, but with determination—will begin to heal herself.

Our job today is not to dwell on the past, but to look to the future—to lay the foundation for a comprehensive antiterrorism plan for America. We must take every reasonable step, every responsible action, to reduce the chances that other, similar tragedies will occur elsewhere in the United States.

That is why I am pleased today to join with the chairman of the Judiciary Committee, Senator HATCH, and with my distinguished colleague from Oklahoma, Senator NICKLES, in introducing the Comprehensive Terrorism Prevention Act of 1995.

Many of the provisions of this act were contained in S. 3, the anticrime bill introduced by Senate Republicans last January: Increased penalties for those who conspire to commit firearms and explosives offenses; expanded extradition authority for the attorney general; the Alien Terrorist Removal Act, designed to deport alien terrorists in a prompt manner without disclosing vital national security information; and increased funding for Federal law enforcement, including the FBI.

Today's legislation also contains comprehensive habeas corpus reform, which is something the Senator from Utah, the chairman of the committee, has long sought, which should go a long way in preventing violent criminals from gaming the system—with more delays, more unnecessary appeals, and more grief for the victims of crime and their families.

In fact, the President said justice is going to be swift. I am not certain how swift it is going to be if they can appeal and appeal and appeal in the event they are apprehended, tried and convicted—continued appeals for 7, 8, 10, 15 years in some cases.

During a recent television interview, the President did say we needed strong, comprehensive habeas reform so that those who committed this evil deed will get what they deserve—punishment that is swift, certain, and severe. This legislation will help accomplish this goal.

With respect to international efforts to counter terrorism, the legislation expands efforts to isolate the worst of the rogue regimes: State sponsors of terrorism. It would make it easier to support international antiterrorism efforts. We need to send a strong signal to our allies and our adversaries—if you are with us in fighting the scourge of terrorism, we will try to help—but if you are aiding terrorists and terrorist states, it is no more business as usual.

Finally, this legislation contains many of the reforms sought by President Clinton himself—prohibitions on fundraising for foreign terrorist organizations; the tagging of plastic explosives to make them more detectable; and amendments to the Fair Credit Reporting Act to ease access to financial and credit reports in terrorism cases.

The bottom line is that fighting terrorism is not, and should not be, a partisan issue. America must stand together—Democrats and Republicans, liberals and conservatives—to confront the terrorist threat wherever it may exist.

And, of course, I look forward to working with President Clinton and with my distinguished colleague, Senator DASCHLE, in refining this proposal, and perhaps considering other worthy proposals, to strengthen America's antiterrorism hand. Today's legislation is not the end but the beginning of the process that hopefully will lead to a strong antiterrorism action plan for our country.

And I have been reminded today that we want to look back at the legislation we pass a year from now or 2 years from now and know that it is just as good then as it may appear to be now. In other words, we should not be carried away because of the emotion of the moment. And I know that under the leadership of the distinguished chairman of the Judiciary Committee that will not happen.

But, Mr. President, as we move forward with legislation, let me add a cautionary note: No legislation can make America completely safe. In a free society, there is no such thing as absolute security. We must work to make our country safer from the terrorist threat, but there are no guarantees that every terrorist, every madman, can be stopped. The American people deserve the straight story, and the straight story is that America is not an impregnable fortress.

Let me also say that there has been a great deal of speculation about the so-called Attorney General guidelines. These guidelines are the internal Justice Department policies that govern if, and when, the FBI can monitor and infiltrate domestic organizations suspected of being engaged in terrorist activities. Some say the guidelines are too restrictive and, in fact, hamstring the FBI. Others argue that the guidelines go too far.

This is a complex issue, and one made more complex and more urgent by the fact that our constitutional liberties are at stake. Before rushing to judgment, we should get all the facts out on the table: Have the guidelines been effective? Do they provide adequate authority to the FBI to monitor the activities of domestic terrorist organizations? Have there been any instances when an FBI agent sought authority to initiate an investigation and this authority was denied? And if so, why?

In my view, we should hear from the law enforcement professionals themselves first before drawing any conclusions. And that is why this legislation asks the Director of the FBI to provide Congress with a detailed report on the adequacy of the guidelines and any other laws regulating the surveillance of suspected terrorist groups operating within the United States. In other words, let us get the facts first and then let us make decisions later. Let us not rush to judgment without all the facts.

Let me say that in this bill—and the Senator from Utah may discuss it also—we left out the provision as far as expanding the authority of the military. That was in the President's request. We have not seen the draft language. But I think that is another area where we want to be very, very careful, before we start bringing the military into law enforcement areas. And I believe my colleague from Utah agrees.

It is reported in the paper this morning "to allow the military to participate in domestic law enforcement." That may sound good on the face of it, but I think there are a lot of pitfalls there and a lot of dangers. We better be certain we look at this before we do anything by statute. So hopefully that will be a subject of extensive hearings in the Judiciary Committee.

Finally, I join all of my Senate colleagues in extending our thoughts and prayers to the good people of Oklahoma City. The self-sacrifice and heroism they have displayed in the past week has been an inspiration to us all. They have been doing their duty. It is now our obligation to lay the groundwork for an America that is more secure for all of her citizens.

As I understand, Mr. President, the Senator from Utah will now speak on this issue.

Mr. HATCH. I wish to congratulate the distinguished majority leader for excellent leadership in this area among so many others. Without his leadership and without his prime sponsorship of this bill, I do not think we would be nearly as far along as we are.

We were both down at the White House yesterday with the President, and we both committed to working with the President to making sure that this bill is everything the President would like to have. In addition, we have added some things that we think will strengthen the bill in many ways including the habeas corpus provision.

Mr. President, I rise today to introduce, along with the distinguished majority leader, the Comprehensive Terrorism Prevention Act of 1995. The Nation continues to mourn the tragic loss of life suffered last week in Oklahoma City.

I want to commend all the men and women who have been involved in the rescue effort. Their courage and devotion to duty stands in stark contrast to this cowardly act of terrorism.

I also salute the swift and efficient work of the Federal, State, and local law enforcement officials who are working tirelessly to solve this crime. We must not rest until all the perpetrators are discovered and punished.

President Clinton was right when he called the people who committed this act "evil cowards." According to the twisted set of values of these individuals, they will push their agenda even when it means killing a 6-month-old infant—or nearly killing a 3-year-old boy like Brandon Denny, whose brother held his hand and wished him well after brain surgery last Thursday. There is no room in a free society for individuals who attempt instead to effect change through violence and who are willing to murder innocent people to make a political statement.

For years, I have been fighting for legislation to strengthen our counterterrorism efforts. Last week's heinous attack only underscores the need to give Federal law enforcement officials the tools to prevent and detect future terrorist attempts. Legislation is needed—and needed now. If those responsible for this act thought they could intimidate the United States, they were dead wrong.

Today, we are introducing the Comprehensive Terrorism Prevention Act of 1995. Our legislation adds several crucial provisions to our Nation's antiterrorism laws, and embodies much of the legislative recommendations called for by President Clinton.

First, our bill enhances the penalties for engaging in certain terrorist acts, and extends the crime of conspiracy to certain terrorist crimes, something that has not been done before, and will make it easier for law enforcement to find these terrorists, ferret them out, and get them sent to court.

Second, our bill will give the President greater tools to fight terrorism on an international level, as well as the domestic level. It provides foreign aid to countries that either aid or provide military equipment to terrorist states, eases the restrictions on the provision of antiterroism assistance to foreign nations, and prohibits the transfer to terrorist states of technology or products which the Secretary of State determines can be used to promote or conduct terrorism.

Third, our bill will give our law enforcement officials and courts the tools they need to remove alien terrorists from our midst without jeopardizing national security or the lives of law enforcement personnel. It allows for a special deportation hearing and in camera, ex parte review by a secret panel of Federal judges when the disclosure in open court of Government evidence would pose a threat to national security.

Fourth, it reforms our habeas corpus laws so that we can be sure that President Clinton's promise that punishment be swift is kept.

Fifth, our bill includes provisions making it a crime to knowingly provide material support to the terrorist functions of groups designated by a Presidential finding to be engaged in terrorist activities.

I am sensitive to the concerns, as is the majority leader, of some that this provision impinges on freedoms protected by the first amendment. And, the first amendment has no greater champion than the distinguished majority leader and certainly myself. I have worked to ensue that this provision will not violate the Constitution or place inappropriate restrictions on cherished first amendment freedoms. Nothing in this provision prohibits the free exercise of religion or speech, or impinges on the freedom of association. Moreover, nothing in the Constitution provides the right to engage in violence against fellow citizens. Aiding and financing terrorist bombings is not constitutionally protected activity. Additionally, I have to believe that honest donors to any organization would want to know if their contributions were being used for such scurrilous purposes.

Our bill provides for numerous other needed improvements in the law to fight the scourge of terrorism, including the authorization of in additional appropriations—nearly $1.6 billion—to Federal law enforcement to beef up counterterrorism efforts and increasing the maximum rewards permitted for information concerning international terrorism.

I would note that many of the provisions in this bill enjoy broad, bipartisan support and, in several cases, have passed the Senate on previous occasions. Indeed, many of the provisions in this bill have the active support of the Clinton administration. And I believe, as the President reads this bill, he will support the whole bill.

The people of the United States and around the world must know that this is an issue that transcends politics and political parties. Our resolve in this matter must be clear: our response to the terrorist threat, and to acts of terrorism, will be certain, swift, and unified.

Mr. President, ours is a free society. Our liberties, the openness of our institutions, and our freedom of movement are what make America a Nation we are willing to defend. These freedoms are cherished by virtually every American.

But this freedom is not without its costs. Because we are so open, we are vulnerable to those who would take advantage of our liberty to inflict terror on us. The horrific events of last week in Oklahoma City tragically demonstrate the price we pay for our liberty. Indeed, anyone who would do such an act, and call it a defense of liberty, mocks that word.

We must now redouble our efforts to combat terrorism and to protect our citizens. A worthy first step in the enactment of these sound provisions to provide law enforcement with the tools to fight terrorism.

Again, I thank our majority leader. Without him, we would not be this far along. Without him, this bill would not be nearly as good. Without his leadership, it probably would have grave difficulties. But with his leadership and with the work that he and his staff have put in, along with staff of other members of the Judiciary Committee, we have a bill that we believe is sound. We believe it is efficient. We believe it is fair. We believe it takes care of constitutional rights and liberties. And we believe that it will solve the problem in the future and give law enforcement the tools and the teeth in order to take the big bite of out of terrorism worldwide, but especially in our country that needs to be taken.

I urge all of our colleagues to support this legislation and again I thank our distinguished majority leader.

ADDITIONAL COSPONSORS

S. 45

At the request of Mr. **FEINGOLD**, the name of the Senator from South Dakota [Mr. **DASCHLE**] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 240

At the request of Mr. **DOMENICI**, the names of the Senator from Iowa [Mr. **GRASSLEY**], the Senator from Alaska [Mr. **MURKOWSKI**], the Senator from Michigan [Mr. **ABRAHAM**], and the Senator from New Mexico [Mr. **BINGAMAN**] were added as cosponsors of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 256

At the request of Mr. **DOLE**, the name of the Senator from Massachusetts [Mr. **KENNEDY**] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 434

At the request of Mr. **KOHL**, the name of the Senator from Iowa [Mr. **HARKIN**] was added as a cosponsor of S. 434, a bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal limitations on hours of service.

S. 571

At the request of Mrs. **BOXER**, the names of the Senator from Washington [Mrs. **MURRAY**] and the Senator from Maine [Ms. **SNOWE**] were added as cosponsors of S. 571, a bill to amend title 10, United States Code, to terminate entitlement of pay and allowances for members of the Armed Forces who are sentenced to confinement and a punitive discharge or dismissal, and for other purposes.

S. 726

At the request of Mr. **MCCAIN**, the name of the Senator from New York [Mr. **D'AMATO**] was added as a cosponsor of S. 726, a bill to amend the Iran-Iraq Arms Non-Proliferation Act of 1992 to revise the sanctions applicable to violations of that act, and for other purposes.

SENATE RESOLUTION 112—COMMENDING THE SENATE ENROLLING CLERK UPON HIS RETIREMENT

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 112

Whereas Brian Hallen will retire from the United States Senate after almost 30 years of Government service;

Whereas he served the United States Senate for over 20 years; the last 9 years as the Enrolling Clerk;

Whereas his dedication to the United States Senate resulted in the computerization of the engrossing and enrolling process;

Whereas he has performed the duties of his office with remarkable diligence, perseverance, efficiency and intelligence;

Whereas he has faithfully performed his duties serving all Members of the Senate and House of Representatives with great professional integrity; and

Whereas Brian Hallen has earned the respect, affection and esteem of the United States Senate: Now, therefore, be it

Resolved, That the United States Senate commends Brian Hallen for his long, faithful and exemplary service to his country and to the Senate.

SEC. 2. The Secretary shall transmit a copy of this resolution to Brian Hallen.

AMENDMENTS SUBMITTED

THE COMMON SENSE LEGAL STANDARDS REFORM ACT OF 1995; COMMON SENSE PRODUCT LIABILITY REFORM ACT OF 1995

McCONNELL (AND OTHERS) AMENDMENT NO. 603

Mr. McCONNELL (for himself, Mr. LIEBERMAN, and Mrs. KASSEBAUM) proposed an amendment to amendment No. 596 proposed by Mr. GORTON to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

At the end of the pending amendment, add the following new title:

TITLE ___—HEALTH CARE LIABILITY REFORM

SEC. ___01. SHORT TITLE.

This title may be cited as the "Health Care Liability Reform and Quality Assurance Act of 1995".

Subtitle A—Health Care Liability Reform

SEC. ___11. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—The civil justice system of the United States is a costly and inefficient mechanism for resolving claims of health care liability and compensating injured patients and the problems associated with the current system are having an adverse impact on the availability of, and access to, health care services and the cost of health care in the United States.

(2) EFFECT ON INTERSTATE COMMERCE.—The health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States affect interstate commerce by contributing to the high cost of health care and premiums for health care liability insurance purchased by participants in the health care system.

(3) EFFECT ON FEDERAL SPENDING.—The health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide such individuals with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this title to implement reasonable, comprehensive, and effective health care liability reform that is designed to—

(1) ensure that individuals with meritorious health care injury claims receive fair and adequate compensation;

(2) improve the availability of health care service in cases in which health care liability actions have been shown to be a factor in the decreased availability of services; and

(3) improve the fairness and cost-effectiveness of the current health care liability system of the United States to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty and unpredictability in the amount of compensation provided to injured individuals.

SEC. ___12. DEFINITIONS.

As used in this subtitle:

(1) CLAIMANT.—The term "claimant" means any person who commences a health care liability action, and any person on whose behalf such an action is commenced, including the decedent in the case of an action brought through or on behalf of an estate.

(2) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" means that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, except that such measure or degree of proof is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(3) COLLATERAL SOURCE RULE.—The term "collateral source rule" means a rule, either statutorily established or established at common law, that prevents the introduction of evidence regarding collateral source benefits or that prohibits the deduction of collateral source benefits from an award of damages in a health care liability action.

(4) ECONOMIC LOSSES.—The term "economic losses" means objectively verifiable monetary losses incurred as a result of the provision of (or failure to provide or pay for) health care services or the use of a medical product, including past and future medical expenses, loss of past and future earnings, cost of obtaining replacement services in the home (including child care, transportation, food preparation, and household care), cost of making reasonable accommodations to a personal residence, loss of employment, and loss of business or employment opportunities. Economic losses are neither noneconomic losses nor punitive damages.

(5) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action against a health care provider, health care professional, health plan, or other defendant, including a right to legal or equitable contribution, indemnity, subrogation, third-party claims, cross claims, or counter-claims, in which the claimant alleges injury related to the provision of, payment for, or the failure to provide or pay for, health care services or medical products, regardless of the theory of liability on which the action is based. Such term does not include a product liability action, except where such an action is brought as part of a broader health care liability action.

(6) HEALTH PLAN.—The term "health plan" means any person or entity which is obligated to provide or pay for health benefits under any health insurance arrangement, including any person or entity acting under a contract or arrangement to provide, arrange for, or administer any health benefit.

(7) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by Federal or State laws or regulations to be licensed, registered or certified to provide such services or who is certified to provide health care services pursuant to a program of education, training and examination by an accredited institution, professional board, or professional organization.

(8) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care items or services in a State and that is required by Federal or State laws or regulations to be licensed, registered or certified to engage in the delivery of such items or services.

(9) HEALTH CARE SERVICES.—The term "health care services" means any services provided by a health care professional, health care provider, or health plan or any individual working under the supervision of a health care professional, that relate to the diagnosis, prevention, or treatment of any disease or impairment, or the assessment of the health of human beings.

(10) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a health care liability action.

(11) MEDICAL PRODUCT.—The term "medical product" means a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device as defined in section 201(h) of such Act (21 U.S.C. 321(h)), including any component or raw material used therein, but excluding health care services, as defined in paragraph (9).

(12) NONECONOMIC LOSSES.—The term "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of consortium, loss of society or companionship (other than loss of domestic services), and other nonpecuniary losses incurred by an individual with respect to which a health care liability action is brought. Noneconomic losses are neither economic losses nor punitive damages.

(13) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded, for the purpose of punishment or deterrence, and not for compensatory purposes, against a health care professional, health care provider, or other defendant in a health care liability action. Punitive damages are neither economic nor noneconomic damages.

(14) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(15) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. ___13. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (c), this subtitle shall apply with respect to any health care liability action brought in any Federal or State court, except that this subtitle shall not apply to an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action.

(b) PREEMPTION.—

(1) IN GENERAL.—The provisions of this subtitle shall preempt State law only to the extent that such law is inconsistent with the limitations contained in such provisions and shall not preempt State law to the extent that such law—

(A) places greater restrictions on the amount of or standards for awarding noneconomic or punitive damages;

(B) places greater limitations on the awarding of attorneys fees for awards in excess of $150,000;

(C) permits a lower threshold for the periodic payment of future damages;

(D) establishes a shorter period during which a health care liability action may be initiated or a more restrictive rule with respect to the time at which the period of limitations begins to run; or

(E) implements collateral source rule reform that either permits the introduction of evidence of collateral source benefits or provides for the mandatory offset of collateral source benefits from damage awards.

(2) RULES OF CONSTRUCTION.—The provisions of this subtitle shall not be construed to preempt any State law that—

(A) permits State officials to commence health care liability actions as a representative of an individual;

(B) permits provider-based dispute resolution;

(C) places a maximum limit on the total damages in a health care liability action;

(D) places a maximum limit on the time in which a health care liability action may be initiated; or

(E) provides for defenses in addition to those contained in this title.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this subtitle shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to actions brought by a foreign nation or a citizen of a foreign nation;

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss an action of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(6) supersede any provision of Federal law.

(d) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. ___14. STATUTE OF LIMITATIONS.

A health care liability action that is subject to this title may not be initiated unless a complaint with respect to such action is filed within the 2-year period beginning on the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered the injury and its cause, except that such an action relating to a claimant under legal disability may be filed within 2 years after the date on which the disability ceases. If the commencement of a health care liability action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

SEC. ___15. REFORM OF PUNITIVE DAMAGES.

(a) LIMITATION.—With respect to a health care liability action, an award for punitive damages may only be made, if otherwise permitted by applicable law, if it is proven by clear and convincing evidence that the defendant—

(1) intended to injure the claimant for a reason unrelated to the provision of health care services;

(2) understood the claimant was substantially certain to suffer unnecessary injury, and in providing or failing to provide health care services, the defendant deliberately failed to avoid such injury; or

(3) acted with a conscious, flagrant disregard of a substantial and unjustifiable risk of unnecessary injury which the defendant failed to avoid in a manner which constitutes a gross deviation from the normal standard of conduct in such circumstances.

(b) PUNITIVE DAMAGES NOT PERMITTED.—Notwithstanding the provisions of subsection (a), punitive damages may not be awarded against a defendant with respect to any health care liability action if no judgment for compensatory damages, including nominal damages (under $500), is rendered against the defendant.

(c) SEPARATE PROCEEDING.—

(1) IN GENERAL.—At the request of any defendant in a health care liability action, the trier of fact shall consider in a separate proceeding—

(A) whether punitive damages are to be awarded and the amount of such award; or

(B) the amount of punitive damages following a determination of punitive liability.

(2) ONLY RELEVANT EVIDENCE ADMISSIBLE.—If a defendant requests a separate proceeding under paragraph (1), evidence relevant only to the claim of punitive damages in a health care liability action, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(d) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—In determining the amount of punitive damages in a health care liability action, the trier of fact shall consider only the following:

(1) The severity of the harm caused by the conduct of the defendant.

(2) The duration of the conduct or any concealment of such conduct by the defendant.

(3) The profitability of the conduct of the defendant.

(4) The number of products sold or medical procedures rendered for compensation, as the case may be, by the defendant of the kind causing the harm complained of by the claimant.

(5) Evidence with respect to awards of punitive or exemplary damages to persons similarly situated to the claimant, when offered by the defendant.

(6) Prospective awards of compensatory damages to persons similarly situated to the claimant.

(7) Evidence with respect to any criminal or administrative penalties imposed on the defendant as a result of the conduct complained of by the claimant, when offered by the defendant.

(8) Evidence with respect to the amount of any civil fines assessed against the defendant as a result of the conduct complained of by the claimant, when offered by the defendant.

(e) LIMITATION AMOUNT.—The amount of damages that may be awarded as punitive damages in any health care liability action shall not exceed 3 times the amount awarded to the claimant for the economic injury on which such claim is based, or $250,000, whichever is greater. This subsection shall be applied by the court and shall not be disclosed to the jury.

(f) RESTRICTIONS PERMITTED.—Nothing in this title shall be construed to imply a right to seek punitive damages where none exists under Federal or State law.

SEC. ___16. PERIODIC PAYMENTS.

With respect to a health care liability action, if the award of future damages exceeds $100,000, the adjudicating body shall, at the request of either party, enter a judgment ordering that future damages be paid on a periodic basis in accordance with the guidelines contained in the Uniform Periodic Payments of Judgments Act, as promulgated by the National Conference of Commissioners on Uniform State Laws in July of 1990. The adjudicating body may waive the requirements of this section if such body determines that such a waiver is in the interests of justice.

SEC. ___17. SCOPE OF LIABILITY.

(a) IN GENERAL.—With respect to punitive and noneconomic damages, the liability of each defendant in a health care liability action shall be several only and may not be joint. Such a defendant shall be liable only for the amount of punitive or noneconomic damages allocated to the defendant in direct proportion to such defendant's percentage of fault or responsibility for the injury suffered by the claimant.

(b) DETERMINATION OF PERCENTAGE OF LIABILITY.—With respect to punitive or noneconomic damages, the trier of fact in a health care liability action shall determine the extent of each party's fault or responsibility for injury suffered by the claimant, and shall assign a percentage of responsibility for such injury to each such party.

SEC. ___18. MANDATORY OFFSETS FOR DAMAGES PAID BY A COLLATERAL SOURCE.

(a) IN GENERAL.—With respect to a health care liability action, the total amount of damages received by an individual under such action shall be reduced, in accordance with subsection (b), by any other payment that has been, or will be, made to an individual to compensate such individual for the injury that was the subject of such action.

(b) AMOUNT OF REDUCTION.—The amount by which an award of damages to an individual for an injury shall be reduced under subsection (a) shall be—

(1) the total amount of any payments (other than such award) that have been made or that will be made to such individual to pay costs of or compensate such individual for the injury that was the subject of the action; minus

(2) the amount paid by such individual (or by the spouse, parent, or legal guardian of such individual) to secure the payments described in paragraph (1).

(c) DETERMINATION OF AMOUNTS FROM COLLATERAL SERVICES.—The reductions required under subsection (b) shall be determined by the court in a pretrial proceeding. At the subsequent trial—

(1) no evidence shall be admitted as to the amount of any charge, payments, or damage for which a claimant—

(A) has received payment from a collateral source or the obligation for which has been assured by a third party; or

(B) is, or with reasonable certainty, will be eligible to receive payment from a collateral source of the obligation which will, with reasonable certainty be assumed by a third party; and

(2) the jury, if any, shall be advised that—

(A) except for damages as to which the court permits the introduction of evidence, the claimant's medical expenses and lost income have been or will be paid by a collateral source or third party; and

(B) the claimant shall receive no award for any damages that have been or will be paid by a collateral source or third party.

SEC. ___19. TREATMENT OF ATTORNEYS' FEES AND OTHER COSTS.

(a) LIMITATION ON AMOUNT OF CONTINGENCY FEES.—

(1) IN GENERAL.—An attorney who represents, on a contingency fee basis, a claimant in a health care liability action may not charge, demand, receive, or collect for services rendered in connection with such action in excess of the following amount recovered by judgment or settlement under such action:

(A) 33⅓ percent of the first $150,000 (or portion thereof) recovered, based on after-tax recovery, plus

(B) 25 percent of any amount in excess of $150,000 recovered, based on after-tax recovery.

(2) CALCULATION OF PERIODIC PAYMENTS.—In the event that a judgment or settlement includes periodic or future payments of damages, the amount recovered for purposes of computing the limitation on the contingency fee under paragraph (1) shall be based on the cost of the annuity or trust established to make the payments. In any case in which an annuity or trust is not established to make such payments, such amount shall be based on the present value of the payments.

(b) CONTINGENCY FEE DEFINED.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. ___20. STATE-BASED ALTERNATIVE DISPUTE RESOLUTION MECHANISMS.

(a) ESTABLISHMENT BY STATES.—Each State is encouraged to establish or maintain alternative dispute resolution mechanisms that promote the resolution of health care liability claims in a manner that—

(1) is affordable for the parties involved in the claims;

(2) provides for the timely resolution of claims; and

(3) provides the parties with convenient access to the dispute resolution process.

(b) GUIDELINES.—The Attorney General, in consultation with the Secretary and the Administrative Conference of the United States, shall develop guidelines with respect to alternative dispute resolution mechanisms that may be established by States for the resolution of health care liability claims. Such guidelines shall include procedures with respect to the following methods of alternative dispute resolution:

(1) ARBITRATION.—The use of arbitration, a nonjury adversarial dispute resolution process which may, subject to subsection (c), result in a final decision as to facts, law, liability or damages. The parties may elect binding arbitration.

(2) MEDIATION.—The use of mediation, a settlement process coordinated by a neutral third party without the ultimate rendering of a formal opinion as to factual or legal findings.

(3) EARLY NEUTRAL EVALUATION.—The use of early neutral evaluation, in which the parties make a presentation to a neutral attorney or other neutral evaluator for an assessment of the merits, to encourage settlement. If the parties do not settle as a result of assessment and proceed to trial, the neutral evaluator's opinion shall be kept confidential.

(4) EARLY OFFER AND RECOVERY MECHANISM.—The use of early offer and recovery mechanisms under which a health care provider, health care organization, or any other alleged responsible defendant may offer to compensate a claimant for his or her reasonable economic damages, including future economic damages, less amounts available from collateral sources.

(5) CERTIFICATE OF MERIT.—The requirement that a claimant in a health care liability action submit to the court before trial a written report by a qualified specialist that includes the specialist's determination that, after a review of the available medical record and other relevant material, there is a reasonable and meritorious cause for the filing of the action against the defendant.

(6) NO FAULT.—The use of a no-fault statute under which certain health care liability actions are barred and claimants are compensated for injuries through their health plans or through other appropriate mechanisms.

(c) FURTHER REDRESS.—

IN GENERAL.—The extent to which any party may seek further redress (subsequent to a decision of an alternative dispute resolution method) concerning a health care liability claim in a Federal or State court shall be dependent upon the methods of alternative dispute resolution adopted by the State.

(d) TECHNICAL ASSISTANCE AND EVALUATIONS.—

(1) TECHNICAL ASSISTANCE.—The Attorney General may provide States with technical assistance in establishing or maintaining alternative dispute resolution mechanisms under this section.

(2) EVALUATIONS.—The Attorney General, in consultation with the Secretary and the Administrative Conference of the United States, shall monitor and evaluate the effectiveness of State alternative dispute resolution mechanisms established or maintained under this section.

SEC. ___21. APPLICABILITY.

This title shall apply to all civil actions covered under this title that are commenced on or after the date of enactment of this title, including any such action with respect to which the harm asserted in the action or the conduct that caused the injury occurred before the date of enactment of this title.

Subtitle B—Protection of the Health and Safety of Patients

SEC. ___31. ADDITIONAL RESOURCES FOR STATE HEALTH CARE QUALITY ASSURANCE AND ACCESS ACTIVITIES.

Each State shall require that not less than 50 percent of all awards of punitive damages resulting from all health care liability actions in that State, if punitive damages are otherwise permitted by applicable law, be used for activities relating to—

(1) the licensing, investigating, disciplining, and certification of health care professionals in the State; and

(2) the reduction of malpractice-related costs for health care providers volunteering to provide health care services in medically underserved areas.

SEC. ___32. QUALITY ASSURANCE, PATIENT SAFETY, AND CONSUMER INFORMATION.

(a) ADVISORY PANEL.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this title, the Administrator of the Agency for Health Care Policy and Research (hereafter referred to in this section as the "Administrator") shall establish an advisory panel to coordinate and evaluate, methods, procedures, and data to enhance the quality, safety, and effectiveness of health care services provided to patients.

(2) PARTICIPATION.—In establishing the advisory panel under paragraph (1), the Administrator shall ensure that members of the panel include representatives of public and private sector entities having expertise in quality assurance, risk assessment, risk management, patient safety, and patient satisfaction.

(3) OBJECTIVES.—In carrying out the duties described in this section, the Administrator, acting through the advisory panel established under paragraph (1), shall conduct a survey of public and private entities involved in quality assurance, risk assessment, patient safety, patient satisfaction, and practitioner licensing. Such survey shall include the gathering of data with respect to—

(A) performance measures of quality for health care providers and health plans;

(B) developments in survey methodology, sampling, and audit methods;

(C) methods of medical practice and patterns, and patient outcomes; and

(D) methods of disseminating information concerning successful health care quality improvement programs, risk management and patient safety programs, practice guidelines, patient satisfaction, and practitioner licensing.

(b) GUIDELINES.—Not later than 2 years after the date of enactment of this title, the Administrator shall, in accordance with chapter 5 of title 5, United States Code, establish health care quality assurance, patient safety and consumer information guidelines. Such guidelines shall be modified periodically when determined appropriate by the Administrator. Such guidelines shall be advisory in nature and not binding.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than 6 months after the date of enactment of this title, the Administrator shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives, a report that contains—

(A) data concerning the availability of information relating to risk management, quality assessment, patient safety, and patient satisfaction;

(B) an estimation of the degree of consensus concerning the accuracy and content of the information available under subparagraph (A);

(C) a summary of the best practices used in the public and private sectors for disseminating information to consumers; and

(D) an evaluation of the National Practitioner Data Bank (as established under the Health Quality Improvement Act of 1986), for reliability and validity of the data and the effectiveness of the Data Bank in assisting hospitals and medical groups in overseeing the quality of practitioners.

(2) INTERIM REPORT.—Not later than 1 year after the date of enactment of this title, the Administrator shall prepare and submit to the Committees referred to in paragraph (1) a report, based on the results of the advisory panel survey conducted under subsection (a)(3), concerning—

(A) the consensus of indicators of patient safety and risk;

(B) an assessment of the consumer perspective on health care quality that includes an examination of—

(i) the information most often requested by consumers;

(ii) the types of technical quality information that consumers find compelling;

(iii) the amount of information that consumers consider to be sufficient and the amount of such information considered overwhelming; and

(iv) the manner in which such information should be presented;

and recommendations for increasing the awareness of consumers concerning such information;

(C) proposed methods, building on existing data gathering and dissemination systems, for ensuring that such data is available and accessible to consumers, employers, hospitals, and patients;

(D) the existence of legal, regulatory, and practical obstacles to making such data available and accessible to consumers;

(E) privacy or proprietary issues involving the dissemination of such data;

(F) an assessment of the appropriateness of collecting such data at the Federal or State level;

(G) an evaluation of the value of permitting consumers to have access to information contained in the National Practitioner Data Bank and recommendations to improve the reliability and validity of the information; and

(H) the reliability and validity of data collected by the State medical boards and recommendations for developing investigation protocols.

(3) ANNUAL REPORT.—Not later than 1 year after the date of the submission of the report under paragraph (2), and each year thereafter, the Administrator shall prepare and submit to the Committees referred to in paragraph (1) a report concerning the progress of the advisory panel in the development of a consensus with respect to the findings of the panel and in the development and modification of the guidelines required under subsection (b).

(4) TERMINATION.—The advisory panel shall terminate on the date that is 3 years after the date of enactment of this title.

Subtitle C—Severability

SEC. ___41. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

THOMAS AMENDMENT NO. 604

Mr. THOMAS proposed an amendment to amendment No. 603 proposed by Mr. MCCONNELL to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

At the appropriate place in the amendment insert the following new section:

SEC. . SPECIAL PROVISION FOR CERTAIN OBSTETRIC SERVICES.

(a) IN GENERAL.—In the case of a health care liability claim relating to services provided during labor or the delivery of a baby, if the health care professional or health care provider against whom the claim is brought did not previously treat the claimant for the pregnancy, the trier of the fact may not find that such professional or provider committed malpractice and may not assess damages against such professional or provider unless the malpractice is proven by clear and convincing evidence.

(b) APPLICABILITY TO GROUP PRACTICES OR AGREEMENTS AMONG PROVIDERS.—For purposes of subsection (a), a health care professional shall be considered to have previously treated an individual for a pregnancy if the professional is a member of a group practice in which any of whose members previously treated the individual for the pregnancy or is providing services to the individual during labor or the delivery of a baby pursuant to an agreement with another professional.

WELLSTONE AMENDMENT NO. 605

Mr. WELLSTONE proposed an amendment to amendment No. 603 proposed by Mr. MCCONNELL to the amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

In section ___32(c)(1) of the amendment, strike subparagraph (B) and all that follows through the end of the section and insert the following:

(B) an estimation of the degree of consensus concerning the accuracy and content of the information available under subparagraph (A); and

(C) a summary of the best practices used in the public and private sectors for disseminating information to consumers.

(2) INTERIM REPORT.—Not later than 1 year after the date of enactment of this title, the Administrator shall prepare and submit to the Committees referred to in paragraph (1) a report, based on the results of the advisory panel survey conducted under subsection (a)(3), concerning—

(A) the consensus of indicators of patient safety and risk;

(B) an assessment of the consumer perspective on health care quality that includes an examination of—

(i) the information most often requested by consumers;

(ii) the types of technical quality information that consumers find compelling;

(iii) the amount of information that consumers consider to be sufficient and the amount of such information considered overwhelming; and

(iv) the manner in which such information should be presented;

and recommendations for increasing the awareness of consumers concerning such information;

(C) proposed methods, building on existing data gathering and dissemination systems, for ensuring that such data is available and accessible to consumers, employers, hospitals, and patients;

(D) the existence of legal, regulatory, and practical obstacles to making such data available and accessible to consumers;

(E) privacy or proprietary issues involving the dissemination of such data;

(F) an assessment of the appropriateness of collecting such data at the Federal or State level; and

(G) the reliability and validity of data collected by the State medical boards and recommendations for developing investigation protocols.

(3) ANNUAL REPORT.—Not later than 1 year after the date of the submission of the report under paragraph (2), and each year thereafter, the Administrator shall prepare and submit to the Committees referred to in paragraph (1) a report concerning the progress of the advisory panel in the development of a consensus with respect to the findings of the panel and in the development and modification of the guidelines required under subsection (b).

(4) TERMINATION.—The advisory panel shall terminate on the date that is 3 years after the date of enactment of this title.

SEC. ___33. REQUIRING REPORTS ON MEDICAL MALPRACTICE DATA.

(a) IN GENERAL.—Section 421 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131) is amended—

(1) by striking subsections (a) and (b);

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(3) by inserting before subsection (d) (as redesignated by paragraph (2)) the following subsections:

"(a) IN GENERAL.—

"(1) REQUIREMENT OF REPORTING.—Subject to paragraphs (2) and (3), each person or entity which makes payment under a policy of insurance, self-insurance, or otherwise in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim shall report, in accordance with section 424, information respecting the payment and circumstances of the payment.

"(2) PAYMENTS BY PRACTITIONERS.—Except as provided in paragraph (3), the persons to whom paragraph (1) applies include a physician, or other licensed health care practitioner, who makes a payment described in such paragraph and whose act or omission is the basis of the action or claim involved.

"(3) REFUND OF FEES.—With respect to a physician, or other licensed health care practitioner, whose act or omission is the basis of an action or claim described in paragraph (1), such paragraph shall not apply to a payment described in such paragraph if—

"(A) the payment is made by the physician or practitioner or entity as a refund of fees for the health services involved; and

"(B) the payment does not exceed the amount of the original charge for the health services.

"(b) INFORMATION TO BE REPORTED.—The information to be reported under subsection (a) by a person or entity regarding a payment and an action or claim includes the following:

"(1)(A)(i) The name of each physician or other licensed health care practitioner whose act or omission is the basis of the action or claim.

"(ii) To the extent authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.), the social security account number assigned to the physician or practitioner.

"(B) If the physician or practitioner may not be identified for purposes of subparagraph (A)—

"(i) a statement of such fact and an explanation of the inability to make the identification; and

"(ii) the name of the hospital or other health services organization for whose benefit the payment was made.

"(2) The amount of the payment.

"(3) The name (if known) of any hospital or other health services organization with which the physician or practitioner is affiliated or associated.

"(4)(A) A statement describing the act or omission, and injury or illness, upon which the action or claim is based.

"(B) A statement by the physician or practitioner regarding the action or claim, if the physician or practitioner elects to make such a statement.

"(C) If the payment was made without the consent of the physician or practitioner, a statement specifying such fact and the reasons underlying the decision to make the payment without such consent.

"(5) Such other information as the Secretary determines is required for appropriate interpretation of information reported under this subsection.

"(c) CERTAIN REPORTING CRITERIA; NOTICE TO PRACTITIONERS.—

"(1) REPORTING CRITERIA.—The Secretary shall establish criteria regarding statements described in subsection (b)(4). Such criteria shall include—

"(A) criteria regarding the length of each of the statements;

"(B) criteria for entities regarding the notice required by paragraph (2), including criteria regarding the date by which—

"(i) the entity is to provide the notice; and

"(ii) the physician or practitioner is to submit the statement described in subsection (b)(4)(B) to the entity; and

"(C) such other criteria as the Secretary determines appropriate.

"(2) NOTICE OF OPPORTUNITY TO MAKE A STATEMENT.—In the case of an entity that prepares a report under subsection (a)(1) regarding a payment and an action or claim, the entity shall notify any physician or practitioner identified under subsection (b)(1)(A) of the opportunity to make a statement under subsection (b)(4)(B)."; and

(3) by adding at the end the following new subsection:

"(f) DEFINITIONS OF ENTITY AND PERSON.—For purposes of this section—

"(1) the term 'entity' includes the Federal Government, any State or local government, and any insurance company or other private organization; and

"(2) the term 'person' includes a Federal officer or a Federal employee.".

(b) DEFINITION OF HEALTH SERVICES ORGANIZATION.—Section 431 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11151) is amended—

(1) by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively; and

(2) by inserting after paragraph (4) the following paragraph:

"(5) The term 'health services organization' means an entity that, directly or through contracts or other arrangements, provides health services. Such term includes a hospital, health maintenance organization or another health plan organization, and a health care entity.".

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.) is amended—

(A) in section 411(a)(1), in the matter preceding subparagraph (A), by striking "431(9)" and inserting "431(10)";

(B) in section 421(d) (as redesignated by subsection (a)(2)), by inserting "person or" before "entity";

(C) in section 422(a)(2)(A), by inserting before the comma at the end the following: ", and (to the extent authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.)) the social security account number assigned to the physician"; and

(D) in section 423(a)(3)(A), by inserting before the comma at the end the following: ", and (to the extent authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.)) the social security account number assigned to the physician or practitioner".

(2) APPLICABILITY OF REQUIREMENTS TO FEDERAL ENTITIES.—

(A) APPLICABILITY TO FEDERAL FACILITIES AND PHYSICIANS.—Section 423 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11133) is amended by adding at the end the following subsection:

"(e) APPLICABILITY TO FEDERAL FACILITIES AND PHYSICIANS.—

"(1) IN GENERAL.—Subsection (a) applies to Federal health facilities (including hospitals) and actions by such facilities regarding the competence or professional conduct of physicians employed by the Federal Government to the same extent and in the same manner as such subsection applies to health care entities and professional review actions.

"(2) RELEVANT BOARD OF MEDICAL EXAMINERS.—For purposes of paragraph (1), the Board of Medical Examiners to which a Federal health facility is to report is the Board of Medical Examiners of the State within which the facility is located.".

(B) APPLICABILITY TO FEDERAL HOSPITALS.—Section 425 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11135) is amended by adding at the end the following subsection:

"(d) APPLICABILITY TO FEDERAL HOSPITALS.—Subsections (a), (b), and (c) apply to hospitals under the jurisdiction of the Federal Government to the same extent and in the same manner as such subsections apply to other hospitals.".

(C) MEMORANDA OF UNDERSTANDING.—Section 432 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11152) is amended—

(i) by striking subsection (b); and

(ii) by redesignating subsection (c) as subsection (b).

SEC. ___34. ADDITIONAL PROVISIONS REGARDING ACCESS TO INFORMATION; MISCELLANEOUS PROVISIONS.

(a) ACCESS TO INFORMATION.—Section 427(a) of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137(a)) is amended to read as follows:

"(a) ACCESS REGARDING LICENSING, EMPLOYMENT, AND CLINICAL PRIVILEGES.—The Secretary (or the agency designated under section 424(b)) shall, on request, provide information reported under this part concerning a physician or other licensed health care practitioner to—

"(1) State licensing boards; and

"(2) hospitals and other health services organizations—

"(A) that have entered (or may be entering) into an employment or affiliation relationship with the physician or practitioner; or

"(B) to which the physician or practitioner has applied for clinical privileges or appointment to the medical staff.".

(b) ADDITIONAL DISCLOSURES OF INFORMATION.—Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended by adding at the end the following subsection:

"(e) AVAILABILITY OF INFORMATION TO PUBLIC.—

"(1) REPORTS, GUIDELINES AND REGULATIONS.—

"(A) INITIAL REPORT.—Not later than 3 months after the date of enactment of the Health Care Liability Reform and Quality Assurance Act of 1995, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report that contains recommendations for improving the reliability and validity of such information.

"(B) GUIDELINES AND REGULATIONS.—Not later than 180 days after the date of enactment of the Health Care Liability Reform and Quality Assurance Act of 1995, the Secretary shall establish guidelines and promulgate regulations providing for the dissemination of information to the public under sections 421, 422, and 423 of the Health Care Quality Improvement Act of 1986. With respect to such guidelines and regulations the Secretary shall determine whether information respecting small payments reported under section 421 shall be disclosed to the public. In addition, the Secretary shall ensure that such information shall include information on the expected norm for information reported under such section 421 for a physician's or practitioner's specialty. Such expected norm shall be based on assessments that are clinically and statistically valid as determined by the Secretary, in consultation with individuals with expertise in the area of medical malpractice, consumer representatives, and certain other interested parties that the Secretary determines are appropriate.".

(c) CONFORMING AMENDMENTS.—Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (b)(1), in the first sentence, by striking "Information reported" and inserting "Except for information disclosed under subsection (e), information reported"; and

(2) in the heading for the section, by striking "miscellaneous provisions" and inserting "additional provisions regarding access to information; miscellaneous provisions".

KENNEDY AMENDMENTS NOS. 606–607

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to amendment No. 603 proposed by Mr. MCCONNELL to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

AMENDMENT NO. 606

Strike the material from page 8, line 20 through page 10, line 17, and insert in lieu thereof the following:

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this subtitle shall apply with respect to any health care liability action brought in any Federal or State court, except that this subtitle shall not apply to an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action.

(b) PREEXEMPTION.—The provisions of this subtitle shall not be construed to preempt any state law, but shall govern any question with respect to which there is no state law.

AMENDMENT NO. 607

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical Liability Reform Act of 1995".

TITLE I—LIABILITY REFORM

SEC. 101. FEDERAL TORT REFORM.

(a) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in section 102, this title shall apply with respect to any medical malpractice liability action brought in any State or Federal court, except that this title shall not apply to a claim or action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the claim or action.

(2) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this title shall be construed to—

(A) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(B) waive or affect any defense of sovereign immunity asserted by the United States;

(C) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(D) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(E) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(3) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

(b) DEFINITIONS.—In this Act, the following definitions apply:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of medical malpractice claims in a manner other

than through medical malpractice liability actions.

(2) CLAIMANT.—The term "claimant" means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(4) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be license or certified by the State to engage in the delivery of such services in the State.

(5) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice liability action or a medical malpractice claim.

(6) MEDICAL MALPRACTICE LIABILITY ACTION.—The term "medical malpractice liability action" means a cause of action brought in a State or Federal court against a health care provider or health care professional by which the plaintiff alleges a medical malpractice claim.

(7) MEDICAL MALPRACTICE CLAIM.—The term "medical malpractice claim" means a claim brought against a health care provider or health care professional in which a claimant alleges that injury was caused by the provision of (or the failure to provide) health care services, except that such term does not include—

(A) any claim based on an allegation of an intentional tort;

(B) any claim based on an allegation that a product is defective that is brought against any individual or entity that is not a health care professional or health care provider; or

(C) any claim brought pursuant to any remedies or enforcements provision of law.

SEC. 102. STATE-BASED ALTERNATIVE DISPUTE RESOLUTION MECHANISMS.

(a) APPLICATION TO MALPRACTICE CLAIMS UNDER PLANS.—Prior to or immediately following the commencement of any medical malpractice action, the parties shall participate in the alternative dispute resolution system administered by the State under subsection (b). Such participation shall be in lieu of any other provision of Federal or State law or any contractual agreement made by or on behalf of the parties prior to the commencement of the medical malpractice action.

(b) ADOPTION OF MECHANISM BY STATE.—Each State shall—

(1) maintain or adopt at least one of the alternative dispute resolution methods satisfying the requirements specified under subsection (c) and (d) for the resolution of medical malpractice claims arising from the provision of (or failure to provide) health care services to individuals enrolled to a health plan; and

(2) clearly disclose to enrollees (and potential enrollees) the availability and procedures for consumer grievances, including a description of the alternative dispute resolution method or methods adopted under this subsection.

(c) SPECIFICATION OF PERMISSIBLE ALTERNATIVE DISPUTE RESOLUTION METHODS.—

(1) IN GENERAL.—The Board shall, by regulation, development alternative dispute resolution methods for the use by States in resolving medical malpractice claims under subsection (a). Such methods shall include at least the following:

(A) ARBITRATION.—The use of arbitration, a nonjury adversarial dispute resolution process which may, subject to subsection (d), result in a final decision as to facts, law, liability or damages.

(B) CLAIMANT-REQUESTED BINDING ARBITRATION.—For claims involving a sum of money that falls below a threshold amount set by the Board, the use of arbitration not subject to subsection (d). Such binding arbitration shall be at the sole discretion of the claimant.

(C) MEDIATION.—The use of mediation, a settlement process coordinated by a neutral third party without the ultimate rendering of a formal opinion as to factual or legal findings.

(D) EARLY NEUTRAL EVALUATION.—The use of early neutral evaluation, in which the parties make a presentation to a neutral attorney or other neutral evaluator for an assessment of the merits, to encourage settlement. If the parties do not settle as a result of assessment and proceed to trial, the neutral evaluator's opinion shall be kept confidential.

(E) CERTIFICATE OF MERIT.—The requirement that a medical malpractice plaintiff submit to the court before trial a written report by a qualified specialist that includes the specialist's determination that, after a review of the available medical record and other relevant material, there is a reasonable and meritorious cause for the filing of the action against the defendant.

(2) STANDARDS FOR ESTABLISHING METHODS.—In developing alternative dispute resolution methods under paragraph (1), the Board shall assure that the methods promote the resolution of medical malpractice claims in a manner that—

(A) is affordable for the parties involved;

(B) provides for timely resolution of claims;

(C) provides for the consistent and fair resolution of claims; and

(D) provides for reasonably convenient access to dispute resolution for individuals enrolled in plans.

(3) WAIVER AUTHORITY.—Upon application of a State, the Board may grant the State the authority to fulfill the requirement of subsection (b) by adopting a mechanism other than a mechanism established by the Board pursuant to this subsection, except that such mechanism must meet the standards set forth in paragraph (2).

(d) FURTHER REDRESS.—Except with respect to the claimant-requested binding arbitration method set forth in subsection (c)(1)(B), and notwithstanding any other provision of a law or contractual agreement, a plan enrollee dissatisfied with the determination reached as a result of an alternative dispute resolution method applied under this section may, after the final resolution of the enrollee's claim under the method, bring a cause of action to seek damages or other redress with respect to the claim to the extent otherwise permitted under State law. The results of any alternative dispute resolution procedure are inadmissible at any subsequent trial, as are all statements, offers, and other communications made during such procedures, unless otherwise admissible under State law.

SEC. 103. LIMITATION ON AMOUNT OF ATTORNEY'S CONTINGENCY FEES.

(a) IN GENERAL.—An attorney who represents, on a contingency fee basis, a plaintiff in a medical malpractice liability action may not charge, demand, receive, or collect for services rendered in connection with such action (including the resolution of the claim that is the subject of the action under any alternative dispute resolution system) in excess of—

(1) 33⅓ percent of the first $150,000 of the total amount recovered by judgment or settlement in such action; plus

(2) 25 percent of any amount recovered above the amount described in paragraph (1);

unless otherwise determined under State law. Such amount shall be computed after deductions are made for all the expenses associated with the claim other than those attributable to the normal operating expenses of the attorney.

(b) CALCULATION OF PERIODIC PAYMENTS.—In the event that a judgment or settlement includes periodic or future payments of damages, the amount recovered for purposes of computing the limitation on the contingency fee under subsection (a) may, in the discretion of the court, be based on the cost of the annuity or trust established to make the payments. In any case in which an annuity or trust is not established to make such payments, such amount shall be based on the present value of the payments.

(c) CONTINGENCY FEE DEFINED.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 104. REDUCTION OF AWARDS FOR RECOVERY FROM COLLATERAL SOURCES.

(a) REDUCTION OF AWARD.—The total amount of damages recovered by a plaintiff in a medical malpractice liability action shall be reduced by an amount that equals—

(1) the amount of any payment which the plaintiff has received or to which the plaintiff is presently entitled on account of the same injury for which the damages are awarded, including payment under—

(A) Federal or State disability or sickness programs;

(B) Federal, State, or private health insurance programs;

(C) private disability insurance programs;

(D) employer wage continuation programs; and

(E) any other program, if the payment is intended to compensate the plaintiff for the same injury for which damages are awarded; less

(2) the amount of any premiums or any other payments that the plaintiff has paid to be eligible to receive the payment described in paragraph (1) and any portion of the award subject to a subrogation lien or claim.

(b) SUBROGATION.—The court may reduce a subrogation lien or claim described in subsection (a)(2) by an amount representing reasonable costs incurred in securing the award subject to the lien or claim.

(c) INAPPLICABILITY OF SECTION.—This section shall not apply to any case in which the court determines that the reduction of damages pursuant to subsection (a) would compound the effect of any State law limitation on damages so as to render the plaintiff less than fully compensated for his or her injuries.

SEC. 105. PERIODIC PAYMENT OF AWARDS.

(a) IN GENERAL.—A party to a medical malpractice liability action may petition the court to instruct the trier of fact to award any future damages on an appropriate periodic basis. If the court, in its discretion, so instructs the trier of fact, and damages are awarded on a periodic basis, the court may require the defendant to purchase an annuity or other security instrument (typically based on future damages discounted to present value) adequate to assure payments of future damages.

(b) FAILURE OR INABILITY TO PAY.—With respect to an award of damages described in subsection (a), if a defendant fails to make payments in a timely fashion, or if the defendant becomes or is at risk of becoming insolvent, upon such a showing the claimant may petition the court for an order requiring that remaining balance be discounted to present value and paid to the claimant in a lump-sum.

(c) MODIFICATION OF PAYMENT SCHEDULE.—The court shall retain authority to modify the payment schedule based on changed circumstances.

(d) FUTURE DAMAGES DEFINED.—As used in this section, the term "future damages" means any economic or noneconomic loss other than that incurred or accrued as of the time of judgment.

SEC. 106. CONSTRUCTION.

Nothing in this title shall be construed to preempt any State law that sets a maximum limit on total damages.

PART 2—OTHER PROVISIONS RELATING TO MEDICAL MALPRACTICE LIABILITY

SEC. 201. STATE MALPRACTICE REFORM DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—The Secretary shall award grants to States for the establishment of malpractice reform demonstration projects in accordance with this section. Each such project shall be designed to assess the fairness and effectiveness of one or more of the following models:

(1) No-fault liability.

(2) Enterprise liability.

(3) Practice guidelines.

(b) DEFINITIONS.—For purposes of this section:

(1) MEDICAL ADVERSE EVENT.—The term "medical adverse event" means an injury that is the result of medical management as opposed to a disease process that creates disability lasting at least one month after discharge, or that prolongs a hospitalization for more than one month, and for which compensation is available under a no-fault medical liability system established under this section.

(2) NO-FAULT MEDICAL LIABILITY SYSTEMS.—The terms "no-fault medical liability system" and "system" mean a system established by a State receiving a grant under this section which replaces the common law tort liability system for medical injuries with respect to certain qualified health care organizations and qualified insurers and which meets the requirements of this section.

(3) PROVIDER.—The term "provider" means physician, physician assistant, or other individual furnishing health care services in affiliation with a qualified health care organization.

(4) QUALIFIED HEALTH CARE ORGANIZATION.—The term "qualified health care organization" means a hospital, a hospital system, a managed care network, or other entity determined appropriate by the Secretary which elects in a State receiving a grant under this section to participate in a no-fault medical liability system and which meets the requirements of this section.

(5) QUALIFIED INSURER.—The term "qualified insurer" means a health care malpractice insurer, including a self-insured qualified health care organization, which elects in a State receiving a grant under this section to participate in a no-fault medical liability system and which meets the requirements of this section.

(6) ENTERPRISE LIABILITY.—The term "enterprise liability" means a system in which State law imposes malpractice liability on the health plan in which a physician participates in place of personal liability on the physician in order to achieve improved quality of care, reductions in defensive medical practices, and better risk management.

(7) PRACTICE GUIDELINES.—The term "practice guidelines" means guidelines established by the Agency for Health Care Policy and Research pursuant to the Public Health Service Act or this Act.

(c) APPLICATIONS BY STATES.—

(1) IN GENERAL.—Each State desiring to establish a malpractice reform demonstration project shall submit an application to the Secretary at such time and in such manner as the Secretary shall require.

(2) CONTENTS OF APPLICATION.—An application under paragraph (1) shall include—

(A) an identification of the State agency or agencies that will administer the demonstration project and be the grant recipient of funds for the State;

(B) a description of the manner in which funds granted to a State will be expended and a description of fiscal control, accounting, and audit procedures to ensure the proper dispersal of and accounting for funds received under this section; and

(C) such other information as the Secretary determines appropriate.

(3) CONSIDERATION OF APPLICATIONS.—In reviewing all applications received from States desiring to establish malpractice demonstration projects under paragraph (1), the Secretary shall consider—

(A) data regarding medical malpractice and malpractice litigation patterns in each State;

(B) the contributions that any demonstration project will make toward reducing malpractice and costs associated with health care injuries;

(C) diversity among the populations serviced by the systems;

(D) geographic distribution; and

(E) such other criteria as the Secretary determines appropriate.

(d) EVALUATION AND REPORTS.—

(1) BY THE STATES.—Each State receiving a grant under this section shall conduct ongoing evaluations of the effectiveness of any demonstration project established in such State and shall submit an annual report to the Secretary concerning the results of such evaluations at such times and in such manner as the Secretary shall require.

(2) BY THE SECRETARY.—The Secretary shall submit an annual report to Congress concerning the fairness and effectiveness of the demonstration projects conducted under this section. Such report shall analyze the reports received by the Secretary under paragraph (1).

(e) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) LIMITATIONS ON EXPENDITURES.—

(A) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the amount of each grant awarded to a State under this section may be used for administrative expenses.

(B) WAIVER OF COST LIMITATIONS.—The limitation under subparagraph (A) may be waived as determined appropriate by the Secretary.

(f) ELIGIBILITY FOR NO-FAULT DEMONSTRATION.—A State is eligible to receive a no-fault liability demonstration grant if the application of the State under subsection (c) includes—

(1) an identification of each qualified health care organization selected by the State to participate in the system, including—

(A) the location of each organization;

(B) the number of patients generally served by each organization;

(C) the types of patients generally served by each organization;

(D) an analysis of any characteristics of each organization which makes such organization appropriate for participation in the system;

(E) whether the organization is self-insured for malpractice liability; and

(F) such other information as the Secretary determines appropriate;

(2) an identification of each qualified insurer selected by the State to participate in the system, including—

(A) a schedule of the malpractice insurance premiums generally charged by each insurer under the common law tort liability system; and

(B) such other information as the Secretary determines appropriate;

(3) a description of the procedure under which qualified health care organizations and insurers elect to participate in the system;

(4) a description of the system established by the State to assure compliance with the requirements of this section by each qualified health care organization and insurer; and

(5) a description of procedures for the preparation and submission to the State of an annual report by each qualified health care organization and qualified insurer participating in a system that shall include—

(A) a description of activities conducted under the system during the year; and

(B) the extent to which the system exceeded or failed to meet relevant performance standards including compensation for and deterrence of medical adverse events.

(g) ELIGIBILITY FOR ENTERPRISE LIABILITY DEMONSTRATION.—A State is eligible to receive an enterprise liability demonstration grant if the State—

(1) has entered into an agreement with a health plan (other than a fee-for-service plan) operating in the State under which the plans assumes legal liability with respect to any medical malpractice claim arising from the provision of (or failure to provide) services under the plan by any physician participating in the plan; and

(2) has provided that, under the law of the State, a physician participating in a plan that has entered into an agreement with the State under paragraph (1) may not be liable in damages or otherwise for such a claim and the plan may not require such physician to indemnify the plan for any such liability.

(h) ELIGIBILITY FOR PRACTICE GUIDELINES DEMONSTRATION.—A State is eligible to receive a practice guidelines demonstration grant if the law of the State provides that in the resolution of any medical malpractice action, compliance or non-compliance with an appropriate practice guideline shall be admissible at trial as a rebuttable presumption regarding medical negligence.

Mr. KENNEDY. Mr. President, at an appropriate time on Monday, I intend to offer two second-degree amendments to the McConnell amendment. I have already described them briefly; one would clarify that this bill does not preempt State law, while the other would be a complete substitute consisting of the malpractice subtitle of the Health Care Reform Act favorably reported by the Labor Committee last year.

I will file them at this time so that they are available for review by the membership.

SNOWE AMENDMENT NO. 608

Ms. SNOWE proposed an amendment to amendment No. 603 proposed by Mr. McConnell to the amendment No. 596 proposed by Mr. Gorton to the bill H.R. 956, supra; as follows:

On p. 14, line 22, insert:

In section 15 of the amendment, strike subsection (e) and insert the following new subsection:

(e) Limitation on Amount.—

(1) In general.—The amount of punitive damages that may be awarded to a claimant in a health care liability action that is subject to this title shall not exceed 2 times the sum of—

(A) the amount awarded to the claimant for economic loss; and

(B) the amount awarded to the claimant for noneconomic loss.

(2) Application by court.—This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

KYL AMENDMENT NO. 609

Mr. KYL proposed an amendment to amendment No. 603 proposed by Mr. McConnell to amendment No. 596 proposed by Mr. Gorton to the bill, H.R. 956, supra; as follows:

SEC. . FAIR COMPENSATION FOR NONECONOMIC LOSSES AND PUNITIVE DAMAGES.

(a) Full Compensation for Noneconomic Losses.—Notwithstanding any other provision of this Act, an attorney who represents, on a contingency fee basis, a claimant in a civil action in a Federal or State court may not charge, demand, receive, or collect for services rendered in connection with such action on any amount recovered by judgment or settlement under such action for noneconomic losses in excess of 25 percent of the first $250,000 (or portion thereof) recovered, based on after-tax recovery.

(b) Attorney Fees for Punitive Damages.—With respect to any award or settlement for punitive damages, an attorney's fee, if any, received by an attorney who represents, on a contingency fee basis, a claimant in a civil action in a Federal or State court shall be established by the court based on the work performed by the attorney, and shall be ethical and reasonable. It shall be a rebuttable presumption that an ethical and reasonable attorney's fee in such an action is 25 percent of such award for punitive damages.

(c) Contingency Fee Defined.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of losses or damages, whether through judgment or settlement.

COLORADO RIVER BASIN SALINITY CONTROL AMENDMENTS ACT

DOMENICI AMENDMENT NO. 610

Mr. KYL (for Mr. Domenici) proposed an amendment to the bill (S. 523) to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes; as follows:

On page 7, strike "such paragraph" on line 1, and insert the following: "such paragraph. Notwithstanding subsection (b), the Secretary may implement the program under paragraph 202(a)(6) only to the extent and in such amounts as are provided in advance in appropriations Acts."

NOTICE OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Government Affairs, will hold hearings on the Navy T-AO-187 *Kaiser* class oiler contract.

This hearing will take place on Tuesday, May 2, 1995 at 10 a.m. and on Thursday, May 4 at 10 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Harold Damelin of the subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, April 27, 1995, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to approve the creation and jurisdiction of a new subcommittee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, April 27, 1995, for purposes of conducting a Full Committee hearing which is scheduled to begin at 9:45 a.m. The purpose of this hearing is to consider S. 537 and H.R. 402, to amend the Alaska Native Claims Settlement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet on Thursday, April 27, 1995, beginning at 9:30 a.m. in room SD-215, to conduct our final hearing on welfare reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 27, 1995, at 10 a.m. to hold a hearing on The Future of NATO.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, April 27, 1995 at 8 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, April 27, 1995 at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to hold a hearing on Thursday, April 27, 1995, at 9:30 a.m. The focus of the hearing is the Small Business Administration's 7(a) Business Loan Program.

For further information, please contact Paul Cooksey at 224-5175.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Education of the Committee on Labor and Human Resources be authorized to meet for a hearing on Overview of Vocational Education, during the session of the Senate on Thursday, April 27, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING OPPORTUNITY AND COMMUNITY DEVELOPMENT

Mr. GORTON. Mr. President, I ask unanimous consent that Subcommittee on Housing Opportunity and Community Development, of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 27, 1995, at 9:30 a.m., to conduct a hearing on the Reinvention of HUD and Redirection of Housing Policy.

The Presiding Officer. Without objection, it so ordered.

SUBCOMMITTEE ON READINESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 9 a.m. on Thursday, April 27, 1995, in open session, to receive testimony on the Near and Long Term Readiness of the Armed Forces as It Relates to the Future Years Defense Plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, WASTE CONTROL AND RISK ASSESSMENT

Mr. GORTON. Mr. President. I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be granted permission to conduct an oversight hearing Thursday, April 27, 9 a.m. regarding the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PRESIDENTIAL SERVICE AWARD FOR SAFEHAVEN

• Mr. HATFIELD. Mr. President, today, Ms. Nellie Bradwell and Ms. Joyce Adams are in Washington, DC, on behalf of SAFEHAVEN of Portland, OR, to accept a 1995 Presidential Service Award which will be presented by President Clinton. I would like to take a moment of the Senate's time to congratulate the volunteers of SAFEHAVEN, a latchkey program serving at-risk youth ages 5 to 12 in Portland's inner-city.

The Points of Light Foundation, which selects annual award winners, is dedicated to promoting voluntarism, increasing the activity of local volunteer centers and assuring the public knows that volunteers are key components of a healthy and happy community. This year, 18 individuals and organizations have been selected to receive the prestigious President's Service Award out of over 3,000 nominations.

Ms. Bradwell, Ms. Adams and all of SAFEHAVEN's volunteers provide a safe and nurturing environment for at-risk youth after school and on Saturdays. The area they serve in the inner-northeast part of Portland has one of the city's highest juvenile crime rates, and SAFEHAVEN is attempting to make a positive change. While helping to meet the material needs of its participants, their program offers recreational activities, educational development and church services.

SAFEHAVEN is already making plans to continue their services through participants' high school years and provide a summer youth camp. I am deeply grateful to all of SAFEHAVEN's volunteers. Serving as teachers, mentors and friends they are having a positive impact on Portland's youth and community; an impact which is sure to be lasting.•

GAMBLING

• Mr. SIMON. Mr. President, the Washington Monthly recently, in an editorial, had a column by Roman Genn and a comment about gambling in the United States and its spread.

This has been a growing phenomenon in our country, and we have not examined what its impact will be on the future of our country.

The article points out some of the problems.

I introduced a bill in the last session of Congress, and I have introduced a bill also in this session to set up a commission to look at this matter.

Obviously, we are not going to eliminate legal gambling in our society. But I believe we should know what we are doing in terms of its total impact.

I ask that the Washington Monthly item be printed in the RECORD.

The article follows:

> Guess what the fastest growing business in America is? Gambling. About $330 billion was legally bet last year, reports NBC's Roger O'Neil, which is more than the defense budget and about what Social Security costs. Thirty-seven states and the District of Columbia have legalized lotteries; 20 states have casinos that are owned by Native Americans; and 10 states have licensed either casinos or riverboats. In Iowa, every man, woman, and child is within a two-hour drive of a casino. Here in the District of Columbia, the lottery is pushed by hard-sell television commercials designed to encourage gambling. This is crazy. It's also evil. Why not have state-sponsored opium dens with TV commercials promoting blissful oblivion? There is a reasonable argument for the state to offer gambling and dope to those who are determined to partake of those dubious pleasures, but it is outrageous to advertise them in a way that could tempt those who might otherwise choose to say no. . . .•

TRIBUTE TO ADM. STANLEY ARTHUR

• Mr. WARNER. Mr. President, I rise today to recognize the dedication, public service and patriotism of Adm. Stanley Arthur, USN, vice chief of naval operations, who has served our Nation so well over the 37-year career. Admiral Arthur will retire from the Navy on June 1, 1995.

A native of San Diego, CA, Admiral Arthur entered the U.S. Navy through the Naval Reserve Officer Training Corps Program from Miami University and was commissioned in June of 1957. Designated a naval aviator in 1958, he reported to VS–21 and later was a plank owner of VS–29. Admiral Arthur attended the Naval Postgraduate School where he earned a degree in aeronautical engineering and was assigned as weapons project officer with VX–1.

Following a tour on U.S.S. *Bennington* (CVS–20), he reported to VA–55 aboard U.S.S. *Hancock* (CVA–19). Following that tour, he reported to VA–122 as an A–7 Corsair instructor pilot and maintenance officer.

In 1971, Admiral Arthur reported to VA–164 as executive officer and assumed command a year later while deployed on the U.S.S. *Hancock*. During this tour, he completed over 500 combat missions over Vietnam in the A–4 Skyhawk. Following assignments at the Bureau of Naval Personnel, Admiral Arthur reported aboard U.S.S. *SAN JOSE* (AFS–7) as commanding officer in July 1976. In June of 1978, he assumed command of aircraft carrier U.S.S. *CORAL SEA* (CV–43).

Other significant assignments have included Assistant Chief of Staff for Plans and Policy; Commander in Chief, U.S. Pacific Fleet staff; commander, Carrier Group Seven; director, Aviation Plans and Requirements Division; and director, General Planning and Programming Division in the Office of the Chief of Naval Operations. In February 1988, he was promoted to vice admiral and assumed duties as deputy chief of naval operations for logistics.

In December 1990, Admiral Arthur assumed duties as commander, U.S. Seventh Fleet and commander, U.S. Naval Forces Central Command for Operations Desert Shield and Desert Storm. He directed the operations and tactical movements of more than 96,000 Navy and Marine Corps personnel and 130 U.S. Navy and allied ships, including six aircraft carrier battle groups. This represented the largest U.S. naval armada amassed since World War II. In July 1992, Admiral Arthur assumed his current duties as Vice Chief of Naval Operations during a period marked by major personnel, budgetary, ship and shore infrastructure reductions.

Immediately recognizing the challenges posed by these reductions, Admiral Arthur initiated a comprehensive and in-depth review of warfare requirements, procurements planning, and programming procedures.

Through his personal efforts on the joint requirements oversight council, he was directly responsible for the continued development of a more capable naval force fully interoperable with the Army, Air Force, and allied navies.

Admiral Arthur played a key role in the formulation and implementation of the Navy's support to national policies involving operations restore hope in Somalia, southern watch in the Persian Gulf, and deny flight in the Adriatic. He played a significant role in the Chief of Naval Operations' initiatives to fully integrate women in combat ships and aviation squadrons and has been a strong leader in the Navy's efforts to eradicate sexual harassment from its ranks.

Admiral Arthur's decorations include the Defense Distinguished Service

Medal, Navy Distinguished Service Medal (4 awards), the Legion of Merit (4 awards, one with combat V), the Distinguished Flying Cross (11 awards), the Navy Meritorious Service Medal, individual Air Medal (4 awards), Strike/Flight Air Medal (47 awards), the Navy Commendation Medal (2 awards, 1 with combat V), various foreign personal decorations and individual United States and foreign service and campaign awards.

Admiral Arthur is a true American patriot and a superb naval officer who, throughout his naval career, has lead with courage and integrity. His leadership and performance throughout an intense and demanding period in naval and military history were instrumental in the successful administration of the Navy and outstanding support for naval forces throughout the world. Thanks to his inspirational leadership and selfless dedication to duty, our Navy has remained second to none. While his honorable service will be genuinely missed in the Department of Defense, it gives me great pleasure to recognize Admiral Arthur before my colleagues and wish him and his lovely wife Jennie fair winds and following seas as he concludes a most honorable and distinguished career.•

CBO ESTIMATE ON H.R. 694

• Mr. MURKOWSKI. Mr. President, on April 18, 1995, the Committee on Energy and Natural Resources filed the report to accompany H.R. 694, the Minor Boundary Adjustments Act of 1995.

At the time this report was filed, the Congressional Budget Office had not submitted its budget estimate regarding this measure. The committee has since received this communication from the Congressional Budget Office, and I ask that it be printed in the RECORD.

The estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 20, 1995.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 694, the Minor Boundary Adjustments and Miscellaneous Park Amendments Act of 1995, as ordered reported by the Senate Committee on Energy and Natural Resources on March 29, 1995.

Assuming appropriation of the necessary sums, CBO estimates that implementing H.R. 694 would result in one-time federal costs totaling between $31 million and $32 million, most of which would be spent over the next five years, plus annual costs of between $0.1 million and $0.2 million during that period and about $1.5 million thereafter. Enactment of H.R. 694 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 694 would provide for boundary adjustments at several national parks. The bill also would make a number of changes to National Park Service (NPS) programs. Included are provisions to: extend the life of two advisory commissions; amend the Museum Properties Act of July 1, 1955, to facilitate the disposal of unneeded museum properties; and authorize research and education projects carried out with nonfederal partners through cooperative agreements.

Land Acquisition Costs. CBO estimates that the federal government would spend between $4 million and $5 million over the next two or three fiscal years to acquire lands added to the park system by this bill, including incidental expenses associated with property donations and exchanges.

Development Costs. Lands acquired at three parks (the Yucca House, Hagerman Fossil Beds National Monument, and Shiloh National Military Park) would be used for visitor centers or other facilities. CBO estimates that total planning and construction costs for the three projects would be about $23 million. The bill also would authorize construction of a visitor center near or within the boundaries of the New River Gorge or Gauley River park units. We estimate that development of this facility would cost about $2 million.

Other Costs. Section 204 of the bill would authorize the appropriation of a total of $2 million over an eight-year period beginning on October 1, 1993. These funds would be used to maintain facilities of the William O. Douglas Outdoor Classroom and to finance programs carried out by that entity. Assuming appropriation of the necessary sums, CBO estimates that about $0.3 million would be spent for these activities during each of the six remaining years of the authorization period. In addition, we estimate that annual support for the two advisory commissions extended by Title II would cost the federal government a total of about $20,000 annually beginning in fiscal year 1996.

Finally, costs to operate and maintain all of the new facilities authorized by the bill would be between $0.1 million and $0.2 million annually over the next five years, and would grow to about $1.5 million annually once all development has been completed.

Other provisions of the bill would have no significant impact on federal spending.

For purposes of the above estimates, CBO assumed that H.R. 694 would be enacted by the end of fiscal year 1995 and that funding for all projects or activities would be appropriated as needed. All estimates are based on information provided by the NPS.

Enactment of this legislation would have no impact on the budgets of state of local governments.

Previous CBO Estimate. On February 23, 1995, CBO prepared a cost estimate for H.R. 694 as ordered reported by the House Committee on Resources on February 15, 1995. The estimated costs for provisions that are common to both bills are identical. The Senate version of the legislation, however, contains additional provisions that add $13 million to $14 million to one-time costs and up to $0.5 million to annual expenses.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226-2860.

Sincerely,

JUNE E. O'NEILL,
Director.•

ARMENIAN GENOCIDE

• Mr. LEVIN. Mr. President, Sunday, April 23, marked the commemoration of the 80th anniversary of the 1915–1923 genocide of the Armenian people.

In a world that seems to have gone mad with violent acts of maniacal individuals, from Oklahoma City to Tokyo, we must remember the victims of a government organized terror, the genocide perpetrated by the Turkish Ottoman Empire against the Armenian people.

Eighty years ago this week, the 8-year-long savagery against the Armenian people began.

Each year we remember and honor, the victims, and pay respects to the survivors we still are blessed to have in our midst.

We vow to remember, to always remember the attempt to eliminate the Armenian people from the face of the earth, not for what they had done as individuals, but because of who they were.

History records that the world stood by, although it knew. It knew.

Our Ambassador to the Ottoman Empire, Henry Morgenthau, telegraphed the following message to the American Secretary of State on July 16, 1915:

> Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eyewitnesses it appears that a campaign of race extermination is in progress under the pretext of reprisal against rebellion.

Later, when Ambassador Morgenthau wrote a book about his experiences, he wrote:

> When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race: they understood this well and in their conversations with me they made no particular attempt to conceal the fact.
>
> I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seems almost insignificant when compared to the sufferings of the Armenian race in 1915.

Oh, there were a few voices, there were a few leaders like Winston Churchill who tried to warn us. Churchill wrote the following in 1929:

> In 1915, the Turkish Government began and carried out the infamous general massacre and deportation of Armenians in Asia Minor . . . the clearance of the race from Asia Minor was about as complete as such an act, on a scale so great, could be. There is no reasonable doubt that this crime was planned and executed for political reasons.

But, for the most part, nations did not learn from history—the world looked away and genocidal horrors revisited the planet.

As Elie Weisel said, the Armenians "felt expelled from history."

Hitler counted on the world forgetting the Armenian genocide when he undertook the extermination of the Jewish people.

So the genocide we remember each April, the century's first genocide—is the genocide the world forgot, to its shame and for which it paid dearly.

Each year we vow that the incalculable horrors suffered by the Armenian people will still somehow not be in vain.

We make this solemn vow because we believe that it is within our power to confront evil in the world, and to prevent genocidal attacks on people because of who they are.

That is surely the highest tribute we can pay to the Armenian victims and how the horror and brutality of their deaths can be given redeeming meaning.•

THE 25TH ANNIVERSARY OF EARTH DAY

• Mr. SIMON. Mr. President, Saturday April 21, 1995 marked the 25th anniversary of Earth Day. Created in 1970 by former Wisconsin Senator Gaylord Nelson, Earth Day has played a major role in heightening the awareness of environmental problems in the United States. In the past 25 years, much progress has been made to protect the environment. Congress passed vital laws to clean up our air and water, and to prevent and reduce pollution. We also enacted the Endangered Species Act, which has helped to protect vital plant and animal species in danger of extinction. In addition, Americans have become dedicated recyclers—now collecting upward of 22 percent of our trash in over 6,600 communities. But much work remains to be done—particularly in the field of energy conservation.

The United States is in desperate need of a plan to conserve our energy supply. We are currently more dependent on foreign oil than we were in the 1973 crisis. Nearly one-half of the oil used in the United States is imported, and this has a significant adverse impact on the U.S. balance of trade. Alternative forms of fuel, such as solar energy, need to continue to be explored.

About 10 years ago, former Senator Charles "Mac" Mathias and I visited refugee housing in Nicosia, Cyprus, built 55 percent with American funds. Each house had a solar heating unit on it for hot water. If American taxpayers can help provide solar heating in Cyprus, why not in Carbondale, IL, and Bakersfield, CA. In 1981 my wife and I built a house and made it passive solar. In below-zero weather, we have the experience of a warm house during the daytime, with the furnace kicking on when the sun goes down. Clearly, we could do much more to encourage widespread use of solar energy.

For some years I have also been trying to promote greater research and use of electric cars. Automobile ownership is expected to increase worldwide by up to 50 percent in the next 20 years. If we do not take action, the environmental and energy problems that will result from the use of gasoline-powered cars will be monumental. The resulting air pollution and oil consumption will create problems that simply will be intractable. Widespread use of electric cars would go a long way toward resolving this problem.

I am pleased to report that we are making progress toward widespread use of electric cars. New rules have been adopted in California, New York, and Massachusetts that require 2 percent of the cars sold to be electric starting in 1998.

There is great interest in the electric car abroad. Japan wants to have 200,000 electric cars in use by the year 2000, and Europe will not be far behind. We must encourage U.S. auto companies in every way we can to produce electric cars so that the United States is on the cutting-edge of this technology. This type of conservation effort will be an investment that saves both dollars and energy resources for the future.

The question we need to face is whether we are doing what we should for future generations in environmental matters. Focusing on renewable and alternative energy sources is a good place to start.•

HONORING HARRY WEINROTH

• Mr. LIEBERMAN. Mr. President, I rise today to honor Mr. Harry Weinroth on the occasion of the 50th anniversary of his liberation from concentration camp, April 30, 1995. Mr. Weinroth was born in Sosnowiec, Poland. At the age of 13 he voluntarily entered a concentration camp so that his father would not have to. Throughout the war he was held in several different camps including Buchenwald, Gross Rosen, and Dachau.

Mr. Weinroth lost both parents, grandparents, aunts, uncles, three brothers, and one sister in the camps. Only he and one sister survived, whom he found after the war in Germany. Mr. Weinroth along with his sister came to Stamford, CT, in June 1949. He came to this country with nothing but his trade, watchmaking, and promptly started a small business repairing watches. Over the years Bedford Jewelers has grown into a family retail jewelry store—he works there today with his wife, daughter, and son.

He still resides in Stamford, and is an active member in the community and his synagogue, Congregation Agudath Sholom. He married his wife, Luba, in 1952, whom he met at a displaced persons camp in Germany in 1948. They have two sons and a daughter, and three grandsons to carry on the family name. A 50th anniversary is worth celebrating, yet an anniversary that represents as much as this one should not and will not go unrecognized. I salute Mr. Weinroth for his courage and perseverance in the face of extreme hardship.•

COMMON SENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 609 TO AMENDMENT NO. 603

(Purpose: To provide for full compensation for noneconomic losses in civil actions)

Mr. KYL. Mr. President, I ask unanimous consent that the amendment of the Senator from Maine, No. 608, be set aside so that I may offer an amendment which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows.

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 609 to amendment No. 603:

The amendment is as follows:

At the appropriate place in the amendment insert the following new section:

SEC. . FAIR COMPENSATION FOR NONECONOMIC LOSSES AND PUNITIVE DAMAGES.

(a) FULL COMPENSATION FOR NONECONOMIC LOSSES. Notwithstanding any other provision of this Act, an attorney who represents, on a contingency fee basis, a claimant in a civil action in a Federal or State court may not charge, demand, receive, or collect for services rendered in connection with such action on any amount recovered by judgment or settlement under such action for noneconomic losses in excess of 25 percent of the first $250,000 (or portion thereof) recovered, based on after-tax recovery.

(b) ATTORNEY FEES FOR PUNITIVE DAMAGES.—With respect to any award or settlement for punitive damages, an attorney's fee, if any, received by an attorney who represents, on a contingency fee basis, a claimant in a civil action in a Federal or State court shall be established by the court based on the work performed by the attorney, and shall be ethical and reasonable. It shall be a rebuttable presumption that an ethical and reasonable attorney's fee in such an action is 25 percent of such award for punitive damages.

(c) CONTINGENCY FEE DEFINED.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of losses or damages, whether through judgment or settlement.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I rise to address the question of medical malpractice concerns, and I believe I speak for many Senators in expressing the strong hope that those States that have addressed this question will not have their limitations and their efforts to address this question overruled or overturned.

In 1986, Colorado enacted, or expanded, the following general tort reforms:

Certificate of merit—Requiring a certificate of merit to be filed at the beginning of a case that the plaintiff's attorney has consulted with a qualified expert who based on review of the facts find that the claim has merit or "does not lack substantial justification."

Noneconomic damages limit—Limiting noneconomic damages, for pain and suffering, loss of consortium, and so forth, to $250,000. Colorado does allow a court to find "clear and convincing evidence" to justify an increase from $250,000 to a maximum of $500,000.

Collateral source—Reducing any damage award by the amount of payment by any collateral source which partially or wholly indemnifies or compensates the injured party for their injury. If the injured party purchased the coverage, the reduction is not made, for example personal disability insurance.

Punitive damage limit—Limiting punitive damages to equal actual damages—1 to 1 ratio between compensatory damages and punitive damages—but allowing the court to increase this to 3 times the compensatory damages for continued egregious behavior during pendency of the action. Evidence of the income or net worth of the defendant is not admissible.

Elimination of joint liability—Generally, Colorado eliminated joint liability for tort damages and further enhanced Colorado's comparative negligence system by which defendants are liable only for their pro rata share of damages if the defendant's share is more than that due to the plaintiff's contributory negligence.

Good samaritan liability—Licensed physicians who render emergency assistance are not liable to a person injured unless they were grossly negligent or their conduct was willful and wanton.

Volunteer and nonprofit liability—Generally exempting volunteers and nonprofit organizations from liability, except for willful and wanton misconduct or from liability in an automobile accident to the extent of insurance coverage under the Colorado No-Fault law.

In 1988, Colorado expanded upon these reforms with the Health Care Availability Act. Colorado enacted these reforms to ensure the continued availability of health care, particularly prenatal and obstetrical care, in Colorado. In 1988, facing rapidly escalating malpractice premiums, many doctors were quitting or limiting their practices and Coloradans, particularly in our rural areas, were facing reduced choice and availability in health care.

Under the Colorado Health Care Availability Act, these additional tort reforms were enacted for medical malpractice actions:

Periodic payment of judgments—Requires payment of future damages in excess of $150,000 by periodic payment.

A cap of $1 million on damages—Generally, Colorado now limits damages in a medical malpractice action to a present value of $1 million, inclusive of the $250,000 cap on noneconomic damages. In imposing the cap, the Colorado Legislature made sure that money would be available to injured persons by imposing mandatory malpractice insurance coverage on doctors and hospitals.

Voluntary pretreatment arbitration agreements—Allows a provider and patient to enter into an agreement to arbitrate any dispute over the care before the care is rendered. The Health Care Availability Act sets forth several patient protections in regard to such agreements.

Qualifications of expert witnesses—Generally, the act requires that expert witnesses in a medical malpractice action be licensed in the same medical specialty as the defendant and familiar with the applicable standards of care at the time of the injury.

Punitive damages—Punitive damages against a health care provider cannot be claimed until after the substantial completion of discovery and the plaintiff can establish prima facie proof of fraud, malice or willful and wanton conduct.

Statutes of limitation—The general statute of limitations in Colorado for medical malpractice actions is 2 years from the date of injury, or the date the injury and its cause should reasonably have been known. The Health Care Availability Act reinstituted a "statute of repose" which bars any action for medical malpractice being brought more than 3 years after the date of treatment.

In 1991, the Colorado Supreme Court reviewed and upheld the constitutionality of these reforms in 1991.

The reforms have had their intended effect. Malpractice insurance premiums for most Colorado physicians have been reduced substantially, by 53 percent. For the average Colorado physician, their malpractice premiums were $18,609 in 1986. In 1994, the premiums were reduced to $8,816. For obstetricians in Colorado, the tort reforms reduced malpractice premiums by over $30,000. In 1986, their premiums were an astronomical $62,584, last year they were $31,029. This is $30,000 of overhead that the Colorado OB/GYN's now don't have to cover and it allows them to continue providing health care, and delivering babies, in Colorado.

Colorado is only one of several States that have enacted health care liability reforms. California was the first, or one of the first, with the Medical Injury Compensation Act of 1975. Indiana adopted some other different reforms including a patient-victim compensation fund. Colorado followed the California model in 1988.

Overall: 22 States have enacted limits for damages for pain and suffering; 28 States have either mandatory or discretionary collateral source rules; at least 14 States require periodic payment of large damage awards and 16 States give the option to the court; 15 or so States have adopted medical malpractice arbitration provisions; some 30 States restrict punitive damages, and around 33 have revised or abolished joint and several liability.

It is most important to Colorado, and other States which have enacted them, to get to keep their tort reforms. We can establish a Federal standard in these areas, but States which have enacted more stringent reforms should not be pre-empted by Federal law.

Senator MCCONNELL's amendment allows States to keep their reforms. Most importantly, the McConnell amendment would allow Colorado to keep its $250,000 cap on noneconomic damages and $1 million cap on health care liability damages and numerous of the procedural reforms. However, the McConnell amendment would impose new requirements in Colorado in the area of limitations on attorneys fees, and may impose additional limitations on punitive damages. Where Colorado has acted to impose greater limitations they are allowed to keep them, but where Colorado laws are not as stringent they must follow Federal law.

Mr. President, I want to thank you and I want to thank the other Members of the body.

But I want to make this message clear. What we are talking about is not simply an arbitrary or theoretical exercise in trying to address the medical malpractice question. What we are talking about is an effort that can lead to significant drops in medical malpractice insurance. We are talking about something that will dramatically reduce the overhead of health care providers. We are talking about something that can have a very significant change in what consumers pay.

Thank you, Mr. President.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Arizona.

Mr. KYL. Mr. President, I would now like to discuss the amendment which I have just a moment ago offered, an amendment which will complement what the Senator from Colorado has just spoken of by helping to get health care costs under control, but, more importantly, to put a better balance into the awards that are received in cases where today the attorney is taking too much of that award and the victim is receiving too little of it.

My amendment is an amendment which provides some very modest limitations on attorneys' fees in the kinds of cases in which very large awards have sometimes been granted and where, by virtue of the fact that the attorneys are awarded a contingent fee or have arranged for a contingent fee contract, they receive a percentage of that award.

It is common in cases of this kind for the percentage to be at least one-third and frequently 50 percent, sometimes even more, of the recovery. That means that if a plaintiff in a case receives $100,000 in an award, the attorney is likely to receive somewhere between

$30,000, $40,000, $50,000, leaving the plaintiff with frequently about half of what is recovered.

There are some statistics in this regard which I would like to refer to which indicate that actually the percentage that the attorneys' fees are taking is even greater. When you add the other administrative fees of the court and so on, you end up with a situation in which the victims frequently get less than half the award the jury thinks they are receiving.

This bill will, I hope, reform a situation that the Wall Street Journal wrote of in an article recently—March 12, specifically—noting that the result is that fees paid to plaintiffs' lawyers can range from $1,000 to $25,000 per hour—Mr. President, per hour. Twenty-five thousand dollars is more than a lot of Americans make in an entire year and yet, as the article notes, some lawyers have made that much per hour spent on a case. That is what we are trying to avoid with this amendment.

A recent Department of Commerce report stated that 40 cents of each dollar expended in litigation is paid in attorneys' fees. A 1994 study by the Hudson Institute found that 50 cents out of each litigation dollar went to attorneys' fees.

So you see, Mr. President, the notion that these attorneys' fees, contingency contracts, or agreements result in almost half, sometimes more than half, of the award going to the attorney are borne out by the studies that have been performed professionally on this matter. And that is what we are trying to change here.

I think, really, Mr. President, for our tort system to retain, or to regain, really, credibility as a fair and equitable dispute-resolution system, it has to be more efficient, less litigious, and we have to ensure that a larger portion of the judgment awards actually goes to the claimants rather than to the attorneys.

Now, some will say when I describe this amendment in just a moment that this is not really much of a limit on attorneys' fees. Those who like to bash lawyers will say you really have not limited them.

My effort here is not to punish lawyers, but it is to try to ensure that more of the money that the jury awards goes into the pocket of the claimant. As I said, today the typical fee is at least a third, frequently at least 50 percent.

I would like now to describe the three different kinds of awards that might be granted in a case and indicate what the percentage in each case would be under the underlying bill and under my amendment.

Under the McConnell amendment, which is essentially pending before us here, the award is limited in a health care liability case, typical medical malpractice case, to one-third of the first $150,000, and 25 percent of any amount in excess of $150,000. So on the first $150,000 you get a third and on anything greater than that you get 25 percent.

Now this guarantees, Mr. President, that there is an adequate incentive for an attorney to take a small case, because for the economic damages—these are damages that repay the doctor, the hospital, and so on and also provides for compensation for any economic losses, time loss from work, inability to perform work in the future and so on—it guarantees that the attorney is going to get a third of the first $150,000 and 25 percent of everything thereafter. So there is adequate compensation for a lawyer to take even a relatively small case.

But cases usually involve another element of damages called non-economic damages. And these are the so-called pain and suffering damages. So that after a person has been compensated for the out-of-pocket expenses to the hospitals and to the physicians and so on and for any lost wages and future lost economic earning power, juries also frequently—in serious cases virtually always—award the claimant a sum of money representing the pain and suffering that that claimant suffered; the hurt, the anguish, the pain.

That award is frequently a multiple of the economic damages. So in many case, most cases, it exceeds the economic damages.

What my amendment says is that the attorneys' fees should be limited to 25 percent of that award up to $250,000. So, in the case of the McConnell amendment, added onto the Kyl amendment on attorneys' fees, you would have essentially either 25 percent or 33 percent as the limitation.

Now, as I say, compared to 50 percent, some people will say, "Well, you haven't really gone down all that much." But since some of the very high awards are in excess of $250,000, we have denied the attorneys their windfall, their lottery award. They are going to get plenty up to the $250,000, but what they will not get is that big bonanza, the jackpot, where they convince the jury that there is such an egregious situation here that the claimant gets, let us say $1 million, and the lawyer then is going to get at least a half a million. No. The claimant in this case would get the bulk of that $1 million, if that is the amount that is awarded.

So what we are saying here is that the lawyer is going to be limited but guaranteed, in effect, a percentage of both the economic damages and non-economic damages, if they are otherwise awardable. They just cannot exceed either 33 percent or 25 percent.

In the case of the noneconomic damages, the pain and suffering damages, they cannot exceed 25 percent of the first $250,000, or in other words, $62,500.

Now in some cases, Mr. President, there is a third kind of award and it is punitive damages. There have been several statements made about punitive damages and ways to limit punitive damages. These are the damages not intended to compensate the victim but rather to punish the defendant for wrong conduct, conduct that is very wrong, that is willful or malicious, is in great disregard of the rights of the public and intended to cause a defendant never to do it again or, in the case of a defective product, for example, to fix that product and never allow a defective product again to hit the market.

In those cases, there are limits in the underlying bill on the amount of punitive damages that can be collected. Under the McConnell amendment, the total award for punitive damages in the medical malpractice kind of case is either $250,000 or three times the economic damages, whichever is greater. The Snowe amendment, which has been presented just before my comments, would limit the total award for punitive damages in these cases to two times compensatory damages, which is the sum of the economic and non-economic damages. In either case, there is some limit on the amount of punitive damages.

The question is, should attorneys receive any percentage of that as well? And what my amendment says is that if the attorney believes that he or she is entitled to a percentage of the punitive damages awards in addition to the other two kinds of awards, that attorney may petition the court and the court may grant reasonable and ethical attorneys' fees based upon the amount of time that the attorney has put into the case.

There is a presumption that 25 percent is reasonable. So, here again, the attorney can petition the court, can get at least 25 percent. A court may even deem that a larger amount would be warranted. But, in any event, it has to be reasonable and ethical and based upon the amount of work that the attorney put in.

So, as I say, Mr. President, some people will say, "Well, this is not much of a limitation. You haven't whacked the attorneys. You haven't cut them out of all of their awards," and so on. And we have not.

The reason we are offering the amendment this way is to guarantee that people who have a good case can get a lawyer to take their case, and with these limitations they can clearly get the lawyers to take their case.

But what it prevents is the situation where the lawyer gets the bulk of the recovery and, in the case of the very large award, hits the jackpot, gets the big bonanza, in effect.

The objectives of the overall legislation, Mr. President, are, first of all, to ensure that people can be compensated in our tort system. This bill helps to guarantee that result.

We need incentives for lawyers to take these kinds of cases which frequently the plaintiff cannot pay for by the hourly rate or money up front to the lawyer, so there has to be a contingency fee. We provide for that.

We need to ensure that in the case of the economic damages, the lawyer is limited in how much of those economic damages can be recovered as attorney's fees. That is limited in the underlying bill.

We are saying that with respect to the pain and suffering damages, most of that ought to go to the victim. Seventy-five percent of it ought to go to the victim, the claimant, the plaintiff. But, again, we allow up to $250,000 of noneconomic damages, the recovery of 25 percent of that amount by the attorney and, as I said, in punitive damages, the opportunity to collect fees there, as well.

So the real question is whether lawyers should be getting 50 percent, or somewhere between 25 and 33 percent. And I think, Mr. President, that this body will agree that placing some cap, some limit, is desirable and that it will help us to avoid the situation that causes a great deal of public anger, frankly, with our litigation process.

Ironically, I think we might even help the legal profession, which is being greatly criticized by the public in public opinion surveys these days primarily because of their fees. There is a Hudson Institute study which notes that there has been a doubling of negative attitudes toward lawyers since 1986 and that exorbitant attorney's fees are a major factor in this increase in the public's ill will for lawyers.

Ironically, we may even be helping the legal profession, and that is not all bad, either. We will be debating this amendment, and others, on Monday next, and I hope very much that all of the Members of the Senate will reflect on how this amendment, narrow that it is, will improve the bill, will improve the McConnell amendment, and will improve the pending amendment before the body and, as I said, allow the victims to recover more of what the juries award to them.

Mr. President, I will debate and present further arguments with respect to this matter on Monday. At this time, I would like to make a closing statement on behalf of the leader.

ORDERS FOR MONDAY, MAY 1, 1995

Mr. KYL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Monday, May 1, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator GREGG, 30 minutes; Senator GRAMS, 15 minutes.

Further, that at 12 noon, the Senate immediately resume consideration of H.R. 956, the product liability bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. KYL. Mr. President, for the information of all of our colleagues, the leader has asked me to announce that the Senate will return to session on Monday. However, there will be no rollcall votes during Monday's session. Under the order, any Member who wishes to offer a medical malpractice amendment must offer and debate that amendment on Monday. Any votes ordered on any of those amendments will be stacked to occur at 11 a.m. on Tuesday.

ADJOURNMENT UNTIL MONDAY, MAY 1, 1995, AT 11 A.M.

Mr. KYL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:14 p.m., adjourned until Monday, May 1, 1995, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate April 27, 1995:

THE JUDICIARY

GEORGE H. KING, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

DONALD C. NUGENT, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO, VICE THOMAS D. LAMBROS, RETIRED.

HOUSE OF REPRESENTATIVES—*Monday, May 1, 1995*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mrs. WALDHOLTZ].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 1, 1995.

I hereby designate the Honorable ENID G. WALDHOLTZ to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

RECESS IN SOUTHWEST FLORIDA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Madam Speaker, the House has just completed a district work period, as Members know. Members are returning to Washington as we speak. The district work period is a time we all go home and listen to what the people we work for have to say. We reflect on what has been accomplished here in Washington. We report back to them. We get a little bit of a report card on how things should be done and instructions about what it is that the people that we work for would like us to try and achieve as we go forward with the congressional agenda.

This year's spring break tragically, as we all know, was overshadowed by the terrible bomb blast that occurred April 19 in Oklahoma City. Our hearts and our prayers go out to the victims, their families, the entire Oklahoma community, and all the extraordinary Americans who have rallied together in this time of crisis. So many people were touched by this tragedy. Even in remote southwest Florida that I represent the grief was felt in families who lost loved ones who were killed in the blast. We certainly applaud the efforts of the President, Federal and local law enforcement, and Members of this Congress in coming together to bring the perpetrators to justice and explore the challenge of preventing such a tragedy from recurring again.

Madam Speaker, I spent a good part of the break meeting with citizens in Florida, from small business owners and operators to students, to representatives of the media, a broad cross section of the people who make things tick in our small corner of America. It was an extremely valuable period of dialog for me, a time to share ideas and reflect on where we as a nation need to be headed. The timing of the recess—which we all know included the tax filing deadline of April 17—helped focus people's attention on the functions of their Federal Government and the need for change in the way we conduct the Nation's business. Just about everywhere I went in my travels throughout the district and beyond the district as well, people were encouraged by the changes that are taking place up here in Congress in terms of increased efficiency, streamlined operations, less Government interference in their daily life, and maybe even achieving a better return to citizens for their hard-earned tax dollars in the way we spend them. But there was also growing interest in tackling the challenge of reforming our tax system in a comprehensive way, and I suspect that may have had something to do with the fact that people were trying to understand those very difficult instruction forms at the last minute on April 15 when they were rushing to get in even before the extended deadline of April 17 this year. I think most people recognize that our current tax structure is inefficient, it is unfair, and it is largely incomprehensive certainly to the average American if they try and read the instructions. The paperwork alone is enough to ruin anyone's day, and the feeling is pervasive that many filers are paying too much and do not see a fair return on the investment they are required to make, and I think many agree that taxes are not moneys that are always well spent by Washington.

In fact, it was while I was home over this break that I received a note from our UPS delivery person who brought a package to my house. He scribbled his message right on the little yellow delivery ticket one gets right over the printed instructions so I could not read it exactly, but the sentiment was very clear. It said: "Today's tax system is unfair and needs to be changed." This particular citizen urged my support for a flat tax, an option that is gaining in popularity and deserves our close attention. There are, in fact, many possibilities for tax overhaul, including not just the flat tax, or some version of it, but the national sales tax and other variations on those themes. I am pleased that the chairman of the House Committee on Ways and Means and the House majority leader have committed to beginning the dialog of tax reform this year, with the possibility of real change by next year. That would certainly be a welcome relief by the time April 15 came around.

This is a discussion that affects every American, and I hope the national dialog will help to educate us all about the pros and cons of the options out there.

We understand the problem. We just do not know what the best solution is yet, and I think that that ought to be at the top of our agenda. I think it is clear from those of us who went home and took the pulse that America is ready for bold change. It is time to stop fooling around at the edges of some of these systems and start constructing new systems that are fairer and more efficient. Everybody I talked to one way our the other, when we got on the subject of taxation, said, "How about a better deal with our taxes? How about a system that we can understand?"

Well, Madam Speaker, how about it? As we tackle the budget process, can we include tax reform? I think the people we work for have asked us to do that, and I can see no reason at all why we should not. So how about it? Let us take on tax reform.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 37 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 p.m.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O loving God, we come together on this day and we recount with thanksgiving all the blessings You have bestowed upon Your people. Yet, we are painfully aware of the suffering of people whose lives have been devastated and whose families have been destroyed. We especially remember with our thoughts and prayers the people of Oklahoma City who have suffered such distress and misery. We pray that Your good spirit that supports and gives hope even in tragedy will be with them in their grief and give healing to their souls. We pray also for all those valiant people who have done so much to rescue those in need and who have risked their own lives to save others. May Your peace, gracious God, that passes all human understanding, be with all Your people, this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will lead the membership in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a resolution of the following title, in which the concurrence of the House is requested:

S. RES. 111

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable John C. Stennis, late a Senator from the State of Mississippi.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Senator.

The message also announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 421. An act to amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet Region, and for other purposes; and

H.R. 517. An act to amend title V of Public Law 96-550, designating the Chaco Culture Archeological Protection Sites, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1158. An act making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1158) "An act making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATFIELD, Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. GRAMM, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. MACK, Mr. BURNS, Mr. SHELBY, Mr. JEFFORDS, Mr. GREGG, Mr. BENNETT, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KERREY, Mr. KOHL, and Mrs. MURRAY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 268. An act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes;

S. 349. An act to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program,

S. 441. An act to reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes;

S. 523. An act to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes; and

S.J. Res. 32. Joint resolution expressing the concern of the Congress regarding certain recent remarks that unfairly and inaccurately maligned the integrity of the Nation's law enforcement officers.

The message also announced, that in accordance with Public Law 99-498, section 1505(a)(1)(B)(ii), the Chair, on behalf of the President pro tempore, appoints Mr. DOMENICI to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

The message also announced, that pursuant to the provisions of Public Law 99-93, as amended by Public law 99-151, the Chair, on behalf of the Vice President, appoints Mr. GRASSLEY as a member and chairman of the United States Senate Caucus on International Narcotics Control.

The message also announced, that in accordance with Public Law 99-498, section 1505(a)(1)(B)(ii), the Chair, on behalf of the President pro tempore, appoints Mr. INOUYE to the Board of Trustees of the Institute of American Indian and Alaska Native culture and Arts Development.

The message also announced that pursuant to Public Law 96-388, as amended by Public Law 97-84, the Chair, on behalf of the President pro tempore appoints Mr. GRASSLEY, to the United States Holocaust Memorial Council, vice Mr. METZENBAUM.

The message also announced that pursuant to Public Law 94-304, as amended by Public Law 99-7, the Chair, on behalf of the Vice President, appoints Mr. LAUTENBERG, Mr. REID, and Mr. GRAHAM, to the Commission on Security and Cooperation in Europe.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mrs. WALDHOLTZ) laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 25, 1995.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate, on Tuesday, April 25, 1995 at 9:40 a.m.: that the Senate passed without amendment H.R. 1380.

With great respect, I am
Sincerely yours,
ROBIN H. CARLE,
Clerk, U.S. House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills on Friday, April 7, 1995:

H.R. 889. Making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes;

S. 178. To amend the Commodity Exchange Act to extend the authorization for the Commodity Futures Trading Commission, and for other purposes;

S. 244. To further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes;

And the Speaker pro tempore signed the following enrolled bill on Wednesday, April 12, 1995:

H.R. 1345. To eliminate budget deficits and management inefficiencies in the government of the District of Columbia through the establishment of the District of Columbia financial responsibility and management assistance authority, and for other purposes.

COMMUNICATION FROM THE HONORABLE PATRICIA SCHROEDER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. PATRICIA SCHROEDER, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 7, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to rule L (50) of the Rules of the House that my office has received a subpoena for testimony and documents concerning constituent casework. The subpoena was issued by the County Court, City and County of Denver, Colorado.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

PAT SCHROEDER,
Congresswoman.

PERMISSION TO FILE PRIVILEGED REPORT ON RULE FOR CONSIDERATION OF H.R. 655, HYDROGEN FUTURE ACT OF 1995

Mr. SOLOMON. Madam Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report on a rule for the consideration of H.R. 655, the Hydrogen Future Act of 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMEMORATING THE 30TH ANNIVERSARY OF THE DISAPPEARANCE OF COL. CHARLES SHELTON

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Madam Speaker, I rise today to honor an American hero who disappeared 30 years ago.

Charles Shelton was an Owensboro, KY native who was shot down over Laos April 29, 1965—his 33d birthday.

His Air Force plane crash-landed, and he even made radio contact with friendly forces before being captured. Several reports describe Colonel Shelton's escape and recapture—as well as other sightings—well into the 1980's.

Last year, after his children petitioned the Pentagon, Colonel Shelton's status was changed to presumed dead. He was the last American POW of the Vietnam war.

Last year Charles Shelton was eulogized at the grave site of his wife, Mariam, in Arlington National Cemetery.

Saturday, his friends and family began work on a memorial on the lawn of the Daviess County Courthouse. It is a fitting honor for an American hero.

I rise today to remind my colleagues and the American people of the bravery of Charles Shelton—and to ask that the sacrifices of the Shelton family and so many others not be forgotten.

CORRECTING CNN'S STATEMENTS ABOUT THE NATIONAL GUARD

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Madam Speaker, Cable News Network anchor Bernard Shaw made an inaccurate statement last night during CNN's program in observance of the 20th anniversary of the end of the Vietnam war. He was explaining how five National Guardsmen from one small town in Kentucky got killed in the war and then he said the National Guard rarely goes overseas to combat.

That is totally wrong. The only reason more National Guardsmen were not used in Vietnam was that President Johnson wanted to keep them home to control antiwar riots in the States.

The fact is that the National Guard has been involved in overseas combat missions for more than half a century. Four of the 12 divisions landing in Europe on D-day were National Guardsmen and the 29th National Guard Division lost 2,000 men in 1 day at Omaha Beach.

President Bush sent 106,000 young National Guardsmen and reservists to the Persian Gulf war. They fought alongside the Active Forces on the ground and in the air during that war.

And even today, the National Guard and Reserve are flying missions over and into the war-torn country of Bosnia.

The fact is that the Active Forces cannot go anywhere in the world today without the National Guard and Reserve.

I think CNN owes it to these men and women, their families, and the American people to set the record straight on this issue.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

[Mr. HOYER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

[Mrs. SCHROEDER addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess for approximately 5 minutes.

Accordingly (at 2 o'clock and 11 minutes p.m.), the House stood in recess for approximately 5 minutes.

□ 1419

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mrs. WALDHOLTZ] at 2 o'clock and 19 minutes p.m.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislation program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MONTGOMERY) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mrs. SCHROEDER, for 5 minutes, today.

(The following Member (at the request of Mr. MONTGOMERY) to revise and extend his remarks and include extraneous material:)

Mr. ROBERTS, for 5 minutes, on May 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MONTGOMERY) and to include extraneous matter:)

Mr. TOWNS in eight instances.
Mr. MONTGOMERY.
Mr. SKELTON.
Mr. LAFALCE.
Mr. ACKERMAN.
Mr. STARK.
Mr. STUDDS.
Mr. BARCIA in two instances.
Mrs. MEEK of Florida.

(The following Members (at the request of Mr. MONTGOMERY) and to include extraneous matter:)

Mr. MARTINI.
Mr. DAVIS.
Mr. FIELDS of Texas.
Mr. CRANE.
Mr. SOLOMON in five instances.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Administration, reported that that committee has examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 889. An act making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes; and

H.R. 1345. An act to eliminate budget deficits and management inefficiencies in the government of the District of Columbia through the establishment of the District of Columbia Financial Responsibility and Management Assistance Authority, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 178. An act to amend the Commodity Exchange Act to extend the authorization for the Commodity Futures Trading Commission, and for other purposes; and

S. 244. An act to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On April 7, 1995:

H.R. 889. An act making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

On April 12, 1995:

H.R. 1345. An act to eliminate budget deficits and management inefficiencies in the government of the District of Columbia through the establishment of the District of Columbia Financial Responsibility and Management Assistance Authority, and for other purposes.

ADJOURNMENT

Mr. MONTGOMERY. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 20 minutes p.m.), the House adjourned, under its previous order, until tomorrow, Tuesday, May 2, 1995, at 9:30 a.m.

OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Members of the 104th Congress, pursuant to the provisions of 2 U.S.C. 25:

ALABAMA

1. Sonny Callahan.
2. Terry Everett.
3. Glen Browder.
4. Tom Bevill.
5. Robert E. (Bud) Cramer, Jr.
6. Spencer Bachus.
7. Earl F. Hilliard.

ALASKA

At Large

Don Young.

ARIZONA

1. Matt Salmon.
2. Ed Pastor.
3. Bob Stump.
4. John B. Shadegg.
5. Jim Kolbe.
6. J. D. Hayworth.

ARKANSAS

1. Blanche Lambert Lincoln.
2. Ray Thornton.
3. Y. Tim Hutchinson.
4. Jay Dickey.

CALIFORNIA

1. Frank Riggs.
2. Wally Herger.
3. Vic Fazio.
4. John T. Doolittle.
5. Robert T. Matsui.
6. Lynn C. Woolsey.
7. George Miller.
8. Nancy Pelosi.
9. Ronald V. Dellums.
10. Bill Baker.
11. Richard W. Pombo.
12. Tom Lantos.
13. Fortney Pete Stark.
14. Anna G. Eshoo.
15. Norman Y. Mineta.
16. Zoe Lofgren.
17. Sam Farr.
18. Gary A. Condit.
19. George P. Radanovich.
20. Calvin M. Dooley.
21. William M. Thomas.
22. Andrea H. Seastrand.
23. Elton Gallegly.
24. Anthony C. Beilenson.
25. Howard P. "Buck" McKeon.
26. Howard L. Berman.
27. Carlos J. Moorhead.
28. David Dreier.
29. Henry A. Waxman.
30. Xavier Becerra.
31. Matthew G. Martinez.
32. Julian C. Dixon.
33. Lucille Roybal-Allard.
34. Esteban Edward Torres.
35. Maxine Waters.
36. Jane Harman.
37. Walter R. Tucker III.
38. Stephen Horn.
39. Edward R. Royce.
40. Jerry Lewis.
41. Jay Kim.
42. George E. Brown, Jr.
43. Ken Calvert.
44. Sonny Bono.
45. Dana Rohrabacher.
46. Robert K. Dornan.
47. Christopher Cox.
48. Ron Packard.
49. Brian P. Bilbray.
50. Bob Filner.
51. Randy "Duke" Cunningham.
52. Duncan Hunter.

COLORADO

1. Patricia Schroeder.
2. David E. Skaggs.
3. Scott McInnis.
4. Wayne Allard.
5. Joel Hefley.
6. Dan Schaefer.

CONNECTICUT

1. Barbara B. Kennelly.
2. Sam Gejdenson.
3. Rosa L. DeLauro.
4. Christopher Shays.
5. Gary A. Franks.
6. Nancy L. Johnson.

DELAWARE

At Large

Michael N. Castle.

FLORIDA

1. Joe Scarborough.
2. Douglas "Pete" Peterson.
3. Corrine Brown.
4. Tillie K. Fowler.
5. Karen L. Thurman.
6. Cliff Stearns.
7. John L. Mica.
8. Bill McCollum.
9. Michael Bilirakis.
10. C.W. Bill Young.
11. Sam Gibbons.
12. Charles T. Canady.
13. Dan Miller.
14. Porter J. Goss.
15. Dave Weldon.
16. Mark Adam Foley.
17. Carrie P. Meek.
18. Ileana Ros-Lehtinen.
19. Harry Johnston.
20. Peter Deutsch.
21. Lincoln Diaz-Balart.
22. E. Clay Shaw, Jr.
23. Alcee L. Hastings.

GEORGIA

1. Jack Kingston.
2. Sanford D. Bishop, Jr.
3. Mac Collins.
4. John Linder.
5. John Lewis.
6. Newt Gingrich.
7. Bob Barr.
8. Saxby Chambliss.
9. Nathan Deal.
10. Charlie Norwood.
11. Cynthia A. McKinney.

HAWAII

1. Neil Abercrombie.
2. Patsy T. Mink.

IDAHO

1. Helen Chenoweth.
2. Michael D. Crapo.

ILLINOIS

1. Bobby L. Rush.
2. Mel Reynolds.
3. William O. Lipinski.
4. Luis V. Gutierrez.
5. Michael Patrick Flanagan.
6. Henry J. Hyde.
7. Cardiss Collins.
8. Philip M. Crane.
9. Sidney R. Yates.
10. John Edward Porter.
11. Jerry Weller.
12. Jerry F. Costello.
13. Harris W. Fawell.
14. J. Dennis Hastert.
15. Thomas W. Ewing.
16. Donald A. Manzullo.
17. Lane Evans.
18. Ray LaHood.
19. Glenn Poshard.
20. Richard J. Durbin.

INDIANA

1. Peter J. Visclosky.
2. David M. McIntosh.
3. Tim Roemer.
4. Mark E. Souder.
5. Stephen E. Buyer.
6. Dan Burton.
7. John T. Myers.
8. John N. Hostettler.
9. Lee H. Hamilton.
10. Andrew Jacobs, Jr.

IOWA

1. James A. Leach.
2. Jim Nussle.
3. Jim Lightfoot.
4. Greg Ganske.
5. Tom Latham.

KANSAS

1. Pat Roberts.
2. Sam Brownback.
3. Jan Meyers.
4. Todd Tiahrt.

KENTUCKY

1. Ed Whitfield.
2. Ron Lewis.
3. Mike Ward.
4. Jim Bunning.
5. Harold Rogers.
6. Scotty Baesler.

LOUISIANA

1. Bob Livingston.
2. William J. Jefferson.
3. W. J. (Billy) Tauzin.
4. Cleo Fields.
5. Jim McCrery.
6. Richard H. Baker.
7. James A. Hayes.

MAINE

1. James B. Longley, Jr.
2. John Elias Baldacci.

MARYLAND

1. Wayne T. Gilchrest.
2. Robert L. Ehrlich, Jr.
3. Benjamin L. Cardin.
4. Albert Russell Wynn.
5. Steny H. Hoyer.
6. Roscoe G. Bartlett.
7. Kweisi Mfume.
8. Constance A. Morella.

MASSACHUSETTS

1. John W. Olver.
2. Richard E. Neal.
3. Peter Blute.
4. Barney Frank.
5. Martin T. Meehan.
6. Peter G. Torkildsen.
7. Edward J. Markey.
8. Joseph P. Kennedy II.
9. John Joseph Moakley.
10. Gerry E. Studds.

MICHIGAN

1. Bart Stupak.
2. Peter Hoekstra.
3. Vernon J. Ehlers.
4. Dave Camp.
5. James A. Barcia.
6. Fred Upton.
7. Nick Smith.
8. Dick Chrysler.
9. Dale E. Kildee.
10. David E. Bonior.
11. Joe Knollenberg.
12. Sander M. Levin.
13. Lynn N. Rivers.
14. John Conyers, Jr.
15. Barbara-Rose Collins.
16. John D. Dingell.

MINNESOTA

1. Gil Gutknecht.
2. David Minge.
3. Jim Ramstad.
4. Bruce F. Vento.
5. Martin Olav Sabo.
6. William P. Luther.
7. Collin C. Peterson.
8. James L. Oberstar.

MISSISSIPPI

1. Roger F. Wicker.
2. Bennie G. Thompson.
3. G. V. (Sonny) Montgomery.
4. Mike Parker.
5. Gene Taylor.

MISSOURI

1. William (Bill) Clay.
2. James M. Talent.
3. Richard A. Gephardt.
4. Ike Skelton.
5. Karen McCarthy.
6. Pat Danner.
7. Mel Hancock.
8. Bill Emerson.
9. Harold L. Volkmer.

MONTANA

At Large

Pat Williams.

NEBRASKA

1. Doug Bereuter.
2. Jon Christensen.
3. Bill Barrett.

NEVADA

1. John E. Ensign.
2. Barbara F. Vucanovich.

NEW HAMPSHIRE

1. William H. Zeliff, Jr.
2. Charles F. Bass.

NEW JERSEY

1. Robert E. Andrews.
2. Frank A. LoBiondo.
3. Jim Saxton.
4. Christopher H. Smith.
5. Marge Roukema.
6. Frank Pallone, Jr.
7. Bob Franks.
8. William J. Martini.
9. Robert G. Torricelli.
10. Donald M. Payne.
11. Rodney P. Frelinghuysen.
12. Dick Zimmer.
13. Robert Menendez.

NEW MEXICO

1. Steven Schiff.
2. Joe Skeen.
3. Bill Richardson.

NEW YORK

1. Michael P. Forbes.
2. Rick Lazio.
3. Peter T. King.
4. Dan Frisa.
5. Gary L. Ackerman.
6. Floyd H. Flake.
7. Thomas J. Manton.
8. Jerrold Nadler.
9. Charles E. Schumer.
10. Edolphus Towns.
11. Major R. Owens.
12. Nydia M. Velázquez.
13. Susan Molinari.
14. Carolyn B. Maloney.
15. Charles B. Rangel.
16. José E. Serrano.
17. Eliot L. Engel.
18. Nita M. Lowey.
19. Sue W. Kelly.
20. Benjamin A. Gilman.
21. Michael R. McNulty.
22. Gerald B.H. Solomon.
23. Sherwood L. Boehlert.
24. John M. McHugh.
25. James T. Walsh.
26. Maurice D. Hinchey.
27. Bill Paxon.
28. Louise McIntosh Slaughter.
29. John J. LaFalce.
30. Jack Quinn.
31. Amo Houghton.

NORTH CAROLINA

1. Eva M. Clayton.
2. David Funderburk.
3. Walter B. Jones, Jr.
4. Fred Heineman.
5. Richard Burr.
6. Howard Coble.
7. Charlie Rose.
8. W.G. (Bill) Hefner.
9. Sue Myrick.
10. Cass Ballenger.
11. Charles H. Taylor.
12. Melvin L. Watt.

NORTH DAKOTA

At Large

Earl Pomeroy.

OHIO

1. Steve Chabot.
2. Rob Portman.
3. Tony P. Hall.
4. Michael G. Oxley.
5. Paul E. Gillmor.
6. Frank A. Cremeans.
7. David L. Hobson.
8. John A. Boehner.
9. Marcy Kaptur.
10. Martin R. Hoke.
11. Louis Stokes.
12. John R. Kasich.
13. Sherrod Brown.
14. Thomas C. Sawyer.
15. Deborah Pryce.
16. Ralph Regula.
17. James A. Traficant, Jr.
18. Robert W. Ney.
19. Steven C. LaTourette.

OKLAHOMA

1. Steve Largent.
2. Tom A. Coburn.
3. Bill K. Brewster.
4. J.C. Watts, Jr.
5. Ernest J. Istook, Jr.
6. Frank D. Lucas.

OREGON

1. Elizabeth Furse.
2. Wes Cooley.
3. Ron Wyden.

4. Peter A. DeFazio.
5. Jim Bunn.

PENNSYLVANIA

1. Thomas M. Foglietta.
2. Chaka Fattah.
3. Robert A. Borski.
4. Ron Klink.
5. William F. Clinger, Jr.
6. Tim Holden.
7. Curt Weldon.
8. James C. Greenwood.
9. Bud Shuster.
10. Joseph M. McDade.
11. Paul E. Kanjorski.
12. John P. Murtha.
13. Jon D. Fox.
14. William J. Coyne.
15. Paul McHale.
16. Robert S. Walker.
17. George W. Gekas.
18. Michael F. Doyle.
19. William F. Goodling.
20. Frank Mascara.
21. Phil English.

RHODE ISLAND

1. Patrick J. Kennedy.
2. Jack Reed.

SOUTH CAROLINA

1. Marshall "Mark" Sanford.
2. Floyd Spence.
3. Lindsey O. Graham.
4. Bob Inglis.
5. John M. Spratt, Jr.
6. James E. Clyburn.

SOUTH DAKOTA

At Large

Tim Johnson.

TENNESSEE

1. James H. (Jimmy) Quillen.
2. John J. Duncan, Jr.
3. Zach Wamp.
4. Van Hilleary.
5. Bob Clement.
6. Bart Gordon.
7. Ed Bryant.
8. John S. Tanner.
9. Harold E. Ford.

TEXAS

1. Jim Chapman.
2. Charles Wilson.
3. Sam Johnson.
4. Ralph M. Hall.
5. John Bryant.
6. Joe Barton.
7. Bill Archer.
8. Jack Fields.
9. Steve Stockman.
10. Lloyd Doggett.
11. Chet Edwards.
12. Pete Geren.
13. William M. "Mac" Thornberry.
14. Greg Laughlin.
15. E de la Garza.
16. Ronald D. Coleman.
17. Charles W. Stenholm.
18. Sheila Jackson-Lee.
19. Larry Combest.
20. Henry B. Gonzalez.
21. Lamar S. Smith.
22. Tom DeLay.
23. Henry Bonilla.
24. Martin Frost.
25. Ken Bentsen.
26. Richard K. Armey.
27. Solomon P. Ortiz.
28. Frank Tejeda.
29. Gene Green.
30. Eddie Bernice Johnson.

UTAH

1. James V. Hansen.
2. Enid G. Waldholtz.
3. Bill Orton.

VERMONT

At Large

Bernard Sanders.

VIRGINIA

1. Herbert H. Bateman.
2. Owen B. Pickett.
3. Robert C. Scott.
4. Norman Sisisky.
5. L. F. Payne.
6. Bob Goodlatte.
7. Thomas J. Bliley, Jr.
8. James P. Moran.
9. Rick Boucher.
10. Frank R. Wolf.
11. Thomas M. Davis.

WASHINGTON

1. Rick White.
2. Jack Metcalf.
3. Linda Smith.
4. Richard 'Doc' Hastings.
5. George R. Nethercutt, Jr.
6. Norman D. Dicks.
7. Jim McDermott.
8. Jennifer Dunn.
9. Randy Tate.

WEST VIRGINIA

1. Alan B. Mollohan.
2. Robert E. Wise, Jr.
3. Nick J. Rahall II.

WISCONSIN

1. Mark W. Neumann.
2. Scott L. Klug.
3. Steve Gunderson.
4. Gerald D. Kleczka.
5. Thomas M. Barrett.
6. Thomas E. Petri.
7. David R. Obey.
8. Toby Roth.
9. F. James Sensenbrenner, Jr.

WYOMING

At Large

Barbara Cubin.

PUERTO RICO

Resident Commissioner

Carlos A. Romero-Barceló.

AMERICAN SAMOA

Delegate

Eni F. H. Faleomavaega.

DISTRICT OF COLUMBIA

Delegate

Eleanor Holmes Norton.

GUAM

Delegate

Robert A. Underwood.

VIRGIN ISLANDS

Delegate

Victor O. Frazer.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1139. A bill to amend the Atlantic Striped Bass Conservation Act, and for other purposes; with an amendment (Rept. 104–105). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 1361. A bill to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes; with an amendment (Rept. 104–106). Referred to the Committee of the Whole House on the State of the Union.

Mr. QUILLEN: Committee on Rules. House Resolution 136. Resolution providing for the consideration of the bill (H.R. 655) to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes (Rept. 104–108). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 1323. A bill to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes; with an amendment (Rept. 104–110, Pt. 1). Ordered to be printed.

TIME LIMITATION ON REFERRED BILL PURSUANT TO RULE X

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1323. Referral to the Committee on Commerce continued for a period ending not later than June 1, 1995.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. YOUNG of Alaska: Committee on Interior and Insular Affairs. H.R. 1141. A bill to amend the act popularly known as the "Sikes Act" to enhance fish and wildlife conservation and natural resources management programs, with an amendment; referred to the Committee on National Security for a period ending not later than June 1, 1995, (Rept. 104–107, Pt. 1). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Interior and Insular Affairs. H.R. 541. A bill to reauthorize the Atlantic Tunas Convention Act of 1975, and for other purposes, with an amendment; referred to the Committee on Ways and Means for a period ending not later than June 30, 1995, (Rept. 104–109, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YOUNG of Alaska:

H.R. 1527. A bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILCHREST:

H. Con. Res. 64. Concurrent resolution authorizing the 1995 Special Olympics Torch Relay to be run through the Capitol Grounds; to the Committee on Transportation and Infrastructure.

By Mr. LUCAS (for himself, Mr. GINGRICH, Mr. ARMEY, Mr. GEPHARDT, Mr.

Brewster, Mr. Coburn, Mr. Istook, Mr. Largent, and Mr. Watts of Oklahoma):

H. Res. 135. Resolution condemning the bombing in Oklahoma City; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. Traficant, Mr. Jefferson, Mrs. Cubin, Mr. Ehrlich, Mr. Hyde, Mr. Manzullo, Mr. Quillen, Mr. Sabo, Mr. Pickett, Mr. Ballenger, Mr. Peterson of Florida, Mr. Quinn, Mr. Wamp, and Mr. Laughlin.

H.R. 46: Mr. Kleczka.

H.R. 393: Mrs. Kennelly and Mr. Torricelli.

H.R. 408: Mr. Burton of Indiana.

H.R. 580: Mr. Clinger, Mr. Lewis of Kentucky, Mr. Smith of Texas, Mr. Manton, Ms. Furse, Mr. Shaw, Mrs. Fowler, and Mr. Sisisky.

H.R. 656 : Ms. Molinari and Mrs. Lowey.

H.R. 858: Mr. McDermott, Ms. Woolsey, Mr. Martinez, Ms. Lofgren, Mr. Studds, Mr. Berman, Mr. Clement, Mr. Manton, Mr. Leach, and Mr. Foglietta.

H.R. 863: Mr. Ehlers.

H.R. 922: Mr. Engel and Mr. Romero-Barceló.

H.R. 961: Mr. McDade, Mr. Gekas, and Mr. Linder.

H.R. 967: Mr. Bishop, Mr. Manton, Mr. Gordon, and Ms. Furse.

H.R. 972: Mr. Stump.

H.R. 991: Mrs. Lowey and Mr. Engel.

H.R. 1005: Mr. Porter.

H.R. 1021: Mr. DeFazio, Ms. Slaughter, Mr. Borski, and Mr. Shays.

H.R. 1023: Mrs. Johnson of Connecticut, Mr. DeFazio, Ms. Pelosi, Mr. Fox, Mr. Ackerman, Mr. Abercrombie, Mr. Solomon, Mr. Neal of Massachusetts, Mr. Barcia of Michigan, Mr. King, Mr. Borski, Mr. Moakley, Mr. Meehan, Mr. Coyne, Mr. Holden, Ms. Norton, and Mr. Foglietta.

H.R. 1024: Mr. Ganske, Mr. Cooley, and Mr. Smith of Texas.

H.R. 1026: Mr. Allard, Mr. McInnis, Mr. Schaefer, Mrs. Schroeder, and Mr. Skaggs.

H.R. 1033: Mr. Gutierrez, Mr. Zimmer, Mrs. Lowey, and Mr. Baker of California.

H.R. 1120: Mr. Portman and Mr. Hostettler.

H.R. 1232: Mr. Lewis of California and Mr. Dooley.

H.R. 1235: Mr. Meehan, Mr. Frank of Massachusetts, and Mr. Barrett of Wisconsin.

H.R. 1248: Mr. Yates.

H.R. 1272: Mr. Gene Green of Texas.

H.R. 1274: Mr. Porter, Mr. Reed, Mr. Brown of Ohio, and Mr. Visclosky.

H.R. 1448: Mr. Bunning of Kentucky.

H.R. 1469: Mr. Rangel.

H.R. 1496: Mr. Solomon, Mr. Dellums, and Mr. Ehlers.

H.R. 1506: Mr. Bono.

H.J. Res. 41: Mr. Luther.

H.J. Res. 72: Mr. Livingston.

H. Res. 21: Mr. Mascara, Mr. Lazio of New York, and Ms. Lofgren.

H. Res. 118: Mr. Klug, Ms. Pelosi, Mr. Dooley, Mr. Gejdenson, Mr. Bentsen, Mr. Hilliard, Ms. Rivers, Mr. Thompson, Mr. Ward, Mr. Evans, Mr. Cardin, Mr. Miller of California, Mr. Abercrombie, Mrs. Roukema, Mr. Kolbe, Mrs. Kelly, Mr. Hinchey, Ms. Slaughter, Mr. Ackerman, and Ms. Furse.

SENATE—*Monday, May 1, 1995*

The Senate met at 11 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Chaplain will now deliver the opening prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Almighty God, Sovereign of this land, Lord of our personal lives, and source of unity in the midst of diversity, enable us to show the true nature of loyalty to our Nation, the Office of the President, the Constitution, and our future. Help us to exemplify how to communicate convictions without censure of those who may not fully agree with us. Keep us from almighty tone and tenor. Free us from the false assumption that we ever have a corner on all the truth. Unsettle any pious posturing that pretends that we alone can speak for You.

You created us in Your image. Help us never to return the compliment. Break the cycle of judgment, categorization, and condemnation so prevalent in our land. Forgive us when we presume Your authority by setting up ourselves as judges of the worth of those who disagree with us.

At the same time, Lord, we know that You have not called us to flabby indulgence when it comes to seeking truth. Nor do You encourage us to buy into our age of appeasement and tolerance where everything is relative and there are no absolutes. What You do ask is that we humbly seek what is Your best for our Nation and work to achieve that together. To this goal we commit this day. In Your powerful name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

RESERVATION OF LEADER TIME

Mr. LOTT. Thank you, Mr. President. This morning the leader time has been reserved.

SCHEDULE

Mr. LOTT. Mr. President, at 12 noon today, we will resume consideration of H.R. 956, the product liability bill. There will be no rollcall votes during the session today. However, under the unanimous-consent agreement, all medical malpractice amendments to the product liability bill must be offered and debated today. Any votes ordered on those amendments will be stacked to begin at 11 a.m. on Tuesday.

MEASURE READ THE SECOND TIME—S. 735

Mr. LOTT. Mr. President, I understand there is a bill at the desk that is due to be read for a second time.

The PRESIDENT pro tempore. The clerk will read the bill for the second time.

The bill was read for the second time.

Mr. LOTT. Mr. President, I object to any further proceedings on this matter at this time.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon with Senators permitted to speak for up to 5 minutes each.

Mr. LOTT. Mr. President, observing that no Senator is seeking to speak at this particular moment, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEWINE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wyoming is recognized.

Mr. THOMAS. I thank the Chair.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 738 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MEDICAL MALPRACTICE AMENDMENT

Mr. KYL. Mr. President, I would like to address for a few minutes the legislation which will be pending very shortly today, and specifically the amendment relating to medical malpractice that is before Members.

I speak, of course, of the legislation to reform our product liability tort system and the amendment which would also reform the medical malpractice component of that civil tort litigation system.

Some have said that we have, in effect, a tort tax in this country, a tax on all citizens by virtue of the increased costs of the products and the services, and in particular, I am speaking of medical services, that result from the fact that our tort system has become very expensive.

The costs of operating that system have had to be folded into the costs of the products and the costs of the services in order to pay for the liability insurance, the lawyers' fees and the other expenses that fund this tort system of ours. That tort tax ends up being a tax on all Americans.

In the Los Angeles Times, Thursday, April 27, Majority Leader BOB DOLE wrote an article, and it was published on this date, the title of which is "Ignore the Lawyers, Help the People."

Mr. President, I ask unanimous consent that this article be printed at the conclusion of my remarks this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KYL. Mr. President, in this article, the majority leader, I think, makes a very powerful point; among them, points that are in support of the amendment that is currently pending before the Senate, which I offered on Thursday afternoon, an amendment which would put some reasonable caps on attorney's fees.

As the majority leader notes in this article, the people who suffer the most from our current litigation system are, as he puts it, the little guy. He quotes a survey from the National Federation of Independent Business in a couple of States, Texas and Tennessee, which found that one-third to one-half of small businesses have been either sued or been threatened with suit to punitive damages.

Because of this kind of lawsuit abuse, the majority leader notes that the Girl Scout Council, for example, in Washington, must sell 87,000 boxes of cookies each year just to pay for liability insurance. The average Little League's liability insurance jumped 1,000 percent in a recent 5-year period.

Just a couple of examples of the fact that we are all paying the costs of this litigation system, the tort taxes, if you will.

If you are a woman and you need to go see your OB/GYN on January 2, be aware that on January 1, before that physician can even open the doors to see anyone, that physician is going to be paying medical malpractice premiums of probably a minimum of $30,000 and in many cases far more than that.

Neurosurgeons are up in the $60–$70,000 range or higher. In other words, before most physicians can even begin to treat us, at the beginning of the year, they have had to shell out in medical malpractice premium costs more money than most Americans make in a year.

The cost of those premiums is—just as the cost of the liability insurance premiums paid for by the Girl Scouts or the Boy Scouts or other organizations—the cost of those premiums is borne by everyone of us in the products that we buy, in the services that we receive.

The majority leader goes on to point out in this article that there are three myths, all of which get to the basic point that the person who suffers is the little guy, as he noted. And the persons who make out in this litigation lottery are the lawyers. I must say at the outset, I practiced law for 20 years and I have a deep and abiding respect both for my fellow lawyers and for our legal system. But in the past, where there have been changes that have required action to compensate, where it has gotten out of balance, the legal profession has been pretty well able to restore balance to the system. That has not been possible with respect to this litigation lottery. You have a large group of lawyers who make their living by charging contingency fees to clients and then recovering very large—sometimes enormously large—sums of money as a result of the cases that they settle or that they bring to trial.

One of the myths that the majority leader notes is that the trial lawyers protect the consumers. But the fact of the matter is that over half of the money recovered by the plaintiffs in these cases goes to the lawyers. As a matter of fact, let me cite—this is not just one or two studies. There are several different studies that make this point. For example, one of the studies was done by the Department of Commerce just last year, a 1994 study, which stated that 40 cents of each dollar expended in litigation is paid in attorney's fees.

On a recent edition of ABC's "20/20," John Stossel reported that some trial lawyers are earning contingency fees that pay them the equivalent of $300,000 an hour. Think of that, Mr. President, $300,000 an hour. So this is not a matter of lawyers being properly compensated for taking cases. This is literally a matter of hitting the jackpot. It is not plaintiff who hits the jackpot, it is plaintiff's lawyer.

A 1994 study by the Hudson Institute found that 50 cents out of each litigation dollar went to attorney's fees. That, by the way, was reported on in the June 1994 article in the Wall Street Journal.

A study of the Rand Corporation also found that 50 cents out of each liability dollar goes to lawyers and transaction costs, rather than to injured victims. There are others.

The point I am making here is that study after study after study has made the point that about half of all of the recoveries go to the lawyers. That is not fair to the victims. That is not fair to the plaintiffs. And what the amendment which I have offered and is currently pending before us will do is to ensure that the victim, the claimant, plaintiff recovers his or her fair share of whatever recovery is obtained. Effectively, that means something in the order of 75 percent of it. I think most Americans would find it astonishing that we would even be having a debate about whether or not the person who is injured, who actually suffers, should be receiving on the order of 75 percent of what the jury has awarded to that individual. Yet that is what this is all about. Our amendment simply limits the attorney's fees to approximately 25 percent of the recovery.

I also note, when we talk about this first myth that the majority leader noted that the trial lawyers are just protecting consumers, one other example of the costs that get passed on. The American Tort Reform Association notes that half of the cost of a $200 football helmet goes to lawsuit-driven liability insurance. This is just one example of products in our society which have been the subject of these suits and which, therefore, are either not on the market or are on the market at a greatly increased cost, simply because of the litigation lottery.

Myth No. 2, trial lawyers protect workers and the poor. But as the majority leader notes in his article, the current system victimizes no group more than the working poor and disadvantaged. Lawsuits add a $1,200 litigation tax on every consumer in America. That is the cost we are all paying as a result of this litigation lottery. The trial lawyers, through contingency fees, as I said, can effectively earn $300,000 an hour in some cases. So I do not think it is true to say that trial lawyers protect workers, just workers and the poor.

Myth No. 3 that the majority leader points out is that the trial lawyers are the champions of safety; if they did not bring these lawsuits that, somehow, very dangerous products would still be on the market. There is some truth to the fact that high profile cases have helped to remove unsafe products from the market. But that exception to the rule should not be the basis for this lottery, this jackpot which results when people find they can recover astronomical sums for some perceived damage. It often, in fact, makes our lives less safe rather than more safe. One only has to look at the drugs that do not reach the market because the pharmaceutical companies are afraid if they produce some new drug without 30 years of testing on people that somebody might have an adverse reaction to it, sue the drug manufacturer, and make millions in punitive damages.

It is not just drugs. It is also designs of all kinds of new products which manufacturers have said over and over again they are reluctant to change because, if they do, there will then be the inevitable lawsuit that that change resulted in some harm to someone as a result of which there will be a new lawsuit.

All three myths, I think, need to be exploded. The bottom line of all three, as I said in the beginning, is that the lawyers are using this process not so much to create safety or protect the little guy—the little guy is the person who is actually hurt—but rather to earn a living which is far beyond what is necessary to protect the public. And that then gets to the amendment I have introduced and that is before us right now.

Very briefly, my amendment will be actually criticized as being too generous to the trial lawyers because we start with the premise that the underlying legislation, the McConnell-Kassebaum-Lieberman amendment, already provides for lawyer's fees for the economic damages suffered. So a lawyer can recover either 33 percent of the first $150,000 and 25 percent of everything thereafter with no limit for the economic damages. So you can have a very large attorney fee just for the economic damage component of a lawsuit.

Then you have the noneconomic damage component. This is the pain and suffering that is supposed to go to the person who suffered the pain and suffering. All we say in my amendment is that the lawyer would be entitled to no more than 25 percent of the first $250,000 of that pain and suffering. So that is an additional up to $60,000-plus in attorney's fees for the pain and suffering component of the suit.

Then, if it is a suit in which punitive damages are sought and the lawyer believes that he should be entitled to a percentage of that as well, he may petition the court to have a percentage of the punitive damage award. The court would have to make that award based on what is reasonable and ethical. It should be based upon the amount of time the attorney put in; 25 percent would be presumed to be a reasonable fee but all of this is up to the court.

So you see, this is a limitation but it is a limitation which will enable attorneys to receive multithousands and tens of thousands and even hundreds of thousands of dollars in fees for the kind of case that would warrant it. So there is no question there would be an incentive for anybody who has a claim—be it a little claim or a larger claim—to have that case brought to trial because a lawyer would have an incentive to do so. But what it provides is a cap so the lawyer does not have a lottery here, so the lawyer does not have an incentive to bring these cases just to see if that lawyer can hit the jackpot and earn literally hundreds and hundreds of thousands of dollars or millions of dollars in attorney's fees when we think that money should go to the plaintiff or the claimant, the victim in the case. That is what it is all about. We are going to be voting on that shortly after 11 o'clock tomorrow morning.

I just urge all of my colleagues to view this issue in the light of what is best for the claimant, for the plaintiff, the injured party, and to view it in the light of what is best for the American people, who are paying a very large sum of money so that a lot of lawyers can get very rich. As I say, some people criticize this as not being tough enough on the lawyers. That is not what we are here for. We are not here to bash lawyers, but to put a cap on the big bonanza kind of recovery that we have all been reading about.

Finally, I want to take a minute to say that at shortly after noon, I will be offering a second amendment. This is an amendment which will put a cap on the noneconomic damages—so-called pain and suffering—in these medical malpractice cases. It will put a cap of $500,000 on these medical malpractice cases.

A lot of our colleagues have said the cap discussed earlier—a quarter of a million dollars—is just not quite big enough for that really exceptional case. In response to that, I think a lot of people have said, "OK. We will provide for up to half a million dollars." Bear in mind that this is after the economic damages—after all of the bills have been paid, after all of the economic losses have been accounted for—there is the pain and suffering part of it. It does not relate to the punitive damages. There will be a different kind of treatment for that. This is just to say with respect to that noneconomic damage component, there will be a cap of half a million dollars.

So I will be proposing that amendment and asking support from my colleagues for that amendment, as well.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Los Angeles Times, Apr. 27, 1995

IGNORE THE LAWYERS, HELP THE PEOPLE

(By Bob Dole)

During the current Senate debate over legal reform, you will hear from the trial lawyers and their allies that legal reform is nothing more than a boost to big business.

But the facts suggest otherwise. Who is hurt by lawsuit abuse? It's the little guy, according to recent surveys by the National Federation of Independent Businesses in Texas and Tennessee, which found that one-third to one-half of small businesses have been sued or been threatened with suit for punitive damages. Because of this kind of lawsuit abuse, the Washington-area Girl Scout council must sell 87,000 boxes of cookies each year just to pay for liability insurance, and the average local Little League's liability insurance jumped 1,000% in a recent five-year period. These are just a few examples of a problem that is big and getting bigger.

Who profits from lawsuit abuse? The trial lawyers.

As the Senate considers legislation to reform lawsuit abuses, the buzzing sound you hear is the trial lawyers swarming to the defense of their hive of honey: The lawsuit lottery.

This picture, needless to say, is not the one trial lawyers would paint. According to them, they are the best (perhaps only) friends of the poor, consumers and women. They have one of the most effective public-relations efforts going. It is a costly exercise, characterized by millions in contributions to politicians and judges. Now they are mounting a $20-million campaign to stop lawsuit reform in the U.S. Senate.

Why? Lost in the fog of propaganda is a fact well-understood by most Americans: Our legal system costs too much for everybody (except the trial lawyers) and has turned into a lottery where even the threat of outrageous damages with little or no connection to fault extorts money and time from charitable organizations, small businesses, blood banks and volunteer groups. But, like any effective gambling operation, the house always wins. And the house in this case is the trial lawyers and the system they so ardently defend.

We need a system that ensures that those harmed by someone else's wrongful conduct are compensated fully. And we need to ensure that the system is not twisted in ways that deter folks from engaging in activities that we ought to encourage. That's why I have offered an amendment that would extend the protections against outrageous punitive damages now being considered for manufacturers to include volunteer and charitable organizations, small businesses and local governments.

These reforms are an attempt to restore fairness and integrity to a system that has gone awry. But, given the distortions from the trial-lawyer lobby, it is clearly time to confront a few of their most cherished myths.

Myth No. 1: Trial lawyers protect consumers. The California Trial Layers Assn. recently changed its name to the Consumer Attorneys of California. Some consumer Attorneys of California. Some consumer champions. Across the nation, abusive lawsuits drive up the costs of all kinds of goods. As noted by the American Tort Reform Assn., half of the cost of a $200 football helmet goes to lawsuit-driven liability insurance.

Myth No. 2: Trial lawyers protect workers and the poor. The current system victimizes no group more than the working poor and the disadvantaged. Lawsuit add a $1,200 litigation tax on every consumer in America.

Meanwhile, some trial lawyers through contingency fees effectively earn $300,000 per hour.

The poor also pay in jobs. A RAND Corp. study estimates that wrongful termination suits have reduced the hiring levels in just one state by as many as 650,000 jobs.

Myth No. 3: Trial lawyers are champions of safety. Personal injury lawyers put out literature informing us that Americans live in the safest society in the world because of our civil justice system. The reality is that our legal system long ago crossed a critical threshold: It often makes our daily lives less safe. Lawsuits not only stop pharmaceutical research and new drugs. They cause industrial engineers to avoid safety improvements for fear that current designs, by comparison, will be interpreted as defective. They make all organizations fearful of the new—because in the hands of personal injury lawyers, "new and improved" has come to mean "new and open season for lawsuits."

Part of our heritage as a free people is a legal system where justice, not the search for a windfall, is the goal. Over the past 40 years, we have strayed from that path. The powerful trial-lawyer lobby must not be allowed to kill reform with a campaign of disinformation, distortion and delay. I am determined that this is the year that civil-justice reform will pass the Senate.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota [Mr. GRAMS] is recognized to speak for up to 15 minutes.

The Senator from Minnesota is recognized.

Mr. GRAMS. Thank you very much, Mr. President.

PRODUCT LIABILITY AND MEDICAL MALPRACTICE REFORM

Mr. GRAMS. Mr. President, I think most Senators would agree that health care reform was the most important piece of legislation we debated during the 103d Congress.

Throughout the health care debate, we heard from people here in Washington and across the Nation, and we learned what they valued most about our Nation's health care system. We also heard their suggestions as to how the current system should be changed.

Fortunately, we also learned that the majority of Americans did not agree with the President's plan to turn the entire health care system over to the Federal Government.

But, while most Americans adamantly rejected his radical approach to health care reform, we also found tremendous support for reasonable and sensible reforms which will immediately improve our health care system.

In particular, we learned that the American people overwhelmingly believe we need to dramatically reshape our Nation's medical malpractice system.

Recent polls continue to show strong support for liability reform.

Eighty-three percent of Americans believe that the present liability system has problems and should be improved.

Eighty-nine percent believe that too many lawsuits are being filed in America today; and

Sixty-seven percent of American voters agree with the statement that "I am afraid that one day I, or someone in my family, will be the victim of a lawsuit."

Some of my colleagues might ask, why we are discussing medical malpractice reform during the product liability debate? Simple: many of the same problems facing American manufacturers also affect our doctors and health care providers.

During the last two decades, there has been an explosion of litigation that has saddled the health care industry with substantial costs wholly unrelated to providing medical care and services.

While I stand behind the right of every individual to right a wrong through the judicial system, this litigation bonanza does nothing to improve patient care or improve service delivery. It simply encourages frivolous lawsuits by creating an environment which is weighted in favor of the plaintiff's bar and against the world's best health care system.

Second, this ever-increasing tide of litigation has forced a large number of physicians to practice defensive medicine to protect themselves from lawsuits. This practice passes along greater costs to patients and insurers.

Lewin-VHI conducted a study in 1993, and discovered that the U.S. health care delivery system could save up to $76.2 billion over 5 years by eliminating defensive medicine practices.

Taxpayers also feel the pain of defensive medicine in their checkbooks since the physicians who treat America's poor and elderly are forced to practice defensive medicine which increases the costs of the Medicare and Medicaid Programs.

Defensive medicine is a drain on our Federal budget, and one we cannot afford.

In 1991, medical liability premiums for hospitals and physicians totaled $9.2 billion.

The current system has had a chilling effect on the ability of patients to access their doctors—especially those who live in rural areas.

For example, 70 percent of all obgyns will be sued during their careers. Many have decided to no longer offer obstetric services to their patients for fear of lawsuits. And obstetricians continue to pay the highest premiums of all health care providers.

From the standpoint of the victims, even when a lawsuit is justified and reasonable, they are often forced to wait up to 5 years between the time their injury occurred and the time they are compensated, under our current system.

More often than not, attorneys will only litigate cases with high award potentials, which tends to discourage attorneys from settling the cases early.

Finally, and perhaps most troubling, the medical malpractice system has placed a wedge between doctors and their patients; it undermines the mutual trust which is essential to the doctor-patient relationship.

Last year, after the relevant House committees failed to address medical malpractice reform, I introduced legislation very similar to the amendment offered today by Senators McCONNELL, KASSEBAUM, and LIEBERMAN.

With this amendment, the Senate has the opportunity to do what the American people want—reform the system.

This amendment would do that by:

Ensuring full recovery for economic and noneconomic damages including lost wages, as well as compensation for pain and suffering;

Providing alternative dispute resolution;

Establishing the use of the collateral source rule;

Abolishing joint liability; and

Requiring periodic payment of future damage awards.

These reforms are the first steps toward addressing the failure of our medical malpractice system.

I came to the floor today to reaffirm my support for sensible improvements to our badly broken medical malpractice system. As many of my colleagues have noted—Democrats and Republicans alike—our current system is costly, slow, inequitable, and unpredictable. Our system has failed hospitals, doctors, and ultimately, it has failed its patients. The American people deserve better.

While this amendment has my full support and I recognize the many hours of hard work my colleagues spent on this legislation, I believe we should go further.

I strongly encourage the Senate to include the $250,000 cap on noneconomic damages.

In addition, we should extend protection to the manufacturers of medical devices by eliminating punitive damage awards if the device has received FDA approval.

According to Medical Alley, a coalition of Minnesota's entire health care industry, "the current liability system has a negative effect on health care product innovation."

They cite the fact that innovative products are not being developed, which has reduced our ability to compete in worldwide markets.

I urge my colleagues to ensure that significant changes are implemented. However, if the Congress and the President fail to secure fundamental reforms to our liability system, I will move forward and introduce legislation which will address the concerns of so many American doctors, consumers, and patients alike.

Mr. President, our medical malpractice system is in critical condition, but it is not too late to save it. The American people are demanding reform and the Senate must deliver.

We need a system that meets the needs of all Americans, not just the plaintiffs' bar. I believe this amendment is the prescription we have been looking for to cure this problem.

Thank you, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAIWAN

Mr. THOMAS. Mr. President, as the chairman of the Subcommittee on East Asian and Pacific Affairs, I would like to share with my colleagues some developments concerning Taiwan which arose over the April recess.

As my friends are well aware, the State Department has for several years now prohibited the President of the Republic of China on Taiwan, Dr. Lee Teng-hui, from entering the United States. This prohibition extends not only to visits in his capacity as President, but to any visit even as a private citizen. The official rationale for this is that such a visit would offend the sensitivities of the Government of the People's Republic of China, which lays claim to Taiwan as a renegade province.

This stance is troublesome to me and many other Senators for several reasons. First, Taiwan has been our close friend and ally for several decades, and is presently our fifth largest trading partner. It is a moldel emerging democracy in an area not particularly known for strong democratic traditions. Regardless of these facts, however, we reward the Government of Taiwan by denying its elected officials even the most basic right to visit our country. The State Department policy has previously even been raised to the ridiculous level of denying President Lee, in transit to another country, the ability to disembark from his aircraft during a stop-over in Hawaii.

Second, as I have previously noted on the floor, the only people to whom the United States regularly denies entry are terrorists, convicted felons, and people with certain serious communicable diseases. The Secretary of State has admitted Yasser Arafat, whom we denounced for years as a terrorist thug; he has admitted Terry Adams, the leader of the IRA's political arm Sinn Fein—a group responsible for terrorist attacks throughout the United Kingdom. Few of us in the Senate can fathom how the State Department can possibly exclude President Lee—the democratically elected leader of a friendly country—when it has admitted these gentlemen, and instead add him to a list of pariahs.

Third, the refusal to admit President Lee comes at the express behest of the Government of the People's Republic of China. In the almost slavish lengths to which the State Department has gone to honor that demand, it has done nothing but strengthen the perception on Capitol Hill that it is rushing to kowtow to Beijing. State has countered that the People's Republic of China has threatened grave ramifications if Lee were to be admitted—since the People's Republic of China claims Taiwan to be a province—and admitting President Lee would be tantamount to a country admitting Gov. Pete Wilson as the head of government of a sovereign independent California, thereby threatening the authority of the central government. Yet their own actions severely undercut the Department's position. The Secretary has repeatedly admitted his Holiness the Dalai Lama to the United States. The Dalai Lama purports—rightly in my view—to represent the legitimate Government of Tibet. Chinese troops occupied Tibet in the 1950's, displaced the Government and absorbed Tibet as a province—the Xizang Zizhiqu or Xizang Autonomous Region. Despite Beijing's warnings to the contrary—warnings similar to those on Taiwan—we have admitted the Dalai Lama. We have done this despite the fact that, like President Lee, the Dalai Lama claims to represent a country which the People's Republic of China considers to be a province. Why, then, the inconsistency in the State Department's position?

Fourth, attempts by the People's Republic of China to dictate our immigration policy to us strike many as presumptuous. To put it in terms which the Government in Beijing can understand: Who we admit to this country under our immigration laws is strictly an internal affair of the United States. Mr. President, the People's Republic of China is continually telling us to butt out of issues they consider to be their internal affairs—human rights abuses, for example; they would do well to listen to their own advice.

Congress has made it abundantly clear that it disapproves of the administration's position on this issue. Votes urging the Secretary to allow the visit have passed overwhelmingly in both Houses in past years. This year, Senate Concurrent Resolution 9 and its House counterpart both enjoy wide, bipartisan support. I expect that they will both come to a vote within the next week and pass with few, if any, detractors.

There have been some signs—albeit exceedingly subtle—that the administration may be considering some reworking of its past positions. In New York City on the 17th of this month, on the occasion of the visit of the People's Republic of China's Foreign Minister Qian, a senior State Department official made certain statements which may provide a small glimmer of hope that the administration may be coming around. Mr. President, you will note from the amount of qualifying words that I have just used that I consider the likelihood of them coming around to be rather slim.

That would be unfortunate, because I think that it would reflect an underestimation of the depth of the feeling in the Congress on this issue. Just so there is no mistaking what I believe the reaction of the Senate will be to a continued denial of a private visit by President Lee—even in the face of the two resolutions—let me point out the following for our friends in the administration. I have prepared legislation to require the Secretary to admit President Lee this year for a private visit, which already has seven original cosponsors. At least two other Senators I know of are poised to introduce similar legislation. Should the Secretary fail to accommodate a private visit by President Lee in the very near future, the three of us are prepared to act. I will ensure that any such legislation moves quickly through my subcommittee, and on to the floor.

Mr. President, it is unfortunate that this simple issue has had to come to this. If the parties had simply come to a compromise solution, we could have put this behind us and gotten on with the more serious issues that concern us. The obstinance of the State Department, and the People's Republic of China, only serves to harden Members' attitudes and to turn their attention toward other, more controversial, areas such as Taiwan's participation in the United Nations and WTO. We would all do well to remember the proverbial observation that the grass that bends with the wind survives the storm, while the branch that remains stiff and obstinate does not.

IN HONOR OF SOUTH DAKOTA'S 1995 TEACHER OF THE YEAR, BECKY EKELAND

Mr. DASCHLE. Mr. President, I want to congratulate the 1995 South Dakota Teacher of the Year, Becky Ekeland. I can attest to the fact that this is an honor she well deserves.

Being selected Teacher of the Year is a most significant accomplishment. It means you have gained the utmost respect of your colleagues and students. Becky Ekeland was nominated by her fellow teaching staff in the Brookings School District and ultimately selected by a committee of statewide officials.

Ms. Ekeland is an English teacher at Brookings High School. She has been an educator for 20 years. South Dakotans, especially the students of Brookings, are extremely fortunate to have Mrs. Ekeland in our State.

Mrs. Ekeland's dedication to her students is evidenced in a hundred different ways. One example is the grammar lessons she creates each year. Rather than relying on a textbook, she tailors her lessons to the specific needs of each class. It's her way, she said, of showing her students how the English language works and what it means in their day-to-day lives.

Schools have undergone enormous change in the 20 years since Mrs. Ekeland began her career. One of the most profound changes is the tremendous new demands placed on parents. Many children now come from single-parent families. In other families, two parents work two and even three jobs just to make ends meet.

A teacher's job is always demanding, but it becomes even more difficult when teachers have to fill in as parents, too.

Given the increasing pressure on our schools—and our increasing need for good schools, now is not the time to be cutting educational resources.

In coming weeks, as we debate next year's budget, let us remember what President Kennedy said: "A child miseducated is a child lost. And let us pledge to give America's students and teachers the support they need to succeed. In a real sense, they are our future."

I want to mention a few things Becky Ekeland is working to improve the teaching profession and make that future more secure.

First, she is a positive voice in the community, letting people know the good things that happen in the school.

She participates in professional organizations.

She takes seriously her responsibility to be a good example, demanding from herself what we all should be able to expect from our teachers.

She attends classes, workshops, seminars and conventions in an effort to constantly improve herself and her educational skills.

The greatest testament to Ms. Ekeland's skill comes from her fellow staffers and former students.

The counselor at Brookings High School describes her as "self-motivated, conscientious, responsible, dependable, a professional individual, always willing to give 110 percent while at work; another 110 percent worth of quality time when at home with her family."

Her principal at Brookings High School calls Mrs. Ekeland "an outstanding educator. Becky is first and foremost a caring person," he says "who places a high priority on helping others * * * she establishes relationships with students that serve to increase their motivation, confidence and achievement * * * Becky has always demonstrated strong classroom organizational skills and a commitment to instruction that causes students to be actively engaged in learning through ways that are meaningful to them."

A former student writes, "Rebecca Ekeland is truly one in a million. I have never come across anyone who dedicates so much energy to one task—educating the children of Brookings, South Dakota. She puts her heart and soul into the success of every single student that enters her classroom. To me this is what teaching is all about."

Mr. President, I am honored to commend such an outstanding teacher and to congratulate her on her well-deserved recognition.

At this time, I would ask that Ms. Ekeland's essays and the letters of recommendations from which I read be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BECKY EKELAND

PROFESSIONAL BIOGRAPHY

A. What were the factors that influenced you to become a teacher? Describe what you consider to be your greatest contributions and accomplishments in education.

As the daughter of a Lutheran minister and an English teacher, I grew up in a home where a career meant working with people and helping people. I could see that my parents' professions were very rewarding and that they had the love and respect of many people. I was very proud of them and wanted to be like them. they must have had the same effect on my siblings because my brother is a special education teacher and my sister is a social worker who works as a legal advocate for people with mental illness. We all feel a strong desire to serve others and in return gain great self-satisfaction.

When I was growing up, school was always a wonderful place to be, and I have fond memories of warm, caring, dedicated teachers, and so, even though I briefly entertained notions of being a missionary or a social worker, I guess I always planned on being a teacher. Someone said once that good teachers love both their students and their subject, so I guess I've got it made!

My greatest accomplishments in education have probably come from my dedication to my students. For example, for years I have written my own grammar units rather than relying on a textbook. I want my students to see the whole picture of how our language works and have them apply this knowledge to their own writing through exercises and lessons that are tailored for each class. I rewrite my grammar unit every year to meet my students needs.

Another example is how I have developed my yearbook class. When I started 10 years ago I had no experience and no staff! I took some workshops and recruited great students. Yearbook has evolved from a Monday night extracurricular activity into an accredited class with the students and the book consistently winning top awards in yearbook journalism. I am especially of this class because my role as a mentor and an adviser. The book is completely student produced. I love to see how the confidence and creativity blossom when kids are in charge of something they are proud of.

I am trying to use the lessons I have learned in this yearbook class in my English 9 class. By giving students some control in what they study and in how they tackle a task they have more success. One unit that has worked especially well is the I-Search paper. Students must pick their own topic, one that has personal value and meaning to them, and then research it, with their primary source of information being other people. The students conducted interviews and write letters to gain their information.

One thing that brings me great satisfaction is the relationships I have with many of my students. I encourage my students to come in and see me when they need someone to talk to. I think I'm someone they trust and find easy to talk to because many kids do come in. This is a very important part of my job—to be a compassionate, caring, good listener. I treat my students with respect and they, in turn, treat me with respect. I rarely have discipline problems because of this. I start every school year by explaining that the only behavior rule in my classroom is the Golden Rule. I tell the students that I want my classroom to be a friendly and safe place for everyone, including me, and that I want everyone to feel good about coming to English class. It generally works, and my classroom is truly a fun place to be!

One thing I'm proud of is that I have been employed for 20 years! I have moved five times to different states and communities following my husband's career. Competition for teaching positions has always been keen, but in each of these places I have been able to secure a teaching position. I am especially pleased to be teaching in Brookings.

My greatest professional joy is when graduates come back to tell me about their accomplishments and to thank me for whatever role I may have played. One of them recently wrote, "You are my favorite teacher, I'll remember you always for being willing to listen to my problems and helping me out and putting up with me . . . I can not tell you how much better you have made my life." I work very hard to do the right things for my students—taking classes, writing units, experimenting with different styles, taking time to get to know them, etc.—but it's messages like that that make it all worthwhile. I am a very lucky person to have such a wonderful job.

COMMUNITY INVOLVEMENT

A. Describe your commitment to your community through service-oriented activities such as volunteer work, civic and other group activities.

Community and church activities are important because of the services they often provide and because they help me to grow as a person, but it is very important to me to have balance in my life. I have very strong feelings about maintaining quality family time in the evenings. When I'm at school I give 100% to my students and my job, but during evenings and weekends my family comes first. This is obviously important for my children, but I think it is also important for me and ultimately reflects on all aspects of my life. I am healthier and more energetic in the classroom because I am not spread too thin. I refuse to join too many organizations at one time because they take me away from my job and my family, so I pick and choose thoughtfully and say no when I have to. The organizations that I'm involved in are ones that I feel are important. I also hope to demonstrate to my children the worth of these organizations and role model for them the importance of getting involved in things that can make a difference.

Right now my outside activities are mostly in my church. I am a member of Ascension Lutheran where I am a Sunday School teacher and a member of the Rebekah Circle. I have also served as a Church Council member, a member of various boards, and as a choir member. In my former church I also served as a Confirmation teacher and as a Luther League adviser.

In the past I have been a college sorority adviser, a member of Alpha Delta Kappa (an honorary teachers' sorority), a United Fund committee member, and I have worked on various political campaigns for candidates who share the same views on education that I do. My goal for this coming year is to become involved in Habitat for Humanity here in Brookings.

PHILOSOPHY OF TEACHING

A. Describe your personal feelings and beliefs about teaching, including your own ideas of what makes you an outstanding teacher. Describe the rewards you find in teaching.

B. How are your beliefs about teaching demonstrated in your personal teaching style?

As a teacher, it is my goal to promote intellectual and character development in my students. I want each student to have a good understanding of the material in my curriculum, of course, but it is equally important to me that they enjoy the learning process so that it will continue long after they leave my classroom. It is my desire to help my students reach their highest goals and become productive citizens. I try very hard to be a role model, a mentor, a good listener, and a friend.

I start each school year with only one conduct rule—the Golden Rule. I discuss with the students what it means to treat others the way they would like to be treated and how important this attitude is. I want my students to feel comfortable in my room, to know that this is a caring, warm place where they can feel good about themselves and the subject. Generally that rule takes care of any discipline problems before they ever arise. A gentle reminder to "be nice" is usually all that is needed! This rule helps provide an atmosphere that encourages learning, and it also helps students achieve self-control.

In class discussions I try to draw responses from all students, encouraging higher-order thinking skills. I like to give compliments and positive feedback because I think this encourages students to participate. Everybody likes to be praised, and most kids like to talk if they don't feel threatened. I have also started using the portfolio as a means of assessment. It is a true indicator of a student's accomplishments and provides a means for each student to see his or her growth through the year.

I know all students can learn, so I try to provide for different learning styles. I also work very closely with the special education teachers to meet the needs of students on IEPs. For example, one year I had a blind student. Following guidance from the special education teachers, I had his worksheets Brailed, had him tape lectures, and provided a typewriter for him to use in the classroom. The special education teachers and I also work together on inclusion. These teachers help me not only with students on IEPs, but also with any students who are struggling or need some extra help.

I am constantly trying to improve my teaching through many diferent methods. I choose workshops and classes based on what I think my needs and my students' needs are. I share ideas with fellow teachers and incorporate new ideas from them. I have worked on several curriculum committees and have often written my own units to meet my students' needs. I generally draw from many sources to organize and present an original approach to the subject matter.

Many of my students become my friends. They come to me for counseling or advice; I have been a member of Peer Natural Helpers for several years. Sometimes students need help with English or yearbook, and sometimes they need help with problems in their personal life. I don't always have the answers, but I think I'm easy to talk to, and the kids feel comfortable with me. They know I truly like them! It is from these relationships that I derive my greatest satisfaction. I also like to see "light bulbs" come on in kids' eyes as they begin to comprehend a grammar lesson or get involved in a story we are reading or solve a yearbook layout problem. I continue to work hard to establish a relationship with all my students so that I can recognize their needs and help them. I often get letters, phone calls, and visits from former students, sometimes just to talk and sometimes to thank me. They make me feel wonderful!

EDUCATION ISSUES AND TRENDS

A. What do you consider to be the major public education issues today? Address one, outlining possible causes, effects and resolutions.

It is an exciting time to be in education when one considers such issues as modernization and inclusion. Brookings has been involved in modernization now for two years and it is exhilarating to see the changes. Collaboration and cross-curricular classes are just two results of modernization that have excited and rejuvenated many of our staff members. I am involved in collaborating with special education teachers to include special-needs students in the regular classroom. It seems that special education is constantly evolving and the verdict is still out as to whether inclusion is the best method, but I find it very rewarding to work with a program that has such a humane philosophy toward all children. The dark ages of shunning special-needs children or sending them away is in the past to stay. It is better for all people to live in a society that accepts all people for what they are.

It is also scary to be in education when one considers the rise in violence in schools, the lack of funding, and the continual pressure by different interest groups to force their political agendas on schools.

But the issue that affects education today in the most profound way is the growth in the number of single-parent families. According to the Census Bureau, one-third of all families now are run by one parent. Right now 40 percent of all children under the age of 18 live in homes where their fathers do not live, according to David Blankenhorn of the Institute for American Values.

This change in the American family affects the classroom because it means less parental supervision over homework, fewer classroom volunteers, more latchkey kids, and more discipline problems. This makes our job more difficult, and it also changes our job because more and more the schools have to assume roles that traditionally belonged to the parents. The difficulties many schools are having now with discipline and violence are not because the school is failing but rather because the family structure is failing.

The soaring rise in single-parent families started in the 1970s when the divorce rate began to climb. The rise continued in the 1980s and 1990s with out-of-wedlock births. This is evident in many larger schools that now provide daycare for the children of the students. Out-of-wedlock births also increases the dropout rate, further complicating the education system which now must provide alternative education for many of these young parents.

Education is left to deal with the situation, but education may also hold the key to improving the situation. Young people need to better understand the consequences of their actions. They need classes that teach them the realities of life and help them prepare for the future. They need guidance in learning how to make right choices. Of course, schools can't and shouldn't have to do it alone, but I fear for our society if this trend continues. The social consequences could be devastating.

THE TEACHING PROFESSION

A. What can you do to strengthen and improve the teaching profession?

B. What is and/or what should be the basis for accountability in the teaching profession?

This is the question I struggled with the most. What can I do to strengthen and improve the teaching profession? This can be a very frustrating question because the profession is so big and I'm only one person. What can one person do? But upon reflection I realized that that is all anyone is—one person—and each of us can do things to strengthen the profession. The following are things I am doing to improve the teaching profession.

First of all, I am a positive voice in the community. Every chance I get, I speak up for education. I let my friends and neighbors know about the great things happening in our schools. I work in the community for political candidates who are advocates for strong public education. I attend school board meetings. Rather than bemoaning the things that are wrong with the system, I try to be positive.

I also join my professional organizations. If we teachers are unified, we can make a difference.

I am just one person in just one classroom, but in that classroom I can make a difference. I strive to be an example, to be the kind of teacher I want for my own children. I am professional, well-informed, well-prepared, dedicated, and caring. That is what we should expect from all our teachers, and it's what I expect in myself.

I can improve the profession by constantly improving me. I attend classes, workshops, seminars and conventions. It's important to keep up with the latest ideas and trends. I don't want to become complacent or stagnant. These learning opportunities also serve as inspiration. I am constantly rededicating myself to my profession and my students.

One very tangible way I have strengthened the teaching profession is through the work I have done at South Dakota State University. I am part of a group of teachers working through a grant to help rewrite the student training curriculum. In collaboration with the Education College we have developed the courses called Professional Semesters I, II, and III. The student teachers coming out of SDSU are the best prepared I have ever seen, and I think that SDSU can serve as a role model for other teacher training colleges. I am very proud to be a part of this group. In my classroom I work with PS I, II, and III students and take great pride in the mentoring and teaching I do. I feel very good about helping student teachers prepare to become part of a wonderful profession.

Teachers are accountable to their students, their administrators, their peers and themselves. Members of the profession need to abide by their master contract, adhere to the rules of the district and teach what is prescribed by the school's curriculum. It is also important to keep up with new trends and ideas. The best way to monitor a teacher's performance is through the building principal and a teacher/mentor program. The principal needs to screen carefully when hiring a teacher and then take the responsibility to document the strengths and weaknesses of that teacher. It is also part of his or her job to counsel and advise that teacher. He or she needs to do the same for veteran teachers. Some schools also assign a veteran teacher to serve as a mentor for a new teacher. That mentor can assist a new teacher to develop top-rate teaching skills.

NATIONAL TEACHER OF THE YEAR

A. As the 1995 National Teacher of the Year, you would serve as a spokesperson and representative for the entire teaching profession. How would you communicate to your profession and to the general public the importance of education to our society? As 1995 National Teacher of the Year what would be your message?

We must all recognize that ignorance is our number one enemy. Enemies such as hunger, disease, unemployment, violence, and prejudice cannot be eliminated if we don't eliminate ignorance first.

Parents must work as partners with the schools to improve the quality of their children's lives and keep our country free and strong. Parents play a critical role in teaching their children such things as values, morals, religion, respect, manners, etc. These areas should not be pushed off on the schools, although the schools should serve as a support system. Likewise, parents should be the support system for the schools. Parents need to be involved supervising homework, joining PTA, attending conferences, volunteering, etc. They should attend school board meetings and voice their desire to provide excellent education for all children.

Not only is it important to educate our citizens to ensure quality of life, it is also important to fight ignorance to keep our democratic way of life healthy. The United States is a country governed by all the people; therefore, the people must be able to make informed, wise choices when they select leaders. The citizens must be able to express themselves intelligently and they must be able to keep an informed eye on the government to prevent corruption. Dictators can rule only in a land where the citizens are uninformed and incapable of ruling themselves. We should never allow education to be something only for the elite or "most promising."

This country must continue to ensure quality education for all its citizens if it is to survive. It must also recognize that the quality of life for those citizens can be maintained or improved only through education. Our taxpayers must realize that the money that goes to education is money well-spent. Quality education is the most valuable thing we can give our country and its citizens.

BROOKINGS HIGH SCHOOL,
Brookings, SD, July 16, 1994.

TO TEACHER OF THE YEAR SELECTION COMMITTEE:

Becky Ekeland has asked me to submit a letter in support of her Teacher of the Year nomination.

As a counselor here at Brookings High School, I have seen many of our freshmen as well as 10–12 graders have opportunities to be challenged and develop further their skills in composition interpretation of their reading. Becky is able to use a variety of techniques to successfully communicate and to TEACH. She makes learning exciting and challenging for all her students. Becky teaches a diverse group of students and they all respect her as an educator and as a person.

Students who take Becky Ekeland's English or yearbook classes grow in many ways. I've observed students who have become more confident and able through their interviewing processes in yearbook or through the 9th grade I-search paper; many of the students also develop a knowledge and respect for discipline, creativity, and the realities of deadlines. More importantly, students know that it is ok to ask any question because every question in Becky's eyes is important and well worth the time. This attitude opens up excellent lines for communication between student and teacher. These learned qualities carry over to the other academic areas and help develop a much more successful student. She helps those who would otherwise feel uncomfortable in an English class feel ok about being there and proud of their individual progress. Becky also works with our gifted coordinator to bring in enrichment and challenges, ensuring the extra added opportunities for those students who excel in her classroom.

Becky is also the yearbook director. Here too, she is dedicated, very organized, and willing to go out of her way to help her yearbook staff be the best they can be. BHS Yearbook has taken top honors at many state competitions. This excellent record is a direct result of Becky's dedication and desire to do her best always.

As a person, Becky is self-motivated, conscientious, responsible, dependable, a professional individual, always willing to give 110% while at work; another 110% worth of quality time when at home with her family.

I believe Becky is an individual who will continually look for new ways to stimulate interest for her students. She is one who is always open to change and willing to share and become part of educational group related efforts.

In my opinion, Becky is academically and personally superior. Her interest and determination will guarantee her continued success and keep her on the cutting edge of up and coming programs for her kids.

I sincerely believe Becky Ekeland is a most worthy candidate for Teacher of the Year. Any school anywhere would be proud to have her on staff. I highly recommend Becky Ekeland for South Dakota Teacher of the Year.

Sincerely,

LINDA K.S. PUMINGTON,
Counselor.

BROOKINGS HIGH SCHOOL,
Brookings, SD., August 10, 1994.

DEAR SOUTH DAKOTA TEACHER OF THE YEAR COMMITTEE: It is with great pleasure that I am writing this letter of support for Mrs. Becky Ekeland's nomination for South Dakota Teacher of the Year. Stating it simply, she is an outstanding educator.

I first became acquainted with Becky over a decade ago when she moved to Brookings. I was the assistant principal at Brookings Middle School at the time and Becky was employed as a substitute teacher. At the time of her hiring as an English teacher at Brookings High School, my only regret was that we did not have an opening for her at Brookings Middle School where I worked. Through her substitute teaching, she had proven to us that she was a very capable teacher. One year ago when I became principal at Brookings High School, I was fortunate to again work with Becky. I have come to appreciate even more than before, the many fine qualities that Becky possesses.

Becky is first and foremost a caring person who places a high priority on helping others. As a result of this, she establishes relationships with students that serve to increase their motivation, confidence, and achievement. Some specific examples of Becky's excellence as an educator are the outstanding results she has obtained as Brookings High Yearbook advisor, the quality of her preparation for classroom instruction, and her ability and willingness to work with special needs students.

In Becky's 10 years as yearbook advisor, she has developed an outstanding program, with our school's yearbook receiving statewide recognition on a consistent basis. Students are given much responsibility and control over the work with Becky serving a role of facilitator and advisor to them. In this capacity, Becky demonstrates the talent of bringing students to the realization of their full potential.

Becky has always demonstrated strong classroom organizational skills and a commitment to instruction that causes students to be actively engaged in learning through ways that are meaningful to them. She regularly updates her curriculum so that the particular interests and needs of each group of students are addressed.

In recent years, as we have moved in the direction of integrating special needs students into the regular education classroom, Becky has been a leader, showing both a willingness and an interest in working together with special education staff and students. Repeatedly, she has gone beyond what is expected of her to provide for the needs of students. She truly believes that all students can learn in her classroom.

Becky is, without a doubt, one of South Dakota's finest educators. It is without qualification that I recommend Becky Ekeland for South Dakota Teacher of the Year.

Sincerely,

DOUG BESTE,
Principal.

BROOKINGS, SD.

To whom it may concern:

It is with great pleasure that I begin this letter, because as I think back upon the six years I have known Rebecca Ekeland I realize how much she has given me, and I am thrilled that she is finally being recognized. She is an amazing individual, and she has touched my life in a very important way. She is my hero, my mentor, my role model, and my friend. I have a feeling that Mrs. Ekeland has touched many other lives in the same way, and I like to think that I speak for many people when I say that you will be hard pressed to find anyone more worthy of the title "Teacher of the Year" than Mrs. Ekeland.

Mrs. Ekeland was my freshman English teacher. I have always liked English, but the year I spent in her classroom was different from any other class I have ever taken. Right away it was obvious that she cared about her students and took a personal interest in the success of each of us. She was diplomatic and fair, and she respected her students. I remember leaving class the first day feeling about a foot taller and finally feeling like I was a "grown-up". What was more impressive was that at all times students respected Mrs. Ekeland and her authority. Rarely are there discipline problems in her classroom, and never have I heard students badmouthing her or complaining about her outside the classroom. Everyone loves Mrs. Ekeland. It is as simple as that.

For the next three years I was on the yearbook staff, and as Mrs. Ekeland was the adviser, I not only got the chance to learn from her again, but I became good friends with her. I think that I owe much of who I am today to the confidence that Mrs. Ekeland bestowed on me those in the course of those three years. She chose me to be the Editor-in-Chief for my senior year, and I learned so many valuable skills. I learned to be a good leader, a good writer, and a good mediator. I learned to be patient and fair. Essentially, I was attempting to mirror the one individual I admire more than any other person: Mrs. Ekeland.

Before I entered high school, I was without sense of direction. My greatest dream was to become a stewardess or a librarian. After the first week or so of my freshman year, I realized with 100% certainty that I wanted to be a high school teacher—just like Mrs. Ekeland. I am now entering my junior year in college, and in my education courses and in the classrooms in which I student teach, I constantly find myself making an example of Mrs. Ekeland's classroom. Whenever I find myself in a tough situation, the first thing I do is ask myself, "What would Mrs. Ekeland do if she were in my position?" We have remained close over the years, and I value her friendship and her advice. She has always been there for me in every capacity: teacher, counselor, mother-figure, best friend, mentor.

Finally, something needs to be said about exactly why Mrs. Ekeland qualifies for the honor of South Dakota Teacher of the Year. Besides her kindness, her fairness, and her ability to inspire, this woman is tireless. Her first priority is her students, and she is constantly working to make sure that their educational needs are met. She is always available to spend extra time on a difficult assignment. Her lectures and assignments are clear and concise and worthwhile. And most important in my mind, she is forever seeking a better way to do things. Just in the past few years she has revised and improved her curriculum, and she is working to coordinate a better curriculum throughout the English department. She is willing to try new methods and use new materials. Mrs. Ekeland will do whatever it takes to see that her students learn. She would go to the ends of the earth if it meant that even one student would catch on to grammar rules. She makes every student feel important. It takes a special person to be able to do that, and Mrs. Ekeland can.

Rebecca Ekeland truly is one in a million. I have never come across anyone who dedicates so much energy to one task—educating the children of Brookings, South Dakota. She puts her heart and soul into the success of every single student that enters her classroom. To me this is what teaching is all about. She exemplifies the "Ideal Educator" and is more deserving of this honor than any other person my imagination could conjure up. Nevertheless, I believe that Mrs. Ekeland's reward is watching students grow up to be successful, happy individuals. She does not need a fancy plaque or trophy to hang on her wall. In my mind and in the minds of many others, she is and always will be the "Teacher of the Year" this year and for many years to come.

JENNIFER LACHER.

MEMORIES OF EXPERIENCES "BACK WHEN"

Mr. PRESSLER. Mr. President, April's Commerce Department magazine contains an article entitled "Commerce Officials Knew Two Congressmen 'Back When'." As it happens, I am one of the Congressmen.

"Back then" was Vietnam during the war when Paul London, now Deputy Under Secretary for Economic Affairs at the Department of Commerce, was in charge of a State Department unit involved with economic affairs and I was a young Army lieutenant assigned to the unit. In the article, Paul reflects on a small research project I conducted for him involving the cost of fish in Saigon. It just goes to show that we never really escape the actions we take in this life.

At any rate, Mr. President, the piece brought back a great many memories and I am flattered Paul remembered such a small incident after all these years. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COMMERCE OFFICIALS KNEW TWO CONGRESSMEN "BACK WHEN"

OLIA some time ago surveyed senior Commerce officials to determine if any had ever had any particularly memorable personal contacts with members of Congress. At least two of them most certainly had. One of our Commerce people had a hand in saving a Congressman's life. Another was a Senator's boss while both were young men serving in Vietnam.

Larry Irving, assistant secretary for communications and information, was a member of a delegation visiting Russia when Rep. Dana Rhorabacher, R-Calif., became quite ill. Irving administered some first aid procedures which helped bring him through the crisis.

Paul London, deputy under secretary, was a State Department aide seconded to the Agency for International Development when he first knew Larry Pressler, now a Republican Senator from South Dakota.

London recalls:

"I was head of a unit concerned with economic affairs and Larry was a young Army lieutenant assigned to us.

"One time, there were reports that the price of fish (a dietary staple in South Vietnam) might skyrocket because the Viet Cong were threatening to cut a coastal highway to Saigon. I had a feeling that most fish supplies to Saigon came from the Mekong Delta, rather than from the coast and I asked Larry to check it out.

"A couple of days later he reported that my surmise was exactly right. 'Far and away more fish on the Saigon market come from the Delta than from coastal fishing boats,' he reported.

"'How did you verify that,' I asked.

"'I got up before dawn, went down to the market and asked the people there where the fish were coming from,' he said.

"Right then, I thought: 'This guy is going to go places. He does things personally, doesn't depend on paper shuffling or second hand information to get to the heart of something.'"

The two have retained a cordial relationship ever since.

THE BUDGET

Mr. GRAMM. Mr. President, this week and next week, we are going to come down to the moment of truth on two issues. One issue has to do with putting the Federal Government on a budget like everybody else. The other issue has to do with fulfilling the Contract With America to let working people keep more of what they earn. I would like to briefly address both of these subjects.

In the 1994 election, in one of the most remarkable political occurrences in the postwar period, House Republicans did something that is very unusual in the political process and that is they set out in plain English what they promised America they would do if the American people gave them a majority in the House of Representatives for the first time in 40 years.

I would add that while many people have forgotten it, Republican candidates for the Senate put out a joint statement where virtually every Republican challenger for the U.S. Senate in the country came to Washington and released a "Seven More In '94" document, where we outlined seven things we would do if the American people gave us a majority.

Two of those promised items had to do with balancing the budget and with letting working people keep more of what they earned. The House of Representatives has done something even more remarkable than making all these promises—they have actually done it. The House of Representatives has adopted the Contract With America. They have adopted 90 percent of the things they promised to simply vote on. And at the best universities in the land, you would grade that as an "A."

We are now down to the moment of truth in the U.S. Senate and that moment of truth basically has to do with whether or not we are going to pass the Contract With America and whether we can make the tough decisions necessary in order to do that. To balance the Federal budget over a 7-year period and at the same time to accommodate the tax cut contained in the Contract With America will require us, over a 7-year period, to limit the growth in Federal spending to approximately 3 percent a year.

Over the last 40 years, Federal spending has grown at 2½ times the growth of family budgets in America. Over the last 40 years, the Federal Government has increased its spending 2½ times as fast as the average family in America has been able to increase its spending. Now what would America look like if those trends had been reversed? Well, if the average family in America had seen its budget grow as fast as the Government has grown for the last 40 years, and the Government's budget had grown only as fast as the family budget has grown over the last 40 years, the average family in America today would be earning $128,000 a year and the Government would be approximately one-third its current size.

I ask my colleagues, if you could choose between the America where the governments budget grew faster or an America where the family's budget grew faster—put me down as one who would favor having the average family in America make $128,000 a year and have the Federal Government one-third its size.

Here is our dilemma. We have some of our colleagues who say, "I did not sign any Contract With America. That was the House of Representatives." As I am fond of saying in our private meetings, that is a subtlety that is lost on the American people. They do not see this contract as having been a contract between just the House and the American people. They see it as a Republican contract. And, quite frankly, it is a Republican contract. It embodies everything that our party claims to stand for.

But what I think is important for the Senate is not just that Republican candidates signed the contract, not just that every House Republican incumbent who signed the contract was reelected but I think what is significant to us is that the American people signed that contract when they gave us a majority in both Houses of Congress for the first time in 40 years.

The question that we are going to have to answer in the next 3 weeks is, are we willing to limit the growth of Government spending to 2½ percent a year so that we can, over a 7-year period, balance the Federal budget and so that we can let working families keep more of what they earn? I believe that we can and I believe that we should. I think there are many Republicans in the Senate who sort of have a problem, in that they have one foot firmly implanted in the dramatic changes in Government policy that we promised the American people in 1994, and they have the other foot firmly implanted in the status quo. And, as those two things have moved further apart, we have had the predictable result.

I think it is time for us to choose. I believe in the next 3 weeks we are going to basically decide whether or not we meant it in November of 1994 when we told the American people that we were going to dramatically change the way Government does its business. I think the American people are convinced that we can limit the growth of Government spending to 2½ percent a year so that we can let families and businesses spend more of what they earn.

I know if the President were here, he would say this is a debate about how much money we are spending on our children; or how much money we are spending on education; or how much money we are spending on housing or nutrition.

But that is not what the debate is about. Everybody in America wants to spend money on children, housing, education, and nutrition. The debate we are about to have is not how much money is going to be spent on those things, but who is going to do the spending. Bill Clinton and the Democrats want Government to go on doing the spending. They want Government spending to continue to grow 2½ times as fast as the family budget grows.

I want to put the Federal Government on a diet. I want to slow down the rate of growth in Government spending so that we can let working families keep more of their own money to invest in their own children, in their own businesses, and in their own future.

This is not a debate about how much money we spend on the things that all Americans believe we should spend money on. It is a debate about who ought to do the spending. Bill Clinton and the Democrats want the Government to do the spending. We want the family to do the spending. We know the Government, and we know the family. And we know the difference.

Since we are investing in the future of America, I want to invest the future of America in our families and not in our Government.

I know that there is a lot of anguish in the Senate, even on our side of the aisle. But I think it is time to choose. I wanted my colleagues to know that I am for a budget that does two things: No. 1, over a 7-year period, limit the growth of Federal spending to about 3 percent a year so we can balance the budget in 7 years and let our colleagues do something that no current Member of the Senate, save two, has ever done before; that is, vote for a real honest-to-God balanced budget. We literally have the power, by having a 7-year binding budget, to let Members of the Senate vote to stop talking about balancing the budget and to start doing it.

Second, in addition to the controls on spending necessary to balance the budget, I want to limit the growth of spending not to 3 percent a year, but to 2½ percent a year so that we can let families keep more of what they earn, so that we can cut the capital gains tax rate, so that we can eliminate the marriage penalty, so that we can let families have a $500 tax credit per child, so that, rather than having our Government spend our money for us, we can let working people spend their own money on their own children and on their own future.

As we look at this in perspective, let me give you three numbers. In 1950, the average family in America with two little children sent $1 out of every $50 it earned to Washington, DC, and thought it was too much. And it probably was. Today, that family is sending $1 out of every $4 it earns to Washington, DC, and if the Congress did not meet again for the next 20 years some people would applaud that prospect, but only because they do not understand our problems. If Congress did not meet again for the next 20 years and we did not start a single new program nor repeal any existing program, to pay for the Government that we have already committed to is going to require that in 20 years $1 out of every $3 earned by the average family in America with two children come to Washington, DC, to pay for the Government.

We are going to have to institute dramatic changes in spending simply to keep things the way they are. If we are to let working families keep more of what they earn, we are going to have to institute a dramatic change in Government policy. Mr. President, I am in favor of a dramatic change in Government policy. If our Budget Committee does not offer and adopt a budget that balances the budget and that provides for tax cuts for families and for job creation, I intend to offer a substitute for that budget. I think we have to stop cutting deals with America's future. I think we have to stand up and tell the American people we meant it in November 1994 when we said you give us a Republican majority in both Houses of Congress and we will change the policy of American Government.

I think we are now down to a moment of truth. Are we going to fulfill the commitment we made in that election, or are we basically going to defend the status quo? The status quo means less opportunity, future jobs, and an America that is not the America that I want my children and my grandchildren to have. I am ready to change the status quo. I am ready to cut the growth in Government spending, not just to balance the budget, but to cut taxes. And what I want my colleagues to know today is I want to work with the Budget Committee, I want to work with our leadership. I am hopeful that we can put together as a party position a budget that balances the budget over a 7-year period and that mandates tax cuts contained in the contract. But, if our leadership is not ready to bring that budget forward, if they cannot muster the courage to control Government spending to make it possible, I will muster that courage, and will offer a substitute and give my colleagues the opportunity to join me, and to join America in that process.

Finally, let me say, Mr. President, I simply want to remind my colleagues that the Contract With America was in fact signed by House Members, but there are two additional points. First, it was not distinctly different from the "Seven More in '94" contract that our candidates agreed to here on the north front of the Capitol. Second, the important part of that contract is not the fact that the House signed it. The important part of that contract is that America signed it. The important part of that contract is it was the document that defined what the 1994 election was all about.

The question now, the question that will be before us for the next 3 weeks is, Did we simply want to be for dramatic changes in Government at election time, or are we willing to put our votes where our mouth is? Are we really more wedded to funding for programs such as public television, or are we more wedded to letting working people keep more of what they earn? Do we really believe that Government knows best and that we need not only a $1.6 trillion Federal budget but that we need it to grow by 7.5 percent a year while the family budget is growing at less than half that rate?

I think that is the decision. I think the answer of every Republican in the Senate ought to be clear. And that answer ought to be we can change the status quo, we can limit the growth of Government spending, we can terminate programs, and we can and will not only balance the budget but let working families keep more of what they earn to invest in their own children, in their own businesses and their own future, and that we ought to cut taxes on American business to provide incentives for people to work, save, and invest. That is what I am for. I believe that is what America is for.

I thank the Chair.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator form Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, I thought I would take less than maybe 5 minutes to respond to my colleague from Texas.

First of all, Mr. President, I look forward to this debate that we are going to have because I think what we have seen too much of here is an attempt to dance at two weddings at the same time, and I think that citizens in this country are going to hold us all accountable.

As I said earlier, I do not understand how the arithmetic of this adds up, and I think there are colleagues on the other side of the aisle who would agree with me. It is very difficult to talk about broad-based tax cuts, with the estimates that maybe this is up to $700 billion over the next 10 years, and talk about no cuts in the Pentagon budget.

Mr. President, I hear precious little discussion of what we call tax expenditures. And for those who are listening to this debate, I am talking about various loopholes, deductions, sometimes outright giveaways—oil companies, tobacco companies, pharmaceutical companies, insurance companies. I see precious little discussion about any of that being on the table. We are going to pay the interest on the debt. We are going to put Social Security off the table, Mr. President. According to some of my colleagues, in addition, we are going to balance the budget by 2002.

I also hear the same colleagues saying but, students, do not worry about being able to afford higher education; veterans, do not worry, there will be no deep cuts there. I doubt whether senior citizens will take great comfort from the remarks of my colleague from Texas because it is quite one thing to talk about a 2-percent increase a year but when the trend line is in fact that more and more of our citizens are 65 years of age and over with more serious health care costs going far beyond 2 percent, then what we are really talking about is eroding again what I talked about earlier here, a contract with senior citizens, the Medicare Program.

Mr. President, first of all, let me make the point that to be proposing some rather deep cuts in some programs that are critically important to the concerns and circumstances of people's lives in our country all for the sake of broad-based tax cuts flowing disproportionately to those on the top does not strike me as something that will meet the standard of fairness I think people demand of us.

Second of all, Mr. President, let me just simply say that this argument that when it comes to the most pressing issues of people's lives there is nothing the Government can or should do is a wonderful argument if you own your own large corporation, but as a matter of fact, there are certain decisive areas of life, education being one of them, where we have decided we make an investment as a people to make sure we do live up to our dream of equality of opportunity.

So I would simply say, Mr. President, because otherwise I will go on for hours and hours, if you want to talk about real welfare reform, the answer is good jobs and good education. If you want to talk about how to reduce poverty in this country—1 out of every 4 children are poor, 1 out of every 2 children of color are poor—then the answer is good education and good jobs.

If you want to talk about reducing violence in our communities, talk to your judges, talk to your police chiefs, talk to your sheriffs, much less talk to people in those communities, and they will tell you we will never stop the cycle of violence unless we invest in good education and there are good jobs for people.

If you want to talk about how to build community, the same thing—good education and good jobs. If you want to talk about how we have a democracy where men and women are able to think on their own two feet, they understand the world they live in, they understand the country they live in, they understand the community they live in, and they understand what they can do to make it a better community or a better country or a better world, then I am telling you, we have to invest in good education.

I have to tell you right now that when I travel around the State of Minnesota, a State which values education, I meet too many students who sell their plasma at the beginning of the semester to buy their textbooks; I meet too many students who are going to school 6 years because they are working 35 and 40 hours a week, and we hear proposals that they are going to have to start paying interest on their debt throughout their years of graduate or undergraduate work. In addition, we hear about proposals of cutbacks in work-study and various low-interest loan programs, Pell grant programs.

I could go on and on. I could just tell you, these are middle-class programs. These are programs that have made the United States of America a better country, a more just country, a country with more fairness.

So let us be crystal clear. The issue is, who decides who benefits and who is asked to sacrifice? The question will be asked, who decides to cut Medicare and who has health care coverage that is good coverage? All of us who are in the Senate. And who decides to cut some of the programs that enable students to be able to afford higher education and whose children get a decent education?

I could go right across the board, but I simply say to people in this country, hold us all accountable and make sure you are good at addition and you are good at subtraction and you are good at arithmetic, because I think it is a bit of a shell game here. We are going to have broad-based tax cuts and, in addition, we are not cutting the Pentagon budget, and we are paying the interest on the debt and not touching Social Security, but we are going to balance the budget, cutting, I do not know, $1.3 trillion, $1.7 trillion, by the year 2002. But, veterans, do not worry about your health care; you do not need to worry that you are waiting 2½, 3 years for just compensation right now with the veterans appeal board. And, students, do not worry because we are not going to cut into higher education and children. No, we would not do anything that would affect nutrition programs, but we are going to balance the budget by 2002. We are not going to make a distinction between operating budget and capital budget. We are not going to go after corporate welfare. Maybe we will. I hope we do. Everything should be on the table. But we are going to balance the budget.

I just simply say this argument about there is the Government and there is us, as a matter of fact, is a wonderful philosophy. When it comes to the issues important to your lives, what the Government should do or could do is great if you make $200,000 a year. It is great if you own your own large company. It is great if you are in the Senate and make $130,000 a year. It is not so great if you are a regular, ordinary American.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I am so moved that I would like to just respond to that.

First of all, if you are rich, if you own your own corporation, you are not too much affected by these changes. And let me explain why. In 1950, rich people paid a lot of taxes. Rich people pay a lot of taxes today. In 1950, poor people did not pay any taxes. Poor people do not pay any taxes today.

What has happened since 1950 is that the tax burden on average working Americans has exploded to pay for all of this Government that our dear colleague from Minnesota sees as the salvation of the American people. We have spent more money on welfare since 1965 than we have spent in fighting all the wars the Nation has been involved in this century, and there are more poor people today than there were when we started this program. They are poorer today than they were when we started this program. They are more dependent today than they were when we started this program. The illegitimacy rate among the poor is three times what it was when we started this program. The crime rate has exploded. And by every index on the planet, they are worse off today than they were when we started the war on poverty.

But are my colleagues dismayed? Are they the least bit unhappy? No. If we could just spend another trillion, if we could just let Government do more, everything would be wonderful.

There is only one problem that our dear colleague has, and that is the American people do not believe it anymore. The American people have rejected that idea.

In terms of health care, our colleague last year, along with our President, had an opportunity to convince the American people it just made great sense to tear down the greatest health care system the world had ever known to rebuild it in the image of the Post Office. And remarkably, for a while, it looked as if that was going to succeed. But finally, a few Members—and I am very proud to be able to say I was one of them—stood up and said, "Over my cold, dead, political body."

When we reached that point in the battle when the American people came to understand that this was not a debate about health care and jobs, but instead a debate about freedom, that one little stone slew Goliath.

So I think we have had plenty of debate about health care. If I might say, I reintroduced my health care bill. Bill Clinton did not reintroduce his. Obviously, there was a belief that mine was supported by the American people; he concluded that his was not.

Now, in terms of this Pentagon budget issue, the plain truth, as we all know, is that since 1985, we have cut defense spending by over a third. If we had cut Government spending in total half as much as we cut defense budgets, we would have a Federal surplus.

Even the President says today that his defense budget will not fund the level of defense that he claims the Nation needs.

So this idea that we can go around talking about how can we write a budget without cutting defense, I remind my colleagues we have already cut defense. The problem is we did not cut anything else. We have already cut defense and raised taxes. The problem is we spent every penny of the tax increase so that now the Congressional Budget Office says that the underlying budget and the underlying deficit is no different today than it was before Bill Clinton imposed the largest tax increase in American history.

Now, how can you have the largest tax increase in the history of the country, the lowest levels of defense and not have the deficit go down? There is only one way. And that is you spend all the money, which is exactly what we have done.

In terms of Medicare, can anybody stand here and say that we are going to able to keep Medicare as it is? Last year, Medicare spending grew by 10.5 percent a year. Last year, the average insurance policy held by a worker in the private sector did not have his premium go up. Competition improved efficiency. Cost consciousness meant that the private sector part of medicine saw no cost increase and yet the public sector part of medicine grew by 10.5 percent.

Does anybody believe that either the taxpayer or our senior citizens can sustain that rate of growth in a program that jointly they are paying for? Does anybody believe that we should not try to reform that program and bring efficiencies and economies and choices into it or that we cannot do it?

I remind my colleagues that the Medicare trustees, appointed by President Clinton to look at the financial problems of Medicare, concluded that Medicare was going to be broke by the year 2002, the year that we hope to balance the Federal budget. What we are asking is that we respond to the urgent call by the two independent members of the Commission who urge Congress to address this problem.

Now, as for the old tax-cut-to-the-rich song, let me remind my colleagues that we are talking about a $500 tax credit per child so that families can invest their own money in their own children. No one has failed to conclude that at least 75 percent of that tax cut will go to families that make $70,000 or less.

But look at the capital gains tax rate. I know my colleagues will say, "Well, if you cut the capital gains tax rate, rich people are going to immobilize their capital and they are going to invest and they are going to create jobs and, if they are successful, they are going to earn profit."

Welcome to America. Welcome to America. That is how our system works. If America is going to be saved, it is going to be saved at a profit.

I was thinking the other day, as I listened to our President make a similar statement to that our colleague has made, I have had a lot of jobs in my life. When I was growing up, I was very fortunate to have a lot of jobs. I worked for a peanut processor, I worked in cabinet shop, I worked in a boat factory, in addition to the same jobs we all had, throwing papers and working at the grocery store.

No poor person ever hired me. Never in my life has a poor person ever hired me. Every job I ever had, and I suspect the same is true for virtually every American, every job I ever had I got because somebody beat me to the bottom rung of the economic ladder, climbed up, invested their money wisely, created jobs, and made it possible for someone like me to get my foot on the bottom rung of the economic ladder and climb up.

What is wrong with encouraging people to invest to create jobs, growth, and opportunity?

In terms of corporate welfare, if my colleague means by that subsidizing corporate America to invest in a technology the Government chooses or subsidizing American business to invest in areas that the Government chooses, one of the things that I want to do in the budget, and one of the things I will do if I have to offer a substitute, is dramatically cut the $86 billion of Government spending where Government tells business where to invest. That is how I would like to fund cutting the capital gains tax rate and indexing so that we can let the market system and not the Government decide where that investment will occur.

As far as children, it is interesting to me that after all these years of exploding Government, after all these years of the failure of Government, that we still see Government as the solution to every problem involving the American child.

In fact, American Government is doing such a great job that now President Clinton wants the United Nations to get into the act. His administration has now signed the U.N. Convention on the Rights of the Child and he is going to ask us to ratify it. And it supersedes State law. So now not only are we going to help raise every child in America by the Federal Government, but we are going to let the United Nations do it. We are doing such a great job now, I guess we think the United Nations can help us do even better.

Forgotten in this whole argument is that child rearing is a parental concern. Parents ought to make decisions about children. And part of our problem is over the last 40 years we have taken more and more money from parents, we have spent their money on their own children, and we have done a much poorer job than they would have done had we simply allowed them to spend their own money on their own children.

In terms of good jobs, where do good jobs come from? Does anybody believe that Government can create jobs? Does anybody believe, as Bill Clinton says, that Government can empower people? Freedom empowers people. Government entraps people.

Finally, in terms of this whole debate about Government, we are not talking about eliminating the Government. We are talking about a budget that, if we fulfill the Contract With America, Government will spend about 2½ percent more each year for the next 7 years.

Now I know, for those who want Government spending to grow at three or four times as fast as the family budget, that that is cruel and unusual punishment. It means Government has to make decisions.

But there are a lot of businesses in America that have had to make a lot tougher choices than limiting their budgets to 2½ percent growth a year. And they have had to do it just to keep their doors open. There are a lot of families in America that make much tougher choices than that.

All we are asking Government to do is to live in the real world with everybody else where you have to make tough decisions.

So, I think that we can see that this is going to be an interesting debate. And it is a defining debate. I respect my colleague from Minnesota because, basically, his view is the view of his party. Not all the members of his party are so honest as he is to basically point out that they believe that Government is the answer; that they really believe that if we can make Government bigger, if Government could make more decisions, if we could spend more money at the Federal level, that America could deal with every problem we have.

I do not believe that. I believe that if we can put the Federal Government on a budget, if we can let working people keep more of what they earn, if we can make hard choices at the Federal level, if we can reform welfare to demand that people, able-bodied people riding in the wagon get out of the wagon and help the rest of us pull, if we can demand that we end this situation where we are subsidizing people to have more and more children on welfare, and if we can end the absurdity where millions of people are getting more money riding in the wagon than millions of other Americans are getting for pulling the wagon, then I think we can make America right again.

The point is, we have two distinct visions for the future of America. Our dear colleague from Minnesota and most Democrats, including the President, believe that the vision that leads us home, the vision that brings back the American dream, the vision that shares the dream with people who missed it the first time around is more Government, more spending at the Federal level on education, more spending at the Federal level on health, more spending at the Federal level on nutrition and housing and training.

Of course, how are we going to pay for it? Well, of course, we are going to raise taxes. And who are we going to raise taxes on? Rich people. And who are rich people? Anybody who works. That is their vision.

My vision, the vision of most Republicans, is exactly the opposite. We want less Government and more freedom. In fact, I would not want the Government we have today even if it were free. If you could give us this Government, I would not want it because I think the Government is too big and too powerful. It makes too many decisions.

Free people should make more decisions for themselves and they should not have their Government making decisions for them. And we are not just talking about freedom and efficiency, we are talking about virtue.

It is not good that people turn to the Government to fix every problem they have, to indemnify every mistake they make because in turning to Caesar, they turn away from God, they turn away from their family, they turn away from themselves as problem solvers for themselves. As a result, they become dependent, and when they become dependent, they become less free. That is what this debate is all about.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I actually promised my colleague from Illinois that I would limit my response to 5 minutes, but I am so moved by what my colleague from Texas had to say, I would like to respond.

Mr. President, I hardly know where to start, but I can assure my colleague that it is quite possible to turn toward God and to turn toward religion and to have values and spirituality in your life and believe, as the Committee on Economic Development believed, a business organization which issued a report a few years ago, that one of the ways that we do well with an effective, successful private sector is to make sure that we invest in our children when they are young.

It is simply the case that if we do not invest in our children when they are young, making sure that each and every child has that equality of opportunity, which is what my parents taught me was what America was all about, then we pay the interest later on with high rates of illiteracy and dropout and drug addiction and crime and all of the rest.

Mr. President, when we talk about will there be a higher minimum wage, the answer from my colleague from Texas is no. From what I think I just heard my colleague say, when we talk about whether or not higher education will be affordable, for some sort of reason there is nothing the Government can do, we do not really need to have Pell grants or low-interest loans or work study, but, Mr. President, what has made this country a greater country is to make sure that each and every young person has that opportunity.

Nobody talked about the Government doing everything. That is a caricature. That is just sort of political debate.

We have a strong private sector, and that is what makes this country go round, but we also think there is a role for the public sector, and that is to make sure that we live up to the promise of this Nation, which is equality of opportunity.

I do not think the people in the United States of America believe that whether or not you receive adequate health care or not should be based upon whether or not you have an income. I think people believe that each and every citizen ought to have decent health care. I heard my colleague criticize the post office. I can tell you one thing, at least they do not deliver mail according to your income. Everybody gets their mail regardless of their income.

I heard my colleague talk about welfare. My God, you would think AFDC families caused the debt, caused the deficit. I was not here during the years some of my colleague served here, but if my memory serves me correctly, in the early 1980's, we were told what you want to do is dramatically reduce taxes—that was euphemistically called—I ask my colleague from Illinois, I think I am correct—the Economic Recovery Act. What happened was we eroded the revenue base and moved away from any principle of progressivity, I say to my colleague. I am sorry he is not here.

Poor people do pay taxes. Many people are poor in the United States of America, work 40 hours a week, if not more, 52 weeks a year, and they pay Social Security taxes. More wage earners, more ordinary Americans pay more in Social Security taxes than in taxes. We have dramatically reduced the corporate rates and, indeed, there has been too much of a pressure on middle-income and working families. But this argument that the problem is that we have relied too much on an income tax just simply does not hold up by any kind of standard if you look at it with any rigor.

I think the welfare benefits, the AFDC benefits in some States—I cannot remember Texas—are about 20 percent of poverty. People in the United States of America believe the children have a right to be all that they can be. People in the United States of America believe we should invest in higher education. People in the United States of America believe that an educated, high-morale work force is critical to economic performance. And people in the United States of America believe that it is a combination of a strong private sector and also a Government that can effect good public policy that can lead to the improvement of lives of people in our communities that makes the difference. That is what this debate is about.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

BATTLE AGAINST POVERTY

Mr. SIMON. Mr. President, I will try not to strain the patience of my colleague from Washington.

First, in response to the dialog that has just taken place between the Senator from Texas and the Senator from Minnesota, the Government clearly is not the answer for all of our problems. But I would point out that when we had what was called a war on poverty—which was really not a war on poverty, but at least a battle against poverty—we ended up at one point with 16 percent of the children of America living in poverty, down from 23 percent. We are now back up to 23 percent, and we ought to do better. That is Government policy, it is private sector, it is all of us working together.

PEACEKEEPING CONTRIBUTION

Mr. SIMON. Mr. President, Sunday's New York Times has an article entitled "Poll Finds American Support for Peacekeeping by U.N.," written by Barbara Crossette. It is a poll conducted of 1,204 people by the Center for International and Security Studies at the University of Maryland and by the Independent Center for the Study of Policy Attitudes in Washington.

Let me just read a couple of paragraphs:

> There was a general perception among those polled that about 40 percent of United Nations peacekeeping troops are American, and that this should be halved to 20 percent. In fact, 4 percent of peacekeepers are American.

I do not know where the 4 percent figure in the Times comes from. The last figure I saw was as of March 6 and at that point, the United States was No. 20 in its contribution and less than 4 percent. Jordan, with 3 million people, was contributing more than twice as many peacekeepers as the United States with 250 million people. Nepal was ahead of us at that point.

The article also says:

> Asked about the cost of the Federal budget of international peacekeeping, half of the sample in the poll gave a median estimate of 22 percent. Less than 1 percent of the military budget is actually spent on these operations . . .

Mr. President, we do have a choice here, and that is whether we are going to work with those countries or whether we are not. To use the old overworked phrase, if the United States is not going to be the policeman of the world, we have to work with other countries.

Here let me add that one of the things that we get all emotionally hung up about is whether U.S. troops can be under a non-U.S. commander. The reality is that back since George

Washington had troops under a French commander, we have had troops under foreign commanders. I do not know why we get so hung up on this. It does not bother me, frankly, if the next NATO commander should be a Canadian, or a Brit, or an Italian, or one of the other NATO countries. I think that is a perfectly plausible thing.

If we want other countries to work with us around the world, we will, on occasion, have to have American troops under foreign commanders.

Mr. President, I ask unanimous consent to have printed in the RECORD the New York Times article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 30, 1995]

POLL FINDS AMERICAN SUPPORT FOR PEACEKEEPING BY THE UNITED NATIONS

(By Barbara Crossette)

UNITED NATIONS, April 28.—As Congress considers making significant cuts in contributions to United Nations peacekeeping, the findings of a new study show that Americans may not only be supportive of such operations but are also willing to see missions become more aggressive, even when Americans are involved.

The study also found that about 80 percent of those questioned believed that the United Nations had the responsibility to intervene in conflicts marked by genocide. But Americans in the poll and in group discussions indicated that they knew little about the extent and cost of United States participation in peacekeeping.

There was a general perception among those polled that about 40 percent of United Nations peacekeeping troops are American, and that this should be halved to 20 percent. In fact, 4 percent of peacekeepers are American. The absence of television reporting of operations that do not have a substantial American involvement may at least in part explain this misperception.

Asked about the cost to the Federal budget of international peacekeeping, half of the sample in the poll gave a median estimate of 22 percent. Less than 1 percent of the military budget is actually spent on these operations, although Washington is assessed 31 percent of the costs of United Nations peackeeping operations. Total costs amount to about $2 billion, the assessment plus supplemental costs, of the $270 billion Federal military budget.

The study was based on a poll conducted by the Center for International and Security Studies at the University of Maryland and by the independent Center for the Study of Policy Attitudes in Washington.

The results of the study did show some "softening" in support for peacekeeping generally, said Steven Kull, of the Program on International Policy Attitudes at the center. A little more than a year ago, 84 percent of those polled indicated strong support for United Nations peacekeeping. This year, that figure was 67 percent.

But 89 percent of the people polled said that when there was a problem requiring military force, it was best for the United States to work with other countries and the United Nations in dealing with it.

The study questioned 1,204 people through a method known as a random-digit-dial sample, with a margin or error of 3 to 4 percentage points. It also drew on focus-group discussions in Maryland, Michigan, New Mexico and Virginia.

At the Heritage Foundation in Washington, Larry DiRita, deputy director for foreign policy and defense, expressed skepticism of polls that ask about issues like peacekeeping in very broad terms.

"The American people are basically very generous and want to do good," he said in an interview, adding that citizens are quick to respond when faced with images of starvation, violence and displacement. But he said he believed that this changes markedly when people are presented with concrete choices about sending Americans into one dangerous situation or another, especially when they have seen disturbing images on television.

"A general American optimism comes out in polls," he said. "But when faced with reality, they take a more skeptical view."

In the questioning and discussions, a majority of people voiced frustration with the peacekeeping operation in Bosnia and suggested that it eroded the long-term reputation of the United Nations. Mr. Kull said a focus-group comment that "the United Nations has no clout" seemed to reflect the widespread sense that the real problem with peacekeeping was its ineffectiveness.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, more than 3 years ago I began making daily reports to the Senate making a matter of record the exact Federal debt as of the close of business the previous day.

As of the close of business Friday, April 28, the exact Federal debt stood at $4,852,327,350,096.60, meaning that on a per capita basis, every man, woman, and child in America owes $18,419.52 as his or her share of the Federal debt.

It is important to note, Mr. President, that the United States had an opportunity to begin controlling the Federal debt by implementing a balanced budget amendment to the Constitution. Unfortunately, the Senate did not seize their first opportunity to control this debt—but rest assured they will have another chance during the 104th Congress.

If Senators do not concentrate on getting a handle on this enormous debt, the voters are not likely to overlook it next year.

THE MONTGOMERY COUNTY SEARCH AND RESCUE TEAM'S WORK IN OKLAHOMA CITY

Ms. MIKULSKI. Mr. President, I rise today to praise the members of the Montgomery County Maryland Search and Rescue Team for their work in Oklahoma City. This team worked among the death and destruction of Oklahoma City, driven by the hope that they would find another survivor within the tons of debris of the Alfred P. Murrah Federal Building.

I cannot stress the gratitude that I feel as the Senator for Maryland to this group of dedicated heros, who worked 12 hours a day, for days on end, in their search for survivors. This group concentrated on search and rescue, ignoring the danger of falling debris and the mental agony of this tragedy.

Mr. President, I feel the dedication this team and others like it displayed in Oklahoma City exemplifies the American spirit, a spirit of helping those in need to overcome a crisis. The brave men and women of the Montgomery County Search and Rescue Team placed their lives on the line for their fellow Americans; this is nothing less than an act of heroism.

The Montgomery County team worked at the center of the blast zone of the Alfred P. Murrah Federal Building by shoring up and removing giant slabs of concrete as members of the Oklahoma City Fire Department removed bodies. Working at the center of the blast zone, at ground zero, was dangerous duty. I know that I speak for all of my colleagues as I recognize this Montgomery County team because they were an example of the many dedicated Americans who came from all across the Nation to lend a helping hand in the wake of this disaster.

Mr. President, I conclude my remarks today by passing along to the Montgomery County Search and Rescue Team a much deserved thank you for a job well done. Thank you for restoring the notion that the American spirit is still alive and well. Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 956, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Gorton amendment No. 596, in the nature of a substitute.

(2) McConnell amendment No. 603 (to amendment No. 596) to reform the health care liability system and improve health care quality through the establishment of quality assurance programs.

(3) Thomas amendment No. 604 (to amendment No. 603) to provide for the consideration of health care liability claims relating to certain obstetric services.

(4) Wellstone amendment No. 605 (to amendment No. 603) to revise provisions regarding reports on medical malpractice data and access to certain information.

(5) Snowe amendment No. 608 (to amendment No. 603) to limit the amount of punitive damages that may be awarded in a health care liability action.

(6) Kyl amendment No. 609 (to amendment No. 603) to provide for full compensation for noneconomic losses in civil actions.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the balance of the day will be used to debate the McConnell amendment which proposes to add detailed provisions with respect to medical malpractice legislation to the substitute which is currently before the Senate, primarily on the subject of product liability.

All amendments, except for leadership amendments, that deal with medical malpractice under the order are to be offered today and debated throughout the day. There will also be approximately 1 hour for debate on all of those amendments tomorrow before 11 o'clock in the morning, when there will be votes on everything leading up to and including the McConnell amendment, after which time, with certain narrow exceptions, medical malpractice will no longer be discussed as a part of this bill.

So I want to express the hope that Members who wish to speak on the subject of medical malpractice or to offer additional amendments to the McConnell amendment will come to the floor and debate those issues today. Nothing in the order prohibits speeches or discussions on the legislation broader than medical malpractice, but this is primarily going to be a medical malpractice day.

So we are open and ready for business for any Member who wishes to discuss that issue or to offer an amendment relating to that issue.

With that, for the time being, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business for approximately a half hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

OUR NATION'S BUDGET

Mr. GREGG. Thank you, Mr. President.

I want to take this opportunity today to talk a little bit about what is going to happen relative to the budget of this country as we move forward through the next couple of months when we are taking up key issues involving the budget, and to talk a little bit about Medicare, which is obviously an issue of considerable concern for our senior citizens and of equal concern for those of us who served in the Senate and in the House of Representatives as we move through the process of trying to restructure, first, the budget of the country to put us into solvency and, second, to make sure that the Medicare system remains solvent, and that our seniors will be able to benefit from this, the largest insurance program in the Nation.

As I think everybody knows, this country faces some fairly significant crises in the coming years over the issue of the deficit. In fact, if we continue on our present course, it is projected that by about 2015, or thereabouts, this Nation will essentially end up in bankruptcy. It will be a bankruptcy which had been generated primarily by the fact that we, as a Government, have failed to address the spending side of the ledger of the Federal budget. It will also be a bankruptcy which passes on to our children a Nation where their chances for opportunity, their chances for a lifestyle which is prosperous, is essentially eliminated.

Unfortunately, if we do not take action soon, we will end up like Mexico is today; we will be a Nation unable to pay its bills. This is not fair or right, as I have said on a number of occasions on this floor. In fact, the way I have characterized it is—and I have talked about the postwar baby boom generation, the Bill Clinton generation—we will be the first generation in the history of this great and wonderful country to pass less on to our children than was given to us by our parents. Such an action cannot occur and should not occur. It is not right and it is not fair.

We need to address the issue of the deficit. In order to do this, it is, I think, informative to look at some of the proposals that are on the table and which have been evaluated by various agencies which review the deficit.

Each year, the Congressional Budget Office subjects the President's budget to its own independent analysis. It then publishes the analysis in a little book, the latest version of which was released last week. It is this blue book here. This is a very significant document because, as you will recall, when the President was elected, during his first speech to the Congress he stated he would use CBO as the fair and honest arbiter of the numbers of his budget.

This year, CBO has found some highly significant differences between what the President said will happen under his budget and what CBO believes will actually occur.

If you will recall, in February, when the President's budget was shown—when it was first delivered—it showed basically a steady state of deficits of $200 billion each year for as far as the eye can see; $200 billion a year, basically until the end of the budget cycle and beyond, with no progress toward a balanced budget, but at least no deterioration from the present position, which was pretty bad. It would have added, for example, a trillion dollars of new debt to the Federal deficit over the next 5 years.

CBO, however, says that this is not true; the President's budget is not accurate. CBO's analysis found that the President's budget proposal would actually cause the deficit to climb by $100 billion over the next 5 years. From $177 billion in the year 1996 to $276 billion in the year 2000.

This chart here shows this problem. This is the President's budget as he proposed it. This would be balanced down here. There would be $200 billion deficits for as far as the eye could see. But CBO has taken a look at the President's budget and found that not only is he giving us a $200 billion deficit for as far as the eye could see, it appears that it is now on an upward trend and well above $200 billion. In other words, the President's budget will actually result in adding $1.2 trillion of new debt to the national debt over the next 5 years.

That is on top of the $4.8 trillion which we already owe as a country, and it is debt which our children will have to pay. It is debt which is going to finance current expenses which we are undertaking.

The President's budget, it seems, was subject to some unfair criticism back in February, in fact. Republicans—and I must include myself among them—and some Democrats criticized it as a do-nothing budget. Well, now it appears that it is not a do-nothing budget, it is a make-things-worse budget.

Congress also received some additional information which is fairly significant in the last couple of weeks. It received a report from the trustees of the Social Security and Medicare trust fund. That is this report here. This is important because the trustees of the Medicare trust fund are independent individuals who are given the obligation of managing the Social Security and the trust fund program and who are theoretically, outside the political process, although three of them are political appointees.

For those who do not know that, the trustees include, for example, the Secretary of the Treasury, the Secretary of Labor and Human Resources, the Commissioner of Social Security, the Administrator of Health Care Financing Administration. In addition, there are two public trustees. These two are not administration officials, but private citizens, who were appointed to their positions.

The alarming nature of this year's report results from the trustees' telling that the Medicare system is in a full-blown crisis, that it will go bankrupt in just 7 years if we do not take decisive action to fix it.

Let me show another chart which reflects the seriousness of this situation. This is the hospital trust fund, Medicare. As we see under the present scenario, it is solvent. Beginning in about the year 1997, it starts to have a negative cash flow, and by the year 2002, 2003, or 2004 it goes into deficit. In other words, it becomes bankrupt.

This is the most important trust fund after Social Security that we deal with as a nation. The Medicare trustees are saying that the trust fund will confront a negative cash flow in just 2 years. This means that the Medicare program will be spending more than the Medicare payroll tax brings in.

The Medicare will go insolvent in 7 years, or the year 2002. That is, the trust fund will not only have a negative cash flow, but that it will also have spent all the surplus reserves that it has accumulated. In other words, it will be bankrupt.

"It is important to remember," the trustees said, "that under present law there is no authority to pay insurance benefits if the assets of the hospital trust fund are depleted." That means at this point, when we cross this line, there will be no money to pay for health care for senior citizens. Medicare benefits would simply be cut off, or seniors would have to fend for themselves for their health care. While Congress would probably do something about that, right now the state of the law is that in the year 2002 senior citizens will have no health care insurance.

How big is the Medicare financial problem? The trustees report says the following:

> Short term, to restore actuarial balance over the next 25 years, an immediate payroll tax of 1.3 percent would have to be imposed or benefits would have to be reduced in a comparable fashion. That 1.3 percent translates into $263 billion over 5 years or $387 billion over 8 years.
>
> In the long term, to restore balance over a 75-year period, the payroll tax would have to be hiked 3.5 percent immediately or a cut in benefits would have to be made that is comparable. That translates into $565 billion over 5 years or $1.1 trillion over 7 years.

These are the numbers required to restore actuarial balance. But these figures give an idea of the magnitude of the problem that Medicare confronts.

Another important element of this year's Medicare trustees report is that the public trustees—the citizen trustees, not the Clinton administration trustees—took the highly unusual step of including their own message, a dissent, in the statement. This statement sounds much more urgent and alarming than the overall report. Remember, it was given by the independent folks who serve in this commission. And the overall report is pretty severe.

The public trustees begin the message by saying there has been an acceleration of the deterioration of the trust fund. They say that the deterioration results from some unforeseen events, but also from the absence of prompt action in response to clear warnings that changes are necessary.

Here they are basically scolding the Congress. They are saying, "We have been telling you of this problem for some time but you have ignored it. But you have a major crisis on your hands now and you can't delay any longer."

The trustees also go on to say two things which are rather striking, and I have had them reproduced here because they are so significant.

They say: "The Medicare Program is clearly unsustainable in its present form." Unsustainable in its present form.

They also say, and this is the independent trustees speaking: "We strongly recommend that the crisis presented by the financial condition of the Medicare trust funds be urgently addressed on a comprehensive basis, including a review of the program's financing methods, benefit provisions, and delivery mechanisms."

In other words, the Medicare Program is insolvent, is bankrupt, and it is unsustainable in its present form. It has to be restructured.

In light of these two reports, the CBO report and the Medicare trustees report, Congress really confronts what I would call a political gut check. Are we going to try to save the Medicare system and balance the budget despite the political demagoguery that will surely result? Are we going to do these things in the face of a President who has basically washed his hands of both problems and taken the Pontius Pilate approach to budgeting, Pontius Pilate approach to Medicare, washed his hands and said there is no problem and walked off the stage? Or are we going to pursue politics as usual and just pretend for another year there is no problem at all?

For my part, I believe we must reject the politics as usual and move decisively to restore this country's fiscal standing. We must do so to save the Medicare trust fund and to assure our seniors that they have a health insurance plan that is solvent, and we must do so to balance the budget, whether or not we get the President's help.

Why? Because it is the right thing to do. It is the necessary thing to do. Quite simply, it is our job to do it.

First, we must save the Medicare trust fund from bankruptcy. To do this we must pursue two tracks. We must make some changes to head off the bankruptcy in the year 2002 and restore the short-term solvency, and we must also undertake some structural improvements so that the Medicare trust fund remains sustainable into the next century.

This involves some immediate adjustments, and it involves opening up the system to market-based incentives. We must follow the lead of the private sector and allow senior citizens to choose from a wide variety of health care plans, including traditional Medicare.

If we allow seniors to have a wide variety of choices similar to those that we have as Members of Congress or as Federal employees, then the Medicare inflation will come under control and we will be able for bring this system into solvency.

This can be done by giving our seniors choice. We can do it not by cutting Medicare. We do not have to cut spending on Medicare. All we need to do is reduce its rate of growth.

Last year, the Medicare trust fund and the Medicaid fund, which is a separate fund and is a welfare fund, both grew at 10.5 percent, three times the rate of inflation in the economy. It happens to be 10 times the rate of inflation in the private sector health care arena, which actually dropped last year as a rate of growth. They had a minus 1.9 percent inflation rate.

Obviously, we cannot sustain double-digit inflation rates in the Medicare accounts. But we could sustain a growth rate which was as high as 7-percent, or twice the rate of inflation, and seven times the rate of inflation in the private sector health care accounts.

We can obtain that goal of reaching a 7 percent rate of growth in Medicare by giving seniors more choice and creating a market-place incentive for them to move into health care provider proposals which are more cost efficient. I have laid out a fairly significant program to do that, and have talked about it before on the floor.

Along with moving to resolve the bankruptcy of the Medicare system, we also must act decisively to resolve the problem with the deficit and the Federal budget. We must not only save Medicare but we must reform the rest of Government as well, because we must be able to pass on to our children a country which is solvent. This can be done by improving the way the Government delivers its services. Welfare, including Medicaid, has some of the fastest growing programs of the Federal Government but they are also some of the areas where the Federal Government has had its biggest experiences of failure. In fact, if there is one item you can point to in the liberal welfare state as having been a failure over the last 40 years, it is welfare itself. It has created generations of dependency and despondency: People who are locked into a system from which they cannot escape; people who should not be in the system who are in the system; people who should be getting assistance who are not getting assistance.

We must admit that the status quo of the welfare system, and the Medicaid system, for that matter, which is part of it, is indefensible. We must move the responsibility for these programs and the power to administer these programs back to the States through using flexible funds and returning the dollars and the authority over these programs to the States.

This loss of power on the Federal level will upset a lot of people around here and there will be a lot of shrill rhetoric. But the basis of that rhetoric will be the concern for loss of power. We will hear it couched in terms of compassion. We will hear this outrageous statement, which is so often made by some of my colleagues on the left, that State Governors and State legislatures and town governance individuals do not have the compassion or the knowledge to manage these programs; that somehow, the knowledge to manage these programs is uniquely retained in a few bureaucrats here in Washington and their assistants here on the floor of the Senate and in the House of Representatives.

But that argument of compassion is, as we all know, a smokescreen for the real argument or the real concern, which is one of power. Controlling the dollars and controlling the programs means controlling people and having power. There are many Members around this arena who do not wish to give up the power of the purse or the power of the programs. But if we are to get better programs—better managed, more efficiently managed, delivering better services—the way to do that is to return the responsibility to the States and to the communities along with the dollars that support those programs.

So in the welfare and Medicaid accounts, we can do both. In fact, the Governors have come forward and suggested to us that they will take over these programs and they will take them over at a fixed price. They will deliver these programs and deliver them even better than we do because they know how to deliver them and they have the flexibility to deliver them if we will simply give them the authority to do that. And, in doing that, we can save a lot of money and produce a better program.

We also need to address other entitlements. For example, the Federal retirement program is one of the largest categories of entitlements. It cannot escape reform as we undertake a fair and balanced approach to entitlement reform. The American taxpayers bear the full cost of Federal retirees' annual COLA adjustments, a feature that virtually no private pension plan shares and that was not part of the Government's original retirement contract with Federal workers, and we must do something to control that growth.

There are innumerable—literally hundreds—of smaller entitlement programs, including some popular ones in the area of agriculture, unemployment compensation, and a variety of others. But all of these should be put under the microscope of review and we should ask the questions: Do they work? Should they continue to exist? Can they be improved? If we ask those questions, we will find in all instances the answer is they can be improved, and they can be delivered more efficiently and for less cost.

While balancing the budget will mean examining the operation of some sacred political cows, it can be done. While in some cases we will decide that the Federal Government just cannot afford to continue funding some activities, in most cases entitlement reform will simply result in better Government being delivered, probably, to more people.

Unfortunately, however, it appears that the Congress will have to go it alone. The President is offering absolutely no help. In fact, as the CBO report and the President's recent appearances tell us, his actions seem to be just making things worse. Just when the national predicament calls out for strong fiscal leadership, the President is doing exactly the opposite. He is telling every interest group he appears before that they deserve more money. He just told the Iowa farmers that they need to spend more money on pigs, more pork. It really is outrageous.

Still, Congress must forge ahead. We must act to preserve the Medicare system so our seniors are not faced with a bankruptcy, which cannot be debated, and which has been predicted by their trustees, so that they will have an insurance trust fund that is there for them and for the next generation. We must act to preserve our children's future by moving to balance the budget by the year 2002.

These will not be an easy 2 months as we go through the process of accomplishing these goals. We will have to make serious and difficult decisions. But I hope this Congress will not take the course that the President has and walk away from the matter. We need to undertake this issue of bringing solvency into the Medicare fund for the benefit of our seniors. We need to undertake balancing the budget for the benefit of our children.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

HEALTH CARE

Mr. WELLSTONE. Mr. President, I know the Senator from Arizona is here. He is going to wish to lay down an amendment and speak about it. I have an amendment that I laid down on Thursday that I want also to speak on. But I thought we might stay in morning business just for a few minutes and I might respond to my colleague from New Hampshire and then we will go back on the bill. I do not come with any well-rehearsed remarks, but as I was listening to the presentation of my friend from New Hampshire, I did want to respond in a couple of different ways.

First of all, I was immersed in the health care debate in the 103d Congress. Of course, at the very end, we were deadlocked and there was, on the part of a good number of Senators, I think, a very strong commitment to blocking any legislation from being passed and therefore we were not able to pass any kind of health care reform. I point out to my colleague that many of us made the argument that the only way we were going to be able to contain costs—and that included looking at Medicare and Medicaid, which are two very big Government programs—was within the context of overall health care reform.

I take exception to what I heard my colleague from New Hampshire saying in a couple of different areas. First of all, let me just be crystal clear. I think the proposition that on the one hand—at least some Senators have proposed this, and many in the House of Representatives have proposed this—we go forward with broad-based tax cuts which amount to about $700 billion over the next 10 years, of revenue we would have to make up, and on the other hand go forward with cuts—some say just decreasing the rate of increase of Medicare—I think that proposition just will not be credible. It will not be credible with a lot of senior citizens, but that is not even the point. It will not be credible with their children and their grandchildren.

You cannot, on the one hand, say you are for deficit reduction and then move forward on broad-based tax reduction to the point where you have to figure out how to offset $700 billion before you even go forward with deficit reduction, and at the same time be proposing fairly draconian cuts in Medicare.

I have said all along I actually feel quite credible on this issue because from the very beginning of this debate about balancing the budget by 2002 I have raised the question, "Why 2002?" I have raised the question of how you can do it without separating capital and operating budgets. I have tried to be intellectually honest about this. I have talked about dancing at two weddings at the same time.

I have said to citizens in Minnesota, beware of any breed of politician—Democrat, Republican, Independent—and others who say: On the one hand, you are going to have broad-based tax cuts, on the one hand you are not going to cut the military budget, on the one hand you are going to pay interest on the debt because we have to, on the one hand Social Security is going to be put in parenthesis and not touched, on the one hand now we are not going to really cut Medicare—but we are going to balance the budget, cut $1 trillion, by 2002.

But students, it is not going to be higher education. Veterans, do not worry. And children, it is not true that we are going to cut the nutrition programs. The arithmetic of this does not add up. My colleagues are discovering that they are in this context—talking about balancing the budget—are going to have to propose deep and significant cuts in Medicare and Medicaid. Please remember about 75 percent of Medicaid payments do not go to AFDC mothers, or what we view as welfare, but actually go toward long-term care for the aged. It is not just older people we are talking about. We are talking about older people; we are talking about their children and grandchildren; we are talking about families in this country.

Now we have a new wrinkle where colleagues come out and say the trust fund is in trouble, and they talk about this as an actuarial issue. This is a benefits program. You can use all of the insurance language you want to about trust funds and talk about actuarial assumptions and all the rest. The fact of the matter is that in 1965 we passed the Medicare and Medicaid Programs in the U.S. Congress. It was an inadequate installment of universal coverage but nevertheless it was significant. From my family having had two parents with Parkinson's disease, let me just say one more time that Medicare, imperfections and all, was probably the difference between disaster and being able to at least live the end of your lives with some dignity. Both my mother and father have passed away.

Even so, with Medicare, Mr. President, elderly people pay four times as much out of pocket as people who are not elderly. Please remember one more time, since we have this stereotype of older Americans being rich and not having to really worry about any economic squeeze, that the median income for men 65 years of age and older is $15,000; for women it is about $8,000. This is no small issue.

Mr. President, last Congress we talked about how we could move forward on long-term care in such a way that we could have more home-based care. We, I think, reached some consensus, except, when we got to the point where we will have to dig into our pockets and figure out how to fund it, that elderly people and people with disabilities ought to be able to live as near in normal circumstances as possible with dignity. They ought not to have to go to institutions when they could live at home. We put real emphasis on home-based care with a wonderful program in Minnesota, a block grant program not adequately funded. But we are funding it. It is wonderful. It makes all of the difference in the world, and it enables someone who is elderly to live at home. But we did not take any action on that.

We were also talking about some legislation. I introduced the single payer bill covering the catastrophic expenses. Medicare does not cover the catastrophic expenses of what happens to you when you are in a nursing home. Nor does it cover prescription drugs.

My colleagues are not in any of these proposals talking about any of that. They are talking about cutting Medicare. And they want to make the argument it is not really a cut, that it is just a lessening of the rate of increase. Well, why is it such a big surprise to my colleagues that a larger and larger percentage of our population are 65 years of age and over, and a larger and larger percentage of that population tends to be in their eighties? Of course, it costs money. That is what Medicare is about; the commitment to elderly citizens, and that we will fund a decent level of health care for elderly people in our country. This should not come as any shock. And it is a benefits program. It is a contract. It is a commitment we made.

Mr. President, there are, I think, steps that we can take. In some cities and some States you find that the cost of providing coverage is much greater than, for example, what it is in Minnesota. I am sure there are ways that we can move toward more efficiency.

But, Mr. President, I must say that all of a sudden this discussion about now what we are going to do is talk about the trust fund, we are not going to really say this is part of deficit reduction although it was always proposed before as part of deficit reduction. And in addition, we are going to give people all of these kinds of options. So they are really not options because managed care is the place in which you can have the savings but in many parts of the country, especially outside your metro areas, it is not a real option. And in addition, we say, if there are any savings by enabling people to develop to purchase vouchers or all the rest, then in fact we will be OK. But, if they are not, then we are going to have to make the deep cuts. There are not going to be any because, if there are savings, by definition they go to those individuals. They do not go to the Government. We are talking about public expenditures here and how to cut down on the public expenditures.

So I think that some of my colleagues are trying to dance at two weddings at the same time. There was all this bold rhetoric about how we were going to balance the budget by 2002, no question about it. I saw projections of quotes from colleagues that we were going to be cutting Medicare by $400 billion between now and the year 2002. That figure has gone down. But make no bones about it. That is what is being proposed.

Mr. President, I think what we ought to do is move forward on good health care reform, and there are three critical ingredients to that. First, universal coverage; and I promise my colleague from Arizona that I will be finished within 2 minutes. Second, cost containment—and, by the way, the Congressional Budget Office said really the way you can contain costs is you put some sort of limit on what insurance companies can charge. Third, we need to deliver care in some of our underserved communities like, for example, rural areas where we have to put much more emphasis on primary care, on family doctors, on advanced nurse practitioners, on nurses, getting health care out of the communities backed up by specialization.

It is in that context that we contain Medicare costs. But, if we just target Medicare, you are going to have the same irrational charge shifting. You are going to have true rationing by age, income, and disability. You are going to be hurting a lot of citizens in this country. And, we are going to be moving away from a basic commitment that we made in 1965.

So, I look forward to what I think is going to be an extremely important debate but I did want to respond to my colleague from New Hampshire. I am sorry he had to leave.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. KYL. I thank my colleague.

Mr. President, at this time, I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 611 TO AMENDMENT NO. 603

(Purpose: To establish a limitation on noneconomic damages)

Mr. KYL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 611 to amendment No. 603.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . LIMITATION ON NONECONOMIC DAMAGES.

(a) IN GENERAL.—With respect to any health care liability action, in addition to any award of economic or punitive damages, a claimant may be awarded noneconomic damages, including damages awarded to compensate the claimant for injured feelings such as pain and suffering, emotional distress, and loss of consortium.

(b) LIMITATION.—The amount of noneconomic damages that may be awarded to a claimant under subsection (a) may not exceed $500,000. Such limitation shall apply regardless of the number of defendants in the action and the number of claims or actions brought with respect to the injury involved.

(c) NO DISCLOSURE TO TRIER OF FACT.—The trier of the fact in an action described in subsection (a) may not be informed of the limitation contained in this section.

(d) AWARDS IN EXCESS OF LIMITATION.—An award for noneconomic damages in an action described in subsection (a), in excess of the limitation contained in subsection (b) shall—

(1) be reduced to $500,000 either prior to entry of judgment or by amendment of the judgment after entry;

(2) be reduced to $500,000 prior to accounting for any other reduction in damages required under applicable law; and

(3) in the case of separate awards of damages for past and future noneconomic damages, be reduced to $500,000 with the initial reductions being made in the award of damages for future noneconomic losses.

(e) PRESENT VALUE.—An award for future noneconomic damages shall not be discounted to present value.

Mr. KYL. Mr. President, this is the noneconomic damages limitation amendment that many of us have been talking about for some time. I indicated earlier this morning that I would be introducing it. It works in tandem with the limitation on lawyer's fees to ensure that the victims of negligence are properly compensated and that neither the public needs to end up continuing to pay this tort tax that we talked about earlier nor that lawyers or others in the system become enriched at the expense of the victims of negligence.

This particular amendment would place a limitation of $500,000 on noneconomic damages that are awarded to compensate a claimant for pain, suffering, emotional distress, and other related injuries.

Mr. President, every day in America, physicians take care of over 9 million patients. These are professionals who are dedicated to the service of their fellow citizens. They do a tremendous job. They serve in times of crisis and natural disasters often at great personal risk. A good example is the heroic service of the doctors in the aftermath of the bombing in Oklahoma City.

The medical profession is dedicated to doing everything possible to ensure that the practice of medicine conforms at all times with both Government rules and regulations and, of course, with the high standards that are inherent in the profession itself.

But physicians are not God. They are human like all the rest of us, and occasionally mistakes are made and sometimes patients suffer injuries as a result. When this occurs, injured patients must be awarded full and fair compensation for their injuries should they choose to pursue a legal remedy. But in today's litigious climate, roughly one-third of all physicians, 50 percent of all surgeons, and 75 percent of all obstetricians will be sued in their careers.

Let me go through those figures again: 50 percent of all surgeons and 75 percent of all obstetricians will be sued in their careers.

Courts determine that roughly three-fourths of these cases have no merit, and they are ultimately dismissed with no payment being made to the claimant, but the psychological and financial costs of defending these cases, oftentimes frivolous, but these unpredictable situations are staggering. Defending against meritless lawsuits has in effect become an occupational hazard of practicing medicine and, of course, these costs are passed on to all the rest of us in the form of higher medical costs, diminished quality, and access to health care.

Mr. President, as we in the Congress address legal reform, we should not miss the opportunity to rationally address the overly litigious nature of medical liability actions. The Kyl amendment would limit noneconomic damages to $500,000. The amendment would apply only to noneconomic damages, known sometimes as pain and suffering.

No other country compensates victims of health care injuries as generously as $500,000 for noneconomic damages. For example, in Canada, there is a cap on noneconomic damages of $180,000. In a 1994 report to Congress, the Physician Payment Review Commission, which is the Federal Commission established to review Medicare payments, said:

> Much of the unpredictability and inconsistency that characterizes today's malpractice awards is because of noneconomic damages, which account for 50 percent of total payments. Reducing the unpredictability and eliminating the potential for unreasonably high awards would improve decisionmaking during the course of a lawsuit and would promote settlement.

In other words, Mr. President, in order to encourage settlement rather than litigation, we should address this "lottery mentality" of awarding arbitrary and unpredictable noneconomic damages.

According to a September 1993 report by the Office of Technology Assessment, and I am quoting now:

> Limits on noneconomic damages is the single most effective reform in containing medical liability premiums.

Let me repeat that, because all of us are concerned now about what kind of health care reform we will be adopting later this year, and in the context of both legal reform and health care reform, this is a startling statement. It is the OTA, 1993.

> Limits on noneconomic damages is the single most effective reform in containing medical liability premiums.

Without a reasonable limitation on these nonquantifiable losses, medical liability insurance premiums and medical product liability costs will continue to skyrocket. Physicians are forced to drop insurance coverage or, in order to minimize the risk, to stop performing high-risk procedures such as delivering babies.

According to a book published by the respected Institute of Medicine called "Medical Professional Liability and the Delivery of Obstetrical Care," the most comprehensive, authoritative study of rural health care access, the delivery of obstetrical care in all rural areas of America is seriously threatened by professional liability concerns: 12.3 percent of the ob/gyn's nationally have given up obstetrics totally due to liability pressures—12.3 percent; 22.8 percent of ob/gyn's nationally have drastically decreased the amount and level of obstetric care they provide. In some States, the problem is much worse than nationally.

In rural Arizona, the most recent study shows that 21 percent of the ob-gyn's have totally stopped providing obstetric care. The reason? The cost of malpractice insurance and threats of suits in Arizona.

Mr. President, how is this system enhancing medical care in our country? Somehow, this system is protecting people in need of medical care? It is precluding physicians from serving the patients, and in the rural areas in particular the kind of care that women delivering babies are getting is less than it could be, less than it should be, because you do not have that obstetrician there helping with the delivery.

There is an impact on the minority community. The National Council of Negro Women believes that "a cap on noneconomic damages is an essential part of comprehensive legal reform legislation." This is in a letter dated just February 14 of this year, from Eleanor Hinton Hoytt, director of national programs of the National Council of Negro Women.

The council realizes that low-income minority communities are facing increasing shortages of physicians who can afford to pay liability insurance premiums.

We know, Mr. President, of many examples of physicians who, on the very first day of the year, January 1, either have to have a liability insurance policy costing them anywhere from $30,000, $40,000, $50,000, $60,000, and even upward of $70,000 before they can see their very first patient, much more than most people in this country make in a year.

The argument may be made that limiting noneconomic damages would restrict the right of an injured patient to sue and collect for economic damages and that, of course, is not true. My amendment does not prevent filing suit and recovering all economic damages for past and future medical expenses, loss of past and future earnings, loss of consortium, loss of employment or any other business opportunity, nor does my amendment limit suits that seek damages for malicious acts for which punitive damages are warranted. A cap on noneconomic damages such as the Kyl amendment does not discourage the filing of lawsuits. In California, which has a cap just half the cap that I am proposing here, a cap of $250,000 as opposed to $500,000, there were 16½ percent more cases filed in 1993 than in 1992, the year before the limit in California went into effect. So it did not preclude the filing of actions.

Moreover, in California, the cost of liability premiums has been reduced in part because of this cap. Prior to imposition of the $250,000 cap in California, the State had the highest liability premiums in the Nation. Premiums are now one-third to one-half the rate in States like New York, Florida, and other States that have not established a limit.

Mr. President, as part of the Contract With America, the House has passed a more restrictive cap of $250,000 on noneconomic damages, the same limit as in some other States, including California. Some in the Senate said, in response to that, that the $250,000 cap may be fine in most cases, but there are always those few exceptional egregious cases that should have a greater limit. So we doubled it. We increased it 100 percent to $500,000. And bear in mind, this would be on top of all of the economic damages awarded, in other words, all of the sums of money required to make the victim whole, to pay for all of the economic losses, losses of future employment opportunities, whatever it might be, including all of the bills, of course. And, as I said, in the case of punitive damage awards, those are not limited by this particular amendment. So we are only talking about the noneconomic damages, those unquantifiable damages. No one can put a dollar amount on how much pain and suffering it is when someone is injured. What we are saying is there should be a predictable sum that at least represents the absolute top.

There is a lot of public support for some kind of cap here. For example, a very recent poll conducted by the Health Care Liability Alliance indicated that 17 percent of the public supports a cap on common noneconomic damages.

So we think, Mr. President, this is an amendment which will strengthen the bill. It will strengthen the Kassebaum-McConnell-Lieberman amendment, which has to do with medical malpractice, and therefore at the appropriate time, I guess sometime after 11 o'clock tomorrow, we are going to call for a vote on this amendment, and I hope it will pass.

I wish to conclude with two arguments that have been made in opposition to this amendment. The first is that the people who are injured by some kind of negligence need to keep the lion's share of the money they win, and the point with respect to these caps is do they not ordinarily keep what they win? And the answer to that, of course, is that that is not true.

According to the Rand Corp., plaintiffs keep only 43 cents of every dollar spent on medical liability. Over 50 cents goes to the lawyers.

So, Mr. President, what we are trying to do here is to put two amendments in tandem. There is already an amendment which I have offered which would limit the attorney's fees in these kinds of cases. By limiting the attorney's fees, we enable the claimant to keep more of the award. So, at the same time that a cap would be placed on the noneconomic damages, a cap of a half million dollars, the claimants would be able to keep more of that half million dollars because of the limits on attorney's fees.

So the net result is that the claimant will not be hurt, will not have recovery reduced by this cap on noneconomic damages. The claimant will do as well, if not better, by virtue of the fact that we would also limit the attorney's fees. The loser will be the attorney who is trying to get the great jackpot here, the big bonanza, of earning something like $300,000 for 1 hour of work. That will be the loser, not the claimant, with this particular cap.

The bottom line is that the claimants will do as well or better if we combine this with the limitation on attorney's fees.

Second, there is a question that I have heard: Is it not true that a $500,000 cap on noneconomic damages will keep deserving patients from getting million-dollar settlements when they really need them? And the answer is, of course, no.

One of the reasons for increasing the cap to $500,000 rather than $250,000 is to ensure that in that very exceptional cases, in addition to all of the economic damages awarded, there will be an opportunity to get up to a half million dollars.

But the point is that patients with valid claims are today collecting millions of dollars in States with caps, such as California, despite the cap on noneconomic damages there of $250,000. In California, the number of million-dollar verdicts and settlements has hovered around 30 per year throughout the 1990's, with the average indemnity in these cases over $2 million. These million-dollar-plus cases included awards for wrongful death, birth injuries diagnosed in related areas, failure or delay in treatment, and substandard post-surgical care.

So, Mr. President, despite the fact there has been a limit on noneconomic damages in California of only half the amount we are suggesting here, there have still been settlements and awards that far exceed $1 million. So we are not limiting those cases, and everyone acknowledges they are the very small exceptions to the rule here. But we are not limiting those particular recoveries.

In conclusion, Mr. President, there are two amendments that I have offered to the underlying medical malpractice amendment offered by Senators KASSEBAUM, LIEBERMAN, and McCONNELL. The first is a limitation on attorney's fees, essentially, at 25 percent, although there are some nuances to it, of any recovery. And second is the limitation on noneconomic damages. The two of these amendments, working in tandem, ensure that people will be able to bring claims, that they will be able to recover more of the award either in settlement or by jury verdict themselves, that the attorney will receive less but attorneys will still receive a perfectly adequate compensation, and there will be no disincentive for them to actually bring the lawsuits because the attorney's fees cap is actually high enough so that there is not a disincentive.

The combination of that with the cap on noneconomic damages will enable the plaintiffs to be fully compensated, but also reduce the cost to society as a whole in the form of increased medical malpractice premiums and, therefore, in the form of higher costs charged for medical care generally because those costs have to be passed on by the physicians and the hospitals that have to acquire the insurance.

We believe these are two important and necessary amendments to the underlying legislation. I ask my colleagues to support these amendments.

I yield back my time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Minnesota.

Mr. WELLSTONE. I wonder whether I would have time to ask a few questions that I would like to ask my colleague from Arizona.

I am not a lawyer, but as I understand it, the whole concept of compensation is to make the individual whole, and there is the economic and then the noneconomic. With this cap of $500,000, how many of the plaintiffs, as we project to the future, how many plaintiffs would lose how much by way of dollars in compensation to make them whole again? What are the projections on what impact this is going to have on those individuals that have been injured in a malpractice?

Mr. KYL. Mr. President, I say to my colleague that the information that we have, according to a study that was recently done, is that less than 2 percent of the cases would be affected by the $500,000 cap. But, of course, because of the large amount of money involved, it would have a very large impact on constraining costs.

Mr. WELLSTONE. Mr. President, my next question would be: If it is less than 2 percent—and I gather that that, as you say, may focus on a few cases where there are large dollars involved—then I would ask my colleague from Arizona, do you have any projections on what impact this will actually have on more doctors? How many more doctors would be practicing medicine in underserved areas, be they rural or inner city, as a result of this cap? Do you have any projections?

Mr. KYL. I would be happy to continue to respond to my colleague, because they are very good questions. They go right to the heart of the issue.

Obviously, by proposing the reform, we are hoping to have an impact pact on the problem. Part of the problem, as I indicated, is the fact that, particularly in rural areas but not limited to rural areas, and in particular ob-gyn's have either stopped practicing or have cut back their practice just to the gynecological services rather than obstetrical services. If you go by the numbers I cited, you have an indication at least of what these physicians were able to do before this litigation system got to the point that it is today.

It is impossible, of course, to predict precisely, but I will go back to the numbers that I stated just a moment ago, because the study was very recent. I think it was either 1993 or 1994. Nationally, 12.3 percent of the ob-gyn's have given up obstetrics totally, due to liability pressures. That is in a book, as I said, that was written by the Institute of Medicine called Medical Professional Liability and the Delivery of Obstetrical Care. Nationally, 22.8 percent of the ob-gyn's have drastically decreased the amount of care they have provided because of this.

So one could conclude that, if we were able to put a cap on these damages, at least some of this problem would go away. But, obviously, because you would still be able to recover up to $500,000 in noneconomic damages, I am not contending that all of these physicians would go back to practicing. Of course, this does not relate either to the increases in costs of the medical malpractice premiums for those physicians who do choose to stay in practice or for those who are involved in other areas of specialty.

So, it is impossible to say with precision, but I think it is safe to say that at least it would reduce medical costs and get some of these rural areas better covered by physician services.

Mr. WELLSTONE. By the way, in the 2 percent of the cases that the Senator mentioned, how much does that translate to in terms of dollars?

Mr. KYL. Let me see if I can get that for you. I do not have that in my prepared remarks.

Mr. WELLSTONE. I guess what I am struggling with here, Mr. President, as I try to figure out the logic of this, if my colleague had said, "Look, there are lots of cases that this would affect all across the country," then I would have said, "Well, then I understand what you are doing in terms of the negative impact on plaintiffs." Many times we are talking about people who have been injured.

But my colleague's response was, it is a relatively small percentage, in which case then the flip side of the coin is, I am wondering—and I wrote it down—if it is 12.3 percent, the figure on ob-gyn's who talked about the problems of excessive payments, I am not at all sure that there would be—I mean, by definition, if there are very few cases, then why would any of us have any reason to believe that, by putting this cap on, this would have any significant impact on the number of ob-gyn, if you follow me, practitioners in these underserved communities?

Mr. KYL. I think my colleague raises a good point. The mere fact that half of the physicians will, half of the surgeons in the country will be sued for medical malpractice has a great deal to do with the malpractice premium problem as well.

So it is very difficult to tell how much of the problem is due to the large number of cases that will be filed and have to be defended, regardless of whether they have merit or not—three-fourths of them actually being thrown out—and how many problems, on the other hand, are due to very large awards. Because it is impossible to divide those numbers out, it is impossible to say precisely how much good we will do with this amendment.

But this amendment is just one narrow piece of a much larger underlying amendment, as my colleague knows, that is being offered by Senators LIEBERMAN, KASSEBAUM, and MCCONNELL, that hopefully will also deal with the number of claims that are filed.

So we are trying to get at it in three different ways: We are trying to limit the circumstances under which these cases are filed and trying to get them into alternative dispute rather than going all the way through trial, No. 1; second, we are trying to limit the nonessential costs, and in this case, we are saying some of the attorney's costs are just not necessary, we want to give more of that money to the claimants; and third—and I think this goes directly to the point of the Senator from Minnesota—there may not be very many cases where you have these astronomical awards but those few cases do represent a lot of money and they represent a lot of psychological horror to the insurance companies and to the physicians. They are the ones everybody knows about. That is the McDonald's coffee that burned the claimant and all of the other cases that we are very familiar with.

Of course, that is not a medical malpractice case, but it is those kinds of awards that get put into people's minds and it is that which probably, in the case of the insurance companies, ends up causing them to, in effect, dictate to their insured, the physician, that a case be settled, even though I heard a lot of physicians saying, "I wanted to fight that case because I knew I was not negligent, I knew we didn't cause this damage, or at least it was not negligence," but the insurance company said it was cheaper to settle because of the potential for one of these astronomical awards.

Because that is the sense of it, it is probably impossible to tell precisely what effect it will have. But I think a combination of all three of those approaches together will have a significant impact on bringing the costs down.

Mr. WELLSTONE. Mr. President, there are two issues I will address, and I would be very interested in the response of my colleague. One is, and, again, I do not know what the exact amount of money is, my colleague says a small number of cases but there is a significant amount of money involved. If I do not know exactly how many plaintiffs are going to be hurt or denied what I think should be fair compensation, and I do not know exactly what impact this is really going to have on the problem that my colleague identifies—ob-gyn's practicing in some of our underserved communities—then I find it difficult to support this, especially since I struggle with two questions:

One—and I will present both to my colleague so he can respond at once—I can remember, for example, when I was in North Carolina and we had our first son, David, there was a guy I was very close to, a graduate student, who had a son and went in for what was supposed to be regular surgery. Because of malpractice, his son was paralyzed in a wheelchair for the rest of his life. He was a student, he did not have a lot of money, but would anything above and beyond $500,000 for noneconomic damages be too much? That is my first question, and I am not willing to give up on that principle, especially when I do not really have any precise way of knowing what the benefits are of the amendment. And second, I say to my colleague from Minnesota, in 1986, the Minnesota Legislature enacted a $400,000 cap on intangible loss which was defined to mean embarrassment, emotional distress, so on and so forth, and we repealed it the following year because we felt it did not work at all.

This may be good in Arizona, but why should this be applied to the State of Minnesota? We have tried something different. We have some of our own alternative dispute mechanisms, et cetera, et cetera. If it is good for Arizona, fine, but why the Federal preemption on this?

Two questions, if you follow me: A, in all due respect—and, by the way, there is a lot of respect—I still feel like my colleague has not been able to spell out what exactly will be the pluses and the minuses of this, the losses and the benefits, who would benefit, who would not; and, B, therefore, I am a little reluctant to—more than a little reluctant—to give up on two principles, which are, I do not know why, in some cases, we say $501,000 is too much, and why preempt what Minnesota is doing?

Mr. KYL. I will be happy to try to respond to my colleague. First of all, by its very nature, these noneconomic damages are not quantifiable, so no one can say a particular amount is or is not warranted, which is to say of course, except we have put this decision in the hands of the jury. They are no more capable of divining a figure than the rest of us. We ask them to do it. We charge them with that responsibility, and they discharge their responsibility and, in many cases, do so very, very well. But these are very emotional cases, by their very nature. Ordinarily, the jury is well within the bounds of reason when it fixes the damage amount. We are only talking about those very, very exceptional cases, the less than 2 percent which exceed the half of a million dollars.

So no one can say in one case it should have been $501,000 and in another case $499,000. But I think we should be guided by two or three different principles.

First of all, we should understand that all of the economic damages are unaffected by this, so that with regard to the young man who has been confined to a wheelchair there would have to be a question about the loss of his earning power throughout the rest of his life, and he would receive damages for that entire sum of money. If he was building houses or something of that sort, his economic damages would be tremendous at that point, they would probably be in the millions and millions of dollars. In other cases, because of the nature of the economic loss, it would not be. If you are talking about a 65-year-old person who is about at the end of the earning part of their career, the economic damages would not be quite as large. We are already compensating for the economic loss.

Second, since we cannot know precisely how much pain and suffering should be compensated, I think we ought to fix it at a level that is adequate to compensate an egregious case but not such as to permit all of the rest of society to pay a very large price as we are paying.

What kind of a price do we put on the poor woman in rural Minnesota or rural Arizona who loses a child because there is not an obstetrician there to help deliver her baby because the high cost of medical malpractice premiums prevented that person from practicing? I know several communities in Arizona where every one of the OB's have left town because they cannot make it with the high premiums that they have to pay. I have cited these statistics here.

So when we talk about how many millions of dollars should one person receive for being injured, I turn that around and say, how many millions of dollars worth of damage are being caused by the fact that physicians are not able to practice the way we all would like to have them practice and the way they used to practice.

Finally, I note that our amendment does not provide for reduction in present value, therefore, in the case of the young man, the example the Senator cited, that $500,000, since he already received the economic damages—he has been made whole in that sense—this $500,000 can generate maybe several millions of dollars, many millions of dollars of income during that person's lifetime. We are enabling the person to collect the entire sum rather than having it to be reduced to present value.

As to the question why preemption, it is a very good question, because ordinarily we would like to have the experimentation at the State level, and that certainly has been a part of my philosophy over the years. But we found in many areas from standards we have established on health care delivery, from the FDA, in welfare, in so many different areas we have found we want to have some kind of at least minimal national standards.

In the case of people trying to do business and provide insurance so that hospitals and physicians can provide care to people so that they will receive the kind of health care that they need, in order for them to do that, they are going to need to have some kind of standard by which they can operate.

If there is a different standard in every State, it is going to be very difficult—in fact, they have said it—it is very difficult for these insurers to insure against the different standards in different States. So some predictability and a maximum level of exposure, we think, would go a long way toward enabling companies around the country to reduce the overall cost of health care which, of course, would tie into our efforts to try to establish some kind of health care reform later in the session in Congress.

Mr. WELLSTONE. I see other colleagues on the floor. I wanted to speak briefly about an amendment that I have offered.

Mr. KYL. May I say, before my colleague leaves the floor, I appreciate his questions. They are all very good. I wish we had more of an opportunity to engage in colloquy. I think we would get to the bottom of some of these things.

Mr. WELLSTONE. I thank my colleague, too. I think ultimately where I come down on this question is—while some of my objections I have tried to be clear about—I guess I still do not find the argument about the jury being swayed on a motion to appeal that persuasive—and you know what I am going to say. These are the people who vote for us in elections. I will tell you that my State has struggled with this question, and we have passed some significant reform. You may want to do this in Arizona. I think the Senator from Massachusetts ultimately will have the State-opt-out amendment. It seems that States—the Federal preemption bothers me to no end and not trusting juries, which are citizens, to make these decisions when we trust them to elect us to office, I think is a curious irony. I think that is one of the flaws in the proposal.

I know the Senator presents this in very good faith. I agree with the Senator—not on his amendment, but I agree and we share a very strong common commitment and interest—and I look forward to working with you on this—about how we can make sure that some of our underserved areas, where we have men and women that can deliver dignified and affordable health care. In rural Minnesota, the issue is not any longer whether you can afford a doctor but whether you can find one. I do not think the cause of that is what you think is the cause. But I think we can work together. I thank my colleague.

I want to briefly speak about a "Dear Colleague" letter I have sent out on an amendment I introduced on Friday. This amendment deals with what is called the national practitioner data bank, which was created in 1986.

Mr. President, this data bank provides information in two decisive areas that are extremely important to provide this. One is the area of what is called adverse actions. When an adverse action has been taken against a doctor by a hospital or by a medical board, essentially saying to that doctor, "You cannot practice medicine at this hospital any longer because of a pattern of negligence," or "you cannot practice medicine in the State any longer," then that information—very important information—goes into this data bank.

Mr. President, the second kind of information that is critically important that goes into that data bank is information that deals with malpractice payments. When in fact a doctor has made a malpractice payment, then going into this national practitioner data bank is very important information on how many times this has happened and what amount has been paid.

Mr. President, this is, I think, the bitter irony to it. This information in the national practitioner data bank is available to hospitals; it is available to doctors; it is available to managed care plans; it is available to just about everybody but the consumers. It is not available to the consumers.

Now, Mr. President, what we do in this amendment is a couple of different things. First of all, we really strengthen the disclosure of this information in a couple of different ways. What this amendment calls upon is for the Secretary of Health and Human Services, over a 6-month period—every 3 months he comes to Congress, and 3 months later promulgates rules as to the best way to make sure that this information gets to consumers. Understand, Mr. President, there are 80,000 deaths a year for medical malpractice, from negligence, and 300,000 people injured.

Now, I want to be clear for colleagues that tomorrow when I speak on the floor when all of our colleagues are back, in summarizing this amendment, I am going to make this point again. We are very clear that what goes into this data bank is not when someone complains about the doctor—that is not part of the data bank. It is only when there has been an adverse action taken or a malpractice payment has been made. That is all there is. I mean, for example, if you go to a dentist and you do not like the dental work, you are pretty angry about it and you feel like you were put in a lot of pain and you say, "Look, I want to get my money back," and he says, "I do not want to deal with you, here is your money back," that is not in this data bank. It is only when an actual adverse action has been taken or there has been a malpractice payment. That is very important. That is the only information.

Moreover, Mr. President, in response to what I think were some fairly legitimate questions from the providers, we have done a couple of other things in this amendment which I think are important. First, we list the norms, we were just talking about obstetricians, and we were talking about that in terms of rural areas. We list the norm for each subsection of the health care profession so that, for example, if you were to see there had been a malpractice payment, one or two with an obstetrician, you might think that is bad. But if you saw the norm for obstetricians and it looked pretty good, you would not be nearly as worried. We make sure the norms are listed for each part of the medical profession that a consumer would have access to.

Second, since insurance companies sometimes say to a doctor, "Look, just settle," and the doctor really does not want to, does not feel he or she did anything wrong but that is the best thing to do, we make sure that is part of that data bank, that provider's perspective analysis of what happened and why it is a part of the data bank. This is available as part of the data base.

Fourth of all, Mr. President, we deal with what is a very serious problem. Maybe tomorrow, because I see my colleague from Ohio and I promise I am going to try and finish within 5 minutes—maybe tomorrow I will give examples which are very heartrending. But all too often what happens is—and we are not talking about, thank God, many doctors—but all too often what happens is that you have a doctor who has had an adverse action taken against him—and I know my colleague from Ohio is interested in this question—and he actually leaves the State, changes his name, and commits the butchery again. What we make sure of—and we have examples of this in a number of different States, and this has been a proposal that Health and Human Services has made for some time—as a matter of fact, the Social Security number is entered into this data bank, so it is much easier to track those individuals—so that, Mr. President, if you had to have back surgery in Minnesota and you wanted to check—and God forbid there had been somebody who came from Ohio who literally had an adverse action taken against him, and he no longer was able to practice in the State, changed his name in Minnesota—you could track that person. You could have access to that kind of information.

Mr. President, I really believe that this amendment is extremely important. Here we are talking about malpractice reform—med-mal amendments. I am saying that one of the ways we can prevent this malpractice or this negligence from happening in the first place is to make sure consumers have this information. I really find it a very weak argument, and weak arguments were made as to why we cannot do it. Some say, "Let us study it," or "We need to improve the data." We have, as a matter of fact; we have plugged some of the loopholes.

In any case, it is far better that we make sure the consumers have access to this information. I am a little startled at some of the opposition to this. If in fact this information is available—and you could go to a court in any State and get it. But it is not readily available to consumers. It is readily available for hospitals, for doctors, medical boards, medical societies, and managed care plans. The only people that do not have access to this information are the consumers.

So it seems to me that this amendment strengthens what we are trying to do here, especially if what we are trying to do here does, I hope, in part, prevent this kind of negligence from happening in the first place.

I do not think there is any reason why a Senator should vote against what is a strong consumer protection amendment. Tomorrow morning, I will, if there are any Senators who want to debate this, be pleased to debate it. Or later on today, we will do so, as well.

I yield the floor.

AMENDMENT NO. 612 TO AMENDMENT NO. 603

(Purpose: To clarify that the provisions of this title do not apply to actions involving sexual abuse)

Mr. DEWINE. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may offer an amendment.

Mr. WELLSTONE. Mr. President, reserving the right to object, is this a medical malpractice amendment?

Mr. DEWINE. It is, indeed.

Mr. WELLSTONE. Mr. President, I no longer object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE] proposes an amendment numbered 612 to amendment No. 603.

The amendment is as follows:

In section 12(5) of the amendment, add at the end thereof the following new sentence: "Such term does not include an action where the alleged injury on which the action is based resulted from an act of sexual abuse (as defined under applicable State law) committed by a provider, professional, plan or other defendant.".

Mr. DEWINE. Mr. President, the underlying amendment that we are considering, the McConnell medical malpractice amendment, would place a cap on the punitive damages that may be awarded by a jury against a doctor or against other medical providers.

My amendment would except out from this cap sexual assault and sexual abuse.

The underlying amendment, Mr. President, does set this cap. By setting the cap, it also sets a cap on all medical malpractice cases, including cases where the doctor has committed a sexual assault, some form of sexual abuse, against the patient.

Mr. President, I find no logical reason for this Congress, as we debate the issue of medical malpractice, to impose our will on the States and say to each State no longer can a person have unlimited punitive damages against those who a jury has found or an individual who a jury has found has sexually abused his patient.

I find no logic behind that, and I think it would be, quite frankly, morally wrong for this Congress to impose such a limit.

Mr. President, the amendment I have just sent to the desk would add, at the end of the relevant section, the following new sentence:

> Such term does not include an action where the alleged injury on which the action is based resulted from an act of sexual abuse (as defined under applicable State law) committed by a provider professional, plan, or other defendant.

Mr. President, it is not my intention at this time to talk about the underlying merits of the amendment. What I will try to do, instead, is make absolutely certain by my amendment, that this legislation does not have a truly disastrous, if unintended, consequence, one that may well occur if we do not make the legislation absolutely crystal clear.

Mr. President, sexual abuse is a horrible problem in this country. Two and a half percent of all medical malpractice cases involve sexual abuse.

In the last reporting period, Mr. President, it was reported that this totaled 173 cases of not only medical malpractice, but of sexual abuse.

Clearly, Mr. President, there are a few doctors out there who are engaging in very reprehensible conduct. These cases involve a brutal violation of one of the most sacred relationships that exist; that is, the relationship between a doctor and his or her patient.

When a person goes to a doctor, that person establishes that sacred relationship. That person goes to a place where she or he can be healed and certainly not hurt. The patient goes to a doctor in a spirit of trust, someone who is bound by a sacred oath not to violate that trust.

Mr. President, tragically, at least 173 women have recently discovered that they had misplaced that trust. They trusted someone who posed as a healer but who it turns out was, in fact, a predator. When they entered the doctor's office, they certainly did not expect that it would turn into an outrageous, humiliating, criminal nightmare.

Let me talk about a few cases that have been in the news recently. Let me talk about a woman in Virginia who went to a doctor because she and her husband wanted to have children. They asked the doctor, because they had that problem, to help them start this pregnancy. The doctor led them to believe that the husband's semen would be implanted in the wife by artificial means.

The woman became pregnant, all right. But tragically, it turned out that the semen was not her husband's but was, rather, the doctor's. It was later revealed that the doctor had literally made a practice of impregnating his own patients.

Mr. President, what words can we summon to express the rage that we all feel when we hear about this kind of outrageous conduct?

Mr. President, it has been said that one of the problems we have in this country today in our society is that we accept too much, we tolerate too much; we see so much on TV that is sad and brutal that we just pass it off and say that that is just the way it is.

I think, Mr. President, we need to really recapture a spirit of outrage, a sense of deep shame, a sense that we are not going to tolerate this anymore, that we are really going to succeed in deterring this kind of intolerable behavior. It is that sense of outrage that we must have.

Would it be right, would it be just, for this Congress to impose a cap and tell the State of Virginia to tell that jury in Virginia, "You cannot impose punitive damages above a certain amount in this particular case"? I think the answer is, clearly, no.

We cannot tolerate what happened to a woman in Connecticut. She had been going to a dentist for about 10 years. She was going to get a molar filled. The dentist sedated her with nitrous oxide. She woke up, Mr. President, three times in the next hour and 15 minutes.

The first time, she found the dentist kissing her and she felt pain in her breasts. She attempted to resist and saw the doctor turn up the concentration of nitrous oxide so that she would pass out again, which she did. The second time she woke up, she found the dentist on top of her, and the third time she woke up the dentist was still on top of her.

She felt very scared and very sick. The dentist realized she was awake. He helped her out of the chair. He grabbed her and kissed her. The woman did not remember any dental work ever having been done in that visit.

During her excessive exposure to the nitrous oxide, some obviously went into her lungs. And stomach acid had actually gone into her lungs, leaving her with a permanent asthma condition and permanent loss of 30 to 40 percent of her lung capacity.

Would it be right to tell the jury in Connecticut, "No, in this case, there will be a cap on the punitive damages that can be awarded"? I do not think so.

In another case, a Florida woman thought she was receiving periodontal treatment. She awoke from the anesthesia the doctor had given her and found the doctor touching her private parts. Would it be right, in that particular case, Mr. President, to impose a cap? Again, I think not.

Mr. President, according to a recent study, in one-third of the sex abuse cases—in one-third—the doctor was permitted to go on practicing medicine. Patients today are being treated by those doctors, totally unaware of the doctors' history of obscene conduct.

Sometimes, tragically, it takes time for justice to be done. An investigation by ABC News revealed that a gynecologist in southern California sexually abused as many as 200 women over a 30-year period. It took almost 20 years after the first complaint for California authorities to start proceedings against him. But in that case, the very first complaint really told the whole story. The victim wrote that while the doctor was examining her pelvic region he began sexually abusing her and using foul language. My amendment would exclude this kind of behavior from the changes contemplated in the bill we are considering. This medical malpractice amendment should not have caps which would affect sexual abuse.

The Senate may decide to cap damages in case of medical malpractice. But there certainly is no logical reason to extend that protection to individuals who sexually abuse their patients. It would, I believe, be morally wrong. Indeed, I believe it would be outrageous for this Congress to protect, by the use of a cap on punitive damages, individuals who sexually molest or abuse their patients. Under my amendment, all of the remedies currently available for victims of this kind of sexual abuse will continue to remain available to them under the applicable State law.

Punitive damages are historically used to punish and to deter. Let us not limit the punishment of these sex offenders. Let us not limit the deterrent effect on these sex offenders. Let us allow juries the full latitude they need to punish and the full latitude they need to deter these offenders. That is what this amendment would do.

The vast majority of doctors in this country do a fantastic job. We rely on them for literally the most precious thing in our lives, which is the health and welfare of our family members. Each one of us has had, we hope, great experiences with these doctors. This amendment should not in any way reflect on these doctors. All we are saying by this amendment is let us not have the U.S. Congress interfere with a jury, interfere with a State, interfere with the people's right to punish and deter the small minority of doctors who violate the sacred trust that the patient has given them.

The same amendment I am offering today was offered by Senator KENNEDY in the Labor and Human Resources Committee. The committee passed that amendment and it is my hope the full Senate will, tomorrow, do the same.

The American jury speaks with the voice of America's deepest conscience. That is why I want to make sure the jury keeps the power, the power to punish fully these horrible violations of trust by some truly warped and dangerous individuals.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

BASHING BUSINESS/HELPING LAWYERS

Mr. HATCH. Mr. President, during debate on the products liability bill last week, some of our colleagues who defend the status quo made comments on the punitive damages issue to which I would like to say a few words.

I heard one comment to the effect that, "if a multibillion-dollar corporation makes a mistake in building a bus and the bus explodes, to punish a multibillon-dollar corporation $250,000 or three times economic damages is not going to cut it."

First, let us understand that punitive damages were not conceived for application in cases of mere mistake, mere negligence. They are intended for application in cases of much, much more serious conduct. The underlying bill, which speaks to conduct carried out with a conscious, flagrant indifference to the safety of others is the kind of standard usually employed before punitive damages are found appropriate.

Second, given today's regime of compensatory damages, the cost of litigation, and adverse publicity, punitive damages infrequently are needed to punish and deter such misconduct. In the case of the exploding bus, if it had resulted from the kind of conduct triggering a right to punitive damages under the law today, all of these factors would combine as a powerful incentive for the company to reform its practices. But, the underlying bill hardly does away with punitive damages, it simply places rational limits on their award.

Third, the current, largely uncontrolled nature of punitive damages is anticonsumer. The threat of these awards must be built into the cost of services and products today, even before we get to the impact on prices when runaway awards are handed down. Punitive damage reform is proconsumer.

I will have more to say about this subject when Senator DOLE offers his amendment on punitive damages to broaden the scope of the provision now in the bill. I believe my colleagues might be interested in the testimony of George L. Priest before the Judiciary Committee on April 4, 1995. Mr. Priest is professor of law and economics at Yale Law School and has taught in the areas of tort law, products liability, and damages for 21 years. He has served as director of the Yale Law School Program in Civil Liability since 1982.

He appeared before the committee as a private citizen, and not as a representative of any interest or lobbying group. His scholarship has led him to the conclusion that the kind of reform on punitive damages that Senators GORTON and ROCKEFELLER are talking about, and which Senators DOLE and I and others would like to extend beyond products liability, would be beneficial to consumers. He also concluded that punitive damages do not serve a deterrent purpose. He testified:

> I have never once seen a careful study in a specific case showing that a punitive damages judgment of some particular amount was necessary to deter some particular wrongful behavior.

Professor Priest unhesitatingly stated that the view—

> That ever-increasing civil liability verdicts, including punitive damage verdicts, would serve to reduce the number of accidents * * * has been totally discredited today, and I know of no serious tort scholar publishing in a major legal journal who could maintain it.

He added:

> It is widely accepted—and it is a routine proposition of a first year modern torts course—that compensatory damages * * * serve as a complete deterrent in addition to their role in compensating injured parties.

I ask unanimous consent that Professor Priest's testimony be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. Thank you, Mr. President.

Now, Mr. President, let me address another point made on the floor last week. It was asked, how can Congress know how to limit judges and juries in making punitive damage awards, how can we lay down a rigid law?

Mr. President, I find the criticism odd in the extreme. These same Senators would not dream of imposing punishment, be it jailtime or criminal fines or both, on some violent thug, without according that criminal a full panoply of procedural protections, clarity in the law as to what constitutes criminal conduct, and certainly, a defined set of punishments. That is what we do before we seek to punish anyone in our society for criminal misconduct.

But, because some of the opponents of change in our civil justice system like to mischaracterize the issue before us as a matter involving only businesses, they apparently could not care less if defendants are punished in a civil case in an almost totally uncontrolled fashion. It is OK I guess in their eyes to bash business. It is OK to unload on large, medium, and small businesses. What the heck, some of our Nation's lawyers make out just fine. Forget about the fact businesses, especaily small businesses, provide the jobs in this country. Forget about the fact they bring new products and services to the American people. Who cares if runaway punitive damage awards stifle innovation, curtail products and services, hurt employment, and deplete company assets for use in compensating other victims of the company's wrongdoing? Let us just bash American business and watch some of the Nation's lawyers laugh all the way to the bank. I am not being critical of all lawyers by a long shot and I understand the crucial role lawyers play in vindicating individual rights. But, today, the biggest beneficiaries of the stubborn defense of the status quo are some of our Nation's lawyers—not consumers.

And the opponents of change can wave around lists of consumer organizations that also oppose change. But the American people for whom they claim to speak, favor change. They know the civil justice system is broken.

EXHIBIT 1

TESTIMONY OF PROF. GEORGE L. PRIEST BEFORE THE SENATE COMMITTEE ON THE JUDICIARY

Mr. Chairman, I am grateful for the opportunity to testify on the subject of punitive damages reforms being considered by your Committee. I am the John M. Olin Professor of Law and Economics at Yale Law School, and have taught in the areas of tort law, products liability and damages for 21 years—the last 15 years at Yale. I have served as the Director of the Yale Law School Program in Civil Liability since 1982.

Over the course of my career, I have written broadly on the fields of tort law and damages. A major area of my interest has been jury verdicts in civil litigation. I have published many empirical studies of jury verdicts, including verdicts involving punitive damages. I was one of the original organizers of the now-famous Rand Corporation studies of jury verdicts that began in the early 1980s.

The concern of my scholarship universally has been how the civil justice system can be reformed to benefit consumers in our society and low-income consumers most of all. I have no particular concern to define what is beneficial to manufacturers or to other corporate entities, except as their activities provide benefit to consumers. I wish to emphasize that I am testifying today at your invitation, solely in my capacity as a private citizen interested in the effects of tort law and punitive damages on American consumers. The views presented here are mine alone and do not represent those of any interest or lobbying group.

As an academic, my job is to study and define the ideal world and the system of laws that would most benefit American citizens. The reform of punitive damages alone—even reforms that would cap punitive damages or introduce a proportionality cap—will help consumers, but will not achieve the ideal. I believe consumers in this country would be benefitted all the more if Congress (or our courts) were to modify substantive standards of civil liability, reducing the scope of liability and cutting off at the source a great deal of what today is needless and counterproductive litigation. Indeed, if such reforms were introduced, changes in punitive damages might not be necessary because punitive damages awards would nearly disappear. That world, however, is the ideal, and we should not allow hope for the ideal to discourage support for true reform. As I hope to convince you, sharp yet reasonable Congressional limits on punitive damages will constitute true reform to the benefit of all American citizens.

THE INCREASING COMMONALITY OF PUNITIVE DAMAGES

Forty years ago, punitive damages verdicts were exceptionally rare and were available against only the most extreme and egregious of defendant actions. The world of civil litigation is surely different today. But the number and, especially, magnitude of punitive damages judgments have increased dramatically. Indeed, the frequency of claims for punitive damages has increased to approach the routine. These claims affect the settlement process, both increasing the litigation rate[1] and, necessarily, increasing the ultimate magnitude of settlements even in cases that are settled out of court.

I recently participated in an empirical study of punitive damages verdicts that illustrates the point. The study reviewed claims and verdicts for punitive damages in several counties in Alabama—a state in which it has been alleged that punitive damages verdicts have skyrocketed over the past decade.

The study first addressed the extent to which tort actions filed included claims for punitive damages. Many commentators have

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Footnotes at end of article.

dismissed concerns about punitive damages on the grounds that there are very few ultimate punitive damages verdicts reported. In the American system of civil justice, of course, very few verdicts of any kind are reported, relative to the number of claims filed, since only 2 to 5 percent of civil cases filed ever proceed to a verdict.[2] The better test of the frequency and impact of punitive damages, thus, derives from a study of claims.

Here are the results: Bullock, Lowndes, and Barbour Counties in Alabama are relatively rural locales, with small populations and without substantial industry. We studied all tort actions filed in these counties for several fiscal years to determine the numbers in which punitive damages were claimed. To summarize the most recent statistics, we found that, in the fiscal year 1992–93, of all tort cases filed in Bullock County, 76.5 percent included a punitive damages claim; 65.1 percent in Lowndes County; and 78.3 percent in Barbour County.[3]

The exceptionally high proportion of punitive damages claims and the universality of such high proportions over each of the counties are striking and nearly incredible. Again, the study was not limited to only claims involving high dollar amounts or product liability claims or, even, claims against corporate defendants; the study addressed all tort claims. Anyone familiar in the slightest with our civil justice system knows that most tort actions involve relatively routine forms of accidents, including traffic accidents. That 65 to 78 percent of all tort actions over a fiscal year include punitive damages claims starkly challenges the notion that punitive damages are an infrequent and seldom invoked remedy in American civil law.

Yet, incredible as these numbers may seem, in the succeeding fiscal year, the proportion or number of tort cases including a punitive damages claim actually increased in each of the counties. During the 1993–94 fiscal year, an extraordinary 95.6 percent of tort cases filed in Bullock County included a punitive damages claim; 78.8 percent in Lowndes County. In Barbour County, the proportion of tort cases including a punitive damages claim decreased from 78.3 to 72.1 percent, but the absolute number of punitive damages claims increased during 1993–94 by over 40 percent.

Much of the debate over punitive damages proceeds in the form of battle by competing anecdote in which a defender of our modern regime will present a case of exceptionally egregious defendant behavior deserving of punitive damages, and a supporter of reform will present an opposite example. (Indeed, I present an anecdotal case—though a telling one—below.) The Alabama numbers belie anecdotes. No one can plausibly claim that 72.1 to 95.6 percent of all accident cases over an entire year in any county of the U.S. involve the form of exceptionally egregious defendant behavior that might merit substantial punitive damages. In contrast, these numbers show that the role of punitive damages has changed dramatically in our civil justice system, from an occasional remedy invoked against outrageous action to a commonplace of tort law practice.

These numbers also belie the commonly-heard defense that actual punitive damages verdicts are rare and that many of those awarded by juries are later reduced on appeal so that there is no substantial effect. Debate can be had on what is meant by the term "rare" and what constitutes in terms of magnitude of verdicts a "substantial" effect. The impression is often suggested, however, that even for the Nation in its entirety, punitive damages claims amount to nothing more than a handful.

Our Alabama study demonstrates that this is a great misimpression. Again, we did not select the largest cities in Alabama or industrial or manufacturing centers; in fact, just the opposite: The counties that we studied in Alabama are rural, with modest populations, and a relatively non-urbanized citizenry. For example, Bullock County has a total population of only 11,042, 4,040 of whom are employed, and a per capita income of $9,212; Lowndes, a total population of 12,658, 5,300 employed, and a per capita income of $10,628. Barbour County is somewhat larger, with a total population of 25,417, 12,400 employed, and a per capita income of $12,100. None of these counties, however, resembles in the slightest metropolitan areas such as Miami, Los Angeles, or Dallas.

What did we find? In 1993–94, despite these small populations, punitive damages claims constituted far more themselves in these rural counties than the claimed nationwide "handful". In Bullock County, 43 of 45 tort actions included a punitive damages claim; in Lowndes County, 52 of 66; and in Barbour County, 93 of 129. Are punitive damages in Alabama insignificant? The claims reported above, of course, are quite recent and remain still in the litigation pipeline. Looking to much earlier claims, however, our study in Alabama showed that the magnitude of punitive damages judgments affirmed by the Alabama Supreme Court from 1987 through the first half of 1994 equalled $53.2 million,[4] equal to roughly $13 per Alabama citizen.

This study demonstrates that the number and magnitude of affirmed punitive damages verdicts is only the very small tip of an extraordinary iceberg. Again, it is universally conceded that only 2 to 5 percent of cases filed ever proceed to verdict. Thus, it is not surprising that the systematic observation of any single type of verdict is relatively rare. What the Alabama numbers show is that the availability of unlimited punitive damages affects the 95 to 98 percent of cases that settle out of court prior to trial. It is obvious and indisputable that a punitive damages claim increases the magnitude of the ultimate settlement and, indeed, affects the entire settlement process, increasing the likelihood of litigation. Thus, as shown in the Bullock, Lowndes, and Barbour County figures, our modern rules with respect to punitive damages impose these effects on 95.6 and 72.1 percent of even settled cases. Punitive damages reform—especially if it extends to all state and federal litigation, not simply products liability—is desperately needed.

DO PUNITIVE DAMAGES SERVE A NECESSARY DETERRENT PURPOSE?

Virtually every supporter defends punitive damages on grounds of deterrence, accompanied by an anecdote or anecdotes involving persons who suffered serious losses in contexts in which most observers would agree that the respective defendant should have prevented the accident. Generally, the anecdotes are allowed to speak for themselves: I have never once seen a careful study in a specific case showing that a punitive damages judgment of some particular amount was necessary to deter some particular wrongful behavior. Instead, the argument proceeds by implication. The basic defense of punitive damages—and I believe that it is the only serious defense—is the implication that large, unlimited punitive damages verdicts are necessary to control injurious activities in the society. Put slightly differently, it is implied that, without the availability of unlimited punitive damages awards, potential defendants, especially corporate defendants, would face no deterrent threat to prevent them from causing injuries.

Forty years ago, in a tort law regime that provided little in the way of consumer remedies, it might have been believed that ever-increasing civil liability verdicts, including punitive damages verdicts, would serve to reduce the number of accidents.[5] That view, however, has been totally discredited today, and I know of no serious tort scholar publishing in a major legal journal who could maintain it. Instead, it is widely accepted—and it is a routine proposition of a first-year modern torts course—that compensatory damages—economic losses and pain and suffering—serve a complete deterrent purpose in addition to their role in compensating injured parties. Compensatory damages impose costs on defendants who wrongfully fail to prevent accidents, costs equal in amount to the injuries suffered. Compensatory damages internalize injury costs to defendants where some action has wrongfully injured an innocent party.

Indeed, the strongest theory in the modern tort academy is that full compensatory damages generate exactly the optimal level of deterrence of accidents—not too little and not too much.[6] For purposes of deterrence or accident prevention, given full compensatory damages, there is no need for punitive damages of any dimension, not to mention unlimited punitive damages. Of course, this is a theoretical conclusion, and there remains dispute in the academy as to whether as an empirical matter court or juries calculate compensatory damages exactly perfectly in every case or in every context. Thus, substantial academic attention has been given to the refinement of liability so that the deterrant effects of compensatory damages may be sharpened.

Given the role of compensatory damages as a deterrent, however, the analysis of punitive or other exemplary damages becomes substantially different. The only justification on grounds of deterrence for any exemplary award beyond the compensatory is that compensatory damages are inadequate for some reason, say, that juries award damages too low in some dimension or that some set of injuries go undetected or are perhaps too insignificat individually to justify litigation.[7] The only plausible defense of punitive damages on deterrence grounds, thus, is to restore aggregate damages to a level equal to that that is fully compensatory.

Opponents of punitive damages reform in current Congressional debates avoid this issue, but this failure to confront it suggests the ultimate weakness of their opposition. Again, anecdotes involving individuals suffering serious serious loss are not generally helpful to the analysis. I am extremely sympathetic—as all of us are—to individuals suffering serious injuries. We all wish that the wrongfully injurious action might have been avoided. Given a wrongful injury, we all want the victim to receive full compensation for economic losses and pain and suffering.

The question for punitive damages tort reform, however, is: Given full compensation to the victim, is there some affirmative deterrent purpose served by awarding further damages? Is there some reason to believe that the payment of full compensatory damages will fail to deter the defendant, such that some further multiple of punitive damages is absolutely necessary? For corporate defendants, the answer surely is no. Corporate defendants who must maximize profits net of costs must necessarily take the prospect of compensatory damages into account in determining how to invest in accident prevention. Again, this analysis presumes full compensation. If there were some reason to believe that juries were systematically undervaluing economic losses or pain and suffering, punitive damages might be necessary to make up the shortfall. (Of course, the opposite is true; many, including myself, believe that juries overvalue compensatory damages, especially pain and suffering, justifying Congressional limits on pain and suffering awards.) Barring such a shortfall, however, there is no justification for punitive damages on deterrence grounds.

The analysis is, perhaps, somewhat different in the context of individual noncorporate defendants who are less subject to cost constraints and, perhaps, more inclined to behave unconscionably. This is the reason that exemplary or punitive damages are often awarded in cases involving intentional harms such as assault.

As administered by juries, however, our current civil liability regime approaches the issue exactly backwards. In our current regime, large punitive damages verdicts are seldom awarded against non-corporate defendants. And I know of no one objecting to a punitive damages cap on the grounds that it will impair the deterrence of private individuals. Instead, large punitive damages verdicts are most typically awarded against corporate defendants who, as profit maximizers (a motivation often irrationally held against them), will be carefully responsive to compensatory damages. Corporate defendants need no punitive damages verdict to encourage them to take all cost-effective precautions to prevent injuries; compensatory damages alone achieve that result. Thus, the increasingly commonplace plaintiff lawyer's charge to a jury to "send the defendant a signal" ignore entirely the universally accepted academic view that, to a corporate defendant, full compensatory damages are not only an effective signal, but also the only and entire signal needed.

DO PUNITIVE DAMAGES HELP OR HURT CONSUMERS?

If the effect of punitive damages were to benefit consumers or if their effect were even neutral to the consumer interest, we might be unconcerned that punitive damages are unnecessary to deter corporate defendants from injurious behavior. The central problem of punitive damages, however, is that, except in the rare cases of jury undervaluation of damages or underlitigation, punitive damages settlements and verdicts affirmatively harm consumers, and low-income consumers most of all.

Where punitive damages become a commonplace of civil litigation as in Alabama, or even where they become a significant risk of business operations, consumers are harmed because expected punitive damages verdicts or settlements must be built into the price of products and services. The effect of the greater frequency and magnitude of punitive damages recoveries of modern times has been to increase the price level for all products and services provided in the U.S. economy. To observe this phenomenon is not to say that injured consumers should go uncompensated. If a consumer suffers an injury that can be attributed to some wrongful activity of a defendant, whether manufacturer or service provider, that consumer should receive compensation for economic losses and for reasonable non-economic losses, such as pain and suffering.[8] In contrast, punitive damages, by definition, go beyond the compensatory. The problem with the increasing commonality of large punitive damages verdicts and settlements, such as those we see in Alabama, is that the awards to some consumers of greater than compensatory damages must be built into the prices paid by all other consumers.

It is an obvious implication of this proposition that low-income consumers are most seriously harmed by our current damages regime. First, low-income consumers have less money generally and, regardless of the product or service, are more seriously affected in terms of the purchasing power of their limited resources where the price level increases. Secondly, and most importantly, low-income consumers are not the typical beneficiaries of large punitive damages verdicts or settlements, surely not on a systematic basis. Again, research of my own currently in progress shows that low-income consumers, if injured, are less likely to seek an attorney; even with an attorney, are less likely to sue; less likely to recover; and, again by definition, less likely to recover large damage judgments since their lost income is typically low and pain and suffering awards, which are highly correlated with lost income, equally low.

Put more simply, where punitive damages verdicts and settlements are frequent and large, low-income consumers are forced to subsidize the high-incomes as expected punitive damages awards are built into the prices of products and services. Occasionally, a low-income individual will receive a punitive damages windfall, but the far more systematic effect is to harm the low-income as the prices of products and services generally are increased as producers must adjust for the expectation of future punitive damages payouts.

Although these Hearings are chiefly directed to punitive damages reforms, it is important to recognize that the current effect of the doctrine of joint and several liability is similar. Joint and several liability has its most general effect on organizations or entities which engage in a large scope of activities, such as state and municipal governmental entities, public utilities, and the like. It has become a commonplace of modern civil litigation for plaintiffs' attorneys to join as defendants any governmental entity or utility remotely associated with an injury. Thus, state governments and municipalities are joined as defendants on claims that roads were misdesigned or poorly maintained or that a guard rail or telephone pole could have been placed in a better position. Forty years ago, attorneys would not have thought to include entities whose causal relationship to the harm was so low or, if they had attempted to join such entities, the claim would have been dismissed. Today, such litigation is routine and imposes substantial litigation expenses upon our state and municipal governments and liability expenses, only infrequently, but chiefly under operation of the doctrine of joint and several liability where the truly responsible defendants have gone bankrupt, leaving our governments and utilities to suffer the remaining judgment.

It is clear that, for very similar reasons, operation of the doctrine of joint and several liability harms citizens in general, but low-income citizens most of all. Damages judgments must be paid from state and municipal financial sources. It is well-established that state and, especially, municipal finance is seriously regressive in effect, charging more to middle- and low-income citizens, proportionate to income, than to the relatively high-income. This effect, most obviously, is not limited to the product manufacture context and provides an important independent reason why the reforms the Senate is considering should be expanded beyond application to products manufacture to all civil litigation.

These propositions about the effect of punitive damages and joint and several liability on the poor and low-income may appear abstract, though I believe that they are generally accepted within the academic community. To illustrate their import with greater salience, however, I would like to present one recent example of a punitive damages verdict in Alabama, indeed, a case that inspired the research presented above. The case will both show the pressing need for punitive damages reform, again, not limited to products liability, but expanded to all state and federal litigation.

In the case Gallant v. Prudential, decided this past April 1994, Iran and Leslie Gallant sued Prudential Life Insurance Company based on the actions of a Prudential agent. The Gallant's had purchased a combination life insurance-annuity policy with a $25,000 face value at a monthly premium of roughly $39.00. At the time of sale, the agent had told them that the value of the annuity was roughly twice what in fact it was; the agent had added together the table indicating "Projected Return" with the table indicating the lower "Guaranteed Return." A jury found this action fraudulent and held the agent liable and Prudential separately liable for failing to better supervise the agent.

Fortunately, the problem was discovered before either the policyholder had died or had retired to receive the annuity. Thus, to the time of trial, there was no true economic loss beyond the failed expectation of the larger future return. I have carefully read the transcript of the testimony, and the Gallants testified that, between the time that they discovered the misinformation and Prudential called them to offer a remedy (Prudential offered to return their premiums or to discuss adjusting the policy), they had suffered roughly two weeks of sleepless nights and substantial anger at having been misled. That was the extent of their "mental anguish".

Twenty years ago, I taught cases of this nature in a course entitled Restitution, in which the appropriate remedy was restitution of all paid premiums or out-of-pocket costs. On very rare occasions such as especially egregious actions by a defendant, some courts considered awarding plaintiffs the benefit of the bargain, say, by increasing their annuity benefits.

Our modern world has changed: After a one and one-half day trial, an Alabama jury awarded the Gallants damages equal to $30,000 in economic loss; $400,000 in mental anguish; and $25 million in punitive damages. Again, the face value of the insurance policy was only $25,000.

I do not wish to minimize the harm to the Gallants, especially the indignity of the misrepresentation, nor to condone the fraudulent actions of the agent, apparently perpetrated on several other Alabama citizens who recovered separately. Nevertheless, there is not a single person to whom I have described this case—not an attorney, whether plaintiff or defendant; not a liberal or a conservative; not even a radical or idealistic Yale Law student (or faculty member)—who has not been shocked by the outcome or who could defend it as a rational or sensible verdict in the context of the harm. Again, many defenders of punitive damages argue that exceptionally large verdicts are usually overturned on appeal. Alabama provides a review procedure for punitive damages verdicts that the U.S. Supreme Court has approved.[9] In the Gallant case, however, the judge conducting the review affirmed the $25 million award in its entirety, though directing part of the amount to be paid to the State.

What will be the effect of a punitive damages verdict of this nature? The Gallants appear to be persons of modest means (before the verdict). Does a verdict of this nature help middle- or low-income consumers? Totally, the opposite. The insurance policy in question—face value, $25,000—was the cheapest form of life insurance/annuity available on the market; again, its monthly premium was only $39.00. Obviously, at such a premium, the insurance carrier could not be expecting to make a substantial profit on the policy. Indeed, an expert in the case estimated that over the entire life of the policy, the premiums net of payouts paid by the Gallants would increase Prudential's assets by only $46.00.[10] Prudential, like most other life insurance companies, profit more substantially from large dollar, rather than small dollar policies. The expert estimated that the verdict reduced dividends to every Alabama policyholder (Prudential is a mutual carrier) by $323.

How do we analyze a case like this in terms of whether punitive damages serve a necessary deterrent effect? In his closing arguments, the (highly effective) attorney for the Gallants asked the jury to determine a level of damages that would send a "message" to the giant Prudential Life Insurance Company that fraudulent behavior on the part of an agent will not be tolerated.[11] What kind of damages message is necessary to achieve that effect? Obviously, if the insurer stood to gain no more than $46 over the life of the policy, any damages judgment greater than $46 sends the insurer a message by making the policy unprofitable. (Of course, I ignore entirely Prudential's defense costs plus the reputational harm from the lawsuit.) The jury in the Gallant case went substantially beyond that amount, however, in awarding compensatory damages of $30,000 for economic loss and $400,000 for the mental anguish of the two weeks' lost sleep and anger. It certainly cannot be argued that the jury has undervalued the Gallant's compensatory loss—indeed, the $400,000 mental anguish award is extreme. Furthermore, there is no reason to think that the agent's behavior in other contexts would go undetected. (Prudential later settled other cases brought by the agent's clients.) As a consequence, there is no justification for a punitive damages award whatsoever.

What will be the effect of punitive damages verdicts such as that in the Gallant case? In the face of such a verdict, what is the rational response of an insurer like Prudential or other insurers selling similar policies? Regrettably, but necessarily in a competitive industry, the rational response is to quit selling such low value policies altogether. It makes very little sense to expose the company and its policyholders to the risk of such a damages verdict given the very small gain from the sale of such a policy.

Is this the type of product that our civil liability system should drive from the market? Obviously, not, and low-income consumers in Alabama are directly harmed as a result. Here, the dramatically differential effects of such verdicts on high-income versus low-income consumers are made clear. In my own view, it is far more important to our society to have our insurance industry provide life insurance coverage to low-income than to high-income citizens, since the relatively affluent of our society have other means of providing financial security for their families. The availability of financial protection and security at relatively low cost will be substantially diminished if such low premium policies, as here, are no longer available.

More generally, where expected punitive damages verdicts are added to the price of products and services, the first to feel the effect will be low-income consumers. And where the magnitude of punitive damages verdicts rise, imperiling the continued provision of the product or service, the first to be affected will be those products and services with the lowest profit margins, most attractive to the low-income. The Gallant case provides a dramatic example of the effect. Following Gallant and other large punitive damages verdicts, several insurers have quit offering coverage in Alabama altogether.

Punitive damages reform would cure that ill to the benefit of all Americans and especially low-income Americans. As the Gallant case shows, however, to fully cure the problem, punitive damages reform must extend beyond the products liability context to all civil litigation. The Gallant case involved insurance, not product manufacture, Punitive damages verdicts such as the $25 million verdict in the Gallant case encourage wasteful litigation. (Indeed, litigation seeking punitive damages judgments against financial service companies has become an industry in Alabama.) By increasing the prices of all products and services, punitive damages verdicts and settlements reduce the purchasing power of all Americans, again, especially the poor.

MUST CONGRESS IMPLEMENT PUNITIVE DAMAGES REFORM?

Many defenders of our current regime question why the Congress should become involved in civil liability reform, rather than leaving reform initiatives to the courts or to the state legislatures. The question is particularly appropriate with respect to punitive damages reform, given that the Supreme Court has addressed the issue of the excessiveness of punitive damages in several recent cases.[12]

I have been involved in the tort reform effort for many years and have testified in favor of tort reform before various state legislatures (California, Louisiana, New Jersey) and in various judicial proceedings evaluating state tort reform statutes (Alabama, Florida, New Mexico). I have organized several conferences addressing tort reform for state legislators and judges, and have directed much of my writing on tort reform to the judiciary.

This varied experience has convinced me that only Congress is in a position to implement effective civil liability reform and, especially, punitive damages reform. First, it is evident, after many opportunities, that the Supreme Court has great difficulty proceeding beyond what might be called a "procedural" approach to the punitive damages problem. The Court's various options suggest clearly that a majority of Justices are concerned about the excessiveness of modern punitive damages verdicts. To date, however, the only form of punitive damages control that the Court has adopted has been procedural: approving a set of procedures at the state level for judicial review of punitive damages verdicts (Haslip, supra) or disapproving a state judicial procedure as not providing sufficient review (Oberg, supra).

In my view, a merely procedural approach to the punitive damages problem will never be successful. Indeed, we have stark evidence of its failure. In 1991 in the Haslip case, the Supreme Court specifically approved the procedure for reviewing punitive damages verdicts for excessiveness adopted by the Alabama Supreme Court.[13] Viewing the Alabama procedure on its face, few can contest that the review procedure appears reasonable. In practice, however, as the Gallant case proves and as the statistics from the rural Alabama counties strongly suggest, the punitive damages problem in Alabama, under the procedures approved by the U.S. Supreme Court, has grown to epidemic proportions.

Upon reflection, it is not surprising that the Supreme Court has found it difficult to deal with excessive punitive damages. The Supreme Court's job, in general, is to define rights. Few would contest—I do not contest—that punitive damages may be appropriate in some contexts. I would not support a Constitutional right of immunity from punitive damages (though that may well be an important improvement over the current state of the law).

What is needed for punitive damages reform is a prudential judgment of the appropriate cap or limit to punitive damages that will allow some room for punishing egregious behavior, but constrain the deleterious effects of unlimited punitive damages judgments on consumers and on the low-income. A proportional limit of three times economic losses or $250,000 is a prudential judgment of that nature. (Personally, I would support a lower figure absent a definitive finding of malice.) But that prudential judgment is a uniquely legislative, not judicial, exercise.

With respect to reform by the states, the question is somewhat different. Punitive damages verdicts implicate both interstate and foreign commerce in a manner that only the federal Congress can address. Some have argued that a state without a significant manufacturing or interstate service sector could actually benefit its citizens by adopting an expansive civil liability regime at the expense of citizens of other states. Only the federal Congress can address this issue.

Secondly, there is one further effect of our modern damages regime that should not go unnoticed in Congress: an effect on the competitiveness of American manufacturers and producers. Some have argued that large punitive damages verdicts in the U.S. are neutral with respect to competitiveness since foreign courts do not award such verdicts against U.S. producers with respect to sales abroad and because foreign producers are equally subject to such verdicts for sales in the U.S. Thus, for U.S. sales, foreign producers, just like U.S. producers, must add expected punitive damages and joint and several liability verdicts into the prices of products and services. (It is often lost on these observers that an increase in prices on account of punitive damages—even if operating neutrally—is not an affirmative argument on behalf of consumers.)

This analysis, however, is only partially correct. Increasingly, foreign courts are refusing to enforce extraordinary judgments from U.S. courts against foreign defendants. For example, very recently the German Federal Court of Justice (Germany's highest court for civil and commercial matters) refused to enforce a $400,000 punitive damages verdict obtained in an American court by an American plaintiff against a German defendant on the grounds that the punitive damages verdict was inconsistent with German public policy.[14] In the same case, an intermediate court had reduced the pain and suffering damages component from $200,000 to $70,000 on the same grounds.

Foreign judgments of this nature should be alarming both to Congress and to U.S. courts. First, they are strong evidence that the current course of American law does not command wide assent—itself another reason for Congress to enact general punitive damages reform. Secondly, however, such judgments suggest an increasing competitiveness problem facing U.S. producers here in the U.S. To the extent that U.S. verdicts must be enforced abroad, foreign producers need not add the costs of the U.S. civil justice system, including punitive damages and excessive pain and suffering awards, into the prices of products and services sold in the U.S. Thus, foreign producers can underprice U.S. producers in sales to American consumers here in the U.S.

Ironically, although U.S. producers and their employees are harmed by this effect, U.S. consumers benefit because they can obtain products and services at lower prices, without the effects of our punitive damages verdicts built in. Put slightly differently, the refusal of foreign courts to enforce large punitive damages or pain and suffering awards from U.S. courts represents a type of tort reform, regrettably however, only available—prior to federal punitive damages reform—to foreign, rather than to U.S., producers.

For these various reasons, I endorse punitive damages reform. May I emphasize again the necessity of extending reform to all civil litigation, state and federal, rather than limiting it to products liability or some other subset, in order to spread the benefits of reform most broadly.

There are a wide range of punitive damages reforms that the Senate might consider. Most important would be a proportionality limit on available punitive damages. The proposed limit of three times economic losses or $250,000 is a reasonable first start, though strong arguments can be made for lower limits or more rigorous standards requiring a finding of actual malice before any exemplary damage award can be made. It would also be helpful to provide for the bifurcation of trial as between the compensatory and punitive damages phase, in order that the often highly-inflammatory evidence concerning defendant (most often, corporate) wealth does not taint a jury's evaluation of the basic evidence with respect to liability. It is also important to place limits on or give credit to defendants facing multiple punitive damages awards. The tragic modern experience in the asbestos litigation demonstrates the problem. Here, because of multiple punitive awards to sets of plaintiffs reaching court first, many subsequent claimants have been unable to collect basic compensatory damages of any amount.

These comments address only current proposals. Again, I have studied the reform of modern tort law for many years and would be happy to respond to any questions concerning the full range of modern tort law reform.

FOOTNOTES

[1] See, e.g., Richard A. Posner, An Economic Approach to Legal Procedure and Judicial Administration, 2 J. Legal Stud. 399 (1973); G.L. Priest, Selective Characteristics of Litigation, 9 J. Legal Stud. 399 (1980).

[2] G.L. Priest, Private Litigants and the Court Congestion Problem, 69 B.U.L. Rev. 527, Table 1 at 540 (1989).

[3] These data were collected under a research project organized and directed by myself and Professor James R. Barth, Auburn University for the case *Gallant* v. *Prudential*. Publication is in process; the data are available from the author.

[4] This figure excludes wrongful death awards which are denominated "punitive" in Alabama. If such awards were included, the amount equals $109 million, equal to $26 per capita.

[5] For a discussion of the development of modern tort law, G.L. Priest, The Invention of Enterprise Liability: A Critical History of the Intellectual Foundations of Modern Tort Law, 14 J. Legal Stud, 461 (1985).

[6] Richard A. Posner, Economic Analysis of Law (4th ed., 1992).

[7] Of course, this is also a justification for the class action.

[8] I have written widely on the subject of appropriate pain and suffering awards, and would strongly endorse limits on pain and suffering, though this issue is somewhat beyond the focus on punitive damages here. See, e.g., G.L. Priest, The Current Insurance Crisis and Modern Tort Law, 96 Yale L.J. 1521 (1987).

[9] *Pacific Mutual Life Insurance Co.* v. *Haslip*, 111 S.Ct. 1032 (1991).

[10] Testimony of Professor James R. Barth, Auburn University.

[11] *Gallant* v. *Prudential*, Barbour County, Alabama, Trial Transcript at 647, April 6, 1994.

[12] See, e.g., *Pacific Mutual Life Insurance Co.* v. *Haslip*, 111 S.Ct. 1932 (1991); *TXO Production Corp.* v. *Alliance Resources Corp.*, 113 S.Ct. 2711 (1993), *Honda Motor Co.* v. *Oberg*, 114 S.Ct. 2331 (1994).

[13] *Pacific Mutual Life Insurance Co* v. *Haslip*,. 111 S.Ct. 1032 (1991).

[14] Judgment of June 4, 1992, BGH Gr. Sen. Z., discussed in G.L. Priest, Lawyers, Liability and Law Reform: Effects on American Economic Growth and Trade Competitiveness, 71 U. Denver L. Rev. 115 at 146–47 (1993).

MCCONNELL AMENDMENT TO H.R. 956, PRODUCT LIABILITY FAIRNESS ACT

Mr. HATCH. Mr. President, there is a subtle implication in this whole debate on the McConnell amendment—an amendment which I strongly support—that somehow health care providers are a bunch of greedy so and so's, motivated solely by dreams of maximizing profit.

If they ask for relief from liability, it must be because they want to escape responsibility, to make a quick buck, not because it would make our health care delivery system better.

What is ironic is that this body has spent countless hours over the past 2 years debating proposals on health care reform, all of which were based on a system which places the utmost trust in the health care professional, whether it be a doctor, a nurse, a chiropractor, or a lab technician.

In fact, we spent countless hours here in this very Chamber, debating how to improve our health care delivery system. We spent 54 days in the Labor and Human Resources Committee—46 days in hearings and 8 days in markup—and 40 days in the Finance Committee—36 days in hearings, and 4 days in markup. And that does not even count the countless hours of work outside the committee and on the floor.

There was no disagreement over the need for medical liability reform. Indeed, the Clinton proposal, the Labor Committee bill, the Finance Committee bill, the ensuing Mitchell bill—all contained medical liability provisions, as I will discuss later. The only question was over what those proposals should be.

When we get sick, who do we see? A doctor, a nurse practitioner, or another health care professional. Not an attorney.

When our children get sick, who do they see? A pediatrician, a physician assistant, or another health care provider. Not an attorney.

Our entire medical system—which everyone knows is heralded as the best in the world—is based on a total reliance on the abilities of the health care professionals who treat us, professionals who have scarified immeasurably to get the requisite training and credentialing. These are professionals who spend long and hard hours in school and at work to make our system the best in the world.

Will there be mistakes?

Of course there will. After all, we are only human. And while we must drive for perfection, that by definition cannot be.

My heart goes out to each and every person who has suffered an adverse medical event, whether it were caused by the delivery system or not.

I wish we could have a perfect health care delivery system, where everyone was healthy and no one ever was ill or suffering.

I wish this could be a perfect world in which children never suffered adverse reactions from the very vaccines designed to protect them.

I wish this could be a perfect world in which a surgeon never removed the wrong eye, or the wrong kidney. But it is not a perfect world, nor can it ever be.

I was a trial attorney before I came to the Congress.

I saw heart-wrenching cases in which mistakes were made. I saw heart-wrenching cases in which mistakes were not made, and doctors were forced to expend valuable time and resources defending themselves against frivolous lawsuits.

I have litigated these cases, both as an attorney for the plaintiff and as an attorney for the defendant.

No one in this body knows better than I—perhaps with the exception of our colleague from Tennessee, Senator FRIST—what the defects are in this system.

Mr. President, there are over 260 million people in these United States. I wish we could design a system which would protect each and every one of them from harm, but that is not possible. Our job is to design the best system we can.

Several of our colleagues came to the floor last week and gave very heart-felt statements, citing specific cases in which patients had not had the outcome we all would have liked.

I pray that these cases could have turned out for the better. I fervently wish that such problems never occur again.

But in a country as large and as diverse as this one, problems are inevitable. The task before us is to make sure the system minimizes those problems.

I ask my colleagues: "Do we have the best system possible?"

I do not believe any one in this Chamber would argue that is so.

Thus, the question before is how to design a system which protects both the patient and the provider. I do not believe that a protracted war between trial attorneys and health care professionals is the way to accomplish that goal.

My experience indicates that the best way for us to pass solid legislation which really solves a problem is for both sides to come together and negotiate a solution. Unfortunately, that has not been the case to date. And I think our debate, and indeed our country, has suffered because of this.

Nevertheless, the intransigence of one or more parties is no reason that we should cast aside consideration of one of the most important issues that has faced this body since I came to the Senate.

Indeed, I first introduced a medical liability bill in this body in 1978. Many of the approaches embodied in my legislation are also contained in the McConnell-Kassebaum amendment before us today.

THE NEED FOR HEALTH CARE LIABILITY REFORM

What are the problems which give rise to the need for the McConnell amendment? Let me list them for my colleagues:

First, medical liability costs are out of control. A significant portion of our gross domestic product is devoted to tort costs, of which medical torts are a large part. This number is growing.

As our distinguished House colleague, Representative DAVE MCINTOSH, noted in an April 1994 "Hudson Briefing Paper," the United States has the most expensive tort system in the world, with direct tort liability costs of 2.3 percent of the gross domestic product. Our colleague went on to note that whereas U.S. economic output grew 100 percent between 1933 and 1991, tort costs grew almost 400 percent. In other words, over the past 58 years, tort costs have grown almost four times faster than the U.S. economy.

In that briefing paper, which I commend to my colleagues, Mr. MCINTOSH found that 7 percent of America's tort costs—$9.1 billion—are associated with medical malpractice claims. As Senator MCCONNELL, the author of this amendment, said last Thursday, according to the AMA physician masterfile and other AMA liability data, the average rate of claims has increased every year since 1987. In fact, as Senator MCCONNELL noted, the AMA data show that in 1992, 33,424 medical professional liability claims were filed. The next year, 1993, 38,430 claims were filed, a 28-percent jump from one year to the next.

Second, liability insurance costs are having a direct impact on health care spending. Professional liability insurance rates are rising in response to our runaway tort system. The estimated annual cost of liability insurance for physicians and health care facilities, for example, was calculated at more than $9 billion in 1992, and it continues to grow.

We have all heard the statistics cited in our debate on the amendment by our distinguished colleague from Wyoming, Senator THOMAS.

The costs of ob-gyn malpractice claims in particular are having a very serious impact on both professional liability costs and the patient's bill. Statistics from the American College of Obstetricians and Gynecologists show that one out of eight ob-gyn's has dropped obstetrical practice due to liability concerns. A 1990 OTA report indicated that more than half a million rural residents are without any ob services at all, a number which has undoubtedly grown since the report was issued.

Third, health care liability costs raise the costs of health care. The explosion in medical liability claims diverts resources which could be used for patient care, and it raises the per patient cost of health care.

As Federation of American Health Systems President Tom Scully noted at a March 28 Labor Committee hearing, the total yearly cost of medical liability insurance is $9.2 billion. He went on to relate that that, added to Lewin-VHI estimates of defensive medicine, as I will discuss in a minute, plus the liability costs borne by manufacturers of drugs and devices—$10.8 billion a year—could total up to $45 billion a year. And that does not even include settlements. Clearly, even if these estimates are off a bit, we are talking about a substantial sum involved in the cases.

Fourth, defensive medicine contributes to increased health care spending. Health care professionals, fearing lawsuits, perform more services and order more tests than they would otherwise would.

I know about that. As a former medical malpractice lawyer, one of the bits of advice I would give to doctors was you cannot afford to not list every possibility in your health history. You cannot afford to not try everything you possibly can to make sure that that simple cold is not a respiratory disease, blood disorder or any number of other things. You have to make sure of your history because no longer can you get by just meeting the standard of practice in the community. You better be way above and beyond that. And in the process, the cost of health care has gone up exponentially because doctors must now protect themselves, against medical liability cases, and I cannot blame them. The only way to stop it is to get some reason into the system.

This issue has been one of the more hotly contested in the medical liability debate.

In fact, a few years ago, Ways and means Chairman BILL ARCHER and I asked the Office of Technology Assessment to conduct a study on defensive medicine. The results embodied in a July 1994 report were not as conclusive as we would have liked. As OTA admitted, "Accurate measurement of the extent of this phenomenon (defensive medicine) is virtually impossible."

However, Lewin-VHI, one of the leading analysts in the whole field, has estimated that the combined cost of hospitals' and physicians' defensive practices was $25 billion in 1991, and that study was based on what was considered to be a very conservative definition of "defensive."

In fact, the Hudson Institute Competitiveness Center study I cited earlier found that liability premiums and defensive medical practices contributed $450 per patient admitted to a large urban hospital in Indiana, an average of 5.3 percent of the patient's hospital bill. Of that amount, $327 went for defensive medicine practices, and $123 went for insurance and administrative costs.

But, Mr. President, I do not believe you need the results of a study to realize that there is defensive medicine and that it costs a lot of money.

I have a very simple gauge. Ask your doctor or other health care professional the next time you have an office visit. They will confirm: defensive medicine is real.

In fact, you do not have to even wait for your next visit. Ask our colleague from Tennessee, Senator FRIST. In a very compelling statement before this body last week, he said:

> As a physician, I have seen first-hand on a daily basis the threat of litigation and what it has done to American medicine.
>
> I have watched my medical colleagues order diagnostic tests that were costly and unnecessary to the diagnosis or to the care of the patient, and they are ordered for one purpose: To create a trail—in many cases a paper trail—to protect them in the event a lawsuit were ever to be filed.
>
> It is called defensive medicine and it happens every day in every hospital in America. It alters the way medicine is practiced, and it is wasteful.

He could not have said it better. In fact, some scholars and leaders say that if the American Medical Association admits to $25 to $30 billion a year in defensive medicine, can you imagine how really high it must be? We have to get a handle on this.

Fifth, a significant portion of these tort awards never make it to the plaintiff. Despite all these tremendous litigation costs, the beneficiaries seem to be lawyers, not patients.

Lawyers should be compensated and they should be fairly and reasonably compensated. But studies have shown anywhere from 28 to 43 percent of every dollar spent on liability litigation ever reaches patients. That is a strong indication that our liability system has been turned squarely on its head.

There are lawyers in some States who set up separate corporations to provide for documentary evidence or exhibits or designs and pictures and other matters. Sometimes total costs taken out of these suits can go as high as 60 percent of the money before any of it ever reaches the patient. Now, I think that is outrageous in some of these States. But I am aware of some of these things that go on. These lawyers are just making a killing off some of these cases. I will never deny or begrudge any lawyer the right to make a fair compensation for what happens to be a very difficult and skillful trial or even a case. But there are limits to everything, and that is why this bill is providing some additional limits that would help all of us to save and conserve on medical costs.

Sixth, the liability crisis has limited the public's access to, and confidence in, health care. An Insurance Information Institute report in May of last year cited that a 1992 survey of obstetricians and gynecologists showed that 80 percent has been sued. Is it likely that 80 percent of obstetricians and gynecologists are committing malpractice? I do not think so.

The results of this are obvious. A survey conducted by the American College of Obstetricians and Gynecologists showed that one out of eight physicians specializing in pregnancy-related services stopped delivering babies because of liability concerns, and, I might add, the cost of malpractice insurance.

A New York Times article from July of 1993 said that as many as 17 percent of obstetricians and 70 percent of family practitioners who once delivered babies in New York no longer do so.

I ask my colleagues, is the goal of access to care helped by a system that drives providers out of certain areas or types of practice?

I ask my colleagues, does a system which creates these disincentives to patient care instill public confidence in providers?

In each case, I think the answer is a resounding "no." Senators McCONNELL and KASSEBAUM have provided us with a solution.

The vulnerability of both health care payers and health care providers to claims arising from the liability morass is not an abstract proposition.

According to Lewin-VHI, comprehensive medical liability reform would save $4.5 billion in year one, and an estimated $35.8 billion over 5 years, by curbing both the costs of premiums and of defensive medical practices.

The McConnell amendment, modeled after the Health Care Liability Reform and Quality Assurance Act of 1995 (S. 454), which I strongly support, would instill a much needed measure of stability into our legal lottery and benefit both patient and provider. How?

Statute of limitations: First, the proposal includes a 2-year statute of limitations for health care liability actions. A claim must be filed within 2 years of the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered the injury and its cause. This is similar to a provision contained in S. 672, my Civil Justice Fairness Act.

It is also similar to the law in Utah, which provides for a 2-year statute of limitations, with a 4-year maximum.

Punitive damages reform: Second, the McConnell amendment sets standards for punitive damages awards. In order for a claimant to receive such damages, he or she must prove by clear and convincing evidence that:

The defendant intended to injure the claimant for a reason unrelated to health care;

The defendant understood the claimant was substantially certain to suffer unnecessary injury and yet still deliberately failed to avoid such injury; or

The defendant acted with a conscious, flagrant disregard of a substantial and unjustifiable risk of unnecessary injury, which the defendant failed to avoid in a manner which constitutes a gross deviation from the normal standard of conduct.

Further, the amendment precludes punitive damages awards only if compensatory damages are more than nominal.

One of the strong points of the amendment is that it sets up standards for punitive damages. Any defendant may request separate proceedings on either punitive damages liability or the amount of the award. There is a proportionality requirement, so that no award will exceed three times the amount awarded for economic damages or $250,000, whichever is greater.

Finally, there is an important safeguard contained in the McConnell amendment, so that it is made clear the language does not imply a right to seek punitive damages if none currently exists under Federal or State law.

Again, this language is very similar to the language in my bill S. 672.

Periodic payments: Under the McConnell amendment, periodic payment of future damages can be made at the request of either party if the award exceeds $100,000. This is an important provision which ensures that the injured party will receive more of the award, and the attorney less. It also makes it easier for insurers to judge their appropriate reserves.

This provision was also contained in my Civil Justice Fairness Act. I would note that in Utah law, periodic payments for awards of over $100,000 are mandatory.

Limits on attorney fees: The amendment before us limits attorney fees to 33⅓ percent of the first $150,000, based on after tax-recovery, and 25 percent of any amount in excess of $150,000. Although my bill this year addresses attorney fees from a different perspective, I would note that last year the Labor and Human Resources Committee adopted an amendment I offered to cap attorney's fees at 25 percent across the board.

I have to say, I am concerned about any limitation on attorney's fees, but there have been some colossal rip-offs in this area and this appears to be a reasonable approach in the McConnell-Kassebaum amendment.

Finally, I want to mention two other important provisions in the McConnell-Kassebaum amendment.

Alternative dispute resolution [ADR] mechanisms: I have long felt that our fault-based liability system may not be the most equitable or the most efficient. It is expensive, time consuming, and unpredictable.

The McConnell-Kassebaum bill encourages States to establish or maintain alternative dispute resolution systems. It also requires the Attorney General, in consultation with the Administrative Conference of the United States, to develop guidelines for State ADR procedures, including:

Arbitration; mediation; early neutral evaluation; early offer and recovery mechanisms; certificate of merit; and no-fault.

Further, the provision authorizes the Attorney General to provide States with technical assistance in establishing and maintaining such ADR systems. The AG is required to monitor and evaluate the effectiveness of these systems.

I believe that these provisions will be very helpful in encouraging alternatives to our current system. However, I am concerned that the language does not go far enough in encouraging the development of such systems.

For example, at least two States, Colorado and Utah, are developing no-fault liability systems. No-fault may hold great promise in rectifying many of the problems with a fault-based system, such as its unpredictability and cost, but we are far from designing a system which will work perfectly.

Later in this debate, I plan to offer an amendment authorizing the Attorney General to assist States to help develop the ADR programs which are authorized in the McConnell amendment.

On measures to improve quality; when I began this statement, I talked about efforts to improve our health care delivery system, and, in particular, the quality of care that patients receive.

There are myriad safeguards in our system to ensure that we strive for quality care.

Physicians are credentialed by the hospitals at which they practice to ensure that the medical staff both has the appropriate training, experience, insurance coverage, and is utilizing their skills appropriately. Peer review protects against problems with patient care as do the many activities of local and State medical societies.

All U.S. medical schools are accredited by one of three organizations sponsored and supported by the American Medical Association. In addition, all medical school graduates must pass the U.S. Medical Licensing Examination and almost all voluntarily choose to become board certified.

The Joint Commission on the Accreditation of Healthcare Organizations [JCAHO] accredits most of the hospitals in the United States. Hospital insurors monitor the care at the facilities they cover as well.

Finally, I would also note that according to statistics provided to me by the Federation of State Medical Boards, State medical board authorities disciplined 3,685 physicians in 1994, representing an 11.8-percent increase over the previous year. Almost 86 percent of those actions involved loss of license or some restriction of license.

By the way, I want to recognize that the States are also moving to improve health care quality.

In my own State of Utah, the legislature in January of this year enacted the second phase of Governor Leavitt's HealthPrint health reform program.

The act established a 2-year demonstration program to promote and monitor quality health care. Specifically, the law requires that the project include a collaborative public-private effort to promote clinical quality and cost effectiveness through community-wide continuous quality improvement methods. It also requires a process for evaluating the effectiveness of health care continuous quality improvement in the State of Utah.

Some have alleged that this system is not tight enough to guard against problem practitioners.

That may be the case. For example, there is an impediment to physicians self-regulating themselves which is posed by our antitrust laws; that obstacle is something Chairman ARCHER and I attempted to address in our antitrust legislation last year. It is an issue I intend to pursue again this year.

But, obviously, out antitrust laws are not the entire answer.

The McConnell-Kassebaum amendment provides additional resources for State health care quality assurance and access activities. One-half of all punitive damage awards will be used for licensing, investigating, disciplining, and certifying health care professionals in a State or for reducing the malpractice-related costs for health care volunteers in medically underserved areas.

This is a common sense provision, and one which I believe should be adopted.

BIOMATERIALS LIABILITY

A very important provision contained in Senator McCONNELL's original medical liability bill, S. 454, is not contained in this amendment as it is contained in the underlying Gorton substitute product liability bill. I am referring to the biomaterials liability legislation sponsored by my colleagues from Arizona, Senator McCAIN and from Connecticut, Senator LIEBERMAN.

I am very supportive of this legislation. There is a real need for the Congress to take action to relieve raw materials suppliers from liability in finished medical products.

Last month, I received a letter from Dr. Don B. Olsen, director of the University of Utah Artificial Heart Laboratory. He cited a situation which points out precisely why the McCain-Lieberman language is needed.

In his letter to me, Dr. Olsen said:

> Perhaps you were informed about the recent patient at LDS Hospital who is on one of our devices awaiting cardiac transplantation. The patient is doing very well, after having been bed-ridden for about 11 days awaiting a heart transplant. "As his health continued to deteriorate, he received an intraaortic balloon pump (manufactured from one of the polymers now pulled off the market) and this device was inadequate to support his failing heart. Dr. Long, Dr. Doty and myself then elected to replace his heart with the CardioWest pneumatic artificial heart developed at the University of Utah.

CardioWest is a not-for-profit corporation that has 42 of their pneumatically powered artificial hearts implanted in patients as a bridge to cardiac transplantation.

The problem is that large polymer manufacturers, who make the raw materials needed to produce the artificial heart, have stopped marketing the polymers due to liability concerns.

A large device manufacturer, facing similar liability concerns, has set up its own polymer plant to produce the materials needed for its own devices. They are working with the university in an attempt to reach an agreement to provide the polymers for the artificial heart. However, they are understandably reluctant to provide the materials without some liability protection. There again the liability problem has reared its head.

Here we have a renowned university designing literally lifesaving products which cannot be used because of liability concerns. This is a travesty.

The McCain-Lieberman language is needed to obviate such problems. Enactment of it cannot come to quickly.

HEALTH CARE REFORM REDUX?

In closing, Mr. President, I want to outline for my colleagues the road we have traveled in the past 2 years.

When the President and Mrs. Clinton transmitted their Health Security Act to Congress, they acknowledged that we do have a health care liability problem in this country.

The Clinton bill, while it did not contain caps on damages, contains provisions on collateral source reform, periodic payment of future damages, limits on attorneys' fees, and alternative dispute resolution mechanisms.

In the Labor Committee, we adopted provisions on collateral source reform, periodic payment of future damages, limits on attorneys' fees, and grants for alternative dispute resolution mechanisms, including no-fault.

Subsequently, in the Finance Committee, we adopted a measure which contained a $250,000 cap on non-economic damages indexed to inflation, joint and several liability reform, use of punitive damage awards for quality improvement, limits on attorneys' fees, mandatory ADR, and grants for no-fault demonstration programs.

Obviously, none of these measures included all of the provisions of the Mcconnell proposal; at the same time, it is obvious that much of the ground we have covered in the past 2 weeks we have covered before, in that many of these provisions been advocated, indeed endorsed, by significant parties in our past health care reform debate.

CONCLUSION

Mr. President, what we are talking about here is improving our health care delivery system, by ending the legal lottery which threaten both patients and providers.

Some in this body have expressed opposition to the very fundamental changes espoused by my colleague from Kentucky and Kansas.

What I find ironic is that when the shoe is on the other foot, that is, the Government is the deep pocket not a practitioner, this body can move quickly to enact tort reforms far more radical than those we are discussing today.

I am referring to the 1992 amendments to the Federal Tort Claims Act—FTCA—amendments I supported, indeed helped pass—which relieved Community health centers from burdensome malpractice premiums.

In placing community health centers under the FTCA, Congress endorsed prohibiting punitive damages, allowing liability to be determined by a judge, not a jury, and capping contingency fees at 25 percent of a litigated claim or 20 percent of a settlement.

And, while we are on the subject of community health centers—a program I support fervently and which I hope can be expanded to help address the uninsured problem—I might mention another irony.

Many have stood in this Chamber and cited the statistic that malpractice claims only amount to 1 percent of our total health care bill.

With a national health care bill approaching almost $1 trillion, 1 percent amounts to almost $10 billion.

Think how we could expand access to health care by using those billions of dollars for a program so much more productive than litigation.

With current funding of $757 million, community, migrant and homeless centers provide care to almost 9 million people in 2,200 communities. They estimate that, incrementally, each additional $10 million they are provided would extend services to 100,000 people in 30–40 new communities.

Reforming our medical liability system and using those savings in community health centers would truly be health care reform in the first order of magnitude.

In closing, I wish to commend Senator McCONNELL, Senator KASSEBAUM, and Senator LIEBERMAN for their efforts on this important topic.

I intend to continue working with them closely on this issue, as it is extremely important to health care in America.

AMENDMENT NO. 613 TO AMENDMENT NO. 603

(Purpose: To permit the Attorney General to award grants for establishing or maintaining alternative dispute resolution mechanisms)

Mr. HATCH. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 613 to amendment No. 603.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 20(d)(1), strike "with technical assistance" and insert "with grants or other technical assistance".

Mr. HATCH. Mr. President, one thing is clear from our debate over the past week.

While there are both proponents and opponents of the medical liability amendment before us, we all agree that the system is not perfect.

Specifically, many commentators have criticized our current liability system as compensating very few of those entitled to recovery and punishing the wrong providers.

And most of the money spent on liability goes to lawyers.

By a RAND estimate, 57 cents of every liability dollar goes to lawyers, leaving only 43 cents for injured patients.

Injured patients can wait years for a final judgment and eventual payment of the small percentage of their awards left to them by the lawyers and the system.

And doctors can have their reputations destroyed or lose their livelihood by a single lawsuit or even mere insurance costs. The results of tort litigation, particularly in jury cases, is so unpredictable that it has been called the liability lottery.

There must be a better way of compensating injured patients and punishing bad doctors without wasting so much time, money, and effort while getting such unpredictable and inconsistent results. There must be a more rational and efficient liability system.

As with so many things, innovative ideas are coming from the States. And, I believe, many more interesting new ideas can be developed in the States if we will allow them to experiment.

One idea, which some in Utah, and in other States like Colorado, have been investigating is the development of innovative no-fault medical liability systems. A no-fault system could compensate more injured patients more quickly than the litigation system.

It could be more effective at punishing those providers who do act culpably. It may be that a no-fault system could be not only more equitable, but more inexpensive.

Researchers at Harvard University, who have been working in this for years and who are working with those in Utah and Colorado suggest that these systems hold substantial promise on all these fronts.

But we need more experience with different alternative dispute resolution systems, such as no-fault, before we can be sure.

There are many other approaches being tried in various parts of the country that might help make the system more rational. In the last few years we have heard about innovative dispute resolution systems that encourage quick and fair settlements like early intervention and early offer models.

Practice guidelines and enterprise liability are also options that should be watched and studied to see if they will yield helpful results elsewhere.

Enhancing the evidentiary status of clinical practice guidelines could help the tort system move to judgment more quickly and efficiently, with more uniform results. And practice guidelines could also be an interesting method of developing more uniform standards of medical practice.

There are many forms of each of these approaches, and I think we can learn much from experimenting with various approaches in the States. I believe we should encourage the States and entities in the States to experiment so that we can see what approaches are most likely to lead to a more fair and efficient liability system.

The amendment I am offering to the McConnell-Kassebaum provision on medical liability is very simple.

In section 20, State-Based Alternative Dispute Resolution Mechanisms, the current language in subsection (d) authorizes the Attorney General to provide States with technical assistance in establishing or maintaining alternative dispute resolution mechanisms.

My amendment would expand that slightly, so that the Attorney General may provide grants or technical assistance to States in establishing or maintaining alternative dispute resolution systems.

The only change is the addition of the words "grants or", and I note that this would be entirely permissive.

While minor, it is an important change, because it will allow States, or their designees, to work on ADR alternatives, without time-consuming work which is potentially duplicative at the Federal level.

I hope this amendment can be adopted.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I know my colleague from Illinois is shortly going to introduce an amendment that I will support, which gives States the right to opt out. I am in profound disagreement with this Federal preemption. I think I will respond to my colleague from Utah just with a somewhat different perspective for the record, if you will, Mr. President.

Mr. President, I remember last year during the health care debate when we had talked about the cost of medical malpractice premiums that both the Congressional Budget Office—I did not say Democrat or Republican—and the Office of Technology Assessment, which gets high remarks for its very rigorous work—indicated that the medical malpractice premiums account for less than 1 percent of the overall health care costs. A trillion-dollar industry, less than 1 percent.

As I remember, there were some other reports that said even if you were to take into account defensive medicine, altogether it was 2 percent of the total cost. By the same token, Mr. President, when the Congressional Budget Office, for example, and the General Accounting Office scored a single payer bill, where there was one single payer at each State level, as I remember, the estimates were that we could save up to $100 billion a year. But that challenged the power of the insurance industry. My understanding, Mr. President, is that medical malpractice insurance is the single most important profitable line of property casualty insurance and generated $1.4 billion in profit in 1992.

So we do not talk about insurance reform, record profits being made; we do not talk about how to really contain costs. The Congressional Budget Office also said, Mr. President, that the best single way of containing health care costs would be to put some limit on what insurance companies can charge. We do not do that at all. We go the path of least political resistance. Those folks have entirely too much economic and political power. We dare not confront them.

But, Mr. President, instead, we are going to go after those people who have been hurt, those people who have been injured, that have lost loved ones and take away some of their protection and take away some of their rights to seek redress of grievance.

Mr. President, I am going to go back to an example—I am sorry my colleague is not on the floor right now. I have a practice of not debating colleagues directly if they are not here. I do not think there is a standard of fairness to that. So I will be more general.

Let me raise the question about these caps on punitive damages. For example, I think my colleague wants caps across the board, as I understand it. Let me put a face on this question. Think of Lee Ann Gryc from my State of Minnesota who was 4 years old when the pajamas she was wearing ignited, leaving her with second- and third-degree burns over 20 percent of her body. An official with the company that made the pajamas had written a memo 14 years earlier stating that because the material they used was so flammable, the company was "sitting on a powder keg." When Lee Ann sued for damages, the jury awarded $8,500 in economic damages and $1 million in punitive damages. By the way, children—earlier we were talking about this in debate, and one of my colleagues was making projections for economic damages for children—children do not get much by way of economic damages.

Let me ask you, Mr. President, as I cannot ask my colleague, was the jury wrong? Should the company have gotten away with a cap of $250,000 in punitive damages, as this bill would require? Unless you are comfortable answering the question yes, unless you are willing to say that Lee Ann Gryc was entitled to no more than $250,000 in punitive damages, when the company knew that the pajamas were flammable, then you should not be supporting this bill.

This legislation is going to have a very negative effect on consumers. I think it is unconscionable.

Now, Mr. President, I do not get a chance to ask the question, but I get a chance to present another perspective on the floor of the Senate right now in response to my colleague. The question I would raise is—I do not think my colleagues have an answer to this question—No. 1, if we have this cap on punitive damages, what is the projection on how many citizens are going to be denied, how much by way of compensation, over the years to come? And No. 2, what implications does this have toward weakening the deterrent effect?

Like it or not, Mr. President, the company that made those pajamas had a memo written 14 years earlier stating that it was sitting on a powder keg. But for this company the bottom line was the only line. Unfortunately, there are some companies like that—thank God, not too many. For those companies that produced these pajamas that are flammable that burn children, or products that injure or kill people, one of the ways we know they will not do it again is when they are slapped with such a stringent punitive damages suit that they know they cannot do it again. What is the effect of taking away that deterrent? What is the projection on how many innocent people are going to be injured, maimed, or killed by defective products in the foreseeable future? Give me near-term figures. Give me middle-term figures. Give me long-term figures.

Mr. President, what we have before us is an agenda that is an extreme. First of all, there is this agenda to, on the one hand, weaken some of the agencies which have as their mandate to protect the health and safety of consumers in this country. Then, on top of that, we try and take away from citizens their right to receive fair compensation.

I might add, when it comes to the cap on punitive damages, I think we essentially severely undercut the deterrent effect of this. That is why they are there. I mean, you have the economic and noneconomic damages to make the victim whole. In addition, you have punitive damages to say to a company: By God, you need to understand this is so egregious in what has been done that you really are slapped with a major damage which will prevent you from ever, ever doing this again and will prevent other companies from doing this again.

That is what we are attempting to overturn. That is what is so dangerous, no pun intended, for consumers in this country.

Mr. President, again, No. 1, for Lee Ann Gryc from the State of Minnesota, 4 years old when the pajamas she was wearing were ignited, leaving her with second- and third-degree burns over 20 percent of her body. Is $250,000 too much? Is any Senator willing to say it was too much? I do not think so.

Then my colleagues say, we cannot leave it up to a jury to decide. They are too swayed by emotion. The juries are the citizens that elect Senators.

Then, in addition, when my State of Minnesota decides that a cap on noneconomic damages did not work, we may not have any choice in the matter because we have legislation that preempts States. Whatever happened to decentralization? Whatever happened to the idea of States making some of these decisions?

Finally, Mr. President, again, on the medical malpractice part, I can simply say that I am not aware of any independent study done by CBO or Office of Technology Assessment since last year that went through the whole question of a $1 trillion industry, that went through medical costs, went through an analysis of health care costs.

What CBO and OTA said is 1 percent—medical malpractice premiums account for less than 1 percent of overall health care costs. Medical malpractice premiums account for less than 1 percent; adding defensive medicine, maybe 2 percent. Those are my figures as I remember.

When, in the name of controlling health care costs, are we going to pass a piece of legislation which is profoundly anticonsumer, which tips the scales of justice away from people who were seeking redress of grievance in behalf of negligent companies or negligent doctors? It is just outrageous. We take away from people some of the basic legal rights they have, some of the basic consumer protection they count on.

On the other hand, I would say to my colleagues, if we want to control health care costs, great, I will give my colleagues an opportunity. Sometime I hope to bring an amendment on the floor that talks about putting a limit on insurance company premiums. Then we will see whether or not we are interested in controlling health care costs. According to the Congressional Budget Office, that is the way to control health care costs.

And I will say to my colleagues, if my colleagues are interested in having more health care in rural or urban communities, I am extremely interested in how we encourage more family doctors, nurse practitioners, and how we deliver health care in a humane, affordable way in underserved communities. But do not use these medical malpractice amendments as a reason to do that. We do not have to take away from citizens in this country protection when it comes to their health and safety. We do not have to take away from them their rights in the court system in order to make sure that we provide dignified, affordable health care. That is not a choice.

Mr. President, I hope on both the underlying product liability, and much less, some of these medical malpractice amendments—ones with caps—that colleagues will vote no. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I ask unanimous consent that amendment No. 613 be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 614 TO AMENDMENT NO. 603

(Purpose: To clarify the preemption of State laws)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. WELLSTONE, proposes an amendment numbered 614 to amendment No. 603.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SECTION . STATE OPTION.

(a) A provision of this subtitle shall not apply to disputes between citizens of the same State if such State enacts a statute—

(1) citing the authority of this section; and

(2) declaring the election of such State that such provision shall not apply to such disputes.

(b) If a dispute arises between citizens of two States that have elected not to apply a particular provision, ordinary choice of law principles shall apply.

(c) For purposes of this section, a corporation shall be deemed a citizen of its State of incorporation and of its principal place of business.

Mr. SIMON. Mr. President, this is word-for-word the amendment that the Presiding Officer offered in our Labor and Human Resources Committee, a very thoughtful amendment, which says we will permit the Federal Government to establish these standards, and if there is a litigation between a citizen of one State and a physician or hospital from another State, or whatever the circumstances may be, then these Federal standards apply. But if a State wishes to differ from this, a State can do that. That is all this amendment does. It was carried, as the Presiding Officer will recall, in a bipartisan vote in the Labor and Human Resources Committee. I hope it can pass in a bipartisan vote here.

I have some concerns about the basic product liability bill, but there can be a very cogent argument made for it, because if a manufacturer in Illinois or Michigan, or in some other State, manufactures a product, that goes interstate. So having some national standards makes some sense.

But in the case of medical malpractice, in all but a few cases we are talking about litigation within a State. And the argument made by Senator ABRAHAM in the committee seems to me to be a very logical argument, and that is, let us establish the Federal standards, but if a State wishes to vary from those standards, a State can do that. That is all the amendment does. It is not complicated. I will, at an appropriate time tomorrow, ask for a rollcall vote on the amendment.

I see my colleague from Washington is off the floor right now.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I would like to speak for a few moments on the underlying bill on product liability—the debate on which began a week ago today—on some aspects of the amendments which are before us at the present time on medical malpractice, and respond to two questions raised by the Senator from Minnesota during one of his sets of remarks on product liability earlier during the course of the day.

But I can begin in no better fashion than to share with you, Mr. President, and with my colleagues, a remarkably eloquent essay which appeared in last Friday's Washington Post. Its author, Bernadine Healy, was Director of the National Institutes of Health during most of the Bush administration and is a senior policy advisor at the Cleveland Clinic Foundation.

Mr. President, rather than simply to put that essay into the RECORD, in order that our Members, in making their judgments on the important votes they are going to cast tomorrow and the rest of the week, I intend to read that essay, because I was so moved by it, with simply the caveat in the beginning. The essay, entitled "Tort Tax on Women's Health," is primarily about the impact of this bill and these amendments on women. And I trust, Mr. President, that you will remember, as I read it, that it speaks from Dr. Healy's female perspective. I am quoting and I will be until I bring this to an end:

As the move to fix the broken tort system gains steam in the Senate, we're hearing a tired refrain: Legal reform will hurt women. This political gimmick to paint women as victims is precisely the opposite of the truth: Perpetuation of the litigation lottery, not its reform, hurts most women in the long run.

In dire need of reform is the current system's imposition of massive and arbitrary fines under the guise of "punitive damages." In product liability cases, punitive damages are intended to punish a company that manufactures a dangerous product. In medical malpractice cases, these fines are cloaked as non-economic damages, such as those for "pain and suffering."

Juries are asked to impose these damages on a purely subjective, emotional basis. They are in excess of the amounts needed to pay for the harm actually done. One juror told the Legal Times her reasons for awarding $10 million against a Washington, D.C. doctor and hospital: "[Q]uite honestly, I think it had something to do with sounding like a round figure."

It is this open-ended freedom to punish that creates a legal lottery, one in which many trial lawyers scoff at smaller claims in favor of the winning ticket of a million-dollar contingency fee.

How could reforming this system hurt women? Protectors of the current system claim that, because society places women at a lower economic value, economic compensation for an injury will never be enough. They point to lower wages for women than men in comparable jobs, as well as to the pathetically low wages identified for women who care for the children and home in a family.

Women always must stand firm for equal wages for equal work. We also must fight for economic respect for our work within the family unit. (This might even include calculating compensatory damages based on the total income of the family unit, not just the market value of domestic services). But our struggle for economic equality should not be used as a smokescreen to justify a liability system that threatens women's health.

Women live longer and suffer from chronic diseases (such as osteoporosis) to a greater extent than men. More than men, we will rely on new drugs and therapies to combat these debilitating diseases. Unfortunately, unpredictable and excessive product liability costs are forcing drug and medical device companies to withdraw needed products, or even to decline to develop them.

Some products used exclusively by women—namely, those for pregnancy and contraception—are particularly susceptible to withdrawal by companies fearing lawsuits. For example, the price of Bendectin, a drug approved by the FDA for morning sickness, skyrocketed 250 percent after lawsuits alleged birth defects. Although no causal link to birth defects was ever found, the manufacturer withdrew the drug from the market. There are no other drugs for morning sickness.

Improvement to contraceptive products also have been stalled by the product liability system. While there was a need to compensate women for problems associated with the Dalkon Shield intrauterine device (which physicians—not lawsuits—first called to the attention of the FDA), the lengthy, hyperadversarial and profit-oriented stream of lawsuits seriously wounded the development and acceptance of an improved version. The same may become true for Norplant. Liability intimidation over minor problems in the first generation of this useful contraceptive may foreclose the development of an updated version.

Another threat to women's health comes from the current medical malpractice system. The American College of Obstetricians and Gynecologists found that malpractice premiums increased 237 percent between 1982 and 1991. Added on are the indirect costs of defensive medicine (like too many Cesarean sections) and fewer doctors choosing to go into obstetrics.

No one pays a higher price for this system than the poor. The Institute of Medicine reports that physicians' fear of lawsuits has left many rural communities without obstetrical care. The National Council of Negro Women reports the same for urban low-income areas.

Who gains from this tort tax on women's health? Only 40 percent of malpractice insurance premiums goes to injured patients, while the remaining 60 percent goes to lawyers' fees and administrative costs.

Instead of health care by lottery, women need good science and the aggressive pursuit of medical advances by the NIH, academia and the private sector. We don't need women's advocates who protect a liability system that limits our health care choices by turning businesses away from women's health.

Nor do we need the same people who rightly argue for women to pilot F-16s then to characterize us as too delicate to weigh our health risks. It is time to recognize that women, armed with solid research and medical information, can make their own intelligent choices about their health, from choosing a contraceptive to getting breast implants.

During the House debate, a congresswoman characterized liability reform as a male conspiracy, comparing the "second-class status" of non-economic damages under a reformed system to what she viewed as a "second-class status" for women. But just as women's health has finally been upgraded to first class, we cannot abide a liability system that holds women back in the dark ages of medicine.

Mr. President, two principal points in Dr. Healy's essay, I think, deserve special emphasis.

The first has almost been ignored entirely since the opening salvos in this debate. That is, the tremendous cost of the present system, a tremendous cost which does not go to victims under any set of circumstances.

Dr. Healy speaks of medical malpractice as producing 40 percent of all the insurance premiums that go into medical malpractice insurance to victims and 60 percent to lawyers and to administrative costs, the rest to the costs of the system itself.

Mr. President, that figure is not limited to medical malpractice. It is endemic across the board in product liability litigation. I am astounded that we have not been met with an outrageous attack on this system by the very Members of this body who, instead, are arguing for its preservation without change.

They who speak of victimization, they who speak of appropriate compensation seem overwhelmingly content with a system where 60 percent of the money that goes into it ends up in the pockets of people who are not victims but who are lawyers or expert witnesses or insurance investigators or the like.

In almost any other aspect of our lives, we would be outraged by a 60-percent administrative cost. If anything, Mr. President, that 60 to 40 percent split underestimates the cost of the system. That is only what is reflected in medical malpractice premiums. It does not reflect at all the unnecessary defensive medicine that is practiced in order to try to prevent such claims from coming up in the first place.

If there were no other reason for change, to make more effective compensating the actual victims of negligence, either in product liability or medical malpractice, we should be demanding reform instead of fighting that reform.

At the same time, Mr. President, if this split in favor of overwhelming administrative costs is shocking, it seems to me especially shocking is the other principal point made by Dr. Healy and by others, the tremendously adverse impact of the present system on research, on the development of new products, whether National Institutes of Health related, machine tools—a wide range of products and the marketing of those products.

First, of course, is that the price of every such product includes an insurance premium, a product liability insurance premium. More significant than that—more significant than that—are the choices made by companies faced with this lottery system.

My distinguished friend and colleague from New Mexico last Friday read a statement by retired U.S. Supreme Court Justice Lewis Powell, which I can only paraphrase here, saying that the most irrational form of business regulation is the product liability system.

We have in this Government a large number of regulatory bodies, many of which are devoted to the safety and effectiveness of the kinds of articles, the kinds of products that we use in our lives every day. Those agencies, of course, are not infallible. By comparison, a jury system dealing with a specific instance only, in every case is a pure lottery. The argument that somehow or another this system, which on identical facts can come up with a verdict for a defendant after a huge investment in the costs, or a multimillion-dollar punitive damage claim for actions deemed by the jury to have been deliberate or close to deliberate, is exactly that; it is a lottery.

What is the rational response of a small business or, for that matter, a very large business in the field of producing new and improved items, especially related to our health? Well, the response is, in many cases, the flame is not worth the candle. Why should we as a company subject ourselves to tens of millions of dollars in attorney's fees, even in cases in which we are successful, and the possibility, however remote, of multi-million dollar judgments and terrible publicity in punitive damages in connection with a product which sells for a relatively low profit margin? Companies will, under those circumstances, not so much weigh the question of the safety of a particular device or medicine or product, they will weigh their potential for successful business against the potential of all of these large attorney's fees and potential punitive damage awards.

And what happens? What happens is many companies simply get out of the business; 90 percent of all of the companies manufacturing football helmets, for example, have abandoned the business during the course of the last 20 years. Major national laboratories and developers have abandoned the search for drugs that will have a positive impact on the AIDS epidemic because their calculation was that the legal costs of introducing such drugs, even with the approval of the Food and Drug Administration, vastly exceeded any profit that they can make on them. Other companies have gotten out of the business, as Dr. Healy says in one particular case here, ". . . have gotten out of the business of producing traditional immunizations and the like because of the potential cost of either verdicts or even the cost of successfully defending lawsuits."

We have discussed on this floor the dramatic impact of product liability litigation against companies manufacturing piston driven aircraft, a 95-percent reduction in the production of that kind of aircraft in the United States over a 20-year period all because of product liability litigation. Not successful lawsuits, Mr. President; in the overwhelming majority of these cases, the lawsuits were unsuccessful. But the costs of a successful defense are often more than the costs of a judgment. So that industry was practically destroyed until a modest change was made by this Congress last year and we have, in that one industry, the beginning of a recovery.

Mr. CRAIG assumed the chair.

Mr. GORTON. The goal of product liability legislation is the recovery and development of those industries which make our lives better, which provide new and more effective treatment for medical conditions to which all of us are subject, more and better products for our enjoyment, for our transportation, for every other aspect of our lives. And when we can do that without denying a single claimant the right to go into court and the right to recover all of the actual damages that a jury awards to that plaintiff—all of the actual damages—and when we can do that at so low a cost to anyone except those who benefit from the litigation itself, it would not seem to me that this debate should have lasted as long as it did or that its result should still be so highly unpredictable.

So, I congratulate Dr. Healy on her particular insight into this question, and say that insight can be expanded across the entire scope of the legislation with which we are dealing here and urgently speaks for its passage.

I did want to remark briefly on two questions which were propounded by the Senator from Minnesota to the supporters of this legislation an hour or so ago. The Senator from Minnesota asks, and I hope I paraphrase him accurately, "What projections are there for how many people will be denied how much money as a result of the cap on punitive damages included in this legislation?" The second question was, "What is the extent of adverse effects of the bill on the deterrent effect of uncapped punitive damages?"

In a sense, each of those questions is the same. Ironically, the answer to the first question, how many people will be denied how much money by some kind of limitations on punitive damages, has probably been answered most eloquently by the opponents to the bill. Opponents to the bill have been at great pains to say that there is no litigation explosion with respect to product liability litigation. That is an interesting argument, since the contrary argument has never been made on the floor of this Senate during the course of the last week. And that only a relative handful of punitive damages judgments had been entered in the last 10 to 12 to 20 years in product liability litigation.

Of course, not all of those awards would be affected by this cap. A number of them are less than the cap is in the bill in its present form. So the answer is, "Not very many people directly through the litigation system will be denied very much money by the passage of this bill in this form."

But what is not asked in the question is, no one, not a single individual, will be denied $1 of the actual damages that they suffer and have proved to a judge and jury by this litigation because punitive damages, by its very definition, is an award above and beyond the damages suffered by a claimant in a particular case.

The importance of this legislation in connection with punitive damages is not so much in connection with actual awards as it is with the effect of the threat of potential awards against sound business judgment about the marketing, particularly of new and improved articles, items, and products; and the fear of losing such a lottery on the settlement of lawsuits for more money than can justly be found due to a given claimant in order to prevent that lottery from going against a particular defendant.

While we can probably come up with an accurate and relatively low count of the number of major punitive damage judgments in product liability cases, it is impossible to come up with the number of product liability cases in which punitive damages have been alleged for $1 million, for $10 million, for $100 million. It costs very little for the word processor to add another zero to the prayer in a complaint for damages. And in every case, that complaint must be taken seriously by a potential defendant. There is no way to predict the outcome and therefore many settlements are made for claims which are not justified, in significant amounts of money, and it is that uncertainty which has so constricted the desire of many businesses to make valid business judgments, not only from the point of view of the businesses themselves but to the great gain of the people who would otherwise have used those new products.

Again, we can simply go back to the one area in which we know what the impact has been and will be, piston driven aircraft, 95 percent destroyed by the system, significantly restored already last year since the modest reform in the system has been made.

That, too, answers the second question propounded by the Senator from Minnesota. What is the extent of the adverse effects of the bill on the deterrent effect of uncapped punitive damages? Again to paraphrase Justice Powell, this is the most irrational system of business regulation that can be imagined. It lacks any general principle whatsoever. It lacks any certainty whatsoever. It is utterly arbitrary.

Mr. President, I am sure that the Senator from Minnesota would not for 1 minute countenance our changing the Criminal Code to one in which no matter what the crime the jury could impose whatever sentence it thought appropriate—capital punishment for an assault, life imprisonment for running a stop sign. Yet, that is by analogy exactly what we do with a punitive damages system, unlimited in every case except by the judgment of the jury itself.

Moreover, the criminal justice system at least requires proof beyond a reasonable doubt, something not required as far as I know by any State having punitive damages. The deterrent effect: Well, Mr. President, the State I represent in this body does not now and never has allowed punitive damages in the bulk of civil litigation, nor have four or five other States. And there is no evidence that there is any greater carelessness or willfulness on the part of business enterprises in that State in dealing with consumers in our State because of the entire absence of punitive damages.

So my answer to the question, "What is the extent of the adverse effects of the bill on the deterrent effect of uncapped punitive damages?" is: None. Not a conditional answer whatsoever; the answer is none. We have far better and far more just ways of dealing with rogue business enterprises than to deal with any such businesses in this fashion and in a fashion which deter the State's legitimate businesses and those who would wish to use such, to benefit from what those businesses will produce in the way of products and treatments and the like.

So, Mr. President, I think we are perhaps winding up our day on this subject. I repeat once again, for the benefit of all of my colleagues, that today we must have all of the amendments introduced to the McConnell amendment, the amendment seeking to limit malpractice to a product liability bill. There will be a brief time of debate, approximately 1½ hours and a half tomorrow in the morning and then a series of votes on all of those amendments, after which we will go on to other amendments dealing with the general bill itself.

Seeing no Member who wishes to offer an amendment or a comment on the floor at the present time, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I have been trying to watch the proceedings on the floor all day. I was here twice before talking about amendments that are pending before the body on the issue of malpractice reform. I have been disappointed, frankly, that there has not been more debate joined on two very, very critical questions, except for a brief colloquy which the Senator from Minnesota and I had earlier today, I have heard virtually no refutation of the points that I have set forth regarding the two amendments. I wanted to spend 5 minutes this evening summarizing my views prior to the time that we will have votes on these two issues tomorrow.

Mr. President, you know that we have before us the product liability legislation by which we are going to try to reform this Nation's product liability laws. Pending is also an amendment—the McConnell-Lieberman-Kassebaum amendment—which will add the medical malpractice area to that reform. There are a couple of specific amendments pending to that which we hope will help to further reform our tort law relating to medical malpractice; specifically, an amendment that would limit attorney's fees and, secondly, one that would put a cap on noneconomic damages.

The point of these two amendments is to try to return more of the recoveries of these cases to the victims, to the plaintiffs or claimants in the cases. In the past, the claimants received—in fact, today the claimants receive on the order of 40 to 50 percent of the recoveries, and the attorneys receive most of the rest.

In fact, several studies demonstrate that at least half of the recovery in these kinds of cases go to the attorneys. Let me cite two or three of those studies, Mr. President. There is a Rand study which demonstrates that about 50 percent of the money goes to lawyers, and less than 50 percent goes to the claimants. Some of it goes to administration. There are other studies that show somewhere in the neighborhood of between 40 and 50 percent. The bottom line is that the claimants are not getting the recovery; the attorneys are.

As a result, what we have sought to do is to limit the recovery of the attorneys in the noneconomic damage area to 25 percent of the first $250,000. That is over $60,000. In addition to that, the attorney, under the McConnell amendment, would be getting either 33⅓ percent of the first $150,000, or 25 percent of everything thereafter, on all economic damages.

So let us take a very large recovery for the sake of argument. Let us take a million-dollar recovery. The attorneys could easily get between a quarter of a million or more in their contingent fee from that. Then, of course, if punitive damages are further sought, an attorney, under my amendment, could go to the court and ask for a reasonable fee. Twenty-five percent would be presumed to be reasonable, and the court would have to determine it based on reasonableness and the ethics standards to apply to attorney fees. We are not limiting attorneys from recovering their fees. We are saying in a great big recovery, where it is a multimillion-dollar recovery, the bulk is not going to go to the attorneys. About 75 percent would go to the claimants.

The adjunct to that is a limitation on the noneconomic damages themselves. By giving the claimants more of the money that they get and giving less of it to the attorneys, we can afford to put a cap on the noneconomic damages. That is what the second amendment I have introduced would do. The House-passed cap is $250,000. But a lot of our colleagues in the Senate said $250,000 was just too stringent in that exceptional case. They are rare, but in those exceptional cases where you would want to give an award of more than a quarter of a million dollars, you can provide an award of up to $500,000 under my amendment. It could not be discounted at the present value. So that is a lump sum of money. Invested over a period of time, it could make millions of dollars. That is on top of the economic damages, which would be collected to totally recompense the plaintiff for all out-of-pocket expenses as well as lost earning power and any other economic damages.

So you do not limit the totality of the award so much as you provide that the claimant gets the award by putting a limit of $500,000 on the noneconomic damages. By having a limit on the attorney's fees, the claimants get essentially the same thing. But the attorney's fees are reduced to a more reasonable level. So these two amendments fit hand-in-glove. We are going to be voting on them tomorrow.

I urge my colleagues to support the limit on attorney's fees and the limit on noneconomic damages. Some of my colleagues says the limit on attorney's fees is not strong enough. It does not really whack the lawyers. That is not my objective. My objective is to make sure there is a fairness and a balance here and that some reason is restored to the system. With respect to the noneconomic damages limit, there is a question about really whether that will do any good. I just want to cite to my colleagues the Office of Technology Assessment report of 1993 which said:

> Limits on noneconomic damages is the single most effective reform in containing medical liability premiums.

We all suffer by virtue of medical expenses going out of sight, of physicians having to close down their practices or decline to serve certain kinds of patients because of the escalating costs of medical malpractice premiums. This is one of the cost-drivers in this whole health care reform debate. We have to get that under control. When a group like the OTA notes the fact that this is one of the most significant reforms we can pass, it seems to me important to do so.

So again, I urge my colleagues, when we vote on these two amendments tomorrow to, of course, support the McConnell-Kassebaum-Lieberman amendment and to support my amendment on attorney's fees and on limiting noneconomic damages. I think if we do all three of those things, we will have strengthened the bill and will be better able to go to conference and come out with a really strong bill that, as a result, we can tell the American people we have done something in this area of medical malpractice and tort liability reform.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, for 2 days during the consideration of the product liability bill the Senate has been debating fundamental change to the system under which victims of medical negligence are compensated for their injuries. I regret that the subject of malpractice reform is before the Senate as a rider to product liability legislation. We should not begin to tinker with the malpractice liability system except as a part of a more comprehensive effort to reform the Nation's health care system.

As we have pointed out at other times in the debate, tomorrow we will have an opportunity to give consideration to a proposal that deals with malpractice insurance that represents the best judgment of the Human Resources Committee of a year ago and which will reflect a bipartisan effort to come to grips with that particular issue. We are not in that situation at the present time.

That particular proposal was also accompanied by a variety of proposals to try to avoid medical malpractice, to try to enhance the quality of health care so that we were not going to have the incidence of malpractice. But we do not have included in this legislation the provisions to try to enhance quality health care, nor do we have this measure as a part of a comprehensive health care proposal.

The health care crisis in this country continues to be extremely serious. Last year, the number of Americans without health insurance increased by more than 1 million people, 800,000 of whom were children. Costs are spiraling out of control. Our health care system needs urgent repair, and malpractice reform is at most one small part of such reform.

Proponents of malpractice reform speak of a crisis, but they are ignoring the real health care crisis. By the year 2000, only half of working Americans and their families will be protected by health insurance through an employer. As recently as 1987, two-thirds had this protection. Forty million Americans have no coverage today and, by the year 2000, 50 million will have no coverage. If current efforts to cut Medicaid and Medicare are successful, the number could be much higher. Eighty-five percent of those who have no insurance are members of working families. They face a health care crisis every day. But even those who currently have coverage cannot be complacent because, if they lose their job or change jobs or become seriously ill, their health insurance is in jeopardy.

This is the point, Mr. President. Here we are taking one small phase of the whole health care issue that effectively is going to protect negligent doctors and substandard hospitals as being the principal measure to be considered as health care reform when we have these other kinds of issues and challenges which we are facing as a country, and we are not addressing them. We are not addressing them. We are not addressing the serious, continued decline of the coverage of working families. Eighty-five percent of those not covered are from working families.

Where are their interests covered in this legislation? They are not. And what we have seen is the fastest growing group of individuals who are not being covered end up being children in our society. Working families and children, their interests are not being attended to with this particular measure that is before us because it is just dealing with the issues affecting negligent doctors and substandard treatment.

Senior citizens have no coverage for prescription drugs. This is another problem. Coverage for long-term care is grossly inadequate—another health care problem. Last year, the average senior citizen had to spend one-quarter of his or her income on health care, and that does not count those who are in nursing homes and hospitals.

Health care costs are out of control. We have the problem with access, the coverage of people, and we have the issue of health care costs. Those are essential elements. We have the other additional issue of quality health care that has to be attended to and other measures in the health care debate. But we have the access issue and the cost issue. And the costs are out of control. The Nation spent $1 trillion on health care last year and that number will double in 10 years. Health care costs are devastating to the Federal budget and to the family budget. And this is the health care crisis we should be talking about and these are the people who need the protection.

Getting the handle on health care costs in Medicare and Medicaid ought to be a part of health care reform. Many of us are strongly committed to that particular challenge. That will make a difference in terms of the quality of health care for senior citizens. And for the rest of Americans, it can make a difference in terms of the escalation of health care costs and it can make an important difference for the families in this country.

But are those the issues that we are debating here on health care this evening? Absolutely not. We are dealing with a very narrow issue of profit for the medical insurance industry, $1.4 billion in 1991 profits. And who pays for that? It is the American consumer. And that is what is happening on the floor of the Senate.

Instead, the proposals before the Senate offer protection to substandard doctors and substandard hospitals. Limits on malpractice liability will be a windfall for them—and also for an insurance industry already reaping record profits. The crude limits in this amendment are an insult to hundreds of thousands of patients injured or killed every year as a consequence of medical negligence.

Medical malpractice is the third leading cause of preventable death in the United States. According to researchers at the Harvard School of Public Health, 80,000 Americans die in hospitals each year from the negligence of physicians or other health providers, and an additional 1.3 million are injured. As many as a quarter of all patient deaths could have been prevented but for negligent medical care.

It is ironic that one of the first pieces of health legislation considered by the Senate this year would actually hurt patients by protecting negligent doctors and their insurance companies. In fact, the current malpractice compensation system already offers too much protection to doctors and insurance companies.

Fewer than 2 percent of malpractice victims ever file suit. The rate of medical malpractice claims has declined steadily since 1985. Patients won fewer than one-third of the malpractice verdicts in a 1994 study. The size of malpractice awards has dropped significantly in the last year alone, according to the New York Times.

The legal system pays only 1 malpractice claim for every 15 torts inflicted in hospitals, according to Business Week. According to Business Week, the legal system pays 1 malpractice claim for every 15 torts inflicted in hospitals.

That is what is happening. It is not just the studies at the Harvard School of Public Health. This is Business Week that is demonstrating the inadequacy of the system—the fact that there are hundreds of thousands of Americans who are not compensated, that the total number of claims are going down, that the premiums are going down, and that the insurance industry's profits are soaring up through the roof. That is what we are dealing with here on this particular issue.

And Business Week points out, rather than a surplus, the article concludes, there is a "litigation deficit because so many injured people wind up undercompensated."

That is the true problem that we are facing. Are our fellow citizens, who are subject to malpractice, unable to have any kind of compensation, unable to get any kind of help and assistance? That is what we are talking about.

Those are the issues that we addressed in a bipartisan way in the Labor and Human Resources Committee last year to try to work through alternative dispute resolutions and other kinds of measures in order to make sure that people are going to receive at least some benefit.

Part of the reason for this litigation deficit is that the legal system is inaccessible to so many citizens. That problem will be exacerbated by the proposals now before the Senate. The deficit is also attributable to the malpractice reforms already adopted in many States under pressure from the powerful medical insurance lobbies.

I do not know how many of our fellow colleagues turned on the television over the period of this weekend. I was back in Washington on Friday evening. Just after suppertime, I watch television to see the news for a couple of hours. I tried to watch it again on Saturday for a couple of hours. Eight times I saw—eight times—including twice on Sunday morning between 6 and 7 a.m. I do not know who the buyers of time are for those insurance companies and I do not know how much value they are getting for that particular purchase time, but you could not turn on the television programs all week long and not see those insurance industry spokesmen trying to replicate the television ads of last year that distorted the health care debate, talking about California, what is happening out in California.

Well, it is interesting. They were talking about how California had worked so well. Well, we find out, of course, that California has had a number of the kinds of changes in their tort legislation that is included in the McConnell amendment.

Here is a news release entitled "AMA Propaganda False on Tort Law Restrictions, Report Shows." It says:

> A 1975 California law that limits the legal rights of victims of medical malpractice—the model for Federal tort law proposals before the U.S. Congress—has failed to deliver what its backers have promised, according to a study released today by a California non-profit insurance watchdog organization.

What they pointed out is health care costs rose in California 343 percent between 1975 and 1993. The president-elect of the new AMA says that the No. 1 issue in the United States is access to health care—we can say that is true, along with increased costs—and then says the access to health care costs is malpractice reform, and urges us to go ahead with the McConnell amendment. And here we have an example of what happens with the McConnell amendment in one particular State, the State of California.

It shows that rather than having any impact in terms of slowing escalation of costs down, it has not. As a matter of fact, it has not done that in the other States.

I hear my friend from Indiana, Senator COATS, talk about the changes they have had in Indiana. The health care costs, in terms of health care in Indiana, have not gone down. They have not gone down in the other six States that have implemented many of the suggestions that are included in the McConnell amendment.

> Health care costs in California rose 343 percent between 1975 and 1993, faster than the inflation rate in California. Since 1985, the California Medical Consumer Price Index has grown nearly twice as fast as the inflation rate . . .
>
> Compensation paid to medical malpractice victims, as estimated by insurers, is a tiny fraction—about one-fifth of 1 percent.

One-fifth of 1 percent. That is what we are talking about. I mean, for anyone to look over, as I did the other day, the findings of this legislation, where they have the findings of the problem of access to health care, findings there is a problem of costs and therefore we have to enact this legislation, and you put that against what the real facts are and that is, if you just look at one State that has capped some damages and has other changes in their malpractice law, they talk about the estimate by insurers on compensation of medical malpractice, one-fifth of 1 percent in 1993 of all health care costs in California, and the fraction has been dropping.

> Medical malpractice liability insurance premiums paid by physicians and hospitals are a negligible components—about half of one percent in 1993—of California's total health care expenditures, and the percentage has been falling.

The idea that it is less than half of 1 percent and to think that is going to be able to leverage a health care system just reaches, I think, the impossible to imagine.

"Insurance companies have not reduced malpractice liability premiums commensurate with the drop in malpractice claims payments"—one might expect, if the insurance companies are giving less in terms of payments out in terms of injured individuals, one might think that the cost of that insurance might go down; that is not what is happening, not in California—"in recent years in both California and the nation. Insurance companies have reaped excessive profits from MICRA—in 1993, insurers paid out only 38 cents of every premium dollar." The rest of it goes in terms of administration, advertising and profits. That is what we are talking about this evening, because the McConnell amendment tracks very closely what has happened in California and in the five other States that have enacted measures which are similar to the McConnell amendment.

Despite the claims of the backers, such reforms have not lowered health care costs. The cost of medical care grew faster in California. And in Indiana, malpractice reforms have not caused health care costs to decrease. Compared to neighboring States, consumers derive no benefit from malpractice reform. In fact, they are harmed. If they fall victim to medical negligence, they are likely to be undercompensated for their injuries.

Malpractice reforms in States have been greeted enthusiastically by insurance executives. The General Accounting Office surveyed six States that enacted limits on recoveries in malpractice cases similar to what is before the Senate in terms of the McConnell amendment. And this is what the General Accounting Office—this is not the trial lawyers, this is the General Accounting Office. When I mentioned the other fact, it was not trial lawyers, it was Business Week talking about the fact of the few tort cases that are actually brought in our health care system.

This is what the General Accounting Office has said about the six States that have enacted limits in terms of awards in malpractice cases:

> Insurance companies in those States were enjoying profits that averaged 122 percent above the national average. Nationwide, insurers reaped $1.4 billion in malpractice-related profits in 1991, but in those six States, the return was so great that the National Insurance Consumer Organization labeled it "insurance profiteering."

Insurance profiteering. Here we have the States themselves taking action, and I have a letter from some of the medical profession in the State of Michigan. This is true in many other States. Other States are taking action to try and deal with this problem that has changed dramatically since 1985 when we saw the rather dramatic increase in the number of malpractice cases, particularly with regards to ob-gyn's. We have seen those numbers go down dramatically in the period of the last 2 years. I included those in the RECORD at the end of last week.

Here we have the States themselves dealing with this issue. In the hearings that we had in our Health and Human Resources Committee, we did not have State attorneys general that were in there testifying saying, "Look, we need a Federal preemption law." We did not hear from them on that issue, not from a Republican or Democrat. We did not have letters from Governors saying, "Help us out, bail us out, get a preemptive law. We haven't got one."

Maybe someone has a letter to that effect. We never saw it. It was never referred to, never commented on, never quoted. We do not have the Governors asking us for this action. We do not have the States attorneys general asking for this action. We do not have the State legislators saying, "Please, bail us out, we can't handle this problem." We do not have that. We do not have that at all.

What we have is the medical insurance industry looking over what has happened in the States where they have been effective on wanting to preempt the States and to do it not in a single piece of legislation, not even taking the bill that was reported out of the committee, not even giving reference to that with the modest adjustments that were made to try and strengthen the quality provisions of this with the Jeffords amendment; to recognize that in the areas of punitive damages, when they have been utilized in the past, it has been against primarily women who have been the beneficiaries as a result of sexual exploitation at the hands of corrupt doctors.

We did not even have the chance to consider what was actually reported out of the committee. The medical malpractice industry insisted on the whole thing. They wanted the whole bill before it went to the committee and not what was acted on, either Republican amendments that were accepted or even Democrat amendments that were accepted, with support from different sides of the aisle. No, no, they wanted the whole thing.

This is in an area that is different from product liability. This is in an area that involves the most personal relationship between the doctor and the patient. What could be more local, what could be more within a State's jurisdiction more completely?

We can understand products produced in Massachusetts and shipped to California, those in Michigan are sent to Florida, we understand that there is a case to be made in terms of product liability. But we are talking about a doctor in a community dealing with a patient in that community and do we need a Federal solution for that?

The McConnell amendment says yes. The McConnell amendment has a one-size-fits-all. How many times have we heard that on the floor of the Senate? What we do not want is all knowledge in Washington. The solution to the problems in Boston are going to be different than in Pocatello, ID. How often do we hear that?

Here my friends say, "Except when it affects the medical insurance industry on medical malpractice." Sure, the States have been acting. Sure, the States have been dealing with their particular problems that they are facing that are as diverse in some of the rural States or the mountain States as they are in some of the industrial States. Sure, they have been trying to deal with those particular issues. But here we say on the floor of the U.S. Senate, we are going to preempt those States, we are preempting, we know better on the issue of malpractice affecting a doctor and their patient in that particular community.

Mr. President, I find that it is an extraordinary extension of political philosophy that indicates a demand for this kind of standardization is so compelling. I think when you reach a situation where we are dealing with a total reform of a health care system that includes, for example, the 10 million Federal employees that are being covered by health insurance, expanding the Federal employees insurance to pick up people in all parts of the country that you say, "OK, in those circumstances, we ought to permit the States to develop alternative dispute resolutions and permit the States to experiment with no-fault liability, pools with enterprise challenges and to permit experimentation, all of which we did last year." But, oh, no, we have a preemption of those States which may, according to the medical insurance industry, may be more sympathetic to the consumers than they are to substandard doctors, and that is where we are.

So we end up with a situation as we have heard now from the Michigan State Medical Society:

> DEAR SENATOR KENNEDY: On behalf of our more than 12,000 physician members, the Michigan State Medical Society wishes to appraise you of our concern that the Michigan law of joint and several liability applicable to medical malpractice not be affected by Federal legislation. We have fought hard to retain joint and several liability in medical malpractice cases in Michigan, for the reason that its abolition would cause substantial increase in physicians' premiums and resultant health care costs. . .
>
> Malpractice carriers in Michigan advise us the premiums would increase by 64 percent if the coverage was increased to $1 million, which would be even more unaffordable but essential for the physicians' personal protection. . .
>
> The dynamics of malpractice litigation . . . virtually require we retain the common law doctrine of joint and several liability in malpractice cases. . .
>
> It is critical that Federal legislation not preempt State joint and several liability laws.

Twelve thousand doctors in Michigan say they do not need the preemption that is in the McConnell amendment. The list goes on.

I daresay, as more and more of them begin to understand what is really going on here, and the fact that we have rushed to judgment on this issue—2 days after we take the action in the committee, we have the amendment right here on the floor. Generally, you have a reporting out of 10 days, you have a report that points out the reasons and the justifications for those provisions. You have the opinions of those that might differ that are published and circulated by the various groups that are interested in this, and had a chance to review that. Oh, no, not on this measure. We have to put it right on the product liability without a report, without even printing—I do not know whether today it is available, but last week it was not—even the printed changes in the legislation, based upon the amendments that we had included.

You are going to find out, my friends and colleagues, how many other doctors are going to get a chance to finally have a chance to sit down and look this over and say, woe, how did we get into this? The president of the Michigan State Medical Society, Jack Barry, sent a carbon copy of a letter he sent out. I wish he sent it to colleagues on our committee. He sent it to his colleagues in the medical community.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MICHIGAN STATE MEDICAL SOCIETY,
East Lansing, MI, April 20, 1995.
Senator EDWARD M. KENNEDY,
Ranking Member, Senate Labor and Human Resources Committee, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of our more than 12,000 physician members, the Michigan State Medical Society wishes to apprise you of our concern that the Michigan law of joint and several liability applicable to medical malpractice cases not be affected by federal legislation. We have fought hard to retain joint and several liability in medical malpractice cases in Michigan, for the reason that its abolition would cause substantial increases in physicians' premiums and resultant health care costs.

As you undoubtedly know, medical malpractice litigation in Michigan has been out of control. Premium costs for malpractice coverage in Michigan virtually exceed all other states. Malpractice insurance in Michigan is typically $200,000 per occurrence, with an annual aggregate of $600,000. The annual premium cost to obstetricians and surgeons in southeastern Michigan often exceeds $80,000. Even with this substantial cost, the coverage is still insufficient to provide comfort to physicians. Malpractice carriers in Michigan advise us that premiums would increase by 64 percent if the coverage was increased to $1 million, which would be even more unaffordable but essential for the physicians' personal protection if joint and several liability was abolished.

As a result of this unique problem in Michigan, the Michigan legislature adopted malpractice reform legislation which took effect on April 1, 1994. This legislation has not yet had any effect upon premiums for the reason that it essentially applies prospectively and is being constitutionally challenged in the state appellate courts. We are helpful that this legislation will cause malpractice costs to fall into line with other states when this legislation becomes fully applicable to malpractice cases. Until then, we will continue to have the unique and costly problem in Michigan.

The dynamics of malpractice litigation in our state virtually require that we retain the common law doctrine of joint and several liability in malpractice cases. The potential for joint liability causes hospitals and other corporate defendants to more readily settle cases where the greater liability might potentially be imposed upon individual physicians. This provides at least some protection to the physician in engaging in the higher risk practices and also has a beneficial effect upon the legal system and the public generally in that cases are more likely to settle. Michigan law has, therefore, retained joint and several liability.

We urge you to protect the current status of joint and several liability in Michigan. It is critical that federal legislation not preempt state joint and several liability laws. Any federal legislation enacting malpractice reform should have a provision clearly making the federal legislation inapplicable to the extent that state statutes retain joint and several liability in medical malpractice cases.

The Michigan State Medical Society fully supports the federal legislation in malpractice reform, including a $250,000 limitation on noneconomic damages. We urge you to support this federal legislation, but request that you protect the interests of physicians and their patients in Michigan by assuring that any federal legislation will not preempt joint and several liability in medical malpractice cases in this state.

Thank you for your help. If you have any questions, please feel free to contact Kevin A. Kelly, Managing Director, Michigan State Medical Society at (517) 336–5742.

Sincerely,
JACK L. BARRY, MD,
President.

Mr. KENNEDY. If enacted, the proposals before the Senate today may well fatten the profit margin of malpractice insurers nationwide. But malpractice reform will not address the fundamental problems facing our health care system. It has not in California, or Indiana, or elsewhere. In any event, the cost of medical malpractice premiums amounts to only six-tenths of 1 percent of the Nation's health care costs.

Nor will legal reforms make a dent in the prevalence of malpractice itself. Instead, we need more effective means to discipline the few bad apples in the medical profession who cause upwards of 45 percent of all of the unnecessary injuries. Today, a negligent auto mechanic or a negligent funeral director is more likely to be disciplined by a State licensing board than a physician.

That is really saying something, Mr. President. Are we here attempting to discipline? No, we are not even beginning to go down that road. We are not even in the legislation that is being provided giving the full information. That is a matter of public record, included in the data bank to consumers. It can be collected. I understand my friend from Minnesota, Senator WELLSTONE, has addressed this issue. There is already the assemblage of that kind of information, but it is not done in a comprehensive way as I think it should be. Hospitals can find out certain information with regard to disciplinary conduct with regard to professions. HMO's can find that out but the consumers cannot.

There was no real effort or attempt—there was a good faith expression that we ought to get after this issue and we will revisit it later. But we are still moving ahead with the legislation.

First, Mr. President, here are the four major flaws of the McConnell amendment:

First, it sets an impossibly high standard for awarding punitive damages and then imposes a cap on such damages, even in cases involving sexual abuse of a patient and other outrageous conduct. Sixty-eight percent of all punitive damage awards in malpractice cases are awarded to women, so the impact of this provision is discriminatory.

Now we know that those punitive cases are only a small number of cases. We did not include, for example, in the markup, other kinds of cases, for example, when doctors go in and practice a medical procedure when they are on illegal drugs. We did not include that in the legislation, in the amendment. Or when hospitals knowingly and willfully destroy records with regard to the treatment of patients. We did not even include that in it. We did not even include the punitive damages situations where doctors lost their licenses in a State and fraudulently practice in another State. I would think that any Member of this body who was concerned about what is happening to any member of their family wrote would think that in those circumstances, and in some others, punitive damages would be justified. We did not. We included one reference in our Senate markup to permit punitive damages if the standard was to be met in terms of the intent standards, which is extremely high, and in the Dodd amendment, which gave the jury the power to establish whether punitive damages should be awarded and the judge, with guidelines, to set the amount. But that has been effectively set aside.

Second, the amount severely limits the longstanding legal doctrine of joint and several liability, leaving the patients vulnerable to inadequate compensation. For at least 100 years, it has to be recognized as unacceptable to force an innocent patient to bear the cost of other people's negligence if one or more of the wrongdoers are available to provide compensation. That is a sensible rule to protect patients, and we should not undermine it for the benefit of guilty malpractice defendants.

I point out, Mr. President, that we are talking about an individual who has been wrongfully treated. I think we can understand the circumstances of what might appear to be unfair and unjust, payments by those who are brought into the compensation awards through joint and several. There are many here that are enormously sympathetic to anyone that would be so included.

The fact of the matter is, Mr. President, we are talking about circumstances where there has been malpractice and where, if they do not collect it, they are not given any kind of adequate remedy for the malpractice. It is interesting. Effectively, this legislation is immunizing the medical insurance companies, and as we do that, make no mistake about who pays for all of the other care for those individuals. It ends up being the taxpayers—to the tune of about $60 billion a year.

So here we go in and set up a program that has windfall profits when this has been adopted in the six States, and we are going to do it nationwide and you are going to see—even according to Business Week and the business insurance publication—the benefits that are going to the insurance industry. Who is left holding the bag? On the one hand, it is the victims, and on the other hand it is the taxpayers. They are going to be the ones that are going to be left paying for the care of this individual rather than the wrongdoer. That is wrong and unfair.

Third, the amendment denies consumers access to the information about the fitness of their doctors, even when those doctors have repeatedly committed malpractice or have been repeatedly disciplined. The Wellstone amendment addresses this flaw and I hope that will be accepted.

Finally, the McConnell amendment unjustifiably preempts a wide array of the State malpractice laws.

The preemption language in the proposal before us is not balanced. It strikes down State laws that are of benefit to consumers. I think it is not appropriate. If preemption of State tort laws were appropriate, and I think it is not, it should at least be accomplished in a fair and even-handed manner. The one-way preemption in the amendment ensures the absence of the national standard that the proponents say they want.

For these reasons, I urge defeat of the McConnell amendment. But rejection of that proposal does not mean we should not take some action. There are a series of steps Congress should take to assist the States and improve the efficiency of the malpractice system in a way that will benefit both doctors and patients.

Last year, the Labor and Human Resources Committee favorably reported a health care reform bill which contained sensible malpractice reforms. We required alternative dispute resolution to provide for streamlined consideration of malpractice claims. We capped attorneys' fees to make sure that patients get fair compensation for their injuries, and that they get early resolutions for these claims, and to permit the States themselves to develop alternative dispute resolutions.

Let them develop those measures—they had to meet certain minimum standards—but permit the States to develop their own. That was one part of it.

We capped attorney's fees to make sure the parties get fair compensation for their injuries. We provided seed money to let the States experiment with innovative models such as enterprise liability, no-fault funds, and medical malpractice guidelines.

Medical malpractice guidelines—there is a case we could say if a person would establish the medical malpractice guidelines and doctors follow those, that ought to be a basic presumption against the malpractice and would permit what would be the basis of the evidence to be able to rebut that. I think there is a great deal that commends that concept. When we talked about it last year as part of the health care reform, it got labeled as "cookbook medicine," that we will have medicine by the numbers.

So, there are legitimate public policy issues with regard to this issue that we ought to address seriously. That is not unimportant in terms of this whole debate. We ought to give serious consideration to that kind of an action, not just dismiss it completely as we have in this legislation. It is just not correct. It is a concept that can make an important difference in terms of quality health care and should not be dismissed out of hand, as it has been effectively in this legislation.

Some of last year's reforms have been included in the McConnell amendment, but in other ways that I have described, the amendment goes too far. I will offer a substitute amendment tomorrow that contains the reasonable reforms proposed by the Labor Committee last year.

I will also offer an amendment to strike the preemption provisions in the McConnell amendment. If the Federal Government is to involve itself in this area of the law, it should do this cautiously and with respect to State prerogatives.

For example, we received a strong request from the Michigan Medical Society urging that we not preempt that State's law, and joint and several liability. Federal malpractice reforms should only apply in those situations where no State statute is applicable. That was the concept which had bipartisan support. The legislation that was reported out of our committee was unanimous—unanimous—Republicans and Democrats alike on that issue. It will be that provision which I will offer with regard to preemption.

In urging ill-considered malpractice reforms, a hypocritical Congress is violating the Hippocratic oath, first, to do no harm. Some of the proposals before the Senate will cause great harm to large numbers of our fellow citizens if we reduce the ability of the legal system to deter negligent medical care. If we deny adequate compensation to severely injured patients, we violate basic principles of federalism. The Senate will have committed legislative malpractice.

Mr. President, I see the Senator from Maine, who has been extremely patient. As I understand, under the previous agreement—and I want to comply with the parliamentary situation that exists at the current time in order that my amendments be eligible—as I understand it, is it the desire of the Chair that we call them up and have them set aside? Is that the procedure which has been agreed on or is that the satisfactory procedure?

The PRESIDING OFFICER (Mr. FRIST). The Senators have been following that procedure by unanimous consent.

AMENDMENT NO. 607 TO AMENDMENT NO. 603

Mr. KENNEDY. Mr. President, I will follow that same procedure. I ask unanimous consent that the pending amendment be set aside, and I will call up amendment No. 607 and ask it be considered.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 607 to amendment No. 603.

Mr. KENNEDY. Mr. President, I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical Liability Reform Act of 1995".

TITLE I—LIABILITY REFORM

SEC. 101. FEDERAL TORT REFORM.

(a) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in section 102, this title shall apply with respect to any medical malpractice liability action brought in any State or Federal court, except that this title shall not apply to a claim or action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the claim or action.

(2) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this title shall be construed to—

(A) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(B) waive or affect any defense of sovereign immunity asserted by the United States;

(C) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(D) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(E) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(3) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

(b) DEFINITIONS.—In this Act, the following definitions apply:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of medical malpractice claims in a manner other than through medical malpractice liability actions.

(2) CLAIMANT.—The term "claimant" means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(4) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(5) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice liability action or a medical malpractice claim.

(6) MEDICAL MALPRACTICE LIABILITY ACTION.—The term "medical malpractice liability action" means a cause of action brought in a State or Federal court against a health care provider or health care professional by which the plaintiff alleges a medical malpractice claim.

(7) MEDICAL MALPRACTICE CLAIM.—The term "medical malpractice claim" means a claim brought against a health care provider or health care professional in which a claimant alleges that injury was caused by the provision of (or the failure to provide) health care services, except that such term does not include—

(A) any claim based on an allegation of an intentional tort;

(B) any claim based on an allegation that a product is defective that is brought against any individual or entity that is not a health care professional or health care provider; or

(C) any claim brought pursuant to any remedies or enforcements provision of law.

SEC. 102. STATE-BASED ALTERNATIVE DISPUTE RESOLUTION MECHANISMS.

(a) APPLICATION TO MALPRACTICE CLAIMS UNDER PLANS.—Prior to or immediately following the commencement of any medical malpractice action, the parties shall participate in the alternative dispute resolution system administered by the State under subsection (b). Such participation shall be in lieu of any other provision of Federal or State law or any contractual agreement made by or on behalf of the parties prior to the commencement of the medical malpractice action.

(b) ADOPTION OF MECHANISM BY STATE.—Each State shall—

(1) maintain or adopt at least one of the alternative dispute resolution methods satisfying the requirements specified under subsection (c) and (d) for the resolution of medical malpractice claims arising from the provision of (or failure to provide) health care services to individuals enrolled in a health plan; and

(2) clearly disclose to enrollees (and potential enrollees) the availability and procedures for consumer grievances, including a description of the alternative dispute resolution method or methods adopted under this subsection.

(c) SPECIFICATION OF PERMISSIBLE ALTERNATIVE DISPUTE RESOLUTION METHODS.—

(1) IN GENERAL.—The Board shall, by regulation, develop alternative dispute resolution methods for the use by States in resolving medical malpractice claims under subsection (a). Such methods shall include at least the following:

(A) ARBITRATION.—The use of arbitration, a nonjury adversarial dispute resolution process which may, subject to subsection (d), result in a final decision as to facts, law, liability or damages.

(B) CLAIMANT-REQUESTED BINDING ARBITRATION.—For claims involving a sum of money that falls below a threshold amount set by the Board, the use of arbitration not subject to subsection (d). Such binding arbitration shall be at the sole discretion of the claimant.

(C) MEDIATION.—The use of mediation, a settlement process coordinated by a neutral third party without the ultimate rendering of a formal opinion as to factual or legal findings.

(D) EARLY NEUTRAL EVALUATION.—The use of early neutral evaluation, in which the parties make a presentation to a neutral attorney or other neutral evaluator for an assessment of the merits, to encourage settlement. If the parties do not settle as a result of assessment and proceed to trial, the neutral evaluator's opinion shall be kept confidential.

(E) CERTIFICATE OF MERIT.—The requirement that a medical malpractice plaintiff submit to the court before trial a written report by a qualified specialist that includes the specialist's determination that, after a review of the available medical record and other relevant material, there is a reasonable and meritorious cause for the filing of the action against the defendant.

(2) STANDARDS FOR ESTABLISHING METHODS.—In developing alternative dispute resolution methods under paragraph (1), the Board shall assure that the methods promote the resolution of medical malpractice claims in a manner that—

(A) is affordable for the parties involved;

(B) provides for timely resolution of claims;

(C) provides for the consistent and fair resolution of claims; and

(D) provides for reasonably convenient access to dispute resolution for individuals enrolled in plans.

(3) WAIVER AUTHORITY.—Upon application of a State, the Board may grant the State the authority to fulfill the requirement of subsection (b) by adopting a mechanism other than a mechanism established by the Board pursuant to this subsection, except that such mechanism must meet the standards set forth in paragraph (2).

(d) FURTHER REDRESS.—Except with respect to the claimant-requested binding arbitration method set forth in subsection (c)(1)(B), and notwithstanding any other provision of a law or contractual agreement, a plan enrollee dissatisfied with the determination reached as a result of an alternative dispute resolution method applied under this section may, after the final resolution of the enrollee's claim under the method, bring a cause of action to seek damages or other redress with respect to the claim to the extent otherwise permitted under State law. The results of any alternative dispute resolution procedure are inadmissible at any subsequent trial, as are all statements, offers, and other communications made during such procedures, unless otherwise admissible under State law.

SEC. 103. LIMITATION ON AMOUNT OF ATTORNEY'S CONTINGENCY FEES.

(a) IN GENERAL.—An attorney who represents, on a contingency fee basis, a plaintiff in a medical malpractice liability action may not charge, demand, receive, or collect for services rendered in connection with such action (including the resolution of the claim that is the subject of the action under any alternative dispute resolution system) in excess of—

(1) 33⅓ percent of the first $150,000 of the total amount recovered by judgment or settlement in such action; plus

(2) 25 percent of any amount recovered above the amount described in paragraph (1); unless otherwise determined under State law. Such amount shall be computed after deductions are made for all the expenses associated with the claim other than those attributable to the normal operating expenses of the attorney.

(b) CALCULATION OF PERIODIC PAYMENTS.—In the event that a judgment or settlement includes periodic or future payments of damages, the amount recovered for purposes of computing the limitation on the contingency fee under subsection (a) may, in the discretion of the court, be based on the cost of the annuity or trust established to make the payments. In any case in which an annuity or trust is not established to make such payments, such amount shall be based on the present value of the payments.

(c) CONTINGENCY FEE DEFINED.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 104. REDUCTION OF AWARDS FOR RECOVERY FROM COLLATERAL SOURCES.

(a) REDUCTION OF AWARD.—The total amount of damages recovered by a plaintiff in a medical malpractice liability action shall be reduced by an amount that equals—

(1) the amount of any payment which the plaintiff has received or to which the plaintiff is presently entitled on account of the same injury for which the damages are awarded, including payment under—

(A) Federal or State disability or sickness programs;

(B) Federal, State, or private health insurance programs;

(C) private disability insurance programs;

(D) employer wage continuation programs; and

(E) any other program, if the payment is intended to compensate the plaintiff for the same injury for which damages are awarded; less

(2) the amount of any premiums or any other payments that the plaintiff has paid to be eligible to receive the payment described in paragraph (1) and any portion of the award subject to a subrogation lien or claim.

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(b) SUBROGATION.—The court may reduce a subrogation lien or claim described in subsection (a)(2) by an amount representing reasonable costs incurred in securing the award subject to the lien or claim.

(c) INAPPLICABILITY OF SECTION.—This section shall not apply to any case in which the court determines that the reduction of damages pursuant to subsection (a) would compound the effect of any State law limitation on damages so as to render the plaintiff less than fully compensated for his or her injuries.

SEC. 105. PERIODIC PAYMENT OF AWARDS.

(a) IN GENERAL.—A party to a medical malpractice liability action may petition the court to instruct the trier of fact to award any future damages on an appropriate periodic basis. If the court, in its discretion, so instructs the trier of fact, and damages are awarded on a periodic basis, the court may require the defendant to purchase an annuity or other security instrument (typically based on future damages discounted to present value) adequate to assure payments of future damages.

(b) FAILURE OR INABILITY TO PAY.—With respect to an award of damages described in subsection (a), if a defendant fails to make payments in a timely fashion, or if the defendant becomes or is at risk of becoming insolvent, upon such a showing the claimant may petition the court for an order requiring that remaining balance be discounted to present value and paid to the claimant in a lump-sum.

(c) MODIFICATION OF PAYMENT SCHEDULE.—The court shall retain authority to modify the payment schedule based on changed circumstances.

(d) FUTURE DAMAGES DEFINED.—As used in this section, the term "future damages" means any economic or noneconomic loss other than that incurred or accrued as of the time of judgment.

SEC. 106. CONSTRUCTION.

Nothing in this title shall be construed to preempt any State law that sets a maximum limit on total damages.

PART 2—OTHER PROVISIONS RELATING TO MEDICAL MALPRACTICE LIABILITY

SEC. 201. STATE MALPRACTICE REFORM DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—The Secretary shall award grants to States for the establishment of malpractice reform demonstration projects in accordance with this section. Each such project shall be designed to assess the fairness and effectiveness of one or more of the following models:

(1) No-fault liability.

(2) Enterprise liability.

(3) Practice guidelines.

(b) DEFINITIONS.—For purposes of this section:

(1) MEDICAL ADVERSE EVENT.—The term "medical adverse event" means an injury that is the result of medical management as opposed to a disease process that creates disability lasting at least one month after discharge, or that prolongs a hospitalization for more than one month, and for which compensation is available under a no-fault medical liability system established under this section.

(2) NO-FAULT MEDICAL LIABILITY SYSTEM.—The terms "no-fault medical liability system" and "system" mean a system established by a State receiving a grant under this section which replaces the common law tort liability system for medical injuries with respect to certain qualified health care organizations and qualified insurers and which meets the requirements of this section.

(3) PROVIDER.—The term "provider" means physician, physician assistant, or other individual furnishing health care services in affiliation with a qualified health care organization.

(4) QUALIFIED HEALTH CARE ORGANIZATION.—The term "qualified health care organization" means a hospital, a hospital system, a managed care network, or other entity determined appropriate by the Secretary which elects in a State receiving a grant under this section to participate in a no-fault medical liability system and which meets the requirements of this section.

(5) QUALIFIED INSURER.—The term "qualified insurer" means a health care malpractice insurer, including a self-insured qualified health care organization, which elects in a State receiving a grant under this section to participate in a no-fault medical liability system and which meets the requirements of this section.

(6) ENTERPRISE LIABILITY.—The term "enterprise liability" means a system in which State law imposes malpractice liability on the health plan in which a physician participates in place of personal liability on the physician in order to achieve improved quality of care, reductions in defensive medical practices, and better risk management.

(7) PRACTICE GUIDELINES.—The term "practice guidelines" means guidelines established by the Agency for Health Care Policy and Research pursuant to the Public Health Service Act or this Act.

(c) APPLICATIONS BY STATES.—

(1) IN GENERAL.—Each State desiring to establish a malpractice reform demonstration project shall submit an application to the Secretary at such time and in such manner as the Secretary shall require.

(2) CONTENTS OF APPLICATION.—An application under paragraph (1) shall include—

(A) an identification of the State agency or agencies that will administer the demonstration project and be the grant recipient of funds for the State;

(B) a description of the manner in which funds granted to a State will be expended and a description of fiscal control, accounting, and audit procedures to ensure the proper dispersal of and accounting for funds received under this section; and

(C) such other information as the Secretary determines appropriate.

(3) CONSIDERATION OF APPLICATIONS.—In reviewing all applications received from States desiring to establish malpractice demonstration projects under paragraph (1), the Secretary shall consider—

(A) data regarding medical malpractice and malpractice litigation patterns in each State;

(B) the contributions that any demonstration project will make toward reducing malpractice and costs associated with health care injuries;

(C) diversity among the populations serviced by the systems;

(D) geographic distribution; and

(E) such other criteria as the Secretary determines appropriate.

(d) EVALUATION AND REPORTS.—

(1) BY THE STATES.—Each State receiving a grant under this section shall conduct ongoing evaluations of the effectiveness of any demonstration project established in such State and shall submit an annual report to the Secretary concerning the results of such evaluations at such times and in such manner as the Secretary shall require.

(2) BY THE SECRETARY.—The Secretary shall submit an annual report to Congress concerning the fairness and effectiveness of the demonstration projects conducted under this section. Such report shall analyze the reports received by the Secretary under paragraph (1).

(e) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) LIMITATIONS ON EXPENDITURES.—

(A) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the amount of each grant awarded to a State under this section may be used for administrative expenses.

(B) WAIVER OF COST LIMITATIONS.—The limitation under subparagraph (A) may be waived as determined appropriate by the Secretary.

(f) ELIGIBILITY FOR NO-FAULT DEMONSTRATION.—A State is eligible to receive a no-fault liability demonstration grant if the application of the State under subsection (c) includes—

(1) an identification of each qualified health care organization selected by the State to participate in the system, including—

(A) the location of each organization;

(B) the number of patients generally served by each organization;

(C) the types of patients generally served by each organization;

(D) an analysis of any characteristics of each organization which makes such organization appropriate for participation in the system;

(E) whether the organization is self-insured for malpractice liability; and

(F) such other information as the Secretary determines appropriate;

(2) an identification of each qualified insurer selected by the State to participate in the system, including—

(A) a schedule of the malpractice insurance premiums generally charged by each insurer under the common law tort liability system; and

(B) such other information as the Secretary determines appropriate;

(3) a description of the procedure under which qualified health care organizations and insurers elect to participate in the system;

(4) a description of the system established by the State to assure compliance with the requirements of this section by each qualified health care organization and insurer; and

(5) a description of procedures for the preparation and submission to the State of an annual report by each qualified health care organization and qualified insurer participating in a system that shall include—

(A) a description of activities conducted under the system during the year; and

(B) the extent to which the system exceeded or failed to meet relevant performance standards including compensation for and deterrence of medical adverse events.

(g) ELIGIBILITY FOR ENTERPRISE LIABILITY DEMONSTRATION.—A State is eligible to receive an enterprise liability demonstration grant if the State—

(1) has entered into an agreement with a health plan (other than a fee-for-service plan) operating in the State under which the plan assumes legal liability with respect to any medical malpractice claim arising from the provision of (or failure to provide) services under the plan by any physician participating in the plan; and

(2) has provided that, under the law of the State, a physician participating in a plan that has entered into an agreement with the

State under paragraph (1) may not be liable in damages or otherwise for such a claim and the plan may not require such physician to indemnify the plan for any such liability.

(h) ELIGIBILITY FOR PRACTICE GUIDELINES DEMONSTRATION.—A State is eligible to receive a practice guidelines demonstration grant if the law of the State provides that in the resolution of any medical malpractice action, compliance or non-compliance with an appropriate practice guideline shall be admissible at trial as a rebuttable presumption regarding medical negligence.

AMENDMENT NO. 615 TO AMENDMENT NO. 603

Mr. KENNEDY. Mr. President, I ask that the pending amendment be temporarily set aside, and I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 615 to amendment No. 603.

Mr. KENNEDY. Mr. President, I ask unanimous consent further reading be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 20, insert after "subsection" the following: "(b) and".

Strike the material from page 9, line 4 through page 10, line 17, and insert in lieu thereof the following: "The provisions of this subtitle shall not be construed to preempt any state statute but shall govern any question with respect to which there is no state statute."

Mr. KENNEDY. Mr. President, I will include the two statements, one on the substitute which I referred to briefly now and in great detail last week, which I will expand on in my extended remarks, and the other deals with the preemption amendment.

As I understand from the leadership, we will consider those in a timely fashion in our procedure outlined by our leader tomorrow. I thank my colleagues. I yield the floor.

Mr. COHEN. Mr. President, I wish to address a few comments on the underlying bill, the Product Liability Fairness Act, which attempts to address some of the abuses that have occurred in the civil justice system. Unfortunately, the cure being offered is worse than the disease itself.

I am struck by the irony that many, particularly on this side of the aisle, have been calling for the deregulation of our economy, for returning power to the States, for empowering the people, and for trusting the judgment of our citizens. They invoke the 10th amendment as if remembering the Alamo—remember the 10th amendment.

Yet, at the very same time we are calling for this deregulation, this demassification—if I can use Toffler's phrase —of the power structure in Washington by returning power back to the States and local communities, we are now calling for the passage of another Federal piece of legislation.

At a time when we are searching for ways to streamline the civil justice system and to make litigation less cumbersome and costly, this bill is going to complicate the law and make litigation even more expensive.

At a time when we are trying to improve the lives of hard-working middle-class Americans, this bill is going to make it more difficult for these citizens to obtain compensation when they are injured, at work or at home, from defective products.

I am well aware that there have been cases involving abuse of our civil justice system. We have seen cases of outrageous jury awards and frivolous lawsuits, and they have undermined public confidence and interest in our legal institutions. Unfortunately, the bill before the Senate is not narrowly tailored to root out these abuses. Rather, it is an unprecedented and unwarranted Federal takeover of a core State responsibility.

Our system of federalism is based on the principle that the national government should address problems that confront the Nation as a whole, and State governments, which are closer to the people in both distance and temperament, should be responsible for local concerns.

Writing of "Our Federalism" almost 25 years ago, Justice Hugo Black stated that:

> The concept . . . represents . . . a system in which there is sensitivity to the legitimate interest of both State and National Governments, and in which the National Government, anxious though it may be to vindicate and protect federal rights and federal interests, always endeavors to do so in ways that will not unduly interfere with the legitimate activities of the States.

No less of a proponent of a strong national government than Alexander Hamilton fully understood the genius of a system that divided powers between the national and State governments. He wrote in Federalist No. 17 that "Commerce, finance, negotiation and war," should be the prerogatives of the national government, while "the administration of private justice . . . [is] proper to be provided for by local legislation."

There are few areas of law that are more appropriate in State legislation than the law of torts. In essence, tort laws deal with the duties and responsibilities that members of a community have toward one another. Tort law is, as Alexander Hamilton put it, "private justice." It is an inherently local issue. That is the reason, for the past two centuries, from the beginning of our Republic, that we have delegated this responsibility of tort law to the State legislatures and courts.

The same is true of the product liability law, which emerged as a key element of tort law in the 1960's. Through time-tested methods of common law adjudication and legislative adjustments, the courts and legislatures in each State have worked together to develop laws that strike the appropriate balance between the needs of plaintiffs and defendants and those of consumers and business.

Over the past decade, many States have begun to reform their tort systems by experimenting with alternative dispute resolution, limiting punitive damages, and changing liability standards. The States continue to experiment with product liability reforms to achieve a balance between the demands of the modern economy and the need to ensure the products that enter that marketplace are safe. This is the way the Federal system is supposed to work. As Justice Louis Brandeis noted, "It is one of the happy incidents of the Federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel, social, and economic experiments without risk to the rest of the country."

The bill before Congress would bring the experimentation that is taking place in our States to a grinding halt by wiping most of the State product liability laws off the books and replacing them with one-size-fits-all Federal law developed right here in Washington. This is the same Washington that has been so demonized as late for passing too many Federal laws.

Now, suddenly, it is in the interests of manufacturers to have a one-size-fits-all piece of legislation. It appears as if Congress, which has had virtually no experience in legislating in this area over the past two centuries, believes it has found the single answer to the ills of the civil justice system. It has decided to impose that system on the entire Nation.

Ironically, it is occurring at a time when the Federal Government is already said to be too large. The public already resents its intrusion into affairs that properly belong before the States.

Congress ought to be focusing on health care reform, the budget deficit, and entitlement reform, not to mention terrorism and nuclear proliferation. These are appropriate concerns of Congress. The time Congress spends wading in the minutiae of product liability law, a subject the States are fully capable of regulating, will be time that should be spent on more pressing national concerns.

The supporters of this legislation maintain that a national product liability law is necessary to provide uniformity and to increase predictability. I believe this bill will have precisely the opposite effect. Litigants are no longer going to be able to rely upon well-established State law. Instead, they will be faced with the uncertainty of a Federal statute loaded with undefined, untried, and untested legal principles.

This bill is going to make the law more complicated. Since certain aspects of the State laws are going to be preempted and others are not, litigation is going to proceed under an amalgam of State and Federal law.

I will give you an example, Mr. President. S. 565 creates a new standard of liability for product sellers but does not change the law pertaining to the manufacturers of those products. So in a case brought both against a manufacturer and a seller of an allegedly defective product, the court is going to be required to apply the Federal law to one defendant and the State law to another. This unnecessary complexity will lead to greater litigation expenses, not less.

Mr. President, one of the great legal scholars of this century, Prof. Herbert Wechsler of Columbia University, once wrote that "national action has * * * always been regarded as exceptional in our polity, an intrusion to be justified by some necessity, the special rather than the ordinary case."

This presumption against Federal involvement in local affairs has not been overcome by the evidence that has been presented to this body. The so-called litigation crisis that is often cited by the sponsors of this legislation simply does not exist.

The most comprehensive study to date of product liability suits indicates that they comprise 0.36 percent of all civil filings—hardly a litigation explosion. If you take away the asbestos cases, which I think are unique in our history, the number of Federal product liability cases declined by over 35 percent during the late 1980's.

Proponents of the bill also claim that there is an explosion of punitive damages and rely heavily upon horror stories of irresponsible jury awards as a justification for Federal preemption. Putting aside the fact that for every punitive damage horror story, there is a more compelling story of manufacturer misconduct, we should not legislate on the basis of anecdote. Listen to the Wall Street Journal, an open advocate of reform, which reports that the debate is largely "driven by anecdote" and "truth [has been the] first casualty of tort-reform."

I think the case for punitive damages has been overstated. The objective facts demonstrate there have been few punitive damage awards in product liability cases in the recent past. One widely cited study indicates that only 355 punitive damage awards were entered by juries during the years 1965 to 1990. And 25 percent of these verdicts were reversed or remanded on appeal.

So there is no evidence that runaway punitive damage verdicts have wreaked havoc, certainly not in my State of Maine. Punitive damages were imposed in only three product liability cases during a 25-year period—just three cases. The juries in Maine have acted responsibly. They have applied State law in a commonsense fashion and reserved the sanction of punitive damages for extreme cases in which there has been either malicious or wanton disregard for public safety on the part of some companies. Maine does not need a Federal solution for a problem that does not exist in our State. Yet, this is precisely what this law would do—force Maine to abandon its law.

Our product liability laws have been subject to sweeping criticism, but it cannot be denied that the system has been a very important protection for American consumers. From the Ford Pinto to the Dalkon shield, product liability laws and suits have caused dangerous products to be taken off the market, products that have caused horrific injuries and multiple deaths. Without product liability, including the threat of punitive damages, American consumers would be at far greater risk than they are today.

Let me recall a program I saw that involved a lobbyist for tobacco companies. He indicated that he would stop at nothing whatsoever. It did not matter what study was concocted; it did not matter whether it was truthful or untruthful. He used every conceivable trick in the book in order to defeat any legislation that would protect the American people from the effects of tobacco. This man is now suffering from cancer. I believe he had cancer of the throat and it spread to his hip. This may account for his change of heart in terms of revealing the kinds of tactics that have been applied by the company. I do not know if the allegations he made on this program are true. But if they are—if companies have deliberately lied, deliberately falsified documents, and concocted studies in order to defeat consumer protection legislation—is that not a case in which we want to see punitive damages that are not limited by the amounts set forth in this bill?

Let me give another example. Suppose a manufacturer of children's toys learns that a product has a dangerous defect that is likely to cause, let us say, 10 deaths over the lifetime of the product. Under current law, the company would probably recall the product. It would fix that defect, regardless of the cost, because it could not possibly risk the punitive damage award or suits that might follow.

But under this bill, that company would know that, since children have little or no wages, the maximum punitive damage award would be $250,000 per fatal injury. If the toy makes $20 million to $30 million in profit, the company might well decide that it makes economic sense not to recall a dangerous product.

I suspect this may have been the line of thinking by Ford Motor Co. when it put the Pinto on the market. And without punitive damages, many other dangerous products may be unleashed on the unsuspecting American consumer.

This does not mean the system is free of abuses. In a recent case from Alabama, a jury awarded $4 million in punitive damages because BMW failed to disclose that a car sold as new had in fact been damaged, and then repainted on the way from the factory to the showroom. Even though BMW may have acted wrongly in this case, in my judgment this punitive award was well out of proportion to the seriousness of the misconduct on the part of the company.

So we have examples of excessive jury awards that are outrageous from time to time. They undermine public support for the civil justice system. A narrowly tailored bill designed to curb runaway jury verdicts may be deserving of support. This bill, however, is not targeted at this problem. It uses a sledgehammer where a scalpel may be more appropriate.

Regardless of the outcome of this debate, I think the legal profession has to undertake a concerted effort to address a major premise that underlies this legislation—that the law and the legal profession no longer serve a valid public interest.

Lawyers are no longer held in as high regard as some once were. Books, plays, and movies were written about Clarence Darrow for his dedication to providing justice for the common man. Lawyers like Thurgood Marshall and Ruth Bader Ginsburg are revered for striking down legal barriers based on race and gender.

However, the esteem which the legal profession once held has fallen quite substantially in recent years. Attorneys are often portrayed as being more interested in making profits than promoting the interest of justice.

I believe that it is a minority of the profession that casts aspersion on the broad majority of lawyers who are dedicated to the best tradition of the profession and volunteer much of their time to public service. It is up to a majority of the profession to discipline those who file frivolous lawsuits, who sue parties only because they have a deep pocket, or who run up the cost of litigation solely to induce a settlement.

One of the great virtues of our civil justice system is that everyone has a right to have his or her grievance heard before a court of law. When that principle is abused, the very foundations of the system are called into question. So I think the legal profession has to take swift and meaningful action in order to rebuild the public's confidence in our civil justice system.

The legislation now pending before the Senate is not the right answer to these problems. It is a one-size-fits-all Federal solution that will end State experimentation in tort reform. It will impose uniformity on regions of the country with different needs and values. The entire bill, in my judgment, is an affront to the principle of federalism. State governments have demonstrated the capability of both developing and reforming product liability law. There is no need for the Federal Government to infringe on yet another area of State sovereignty.

Mr. President, over the weekend, I, like the Senator from Massachusetts, saw many advertisements on television, some dealing with medical malpractice, others with the impact of product liability litigation on small businesses. Of course, small companies as well as large companies have the ability to purchase insurance to cover themselves for liability suits. Manufacturers have the ability to purchase insurance to cover their exposure to liability. But when companies put into the stream of commerce a product that is inherently dangerous or has a defect and that defect causes an injury to the citizens of this country, the manufacturer should bear that responsibility, not the consumer.

This bill seeks to put a limitation on the ability of consumers to recover for the damages that have been inflicted upon them and, yes, for punitive damages to discourage companies that either act willfully or in wanton disregard for public safety. These cases demand that punitive damages be imposed in order to discourage and deter manufacturers and the distributors of dangerous products from continuing to inflict harm upon the public.

Commercials that I saw over the weekend said we are addressing this problem of medical malpractice in California. The State legislature passed a medical malpractice reform law and guess what? Those lawsuits have now declined. We have also passed a medical malpractice reform law in the State of Maine. We have prelitigation screening panels. We set statewide standards for doctors and hospitals. States can—in fact, have—adopted changes in their tort law to deal with their particular problems. But in a State like Maine, which, over a 25-year period, has actually awarded punitive damages in three product liability cases, do we need a Federal law to tell us what to do?

It is an insult to the people of this country to say that the 12 men and women sitting in the jury cannot be trusted to weigh the evidence and decide to impose or not impose damages. This legislation sets a uniform national standard for damage awards. It says: You juries cannot go above this, your judgment cannot be trusted. We are saying that no matter how egregious the offense, no matter how defective the product, no matter how wanton the disregard for public safety, we do not trust you, ladies and gentlemen of the jury, to do what is right, to exercise common sense. And we here in the Halls of Congress, we are going to tell you exactly how far you can go.

To me, Mr. President, it is an insult to all the people of this country to say that we no longer have faith in their judgment, that only Congress can determine exactly how high they can go in terms of compensating citizens of their community who have been injured by defective products. I think this contravenes everything that is being said on this side of the aisle about limiting the scope of government, reducing the power of Washington, returning power to the people, deregulating the economy, and revering the 10th amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition to comment about punitive damages in our legal system as they apply to tort reform. I have spoken before on this bill and have noted that I have had experience representing both plaintiffs and defendants in personal injury cases and had one very involved product liability case which I described in a floor statement a week ago today. I have noted my concern that there is room for reform of product liability tort law. But my concern is that it be done very, very carefully because the body of law in the United States, common law development is slow, laborious, careful. Common law builds up by accretion or encrustation over a long period of time and is very different from the kind of processes which we have in legislation where there are frequently only one or two Senators present at hearings and where markups are done without the kind of background or careful evidentiary study which marks development of the law, case law and common law.

There is a very erudite analysis of punitive damages in the Iowa Law Review, volume 78, appearing at page 1, published in 1992, by Prof. Michael Rustad and there are a number of aspects of that article about which I would like to comment.

Even though this is a lengthy law review article, it is worth printing in full in the Congressional Record because of the importance of tort liability generally and product liability specifically and punitive damages as it impacts on the legislative consideration which we have before the Senate.

My comments will be relatively brief compared to the scope of the article.

I start by referring to four empirical studies of punitive damages in product liability cited in Professor Rustad's law review article.

The first is by the Rand Institute for Civil Justice, which studied 24,000 jury verdicts in Cook County, IL, and San Francisco, CA, between 1960 and 1984. The Rand study stated that the "punitive damages picture in personal injury cases has changed very little in 25 years."

As noted in this law review article, the Rand study states: "Product liability cases have been of special concern to many critics, but our analyses indicate that punitive damages were awarded in only four product liability cases in San Francisco and two in Cook County from 1960 through 1984." It further notes that, "The rarity of punitive damage awards in products liability cases suggests that there is little need for tort reform."

The second empirical study noted in this law review article is by the American Bar Foundation, which examined 25,627 jury verdicts handed down from 1981 to 1985, drawn from State jury verdict reporters in 47 counties in 11 States. This study found that in 5 percent of the verdicts there was an inclusion of punitive damages and that products liability accounted for 3.8 percent of the 25,627 verdicts. Of the 967 products liability verdicts, the study found 34 cases in which punitive damages were awarded. The researchers concluded that the awards were generally quite proportionate to the actual damages, and they concluded that "the median punitive damage award is not at a level that is likely to 'boggle the mind.'"

The third empirical study noted in the Iowa Law Review article is the GAO study on the frequency and size of punitive damage awards in product liability cases in five States between 1983 and 1985. There was a review of court records for 305 product liability cases resolved through trial in Arizona, Massachusetts, Missouri, North Dakota, and South Carolina. The GAO supplemented official court records with posttrial interviews with attorneys. The General Accounting Office found that punitive damage awards were neither routine nor excessively large and that posttrial appeals and settlements substantially reduced the amount of punitive damage awards.

The fourth empirical study noted in the Iowa Law Review was conducted by Judge Richard Posner, a distinguished court of appeals judge in the Federal system, and Prof. William Landes of the University of Chicago, who examined all products liability cases "reported in the 10 most recent volumes of each of the West Publishing Company's regional reporters" and all "product liability cases in the federal courts of appeals from the beginning of 1982 to November 1984." This study found "'punitive damages were awarded in the trial court in 10 of 172 cases.' The award was affirmed in whole in only one of the ten cases. Appellate judges reversed and remanded six of the cases for further proceedings."

Mr. President, in an era when we are looking toward less Federal regulation, I think it is very important that we take a close look at what private actions import. This is an area which has attracted my attention since law school days, when, as a member of the board of editors of the Yale Law Review, I wrote an article on private prosecution, which is a somewhat different line, on the need when there was unwarranted inaction by the public prosecutor. In the Senate, I have authored legislation to establish a private right of action for people who are damaged by unfair foreign competition, where goods come in the United States either as a result of subsidy or dumping because of the insufficient resolution of proceedings in the International Trade Commission.

At this point, I am going to refer to a number of cases, some of which are cited in the Iowa Law Review article and some of which are found in other places.

One case of considerable interest was Richardson-Merrell's concealment of side effects of MER/29, an anticholesterol drug. In a case litigated, Toole versus Richardson-Merrell, Inc., in the California court of appeals, the evidence was that there had been fictitious reports filed by the company, that none of the abnormal blood changes encountered in experiments was disclosed and that there was a falsified chart prepared under protest by one of company's employees which was included in the application. One advertising brochure stated that MER/29 was "virtually nontoxic and remarkably free from side effects, even on prolonged clinical use."

The evidence further showed evidence of high-level management with knowledge of the concealment of MER/29's known defects. There were 1,500 civil suits filed after there were guilty pleas by the company's executives. Three scientists pleaded nolo contendere to criminal fraud charges and were fined a total of $80,000 in the context of the criminal conduct which seriously injured an estimated 5,000 consumers.

Of the 1,500 civil cases which were filed in the wake of those criminal pleas, juries awarded punitive damages in three of those cases.

Another case of some concern noted in the Iowa Law Review article is one involving the Dalkon shield put out by A. H. Robins, in a case captioned Plaintiff versus A. H. Robins Co. The Supreme Court of Colorado found evidence upholding a punitive damage award with the following statement:

> Robins' marketing program which occurred over a long period of time was directed to a vast array of unwary consumers and was accompanied by false claims of safety and a conscious disregard of a life-threatening hazard known by it to be associated with its product. Robins accumulated gross revenues which exceeded $11 million from the shield alone and its net worth nearly doubled during the marketing period of this device.

Another case worthy of special note, although there are many cited in this law review article, is a case captioned Duddleston versus Syntex Labs, Inc., which involved the company's failure to test a soy-derived baby formula which resulted in thousands of infants suffering brain damage. The company had removed salt from its product without considering the effect on child development, and that was a causative factor in brain damage and learning disabilities.

Another case worthy of special note is captioned Batteast versus Wyeth Laboratories in which there was an assessment of substantial punitive damages for failure to warn physicians of certain propensities dangerous to children in the chemical composition of a drug, and the basis for the punitive damages was the company's failure to market the suppository in compliance with Federal Drug Administration adverse-reaction guidelines.

Among many of the other cases cited, my final reference is to the Minnesota Supreme Court decision in a case captioned Gryc versus Dayton-Hudson Corp. as follows:

> In April 1968, a letter from an official of [the defendant] explained that satisfactory runs were made with flame-retardant flannelette using various chemicals, but that [the defendant] was not going to use these products until Federal law so required because of the cost factor. . . [T]he decision not to use flame-retardant cotton flannelette was merely an economic one for the benefit of [the defendant]—

This gave rise to the imposition of punitive damages.

In reviewing a number of cases, and these are only illustrative, Mr. President, of what exists in the field of tort liability, the famous case involving the Pinto automobile which had the gas tank in the rear and was justified in a letter from Ford Company to the Administrator of the National Highway Traffic Safety Administration which sought to justify the dangerous condition, because it was more cost-effective to suffer 180 burn deaths with 180 serious burn injuries and 2,100 burned vehicles at a total cost of $49.5 million, contrasted with the cost of repairing 1.5 million light trucks, 11 million cars at a unit cost of $11 per car, which would cost $137 million. This has already been placed in the RECORD, Mr. President, so I will not further burden the RECORD by asking that it be printed.

Another matter of some notoriety involved the American Motors Corp. and its product, the Jeep, when there was an internal American Motors Corp. memo dated January 7, 1982, acknowledging a defect with the shackle system of the Jeep, which was known for many years to the company, and the following sentence from the memo is of some significance:

> Not to retrofit will subject Jeep Corporation to possible punitive damages on a component which has previously been the subject of several causes of action.

I ask unanimous consent that this intracompany correspondence be printed in the RECORD for its probative value in showing that the possibility of punitive damages is something to be considered in retrofitting a vehicle to make it safer.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRACOMPANY CORRESPONDENCE

From: Mr. J.E. MacAfee,
To: R.M. Huffstutler
Subject: C.J. Shackles,
Location—Ext: AMTEK/33223
Date: January 7, 1962
Copy to: C.S. Sklaren, W.C. Jones, C.E. Merritt.

Confirming our telephone conversation of this P.M., we understand that vehicle 1609 will soon be tested. This test will be the fourth in the series of 1461, 1477, and 1484, a test we presume will meet with the complete satisfaction of you and your engineering staff.

Upon successful completion of testing on the new shackle design, we would appreciate the ECR being with obsolescence and the new design being incorporated at the earliest possible time. Assuming the shackle is released for CJ–5, CJ–7, Scrambler, and various export models, I will press for retrofit of all CJ–7 and Scrambler vehicles produced in the 1982 model year. This action I believe is warranted since the FMYSS 101–75 movable barrier 20 mon test which indicated a problem was completed July 22, 1981, three weeks prior to the 1982 production. Not to retrofit will subject Jeep Corporation to possible punitive damages on a component which has previously been the subject of several causes of action. Our legal staff has, to date, not seen the merits of testing the current design before a jury; it is my belief that the new design will have to be tried and thus Jeep Product Engineering should have a sufficient data file to convince not only engineers but lay persons as well.

Any action by Engineering to our purchasing group to forestall their dilatory tactics in this matter would be appreciated. An early warning to them that the design will be changed may preclude Jeep Corporation from having to pay for stock ahead of our production requirements.

R.M. HUFFSTUTLER.

Mr. SPECTER. Mr. President, an internal memo from the Cutter Co., which was involved in manufacturing blood factors for hemophiliacs, is of considerable interest. To the extent that an internal Cutter memorandum dated December 29, 1982, recommended several steps to warn about AIDS transmission through its factor concentrate product, this memo reads as follows, from one Ed Cutter to Jack Ryan and others:

> It appears to me to be advisable to include an AIDS warning in our literature for certain factors.

And there is a second document by a Dr. Bove, January 1983:

> This case increases the probability that AIDS may be spread by blood. Further, the CDC—

That is the Centers for Disease Control.

> continues to investigate the current cases aggressively and may even have a few more. While I believe our report reacts appropriately to the data at hand, I also believe that the most we can do in this situation is to buy time.

Until these documents were disclosed, the Cutter Co. argued that the obligation to warn did not arise until the spring of 1984. This same case has a cost/benefit analysis by the American Red Cross which concluded that it would cost more to make a correction than to treat the AIDS patients, with the testing costs being in the range of $13 to $67 million, whereas an evaluation of each AIDS case at $500,000 would require the prevention of some 30 to 134 AIDS claims to be cost-effective. This suggests to me, Mr. President, a wholly inappropriate evaluation of cost analysis dealing with a deadly subject like AIDS.

I ask unanimous consent that these internal corporate documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CUTTER

To: Jack Ryan, Carolyn Patrick, Wayne Johnson, Ralph Roussall, George Akin
From: Ed Cuttar
Date: December 25, 1982
Copes To: Arnold Laong
Subject: AIDS.

It appears to me to be advisable to include an AIDS warning in our literature for Factor IX and Factor VIII. I realize that very little is known about AIDS and the relationship the products we manufacture have in causing the syndrome. However, litigation is inevitable and we must demonstrate diligence in passing along whatever we do know to the physicians who prescribe the product. In my opinion, three steps are called for, once we agree on the wording of our message.

1. Include it in the package insert.
2. Educate the sales force.
3. Since MDs won't be reading the package insert in most cases, send a letter to hematology specialists informing them of the warning we are putting in the insert.

ED CUTTAR.

To: AIDS Working Group, Dr. Dood, Ms. Baum
From: Dr. Cumming
Date: 3/20/84
Subject: Meeting request and report on: Progress on AIDS marker testing marketing research.

SUMMARY

Our review of AIDs marker testing issues to date brought into question the value or continuing to proceed along lines or developing a non scientific opinion research survey. Specifically:

Objectively it is difficult to make a case for adoption of AIDS marker testing,

Plasma industry projected adoption or such a test is a rather obvious marketing initiative which will serve to increase pressure on us, and

ARCBS decision-making criteria are complicated by considerations of ethics and public welfare as distinct from competitive response.

This last issue can be summarized nicely by reference to "false positives". Essentially all anti core test results are likely to be false positives. Specifically, it is estimated that over 6,000,000 annual units are donated by 4,000,000 persons. With 5% normal population incidence of anti core positive results this means 200,000 people may be labelled as likely to get AIDS. Contrast this with a possible 50 cases per year of AIDS avoided (0.00025 of all positives). Assuming these 200,000 people have additional testing done, costs to society may be from $20,000,000 to $100,000,000 (based on $100 to $500 per false positive). And this does not ascribe any value to mental anguish, time off work, etc. These figures and issues make the direct cost of testing minimal in comparison.

It is from this perspective that we question the value of continuing to develop a non projectable sampling effort and request a meeting to clarify as precisely as possible where we are heading and why.

BACKGROUND

Attached for your information, review, and comment are:

(1) A background document summarizing various marker tests for AIDS, and estimating effectiveness and costs, and

Three draft questionnaires designed to elicit the opinions of various interest groups on marker tests for AIDS.

The background document explores some of the costs and benefits of implementing screening marker testing for AIDS amongst blood donors. On the descriptive matrix, characteristics such as effectiveness, ease of use, availability, etc. are estimated, as well as other potential advantages and public relations effects.

The latter is an area of grave importance which must be further explored. As you are aware, the possibility exists of creating panic in the (normal) donor population from positive test results, and incurring unnecessary costs to the health care sector as these donors pursue further medical evaluation, as well as reducing the size of the donor pool. These effects must be carefully weighed against the possible benefit of reassuring the blood recipient population and the hypothetical benefit of reducing the incidence of transfusion-associated AIDS (trx-AIDS).

The cost matrix addresses the potential costs associated with implementation of the various marker tests. Review of this matrix indicates that costs for testing in all ARC Blood Service regions would range from $15 million to $67 million. If we assume that each average AIDS case has a value of $1M, then to justify use of one of the tests would require an expected reduction in trx-AIDS from ARC blood of 15 to 67 cases. Since trx-AIDS patients have averaged 50 years of age, average earnings per worker are approximately $20,000 per annum, and treatment for AIDS victims has averaged about $80,000 * * * about $500,000. This lower benefit would indicate a need to prevent 90 to 134 trx-AIDS cases from ARC blood to justify use of a marker test exclusively on economic considerations. In addition, these averted cases would have to be over and above the number of cases prevented by currently implemented screening measures.

As an example, to economically justify anti-HBc testing in all Blood Service regions, we would need to demonstrate an anticipated rate of trx-AIDS (not prevented by screening measures) of 1.75 cases per week, assuming an 88% effectiveness rate of the test. This rate is considerably above previous and current rates.

PROPOSAL

To summarize the background document, implementation or any AIDS marker test will be extremely expensive. Given the fact that tax-AIDS is still a hypothesis, that there has been no effective measurement or the success of the screening procedures which have already been implemented, and that cost justification or testing would rest on a considerably higher incidence or tax-AIDS than is currently being observed, the following recommendations are proposed for further exploration.

(1) Implement the confidential self-exclusion procedure, currently used by New York Blood Center (NYBC), in all ARC Blood Service regions.

(2) Implement one of the marker tests in Los Angeles and any other regions where there is reason to suspect a high concentration of AIDS carriers.

(3) Continue to evaluate the non-economic considerations inherent in implementing one of the marker tests systemwide.

It is in keeping with the last recommendation that the three questionnaires are attached. The non-economic considerations are primarily the opinions and beliefs of the various publics which are served by ARC Blood Services. The questionnaires which are attached are targeted at physicians who prescribe blood, the general public including blood donors and recipients, and third party payers such as Medicare/Medicaid agencies and insurers. We intend to modify or add to these questionnaires to also target hospital administrators and other signatores of annual hospital/blood region contracts.

Relative to these questionnaires, we would appreciate information or comments on the following:

Decision making criteria given results of the survey, i.e. what influence will the results of the survey have on a decision whether or not to implement marker testing?

Method of sampling and sample sizes
Content and phrasing of questions
Target audiences

PURPOSE OF MEETING

Answers to this first question are essential for further development of the survey. Admittedly if public opinion could determine that ARC implement testing, a very large sample would be required, whereas if the questionnaires are designed merely to "test the waters", a small screening sample would suffice. At this point, we really can't see too much value in a small, non-scientifically projectable sample. For such a sample to be useful for other than field testing of an instrument, we would have to observe a high degree of unanimity or opinion. Given the subject matter this is unlikely. For a large and statistically valid and reliable sampling effort to be most useful, we need to be very specific as to how we intend to use results from each likely outcome of the sampling. I suggest that a meeting of the group plus Dr. Doda and Ms. Baum is in order to gain this specificity or select another course of action.

REPORT TO THE BOARD COMMITTEE ON TRANSFUSION TRANSMITTED DISEASES

The major report of your Committee on Transfusion Transmitted Diseases has been issued as our recommendations to the Association. These few additional paragraphs are more my current views and concerns than a formal committee report. Nonetheless, because of my recent experiences I am anxious to share some thoughts with you.

The report that we have submitted to our members is, in my view, appropriate considering the data at hand. Since we met, however, an additional child with AIDS has been admitted to a Texas hospital. At birth the child had received seven transfusions, one of which came from a donor who now seems to have AIDS. This case increases the probability that AIDS may be spread by blood. Furthermore, the CDC continues to investigate the current cases aggressively and may even have a few more. While I believe our report reacts appropriately to the data at hand, also believe that the most we can do in this situation is buy time. There is little doubt in my mind that additional transfusion related cases and additional cases in patients with hemophilia will surface. Should this happen, we will be obliged to review our current stance and probably to move in the same direction as the commercial fractionators. By that I mean it will be essential for us to take some active steps to screen out donor populations who are at high risk of AIDS. For practical purposes this means gay males.

The matter of arranging an appropriate screening program is delicate and difficult. We have had excellent cooperation from individuals in the gay community and our deliberations have been made easier by their knowledge and ability to help us. I have no doubt that they will continue to support us and, should we need to be more aggressive in this area, will help us do it in a way that is socially responsible.

Blood banks that wish to sell plasma for further fractionation already face the need to do something. Perhaps our Committee should prepare guidelines with suggested wording for them to use. We are reluctant to do this since we do not want anything that we do now to be interpreted by society (or by legal authorities) as agreeing with the concept—as yet unproven—that AIDS can be spread by blood.

All in all this is a knotty problem and one that we will not solve easily.

I want to make a few comments about the process by which our joint document developed. We spent a great deal of time and energy and did the best we could in attempting to reach a consensus. The difficulty was to get AABB,ARC, CCBC and all the other groups to adopt a position which was acceptable to each other. It was impossible to have a small meeting; everybody wanted to attend. When we got the group together we were able to hammer out a statement that pleased the attendees. Unfortunately, the statement had to go through several iterations with our own Board and the Boards of the other involved organizations. In all probability these modifications resulted in a better statement, but the process of getting these changes incorporated and run back and forth through the three organizations was difficult. We have had a good start at working together on this and we hope to keep it up. The mechanism was a little less smooth when it came to releasing the statements and the public relations that went with it.

I hope that we are equipped psychologically to continue to act together. I have been in contact with ARC (Dr. Katz) and CCBC (Dr. Menitove) and believe that the three of us can, together, work out whatever new problems may arise. We plan frequent conference calls to keep each other informed.

I want to comment about the Committee. They worked well together and I was particularly pleased with the input of advisory members. Having individuals who are not associated with the blood banks nor a traditional part of the blood banking community proved most useful to us. Their comments and suggestions were excellent. In a like manner, we were helped by participants from the National Gay Task Force. As we continue to react to the various challenges before us, I am sure that their help will be essential. Finally, let me acknowledge the help from the Central Office and, in particular from Lorry Rose.

No immediate end to the publicity is in sight and we will get continued calls for us to act more aggressively. We need to do whatever is medically correct. In addition, we may have to do a little more, since we are accused of burying our heads in the sand. We are not being helped by the spate of publicity about this illness, but will continue to react responsibly to whatever scientific and medical information we have.

JOSEPH R. BOVE,
Chairman, Committee on Transfusion Transmitted Diseases, American Association of Blood Banks.

Mr. SPECTER. Mr. President, another very important product involved the Bjork-Shively heart valve where internal company documents show the company was notified by the inventor in 1982 of the manufacturing defect, with the handwritten notations on the memo by the inventor to try to "settle him down," a defect which was not fixed for years resulting in damages to thousands of people who used these heart valves.

Again, I ask unanimous consent that this corporate document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

15242 SHILEY 64,
March 24, 1982.

Attn: Paul Morris.

Last night a 60 year old man, with a double valve (mitral and aortic valve) replacement performed—August 24, 1981 with a * * * degree, 25 mm in aorta and 31 mm in mitral, had rupture of the smaller strut and pulmonary edema.

During the night, I re-operated the broken mitral valve and the * * * strut was localized in the pulmonary vein. The patient has now woken, but has neurological seguele.

It is evident by now that the manufacture of the prosthetic valve is not acceptable. The small strut must be made in one piece and much more effort and priority must be put on this than has been done so far.

Your programmed conferences, in Atlanta and California in the end of August, are extremely ill timed—before an acceptable production can be achieved.

Dear friends, I am serious.

VIKING O. BJORK.

P.S. By airmail I am sending you the piece.

HANDWRITTEN NOTES BY RECIPIENT

* * * also suggested we go to Sweden to talk to Bjork.

I'd like to avoid if possible as it won't help solve problem.

Paul * * *

Kjell called to discuss * * *. Wants us to call Bjork and attempt to settle him down and convince him we are oing everything possible to get the monostrut faster—I suggest we use the "double side" EB Wolf method to get him valves fast! They have to be stronger than the welded strut on 70° cc.

BRUCE.

P.S. I have all employee meetings at 10 a.m. and 11 a.m.—Please call Bjork and try to settle him down and convince him that we are doing everything possible.

BS.

Mr. SPECTER. Mr. President, some of the cases disclosed procedures which would result in additional safety which were left uncorrected for very considerable periods of time, and I refer now to an intracompany memorandum of the Ford Motor Co., dated September 19, 1967, which reports:

> When properly worn, the three-point diagonal shoulder belt system has been demonstrated to offer much greater protection to the vehicle occupant than does a single-lap belt alone since it prevents injuries from jack-knifing.

And in the same document:

> A properly worn three-point system clearly protects the occupant better than a lap-belt-only system.

But it was not corrected until 1987 as reflected in intracompany correspondence of Ford. This is dated May 2, 1986:

> I believe we should consider optional rear seat shoulder belts for reasons described in the attached memo to you from Al Slechter as a defense against future product liability claims.

These are a series of internal memos, Mr. President, which have come to public light in the course of litigation and show that litigation of product liability cases with the potential for punitive damages is a significant factor leading to product safety, which I think has to be evaluated as we consider this legislation. Further evaluation of the cost benefit occurred by General Motors in a memo dated June 29, 1973, where as a result of their cost analysis, they made a substantial change, showing that where there was concern about fatalities and damages, safety features were added.

I ask unanimous consent that this document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VALUE ANALYSIS OF AUTO FUEL FED FIRE RELATED FATALITIES

Accident statistical studies indicate a range of 650–1,000 fatalities per year in accidents with fuel fed fires where the bodies were burnt. There has been no real determination of the percent of these people which were killed by the violence of the accidents rather than by fire. The condition of the bodies almost precludes making this determination.

Based on this statistic and making several assumptions, it is possible to do a value analysis of automotive fire related fatalities as they relate to General Motors.

The following assumptions can be made:

1. In G.M. automobiles there are a maximum of 500 fatalities per year in accidents with fuel fed fires where the bodies burnt.
2. Each fatality has a value of $200,000.
3. There are approximately 41,000,000 G.M. automobiles currently operating on U.S. highways.

Analyzing these figures indicates that fatalities related to accidents with fuel fed fires are costing General Motors $2.40 per automobile in current operation.

500 fatalities times $200,000 per fatality divided by 41,600,000 automobiles equals $2.40 per automobile.

This cost will be with us until a way of preventing all cash related fuel fed fires is developed.

If we assume that all crash related fuel fed fires can be prevented commencing with a specific model year another type analysis can be made.

Along with the assumptions numbered above the following assumptions are necessary:

1. G.M. builds approximately 5,000,000 automobiles per year.
2. Approximately 11% of the automobiles on the road are of the current model year at the end of that model year.

This analysis indicates that for G.M. it would be worth approximately $2.20 per new model auto to prevent a fuel fed fire in all accidents.

500 fatalities times 11 percent new model autos equals 55 fatalities in new model autos.

55 fatalities times $200,000 per fatality divided by 5,000,000 new model autos equals $2.20 per new model auto.

This analysis must be tempered with two thoughts. First, it is really impossible to put a value on human life. This analysis tried to do so in an objective manner but a human fatality is really beyond value, subjectively. Secondly, it is impossible to design an automobile where fuel fed fires can be prevented in all accidents unless the automobile has a non-flammable fuel.

E.C. IVEY,
Advance Design

Mr. SPECTER. Mr. President, another similar modification occurred by the Pitman-Hutsik Co., relating to boom tip contacts used on cherry pickers with an analysis that a large number of accidents occurred with these boom tip contacts, and as a result of the jury awards in product liability cases, the design was changed.

I ask unanimous consent that the last item be printed in the RECORD.

TYPICAL ACCIDENTS

1. *Boom tip contact:* Metallic portion of upper boom contacted a line, and the operator touched these metal parts as well as another line.
2. *Boom contact or crane contact:* A non-insulated boom or lower boom of an insulated device contacted a line, resulting in injury to personnel on the ground.
3. *Phase/phase contact:* Operator in the bucket personally touched two phases or a phase and ground, resulting in an injury, but the machine carried no current.
4. *Tipovers:* Machine turned over because of: (1) improper outrigger placement; (2) outrigger malfunction or breakage; (3) outriggers were not used; (4) driving accident; (5) overload; (6) et al.
5. *Controls contacted foreign object:* Controls malfunctioned or contacted foreign object, forcing machine to continue to move against the object.
6. *Leveling cable failures:* Bucket leveling system broke for some reason, causing operation to fail.
7. *Boom collapse:* Component in boom system broke due to overload, poor maintenance, etc., allowing the boom to collapse.
8. *Boom collision:* Boom collided with personnel during operation of the machine. Boom collision is sometimes the result of a boom collapse, also.

DISCUSSION OF PERTINENT DATA

Electrical accidents account for 29 percent of the total number of accidents, but account for 77 percent ($21,500,000.00) of the active claims.

The largest single type of electrical accident is "Boom Tip Contact." It accounts for 40 percent of the number of electrical accidents and 67 percent of the total dollar value of the active claims. ($18,500,000.00) Those electrical accidents involving metal boom machines usually do not lead to lawsuits and represent only 9 percent ($2,500,000.00) of the dollar value of our active claims. The same is true for "Phase-Phase" contacts, which account for only 1.5 percent ($500,000.00) of the active claims.

Contractors have fewer numbers of accidents than utilities, but contractors have a higher accident rate per machine. (This statement may be somewhat inaccurate, because it is felt that utilities, in some cases, tend to hide some of their accidents.)

Contractors account for 76 percent ($21,200,000.00) of the active claims against the A.B. Chance Company, while utilities account for only 15 percent of the active claims ($4,300,000.00). Of the $21,200,000.00 claims from the contractors, $18,000,000.00 resulted from electrical accidents, $15,000,000.00 of which was attributed to "Boom Tip Contact."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COST TO IMPLEMENT TECHNICAL RECOMMENDATIONS

(A) Estimated cost to design a machine with the following features:

1. Insulated boom tip.
2. Insulated lifting attachments.
3. Boom interlock system.
4. Tip-over warning system.
5. Improved leveling system.
6. Improved hydraulic control system.
7. Improved placards.

Estimated time: 2 years:

Design Prototype Test, Document; $200,000.00.

Tooling: $10,000 to $25,000.00.

(B) Estimated Cost Increase of Machine: $2,000.00.

(C) Dollar value of active lawsuits as result of "Boom Tip Contact": $18,500,000.00.

(D) Assuming average awards paid out equal to 2.5 percent of total claims dollar value (.025 18,500,000): $462,500.00.

CONCLUSION

If $225,000.00 could be spent to alleviate the liability exposure due to "boom tip contact", it would appear that this expense could be justified.

Mr. SPECTER. Mr. President, finally, in a confidential legal opinion on a matter involving the Clark Equipment Co., Hancock Division, is the following statement.

> * * * the lack of a back-up alarm presents a substantial product liability exposure to Clark that far exceeds any requirements of State safety laws or OSHA. In every case in which we have had an injury involving a person struck by a machine, the absence of a back-up alarm has been very crucial.
>
> * * * The customer is not in the same position as the manufacturer and Clark must take all steps necessary to protect itself—

Showing the safety and precaution taken as a result of the liability imposed in product liability cases.

I ask unanimous consent that the full text of that document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUCHANAN, MI,
August 29, 1974.

CONFIDENTIAL LEGAL OPINION

To: Phil Hoel, Hancock Division.

I have received your memo concerning making back-up alarms standard on all scrapers. I disagree with you that the decision concerning making back-up alarms standard should be made by the Sales Department.

Although there are many states that do not require a back-up alarm at this time, and, in fact, OSHA would make it optional since you can also provide a flagman to signal when to back up, the lack of a back-up alarm presents a substantial product liability exposure to Clark that far exceeds any requirements of state safely laws or OSHA. In every case in which we have had an injury involving a person struck by a machine, the absence of a back-up alarm has been very crucial. I must conclude that it is a very substantial fact in the mind of any juror that if the machine had had a back-up alarm, the injury might have been prevented. This thought must be in the minds of the jurors no matter how great the evidence is that the back-up alarms are not required by state safety laws or are not effective because the engine noise is too loud.

I think this must be an overall management decision and should not be left to the Sales Department since that department only gives basically a reflection of what the customer wants. The customer is not in the same position as the manufacturer and Clark must take all steps necessary to protect itself, whether the customer wants it or not. Accordingly, I again strongly suggest that you consider making back-up alarms standard on all scrapers. I was informed yesterday by Walt Black that Benton Harbor has decided to make such alarms standard on all loaders, and I applaud them for that decision. I would hope you could reach the same conclusion.

STEVE ANDERSON,
Assistant Counsel.

Mr. SPECTER. Mr. President, in the Iowa Law Review article that I have referred to, there is a lengthy listing of protective measures which were taken after litigation disclosed a substantial problem. They have a special probative value in showing that when product liability litigation occurs, there is a very practical impact on safety for the consumers.

For example, when the CJ–7 Jeep was found to have inadequate roll-over protection on the off-road vehicle, punitive damages caused a safety measure to be taken to redesign the product and add a new warning.

When the Toyota Corona was found to have a fuel integrity problem due to the placement of tanks with injuries and deaths, there was a redesign.

When power lines were found to have uninsulated components causing electrocutions, there was a multi-million-dollar safety program.

When there was a television manufacturer with tubes made of wax and paper which posed a fire risk, despite the company's knowledge of numerous house fires, it did not warn or redesign until the litigation in effect compelled a redesign.

There is a long list which appears at pages 81 and 82 of the Iowa Law Review article, which I shall not take the time to read now, but are worthy of special note, because once there is an aggravating factor determined in the litigation of product liability cases, there are safety measures which are taken.

Mr. President, I have taken this time to put into the RECORD some concrete cases, where the presence of liability and the presence of punitive damages has had a profound effect on influencing the conduct of the producers. I think these are matters which have to be taken into account that I have included in the RECORD so my colleagues will have access to this information when the CONGRESSIONAL RECORD is printed tomorrow. That will be in ample time for consideration of this kind of material in their legislative judgments.

Mr. President, I see that my colleague, Senator DEWINE, has come to the floor, so I will yield the floor to him and also the duties involved in wrap-up, which I have agreed to undertake thinking I would be the last speaker.

I yield to my colleague, Senator DEWINE, at this time.

Mr. DEWINE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I rise today to discuss in general terms the underlying product liability this Senate has now been debating for several days, and to also discuss the medical malpractice amendment that is pending before the Senate.

I intend to discuss tonight some of the concerns that I have with these bills, but also I hope to talk a little bit about some of the hopes that I have in regard to the things that I hope a well-crafted bill can, in fact, achieve, and some improvements that we can make in our current legal system.

Mr. President, I do not pretend to be an expert in this area. I have spent a considerable period of time in the last 2 to 3 months reading, talking, and more importantly, listening—listening to business men and women, listening to others who have concerns about our current system, and some who have concerns about this particular bill.

Some people, Mr. President, have been, I think, surprised, some amazed, that this Senator from Ohio did not automatically jump on this bill, saying we will approve everything in it just because it was labeled a "reform" piece of legislation.

We do need reform. I think the question before the Senate today, tonight, tomorrow, next week, will be what really constitutes reform? What will truly help the small companies, small manufacturers in Ohio and other States who are threatened by the current system? But what reform, also, will we utilize that will not take away the victim's rights, nor will it stop the deterrent effect that I find to be an essential part of our system today?

I believe that we have to approach this debate cautiously and carefully. Let me first start tonight by listing a few reasons why I believe we do have to approach this very serious, very important debate from a point of view of caution. Let us make no mistake about it, even the relatively narrowly drafted bill that was introduced, that we began this debate with, even if it was passed and nothing more—no amendment, none of the amendments that we have heard about to expand the bill—if the bill was passed in its original form, it would still constitute the most radical, the most dramatic change in our civil justice system in the history of this country.

For over 200 years the tort law in this country, the civil justice system, has developed not primarily at the Federal level. Rather, it has been a homegrown product. It has been developed in State after State—in Ohio since 1880—both by statute, by action taken by the State legislature, but also in court case after court case after court case. We have developed a fairly fine-tuned tort system to handle disputes between individuals, to handle tortious conduct.

Clearly the system does not work perfectly. By and large it does work. The proposal before us is, for the first time, to federalize that tort system. The only example I can think of where this Congress really became involved in the tort law, civil justice law, was when Congress passed—and I think it was a correct decision—a bill to give help to the general aviation industry in this country. Congress acted only after it was clear that general aviation had been driven overseas. The results of that bill have been positive. We have seen jobs come back to this country. That industry now, instead of contracting in this country, is expanding. But with that exception, Congress has never gotten into this area.

I believe there are some very sensible reasons for this past reluctance on the part of the U.S. Congress. A simple way to express Congress' concern is to invoke the concept of Pandora's box. Once you open up this area of law to congressional interference, congressional control, where does that stop? Where does the debate stop?

If anyone doubts this is a legitimate concern, I ask them to look at some of the amendments that have already been offered or will be offered in the next few days. Should there be a Federal cap for lawyers' fees? What should be the contractual relationship between employers and employees? What sort of evidence should be admissible at trial? That is just the beginning.

Having said this, that it is a dramatic change and we should proceed with caution, that does not necessarily mean we should not proceed at all. But what it does mean is that we should go into this debate with our eyes wide open, and we should understand what we are tackling, and we should understand how significant a change in our law this will be.

Let me next turn to another reason I think we, particularly in the year 1995, need to approach this debate with caution. There is some irony that this historic Congress, a Congress which is devoted to thinking and talking about State prerogatives and States rights and the value of returning power to the people, the value of returning power to the States, that this Congress should today be debating a bill that does just the opposite, that really says the U.S. Congress in certain areas—product liability, medical malpractice—will impose its will, will impose a national, uniform standard on all the States in the Union.

Merely because it is strange, again, Mr. President, does not mean we should not necessarily do it. But, again, I think it points up how cautious we have to be as we begin this task. It is somewhat ironic that the very qualities we value, particularly those of us on this side of the aisle—self-help, market forces, local as opposed to national authority being better—are basically present in our current system. But they would in fact be changed and be compromised by this legislation.

Let me cite what to me is an interesting example. We have been considering in committee a regulatory reform bill. One of the complaints I have heard from business men and women, particularly small businesses, as I travel across Ohio, is how overregulated they are. I totally agree. If there is one thing this Congress needs to do it is to get the Federal Government off the backs of small business men and women. The bill we have reported out of our committee makes an attempt at doing that and I think it will improve the law. I think the bill as we report it could actually be improved. I am going to work to do that when it reaches the floor.

But there is, again, some irony here. The bill that this Congress has proposed to help business men and women get the Federal Government to back off and to stop overregulating puts more power in the hands of business men and women to sue the Federal Government, to sue the regulators. It is almost a self-help, self-enforcing provision. And the basic principle behind this bill, I believe, is that if you really want to get control of the Federal regulators, about the only way you can do it—you cannot do it by changing the law and changing the regulations—the most effective and efficient way to do that is to open up the court system and to rely on business men and women to go into court and sue the bureaucrats, sue the regulators. Again, back to some of the basic principles I talked a moment ago, self-help being one of them.

This bill, in a sense, does move in the other direction. So, again, another reason to be cautious.

This bill in its various forms, depending on which amendment we look at, caps punitive damages. I believe we need to have a very, very fine balancing test as we approach this particular issue. Punitive damages have been with us for a long time. Punitive damages—let us be very plain about it—are intended to punish. There have been some Members who have talked on the floor almost in surprise that punitive damages are used to punish. That is what they are intended to do. That is what the definition of punitive damage is.

But the real benefit to society in regard to punitive damages is not the punishment inflicted on the wrongdoer. The real value to society is that punitive damages in some cases, and in some very important cases, serve as a deterrent for some small minority of people in this country who put a product into circulation and then who, in spite of evidence to the contrary, evidence that should indicate to them they should either make a change in that product or withdraw the product or notify consumers, still go ahead and do none of the above. Punitive damages, the threat of punitive damages in some cases can serve as a deterrent.

When a jury awards punitive damages in a product liability case, that jury may in fact be saving lives. The historic purpose of punitive damages is to punish and also to deter. Here is what the Supreme Court said. I quote:

> The purposes of punitive damages are to punish the defendant and protect the public by deterring the defendant and others from doing such wrong in the future.

Let me read it again:

> . . . protect the public by deterring the defendant and others from doing such wrong in the future.

The purpose of punitive damages is to deter conduct that hurts people, but the product liability legislation we are considering does seek to limit the jury's use of that vitally important deterrent. Now, the real question, though, Mr. President, for this Senator at least, is what kind of cap, what dollar amount will achieve the legitimate, desired results that the proponents of this bill want to achieve without really hurting or eliminating this deterrent effect? That I think is one of the key and most important questions that this Senate faces.

Let us talk a minute about how punitive damages work in real life. A tampon manufacturer received studies and medical reports that linked high absorbency tampon fibers to toxic shock syndrome. Other tampon manufacturers responded to the warning by either altering or withdrawing their product. But the manufacturer in question that I am talking about did not do that. This manufacturer tried to profit from the disadvantage of its competitors and, frankly, tried to profit from the good works of its competitors and the fact that they did the right thing. This manufacturer advertised how effective this product was at a time when its competitors were reducing the absorbency of their products because of this health warning.

The court in this particular case came to the following conclusion:

> Our review of the record reveals abundant evidence that [they] deliberately disregarded studies and medical reports linking high-absorbency tampon fibers with increased risk of toxic shock at a time when other tampon manufacturers were responding to this information by modifying or withdrawing their high absorbency products . . . that [they] deliberately sought to profit from this situation by advertising . . . [And this] occurred in the face of [their] awareness that [their] product was far more absorbent than necessary for its intended effectiveness.

The jury in the case awarded $10 million in punitive damages. The manufacturer then withdrew the product. Tragically, Mr. President, that is what it sometimes takes—a small minority of cases—to deter people. It takes punishment. It takes punitive damages. So I think we need to proceed very carefully in this area.

The Senator from Maine has offered I think a very appropriate amendment. The Snowe amendment is an attempt to preserve the punitive and deterrent function of punitive damages while at the same time placing a cap, a cap that will, in fact, bring some predictability to business decisions that are made by manufacturers, by other business men and women, a cap that will achieve a goal of not only bringing predictability but allowing the manufacturer to expand and allowing them to move into other markets and to do things that will benefit the public that they would not be able to do but for the cap.

Mr. President, I support the Snowe amendment. If for some reason this Senate would vote down the Snowe amendment and proceed to adopt the product liability legislation in its current form, then I believe the punitive and deterrent effect of these damage awards could be seriously weakened. By basing punitive damage awards only on economic damages, the product liability legislation does an injustice, the current bill does an injustice in those cases where the plaintiffs suffer only minor monetary losses but—but—severe and other permanent harm of a nonmonetary kind. The Snowe amendment would rectify that. That is why I intend to vote for it.

That being said, I should mention that I do have a concern about the equity of the Snowe formula as regards small companies versus large companies; that while in fact this cap may be appropriate for the huge companies, it may not be appropriate in regard to small companies, and we may need to provide them more assurance and more protection. I am concerned that under this particular formula small companies are punished somewhat disproportionately. A small company may well be destroyed outright by a damage award that would serve merely as an appropriate deterrent to a much larger company. This is a concern that we might want to address during the amendment process.

In fact, one way of looking at it was expressed to me by a small businessman from Ohio several weeks ago. This is what he told me: A punitive award that might just be a serious deterrent to a big company might really be a death penalty for a smaller company.

Let me list some other concerns that I do have about this bill. Earlier today on this floor, I offered an amendment concerning the civil penalties for sex abuse by doctors. I am sure that even those who strongly favor the passage of this bill will join me in making it clear that we do not want to cap damages in cases in which a doctor sexually abuses a patient. I think it would be wrong for this Senate, for this Congress to impose a national cap and to tell each State in the Union to tell the juries of each State in the Union that there is a limit on the punitive damages you can award against a doctor once you have already found that doctor has sexually abused a patient.

Let me talk about another area of concern. I intend to offer another amendment to preserve the right of juries to consider the financial status of defendants in product liability cases.

As currently written, the product liability bill would forbid juries from considering the assets of the corporation while considering what the proper punitive damages should be. This provision would drastically weaken the punitive and deterrent effect of damage awards, and that is why I will be working to amend that part of the bill.

I can find no logical reason, Mr. President, why this Congress should, in this particular case, override the settled law in virtually every State in the Union that does, in fact, allow a jury to take that into consideration.

If the jury, in the punitive, as is their job, is trying to make a punishment and is trying to deter, then it seems to me it would be wrong to deny the jury the knowledge of exactly what assets that company does in fact have, because, Mr. President, if that knowledge is denied to the jury, the jury could err either way. They may assume, incorrectly, that a company has a lot of assets and it may turn out the company does not have a lot of assets. And so when they impose that award to get the company's attention, to deter future conduct, it may not be an appropriate amount. It may be too much. It may impose an unbelievable burden on that company; or, on the other hand, it may not be enough.

Mr. President, let me make it very clear. The current system is not all good. It is not perfect. If it were, I do not think we would be here today. If it were, I would not have heard from so many people that I have heard from in Ohio about this particular problem.

What we are really doing, Mr. President, and what we should be doing, I think, ultimately, is a balancing test. That is what I think we have to do. We have to balance the benefits and costs of the current system versus the benefits and costs of this bill; or, maybe a better way of saying it, the benefits and costs of the bill that we finally do, in fact, pass.

Mr. President, I am concerned that the current system in some cases deters innovation. And I think one of the strongest—no, I think the strongest—argument for changing the current system, and the strongest argument for imposing some caps in regard to punitive damages is that the current system does deter innovation.

We all know and are aware, Mr. President, of products that have been kept off the market because of our current law. We have all heard how no company will make an antinausea drug for pregnant women. I talked yesterday to a lawyer from a major company who said no one is going to do it; simply not going to do it. "We have the technology; we could put it on the market. But we are not going to take the risk. We are not going to accept the risk that we have to accept because of lawsuits."

So if we can give some relief in this area, then products such as the antinausea drug for pregnant women may be able to come onto the market.

Another example, in 1992, a company stopped testing a vaccine for preventing the transmission of the AIDS virus from an infected mother to her unborn child. Think of that. I have no idea, Mr. President, whether or not that product would have made it onto the market. I have no idea whether that product would have worked. But heavens, the last thing in the world we want to do is to stop innovation in the research in regard to AIDS. What a tragedy it would be if we had the ability to move forward and to develop this particular vaccine that would keep that unborn child from being infected. That is another, I believe, argument for some change.

Also, liability concerns have hindered the development of microbicides used to prevent the spread of AIDS.

Mr. President, during this debate, we have all heard and will continue to hear provisions about lawyer's fees. There are going to be several other amendments also offered. I may support some; some I may not. I am not too concerned about the lawyers. Lawyers can generally take care of themselves.

But, Mr. President, I think what we have to look at when we look at some of these limitations on fees is what impact it will have on the market, what impact it will have on poor people's ability to get into the ball game. And in this case, getting into the ball game means getting into court.

If some of these well-intentioned, well-sounding amendments do in fact hinder poorer people from having access to the courthouse door, then I think the right thing to do would be to oppose them. We need to preserve access to the courtroom for people who have been harmed. We should do this to their benefit, not for the benefit of the lawyers.

Last week, Mr. President, I voted for an amendment that would force lawyers to disclose their fees. I think that is a good idea. I voted for another amendment that would make sanctions mandatory in cases when lawyers bring lawsuits that are legally determined to be frivolous by a trial judge. I think that is a good idea, too.

But I do part company with the proponents of this legislation when they do things that would limit the legal rights of indigent plaintiffs. I believe that that is precisely what some of these amendments would have the effect of doing.

Mr. President, over the last 4 months, I have had more than 55 meetings with concerned Ohioans and others about the faults and merits of this legislation. I intend, Mr. President, to be working over the next couple of days and probably weeks to improve the system—to improve the system, but also to make sure we do not abandon some of the extremely positive effects of the legal system we have built up over the last 200 years.

Mr. President, that concludes my statement this evening on this issue.

Mr. President, at this point, on behalf of the leader, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 616 TO AMENDMENT NO. 603

(Purpose: To provide for uniform standards for the awarding of punitive damages)

Mr. DEWINE. Mr. President, I send an amendment to the desk on behalf of Senator DODD.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for Mr. DODD, proposes an amendment numbered 616 to amendment No. 603.

Mr. DEWINE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 15 of the amendment and insert the following new section:

SEC. 15. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in an action that is subject to this Act if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) BIFURCATION AND JUDICIAL DETERMINATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in an action that is subject to this Act in which punitive damages are sought, the trier of fact shall determine, concurrent with all other issues presented, whether such damages shall be allowed. If such damages are allowed, a separate proceeding shall be conducted by the court to determine the amount of such damages to be awarded.

(2) ADMISSIBLE EVIDENCE.—

(A) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A BIFURCATED PROCEEDING.—Notwithstanding any other provision of law, in any proceeding to determine whether the claimant in an action that is subject to this Act may be awarded compensatory damages and punitive damages, evidence of the defendant's financial condition and other evidence bearing on the amount of punitive damages shall not be admissible unless the evidence is admissible for a purpose other than for determining the amount of punitive damages.

(B) PROCEEDING WITH RESPECT TO PUNITIVE DAMAGES.—Evidence that is admissible in a separate proceeding conducted under paragraph (1) shall include evidence that bears on the factors listed in paragraph (3).

(3) FACTORS.—Notwithstanding any other provision of law, in determining the amount of punitive damages awarded in an action that is subject to this Act, the court shall consider the following factors:

(A) The likelihood that serious harm would arise from the misconduct of the defendant in question.

(B) The degree of the awareness of the defendant in question of that likelihood.

(C) The profitability of the misconduct to the defendant in question.

(D) The duration of the misconduct and any concealment of the conduct by the defendant in question.

(E) The attitude and conduct of the defendant in question upon the discovery of the misconduct and whether the misconduct has terminated.

(F) The financial condition of the defendant in question.

(G) The total effect of other punishment imposed or likely to be imposed upon the defendant in question as a result of the misconduct, including any awards of punitive or exemplary damages to persons similarly situated to the claimant and the severity of criminal penalties to which the defendant in question has been or is likely to be subjected.

(H) Any other factor that the court determines to be appropriate.

(4) REASONS FOR SETTING AWARD AMOUNT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, with respect to an award of punitive damages in an action that is subject to this Act, in findings of fact and conclusions of law issued by the court, the court shall clearly state the reasons of the court for setting the amount of the award. The statements referred to in the preceding sentence shall demonstrate the consideration of the factors listed in subparagraphs (A) through (G) of paragraph (3). If the court considers a factor under subparagraph (H) of paragraph (3), the court shall state the effect of the consideration of the factor on setting the amount of the award.

(B) REVIEW OF DETERMINATION OF AWARD AMOUNT.—The determination of the amount of the award shall only be reviewed by a court as a factual finding and shall not be set aside by a court unless the court determines that the amount of the award is clearly erroneous.

Mr. DEWINE. Mr. President, I have only offered this amendment for Senator DODD so that it would qualify under the consent agreement, in that Senator DODD, at this point, is unable to be on the floor.

MORNING BUSINESS

Mr. DEWINE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 735. A bill to prevent and punish acts of terrorism, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–746. A communication from the Assistant Secretary of Defense (Economic Security), transmitting, pursuant to law, the report on the Metric Transition Program; to the Committee on Commerce, Science, and Transportation.

EC–747. A communication from the Secretary of Transportation, transmitting, a draft proposed legislation entitled "The Commercial Space Launch Act Amendments of 1995"; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself, Mr. MURKOWSKI, Mr. HELMS, Mr. LAUTENBERG, Mr. GRAMS, and Mr. CRAIG):

S. 738. A bill to amend the Helium Act to prohibit the Bureau of Mines from refining helium and selling refined helium, to dispose of the United States helium reserve, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PACKWOOD:

S. 739. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel SISU, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 740. A bill for the relief of Inslaw, Inc., and William A. Hamilton and Nancy Burke Hamilton; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 741. A bill to require the Army Corps of Engineers to take such actions as are necessary to obtain and maintain a specified maximum high water level in Lake Traverse, South Dakota and Minnesota, and for other purposes; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself, Mr. MURKOWSKI, Mr. HELMS, Mr. LAUTENBERG, Mr. GRAMS, and Mr. CRAIG):

S. 738. A bill to amend the Helium Act to prohibit the Bureau of Mines from refining helium and selling refined helium, to dispose of the U.S. helium reserve, and for other purposes; to the Committee on Energy and Natural Resources.

HELIUM ACT AMENDMENTS

Mr. THOMAS. Mr. President, I rise today to offer legislation that would reform the Federal helium program and the helium refining and marketing aspirations of the U.S. Bureau of Mines.

Mr. President, we are in the process, I think happily, to be reforming Government, to be changing some of the things that have gone on for a very long time, which is a tendency of the Federal Government. Things that started for good reason and with meritorious purpose, as time goes by, often change.

I think everyone admits it becomes very difficult that despite the changing conditions, programs seem to continue. I understand that. They start with a purpose. Often the remnants of that purpose at least remains, and of course, there is always a constituency built around that activity; in this case, an economic one. I understand that as well.

However, the more important thing is that we do have a chance to change, indeed, a responsibility to change. If there is anything, it seems to me, that this Congress is about, what this election was about in November, it is to really finally make some of the alterations in Government that need to be made, try to deal with some of the things that do not contribute to the well-being of this country and contribute to the well-being of this Government so that those resources being used in that manner can be shifted and changed to something more useful, to do something that is appropriate for this Government to be doing.

I think the Federal helium program, Mr. President, is one of those activities. This helium recovery program began in 1925. At that time, helium conservation was deemed to be a matter of national security. At that time, I think, people saw the future of defense, the future of aviation, as being lighter-than-air—machinery of that kind, and there was no private helium industry that existed.

Today, on the contrary, the private sector has a thriving helium industry that produces 90 percent of the world's helium demand and supplies it. There are 11 privately owned plants throughout the country, modern plants, as opposed to the Government plant, which is some 50 years old.

A private company can deliver helium cheaper, better, and more efficiently than the Federal Government. Unfortunately, the Federal Government continues to process helium in a burdensome and outdated fashion. The program was designed for the 1920's and certainly is failing in the 1990's. Not only has the program been inefficient, but it has cost millions of dollars each year.

Beginning in 1960, the Federal Government contracted with private companies to supply helium to the Bureau of Mines. To finance these purchases, the Bureau borrowed $252 million from the Treasury. Although it was planned that future sales would cover the costs of this loan, this has not occurred. The agency has paid back the loan, and it continues to accumulate. Today the Bureau of Mines owes the Treasury roughly $1.3 billion on the loan.

The legislation that I am introducing, along with several cosponsors, including the chairman of the committee and the chairman of the subcommittee, would end the Federal helium program within 1 year. Then, importantly, it would phase out the sale of the Federal crude helium reserve. I think it is very important that we do phase it out over a period of time so that this private-sector industry that has developed will not be demolished by simply dumping all this surplus supply on the market. It would end the program and the Federal Government's direct competition with the private sector.

The Congressional Budget Office estimates that this bill will save American taxpayers approximately $7 million annually, between $26 and $36 million over 5 years. The measure would allow the Bureau of Mines to contract with the private sector for services to purchase and distribute crude helium. There is some requirement in the Government for it. NASA is a customer, as well as the Department of Energy. It would be provided by the private sector.

Most importantly, this legislation phases out the sale of the official helium stockpile over several years and requires that all of these reserves be disposed of by the year 2015. This would allow the helium fields to be probably close to depleted, the ones that currently are there. It would ensure that when the stockpile is sold, the return to the Treasury would be at a level that makes this a valuable asset. If it were dumped immediately, it would not be valuable. The taxpayers would lose a considerable amount of asset value.

Mr. President, we are faced, of course, with some most difficult times on the budget. We are faced with seeking to balance this budget over 6 or 7 years. I think it is an imperative that we do that.

We are faced, as well, with programs that we do want to continue to provide services. We do want to help people who are in need. We do want to help them get back into the workplace. We do want Medicare to continue to provide those benefits.

Frankly, if we do not do something, none of those things will happen. it is not a question of whether we make some changes; it is a question of what changes we make and how soon we can make them.

Somehow, there has been kind of a presumption developed by our friends on the other side and by the administration that these programs are simply designed to take away benefits and that we should not do that, we ought to continue doing what we have been doing.

Let me say that that is not one of the choices. If we continue to do what we have been doing with the revenue we have, by the year 2010 we will be able to afford only the entitlements and interest on the debt. None of the other discretionary spending will be able to be provided.

We have talked about this in the past, Mr. President. There was considerable discussion last year when I was in the House Interior Committee. I think there is general acceptance to the notion, but we did not get it done. Now it is time to take action to shut down the Federal helium program, and I hope the Senate will take swift action on this bill so that we can begin to end this wasteful and inefficient and unnecessary Federal program.

By Mr. HATCH:

S. 740. A bill for the relief of Inslaw, Inc., and William A. Hamilton and Nancy Burke Hamilton; to the Committee on the Judiciary.

INSLAW PRIVATE RELIEF ACT

Mr. HATCH. Mr. President, today I am introducing two pieces of legislation regarding the matter of Inslaw, Inc.

Inslaw sold the Department of Justice a software program it alleges was improperly shared with other Federal agencies. In 1986, Inslaw sued the Department and was awarded a judgment. An appellate court, however, reversed the case some years later on technical grounds. Considerable controversy has surrounded the merits of Inslaw's claim ever since. Referring this matter to the Court of Claims is thus the best way to settle this matter once and for all.

It is to accomplish that referral that I am introducing these two pieces of legislation. The first is a bill to provide the compensation due, if any, to Inslaw. The second is a resolution, referring the Inslaw matter, including the bill just described, to the United States Court of Federal Claims for a hearing to determine whether the United States owes the company compensation for providing computer software and services to the Department of Justice.

The Senate considered this matter favorably several months ago. On October 6, 1994, we adopted a similar resolution by unanimous consent in the form of a free-standing amendment to the Process Patent Protection Act of 1994. Pursuant to the legislation establishing the Court of Federal Claims, either House of Congress may refer a matter to the court. Unfortunately, because the House of Representatives failed to take action on the patent bill last October, and the Inslaw amendment was attached to that piece of legislation, the status of the amendment was left in doubt.

As the matter was never properly referred to the court, I believe the best way to proceed is for the Senate to repeat the action it took in the Inslaw matter last October.

There is, in closing, a point I believe that deserves special emphasis. This legislation simply refers the Inslaw case to the Court of Claims to hear, determine, and render conclusions that are sufficient to inform the Congress of the amount, if any, due to Inslaw for furnishing its computer services to the Department of Justice. This legislation does not obligate Congress to compensate Inslaw. It is deficit neutral, because the final decision to satisfy any judgment rendered will rest with Congress, not with the Court of Claims. Congress, and Congress alone, will decide how much to pay, if any, should the court recommend that compensation is owed. I believe this is the fair and appropriate thing to do.

By Mr. PRESSLER:

S. 741. A bill to require the Army Corps of Engineers to take such actions as are necessary to obtain and maintain a specified maximum high water level in Lake Traverse, South Dakota and Minnesota, and for other purposes; to the Committee on Environment and Public Works.

LAKE TRAVERSE RELIEF ACT

Mr. PRESSLER. Mr. President, today I am introducing a bill to correct a serious problem in South Dakota that has resulted in severe flooding along the shores of Lake Traverse. Lake Traverse is located in the far northeast corner of South Dakota and in parts of western Minnesota. In fact, the boundary line between South Dakota and Minnesota cuts through the middle of the lake.

There is very interesting history connected with Lake Traverse. Lake Traverse is the beginning of the Red River—the only major North American river that flows north. This river eventually enters Hudson Bay and flows through Wahpeton, Fargo, Grand Forks, and Winnipeg. Historical records show this lake was an important avenue in the transportation of United States grain to destinations as far away as Belgium.

On Lake Traverse, the U.S. Army Corps of Engineers maintains and operates White Rock Dam and structures at interstate bridge. Both these sites are located east of Rosholt, SD. Operations to date have been devastating.

Lake Traverse is facing a major disaster due to high water levels. Shorelines have been destroyed. Some small businesses are facing financial jeopardy. Farmland is being lost. Homes, cottages, and other structures are being destroyed. And if that is not enough, subsequent erosion is wreaking havoc on the local land. Thousands of trees are under water and dying.

Something must be done. Taxpayers should not be required to pay taxes on land that is under water and useless.

According to the U.S. Army Corps of Engineers, congressional approval is needed before the corps can take steps to correct the high water level and erosion problems. The corps is managing the lake with arcane rules that are half a century old. That is unacceptable. My bill would give the corps the necessary authority to better manage water release at Lake Traverse and control erosion.

The answer, in the form of legislation I am introducing today, is simple: It would direct the U.S. Army Corps of Engineers to obtain and maintain a high water level at Lake Traverse not to exceed 977 (MSL). In other words, this legislation would provide the necessary authority for the U.S. Army Corps of Engineers to solve the problems surrounding Lake Traverse.

There is strong public support for this action. Just last week, I held a meeting at the Circle K Resort, which is located on the South Dakota side of Lake Traverse. More than 250 people were in attendance. This turnout clearly indicates that South Dakotans believe something needs to be done. The bill I am introducing today would achieve their goal.

Mr. President, I ask unanimous consent that material related to the Lake

Traverse flooding be inserted into the RECORD.

I urge my colleagues from South Dakota and Minnesota to review this legislation. We must solve this problem. I urge their support and the support of the entire Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rosholt Review, Apr. 26, 1995]

PRESSLER SEEKING CONGRESSIONAL ACTION ON TRAVERSE SITUATION

(By Kathleen Cook)

Emotions were almost as hard to control as rising waters on Lake Traverse at a public meeting Thursday night.

More than 250 persons crowded into Circle K Resort to voice concerns about high water, property damage and shoreline erosion at the meeting arranged by South Dakota Sen. Larry Pressler and staff.

Pressler couldn't attend, but he acted quickly on his staff's report of overwhelming public sentiment.

"According to the U.S. Army Corps of Engineers, they need Congressional approval before they can take steps to correct the high water level and erosion problems," he said Friday.

The Corps is managing the lake with rules that applied to its condition half a century ago, and "that is unacceptable," Pressler said.

"I am preparing legislation that would give the Corps the necessary authority to better manage water release at Lake Traverse and to control erosion," Pressler said.

At Pressler's invitation, representatives of the St. Paul District of the U.S. Corps of Engineers attended Thursday's showdown with property owners, area farmers and sportsmen, and others who simply have sentimental ties to the lake.

Also present were representatives of South Dakota Sen. Tom Daschle and Rep. Tim Johnson and Minnesota Sen. Paul Wellstone.

"Currently, landowners are paying taxes on land that is under water and not of any use. Approval of my legislation would change that. I will work with my colleagues from South Dakota, Minnesota and North Dakota to correct this problem quickly," Pressler said.

Lake Traverse, bisected by the border of South Dakota and Minnesota, is located at the headwaters of the Red River, the only major river that flows north in North America, and eventually drains into the Hudson Bay.

Less than 100 years ago, Lake Traverse was a major transportation link for South Dakota agricultural products, Pressler learned after about 100 persons pressed him earlier this month to help them address problems.

Cottonwood Point Resort owner Mike Brody, who led the local effort and who served as moderator Thursday night, summed it up. Citing historic, cultural, recreational and economic value of Lake Traverse, he said, "We would like to see it continue to flourish. We feel the present management of the lake will destroy this treasure."

Brody added, "Tempers are strained, which is understandable. But we are not here to attack or belittle. We are asking cooperation of all parties."

He presented an aerial video taken around the lake April 8. Many trees along the shoreline are dying; some of them have been under water for about three years. Rainbow Island, normally a peninsula, really is an island now. Many miles of shoreline are gouged or washed away with erosion. Silt appears to flow freely into the lake in some spots.

"When work was completed on these dams (White Rock and Reservation) years ago, were they engineered to hold this water back?" Brody asked.

The dams were intended to control "an event" about every 30 years, according to the Corps.

Edward Eaton, water control chief for the St. Paul District of the Corps, said water level has exceeded elevation 981 feet only once in 43 years.

Lake Traverse rose to 980.3 feet above sea level April 1, the third highest level recorded at the reservoir since it became operational in 1940. The pool reached 980.75 in 1952 and 980.71 in 1986, according to Corps information.

Todd Johnston of the Lake Traverse Association pointed out that within recent weeks he believes the water was at least in the 980 range with 40 to 50 mile per hour winds at times, creating two- to three-feet rolling waves. "Was the dam constructed to take that kind of pounding?"

The pool was set at 981 to allow for a couple of feet of wave action, Eaton said.

Eaton then referred to excerpts from a brochure created after a public meeting concerning Traverse flooding in 1986.

At that time, Corps personnel explained in the Reservation pool, located between Browns Valley and Reservation Highway, the government bought permanent flowage rights for lands lying below elevation 977 mean sea level. Elevation 977 is the summer conservation pool for the Reservation pool.

The government also acquired the right to intermittently overflow those lands between the taking line and the summer conservation pool to temporarily store flood water. The flowage easement means Lake Traverse can permanently flood the surrounding land up to the taking line at approximately elevation 983.

"Property owners have cabins with flowage easements. We went through this whole thing after the flood of 1986. The purpose isn't to hold water down but to implement spring drawdown. We don't make releases over winter because of poor quality of water. We wait as close to spring as possible. This year a 1.2 foot drawdown would have made the lake about three-fourths foot higher than it is now," the Corps spokesman said.

Basically, the St. Paul District representatives relied on answers to questions from the 1986 meeting to deal with problems experienced by property owners in varying degrees over the past three years—less than a decade—far from a single "event" occurring every 30 years.

One local resident, John Nelson, wondered if the government controls the lake in such a way that Wahpeton-Breckenridge can release sewage.

Until then, the crowd was quiet, but in their exuberant support of Nelson's question, they even interrupted Brody.

Water treatment in cities downstream of Fargo-Moorhead isn't directly related to flood control, Eaton said. "We don't make releases for waste dissolution."

Brody then asked the Corps staff to define intermittent, since it seemed to him government flowage easements for "intermittent" flooding were "steady" instead, at least the last three years.

At that point, Corps spokesmen repeated they had the right to flood, acquired through easements in the early 1940s and on record in the Roberts County Courthouse.

But several property owners said they purchased lake land with no knowledge of the easements.

It is the responsibility of the property buyer to learn what terms, such as "metes and bounds," mean, to make sure they have abstracts examined and updated and to read their deeds and other real estate papers.

"You're stuck if you didn't have your abstract examined," said Roberts County Commissioner Art Johnson.

Brody asked if the Corps would be willing to work with local agencies to establish retaining pools.

"We don't believe there is a serious sedimentation problem in the lake," said Eaton.

That remark put local folks over the edge, drawing loud disagreement.

Moments later, the crowd broke out in applause when Brody said if the Corps isn't authorized to make changes without Congressional action, then he wanted to pursue Congressional intervention.

He then opened the meeting to comments from the floor.

"We've got to go through all these hoops for our property. Somebody's got to be liable for what I've lost, because I'm still paying taxes on property that is gone, washed away," said one spectator.

The Corps had made no effort to retain shoreline, added another property owner.

Back when the Corps' policies regarding Lake Traverse were established, "environment wasn't so important. Now two islands are completely gone, trees are gone, the rest of the islands are completely gone, trees are gone, the rest of the islands are going . . ." said one longtime property owner.

"What's going to be done?" asked another.

Eaton said choices were offered after the 1986 flood: Restore property to its condition before the high water and accept the risk that there may be high water again, or floodproof property so that when the lake gets above 977 elevation, property won't be damaged as severely.

Roberts County Commissioner LaVonne Ringsaker wondered if the Corps has money for dredging. Eaton said no.

Another spectator remarked, "Water seems to be held longer these days, and the soil can't absorb it after a number of very wet years."

"What's the magic of 981?" asked another.

Gordon Heitzman, a water control specialist with the Corps, answered, "The bowl is only so big; it's for the safety of the dam."

Asked for some specific dates regarding establishment of Lake Traverse policy, Heitzman became flippant—saying he was still in school back then and wouldn't know. He insinuated information sent ahead of the meeting should have provided answers to some of the questions being tossed out.

That, and just so much technical jargon, made Brody lose his composure.

"I'm not a professor, I'm a resort owner!" he said, exhibiting a thick catalog of Corps facts, figures and policies, which he received when he requested advance information.

"You called Friday (April 14) and asked for data. You didn't tell me your problems. I would like the same courtesy," Heitzman said. Heitzman later apologized.

[From Watertown Public Opinion, Apr. 11, 1995]

TRAVERSE RESIDENT BLAME CORPS FOR WATER WOES

(By Wayne Specht)

LAKE TRAVERSE—Rising water along sprawling Lake Traverse is inundating the economic and retirement dreams of Mike Brody and Ron Spencer.

Both men say it's the fault of the U.S. Army Corps of Engineers.

Last week, the Corps opened pen gates on the White Rock Dam at the northern reaches of Lake Traverse to relieve build-up of water delivered by Minnesota's Mustinka River.

That caused waters along Traverse shorelines to rise inundating some farm buildings, boat houses and vacation cabins built 40 years ago during drier weather cycles than what have been seen in the last several years.

Brody bought the 14-acre Cottonwood Point Resort, three rental cabins and a larger building housing a bar, three years ago.

For a time this week, his property was isolated as Traverse waters covered the only access road to the modest resort. Brody's parking lot is under several feet of water and he lost a line of trees he planted recently.

Because his septic tanks have been overtaken by lake waters, his sump pump motors have burned out, too, and reservations booked for cabins later this month may have to be canceled.

"This is the third consecutive year this has happened, and it's because of the Corp's inept water management practices over the years," says Brody, who estimates 10 of his 14 acres are now underwater. He had to haul in fill material to restore the access road so he could reach his property and says it will cost him $1,000 to blade his property when the water recedes.

One mile south of Brodie, Spencer had to purchase $210 worth of fill material to build a dike around his home to keep lake waters outside.

"I live on my military retirement checks and I won't be able to meet my bills this month because I had to buy the fill material."

Spencer is not a happy camper either.

As he neared the end of a 24-year Air Force career, Spencer thought it would be a wonderful idea to purchase the property where, as a child, he accompanied his parents to enjoy summertime swimming, fishing and carefree hours on the same swing that remains on the site today.

"It was my dram come true when I purchased the property last October," Spencer says. "But if I had the chance, I would sell the property tomorrow. I got took."

That's because unlike Brody, who was told by local residents of Traverse flooding that threatened lakeshore structures every 10 or 15 years, owners who sold Spencer his nearly three acres, never let on about seasonal flooding.

When the water rose, Brody and Spencer went scurrying for land abstracts where they learned the Corps of Engineers purchased land around the perimeter of the lake that would be covered by water in wet years.

"We also purchased flowage easements around the lake covering areas that would be covered by water back in 1942 when the White Rock Dam and Reservation Dam across the lake were completed," explained Corps of Engineers Public Affairs spokesman, Ken Gardner.

Brody says his abstract shows the federal government obtained easements rights for 977 feet above sea level in 1942.

"Today (Thursday) I found an affidavit on file in the Roberts County Courthouse from Col. Joseph Briggs, St. Paul district engineer, dated 1987 placing on public record the right of the federal government to intermittently raise lake levels to 983 feet. Aren't they required to tell landowners?"

During dry cycles, these figures are of no concern to lake residents as Corps management of water outflow from the two dams keeps reservoir levels behind the White Rock Dam at between 976 and 977 feet.

"However the dams were built for flood control for the cities of Wahpeton and Breckenridge which sit on the Boyd de Sioux River," Gardner said. "When flood stage reaches 10 feet in either location, we shut the dam down tight to zero outflow."

That was the case twice during March when the inflow to Lake Traverse was doubling every 24 hours, Gardner noted, and some minor flooding struck Wahpeton.

This morning (Thursday) outflow from the White Rock Dam was 1,100 cubic feet per second, the maximum outflow says Corps resource manager for the Lake Traverse project Dave Solberg.

Solberg says the outflow has been holding steady and barring unforeseen heavy rainfall, he says Lake Traverse waters should be back to normal levels by June 15 given good evaporation conditions.

Gardner and Solberg both say the problem for residents like Spencer and Brody is properties they bought were built during the 1950s within the federal easements and are subject to periodic flooding, especially during the past three very wet years.

"I wasn't asking the Corps to bend over for me," Brody says, "but Solberg told me I shouldn't have purchased my property. What kind of compassion is that?"

Brody and Spencer says the larger problem is federal government enticements to farmers for the last 60 years that rewarded them for draining sloughs thus eliminating natural drainage areas.

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. DOLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 3, a bill to control crime, and for other purposes.

S. 12

At the request of Mr. BREAUX, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 38

At the request of Mr. HATCH, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 38, a bill to amend the Violent Crime Control and Law Enforcement Act of 1994, and for other purposes.

S. 105

At the request of Mr. DASCHLE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 105, a bill to amend the Internal Revenue Code of 1986 to provide that certain cash rentals of farmland will not cause recapture of special estate tax valuation.

S. 234

At the request of Mr. CAMPBELL, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 234, a bill to amend title 23, United States Code, to exempt a State from certain penalties for failing to meet requirements relating to motorcycle helmet laws if the State has in effect a motorcycle safety program, and to delay the effective date of certain penalties for States that fail to meet certain requirements for motorcycle safety laws, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 351

At the request of Mr. HATCH, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 351, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities.

S. 354

At the request of Mr. BREAUX, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 354, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing.

At the request of Mr. BREAUX, the name of the Senator from Mississippi [Mr. COCHRAN] was withdrawn as a cosponsor of S. 354, supra.

S. 358

At the request of Mr. HEFLIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

S. 463

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 463, a bill to amend title 28, United States Code, with respect to the treatment of certain transportation and subsistence expenses of retired judges.

S. 476

At the request of Mr. NICKLES, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 476, a bill to amend title 23, United States Code, to eliminate the national maximum speed limit, and for other purposes.

S. 524

At the request of Mr. WELLSTONE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 524, a bill to prohibit insurers from denying health insurance coverage, benefits, or varying premiums based on the status of an individual as a victim of domestic violence and for other purposes.

S. 548

At the request of Mr. ROCKEFELLER, the name of the Senator from Delaware

[Mr. BIDEN] was added as a cosponsor of S. 548, a bill to provide quality standards for mammograms performed by the Department of Veterans Affairs.

S. 615

At the request of Mr. AKAKA, the names of the Senator from Oklahoma [Mr. INHOFE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 615, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 641

At the request of Mr. KENNEDY, the names of the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 650

At the request of Mr. SHELBY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

At the request of Mr. MACK, the names of the Senator from Wyoming [Mr. THOMAS], the Senator from North Carolina [Mr. HELMS], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 650, supra.

S. 688

At the request of Mr. MURKOWSKI, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Maine [Ms. SNOWE] were added as cosponsors of S. 688, a bill to provide for the minting and circulation of one-dollar silver coins.

SENATE RESOLUTION 75

At the request of Mr. MOYNIHAN, the names of the Senator from California [Mrs. BOXER], the Senator from New Jersey [Mr. BRADLEY], the Senator from West Virginia [Mr. BYRD], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Maine [Mr. COHEN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Ohio [Mr. DEWINE], the Senator from Connecticut [Mr. DODD], the Senator from New Mexico [Mr. DOMENICI], the Senator from Ohio [Mr. GLENN], the Senator from Washington [Mr. GORTON], the Senator from Alabama [Mr. HEFLIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr. KERREY], the Senator from Massachusetts [Mr. KERRY], the Senator from Wisconsin [Mr. KOHL], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Rhode Island [Mr. PELL], the Senator from South Dakota [Mr. PRESSLER], the Senator from Virginia [Mr. ROBB], the Senator from Maryland [Mr. SARBANES], the Senator from Illinois [Mr. SIMON], the Senator from Wyoming [Mr. SIMPSON], the Senator from South Carolina [Mr. THURMOND], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Resolution 75, a resolution to designate October 1996, as "Roosevelt History Month," and for other purposes.

SENATE RESOLUTION 97

At the request of Mr. THOMAS, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Resolution 97, a resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Georgia [Mr. COVERDELL], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

AMENDMENT NO. 603

At the request of Mr. MCCONNELL the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of amendment No. 603 proposed to H.R. 956, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

AMENDMENTS SUBMITTED

COMMONSENSE PRODUCT LIABILITY REFORM ACT

KYL AMENDMENT NO. 611

Mr. KYL proposed an amendment to amendment No. 603, proposed by Mr. MCCONNELL, to amendment No. 596, proposed by Mr. GORTON to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

At the appropriate place, insert the following new section:

SEC. . LIMITATION ON NONECONOMIC DAMAGES.

(a) IN GENERAL.—With respect to any health care liability action, in addition to any award of economic or punitive damages, a claimant may be awarded noneconomic damages, including damages awarded to compensate the claimant for injured feelings such as pain and suffering, emotional distress, and loss of consortium.

(b) LIMITATION.—The amount of noneconomic damages that may be awarded to a claimant under subsection (a) may not exceed $500,000. Such limitation shall apply regardless of the number of defendants in the action and the number of claims or actions brought with respect to the injury involved.

(c) NO DISCLOSURE TO TRIER OF FACT.—The trier of fact in an action described in subsection (a) may not be informed of the limitation contained in this section.

(d) AWARDS IN EXCESS OF LIMITATION.—An award for noneconomic damages in an action described in subsection (a), in excess of the limitation contained in subsection (b) shall—

(1) be reduced to $500,000 either prior to entry of judgment or by amendment of the judgment after entry;

(2) be reduced to $500,000 prior to accounting for any other reduction in damages required under applicable law; and

(3) in the case of separate awards of damages for past and future noneconomic damages, be reduced to $500,000 with the initial reductions being made in the award of damages for future noneconomic losses.

(e) PRESENT VALUE.—An award for future noneconomic damages shall not be discounted to present value.

DEWINE AMENDMENT NO. 612

Mr. DEWINE proposed an amendment to amendment No. 603, proposed by Mr. MCCONNELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

In section 12(5) of the amendment, add at the end thereof the following new sentence: "Such term does not include an action where the alleged injury on which the action is based resulted from an act of sexual abuse (as defined under applicable State law) committed by a provider, professional, plan or other defendant.".

HATCH AMENDMENT NO. 613

Mr. HATCH proposed an amendment to amendment No. 603, proposed by Mr. MCCONNELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

In section 20(d)(1), strike "with technical assistance" and insert "with grants or other technical assistance".

SIMON (AND WELLSTONE) AMENDMENT NO. 614

Mr. SIMON (for himself and Mr. WELLSTONE) proposed an amendment to amendment No. 603, proposed by Mr. MCCONNELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

At the appropriate place insert the following:

SECTION . STATE OPTION.

(a) A provision of this subtitle shall not apply to disputes between citizens of the same State if such State enacts a statute—

(1) citing the authority of this section; and

(2) declaring the election of such State that such provision shall not apply to such disputes.

(b) If a dispute arises between citizens of two States that have elected not to apply a particular provision, ordinary choice of law principles shall apply.

(c) For purposes of this section, a corporation shall be deemed a citizen of its State of incorporation and of its principal place of business.

KENNEDY AMENDMENT NO. 615

Mr. KENNEDY proposed an amendment to amendment No. 603, proposed by Mr. McCONNELL to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

On page 8, line 20, insert after "subsection" the following: "(b) and".

Strike the material from page 9, line 4 through page 10, line 17, and insert in lieu thereof the following "The provisions of this subtitle shall not be construed to preempt any state statute but shall govern any question with respect to which there is no state statute".

DODD AMENDMENT NO. 616

Mr. DEWINE (for Mr. DODD) proposed an amendment to amendment no. 603, proposed by Mr. McCONNELL to amendment no. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

Strike section 15 of the amendment and insert the following new section:

SEC. 15. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in an action that is subject to this Act if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) BIFURCATION AND JUDICIAL DETERMINATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in an action that is subject to this Act in which punitive damages are sought, the trier of fact shall determine, concurrent with all other issues presented, whether such damages shall be allowed. If such damages are allowed, a separate proceeding shall be conducted by the court to determine the amount of such damages to be awarded.

(2) ADMISSIBLE EVIDENCE.—

(A) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A BIFURCATED PROCEEDING.—Notwithstanding any other provision of law, in any proceeding to determine whether the claimant in an action that is subject to this Act may be awarded compensatory damages and punitive damages, evidence of the defendant's financial condition and other evidence bearing on the amount of punitive damages shall not be admissible unless the evidence is admissible for a purpose other than for determining the amount of punitive damages.

(B) PROCEEDING WITH RESPECT TO PUNITIVE DAMAGES.—Evidence that is admissible in a separate proceeding conducted under paragraph (1) shall include evidence that bears on the factors listed in paragraph (3).

(3) FACTORS.—Notwithstanding any other provision of law, in determining the amount of punitive damages awarded in an action that is subject to this Act, the court shall consider the following factors:

(A) The likelihood that serious harm would arise from the misconduct of the defendant in question.

(B) The degree of the awareness of the defendant in question of that likelihood.

(C) The profitability of the misconduct to the defendant in question.

(D) The duration of the misconduct and any concealment of the conduct by the defendant in question.

(E) The attitude and conduct of the defendant in question upon the discovery of the misconduct and whether the misconduct has terminated.

(F) The financial condition of the defendant in question.

(G) The total effect of other punishment imposed or likely to be imposed upon the defendant in question as a result of the misconduct, including any awards of punitive or exemplary damages to persons similarly situated to the claimant and the severity of criminal penalties to which the defendant in question has been or is likely to be subjected.

(H) Any other factor that the court determines to be appropriate.

(4) REASONS FOR SETTING AWARD AMOUNT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, with respect to an award of punitive damages in an action that is subject to this Act, in findings of fact and conclusions of law issued by the court, the court shall clearly state the reasons of the court for setting the amount of the award. The statements referred to in the preceding sentence shall demonstrate the consideration of the factors listed in subparagraphs (A) through (G) of paragraph (3). If the court considers a factor under subparagraph (H) of paragraph (3), the court shall state the effect of the consideration of the factor on setting the amount of the award.

(B) REVIEW OF DETERMINATION OF AWARD AMOUNT.—The determination of the amount of the award shall only be reviewed by a court as a factual finding and shall not be set aside by a court unless the court determines that the amount of the award is clearly erroneous.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an oversight hearing on Tuesday, May 2, 1995, beginning at 9:30 a.m., in room 485 of the Russell Senate Office Building on the implementation of the tribal self-governance demonstration project authorities by the Indian Health Service.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing on Thursday, May 18, 1995, at 9:30 a.m., in room SD–628. The focus of the hearing is the Small Business Administration's 7(a) Business Loan Program.

For further information, please contact Paul Cooksey at 224–5175.

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

• Mr. McCONNELL. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for William Triplett, a member of the staff of Senator BENNETT, to participate in a program in Abu Dhabi sponsored by the Abu Dhabi Chamber of Commerce from March 9–23, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Triplett in this program.

The select committee received notification under rule 35 for Senator BOND and two members of the staff, Warren Erdman and Brent Franzel, to participate in a program in the Republic of China on Taiwan, sponsored by the Chinese National Association of Industry and Commerce, from April 18–21, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Senator BOND, Mr. Erdman, and Mr. Franzel in this program.

The select committee received notification under rule 35 for William B. Bonvillian, a member of the staff of Senator LIEBERMAN, to participate in a program in Taipei sponsored by the Tamkang University from April 10–16, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Bonvillian in this program.•

DR. DAVID A. KESSLER'S SPEECH ON TOBACCO

• Mr. SIMON. Mr. President, recently, I had a chance to read a speech by Dr. David A. Kessler, the Commissioner of the Food and Drug Administration, to the Columbia University Law School.

I have been very favorably impressed by Dr. Kessler's commitment and doggedness over the years. My colleagues will recall that he was an appointee of President George Bush, and when Bill Clinton became President, I urged him to retain David Kessler, and I am pleased that he has done so.

His talk to the Columbia University Law School was about tobacco and specifically about young people and tobacco. He describes nicotine addiction as "a pediatric disease."

What tobacco companies are clearly trying to do, and unfortunately doing successfully, is to make smoking attractive to young people.

My wife and I recently took a vacation, at our own expense, I hasten to add, to Portugal and Spain, and the percentage of young people who smoke in those two countries, as well as in the rest of the world, unquestionably is higher than it is in the United States. But more young people are smoking in the United States, and according to Dr. Kessler, 7 out of 10 who smoke, report that they regret having started.

He does not mention in his remarks something I have read elsewhere, and that is someone who is a cigarette smoker is much more likely to get involved in hard drugs.

An area where I have some concerns is his comment on advertising.

I believe the Federal Government has to move very cautiously when it comes to first amendment matters.

It does seem to me, however, that it is only realistic and fair to ask the advertisers to warn more effectively about the dangers of cigarettes.

We require this of the manufacturer of other products.

The speech by Dr. Kessler is something we should be taking extremely seriously, and I ask that the speech be printed in the RECORD.

The speech follows:

REMARKS BY DAVID A. KESSLER, M.D.

It is easy to think of smoking as an adult problem. It is adults who die from tobacco related diseases. We see adults light up in a restaurant or bar. We see a colleague step outside for a cigarette break.

But this is a dangerously short-sighted view.

It is as if we entered the theater in the third act—after the plot has been set in motion, after the stage has been set. For while the epidemic of disease and death from smoking is played out in adulthood, it begins in childhood. If there is one fact that I need to stress today, it is that a person who hasn't started smoking by age 19 is unlikely to ever become a smoker. Nicotine addiction begins when most tobacco users are teenagers, so let's call this what it really is: a pediatric disease.

Each and every day another three thousand teenagers become smokers. Young people are the tobacco industry's primary source of new customers in this country, replacing adults who have either quit or died. An internal document of a Canadian tobacco company, an affiliate of a tobacco company in the United States, states the case starkly:

"If the last ten years have taught us anything, it is that the [tobacco] industry is dominated by the companies who respond most effectively to the needs of the younger smokers."

If we could affect the smoking habits of just one generation, we could radically reduce the incidence of smoking-related death and disease, and a second unaddicted generation could see nicotine addition go the way of smallpox and polio.

The tobacco industry has argued that the decision to smoke and continue to smoke is a free choice made by an adult. But ask a smoker when he or she began to smoke. Chances are you will hear the tale of a child. It's the age-old story, kids sneaking away to experiment with tobacco, trying to smoke without coughing, without getting dizzy, and staring at themselves in a mirror just to see how smooth and sophisticated they can look.

The child learns the ritual. It is a ritual born partly out of a childish curiosity, partly out of a youthful need to rebel, partly out of a need to feel accepted, and wholly without regard for danger. It is a ritual that often, tragically, lasts a lifetime. And it is a ritual that can cut short that lifetime.

Many of us picture youngsters simply experimenting with cigarettes. They try smoking like they try out the latest fad—and often drop it just as quickly. But when you recognize that many young people progress steadily from experimentation to regular use, with addiction taking hold within a few years, the image is far different, far more disconcerting. Between one-third and one-half of adolescents who try smoking even a few cigarettes soon become regular smokers.

What is perhaps most striking is that young people who start smoking soon regret it. Seven out of 10 who smoke report that they regret ever having started. But like adults, they have enormous difficulty quitting. Certainly some succeed, but three out of four young smokers have tried to quit at least once and failed.

Consider the experience of one 16-year-old girl, recently quoted in a national magazine. She started to smoke when she was eight because her older brother smoked. Today, she says: "Now, I'm stuck. I can't quit...It's so incredibly bad to nic-fit, it's not even funny. When your body craves the nicotine, it's just: 'I need a cigarette.'"

In her own terms she has summarized the scientific findings of the 1988 Surgeon General's report. That report concluded: "Cigarettes and other forms of tobacco are addicting" and "Nicotine is the drug in tobacco that causes addiction."

Let there be no doubt that nicotine is an addictive substance. Many studies have documented the presence of the key addiction criteria relied on by major medical organizations. These criteria include: highly-controlled or compulsive use, even despite a desire, or repeated attempts to quit; psychoactive effects on the brain; and drug-motivated behavior caused by the "reinforcing" effects of the psychoactive substance. Quitting episodes followed by relapse and withdrawal symptoms that can motivate further use are some additional criteria of an addictive substance.

Are young people simply unaware of the dangers associated with smoking and nicotine addiction? No, not really. They just do not believe that these dangers apply to them.

For healthy young people, death and illness are just distant rumors. And until they experience the grip of nicotine addiction for themselves, they vastly underestimate its power over them. They are young, they are fearless, and they are confident that they will be able to quit smoking when they want to, and certainly well before any adverse health consequences occur.

They are also wrong. We see that documented in papers acquired from one company in a Canadian court case. A study prepared for the company called "Project 16" describes how the typical youthful experimenter becomes an addicted smoker within a few years.

"However intriguing smoking was at 11, 12, or 13, by the age of 16 or 17 many regretted their use of cigarettes for health reasons and because they feel unable to stop smoking when they want to . . . Over half claim they want to quit. However, they cannot quit any easier than adults can."

This sense of helplessness and regret was further tracked in a subsequent study for the company called "Project Plus/Minus." It was completed in 1982:

"[T]he desire to quit seems to come earlier now than ever before, even prior to the end of high school. In fact, it often seems to take hold as soon as the recent starter admits to himself that he is hooked on smoking. However the desire to quit and actually carrying it out, are two quite different things, as the would-be quitter soon learns."

Unfortunately, youth smoking gives no sign of abating. While the prevalence of smoking among adults has steadily declined since 1964, the prevalence of smoking by young people stalled for more than a decade and recently has begun to rise. Between 1992 and 1993 the prevalence of smoking by high school seniors increased from 17.2 percent to 19 percent. Smoking among college freshmen rose from 9 percent in 1985 to 12.5 percent in 1994.

And young people's addiction to nicotine is not limited to smoking. Children's use of smokeless tobacco, such as snuff and chewing tobacco, is also extensive. Today, of the seven million people in this country who use smokeless tobacco, as many as one in four is under the age of 19.

This epidemic of youth addiction to nicotine has enormous public health consequences. A casual decision at a young age to use tobacco products can lead to addiction, serious disease, and premature death as an adult. More than 400,000 smokers die each year from smoking-related illnesses.

Smoking kills more people each year in the United States than AIDS, car accidents, alcohol, homicides, illegal drugs, suicides and fires combined. And the real tragedy is that these deaths from smoking are preventable.

A year ago the FDA raised the question of whether the Agency has a role in preventing this problem. FDA has responsibility for the drugs, devices, biologics and food used in this country. Over the last year we have been looking at whether nicotine-containing tobacco products are drugs subject to the requirements of the Federal Food, Drug, and Cosmetic Act. Our study continues. But we already know this: Nicotine is an addictive substance and the marketplace for tobacco products is sustained by this addiction. And what is striking is that it is young people who are becoming addicted.

Statements from internal documents by industry researchers and executives show that they understood that nicotine is addictive and how important it is to their product. Listen to these statements made decades ago:

"We are, then, in the business of selling nicotine, an addictive drug."

"Think of the cigarette pack as a storage container for a day's supply of nicotine. Think of the cigarette as a dispenser for a dose of nicotine. Think of a puff of smoke as the vehicle for nicotine."

And consider what a research group reported to one tobacco company about starter smokers who assume they will not become addicted:

"But addicted they do indeed become."

More recently, a former chief executive officer of a major American tobacco company, told the Wall Street Journal: "Of course it's addictive. That's why you smoke . . ." And a former smokeless tobacco industry chemist was recently quoted as saying: "There used to be a saying at [the company] that 'There's a hook in every can' . . . [a]nd that hook is nicotine."

Nevertheless, the industry publicly insists that smoking is a choice freely made by adults. An advertisement by one of the major tobacco companies that appeared in newspapers across the country last year bore a headline that read "Where Exactly Is The Land of the Free?" It suggests that the government is interested in banning cigarettes—although no one in government has advocated such a position. With some 40 million smokers addicted to nicotine, a ban would not be feasible.

The ad never addresses youth smoking. And it says ". . . The time has come to allow adults in this country to make their own decisions of their own free will, without Government control and excessive intervention."

But listen to the words of one smoker on the subject of freedom and choice:

"Well, do you think I chose to smoke? Do you believe that I took a cigarette and said, 'I think I'll smoke this one and then maybe four hundred thousand more?"

She continues:

"Choice. That's a laugh. Within each day I make dozens—perhaps hundreds—of large and small choices. From morning until bedtime, I pick and choose. I look at options and decide. One thing I don't decide, however, is whether to smoke. For me, a forty-seven-year old woman, that decision was made nearly thirty years ago by a first-year college student. And even she wasn't intending to make a lifelong decision; she was just going to try one cigarette. And then maybe just one more. Another and then another, and at some point, she lost her power to choose. She had become addicted, still believing she chose to smoke and denying the power and impact of nicotine in her life. Belief in my power to choose, and denial of how totally nicotine has stripped me of that power, are my two greatest enemies."

We cannot adequately address this pediatric disease our country faces without recognizing the important influences on a young person's decision to smoke. One such influence is industry advertising and promotion. It is important to understand the effects of these practices on young people.

In the last two decades, the amount of money the cigarette industry has spent to advertise and promote its products has dramatically risen. Despite a longstanding ban on broadcast advertising, in 1992 alone the industry spent more than $5.2 billion. This makes it the second most heavily advertised commodity in the United States, second only to automobiles.

Tobacco advertising appears in print media, on billboards, at point of sale, by direct mail, on an array of consumer items such as hats, t-shirts, jackets, and lighters, and at concerts and sporting events. The sheer magnitude of advertising creates the impression among young people that smoking is much more ubiquitous and socially acceptable than it is. In studies, young smokers consistently overestimate the percentage of people who smoke.

In addition, tobacco industry advertising themes and images resonate with young people. Advertising experts describe the cigarette package as a "badge" product that adolescents show to create a desired self image and to communicate that image to others. As a retired leading advertising executive has stated: "When the teenagers loose [sic] the visual link between the advertising and the point of sale . . . they will loose [sic] much of the incentive to rebel against authority and try smoking."

In recent years, the tobacco industry has been spending more money on marketing and promotion and less on traditional advertising. For example, it distributes catalogues of items that can be obtained with proof of purchase coupons attached to cigarette packs—such as Camel Cash and Marlboro Mile. These coupons are exchanged for non tobacco consumer items imprinted with product logos.

These items have proven to be a big hit with children and adolescents. Half of all adolescent smokers and one quarter of nonsmokers own at least one promotional item from a tobacco company, according to a 1992 Gallup survey.

Sponsorship of athletic, musical, sporting and other events is another important way that the industry promotes its product. This links tobacco products with the glamorous and appealing worlds of sports and entertainment. And the logos of their brands are viewed during televised events, despite the federally mandated broadcast advertising ban.

Make no mistake: All of this advertising and promotion is chillingly effective. The three most heavily advertised brands of cigarettes are Marlboro, Camel and Newport. A recent study by the Centers for Disease Control and Prevention found that 96 percent of underage smokers who purchase their own cigarettes purchased one of those three heavily advertised brands.

The advertisements apparently have far less impact on adults. By far, the most popular brand choices for adults are the private label, price value, and plain package brands, which rely on little or no imagery on their packaging or advertising.

Let me describe two campaigns to illustrate the effects that advertising and marketing practices can have on young people. One campaign gave new life to a cigarette brand with an aging customer base. The other revitalized the dying smokeless tobacco market.

In the early 1980's, Camel cigarettes were smoked primarily by men over 50, and commanded about 3 to 4 percent of the overall market. So the company began to make plans to reposition Camel.

The new advertising for Camel was designed to take advantage of Camel's 75th birthday. The campaign featured the cartoon character "Joe Camel" as its anthropomorphic spokescamel who gave dating advice called "smooth moves" and who eventually was joined by a whole gang of hip camels at the watering hole.

The campaign was variously described as irreverent, humorous and sophomoric. But Joe Camel gave the company what it wanted: a new vehicle to reposition the Camel brand with more youth appeal.

During the same time period, the company devised what it called a Young Adult Smokers program—which went by the acronym Y A S. The program was designed to appeal to the 18 to 24 age group, and more narrowly to the 18- to 20-year-old audience. The program also had a tracking system to monitor sales in these groups.

Let me give you several facts about that program.

First, on January 10, 1990, a division manager in Sarasota, Florida issued a memorandum describing a method to increase the exposure and access to the Young Adult Market for the Joe Camel campaign. The memorandum asked sales representatives to identify stores within their areas that "are heavily frequented by young adult shoppers. These stores can be in close proximity to colleges [, and] high schools . . ." The purpose of the memorandum was to make sure that those stores were always stocked with items that appeal to younger people—such as hats and tee shirts—carrying the Camel name and imagery.

A Wall Street Journal article revealed the contents of this letter and it also contained the company's response that the memo was a mistake. The company said the mistake had been corrected and explained that the manager had violated company policy by targeting high school students. However, on April 5, 1990, another division manager, this time in Oklahoma, sent a memo to all areas sales representatives and chain service representatives in parts of Oklahoma. The memo refers to what it calls "Retail Young Adult Smoker Retailer Account[s]" and goes on to say:

"The criteria for you to utilize in identifying these accounts are as follows: (1) . . . calls located across from, adjacent to [or] in the general vicinity of the High Schools . . ."

Second, an additional element of its Camel campaign was known as FUBYAS—FUBYAS—an acronym for First Usual Brand Young Adult Smokers. The company's own research in the 1980's revealed a noteworthy behavior among smokers: the brand that they use when they first become regular smokers is the brand that smokers stay with for years. There is a great deal of brand loyalty among smokers.

Third, the next slide shows the effect of the YAS or young adult smoker campaign. Prior to the campaign, about 2 to 3 percent of smokers under the age of 18 named Camel as their brand. By 1989, a year into the campaign, Camel's share of underage smokers had risen to 8.1 percent and within a few years it had grown to at least 13 percent. During this same period, Camel's share of the adult market barely moved from its four percent market share.

The campaign succeeded in resurrecting the moribund Camel brand. But it also managed to create an icon recognizable to even the youngest children. Two studies, one by an independent researcher and one company funded, found that children as young as three to six easily recognize Joe Camel and know that he is associated with cigarettes. The company's researcher found that children were as familiar with Joe Camel as they were with Ronald McDonald. This fact is significant because children this young get most of their product information from television advertising. But cigarettes have not been advertised on television since 1970.

The campaign was clearly very effective with the target group—the YAS smokers. But it was also effective with the younger, under 18 smokers.

The second example of industry promotion concerns the largest smokeless tobacco company in America. It was also trying to revive the declining market for its product. By 1970, these products were used predominantly by men over 50. Young males had the lowest usage.

The company set about to redesign its products and refocus its advertising and promotion to target younger people, especially younger men. Its high-nicotine delivery products were apparently not well tolerated by new users. But as part of the redesign, it developed low-nicotine delivery snuff products in easy to use teabag-like pouches. Company documents indicate that these products were developed to create "starter" brands that would attract new users who could not tolerate the higher-nicotine delivery products.

A cherry-flavored product was also developed. In fact, one former company sales representative was quoted in the Wall Street Journal as saying that the cherry product "is for somebody who likes the taste of candy, if you know what I'm saying."

The documents also show that the company set out to produce a range of products with low, medium, and high nicotine deliveries. One document shows that the company expected its customers to "graduate" upward through the range of nicotine deliveries. This chart, prepared by its marketing department shows the hierarchy of products, with arrows going from Skoal Bandits (the teabags), through Happy Days and Skoal Long Cuts, and ultimately to Copenhagen—the company's highest nicotine delivery product.

The idea behind the advertising and marketing strategy was captured in a statement a few years earlier, in 1968, by a company vice president:

"We must sell the use of tobacco in the mouth and appeal to young people . . . we hope to start a fad."

The company's reliance on the graduation process can also be seen in a company document that depicts a "bullseye" chart. This chart shows the company's plan to advertise, promote, and provide free samples of the lower nicotine delivery products to new users. The highest nicotine products were to be advertised only to current users, and only in a highly focused manner.

This product development and marketing strategy has been extremely successful in recruiting new users. Use of smokeless tobacco products has risen dramatically since the 1970's. Moist snuff sales tripled from 1972 to 1991 and use by 18 to 19-year-old boys increased 1,500 percent from 1970 to 1991.

The Camel and smokeless campaigns demonstrate how marketing and promotion targeted at younger tobacco users can also reach children and adolescents. And those young people who choose to smoke have easy access to the products. Tobacco products are among the most widely available consumer products in America, available in virtually every gas station, convenience store, drug store, and grocery store. And though every state in the country prohibits the sale of cigarettes to those who are underage, study after study demonstrates that these laws are widely ignored. Teenagers can purchase tobacco products with little effort—and they know it. A 1990 survey by the National Cancer Institute found that eight out of 10 ninth graders said it would be easy for them to buy their own cigarettes. By some estimates, at least as many as 255 million packs are sold illegally to minors each year.

Younger smokers are more likely to buy their cigarettes from vending machines, where they can make their purchases quickly, often unnoticed by adults. The vending machine industry's own study found that 13-year-olds are 11 times more likely to buy cigarettes from vending machines than 17-year olds. The 1994 Surgeon General's Report examined nine studies on vending machine sales and found that underage persons were able to buy cigarettes 82 to 100 percent of the time.

But the easy access does not stop with vending machines. Self-service displays allow buyers to help themselves to a pack of cigarettes or a can of smokeless with minimal contact with a sales clerk. This makes it easier for an underage person to buy tobacco products.

I've told you today that 90 percent of those who smoke began to do so as children and teenagers. I've told you that most of them become addicted and that 7 out of 10 wish they could quit. I've told you that the tobacco industry spends more than $5 billion a year to advertise and promote an addictive product and it uses cartoon characters, tee shirts and other gimmicks that appeal to children. I've told you that one company went so far as to develop a young adult smoker's program which, intentional or not, increased cigarette sales to children.

Some may choose to ignore these facts. Some will continue to insist that the issue is an adult's freedom of choice. Nicotine addiction begins as a pediatric disease. Yet our society as a whole has done little to discourage this addiction in our youth. We must all recognize this fact and we must do more to discourage this addiction in our youth.

A comprehensive and meaningful approach to preventing future generations of young people from becoming addicted to nicotine in tobacco is needed. Any such approach should: First, reduce the many avenues of easy access to tobacco products available to children and teenagers; second, get the message to our young people that nicotine is addictive, and that tobacco products pose serious health hazards—and not just for someone else; and third reduce the powerful imagery in tobacco advertising and promotion that encourages young people to begin using tobacco products.

These types of actions have been advocated by many public health experts and organizations, including most recently the Institute of Medicine which recently issued a report on smoking and children. And a recent public opinion poll sponsored by the Robert Wood Johnson Foundation showed widespread public support for measures to reduce smoking by young people.

When it comes to health, we Americans are an impatient people. We venerate the deliberate, cautious scientific method but we yearn for instant cures. We grow restless waiting years or even months for answers, yet today I am telling you to look to the next generation.

Certainly some of the forty million addicted adult smokers in this country will succeed in quitting. Every addictive substance has some who are able to break its grip, and we should do all we can to support those who want to quit. But let us not fool ourselves. To succeed, we must fix our gaze beyond today's adults.

Of course we all want freedom for our children. But not the freedom to make irreversible decisions in childhood that result in devastating health consequences for the future. Addiction is freedom denied. We owe it to our children to help them enter adulthood free from addiction. Our children are entitled to a lifetime of choices, not a lifelong addiction.•

BUZZ ALDRIN ELEMENTARY SCHOOL

• Mr. WARNER. Mr. President, last Tuesday I had the privilege of attending the dedication ceremony naming the Buzz Aldrin Elementary School, in Reston, VA.

The school's namesake, Dr. Aldrin, delivered a very moving statement at that event. He reminded the students that "no dream is too high for those with their eyes in the sky."

Who among us does not remember being riveted by the words "one small step for man; one giant leap for mankind?" Buzz Aldrin's inspiring remarks brought back that momentous day—July 20, 1969—when the *Eagle* landed and man's first steps were taken on the moon. Most importantly, he made it clear to the students in the audience that they, too, can and will accomplish great things.

I am pleased to share Dr. Aldrin's remarks with my colleagues and ask that they be printed in the RECORD.

The remarks follow:

A SPEECH BY BUZZ ALDRIN UPON THE DEDICATION OF THE SCHOOL NAMED IN HIS HONOR

Few people have the opportunity to attend the dedication of a school that has been named for them. My family and I are appreciative that the leadership of Fairfax County named Aldrin Elementary School in my honor, rather than in my memory! Thank you very much. It is a privilege to be here.

Twenty-five years ago it was a privilege to be there. It was incredible to be someone who lived the words, "to go where no man has gone before," and science fiction became scientific fact when we walked on the moon.

Some of you in the audience may still remember where you were when you heard that the Eagle had landed. Some of you sat glued to a television screen as I climbed down to the surface of the moon. For a nation unwilling to accept second place in the race for space, it was a declaration of victory. For a world believing that space was an unconquerable frontier, it was a shout of triumph. "One small step for man; one giant leap for mankind."

I still hear those words in my ears, just like the hallways of this school echo with the steps of boys and girls and adults. Each day students, teachers, and administrators alike are taking small steps together to embrace the future. Some steps are taken in wheelchairs. Some steps are aided by walkers. Some steps are the small steps of two year olds and the larger ones are the steps of 12 years olds. But no one really moves toward the future alone. Each of us has been helped in our stride toward tomorrow. The steps that occur within this school are not steps taken alone. Parents bold the hand of their children, each step a step of love. Teachers hold the hands of students, each step a step of knowledge. Administrators hold the hands of students, parents, and faculty so that each step is supported. And community people, business leaders, people like Brian M. Mulholland, government officials like Senator Robb, Senator Warner, and so many others join hands and walk with this student body because the steps of students and faculty may look like small strides, but actually they are the steps that will take us into a world that will look very different.

It is here that you must take advantage of the latest in science and technology. It is here that you must realize that no dream is too small. And it is from here that a new generation of All-Stars have been born. Your theme this year has been "Reaching for the Moon With Its Stars," and appropriately so. Schools are places for those small steps that later become giant leaps. It is here that hopes are nurtured and cultivated. It is here that children can be instructed to do what others have done, and be challenged to do what no one else has accomplished.

My message to you today is that "No dream is too high for those with their eyes in the sky."

You honor more than me and my name with this school. You honor the dreams that propelled our nation to explore space and the hopes that continue to lead us toward the future. May we continue to honor our hopes and dreams by enabling the small steps of children to become giant leaps for humanity.

It is obvious that "It's one small step for man; one giant leap for mankind" every day at Aldrin Elementary School.•

CUT CORPORATE WELFARE

• Mr. SIMON. Mr. President, there has been a great deal of praise to various people for direct lending, including some to PAUL SIMON.

But the person who really pioneered direct lending for the student loan program and was convinced of its usefulness before I was, is Congressman TOM PETRI, a Republican Member from Wisconsin.

Recently, he sent a "Dear Colleague" letter on direct lending because it is now threatened by people who profit from the present system.

His "Dear Colleague" is titled "Cut Corporate Welfare," and I ask that it be printed in the RECORD.

The letter follows:

CUT CORPORATE WELFARE

DEAR COLLEAGUE: Those of us who call ourselves fiscal conservatives won't have one shred of credibility as budget cutters if we are unwilling to go after corporate welfare with the same zeal we apply to other types of waste. And in this kind of effort, liberals should be willing to join us. Please consider the following case carefully.

Suppose you were a banker and you were able to make loans that: were fully guaranteed by the federal government (i.e. as safe as t-bills); paid you interest directly from the federal government for a period of years at 2.5% more than the interest on t-bills; were fully as liquid as t-bills (or even more so) because you could sell them at any time at face value or even a slight premium in a large secondary market with plenty of eager buyers; require no credit-worthiness analysis up front; and required no collection effort for a period of years (you do nothing but sit back and collect your interest), after which you could still sell them or start collecting on them and receiving an extra .6% interest?

Wouldn't that be a great deal? Wouldn't you fight like Hell to keep it? You bet. And the deal exists—it's the guaranteed student loan program. But it's a lousy deal for the taxpayers. They'd be much better off selling t-bills themselves to finance the loans (rather than renting banks' capital at 2.5% more than the t-bill rate) and then contracting for loan servicing with the current private servicers on a competitive bid basis. And guess what? That's what direct lending is. It's still a public/private partnership, but the one useful function the private sector performs—loan servicing—is priced in a market process rather than a political negotiation over interest rate premiums.

Think about it another way: what useful function are the banks providing? They can't assess risk. They take no risk. We can get cheaper capital. And we wouldn't even need their servicing if we collected these loans as income taxes through the IRS.

Make no mistake—guaranteed student loans contain an enormous bank subsidy. That's one of their four main sources of waste (the others are default costs, administrative complexity, and mistargetted subsidies for students). If we don't get rid of this corporate welfare, we'll have to cut more somewhere else.

The choice is clear—are you for the banks or for the taxpayers? True fiscal conservatives should have no doubt about whose side to take.

Sincerely,

THOMAS E. PETRI, M.C.•

VETERANS' COMMUNITY-BASED CARE ACT

• Mr. WELLSTONE. Mr. President, I rise to support S. 725, the Veterans' Community-Based Care Act of 1995, introduced by my distinguished colleague, Senator ROCKEFELLER. I am honored to be an original cosponsor of this bill that I deeply believe is of signal importance to veterans and to the future of VA health care.

The VA currently is planning to revamp its health care system to reduce its strong emphasis on inpatient hospital care in order to provide more veterans with health care in outpatient and noninstitutional settings, including community-based facilities when such care is appropriate. This bill will not only support VA's restructuring efforts, but also help some of our most vulnerable veterans—those with substance abuse problems who require rehabilitation services; elderly veterans who are infirm; and homeless veterans who suffer from severe mental illnesses or substance abuse problems.

Let me stress that these are proven programs with successful track records and this bill will extend existing authorities for these worthwhile and innovative programs for about 5 years.

Mr. President, I would like to briefly describe these programs so that my colleagues may more fully appreciate their value to needy individual veterans and to the VA health system as a whole:

One provision would extend VA authority to contract with non-VA half-way houses for rehabilitation services for veterans with substance abuse problems. This worthwhile program was first authorized in 1979, and currently operates at 106 medical centers, with 6,300 veterans treated in fiscal year 1994. These community half-way houses perform a vital function in facilitating a veteran's successful transition from inpatient substance abuse treatment and detoxification to independent living within the community. The half-way houses provide a supervised, substance free environment, and help develop independent living and social skills. I strongly and unequivocally supported extension of this program in the 103d Congress and I firmly believe it merits further extension.

The bill also would extend VA's authority to provide health and health-linked service to veterans who otherwise would need nursing home care. It enables veterans to live at home and receive, at less cost to VA and the taxpayer, the same type of services that would otherwise be provided in a hospital or nursing home. Mr. President, this can be best described as a win-win-win program. Veterans would be able to continue living at home, costs to the taxpayer would be cut significantly, and VA inpatient facilities and nursing homes could be reserved for veterans for whom there is no other feasible alternative.

I am especially pleased that this bill would reauthorize the Homeless Chronically Mentally Ill [HCMI] program. This program has been effective in serving the most disadvantaged, most needy and often most difficult population of vets to reach. It is precisely the kind of program that Senator Hubert Humphrey would have approved of in that passes his litmus test for judging a society by the way it deals with the most vulnerable and needy of its citizens. HCMI authorizes VA outreach workers to contact homeless vets, assess and refer vets to community services, and place eligible vets in contracted community-based residential treatment facilities. This program is one of the two major VA homeless programs and now operates out of 57 medical centers in 31 States and the District of Columbia. I backed extension of this program unequivocally in the 103rd Congress, and I am even more convinced now that it merits reauthorization.

Another extraordinarily valuable, effective, and humane program that this measure would reauthorize is known as the Compensated Work Therapy and Therapeutic Transitional Housing program [CWT/TR]. It is a demonstration program authorizing the VA to renovate 50 residences as therapeutic transitional houses for chronic substance abusers, many of whom are also homeless, jobless, and mentally ill. VA would also be authorized to contract with nonprofit corporation which would own and operate the transitional residences in conjunction with existing VA compensated work therapy programs. Once a residence is fully renovated and operational, rent collected from vets in the program usually exceed operating costs. A preliminary VA evaluation of the program indicates that well over 50 percent of participants complete the program and have had substantially better sobriety, employment, and housing status than before entering the program. I strongly backed extension of this program in the last Congress and have no doubt that there is an urgent need to further extend this program that serves those who are among the most needy of our veterans.

Finally, Mr. President this bill would extend VA's authority to enter into enhanced use leases, which would permit other parties to use VA property so long as at least part of the property will provide for an activity that furthers the VA mission and enhances use of the property. An excellent illustration of how this program would operate is a plan to establish at the Minneapolis VA Medical Center [VAMC] a managed care clinical research and education center on land owned by the VAMC. An HMO would build a facility on VAMC grounds that would be large enough for VA personnel to do important clinical research and provide additional space for VA personnel to provide patient care to vets. Additionally, VA personnel would gain first-hand experience in managed care and make the VA more competitive in a managed care environment. Finally, the program would ready the Minneapolis VAMC for participation in the Minnesota State health care reform program should this become feasible.

In closing I want to thank my colleague, Senator ROCKEFELLER for his leadership in preparing this legislation and urge my colleagues to give it their full support.●

A BULLET FROM AMERICA THREATENS AN INVALUABLE BEIRUT SCHOOL

● Mr. SIMON. Mr. President, my wife and I took off on a rare vacation of any length, when we spent 10 days in Spain and Portugal over the Easter recess.

While I was there, I picked up the New York Herald Tribune and read the Tom Friedman column, which originally appeared in the New York Times, paying tribute to Malcolm Kerr, who served as president of the American University in Beirut.

An incidental surprise in the article was to learn that Steve Kerr, who plays for the Chicago Bulls, is the son of the late president of American University.

Mr. Friedman has a point to make on what we ought to be doing in the field of economic assistance to other countries. I ask that the Tom Friedman column be printed in the RECORD.

The column follows:

A BULLET FROM AMERICA THREATENS AN INVALUABLE BEIRUT SCHOOL

(By Thomas L. Friedman)

WASHINGTON.—When I was a reporter in Beirut in the early 1980s the three most chilling words anyone could say to you were: "Have you heard?" The news that followed was almost always bad. That is why I shuddered on the morning of Jan. 18, 1984, when a banker friend called me to say: "Have you heard? Malcolm Kerr has been shot."

Malcolm was the president of the American University of Beirut, an expert on Arab politics and a friend of mine. I immediately ran over to the AUB campus. By the time I got there Malcolm was dead, the gunmen were gone and the only trace left of the murder was the bullet hole that had gouged the wall on the stairs to his office.

I have been thinking about Malcolm and the AUB lately because his widow, Ann Zwicker Kerr, has just published an affectionate memoir of both entitled "Come With Me From Lebanon." The book chronicles how they met on the AUB campus in 1954, she as a junior year abroad student from Occidental College and he as the son of AUB instructors. (Ann's parents wanted her to go to school in Europe, she wanted to go to India, so they compromised on Lebanon.)

Years later, after marrying, she and Malcolm returned to the AUB as teachers, and finally, after 20 years at the University of California at Los Angeles, they came back to run the AUB in the middle of the Lebanese civil war, out of a conviction that it was an institution worth saving. In Malcolm's case, it became an institution worth dying for.

I fondly recall sitting on the veranda of Marquand House, the AUB president's residence overlooking the Mediterranean, drinking freshly squeezed lemonade and listening to Malcolm's sober and always biting analysis of Arab politics. I was reminded of it reading Ann's book, in which Malcolm complained that there were "two rival student groups each wanting to organize its own Miss AUB contest—a Miss Left-Wing AUB and a Miss Right-Wing AUB, and after heroic efforts the dean of students finally got them together, only to have the army move in and scrap the whole thing!"

No one knows who murdered Malcolm, but clearly it was extremists intent on driving the United States, and its marines, out of Beirut. (He left behind four kids, one of whom, Steve, plays guard alongside Michael Jordan for the Chicago Bulls.)

I hope this book gets read by two audiences. For the general reader it is a throughtful period piece about Americans abroad—a reminder of that generation of American secular missionaries, most of them teachers and doctors who, long before the Peace Corps, dedicated their lives to spreading the gospel of Jefferson and Lincoln in the Arab East. They came innocent of any imperial ambitions and they both nourished and were nourished by the local educational institutions they ran.

I also hope it is read by all those in Congress who today are so eagerly, and mindlessly, slashing U.S. foreign aid. Because when America cuts foreign aid, it isn't just cutting payoffs to the Guatemalan army. It is also cutting off the AUBs.

Who cares? Well, consider this: When the United Nations was founded in San Francisco, there were 19 AUB graduates among the founding delegates, more than any other university in the world. Educational institutions like the AUB are literally factories of pro-Americans.

Since its founding in 1866 it has graduated 34,000 students from all over the Middle East, who were educated in the American system and exposed to basic American values and standards. Today those graduates are cabinet ministers, business executives and educators peppered throughout the region.

Most important, the AUB is still one of the only real liberal arts colleges in the Arab world. It is the best answer to Islamic fundamentalism. In fact, most of the AUB's students today are Sunni and Shite Muslims, who still see an American degree, not a Khomeini decree, as their ticket to advancement in the world.

But the AUB today is struggling. In 1985 it got about $15 million a year in American foreign aid. Today it gets $1.8 million. Tomorrow, if some in Congress have their way, it could get nothing. It would be an ironic tragedy if the AUB, having survived civil wars, bombings and the murder of Malcolm Kerr, were to have the fatal bullet put in its head by a stingy U.S. Congress controlled by people with no sense of America's role in the world or the institutions that sustain its values abroad.

Mr. SIMON. I visited the American University in Beirut long before I was a Member of Congress and was favorably impressed by what they did. The stunning statistic, which I had never read before, that there were 19 American University in Beirut alumni among the founding delegates at the San Francisco U.N. Conference, is dramatic evidence of the good work that they do.

The first lesson from the Tom Friedman column is that we should adequately support this fine and important university.

But there is another lesson to be drawn. Until the political earthquake of November 8, 1994, I served on the Senate Foreign Relations Committee and chaired the Subcommittee on African Affairs. I learned to my chagrin, a little more than a year ago, that only 1½ percent of American economic aid to sub-Sahara Africa goes for higher education.

In our aid programs we have to meet emergencies—and Africa has more than its share of emergencies—but we also have to be looking long-term, and one of the ways that we help Africa long-term is to see to it that they have leadership in the future. One of the most effective ways to see that they have good leadership in the future is to make an investment in higher education.

I hope we reflect on the Tom Friedman column.●

RICH NATIONS CRITICIZE UNITED STATES ON FOREIGN AID

● Mr. SIMON. Mr. President, recently, I read a New York Times article titled "Rich Nations Criticize U.S. On Foreign Aid," by Steven Greenhouse. It referred to a report of the Organization for Economic Cooperation and Development [OECD], and I ask that the article be printed in the RECORD at this point.

The article follows:

RICH NATIONS CRITICIZE UNITED STATES ON FOREIGN AID

(By Steven Greenhouse)

WASHINGTON, April 7—An organization of wealthy industrial nations issued a stinging report today criticizing the United States for moving to cut foreign aid when it already gives a smaller share of its economic output to such assistance than any other industrial nation.

The Organization for Economic Cooperation and Development, a Paris-based group of 25 nations, said the United States, once far and away the world's leading donor, was setting a poor example by cutting its aid budget and warned that the move might prompt other countries to follow suit.

Using unusually blunt language, the report said that "this seeming withdrawal from traditional leadership is so grave that it poses a risk of undermining political support for development cooperation" by other donor countries.

The report said the United States had slipped to No. 2, well behind Japan, in the amount of foreign aid provided excluding military assistance. The United States provided $9.72 billion in 1993, compared with $11.3 billion for Japan.

It said the United States contributed 15-hundredths of one percent of its gross domestic product for economic aid, putting it last among the 25 industrial nations. The average among these nations was 30-hundredths of one percent, while Sweden, Denmark and Norway all give 1 percent of their overall output to foreign aid.

J. Brian Atwood, Administrator of the Agency for International Development, the Government's principal aid arm, welcomed the report, making clear that he intends to use it as ammunition in the Clinton Administration's fight to persuade Congress not to cut foreign aid. At a news briefing today, Mr. Atwood criticized Congressional committees for proposing to cut $3 billion from the $21 billion international affairs budget, which includes State Department spending as well as foreign aid.

The report was written by the O.E.C.D. Secretariat and was overseen by James H. Michel, the chairman of its development assistance committee. Mr. Michel was an assistant administrator of A.I.D. in the Bush Administration.

Mr. SIMON. After reading the article, I asked for a copy of the OECD report, and it is a somewhat technical but important insight into our deficiencies.

Let me give a few quotes from the report:

> A perplexing feature of the US development assistance effort is that while public opinion responds readily to situations of acute needs in developing countries (contributions to private voluntary agencies are among the highest per capita among DAC Members), there is no strong public support for the Federal aid budget. This may be explained in part by the fact that the public greatly overestimates the share of foreign assistance in the US Federal budget. According to a recent poll, the majority of respondents believe it to be around 20 percent of total US Government spending. In fact, USAID spending represents only 0.5 percent of the Federal budget and the US has the lowest ODA/GNP ratio among DAC Members.

Two other important points are made:

> There is considerable apprehension in the donor community that some proposals may be given voice in the new Congress which raise the possibility of major cut-backs in US aid and even a turning away by the US from the common effort for development which it inspired over 30 years ago.

The second important point:

> The US has accumulated substantial arrears both to the U.N. system and to be the multilateral concessional financing facilities, due to Congressional reluctance to approve the necessary appropriations. Plans discussed with Congress in 1994 to eliminate these arrears over the next few years are welcome. At the same time these plans appear to imply a reduction in US contributions to future financing of these agencies and facilities. This would represent a shift in burden-sharing to other DAC Members, and might have serious consequences for upcoming replenishments of the International Development Association (IDA) and the soft windows of the regional development banks.

But perhaps more telling than anything else is the percentage of gross national product [GNP] that is used for foreign aid among the 21 wealthy nations.

I ask my colleagues to look at this table, and I do not believe we can look at it with pride.

Mr. President, we are shortly going to be making decisions on our budget, and one of the questions is: Are we going to be less sensitive to the needs of the poor, both within our country and beyond the borders of our country?

I hope we will provide a sensible and humanitarian answer, that suggests we should be helpful to those in need.

The table follows:

Net ODA from DAC countries in 1993

[As percent of GNP]

Denmark	1.03
Norway	1.01
Sweden	0.98
Netherlands	0.82
France	0.63
Canada	0.45
Finland	0.45
Belgium	0.39
Germany	0.37
Australia	0.35
Luxembourg	0.35
Switzerland	0.33
Italy	0.31
United Kingdom	0.31
Austria	0.30
Portugal	0.29
Japan	0.26
New Zealand	0.25
Spain	0.25
Ireland	0.20
United States	0.15
Total DAC	0.30•

AFRICA

• Mr. SIMON. Mr. President, the World Bank issues an annual report on regional perspectives.

Because I formerly chaired the Subcommittee on Africa for the Senate Foreign Relations Committee and have a continuing interest in that continent, I read their report on Africa with special interest.

There are some things that are worth noting.

One is that, excluding South Africa, the gross domestic product [GDP]—national income—grew by just 1.4 percent. That is a low growth rate for an area with a high population growth rate. Fundamentally, it means there is a continuing decline in the standard of living that should concern all of us.

The high debt burden they mention is also something to be concerned about.

They did note "the political transition sweeping the continent, noting that a few years ago there were only six democracies in Africa and the number had reached 29 by the end of June 1994." But they also note in the story that while in general democracies fare better, some of them are having a difficult time, and there are exceptions to democracies faring better, including the repressive Government of Sudan.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

AFRICA

The year 1993, on the whole, was a difficult one for the countries of the Africa region, as gross domestic product (GDP), excluding South Africa, grew by just 1.4 percent. Although this represents an improvement over 1992, it is nevertheless disappointing, considering the region's high rate of population growth and the level needed for development. As in previous years, the countries implementing major reforms, and therefore benefiting from the Special Program of Assistance (SPA), saw their aggregate output increase by 2.1 percent, or more than the average for the region.[1] The sixteen core (or steady) reformers did still better, as their GDP rose by 2.8 percent; the countries comprising the CFA Zone, however, saw their economies contract for a third consecutive year.[2] A positive development in 1993 was that, on average, the low-income countries performed better than the middle-income ones, although neither group recorded an increase in per capita terms.

TABLE 5–1.—AFRICA: 1992 POPULATION AND PER CAPITA GNP OF COUNTRIES THAT BORROWED DURING FISCAL YEARS 1992–94

Country	Population[1] (millions)	Per capita GNP[2] (U.S. dollars)
Angola[3]	9.7	NA
Benin	5.0	410
Burkina Faso	9.5	300
Burundi	5.8	210
Cameroon	12.2	820
Cape Verde	0.4	850
Central African Republic	3.2	410
Chad	6.0	220
Comoros	0.5	510
Congo	2.4	1,030
Côte d'Ivoire	12.9	670
Equatorial Guinea	0.4	330
Ethiopia	54.8	110
Gabon	1.2	4,450
Gambia, The	1.0	370
Ghana	15.8	450
Guinea	6.1	510
Guinea-Bissau	1.0	220
Kenya	25.7	310
Lesotho	1.9	590
Madagascar	12.4	230
Malawi	9.1	210
Mali	9.0	310
Mauritania	2.1	530
Mauritius	1.1	2,700
Mozambique	16.5	60
Niger	8.2	280
Nigeria	101.9	320
Rwanda	7.3	250
São Tomé and Principe	0.1	360
Senegal	7.8	780
Seychelles	0.1	5,460
Sierra Leone	4.4	170
Sudan[4]	26.5	NA
Tanzania	25.9	110
Togo	3.9	390
Uganda	17.5	170
Zaire[4]	39.8	NA
Zambia[4]	8.3	NA
Zimbabwe	10.4	570

[1] Estimates for mid 1992.

[2] "World Bank Atlas" methodology, 1990–92 base period.

[3] Estimated as lower-middle-income ($676–$2,695).

[4] Estimated as low-income ($675 or less).

Note: The 1992 estimates of GNP per capita presented above are from the "World Development Indicators" section of World Development Report 1994.

Some of the highest growth rates were achieved by those countries, such as Lesotho, Malawi, Mozambique, and Zambia that were recovering from the severe drought of 1991–92. The rather quick recovery of these and other countries from the effects of the drought is testimony to the relative resilience of their economies and to the effectiveness of collaboration among their public administrations, donors, and nongovernmental organizations (NGOs). The improvement in weather conditions was not generalized, however. Drought persisted in some areas, posing

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Footnotes at end of article.

a serious threat in parts of Ethiopia and Kenya, and the countries of the western Sahel experienced poor rainfall. In addition, in these and other countries growth was held back by political transition, a high debt burden (despite debt forgiveness and reschedulings), a deterioration in the terms of trade, and weak policy implementation.

The political transition sweeping the continent has resulted in increasing multiparty democracies; whereas there were just six democracies a few years ago, the number had reached twenty-nine by the end of June 1994. The transition, however, has not been easy, without cost, or uniformly smooth. Where transition governments are in place, power sharing has proven difficult to achieve, and opposing groups still vie for power in many places. On the economic front, the transition has sometimes disrupted production and commerce, affected the mobilization and allocation of resources, and diverted attention away from needed policy reforms. Yet the transition continues nearly everywhere.

TABLE 5–2.—LENDING TO BORROWERS IN AFRICA, BY SECTOR, 1985–94

[Millions of U.S. dollars; fiscal years]

Sector	Annual average, 1985–89	1990	1991	1992	1993	1994
Agriculture	533.9	997.4	504.9	707.4	318.3	152.6
Energy:						
Oil and gas	20.6		300.0	48.5	2.4	186.2
Power	113.9	230.0	155.0	86.0	356.0	90.0
Environment						2.6
Human resources:						
Education	122.8	350.7	265.9	402.9	417.4	325.5
Population, health, and nutrition	75.7	232.7	432.8	100.3	131.2	161.6
Social sector						
Industry and finance:						
Industry	124.6	180.1	11.0	200.0	83.5	29.6
Finance	241.3	193.6	138.8	619.9	252.3	400.1
Infrastructure and urban development:						
Telecommunications	50.0	225.0	12.8		89.1	
Transportation	339.4	543.6	309.5	242.8	483.0	515.0
Urban development	177.2	360.4	98.3	233.8	61.2	111.4
Water supply and sewerage	102.9	257.2	256.0	297.4	67.2	74.1
Mining and other extractive	31.5		21.0	6.0		
Multisector	504.0	285.6	861.0	895.0	434.2	711.0
Public sector management	81.0	76.6	27.2	133.6	121.5	48.2
Tourism						
Total	2,519.0	3,932.9	3,394.2	3,973.6	2,817.3	2,807.9
Of which:						
IBRD	909.3	1,147.0	662.9	738.4	47.0	127.7
IDA	1,609.7	2,785.9	2,731.3	3,235.2	2,770.3	2,680.0
Number of operations	80	86	77	77	75	60

Note: Details may not add to totals because of rounding.

There were sharp contrasts on the African scene in 1993/94. The installation of democratically elected governments in Malawi and South Africa stand in sharp contrast to the mass killings in Rwanda. There were a variety of outcomes in the economic sphere, too, due to the contradictory forces at play not just across countries, but within them and even within sectors. Some countries (such as The Gambia, Sierra Leone, and Zimbabwe), where the implementation of reform programs is on track, nonetheless experienced low GDP growth rates due the deterioration of their terms of trade, weather conditions, the lingering effects of the 1991–92 drought, or the disruptions caused by rebel activity and political transition. In contrast, other countries (such as Equatorial Guinea and Sudan, for example), where reform programs were lacking or off-track, registered growth of 6 percent to 7 percent, helped by oil exports or favorable agricultural conditions. In yet other countries, results were uneven, with agricultural growth coinciding with a decline in industrial production and services, or a decline in overall exports accompanied nevertheless by an expansion of nontraditional exports. Contrasts also marked the implementation of policies. While the countries of the CFA Zone as a group failed to take the necessary measures to restore their competitiveness in 1993, many of them implemented significant structural reforms in the fiscal, financial, trade, and other areas. In several of the good performers, the improvements that took place were still inadequate, however; savings rates, for example, remained too low to support rapid, sustained growth, and social conditions continued unsatisfactory.

Despite this panoply of variations, the events of the past twelve months have some common elements that provide encouraging signs for the future. Despite delays and costs in terms of lives and physical assets, the democratization process is moving ahead. Despite economic and political hardships, reform programs have survived in most countries and have even been strengthened in some. Several countries improved their performance in the course of the past year, and the members of the CFA Zone have taken an historic, bold step to improve their competitiveness. While much remains to be done, more countries are embarked on reform programs and face better prospects than compared with a year ago.

VARYING POLICIES, VARYING PERFORMANCE

Another common thread of Africa's experience, despite the contrasts noted, is that African countries that have sustained adjustment policies generally have performed better than those countries that have not. This observation, made in a recently released staff study that covered the adjustment experience in sub-Saharan Africa from 1981 through 1991 (see Box 5–1), is complemented by comparing the more recent experience of a country where policy reform has been seriously interrupted (Nigeria) with a country that strayed from, but reembarked on, policy reform (Kenya) and with one that has remained steadily on the reform path (Uganda).

Nigeria went through a tumultuous period in both 1992 and 1993. The planned democratic transition was protracted and, in the end, did not establish civilian rule. The process generated considerable uncertainty, economic disruptions, and social unrest. Budgetary control deteriorated, leading to fiscal deficits, which exceeded 10 percent of GDP. Inflation rose to 40 percent in 1992 and 58 percent in 1993. The official exchange rate was pegged below market rates, with the spread reaching 100 percent by late 1993. The external balance deteriorated significantly, with reserves dwindling and arrears to external creditors rising to more than $6 billion, or one fifth of outstanding debt. Meanwhile, the economy grew by only 4.1 percent in 1992 and 1.9 percent in 1993, compared with an average 5 percent in the preceding six years. The economic policies announced in the 1994 budget abolished free transactions in the foreign exchange and credit markets, thereby removing the remaining core pillars of the structural adjustment program adopted in 1986.

In 1990–92, Kenya witnessed a sharp decline in all major macroeconomic performance indicators. However, in early 1993, the Kenya authorities signalled an interest in restarting the reform process, and, as a result, the conditions for strong medium-term growth in Kenya have improved significantly. Implementation of stabilization policies and more effective enforcement of financial sector regulations have sharply reduced runaway inflation (falling to an annual rate of around 15 percent during the last quarter of 1993 after peaking at around 100 percent during the second quarter). Important steps towards structural reform, particularly in the area of external trade, have begun to gradually restore domestic and international confidence in the government's commitment to reform. With the elimination of all but a short list of import licenses and the introduction of a unified and stabilized market-determined exchange rate (the Kenya shilling becoming fully convertible in May 1994), the stage has been set for the private, and especially the export, sector to lead the recovery. By the end of 1993, monetary control had been tightened, discipline had been reintroduced in the financial sector, the maize market had been fully liberalized, and foreign-exchange reserves had recovered to comfortable levels. These improvements facilitated the approval by the International Monetary Fund (IMF) of a one-year Enhanced Structural Adjustment Facility arrangement during the fourth quarter of 1993, as well as the successful rescheduling of external arrears with the Paris Club in January 1994.

Uganda has gone quite far in creating a free enterprise economy. At the same time, the government has stabilized the economy through tight fiscal and monetary programs. Inflation was reduced to around 4 percent in 1993, down from 45 percent in 1992 and 240 percent in 1987, the year in which the present adjustment program was initiated. Uganda has in place a program of comprehensive structural reforms covering the civil service, public enterprises, and major financial institutions, and is undertaking a large reduction in military forces to release resources for priority spending programs. These reforms have had a positive effect on the economy: Real GDP growth is estimated to have reached 6 percent in 1993, enabling per capita consumption to rise by about 2.5 percent. The lowered inflation has contributed to a stable exchange rate and renewed confidence in the country's currency. In addition, the downward slide in coffee production, the country's main export, has been halted. There are also signs that nontraditional exports are growing rapidly; that the public's willingness to hold financial assets in the form of savings and time deposits, which have increased fourfold in the past two years, is increasing; that the inflow of private capital has been substantial; and that investment, including rehabilitation and reconstruction work on properties of returning entrepreneurs, is on the rise. All of these gains, together with the increased focus of government spending on basic social services, are expected to have a positive impact on poverty reduction.

IMPROVED COMPETITIVENESS

The countries of the CFA Zone have faced major economic, financial, and social difficulties since 1986. These difficulties were caused by a downward deflationary spiral of production, incomes, and expenditures that cut average real per capita income by 40 percent, reduced the capacity of governments to provide basic social services, increased the incidence of poverty, and undermined the Zone's financial institutions. The spiral, in turn, was caused by a massive loss of competitiveness that resulted from a combination of the inflated cost structure existing in the mid 1980's and the major external shocks suffered since then. The prices of the Zone's major exports (coffee, cocoa, cotton, phosphate, uranium, and oil) dropped sharply in the second half of the 1980s, causing its terms of trade to fall by 40 percent between 1985 and 1992. The Zone's real effective exchange rate (REER) appreciated by 39 percent over the same period. That movement was the result of the depreciation, since 1985, of the United States dollar and the large depreciation achieved by many competing developing countries of their own REERs through nominal devaluations in the context of economic reforms. The internal adjustment programs and structural reforms pursued by various CFA countries in the period 1986–93 were able neither to correct this massive loss of competitiveness nor halt the ongoing downward spiral.

Recission and financial crisis in the CFA Zone continued throughout 1993. Moreover, as it became increasingly clear that internal adjustment programs were not working, external financing for them dried up. For 1993 as a whole, per capita real income declined by 4.5 percent, exports fell by 3.9 percent in volume. and investment further contracted to 13.8 percent of GDP.

Against this backdrop, in early January 1994 the heads of state of the CFA countries met in Dakar to discuss ways to end the economic crisis. The meeting resulted in the historic decision to change the parity of the CFA franc from 50 per French franc, a level at which at had been fixed in 1948, to 100 per French franc.[3] At the Dakar meeting, another important, although less publicized, step was taken: the signing of a treaty transforming the West African Monetary Union into a full economic union. A common approach to the implementation of economic reforms that were needed to accompany the parity change was also discussed.

The decisions made at the Dakar meeting have provided a unique opportunity to restart the stalled structural adjustment process in the fourteen countries, restore growth, and reduce poverty. Indeed, since January, nearly all countries have adopted reform programs that are being supported by the World Bank and the IMF. All postdevaluation programs give priority to restraining inflation to ensure that the nominal parity change actually leads to a substantial depreciation of the real exchange rate. Hence, public sector wage increases have generally been limited to 10 percent to 15 percent to prevent a wage-price spiral. To allow some time for urban wage earners to adjust to the higher cost of imported items, increases in the prices of selected imported goods (petroleum products, rice, sugar, edible oils, medicines, and school books, for instance) are being curtailed through temporary tax reductions and direct subsidies. Fiscal reform—reduction of deficits to sustainable levels, tax reform, and restructuring of expenditures—also figures prominently as an objective of the reform programs. Priority, however, has been given to protecting vulnerable groups and relaunching proverty-reduction programs by increasing public expenditures on basic education and health services, developing and implementing social funds targeted at the poorest groups, and expanding labor-intensive public works programs.

REGIONAL COOPERATION EFFORTS

The recent events in the CFA Zone and the new challenges facing South Africa and its neighbors call for strengthened regional cooperation. Various actions have already been taken in this direction, and others are under consideration. In the CFA Zone, the member countries of the new West African Economic and Monetary Union (UEMOA) and the Central African Monetary Union have decided to form economic—as well as monetary—links. In Western Africa, the signing of the treaty for the new union by the six member states was accompanied by further efforts to render budgetary policies coherent, harmonize tariffs and indirect taxes, and develop a regional financial market. In Central Africa, the six member states of the Central African Customs and Economic Union have taken advantage of their increased competitiveness to accelerate the implementation of a new common external tariff. Nontariff barriers have been removed, and rates have been lowered.

These efforts are being supported by the Bank, together with the IMF, the European Union, and other interested donors.

At the level of the entire CFA Zone, progress was made during the fiscal year in the areas of social-security provision and collection of statistics. With a view to providing a positive environment for private sector-led growth, a treaty has been signed that will put into place a common framework for business law.

The World Bank, together with the IMF, the European Commission for the European Union, and the African Development Bank, is cosponsoring an initiative to facilitate private investment, trade, and payments in Eastern and Southern Africa and in the Indian Ocean countries—the cross-border initiative (CBI).

The CBI is based on a new integration concept that promotes mobility of factors, goods, and services across national boundaries among participating countries while minimizing chances for diversion of trade and investment. It involves voluntary participation by countries that are ready to accelerate the reform effort, and is based on the principle of reciprocity among the participating countries. The proposed reform measures are in the areas of trade liberalization, liberalization of the exchange system, deregulation of cross-border investment, strengthening of financial intermediation, and the movement of goods and persons among the participating countries. The reform agenda supported under the CBI has been developed through a two-year process of discussion by public and private sector representatives of the participating countries, as well as consultations with regional institutions.

The CBI endorsed by thirteen countries at a meeting in Kampala, Uganda, in August 1993. To date, nine countries (Kenya, Malawi, Mauritius, Namibia, Rwanda, Swaziland, Uganda, Zambia, and Zimbabwe) have confirmed their intention to participate and have established mechanisms to prepare country-specific proposals for implementing the CBI-supported reform agenda.

In addition the heads of state of Kenya, Tanzania, and Uganda (the members of the former East African Community) recently met in Arusha, Tanzania, to reaffirm their commitment to strengthened cooperation. There is a consensus that this cooperation should be based on practical improvements in investment incentives and tax regimes, and streamlined border formalities.

THE BANK'S ASSISTANCE STRATEGY

The priorities for the Bank in Africa are poverty reduction through environmentally sustainable development; human resources development—not just through lending but also by defining frameworks for effective interventions by governments and donors, as in a recent staff study on health in Africa (see Box 5–2); providing an exceptional response, already in progress, to the situation and events in the CFA Zone; working with major partners to fulfill the objectives and the priorities of the SPA; and "getting results in the field" through the improved quality of projects and their implementation, especially through strong capacity-building efforts.

Poverty reduction through environmentally sustainable development. The need and urgency to reduce poverty in the region is evident; however, progress has been limited in Africa as a whole, despite success in some countries. Achieving a high rate of economic growth, combined with a pattern of growth favoring increases in incomes in the poorest sections of society, is central to the Bank's poverty-reduction strategy. The Bank's two-pronged strategy, as elaborated in "World Development Report 1990," acts as a guide to the institution's economic and sector work, as well as to its lending operations.

Fighting land degradation and desertification have been key objectives of the Bank in its environmental program for the region. This program has been addressed primarily through the elaboration and implementation of national environmental action plans (NEAPs) and through the Bank's lending program. NEAPs—which provide a basis for the Bank's dialogue with borrowers on environmental issues, describe a country's major environmental problems and concerns, and formulate actions to address whatever problems are identified—have systematically paid attention to arresting land degradation through better natural resource management. The Bank's regional portfolio includes more than $500 million in environmental projects, some of which can be directly linked to the NEAP process. The Bank has also been involved in the preparation of a new international convention on desertification that is currently being negotiated and is prepared to be a partner in its implementation when it enters into effect.

TABLE 5–3.—WORLD BANK COMMITMENTS, DISBURSEMENTS, AND NET TRANSFERS IN AFRICA, 1990–94

[Millions of U.S. dollars; fiscal years]

Item	Nigeria			Côte d'Ivoire			Sudan			Total region		
	Start 1994	1994	1990–94	Start 1994	1994	1990–94	Start 1994	1994	1990–94	Start 1994	1994	1990–94
Undisbursed commitments	2,461			423			181			13,118		
Commitments		—	1,954		376	1,365		--	98		2,808	16,953
Gross disbursements		353	1,646		306	1,073		48	378		3,195	14,002
Repayments		348	1,402		183	769		3	49		1,116	4,678
Net disbursements		5	243		123	304		45	329		2,079	9,324
Interest and charges		270	1,325		149	767		4	36		868	4,221
Net transfer		−265	−1,082		−26	−463		41	293		1,211	5,103

Note: Disbursements from the IDA Special Fund are included. The countries shown in the table are those with the largest amounts of public or publicly guaranteed long-term debt. Details may not add to totals because of rounding.

Assistance to CFA countries. Since the parity change and as of June 30, 1994, IDA has provided approximately $1 billion in quick-disbursing credits and adjustment operations to the CFA countries. For the short term, the Bank-supported postdevaluation programs include, in addition to steps to limit the price increases of essential goods, (a) a draw-down of reserve stocks and additional imports of essential foodstuffs to counter speculative commercial practices, (b) increased budgetary appropriations for education and health, and (c) steps to assure adequate supplies of essential drugs in public health facilities and of low-cost generic drugs in private pharmacies. For the longer term, expenditures on labor-intensive civil works programs, rural infrastructure, education, and health will be increased, as will special programs (nutrition in particular) that target the poorest groups and that will be implemented by NGOs and community associations.

SPA—phase three. The third phase of the Special Program of Assistance (SPA-3), launched by the program's donors in October 1993, will cover the three calendar years 1994–96. Since the CFA Zone countries instituted a parity change in their currency and launched comprehensive economic reforms, two additional countries, Comoros and Côte de'Ivoire, have met SPA eligibility requirements, bringing the total of eligible countries to twenty-nine. The estimated requirements of donor adjustment assistance for these countries is $12 billion over the three-year period. The SPA donors have met twice since the parity change to discuss financing requirements. Total donor pledges have increased, and some disbursements will be accelerated in response to these needs. In addition to mobilizing additional resources, SPA donors have stressed the need to pursue greater selectivity in allocating resources to ensure that countries with strong reform programs are adequately funded and that scarce resources are used efficiently. As of June 30, 1994, the donor community had pledged $6.6 billion in quick-disbursing balance-of-payments assistance, and further efforts are continuing to close the remaining gap.

The priorities and objectives of SPA-3 are achieving higher growth rates and alleviating poverty; supplementing policy-reform programs with more investment in human resources and infrastructure; raising the level of domestic savings and private investment; placing greater emphasis on ensuring that the benefits of growth are directed at reducing poverty; and strengthening local economic management and institutional capacity. The SPA's primary objective continues to be to assist countries to strengthen their policy-reform programs and structural reform efforts. However, to accelerate growth, reduce poverty, and realize the full benefits of policy reforms, the efficiency of public investment financing by donors, which still accounts for about 80 percent of total donor financing, must be improved substantially. Discussion is continuing on sectorwide approaches to donor financing aimed at improving aid coordination and effectiveness. The SPA's role would be to serve as a catalyst to encourage donor support for such integrated sector programs, to monitor outcomes, and promote the harmonization of donor procedures. Mobilization of resources and coordination of specific sector-investment programs will continue at the country level through mechanisms such as consultative groups, roundtables, and country-based local aid-coordination groups.

Project quality and implementation. Despite the difficulties faced by the region, portfolio performance was relatively stable in 1993. Differences among countries were caused, in part, by variation in macroeconomic performance. Overall, adjusting countries had a better record of project performance than the nonadjusting ones, and operations in the particularly difficult areas of agriculture and adjustment lending improved their implementation records. The most serious general constraints to effective implementation are uncertain borrower ownership and limited local capacity. To increase ownership, the Bank is making a concerted effort to involve stakeholders (governments, beneficiaries, the private sector) in project preparation and implementation. The use of participatory approaches—beneficiary assessments, participatory rural assessments, and participatory workshops—is steadily increasing. In many cases, stakeholders participate not just in project design and preparation but also in economic and sector work (ESW). Several actions are under way to improve project quality at entry such as preparation of "letters of sector policy," avoiding unnecessary complexity in project design (through participatory approaches to project preparation and greater involvement to project preparation and greater involvement by resident missions in the process, for example), testing new or complex approaches in small pilot operations, and identifying project-monitoring indicators that reflect both output and impact. In fiscal 1993, the most recent year for which numbers are available, the amount of loan cancellations expected to result from completed or planned restructurings of problem projects totaled about $500 million.

The need for capacity buildings in Africa cuts across all sectors, and, in all cases the need is urgent and acute. The challenge involves both making greater use of existing local capacity and helping to build such capacity where it does not exist. The Bank's approach recognizes that capacity-building issues need to be addressed at an early stage in the project cycle and that the effort cannot succeed without improving the performance and productivity of the civil service. This concern has led the Bank to appoint a Capacity Building Committee to make recommendations on the most effective ways to advance toward this goal. The committee's recommendations (which highlight "best practices" to follow and cover a broad spectrum, from ESW and lending to the role of resident missions) have been approved and are being carried out.

Capacity building—as well as dialogue with the intended beneficiaries of development—continued to be the focus of the Bank's work in South Africa during the past year. In that country, the Bank's informal work has dealt with the entire political spectrum, including nongovernmental organizations, the private sector, teachers, and trade unions. Dozens of South Africans have been trained in economics, and relationships have been built up with many of the country's economic and political actors. In April 1994, the Bank opened up a resident mission, following a request from the multiparty South African transitional council.

FOOTNOTES

[1] The SPA for low-income, debt-distressed sub-Saharan African countries provides quick-disbursing balance-of-payments assistance to twenty-nine eligible countries (as of the end of June 1994) in support of reform programs developed in conjunction with the Bank and the International Monetary Fund (IMF).

[2] The countries are Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Cote d'Ivoire, Gabon, Mali, Mauritania, Niger, Senegal, and Togo.

[3] The parity of Comoros' currency was changed to 75 per French franc.

BOX 5–2. TOWARD BETTER HEALTH IN AFRICA

Health issues are assuming an increasingly important place in the Bank's assistance strategy in Africa. Reflecting this trend, a major sector study was completed in 1993 in close cooperation with the World Health Organization, the United Nations Children's Fund, and other partners. The study, "Better Health In Africa," aimed at building consensus on future health strategies in Africa among the many stakeholders.[1] It found that while dramatic improvements had taken place since independence, most African countries lagged well behind other developing countries in health status. At fifty-one years in 1991, life expectancy at birth in Africa is eleven years less than in the low-income countries as a group, and Africa's infant mortality rate, at over 100 deaths per 1,000

Footnotes at end of article.

live births, is about one third higher on average than for the universe of low-income countries. New health problems, such as AIDS, and new strains of well-known diseases such as malaria, threaten the important health gains made in Africa over the past generation.

The report discussed "best practices" for health improvement by African governments and their external partners in three areas. First, as did "World Development Report 1993—Investing in Health," the report emphasized the importance of strengthening the capacity of households and communities to recognize and respond to health problems. This requires health and development strategies that increase the access of the poor to income and opportunity, pay special attention to female education and literacy, provide for community monitoring and management of health services, and furnish information to the public and health-care providers on health conditions and services. Second, the report called for reform of African health-care systems, and especially for making a basic package of cost-effective health services available to Africans near where they live and work through health centers and first-referral hospitals. Third, the report underscored the need for more efficient allocation and management of public financial and human resources devoted to health improvement, and for their progressive reallocation away from less cost-effective interventions (largely provided through tertiary facilities) to a basic package. It found substantial room for increases in technical efficiency.[2]

The report concluded that substantial health improvement in Africa is feasible, despite the severe financial constraints facing most African countries. The will to reform and to provide a limited package of quality, low-cost, and highly cost-effective health services to the vast majority of the population is central to success. The study found that higher-income and middle-income African countries, in due course, should be able to finance a basic package of health services for their people from public and nongovernmental resources, without substantial external support. However, the low-income countries are likely to need donor assistance in support of health for an extended period. These countries now spend about $8 per capita annually on health from all sources—public, nongovernmental, and external—compared with the indicative estimate for the basic package in the study of about $13. The transition from the current to the indicative level of spending will have to be implemented flexibly, on a country-by-country basis, with provisions put in place of interim targets to be met along the way.

FOOTNOTES

[1] World Bank. 1994. "Better Health in Africa." Washington, D.C.

[2] For example, poor drug selection, procurement, distribution, and prescription practices are responsible, together with other factors, for an effective consumption of only about $12 on drugs for every $100 in public spending on pharmaceuticals in many African countries.•

AMENDMENT TIME

• Mr. SIMON. Mr. President, recently, I came across an article by John G. Kester, a Washington attorney. It is a commonsense article about our Constitution and amending the Constitution.

I have great reverence for the Constitution, but I also know that the Constitution was written to meet problems that existed more than two centuries ago.

On the matter of a balanced budget amendment, the author writes:

> Congress, for instance, has demonstrated for decades that institutionally it cannot muster the discipline to restrain excessive spending. Lately, ashamed to speak the name, it even pretends that most expenditures are something else, labeling them entitlements. Presidents no longer refuse to spend excessive appropriations. A balanced-budget amendment may be a challenge to express in words, but it is not impossible, and it is certainly not, as Senator Chris Dodd asserts, very irresponsible. It imposes a new constitutional obligation on Congress without micromanaging the policy choices for achieving it. It is not likely to make the situation worse, even if courts will be invited to construe it. And if experience suggests improvements, those can be added.

John Kester brings both scholarship and common sense to this discussion.

At this point, I ask that his article be printed in the RECORD.

The article follows:

[From the Washingtonian, March 1995]

AMENDMENT TIME

(By John G. Kester)

If the people really are serious about taking back their government, they can start by amending the Constitution. There have been a few lurches in that direction—like the balanced-budget amendment that was part of the Republicans' Contract With America, and some talk about amendments that would ban unfunded federal mandates or set uniform term limits for Congress.

That's a beginning, but a modest one. The current state legislatures are in a receptive mood. If Speaker Gingrich and the new tribunes of the people really want permanent change in the way Washington and its federal judges run the country, then this spring constitutional amendments ought to be blossoming like azaleas.

But don't count on it. The op-ed pages already have begun to darken with warnings from learned scholars, politicians, and columnists that to lay hands on the Constitution would be impractical, even dangerous, downright unpatriotic. The Constitution, they suggest, is so nearly perfect that to revise it would be like altering the formula of mother's milk—nothing else could be healthful, and any variation might make you sick.

Is the Constitution too flawless and sacred a document to violate with alterations? Most of the Cassandras stop short of suggesting it was divinely inspired, but even that has been claimed. The less devout shake their heads and say that adding amendments just isn't practical—that it can never work, that even figuring out the right words is too hard, that the only way to fit the Constitution to the times is to leave all corrections to the courts.

Even aesthetics is invoked. To add amendments, it has been said, would make our classically crisp federal Constitution resemble those ungainly creations of the 50 states. State constitutions are longer, often loaded with dozens of amendments, and deal with such mundane affairs as off-street parking in Baltimore (Maryland Constitution Article XI–C) or preserving natural oyster beds (Virginia Constitution Article XI, section 3).

But no one has shown that state constitutions do not work—or, indeed, that lengthy and detailed constitutions don't work better because they leave less room for doubt. Automobile engines, reliably move your car without being engineered to win beauty contests. If the purpose of the Constitution is to model 18th-century elegance, perhaps the parchment should be moved from the Archives to the National Gallery.

The Constitution exists to be applied, not adored. A politically rare opportunity will be lost if the hand-wringing about constitutional purity succeeds in scaring off reformers. Of course not every popular idea belongs in the Constitution, and not every proposed policy change would be a good one. But (dare one say if?) there is room for improvement.

No one should take all the warnings against amendments seriously. The authors of the Constitution certainly wouldn't have.

The men who spent the summer of 1787 holding secret meetings in a room in Philadelphia did not think they were Moses, chiseling stones with dictation from a Higher Source. Their un-air-conditioned days passed in disagreements, endless compromises, and perspiration. The product was simply a well-organized document that most could accept, although with varying degrees of reluctance.

The 13-state ratification process that followed was even more contentious, and nearly failed. To obtain agreement from the minimum nine states took nine months, and the votes in key ratifying conventions were too close for comfort: Virginia 89 to 79, Massachusetts 187 to 168, New York 30 to 27. No one arguing for ratification ever gave a speech claiming the document was perfect; the authors more humbly expressed hope and said they had done the best they could.

All recognized that, as Virginia's George Mason observed at the beginning, "The plan now to be formed will certainly be defective." (So defective he finally concluded, particularly in its treatment of slavery, that in the end he refused to sign it.) For that reason, the Constitution was written with one article of its seven devoted entirely to the subject of how to amend it. This was done, acknowledged Charles Pickney of South Carolina, because "it is difficult to form a Government so perfect as to render alterations unnecessary." Amendments, James Iredall told the reluctant North Carolina ratifying convention, would provide its own fallibility." Even James Madison, called the Father of the Constitution, anticipated that his offspring would need to grow. "[U]seful alterations," he predicted, "will be suggested by experience."

Alterations did come, but mostly not in the way Madison anticipated. They have come usually by courts announcing, and sometimes revising, their conclusions about what words of the Constitution mean.

Anyone who says that amending the Constitution is in principle a bad idea is really selling a notion about where to assign power. For a long time now the only players in the constitution-altering game have been judges. They have secured their position by taking open-ended phrases like "due process of law" or "the freedom of speech" or "Commerce . . . among the several States" and announcing that these mean one thing, and then another, and then another. Many of their pronouncements, which take the form of decisions in lawsuits, seem logical correct. Others occasionally appear daffy. The secret was spilled when Charles Evans Hughes, before he became Chief Justice, explained in a speech: "The Constitution is what the judges say it is."

That is true, however, only if the Supreme Court's view is not superseded by a higher authority—the amending process. It makes no sense to cut off debate on any subject by saying, "The Supreme Court has spoken." The Supreme Court speaks all the time. But this is a government, not the army. The Supreme Court may speak—but the Constitution intends that if the people care enough, the option of amendments gives them the last word.

Adding a new provision to the Constitution to reject a court decision—as the Eleventh Amendment did in 1798—can at least slow a Supreme Court down. Because the Constitution came from "We the People," why should not the people through their elected representatives participate more often in the process of constitutional change? Especially when the document itself—which does not even mention interpretation by judges, much less give judges the last word—spells out a precise and simple amending procedure for the people to use? Why shouldn't there be amendments to make corrections when the Supreme Court gets it wrong—or, no less appropriately, when the Court's reading of an old provision may seem accurate, but the people on reflection decide that they no longer want such a rule? It is amazing that every time the Supreme Court issues some new constitutional interpretation, provoking a storm of public outrage—then nothing happens.

Correcting the Supreme Court is not even the most crucial issue. New needs develop that don't show up in Supreme Court decisions. Why shouldn't the people adopt constitutional solutions for perennial problems—for instance, uncontrollable extravagance by Congress, or federal power-creep, or war powers of the president—that seldom, if ever, come before the courts? Even for those who believe that the Supreme Court's job is to "keep the Constitution in tune with the times," it expects too much of the Court to act as the only corrective balance wheel of the government.

Power lies with whoever can change the Constitution. Court decisions can be overruled by amendments, and when there is contrary consensus, they ought to be. More important, constitutional updating is not the assignment of the Supreme Court, but rather the duty of Congress and the states. Constant abdication of the amending power was never expected, and in a representative government makes no sense.

The Constitution does not come to us, as foes of amendments imply, in an undefiled condition. True, there have been few formal amendments over 200 years, but there has been plenty of change in the Constitution. In fact, although custom speaks of "the Constitution" as if there is only one, the reality is that this country has had several. We live in 1995 under the fourth constitution of the United States.

The first constitution, adopted in 1778 by 11 sovereign governments, resembled a treaty, and appropriately was called Articles of Confederation. It created a loose alliance of independent states—that is, countries—designed mainly to pursue a united front in a war. The national organization's few activities operated by unanimous consent, which meant it operated very little. Each of the 13 governments remained independent to set its own tariffs, raise its own taxes and armies, print its own money, and govern its internal affairs. Still, the Articles of Confederation were not a total failure. After the British decided to cut their losses and quit, the main complaint about life under the Articles was that state tariffs and trade barriers in independent economies were strangling each other. A NAFTA of its time was needed.

The congress created by the Articles authorized delegates to meet in Philadelphia in 1787 to propose amendments to the Articles of Confederation. The first thing the delegates did was exceed their authority. They began by junking the Articles and starting over to design a national government that would exist in addition to those of the states.

The result was the constitution of 1787, which became operational in 1789. The purpose of the document was not to provide a code of laws, secure human rights, or solve all problems, but rather to set up—"constitute"—a new government. It contained a handful of specific prohibitions on Congress (like taxing exports) and the states (like levying tariffs). But mostly it outlined an organization chart and allocated powers between the national government and states, and among the three branches of the national government.

Two subjects consume most of the Constitution. The first was, what powers would the national government have? All agreed that, quite unlike the states. It should not have general legislative powers, but instead would be allowed to act only on topics the Constitution assigned to it. Just to nail that down, 10 amendments were promptly proposed and adopted, called the Bill of Rights. These were not really a list of rights of individuals (they left the power of state governments unrestrained), but rather they were some important specific examples of what the federal government had *not* been empowered to do—like abridge the freedom of the press, or quarter soldiers in people's houses. The enumeration ended up with two directions on interpretation. The Ninth Amendment reminded that just because the federal government could not do these things did not imply that it was authorized to do others. The Tenth Amendment then reiterated that unless powers were delegated by the Constitution to the federal government, or prohibited to the states, they all remained with the States or the people.

The other focus at Philadelphia was the internal arrangements of the national government itself—such issues as how Congress would be formed and chosen (a Senate chosen by states and a House by people), the addition of a national executive, and how the limited national powers would be divided among the Congress, the President, and the judiciary—which Hamilton called "the least dangerous branch."

The Constitution of 1787, typical of many hard-negotiated agreements, swept under the rug two potentially contentious issues that everyone hoped might go away; first, whether states that entered the new union could withdraw if they did not like it; and second, slavery, which the framers chose not to mention by name and not to deal with except to give a 20-year protection to the slave trade and require the return of fugitives slaves.

Unfortunately, over time each of those unresolved issues played into the other, and finally with the election by a minority of an extremist president in 1860, the 1787 structure dissolved into a contest of arms. Whether states legally could withdraw—some like Massachusetts and South Carolina had claimed the right for years—was a question incapable of any sure answer from logic, history, or reading the text of the Constitution. And it was never submitted to the Supreme Court. Instead, disproving once again the canard that wars never settle anything, it was decisively resolved by soldiers killing each other.

The Civil War led to the third constitution of the United States. Although this constitution wears the more modest label of the Fourteenth Amendment, it turned out to be a whole new arrangement of government. Adopted in 1868 with the forced consent of defeated Southern states, the Fourteenth Amendment in ringing and undefined words forbade any state to deny equal protection of the laws, or to deprive anyone of life, liberty, or property without due process of law. In the end those ringing and undefined words drastically revised the roles of the states and the federal courts.

For the rest of the 19th century and into the next, this new provision was transformed by the Supreme Court into a shield for businesses from state regulation. With each decade the sweep of the Fourteenth Amendment got bigger and bigger. It was read to forbid states from, for example, requiring attendance at public schools, or limiting maximum hours of work. It became a charter for judges, citing only the Constitution's phrase "due process," to invalidate whatever laws they believed unwise.

Still, the limited scope of activities for the national Congress that had been enumerated and confined in 1787 tended to remain. A few controversies had arisen early—such as establishing the Bank of the United States (opposed on constitutional grounds by Madison), whether the Constitution authorized purchasing Louisiana, and Monroe's plans for federal road-building. But in spite of occasional pushing of the envelope of Congress's spending power, the government in Washington generally left it to the states to regulate most matters affecting people's daily lives, and did not find reason to read too expansively its powers listed in the 1787 Constitution.

In the 1930s, the country was hit by the Depression and the national government became much more radical and active. The Supreme Court promptly reminded Congress of its limited legislative role, holding that one New Deal law after another exceeded its powers to tax, spend, or regulate commerce.

Then all of that changed. The Roosevelt administration decided to deal with the Constitution's restrictions not by amendment, but as a personnel matter. Franklin Roosevelt first threatened to expand the Supreme Court from nine judges to as many as fifteen, then found he did not need to. From 1937 to 1941 he appointed seven new justices, all of them devoted New Dealers. Their opinions held that, for example, Congress's power to regulate interstate commerce was so far-reaching that it could prohibit a farmer from growing a patch of wheat for his own bread. The limitations on the powers of the federal government suddenly seemed to evaporate.

A fourth constitution thus emerged when the Supreme Court by the end of the 1930s brushed aside the doctrine of enumerated powers, which had limited Congress by requiring reasonably clear grants of authority in the Constitution. The Court about the same time also renounced "due process" as a restriction on state or federal legislation. Then, having demolished all those barriers to regulation, the Court for the rest of the 20th century began erecting hurdles of a different kind by interpreting the Bill of Rights more expansively and reading the Fourteenth Amendment to limit the states in novel ways. It announced that the 1868 Fourteenth Amendment without saying so had stripped the states of virtually all the powers that the 1791 Bill of Rights had said were outside the charter of the federal government. It also held suddenly in 1964 that the Fourteenth Amendment had made unconstitutional all houses of state legislatures that, like the U.S. Senate, were not based on equal population. By the end of the century the Supreme Court had begun invoking "due process" again, but this time to invalidate laws it concluded unduly limited personal liberty.

* * * * *

Most real political revolutions have left their lasting traces on the Constitution. The Republicans after the Civil War secured the three amendments that ultimately ended racial inequality under law, and turned out to do far more. The pre-World-War-I Progressives, while they were democratizing state governments, also switched control of the Senate to the people, gave the federal government the tax base to grow, and soon afterward helped secure the vote for women. The New Deal even brought new access to liquor while rewriting the Constitution by restaffing the Supreme Court.

The time will never be better to update a marvelous and rightly cherished document, perhaps to correct some mistakes in how it has been interpreted, but most important to readjust its balances to fit the needs of a new century. Its authors would have expected no less.•

AFFIRMATIVE ACTION

• Mr. SIMON. Mr. President, there is more and more discussion on affirmative action these days.

Most of those who question affirmative action are the same people who opposed the civil rights legislation.

But there is no question that, like any good thing, affirmative action can be abused.

I ask that an excellent Los Angeles Times editorial titled, "Glass Ceiling? It's More Like a Steel Cage" be printed in the RECORD, as well as a tongue-in-cheek column by Robert Scheer, "Who Needs Affirmative Action?" and a column that I wrote for the newspapers in Illinois discussing this subject.

The material follows:

[From the Los Angeles Times, Mar. 20, 1995]

GLASS CEILING? IT'S MORE LIKE A STEEL CAGE—BUSH PANEL FINDS LITTLE ROOM AT TOP FOR WOMEN OR NONWHITES

In the heated debate over affirmative action, some who want to abolish all such programs suggest that lots of white males are being unfairly shunted aside in favor of lots of African Americans, Latinos, Asians and white women. However, there simply are no facts to support this. Indeed, according to a bipartisan commission appointed by then-President George Bush, the senior ranks are still populated almost exclusively by white males.

The findings by the Glass Ceiling Commission, a panel of business executives and legislators, are important and especially timely. It is expected that an initiative calling for a blanket rejection of policies that allow race, ethnicity and gender to be taken into account in hiring, promotion and college admissions will make it onto the California state ballot.

In Washington, President Clinton, mindful of the evident exodus of angry white men from the Democratic Party, for starters has ordered an evaluation of federal affirmative-action programs. That's defensible and could prove useful. But too many in Congress are rushing to jump on the anti-affirmative-action bandwagon, including Senate Majority Leader Bob Dole. Ironically, long before Dole made his presidential ambitions public, he sponsored the very bill that created the federal panel to study the situation of minority men and all women in American industry. And it is that panel, in reporting its findings last week, that turned up so little evidence of progress.

The facts are simple. White male managers dominate the senior levels at the top 1,000 U.S. industrial firms. They also dominate the top 500 business firms. In the top echelon of U.S. commerce, no less than 97% of the positions at the level of vice president and above are held by whites, the panel found. Between 95% and 97% of these senior executives are male. They have a lock on most of the top jobs, while most minority men and women and most white women struggle to crash the glass ceiling.

The commission said that one case of the paucity of promotions was the fear and prejudice of white men. Of course that is only part of the problem. More minorities and women must be given access early on to educational and social opportunities that lead to business success. But even education does not always level the playing field. Asian Americans are nearly twice as likely to hold college degrees as the general population, yet they remain much less likely to become executives and managers. Do racial stereotypes block their promotion?

Black men with professional degrees earn 79% of the pay of their white male counterparts. Black women with professional degrees earn even less; they earn, on average, only 60% of what white males do. Latinos, who are less likely to have the advanced degrees that foster advancement in companies, are "relatively invisible in corporate decision-making positions," the report says. Their visibility should increase as their qualifications and numbers increase. Latinos are also hampered by pernicious stereotypes, including the misperception that most Latino workers are foreign-born, the panel maintains.

The Glass Ceiling Commission based its findings on hard information, not unsubstantiated fears. Facts, and nothing but, should inform the intense debate over affirmative action—and the decisions that will determine how this nation can fairly handle the moral obligation of opening the doors of opportunity to all who knock.

[From the Los Angeles Times, Mar. 20, 1995]

WHO NEEDS AFFIRMATIVE ACTION?

(By Robert Scheer)

Forget affirmative action. Maybe it once was a necessary tactic but its time is clearly gone. True, there used to be slavery and segregation and women didn't have the vote but that's all ancient history. C'mon, blacks and women have all the power now. Just look at the O.J. trial.

Try getting a decent job if you're a white man. You don't see my name on the masthead of this paper. What kind of meritocracy is this if my merit isn't rewarded the way I think it ought to be?

I'm not making this up, folks. The census stats back me up. Minorities and women now hold 5% of senior management positions, and those used to be white-guy jobs. Even among Fortune 1,000 companies, women now have 3% of the top slots, according to last week's report by the bipartisan federal Glass Ceiling Commission. So far, black men don't have any of the top jobs, but if affirmative action isn't stopped, who knows what could happen?

Don't try to paint me like some kind of racist for saying this, like I've got something against black men. Our beef is more with women than with black men, who are going nowhere fast. Even though almost 800,000 black students a year graduate from college, many of them business majors, they don't have what it takes to get to the top. Most of them still don't play golf. That's what a lot of white executives told the federal commission, which, incidentally, was created by the Bush Administration, so its results are reliable. One white manager told the truth: that, in hiring, "What's important is comfort, chemistry, relationships and collaborations." That's why black, college-educated professional men earn only 71% of their white counterparts on the bell curve: The comfort level is too low.

The real threat is from women, with whom white men have a longer history of relationships. I hesitate to bring it up because they vote and it's better to have white women believe that affirmative action is a black thing. But take what's called "middle management." Black men account for only 4% of those positions, but almost 40% of middle managers are women. Unless you marry one of them, you're out of luck, and what does that tell you about who wears the pants?

The big problem up the road is that you'll have to get along with those women, what they call networking, just to get a job. What does that say about traditional values when a man has to worry about what a woman thinks of his performance? Meritocracy, in the wrong hands, can be a killer. No wonder the federal commission concluded that "Many middle- and upper-level managers view the inclusion of minorities and women in management as a direct threat to their own chances for advancement." They'd be stupid not to.

But we don't have a chance a turning back the tide unless we eliminate the discrimination against white males in the universities. On the nine campuses of the University of California, white men were 40% of the student body in 1980, and now they're a miserable 24%, less than half the number of women. Girls were always better at the school stuff but you could count on them to drop out along the way. Another threat is the 12% who are Latino, but Proposition 187 should scare them off. Same for the Asians, who outnumber white males at UC. I know that Asians are not covered by affirmative action, but even with round-the-clock tutoring, we can't keep up with them. And none of this would have happened if the blacks hadn't stated all this. You don't see blacks endangered at UC—they went up a full two-tenths of a percent in the past 15 years, from 3.8% to 4%. They're taking over.

Don't get me wrong, I'm not against a level playing field, and I know that a lot of blacks come from disadvantaged backgrounds due to poverty. After all, census data show that almost half of black children live in poverty, which shows that they have lost the spirit of individual responsibility. We have got to stop coddling them. The answer is to end poverty by eliminating food stamps, school lunches and infant nutrition programs that provide such an irresistible incentive for people to raise their kids in lousy neighborhoods. If poor people want a good job, they should get it the way the rest of us do. Call an uncle or a business associate of your father. Invest your inheritance. Get active in a prestigious church or a good golf club. Blacks are going to make it when they learn to act and look like everyone else.

I am for social policies that are colorblind, just as the founders of our nation were.

For me, all I want is my country back. You know what I mean: a return to traditional values where the white man is king, even if his woman has to work.

THE PROPER ROLE FOR AFFIRMATIVE ACTION

"Affirmative action" is not-so-suddenly becoming a major topic of discussion.

Affirmative action is like religion or education: A good thing, but it can be abused.

Affirmative action means opportunity and fairness. It does not mean quotas. It does not mean hiring unqualified people.

Some believe that affirmative action hurts minorities and women and those with disabilities, because when people secure jobs there will be some who say, "He (or she) only got that because of being a minority." Or a woman or being disabled. They believe that it is demeaning for people of ability.

The distinguished African American writer Shelby Steele properly suggests that we are troubled by "race fatigue" and "racial anxiety." He oppose affirmative action and wrongly—in my opinion—calls the opportunities that result "entitlements."

No one is entitled to a job or an opportunity because of race or gender or ethnic background.

I accept the idea that diversity in our society needs encouragement and is good for us.

If, for example, someone employs 500 people—and they all happen to be white males—it still may not be possible to prove discrimination. One answer for that situation is to go through the lengthy legal process of proving discrimination.

A better answer is affirmative action, where that employer understands that his business should not compromise quality, but opportunity should be given to those who don't fall into the usual personnel pattern.

Employing people on the basis of ability is just good business, and affirmative action encourages good business.

My office is an example. If I were to hire everyone from Chicago or from Southern Illinois, the people of Illinois would regard that as strange. I look for diversity in geography, and it does not compromise quality. I don't lower my standards when I choose to hire someone from central Illinois.

In the same way, I have consciously made sure that in my employ there are African Americans, Latinos, Asian Americans and people with disabilities. Anyone who knows my office operation knows that we have not compromised quality to do this.

Has this harmed the people of Illinois? To the contrary, it has helped them and it has helped me.

To move away from affirmative action, back to a situation where discrimination has to be proven to bring about change, invites clogging the courts with endless litigation, and denying opportunity to many.

A federal judge in Texas ruled that the University of Texas law school can set a general goal (not a rigid quota) of admitting 10 percent Mexican Americans and 5 percent African Americans, but if the school lowers it standards to reach those goals, that is unconstitutional.

That strikes many legal scholars as sound.

Interestingly, if that same school gives preference for admission to children of alumni—who are overwhelmingly white—no one objects to that. But if steps are taken to diversify the student body, some of the same alumni object.

Complicating all of this is the fact that many Americans are out of work. The opportunity for people of limited skills to have a job is declining, and will continue to decline.

The person in that situation rarely says, "I'm not working because I don't have the skills that are needed."

It is often easier to say, "I don't have a job because a black [or a woman or a white or someone else] got the job I should have."

And so tensions rise.

The answer is not to get rid of affirmative action, but to work on jobs programs for those of limited skills, expand education opportunities for all, and increase efforts to give training (including reading and writing) to those who are unemployed.

We should diversify opportunity, and at the same time see that everyone has the basic tools to function effectively.●

AFFIRMATIVE ACTION: AID IN DOING THE RIGHT THING

● Mr. SIMON. Mr. President, I have been inserting into the RECORD items on affirmative action from time to time because I am concerned that the distortion of affirmative action can result in loss of opportunity for many Americans.

Columnist William Raspberry had an op-ed piece in the Washington Post, and in other newspapers in which his column is circulated, on affirmative action.

It appeared during the days when Congress was in recess, and many of my colleagues may not have seen it.

It is simple common sense, and we seem to lack that so often.

I ask that the William Raspberry column be printed in the RECORD.

The column follows:

AFFIRMATIVE ACTION: AID IN DOING THE RIGHT THING

(By William Raspberry)

It was 1967, and I had just taken my new wife—a Washington native—on her first visit to my home state of Mississippi.

She had heard all the horror stories of racial mistreatment, and she was pleasantly surprised at the way white salesclerks seemed to be going out of their way to be nice. She was particularly intrigued by one middle-aged white clerk at the J.C. Penney's in Tupelo. For some reason, this woman, having learned that we were from "up north," wanted to talk—even after we'd paid for our purchases.

Just as we were about to make our final effort to leave, her face lit up. She caught the attention of a black woman across the store and beckoned her to come over.

"This," she said, introducing us, "is our new salesclerk."

I don't suppose I'll ever forget the humiliations, large and small, of growing up under the American apartheid that used to be the rule in the Deep South. But I'll also remember the pride this one white woman displayed in the fact that her boss had done the right thing. It was almost as if she herself had been somehow redeemed.

It's something I think of when I hear well-meaning people say that affirmative action is ultimately demeaning to minorities and it would be better to just let merit be the rule. It's reasonable to punish discrimination, they say, but an artificially produced diversity comes close to the discredited practice of setting racial or sexual quotas; worse, it is tantamount to acknowledge that minorities and women are inferior.

It came back to me the other day when a colleague called my attention to Katha Pollitt's column in the March 13 issue of The Nation magazine. This liberal publication has been a staunch advocate of affirmative action and diversity and all the things that give minorities and women all those warm-fuzzy feelings. But listen to this one passage from Pollitt's piece:

"In the 13 years I've been associated with The Nation, we've had exactly one nonwhite person (briefly) on our editorial staff of 13, despite considerable turnover. And we're not alone: The Atlantic has zero nonwhites out of an editorial staff of 21; Harper's, zero out of 14; The New York Review of Books, zero out of nine; The Utne Reader, zero out of 12. A few do a little better, although nothing to cheer about: The Progressive, one out of six; Mother Jones, one out of seven; In These Times, one out of nine; The New Republic, two out of 22; The New Yorker, either three or six, depending on how you define 'editorial,' out of 100 plus, . . ."

It's a passage that could fuel right -wing radio talk shows for months. But that wasn't Politt's point. Her point, which seems unaccountably difficult to grasp, is that it's not necessarily bigots and hypocrites that stand in the way of the "diversity" so many of us favor; it's the fact that people tend not to pay attention to unpleasant facts that they can as easily ignore.

Atlantic editor William Whitworth told The Post's media critic, Howard Kurtz, that his magazine's statistics were "unfortunate" and "embarrassing." He went on to describe the publication's open-door policy, its desire to have black journalists and his bafflement that so few have applied. Whitworth at least answered Kurtz's queries, as some others did not. Still I found myself wondering what sort of shot the magazine might have taken at, say, an insurance company or police department that offered a similar defense.

It wouldn't surprise me to learn that the management of the Penney's store in Tupelo made just such an argument before some combination of legislation, court decree and affirmative action forced a change in the company's hiring policies.

And it wouldn't surprise me, sometime down the road, to hear Whitworth and his peers boasting of their success in hiring black writers and without any sacrifice in quality, either.

Why do opponents of affirmative action find it so difficult to understand that even good people need a nudge now and then, or to comprehend that anti-discrimination statutes are insufficient to overcome deeply entrenched racial attitudes? What black writer—unemployed or working elsewhere—could be certain that some white guy on one of these liberal publications has the job she should have had? How can anybody know?

In some jobs, discrimination is easy to spot; the 120-word-per-minute typist who loses out to a competitor whose top speed is 80 wpm has a discrimination claim. But what of the applicant for an editorial position, or a legal clerkship, or a securities brokerage?

Anti-discrimination laws won't do it and neither will affirmative action—although these things may help employers to focus on their behavior.

I keep hoping that the time will come when nearly all employers will react as many already do: with embarrassment when they haven't lived up to what they know to be right and with pride when they know they've done it right.

That's why I remember that beaming clerk in Tupelo 28 years ago. And, by the way, I don't recall the faintest indication that her black colleague found it demeaning to have been hired for what may have been the best job of her life.

THE WRONG TARGET

• Mr. SIMON. Mr. President, recently, Bob Herbert, a columnist for the New York Times, had a column about affirmative action and how the politics of meanness is in the ascent.

My colleagues have heard me address this question before. Affirmative action is basically an excellent thing that has helped to make opportunity available to many people who otherwise would not have it. Has it been abused occasionally? Yes, like any good thing is abused, just as religion and education are abused.

In this column, he concludes "All of this will pass. Eventually we'll find our higher selves."

I hope he is right.

But there is both the beast and the noble in all of us, and unless our leaders appeal to the noble in us, instead of the beast—instead of hatred and fear—the better instincts in our people will not come forward. That is true, not only in the United States but in any country.

It is important for politicians, journalists, members of the clergy, business leaders, labor leaders, and people of every walk of life to call upon us to reach out and do what is noble.

"One nation, under God, indivisible" should be more than a phrase in our country.

At that point, I ask that the Bob Herbert article be printed in the RECORD.

The article follows:

[From the New York Times, Apr. 5, 1995]

THE WRONG TARGET

(By Bob Herbert)

One of the many important issues to emerge battered and distorted from the insidious cavern of political demagoguery is affirmative action. If you listen to the latest crop of compulsively deceitful politicians, or tune into the howling degradation of talk radio, you might become convinced that the biggest problem of discrimination in the United States today is bias against white men.

The complaint is that legions of African-Americans, women and assorted others are taking jobs, promotions, classroom slots, theater tickets and the best seats on the bus from the folks who really deserve them—white guys.

The arguments against affirmative action are almost always crafted in racial terms because the demagogues know that race is the way to get the emotional flames roaring. In fact, the primary beneficiaries of affirmative action are women. If all parties would lower their voices and try to communicate in good faith, it could be pointed out that while there are problems with affirmative action—including some serious problems of fairness—the negative impact on white men has not been great, and the problems are correctable.

What you do not want to do, in a country where there are still prodigious amounts of race and sex discrimination, is abandon a long and honorable fight for justice in the face of political hysteria.

The Federal Glass Ceiling Commission recently reported that 95 percent of top corporate management positions in the United States are held by white men. Throughout corporate America, women, blacks and Latinos are paid less than white men for doing the same work. And if you believe there is a bias against white males in hiring, just pair up a white guy with a black guy and send them off in search of the same job.

Racism against blacks and sexism against women abound. And yet the outrage we hear today is about discrimination against white men.

A report on discrimination in employment commissioned by the Labor Department found very little evidence of employment discrimination against white men. The report was prepared by Alfred W. Blumrosen, a law professor at Rutgers University. It found that a "high proportion" of the so-called "reverse discrimination" claims brought by white men were without merit.

The politicians will tell you that the attack on affirmative action is a cry for racial justice. That is not so. It is an expression of the anger and frustration felt by large numbers of overwrought and underemployed white men. Their anxiety is understandable, but affirmative action is not their enemy. Downsized to the point of despair, their wages stagnant or falling, their prospects dim, these men are caught up in the treacherous world of technological innovation, economic globalization and unrestrained corporate greed. Buffeted by forces that seem beyond their control (forces that are affecting everybody, not just white men), they listen to the demagogues. *It's the blacks doing it to you. It's the women. They're getting your piece of the pie. Otherwise you'd be O.K.*

AFFIRMATIVE ACTION ISN'T ANTI-WHITE

The Clinton Administration, under pressure, is reviewing Federal affirmative action programs. Fine. Let whatever abuses exist come to light. Scrap whatever programs are unnecessary or unfair. Where affirmative action is being used to help the disadvantaged, remove the racial or ethnic requirements. There are white kids all over the country who are economically and educationally deprived. Give them a hand.

But neither Bill Clinton nor anybody else should back off from the commitment to fight what is still an enormous and debilitating problem—discrimination against blacks, other ethnic minorities and women. Where affirmative action is needed to counter the effects of discrimination, let it be.

The United States is going through a period in which the politics of meanness is in the ascent. In many circles, it is unfashionable to be compassionate. Putting down others is the dominant mode of political expression, preferably with a vicious remark accompanied by cruel laughter.

All of this will pass. Eventually we'll find our higher selves and chase the dogs of bigotry and fear and ignorance from the yard. I am convinced this will happen. We are Americans, after all. We are better than we have been behaving lately.•

DR. HENRY FOSTER SHOULD BE CONFIRMED

• Mr. SIMON. Mr. President, I had the privilege of serving in the House of Representatives with Congressman Paul Findley, who is now retired and writes a Sunday column for the Jacksonville Journal-Courier in Illinois.

My friend, Gene Callahan, who once served as administrative assistant for Senator Alan Dixon, still get the Jacksonville newspaper, and he sent me Paul Findley's commonsense reaction to the nomination of Dr. Henry Foster.

I ask that it be printed in the RECORD.

The column follows:

DR. HENRY FOSTER SHOULD BE CONFIRMED

(By Paul Findley)

During a discussion at a meeting of the Pittsfield Rotary Club, a member asked if I favor the confirmation of Henry Foster, M.D., President Bill Clinton's nominee to be surgeon general of the United States.

My answer was affirmative. Based on what I believe to be factual about Foster's career, he should be confirmed. The president is entitled to have a surgeon general of his own choosing, barring the disclosure of some important flaw in character or record.

A casual reader glancing at headlines and picking up snippets from televised news reports might easily reach the erroneous conclusion that Foster's record is badly flawed, that he is a back-alley disgrace to the medical profession who has spent a long career performing abortions.

It was a curious happenstance that the question was raised in Pike County, once the family home of a physician who fit that dreary description and gained a reputation as one of Chicago's preeminent abortionists. This was a half-century ago when abortion was illegal, not job in Illinois but throughout the nation. Never indicted, the doctor in question made abortion his career, performing the surgery clandestinely in various parts of Chicagoland. It was his specialty. So far as I know, he did nothing else. He catered mainly to people who could not afford to travel to Sweden for the desired surgery. Legend had it that he periodically hauled bags of money back to Pike County.

By contrast, the president's nominee is not an abortionist. In the years since abortion has been made lawful by ruling of the U.S. Supreme Court, Foster, by his own account, performed 39 abortions, all of them to save the life of the mother or to end pregnancies caused by rape or incest. He has delivered several thousand babies and declares that he abhors abortion.

Some years ago, like many other physicians, he performed procedures that sterilized institutionalized women who were determined to be severely mentally retarded. At the time, that procedure was legal and broadly accepted by the medical profession. Both law and medical policy have since changed. Under existing law, sterilization can be performed only through court order.

Abortion, of course, has been legal for many years in the United States and is widely practiced. In fact, the Accreditation Council for Graduate Medical Education now requires that programs to train doctors in obstetrics must include abortion skills. About a million abortions are performed here each year, notwithstanding widespread controversy that sometimes becomes violent and even fatal. House Speaker Newt Gingrich, although anti-abortion, wisely advises his Republican colleagues in the Senate, where the confirmation vote will occur, not to focus on Fosters, abortion record.

Although, like thousands of other U.S. physicians,, Foster has performed a few abortions since the procedure became legal, it has never been more than a minor part of this 38-year practice. To his credit, he has been candid on all points.

He is former dean and acting president of Meharry Medical College in Nashville, widely praised for bringing new vitality to the school. He has initiated a successful program to discourage teen-age pregnancies called "I Have a Future."

His nomination is praised by Dr. Louis Sullivan, a former Secretary of Health and Human Services under President Bush and himself a medical school president.

The White House bungled the Foster nomination process by failing to get the facts straight about his background in abortions and related matters, but that is no discredit to the nominee. Certainly, the president could have found a less controversial nominee. (He could have chosen a dermatologist, for example).

But the important fact is that Foster is the nominee. He is the president's choice. He has a significant record of leadership in the medical profession. There is not the slightest hint of unethical or illegal conduct. Unless some shocking revelation comes to light, he deserves confirmation by a strong bipartisan vote.•

PEACEKEEPING SAVES LIVES

• Mr. SIMON. Mr. President, in catching up on my reading, I came across an op-ed piece in the Washington Post by Brian Urquhart, who has contributed to U.N. peacekeeping efforts throughout the world in a significant way, until his retirement from the United Nations.

In his op-ed piece, he makes the point that John Foster Dulles said that a peacekeeping force was desirable and that compared to what we do in general, expenditure on arms is an economically way to bring stability to the world.

How right he is.

If we were to even suggest that we spend 1 percent of our defense budget on U.N. peacekeeping, it would be a significant and helpful shift for the United States, as well as for the world.

At this point, I ask that the op-ed piece by Brian Urquhart be printed in the RECORD.

The opinion piece follows:

[From the Washington Post, Feb. 16, 1995]

PEACE-KEEPING SAVES LIVES

(By Brian Urquhart)

"As you know the United States . . . has a strong interest in the early establishment of standby arrangements for a United Nations Peace Force. The interest of the American people in this concept is further demonstrated by the fact that during the past year resolutions were adopted by both the House of Representatives and the Senate calling for the establishment of a United Nations force."

These words, written by an American secretary of state, John Foster Dulles, to a U.N. secretary general, Dag Hammarskjold, are a good measure of how different the climate in Washington is these days toward the idea of U.N. peacekeeping operations.

"I want to assure you that the United States is prepared to assist you in every feasible manner in strengthening the capacity of the United Nations to discharge its responsibility for the maintenance of international peace and security, a task to which you have already contributed so much," Dulles wrote in that 1958 letter.

Hammarskjold responded cautiously. At that high point in the Cold War he feared that a standing U.N. force, actively opposed by the Soviet Union, would become a political football between East and West, destroying the fragile innovation of peace-keeping which he had pioneered during the Suez crisis of 1956 and the Lebanon crisis of 1958.

President Eisenhower and Dulles, on the other hand, evidently saw a standby U.N. peace-keeping capacity as being greatly in the interest of the United States. In fact, just 18 months later Eisenhower, pressed by the new prime minister of the Congo for U.S. intervention there, adroitly referred him to the United Nations. The resulting peacekeeping operation was widely regarded as an extraordinary success in dealing with the chaos there.

Since that time the United Nations has undertaken some 25 such assignments of varying sizes in different parts of the world. Given the desperate origins of most of these operations, it is scarcely surprising that not all have achieved all their objectives. But it is worth noting that in the present controversy over peace-keeping, the successful operations—which constitute the majority—are seldom mentioned.

In recent months, for example, there has been much discussion of placing U.S. troops in the Golan Heights as part of the Middle East peace process, but little mention of the U.N. Disengagement Observer Force, which has successfully presided over peace on the Golan Heights since 1974. Somalia and Bosnia are constantly invoked, but the Nobel Peace Price of 1988 and later successes in Namibia, Cambodia, El Salvador and Mozambique are routinely forgotten.

The prevailing attitude in Washington toward U.N. peace-keeping these days seems to be a radical reversal of the earlier U.S. attitude. The impression is often given now that past U.S. support of these efforts was an aberration, a charitable—and largely unwise—gesture of condescension. But in fact, from Suez in 1956 to the present time, U.N. peacekeeping has far more often been a vital element of U.N. foreign policy.

During the Cold War, it was vital to maintaining international peace and security, because, among other things, it kept regional conflicts out of the U.S.-Soviet orbit and lessened the potential of such conflicts for provoking nuclear East-West confrontation.

In the post-Cold War world, that motivation for supporting peace-keeping no longer exists. The United Nations' new involvements are for the most part in massive civil and ethnic conflicts where human, not international, security is involved, although such disasters often cause major destabilization in neighboring states as well as strong emotional reactions worldwide. It is this change in the basic character of conflict that has led the more vocal opponents of U.N. peacekeeping to argue that there is little or no U.S. national interest in it.

But as Charles William Maynes has pointed out in testimony before the House International Relations Committee, today's great powers are "like the most successful members of any community. They have a stake in the general health of the community. They cannot and should not be the world's policeman."

Great powers have major economic and other interests in global stability, but they find it increasingly unwise to intervene on their own in regional conflicts. It was considerations such as these that underlay the enthusiasm of Dulles and Eisenhower for building up the peace-keeping capacity of the United Nations. Even the United Nations' most criticized operations such as UNPROFOR in ex-Yugoslavia often serve as a useful pretext for avoiding more intensive U.S. involvement and a screen for differences with allies. Imperfect though they are, they also save thousands of lives.

U.N. peace-keeping can be, and will continue to be, an invaluable—even an indispensable—instrument of peace. Its capacity and effectiveness need to be strengthened, not diminished. To be sure, new forms, rules and methods, including a training system, need to be developed. But the cost of peace-keeping—contrary to widespread belief—is small by comparison with the cost of massive military involvement, which timely peace-keeping often succeeds in making unnecessary. John Foster Dulles got it right.•

DIRECT LOANS BENEFIT STUDENTS

• Mr. SIMON. Mr. President, we are going to hear a lot about direct lending during the coming months.

It is a success for everyone but the people who profit from the present system. I want banks in America to be successful, but if we are going to subsidize banks, we ought to do it openly and not do it in the name of aiding students.

The Daily Illini, which is the student newspaper of the University of Illinois, had an editorial recently about direct lending. The University of Illinois is one of the schools that is now on the direct lending program.

I think my colleagues would be interested in what the student editorial says. I ask that it be printed in the RECORD.

The editorial follows:

[From the Daily Illini, Jan. 31, 1995]

DIRECT LOANS BENEFIT STUDENTS

Students love direct lending. College administrators love direct lending. So why are the House Republicans thinking of limiting the program?

William Goodling, House Economic and Educational Opportunities Committee chairperson, wants to cap the number of new student loans under direct lending at 40 percent, which is how large the program is expected to grow in the next academic year. The original legislation called for a 60 percent growth in the program by the 1998–99 academic year.

Goodling's reasoning is not clear yet, but there are already plenty of reasons why direct lending should be expanded, not curtailed.

The old system of going through the Student Loan Marketing Association, or Sallie Mae, doesn't work well. Students have to negotiate a long process involving complicated forms. And the overhead has been huge. Besides Sallie Mae, the federal government operates a system of more than 35 "guarantee agencies" to collect payments and repay on defaulted loans.

By contrast, the year-old direct lending program delivers loans fast and without hassle. As a result, the University has seen fewer students encumbered during registration for the spring semester and fewer student deferring payments or needing emergency loans, according to Orlo Austin, director of the office of student financial aid.

His office has also benefited from having control at the local level. Direct lending is less complex than the federal guaranteed-loan system because schools do not have to cut through a massive bureaucracy to get ahold of students' payments, he said.

And Austin isn't the only administrator happy with the program. "(Direct lending) makes those of us in financial aid more sophisticated and user-friendly in helping to serve students. We can't do anything but do our jobs better," said an official at the University of San Francisco in the Jan. 20 Chronicle of Higher Education.

In fact, the only people who seem to prefer the guaranteed-loan system are the bankers and guarantee agencies who direct lending will put out of work. That's not enough support for limiting the scope of this new program.•

ILLINOIS HIGH SCHOOL CHESS CHAMPIONS

• Mr. SIMON. Mr. President, I would like to commend the Orr High School chess team in Chicago, IL, for their outstanding participation in the State chess competition.

Orr High School's chess team is among the best in Illinois even though it represents one of the city's most troubled areas. The team is the other side of the story, the story beyond the statistic. It is ordinary people—parents, grandparents, big brothers and sisters and a math teacher joining together to save their children with rooks and knights and a lot of prayer.

It all began in room 207, the detention room at Orr where punishments are served. It also became a room where dreams are made: the chess team practices there. Team members start filing into 207 early every morning because that is where the coach, Thomas Larson, spends his days. Mr. Larson is a math teacher, and is also in charge of the in-school suspension or detention room where unruly and angry students are sent to cool off.

Nearly 75 percent of Orr's students come from low-income families. Students enter Orr, if they are lucky, with sixth and seventh grade math skills. In 1986, Mr. Larson started using chess and other games in his prealgebra class to help students with their analytical skills. Soon he began holding chess competitions in class and started a team. Chess was foreign to most of the students at Orr. It was a game that they thought was just "for smart kids."

The first year Orr played in the public school chess league, they came in fourth of six teams in their division; they placed 14th out of 16 teams in the citywide playoffs. A few weeks ago, Orr was crowned the city champions and was one of the top five schools statewide.

Congratulations to the Orr High School chess team on their outstanding performance in their State and local competitions.•

RAY CARROLL: ONE OF ILLINOIS' FINEST

• Mr. SIMON. Mr. President, I would like to acknowledge the retirement of one of my constituents, Mr. Ray Carroll. Ray is the Director of Engineering at the Office of the Architect of the Capitol. Mr. Carroll's retirement became effective April 30, 1995.

Ray Carroll joined the Architect's office in 1975 as Director of Engineering, and in the ensuring years he was placed in charge of all engineering matters relating to new building design and renovations. Ray's duties also involved the oversight of modifications to existing buildings and facilities, as well as the operation and maintenance of mechanical and electronic equipment. Ray's expertise in the various engineering disciplines has made him a vital part of the Architect of the Capitol's office during the last 20 years.

Ray holds a bachelor of science degree in mechanical engineering from the University of Illinois. He is involved in a variety of social activities and has been the recipient to a number of awards.

We in Illinois are proud of Ray and the many contributions he has made not only to the running of Congress, but to the larger Washington community as well.

To Ray Carroll and his wife Dar, I want to like extend my gratitude for his years of service, and our best wishes and continued success and health as he returns to Illinois.•

ORDERS FOR TUESDAY, MAY 2, 1995

Mr. DEWINE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. on Tuesday, May 2, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and that the Senate then resume consideration of the pending product liability bill; further, that there be an hour for debate, to be equally divided between the two managers or their designees, prior to the stacked votes, which are scheduled to occur at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I further ask unanimous consent that the Senate stand in recess between the hours of 12:30 p.m. and 2:15 p.m. in order for the weekly party luncheons to occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, for the information of all members, there will be a series of stacked rollcall votes beginning at 11 a.m. on Tuesday.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DEWINE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:50 p.m., recessed until Tuesday, May 2, 1995, at 10 a.m.

EXTENSIONS OF REMARKS

AMERICANS OBSERVE "NATIONAL DAY OF PRAYER"

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. FIELDS of Texas. Mr. Speaker, Thursday, May 4 marks the 44th consecutive observance of the National Day of Prayer.

I congratulate all those Americans who will pause on that date to thank God for the blessings He has bestowed on our country, and to ask for His continued guidance for our Nation, its people and its leaders.

Even as we mourn the senseless tragedy that occurred in Oklahoma City which killed and injured so many of our fellow citizens and brought sadness to so many other Americans, we have much for which to be thankful.

We are free to practice—or not practice—the religion of our choice. We are free to think for ourselves and believe what we wish, and we are free to voice our opinions without fear. We are blessed with a free press that keeps us informed of what is right, and what is wrong, with our Government and our other public institutions.

In comparison to other nations of the world, we are a prosperous people—well-fed, well-housed and well-clothed. Our system does not guarantee success for every one of our citizens, but it does allow each American to advance as high as his talents and hard work can carry him.

Yes, our Nation has problems, and yes, there is injustice in our country. But in the United States, more than in any other nation in the world, all of our people have an opportunity to succeed. That opportunity is what drew immigrants to "the new world" in the 17th century; it's what drew settlers to "the colonies" in the 18th century; it's what motivated countless men and women to settle the West in the 19th century; and it's what continues to draw men and women from around the world to our shores in the 20th century.

Just as important, we Americans have in place a judicial system within which injustices can be eliminated, and within which wrongs can be righted peacefully, without resolve to violence. While our system of justice is not perfect, and while mistakes can occur, no one can deny the fact that America's judicial system has served our country and our people well for more then two centuries.

The idea that we Americans should pause and reflect on our blessings, and ask for God's guidance, is nothing new, National day of prayer have been part of our Nation's heritage since the first one was declared by the Continental Congress in 1775. Through the influence of Gen. George Washington, many of our founding fathers and succeeding presidents, prayer became an essential foundation upon which the United States of America was established and upon which it has grown.

On Thursday, through the collective prayers of citizens from every State and territory of our country, all Americans will have the opportunity to acknowledge our dependence upon God; recognize our need to renew moral values in our personal and professional lives; seek God's guidance for our Nation's governmental and community leaders; give thanks for the many blessings which our country has received from Him through the years; pledge ourselves to the restoration of marriage and family commitments; and intercede for healing and reconciliation within our Nation.

The participation of millions of American men and women in this year's National Day of Prayer will ensure that the event will be a success. As someone who believes in the power of prayer, and as someone who depends upon prayer in my daily life—both personal and professional—I sincerely thank everyone who takes part in this important annual event, as well as every American who keeps the interests of our nation, its people and its leaders in their prayers on a daily basis.

Thank you, Mr. Speaker, and may God bless you, our great Nation, and each and every American.

SALUTE TO THE GLENS FALLS ARMORY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. SOLOMON. Mr. Speaker, for 100 years, the Glens Falls Armory has been a conspicuous landmark on Warren Street and a source of pride for the people of this small city I call home.

During those 100 years, units headquartered at the armory have served in both world wars. At the outbreak of World War I, Company K, 105th Infantry, 27th Division was activated from August 8, 1917, through April 1, 1919. In World War II, Company K of the 108th Infantry, 27th Division was activated from October 15, 1940, through December 31, 1945.

The armory was designed by the famous architect Isaac G. Perry, who helped design and construct the State Capital in Albany. The armory consists of 24,055 square feet, including a garage added in 1959.

First opened in 1895 to house a company of the New York National Guard, the armory presently serves as headquarters for two NYNG units, the 646th Medical Company and Detachment 1, Company C, 3d Battalion, 108th Infantry.

That first unit, the 18th Separate Company, was also known as the Rockwell Corps or the Citizens Corp. And that, Mr. Speaker, reminds me why the armory is so special.

It's a symbol of the citizen soldier who has fought in all our wars, from Concord and Lexington to the arid plains of Iraq.

The backbone of our Armed Forces for 200 years has been the National Guard and Reserves, men and women from every walk of life who proudly devote several hours a month to the defense of their country.

The response of this country to crises has always been speeded by the high state of readiness of our guardsmen and reservists. I can't tell you how proud I am of them.

The men and women who serve in these units are all-around outstanding citizens, contributing to their communities in more ways than one. The armory itself has long been a focus of community life in the Glens Falls area.

Mr. Speaker, on May 6, the scene will be the scene of a centennial celebration, complete with tours, displays, and speeches.

I ask all Members to join me in a salute to the Glens Falls Armory and to all the patriotic Americans who have served there over the last 100 years.

SUE MIKOLAJCZYK RECEIVES 1995 POLISH HERITAGE AWARD

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate Ms. Sue Mikolajczyk on receiving the Pulaski Council of Milwaukee's 1995 Polish Heritage Award.

In selecting Sue Mikolajczyk as the 1995 Polish Heritage Award recipient, the Pulaski Council has honored a woman who has devoted countless hours of work to preserving the richness of Milwaukee's Polish-American heritage.

It has long been a goal of our community to build a Polish-American Community Center. This goal is closer to becoming a reality because of the commitment, hard work, and sheer determination of people like Sue Mikolajczyk. Her outstanding efforts as coordinator of Polishfest's weekly bingo games have helped to ensure a steady source of funds for the development of the community center and more importantly, have helped to sustain the dream which guides our Polish-American community forward.

In addition to her involvement with Polishfest, Sue Mikolajczyk has been actively involved in a number of other Polish cultural organizations in our area and has assumed leadership positions in several of these organizations. Groups such as the Polish National Alliance, the Polish-American Congress, Polanki, and the Polish Womens' Alliance have all benefited from Sue's talents, determination, and willingness to take charge.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

At a time when it seems that more and more people are forgetting their roots, Milwaukee's Polish-American heritage, thanks to the efforts of people like Sue Mikolajczyk, remains as alive and vibrant as ever. I commend Sue on her outstanding efforts on behalf of Milwaukee's Polish-American community and I congratulate her on receiving the 1995 Polish Heritage Award.

RECOGNIZING THE "DEAN OF CALIFORNIA CITY ATTORNEYS" MR. ALLEN E. SPRAGUE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. STARK. Mr. Speaker, today, I would like to pay tribute to city attorney Allen E. Sprague for his dedicated years of service to the city of Fremont. During his tenure, Mr. Sprague has provided strong leadership to a city which has risen to new heights.

After graduating from University of California Boalt Law School, Mr. Sprague was hired as the city of Freemont's assistant city attorney in 1963. Six years later, he was appointed as their city attorney, thus attaining the title of "Dean of California City Attorneys," as the longest serving, continuous, and surviving city attorney in northern California. Mr. Sprague served as counsel to 18 separate city councils, and as a mentor to numerous staff members who have gone on to serve other California cities as city attorneys. During a difficult transitional period, Mr. Sprague also acted as interim city manager in 1980 and 1981.

Mr. Sprague's community commitment goes well beyond his years with the city. He was an active participant with the Kiwanis International Club for 20 years, where he served as local chapter president, regional and national officer. Mr. Sprague also shared his fellowship as a lay Eucharist minister at St. Anne's Episcopal Church in Fremont and by raising the spirits and bringing comfort to those in need as a volunteer with the Vespers Hospice.

Mr. Speaker, I come before you today to recognize Mr. Allen E. Sprague for all his achievements and commitment to our community. I hope you and my colleagues will join me in congratulating this leader for his illustrious career and wish him and his family well in their future endeavors.

HAPPY 50TH BRONNER'S CHRISTMAS WONDERLAND

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. BARCIA. Mr. Speaker, there have been many times when we have wished it could be Christmas 365 days of the year. The special feeling that this wonderful holiday inspires enlightens us, and helps us to focus on kindness toward all.

Well, the people who work at Bronner's CHRISTmas Wonderland should be the envy of us all because for them it is Christmas every day of the year. This Wednesday, Bronner's, the world's largest Christmas store, celebrates its 50th anniversary at its store on 25 Christmas Lane in Frankenmuth, MI. This fantastic store, operated by Wallace "Wally" Bronner, supported by his parents, Herman and Ella Bronner, started as a small sign store to its current enviable position of offering a selection of more than 50,000 items from all over the world. The design and production of Christmas panels for merchants from Clare, MI, marked the first official sale of Christmas decorations to other communities.

Bronner's CHRISTmas Wonderland is a must-see holiday store for the consumer. And it is also a major supplier for churches, businesses, industries, cities, parks, shopping centers, parades and parties. It is a family-owned and operated business, now including its third generation of Bronners, that has grown from its early days as a small sign shop through several expansions that now allow it to boast a showroom equal to the size of four football fields. At peak time, more than 400 people are employed on a full or part-time basis at this manger of holiday spirit. Much of the merchandise is imported from other manufacturers, but the most special pieces include those designed and produced by Wally Bronner himself.

And not forgetting that the true part of Christmas is its religious heritage; Wally, Irene and other members of the Bronner family 3 years ago opened Bronner's Silent Night Memorial Chapel to both signify their thanks for God's blessings, as well as to provide an opportunity for the millions of people who surely visit Bronner's over the years to pause and offer their own thanks for what life has given them.

Mr. Speaker, Frankenmuth is a community that speaks volumes about what commitment to one's neighbor and hard work can accomplish. Like a sturdy tree, it supports many branches that extend through its commercial, agricultural, educational, and social greatness. It is filled with people who we would all like to have as our own neighbors. When it is crowned with the bright star of Bronner's CHRISTmas Wonderland, the decoration of this tree is truly complete. I urge you and all of our colleagues to wish the Bronner family and the hundreds of dedicated, good-spirit inspiring employees the very best on the 50th anniversary of Bronner's CHRISTmas Wonderland.

IN RECOGNITION OF HELAINE STRAUSS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today with great pride to share with my colleagues in the House of Representatives the inspiring story of a woman who has been an active member of the Jewish community in Suffolk County for many years, Helaine Strauss.

Helaine Strauss became a Jewish community center professional on Long Island in 1967. This began a lifetime career in which she vastly changed the landscape of Long Island's Jewish community.

In 1980, a determined board of directors, Suffolk County Y staff and Helaine took a bold step forward. They moved the Y into a brand new setting that provided the first Jewish day care center in the United Jewish Appeal [UJA] federation network, as well as a nursery school, a senior citizen and singles' center. In addition to these conveniences, the Y developed and installed a state-of-the-art fitness center.

When the initial construction of this enormous project was completed, Ms. Strauss breathed a sigh of relief and embarked on a new project: building bridges. Today, the Suffolk Y Jewish Community Center joins with a multitude of Jewish agencies, synagogues and community organizations sponsoring innovative programs and services.

Ms. Strauss' leadership has been widely recognized. She is past president of the New York chapter of the Metropolitan Association of Jewish Center Workers and participated in Jewish Welfare Board's Executive Development Program and the Jewish Community Center Association's Executive Fellows Program. Ms. Strauss serves on the nation board of the Jewish Community Center Association and on the advisory board of the Adelphi School of Social Work. She received the Woman of the Year Award from Friends of Lubavitch of eastern Long Island.

In 1985, Ms. Strauss received the Samuel W. and Rose Horowitz award from the Commission on Synagogue Relations of UJA–Federation of New York, and she has also been honored by the Women's American Organization of Rehabilitation Training (ORT).

I ask my colleagues in the House of Representatives to join with me in saluting Ms. Helaine Strauss, for 20 years of outstanding service, commitment and devotion to not only the Suffolk Y, but the entire Jewish community of Suffolk County, Long Island.

THE 75TH ANNIVERSARY OF SARATOGA SPRINGS V.F.W.

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. SOLOMON. Mr. Speaker, 75 years ago this summer, Veterans of Foreign Wars Post No. 420 was established in Saratoga Springs, NY. The V.F.W., Mr. Speaker, has been and continues to be an organization of exceptional merit and service to the needs of many veterans. V.F.W. Post 420 was founded upon these principles in the summer of 1920, and continues to serve and remember those veterans who made sacrifices for America.

Post 420 was founded as a memorial to two brothers who courageously fought for America in WWI. On October 20, 1918, the Gurtler brothers were both killed in battle along the Hindenburg line in Germany. It is only appropriate that those brave men who placed themselves in harm's way overseas be represented by such an able organization.

Mr. Speaker, it is comforting to know that those who served the needs of our country and fought for the principles and ideas of America all over the globe can depend on the support of an organization like this post back home in upstate New York.

Mr. Speaker, the service of Post 420 in Saratoga Springs is worthy of significant recognition. This post, and others like it, are the reason I fought so hard to attain department-level status for Veterans' Affairs. When President Ronald Reagan signed that legislation into law, veterans were finally afforded the degree of national consideration they deserve. The efforts of V.F.W. posts like this one, having served the needs of veterans since 1920, played a major role in the grassroots efforts by V.F.W. posts across this Nation to enact that bill into law. For this, Mr. Speaker, we owe Post 420 a tremendous debt.

The famous historian George Santayana once said, "Those who do not remember history are bound to repeat it." V.F.W. posts all across America have not forgotten the past or those men and women who made the ultimate sacrifice for our country. I ask all my fellow Members to rise in tribute to V.F.W. Post 420 in Saratoga Springs on the occasion of their 75th Anniversary.

JANET BANACH NAMED 1995 POLISH WOMAN OF THE YEAR

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate Mrs. Janet Banach on being named 1995 Polish Woman of the Year by the ladies auxiliary of the Polish National Alliance—Milwaukee Society.

Janet Banach is a person who is genuinely committed to well-being of others and to the betterment of her community. By selecting Janet as the 1995 Polish Woman of the Year, the Milwaukee Society—ladies auxiliary is rightfully recognizing a person who has devoted her time and talents to a wide variety of worthwhile activities.

Over the years, Janet Banach has been actively involved in a number of organizations dedicated to assisting the needy and less fortunate. Through her volunteer involvement with organizations such as the American Red Cross, the St. Vincent DePaul Society, the SHARE Program, and the South Community Organization, Janet has transformed her concern for others into effective action. Through her involvement as a Cub Scout and Brownie leader Janet has helped to prepare our community's future leaders for the challenges that lay ahead.

Janet has also shown herself to be a person committed to her Catholic faith and her Polish-American heritage. Janet is a long-time member of Milwaukee's Holy Spirit Parish. Both she and her husband take an active role in sharing their faith with others through their parish activities. In addition, through her involvement with organizations such as the Polish National Alliance—Milwaukee Society and Polish Festivals Inc., Janet plays an active role in keeping Milwaukee's Polish-American heritage alive.

I would like to commend Janet on her outstanding and worthwhile achievements and I congratulate her on being named 1995 Polish Woman of the Year.

OPENING OF EXHIBIT "DEFENDING RELIGIOUS LIBERTY": THE STORY OF THE BAHAIS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. STARK. Mr. Speaker, I would like to call attention to the Members and the general public of the opening of an exhibit entitled "Defending Religious Liberty," on view in the rotunda of the Cannon House Office Building, U.S. House of Representatives, May 2–5, 1995.

The focus of the exhibit is on repression of the Bahai community and portrays America's concern for religious freedom and the response of the United States and other nations to the persecution of members of Iran's largest religious minority.

Those who practice the Bahai faith number 6 million in more than 205 countries with more than 100,000 worshipers in the United States. The Islamic regime calls the Bahai faith a conspiracy and heresy. Followers have no legal rights and secret documents show official Government policy is suppression of the Bahai community. Bahai students have been expelled from schools, followers have been denied food ration cards, dismissed from jobs and denied pensions. Many have disappeared, been kidnapped, jailed, tortured, and executed on account of their religion.

Congress has acknowledged that the abusive treatment of the Bahais is a critical human rights concern. Although diplomatic pressure and critical publicity has elicited a positive response from the Iranian Government the Bahai community remains an oppressed minority, denied the right to elect leaders, conduct religious schools, and pursue other organized religious activities.

Bahai members are composed of the mainstream of people, from different races, nationalities, and social and economic backgrounds. They believe that all people are meant to live in peace and unity and should be supported in their continuing efforts to protest against the Iranian Government's persecution of Bahais.

Mr. Speaker, I hope this exhibit will remind us of the oppression of our fellow human beings. We must continue to direct our efforts toward resolving these crimes against humanity. Therefore, I propose we should never resume trade or diplomatic relations until the Islamic Revolutionary regime reverses their policy.

SCHEURER HOSPITAL: CELEBRATING 50 YEARS OF COMMUNITY CARING

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. BARCIA. Mr. Speaker, this past week I was privileged to join a great number of people who came together to celebrate the 50th anniversary of the opening of Scheurer Hospital in Pigeon, MI. The many people in Huron County and around the western portion of the Thumb of Michigan who have been helped by the quality medical care provided by the dedicated staff at this facility over the years know a quality institution when they have the good fortune to be served by it.

Scheurer Hospital is named for Dr. Clare Scheurer, a physician who in 1944 was convinced that a new medical facility was needed for the people in the area who either overfilled his office, couldn't be served within the hours he had available for treating patients, or were too far away following surgery in the Bad Axe Hospital. Donations from friends and businesses in the area helped lead to the construction of the then 21-bed hospital, and its official opening on April 23, 1945. Mrs. C.H. Spence was the first patient admitted, and her daughter, Margaret, was the first baby born at the hospital.

Over the years this facility continued to provide excellent elective and emergency care to patients, until it was replaced by the current 47-bed hospital in 1971. And an expansion and modernization program in 1985 provided more examination rooms, and an improved laboratory and pharmacy. This project was again heavily supported by the community served by this most important facility.

Today the thousands of people who live in Scheurer Hospital's service area know that they can count on the 28 doctors, 40 nurses, and nearly 170 other professionals that are part of the dedicated Scheurer team under the direction of Chief Executive Officer Dwight Gascho for a wide range of medical services including orthopedics, cardiology, nuclear medicine, micro eye surgery. In the hospital's last fiscal year, there were over 3,500 emergency room visits, nearly 5,800 redi-care visits, and 600 admissions.

Mr. Speaker, I urge you and all of our colleagues to join me in wishing the wonderful staff of Scheurer Hospital the very best of wishes on their 50th anniversary.

HONORING JOYCE TOBIAS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. DAVIS. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to one of Virginia's outstanding citizens, Joyce Tobias.

Joyce Tobias, a registered nurse and the mother of seven children, has been a community organizer and a parent and child advocate since 1967. A tribute dinner was held in her honor Friday, April 28th on the occasion of PANDAA's [Parents Association to Neutralize Drug and Alcohol Abuse] 15th anniversary. Joyce founded PANDAA in 1980 and has served as executive director, newsletter editor, and member of the board of directors since its founding. The organization greatly contributes to parents awareness of drug abuse among young children and gives hope and support to parents and children alike who face those problems.

PANDAA, a volunteer organization, combats alcohol and other drug abuse through education and civic action. Under the leadership of Joyce Tobias, PANDAA publishes a quarterly newsletter with a national distribution of 10,000 copies, provides a hotline and referral service for parents, conducts adult and youth conferences, maintains a speakers bureau and assists in the formation of new groups.

Joyce was also a founding member of the Virginia Federation of Parents [VFP] in 1982 and served as its president in 1992 and 1993.

Along with her strong advocacy role in Fairfax County, she has served as a consultant for the U.S. Department of Education—1988–89—and other school districts across the country. She traveled to Brazil for the U.S. Information Agency in 1991, participated in electronic dialog with two countries in Africa, and represented the United States by speaking many foreign visitors through USIA.

Joyce is the author of "Kids and Drugs," a 126-page handbook for parents and professionals that has been translated in part into Portuguese and Arabic. Other publications include "Schools and Drugs," a handbook for parents and educators, and "Preparing for Parenthood: A Lamaze Childbirth and Postpartum Guide."

After teaching childbirth preparation for four years, Joyce founded FLAME [Family Life and Maternity Education Inc.] in 1971, an organization which teaches the Lamaze method of childbirth.

Joyce Tobias is a remarkable woman whose contributions to her community and her country as a leader and volunteer have made a difference. I know my colleagues join in honoring this outstanding woman.

FORT EDWARD FIRE DEPARTMENT DEMONSTRATES TRUE AMERICAN INGENUITY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. SOLOMON. Mr. Speaker, I have always held a special place in my heart for volunteer fire companies and the invaluable service they provide the residents of small towns like those in my 22d Congressional District of New York. As a volunteer firefighter myself for 20 years, I understand the commitment necessary to fulfill such a role, regardless of the weather or the time of day. The members of the Fort Edward Fire Department have selflessly provided this vital service, and for that, we should all pay tribute.

However, Mr. Speaker, as if these people have not provided a great enough example of community service, the members of this fire department will unveil this Saturday, May 6, 1995, another accomplishment we would all do well to emulate. The Fort Edward Fire Department will be holding a ribbon cutting ceremony to commemorate the opening of their newly expanded and renovated fire station. This project, combining two separate branches of the fire department and providing much needed expansion and improvement of facilities, cost over $400,000. However, the most notable accomplishment is that it will be financed without a single penny of public tax money. As we all strive to regain fiscal sanity in the public sector and encourage public service, the efforts of the volunteers who comprise the Fort Edward Fire Department are worthy of significant recognition. In a time where government spending and regulation seem to play a role in all aspects of American life, this achievement signifies an example of true American voluntarism and wherewithal which made our Nation the greatest in the world.

At the open house this Saturday, the fire company will be able to show off the improvements to the fine citizens of Fort Edward. They will exhibit the new rooms and offices they added to the station, the fine colors and carpeting they chose to decorate the hall where they will hold bingo nights, as well as other special events to help finance their project, and allow the children to climb all over the fire trucks in the expanded truck bays, all the while knowing they did so without spending any of the citizens hard-earned tax dollars. This is an accomplishment which we should all take comfort in commending. Therefore, Mr. Speaker, I ask that all my fellow Members rise with me and salute the achievements of the Fort Edward Volunteer Fire Department, they truly exemplify the spirit of community service all Americans should strive to achieve.

IF YOU HAVE A JOB, YOU AREN'T CAUSING INFLATION—GUESS WHO IS?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. CRANE. Mr. Speaker, the Orlando Sentinel recently featured an article which destroys numerous myths pertaining to inflation. Mr. Charley Reese, author of the article, highlights congressional responsibility for inflation. He goes on to argue that economic progress has been hampered by inflation stemming from actions of the Federal Government and Federal Reserve System.

I commend to the attention of my colleagues "If you have a job, you aren't causing inflation—guess who is?"

IF YOU HAVE A JOB, YOU AREN'T CAUSING INFLATION—GUESS WHO IS?

(By Charley Reese)

There's a big con game going on. The con is that politicians in both parties and the bankers talk about problems caused by inflation without mentioning that they cause it.

To hear the central bank talk about it, you would think inflation is caused by people getting jobs. Uh, oh, the central bankers are saying, too many Americans have jobs, and so we had better increase the rates of usury to keep inflation under control.

In a country with so many millions of people unemployed and underemployed, it is impossible for people to cause inflation by getting a job. Even if we had 100 percent employment, people getting jobs would cause little if any inflation.

There are, to keep it simple, two kinds of inflation. One is called cost-push inflation and the other is monetary inflation. Politicians and money-lenders would like you to believe that cost-push inflation is the only kind that exists.

Not so. An example of cost-push would be a situation in which there were a great drought in the Midwest followed by a plague of locusts, so that the grain crop would be severely reduced. Because there would be insufficient grain to meet the demand, people would bid up the price in an effort to get what was available. That's cost-push: a rise in prices produced by an increased demand for a commodity or product.

Monetary inflation, however, is when the monetary authorities put so much money into the system that the value of each unit declines. Demand and working people have nothing to do with it. That type of inflation is entirely in the hands of the government and the central bank.

That's really what Mexico's peso crisis is all about. As it always does, the Mexican ruling party turned on the printing presses and greatly boosted the money supply during the election campaign. When this happens, eventually the monetary unit will decline in value.

As the value of the monetary unit declines, people are forced to raise prices just to maintain their same level of income. Because of continued deficits and the profligate policies of the Federal Reserve, the U.S. dollar has lost its value.

Money is not wealth. What one buys with money is wealth—houses, clothes, tools, services, etc. How much a given unit of money can buy is called purchasing power. Well, the purchasing power of the U.S. dollar, thanks entirely to Congress and the Federal Reserve, has declined so much that, if you made $10,000 in 1967, you would have to make $40,000 in 1995 just to be where you were 28 years ago. To put it another way, it takes $4 today to buy what $1 would buy in 1967.

But the key point to understand is that this is the fault of Congress, not the fault of the private sector. Back in the 1960s, Congress gave up any effort to maintain a stable money system and indexed—those famous cost-of-living allowances—most federal programs. It did that to take the sting out of inflation, a policy it was consciously pursuing, because it is more politically palatable than bringing the federal budget into balance and reining in the central bank.

But, of course, if you aren't on the federal teat, your income didn't get indexed to inflation. Inflation never affects people uniformly. Some can prosper; some can stay even; and some will fall behind.

What outrages me is to hear bankers and politicians talk about the real misery their inflationary policies have caused while pretending that it is not their fault but someone else's, either greedy consumers spending too much or some unexplained, uncontrollable mysterious "thing."

It's they. It's the 100 senators and the 435 members of the House. It's the Federal Reserve System, which Congress created and which Congress could, if it had the sense and the guts, seriously reform or abolish. They caused the economic misery. Now they are blaming the victims.

BART ROWEN SET THE STANDARDS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. LAFALCE. Mr. Speaker, On April 13, 1995, the pioneer of modern economic journalism Hobart Rowen, died, leaving a legacy of standards for the profession. International economic issues and events were Mr. Rowen's specialty. Through five decades of dedication and innovation devoted to economic journalism, Mr. Rowen reshaped the standards for the profession by bringing the sometimes arcane issues of international economics to mainstream America. He wrote so that readers could understand and appreciate the importance of economic events and the impact of international economics on their lives. Whether the subject was international trade, monetary policy, or exchange rates, Mr. Rowen's knowledge and journalistic style put him in a league of his own. I most recently spoke to Mr. Rowen in February this year about the Mexican peso crisis. His knowledge, insight, and willingness to question traditional economic assumptions were clearly demonstrated on this issue. Mr. Rowen will be missed, but his legacy to economic journalism has set the standard for years to come.

Mr. Speaker, I am submitting for the RECORD, a copy of Mr. Rowen's obituary that appeared in the Washington Post on April 14.

ECONOMICS JOURNALIST HOBART ROWEN DIES; REPORTER AND FINANCIAL EDITOR AT THE POST

(By Claudia Levy and Bart Barnes)

Hobart Rowen, 76, an economics reporter and editor at The Washington Post who played an important role in bringing coverage of business news and economics into the mainstream of American journalism, died of cancer April 13 at his home in Bethesda.

Mr. Rowen, a leading economics journalist for five decades, joined the news staff of The Post in 1966. He was a pioneer in bringing economic news to Page One and was known for his ability to explain domestic and global economics in terms that helped readers relate them to their own bread-and-butter issues.

His work took him to conferences around the world, to the boardrooms of industry and business and to the seats of power in Washington and other national capitals. In his news stories and syndicated columns, Mr. Rowen broke new ground on such issues as fiscal and monetary policy, the implications of appointments to the Federal Reserve Board and the actions of the World Bank and the International Monetary Fund.

"He was the first economics reporter of his generation who could go to a press conference about economics and know more than the guy who gave it," said Benjamin C. Bradlee, the former executive editor of The Post, who hired Mr. Rowen "to bring the newspaper's business coverage from nowhere to somewhere."

When Mr. Rowen arrived at The Post, the paper's business and financial staff consisted of one editor, two assistants and a news aide, and most of its coverage was devoted to promotions and retirements at local businesses. Today, The Post's business section includes a staff of 55 with bureaus in New York and Tokyo.

In addition to his work in print journalism, Mr. Rowen appeared frequently on television broadcasts such as "Washington Week in Review," "Nightly Business News," "Meet the Press" and "Face the Nation."

"We have lost one of this nation's preeminent economic journalists," Treasury Secretary Robert E. Rubin said yesterday at a speech in Los Angeles. "He was a leader in bringing to the fore those issues which are so central to the economic debate."

Mr. Rowen was born in Burlington, Vt. He grew up in New York and graduated from the City College of New York. In 1938, he joined the Journal of Commerce in New York as a copy boy and nine months later was hired on as a reporter to cover commodities.

He took courses at the New York Stock Exchange and wrote a pamphlet on futures trading. He was assigned to the paper's Washington bureau in 1941 to cover the new defense agencies and show their interaction with business.

Mr. Rowen took a two-year break from journalism during World War II to work as a public relations specialist with the information division of the War Production Board.

In 1944, he joined the Washington bureau of Newsweek, writing a business trends page for the magazine that interpreted news for the business community. Until joining The Post at the invitation of former Newsweek colleague Bradlee, Mr. Rowen remained with the news magazine.

As financial editor and assistant managing editor for business and finance at The Washington Post, Mr. Rowen oversaw the launching of the newspaper's Sunday Business section and an expansion of its business coverage. He continued his column and broke many stories, including a prediction that dollar devaluation and wage-price controls would be imposed before those events occurred in 1971.

In 1967, he drew the wrath of the Johnson administration with a story quoting a "high government official" to the effect that costs of the war in Vietnam would rise sharply above official estimates. It turned out later that the unnamed official was William McChesney Martin, chairman of the Federal Reserve Board.

Mr. Rowen returned to full-time writing in 1975, and in 1978, he was named international economics correspondent. He said he found the beat increasingly important because in many respects Washington, not New York or London, had become the financial capital of the United States and of the world. He covered the fluctuation of the dollar and other currencies, third World economics, international trade and world economic summits.

In addition to his twice-a-week column, "Economic Impact," he contributed to publications, including Harpers and the New Republic.

His books included "The Free Enterprisers: Kennedy, Johnson and the Business Establishment," "The Fall of the President and Bad Times and Beyond" and "Self-Inflicted Wounds: From LBJ's Guns and Butter to Reagan's Voodoo Economics," published last year.

"Self-Inflicted Wounds" told a story of "blunder, mismanagement, stupidity and irresponsibility by officials whose chief obligation to govern the nation was betrayed by their embrace of politics misconceived and ineptly applied." This had led the nation on a path of "slow but steady self-strangulation," he wrote.

In 1992, Mr. Rowen wrote for The Washington Post Health section about the misdiagnosis of his prostate cancer that led to incorrect treatment at Georgetown University Hospital. He emphasized the need for a second opinion, even at the nation's most prestigious medical institutions.

Mr. Rowen's honors included Gerald Loeb awards for best economics column, for a piece on problems faced by the International Monetary Fund and the World Bank, and for lifetime achievement. He also received the distinguished service award for magazine writing from the Sigma Delta Chi journalism honorary society.

He also received the John Hancock award, the A.T. Kearney award and the Townsend Harris medal of CCNY. He was elected to the Hall of Fame of the D.C. chapter of the Society of Professional Journalists and won the first professional achievement award of the Society of American Business Editors and Writers.

Mr. Rowen served on the Town Council of Somerset in Chevy Chase from 1957 to 1965 and was president of the Society of American Business Writers and the Washington professional chapter of Sigma Delta Chi. He was a member of the National Press Club, the National Economists Club and the Washington-Baltimore Newspaper Guild.

Survivors include his wife of 53 years, Alice Stadler Rowen of Chevy Chase; three children, Judith Vereker of London, James Rowen of Milwaukee and Daniel Rowen of New York City; and five grandchildren.

AFFIRMING EQUALITY IN RHODE ISLAND

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. STUDDS. Mr. Speaker, on March 19, the Rhode Island House of Representatives approved legislation to prohibit discrimination on the basis of sexual orientation. If, as expected, the bill clears the Senate and is signed by the Governor, Rhode Island will become the ninth State to provide such protections to its citizens.

This milestone was marked by the Providence Sunday Journal of April 2, 1995, in a superb column by M. Charles Bakst which I am proud to insert in the RECORD.

The article describes the passage of this legislation through the eyes of one of the people who worked hard to bring it about. His name is Marc Paige. Among other things, he is gay and living with AIDS. He is also a former member of my campaign staff whom I am proud to call my friend. His personal journey is a familiar story for all who grow up gay in our society, and the families and friends who love them.

The article follows:

[From the Providence Sunday Journal, Apr. 2, 1995]

GAY RIGHTS ACTIVIST SAVORS BIG VICTORY

(By M. Charles Bakst)

When the House last week passed the gay rights bill, supporters of the measure were jubilant. One of them, watching from a gallery seat, was Marc Paige of Cranston.

He is 37. He is a gay activist. He is Jewish. And he has AIDS.

Paige is part of the army that has long fought for this measure to ban discrimination against homosexuals in employment, credit, housing, and accommodations. It has kicked around the capitol for 11 years and now, having survived the House, appears headed for Senate passage and signing by Governor Almond.

"All Rhode Islanders won today," Paige enthused after Wednesday's House vote. And, of course, he was right. Whenever society takes a stand against discrimination against anyone, it is a victory for everyone. But if you sit and talk with Paige, you will get a better appreciation of why this bill has such meaning for gays and lesbians, and of the hurt and pride that motivate him to seek its passage.

If the bill is enacted, he says, it will be a "very big deal." Though not transforming society overnight, it will be a start:

"It's going to give gay people the knowledge that they do have recourse if they are discriminated against. And it's going to, hopefully—and I have no delusions that it's going to be in my lifetime—make things easier for, particularly, the children who realize that they're gay, that they're lesbian. Because it pains me the most to know that kids today are still experiencing the isolation, the fear, that I had to go through. Being a teenager is hard enough. These are needless, senseless, tragic emotions that they have to deal with.

Paige, who has helped organize demonstrations against anti-gay-rights legislators, can be as militant as they come. But he also can sound gentle, and sunny.

A friend, former Sundlun administration staff chief Dave Cruise, says, "He's an amazing person. With what his future holds for him, he doesn't bear ill will toward anyone."

Paige tested HIV-positive in 1989. He says this was a result of unprotected gay sex years earlier in a less enlightened age. By 1993, he had full-blown AIDS.

"I feel sometimes like I'm living with a time bomb inside me," he says. "And I know that I could get very sick. But I'm starting new treatments and I'm trying to stay healthy as long as possible and I take it a day at a time."

He adds, "I couldn't say for sure that I'm going to be here for my niece's bar mitzvah, which will be in three years. I'd say it's even money. But we don't know what will be developed, so there's always hope. As long as you're breathing, there's hope."

He grew up in a middle-class family.

As a teenager, he realized he was gay—and that he felt isolated.

"Teenagers especially want to fit in, and, when you're gay, when you're lesbian, you don't fit in. So then I threw my energy into other causes. I was very involved with B'nai B'rith youth . . . I worked very hard on Jewish causes, on Israel."

He was a student at Cranston West and he was still in the closet:

"I knew a couple of gay people at my high school. They were constantly tormented and harassed. So the messages I received throughout all of society were, 'This is very bad.' So I kept it hidden, as most gay kids do."

Then he went to college in New Jersey:

"One night, when I enrolled at Rutgers University, my freshman year, a snowy December night, I got up my courage and I went to a meeting that was advertised in the school newspaper for the Homophile League, which is a very antiquated term, but this was back in 1976, and I expected to find the monsters that society told me would be there, and what I found were wounderful, supportive, warm, welcoming people and I realized then I wasn't some terrible person."

Now it was Christmas vacation:

"I wanted to share the joy that I was feeling with my parents. I was finally able to be comfortable with who I was, and I shared that information with them. Their reaction was shock, disappointment."

Did they send him to a psychiatrist?

"No, because I wouldn't have gone to a psychiatrist. There was nothing wrong with me . . . It took me about six years of torment, really, to come to this position, so I wasn't going back and I wasn't going to feel badly about myself ever again on this issue."

Eventually, he says, his parents came around, "because they loved me, whoever I was."

Paige often speaks in schools and in temples, including Barrington's Temple Habonim, where I first encountered him. He says his Jewishness played a large role in shaping his gay activism:

"Growing up, my parents instilled in both my sister and myself a strong sense of Jewish identity, and also we learned about the injustices that were brought upon the Jewish people throughout the ages, particularly, of course, only 50 years ago, when 25, 30 percent of the world's Jewry was eliminated from the planet. I have seen what the seeds of hatred, bigotry can do."

He no longer works—he was in the fashion industry and, for awhile, in the state Department of Administration—but he's still out speaking, often on AIDS prevention.

This past Tuesday, he was buttonholing legislators, and on Wednesday, the day of the House vote, he was at the State House again to take in the scene.

Outside the House entrance, we happened upon Linc Almond, a backer of the bill. "I want to thank you very much for your support," Paige said. In fact, he had some news for the governor. When Almond was barraged by anti-gay-rights calls on a recent Steve Kass WHJJ talk show, Paige's was the only supportive call that got through.

We went up to a House gallery and there was Eileen Gray, Paige's 66-year-old mother, sporting a button that said, "I'm straight. But not narrow."

I took her aside for a moment and asked why she was there.

"Because I believe in the bill and I'm supporting my son," she said.

Many parents would say, "It's bad enough that he's gay. Why does he have to be public about it? The last thing I want is to be public."

Gray said, "I'm his mother. I love him with all my heart and soul. I don't think there's anything wrong with him. I don't think he's 'sick.' I have become educated and wiser, hopefully, to understand that a certain percentage of the population, from the beginning of time, is born gay. What's the big deal?"

Not that it was easy for her to accept initially. She said when she first heard Marc's news, she spent a day in bed with a headache, and her daughter, three years older than the son, phoned.

"My daughter Robin called me and said, 'Mom, what's the matter?' "

"I said, 'It's Marc.' "

"She said—in a frantic voice suggesting a fear of something like cancer— '*What?*' "

"Marc told me he's gay."

The daughter, relieved it was only that, said, "Thank God."

That helped, Gray said.

Now Marc, with AIDS, does face a grim future. But Gray was upbeat.

"He's very good," she said. "He takes very good care of himself.

And, with medical technology, I think he's going to be here a long, long time. I truly believe that."

Now the House debate began and droned on—with exquisite odes to equality and dignity, but also with ugly, arrogant talk of gays and their so-called lifestyle that is, in some eyes, such an abomination before God.

Paige told me had a headache. "I don't know if it's from this or the AZT I took a couple of hours ago."

He sat with a House seating diagram, with notations of the expected vote lineup, which was thought to be very close.

And then the actual tally came—passage by a surprisingly comfortable 57 to 41. Thrilled, he turned to me and said, "Wow!"

As they made their way out of the gallery, he and his mother kissed.

EXEMPLARY VA EMPLOYEES

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. MONTGOMERY. Mr. Speaker, our human vocabulary does not contain the words to accurately describe the horror, the sadness, the profound feelings of grief and loss we have all experienced since the April 19th bombing of the Oklahoma City Federal Building. This monstrous act—targeted at our young innocents, at the elderly seeking their Social Security benefits, at disabled veterans checking on their vocational rehabilitation or compensation benefits, at the hundreds of Federal employees laboring conscientiously to serve their fellow citizens—epitomized man's inhumanity to man. In response, we want to reach out to the injured and to the families of those who are missing or dead, and speak the words that will relieve their suffering. Knowing this is impossible we nonetheless struggle to share with these blameless victims our concern for them and the pain we feel on their behalf.

In contrast to the ugliness of the bombing, countless men and women in Oklahoma City epitomize, by their selfless heroism, courage, valor, and determination, the deep concern most of us feel for one another in this country. I am particularly proud of the extraordinary response of the Department of Veterans' Affairs [VA] employees in Oklahoma City. Most of you read in the April 23, 1995, edition of the Washington Post the remarkable account of the brave actions of the VA staff who were in the Federal Building at the time of the explosion. I will not soon forget the description of Paul Heath, a VA counseling psychologist, who, having escaped the collapsed building, returned to his ruined office with a stretcher to rescue his badly-injured colleague. For the benefit of my colleagues who did not have an opportunity to read the Post article, a copy follows:

[The Washington Post, April 23, 1995]

PELTED WITH GLASS, BURIED BY WALLS, THIS OFFICE OF EIGHT PULLED THROUGH

(By William Booth)

OKLAHOMA CITY.—They began an extraordinary day as the most ordinary of people.

On Wednesday morning at 9, they sat at their computers or leaned on their desks in the Department of Veterans Affairs' small office on the fifth floor of the Alfred P. Murrah Federal Building. There were eight of them that morning, people similar to hundreds of thousands of federal employees across the nation.

"Just the most normal day," rehabilitation specialist Diane Dooley would recall later. "That's how the day started, just the same old, same old."

But not for long. In the time it might have taken to retrieve a file, the office was ripped in half by a massive explosion from a car bomb set off just outside the building's front entrance. Those inside were buried by an avalanche of debris or swept away in a blast of flying glass.

In the torrent, they lost fingers and eyes and ears. Their bones were broken and twisted. Some even lost their sense of where and who they were, becoming white ghosts covered in dust and blood, wandering in shock through a building filled with the dead.

Later, at least one of them would wonder why he was not more brave; another would claim they were not heroes. All of them wept. But all of them survived the bomb that went off at 9:04 a.m.

"We were so lucky," said Jim Guthrie. "I know if things had just been a little bit different, that we could all be buried out there in the rubble."

The VA office was not unlike the 14 other agencies' offices in the building. Each was filled with bureaucrats, secretaries, clients—perhaps 800 people in all that morning, now grimly divided between the survivors and the dead. Although its occupants were more fortunate than many others, the story of the VA office is in many ways the story of them all.

The eight VA employees pushed papers but they also pushed disabled veterans, helping them get jobs and benefits. They thought of themselves as a family: They told jokes, they made calls, and they filled file cabinets with stories of veterans getting ahead in life or spiraling ever downward. Of the eight workers, five were veterans themselves.

They called themselves by alphabet letters, as federal employees so often do—CPs and VRSs and LVERs: Counseling Psychologists and Veteran Rehabilitation Specialists and Local Veteran Employment Representatives. On Wednesday morning, they were discussing their QRs, or Quality Reviews. They were busy, one recalled without irony, "reinventing government."

Guthrie, a contracting officer's representative, stopped by the office to work on securing a dental contract for disabled veterans in nearby Lawton. He considers himself a hard worker and a trouble-shooter, who does all the "crappy little jobs" that need doing. Long and lean, divorced with kids and living in nearby Muskogee, where the central office is located, Guthrie, 44, is a former Marine, who spent 13 months ducking rockets in Da Nang, Vietnam, an experience he does not dwell on. "I don't like pity parties," he says.

The explosion, he said, was worse than anything that happened to him in Vietnam.

When Guthrie arrived at the office, he greeted everyone. He remembers that Stan Ronbaun, who worked for the state but was attached to the federal office to help find jobs for disabled veterans, was sitting at his desk right next to the window. Ronbaun was from New York and liked jokes. He reminded people of the actor Walter Matthau.

Martin Cash, too, was in the front room, almost as exposed as Ronbaun to the large plate-glass windows on the north face of the building. Cash counseled veterans about their benefits. Nearby were John Colvin and George Denker. They helped disabled vets get loans.

Guthrie visited for a few minutes with Diane Dooley and office coordinator Paul Heath, a man who wears many hats. Heath is a psychological counselor for veterans, helping them through neurological disease or divorce or alcoholism. He has been with the VA in this office for 28 years. People call him "Doc."

The three of them—Guthrie, Dooley and Heath—talked about "nothing unusual." Heath recalls, "something about putting together a unified database for a vocational rehab unit."

Daughter of a retired Air Force sergeant, Dooley married the son of another Air Force sergeant. She started working for the VA five years ago as a clerk-typist and put herself through college, becoming what she jokingly calls "a social worker for veterans." Just as she was getting up to go to the Federal Employee Credit Union, she got a call from Dennis Jackson, her co-worker, ringing her from his cellular phone, telling her he was running late.

At 9:00, running late herself because of Jackson's call, Dooley started for the stairwell to descend to the credit union on the third floor. She never made it. She was lucky. Seventeen of the 31 employees at the credit union are believed dead.

"Just as my hand reached the door, the explosion, it went off," Dooley said, relating the story from her flower-filled bedroom after being released Friday from St. Anthony's Hospital. "I though I had set it off. Honest to God, I believed I triggered the bomb."

Dooley was knocked on her back, her right hand and wrist smashed, her toes broken. She believes she heard a second explosion, which may have been the device itself or the front of the building collapsing. "I could hear a man, somewhere, saying, 'Help me, help me.'"

Dooley stumbled down another two flights and staggered from the building. A man kept asking: "What's your name? What's your name?"

She was bundled into a police cruiser and is believed to have been the first person in the explosion to reach a hospital. When she recovered from surgery, she kept asking her husband, Jim, about her colleagues.

Seconds before the explosion, Jim Guthrie had left the office with Bob Armstrong. A VA field investigator of fraud and, like Guthrie, a former Marine, Armstrong had served in Korea and done two tours in Vietnam.

"I felt a boom and was picked up off my feet and thrown under a water fountain, and I was thinking, that was fine, since I thought the roof was about to collapse," Guthrie said. He heard the second explosion and covered his ears.

"The smoke and dust, it was almost immediate," he said. "I couldn't breathe. I kept looking for pockets of air. We were choking and coughing."

Armstrong followed Guthrie down the same stairs Dooley had used to escape moments before, but they moved slowly, feeling their way in complete darkness. They finally emerged into the light in the back of the building, the side facing away from the bomb.

Guthrie is not sure what happened when he emerged from the building. He and Armstrong were covered in dust. "For the next three or four hours, we just wandered around," Guthrie recalled. They wanted to make phone calls, but were afraid to enter the Internal Revenue Service building nearby.

"I have never felt so helpless and disoriented," Guthrie said. While he stumbled in shock through the streets of downtown Oklahoma City, Guthrie said, he wondered what he had done with his life: "I could've been dead but I wasn't dead, but I began to imagine all the dead and all the dead before me."

When Guthrie and Armstrong emerged from the building, a woman approached screaming at them to save the children in the day-care center on the second floor.

"We didn't do anything," Guthrie recalled. "We couldn't do anything. We stood there, dazed and helpless."

While the two men stood in a daze, Paul Heath, the psychologist, was sitting at a desk in Diane Dooley's office, debris up to his armpits. "I was staring ahead and could see, where the building used to be, nothing. I could see across the street."

The front of the building fell away almost beneath Heath's feet. He sat for a second half-buried. "I mean, the roof fell on my head. Aluminum. Light fixtures. Duct work. Wiring. And I could still see what I think was the explosive, the fertilizer, popping, these little sparks, and then the black cloud rolled in."

Heath thought it must have been a natural gas explosion. He crawled over his desk and into the front room, clearing a path through the ruins. There he saw Colvin leaning over Ronbaun's crumpled body. "Stan's hurt real bad," Colvin told Heath. Martin Cash, too, was covered in blood, his left arm broken, bruised and deeply cut. Swaying on his feet, Cash announced. "I think my eye is gone." Colvin ripped off his own shirt and held it to Cash's eye. George Denker was without his glasses, fumbling around in the dark.

"I told John to stay with Stan, that we'd find a way out and come back," Heath recalled. A steady man, Colvin remained with Ronbaun while Heath and the others made it down the back stairs, remained with him even as the building groaned and continued to fall apart and the facade and ceilings gave way.

Heath returned with a stretcher, carried by a maintenance man whose name he does not remember, and Robert Roddy, who works for the Department of Housing and Urban Development. Ronbaun is more than six feet tall and weighs about 265 pounds. Heath helped carry him out, pushing desks and debris out of the way, but he worried. Heath has a bad heart.

When Heath emerged from the building, the first person he met was a woman, sobbing and nearly hysterical, whose daughter had been among those in the day-care center. Heath knew the building well, serving as chief medical officer despite the fact that he did not hold a medical degree. He knew the center had taken an almost direct hit, and he feared no one could have survived.

Later, an old high school classmate whose wife worked for HUD asked for his help in searching for her. "I asked him where his wife worked, what side of the building, and when he told me. I knew he'd never find her. That floor was gone," Heath said.

Diane Dooley is home now with a smashed wrist, which probably will require bone grafts. Martin Cash is still in Presbyterian

Hospital, and it looks as if he may lose an eye. Stan Ronbaun remains at St. Anthony's Hospital and may also lose an eye. The rest of the staff is home. Heath and Guthrie were back at work on Friday at the VA's new temporary quarters at Oklahoma City's VA hospital.

Paul Heath said he does not find any cosmic significance in the bombing. He believes instead, he said, that "in my life and the life of others there are these times of extreme pain, and then there are all the good times to help you grow strong and heal." And then Heath began, very quietly, to weep.'

Dooley said that when Heath visited her in the hospital, she told him she had not yet had time to cry. But she has time now.

"These veterans are going to want their checks on Monday," Dooley said, "and I don't know how I'm gonna type with one hand."

When asked what she would think if the bombers turned out to be former military men with a grudge, she sighed and said it would not surprise her. Dooley said she often thought that someday, some angry and disturbed person, even one of the veterans, might enter the federal building and start shooting. There are no metal detectors and security was light, almost nonexistent.

Guthrie said, "I am a solid person, but this whole experience has a lot of psychological effects. I'm rethinking my life. I really am. I want to spend more time with my children and maybe change some other things."

In this time when federal bureaucrats are sometimes seen as the source of everything that is wrong with the United States, Paul Heath and his colleagues ask people to remember the good that many federal workers try to do.

"We're not heroes," he said. "But I like to think that all of us try to help."

On Friday Paul Heath went back into the ruins of the Murrah building one last time. He convinced some local policemen he knew to accompany him up five flights back to his old office to retrieve his computers and his files.

He stared at the wreckage. The computer monitor on his desk had seemingly been sucked to the floor. There were overturned chairs, wires and insulation. It was an eerie experience—it unnerved him and reminded him how close he and his co-workers had come to death.

Additionally, although the director of the VA Medical Center in Oklahoma City, Mr. Steve Gentling, would assert that he and his staff were simply doing their jobs, their many contributions during the crisis merit special recognition. Although the following report is only a summary of VA activities during the early days of the crisis, it vividly demonstrates the exemplary commitment of VA employees:

DEPARTMENT OF VETERANS AFFAIRS, VETERANS HEALTH ADMINISTRATION, VA MEDICAL CENTER, OKLAHOMA CITY, OK

SUMMARY OF OKLAHOMA CITY VAMC ACTIONS IN RESPONSE TO ALFRED P. MURRAH FEDERAL BUILDING DISASTER

As of 4:00 p.m., April 21, 1995, the VAMC had taken the following actions in response to the April 19, 1995, bombing of the Murrah building:

Received 12 casualties, beginning at 10:50 a.m. One of the casualties was a veteran; two were children, both of whom were treated and referred to Children's Hospital. Three people were admitted to the hospital and discharged on April 21.

Sent a four-person triage team to the site of the bombing immediately after the disaster occurred.

Sent 19 critical care nurses and emergency employees to the closest hospital to the disaster, St. Anthony's Hospital.

Sent triage supplies to St. Anthony's Hospital.

Sent 14 crisis intervention team members, primarily psychiatrists and psychologists, to three assistance locations—the disaster site, the American Red Cross and the First Christian Church.

At the request of the American Red Cross, sent Dr. John Tassey, Director VAMC Behavioral Medicine Service, to serve as coordinator/liaison for Oklahoma City mental health response coordination with the National American Red Cross.

Set up offices for Veterans Benefits Administration (VBA) operations on the first floor of the VAMC. VBA Operations commenced at 9 a.m. on April 20.

Set up office space in the VAMC for two of the forensic teams from the Public Health Service.

VAMC Psychiatry and Psychology employees, including the Chief of Psychiatry Service, Dr. Charles Smith, answered telephones for the American Red Cross Crisis Intervention Center continuously for 36 hours.

Set up a blood donor team to identify employees with rare blood types to be prepared for requests for those blood types. Collected blood donations from donors, some of whom waited 5 hours to donate.

Sent chaplains for coverage in one of the community clinic centers set up in local churches on April 20–21.

Establsihed a VAMC-sponsored community hotline for post-trauma counseling through the American Red Cross. The American Red Cross will issue the hotline number and the calls will be referred to VAMC staff.

Will hold two "Group Counseling" sessions on April 21 and 24 open to all VAMC employees. Will schedule additional sessions as needed.

Sent 2 VAMC pathologists to the State Medical Examiners Office for assistance.

Sent Paul Farney, VAMC Supervisory Technologist in Radiology Service, to the State Medical Examiners Office to serve as Coordinator for all city hospital radiology technicians.

Sent 2 vehicles and drivers to transport Radiology film for development at the VAMC for return to the State Medical Examiner. The effort is anticipated to continue for the next 6 days.

Assisted the State Medical Examiner's office in leasing a portable X-ray machine, and with procuring supplies and technical assistance.

Provided gowns, scrub suits, masks, gloves, and jaw stretchers to the State Medical Examiners Office.

Dick Campbell, Chief Human Resources Management, and Chairman of the Federal Personnel Council, is organizing the effort with other agencies to reconstruct the personnel records of Federal Building employees whose records were destroyed.

Providing sleeping/showering facilities for firefighters and rescue workers in the auditorium area of the Health Wing of the VAMC.

Fred Gusman, M.S.W., head of the VA Disaster Mental Health Trauma Team, will be reporting to the VAMC to provide mental health counseling/coordination.

Established Oklahoma City Family Assistance Relief Fund at the Oklahoma Federal Credit Union.

WHY WE NEED NATIONAL HEALTH CARE REFORM: $38,696 FOR A HEALTH INSURANCE POLICY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. STARK. Mr. Speaker, we didn't pass health care reform last Congress, but the need for it didn't go away.

I've just received a letter from a midwestern family, which shows how the Nation's insurance companies continue to behave in an irresponsible and capricious manner. This family of four, which says they have less than average health care expenses, had been using the COBRA health continuation provisions for 18 months at an annual rate of $5,556.97. With COBRA expiring, they wrote Connecticut General Life Insurance Co. to ask about converting to an individual rate policy.

Following is their letter describing what happened. The company sent them a printed sheet in which they were invited to continue for the annual rate of $38,696.

Mr. Speaker, Connecticut General obviously has no interest in writing policies for individuals. It met the letter of the law requiring that COBRA enrollees be offered a conversion policy—but their offer is a joke and an insult.

When the Nation's insurance companies display this type of behavior, they are just refanning the flames for health care reform.

The letter follows:

APRIL 21, 1995.

Re health care cost reform.

Hon. PETE STARK,
Subcommittee on Health, Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN STARK: I am writing to you because I believe you would want information like this to help you make informed judgments on health care issues that not only affect me and my family, but affect millions of other people.

I believe it is federal law that requires insurance companies to offer group medical conversion policies to individuals when they are no longer eligible to be part of the group. Surely that legislation didn't intend to allow for an insurance company, in this case Connecticut General Life Insurance Company, to increase a family's premium from $5,556.97 per year to $38,696.00 (over 590% increase) with a higher deductible ($500) and lower R&B daily limit ($250).

I paid a monthly premium of $463.08 for eighteen months after leaving my teaching position. When I was informed that I was no longer eligible for the group, I requested and received the enclosed conversion quotes. I am sure that Connecticut General Life Insurance Company's attorneys have assured them that they are within the law when they quoted such an unjust rate.

I would hope that Congress would review and modify any legislation that requires health insurance companies to offer conversion policies, but allows them to do so in such an unconscionable way.

Sincerely yours,

——— ———.

Enclosure.

CONNECTICUT GENERAL LIFE INSURANCE COMPANY, A GROUP MEDICAL CONVERSION QUOTE—QUARTERLY PREMIUMS

Rate quote for:———.

Your age: 54.
Your spouse status: Yes, age: 47.
You have: 2 children.
Today is: 03/02/95.
Effective date: 03/01/95.
Your ZIP: —

QUARTERLY COMPREHENSIVE PREMIUMS[1]

R&B daily limit	$100	$150	$200	$250
Surgical maximum	4,500	6,000	7,500	9,000
Deductible:				
$100	9,959	10,363	10,787	11,208
$250	9,316	9,694	10,091	10,485
$500	8,596	8,945	9,310	9,674
$1,000	7,918	8,239	8,576	8,910
$2,000	6,915	7,195	7,490	7,782

[1] Choose the benefit provisions from the top of the chart with the deductible from the side of the chart to determine the premium for your particular plan.

QUARTERLY HOSPITAL/SURGICAL PREMIUMS[1]

Hospital only:				
R&B daily limit	$100	$150	$200	$250
Premium	2,781	3,357	3,828	4,189
Surgical only:				
Surgical maximum:	2,400	3,600	4,800	6,000
Premium	159	238	317	396
Hospital and surgical:				
R&B daily limit	100	150	200	250
Surgical maximum	2,400	3,600	4,800	6,000
Premium	2,940	3,595	4,145	4,585

[1] Choose hospital only, surgical only, or hospital and surgical as indicated to determine the premium based on the benefit provisions.

PI KAPPA DELTA NATIONAL TOURNAMENT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. SKELTON. Mr. Speaker, today I wish to recognize an outstanding group of students from Central Missouri State University's forensics team. The forensics team recently won the national 39th biannual Pi Kappa Delta National Tournament. The tournament was held from March 22–25, 1995 at Louisiana State University in Shreveport.

Pi Kappa Delta is a national honorary fraternity that symbolizes the benefits of a forensics education. Twenty-three students represented Central Missouri State University in the competition. The team placed first in debate and second in individual events, winning 32 individual event awards. This is the first national championship in the team's 73-year history.

I know that the Members of this body join me in congratulating the Central Missouri State University forensics team for their accomplishment. The students on the forensics team should be applauded for all the hard work, dedication, and perseverance it took to win the tournament.

UNITED STATES SPONSORS WAIT FOR UNACCOMPANIED HAITIAN CHILDREN

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mrs. MEEK of Florida. Mr. Speaker, few things are as traumatic for a child as being abandoned. However, for the past 9 months, 249 unaccompanied Haitian children have been detained in a hot, dusty refugee camp at the United States Naval Base at Guantanamo Bay, Cuba. The plight of these children demands the attention of every American.

I want to share with my colleagues an article that appeared in this morning's New York Times which describes the plight of these unfortunate, minor children, who have waited for months—and possibly will have to wait several more months—while the United Nations High Commissioner on Refugees tries to find homes for them in Haiti.

This article details the harsh, impermanent life that these children face in the camp, despite the best efforts of dedicated U.S. military personnel to help make the best of a bad situation. I urge all my colleagues to read this article.

The United States would not tolerate such treatment for our children. In fact, the United States does not treat Cuban children at Guantanamo in this manner. The time has come for the United States to end this kind of treatment to Haitian children at Guantanamo, too.

At Guantanamo, these children are alone, vulnerable and depressed. However, many of these children have relatives living in the United States who are ready and willing to care for them. Religious and community groups in Miami have volunteered to provide whatever resources are necessary to insure that no child would become a public charge and that each would be fully supported.

Mr. Speaker, children belong in homes, not camps. The time has come to close this camp and insure these children a decent place in which to live where they are wanted, loved, nutured and properly cared for. The Justice Department needs to change its policies to make this possible.

[From the New York Times, May 1, 1995]

MANY HAITIAN CHILDREN VIEW CAMP'S LIMBO AS PERMANENT

(By Mireya Navarro)

GUANTÁNAMO BAY, Cuba.—In a neat corner of a tent at the United States Naval Base here, an assortment of personal items had been tightly arranged on two cardboard boxes that served as a night stand: lotion to protect against the relentless Caribbean sun, detergent to hand-wash laundry, and M&M's and Tootsie Rolls.

The occupant who calls that corner home is a 13-year-old boy, and what he lacked was shoes. He is among 249 Haitian children who have been held in one of 14 refugee camps here since last summer while American officials decide, case by case, whether to allow them into the United States or send them back to Haiti. As the weeks drag on, shoes and clothes donated by relief organizations are sometimes in short supply.

So, the boy said, he has skipped school for five days while he goes barefoot. He was too embarrassed to do otherwise.

"He doesn't want to go to school without shoes; it's understandable," said Capt. Michael Dvoracek, the Army officer who oversees the Haitian children's camp, operated by a joint military task force. "We'd love to get more shoes and clothes. They are growing kids, and it doesn't take long for them to go through a pair of shoes when they do get them."

At a portable Air Force hospital, another "unaccompanied minor" from Haiti, a teenager named Marie-Carole Celestin, awaited a decision on her future, with a badly injured right hip. She was summoned to the hospital the other day with all her belongings because her doctors had recommended that she be sent to the United States for surgery that could not be performed here.

But for the third time the Justice Department said no. Her pediatrician, Lieut. Col. Nadege Maletz, said that because Marie-Carole's hip injury had existed before she left Haiti and was not considered acute, she had not been deemed eligible for treatment in the United States. But Colonel Maletz said she would make another appeal. In the meantime, she said, the girl's discomfort has kept her from sleeping at night, and so she will be sent back to the camp with painkillers.

The children, most from 14 to 17 years old but some as young as 2 months, are among the last 480 of 21,000 Haitians who were settled in the refugee camps here after they fled political violence in their homeland last year.

Most of the adults were repatriated beginning last November, shortly after the Rev. Jean-Bertrand Aristide was restored to the presidency. But scores of children remain here while the United Nations High Commission on Refugees and other organizations trace relatives to make certain that the young Haitians have a proper home when they either return to their country or, for very few, make it to the United States.

The base provides the children clothing, food and schooling. But the tent city where they live is dusty, the supplies of donated items like shoes are haphazard, medical care is limited, and spirits are low.

As with most of the Haitian children here—who are believed to have close relatives remaining in Haiti, where the political situation is still somewhat unsettled—the barefoot 13-year-boy was allowed to speak to a reporter on the condition that his name not be published. "I'm alone here," he said. "I don't feel good here. It's been nine months."

The United States houses Haitian and Cuban refugees separately here—there are 2 camps for Haitians, 12 for Cubans—and also, say advocates for the Haitian children, treats them unequally. While a revision in American policy has reopened the door to entry to the United States fairly wide for Cuban children, particularly those who are unaccompanied by their parents here, that door remains almost entirely closed to young Haitians.

Alleging discrimination, lawyers for the Haitian Refugee Center in Miami have filed a petition asking the United States Supreme Court to order that the Haitian children be admitted.

The lawyers note that the Clinton Administration is reviewing the cases even of Cuban children who are in the care of their parents here, but for whom a long stay at Guantánamo would constitute "an extraordinary hardship." This, they argue, amounts to saying that refugee camps that are hard on Cuban children are adequate for Haitian children.

American officials explain the differences in treatment by saying that Haitians as a whole can now return home to a democracy, an option the Cubans do not have. And better to keep the Haitian children here for the time being, they say, than to send them to an unknown fate before their relatives can be found back in their country.

"I don't know how we can run a more humane policy," said Brig. Gen. John J. Allen, the Air Force officer who commands the camps.

How did Haitian youths wind up alone here? Why had they set out on their dangerous voyage alone? In some cases, advocates say, because their parents had been killed in Haiti, in others because they represented a family's hope of riches in America.

Whatever the case, tracing relatives has been hampered not only because of all the logistical and communications problems entailed in reaching remote areas of the children's little homeland but also because the children often provide inaccurate or insufficient information about their families—sometimes intentionally, in an effort to avoid being sent back.

Since November, when the tracing began, only about 70 of the youths have been placed in Haiti—or "aged out" as they turn 18, at which point most are repatriated. Even the most optimistic estimates foresee most of them remaining here through the summer.

Very few of the Haitian children—23 so far—have been allowed into the United States. These are children who had parents there or had medical problems deemed life-threatening.

At the portable hospital, Colonel Maletz said this policy had meant, for instance, that a diabetic girl and an H.I.V.-infected boy with a lung ailment had been allowed to immigrate, while four children who need surgery for cataracts and other eye problems had not, even in cases that posed a risk of vision loss.

As the camps for Haitians are phased out and the camps for Cubans become more nearly permanent, the Cubans are afforded improvements that the Haitians lack.

An increasing number of Cubans are sheltered now in sturdier "strong-back" tents with wooden floors and window screens, for instance. There are also plans to allow them visits from relatives in the United States. Neither step is being considered for the Haitian children, simply because they are not expected to be here beyond a few more months.

Still, recent additions to Camp 9, a former airfield where the children live in 24 tents with 20 Haitian adults known as "house parents," include a playground for small children, a basketball hoop and an open area for soccer and volleyball. A suspended cargo parachute provides shade for a gathering place, as does a huge tree where a dozen boys sat on picnic tables the other day, hanging out.

The Haitian youths are expected to rise at 6 A.M. and go to bed at 10 P.M. Their responsibilities consist of attending school, doing their own laundry, keeping the camp clean and helping with chores like serving food.

Teen-agers, eight of whom have become pregnant since arriving at the camp, receive contraceptives. They also have adult education classes. (A sign on a bulletin board summoned, in Creole: "Women Only! To discuss quality of life in camp. Types of activities you want. Types of supplies you need. What's important to you.")

On one recent day, seven teenagers were on "administrative segregation" in another camp, most of them for fights during which they "took a swing" at an intervening soldier or camp worker, Captain Dvoracek said. But he minimized any such problems, saying that "the vast majority are great kids."

Around the camp, the children's main complaint is uncertainty of the future. Mental health workers here say that most of the children are handling their stay well but that many suffer from adjustment disorders like depression.

When the 13-year-old barefoot boy heard that children in the neighboring camps for Cubans were being flown to the United States, he told his keepers that his mother was Cuban. Switching from Haitian Creole to fluent Spanish, he said his father, a Haitian, had not liked Cuba and so had taken him to Haiti when he was 8, leaving his mother behind.

He said he did not want to go to Cuba, because Cuban refugees had already warned him that things were bad there. And he said he did not want to go back to Haiti, where, he said, he saw his father shot to death by "guards" in 1994 "because they thought he worked with Aristide." His hope, he said, is an uncle in Florida whom he has tried to call but whose telephone has been disconnected.

Sitting on a cot in his neat corner in the tent, bent over with elbows on his thighs, he spoke in an irritated tone. He said he passed the time sleeping, attending school and thinking about "my father, who died." If he makes it to the United States, he said, he wants to learn English and study to be a doctor and a journalist.

He said he was still waiting for a response to his contention that he is half Cuban.

"We want to leave, too," he said.

MEDWAY-GRAPEVILLE VOLUNTEER FIRE COMPANY CELEBRATES 50 YEARS OF FIGHTING GREENE COUNTY FIRES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1995

Mr. SOLOMON. Mr. Speaker, those who have visited my office have probably noticed the display of fire helmets which dominates the reception area. The hats hang in that prominent position for two reasons.

First, I had the privilege of serving as a volunteer firefighter in my hometown of Queensbury for over 20 years. During that time, I gained a great amount of respect and appreciation for the selfless volunteers who devote their time and energy to protecting our rural areas from the devastation of fire. This immense admiration is the second reason for the location of my hat collection.

In rural areas such as the many small towns in the 22d district of New York, fire protection is more often than not solely the responsibility of volunteer firemen such as those of the Medway-Grapeville Volunteer Fire Company. These dedicated individuals have saved countless lives and billions of dollars worth of property in New York State alone. And the Medway-Grapeville Volunteer Fire Company exemplifies the kind of heroism which makes volunteer firefighters such an important part of our local communities.

During my years as a volunteer fireman, I noticed some extraordinary things about my company. Its members were among the most varied groups of people I have encountered before or since. There were teachers, doctors, and farmers, just to name a few of the many walks of life represented. Despite their many differences, however, these volunteers had two very important things in common—a strong desire to help their fellow neighbors in times of trouble, and an unwavering commitment to perform their duties at any time, day or night, whenever they were needed. I know that my experience was not a unique one, and that the volunteers of the Medway-Grapeville Company are equally dedicated to and superbly skilled in their most crucial roles as community protectors.

Mr. Speaker, on May 6, the Medway-Grapeville will celebrate its 50th year of service to Greene County. I would now ask that all Members join me in paying tribute to the Medway-Grapeville Volunteer Fire Company, as it celebrates a half-century of firefighting excellence.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 2, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 3

9:00 a.m.
Armed Services
SeaPower Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1996 for the Department of Defense and the future years defense program, focusing on the Marine Corps modernization programs and current operations.
SR-232A

Budget
To hold hearings to examine Medicare solvency.
SD-608

9:30 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions and Regulatory Relief Subcommittee
To continue hearings on S. 650, to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions.
SD-538

Finance
To hold hearings on the alternative minimum tax.
SD-215

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Agriculture.
SD-138

Environment and Public Works
Transportation and Infrastructure Subcommittee
Business meeting, to mark up S. 440, to provide for the designation of the National Highway System.
SD-406

2:00 p.m.
Foreign Relations
European Affairs Subcommittee
To hold hearings to examine NATO enlargement, focusingon interest and perceptions of allies, applicants and Russia.
SD-419

Select on Intelligence
Closed business meeting, to consider pending intelligence matters.
SH-219

2:15 p.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine antitrust issues as contained in proposals to reform the telecommunications industry.
SD-G50

2:30 p.m.
Armed Services
Airland Forces Subcommittee
To hold hearings to examine peace operations.
SR-222

MAY 4

9:00 a.m.
Budget
To continue hearings to examine Medicare solvency.
SD-608

Environment and Public Works
Superfund, Waste Control, and Risk Assessment Subcommittee
To resume oversight hearings on the implementation of the Comprehensive Environmental Response, Compensation, and Liability Act.
SD-406

Labor and Human Resources
To hold hearings to examine primary health care services, focusing on access to care in a changing health care delivery system.
SD-430

9:30 a.m.
Finance
To hold hearings on the proposed vaccines for children program.
SD-215

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Coast Guard, Department of Transportation.
SD-192

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings to review the high performance computing and communications program and a demonstration of the World Wide Web.
SR-253

Foreign Relations
To hold hearings to examine the incidence of illegal trade in human body parts in China.
SH-216

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to review the Navy class oiler contract.
SD-342

10:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs.
SD-138

2:00 p.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Postal Service and the Office of Management and Budget.
SD-138

Armed Services
To hold closed and open hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense and the future years defense program, focusing on the Ballistic Missile Defense Organization.
SR-222

Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine U.S. assistance programs in the Middle East.
SD-419

Judiciary
To hold hearings on the nominations of Peter C. Economus, to be United States District Judge for the Northern District of Ohio, John Garvan Murtha, to be United States District Judge for the District of Vermont, Mary Beck Briscoe, of Kansas, to be United States Circuit Judge for the Tenth Circuit, and George A. O'Toole Jr., to be United States District Judge for the District of Massachusetts.
SD-226

MAY 5

9:00 a.m.
Armed Services
Acquisition and Technology Subcommittee
To hold hearings on S. 727, to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal year 1996, focusing on the implications of the revolution in military affairs.
SR-232A

9:30 a.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on issues of waste, fraud and abuse in the Medicare program.
SD-192

Joint Economic
To hold hearings to examine the employment-unemployment situation for April.
SD-106

10:30 a.m.
Commission on Security and Cooperation in Europe
Briefing on media and press developments underway in Serbia, Kosovo and Vojvodina.
2200 Rayburn Building

MAY 8

10:00 a.m.
Budget
Business meeting, to mark up a proposed concurrent resolution on the fiscal year 1996 budget for the Federal Government.
SH-216

Governmental Affairs
Post Office and Civil Service Subcommittee
To hold hearings to review the implementation of the Ramspeck Act, which allows congressional employees to transfer to executive branch positions under certain circumstances, focusing on procedures and restrictions of the law.
SD-342

MAY 9

9:00 a.m.
Armed Services
Personnel Subcommittee
Readiness Subcommittee
To hold joint hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense, and the future years defense program, focusing on military family housing issues.
SR-232A

9:45 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on National Guard and Reserve programs.
SD-192

MAY 11

9:30 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, Department of Transportation.
SD-192

Labor and Human Resources
Disability Policy Subcommittee
To hold hearings to examine proposed legislation relating to the education of individuals with disabilities.
SD-430

Rules and Administration
To hold hearings to examine management guidelines for the future of the Smithsonian Institution.
SD-106

Special on Aging
To hold hearings to examine ways the private sector can assist in making long term care more affordable and accessible.
SD-562

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Bureau of Indian Affairs, Department of the Interior.
SD-116

10:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs, focusing on the Agency for International Development.
SR–325

1:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Indian Health Service, Department of Health and Human Services.
SD–116

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine access to abortion clinics.
SD–138

MAY 12

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Environmental Protection Agency, the Council on Environmental Quality, and the Agency for Toxic Substances and Disease Registry.
SD–192

MAY 16

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on environmental programs.
SD–192

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine NASA's space shuttle and reusable launch vehicle programs.
SR–253

Labor and Human Resources
Disability Policy Subcommittee
To resume hearings to examine proposed legislation relating to the education of individuals with disabilities.
SD–430

MAY 17

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine the National Academy of Public Administration's study on the Environmental Protection Agency.
SD–G50

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Park Service, Department of the Interior.
SD–192

2:00 p.m.
Armed Services
Acquisition and Technology Subcommittee
To resume hearings on S. 727, to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal year 1996, focusing on dual-use technology programs.
SR–232A

MAY 18

9:30 a.m.
Rules and Administration
To resume hearings to examine management guidelines for the future of the Smithsonian Institution.
SD–106

Small Business
To hold hearings to examine the Small Business Administration's 7(a) business loan program.
SD–628

Indian Affairs
To hold oversight hearings on the recommendations of the Joint Department of the Interior/Bureau of Indian Affairs/Tribal Task Force on Reorganization of the Bureau of Indian Affairs.
SR–485

10:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs.
SH–216

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Institutes of Health, Department of Health and Human Services.
SD–192

MAY 19

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Housing and Urban Development.
SD–192

MAY 23

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on financial management.
SD–192

Indian Affairs
To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.
SR–485

MAY 24

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Fish and Wildlife Service, Department of the Interior.
SD–192

JUNE 6

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on intelligence programs.
S–407, Capitol

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Interior.
SD–138

JUNE 7

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Service and the Selective Service System.
SD–192

JUNE 13

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on health programs.
SD–192

JUNE 20

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on counternarcotic programs.
SD–192

JUNE 27

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense.
SD–192

CANCELLATIONS

MAY 5

9:30 a.m.
Environment and Public Works
Transportation and Infrastructure Subcommittee
To hold oversight hearings on General Services Administration activities on the U.S. Food and Drug Administration consolidation project, the proposed Federal Communications Commission lease consolidation, and the U.S. Patent Trademark Office consolidation.
SD–406

HOUSE OF REPRESENTATIVES—*Tuesday, May 2, 1995*

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mr. WICKER].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 2, 1995.

I hereby designate the Honorable ROGER F. WICKER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentlewoman from Texas [Ms. JACKSON-LEE] for 5 minutes.

TRAGEDY IN OKLAHOMA CITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, I rise this morning to be able to offer on behalf of the constituents of the 18th Congressional District my deepest sympathy to the citizens, and families, and victims, adults and children, of the tragedy in Oklahoma City. I watched as the outpouring of love of Americans and aid from across this Nation and across the world poured into that great city. But, more importantly, I watched as the valor of each individual citizen was highlighted as each came to the cause and the crisis of the people. I watched the laws of this land be in place. I watched the Constitution remain stable during this very severe crisis. I heard the debate as people wanted, most of all, for the safety and security of those that were there and the immediate assistance to those people. It gave me comfort, one, that Americans will always rise to the aid of their fellow neighbors, and, two, that the Constitution is still very strong.

I rise, as well, however, to be able to ask that those who believe in the Constitution would recognize that, if they would oppose some of the actions and activities that we have heard occurring over these last couple of days, that they, too would speak up. If they are against hatred, hate mongering, if they are against intolerance, I would like to hear their voices as well, for it is important, as we do adhere to the laws of this land and as we accept the value of the Constitution and the Bill of Rights, that, yes, we recognize all of us have such rights. It is important that America not coddle terrorists, be they domestic or international. It is important not to hear that the actor or alleged actor in this incident is like the boy next door. If the facts are true, the actor is a murderer, plain and simple.

And so I support and appreciate the leadership of President Clinton in light of the fact that he has struck a balance, one of applauding the valor of citizens in Oklahoma City and appreciating the democracy of this Nation, but yet challenging those Americans who would have normally kept silent on the hatred that is violating this Nation. It is time to stand up and speak up.

And those of us in Congress must make a commitment to you, as Americans, that, one, we will act in a bipartisan manner, particularly myself as a member of the House Committee on the Judiciary, to accept, and respond, and affirm your constitutional rights, but at the same time enhance your quality of life, and protect you. And to those Federal employees let me say, "Thank you so very much for, yes, you have gone beyond the measure of duty. All over this Nation you serve Americans, and you served them with good cheer, and love, and competence and excellence. Many of them lost their life in Oklahoma City. Many of you are saddened by the tragedy. Many of my district were forced to evacuate their building over the last week or so because of bomb threats in the city of Houston, but you have kept the faith, you have remained strong, and so I salute you."

My commitment is to work very hard protecting the Constitution with my colleagues, but yet responding to terrorists wherever they may be and acknowledging that they, too, must come to justice, not coddled, but standing up before the courts of law and accepting whatever charges are being made effectively, forcefully, and with the full impact of the law. My hat is off to those in Oklahoma City, my prayers remain with them, and my commitment is that we must make this country a just country, a fair country, an equal country, but certainly a safe country under the laws of the land and keeping in mind the strength of the Constitution of the United States of America.

CONTEMPLATING THE OKLAHOMA CITY TRAGEDY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, it is a very common thing after a congressional break for Members to come back to the Congress and reflect on what they have heard at home. I have to say that, although there were many opportunities for me to meet and discuss local issues with my constituents, our attention was focused on a city several hundred miles away, as was the attention, not only of the entire Nation, but the world. Of course, I am speaking of the tragedy which occurred in Oklahoma City.

In the rubble of that Federal building in Oklahoma City we find both tragedy and hope. And, as we look at the events of the last several days, I think we can see literally the very best and the very worst in our Nation. In terms of the best, the courage of these rescue workers, to think that they would literally risk their lives on a day-to-day basis to plow through this rubble in the hopes of finding someone alive or, at the very least, to bring out the remains of those who have passed away, men and women who frankly could never be paid enough for the sacrifice and courage which they are showing. The strength of families praying for the missing; we have seen it so often on television and accounts in the media, the mourning of those families who lost a loved one as a result of this tragedy.

As my colleagues know, on the floor of this House of Representatives Federal employees are often vilified as just faceless bureaucrats, numbers on a page, people to be moved around here and there in the budget debate, and yet we find out they are real human beings, going to work every day, doing something for their country, and in this instance literally giving their lives because of what they have shown in terms of sacrifice and commitment to this country.

And what a story of Oklahoma City. I have only visited there once, had a

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

nice impression of the town, but little did I know the inner strength of that American community that would rally and come together, black and white, rich and poor, to help those who were touched by this tragedy. And across the country so many people were inspired by this tragedy to do a little bit more, to become a community, to become a Nation. In my own district a local individual, Don Eastep, Jr., of Virden, IL, went down to Oklahoma City, volunteered, went into the rubble, risked his life in order to try and help in that situation. I think we all watched in awe at the prayer service that was held in Oklahoma City. Gov. Frank Keating, a fellow who went to Georgetown University a year ahead of me, did an exemplary job as the leader of that State. He welcomed President Clinton, who made very eloquent remarks at that prayer service, and then, of course, the Reverend Billy Graham, who called on the United States to begin the healing process.

These were the very, very best of America coming forward at a time of great trial and tragedy. But unfortunately we have also seen the worst. It is still hard for me to believe that this heinous crime was the work of an American citizen, and of course that is the allegation. What kind of demented mind filled with hatred would bring a person to the point where they would destroy innocent lives, as apparently occurred here at the hands of another American citizen?

And we have heard since this event on television and radio the venomous rhetoric of those who would find some rationale or support this idea that the only way to express oneself politically is through violence. We have heard talk show hosts, the lunatic fringe among them, and most of them are not; most them are in the middle, speaking to the American people, as they should, under the Constitution, but there are a handful, and we all know it, who just go entirely too far. We have heard them and their divisive language testing the limits of free speech in this country.

President Clinton was right when he said they have the right to speak. We must fight to protect that. But those of us who disagree also have an obligation to speak out, too. As my colleagues know, I think, if one needs a gun or a bomb to express their political point of view in America, they really have no place in this Nation. They have really crossed the line.

I hope in the weeks ahead, as we contemplate this tragedy and what it means for America and its future, that both Democrats and Republicans can come together and draw a very clear line, and say we will not accept violence on the right or on the left as political expression. We will make it very clear that we want to protect our Bill of Rights, but we will not allow those who will turn to violence to be in any way honored. I think, Mr. Speaker, if we do that on a bipartisan basis, the American people will have new confidence that we, too, understand in Congress the need to come together as a Nation. It is time for both parties to draw that clear line and do everything in our power to make certain that another Oklahoma City tragedy never occurs.

HAITIAN POLICY—ANOTHER WASTE OF UNITED STATES TAXPAYERS DOLLARS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, on April 11, the Associated Press ran a story that I believe bears noting: "Postponed Elections, Unrest, Could Prolong U.N. Mission." That one small headline speaks volumes. Keep in mind that there are more than 2,400 American troops on the ground in Haiti still and that we have already spent in excess of $1.4 billion on that small Caribbean island. Although the May update from the administration on the situation in Haiti is not available yet, I think we all understand that the possibility of a longer mission—even under the auspices of the United Nations—equals more American tax dollars and more exposure for our troops. With that possibility clearly on the table, perhaps the President will refocus his attention on Haiti for a moment to give us a candid answer to this candid question: Despite all of the money, time, and manpower the United States has already poured into Haiti, are we really headed for a longer term commitment than February 1996? It seems to me that we are. April voter registration was supposed to bring May elections to Haiti and Haitians. But those elections, originally planned for last December, have once again been pushed back—this time to the end of June. The longer that deadline slips, the longer Haiti goes without its 700 local elected officials and without a parliament—and that does not bode well for the growth of Haitian democracy.

General crime and lawlessness aside for the moment, politics in Haiti are becoming an increasingly dangerous pursuit. From the murder of former Deputy Eric Lamonthe on March 7, to the gunman's assault on Philip Stevenson as he departed a Panpra Party meeting on March 14, to the brutal assassination of Madame Bertin on March 28, to violent clash on April 17 between the supporters and opponents of one political candidate in the city of Cap-Hatien—it is clear that, in Haiti, it pays to keep your head down and your hat out of the political ring. In addition to these personal attacks, machete and rock-wielding mobs have launched a series of attacks on electoral offices in La Chapelle, Petite-Riviere, Saint-Michel and Grande Saline, to name just the Artibonite Valley hotspots. Clearly, this is not what an elections process is supposed to be about.

Of course, violence is not the only thing threatening to disrupt elections. Voter registration is behind schedule and reports from politicians, law enforcement and electoral officials alike indicate that voter cards are being sold to the highest bidder. But we should return to the issue of general lawlessness as well. Jobless Haitians who once lined up peacefully outside of outside of United Nations and United States military headquarters have begun staging aggressive, impassioned jobs protests. Just last week in the market at Tete-Boeuf, 20 gunmen fired randomly into crowds and robbed bystanders in an effort to gain control of that small commerce center. United States businesses in Haiti report that smuggling and general lack of authority mean that legitimate businesses cannot prosper. Additionally, although I do not want to overstate the significance of the numbers, there are Haitians who are still feeling desperate enough to get into boats and take to the seas. The Coast Guard has intercepted several boatloads this month with more than 240 Haitians on board and bound for Florida. Reports from Turks Caicos indicate that they have enlisted the help of the United States Coast Guard to stem the increased flow of Haitians to their shores. These are Haitians who have been misled and told that they were being taken to either the Bahamas or the United States or that the they could get into the United States via centers in Turks Caicos. With the Artistide government's recent announcement of their adamant opposition to negotiating another repatriation agreement with the United States, there are clearly some important issues to be dealt with in the coming months. Congress returns now to begin the budget cycle. As we are looking for ways to maximize the benefit of every tax dollar we spend, I believe that the President owes this Congress and Americans across the Nation some answers about where we stand in Haiti, where we are going and how much it is all going to cost before this episode is over and done. Most Americans agree our present Haitian policy is another waste of United States taxpayer's dollars.

THE OKLAHOMA CITY TRAGEDY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning business for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I think that, before we begin our legislative business, we must pause, remember, and offer our prayers to those who faced the senseless and brutal bombing in Oklahoma. I believe we can agree that a safe, secure, and open nation is important to all of us.

As Americans, we must recognize how interdependent we are—young and old—black, white, yellow, and brown—rich and poor—we all mourn with our fellow citizens in Oklahoma.

And, we pray for those who were injured or died because of this tragedy, as well as for those—friends, families, and loved ones—who must live with it—and, for us, as a nation.

Tragedies such as this remind us of how vulnerable we are—how fleeting and precious life can be.

We are also reminded of the need, many of our citizens have, for direction—for strong, moral leadership.

If the Oklahoma bombing does nothing else, it should compel us to assume those roles for which we were elected—to legislate in the best interests of America—to lead in the best tradition of the Congress of the United States. Now, more than ever, we need forceful leadership—leadership that can put aside party and politics and put the people in front—leadership that can overlook minor differences and concentrate on major results.

It is easy to stand in the way. Many can do that. It is difficult to make a way. Few can do that.

But, I offer this challenge to my Democrat and Republican colleagues alike—each a leader in his or her own right—let the bickering end—let breakthroughs begin.

There are so many perils in this world—injury, disease, famine, nature's occasional vengeance, the unknowns and uncertainties of life, and the assurance of death.

One wonders why, given these natural hazards, any person would create further hazards of the kind that caused the harm, the death, the destruction and the pain of the Oklahoma bombing.

Consider this, however—to those who watch us on C-SPAN, when we are in session—we display attitudes that far too often fuel division and fight consensus.

To those who watch us on C-SPAN, our philosophy, our point of view, more often than not, seems to become paramount to concordance or compromise.

And, while no Member has the intent of promoting malice—to those who watch us on C-SPAN, at the very least, we seem to wink and nod at the very worst in relationships. We live in a time of much hope—and a time of great despair.

Hope—engendered by what we can be. Despair—engendered by what we are.

Let us lead by example.

When Nelson Mandela was freed from the jail that confined him by the jailer that kept him, he did not use the power he later secured to hurt him, instead he used the conditions that caused his incarceration as an example of what humankind could be.

Nelson Mandela invited his jailer to his inauguration—as a special guest.

As we begin our legislative business—let us lower the volume—let us eliminate the venom—let us stand for consensus—let us not forget those principles that made this a great nation, all are created equal, with certain inalienable rights and that among those rights are life, liberty, and the pursuit of happiness—let us not forget Oklahoma.

A DARK CHAPTER IN AMERICAN HISTORY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Arizona [Mr. HAYWORTH] is recognized during morning business for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, I am grateful for the time this morning, and I in many ways endorse what the preceding speaker, the gentlewoman from North Carolina [Mrs. CLAYTON] had to say. I was listening with great interest this morning to my fellow newcomer, the gentlewoman from Texas [Ms. JACKSON-LEE], and indeed at the outset of her remarks I would endorse fully that no one, no one in this Chamber, would ever endorse the acts of violence, the unspeakable acts against those in Oklahoma City.

History points a way for us, it compels us, it offers lessons, and at this juncture in human history, at this juncture in the history of this proud Republic, I believe it is important for all of us to remember the admonition of that great and good man, Dwight David Eisenhower, who led the most powerful army ever assembled in the free world against the most onerous and evil regime in human history. Eisenhower, when he stepped onto the beach at Normandy following the waves of invasion, noted that it was impossible to walk a step without stepping on dead or decaying human flesh, such was the magnitude of destruction there, and yet following the war's completion and the restoration of peace, when Dwight Eisenhower answered a clarion call to serve this Republic as its Chief Executive, he made some very valid points regarding political battles. To paraphrase Ike, he said, "Always believe the best of your political adversaries. Always assume that they, too, want what is best for the American people and yet move in a different direction under a different philosophy to bring about their desired results."

I think those words are incredibly important for us to remember as we again come into this Chamber, the site of so much of our history. Let us note once again that good people may agree to disagree. Let us not impugn the motives of those duly elected by their respective districts to offer a point of view as we move to achieve a consensus. But by the same token, and perhaps it is somewhat ironic because, after all, the political process is the vehicle which brings us here. Let us never confuse dissent with hatred. Let us never politicize such a tragic event as the one that occurred in Oklahoma City in hopes of increasing our number for either side of the aisle. Let us truly join together in debate that is, yes, oft times contentious, but always with the knowledge of the inherent wisdom of what Dwight Eisenhower said, that good people may disagree.

And I noted with some concern this morning the seeming implication that there was silence from this side, that there was an endorsement of violence, and, if I mistook the remarks, then I would stand corrected. But let us all avoid the temptation to politicize this dark chapter in American history, and let those who are working amidst the rubble in Oklahoma City to rebuild lives, to revitalize their community, let them stand as an example to the overwhelming goodness that is ours in this constitutional republic.

To the people of Oklahoma City and to the people of the United States of America, Mr. Speaker, I say, Let us rejoice in this process of representative democracy that allows us to peacefully state our differences.

THE NATIONAL TRAGEDY IN OKLAHOMA CITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from California [Ms. PELOSI] is recognized for 2 minutes.

Ms. PELOSI. Mr. Speaker, I rise to join some of my colleagues this morning who have extended the sympathies of their constituents to our colleagues from Oklahoma, to their constituents and, most importantly, to the families of those who lost their lives in the Federal building there. We have a natural political governmental connection to those folks because they carry out the work of public policy whether it is helping a child get a Social Security number at birth or whether it is the senior citizen applying for Social Security benefits at the end of life, housing in between and the rest, and they indeed were great public servants and will be sorely missed.

At this time of national tragedy, Mr. Speaker, of course we must focus on the personal heartbreak, and I hope it is some source of consolation to the people of Oklahoma City that the world grieves with them, that more than anything in life we wish that would never have happened, that the innocent victims, that would be all people involved there, would not have had to pay the price that they are paying.

For as long as I can remember, Mr. Speaker, the word "Oklahoma" was fraught with a spirit of the greatest optimism whether it was on the musical stage or whether it was on the football field, and that spirit once again is very conspicuous in the activities in Oklahoma City as people unselfishly and tirelessly fight the battle of time to try to save lives and try to save dignity. I hope again, as this source of some consolation to those who lost their family members in Oklahoma City, that this should engender a spirit of national reconciliation. Many colleagues have talked about the tone of remarks and what was intended and what was not. Let us remove all doubt that in our public debate and in our rhetoric that we will take the high road, that we will not use words that hurt or can endanger, and that we know a better way, and that when we proceed to have our differences discussed, we will have absolutely no doubt in our mind that none of our words could have contributed to an act of violence.

Once again I want to extend the condolences of the people of San Francisco. We have suffered our share of natural disasters. It is impossible to fathom a criminal act that would take life, and we send our deepest, deepest sympathy.

THE GREAT TRAGEDY OF OKLAHOMA CITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I come to the well to join the gentlewoman from San Francisco in saying that the people I represent in Denver, CO, also send their very, very strongest sympathy and condolences to the tremendous tragedy that has been inflicted upon the people in Oklahoma City. As my colleagues know, I have many Federal employees in Denver, CO, and I think they have felt really under the gun literally of late. People have been so free with bashing bureaucrats 24 hours a day, like they were faceless, they were nameless, they are familyless, and maybe this will kind of calm us all down, and bring us to our senses, and point out that these are human beings, that they are trying very, very hard to do something that this country has done better than almost any other country on the planet, and that is provide very distinguished, high quality service through the Federal Government.

Now that is not a politically popular thing to say. That is not an applause line on today's talk show circuit. But let us talk a bit about the Federal Government and its long distinguished history.

When I was at Harvard Law School, if someone said, "You could work for the U.S. Justice Department," they would get goose bumps because the U.S. Justice Department was out on the front lines making sure that there were not huge trusts that prevented competition. It kept some competition alive so the consumers got a good deal and that some big fish did not eat all the little fish, and we were proud of that. They were also out there making sure this country kept its promise, that when we said America believed in liberty and justice for all, it was out there making sure that people were not putting up racial barriers, or religious barriers, or gender barriers, or any other kind of barriers, that, if one is an American citizen, they have a right to have their dream become reality, that if they had the talent and the will to do something, this Justice Department made sure that they got that chance. It made sure that people were not putting barriers in their way to vote. It made sure that all sorts of environmental things were beginning to happen for the first time, that we started trying to take care of this planet.

I say to my colleagues, "Of late, when you go to law schools and say you can work for the Federal Government, people say, 'No, no, I don't want to do that.' Now what has happened in these last few years that our young people are hesitant to sign up for Federal service when it has had such a long distinguished period?"

I think that is something we, as Americans, have to ponder because Federal service will never be better than the people that run it, and we have had a history of having the most nonpolitical Federal service in the world, that we have believed these people should take very rigorous exams, and that is what they do, and that these be competitive exams, and that they compete for these jobs and, their loyalty is to you, the taxpayer, not me, a Congresswoman, or not the President of the United States, or not the Supreme Court. Their loyalty is to the citizens of America to try and make this work.

Now things are never perfect. They never always work as well as we all hope they are, but they are continually trying to work and make it better, and I would put our public service up against any other public service of any other national government when we look at the high quality, the lack of scandal. I mean tell me the last time we saw a bribe or something like that occur where we really brought disgrace to the Federal service? It has not been the Federal servants that have been doing it, it has not been the civil servants that have been doing it. They have been exemplary in almost all cases. So to see this incredible reign of terror rain down on their head because they were such easy targets really seems very unfair.

So, as our hearts go out to the people who have suffered this great tragedy, let us hope that we learn from this, that we learn from this that we lower our voices, that we once again take pride in the fact that we have a phenomenal Park Service because of the Federal Government, that we have a strong Immigration Service because of the Federal Government, that we have a Social Security System that works very well because of the Federal Government, that we have many, many things we, as Americans are proud of. We have a justice system because we say we are a government of laws and not of men, that people are not to take their law in their own hand.

So let us be a little more thoughtful, and let us also continue to extend sympathy for people that have lost things that can never be replaced.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 11 a.m.

Accordingly (at 10 o'clock and 5 minutes a.m.), the House stood in recess until 11 a.m.

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. COMBEST].

PRAYER

The Reverend Dr. Clyde H. Miller, Jr., conference minister, retired, United Church of Christ, Denver, CO, offered the following prayer:

Let us pray:

Everliving and everloving God, we come before You in the solemnity of this moment with gratitude for the wholeness of creation, born out of Your goodness and Your mercy.

We come to You to consider our calling to serve the common good and, in our understanding of that calling, hear our prayer for a new discernment as to what the common good shall be. Hear our cry as we brood over the emergent alienation in our Nation that for so long, for far too long, has had violence as its expression.

Allow Your spirit to hover over our deliberations in this place, to be sensitive to the harsh realities of all of us, and especially those who are marginalized, and do not allow any of us to objectify any other persons who are Your person. Unite us anew as a whole people under God.

We know that You are near in all of our collective deliberations and even in our solitude, and be with us this day.

As our prayers ascend into Your throne of mercy, answer them as You will. This we pray. Amen, and amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina [Mr. BALLENGER] come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

A WARM WELCOME TO OUR GUEST CHAPLAIN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I take the well with great pride, because the visiting chaplain today, Dr. Clyde Miller, is from my church in Denver, CO. In fact, I am a member of his flock. For those of you who wondered if there was anyone who would claim me, yes, and I must say how very, very proud I am. I am going to put his résumé in the RECORD at this time, because he has a very, very long history of doing things, not only preaching but practicing. And I think what he said are all things he has practiced very hard and very diligently all his life and has been a great role model for how we do that. But basically one of the reasons that I have always enjoyed so much listening to Reverend Miller is the fact that he has a Barbara Jordanesque voice, that through all the clutter and noise, and through all of the conflicting things that pull and tug at us, his voice is able to pierce right through that and touch the souls of people who really need to be touched.

I think that is truly a gift, and a gift that he has used and utilized well, and I thank him very, very much for being with us to launch this second session of the Congress.

I include for the RECORD Dr. Miller's résumé.

REV. CLYDE H. MILLER, JR.,
Denver, CO, March 30, 1995.

Rev. Clyde H. Miller, Jr. retired as Conference Minister of the Rocky Mountain Conference, United Church of Christ, in 1993 where he had served since 1980. During his service he was responsible for the mission, education, and outdoor ministries. Serving as a pastor to pastors and to the 90+ congregations in Colorado, Utah and Wyoming, he was responsible for helping pastors and congregations in the placement process, resolving conflicts, and planning mission and outreach strategies.

Prior to this position he was the Executive Director of the Boston City Missionary Society for eleven years. At CMS he was the executive for the century-old United Church of Christ institution organized to be an advocate for inner-city poor. In addition to supervising a staff of twenty persons, he was responsible for development.

Earlier he had worked for the National Catholic Conference for Interracial Justice in Chicago, Illinois. He also served as the Christian Education Executive for the Church Federation of Greater Chicago.

His first position following his graduation from the Chicago Theological Seminary and his ordination in 1958, was an Assistant Pastor of the Church of the Good Shepherd, Congregational for six years.

A graduate of Talladega College, he has served as adjunct faculty member at Wesleyan (CT) University, Boston College, and Colorado College.

A native of Middlesboro, KY, he is married, has two daughters and two grandchildren.

Mr. Miller is concluding this month a one-year stint as an interim pastor at the First Christian Church Disciples of Christ in Boulder, Colorado and is now interim pastor at Eastside Christian Church, Denver, Colorado.

THE OKLAHOMA CITY BOMBING

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, when a terrorist's bomb tore a hole in the Murrah Federal Building in Oklahoma City, its impact was felt across the country. We all grieved with the families and we prayed that the rescue workers would find more survivors.

Their grief leads us to want to affirm our country as both free and tolerant. Here is Congress, we must call on people of good will from both parties to repudiate extremist, paramilitary forces and provocative rhetoric that pushes people to violence and terrorism. By doing so, we do not politicize a tragedy, we live up to our responsibilities to respond to this tragedy.

The images of bloodied babies being carried from the smoking rubble of the Murrah Building and the grieving families will stay with us for a long time. But, we should also remember the heroes of the Oklahoma City. Remember the rescue workers and the volunteers. And, remember the indominable spirit of the people of Oklahoma City. Our thoughts and prayers remain with them, today. And, we owe it to them, to both the victims and the heroes of Oklahoma City, to stand up to the forces that seek to divide us with words of hate.

THE PEOPLE WANT WASHINGTON TO CHANGE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, last month I went back to my district and returned to a place far different from Washington. In my district, there are families who work hard and play by the rules. And, they are careful not to spend more than they take in. If they do not, they run afoul of the law.

In Washington, however, things are different.

In Washington, it's OK to waste other people's money.

In Washington, it's OK to spend lavishly on ineffective programs.

In Washington, it's OK to disrespect the values that ordinary Americans live by every day.

When I returned home over the recess, I listened to my constituents. I can tell you one thing, Mr. Speaker, they want Washington to change. They want a government that will respect simple virtues, not one that creates deficits and debts to be passed on to our children and grandchildren.

Mr. Speaker, in the first 100 days, we Republicans proved that promises can be made and kept. In the next, we will show that Washington truly can be changed.

SUPPORT FOR FEDERAL EMPLOYEES NEEDED

(Ms. RIVERS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. RIVERS. Mr. Speaker, one cannot read a newspaper these days without understanding that there is a supposed war between the Government and the people. But who is the Government? These days we often hear attacks on Federal employees around their benefits, around their pay, as if they do not have mortgages to pay, as if they do not have to feed and clothe children, as if they do not pay taxes like other workers in this country.

It is suggested they are nameless, faceless bureaucrats, not the people who fight our drug wars, not the people who care for sick veterans, not the people who make sure our food and water is safe. These are real people, and the tragedy in Oklahoma showed us so very well that these people bleed real blood, they cry real tears, and they lose real lives.

To paraphrase a familiar saying, we have met the government, and it is us.

WORK ON BALANCING BUDGET BEGINS TODAY

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, what a difference this Republican majority has made. I think it is real simple. We did what we said we were going to do. It was promises made and promises kept. The American people like what they saw in the first 100 days, and the Republican majority is committed to keeping our promise with the American public, to balance the budget and make Government smaller and less costly and more efficient and more accountable to the people.

But much remains to be done. Much of the heavy lifting remains to be done. Now we have to get to work, balancing this budget. We begin today.

GOVERNMENT MUST BE A PARTNER IN TRUTH

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, no doubt the bombing in Oklahoma City was an evil act, and those responsible truly deserve the death penalty. But April 19, 1995, Oklahoma City, and April 19, 1993, Waco, TX, do not appear to be a coincidence to me, and I think the investigation should also focus on that. Many Americans simply did not believe the Federal Government's account in Waco, TX. And when our Government, Mr. Speaker, appears to conceal and hide the truth, our Government plays right into the hands of radical fringe groups with an ax to grind.

Mr. Speaker, the American people deserve to know the truth about Oklahoma City; and, Mr. Speaker, the American people deserve the truth about Waco, TX. The truth shall set you free, there is no substitute for the truth, and the Government must also be a partner in the truth factor in America.

BRINGING TOGETHER THAT WHICH THE AMERICAN PEOPLE WANT

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, we come back fresh, relaxed; refreshed in the spirit of good will, working together, feeling good; feeling good about having been away, frankly, away from the partisan ship, away from the negativity, away from the acrimony. And we come back with the high hopes for balancing our budget, for bringing together the things that the American people want.

I am reminded of something that Abraham Lincoln said over 100 years ago, and I wanted to share it with the House in the hopes that it might encourage my colleagues to bring this spirit in the next 100 days.

He said: "You can't bring about prosperity by discouraging thrift. You can't strengthen the weak by weakening the strong. You can't help the wage earner by pulling down the wage payer. You can't further the brotherhood of man by encouraging class hatred. You can't keep out of trouble by spending more than you earn. You can't build character and courage by taking away man's initiative and independence. You cannot help men permanently by doing for them what they could and should do for themselves."

SUPPORT FOR FREE SPEECH

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, the Oklahoma City tragedy has spread some connective tissue among Americans. It has compelled us not only to recognize our fragile vulnerability, but to reaffirm our basic unity. I am bemused by the new crop of civil libertarians the crisis has awakened. They are a welcome sight, especially those who regularly vilified others who defended unpopular speech on the left and right. Talk show hosts and Members of Congress now often sound like card-carrying members of the ACLU.

I hope that the new found zeal for civil liberties carrier forward when the next bill to curtail them comes to the floor, or when the militia come at us from the left instead of the right.

As a young constitutional lawyer, I was put to the first amendment test when I was called on to defend racists and neo-Nazis. I really had no choice. Surely now we know that none of us do. Free speech is unequivocal, unpolitical, and indivisible.

REAUTHORIZATION OF LEGAL SERVICES

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, very soon now the Congress of the United States will be taking up the vexatious issue of the reauthorization of Legal Services. Over the years, the original purpose of this effort to help the poor has become warped and expanded, and sometimes described as out of sight from the original purpose. The shade of opinion as we sit here today ranges from an attempt to zero it out entirely to expanding even further the powers that already are vested in it.

We intend in our committee, in the Administrative Law Subcommittee of the Committee on the Judiciary, to take up this issue through a reauthorization set of hearings, possibly beginning next week. At that time we will let the American public know what these opinions are. Should we expand the powers of Legal Services or should we zero it out, or perhaps somewhere in the middle. To go back to the original purpose, to allow the poor to have access to the courts, should be the guiding light of what we finally do with Legal Services in our country.

□ 1115

TRIBUTE TO FEDERAL EMPLOYEES

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I rise today in remembrance of the victims of the Oklahoma City bombing at the Alfred P. Murrah Federal Building and I wish to pay tribute to all Federal employees who are so dedicated in their service to our Nation.

At 9:02 a.m. on Wednesday, April 19, when the blast leveled half of the Alfred P. Murrah Federal Building, Federal employees were helping veterans receive benefits and other assistance they need; Federal employees were helping poor families afford decent housing and to one day own their own home; Federal employees of the Social Security Administration were helping seniors obtain retirement benefits they so rightly deserve, and Federal employees of the ATF and FBI were working to make our streets safer and our lives more secure.

Ironically enough, we saw the clearest evidence of the invaluable work of Federal employees after the Oklahoma City bombing. We saw Federal employees from FEMA go to Oklahoma city to help free victims from the rubble of steel and cement and help save lives. We saw Federal employees of the FBI quickly respond with an all-out manhunt which produced the prime suspect within hours of the bombing. We saw Federal employees here in Washington volunteering their accrued leave time for the benefit of the survivors of the bombing.

Mr. Speaker, it is the dedication of these Federal employees that truly makes our Nation a united one in times of crisis and hardship.

REVOLUTION SWEEPING ACROSS AMERICA

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute.)

Mr. SCARBOROUGH. Mr. Speaker, it certainly is an honor to be here this morning, and it was an honor to be back in my district during the break and see the excitement that people had about where this country was going, where their government was going. And to follow up on what a few speakers have said before me, we are not antigovernment.

This revolution that is sweeping across Washington is not an antigovernment revolution. When Thomas Jefferson said that the government that governs least governs best, he was not saying that being antigovernment. He was saying it being pro-freedom, and that is what this has been about. That is what this

100 days has been about. And this is what we are going to do with the next 100 days and the next 2 years; we are going to restore the American dream and, yes, we must pay tribute to the Federal employees that not only lost their lives but also those that went out and sacrificed and worked throughout this tragedy.

But it is our purpose and our function and our goal to free all Americans from an overbearing centralized bureaucracy, so Federal employees and all citizens can enjoy the American dream and can look back to Thomas Jefferson's statement that the government that governs least governs best as a statement that does not decry Federal Government but praises freedom in America. That is what the American dream is about and that is what we are going to be doing the next 100 days, continuing to revive the American dream.

THE NEXT 100 DAYS

(Mr. TATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TATE. Mr. Speaker, when I ran for office going door to door, people would always tell me, do what you said you were going to do. And that is exactly what the House Republicans did when they came to Congress: promises made, promises kept.

As I had town hall meetings throughout my district, talking to people, they said: We appreciate what you are doing. Do not listen to those special interest groups tell you do not do this, do not do that. Stick to your guns.

That is exactly what we are going to be doing over the next 100 days. We are going to take on the deficit. We are going to balance our budget. There is an $18,500 debt for every man, women, and child in this country. For my daughter Madeleine, that is unacceptable. She should not be saddled with an $18,000 debt.

The question really is going to be in the next 100 days, do we borrow or do we balance? Do we borrow or do we balance? The people of my district and the people of this country and the people of American have said they want Congress to balance its budget. That is exactly what we are going to do over the next 100 days.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken after votes on the motion regarding a conference on H.R. 1158.

EXPRESSING THE SENSE OF CONGRESS REGARDING A VISIT BY THE PRESIDENT OF THE REPUBLIC OF CHINA ON TAIWAN

Mr. BEREUTER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 53) expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States, as amended.

The Clerk read as follows:

H. CON. RES. 53

Whereas United States diplomatic and economic security interests in East Asia have caused the United States to maintain a policy of recognizing the People's Republic of China while maintaining solidarity with the democratic aspirations of the people of Taiwan;

Whereas the Republic of China on Taiwan (known as Taiwan) is the United States sixth largest trading partner and an economic powerhouse buying more than twice as much annually from the United States as do the 1,200,000,000 Chinese of the People's Republic of China;

Whereas the American people are eager for expanded trade opportunities with Taiwan, the possessor of the world's second largest foreign exchange reserves;

Whereas the United States interests are served by supporting democracy and human rights abroad;

Whereas Taiwan is a model emerging democracy, with a free press, free elections, stable democratic institutions, and human rights protections;

Whereas vigorously contested elections conducted on Taiwan in December 1994 were extraordinarily free and fair;

Whereas the United States interests are best served by policies that treat Taiwan's leaders with respect and dignity;

Whereas President Lee Teng-hui of Taiwan, a Ph.D. graduate of Cornell University, has been invited to pay a private visit to his alma mater and to attend the annual USA-ROC Economic Council Conference in Anchorage, Alaska;

Whereas there are no legitimate grounds for excluding President Lee Teng-hui from paying private visits;

Whereas the Senate of the United States voted several times in 1994 to welcome President Lee to visit the United States; and

Whereas Public Law 103-416 provides that the President of Taiwan shall be welcome in the United States at any time to discuss a host of important bilateral issues: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should promptly indicate that the United States will welcome a private visit by President Lee Teng-hui to his alma mater, Cornell University, and will welcome a transit stop by President Lee in Anchorage, Alaska, to attend the USA-ROC Economic Council Conference.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this concurrent resolution to the President.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska [Mr. BEREUTER] will be recognized for 20 minutes, and the gentleman from California [Mr. BERMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as chairman of the Subcommittee on Asia and the Pacific, this Member rises in strong support for House Concurrent Resolution 53, expressing the sense of the Congress that the United States should grant a visa to President Lee Teng-hui of Taiwan for a private visit to the United States to receive an honorary degree from his alma mater, Cornell University.

This Member commends the initiative of the author of this resolution, the distinguished gentleman from California [Mr. LANTOS]. This Member would also commend the chairman of the International Relations Committee, the distinguished gentleman from New York [Mr. GILMAN] for bringing this resolution before this body in a timely manner.

Action of the House International Relations Committee on this resolution has demonstrated overwhelming bipartisan sentiment that the United States should grant a visa to President Lee for such a private visit. On April 5, the Subcommittee on Asia and the Pacific and the full Committee on International Relations unanimously endorsed the resolution. It continues to be this Member's view that issuance of a visitor's visa to President Lee is not inconsistent with the United States "One China" policy which limits official contact with Taiwan. Moreover, this Member believes that issuance of the visa is only fitting considering our close economic ties with Taiwan and the democratic strides made by President Lee's government.

The United States pioneered, through the Taiwan Relations Act in 1979 and the establishment of the American Institute in Taiwan, the successful maintenance of unofficial ties with Taiwan. Even as the United States shifted its official recognition in 1979 from Taipei to Beijing, the Congress made it clear to the Chinese that the United States would maintain cultural, commercial, and other unofficial ties with Taiwan. Moreover, as mandated by the Taiwan Relations Act, the United States provides defense material and training to Taiwan to enable it to maintain a sufficient self-defense capability.

The question then is: Why the President of Taiwan would not be permitted to make a private visit to the United States to receive an honorary degree at his alma mater? The State Department's response is that, and I quote, "a visit by a person of President Lee's title and symbolic importance, whether or not the visit were termed 'private,' would unavoidably be seen by the People's Republic of China as removing an essential element of unofficiality in the United States-Taiwan relationship." That may be the case, even though that is not an objective conclusion by the PRC, but that conclusion on their part should not be the determining factor in the administration's decision.

The State Department is obviously correct in noting that we have major interests in maintaining a positive relationship with Beijing. In fact this gentleman is committed to improving and deepening that relationship between the United States and the People's Republic of China. In several of my statements as chairman of this subcommittee, for example, this Member has stressed his view that we should not isolate or demonize China. But, at the same time, we cannot let Beijing dictate to us who can or cannot make a private visit to his alma mater in the United States. What this resolution is endorsing is a very reasonable and specifically limited exception from the current U.S. policy. The State Department seems to have ignored one key principle when making this decision. That principle is that our foreign policy, if it is to be sustainable with the American people and Congress, must meet the commonsense test. In this Member's view, refusing to grant a visitor's visa to the President of a thriving democratic friend of the United States, who would enter our country simply to receive an honorary degree at his alma mater, does not make sense. It is not a commonsense, foreign policy judgment. The resolution before us today would call for the administration to make an exception to its policy in this instance so that President Lee can visit Ithaca, NY, to receive an honorary degree from his alma mater, Cornell University.

Mr. Speaker, this Member will vote for House Concurrent Resolution 53 and urges all his colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 53, which expresses the sense of Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States, passed out of the Asia and the Pacific Subcommittee on April 5 on an 8-to-0 vote and was voted out of the full committee on the same day on a 32-to-0 vote.

I was an original cosponsor of the resolution, along with my colleague, the gentleman from Nebraska [Mr. BEREUTER], chairman of the subcommittee, having written the Secretary of State urging a change in our policy.

President Lee, as the first native-born President of Taiwan, represents more than anything else a beacon of hope to Taiwanese eager to gain recognition for their accomplishments. Taiwan has emerged as a major world economic power, becoming the United States sixth largest export market and our second largest market in Asia after Japan. We sell about twice as much to Taiwan as we do to the People's Republic of China.

Taiwan, under the leadership of President Lee, has made dramatic political progress. Democratic elections have been held. In 1996, for the first time there will be direct elections for the President.

Despite these positive developments, we treat Taiwan as a second-class, not a world-class citizen. This resolution attempts to rectify that imbalance by demonstrating congressional support for a change in administration policy.

I think the administration is beginning to understand the need for a policy change. Last September the administration announced a welcome change in our policy toward Taiwan which included permitting high level official visits. During a meeting with the Chinese Foreign Minister this April, April 17, Secretary of State Christopher, according to the State Department, "made clear that the American public and particularly the American Congress do not understand the Chinese position opposing a Lee visit." He noted that "many people in Congress, including good friends of Beijing, do not understand why a visit to the alma mater to pick up an honorary degree would have to be seen as official in nature."

Allowing President Lee to visit the United States and officially to receive an honorary degree at his alma mater, Cornell University, should not be interpreted by the Chinese as a slap at them but rather a recognition of our continuing friendship with Taiwan. Nor should this be seen as an effort to undermine or alter the administration's One China policy. A change in our policy concerning a visit by the Taiwanese President does not and should not be seen by China as constituting a change in our policy toward China. Nothing in the Taiwan Relations Act or the joint communiques address the issue of high level visits.

Mr. Speaker, if the administration does not change its policy to permit President Lee to make an unofficial visit, I believe Congress will attempt to mandate a change in policy. House Concurrent Resolution 53 sends a strong signal of bipartisan sentiment on this issue that I hope the administration will heed.

I join with the gentleman from Nebraska [Mr. BEREUTER] in urging this body to pass this resolution unanimously.

Mr. Speaker, House Concurrent Resolution 53, "Expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States," passed out of the Asia and the Pacific Subcommittee on April 5 on an 8-to-0 vote and was voted out of the full committee on the same day on a 32-to-0 vote. I was an original cosponsor of the resolution. I have also written the Secretary of State urging a change in our policy.

Allowing President Lee to visit the United States unofficially to receive an honorary degree at his alma mater, Cornell University, should not be interpreted by the Chinese as a slap at them but a recognition of our continuing friendship with Taiwan. Nor should this be seen as an effort to undermine or alter the administration's One China policy. A change in our policy concerning a visit by the Taiwanese President does not and should not be seen by China as constituting a change in our policy toward China. Nothing in the Taiwan Relations Act or the joint communiques addresses the issue of high level visits.

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Despite these positive developments, we treat Taiwan as a second-class, not a world-class, citizen. This resolution attempts to rectify that imbalance by demonstrating congressional support for a change in administration policy: Let Lee come.

I think the administration is beginning to understand the need for a policy change. Last September, the administration announced a welcome change in our policy toward Taiwan which included permitting high level official visits.

During a meeting with the Chinese Foreign Minister on April 17, Secretary Christopher, according to the State Department, "made clear that the American public and particularly the American Congress do not understand the Chinese position opposing a Lee visit." He noted that "many people in Congress, including good friends, of Beijing, do not understand why a visit to the alma mater to pick up an honorary degree would have to be seen as official in nature."

If the administration does not change its policy to permit President Lee to make an unofficial visit, I believe Congress may attempt to mandate a change in policy. House Concurrent Resolution 53 sends a strong signal of bipartisan sentiment on this issue that I hope the administration will heed.

Mr. Speaker, I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], chairman of the Subcommittee on International Operations and Human Rights of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I want to thank our good chairman of the Asia and Pacific Subcommittee, the gentleman from Nebraska [Mr. BEREUTER], and the ranking minority member, the gentleman from California [Mr. BERMAN], for bringing this important resolution before us today. I also want to commend the author, the gentleman from California [Mr. LANTOS], for crafting this resolution, House Concurrent Resolution 53 regarding approval of a private visit by President Lee or the Republic of China on Taiwan.

Taiwan is a democracy, yet its President cannot visit our Nation.

There are no political prisoners in Taiwan, yet its President is prohibited from visiting our Nation.

When the Charter of the United Nations was signed on June 26, 1945, in San Francisco, the nationalist regime in China was one of the cosigners and founding members, yet the head of that Government is not allowed to visit our Nation.

This is unacceptable. This injustice must not be allowed to continue.

And I agree with the minority party in Taiwan, the DPP, that their Nation's President should be welcomed here in a way befitting Taiwan's stature, a visit to receive an honorary degree is a far cry from a visit to the White House.

If President Lee desires to accept an invitation to go to Cornell, then he should be allowed to go to Cornell.

The People's Republic of China can commit acts of aggression against citizens of the Philippines in the South China Sea and yet the State Department has nothing to say about that. But when a leader of a democratic nation wants to peacefully travel to the United States, we find a reason to intervene.

The authorities in Beijing continue to hold Wei Jingsheng, who was arrested after Assistant Secretary John Shattuck met with him, but the State Department does not prevent them from visiting the United States.

The authorities in Beijing continue to engage in proliferation of dangerous weapons to dangerous regimes but the State Department has not stopped visits by Chinese military personnel to our country.

Authorities from the Chinese puppet regime in Tibet have their visit to the United States paid for by USIA with State's approval, yet his holiness the Dalai Lama is given a cold shoulder by the State Department when he visits us.

Enough is enough. We have to put some balance back into our relationship with Taiwan and Beijing.

President Lee should be allowed to visit the United States and we urge the administration to approve his visit.

Mr. BEREUTER. Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield 9 minutes to the gentleman from California [Mr. LANTOS], the sponsor of the legislation and the distinguished ranking member of the Subcommittee on International Relations and Human Rights.

Mr. LANTOS. Mr. Speaker, I thank the distinguished ranking member of the Subcommittee on Asia and the Pacific for yielding time to me.

Mr. Speaker, I want to commend the chairman of the subcommittee, the gentleman from California [Mr. BEREUTER], and the chairman of the Committee on International Relations, the gentleman from New York [Mr. GILMAN], for their strong support of this resolution. I think it is ironic, Mr. Speaker, that we are dealing with this issue today at a time when our administration is proposing principled and courageous action with respect to the terrorist regime of Iran. It seems to me that our administration deserves a great deal of support and commendation for its courageous and powerful move against the terrorist regime in Teheran at the same time it merits criticism for continuing an unprincipled and spineless policy towards our friends on Taiwan.

I should point out, Mr. Speaker, that this is not a new policy. The Reagan administration had the same unprincipled and spineless policy. The Bush administration had the same unprincipled and spineless policy. I profoundly regret that the current administration has chosen not to change that policy, so it is up to the Congress to change that policy.

In 1968 an enormously talented young scholar from Taiwan received a Ph.D. degree from one of our most distinguished universities, Cornell University. That man went on to become the President of our friend, the Republic of China on Taiwan. Now Cornell University has chosen to honor him with an honorary doctorate, and in an unconscionable fashion our Government would want to exclude this distinguished scholar and statesman from going back to his own alma mater to receive an honorary doctorate. This is a policy which is unacceptable to the Congress of the United States.

Some would argue, Mr. Speaker, that there are economic reasons why this policy should be unacceptable, and certainly Taiwan is one of our great trading partners. The small population of Taiwan is buying twice as much from the United States than do the 1 billion 200 million people on the mainland of China, but that is not my reason for submitting this resolution.

If Taiwan were to buy not a dime's worth of American products, as a matter of principle we should insist that President Lee come to Cornell to receive his honorary doctorate. I find it particularly galling that an administration which can tell our longstanding friend and ally, the United Kingdom, to go fly a kite and receive Gerry Adams in the White House—as I believe he should have been received in the White House—should kowtow to Beijing, a Government which distinguishes itself with an outrageous human rights record in China, in Tibet, and elsewhere. I think it is long overdue that we stop kowtowing to the Communist butchers in Beijing, and to stand on our own principles. It will be a proud day when the President of Taiwan visits his own alma mater and receives his well-deserved honorary degree, and I urge all of my colleagues on both sides to support this resolution.

Mr. BEREUTER. Mr. Speaker, I want to thank the distinguished gentleman from New York [Mr. GILMAN] for his outstanding comments.

Mr. Speaker, I now have the pleasure of yielding such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, and certainly one of the Members most knowledgeable about Taiwanese and Chinese relations, and I look forward to his comments.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from California for yielding me this time, and I thank him for his yeoman work as the chairman of a subcommittee of the very important Committee on International Relations.

Mr. Speaker, I rise in the strongest support of this resolution, and I commend my friends, the gentleman from California [Mr. LANTOS and Mr. BERMAN] for bringing this very, very important resolution to the floor.

Mr. Speaker, the refusal by our Government to permit the distinguished President of the Republic of China on Taiwan to pay a private visit to the United States represents an assault against his dignity and our morality. President Lee has presided over a Democratic political liberalization in his country, a process which has seen Taiwan join the ranks of democratic nations, a process which will reach its culmination early next year when Taiwan holds a direct poplar election for President.

Mr. Speaker, the transition to democracy in Taiwan is without precedent in the 4,000 years of recorded Chinese history. This has been achieved with a minimum of confusion, a minimum of disorder, and certainly a minimum of violence.

Indeed, Taiwan has become a model of other countries to follow. But Mr. Speaker, for our country to have a policy of denying admission to someone of President Lee's statute is just an absolute disgrace. It is embarrassing. It is a blatant contradiction of our efforts to promote democracy around the world. That is why the resolution before us is so terribly important. I hope that the House of Representatives will speak today with one unanimous voice in expressing our desire, indeed, our demand, that President Lee be permitted to visit the United States. Taiwan has suffered many indignities at the hands of the United States in our attempts to pacify and to curry favor with Beijing, but let us recognize once and for all that such weakness on our part does not impress Beijing at all. Let us take a positive stand in support of democracy by allowing President Lee to visit the United States. Here is one important instance in which American interest and American morality go hand in hand.

Mr. Speaker, I helped write the Taiwan Relations Act back in 1979. It was meant to protect one of the strongest democracies in the world which stood with us in the chain of defense against the spread of international atheistic communism around this world.

This resolution is terribly important. It should be passed today. Our President should know that even though this resolution is just an expression of the sense of Congress, if he does not go along with this we will come back with a bill that would have the effect of law. I suggest that our President follow through.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in support of House Concurrent Resolution 53, which calls on President Clinton to welcome a private visit by Taiwanese President Lee Teng-hui to the United States.

The Department of State policy to refuse any visit by the Taiwanese President is misguided. The Department reasons that the United States does not want to offend the sensitivities of the Government of the People's Republic of China, which lays claim to Taiwan as a renegade province. They even went so far as to prevent a stopover in Hawaii by President Lee last year on his way to Costa Rica.

Sometimes, the United States is prepared to run the risk of offending other nations, even our allies, in order to make a statement of principle. Despite strong objections from the United Kingdom, we admitted Gerry Adams, the leader of the Sinn Fein, to our country earlier this year. In fact, he received a level of attention that a head of state would envy, and the President even welcomed him to the White House on Saint Patrick's Day.

Why should the United States be more willing to offend a democratic ally than a totalitarian nation? Why do we want to pretend as if Taiwan does not exist by refusing to admit President Lee so he can receive an honorary degree at his alma mater Cornell University?

Welcoming President Lee will not jeopardize United States-Chinese relations, but would make an important statement about the future direction of United States-Chinese relations. I urge my colleagues to support House Concurrent Resolution 53.

Mr. BERMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from San Francisco, CA [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I commend the chairman of the subcommittee, the gentleman from Nebraska [Mr. BEREUTER], for his leadership in offering this amendment, this substitute, to the resolution of the gentleman from California [Mr. LANTOS] for President Lee. I also commend the chairman of the full committee for his leadership, ongoing for many years, on this important issue.

Mr. Speaker, the debate that we have had for many years in this House on the issue of China is a long and complicated one. Today many parties to both sides of that debate have come together behind this important resolution. It is important because it is about who we are and who will dictate to us who has the hospitality of the United States of America. Will that be determined by the American people, this Congress, this administration, or will it be determined in Beijing? I think it should be determined here.

□ 1145

In preparation for our colleagues coming back from the spring work recess, I sent a group of clips yesterday to each Member of the House called China Clips, our regular series, which goes into the three areas of concern that we have shared in this House on China: Violations of trade, violations of human rights, and the proliferation of weapons.

I call to my colleagues' attention two things: One is why is China always the exception to the administration's rules? Why is it as my colleagues have said that others who have led opposition in other countries are invited here and yet the President, the democratically elected President of Taiwan, educated in the United States, born in Taiwan, not even in China, mainland China, is not allowed to come?

We have heard people in the administration say, "We don't need to do anything to improve human rights in China because economic reform is going to take care of that. It's going to lead to political reform." It can. It may. There is no guarantee. But In Taiwan, it happened. And under the leadership of President Lee, it continues to happen, where political reform grows every day because of his policies.

How can we purport to support a principle of economic reform leading to political reform and in the very place that the leadership has allowed that to happen in Taiwan say to the President, "But you're not good enough to come into the United States and avail yourself of their hospitality?"

Another issue, because my colleague the gentleman from California [Mr. LANTOS] brought it out, is the issue of Iran. The President was commended for his policy in Iran and I support that. But in his comments, the President referenced Russia and what they were doing to sell to Iran, not referencing, and I call to my colleagues' attention something in the clips, "China in Rebuff to United States Defends its Nuclear Dealings with Iran."

If this is a problem, then let us deal with it, Russia, China, and the rest. But let us not let China violate human rights, trade and proliferation and then dictate to us whether the President of Taiwan can come into this country.

I support my colleagues' resolutions.

Mr. BEREUTER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ROHRABACHER], a member of the Subcommittee on Asia and the Pacific.

Mr. ROHRABACHER. Mr. Chairman, today we are sending a message to the world. We are sending a message to the people of Taiwan. We are sending a message to the people of China. We are sending a message to the dictators in Beijing.

Today we are extending a hand of friendship to President Lee of the Republic of China. We are doing so because his government on Taiwan has liberalized, has reached out to the opposition and permitted rights to exist there which are consistent with what we as Americans believe should be the rights of citizens everywhere.

We have seen democratization and a respect for human rights in the Republic of China that places that government now in the family of democratic nations.

What we do today is the first step in acknowledging that tremendous step forward that the people of the Republic of China have made, and congratulate the leadership of the Republic of China for believing in those values that are at the heart of the American system and at the soul of the American people.

We are also sending a message to the people of China. That message is on the mainland of China, those hundreds of millions of people who suffer under dictatorship, that we are on their side and we are not on the side of their oppressor. At the very least, the United States should always be on the side of those who long for freedom, long to live at peace with their neighbors but suffer under oppression and tyranny.

The regime in Beijing has sent its message to the world as well. Even though they are trading with the United States, even though their income of their society has increased dramatically, what comes from that kind of trade? We are told liberalization, democracy. But where is it? We have not seen it.

Do the people of Tibet feel freer or more secure because the Chinese Government has been permitted to trade and have a $24 billion to $30 billion surplus with us each year? No, the people of Tibet feel the heel of the Chinese Army which is being armed now with the surplus that they have earned from trade with the United States.

The Tiananmen Square heroes whom we remember well are now in prison, or they have been exiled. There is no democracy. The people of Tiananmen Square still cry out for America's attention. But we do not hear them anymore.

And also, what else happens when you permit a dictatorship to make tens of billions of dollars' worth of revenue off of trade with the United States? What we see is a buildup of the Chinese military that is inexcusable. I recently returned from the Philippines, where they themselves felt the intimidation of Chinese militarism when the Chinese have been bullying them on the issue of the Spratly Islands.

We are sending a message today simply by reaching our hand out to a friend, President Lee, that American policy recognizes the distinctions that I have just made. To the people of Taiwan, to the Republic of China, we express our congratulations. You are our friends. To the regime in Beijing, we say, "Clean up your act, respect human rights, or we indeed will move away from you and into a better relationship with people who agree with our values."

I hope that President Lee will get his chance to come to the United States a friend of the United States. I thus ask my colleagues to join me in supporting House Concurrent Resolution 53.

Mr. BERMAN. Mr. Speaker, I yield myself 2 minutes.

I just want to make three points: one to my colleagues, one to the Chinese Government, and one to the administration.

I simply would remind my colleagues that this administration has actually done more than any of the previous administrations with respect to elevating its relationship with Taiwan. This is the first administration which has allowed high-level members of its Government to visit Taiwan. This is the administration that signed legislation last year passed by this Congress to allow Taiwanese-Americans to list Taiwan as their place of birth on passports, and in a whole variety of levels it has enhanced that cooperation.

To the Chinese Government, I simply remind that Government, we have many differences. Both the gentlewoman from California and the gentleman from California have spoken to those differences.

However, in and of itself the passage of this resolution does not speak to the question of whether our policy should be a one-China policy or a two-China policy or one China and one Taiwan policy. It deals very specifically with the question of President Lee making an informal visit, and it should not be construed in any other fashion.

The third point is to the administration. I think you will see, by virtue of the unanimity of feeling on this subject in the Congress, that this issue will not simply go away, that it will not end with a passage of a sense of Congress resolution, and that legislation will be coming that will seek to mandate this visit if the administration's policy does not change. I urge them to reconsider this aspect of their policy.

Mr. Speaker, I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

In conclusion, I want to thank the distinguished ranking member of the subcommittee for his support and assistance in bringing this legislation to the floor. The same is true of the distinguished chairman, the gentleman from New York, and I especially commend my colleague, the gentleman from California [Mr. LANTOS], for his initiative in bringing this legislation to the floor, and indeed all of the speakers who have eloquently testified in support of the resolution before us.

I thank the gentleman from California [Mr. BERMAN] for his remarks regarding the fact that this resolution is not passed in contradiction to the one-China policy that has been the position of previous administrations and this administration. Indeed, we do not seek an additional confrontation with the People's Republic of China. It is this Member's view and the policy of the administration to encourage an improved relationship with the People's Republic of China.

But we also want to sustain and enhance our relationship with the Government of Taiwan, and indeed we want common sense applied in our foreign policy. We will not be intimidated by any kind of concern in eliminating an opportunity for a visit from President Lee to receive an honorary degree from his alma mater.

I urge my colleagues to give their unanimous support to House Concurrent Resolution 53.

Mr. PORTER. Mr. Speaker, the cold war is over and the United States is struggling to reshape its foreign policy. I believe there is a clear principle we should use as our guiding light in this effort—shared values.

We are the only remaining superpower, and we have an unprecedented opportunity to shed our old policies and base our relations with other nations on their willingness to embrace the tenets that are the founding principles of our country—democracy, human rights, rule of law, and free markets.

I believe the United States should cultivate relations with nations that share these values and are moving toward them. At the same time, we should make abundantly clear that we have no interest in cooperating with nor assisting nations that do not share our values.

One nation that clearly shares our values is Taiwan.

Taiwan has followed a pattern that I believe is the best path for the development of stable, deeply rooted democracies. Taiwan focused initially on economic growth, the development of free markets and capitalism, an aggressive financial sector, access to credit—in short, economic freedom. This base of economic freedom led to a growing middle class that demanded a greater say in government and greater personal freedoms.

The Taiwanese Government has responded positively and undertaken broad and deep reforms. The commitment to the values we hold dear is strong in Taiwan. Although there is still room for improvement—including a need for greater diversity in television broadcasting—I believe Taiwan is firmly on the path of democracy.

Taiwan should take its rightful place among all the nations of the world in trade, culture, science, finance, and diplomacy. We should be working to strengthen ties with Taiwan and help it promote its interests overseas. Taiwan should have a seat in the United Nations, should have its application to GATT adopted, and the status of the Taiwanese mission in Washington, DC, should be upgraded, and, as the resolution we are debating today states, the United States should grant President Lee a visa to visit us. It is outrageous that we have not done so.

I commend the gentleman from California for introducing this resolution and I urge Members to support this important statement of Congress' commitment to promote our values overseas.

Mr. ACKERMAN. Mr. Speaker, I rise today in strong support of Concurrent Resolution 53, to allow a private visit to the United States by Taiwan's President Lee Teng-hui. I have long supported the goals of this resolution, and I am greatly pleased that Congress is acting on this issue.

There are no longer any legitimate policy grounds for prohibiting the democratic leader of one of Asia's oldest republics from paying a private visit to the United States to visit his alma mater, Cornell University. American universities sometimes have the privilege of providing the formal education for future leaders from different parts of the world. It is only right that Cornell University be allowed to invite Mr. Lee back to recognize his contribution to public life in Taiwan by granting him an honorary degree.

Taiwan has done everything which we expect of a democratic society over the last years. It has free elections, a free press, and is a model of an open society with democratic institutions in an Asian context. Why not recognize and encourage these significant accomplishments by allowing this private visit?

Taiwan has also liberalized its economic policies, has built a resilient market economy, and has become a dependable trading partner. It is the United States' sixth largest trading partner, and buys twice as much annually from the United States as does the People's Republic of China.

President Lee has been invited to the United States on a private visit. Some are concerned that even a private visit would offend leaders in the People's Republic of China. So what? Why should we worry about offending the sensitivities of those leaders whose actions have often offended our own sense of human rights and democracy?

Concurrent Resolution 53 will send a clear message to the administration and to the State Department that it is time for a change in this policy. It will also send a message to the rest of the world that the United States Congress appreciates and supports democratic political developments in Taiwan. I strongly urge my colleagues to overwhelmingly support it.

Mr. HAMILTON. Mr. Speaker, I rise in support of House Concurrent Resolution 53. I commend the gentleman from California [Mr. LANTOS] for his leadership and the committee for bringing this resolution to the floor in a timely fashion.

Clearly, a broad, bipartisan majority of Members favors the idea of a visit to the United States by President Lee. I wish to point out, however, that this resolution does raise complex issues concerning the United States relationship with China and Taiwan.

On the merits, I think a private visit by President Lee to his alma mater should not be a problem. He has helped bring democracy to Taiwan, and I would like to think that his American education played a part in that accomplishment.

The problem, of course, is the potential implication of a Lee visit for the United States relationship with China. For decades, the United States has had good relations with both Taiwan and China by maintaining an ambiguity about Taiwan's political status.

The Chinese Government has a firm position that Taiwan is a part of China. It rejects the idea that Taiwan is a sovereign entity. More and more, China rightly or wrongly believes that President Lee is working to create a Taiwan independent from China, and that he is doing so by making trips to places like the United States. China believes that any visit by President Lee to the United States would, by definition, be political. Whether the visit is called "private" is immaterial to China. Now, I disagree with how the Chinese view a visit by President Lee, but I believe we still need to understand China's perspective.

The United States has stated its policy that there is one China, whose Government is the PRC Government in Beijing. We also acknowledged the Chinese position that there is one China and Taiwan is part of China. For six administrations, the United States has sought both to develop relations with China and maintain and develop substantive ties with Taiwan. We have, for example, helped Taiwan build a defense deterrent. And as Taiwan has played a greater role in world affairs, the United States has adjusted the way in which it deals with Taiwan. United States cabinet-level officials in economic areas have visited Taiwan.

The point is that the United States shares important interests with China. Consequently, we should not ignore China's reaction on this issue. Right now, for example, the administration is engaged in sensitive negotiations with North Korea over what kind of reactor the North will accept in return for abandoning its nuclear weapons program. China reportedly is urging North Korea to accept a South Korean-model reactor and so defuse the current crisis. We need that kind of help. We also have an interest in peace and stability in the Taiwan Strait.

So, Mr. Speaker, I support this resolution. But I also hope that we can summon the creativity to manage this situation so that we may both express our historic friendship with Taiwan and, at the same time, preserve our interests. This visit should be truly nonpolitical in the way it is conducted. We should make clear to Beijing that a short visit by President Lee in no way changes the United States view of Taiwan's status. And I think it is clear that there needs to be some confidence-building between Beijing and Taipei so that neither side overreacts to the actions of the other.

Mr. OXLEY. Mr. Speaker, I rise in support of House Concurrent Resolution 53, of which I am an original cosponsor.

Given the fact that President Lee Teng-hui is the freely elected leader of the Republic of China on Taiwan—a United States ally and important trading partner—it would seem self-evident that he would be welcome at any time for private visits to the United States. Yet this is not the case. Frankly, President Lee has been subjected to some rather shoddy treatment by the Clinton administration, which, of course, is the impetus behind this concurrent resolution.

I want to make it clear that President Lee is a reform-minded democrat who is offering just the kind of leadership the United States should wish to encourage in Asia. While I am certainly in favor of maintaining a constructive relationship with the People's Republic of China, I see no reason why the two policies should be mutually exclusive. Surely the situation calls for a degree of tact and diplomacy, two qualities which this administration has lacked in its dealings with President Lee.

Again, Mr. Speaker, I support the resolution, and I hope the administration will take note of the position of the House.

Mr. TORRICELLI. Mr. Speaker, the decision to allow the elected leadership of Taiwan access to the United States was made when Taiwan decided to have free elections, a free press and pluralistic political systems. This isn't simply an issue to the people of Taiwan. As a matter of policy, the United States should never exclude the elected and legitimate leader of any nation seeking to come to our country. The views of nations with whom we have relations, and those nations that play a disproportionate role in world affairs, should always be heard by our Government. They can, however, never be controlling upon our Government.

The Government in Beijing has received all due deference. In the final analysis, it is the policy of the U.S. Government to allow all freely elected governments to come to this country and be heard. The people of the United States do not need to be protected from the views of freely elected peoples.

Finally, Mr. Chairman, I want to add that it would be an extraordinary statement that, after receiving in the last decade a range of leaders from Roberto D'Aubuission, the leader of the death squads in El Salvador, to Deng Xiaoping, the leader of the world's largest totalitarian government, that any freely elected official is denied access to our country. I hope this resolution, House Concurrent Resolution. 53 succeeds in convincing the administration of the strength of our bipartisan views. But I would remind the administration, if they do not after considerable negotiations, that I have a common resolution to amend the Taiwan Relations Act as a matter of law to allow access and visas to the United States. If discretion is not used properly by he administration, discretion will be lost by the administration. We will proceed with our amendment and change the law.

Mr. ORTIZ. Mr. Speaker, I rise to extend my remarks on House Concurrent Resolution 53, a resolution expressing the sense of Congress regarding a private visit by President Lee Teng-hui of the Republic of China to the United States. I was pleased to offer my strong support for this measure, and am delighted that the House of Representatives endorsed this important resolution.

This resolution is a sensible request. We should all recognize that the Republic of China is a full-fledged democracy, and its government policies conform to those of other democratic nations. Additionally, the Republic of China is one of the most important economic powers in the world. Specifically, the Republic of China has established a program of economic assistance to many underdeveloped nations, and has joined major international organizations such as the Asian Pacific Economic Cooperation [APEC] forum. The Republic of China has also been involved in international humanitarian relief efforts, such as helping the refugees of the Persian Gulf war. More importantly though, the Republic of China is willing to be a helpful partner in the international community.

While the United States does not want to jeopardize its relations with other governments, we should grant an exception to allow the President of the Republic of China to make a private visit to our country. The nature of the visit by President Lee Teng-hui, to receive an honorary degree from Cornell University, is a reasonable appeal, and should be so recognized by our government.

As Members of Congress, I would believe that we would want to maintain our relations with the Republic of China, and am pleased that the House passed this resolution.

Mr. BEREUTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the motion offered by the gentleman from Nebraska [Mr. BEREUTER] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 53, as amended.

The question was taken.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 53.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

PERMISSION FOR CERTAIN COMMITTEES TO SIT ON TODAY DURING THE 5-MINUTE RULE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule:

The Committee on Banking and Financial Services;

The Committee on Economic and Educational Opportunities;

The Committee on Government Reform and Oversight; and

The Committee on International Relations.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks, and that I may include tabular and extraneous material, on H.R. 1158.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 1158, EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR ADDITIONAL DISASTER ASSISTANCE AND RESCISSIONS FOR FISCAL YEAR 1995

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House, at the conference on the disagreeing vote of the two Houses on H.R. 1158, be instructed to agree to the the Senate amendment numbered 1 except for Senate action under title IV deleting the "Deficit Reduction Lock-Box", Senate language rescinding $100,000,000 from Veterans Administration medical care and construction and except for Senate action under chapter IV related to "Debt Relief for Jordan".

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes, and the gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Let me simply say that the new Republican leadership in the House has forced us to carefully take a look at a number of spending items and take a look at a lot of programs that needed reducing. That is good.

But if other Members heard what I did in my district the last 3 weeks, the public is concerned that in some cases this House is going too fast and going too far. They are concerned that while they voted Republican in the last election, they are worried that this body is producing legislation which is too extreme, that it is doing things that are not well-advised, not well thought out, and not fairly targeted.

I know that a lot of my Republican colleagues have responded by saying that they favor a more moderate course, and that they expect that the Senate will modify much of what the House has done to make it more moderate.

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This motion would give those colleagues a chance to put their votes where their words are, by supporting not a Democratic solution, but a modern Republican solution to the rescissions issues before us, moderate Republican position fashioned in the Senate that both parties can work from.

I think the problem with the House bill is, as it left the House, well, there are a number of problems. First of all, as the bill left the House, despite the fact that it contained the Brewster amendment, which required that the dollars which are saved be used for deficit reduction, the House Republican leadership nonetheless said these cuts would be used to help finance their tax bill. That tax bill, among other things, provides benefits for people making up to $200,000 a year, and it finances those tax reductions by eliminating help that we give low-income seniors to pay their home heating bills, and it also pays for those tax reductions for people making $199,000 a year by cutting back on investments on our kids' education and training.

That tax bill would also take us back to the good old days during which 47 of the largest corporations in this country paid not one dime in Federal taxes despite the fact that they made millions of dollars in profits. The House Republican leadership also insisted on continuing to allow the provision in the tax code which allows billionaires to escape taxation by renouncing their American citizenship.

This motion simply suggests that we accept the Senate priorities in the conference with roughly three exceptions. First, we would require that the conference stick to the Brewster amendment, which requires every dollar in this package to be used for deficit reduction rather than being used for another purpose.

Second, it would say absolutely no way will be accept the $100 million reduction in veterans' health care benefits which the Senate provided. We would insist on fully funding those programs.

And, third, this proposal would not buy into automatically the Senate provision of aid to Jordan. We would leave that issue up to the conference.

In essence, the Senate bill, fashioned in a bipartisan way, in a Republican-controlled body, is harder, much harder on pork than was the bill that left the House, and it is much kinder and gentler on kids and seniors.

So in essence I would simply say this: The bottom line on this motion to instruct is simple. If Members do not want to guarantee true deficit reduction through the Brewster lockbox, vote against it. If Members do not want to protect veterans' programs, vote against it. If they want to cut kids and seniors instead of pork, vote against it. But if Members think that we ought to do those three things, then join us in being tougher on pork and easier on seniors and kids. Join us in supporting and insisting that we fully fund veterans' health programs, and most of all, join us in insisting that every dime of budget cuts that are produced in conference actually will go to deficit reduction rather than going to finance that turkey of a tax bill which the House passed just before we recessed.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I respectfully rise to oppose the gentleman's motion. I am concerned that the gentleman seems to overlook the fact that this House spent 2 days debating this rescissions bill and then passed it. The House version of this bill provides for the American taxpayer roughly $12 billion in savings in 1995 appropriations by making $17 billion in cuts and $5.3 billion in additional spending for disaster assistance, $50 million for Jordanian relief, and miscellaneous items totaling an additional reduction of $361 million.

The point is that the House had an opportunity to debate the issues extensively. We voted on any number of amendments to the bill, and the bill ended up passing with relative ease, expressing the House's point of view that the rescission bill was a good one.

We heard arguments from the minority saying it doesn't do any good to take this bill up in committee because after all, it will never pass the House. Then when we got it passed through the House, and then the arguments were of course it doesn't do any good to pass the House because the Senate will not take it up. Now of course the bill is passed in substantial conformance to the House's measure, and the argument is well, it doesn't do any good to send it to conference because the President will not sign it.

But a conference is based on compromise between this body and the other one. What the gentleman proposes is no compromise; it is a total abdication of what we passed in the House. The motion to instruct basically recommends that we recede on virtually every issue and every position taken by the Senate with the exception of the lockbox, the VA rescission, and the Jordanian aid.

My view of a compromise is not simply to throw up our hands after we have done the lion's share of the work and say OK, the other body came in relatively well, but they did it differently from us, so we will just take their position. No. I think, Mr. Speaker, that the House would be better represented if we would reject the gentleman's motion and in fact just stick to our guns and reach a genuine compromise with the other body.

The fact is, that it is ironic that the very three things that the gentleman from Wisconsin [Mr. OBEY] exempts are three likely areas where we would look favorably on the Senate position. So we may end up getting some agreement on the very things he does not want us to agree with them on.

But let the House do its work. Let us go ahead and name the conferees, go to conference, let the conference pound out the differences between both positions in the House and the Senate, not tie its hands, not bind it in any significant degree, not adopt the gentleman's motion. Let's find out what the conference can produce, and presumably I think that what we will find is that what it does produce will be passable in both the House and the Senate, and ultimately will be signed by the President of the United States because, in fact, what we will do jointly with the other body is going to be a very good bill, and it is going to mean that the American taxpayer, for the first time in many many years, is going to reap a savings of anywhere from $8 billion to $12 billion of prior years appropriations, which I think is terribly significant.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I take this time only to say that I am somewhat startled by the comment I just heard from my good friend from Louisiana. He indicated that the House would be most likely to accept the three Senate provisions that I have indicated we would not insist on supporting. Did the gentleman really mean that we are inclined to accept a $100 million reduction in appropriations for veterans' health care? Did he really mean that the House is inclined to accept the Senate language which guts the Brewster amendment which attempts to guarantee that the money would be used for deficit reduction rather than used to finance the tax package?

If that is the case, then I think the gentleman outlines most clearly why we do need to support and vote for this recommittal motion, because I know very few Members certainly on this side of the aisle who would be comfortable with admitting ahead of time that they want the House to acquiesce in the Senate gutting of the Brewster amendment. And I certainly do not think I would, and for instance acquiesce in the reductions that were made in veterans' health care. So I think that outlines all the more reason to support the recommittal motion.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would simply say that I am prepared to let the conference work its will on all of these issues without prejudging it. I was using the statements that the gentleman referred to simply as examples of where we could possibly end up, but the fact is, please do not bind or prejudge the outcome of this conference at all. We are going to have a lot of good Members who are going to be participating in this conference, and they have all got individual views on how the conference should come out.

I was very, very, pleased by the product of the conference between the House and the Senate on the last rescission bill when we provided the military with $3 billion in additional funds for their readiness shortfall, and at the same time paid for that readiness shortfall with rescissions that were half out of defense and half out of nondefense appropriations. So we have done a good job already. We have a track record established by the last conference, and I think that all indications are that we can have a very fruitful and successful conference hopefully that will not take too extremely long and come back to the House with something that a majority, and I stress a majority of the Members, hopefully a good, sizable combination of both Republicans and Democrats can indeed support.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will take just 1 minute, and then I am happy to yield back. I would simply say that I think we need to understand that what the Senate was able to do under moderate Republican leadership, what the Senate was able to do, is to reduce the cuts that were made in programs to seniors and programs for kids by making deeper reductions in pork items in the budget. It seems to me that moderate Republicans in the Senate have demonstrated they can produce a more civilized and more balanced bill and we ought to go along with that, with the exception of the three items I have laid out.

And so I would urge adoption of the motion.

Mr. Speaker, I yield back the remainder of our time.

Mr. LIVINGSTON. Mr. Speaker I oppose the gentleman's amendment and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COMBEST). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 187, nays 207, not voting 40, as follows:

[Roll No. 303]

YEAS—187

Abercrombie
Andrews
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Costello
Coyne
Danner
de la Garza
Deal
DeFazio
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Everett
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford
Fox
Frank (MA)
Frost
Furse
Gephardt
Gibbons
Gonzalez
Gordon
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler

Neal
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scarborough
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Williams
Wilson
Woolsey
Wyden
Wynn
Yates

NAYS—207

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Ewing
Fawell
Fields (TX)
Flanagan
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rohrabacher
Roth
Royce
Salmon
Sanford
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stokes
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torricelli
Upton
Vucanovich
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—40

Ackerman
Baesler
Baldacci
Barton
Becerra
Bilirakis
Browder
Buyer
Clay
Conyers
Cramer
Dellums
Diaz-Balart
Gallegly
Gejdenson
Geren
Green
Greenwood
Hilliard
Jacobs
Laughlin
Linder
Martinez
Menendez
Metcalf
Moakley
Ney
Owens
Parker
Payne (NJ)
Pombo
Quinn
Rogers
Ros-Lehtinen
Roukema
Saxton
Thompson
Tucker
Waldholtz
Wise

□ 1230

The Clerk announced the following pair:

On this vote:

Mr. Moakley for, with Mr. Barton against.

Mr. BONO and Mr. COOLEY changed their vote from "yea" to "nay."

Messrs. PASTOR, CONDIT, and EVERETT changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WATTS of Oklahoma. Mr. Speaker, on rollcall No. 303, I am inadvertently recorded as an "aye" vote, and I should have been recorded as a "no." So I would like to have that noted for the RECORD.

PERSONAL EXPLANATION

Mrs. WALDHOLTZ. Mr. Speaker, I missed rollcall No. 303 due to an inoperative light calling us to vote. Had I been here, I would have voted "nay."

PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Mr. Speaker, today I was unavoidably detained in flying back to Washington from Houston and missed rollcall vote No. 303. Had I been present, I would have voted "aye."

APPOINTMENT OF CONFEREES

The SPEAKER pro tempore (Mr. COMBEST). Without objection, the Chair appoints the following conferees on H.R. 1158: Messrs. LIVINGSTON, MYERS of Indiana, REGULA, LEWIS of California, PORTER, ROGERS, SKEEN, WOLF, and DELAY, Mrs. VUCANOVICH, and Messrs. LIGHTFOOT, CALLAHAN, OBEY, YATES, STOKES, BEVILL, FAZIO of California, HOYER, DURBIN, COLEMAN, and MOLLOHAN.

There was no objection.

EXPRESSING THE SENSE OF CONGRESS REGARDING A VISIT BY THE PRESIDENT OF THE REPUBLIC OF CHINA ON TAIWAN

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 53, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska [Mr. BEREUTER], that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 53, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 396, nays 0, not voting 38, as follows:

[Roll No. 304]

YEAS—396

Abercrombie
Ackerman
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bishop
Bliley
Blute
Boehlert
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Ganske
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo

Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Ramstad
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rohrabacher
Rose
Roth
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—38

Allard
Baesler
Baldacci
Barton
Becerra
Bilirakis
Boehner
Browder
Clay
Conyers
Cubin
Dingell
Fattah
Gallegly
Gejdenson
Greenwood
Hilliard
Jacobs
Largent
Linder
Martinez
Menendez
Miller (CA)
Moakley
Morella
Murtha
Parker
Quinn
Rangel
Rogers
Ros-Lehtinen
Roukema
Saxton
Stokes
Thompson
Tucker
Waxman
Wise

□ 1250

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 370 AND H.R. 97

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of two bills, H.R. 370 and H.R. 97.

The SPEAKER pro tempore. (Mr. COMBEST). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated in the House by Mr. Edwin Thomas, one of his secretaries.

RESCISSION PROPOSALS AFFECTING THE DEPARTMENT OF JUSTICE, THE DEPARTMENT OF TRANSPORTATION, AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report three rescission proposals, totaling $132.0 million.

The proposed rescissions affect the Departments of Justice and Transportation, and the National Aeronautics and Space Administration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 2, 1995.*

CONDEMNING THE BOMBING IN OKLAHOMA CITY

Mr. LUCAS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the resolution (H. Res. 135) condemning the bombing in Oklahoma City, and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 135

Whereas on Wednesday, April 19, 1995, a car bomb exploded outside the Alfred P. Murrah Building in Oklahoma City, Oklahoma, collapsing the north face of this 9-story concrete building, killing and injuring innocent and defenseless children and adults;

Whereas authorities are calling this the "deadliest terrorist attack ever on United States soil";

Whereas Federal law provides for the imposition of the death penalty for terrorist murder; and

Whereas additional antiterrorism measures are now pending for consideration in the United States House of Representatives: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns, in the strongest possible terms, the heinous bombing attack against innocent children and adults at the Alfred P. Murrah Federal Building in Oklahoma City;

(2) sends its heartfelt condolences to the families, friends, and loved ones of those whose lives were taken away by this abhorrent and cowardly act; and expresses its hopes for the rapid and complete recovery of those wounded in the bombing;

(3) applauds all those courageous rescue and volunteer workers who are giving unselfishly of themselves, and commends all law enforcement officials who are working determinedly to bring the perpetrators to justice;

(4) supports the President's and the United States Attorney General's position that Federal prosecutors will seek the maximum penalty allowed by law, including the death penalty, for those responsible;

(5) commends the rapid actions taken by the President to provide assistance to the victims of the explosion and for promptly beginning an investigation to find the perpetrators of this crime, and it urges the President to use all necessary means to continue this effort until the perpetrators and their accomplices are found and appropriately punished; and

(6) will expeditiously approve legislation to strengthen the authority and resources of all Federal agencies involved in combating such acts of terrorism.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. LUCAS] is recognized for 1 hour.

GENERAL LEAVE

Mr. LUCAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 135.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. LUCAS. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to my friend and colleague, the senior member of the Oklahoma House delegation, the gentleman from Oklahoma, [Mr. BREWSTER], pending which I yield myself such time as I may consume.

Mr. Speaker, I truly wish the first bill that I had managed on the House floor would have been anything other than the resolution that we have before us today. I would like to thank the leadership on both sides of the aisle for allowing the House to consider this measure in such an expeditious manner. Over the next hour we will talk of lost innocence, tragedy, death, resilience, human spirit, and rebuilding. I thank my colleagues for taking part in this debate.

Mr. SPEAKER, I reserve the balance of my time.

Mr. BREWSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great sadness that we have this resolution before the House today. I wish we were not here. I wish the tragic disaster that happened last April 19, had not happened.

The deadliest terrorist attack that ever happened on America's soil happened in Oklahoma City.

This cowardly act killed more than 138 people, including 15 children. Over 40, including 4 children are still missing. Over 465 people were injured in the blast.

Mr. Speaker, it becomes very personal when you see and know the individuals affected. I have lost friends, and many of my friends have lost loved ones. I have attended memorial services and seen the pain—undescribable pain—on these innocent faces. Children who have lost a parent; parents who have lost their children. Families torn apart from the senseless act of terrorism.

The healing process will be long and difficult. Just today, Mr. Speaker, I read a letter written by one of the victims of the bombing. Susan Farrell, a 37-year-old attorney for HUD who grew up in Chandler, OK, was in the building during the explosion. She had written me only 2 days before the bombing asking for support for the Legal Services Corporation.

The shock waves from this cowardly act will long be felt in the heart of Oklahomans, and in the heart of Americans. April 19 has been burned into our history books as a day to remember the lives lost, the children who never saw another birthday, the families who felt the pain, and the innocence left behind in Oklahoma.

Mr. Speaker, today I stand proud to be an Oklahoman. Countless volunteers and workers have donated much of their time to help those suffering and help in the relief effort. I recall listening to those early news reports that continued to praise Oklahomans for being so kind, and reporting with shock that these citizens reached out with everything they had to help the victims. I was not surprised at the outpouring of love and support. Oklahomans are a proud and honorable people.

I want to also recognize the outpouring of all Americans. Relief groups traveled from all over the country to help Oklahomans in their time of need. Those people, and their efforts will not be forgotten.

It has been additionally heartwarming to hear the remarks by President Clinton, Rev. Billy Graham, Gov. Frank Keating and his wife Cathy, and Mayor Ron Norick throughout this tragedy. All have reached out to comfort and console those families and let them know this evil act will not be forgotten.

Mr. Speaker, this resolution today expresses our condolences, sympathies, and prayer for the families of the victims, to the injured and also for the deceased. We pray for them and we want them to know of our outrage for the crime and our compassion for those individuals as well.

The resolution states our strong support for the President and the law enforcement officials who are doing everything within their power to apprehend and try and punish those people who are responsible, and it states that we support the President and the Attorney General as they say this is certainly a case in which the death penalty is appropriate.

This resolution also goes further to thank the volunteers and the countless people who have put so much into easing the pain.

In the aftermath of this terrible tragedy, we must be very careful not to go too far as we respond legislatively. We cannot be too careful when considering legislation which impacts every American—balancing constitutional rights with protections needed to prevent this event from happening again should be weighed very carefully

Mr. Speaker, I urge this House to first focus on finding those people responsible and punish them as swiftly as possible. I also urge this House to show compassion and assistance for the families whose lives have been shattered by this blast, and for those families who still have loved ones missing in the wreckage. And, finally I urge this House to thank and support the law enforcement officers, rescue workers, fire officials, volunteers, political leaders and so many other tireless efforts by all Americans.

We want them to know we support them and appreciate their efforts. We appreciate the sacrifices they made to show that good can overcome evil. I think we have seen that in my State. I am very proud of Oklahoma, and our country, as a result.

□ 1300

Mr. Speaker, I reserve the balance of my time.

Mr. LUCAS. Mr. Speaker, I yield 5½ minutes to my colleague, the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Speaker, everyone who was in this country in 1941 knows where they were on Pearl Harbor day. Everyone knows where they were when the *Challenger* blew up as it was launched from Cape Canaveral. And everyone in Oklahoma will always know where they were at 9:02 in the morning on April 19, 1995.

The shock from that blast was felt as far as 55 miles away. I myself was in a building 8 miles away and people were afraid from the shaking of it that it was going to come down as well.

We have all seen the depictions on TV, in the newspapers and in magazines about what happened there, but it does not capture it. If anyone on this floor has not seen some of the pictures, I have brought a collection. But nothing can convey what really occurred and to how many people it happened.

But if you see someone from Oklahoma with tears in their eyes right now, you cannot tell when it is tears of sorrow and when it is tears of pride. For our State, our city, our community has united like I believe no one has ever seen before in the face of a common disaster.

When the workers came in, and we are so grateful they did, from nearby Maryland here, from Virginia, from California, from Arizona, from Minnesota, from Texas, from all over this country, they came together with help, and we say thank you. To the brave workers who were there on the scene, people passing by on the street that rendered immediate aid, that did not worry about danger to themselves, that rushed into the building that was still in the process of collapsing, and while there were fires still burning from cars that had exploded in the chain reaction of the blast, we say thank you.

A plane full of doctors on their way to a meeting in Texas turned around and came back to help with the disaster victims. Medical personnel were called all over.

Mr. Speaker, the sad thing was, after the first rush of over 400 injured people to the hospitals, they kept waiting. They kept waiting in the emergency rooms, they kept waiting in the downtown area. They kept waiting for more victims of about 200 people still known to be missing and, Mr. Speaker, the other injured never came, because they were the ones whose bodies were left shattered and torn in the rubble.

Our city has responded with outreach to the families, to the ones left behind. People could not all be rescue workers, could not all go down and dig through the rubble, could not all be part of the investigation. So they said, what do you need? Do you need people to go out and comfort the families? We'll do it. Do you need to take care of the rescue workers? We'll do it. Not out of Government response but just from private citizens.

About 100,000 meals were donated, from all over the community. If the rescue workers needed something to pick through the rubble, whether it be shovels, whether it be leather gloves, knee pads because they had to crawl through, flashlight batteries to try to dig through the cavern underneath, they just mentioned it, and it materialized downtown. No procurement process, no worry about payback. Just private citizens trying to do everything they could to help.

This is the spirit of brotherly love that we believe in in Oklahoma. We are grateful that all political differences were set aside. When we held a memorial service a week ago Sunday, the President and First Lady came in, half of the Cabinet came in, and they were received out of the respect of their concern for us and the dignity that is due their office.

About 20,000 Oklahomans came together, only 11,000 could fit in the building, the rest had to wait outside, to honor the dead, their families, our State, our city, and our Nation.

Mr. Speaker, it was not just the Federal building. We have probably 19 buildings in downtown Oklahoma City that are going to have to be razed because of the structural damage. We have hundreds of others with degrees of damage because that was how tremendous the blast was.

One of the saddest things may be that a church immediately across the street to the east of the Federal building, in the midst of the shattered stained glass windows and the crumbling brick, they have had to take a church, a house of God, a house of worship, a house of prayer, and use it as the morgue to take care of the victims.

Mr. Speaker, I wear a ribbon and all true Oklahoma people are wearing ribbons in honor of the things that are being done. We want to say thank you.

We want to say thank you for everything everyone has done. If you come to Oklahoma City, and I hope and pray that you will have an occasion to do so, to meet the people that fit the title of being in the heartland of America, you will find that in addition to all the ribbons flying, there are signs all over our town, and they say God bless Oklahoma City.

Mr. Speaker, I know He does. It says above you there and above the flag, in God we trust. Mr. Speaker, there is no other way we could have made it. We want to thank the Lord, as well as the people of this country, for the blessings that He has given us to make it through.

Mr. BREWSTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, I join all my colleagues, particularly those from Oklahoma, in condemning of the bombing of the Federal office building in Oklahoma City and in support of this resolution.

To the families and friends of the victims, I extend my heartfelt sympathies and those of every resident from California's South Bay. To the thousands of rescue workers who combed through the destruction looking for trapped individuals, I extend deepest thanks and appreciation for a job well done.

The gentleman from Oklahoma [Mr. ISTOOK] has eloquently acknowledged and thanked many States for sending help. Among the rescue workers descending on Oklahoma City were two Torrance, CA fire fighters, Mark Andersen and Ian Burnett. Like hundreds of others, both men put their lives and safety at risk searching the devastation for victims of the bombing.

But while other workers exhausted themselves cutting re-bar with bolt cutters in their search for survivors, Andersen and Burnett easily sliced through the re-bar using Life Shears, a cutting tool developed by Hi-Shear Technology Corp., also of Torrance. The 20-pound, 18-inch long tool originally was designed for the military to cut communications cables. Andersen worked with Hi-Shear to adapt it to fire and rescue work. It uses a bullet-like propellant to shoot a sharp blade through the re-bar.

Rescue workers from other agencies were dazzled by the tool, so much so that the Federal Emergency Management Agency requested 40 additional Life Shears be sent to the bombing site. FEMA also advised other fire departments nationwide to buy the tool.

Funding for the development of Life Shears came from the Technology Reinvestment Program [TRP]. It is one of the many examples of the application of defense technology to civilian use.

Out of this tragedy came stories of heroism, selflessness, and compassion. It also became the venue for demonstrating technologies that can save lives.

Mr. Speaker, let's hope we can prevent incidents of this enormity, but let's also pledge to be prepared in the event of any future natural or human-made devastation. In doing so, we can save lives and ease the difficult burden of rescue workers.

Mr. LUCAS. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. WATTS].

Mr. WATTS of Oklahoma. Mr. Speaker, the tragedy in Oklahoma City is the most horrific act of terrorism and violence ever to have occurred within the borders of our great Nation. I have been at the site several times and I have seen the destruction firsthand.

Yesterday afternoon I made a few remarks at the funeral of a dear friend, Clarence Wilson, who was the general counsel for HUD there in Oklahoma City. We lost more than two dozen residents in my district, including an 18-month-old child in Chickasha, OK.

My heart goes out to all the victims and all the people that are involved in this tragedy. Nothing can replace the loss, and only a lot of time, love, and prayers can begin to heal the wounds.

As the father of five healthy, vibrant children, I cannot imagine anything worse than losing a child. The sight of the fireman carrying Baylee Almon will be forever etched in the minds of Americans.

In the face of tragedy, once again the heart of this great Nation is shown to be strong and compassionate. The whole country has unified to support us, and the relief efforts have been tremendous. The support for our emergency service people, police, the fire, EMSA, Red Cross, the FBI, has been overwhelming. This has to be one of the most unifying, coordinated efforts we have ever seen.

I saw America firsthand from a bird's-eye view. I saw America respond not as Republicans or Democrats, not as rich or poor, not as black or white, not as man or woman, but I saw this country respond in a difficult time as Americans.

I want to say thank you, America, from the bottom of our collective hearts. If the perpetrators of this crime meant to send us a message, we have one for them: We will seek you out, and make sure you pay for the senseless tragedy.

As a member of the Committee on National Security, I will work to make sure our security is strong within this country as well as strong outside of this country.

However, one note of caution. During a senseless tragedy such as this, we must avoid recklessly affixing blame on people or groups who might be convenient targets for finger-pointing. This crime is being investigated by the appropriate law enforcement authorities and they will bring the perpetrators to justice.

□ 1315

We cannot allow the insanity of a few to become a justification for watering down the Bill of Rights. In short, we need to ensure that Washington-based elitists don't use this situation as a pretext for declaring open season on those with opposing views or God forbid—establishing a police state.

If we succumb to the fear, the bomber will have won. If we politicize the situation, the bomber will have won. If we abrogate our civil liberties and trample the Constitution, the bomber will have won. If we live with constant second-guessing and paranoia, the bomber will have won. If we allow people to label those with opposing views as hatemongers, the bomber wins. If we can't declare with resounding unanimity that this is still the greatest place in the world to live, the bomber will have won. We cannot allow the bomber to win.

Mr. Speaker, I've never been more proud to be an Oklahoman and an American and I ask God with a prayerful heart, to give this Congress and the President the wisdom and understanding to act responsibly and decisively in the coming weeks to do our best to try and ensure that this will never happen again. I urge support for this resolution.

Mr. LUCAS. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I have sat and listened to my colleagues say the things that need to be said, and to recognize both the tragedy as well as the compassion that came about through this land as a result of the bombing in Oklahoma City.

I would reinforce what has been said in terms of our reaction, that it should be measured and based on facts and not on emotion.

But I think most of all what we should recognize is what has happened to us with this bombing. One of the things we have done is we have devalued life in this country and we have brought it to a point where we no longer will value the lives of the very people that worked to make this country great.

Those that brought about this tragedy will be found and punished. But we should all reflect and have some introspection on what has happened to us as a society as we have devalued life both at the beginning and at the end.

Oklahoma will recover. Hearts will be scared and lives will be lived out in the memory of these individuals. But let it not be for naught. Let this be a turning point where we recognize that these people are no longer with us because of the loss of respect for human life.

Mr. LUCAS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON of Pennsylvania. Mr. Speaker, first I want to thank our colleague from Oklahoma, Mr. LUCAS, for offering this resolution. I rise in strong support.

Mr. Speaker, for the last 9 years in this Congress I have worked the issues of fire and life safety and emergency response and have been on every major disaster the country has had, from the Loma Prieta earthquake, the wildland fires, Hurricanes Hugo and Andrew, the World Trade Center bombing, but perhaps none has been more outrageous than the recent disaster in Oklahoma City. It is the worst from the standpoint of the outrage, Mr. Speaker, because of the way it was done, because of the victims upon whom this disaster was perpetrated.

But the thing in each of these incidents and every major incident that the country faces every day is the same, and that is the dedication and tenacity of the emergency response officials in this country. One and one-half million men and women across America from Chief Morris from the Oklahoma fire department and Assistant Chief John Hansen were there to answer the question.

Last Wednesday evening, as we have done for the last 7 years, we honored the national fire emergency responders, with 2,000 leaders from across the country at the Hilton here in Washington. We did a live video linkage with the mayor and the chief emergency response officials from Oklahoma City as we gave them our highest award, paying recognition for the work that they have done. They are typical of the emergency response community in this country and we need to recognize them.

But, Mr. Speaker, there are lessons that we need to learn from these incidents. Following the World Trade Center bombing, Mr. Speaker, I wrote to President Clinton and asked him to convene a special task force on disasters in America, especially those that are caused by terrorism.

The House responded. We convened a bipartisan task force that met for 5 months last year and came up with specific recommendations.

The day after the Oklahoma City disaster I again wrote to President Clinton. Mr. Speaker, I include that letter in the RECORD at this point.

The letter referred to follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 20, 1995.

President WILLIAM CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In light of the tragic bombing in Oklahoma City, I write to urge that you convene a White House Conference on Disaster Preparedness and Response and appoint a Presidential Task Force to follow up with recommendations for legislative and administrative action.

As founder of the Congressional Fire and Emergency Services Caucus, I have long advocated the improvement of federal disaster mitigation and response. I believe we must look at the situations which we have faced in past disaster scenarios—from the World Trade Center and Oklahoma City to the California earthquake and the Midwest floods—and apply the "lessons learned" to future planning and response efforts.

Following the bombing of the World Trade Center, I called for the creation of Disaster Task Force and laid out several recommendations of my own. You may recall that Governor Mario Cuomo endorsed those proposals. I also urged federal action on disaster response after the California Earthquakes, Florida hurricanes and Midwest floods. Congress responded by establishing a bipartisan Disaster Task Force on which I served. The Task Force produced numerous recommendations for improving national disaster mitigation and response.

As a result of these past efforts, FEMA is today far better organized and prepared to deal with crises than it has been in the past. I appreciate the Administration's support for reform, and applaud you for the accomplishments to date. However, as recent events indicate, much remains to be done. We must build on the progress we have made and undertake a broader, more comprehensive review to address a full range of disasters.

We now need to bring together top disaster planning experts from across the nation with policy makers from all levels of government so that we can craft recommendations for increasing coordination of federal, state and local efforts in mitigating and responding to natural and manmade disasters, including those provoked by terrorists. I look forward to your leadership and support in this regard.

Sincerely,

CURT WELDON,
Member of Congress.

In that letter I asked the President to convene a White House Conference on Disasters, with a special focus on terrorism, to be followed by a White House executive committee that would work to implement legislative and administrative changes to allow us to better respond to disasters like this around the country.

Mr. Speaker, FEMA has improved, and the Federal Government has improved, in the way that we assist local officials, but much more has to be done, much more can be learned, and I would hope that the best tribute that we could pay to all of those who fell victim to this terrorist act in Oklahoma City would be to put into place a process through which we can improve the ability for emergency responders to deal with similar situations in the future.

Because, Mr. Speaker, we know there is going to be another time, we know there is going to be another disaster, we know there is going to be another bombing, and we have to be prepared to mitigate, to deal with, respond to, and pay for those disasters, and the best way to do that is to conduct an ongoing review and make comprehensive recommendations about that response process.

Mr. Speaker, I thank my colleagues for yielding me the time.

Mr. BREWSTER. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from Oklahoma for yielding me this time.

Mr. Speaker, I join in the sadness and sorrow of the gentleman from Oklahoma, and I rise to express my strong support for this resolution that condemns the bombing attack on the men, women, and the children of the Alfred P. Murrah Federal Building in Oklahoma City.

This resolution sends a message that the Congress joins with the administration, no resolution can send it as strongly as every Member feels it or as every American feels it, but support for using all necessary means to find and bring to justice all those responsible for this unspeakable act.

As a member of the Committee on Appropriations I want to express my commitment to providing whatever resources are necessary to bring all those responsible to justice. And let no one be uncertain that punishment for anyone else who might try such as act in the future will also be swift and as severe as the law allows.

My prayers and the prayers of everybody in this Chamber and throughout this country are with the victims in Oklahoma, with their families, and with their friends and with their colleagues.

As a longtime supporter of our Nation's civil service, I am especially saddened, Mr. Speaker, by the horrific impact that this tragedy has had on the more than 500 Federal employees who worked at that building, and almost 2 million more who work around this country on behalf of their fellow citizens.

In my view, Mr. Speaker, Federal workers are one of our Nation's greatest assets. This ironically is Public Service Recognition Week, that special week each year when we recognize the enormous contribution that public employees at all levels of government make to the national well-being.

Like the Federal buildings scattered throughout the Nation, the Murrah

Building was a microcosm of government. The jobs there reflect the broad spectrum of services that Americans expect from the Federal Government:

One hundred twenty-five workers at a Housing and Urban Development office to help citizens realize the greatest of Americans dreams—home ownership and affordable housing.

Sixty-one Social Security Administration employees getting benefits out and resolving questions and problems for the citizens of Oklahoma. At least 11 of those employees are dead, along with many of the estimated 35 members of the general public who were in the Social Security Administration office at the time of the blast.

Twenty-five Federal Highway Administration employees keeping transportation projects so critical to our economy and to our citizens on track.

Twenty-two Department of Agriculture employees giving aid and information out to farmers so that all Americans can have affordable, healthy food.

Seventeen Marine Corps employees who I am confident never thought that their little Oklahoma recruiting office would be blown up as if it were in a war zone. I understand that a group of New York firemen who had joined in the rescue effort, who are also Marine reservists, saluted as they carried one of their own from beneath the crushed concrete.

And perhaps, Mr. Speaker, most disturbing, the law enforcement officials who were stationed in the Murrah Building from the Secret Service, the Customs Service, the Drug Enforcement Administration, and, yes, the Bureau of Alcohol, Tobacco and Firearms. ATF employees stationed in the building not only assisted in the rescue efforts but have worked with ATF's two national response teams that were deployed to Oklahoma City immediately after the bombing.

These are not nameless, faceless bureaucrats as some would project to the American public or folks that are just the enemy who we want to get who are what we want to undermine, get rid of them. America relies on these heads of families, these mothers of children, these children of others.

Their desire, Mr. Speaker, is to serve and is exemplified by an incredible news clip shared with me by the Department of the Army. Written by Tonya Riley-Rodriguez, it reads:

> He stood beneath a tree which survived the blast and took a long drink of bottled water.
>
> I'm going to be here until they all—come home, "said Staff Sgt. Don M. Majors, a U.S. Army nurse recruiter.
>
> I have worked in this building for 5½ years, and I knew everybody."
>
> He slipped a surgical mask back up to his sweat-and-dirt-covered face, ineffectually wiped at a streak of plaster on his forehead, and turned to go under the collapsed building again. He wasn't sure how long he had been searching that day. "Maybe 13 or 14 hours," he offered.

Mr. Speaker, this is the type of dedication we have seen from so many people in Oklahoma City since April 19. It is the spirit that so many Federal workers bring to their job day after day.

As we pass this resolution condemning this horrible act in Oklahoma City, I hope that all Members of this body will join with me in recognizing the tremendous commitment of Federal employees in Oklahoma City and across this Nation. And, yes, remember the brave citizens of Oklahoma and Oklahoma City. They are our brothers and they are our sisters, and if they are attacked, we are attacked. They are fellow Americans.

Let them know in Oklahoma that we are with them, let them know in Oklahoma, my friends who represent that great State, that we will march with you side by side to ensure their safety and to ensure that whatever is within our ability to make them whole, and only God can do that, of course, we will do.

I thank the gentleman for his time.

□ 1330

Mr. BREWSTER. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. GEPHARDT], the distinguished minority floor leader.

Mr. GEPHARDT. Mr. Speaker, I rise today to urge my colleagues to support this resolution, to express the profound sadness and anger of this House at the bombing which shook Oklahoma City on April 19.

Mr. Speaker, none of us in this Chamber can fully comprehend the pain and sorrow of those who lost friends, loved ones, and even precious young babies at the hands of the terrorists. To them, our words mean little, if anything. But hopefully our deeds will not, and we must pledge every measure of support and justice of which we are capable.

But the fact is for all that was taken from us in Oklahoma City 13 days ago, there were many things that can never be taken away, the courage of those who risked their lives to come to the aid of the victims, the fierce determination of the Government workers and rescuers who showed us by their service that there is something more meaningful in all of this than the poison of the violence and the destruction.

Mr. Speaker, the attack on Oklahoma City may have been un-American, but the outpouring of support and help and prayer was uniquely American. It showed a strength of spirit that cannot be dulled by any injustice or any evil intent.

But make no mistake, what happened in Oklahoma was an unforgivable act of cold-blooded cowardice. There is no posture or principle which justifies the ruthless killing of innocent people and innocent children. There is no cause or commitment which excuses random death and destruction.

This is why we have to do more than just convict those responsible for this act of violence and bringing them to swift and certain severe punishment. We must serve warning to all who would use extremist means to advance their extremist thoughts and ideas: We will use the full force of our laws to find them, to punish them and rid our society of their hateful acts, and when those laws are not enough, we will write tough new laws to rein in their wanton bloodshed and terrorism.

So I urge all of our Members to stand together to voice our outrage at this hateful action, and then with the U.S. Congress truly united in spirit, with our hands joined and our commitment clear, we can get down to the real business at hand, providing the relief that the victims of Oklahoma City deserve, and then passing the laws that will help make such atrocities a closed chapter in our Nation's history.

As the father of three children, I cannot imagine, I cannot imagine the sorrow of the parents and the relatives of those children. This has to be the worst act of violence in the history of our country.

It must not stand. We must find the good in this evil act, and I will work tirelessly with all of our Members on both sides of the aisle to make good of this great evil.

Mr. LUCAS. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. LARGENT].

Mr. LARGENT. Mr. Speaker, I have always been proud to call myself an Oklahoman, and Okie born and bred, but I do not think I have ever been prouder than since the time of the bombing, to see the outpouring of love and compassion not only for the families who lost loved ones in the Murrah Federal Building, but also for the compassion, love, and concern that has been shown by Oklahomans for rescuers that have come in to risk their lives in a rescue effort to find those that still might be found under the crumbling concrete and twisted steel, willing to risk life and limb to go in there, and the compassion that has been shown not only by Oklahomans but for Americans all across the country has reinstilled my faith in the things that have made this country great.

In fact, I think that it has proven once again that it is oftentimes in tragedy like this that the American spirit is galvanized once again.

Mr. Speaker, I would just like to say that my prayer for Oklahoma, in fact, for this entire country is that in reaction to the bombing that took place on April 19 that we would not recoil in fear, a desperate reaction to a desperate act, that we would not recoil in fear but, in fact, we would step out in faith as a reaction to this tragic occurrence, that we would reaffirm our faith in a free and open society, that we would recognize that the price of our freedom is also responsibility, that there is no greater country, no freer country, no more prosperous country in the history of this world than the United States.

In closing I would say that our prayers are with those families who lost loved ones April 19, that they, too, would be surrounded by the peace that passes all understanding.

Mr. LUCAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am a proud fifth generation Oklahoman. My family has tilled and toiled in the soil of western Oklahoma for over 90 years.

When you come to Oklahoma, you will encounter big-hearted folks who will meet you with a smile and a warm greeting on a downtown sidewalk. We Oklahomans are known for our perseverance, fortitude, and our compassion.

We have weathered great droughts, the Great Depression, feast and famine, business boom and bust. Our mettle has been tested, our endurance challenged in good times as well as the bad. Never have these attributes been more evident on a local or international stage than in the past 13 days.

On Wednesday morning, April 19, at 2 minutes after 9 o'clock, America's heartland lost its innocence. The bombing in downtown Oklahoma City was a cowardly act of tragic proportions with no justification.

Mr. Speaker, I come here today to ask all of my colleagues to join me in expressing outrage at and condemnation of the bombing of the Alfred P. Murrah Federal Building in downtown Oklahoma City.

I pray for the hundreds of injured and their families, friends, and loved ones. I pray for the rescue teams, the doctors, the nurses, firefighters, police officers, and other volunteers from all across the Nation who came at their own expense and who continue to work tirelessly to this very hour. These are truly God's chosen people for Oklahoma at this time.

And, yes, I pray for our Nation that we might be able to heal.

So now, Mr. Speaker, I ask that my colleagues join me in sending a message of heartfelt condolences to the families of the 140 that have been confirmed lost and the dozens still missing among the rubble.

I, like you and the Nation as a whole, will never forget that scene of devastation, the death, the suffering, and, most of all, the innocent children. I cannot begin to express the heartbreak and sense of helplessness one feels when faced with such a gruesome scene.

Many mothers, fathers, grandparents, spouses, and some children are still missing, making it difficult, if not impossible, for our families and communities as a whole to bring this disaster to a close.

So many wonderful, productive lives were destroyed. Although we know the children who thought they were safe in the haven of that day care center on the site are in God's arms now, I pray for their families. These were vibrant lives, some of considerable accomplishment, others with so much potential yet to be realized, senselessly and needlessly snuffed out for no just or conceivable reason.

Let us express our hopes for a rapid and complete healing of the wounded.

Let us join in commending the rapid response taken by the President to provide assistance to the victims and aid to our battered city. We commend his resolve and prompt action in the investigation, to seek, find, and apprehend the perpetrators of this act.

Let us join together and send a strong and unambiguous message to any individual or group who may contemplate another such massacre in your city or town, such evil acts will not be tolerated, and to those involved in this horrendous act, your actions will result in your swift and certain punishment. We must allow no mercy to those who allowed no mercy to others.

Mr. Speaker, I will close by citing a spontaneous tribute to the victims of this massacre which is formed along the perimeter around the largest crime scene in American history. A mound of wreathes and flowers and teddy bears and tear-stained poems have been laid with origins literally from around the world paying tribute to the hundreds of perished and wounded.

One particular offering which speaks, I believe, so simply, yet so eloquently, for all Oklahomans consists of a teddy bear with a paper heart attached bearing in crayon an inscription that reads as follows: "Oklahoma, broken-hearted, yes; broken spirit, never."

Ms. WATERS. Mr. Speaker, I wish to express my most profound sympathy for the victims of the tragic bombing in Oklahoma City during the congressional work period.

I can think of no more hateful, cowardly act than to ruthlessly bomb a Federal building while hundreds of hard-working Americans are doing their jobs.

I cannot imagine the grief, or express in words, how difficult a period this must be for those who knew and loved the victims of this terrible attack. Losing a loved one is hard no matter what the circumstances. The evil which led to the loss of life in Oklahoma would only make the grieving process more difficult.

I am hopeful that the Federal Government will continue its swift, aggressive action to locate the suspects in this horrifying case. I join with the millions of Americans who are encouraged by the Justice Department's urgent efforts to see justice served. We can only hope that the case is solved and those who are responsible for this heinous crime are severely punished.

The most important issue facing America today is the need to stop the violence which is tearing society apart. Violence begets violence. The thought that an American citizen would kill other American citizens defies reason and sanity. But the thought that the State, in response, would kill the perpetrator of this crime troubles me deeply as well.

My thoughts are with all of those whose lives have been touched by this terrible tragedy.

Mr. QUINN. Mr. Speaker, I rise today in strong support of House Joint Resolution 135, which condemns the bombing in Oklahoma City.

This resolution condemns the terrorist-fashioned bombing of a downtown Federal office building in Oklahoma City, denouncing it as an "abhorrent act of cowardice." Also, the resolution expresses congressional support for the President's and Attorney General's efforts to pursue all possible means of apprehending and punishing the responsible parties.

Today, I met with Congressman BILL MCCOLLUM, chairman of the House Judiciary Subcommittee on Crime, to discuss antiterrorism legislation. Specifically, we conferred about my pending legislation, the Restricted Explosives Control Act, which I introduced in an effort to diminish the incidence of domestic terrorism.

I join all of my fellow colleagues in the House of Representatives and extend my deepest sympathies to all of the families in Oklahoma City. Our prayers and thoughts will be with you all in the days and weeks to come.

Mr. HYDE. Mr. Speaker, this resolution is an expression of this body's outrage at the manifestation of unmitigated evil that was visited upon Oklahoma City, its people, and our Nation on April 19.

It also provides us with an opportunity to recognize the real spirit of America and the underlying greatness of this Nation. Exhibited in the aftermath of that horrific event was the friendship and fraternity of our citizens, which, sad to say, is only typically publicized in situations of national crisis. We need to remind ourselves that such acts of personal and national virtue and heroism occur daily in this country as Americans fulfill their obligations of citizenship, through voluntarism, sacrifice, and charity. When catastrophe strikes, however, we are refreshed by the benevolence of those acts, undertaken with spontaneous enthusiasm and profound grace.

The Oklahoma City bombing has reached the heart and soul of America, evinced by the generous outpouring of love and prayers for the people of Oklahoma City and the families burdened by the scars of injury and death. Almost immediately hundreds of rescue workers from across America voluntarily flocked to that city to provide many unselfish hands in rescue efforts. Hundreds of Americans gather quietly near the Murrah building trying to do their part, however they might: through prayers, deeds, or both. Americans throughout this land are expressing their sorrow and solidarity with the people of Oklahoma City in ways that are at once poetic and meaningful.

Many have sought to find an explanation for the causes for that awful act of cowardice, but there is really only one explanation for it: diabolical individuals intent on damaging society by hurting hundreds of innocent lives. The depraved events of Oklahoma City are a humbling reminder of our own vulnerability. We should abide by what Lincoln called the "better angels of our nature" and defeat the attempts to define ourselves by the ravings and actions of evildoers and fanatics.

We bring this resolution to the floor to pay our respect to the victims of this disaster and their grieving families. The magnitude of their personal losses, and the violence felt by so many, dwarfs our effort to put emotions and empathy into words.

Later this month, the Judiciary Committee will consider comprehensive legislation directed at combating terrorism from whatever source. Lest our people be concerned, strengthening our law enforcement capabilities in this regard does not require a restriction of our civil liberties and constitutional protections. Congress is quite capable of striking the delicate and necessary balance between our constitutional guarantees and the Government's need to secure the safety of its citizenry. The legislation will not work a forfeiture of our citizens' cherished liberties. It will honor the victims of Oklahoma City and will attempt to diminish the possibility of repeated terrorist attacks in the future.

Mr. TEJEDA. Mr. Speaker, I join my colleagues today in supporting House Resolution 135, a resolution expressing this House's condemnation of the recent atrocity in Oklahoma City. We cannot begin to measure the damage from this senseless act of cowardice, but we can see the pain on the faces of survivors and the families of those who perished on the morning of April 19, 1995.

We in the U.S. Congress express our outrage, our horror, that anyone could even conceive of this plan, let alone carry it out. This was not an attack on a building, on a faceless Government, but on its people, on all of us. The bombers deliberately and cruelly decided to detonate the bomb at a time calculated to maximize the loss of life. And that loss has been real and tragic.

Our hearts go out to the people of Oklahoma who have endured the brunt of this tragedy. But one of the all too many who lost their lives that morning was a native of San Diego, TX, a small, closely-knit town in south Texas. Antonio C. Reyes, who was 55 years old, was identified this past Saturday as a victim of the bombing. Mr. Reyes served the U.S. Navy for more than 20 years before joining the Small Business Administration and then the U.S. Department of Housing and Urban Development. Mr. Reyes was at work on the eighth floor of the Alfred P. Murrah Federal Building at the time of the explosion. He gave of himself, not only to his country, but also to his community by supporting tutoring programs, local children's and music festivals, scholarships for Hispanic students, and community development. He was a leader, expressing concern for the Hispanic community through positive action.

Shortly before learning that Mr. Reyes was confirmed among the dead, his family gathered this past Saturday night at St. Francis De Paula Catholic Church for a Rosario de Ragación, praying for mercy and strength. His sister, Elma Garcia, still lives in San Diego, and his other siblings live in Corpus Christi and Alice in Texas, Phoenix, AZ, and Pensacola, FL. He leaves behind his wife of 35 years, Dora Reyes, a son and daughter, and two grandchildren. I am sure that I speak for all men and women of good will in this country in wishing the family our condolences at this terrible time.

We cannot know the depth of pain or loss experienced by the Reyes family and the scores of other families who now mourn for lost parents, siblings, and children. But we can send a message today, to those who perpetrated this cruelty, and to those who might contemplate future similar acts of violence: We reject this terror, we will not let it stand, and we will take appropriate action to find you and convict you. This tragedy has exposed within the fabric of our body politic a dangerous element, a cancer, that must be countered not just with effective law enforcement, but also the best of the American spirit—our shared vision of a democratic republic, a pluralistic society where rights are balanced with responsibilities. From this dark hour, let us join hands and commit ourselves to renewing our communal spirit.

Mr. FOGLIETTA. Mr. Speaker, I rise to speak in favor of this resolution.

We all mourn for the mothers, the fathers, the sons, the daughters, the children, who were lost, or who lost loved ones in this tragedy.

When we condemn the Oklahoma bombing, we also must condemn the way speech has become so mean and provocative in America. I agree with President Clinton when he says that words matter. When talk radio show hosts tell their listeners where to aim when shooting a Federal agent. When political consultants advise their clients to call their opponents traitors. When Members rise on this floor and call our President—and he is "our" President—a turncoat who gives aid and comfort to the enemy. These mean words have consequences.

Without violating the Constitution, we must give law enforcement the weapons they need to stop domestic terrorism—but we must disarm and condemn another weapon—angry, venomous, incendiary, rhetoric.

Mr. MFUME. Mr. Speaker, I rise today to express my outrage, my sorrow, and my sincere condolences to the victims of the Oklahoma City bombing and their families. The bombing 2 weeks ago was a heinous act of cowardice which will hopefully never be repeated.

We are all shocked, as we should be, any time innocent lives are taken. Yet the magnitude of the devastation in Oklahoma City, as well as the massive number of innocent lives that were lost, has left many of us shaken to the core.

The fact that the target of the bombing appears to be Federal employees makes this act even more reprehensive and repulsive to me. As many of my colleagues know, I represent roughly 35,000 Federal employees, many of whom are not just my constituents, but also my neighbors and my friends.

It is my experience that Federal employees deserve our gratitude, they deserve our admiration, and they deserve our respect. They do not deserve to be terrorized.

As most Americans know, Federal employees play an integral, albeit often invisible, role in our daily lives. Federal employees make sure that our senior citizens get their monthly Social Security checks and that our veterans get the care and treatment they need. Federal employees are responsible for printing out money and insuring it when we make deposits at a bank. Federal employees protect our borders and make sure the food we eat is safe. In short, Federal employees spend their days and often their nights making sure that our Government performs its duties.

Furthermore, the American civil servant is perhaps the best Federal employee in the world. All one needs to do is travel abroad to see that American Federal employees are second to none in terms of their devotion to the job, their initiative, and their belief that they are serving their communities as well as their Nation.

I am glad that we are taking the time today to discuss this tragedy and to let the American people know that the abhorrent behavior of a few irrational people in Oklahoma City is repulsive to us as well as our constituents. I am also glad that the American public, if they are following this debate, is aware that every Member of Congress, regardless of their ideology or party affiliation, condemns this act of terrorism.

The irony of the attack on Oklahoma City is that according to the reports we have been receiving, the primary suspects refer to themselves as "American patriots." This is offensive, not only to the American public, but especially to the people who, since the bombing, have proven themselves to be the true American patriots.

I submit to you that the true American patriots are the men, women, and children who gave their lives in Oklahoma City, as well as their families whose loss we can only imagine; they are those who ministered to the lucky few who survived; and they are the people who are still trying to dig through the rubble to find any remaining victims. It is a true American patriot who, in the last 2 weeks, has made it clear that this act of terrorism is not acceptable and will not be tolerated.

Mr. POSHARD. Mr. Speaker, on behalf of the people of the 19th District of Illinois, I rise in support of the resolution and to extend our sympathies to the people of Oklahoma City and the State of Oklahoma. I especially want my friends and colleagues in the Oklahoma delegation to know that we have been enormously moved by the courage and the character of the people they represent.

The people of my district have held public worship sessions and organized fund raising drives to assist the people of Oklahoma City. I imagine that most have also spent time in private, quiet, personal reflection. Our thoughts and prayers are with every family which lost a loved one or is still caring for the injured. We wish them God speed in their efforts to recover physically and emotionally.

Buildings can be destroyed—but the human spirit cannot be broken. It was an awe-inspiring sight to see people reach across all of the boundaries of daily life, the political, ethnic, and religious differences which sometime separate us, to reach out and care for one another as fellow citizens, as fellow human beings, as people in need of comfort and love. The terrorist could bring their world crashing down around them—but their spirit would rise above the wreckage.

Mr. Speaker, I do not know what forces conspired to produce this action. I am confident the perpetrators will be brought to justice. But I do know that I am deeply concerned about the growing anger and hatred we hear in our voices and see played out in our actions. Democracy does not survive on the extreme. It cannot survive in anarchy, nor in a police-state. It survives in the broad middle ground, accepting differences of opinion without considering those with whom we disagree as an enemy. We need to choose our words more carefully, and resist the temptation of demagoguery.

Last November, as I drove around the town square in a city in my district, I followed a vehicle which had a bumper sticker saying "I love my country, but fear my government. This government has its problems, but it is not the enemy of the people.

Our ability to agree and disagree in a free and open society is one of our greatest strengths. The right of free speech, thought and association is precious to every American. But along with that freedom comes the responsibility to respect other points of view and other deeply held beliefs.

We need to give people every assurance possible that within a free society we can hope to protect them from such attacks. I believe we can help put additional safeguards in place, through law or administrative action, which will help us protect the public without infringing on our Bill of Rights.

Mr. LUCAS. Mr. Speaker, I yield back the balance of my time.

Mr. BREWSTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. COMBEST]. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution offered by the gentleman from Oklahoma [Mr. LUCAS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LUCAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 409, nays 0, answered "present" 3, not voting 22, as follows:

[Roll No. 305]

YEAS—409

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rohrabacher
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—3

Scott
Waters
Watt (NC)

NOT VOTING—22

Baesler
Baldacci
Becerra
Bilirakis
Clay
Conyers
Cooley
Gallegly
Hilliard
Menendez
Moakley
Parker
Peterson (MN)
Quinn
Rogers
Ros-Lehtinen
Saxton
Scarborough
Thompson
Waxman
Wilson
Wise

☐ 1400

Mr. OXLEY and Mrs. SEASTRAND changed their vote from "nay" to "yea."

Mr. WATT of North Carolina changed his vote from "yea" to "present."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. QUINN. Mr. Speaker, earlier today I was unavoidably detained in returning to the Capitol, and I missed three votes. I missed rollcall No. 303, H.R. 1158. I would have voted "yes." On rollcall No. 304, House Concurrent Resolution 53, I would have voted "yes." On rollcall No. 305, House Resolution 135, I would have voted "yes."

PERSONAL EXPLANATION

Mr. COOLEY. Mr. Speaker, I was inadvertently detained and missed rollcall vote 305 on the resolution concerning the Oklahoma City bombing.

Had I been present, I would have voted "aye." I would like the RECORD to reflect my vote.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 123

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent to remove the name of the gentleman from Washington, [Mr. NETHERCUTT] as a cosponsor of House Resolution 123. His name was added by error.

The SPEAKER pro tempore (Mr. COMBEST). Is there objection to the request of the gentleman from California?

There was no objection.

HYDROGEN FUTURE ACT OF 1995

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 136 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 136

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 655) to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Science. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Science now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] will be recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 136 is an open rule providing for the consideration of H.R. 655, the Hydrogen Future Act. The rule provides 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Science.

The rule also makes in order as an original bill for the purpose of amendment the amendment in the nature of a substitute recommended by the Committee on Science now printed in the bill. Each section of the amendment shall be considered as read. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, I would like to commend Chairman BOB WALKER and ranking minority member GEORGE BROWN for continuing their longstanding tradition of requesting an open rule for bills reported out of their committee. They set an example that I hope all committees will strive to follow whenever possible. As always, they did a great job.

Consumption of energy has grown at almost twice the rate of the growth of the population, and it is critical that we pursue the potential of alternative sources of energy such as hydrogen to address our long-term energy needs.

The Hydrogen Future Act authorizes appropriations for basic hydrogen research, development, and demonstration programs of the Department of Energy for fiscal years 1996, 1997, and 1998. The bill promotes Federal efforts to research hydrogen as an alternative fuel and ensures that hydrogen research is given priority by the Department of Energy.

Mr. Speaker, similar legislation passed the House by voice vote last Congress, and this open rule will allow Members the opportunity to address any concerns they may have.

Mr. Speaker, I urge adoption of this rule, and I reserve the balance of my time.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of May 1, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	22	73
Modified Closed [3]	49	47	8	27
Closed [4]	9	9	0	0
Totals:	104	100	30	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of May 1, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/6/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1158	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of May 1, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Tennessee [Mr. QUILLEN] for yielding.

Mr. Speaker, we join our colleague from Tennessee in supporting the open rule for this bill. The hydrogen research enjoys bipartisan support. As our colleagues will recall, we passed a similar bill last August by a voice vote. Several amendments were considered at that time and four or five perhaps are expected to be offered today.

All of us, but perhaps especially those of us from regions such as southern California that have severe air pollution problems, are particularly interested in and fully support research that will lead to a clean burning, environmentally safe, energy source that is a viable substitute for fossil fuels. For that reason we support carefully written legislation that will give the impetus needed to determine whether or not hydrogen can be an energy source that is economically as well as environmentally acceptable.

We do, however, have some specific concerns about several provisions of the bill as reported. At a time of huge spending cuts in so many Federal Government programs, this bill provides for a steep increase in funding for hydrogen research. In fact, the bill authorizes more funding for the hydrogen program than either the Hydrogen Technology Advisory Panel, which advises the Department of Energy on hydrogen R&D activities, or the President requested.

An amendment will be offered by the gentleman from Massachusetts [Mr. OLVER] to reduce the authorization levels in the bill to those recommended by the panel. Interestingly, the advisory panel's experts believe that necessary research can be carried on with about $31 million less than what H.R. 655 authorizes.

While increasing annual spending on the hydrogen program dramatically, the Committee on Science imposes in this bill a cap on spending for the Energy Department's energy supply research and development activities.

That decision, which the chairman of the committee defends as the best way to make the bill deficit neutral, means that the Department will have to limit promising research in areas other than that to develop hydrogen technology, and with no guidance from Congress on where those cuts will be made. In fact, we have no way of knowing the true impact of this arbitrary spending cap.

As the ranking member of the Committee on Science, the gentleman from California [Mr. BROWN] has argued, instead of imposing the cap, we should be making a rational judgment about which programs should be cut to offset the cost of the hydrogen research program. The gentleman from California [Mr. BROWN] will offer an amendment to strike the cap so we will have the opportunity to debate this controversial provision.

Frankly, Mr. Speaker, we question these decisions even more because we are uncertain about how much interest there is in private investment in hydrogen research. As the additional views in the committee report on the bill note, if hydrogen were so promising and so near-term, we would have already seen much more private sector investment without perhaps requiring this much Government encouragement.

Finally, Mr. Speaker, I would just like to take a moment to commend the ranking member of the Committee on Science, Mr. BROWN, and the chairman, Mr. WALKER, for the good work they have done over the years, not only in this area, but also in so many vitally important to our future. As a former member of the Committee on Science myself, I know just how difficult this subject matter is they deal with, and just how few of us understand it as well as these two gentlemen do.

Mr. Speaker, we know that hydrogen is promising, even if its popularity or convenience as a major fuel is still uncertain. We support the open rule and encourage our colleagues to support it so we may proceed today with consideration of H.R. 655 and the amendments which may be offered to it.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER], chairman of the Committee on Science.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Tennessee for the time.

Mr. Speaker, I am pleased to rise in support of this open rule which provides for consideration of H.R. 655, the Hydrogen Future Act of 1995.

Our committee, the Committee on Science, has a long history of requesting open rules for this legislation, and I am pleased to join with my good friend, the gentleman from California [Mr. BROWN], the ranking minority member of the committee, to continue in that tradition with this open rule here today. I want to thank the Committee on Rules for the consideration they gave to our committee on this and for bringing forth the particular item under an open rule.

As I will discuss in more detail when we proceed to debate on the bill itself, the hydrogen research legislation will direct the Department of Energy to refocus more of its resources to basic research on this nonpolluting, abundant, renewable fuel. Great care has been taken to draft a bill which is budget neutral so as not to increase the deficit. We are interested rather in reprioritizing the Department's research efforts.

Mr. Speaker, the gentleman from California [Mr. BROWN] and I have shared a deep interest in hydrogen research during the time we have served together on the Committee on Science, and I am pleased we were able to move this bill through the committee so early in this session. I understand that he has some concerns about the funding provisions and that other Members may have amendments. I welcome that debate. I think it will help to clarify the bill and I am happy to support this rule to provide for the upcoming discussion.

Mr. Speaker, I urge adoption of the rule.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I want to rise in support of this legislation. I want to commend the chairman, Mr. WALKER, and the ranking member, Mr. BROWN, for the work that has been done trying to foster research and development into specific areas that I believe will help our country.

I was able to attach an amendment in the markup process that deals with section 7, the technology transfer area. It states that:

> The Secretary shall foster the exchange of generic nonproprietary information and technology developed pursuant to section 5 among industry, academia, and the Federal Government. The Secretary shall ensure that economic benefits of such exchange of information and technology will accrue to the United States economy.

Now, I know everybody is trying to finish this bill. It is a good bill. The chairman has done a good job. But the language is that this exchange of information shall accrue to the benefit of the United States economy.

I have a little amendment that says in the report process, when they do all of the reports back to Congress, that they also give special emphasis to section 7 and let us know if there is an accrual of benefit to the United States economy.

□ 1415

From what I understand, the amendment is going to be accepted. I appreciate that. I think it strengthens the bill. I think it is time that Congress asked for these things, if the economy is supposed to be strengthened by our legislative action. Many times we do not ask to find out if it really happens. So in this case I am, and I am glad to see that perhaps we will enact it.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to House resolution 136 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 655.

□ 1416

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 655) to authorize the hydrogen research, development, and demonstration programs of the Department of Energy and for other purposes, with Mr. HANSEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 30 minutes, and the gentleman from California [Mr. BROWN] is recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we consider on the floor of this House, H.R. 655, the Hydrogen Future Act of 1995.

Imagine a fuel which is unlimited in supply and is environmentally friendly. Imagine a fuel which produces no carbon dioxide or other noxious pollutants. Imagine a fuel that produces only water when it's burned. Imagine a fuel that can be produced entirely within the borders of the United States. Imagine a fuel that finds a virtually limitless supply in water. There is such a fuel and its name is hydrogen, the fuel of the 21st century.

Ever since the oil crises of the 1970's and the recent conflict in the gulf, Americans have been justifiably concerned that our energy supply is not guaranteed. This concern has been heightened by the fact that our hydrocarbon resources are limited, and it has been increasingly expensive to produce domestically.

The shipping and burning of hydrocarbon products has been a major cause of pollution. We all know the cost of dealing with the effects of pollution in terms of health care and restoring our environment. The Clean Water Act, the Clean Air Act, Superfund, and other legislation have generated numerous expensive regulations in an attempt to address health and pollution concerns. The use of hydrogen as a fuel would help solve these issues.

Hydrogen holds tremendous promise as an environmentally benign energy source. It is practically limitless in supply and the byproduct of its combustion is the same water that is used to produce this gas. Its common use faces large technical hurdles, however, especially in production and storage.

The Hydrogen Future Act will focus Federal research on the basic scientific fundamentals needed to provide the foundation for private sector investment and development of hydrogen as a fuel without increasing overall funding for the Department of Energy energy supply research and development programs.

During the 1980's and 1990's, the Committee on Science held several hearings on hydrogen. In 1989, the Renewable Energy and Energy Efficiency Technology Competitiveness Act, Public Law 100-218, directed DOE to provide a separate line-item for hydrogen research in its budget request. In 1990, Congress passed the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act, Public Law 101-566, which directed the Department of Energy to develop a hydrogen research program implementation plan. Then in 1992, section 2026 of the Energy Policy Act, Public Law 102-486, further addressed hydrogen research and development. The legislation we are considering today, H.R. 655, the Hydrogen Future Act of 1995, continues Congress' intent to prioritize hydrogen research.

H.R. 655 focuses the hydrogen program at the Department of Energy on basic research, development, and demonstration. The bill limits demonstration to validations of the technical feasibility of theories or processes.

The legislation requires a cost-sharing commitment by the private sector for any research, development, or demonstration project funded under the bill. It also requires that any financial assistance given under the bill: First, could not be obtained from the private sector, and second, must be consistent with GATT provisions on Federal cost-sharing.

The bill directs that the Department of Energy's hydrogen program should be a competitive, peer reviewed process, and that a percentage of the authorized funding be available for basic research into highly innovative technologies. Both of these provisions will ensure that people with new ideas have the opportunity to interact with DOE's resources and facilities.

Although this bill increases funding for hydrogen research, it is CBO certified budget neutral. H.R. 655 requires corresponding offsets to pay for hydrogen research by freezing the Department of Energy's overall energy supply research and development account at fiscal year 1995 levels. By offsetting funding from other DOE programs, the legislation does not ask the taxpayers to bear any additional costs.

The development of hydrogen as a fuel will also conserve our vital feedstocks of fossil fuels, freeing them solely to produce plastics, medical supplies, and other useful products. Using hydrogen in our cars, planes, and homes would also save billions of dollars in energy costs related to byproducts, pollution, regulations, and medical expenses. Hydrogen is the answer to fill the energy needs of our future. We are looking for a nonpolluting, abundant, renewable fuel. Hydrogen is that fuel!

After all, energy produced here in the United States grants security. Security not only from disruptive conflicts in the Middle East and elsewhere, but also financial security. More than half our trade imbalance is due to the import of oil. With domestically produced hydrogen as a fuel choice, we can substantially reduce our trade deficit.

So I would ask support for H.R. 655, the Hydrogen Future Act. It is good energy policy. It is good environmental policy. It is good research policy, and it is good budget policy.

This is exactly the type of futuristic technology-based solution to some old problems that face our society and have been so often addressed by regulation and subsidies in the past.

More precisely, it is a vision of an opportunity society that many of us in this country have been talking about over the last few weeks and over the last several years.

This is a chance to begin to live the vision. So I would ask the support of the Members for this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to be on the floor today on the first of what I hope will be numerous Science Committee authorization bills. While H.R. 655, the Hydrogen Future Act, represents only a single, relatively small, energy R&D program, this bill is a good opportunity to begin to illustrate the importance of the Federal investment in science and technology.

I recognize that the majority of Members who serve here today have served less than two terms. So it is not surprising that many Members have very little information about the purpose, extent, or accomplishments of the Federal science and technology investment. As we tackle the task of cutting spending over the next few months, I am deeply concerned that science and technology funding will become a politically expedient sacrificial lamb for balancing the budget.

I know that the chairman of the Science Committee, the distinguished gentleman from Pennsylvania, shares those concerns and is working to educate his colleagues on the Budget Committee about the importance of science and technology funding. Indeed, the Federal Government's investment in science and technology has long had strong bipartisan support in recognition of their critical role in addressing such national needs as economic growth, environmental quality, defense, and health care.

The chairman and I have our disagreements in certain areas, as indeed we have on the bill before us. But we do share a belief in the fundamental importance of science and technology to a nation that seeks to remain preeminent in the next century. I look forward to working with him over the next few months to ensure that science and technology continue to receive a high priority in the national budget.

H.R. 655, the Hydrogen Future Act, augments a small, but important, program within the overall Government effort in research and development and continues a long tradition of bipartisan support for the development of hydrogen as an economically viable and environmentally friendly fuel. The committee passed the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act in 1990 on a bipartisan basis, and extended the program in the Energy Policy Act of 1992.

I want to commend the chairman, Mr. WALKER, for his efforts in bringing this bill through the committee and to the floor. Mr. WALKER and I have long shared a belief in the future of hydrogen. This bill represents Mr. WALKER's most recent effort in his long-standing support for hydrogen-related research and development within the Department of Energy. It will provide needed new focus and additional resources for the Department's programs.

As the gentleman from Pennsylvania has indicated in his remarks, hydrogen is a promising fuel with many potential applications for replacing more polluting energy sources. Hydrogen becomes particularly attractive if we can find a way to produce it using solar or renewable energy sources rather than from petrochemical feedstocks. The DOE, working with industry and academia, is working on a number of fronts which could provide critical breakthroughs to making hydrogen a cost-effective alternative to conventional fossil fuels.

While I generally support this bill and DOE's hydrogen research program, I have a number of procedural concerns and disagreements with several specific provisions. I would note that the administration has expressed similar reservations.

First, Mr. Chairman, I am disturbed that this bill is being brought to the floor ahead of a comprehensive energy research and development reauthorization. Hydrogen research is unquestionably an important program, particularly given the need to find replacements for fossil fuels which can meet our energy needs with less pollution. At the same time, DOE is supporting equally important research devoted to other promising nonfossil energy sources, such as solar energy, renewable fuels, and fusion. In addition, given our near-term dependence on fossil fuels, other DOE research programs designed to increase the efficiency of fossil fuels and reduce their polluting effects are also important. And research on nuclear fission designed to increase safety and reduce radioactive waste deserves continued support.

However, the bill before the Members today authorizes only a single DOE R&D program, which precludes us from setting priorities among all of the energy R&D programs. Members will have no opportunity today to reallocate energy R&D funds, a process that is all the more important given the fact that the total amount of funding for these programs may well be cut far below the President's fiscal year 1996 budget request.

Instead, Members are being asked to approve a 300 percent increase in the funding for a single energy R&D program—an increase well above the President's budget request of $7.3 million, and above the levels recommended by an independent, external advisory panel. Singling out hydrogen R&D for aggressive growth in a declining budget envelope suggests that hydrogen ought to be DOE's highest research priority. Members may or may not agree with that, but my point is that we will never know because Members will have no opportunity to vote on different priorities.

We need a balanced research portfolio that, taken as a whole, is most likely to provide us with cost-effective and reliable energy supplies for the future. For that reason, I am very reluctant to support the level of increases contained in the bill without a better understanding of the effect of such funding levels on other important DOE energy R&D programs. I understand that Mr. OLVER will be offering an amendment to reduce the authorization levels to a more reasonable level, which I will support.

Second, I cannot support the provision in the bill which limits the obligations for DOE's energy supply R&D funding at fiscal year 1995 levels for the next 3 fiscal years. This is simply bad policy masquerading as political cover. The cap was included so that supporters of the bill could claim that the increased funding authorized for hydrogen would be offset by unidentified cuts somewhere else in DOE's energy supply research and development activities.

But the cap won't even do what its proponents suggest. Instead, what it really does is cut $250 million across-the-board from the requested budget for dozens of DOE research programs and DOE's environmental clean-up efforts—programs that the bill does not even authorize. Yet the proposed increase in hydrogen research is only about $18 million the first year—and only if Congress appropriates, and the Department spends, the entire authorized amount. The fact is that the cap does not force DOE to spend more on hydrogen.

Further, as the Members well know, overall spending is controlled by the budget caps and the appropriations process. This cap isn't going to save the taxpayers any money; all it does is to tie our hands in trying to set budget priorities by creating artificial and arbitrary fences around some programs.

I intend to offer an amendment to strike section 10(b) of the bill which contains this limitation and will speak more about it at that time.

Finally, Mr. Chairman, I would note that this bill raises some interesting issues in the context of a broader debate about the best way to promote the economic and social benefits of this Nation's investment in science and technology. The gentleman from Pennsylvania has been very critical of a number of applied technology programs, like the Advanced Technology Program, at the Department of Commerce. ATP helps companies pursue novel ideas in advanced technologies—such as hydrogen—by supporting research, development, and demonstration activities at a 50-percent cost share. The chairman of the committee as well as other Members on that side of the aisle have argued that such programs are examples of "corporate welfare" that distort the market by having the Government pick and choose "winners and losers."

Ironically, in my view, H.R. 655 has many similarities to the ATP program. While the bill speaks specifically about basic research, the reality is that the major barrier to the increased use of hydrogen as a fuel is an economic one. We know how to produce, store, and transport hydrogen; we know how it works as a fuel and how it can be used in fuel cells to generate electricity. What we need to learn is how to produce, store, and transport hydrogen more cheaply so that it can economically compete with other energy sources. To my ear, that sounds suspiciously like an applied technology program that does not differ dramatically from the ATP and other technology development and demonstration programs.

The language in H.R. 655 is a valiant effort to cloak this inconvenient point in semantic ambiguities. But it cannot be seriously questioned that the primary push of the technology effort must be to cut hydrogen's cost. Industry will never pick up the final stage of demonstration and commercialization unless the underlying Government-supported work shows that hydrogen production, transportation, and storage is not only technically feasible, but also economically attractive. Fortunately, H.R. 655 seems to authorize precisely such a program.

What ever our semantic disagreements, the important point is that the bill does represent another step forward in developing hydrogen as a national energy resource, and for that reason I support the bill. I could support it more enthusiastically if the amendments we offer this afternoon are adopted.

HYDROGEN/ATP COMPARISON

This table shows the great similarities between the Advanced Technology Program of the Department of Commerce and the Department of Energy's Hydrogen Research Program. At least as much as the hydrogen program, ATP focuses on long-term noncommercial research and development with potential for great scientific discovery. Also, it stops earlier in the development cycle than the hydrogen program. In short, if a Member supports the hydrogen program, he or she should support the ATP program as well.

Hydrogen program	ATP program
Multi-year grants. Three to five year time horizon.	Multi-year grants. Three to five year time horizon.
Funds research, development, and demonstrations leading to production, storage, transport, and use of hydrogen for industrial, residential, transportation, and utility applications.	Funds high risk, high payoff research and development in fields identified by industry as critical to future success of key industries. Emphasis on generic technologies that can benefit whole industries.
Majority of research done by national laboratories.	Maximum of ten percent can be done by government laboratory.
Majority of industry grants so far to large business including Air Products and Chemicals, Praxair, and AD Little.	Grants evenly split between big business and small business. Big business and potential suppliers sometimes team together (e.g. auto industry).
No limit on size of grants	$2 million limit on grants to individual companies.
20% industry cost-share for research and development. 50 percent cost-share for demonstration.	50% cost-share minimum required for research and development.
Will fund incremental but important demonstrations such as increasing the efficiency of steam reforming of natural gas.	Pre-commercial scale demonstrations and improvements to existing products are ineligible for funding.
Has funded industry surveys	Marketing surveys and commercialization studies not eligible.

□ 1430

Mr. Chairman, I yield 6 minutes to the gentleman form Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I would just like to congratulate the gentleman from Pennsylvania [Mr. WALKER] and the gentleman from California [Mr. BROWN] for their hard work on this important legislation.

H.R. 655 will support very, very vital work for us to look into the hydrogen field and research, development, and demonstration projects. This is a thoughtful bill. I think it has very important energy ramifications for this country's policies in the future.

We need to become more environmentally friendly. We need to find ways to produce and transport hydrogen more efficiently. As the gentleman from Pennsylvania [Mr. WALKER], and the former chairman, the gentleman from California [Mr. BROWN], have said so articulately, we know what many of the problems are, but we need to invest in ways to more efficaciously solve the problems we are faced with in transporting and delivering this very potentially vital source of clean burning energy to our country.

Mr. Chairman, I think that the gentleman from Pennsylvania [Mr. WALKER] has also talked in a very, very forceful way about the policy on the budget. He has said that we offset the increase in the budget, and as we are coming back from a break where we have heard in our town meetings that our constituents are very concerned about the deficit, we want to make sure that this does not call for tax increases, which it does not. We want to make sure that this policy has vision with relation to the rest of our Energy Department, the DOD, and the National Laboratories.

I would say that this is a very good bill, and I would encourage my colleagues to support it. I do have two concerns, not problematic, but concerns that I would just express to the distinguished chairman that I hope to work with him on over the course of the next few months. One would be that we do have a very, very good vision for hydrogen in this bill, but we do need to develop a vision for our Department of Energy.

We are bringing out today on the floor one splinter, one very small area of our energy policy. We need to come to the floor with our energy authorization bill. We need to do that both for reasons of the budget, because we are going to be cutting some programs and reorganizing some programs. We need to show the American people where our priorities are in terms of the National Laboratories, which National Laboratories as our treasures are we going to keep, which ones might we downsize, which ones can become more effective.

I have introduced legislation with respect to the National Laboratories. I look forward to working with the chairman and the chairman of the subcommittee on that legislation.

Second, Mr. Chairman, I would say I have a concern in terms not only of the vision but of the budget.

Mr. Chairman, as we bring one part of our policy on energy to the floor with an increase, how does this affect the other policies and programs within the Department of Energy? I think the chairman has articulated some of the ramifications and ancillary effects of those programs. We look forward in our hearings and in our markups in energy on our committee to continue to discuss these in broader ways, and in more specific ways. I congratulate the chairman of the committee for a thoughtful bill on new U.S. policy with hydrogen and look forward to voting for this piece of legislation.

Mr. WALKER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I thank the gentleman from Indiana for his statement. I just wanted to assure him, based upon the one concern that he raised with regard to overall authorizations, that it is our intention to move aggressively ahead in that area. As the gentleman knows, we have already held hearings in the subcommittees on a number of these programs, and our intention would be that as soon as the budget numbers are fairly firm, which should be within a matter of the next couple of weeks, that at that point the authorizing committees will be able to move with their authorizations. I share the gentleman's desire to see to it that those organizations are moving so they provide some guidance in the appropriations process, but also that they provide the kind of vision statement that I think we need to make in a tough budget situation. We need to begin to lay out how we are going to both balance the budget and at the same time maintain an aggressive science and technology policy for the country, and I think that is going to be some of the very, very instrumental work that the various subcommittees are going to be assigned to do. I am going to try to give those subcommittees the latitude that they need to work within budget caps, but to prioritize the science of this country in a way that makes sense within that budget constraint.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I would just say, and I know the gentleman has much more experience upon this committee than I do, I have only been on the committee since 1991, but as a member of the authorizing committee, I would hope that we could get this bill out to give guidance to the appropriators as to what the new priorities in this 104th Congress might be for spending on new technology, on programs such as hydrogen. I think that the expertise shown by this committee in the past has been a very valuable one.

Also, the chairman and the ranking member would be not only working with the appropriators on the House side, but hoping to work with the Senators on the other side of the body so we do pass an authorizing bill. I think that is very important, not just institutionally, but given that the Members of that committee do have a great deal of expertise in this technology and in this field of science.

Mr. WALKER. Mr. Chairman, I would just say to the gentleman that that is certainly my hope, not only in the energy area but in the other areas of jurisdiction of this committee.

I would say to the gentleman that we are going to be bringing forth a budget document. That will have a series of assumptions in it. Those assumptions will simply assure that you can in fact meet the budget targets we are going to lay out, but they are only that, they are assumptions.

It is going to be the work of the authorizing committee to take those budget numbers and decide what the priorities are that our committee wishes to lay forth on the Nation. I think then that that will provide the kind of guidance that the appropriators will respond to, so there is going to have to be a lot of interactive work over the next several months here, but I think it is interactive work that will produce a far more stable policy than we have seen in the recent past.

Mr. ROEMER. Mr. Chairman, if the gentleman will continue to yield, I would only conclude by saying that as a Member of the Committee on the Budget, our distinguished chairman will be able to make sure that we get that floor time and have these authorization bills come to the floor on time.

Mr. WALKER. As I say to the gentleman, yes, I have had an opportunity to participate in the budget deliberations, but the budget deliberations should be seen only for what they are. They are a road map in terms of overall numbers, but it is going to be the work of our committee that is going to literally lay forth the policy, and I think that is the kind of important work this committee should be doing.

Mr. ROEMER. Mr. Chairman, I thank the gentleman.

Mr. WALKER. Mr. Chairman, I reserve the balance of my time.

Mr. BROWN of California. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me continue that interesting discussion a little bit. First, I appreciate the dialog with regard to the need to move the authorization legislation ahead promptly, and I hope that the Chair of the Committee on Science will be able to do this.

As I think I have pointed out to him, the way the schedule has slipped here, we may not actually see Committee on the Budget numbers for at least the 2 weeks that the gentleman referred to, possible a little bit longer, and the window for authorization bills is going to be correspondingly shorter. I know the gentleman recognizes that.

If we have done all of the necessary preparatory work in the subcommittee and in the full committee, we can still move authorizing legislation, and I will assure the gentleman of my very strong desire to cooperate in this.

Again, Mr. Chairman, referring to the caps situation, however, authorizing bills are caps. Appropriators cannot exceed those limits when it comes to spending money. What the gentleman has done in this bill is to authorize one program and in effect cap that, but then in addition to that, he has capped more than 10 times as much that are not in the subject matter of this bill; in other words, other forms of energy supply R&D.

I would contend that is more appropriately done in the Committee on the Budget itself as it considers energy legislation, and I would make a bigger argument about it, and I will, probably, when my amendment comes up, but actually, as he well knows, the whole question may be moot if in fact the Committee on the Budget decides and the administration decides that we will have a reduction in energy expenditures over the next 3 years, in which case the cap, which I think is inappropriate to this bill, would nevertheless not have any impact, and I would see no harm in it at that point.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 655, and I commend the chairman and ranking member of the Committee on Science for bringing this measure to the floor. I do, however, have several reservations, and I believe that they are shared by many on the Democratic side of the aisle.

First, the bill elevates hydrogen research above all other research priorities at the Department of Energy. While I hope that hydrogen will be an important fuel in the future, I believe that other research and development programs in the Department are also important and deserve authorization.

Second, H.R. 655 caps spending in the Energy Supply Research and Development account at fiscal year 1995 levels. All of us want us to cut the deficit, but I do not believe any of us advocate placing arbitrary caps on programs without a discussion of their merits. The Science Committee had no hearing record on these programs on which to base a decision. I suspect that the cap might be a political tactic to prove that more money will not be spent by the Department to cover the increases mandated in this bill.

Finally, the increases authorized by the bill are higher than requested by an outside expert hydrogen advisory panel to the Department, and the Department has no plans to spend the additional funds. In this time of budget cutting, I cannot support sending money to programs that lack a plan to us it, while action plans are starved for proper funding.

I am hopeful that these points will be addressed in the debate, and I look forward to an improved bill to send to the Senate. Hydrogen research, development, and demonstrations are important to our Nation's future, and I support the program authorized in the bill.

Mr. WALKER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I thank the gentleman from Florida for his statement. I understand his concerns. The only thing I would say to the gentleman is that the most recent update of the Hydrogen Technology Panel's numbers in fact indicate that that particular panel will have numbers that are more than what are in this bill, not less, so that we are in fact in the bill not coming up to what the panel is prepared to request.

I have a letter here from what particular panel at the University of Hawaii making that case, so I think we are in the right range here, anyway, Mr. Chairman.

Mr. BROWN of California. Mr. Chairman, I am pleased to yield 7 minutes to the distinguished gentlemen from Missouri [Mr. VOLKMER].

□ 1445

Mr. VOLKMER. Mr. Chairman, I wish to thank the gentleman for yielding me this time. I wish to use this time to engage in a colloquy.

Recently, there has been a lot of talk in this body about the appropriate Federal role in funding technology development, much of it coming from the other side of the aisle as an attack on what is called corporate welfare. This criticism is generally directed at programs that were started in the Reagan and Bush administrations, but which have been greatly expanded in this administration as a useful way to develop good, high-technology jobs in the future. I am talking here about programs like the Advanced Technology Program at the Department of Commerce and the Technology Reinvestment Program at the Department of Defense.

The Hydrogen Future Act is the first bill we have considered this year that would expand industry-Government partnerships in technology development. On its face, this bill seems to be aimed at promoting programs which are very similar to ATP or TRP.

I would like to inquire of the gentleman from Tennessee [Mr. TANNER], the ranking member of the Subcommittee on Technology of the Committee on Science, whether that is his understanding.

Mr. TANNER. If the gentleman will yield, I thank the gentleman from Missouri [Mr. VOLKMER].

It is my understanding, the purpose of the bill before us is to fund research, development, and demonstrations in a particular technology that the bill's authors have chosen; namely, hydrogen. This work will be done primarily through government-industry partnerships, with industry supplying a substantial share of the funding. This is the same general formula used by ATP and TRP, except that their focus tends to be much broader; that is, ATP is applicable to many different technologies besides hydrogen.

I would also like to add that the bill before us authorizes $31 million above the recommendation of the Hydrogen Advisory Panel. Although I support government-industry partnerships promoted by this bill at its recommended funding level, currently supported industry programs will be cut to pay for this inflated hydrogen program. Meaningful, constructive research at various labs around the country such as the Oak Ridge National Laboratory, Argonne National Laboratory, Los Alamos, and Lawrence Livermore will certainly have to pay the price.

Mr. VOLKMER. I notice that the report on the hydrogen bill contains six criteria that the committee leadership endorses for prioritizing Federal R&D funding. Would it be useful to measure both the hydrogen program and the ATP against these same criteria?

Mr. TANNER. If my colleague would continue to yield, I believe that it certainly would.

First let's look at the hydrogen program. It appears that the hydrogen program authorized by this bill generally meets these criteria, although there are some close calls. For instance, the bill as introduced authorized 15 different demonstration projects, including a hydrogen jet engine and economically feasible hydrogen vehicles. The bill before us today would still allow any of these demonstration projects to be funded. However, while the economics of these demonstrations may be questionable, the basic technology no longer seems novel. Therefore, this bill may in fact violate the committee's criterion related to technical feasibility.

On the other hand, if the hydrogen vehicles developed under this bill were to utilize novel, renewable energy technologies, then we would certainly conclude that the program is within the scope of these criteria for discovery.

Mr. VOLKMER. I agree with the gentleman that the hydrogen program authorized by this bill is a useful R&D program, but it is questionable whether all of these hydrogen activities are revolutionary or pioneering or that in fact they are not evolutionary advances or incremental improvements. For instance, I would note that the program currently has a cost-shared, noncompetitive contract with Air Products and Chemicals Corp. to increase the thermal efficiency of hydrogen production from hydrocarbons from 85 to 93 percent, an incremental 8-percent increase. This is useful, but it certainly could be considered incremental. It is not revolutionary, it is not pioneering, and, therefore, in my opinion would violate one of the committee's six criteria.

I would ask the gentleman, if the hydrogen program authorized by this bill barely meets the six committee criteria, how then would you rate ATP against these same criteria?

Mr. TANNER. I say to the gentleman from Missouri [Mr. VOLKMER], I believe ATP as currently structured easily meets the criteria. I have here an example from ATP's proposal preparation kit explaining what ATP does not fund.

They do not fund precommercial scale demonstration projects where the emphasis is on demonstration that some technology works on a large scale rather than on R&D.

They do not fund improvements of existing products.

They do not fund product development.

In short, ATP does fund the kind of long-term research and development which the committee report advocates.

Mr. VOLKMER. I totally agree. From my experience, ATP awardees tend to be real entrepreneurs. Most have been rejected by venture capitalists who are less entrepreneurial than they are.

Mr. TANNER. That is true. High-technology entrepreneurs have told us many times in hearings that ATP is the only U.S. program that is willing and able to meet their needs. Without ATP, they would have had to go overseas where foreign governments have established technology development climates that are more focused on future wealth than short-term profits.

Mr. VOLKMER. Am I missing something, then? Why do you think that some people have a philosophical problem with the ATP program but not with the hydrogen program?

Mr. TANNER. This is the very same question the entrepreneurs who testified before our committee raised. They have expressed dismay at this apparent inconsistency.

It seems to me that if you are for this hydrogen program and its approach, which I support at the recommended level, one would automatically embrace the ATP program enthusiastically. These programs are good for our country, they are good for our technological base, and they have proven their worth in the private sector. I hope that the Members will bear that in mind today as we vote and review and vote on the programs like ATP and TRP later this session.

Mr. VOLKMER. I wish to thank the gentleman for participating in the colloquy.

Mr. Chairman, I would like to pursue one other area that I briefly alluded to in the colloquy. That is, under the present program, the hydrogen program, a major billion-dollar corporation, multi-billion-dollar corporation has the largest grant for hydrogen under the energy program, and it is for only an incremental approval of producing hydrogen from hydrocarbons, to move it from 85-percent efficiency to a 93-percent efficiency.

Where is that corporation located? My understanding, from an article in the science magazine that I have, it is located in Allentown, PA, and that some of its facilities are in Pennsylvania and in other places. It is my understanding also it is the largest hydrogen producer in the whole United States, if not in the world.

Yet through its task force established to get more additional funds for hydrogen research, it comes here today to increase the amount that we give for hydrogen research so that they, this big company, billion-dollar company, can get additional up to $40 million for further research, not into pioneering research, not into something brand new, but just for developmental research.

At one time this bill, the original version of this bill, was even to give them money to come up with a better hydrogen-propelled motor vehicle. We have had hydrogen-propelled motor vehicles for a long period of time. That is nothing new at all. Why would we want to give millions of dollars more to a billion-dollar company? Mr. Chairman, I call that corporate welfare. I believe that any company that is this big can afford to do their own research.

Mr. WALKER. Mr. Chairman, I yield myself 1 minute.

I would simply say that the colloquy that we just heard is the old order reasserting itself. It is interesting to note that the gentleman ignored the fact that this bill does concentrate on basic research and one of the complaints that he has is because the previous bill did not concentrate on basic research; this one does.

With regard to the corporation in Pennsylvania, I am surprised that the gentleman from Missouri feels so badly about the district of his Democratic colleague, the gentleman from Pennsylvania [Mr. MCHALE], getting a benefit out of programs that have previously been done. The fact is that the money in Allentown, PA, goes to the district of the gentleman from Pennsylvania, who I think would probably disagree with the gentleman and would be in favor of this particular bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. GUTKNECHT].

Mr. GUTKNECHT. Mr. Chairman, I rise in support of H.R. 655. As a new member of the Committee on Science, it has been interesting to listen to some of this debate today, but I must say that I have become more and more enthusiastic about the long-term potential of hydrogen as a fuel.

It has been said that what the mind of man can conceive and believe, it can achieve. I am convinced that long-term hydrogen power will happen, but I think it will happen faster if we give it this kind of a boost.

The numbers that we are talking about in terms of the appropriation are relatively modest. As the chairman of the committee just alluded to, we focus on basic research rather than applied research. I have also come to the conclusion now, as a new member of this committee, that basic research is an important function of the Federal Government.

In fact, a few years ago I had the opportunity to meet the gentleman from the 3M Company who developed the Post-It note. He said something I thought very important and very interesting. He said, "If we knew what we were doing, it wouldn't be research."

There is a lot of research that goes on in this country that can be funded in the private sector. On the other hand, there is a lot that cannot and would not happen if we did not give it some kind of a boost at the Federal level.

I have said, too, to some of my colleagues that a number of years ago we had a U.S. Senator from Wisconsin by the name of Proxmire. He was fond of giving out these Golden Fleece Awards. I think sometimes he probably did more harm than good with those Golden Fleece Awards, because many times he focused on basic research programs that the Federal Government was underwriting.

I would remind him and my colleagues that some of the research that is done is very hard to justify at that particular point in time. I do not think that this one of those programs. I think this is one that will be easy to justify, and I think that our children, our grandchildren, and future generations of Americans will be happy and glad that we were willing to make some sacrifice to see that this program was funded in 1995.

I support the bill; I think it is as strong as it needs to be; I do not think we need any amendments; and I hope we can send it to the Senate and ultimately perhaps to conference with the version that we have in front of us today.

Mr. BROWN of California. Mr. Chairman, I yield 1 additional minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, in reply to the words of the gentleman from Pennsylvania, it makes no difference to this gentleman where Air Products is located. It does make a difference to me that a corporation, a billion, billion, billion-dollar corporation, is coming to Washington and wanting a handout in order to help do some research that they have got fully enough money to do themselves.

It makes no difference to me where that corporation is located. It does make a difference to me that it is corporate welfare, and I do not believe in corporate welfare.

Mr. WALKER. Mr. Chairman, I yield myself 2 minutes.

I congratulate the gentleman from Missouri for his position on corporate welfare. I would simply point out to the gentleman again that it was he who suggested there was something sinister in the fact that this particular corporation was in Pennsylvania.

He was the one who raised that point, and I got the implication that it might have been directed at the fact that the gentleman from Pennsylvania is from Pennsylvania. The gentleman raised that point in the classic cheap-shot technique. In my view, he was in fact raising the geographic issue.

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It is also worth pointing out, I think, that in the particular case of the project that the gentleman talked about, I in fact wrote the Department of Energy myself questioning the grant of that contract that I do not believe was done on a competitive basis, and so therefore I have raised questions myself about that particular contract.

It is also worth noting to the gentleman that the actual research is being done in Texas under that program. Only the engineering is being done in Pennsylvania. The actual research work is being done in the district of another Democrat, the gentleman from Texas [Mr. BENTSEN]. So the gentleman was the one who raised the point.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I do not care where the research——

Mr. WALKER. Why did the gentleman mention Pennsylvania?

Mr. VOLKMER. I just made mention of it because the article that I read in the science magazine said that Air Products and Chemical Corporation is from Pennsylvania, Allentown, PA, is what it said.

Mr. WALKER. That is right.

Mr. VOLKMER. That is all I mentioned and I know it.

Mr. WALKER. The gentleman indicated, I reclaim my time, and the gentleman indicated that that might have some bearing on the fact that the legislation is on the floor.

And I am just saying that the gentleman is absolutely wrong, and he is even wrong with regard to his facts as to where the money is being spent. So I think that what we ought to do is talk about the substance of the bill. It is too bad the gentleman did not want to talk about the substance of the bill. The substance of the bill is that this is a hydrogen promotion program. It is in fact an attempt to make certain we have a good hydrogen program, and there may be lots of companies around the country that will benefit from that.

But this is a basic science program, something the gentleman seems to ignore. This is about basic research; it is not about corporate welfare.

Mr. WALKER. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. GRAHAM].

Mr. GRAHAM. Mr. Chairman, I picked a good time to come, did I not? I will try to get us out of this ditch here.

I was on the Science Committee reluctantly, it is not one of my choices, but I am glad I am on it. I have really enjoyed it. The spirited debate here today has been fun.

But hydrogen research is something I knew zero about when I came to Congress. I am excited about it too. And I understand the concerns of the gentleman from California about the cap and present funding, but we have to make some suggestions that are good for the country.

And I am also against corporate welfare. There are some programs when analyzed over time I do not think have too good a report card grade about how we sent money to corporate America to develop energy sources of the future, but I think by capping the money we are making priority decisions, and that is what we need to do in the budget. We are putting $100 million over 3 years on hydrogen research, which means something else has to go. That is a political decision we have made up here, a bipartisan political decision that hydrogen is important.

In about 18 months we are going to get a report card back and we will be graded about our judgment. I am willing to stand up here today and I say it is a good expenditure of the money, a good priority too, and overall I think it will help our country.

One thing we cannot forget is we built airplanes and we built cars without any Government grants. Let us not get too far away from the idea in America that our best resource of the future is entrepreneurs in the private sector, but the Government does play a role. It should be a partner, but should not be the dominant partner.

This is not about corporate welfare in my opinion. But in 18 months we will see the success of this program. I am optimistic, but if we are wrong, I will be the first one to say we were wrong and we made a mistake. But given the knowledge I have now, I think it is a good bill and I think we should press forward.

Mr. BROWN of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding me this time. I would say to the gentleman from South Carolina that it may be beneficial not to know anything about hydrogen research to be a part of this debate here today.

Mr. Chairman, I rise in general support of H.R. 655. As a scientist I support hydrogen research, and one of the last research programs I worked on in my academic career was in fact a hydrogen fuel cell research program, and it was one of the most promising ways to utilize hydrogen as a fuel.

The distinguished chairman of the committee claims that the Hydrogen Technical Advisory Panel has recommended more spending than is even included in H.R. 655, and indeed the distinguished chairman is correct if we include the demonstration projects that the HTAP believes should be done, but the distinguished chairman has opposed the inclusion of those demonstration projects and in fact they are not included in the legislation.

Under those circumstances, I wonder why we would be offering funding or defending funding as high as would include those demonstration projects. As an aside, I would say I believe we ought to be authorizing demonstration projects as proposed by the HTAP, but they are not included in the legislation and we should not be authorizing funding for them.

So a little bit later I am going to offer an amendment that would provide for exactly the amount of funding in this bill that would provide for the research and development that the HTAP calls for, that HTAP is essentially a peer review panel for the whole program. Peer review panels are something that the chairman very strongly supports, as I support also. But I would strip out of it in the amendment I will offer later funding which goes beyond what is authorized in the bill and what is recommended by the HTAP panel and its recommendations, and I will offer that amendment at a later time.

Mr. WALKER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think the gentleman is sincere in what he said, but I have a letter here from the chairman of HTAP, the Hydrogen Technical Assistance Panel, Pat Takabashi, and he simply says there was an error made that the gentleman is now going to evidently try to compound. It says:

> I can see why there was an erroneous interpretation that HTAP was advocating a figure lower than the $25 million, $35 million, and $40 million sums indicated in 104–95. We should keep in mind that Year Zero's $7 million represented fiscal '94. Year One was a reflection of what we thought fiscal '95 (current year of expenditure) would be, and Year Two the first year of your bill. Thus, your $25 million is actually lower than the $28 million advocated in the HTAP report.

So, in fact, the chairman of the Hydrogen Technical Advisory Panel is saying that the figures used in our bill are actually lower than what their request is, and I think that should be a part of the debate as we move forward.

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN of California. Mr. Chairman, I yield myself the remaining 2 minutes.

Mr. Chairman, I regret that some of this debate has appeared to wander a little bit afield from the essence of the bill before us. I think we have pretty much concurred that the continued support of hydrogen research is a good thing to do, and that the bill will do it. There is some question about the exact level, which coincides with the recommendation of the advisory committee, but in the overall scheme of things that is not all that important.

In my opinion, the primary objection to the bill has to do with the extraneous matter of the cap on the energy supply research and development in general, and as I indicated in earlier debate, even that point may be moot because it will depend on whether additional changes are made through the budget process that would reduce the budget of the Department of Energy in that and other categories.

So let me just conclude by saying what we have here is an essentially good bill which I intend to support which is complicated by a few extraneous matters which have been attached by the gentleman from Pennsylvania [Mr. WALKER] in pursuit of his desire to constrain spending, which I think most of us would agree has merit, but I differ rather strongly with the methodology which he is using in order to achieve that end.

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of the Hydrogen Future Act. Hydrogen research has long had broad, bipartisan support, and with good reason: Hydrogen has the potential to be a cheap, clean, and efficient fuel.

As one of the strongest environmentalists in this Congress, I believe we need to do everything possible to develop such resources. Regulation and improvements in internal combustion technology can only get us so far. Our greatest hope for a future of economic prosperity and environmental health is to develop new propulsion technologies, such as hydrogen.

This bill will bring government, universities, and industry together to conduct research on hydrogen in a way that would not happen without government involvement. And the bill ensures that the Government would be active only in research that would not occur absent its assistance. That is a sensible R&D policy directed at an important end.

Hydrogen research has not been a source of controversy in the past. And there is no technical reason that it should be controversial now. I urge all my colleagues to support this work to develop an environmentally benign fuel.

Mr. BROWN of California. Mr. Chairman, I yield back the balance of my time.

Mr. WALKER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The committee amendment in the nature of a substitute now printed in the bill shall be considered under the 5-minute rule by sections, and pursuant to the rule, each section shall be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hydrogen Future Act of 1995".

The CHAIRMAN. Are there any amendments to section 1?

Mr. WALKER. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. FINDINGS.

The Congress finds that—

(1) fossil fuels, the main energy source of the present, have provided this country with tremendous supply but are limited and polluting;

(2) additional basic research and development are needed to encourage private sector investment in development of new and better energy sources and enabling technologies;

(3) hydrogen holds tremendous promise as a fuel, because it can be extracted from water and can be burned much more cleanly than conventional fuels;

(4) hydrogen production efficiency is a major technical barrier to society collectively benefiting from one of the great energy sources of the future;

(5) an aggressive, results-oriented, multiyear research initiative on efficient hydrogen fuel production and use should continue; and

(6) the current Federal effort to develop hydrogen as a fuel is inadequate.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to provide for a basic research, development, and demonstration program leading to the production, storage, transport, and use of hydrogen for industrial, residential, transportation, and utility applications; and

(2) to provide for advice from academia and the private sector in the implementation of the Department of Energy hydrogen research, development, and demonstration program to ensure that economic benefits of the program accrue to the United States.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "demonstration" means a validation of the technical feasibility of a theory or process;

(2) the term "Department" means the Department of Energy; and

(3) the term "Secretary" means the Secretary of Energy.

SEC. 5. RESEARCH AND DEVELOPMENT.

(A) AUTHORIZED ACTIVITIES.—Pursuant to this section, the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 and the Energy Policy Act of

1992, and in accordance with the purposes of this Act, the Secretary shall provide for a hydrogen energy research, development, and demonstration program relating to production, storage, transportation, and use of hydrogen, with the goal of enabling the private sector to demonstrate the technical feasibility of using hydrogen for industrial, residential, transportation, and utility applications. In establishing priorities for Federal funding under this section, the Secretary shall survey private sector hydrogen activities and take steps to ensure that activities under this section do not displace or compete with the privately funded hydrogen activities of United States industry.

(b) SCHEDULE.—Within 180 days after the date of the enactment of the later of this Act or an Act providing appropriations for programs authorized by this Act, the Secretary shall solicit proposals for all interested parties (including the Department's laboratories) for carrying out the research, development, and demonstration activities authorized under this section. Within 180 days after such solicitation, if the Secretary identifies proposals worthy of Federal assistance, financial assistance shall be awarded under this section competitively, using peer review of proposals with appropriate protection of proprietary information. The Secretary shall use appropriations authorized by this Act that are not allocated for such awards to carry out research, development, and demonstration activities in accordance with the purposes of this Act.

(c) COST SHARING.—(1) Except as otherwise provided in section 6, for research and development proposals funded under this Act, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the proposed program. The Secretary may reduce or eliminate the non-Federal requirement under this paragraph if the Secretary determines that the research and development is of such a purely basic or fundamental nature that a non-Federal commitment is not obtainable.

(2) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this Act to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this paragraph if the Secretary determines that the reduction is unnecessary and appropriate considering the technological risks involved in the project and is necessary to serve the purposes and goals of this Act.

(3) In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash, and the fair market value of personnel, services, equipment, and other resources.

(d) CERTIFICATIONS.—Before financial assistance is provided under this section or the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990—

(1) the Secretary must certify that providing such financial assistance is consistent with the Agreement on Subsidies and Countervailing Measures described in section 771(8) of the Tariff Act of 1930 (19 U.S.C. 1677(8)); and

(2) industry participants must certify that they have made reasonable efforts to obtain non-Federal funding for the entire cost of the project, and that such non-Federal funding could not be reasonably obtained.

(e) DUPLICATION OF PROGRAMS.—The Secretary shall not carry out any activities under this section that unnecessarily duplicate activities carried out elsewhere by the Federal Government or the private sector.

SEC. 6. HIGHLY INNOVATIVE TECHNOLOGIES.

Of the amounts made available for carrying out section 5, up to 5 percent shall be used to support research on highly innovative energy technologies. Such amounts shall not be subject to the cost sharing requirements in section 5(c).

SEC. 7. TECHNOLOGY TRANSFER.

The Secretary shall foster the exchange of generic, nonproprietary information and technology, developed pursuant to section 5, among industry, academia, and the Federal Government. The Secretary shall ensure that economic benefits of such exchange of information and technology will accrue to the United States economy.

SEC. 8. REPORTS TO CONGRESS.

Within 18 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall transmit to the Congress a detailed report on the status and progress of the Department's hydrogen research and development program. Such report shall include an analysis of the effectiveness of such program, to be prepared and submitted by the Hydrogen Technical Advisory Panel established under section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990. Such Panel shall also make recommendations for improvements to such program if needed, including recommendations for additional legislation.

SEC. 9. COORDINATION AND CONSULTATION.

(a) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall coordinate all hydrogen research and development activities within the Department, and with the activities of other Federal agencies involved in similar research and development, including the Department of Defense, the Department of Transportation, and the National Aeronautics and Space Administration. Further, the Secretary shall pursue opportunities for cooperation with such Federal entities.

(b) CONSULTATION.—The Secretary shall consult with the Hydrogen Technical Advisory Panel established under section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 as necessary in carrying out this Act.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—There are authorized to be appropriated, to carry out the purposes of this Act—

(1) $25,000,000 for fiscal year 1996;

(2) $35,000,000 for fiscal year 1997; and

(3) $40,000,000 for fiscal year 1998.

(b) RELATED AUTHORIZATIONS.—(1) For each of the fiscal years 1996, 1997, and 1998, the total amount which may be obligated for Energy Supply Research and Development Activities shall not exceed the total amount obligated for such activities in fiscal year 1995.

(2) Paragraph (1) of this subsection does not authorize the appropriation of any Federal funds.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: Page 4, lines 14 and 15, strike "(including the Department's laboratories)".

Page 4, line 17, insert "The Secretary may consider a proposal from a contractor who manages and operates a Department facility under contract with the Department, and the contractor may perform the work at that facility or any other facility." after "authorized under this section.".

Mr. BROWN of California. Mr. Chairman, this is essentially a technical amendment which I think the chairman of the committee has agreed to. It clarifies the question of whether a Department of Energy laboratory may compete for an award under this bill, and as I understand it this is in accordance with the gentleman's feelings about the bill.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I agree with the gentleman on this. The staffs did work together closely with the Department of Energy on these changes. I thank the staffs for that. I think it is a good amendment. The change will clarify the intent of the bill as to the language concerning the involvement of the Department of Energy laboratories with the hydrogen program.

The intent of the bill was to allow the laboratories to participate in Department programs, and this change reflects this intent. I would ask our colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BROWN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by TRAFICANT: Page 7, line 8, insert ", with particular emphasis on activities carried out pursuant to section 7 of this Act" after "research and development program".

Mr. TRAFICANT. Mr. Chairman, during the amendment process and markup I was able to include language which says the Secretary shall ensure that economic benefits of such exchange of information and technology accrue to the U.S. economy.

My amendment simply says when we get a report back, as this bill requires, that it would give some emphasis to in fact if that accrual of benefit to the U.S. economy has occurred, and give us some information in that regard.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I am delighted to support the gentleman's amendment, and would urge other Members to do the same.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California, the distinguished ranking member.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman for yielding. We agree with the gentleman with regard to the need for this amendment, and have no objection.

Mr. TRAFICANT. Mr. Chairman, I ask for a vote in the affirmative.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 4, line 1, insert "basic" after "hydrogen energy".

Page 5, line 2, strike "and development".

Page 5, line 4, strike "20" and insert in lieu thereof "25".

Page 5, lines 7 and 8, strike "and development".

Page 5, line 11, insert "development or" after "related to any".

Page 5, line lines 13 through 21, strike "The Secretary may" and all that follows through "and other resources.".

Page 5, line 22, insert "AND REQUIREMENTS" after "CERTIFICATIONS".

Page 6, line 1, strike "certify" and insert in lieu thereof "ensure".

Page 6, lines 3 through 5, strike "described in section 771(8) of the Tariff Act of 1930 (19 U.S.C. 1677(8))" and insert in lieu thereof "as approved in section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511)".

Page 6, line 17, insert "basic" after "used to support".

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this is an amendment that will clarify the intent of the bill by conforming the bill language to the GATT language adopted in the Uruguay round.

The two main changes made in language reflect raising the 20-percent cost-share for research programs to a 25-percent cost-share as required by GATT, and changing the referenced GATT citation to the Uruguay round itself.

This language regarding Federal funding of research became effective January 1 of this year.

Staff has worked with the Department of Energy on the intent of this amendment.

I would ask my colleagues to support it.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, because this legislation provides for cooperative funding of research and development with private industry, it falls within the purview of certain GATT provisions which deal with this.

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And Mr. WALKER's amendment seeks to resolve the issue of whether or not this comports with GATT by the language which he has offered.

It is our view that in doing so he has created additional problems which need to be resolved that are going to be extremely difficult to resolve because of the fact that it is not clear exactly what the definition of some of the terms being used within the bill and within his amendment is. This situation is an interesting one, because it is the first time that we have had to attempt to reconcile legislation involving what might be considered legislation involving what might be considered U.S. Government subsidies to industry, and it is important that we do it in a proper way.

I had originally intended to offer some language which I thought would resolve this more effectively, but I have decided merely in this statement to try and clarify the situation and to express my hope that as we go forward that we can have further consultative process with the administration and that perhaps when the bill gets to the other body, as I hope that it will, we can resolve this issue of the proper language to accommodate the bill to the GATT provisions in a fashion which is satisfactory to the administration, to the Department of Energy and hopefully to those people who are trying to interpret GATT.

At this point, I am going to content myself with expressing my feeling that the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] does not resolve the problem and, hence, I am going to oppose it, but I will not ask for a rollcall vote.

Mr. Chairman, I rise in opposition to the amendment.

The gentleman from Pennsylvania's amendment is intended to try to fix a problem in the bill that arises from new language in the GATT Agreement which we approved in the last Congress. The new GATT rules fix an upper limit on the amount of Government subsidies that can be given to certain kinds of industry-related research, development, and demonstration efforts.

Unfortunately, GATT's definitions of the key terms do not mesh with the terms "research, development, and demonstration" terms which we traditionally use, not only in this particular bill, but throughout the wide range of Government R&D programs. This bill marks the first time Congress has had to grapple with these difficult definitional problems. Unfortunately, this problem was only recently called to our attention, and we have not had much time to consider careful solutions.

The amendment offered by the gentleman from Pennsylvania attempts to force a rough solution to this delicate problem. To achieve superficial compliance with GATT, the amendment would treat all development activities under the bill as what GATT refers to as precompetitive development activities. It is certainly not clear to me that many of the activities which we would call development fall within the GATT term. Indeed, the GATT term seems much closer to the activities that we would traditionally call demonstration activities.

The net effect of this amendment would be to increase the private sector cost-share requirement for development activities, from the 20 percent set out in the bill as reported to 50 percent. In my view, the development stage of research is entirely too early to require such a large private sector cost share. At this point in the process, any potential commercialization of a product or process is entirely speculative, and the technical risks of failure are generally high. The result is that a high mandatory cost-share will drive industry away from investing in hydrogen development, with the exact opposite result of what the sponsors of this bill hope: Less innovation, less private sector investment, and slower progress toward the development of hydrogen.

My preference would have been to adopt an amendment which simply requires the DOE to administer the cost-sharing requirements in accordance with GATT, and leave to the administration the untidy task of determining precisely what compliance requires for the particular programs at issue. After all, this issue will have to be addressed by the administration under numerous other research and development programs, and we typically leave to the administration the task of interpreting and carry out our international obligations.

If this amendment is adopted, I would urge the distinguished gentleman to consult with the administration on this point as the bill goes forward and see if some better solution could be developed.

For the reasons noted above, I oppose the amendment, and urge a "no" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. OLVER

Mr. OLVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OLVER: Page 8, line 9, strike "$25,000,000" and insert in lieu thereof "$16,000,000".

Page 8, line 10, strike "$35,000,000" and insert in lieu thereof "$22,000,000".

Page 8, line 11, strike "$40,000,000" and insert in lieu thereof "$26,000,000".

Mr. OLVER. Mr. Chairman, we obviously have some contention here about numbers, but I think I am correct on the Record.

Mr. Chairman, this is a simple amendment. It reduces the authorized levels of spending in H.R. 655 by a total of $36 million over 3 years.

On March 1, 1995, the Hydrogen Technical Advisory Panel released its recommendations for the future of the hydrogen research program. The Hydrogen Technical Advisory Panel, or HTAP, is a panel of professionals from industry, universities, and government, specifically convened to provide expert advice to the Department of Energy on the development of hydrogen programs. This panel's work represents essentially peer review of the overall research program.

HTAP has adopted as its long-range goal that "hydrogen join electricity in the 21st century as a primary energy carrier in the Nation's sustainable energy future," and HTAP has laid out a 20-year budget plan to achieve that goal.

My amendment simply adopts the level of funding proposed in the advisory panel's recommendations for research and development activities. As an aside, I believe we ought to also authorize the demonstration projects as proposed by HTAP, but since the bill does not authorize such demonstration projects, it would make no sense to authorize funds for those demonstration projects. Therefore, my amendment would authorize the hydrogen research program at the levels that have been listed in the amendment. It does not cut hydrogen research funding. In fact, it doubles the authorization for hydrogen research compared with current spending. However, my amendment does cut $36 million from the authorization levels proposed in the bill, and it is achieved by limiting the funding increase to what the people involved in the program, the industry and outside academics alike, have said they need.

So you can vote to save $36 million, and yet you can rest assured there is full funding for the research program as requested by the professional advisory panel, except, of course, for the demonstration projects which are not included in the authorization.

As a scientist, I support hydrogen research. In my academic career, I personally have done research on fuel cells, one of the most promising ways to utilize hydrogen as a fuel.

As a member of the Committee on the Budget, I do not see why anyone thinks we should spend more money than even proponents of the program think is needed.

The Members of this House have spent the last 100 days cutting spending. We have cut lunches. We have cut fuel assistance. We have cut safe drinking water moneys for our towns. We are going to spend the next 100 days cutting spending. We will cut the Department of Energy. We may even eliminate the Department of Energy.

So I challenge each Member then to figure out why we, on this first day back, are increasing spending on this program by at least 300 percent above the current program, and far above what the professionals in the field think is necessary.

Now, the gentleman from Pennsylvania, the distinguished chairman of the committee, will say that the budget cap in the bill will prevent increases in the hydrogen program from increasing Federal overall spending, but if the spending is unjustified, none of us should be mollified that it is offset by cuts to other programs.

Let us restore a measure of reasonableness to this program to adopt the advisory panel's recommendations and save $36 million.

I would urge Members to vote yes on the amendment, and I would point out the letter that is being circulated in regard to this expenditure level includes the demonstration projects, the moneys that are listed which are, indeed, numbers above the numbers in the authorization in the legislation that that recommendation from the HTAP includes the demonstration projects which are not authorized and which the chairman has opposed.

I would urge the Members vote to reduce this authorization to what is included as authorized in the legislation and to what the HTAP panel has recommended in their 20-year budget for the development of the hydrogen research program.

Mr. WALKER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this particular amendment saves no money. There is no savings here. We are simply talking about how much money you are willing to put into a hydrogen research effort.

The whole intent behind this bill is to reprioritize hydrogen in the overall research scheme. Why is that necessary? Well, because hydrogen has had a very minor role. It is an energy source, an energy resource with a very, very great potential that has been virtually ignored by the Department of Energy.

Now, the gentleman tells us that he is doing this because of guidance from the Hydrogen Technology Assessment Panel. The fact is that the HTAP recommendations are higher than what is in the bill and very much higher than the amendment that the gentleman offers. Now, he says this relates to demonstration programs. I am not real hot on doing demonstration projects. The gentleman is absolutely right on that.

The fact is under amendments adopted in the committee, there are demonstration projects in the bill. Now, they have to be peer reviewed. They have to meet standards and so on. But the fact is the bill makes allowances for demonstration projects.

It is not one of the things I think is the greatest piece of the bill, but the fact is they are there.

But what the gentleman is really doing is he is cutting back on the prioritization of hydrogen. That is what his intent is. This is not saving any money because of the cap. It just simply is that he does not agree we ought to spend as much money prioritizing hydrogen. I think we ought to understand where he is going to put the money. He is going to put the money into solar R&D, which already gets $400 million. He is going to put the money into fusion that already gets $370 million. He is going to put the money into nuclear R&D that already gets $300 million.

Now, when you are talking about a $25 million hydrogen program, it is not even in the same league as these other programs, and yet what the gentleman is going to do is come out here and protect the old order, just keep everything in place that is now there, Keep spending money for things like fossil R&D and solar R&D, fusion R&D, nuclear R&D, and all of these kinds of things, all of the programs that have been prioritized over the past. The gentleman would say keep them in place, do not touch them, let us let the old order prevail. This is all fine and well.

We are actually attempting to do something that is a little different here. We are attempting to move away from the old structure of the past and build a program up that deserves a little bit of prioritization.

The gentleman does not want to move in that direction. I think that is sincere. He can be very sincere. If he is antihydrogen, he is antihydrogen. That is fine. Let us not suggest that what he is doing is in line with what the hydrogen program wants. The hydrogen program has said the figures they want is $28 million in 1996, $37 million in 1997, and in 1998 they want $48 million.

This bill does not give them as much as they are requesting, but the fact is it is in an order of magnitude that is little bit more and does begin to reprioritize the program. That is what I am attempting to do.

But we ought not accept anything in the gentleman's argument that suggests that he saves a dime. He does not save a dime with his amendment. All he does is he says that we are going to spend more money for things like solar and fusion and nuclear instead of spending it on hydrogen.

I just happen to think that is the wrong set of priorities, and the gentleman's amendment in that regard is the wrong direction to go. We ought to reprioritize our research. Our research has gone badly in terms of prioritization in the past. We ought to begin to reprioritize.

Mr. OLVER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding.

I never mind being called correctly for what I am doing, but I must say that the thought-for-word ratio there is very low in the gentleman's comment.

I am not antihydrogen. I have said quite plainly in the beginning that I am prohydrogen research. I am even a scientist who has done research on fuel cell technology and hydrogen-based fuel cells. I am for hydrogen research.

I am not, as the amendment is very clear, so let us be quite, quite specific about this, when the gentleman says that I am for more nuclear R&D and solar R&D and fusion R&D, and whatever other R&D's he is talking about, my amendment does nothing of the sort. All it does is reduce the amount in this particular authorization for the hydrogen research so that that comes from the essentially peer review panel, the HTAP panel which works on this.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. I continue to yield to the gentleman from Massachusetts.

Mr. OLVER. I would like to end this so the gentleman will have time to take part. I thank the gentleman for yielding.

Now, the gentleman says that there are demonstrations allowed in the legislation, but I would point out, and I am sure he agrees with this, that the demonstrations allowed in the legislation and authorized by the legislation are limited to the validation of the technical feasibility of theory or process and the demonstrations which are part of HTAP's program of their development of hydrogen as a fuel, the demonstrations are utility demonstrations, transportation demonstration, remote transportation production demonstration, clearly not related to the validation of the technical feasibility of theory or process.

And so the demonstrations that are included in their budget, in the HTAP-proposed budget are not authorized by the legislation, and we should not be authorizing money for the bill.

Mr. WALKER. I thank the gentleman for his opinion. The fact is we are trying to reprioritize some of the things going on in the program as well. All the gentleman is doing is cutting back our ability to do that. The gentleman is not reducing moneys overall, here.

The only reason I am saying what he is doing is protecting other R&D programs such as nuclear R&D is because they are in the same account. If, in fact, what we are doing is capping the account and the gentleman simply wants to spend less for hydrogen, the fact is what he is doing is giving more money to these old order programs. The only comment I am making is the old order would continue to stand tall in the gentleman's amendment, and instead of getting some new solutions with some new ideas, moving toward a new resource, that the gentleman would cut back on our ability to do that.

In my view, he is offering an amendment that is well below that which the HTAP panel has suggested are the right numbers.

Now, whether HTAP wants to spend those in ways different, my point is that all of that ought to be peer reviewed, that we ought to have a way of figuring out whether or not there is good science involved.

Reject the gentleman's amendment.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. OLVER] has expired.

(By unanimous consent, Mr. OLVER was allowed to proceed for 1 additional minute.)

Mr. OLVER. Mr. Chairman, I am not trying to expend more money on any of the other places.

We can make cuts in those, those places where it is appropriate to make cuts through the reprioritization of our expenditure programs which I think is what we are really trying to do, to reprioritize how the expenditures in the Department of Energy should go.

□ 1330

And the proposals here, even if correctly calculated, and taking out those demonstrations, which all the words aside, if demonstrations which are not of a nature that deal with the validation of the technical feasibility of the theory or process are not authorized in the legislation, then those demonstrations that the HTAP is suggesting ought to be done, which I think ought to be done actually; those are not possible to be done under the provisions of the legislation, and we should be authorizing money that is appropriately based upon the legislation that we are passing. I think we should be eliminating unnecessary spending wherever we can make that elimination.

Mr. BROWN of California. Mr. Chairman, does the gentleman from Massachusetts [Mr. OLVER] require any additional time?

Mr. Chairman, I will not prolong this unduly. I think that the gentleman from Massachusetts has propounded a reasonable amendment that would conform to our previous practice which is, in general, to try to authorize not higher than what has been suggested by the official technical advisor groups that are responsible for a particular program, or if it is a recommendation from the administration not higher than the administration has recommended. I am somewhat constrained in my enthusiasm for the amendment because I think I tend to agree with the gentleman from Pennsylvania [Mr. WALKER] that this is a program which has been underfunded in the past, but the amendment offered by the gentleman from Massachusetts [Mr. OLVER] in my opinion would comport with what I think is the view of most Members of the House, that we confined the increases in programs to those that can be justified on the basis of technical recommendations.

Now I understand the position of the gentleman from Pennsylvania [Mr. WALKER] is that his figures do comply with those technical recommendations. I am not wholly assured that they do, but he may be justified in that position.

On balance I would like to support the amendment of the gentleman from Massachusetts [Mr. OLVER] and ask for an "aye" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. OLVER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OLVER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 214, not voting 19, as follows:

[Roll No. 306]

AYES—201

Abercrombie
Ackerman
Andrews
Barcia
Barrett (WI)
Beilenson
Bevill
Bilbray
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Cunningham
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Duncan
Durbin
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Funderburk
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefley
Hefner
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klug
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHugh
McKinney
McNulty
Meehan
Meek
Metcalf
Mfume
Miller (CA)
Mineta
Minge
Mink
Montgomery
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pomeroy
Porter
Poshard
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Scarborough
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Whitfield
Williams
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—214

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bilirakis
Bliley
Blute
Boehlert
Boehner

Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McKeon
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Moorhead
Morella
Murtha
Myers
Myrick
Neumann
Ney
Nussle
Oxley
Paxon
Petri
Pickett
Pombo
Portman
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Rohrabacher
Roth
Roukema
Royce
Salmon
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—19

Baesler
Baldacci
Becerra
Clay
Fattah
Gallegly
Hilliard
Istook
Menendez
Moakley
Moran
Norwood
Pelosi
Rogers
Ros-Lehtinen
Saxton
Thompson
Wilson
Wise

□ 1552

The Clerk announced the following pair:

On this vote:

Mr. Moakley for, with Mr. Norwood against.

Messrs. ALLARD, EWING, GUNDERSON, UPTON, BENTSEN, and SMITH of Michigan changed their vote from "aye" to "no."

Messrs. PACKARD, ZIMMER, SCHUMER, TIAHRT, WAXMAN, and PORTER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: Page 8, line 7, strike "(a) GENERAL AUTHORIZATION.—".

Page 8, lines 12 through 18, strike subsection (b).

Mr. BROWN of California. Mr. Chairman, I am offering an amendment to strike the provisions in the bill which put a cap on the 1995 outlay level on the expenditures on energy supply research and development.

Now, let me explain this amendment. It is very simple. It just eliminates the cap language which occupies a few lines in the bill.

The gentleman from Pennsylvania, Mr. WALKER, has asserted that the purpose of the cap language is to make sure that the bill itself is budget neutral, that it does not add to spending in the Department of Energy. The gentleman is being unduly modest in this respect. The cap language would appear at this particular time, and before the 1996 spending level has been determined, to cut the spending in this account by $250 million, plus or minus a little bit. This cutoff $250 million is intended to offset the additional expenditures, which amount to some few tens of millions of dollars contained in this bill.

So the actual reductions in the Department of Energy spending not only cover the cost of the increases, the minor increases in this bill, which I support, but they overcompensate by probably 10 times the amount.

□ 1600

Now, if the purpose of the bill, of the cap was to offset the cost of the increases in hydrogen research spending, I would 100 percent support it. I want the bill to be budget neutral. But if it cuts 10 times as much as the bill spends, then I think it is a first step toward the dismantling of the research budget of the Department of Energy.

Now, that may well occur, but it is not appropriate to use this minor bill as a vehicle for determining future energy research expenditures for the next 3 years. That is appropriately the role of the Committee on the Budget, the role of the administration, the role of the Committee on Appropriations, but not the role of this particular bill. So I am objecting very strongly to this device.

Now, as I understand the gentleman from Pennsylvania [Mr. WALKER], he continues to assert that the purpose of the cap language is to make sure that this bill is budget neutral and that, if we can find other language that is better than the cap to do that, I gather that he would support it. I suggest that he look for that language in the Committee on the Budget, which he also serves on, and include it there, rather than in this bill.

I will not try and belabor this point, Mr. Chairman. You do not need to make $250 million in cuts to support a bill that adds $25 million to the cost of hydrogen research. What you will do, as a result of these cuts, is to force cuts in all of the other programs, which I am sure is what we will have to make eventually, but this is not the way to make them. We will force cuts which will have an impact on every laboratory of the Department of Energy, including Los Alamos and Livermore and Argonne and Savannah River and all of the others which are now in discussion, are now being discussed in terms of what our future policy should be.

The discussion has not ended; it has not been resolved. We do not have an answer. Yet here in this bill we are going to force that quarter of a billion dollars per year cut without any guidelines, without any knowledge of what the impact will be. I very much object to that process, not to the funding of this bill by offsets. As I have said, I would be glad to support a bill directed at that. But this is not the way to do it. I object very strongly, and I ask support for my amendment to remove the caps.

Mr. Chairman, the amendment that I am offering to section 10(b) of this bill would eliminate the authorization cap on Energy Supply Research and Development [R&D] activities conducted at the Department of Energy [DOE]. In offering this amendment I want to make it clear that I support hydrogen research and even feel that this research can be offset by reductions in other energy R&D programs. But the caps contained in H.R. 655 are arbitrary, have little to do with thoughtful energy policy, and are directed at a broader effort to cut DOE programs, beyond the amount needed to offset the cost of this bill. I feel strongly that until these issues are addressed, we cannot go forward with the caps as currently written.

The major problem with this language is that it is a poorly disguised attempt to arbitrarily cut the DOE research budget. The accounts under the Energy Supply R&D heading total around $3.3 billion dollars per year. The cap imposed by this bill cuts outlays in these programs by $250 million in fiscal year 96 and an unknown amount in the next 2 fiscal years. But the program authorization for the hydrogen research, which is the supposed reason for this legislation, runs between $25 and $40 million per year over the next 3 years.

Thus, the caps cut much more than is envisioned being spent on the hydrogen research. The hydrogen research funding is the tail wagging the dog, and the dog is major program reductions across the board in Energy Supply R&D. If the goal of H.R. 655 is to cut DOE funding, let's do it in a broad authorization bill. If the goal of H.R. 655 is to offset the cost of the hydrogen research authorized in this bill, then lets find appropriate offsets and identify them. But let's not bring up a hydrogen research authorization that is really a trojan horse for other political goals, namely the first move toward the dismantlement of DOE.

Beyond these questions about the true motivation for imposing these caps, I also object to the rather arbitrary nature of the language in H.R. 655. There is no mention of any process by which the Appropriations Committees or the Secretary of Energy are to make decisions about which programs to cut. No priorities are established. No vision about our future energy supply mix is outlined. No reference is made to the existing omnibus energy policy document, the Energy Policy Act of 1992.

What the bill does is authorize a modest research program and then, almost as an aside, in the next-to-last paragraph of the bill, draw in the entire $3.3 billion Energy Supply R&D program and cut $250 million from it in the first year.

Where are these cuts to be made? Who knows? Under the heading of Energy Supply R&D are a wide range of programs all put at risk under this bill. Will the cuts come to the fusion program or the TPX at Princeton, NJ? Will the Environmental Restoration program be used as an offset, possibly forcing non-compliance issues at DOE facilities around the country? Will the fossil fuel research programs be cut, reducing oil and gas or coal research? Will we have to cut operating time at DOE user facilities, delaying industry research at these sites? Do the cuts hit the DOE labs at Argonne, Livermore, Albuquerque, Oak Ridge, and numerous other sites around the country? Unfortunately, no one on the floor today can answer these questions. The truth of the matter is that we do not know what we are voting for in this bill.

When I was chair of the Science Committee, we tried to move a series of authorization bills to address these issues. We tried to set out relative priorities for funding and indicate the importance of various programs at DOE. We did not succeed, but at least we tried to do a comprehensive job of authorizing DOE programs.

Mr. WALKER now faces that task and I pledge to help him work on a comprehensive DOE research authorization. In that bill, at that time, we need to discuss the broad goals and priorities of our Nation's energy R&D programs. In that bill, we can debate offsets, program reductions, and a host of other policy issues. Mr. WALKER will, I believe, agree with me on the need for a comprehensive look at DOE's programs.

In fact, Mr. WALKER endorsed this approach last year in a similar debate on a similar proposal for an energy R&D cap. Last August, during floor debate on H.R. 4908, the Hydrogen, Fusion, and High Energy and Nuclear Physics Authorization Act, Mr. WALKER agreed that his preference was for a full authorization for the entire range of energy programs, rather than a simple cap. He is now in a position to propose a comprehensive authorization.

Where today is the debate on the proper funding level for nuclear energy R&D, or a discussion on the proper allocation of resources to the DOE labs, or the funding needs for environmental restoration? We are not having a debate on anything other than a small hydrogen research program yet we are affecting all of these other programs. If you are concerned about the DOE energy portfolio, if you have a DOE lab in your district, if you have interests in energy R&D, you will join me in striking the caps and asking Mr. WALKER for a chance to debate this important issue in the open, instead of seeing funding priorities for a $3.3 billion program stuck at the tail end of the Hydrogen Future Act.

All I am asking for in this amendment is a chance to do what Mr. WALKER has said he wants to do. I feel that we should strike the authorization caps until we have a chance to debate all of the other programs touched by this language.

Vote for the Brown amendment. Vote for regular order.

Mr. BAKER of California. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, what funny roles we have as we change. Now the last debate was over whether we should cut the hydrogen fuels program. The gentleman from California [Mr. BROWN] and I both support the hydrogen fuels program but he felt constrained to cut $10 million a year. Now we are going to take the caps off. And go ahead, Katie bar the door, let us spend more on this and spend more on that, we will spend more on the nuclear programs, spend more on the hydrogen program, spend more on biomass and every other kind of research program for energy.

We want to set responsible levels. And this cap does that. The fact that we have increased slightly by around $10 million a year the hydrogen fuels spending does not mean we have to take the cap off and allow this Government to continue to spend in excess year after year. Let us keep these responsible levels. Let us keep the cap and vote against this amendment.

Ms. LOFGREN. Mr. Chairman, I move to strike the requisite number of words. I rise as strong opponent of the arbitrary cap on research and in support of the amendment offered by the gentleman from California [Mr. BROWN].

I believe that having spent now 3 weeks in Silicon Valley and listening to the CEOs of the most exciting and productive companies in our Nation that the key to our economic future is research and learning new things and cutting-edge endeavors. I believe that putting a cap on this research area will have an unfortunate and hopefully and quite possibly unintended consequence.

The amendment of the gentleman from Pennsylvania [Mr. WALKER] really picks one promising area of research out of all, and that is this hydrogen bill before us. I agree that hydrogen research is worthy of exploration and may, in fact, play a useful role in our country's future. But it is only one of a rich environment of research possibilities that include solar and even more excitingly fusion research. If we are going to put a cap on the amount of money that will be spent in this environment and then single out only one area of hydrogen for our research dollars, in effect what we are doing is saying here on the floor, without analysis in the appropriate committees, including Science on which I serve, that fusion research is not worth our time, that fusion research really is not going to receive the kind of support that I believe it needs if it is going to be the energy source for our country and, indeed, the world in the 21st century.

When I think about a world that could be supported by fusion, I think of a nation that would have limitless supplies of energy, that is clean, nonpolluting and readily available for all. I think to imagine that country and that world really puts in perspective the reason why we need to protect the fusion program. I find it disturbing that in a backdoor way this bill would really direct the scientific talent of our Nation only to one area, that would be hydrogen, to the detriment of even more exciting, long-term endeavors.

So I would strongly urge approval of the amendment of the gentleman from California and, frankly, should this amendment fail, I will be unable to support this bill because, in effect, it will be killing the fusion research program that I think really merits our attention more than anything else.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, a lot of us, when we went home, found a lot of our constituents were wondering how we got ourselves into this $4.5 trillion debt mess and why we have huge deficits. This amendment is really the reason why.

This amendment says it does not matter, the fact that we are trying to reprioritize. What we want to do is just spend more. Because if you take off the cap, as this amendment proposes to do, it simply is add-on spending, add-on spending over and above anything we are doing now.

The statement that was just made that somehow this is going to kill fusion research and all that sort of thing is just plain nonsense. We are talking here $15 million worth in total. That is one-half of 1 percent of a $3.3 billion account. All we are suggesting is that $3.3 billion account ought to be capped at the 1995 spending level. We ought not spend anymore in order to reprioritize the hydrogen program within that account.

By doing that, what you assure is we have no add-on deficit. We have no add-on debt. And it seems to me that as a Congress right now we do not want to be approving programs that increase the deficit and increase the debt.

In fact, when we get a budget bill out here in the near future, we are going to be talking about trying to find ways to reduce the rate of increase of Government even further than we have done in the past.

So this particular bill is aimed at assuring that you just do not have anymore add-on deficit, add-on debt. If you vote for the Brown amendment, you are going to create add-on debt in this bill. In my view, that would be the wrong thing to do.

We want to reprioritize hydrogen within the programs that are presently there. We do not emasculate any program to do this. As I say, the total amount of spending, the increase in spending in this bill is less than one-half of 1 percent of the totality of the account.

So it seems to me we ought to do this.

The gentleman from California [Mr. BROWN] mentioned the fact that there may be other ways of getting at this. I asked the department to help us to do that. The department came up with no language. I asked members of the Committee on Science to help us do that. They came up with no language.

The only way anybody knows to make certain we do not spend more on the program is to cap it. And so that is what we have indeed done.

I think that this is the right approach to take. I would urge anybody who is talking about reducing deficits and reducing debt to vote against this amendment because otherwise what you are going to do is have a program here that potentially would be add-on spending. I do not think that that is the correct course for us to take in the present economic environment.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I would like the House to be aware of this discourse. I am not sure that I have a fundamental disagreement with the gentleman from Pennsylvania [Mr. WALKER], but the way in which he chooses to express his criticism of my amendment leaves me a little bit nonplussed, because he states that defeating this, by defeating this amendment will be simply add-on spending.

I want to ask the gentleman, if we could devise language which would offset the increased authorization for hydrogen by a similar amount in other fields so that there is a true offset and no increase in spending, is it the position of the gentleman that he would agree to this kind of language?

Mr. WALKER. Mr. Chairman, I have said that all the way along, that I thought that if we could find other ways of accomplishing this to assure that there is no add-on program here, that that would be perfectly acceptable to me. But your amendment goes right at the heart of the bill's language that seeks to put that kind of cap in.

By striking the cap, you are simply doing all of the additional spending in the bill as add-on to the present account.

Mr. BROWN of California. Mr. Chairman, if the gentleman will continue to yield, it is not this gentleman's intention to deliberately add onto spending. I think that the semantic problem here is that you are saying that capping the Department of Energy's spending for this account at the current year's level, 1995, anything in excess of that is add-on spending, whereas the base line basically is the administration's projections for what the spending would be over the next several years.

I do not intend to go beyond the administration's projection, and if it is possible to cut those projections sufficiently to fund this program, I would agree to that.

In other words, I am objecting to the gentleman characterizing my proposal as add-on spending.

Now, would the gentleman agree with me also that based on our present knowledge of the President's budget for 1996 and anticipated 1997 and 1998, that his language constrains that by a quarter of a billion dollars?

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Chairman, if the gentleman will continue to yield, does the gentleman agree with me that his language not only prevents add-ons, it reduces the spending in this account for the Department of Energy by a quarter of a billion dollars below the department's base line?

Mr. WALKER. Below the projected increases, I would say to the gentleman. But I would also say to the gentleman that at the beginning of this Congress, we developed a new rule in this Congress with regard to spending.

We said we were going to use the base line, all baselines, as the amount of money that was actually spent in the previous year. So I would say to the gentleman the base line for spending is the 1995 appropriated amount. And what we are attempting to do is hold it in line with the 1995 appropriated amount.

If you are saying that by holding it in that line, we will not allow the projected increases out into the future, the gentleman is absolutely correct. Because I think in order to get the budgetary house in order, we are, in fact, going to have to begin to consider not what we want to spend for programs but what we are actually spending on programs and that the baseline has to be the amount of money actually being spent.

Washington, for too long, has decided that going from $20 a year of spending to $22 a year of spending is not an increase, if what they wanted was $25 a year. And in our view, what we think we ought to do is say the $20 that we are spending this year is in fact the proper base line.

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Mr. BROWN of California. Mr. Chairman, if the gentleman will continue to yield, I would ask the gentleman, has that action been taken by the Committee on the Budget, and does it apply to all categories of spending?

Mr. WALKER. Reclaiming my time, Mr. Chairman, the gentleman is correct. The Committee on the Budget has been working within its deliberations.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(At the request of Mr. BROWN of California and by unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Mr. Chairman, with the exception of Social Security, every other account is being calculated based upon 1995 spending as the baseline.

Mr. BROWN of California. Including Medicare?

Mr. WALKER. Medicare would be included in that particular area as well, that is right.

Mr. BROWN of California. If the gentleman will yield further, Mr. Chairman, so the policy of the Committee on the Budget would be to keep Medicare at the present 1995 levels?

Mr. WALKER. Our intention on Medicare is to reform Medicare and transform the program so it can live within the bounds over the next 7 years of spending $1½ trillion.

That would in fact be an increasing kind of program, and we think we can manage that within a balanced budget, but in terms of calculating it, we are not saying that everything is going to be held at the 1995 baseline, we are simply saying that is the baseline which we use. Some things will go above that baseline, some will go below, but the fact is we are not going to use an accelerating baseline for what we are doing.

In the case of Medicare, simply the demographics of the account will have it go up, so Medicare will actually be spending more in the year 2002 than it spends in 1995, but then that will be an increase.

Mr. BROWN of California. I appreciate the gentleman's clarification, Mr. Chairman. I think this colloquy has helped the Members to understand the situation. I do not agree with the gentleman that the 1995 baseline is the one that will finally be in effect for the Department of Energy. I do not know at this point.

Mr. WALKER. I think it will probably be lower, I would say to the gentleman, and the fact is that the 1995 baseline therefore may be a figure higher than where we are when we finally come out of the budget process, so all we are trying to do here is to make certain that the Department understands that as this program is authorized, it is being authorized within the accounts that are presently available, not as add-on spending.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, the total amount given in this subsection B applies to all research and development activities of the Department of Energy, is that correct?

Mr. WALKER. The gentleman is correct.

Mr. VOLKMER. Mr. Chairman, since I have taken a leave of absence from the Committee on Science, normally the Committee on Science annually puts out a bill for research and development, an authorization bill. Does the gentleman plan to do that this year?

Mr. WALKER. Sure, we are going to put out an authorization bill.

Mr. VOLKMER. Do all the programs within that bill have to do with the same figure?

Mr. WALKER. We will in fact have an authorization bill that will include these accounts, that is correct.

Mr. VOLKMER. Include all these accounts?

Mr. WALKER. Sure.

Mr. VOLKMER. So the figure that the gentleman has here will be basically, first there is the budget to come yet. Before we do the authorization bill, we are going to have the budget. The budget may say more or less, I would guess less, less than the figure you have here, is that correct?

Mr. WALKER. That is correct, it could be.

Mr. VOLKMER. When the committee does the authorization bill, that figure may be more or less?

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(At the request of Mr. VOLKMER and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I Yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, is it correct that this will be done one way or another, when we do the authorization bill?

Mr. WALKER. The gentleman is correct, we will do both, and when we do the authorization bill.

Mr. VOLKMER. Mr. Chairman, if the gentleman will continue to yield, so that figure may or may not, depending on the will of the House, be the figure that is finally determined at a later date?

Mr. WALKER. Sure.

Mr. VOLKMER. So this figure that we have of the 1995 level, which I understand is something like $3.3 billion, is only in this bill, Mr. Chairman, but we are going to have another bill later on and a budget that could say it is different, is that correct?

Mr. WALKER. We are authorizing a program here. What we want to do is make certain that as we authorize the program, it is not add-on spending. That is the only signal we are sending. It may well be this program will have to survive within reduced cuts or within a reduced budget in the future, sure.

Mr. VOLKMER. Also, that in that authorization bill that comes on, this whole program can be once again reexamined within that bill?

Mr. WALKER. Sure, absolutely. It is going to have to face the same kind of prioritization as everything else. The fact is this is a program that the Department has refused to prioritize in the past. What we are trying to do now is give it a new sense of priority within what the Department does. That is subject to all of the budget restraints.

However, the only point I am making here in opposing the gentleman's amendment is if we take off the cap we have in the bill, what that suggests is that we want this program as an add-on, and in my view, we ought not be out here considering an add-on. We ought to be out here considering what the priorities are, where we ought to spend money in the Energy Department.

In my view, one of those priorities ought to be hydrogen. Others may disagree. There were some people who just voted a few minutes ago to not prioritize hydrogen. They voted to reduce the priority for hydrogen. They are antihydrogen. I understand that. That is fine. That is their sense of priority. I think an environmentally friendly fuel might be something that people ought to be for, but evidently over 200 Members did not agree with that. That is fine. That will be their record on this.

However, in this case, what I also want to say is I also do not think there is a need for additional money over and above the caps.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take my full 5 minutes, but as a result of the discussion I just had with the chairman of the committee, it is very apparent to me that we are going to have to rehash this whole thing over again if and when we ever get to a full authorization bill for all the research and development programs, because at that time every Member is going to be able to look at the total research demonstration projects within the Department of Energy to make a decision whether or not they want to spend $25 million on this one and $40 million on this one, or $15 million on this one and $25 million on that one. That will be done then.

What I see right here and now, Mr. Chairman, is just an individual bill that the chairman, as he said before, feels very strongly about hydrogen, so we are doing a separate bill rather than waiting for the total authorization bill to come forward, so we are going to be doing it twice.

Really, as far as amendments are concerned, the amendment does not mean we are going to spend a lot more money. Like I said, we still have the total authorization bill to come up. At that time the House may very well vote not for $3.3 billion, but it may very well vote for $3 billion, or $2.5 billion, or $4 billion. That is going to be the future.

Right now I do not think most Members are ready to vote and decide what the cap will be, because they do not know what all programs are affected and how they are going to be affected. It is only when we get a total authorization bill that we are really able to see how all the programs are affected by the cap. Right now it is just a general discussion.

Mr. Chairman, I personally feel that the amendment of the gentleman from California is a wise amendment at this time. I do think to be honest, that the whole purpose of this bill seems to be to focus on hydrogen, to take the time of this House for 1 day or half a day, and the expense of the House, just to say how good a thing hydrogen research is, when we are going to have to do it all over again maybe in another month.

Mrs. THURMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I could, I would like to ask the gentleman from California [Mr. BROWN] a question.

In our area, Mr. Chairman, in the Southeastern United States, there has been a big emphasis put on solar energy. I think the American public has also participated in this dialog. It is my understanding that in this bill, whether the money that may be available, whether it is more or less or whatever, that all we are doing here is saying that we are going to prioritize or look only at hydrogen experimentation, and not looking at the dollars that maybe could be spend in solar or nuclear fusion or any of those? Is that my understanding of this issue here?

Mr. BROWN of California. Would the gentlewoman yield, Mr. Chairman?

Mrs. THURMAN. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, it would appear that what this bill before us does is to focus entirely on hydrogen, and the gentleman from Pennsylvania, the chairman of the committee, has indicated that legislation authorizing these other programs would be brought forward later.

This is in part the problem that I have with the bill, although my own interest in hydrogen is such that I would overlook the fact that it does not contain the others except that this bill also forces a reduction in all of these others, which I do object to.

Mr. Chairman, in the last energy authorization bill that was passed, which was in 1992, we carefully laid out the authorizing levels for all of the major programs. We increased solar, for example. We increased some of the other categories of research. We cut some of the older ones, as the gentleman from Pennsylvania [Mr. WALKER] has indicated he wants to do. Coal research is cut back, for example, and fossil research in general.

In other words, in that authorization bill in 1992, Mr. Chairman, we did prioritize and gave general policy directions. This bill does not. It gives a general policy direction for hydrogen and then it says in a blanket fashion "cut $250 million off of everything else." That is not prioritizing.

Mrs. THURMAN. Regaining my time, Mr. Chairman, does that mean that appropriations of somebody other than the committee of substance would actually make the determination as to those dollars, so we would lose the expertise of the committee as far as this appropriation goes?

Mr. BROWN of California. Of course. I have confidence in the good faith of the gentleman from Pennsylvania [Mr. WALKER] that we would bring along an authorization bill that would deal with these others. In the absence of that, however, this would merely provide to the Committee on Appropriations complete discretion as to what they would do with the remainder of that budget item.

Mrs. THURMAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BROWN].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 257, not voting 22, as follows:

[Roll No. 307]

AYES—155

Abercrombie
Ackerman
Barcia
Beilenson
Bentsen
Berman
Bevill
Bilbray
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Bryant (TX)
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meek
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stokes
Studds
Stupak
Tanner
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Woolsey
Wyden
Wynn
Yates

NOES—257

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—22

Baesler
Baldacci
Becerra
Brown (OH)
Clay
Cox
Gallegly
Hall (OH)
Hilliard
Jefferson
LaTourette
Menendez
Moakley
Moran
Rogers
Ros-Lehtinen
Saxton
Stark
Thompson
Waters
Wise
Wolf

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Mr. REED and Mr. POMEROY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. HANSEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 655) to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes, pursuant to House Resolution 136, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

(By unanimous consent, Mr. SOLOMON was allowed to speak out of order.)

ANNOUNCEMENT BY CHAIRMAN OF COMMITTEE ON RULES REGARDING H.R. 961, CLEAN WATER ACT AMENDMENTS OF 1995

Mr. SOLOMON. Mr. Speaker, I ask to address the House to make an announcement.

Next Tuesday, May 9, the Rules Committee will be meeting to consider a rule for H.R. 961, the Clean Water Act Amendments of 1995.

Members should be aware that this rule may include a provision giving priority in recognition to Members who have caused their amendments to be printed in the amendment section of the CONGRESSIONAL RECORD prior to their consideration. In this case, the preprinting of amendments is optional.

Since the bill is expected to be considered on the House floor on Wednesday, May 10, Members should try to have their amendments printed in the CONGRESSIONAL RECORD by Tuesday, May 9. Amendments to be preprinted should be signed by the Member, and submitted at the Speaker's table.

Members should use the Office of the Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House. It is not necessary to submit amendments to the Rules Committee or to testify.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to authorize basic research, development, and demonstration on hydrogen as a fuel, and for other purposes.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FATTAH. Mr. Speaker, I was unavoidably absent from the vote when rollcall No. 304 and rollcall No. 306 were taken. I would have voted in the affirmative in both matters if I had been present.

FURTHER APPOINTMENT OF CONFEREE ON H.R. 1158, EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR ADDITIONAL DISASTER ASSISTANCE AND MAKING RESCISSIONS FOR FISCAL YEAR 1995

The SPEAKER pro tempore. Pursuant to the authority of the Speaker under clause 6–F of rule 10, without objection, the Chair appoints the gentleman from California [Mr. PACKARD] as a manager on the part of the House in the committee of conference on H.R. 1158.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferee.

COMMUNICATION FROM THE HONORABLE FRANK TEJEDA, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable FRANK TEJEDA, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 11, 1995.

Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. SPEAKER: I write to notify you formally pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the District Court of the State of Texas. After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

FRANK TEJEDA,
Member of Congress.

FAITH IN CONGRESS RESTORED

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, for the past 3 weeks, I have been traveling around my district and the one message my constituents relayed was by keeping our promises through the Contract With America, the Republican majority is working to restore the long, lost faith the American people have in Congress.

This message is clearly reflected in the recent Wall Street Journal poll. For the first time in this poll's history, a majority of Americans approve of the job Congress is doing. In fact, just last September, this same poll showed two-thirds of the American people disapproving of the liberal Democrat Congress that preceded us.

Mr. Speaker, the message is ringing loud and clear: The Republican majority has led to a different Congress. Through hard work we have proved that politicians can keep their promises. My constituents tell me they like what they see, and I will continue to make sure that we stay on the same track and keep our promises.

Mr. Speaker, I include the Wall Street Journal poll for the RECORD.

[From the Wall Street Journal, April 28, 1995]

WASHINGTON WIRE—A SPECIAL WEEKLY REPORT FROM THE WALL STREET JOURNAL'S CAPITAL BUREAU

(By Ronald G. Shafer)

Clinton shows renewed political muscle in the Oklahoma City aftermath.

Buoyed at least temporarily by his handling of the bombing, he edges Dole in a 1996 matchup in a new Wall Street Journal/NBC News poll, a reversal from recent surveys. He is preferred handily over Gramm or Wilson. The gap over Dole widens slightly when Perot or Powell are added as independents; they cut into GOP support more than Democratic.

Clinton scraps plans to discuss Russia in a Sunday speech. Instead he will highlight two perceived policy strengths by linking his new crusade against terrorism and longstanding efforts toward Mideast peace. On Monday, he will help kick off a $10 million drive by Emily's List, a women's political group, to get Democratic women to the polls in 1996.

Gender gap: In their matchup, Clinton gets a 14-percentage point edge among women, while Dole has an 11-point edge among men.

Dole holds firm as the GOP front-runner as Gramm fails to catch fire.

Dole is favored by 58% of Republicans and strict independents as the GOP presidential hopeful, far ahead of No. 2 Gramm at 14%. If Powell is added as a GOP choice, he surpasses Gramm as second behind Dole. The public shows a strong interest in independent candidates, with over a quarter of those polled picking such alternatives when offered the choice in matchups.

Some GOP social conservatives, disillusioned that Gramm doesn't give more attention to their issues and distrustful of Dole, consider endorsing Buchanan. The Alexander campaign, trying to rub in Gramm's difficulties, sends the Texan's campaign an express package consisting of a life preserver labeled: USS Gramm.

The GOP Congress wins high marks, but backing on issues is shaky.

For the first time ever in the poll, a majority of Americans—47% to 40%—approves of the job Congress is doing; by contrast, two-thirds disapproved last September. House Speaker Gingrich wins 45%–36% approval, reversing previous negative views. The public cites Gingrich's positions on issues as his best attribute—but about as many disagree with his views as agree.

The favorable ratings may temporarily reflect the GOP House's first 100 days, says Democrat Peter Hart, who conducted the poll with Republican Robert Teeter. Americans by 48% to 37% think Republicans will go too far on welfare overhaul. By 47% to 43% they favor government education and training programs to aid inner cities over private initiatives as pushed by the GOP.

Combating street crime and violence is the issue that needs the greatest attention from the federal government, the public says.

Dole's age: While 65% of the public don't think the 71-year-old senator's age would affect his ability to be president, just 18% prefer a candidate from the World War II generation and only 1% think the 70s is the best age for a president. Two in five older Americans feel Dole would be less able to handle the presidency.

Moscow mission: Aides seek ways to promote Clinton's May trip to Russia at a time when relations are cooling. One idea: Clinton writes a letter to leading columnists explaining the bigger issues at stake, like nuclear disarmament. Some 46% of the public approves of his handling of foreign policy, up from 37% last month.

Vietnam revisited: Americans by 70% to 22% think the U.S. made a mistake in sending troops to fight in Vietnam. Those who think so are evenly divided over whether it was a well-intentioned mistake or fundamentally wrong and immoral.

Shaky confidence? Despite a surge of optimism picked up by some other polls, only 24% of those in this survey expect the economy to get better over the next year. That is down sharply from 31% at the end of last year and the lowest reading since October 1993.

Tax overhaul? Yes. Flat tax? Not so fast.

Two-thirds of poll respondents say the current income-tax system is unfair. And 51%

back a "complete overhaul," up from 37% last July, a sign that the tax-reform debate resonates with the public. But by a three-to-two margin, the public favors graduated rates to a single flat rate; even self-identified Republicans do so.

Some Clinton aides predict the GOP tax-overhaul push could go the way of the president's health-care plan: Applause for the motives and unceasing complaints from likely losers. The administration tries to attack GOP proposals without appearing to defend the status quo. One possibility: A push for simplification.

The public strongly prefers taxing wage and investment income equally; the GOP favors lower taxes on investment income to encourage saving.

Minor memos: Foul mood: Only 40% of Americans call themselves Major League baseball fans, down sharply from 56% in July before the baseball strike with a big drop among young adults. * * * Was Sen. D'Amato polled? The public by 31% to 25% has a positive view of Simpson trial Judge Lance Ito, while 26% are judiciously neutral.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IN HONOR OF SENATOR JOHN C. STENNIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, former Mississippi Senator John C. Stennis died on April 23 at the age of 93. He retired from the Senate in 1989. In the passage of time, we sometimes forget events and accomplishments, but we will not forget Senator Stennis.

History will record Senator Stennis as one of the great statesmen of the 20th century. He was so well respected in Washington as a southern gentleman and as a man of unquestioned integrity and character. But along with his courtly southern manner, Senator Stennis was an effective leader who was tough when it came to maintaining a strong national defense and in looking out for his native State. Through more than 40 years in the Nation's Capital, his first priority was to put Mississippi first.

The legacy of John Stennis can be seen throughout the State of Mississippi, from the Tennessee-Tombigbee Waterway in the north, to Meridian's Naval Air Station to the Stennis Space Center on the gulf coast. At points in between, he was responsible for bringing Federal funds for water systems and economic development projects that helped improve the lives of his fellow Mississippians.

As chairman of the Senate Armed Services Committee, he felt the United States should always deal from a position of military strength. He worked hard to see that our fighting men and women, both in the active forces and the National Guard and Reserve, had the equipment and training they needed to do the job.

In honor of Senator Stennis' commitment to the military, Ronald Reagan announced during his Presidency that the Navy's next aircraft carrier would be named the U.S.S. John C. Stennis. The ship is undergoing sea trials this spring and summer and will be officially commissioned later this year.

Senator Stennis always called me "his congressman" since I represented his hometown of De Kalb in Kemper County. It was a great honor to serve as his Congressman for 28 years and his colleague for 23. He was a remarkable man whose legacy will live on, here in Washington and in his beloved Mississippi.

OKLAHOMA CITY BOMBING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GREEN] is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today on a note of sadness because this is our first full day of being in session, but on April 19, Oklahoma City was awakened by a bomb blast which killed both children and people either working or doing business in the Murrah Federal Building.

Oklahoma City along with the Nation rushed to the help of a neighbor, including some of my constituents from Texas.

The terrorist bomb ripped at the foundation of the Federal building and ripped at the fabric of our society.

The Federal building was targeted for what are now unknown reasons, but at this point there is all sorts of conjecture, but whatever the reason is, some people were killed and injured.

At times, the rhetoric of hate and distrust paints a picture of faceless bureaucrats, but the people in that building were hardworking people and children playing in that day-care center, and there were people literally waiting there for Federal Government services.

Many Americans, not just in Oklahoma but now all over America, do not feel it is safe that we should allow any terrorists to rip our Nation apart.

The terrorists did not affect the way Americans rush to help other Americans when times are tough, though.

□ 1700

When there is an earthquake or flood or any other natural disaster, we have volunteers running to help. This disaster was not natural, but neighbors still were providing a helping hand. Houston firefighters, along with firefighters from around the Nation, flew to Oklahoma City to assist in the rescue and recovery of victims from the blast. Southwestern Bell provided telecommunications and donation of cash assistance. Petrochemical companies from the Houston area provided assistance.

Providing a helping hand in times of need shows that when times are hard for America, we come together. We come together to show that any terrorist group inside or outside America, that Americans will stand together and there is nothing that can stop them.

If that message has done nothing else than to go forth from these halls of Congress, I would hope that the perpetrator and whoever is found guilty, that they recognize that Americans, we do come together, and we stand together on this tragedy.

ARSON AWARENESS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to call attention to this week and the importance nationally in focusing on the problem of arson.

Earlier today, Mr. Speaker, in cooperation with our Oklahoma colleagues, I joined in support of a resolution condemning the action in Oklahoma City and on focusing on the need to further highlight this country's preparedness and ability to deal with explosions and disasters and especially those caused by terrorism.

Mr. Speaker, on May 1 through May 8 is Arson Awareness Week nationwide, and this week is a time each year that we take out to focus on one particular type of tragedy that occurs on a recurring basis throughout the year.

Unfortunately, in this country we tend to only focus on problems of disasters, when a major disaster occurs, such as the World Trade Center bombing, and most recently the Oklahoma City bombing.

But, Mr. Speaker, arson fires and arson deaths occur every day of the year in this country and are becoming a major problem in terms of both loss of life and property. As a matter of fact, Mr. Speaker, arson annually causes about $2 billion worth of property loss, and that does not include the amount of extraordinary damage caused by the emotional effects, indirect losses, indirect financial situations, medical and legal costs, lost wages, business interruption, fire fighting and law enforcement efforts which together exceed the direct losses twofold. So, Mr. Speaker, we are talking about arson presenting a problem to our country and our people that exceeds the $2 billion a year with indirect costs approaching $4 billion a year.

Arson fires account for only 15 percent of building fires in this country but account for more than 30 percent of total dollar loss. In fact, in a more troubling statistic, Mr. Speaker, arson fires account for more than 700 lives lost each year, 700 lives lost from fires directly caused by arson deliberately set either to cover up a crime, to have some profit motive, to gain money from the insurance company, or some other profit ring that would allow those to gain from the crime of arson.

Arson has disrupted educational and manufacturing systems with the destruction of irreplaceable buildings and artifacts. In addition, it has rendered natural resources useless for long periods of time or completely destroyed.

Mr. Speaker, there is some good news. The insurance industry is beginning to crack down on arson as never before. One way they are doing this is by reporting information on suspicious fires to the property insurance loss register, a national data base which police, law enforcement and fire officials use to investigate fires and prosecute arsonists. More and more insurance companies are extending their investigative and their deliberative actions to prosecute arsonists well beyond what was done in the previous decades.

Many insurance companies are also giving more intensive arson detection and training to their property claim adjusters. In addition, company underwriters, the people who decide whether to offer insurance to individuals and businesses, also receive training in recognizing information that could warn that an insurance applicant represents a big arson risk.

On May 19, 1994, almost 1 year ago, President Clinton signed a law, the Arson Prevention Act. Mr. Speaker, this legislation was worked on by colleagues from both sides of the aisle, led by our good friend, the gentleman from Virginia [Mr. BOUCHER]. This legislation does several things to increase awareness of the problem of arson, including increasing the ability of fire departments to identify suspicious and incendiary fires resulting in increased and more effective prosecution of arson cases.

The legislation awards 2-year competition merit-based grants to as many as 10 States for arson research, prevention, and control. The authorization for fiscal year 1994 was almost $5 million, and for fiscal year 1995 $6.25 million.

The legislation also improves arson investigator training courses, leading to professional certification of arson investigators. It also provides resources for the formation of arson task forces, especially needed in our inner cities where arson for profit has become a major problem.

The legislation also supports and develops programs directed at fraud as a cause of arson, juvenile arson, drug and gang related arson, domestic violence connected arson, and civil unrest as a cause of arson.

Finally, the bill provides for development of an advanced course on arson prevention and expansion of arson investigator training programs at the National Fire Academy, the Federal Law Enforcement Training Center and the Federal Bureau of Investigation Academy.

The International Association of Arson Investigators was formed in 1949. It is the most broad-based, well-respected organization in this country and the world that focuses on the problem of arson and works to train arson investigators. This organization, with over 8,000 members, was established to unite for mutual benefit those public officials and private persons engaged in the control of arson and kindred crimes.

In addition, the National Fire Protection Association is currently developing a manual for fire investigation that will aid in the process of training these investigators.

Mr. Speaker, I rise to pay tribute to those brave men and women who day in and day out are fighting this ongoing problem in America, a problem that is affecting our economy and that is taking approximately 700 lives each year. I pay tribute especially to those brave arson investigators, those law enforcement personnel who are handling situations in all of our cities and counties dealing with the terrible tragedy of arson loss in this country.

LEGISLATION REGARDING EVASION OF TAX LAWS BY RENOUNCING CITIZENSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GIBBONS] is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, today, along with my colleagues Messrs. GEPHARDT, BONIOR, FAZIO, RANGEL, STARK, JACOBS, FORD, MATSUI, Mrs. KENNELLY, Messrs. COYNE, LEVIN, CARDIN, MCDERMOTT, KLECZKA, LEWIS, NEAL, PAYNE, and FROST, I am introducing legislation to prevent the evasion of our tax laws by individuals who renounce their American citizenship.

This legislation is identical to the bill S. 700, introduced on April 6, 1995, by Senator MOYNIHAN. Senator MOYNIHAN should be commended for his leadership on this issue and for his efforts to respond to the technical concerns raised by those opposing this legislation. I must wholeheartedly agree with Senator MOYNIHAN's introductory comments that these technical concerns could have been resolved "if those criticizing the provision's technical aspects put even half as much effort into devising solutions as highlighting shortcomings."

Mr. Speaker, this bill is similar to the provision which was included in the House Democratic amendment which was defeated when the House considered H.R. 831. In addition, this proposal was included in the Senate amendment to H.R. 831. In addition, this proposal was included in the Senate amendment to H.R. 831. It would tax the unrealized appreciation in assets held by individuals who expatriate. The bill contains generous exemptions to limit its applicability to only the extremely wealthy. This bill contains several technical modifications from those earlier proposals, which I would like to quickly summarize to demonstrate our willingness to respond to legitimate concerns regarding this issue.

Unlike the provision contained in the earlier amendments, this bill would also apply in cases where long-term residents of the United States cease to be taxed as residents. This change is in response to the argument that the earlier amendments were unfair in that they applied only to citizens and did not also apply to residents who are taxed in the same manner as citizens.

During House consideration of H.R. 831, there were arguments about potential double taxation. This bill I am introducing today responds to those arguments by providing that, if a foreign person becomes a resident or citizen of this country, the basis of all of that person's assets would be stepped up to their fair market value at the time the person becomes subject to our tax system. Therefore, the bill creates parallel treatment under which appreciation accruing before an individual becomes subject to our taxes would be exempt from our taxes and tax on appreciation accruing while an individual is subject to our tax laws could not easily be avoided.

The bill also responds to the argument that triggering the tax on expatriation would be an acceleration of the tax that would otherwise have occurred. The bill provides that each taxpayer would be allowed to irrevocably elect on an asset-by-asset basis to continue to be taxed as a U.S. citizen with respect to assets designated by the taxpayer.

The bill also makes modifications to the administration of the tax by requiring expatriates to file a return within 90 days of their expatriation and to pay a tentative tax.

Mr. Speaker, we had a long and heated debate on this issue in April and I do not wish to repeat that entire discussion today. However, there are several matters upon which I feel compelled to comment.

Opponents of this provision made much of their concern over human rights obligations under international laws. Senator MOYNIHAN has quite nicely analyzed these arguments in his introductory statement. I do not intend to repeat that analysis but I do want to agree strongly with his conclusion that the growing consensus of opinion is that this provision does not violate any legitimate human rights concern. For me, the human rights argument was never very persuasive. These individuals are not renouncing their American citizenship because of any fundamental disagreement with our political or economic system. They simply refuse to contribute to the common good in a country where the political and economic system has benefited them enormously. Some individuals went so far as to compare the plight of these wealthy expatriates to the plight of the persecuted Jews attempting to flee Russia. I can only say that I agree strongly with the leaders of the National Jewish Democratic Council who have described this argument as "nothing short of obscene."

In the last weeks of April, some of my Republican colleagues accused me of engaging in class warfare because of my attempts to ensure that these extraordinarily wealthy individuals cannot avoid our tax system by the despicable act of renouncing their citizenship. During the welfare reform debate, Republic Members of this House compared welfare recipients to "wolves" and "alligators" and engaged in crude stereotyping of welfare recipients by referring to "studs" outside their homes. The Republican welfare bill took billions away from the poorest of our citizens to be used to fund a tax bill that even the Wall Street Journal described as a "windfall for the well off."

None of this was considered class warfare by Republican members of this House. However, when Democratic Members suggest that billionaires should not be able to avoid the same taxes that middle-income taxpayers are required to pay, some Republicans consider that class warfare. The difference between the two parties could not be clearer.

Finally, I would like to make it clear that the effective date in the bill I am introducing today is February 6, 1995, and that I will continue to insist that February 6, 1995, be the effective date for any subsequent legislation to end this loophole. The Democratic Members of this House will insist on this effective date, and the fact that a different effective date was contained in a motion to recommit on the recent tax bill should be disregarded. That different effective date was chosen merely because the minority leader was informed that the motion to recommit would otherwise have been subject to a point of order. Had the Republicans lived up to their promise to consider tax bills under open procedures, the minority leader would not have been forced to use that different effective date.

From the press, we already know the name of at least one wealthy American, and heir to the Starkist Tuna fortune, who renounced U.S. citizenship after February 6 of this year and, therefore, could benefit from a delay in the effective date of this legislation. We also know that other powerful lobbyists are representing families, such as the Getty family, in an attempt to delay this provision. We must guarantee that the efforts of these lobbyists will be unsuccessful.

Mr. Speaker, I wish this legislation had been enacted earlier. I believe the privileged few who amass great fortunes under our laws and then renounce their citizenship to avoid tax here should be asked to pay their fair share. Those who have sought to protect these few extraordinarily wealthy individuals may have won the early skirmishes in this battle for fairness. But introduction of this bill is a signal that we who care about fairness will not give up until we win the war.

COMMEMORATING THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. KENNEDY] is recognized for 5 minutes.

Mr. KENNEDY of Rhode Island. Mr. Speaker, today I rise to support the commemoration of the 80th anniversary of the Armenian genocide. For the thousands of Rhode Islanders from my district of Armenian descent who lost family members in this genocide, today is a particularly somber day.

But whether you are of Armenian descent or not, this day would be even more tragic if we did not remember. There is a quote that I think is particularly important today, and it goes as this:

> First, they came for the socialists, and I did not speak out because I was not a socialist. Then they came for the trade unionists, and I did not speak out because I was not a trade unionist. Then they came for the Jews, and I did not speak out because I was not a Jew. Then they came for me, and there was no one left to speak for me.

This quote is telling, because it can be said as much for the Armenian genocide as the Jewish Holocaust. In fact, it has not been lost on historians of this century that the failure to recognize the Armenian genocide for what it was made it easier, not harder, for evil minds like Hitler to believe that they could do the same.

Today, we in Congress are solemnly observing the tragedy of the Armenian genocide not only to honor the memory of those who died but, in doing so, to ensure that such horrors will never occur again.

EXPRESSING SUPPORT FOR DR. HENRY FOSTER, SURGEON GENERAL NOMINEE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, "unassuming, focused, compassionate, a consensus builder, a fine physician." Mr. Speaker, these are the words that people in Nashville—the people who know him best—use to describe Dr. Henry Foster, the nominee for U.S. Surgeon General.

When President Clinton was considering nominees for this post, he said that he was looking for someone who is qualified as a top-flight medical professional, a strong leader, and an effective communicator. Dr. Henry Foster is such a person. Unfortunately, though, a controversy has loomed surrounding his confirmation. Along with many other medical procedures, Dr. Foster has administered abortions during his 30-year medical career in the field of obstetrics and gynecology. For this, some would deny him the opportunity to serve as the "Nation's Doctor."

This debate will continue to be superficial until we move beyond the scratched surface. A Tuskegee, AL, woman would tell her story to the Charlotte Observer:

> Jeannette Hight was 3½ months pregnant when she began bleeding in the middle of the night. Frantic, she called her obstetrician at home. With her doctor's careful help, Hight averted a miscarriage. That was more than 25 years ago. The Doctor was Henry Foster. Hight wants the nation to know that the man who saved the life of her only son is no "abortion doctor." She remembers Foster as a compassionate man committed to ushering in new life. She says, "What I've heard is a one-sided story. I haven't heard anything about all the lives that came into this world because of him. He is a man of great integrity."

Another Tuskegee woman told a different story of her memorable experience with Dr. Foster, printed in the U.S. News & World Report:

> Joyce Carter German was a college junior, married and pregnant for a second time. She wanted an abortion. Foster refused. "This is not the right choice," he told her. The baby "is a blessing to you." German is now a medical technician; her daughter is in graduate school. She is glad Foster said no, and like others, she is puzzled that his fate may hang on how many abortions he has performed.

It is so terribly unfortunate that the work Dr. Foster has done over the years to prevent teenage pregnancy through his "I Have a Future" Program is being ignored by those who would rather focus on the number of abortions he has performed. In his own words in a Washington Post Op-Ed piece, Dr. Foster said, "It's ironic that my work fighting teenage pregnancy has been overshadowed by my opponents' talk about abortion. I do believe in the right of a woman to choose. And I also support the President's belief that abortion should be safe, legal, and rare. But my life's work has been dedicated to making sure that young people don't have to face the choice of having abortions."

Let us not muddy the waters of this confirmation process with partisan bickering and selective research. I urge my colleagues in the other Chamber not to fall victim to the empty rhetoric designed to deny Dr. Foster's confirmation as the U.S. Surgeon General. Doing so would only serve to make the Senate confirmation process less credible to an already suspicious public. I urge the Senate to review Dr. Foster's complete record. Learn who Dr. Foster really is.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members should be advised to avoid comments regarding the confirmation process in the Senate.

TRIBUTE TO ALL CIVIL SERVANTS INVOLVED IN THE OKLAHOMA CITY TRAGEDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I am pleased to be here with my colleagues to pay tribute to all of the civil servants involved in the Oklahoma City tragedy.

I had an opportunity of speaking earlier today as we passed the resolution expressing our outrage and our deep sympathy for that which happened in Oklahoma City during the last 2 weeks.

□ 1715

More than 550 Federal workers worked in the Alfred P. Murrah Federal building in Oklahoma City which, like Federal buildings across our Nation, provided an array of services to citizens in the region surrounding Oklahoma City.

It has long been my view that Federal workers are one of our Nation's greatest assets.

As President Lyndon Johnson once noted:

> So very much of what we are as a Nation—and what we are to achieve as a people—depends upon the calibre and character of the Federal career people. In no other endeavor can you more directly serve our country's cause—or the values on which we stand—than in the public service.

We lost many of these fine men and women last month and I want to extend my heartfelt sympathies to all of their families, friends, their coworkers, their neighbors, and those they serve.

I had hoped to be speaking this week in celebration of public service recognition week, that special week each year when we recognize the enormous contributions made by public employees not just the Federal level, but at all levels of Government.

On Thursday, Friday, and Saturday, the mall will be filled with displays that show all that is right with our government. Members, their staffs, and the general public will have an opportunity to see demonstrations and displays from virtually every agency.

Typically, this is a happy week, one in which we celebrate the many things that are right with our civil service which, regretfully, so many are so quick to criticize.

This year, however, there is a heavy cloud over the celebration. As we wander through the exhibits our thoughts will turn frequently to those we lost in Oklahoma City:

Like Julie Welch, a 23-year-old graduate of Marquette University in Milwaukee who was preparing to marry an Air Force lieutenant. She helped Spanish-speaking clients at the Social Security Administration's Office.

Or like Rick Tomlin, a special agent with the Department of Transportation, who had celebrated his silver wedding anniversary in February. He and his wife, Tina, have two sons.

Or Kenneth McCullough, an Army veteran who worked for the Drug Enforcement Agency. He won't be with us to see his son and daughter grow up.

Or Randolph Guzman, a 28-year-old proud member of the U.S. Marines.

Mr. Speaker, these are just a few of the fine people whose lives were senselessly wiped out by the act of a deranged, demented, evil person, or perhaps persons. These are not nameless, faceless bureaucrats, and, Mr. Speaker, let me be very blunt. I get angry, angry at those who denigrate our civil servants. Every time we need budget savings, we go after the civil servants. Every time we need a scapegoat for the failure of this body to address important issues, we blame the civil service. That is not fair.

Yes, there are nonperformers, just like there are at corporations and factories across our country.

But, Mr. Speaker, the great majority of these men and women are Americans with a deep love for their Nation who oftentimes have bypassed more lucrative careers to serve their fellow citizens.

So it is my hope that the politicians and the reporters and the televisions folks and all the other self-proclaimed critics will revisit their attitude about the civil service.

We will never forget this terrible tragedy in Oklahoma. If any good can come of this most disturbing situation, I hope that it will be a new found respect for public servants.

We owe it to those who perished in the explosion, to those incredible FBI and ATF agents whose expertise has led to early successes in the investigation, and to every Federal, State, and local official who has worked tirelessly on the scene to aid their fellow Americans.

Mr. Speaker, I think the Federal Times said it well in their special issue released this morning. In dedicating the issue to those who gave their lives in Oklahoma City, the editors note:

> Many survivors of the blast became heroes as we learned of their extraordinary efforts to rescue others.
>
> Many of the dead and missing are heroes, too, though we may never learn their stories. They are heroes of everyday life: good parents, co-workers you could count on, people willing to go the extra mile.

Mr. Speaker, as we celebrate Public Service Recognition Week, let us all remember that our Nation is blessed with heroes in the Federal office building not only in Oklahoma City but in Federal buildings across this great land, and, yes, I would urge my friends and colleagues: "Yes, you get angry at the IRS; yes, you may get angry at law enforcement offices, but do not allow that anger to be directed at individuals. Let it be directed at policy. Let us be a civil society."

Mr. MFUME. Mr. Speaker, I want to thank Congressman HOYER for taking the time today to call this special order to discuss Federal employees. In light of the recent bombing in Oklahoma City, I feel it is important that we take the time to reassure the Federal employees in Oklahoma, as well as throughout this Nation, that the vast majority of Americans recognize their contribution to this Nation and respect them for their efforts.

We are all shocked, as we should be, any time innocent lives are taken. Yet the magnitude of the devastation in Oklahoma City, as well as the massive number of innocent lives that were lost, has left many of us shaken to the core.

The fact that the target of the bombing appears to be Federal employees makes this act even more reprehensive and repulsive to me. As many of my colleagues know, I represent roughly 35,000 Federal employees, many of whom are not just my constituents, but also my neighbors and my friends.

It is my experience that Federal employees deserve our gratitude, they deserve our admiration, and they deserve our respect. They do not deserve to be terrorized.

As most Americans know, Federal employees play an integral, albeit often invisible, role in our daily lives. Federal employees make sure that our senior citizens get their monthly Social Security checks and that our veterans get the care and treatment they need. Federal employees are responsible for printing our money and insuring it when we make deposits at a bank. Federal employees protect our borders and make sure the food we eat is safe. In short, Federal employees spend their days and often their nights making sure that our Government performs its duties.

Furthermore, the American civil servant is perhaps the best Federal employee in the world. All one needs to do is travel abroad to see that American Federal employees are second to none in terms of their devotion to the job, their initiative, and their belief that they are serving their communities as well as their Nation.

In light of the Oklahoma City bombing, security at many Federal buildings across the Nation has been tightened. While this may prove to be a minor inconvenience to some employees as well as other Americans who may be visiting the buildings, it is worth it even if it only provides peace of mind.

As I said earlier in my statement, Federal employees often perform thankless tasks that many of us take for granted. Despite their consistent performances, however, there are some in Congress who have insisted on using Federal employees as tools to try to balance the budget.

In the past few years we have seen attacks on Federal employees' cost-of-living adjustments, their thrift savings plans, and their retirement age. Just recently the Republican Members of the House led a successful attack on the Federal employee pension system. As I said at that time, and I will say it again, they deserve better.

I am glad that we are taking the time today to discuss this tragedy and to let the American people know that the abhorrent behavior of a few irrational people in Oklahoma City is repulsive to us as well as our constituents.

To any Federal employees who may be listening to this special order, I hope that you will listen to what we have been saying: the majority of Americans appreciate what you do for us, and we respect you.

The irony of the attack on Oklahoma City is that according to the reports we have been receiving, the primary suspects refer to themselves as "American patriots." This is offensive, not only to the American public, but especially to the people who, since the bombing, have proven themselves to be the true American patriots.

I submit to you that the true American patriots are the men, women, and children who gave their lives in Oklahoma City, as well as their families whose loss we can only imagine; they are those who ministered to the lucky few who survived; and they are the people who are still trying to dig through the rubble to find any remaining victims.

It is a true American patriot who, in the last 2 weeks, has made it clear that this act of terrorism is not acceptable and will not be tolerated.

GENERAL LEAVE

Mr. HOYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to join in my comments on the subject of my special order this evening.

The SPEAKER pro tempore [Mr. ENSIGN]. Is there objection to the request of the gentleman from Maryland?

There was no objection.

THE OKLAHOMA CITY DISASTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. WYNN] is recognized for 5 minutes.

Mr. WYNN. Mr. Speaker, I come this evening to condemn the senseless and cowardly bombing of the Federal building in Oklahoma City. I join with my colleagues and all of us here in America in expressing our condolences and sympathies to the families of the victims.

On occasions such as this words are certainly inadequate to express both our concern and their pain, so we can only say that we feel the pain, we try to share the pain, but in the final analysis they must bear the pain. And that is very regretful.

But I also come to commend the rescue workers who worked tirelessly, sometimes around the clock, in a rescue attempt to reduce the pain and suffering and to bring out of the rubble the loved ones in Oklahoma City. I want to take a moment to specifically commend a group of rescue workers from my own district in Montgomery County who went down to Oklahoma, as did many other rescue workers from around the country, to lend a hand. In the truest American spirit they did a wonderful job, and I want to thank them one and all.

I also want to join with what I believe is a rising chorus speaking on behalf of Federal workers.

Now I know this is a somewhat sensitive issue, and let me be clear that I am not here to suggest that conservative speech, antigovernment speech, disagreement with Government policy or disagreement with Government bureaucracy was the cause of the bombing in Oklahoma City. That is not my argument. But I rather hope that, if there is any legacy to the people who lost their lives in Oklahoma City, it will be a legacy of respect for Federal employees.

I say to my colleagues, "If you go down the rollcall, you see the employees from all agencies, from Housing and Urban Development, from the Department of Transportation, from Veterans Affairs, from Social Security, from the Bureau of Alcohol, Tobacco and Firearms, from General Services Administration which were all in that building. These are some of the same Federal employees who have been showered with contempt, who have been described as the worst, as Government vultures, as lazy bureaucrats, as worthless Federal employees. These are the same Federal employees whom we have attempted to cut benefits for, the same Federal employees whom we have increased pensions costs on, at least attempted to increase pension costs on, and it seems to me there is a general attitude of hostility toward Federal employees."

Legitimate criticism, of course, is intrinsic to this body; contempt for hardworking Federal employees is not. I would certainly caution my colleagues of both sides of the aisle who may have occasion to be contemptuous of Federal employees and their performance to keep in mind that they do not make the laws. We do. They only try to execute to the best of their ability the laws that we make, and, yes, some do not do as good a job as we would like, and some merit criticism, but certainly the kind of contempt and condemnation that I have heard on the floor of this body is not deserving. These people, as we now know, have families, and young children, and dreams and desires, many of which were snuffed out in Oklahoma City. They are people just like us. Now is not a time for finger pointing. Now is the time for sympathy, for condolences, for words of encouragement.

But I hope there will be a legacy out of all this, a legacy of tolerance for Federal employees, support for Federal employees, a legacy of restraint on the part of Members of this House and on the part of certain Members of the media when addressing the issue of Federal employees because, while these words did not cause the bombing in Oklahoma City, they certainly showed a contempt for Federal employees which they do not deserve. Let us leave the victims of Oklahoma City with a better legacy in the future.

NORTHEASTERN OHIO PLEASED WITH THE CONTRACT WITH AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

Mr. HOKE. Mr. Speaker, we are here after the first 100 days have been completed, and I think most of us have had the experience of going back to our respective districts, and being involved in a number of engagements, and town hall meetings, and the kinds of things that we do in order to try and find out exactly what our constituents are saying about how they feel about what has been done, and I want to report to the Congress that I have had extraordinarily positive feedback from the people of northeastern Ohio regarding what we have called the Contract With America and regarding the direction that they believe that this contract or that this Congress is now taking our highest legislative body in the United States, the direction we are going and the direction we are trying to pursue for the people of America.

And what I hear from my constituents is that they could not be happier, they could not be more pleased, that they finally feel that they have in the Congress of the United States men and women who are willing to actually commit to what they said that they would do, that this whole notion of keeping a promise regardless of what the promise happens to be, even the fact of making a promise and keeping it as a group of elected officials elevates that group of elected officials from politicians who, as Winston Churchill observed, are defined by being concerned about the next election to a level of being statesmen; that is, people who are concerned about the next generation, and I cannot tell you how much positive feedback I have gotten from the men and women of northeastern Ohio, the west side of Cleveland and western Cuyahoga County regarding the efforts we have made and the efforts to make Government smaller, to make it more responsible, to reduce taxes, to reduce the burden of Government on the people, and to try and bring that burden of Government to its closest and its most local area. That is the local communities.

□ 1730

If you think back to George Washington's time, what was it that George Washington believed in with respect to the House of Representatives? He thought of districts not in the sense that we think of today, where we have 572,000 people in each district on average, at least in the State of Ohio. It varies a little bit from State to State. But he thought of districts as neighborhoods, that neighborhoods were in fact the building block of the House of Representatives.

Well, that is when we had a fraction of the number of people living in this country that we have today. But it was a remarkable thing that he would observe that we should be as neighbors and act that way.

Well, that is how we should act in the House of Representatives, and we have a tremendous challenge coming before us in the next 3 or 4 months, and that is the challenge of delivering a budget to be voted upon by this House and then to be signed into law by the President of the United States.

The fact is that that is going to be a tough fight and a tough battle, because in making a budget, what we do, just as a family does, just as an institution does, just as a company does, our country will be redefining, or defining and redefining its values, because it is through the budget process that we truly do define what we believe in, what our priorities are, what is most important and what our values are as a Nation.

That is exactly what we will be doing. That is why the budget process is so important, not just because it spends money, not just because of the way it describes the appropriations bills, but in fact because what we do is we tell the American people, we tell ourselves, exactly what it is that we value as a people and what direction we are going to be going in.

I can tell you as a member of the Committee on the Budget, the direction we are going to be going in is we are going to, in fact, have a balanced budget after a 7-year period. We have committed to it; we have worked on it all last week. We were here when the rest of the House was still in recess; we came back early; and we will, in fact, deliver for the American people a balanced budget after a 7-year period.

It is tough sledding, it takes a tremendous amount of work, and it takes a tremendous amount of decision making in terms of making the tough choices and making the hard decisions. But that is what we have been working on, that is what we will continue to work on. We are going to Leesburg, VA, to a conference, and then we will present through hearings and ultimately at the end of May for a vote in early June, a budget resolution which will show the American people just exactly how we can get to a balanced budget after 7 years.

TRIBUTE TO FEDERAL EMPLOYEES

The SPEAKER pro tempore (Mr. ENSIGN). Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, it's been nearly 2 weeks since a terrorist's bomb ripped a hole in the Murrah Federal Building and ripped a hole in the heart of the Nation. The images of bloodied children being carried from the rubble will stain our collective memory for a long time to come. How could it happen here, we asked.

Through media reports, we have come to know the children who were so brutally murdered—we know their names and faces—Baylee Almon, Colton and Chase Smith, Aaron and Elijah Coverdale and Ashley Eckles. They have become our children, too.

And, we have learned about other victims of the bombing, as well. We know that more than 500 people who were working in the Murrah Building on that awful day were federal employees. Many were killed. Federal employees were at the Social Security Administration, helping seniors in their retirement; they were there at the Housing and Urban Development Office, helping families find affordable housing; they were there at the BATF and the Secret Service helping to enforce our laws and protect our people.

To understand the scale of this tragedy, one need only to talk to employees at the Department of Housing and Urban Development, which had approximately 90 workers in the building at the time of the attack and suffered the greatest loss of life. At last report, 32 HUD workers have been pronounced dead, two are hospitalized and another 3 are still missing.

To understand the scale of this tragedy, talk to employees at the U.S. Secret Service. All six of their employees assigned to Oklahoma City are now gone: Mickey Maroney, Alan Whicher, Kathy Seidl, Donald Leonard, Cynthia Brown and Linda McKinney. Together they leave behind 6 spouses, 6 parents and 11 children.

Too often, we in this Nation, and, in particular, in this body, have been guilty of forgetting who these people are—they are not nameless, faceless bureaucrats. They are husbands and wives, brothers and sisters, and they are parents.

One of the 32 HUD employees who did not survive the Oklahoma blast was Lanny Scroggins. Lanny was a decorated Vietnam veteran who spent the last 23 years as a Federal employee, helping others. How is it that Lanny Scroggins could survive the jungles of Southeast Asia, but be taken by a terrorist's bomb while at work in America's heartland? No one has the answer.

But, while Federal employees were the victims in Oklahoma City, they were also the heroes: Federal employees from FEMA pulled survivors from the wreckage and helped feed the hundreds of rescue workers.

Federal employees from the FBI, BATF and Secret Service launched a swift and sweeping investigation that brought the primary suspect into custody within hours of the explosion.

But Federal employees are heroes every day. Every day they work to take care of our seniors, to house our poor, to enforce our laws, to bring food, shelter and clothing to those stricken by natural disasters and manmade atrocities, like the one in Oklahoma City.

And, yet, for these heroes there are no Congressional Medals; no parades down Main Street; no statues in town square. Instead, these heroes too often are belittled as bureaucrats. In debate on this House floor, Federal employees have been the target of overblown political rhetoric, on both sides of the aisle.

We don't know what impact our words have on deranged individuals or the lunatic fringe groups we've read so much about over the past few weeks. We do not know. Wouldn't it be best to err on the side of caution? Let's not rely on others to do the right thing, let us do the right thing and leave nothing to chance.

Make no mistake, there are groups in this country who are waging a war against Federal law enforcement. For many of these fringe groups, law enforcement has become the enemy. They are not "jack-booted Government thugs," as the National Rifle Association asserts. And they deserve better than to have voices of hate on our airwaves advising listeners about "shooting them in the head."

We need to have congressional hearings in the wake of the Oklahoma bombing on the increasing threats against Federal employees. By doing so, we don't politicize a tragedy. Rather, we live up to our responsibilities to address this tragedy and make sure it doesn't happen again.

And, we also need to look at the words we use. All of us in this body want to cut the size of the Federal Government. But our goal in reducing the size of Government should be to make it work better for people. We should be able to make those arguments based on the facts, without demonizing Federal employees—without belittling their contributions.

The Federal employees who were killed in Oklahoma City dedicated their lives to serving us. Now we should serve their memory by standing up to the forces that seek to divide us with words of hate.

DISTRICT APPROVAL OF FIRST 100 DAYS OF 104TH CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Iowa [Mr. LATHAM] is recognized for 60 minutes as the designee of the majority leader.

Mr. LATHAM. Mr. Speaker, I would just like to take the opportunity tonight to reflect a little bit as to what we heard back on recess. I personally, in my district in northwest Iowa, which is primarily agricultural, held 16 town meetings and attended four agricultural hearings. And, Mr. Speaker, I will tell you, the people in the Fifth Congressional District of Iowa are 100 percent behind what we did in the first 100 days in the new 104th Congress.

People told me to keep going, do not give up the fight, continue the ideas and the motivation behind the Contract With America. They were very, very pleased to hear what we did on the very first day as far as reforming this Congress itself, how we do business, cutting the number of people in committee staff, cutting the number of committees, limiting the terms of the chairs of the committees and subcommittees, limiting the term of the Speaker himself, and, most importantly, on the very first day when we passed the Shays-Grassley Act, it held Congress subject to the same laws that the rest of the country has to abide by.

Also, we received tremendous support at every meeting for the items in the contract itself, when you talk about the balanced budget amendment, the welfare reform, doing away with the outrageous regulations that we have had in the past few years, having the first vote forever in this body on term limits, something that people have tried for years and years and it was never allowed to happen before.

But, again, Mr. Speaker, the people in the Fifth District of Iowa told me to continue the fight. They believe that it is a refreshing wind blowing through Washington when you have a group of people who go to Washington and work very, very hard to make real change and reform, and, most importantly, to keep their word as to what they said during the campaign. It is a major change. People are responding. People do not believe the liberal pledge that they are getting from Washington. They know the facts.

I have another gentleman here, would you like to comment, the gentleman from Georgia?

Mr. CHAMBLISS. Mr. Speaker, I thank the gentleman.

I, too, have a district which is somewhat similar to the gentleman's. My district, which is in the very heart of the State of Georgia, stretches from the middle of the State all the way to the Florida line. I have three military installations in my district, two Air Force bases and a Marine Corps logistics base, and the balance of my district is made up primarily of agriculture and agribusiness industry as well as some heavy manufacturing industry.

You know, we cover 32 counties in my district, and I did not get to all of them during the 3 weeks, but I got to most of them. I had a representative at some 15 town hall meetings that we did and another probably eight or nine civic club speeches that we gave. And everywhere we went, I heard the same echo of what you have just said, and that is we appreciate what you folks did during the first 100 days. We are proud to see that Congress has finally done something in the first place, but, more importantly, has done what it said it was going to do.

I talked a lot about the fact that on September 27 of last year, we on the Republican side of the aisle made history in American politics. We not only made promises to the American people, but we were willing to put those promises in writing. For the first time in a long time, a group of politicians, the first time ever in American political history, a group of politicians came together and made promises to the American people and did every single thing we said we were going to do. And I kept hearing that over and over again in my district, not only that you made those promises and we are proud you kept them, but also, like you said, we do not want you to quit doing what you did. You have made a great start, but in order to get this country turned around, we have got to keep putting common sense back into Washington. Something that has long been missing up here. By doing what we did, we put a lot of common sense back into Washington, and I made a pledge to my folks in the Eighth District of Georgia that we are going to continue to do that.

There were a couple of things that were of particular importance to the folks in my district. No. 1 was the balanced budget amendment. They were extremely disappointed that the Senate was unable to pass the balanced budget amendment, which is so crucial to the financial stability of this country. Congress over the past 25 years has shown it cannot balance the budget itself, and the people of this country demanded that a balanced budget be passed, and unfortunately we were not able to do that. But they have encouragement because of the fact that we in the Republican Conference have made an unconditional pledge that we are going to balance the budget of this country by the year 2002. While the folks in my district do not like to have their programs cut, nobody does, the folks in my district are willing to share in the reforms that have got to be made in order to get this country back on track and in order to get to that glide path to a balanced budget and in order to ultimately balance that budget by the year 2002.

The other program that is extremely important to the folks in my district was the welfare reform bill we passed here in the first 100 days. I think, and the folks in my district absolutely wholeheartedly agree with me, that that is the cornerstone of the contract, and that is the most important thing that we did during the first 100 days. We have too many people in this country who need to go to work, who would go to work if work were available and if they did not have the incentive to stay on welfare, and folks out there are absolutely tired of the failed and dismal welfare system that we have in this country.

☐ 1745

They were really pleased and encouraged by the fact that finally a group of Congressmen were willing to stand up and say, by golly, we are going to reform this program, and we are going to put dignity back in the welfare system. And we are going to require those folks who can work that are on welfare, that are getting food stamps, to go to work. And the blue-collar folks out there, the white-collar folks, all the way up and down the line, the folks who work hard every week and pay taxes every week are simply tired of that system, and they were extremely encouraged by what we did with our welfare reform package.

And I made another promise to them, that we are going to continue to work on that type of reform in this Congress.

Mr. LATHAM. I yield to the gentleman from San Diego [Mr. BILBRAY].

Mr. BILBRAY. Thank you very much. I represent the 49th District of California. It is a beautiful district that stretches from my home town in Pearl Beach on the Mexican border up north to the beautiful wooded hills of La Jolla, from the communities of Ocean Beach and Pacific Beach on the blue Pacific to the foot hills of the Sierra Nevadas, what we call the San Diego foot hills.

And I was greeted by citizens at every community that we were visiting, very, very encouraged with the factors that my colleagues have said, that there was some credibility given back to Congress, something that had been lacking for so long; the fact that promises were made, promises kept, something that was rare and unseen for a long time.

And one of the encouraging things was the fact that we have actually heard people say that there may be concerns about our legislative agenda, about specifics, but at least they feel that Congress cares and that Congress is listening. And I think that one of the things that shocked the people I spoke to was that rather than what has happened for the last 100 years in this country, where freshmen were brought in and stuck in corners and not allowed to speak, that the new voices of the people's concerns were muted, this time for the first time in the history that anybody remembers, the freshmen, the new wave of fresh faces was not only not stopped, they were absorbed and they were actually embraced. Many of us in the freshman class have been encouraged to participate on this floor the first day, allowed to serve on committees and actually had chairmanships, which really kind of astonished people, that the voices of the American people are being heard and are being incorporated and that we do not fear the change for the good.

Frankly, I have got to point out that one of our frustrations was that, as I came in to San Diego and enjoyed the beautiful blue waters of the Pacific, we also are reminded what a failure our Federal Government has been at times, especially with issues of environmental quality which are very, very important to those of us in San Diego and California for good reason. We are blessed by the Lord of having one of the most beautiful environments in the world. But at the same time that I had to state how much we enjoy our environment, I have got to point out that we were greeted this week to over 30 million gallons of untreated raw sewage from a foreign country, Mexico, that our State Department and our EPA department found reasons to ignore and not to stop, that you or I would be fined very quickly by our own Government and by our own Federal agencies. But they have turned their head on a major environmental disaster that is occurring again and again and again for those of us that live along the border.

All I would say is that next week, when we talk about the Clean Water Act, that we start recognizing that the Clean Water Act, for those of us in San Diego County, is a misnomer. We look at the Federal bureaucracy and the Federal agencies that have administered it, too quick to fine American citizens, too quick to find fault with other people, and too seldom are willing to tackle the real tough problems like 30 million gallons of raw sewage pouring from a foreign country, polluting wildlife preserves, killing wildlife in an area of endangered species that is quite critical and closing almost 10 miles of California beach front.

So I hope that those of us, as we next week start addressing the Clean Water Act, will be brave enough to have the guts to rise up and say, it is a good start, but we darn well have to improve this act to make sure it protects the environment and that the agencies that are working on this must be held responsible for pollution problems such as we face in San Diego County.

Mr. LATHAM. I thank the gentleman.

I, like both of you, I think when I was back at my meetings, the balanced budget amendment was paramount. Very disappointed what happened in the Senate, encouraged by the idea that it will be brought up again and probably passed in the next 60 to 90 days. If not, it will be brought back again next year.

In my district, in the 30 counties in northwest Iowa, it is absolutely essential that we have a balanced budget amendment. And I thought it was interesting, when we had a lot of discussion on welfare reform, how far ahead the people in my district are compared to what is being spewed about on the floor here in the House about supposedly cuts in funding for school lunch programs.

Every meeting I said, OK, how many here raise your hands if you believe that a 4.5-percent increase is a cut? And obviously we had no hands go up. Apparently the new math that has taken place in Washington has not hit Iowa, because we still understand what real math is and what the truth and the facts of the matter are.

And people tell us, if you do anything else, get rid of the failed welfare system that we have in this country and bring back a system with accountability and responsibility and give the people opportunities for the future and do not keep them tied into a system that takes away hope for their families and their future.

Mr. BILBRAY. In San Diego, this has been a real tough battle for almost two decades now where San Diego County has a welfare system larger than 32 States of the Union. It is 2.6 million with a very large welfare problem. And every time we try to do something, the Federal Government was always in the way of the people of San Diego trying to reform and restructure this. And in fact, I point out that in 1978, the people in San Diego were called ruthless and heartless and cruel because they came up with a radical idea, they said, that was cruel called "workfare," in 1978. And just the last few years, to show you how frustrating it is working with the Federal Government, when you are trying to make some sanity out of this situation, that when we found there was welfare fraud, we realized we wanted to put a picture ID on a welfare card. And Federal agents were saying, we do not think you can do that because we think it may violate the privacy of the welfare recipient. I have to say that any person who truly is in need, any person who really wants to participate in a good program would obviously not be opposed to having their picture on the welfare card. In fact, I think any of us who has any kind of identification, driver's license, do we feel our privacy has been violated because we have a picture?

I think that gives you an example of how we have got to break up the concept that Washington is the only well of knowledge and compassion, that the local communities do have the ability to address these problems, to straighten out these problems, if we must give them the right to do the right thing. That is really what my people in San Diego keep crying for us to do here in Washington.

Mr. CHAMBLISS. I think you make a good point there, the fact that I have confidence in the local people in my home county and every single one of the 32 counties in my district that they can do a better job of running local programs than a bunch of bureaucrats in Washington can. That is the whole concept behind what we are doing now. The block granting that is going to be taking place is being done in a very thought-out manner. It is not being done hastily. It is being done only with programs that we have given serious consideration to, have listened to serious testimony about and have made conscious decisions that local folks are better able to spend their own tax money on their own programs than somebody in Washington.

And I heard that time and time again. Thank goodness the folks in my district for the most part had seen through the school lunch debate before I ever got there. When I got to my town hall meetings and talked about school lunch programs, we had nothing but compliments for the fact that we are willing to give the local folks credit for the fact that they are capable of running these programs. They are the ones that run it anyway.

Mr. BILBRAY. I was in a community called Navajo where the lady who runs the school lunch program came forward and said, I did not know about you Republicans. I was not sure. But thank you for giving us the program so we do not always have to have Washington tell us how to do it. We can serve kids more lunches and be able to serve the kids better because you are getting the Federal Government off our backs so we can do it. She said it quite clearly. She said, what do you people in Washington or the people in Washington think, that Washington cares more about our children than we care about our own children?

I think that was probably the best message we could receive.

Mr. LATHAM. And it goes back, another subject that came up many times in my town meetings, and it goes back to the idea of local control again, is education. People are outraged today in the 5th district of Iowa that they want to put together basically a Federal school board to tell our local school boards exactly what they can and cannot teach, what restrictions they can put on and what restrictions they cannot. Everybody believes that there is a role for the Federal Government as far as ensuring that every one has access to education, that because of race, creed, color, handicap, whatever, that you are not deprived of that opportunity. But everyone also believes that it is the State's responsibility to fund education in our State and also the control has to stay with the local school boards.

And I had a vote down in Boone County. It was interesting. I asked, after we had had this discussion, I said, how many of you want to do away with the Department of Education? And the vote was 38 to 2 to do away with the Department, to bring back the responsibility at the local level, to not put it away to some bureaucrat here in Washington today, let the people at the local level make the decisions for their children's education because they do know best and they are going to be able to help them the most and ensure a quality education.

We are not going to do it again from Washington.

Mr. BILBRAY. I had it pointed out to me that the more money that we have spent on the federal Department of Education, the more the test scores of our students in this country have dropped. I do not believe that you can blame it on the Department of Education, but I think that what it tells us is just throwing money at a Federal agency will not help to educate our children.

It is the teachers and the parents of America that will educate the children. And what we need to do in the Federal Government is get out of the way and let them do what they do best, take care of the children. If any of us had a vehicle where we spent more money on the vehicle and the vehicle ran worse every time we added money, we would kind of think twice about the idea of how much money we are spending here and maybe we should try a different vehicle.

I think the best vehicle is allow parents to do what parents do best, allow teachers to do what teachers do best and get off their backs and let them get the job done.

Mr. CHAMBLISS. My wife has taught school in the public school system in Colquitt County, my home county, for in excess of 20 years. My daughter is in her first year of teaching kindergarten in the public schools. I see what both of these ladies do on a weekly basis as far as teaching kids. That is where the core of our education system is. They do not go home at 3 in the afternoon. They are there until 5 or 6 in the afternoon. They are there at night. They are there on Sunday, working, preparing to teach those kids because they love what they do.

That is what makes our education system in this country so great. It is not the bureaucrats in Washington that contribute to the positive side of the education system in this country, and that is what the folks at home are tired of. They are tired of bureaucrats in Washington dictating to them not only what their children will eat, but what school books that folks can choose from, what curriculum they will be taught and how they will be taught it.

It is absolutely time that we did what the Founders and Framers of the Constitution of the United States intended, and that is to return the government of this country to the people of this country. And education is a prime area where I look for the Republican side of the House to really step forward and to do that, because by dismantling the Department of Education, which I am advocating that we do over some period of time, we are going to return the education of our children to the folks in the States and in the local communities. That is where it ought to be.

We do owe an obligation to the school systems of this country to help fund them. That is what our tax money needs to be spent for. But the folks on the local level need to be making decisions about how their children will be taught.

Mr. LATHAM. I think it is very unfortunate that so much of our resources in the schools today, and I heard it time and time again, are going to help children who are not now motivated to learn English and that is the town of, and I am sure it is a big issue with you, in the town of Storm Lake, IA today we have 22 different languages in our school district. In Sioux City, IA, we have 18 different languages.

I heard time and time again in the town meetings that English should be the national language, and we should encourage every one to learn English, that that is the thing that holds this country together. And rather than being a melting pot like we used to be, we are a tossed salad, that we need English, we need English as the thing to hold us together.

You look at the resources we are expending today, just trying to have a special teacher going through with each, like in Storm Lake, 22 different languages.

Mr. BILBRAY. As somebody who was raised in a very multicultural neighborhood, my home town was very, very multicultural. The fact is that we have got to remember that language is one of the bonding elements that hold us together. Common culture, common language, common economics. We can share other cultures.

My community, we celebrate September 16 or Cinco de Mayo just as much as anybody else would.

□ 1800

It is one of the joys. The problem we get into is when people want to destroy that common ground where all Americans can meet, and that common ground, one thing that is very critical is language. We should learn from what is happening in the Continent of Africa and what has happened in Yugoslavia, where people have drawn lines and maintained separate lines just to make sure they do not communicate. Language is absolutely essential, not just for the culture, but for the individual.

In my community and my district, a lot of Mexican nationals send their children up into the United States to be educated, and their first priority is for their children to learn English, because even in Mexico, language, the English language, is essential if you want the economic and social prosperity for your children. Those of us that love our children should do no less for our future generations than to make sure that everyone, everyone in the United States has the right to proficiency in the English language.

That has not necessarily happened. In certain segments where English is not a major part of the educational system, and where it has not been well implanted, the dropout rate is over 50 percent. We are denying these individuals the potential for free access, the right and freedom of the pursuit of happiness.

I think we really need to raise this issue of saying we want to do this as a compassionate step so we have equal opportunity, and we cannot have equal opportunity in any society unless there is a common language. I think it is quite clear.

The people of California, though, I want to point out, have passed a citizens initiative that identifies English as the official language, and let me point out that those of Latino extraction actually were major supporters in the voting ranks for that, because they, more than anyone else, understand that you have to have that common bond. That English language is our common language.

Mr. CHAMBLISS. Switching subjects, Tom, but along that same line again of reducing the Federal bureaucracy and particularly taking the Federal Government out of our daily lives, one thing that I heard at every single town meeting I went to was the flat tax. Folks want to know "tell me about the flat tax: Do we really have a chance of getting the flat tax passed?" Without even knowing all the details of the flat tax, the reason I found that people were so excited about the flat tax is that it reduces the Government involvement from the standpoint of the Internal Revenue being less involved in our daily lives.

I use an example. I carry a 3 by 5 card with me, this is not exactly 3 by 5, but I use that example of taking your W-2 form and using the gross receipts that you received on your W-2 form, multiplying it by 17 percent, and you come up with a figure, you write the Government a check for that amount of money, you sign it. That is your tax return.

The reaction I got on that was just extremely positive, because that is what has people in this country excited about this term of Congress. We are doing some things to finally dismantle the Federal bureaucracy, and to get things back to where the Founders of this country intended for them to be to start with.

I do not know whether you heard anything about the flat tax or about the consumption tax, but I have sure heard a lot about it.

Mr. LATHAM. I have had questions asked me at every meeting on the same subject, at each of the 16 meetings, talking about the flat tax and a national sales tax. There are reservations about the flat tax, that maybe some group is going to get away a little better than what they currently are, and the national sales tax, as far as the possibility that it would maybe be regressive for some groups, but the idea, the beauty of the sales tax, would be, and I am still listening to the people at home on this, but there is a real underground economy, a cash economy, in this country.

If we would tax consumption, that would be a positive step forward as far as getting benefit from that underground economy and making sure that everybody, even if it is illegally gotten money, that they are going to pay some tax on it as they go ahead and buy things in the future.

Mr. BILBRAY. I heard that from a tax consultant in my own living room, actually in the kitchen.

Mr. CHAMBLISS. Where you spend most of your time, right?

Mr. BILBRAY. You have your kitchen Cabinet, I have mine. But the fact is, as this tax consultant pointed out, is that if Members of Congress could see what the average American citizen has to go through every April 15, or to get ready for April 15, if the average Member of Congress saw what happens to the citizens, this cruel and unusual punishment that we call the IRS taxing system, the income tax process, that there is no way morally you could stand up and defend the existing taxation structure.

In fact, this consultant said flat out that she would prefer to be put out of business and go to a consumption tax or a flat tax, I think she favors a consumption tax, because the argument is everybody should understand that we all pay taxes. There are certain people on public assistance who we say "do not pay any taxes," but we all do, directly or indirectly. One thing about a consumption tax, it makes everybody on U.S. territory who buys anything pay part of that.

I will tell you, the greatest speech I probably ever heard about taxation happened that day. She said, "Put me out of business. I do not want to be part of this cruel punishment of the American citizens that we call the income tax system."

Let me point out, that tax consultant was my wife, and all I said to her is "Karen, we need you to testify before Congress, because I think it says a lot when a business person says 'The system is so rotten that you should put me out of business.'" I think if you talk to most people who work in the tax business, they are frustrated with the fact that the system is neither equal nor fair, it is cruel, and it does not do the job properly, and it does not do it in a way that I think we can be proud of as American citizens.

Mr. LATHAM. My district is made up of thousands of small businesses and farmers, and you are talking about putting somebody out of business. One thing that I heard time after time after time was "thank you" for doing something about the regulatory burden we are putting on small businesses and farmers in today's environment with the Federal Government.

It is outrageous, I think, when a small business person on Main Street is more concerned about somebody coming in his door from the Government, supposedly to "help them," than they are about any competitor down the street. They can compete with that other person, they can offer a better service, they can work harder, they can give a better quality of product, but they absolutely feel helpless with someone from the Government coming in and dictating to them exactly what they can and cannot do.

If I heard one thing time and time again, it is "thank you for trying to at least start some regulatory relief to get the Government off our backs. It is bad enough they are deep in our pockets, but please help us get the Government off our backs. Let us operate, let us grow, let us prosper. We will be responsible, because our children live here. We are going to take care of things to make sure that we have a good quality of life and a safe working place, but this regulatory overkill is simply stifling business and stifling opportunities in my district."

Mr. CHAMBLISS. TOM, that was not only true with the large manufacturers, whom we think of as being the ones who have the major problems with regulation by OSHA or EPA or whoever. Virtually every town meeting I had, and again, I had small business men, I had farmers, just folks on the street complaining to me about the various regulations that the Federal Government has issued that they are having to comply with, and they make absolutely no sense at all.

Unfortunately, that is the shift which we made in this country over the last several years. We have gotten to where we have overregulated every segment of our society, and again, I heard the same thing you did.

Folks are just so pleased that we have started moving in the right direction, that we again bring common sense back into the regulation industry in this country, and whether it is EPA, clean water, clean air, whatever it may be, we have to use common sense in adopting these regulations and allowing our agencies to issue these regulations. People were just extremely pleased that we are moving in that direction.

Mr. BILBRAY. I heard a lot of frustration with what we call the Federal bureaucracy. I think one of the things I tried to do is to make sure I clarify that they should not blame the agents.

The fact is the blame for the absurdity of the Federal Government and the abuse of the Federal Government rest with Congress, and it is our responsibility, it is the President's responsibility, it is the Senate's, but we are the ones who bear the responsibility.

The people who are out there working for the Federal Government are taking a very hard hit from a lot of different directions, when in fact it is our obligation to straighten this out. I think if there is anything else, that we really planted the seed out there, that there is hope that the Federal Government will soon come back to the position of being an ally and an aid all the time, so Congress makes things change.

That is a real goal that we have as freshmen, of bringing that dose of reality in from the streets of America and implanting it here in the Chambers of the House of Representatives, so that when the laws leave here, when the regulations are made, they are made always remembering we are here as servants of the public. We exist for the public, the public does not exist for the Federal Government.

That is really our jobs, especially as freshmen, this new breeze that has blown through this facility, that we have to remind our senior Members on both sides of the aisle that we serve at the pleasure of the public, and the public is why we exist, and why we need to continue to listen to their concerns, and not just try to shut them off.

Mr. LATHAM. I think you have hit a fundamental point, and that is is the Government a servant to the people, or as it appears today, that role has reversed, and almost the people today are servants of the Government? It is wrong. The Government is here only to serve the people. It is a free country.

Talk about regulatory relief, in my district wetlands is a huge issue, where today we have people from the Government coming out and delineating a small pocket or pothole in a farm that has been in production for 90 to 100 years, and their forefathers—my own farm has been in our family for 105 years. A lot of that ground was hand tilled, dug by hand 80 or 90 years ago.

Now someone is coming in and telling us how we can and cannot use that land, because somebody somewhere in Washington or wherever says that that eighth of an acre there is an official wetland. By some of the definitions today, over half of my congressional district in 1993, the flood year, could have been a permanent wetland by their definitions.

It is absolutely outrageous, and I am very proud of the fact that we put the pressure on the administration to finally get a moratorium as far as wetlands delineation.

Mr. CHAMBLISS. The wetlands issue, as you mentioned, is a classic example of overregulation by the Federal Government. Right now if you have a wetlands problem in a particular area in any county in the United States, any one of four agencies, the EPA, the USDA, Fish and Wildlife, can come in, and the Corps of Engineers can come in, and make a determination on that as to whether or not it is a wetlands, and what you have to do about it.

Why should you have four Federal agencies involved in one issue like that? The sad part about it is that you may get four different answers from all four of those agencies. I had one gentleman at one of my town hall meetings who gave me a personal experience of exactly that, that he had all four agencies involved in his particular wetlands issue, and he got three different—he didn't get four, but he got three different answers to a question that he had about his wetlands problem.

Mr. BILBRAY. What we really have to look at, too, though, is that it is just not about protection, because many times, if not most of the time, when a regulation is overkill and inappropriate, it is not only hurting the individual and taking away precious rights, but it is also not protecting the wetlands it was meant to protect.

The people in my neighborhood would love the Federal Government to do something to protect the estuarine preserves in the Tijuana Valley, but when it goes beyond finding blame and you have to find answers, the agencies just tend not to be so inspired.

I think we have to get back, it is our responsibility to help redirect this, to make sure that our regulations not only have compassion, but are smart and get the job done, because my district wants to see the environment protected, but every time we waste our resources on protecting something that should not have been done or a regulation that is being implemented inappropriately, that is that much resources that could have gone to the wildlife and to preservation that is not going to go there.

Mr. LATHAM. That is an excellent point. There is no one more concerned about conservation, the environment, than these farmers that these regulations are just strangling today. These are the people who want to pass their land on to the next generation. They are the ones who are raising their children on a farm that are drinking the water out of the wells that are being regulated.

They are the ones who want to preserve the quality of the soil itself, because that is livelihood. They are the ones directly concerned, and it would impact them greatly if it is destroyed. There is no farmer anywhere who is going to pollute his well and make his children drink that. It is simply outrageous.

No one in agriculture is saying that there are not wetlands out there, and that they should be preserved, because there are. People want—they love to hunt in my district, they love to fish, they love to see the ducks come in, even if you do not hunt, but to have someone come on your farm after it has been in production for 80 or 90 years and tell you then that you can do longer use your land anymore is simply outrageous.

It is not a matter of people being against the environment, but it is absolutely overkill by the Federal Government, and that is what people are so outraged about.

Mr. BILBBRAY. We have the frustration, the misinterpretation of the Endangered Species Act, where we have children who were forced off of their Little League park by one Federal agency, and have been waiting for 2 years to get to be able to move onto an area that was farmed for 100 years, but they have been made to wait just because they need this test to see if a pocket mouse is in that area.

The frustration here that the kids do not understand and the parents don't understand is "Wait a minute, I thought that the private citizen was innocent in our society until proven guilty." However, with many of these regulations, the way they are being administered, and we need to address this, they do not have any rights until the Federal agency says "OK."

I think we need to look at that. We are a Jeffersonian democracy. We are a democracy who believes that the individual is a premier element of our society, and that the individual's rights desperately have to be preserved and cannot be trod under by a well-intentioned but misguided majority.

I do not think any of us that ever supported environmental regulation or environmental preservation expected the Constitution to be destroyed in the works.

□ 1815

Mr. LATHAM. The gentleman is absolutely right.

Mr. CHAMBLISS. I think it is very remarkable that here, TOM, you are from Iowa, BRIAN, you are from California, I am from Georgia. We represent three different parts of the country, East to West and in the middle.

I think it is very interesting that all three of us have heard the same concerns from our constituents over the last 3 weeks. Basically they are the same things that we all campaigned on last summer and that are contained within the Contract With America.

It is exciting to me to see the people all over the country as excited about politics and about what is going on in Washington as they are. Obviously we all shared the same experiences concerning these issues.

I think that is very interesting, and again goes to reinforce that the American people did speak on November 8, that the American people want changes, and even though they may not agree with every single thing we are doing in Washington right now, they understand we are doing something.

I heard that again time after time: "We may not agree with everything you're doing, but by golly, you guys are doing something, you're making progress, and just keep at it." That probably was the most constant theme I had the whole time I was home.

Mr. BILBRAY. My district has over 10 naval military facilities there, in fact, one of them North Islands where I was born. That just shows you, you may think Californians move around a lot, but I am still living in my district.

The fact is the military is learning, in San Diego, in California, across this country, a new reality. They are changing, adapting, becoming progressive, looking at ways of doing more with less. I think it sets an example for those of us in Congress and the way we look at our laws.

The fact is there is a new progressive change that has taken over here. A lot of people call it conservative, but the fact is if you look at this by definition, you have citizens who are saying, "We want you to do better. We want you to be brave enough to try new things."

The new majority, and especially led by those of us that are freshmen, are the progressives who are willing to say the old was fine for them, but not for the future. We not only have a right to change things for the better, we have a responsibility to do that.

I would like to thank you two gentlemen for participating in part of the revolution that is moving this progressive agenda along.

Mr. LATHAM. I thank the gentlemen for this great conversation.

I just want to say, I pointed out at every town meeting that I had that the Contract With America was not passed just with the 53 percent in the House here that is Republican. On the average, in total, 78 percent of the Members of Congress supported items in the Contract With America.

It is not a partisan issue. The change and reform, new ideas, and the idea of bringing back responsibility and accountability to the Government is not a partisan issue. It is on both sides of the aisle, when you have over three-fourths of the Members supporting what was in the Contract With America. Obviously, there are some things that we differ on, but the American people know who is on what side. They will remember next year, whatever.

Again, we have all mentioned it, but the thing that I was told time after time after time was, "TOM, keep it up, don't let up. You have just started to turn the wheel of this great aircraft carrier we call the Government. It is just starting to turn, but there is a lot of work out there ahead. Keep up the pressure, redouble your efforts."

We are going to do that. As freshmen Members, we are going to keep up the heat, continue the efforts, and, folks, you haven't seen anything yet, like they say.

EIGHTIETH ANNIVERSARY OF ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. FORBES). Under the Speaker's announced policy of January 4, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I intend to use some of this 60 minutes for myself, and then yield to the gentleman from Illinois [Mr. PORTER] and the gentleman from California [Mr. MOORHEAD], who are here. We are here basically to commemorate the 80th anniversary of the Armenian genocide.

Mr. Speaker, April 24, 1995, marked the 80th anniversary of the unleashing of the Armenian genocide. Each year, Members of Congress from both the House and the Senate take time to honor the memory of the Armenian men, women, and children who were slaughtered by the Ottoman Turkish Empire.

I am proud to continue this proud congressional tradition today. In my capacity as the cofounder, along with the gentleman from Illinois [Mr. PORTER] of the Congressional Caucus on Armenian Issues, I will be working with many of my colleagues on behalf of continued support for the people of Armenia and for the significant Armenian-American community. I will also work to continue to press for the modern Republic of Turkey—a NATO member and recipient of hundreds of millions in United States aid every year—to finally accept responsibility for this crime against humanity and express its sorrow and contrition. I also believe we should continue to use the means at our disposal to force modern Turkey to lift the blockade it has imposed on Armenia. I know many of our colleagues feel the same way.

Mr. Speaker, today's occasion is, of course, a time for solemn reflection on the suffering of a people, the Armenians, as well as the larger question of humanity's capacity for evil. Yet, it is also time for us to celebrate the human capacity of resilience, the ability even of people faced with the most unthinkable disasters to rebuild their shattered lives. This capacity to overcome unimaginable horrors can be seen on the individual level in the faces of the survivors, a group of whom attended a very moving reception here on Capitol Hill today. On the national level, the struggle for survival and the sense of hope for the future can be seen by the very existence of the independent, democratic Republic of Armenia.

On April 24, 1915, 200 Armenian religious, political, and intellectual leaders from Istanbul were arrested and exiled—in one fell swoop, silencing the leading representatives of the Armenian community in the Ottoman capital. This date is thus the symbolic beginning of the genocide. Over the years from 1915 to 1923, 1.5 million men, women, and children were deported, forced into slave labor, tortured, and exterminated.

What happened in the Ottoman Turkish Empire during the years 1915–23 was more than a series of massacres in a time of instability, revolution, and war. It was the first example of genocide in the 20th century, a precursor to the Nazi Holocaust, and other cases of ethnic cleansing and mass extermination in our own time.

But, unlike the case of Germany, which officially accepts its guilt for the crimes against humanity committed by the Nazi regime and has made restitution to many of the victims, modern Turkey continues to deny that the Armenian genocide took place. There were no Nuremberg trials, no concerted effort to aid the survivors and let them give their testimony. While various Turkish sources express the view that certain unfortunate incidents took place, it denies that any systematic, ethnically based policy targeted against the Armenian people ever took place. In fact, many Turkish accounts actually suggest Armenians deserve a share of blame for having stirred up trouble in the Ottoman Empire—while vastly understating the number of victims.

It is not entirely clear why Turkey continues to deny the truth of its past—perhaps concerns about reparations claims may be one reason, combined with a misguided sense of national honor. In any case, it is a disgraceful policy, refuted by the historical record. Americans should continue to press Turkey's leaders to finally acknowledge the truth—even if it is a diplomatic irritant in United States-Turkish relations.

U.S. Administrations have avoided using the term "genocide" in describing what happened 80 years ago. While President Clinton and his predecessors have acknowledged that the Armenian people were the victims of tragic massacres, these Presidential statements have not sufficiently conveyed the full extent of the evil that occurred. Earlier this month, Congressman PORTER and I, as cochairmen of the Congressional Caucus on Armenian Issues, asked our colleagues to join us in urging the President to make a much stronger statement acknowledging the genocide. Sixty-eight Members of the House of Representatives signed this letter to the President. Although the President's statement was strong and moving last week, it still failed to use the word genocide, a very important issue. We will continue to press the administration on this, as well as future administrations.

The preponderance of evidence about the historical fact of the genocide against the Armenian people is strong and undeniable. The U.S. National Archives holds the most comprehensive documentation in the world on this historic tragedy—more than 30,000 pages. Of course, I personally have seen some of this. The United States Embassy in Constantinople, Istanbul, as well as various consulates, closely monitored events in Turkey, and received reports from other countries to which some Armenians had escaped. This information is specific and detailed, collected from eyewitness accounts. Newspaper accounts from this period also provide strong documentation, based on a wide variety of sources, of wholesale, ethnically based killings of Armenians.

Formal protests were made by the United States Ambassador Henry Morgenthau to the Turkish Government. American consular officials and private aid workers secretly housed Armenians, distributed aid, and helped in their escape to other nations—at great personal risk to themselves and in direct defiance of Turkish orders not to help the Armenians. The first-hand accounts of U.S. government officials, journalists and aid workers on the scene provides a vast amount of objective evidence of the genocide, including information on: deportation, massacres, refugee camps, condition of deportees, confiscation of property, methods of deportation, policy of extermination, execution of the male population, mistreatment of women and children, forced conversions, use of slave labor, malnutrition and starvation, cases of resistance, survivors, orphanages and resettlement of survivors. All of it is very well documented.

After the genocide occurred, there was some effort to bring the organizers of the genocide to court, or to justice.

Some of the organizers of the genocide were court-martialed in absentia in Paris after World War II. But no attempt was made to carry out the sentences, many accused war criminals were set free and no serious efforts were made by the Allies to assist the Armenian victims. In fact, the Allies, after the First World War, caved in to Turkish nationalist demands that no Armenian independent state be created. Revised peace treaties did not even mention Armenia or Armenians. Armenians who returned to their homes in Turkey were again driven out. Armenian place names were changed, and Armenian cultural monuments were destroyed. The geographical term "Armenian plateau" was changed to Eastern Anatolia. Thus, the Turks attempted to obliterate not only the Armenian people, but any vestiges of their culture. The 3,000-year presence of Armenians in Asia Minor had come to an abrupt end by 1923.

With the rise of totalitarian regimes in Europe during the 1920's and 1930's, and the outbreak of World War II, the Armenian genocide was largely forgotten. It is said that Hitler, when planning the Nazi strategy of conquest and extermination against the Jews, remarked: "Who remembers the Armenians?"

Most of the survivors of the genocide have since died, while the few who are still living are extremely old now. But their sons and daughters, grandchildren and great-grandchildren will continue to speak out for generations to come.

Remembering the Armenian genocide is important not only for the Armenian people. Many school districts in this country have developed curricula on issues of genocide, and it is important that these programs be promoted and expanded to expose children of all ethnic groups to the facts of history.

The survivors of the genocide and their descendants have made great contributions to every country in which they have settled—including the United States, where Armenians have made their mark in business, the professions, and our cultural life.

One of the most inspiring events of recent years has been the emergence of the Republic of Armenia. Rising out of the ashes of the former Soviet Union, the Republic of Armenia has shown a remarkable resilience, a commitment to democracy and a market economy. And it has not been easy: Armenia has been squeezed by cruel and illegal blockades imposed by modern Armenia's two neighbors, Turkey and Azerbaijan. In spite of these difficulties, last year, Armenia's was the only former Soviet Republic to register positive growth in its gross domestic product. Given the industriousness and proven determination of the Armenian people, I am confident that this small, emerging nation will become an economically viable, self-sufficient nation in the near future.

I wanted to give a little background about what our caucus on Armenian issues has been doing to help promote the Republic of Armenia.

A few weeks ago, I testified before the Foreign Operations Subcommittee of Appropriations that oversees foreign aid to call for U.S. assistance to at least remain at its present level of $75 million. In addition, I will be working to maintain United States participation in the International Development Association, a World Bank program that has assisted Armenia with $145 million in support for earthquake reconstruction, power and irrigation systems, and transition to a market economy. I hope I'll have strong support from my colleagues. I know many members of the Armenian Caucus are here today and will speak after I speak.

I believe 1995 will be a critical year for the Republic of Armenia, and the United States can play a major role. These programs are not handouts: by helping Armenia to get on its feet we can help establish a strong and stable member of the international economic community, a viable market for American goods and services and a market for other emerging nations. Given the terrible suffering of the Armenian people during the Ottoman Empire and their repression under the Soviet Empire, I believe we have a moral obligation to support the Republic of Armenia.

Another way we can help Armenia is by ending the illegal blockades imposed by Turkey and Azerbaijan. Current United States law blocks the provision of American assistance to Azerbaijan until the Azeris lift their blockade. We must continue that provision of the U.S. law.

☐ 1830

I also strongly support the Humanitarian Aid Corridor Act which bars United States assistance to any country that blocks delivery of United States humanitarian assistance, in other words, Turkey. I find it incredible that a country like Turkey that gets $600 million in United States taxpayers' funds can get away with blocking the delivery of American humanitarian assistance to its small, struggling neighbor. While in Washington many know that the Turkish Prime Minister told President Clinton a few weeks ago that Turkey would open an air corridor to Armenia, but frankly this is a very minor step, and even if it actually happens it does not have much significance; it does not change the need for the Humanitarian Aid Corridor Act. We still have to insist on reopening the land routes, and we should continue to link United States aid to Turkey to that country's international behavior.

Earlier this year Congressman PORTER and I founded the Congressional Caucus on Armenian Issues to be a voice for a stronger United States-Armenia partnership and to better represent the interests of the Armenian-American community. We now have 35 Members, from both parties and all regions of the country.

In closing, I want to pay particular tribute to the survivors of the genocide, some of whom made the trip to Washington today. Many of us who are in the Chamber now were at a reception that was held earlier today where many of the survivors were present and some spoke. The horrors that they witnessed and experienced are unthinkable. We have to remember what happened to them, their families, their neighbors, their friends. And I want to pledge to their survivors, their children, grandchildren, that they have friends in this United States Congress who are committed to keeping alive the memory of what happened to the Armenian people in the past, and to play a role in working for a brighter future for the Armenian people.

The bottom line is we have no choice, Mr. Speaker. The Armenian genocide was really the first genocide in this 20th century, but the problem remains that the Turkish Government has not recognized it, and until the day comes when we can see the Prime Minister of Turkey come here to Washington and recognize the genocide and see the type of commemoration of the genocide in all places, in all towns and villages in Turkey, then I do not think that we can rest. I think the lesson of history is we cannot forget the past, and that is why we are here today to commemorate this 80th anniversary of the Armenian genocide.

I now yield to the gentleman from Illinois [Mr. PORTER], who is the cofounder and the cochairman of our Armenia caucus.

Mr. PORTER. I thank the gentleman from New Jersey [Mr. PALLONE] for yielding to me. I commend him for the tremendous leadership that he has brought to bear on the question of Armenia and Armenian issues in the Congress, and was very pleased to join with him when he called me earlier this year and asked me if I would join him as cochairman of the Armenian Issues Caucus. I can think of nothing more important for us to do, and I commend him for his leadership this evening in bringing the question of Armenian genocide again before the American people, who must know its history, who must understand its meaning, as he has done so very forcefully this evening.

We do mark the 80th anniversary of the Armenian genocide, which did not occur in 1 year, 1915, but lasted over an 8-year period, from 1915 to 1923, during which time the Turks of the Ottoman Empire carried out a systematic policy of eliminating its Christian Armenian minority.

There are those who would say we should not offend our Turkish allies by using the word genocide, but let us call it what it was. It was a genocide, a most horrible genocide, resulting in the deaths of over a million and one-half people, resulting in 500,000 Armenians being exiled as well, and eradicating the Armenian historic homeland from Turkey.

The horrors of this genocide rank as one of the most heinous violations of human rights in all of human history. Let us call it what it was, and is. Let us remind ourselves that our country at the time and all of the rest of the world at the time turned away and did nothing to prevent these horrible human rights violations against an innocent people, and let us remind ourselves as well that today in Turkey another genocide is occurring by the Turkish Government against yet another Turkish minority, the Kurdish people, and today thousands of Turkish troops not only have driven through the southeastern portion of Turkey, executing those in the Kurdish minority who oppose them, burning and tearing down Kurdish towns, but have crossed into the border in Iraq to attack Kurdish peoples in their camps, refugee camps. And let us remind ourselves as well, Mr. Speaker, that our Government has not acted to prevent this additional genocide, but has actually supported it, our President has supported this action against an innocent people.

We remind ourselves today of our responsibilities to other human beings, and in commemorating the 80th anniversary of the Armenian genocide, each one of us should say to ourselves we are our brother's keeper, we do have a responsibility to others and to stand up and tell the world that a genocide occurred in 1915 to 1922, and another genocide is occurring today.

Last year through the appropriations process on the Foreign Operations Subcommittee we initially struck 25 percent of the support, economic and military support, foreign assistance that we give to Turkey. We ended up with cutting it by only 10 percent in conference. We did it because of ongoing human rights abuses by the Turks, not only against the Kurdish people but against their own people, systematic torture, execution, and disappearances, the kinds of things that a country like ours should stand up against in outrage, and we should in fashioning a foreign assistance bill in this year of this 104th Congress look once again as we always should to our own values of a belief in democracy and human rights, in the rule of law, in free-market economics, and provide, I believe, not 1 cent of assistance to Turkey until reforms, major reforms, come about in that society, in each of these areas.

We also see Turkey cutting off any opportunity for us to give humanitarian assistance across their borders to the Armenians. This to me is unacceptable. If we have an aid program and cannot deliver it through a supposed ally, that ally cannot be claiming to be a friend of ours whatsoever. We should pass the Humanitarian Corridor Act and cut off humanitarian assistance to any country, cut off all assistance to any country who would cut off our own aid programs crossing their borders to help others.

We made great progress in the last few years in helping to establish a new Armenia, an Armenia that is free and democratic, and moving ahead to provide through economic freedom a greater economic life, a more prosperous economic life to its people and greater stability for its future. We made that commitment previously. We have to renew that commitment this year. And even in tough budgetary times we ought to realize that if we can provide the kind of foreign assistance to Armenia that does reflect the values that this country stands for and believes in, we will do a great deal to extend those values across this world.

We are working with the Armenian-American community to provide that kind of assistance.

Mr. Speaker, let me end by saying many people in the Turkish Government say well, this is jut anti-Turkish rhetoric. You just want to play games with your constituents in America. You do not want to be allies with us.

We do want to be allies with the Turks. We understand the importance of a free Turkey. We understand the importance of a democratic Turkey, but we also understand that we do not have a free and democratic Turkey today. We have a Turkey with a democratic government that is elected but only can do those things that the Turkish military permits it to do. And it is time that Turkey looked to its future. It is time that Turkey looks to its past and acknowledges that it did commit genocide against the Armenian people. It is time that it looks currently at what it is doing to its Kurdish minority. It is time that it stop its human rights abuses against the Kurds and others within its own borders. It is time that is release the six parliamentarians that were tried and imprisoned for standing up for Kurdish human rights and to drop the charges of sedition against its most famous author, whose only crime was to stand up and say we cannot be doing this to our own people.

It is time that Turkey look to a part in the economic development of Europe. It wants to be a part of the economic community. I would like to see it a part of the economic community, but it can never be part of the economic community in Europe nor a close ally of the United States until it looks to itself and reforms its way.

The values we look to are democracy, human rights, the rule of law, free economics, the things the American people have stood for over 200 years. We should not be providing aid to those who do not believe in those same values; we should be providing it to those that do.

We believe we should be a strong supporter of Armenia, who is moving in all of the right directions, and we should be a strong supporter of Turkey only when it also changes its ways, reforms and moves in those directions.

It is time America stood up for its own values and counted across the world those who believe in the same things we believe in and support them, and not those that are moving in other directions.

So, Mr. Speaker, I believe that the gentleman from New Jersey [Mr. PALLONE] is providing the kind of leadership on this issue that is bringing us together in a bipartisan way, it is keeping the issues affecting Armenians before you, the Congress, and this observance of the 80th anniversary of the Armenian genocide is a very, very important acknowledgment of the past and also a very, very important acknowledgment of what we must see changed in the future. I thank the gentleman.

Mr. PALLONE. I want to thank the gentleman from Illinois [Mr. PORTER] for those insightful remarks. And I think particularly his reference to what Turkey is doing today with the Kurdish population points out very well that the problems that we face from Turkey historically with Armenia have not gone away, and they are continuing now in a different form against another minority people.

I also wanted to say I was with your wife, Kathryn, in Times Square a couple of weeks ago when we did the commemoration there, and I do not think I have ever heard anyone speak so well about the problems that Armenia faces and the Kurds face, and she really expressed such passion over the issue. I know she has been over there so many times, and she just summed everything up better than certainly I could say or certainly any of us could say on this issue, so thanks again.

Mr. PORTER. If the gentleman will yield, I very much appreciate your kind and generous comments. I am very proud of the fact that Kathryn has taken a very, very active role in working with the Armenian people, in attempting to make a difference in that country that is struggling to reflect the things that we believe in and is fighting to prevent ongoing abuses against the Kurdish people, which as you very eloquently pointed out, is a reflection today of exactly what they did to the Armenian people 80 years ago. It has to change.

□ 1845

Mr. PALLONE. I thank the gentleman. I yield now to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, 1995 marks the 80th anniversary of the Armenian genocide.

Every year in Congress April 24 is remembered on the floor of the House, and I have participated in this occasion for a large number of years, a tribute to the Armenian martyrs who are the victims of one of the worst genocides of this century.

On this date in 1915, hundreds of Armenian political and intellectual leaders were rounded up, exiled, and eventually murdered in remote places.

In the years that followed from 1915 to 1923, 1.5 million men, women and children were murdered in attempted genocide of the Armenian people by the government of the Ottoman Empire. We must never forget this tragic crime against humanity.

I have had friends that were present during that time. I know those people that will claim that this never took place. One friend of mine had been turned over to a Turkish family by his own father and mother, and he had to stand in the community square and watch every single member of his family murdered by the Turks as they came into the community. That man never grew an inch after that time. He died a man barely 4 foot 6 inches tall.

A strong, resilient people, the Armenians survived these cruelties as they have survived persecution for centuries. Their durability comes from their love and intense faith in God dating back to the fourth century when Armenia became the first nation to embrace Christianity.

The survivors and descendants who now number more than 1 million Americans have not forgotten the Armenian genocide. As a nation, we must never forget the terrible widespread massacre of the Armenian people and their deportation from their homeland of almost 3,000 years.

We must remind mankind genocide is a crime against all humanity, not just those who perished in the first genocide of this century.

As a leader of a free and democratic nation, we have a moral obligation to acknowledge and deplore the events surrounding the Armenian genocide, and we must ensure that such atrocities do not continue.

Armenia, now independent but burdened with the war in Nagorno-Karabakh, is blocked by Turkey and Azerbaijan; we live in a humane, civilized world, and cannot continue to allow another reign of terror against the Armenian people. Violence is not the solution to this crisis. With aggression inflicted by both sides, it will only lead to more deaths, greater suffering, continued hatred and instability in the region.

History is a cruel teacher, but has shown that gross inhumanities have not perished from the Earth.

The brutality against Armenians continues today. This is why recognition of the Armenian genocide by the United States is vital. I hope all Americans and the entire U.S. Congress will join with the Armenian community in commemorating this 80th anniversary.

Along with several of my colleagues here with us today, I have sponsored Concurrent Resolution 47 which honors the members and the victims of the Armenian genocide. It specifically calls on the United States to encourage the Republic of Turkey to take all appropriate steps to acknowledge and commemorate the atrocities committed against the Armenian population of the Ottoman Empire from 1915 to 1923.

This resolution renews the commitment of the American people to oppose any and all genocide. The United States must send a strong message to the world about our Nation's resolve and determination to prevent crimes against humanity.

Today Armenians flourish in the United States, as prominent and successful citizens in spite of the crimes committed against them. Many of the survivors of this genocide live in my district. I believe I have more than any other district in the United States. The mayor of Pasadena is an Armenian. A member of Glendale city council, who has several times served as our mayor, is Armenian. A member of our community college board of education is Armenian. Many of the leading citizens of our community are serving the community well, but they are concerned about Armenia also.

They have sent several plane loads of materials to the survivors there in Armenia who have suffered so much, and they will continue to do so as long as this tragedy continues.

I want to thank my colleague, the gentleman from New Jersey [Mr. PALLONE], for arranging this special order and for the work that he is doing on the Armenian task force.

Mr. PALLONE. I want to thank the gentleman from California for those words.

I now yield to the gentleman from Michigan [Mr. BONIOR], the minority whip.

Mr. BONIOR. Mr. Speaker, today democracy is beginning to flourish in Armenia—and freedom's flame is burning bright.

But 80 years ago, things were different.

Eighty years ago—in the midst of World War I—beginning on the night of April 24, 1915—the religious and intellectual leaders of the Armenian community of Constantinople were taken from their beds, imprisoned, tortured, and killed.

In the days that followed—the remaining males over 15 years of age were gathered in cities, towns and villages throughout Turkey—roped together, marched to nearby uninhabited areas, and killed.

In the ensuing weeks, families were deported.

Innocent women and children were forced to march through barren wastelands—urged on by whips and clubs—denied food and water.

And when they dared to step out of line, they were constantly attacked, robbed, raped, and killed.

And when all was said and done—over a million Armenians lay dead, and a homeland which had stood for over 3,000 years was nearly completely depopulated.

Mr. Speaker, we come to this floor today to remember the victims—and the survivors—of the Armenian genocide of 1915.

We do so at a very solemn time in America.

While some of us gathered the past week to remember the 80th anniversary of the Armenian genocide—most Americans were focused on the senseless tragedy in Oklahoma City.

The murder of innocent men, women, and children is no easier to understand today than it was 80 years ago.

Tragedies like these remind us all of the true meaning of the words family, friendship, community, compassion, and faith.

It is this same strong sense of community that has enabled the Armenian people not only to survive—but to thrive—the past 80 years.

Mr. Speaker, as we come to this floor today we do so with the knowledge that all of us have a responsibility—to remember the victims, to speak out and to make sure that tragedies like this are never allowed to happen again.

That's part of the reason why some of us have introduced a resolution to remember the victims of the Armenian genocide.

Now—more than ever—those of us who embrace democracy have a responsibility to speak out for all those who live under tyranny.

Because sadly, the world does not seem to have learned the lessons of the past.

From Bosnia, to Rwanda, to Nagorno Karabakh, we see new examples every day of man's inhumanity to man.

The conflict taking place in Nagorno Karabakh is one of the great tragedies of our time.

This is not a CNN war.

For most Americans, Nagorno Karabakh is not a place that registers on the radar screen.

But it is a place where 100,000 have been killed or wounded in the past 6 years—where over a million people have been left homeless.

It is a place where doctors are forced to operate without anesthesia, where land mines continue to maim innocent women and children.

Mr. Speaker, we're all hopeful this terrible tragedy ends soon. We're all hopeful that the year-long cease-fire leads to a peaceful end.

And we're all encouraged by President Clinton's announcement last week that he will appoint a Special Negotiator to advance the negotiations.

But there is much more that needs to be done.

The United States has tried to send humanitarian aid to Armenia but it has continually been blocked by a blockade enforced by Turkey.

It is utterly unconscionable to me—that a country who is an ally of ours—who is a member of NATO, and who accepts U.S. aid, would think it has the right to block U.S. humanitarian assistance, and we should do all we can to lift that blockade.

Mr. Speaker, some of us have introduced a bill that would cut off all aid to Turkey until the blockade is lifted, and thankfully, we are seeing some progress.

Turkey recently announced it would open one air corridor to Armenia—possibly as soon as this week—and that's a hopeful sign.

But we must keep working until the blockade is lifted entirely, or the need for aid is eliminated entirely.

For 70 years, the people of Armenia and the people of Nagorno-Karabakh lived under the brutal boot of Soviet dictatorship, and they shouldn't be forced to live under these conditions any longer.

It's in all of our interests to see a free and democratic Armenia and that's why the United States has made aid to Armenia such a priority the past 6 years.

But today, we pause and remember the victims and survivors of the Armenian genocide, and to say: Never again.

We can never forget that in 1939, another leader used the Armenian genocide as justification for his own genocide.

This leader said, and I quote: "I have given orders to my Death Units to exterminate without mercy or pity men, women, and children belonging to the Polish-speaking race. After all," Adolf Hitler asked, "who today remembers the extermination of the Armenians?"

Mr. Speaker, it is up to all of us to remember.

For centuries, the Armenian people have shown great courage and great strength.

The least we can do is match their courage with our commitment.

Because in the end, we are their voices and we must do all we can to remember.

Because if we don't, nobody else will.

Mr. PALLONE. Mr. Speaker, I want to thank the minority whip, the gentleman from Michigan [Mr. BONIOR], for participating in our special order. As many of you know, he has been a long-time advocate of human rights in this House.

Next, I yield to the gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Speaker, I thank my colleague from New Jersey. I want to commend you and the gentleman from Illinois [Mr. PORTER] for arranging this important commemoration of a terrible period in history.

Recent history has seen the Armenian people subjected to a number of very difficult, troubling, and tragic circumstances, from being forced to live under the Soviet Communist regime, to the terrible 1988 earthquake, much worse than any this Nation has ever seen, to the present blockade and violence imposed by the Azeris.

There can be no doubt that the Armenian people have long suffered, but nothing is more tragic and more important to remember than the genocide which took place from 1915 to 1923; 1.5 million people died, countless more lost mothers and fathers, sons and daughters, uncles and aunts, comrades and friends.

We stand here today in the people's House of Representatives, more than a half century later, to ensure that others will never forget, not forget the massacres, not forget the persecutions, the death marches, the bloodshed, and not forget that all citizens in the world deserve to live in freedom without the threat of destruction, without the fear of systematic oppression and murder.

And that is why it is important we commemorate this 80th anniversary of the Armenian genocide. We cannot afford to let the people of the world or the people of our own country forget that genocide can and does happen.

Just this week we marked the 50th anniversary of the liberation of Dachau and the terrible genocide in Europe perpetrated against the Jewish people, and already in this decade, there have been many events in places like Rwanda and the former Yugoslavia that remind us of man's inhumanity to man, and that evil forces still exist in our so-called modern world.

In light of these sorry events in those countries, we must do everything in our power to make sure that the people of the world remember that genocide in Armenia 80 years ago, for if we forget the past, we most certainly will be condemned to repeat it.

□ 1900

And as part of this effort, the distinguished minority whip, the gentleman from Michigan [Mr. BONIOR] and I, and others have introduced House Concurrent Resolution 47. This resolution would put the House on record honoring the memory of the 1.5 million genocide victims. The House should pass this resolution and send a message to the world that we will never forget what happened during that terrible period in history and that we will do every thing in our power here in the House of Representatives to make sure that it does not happen again anywhere in our world.

I want to commend my colleague, the gentleman from New Jersey [Mr. PALLONE], and my colleague from Illinois [Mr. PORTER] for their great leadership on this issue and for making sure that we did not let this 80th anniversary pass without taking some time on the floor of this House to remember this terrible period, and I want to thank the gentleman from New Jersey for the time and for his leadership.

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from Massachusetts [Mr. BLUTE] and now yield to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, as the proud Representative of a large and vibrant community of Armenian-Americans, I rise to participate in this important and timely special order.

Let me first commend my friends FRANK PALLONE and JOHN PORTER, the cochairs of the Congressional Caucus on Armenian Issues, not only for sponsoring this special order, but for all of their hard work in the area of human rights and international decency.

My colleagues, this year we mark the 50th anniversary of the end of World War II and the defeat of the Nazi killing machine.

It has often been asked: "How could the world have done nothing to prevent the deaths of six million Jews in the Holocaust?"

Tragically, the answer lies in the haunting and hateful words of Adolf Hitler, who cruelly justified the Final Solution by asking, "Who remembers the Armenians?"

Tonight we remember the Armenians.

Tonight we recall that 80 years ago, Ottoman Turkish forces launched their brutal reign of terror which resulted in the deaths of 1½ million Armenians. When the carnage ended 8 years later, two out of every three Armenians living in Ottoman Turkey had been killed.

Tonight we express our sorrow for those who died, and renew our respect for those who survived.

Eight decades have passed since this hideous episode in the history of man's inhumanity to man, but tonight we must pledge that we will hold commemorations like this one 80 years from now and 80 years from then to ensure that the lessons of the Armenian genocide are never forgotten.

Nothing we can ever say or do will bring back to life those who perished.

But we can endow their memories with everlasting meaning by teaching the lessons of the Armenian genocide to future generations.

The first lesson is the truth.

The time has come for Congress to pass the Armenian genocide resolution. We must put our Government squarely on the side of the facts. I commend our colleagues DAVID BONIOR and PETER BLUTE for introducing House Concurrent Resolution 47, which I have cosponsored.

This resolution not only represents official United States recognition of the memory of those who died, but will also put pressure on the Turkish Government to do what it has callously refused to do—to acknowledge and commemorate the atrocities committed 80 years ago.

There is no statute of limitations on genocide. Congress must not condone the efforts of those in Turkey and elsewhere who seek to downplay the terrible events of 80 years ago, or worse yet, who claim that the Armenian genocide never even happened.

And the second lesson is one of current international significance.

We must use the commemoration of this terrible era to renew our friendship with Armenia. This valiant and struggling nation deserves and needs U.S. humanitarian and developmental assistance.

And the United States must make this demand of Turkey: "Allowing a few airplane flights in is not enough! Lift your blockade of Armenia now!"

Tonight we salute the indomitable spirit of the citizens of Armenia.

We commend the magnificent contributions that Armenian-Americans have made to our own society.

And we pledge to honor the martyrdom of the victims of the Armenian genocide to ensure that their sacrifices will never be forgotten and their fate never repeated.

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman from New York [Mrs. MALONEY] for her comments, and now I yield time to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman from New Jersey [Mr. PALLONE] and the gentleman from Illinois [Mr. PORTER] for this special order and for their leadership in making the proper recognition of the Armenian genocide.

Mr. Speaker, I rise today to join my colleagues in commemorating the 80th anniversary of the Armenian genocide. As you know, 1.5 million Armenians were massacred by the Turkish Ottoman Empire between 1915 and 1923.

The Armenian community in the United States is mostly descended from survivors of this tragedy who were forcibly exiled from their homeland. These citizens, many of whom reside in

Pennsylvania's 13th Congressional District, have made tremendous contributions to American life while honoring their own rich traditions.

Mr. Speaker, on the evening of April 24, 1915, the political, religious, and intellectual leaders of the Armenian community in Constantinople—now Instanbul—were arrested, exiled from the capital city, and murdered. After the "young Turk" government silenced the voices of the Armenian community in this inhumane way, they began a systematic deportation and extermination of all Armenians.

Mr. Speaker, it is our duty to ensure that these reprehensible crimes against humanity are not forgotten. I am deeply concerned that the Turkish Government refuses to acknowledge this shameful genocide, even today. We know all too well the consequences of forgetfulness. As Elie Wiesel reports, and the gentleman from Michigan [Mr. BONIOR] and others reiterated this evening, "Before planning the final solution, Hitler asked, 'Who remembers the Armenians?' "

Today Turkey refuses to allow U.S. shipments of humanitarian aid to reach Armenia. I urge my colleagues to join me in cosponsoring the Humanitarian Aid Corridor Act (H.R. 942), which would eliminate U.S. aid to countries that would obstruct the delivery of U.S. humanitarian assistance.

I have recently learned that Turkey will open air corridor H-50, and I call upon the Government of Turkey to immediately cease all interference with the transport and delivery of U.S. humanitarian aid to Armenia. I hope that our message is heard.

Mr. Speaker, I thank my colleagues for allowing us to be part of this important special order to make sure we highlight the 80th anniversary of the genocide of Armenians, and I thank the gentleman for this time.

Mr. PALLONE. I thank the gentleman from Pennsylvania [Mr. FOX], and next I yield to the gentlewoman from California [Ms. ESHOO], who I believe is maybe the only, but certainly one of the, Armenian Members of Congress.

Ms. ESHOO. Mr. Speaker, I thank my good friend and colleague, the gentleman from New Jersey [Mr. PALLONE]. I would like to pay tribute to him and the wonderful leadership that he has given here in the House of Representatives on behalf of American Armenians. It is so important that there be Members that take on what he has, and I want to pay tribute to him, to the gentleman from Illinois [Mr. PORTER] and all of my other colleagues that are part of this special order that is helping to raise the awareness on the 80th anniversary. I wish there was not such an anniversary. This is not in celebration. This is, of course, in commemoration of the Armenian genocide and the millions of Armenians who were systematically exterminated by the Ottoman troops.

The slaughter began on April 24, 1915, when hundreds of Armenian leaders were arrested and executed in Istanbul and other areas.

By the time they were finished, Ottoman troops had executed 1.5 million Armenians including innocent women and children.

Tragically, the crying voices of these innocent victims fell upon deaf ears because the international community refused to confront the perpetrators of these atrocities.

As the only Member of Congress of Armenian descent, I know full well how the Ottoman Empire decimated people and wrote one of the darkest chapters in human history. I am committed to ensure that their suffering is not diminished and cannot be denied by the perpetrators of this disgraceful policy.

By recalling the atrocities of the Armenian genocide we remind the world that a great tragedy was inflicted upon our people, that the murder of Armenians was a catastrophe for the entire family of nations, and that unchecked aggression leads to atrocity.

By mourning the losses of our past, we renew our determination to forge a future in which our people can live in peace, prosperity, and freedom.

And we remember that Armenians were persecuted throughout the Ottoman Empire because we were a vulnerable, homeless people with no nation of our own in which we could seek sanctuary, no borders behind which we could seek protections. Isolated and abandoned, we were attacked and killed.

Despite our history of suffering at the hands of others, Armenians have remained a strong people. We are committed to our families and united by our enduring faith.

And we have risen from the ashes of the Armenian genocide to form a new country from the remains of the Soviet Union * * * a new country which flourishes in the face of severe winters, ongoing military conflict in Nagorno-Karabagh, and the absence of strong international assistance.

Today's Armenia is a living tribute to our people's indelible courage and perseverance and the greatest assurance that what took place 80 years ago will not be repeated.

As we remember the tragic history of my people, it is essential also for us to discuss the future of Armenia and the role which the United States can play in establishing peace in the Caucasus. Many of the Members speaking this evening have worked tirelessly with the administration to encourage it to take a more proactive role.

And President Clinton recently announced he will nominate a special negotiator for Nagorno-Karabagh at the rank of ambassador.

This could be an important first step. Yet, in my view, true peace in the Caucasus will only be achieved when the political and economic isolation of Armenian ceases and regional leaders recognize the inherent rights of Armenia—including its land and its history. Congress can play an important part in this process.

For example, there is pending legislation which would help ensure lasting peace in the Caucasus. The Humanitarian Aid Corridor Act is essential because it would exert the appropriate pressure on countries which block U.S. foreign assistance to the region.

It is not enough for third party nations to allow commercial flights into aid-recipient countries—land convoys must be allowed through in order to move necessary amounts of American food, medicine, and clothing. I urge my colleagues to pass this important bill.

In addition, we must maintain the Freedom of Support Act which prevents U.S. foreign assistance going to Azerbaijan until they lift their blockade of Nagorno-Karabagh. In my view, the Freedom of Support Act must be upheld until the isolation of Armenia ends and its territorial rights are adhered to.

Mr. Speaker, if the tragedy of the Armenian genocide has taught us anything, it is that sitting back is tantamount to helping Armenia's oppressors.

As the recent decision by the President to end all United States trade with Iran indicates, tensions in the Caucasus are rising and they are global in scope. The United States is finding that it cannot sit back and observe events unfolding in the region. The Russians, Chinese, and Turks have important interests in the region, and so do we.

As Members of Congress, we have the responsibility of ensuring that an enhanced United States role in the affairs of the Caucasus follows a course sensitive to the region's history and culture. This includes a heightened sensitivity to Armenia, whose history and culture are often denied or misunderstood.

I thank my colleagues who have joined us here today to remember the Armenian genocide.

We must do all we can to prevent this tragic history from repeating itself and help advance a proactive foreign policy to bring lasting peace to the region.

☐ 1915

I genuinely thank my colleagues, and pay tribute to each one of you who have joined in this tribute this evening, a commemoration of the Armenian genocide. Many of my family members of another generation were taken during that genocide. So we must do all that we can to prevent this tragic history obviously from repeating itself, but we must renew ourselves in the efforts that really count today toward the end of this century and preparing for a new one, to help advance a proactive foreign policy to bring lasting peace to the region.

The Armenian community will be in great gratitude to the Congress of the United States as we renew our efforts toward this goal. I again pay tribute to you, Mr. PALLONE, and all of my colleagues for doing what you have done in the past and your tireless efforts on behalf of the issues that affect Armenians around the world, certainly in the region. On behalf of the Armenian-American community, I pay tribute to you as well.

Mr. PALLONE. I just want to thank the gentlewoman from California for her remarks. It is particularly I think appropriate that you conclude our special order. I know we have other speakers. I just wanted to say one thing. One of the things I noted over the weekend, as you know, the last week was also the occasion when we commemorated the Nazi Holocaust. I was with many of the victims of the Nazi Holocaust over the weekend and shared thoughts with some of them. But the one thing that was outstanding and the big difference, if I could make the comment, is that those victims of the Nazi Holocaust at least knew that the German Government recognized that it occurred and that people today in Germany hold commemorations and basically say they are sorry for what occurred.

Unfortunately, that is not the case with the Government of Turkey or in fact most of the people of Turkey, many of whom are not aware of what happened 80 years ago. That is why we have to continue with our special order. We have to make it so the day comes when Turkey takes notice of what happened and the same type of commemoration occurs in Turkey as takes place now in Germany with reference to the Nazi Holocaust.

Ms. ESHOO. The gentleman has made a very, very important profound point and underscored a very profound issue here. It seems incomprehensible that a government of today would not look over its shoulder and say these are the sins of the past that were visited upon innocent people, but that it is a different day and time.

I think that this Congress can and will make the difference, and you have done much to lead us toward that. I thank the gentleman.

Mrs. LOWEY. Mr. Speaker, before I begin, I just want to comment on the profound words of my colleague from New Jersey, Mr. PALLONE. Adolph Hitler himself said that the world's indifference to the slaughter in Armenia indicated that there would be no world outcry if he undertook the mass murder of Jews and others he considered less than human, and he was right. It was only after the Holocaust that the cry "never again" arose throughout the civilized world, but it was too late for millions of victims, too late for the 6 million Jews, and too late for the 1.5 million Armenians. I too appreciate your having that special order.

Mr. Speaker, I rise today along with my colleagues to honor the 1.5 million Armenians who were murdered during the Armenian genocide of 1915 to 1923.

Mr. Speaker, Armenians wiped away their tears and cried out "Let us never forget. Let us always remember the atrocities that have taken the lives of our parents and our children and our neighbors." I rise today to remember those cries and to make sure that they were not uttered in vain.

Unfortunately, this tragedy is still not even acknowledged by the Turkish Government, and today the Armenian people continue to suffer.

Mr. Speaker, as many of us know, the ongoing conflict over Nagorno-Karabakh led last year to an Azerbaijan-orchestrated blockade. I am deeply concerned for the innocent people who are suffering as a result of this blockade, which left many in Armenia without power, food, or medicine. As my colleagues and I stand here today to remember the events of 80 years ago, let us not lose sight of the events that have transpired recently. Let us take this opportunity to pledge to do everything in our power to settle the ongoing dispute in Nagorno-Karabakh. Let me be perfectly clear: The United States must stand firm against any dealings with Azerbaijan until it ends the blockade against Armenia and against Nagorno-Karabakh.

Mr. Speaker, last year I fought to have $75 million in the 1995 Foreign Operations Appropriations Act earmarked for Armenia. Regrettably, too few of my colleagues shared my belief that we must set aside these sorely needed funds for Armenia. It is critical that we take the time today to make explicit our commitment to the people of Armenia. I ask my colleagues on both sides of the aisle to do so.

Strongly support section 907 of the Freedom Support Act, which restricts aid to Azerbaijan until that nation lifts its embargo against the people of Armenia.

Cosponsor H.R. 942, the "Humanitarian Aid Corridor Act," which would prohibit U.S. assistance to any country which in any way restricts the transport or delivery of U.S. humanitarian assistance to other countries. This legislation will ensure the speedy, unhindered, and effective delivery of needed United States humanitarian assistance to Armenia.

And finally, I implore my colleagues to call on Azerbaijan to negotiate a peace settlement under the guidelines established by the Commission on Security and Cooperation in Europe [CSCE].

It is tragic that Azerbaijan's tactics denied food and medicine to innocent men, women, and children within Armenia, and created thousands of refugees. The war over Nagorno-Karabakh has set a dangerous precedent for the resolution of conflicts among the many new nations that were formerly part of the Soviet Union. We must make clear that warfare and blockades aimed at civilians are unacceptable as means for resolving disputes.

In closing, Mr. Speaker, let me reiterate that I will always remain mindful of the terrible suffering the Armenian people have endured during this century. I cannot stress enough that we must never forget the Armenian genocide, and that we must do everything in our power to ensure that the Armenian nation can live in peace and security from this time forward.

Mr. LEVIN. Mr. Speaker, today I join with my colleagues in Congress and Armenians all over the world to commemorate the 80th anniversary of the Armenian genocide. Once again we call today for recognition of this tragedy because the horrible truth of the Armenian genocide is still not universally acknowledged, even after all these years.

We must forever speak out against genocide as a constant reminder of the consequences of silence in the face of oppression. We must call attention to the reality of the Ottoman Empire's systematic persecution of Armenians in part so that such inhumanity is never tolerated again, ever. And we must voice our support for the rights of all people as we demand an end to the extermination of innocent civilians caught in ethnic conflicts today in Bosnia, Rwanda, and Nagorno-Karabagh.

Our remembrance of the loss of 1½ million Armenian lives is our declaration of absolute opposition to such acts of inhumanity and our statement of hope for a world free of genocide. We must not let this atrocity be forgotten. To let this happen would be to condemn future generations to the same fate. Only through remembrance and recognition can we stop such acts of senseless cruelty and violence against humankind from happening again.

Mr. MOAKLEY. Mr. Speaker, I would like to take this opportunity to remember the 1.5 million Armenians who lost their lives in one of the greatest tragedies of this century. The year 1995 marks the 80th anniversary of the beginning of the Armenian genocide, and I would like to add my voice to those who are commemorating this grevious event. The murder of over 1 million people is such an unspeakable appalling act that it is difficult for a person to comprehend. For this reason it is important to recognize the genocide, and in remembering we will ensure that such an atrocity will never occur again. It serves as a lesson that we can never ignore a situation where such a callous disregard for human rights is demonstrated.

The Armenian genocide began on April 24, 1915, when Turkish officials rounded up and murdered over 200 Armenian intellectuals in Constantinople. During the next 8 years, over 1.5 million Armenians were needlessly butchered. By 1923, only one in every three Armenians who was alive before 1915 was still living. Before planning the final solution in Nazi Germany, Adolph Hitler asked, "Who remembers the Armenians?" We owe it to the memory of these brave souls to make sure that they are never forgotten again.

Mr. GILMAN. Mr. Speaker, I am grateful for having been invited to join in this special order today honoring the memory of the hundreds of thousands of innocent men, women, and children who suffered a horrible death of the genocidal actions carried out by the former Ottoman Empire starting 80 years ago.

The genocide perpetrated against the Armenian people of the former Ottoman Empire during the First World War was merely a portent of things to come.

Only a few years later, hundreds of thousands of Ukrainians were to die in the artificial famine created by the Communist dictator of the former Soviet Union, Joseph Stalin.

A few years after that, millions of Jews and others were to fall victim to the genocide perpetrated by the former Nazi regime of Adolph Hitler.

It has always been my honor and privilege to participate in congressional ceremonies and special orders commemorating the Armenian genocide during the time that I have served as a Representative to the Congress.

I am indeed pleased to be a part of such ceremonies again this year, which carry on with an important tradition.

Just as the unfortunate victims of the Holocaust and of the Ukrainian famine should be remembered, so must the victims of the genocidal action against Armenians be in our thoughts at this time.

As we contemplate their suffering, we note that today the death of those innocents 80 years ago is commemorated not just by their descendants around the world but by the people of the newly independent state of Armenia.

Certainly, the people of Armenia face difficult new challenges today, but they now are free of foreign rule for the first time in hundreds of years.

As we commemorate the victims of a bloody persecution that began 80 years ago, let us therefore join in celebrating Armenia's newfound independence—the best guarantee that such bloody persecutions will not befall the Armenian people again.

Mr. MEEHAN. Mr. Speaker, I am honored to address the House of Representatives to commemorate the Armenian genocide. Only by remembering the tragic events of the Armenian genocide can we ensure respect for human rights and democratic principles throughout the world.

In 1894, a pattern of persecution emerged in the Ottoman Empire, placing the Armenian population in great jeopardy. The persecutions climaxed in 1915, marking the height of systematic massacres and forced exile of the Armenian people. Over 1 million people were murdered. Today, less than 100,000 Armenians remain in Turkey. We must never forget the atrocities of the Armenian genocide as we look back on this 80th anniversary.

I feel proud to be the Representative of an active and prosperous Armenian community in my own district of Massachusetts. They have given me hope for future generations of Armenians. It is for these people, as well as Armenians around the world, that I both commemorate the Armenian genocide and urge the world not to tolerate anything of this kind again.

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to commemorate the 80th anniversary of the Armenian genocide.

Beginning on April 24, 1915, hundreds of Armenian religious, political, and intellectual leaders were rounded up, exiled, and murdered. The genocide of the Armenian people by the Turkish Ottoman Empire continued for 9 years and claimed over 1,500,000 lives. Another 500,000 Armenians were forced to flee their homeland, some of whom formed the origins of the Armenian community in our country. Therefore, it is imperative that we, as the elected Representatives of the people of the United States, recognize and commemorate the genocide of the Armenian people.

In addition, it is incumbent upon us to speak out about messages of hate and bigotry on the rise in this country. As we have learned in this country and witnessed abroad at least twice this century, hate must not be allowed to grow unchecked. We must continue to denounce messages of hate and bigotry and promote tolerance within our communities.

Mr. Speaker, the commemoration of this tragic episode in world history is vitally important. I urge my colleagues to join me in commemorating the genocide of the Armenian people.

Mr. HOYER. Mr. Speaker, I rise today to commemorate the tragic events leading to the deaths of over 1.5 million Armenians. I join millions around the world in vowing, once again, to ensure that our generation and future generations never again have to bear witness to such inhuman behavior and feel the pain and suffering of an entire people.

We had hoped that the crime of genocide would never again be allowed to mar the history of humankind.

Yet today as we stand with our Armenian brothers and sisters to remember and share in their grief for those who died from 1915 to 1923, we are all reminded of the ongoing genocide in Bosnia today in 1995, where we too, share in the people of Bosnia's anguish.

Let us also today be reminded, as Americans, of the freedoms we enjoy but so often take for granted.

We must remember that only too often has this disrespect for the most basic of our human rights—the right to speak, to worship, and to believe as one pleases—led to the deaths of millions in the Holocausts of this century. We must continue to hold vigil for those who have perished so that the rights of all humanity will be protected in the future.

Finally, I am pleased to stand here today to pay tribute to the Armenian people. Armenia is a land composed largely of rock and stone, hewn out of the earth by 1 million years of evolution and left to its people as the basis of construction of one of the world's oldest and richest civilizations.

The people of Armenia, like the stone out of which they have built their history, are a strong and lasting people, a people who have withstood the onslaught of tragedy. Because of the resilience of the Armenian people, they will continue to enrich our world with their creativity and tradition.

Mrs. ROUKEMA. Mr. Speaker, Today we commemorate the memory of generations of Armenians, victims of a horrible genocide that we all hope will never be repeated.

From 1915 to 1923, the Ottoman Empire systematically murdered over 1.5 million Armenians living in Turkey. And, throughout history, we have witnessed similar acts of unspeakable cruelty—the killing of over 12 million during the Holocaust, escalating death tolls in Bosnia and Rwanda and, most recently, the bombing in Oklahoma City.

It is vital for us as a nation to remember what happened in Turkey 80 years ago, and to recognize that we must work to promote peace and democracy throughout the world to help prevent such atrocious crimes from repeating themselves.

As we pay tribute to and remember those in the Armenian community who lost their lives, Americans must continue to denounce racism, sexism, anti-Semitism, bigotry, religious persecution, and ethnic violence. Only by learning from past experiences, no matter how difficult they might be to remember, can we grow and develop as a nation. Because, as we continue to wipe out existing stereotypes and prejudices, we are able to refocus our attention on the important contributions that all groups of people make to our country.

As Americans became aware of the tremendous suffering being endured 80 years ago and took steps to end the senseless tragedy, thousands of Armenians came to the United States in search of better lives. Now, they, their children, and their children's children have grown to be successful in all aspects of life. Having one of this Nation's largest Armenian community's, I can proudly say that their strong sense of family values and emphasis on education symbolize what is best in America, and a model for other families to follow.

But, despite all that has been achieved, we must also remember that Armenia's plight is not yet over. In the middle of the Nagorno-Karabagh conflict, Armenia finds itself in a struggle for survival. While the international community increases its efforts to bring about democracy and stability in the TransCaucasus, we, too, must continue our resolve to restore security in the region and cleanse it of ethnic hatred.

None of us will ever forget the awful tragedy that took place on this 80th anniversary of the Armenian genocide. And, by working to reconcile present conflicts, we hopefully will not have to look back on similar tragedies in the future.

Mr. DOOLEY. Mr. Speaker, I rise today to join my colleagues in commemorating the 80th anniversary of the Armenian genocide.

This terrible human tragedy must not and will not be forgotten. Like the Holocaust, the Armenian genocide stands as an historical example of the human suffering that results from hatred and intolerance. More often than not, when people think of genocide or ethnic cleansing, it is the Holocaust that comes to mind. However, let us remember that the Armenian genocide was the historical basis of Adolf Hitler's plan for the Holocaust. Today we commemorate the Armenian genocide and reflect upon the suffering endured by Armenia and her people—to ensure that this terrible tragedy is not forgotten.

One and one-half million Armenian people were massacred by the Ottoman Turkish empire between 1915 and 1923. More than 500,000 Armenians were exiled from a homeland that their ancestors had occupied for more than 3,000 years. A race of people was nearly eliminated.

It would be a great tragedy to forget that this loss of human life and homeland ever occurred. Years prior to unleashing his plans for the Holocaust, Hitler predicted that no one would remember the atrocities and the human suffering endured by the Armenians. After all, it was Hitler who posed the question, "Who remembers the Armenians?" Our statements today are intended to preserve the memory of the Armenian loss, and to remind the world that the Turkish Government continues to refuse acknowledgement of the Armenian genocide.

This 80th anniversary is underscored by the current suffering of the Armenian people, who remain immersed in tragedy and violence by the continuing unrest between Armenians and Azerbaijanis in the region of Nagorno-Karabagh. Thousands of innocent people have already perished in this dispute, and still many more have been displaced and are homeless. Frustrating the situation is the continuing destruction of fuel and power lines, as well as the blockade of supply routes into Armenia through neighboring Georgia and Turkey.

In the face of this difficult situation comes an opportunity for reconciliation. Now is the time for Armenia and its neighbors, including Turkey, to come together, to work toward a lasting peace and to rebuild relationships between countries. The first step in this process should be ending of the blockades that are hampering the recovery of Armenia and her people. Although Turkey has recently opened an air corridor to Armenia, the land blockade continues to frustrate humanitarian relief efforts.

Meanwhile, in America, the Armenian-American community prospers and continues to provide solidarity and assistance to its countrymen and women abroad. Numbering nearly 1 million, the Armenian-American community is bound together by strong generational and family ties, an enduring work ethic and a proud sense of ethnic heritage. Today we remember the tragedy of their past, not to place blame, but to answer a fundamental question, Who remembers the Armenians?

Today our commemoration of the Armenian genocide speaks directly to that end, and I answer, We do.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I want to thank Mr. PALLONE and Mr. PORTER, co-chairs of the Armenia caucus, for their leadership in once again giving this House the opportunity to address the deep concerns many of us have about developments in Armenia.

Over the course of my years in Congress, we have been engaged on many fronts on the Armenia issue—whether it be emergency relief after the massive earthquake that devastated the country in 1988, trying to address the suffering and deprivation caused by the withering blockade of Armenia imposed by Agerbaijan and Turkey, or offering support for efforts to end the fighting in the region through a negotiated peace process.

But today is a special day. It is a time for special remembrances, for reflection, commemoration, and to remind ourselves of our moral obligations to our fellow human beings, whatever their ethnicity, their religion, or their color.

I am reminded that the first action I saw when I came to Congress with regard to Armenia was the attempt to get this Congress to recognize the Armenian genocide on April 24, 1915—the beginning of a terrible campaign against the Armenian people that resulted in the killing of more than 1 million people merely on the basis of their nationality.

Today, we commemorate the 80th anniversary of the genocide, a 9-year reign of terror that set a gruesome standard for 20th century atrocities. All of us in the Congress and across America and the world, should take a moment to remember this horrible crime, and to resolve that we will fight injustice wherever we find it.

While the experience of trying to win recognition of the Armenian genocide was a painful one, I must say that the vast majority of my work on issues of Armenia and with the Armenian community here in the United States has been a joyful experience.

I have been inspired by the ability of the Armenian community here to make a deep and lasting contribution to our Nation—to our schools and neighborhoods, in the areas of art and culture, and in the political arena. My home State of Massachusetts has one of the most vibrant and active Armenian communities in the United States and we are a better, stronger State because of that.

At the same time, Armenians in the United States have done a tremendous job of maintaining their own culture, their language and their churches, and a remarkable commitment to maintaining ties to their homeland or the homeland of their ancestors. Recent articles in the Boston Globe attest to the strength of this community in my district, the State of Massachusetts, and the Nation.

This commitment, and a capacity to respond, has of course been demonstrated in moments of crisis such as the earthquake, 30,000 people were killed in an instant. In many parts of the country there was incalculable damage to homes, to factories, and to infrastructure. Thousands of Armenians continue to live today, 7 years later, without electricity or running water in makeshift shelters that were set up in the wake of the loss of their homes.

The response of the Armenian community in the United States was phenomenal. They provided food, clothing, medicine, and funds. Just as importantly, they challenged this Nation, and other nations around the world, to recognize the extraordinary scale of damage done by the earthquake and to provide the resources that were needed to address this humanitarian disaster. It is important to recognize that the humanitarian challenge posed by the earthquake has yet to be fully met. I was pleased to see that just in February 1994 the World Bank released a long-delayed loan designed to rebuild housing and repair other damage from the earthquake.

While the earthquake—a dramatic event—focused the attention of the international community, the blockade against Armenia, which remains in place until this day, exacts its terrible, unrelenting cost, day in and day out, over years. It has driven a proud and determined people to face the types of choices that no civilized nation should have to confront—the choice, for example, of stripping the nation of trees and burning its books in order to provide heat to prevent infants and the elderly from freezing to death.

It is absolutely crucial that the United States remain clear and focused in its efforts to secure the lifting of this blockade and the opening up of commerce, transportation, and communication throughout Transcaucasia. This means maintaining the prohibition against United States assistance to the Government of Azerbaijan until they are willing to lift the blockade. And it means continued pressure on the Government of Turkey—which receives more than $500 million in United States economic aid and military loans—to do the same.

That is why I introduced, along with Representative CHRIS SMITH, the Humanitarian Aid Corridor Act. We must maintain this pressure not out of vengeance, but as a sign of our commitment to finding a solution to open up all the borders in the region. If this type of arrangement can be put together—whereby Turkey and Azerbaijan lift their blockade against Armenia—then I think there is no question that there would be overwhelming support in the Congress, and, I think, in the Armenian community in the United States, for lifting the restriction on direct assistance to the Government of Azerbaijan as well.

I had the opportunity to see the desperate situation Armenians face first hand when I visited Armenia in February 1993. We arrived at the Yerevan airport late at night and went by van to downtown Yerevan. It was snowing so hard and there was not a light in the place, so that we could not even tell we were in the middle of a city. What we found was that there was no heat, no electricity, no running water, no telephones; and yet, the spirit of the Armenian people continued to provide a bright light.

I visited orphanages where the little babies were lying in empty, cold rooms, in soiled clothes that could not be changed because there was no place to wash or dry the clothes. I visited senior citizens stuck in hospitals who have lived through the Armenian genocide we commemorate here this evening, who lived through the earthquake, who were now forced to suffer and to die in a climate inside of a hospital room where the temperature never rises above 15 to 20 degrees.

It was one of the most devastating few days of my life, to see the kind of human suffering that takes place. But it reestablished my own personal commitment to stand strong for the people of Armenia, to stand strong with people of this great nation that has inspired freedom-loving people throughout the world.

So I rise today, Mr. Speaker, to add my voice to those of my colleagues in saying: We must never forget.

Mrs. MEEK of Florida. Mr. Speaker, I rise today to join with my colleagues in commemorating one of the most heinous atrocities committed against humanity: the Armenian genocide.

In 1915, the Armenian people of the Ottoman Empire were subjected to systematic extermination through a policy of deportation and massacre. It is estimated that a million and a half Armenians eventually perished because of the atrocities committed against them by agents of the Ottoman Turks.

This terrible event is known as the first genocide of the 20th century, and we must never forget it. Elie Wiesel, chairman of the U.S. Holocaust Memorial Council and a survivor of the Holocaust, summed up the reason why. He said, "Before planning the final solution, Hitler asked, 'Who remembers the Armenians?' No one remembered them, as no one remembered the Jews."

Today, all people of conscience remembers the Armenians. Let us resolve on this day of remembrance never to forget the one and a half million people who lost their lives solely because they were Armenian. And let us resolve to speak out whenever genocide is used by tyrants as an instrument of state policy.

Ms. PELOSI. Mr. Speaker, I rise today to join in the observation of the 80th anniversary of the beginning of the Armenian genocide during the Ottoman Empire. I commend my colleagues Representatives PORTER and PALLONE for calling this special order to draw Congress' attention to the tragic slaughter of the Armenian people. In addition to participating in this special order, I am proud to have joined Representatives BONIOR and BLUTE in cosponsoring House Concurrent Resolution 47, which honors the memory of the 1.5 million Armenians who perished earlier this century. I have also joined a number of my congressional colleagues in writing President Clinton urging that he, too, issue a strong statement of remembrance and recognition of the Armenian genocide as a crime against humanity.

On April 24, 1915, despots of the Ottoman Empire began a systematic campaign of terror, brutality and murder against the Armenian people. This campaign was the first genocide of the 20th century. By the end of the campaign of terror in 1923, 1.5 million Armenian men, women, and children had been massacred and more than 500,000 had been deported from their homeland of 3,000 years. These actions were a clear case of genocide. The genocide was horrific, it is well-documented and it must not be forgotten.

Today, the Armenian-American descendants of the Armenian exiles make a vibrant contribution to the life and energy of the San Francisco Bay area. I join with them in observing this anniversary of the Armenian genocide and in honoring the memory of their ancestors.

Mr. DREIER. Mr. Speaker, words fall short of expressing the shock and revulsion Americans felt in the wake of the brutal terrorist bombing in Oklahoma City. Words especially ring hollow when we struggle with the vision of bloody and dying children. While we did not know these children or their families, we know in our hearts that not one ever did anything to warrant their fate.

There is a well-worn saying that "Time heals all wounds." In the wake of the tragedy in Oklahoma, we can draw some solace from it. Mercifully, the immediate pain and sadness of even a most horrible event pass over time. However, it does not mean that we are expected or should forget.

With the TV pictures fresh in our minds, and the sadness of this time fresh in our hearts, we must come to grips with the fact that this crime was the work of Americans. It was the product of hate and evil that originated in this country. Hate and evil know no boundaries.

This is an especially poignant time to recall another horrible act of hate and evil, the genocide committed against the Armenian people in Turkey 80 years ago. Just as we will never forget the terrorism committed in Oklahoma, it is important that we not forget the 1.5 million Armenian men, women, and children who were brutally murdered in the inaugural genocide of the 20th century.

Each year, Americans, and not just Armenian-Americans, come together on this occasion. We do so to do more than simply remember that the Armenians were the first victims of what sadly has become man's bloodiest century. Rather, we each hope that raising the consciousness of past atrocities helps prevent similar tragedies in the future.

With tragedy so near and so fresh in our minds, we are easily reminded that hate and evil are unfortunate aspects of the human condition. However, it is our responsibility as Americans to remain vigilant against hate, violence, and intolerance, whenever and wherever it rears its ugly head.

Mr. Speaker, I yield back the balance of my time.

Mr. CARDIN. Mr. Speaker, I rise today and join my distinguished colleagues in commemorating the tragedy of the Armenian genocide.

During and after the First World War, from 1915 to 1923, over 1.5 million Armenians were deliberately starved, murdered, and driven from their homeland by the Ottoman Turks. It was the first modern example of the gruesome policy of ethnic cleansing.

Unfortunately, it was not the last. Since 1923, genocide has frequently become the policy of choice for totalitarian governments and aggressor states. From Adolf Hitler to the Bosnian Serbs, ethnic cleansing has been used by a variety of tyrants. The victims of this horrible act have been as widely different as German Jews, Ukrainian farmers, and Rwandan Tutsis. History has repeated itself time and again.

History threatens to repeat itself today. Across the globe, minorities like the Bosnian Muslims are threatened with extinction. As members of the free world, we must not allow these murderous intentions to succeed. We must stand up and tell those who wish to murder whole nations that we will not permit them to follow this gory tradition. It is a tradition that must end now.

Mr. Speaker, the world must act now to stop any further repetitions of the Armenian genocide. We cannot allow any other ethnic minorities to be slaughtered as the Armenians were slaughtered. To permit another example of the horrible practice of ethnic cleansing would be to dishonor the memories of those who died at the hands of the Ottoman Turks.

Mr. TORRES. Mr. Speaker, I wish to thank my colleagues. Mr. PALLONE and Mr. PORTER, for organizing this special congressional opportunity for both houses of Congress to pause to honor the memory of the one-and-a-half-million Armenians who were killed between 1915 and 1923 by agents of the Turkish Ottoman Empire in what is known in infamy, and perhaps with some controversy, as the Armenian genocide.

Some would claim that our remembrance today fans the flames of atavistic hatred and that the issue of the Ottoman government's efforts to destroy the Armenian people is a matter best left to scholars and historians. I do not agree. For whatever ambiguities may be invoked in the historic record of these events, one fact remains undeniable: the death and suffering of Armenians on a massive scale happened, and is deserving of recognition and remembrance.

This solemn occasion permits us to join in remembrance with the many Americans of Armenian ancestry, to remind this country of the tragic price paid by the Armenian community for its long pursuit of life, liberty, and freedom.

Today, I rise to recall and remember one of the most tragic events in history and through this act of remembrance, to make public and vivid the memory of the ultimate price paid by the Armenian community by this blot against human civility.

We come together each year with this act of commemoration, this year being the 80th anniversary of this genocide, to tell the stories of this atrocity so that we will not sink into ignorance of our capacity to taint human progress with acts of mass murder.

The Armenian genocide was a deliberate act to kill, or deport, all Armenians from Asia Minor, and takes its place in history with other acts of genocide such as Stalin's destruction of the Kulaks, Hitler's calculated wrath on the Jews, and Pol Pot's attempt to purge incorrect political thought from Cambodia by killing all of his people over the age of 15.

We do not have the ability to go back and correct acts of a previous time, or to right the wrongs of the past. If we had this capacity, perhaps we could have prevented the murders of millions of men, women, and children.

We can, however, do everything in our power to prevent such atrocities from occurring again. To do this, we must educate people about these horrible incidents, comfort the survivors, and keep alive the memories of those who died.

I encourage everyone to use this moment to think about the tragedy which was the Armenian genocide, to contemplate the massive loss of lives—on both sides of this conflict, and to ponder the loss of the human contributions which might have been.

Although, the massacre we depict and describe started 80 years ago, the Armenian people continue to fight for their freedom and independence. Today, in the Nagorno Karabagh, Armenian blood is being shed even while negotiations continue to attempt to find a solution to this deadly conflict.

Again, this year, I would like to close my remarks with an urgent plea that we use this moment as an occasion to re-commit ourselves to the spirit of human understanding, compassion, patience, and love. For these alone are the tools for overcoming our tragic, and uniquely human proclivity for resolving differences and conflicts by acts of violence.

This century has been characterized as one of the bloodiest in our archives of human history. Certainly, the genocide perpetuated against the Armenian peoples has been a factor in this dismal record.

The dawning of a new century offers our human race two paths. One continues along a road of destruction, distrust and despair. Those who travel this path have lost their connection to the primal directives, which permit us as a society to maintain balance, continuity and harmony.

I would ask my colleagues, on this 80th anniversary of one of histories bloodiest massacres of human beings, to contemplate the second path. The map to this path exists within the guiding teachings of all major world religions and are encapsulated in what Christians refer to as the 10 Commandments. I would ask my colleagues, no matter their religious or political persuasions and beliefs, to re-visit these core teachings which form a common bond between all peoples. To use these common beliefs as the basis for action and understanding in these common beliefs as the basis for action and understanding in these trying times. The surface differences between peoples, offer only an exciting diversity in form. At the core all peoples are united by common dreams, aspirations and beliefs, in a desire for harmony, decency, and peace with justice.

Let these testimonies of the atrocities perpetuated against the Armenian people serve as a reminder that as a human race we can, and must, do better. It takes strength and wisdom to understand that the sword of compassion is indeed mightier than the sword of steel.

Certainly, as we reflect over the conflicts of this century, we can only come to the conclusion that violence begets violence, hatred begets hatred and that only understanding, patience, compassion and love can open the door to the realization of the dreams which we all hold for our children and for their children.

Let our statements today, remembering and openly condemning the atrocity committed against the Armenians, help renew the commitment of the American people to oppose any and all instances of genocide.

Mrs. MORELLA. Mr. Speaker, I am pleased to join with my colleagues here today in commemorating the 80th anniversary of the Armenian Genocide. I want to thank my colleagues, Mr. PORTER and Mr. PALLONE, for their work in organizing this tribute.

This observance takes place every year on April 24. It was on that date in 1915 that more than 200 Armenian religious, political, and intellectual leaders were arrested in constantinople and murdered. Over the next 8 years, persecution of Armenians intensified, and by 1923, more than 1.5 million had died and another 500,000 had gone into exile. At the end of 1923, all of the Armenian residents of Anatolia and western Armenia had been either killed or deported.

The genocide was criticized at the time by United States Ambassador Henry Morgenthau, who accused the Turkish authorities of "giving the death warrant to a whole race." The founder of the modern Turkish nation, Kemal Ataturk, condemned the crimes perpetrated by his predecessors. Yet this forthright and sober analysis has been spurned by Turkey and the United States during the last decade.

The intransigence of this and prior administrations to recognizing and commemorating the Armenian genocide demonstrates our continued difficulty in reconciling the lessons of history with realpolitik policies; that is, those who fail to learn the lessons of history are condemned to repeat it. We have seen continually in this century the abject failure to learn and apply this basic principle. The Armenian genocide has been followed by the holocaust against the Jews and mass killings in Kurdistan, Rwanda, Burundi, and Bosnia. Many of these situations are ongoing, and there seems little apparent sense of urgency or moral imperative to resolve them.

Commemoration of the Armenian genocide is important not only for its acknowledgement of the suffering of the Armenian people, but also for establishing the historical truth. It also demonstrates that events in Armenia, Nazi Europe, and elsewhere should be seen not as isolated incidents but as part of a historical continuum showing that the human community still suffers from its basic inability to resolve its problems peacefully and with mutual respect.

I hope that today's remarks by Members concerned about Armenia will help to renew our commitment, and that all of the American people, to opposing any and all instances of genocide.

Mr. VISCLOSKY. Mr. Speaker, I rise today to commemorate the 80th anniversary of the Armenian genocide. While this anniversary may evoke painful memories, it would be worse if we did not remember the terrible atrocities perpetrated against the Armenian people. It began on April 24, 1915, when over 200 religious, political, and intellectual leaders of the Armenian community in Istanbul were executed by the Turkish Government. Thus began a war of ethnic genocide by the governments of the Ottoman Empire against Armenians. When it ended in 1923, over half of the world's Armenian population—an estimated 1.5 million men, women, and children—were killed.

The Armenians are an ancient and proud people. In the fourth century, they became the first nation to embrace Christianity. In 1915, Christian Russia invaded the Moslem Ottoman Empire, which was allied with Germany in World War I. Amid fighting in the Ottoman Empire's eastern Anatolian provinces, the historic heartland of the Christian Armenians, Ottoman authorities ordered the deportation of all Armenians in the region. By the end of 1923, virtually the entire Armenian population of Anatolia and western Armenia had been either killed or deported.

While it is important to remember this horrible fact of history in order to help comfort the survivors, we must also remain eternally vigilant to prevent future calamities. Only a fraction of the Armenian population escaped this calculated attempt to destroy them and their culture. Approximately 500,000 Armenian refugees fled north across the Russian border, south into Arab countries, or to Europe and the United States.

I am proud to say that a strong and vibrant Armenian-American community is flourishing in northwest Indiana. In fact, my predecessor in the House of Representatives, the late Adam Benjamin, was of Armenian heritage. There are still strong ties to the Armenian homeland among Armenian-Americans. Mrs. Vicki Hovanessian and her husband, Dr. Raffy Hovanessian, residents of Indiana's First Congressional District, helped to raise over $750,000 for purchases of winter rescue supplies of heating fuel and foodstuffs for victims of the devastating Armenian winter of 1992–93. Last year, Dr. Heratch Doumanian and his wife, Sonya, also residents of northwest Indiana, spearheaded the organization of a highly successful legislative conference focusing on important issues of concern to the Armenian-American community.

The Armenian genocide is a well-documented fact. The U.S. National Archives contain numerous reports detailing the process by which the Armenian population of the Ottoman Empire was systematically decimated. However, there is an unsettling tendency among both individuals and governments to forget or blot out past atrocities. Less than 20 years after the Armenian genocide, Adolph Hitler embarked upon a similar extermination of European Jews. While the Jewish holocaust is certainly as terrible an event as the Armenian genocide, at least the Jews have had the catharsis of the world's recognition of what happened to their people. In search of acknowledgment of what happened to their families and ancestors between 1915 and 1923, regretfully, Armenians too often hear that their claims of genocide are lies or exaggerations.

Unfortunately, there is still a concerted effort to deny the existence of the Armenian genocide. As representatives of the American people, those of us who have the privilege to serve in Congress must lead the way in shining the bright light of truth onto those who claim that the genocide did not occur. All attempts at historical revisionism must be condemned, whether done in ignorance or simply to avoid controversy. For example, as recently as last year, a court in France strongly criticized a history professor for publishing literature denying the existence of the Armenian genocide. The French court stated that the genocide was an internationally recognized historical fact, not subject to denial.

Although it has suffered greatly, Armenia is once again a sovereign, independent country. Its people are strong and determined to succeed. I am proud to support Armenia and the many ideals which it represents. It is my sincere hope that the United States continues to strengthen its relationship with the nation and the people of Armenia.

In closing, I would like to commend my colleagues, Representatives PORTER and PALLONE, for organizing this special order to commemorate the 80th anniversary of the Armenian genocide. This remembrance will not only console the survivors and their families, but may also serve to avert future atrocities.

Mr. REED. Mr. Speaker, I rise today to commemorate the 80th anniversary of the Armenian holocaust. One and a half million Armenians were ruthlessly slaughtered at the hands of the Turks, a people were scattered throughout the world, a culture was defiled and churches were demolished while their stones were used to build shelter for the oppressors. We can never forget this infamous and despicable chapter in history.

As Americans, we have witnessed the eternal courage and strength of the Armenian people here in their adopted land, where they have displayed great patriotism and valor. And we have seen this strength in the Armenian Republic, where its people struggle to maintain freedom and to prosper in a dangerous world. However, these brave people cannot stand alone. Our two great countries, the United States and the Republic of Armenia, must stand as one.

As we commemorate the suffering of the Armenian people, we honor the spirit of the Armenian people. This spirit has endured the unendurable. It has transformed the horror of this holocaust into a lasting commitment to honor those whose lives were lost and those who continue to fight for freedom. We must pledge that the Republic of Armenia shall never stand alone, that America will always stand with her and together, we will stand for democracy, decency, and the dignity of all people.

Mr. LAFALCE. Mr. Speaker, I join today with millions of Armenians, human rights advocates, and ordinary caring people the world over in observing the 80th anniversary of a most tragic period in history—the deaths of more than 1.5 million Armenians. Remembering this catastrophe for the Armenian people and their culture is a difficult but necessary part of being ever vigilant that such events do not recur.

Yet, sadly, awareness by the many does not always seem to stop the actions of a few. The bombing of the Federal building in Oklahoma City is the most recent example of this, showing once again that hatred of those who are seemingly threatening still provides an excuse for some to carry out massive violence against innocents. Such hateful deeds are stunning and incomprehensible whether they took place 80 years ago or last month, and the dislocation and dehumanization they represent must and will be condemned and mourned.

As I observe the Armenian suffering of the past, as a member of the Congressional Caucus on Armenian Issues, I also want to make a commitment to building and maintaining a strong and dynamic relationship between Armenia and the United States and to appending to a memory of occupation and persecution a future legacy of personal and sovereign freedom and security, prosperity and democracy for the Armenian people.

Mr. THOMAS. Mr. Speaker, today I ask you to join me in commemoration of the 80th anniversary of the Armenian genocide. On April 24, 1915, under the direction of the Turkish Ottoman Empire, a campaign of Armenian extermination began. By 1923, 1.5 million Armenians were murdered, with another 500,000 forced into Russian exile. Today we recognize the struggle of the Armenian people to live peacefully in their historic homeland.

Armenians in the United States and elsewhere should know that their history of suffering has not and will not be ignored. Like the Jewish and Cambodian holocausts, the Armenian genocide stands out as one of the world's most morally reprehensible acts. We need to address and trace the causal factors leading to the rise of totalitarian governments, and ensure that the seeds of Fascism are never again planted.

On this day, we all should take a moment to remember those Armenians who died 80 years ago. The United States and our allies should also reaffirm our resolve to ensure that no nation will ever again have the opportunity to participate in mass genocide.

Mrs. KELLY. Mr. Speaker, on the night of April 23–24, 1915, the Ottoman Empire initiated one of the great human disasters of the modern age when it began the systematic arrest, deportation, and execution of Armenian political, religious, educational, and intellectual leaders. During the years that followed, more than 1.5 million Christian Armenian men, women, and children lost their lives and another 500,000 were cruelly uprooted from their ancestral homes.

Today we mark the 80th anniversary of this terrible and tragic blight on humanity. It is essential that we honor the memory of those who perished in the Armenian genocide. But as we remember the victims of this vicious event, it is also essential that we renew our determination to preserve basic human rights for all people everywhere. I believe deeply that the Armenian Christians so senselessly murdered 80 years ago deserve nothing less than our utmost efforts to prevent such a tragedy from happening again.

The efforts of the Armenian Assembly of America, the Armenian National Committee, and the entire Armenian-American community have ensured that the passage of time does not erase the memory of these terrible events which started 80 years ago. In these efforts, they have performed a great service for all people and I want to take this opportunity today to recognize and to honor their very important work.

Mr. Speaker, as we commemorate the 80th anniversary of the Armenian genocide, we pause to remember its 1.5 million victims and all those who have suffered crimes against humanity. And, in doing so, we reaffirm our pledge that such crimes will not be repeated.

Mr. ZIMMER. Mr. Speaker, it is a privilege to join my colleagues today in remembering and honoring the 1½ million Armenians who were victims of a brutal campaign of genocide between 1915 and 1923 by the Ottoman Empire and its successor state.

This systematic campaign of murder and forced exile is one of the darkest events in this century, and as we recognize it we should also vow to do whatever we can to help prevent such atrocities again.

Today, we honor those who fell in the Armenian genocide. But we also honor the spirit of perseverance and courage that has enabled Armenians to transcend such horrible destruction by surviving not only as individuals but also as a vital people.

Eighty years after the onset of the genocide, Armenia is an independent, democratic state. It was the first among the former Soviet Republics to privatize agricultural land and livestock production, and it is working hard to build a strong economy despite tremendous obstacles, both natural and manmade. The 1988 earthquake continues to leave deep scars, and the blockade of Armenia's rail lines and roads has severely limited international trade. Turkey's refusal to allow humanitarian relief to pass through its territory to Armenia also has taken a tragic human toll.

Armenians time and again have displayed enormous courage in the face of adversity, and it is that quality that we commemorate the most here today, even as we honor those Armenians who suffered the evil of the genocide eight decades ago.

Mr. MANTON. Mr. Speaker, I rise today to join my colleagues to commemorate the 80th anniversary of the Armenian genocide of 1915 to 1923 and pay tribute to the more than 1.5 million Armenians killed by the Turkish Ottoman Empire. I commend my colleagues, Congressman PORTER and Congressman PALLONE, for arranging this special order to observe this horrific day in world history.

On this date, 80 years ago, the Ottoman Turkish Government launched their systematic and deliberate campaign of genocide against the Armenian people. This violent campaign resulted in the deaths of over one-third of the Armenian population living in the Ottoman Empire and the exile of approximately 500,000 Armenians from their homeland.

In 1915, the New York Times reported on the devastating suffering and victimization of the people of Armenia. A reporter noted that children under 15 were thrown into the Euphrates to be drowned; women were forced to desert infants and to leave them by the roadside to die; young women and girls were appropriated by the Turks and thrown into harems. They also reported on the murder and torture of men and the turning of women and children into the desert where thousands perished of starvation.

Unfortunately, the persecution of the Armenians did not end in 1923, but continues today. Since 1988, the Nagorno-Karabakh conflict involving Armenia and Azerbaijan, has left more than 1,500 Armenians dead and hundreds of thousands of refugees in the three territories. A withering blockage of economic disruption has made everyday life a struggle for Armenians. Acquiring necessities for survival has become a great obstacle.

As a member of the Congressional Armenian Caucus, I have been working with my colleagues on the caucus on issues which effect the Armenian community. Recently, I joined my colleagues in sending a letter to President Clinton asking him to discuss with Prime Minister of Turkey, Tansu Ciller the continuing pattern of misguided and punitive policies toward the Republic of Armenia by Turkey. I also joined my colleagues in sending the President a letter asking him to join the Congressional Armenian Caucus in reaffirming the American record on the Armenian genocide and to honor the memory of the survivors.

In addition, I urge my colleagues in joining me in cosponsoring House Concurrent Resolution 47, honoring the memory of the victims of the Armenian genocide. It calls for the United States to encourage the Republic of Turkey to acknowledge and commemorate the atrocity committed against the Armenian population of the Ottoman Empire from 1915–1923.

It is my hope that next year when we remember the 81st anniversary of Armenian Martyrs Day we will be able to celebrate a restored peace to the Armenian people and confidently proclaim that never again will the world allow such a senseless tragedy to occur.

Mr. MARTINEZ. Mr. Speaker, I join my colleagues tonight in commemorating the 80th anniversary of the Armenian genocide. The 20th century has tragically been marked by campaigns of ethnic, racial, and religious genocides that have indelibly stained the annals of human history.

The unforgivable fact, Mr. Speaker, is that the world was silent in the face of the first systematic, bloody effort to eliminate an entire group of people—the Armenian people. On April 24, 1915, the Ottoman Turks unleashed the forces of hatred and death throughout their empire, wreaking havoc on unsuspecting Armenian men, women, and children. An estimated 1.5 million Armenians died at the hands of the Ottoman Turks through ruthless marches of forced starvation and endless waves of bloody massacres.

Mr. Speaker, we commemorate the 80th anniversary of the Armenian genocide to remember the heroic spirits of these fallen victims, and to render justice to their cause. It is difficult to grasp the concept that man is capable of such a barbarous monstrosity, of such ruthless depravity. But yet this century is littered with the victims of racial hatred and intolerance. The Armenian people, however, have the unenviable distinction of being the first community to fall victim to this heinous crime against humanity—a crime that we must never allow to be expunged from our memory.

Therefore, Mr. Speaker, we observe the Armenian genocide tonight so not to forget. We remember the horrific conflagration that engulfed the lives of 1.5 million innocent men, women, and children so that governments around the world will know that they will be held accountable for their actions. Let it be known that there is not enough time in eternity to wipe out the memory of the first genocide of the 20th century—the first systematic campaign to exterminate a whole race of people.

Eight decades have now come and gone since this tragic event unfolded and, yet, the Turkish Government continues to deny the undeniable and refute the unrefutable. Although it is difficult, to say the least, for any generation to recognize the atrocities committed by their parents or their parents' parents, true healing can never occur until Turkey acknowledges its role in orchestrating the Armenian genocide.

Mr. Speaker, the Armenians around the world demand no less, and the United States of America cannot ask for any less.

Mr. MCNULTY. Mr. Speaker, I rise to pay tribute to the memory of the more than 1.5 million innocent Armenian men, women, and children exterminated by the Ottoman Turks in 1915—and the more than 1 million Armenians who were forced into exile from their ancestral homeland of 3,000 years.

Three years later, Henry Morgenthau, United States Ambassador to Turkey, wrote in his memoir, "Ambassador Morgenthau's Story":

> When the Turkish authorities gave the order for these deportations, they were merely giving the death warrant to a whole race; they understood this well, and, in their conversations with me, they made no particular attempt to conceal this fact.

The survivors of this deportation made their homes in different lands. They formed the core of what became the largest Armenian community in the Diaspora. In the United States, Armenians—proud of their heritage—have dedicated themselves to the preservation of democracy. And I was proud to be in Yerevan when the Armenian people declared their independence from the Soviet Union in 1991. But the memories of the horrible nightmare of 1915 are deeply ingrained in their memories.

In this age of genocide—the Armenian genocide, the Holocaust, and the genocides being perpetrated upon the innocent in other countries—the members of the Armenian community stand shoulder to shoulder with all who cherish freedom and human dignity in seeking an end to these crimes against humanity.

In commemoration of the 80th anniversary of the Armenian genocide, I am proud to join my colleagues in supporting legislation which would honor the victims and survivors of this tragedy. The United States must take a principled stand on this issue and encourage Turkey to acknowledge and commemorate this sad page in its history.

If Kemal Ataturk, the founder of the Turkish Republic, was able to condemn these massacres by his predecessors, the leaders of present-day Turkey can do no less.

Mr. KILDEE. Mr. Speaker, I rise today to commemorate the 80th anniversary of the Armenian genocide. The Ottoman Empire, between 1915 and 1923, tried to advance its political interests by committing genocide against the Armenian people. The genocide of the Armenian people is widely recognized as the first genocide of the 20th century. Each year, throughout the United States and the world, Armenians and all people of good conscience pause to remember the 1.5 million victims of this crime against humanity.

While these crimes are in the past, their significance has not faded from the consciousness of Armenia. The victims of these massacres not only represent the attempts of an oppressive regime to extinguish the dignity and spirit of a people, but also of the consequences of permitting such a regime to go unchecked.

By recognizing the victims of this act of genocide, we commemorate both their sacrifices and those who have perished in the name of freedom since. In addition, recognition of this atrocity will help erase the vestiges of an era in which propaganda and deceit held precedent over truth and human dignity. The United States must take a stand and encourage other countries to do the same. We must always voice our firm opposition to the use of violence and repression as tools of government.

Mr. Speaker, with the dawn of the post-cold-war era, and the emergence and development of newly independent nations, it is more important than ever for the United States to directly convey its rich tradition of respect for fundamental human rights. It is for this reason that I rise today to remember the anniversary of the Armenian genocide.

Mr. BOEHLERT. Mr. Speaker, I rise in memory of people killed in an event so horrific that at the time, there was no word to describe it. I am referring to the mass slaughter of Armenians that began on April 24, 1915. The Armenian people endured a forced deportation from their homes that turned into a death march. It is estimated that more than 1 million Armenians died during this tragic event. Today we have a word for crimes like this: genocide.

And we have learned as well the result when genocide is allowed to be carried out with impunity. Adolf Hitler asked rhetorically, "Who remembers the Armenians?" He used the example of the atrocities against the Armenians to reassure his followers that no one would care if he exterminated the Jewish people.

It would be wonderful to say that, following the hardships inflicted upon them in the early part of this century, the Armenian people have been able to enjoy peace and prosperity. Unfortunately, that is far from the case. Instead, decades of Communist rule meant hunger and deprivation. The Soviet Union has collapsed, but Armenia is surrounded by hostile neighbors, and Armenians are enduring a blockade against all goods, including humanitarian assistance.

There would be no more fitting memorial to those who died in Armenia than to build a just and lasting peace for all people. To do otherwise would be to condone genocide.

Mr. MARKEY. Mr. Speaker, I rise today to call attention to a grim and shameful chapter in world history: the perpetration of a genocide against Armenian men, women, and children carried out with brutal precision during the waning days of the Ottoman Empire. On this solemn day of remembrance, I join Armenians throughout the United States, in Armenia, and around the world in commemorating the 80th anniversary of this horrific period.

In 1915, a systematic massacre of Armenian religious, political, and intellectual leaders began. Continuing until 1923, the cruelty and ruthlessness which marked this campaign of terror still shock us 80 years later. Between 1915 and 1923, 1.5 million Armenians lost their lives, and more than 500,000 were expelled from their homes. Innocent Armenians were rounded up and sent away to unknown destinations to be murdered. Uncovered by a researcher only a few years ago, a report from a United States consul stationed in eastern Turkey from 1914 to 1917 provides disturbing details of this coordinated effort to commit genocide against the Armenian people. This record of cold-blooded murder is harrowing.

Despite the calculated attempt to purge the Armenian people from their land and erase Armenian culture and traditions, today the Republic of Armenia is emerging as a vital and progressive nation committed to establishing democratic institutions. The Armenian Government has drafted a constitution, launched a program of industrial reform, privatized agricultural land, and made substantial progress in small-enterprise privatization. Armenia also has taken steps toward resolving the Karabakh conflict and moved to stabilize its economy based upon free-market principles.

I am pleased that our government has recognized the importance of Armenia and has been working closely with international lending institutions to help ease Armenia's transition to a market economy. Through a comprehensive assistance program, USAID has funded numerous initiatives in Armenia, including one aimed at improving the distribution of much-needed commodities such as kerosene. Armenia has cooperated with the World Bank and the International Monetary Fund, made the difficult fiscal decisions necessary to construct a market-based economy, and steadily progressed toward a free and open democratic system.

As we mark the 80th anniversary of the Armenian genocide, we join with our Armenian friends in remembering those who lost their lives in the early years of this century. While we reflect upon the past and dedicate ourselves to preserving the history of this humanitarian disaster, we also look forward. We look forward to a future in which Armenia will, we hope, grow prosperous, achieve economic strength, and, above all else, enjoy peace.

Mr. SMITH of New Jersey. Mr. Speaker, I rise to commemorate the Armenian genocide, which began 80 years ago, when the Ottoman Empire launched the first of this century's campaigns against an entire people. It has become traditional for friends of Armenia to mark this awful April anniversary with them, to demonstrate our solidarity and to express the determination never again to allow such a horror to take place.

Though April 24 is the date singled out to mark the catastrophe, the actual process of genocide took place over a period of years. During that nightmarish era, which lasted from 1915 to 1923, some 1.5 million Armenians were brutalized, tortured, massacred, starved, deported, and force-marched to death.

But, the Armenian spirit survived intact this ruthless assault. Steeled by adversity, many of the survivors came to the United States, where they could nurse their physical and emotional wounds, and begin their lives anew. The community of new arrivals prospered in America, contributing to our cultural development, enhancing our diversity, and influencing our political process.

American-Armenians never forgot their origins, or the horrific circumstances of the flight and exile from their native lands. The Armenian Apostolic Church has nurtured the spiritual growth and national consciousness of its flock. Armenian-Americans resolved to mark the atrocities and exile every year, to keep the memory of their relatives alive, not to let the world forget. And, they have consistently preached the message that what happened to the Armenians must never be permitted to happen again to anyone else. With this universal message, I—and other Members of this body—have often expressed our solidarity. I do so again today, in sorrow and in pride, with a strengthened sense of dedication, as I think about independent Armenia.

In commemorating the Armenian genocide, we mourn the dead and recall the suffering and sacrifice of the victims. Yet, we also reflect upon the heroic, moving odyssey of the Armenian people in modern times. During the 20th century, the Armenians have lived through their worst moment—the genocide—and their best, most exhilarating moment as well: the restoration of an independent Armenian state, after centuries of dreaming and struggle on behalf of that cause.

The people of independent Armenia have gone through very difficult times, coping with the consequences of the Nagorno-Karabakh conflict, as well as a wrenching transition from Communist misrule to pluralism and a market economy. But throughout, the Armenian people have demonstrated the sturdiness of character and perseverance that have become their hallmark. Their spirit remains strong, despite the deprivations they have endured; their commitment to democracy, and to Armenian nationhood and statehood, has not faltered.

Thankfully, a ceasefire in the Nagorno-Karabakh conflict has been in place since May 1994. We all hope the ongoing multilateral talks in the Organization for Security and Cooperation in Europe will soon lead to a peaceful conference and a negotiated settlement. The survivors of the 1915 horror and their descendants could enjoy no better gift, all the more treasured for having been so hard-won, than peace and prosperity for a rejuvenated Armenia that will surely stun the world with its enterprise and success. Nor could the memories of the victims of 1915–1923 be better honored, a worthy goal for all of us to strive for, as we note this solemn anniversary.

Mr. KING. Mr. Speaker, I rise today to commemorate one of the most tragic events of the 20th century, and indeed, of all recorded history, the Armenian genocide. This year the world marks the 80th anniversary of the century's first calculated campaign of official mass murder.

In 1915, the Ottoman Turkish Empire undertook a deliberately planned effort to exterminate the Armenian people. The Ottoman Turks were responsible for the deaths of more than one million Armenian men, women and children. This vicious campaign of genocide was only halted by the Ottoman Empire's defeat by the Allies in 1918.

Unfortunately, the Armenian genocide has been largely forgotten by the people of the world. It has been reported that on the eve of the beginning of his "Final Solution," Adolf Hitler cynically remarked that the world would stand by and allow him to murder the European Jews, because, he asked "who today remembers the Armenians?"

Just as we remember the Holocaust, we must honor the memory of the victims of the Armenian genocide, so that future generations never forget these monumental crimes against humanity nor fail to realize the human potential for profound evil.

In the first 80 years of this century, the world witnessed the Armenian genocide, Stalin's mass murder of the Kulaks and millions of political opponents, the Holocaust, the millions of dead in Mao's cultural revolution, and Pol Pot's liquidation of more than a million Cambodians. In our own time we have witnessed the ethnic cleansing of the Bosnian Moslems and the brutal tribal mass murders in central Africa.

We must not disgrace the memories of the victims of the Holocaust, the Armenian genocide and this century's other countless victims of institutional mass murder by standing by and allowing the Bosnian Moslems to be exterminated as the killing begins anew in the former Yugoslavia. We must act to make the words, "never again," a reality. We must stop history from once again repeating itself. I can think of no better way to commemorate the victims of the Armenian genocide.

Mr. FAZIO of California. Mr. Speaker, as a long-time friend of the Armenian-American community, I am once again proud to join my colleagues in our annual special order commemorating the Armenian genocide of 1915—to take time to honor the victims and survivors of this atrocity and pay our respects to their families.

Persecution of Armenians living in the Ottoman Empire began toward the end of the 19th century and increased through the beginning of the 20th century. On April 24, 1915—the date that symbolizes for Armenians the beginning of the Armenian genocide—over 200 religious, political and intellectual leaders of the Armenian community were arrested, exiled and murdered. Armenian representation in Turkey was eliminated. In a single night, the voice of the Armenian nation in Turkey was silenced.

From that infamous date until 1923, 1.5 million Armenians died from the Ottoman Empire's attempts to eliminate the Armenian people. According to the United States Ambassador to Turkey at that time, "When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race; they understood this well and in their conversations with me, they made no particular attempt to conceal the fact."

Mr. Speaker, we must remember this deplorable example of man's inhumanity towards his fellow man, so that we can renew both our responsibility and our pledge to prevent the repetition of similar atrocities against any other people anywhere in the world. I thank my colleagues, Mr. PALLONE of New Jersey and Mr. PORTER of Illinois, for calling this special order and focusing our attention on this horrible blight on our history.

Mr. BERMAN. Mr. Speaker, I rise to commemorate the 80th anniversary of the Armenian genocide of 1915 to 1923.

Today, we are marking the anniversary of a terrible time for the Armenian people, a time of tragic oppression and horrific suffering. April 24, 1915, marks the date when many Armenians were uprooted and deported from Turkish Armenia, dying of starvation, disease, and massacres. An estimated one and a half million people died during the period 1915–1923, the victims of the last years of the Ottoman Empire.

In recalling those awful days, we are also commemorating the strength of the Armenian people whose fortitude of character and culture gave them the will to triumph over their tragedy. In our own country, Armenian-Americans have flourished. Their individual accomplishments have contributed greatly to the wealth of our Nation. Their achievements are a moving testimony to the truth that tyranny cannot extinguish the human spirit.

In remembering this tragedy, we are remembering as well other acts of savagery and genocide in human history. Murder and destruction have not been eliminated from this Earth. In Bosnia today evil men and women still seek to exterminate a people and eliminate their culture. We end this century as we began it: with the death of innocents on the altar of tyranny.

By marking this day the Armenian genocide, we, the American people, are renewing our commitment to oppose the persecution of any people.

Mr. Speaker, I ask my colleagues to join with me in remembering the tragedy of the Armenian people and in renewing our commitment to human rights.

Mr. HAMILTON. Mr. Speaker, I want to join my colleagues today in remembrance of the tragedy that overtook the Armenian people in the years 1915–23.

Extensive massacres of Armenians took place in eastern Anatolia during the latter years of the Ottoman Empire. Those events have indelibly and permanently marked the consciousness of many Americans, including Americans of Armenian descent, who commemorate April 24, 1995, as a national day of remembrance of man's inhumanity to man and a special day of remembrance for the Armenian victims of these tragic events in the early years of this century.

April 24 this year marks the 80th anniversary of this calamity. It is appropriate on this occasion to direct our attention and prayers to the memory of the men, women, and children—most scholars believe more than 1 million—who died in these tragic events.

It is in the interest of all of us and in the interest of mankind that this type of tragedy not occur again. The leading organizations of the Armenian-American community have been seeking to work within our political system for a statement concerning these critical events in their heritage. I feel we should work with them in a constructive fashion and this is why it is important for us to recognize this day of remembrance. No one can deny these events and the centrality of these events in modern Armenian history. I am proud to be associated today with my colleagues in this important day of remembrance.

The Republic of Armenia, a country of 3.3 million people, is developing important ties with the United States. Americans have an interest in the economic development of Armenia, its progress toward a free-market economy, and its development of democratic institutions. We want to work for the earliest possible end to the conflict in Nagorno-Karabakh. We want to work with Armenia and its neighbors to promote peace, stability, and economic progress in the Caucasus region. As a small step in this direction, I welcome Turkey's decision to restore an air corridor to Armenia for humanitarian relief. I hope that the Government of Turkey will take additional steps to reopen a land corridor to Armenia. There is no better way to honor the misdeeds of the past than to rededicate ourselves to a better future, for Armenia and all the people and states of the region.

We should also use this occasion to rededicate ourselves to the cause of human rights. I commend those governments, private organizations, and individuals, including Armenians and the Armenian-American community, who are working toward this end. I hope that their efforts will make the world a safer place, where innocent people no longer suffer the unspeakable crimes of war and terror.

Mr. BILIRAKIS. Mr. Speaker, I rise today with my colleagues Representative JOHN EDWARD PORTER and Representative FRANK PALLONE to commemorate and remember the victims of the Armenian genocide, a sad chapter of world history that remains unrecognized by our Government to this day.

As many of my colleagues have already stated, between the years of 1915 and 1923, a systematic and deliberate campaign of genocide by the Ottoman Turkish Government resulted in the deaths of more than 1½ million Armenians and the exile of a Nation from its historic homeland. One witness noted the ferocity of the attack by stating that the streets ran with blood.

The United States Ambassador to Turkey at the time, Henry Morgenthau, a witness to the genocide, noted that "When the Turkish authorities gave the orders for these deportations, they were giving the death warrant to a whole race; they understood this well, and in their conversations with me, they made no particular attempt to conceal the fact."

Mr. Speaker, I believe that it is long past time for the Congress to officially recognize the fact that such a terrible crime against humanity took place. To do less would be irresponsible and wrong. The United States Archives contain extensive documentation regarding the Ottomon Turkish Government's premeditated attack on the Armenian people between 1915 and 1923.

The Archives also document American interventions to prevent the full realization of Ottoman Turkey's genocidal plan and provide humanitarian assistance to those who survived.

Mr. Speaker, how long will we as a Nation turn our backs on this vicious crime? How long can we let it escape official documentation? It is time that America of today take its rightful place alongside of America of that day, the America of Henry Morgenthau, the America that stood up to the Ottoman depredations and offered what assistance it could.

Surely, this is the least we can do.

Ms. WOOLSEY. Mr. Speaker I rise to join my colleagues today in honoring the memory of the 1.5 million Armenians who perished during the genocide of 1915. This horrible period still haunts us today, and the memory of the men, women, and children who perished remains.

This was the first true genocide of the 20th century. Despite the atrocities which occurred at the hands of the Turkish Empire, despite the documentation, the eyewitness reports, and countless publications which describe these atrocities, some people continue to deny that this crime against humanity actually took place.

Fortunately, there are many Members of Congress who have been willing to rise up and take a stand against this denial. I want to take this opportunity to thank the Members who joined me in initiating a letter to President Clinton, urging him to officially recognize the Armenian genocide: FRANK PALLONE, JOHN PORTER, and MARGE ROUKEMA. Congress can only make its voice heard on this issue if people like us, Democrats and Republicans, east coast and west coast, join forces to push for the recognition of this terrible human tragedy.

I would also like to thank the Armenian National Committee, especially Elizabeth Chouldjian, for her ongoing vigilance and dedication in providing me with useful and timely information on Armenian issues. Without your help, Elizabeth, I would be unable to do this work on behalf of Armenian-Americans in my district and around the country.

Mr. Speaker, if the international community is serious about preventing crimes against humanity, it is essential for us to recognize the atrocities that occurred against the Armenian people at the beginning of this century, by honoring the memory of 1.5 million men, women, and children who perished. I urge my colleagues to join me in recognizing the 80th anniversary of the Armenian genocide.

Mr. LIPINSKI. Mr. Speaker, this year marks the 80th anniversary of a profound tragedy. I am referring to the Armenian genocide of 1915 to 1923, carried out by the Ottoman Empire.

It is not a story that is widely known. There is little mention of it in our history books. It is not taught to our children in school. And it is not commemorated on the kind of scale it deserves. On behalf of the Armenians who live in my community, I take this opportunity to honor the victims of the genocide.

The Armenian genocide was the culmination of a long effort by the Ottoman Turks to destroy the Armenian people. During the decades preceding the First World War, the Ottoman government tried repeatedly to achieve this goal. In 1895 300,000 died. In 1909 another 30,000 died before the Western powers intervened to stop the bloodshed.

Unfortunately, World War I provided the cover they needed. With Europe and the United States preoccupied by war, the Ottoman Turks carried out their massacre without outside attention or interference. The genocide began on April 24, 1915, with a sweep of Armenian leaders. It did not end until 1923 when the entire Armenian population of 2 million had been killed or deported.

It is estimated that 1.5 million Armenians died at the hands of the Ottoman Turks—half of the world's Armenian population at the time. By 1923 the Turks had successfully erased nearly all remnants of the Armenian culture which had existed in their homeland for 3,000 years.

As we look back on this tragedy today, we see the memory of the victims insulted by those who say the genocide did not happen. A well-funded propaganda campaign forces the Armenian community to prove and reprove the facts of the genocide. This is itself a tragedy for a people who would rather devote their energy to commemorating the past and building the future.

I stand here today to say the genocide did happen. Nobody can erase the painful memories of the Armenian community. Nobody can deny the photos and historical references. Nobody can deny that few Armenians live where millions lived over 80 years ago.

It is our responsibility and our duty to keep the memories of the genocide alive. A world that forgets these tragedies is a world that will see them repeated again and again. The story of this and other genocides must be known by all.

We must also honor the victims who perished so brutally. We cannot right the terrible injustice inflicted upon the Armenian community and we can never heal the wounds. But by properly commemorating this tragedy, Armenians will at least know the world has not forgotten the misery of those years. Only then will Armenians begin to receive the justice they deserve.

Mr. RADANOVICH. Mr. Speaker, this evening I want to enter into the CONGRESSIONAL RECORD statements written by two young Armenian students from my district. These letters were written about the Armenian genocide and were selected as award winning essays by the Central California chapter of the Armenian National Committee.

These essays are statements about the suffering the Armenian people incurred at the hands of the Ottoman Turkish government, and about remembering the victims of the genocide. I am honored to represent thousands of Armenians in my district, and equally honored that I can count essay award winners Taleen Kojayan and Denyse Kachadoorian among them.

MANY REASONS TO REMEMBER

(By Taleen Kojayan)

Everyone knows about the Jews and the Holocaust, about the horrible agony they were put through by the Germans. But who knows about what began on the terrible day, April 24, 1915? To most people this is just an ordinary day from the past. It has no meaning, no significance. But, to every proud Armenian, this date means anguish and grief. It reminds them of the torture their people went through years before. It reminds them of Armenian genocide.

"Armenian genocide? Is that the German thing?" said someone. When the word "genocide" is heard, that's what most people think of. Little do they know that there was another genocide, where two-thirds of a nation was wiped off the face of this Earth. One and one-half million Armenian men, women and children massacred.

Who is responsible for the dreadful butchery of the Armenian people? The answer is clear. There is no doubt that the Turks were the ones who wanted to get rid of the Armenians for good.

This wasn't the first time that the Turks had harmed the Armenians. There is a history of conflict between them. For example in 1896, the Turks managed to kill 300,000 Armenians. There were also other instances during 1894, which is the time they began their campaign to wipe out the Armenians.

Of course it isn't logical that 1.5 million Armenians were killed in one single day. The day April 24 was chosen as the beginning for a special reason. On this day, about 200 Armenian intellectuals were gathered from the Turkish city of Istanbul. They were taken to central Turkey and were never heard from again. People are weaker without their leaders, and the Turks knew that. This marked the start of the Armenian genocide.

The first place they wanted "Armenian-free" was Istanbul. Many Armenians lived there who had power and money. They owned businesses and controlled the markets. The Turks were tired of being outnumbered by Armenians in their own city. So, they walked out in the streets beating a big drum. They said they needed Armenian men between the ages of 16 and 60 to fight in the war for them. That was just an excuse.

Some of the richer Armenians paid a fee, called the Bedel, to try to get their sons out of the fighting. Even though the fee was paid, it was ignored and the men still had to go. Others might have known that there was more to the story than what they were being told.

The Turks could have killed the people right there in Istanbul, so why didn't they? Well, the killing couldn't go on in Istanbul because it was close to Europe. The Turks couldn't run the risk of anyone knowing. So, the people were rounded up, taken to central Turkey and then massacred just like the intellectuals.

So began three years of pain and death for the Armenian people. They were tortured in many ways. Most were sent out into the desert with no food or water. It soon became the grave of many helpless Armenians, including a member of my grandfather's family. Some people were hung, and some were shot. The heads of others who were beheaded were displayed on wooden poles. Some little girls who survived this horrible ordeal were found in other homes.

All of this suffering, and who knows about it? No one knows, and no one cares about what happened to us. Why are the Armenians so unimportant to this world? Yes, the massacre happened, and no, we shouldn't live in the past. But something like this should not and cannot be forgotten. When the extermination of a whole race of people is attempted, everyone should remember so that they will learn from our mistakes.

"After all, who remembers today the extermination of the Armenians?"

—*Adolf Hitler, Aug. 22, 1939.*

We shouldn't forget that the Armenian people made it through. They strived to make sure that the Turks did not succeed. And they accomplished just that, or else I wouldn't be here today. The Armenians survived, and will continue to do so.

"Go ahead, destroy Armenia. See if you can do it. Send them into the desert without bread or water. Burn their homes and churches. Then see if they will not laugh, sing and pray again. For when two of them meet anywhere in the world, see if they will not create a new Armenia."

—*William Saroyan.*

[Taleen Kojayan is a 10th-grade student at Clovis West High School.]

HORRID MEANS OF SUFFERING

"We will forget our terrible wound and our grief. We will forget, won't we? If we return to our land."

—*Vahan Tekeyan, 1918.*

(By Denyse Kachadoorian)

Genocide can be defined in five acts: killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, imposing measures intended to prevent births within the groups, or forcibly transferring children of the group to another group. Unfortunately the Armenians living in 1915 experienced these inconceivable acts, but the survivors struggled and overcame many hardships to rebuild their race.

The "Armenian Experience" started during the late 1800s. Armenians suffered greatly under Turkish rule from discrimination, heavy taxation and armed attacks. From 1894 to 1896, the Turks and Kurds, under Sultan Abdul-Hamid II, carried out a campaign to erase Armenians. Hundreds of thousands were killed.

During World War I, Armenia became a battleground between Turkey and Russia. The Turks feared the Armenians would aid the Russians. As a result, they deported Armenians living in Turkish Armenia into the desert of present-day Syria. Approximately 1 million Armenians died of starvation or lack of water alone. Several others fled to Russian Armenia and in 1918 formed an independent republic.

The Armenians people endured horrendous types of suffering—physical, emotional and tragic moral choices. Hunger plagued the minds of many Armenians in 1915. Some people were reduced to eating grass, similar to cattle grazing.

Several diseases were contracted during this time; typhus, dysentery, malaria and others. Lice was a familiar problem for these Armenians. Children who entered orphanages were deloused before anything else. Armenians were forced to live as wild animals, exposed to desert heat by day and freezing cold or rain at night.

Beyond the physical pain, the genocide victims had to deal with emotional suffering. Practically every survivor can name a family member who was murdered during this period.

Although the massacre occurred almost 80 years ago, it continues to touch the present generations. My paternal grandmother, born in 1911 in Armenia, was a survivor. She vividly described her family situation as homeless and broke. Her father, grandfather and uncle were all captured and presumably murdered. They were forced to abandon their homes and linger around the town for any sign of assistance. Relief arrived soon when an uncle, who lived in the United States, gave them enough money to emigrate to America.

In 1915, the world became aware of the Armenian genocide by newspapers, books, articles, official investigations and eyewitness accounts. Even following these valid accounts, the U.S. government has denied April 24 as a day of national recognition of the Armenian Genocide. The debates of 1985 and 1990 clearly reveal that the world is still withholding a formal declaration of these terrible events. The reason behind the U.S. government's decision for rejecting the day is that Turkey is an important NATO ally and jeopardizing the national security over an issue so insignificant would not be in the best interests of the American public.

As a result, the American government denied the day of remembrance to Armenians. This decision was hard to swallow for Armenian-Americans. They felt that the government to which they held allegiance to, contributed to and fought for had slighted them as a race. Armenians who began a new life in the United States decided to put aside their troubles and past experiences and work hard in their new homeland. Their determination and work ethic enabled them to blossom into reputable citizens of this country.

These survivors have rebuilt a proud race with strong family unity, despite the disappointing fact that they are disregarded as victims of an international atrocity by their government. Nevertheless, Armenians are proud of themselves, their fellow brothers and their history.

[Denyse Kachadoorian is in the 11th grade at Bullard High School.]

Mr. HORN. Mr. speaker, eighty years ago the world watched in horror as one of the most tragic, savage periods in modern history—the destruction of the Armenian culture by the Ottoman Empire in what later became the Republic of Turkey—unfolded. Between 1915 and 1923, over 1.5 million Armenian men, women, and children were systematically murdered by Ottoman leaders. Millions more were driven from lands that they and their ancestors had occupied for centuries. By 1923, the Armenian culture had been almost completely eradicated within the confines of what is now modern-day Turkey. That had once been a thriving Armenian populace of more than 2.5 million human beings in 1915, numbers around 80,000 today.

Racial/ethnic hatred was the reason for this brutal genocide—as it was in the Nazi death camps of Auschwitz and Dachau whose 50th liberation anniversary we are honoring this year. And therein lies one of the most important reasons that the world must never forget this shameful event. As we watch in horror at today's racial and ethnic atrocities in Bosnia and Rwanda, and as we remember the all too recent slaughter of one million Cambodians under the evil rule of Pol Pot, and as we listen in disgust to the racial hatred being preached by Americans of various racial and ethnic backgrounds, we must use this tragic anniversary of the Armenian Genocide to renew our efforts to make sure that any and all genocide atrocities never again occur. This is our memorial to those one and a half million human beings who were lost in the Armenian Genocide.

GENERAL LEAVE

Mr. PALLONE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the special order just given.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SAXTON (at the request of Mr. ARMEY), for today on account of preparation for Base Realignment and Closure Commission hearing.

Mr. ROGERS (at the request of Mr. ARMEY), for today, on account of illness in the family.

Ms. ROS-LEHTINEN (at the request of Mr. ARMEY), for today, on account of illness in the family.

Mr. MENENDEZ (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. BAESLER (at the request of Mr. GEPHARDT), for today, on account of a death in the family.

Mr. MORAN (at the request of Mr. GEPHARDT), for today after 2:30 p.m. and tomorrow, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Mr. MFUME, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. MINETA, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. HAMILTON, for 5 minutes, today.

Mr. GIBBONS, for 5 minutes, today.

Mr. KENNEDY of Rhode Island, for 5 minutes today.

(The following Members (at the request of Mr. WAMP) to revise and extend their remarks and include extraneous material:)

Mr. WELDON of Pennsylvania, for 5 minutes today.

Mr. DIAZ-BALART, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE) and to include extraneous matter:)

Mr. MILLER of California.

Mr. KENNEDY of Massachusetts.

Mr. BERMAN in two instances.

Mr. HAMILTON in three instances.

Mr. OBERSTAR.

Mr. MOAKLEY.

Ms. DELAURO.

Mrs. MALONEY in three instances.

Mrs. LOWEY.

Mr. LEVIN.

Mr. FAZIO of California.

Mr. TOWNS in eight instances.

Mr. MENENDEZ in four instances.

Mr. BEILENSON.

Mr. GEJDENSON.

Mr. COLEMAN.

Mr. LANTOS.

Mr. GEPHARDT.

Mr. NADLER in two instances.

Mr. COSTELLO.

Ms. KAPTUR.

Mr. GONZALEZ.

Mr. BONIOR in two instances.

(The following Members (at the request of Mr. WAMP) and to include extraneous matter:)

Mr. RADANOVICH.

Mr. LARGENT.

Mr. CLINGER.

Mrs. MORELLA.

Mr. DAVIS.

Mr. BAKER of California in three instances.

Mr. FORBES.

Mr. BUNNING.

Mr. WOLF.

Mr. SOLOMON in two instances.

Mr. BURTON of Indiana.

Mr. ZELIFF.

Mr. BOEHLERT.

Mr. COBLE.

Mr. SPENCE.

Mr. MARTINI.

Mr. ZIMMER.

Mr. SMITH of Michigan.

Mr. NEY.

(The following Members (at the request of Mrs. LOWEY) and to include extraneous matter:)

Mr. OWENS.

Mr. PAYNE of New Jersey.

Mr. GILLMOR in five instances.

Mr. GREENWOOD.

Mr. MFUME.

Mrs. JOHNSON of Connecticut.

Mr. THOMAS.

Mr. QUINN in two instances.

Mr. TAUZIN.

Mr. LOFGREN.

Mr. ENGEL.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 421. An act to amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet region, and for other purposes;

H.R. 517. An act to amend title V of Public Law 96-550, designating the Chaco Culture Archaeological Protection Sites, and for other purposes;

H.R. 1380. An act to provide a moratorium on certain class action lawsuits relating to the Truth in Lending Act.

ADJOURNMENT

Mrs. LOWEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 25 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 3, 1995, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

701. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to recover costs of carrying out Federal marketing agreements and orders; to the Committee on Agriculture.

702. A communication from the President of the United States, transmitting his request to make available emergency appropriations totaling $142 million to address urgent needs arising from the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, and to designate the amount made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 104-62); to the Committee on Appropriations and ordered to be printed.

703. A communication from the President of the United States transmitting amendments to the fiscal year 1996 appropriations requests for the Departments of Agriculture, Energy, Health and Human Services, Justice, Labor, and Transportation; the Environmental Protection Agency; the Information Security Oversight Office; the Federal Trade Commission; the Interstate Commerce Commission; and the National Archives and Records Administration, pursuant to 31 U.S.C. 1106(b) (H. Doc. No. 104-63); to the Committee on Appropriations and ordered to be printed.

704. A letter from the Comptroller General of the United States, the General Accounting Office, transmitting a review of the President's fourth special impoundment message for fiscal year 1995, pursuant to 2 U.S.C. 685 (H. Doc. No. 104-60); to the Committee on Appropriations and ordered to be printed.

705. A letter from the Mayor, District of Columbia, transmitting the District of Columbia Government's report on Anti-Deficiency Act violations for fiscal year 1994 covering the period October 1, 1993, through September 30, 1994, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

706. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of April 1, 1995, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 104-61); to the Committee on Appropriations and ordered to be printed.

707. A letter from the Under Secretary of Defense (Comptroller), transmitting a report

of a violation of the Anti-Deficiency Act which occurred in the National Guard Bureau, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

708. A letter from the Under Secretary of Defense (Comptroller), transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Air Force, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

709. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation entitled, the "Military Construction Authorization Act for Fiscal Year 1996", pursuant to 31 U.S.C. 1110; to the Committee on National Security.

710. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting a report regarding House Resolution 80; to the Committee on Banking and Financial Services.

711. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report regarding House Resolution 80; to the Committee on Banking and Financial Services.

712. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the People's Republic of China, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

713. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Turkey, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

714. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Bermuda, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

715. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports the Chile, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

716. A letter from the General Counsel, National Security Agency, transmitting a report regarding House Resolution 80; to the Committee on Banking and Financial Services.

717. A letter from the Assistant Trade Representative for Legislative Affairs, Office of the U.S. Trade Representative, transmitting a report regarding House Resolution 80; to the Committee on Banking and Financial Services.

718. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Israel for defense articles and services (Transmittal No. 95-22), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

719. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Israel for defense articles and services (Transmittal No. 95-21), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

720. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning a cooperative project with France (Transmittal No. 05-95), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

721. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to the United Nations for use in Rwanda (Transmittal No. 19-95), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

722. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to the United Nations for use in Rwanda (Transmittal No. 20-95), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

723. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed sale of significant military equipment to Israel (Transmittal No. DTC-15-95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

724. A letter from the Assistant Secretary of Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the provision of defense hardware and services to Taiwan (Transmittal No. DTC-16-95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

725. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed technical assistance and manufacturing license agreements for the provision of defense hardware and services to the United Kingdom (Transmittal No. OTC-22-95 and OTC-24-95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

726. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

727. A communication from the President of the United States, transmitting the sixth monthly report on the situation in Haiti, pursuant to 50 U.S.C. 1541 note; to the Committee on International Relations.

728. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Donald K. Steinberg, of California, to be Ambassador to the Republic of Angola; by A. Peter Burleigh, of California, to be Ambassador to the Democratic and Socialist Republic of Sri Lanka and to the Republic of Maldives; by David C. Litt, of Florida, to be Ambassador to the United Arab Emirates; by Patrick Nickolas Theros, of the District of Columbia, to be Ambassador to the State of Qatar; and by Larry C. Napper, of Texas, to be Ambassador to the Republic of Latvia, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

729. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

730. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

731. A letter from the Secretary of Defense, transmitting the Cooperative Threat Reduction [CTR] Program plan for fiscal years 1996-2001, pursuant to section 1205 (a), (b) of the National Defense Authorization Act of 1995; to the Committee on International Relations.

732. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2000 resulting from passage of H.R. 831, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Reform and Oversight.

733. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Review of the District of Columbia Board of Education's Personnel Screening Procedures for New Hires," pursuant to D.C. Code, section 47-117(d); to the Committee on Government Reform and Oversight.

734. A letter from the Acting Secretary of Agriculture, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

735. A letter from the Chairman, Federal Communications Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1994, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

736. A letter from the Co-Chairmen, FDR Memorial Commission, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

737. A letter from the Executive Secretary, Harry S. Truman Scholarship Foundation, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

738. A letter from the President, Inter-American Foundation, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

739. A letter from the Chairman, Interstate Commerce Commission, transmitting the annual report under the Federal Manager's Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

740. A letter from the Chairman, Interstate Commerce Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1994, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

741. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

742. A letter from the Senior Counsel, Office of the U.S. Trade Representative, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

743. A letter from the Director, Office of Government Ethics, transmitting the annual

report under the Federal Managers' Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

744. A letter from the Secretary of Health and Human Services, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

745. A letter from the Secretary of Veterans Affairs, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

746. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

747. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

748. A letter from the Deputy Assistant Secretary for Water and Science, Department of the Interior, transmitting a draft of proposed legislation to amend the Helium Act to cease operation of the Government helium refinery, authorize facility and crude helium disposal, and cancel the helium debt; and for related purposes; to the Committee on Resources.

749. A letter from the General Counsel, Department of Commerce, transmitting a draft of proposed legislation to amend chapter 11 of title 35 to provide for early publication of patent applications, to amend chapter 14 of title 35 to provide provisional rights for the period of time between early publications and patent grant and to amend chapter 10 of title 35 to provide a prior art effect for published applications; to the Committee on the Judiciary.

750. A letter from the Deputy Secretary of Defense, transmitting concerning the Reusable Space Launch Technology Program; to the Committee on Science.

751. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for fiscal years 1996 and 1997 for the Office of Commercial Space Transportation of the Department of Transportation, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Science.

752. A letter from the Acting Director, Office of Thrift Supervision, transmitting the Office's 1995 annual consumer report to Congress, pursuant to Public Law 101–73, section 301 (103 Stat. 279); jointly, to the Committees on Banking and Financial Services and Commerce.

753. A letter from the Assistant Secretary (Civil Rights), Office for Civil Rights, transmitting the annual report summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems, pursuant to 20 U.S.C. 3413(b)(1); jointly, to the Committees on Economic and Educational Opportunities and the Judiciary.

754. A letter from the Secretary of Energy, transmitting the Department's second annual report on building energy efficiency standards activities, pursuant to 42 U.S.C. 6831–6837; jointly, to the Committees on Commerce and Transportation and Infrastructure.

755. A letter from the Secretary, Department of Commerce, transmitting the Department's report regarding bluefin tuna for 1993–1994, pursuant to 16 U.S.C. 971i; jointly, to the Committees on International Relations and Resources.

756. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title 49, United States Code (Transportation), to simplify and improve the organization of the Department of Transportation, and for other purposes; jointly, to the Committees on Transportation and Infrastructure and Science.

757. A letter from the Chairman, Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act, the Railroad Unemployment Insurance Act, and related statutes to ease administration of the railroad retirement and railroad unemployment insurance programs and for other purposes; jointly, to the Committees on Ways and Means and Transportation and Infrastructure. May 2, 1995.

758. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on National Security, Ways and Means, International Relations, and Government Reform and Oversight.

759. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting on behalf of the President, the annual report on the Panama Canal Treaties, fiscal year 1994, pursuant to 22 U.S.C. 3871; jointly, to the Committees on International Relations, the Judiciary, and Government Reform and Oversight.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HYDE:

H.R. 1528. A bill to supersede the modification of final judgment entered August 24, 1982, in the antitrust action styled United States versus Western Electric, Civil Action No. 82–0192, U.S. District Court for the District of Columbia, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HEFLEY (for himself and Mr. ORTIZ) (both by request):

H.R. 1529. A bill to authorize certain construction at military installations for fiscal year 1996, and for other purposes; to the Committee on National Security.

By Mr. SPENCE (for himself and Mr. DELLUMS) (both by request):

H.R. 1530. A bill to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes; to the Committee on National Security.

By Mr. BILIRAKIS:

H.R. 1531. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to any employer who employs a member of the Ready Reserve or of the National Guard for a portion of the value of the service not performed for the employer while the employee is performing service as such a member; to the Committee on Ways and Means.

H.R. 1532. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to any employer who employs a member of the Ready Reserve or of the National Guard for a portion of the compensation paid by the employer while the employee is performing service as such a member; to the Committee on Ways and Means.

By Mr. BRYANT of Tennessee (for himself, Mr. McCOLLUM, Mr. SMITH of Texas, Mr. SCHIFF, Mr. HEINEMAN, Mr. EMERSON, Mr. WICKER, Mr. INGLIS of South Carolina, Mr. CANADY, Mr. LARGENT, Mr. BARR, and Mrs. CHENOWETH):

H.R. 1533. A bill to amend title 18, United States Code, to increase the penalty for escaping from a Federal prison; to the Committee on the Judiciary.

By Mr. HUTCHINSON:

H.R. 1534. A bill to amend title 38, United States Code, to extend certain expiring authorities of the Department of Veterans Affairs, to authorize medical construction projects for that Department for fiscal year 1996, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GIBBONS (for himself, Mr. GEPHARDT, Mr. BONIOR, Mr. FAZIO of California, Mr. RANGEL, Mr. STARK, Mr. JACOBS, Mr. FORD, Mr. MATSUI, Mrs. KENNELLY, Mr. COYNE, Mr. LEVIN, Mr. CARDIN, Mr. McDERMOTT, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. PAYNE of Virginia, Mr. NEAL of Massachusetts, and Mr. FROST):

H.R. 1535. A bill to amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, to modify the basis rules for nonresident aliens becoming citizens or residents, and for other purposes; to the Committee on Ways and Means.

By Mr. HUTCHINSON:

H.R. 1536. A bill to amend title 38, United States Code, to extend for 2 years an expiring authority of the Secretary of Veterans Affairs with respect to determination of locality salaries for certain nurse anesthetist positions in the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. JACOBS:

H.R. 1537. A bill to amend the Truth in Lending Act to provide that, for purposes of any grace period offered by a creditor, the date on a postmark shall establish the date on which payment was made unless the consumer establishes that payment was made on an earlier date; to the Committee on Banking and Financial Services.

By Mr. JOHNSON of South Dakota:

H.R. 1538. A bill to amend the Wild and Scenic Rivers Act to limit acquisition of land on the 39-mile segment of the Missouri River, Nebraska and South Dakota, designated as a recreational river, to acquisition from willing sellers, and for other purposes; to the Committee on Resources.

By Mr. KENNEDY of Massachusetts (for himself, Mr. FROST, Mr. DELLUMS, Mr. MOAKLEY, Mr. KENNEDY of Rhode Island, Mr. BEILENSON, Mr. FATTAH, Mr. SABO, Mr. LIPINSKI, Mr. SKAGGS, Mr. GEJDENSON, and Mr. SERRANO):

H.R. 1539. A bill to amend title 23, United States Code, to provide a minimum level of funding for bicycle transportation facilities and pedestrian walkways, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HALL of Ohio (for himself and Mr. SMITH of New Jersey):

H.R. 1540. A bill to amend title 18, United States Code, with respect to the dissemination of indecent material on cable television; to the Committee on the Judiciary.

By Mr. KING:

H.R. 1541. A bill to impose economic sanctions against persons who trade with Iran; to the Committee on International Relations, and in addition to the Committees on Ways and Means, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LIPINSKI:

H.R. 1542. A bill to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor, and for other purposes; to the Committee on Resources.

H.R. 1543. A bill to amend the Harmonized Tariff Schedule of the United States to restore the duty rate that prevailed under the tariff schedules of the United States for certain twine, cordage, ropes, and cables; to the Committee on Ways and Means.

By Mr. NADLER:

H.R. 1544. A bill to prohibit the formation of private paramilitary organizations; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 1545. A bill to provide for the certification by the Federal Aviation Administration of airports serving commuter air carriers, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SCHUMER (for himself, Mr. RANGEL, Mrs. MALONEY, Mr. NADLER, Ms. VELAZQUEZ, Mr. MANTON, Mr. ENGEL, Mrs. LOWEY, and Mr. TORRICELLI):

H.R. 1546. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of cooperative housing corporations; to the Committee on Ways and Means.

By Mr. TORRICELLI (for himself, Mr. SCHUMER, Mr. BROWN of California, Mr. ACKERMAN, Mr. JACOBS, Mr. WILSON, Mr. SHAYS, Mr. GEJDENSON, Mr. MANTON, Mr. DEUTSCH, Mr. VENTO, Mr. DELLUMS, Mr. LIPINSKI, Mr. EVANS, Mrs. LOWEY, Mr. FARR, Mr. LEWIS of Georgia, Mr. KLECZKA, and Mr. FRELINGHYSEN):

H.R. 1547. A bill to amend the Animal Welfare Act to strengthen the annual reporting requirements of research facilities conducting animal experimentation or testing and to improve the accountability of animal experimentation programs of the Department of Defense; to the Committee on Agriculture, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WICKER:

H.R. 1548. A bill to provide for an interpretive center at the Civil War battlefield of Corinth, MS, and for other purposes; to the Committee on Resources.

By Mr. JACOBS:

H.J. Res. 86. Joint resolution proposing an amendment to the Constitution of the United States providing for direct popular elections of the President and the Vice President, establishing a day for elections for the offices of the President, the Vice President, Senator, and Representative, and providing for primaries to nominate candidates for the offices 1 month before the elections; to the Committee on the Judiciary.

By Mr. NADLER:

H. Res. 137. Resolution to express the sense of the House of Representatives condemning the use of violence and terror to influence the actions of the Government of the United States; to the Committee on the Judiciary.

By Mr. SMITH of Michigan (for himself, Mr. BROWNBACK, Mr. HOEKSTRA, Mr. FRANKS of New Jersey, Mr. BUNNING of Kentucky, Mrs. MYRICK, Mr. BASS, Mr. WICKER, Mr. HOKE, Mr. POMBO, and Mr. SCARBOROUGH):

H. Res. 138. Resolution repealing rule XLIX of the Rules of the House of Representatives relating to the statutory limit on the public debt; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COBLE:

H.R. 1549. A bill to provide for the liquidation or reliquidation of a certain entry of warp knitting machines as free of certain duties; to the Committee on Ways and Means.

By Mr. HILLEARY:

H.R. 1550. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Carolyn*; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mrs. FOWLER, Mr. CALVERT, and Mr. NEY.

H.R. 70: Mr. FROST.

H.R. 98: Mr. KING, Mr. MILLER of Florida, and Mr. FRANKS of Connecticut.

H.R. 99: Ms. ESHOO, Mrs. MORELLA, Mr. ENGEL, Mr. UNDERWOOD, Mr. FOGLIETTA, Mr. FIELDS of Texas, Mr. BORSKI, Ms. DELAURO, and Mr. KING.

H.R. 103: Mr. YOUNG of Alaska, Mr. ROSE, Mr. TAYLOR of North Carolina, Mr. GALLEGLY, Mr. WATTS of Oklahoma, and Ms. NORTON.

H.R. 127: Mr. MILLER of California, Mr. SCOTT, Mr. SOLOMON, Mr. MORAN, Mr. HEINEMAN, Mr. HINCHEY, Mr. FOX, Mr. ORTON, Mr. KIM, Mr. NEY, Mrs. MALONEY, and Mr. EHLERS.

H.R. 263: Mr. FRANK of Massachusetts.

H.R. 264: Mr. FRANK of Massachusetts.

H.R. 303: Mr. CALVERT.

H.R. 353: Ms. WOOLSEY.

H.R. 357: Mr. HOLDEN and Mr. TORRICELLI.

H.R. 371: Mr. ROSE.

H.R. 375: Mrs. MEYERS of Kansas.

H.R. 390: Mr. COX, Mr. SHADEGG, Mr. GALLEGLY, and Ms. RIVERS.

H.R. 396: Mrs. MORELLA.

H.R. 427: Mr. SOLOMON and Mr. BONILLA.

H.R. 468: Mr. JOHNSON of South Dakota and Mr. UNDERWOOD.

H.R. 469: Mr. JOHNSON of South Dakota.

H.R. 497: Mr. SAXTON, Mrs. CHENOWETH, Mr. MANZULLO, and Mr. GOODLATTE.

H.R. 512: Mr. MINETA.

H.R. 549: Mr. CALVERT.

H.R. 559: Mr. STUPAK.

H.R. 580: Mr. HUTCHINSON, Mrs. MEYERS of Kansas, Mr. BURTON of Indiana, Mr. ENGEL, Mr. WYNN, Mr. CLYBURN, Mr. LINDER, Mr. BONILLA, Mr. COOLEY, Mr. FOX, Mr. HYDE, Mr. GOODLATTE, Mr. SPENCE, Mr. SMITH of New Jersey, Mr. HANSEN, Ms. WOOLSEY, Mr. PAXON, Mr. GREENWOOD, Mr. ZIMMER, Mr. CHAMBLISS, Mr. OBERSTAR, and Mr. CHRISTENSEN.

H.R. 598: Mr. BARTON of Texas, Mr. HAYES, Mr. SCHAEFER, Mr. BENTSEN, Mr. MONTGOMERY, Mr. MCHALE, Mr. PALLONE, Mr. RAMSTAD, Mr. LINDER, Mr. SPRATT, Mr. PORTMAN, Mr. LAUGHLIN, Mr. BALLENGER, Mr. THOMPSON, Mr. YOUNG of Alaska, Mr. DICKS, Mr. STENHOLM, Mr. TEJEDA, Mr. BAKER of Louisiana, Mr. DEUTSCH, Mr. COOLEY, Mr. EHLERS, Mr. COLLINS of Georgia, Mr. MCHUGH, Mr. OXLEY, Mr. LATHAM, Mr. WATTS of Oklahoma, Mr. ROHRABACHER, Mr. BARTLETT of Maryland, Mr. HALL of Texas, Mr. HINCHEY, Mrs. CHENOWETH, Mr. CRAMER, Mrs. SMITH of Washington, Mr. DEFAZIO, Mr. SMITH of New Jersey, and Mr. CAMP.

H.R. 661: Mr. FROST and Mr. BARTLETT of Maryland.

H.R. 704: Mr. DAVIS, Mr. GUTIERREZ, Mr. BRYANT of Texas, and Mr. SENSENBRENNER.

H.R. 733: Mr. INGLIS of South Carolina.

H.R. 734: Mr. INGLIS of South Carolina.

H.R. 757: Mr. FRANK of Massachusetts and Mr. FOGLIETTA.

H.R. 782: Mr. CALVERT, Mr. HILLIARD, Mr. FROST, and Mrs. CLAYTON.

H.R. 783: Mr. JOHNSON of South Dakota, Mr. MONTGOMERY, Mr. DUNCAN, Mr. BACHUS, Mr. ROGERS, Mr. PICKETT, Mrs. FOWLER, Mr. EWING, Mr. LARGENT, and Mr. GOODLATTE.

H.R. 789: Mr. NETHERCUTT, Mr. JACOBS, Mr. RIGGS, and Mr. OBERSTAR.

H.R. 790: Mr. GALLEGLY, Mr. SISISKY, Mr. FOLEY, Mr. STUPAK, and Mr. UNDERWOOD.

H.R. 803: Mr. MOAKLEY, Mr. BENTSEN, Ms. DELAURO, Mr. MILLER of California, Mr. WAXMAN, Mr. GALLEGLY, Mr. BERMAN, Mr. STUDDS, Mr. DEUTSCH, and Mr. DIAZ-BALART.

H.R. 835: Mr. BOUCHER, Mr. COLEMAN, Mr. NADLER, Mr. ENGEL, Mr. DELLUMS, Mr. LEWIS of Georgia, Mr. WILLIAMS, Ms. LOFGREN, Mr. ROMERO-BARCELÓ, Mr. GUTIERREZ, Mr. ACKERMAN, Mr. SMITH of New Jersey, and Mr. SERRANO.

H.R. 842: Mr. TIAHRT, Mr. FARR, Ms. NORTON, Mr. DIAZ-BALART, Mr. SCHAEFER, Mr. HASTERT, Mr. MCCOLLUM, Mr. PETERSON of Minnesota, Mr. FORD, Mr. HANCOCK, Mr. TANNER, Mr. FRAZER, MR. HEFLEY, Mr. MOORHEAD, Mr. HASTINGS of Florida, Mr. JEFFERSON, Mr. KILDEE, Mr. FIELDS of Texas, Mr. DELLUMS, Mr. NORWOOD, Mr. THOMPSON, Mr. BROWN of California, Mr. JONES, Ms. ROYBAL-ALLARD, Mr. FAWELL, Mr. SPENCE, Mr. BENTSEN, Mr. LEWIS of Georgia, Mr. GOODLING, Mr. HANSEN, Mr. MARKEY, Mr. ROTH, and Mr. COMBEST.

H.R. 850: Mr. PETRI.

H.R. 882: Mr. FRANKS of New Jersey, Mrs. LOWEY, Mr. DOYLE, Mr. SERRANO, Mr. JOHNSTON of Florida, Mrs. VUCANOVICH, Ms. DELAURO, Ms. PRYCE, Mr. OLVER, Mr. SMITH of New Jersey, and Mrs. KENNELLY.

H.R. 895: Mr. MANTON.

H.R. 896: Mr. JOHNSON of South Dakota, Ms. ESHOO, and Mrs. MEYERS of Kansas.

H.R. 899: Mr. JOHNSON of South Dakota, Mr. TANNER, Mr. DEFAZIO, Mr. ROGERS, Mr. COX, Mr. MCINNIS, Mr. BALLENGER, and Mr. HERGER.

H.R. 910: Mr. LANTOS.

H.R. 930: Mr. RICHARDSON and Mr. COX.

H.R. 957: Mrs. THURMAN, Mr. Myers of Indiana, and Mr. CRAPO.

H.R. 958: Mr. MINETA, Mr. DINGELL, Mr. OBERSTAR, Mr. KING, Ms. Norton, Ms. DANNER, Mr. UNDERWOOD, and Ms. RIVERS.

H.R. 990: Mrs. LOWEY and Mr. SERRANO.

H.R. 1002: Ms. SLAUGHTER, Mr. SMITH of New Jersey, and Mr. CAMP.

H.R. 1003: Mr. UNDERWOOD, Mr. HOUGHTON, Mr. ENGEL, Mr. FROST, Mr. ENGLISH of Pennsylvania, and Mr. BARTLETT of Maryland.

H.R. 1010: Mr. ROMERO-BARCELÓ, Mr. PETE GEREN of Texas, Mr. TRAFICANT, Mr. GUTIERREZ, Mr. GENE GREEN of Texas, Mr. CLYBURN, Mr. CRAMER, Mr. FOGLIETTA, and Mr. BENTSEN.

H.R. 1021: Mr. BENTSEN.

H.R. 1023: Mr. BENTSEN.

H.R. 1027: Mr. KLINK.

H.R. 1037: Mr. HOUGHTON.

H.R. 1061: Mr. GIBBONS, Mr. NEAL of Massachusetts, and Mr. CRAPO.

H.R. 1066: Mr. BAKER of California and Mr. SOLOMON.

H.R. 1078: Ms. SLAUGHTER, Mr. CANADY, Mr. PASTOR, and Mr. MINETA.

H.R. 1085: Mr. BOEHLERT.

H.R. 1090: Mrs. MEEK of Florida.

H.R. 1097: Mr. SMITH of New Jersey, Mr. INGLIS of South Carolina, Mr. KNOLLENBERG, Mrs. MYRICK, Mr. FOX, Mr. LINDER, Mr. FUNDERBURK, and Mr. SOLOMON.

H.R. 1104: Mr. GRAHAM, Mr. COOLEY, Mr. PETRI, and Mr. PAXON.

H.R. 1114: Mr. BLUTE, Mr. HANSEN, Mr. CRAPO, Mr. HASTERT, Mr. RADANOVICH, Mr. CREMEANS, Mr. MONTGOMERY, and Mr. BROWNBACK.

H.R. 1147: Mr. CARDIN, Mr. MEEHAN, and Mr. WAXMAN.

H.R. 1150: Mrs. MEYERS of Kansas.

H.R. 1153: Mrs. MEYERS of Kansas.

H.R. 1154: Ms. FURSE and Mr. NADLER.

H.R. 1170: Mr. DELAY.

H.R. 1172: Mr. GENE GREEN of Texas, Mr. MARTINEZ, Mr. LIPINSKI, Mr. PACKARD, Mr. FAWELL, Mr. LATOURETTE, Ms. PRYCE, Mr. TALENT, Mr. SHAYS, Mr. ZIMMER, and Mr. OLVER.

H.R. 1189: Mrs. MEEK of Florida, Mr. FRANK of Massachusetts, Mr. SAXTON, and Mr. GUTIERREZ.

H.R. 1194: Mr. FOGLIETTA.

H.R. 1195: Mr. SOLOMON.

H.R. 1202: Mr. INGLIS of South Carolina, Mr. STUDDS, Mr. BORSKI, and Mr. SERRANO.

H.R. 1203: Mr. SKEEN.

H.R. 1229: Mrs. CLAYTON.

H.R. 1232: Mrs. CUBIN and Mr. CALVERT.

H.R. 1235: Mrs. KELLY, Mr. STARK, and Mr. DORNAN.

H.R. 1242: Mr. PAXON, Mr. BEVILL, Mr. JOHNSON of South Dakota, Mr. KING, Mr. TIAHRT, Mr. EHRLICH, Mr. EMERSON, and Mr. MCINTOSH.

H.R. 1244: Mr. YATES.

H.R. 1256: Mr. ENGEL and Ms. SLAUGHTER.

H.R. 1278: Mr. CLAY, Ms. MCKINNEY, Mr. YATES, Ms. NORTON, Ms. RIVERS, Mr. MARTINEZ, and Mr. WILLIAMS.

H.R. 1318: Mr. CRANE.

H.R. 1352: Mr. COMBEST, Mr. JOHNSON of South Dakota, Mr. GUNDERSON, Mr. MCHALE, Mr. GEKAS, Mr. PASTOR, Mr. HUTCHINSON, Mr. HOLDEN, Mr. CRAPO, Mr. CALVERT, Mr. HOEKSTRA, Mr. MCHUGH, and Mr. GALLEGLY.

H.R. 1360: Mrs. LOWEY and Mr. BONIOR.

H.R. 1363: Mr. LOBIONDO and Mrs. MEYERS of Kansas.

H.R. 1384: Mr. KLECZKA.

H.R. 1386: Mrs. JOHNSON of Connecticut, Mr. CALVERT, Mr. OXLEY, Mr. SAXTON, Mr. EMERSON, Mr. BEVILL, Mr. MEEHAN, Mr. HUTCHINSON, Mr. ENGLISH of Pennsylvania, Mr. TIAHRT, Mr. ZIMMER, and Mr. WALSH.

H.R. 1402: Ms. PELOSI, Mr. FOGLIETTA, Mr. OWENS, and Mr. PAYNE of New Jersey.

H.R. 1418: Mr. JACOBS and Mr. ENGLISH of Pennsylvania.

H.R. 1425: Ms. ROS-LEHTINEN, Mr. DREIER, and Mr. FORBES.

H.R. 1454: Mr. JACOBS, Mr. JOHNSTON of Florida, Mr. FILNER, Mr. SMITH of New Jersey, and Mr. SENSENBRENNER.

H.R. 1455: Mr. MILLER of California, Mr. SERRANO, and Mr. MEEHAN.

H.R. 1456: Mr. CARDIN, Mr. LEWIS of Georgia, and Mr. TOWNS.

H.R. 1457: Mr. CARDIN, Mr. LEWIS of Georgia, and Mr. MCDERMOTT.

H.R. 1460: Mr. KIM.

H.R. 1500: Mr. COLEMAN, Mr. COYNE, Mr. GUTIERREZ, Mr. KENNEDY of Rhode Island, Mr. OLVER, Mr. PORTER, and Mr. ZIMMER.

H.R. 1514: Mr. HAMILTON, Mr. MONTGOMERY, Mrs. FOWLER, Mrs. MEEK of Florida, Ms. KAPTUR, Mr. DUNCAN, Mr. BRYANT of Tennessee, Mr. MYERS of Indiana, Mr. FOLEY, Mr. GILMAN, Mr. CUNNINGHAM, Mr. HOEKSTRA, Mr. ROGERS, Mrs. LINCOLN, Mr. SOLOMON, Ms. DANNER, Mr. HEFNER, Mr. JOHNSON of South Dakota, Mr. BRYANT of Texas, Mr. BURR, Mr. LARGENT, Mr. GORDON, Mr. LIPINSKI, and Mr. MARTINEZ.

H. Con. Res. 23: Mr. GRAHAM.

H. Con. Res. 42: Mrs. LOWEY, Mr. OLVER, Mr. FAZIO of California, Mr. SCHUMER, Mr. DEUTSCH, Mr. LIPINSKI, Mr. MCNULTY, and Mr. PICKETT.

H. Con. Res. 47: Mr. BEILENSON, Mr. BERMAN, Mr. BROWN of California, Mr. CARDIN, Mr. COSTELLO, Mr. COX, Mr. DINGELL, Mr. DOOLEY, Mr. ENGEL, Mrs. KELLY, Mr. KENNEDY of Rhode Island, Mrs. LOWEY, Mr. LIPINSKI, Mrs. MALONEY, Mr. MANTON, Mr. MARTINI, Mr. MATSUI, Mr. MCNULTY, Mr. MEEHAN, Mrs. MORELLA, Mr. NADLER, Ms. PELOSI, Mr. RUSH, Mr. SCHUMER, Mr. SERRANO, Mr. STUDDS, Mr. TORKILDSEN, Mr. TORRICELLI, Mr. VISCLOSKY, Ms. WOOLSEY, Mr. WYDEN, and Mr. ZIMMER.

H. Con. Res. 50: Mr. PORTER, Mrs. LOWEY, Mr. COYNE, Mr. LIPINSKI, Mr. MCNULTY, and Mr. TRAFICANT.

H. Con. Res. 53: Mrs. LOWEY and Ms. BROWN of Florida.

H. Con. Res. 54: Mr. MCNULTY.

H. Con. Res. 63: Mrs. MEEK of Florida, Mr. ANDREWS, Mr. UNDERWOOD, Mr. MINGE, Mrs. LINCOLN, Mr. BAESLER, and Mr. LEWIS of California.

H. Res. 30: Mr. DIXON, Mr. PAXON, Mr. BALDACCI, Mr. HOLDEN, Mr. HOUGHTON, Mr. PAYNE of New Jersey, Mrs. THURMAN, Mr. WOLF, Mr. BONILLA, Mr. DICKEY, Mr. SCARBOROUGH, Mr. MONTGOMERY, Ms. SLAUGHTER, and Mr. SKEEN.

H. Res. 45: Mr. SERRANO.

H. Res. 122: Mr. BRYANT of Texas, Mrs. CLAYTON, Mr. CLEMENT, Mr. HINCHEY, Mr. JOHNSON of South Dakota, Mr. KLUG, Mr. LAFALCE, Mr. STUPAK, and Mr. WAXMAN.

H. Res. 135: Mr. FRANKS of Connecticut, Mr. ABERCROMBIE, Mr. FORBES, Mrs. MEYERS of Kansas, Mr. SPENCE, Mr. REYNOLDS, Mr. COBLE, Mrs. MEEK of Florida, Mr. LAZIO of New York, Mr. FRELINGHUYSEN, Mr. FUNDERBURK, Mr. MICA, Mr. MEEHAN, Mr. DOOLITTLE, Mr. LEWIS of Kentucky, Mr. ANDREWS, Mr. EHRLICH, Mr. INGLIS of South Carolina, Mr. SOLOMON, Mr. BEVILL, Mr. HAYES, Mr. JOHNSTON of Florida, Mr. BARRETT of Nebraska, Mr. HERGER, Mr. WOLF, Mr. SAXTON, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. KNOLLENBERG, Mr. MCCOLLUM, Mr. BOEHLERT, Mr. WHITE, Mr. ROYCE, Mr. CALLAHAN, Mr. MARTINI, Mr. FOLEY, Mr. MCKEON, Mr. COMBEST, Mr. QUILLEN, Mr. FATTAH, Mr. DUNCAN, Mr. POSHARD, Mr. LIVINGSTON, Ms. PRYCE, Mr. THORNBERRY, Ms. DELAURO, Mr. GALLEGLY, Mr. BARR, Mr. DOOLEY, Mr. RAHALL, Ms. NORTON, Mr. ZELIFF, Mr. BEREUTER, Mr. CHRISTENSEN, Mr. MCINNIS, Mr. DE LA GARZA, Mr. BARTLETT of Maryland, Mr. GIBBONS, Mr. PICKETT, Mrs. SEASTRAND, Mr. RADANOVICH, Mr. ZIMMER, and Mr. MANTON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 97: Mr. ENGLISH of Pennsylvania.

H.R. 370: Mr. ENGLISH of Pennsylvania.

SENATE—*Tuesday, May 2, 1995*

(Legislative day of Monday, May 1, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Chaplain will now deliver the morning prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Almighty God, Creator, Sustainer, and Lord of all, You who have brought light out of darkness and have created us to know You, we praise You for Your guidance. As we begin the work of this Senate today, we acknowledge again our total dependence on You. Revelation of Your truth comes in relationship with You; Your inspiration is given when we are illuminated with Your spirit. Therefore, we prepare for the decisive decisions of this day by opening our minds to the inflow of Your spirit. We confess that we need Your divine intelligence to invade our thinking brains and flood us with Your light in the dimness of our limited understanding.

Gracious Lord, You know what is ahead today for the women and men of this Senate. Crucial issues confront them. Votes will be cast and aspects of the future of our Nation will be shaped by what is decided. And so, we say with the Psalmist, "Show me Your ways, O Lord; teach me Your paths. Lead me in Your truth and teach me, for You are the God of my salvation; on You I wait all the day."—Psalm 25: 4-5. "I delight to do Your will, O my God, and Your law is within my heart."—Psalm 40:8.

We praise You Lord, that when this day comes to an end we will have the deep inner peace of knowing that You heard and answered this prayer for guidance. In the name of Him who is Truth. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. SANTORUM. Mr. President, this morning, the leader time has been reserved, and the Senate will immediately resume consideration of H.R. 956, the product liability bill.

Under the order, there will be 60 minutes of debate equally divided between the two managers, or their designees. At the conclusion of debate, at 11 o'clock, the Senate will begin a series of rollcall votes on, or in relation to, the pending second-degree amendments to the McConnell amendment.

The Senate will recess between the hours of 12:30 p.m. and 2:15 p.m. today for the weekly policy luncheons to meet.

Senators should be aware that further rollcall votes can be expected throughout today's session.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 956, the product liability bill, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Gorton amendment No. 596, in the nature of a substitute.

(2) McConnell amendment No. 603 (to amendment No. 596) to reform the health care liability system and improve health care quality through the establishment of quality assurance programs.

(3) Thomas amendment No. 604 (to amendment No. 603) to provide for the consideration of health care liability claims relating to certain obstetric services.

(4) Wellstone amendment No. 605 (to amendment No. 603) to revise provisions regarding reports on medical malpractice data and access to certain information.

(5) Snowe amendment No. 608 (to amendment No. 603) to limit the amount of punitive damages that may be awarded in a health care liability action.

(6) Kyl amendment No. 609 (to amendment No. 603) to provide for full compensation for noneconomic losses in civil actions.

(7) Kyl amendment No. 611 (to amendment No. 603) to place a limitation of $500,000 on noneconomic damages that are awarded to compensate a claimant for pain, suffering, emotional distress, and other related injuries.

(8) DeWine amendment No. 612 (to amendment No. 603) to clarify that the provisions of this title do not apply to action involving sexual abuse.

(9) Hatch amendment No. 613 (to amendment No. 603) to permit the Attorney General to award grants for establishing or maintaining alternative dispute resolution mechanisms.

(10) Simon/Wellstone amendment No. 614 (to amendment No. 603) to clarify the preemption of State laws.

(11) Kennedy amendment No. 607 (to amendment No. 603) in the nature of a substitute.

(12) Kennedy amendment No. 615 (to amendment No. 603) to clarify the preemption of State laws.

(13) DeWine (for Dodd) amendment No. 616 (to amendment No. 603) to provide for uniform standards for the awarding of punitive damages.

Mr. GORTON. Mr. President, we are now under a time agreement of 1 hour for the final debate on all of the second-degree amendments to the McConnell amendment on medical malpractice.

Seeing no Senator prepared to debate, I suggest the absence of a quorum and ask unanimous consent that it be charged equally against both sides.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. I thank the Chair.

Mr. President, as a chief advocate and sponsor and manager of the product liability reform bill, which, as far as I know, is still being debated on the floor, I want to comment on the situation on the floor as I see it now.

From just about every corner of the Senate floor, an amendment of some kind dealing with malpractice—not product liability, but malpractice—has been offered. So much so, in fact, that we now have 12 amendments on malpractice in the pipeline. I am hoping that the Senate will not have to vote on 12 amendments, and I hope indeed some of them can be worked out, dropped, or whatever.

As I also said on Thursday when I last spoke, I share my colleagues' interest in malpractice reform. In fact, I daresay that I more than share my colleagues' interest on this subject. To me, it is part of the problem with our health care system. It is intimately related to cost and psychology and whether doctors' kids or anyone's children want to go into medicine or not. And malpractice reform is something I want very much to do. But I do not want to do it at the risk of killing product liability reform. It is as simple as that.

I think if we were to adopt malpractice reform in conflict, not only would it fail, but so would product liability. So in the interest of bringing malpractice reform into the discussion, everything would lose. We can win

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

product liability on a clean bill, which Senator GORTON and I want. But we cannot win product liability if there are substantial or unsubstantial amendments attached to it, and malpractice reform is a very substantial amendment. We cannot win both.

As I said, I think at some point Senators have to choose: Do they want product liability reform? Do they want medical malpractice reform? Do they want nothing? Of course, there are many who want nothing.

I just do not see 12 amendments on medical malpractice to a product liability reform bill as the way to produce actual results, results which will be signed into law. It may make a lot of people feel good to offer their own iterations on medical malpractice to this bill. We have had some terrific speeches.

As somebody trying to enact something called a product liability bill for the last 9 years, it just does not make me feel very confident that this is the route to actually enacting either product liability reform or medical malpractice reform.

I repeat, I hope my colleagues understand this: If malpractice reform were to pass, and I do not think it will, if it were to pass and become part of the product liability bill, the product liability bill would lose. It is 100 percent guaranteed it would lose. So we would lose malpractice and we would lose product liability.

I do not understand that. I do not understand that. I think malpractice reform ought to be pursued just the way a bipartisan team of Senators have tried to enact this product liability reform bill. It ought to be done in the same manner—separately. That is, by getting a bill reported out of committee, onto the Senate Calendar, having the majority leader call it up, debating it on its own terms and with the time needed to work out any differences and issues that can be resolved here in the Senate.

Trying to enact malpractice reform by amending a product liability reform bill with enough issues of its own, for Heaven's sakes, just does not make sense to me. Maybe I will be proven wrong. I think the chances of that are almost zero percent. Maybe some kind of consensus will emerge around here on what form of malpractice reform should be attached to the product liability reform bill and we will suddenly have about 70 votes for a bill with both.

That was the original conversation, because of the surge of that nature in the House. People said malpractice will help products. That is what Jim Todd with the American Medical Association said to me and Dick Davidson of the American Hospital Association, and Tom Scully of the Federation of American Health Systems. They all said that to me; it will help.

All of the product liability alliance folks who surged in the House make the same assumption about the Senate. We are just very different. We are a very different body. It will not work here. This talk about getting 70 votes for a bill with both—I am highly skeptical.

As somebody who has worked very hard, as have Senator GORTON and many others here, on trying to enact product liability reform, I want to send a very clear signal to the Senators and to the citizens who also want to see a law enacted to achieve this result, this is no time for loading up this bill—neither now with these malpractice amendments nor after they have been disposed of. After they have been disposed of, there will be a chance for more amendments. Then there will also be not the time to load up the bill.

This is no time for amendment proliferation. This is no time to use this bill to make speeches on other issues to try to satisfy other interests, to try to feel good about writing amendments on other priorities, like malpractice reform.

This is the time to focus on the job at hand, and it is called product liability. We have a large, good group of Senators on both sides of the aisle who are prepared to vote for product liability reform, one of the most contentious issues that we face in any year in which we take this subject up, which is every other year. Up until this time we have lost every single year. We have lost nefariously, we have lost flat out, we have just sort of lost, but we have lost. It has always been close.

The majority of the Senate has always wanted product liability, but we have just fallen short, for one reason or another, of cloture. This year we can get it. This year we can do cloture and we can get a product liability bill which, in turn, will put the opposition in substantial disarray, and then we can move on to other aspects like malpractice reform, securities, that kind of thing, all of which I strongly favor, particularly malpractice.

So, again, this is the time to focus on the job at hand. I think that malpractice reform, in fact, is such a serious subject that it deserves far more attention than it has gotten. It deserves far more debate than it has gotten.

I am not convinced that there are 10 percent of the Senators who will vote on these amendments who understand what malpractice reform is all about. I do not mean that to insult any of my colleagues, but just as I think product liability reform is extremely complicated—particularly for nonlawyers such as myself—malpractice becomes more so because we are dealing with humans in a different way. It is a hard subject that deserves a very serious effort, but not on this bill.

Again, and in concluding, I am more than anxious to take up a bill on malpractice reform. I understand the urgency and the voices of the doctors and the health care institutions in my State of West Virginia and elsewhere. It is not right that it has to take so long to do something about problems with malpractice. It is the No. 1 subject on the minds of physicians, the No. 1 subject on the minds of hospitals. They desperately want it.

It also is not right to pretend that we can act on malpractice reform when trying to enact a serious piece of legislation on a different issue, which is called product liability.

My hope is that we simply will concentrate on product liability, that we will try to keep away amendments, that we will drive this thing through to a conclusion and get one excellent piece of work done.

I thank the Chair. I yield the floor. Mr. President, I suggest the absence of a quorum and ask the time be divided equally between the opponents and the proponents.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I yield 6 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, we spent, now, 2 full days debating this underlying medical malpractice amendment and numerous second-degree amendments. I am privileged to be a cosponsor of the underlying first-degree amendment with the Senator from Kentucky, [Mr. MCCONNELL] and the Senator from Kansas [Mrs. KASSEBAUM]. I would like to take a few moments here to put this debate and the amendment in perspective.

Surprisingly, to my knowledge this is the first time the full Senate has engaged in a real debate on medical malpractice reform, even though this issue has been the subject of countless debates in State legislatures throughout America going back to the 1970's, when I was part of the State Legislature of Connecticut. I am pleased the issue and the problem has finally come to this point, and I want to express my admiration to my colleagues on both sides of this issue for the thoughtful remarks they have made over the last days.

We have heard a variety of views expressed, of course, but I am pleased to note there is broad agreement that our present system for compensating patients who have been injured by medical malpractice is ineffective, inefficient, and in many respects unfair The system promotes the overuse of medical tests and procedures and simply diverts too much money away from victims. I know we have heard a lot of numbers in the past couple of days, but to me the most important one is this: Less than half of the money spent on medical malpractice in this country goes to the victims of malpractice. Less than 50 cents of every dollar that goes into the medical malpractice system in this country goes to those who are injured as a result of malpractice.

So the aim of the amendment is not to protect doctors who are guilty or health professionals who are guilty of negligence that injures patients. Quite the contrary, the aim of the amendment is to make sure that more, rather than less than half a dollar of every dollar that goes into this system, goes to the patients who are injured and not to those, including the attorneys, who are churning, moving the current system.

We can argue about the numbers, obviously, but I hope most of my colleagues will agree that the existing medical malpractice system does contribute to the high cost of health care. The cost of liability insurance has been estimated, the most recent number I could find, at $9 billion in 1992. That is not money that just comes out of the air or is printed by the Government; that is money that comes from everybody who is paying premiums for insurance for health care.

The respected health care consulting firm Lewin-VHI has estimated conservatively the cost of defensive medicine—this is beyond the $9 billion in premiums—but the cost of defensive medicine, which is to say medicine practiced by health professionals not for what they take to be the medical needs of their patients but defensively because they are worried about lawsuits, is $25 billion a year. Again, that is $25 billion coming out of the pockets of everybody who is paying health care costs.

That number may seem to some who look at the big picture of health care spending somehow small. If it does, they have perhaps lost touch with reality, because $25 billion is a lot of money. It is not small in any sense. We can and should do something to reduce that number.

Taxpayers and health care consumers bear the financial burden of those costs. I say taxpayers because we are paying for it in Medicare and Medicaid and every other Government-supported health care program. Tens of billions of dollars every year is not a trivial amount of money to taxpayers and consumers in this country.

The underlying amendment we will vote on today will begin to address the inefficiencies and perverse effects of our current malpractice system by directing a greater proportion of malpractice awards to victims, by discouraging frivolous lawsuits, and by enhancing programs that are aimed at improving the quality of medical practice, which is what this is all about.

The amendment will also improve consumer information, a key part of preventing malpractice, by establishing an advisory panel to improve quality assurance programs and consumer information. The panel will also look at ways to strengthen the national practitioner data bank. My colleague, Senator WELLSTONE, has offered an amendment that would open the data bank without this review. I respectfully suggest that his amendment goes too far too quickly, though I am sympathetic to the goal.

I believe the underlying amendment sponsored by Senators MCCONNELL, KASSEBAUM, and myself will lead us appropriately down the path but will do it with some also appropriate caution.

Mr. President, the underlying amendment is not new. It is not radical. It is a very moderate proposal which contains provisions from health care reform bills reported out of committees during the last Congress with the exception of the statute of limitations (a 2-year time limit that does not include a statute of repose) and a cap on punitive damages which is identical to the cap in the underlying product liability bill. Every provision in the pending first-degree amendment was contained either in President Clinton's health care reform proposal, the bill reported out of the Senate Labor Committee, or the bill reported out of the Senate Finance Committee last year.

I agree with my colleagues who have argued that medical liability reform is only a small part of health care reform. But it is a substantial and important beginning. As both Democrats and Republicans concluded last year, malpractice reform is an important part of health care reform. Today we have an opportunity to take a modest and reasonable proconsumer step forward on this problem.

I thank the Chair. I thank my colleagues, and I urge them to vote for the underlying amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, I yield 5 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, the opponents of this medical malpractice amendment have wildly attacked it. But, this amendment is very reasonable and moderate reform. In fact, if you compare it to some of the proposals from last year's health care debate, you will see many familiar provisions.

For example, the original Clinton Health Security Act contained a cap on attorney contingent fees, collateral source reform, periodic payment of damages, and mandatory alternative dispute resolution. The medical malpractice provisions reported from the Finance Committee contained joint and several liability reform, a cap on noneconomic damages, and mandatory alternative dispute resolution with modified loser-pays for those who go onto court and do not improve upon the ADR decision. By omitting the cap on pain and suffering, this amendment does not go as far as the Finance Committee's proposals which were reported out of the committee, on a bipartisan basis.

During last year's health care debate, some argued for the Canadian single-payer system. Canada's single-payer system also includes some very strict rules on malpractice cases. While Canada's doctors do not pay malpractice insurance premiums, they pay a membership fee to the Canadian Medical Protective Association. In the United States, doctors and hospitals buy malpractice insurance, costing tens of thousands of dollars annually. And, according to the Medical Liability Monitor, more than half of all doctors have experienced 9- to 15-percent increases in their malpractice premiums in each of 1993 and 1994.

In Canada, noneconomic damages are capped at $240,000. The McConnell-Lieberman-Kassebaum amendment does not cap noneconomic damages, although Senator KYL has an amendment pending to add a cap of $500,000.

In Canada, contingency fees are illegal in some parts of the country and uncommon in the rest of the country. Our amendment sets a limit on attorney contingent fees, to ensure that most of the award goes to the injured party.

In Canada, a plaintiff who loses, risks having to pay the defendant's legal fees. This amendment contains no loser-pays provision.

So, Mr. President, in comparing this amendment to last year's efforts on medical malpractice, as well as to Canada's law, we have very moderate reform proposed here.

And, those who support product liability reform should support medical malpractice reform. Enacting the underlying bill on its own will, in my judgment, make the legal system more complex. What will happen in a case where the injured party alleges malpractice over certain drug treatment? It product liability reform is enacted, the drug company will fall under the new law, but there will have to be a separate lawsuit regarding the conduct of the doctor or hospital. Such a result would be ridiculous.

The opponents assert that we are somehow trying to shield negligent doctors and hospitals. Nothing could be further from the truth. No one loses the right to sue under this amendment. An injured party will be fully compensated for his or her injuries. Negligent doctors and hospitals will be held accountable for the injuries they cause.

In addition, this amendment takes important steps in the direction of assuring quality care for all patients.

While protecting the rights of the injured to get compensation for their injuries, this amendment also gives the American people relief from the tort tax. We know the litigation tax adds thousands of dollars annually to the household budgets of all American families. It adds extra costs to the delivery of a baby, as well as to the cost of a heart pacemaker.

Relief from the tort tax and an end to the lawsuit gamble are the goals of our effort. We know that most of the money spent in the litigation system does not go to the injured victims; they get only 43 cents of every dollar spent in the liability system. The legal system is akin to the casinos of Las Vegas and Atlantic City. Sometimes you win big, but most times the house—that is the system, made up of lawyers and related court costs, is the biggest winner.

The only opponents we have in this legal reform fight are the trial lawyers. They have the biggest stake in maintaining the status quo. The injured people they represent will be treated better under this amendment. They will get more compensation for their injuries. So, if you are for the victims, you should vote for this amendment. I urge my colleagues to adopt the McConnell-Lieberman-Kassebaum amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, I yield 7 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 7 minutes.

Mrs. BOXER. Mr. President, I thank the Senator for yielding because I know he and I do not agree on this issue. So it must be in some ways a painful thing for him to yield to me. So I want to say to my friend, Senator ROCKEFELLER, I thank him very much for yielding me this time.

Mr. President, what are we doing here in the Senate today? We are voting, beginning to vote, to change a legal system that, while not perfect, is adjudged to be the best in the world. We are not tinkering around the edges. We are not dealing with frivolous lawsuits. We are in essence, if you follow the Contract With America, taking away the rights of average citizens to get justice in the courtroom. And what I find most remarkable about this in this Republican Congress is that this is the same Republican Congress that says let the States decide most matters, they are closer to the people. But in this case, the U.S. Senate and the House of Representatives, well, we are going to substitute our judgment for that of a local jury, a local judge, who knows the community, who is of, by, and from the community. I do not think we should be able to prejudge what a damage award should be, whether it is in a medical malpractice case or whether it is in a product liability case, the underlying bill.

Let me give you an example. Most Americans were stunned to hear that a physician in Florida in treating a gentleman actually cut off the wrong leg of that man. It meant that they had to then cut off the other leg and the man lost both legs.

In the debate on this subject of capping the damages and what people could receive in medical malpractice cases, a Republican Congressman—who happens to be a doctor—took to the floor of the House. He has served there for many years. And this Congressman was asked by another colleague, a Democratic colleague, "What do you think about the fact that a physician cut off the wrong leg of a victim, and now this gentleman has no legs at all?" He can never hope to have anything like a normal life. And this Republican doctor-Congressman said mistakes happen. These things happen. And then he was asked, what is it worth, the fact that a man has no legs and can never have the semblance of an ordinary life again? And he said, mistakes will happen.

Well, he does not know what it is worth.

These things happen.

The fact is we do not know, but a jury and a judge together will make that decision in accordance with State law. But, no, we are going to destroy all of this.

Now, the story which all America shared, unfortunately, is not that isolated. Although we know we have the best doctors in the world, the most healing doctors in the world, this is not isolated. It is a very small percent. Of all tort cases filed, only 7 percent are medical malpractice. But we are going to take the iron fist of the Senate and say we know best what a future victim should be awarded.

Now, let me tell you about a couple of cases. You also probably read about Betsy Lehman, who died after given a massive overdose of a strong chemotherapy drug. That story was publicized by the Boston Globe. Are we to tell the family of this young woman what the damages should be to that family? I think not.

How about Grand Rapids, MI? The wrong breast of a 69-year-old cancer patient was negligently cut off during a mastectomy. In Denver, CO, an anesthesiologist fell asleep during a routine operation on an 8-year-old boy. The child died, and we are going to tell the people in Colorado what that family should be awarded. I think there is something misguided going on here.

I have to believe there is some special interests that are involved here because the interests of the American people are not being served because we are all potential victims. We are all potential victims.

At the New England Medical Center, two skin cancer patients died when a highly toxic drug called Cisplatin was given to them at three times the recommended dosage. In California, my great State, Harry Jordan went into the hospital to have a diseased kidney removed. Instead, the surgeons removed his healthy kidney, and he remained on dialysis for the rest of his life. He died last month, and we are going to tell the jury and the judge what to do in this kind of case.

We could go on with examples. The fact is we have the safest products in the world, and we have the best physicians in the world. I have to believe that our system of justice, although not perfect, has played a role in this. And I say often to myself—and this has to do with the underlying bill on product safety—how many of us remember engines exploding in cars?

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mrs. BOXER. I ask for 1 more minute, if I might.

The PRESIDING OFFICER. The Senator from Washington controls the time.

Mr. GORTON. I will yield a minute to the Senator.

Mrs. BOXER. I thank the Senator so much. I say to my friends, I know these are arguments they do not enjoy hearing, and I therefore appreciate the generosity.

We all remember engines of cars exploding, company executives saying, "Well, we figured we would have a few explosions. We write it off as a cost of doing business." This Senate wants to limit the punitive damages to those future companies that would act in such a despicable fashion. Most of our companies are good and most of them care, but the bad apples should know they will be hit with punitive damages, not just a slap on the wrist. Should this Republican contract pass, the most change will occur in the boardroom—not in the courtroom, in the boardroom—as people are getting ready to put new products on the market saying, well, we do not have to worry; the Senate, the Republican contract saved us from being hit with a meaningful punitive damages suit.

So in closing, Mr. President, I wish to again thank my colleagues. I will be supporting some of these amendments that are coming before us because they will make the bill a little better. I will be opposing others. But nothing that we do here by way of amendment convinces me that we are on the right path.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington has 6 minutes remaining.

Mr. GORTON. Mr. President, among other things, the distinguished Senator from California spoke about special interests. I find that remarkable in light of an article which appeared a couple of weeks ago in the Wall Street Journal, and a followup report on campaign contributions to congressional candidates which shows that the largest single special interest involved in campaigns for Congress is the American Trial Lawyers Association and its members. In their contributions, they outdo the Fortune 500; they outdo organized labor; they outdo, multiplied by 4 or 5 times, oil and gas lobbyists' contributions. They are, by a significant margin, the No. 1 special interest from the point of view of contributions to political campaigns in the United States.

Now, Mr. President, I do not normally argue this point of view. I am inclined to think that most of these lobbying organizations support the people who are already on their sides. But to attack the legislation as being special interest legislation, when the opponents are supported by the largest of all of the special interests, seems to me somewhat paradoxical.

Mrs. BOXER. Will the Senator yield? Will the Senator yield to me on that point?

Mr. GORTON. This is particularly true——

Mrs. BOXER. Will the Senator yield to me on that point?

Mr. GORTON. No, not right now.

Mrs. BOXER. I will wait, thanks.

Mr. GORTON. This is particularly true, Mr. President, when we reflect on the fact that it is that special interest which is the greatest beneficiary of the present system as, of all of the money that goes into medical malpractice, only 40 percent gets to the victims and 60 percent goes to the transactions costs; that is to say, the attorneys, the expert witnesses, the insurance adjusters and the like who involve themselves in the question.

The greatest amount of money by far goes not to victims but to transaction costs.

In my view, that is the great scandal of the present system, whether we are dealing with medical malpractice or with product liability. The costs of the system outside of the compensation provided for any of the parties is so overwhelmingly on one side that I think it would be those who speak about victims and victims' rights who would be most in favor of a dramatic and drastic reform of the present system, most in favor of it, to create a system in which the transaction costs, the lawyer's fees were dramatically less, and a much greater percentage went to those who were victims.

I will be perfectly happy to yield to the Senator from California for a question.

Mrs. BOXER. I thank the Senator very much.

Is the Senator aware that well over 100 organizations, including some from his State, oppose this underlying bill very, very strongly? Because I think what the Senator is doing in his remarks is leading people to believe that there is one group that is opposed to it.

I read into the RECORD a number of groups the last time. Every single consumer organization you can name, both State based and nationally based: citizen action groups, public interest law people, Coalition of Silicon Survivors, and Colorado DES Action. The DES sons also oppose certain liability reforms.

What I wish to point out to my friend is I really respect his right to disagree——

Mr. GORTON. I understand the question now.

Mrs. BOXER. I ask unanimous consent to put this list of people who oppose this bill into the RECORD at this time, and I thank my friend for yielding.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STATE BASED ORGANIZATIONS OPPOSED TO "LEGAL REFORM" IN THE SENATE (S. 565)

Alabama Citizen Action.
Alaska PIRG.
Arizona Consumers Council.
Arizona Citizen Action.
Consumer Federation of California.
California Citizen Action.
Center for Public Interest Law at the University of San Diego.
California Motor Voters.
California Crime Victims Legal Clinic.
California Public Interest Research Group (CALPIRG).
Fair Housing Council of San Gabriel Valley.
Colorado Coalition for Accountability & Justice.
Colorado Steelworkers Union Local 2102.
Coalition of Silicon Survivors.
Colorado DES Action.
Denver UAW.
Colorado ACLU.
Denver Gray Panthers.
Colorado Public Interest Research Group (CoPIRG).
Colorado Clean Water Action.
Colorado Senior Lobby.
Connecticut Citizen Action Group.
ConnPIRG (Connecticut Public Interest Research Group).
Delaware Coalition for Accountability and Justice.
Delaware AARP.
Delaware Council of Senior Citizens.
Delaware AFL-CIO.
Delaware Federation of Women's Clubs.
Delaware Women and Wellness.
Delaware Breast Cancer Coalition.
Building Trades Council of Delaware.
UAW Local 1183—Delaware.
Delaware Sierra Club.
Delaware Audubon Society.
Save the Wetlands and Bays—Delaware.
Florida Consumer Action Network.
Florida PIRG.
Florida Consumer Fraud Watch.
Georgia Citizen Action.
Georgia Consumer Center.
Citizen Advocacy Center of Illinois.
Chicago & Central States ACTWU.
Idaho Citizens Action Network.
Idaho Consumer Affairs, Inc.
Illinois Public Action.
Illinois Council Against Handgun Violence.
Illinois PIRG.
Citizens Action Coalition of Indiana.
Iowa Citizen Action Network.
Iowa UAW.
Iowa State Council of Senior Citizens.
Kentucky Citizen Action.
Louisiana Citizen Action.
Maine People's Alliance.
Maryland Citizen Action.
Maryland State Teachers Association.
Maryland Coalition for Accountability & Justice.
Planned Parenthood of Maryland.
Law Foundation of Prince George's County.
Maryland PIRG.
Maryland Sierra Club.
Teamsters Joint Council No. 62.
UFCW Local 400.
White Lung Association & National Asbestos Victims.
Sexual Assault/Domestic Violence Center, Inc.
IBEW Local 24.
Maryland Clean Water Action.
Maryland Employment Lawyers Association.
Health Education Resource Organization (H.E.R.O.).
Environmental Action Foundation.
Massachusetts Jobs with Justice.
Massachusetts Consumer Association.
Massachusetts Citizen Action.
MassPIRG (Massachusetts Public Interest Research Group).
Michigan Consumer Federation.
Michigan Citizen Action.
Public Interest Research Group in Michigan (PIRGIM).
Minnesota COACT.
Minnesotans for Safe Foods.
Missouri Citizen Action.
Missouri PIRG.
Montana PIRG.
Nebraska Citizen Action.
Nebraska Coalition for Accountability & Justice.
Nebraska Farmers Union.
Nebraska Women's Political Network.
Nebraska National Organization for Women.
United Rubber Workers of America, Local 286.
Communications Workers of America, Local 7470.
Nebraska Head Injury Association.
Nebraska Center for Rural Affairs.
New Hampshire Citizen Action.
New Jersey Citizen Action.
White Lung Association of New Jersey.
New Jersey Tenants Organization.
Consumers League of New Jersey.
Cornucopia Network of New Jersey.
New Jersey DES Action.
NJPIRG (New Jersey Public Interest Research Group).
New Jersey Environmental Federation.
New Mexico Citizen Action.
Citizen Action of New York.
Essex West Hudson Labor Council.
Uniformed Firefighters Association of Greater New York.
Empire State Consumer Association.
New York Consumer Assembly.
Niagara Consumer Association.
North Carolina Citizen Action.
North Carolina Consumers Council.
North Dakota Coalition for Accountability & Justice.
North Dakota Public Employees Association.

North Dakota DES Action.
North Dakota Clean Water Action.
Dakota Center for Independent Living.
North Dakota Breast Implant Coalition.
North Dakota Progressive Coalition.
Laborer's International Union, Local 580.
Boilermaker's Local 647.
Ironworkers Local 793.
United Transportation Union.
Sierra Club, Agassiz Basin Group.
Plumbers & Pipefitters Local 338.
United Church of Christ.
Teamsters Local 116.
Teamsters Local 123.
Plumbers & Pipefitters, Local 795.
Workers Against Inhumane Treatment.
Ohio Citizen Action.
Ohio Consumer League.
Ohio PIRG.
Oregon Fair Share.
Oregon Consumer League.
Oregon State Public Interest Research Group (OSPIRG).
Pennsylvania Citizens Consumer Council.
Pennsylvania Institute for Community Services.
Victims Against Lethal Valves (V.A.L.V.).
Citizen Action of Pennsylvania.
Pennsylvania DES Action.
Pennsylvania AFL–CIO.
SmokeFree Pennsylvania.
PennPIRG (Pennsylvania Public Interest Research Group).
South Dakota Coalition for Accountability & Justice.
South Dakota AFSCME.
East River Group Sierra Club.
Black Hills Group Sierra Club.
South Dakota State University.
IBEW, Local 426.
South Dakota DES Action.
South Dakota Peace & Justice Center.
Native American Women's Health & Education Center.
Native American Women's Reproductive Rights Coalition.
South Dakota AFL–CIO.
UFCW Local 304A.
Yankton Sioux Tribe.
South Dakota Coalition Against Domestic Violence.
South Dakota Advocacy Network.
South Dakota United Transportation Union.
South Dakota United Paperworkers International Union.
Tennessee Citizen Action.
Texas Citizen Action.
Texas Alliance for Human Needs.
Texas Public Citizen.
Defenders of the Rights of Texans.
Vermont PIRG.
Virginia National Organization for Women.
Virginia Citizen Action.
Virginia Citizens Consumer Council.
Washington Citizen Action.
WASHPIRG (Washington Public Interest Research Group).
West Virginia Citizen Action Group.
Wisconsin Consumers League.
Wisconsin PIRG.
Wisconsin Citizen Action.
Center for Public Representation, Inc.

ORGANIZATIONS OPPOSED TO "LEGAL REFORM" IN THE SENATE (S. 565)

(95 as of April 24, 1995)

Action on Smoking & Health.
AIDS Action Council.
Alliance Against Intoxicated Motorists.
Alliance for Justice.
American Association of Retired People (AARP).
American Bar Association.
American Coalition for Abuse Awareness.
American Council on Consumer Awareness.
American Fed. of Labor/Congress of Industrial Organizations (AFL–CIO).
American Public Health Association.
Americans for Democratic Action.
Americans for Non-Smokers' Rights.
Arab American Anti-Discrimination Committee.
Association of Trial Lawyers of America.
Center for Public Interest Research.
Business and Professional Women.
Center for Women's Policy Studies.
Children NOW.
Citizen Action.
Citizen Advocacy Center.
Citizens Clearinghouse for Hazardous Waste.
Clean Water Action.
Coalition for Consumer Rights.
Coalition of Labor Union Women.
Coalition to Stop Gun Violence.
Command Trust Network.
Committee for Children.
Conference of Chief Justices.
Consumer Action.
Consumer Federation of America.
Consumers for Civil Justice.
Consumer Protection Association.
Consumers Union.
Democratic Processes Center.
DES Action USA.
Families Advocating Injury Reduction (FAIR).
Federation of Organizations for Professional Women.
Fund for a Feminist Majority.
Gray Panthers.
Handgun Control Inc.
Help Us Regain the Children (HURT).
Hollywood Women's Political Committee.
Intl. Assn. of Machinists & Aerospace Workers (IAM).
Intl. Brotherhood of Teamsters.
Intl. Ladies Garment Workers Union.
Intl. Longshoremen's & Warehousemen Union.
Institute for Injury Reduction.
Lambda Legal Defense & Education Fund.
Latino Civil Rights Task Force.
Mothers Against Sexual Abuse.
Motor Voters.
NAACP (Natl. Assn. for the Advancement of Colored People).
Natl. Asbestos Victims Legal Action Organizing Committee.
Natl. Association of School Psychologists.
Natl. Breast Implant Coalition.
Natl. Conference of State Legislatures.
Natl. Consumers League.
Natl. Council of Jewish Women.
Natl. Council of Senior Citizens.
Natl. Fair Housing Coalition.
Natl. Family Farm Coalition.
Natl. Farmers Union.
Natl. Gay & Lesbian Task Force.
Natl. Head Injury Foundation.
Natl. Hispanic Council on Aging.
Natl. Minority AIDS Council.
Natl. Organization on Disability.
Natl. Rainbow Coalition.
Natl. Women's Health Network.
Natl. Women's Law Center.
Native American Rights Fund.
Network for Environmental & Economic Responsibility.
NOW Legal Defense & Education Fund.
Nuclear Information and Resource Service.
People's Medical Society.
Prevention First.
Public Citizen.
Public Voice for Food & Health Policy.
Purple Ribbon Project.
Safety Attorney Federation.
Southern Christian Leadership Conference.
STOP (Safe Tables Our Priority).
The Sierra Club.
Third Generation Network.
Trauma Foundation.
UAW (United Automobile, Aerospace & Agric. Imp. Workers of America).
U.S. Public Interest Research Group.
USWA (United Steelworkers of America).
Violence Policy Center.
Voices for Victims Inc.
Women Against Gun Violence.
Women's Institute for Freedom of the Press.
Women's Legal Defense Fund.
YWCA (Young Women's Christian Association).
Youth ALIVE.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Washington.

Mr. GORTON. Mr. President, yes, the Senator from Washington is quite aware of that list of organizations. Of course, there are all kinds of organizations that are on both sides of this case. The point made by the Senator from Washington was that overwhelmingly of these special interests, the largest single special interest in the United States, when one measures that influence by the amount of money put into the political system, is ATLA, the trial lawyers.

This is not surprising, given the fact that they are the principal beneficiaries to a considerably larger degree than the very victims whom they claim to be representing. That is the point from the perspective of organizations. The biggest special interest, the richest special interest, the special interest that gives the greatest amount of money leads the opposition to this view and contributes to many of the other organizations which are opposed to it.

But that does not, as this Senator said, necessarily mean that they are wrong or that the other side is right. When, however, we have a system which hurts innovation, destroys American competitiveness in some industries, and gives 60 percent of all the money in the system to those who game the system rather than victims, there is something wrong, and that something ought to be corrected.

PREEMPTION IN THE MCCONNELL-LIEBERMAN-KASSEBAUM AMENDMENT

Mrs. KASSEBAUM. Mr. President, last week I spoke in favor of the pending amendment on medical liability and addressed, very briefly, the issue of Federal preemption.

I want to take a few moments this morning to explain more fully my reasons for supporting a limited Federal preemption of State medical liability laws and to urge my colleagues to reject both the Simon and the Kennedy preemption amendments to the underlying McConnell-Kassebaum-Lieberman amendment.

Mr. President, the Federal Government has a significant stake in reforming the health care liability system both because of the effect of the system on interstate commerce and because of the enormous amount spent by the Federal Government on health care.

Last Thursday, I spoke of the need to achieve some degree of uniformity and certainty in the system. Without greater predictability, insurance rates will continue to reflect the potential for unlimited exposure to risk. And these higher insurance rates will continue to be passed along to the American consumer.

THE PRIVATE SECTOR DESERVES TO BENEFIT FROM THE SAME TYPE OF PROTECTIONS THAT THE FEDERAL GOVERNMENT HAS AFFORDED ITSELF

The Federal Government already has taken significant steps to limit its own exposure for costs associated with health care liability. For example, damages resulting from health claims disputes and redress in claims dispute cases are limited for Federal employees receiving health coverage under the Federal Employees Health Benefit Act [FEHBA], and for Medicare beneficiaries. There are no punitive or extra-contractual damages allowed under FEHBA or Medicare. *See Hayes* v. *Prudential Ins. Co.*, 819 F.2d 921 (9th Cir. 1987); *Homewood Professional Care Ctr., Ltd.* v. *Heckler*, 764 F.2d 1242 (7th Cir. 1985).

Moreover, responding to an outcry from Federal Community Health Centers about skyrocketing malpractice insurance premiums, Congress in 1992 limited the exposure of centers and their providers to malpractice claims by placing them under the Federal Tort Claims Act and taking steps that go well beyond the reforms in this legislation. In addition to having judgments paid from a Federal fund, that act: (1) allows liability to be determined by a judge rather than a jury (28 U.S.C. 2402); (2) contains a 2-year statute of limitations that is more restrictive than the one contained in this legislation (28 U.S.C. 2401); (3) prohibits the awarding of punitive damages (28 U.S.C. 2674); (4) places a cap on lawyers' contingency fees of 25 percent of a litigated claim and 20 percent of a settlement (28 U.S.C. 2678); disallows prejudgment interest (28 U.S.C. 2674), and requires claimants to exhaust administrative remedies before proceeding to court (28 U.S.C. 2675).

Mr. President, I believe that the private sector is entitled to the same type of protections that the Federal Government has extended to its own health providers.

AS THE LARGEST SINGLE PAYER OF HEALTH CARE SERVICES, THE FEDERAL GOVERNMENT HAS A COMPELLING INTEREST IN HEALTH CARE LIABILITY REFORM

While the Federal Government has limited its exposure to health care liability claims in certain instances, large gaps remain. In particular, liability for health care professionals and providers who treat Medicaid and Medicare patients remain subject to uneven and sometimes insufficient State medical liability reforms. One-third of total health care spending in this country is paid by the Federal Government. According to the Congressional Budget Office, Federal spending for Medicare will reach $177 billion in fiscal year 1995, while Medicaid grants to States will total $96 billion.

Therefore, I believe that there is a direct, compelling Federal interest in reforming the Nation's outmoded medical liability system.

FEDERAL LEGISLATION IS NECESSARY BECAUSE OF THE INCREASINGLY INTERSTATE CHARACTER OF HEALTH CARE DELIVERY

Moreover, some degree of uniformity is essential because health care markets are becoming increasingly regional, if not national. Telemedicine, by its very nature, is designed to overcome barriers to the delivery of medicine, including long distances, geographic limitations, and political borders. Some of the finest medical facilities in the United States—such as the Mayo Clinic in Minnesota, Stanford University in California, Barnes Hospital in Missouri, the Cleveland Clinic in Ohio, and the Dartmouth Medical Center in New Hampshire—treat patients from across the Nation, and around the world.

While I do not believe there is a need for absolute uniformity in all aspects of the health care system, I do believe that some minimum level of medical liability reforms are necessary to the continued development of a cost-effective private health care system. This is particularly true where, as under this legislation, insurers and other third party payers may be sued as defendants in health care liability actions.

As health care providers continue to consolidate and form integrated networks of care in response to market forces, economic pressure, and emerging treatment patterns, the number of individuals who receive health care services in one State while having them financed by entities in another will continue to increase.

While health care services generally are delivered locally, this does not necessarily mean that health care is delivered within State borders. To the contrary: more than 40 percent of Americans live in cities and counties that border on State lines; in 26 States, more than half of the population lives in cities and counties that border on State lines, and over 50 percent of the population in 26 States lives in border cities and counties. In these areas, it is even more likely that a patient will live or work in one State, receive health care services in another, and have his or her bills paid by a third-party payer in another State. A recent analysis of health services purchased across State borders found, for example: First, that Vermont and New Hampshire residents visit an out-of-State physician nearly one-quarter of the time; second, that Wyoming residents visit out-of-State doctors over one-third of the time, and third, that nearly 40 percent of the patients admitted to Delaware hospitals travel from out of the State.

FEDERAL LEGISLATION IS NECESSARY BECAUSE OF STATE CONSTITUTIONAL IMPEDIMENTS

Some have argued that this legislation is an unnecessary intrusion into an area of the law that traditionally has been the domain of the States. I would like to point out, however, that many of the opponents of Federal medical liability reform are, at the same time, aggressively challenging State tort reform efforts by arguing that the reforms are unconstitutional under State constitutions. As a result, many States have been frustrated in their efforts to pass meaningful tort reform. For example: First, statutes of limitations in health care liability actions have been held to violate State constitutions in Arizona; second, limits on punitive damage awards in health care liability actions have been held unconstitutional in Alabama, and third, periodic payment schedules for damage awards in health care liability actions have been held to violate State constitutions in Arizona, New Hampshire, and Ohio.

PREEMPTION PROVISIONS IN THE MCCONNELL-LIEBERMAN-KASSEBAUM AMENDMENT

Mr. President, the preemption provisions contained in the McConnell-Lieberman-Kassebaum amendment are designed to give both the States and the courts clear guidance as to the scope of the reforms contained in the legislation.

The amendment does not preempt State laws that: First, place greater restrictions on the amount of or standards for awarding noneconomic or punitive damages; second, place greater limitations on the awarding of attorneys fees for awards in excess of $150,000; third, permit a lower threshold for the periodic payment of future damages; fourth, establish a shorter period of time during which a health care liability action may be initiated or a more restrictive rule with respect to the time at which the period of limitations begins to run, or fifth, implement collateral source rule reform that either permits the introduction of evidence of collateral source benefits or provides for the mandatory offset of such benefits from damage awards.

The amendment also states specifically that it should not be construed to preempt any State law which: First, permits State officials to commence health care liability actions; second, permits provider-based dispute resolution; third, places a limit on total damages awarded in a health care liability action; fourth, places a maximum limit on the time in which such an action may be initiated, or fifth, provides for defenses in addition to those contained in the act.

Last week and again yesterday, some of my colleagues argued that the so-called one-sided preemption provisions contained in the McConnell amendment were both novel and, somehow, unfair. I believe these arguments are without merit.

For the record, I would like to make clear that the characterization that all of the preemption provisions in the legislation are "one-sided" is simply incorrect. Two examples are instructive. First, the preemption provisions allow State collateral source reform measures to differ widely from the provisions contained in the legislation. States not only have the flexibility under the McConnell-Lieberman-Kassebaum amendment to adopt evidentiary collateral source rules and mandatory offset rules that permit introduction of collateral source benefits after trial, but may, in fact, adopt a whole range of collateral source rule reforms that are more favorable to claimants than those contained in the amendment. Second, the amendment makes clear that State laws limiting attorneys fees for awards of $150,000 or less may be both more restrictive than the 33⅓ percent set forth in the legislation and less restrictive.

In support of the preemption provisions contained in the McConnell-Lieberman-Kassebaum amendment, I would like to note further the long history of this Congress in setting minimum Federal standards and allowing the States significant flexibility beyond those standards. See, e.g., Clean Air Act Amendments of 1990, Pub. L. 101-549; Safe Drinking Water Act, Pub. L. 93-523; Civil Rights Act of 1964, Pub. L. 88-352; Americans With Disabilities Act, Pub. L. 101-336.

Moreover, nearly every health care reform bill introduced last Congress—including President Clinton's "Health Security Act"—contained this type of Federal preemption for medical liability reforms. See, e.g., President Clinton's Health Security Act, H.R. 3600; Senator DOLE and Senator PACKWOOD's health care reform bill, S. 2374; Senator CHAFEE's Health Equity Access Reform Today Act, S. 1770; Representative Cooper's Managed Competition Act, H.R. 3222; the House Republican leadership plan, H.R. 3080; the bipartisan mainstream coalition health bill, and the House bipartisan health reform bill.

Another recent and relevant example of liability reform legislation containing the type of Federal preemption language included in the McConnell-Lieberman-Kassebaum amendment is S. 1458, the General Aviation Revitalization Act of 1994. That legislation provided in part that no civil action for damages arising out of an accident involving a general aviation aircraft could be brought against the manufacturer of the aircraft or the manufacturer of any component part of the aircraft, if the accident occurred more than 18 years after the date of the aircraft's delivery or the component part's installation. S. 1458, which passed the Senate on March 16, 1994 by a vote of 91 to 8, preempts State law only to the extent that such law permitted civil actions to be commenced after 18 years. See Public Law 103-298.

I believe that the underlying amendment is loyal to this tradition.

In conclusion, Mr. President, I would like to point out that many of those who oppose the preemption principles embodied in this legislation have repeatedly and enthusiastically embraced those principles in other legislative contexts.

For example, S. 7, the Family Health Insurance Protection Act, provides a clear example of one-sided preemption.

Section 1011 provides that State laws will not be preempted only if they: First, contain preexisting condition waiting periods that are "less than those" established in S 7; second, limit variations in premium rates "beyond the variations permitted" in S. 7, and third, expand the size of the small group market to include groups "in excess of" the size set forth in the legislation.

Section 1012 of that legislation contains even more expansive one-sided preemption provisions. It states that: "Nothing in this Act shall be construed as prohibiting States from enacting [any] health care reform measures that exceed the measures established under this Act, including reforms that expand access to health care services—for example, higher taxes—control health care costs, and so forth, institute tighter premium caps or cost controls, and enhance the quality of care.

Mr. President, as I said earlier, I do not believe there is a need for absolute uniformity in this area. But I do believe it is important to set some very clear minimum Federal standards that all States must meet.

The standards in the McConnell-Lieberman-Kassebaum amendment are only a floor. The amendment does not preempt States from going further with medical malpractice reforms they may decide are necessary. I think this is the best way to balance the need for some State flexibility with the need for greater certainty and predictability in the system.

MEDICAL MALPRACTICE REFORM

Mr. PELL. Mr. President, I wish to make a few observations regarding the effort sponsored by Senator MCCONNELL to add comprehensive medical malpractice reform to the product liability legislation currently pending before us.

I was much torn about the McConnell amendment because I support medical malpractice reform and believe the time has come to profoundly change the current system. Yet, in the end, I decided to vote against the McConnell amendment.

I did so because I was deeply concerned that adding this desirable but controversial reform effort to the pending legislation would gravely endanger the cause of product liability reform, a cause I have supported for many years. After many years of frustration I have real hope that we will achieve product liability reform in this Congress and I wanted to avoid any action which would endanger that hope. I would add that I was persuaded in this regard by the sponsor of the product liability reform effort, Senator ROCKEFELLER.

However, I look forward to the opportunity to fully address medical malpractice reform later in this Congress when the issues can be aired fully and not be encumbered by the desire to achieve progress in other areas of legal system reform. While I do not support all the provisions of the McConnell amendment, I do support its thrust and would welcome the opportunity to debate the issue strictly on its own merits.

MEDICAL MALPRACTICE REFORM

Mr. ROTH. Mr. President, I have always been a staunch supporter of our Federal system of government, which has as its most fundamental principle the idea that matters of governance ought to be left as much as possible to the States. Traditionally, one such matter left to the States has been the administration of medical malpractice law.

By virtue of its overwhelming financial stake in the Nation's health care, however, the Federal Government has a unique and compelling interest in the delivery of care, and this interest leads me to support the McConnell amendment on medical malpractice reform. The McConnell amendment reforms medical malpractice law by creating certain minimum standards, such as a cap on punitive damages, that will apply nationwide. It permits States, however, to pass more thorough-going reforms if they wish to do so.

The Federal Government is the largest purchaser of health care, and it finances 32 percent of the Nation's health care spending through the Medicare and Medicaid programs, federally qualified community health centers, the veterans health care, military health care, Indian health care, and many other programs. In fact, the Federal Government spent $280.6 billion in 1993 purchasing health care services—more than for any other service.

Projections of the growth of health care expenditures continue to escalate, and the Federal Government's role in paying for these services will also continue to grow—unless we begin to take steps to control the rate of growth. In the meantime, we should be working on increasing access to health care coverage. Savings achieved through medical malpractice reform will not only save the taxpayers of America significant amounts, it will help expand access to care.

Based on the experience with federally qualified community health centers, the evidence is good that the McConnell amendment will lead to cost savings and expanded access to care. Currently, more than 500 of these community and migrant health centers receive Federal funding. These centers provide essential primary care for about 6 million people living in areas where there are few physicians or other health care providers. In fact, we have three such important centers in Delaware—the Henrietta Johnson Community Health Center in Southbridge, the West Side Community Health Center in Wilmington, and the DelMarVa Rural Ministries in Kent County. In October 1992, Congress enacted a type of medical malpractice reform for federally supported community health centers by extending the Federal Tort Claims Act [FTCA] to cover these centers. A Government Accounting Office report estimates that for calendar years 1993 through 1995, a total of $54.8 million was saved by bringing the community health centers within the reach of the FTCA.

It is clear to me that medical malpractice reform is needed in order to control the Federal Government's enormous share of our national health care costs and, thus, to ensure broad access to quality care. The Physician Payment Review Commission, which is charged with advising Congress regarding Medicare policy, has advised in its latest report that Federal medical malpractice reform should be enacted. The report states that "the medical liability system does not adequately prevent medical injuries or compensate injured patients. There is concern that the current functioning of this system promotes the practice of defensive medicine and may impede efforts to improve the cost effectiveness of care." Last year, these problems led me to vote in favor of medical malpractice reform when the Senate Finance Committee considered it during its deliberations on health care reform. Because the problems are with us still, this year I support the McConnell amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that, following the conclusion of the first rollcall vote, all remaining consecutive rollcall votes be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. I now ask for regular order.

AMENDMENT NO. 604

The PRESIDING OFFICER. Regular order provides for the Thomas amendment to recur as the pending amendment.

Mr. ROCKEFELLER. Mr. President, I move to table the Thomas amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GORTON. Mr. President, for the information of all Senators, there is a potential for as many as 12 back-to-back votes, beginning now. All Senators are urged to remain on the floor during this voting sequence.

I ask unanimous consent that, notwithstanding the consent for the recess at 12:30, the Senate stand in recess immediately following the disposition of the McConnell amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 604

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia [Mr. ROCKEFELLER] to table the amendment of the Senator from Wyoming [Mr. THOMAS].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 39, nays 61, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—39

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bumpers
Cohen
D'Amato
Daschle
DeWine
Dodd
Feingold
Glenn
Gorton
Harkin
Heflin
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Levin
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Thompson
Wellstone

NAYS—61

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Bryan
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Conrad
Coverdell
Craig
Dole
Domenici
Dorgan
Exon
Faircloth
Feinstein
Ford
Frist
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kempthorne
Kerrey
Kyl
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Murkowski
Nickles
Nunn
Pressler
Pryor
Reid
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thurmond
Warner

So the motion to lay on the table the amendment (No. 604) was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 604) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 605

The PRESIDING OFFICER. The question occurs on amendment numbered 605.

Mr. GORTON. Mr. President, I move to table the Wellstone amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 31, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—69

Abraham
Ashcroft
Baucus
Bennett
Biden
Breaux
Brown
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kohl
Kyl
Leahy
Lieberman
Lott
Lugar
McCain
McConnell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Rockefeller
Roth
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—31

Akaka
Bingaman
Bond
Boxer
Bradley
Bryan
Byrd
Conrad
Daschle
Dorgan
Exon
Feingold
Harkin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Lautenberg
Levin
Mack
Mikulski
Moseley-Braun
Murray
Pell
Reid
Robb
Sarbanes
Simon
Snowe
Wellstone

So the motion to lay on the table the amendment (No. 605) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 608

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Maine.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Maine. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 61, nays 39, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—61

Abraham
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Faircloth
Feinstein
Frist
Gorton
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kerrey
Kohl
Kyl
Lautenberg
Levin
Lieberman
Lott
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Nickles
Nunn
Pressler
Robb
Roth
Santorum
Shelby
Simpson
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—39

Akaka
Ashcroft
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Dodd
Dorgan
Exon
Feingold
Ford
Glenn
Graham
Gramm
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Leahy
Lugar
Moynihan
Murray
Packwood
Pell
Pryor
Reid
Rockefeller
Sarbanes
Simon
Smith
Wellstone

So the amendment (No. 608) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 609

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 609 by the Senator from Arizona [Mr. KYL].

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I move to table the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 609

The PRESIDING OFFICER (Mr. KEMPTHORNE). The question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 65, nays 35, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—65

Abraham
Akaka
Ashcroft
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Campbell
Cochran
Cohen
Conrad
D'Amato
Daschle
DeWine
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Harkin
Hatch
Heflin
Hollings
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
Mikulski
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Shelby
Snowe
Specter
Stevens
Thompson
Warner
Wellstone

NAYS—35

Baucus
Bennett
Bond
Brown
Byrd
Chafee
Coats
Coverdell
Craig
Dole
Domenici
Faircloth
Gramm
Grams
Grassley
Gregg
Hatfield
Helms
Hutchison
Inhofe
Inouye
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Moseley-Braun
Nickles
Santorum
Simon
Simpson
Smith
Thomas
Thurmond

So the motion to table the amendment (No. 609) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 611

The PRESIDING OFFICER. The question now is on the Kyl amendment No. 611.

Mr. ROCKEFELLER. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—56

Akaka
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
DeWine
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pressler
Pryor
Reid
Robb
Rockefeller
Sarbanes
Shelby
Simon
Simpson
Specter
Thompson
Wellstone

NAYS—44

Abraham
Ashcroft
Baucus
Bennett
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
Dole
Domenici
Exon
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Pell
Roth
Santorum
Smith
Snowe
Stevens
Thomas
Thurmond
Warner

So the motion to lay on the table the amendment (No. 611) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 612

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 612, offered by the Senator from Ohio.

Mr. GORTON. Mr. President, this is a noncontroversial amendment.

So the amendment (No. 612) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 613

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 613, offered by the Senator from Utah.

Mr. GORTON. Mr. President, this is also a noncontroversial amendment.

So the amendment (No. 613) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, I ask unanimous consent we have the next vote and then we recess for the policy luncheons until 2:15, and then come back and complete the additional rollcall votes.

There will be one additional rollcall vote. The remainder of the votes will follow at 2:15.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Mr. President, reserving the right to object, I am going to withdraw my amendment at this point. I do not know if that affects the majority leader's schedule, but I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 616) was withdrawn.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, after consultation with the Democratic leader and a number of people who are conducting hearings, I withdraw the request. We will just go ahead and complete the votes now.

The PRESIDING OFFICER. Without objection, it is so ordered. The request is vitiated.

AMENDMENT NO. 614

The PRESIDING OFFICER. The question, then, is on agreeing to the Simon amendment (No. 614).

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I move to table the Simon amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 614

The PRESIDING OFFICER. The question occurs on the motion to lay on the table the amendment, No. 614.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced, yeas 51, nays 49, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—51

Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
Dodd
Dole
Domenici
Exon
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Robb
Rockefeller
Roth
Santorum
Smith
Snowe
Stevens
Thomas
Thurmond
Warner

NAYS—49

Abraham
Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
DeWine
Dorgan
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Sarbanes
Shelby
Simon
Simpson
Specter
Thompson
Wellstone

So the motion to lay on the table the amendment (No. 614) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. MACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 607

The PRESIDING OFFICER. The question now occurs on amendment No. 607 offered by the Senator from Massachusetts [Mr. KENNEDY].

Mr. GORTON. Mr. President, I move to table the Kennedy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 607. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—55

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dole
Domenici
Exon
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Robb
Rockefeller
Roth
Santorum
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—45

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Harkin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Sarbanes
Shelby
Simon
Simpson
Specter
Wellstone

So the motion to table the amendment (No. 607) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 615

The PRESIDING OFFICER. The question is on agreeing to amendment No. 615 offered by the Senator from Massachusetts [Mr. KENNEDY].

The amendment (No. 615) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 603, AS AMENDED

The PRESIDING OFFICER. The pending measure is amendment No. 603, as amended, offered by the Senator from Kentucky [Mr. MCCONNELL].

Mr. GORTON. Mr. President, I ask for the yeas and the nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

VOTE ON AMENDMENT NO. 603, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 603, as amended.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dole
Domenici
Exon
Faircloth
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Robb
Roth
Santorum
Simpson
Smith
Snowe
Stevens
Thomas
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Dodd
Dorgan
Feingold
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Pryor
Reid
Rockefeller
Sarbanes
Shelby
Simon
Specter
Thompson
Wellstone

So the amendment (No. 603), as amended, was agreed to.

CHANGE OF VOTE

Mr. PACKWOOD. Mr. President, on rollcall vote No. 139 I voted "yea." It was my intention to vote "no." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

CHANGE OF VOTE

Mr. HATFIELD. Mr. President, on rollcall vote No. 137 I voted "yea." It was my intention to vote "no." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. HELMS. Mr. President, I ask unanimous consent that I be permitted to proceed very briefly as in the morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAVE THE CUBAN PEOPLE BEEN SOLD DOWN THE RIVER?

Mr. HELMS. Mr. President, at noon today, Attorney General Reno made a formal announcement that has dismayed the Cuban people.

The Attorney General, speaking for the President, announced that effective immediately the Cubans interdicted at sea will be forcibly returned to face the wrath of Fidel Castro.

Mr. President, of course, Mr. Castro has said he will take no punitive action against Cubans forcibly returned to his tyranny. But the Cuban people, many of whom died before firing squads, and others who languished for years as political prisoners in Castro's prisons, learned the hard way the value of Mr. Castro's word.

Mr. President, there has been another sad and tragic moment involving the Clinton administration's dealings with the Cuban people. I am already receiving in my office an endless stream of telephone calls and faxes from Cuban-Americans who feel they have again been betrayed by the administration.

For more than 35 years, Mr. President, the United States has been a safe haven for Cubans fleeing Castro's repressive Communist dictatorship. Last year, Mr. President, the Clinton administration began a reversal of this policy. Cuban Americans now appropriately fear that the administration has joined hands with the Castro regime in an effort having the continuing effect of enslaving the people of Cuba.

Today's announcement, described as the result of secret negotiations between the administration and the Castro regime, is seen as a sign that the United States will now work in partnership with Castro's brutal security apparatus by intercepting and capturing escaping Cuban refugees and turning them over directly to Castro's thugs. How sad it is, Mr. President, that the United States is now viewed as an accomplice in Castro's repression of the Cuban people.

Mr. President, if the United States wants to send naval vessels to surround Cuba, it should not be done to cooperate with the Castro regime. It should be done to blockade and strangle his brutal dictatorship once and for all. This development is another reason why Congress must pass the Cuban Liberty and Democratic Solidarity Act. In the face of this vacillation, the Congress must reaffirm that United States policy is to isolate and replace Fidel Castro, not to keep the Cuban people imprisoned in Castro's tropical gulag.

I ask unanimous consent the full text of the statement issued at noon by the Attorney General, Ms. Reno, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ATTORNEY GENERAL JANET RENO REGARDING CUBAN MIGRATION

I would like to make an announcement regarding Cuban migration.

It has long been the policy of the United States that Cubans who wish to migrate to the United States should do so by legal means. The U.S. Interests Section in Havana accepts and processes requests for visas, and it also operates an in-country program for those Cubans who seek refugee status for entry into the United States.

Pursuant to this policy, last August I announced that Cubans attempting irregular means of migration to the United States on boats and rafts would not be allowed to enter this country, but rather would be brought to the United States Naval base at Guantanamo Bay, where they would be offered safe haven.

Last September, following negotiations with representatives of the Cuban government, the United States announced that it would increase Cuban migration to the United States to permit 20,000 legal entrants per year. This program, which includes immigrant visas, refugee applications, and a Special Cuban Migration Program designed to broaden the pool of potential entrants, is on target, and we expect to continue legal Cuban migration at this level in the years to come. This year alone, we expect to bring 7,000 Cuban refugees to the United States through our in-country program in Havana.

Following recent diplomatic exchanges with the Cuban government, the United States is now prepared to take another important step towards regularizing Cuban migration between Cuba and the United States.

First, with respect to Guantanamo:

We will continue to bring to the United States those persons who are eligible for special humanitarian parole under the guidelines announced by the President last October and December.

The government of Cuba has agreed to accept all Cuban nationals in Guantanamo who wish to return home, as well as persons who have previously been deported from the United States and persons who would be ineligible for admission to the United States because of criminal record, medical, physical, or mental condition, or commission of acts of violence while at Guantanamo.

All other Cubans in the safe haven will be considered for entry into the United States on a case-by-case basis as "Special Guantanamo Entrants", bearing in mind the impact of paroles on state and local economies and the need for adequate sponsorships. As has been true for all Cubans and Haitians previously paroled into the United States from Guantanamo, sponsorship and resettlement assistance will be obtained prior to entry. The number of these "Special Guantanamo Entrants" admitted to the United States will be credited against the 20,000 annual Cuban migration figure, beginning in September of this year, at the rate of 5,000 per year (regardless of when the Special Guantanamo Entrants are admitted).

Second, with regard to future irregular migration:

Effective immediately, Cuban migrants intercepted at sea attempting to enter the United States, or who enter Guantanamo illegally, will be taken to Cuba, where U.S. consular officers will assist those who wish to apply to come to the United States through already established mechanisms. Cubans must know that the only way to come to the United States is by applying in Cuba.

All returnees will be permitted to apply for refugee status at the U.S. Interests Sections in Havana. Cuba is one of only three countries in the world in which the United States conducts in-country processing for refugees. The Government of Cuba has committed to the Government of the United States that on one will suffer reprisals, lose benefits, or be prejudiced in any manner, either because he or she sought to depart irregularly or because he or she has applied for refugee status at the U.S. Interests Section. The Cuban Government made a similar commitment in the context of the September 1994 agreement, and we are satisfied that it has been honored. Moreover, the Government of Cuba will permit monitoring by U.S. consular officers of the treatment of all returnees.

Migrants intercepted at sea or in Guantanamo will be advised that they will be taken back to Cuba, where U.S. consular officials will meet them at the dock and assist those who wish to apply for refugee admission to the United States at the Interests Section in Havana. They will be told that the Government of Cuba has provided a commitment to the United States Government that they will suffer no adverse consequences or reprisals of any sort, and that U.S. consular officers will monitor their treatment. They will also be told that those persons who seek resettlement in the United States as refugees must use the in-country refugee program.

Measures will be taken to ensure that persons who claim a genuine need for protection which they believe cannot be satisfied by applying at the U.S. Interests Section in Havana will be examined before return.

Cubans who reach the United States through irregular means will be placed in exclusion proceedings, detained, and treated as are all illegal migrants from other countries.

The United States Government reiterates its opposition to the use of violence in connection with departure from Cuba and its determination to prosecute cases of hijacking and alien smuggling.

These new procedures represent another important step towards regularizing migration procedures with Cuba, finding a humanitarian solution to the situation at Guantanamo, and preventing another uncontrolled and dangerous outflow from Cuba.

The United States policy towards Cuba remains the same. We remain committed to the Cuban Democracy Act and its central goal—promoting a peaceful transition to democracy in Cuba. We will continue to enforce the economic embargo to pressure the Cuban regime to reform. We will continue to reach out to the Cuban people through private humanitarian assistance and through the free flow of ideas and information to strengthen Cuba's fledgling civil society. And we remain ready to respond in carefully calibrated ways to meaningful steps toward political and economic reform in Cuba.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I ask unanimous consent to proceed for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ATTORNEY GENERAL'S ANNOUNCEMENT ON CUBAN MIGRATION

Mr. GRAHAM. Mr. President, it had not been my intention to speak at this moment but I happened to be on the floor and heard the Senator from North Carolina. I would like, if I could, to put in context what the Attorney General announced at noon today.

The first component of the announcement was that the United States would adopt a new policy relative to those detainees who are currently being held at the naval station at Guantanamo Bay. For some background, in the late summer and early fall of 1994, a large exodus of Cubans commenced from that island and were interdicted by United States Coast Guard and some military vessels. The decision was made by the U.S. Government at that time to establish a safe haven at Guantanamo Naval Station, to which in excess of 30,000 persons who had been interdicted at sea were subsequently taken.

In September 1994, the United States Government, as part of what has been a continuing negotiation with the Cuban Government, held negotiations on the specific and limited and singular topic of immigration. As a result of that, an agreement was reached. Parts of that agreement provided that the United States would provide no less than 20,000 visas per year for Cubans wishing to come legally to the United States, and would do so through a process administered by the United States interest section in Havana. Also, as part of that agreement, the Cuban Government agreed to undertake those steps which would be necessary in order to prevent a continuation or restart of a mass exodus from Cuba.

Over time, the U.S. Government determined that there were three categories of persons at Guantanamo who deserved to be granted parole in the United States, those three being families with children, the elderly, and those who had serious medical problems. Under those three categories of parole, approximately 7,000 to 8,000 persons have been paroled into the United States thus far. There are another 2,000 to 3,000 to be paroled into the United States. That will leave at Guantanamo a population of approximately 15,000, plus or minus, which will be composed largely of single males, older adolescents, and young adults.

Over the past several months, there has been growing concern about what will happen at Guantanamo when we end up with that population. Recently, first privately and increasingly publicly, the representatives of the U.S. military—including General Sheehan, who is the Commander, Atlantic Command, which has responsibility for the U.S. military interests in the Caribbean—indicated that they felt it would be a very serious situation with potential for riots or other major unrest.

I personally have visited Guantanamo twice since it has been a principal safe haven for at one time Haitians, then mixed Haitians and Cubans, and now primarily Cubans. I concur, as a lay person, in what I observed at Guantanamo: It is a very stark environment. Many would think Guantanamo would look like their vision of a Caribbean island. It is not. It is a very formidable, rocky, dry, arid place where cactus is more prominent than palm trees. There is great concern about the potential of having a large number of persons of a young male status, without any hope or expectations for their future, being detained for an extended period under those circumstances.

I might say, this Senate spoke to that issue itself just a few weeks ago when the Department of Defense requested a supplemental appropriation of over $50 million in order to enhance the conditions at Guantanamo—things like putting in permanent showers and bathroom facilities where currently portable facilities are being utilized. The Senate elected not to fund that supplemental appropriation and expressed in its declination to do so the need for the United States to determine what its long-term policy was going to be relative to the detainees at Guantanamo.

So we have had the opportunity as a Senate to speak on this issue, and what we said to the administration was: Come up with a policy of how to deal with this situation before we commit an additional $50 million on top of the $1 million a day we are spending in order to maintain the population which is currently at Guantanamo.

Another part of this very unfortunate situation was the fact that there is great concern in the United States about the increasing number of immigrants. What seemed to be a strategy that would try to maximize the positives and minimize what are inherently going to be negatives in this situation was a policy that said let us take some of those 20,000 visas a year we are committed to offer through the interest section in Havana, and let us shift those to Guantanamo and assign those to those persons who, on a case-by-case basis, can meet the standards of entry to the United States. That has seemed to me for a number of months to be a rational policy, one not without risk or problems, but better than a set of unhappy other alternatives that face the United States.

I am pleased the administration did not wait until we had a riot at Guantanamo in order to act; that the administration essentially took the direction which this Senate had given, to state what our long-term policy was going to be vis-a-vis Guantanamo. That policy will be that over the next 3 years, we will shift visas from the interest section in Havana to Guantanamo, to begin the process of depopulating Guantanamo. Those who meet our standards will receive one of the visas for entry to the United States. Those who do not meet our standards will be sent back to Cuba.

The major concern about that policy was the concern that is referred to as remagnetizing Guantanamo. If you depopulate Guantanamo through this process but in the course of that you create such a strong impetus for people to go to Guantanamo and it refills, then you are back to where you are today.

The Cuban Government has restated its commitment of last September; that is, that it will enforce against mass exodus from the island. The United States, now having said we will not take people to Guantanamo as a safe haven, the policy which the Attorney General announced today is that those persons who are interdicted at sea will be given an on-board screening at sea to determine if they have a legitimate claim of political asylum.

If they have such a legitimate claim for political asylum, they will be given a special processing commensurate with that status and with our history of humanitarian outreach to political asylees and our obligations under international law.

If they do not meet that standard, then they will be returned directly to Cuba. That is a provision of this which causes great concern to many people, including myself. I recognize the long history that the United States has had relative to a special relationship with the people of Cuba. This policy was taken as what was considered to be a necessary backstop to the steps to depopulate Guantanamo without, in the process of depopulating, creating the very impetus that would repopulate it.

Mr. President, I am a cosponsor of the legislation that the Senator from North Carolina has introduced. I was the principal Senate sponsor of the Cuban Democracy Act, which today represents the basis of United States policy toward Cuba. That policy, as the President stated, is unchanged. That policy is one of economic and political isolation of Cuba as the most appropriate United States policy for purposes of closing down the 35-year nightmare which Fidel Castro has represented to the people of Cuba.

It is a policy that says we will outline with specificity and with compassion what our policy will be toward the people of Cuba during this reign of terror of Fidel Castro, and we will stipulate what our policy will be upon Castro's fall, to reintegrate a democratic and free Cuba into the international family of peace-loving nations and eliminate the one blotch that remains on the map of democracies of the Western Hemisphere, which is Cuba.

That was the essence of the Cuban Democracy Act. The legislation which I am cosponsoring with the Senator from North Carolina extends those principles toward the same goal of a rapid, hopefully peaceful transition of Cuba from the tyranny that exists today to a free and democratic government.

The decision the President made today was a difficult one. It represents a selection among a series of difficult choices. I respect the fact he did not wait for a crisis to make the decision. He has made it firmly. He has done what will achieve, I think, the maximum national security benefits to the United States in terms of our military base at Guantanamo.

The U.S. Department of Defense supported this proposition. It will allow Guantanamo to return to its role as an important part of our hemispheric security. It will not serve as a magnet for future buildup and diversion from its military use. It will stop almost $1 million a day of expenditure that we have been making at Guantanamo.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM. Mr. President, I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, there were some difficult decisions that had to be made around that core judgment. The result of the series of decisions will be: First that there will be no increase of total Cuban immigration into the United States, legal Cuban immigration, beyond that to which the United States was already committed.

Second, that immigration will now come from two streams, partially from Havana and partially from those persons who are at Guantanamo.

Third, the American people will be assured that only people from either place—Havana or Guantanamo—who will enter the United States will be those who meet our standards for entry.

Fourth, steps have been taken to demagnetize Guantanamo for further population buildup.

Within that policy, the American principle of recognition of political asylum and provision for those persons who seek freedom to make the case that they are seeking freedom out of the basis of a legitimate fear of political persecution will be maintained. They will be afforded that opportunity. The Attorney General outlined in summary form today what those steps will be.

So, Mr. President, I appreciate the leadership which the President has taken in making a difficult decision. I believe this Senate should appreciate the fact that he has responded to our request for leadership on this matter; that the U.S. Department of Defense will now be able to return its personnel and facilities to their intended purpose of security of the United States; and that we will be able to say that our policy of respecting human rights, and particularly respecting the rights of those claiming political asylum, will be maintained.

They are difficult choices, but in my judgment, choices that had to be made.

The PRESIDING OFFICER. The Senator from North Carolina.

MOTION TO RECONSIDER VOTE ON AMENDMENT NO. 603

Mr. HELMS. Mr. President, was a motion to reconsider the vote on amendment No. 603 made?

The PRESIDING OFFICER. The motion was not made.

Mr. HELMS. I make such a motion and I move to table the motion.

The motion to lay on the table was agreed to.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I ask unanimous consent I may speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NOMINATION OF DR. HENRY FOSTER

Mr. SPECTER. Mr. President, I have sought recognition to urge the Senate to consider the nomination of Dr. Henry Foster to be Surgeon General, to consider that nomination ultimately on the Senate floor. I urge that this be done for two reasons: First, out of basic fairness to Dr. Foster and, second, as an important sign that men and women can place themselves up for nomination for important positions without fear of being, in effect, railroaded out of town without having an opportunity for their positions and their cases and their records to be heard.

This morning, Dr. Foster testified before the Committee on Labor and Human Resources and the preliminary reports are that Dr. Foster has been an impressive witness on his own behalf. After Dr. Foster's name was submitted for the position of Surgeon General, I met with him extensively to discuss his record, after having reviewed his educational record, his record as a practicing physician, the work that he had done against teenage pregnancy, the work he had done for poor people, and the work he had done in a community context.

Let us strip away the facade, Mr. President. What has really occurred on Dr. Foster's nomination is an objection to his having performed abortions, and it seems to me that when Dr. Foster has performed abortions, however many, a medical procedure permitted by the U.S. Constitution, that ought not to be a reason for his disqualification.

Before any other consideration had arisen as to issues about performing hysterectomies or an issue about syphilis in studies of African-Americans or the question about how many abortions he had performed, there was an immediate cry that Dr. Foster was disqualified because he had performed abortions.

I think that is totally inappropriate, that is just wrong, to disqualify a nominee for Surgeon General because that person has performed a medical procedure which is permitted by the U.S. Constitution.

With respect to the issue of how many abortions he had performed and what information had come from the White House—and it appears at one point the White House made a representation of only one abortion; that was not what Dr. Foster had represented—that ought not to be held against him and ought not to be a smokescreen or a red herring for saying that he is disqualified. Whatever Dr. Foster has said about the number of abortions, that ought to be a question for the full Senate to consider. And whatever the contentions are about the performance of hysterectomies or about the syphilis testing on African Americans, that again is a question for consideration by the full Senate.

Now, I know, Mr. President, there have been statements by some that they are going to filibuster the nomination. Well, if they choose to filibuster the nomination, so be it. Let us have it out on the Senate floor. And there are some who say that if the nomination is voted out by committee, and it is not brought to the floor, they are going to tie up the Senate. I do not think we need those kinds of threats for the Senate to consider its business and decide whether Dr. Henry Foster is qualified to be Surgeon General.

It is my hope that the committee will report Dr. Foster to the floor for consideration by the Senate, and that can be done in a variety of ways. It can be done on an affirmative vote by a majority saying he is qualified, it could be done on a vote by the committee saying that he ought to be considered without recommendation, or it can even be done if the committee votes Dr. Foster down, as we have had with nominees. Judge Bork was voted down by the committee but it was voted to the Senate floor. Or Judge

Thomas, later Justice Thomas, was a tie vote in the committee and was voted to the Senate floor.

It seems to me, in fairness to Dr. Foster, he ought to be considered by the full Senate, and in fairness to the system where we are asking people to come to Washington under very difficult circumstances as a matter of precedent somebody ought not to be, in effect, railroaded out of town without having the Senate consider his nomination.

So as this matter is being considered today by the committee, I wanted to make these comments because the core question here, Mr. President, stripped away from all the subterfuge, stripped away from all the smoke, stripped away from all the red herrings is whether Dr. Foster ought to be disqualified for performing abortions, however many, a medical procedure authorized by the U.S. Constitution. I think the Senate ought to face up to that squarely. If the balance of the testimony shows qualification, as I think it will, based upon my examination of the record and my detailed conversations with Dr. Foster in questioning of him, then I think he ought to be confirmed.

I thank the Chair and yield the floor.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 2:15 p.m.

Thereupon, at 1:41 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KYL).

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

T. OSCAR TREVINO, JR., 1995 TEXAS SMALL BUSINESS PERSON OF THE YEAR

Mrs. HUTCHISON. Mr. President, I want to recognize the leadership of a small business person in my State who is being honored today by the Small Business Administration as the Small Business Person of the Year in Texas.

Mr. Oscar Trevino, Jr. is president of J.L. Steel, Inc. He is what America is all about, Mr. President. He took a company, J.L. Steel, from $400,000 in revenues in the first year, in 1989, and built that company to over $13 million in revenues last year. It is the fifth fastest growing Hispanic-owned company in the United States.

I am really proud of this Texan. He has really added to the economic vitality of our community in that he now has 140 employees that are working and paying taxes and are good citizens of our State. I am very pleased to honor him today.

Mr. President, I ask unanimous consent that his biography be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIOGRAPHY OF T. OSCAR TREVINO, JR.

It was 1989, and Oscar Trevino was comfortable with his company care and steady paycheck. He and neighbor Jan La Point were chatting on the lawn after dinner, while the kids played out front. It seems that Jan was having trouble expanding her two-year-old company, and Oscar was interested.

Before he realized it, he had worked out a business plan on his computer, and they were in business as J.L. Steel. Oscar borrowed against his retirement account, his credit cards and from family to become 51 percent owner of the firm. From $400,000 in revenues that first year, J.L. Steel has grown to nearly $13.6 million in revenues last year, making it the fifth fastest-growing Hispanic-owned company in the United States, with an annual growth rate of 235 percent.

J.L. Steel installs reinforced steel in highways, bridges and buildings. The firm competes for government and private contracts in Texas, Oklahoma and Louisiana, and satisfies its customers with reliable estimates, quality workmanship and attention to detail in the reams of accompanying paperwork. The firm has called on the SBA twice: in 1992 for a loan guarantee to finance growth and again in 1993, when it was certified as an 8(a) contractor, allowing it to compete for jobs from the federal government.

Oscar himself started out as a laborer, working summers for a major general-contracting firm while he earned a civil engineering degree from Texas A&M. He stayed with the firm after he graduated in 1978, advancing to become project manager by 1989. He hasn't forgotten how difficult it can be for others, and J.L. Steel has an aggressive equal-opportunity policy.

Oscar supports fledgling companies by helping them with marketing, construction practices and subcontracting opportunities. His tireless advocacy work on behalf of minority- and women-owned businesses includes work on various boards and committees, including the Dallas Minority Business Enterprise Advisory Committee and the Disadvantaged Business Enterprise Support Services program of the Texas Engineering Extension Service. He also helped the Association of General Contractors of Texas develop and promote fair and equitable goals, and training and apprenticeship programs for minorities and women.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 743 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. HUTCHISON. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. GORTON. Mr. President, having completed work on all of the amendments relating to medical malpractice, the floor of the Senate is now open for other amendments to the product liability legislation. I understand that serious amendments are to be proposed extending the punitive damages provisions of this bill to all litigation and extending the rules related to joint liability to all litigation. At the same time, there are a number of other amendments, both those which would broaden the legislation and those which would narrow it, which is appropriate and is relative to be discussed in connection with this bill.

I do hope at this point, after more than a week of debate, that proponents and opponents to these amendments will be willing to consider adequate, but relatively brief, time agreements, so that we can move the legislation forward. As Members come to the floor to present their amendments, I intend to make that suggestion to them, and we can have first-rate debate and votes and perhaps fewer quorum calls than we have had for some time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. It is amendment No. 596 to H.R. 956.

AMENDMENT NO. 617

(Purpose: To provide for certain limitations on punitive damages, and for other purposes)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. EXON, Mr. HATCH, Mr. MCCONNELL, Mr. ABRAHAM, Mr. KYL, Mr. THOMAS, Mrs. HUTCHISON, and Mr. GRAMM, proposes an amendment numbered 617.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, strike line 12 through line 5 on page 21, and insert the following:

SEC. 107. PUNITIVE DAMAGES IN CIVIL ACTIONS.

(a) FINDINGS.—The Congress finds that—

(1) punitive damages are imposed pursuant to vague, subjective, and often retrospective standards of liability, and these standards vary from State to State;

(2) the magnitude and unpredictability of punitive damage awards in civil actions have increased dramatically over the last 40 years, unreasonably inflating the cost of settling litigation, and discouraging socially useful and productive activity;

(3) excessive, arbitrary, and unpredictable punitive damage awards impair and burden commerce, imposing unreasonable and unjustified costs on consumers, taxpayers, governmental entities, large and small businesses, volunteer organizations, and nonprofit entities;

(4) products and services originating in a State with reasonable punitive damage provisions are still subject to excessive punitive damage awards because claimants have an economic incentive to bring suit in States in which punitive damage awards are arbitrary and inadequately controlled;

(5) because of the national scope of the problems created by excessive, arbitrary, and unpredictable punitive damage awards, it is not possible for the several States to enact laws that fully and effectively respond to the national economic and constitutional problems created by punitive damages; and

(6) the Supreme Court of the United States has recognized that punitive damages can produce grossly excessive, wholly unreasonable, and often arbitrary punishment, and therefore raise serious constitutional due process concerns.

(b) GENERAL RULE.—Notwithstanding any other provision of this Act, in any civil action whose subject matter affects commerce brought in any Federal or State court on any theory, punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant only if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct by the defendant that was either—

(1) specifically intended to cause harm; or

(2) carried out with conscious, flagrant disregard to the rights or safety of others.

(c) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded to a claimant in any civil action subject to this section shall not exceed 2 times the sum of—

(1) the amount awarded to the claimant for economic loss; and

(2) the amount awarded to the claimant for noneconomic loss.

This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(d) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such an award. If a separate proceeding is requested—

(1) evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded; and

(2) evidence admissible in the punitive damages proceeding may include evidence of the defendant's profits, if any, from its alleged wrongdoing.

(e) APPLICABILITY.—Nothing in this section shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by the United States, or by any State, under any law;

(2) create any cause of action or any right to punitive damages;

(3) supersede or alter any Federal law;

(4) preempt, supersede, or alter any State law to the extent that such law would further limit the availability or amount of punitive damages;

(5) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(6) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(7) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(f) FEDERAL CAUSE OF ACTION PRECLUDED.—Nothing in this section shall confer jurisdiction on the Federal district courts of the United States under section 1331 or 1337 of title 28, United States Code, over any civil action covered under this section.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "claimant" means any person who brings a civil action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) The term "clear and convincing evidence" means that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy such standard shall be more than that required under preponderance of the evidence, and less than that required for proof beyond a reasonable doubt.

(3) The term "commerce" means commerce between or among the several States, or with foreign nations.

(4)(A) The term "economic loss" means any objectively verifiable monetary losses resulting from the harm suffered, including past and future medical expenses, loss of past and future earnings, burial costs, costs of repair or replacement, costs of replacement services in the home, including child care, transportation, food preparation, and household care, costs of making reasonable accommodations to a personal residence, loss of employment, and loss of business or employment opportunities, to the extent recovery for such losses is allowed under applicable State law.

(B) The term "economic loss" shall not include noneconomic loss.

(5) The term "harm" means any legally cognizable wrong or injury for which damages may be imposed.

(6)(A) The term "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(B) The term "noneconomic loss" shall not include economic loss or punitive damages.

(7) The term "punitive damages" means damages awarded against any person or entity to punish such person or entity or to deter such person or entity, or others, from engaging in similar behavior in the future.

(8) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision of any of the foregoing.

(h) EFFECTIVE DATE.—This section shall apply to any civil action in which trial has not commenced before the date of enactment of this Act.

Mr. DOLE. Mr. President, this is a bipartisan amendment—Senator EXON is a cosponsor, as are Senators HATCH, MCCONNELL, ABRAHAM, KYL, THOMAS, HUTCHISON, and GRAMM.

This is an amendment that offers needed protections from lawsuit abuse to every American—small business or large; volunteer or charitable organizations. The spectre of lawsuit abuse hangs over us all, and our amendment would expand the protections in the Gorton substitute to ensure that every American is covered.

The bill as it now stands calls for limiting punitive damages in product liability cases to three times economic damages, or $250,000, whichever is greater.

This amendment makes two changes: It would extend the limits on punitive damages beyond product liability to all civil cases; and it would provide a rule of proportionality that limits punitive damages to two times compensatory damages; that is, any economic and noneconomic damages combined.

This amendment is needed because our Nation desperately needs broadly based relief from lawsuit abuse.

America's litigation tax—the tort tax—hurts every American; at least every American who is not a personal injury lawyer.

Anyone who cares about middle-class American families, consumers, and workers would want that litigation tax reduced.

We all know the numbers: $20 in the cost of an ordinary $100 step ladder goes to the litigation tax, as does one-sixth of the price of an $18,000 pacemaker and $8 of an $11.50 DPT childhood vaccine.

The litigation tax is a national "value subtracted" tax—$1,200 on every American, rich or poor, with nothing received in return.

And where does that money go? According to a 1986 Rand Corp. study, less than half ends up with those who are suing. Most goes to trial expenses and particularly to lawyers.

In other words, the litigation tax takes income right out of the middle-class family's pocket and puts it into the pockets of one of the wealthiest groups in America—personal injury lawyers.

Even worse, just the fear of litigation has led to the canceling of life-saving research and product improvements in many fields. Companies are afraid of being sued over anything that is new and this has made America less safe.

In other words, the biggest cost of the litigation tax may be measured, not in dollars, but in lives.

The underlying bill goes a long way toward reducing the abuses we currently suffer. But, in my view, it leaves many deserving organizations and small businesses outside its protective scope.

The litigation tax is paid, not just by consumers who buy products, but by every nonprofit organization, every small business, every municipality in the Nation—and those who depend on the services they provide.

This amendment will free our nonprofit organizations, small businesses, and local governments to serve America without first serving up a tribute to personal injury lawyers.

We do not have to look far to count the costs of the litigation tax to nonprofits, small businesses, and municipalties—and to the rest of America.

For example, the head of the Girls Scout Council of the Nation's Capital Area wrote this to House leaders during the debate over there:

> Locally, we must sell 87,000 boxes of cookies each year to pay for liability insurance. We have no diving boards at our camps. We will never own horses. And, many local schools will no longer provide meeting space for our volunteers.

The chief executive officer of Little League Baseball, Dr. Creighton Hale, has issued a similar plea.

Writing in the Wall Street Journal recently, Dr. Hale reported that, as he put it:

> In recent years, litigation has been the end result of two boys colliding in the outfield [the two picked themselves up and sued the coach]. * * * In still another case—

He continued:

> A man and woman won a cash settlement when the woman was hit by a ball a player failed to catch. The player was her daughter.

Dr. Hale says:

> The costs of this litigation lunacy score out * * * in bewildered dads calling our offices asking about personal liability, and volunteer coaches waking up to the fact that they're taking major league risks.

And he added:

> It's a problem common to all nonprofit organizations and the volunteers they depend on.

This is not even close to being in the ballpark of what most people think of when we think of justice in America.

Mr. President, legal speculators have declared war on American volunteerism, entrepreneurship, and local government—the institutions that make for strong communities and a better America.

Expanding the limits on punitive damages to all civil suits will help end the legal speculators' war on these institutions. It will help return justice to the law. It will reach into every home and school and town board and small business and community group in the Nation.

It will tell them that they need not fear for their financial security when they venture outside their home to help a neighbor or open a small business.

It will tell them the siege is over.

Mr. President, it seems to me that this is a very, very important amendment to the substitute. It is one that I hope my colleagues will look at very, very carefully.

I would certainly be willing to enter into a time agreement on this amendment. We would like to finish action on the punitive damage amendment today, as well as a joint and several liability amendment. I hope we can reach some time agreement. I state that now so that my colleagues on the other side of this issue, perhaps we can negotiate a time agreement later this afternoon.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Utah.

Mr. HATCH. Mr. President, I am pleased to be a cosponsor of the amendment to S. 565.

This amendment would, in effect, extend the punitive damage provision of S. 565 for product liability actions to all civil actions. The subject matter affects interstate commerce brought in State or Federal courts.

Our system of civil justice is broken, in the eyes of many people. The American people do deserve better. They deserve change. They deserve some common sense in our legal system.

I hope we can pass this amendment, along with some others, and send S. 565 to the President for his signature.

Let me be clear: The pending amendment helps volunteer organizations, towns, cities, counties, States, farmers, small businesses, transportation companies, convenience stores, blood banks, school boards, as well as product manufacturers. This amendment is proconsumer.

The pending amendment focuses on one aspect of our civil justice system: Punitive damages. Punitive damages are not awarded to compensate a victim of wrongdoing. These damages constitute punishment in an effort to deter future egregious misconduct.

Punitive damage reform is not about shielding wrongdoers from liability, nor does such reform prevent victims of wrongdoing from being rightfully compensated for their injuries or for their damages. Safeguards are needed to protect against abuse in the form of punitive damages.

In a 1994 opinion authored by Justice Stevens, the Supreme Court noted that punitive damages pose an acute danger of arbitrary deprivation of property. That was the Honda Motor Co. case.

More than that, our current punitive damage system harms consumers. I wish all of my colleagues could have heard the testimony of George L. Priest, who appeared before the Judiciary Committee on April 4 of this year. Mr. Priest is a professor of law and economics at the Yale Law School and has taught in the area of tort law, product liability and damages for 21 years, for the last 15 years at Yale.

Since 1982, he has been the director of the Yale Law School program in civil liability. He has studied jury verdicts extensively, and he did not appear before the committee on behalf of any client, interest, or group.

Professor Priest testified, "The reform of punitive damages alone, even reforms that would cap punitive damages or introduce a proportionality cap, will help consumers."

I note that the amendment before Members embodies a proportionality principle for punitive damages. I will return to Professor Priest's remarks later in my remarks and to this point later.

Let me give examples of what is wrong. This past September, an Alabama Supreme Court upheld a multimillion dollar punitive damage award against an automobile distributor who failed to inform a buyer that his new vehicle had been refinished to cure superficial paint damage. The amount expended to refinish this automobile, $601, was less than 3 percent of the vehicle's suggested price. A number of States do not require disclosure of repairs costing below a 3 percent threshold. Indeed, Alabama later adopted such a minimum threshold statute after the events which occurred in this case.

The victim was a purchaser of a $40,000 automobile. Nine months after his purchase, he took his vehicle to Slick Finish, an independent automobile detailing shop, to make the car look "snazzier" than it normally does—to use his terms. He was not then dissatisfied with the vehicle's look and had not previously noticed any problems with the car's finish. It was then that he was told by the detailer of the partial refinishing.

As a result of the discovery, he sued the automobile dealer, the North American distributor, and the manufacturer for fraud and breach of contract. He also sought an award for punitive damages. He won and he did hit the jackpot.

At trial, the jury was allowed to assess damages for each of the partially refinished vehicles that had been sold throughout the United States for a period of 10 years. The jury returned a verdict of $4,000 in compensatory damages. It also returned a verdict of $4 million in punitive damages.

On appeal to the State Supreme Court, the punitive damages award was reduced to $2 million, applicable only to the North American distributor. The U.S. Supreme Court has accepted this case for review of the constitutionality of the $2 million punitive damage award.

There is some indication that the law, though, did not permit that type of an award but the court decided anyway that they would halve the award from $4 million to $2 million.

My colleagues want to know why Americans are fed up with the civil justice system? I defy any Member of this body to read the opinion in this case and tell the American people that justice was done.

Why does it matter? In this case, it is not the purchasers of $40,000 automobiles that I am so concerned about, although they are consumers too. But the North American distributor of this automobile, spending tens of thousands of dollars in fees to defend a lawsuit over a $601 paint refinishing, and subject to a ridiculous $2 million punitive damage award, employs our constituents. Many of those employees cannot afford such expensive cars—nor can they afford such ridiculous results from our legal system. If the cost of business goes up, that cost will get passed on, and a business can only raise prices so far before its product becomes uncompetitive. At some point, that business will have to reduce its payroll. Who makes out like bandits from this case? The purchaser of a car with a $601 refinished paint job and, of course, his lawyer. I mean, punitive damages, for this case? And 2 million dollars' worth?

I should also note that this same defendant can be sued again and again for punitive damages by every owner of a partially refinished vehicle. In fact, according to defense counsel, the same plaintiff's attorney has filed 24 other similar lawsuits. No surprise there.

As a further note about this fiasco, in one of those other cases, the jury awarded no punitive damages. The very same conduct by the defendant and in one case, it is socked with $2 million in punitive damages and in another case zero punitive damages. Who knows what the litigation lottery will bring in the other, similar cases.

Let us look at another example. The September 26, 1994, National Law Journal, has a headline reading: "Blockbuster Busted for $123.6 Million."

A Dallas, TX, judge ordered Blockbuster Entertainment Corp., Video Superstores Master LP, and an individual to pay $14.7 million in damages and interest and $108.9 million in punitive damages to an individual investor. Why?

In 1986, the investor invested in the first Blockbuster franchises, and according to his attorney, "he was supposed to be included in the sale when the general partner sold." But the plaintiff-investor was not informed when such a sale was made. He charged the three defendants with breach of fiduciary duty and fraud. Aside from the $14.7 million in damages and interest, as mentioned earlier, the judge assessed just over $36 million in punitive damages to each of the three defendants, or an astonishing $108.9 million in punitive damages assessed against the defendants.

If the defendants in this case did breach their fiduciary duty and commit fraud, the plaintiff should be made whole. The pending amendment would not alter anyone's right to such a recovery.

But is this a case where punitive damages should also be imposed for the wrong? Moreover, after over $10 million in actual damages and nearly $4 million in interest, is there a further deterrent effect by imposing punitive damages? I do not have all of the facts, and I understand the case is under appeal. But even if punitive damages are appropriate, is it sensible to impose nearly 109 million dollars' worth, or over 7 times the award of damages and interest? I might add, if this plaintiff could meet the substantive standard of the pending amendment, the amendment itself would allow over $30 million in punitive damages. Frankly, that is an astronomical award itself, yet critics of this amendment argue that it is penurious.

My colleagues should understand, as the American people do, such awards impose costs. Prices on goods and services can be affected, wages and benefits paid to employees and the level of employment itself can be affected. The availability of goods and services can be affected.

Let me go back to Alabama, for yet another case, demonstrating the lack of common sense in our current civil justice system giving rise to this amendment. Indeed, this example is so outrageous, I will simply quote, at some length, the well-considered testimony of Professor Priest, at our April 4, 1995, hearing. This is from his written statement:

> In the case *Gallant* v. *Prudential*, decided this past April 1994, Iran and Leslie Gallant sued Prudential Life Insurance Company based on the actions of a Prudential agent. The Gallant's had purchased a combination life insurance-annuity policy with a $25,000 face value at a monthly premium of roughly $39.00. At the time of sale, the agent had told them that the value of the annuity was roughly twice what in fact it was; the agent had added together the table indicating "Projected Return" with the table indicating the lower "Guaranteed Return." A jury found this action fraudulent and held the agent liable and Prudential separately liable for failing to better supervise the agent.

Professor Priest goes on to say:

> Fortunately, the problem was discovered before either the policyholder had died or had retired to receive the annuity. Thus, to the time of trial, there was no true economic loss beyond the failed expectation of the larger future return. I have carefully read the transcript of the testimony, and the Gallants testified that, between the time that they discovered the misinformation and Prudential called them to offer a remedy (Prudential offered to return their premiums or to discuss adjusting the policy), they had suffered roughly two weeks of sleepless nights and substantial anger at having been misled. That was the extent of their "mental anguish".
>
> Twenty years ago, I taught cases of this nature in a course entitled Restitution, in which the appropriate remedy was restitution of all paid premiums or out-of-pocket costs. On very rare occasions such as especially egregious actions by a defendant, some courts considered awarding plaintiffs the benefit of the bargains, say, by increasing their annuity benefits.
>
> Our modern world has changed: After a one and one-half day trial, an Alabama jury awarded the Gallants damages equal to $30,000 in economic loss; $400,000 in mental anguish; and $25 million in punitive damages.

Again the face value of the policy was only $25,000, and they had not yet qualified to receive that. Think about it. A $25,000 policy, the agent made a mistake, they have 2 weeks of alleged sleepless nights, they were angry for much of that time, and they got $30,000 in economic loss, $400,000 for their 2 weeks of sleepless nights and anger, and $25 million in punitive damages.

Professor Priest said:

> I do not wish to minimize the harm to the Gallants, especially the indignity of the misrepresentation, nor to condone the fraudulent actions of the agent, apparently perpetrated on several other Alabama citizens who recovered separately. Nevertheless, there is not a single person to whom I have described this case—not an attorney, whether plaintiff or defendant; not a liberal or a conservative; not even a radical or idealist Yale Law student (or faculty member)—who has not been shocked by the outcome or who could defend it as a rational or sensible verdict in the context of the harm. Again, many defenders of punitive damages argue that exceptionally large verdicts are usually overturned on appeal. Alabama provides a review procedure for punitive damages verdicts that the U.S. Supreme Court has approved. In the Gallant case, however, the judge conducting the review affirmed the $25 million award in its entirety, though directing part of the amount to be paid to the State.
>
> What will be the effect of a punitive damages verdict of this nature? The Gallants appear to be persons of modest means (before the verdict). Does a verdict of this nature help middle- or low-income consumers? Totally, the opposite. The insurance policy in question—face value, $25,000—was the cheapest form of life insurance annuity available on the market; again, its monthly premium was only $39.00. Obviously, at such a premium, the insurance carrier could not be expecting to make a substantial profit on the policy. Indeed, an expert in the case estimated that over the entire life of the policy, the premiums net of payouts paid by the Gallants would increase Prudential's assets by only $46.00. Prudential, like most other life insurance companies, profits more substantially from large dollar, rather than small dollar policies. The expert estimated that the verdict reduced dividends to every Alabama policyholder . . . by $323.

That points out the ridiculousness of this.

Priest goes on to say:

> How do we analyze a case like this in terms of whether punitive damages serve a necessary deterrent effect? In his closing argument, the . . . attorney for the Gallants asked the jury to determine a level of damages that would send a message to the giant Prudential Life Insurance Company that fraudulent behavior on the part of an agent will not be tolerated. What kind of damages message is necessary to achieve that effect? Obviously, if the insurer stood to gain no more than $46 over the life of the policy, any damages judgment greater than $46 sends the insurer a message by making the policy unprofitable. (Of course, I ignore entirely Prudential's defense costs plus the reputational harm from the lawsuit.) The jury in the Gallant case went substantially beyond that amount, however, in awarding

> compensatory damages of $30,000 for economic loss and $400,000 for the mental anguish of the two weeks' lost sleep and anger. It certainly cannot be argued that the jury has undervalued the Gallant's compensatory loss—indeed, the $400,000 for the mental anguish award is extreme. Furthermore, there is no reason to think that the agent's behavior in other contexts would go undetected. (Prudential later settled other cases brought by the agent's clients.) As a consequence, there is no justification for a punitive damages award whatsoever.
>
> What will be the effect of punitive damages verdicts such as that in the Gallant case? In the face of such a verdict, what is the rational response of an insurer like Prudential or other insurers selling similar policies? Regrettably, but necessarily in a competitive industry, the rational response is to quit selling such low value policies altogether. It makes little sense to expose the company and its policyholders to the risk of such a damages verdict given the very small gain from the sale of such a policy.
>
> Is this the type of product that our civil liability system should drive from the market? Obviously, not, and low-income consumers in Alabama are directly harmed as a result. Here, the dramatically differential effects of such verdicts on high-income versus low-income consumers are made clear. In my own view, it is far more important to our society to have our insurance industry provide life insurance coverage to low-income citizens, since the relatively affluent of our society have other means of providing financial security for their families. The availability of financial protection and security at relatively low cost will be substantially diminished if such low premium policies, as here, are no longer available.
>
> More generally, where expected punitive damages verdicts are added to the price of products and services, the first to feel the effect will be low-income consumers. And where the magnitude of punitive damages verdicts rise, imperiling the continued provision of the product or service, the first to be affected will be those products and services with the lowest profit margins, most attractive to the low-income. The Gallant case provides a dramatic example of the effect. Following Gallant and other large punitive damages verdicts, several insurers have quit offering coverage in Alabama altogether.

I understand this case settled for an undisclosed sum. I urge my colleagues to take a close look at the concerns raised by Professor Priest.

The consequences of our current civil justice system can be felt in many ways.

The July 17, 1992, Science magazine reported that Abbott Laboratories put off testing for a drug that might prevent the spread of AIDS from infected pregnant women to their newborns. Why? According to the article, "Abbott officials announced that testing its HIV hyperimmune globulin (HIVIG) * * * would make the company too vulnerable to lawsuits." This action touched off some controversy. The Science article continued:

> In spite of the uproar, National Institute of Health officials agree with Abbott that liability is a significant issue in AIDS vaccine and therapy research. A recent investigation by Science (April 10, 1992, page 168) revealed that fear of lawsuits has led several HIV vaccine developers to delay or even abandon promising projects.

Creighton Hale, chief executive officer of Little League Baseball, wrote about lawsuits filed against coaches over the ordinary mishaps of a baseball game in the February 13, 1995, Wall Street Journal. He noted, "from my spot in the bleachers, the costs of this litigation lunacy [result in] bewildered dads calling our offices asking about personal liability, and volunteer coaches waking up to the fact that they're taking on major league risks." He went on to say significantly, "It's a problem common to all nonprofits and the volunteers they depend on. Little League Baseball has seen its liability insurance skyrocket 1000 percent—from $75 dollars per league annually to $795—in a recent five year period. Good Samaritans are caught in a suicide squeeze."

Mr. Hale urged Congress to extend common sense legal reform beyond products liability cases to cover volunteers and others. I note that Ms. Jan A. Verhage, executive director of the Girl Scouts Council of the Nation's Capital, which also serves the surrounding Maryland and Virginia communities, wrote to Speaker GINGRICH on February 13, 1995. She asked that legal reform legislation be extended to include organizations like the Girl Scouts.

Now, she was not speaking for the national organization. But her comments are very telling: "Locally we must sell 87,000 boxes of these Girl Scout cookies each year to pay for liability insurance. We have no diving boards at our camps. We will never own horses, and many local schools will no longer provide meeting space for our volunteers."

Paul A. Crotty, the top lawyer for New York City, wrote to Commerce Committee Chairman LARRY PRESSLER on April 5, 1995, on behalf of New York City and Mayor Guiliani. He urged that the punitive damages provision in the underlying products liability bill be extended to all cases. He wrote, "Although punitive damages generally cannot be imposed against cities, they generally can be imposed against governmental employees. Excessive awards against individuals providing government services can be as destructive as large awards against businesses that manufacture or sell products."

This is all just the tip of the iceberg.

STATISTICS

Let me say a word about the battle of statistics that rages over punitive damages. Supporters and opponents of this amendment can rely on various studies about the number and dollar amount of punitive damages awards. We heard reports on some such studies in the Judiciary Committee. There is no single definitive study.

But let me say this: Anyone with even a passing familiarity with our civil justice system knows that the likelihood of a punitive damages award, justified or not, is far greater today than 40 years ago. Moreover, and this is the crucial point, even beyond the increase in the frequency and amount of actual awards over that time, the mere threat of punitive damages affects volunteers, school boards, businesses of all sizes. The mere inclusion of a claim for punitive damages in today's litigation climate boosts the settlement value of a case, regardless of the case's merits. Insurance premiums go up, products and services are curtailed, innovation is stifled, consumer prices go up, and payroll costs rise, adversely affecting employment.

Professor Priest states,

> Forty years ago, punitive damages verdicts were exceptionally rare and were available against only the most extreme and egregious of defendant actions. The world of civil litigation is severely different today. Both the number and, especially, magnitude of punitive damages judgments have increased dramatically, indeed the frequency of claims for punitive damages has increased to approach the routine. These claims affect the settlement process, both increasing the litigation rate and, necessarily, increasing the ultimate magnitude of settlements even in cases that are settled out of court.

The terrible, irrational consequences of these developments are easy to see. Take the $601 paint refinishing case in Alabama that mushroomed into a $2 million litigation bonanza. If the plaintiff knew punitive damages were not a real possibility, the case could have settled. How utterly wasteful to the economy to have such a minor case, the equivalent of less than a fender-bender under any rational view, actually proceed through depositions and discovery, let alone actually be tried and then go through the appeals process. For heaven's sake, this paint refinishing case is now before the Supreme Court of the United States. What a waste of the company's resources which go to its lawyers and to court costs, and of scarce judicial resources. Only the plaintiff and his lawyer, if on a contingent fee, benefit from this windfall.

A civil justice system where all of this can happen is broken. One of the problems which needs fixing is the lack of meaningful control over punitive damages.

DETERRENCE

The cost of our current civil justice system might be offset at least somewhat if it actually does deter egregious wrongdoing. Here again, listen to the testimony of Professor Priest:

> I have never once seen a careful study in a specific case showing that a punitive damages judgment of some particular amount was necessary to deter some particular wrongful behavior.
>
> * * * forty years ago, in a tort law regime that provided little in the way of consumer remedies, it might have been that ever-increasing civil liability verdicts, including punitive damages verdicts, would serve to reduce the number of accidents. That view, however, has been totally discredited today, and I know of no serious tort scholar publishing in a major legal journal who could

> maintain it. Instead, it is widely accepted—and it is a routine proposition of a first-year modern torts course—that compensatory damages—economic losses and pain and suffering—serve a complete deterrent purpose in addition to their role in compensating injured parties. Compensatory damages impose costs on defendants who wrongfully fail to prevent accidents, costs equal in amount to the injuries suffered * * *.

He also testified that adverse publicity is another powerful deterrent to wrongdoers.

Let me stress that the pending amendment, of course, by no means eliminates punitive damages. Indeed, it allows punitive damages in an appropriate case, in an amount up to three times economic damages or $250,000, whichever is greater.

Actually, that was the old rule. Senator SNOWE's language allows two times the total of compensatory and noneconomic damages.

CONSUMERS

Do punitive damages help consumers? Here, again, is the testimony of Professor Priest: "The central problem of punitive damages, however, is that except in the rare cases of jury undervaluation of damages or underlitigation, punitive damages settlements and verdicts affirmatively harm consumers, and low-income consumers most of all.

> "Where punitive damages become a commonplace of civil litigation as in Alabama, or even where they become a significant risk of business operations, consumers are harmed because expected punitive damage verdicts or settlements must be built into the price of products and services. The effect of the greater frequency and magnitude of punitive damages recoveries of modern times has been to increase the price level for all products and services provided in the U.S. economy."

Indeed, Mr. President, as mentioned earlier, a punitive damage award in a case like Gallant versus Prudential, involving a combination life insurance-annuity policy with a $25,000 face value and $39 monthly premium, can only make insurance less available and more costly for middle- and low-income people.

Mr. President, the problems with the current punitive damages regime in this country are national in scope. Only Congress can fix these problems.

The pending amendment would require that the claimant establish by clear and convincing evidence that the harmful conduct was carried out with conscious, flagrant indifference to the rights or safety of the claimant before winning an award of punitive damages. It would then place a proportional limit on punitive damages of up to two times the sum of a plaintiff's economic loss and noneconomic loss.

Any party to the action could obtain a separate proceeding for the consideration of whether punitive damages are to be awarded and the amount of such award. Our amendment does not supersede or later any Federal law. It does not deny States the right to enact punitive damages provisions, consistent with this amendment, or to place further limits on such awards. These are worthy provisions.

I urge support for the Dole amendment.

I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Arizona.

Mr. KYL. I speak in support of the Dole amendment. The comments of the Senator from Utah just given really portray I think in the most thorough way the basic thrust of this amendment and the arguments for it. I will very briefly just add at the margins some information which I think helps to flesh out the arguments that have just been made by the Senator from Utah.

As he pointed out, this amendment would extend the product liability punitive damage limitation in the Gorton-Rockefeller bill to be set at two times the economic damages in all civil actions involving interstate commerce. The exception is the civil rights and environmental laws. Therefore, at the margin, this amendment makes the underlying bill even better than it is.

Historically, as has been noted, punitive damages were awarded in only the rarest and most egregious cases in order to punish, to make an example of the defendant when that defendant's conduct fell below a certain standard. According to Prof. George Priest of Yale Law School, who has already been quoted here, 65 to 78 percent of all tort actions over the last fiscal year include punitive damages in the pleadings. So what was originally designed to be a recovery in the very most narrow situation has now become part of the pleadings in a majority, even exceeding three-fourths, of the cases. Although punitive damage awards represent a relatively small part of the overall awards, the amount of the average award continues to increase.

For example, according to Investors Business Daily, in an article of April 3 of this year, a study of jury awards between 1965 and 1984 shows that the average inflation adjusted damage award increased 1,595 percent, Mr. President. These awards clearly are skyrocketing, and they need to be reined in. Punitive damage awards have in effect become a lottery in which the jackpot is continuously doubling. The lawyer's incentive to file suit is the 30 percent of the settlement amount and the 40 percent of most trial judgments that he or she realizes. The plaintiff's incentive is the often outrageous jury verdict.

Two well-publicized examples will be recalled by most people: The nearly $1 million awarded to the McDonald's customer who put hot coffee between her legs while driving and, unfortunately, was burned; and the Alabama case in which actual damages totaled only $1,200 but the jury awarded $4 million in punitive damages.

I said that punitive damages were skyrocketing a moment ago. Those were not my words. Those were the words in an opinion of Justice Sandra Day O'Connor, who said in a 1993 Supreme Court opinion that they were "skyrocketing." She was addressing a lower court ruling which upheld a $4.3 million award, Mr. President, to a convicted felon who, in the course of violently robbing a 72-year-old subway passenger, was shot and paralyzed by a transit authority police officer. The case was McCummings versus New York City Transit Authority, 1993.

This is outrageous, Mr. President. It is the kind of cap that we need to place into law. These outrageous punitive damages create a tort tax paid by consumers in the form of higher prices, higher insurance premiums, and reduced market choice and quality.

It is a regressive tort tax paid disproportionately by citizens on the lower end of the economic spectrum because higher prices, of course, hit them the hardest.

Do punitive damages serve as a necessary deterrent? Sadly, Mr. President, in many cases, no.

Again, according to Richard Posner, the best theory is that full compensatory damages generate exactly the optimal level of deterrent.

Mr. President, punitive damages are a quasi-criminal remedy. They are the product of a bygone era when the resources of public prosecutors were slim.

Today, public prosecutors are better able to serve the public interest in a certain level of punishment. To the contrary, plaintiffs and their lawyers seeking huge punitive damages awards often initiate litigation without consideration of the public interest, but of their own interest. That is why these damages need to be controlled.

Let me cite just a few of the examples. The Senator from Utah cited some egregious examples a moment ago.

Another example: A juror in a punitive damages case said that his fellow jurors discussed a damage award of between $100,000 and $8.5 million before deciding on $10 million. Later, when asked why $10 million was chosen, this juror said, "Quite honestly, I think it had something to do with finding a round figure. We were given no guidelines."

There was a recent article in USA Today, March 6, 1995, which I think had some interesting points to make and some other examples to cite. I will cite just a couple quotations from the article.

> The court system that's supposed to assure fair compensation for people harmed through the fault of others looks at times more like a gambling casino than the house of Justice.
>
> Some injured individuals are walking away with pots of money—far, far beyond any actual losses they've suffered.

Here are some of the horror stories that the USA Today story cited.

> The Alabama woman awarded $250,000 in punitive damages even though she wasn't injured and wasn't even present when a gas water heater malfunctioned.
>
> The San Francisco mugger who won a $24,595 judgment for leg injuries when a cab driver pinned him to a wall with his taxi to keep the criminal from escaping.
>
> The Miami woman awarded $250,000 after she, having used cocaine and alcohol and splashed herself with gasoline, was severely burned trying to light a barbecue.
>
> The Florida theme park ordered to pay 86 percent of a woman's award for injuries received on its "Grand Prix" ride, even though the jury found the park only 1 percent at fault and the woman's husband—who rammed his car into hers—85 percent at fault.
>
> The tricycle manufacturer who settled out of court for $7.5 million rather than risk an even more generous jury award over the color of its trikes.
>
> According to one five-state study, the dollar volume of punitive-damage awards against business alone is up 89-fold over a 20-year span.

I want to quote just one other thing from this USA Today article before I close, Mr. President.

> Given the emotional pull of tragic personal injuries or honest businesses driven to bankruptcy, few opportunities to exaggerate have been missed by either side. But there is at bottom an undeniable sense: The system doesn't operate fairly. And that sense of unfairness invites opportunists to try to cash in—looking for a jackpot on the chance that the system's unfairness will work in their favor:

And then this article goes on to note a couple other cases.

> Like the Michigan man who lost an eye when a July 4 skyrocket exploded in his face and then sued his parents for letting him set off fireworks when he was drunk.
>
> Or the 305-pound man who had a stomach-stapling operation and sued the hospital because he was allowed near a refrigerator and ate so much he popped his staples.

Mr. President, these examples would be humorous if the problem were not so serious. The problem is that we are all paying for this, for this jackpot, this lottery that is called punitive damages. It is time to rein it in. It is time to put a modest cap on these punitive damages.

That is all the amendment of the majority leader does. It is time that we adopt this kind of approach to the liability reform that is before us today and, hopefully, that we will be voting on later this afternoon. I urge my colleagues to support this amendment.

I yield the floor.

Mr. ROCKEFELLER. Mr. President, I suggest absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I rise again to report to my colleagues on our situation and to make a reflection.

This morning, we conducted a series of rollcall votes. I believe there were eight. They all had to do with something called malpractice reform, which is not part of the product liability reform.

We were able to accept two amendments, which means that we did not accept others. Those were on fairly minor issues, I might say.

Of the eight amendments that required votes, the Senate adopted three by sort of an interesting variety of margins. The net result is that the product liability bill, which is the sole focus of the concern of the Senator from West Virginia, as well as the Senator from the State of Washington, now includes the malpractice proposal as offered by the Senator from Kentucky, which prevailed with 53 votes.

So that means we now have a bill which has product liability in it, has malpractice reform in it. I have indicated before that I think at some point Senators are going to have to make a choice. I do not think when it comes right down to it, we are going to be voting on a bill that has these two elements in it. We may be voting on no bill that has, therefore, nothing in it. Or we may be voting on a bill that has both elements in it which causes both elements to lose, products and malpractice, which is in nobody's interest. Now we found another one. I say this with all respect and without anything but respect. But we are debating an amendment by the majority leader, with a number of other Senators as cosponsors, to limit punitive damages in all civil actions, not just product liability. So now this comes from the House.

This, again, opens up an entire new range of problems and possibilities for product liability and the chances of passage. This is opening the whole thing up. It is all civil torts. I recognize the basis of the amendment. There is a very impressive array of organizations, including municipalities, small businesses, nonprofit groups—they want to curb the costs—and problems associated with punitive damages in our legal system. They have that right in a democracy, and they are exercising that right. And now we are seeing the results of that.

I am not going to get into the substance of the amendment or into the merits of the amendment. I simply want to indicate that this is not product liability as it has been introduced. It is, again, trying to open it up so that other things can be attached to it. Some may think that helps it. Some may think that by adding other extraneous areas it shows that they are abreast of everything that is going on in the House and fighting with equal vigor, and I understand that; I understand it politically, substantively, and every other way.

But it does not help product liability to pass. I would remind Senators, as I have on a number of occasions and I will continue, that the underlying amendment here is the Product Liability Reform Fairness Act of 1995. For both those who oppose it and who favor it and who have invested a lot of time in it, it is this bill which we want to see acted upon.

So I just make this point at the beginning of the debate. And I am perfectly willing to have a time agreement. I understand the majority leader will be very amenable to a time agreement. I think that is being shopped on both sides. I do not expect this debate to go on for a very long time. But, again, it is an extraneous amendment. I simply point that out. It hurts the possibilities of product liability reform. I think it has almost no chance of passing. Of course, a vote will tell that, but I forecast that. Thus, I wonder what it is in fact we are accomplishing by all of this.

I thank the Chair and yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I turned on the TV in the office and was amused to see a series of whining and moaning and groaning with respect to punitive damages. This contract crowd is going in two different directions. Under the contract now, the welfare recipient is to show more responsibility. Under the contract, we have a family. They do not want Government in anything, but they want it in everything. They want it in the family. I would think that would be the last thing, to get into the family. But the contract crowd wants a family bill. And, of course, fundamental to the family is that we punish the child when it misbehaves. We spank the baby and teach it some discipline when it misbehaves and teach it how to do right as opposed to doing wrong.

But when it comes to large corporate America and manufacturers, there should be no spanking. All of a sudden, it costs consumers. Mr. President, whoever thought for a second that this bill is in the interests of consumers? It is the biggest fraud that ever tried to be perpetrated on this august body. Every consumer organization in the United States of any size, care, or responsibility is absolutely opposed to the bill.

And with regard to the better legal minds of the American Bar Association, the State supreme court justices and their Conference of Chief Justices of the several State supreme courts, the Conference of State legislatures, the attorneys general, oh, yes, they are going to look out for them? Uh-uh, no, they are looking out for manufacturers. Look at the section in here that exempts the manufacturer. They have all of these great provisions in here because they say they are so concerned about consumers, except when you mention manufacturers. They say, by the way, manufacturers should be exempt from this bill.

Now, come on. I will read several things about punitive damages, and I will go right to the heart of the issue. It is not saving consumers' pocketbooks and costs. This crowd knows the cost of everything and the value of nothing. The truth of the matter is on account of product liability in this country of ours, we have the safest products and we are saving our citizenry from injury, from maiming, from blindness, from being killed over and over again by the millions. Why do you think there were over 19 million car recalls in the last 10 years? We went to the Department of Transportation and we summed up all these automobile recalls. And if you think the big automobile companies—not only in the United States, but Toyota in Japan, and others—are recalling defective automobiles to save consumers money—they are doing it to save themselves money on account of product liability, because they are going to get nailed. And so to save themselves money, they save lives and injury to the consuming public. It is not the pocketbook that we are involved with here. On the contrary, it is the safety of products and the safety of our citizenry.

So let us quit bringing all of these cases, one by one, out here, and say, oh, what a terrible punitive damage verdict this is and thereby we have a national problem. Not so.

The States have handled this. And rather than going into this case or that case—I do not countenance for a second that there are not some mistakes. There are mistakes everywhere in the administration of the law. That does not call for national legislation. But, in a general sense, if you take all the product liability verdicts in the last 30 years—and this is what we asked when we saw the witness take the stand in the Commerce Committee. We asked Jonathan S. Massey, an expert who had defended punitive damages before the U.S. Supreme Court, allegedly the most experienced attorney. I said, yes, but I still get these anecdotal incidents of what we would call outrageous punitive damage findings.

I said, "Could you please go and get into the record exactly all the punitive damage verdicts for the last 30 years, since 1965, and find out just exactly how many there were, and what were the amendments and then add them all up?" With respect to that, I ask unanimous consent to have this material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 13, 1995.

Hon. ERNEST F. HOLLINGS,
U.S. Senate Committee on Commerce, Science and Transportation, Washington, DC.

DEAR SENATOR HOLLINGS: At the hearing on April 4, 1995 before the Consumer Affairs, Foreign Commerce, and Tourism Committee of the Committee on Commerce, Science, and Transportation on S. 565, the Product Liability Fairness Act of 1995, you asked me to compare the $3 billion in punitive damages awarded in the Pennzoil v. Texaco case with the sum of punitive damage awards in all product liability cases since 1965.

The attached pages show that punitive damage awards in products liability cases since 1965 come to a fraction of the $3 billion figure. For products liability cases in which the punitive damage award is known, the total comes to $953,073,079. There are 109 additional cases in which the punitive damage award was not reported by the court or either party, most likely because it was not large. If one were to extrapolate for those 109 cases by taking the average award in cases in which the punitive award is known—which would err on the side of the inflating punitive damage awards in products liability cases—the total of punitive damage awards in all products liability cases since 1965 would come to only $1,337,832,211—less than half the award in Pennzoil v. Texaco.

I hope this information is of assistance.

Sincerely,

JONATHAN S. MASSEY.

PRODUCT LIABILITY PUNITIVE AWARDS, 1965–PRESENT

Alabama—20 cases—$58,604,000; 9 additional cases with unknown amounts.

Alaska—2 cases—$2,520,000; 1 additional case with unknown amounts.

Arizona—6 cases—$3,362,500; 3 additional cases with unknown amounts.

Alabama—1 case—$25,000,000; 0 additional cases with unknown amounts.

Alaska—1 case—$1,000,000; 0 additional cases with unknown amounts.

Arizona—2 cases—$6,000,000; 3 additional cases with unknown amounts.

California—17 cases—$35,854,000; 9 additional cases with unknown amounts.

Florida—1 case—$1,000,000; 0 additional cases with unknown amounts.

Connecticut—1 case—$688,000; 0 additional cases with unknown amounts.

Florida—1 case—$519,000; 0 additional cases with unknown amounts.

California—4 cases—$3,618,653; 0 additional cases with unknown amounts.

Florida—1 case—$750,000; 0 additional cases with unknown amounts.

California—3 cases—$2,425,000; 0 additional cases with unknown amounts.

Colorado—3 cases—$7,350,000; 1 additional case with unknown amounts.

Connecticut—0 cases—$0; 1 additional case with unknown amounts.

Delaware—2 cases—$75,120,000; 0 additional cases with unknown amounts.

Florida—26 cases—$40,607,000; 9 additional cases with unknown amounts.

California—1 case—$30,000; 0 additional cases with unknown amounts.

Florida—2 case—$3,500,000; 0 additional cases with unknown amounts.

Georgia—10 cases—$43,378,333; 3 additional cases with unknown amounts.

Hawaii—1 case—$11,250,000; 0 additional cases with unknown amounts.

Idaho—0 cases—$0; 1 additional case with unknown amounts.

Illinois—16 cases—$44,149,827; 3 additional cases with unknown amounts.

Minnesota—1 case—$7,000,000; 0 additional cases with unknown amounts.

Illinois—3 cases—$5,000,000; 0 additional cases with unknown amounts.

Indiana—1 case—$500,000; 0 additional cases with unknown amounts.

Iowa—1 case—$50,000; 2 additional cases with unknown amounts.

Kansas—7 cases—$47,521,500; 1 additional case with unknown amounts.

Kentucky—2 cases—$6,500,000; 0 additional cases with unknown amounts.

Louisiana—2 cases—$8,171,885; 0 additional cases with unknown amounts.

Maine—3 cases—$5,112,500; 0 additional cases with unknown amounts.

Maryland—3 cases—$77,200,000; 2 additional cases with unknown amounts.

Michigan—2 cases—$400,000; 0 additional cases with unknown amounts.

Minnesota—4 cases—$10,000,000; 1 additional case with unknown amounts.

Mississippi—4 cases—$2,790,000; 1 additional case with unknown amounts.

Missouri—9 cases—$20,785,000; 1 additional case with unknown amounts.

Montana—2 cases—$1,600,000; 1 additional case with unknown amounts.

Nevada—1 case—$40,000; 1 additional case with unknown amounts.

New Jersey—4 cases—$900,000; 5 additional cases with unknown amounts.

New Mexico—4 cases—$1,715,000; 1 additional case with unknown amounts.

New York—7 cases—$6,019,000; 6 additional cases with unknown amounts.

North Carolina—2 cases—$4,500,000; 0 additional cases with unknown amounts.

Ohio—6 cases—$4,393,000; 1 additional case with unknown amounts.

Oklahoma—6 cases—$15,390,000; 1 additional case with unknown amounts.

Oregon—3 cases—$62,700,000; 0 additional cases with unknown amounts.

Pennsylvania—5 cases—$16,298,000; 8 additional cases with unknown amounts.

Rhode Island—1 case—$9,700,000; 0 additional cases with unknown amounts.

South Carolina—5 cases—$2,945,500; 4 additional cases with unknown amounts.

Rhode Island—1 case—$100,000; 0 additional cases with unknown amounts.

South Dakota—1 case—$2,500,000; 0 additional cases with unknown amounts.

Tennessee—4 cases—$4,720,000; 3 additional cases with unknown amounts.

Texas—38 cases—$217,098,000; 19 additional cases with unknown amounts.

Utah—1 case—$300,000; 0 additional cases with unknown amounts.

Virginia—2 cases—$340,000; 0 additional cases with unknown amounts.

West Virginia—3 cases—$2,433,100; 4 additional cases with unknown amounts.

Wisconsin—7 cases—$10,622,000; 4 additional cases with unknown amounts.

Florida—1 case—$2,500,000; 0 additional cases with unknown amounts.

Wisconsin—2 cases—$26,000,000; 0 additional cases with unknown amounts.

District of Columbia—1 case—$2,500,000; 0 additional cases with unknown amounts.

Grand total—270 cases—$953,073,079; 109 additional cases with unknown amounts.

Average punitive award: $3,529,900.

Extrapolated total of all awards: $1,337,832,211.

Mr. HOLLINGS. Mr. President, the pages show that punitive damage awards in product liability cases since 1965 come to a fraction of $3 billion. To be exact, they come to $1,337,832,211.

Why does this Senator say "a fraction" of $3 billion? If we go to the

Pennzoil versus Texaco case, of businesses suing businesses, what do we get? We get almost a $12 billion verdict that included what? It included a finding of punitive damages in the amount of 3 billion bucks.

In other words, of all the product liability punitive damage findings in the last 30 years amounting to $1.3 billion, we have one business-against-business case of $3 billion. Or another one, since they are picking out cases, I will pick the *Exxon Valdez* case, a case where Exxon was sued and they came in with a verdict of what in punitive damages? Mr. President, $3 billion.

I cannot find out the amount for businesses, there are so many of them. But it is up into the billions and billions of dollars. If this Congress was really interested in lowering the verdicts in tort cases, they would go right to the businesses suing businesses. They would go right to the automobile accident cases. They would go to all the other kinds of tort cases.

The fact is that, of all the civil findings in the United States of America, tort filings only amount to 9 percent of the total amount of civil findings; and of the 9 percent, product liability amounts to 4 percent of the 9 percent or .36 of 1 percent.

Another problem solved by the States. The Supreme Court Justices and legislatures say we handle it, and I will go right, for example, to my own State of South Carolina with respect to punitive damages.

In a recent case of the State versus Rush, but the heading would be Gamble versus Stevenson, an appeal of the Southern Bell Telephone Telegraph.

Now, I read from the opinion of the Supreme Court as follows: "In South Carolina punitive damages are allowed in the interest of society." Listen to that. We would think punitive damages was the most heinous offense that ever occurred without any relation in the world to the good it has done.

Why do we fine motorists for speeding and disobeying our motor vehicle laws in America? We fine them. Why do we fine the others for their various crimes? To make certain they do not commit them again. Similarly, with manufacturers.

Punitive damages—fine them, to make absolutely sure that they do not repeat their wrong.

They would say we cannot lose, we are making money. So why has Chrysler recalled 4 million cars to fix the back latch on the door? Not on account of the cost. They could get by with that. They would leave it there, but they know that there are chances now brought to the attention of the public that they are not only going to be verdicts against them in compensatory damages but in punitive damages. No longer can they factor it in the cost of product because of punitive damages.

This is the very element that is bringing about the safety—not taking care of the parties involved but taking care of society, generally—that is the point to be made here.

The first sentence:

> In South Carolina, punitive damages are allowed in the interest of society in the nature of punishment and as a warning and example to deter the wrongdoer and others from committing like offenses in the future. Moreover, they serve as an indication of private rights when it is proved that such have been wantonly, willfully, or maliciously violated. Lastly, punitive damages may be awarded only upon a finding of actual damage. In the instant case the trial judge's jury charge concluded the degree of recklessness requisite to punitive damage award, that such an award was to punish a defendant or deter and stop it and others from similar conduct in the future, that is, to make an example of the defendant.

That is an affirmative action program, to make an example. Everybody is interested in affirmative action. Here it is. Make an example of the defendant, the wrongdoer. "That it must find actual damages before awarding punitive damages and that in calculating the amount of such damages, it may consider the defendant's ability to pay."

Now, Mr. President, to ensure that a punitive damages award is proper, the trial court shall conduct a post trial review and consider the following: one, the defendant's degree of culpability; two, duration of the conduct.

Mind you me, Mr. President, this is not the jury, the runaway juries, the same people that elected Members in Congress, all of a sudden impanelled and with a sworn oath, to find unanimously by a preponderance of the evidence, willful misconduct. And all 12 having found such, that same crowd that elects and sends Members, all of a sudden, they have lost their minds, their judgment. They are runaway and now have to be restricted by national restrictions. For what? For manufacturers, that is for what, and for less safety in America.

Let me read that again:

> To ensure that punitive damages award is proper, the trial court shall conduct a posttrial review that may consider the following:
>
> 1, defendant's degree of culpability; 2, the duration of the conduct; 3, the defendant's awareness or concealment; 4, the existence of similar past conduct; 5, likelihood the award will deter the defendant or others from like conduct; 6, whether the award is reasonably related to the harm likely to result from such conduct; 7, defendant's ability to pay; 8, as noted in Haslip case, "other factors" deemed appropriate.

That is, the court, not only the 12 impaneled jurors, but the court itself, shall review and study.

Now, generally, this is a law that applies in 45 of the 50 States but, of course, due to the Conference Board, due to the Business Advisory Roundtable, due to the National Association of Manufacturers' lobbyists that have been going on for years and they come and report at every election time, "Now, Senator, we have to do something about tort reform or product liability reform."

The average Senator or candidate, not aware of the ramifications, not having attended any of the hearings or otherwise, might say, "Oh? I am trying to get votes. Reform?" They get caught. Words do mean things in our society. And they say, "Heavens, I can get the support of this strong crowd. I can even get financial contributions if all I have to say is yes, yes, I am for reform. Product liability? Put me down."

They put them down. Then they come here and they get embarrassed because they finally hear the truth of the matter here. And I sort of get embarrassed for them.

The reason I get embarrassed for them is just this. I got a letter today from my distinguished colleague and friend, Drew Lewis, the chairman of Union Pacific Corp., dated April 27. He is a former Secretary of Transportation. He did an outstanding job. I do not speak in criticism or derision. Rather, I speak—and this is the factual dismay that I have—because I know he knows better. It is a short letter and I know why he is writing it.

> Union Pacific urges your support for S. 565, the Product Liability Fairness Act legislation. The U.S. legal system is out of control. The high cost of litigation and large damage awards translate into higher prices for consumers. Typically less than half the money awarded in product liability cases goes to compensate the claimant. The winner is the trial attorney, not the American consumer. If American business is going to succeed in the global marketplace and American jobs are to grow, your vote is critical. Please vote for cloture and final passage of S. 565.
>
> Sincerely, Drew.

Let us take that little letter here and see it exactly. I know this gentleman knows better. He is the most sophisticated of former public servants and corporate executives and he has been around. I know his entities. The Business Roundtable and the National Association of Manufacturers and all got him to write this thing and it was ground out.

He calls it the "Fairness Act." He picked up the title. That is not what they called it over on the House side. It started off—if you get the title of the bill itself on the desk here, you will find out—"To establish legal standards and procedures for product liability litigation." At least it was straightforward in the House. Applesauce in the U.S. Senate. Fairness? Fair to whom? Not consumers. This crowd does not represent consumers. I have; they have not.

When I asked the distinguished Chair where was the record here whereby trial lawyers had done in their clients, under the Abraham amendment, he had one letter from a constituent in Michigan. I knew that there were not a big wave of clients being done in. In fact, had it not been for the trial lawyers, they would not have received anything.

After all, these manufacturers do have a team of attorneys, investigators, adjusters, local attorneys and otherwise, and they readily, on any kind of claim or letter they get, immediately zoom in and, generally speaking, settle the case or claim. It is good business judgment that they do; it is good business judgment they do. They do not want to be claimed to have unsafe products.

It is only when they deny an obvious claim that should be compensated that it comes to the trial lawyers. We do not scare up cases—except, of course, in these class action suits, like asbestosis. But that is what had to be done. That is exactly what was done with respect to the example of the Senator from Michigan in his letter with the Senator from Kentucky relative to the airlines. They had to go and get all the airlines together, get law firms all over the country, and assemble 2.1 million clients.

In the letter to the colleagues, under the Abraham-McConnell letter, it appeared that, heavens above, quoting the Washington Post, the lawyers got $16.1 million in fees and the client got a $25 gift certificate for travel. I knew that the client just getting $25 and the lawyer getting $16 million would not be approved by any court. So we went back to the record.

Yes, in a class action of that kind, what was the number of clients? It was 2.1 million. What was the amount of the verdict? It was $438 million. How many law firms? They had 37 law firms all over the country, and the average fee was not a third, or 33⅓ percent, or 25 percent, or 20 percent, or 10 percent, or 5 percent, or 1 percent. The average fee of the attorneys involved was less—less than 1 percent. Had they not correlated all that, it would not look so garish and enormous to us unstudied witnesses here.

But this is the Fairness Act, they say. Then the next sentence, "The United States legal system is out of control."

That is sheer nonsense. If it is out of control, it is on account of businesses suing businesses. It certainly is not a litigation explosion. We have proved that. We have proved time and again that product liability cases, as the Senator from West Virginia, the principal sponsor of the measure, says—when we engaged in looking at product liability cases, we find the entity in the testimony before the Commerce Committee, unquestioned—no one has proved otherwise—unquestioned, that there are less filings and less verdicts and less plaintiffs' victories all the way across the board. So if the legal system is out of control, it is out of control for other reasons but not product liability.

"The high cost of litigation and large damage awards translate into higher prices for consumers." I just reread that my way: The high cost of litigation and large damage awards translate into higher safety for the consuming public of America. That is what it translates into. And it ought to go into the costs. It is a minimal cost to them to put out safe products. And the best of manufacturers want to do that and they brag about the quality now of their particular manufacture. They brag about their quality of manufacture. So it is not high cost translating into high prices but, let us say, a higher degree of safety.

"Typically, less than half the money awarded in product liability cases goes to compensate * * *" We find that is incorrect. There was a study by the National Insurance Foundation to the effect that, yes, the claimant did not get the majority of the money, but the majority of the money was going to the defendants' attorneys.

You ought to see these billable hours. That is why the Senator from South Carolina wanted to limit billable hours around this town to $50 an hour. I could catch the thrust of the movement earlier last week, when they came in, about the money going to the claimant as compared to the money going to attorneys. And the thrust was that they had given up on Girl Scout cookies and they have given up now on Little League baseball and all these other things they tried to raise, competitiveness and otherwise. Now they say, "Well, let us kill all the lawyers."

I say, if you want to get rid of half the 60,000 lawyers in this town, if you want to get rid of 30,000 lawyers, just put not a minimum wage but put a maximum wage, a maximum wage of $50 an hour which will give them the salary of a U.S. Senator. If they worked any overtime, like we do work overtime as Senators, they could easily make $200,000 a year. But that is where the compensation is going. It is just like the situation, if you had a $100 finding, you would find that $40 would go to the defendant's attorneys, $20 would go to the plaintiff's attorneys, and $40 to the claimant.

(Mr. THOMPSON assumed the Chair).

Mr. HOLLINGS. Mr. President, the rationale of this simple statement is get rid of or kill all of the lawyers; get rid of the trial lawyers because—the next sentence is—"The winner is the trial attorney, not the American consumer." If you think this crowd is interested in consumers, just get all the consumer legislation and look at their votes on that.

But going right back to the report, in the 103d Congress, I knew we had this when we had the hearings. In a 1977 survey conducted by the Insurance Services Office, for every dollar paid to claimants, insurers paid an average of an additional 42 cents in defense costs; while for every dollar awarded to a plaintiff, the plaintiff pays an average contingent fee of 33 cents of that dollar. Thus, in cases in which the plaintiffs prevail, out of each $1.42 spent on litigation, half of that goes to attorney fees, with the defendants' attorneys on average paid better than the plaintiffs' attorneys.

That is the national insurance consumer organization finding that the attorney for the insurance companies received on the average close to one-third more than the average attorney's fee paid to plaintiffs' attorneys. I am glad I quoted that for the record, but that is not the way this letter reads. "The winner is the trial attorney." We are not winners or losers. But if you are going to characterize, as my distinguished friend, Mr. Drew Lewis, does here in the letter about the winner, he says, "The winner is the trial attorney, not the American consumer." Absolutely false. We have all the facts and all the hearings proving otherwise.

Going now to the final two sentences, "If American business is going to succeed in the global marketplace, and American jobs are to grow, your vote is critical." What is the inference there? The inference regarding the global marketplace is that product liability costs and the burden on American production is a cost and a burden not suffered by foreign production. We will go right to the heart of that matter.

In addition, working over the years—and I have had a delightful experience, I have to immodestly acknowledge, with respect to the attraction of industry to my own State, and I will be glad to meet with anybody and we will compare the records. We will compare the endeavor, and we will compare the results. I have had the experience of working at the local level on the attraction not only of the American blue chip corporations, but those in the global marketplace. Admittedly, of course, many of the blue chips are in the global marketplace. But let us go directly to the ones we know. Let us say German industries and Japanese industries.

In our great State of South Carolina, we have over 100 German industries. I made the first trip over there with the Governors, to the various communities in Germany, with an industrial group to attract investment in South Carolina in 1960. So that is 35 years ago. We just got, of course, BMW. BMW, by the way, in Spartanburg, stands not for Bavarian Motor Works, but BMW stands for "Bubba Makes Wheels." We have a wonderful system down there.

I was with the Vice President this last Friday at a luncheon. We put out 20,000 and some BMW automobiles this year from Spartanburg, SC. Do they have a problem with product liability? Not at all. I went to Bosch not long ago. They came in making fuel injectors for all automobile manufacturers, and more particularly now have become expert in antilock brake manufacture. They have a 10-year contract with General Motors for all the antilock brakes on their cars. They have the contract for Toyota and Mercedes Benz. I turned to that manufacturer. I said, "What about product liability? How many product liability claims?" He said, "What is that?" I said, "Product liability? You know, where you have a defective antilock?" "Oh, no, no, no," he said, "We will not have that." He went right over on the line and he picked up one of the antilock brake devices.

He said, "See. See that serial number." He said, "We have a serial number on every antilock brake that comes out of this factory. We would know immediately by that number if there was a defect where it occurred. But we haven't had any of that occur down here, and we are not going to have any of that occur." And he was proud—proud—not whining and crying through political representation up here in the national Congress about saving consumers money. He was proud of putting out an absolutely safe product.

Can you imagine one of those antilock brakes not working and the other three working on an automobile? It would turn it over into a tailspin in a minute. They know it. So they are super careful in their manufacture. That goes into the cost of the product. And, yes, it costs consumers, and consumers welcome paying that higher price for the antilock brake and safety.

Mr. President, it goes to the safety, not the cost. But what happens in Germany? In Germany, they come with Mercedes Benz down in Alabama where, incidentally, both Alabama Senators are opposed to this bill. Both Alabama Senators are opposed to this bill. Mercedes Benz says, "We love Alabama, and we are putting our new manufacturer down there." BMW says, "We love South Carolina and its product liability law," just like Mercedes Benz likes Alabama's product liability law, and they put a factory there. I have over 100 German factories liking the product liability law in my State. I have over 50 Japanese industries liking the product liability law in my State. But they are not a member of the Business Roundtable.

So what you have here is this mailing out of absolutely unfounded conclusions, which is an embarrassment to this Senator. Specifically, you look at what they put out in their advertisements when it comes to punitive damages and product liability. Here is the ad they are running in newspapers. This is an easy one to carry. It is entitled, "Let's Put an End to the Lawsuit Lottery."

You know, my conservative friends, when they get this rap music, say, "You have to cut out that rap music. It teaches violence." There was one that I remember even President Clinton as a candidate took to task, about "kill all the cops," the "cop-killer" one. He complained then. The American public went along with him and voted for candidate Clinton to become President because those words mean something. They want to cut all of that out. Now that they are blowing up buildings in America, and some people say, "Oh, no. Words don't mean anything."

The truth of the matter is, Mr. President, my colleagues on the other side of the aisle have a school where they teach them to use words. I think this is a good time, since this is the thrust of the measure here, if I have it here in one of these files. With respect to the words, they come in and they hold a school. I know they attend a school, these newcomers to public office. I will see if I cannot find that, generally speaking, so that the colleagues can be educated about what is really going on. But this is a school that the distinguished Speaker has been running for years. He tells all the candidates that have come in. I know when a new Republican is elected from South Carolina, he has to attend a school to find out how to talk. And, in fact, if they can get them ahead of time, they tell them how to campaign and how to use words that inflame, words that stir up.

It was put into the RECORD some time ago; I think back in 1990, if I am not mistaken. But we had the meaningful words. I certainly would like to be able to refer to that, because what happens is that they call this—that is, the Government here in Washington, and this is reported in the David Broder column. They reported that the Government in Washington is the "corrupt, liberal, welfare state."

These are the handouts in the schools that they give to my Republican colleagues and say you ought to all join in. And they list the word "corrupt." They list the word "liberal." They list the word "welfare." So the revolution, according to Speaker Gingrich in his courses, is against the corrupt, liberal welfare State. And that is the way they refer to it.

Mr. President, let us go to the words here about the lawsuit lottery. There is not any lottery, I can tell you that right now. All you have to do, if you defend a product liability case, is convince one juror. That is all you have to do, raise a doubt in one juror's mind because it has to be a unanimous verdict by the greater weight of the preponderance of the evidence.

But here is the mailout that they put in the advertisements that they have going now for the past several weeks. "Let's Put an End to the Lawsuit Lottery. It's sad," this article says, the advertisement, "but the civil justice system in America has become nothing more than a legal lottery."

That is outrageous nonsense. It is embarrassing to see things being sponsored by responsible business entities that have buddied up together here in what they call the Product Liability Coordinating Committee.

It goes on to read, "With juries returning one outrageous award after another, it's not surprising that the number of product liability suits is skyrocketing."

Absolutely false. We have had hearings upon hearings upon hearings, and the filings and the suits themselves are less and less each year. The awards given are less and less and the number of plaintiff victories are less and less. But this ad says they have skyrocketed—no basis in fact.

"There are 51 separate laws, one for each State and the District of Columbia, governing product liability."

There are 51 separate laws, Mr. President, governing insurance companies. Do you see them up here complaining? They have to file every one of their policies they want to sell in any one of the States. Get these casualty companies together and ask them when are they going to complain about filing all of these policies here, 50 to 60 different policies that they have now, in each one of the 50 States. They are not complaining about that. In fact, they want the McCarran-Ferguson antitrust exemption so they can get together. They want to continue. I have suggested maybe we ought to federalize it because they are in interstate commerce. "Oh, no, no, no, we don't want that. We don't want you to see our records."

We have had hearings upon hearings upon hearings. We never, in the 15-year period of handling this problem, have been able to get from the casualty insurance companies their costs and profits, their records. Even the Senator from West Virginia has put on an amendment, which I am constrained to submit later on when we get to the actual bill itself, to say that they file these reports. They never have. They do not want to.

The reason we asked for these facts way back almost 15 years ago, they said it was impossible to obtain insurance, impossible to obtain. They have plenty of insurance. It is easily obtainable. And we wanted to find out, as was later found out in other hearings, if they, like the S&L's and all, had made bad investments in real estate and where their losses came from—not from a product liability litigation explosion but, rather, sorry investments in real estate and supermarket and shopping center developments. They made the same mistake that all of these banks and insurance companies and savings and loan institutions had made.

But this says 51 separate laws. If you did not know what you were reading, you would say, "Good golly, Moses; let's get uniformity." They do not want uniformity even under this. If they wanted uniformity, they would give you a Federal cause of action. That is why, one of the big reasons, the American Bar Association says this adds complexity; this is not uniformity. You have words of art: requirements, findings, measures of evidence, exemptions of evidence, all to be interpreted by 50 separate supreme courts and the circuit court of appeals here in the District of Columbia.

Now, try that on for a lawyers' full employment act. Come on. Everyone knows that if they really wanted uniformity, they would have required a Federal cause of action and they would have uniformity and that would have at least cut down on some of the multiplicities—the appeals, the interpretations, the motions and everything else of that kind in the 51 separate laws and separate jurisdictions governing product liability.

"But today the outcome of a lawsuit can depend more on geography than the merits of the case."

They know that. Their commercial code, the Uniform Commercial Code, is anything but uniform. You can sit up there in New York. You can sell a product made in Canada and solicit down in Alabama and deliver it, by gosh, to the factory site in North Carolina, and you can say, "Under my interpretation of this particular contract, I select the New York law."

You have got what they talk about, forum shopping. The manufacturers do just that. They know about that. But unless you have diversity of jurisdiction—and I do not go over to Alabama, I never have heard of a South Carolina lawyer going over and suing in Alabama. They act like all we have to do is go over there and file the case in Alabama.

"The current product liability system with its patchwork of local laws"—patchwork. Who has given us patchwork? Read this bill. "* * * with its patchwork of local laws got its start at the turn of the century when businesses were all so local, but times have changed."

They are trying to give a sense of history to this. This is absolutely false. During my 20 years of law practice before I came to the Senate, I never heard of any of this, ever. And they continue to do business under different laws in the 50 different States under the interstate commerce clause and it is not about times have changed.

"American-made products now travel across State lines"—well, they have always traveled across State lines.

I will never forget Henry Grady and the funeral in the days just after the Civil War. The Senator from Tennessee would remember it. I think they said that he was a poor man, buried, let us say, in South Carolina. He was buried with a New Jersey frock and some New York shoes, and the buttons were made in Minnesota, the wood for the shovel had come from New Hampshire, the steel had come from Pennsylvania, and they went on and on down there about the caskets and all. They said the only thing South Carolina furnished was the hole in the ground.

Now, tell me about traveling in the different States. That is Henry Grady 100 years ago. They say no, times have changed now and all products travel across State lines. "Unfortunately, so do plaintiffs and their lawyers seeking the most favorable State for their claim." Unless you have diversity, you do not run around and seek anything of that kind. And you have the client in the community where the client is injured. I can tell you now, having tried these cases, that you go try it in the vicinity of the client where they can understand and know the injury and we might get a friend on the jury or an acquaintance or whatever it is. Sometimes the blind hog picks up an acorn. You might get a break. If I go to another State, that immediately cuts me down to next to nothing with respect to the fee, if I have to go and get the lawyers who know the local law there, let us say, if I went to Birmingham, AL, I would have to give all the moneys to the lawyers in Birmingham.

I am not a passthrough for lawyers in Birmingham. I am trying my clients' cases in my own State.

This is outrageous hogwash here and they know it.

"Unfortunately, so do plaintiffs and their lawyers seeking the most favorable state for their claim. This not only hurts competitiveness, it stifles innovation, eliminates jobs and hurts all Americans.

How can we stop the lawsuit lottery? We need a uniform, modern national product liability law.

But it's time for Congress to act. When it comes to the lawsuit lottery no one wins.

They do not say that for automobile accident cases, where there is a far, far higher number of different laws, different highway speed laws, degrees of care, comparative negligence, contributory negligence, go right on down the list, all the automobile accident cases and, in this case, automobile product liability cases.

They do not say that here with respect to medical malpractice or the securities or anything else.

Then they have a little thing like they are even trying to mimic Oliphant: "Less than half of all money awarded in a lawsuit goes to the victim." Like they are for the victim.

It is clever. But it is outrageous blasphemy, I can tell you right now, to put this kind of thing out to the unknowing public and perhaps to the unknowing Congressman and Senator. We know better.

What we have is a solution looking for a problem. What we have here is trying to find justification for a lobbying effort that has been going on with the AMA, the Business Roundtable, and the Conference Board for 15 years, where they seek out the candidates and ask for a commitment and, generally speaking, get that commitment without any hearing.

And certainly if they are newcomers to this particular Senate, they have not had any hearings in the Commerce Committee. We had 2 days because we were told we had to agree to it, because we had to move, we had to catch up with the Contract With America. We did not have hearings in depth. We had them by reference. I had to include other hearings that we had with respect to the law professors that oppose this measure, with respect not only to the American Bar Association now but the American Bar Association in each one of the five hearings that we had over the 15-year period, and all the other entities that went into depth on this matter.

And that is what they hope to do here with this fix that is on in the U.S. Senate. And do not come up with, "Oh, we are looking out for consumers." They have the audacity in the same instrument here to say they look out for consumers when they exempt the manufacturers. The unmitigated gall of that provision is just so offensive it gets me stirred up.

How we ever got good, right-thinking folks on the floor of the U.S. Senate proposing this measure, saying that they are proposing it for the consumer, I do not know. Show me that consumer. What is that saying—"Let them come to Berlin." Well, show me that consumer. Heavens above.

The Consumer Federation, Consumers Union, Public Citizen, all the consumer groups again appear in opposition to this particular measure, particularly with respect to punitive damages.

One more time. On punitive damages, go ahead and cite your two or three little cases that sound outrageous. I do not have the time to run down and search out every one of the cases to find out whether the amount of the verdict was cut, whether it was changed.

Just like the McDonald's coffee case. Once we searched that out, we found out, yes, there were third-degree burns over one-sixth of the injured woman's body, 3 weeks in the hospital. After 700 calls and an offer to settle for $20,000, they totally ignored it and said we put this in the cost of the product, because the hotter we make the coffee, the more coffee we produce.

It is money, money that concerns these manufacturers on product liability. That is the one thing, the bottom line. It is not the safety of the citizenry in America, but it is the money that they are interested in.

But of all the product liability cases, what we have found, as they sum up over the last 30 years, is some $1.333 billion. One verdict in business suing business, Pennzoil versus Texaco, a $3 billion punitive damages finding in just one case, is twice the number of the consummate sum total of all product liability punitive findings in the last 30 years. Or take *Exxon Valdez*, another $3 billion in punitive damages.

At the court level, I do not think the courts of this land have gone crazy. They have been all the way up to the Supreme Court to question the constitutionality of punitive damages. And each State either avoided it or it is measured or it is rescinded and sent back with a cut or total elimination.

Look under the steps that I have read here with respect to the South Carolina law. I can go down some other States laws if they are interested.

As a matter of punishment, we spank the baby when the baby misbehaves, that crowd that wants the family bill. What we are trying to do is spank the manufacturer when the manufacturer misbehaves and tell them, "Don't repeat this. Don't you do this again."

And when you tell that manufacturer, you have to look at his size, you have to look at his income, you have to look at his culpability, you have to look at his willfulness, whether it was mere neglect or whether it was a willful act, whether they had any warnings or disregarded or heeded the particular warnings, whether it was a mistake or exactly what. And you have to prove all that by the greater weight of the preponderance of the evidence to all 12 jurors and to the trial judge.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, nominally, at least, the issue before the Senate at the moment is the Dole amendment. The Dole amendment, which incorporates the limitations on punitive damages proposed by the Senator from Maine [Ms. SNOWE], and accepted earlier here today, would extend those limitations from the product liability sections of this bill and the now medical malpractice sections of this bill to all actions. In other words, we would have one uniform standard of limitations and relatively one uniform definition of the degree of proof required for punitive damages in all States which have fewer limitations at the present time or no limitations at all.

Mr. President, the majority leader has outlined some of the persuasive reasons for this extension. The primary reasons being the impact on small businesses which now live under the Damocles sword of a punitive damage judgment which can literally put them out of business and the increasing and adverse impact of punitive damage awards or potential punitive damage awards on nonprofit organizations, including charities, including, as the majority leader pointed out, the Girl Scouts, Little League, and the like.

I find these reasons to be persuasive reasons. I find it easy to be persuaded because it has been my view, almost from the time that I began to practice law, that the rule with respect to punitive damages in the State I represent, the State of Washington, which prohibits punitive damages for all practical purposes in all civil litigations, to be the appropriate rule.

Punitive damages are just exactly that. They are a form of punishment. In our society and American tradition, punishment by the Government or at the hands of the Government is traditionally reserved for the criminal code. The criminal code carries with it privileges against self incrimination, a requirement that the prosecution prove its case beyond a reasonable doubt and, of course, explicit statutory limitations and definitions of what punishment is appropriate in connection with a particular crime. None of these projections exist with respect to punitive damages. Juries decide them on an ad hoc basis, generally speaking, on whether or not the same conduct or product resulted in punitive damages.

There is, of course, no self-incrimination. The standard of proof in many States is a preponderance of the evidence, and even in this bill it is clear and convincing evidence, which falls short of the beyond a reasonable doubt standard. And most significantly of all, there are absolutely no limitations on the amount of punitive damages, thus the degree of punishment which can be imposed on a given defendant in civil litigation.

The Supreme Court of the United States has heard several appeals of large punitive damage judgments, appeals based on constitutional protections through the 14th amendment. The Supreme Court has never come up with a standard, with a maxim, by any means, although there have been hints that punitive damage awards that exceed four times the actual damages come close to reaching some potential constitutional limitation.

So from my perspective, I believe that it is both constitutional and appropriate for the Congress to deal with these issues and for the Congress to adopt the rule of the minority of the States—my own included—that say punishment should be reserved for the criminal code and that civil litigation should make a claimant whole, a wronged claimant whole, but do no more. As a consequence, I find it easy to support the relatively mild limitations which are included in the amendment proposed by Senator DOLE, the majority leader of this body.

My friend from South Carolina, with whom I have engaged in debates on this subject in the Commerce Committee and here on the floor, is most eloquent on the other side of this issue. Whatever his point about a political organization which trains its candidates in rhetoric may have been, it is very clear that he does not need any lessons in how to present a case forcefully and well. He does it here on this floor in this connection and in many others. But I must admit to being puzzled by at least some elements of the point that he makes. He says that because certain foreign companies—in this case in the automobile business—are willing to locate their factories in Alabama, that must mean they love the Alabama laws with respect to product liability.

Well, Mr. President, there is no connection between the two. Just because the market for manufactured products is nationwide, the location of a particular factory is absolutely irrelevant. Those automobile companies can be sued, for all practical purposes, in any State because they sell their automobiles in every State, whether it is the State in which their factory is located or some other. In fact, if there might be any possible motivation created by product liability laws, which I doubt, it would be to locate your factory in the most notorious plaintiff-minded State because at least the judgments in that State would not be against an out-of-State manufacturer but an in-State one, which might create the tiniest degree of sympathy for the manufacturer. But the location of a place at which a manufacturer operates and the product liability laws of that State simply have no relevance to one another at all.

The question before this body is whether we are dealing with product liability or with medical malpractice or, for that matter, with tort litigation in general. Do we have a system at the present time that appropriately balances the interests of claimants, people who have been injured or claim injury as a result of the use of products or as a result of the quality of health care they have received, or as a result of any other kind of act; do we properly balance their rights in court with other undoubted purposes of our society?

In the case of product liability, have we properly balanced it with our desire that our companies spend large amounts on research and then develop new and improved products and then market those products or market existing products—sometimes for dangerous occupations where inevitably someone using the product is going to be injured? Or do we have a system which is so unbalanced that perfectly legitimate products are taken off the market, not because they are unsafe but because they simply cannot create profits enough to run the risk of litigation, even of successful litigation.

Incidentally, Mr. President, very little has been said here on the floor about the impact of unsuccessful litigation in these areas. The attorney's fees, the expert witness fees, the cost in time and effort on the part of employees is every bit as much when the claim is rejected, when there is a verdict in litigation for the defendant, as it is when the litigation lottery turns out exactly the other way. Any intelligent individual or company is going to say, "I know I am going to get sued and even if I am successful, I am going to spend more money than I can possibly make by marketing the product or engaging in the activity." That individual is going to say, "Why bother?" Even if that individual or that company has produced something good for society or is a part of the medical profession that is frequently sued or, for that matter, is a Little League volunteer or Red Cross volunteer, that volunteer figures he or she has a good chance of being sued, and it hardly matters whether they calculate that they will lose or win the lawsuit. They are going to say, "I do not need the aggravation."

It seems to me that it is almost beyond arguing that we have constricted the activities, restricted the activities, of individual volunteers. We have caused physicians with many productive years left in their careers to abandon those careers and to retire when they become reasonably financially comfortable. We have caused companies to abandon promising areas of research and development. We have caused the removal from the market of significant products by the threat of litigation, by the lottery of litigation—not just litigation that is going to be lost, but litigation which, more often than not, is won.

We have done this all in the name of a system which produces only a relatively moderate percentage of the dollars that go into it for claimants who actually establish their claims. A claimant who loses the case, of course, ends up with nothing. But claimants taken collectively who win these cases, at least in the fields of product liability and medical malpractice, win less than half the cost of the system.

Sixty percent, roughly, of the dollars that go into the system go to the lawyers and insurance adjustors and hired expert witnesses—all of the transaction costs of the system.

So we have a system which not only penalizes volunteers and restricts the operation of our health care system and restricts research and development and the production and sale of goods, but one which is extraordinarily inefficient in compensating the actual real victims of breakdowns in the system itself.

To say, as opponents do, that somehow or another this presents no national issue whatever just seems to me to beg the question. There is a problem. In a national economy, it is appropriate that at least there be a partial national solution to the problem.

Yes, we have not attempted to move all of these cases into Federal courts with the requirement that we probably double the number of our judges and courthouses. We have not made an entirely uniform system.

However, we have created in this bill a considerably greater degree of uniformity than there is now. We have even, in one section, said that the interpretation of this statute by circuit courts of appeals are going to be strong precedents for all State courts and all other Federal courts in those given circuits.

So the degree of uniformity as a result of this bill will not by any means be 100 percent. It is not designed to be 100 percent. However, it will be far greater than it is at the present time, and the predictability of the result will be greater than it is at the present time, and the lottery aspects of the business will be fewer than they are at the present time.

If we learn from the experience of this bill that greater uniformity is not necessary, we can go ahead and change it in the future. This is not an unchangeable law, by any stretch of the imagination.

We can at least find out, by this cautious and partial experiment, whether or not the evils ascribed in this legislation are true, but whether or not there is a cure or a partial cure as a result of this legislation.

I come back to one initial point, Mr. President. We have already tried this solution in one modest area of our Nation's economy: The reforms we made just a year ago in connection with the manufacture and sale of piston-driven aircraft. It is now clear beyond any argument that that business, that manufacturing business, was for all practical purposes destroyed by product liability litigation.

The production of such aircraft declined 95 percent in the United States of America over a 20-year period, ascribed by the manufacturers to product liability litigation.

Those manufacturers said that there would be a recovery if we reformed the system. We did reform the system a year ago, more modestly than the product liability system is reformed here, but in a significant fashion.

Already, there has been a significant recovery, including the planning and construction of new plants and an increase in the production and sale of U.S.-built piston-driven aircraft.

This side in the debate is able to argue not from theory but from experience. That experience would, it seems to me, give extraordinarily heavy weight to saying that if we expand it, if we expand it to other areas, we will have a similar, if perhaps not so striking, increase in the creation of jobs in this country, in the development and marketing of new products, of voluntarism, if the DOLE amendment passes and the like.

I hope we will be able to go forward, Mr. President, and cast votes on these various amendments and the other amendments before the Senate, and reach a positive conclusion to this debate within the immediate and foreseeable future.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Washington.

I mention once again the Girl Scouts, because I want to try to clean up the RECORD here. What I will read here is the Associated Press report:

> When advocates of tort reform went looking for sympathetic symbols, they thought they had found a winner—the Girl Scouts of America. The story spread quickly among tort reform lobbyists and their supporters on Capitol Hill, and it was compelling. Girl Scouts in the Nation's Capitol have to sell 87,000 boxes of cookies each year just to cover the cost of their liability insurance. The lobbying and public relations machinery went into high gear. The U.S. Chamber of Commerce produced a radio ad using the information, and a business coalition began planning a television spot showing a Girl Scout trudging door to door with a basket of Thin Mints and S'Mores. But when the Girl Scouts got wind of it, they called a halt. The 87,000-box statistic was undocumented, they said. The Girl Scouts do not consider damage suits much of a problem. The local council in Washington has never been sued, and the National Accounting Organization takes no position on tort reform legislation. "They found an easy and emotional issue that they could get hold of," said Sandra Jordan, spokeswoman for the Washington Area Girl Scouts. People will take a sound bite on easy image over hard information.

Therein, Mr. President, is my position in referring not only to Girl Scouts, but to the sound bites here with respect to "Let's put an end to the lawsuit lottery."

Now, we are not talking about product liability reform or uniformity or, more correctly, any kind of abuses of the law. They immediately call it a lottery and skyrocket, and all these words that have been used; "The lottery wins, and the consumer loses," and that kind of thing.

I referred a moment ago to the matters of words with respect to these words being used here. I know some in this Congress are very sensitive about it. However, it has had its effect.

A former colleague here had introduced this, and we had it received otherwise back in 1990, because I am referring to the one who is disassociating himself from his GOPAC movement, because here is a GOPAC movement that I will read out, and I will say how it has had an effect in my State with respect to the Government being the enemy.

This is a GOPAC letter, signed by NEWT GINGRICH, and it is addressed:

> Dear friend: The enclosed tape is another in the regular series of GOPAC audio cassettes, but is more than just another tape. This is a special lecture I delivered just a few weeks ago on August 22, 1990, to the third-generation group at the Heritage Foundation.
>
> I am sending you this tape in the belief that it contains a timely and extraordinary message that could be of help to you in the coming months. While most activists and legislative candidates are not asked to give

> your views on Iraq, the Mideast crisis, the budget conference, and the state of the economy, it is critical that you have the tools available that will help you take the offensive and define the agenda of the campaign based on our values rather than falling into the trap of merely answering the news releases.
>
> I have also included a new document entitled "Language, a Key Mechanism of Control," drafted by GOPAC political director Tom Morgan. The words in that paper attest to language from a recent series of focus groups where we actually tested ideas and language.
>
> I hope this proves useful in writing speeches and other campaign communications. My personal wish for the best of luck in your campaign and everything else.

Then, the GOPAC language is here, "A Key Mechanism of Control."

> As you know, one of the key points in the GOPAC tapes is that language matters.

I will repeat that sentence. Here is the Speaker himself now saying back 5 years ago, practically:

> As you know, one of the key points in the GOPAC tapes is that language matters.
>
> In the video "We Are a Majority," language is listed as a key mechanism of control used by a majority party along with gender, rules, attitude, and learning. As the tapes have been used in training sessions across the country and mailed to candidates, we have heard a plaintive plea: "I wish I could speak like Newt." That takes years of practice, but we believe that you could have a significant impact on your campaign in the way you communicate if we help a little. That is why we have created this list of words and phrases.
>
> This list is prepared that you might have a directory of words to use in writing literature and mail, in preparing speeches, and producing electronic media. The words and phrases are powerful. Read them. Memorize as many as possible. And remember that, like any tool, these words will not help if they are not used. While the list could be the size of the latest college edition dictionary, we have attempted to keep it small enough to be readily useful yet large enough to be broadly functional. The list is divided into two sections, the optimistic governing words to help describe your vision, contrasting words to help you clearly define the policies and record of your opponent in the Democratic Party.

Then, "Please let us know of your suggestions."

Now, Mr. President, listen to these words amongst others. We will put them all in the RECORD:

> Sick, lie, liberal, betray, traitors, devour, corrupt, corruption, cheat, steal, criminal rights.

I ran into this in my campaign for reelection in 1992. I never heard such expressions before, and I wondered where in the world my opponent was getting all these blase references and words that really, in my judgment, were out of order.

Now let us bring it up to date in two instances. The Speaker himself uses these words. You look in David Broder's column here just about 10 days ago and you will see where Speaker GINGRICH, talking of his revolution, says we have a revolution against the Washington Government. But he does not call it the Washington Government. He calls it—and he has the buzz words, the key words, "the corrupt, liberal welfare state."

If these are not inflammatory, I do not know what are. They have had that effect in my State of South Carolina.

I went home to a 600-member State Chamber of Commerce seminar where they bring in the congressional delegation and we answer these questions as they go along. It so happened the distinguished colleague from the 4th district in Greenville, SC, BOB INGLIS, had answered a question and ended up by saying:

> Yes, abolish the Departments of Commerce, Education, Energy and Housing.

My turn came immediately afterwards and I said:

> Wait a minute. You don't mean to say that the Chamber of Commerce wants to do away with the Department of Commerce?
>
> Yes. Yes.

A good number of them, I would say, a fifth of them, started smiling and putting their hands together. And I said to Dick Riley, the former Governor, popular Governor, Secretary of Education—he was there and I said:

> Dick Reilly, do you want to do away with the Department of Education?
>
> Yes, yes, yes.
>
> And HUD and Energy both? All four of them?
>
> Yes.

Half of them clapping and all, standing up. That is what is happening about this "corrupt, liberal welfare state." They feel, irrespective of the functions and the need for these various departments, that the dickens with it. "The Government is the enemy," they say. "Get rid of the Government. That is the only way. Tear it down, rip it out. Abandon it, abolish it. And then let us start all over again and to be sure none," as they say, "get corrupted. Be sure nobody serves over 6 years, or 12 years in this body." That is what you have going on in this land.

I can tell you here and now, words do count. And they count with respect to this, which is a total mislead as to the actual hearings, the facts that we had before us about the lawsuit lottery, who wins and who loses, and about the rights of consumers and everything else. It is entirely different. It is the safety of consumers. It is the defendants' lawyers on billable hours that are winning, sitting up there just grinding out, trying their own case.

It is a matter not of a lottery but a sworn jury to listen to the facts, reviewed by the trial judge and reviewed by the appellate court. And all back to the issue at hand, punitive damages, a sum total of $1.333 billion, the whole sum total of all punitive damage findings in the last 30 years, which is less than half of one business verdict against another business verdict in punitive damages, in two cases, not only the Pennzoil case but in the Exxon case.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 619 TO AMENDMENT NO. 617

(Purpose: To strike the punitive damage limits)

Mr. DORGAN. Mr. President, I rise to offer a second-degree amendment to the Dole amendment that is now pending. I send the amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

> The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 619 to amendment No. 617.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 1, beginning with line 3, strike through line 2 on page 8 and insert the following:
>
> **SEC. 107. UNIFORM STANDARDS FOR AWARDS OF PUNITIVE DAMAGES.**
>
> "(a) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in a product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.
>
> "(b) BIFURCATION AT REQUEST OF EITHER PARTY.—At the request of either party, the trier of fact in a product liability action that is subject to this title shall consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award."

Mr. DORGAN. Mr. President, the amendment I have offered deals with the cap on punitive damages in the bill, S. 565, that was reported out by the Senate Commerce Committee. I voted for this legislation because I think, on balance, there is reason for us to legislate in this area. I think there is a problem with product liability legislation. And I think the approach that is taken is generally a reasonable approach. Therefore, I cast a "yes" vote. I did say in the committee, however, I was concerned about the punitive damage section and intended to offer an amendment on the floor of the Senate to respond to my concerns. That is what brings me to the floor today.

It occurs to me as I listen to the debate on product liability, as well as the debate on tort reform in general, that this is another one of those cases where there is truth on both sides of this issue. I listened to the Senator from South Carolina, who has spoken not just this year but in previous years on this subject and speaks with great passion and eloquence on this issue. He feels very strongly that it is a mistake for Congress to move forward and to enact Federal legislation in this area. I understand what he says and why he says it.

On the other hand, I hear others in the Chamber stand up and speak with great persuasiveness about the need for Federal product liability legislation to restrain the number of suits that are filed.

My sense is we are a country that litigates too much. We have lawyers all over our country filing suits for virtually everything. I would like to see us litigate a little less in this country. I would like to see judges throw out frivolous lawsuits and sanction those who bring them. I would like to see us back away from this excessive litigation.

Excessive litigation puts many small businesses and others at risk. I talked with a business owner recently and she said, "They have jacked up my insurance cost to $500 a month. I pay $6,000 a year now for liability insurance to protect me against lawsuits." I asked, "Have you ever been sued?" "No, never had a suit against me. But, I have to pay these tremendous costs because somebody might decide to sue me." This is a real problem for many.

Some might say this is a problem with insurance companies. That may be, I do not know. I do know we have too many lawsuits in this country and too many people who want to sue. Excessive litigation has an effect on people trying to run small businesses who have to shell out money month after month in order to protect themselves.

On the other hand, there are enterprises in this country that provide products that they know are unsafe. They make these products available to consumers figuring they can make a bunch of money. These corporations accept the risk that a product might hurt somebody in order to make a profit. In most cases their profit will exceed their potential risk for damages. There are plenty of lawsuits that exemplify this.

I think there are merits on each side of this issue. I think we need to pass a Federal standard with respect to product liability. But, let us go back to last year's legislation on the issue of punitive damages. The bill that we reported out of the Senate Commerce Committee last year had no limit on punitive damages. We do change the standard or the threshold. We raise the bar. We require clear and convincing evidence that the harm caused was carried out with a conscious, flagrant indifference to the safety of others. That is the bar you have to get over in order to prove that you are entitled to punitive damages and that this enterprise should be punished for its behavior.

That is an appropriate place to establish burden of proof. You have to prove that there is clear and convincing evidence that the harm is carried out with a conscious, flagrant indifference to the safety of others.

Once you have done that, we should not say to the largest enterprises in this country, those with billions and billions of dollars, do not worry—even though you knew that product was going to harm them, could have killed them, we have put a limit on punitive damages. It does not make any sense to me.

Let us take punitive damages as an issue. The punitive damage section of tort law is to punish or deter a defendant's egregious conduct. There is no litigation crisis with respect to punitive damages. According to a survey, from 1965 to 1990, 355 punitive damages were awarded in State and Federal product liability lawsuits nationwide, an average of 14 a year. Of these awards, only 35 were larger than $10 million. All but one of these awards were reduced, and 11 of the 35 were reduced to zero. This was in a 25-year span.

It is hard for anyone to make the case that punitive damages represent some sort of crisis in the area of product liability. That is not supported by the facts. Congress should decide to raise the bar and create a new, higher standard, higher threshold over which someone who was injured must cross in order to prove punitive damages. To restrict it even further by placing a limit, a substantial limit on what someone can collect on punitive damages, is not justified. I think in rare cases where punitive damages should be or can be awarded, if this test is met, the test of conscious, flagrant indifference to the safety of others, then it is inappropriate for this Congress to provide this limitation.

My amendment would allow the States to debate this and provide their own limitation. Some States have limits. My amendment will not affect those States. But it will say that the underlying bill, S. 565 will not establish a new national standard that will replace every other State that has a limit and replace those specific limits. Or, in cases where States do not now have a limit, tell those States, "Here is your new limit on punitive damages." That is inappropriate.

I hope that Congress will support the amendment that I am offering today, which strikes those provisions in the punitive damages section that limit caps.

I come from a State that is largely a State of small businesses. We have some industry and a few larger enterprises. I have visited with many North Dakotans who have told me of their view of and their circumstances with respect to product liability. The case they make warrants this kind of legislation. But, it does not warrant a cap that has been placed on punitive damages.

I would like to include in the RECORD some examples of punitive damage cases. I will not go into them. But most of us understand where and when punitive damages have been awarded in this country, and in most of these instances they were warranted and necessary. The fact is the awarding of those punitive damages deter and persuade other corporations from taking the same risk. Corporations who suffered those damages may be more careful in the future.

I think that many safety improvements on products have been made not because of the benevolence of those making the products but because they worry about the consequences of putting an unsafe product on the market. Especially because other large enterprises which put unsafe products on the market knowing they were not safe suffered some very substantial punitive damages.

That has helped this country and the people in this country produce products that are safer and more reliable and products that consumers could purchase without fear of being hurt by the product. I hope that we will have an opportunity to allow others to discuss my amendment. My understanding is that they are seeking some kind of unanimous consent in which we would stack some votes tomorrow. I would like the opportunity to have others discuss the issue of lifting the cap on punitive damages in the underlying bill.

Let me again reemphasize. I am not amending the Dole amendment that deals with issues other than product liability. My amendment will deal with the underlying bill, and the cap on punitive damages in S. 565.

My hope would be that we will continue to debate this issue. As we discuss punitive damages, this Congress ought to consider the option of returning to the language in the product liability reform legislation considered last year with respect to punitive damages. Under last year's legislation a Federal standard would have been established without a cap on punitive damages. The legislation we are considering this year not only changes the standard but imposes a cap. It seems to me this cap is not necessary and inappropriate.

Last year, I was upset about another provision. The legislation that was brought to the floor included an FDA defense, whereby, a product that was approved by the FDA would be immune from punitive damage liability. Last year, I said I will not support that, and I will not vote for cloture until that is stripped out. I voted against cloture, until I was assured that the FDA defense would be stricken. I decided to vote for cloture at that point.

The FDA provision was not included in this year's provision, but, they put in another cap on punitive damages which they did not have last year. That makes no sense to me. I hope that this

Congress will come to the same conclusion that I have come to, that this bill is worth advancing, that we should pass a product liability reform bill, but that it should be enacted without the section that includes a cap on punitive damages. I think a cap is unwarranted, unfair and unwise.

With that, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Washington.

Mr. GORTON. Madam President, I thank the distinguished Senator from North Dakota for offering and defending his amendment. It moves this process forward, and as he said we are seeking at this point a unanimous-consent agreement under which we can deal with punitive damages today and tomorrow morning the way in which we dealt with medical malpractice yesterday and this morning, by gathering all the amendments together, debating them tonight and for a while tomorrow morning and then voting on them all in a row.

AMENDMENT NO. 620 TO AMENDMENT NO. 596

(Purpose: To limit the amount of punitive damages that may be awarded in a health care liability action.)

Mr. GORTON. Madam President, at this point I send an amendment to the desk on behalf of the distinguished Senator who now occupies the Chair and ask for its immediate question.

I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

Mr. GORTON. This is an amendment to the Gorton substitute, so I ask to set aside the Dole amendment as well for the purposes of considering this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk read as follows:

The Senator from Washington [Mr. GORTON], for Ms. SNOWE, proposes an amendment numbered 620 to amendment No. 596.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19 strike line 22 through page 20 line 4, and insert the following new subsection:

(b) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this title shall not exceed 2 times the sum of—

(A) the amount awarded to the claimant for economic loss; and

(B) the amount awarded to the claimant for noneconomic loss.

(2) APPLICATION BY COURT.—This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

Mr. GORTON. Madam President, for the information of the Senate, this is identical to the Snowe amendment on punitive damages which was adopted as a part of the medical malpractice amendment which now, as a result of our last recorded vote, is a part of this bill. It differs only in that it is an amendment to the underlying Gorton substitute and imposes the same rule with respect to punitive damages, that is to say, two times the combination of economic and noneconomic damages for the original limitation on punitive damages included in the Gorton substitute.

I have discussed this next request with the distinguished Senator from North Dakota because it is a milder version than his, I think logically assuming that we get the votes tomorrow, that it be voted on before his amendment, and I ask unanimous consent that it be placed on any future agreement to a vote ahead of the Dorgan amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. And I do not expect we will object, but I wanted to clear that with our side of the aisle, so if the Senator will withhold momentarily.

Mr. GORTON. I will withhold it momentarily.

Madam President, I briefly explained this amendment. I would expect that it would be adopted by voice vote because there was a rollcall vote earlier today on precisely this amendment, and I doubt that the body needs that vote repeated. It is in my view a preferable formula to that proposed by the Senator from North Dakota, which, of course, would remove all limitations and essentially all Federal controls over punitive damages. And it is punitive damages, of course, which is the subject not only of the Dole amendment but of much of the original product liability bill, and it is a formula with respect to punitive damages proposed by the occupant of the chair as accepted by a unanimous vote this morning.

Mr. DORGAN. Madam President, I withdraw my reservation. I have no objection.

Mr. GORTON. I repeat the unanimous-consent request.

The PRESIDING OFFICER. Would the Senator from Washington repeat the unanimous-consent request?

Mr. GORTON. Assuming there is later today an order for votes on all amendments dealing with punitive damages, that the Snowe amendment be voted on immediately prior to the Dorgan amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Madam President, I wish to repeat once more that I understand there are additional amendments to be proposed by the Senator from Tennessee [Mr. THOMPSON], the Senator from Arizona [Mr. KYL], the Senator from Utah [Mr. HATCH], the majority leader, the Senator from Kansas [Mr. DOLE], and the Senator from Alabama [Mr. SHELBY], from this side of the aisle and perhaps additional amendments on punitive damages on the other side of the aisle. We have no unanimous consent on the subject yet. I hope that Members who want to speak to the subject of punitive damages and introduce amendments on the subject of punitive damages will do so as promptly as is convenient to them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTOMOTIVE TRADE WITH JAPAN

Mr. BYRD. Madam President, America's trading relationship with Japan is now reaching a historic, serious phase in what has been a long history of innumerable initiatives and negotiations to gain access for American products into her market. Strong action will very likely need to be taken by the administration, and the support of the Senate and American industry will be important.

The United States and Japan are nearing the end of over a year and a half of negotiations on automotive trade, aimed at reducing our $66 billion trade imbalance with Japan by opening major elements of her closed domestic market to our products. The issue, access to Japan's automobile market, including to her dealerships for American cars, and to the lucrative auto parts market, is reaching a critical juncture. The issue this time involves, once again, more than the securing of commitments by the Japanese in a written agreement to try to do something to open her market. It goes to the heart of America's strategy on how to gain the actual results of opening the Japanese market.

The question is whether we, including both the executive branch and the Congress, along with American industry are all prepared to stick to our guns and take action against Japanese imports if the auto market in Japan remains essentially closed to our cars and our spare parts. Specifically, are we willing to take retaliatory action and impose trade sanctions on her products, under section 301 of the 1974 Trade Act? I say to my colleagues that now is the time to change the paradigm in our trading relations with Japan. If we are not prepared to take retaliatory actions under the law, in a situation which is about as perfectly suited as is possible to the intent of the law as it was written, then we may be looking at a continuation of these deficits in perpetuity.

Madam President, if anyone doubts the persistence of unfair barriers in Japan to her marketplace, then they ought to take a look at the 1995 National Trade Estimate Report on Foreign Trade Barriers, which provides an annual inventory of the most important foreign barriers affecting U.S. export of goods and services, foreign direct investment, and protection of intellectual property rights. The latest report dedicates some 44 pages of material to the subject on Japan alone, far more than to any other country, far more than to the second place, the European Union, most of the important countries of Western Europe combined, which takes up 28 pages, and double that of China, with which country we run our second largest annual trade deficit—44 pages, much of it dedicated to the automobile trade.

How important is the auto trade for America's current account balance and for the American economy? The answer is: as important as any single sector can be. America's trade deficit with Japan in 1994 reached another record high, at $65.7 billion, up 10 percent from 1993, when it totaled $59.3 billion. Of that amount, the bilateral automotive trade deficit accounted for about $37 billion, or 56 percent of the total, so most of our deficit with Japan can be attributed to cars and to auto parts. More than that, the auto trade deficit with Japan constituted some 22 percent of our entire trade deficit with the world. The policy announced by our Trade Representative, Ambassador Kantor—according to his testimony before the Finance Committee on April 4, 1995—is that this deficit is the result of unfair Japanese practices, that it is unacceptable, that he will use every tool at his disposal to correct it, and that, in general, he will use a practical, market-based, results oriented approach to dealing with these non-market barriers. I strongly support this approach, and I believe that the Senate as a whole does as well.

As far as the impact on the American economy is concerned, a strong auto sector is crucial. Two million, two hundred thousand people in the United States are employed in the parts industry alone—such vital industries as aluminum, steel, glass, rubber, electronics, semiconductors, machine tools, and many others. This is on top of the some 700,000 people employed by the Big Three auto manufacturers themselves, the Nation's largest manufacturing industry. Sales of cars and trucks constitute some 4.4 percent of our gross domestic product.

Negotiations with Japan have reached a crucial stage regarding the auto industry's attempts to deregulate the Japanese auto parts market. Negotiations on access to the Japan auto business began as a result of the agreement reached by this administration with the Government of Japan in July of 1993, the so-called Framework for a New Economic Partnership. This framework established a general set of results to be used in specific negotiations, and refocused the criteria for progress away from the process of removing trade barriers to actual results in the way of real economic progress in market penetration. After 18 months of negotiations on automobile negotiations—including access to the motor vehicle market by breaking into Japan's dealerships, the purchase of original parts by Japan's automakers from United States suppliers, and the regulation of the auto parts aftermarket, which is repair parts—Ambassador Kantor has concluded that "there has been virtually no progress." One result has been the initiation by the Trade Representative, on October 1, 1994, of a section 301 investigation of Japan's replacement auto parts market, which is virtually closed.

The difference between the United States and Japanese markets in this area could not be more dramatic and more symbolic of our troubled trade relationship: A Department of Commerce study in 1991 estimated that Japanese vehicle manufacturers controlled about 80 percent of the parts market, while in the United States the situation is the reverse, and independent replacement parts producers account for 80 percent of the market. So, while the United States market is wide open, the Japanese market is closed. To make the situation more unfair to us, the Japanese closed market allows their manufacturers to run the prices up on their own consumers for repair parts. Another U.S. Government survey has concluded that their aftermarket repair parts cost, on average, some 340 percent higher than comparable parts in the United States.

This tremendous windfall of billions of dollars in extra profits helps subsidize the Japanese car industry, so that it can compete more effectively in the international market, subsidizing lower costs for Japanese cars here in the United States, Europe, and elsewhere. Therefore, it is a triple whammy: Our parts manufacturers cannot sell effectively in the Japanese market; Japanese consumers get gouged; and the whole thing results in cheaper, more competitive Japanese cars worldwide.

The "Keiretsu" system of interlocking and cozy exclusive relationships among suppliers, manufacturers, and dealers serves as an effective blocking action against market penetration, and I am advised that the powerful Japanese Government bureaucracy serves to abet this exclusivity in supporting a regulatory framework not conductive to easy access. Japan's competition law, known as the Antimonopoly Act, which prohibits unfair trade practices has, according to the 1995 Foreign Trade Barriers report, a "weak and ineffective" enforcement history. The Japan Fair Trade Commission, which is supposed to implement that law, has "not shown any serious inclination to use its enforcement powers to eliminate the anticompetitive practices in sectoral markets that are excluding foreign goods and services from the Japanese market." This is a system totally incompatible with the principles of free international trade.

As to new American cars, it is nearly impossible for Japanese businessmen who operate dealerships and showrooms to agree to sell American cars. I understand that many of these dealers would like to do so, but they fear retribution from Japanese car manufacturers and are warned against taking American business. Hence, the marketplace for new American cars in Japan remains extremely narrow and difficult to penetrate. What are the results? While Japanese automakers hold some 22.5 percent of the American market, the share of the Japanese market held by the Big Three United States automakers is less than 1 percent.

The Japanese economy is, in many ways, a sanctuary market, closed to the world, but depending to a large extent on robust exports. Trade agreements are, more often than not, written agreements which are frustrated by a maze of business practices, Government regulations, and other hurdles for importers to jump. The problem is that other nations, particularly in Asia, are engaging in the same practices, and if the Japanese market is not pried open, these trade imbalances will be mirrored elsewhere, as they are today with China. We see the same kind of practices in Korea.

Therefore, the stakes in fair trade with Japan have worldwide ramifications and affect the very future of American participation in a trading system which enjoys access to a wide open American market. We need to demand reciprocity, which would allow our products to compete freely. If our products fail to attract buyers because they fall short on the merits, fine, then that is our fault. But this is not what is driving the large deficits with Japan, and our industries and economy will suffer as they are suffering, and as they have suffered.

I was very pleased to see the dramatic accord that was achieved by our Trade Representative with China on the matter of intellectual property rights, and I would note that it was achieved only at the 11th hour and with the certainty of definite retaliation by the United States, absent achieving an accord. Given the history of trade practices with the Japanese, I fear that only a believable threat, or actual retaliation, may be sufficient to get equitable results in the Japanese auto market.

In the new world that is emerging after the collapse of the Soviet Empire, it is important to see the overall United States-Japanese relationship as one of give-and-take across the board. The United States still maintains armed forces in Japan and that relationship has been excellent, with Japan providing needed host-nation financial support. It is an excellent burden-sharing arrangement. While our security relationship has been in balance, and a close relationship remains intact, the trading situation has generated unneeded frictions.

Today, American national security and economic security go together, hand-in-hand. Japan has a deep-vested interest in the health of the American economy, and economy increasingly dependent on trade. Eleven million Americans are now employed in export-industry jobs, a doubling of the number from just 10 years ago. It will be more and more difficult to maintain robust deployed forces in the Pacific, as we should, without a strong American economy.

Persistent massive trade deficits with Japan and other Asian nations runs counter to this, and they erode our ability to sustain the kind of a Pacific rim presence that both we and our allies in the Pacific, particularly Japan, believe is in our overall interest of stability and peace. And so it is important for the Japanese Government to make every effort to ensure that our trade relationship enjoys the same healthy substance of a two-way street.

The deficit in the United States-Japanese automotive parts trade reached a record $12.8 billion in 1994, deteriorating 15 percent from 1993, at the very time that negotiations were ongoing on this matter. The Japanese sold a record $14.3 billion in auto parts in the United States, compared to a meager $1.5 billion in United States auto parts which managed to squeeze into the Japanese market. It is a major element in our deficit picture, and something has to give.

It is precisely in this situation that the 301 law is available to the Trade Representative, and I certainly expect that he will probably have to use it and he should have no compunction against using it. This means that when the section 301 investigation of unfair practices in the auto parts market is concluded—at the latest by October 1, 1995—if the current stalemate continues, the United States should not hesitate to retaliate. According to a New York Times article of April 13, 1995, an administration "task force has already been established to draw up a list of Japanese products that would be subject to 100-percent tariffs unless Japan takes what one senior official today called 'enormous leaps' during meetings scheduled over the next several weeks." These officials indicated such a list would be announced this month. I note that the next round of negotiations with the Japanese is scheduled to take place this week, on tomorrow, Wednesday, May 3, 1995, and I hope that our negotiator there, Ambassador-designate Ira Shapiro, will tell the Japanese that stonewalling will result in retaliatory action, with strong Senate action, if needed, to follow up on the retaliatory measures that might be announced by the administration.

I point out, Madam President, that there is extensive support across the board in American industry for the strong action that might be required against Japanese products in the event that the results sought by the administration are not obtained. I include in the RECORD a list of 27 major United States companies and associations that deal with Japan which support our negotiations on this matter. It includes the Business Roundtable, the major auto companies, and associations representing those manufacturers who have a stake in the health of the auto and auto parts industries, such as glass, iron and steel, and electronics. It includes the major labor organizations, including the United Auto Workers and the AFL–CIO. There is obviously very broad consensus across American business and labor organizations that the time for action is past; so we have only now left to us.

It is clear that, while there may be every good intention on the part of Japanese policymakers and other sectors of Japanese society and business to open the Japanese market to American automobiles and products, what really counts in the long run are results, and actions to do so. Performance, not promises, is only what we are seeking, and one must be prepared to take strong action to encourage such performance.

Madam President, automobiles and parts have been the central problem in Japan's trading relations with the rest of the world for many years. If we can solve the problem, and break the "keiretsu" psychology and practices which close Japan's markets, a new era between our two nations will emerge. If we fail, our relationship will continue to deteriorate.

Mr. President, I ask unanimous consent that a group of supporting documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING UNITED STATES-JAPAN AUTO AND AUTO PARTS TRADE NEGOTIATIONS

Aluminum Association.
American Automobile Manufacturers Association.
American Electronics Association.
American Federation of Labor Congress of Industrial Organizations.
American Forest and Paper Association.
American Iron and Steel Institute.
American Textile Manufacturers Association.
Association of Manufacturing Technology.
Automotive Parts and Accessories Association.
Business Roundtable.
Chrysler Corporation.
Copper and Brass Fabricators Association.
Ford Motor Company.
General Motors.
Guardian Industries.
International Insurance Council.
Joint Automotive Supplier Government Action Council.
Motion Picture Association.
Motor Equipment Manufacturers Association.
National Association of Manufacturers.
National Glass Association.
Pharmaceutical Research and Manufacturers Association.
Semiconductor Industry Association.
Specialty Equipment Market Association.
United Auto Workers.
United States Business and Industrial Council.
US-Japan Business Council.

NATIONAL CONSUMERS LEAGUE,
Washington, DC, April 25, 1995.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: On behalf of the National Consumers League, I want to express our support for the Administration's position in the Framework negotiations with Japan and our interest in opening the Japanese market to competitive American automotive products. The vehicles and parts made in this country meet a wide variety of safety and environmental standards. The production facilities in which they are made meet standards for their operation as well. The workers in these plants benefit from protective health and safety laws and many have won further protection through union representation. All of these conditions contribute to beneficial results for Americans who are consumers of the products made by the industry and consumers of its environmental impacts.

The companies that meet these conditions should be able to supply markets abroad on the same terms as foreign companies find in this market. All foreign producers of vehicles and auto parts have unrestricted access to the U.S. market. We understand that the Clinton Administration is seeking just such access to the Japanese market for U.S. automotive products and we fully support that objective.

American industries that contribute to the social and economic well-being of the nation, as does the automotive industry by meeting a variety of legal and regulatory standards and affording workers a voice in their work lives, deserve the support of the U.S. government in gaining the ability to sell their products internationally. American consumers and Japanese consumers would benefit from the elimination of Japanese barriers to access to that market for the quality products made by American workers.

Sincerely,

LINDA GOLODNER,
President.

CATERPILLAR, INC.,
April 7, 1995.

The PRESIDENT,
The White House, Washington, DC.

DEAR PRESIDENT CLINTON: I'm writing as Chairman of the U.S.-Japan Business Council which represents the interests of leading U.S. manufacturing and service firms. The purpose of my letter is to commend your Administration for the aggressive leadership it's providing on behalf of U.S. automobile and auto parts producers as they attempt to compete in the Japanese marketplace.

As your trade negotiators have recognized, the fundamental problem in the U.S.-Japan economic relationship is that Japan's markets in a host of industrial and service sectors remain more restrictive than those in the United States and other major economies. It's equally clear that the U.S. trade deficit with Japan will persist—despite sharp appreciations of the yen and a sizable reduction in the U.S. budget deficit—until Japan reforms its regulatory and market entry practices.

Your Administration has managed to negotiate several results-oriented trade agreements with Japan in such areas as government procurement of medical and telecommunications equipment, insurance, flat glass, and financial services under the U.S.-Japan Framework Agreement. The members of the U.S.-Japan Business Council, many of whom will benefit once these agreements are implemented, commend your trade team for this achievement.

But the fact that no agreement has been reached in one of the most important sectors of our trading relationship with Japan—autos and auto parts—is troublesome . . . especially given the broad range of industries and jobs involved in the automotive sector . . . electronics, semiconductors, steel, chemicals, and machine tools.

Although U.S. auto and auto parts companies are now competitive and committed to the Japanese market, they and other foreign producers continue to be denied full and comparable access to the Japanese automobile distribution system, as well as markets for original equipment and replacement parts.

Meanwhile, the bilateral trade imbalance in motor vehicles and parts, which typically accounts for some 60 percent of the U.S. trade deficit with Japan, hit a record high of $36.7 billion in 1994. Forecasts suggest even greater deficits in this sector in 1995.

On behalf of the U.S.-Japan Business Council, I urge your Administration to continue working toward a comprehensive agreement that will result in increased access and sales opportunities for U.S. automobile manufacturers and parts producers in the original equipment and replacement parts markets in Japan and the United States.

Sincerely,

DONALD V. FITES.

STATEMENT OF THE NATIONAL ASSOCIATION OF MANUFACTURERS ON THE UNITED STATES-JAPAN AUTO NEGOTIATIONS

The NAM's membership has a clear and substantial interest in a U.S.-Japan relationship characterized by a two-way free flow of goods, services and investment. The NAM thus supports the "framework for a new economic partnership" between Japan and the United States. As part of this framework, it is appropriate that Japan has committed to implement policies "intended to achieve a highly significant reduction" in its persistent and large trade surplus with the United States. The framework addresses both structural imbalances between the U.S. and Japanese economies as well as those sectors of the Japanese economy where market forces have, in the past, clearly not been allowed to operate freely.

The NAM recognizes the importance of successfully resolving the current bilateral automotive negotiations by ensuring significant and sustained market access and sales opportunities for foreign vehicles and parts in the Japanese market. The NAM thus supports the efforts of the U.S. and the Japanese Governments to reach speedy agreement to achieve such access.

The NAM also urges the U.S. Government to reassert that the full implementation of all previously negotiated agreements with Japan in other sectors remains a priority objective.

THE BUSINESS ROUNDTABLE,
Washington, DC, April 13, 1995.

Hon. MICHAEL KANTOR,
Office of the U.S. Trade Representative, Washington, DC.

DEAR AMBASSADOR KANTOR. As you know, The Business Roundtable has long been a major supporter of the efforts of the U.S. government to open foreign markets to international trade and investment. In this connection, U.S./Japan trade policy developments have been of particular concern to us.

The difficulties that U.S. business has had in expanding its sales and investments in Japan have been a continuing frustration. While progress has been achieved in some sectors, such as semiconductors, other areas have seen insufficient improvements.

In particular, the automotive sector has experienced significant difficulty penetrating the Japan market, and the trade imbalance in this sector alone represents nearly 60% of the total trade deficit between the U.S. and Japan. The Roundtable believes that a successful auto negotiation with the Japanese will have ramifications beyond Japan and could help to facilitate further market opening initiatives in other Asian countries.

The purpose of this letter is not to provide you with the specifics of the auto sector trade problem faced by U.S. exporters; the U.S. auto and auto parts industries can do this far more effectively than we can. Rather, it is to underscore the importance of negotiations in this sector. We are also not the ones to advise you on the precise shape of a successful agreement on auto sector trade with Japan. That said, we believe that fundamental to any successful negotiation is the need for agreements to include a basis on which the results can be evaluated. Without an acceptable basis to gauge the impact of an auto sector trade agreement, there will be a significant risk that subsequent activities/discussions to any agreement will devolve into continuous argument regarding implementation process rather than achieving actual results.

We know that the auto sector negotiations with Japan have been, and will continue to be, difficult. For this reason, we think that it is important for you to know that The Business Roundtable fully supports the pursuit of U.S. rights under the rules of the World Trade Organization, aggressive use of U.S. trade laws and whatever other action may be necessary to achieve meaningful access to the Japanese market in this critical sector.

In closing, thank you for your tireless efforts to open foreign markets to U.S. exports, and we encourage your continued resolve in these negotiations.

Sincerely,

JERRY R. JUNKINS,
Chairman, President & CEO, Texas Instruments, Chairman, The Business Roundtable International Trade and Investment Task Force.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS
Washington, DC, April 18, 1995.

Hon. MICKEY KANTOR,
U.S. Trade Representatives, Washington, DC.

DEAR AMBASSADOR KANTOR: I am writing to urge the Administration to continue its efforts to reach a results-oriented agreement with Japan on autos and auto parts. The discrimination and inequity present in the existing trading relationship can no longer be papered over.

American workers in a wide range of industries and occupations would benefit from the reduction of the U.S. deficit in automotive trade with Japan and the elimination of discriminatory practices by Japanese companies directed at U.S. firms. Union members in the rubber, glass, steel, aluminum, textile, machine tool, chemical, electrical, electronics and other industries would directly benefit from increased access to the Japanese auto market for competitive American products. Unionized workers in other industries, including entertainment, telecommunications, construction, aerospace, paper and even-more, would gain additional jobs if the Japanese market were truly open and discrimination against U.S. producers was ended.

The AFL–CIO believes that international trade can benefit American workers, but that trade must be fair and equitable. That is not the case with U.S. auto trade with Japan today. During the past nine years, the U.S. deficit in auto trades with Japan nearly hit $300 billion. If that deficit could be reduced substantially, the Clinton Administration's effort to establish equity in that trading relationship through the Framework negotiations could lead to the creation of many thousands of American jobs. We will judge the success of the Framework's auto talks by their impact on the jobs of American workers, not by the quantity of words in any agreement. Under a good agreement, we expect the U.S. automotive trade deficit with Japan to decline rapidly.

The commitment of the Clinton Administration to "result-oriented" negotiations must be fulfilled either through effective, verifiable agreements or reciprocal treatment of U.S. imports from Japan. If an acceptable agreement cannot be reached in the next few months, the U.S. must impose sanctions on imports from Japan that are commensurate with the damage to American workers caused by Japan's barriers to U.S. products. It is time to demonstrate the Administration's commitment to settling this long-running trade disaster.

Sincerely,

LANE KIRKLAND,
President.

ALUMINUM INDUSTRY SUPPORTS U.S.-JAPAN NEGOTIATIONS

THE ALUMINUM ASSOCIATION STRONGLY SUPPORTS MARKET ACCESS WITH JAPAN

WASHINGTON, D.C., April 13, 1995.—The Aluminum Association announced today its strong support for a swift and positive conclusion to the U.S.-Japan automotive trade negotiations. The aluminum industry, longtime advocates of free trade, urged the removal of barriers and the opening of Japan's parts and vehicle market to foreign cars and parts.

U.S. aluminum companies are historic free-traders. They produce 19 billion pounds of metal each year, making them the world's largest aluminum industry. The U.S. aluminum market is the world's largest, most sophisticated and most open, yet major barriers to market access in Japan remain. The aluminum industry strongly supports the U.S. Government's efforts to remedy this persistent problem.

The auto and auto parts industry and its unhindered access to Japanese markets and manufacturers is extremely important to our industry. In 1993, the aluminum industry shipped about 4.2 billion pounds of aluminum to the transportation market. This makes it the industry's second largest market.

Aluminum Association President David N. Parker, called for an effective, results-oriented agreement on the negotiations and remarked that the "talks mirror our industry's long time efforts to achieve open markets for aluminum."

Aluminum represents over 200 pounds of an average vehicle, a growth of over 55 percent in the last decade. Aluminum plays a significant role in lightweighting both domestic and foreign vehicles. Industry experts expect its percentage of the average car to increase rapidly as demand for fuel efficient vehicles which retain size, safety, and environmental friendliness grows. Select cars have already shown that as much as 500–1,000 pounds of aluminum can be used successfully to achieve high performance or fuel efficiency.

The Aluminum Association represents primary and secondary producers of aluminum, as well as semi-fabricated products. Member companies operate approximately 300 plants in 40 states.

AISI Issues Policy Statement on United States-Japan Auto Talks: Steel Gives Strong Support to Goal of Timely and Meaningful Market Access in Japan

WASHINGTON, D.C.—The American Iron and Steel Institute (AISI) today issued the following policy statement in strong support of U.S. government efforts to achieve a prompt, "results-oriented" resolution of the U.S.-Japan bilateral automotive negotiations.

"Steel producers in North America have an important, direct stake in—and indeed, have contributed substantially to—the renewed competitiveness of North America's auto industry in recent years. That was a main reason steel producers throughout North America strongly supported NAFTA—because we saw it benefiting our major customers in the North American auto industry.

Given the auto industry's continued importance to the North American economy (4.6 percent of total U.S. GDP). AISI's U.S., Canadian and Mexican member companies remain deeply concerned by North America's large and persistent trade deficit with Japan in the automotive sector.

The fact is, as competitive as the North American auto industry has become, it still requires free and open markets and fair and reciprocal market access worldwide to reap the full benefits of its restored status as a world class industry. Unfortunately, North America's producers of motor vehicles and auto parts do not have such equality of market access currently with respect to Japan.

It is therefore essential that the ongoing U.S.-Japan bilateral automotive negotiations produce a successful and timely resolution of this critical problem by achieving significant and sustained market access and sales opportunities in Japan for North American and other non-Japanese producers of vehicles and parts. Thus, AISI strongly supports the U.S. government's "results-oriented" efforts to reach agreement as quickly as possible on meaningful market access in Japan for this vital North American industry.

As part of the U.S.-Japan "framework agreement"—under which the automotive talks are occurring—Japan has committed to implement policies "intended to achieve a highly significant reduction" in its trade surplus with the United States, which exceeded $65 billion last year.

This enormous and unsustainable trade imbalance, two-thirds of which is in the automotive sector, requires prompt corrective action—by achieving measurable results in the auto sector as soon as possible, and ensuring full implementation of all previously negotiated agreements with Japan in other sectors."

Statement of the American Textile Manufacturers Institute on United States-Japan Automobile Trade

The American Textile Manufacturers Institute (ATMI) strongly supports the Clinton administration's efforts to open the Japanese market to U.S. automobile and automobile parts. ATMI is the national trade association for the domestic textile industry. ATMI member companies operate in more than 30 states and account for over 80 percent of all textile fibers consumed by U.S. mills.

The American textile industry is a major supplier to the U.S. automobile industry. Textile goods produced for use in automobiles include not only upholstery and floor coverings, but sidewalls (the interior sides of cars), head linings (the interior roof material), hood linings (material on the underside of the hood), trunk linings, convertible tops and vinyl hardtops, tire reinforcement, hose fabric and transmission belts. In fact, the average truck contains 18 square yards of textile fabric, while the average car contains 29 square yards.

In 1993, automobiles and trucks accounted for more than 1.2 billion square yards of fabric consumption in the United States, or 1.2 billion pounds of fiber. By weight, this represents nearly 10 percent of the total fiber consumption in the U.S. Clearly, the auto industry is an important customer of the American textile industry.

The opening of foreign markets to U.S. textile products and to items containing U.S. textile products is a vital part of our industry's global competitiveness strategy. In this light, ATMI endorses the efforts of Ambassador Kantor to open Japan's market to U.S. autos and auto parts and urges the administration to continue to seek adequate market access in the current negotiations with the government of Japan.

Nearly Twenty Industries Join in Call for Japan Government to Open Closed Markets to U.S. Products

WASHINGTON, D.C.—A diverse group of the nation's largest industries joined together today to call on the Japanese government to open its market to reduce its record $66 billion merchandise trade surplus with the U.S.

"Japan's chronic trade surplus is choking its economy and playing havoc with the world's currency markets," said Andrew H. Card, Jr., President and CEO of the American Automobile Manufacturers Association (AAMA). "After more than 25 years of foot-dragging, it's time for the Japanese government to join with other industrialized nations to practice free trade in its own market."

Autos and auto parts accounted for $36.8 billion of the U.S. trade deficit with Japan last year and is predicted to reach $39 billion in 1995.

The latest round of U.S.-Japan trade negotiations is scheduled to conclude in Washington on Tuesday.

Nearly twenty industry representatives—from aluminum and steel producers to pharmaceutical manufacturers—joined Card in calling for greater access to Japan's "sanctuary" markets.

"The whole world is watching the outcome of these negotiations. If Japan fails to undertake decisive reform to open its automotive sector, there are numerous developing economies waiting in the wings—China, Korea, Indonesia, Vietnam—which will be tempted to follow Japan's sanctuary market as a model, rather than to adopt a free and open model which provides benefits to all participants in the world open-trading system," Card said.

Other groups joining AAMA at the press conference include the: Aluminum Association, American Electronics Association, American Forest and Paper Association, American Iron and Steel Institute, Automobile Parts and Accessories Association, Copper and Brass Fabricators Association, Pharmaceutical Research and Manufacturers of America, Association of Manufacturing Technology, International Insurance Council, Motor and Equipment Manufacturers Association, Specialty Equipment Manufacturers Association and the United Auto Workers Union.

Other groups calling on Japan to open its markets include the: American Textile Manufacturers Institute, Joint automotive Supplier Government Action council, Motion Picture Association of America, National Association of Manufacturers, National Glass Association and U.S.-Japan Business Council.

During the press conference, Card pointed to a new report by the American Chamber of Commerce in Japan which outlines trade barriers across 35 industrial sectors.

With regard to autos, the ACCJ report concluded that the Japanese manufacturers intend to continue discouraging dealers from franchise agreements with U.S. automakers.

The ACCJ report recommends that the Japanese Government: Open Japan's auto market; provide free access to Japanese dealers; simplify regulations and procedures; and open Japan's parts market to foreign suppliers.

AAMA is the trade association headquartered in Washington, D.C. whose members are Chrysler, Ford and General Motors.

SEMICONDUCTOR INDUSTRY ASSOCIATION,
San Jose, CA, April 19, 1995.

Hon. MICHAEL KANTOR,
U.S. Trade Representative,
Washington, DC.
Hon. RONALD H. BROWN,
Secretary of Commerce, Department of Commerce, Washington, DC.

DEAR AMBASSADOR KANTOR AND SECRETARY BROWN: The Semiconductor Industry Association strongly supports your efforts to achieve a substantial measurable increase in imports into Japan's automotive and automotive parts markets. These efforts can be both necessary and appropriate. There can be no acceptable alternative to having outcomes in the Japanese market reflect the competitiveness of American auto and auto parts producers. This has not yet been allowed to occur.

Your efforts serve not only the broad national interest but are of real economic interest to our industry as well. Semiconductors are a key component in modern automobiles, with applications including engine controllers, air bags, and antilock brakes. There is a direct impact on U.S. chip companies from both the very low levels of U.S.

automobile exports to Japan and the reluctance of Japan automobile companies to use American components.

In 1994 over $1.7 billion of semiconductors were used in American automobiles. This figure could have been substantially higher if it were not for the fact that of the 10 million vehicles produced by the three American firms in the U.S., only 33,000 were exported to Japan.

U.S. firms have been working for years to increase their share of the $1.3 billion Japanese automotive chip market through the U.S.-Japan Semiconductor Agreement. The foreign automotive semiconductor share in Japan of about 10 percent, while much higher than five years ago, remains well below the dominant shares that U.S. firms have achieved in other world markets. The limited foreign penetration to Japan's auto semiconductor market is also in contrast to the significant progress which is being made in a number of other electronics sectors in Japan.

The implementation of market access agreements with Japan requires extraordinary efforts on the part of both American suppliers and Japanese purchasers, and by both governments, but the benefits can also be extraordinary. The U.S.-Japan Semiconductor Agreement has led to an additional $2.5 billion in annual U.S. sales in Japan and to unprecedented cooperation between American and Japanese companies and industries.

While SIA intends to continue to work through the U.S.-Japan Semiconductor Agreement to further programs in semiconductor market access, an agreement on auto parts is fully complementary and very much in the interest of not only the U.S. economy, but of harmonious relations between the United States and Japan.

We wish you well in this vital endeavor. A successful autos and auto parts agreements would promote the change in attitudes towards imported components that is required for success in increasing access to the Japanese market. SIA fully supports your efforts to quickly achieve an effective results-oriented agreement with the Government of Japan on auto and auto parts.

Sincerely,

A. A. PROCENSINI,
President.

AMERICAN FOREST &
PAPER ASSOCIATION,
Washington, DC, April 11, 1995.

Hon. IRA SHAPIRO,
General Counsel, Office of the U.S. Trade Representative, Washington, DC.

DEAR IRA: The American Forest & Paper Association, on behalf of the U.S. forest products industry, is highly supportive of your efforts to open the Japanese market to U.S. suppliers of autos and auto parts.

The long-standing problems of market access in this sector—including kieretsu relationships between auto producers and suppliers, denial of access to the producer-owner distribution network, and the use of government standards to exclude imports—are all-too-familiar features of our own problems in penetrating the Japanese market. We believe that a comprehensive, negotiated solution to the auto/auto parts problems will have important implications for the resolution of similar problems in other sectors, such as ours, where the same pattern of exclusion is evident.

At the same time, we believe that the firm stand which USTR has taken in these negotiations sends a very clear signal to the Government of Japan that the Administration will take the steps necessary to ensure compliance with existing agreements. With both the wood and paper agreements designated to a Super 301 watchlist, we anticipate that the result of your efforts in the auto sector will be to heighten Japanese awareness of the need to refocus its "encouragement" of imports in a direction which leads to concrete results.

Sincerely,

MAUREEN R. SMITH,
Vice President, International.

Mr. HOLLINGS. Madam President, let me commend our distinguished senior Senator, former leader and President pro tempore of the body. Senator BYRD's words are music to this Senator's ears, because in all of the almost 5 months now of the so-called "contract," not one word has been stated until Senator BYRD has spoken about competitive trade policy.

That is exactly what we need. Right to the point, as the distinguished Senator has pointed out, the Japanese are subsidizing their sales—what we call "loss leaders," in the retail business. They subsidize and sell automobiles there for less than it costs them back in Japan.

I could not get the updated figures right now to be accurate, but I remember over a year ago a Toyota Cressida that sells for $21,800 in Washington, DC, sells for $31,800 back in Tokyo.

We had other comparable prices, and I would be glad to bring us up to date. The point is, in the year 1994 just passed, Business Week reported that, once again, Japan had taken over a larger share of the American domestic automobile market. Specifically, they had inched up another 1.2 percent in spite of the competitiveness and quality production of the American automobile industry. We have all been bragging. Detroit is finally putting out real cars, quality production, and we are now demanding, instead of foreign cars, American cars for a change. But with it all, Japan has still taken over more of the market.

Five years ago, I had the vice presidents of Chrysler, Ford, and General Motors orchestrated almost to bring an antidumping case against Japan. While I had the agreement of Chrysler tentatively and Ford tentatively, General Motors bugged out. They said it was not good for business. They better wake up and understand what is good for business.

Yes, our leader here is making a very cogent observation, but we will have to go back to another colleague of ours who adopted the expression, "Where's the beef?" Our Vice President.

We have been talking for years—years on end. I testified 35 years ago with similar language about the textile industry. In 1980, 15 years ago, the deficit in the balance of textile trade of the entire European market with Japan was some $4 billion—not with just Japan but with the Pacific rim. We had a deficit, also, in the balance of textile trade of $4 billion.

In the ensuing 15 years now the Europeans have shown they know how to deal with Japan. They do not have this weeping and wailing about fair trade and level the playing field and whining and crying and moaning and groaning—business is business. Through the enforcement of their antidumping laws, they have reduced it to less than $1 billion. And our deficit in the balance of textile trade has gone from $4 billion to $32 billion. Add in that $28 billion in textile manufacture, and we have millions of jobs.

Politicians are running all over the Hill talking about jobs, jobs, create jobs, jobs, jobs. We are exporting them as fast as we possibly can.

A fundamental is involved, Madam President. They use the Friedrich List or German model, which Alexander Hamilton initiated in the founding days of this Republic whereby the wealth of a nation is measured not by what it can buy but by what it can produce. The decisions are made on the basis of whether or not it strengthens the Japanese economy or weakens the Japanese economy. The Japanese use government, along with trade policies and private sector to take over—in this instance, market share. That is why year upon year, end upon end, we send over our trade representatives. They moan, they groan, they whine, they cry. We continue to keep our markets open.

The only time anybody made any progress at all was under the voluntary restraints agreement, and we slowed it down somewhat. However, we still have not really denied them access to our market.

Adam Smith, free trade is strictly passe in the global competition. Forget it. Forget it. We have little Boy Scouts, and the Golden Rule, do unto others as they do unto you. That does not apply in global competition.

I can say here and now we have to protect the economic backbone, the manufacturing capacity and capability of our Nation or, as Akio Morita said years ago, that power that loses its manufacturing power ceases to be a world power.

That is the road that we are on in this country of ours. I am glad the distinguished Senator from West Virginia is emphasizing this. It is well stated, and I hope we can get an administration that will answer the question of our former Vice President Mondale, "Where's the beef?"

If they begin to put in some beef like they did with China, then we can get an agreement like we did with China. If we put some beef behind the words of the distinguished leader from West Virginia, we will get a result. Business is business and it is not politics, and we have got to begin to understand that.

One other item, and then I will yield, Madam President. It is a very, some might say, splendored thing, but the question of telecommunications, the information superhighway, is one of the most complex subjects or issues that we can possibly deal with.

The problem is that everyone wants to deregulate and let market forces control. Certainly this Senator does, and all the Senators that I know of with respect to our Commerce Committee holding the particular hearings.

The problem is we have a monopoly on the one hand and a responsibility for universal service on the other hand. With respect to universal service, Madam President, we do not want to make the same mistake we did with airlines whereas today, now, 85 percent of the medium- and small-sized towns and communities of America are subsidizing the 50 percent long hauls, and all the airlines have gone broke.

Universal service is splendid, outstanding, wonderful communications from our seven Bell companies. The local service operators, we want to continue that universal service and require, thereby, on the one hand, everybody coming in to contribute to a universal service fund, and on the other, not allow our Bell companies to be cherrypicked and take off the good business, high-concentrated service, so to speak, and leave the rural and less populated areas for others to serve.

That is one of the tasks in regulating service. Otherwise, we have to regulate the unbundling of the monopoly. The monopoly is there, and we know twofold: No. 1, that monopoly gets a 46 percent return on their guaranteed cash flow. Now, man, oh man, oh man. It did not come to my attention until just now. Later in the RECORD I will insert whereby the return of all investment to the leading industrial sectors of the United States of America—and now we will take long distance—the return they receive is 19 percent. The average is less than the 19 percent return on their investment. The highest of any in the United States of America are seven Southern Bell. They get a 46 percent return.

Now, if I am president of a Bell company, why should I be pursuing the Congress to get over the business where I am getting a 46-percent return into a business that gets, say, 19 percent or lesser return? Business is business.

I do not want my stockholders to lynch me and throw me out. So necessarily, I am not, although I talk pretty-like on the one hand about the superhighway and everything else like that, let the competition begin, I really do not care if we never pass a bill because I have a guaranteed cash flow of 5.6 billion bucks. I keep Wall Street happy with that. I spend about $2.7 billion in upgrading the system. And I have $1.7 billion in my back pocket here—cash. I can go to any bank, not only in the United States, but into Tokyo or wherever, and with $1.7 billion cash in my back pocket, I can finance anything.

So what I am saying in essence is that what we have to do is break up that monopoly. These monopolistic Bell companies, we intended for them to be monopolies. The law required it. But having given it to them, we know now, under the modified final judgment, they know how to get past every rule and every regulation. I found it out all during the 1960's and 1970's when, on the Communications Subcommittee, I worked with them. We tried our dead-level best to, by gosh, deregulate and open up AT&T and the Bell companies, and we could not do it.

We had to finally do it with the Department of Justice, the Antitrust Division, and a consent decree. That modified final judgment is what finally did the trick, because we had 12 rulings and findings by the Federal Communications Commission and they kept appealing them. And even though we would find against them, nothing was enforced. This crowd knows how to use every word we write in the law and how to get around it and how to appeal it. And therein is another complexity.

Now we have an astounding development. The astounding development is that with all the hearings and everything we have had, and how they have stonewalled us, we finally had, just about 3 weeks ago, Ameritech, a Bell company, along with the Justice Department, along with AT&T, the long distance carrier, along with the Consumer Federation of America, agreed to a consent order to open up competition up in the mid-Northern section of the United States of America.

I could hardly believe my ears, but they agreed to it. In fact, the Bell companies have jumped all over their friend, Ameritech, and said, "Oh, no, no; this is not a precedent. This cannot be done. It is terrible. What did you do? You are a traitor," and everything else. They have really been giving poor Ameritech a fit.

Be that as it may, I have in my hand a memorandum of the U.S. Department of Justice "In Support of its Motion for a Modification of the Decree to Permit a Limited Trial of Interexchange Service by Ameritech." This explains the complexities of all the requirements necessary in doing those two things, bringing about competition in the main; but the two things: Maintaining the universal service on the one hand, and unbundling a monopoly on the other.

That is why some of these Senators can run around and say I want to build more deregulatory policy. That is political cover for saying I want you to give me a day certain. If they get a day certain and the monopoly is not broken up, then no one will enter the particular local exchange. The local exchange monopoly will be used to take over all the other competitive services and satellites, long distance, PCS, and all the rest of the communications, and you are going to end up with monopolistic conduct and not open competition. It is very, very complex. The best document I could possibly find is the one by our Assistant Attorney General, the Honorable Anne Bingaman, and her colleagues here, on behalf of the United States of America.

I ask unanimous consent that this explanation of these complexities of this issue of deregulating communications and bringing about competition be printed in the RECORD at this particular point.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

[In the United States District Court for the District of Columbia, Civil Action No. 82–0192 (HHG)]

UNITED STATES OF AMERICA, PLAINTIFF, *v.* WESTERN ELECTRIC COMPANY, INC., ET AL., AND AMERICAN TELEPHONE & TELEGRAPH COMPANY, DEFENDANTS

MEMORANDUM OF THE UNITED STATES IN SUPPORT OF ITS MOTION FOR A MODIFICATION OF THE DECREE TO PERMIT A LIMITED TRIAL OF INTEREXCHANGE SERVICE BY AMERITECH

Anne K. Bingaman, Assistant Attorney General.

Willard K. Tom, Counselor to the Assistant Attorney General.

David S. Turetsky, Senior Counsel to the Assistant Attorney General.

Jerry S. Fowler, Jr., Special Counsel to the Assistant Attorney General.

Donald J. Russell, Chief, Telecommunications Task Force.

The United States has moved for a modification of the Decree in this case to permit a limited trial of interexchange service by Ameritech. As explained in the Preliminary Memorandum filed with that motion, the trial would begin only when Ameritech faces actual local exchange competition and there are substantial opportunities for more such competition; would be limited to certain geographic areas within the states of Illinois and Michigan; and could be terminated if Ameritech violates the order governing the trial or if it can no longer establish the absence of any substantial possibility that continuation of the trial would impede competition. The United States, Ameritech, and AT&T have stipulated that the proposed order filed with the motion is in the public interest and have consented to its entry under Section VII of the Decree.

The Preliminary Memorandum outlined briefly the terms and conditions of the proposal. This Memorandum provides a more detailed explanation of the purpose, history, and structure of the proposed modification and the reasons why it should be approved.

I. PURPOSE AND GENERAL STRUCTURE OF THE PROPOSED MODIFICATION

The proposed modification is both more limited and more profound than most requests for removal or modification of the Decree's line of business restrictions that have previously come before the Department of Justice and the Court: more limited because it proposes only a circumscribed trial of an otherwise prohibited service, not a permanent lifting of the restriction for some category of service; more profound because it would take *affirmative* steps toward understanding and achieving the conditions that might render unnecessary one of the most fundamental and important restrictions of the Decree.

The proposal contemplates a three-stage process. First, the motion and proposed order present to the Court the rules under which the proposed trial would be conducted, and seek a determination that they are in the public interest. Second, before any interexchange service could actually begin, Ameritech would have to take certain steps to open local exchange service to competition, and the Department of Justice would have to determine that competitive conditions in the marketplace, in conjunction with the other safeguards in the order, ensure that there is no substantial possibility that commencement of the experiment could impede competition in interexchange service. (Proposed Order, ¶¶9–11.) Third, after interexchange service begins, Ameritech would be subject to certain post-entry safeguards, including all existing equal access requirements, and the Department would supervise the trial and could terminate it if conditions required. (Proposed Order, ¶¶15–17.) The Court would retain discretion to take any necessary actions at any point, including review of any determinations made by the Department. (Proposed Order, ¶51.)

This three-stage process recognizes that the transition to competition in local exchange services will be complex. No set of conditions for promoting such competition could hope to address in advance the dozens of complicated implementation issues that will have to be resolved before meaningful competition is a practical reality, rather than merely a theoretical possibility. As local competition develops, and as industry and regulators gain experience with ensuring the competitiveness of markets that depend on access to local exchange services when the principal local exchange carrier is a participant in those markets, it may be possible to relax some of the post-entry restrictions, and the proposed order makes provision for such modification. (Proposed Order, ¶17.)

The process that the proposed modification would establish will help the Department, the Court, the telecommunications industry, and the public to gain practical experience and develop real marketplace facts about (1) the extent to which telecommunications markets can become fully competitive so that Decree restrictions might become unnecessary and (2) short of such fully competitive conditions, what combination of competition and safeguards might be sufficient to enable the Regional Bell Operating Companies ("RBOCs") to enter the market for interexchange services without harming competition in that market—all in a setting that does not threaten substantial harm to competition in the interexchange market. Equally important, the Department believes that the same process will itself hasten the development of competition for local exchange services. It will encourage the states that are working to open up local exchange services to competition. And it will establish a mechanism to identify, understand, and address the many implementation issues that will arise in the transition to competition in local exchange markets.

II. DEVELOPMENT OF THE PROPOSAL

A. Technological and competitive developments

Technological changes in recent years have raised the possibility that the scope of the natural monopoly in local telephone service may be subject to erosion.[1] For example, in many densely populated urban areas, Competitive Access Providers ("CAPs") have laid their own fiber optic networks to serve large business customers. At present, those fiber networks are principally used to provide exchange access, either by supplying a direct link from the customer's premises to the point of presence ("POP") of the interexchange carrier ("IXC"), or by supplying only the transport from the central office or tandem switch of the local exchange carrier ("LEC") to the IXC's POP. Those same fiber networks, under the right circumstances, might be able to be used to provide "dialtone"—i.e., local exchange service. Indeed, two CAPs—MFS and Teleport—have already obtained certificates from the Illinois Commerce Commission to operate as local exchange carriers in Chicago, and another CAP, U.S. Signal (formerly known as City Signal), has obtained such authority to serve Grand Rapids.[2] Similarly, as cable television systems make greater use of fiber optics, those systems may also be able to provide both dialtone and access.[3] Although competition from CAPs has just begun to develop (and competition from cable companies remains largely a theoretical possibility), these technological developments raise important questions about the possible future extent of such competition.

B. Ameritech's original proposal

Based in part on these technological changes, Ameritech filed with the Department and circulated for public comment a waiver request under Section VIII(C) of the Decree, seeking complete removal of the interexchange prohibition, or in the alternative, a waiver of the prohibition to conduct statewide trials of interexchange service in one or more states. It premised that request partly on the notion that the technological changes described above, plus developments in Federal Communications Commission ("FCC") regulatory tools and policies, were enough to constrain any possible anticompetitive conduct.[4] At the heart of its request, however, was what it called its "Customers First Plan"—its proposal that it would take certain steps and seek certain state regulatory changes that would open up the local exchange to competition.

To understand the significance of the steps outlined in the Customers First Plan, it helps to consider some of the principal barriers facing potential entrants into local exchange service. First, there are substantial legal barriers to entry in most markets. Until quite recently, the underlying assumption of telecommunications regulation was that local exchange service is a "natural monopoly" that should be provided by one entity, subject to government regulation. Thus, states strictly prohibited entry into local telephone service by competitors, often granting monopoly franchises to a single company in each market.[5] Even where states have taken steps to end prohibitions on entry by competitors, potential entrants have sometimes had difficulty obtaining required certification from state regulators.

Second, even as legal and regulatory barriers come down, a substantial barrier remains if entrants must replicate the entire network of the LEC in order to provide local exchange service. *See United States v. Western Elec. Co.*, 673 F. Supp. 525, 544–45 (D.D.C. 1987) ("The conditions that caused these monopolies to emerge in the first place . . . preclude any thought of a duplication of the local networks."), *aff'd in relevant part*, F.2d 283 (D.C. Cir.), *cert. denied*, 498 U.S. 911 (1990).

Third, a fundamental characteristic of telephone markets—the existence of network externalities[6]—requires that any entrant be able to offer its customers the ability to make calls to and receive calls from the incumbent's customers. Because a large portion of the value of telephone service for a particular user depends on that user's ability to contact other users, the incumbent's ubiquity is an insurmountable barrier to competition, absent mechanisms for effective interconnection of networks.

Ameritech's original Customers First Plan had three basic components. First, Ameritech promised not to oppose certification of local exchange competitors and to waive any exclusive franchise rights it had "if the interexchange restriction is removed, and if state and federal regulators adopt the other reforms proposed [by Ameritech]." *Ameritech Memorandum in Support of Motions to Remove the Decree's Interexchange Restriction* ("*Ameritech's Customers First Memo*") at 36 (filed with the Justice Department on Dec. 7, 1993) [Appendix, Tab 6]. Second, Ameritech offered what it characterized as "unprecedented interconnection at the local level," *id.* at 4, which would "enabl[e] [competitors] customers to originate and terminate calls on the same basis as Ameritech customers, without dialing access codes or waiting for a second dial tone," *id.* at 37. Third, the Plan, Ameritech claimed, "thoroughly unbundle[d] Ameritech's network for resale." *Id.* at 38. This unbundling was designed to "enable competitors either to provide for themselves, or to procure from Ameritech, any facilities or functions they require, either one at a time or in any combination," thus obviating the need for competitors to replicate Ameritech's entire network. *Id.*

In sum, Ameritech argued, the Customers First Plan "does away with legal barriers to entry by rejecting 'first in the field' regulation, and . . . tears down economic barriers to competition by allowing full interconnection and resale." *Id.* at 40.

C. Inadequacies of Ameritech's original proposal

The Customers First Plan as originally proposed represented an innovative and significant step in the right direction, because it acknowledged and sought to remove many of the barriers to local competition. But the Department recognized, and stressed in subsequent negotiations with Ameritech, that the plan neither resolved all the issues involved in breaking down those barriers, nor contained adequate safeguards against Ameritech's impeding competition in the interexchange market before those barriers were fully identified and eliminated. It thus fell short of Ameritech's claims in numerous respects, of which the following are illustrative.

To begin with, the original proposal assumed that local competition would automatically flow from eliminating the legal bar to such competition and from the theoretical availability of interconnection and unbundling. "No more needs to be done to enable and encourage competition for local exchange service." *Ameritech's Customers First Memo* at 40 [Appendix, Tab 6]. The Department concluded otherwise, however. The terms and conditions of interconnection and unbundling are critical. For example, Ameritech argued that its unbundling proposal obviated the need for competitors to replicate the "loop" that connects the subscriber's premises to Ameritech's central offices. With unbundling, such competitors could connect Ameritech loops to their own "ports" (i.e., switches and other non-loop elements of local exchange service) by running trunks from their central offices to Ameritech's central offices. But if loops are

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Footnotes at end of article.

priced too high in relation to the retail price of the bundled local exchange service, it will be uneconomic for even the most efficient competitor to connect Ameritech loops to the competitor's ports in order to offer service in competition with Ameritech. One therefore cannot simply *assume* that competition will occur; the Department must instead apply its traditional expertise, evaluating the competitive state of markets in light of actual market conditions and experience.

Similarly, Ameritech argued that the network externality problem would be solved if Ameritech agreed to interconnect with other carriers, to terminate traffic originating from a competing carrier and destined for a customer on Ameritech's network, and to send traffic to other carriers when Ameritech subscribers wished to call competitors' subscribers. But the Department recognized that if Ameritech's prices to terminate calls from subscribers of competing recognized that if Ameritech's prices to terminate calls from subscribers of competing networks to called parties on Ameritech's network are unreasonably high, competition could be seriously hindered. Indeed, in a decision rendered just last month, the Illinois Commerce Commission found that:

". . . Illinois Bell's proposal to charge new LECs tariffed switched access rates to complete local traffic on its network would result in a situation in which wholesale compensation rates would be above retail market rates for a wide variety of calls. In other words, carriers would pay more in terminating compensation to Illinois Bell than it currently receives in revenues from its local usage customers. . . . [S]everal witnessed independently demonstrated that in most cases Illinois Bell would charge a new LEC more in access charges than it would charge its own local residential or business customer for the entire usage service, making it impossible for a new LEC to establish a competitive price. . . ."[7]

Implementation issues of this kind are inevitable, and no one knows for certain whether, or how soon, entry into the local market will occur on a significant scale. Every scenario for the emergency of competition assumes continuing dependence upon Ameritech, at least for interconnection and in many cases for loops and perhaps other network elements as well. This continuing dependence means that competition will involve complex business relationships and numerous pricing and technical issues, any one of which can make competition infeasible. The Department therefore concluded that Ameritech's original proposal that it be granted interexchange authority simultaneous with the formal lifting of legal entry barriers and adoption of regulatory reforms permitting unbundling and interconnection was unrealistic. That proposal offered no assurance that consumers would actually have alternatives available to them upon the adoption of such reforms, or that competitors would be able to enter sufficiently quickly or pervasively to prevent anticompetitive conduct by Ameritech. The potential harm to competition was particularly great in light of Ameritech's own argument that the ability to offer a full range of "one-stop shopping" services confers a great competitive advantage. If true, giving Ameritech such ability at a time when competitors cannot realistically offer local exchange services would tend to extend Ameritech's monopoly from local exchange services to the interexchange market. It is thus critical that actual marketplace conditions be examined to test the true economic feasibility of local competition before Ameritech is allowed to offer interexchange services.

A second major flaw of the original proposal was its failure to address the issue of number portability. Customers are reluctant to switch to competing providers if it entails the inconvenience of losing their existing telephone numbers. For example, a Gallup poll of residential and business customers in 1994 found that 40–50% of residential customers and 70–80% of business customers who otherwise would consider switching local telephone service providers if alternatives existed were unlikely to consider such a switch if they had to change telephone numbers in order to do so.[8] The Department therefore concluded that number portability was an important issue that needed to be addressed if local competition were to play the role envisioned by Ameritech's plan.

Third, the original Customers First Plan did not address competitors' access to poles, conduits, and rights of way. Entrants who wish to lay wire networks face formidable obstacles in obtaining rights of way, problems that the incumbents historically have avoided through use of public condemnation powers and that new entrants might be able to avoid by obtaining access to existing poles and conduits. Discussions between the Department and Ameritech led Ameritech to agree to make access available to the extent such access was in Ameritech's control, so as to provide the best possible opportunity for the Ameritech trial to succeed.

Fourth, the original Customers First Plan gave Ameritech excessive latitude to market its interexchange service through its local exchange operations—through which the overwhelming majority of existing customers get their local phone service and which is usually the first place that new customers call when they need to get phone service. The Department concluded that this latitude would have provided Ameritech's interexchange business a tremendous advantage over other interexchange carriers, attributable only to its position as the monopoly provider of local exchange service.

Fifth, although the original proposal would have prohibited Ameritech from using the Customer Proprietary Network Information ("CPNI") gained in the course of providing access to competing interexchange carriers, it would have allowed Ameritech to use CPNI gained in providing local exchange and intraLATA toll service in marketing its own interexchange service. The Department concluded that this would give Ameritech a significant advantage based on its current position as the monopoly provider of local exchange service.

Sixth, the original proposal did not require that Ameritech provide interexchange services through a subsidiary separate from its local operations. Although separate subsidiary requirements are imperfect instruments, the Department believes they will nonetheless be useful, both to regulators trying to ensure that Ameritech does not cross-subsidize or discriminate, and to the Department in supervising the trial and evaluating its results.

Seventh, Ameritech's original plan included departures from equal access. For example, it would have allowed Ameritech to put interexchange routing functions in its local switch for its own interexchange traffic but not for that of competing IXCs. The Department concluded that, in the absence of a truly competitive marketplace, this would make it virtually impossible to prevent cross-subsidization and discrimination.

D. Revision of Ameritech's proposal

The proposed modification presented to this Court differs substantially from Ameritech's original proposal, suffers from none of the deficiencies identified in that proposal, and offers far more procompetitive potential and far fewer anticompetitive risks than that proposal. It is the product of thousands of hours of work over the past year by the Department as well as by Ameritech, state regulators, potential competitive local exchange carriers, long distance carriers, consumer groups, and others who filed several rounds of public comment on several versions of the proposal and engaged in intensive discussions with the Department. The Assistant Attorney General for Antitrust participated directly in many of these discussions and in the crafting of language for the proposed order, reflecting her strong personal commitment to the purpose of the 1982 Decree and to competition in telecommunications markets. Thus, although Ameritech's original proposal shares with the current proposal the important concept of taking steps to open the local exchange to competition as a predicate for removing the interexchange line of business restriction, the two proposals are otherwise far different. The current proposal is in every sense a joint product of the Department of Justice, Ameritech, and all of the parties that filed comments or participated in these discussions. The principles embodied in the current proposal have the support of AT&T, a decree party and major competitor in the interexchange market; Sprint, also a major interexchange competitor; CompTel, a trade association representing more than 150 competitive interexchange carriers and their suppliers; America's Carriers Telecommunication Association ("ACTA"), a trade association of smaller interexchange carriers; MFS Communications, Time-Warner Communications, and Electric Lighwave, Inc., three providers of competing local exchange service in various parts of the country; the Association for Local Telecommunications Services, a trade association of competing providers of local exchange services; and the Consumer Federation of America and Consumers Union, two major consumer groups.

III. DETAILED EXPLANATION OF THE COMPETITION-BASED CRITERIA AND SAFEGUARDS IN THE PROPOSED MODIFICATION

At the heart of the proposed order is the premise that various steps are being taken by Ameritech and the state regulatory commissions in Illinois and Michigan, and that these steps will likely lead to competitive conditions that make it both safe and desirable to allow Ameritech, on a trial basis, to offer interexchange services in certain portions of those states (the "Trial Territory").[9] Because those competitive conditions have not yet been achieved, the proposed order contemplates a multi-stage procedure, under which the actual trial of such services will not begin until Ameritech presents facts from which the Department can determine that such competitive conditions do, in fact, exist. The process by which that determination is to be made is set forth in paragraphs 9–11 of the proposed order. That process has two parts. First, Ameritech begins the process by certifying that certain required steps have, in fact, been taken to open local exchange service to competition, and by filing a compliance plan dealing with equal access, separate subsidiary provisions, and other post-entry safeguards. The Department will then investigate, take any necessary discovery, and make a determination, reviewable by the Court, as to whether there is sufficient competition and other sufficient assurances against harm to the interexchange market that the trial may safely begin.

The proposed order also contains a number of post-entry safeguards and gives the Department the responsibility of supervising the course of the trial. If Ameritech violates the order or otherwise engages in anticompetitive conduct, the Department can require it to cease such conduct, ask the Court to impose civil fines, or terminate the trial.

The required steps to foster local competition, the standard for the Department to determine that the interexchange trial should begin, the post-entry safeguards, and the Department's supervisory responsibilities are described below.

A. Steps to foster the emergence of local competition

Paragraph 9 of the proposed order lists a number of developments with respect to local exchange competition that must occur before Ameritech can apply for authority to begin interexchange services. By design, the order does not specify in every detail the precise terms and conditions on which these developments must take place—matters that are in the purview of the state regulators, and with which the regulators in the two trial states are already grappling in their efforts to foster competition. There are many issues that remain to be resolved, and it is for the states and the market participants, not the Department, to resolve them. On the other hand, the way in which those issues are resolved may have an extremely significant effect on competitive conditions, as may a variety of other technical and economic factors, some of which may be beyond the control of the regulators. The Department's traditional area of expertise, of course, is in evaluating the competitive structure and behavior of markets. Under the proposed order, therefore, the state regulators and the Department each discharge their traditional types of responsibilities: the states are already in the process of determining the terms and conditions under which the steps set forth in paragraph 9 will take place, and the Department, under paragraph 11 of the proposed order, will concern itself with the resulting competitive circumstances, and with whether those circumstances and other safeguards are sufficient to ensure that a trial of Ameritech interchange entry will not harm interexchange competition.

The specific steps required by paragraph 9 of the proposed order are as follows.

1. Unbundling of loops and ports

As discussed in Section II.B, unbundling of loops and ports is important to local competition because it obviates the need to replicate the LEC's entire network of distribution facilities. Outside of dense downtown areas, a portion of that network—the loop connecting the customer premises to the main distribution frame in the central office—may well exhibit natural monopoly (or at best, duopoly) characteristics for some time to come. Unbundling is intended to address the natural monopoly problem, but whether it does so successfully or not depends heavily on the pricing of the unbundled loops and on other terms and conditions such as the speed and reliability of provisioning and repair. (See Section II.C.) The proposed order recognizes this dependence and deals with it through a collaboration between the Department and the appropriate state regulatory authorities, whereby each entity acts within its sphere of expertise. Thus, the state regulatory authorities will regulate the pricing of loops and ports.[10] For Ameritech to be authorized to begin interexchange service, however, the Department will have to investigate and determine, among other things, that

> "regulatory developments (including * * * the terms and conditions thereof) and market conditions offer substantial opportunities for additional local exchange competition. * * *"

(Proposed Order, ¶ 11(b)(ii).) Because the proposed order bases entry into interexchange service on an assessment of marketplace facts about competitive conditions at the time of decision, it is unnecessary to resolve the pricing issue—or most of the other myriad and perhaps unforeseeable implementation issues—in advance.[11]

2. IntraLATA toll dialing parity

The Court recognized, at the time of the Decree, the importance of dialing parity to a competitive telecommunications marketplace. *See United States v. Western Electric Co.*, 552 F. Supp. 131, 197 (D.D.C. 1982), *aff'd sub nom, Maryland v. United States*, 460 U.S. 1001 (1983). The proposed order requires that, before it applies to begin the interexchange trial, Ameritech must

> "I have made the necessary technical, operational, administrative and other changes to implement dialing parity for intraLATA toll telecommunications no later than 21 days prior to the effective date of Ameritech's authority . . . on terms approved by the appropriate state regulatory authority."

(Proposed Order, ¶9(b).) Thus, to begin the application process, Ameritech must make the necessary changes to ensure that dialing parity can be implemented prior to Ameritech's interexchange authority. Before the Department can approve commencement on the trial, it must ensure that Ameritech has taken the further step of having installed and tested the capability for providing such parity. (Proposed Order, ¶11(d).) The Department can thus ensure that Ameritech annually implements dialing parity no later than the time it begins interexchange service.[12]

3. Resale of local exchange service

Another prerequisite before Ameritech can file its application with the Department is that steps have been taken to allow non-facilities-based (i.e., resale) competition for all classes of service, including residential service. (Proposed Order, ¶9(c).)

Resale competition is not a replacement for facilities-based competition. Competition from exchange carriers that supply their own loops (e.g., cable systems) can help thwart discrimination in the pricing, provisioning, and maintenance of loop facilities, so long as adequate provisions are made to deal with the advantages that flow to the dominant carrier because of network externalities (i.e., the need to terminate calls on the dominant carrier's system, number portability, access to signalling resources and database information, etc.). Competition from exchange carriers that supply their own switching facilities but use Ameritech loops (e.g., CAPs connecting their switches to Ameritech loops to extend the geographic area they can serve) are dependent upon the appropriate pricing, provisioning, and maintenance of loop facilities. If those conditions are right, however, they can prevent discrimination in the provision of network features and functionality, excessive charges for exchange access, and so on. Pure resale competition, by itself, does none of these things. It brings competition only to the *marketing* of local exchange services, and it requires extensive regulations to ensure that the prices, terms, and conditions under which Ameritech offers the underlying service make resale meaningful available.

Nonetheless, resale competition is important for two reasons. First Ameritech will be able to offer interexchange services very quickly and easily once it has the authority to do so, by reselling such services just as hundreds of other companies resell interexchange services. The availability of commercially feasible resale opportunities is one way to ensure that interexchange carriers that are not in a position to enter local exchange service quickly and easily on a facilities basis will have opportunities similar to Ameritech's to offer a full range of services.

Second, the availability of resale will tend to reduce the barriers to facilities-based entry, because a company that already has a subscriber base as a reseller will be able to make investments in switches and other facilities with less risk. Just as unbundling of loops and ports makes it possible for competing exchange carriers to offer services outside the dense downtown areas where they can justify installing their own loops, so full resale of the entire local service (loops *and* ports) makes it possible to offer services before there is enough traffic to justify investment in a switch (or in trunks to connect more distant Ameritech central offices to an existing switch). Once a subscriber base is built, more investment may be justified. Such reductions in barriers to entry will enhance the prospects of the ultimate success of the trial.

The requirement that there be adequate resale opportunities is thus directly tied to the requirement of paragraph 11 that competitive circumstances and the safeguards and supervisory provisions of the order ensure the absence of any substantial possibility that Ameritech could use its position in the local exchange market to harm competition in the interexchange market. The important point is that the ability of the interexchange market to function competitively not be harmed.

As with the other provisions already discussed, it is left to the states whether non-facilities-based competition should be achieved by directly reselling Ameritech bundled services, or by renting Ameritech loops and Ameritech ports on their separate pricing schedules and selling the combined package as a service, or both.

4. Pole attachments and conduit space

A fourth prerequisite is that Ameritech have implemented reasonable and nondiscriminatory arrangements for sharing of pole attachments and conduit space, and for competitors to secure access to entrance facilities, risers, and telephone closets, to the extent such arrangements are under the control of Ameritech. Inability to secure access to poles, conduits, entrance facilities, and so forth could be a significant barrier to a facilities-based competitor seeking to install its own loops. To the extent that this potential barrier is under Ameritech's control, Ameritech promises, by its consent to the proposed order, to eliminate it, thereby encouraging the competition that could serve as a predicate for Ameritech's entry into interexchange service. In many cases, of course, such barriers may not be in Ameritech's control. But whether they are or not, the ultimate question remains that set forth in paragraph 11: to what extent do competition, the potential for more competition, and the other provisions of the order constrain Ameritech's exercise of market power to harm competition in the interexchange market? (*See* Section III.B.)

5. Interconnection

Effective interconnection arrangements are among the most critical issues for facilities-based competitors. As explained above (Section II.B), competitors must be able to offer their customers the ability to make calls to and receive calls from anybody else who owns a phone—most notably Ameritech's customers. Without such interconnection, the competitor's service essentially would be worthless. This basic need for interconnection gives rise to a host of complex issues, the resolution of which has important ramifications for competition. For example, arrangements must be made for networks to compensate each other for terminating calls that originate in another network. Unless properly structured, the reciprocal compensation arrangements can raise significant barriers to entry by potential local competitors.

Likeswise, the interconnection arrangements must be on terms that permit local dialing parity, so that customers of Ameritech's competitors can place local calls without suffering any inconvenience—such as dialing extra digits—that is not imposed on Ameritech customers. Local competitors must also have adequate access to various services necessary to the provision of local exchange service, such as unbundled signalling and 611, 911, E911, call completion, and TRS relay services, as well as data necessary to provide 411 (directory assistance) service.

The proposed order does not attempt to dictate the precise resolution of each of these issues. Some of these issues might be resolved among the carriers without intervention by state regulators. If the terms are acceptable to the competitive exchange carriers, the arrangements will satisfy paragraph 9(e).[13] If the carriers cannot agree, regulatory approval will satisfy paragraph 9(e), because it would not further the public interest in competition to give each competitor a veto power over Ameritech's ability to move forward with a trial.[14] In either case, the ultimate question will be the competitive effects of the arrangements, which will necessarily be considered in connection with the assessment of competitive conditions required by paragraph 11 of the proposed order.

6. Number portability

As discussed above in Section II.C, an important element in local exchange competition is service provider number portability—the ability of a subscriber to retain his telephone number when changing carriers. The proposed order distinguishes between two ways of achieving service provider number portability: true number portability and interim number portability. True number portability allows calls to be delivered directly to the subscriber's new exchange carrier without having to route traffic through the old exchange carrier and retains the full range of functionality (e.g., delivery of information necessary to provide caller ID functions) that would have been available to the subscriber in the absence of a change in service provider. Such true number portability is likely to involve some form of database look-up: for example, an IXC delivering a call into the Chicago area would use the signalling network to consult a database, which would supply to the service provider the information necessary to deliver the call to the correct exchange carrier.

In the absence of true number portability, a variety of means exist to provide number portability on an interim basis. An example is remote call-forwarding. A subscriber changing from Ameritech to a new exchange carrier would receive a new telephone number, the first three digits ("NXX code") of which would be an NXX code assigned to the subscriber's new carrier. If a caller dialed the subscriber's old telephone number, the call would be routed to Ameritech's switch, since the old number would contain an NXX code assigned to Ameritech. Ameritech's switch would be programmed to complete the call by use of an additional circuit from its switch to the next exchange carrier's switch. Such interim forms of number portability may suffer certain drawbacks, e.g., the loss of data necessary to provide certain functions, such as caller ID; transmission delays as a result of the additional switching that may impair suitability for data transmission; and inability of the new exchange carrier to collect the access charge for terminating an interexchange or intraLATA toll call.[15]

The proposed order requires Ameritech to implement true number portability in the Trial Territory, except that if it is unable to do so as of the date 120 days before the anticipated implementation of intraLATA dialing parity, it may rely on interim number portability if it explains satisfactorily why it cannot implement true number portability as of that date and sets forth a plan acceptable to the Department for achieving true number portability.

Achievement of true number potability is not totally in the control of Ameritech. It will require cooperation from vendors of hardware and software, such as AT&T, as well as from other industry participants, such as IXCs, who will be delivering traffic destined for ported numbers. Ameritech has already issued a Request for Proposal for the technology and administrative services necessary to implement true number portability. The Illinois Commerce Commission has ordered an industry task force to be created, under the supervision of the Commission staff, to deal with the issue of number portability. *ICC Order, supra* note 7, at 110 [Appendix, Tab 7]. This task force will hold workshops, at which industry participants can react to that RFP, propose alternative specifications, and attempt to arrive at a workable solution. The first of those workshops was held on April 21, 1995.

As with many of the other steps in paragraph 9, the actual terms and conditions under which either true or interim number portability is offered are likely to have a major impact on whether there are substantial opportunities for other exchange carriers to compete. The proposed order requires that arrangements be made for allocating the costs of number portability that do not place an unreasonable burden upon competing exchange carriers, leaving to Ameritech, industry participants, and state regulators the task of working out the precise terms of such arrangements in the first instance.

Separate from service provider number portability is the issue of location portability—the ability to retain the same telephone number at a different location within a geographic area. It is not particularly significant for competition that location portability be available. If it *is* available, however, competition could be adversely affected if Ameritech's control over monopoly facilities allows it to offer such a feature while preventing its competitors from doing the same. The proposed order thus requires that, to the extent Ameritech is offering location portability to its own customers, and to the extent it is technically and practicably feasible, Ameritech make available to other exchange carriers, on nondiscriminatory terms and conditions, the capability to offer such portability.

Nondiscrimination in this context would not mean that exchange carriers offering switching services in competition with Ameritech would necessarily be afforded access to features in Ameritech's switch. To the extent that switching facilities are competitive, and location portability is a service offered through such facilities, competition should encourage all competitors to differentiate their services by offering new and better features. Nondiscrimination *would* mean, however, that Ameritech could not hinder competitors offering such services through discrimination in the terms in which they connected to Ameritech's network or through other means. For example, if location portability is achieved through wiring changes at the central office rather than through software features in the switch, an exchange carrier competing with Ameritech by connecting its own switches to Ameritech loops would be placed at a significant disadvantage if Ameritech denied equal access to such wiring changes. Similarly, it would likely be discriminatory for Ameritech to refuse to offer to switchless resellers, (i.e., those using both Ameritech loops and Ameritech ports, including switching services) the same location portability features it offers to its own subscribers; since Ameritech facilities are handling the entire call, there is no apparent reason why the same features could not be made available.

7. Number assignment

Telephone numbers are the most fundamental means of interface between end users and the telephone network, as well as between one network and another. A competitive local telephone network must have fair and equal access to number resources as an essential element of developing telecommunications services and competing for customers. To ensure the competitively neutral administration of number resources, the proposed order requires Ameritech to have made reasonable efforts to transfer any duties it has in administering those resources to a neutral third party. (Proposed Order, ¶9(h).) If its efforts to transfer its duties are not successful by the time Ameritech applies for authorization to provide interexchange service, it must explain in writing why they have not been successful and what further steps it plans to take, and must implement a nondiscriminatory procedure for assigning numbers. The efficacy of such arrangements will be considered by the Department in making its determination under paragraph 11.

B. Actual marketplace facts concerning the emergence of local competition

1. Procedures for department approval

Completion of the above steps would not result in immediate commencement of the trial of interexchange service. Instead, at that point Ameritech will apply to begin the trial if it believes competitive circumstances in the local market warrant. Ameritech will report to the Department that it has taken the required steps with respect to unbundling, intraLATA toll dialing parity, resale of local services, pole attachments and conduit space, interconnection, number portability, and nondiscriminatory number assignment. In addition, Ameritech must file a compliance plan.[16] After Ameritech has filed both the report and compliance plan, the Department will have thirty days to determine whether it needs any additional information from Ameritech. Within sixty days after Ameritech has substantially complied with the Department's request for additional information or 120 days after the filing of both the report and the compliance plan, whichever is later, the Department will determine whether Ameritech may begin the trial. In making that decision, the Department will seek comments from the appropriate state regulatory authorities and interested persons. (Proposed Order, ¶11(a).) It may also take any other action reasonably necessary to make its decision, including conducting third-party discovery. (*Id.*, ¶¶11(a), 49.)

2. Procedures for court review

The Court may, in its discretion, review any decision of the Department, both with respect to commencement of the trial and otherwise. (*Id.*, ¶51.) If the Department approves commencement of the trial, such approval could not go into effect for at least 30 days (Proposed Order, ¶13), thus allowing a period of time during which interested persons could seek a temporary restraining order from the Court. The Court could then establish such schedule and procedures for such review as it deemed appropriate under the circumstances. If the Department does not approve commencement of the trial upon a particular application by Ameritech, Ameritech does not have a right of review within the structure of the proposed order. (Proposed Order, ¶51.) It does, however, retain the right to seek Court action independent of the proposed order, under sections VII or VIII(C) of the Decree. (*Id.*). Ameritech is thus no worse off under the unreviewability provision than it would be in the absence of the proposed order. to avail itself of the benefits of the proposed order, however, it would have to work further toward creating conditions that meet the standard of paragraph 11 rather than involve the Court in reviewing the Department's decision. This provision gives Ameritech a strong incentive to apply to begin the interexchange trial only when the test for doing so is actually met. The judicial system is thus spared the burden of premature applications that could otherwise lead to extensive judicial review, and Ameritech is given a reason to provide information to the Department as quickly as possible, even in advance of its application where appropriate.

3. Substantive standard for department approval

The substantive standard for commencing the trail of interexchange service is set out in paragraph 11(b) of the proposed order:

"To render an affirmative decision on Ameritech's application, the Department must find that

"(i) *actual competition* (including facilities-based competition) in local exchange telecommunications exists in the Trial Territory,

"(ii) the conditions specified in paragraph 9 have been substantially satisfied, and that regulatory developments (including but not limited to those developments set forth in Paragraph 9 and the terms and conditions thereof) and market conditions offer *substantial opportunities for additional local exchange competition*, as evidenced by, among other things, the increasing availability of local exchange telecommunications alternatives for such customers,

"(iii) the conditions described in (i) and (ii) above, together with regulatory protections, the Department's right to terminate Ameritech's interexchange telecommunications authority under Paragraph 16, the transport facilities restrictions of Paragraph 19, the compliance plan, the limited geographic scope described in Exhibit A, and the other provisions of this Order, are sufficient to ensure that there is *no substantial possibility that Ameritech could use its position in local exchange telecommunications to impede competition for the provision of interexchange telecommunications to business or residential customers in the Trial Territory*."

(Proposed Order, ¶11(b) (emphasis added).)

Thus, the standard has three parts—actual competition, substantial opportunities for additional competition, and a determination that such competition and competitive opportunities, together with regulation, post-entry safeguards, and the fact that Ameritech's interexchange service would only be on a trial basis, make it safe and desirable to begin the trial. These three parts of the standard are related both to each other and to the ultimate objectives of the trial.

For the trial to be an ultimate success, it will have to help prove or disprove one or both of two propositions: (1) the competitive steps outlined above produce enough actual competition and opportunities for additional competition to ensure by themselves that there is no substantial possibility Ameritech could engage in anticompetitive conduct affecting the interexchange market, or (2) some combination of actual competition and opportunities for additional competition, together with regulation and post-entry safeguards, is sufficient to ensure the absence of such possibility.[17]

Paragraph 11 does not require that either of these propositions be proved before the trial begins; indeed, the purpose of the trial is to test these propositions. At the same time, it is important to ensure that the trial itself does not result in harm to competition in the interexchange market. Many of the same factors—actual competition, opportunities for additional competition, and post-entry safeguards—that would protect competition in the event permanent relief were appropriate will also serve to protect competition during the trial. Since the premise of the trial is that these factors will not be known to be sufficient at the beginning of the trial, however, the proposed order also provides for very close supervision by the Department, including a provision for the Department to terminate the trial if necessary. Before beginning the trial, the Department is to make a determination that all of these factors, including the provision for termination, together will be sufficient to negate any substantial possibility that Ameritech could use market power in the local market to harm competition in the interexchange market.

The three parts that make up that judgment are discussed in greater detail below. Because they are so closely related, actual competition and substantial opportunities for potential competition are discussed together.

a. Actual Competition and substantial opportunities for additional competition

Competitive outcomes can generally be assured if there is a sufficient level of actual competition—multiple competitors actually producing and selling the good or service. Theoretically, some markets can produce competitive outcomes even if they do not contain multiple competitors actually producing and selling the good or service. One situation in which such outcomes may occur is where firms not currently producing or selling the relevant product in the relevant area would start doing so quickly, and without the expenditure of significant sunk costs, in response to a small but significant price increase. If these firms are sufficiently numerous that the incumbent firm cannot maintain prices above the competitive level, then the market will behave competitively. *Cf. Department of Justice and Federal Trade Commission Horizontal Merger Guidelines*, §1.32 (April 2, 1992) [hereinafter "*1992 Merger Guidelines*"]. Such a market is said to be "contestable."

It is hard to think of a market less likely to be "contestable" than local exchange service. Sunk costs in this industry are, in a word, gigantic. Perhaps recognizing this, Ameritech's original waiver request was supported by an affidavit and a reply affidavit that spoke not of "contestability" but of something Ameritech's expert called "effective" or "as-if" contestability. Affidavit of David J. Teece, ¶41 (Nov. 29, 1993) (filed with the Department of Justice in support of Ameritech's Original Proposal on Dec. 7, 1993) [Appendix, Tab. 13]; Reply Affidavit of David J. Teece at 3–8 (Apr. 6, 1994) (filed with the Department of Justice on Apr. 12, 1994) [Appendix, Tab. 14]. By this he meant that Ameritech's unbundling of loops and ports would allow competitors to treat those assets as if they were not sunk costs, freely entering and exiting the industry in response to competitive conditions by renting only what they needed at a given moment in time from Ameritech.

Such an argument, however, is highly speculative. It assumes that state regulators will get the prices of those loops and ports exactly right, precisely duplicating the prices that would obtain in a competitive market. (See Section II.C.) It further assumes that Ameritech could not discriminate in the provisioning or maintenance of loops or ports or in the terms and conditions of interconnection, and that competitors will not incur substantial sunk costs in other elements of their operation. In short, on the current state of the record, the Department regards the suggestion that unbundling would make local telephone markets behave "as-if" they were contestable as both unproven and implausible.

A market with only one firm could also behave competitively if longer-term entry (i.e., with sunk costs) into the market is so easy that the incumbent firm could not profitably behave anticompetitively (e.g., maintain a price above competitive levels or—more relevant here—use a monopoly position in that market to adversely affect competition in an adjacent market). For entry to be that easy, it would have to be "timely, likely, and sufficient in its magnitude, character and scope to deter or counteract the competitive effects of concern." *1993 Merger Guidelines*, §3.0. Ameritech argues that unbundling, interconnection, and the other steps it is taking pursuant to state regulatory action and paragraph 9 of the proposed order will make entry that easy.

As a practical matter, however, it is impossible to evaluate that argument in the abstract, without the existence of some actual competition to guide the way. Once there are significant actual competitors, one can begin to ask questions such as:

How were those competitors able to enter? What certification and other regulatory requirements did they have to meet, and how long did it take? Is there any reason other competitors would not be able to do the same?

Is the availability of such competing service expanding? Are competitors encountering significant barriers to such expansion?

To what extent are competitors entering by renting loops from Ameritech as opposed to building their own loop plant, either for the whole of their local exchange business or as a way of extending the reach of their network? To the extent that competitors have to build some of their own facilities, how long does that take, and how many other competitors could do the same?

Are competitors able to serve a wide range of customers throughout the Trial Territory, or are they limited to niche markets?

To the extent that not all customers have competitive alternatives available to them, could Ameritech discriminate against just those customers that have no alternatives, or would anticompetitive behavior against those customers necessarily cause it to lose so many other customers that Ameritech could not profitably persist in the anticompetitive behavior?

The proposed order does not specifically state how much actual competition is necessary to satisfy paragraph 11(b). Nonetheless, the foregoing discussion suggests the implicit level: there must be enough actual competition to provide an empirical basis for answering these kinds of questions, and the answers must indicate that there are substantial additional opportunities for competition and that these opportunities will be sufficient, in combination with the safeguards and supervisory provisions of the order, to deter Ameritech from behaving anticompetitively. To provide such answers requires more than a single competitor serving niche markets but less than the level of actual competition that would suffice in and of itself to justify permanent removal of the interexchange restriction, without the safeguards and supervisory provisions that will accompany the trial (including the right of the Department to terminate the trial and the ability of the Court to review the Department's determinations).

The proposed order also emphasizes that there must be facilities-based competition in the Trial Territory. As discussed in Section III.A.3, resale competition is not a perfect substitute for facilities-based competition. Facilities-based competition can discipline a wide range of anticompetitive conduct that would be left untouched by resale. Thus, the Department will look closely at the extent of facilities-based competition in determining whether the standards of paragraph 11 are met.

b. Determination that the state of the market safeguards, and supervisory provisions make it safe to begin the trial

In addition to actual competition and ease of entry, the proposed order relies on supervisory provisions and post-entry safeguards, as more fully described in Section III.C. For example, the Department may terminate Ameritech's interexchange authority if it no longer believes that there is no substantial possibility that continuation of the trial would impede competition. (Proposed Order, ¶16.) To authorize commencement of the trial, then, the Department must determine that actual competition, substantial opportunities for additional competition, and these other supervisory provisions and safeguards are sufficient to ensure that going forward with the trial will not create any "substantial possibility that ameritech could use its position in local exchange telecommunications to impede competition for the provision of interexchange telecommunications." (Proposed order, ¶11(b)(iii).) The assurance against harm to competition must protect both business and residential customers in the Trial Territory. (*Id.*)

4. Other factors the department may consider

The proposed order specifically highlights a number of additional factors that the Department may consider in making the determination under paragraph 11 to proceed with the trial.

a. Certification, licensing, franchising, and similar requirements

Implicit in the concept that there are substantial opportunities for additional local exchange competition is the premise that certification, licensing, franchising, and similar regulatory and legal requirements are not significantly impeding the development of such competition. State and local regulation serves important public policy objectives, such as protecting consumers from deception and ensuring that carriers have adequate financial backing. In states such as Illinois and Michigan, which have state policies favoring competition and in which there is already a recent history of granting certificates to competitors, it is the Department's expectation that such requirements would be narrowly tailored to achieve such public policy objectives without impeding competition significantly. Nonetheless, this factor is specifically mentioned in the proposed order as an issue for the Department to consider, because state and local government policies can have a major and even decisive impact on whether and how fast competition will develop.

b. Ordering, provisioning, and repair systems

There are two different provisions in the proposed order dealing with electronic access to ordering, provisioning, and repair systems. First, if Ameritech wishes to make such systems available to the Ameritech interexchange subsidiary, it *must* offer such access, on nondiscriminatory terms and rates, to unaffiliated carriers. (Proposed Order, ¶ 26.) Second, in making its decision under paragraph 11, the Department may take into account the extent to which Ameritech offers unaffiliated carriers access equivalent to that used in Ameritech's *local exchange operations* (whether or not Ameritech's interexchange subsidiary is given access). (Proposed Order, ¶ 11(c)(ii).)

The requirement in paragraph 26 is a matter of equal access—putting other carriers in a position equal to Ameritech's interexchange subsidiary—and is absolute. The requirement in paragraph 11 is more judgmental. It recognizes that there could be technical reasons why it would not be practicable for Ameritech to provide access to certain systems to anyone outside Ameritech's local exchange operations, including Ameritech's interexchange subsidiary. At the same time, it recognizes that lack of such access could have a considerable impact on the prospects for local competition, and thus specifically provides for the Department to consider the issue and take it into account.

C. Supervision and safeguards

When the interexchange trial begins, there will be actual local exchange competition and substantial opportunities for additional such competition, but no firm assurance that the competitive state of the market will suffice by itself to thwart any anticompetitive conduct that Ameritech might attempt in the interexchange market. Therefore, the proposed order contains supervisory provisions and post-entry safeguards, designed for use during the trial, to supplement such competition and ensure that there is no substantial possibility that Ameritech could use market power in the local market to harm competition in the interexchange market during the trial.

As competition develops, many of the post-entry safeguards may become unnecessary to ensure the absence of any such substantial possibility, and the proposed order provides for their removal as appropriate. (Proposed Order, ¶17.) The proposed order does not specifically provide for Ameritech's interexchange authority to be made permanent and the Department's supervisory role to be terminated, because Sections VII and VIII(C) of the Decree already establish the appropriate mechanism and standard for permanent relief.

The Department is required to conduct a comprehensive review of all aspects of the trial within three years of Ameritech's interexchange authority under the proposed order. (Proposed Order, ¶18.)

The specific supervisory provisions and safeguards are as follows:

1. Terminability of the trial

If Ameritech violates the order, or if the Department no longer believes that there is no substantial possibility that continuation of the trial would impede competition, Ameritech's interexchange authority can be terminated (Proposed Order, ¶16.), subject to review by the Court (Proposed Order, ¶51.). This termination provision ensures that, even if the opportunities for local exchange competition at the start of the trial and other safeguards turn out not to be sufficient to prevent Ameritech from taking actions that harm competition in the interexchange market, any such harm will be short-lived and insubstantial.

During the comment process, a number of commenters suggested that it would be difficult for the Department to exercise this authority. In response to these concerns, a provision was included in the proposed order to require Ameritech's compliance plan to supply, prior to approval of its interexchange service, a credible plan for orderly withdrawal from the provision of interexchange telecommunications in the event Ameritech's authority to offer interexchange telecommunications is discontinued. (Proposed Order, ¶10(j).) Such a plan might include, for example, a procedure for balloting customers or for reverting them to their previous interexchange carrier. Moreover, the proposed order makes clear that financial hardship to Ameritech resulting from such discontinuance shall not be a ground for opposing such discontinuance. (Proposed Order, ¶16.)

2. Self-reporting

The proposed order requires Ameritech to develop a plan for detecting and reporting violations of the order or of the compliance plan, and to report any such violations and any corrective action taken. (Proposed Order, ¶¶10)i), 15.)

3. Orders to discontinue conduct

If the Department determines (a) that Ameritech is violating any of the terms of the order, its compliance plan, or additional conditions imposed on Ameritech in connection with approval of its interexchange service, or (b) any other conduct by Ameritech may impede competition for interexchange telecommunications in the Trial Territory, the Department may require Ameritech to discontinue such violations or other conduct. Ameritech bears the burden of proof in resisting such a requirement. (Proposed Order, ¶15.)

4. Civil fines

In the event of a violation by Ameritech, the proposed order gives the Department the authority to ask the Court to impose civil fines. (*Id.*)

5. Limited geographic scope

The proposed trial is limited initially to the portion of the Chicago LATA that is in the state of Illinois and to the Grand Rapids, Michigan, LATA. Focusing on the state of competitive conditions on a LATA-by-LATA basis ensures that the competitive analysis takes into account differences not just in state regulatory schemes, but also in demographic and other conditions. Chicago was chosen because there is widespread agreement that, of all the areas in the Ameritech service territory, the potential for competition—though still embryonic—is most advanced there. Grand Rapids was chosen because the first competing exchange carrier in Michigan, U.S. Signal (formerly known as City Signal), has been certified to serve a portion of that territory and was the subject of a detailed interconnection order issued by the Michigan Public Service Commission. Thus, it seems appropriate for the Department to focus first on those two areas and to be prepared to act with respect to those areas within the period set forth in paragraph 11(a).

The inclusion of these two areas in the Trial Territory does not mean that the trials in those two areas necessarily must proceed simultaneously. Competitive conditions in one of the areas may justify proceeding with an interexchange trial before such conditions have evolved in the other area. Further, explicit provision is made for expansion of the Trial Territory in those two states, and each area in the two states will stand on its own merits, governed by the standard in paragraph 11(b).[18] (*See* Proposed Order, ¶17.) As with other determinations under the proposed order, the Court may, in its discretion, review any decision to expand the Trial Territory, (*Id.*, ¶51.) If the Department approves expansion, such expansion could not go into effect for at least 30 days (Proposed Order, ¶17), thus allowing a period of time during which interested persons could seek a temporary restraining order from the Court. A decision by the Department not to expand the Trial Territory would also be reviewable. (*See* Proposed Order, ¶51.)

Most important, the designation of those two areas as comprising the initial Trial Territory, and of those two states as being eligible for expansion of the Trial Territory within the framework of the order, is not meant in any way to discourage the ongoing efforts of the other Ameritech states (Indiana, Ohio, and Wisconsin)—or similar efforts underway or that may arise in the states in which other RBOCs operate—to bring the benefits of local competition to the consumers in their states, completely independent of any interexchange entry by Ameritech in those states. Local competition promises benefits to consumers separate from any benefits they may get as a result of interexchange competition from Ameritech. Moreover, the development of such competition can only hasten the day when interexchange entry by Ameritech—or other RBOCs—will be appropriately granted under Section VII or VIII(C), wholly apart from the proposed order now before the Court.

6. Types of services

Paragraph 7 of the proposed order limits Ameritech to providing certain enumerated types of interexchange services that have a clear nexus to the Trial Territory, i.e., services as to which the fact that competition exists in the Trial Territory is relevant even if competition does not exist elsewhere in the country. Thus, for most switched services, as to which the interexchange carrier is selected by the party placing the call, Ameritech could provide interexchange service originating from the Trial Territory. (Proposed Order, ¶7(a).) For services such as inbound 800 service, which is ordinarily carried by the interexchange carrier selected by the billed party at the terminating location, Ameritech could provide service terminating at subscribers' locations in the Trial Territory. (Proposed Order, ¶7(b).) Ameritech may also provide certain other types of services normally provided by interexchange carriers to their subscribers, such as calling card and private line services, with limitations to ensure an adequate nexus to the Trial Territory. (Proposed Order, ¶¶7(c)-(d).) There may also be other types of services that Ameritech may wish to offer in the future in order to stay competitive with the offerings of other IXCs. Because these services may not yet exist, it is difficult to enumerate them, much less to determine in advance whether any potential harm to competition is adequate addressed by the proposed order. Hence, a mechanism is provided to allow Ameritech to provide such services, subject to disapproval by the Department. (Proposed Order, ¶7(e).) Under the provision, Ameritech would have to give at least 30 days notice of such services, and the Department, after soliciting comments from interested persons, could disapprove the offering of such services. A relatively short notification and objection period is provided because it is anticipated that this provision will principally be used to respond to competitive offerings in the marketplace; however, a decision not to disapprove the services would be without prejudice to later withdrawal of authority under paragraphs 15 or 16 of the order if necessary.

7. Ownership of transport facilities

Paragraph 19 of the proposed order provides that Ameritech shall not own any of the transport facilities used to provide interexchange telecommunications. Instead it must contract for such facilities for a term not to exceed five years. This safeguard serves two purposes: to the extent Ameritech has not made substantial investments in facilities in the ground, it makes it easier to terminate the trial; and it reduces Ameritech's incentive to discriminate in favor of those facilities because it makes it harder for Ameritech to capture all of the benefits of such discrimination.

8. Separate subsidiary requirements

Paragraph 20 of the proposed order provides for the separation of the Ameritech subsidiary providing interexchange services from the Ameritech local exchange operations. The provisions generally track the more stringent approach taken by the Federal Communications Commission in its Computer Inquiry II proceedings and rules and in the requirement of separate subsidiaries for RBOC provision of commercial mobile radio services, rather than more lenient approaches relying on cost accounting instead of structural separation (such as the approach taken by the FCC in its Computer Inquiry III proceeding[19]). The more stringent structural separation approach is more appropriate for a trial of interexchange services, at least in the early stages before competition is fully developed and before additional information about the need for separate subsidiary requirements is gained from the trial itself.[20]

9. Equal access provisions

Under the proposed order, the equal access provisions of the Decree would remain in full force; the order would grant Ameritech only a temporary and limited modification of the line of business restriction of Section II(D)(1) of the Decree and would not relieve Ameritech of any other restrictions. (Proposed Order, ¶4.) In addition, a number of provisions are added to adapt the equal access concept to a situation in which an Ameritech subsidiary is one of the interexchange carriers interconnecting with the Ameritech local exchange operations. These provisions deal with equality in the type, quality, and pricing of interconnection, exchange access, and local exchange telecommunications (¶¶21, 25); technical information, standards, collocation, and other terms of interconnection (¶¶22-24); availability of service order, maintenance, and other telecommunications support systems (¶26);[21] billing services (¶27); location number portability (¶28); White Pages directory listings (¶29); and customer information (¶¶30-32).[22]

10. Marketing restrictions

The marketing provisions of the order (¶¶33-47) deal with two principal issues: (1) "equal access"-type obligations preventing Ameritech's local exchange operations from assisting the Ameritech interexchange subsidiary in its marketing efforts, and (2) the circumstances under which Ameritech can make one-stop shopping arrangements (i.e., the ability of customers to get their local and long distance calling from one, full-service carrier) available to business and residential customers, respectively. The "equal access" obligations (¶¶34, 36, 38-39, 44) embody the basic principles of existing obligations, with modifications to ensure that those principles will be effectuated when Ameritech competes in the provision of interexchange services. The provisions regarding one-stop shopping (¶¶35, 41-43, 45-47) are intended to avoid giving an inappropriate competitive advantage to, or imposing an unfair handicap on, any carrier. The order would allow Ameritech to offer one-stop shopping to business or residential customers only when at least one other carrier is marketing services on a comparable basis.[23]

The proposed order does not set out specific conditions under which Ameritech can engage in "bundle-pricing" of its interexchange services with local exchange or intraLATA toll services (i.e., pricing whose availability is contingent upon the subscriber's election of Ameritech for both such services). Whether such bundle-pricing is appropriate, and the types of conditions needed to prevent harm to competition in interexchange services, depends on the state of competition. The issue of "bundle-pricing" has therefore been made an element of Ameritech's compliance plan (Proposed Order, ¶¶10(e)-(f)). Ameritech will tailor its proposal to the competitive circumstances then existing, and the Department will review it in light of those circumstances.

11. Compliance plan

The proposed order requires Ameritech to file a compliance plan prior to obtaining approval to begin its trial of interexchange services. (Proposed Order, ¶10.) The compliance plan reinforces the separate subsidiary, equal access, and marketing provisions of the order by requiring Ameritech to spell out detailed plans for implementation of those requirements. (Proposed Order, ¶¶10(a)-(d), (g).) It also provides the mechanism for determining the appropriate market and other conditions for Ameritech's offering of bundled pricing (¶¶10(e)-(f)) and for the Ameritech interexchange subsidiary's ownership, leasing, or control of any of the facilities it uses to provide local exchange telecommunications and exchange access services (¶10(h)). The compliance plan also will include procedures for Ameritech to detect and self-report violations of the order or the compliance plan (¶10(i)) and for Ameritech's withdrawal from interexchange service should it be required to do so (¶10(j)).

12. Other conditions

Ameritech's entry into interexchange services may also be conditioned on any other terms that may be appropriate to further the purposes of the order. (Proposed Order, ¶11(e).)

IV. THE PROPOSED MODIFICATION SHOULD BE APPROVED BECAUSE IT IS IN THE PUBLIC INTEREST.

A. The public interest standard applies to entry of the proposed modification

In reviewing the proposed modification, the Court should apply the "public interest" standard. The motion was filed by the United States under section VII of the decree, and Ameritech and AT&T have joined the United States in stipulating to the proposed order.

The Court of Appeals has held that a proposed modification satisfies the public interest test "so long as the resulting array of rights and obligations is within the *zone of settlements* consonant with the public interest *today*." *United States v. Western Electric Co.*, 993 F.2d 1572, 1576 (D.C. Cir.) (quoting *United States v. Western Electric Co.*, 900 F.2d 283, 307 (D.C. Cir.), *cert. denied*, 498 U.S. 911 (1990)) (emphasis in original), *cert. denied*, 114 S. Ct. 487 (1993). The public interest test is "flexible," allowing the government to choose among various decree provisions that could further the public interest in competition. When the government and the party whose decree obligations are at issue agree on a decree modification proposal, as is the case here,

> "the court's function is not to determine whether the resulting array of rights and liabilities "is one that will *best* serve society," but only to confirm that the resulting "settlement is 'within the *reaches* of the public interest.'"

993 F.2d at 1576 (citing and quoting 900 F.2d at 309; *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981); and *United States v. Gillette Co.*, 406 F.Supp. 713, 716 (D. Mass. 1975)) (emphasis in original). Therefore, a court is to approve a consensual decree modification under the public interest standard unless "it has exceptional confidence that adverse antitrust consequences will result—perhaps akin to the confidence that would justify a court in overturning the predictive judgments of an administrative agency." 993 F.2d at 1577.

The Department welcomes this Court's careful review of the proposed modification under this standard. We are confident that the text of the proposed order, the explanation that we are providing in this Memorandum, and the comments of other interested persons will give the Court ample reason for entering the proposed order.

B. The proposed modification is in the public interest

The proposed modification both avoids harm to competition in the interexchange market and yields affirmative benefits to competition. Accordingly, it is in the public interest and should be approved and entered by this Court.

1. The proposed modification is structured to avoid harm to competition in the interexchange market

Far from giving the Court "exceptional confidence that adverse antitrust consequences will result," the proposed modification gives the Court ample assurance that no adverse consequences will occur. As this Memorandum has explained, the order we ask the Court to enter would permit only a limited trial of Ameritech provision of interexchange services, and even that trial could not begin until the Department (and the Court if it reviews the Department's determination) is satisfied that local competition exists and will continue to develop in the Trial Territory. In addition, the interexchange services that the modification permits would remain subject to a variety of safeguards, including the power of the Court or the Department to terminate the trial at any time.

The proposed order thus ensures that competition in the interexchange market will not be harmed by the modification—a fact underscored by AT&T's stipulation that the proposed modification is in the public interest and by the support of Sprint, CompTel, and ACTA.

2. The trial will provide affirmative benefits to competition

Not only is the proposed order structured to prevent any *harm* to competition, but it also presents a valuable opportunity affirmatively *to advance* the public interest in competition.

First, as a prerequisite to its offering of interexchange service pursuant to this modification, Ameritech must take specific actions to remove barriers to local competition, including those relating to terms of interconnection, unbundling of loops, dialing parity, and number portability. The proposed modification thus complements the efforts of the state regulatory commissions in the Ameritech region to lower such barriers, as reflected in the comments of the staff of the Michigan PSC on an earlier version of the proposal:

> "[T]he Department of Justice (DOJ) and the court should move forward in a measured fashion to permit more competition in the telecommunications marketplace. That action, however[,] should be such that it recognizes the need to balance the interests of the Regional Bell Operating Companies (RBOC), their local and toll competitors, and residential and business customers in the telecommunications marketplace. That balance can be achieve through an approach which minimizes the potential for anticompetitive actions on the part of the RBOCs. This coupled with the coordination and recognition of appropriate State law and regulatory agency actions to remove barriers to entry to the State or local telecommunications markets should set the stage for a trial waiver of the interLATA restrictions currently in effect."—Michigan PSC Staff Comments on Draft Dated February 21, 1995 [Appendix, Tab 16].

Second, the trial will yield important information about RBOC provision of interexchange services. The Department, the Court, all segments of the telecommunications industry, and the public will be able to observe and analyze the effects of the stipulated conditions, and related regulatory and technological developments, on competition in local and interchange telecommunications markets. We will learn much about whether local competition will develop to such an extent that harm to interchange competition can be avoided, with or without other safeguards. We will also enhance our understanding of the importance of factors such as call set-up and transmission delays resulting from interim forms of number portability, consumer demand for one-stop shopping, the terms and conditions of interconnection, and the pricing of network elements in the development of such competition. If competition is not sufficient to be self-policing, we may learn how difficult and costly it is to monitor and prevent discrimination and cross-subsidization. We will also learn about what kinds of safeguards are effective and/or necessary.

No trial, or course, could provide all the answers. Nonetheless, this trial should substantially assist in determining whether and on what terms the Decree's interexchange restriction should be retained, modified or removed.

Third, the trial may yield important information about the possible benefits to interexchange competition from RBOC provision of interexchange services. The RBOCs have argued that the interexchange market, particularly for residential customers, is oligopolistic rather than competitive, and that RBOC entry will tend to disrupt that oligopolistic coordination, resulting in substantial benefits to consumers. While Ameritech has not yet presented sufficient evidence to substantiate this claim, actual experience may cast additional light on this argument.

CONCLUSION

The carefully crafted details of the proposed order grew out of intensive work by the Department and extensive consultation and negotiation with interested persons. We do not expect all commenters to be satisfied; in an arena filled with competing private interests, we can be assured that some will claim that the balance has not been struck precisely right. The issue, however, is whether the Department "reasonably regard[s]" the modification "as advancing the public interest," 993 F.2d at 1576. On that issue, the terms of the proposed order demonstrate, and we believe the comments of interested persons as a whole will confirm, that the proposed modification advances the public interest. The Court should therefore enter the proposed order and allow this important trial to proceed, subject to the preconditions, safeguards, and continuing review for which the order itself provides.

Respectfully submitted,

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FOOTNOTES

[1] *See, e.g.*, MCI Corp., *A Blueprint for Action: The Transition to Local Exchange Competition*, Tab 1 at 1 (March 1995) [Appendix, Tab 1]; William J. Baumol & J. Gregory Sidak, Toward Competition in Local Telephony 9 (1994); Affidavit of William J. Baumol at 5, submitted on behalf of AT&T as an attachment to AT&T's Opposition to Ameritech's Motions for "Permanent" and "Temporary" Waivers From the Interexchange Restrictions of the Decree (filed with the Department in opposition to Ameritech's original proposal on February 15, 1994) [that opposition cited hereinafter as "AT&T Opposition to Original Proposal"] [Appendix, Tab 2].

[2] *See* Order, Dkt. No. 93-0409 (Ill. Commerce Comm'n, July 20, 1994) (MFS) [Appendix, Tab 3]; Order, Dkt. No. 94-0162 (Ill. Commerce Comm'n Sept.

7, 1994) (Teleport) [Appendix, Tab 4]; *In re City Signal, Inc., Application for a License to Provide Basic Local Exchange Service in the Grand Rapids Exchange*, No. U–10555, 1994 Mich. PSC LEXIS 267 (Mich. Pub. Serv. Comm'n Oct. 12, 1994) [Appendix, Tab 5].

[3] Teleport is planning to test the use of cable facilities owned by Tele-Communications, Inc., ("TCI") to provide local exchange service to residential customers in the Chicago area. *See* Leslie Cauley, *Tele-Communications, Motorola to Join Teleport for Venture in Chicago Area*, Wall Street J., Oct. 12, 1994, at B5. Others are exploring similar possibilities.

[4] Specifically, Ameritech asserted that "industry-wide developments . . . are themselves more than sufficient to warrant removal of the interexchange restriction." *Ameritech Memorandum in Support of Motions to Remove the Decree's Interexchange Restriction* at 3 (filed with the Department of Justice on Dec. 7, 1993) [Appendix, Tab 6]. The Department does not believe that the record is sufficient at this time to support this contention (either as to technological or regulatory developments), and does not base the present motion on any such contention.

[5] These prohibitions were also justified as a way to promote universal service, by requiring high-margin services to subsidize below-cost services and prohibiting new entrants from "cream skimming" those services. In recent years, progressive states have begun to explore alternative ways of ensuring universal service that would permit competition and allow consumers the benefit of the efficiencies and lower prices that competition brings.

[6] Positive network externalities characterize those "products for which the utility that a user derives from consumption of the good increases with the number of our agents consuming the good. . . . [T]he utility that a given user derives from the good depends upon the number of other users who are in the same 'network' as he or she." Michael L. Katz & Carl Shapiro, *Network Externalities, Competition and Compatibility*, 75 AM. Econ. Rev. 424 (1985). "The utility that a consumer derives from purchasing a telephone . . . clearly depends on the number of other households or businesses that have joined the telephone Network." *Id.*

[7] *In re Illinois Bell Telephone Company Proposed Introduction of a Trial of Ameritech's Customers First Plan is Illinois*, Dkt. No. 94–0096, slip op. at 97 (Ill. Commerce Comm'n, Apr. 7, 1995) [hereinafter "*ICC order*"] [Appendix, Tab 7].

[8] *A Blueprint for Action*, *supra* note 1, Tab 3 at 2 [Appendix, Tab 1]. A similar telephone survey was conducted in January 1994, by First Market Research Corporation, for a study sponsored by AT&T, MCI, and CompTel. That survey found that in the absence of number portability, the number of respondents interested in changing to a cable TV company for local telephone service in response to a 20% discount fell from 32.8% to 22.6%. Corresponding figures for a 10% discount and for no discount were a drop from 18% to 12.6% and from 8.7% to zero, respectively. Economics & Technology, Inc, & Hatfield Associates, Inc., The Enduring Local Bottleneck 108–10 (February 1994) [Appendix, Tab 8].

[9] Initially, the Trial Territory would consists of the portion of the Chicago LATA that is located in the state of Illinois and the Grand Rapids LATA in the state of Michigan. The two LATAs could begin their interexchange trials at different times, and the Trial Territory could have eventually be expanded to include other portions of those two states (but only those two states) if those portions met the competitive standards set out in the proposed order.

[10] Regulatory consideration of such issues is already well underway in the trial states. In Michigan, the Michigan PSC adopted on an interim basis a pricing scheme for unbundled loops that was proposed by City Signal, a CAP which in 1994 was granted a license to provide local service in the Grand Rapids LATA. Under the interim scheme, Ameritech will charge City Signal $8 for a residential loop and $11 for a business loop. The Commission will further address these issues in an upcoming generic proceeding, to commence June 1, 1995, and to be completed no later than nine months thereafter. *In the matter of the Application of City Signal, Inc., for an Order Establishing and Approving Interconnection Arrangements with Ameritech Michigan*, Case No. U–10647, at 85–95 (Mich. Pub. Serv. Comm'n, Feb. 23, 1995) [hereinafter "*City Signal Order*"] [Appendix, Tab 9].

In Illinois, the Illinois Commerce Commission heard extensive testimony on Ameritech's proposed pricing of unbundled loops and ports, disapproved certain aspects of that pricing, and required that Ameritech file new tariffs to ensure that the sum of prices for unbundled network functions not exceed the price of bundled functions and to reduce and equalize the contribution that those prices would make to common costs. *ICC Order*, *supra* note 7, at 60–61 [Appendix, Tab 7].

[11] The issue of "sub-loop unbundling" is dealt with in similar fashion. AT&T and others have contended that merely unbundling loops from ports does not go far enough. Instead, AT&T contends that local service should be unbundled into at least twelve basic network elements: distribution, concentration, feeding, end office switching, dedicated line transport, common transport, tandem switching, databases used in signaling, packet switching of signaling from the originating central office, packet switching of signaling at the destination, links from the packet switches to data processors and storage points, and operator services. Affidavit of Lawrence A. Sullivan, submitted by AT&T in its Opposition to Original Proposal, at 29–30 (filed with the Department of Justice on Feb. 15, 1994) [Appendix, Tab 10]. Advocates for this position argue, for example, that a provider of personal communications services ("PCS") might be able to provide a witness connection from the home to a neighborhood node, and then use Ameritech facilities to get from the neighborhood node to the central office. Testimony of Dr. Mark T. Bryant on behalf of MCI before the Illinois Commerce Commission, at 10–11 (Dkt. No. 94–0048, Aug. 8, 1994) [Appendix, Tab 11]. Ameritech responds that such an approach could lead to the uneconomic stranding of significant amounts of its investment, to no real purpose since the facilities can be made available to competitors on a nondiscriminatory basis and since continued use of Ameritech facilities whose costs are already sunk would be in the interests of consumers. The proposed order does not require sub-loop unbundling, but makes clear that this resolution is without prejudice to the power of a state to require such further unbundling. (Proposed Order, ¶1(m).) Moreover, it makes clear that the Department may consider the competitive effects of such unbundling (or lack thereof). (*Id.*).

[12] State law or regulatory requirements intended to benefit competition in the intraLATA toll market may require Ameritech to implement intraLATA toll dialing parity before Ameritech has met the conditions in ¶11 of the proposed order. In that case, intraLATA toll dialing parity would come into effect before Ameritech commences interexchange service.

[13] The proposed order does not displace state regulation, however. (*See* Proposed Order, ¶ 3.) State regulators may choose to regulate arrangements even when consented to by the carriers involved.

In allowing paragraph 9(e) to be satisfied by consent of the other exchange carriers, we recognize that unequal bargaining power may lead a competitive exchange carrier to agree to unsatisfactory terms. That is precisely why the provisions of paragraph 9 are not a checklist that will lead automatically to Ameritech's entry into interexchange service. The ultimate issue will always be the competitive results of the negotiated arrangements, as tested against actual marketplace facts. (*See* Section III.B.) Thus, because the proposed order requires that the Department analyze market facts and assess competitive circumstances, the proposed order gives Ameritech the incentive to negotiate in good faith and arrive at a procompetitive agreement with competitive exchange carriers.

[14] Of course, the *reasons* advanced by a competing carrier as to why the proffered interconnection arrangements are inadequate may have a bearing on any assessment of competitive circumstances.

[15] *See, e.g., A Blueprint for Action*, *supra* note 1, Tab 3 at 5–19 (discussing shortcomings of interim number portability) [Appendix, Tab 1].

[16] The compliance plan, which deals principally with post-entry safeguards, is discussed in more detail in Section III.C, below.

[17] The Department is currently investigating claims that regulation and post-entry safeguards are sufficient to ensure that there is no substantial possibility that an RBOC could engage in anticompetitive conduct, without the market-opening measures contemplated in the proposed order, in connection with the Motion of Bell Atlantic Corporation, BellSouth Corporation, NYNEX Corporation, and Southwestern Bell Corporation to Vacate the Decree. (Bell Atlantic has since withdrawn from that motion.) Ameritech is not advancing that proposition at this time, however, and the proposed trial is not designed to test such claims.

[18] The staff of the Michigan PSC, in its comments on an earlier version of the proposal, urged the Department to include the Detroit and Lansing LATAs in the Trial Territory. Revised Comments of the Staff of the Michigan Public Service Commission (Mar. 22, 1995) [Appendix, Tab 15]. The Department does not believe this change to be appropriate, because it is too early to tell how widely different areas of the state will vary in the availability of competitive alternatives and the ability of such alternatives to guard against harm to competition in the interexchange market. We stress, however, that the modification provisions of the proposed order establish sufficient flexibility to deal appropriately with whatever competitive conditions should arise.

[19] The FCC's order removing structural separation requirements was vacated and remanded by the Ninth Circuit. *California v. FCC*, 39 F.3d 919 (9th Cir. 1994), *cert. denied*, 63 U.S.L.W. 3721 (U.S. April 3, 1995). Further proceedings on remand are pending at the FCC.

[20] Even under the FCC's Computer Inquiry II approach, certain kinds of services can be shared between the interexchange subsidiary and other affiliates. These are enumerated in ¶ 20(g). To the extent that any such sharing is carried out in a way that harms competition, the Department and the Court retain the power to take corrective action under ¶¶ 15–16, as well as to take that fact into account in evaluating the progress of the trail under ¶ 18.

[21] The proposed order calls for "equivalent" rather than identical order, maintenance, and support systems, to account for the possibility that access to such systems may involve the use of different interfaces because of the different requirements of different carriers' computer systems and because of Ameritech's need to protect the security of its systems. The access must, however, be equivalently convenient; the provision would not be satisfied by providing electronic connections to Ameritech's interexchange subsidiary but only fax machines to its competitors.

[22] Among the restrictions on access to customer information is a provision that the Ameritech interexchange subsidiary may not have access to customer proprietary network information ("CPNI") as defined by the FCC, except in the same manner that CPNI is available to unaffiliated carriers. This would mean, for example, that unlike the Ameritech local exchange operations, the Ameritech interexchange subsidiary would have to obtain the affirmative consent of the local exchange operations' customers in order to get local and intraLATA toll usage patterns of those customers. At one point, Ameritech expressed concern that this restriction would put it at a marketing disadvantage compared to AT&T, which could target the marketing of one-stop shopping services to its more lucrative interexchange customers, based on their long-distance usage patterns, which would be available to AT&T without such affirmative consent because they would relate to services as to which AT&T was the subscribers' provider. Ameritech concluded, however, that it could overcome this disadvantage if it could start seeking such affirmative consent from Ameritech local exchange customers as soon as possible. Since nothing in the existing Decree would appear to prohibit the seeking of such consent before the trial begins or even before the proposed order is entered, so long as customers are not misled as to the actual extent of Ameritech's authority to offer interexchange service, Ameritech withdrew this concern.

[23] In some cases, such as the provision of interexchange and intraLATA toll services by the interexchange subsidiary (¶¶ 41, 45) and the provision of Centrex service to business customers (¶ 43), the proposed order provides for the offering of such services immediately upon the commencement of Ameritech's authority to offer interexchange telecommunications, because other carriers are already offering such services on a "one-stop-shopping" basis.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I ask unanimous consent that my remarks appear as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRADE POLICY

Mr. DORGAN. Madam President, I was very interested to hear the comments by Senator BYRD and Senator

HOLLINGS today on the issue of trade. I think the three of us, with perhaps one or two others, are the only Members of the Senate who come and speak about the issue of trade. There is almost a conspiracy of silence in this Senate, in the entire Congress, and in this town, especially, on the issue of trade.

U.S. TRADE POLICY

We have the largest trade deficit in human history in this country now. We have a lot of hand wringing about the fiscal policy deficits, and they are dangerous and troublesome. We must deal with them. But no one speaks about the trade deficit and what causes it and what it means for our country. I hope one day soon that will change, because today's trade deficits will be repaid in the future with a lower standard of living in this country. We must get rid of these terrible, terrible trade deficits that are going to ruin this country's future.

Beginning on Friday this week, I am going to make about four presentations on the floor of the Senate over the period of the next couple of weeks, talking about the last 50 years. I want to start with post-Second World War trade strategy, which was really foreign policy, in which we were linked to other countries try to strengthen others around the world who had been suffering from the ravages of war. During that period of time, there was general expansion in world trade and general expansion of prosperity. Our allies prospered and so did we. We prospered in output. We saw higher wages. Our country generally, in the first 25 years, did well.

You look at the last 25 years and you will see, even as others began to compete with us very aggressively, we clung to the same strategy. And what have we seen for it? We have seen a lower standard of living in this country generally, lower wages, and we have seen American jobs move overseas. That has been the result of this strategy. It is a strategy that hurts this country, and it is a strategy that must be changed.

We must get to a point where, if you close your eyes and simply listen, you can hear a difference between what people are saying on trade policy. You cannot anymore. There is no difference between what the Republicans say and what the Democrats say on trade. It sounds all the same to me.

Oh, Senator HOLLINGS sounds different to me because he is talking a different kind of strategy—plus he comes from a different part of the country. And Senator BYRD sounds different because he is talking about trade in a completely different way. But it is very unusual, and we need to create a national debate on this subject. We need to do it soon. The merchandise trade deficit last year was $166 billion, the highest in history. Jobs left our country. Wages in this country were down.

Our current strategy says to American workers they can now compete with 2 or 3 billion others in the world, some of whom are willing to work for 12 cents an hour at the age of 12, for 12 hours a day. That ought not be the competition for the American worker. No one should produce a product that enters our marketplace under those conditions. And we must, posthaste, create a national debate about trade strategy, looking out for the best interests of this country.

I do not want a trade war. That does not serve anybody's interests. But I do want our country to stand up for its own economic interests for a change. Can we not, for a change, just for once, have a trade negotiation that we win, or at least come out even on? We lose every time we pull up to the table. We lost on NAFTA; we lost on Canada; we lost on GATT. We can go all the way back. It is time for this country to stand up for its economic interests.

MEDICARE AND TAX CUTS FOR THE RICH

Mr. DORGAN. I did not come to speak about trade, but I wanted to say something about what I saw this weekend—the Speaker of the House, the majority leader of the Senate, and now today I see the chairman of the Ways and Means Committee of the other body, all talking about Medicare.

It was interesting to me. I was thinking about these old movies I used to see when I was a kid, when all these cowboys would whistle when they go into a box canyon and then when the trouble would start, they would start jumping off their horses, trying to find a place to hide.

This is kind of a box canyon we have created in the last couple of months, just riding in, whistling all the way, with the Contract With America, saying: Do you know what we can do? We can balance the Federal budget easily. We can do it before lunch. We will not even break a sweat. We will just change the U.S. Constitution and use $1.3 trillion in the Social Security trust funds to offset against other revenues. We will balance the budget.

Plus we will do more than that. We will promise you American people we will not only balance the budget, we will give you a tax cut. In fact, we will call it a middle-class tax cut. We will do all of that, and we will tame this Medicare and Medicaid problem. We will cut money out of Medicare and Medicaid and we will solve that problem.

Then what happened? I think this weekend somehow these folks that rode into this box canyon understood the trouble they were in because, all of a sudden, the three dismounted and are scurrying in every direction.

I noticed today the Ways and Means Committee in the House was asking the administration to give them advice on how to solve the Medicare and Medicaid problem. They were not asking for any advice when they talked about the tax cut bill or the welfare reform bill that they moved through there quickly. They did not need any advice then. But all of a sudden they find out their promises are coming home to pinch. What they are worried about is that the American people might see what has been created—a promise of tax cuts for the middle class that looks like this:

This is the middle-class tax cut for those middle-class folks who live on Rodeo Drive. At least it must be Rodeo Drive because how else could you explain this chart? Who benefits from the tax bill? If you earn $30,000 or below, as an average family, you get an enormous tax cut, $134 a year. If your income is $200,000 or above as an American family, you get a check back for your tax bill, a tax cut of $11,266.

I was on a radio talk show with a conservative host, somebody who believes in all of this, who said, "Well, Senator DORGAN, what do you think about this middle-income tax cut?" I said, "What middle-income tax cut? What on Earth are you talking about?" He said, "The one just passed by the House of Representatives which benefits the middle-income folks." I said, "Really? Do you understand it? Have you really seen the results of it?" I said, "If you are over $200,000, you get a $11,200 tax break; $30,000 or under, you get $134. That is middle income?" Not in my hometown, it is not middle income.

But you know what has happened here. You know what the box canyon is—people are going to look and say, "Gee. Now if we have a big deficit and we have economic troubles in our country and we are trying to reduce the budget deficit and give a $11,200 tax cut to families over $200,000 a year, and then the same folks who want to do it come along and say, "Do you know how we can pay for all of this? We can take a $300 billion or $400 billion out of Medicare and Medicaid. That is how we can pay for this."

All of a sudden I think a light bulb went on in the minds of some of these architects who said maybe we will get blamed for taking money away from people who are elderly or poor for their health care and using it to give a tax cut to those who are wealthy. Will not that be unfair for those of us who know the facts to stand up and talk about those folks? So all of a sudden we have seen in the last 48 hours, 72 hours, folks scurrying around town here saying, "Wait a second. Do not be so quick on Medicare and Medicaid. That is not really what we meant. That is not what we said."

We do not really know what they mean because those same folks who were out here in an enormous hurry to change the U.S. Constitution were not in a very big hurry on April 1 when the law said they were required to bring a budget to the floor of the Senate.

You see, you cannot change the Constitution and alter the deficit. If you change the Constitution with a constitutional amendment to require a balanced budget, you will not change the deficit by one nickel. What changes the budget deficit is when we bring a budget to the floor and make decisions.

They were in a big hurry to change the Constitution, but somehow this enormous need to move quickly has left them. Now they simply cannot seem to get over here. The law says April 1 they should be here with their budget. Then it says by April 15 we should have a conference report. Well, April 1 came and went. April 15 is here and gone. May 1 is here and gone. No budget. But we have tax cuts for the big folks.

If you make half a million dollars sitting there clipping coupons, using that channel changer to search to see what entertainment is on tonight for you, boy, you can look at this Congress, and, say, "What a Congress. What a bunch of folks those folks are. $11,000 I have to spend. I can buy some more radio equipment. In fact, I can probably lease a Rolls Royce for 6 or 8 months, or lease a Mercedes Benz." Could you not with $11,000 lease a Mercedes Benz for a year? Then you say to the person that is making $20,000 or $25,000 a year, maybe a hubcap. Maybe you will not be able to afford the hubcap. Maybe a radiator cap, but certainly not the Mercedes Benz we are going to give to the big folks.

Here we are. No budget; got a tax cut, not middle-class tax cut, a tax cut that gives the bulk of the benefits to the wealthiest. It is the old cake and crumbs theory. Give the cake to the big shots. Leave a few crumbs to the rest and say everybody got something.

It is like somebody going to Camden Yards and saying, "You know something. I am going to give away $100 million in Camden Yards over at the baseball stadium in Baltimore." So everybody files in with great expectations because it is going to be divided up among them. The person goes around to every seat and gives everybody a dollar. But the person sitting behind home plate, seat A, row one, that person gets $99,999,000—essentially the bulk of the tax cut, the bulk of the giveaway. That is what is happening here, and people understand that.

So we are in a situation now where those of us who look at this contract and the strategy wonder what is real. They say, "I want a balanced budget. I want a balanced budget. I am willing to weigh in and lift for a balanced budget. I am going to propose a container of spending cuts that is real and substantial."

But as I said a couple of months ago, you know, I tuned in once to a television program and saw weight lifting and body building. They had the body building contest where the folks come out and pose. I had never seen this before. They oil themselves up and they come out and flex their muscles. And the announcer said, "In the sport of body building there is a big difference between lifting and posing."

I thought to myself. Gee. That sort of spells the difference in politics. There are a lot of folks who are terrific in posing. They come out here and flex around, get all oiled up, and look pretty and impress everybody. The question then on April 1 is what can you lift? The answer is apparently nothing. This is all posing.

I think all of us here need to understand what the dimensions of the problem are for this country. We have serious dimensions in the problem of Medicare and Medicaid, and we have to resolve it. We have to reform the system. We ought to redress the rate of growth to the extent we can. We ought to do that in a bipartisan way. But nobody that I know of on this side of the aisle believes we ought to provide $11,000 tax cuts for the people with a couple hundred thousand dollars in income, and then say to the seniors in this country, "We are sorry. We don't have enough money to provide health care for you."

Those are the issues. Is it fair to juxtapose them? It is darned right it is fair. We intend to do that because I think we ought to pass a budget that moves us toward a balanced budget and get rid of these deficits. I think we ought to reform the welfare system. We ought to reduce the rate of growth in Medicare and Medicaid. We should reform the welfare system as well. We ought to reduce the rate of growth in health-care programs.

But we ought not under any circumstance play this kind of a game where we can construct one more bit of evidence of reaching out to the wealthiest in our country and saying, "By the way, let us give you an extra bonus, a little extra appreciation for what you do for America." There is nothing wrong with being wealthy. I think everybody would like to be wealthy. But there are a whole lot of folks in this country who are not wealthy who work and try very hard and also need some help.

I think the help we can give them in this country as a whole is to reduce this crushing budget deficit, do it in an honest way, address the wrenching issues of health care in an omnibus way, but especially with respect to Medicare and Medicaid. If we do that, then I think finally these kinds of things will be believable.

I came today to discuss this only because I have seen the scurrying or the flurry of activity in the last couple of days by our majority leader, and by the Speaker, and by so many others who now say, "Well, it is true we were thinking of several hundred billion dollars in cuts in Medicare and Medicaid but now we want to talk about it in a different context." Why the change? All of us know why the change. Because they understand that even those of us who went to the smallest schools can add and subtract, and when things do not add up, you have to live with the consequences.

This kind of a chart does not add up against the backdrop of those who want to go after Medicare and Medicaid. It does not add up either that those who are most anxious to change the Constitution now somehow seem not anxious at all to bring the budget resolution to the floor of the Senate.

My hope is that in the very near future all of us who care about this can work together and solve these problems together.

You know, I supported, in 1993, a budget resolution that passed this Chamber by one vote, and I have never apologized and never intend to apologize to anybody for voting to do it. I am glad I did. It was the right vote.

The easiest vote and the political vote would have been to vote no, because what we did was we cut some spending, we increased some taxes, and we reduced the deficit.

Nearly half of our Chamber said, "Count me out. I just want to talk about deficit reduction, but when it comes to voting for it, I ain't going to vote for it in a minute, not an hour, not a year." So we did not even get one Republican vote to pass the budget resolution.

So I do not want people in this Chamber wondering whether the Senator from South Carolina or others are willing to balance the budget. We have been willing to cast the difficult votes and live with the consequences. And I am perfectly satisfied with that.

But there is much, much more to do. The next step, and I hope the final step, in getting toward a balanced budget amendment requires, I think, sober, serious budget cuts. It requires us to jettison these kinds of approaches that are called middle-class tax cuts, that really once again reduce the revenues and increase the deficit in order to give tax cuts to the wealthy.

Madam President, I see the Senator from South Carolina is on his feet. Those are the points I wanted to make today about wondering why the budget is not before us, No. 1; and, No. 2, trying to understand a bit, why so much activity in the last 72 hours by leaders of the other party on the Medicare and Medicaid reform issue? I think I understand it. I think they understand it. We will see in the coming days what results from it.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I want to join in the comments of our distinguished colleague from North Dakota along the line of the difficulty with respect to the budget, and then let me also address Medicare and some of the comments made recently.

I ask unanimous consent that a document released last January on the realities of truth in budgeting be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS RELEASES REALITIES ON TRUTH IN BUDGETING

Reality No. 1: $1.2 trillion in spending cuts is necessary.

Reality No. 2: There aren't enough savings in entitlements. Have welfare reform, but a jobs program will cost; savings are questionable. Health reform can and should save some, but slowing growth from 10 to 5 percent doesn't offer enough savings. Social Security won't be cut and will be off-budget again.

Reality No. 3: We should hold the line on the budget on Defense; that would be no savings.

Reality No. 4: Savings must come from freezes and cuts in domestic discretionary spending but that's not enough to stop hemorrhaging interest costs.

Reality No. 5: Taxes are necessary to stop hemorrhage in interest costs.

	1996	1997	1998	1999	2000	2001	2002
Deficit CBO Jan. 1995 (using trust funds)	207	224	225	253	284	297	322
Freeze discretionary outlays after 1998	0	0	0	−19	−38	−58	−78
Spending cuts	−37	−74	−111	−128	−146	−163	−180
Interest savings	−1	−5	−11	−20	−32	−46	−64
Total savings ($1.2 trillion)	−38	−79	−122	−167	−216	−267	−322
Remaining deficit using trust funds	169	145	103	86	68	30	0
Remaining deficit excluding trust funds	287	264	222	202	185	149	121
5 percent VAT	96	155	172	184	190	196	200
Net deficit excluding trust funds	187	97	27	(17)	(54)	(111)	(159)
Gross debt	5,142	5,257	5,300	5,305	5,272	5,200	5,091
Average interest rate on debt (percent)	7.0	7.1	6.9	6.8	6.7	6.7	6.7
Interest cost on the debt	367	370	368	368	366	360	354

Note.—Figures are in billions. Figures don't include the billions necessary for a middle-class tax cut.

Nondefense discretionary spending cuts	1996	1997
Space station	2.1	2.1
Eliminate CDBG	2.0	2.0
Eliminate low-income home energy assistance	1.4	1.5
Eliminate arts funding	1.0	1.0
Eliminate funding for campus based aid	1.4	1.4
Eliminate funding for impact aid	1.0	1.0
Reduce law enforcement funding to control drugs	1.5	1.8
Eliminate Federal wastewater grants	0.8	1.6
Eliminate SBA loans	0.21	0.282
Reduce Federal aid for mass transit	0.5	0.1
Eliminate EDA	0.02	0.1
Reduce Federal rent subsidies	0.1	0.2
Reduce overhead for university research	0.2	0.3
Repeal Davis-Bacon	0.2	0.5
Reduce State Dept. funding and end misc. activities	0.1	0.2
End P.L. 480 title I and III sales	0.4	0.6
Eliminate overseas broadcasting	0.458	0.570
Eliminate the Bureau of Mines	0.1	0.2
Eliminate expansion of rural housing assistance	0.1	0.2
Eliminate USTTA	0.012	0.16
Eliminate ATP	0.1	0.2
Eliminate airport grant in aids	0.3	1.0
Eliminate Federal highway demonstration projects	0.1	0.3
Eliminate Amtrak subsidies	0.4	0.4
Eliminate RDA loan guarantees	0.0	0.1
Eliminate Appalachian Regional Commission	0.0	0.1
Eliminate untargeted funds for math and science	0.1	0.2
Cut Federal salaries by 4 percent	4.0	4.0
Charge Federal employees commercial rates for parking	0.1	0.1
Reduce agricultural research extension activities	0.2	0.2
Cancel advanced solid rocket motor	0.3	0.4
Eliminate legal services	0.4	0.4
Reduce Federal travel by 30 percent	0.4	0.4
Reduce energy funding for Energy Technology Develop.	0.2	0.5
Reduce Superfund cleanup costs	0.2	0.4
Reduce REA subsidies	0.1	0.1
Eliminate postal subsidies for nonprofits	0.1	0.1
Reduce NIH funding	0.5	1.1
Eliminate Federal Crop Insurance Program	0.3	0.3
Reduce Justice State-local assistance grants	0.1	0.2
Reduce export-import direct loans	0.1	0.2
Eliminate library programs	0.1	0.1
Modify Service Contract Act	0.2	0.2
Eliminate HUD special purpose grants	0.2	0.3
Reduce housing programs	0.4	1.0
Eliminate Community Investment Program	0.1	0.4
Reduce Strategic Petroleum Program	0.1	0.1
Eliminate Senior Community Service Program	0.1	0.4
Reduce USDA spending for export marketing	0.02	0.02
Reduce maternal and child health grants	0.2	0.4
Close veterans hospitals	0.1	0.2
Reduce number of political employees	0.1	0.1
Reduce management costs for VA health care	0.2	0.4
Reduce PMA subsidy	0.0	1.2
Reduce below cost timber sales	0.0	0.1
Reduce the legislative branch 15 percent	0.3	0.3
Eliminate Small Business Development Centers	0.056	0.074
Eliminate minority assistance—Score, Small Business Institute and other technical assistance programs, women's business assistance, international trade assistance, empowerment zones	0.033	0.046
Eliminate new State Department construction projects	0.010	0.023
Eliminate Int'l Boundaries and Water Commission	0.013	0.02
Eliminate Asia Foundation	0.013	0.015
Eliminate International Fisheries Commission	0.015	0.015
Eliminate Arms Control Disarmament Agency	0.041	0.054
Eliminate NED	0.014	0.034
Eliminate Fulbright and other international exchanges	0.119	0.207
Eliminate North-South Center	0.002	0.004
Eliminate U.S. contribution to WHO, OAS and other international organizations including the United Nations	0.873	0.873
Eliminate participation in U.N. peacekeeping	0.533	0.533
Eliminate Byrne grant	0.112	0.306
Eliminate Community Policing Program	0.286	0.780
Moratorium on new Federal prison construction	0.028	0.140
Reduce coast guard 10 percent	0.208	0.260
Eliminate Manufacturing Extension Program	0.03	0.06
Eliminate coastal zone management	0.03	0.06
Eliminate national marine sanctuaries	0.007	0.012
Eliminate climate and global change research	0.047	0.078
Eliminate national sea grant	0.032	0.054
Eliminate State weather modification grant	0.002	0.003
Cut weather service operations 10 percent	0.031	0.051
Eliminate regional climate centers	0.002	0.003
Eliminate Minority Business Development Agency	0.022	0.044
Eliminate Public Telecommunications Facilities Program grant	0.003	0.016
Eliminate children's educational television	0.0	0.002
Eliminate national information infrastructure grant	0.001	0.032
Cut Pell grants 20 percent	0.250	1.24
Eliminate education research	0.042	0.283
Cut Head Start 50 percent	0.840	1.8
Eliminate meals and services for the elderly	0.335	0.473
Eliminate title II social service block grant	2.7	2.8
Eliminate community services block grant	0.317	0.470
Eliminate rehabilitation services	1.85	2.30
Eliminate vocational education	0.176	1.2
Reduce chapter 1 20 percent	0.173	1.16
Reduce special education 20 percent	0.072	0.480
Eliminate bilingual education	0.029	0.196
Eliminate JTPA	0.250	4.5
Eliminate child welfare services	0.240	0.289
Eliminate CDC Breast Cancer Program	0.048	0.089
Eliminate CDC AIDS Control Program	0.283	0.525
Eliminate Ryan White AIDS Program	0.228	0.468
Eliminate maternal and child health	0.246	0.506
Eliminate Family Planning Program	0.069	0.143
Eliminate CDC Immunization Program	0.168	0.345
Eliminate Tuberculosis Program	0.042	0.087
Eliminate agricultural research service	0.546	0.656
Reduce WIC 50 percent	1.579	1.735
Eliminate TEFAP:		
Administrative	0.024	0.040
Commodities	0.025	0.025
Reduce cooperative State research service 20 percent	0.044	0.070
Reduce animal plant health inspection service 10 percent	0.036	0.044
Reduce food safety inspection service 10 percent	0.047	0.052
Total	36.941	58.402

AMENDMENT INTENDED TO BE PROPOSED BY MR. HOLLINGS

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE CONCERNING CONGRESSIONAL ENFORCEMENT OF A BALANCED BUDGET.

It is the Sense of the Senate

(A) that the Congress should move to eliminate the biggest unfunded mandate—interest on the national debt, which drives the increasing federal burden on state and local governments; and

(B) that prior to adopting in the first session of the 104th Congress a joint resolution proposing an amendment to the Constitution requiring a balanced budget—

(1) the Congress set forth specific outlay and revenue changes to achieve a balanced federal budget by the year 2002; and

(2) enforce through the Congressional budget process the requirement to achieve a balanced federal budget by the year 2002.

Mr. HOLLINGS. Mr. President, in this particular document, I went as seriously in purpose as I possibly could to try my dead-level best to do what the contract said.

As you well know, Mr. President, I have voted for and supported a balanced budget. I voted for one in 1968 and 1969. As chairman of the Budget Committee, we cut the deficit materially. I opposed the tax cuts of President Reagan and favored the spending cuts, which was very costly to me politically. But I knew we had to do it. I knew what the problem was.

I, thereupon, recommended a freeze when our friend, Senator Howard Baker, was the majority leader, and we worked on that. I later worked, of course, with Senator GRAMM and Senator RUDMAN on Gramm-Rudman-Hollings, where we sequestered, cut right straight across the board, reduced the deficit for awhile, and fought like a tiger at 12:41 a.m., October 19, 1990, when they repealed Gramm-Rudman-Hollings on that point of order, with Senator GRAMM voting to repeal it. And I have been disillusioned by that.

But I had tried the freeze; I tried the cuts. And then, under President Bush, talking with his OMB Director, Dick Darman, I said to Dick, "If you can get President Bush to go along now, we will have to have not only the spending cuts, the spending freezes, the elimination of tax loopholes, but we need revenues to get on top of this."

Because I will show in later debate where President Reagan got us the first $100 billion deficit and the first $200 billion. President Bush got us the first $300 billion deficit and the first $400 billion deficit. And I will show that by actual record.

As I have said, we have to get on top of this monster. I testified before the Finance Committee for a value-added tax. So I put this particular item that I have referred to in the RECORD just once again to justify my capacity and sincerity to talk on this particular point.

Because I listed the very, very difficult task that was confronting us whereby, in a line, you are not going to save that much in entitlements and welfare reform and health reform or Social Security or defense, but rather you are going to have to look for domestic discretionary spending. And to put us on a glidepath that first year, you had to cut $37 billion in domestic discretionary spending and even then, you would not accomplish it because interest costs grows this year by $43 billion.

So like "Alice in Wonderland," in order to stay where you are, you have to run as fast as you can; in order to get ahead, you have to run even faster. So it is a far, far more serious problem.

And the talk about tax cuts, that is out of the whole cloth. Everybody likes tax cuts. I joined with Senator FEINGOLD from Wisconsin earlier this year in saying forget about cutting the revenues. The problem is you need revenues, because we have spending on automatic pilot.

I can tell you here and now, irrespective of what they are saying, as we talk this particular day, May 2, 1995, we have spent another $1 billion. And tomorrow, we will spend another $1 billion; Thursday, another $1 billion; and Friday another $1 billion; and Saturday, another $1 billion; and Sunday, another $1 billion, just in interest costs, on automatic pilot.

How do you get on top of this monster? Well, you have to do all the above and, yes, it is going to take bipartisanship and not going to take politics.

I want to make reference now to the statement just made by the Senator from North Dakota about Medicare, because we hear a lot of whooping and wailing about Medicare and, above all, about the President of the United States.

Now, heavens above, if there is one thing—and I think President William Jefferson Clinton has been blamed for everything up here—but if there is one thing that President Clinton cannot be blamed for, that is any deficit in Medicare-Medicaid. He was back home in Little Rock, AR, when we were up here creating these deficits. So let us not blame the President.

Moreover, let us not blame him since he has come to town. He put this as the No. 1 issue. They are talking about AWOL now. I am going to get to this point. Here is the gentleman they talk about being AWOL. He came to town with health care reform as his No. 1 interest and issue. Along with that, he submitted a cut of $125 billion. And the then-chairman of our Finance Committee was the distinguished Senator from New York, Senator MOYNIHAN. He described that as fantasy. And Senator PACKWOOD, the ranking member, joined in with him—a $125 billion cut was fantasy. It just could not be done.

But we worked on it. And we worked on spending cuts. We worked on controlling entitlements, and we worked on tax increases. And, yes, we came up, finally, with a plan that year with all three of them, without a single, single, single Republican vote in either the Senate or the U. S. House of Representatives.

We reduced the deficit some $500 billion. We eliminated over 100,000 Government jobs. We increased taxes on gasoline, liquor, and cigarettes. We increased taxes even on Social Security. And, finally, we did get an agreement, after hard work, of a $56 billion cut in Medicare.

Now, remember, in the last 24 hours, we have heard AWOL: The President is AWOL; took a walk; waved the flag of surrender; AWOL.

Here was a President who led and got his Vice President over and all to get the necessary votes so we could get those cuts in Medicare.

Thereupon, the President came last year with another $80 billion in cuts, along with health care reform, and what did they do? They rebuffed him and beat up on him and ridiculed the First Lady. But she worked, and, agree or disagree, you could not say that Hillary Rodham Clinton was AWOL or that William Jefferson Clinton was AWOL.

Now what they want to do, Mr. President—and this is the interesting thing and I am going to include this in the RECORD—they wanted the President of the United States to do all the dirty work, all the cuts. I want to show you the Dole-Domenici alternative entitled "Because Government, Not People, Should Be the First to Sacrifice." Mr. President, I ask unanimous consent that the Dole-Domenici alternative be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The Dole/Domenici Alternative: Because government, not people, should be the first to sacrifice

	Billions[1]
Drop all proposed spending add-ons	−$124
Drop investment	
Drop stimulus	
Permit new spending if paid for by added spending cuts	
Eliminate proposed taxes	−295
Drop all individual income taxes	
Drop President Clinton's proposed new energy tax	
Drop all business income taxes	
Eliminate Social Security tax increase	
Eliminate all proposed user fees	−18
Accept all proposed mandatory and discretionary cuts	−241
Accept all mandatory savings	
Accept all discretionary savings (Defense and non-Defense)	
Restore $20 billion in Defense budget	+20
Specific details await President's budget submission	
Freeze domestic discretionary baseline	−92
Freeze fiscal year 1994 domestic discretionary BA except for increased funding for child immunization and WIC programs ($500 million in 1994)	
Extend domestic discretionary sequester to enforce freeze and savings	
Revenues:	
Pay for R&E and other investment tax incentives:	
Cap non-Social Security mandatory spending	−93.1
Total non-Social Security mandatory savings: $177 billion over 5 years	
Cap on Medicare and Medicaid spending (CPI+population+4%)	
Debt savings	−38
Real deficit reduction[2]	−444.2
Sasser assumptions on debt management	16.1
Total deficit reduction	−460.4

[1] Numbers are based on CBO capped baseline.

[2] Deficit in 1998 would drop to $168.4 billion and continue falling into the next century.

Process reform proposals:

Establish discretionary spending caps for defense and non-defense domestic programs.

Create fixed deficit targets with enforcement through across the board cuts if targets breached.

Assumes zero-based budgeting to control future spending.

Mr. HOLLINGS. Mr. President, this is the Dole-Domenici alternative budget they put up in March 1993. The language is: "Accept all proposed mandatory and discretionary cuts, $241 billion." They not only accepted the President's cuts but on top of that they capped non-Social Security mandatory spending—a cap on Medicare and Medicaid. So they could go to the 1994 election and say, "Look at what they have done. The President wants to cut your Medicare."

And in 1994, here is what they had. This one is entitled "GOP Alternative Deficit Reduction and Tax Relief, Slashing the Deficit, Cutting Middle-Class Taxes." Mr. President, I ask unanimous consent to print the GOP alternative in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GOP ALTERNATIVE: DEFICIT REDUCTION AND TAX RELIEF

SLASHING THE DEFICIT, CUTTING MIDDLE CLASS TAXES

The Republican Alternative Budget will reduce the deficit $318 billion over the next five years—$287 billion in policy savings and $31 billion from interest savings. This is $322 billion more in deficit reduction than the

President proposes and $303 billion more in deficit reduction than the House-passed resolution contains.

Moreover, the GOP alternative budget helps President Clinton achieve two of his most important campaign promises—to cut the deficit in half in four years and provide a middle-class tax cut. The GOP plan:

Reduces the deficit to $99 billion in 1999. This is $106 billion less than the 1999 deficit projected under the Clinton budget.

Even under this budget Federal spending will continue to grow.

Total spending would increase from $1.48 trillion in FY 1995 to more than $1.7 trillion in FY 1999.

Medicare would grow by 7.8-percent a year rather than the projected 10.6-percent. Medicaid's growth would slow to 8.1-percent annually rather than the projected 12-percent a year growth.

It increases funding for President Clinton's defense request by the $20 billion shortfall acknowledged by the Pentagon.

Provides promised tax relief to American families and small business:

Provides tax relief to middle-class families by providing a $500 tax credit for each child in the household. The provision grants needed tax relief to the families of 52 million American children. The tax credit provides a typical family of four $80 every month for family expenses and savings.

Restores deductibility for interest on student loans—321,000 for 25,000.

Indexes capital gains for inflation and allows for capital loss on principal residence.

Creates new incentives for family savings and investments through new IRA proposals that would allow penalty free withdrawals for first time homebuyers, educational and medical expenses.

Establishes new Individual Retirement Account for homemakers.

Extends R&E tax credit for one-year and provides for a one-year exclusion of employer provided educational assistance.

Adjusts depreciation schedules for inflation (neutral cost recovery).

Tax provisions result in total tax cut of $88 billion over five years.

Fully funds the Senate Crime Bill Trust Fund, providing $22 billion for anti-crime measures over the next five years. The Clinton budget does not. The House-passed budget does not. The Chairman's mark does not.

Accepts the President's proposed $113 billion level in nondefense discretionary spending reductions and then secures additional savings by freezing aggregate nondefense spending for five years.

Accepts the President's proposed reductions in the Medicare program and indexes the current $100 annual Part "B" deductible for inflation. Total Medicare savings would reach $80 billion over the next five years.

Achieves $64 billion in Medicaid savings over the next five years, by capping Medicaid payments, reducing and freezing Disproportionate Share Hospital payments at their 1994 level.

Achieves additional savings through reform of our welfare system totaling $33 billion over the next five years.

Repeals Davis-Bacon, reduces the number of political appointees, reduces overhead expenditures for university research, and achieves savings from a cap on civilian FTE's.

Mr. HOLLINGS. Mr. President, now we have in March of last year: "Accept the President's proposed reduction in the Medicare program, and index the Part B deductible. Total Medicare savings would reach $80 billion over the next 5 years."

So there is a conscious awareness in the distinguished majority leader when he talks of the President being AWOL on Medicare. Rather than being AWOL, he has been wounded in the front lines while these others have been all back in the barracks and not even attending the battle. In fact, back in the barracks, the cattle call was what we needed was portability so you can carry your coverage from job to job—a little bit of this, that and the other, just some minor adjustments—why is there all this problem, there is no real problem in medical coverage in America.

Now it is a crisis. When? In 2002. I am trying to get by tomorrow. I am trying to stop spending a billion dollars a day today, tomorrow, and the next day. If I can stop doing that, I can get on top of the problems in the year 2002. But to come forward at this particular time and run all over the national TV talking about taking a walk and going AWOL when the poor fellow has been ground into the ground, he has been totally rebuffed. He has tried and fought the good fight. So now they come with all of this "Let's have bipartisanship." They would not give us a single vote, and now they want to get bipartisan, now they want to get commissions, now we are AWOL because we are ready to try to put the truth to their so-called contract.

The rubber is now meeting the road, and if you look at that contract, Mr. President, talking about Medicare and AWOL, who shoots the troops out there on the front line, the Medicare troops? The contract does, for the simple reason that we in raising Social Security taxes—and this Senator voted to raise Social Security taxes—we raised 25 billion bucks and allocated it to Medicare.

And what does the contract call for? Abolish that tax and not give the $25 billion, rather let us shoot the Medicare troops and add to the Medicare deficit.

Do not come with your contract and tell me how serious you are about this deficit and all the costs of Medicare. Then you say, oh, by the way, that problem that the President said for 2 years was the principal cause of the deficit and you shot him down, the President is AWOL. You know it. It was adopted momentarily by the distinguished majority leader, because one of these alternatives says "the GOP alternative," and I take it the majority of the GOP certainly was for it in March of last year. It is in the RECORD. Read it. And now you say that the President is AWOL, he does not even know the problem and he will not come front and center. He has used good common sense, as they call it, commonsense budgets, or whatever is supposed to be common sense around here. He used common sense on this one.

He has tried and fought the good fight. But to be accused, of all things, of being AWOL when they come with a contract trying to increase the Medicare deficit some 25 billion bucks and saying those who have led the fight since they have been in office and never caused any of it are AWOL. The President has been in the front lines leading the battle and fighting the fight.

My suggestion is they get out of the barracks and get out there on the line themselves and put out the full meaning of their so-called deficit reduction package.

On that score, I have been the chairman of the Budget Committee, and I have been the ranking member of the Budget Committee. I have worked on it since 1974, the only remaining Member of either the House or the Senate who has been on it all that time. And I can tell you here and now, in trying to get prompt consideration so the authorizing committees would know what to do and how to do it, we finally put into law that you had the budget out of the committee by April 1 and passed the Senate and passed both Houses by April 15 the concurrent resolution.

As of this minute, we have not met to discuss—we had some cursory hearings the first of the year—but we have not met in 2 months on this budget. They do not even call a meeting. They do not call a discussion. And yet they have the audacity to run around here as leaders and talk about people being AWOL on Medicare and Medicaid.

We have done our best, and we will continue to do our best. But if they want to get any kind of following, they are not going to get any following out of this Senator as long as they continue these political shenanigans. They know it and everybody else knows it. I hope the press will report it, because that is all they do now. They treat it like a spectator sport up here and just avoid dealing with the real issue.

I have pointed out the virtual impossibility of attaining—what Chairman KASICH says on the other side—a balanced budget by the year 2002 without taxes. They can be put on notice, now that I am speaking, that I will join with them on any plan they have so long as it includes revenue.

The reason I say that is because I have tried it every other way—and I am not dumb enough now, having struggled with this thing for 20 years on the Budget Committee with half a haircut. I do not want a little bit here in cuts and a little bit here and a halfway going there and saying, oh, we are going to save $170 billion in interest costs by 2002 and give $170 billion over to the Finance Committee so they can give a middle class tax cut, and beginning to play politics that way. We do not have the money. We are borrowing every day to keep this Government going. They put a bunch of numbers down on paper, then they all wink at each other and say, "Well, who is going to be here in 2002?"

We can project it just as economists have projected it. We can put it down in black and white when we all know differently. If you are going for a real budget deficit reduction, by having the Government operating in the black by the year 2002, you have my vote. We will give, and take, all the way around because I am committed to the spending cuts and what have you, but not overall, unless you are going to agree to have the revenues. I put in a 5-percent value added tax because it is needed. But you have to have substantial revenues and not tax cuts for middle class and capital gains and family cuts and all these other kinds of things that they have in, just to buy the 1996 election. No half a haircut for me. If you want to have truth in budgeting, then you have my cooperation and vote. But if you are going to have a half truth, which is worse than any at all, a half a haircut, keep it yourself and get it passed by yourself.

Now, Mr. President, I have quite a bit to say with respect to punitive damages, because there have been more than enough articles written on this particular score. Let me ask at this point that we have printed in the RECORD an article by Thomas Lambert with respect to punitive damages, outlining, if you please, the various cases that are brought about safety in America. It is an article of some years ago. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUING FOR SAFETY

(By Thomas F. Lambert, Jr.)

It has been well and truly said, "If you would plant for a year, plant grain; for a decade, plant trees; but if you would plant for eternity, educate a man." For nearly four generations, ATLA has been teaching its men and women, and they have been demonstrating to one another, that you can sue for safety. Indeed, one of the most practical measures for cutting down accidents and injuries in the field of product failure is a successful lawsuit against the supplier of the flawed product. Here, as well as elsewhere in Tort Law, immunity breeds irresponsibility while liability induces the taking of preventive vigilance. The best way to make a merchant responsible is to make him accountable for harms caused by his defective products. The responsible merchant is the answerable merchant.

Harm is the tort signature. The primary aim of Tort Law, of the civil liability system, is compensation for harm. Tort Law also has a secondary, auxiliary and supportive function—the accident prevention function or prophylactic purpose of tort law—sometimes called the deterrent or admonitory function. Accident prevention, of course, is even better than accident compensation, an insight leading to ATLA's longstanding credo: "A Fence at the Top of the Cliff Is Better Than an Ambulance in the Valley Below."

As trial lawyers say, however, "If you would fortify, specify." The proposition that you can sue for safety is readily demonstrable because it is laced and leavened with specificities. They swarm as easily to mind as leaves to the trees.

ACCIDENT PREVENTION THROUGH SUCCESSFUL SUITS IN THE PRODUCTS LIABILITY FIELD

(1) Case of the Charcoal Briquets Causing Death from Carbon Monoxide. Liability was imposed on the manufacturer of charcoal briquets for the carbon monoxide death and injury of young men who used the briquets indoors to heat an unvented mountain cabin. The 10-pound bags read, "Quick to Give Off Heat" and "Ideal for Cooking in or Out of Doors." The manufacturer was guilty of failure to warn of a lethal latent danger. Any misuse of the product was foreseeable because it was virtually invited. Next time you stop in at the local supermarket or hardware store, glance at the label on the bags of charcoal briquets. In large capital letters you will find the following: "WARNING. DO NOT USE FOR INDOOR HEATING OR COOKING UNLESS VENTILATION IS PROVIDED FOR EXHAUSTING FUMES TO OUTSIDE. TOXIC FUMES MAY ACCUMULATE AND CAUSE DEATH." Liability here inspired and exacted a harder, more emphatic warning, once again reducing the level of excessive preventable danger.

(2) Case of the Exploding Cans of Drano. When granular Drano is combined with water, its caustic soda interacts with aluminum, another ingredient in its formula and produces intensive heat, converting any water into steam at a rapid rate. If the mixture is confined, the pressure builds up until an explosion results. The manufacturer's use of a screw-on top in the teeth of such well known hazard was a design for tragedy. The expectable came to pass (as is the fashion with expectability). In Moore v. Jewel Tea Co., a 48-year-old housewife suffered total blindness from the explosion of a Drano can with a screw-on top, eventuating in a $900,000 compensatory and $10,000 punitive award to the wife and a $20,000 award to her husband for loss of conjugal fellowship.

A high school chemistry student could see that what was needed was a "flip top" or "snap cap" designed to come off at a pressure of, say, 15–20 pounds per square inch. After a series of adverse judgments, the manufacturer substituted the safer flip top. Of course, even the Drano flip top will be marked for failure if not accompanied by adequate testing and quality control. Capers involved a suit for irreversible blindness suffered by 10-year-old Joe Capers when the redesigned flip top of a can of Drano failed to snap off when the can fell into the bathtub and the caustic contents spurted 8½ feet high impacting Joe in the face and eyes with resulting total blindness. The shortcomings in testing the can with the reformulated design cost the company an award of $805,000. As a great Torts scholar has said, "Defective products should be scrapped in the factory, not dodged in the home."

Drayton v. Jiffee Chemical Corp., is a grim and striking companion case to the Drano decisions mentioned above, and it underscores the same engineering verities of those cases: the place to design out dangers is on the drawing boards or when prescribing the chemical formula. a one-year-old black girl suffered horrendous facial injuries, "saponification" or fusion of her facial features, when an uncapped container of Liquid-Plumr was inadvertently tipped over. At the time of the accident, this excessively and unnecessarily caustic drain cleaner was composed of 26 percent sodium hydroxide, i.e., lye. No antidote existed because, as the manufacturer knew. Liquid-Plumr would dissolve human tissue in a fraction of a second. To a child (or any human being) a chemical bath of the drain cleaner could be as disfiguring as falling into a pool of piranha fish. Liquid-Plumr, mind you was a household product, which means that its expectable environment of use must contemplate the "patter of little feet" as the children's hour in the American home encompasses 24 hours of the day.

At the time of marketing this highly caustic drain cleaner, having made no tests as to its effect on human tissue within the existing state of the art, the defendant could have reformulated the design to use 5 percent potassium bydroxide which would have been less expensive, just as effective and much safer. After some 59 other Liquid-Plumr injuries were reported to defendant, it finally reformulated its design to produce a safer product. In Drayton the defendant was allowed to argue in defense and mitigation that its management was new, that it had learned from its prior claims and litigation experience and that it had purged the enterprise of its prior egregious misconduct.

To open the courtroom door is often to open a school door for predatory producers.

(3) Case of the Tip-Over Steam Vaporizer. A tip-over steam vaporizer true to that ominous description was upset by a little girl who tripped over the unit's electric outlet cord on the way to the bathroom in the middle of the night. The sudden spillage of scalding water in the vaporizer's glass jar severely burned the 3-year old child. The worst injuries in the world are burn injuries. The cause of the catastrophe was a loose-lidded top which could have been eliminated by adopting any one of several accessible, safe, practical, available, desirable and feasible design alternatives, such as a screw-on or child guard top. The truth is that the manufacturer, Hankscraft, had experienced a dozen prior similar disasters. In the instant case, the little girl recovered a $150,000 judgment against the heedless manufacturer, impeaching the vaporizer's design because of lack of screw-on or child-guard top. When the manufacturer, with icy indifference to the serious risks to infant users of its household product, refused to take its liability carrier's advice to recall and redesign its loose-lidded vaporizer, persisting in its stubborn refusal when over 100 claims had been filed against it, the carrier finally balked and refused to continue coverage unless the company would recall and redesign. Then and only then did Hankscraft stir itself to redeem and correct the faulty design of its product, thereafter proudly proclaiming (and I quote), "Cover-lock top protects against sudden spillage if accidentally tipped." Once again Tort Law had to play professor and policeman and teach another manufacturer that safety does not cost: It pays. Under what might be called the Cost-Cost formula, the manufacturer will add safety features when it comes to understand that the cost of accidents is greater than the cost of their prevention. The Tip-Over Steam Vaporizer case is the most graphic example known to us showing that corporate management can be recalled to its social responsibilities by threat of stringent liability, enhanced by deserved civil punishment via punitive damages, and that belief in such a proposition is more than an ivory tower illusion.

A good companion case to the Tip-Over-Steam-Vaporizer case, serving the same Tort

Touchstone of Deterrence, is the supremely instructive Case of the Remington Mohawk 600 Rifle. While a 14-year-old boy was seeking to unload one of these rifles, pushing the safety to the "off" position as required for the purpose, the rifle discharged with the bullet entering the boy's father's back, leaving him paralyzed and near death for a long time. The agony of his guilt, his feeling that he was to blame for his father's devastating injuries, pressed down on the boy's brow like a crown of thorns and almost unhinged his sanity. Assiduous investigation by the family's lawyer unearthed expert evidence of unsafe design and construction and lax quality control of the safety selector and trigger assemblies of the Mohawk 600.

The result of the exertions of the plaintiff's lawyer, deeply and redoubtedly involved in challenging the safety history of the rifle model, was a capitulation by Remington and an agreement to settle the father's claim (he was a seasoned and successful defense trial lawyer) for $6.8 million. Remington also wrote the son a letter, muting some of his anguish by stating that the weapon was the whole problem and that he was in no way responsible for his father's injuries. Then, facing the threat of cancelled coverage from its carriers for skyrocketing premiums in the projection of other multimillion dollar awards, Remington commendably served the public interest by announcing the recall campaign in which we see another electrifying example of Tort Law litigating another hazardous product feature from the market.

Remington's nationwide recall program affected 200,000 firearms; notices in newspapers and magazines similar to this one that appeared in the January 1979 issue of Field and Stream cut back on the harvest of hurt and heartbreak: "IMPORTANT MESSAGE TO OWNERS OF REMINGTON MODEL 600 and 660 RIFLES, MOHAWK 600 RIFLES, AND XP–100 PISTOLS. Under certain unusual circumstances, the safety selector and trigger of these firearms could be manipulated in a way that could result in accidental discharge. The installation of a new trigger assembly will remedy this situation. Remington is therefore recalling all Model 600 rifles except those with a serial number starting with an 'A'. . . Remington recommends that prior to any further usage of guns included in the recall, they be inspected and modified if necessary. [Directions are then given for obtaining name and address of nearest Remington Recommended Gunsmith who would perform the inspection and modification service free of charge.]."

Tort Law forced Remington to look down the barrel and see what it was up against. Once again Tort Law was the death knell to excessive preventable danger.

For a wonderfully absorbing account of The Mohawk 600, see Stuart M. Speiser's justly praised Lawsuit (Horizon Press, New York, 1980) 348–55.

(4) Case of MER/29, the Anti-Cholesterol Drug Which Turned out to Cause Cataracts. Many trial lawyers will recall the prescription drug MER 29 marketed for its benign and benevolent effect in lowering blood cholesterol levels and treating hardening of the arteries but which turned out to have an unpleasant and unbargained for effect on users, the risk of causing cataracts. As Peter DeVries recently observed, "There is nothing like a calamity to help us fight our troubles." Blatant fraud and suppression of evidence from animal experiments were proved on the manufacturer's part in the marketing of this dangerous drug. Who did more—the federal government or private trial lawyers—in getting this dangerous drug off the market and compensating the numerous victims left in its wake? The question carries its own answer. The United States drug industry has annual sales of 16 billion dollars per year, while the Food and Drug Administration has an annual budget of 65 million dollars to oversee all drug manufacture, production and safety. How can the foothills keep the Alps under surveillance? Worse, as shown by the MER/29 experience, enforcement of the law in that situation, far from being vigorous and vigilant, was lame, limp and lackluster. It was only private suits advanced by trial lawyers that furnished the real muscle of enforcement and sanction, compensation for victims, deterrence of wrongdoing, and discouragement of corporate attitudes toward the public recalling that attributed to Commodore Vanderbilt.

As to the indispensible role and mission of the trial lawyer in Suing for Safety, it should not be overlooked that the current Administration has moved to sharply restrict the regulation of product safety by the Consumer Product Safety Commission. The 1982 Budget for the commission was reduced by 30 percent in the first round of Reagan Administration budget cuts and is marked for further cuts in the future.

As the Thalidomide, MER/29, Dalkon Shield, Asbestos, DES, Slip-into-Reverse Transmissions and Fuel Tank scandals have been starkly revealed, we have crime in the suites as well as crime in the streets. Corporate culpability calls for corporate accountability, and our society has developed no better instrument to encourage socially responsible corporate behavior than the vehicle of adverse judgments beefed up by punitive damages. In the MER/29 situation, for example, the criminal fines levied on the corporate producer and its executives were slap-on-the-wrist trivial when contrasted with the deterrent impact of punitive damage awards in current uncrashworthiness cases where flagrant corporate indifference to public safety was established.

Our leading scholar in the field of punitive damages, writing with verve and virtuosity on that subject, concluded in 1976 that punitive damages awards should be permitted in appropriate products liability cases. Writing in 1982 with the same unbeatable authority, Professor David G. Owen traces the ferment and developments of doctrine in the ensuing years and then delivers a conclusion informed by exhaustive research, seasoned reflection, and an obvious morality of mind. "I remain convinced of the need to retain this tool of legal control over corporate abuses. . . ."

(5) Case of the Infant Who Died from Drinking Toxic Furniture Polish Where Manufacturer Failed to Warn Mother to Keep Toxic Product out of Reach of Children. This is the celebrated case of Spruill v. Boyle-Midway, Inc., in which a 14-month old child reached over from his crib and pulled a doily off a bureau, causing a bottle of Old English Red Oil Furniture Polish, manufactured by the defendant, to fall into the toddler's crib. During the few minutes his mother was out of the room, the baby got the cap off the bottle and drank a little bit of the polish. He was dead within two days of resulting chemical pneumonia. The bottle had a separate warning about combustibility in letters ⅛ inch high, but only in the midst of other text entitled "Directions" in letters 1/32 inch high did it say "contains refined petroleum distillates. May be harmful if swallowed, especially by children." The mother testified that she saw the warning about combustibility but did not read the directions because she knew how to use furniture polish. In a negligence action against the maker, the jury found that both defendant and the baby's mother were negligent and awarded wrongful death damages to the child's father and siblings but not to the mother. The Fourth Circuit in keeping with the grain of modern authority held that it was irrelevant that the child's ingestion of the toxic polish was an unintended use of the product. The jury could properly find that in the absence of an adequate warning to the mother that she could read and heed—to keep the polish out of the reach of children—such misuse of the product was a foreseeable one. The defect was to be tested not only by intended uses but by foreseeable misuses.

The jury could find that the manufacturer's placement of the warning was designed more to conceal than reveal, especially in view of the greater prominence given the fire warning ⅛ of an inch compared to the Lilliputian print, 1/32 of an inch, as to the contents containing "refined petroleum distillates". The poison warning could be found to fall short of what was required to convey to the average person the dangerous nature of this household product. The label suggested that harm from drinking the polish was not certain but merely possible, while experts on both sides agreed that a single teaspoon would be lethal to children.

The warning in short could properly be found to be inadequate—too soft, mispositioned and not sufficiently eye arresting. Defendant admitted in answer to interrogatories that it knew of 32 prior cases of poisoning from ingestion of its "Old English Red Polish."

Did the imposition of liability in this seminal Spruill case supra stimulate, goad or spur the manufacturer to take safety measures against the foreseeable risk of ingestion by innocent children? A trip to the local hardware store a couple of days ago reveals that Old English Red Oil Polish now sports the following on its label: "DANGER HARMFUL OR FATAL IF SWALLOWED. COMBUSTIBLE. KEEP OUT OF REACH OF CHILDREN. SAFETY CAP."

An error is not a mistake unless you refuse to correct it.

(6) Case Holding Manufacturer of PAM (Intended to Keep Food from Sticking to Cooking Surfaces) Liable for Death of Teen-Ager from Inhalation of PAM's Concentrated Vapors. Harless v. Boyle Midway Div. of Amer. Home Products, involved an increasing number of teenagers who were dying of a "glue-sniffing syndrome," inhaling the concentrated vapors of PAM, a household product intended to keep food from sticking to cooking surfaces. Originally, the manufacturer used only a soft warning on the can's label: "Avoid direct inhalation of concentrated vapors. Keep out of the reach of children." However, to the knowledge of defendant, the children continued sniffing and dying. Then the manufacturer, as an increasing number of lawsuits were pressed upon it for the preventable deaths of such children, changed the warning on its label, shifting to a harder warning: "CAUTION: Use only as directed, intentional misuse by deliberately concentrating and inhaling the contents can be fatal." This was, of course, a much harder and more emphatic warning. The Fifth Circuit held that it was reversible error to exclude plaintiff's evidence (in an action for the wrongful death of a PAM-sniffing 14-year-old) that no deaths had occurred from PAM sniffing after the defendant had hardened its warning by warning against the danger of death, the ultimate trauma.

On remand the jury brought in a verdict for the boy's estate in the amount of $585,000 with an additional finding by the jury that the lad's administrator was entitled to an award of punitive damages. Prior to the punitive damages suit, the case was settled for a total of $1.25 million. It was uncontested that prior to the lad's death the manufacturer knew of 45 inhalation deaths from foreseeable misuse of its product, and upon remand admitted to an additional 68 from the same expectable cause.

If you will examine the label on the can of PAM on your shelf, as the writer has just done, you will find: "WARNING USE ONLY AS DIRECTED, INTENTIONAL MISUSE BY DELIBERATELY CONCENTRATING AND INHALING THE CONTENTS CAN BE HARMFUL OR FATAL." Once again the pressures of liability, stimulated a producer to avoid excessive preventable dangers in its product's use by strengthening its warning label, thereby enhancing consumer protection.

(7) Case of the Poisonous Insecticide Holding That Warnings Must Contain Appropriate Symbols, Such as Skull and Crossbones, Where Manufacturer Knows That Product May Be Used by Illiterate Workers (Spanish-Speaking Imported Puerto Rican Laborers) Who Would Not Understand English. This is the salutary holding in the celebrated case of Hubbard-Hall Chem. Co. v. Silverman. The First Circuit upheld judgments entered on jury verdicts for the wrongful death of two illiterate migrant farm workers who were imported by a Massachusetts tobacco farmer and killed by contact with a highly toxic insecticide manufactured and distributed by defendant. Even though the comprehensive and detailed danger warnings on the sacks fully complied with label requirements of the Department of Agriculture, the jury could properly find that because of the lack of a skull or crossbones or other comparable symbols the warning was inadequate. Use of the admittedly dangerous product by persons who were of limited education and reading ability was within the range of apprehension of the manufacturer. While evidence of compliance with governmental regulations was admissible, it was not decisive. Governmental standards are "minimums," a floor not a ceiling, and so far as adequate precautions are concerned, federal regulations do not oust the possibly higher common-law standards of the Commonwealth of Massachusetts.

The steady, unflagging pressures of litigation against the inertia, complacency and moral obtuseness of manufacturers have not only resulted in enhanced safety in the field of conscious design choices (substituting child-guard screw-on tops on tip-over steam vaporizers or over-the-axle fuel tanks for those mispositioned more vulnerably in front of the axle or adding rear-view mirrors to blind behemothic earth-moving machines whose design obstructs the vision of a reversing operator, etc.) but also in inducing product suppliers to reduce marketing defects in the products they sell by strengthening the adequacy of the instructions and warnings that accompany their products set afloat in the stream of commerce.

The net affect of such benign and beneficial litigation has been to improve the adequacy and efficacy of the educational information given to consumers by producers via improvements in the conspicuousness of warnings given; making them more prominent, eye-arresting, comprehensive, complete and emphatic; placing the warnings in more effective locations; avoiding ambiguous warnings; extending warnings to the safe disposition of the product; and avoiding any dilution of the warnings given. In short, the bottom line, as indicated in the cited representative sampling of cases, is that successful lawsuits operate as safety incentives to "inspire" product suppliers to furnish instructions and warnings that are in ratio to the risk and in proportion to the perils attending foreseeable uses of the marketed products.

Here, too, we see the conspicuous usefulness of the lawsuit as the weapon for ferreting out marketing defects, whether ingenious or ingenuous, in selling dangerously defective products.

(8) Case of Marketing Carbon Tetrochloride Using Warnings Found to Be Inadequate Because Inconspicuous. Suppose a defendant sells carbon tetrachloride and places on all four sides of the can, in large letters, the words "Safety Kleen," and then uses small letters (Lilliputian print) to warn of the serious risk of using the cleaning fluid in an unventilated place for places the fine print warning only on the bottom of the can). It requires no tongue of prophecy to predict that this warning will be found inadequate because too inconspicuous. It was so held in Maize v. Atlantic Refining Co. Not only was the warning inadequate because not conspicuous enough, but the representation of safety ("Safety Kleen") operated to dilute, weaken, and counteract the warning. Moreover in Tampa Drug Co. v. Wait, the court upheld a judgment for the wrongful death of a 38-year-old husband who died from carbon tetrachloride poisoning after using a jug of the product to clean the floors of his home. While the label warned that the vapor from the liquid was harmful and that prolonged breathing of it or repeated contact with the skin should be avoided and that the product should only be used in well ventilated areas, the court with laser-beam accuracy ruled that the warning nonetheless could be found inadequate because of its failure to warn with qualitative sufficiency as to deadly effects or fatal potentialities which might follow from exposure to its fumes.

Decisions such as Maize and Wait supra were the prologue and predicate for the action taken by the FDA in 1970, under the Federal Hazardous Substances Act, to ban and outlaw carbon tetrachloride.

Torts archivists know that successful private lawsuits to recover for harm from products simply too dangerous to be sold at all, regardless of the completeness or urgency of the warning given, frequently lead to a recall and reformulation of the product's design or to a decision to ban the product from the market. Life and limb are too important to trade off against unmarketed inventory.

(9) Case of the 8-Year-Old Boy Who Choked to Death from Strangling on a Quarter-Inch Rubber Rivet, Part of a Riviton Toy Kit Given Him for Christmas. This case will indeed rivet the attention (in the sense of attract, fasten and hold) of concerned citizens who wish to understand how the threat of liability operates as a spur to safety on the part of product producers. The present example involves a toymaker whose work is indeed "child's play."

Parker Brothers, a General Mills subsidiary headquartered some 18 miles north of Boston, had big plans for Riviton. This was a toy kit consisting of plastic parts, rubber rivets and a riveting tool with which overjoyed children could put together anything from a windmill to an airplane. In the first year on the market in 1977, the Riviton set seemed on its way to becoming one of those classic toys that parents will buy everlastingly. However, one of the 450,000 Riviton sets bought in 1977 ended up under the Christmas tree of an 8-year-old boy in Menomonee Falls, Wis. He played with it daily for three weeks. Then he put one of the quarter-inch long rubber rivets into his mouth and choked to death. Ten months later, with Riviton sales well on their way to an expected $8.5 million for the year, a second child strangled on a rivet.

What should the company do? Just shrug off the two fatal child strangulations, ascribe the deaths to freakish mischance, try to shift the blame to parental failure to supervise and police their children at play, or assign responsibility to the child's abnormal misuse or abuse of their product? Could not the company cap its disavowal of responsibility by a bormidic disclaimer that, "After all, peanuts are the greatest cause of strangulation among children and nobody advocates the banning of the peanut."?

However, as manufacturers, Parker Brothers well knew that they would be held liable to an expert's skill and knowledge in the particular business of toymaking and were bound to keep reasonably abreast of scientific knowledge, discoveries and hazards associated with toys in their expectable environment of use by unsupervised children in the home. The toymaker knew that the Riviton set must be so designed and accompanied by proper instructions and warnings that its parts would be reasonably safe for purposes for which it was intended but also for other uses which, in the hands of the inexperienced, impulsive and artless children, were reasonably foreseeable. When you manufacture for children, you produce for the improvident, the impetuous, the irresponsible. As a seasoned judge put it: "The concept of a prudent child, God forbid, is a grotesque combination." Much must be expected from children not to be anticipated when you are dealing with adults, especially the propensity of children to put dangerous or toxic or air-stopping objects into their mouths. The motto of childhood seems to be: "When in doubt, eat it." Knowledge of such childish propensity is imputed to all manufacturers who produce products, especially toys, which are intended for the use of or exposure to children. Cases abound to document this axiom.

Recently, Wham-O Manufacturing Co. of San Gabriel, Calif., voluntarily recalled its Water Wiggle, a garden hose attachment that drowned a child when it jammed in its throat. Still more recently, Mattel, Inc. of Hawthorne, Calif., initiated a recall of missiles fired by its Battlestar Gallactica toys when a 4-year-old boy inhaled one and died. The manufacturer of a "Play Family" set of toy figurines would have been well advised to pull from the market and redesign the small carved and molded figures in the toy set, intended for children of the teething age. A 14-month-old child swallowed one of the toy figures 1¾" high and ⅞" in diameter, and before it could be extricated from his throat at a hospital's emergency room, the child was reduced to vegetable status as a result of irreversible brain damage from the toy's windpipe blockage of air supply to the brain. The manufacturer's dereliction of design and lack of product testing were to cost it a $3.1 million jury verdict for the child and his parents.

Against the marketing milieu and the legal setting sketched above, what should be the proper response of Parker Brothers, manufacturers of the Riviton toy set, when its executives learned of the second child's death from strangulation on the quarter-inch rubber rivet in the toy kit? Should they have tried to tough it out or luck it out in the well known lottery "do nothing and wait and see"? The company was sensitive not only to the constraints of the law (liability follows the marketing of defective products), but also to the imperatives of moral duty and social responsibility, and the commercial value of an untarnished public image. Parker Brothers decided to halt sales and recall the toy. As the company president succinctly stated, "Were we supposed to sit back and wait for death No. 3?"

Business, the Frenchman observed, is a combination of war and sport. Tort Law pressures business to realize how profitless it may prove to war against children or to trifle and jest with their safety. The commendable conduct of Parker Brothers in this case is one of the most striking tributes we know to the deterrent value and efficacy of Tort Law and the example would make a splendid case study for the nation's business schools.

(10) Case of the Recycling Washing Machine That Pulled out a Boy's Arm. In *Carcia* v. *Halsett*. The plaintiff, an 11-year-old boy, sued the owner of a coin-operated laundromat for injuries inflicted while he was using one of the washing machines in the launderette. He waited several minutes after the machine had stopped its spin cycle before opening the door to unload his clothing. As he was inserting his hand into the machine a second time to remove a second handful of clothes the machine suddenly recycled and started spinning, entangling his arm in the clothing, causing him serious resulting injuries. The evidence was clear that a common $2 micro switch—feasible, desirable, long available—would have prevented the accident by automatically shutting off the electricity in the machine when the door was opened. The reviewing court held the launderette owner strictly liable for defective design because the machine lacked a necessary safety device, an available micro switch. Shortly thereafter the defendant obtained 12 of these micro switches and installed them himself on the machines. Once again, the threat of tort liability serves to deter—the prophylactic purpose of Tort Law at work. The deterrent function of Tort Law is not just an idea in the air; it has landing gear, has come down to earth and gone to work.

SUMMARY

The foregoing 10 cases and categories are merely random and representative examples, not intended to be complete or exhaustive, of the deterrent aim and effective of Tort Law in the field of product failure or disappointment.

It needs to be emphasized that the preventive aim of Tort Law is pervasive and runs like a red thread throughout the entire corpus of Torts. For example, the private Tort litigation system has served, continues to serve, as an effective and useful therapeutic and prophylactic tool in achieving better health care for our people by discouraging and thereby reducing the incidence of medical mistakes, mishaps and "misadventures." An error does not become a mistake unless you refuse to correct it. For example, successful medical malpractice suits have induced hospitals and doctors to introduce such safety procedures as sponge counts, electrical grounding of anesthesia machines, the padding of shoulder bars on operating tables, and the avoidance of colorless sterilizing solutions in spinal anesthesia agents. Remember, the fraudulent butchery practiced on defenseless patients by the notorious Dr. John Nork was not unearthed, pilloried or ended by the vigilant action of hospital administrators, peer review groups, or medical societies but by successful, energetically pressed malpractice actions prosecuted by trial lawyers in behalf of the victimized patients.

So we come full circle and end as we began: Accident Prevention Is Better Than Accident Compensation: "A Fence at the Top of the Cliff Is Better Than an Ambulance in the Valley Below." A successful lawsuit and the pressures of stringent liability are one of the most effective means for cutting down on excessive preventable dangers in our risk-beleaguered society.

My hero in the foregoing chronicle of good lawyering has been the hard-working trial lawyer with his care, commitment and concern for public safety, the civil religion of us all.

He more than any other professional has proved that we can indeed Sue for Safety. My tribute to him is in words Raymond Chandler used to salute his hero: "Down these mean streets a man must go who is not himself mean, who is neither tarnished nor afraid."

Mr. HOLLINGS. Mr. President, I think the point of the article, Mr. President, is that we really should be focusing on the issue of safety. We have a magnificent record here in the United States of America with respect to the safety of products, and one of the best articles I have ever seen on this is the one just printed in the RECORD entitled "Suing For Safety" by Thomas F. Lambert. He goes down the various cases up until that particular point some years ago. He says:

> Tort law also has a secondary, auxiliary and supportive function—

In addition to compensation for the injured party.

> sometimes called the deterrent or admonitory function.

He cites then the various cases that come to mind. "Accident Prevention Through Successful Suits in the Products Liability Field."

> Case of the charcoal briquets causing death from carbon monoxide. Liability was imposed on the manufacturer of charcoal briquets for the carbon monoxide death and injury of a young who used the briquets indoors . . .

They produce these in my backyard in South Carolina. The warning is:

> Do not use for indoor heating or cooking unless ventilation is provided for exhausting fumes to outside. Toxic fumes may accumulate and cause death.

That is exactly what happened in that case.

So we have hundreds and hundreds, maybe thousands, of individuals that have been saved from death by this one particular case. Specifically, the Moore versus Jewel Tea Co., where "a 48-year-old housewife suffered total blindness from a Drano can * * *" They had an imperfect screw on top of the can and, of course, it came under tremendous pressure and the Drano exploded and caused her blindness.

We also have the case of the Liquid-Plumber, where in almost the same way injuries were reported to defendant. They reformulated its design to produce a safer product. "After some 59 Liquid-Plumber injuries were reported to defendant, it finally reformulated its design to produce a safer product."

Then you have the Tip-over Steam Vaporizor.

A tip-over steam vaporizer scalded a young kid who was walking and tripped and pulled the particular electrical cord, turning it over. The insurance carrier finally balked after hundred claims, and went to the manufacturer and said, "Look, we are not going to continue coverage on your company unless you have recall and redesign." Thereafter, the company proudly proclaimed

> Cover-lock top protects against sudden spillage if accidentally tipped.

Once again, the tort law had to play professor and policeman and teach another manufacturer that safety does not cost, it pays. All this about consumer cost, I am rather embarrassed to hear some of the arguments. A companion case goes to the Remington Mohawk 600 Rifle case, where when a young lad was trying to put the safety on to the off position, it discharged and shot the boy's father in the back. After pressure was brought Remington sent out this notice:

> Important message to owners of Remington Model 600 and 660 rifles, Mohawk 600 rifles and XP-100 pistols. Under certain unusual circumstances, the safety selector and trigger of these firearms could be manipulated in a way that could result in accidental discharge. The installation of a new trigger assembly will remedy this situation. Remington is therefore recalling all Model 600 rifles except those with serial numbers starting with an "A". . . Remington recommends that prior to any further usage of guns included in the recall, they be inspected and modified if necessary. [Directions are then given for obtaining name and address of the nearest Remington recommended gunsmith . . .

Then of course, there was MER/29, the anti-cholesterol drug which turned out to cause cataracts. It would cause a calamity, and blatant fraud was proved on the manufacturer's part when they got into the manufacturer's record. In that particular case, they were manufacturing a dangerous drug. Who did more? Did the Federal Government or private trial lawyers do more in getting this dangerous drug off the market? The question carries its own answer.

The U.S. drug industry has annual sales of $16 billion per year, while the Food and Drug Administration has an annual budget of $65 million to oversee drug manufacture safety. How can the foothills keep the Alps under surveillance. Worse, as shown by the Mer/29 experience, enforcement of the law in that situation, far from being vigorous and vigilant, was lame, limp, and lackluster.

So it was the trial lawyers, product liability, all those who are talking about consumers. We are talking about consumers, manufacturers, and everybody else.

The Consumer Product Safety Commission came about at that particular time. That is when we instituted it. The 1982 budget, of course, under President Reagan, cut it some 30 percent. Talking about spending cuts in the Government, in Government spending, in cut spending.

Now, looking at the Dalkon shield, asbestos, DES, slip into reverse transmission, fuel tank scandals—all the way down the list—and we find we have crime in the suites as well as crime in the streets.

We have the case of the infant who died drinking toxic furniture polish, while the manufacturer failed to warn the mother to keep the toxic product away and out of the reach of the children.

We have warning changes as to the foreseeable misuse: "DANGER. HARMFUL OR FATAL IF SWALLOWED. COMBUSTIBLE. KEEP OUT OF REACH OF CHILDREN," and so forth. That was done.

Then we have the case holding the manufacturer of PAM liable for the death of a teenager from inhalation of the PAM concentrated vapors, in the Harless versus Boyle-Midway Division of American Home Products case.

It was uncontested that prior to the lad's death the manufacturer knew of 45 inhalation deaths from the foreseeable misuse of its product, and upon remand admitted to an additional 68 from the same expectable cause.

In examining the label on the can of PAM on the shelf, Mr. President, we have: "WARNING: USE ONLY AS DIRECTED. INTENTIONAL MISUSE BY DELIBERATELY CONCENTRATING AND INHALING THE CONTENTS CAN BE HARMFUL OR FATAL."

We go even to the language difficulties—down in the distinguished Presiding Officer's backyard, they speak Spanish fluently—the case of the poisonous insecticide, holding that warning labels must contain appropriate symbols. Where they cannot read the language, at least they see the symbol. For wrongful death, in the case of Hubbard-Hall Chemical Co. versus Silverman, Puerto Rican laborers that could not understand English had to have, thereupon, the proper symbols.

The First Circuit upheld judgments entered on jury verdicts for the wrongful death of two illiterate migrant farm workers who were imported by a Massachusetts tobacco farmer and killed by contact with a highly toxic insecticide manufactured and distributed by defendant.

We see here, of course, the conspicuous usefulness of the lawsuit as the weapon for ferreting out marketing defects, whether ingenious or ingenuous, in selling dangerously defective products.

We have the case, Mr. President, of marketing carbon tetrachloride. That was finally taken, of course, off the market by the FDA as a result of this very disastrous case in Maize versus Atlantic Refining Co. and Tampa Drug Co. versus Wait. The court found that life and limb were too important to trade off against unmarketed inventory.

We have the case, Mr. President, of the 8-year-old boy who choked to death in strangling on a quarter-inch rubber rivet, part of a Riviton toy kit given him for Christmas. The toymaker knew that the Riviton set must be so designed and accompanied by proper instructions and warnings that its parts would be reasonably safe for purposes for which it was intended but also for other uses which, in the hands of the inexperienced, impulsive and artless children, were reasonably foreseeable.

So we had that decision. Parker Brothers decided to halt the sales and recall the toy. The company president, Mr. President, succinctly stated: "Were we supposed to sit back and wait for death No. 3?"

So there is a responsible manufacturer responding to product liability, saving thousands of others that are buying these toys and games. The commendable conduct of Parker Brothers in this case is one of the most striking tributes we know to the deterrent value and efficacy of tort law. The example would make a splendid case study for the Nation's business schools.

The case then, Mr. President, of the recycling washing machine that pulled out a boy's arm. He had waited for the washing machine at the laundromat for several minutes after the machine had stopped the spin cycle before opening the door to unload the clothing. As he was inserting his hand into the machine a second time to remove a second handful of clothes, the machine suddenly recycled and started spinning and tore his arm off.

The reviewing court held the launderette owner strictly liable for defective design because the machine lacked the necessary safety device, and of course thereafter they installed what they call a microswitch, which gave safe operation.

I could pursue this on and on, and I should. All we have heard here is a sham pose of how we are, on the floor of the U.S. Senate, sponsoring this bill to save the consumer the cost, the cost of the product, the thrust recognized with the Consumer Product Safety Commission, which has done outstanding work, and that is why this came about.

I could go into flammable pajamas, in the textile field, in my particular backyard. I visited, Mr. President, at Penney's safety laboratory on the 14th floor on Lexington Avenue in downtown New York. I was amazed at what Penney was doing. This was years ago.

I went up on that floor and they had all kinds of safety tests for all the toys and articles going into Penney stores around the country. That is responsible, corporate leadership. That is what product liability has brought about. The manufacturers and the retailers, Penney knows, under joint and several liability, they could be held liable. So they do not just take a product that appears good which they can make a profit on without looking at it themselves.

So we have the large marketing operations like Penney's which have instituted a safety laboratory. This has really saved money, and consumers—I wish they could find for me the word consumer in the Constitution. That is all I hear about with the sham trade policy they have. We are supposed to be saving the manufacturers' backbone, the jobs in the country.

We just referred a little while ago to manufacturing trade. Twenty-five years ago, in 1970, 10 percent of the manufactured products consumed in the United States of America was represented in imports—just 10 percent.

Today, in 1995, 25 years later, over 50 percent of manufactured products consumed in the United States is represented in imports. If we were back to 1970, with 90 percent of manufactured products consumed in the United States produced in the United States, we would automatically have 10 million more manufacturing jobs.

That is middle class. Those running around here wanting to do something for the middle class: We should build it, we should expand upon it, we should employ them, let them be able to afford a home, afford sending their kids to college.

We are going like the country of Great Britain, where they told them years ago, "Do not worry." Instead of a nation of brawn, we will be a nation of brains; instead of producing products, we will provide services, a service economy. Instead of creating wealth, we are going to handle it and be a financial center.

England has gone to hell in an economic handbasket, with two classes of society, in exactly the way we had it here in the United States of America.

When we get to product liability, we have one of the finest initiatives ever to come about in law. National problem—heavens above. Manufacturers come from the world around and gladly respond to product liability, bragging about their quality and safety, production.

That is what I have in my backyard. I see it. I talk to the Federal judges there. Most of them have been appointed by President Bush, President Reagan, President Nixon, President Ford—all of them.

They are good appointments. I am proud of them. I joined in them in confirming. I know them intimately. They will say, about product liability—they will laugh and they say they know it is a political issue gotten up by Victor

Schwartz, the National Association of Manufacturers, the Business Round Table, and the conference board, and they run around and ask candidates for the U.S. Senate, the U.S. House of Representatives, to commit. They use the buzzword reform. "Will you help us on product liability reform?"

I would say 95 percent of those asked as candidates have never tried or were aware of a product liability case. The easy answer, running for reelection or election, be that as it may, is to solve rather than create problems. If you have large financially supportive groups like the Conference Board, the Business Round Table, the Chamber of Commerce, the National Association of Manufacturers asking you, your immediate response is, "Well, sure, yes, I am for reform."

That is why we have been able to hold it up. Because the merit is on our side. This is a solution looking for a problem. There is not a national problem in product liability. Of all civil claims in the United States of America, torts are 9 percent of all civil filings. Of that 9 percent, only 4 percent of the 9,—36/100 of 1 percent—is in product liability. The States, over the past 15 years, with this issue raised, have all reformed—practically all—their product liability laws.

Why change on punitive damages, now the law of 45 States, at the national level? Why change that? Has anybody from the States come up and asked? Not a soul. The nearest they could get—and I remember politically when they changed it in the Governors Conference. I was waiting for the Governors because I have been a Governor. You could not find a Governor coming up and saying there is a terrible problem in my State. Because you would have to say: Wait a minute, I am a Governor. What did I propose? What did I try to do? So they sent up the executive secretary, who just rattled off some nostrums about litigation. He did not even know what he was talking about.

They brought up other witnesses. It was an embarrassment. In the Alabama cases they talked of businesses suing businesses. It had nothing to do with product liability. The hearings that we had before the Commerce Committee were an embarrassment, the way they were trying to get this thing on. And that is all it is and that is what is holding us up.

On the budget, we have not spent any time on the budget—serious national problems. Welfare reform—serious national problems. Crime, if they want to go back into the crime bill, or terrorism—serious national problems. Telecommunications—serious national problems.

But here they come with 36/100 of 1 percent of tort claims, which habitually have been held, for over 200-and-something years under the English rule, at the State level. They are preaching, if you please, Jeffersonian government, "That government nearest to the people is the best government" and that is why we have to get rid of this Washington bureaucracy, what they call the "corrupt, liberal welfare state." Take housing, block grants back; welfare, block grants back; crime, no policemen on the beat, block grants back—everything back in block grants, save this manufacturers bill. And by the way, as we enunciate the rules and regulations and compliance to the users and so forth, for the lawyers, let us not make them pertain or apply these to the manufacturers themselves.

The unmitigated gall of presenting this in a serious fashion on the floor of the U.S. Senate is an embarrassment to this Senator. I feel very keenly about it. I know I have behind me the American Bar Association. I know I have behind me the Association of State Legislatures. I know I have behind me the States Attorneys General. I know I have behind me the Association of State Supreme Court Justices. I know I have a list of over 130 organizations that we put in there comprising, amongst others, all the leading consumer organizations in the United States. Yet they have the audacity to keep pleading here, we have to save the cost to the consumer, the cost to the consumer.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

ORDER OF PROCEDURE

Mr. GORTON. Mr. President, I simply would like to inform my colleagues on the status of debate. We have two amendments to the Dole amendment that have been placed before us. One, by the Senator from Maine [Ms. SNOWE] is identical to the amendment that was agreed to this morning as an add-on to medical malpractice. I hope, and ask my colleagues who are here present—I hope we can simply adopt that amendment by a voice vote. We had a rollcall vote this morning on an identical proposition. Then, after an opportunity for Members to come to the floor and to debate the Dorgan amendment, I intend to move to table the Dorgan amendment.

The majority leader has said there will be votes, at least one additional vote and maybe more this evening.

All attempts during the afternoon have been made to secure a unanimous-consent agreement under which we could complete the debate on all amendments relating to punitive damages this evening and in a brief time tomorrow morning and then have a series of votes on punitive damages tomorrow morning, very much like those on medical malpractice today. We have been unable to secure that unanimous-consent agreement. In the absence of being able to secure it, the only way that any progress can be made is by motions to table and record votes on the amendments that are before us or are going to be in front of us.

So I intend at this point to yield so the Senator from Wisconsin may speak, I assume on one of these subjects.

Immediately after he has completed speaking I will ask unanimous-consent that we—I will ask we simply take a voice vote on the amendment by the Senator from Maine, Senator SNOWE. And then after the Senator from North Dakota has an opportunity to speak on his amendment, we will move to table it unless we can secure the unanimous-consent agreement we have been looking for.

I plead with our colleagues to try to do this in an orderly fashion. This is not the end of the bill. We are only attempting by tomorrow to finish up dealing with the subject of punitive damages.

With that, Mr. President, I yield the floor. I think the Member who has been waiting here the longest time to speak is the Senator from Wisconsin.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I will just take a second. I wonder if the Senator from Wisconsin can give us some idea how long he may wish to speak, and then the Senator from North Dakota, I understand, wishes to speak, too, on his amendment?

I would say before they respond, I share the views just expressed by the Senator from Washington. We had thought we would have an agreement where amendments would be offered this evening and then tomorrow morning we would start voting on amendments in the order they were offered. Apparently we cannot. Agreement has not been cleared on that side of the aisle.

We are still prepared to negotiate that agreement. That would get us finished with punitive damages on any and all second-degree amendments. Failing that, I do not see any alternative than to stay here late tonight and dispose of as many amendments as we can between now and 11 o'clock or midnight.

If I could just inquire of the Senator from Wisconsin how long he may wish?

Mr. FEINGOLD. I advise the majority leader, about 15 minutes.

Mr. DOLE. How much time does the Senator from North Dakota require?

Mr. DORGAN. Mr. President, I had hoped we would have a lengthier period of debate for my amendment. I offered my amendment prior to a couple of presentations and debate recently on the floor. I had not anticipated my amendment would be voted on tonight.

When I originally discussed this with the Senator from Washington, I understand they were at that point working on a unanimous-consent agreement. I do not know why that unanimous consent agreement has not been agreed to at this point.

But I do know that there are others who wish to speak on my amendment. I would hope that if, however, you dispose of the Snowe amendment, that you would provide further opportunity for some additional debate. It is certainly not my intention to stretch out this process. But, by the same token, I think the Senator would admit that when you offer an amendment, they come to the floor and suggest we have a vote.

Mr. DOLE. Can we vote at 8 o'clock?

Mr. DORGAN. I have some other people who would like to speak on the amendment. But the intention of the Senator from Kansas is to do what?

Mr. DOLE. My original intent was to try to get an agreement where we could offer amendments tonight and vote on those tomorrow which I thought the Senator from North Dakota was supporting and obviously is supporting. For some reason we cannot reach that. The only other alternative we have is to stay here and grind through the amendments because we are now on the second week on this legislation. It seems to me that there may be other things we want to do in the next couple of weeks. But I would be prepared if we can reach an agreement. I certainly am not going to shut off the Senator from North Dakota. But if we could reach some reasonable agreement upon what time we could move to table the amendment, because we are going to stay here late tonight, late tomorrow night, and late the next night if we cannot reach an agreement. We do not have any alternative. Would the Senator have any indication of how much time he might need?

Mr. DORGAN. I might say to the majority leader, Mr. President, that I would like to visit with some other Members who would like to speak on my amendment. My understanding when I offered the amendment—I discussed it with the Senator from Washington—was that we were going to have a series of votes tomorrow morning. Apparently that has not materialized, at least in an agreement, at this point. But that was my understanding when I offered it.

My intention is that the proposal I have offered would eliminate the punitive damages cap in the underlying legislation. There will be a series of proposals on punitive damages, and there already have been some. And there will be others. This is probably the only opportunity the Senate will have on the issue of eliminating the cap on the underlying bill. I would hate to see a discussion on that issue go by in 15 or 20 minutes. I have spoken briefly. I know others would like to speak on the same subject.

Mr. DOLE. I am trying to reach an agreement. You say 8 o'clock is not enough time. Nine o'clock? Sooner or later we will move to table, if we cannot reach an agreement. We do not have any other recourse. We are the majority. We have to move legislation.

I think the Senator from Washington has a good suggestion. I think we will proceed and let the Senator from Wisconsin proceed, and then I will be recognized at that point either to make a tabling motion or reach an agreement.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Chair, and I thank the majority leader.

Mr. President, I believe my remarks at this point are not only relevant to the whole bill but in particular to the contents of the Dole amendment and some of the contents of the further amendments of the Senator from North Dakota.

I would like to take this opportunity to respond to statements made during the debate last week by the senior Senator from Washington that suggests that somehow or another the arguments that this bill has seventh amendment implications is somehow a bizarre argument.

In effect, that statement was made by the distinguished Senator from Washington on the opening day of this debate, on April 24, following the opening remarks by the Senator from South Carolina. On April 26, after my own remarks referencing the seventh amendment to the U.S. Constitution, the Senator from Washington described references to the seventh amendment in this context as both curious and bizarre.

I note that the Senator from Washington was very careful not to assert that either the Senator from South Carolina or the Senator from Wisconsin were making the argument that the pending legislation literally violated the seventh amendment, but rather he stated that we were "somehow or another implicating the seventh amendment right of trial by jury into this debate and thereby implied at least that the bill before us somehow or another restricts that constitutional right to trial by jury." That is the end of his statement.

Mr. President, I find the statements made by the Senator from Washington to be somewhat curious for two reasons:

First, a number of State courts have already struck down State statutes imposing limitations on amount of damages that juries can award as violating State constitutional guarantees of a right to trial by jury.

There is nothing strange or bizarre about suggesting that such limitations on the ability to recover may violate fundamental right to trial by jury since a number of State courts have already made precisely that determination with respect to similar State laws, and similar State constitutional provision.

For example, in *Smith* v. *Department of Insurance*, 507 So. 2d 1080 (Fla 1987) a $450,000 cap on noneconomic damager in tort actions was found to violate a right of access to the courts and the right to a trial by jury.

In *Kansas Malpractice Victims Coalition* v. *Bell*, 757 P 2d 251 (Kan 1988), a limit on noneconomic damages and on total damages was held to violate the state guarantee of right to remedy and jury trial.

In *Sophie* v. *Fibreboard Corporation*, 771 P. 2d 711 (Wash, 1989) a cap on noneconomic damages in tort actions was found to violate the State constitutional right to a jury trial. The Court said in the Sophie case that "[the state of Washington] has consistently looked to the jury to determine damages as a factual issue, especially in the area of noneconomic damages. The jury function receives constitutional protection [under the State constitution] which commands that the right of trial by jury shall remain inviolate".

There has thus been a series of State cases holding that statutory limitations quite similar to those proposed in the pending legislation violate State constitutional provisions guaranteeing a right to a trial by jury.

As the Senator from Washington well knows, the seventh amendment has not been held to apply to State court proceedings. Indeed, both the Senator from South Carolina and I have been careful not to argue that the legislation violates the seventh amendment as applied to State court proceedings.

However, many State constitutions provide for constitutional guarantees for trial by jury in State court proceedings that parallel the seventh amendment, and, as I have cited, a number of courts have held that limitations in State laws similar to those proposed in this legislation which limit the ability of a jury to award damages violate the right to a trial by jury under those State constitutional provisions.

So, Mr. President, that is the first reason it is neither bizarre nor inappropriate to argue about the right to trial by jury and the impact this legislation may have on it. But there is a second reason, Mr. President.

Second, it is clear that this legislation is an assault upon the American jury system and that is precisely what the proponents intend—an assault upon the American jury system.

Repeatedly, supporters of this legislation have asserted that it is needed because of excessive jury awards in product liability and other tort litigation.

They have repeatedly argued that the legislation is necessary to curb American juries from making these excessive awards.

This debate has been full of so-called examples of excessive jury awards, starting with the infamous McDonald coffee case.

In fact, this is a specious argument.

To the extent that jury verdicts have been excessive, courts have routinely stepped in and reduced the awards, using their long-established powers of remittitur.

The infamous McDonald coffee case is an excellent example. The court there reduced the jury award from $2.7 million to $480,000.

I ask unanimous consent that a "Dear Colleague" I recently circulated dealing with the myth of excessive jury awards be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FEINGOLD. Mr. President, this legislation would not only curtail the power of juries to determine the amount of punitive damages to be awarded; it would also prevent certain evidence relating to damages from even being presented to the jury in the first place. That has something to do with the right to trial by jury.

Section 107 provides that evidence relating to the punitive damages, for example, evidence of willful misconduct, would be inadmissible during the compensatory damages stage of the proceeding.

That section 107 also provides that evidence relating to a defendant's wealth, which I think is clearly a relevant factor in assessing what level of punitive damages should be assessed, could not be presented to the jury, which, in my view, is another serious derogation from the right to trial by jury.

Other proposals which may soon be added to this measure would do even more of the same.

They would prevent juries from making punitive damages awards entirely, leaving those decisions not to the jury but to judges alone.

All of these proposals, in my view, evidence a clear and very disturbing distrust of the jury system itself. And it looks to me like a presumption somehow that juries are incapable of reaching good decisions without these kinds of federally mandated restraints and constraints on the jury. That is what this is—a new Federal mandate that constrains and restrains juries.

Mr. President, as we debate whether Congress should place these kinds of mandates or restrictions on the deliberation of juries, it may help actually to take just a few moments to reflect upon the historical importance placed upon the jury system in our Nation.

The right to a trial by jury in civil as well as criminal cases was one of the most important rights that was sought by the framers of our Constitution.

Indeed, one of the primary grievances of the American colonists against the British was the extensive effort by the British to shift the adjudication of civil and criminal disputes from the colonial courts, where the local juries traditionally sat, to the vice-admiralty courts and other nonjury tribunals administered by judges who were, of course, completely beholden to the British Crown.

So this is not something that we just came up with recently. This goes back as far as our country's history to the colonial era.

This anger over the fact that under the British rule juries were being deprived of their authority was actually expressed in the Declaration of Independence itself, which cites among the many grievances lodged at the British, "For depriving us in many cases, of the benefits of Trial by Jury."

Thomas Jefferson described the jury in his writings as "the only anchor yet imagined by man, by which a government can be held to the principle of its Constitution."

Mr. President, in the constitutional convention, the proposed Constitution included the right to trial by jury in criminal cases under article III, but the absence of an expressed guarantee of the right in civil actions was condemned by the antifederalists as sufficient cause to reject the entire Constitution.

So the entire Constitution was in some jeopardy because of that omission. And, of course, it was those kinds of concerns of those who were not entirely happy with the Constitution itself that led to our Bill of Rights, specifically their demand for an explicit guarantee for the right of a trial by jury for civil cases, that led to its inclusion in the seventh amendment to the U.S. Constitution in our Bill of Rights.

Mr. President, it was included from the first among Madison's proposals for the Bill of Rights, noting "in suits at common law, the trial by jury, as one of the best securities to the right of the people, ought to remain inviolate."

Juries were regarded by the Framers, according to one constitutional scholar, Morris Arnold, in a 1980 University of Pennsylvania Law Review article, "A Historical Inquiry into the Right to Trial by Jury in Complex Civil Litigation," "as more than a 'mode of trial' they were instruments of local government as well."

I find that very interesting. The 104th Congress, I think, should be given the most credit on any issue perhaps so far for having dealt with that whole overriding issue of unfunded mandates, of showing respect for the local levels of government.

Mr. President, our Framers perceived the jury as one of those local levels of government, one of those institutions that was made up of the people back home not specifically beholden either to this Federal Government or, before the revolution, the British Crown.

Indeed, this view of juries as a critical element of the American democracy prompted Alexis de Tocqueville to observe in "Democracy in America," "The jury is, above all, a political institution, and it must be regarded in that light in order to be duly appreciated."

More recently in our modern history, Chief Justice Rehnquist recognized the historical role of the American jury in his dissenting opinion in Parklane Hosiery Co. versus Shore in 1979, in which our current Chief Justice stated, "The founders of our nation considered the right of trial by jury in civil cases an important bulwark against tyranny and corruption, a safeguard too precious to be left to the whim of the sovereign."

Mr. President, that is what this bill is all about today. This is the sovereign, the Federal Government, choosing to override the right of State and local juries to make the decisions about what a jury should be free to do. This is exactly what Chief Justice Rehnquist must have meant.

The Supreme Court has repeatedly recognized the fundamental importance of trial by jury, stating in Dimmick versus Schiedt, that "Maintenance of the jury as a fact-finding body is of such importance and occupies so firm a place in our history and jurisprudence that any seeming curtailment to the right to a jury trial should be scrutinized with the utmost care."

Tort reform, particularly limits on the amount of damages that juries may award, clearly implicates this right to trial by jury, as a number of State court decisions have held with respect to State laws and constitutional guarantees to trial by jury.

As the Washington Supreme Court found in the Sophie case, statutory damage limits interfere with the jury's traditional function to determine damages.

That case also contains a very instructive discussion of the difference between a trial judge's power of remittitur to reduce a jury verdict and a statutory cap, an overall, across-the-board cap, on the amount of damages a jury can award.

The court observed that the judicial finding that an award is too high in a particular case is fundamentally different from a legislatively imposed "remittitur" that operates automatically in all cases without regard to the facts and justice of the case.

A judge implements remittitur only under well-developed constitutional guidelines that provide that a judge can only reduce a jury's damages determination when that determination was wholly unsupported by the evidence, obviously motivated by passion or prejudice, or when in certain cases it actually shocks the conscience just for a jury to have given such an excessive award.

Mr. President, absent such factors, there is a strong presumption in favor of the jury's determination. And that comes to us all the way back from the Framers and the seventh amendment.

Finally, the opposing party in cases of remittitur has the choice generally of accepting the reduction or seeking a new trial. It is not necessarily completely the end of the line.

None of these safeguards, as was observed by the court in the Sophie case, is present in one of these across-the-board statutory damage limits that is contemplated by the legislation before us.

The system of remittitur thus operates in a fashion very different from the kind of statutory caps that are being advocated by the people who are presenting the so-called tort reform.

Mr. President, I do not intend to get into an extensive debate about whether or not the pending legislation violates the seventh amendment in practical terms, since the seventh amendment has not, to this date, actually been applied to the States through the 14th amendment, although it is certainly applicable, of course, to proceedings in Federal court.

It certainly, however, Mr. President, violates the spirit of the seventh amendment, which was intended to assure that local juries, local folks on local juries comprised of one's peers, not just governmental officials in Washington, would be the ones to makes these decisions.

I am advised that this measure, should it be enacted, Mr. President, will be challenged in court before the ink is dry, both on the basis of the seventh amendment and on the basis of last week's decision in United States versus Lopez, which restricts the right of Congress to intrude upon areas which have been traditionally regulated by the States under their own powers.

The decision in Lopez states that the scope of constitutional authority under the interstate commerce power "must be considered in light of our dual system of government and not be extended so as to embrace effects upon interstate commerce so indirect and remote that to embrace them, in view of our complex society, would effectually obliterate the distinction between what is national and what is local and create a completely centralized government."

Now that sounds like language, Mr. President, of the so-called Contract With America—let us not take away the power of the States and the local governments. But, in a very real sense, that is the best description of this bill I have heard.

Mr. President, I am one of the few Members of Congress who voted against the 1994 crime bill; in fact, one of only two Democrats to vote against the crime bill. I did it, in part, because I believe it represented an inappropriate incursion of the Federal Government into areas of law enforcement which had throughout our history been within the province of State and local law enforcement agencies.

My reasons at the time were based upon policy concerns that the Federal Government ought to do a better job with the responsibilities that clearly rested at the Federal level than seeking to usurp State and local law enforcement responsibilities.

Last week's decision, of course, by the U.S. Supreme Court adds an even more compelling argument to the debate.

Congress does need to learn to restrain itself from trying to take on every problem that gets a headline in the newspaper. We need to learn to say that some problems are better addressed at the State and local level.

That is why I voted for the unfunded mandates bill, and I believe, Mr. President, if especially the new Senators take a look at this bill, tort reform is clearly one of those areas that belongs with the States. I do not think the Federal Government knows better than the 50 States of this country as to what should be a law in this area.

There is often a great deal of rhetoric about what the Founding Fathers might think about various contemporary problems and how our Government deals with those problems. All we can do is speculate. It was 200 years ago. But every argument makes us want to know, even though we cannot know for sure, what the Framers would have said.

At least one of the proponents of this legislation argued last week that if we asked the Framers, they would not have wanted juries to consider medical malpractice or product liability cases. I do not agree with that at all. I think that would have made a lot of sense to them.

I, for one, believe that the Framers would be horrified—horrified—at the idea of the Federal Government passing legislation like this to preempt the powers of State governments, to require State courts to follow Federal law in an area which has been the domain of the States and local governments and local juries for 200 years.

They would have been horrified to hear the arguments that somehow the common citizens, the average folk of this country who comprise American juries, are somehow out of control and that they need the Federal Government in Washington to check their powers. That is about as direct an offense to the folks back home as I can think of, saying they cannot handle it on these juries, that they are out of control.

I think the American patriots who fought against the British attempts to take power away from colonial courts, to prevent local juries from rendering decisions would turn over in their graves to hear such arguments advanced in their name and in defense of this legislation.

Mr. President, this legislation is nothing more or less than an assault on the American jury system. It is predicated on a belief that local juries are not capable of rendering fair decisions. It is an attempt—a serious attempt—to diminish the role of juries, a role which our Framers regarded as vital to our democracy and system of government, and I think it should be soundly rejected.

I just want to raise one last point that actually came out during the Commerce Committee hearing, and I think it is worth repeating.

Testifying on behalf of the Conference of Chief Justices and in opposition to this bill was the Honorable Stanley Feldman, the chief justice of the Arizona State supreme court. The chief justice pointed out that in many States, we have entrusted juries with virtually all major decisions, including the decision of whether or not to sentence a criminal defendant to death.

In criminal courts, we say to the juries, here are the facts of the case, here is what the prosecution claims the defendant did, here is the defendant's alibi or confession and here is the doctor's psychiatric evaluation. We give the juries all of this information, and then we ask them to make a final judgment about whether a person should live or die.

As Chief Justice Feldman illustrated, it is almost bizarre that those who believe we should entrust with juries the power to put people to death also maintain that juries are unable to objectively calculate what a reasonable punitive damage award should be.

I find it unfathomable that we can say that juries are qualified to impose the death penalty on criminal defendants but underqualified and incapable to assess monetary penalties against civil defendants. I am afraid that says something about what our society has come to value in this day and age.

Mr. President, to conclude, this may not literally be an issue of whether the seventh amendment literally applies in this situation. It may, as constitutional interpretation has done with respect to Federal aspects of this bill. But, obviously, the right to trial by jury has to have some core meaning and, at some point, if you limit what a jury can do to make a person whole or you restrict the evidence a jury can hear to make its decision, it has to have an impact on the right to trial by jury.

Maybe we have not reached that point yet in our legislation in this country, but I believe this bill takes us quite far over the line and does seriously diminish what I think most Americans would agree is properly the role of the jury, not the role of the U.S. Congress.

I thank the Chair, and I yield the floor.

EXHIBIT 1

DEAR COLLEAGUE: As the debate continues around the product liability bill, I wanted to address one of the many myths circulating about the need for this legislation: that juries are out of control and they are subject to no restraints under current law. Quite simply, I believe this attack upon the jury system is unwarranted.

For over two hundred years Americans have valued the jury box as much as they have valued the ballot box. Perhaps there is nothing more symbolic of or distinguishing about the American judicial system—the greatest judicial system in the world—than the principal of trial by jury.

The one distinguishing characteristic about American jurors is that they have no distinguishing characteristics. A juror could be the waitress that served you breakfast this morning. It could be the person who delivers your mail. It could be your doctor, a family member or even your favorite celebrity. And we must remember that jurors today are just as capable of administering fair and equal justice as were jurors in 1791, the year the Seventh Amendment and the Bill of Rights were ratified.

Unfortunately, the powerful supporters of S. 565 have run an effective campaign of misinformation about jury verdicts in recent months. They have tried to convince this country that jurors are determined to drive American manufacturers and corporations into bankruptcy. Of course, nothing could be further from the truth.

A well-known study by Professors Michael Rustad and Thomas Koening—referred to by the Supreme Court as the "the most exhaustive study" ever on punitive damages—found only 355 punitive damages awards in federal and state courts for product liability cases between the years 1965–1990. Not counting the cases that related to asbestos, that is an average of about 10 punitive damage awards a year—hardly a situation of vindictive juries running amok in America.

Does this mean that juries are inhuman and incapable of mistakes? Does it mean that jury decisions should be absolute with no checks or limits? Of course not. In fact, just last year the Supreme Court affirmed in *Honda Motor Company* v. *Oberg* that judges have a clear authority and obligation to limit punitive damages awarded by juries. As Justice Stevens wrote in his majority opinion, ". . . judicial review of the size of punitive damage awards has been a safeguard against excessive verdicts for as long as punitive damages have been awarded."

In their study, Professors Rustad and Koening found that of the 355 punitive damage awards in the past 25 years, 90 of these awards—about 25 percent—were either reversed or remitted by the presiding judge. Take the infamous McDonald's coffee case. The jury awarded $2.7 million in that case—the equivalent of two days' worth of McDonald's coffee sales. The judge reduced this to $480,000 or three times the plaintiff's economic damages. Judges can and do reduce these awards.

In short, this is reflective of a system of justice in which juries prescribe appropriate sanctions against parties that have been found guilty in a product liability action and at the same time bestows upon judges a necessary oversight role that is exercised with frequency and prudence.

The fundamental issue here is this: If an injured consumer sues a manufacturer in a state court, who do you trust to administer justice in that case—the judge and the jury, or Congress?

Best regards,

RUSSELL D. FEINGOLD.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, the time has come for us to put some common sense in our court system. There is no question that we must make sure that every person has a right to go to court if that person has been injured. But we see courts being overcrowded, we see defendants having to settle because it is less expensive to settle than to go ahead and try a case. We have seen research, particularly in the area of women's health, being shut off because the drug companies and the pharmaceuticals just cannot do it. They cannot do it because of the liabilities they are afraid they will incur.

This is the eighth consecutive Congress in which the Senate or the Commerce Committee has considered product liability. During that time, the need for product liability reform has grown by leaps and bounds. A study by the Texas Public Policy Foundation found that from the early 1980's to the early 1990's, the total number of punitive damage awards in Dallas County was 14 times greater and the average award, adjusted for inflation, was 19 times higher.

In Harris County, which is Houston, total awards were up 26-fold and the average award was up eightfold, and that is from a House Judiciary Committee report.

My State of Texas and the State of California have begun to take steps to control this growth. But this is all over the country. These things are happening all over our country, and it is affecting the price of our products and the ability to do research.

In a recent letter, Robert Bork, the judge, explained how product liability laws force national manufacturers to plan and protect themselves against lawsuits in the most litigious States. He said a State like California or Texas can impose its views of appropriate product design and the penalties for falling short on manufacturers and distributors across the Nation. He found this to be a perversion of federalism. Instead of national standards being set by the National Legislature, national standards are set by the courts and juries of particular States. He was making the case that it is Congress' role at the Federal level to take control of this situation. It is a matter of interstate commerce. It is something that we must deal with.

Today, we are talking about an amendment by the majority leader—and I am a cosponsor of this amendment—to provide the same protection from excessive punitive damage awards that this bill provides for manufacturers and retailers, to civic groups, to charities, to churches, and to local governments. Our courts are being misused. People who have not done anything wrong are being held up for settlements, and now this applies to Girl Scouts and Boy Scouts, to our Boys and Girls Clubs of America.

Congress must take control. We can lower prices, we can lower insurance premiums, we can have new business starts, we can get new products and drugs on the market, we can increase jobs, and we can free the people who want to volunteer to do that without fear of retribution by a lawsuit.

We can keep cities and towns from being bankrupted by lawsuits over playground accidents. We can keep volunteers helping the needy by maintaining a proportionality between compensatory and punitive damage awards in tort actions. We must expand the product liability bill to protect all Americans from unnecessary and frivolous lawsuits, from excessive damages for injuries they did not cause.

This bill, under the leadership of Senators GORTON and ROCKEFELLER, goes a long way in the right direction to try to bring these abuses to heel. It is time to end the judicial lottery and put common sense back in the courts. If we are going to do that, Mr. President, I think we must apply it to the cities because, after all, it is the taxpayer who always foots the bill when there is a lawsuit that gets an award that the city's insurance does not cover. Who pays? You know. We all know. It is the taxpayers of this country. When it is the Girl Scouts selling cookies and they have a frivolous lawsuit because it is just assumed they would have deep pockets, who pays? It is all the good deeds and the leadership qualities that Girl Scouts give that will suffer.

It goes on and on, Mr. President. We must take control of the situation. I hope the Senate will not let this bill go by the wayside. I hope we do not argue and bicker so that we are not able to get a good bill out of this body, so that we can go to conference and work with the House and send something to the President that I hope he will sign. If we can do that, we will be able to reopen research that has been left out of the game right now because people are just not able to afford to do it, because they cannot protect themselves from the litigation attempts.

So I am hoping that we will take action so that we can open up the research capabilities and open up our playgrounds and swimming pools. Personal responsibility is a new theme in America that has been rejuvenated from the past. I think personal responsibility is part of what we are about. We are not talking about legitimate issues of a person being injured. We are not talking about the right to have economic damages, some damages for pain and suffering—absolutely not. I have heard stories on the floor for the last week that are heart wrenching.

There is no question that some people are entitled to damages. But we have to curb the excesses. We have to bring common sense back into the mix. That is what this bill will do. I urge my colleagues to support the Dole amendment so that everyone will have the same coverage as the corporations do. I urge my colleagues to look at the big picture and try to make the decision to get a good bill out of the Senate so that we can send something to the President that I hope he will, in the name of responsibility, be able to sign.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, the legislation that we are considering today has no place on the Senate floor or on the Senate calendar. This legislation is a blatant attempt to eliminate over 750 years of Anglo-American common law and to federalize over 200 years of State Tort law in this country.

I want to return power to the States, not federalize important areas of State control. I thought that returning power to the States was a major part of the philosophical victory of the Republican party, my party, which occurred last fall.

Mr. President, our current legal system, based on Anglo-American law, has its beginning in A.D. 1215 when the barons of England forced King John to sign the Magna Carta at Runnymede. The Magna Carta placed the King under the law and put limits on royal power. It also created remedies for many of the abuses that were occurring in England and gave legal protection to the English ruling class, which was later expanded to all Englishmen. Following the Magna Carta other English legal documents provided for additional legal protections for British citizens and the concept of rule of law.

Ultimately, the Magna Carta has come to stand for the proposition that no man is above the law.

English courts, after the Magna Carta, went on to develop a system of common law to provide legal protection to all men and women, the likes of which the world had never seen. Common law, including all Tort law, is basically judge-made law. For hundreds of years English judges decided cases which in turn formed the basis for future decisions.

Under the Magna Carta, the later laws passed by the British Parliament, and the English common law, men were for the first time given certain basic rights in the legal system such as due process, jury trials, and the right to cross examine witnesses.

Mr. President, this system of Anglo-American law was brought to our shores by English settlers and was adopted by our Founding Fathers when they wrote the United States Constitution—the single most important document in our land. Many of the provisions of the Magna Carta anticipate rights that were embedded in the U.S. Constitution and American law.

Our Constitution created a Federal system of Government. Under this system, that so many in this body appear to want to do away with, the Federal Government has certain areas of responsibilities and the States have their areas of influence.

As early as 1648 in the Maryland Act for the Liberties of the People, American colonists explicitly recognized that they were protected and governed by the common law. In 1774, the Declaration of Rights of the First Continental Congress stated that the "Colonies are entitled to the common law of England." After the American Revolution, the colonies, and later the 13 States developed and adopted the common law to their own needs and circumstances. Common law, including Tort law, has remained solely a responsibility of the States for over 200 years.

Mr. President, I would like to direct my colleagues' attention to the tenth amendment of the U.S. Constitution, the tenth amendment states that:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

For over 200 years, the States have had the responsibility and a duty, Mr. President, to develop tort law. They have done so.

The bill we are considering today is the first step, I believe, in destroying the States' important role in developing and administering rules and laws for the redress and compensation for various torts, including product liability cases.

In addition to eliminating over 750 years of Anglo-American common law, this bill violates the 10th amendment of our Constitution and the basic principles of American federalism.

Mr. President, the States have truly served as laboratories of democracy over the last 20 years in the area of tort reform. Virtually every State in the country has significantly reformed its legal system as it relates to product liability.

Where there have been problems, the States have examined their legal systems and corrected the problems. As Supreme Court Justice Powell has stated,

> Our 50 States have developed a complicated and effective system of tort laws and where there have been problems, the States have acted to fix those problems.

There is no current justification, I believe, Mr. President, for federalizing our Nation's tort system. Under the logic of this bill, if we carry it a step farther, if we federalize all product liability cases, why do we not federalize all civil and criminal statutes?

The Federal Government can usurp all State power. We know that. Unfortunately, Mr. President, there are many in this body who see federalizing product liability law and other things as a first step to federalizing all legal matters.

This bill will substantially disrupt and may end our country's State common law system. It will result in additional litigation in both State and Federal courts.

Mr. President, I hope that my colleagues will think long and hard before they go down the path toward ending federalism as we know it and preempting all State common law.

The Federal Government, including the Congress, I believe, cannot solve all of our society's ills by Federal statute.

I find this legislation totally unacceptable, and I urge all my colleagues to vote and work against it.

AMENDMENT NO. 621 TO AMENDMENT NO. 617

(Purpose: To provide that a defendant may be liable for certain damages if the alleged harm to a claimant is death and certain damages are provided for under State law, and for other purposes)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending question is the Gorton amendment No. 620.

Mr. SHELBY. Mr. President, I ask unanimous consent that this amendment be made a second-degree amendment to the Dole amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Alabama [Mr. SHELBY], for himself and Mr. HEFLIN, proposes an amendment numbered 621.

Mr. SHELBY. Mr. President, I ask unanimous consent that the reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place insert the following:
>
> **SEC. . LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.**
>
> In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

Mr. SHELBY. Mr. President, I have made statements in the past about the negative effects this bill will have on

State laws and federalism in general. Tonight, I want to be more specific.

My State of Alabama has a wrongful death statute whose damages are construed as only punitive in nature—yes, only punitive in nature.

Under the product liability bill that we are considering today in the Senate, along with some of the proposed amendments to this bill, people who have committed or are guilty of a wrongful death in my State of Alabama, the damages available will be severely limited.

In 1852, quite a while ago, the Alabama legislature passed what is known as the Alabama Homicide Act. This act permits a personal representative to recover damages for a death caused by a wrongful act, omission, or negligence. For the past 140 years, the Alabama Supreme Court has interpreted this statute as imposing punitive damages for any conduct which causes death.

Alabama believes that all people have equal worth in our society, so the financial position of a person is not used as the measure of damages in wrongful death cases in my State. The entire focus of Alabama's wrongful death civil action is on the cause of the death.

The amendment that I am offering tonight on behalf of myself and my colleague, Senator HEFLIN, will provide that in any civil action where the alleged harm to the claimants is death and the applicable State law only allows for punitive damages such as Alabama, the punitive damages provision of this bill will not apply—in other words, of the Federal statute if it were to pass.

Mr. President, I believe there are legitimate reasons to exclude from coverage of this bill actions such as those brought under Alabama's wrongful death statute.

I urge all of my colleagues to support this important amendment to my State.

Mr. HEFLIN. Mr. President, I rise in support of the Shelby amendment.

In all of the 50 States, Alabama has a different and unique recovery in the event that a decision is made by a court or jury in regard to the death of an individual, whether it be brought by negligence or any form of action. Alabama's wrongful death statute is unlike any other State's wrongful death statute because its damages are punitive only. A person cannot prove, in a wrongful death case in Alabama, compensatory damages. An Alabama plaintiff cannot show his wages, his doctor bills, or anything similar of an economic or noneconomic nature. Alabama's statute is very unique and different from any other State.

The language of the Shelby amendment was included in a number of previous bills that were reported out of the Commerce Committee. In the 102d Congress, in the bill that was reported out, S. 640, and in several bills that were reported out of the Commerce Committee on product liability previous to that, they contained the exact language of the pending Shelby amendment. This had been worked on, and there had been several drafts and everybody agreed that it was a proper amendment to be included.

I suppose since I have opposed the overall product liability, this provision may have been taken out. What I am saying is that the citizens of Alabama ought not to be at a disadvantage in regard to recovery under whatever product liability bill is passed.

The language of this amendment was agreed to and was in previous bills but has been omitted from this bill. Basically, it allows for punitive damages as the element of damages that is allowable. A person is not allowed to have compensatory damages. A wrongful death statute does not allow even for the matters pertaining to loss of wages or pain and suffering or anything else. It is strictly a matter left to the jury on the wrongful death issue, and has been in existence for a long time. The defense bar, the plaintiff bar, have all agreed that this is a type of damage that ought to prevail, pertaining to wrongful death in Alabama.

This concept was developed many years ago in what we know as the Lord Campbell Act. The Lord Campbell Act was passed because English jurisprudence realized that a defect existed in common law in that there were questions as to whether or not when someone died, that the cause of action survived.

Many States passed wrongful death statutes, and following the Lord Campbell Act that was passed in England, the Alabama Supreme Court a number of years ago, well over 100 years ago, interpreted that act as being punitive in nature only and compensatory damages could not be proved.

As a result, under the current language of punitive damage provisions in the product liability bill, unless the Shelby amendment is adopted, then a person who is killed in my State in a wrongful manner could not recover any damages.

I support the Shelby amendment. I think it ought to be adopted. I think if we look back into the past history and those that have dealt with it, we see that everybody at a previous time who worked on this came up with an agreement language, and it is one, I think, that ought to be adopted by the Senate.

I want Members to check with various people involved in this, and I think it is a legitimate amendment. It ought to be passed, or otherwise the people in the State of Alabama will be the only State in the Nation that could not recover when an individual is killed by negligence or by gross negligence or recklessness or wantonness or any type of proof that is necessary to prove a cause of action.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 617, AS MODIFIED

Mr. DOLE. Mr. President, I send a modification to my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment (No. 617), as modified, is as follows:

On page 19, strike line 12 through line 5 on page 21, and insert the following:

SEC. 107. PUNITIVE DAMAGES IN CIVIL ACTIONS.

(a) FINDINGS.—The Congress finds that—

(1) punitive damages are imposed pursuant to vague, subjective, and often retrospective standards of liability, and these standards vary from State to State;

(2) the magnitude and unpredictability of punitive damage awards in civil actions have increased dramatically over the last 40 years, unreasonably inflating the cost of settling litigation, and discouraging socially useful and productive activity;

(3) excessive, arbitrary, and unpredictable punitive damage awards impair and burden commerce, imposing unreasonable and unjustified costs on consumers, taxpayers, governmental entities, large and small businesses, volunteer organizations, and nonprofit entities;

(4) products and services originating in a State with reasonable punitive damage provisions are still subject to excessive punitive damage awards because claimants have an economic incentive to bring suit in States in which punitive damage awards are arbitrary and inadequately controlled;

(5) because of the national scope of the problems created by excessive, arbitrary, and unpredictable punitive damage awards, it is not possible for the several States to enact laws that fully and effectively respond to the national economic and constitutional problems created by punitive damages; and

(6) the Supreme Court of the United States has recognized that punitive damages can produce grossly excessive, wholly unreasonable, and often arbitrary punishment, and therefore raise serious constitutional due process concerns.

(b) GENERAL RULE.—Notwithstanding any other provision of this Act, in any civil action whose subject matter affects commerce brought in any Federal or State court on any theory, punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant only if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct by the defendant that was either—

(1) specifically intended to cause harm; or

(2) carried out with conscious, flagrant disregard to the rights or safety of others.

(c) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded to a claimant in any civil action subject to this section shall not exceed 2 times the sum of—

(1) the amount awarded to the claimant for economic loss; and

(2) the amount awarded to the claimant for noneconomic loss.

This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(d) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such an award. If a separate proceeding is requested—

(1) evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded; and

(2) evidence admissible in the punitive damages proceeding may include evidence of the defendant's profits, if any, from its alleged wrongdoing.

(e) APPLICABILITY.—Nothing in this section shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by the United States, or by any State, under any law;

(2) create any cause of action or any right to punitive damages;

(3) supersede or alter any Federal law;

(4) preempt, supersede, or alter any State law to the extent that such law would further limit the availability or amount of punitive damages;

(5) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(6) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(7) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(f) FEDERAL CAUSE OF ACTION PRECLUDED.—Nothing in this section shall confer jurisdiction on the Federal district courts of the United States under section 1331 or 1337 of title 28, United States Code, over any civil action covered under this section.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "claimant" means any person who brings a civil action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) The term "clear and convincing evidence" means that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy such standard shall be more than that required under preponderance of the evidence, and less than that required for proof beyond a reasonable doubt.

(3) The term "commerce" means commerce between or among the several States, or with foreign nations.

(4)(A) The term "economic loss" means any objectively verifiable monetary losses resulting from the harm suffered, including past and future medical expenses, loss of past and future earnings, burial costs, costs of repair or replacement, costs of replacement services in the home, including child care, transportation, food preparation, and household care, costs of making reasonable accommodations to a personal residence, loss of employment, and loss of business or employment opportunities, to the extent recovery for such losses is allowed under applicable State law.

(B) The term "economic loss" shall not include noneconomic loss.

(5) The term "harm" means any legally cognizable wrong or injury for which damages may be imposed.

(6)(A) The term "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(B) The term "noneconomic loss" shall not include economic loss or punitive damages.

(7) The term "punitive damages" means damages awarded against any person or entity to punish such person or entity or to deter such person or entity, or others, from engaging in similar behavior in the future.

(8) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision of any of the foregoing.

UNANIMOUS CONSENT AGREEMENT

Mr. DOLE. Mr. President, I think we have a consent agreement now. I will recite it. If there are any questions I will be happy to respond.

I ask unanimous consent that during the Senate's consideration of H.R. 956, all second-degree amendments to the Dole amendment must be debated during today's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that any votes ordered on or in relation to second-degree amendments to the Dole amendment, No. 617, occur beginning at 11:15, and that the final vote in the sequence be on or in relation to the Dole amendment, No. 617, as amended, if amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Just a moment. I reserve the right to object.

I mean if the final—oh, I see; in the sequence in relationship. So it does not mean that that is the final vote of the day or anything like that?

Mr. DOLE. No. I wish it were.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that at the hour of 10:15 a.m. there be 1 hour for debate to be equally divided between the two managers for discussion on any of the pending amendments to the Dole amendment.

Mr. HEFLIN. I assume that, in regards to that, it is to the managers, between the managers. That means that people who are opponents to the various amendments rather than the managers would be——

Mr. DOLE. I think that provision is set to accommodate the Senator from Alabama. If the Senator from West Virginia has no objection, I can say to the Members in opposition——

Mr. ROCKEFELLER. The Senator from West Virginia will do it in any way that is equitable.

Mr. HEFLIN. Why not put it that half of the time be under control of Senator HOLLINGS or his designee?

Mr. DOLE. Would that be all right with the Senator from West Virginia?

Mr. ROCKEFELLER. That will be fine.

Mr. DOLE. So I modify the request, time to be equally divided between Senator GORTON and Senator HOLLINGS or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that following the disposition of the Dole amendment, as amended, if amended, Senator THOMPSON be recognized to offer an amendment to limit the bill to Federal court cases only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. So I say to my colleagues, there will be no votes tonight. But anybody who has a second-degree amendment to the Dole amendment, or anybody who wishes to debate, we will be in session as long as that may take.

I thank my colleagues on both sides for agreeing to this request.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent if I could proceed as in morning business for 5 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR JOHN C. STENNIS

Mr. COCHRAN. Mr. President, it was my honor, a unique honor and special pleasure to serve in this body as the State colleague of John C. Stennis for 10 years. I deeply appreciated the bond of friendship, respect and trust that developed between us as we worked together to represent the interests of the State of Mississippi, and its citizens, in the U.S. Senate.

He had already established a reputation for intelligent leadership in this body when I arrived here, and I considered it my good fortune to be able to learn first hand from him and from his example. We were never rivals. We talked almost every day. He was always friendly and courteous to me, as he was with every other Senator. Although we were members of different political parties, that did not interfere with or detract from our relationship.

Our State has its share of demagogues, as all other States have, and I have deplored their excesses and have been embarrassed by them. But in Senator Stennis we saw a man as pure in heart and deed with less inclination to inflame the passions of the voters with exaggerated and flamboyant rhetoric as any we have ever elected to public office, and I admired him for that. He preferred to win a debate or an election on the basis of the well argued evidence, rather than to prey upon the fears or suspicions or prejudices of the audience.

He was the kind of Senator I try to be.

During his more than 41 years of service as a U.S. Senator, he was steady, conscientious and extraordinarily successful in every assignment and undertaking.

From his earliest days to his last days he gave the full measure of energy and his ability to the service of this body and to his State. He saw that as his duty, and he took that as seriously as anyone who has ever served here.

Others have recalled in their speeches the positions of responsibility he held and the legislation he authored and caused to be adopted. There were many of each, and they are persuasive testimony to his effectiveness as a Senator. I will not try to recount all of them.

What may not be as easily measured is the influence he had in the Senate by the force of his character. He was the epitome of rectitude, of fairness, of decorum. His selection to be the first chairman of the Senate's Select Committee on Standards and Conduct was an illustration of the view that others in the body had of him, and the confidence they had in him to do what was right and just.

That is why he was so admired and appreciated in Mississippi. He got things done that helped our State, and its people, but he was more than an effective Senator. He was totally honest and trustworthy.

Mississippi will forever honor the memory of John C. Stennis.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEWINE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to speak as if morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I thank the presiding officer for his patience.

MEDICARE

Mr. ROCKEFELLER. Mr. President, I am here to talk about the Medicare Program. In the recent days, I have noticed all kinds of people expressing deep concern for Medicare. That is comforting, because there is more than enough reason to be concerned.

Let me get right to the point. The Republican leaders in Congress, and the chairs of both Budget Committees in Congress, want to balance the budget in 7 years. If they keep their word and leave Social Security and defense spending completely alone, that will require cuts totaling $1.2 trillion.

If they throw in the tax cuts for top income-earners that will require another whopping $345 billion to finance those cuts. Now here's the key point for anyone concerned about Medicare: as we have seen in papers distributed by the Senate Budget Committee itself, this drive for a balanced budget—and presumably some tax cuts—will require cuts in Medicare to the tune of $250 to $300 billion in 7 years. Medicaid will also have to help out with $160 to $190 billion in cuts.

The recent talk about Medicare is not really saying this. It is all about the need to shore up the Medicare trust fund, because it could be insolvent in 7 years. It is all about the idea of restructuring Medicare to save the program. The argument we are hearing is that Medicare has to be drained of $300 billion to save the program. A curious argument.

Somehow, I think we need to make sure Americans, especially the 37 million senior citizens and disabled citizens who rely on Medicare, aren't being sold a bill of goods.

The fact is that the terms set by the leadership on the other side of the aisle—balance the budget by 2002, leave defense alone, and throw in some tax cuts—may require a raid on Medicare to get the job done.

That is why I am here.

My basic reaction to all this talk is to urge the Republican leaders to simply show us precisely what you mean. I am speaking as someone who cast my vote, several times, for a very precise, very specific plan to reduce the federal deficit by $600 billion. It included savings in Medicare. The 1993 budget and deficit reduction plan was based on the simple concept of shared responsibility, and spread the burden fairly.

Along with spending cuts to reduce the deficit, it did important things like expand the tax credit for working families to make sure work is a better choice than welfare in this country.

But for all of the fire and brimstone heard this year about the need to balance the budget and now "save" the Medicare Program, we have yet to see a budget resolution, a budget plan, a single detail on just how everyone making the noise intends to achieve these impressive goals.

Of course, the President is reacting by saying essentially "show me." He submitted his budget on time. He offered a health care plan that tied Medicare savings to comprehensive health care reform. He rejected the idea of a constitution amendment on the Republicans' terms, and so of course, he is asking for some specifics.

I cannot conceive of a budget that meets the conditions of the other side of the aisle—stay away from Social Security, do not touch defense, no new revenue, and tax cuts for corporations and the wealthy—without huge cuts in Medicare.

And make no mistake about it, $250 to $300 billion of cuts in Medicare will mean higher deductibles and premiums for seniors, lower fees for hospitals and doctors, and a lot worse. If there is such a budget that can side-step Medicare, we are simply saying "show us." We have put our cards on the table for the past 2½ years when it comes to health care, Medicare, and deficit reduction.

While all of this talk and born-again interest in Medicare's solvency gets sorted out, I am here to lay out proposals that I think are bottom-line ways to act in the best interests of Medicare. I do this as someone who has tried to protect Medicare for a long time, and will keep fighting to do exactly that. I do this as the former chair of the Medicare Subcommittee on the Finance Committee, and now the ranking member—the majority leader is the chairman of that subcommittee now.

I do this as someone who smells a rat when the same people who have talked for months about stepping up to the plate, with specifics on how the budget can be balanced by 2002 with tax cuts thrown in and defense off the table, but now suggest that the $300 million in Medicare cuts they are talking about is their new plan for saving Medicare. Something is not quite right about this picture, I suggest. I agree that Medicare has to be put on better financial footing. But that effort should not be a smokescreen for using it to finance other agendas like tax cuts for corporations.

First, I am introducing legislation to create a National Commission on Medicare modeled after the National Commission on Social Security Reform that President Reagan chartered in 1981.

The charge given to the Social Security Commission was to propose "realistic, long-term reforms to put Social Security back on a sound financial footing; and to forge a working bipartisan consensus so that the necessary reforms can be passed into law."

We need this kind of bipartisan process to shore up Medicare. We need to jump off the current rhetorical, budget-driven track to one where we can resolve the real question: how best to keep Medicare dependable for seniors over the next generations.

If Medicare is cut by unprecedented amounts of money to pay for anything but Medicare, the consequences will be disastrous for health care providers and beneficiaries. Rural hospitals will close in droves. Doctors will be forced to turn away the elderly. Medicare will no longer be reliable insurance for seniors in West Virginia.

As my second proposal, I will offer an amendment to the budget resolution when it comes to the Senate floor that will put Medicare in a lock-box to protect it from looting.

This isn't the blueprint we need to get Medicare back on solid ground for the long term, but it will buy a few more years of solvency and ensure it will not be used for anything but the promises made to senior citizens. Medicare is not a slush fund to finance tax cuts or other Government programs.

I will tell you why I am concerned about Medicare. I am worried its true purpose is getting lost.

It is a promise, a pledge, to the American people that they will be able to live their lives in dignity and security past their working years. Instead of treating Medicare like a checking account in this budget process, we need to remember it is an investment.

The Medicare trustees sounded the alarm about the short-term insolvency of the Medicare Program more than 3 years ago.

In fact, the Medicare trustees urged action on comprehensive health care reform to address the country's systemic problem of rising health care costs that are draining the Medicare hospital trust fund and the pockets of American families and businesses.

But comprehensive reform was rejected by the Congress last year. I should note that up until very recently, the Medicare Program outperformed the private sector in holding down its costs. Over the past 2 years, Medicare costs have been slightly higher than the private sector costs.

But, and this is a big "but," the private sector is insuring fewer and fewer people, while Medicare's enrollment is increasing; and Medicare pays for home care services and skilled nursing home care, types of services that are not normally covered by private insurance policies.

Mr. President, I have heard lots of talk about needing to move the Medicare Program into the 21st century by "restructuring" it so it looks more like insurance in the private sector.

So far, I just cannot share in the enthusiasm for copying something that is leaving out so many hard-working people and families from any kind of health care security. In fact, Medicare was first established because the private insurance industry had failed so miserably to provide affordable insurance to senior citizens. While many of my colleagues like to talk about the "miracles of the marketplace," I still see cherry-picking and redlining, medical underwriting and policy cancellations, job-lock, and families paying more and more money for fewer and fewer health benefits.

Just think about sending 37 million people with preexisting medical conditions to the private insurance market with vouchers called choice-clerk and medi-check. High administrative costs in the private sector will eat up the value of Medicare benefits right off the bat. Will the senior citizens living in small towns across West Virginia end up paying more of their own money for their health care or be forced to join an HMO—if one is even available in the area?

To "save" Medicare we need comprehensive proposals to address these issues, not just blind cutting of Medicare. Last year, we offered proposals to fix these myriad problems. Republicans disagreed with our approach, and celebrated the defeat of our proposals. Our opponents' television ads stated again and again that there's "a better way." Slashing $250 to $300 billion out of Medicare is not a better way.

Mr. President, cutting $250 billion out of Medicare over 7 years is not the way to guarantee the long-term solvency of the Medicare Hospital Trust Fund. It might add a few more years of solvency—5 to 8 tops, CBO thinks—to the trust fund. We need to rise to the challenge met when Medicare was created and Social Security was rescued, and chart a long-term prescription for Medicare's health over the next 25 years or more.

I make my two suggestions as a way to get started.

Protect Medicare from raids to pay for anything, especially tax cuts, but what its intended for—the promise of health care security for the seniors of West Virginia and the country. And while we know Medicare is safe, let us replicate the approach used to save Social Security and really prepared Medicare for the challenges of the next century.

I thank the Presiding Officer and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. GORTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the Gorton amendment No. 620.

Mr. GORTON. Is the Snowe amendment to the Gorton amendment also pending?

The PRESIDING OFFICER. It is a Gorton amendment offered on behalf of Senator SNOWE.

Mr. GORTON. Mr. President, this amendment is identical to an amendment which was adopted by a rollcall vote earlier today to the medical malpractice sections of the bill. We have discussed it. Everyone has agreed that we do not need another rollcall vote on it. I believe all debate is concluded. I ask the President to put the question.

The PRESIDING OFFICER. If there is no further debate, the question occurs on agreeing to the amendment No. 620 to amendment No. 596.

The amendment (No. 620) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 622 TO AMENDMENT NO. 617

(Purpose: To provide protection for individuals, small businesses, charitable organizations and other small entities from excessive punitive damage awards.)

Mr. DEWINE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself and Mr. ABRAHAM, proposes an amendment numbered 622 to amendment No. 617.

Mr. DEWINE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 23, strike "loss." and insert in lieu thereof: "loss;

"except that if the award is against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer than twenty-five full-time employees, that amount shall not exceed $250,000."

Mr. DEWINE. Mr. President, I offer this amendment on behalf of Senator ABRAHAM and myself. It really is an amendment that is a small business amendment.

I expressed yesterday on the floor a concern, a twofold concern: One, that we make sure that the cap was sufficiently high so that larger businesses would in fact be deterred by the proper awards juries would make in regard to punitive damages, and that we not lose that deterrent effect; but I also expressed a concern that small business not be unduly penalized by punitive damages.

I have talked to small business men and women throughout Ohio who do have this very legitimate concern and who really live in fear literally every day of something happening where they would have a huge award that would literally put them out of business; that what would become a punitive damage award which, for a big business, might, in fact, be a deterrent, might, in fact, be for a small business actually the death penalty.

This particular amendment provides an exception for small business. And small business is defined in the amendment as any business that has 25 or fewer employees or has a net worth of not over one-half million dollars. If this amendment is agreed to, a punitive damage award could not exceed $250,000.

I think this amendment makes a great deal of sense. I think it will take care of one of the problems that we have today, a problem expressed to me many, many times by small business.

I hope that tomorrow it will, in fact, be adopted.

Mr. President, at this time, I ask unanimous consent that this amendment be set aside for the moment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 623 TO AMENDMENT NO. 617

Mr. DEWINE. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Ohio [Mr. DEWINE] proposes an amendment numbered 623 to amendment No. 617.

The amendment is as follows:

> On page 4 line 11 strike the semicolon after the word "awarded" through line 15 and insert a period.

Mr. DEWINE. Mr. President, this amendment will, I believe, clean up the bill and it will finish a process that was begun several days ago. That was a concern that I expressed on the floor yesterday in regard to the way the bill was originally drafted, which said that juries no longer could consider the assets that a corporation had when that jury made its decision about what was the appropriate level of punitive damages.

As I indicated yesterday, that type of preemption of State law makes absolutely no sense because punitive damages have always been intended to do basically two things: One, to serve as punishment and, second, to serve as a legitimate deterrent.

A jury cannot make that determination unless the jury knows all the facts. One of the pertinent facts has to be what the assets of the corporation might be, and other relevant financial information.

The danger of the way the bill was written was not only that we might lose that deterrent effect. Because a jury would not really know what assets the company had, it might have just the opposite effect. You might have a jury assuming that a company had a great deal of assets and the company did not have those assets. The jury then would make a disproportionate award. And so it could hurt really on both sides.

What this amendment does is really complete the process that was started several days ago, by providing and taking out of the bill that preemption. So if this amendment would be passed, we would be back to where we were before in regard to what juries could consider in regard to making their decision about punitive damages; namely, we would be back to State law, which I think is where we need to go.

So, in this case, I hope that tomorrow, when we vote on this particular amendment, we will agree to it. I think it is only equitable and fair. I urge my colleagues to do so.

At this point, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

CLOTURE MOTION

Mr. GORTON. Mr. President, I send two separate motions to invoke cloture on the Gorton amendment No. 596 to the desk.

The PRESIDING OFFICER. The clerk will read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

> We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the Gorton Amendment No. 596 to H.R. 956, the Product Liability bill.
>
> Bob Dole, Slade Gorton, Rick Santorum, Jim Inhofe, Conrad Burns, Pete V. Domenici, Hank Brown, Spencer Abraham, Paul D. Coverdell, Larry E. Craig, Dirk Kempthorne, Bob Smith, Trent Lott, Chuck Grassley, Judd Gregg, Mitch McConnell.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will now read the second motion.

The legislative clerk read as follows:

CLOTURE MOTION

> We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the Gorton Amendment No. 596 to H.R. 956, the Product Liability bill.
>
> Bob Dole, Slade Gorton, Orrin G. Hatch, Dirk Kempthorne, Pete V. Domenici, Conrad Burns, John Ashcroft, Dan Coats, Bill Frist, Olympia J. Snowe, Spencer Abraham, Nancy Landon Kassebaum, James J. Jeffords, Ted Stevens, Mark O. Hatfield, Frank H. Murkowski.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

REMEMBERING GINGER ROGERS

Mr. MOYNIHAN. Mr. President, the Op-Ed page of Friday's Washington Post featured an irresistible account by Philip Geyelin, "When I Danced With Ginger Rogers." The occasion was the Gridiron Club dinner of March 28, 1981. With the advent of Ronald Reagan's presidency "Hooray for Hollywood" was the evening's theme, and Miss Rogers its most illustrious guest. It happens I was the Democratic speaker that evening, and I had the inexpressible joy of sitting next to Miss Rogers at the head table in my white tie and tails. I took the liberty of expounding, as best I was able, Professor Joseph Reed's theory of the dramatic import of Miss Rogers' abrupt decision to dance with Astaire on that lovely day they were caught in the raid in Regents Park. She confided to me that she had to slip off to dance, that night, with Geyelin. She returned to pronounce him divine!

Mr. President, I ask unanimous consent that the text of the above cited article be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

> [From the Washington Post, Apr. 28, 1995]
>
> WHEN I DANCED WITH GINGER ROGERS
>
> (By Philip Geyelin)
>
> That was a nice piece Tom Shales wrote about Ginger Rogers [Style, April 26]. He had it just right, except maybe the part about how she made it look effortless but "not for a minute did it look easy." I would have put it the other way around: It wasn't exactly effortless for me when I danced with Ginger Rogers, but she certainly made it look easy.
>
> You heard me: When I danced with Ginger Rogers. I am not dreaming this up. Rather, I'm setting out to describe the realization of a dream of, oh, let's say close to a half-century. From the first time I saw a Fred Astaire-Ginger Rogers movie, I had nurtured the fantasy. And then, unbelievably, there I was 14 years ago standing on stage with Ginger, before an audience of more than 600 swells, waiting for the beat that would send us gliding off to the music of "Isn't This a Lovely Day."
>
> It was March 28, 1981, at the spring dinner of what The Post's Style section describes

with relentless redundancy as the "exclusive Gridiron Club." By "swells" I mean that when you peer across the footlights on these occasions, you dimly see a head table that starts with the president and the vice president and their wives, most of the Cabinet, maybe three justices of the Supreme Court, the Joint Chiefs and a gaggle of ambassadors. The ballroom is wall-to-wall governors, members of Congress, CEOs, TV talking heads, other assorted celebrities and the publishers and editors of the newspapers whose Washington correspondent make up the Gridiron Club's membership.

So much for the setting. A dance story should be taken step by step. It was the first year of Ronald Reagan's presidency. A Hollywood touch was in order. An invitation was extended to Ms. Rogers through the good offices of Godfrey "Budge" Sperling Jr. of the Christian Science Monitor. She not only accepted but agreed in principle, to a surprise appearance on stage. In my capacity that year as music chairman (producer), I was in a position to claim the right to be Ms. Roger's partner if there was to be any dancing. I did so at the cost of what may be the earliest onset of stage fright ever experienced by anybody.

The plot was that Ms. Rogers, who was seated at the head table, would actually proceed directly backstage and appear in the opening number of the show, which, in another bow to the Gipper, was to the tune of "Hooray for Hollywood." The cue for her to step from the wings would be the line: "Hooray for Fred Astaire—Miss Ginger Rogers made him walk on air"—whereupon there she would be, the real thing, at the microphone, singing a satiric put-down of the Gridirons: "Isn't this a lovely way, to be meeting the press . . .?"

Not bad, showbizwise, wouldn't you say—for amateurs? With only mild trepidation, I called Ms. Rogers. I told her my name was of French origin. She said her favorite husband was French. It was going well. Then I got to the part of the briefing that had to do with "Hooray for Fred Astaire," and the stories that she didn't much like running as an entry turned out to have some truth to them. "Let's stop right there," she said. While I was mumbling my confusion she cut in to make her meaning clear. "If you were Abbott," she asked, "would you want people to be always asking. 'How's Costello'"? The mention of Astaire, I said quickly, will be excised.

She arrived in Washington the Friday night before the dinner, and on Saturday I sent flowers to her room, thinking that to be the Hollywood way, with the lyric tucked in among them. At an appointed hour we met, and she handed me the lyric with some pencil editing. Recklessly, I questioned whether her changes would scan, noting modestly that, while I was tone deaf and usually urged when singing as a member of the chorus not to get too close to the microphone, I did have some experience as a lyric writer.

"Honey," Ms. Rogers replied gently, with no hint of any awareness of what that salutation meant to me, "I've been singing that song longer than you've been writing lyrics for the Gridiron Club."

With only three hours to go before curtain, we repaired to the empty ballroom, where a piano player and the club's dance director put us briefly through what were, mercifully, pretty elementary paces. We parted to change for dinner, she to a ball gown, me to—you guessed it—white tie and tails.

We met again backstage and warmed up with a few practice twirls. Her introduction went precisely as planned; the song was a smash. We were perfectly poised to begin the dance, but somehow, with a full orchestra, the bar of music that was our cue didn't come through. I froze. Now, I'm not saying Ms. Rogers also missed it. But she knew what to do. Stepping to the mike, she said: "Let's try that again—We only had 20 minutes to rehearse."

The second effort was—how shall I put it?—pretty close to perfection, or at least relatively close. Things are relative when you have been contemplating the real possibility of stumbling off stage into the orchestra pit and taking Ginger Rogers with you.

My sigh of relief, however, was cut short. Ms. Rogers, was back at the microphone. "Let's see," she was saying, "if this guy can do it one more time." I did, or I should say that we did. She was then 69, but to dance with she was going on twenty-something, and she made it easy—so much so that when she graciously consented to stay over for the usual Sunday afternoon reprise of the Saturday night show, it was becoming very nearly effortless.

A few years later, she sent a message saying she was writing her memoirs and would appreciate a memorandum on some of the details of that night at the Gridiron. Ignoring my effusions on what the evening had meant to me, she wrote in her book that the dance "had brought the house down but not because of me; the audience couldn't get over Mr. Geyelin's dancing."

A classy dividend, I thought, from a classy lady who made the lifelong dream of an ink-stained wretch come true.

CARTNEY KOCH McRAVEN

Mr. PRESSLER. Mr. President, I was saddened to learn the news last night that rescue workers in Oklahoma City discovered the body of Cartney Koch McRaven amid the rubble that once was the Alfred P. Murrah Federal Building.

Cartney Koch McRaven was one American—not ordinary—extraordinary.

Cartney graduated from Spearfish High School in 1993. She enlisted in the Air Force, whose members believe that the protection of freedom is the highest, most important public service. With devotion and honor she served her country. Her action was a tribute to the core values that make this country great.

Cartney was only 19 years old. Newly married on April 15 to Shane McRaven, a fellow airman in the U.S. Air Force. She was stationed at Tinker Air Force Base. She had traveled to the Murrah Federal Building to register her new name on Federal documents. A new name. A new husband. About to start a new life. A life that will never be. A life cut short by the savagery of domestic terrorism. By murderers who kill their fellow citizens.

Cartney had a beautiful life ahead of her. On behalf of the people of South Dakota, my wife Harriet and I extend our condolences to Cartney's family, friends, and loved ones.

For Cartney and the other victims of the Oklahoma City tragedy, we must not let our commitment to freedom waiver. These cowards will be brought to justice. She and the others tragically killed in Oklahoma will not have died in vain.

RALPH NEAS—THE 101ST SENATOR FOR CIVIL RIGHTS

Mr. KENNEDY. Mr. President, later this month, Ralph Neas will step down from his position as executive director of the Leadership Conference on Civil Rights, after 14 years of extraordinary service as a champion of the basic rights of all Americans.

For nearly half a century, the Leadership Conference has been the Nation's conscience in meeting the fundamental challenge of protecting the civil rights of all of us. Ralph Neas joined the Leadership Conference in 1981, following 8 years of outstanding service to the Senate on the staffs of our former colleagues, Senators Edward Brooke and David Durenberger.

During Ralph's tenure, the Leadership Conference fought some of its most difficult battles, and achieved some of its most important victories. Time and again, when the forces of reaction sought to turn back the clock on civil rights, Ralph Neas rallied the coalition, and civil rights prevailed.

When the Reagan administration sought to block extension of the Voting Rights Act, Ralph Neas helped to put together a broad bipartisan majority in Congress to renew it.

When the Supreme Court in the Grove City case carved a hole below the waterline in laws banning discrimination in Federal programs, Ralph Neas played an indispensable role in developing the two-thirds majority needed to pass the Civil Rights Restoration Act of 1988 over President Reagan's veto.

When President Reagan nominated Judge Robert Bork to the Supreme Court, Ralph Neas assembled and led an extraordinary nationwide coalition which successfully opposed the nomination because of Judge Bork's hostility to protecting the constitutional rights and liberties of all Americans.

When the Supreme Court in 1989 issued a series of rulings severely reducing protections for job discrimination, Ralph Neas worked closely with Republicans and Democrats to fashion legislation to restore the protections, and after one unfortunate veto by President Bush, Congress enacted the Civil Rights Act of 1991.

Under Ralph Neas' leadership, we gained ground on several other important fronts during those years as well. In 1988, Congress passed the Fair Housing Act Amendments to strengthen the law banning housing discrimination and extend its reach to ban discrimination against families with children and persons with disabilities.

In 1990, we enacted the landmark American With Disabilities Act, providing comprehensive new protection for the rights of 43 million disabled Americans. Because of that law, fellow citizens across the country are finally learning that "disabled" does not mean "unable."

Ralph Neas' enormous energy, and his extraordinary talents as an advocate, strategist, and spokesperson, helped make each of those victories possible. Now he is leaving the Leadership Conference to practice law and to serve as a visiting professor at Georgetown University Law School.

Ralph Neas is being honored at a gala dinner tomorrow evening, when he will receive the Hubert H. Humphrey Award for his outstanding achievements in making America a better and fairer land. Every citizen committed to the constitutional ideal of equal justice under law owes Ralph Neas a debt of gratitude for his brilliant public service.

Truly, through all these years, Ralph Neas has been the 101st Senator for civil rights. As he leaves the Leadership Conference, I congratulate him on his outstanding accomplishments, and I extend my best wishes to Ralph and his wife Katy for continuing success in the years ahead.

U.S./CUBA MIGRATION AGREEMENT

Mr. PELL. Mr. President, today President Clinton has announced the conclusion of a new migration agreement with the Government of Cuba. This new agreement treats the more than 15,000 Cuban migrants currently detained at Guantanamo in a very humane manner, while putting in place safeguards to ensure that a similar flood of migrants is not encouraged at some future date. I want to commend the President for his decision to enter into, what I believe is a fair and balanced approach to handling the Cuban migrant issue.

Under the terms of the agreement, Cuban migrants currently being detained at Guantanamo will now be eligible to be paroled into the United States, provided they qualify under United States immigration laws. Those paroled from Guantanamo will be counted in the annual 20,000 migration ceiling set last September in the context of the resolution of last year's Cuban migration crisis. This will mean that people at Guantanamo who have been in limbo since last year will now have the possibility of getting on with their lives. To continue to detain these people indefinitely was really inhumane, but nothing else could be done for them until this new agreement was reached with the Government of Cuba.

In contrast to the treatment of those currently at Guantanamo, any future Cuban rafters intercepted at sea will be returned to Havana. Cuban authorities have committed to accepting these migrants back without reprisal, and will allow for the monitoring of such individuals to ensure that this is the case. Obviously, any individual who might qualify for refugee status will be able to apply for asylum at the U.S. Interest Section in Havana.

Finally, those Cubans who may successfully evade interdiction and reach the United States will be subject to the same deportation procedures any other alien would face upon entering the United States illegally.

Mr. President, as you know I am in profound disagreement with our overall policy toward Cuba. I have said many times in the past that I believe that policy is outdated and ineffective and should be altered to enhance communications and contacts between the Untied States and Cuba. In my view this is the best way to facilitate the peaceful transition to democracy on that island.

Unfortunately, President Clinton has not yet decided to alter the overall framework of our policy toward Cuba. However, I believe that the agreement announced today is one step in the right direction toward a more enlightened Cuba policy. I hope there will be many more steps in that same direction in the very near future.

IS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES!

Mr. HELMS. Mr. President, there's an impression that simply will not go away—that the $4.8-plus-trillion Federal debt is a grotesque parallel to the energizer bunny we see, and see, and see on television. The Federal debt keeps going and going and going—up, of course!—always to the misery of the American taxpayers.

So many politicians talk a good game—when, that is, they go home to take—and talk is the operative word—talk about bringing Federal deficits and the Federal debt under control.

But, oddly enough, so many of these same politicians regularly voted for one bloated spending bill after another during the 103d Congress. Come to think about it, this may have been a primary factor in the new configuration of U.S. Senators as a result of last November's elections.

In any event, Mr. President, as of yesterday, Friday, May 1, at the close of business, the total Federal debt stood—down to the penny—at exactly $4,860,333,100,308.86 or $18,449,91 per person. Res ipsa loquitur.

THE RETIREMENT OF NORMAN PODHORETZ

Mr. MOYNIHAN. Mr. President, on the occasion of his retirement after 35 years as editor-in-chief of Commentary magazine, I would like to offer my concurrence with the sentiments expressed in this morning's New York Post, Wall Street Journal, and Washington Times honoring the career and the person of Norman Podhoretz. As a New York Post editorial notes: "the ideas advanced in Commentary—thanks to Podhoretz's editorial gifts—make it a forum for the key policy questions confronting the Nation." David Brooks of the Wall Street Journal, offers a similar accolade:

> If there is one thing Mr. Podhoretz and his magazine have stood for all these years, it is the joy and value of ideas.

Thirty-four years ago, I first appeared as a contributor to Commentary. The article, entitled "Bosses and Reformers," dealt with conflict within the Democratic Party—a subject still alive and well today.

Norman Podhoretz and Commentary have contributed much of value to modern political discourse. We owe them both great thanks. Mr. President, I ask unanimous consent that the full text of the above cited articles be reprinted in the RECORD.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Wall Street Journal, May 2, 1995]

NORMAN PODHORETZ, NEVER RETIRING, RETIRES

(By David Brooks)

Hundreds will gather tonight in a New York hotel ballroom to honor Norman Podhoretz, who is retiring after 35 years as editor of Commentary. There will be toasts from Henry Kissinger, Daniel Patrick Moynihan and Cynthia Ozick—and if the thing were done in true Commentary style, then there would be rebuttals and the whole ballroom would break into discussion groups, debating until morning "The Podhoretz Question."

If there is one thing Mr. Podhoretz and his magazine have stood for all these years, it is the joy and value of serious discussion. He develop a prose style, instilled in the magazine, that is decisive, clear and authoritative, the sort of style that begs for response. Commentary has a letters section that is rivaled in length only by Penthouse and in quality by no American magazine. The monthly can be seen as an effort to create an ideal community, a group of people who are prone to sitting up late at the kitchen table, wrapped up in discussions about politics, culture or Judaism.

This is the sort of community that Mr. Podhoretz entered as a young man, having studied literature at Columbia and Cambridge. He called it The Family, the group of New York intellectuals centered around Partisan Review in the 1950s—Mary McCarthy, Sidney Hook, Saul Bellow. They were on the left, but anti-communist for the most part, which meant they were tough-minded and disputatious, because the verbal battles against American communists were like hockey games—every few minutes people would throw off the gloves.

Mr. Podhoretz was a young star, published in the New Yorker, editor of Commentary when he was 30, close friends with such leading writers as Norman Mailer, James Baldwin and Lionel Trilling. He drifted to the radical left in the early 1960s, publishing in Commentary the work of Paul Goodman, who laid out what would later become the standard New Left critique of American life. Mr. Podhoretz was an early opponent of the war in Vietnam.

But as the decade wore on, he discovered that the ideas that were provocative and subtle in Commentary in 1961 turned dumb and platitudinous when turned into clichés by Tom Hayden and the student radicals. Also, he discovered that teachings about Vietnam were not the sort of serious discussions that he cherished, but rather occasions for shouting down anyone who was deemed insufficiently outraged. In 1967, as he was turning away from the left, he published "Making It," which, typical of his writings, was a book that made everybody talk, not always in calm tones.

"Making It" is a memoir about life in The Family, but with a point—that literary people are not motivated simply by a desire for truth but by a passion that dare not speak its name, worldly ambition. Look at me, he said: I am successful because I am ambitious.

The New York intellectuals expended a lot of typewriter ribbon on the subject of the American identity. Not only were many of them, like Mr. Podhoretz, poor Jewish kids from Brooklyn, but they were also intellectuals, not a profession featured often on the cover of the Saturday Evening Post. But the thinkers in the Podhoretz camp decided that they approved of and identified with American culture, and were attacked by others for not being sufficiently alienated. "Making It" can be read as an attempt to show that just because its author is an intellectual doesn't mean he is not involved in the central activity of American life, making it.

Apparently there were no celebrations in Topeka, Des Moines and Fort Worth when the Partisan Review crowd announced it approved of American life: "Look, Eloise—They approve of us!" But it turned out to be important. Because those who like Mr. Podhoretz did approve turned out to be essential to the growth of the conservative movement, bringing to conservatism, when they made the jump in the late 1970s, an intellectual self-confidence that had been in short supply.

It's usual to say that Mr. Podhoretz and Commentary started out on the left and ended up neoconservative. But that's not quite right. Mr. Podhoretz has been consistent in his love for rigorous argument (and so was appalled by the Dionysian tone of the radical left). He has also remained consistent, for the most part, in his sympathy for mainstream American life, and in his staunch anti-communism. Furthermore, neither Commentary nor Mr. Podhoretz has reached a resting point. Neoconservatism looks lie a transitional phenomenon that may even today be extinct.

The term was once used to denote those who were hawkish in foreign policy but were sympathetic to the current structure of the welfare state. But Scoop Jackson has passed on, and the so-called neoconservatives are now among the most devastating critics of the welfare state. In what sense, for example, are William Bennett and Jeane Kirkpatrick neoconservative? Both made their reputations in the pages of Commentary but are now mainstream Republican figures.

These days, the people who seem most insistent on preserving the distinction between neoconservatives and regular conservatives are certain liberals on either coast. Possibly, that is because they see people like Norman Podhoretz and Irving Kristol—who are urbane, literate, and have wives who are equally accomplished—and they insist there must be a huge gulf between this sort of person (who by cultural measures looks like a liberal ideal) and the yahoos who they know (for they have read about it) make up the rank and file of American conservatives.

One of the legacies of Commentary in the Podhoretz era was that it enhanced the intellectual respectability of conservatism. In the 1960s, conservatives were shooting up at the liberal agenda. Now, liberals tend to be shooting up at the conservative agenda. Thanks to the passion and urgency of those earlier fights, those who travel in Mr. Podhoretz's footsteps can afford to be a little more benign.

[From the New York Post, May 2, 1995]

NORMAN PODHORETZ RETIRES

At a gala dinner tonight in New York, Norman Podhoretz will be honored on the occasion of his retirement after 35 years as editor of Commentary magazine. A monthly long published under the auspices of the American Jewish Committee (AJC), but without AJC editorial control, Commentary established itself under Podhoretz as America's leading journal of ideas.

Its circulation has never been large and it doesn't make a profit. But the core readership consists of influential Americans, and the ideas advanced in Commentary—thanks to Podhoretz's editorial gifts—make it a forum for the key policy questions confronting the nation.

Norman Podhoretz's tenure saw him start out as a seminal figure on the left during his early days at Commentary. But by the late 1960s, Podhoretz had moved significantly rightward. And he'd taken Commentary with him.

His decision to "Break Ranks," as he described the phenomenon in a late '70s memoir—Podhoretz's early intellectual compatriots remained wedded to the left—made Commentary a leading American voice for foes of Soviet communism, for advocates of a strong national defense, for critics of affirmative action and for supporters of Israel's security.

The pages of the magazine were filled with essays by then-U.N. Ambassador Daniel Patrick Moynihan—who called on the U.S. to conduct itself as an opposition party functioning within a hostile international arena—and by then-Georgetown Professor Jeane Kirkpatrick, who deplored the Carter administration's tendency to employ "double standards" in dealing with left-wing dictatorships (toward whom it showed some sympathy) as distinct from rightist authoritarian regimes.

Commentary—under Norman Podhoretz—played a central role in arguing the need for an aggressive posture vis-a-vis Soviet expansionism, for a re-evaluation of failed Great Society programs and for a recognition of "anti-Zionism" as the principal contemporary manifestation of international anti-Semitism.

In the last analysis, the most striking fact about Commentary consists in the fact that over the last 35 years—thanks to Norman Podhoretz's leadership—the magazine has always been important to the national intellectual discourse. That's a claim few journals can make for anything like that duration.

Eventually, many followed Podhoretz's rightward lead, resulting in a circumstance where the magazine he edited came to speak for a whole movement: neo-conservatism, an important intellectual tendency that can be defined loosely as the conservatism of people who were once liberals.

Norman Podhoretz, we're certain, has much left to say—as his magazine goes forward, he'll undoubtedly produce important books and articles. But it seems appropriate to pause and consider one of the most extraordinary careers in 20th-century American intellectual life. Podhoretz will deserve the tributes he receives tonight from Henry Kissinger, Irving Kristol, Daniel Patrick Moynihan, Rupert Murdoch and many others.

For some years a columnist for this newspaper, Podhoretz is a man who proved, above all else, that ideas matter. The Post joins in saluting him.

[From the Washington Times, May 2, 1995]

THE 35 REMARKABLE YEARS OF NORMAN PODHORETZ

(By Arnold Beichman)

This is the story of the little magazine that could and still can. Launched as a monthly half a century ago by the American Jewish Committee with a guarantee of editorial independence, Commentary became a magazine of enormous influence. Its articles on politics, particularly foreign policy, and culture over the years have had an enormous multiplier effect.

The editor of Commentary for the last 35 years, Norman Podhoretz, has reached the retirement age of 65. He is retiring to his Manhattan apartment-office to figure out with his wife, Midge Decter, author, publicist and editor in her own right, what his next major effort will be. Midge, however, who is semi-retired, has figured out what to do next. She found a neighborhood health club and is doing what she has wanted to do for years and never had time for—swimming every day. It is doubtful that such a future, however temporary, awaits Mr. Podhoretz, who has just been appointed a senior fellow at the Hudson Institute.

While Mr. Podhoretz, whose new title is Commentary editor-at-large, seeks implementation of several inspirations, he is being honored at a farewell dinner tonight—at New York's Hotel Pierre for four hundred friends, contributors, editors of other magazines, relatives and even critics.

The remarkable feature of Commentary is that an examination of its issues from the time Mr. Podhoretz took over as editor in 1960 shows the current relevance and readable topicality of so many of the articles published what seems to be so long ago. Here are some of the titles:

Was the Holocaust Predictable? Was Alger Hiss Guilty?; The Return of Islam; On Returning to Religion; Vietnam: New Light on the Question of American Guilt; Are Quotas Good for blacks?; The War Within the CIA; Reagan and the Republican Revival; What Happened to the Schools; Totalitarianism and the Lie; Education in Defense of a Free Society; The Political Dilemma of American Jews; AIDS: Are Heterosexuals at Risk?; Against the Legalization of Drugs; How Good Was Leonard Bernstein?; The Professors and the Poor; Intermarriage and Jewish Survival; The Liberated Women; Authenticity and the Modern Unconscious; The Problem of Euthanasia.

And the authors—Irving Kristol, Midge Decter, Thomas Sowell, Bernard Lewis, Lionel and Diana Trilling, Gertrude Himmelfarb, James Q. Wilson, Glenn C. Loury and dozens of other leading intellectuals and scholars. Mr. Podhoretz set a high standard for content. That standard obtained in the articles and also in the letters to the editor feature, which was as widely read as the articles. In fact, some readers who never managed to get articles accepted (and paid for) by Commentary got in anyway by writing long letters—for which there was no writer's fee but the satisfaction at least of being published in Commentary.

Commentary's overwhelming achievement was its leadership in the world of culture in the fight against communism and the Soviet Union, one undertaken by the magazine's first editor, Elliot Cohen. It is no exaggeration to say that Commentary in time became the scourge of the left, especially in culture. Major analyses of communist foreign policy by writers like Jeane J. Kirkpatrick, Sidney Hook, Lexzesek, Kolakowsi, Richard Pipes and other scholars and by Mr. Podhoretz himself filled its pages. They were widely discussed and were read in Congress and the White House. And all this, mind you, by a magazine whose circulation never exceeded 80,000.

It is a truism that few editors leave behind successors who deserve the promotion. Mr. Podhoretz, however, is the exception. His successor as editor-in-chief is Neal Nozodoy. He has been the leading member of the team which transformed a Jewish magazine with deep involvement in Jewish and Israeli affairs into a publication which without compromising its cultural and ethnic roots became an important part of the resistance to those who sought and still seek the perversion of Western civilization in the name of new revolutionary slogans.

AUTOMOBILE TRADE WITH JAPAN

Mr. LEVIN. Mr. President, as the United States-Japan framework negotiations in autos and auto parts accelerate over the next few weeks, I want to bring to my colleagues attention a New York Times op-ed by Thomas L. Friedman published on April 16. Mr. Friedman describes the problems American auto and auto parts manufacturers face when trying to sell their products into Japan's closed market and our limited chances of opening these protected markets unless we are willing to impose reciprocal treatment on Japan's products in this country.

Regarding the likelihood of concluding a market opening deal in the framework negotiations with Japan anytime in the near future, Mr. Friedman says:

> Don't hold your breath. The Japanese will literally do anything to preserve their domestic car monopoly, even though it is one of the major causes of the massive trade imbalance between the U.S. and Japan that is, in turn, causing the yen to soar in value against the dollar.
>
> In fact, the higher the yen goes the less likely Japan is to open its auto market. With the yen rising against the dollar, Japan's cars become more expensive and difficult to sell in the U.S., so Japanese auto company profits are squeezed. That makes it all the more important for Japanese auto makers to protect their home market from competition, so they can charge higher prices there and run up profits they need to cover losses abroad.
>
> What the U.S. is seeking is an end to Japan's barriers. For instance, only 7.4 percent of Japanese car dealers, who are manipulated by the manufacturers, sell foreign cars alongside Japanese models. Almost 80 percent of U.S. dealers sell foreign models alongside their domestic brands.
>
> The U.S. is also seeking better access to Japan's huge market for replacement auto parts, which has been largely closed to foreigners through Japanese regulations, customs codes and cartels. U.S. manufacturers have 3 percent of Japan's $27 billion replacement parts market, while foreigners have 18 percent of the U.S. replacement market and 22 percent of Europe's.

Mr. Friedman believes we should be willing to take reciprocal action against Japan in an effort to get Japan to open its markets to United States autos and auto parts. Doing so will not result in retaliation. Mr. Friedman says:

> Maybe, just maybe, the Japanese need us more then we need them.
>
> For starters we should charge Japanese auto manufacturers a distribution tax on every car they sell in the U.S.—a tax that will be reduced in proportion to how many Japanese manufacturers open their showrooms to foreign cars. We should also inspect every Japanese car and part that comes into this country, and take our sweet time doing it, which is just what Japan does.

He goes on to say:

> Hold on, the Japanese will say, that is a violation of the rules of the World Trade Organization. Rules? Did somebody say rules? Does anyone think that Tokyo shrank the U.S. share of the Japanese auto market from 60 percent in 1953 to 1 percent in 1960 by playing by the rules? We'll only win equal opportunity in the Japanese market when we play the game by their rules—which are no rules at all.

Mr. Friedman has hit the nail on the head. Decades of painful history have proven that Japan will open its markets only when forced to do so. Now is the pivotal moment in auto and auto parts negotiations with Japan and the administration seems prepared to so what no other administration has done for 25 years: tell Japan that it faces equivalent restrictions on its goods if it does not open its market to our autos and auto parts.

Mr. President, I ask unanimous consent that the op-ed be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 16, 1995]

WHERE DO CARS COME FROM?

WASHINGTON.—The other day I was playing the computer game "Where in the U.S.A. Is Carmen Sandiego?" with my 9-year-old daughter, Orly. It's a wonderful geography-teaching tool. You have to follow clues to different cities to trade down vile criminals. The clues we were given for one trip were all clearly pointing to Detroit. But instead of giving my daughter the answer, I wanted to see if she could figure it out herself, so I asked her: "Where are cars made?" And without missing a beat she answered: "Japan."

From the mouths of babes.

Where have I failed as a parent? I guess it's the same place that we've failed as a nation. We have so blithely surrendered so much of the car market to the Japanese that my own daughter thinks cars come from Japan as surely as pizza comes from Italy and babies from the stork.

My daughter, of course, was only part right. Roughly 25 percent of cars sold in the U.S. today are Japanese models. But if we were living in Tokyo she would be dead right, since only 1.5 percent of the cars sold in Japan are American.

This week U.S. and Japanese negotiators will once again try to work out a deal for opening the closed Japanese auto market. Don't hold your breath. The Japanese will literally do anything to preserve their domestic car monopoly, even though it is one of the major causes of the massive trade imbalance between the U.S. and Japan that is, in turn, causing the yen to soar in value against the dollar.

In fact, the higher the yen goes the less likely Japan is to open its auto market. With the yen rising against the dollar, Japan's cars become more expensive and difficult to sell in the U.S., so Japanese auto company profits are squeezed. That makes it all the more important for Japanese auto makers to protect their home market from competition, so they can charge higher prices there and run up profits they need to cover losses abroad.

What the U.S. is seeking is an end to Japan's barriers. For instance, only 7.4 percent of Japanese car dealers, who are manipulated by the manufacturers, sell foreign cars alongside Japanese models. Almost 80 percent of U.S. dealers sell foreign models alongside their domestic brands. It's hard to sell a car by mail order. You need a showroom and U.S. cars don't have many in Japan. And the old America-makes-the-wrong-cars line doesn't wash anymore. U.S. companies now make eight different right-hand-drive vehicles tailored for Japan.

The U.S. is also seeking better access to Japan's huge market for replacement auto parts, which has been largely closed to foreigners through Japanese regulations, customs codes and cartels. U.S. manufacturers have 3 percent of Japan's $27 billion replacement parts market, while foreigners have 18 percent of the U.S. replacement market and 22 percent of Europe's.

Clinton officials claim they are finally ready to tell Tokyo that either it enters into a meaningful agreement to open Japan's auto market, with measurable results or the U.S. will impose punitive tariffs.

(If this is true, it means the White House has rejected the brain-dead advice of the Pentagon that we must not allow "trade friction" to undermine our security ties with Japan. Nonsense. We're Japan's largest export market and we provide Japan with its security umbrella. We should use both as levers to promote our trade interests. Would somebody get the Pentagon a map. The last time I checked, North Korea and China were a lot closer to Tokyo than Washington. Maybe, just maybe, the Japanese need us more than we need them. How about a little less Keynes and a little more Machiavelli?)

For starters we should charge Japanese auto manufacturers a distribution tax on every car they sell in the U.S.—a tax that will be reduced in proportion to how many Japanese manufacturers open their showrooms to foreign cars. We should also inspect every Japanese car and part that comes into this country, and take our sweet time doing it, which is just what Japan does.

Hold on, the Japanese will say, that is a violation of the rules of the World Trade Organization. Rules? Did somebody say rules? Does anyone think that Tokyo shrank the U.S. share of the Japanese auto market from 60 percent in 1953 to 1 percent in 1960 by playing by the rules? We'll only win equal opportunity in the Japanese market when we play the game by their rules—which are no rules at all.

Even a 9-year-old understands that.

COOPERATIVE EXTENSION SERVICE AND 4-H

Mr. PRESSLER. Mr. President, periodically, it is my pleasure to address the Senate on the effective work of the Cooperative Extension Service and 4-H programs.

The Cooperative Extension Service [CES] is at the heart of many American communities. Established in 1914 by the Smith-Lever Act, the CES has been serving the needs of millions of Americans for more than 80 years. The CES provides education and one-on-one assistance on a wide variety of issues, from agribusiness skills and safe chemical handling to senior nutrition and child care. The U.S. Department of Agriculture works closely with each State's land-grant university to provide information on these and other programs to participating communities. The hands-on approach increases productivity and keeps thousands of farms and families running smoothly.

Local agents tailor CES programs to meet special area needs. In southeast South Dakota, for example, more than 1,200 producers affected by flooding received information on cropping alternatives and financial management. In Day and Marshall Counties, CES agents organized more than 450 South Dakota families and businesses in a recycling effort. Another example is the successful Extension Service Indian reservation programs. On the Pine Ridge and Rosebud Reservations, 87 farmers and ranchers completed training for their private pesticide applicators license.

One unique program run by the CES in every South Dakota county is helping to put welfare recipients back to work. Every recipient of Aid to Families With Dependent Children [AFDC] must attend resourceful living classes offered by county extension agents. In these classes, welfare recipients learn basic skills such as household budgeting, and interviewing skills. No other State in the country has such a program to establish self-sufficiency.

According to the CES, for every dollar invested in CES livestock programming, $4.60 to $5.80 is realized in the increased value of livestock sold. For every dollar invested in crop programming, the value of crops sold is increased by $5.90 to $8.62. Thousands and thousands of dollars in health care costs are saved through the nutrition and child care education offered by CES. Clearly, this is an example of a Federal program with an excellent return on the taxpayers' dollar. Why? Because it relies on the common sense participation of local folks who know the unique needs in their own communities.

Another program with a history of common sense result is 4-H. The mission of 4-H is to help young people become self-directed, productive, and contributing members of society. 4-H members have the opportunity to explore many areas of interest. Their projects can include raising cattle, hogs, and sheep. Other 4-H projects involve growing farm or garden crops, forestry and entomology collections, baking, sewing, handicrafts, art, electronics, horse showing, photography, public speaking, and much more.

Nationally about 5.5 million young people are involved in 4-H annually. I always enjoy meeting 4-H'ers in my Washington office or at our State fair. They always give me helpful advice. 4-H has helped them to become well-informed and articulate leaders.

While growing up on a small family farm in my home State of South Dakota, I was active in a local 4-H club, the Humboldt Hustlers. The 9 years I was active in 4-H helped me develop my personality and better focus myself. That helped me to confidently formulate and pursue my goals. Each 4-H participant learns the value of teamwork, and gains knowledge of the community, State, Nation, and world in which he or she lives. I was fortunate to have attended twice the 4-H Club Congress in Chicago and the 1961 World Agricultural Fair in Cairo, Egypt. Participation in such programs by young people is even more vital today with the growing importance of the global community to the United States.

The success of South Dakota 4-H is due to a team of very competent, well-informed adult professionals and volunteers who help educate 4-H members. I remember in particular two professionals who helped me and other South Dakota youth. They were Glenn Schrader, who was the Minnehaha County agent for more than 30 years, and John Younger, who was the South Dakota 4-H leader for nearly 25 years. Both were instrumental in the development of 4-H within South Dakota, as well as nationally. All 4-H participants also appreciate their local 4-H leaders for the time, effort, and commitment they volunteer. During the time I was involved in 4-H, I had two leaders: Elmer Anderson and Harry Stofferahn. They shared the values and spirit of 4-H to me and my fellow members, for which I am grateful to this day.

With the reported decline in rural communities, my colleagues may wonder how these programs continue to serve a useful purpose. The Extension Service and 4-H programs are no longer just for rural areas. They have expanded from addressing traditional farm and home economic problems to current issues such as teen pregnancy and violence. In fact, nearly one-third of 4-H students now reside in urban areas. They have grown so fast because the lessons and values that are the essence of 4-H—head, heart, hands, and health—transcend geography and demography. More important, at a time when thousands of young people in urban areas face so many challenges, the lessons and values of 4-H are needed more than ever before.

As Federal budgetary pressures grow, it will be tempting for Congress to cut funding for programs such as the CES and 4-H. I hope my colleagues will resist this pressure and continue supporting these effective programs. The CES and 4-H programs should be permitted to continue providing support for communities across the United States for many years to come.

CWO-2 PETER A. DAVIS, AN AMERICAN PATRIOT

Mr. SMITH. Mr. President, I rise today to salute CWO-2 Peter A. Davis, who died April 24, 1995, in a helicopter crash in Williamson County, TX. The accident that took the life of this fine man was a terrible tragedy for his family and for all those who knew him.

Mr. Davis, born in Kittery, ME and educated in Laconia, NH, was on active duty and has served in the U.S. Army for 21 years. He is the son of Phillip and Maria Davis of Laconia. He is also survived by his wife, Bonnee Davis and son Nicholas Davis, both of Fort Hood, TX.

Peter died in service to his country in the U.S. Army. I extend my deepest sympathies to Peter's family and friends. As a member of the Senate Armed Services Committee, I am honored to represent Peter's family in the U.S. Senate. CWO-2 Peter Davis joins a distinguished list of American patriots who have given their lives in service to their country.

TRIBUTE TO SHELDON L. MORGAN

Mr. HEFLIN. Mr. President, I want to pay tribute to Sheldon L. Morgan, who recently retired as senior vice president after 23 years with the First Alabama Bank. He was manager of the bank's corporate sales and services department, which included national accounts, industrial development, private banking, and corporate cash management. He had also served as head of First Alabama's marketing division.

Prior to joining the bank in 1972, Sheldon was manager of industrial trade development for the Mobile, AL Area Chamber of Commerce. His colorful career also carried him to the Alabama State docks, where he served as public relations director, and to the Mobile County schools, where he taught. He was in the U.S. Air Force from 1948 to 1952.

Sheldon received his bachelor's and a master's degrees from Auburn University. He also graduated from the Stonier Graduate School of Banking at Rutgers University in New Jersey. His thesis was selected for placement in the libraries of the American Bankers Association and the Harvard business school.

In addition to being an outstanding manager and banker, Sheldon Morgan has served his community through a wide variety of civic and professional organizations, including his service as president of the advisory board of the Providence Hospital School of Nursing; the Mobile Azalea Trail Festival; the Mobile Kiwanis Club; Senior Citizens Service; and the Industrial Developers Association of Alabama, which he founded. He has also served as a member of the Junior Chamber of Commerce, the American Cancer Society; and the Mobile Economic Development Council.

I congratulate Sheldon for his illustrious career and for his many contributions to his community and state. I wish him all the best for a happy, healthy, and long retirement.

IN TRIBUTE TO SENATOR JOHN C. STENNIS

Mr. HATFIELD. Mr. President, I join with my colleagues today in remembering a man who embodied the U.S. Senate perhaps better than anyone, Senator John C. Stennis. Known as a Senator's Senator and the conscience of the institution, his presence for 41 years in the Senate was formidable, yet comforting and reassuring.

While his departure represents the passing of an era and is cause for our grief, it is also certainly cause to rejoice, for our friend is no doubt experiencing the rewards of a faithful heart and humble service. The legacy he leaves is one defined by his strength, integrity, and compassion.

Growing up in rural Mississippi, John Cornelius Stennis learned the lessons that would last him a lifetime. Such lessons molded a man whose southern courtesy would become a mark of dignity and distinction. After receiving a law degree from the University of Virginia in 1927, young John Stennis spent 19 full years serving first as a State representative, then district prosecuting attorney and finally a circuit judge before being elected to the U.S. Senate in 1947.

Much in the same manner Senator Stennis took so many of us under his wing, upon his arrival in the Senate, it was Senator Richard B. Russell who mentored the like-minded Mississippian. Soon, Senator Stennis' sharp mind and unmatched work ethic earned him seats on the powerful Armed Services and Appropriations Committees. As chairman of the new Armed Services Preparedness Subcommittee, Senator Stennis became a watchdog for the Department of Defense and the armed services. His fair investigations and scrutiny of these organizations quickly secured him a reputation which would never be tarnished: He was analytical, critical, and he held unwavering convictions.

The impact John Stennis had over his 41 years in the U.S. Senate surpasses description. Early in his Senate career he courageously spoke against McCarthyism. While assuring America would have the strongest and most capable military on the planet, he demanded accountability for each defense dollar spent. While always standing by his commitment to a strong military, he also began to see the growing danger of our Federal deficit and supported necessary defense budget cutbacks. A consummate professional, Chairman Stennis commented more than once that his work was his play. Indeed, the joy with which he carried out our Nation's business was contagious—our Senator's Senator was humorous and likeable, a role model to Members on both sides of the aisle.

The trials Senator Stennis experienced during his sunset years in the U.S. Senate are almost unthinkable. He was shot twice by a burglar in 1973, but he returned to the work of the Senate; he lost his wife of 50 years in 1983, but he returned to the work of the Senate; and he lost a leg to cancer in 1984, but again he returned to the work of the Senate. Through all this, Senator Stennis remained a commanding presence. As the distinguished senior Senator from Virginia once put it, Senator Stennis ". . . had a great spiritual reservoir that came to his rescue and served as a solid, strong, foundation for him." Well, the spiritual reservoir overflowed and served as a solid and strong foundation for the rest of us as well.

To more than one Senator, John C. Stennis was more than a colleague, even more than a mentor. Indeed, I am not the only Senator still in this body who would call Senator Stennis a father figure—a figure worthy of our respect and deserving of our love. As long as he was in the Senate, I was his student—especially on the Appropriations Committee. Even when serving as chairman it was his counsel and leadership, his spirit and presence which guided me through the many hours of committee sessions and floor deliberations. To Senator John C. Stennis I owe a debt of gratitude that is both professional and personal. Seeing his patient and humble years presiding as chairman and as President pro tempore brought me peace of mind as I struggled through the difficult periods of my own service. And what would Senator Stennis' response to this tribute be? Well, about 7 years ago, upon his retirement, he remarked that he "* * * was just trying to do what looked like to be the duty and keep it up the best he could." He certainly did, and much, much more.

In the Book of Ezekiel, the third chapter, God declares the Prophet to be a watchman over the house of Israel. Ezekiel is commanded to warn the rebellious Israelities of God's impending judgment. Well, for the past several decades, John Cornelius Stennis has been our watchman. He has always cared for, and often admonished, a dignified yet sometimes unruly body of U.S. Senators. He has and will continue to represent the history of this body, to represent the integrity of this body and to represent the stature of this body. For his years of service, leadership, and friendship, I am eternally grateful.

TRIBUTE TO JEFFERY ALLEN BREAUX

Mr. BREAUX. Mr. President, today I would like to honor Jeffery Allen Breaux. Jeff was a native of my hometown of Crowley, LA, and he passed away on April 15, 1995. It is with extreme sorrow that I pay tribute to him on behalf of his parents, Mr. and Mrs. Larry J. Broussard, Sr.

THE 25TH ANNIVERSARY OF EARTH DAY

Mr. DASCHLE. Mr. President, more than a hundred years ago, Sitting Bull, chief of the Lakota Sioux Indians, implored Americans: "Let us put our minds together and see what life we can make for our children."

I thought of that plea again on Saturday, April 22, the 25th anniversary of Earth Day.

Much has changed since the first Earth Day.

More and more, Americans recognize that conserving our natural resources and safeguarding a clean environment is in everyone's best interests. It is, as Theodore Roosevelt said, the patriotic duty of every American.

Congress has attempted to fulfill that responsibility by passing laws such as the Clean Air Act, Clean Water Act, Safe Drinking Water Act, and the Federal Land Policy Management Act. As a result of these and other protections, the water Americans drink and the air we breathe is cleaner than it was 25 years ago.

We also understand much more about how the delicate Earth system works and about the effects of human actions on the environment. For example, earth scientists have come to recognize that the Earth's climate is changing because of human actions that alter the composition of the atmosphere. Geologists tell us that global climate change could increase the frequency of droughts and floods.

We now appreciate that these events can have direct socioeconomic consequences for individuals and communities.

We need to build on this knowledge and our successes, not undo them.

Clearly, we cannot and will not tolerate laws and rules that frustrate businesses and justify redtape. We must be willing to heed the lessons of the last 25 years and adjust our environmental laws to be more efficient and less burdensome.

But, we must not exploit the current frustration with Government to gut all laws protecting our environment.

Those who claim we must eviscerate environmental rules in order to sustain our economy are at best disingenuous. They know—we all know—that we cannot strengthen our economy if we destroy our environment. In fact, establishing policies for a sustainable environment is an economic necessity. We must develop policies using balance, reason, and good science.

We will debate many important environmental issues in this Congress. Let us hold ourselves to those standards: Balance, reason, and good science.

Pollution does not respect ideological boundaries. So our efforts to prevent pollution, to clean up mistakes from our past, and to plan thoughtfully for the future on this delicate planet must transcend those boundaries.

In my lifetime, the world population has doubled, and the U.S. population has soared from 150 million to 260 million people. At current growth rates, it's projected that the U.S. population will double—to 522 million people—just 60 years from now.

The cold, hard truth is that the Earth cannot supply the resources to sustain such a large human population unless we change our consumption and conservation practices now.

Earth Day reminds us that the Earth is not an infinitely bountiful cornucopia. Rather, it is a planet of finite resources from which comes the materials for our food, clothing, and shelter. We must learn to live within its geological and biological limits.

Environmental issues are often expressed by scientists in complicated, technical terms. But the essential issue is really quite simple and critical for all of us to embrace. President Theodore Roosevelt put it best early in this century when he said: "A nation behaves well if it treats its natural resources as assets which it must turn over to the next generation increased—not impaired—in value."

We have an obligation to our children and our children's children to safeguard their future, to preserve the water, soil, air, minerals, rivers, and oceans that are the resource base of this diverse planet and the many life forms that inhabit it.

Last week, students at the Grandview Elementary School in Rapid City spoke with me about pressing environmental problems and possible solutions.

Let us not disappoint our children. Let us, Democrats and Republicans alike, heed Sitting Bull's plea to "put our heads together," to work together, "to see what life we can make for our children."

SAFE WORKPLACES FOR AMERICAN WORKERS

Mr. DASCHLE. Mr. President, our Nation's history includes too many tragic and avoidable workplace accidents that have maimed and killed workers.

The Triangle Shirtwaist Factory fire early in this century, in which women died because the owner had locked the fire doors to prevent them taking an unauthorized work break, remains one of the most horrifying examples.

Twenty-five years ago last Friday, Congress passed the Occupational Safety and Health Act. With that legislation, we made a commitment to all American workers that the places where they earned their living would not themselves pose a hazard to life or health.

Yet it has been just a couple of years since the Hamlet chicken processing plant fire had a result all too similar to the Triangle Shirtwaist Factory disaster, and for the same cause—a locked fire escape door. Twenty-five working people in North Carolina died in that fire.

The Occupational Safety and Health Act was intended to prevent such tragedies, but despite the passage of a quarter century, its work is not yet done.

Every year, more than 6,000 workers are killed by workplace injuries; more than 50,000 die each year from occupational diseases.

We have made great strides in cleaning up the chemicals and other contaminants that pose a hazard to health in many workplaces. Most American employers are anxious to create workplaces that will not cause injury to their own employees.

But the number of deaths each year, whether from immediate injury or from the long-range effects of exposure to hazardous substances, means we cannot say that the work of the Occupational Health and Safety Administration is finished. It is not.

It is inconceivable that, with this heavy toll of premature worker death, there is today a concerted effort to roll back and eviscerate workplace safety provisions that protect workers today.

This is a misguided and mistaken approach. We are seeing improvements in the rate of workplace safety, with reduced injuries and accidents. Clearly, the work done by Federal and State inspectors is having an effect. It is counterproductive to take an effective enforcement approach and seek to weaken it.

American workers deserve better. American workers should not have to fear that the Congress, which promised to protect their health a quarter of a century ago, will today renege on that promise.

There are undoubtedly improvements to be made in the enforcement field, but proposals to eliminate the tools of enforcement itself are not improvements. They will do nothing but undermine the ability of inspectors to do their job.

There are fewer than 2,000 Federal workplace safety inspectors. They are already overwhelmed by the scope of their responsibilities. If they don't have the tools with which to enforce safety requirements, the promise of a safe workplace will become an empty one.

A week after the ultimate workplace tragedy, the bombing in Oklahoma City that took the lives of so many Federal employees as they worked at their desks, it is worthwhile to remember the tragic and wasteful loss of life that goes unremarked in the workplace every day.

I commend the AFL–CIO and its affiliates for the continued effort they make, through Workers Memorial Day, to recall to the national memory the lives needlessly lost to preventable injuries and hazards on the job.

THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. LIEBERMAN. Mr. President, this week we commemorate the 80th anniversary of the Armenian genocide—the death of over 1.5 million Armenians and their exile from their homeland.

This terrible tragedy marked the beginning of an ugly period in human history where there have been attempts to systematically liquidate certain ethnic groups. The Nazi Holocaust, the extermination of the Kulaks by Stalin, and the ruthless murders of innocent Cambodians by the Khmer Rouge are all further examples of brutality against fellow human beings. Today, people are being killed in the Balkans, Rwanda, and Burundi once again because they are members of a different ethnic group.

What can we learn from all these tragedies and especially the one we commemorate today? The first and foremost lesson is to acknowledge that a tragedy occurred and admit that it is a crime against all of humanity. Then we must never allow the world to forget what happened here and the fate of these people. This is why we mark this date in history—and why we must continue to do so.

In 1915, the Ottoman Empire was in a state of collapse. The Empire was exhausting its last strength in fighting World War I. The economy was in tatters and the Government was in a state of confusion. The victims of this time of upheaval were the Armenian people who were either killed or forced to flee their homelands.

The Armenian people kept their culture and beliefs, and with the collapse of the Soviet Union, the Nation of Armenia was born. This birth has been a troubled one.

The tragic 7-year conflict between Armenia and Azerbaijan has cost thousands of lives and displaced over a million people. I am very encouraged, however, by the cease-fire which has been in place in Nagorno-Karabakh for 1 year this month.

I am also encouraged that Russia decided this past December to work with the Minsk Group of the OSCE to seek a peaceful solution in Nagorno-Karabakh. The Minsk Group, cochaired by Russia and Finland, has been meeting regularly to address the needs of all the concerned parties. The process is moving along slowly, but there is hope that a peacekeeping unit may soon be in Nagorno-Karabakh to ensure the safety of all people.

The United States is eager to see a lifting of the blockade of Armenia and to see a return to the free flow of humanitarian aid in this region. We share the aspirations of Armenia, Azerbaijan, and the other members of the OSCE Minsk Group for a peaceful solution to this troubling problem.

We must do whatever we can to solve the situation in Nagorno-Karabakh. We must use all available resources to see that the tragedy which befell Armenians in the first part of this century is not repeated—either in Armenia or anywhere else in the world. On this, the 80th anniversary of a terrible genocide, we must learn from the past and make sure that such a tragedy is never repeated.

THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. GLENN. Mr. President, once again I join my colleagues in pausing to reflect upon, and remember the victims of, this century's first example of the horrendous crime of genocide, the Armenian population of the Ottoman Empire. April 24, 1995, marked the 80th anniversary of the beginning of this tragedy. On that day in 1915, some 200 Armenian religious, political, and intellectual leaders were arrested in Constantinople and exiled or taken to the interior and executed. For the next several years, Armenians were systematically expelled and deported. Some were killed and others left to die of deprivation. When the horror ended in 1923, 1.5 million Armenians had perished and another 500,000 had fled their homeland.

Evidence of the Armenian genocide is available from a number of sources, among the most compelling of which is the reporting of our own United States Ambassador to the Ottoman Empire, Henry Morgenthau. In a cable to the Secretary of State, Ambassador Morgenthau wrote:

> Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in process under a pretext of reprisal against rebellion.

Some may ask why it is important to take time each year to commemorate an event which occurred over half a century ago. In reply I would recall the reported observation of Adolph Hitler as he contemplated the "final solution"—"Who remembers the Armenians?"

Sadly, as we all well know, the Armenian peoples' tragedy was not the last genocide of this century; there followed the horrors of the Holocaust and the extermination of the Cambodians during the brutal Khmer Rouge regime. Surveying the world today we unfortunately see many too many examples of brutal ethnic, religious, or tribal-based conflict, from ethnic cleansing in Bosnia to massacres in Rwanda.

Today we remember the 1½ million victims of the Armenian genocide. It is not comfortable to remind ourselves of this tragedy, or to visit the Holocaust Memorial Museum, or to see ongoing atrocities in real time on our television screens. Let us hope and pray today that we never allow ourselves to become complacent about man's inhumanity to man. For in the words of Edmund Burke, "the only thing necessary of the triumph of evil is for good men to do nothing."

ARMENIAN COMMEMORATION

Mr. JEFFORDS. Mr. President, I join many of my colleagues today in commemorating one of history's greatest tragedies: The slaughter 80 years ago of more than 1 million Armenians. That brutal assault on the Armenian people was an unconscionable effort to deny Armenians basic political and social rights of self-determination, independence, cultural identity, and community.

The atrocity could not extinguish the Armenian people's desire for freedom and justice. The Armenian community survives in many places around the globe, including, thankfully, the United States of America. In commemorating the immense tragedy which took place 80 years ago, we are honoring the achievements and lives of those who perished. We are also paying tribute to the perseverance and vigor of the Armenian people, who have maintained their cultural and historical identity despite oppression and diaspora. They continue to make positive contributions wherever they are, including in the United States and in the Republic of Armenia.

Commemorating these tragic events of 80 years ago, we also recognize the need for vigilance and action in the face of ethnic intolerance and injustice. Failure to learn the lessons of such events in history will unquestionably lead to future tragedies.

ARMENIAN GENOCIDE

Ms. MOSELEY-BRAUN. Mr. President, April 24 was the 80th anniversary of the beginning of the Armenian genocide. On that day in 1915, 200 Armenian leaders were arrested in Constantinople, now Istanbul, and taken to the Turkish interior, where they were executed. This act marked the beginning of the first genocide of the 20th century.

From 1915–23, 1.5 million Armenians were killed and more than 500,000 were exiled. By 1923, the entire Armenian population, which had numbered 2 million, 9 years before, was removed from Turkey.

During the last years of the Ottoman Empire, the government carried out the extermination of the Christian Armenian minority as a matter of government policy. The Turks were concerned that the Armenian population sympathized with the Allied Powers, and were worried that they might side with the Russians in the Turkish-Russian conflict during World War I. The Ottoman Government felt they needed to fully contain the Armenians.

All Armenians were equal candidates to be deported or massacred—men, women, children, the elderly. The Ottoman Empire justified the genocide as one of the necessary military operations during wartime.

Many Armenians were transferred from their homes and taken to desolate areas to be abused and killed in mass slayings. They were moved either by forced caravan marches or by overly packed cattle car trains, both of which caused massive casualties.

The survivors of these deportations were sent to camps in the middle of the Syrian desert, where they faced heat, starvation, exhaustion, thirst, and disease.

In addition to the loss of life, Armenian churches, libraries, towns, and other symbols of their culture were razed. The property and belongings of individual Armenians were transferred to the state.

The massacres ended only after the intervention by the Great Powers, including the United States. Henry Morgenthau, the United States Ambassador to the Ottoman Empire, organized and led protests against the targeting of Armenians. Congress chartered an organization, Near East Relief, which provided $113 million between 1915–30 for the Armenians' cause. 132,000 Armenian orphans were sent to America and placed in foster homes. The United States' efforts stopped the Turks from fully completing their plan of extermination. Unfortunately, though, we were unable to protect the majority of the Armenians from that brutal government.

Those who were not killed were scattered around the globe. The largest community of Armenians today is in the United States, and approximately 25,000 Armenians live in Illinois.

I believe it is important to recognize this history of suffering. The United States should make April 24 a national day of remembering the Armenian genocide. We must acknowledge the Armenian genocide for what it was.

There is no way we can go back and change history, but we must recount the truth of what happened to the Armenian people between 1915–1923 in the Ottoman Empire. We must demonstrate that the attempted extermination of an entire people will not be tolerated. We must not forget those who suffered and died.

I dedicate this statement to those who did not survive the first genocide of the 20th century. They must never be forgotten.

THE ARMENIAN GENOCIDE

Mrs. BOXER. Mr. President, today I rise to pay tribute to the Armenian people on the 80th anniversary of the Armenian genocide. April 24, 1915, marked the beginning of the systematic elimination of the Armenian people in the Ottoman Empire by the Turks. It is important to recall this horrible chapter in history not only to commemorate the courage, strength, and energy of the Armenian people, but also to ensure that history does not repeat itself.

Beginning in 1915, the Ottoman Empire carried out a genocidal plot against its Armenian minority. From 1915 to 1923, approximately 1.5 million Armenian people, including religious, political, and intellectual leaders, lost their lives due to starvation, torture, and disease. More than 500,000 Armenians were exiled from their homes and by the end of 1923, the entire Armenian population of Anatolia and Western Armenia had been killed or deported.

During this bleak period for the Armenian people, hope was temporarily restored on May 28, 1918, when Armenian refugees, with the help of volunteers from abroad, defeated a Turkish attack and gained freedom. Unfortunately, in 1920 the Soviet Union joined with Ottoman Empire forces to attack and defeat Armenia, whose people were subjugated by these foreign powers for the next 70 years. It was not until 1991, after the break up of the Soviet Union, that the independence of the Armenian people was restored and the Republic of Armenia was born.

Although independence has been gained, Armenia's struggle still continues. There have been many efforts to deny the Armenian genocide and to discredit scholarship on this historical event. However, the suffering inflicted upon the Armenian people—one of the oldest Christian nations in the world—must not be forgotten or denied. The horror of these events must not be concealed, because only through education and remembrance can the wounds inflicted by this tragic incident in history be healed.

It is our duty to salute the Armenian people, for it reminds us that we all must work together to discourage prejudice and discrimination, to hold steadfast to the view that genocide will not be tolerated, and to make certain that it is never again repeated.

THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. BIDEN. Mr. President, I rise today to speak of a triple commemoration of horror. April 1995 marked the anniversary of both the first and the most recent genocide of the 20th century. The first, of course, was the massacre of 1.5 million Armenians in 1915. The most recent was last year's slaughter of the Tutsis of Rwanda.

Chronologically between these two grisly events stand the decimation of the Ukrainian people by Stalin's collectivization, the Jewish Holocaust, the killing fields of Cambodia, and most recently the unspeakable ethnic cleansing of Bosnia's Moslems.

The precedent for this inhuman chain was the Armenian genocide, the world's failure to prevent it, and the inability to ensure that it not be denied by future generations.

From 1915 to 1923, 30 percent of the Armenian people were massacred by the brutal hand of the Ottoman Turks, beginning with the Armenian intellectual and religious elite on April 24, 1915. Armenian men who had already been conscripted into the Ottoman Army were put into work battalions and then murdered.

Other Armenians—mostly helpless, elderly, women, and children—were driven on forced marches into the desert. Many of those who withstood unimaginable suffering finally succumbed to starvation or illness.

Sadly, the Armenian massacres have been labeled the "forgotten genocide" as a result of a concerted effort to rewrite history. Some who should know better assert that the horrid events were merely a regrettable sidelight of war, not genocide.

Mr. Chairman, we must not let unseemly quarrels over semantics cloud our moral vision or distract us from the fundamental point: The world must not allow human beings to be killed because of their race, religion, or ethnic group.

It matters little whether or not in every case of genocide in this century the perpetrators had a master plan for annihilation. The crucial, horrifying truth is that Armenians were killed because they were Armenians; Jews were killed because they were Jews; Gypsies were killed because they were Gypsies; Tutsis were killed because they were Tutsis; and Bosnian Moslems were killed because they were Moslems.

In the 1930's the international community should have been alerted by Hitler's cynical comment, "Who today remembers the extermination of the Armenians?" Just as Hitler saw lack of historical memory of the Armenian genocide as a signal that he could carry out with impunity his demented genocide of Jews and Gypsies, so too must the Hutus in Rwanda have been emboldened by the world's failure to stop the vile ethnic cleansing in Bosnia.

On this 80th anniversary of the Armenian genocide; the 50th anniversary of the liberation of Auschwitz, Buchenwald, and other Nazi death camps; and the first anniversary of the Tutsi genocide, I stand here to tell you that this chain must be broken once and for all.

We must not only remember and honor the martyrs, but must also solemnly swear: "This will never happen again."

THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mrs. FEINSTEIN. Mr. President, last Monday, April 24, marked the 80th anniversary of the beginning of the Armenian genocide. I rise today to acknowledge and commemorate this terrible chapter in our history, to help ensure that it will never be forgotten.

On April 24, 1915, the Ottoman authorities began rounding up hundreds of Armenian political and religious leaders throughout Anatolia. Over the ensuing months and years, some 1.5 million Armenians were killed at the hands of the Ottoman authorities, and hundreds of thousands more were exiled from their homes. For its devastation and barbarism, the Armenian genocide stands out as one of the most horrific events in human history.

As the 80th anniversary of the Armenian genocide passes, it is vital that we remember and speak out about the systematic persecution and murder of millions of Armenians by the Ottoman government. I urge my colleagues to join me, the Armenian-American community, and people across the United States in commemorating the genocide and paying tribute to the victims of this crime against humanity.

Americans, who are blessed with freedom and security, can never allow oppression and persecution to pass without condemnation. By commemorating the Armenian genocide, we renew our commitment always to fight for human dignity and freedom, and we send out a message that the world can never allow genocide to be perpetrated again.

Even as we remember the tragedy and honor the dead, we also honor the living. Out of the ashes of their history, Armenians all across the world have clung to their identity and have prospered in new communities. Their strength and perseverance is a triumph of the human spirit, which refuses to cede victory to evil. The best retort to the perpetrators of oppression and destruction is rebirth, renewal, and rebuilding. Armenians throughout the world have done just that, and today they do it in their homeland as well. A free and independent Armenia stands today as a living monument to the resilience of a people. I am proud that the United States, through our friendship and assistance, is contributing to the rebuilding and renewal of Armenia.

Let us never forget the victims of the Armenian genocide; let their deaths not be in vain. We must remember their tragedy to ensure that such crimes can never be repeated. And as we remember Armenia's dark past, we can look with hope to its future, which is bright with possibility.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON RESCISSION PROPOSALS—MESSAGE FROM THE PRESIDENT—PM 43

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Commerce, Science, and Transportation, and to the Committee on the Judiciary.

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report three rescission proposals, totaling $132.0 million.

The proposed rescissions affect the Departments of Justice and Transportation, and the National Aeronautics and Space Administration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 2, 1995.*

MESSAGES FROM THE HOUSE

At 1:04 p.m., a message from the House of Representatives delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 421. An act to amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet Region, and for other purposes;

H.R. 517. An act to amend title V of Public Law 96–550, designating the Chaco Culture Archeological Protection Sites, and for other purposes; and

H.R. 1380. An act to provide a moratorium on certain class action lawsuits relating to the Truth in Lending Act.

At 3:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. LIVINGSTON, Mr. MYERS of Indiana, Mr. REGULA, Mr. LEWIS of California, Mr. PORTER, Mr. ROGERS, Mr. SKEEN, Mr. WOLF, Mr. DELAY, Mrs. VUCANOVICH, Mr. LIGHTFOOT, Mr. CALLAHAN, Mr. OBEY, Mr. YATES, Mr. STOKES, Mr. BEVILL, Mr. FAZIO, Mr. HOYER, Mr. DURBIN, Mr. COLEMAN, and Mr. MOLLOHAN as the managers of the conference on the part of the Houses.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–748. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report on the metric system; to the Committee on Commerce, Science, and Transportation.

EC–749. A communication from the Administrators of the Federal Aviation Administration and the National Aeronautics and Space Administration, transmitting jointly, pursuant to law, the report on the subsonic noise reduction technology; to the Committee on Commerce, Science, and Transportation.

EC–750. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Commerce, Science, and Transportation.

EC–751. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of the budget requests of the Federal Aviation Administration for fiscal year 1996; to the Committee on Commerce, Science, and Transportation.

EC–752. A communication from the Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report on the Grant-In-Aid for Fisheries Program for fiscal years 1993 and 1994; to the Committee on Commerce, Science, and Transportation.

EC–753. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on bluefin tuna for calendar years 1993 and 1994; to the Committee on Commerce, Science, and Transportation.

EC–754. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report entitled "National Implementation Plan for Modernization of the National Weather Service for Fiscal Year 1996"; to the Committee on Commerce, Science, and Transportation.

EC–755. A communication from the Secretary of Transportation, transmitting, the report on the regulatory review effort on grassroots partnerships; to the Committee on Commerce, Science, and Transportation.

EC–756. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "The Department of Transportation Reorganization Act of 1995"; to the Committee on Commerce, Science, and Transportation.

EC–757. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the national plan of integrated airport systems; to the Committee on Commerce, Science, and Transportation.

EC–758. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the Maritime Administration for fiscal year 1994; to the Committee on Commerce, Science, and Transportation.

EC–759. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation entitled "The Amtrak Restructuring Act of 1995"; to the Committee on Commerce, Science, and Transportation.

EC–760. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation entitled "The Interstate Commerce Commission Sunset Act of 1995"; to the Committee on Commerce, Science, and Transportation.

EC–761. A communication from the Assistant Administrator (National Weather Service), National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a revision to the report entitled "National Implementation Plan for Modernization of the National Weather Service for Fiscal Year 1996"; to the Committee on Commerce, Science, and Transportation.

EC–762. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on the Youth Conservation Corps for fiscal year 1994; to the Committee on Energy and Natural Resources.

EC–763. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report entitled "Outer Continental Shelf Natural Gas and Oil Resource Management Program: Cumulative Effects, 1987–1991"; to the Committee on Energy and Natural Resources.

EC–764. A communication from the Deputy Assistant Secretary of the Interior (Water and Science), transmitting a draft of proposed legislation entitled "The Helium Disposal Act of 1995"; to the Committee on Energy and Natural Resources.

EC–765. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, the report of a notice on leasing systems; to the Committee on Energy and Natural Resources.

EC–766. A communication from the President and Chief Executive Officer, U.S. Enrichment Corporation, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Energy and Natural Resources.

EC–767. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Energy and Natural Resources.

EC–768. A communication from the Secretary of Energy, transmitting a draft of proposed legislation entitled "The Alaska Power Administration Sale Authorization Act"; to the Committee on Energy and Natural Resources.

EC–769. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the U.S. uranium industry for calendar year 1994; to the Committee on Energy and Natural Resources.

EC-770. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Low Emissions Boiler Systems Program; to the Committee on Energy and Natural Resources.

EC-771. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Building Energy Efficiency Standards Activities; to the Committee on Energy and Natural Resources.

EC-772. A communication from the Secretary of Energy, transmitting, pursuant to law, the report under the Powerplant and Industrial Fuel Use Act for calendar year 1994; to the Committee on Energy and Natural Resources.

EC-773. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the evaluation of utility early replacement programs; to the Committee on Energy and Natural Resources.

EC-774. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Integrated Resource Planning; to the Committee on Energy and Natural Resources.

EC-775. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC-776. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC-777. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC-778. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC-779. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC-780. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC-781. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of a construction prospectus; to the Committee on Environment and Public Works.

EC-782. A communication from the Administrator of the Environmental Protection Agency, transmitting drafts of proposed legislation entitled "The U.S.-Mexico Border Water Pollution Control Act" and "The U.S. Colonias Water Pollution Control Act"; to the Committee on Environment and Public Works.

EC-783. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, the report under the Comprehensive Environmental Response Compensation and Liability Act for calendar year 1994; to the Committee on Environment and Public Works.

EC-784. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the shipping study; to the Committee on Environment and Public Works.

EC-785. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the surface transportation research and development plan; to the Committee on Environment and Public Works.

EC-786. A communication from the Deputy Under Secretary of Defense (Environmental Security), transmitting, pursuant to law, the report on the Defense Environmental Restoration Program; to the Committee on Environment and Public Works.

EC-787. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report on storm water discharges; to the Committee on Environment and Public Works.

EC-788. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report on the Salem River Deep Draft Navigation Project; to the Committee on Environment and Public Works.

EC-789. A communication from the Senior Vice President (Communications), Tennessee Valley Authority, transmitting, pursuant to law, the report on the statistical summaries for fiscal year 1994; to the Committee on Environment and Public Works.

EC-790. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Finance.

EC-791. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the report of the Treasury Bulletin for March 1995; to the Committee on Finance.

EC-792. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report on trade between the United States and China, the successor States to the Former Soviet Union and other Title IV countries during calendar year 1994; to the Committee on Finance.

EC-793. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the Medicaid Drug Rebate Program; to the Committee on Finance.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Lawrence Harrington, of Tennessee, to be United States Alternate Executive Director of the Inter-American Development Bank.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 104-3 Extradition Treaty with Jordan (Exec. Rept. No. 104-2).

TEXT OF THE COMMITTEE-REPORTED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Extradition Treaty between the Government of the United States of America and the Government of the Hashemite Kingdom of Jordan, signed at Washington on March 28, 1995.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE:

S. 742. A bill to amend the Wild and Scenic Rivers Act to limit acquisition of land on the 39-mile segment of the Missouri River, Nebraska and South Dakota, designated as a recreational river, to acquisition from willing sellers, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON:

S. 743. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes; to the Committee on Finance.

By Mr. CRAIG:

S. 744. A bill to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compactors that meet appropriate American National Standards Institute design safety standards; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE:

S. 742. A bill to amend the Wild and Scenic Rivers Act to limit acquisition of land on the 39-mile segment of the Missouri River, Nebraska and South Dakota, designated as a recreational river, to acquisition from willing sellers, and for other purposes; to the Committee on Energy and Natural Resources.

THE WILD AND SCENIC RIVERS ACT AMENDMENT ACT OF 1995

Mr. DASCHLE. Mr. President, in 1991 Congress designated a 39-mile stretch of the Missouri River from Fort Randall to Lewis and Clark Lake as a national recreational river. The purpose of the recreational river designation is to protect the river and its environment, protect landowner rights, and provide for visitor use.

Recreational river designations preserve an important part of our Nation's natural heritage. This section, along with other segments of the Missouri River, provides critical native wildlife habitat, buffers against floods, and scenic waterways for recreation including fishing and hunting. For these reasons, South Dakotans feel strongly about the care and management of the river.

The National Park Service is currently evaluating alternative plans for managing this segment of the Missouri River. The selected plan will set goals and mechanisms for the care and public use of the river.

Numerous South Dakotans have commented officially on management alternatives proposed by the National Park Service. Some favor plans that emphasize the protection of wildlife habitat and provision of a primitive river experience. Others advocate a recreational emphasis with attention drawn to cultural and historical aspects of the river. Most agree on a balanced approach to river management.

However, many people who own land adjacent to the river have expressed concerns about the effectiveness of river protection efforts. They worry that recreational facilities developed on either side of the river will threaten the fragile river ecosystem. They are afraid that the Federal Government will take away portions of their land but will not do an adequate job of river protection.

I have always believed that ranchers and farmers are the original environmentalists. They make their living off the land and, therefore, know how the Earth and its rivers work. For farmers and ranchers, a healthy Earth makes for a healthy living.

The National Park Service has stated that, at this juncture, it does not believe that land condemnation will be necessary to accomplish the designation. While I appreciate the sensitivity of the Park Service to this issue, concerns persist among landowners over the potential for land condemnation when the final plan is announced. These fears, which have created a climate of mistrust, threaten to impede the designation process. For this process to move forward in a constructive and productive way, I believe it is important to clarify this issue and ensure that land condemnation is no longer an option in this process.

Therefore, today I am introducing a bill to amend the Wild and Scenic Rivers Act. The bill will limit acquisition of land on the 39-mile segment of the Missouri River designated as a recreational river to acquisition from willing sellers.

The bill seeks to ensure that the people who live with the river, who best know its seasonal ebbs and flows, will retain control of the management decisions that will affect them and the river. The bill guarantees that landowners with river property will not have their land condemned by the National Park Service for the purpose of this designation.

South Dakotans living along this stretch of the Missouri River are entitled to be the stewards of their own land. They are eager to protect this stretch of the river and to maintain its natural beauty.

In this time when States are clamoring for greater control over their natural environment and the laws that guide its use, it is my hope that Congress will provide the degree of control that Americans are asking for along this 39-mile stretch of river. Local landowners must take responsibility for the health and well-being of their natural environment. This bill, which applies only to the 39-mile stretch of the Missouri River from Fort Randall to Lewis and Clark Lake, will provide that opportunity in this case.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. LIMITATION OF ACQUISITION OF LAND ON PORTION OF THE MISSOURI RIVER DESIGNATED AS A RECREATIONAL RIVER.

Section 3(a)(22) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(22)) is amended in the ninth sentence by striking "owner:" and all that follows through the end of the sentence and inserting "owner."

By Mrs. HUTCHISON:

S. 743. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes; to the Committee on Finance.

COMMERCIAL REVITALIZATION TAX CREDIT ACT

Mrs. HUTCHISON. Mr. President, the bill that I am introducing today is the Commercial Revitalization Tax Credit Act of 1995 [CRTC]. This legislation will encourage business investment in economically distressed areas. It will create jobs; expand economic activity; improve the physical appearance and increase property values in these areas. My bill would provide a targeted, limited tax credit to businesses to help defray their costs of construction, expansion, and renovation. Currently, such an incentive is lacking. This credit would fill a gap in the range of tools that States and localities need to make declining neighborhoods good places to do business, to work, and to reside. Martha Murphree, executive director of the Houston chapter of the American Institute of Architects said it very well: This legislation would "give small businesses leverage to expand and/or improve their facilities, thus adding value to their establishments and allowing them to hire more employees."

In fact, the American Institute of Architects is one of the prime reasons that this bill came to my attention and I applaud them for taking this initiative.

Mr. President, this tax credit will help businesses form a partnership with the Government to help revitalize areas of our country that have, in some cases, long suffered from neglect.

I firmly believe that we must reduce the size and scope of the Federal Government. I also firmly believe that there are compassionate ways to aid our cities without adding more Federal Government bureaucracy. Expanding tax incentives to enable the private sector to create real jobs in the economically depressed areas of our country is an excellent way to combat poverty, crime, despair, and the physical deterioration of our cities. This legislation encourages empowerment at the local level. It builds on the empowerment zone/enterprise community program that is now unfolding in 109 communities across the Nation. My own State of Texas has five of these specially designated areas in these cities: Houston, Dallas, El Paso, San Antonio, and Waco. The legislation could also benefit additional communities which have had previously approved and designated economic revitalization areas and which now receive Federal funds under the Community Development Block Grant Program.

I have always been a supporter of the pro-growth ideas that are at the foundation of the enterprise zone concept. But what was enacted in 1993 did not include the broad based incentives for capital formation that former Secretary of Housing and Urban Development Jack Kemp had envisioned. These specially designated zones primarily encourage wage-based tax credits to employers who hire an individual to work for a business within the zone. But there is no existing incentive for a business within the zone to expand so that larger numbers of people could be hired. Increasing and upgrading buildings and infrastructure is a necessary part of improving our cities and combating cycles of poverty and crime. This is the part of the equation that has been missing.

This is not intended to be a panacea. I do not anticipate that the tax credits will be the primary reason for going forward with such an expansion. However, I do think it can be an important, positive factor that would give the business man or woman the push needed to go forward with construction, renovation, or expansion. The credit will mitigate the inherent risk in business decisions to locate in areas experiencing a variety of social and economic troubles. The credit will provide an incentive to invest in these areas, and the result will be new sources of tax revenues and new jobs.

We have seen how other targeted tax incentives can achieve such goals. Two excellent examples are the historic rehabilitation tax credit and the low-income housing tax credit. The historic rehabilitation tax credit provides a 20-percent credit to the owners of properties listed on the National Register of Historic Places to restore their properties for commercial purposes. According to the National Park Service, the credit has definitely created jobs. In fiscal year 1994, the credit produced almost 21,000 jobs, among 524 projects, and leveraged $483 million in private investment at a Federal cost of $97 million. Over the previous 4 fiscal years, $509 million in tax credits leveraged $2.5 billion in private investment. In the 17 years since Congress enacted the credit, it has generated almost $17 billion in private investment, in more than 25,000 projects. Moreover, this credit has preserved thousands of this Nation's most precious architectural treasures. It has also sparked tourism which in turn has generated millions of tax dollars.

The low-income housing tax credit is the residential housing construction and rehabilitation partner to the CRTC. It provides a tax credit of up to 9 percent per year for up to 10 years against the cost of developing or renovating housing affordable to low- and moderate-income people. Since its creation in 1986, it has financed 700,000 new and rehabilitated housing units. At an annual credit amounting to about $320 million, the low-income housing tax credit attracts about $975 million in private investment a year. According to the U.S. Department of Housing and Urban Development, for every 100,000 new housing starts, 170,000 jobs are created. Of these jobs, 40 percent are on-site and another 20 percent are in trade, transportation, and services that come primarily from local markets. The National Association of Homebuilders reported that, for fiscal year 1992, the 92,000 units built or rehabilitated spun off more that $1.6 billion in wages and taxes.

Clearly, Congress has found that targeted tax credits can serve a valuable public purpose. My proposal will do the same for economically depressed communities struggling to attract new business investment, just as the historic rehabilitation tax credit has done for historic properties and the low-income housing tax credit has done for affordable housing. According to the National Association for Counties' report on business development incentives, it is important to ensure that tax incentives are crafted to encourage new activity which might not otherwise occur. Also, the credit must be carefully targeted and used judiciously. There must be safeguards to ensure accountability. The tax credit must fit within a State or locality's overall economic development policy. It must also be designed to stimulate the local economy, and to promote job growth in economically depressed areas. My proposal meets all of those standards.

This tax credit will be a cost-efficient instrument of Federal policy. It will require a minimum of Federal bureaucracy. Most of the work will be done by the State, which will allocate the tax credits, and monitor projects to make sure that the proposed benefits are realized. It will engage the private sector in addressing the economic development needs of low-income communities. The Government cannot and should not do the job alone. Private sector involvement helps ensure success. Because their own funds will be at risk, private investors will rigorously assess the feasibility of ventures before undertaking them. This is not a charity or a Government give away program. The credit will attract additional private lending. Lenders want to see the kind of private equity investment generated by the CRTC before they will consider a loan, particularly in an economically distressed community. The CRTC is flexible. It will work for a wide range of retail, industrial, health care, and other facilities which are crucial to making their communities good places to live and to do business. The CRTC is based on the principal of paying for performance. Tax credits can be claimed only after the investment is made; the project completed; the assets remain in use; and income is generated. That ensures that the taxpayers will get what they are paying for.

The tax credit I propose has the following major features:

The credit may be applied to construction, amounting to at least 25-percent of the basis of the property, which takes place in specially designated revitalization areas, including enterprise communities, empowerment zones, and other areas specially designated according to Federal, State, or local law.

Qualified taxpayers could choose a one time 20-percent tax credit against the cost of new construction or rehabilitation. For instance, if the expansion of a supermarket in the El Paso enterprise community cost $150,000, the tax credit against income would be $30,000. Alternatively, the business owner could take a 5-percent credit each year over a 10-year period.

Annually, the credit would be allocated to each of the States, according to a formula that takes into account the number of localities where over half the people earn less than 60 percent of the area's median income.

Localities would determine their priority projects and forward them to the State for allocation of credits according to an evaluation system which the States establish.

The CRTC would provide $1.5 billion in tax credits over 5 years, in amounts as follows: $100 million in fiscal year 1996, $200 million for fiscal year 1997, and $400 million each year from fiscal years 1998 to 2000.

Mr. President, the legislation I offer today is designed to attract over $7 billion of private sector investment to the most troubled neighborhoods and communities of this Nation. It will create jobs, generate tax revenue, and improve the physical appearance of these specially designated revitalization areas. With a minimum of bureaucracy and through a proven tax mechanism, my initiative will make a difference to the people and the economies of hundreds of communities and thousands of neighborhoods across this country.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Revitalization Tax Act of 1995".

SEC. 2. COMMERCIAL REVITALIZATION TAX CREDIT.

(a) ALLOWANCE OF CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) the commercial revitalization credit."

(b) COMMERCIAL REVITALIZATION CREDIT.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. COMMERCIAL REVITALIZATION CREDIT.

"(a) GENERAL RULE.—For purposes of section 46, except as provided in subsection (e), the commercial revitalization credit for any taxable year is an amount equal to the applicable percentage of the qualified revitalization expenditures with respect to any qualified revitalization building.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means—

"(A) 20 percent, or

"(B) at the election of the taxpayer, 5 percent for each taxable year in the credit period.

The election under subparagraph (B), once made, shall be irrevocable.

"(2) CREDIT PERIOD.—

"(A) IN GENERAL.—The term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is placed in service.

"(B) Applicable rules.—Rules similar to the rules under paragraphs (2) and (4) of section 42(f) shall apply.

"(c) Qualified Revitalization Buildings and Expenditures.—For purposes of this section—

"(1) Qualified revitalization building.—The term 'qualified revitalization building' means any building (and its structural components) if—

"(A) such building is located in an eligible commercial revitalization area,

"(B) a commercial revitalization credit amount is allocated to the building under subsection (e), and

"(C) depreciation (or amortization in lieu of depreciation) is allowable with respect to the building.

"(2) Qualified rehabilitation expenditure.—

"(A) In general.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(i) for property for which depreciation is allowable under section 168 and which is—

"(I) nonresidential real property, or

"(II) an addition or improvement to property described in subclause (I),

"(ii) in connection with the construction or substantial rehabilitation or reconstruction of a qualified revitalization building, and

"(iii) for the acquisition of land in connection with the qualified revitalization building.

"(B) Dollar limitation.—The aggregate amount which may be treated as qualified revitalization expenditures with respect to any qualified revitalization building for any taxable year shall not exceed $10,000,000, reduced by any such expenditures with respect to the building taken into account by the taxpayer or any predecessor in determining the amount of the credit under this section for all preceding taxable years.

"(C) Certain expenditures not included.—The term 'qualified revitalization expenditure' does not include—

"(i) Straight line depreciation must be used.—Any expenditure (other than with respect to land acquisitions) with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).

"(ii) Acquisition costs.—The costs of acquiring any building or interest therein and any land in connection with such building to the extent that such costs exceed 30 percent of the qualified revitalization expenditures determined without regard to this clause.

"(iii) Other credits.—Any expenditure which the taxpayer may take into account in computing any other credit allowable under this part unless the taxpayer elects to take the expenditure into account only for purposes of this section.

"(3) Eligible commercial revitalization area.—The term 'eligible commercial revitalization area' means—

"(A) an empowerment zone or enterprise community designated under subchapter U,

"(B) any area established pursuant to any consolidated planning process for the use of Federal housing and community development funds, and

"(C) any other specially designated commercial revitalization district established by any State or local government, which is a low-income census tract or low-income nonmetropolitan area (as defined in subsection (e)(2)(C)) and is not primarily a nonresidential central business district.

"(4) Substantial rehabilitation or reconstruction.—For purposes of this subsection, a rehabilitation or reconstruction shall be treated as a substantial rehabilitation or reconstruction only if the qualified revitalization expenditures in connection with the rehabilitation or reconstruction exceed 25 percent of the fair market value of the building (and its structural components) immediately before the rehabilitation or reconstruction.

"(d) When Expenditures Taken Into Account.—

"(1) In general.—Qualified revitalization expenditures with respect to any qualified revitalization building shall be taken into account for the taxable year in which the qualified rehabilitated building is placed in service. For purposes of the preceding sentence, a substantial rehabilitation or reconstruction of a building shall be treated as a separate building.

"(2) Progress expenditure payments.—Rules similar to the rules of subsections (b)(2) and (d) of section 47 shall apply for purposes of this section.

"(e) Limitation on Aggregate Credits Allowable With Respect To Buildings Located in a State.—

"(1) In general.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the commercial revitalization credit amount (in the case of an amount determined under subsection (b)(1)(B), the present value of such amount as determined under the rules of section 42(b)(2)(C)) allocated to such building under this subsection by the commercial revitalization credit agency. Such allocation shall be made at the same time and in the same manner as under paragraphs (1) and (7) of section 42(h).

"(2) Commercial revitalization credit amount for agencies.—

"(A) In general.—The aggregate commercial revitalization credit amount which a commercial revitalization credit agency may allocate for any calendar year is the portion of the State commercial revitalization credit ceiling allocated under this paragraph for such calendar year for such agency.

"(B) State commercial revitalization credit ceiling.—

"(i) In general.—The State commercial revitalization credit ceiling applicable to any State for any calendar year is an amount which bears the same ratio to the national ceiling for the calendar year as the population of low-income census tracts and low-income nonmetropolitan areas within the State bears to the population of such tracts and areas within all States.

"(ii) National ceiling.—For purposes of clause (i), the national ceiling is $100,000,000 for 1996, $200,000,000 for 1997, and $400,000,000 for calendar years after 1997.

"(iii) Other special rules.—Rules similar to the rules of subparagraphs (D), (E), (F), and (G) of section 42(h)(3) shall apply for purposes of this subsection.

"(C) Low-income areas.—For purposes of subparagraph (B), the terms 'low-income census tract' and 'low-income non-metropolitan area' mean a tract or area in which, according to the most recent census data available, at least 50 percent of residents earned no more than 60 percent of the median household income for the applicable Metropolitan Standard Area, Consolidated Metropolitan Standard Area, or all non-metropolitan areas in the State.

"(D) Commercial revitalization credit agency.—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

"(E) State.—For purposes of this section, the term 'State' includes a possession of the United States.

"(f) Responsibilities of Commercial Revitalization Credit Agencies.—

"(1) Plans for allocation.—Notwithstanding any other provision of this section, the commercial revitalization credit dollar amount with respect to any building shall be zero unless—

"(A) such amount was allocated pursuant to a qualified allocation plan of the commercial revitalization credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part, and

"(B) such agency notifies the chief executive officer (or its equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project.

"(2) Qualified allocation plan.—For purposes of this subsection, the term 'qualified allocation plan' means any plan—

"(A) which sets forth selection criteria to be used to determine priorities of the commercial revitalization credit agency which are appropriate to local conditions,

"(B) which considers—

"(i) the degree to which a project contributes to the implementation of a strategic plan that is devised for an eligible commercial revitalization area through a citizen participation process,

"(ii) the amount of any increase in permanent, full-time employment by reason of any project, and

"(iii) the active involvement of residents and nonprofit groups within the eligible commercial revitalization area, and

"(C) which provides a procedure that the agency (or its agent) will follow in monitoring for compliance with this section.

"(g) Termination.—This section shall not apply to any building placed in service after December 31, 2000."

(b) Conforming Amendments.—

(1) Section 39(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(7) No carryback of section 48A credit before enactment.—No portion of the unused business credit for any taxable year which is attributable to any commercial revitalization credit determined under section 48A may be carried back to a taxable year ending before the date of the enactment of section 48A."

(2) Subparagraph (B) of section 48(a)(2) of such Code is amended by inserting "or commercial revitalization" after "rehabilitation" each place it appears in the text and heading thereof.

(3) Subparagraph (C) of section 49(a)(1) of such Code is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the basis of any qualified revitalization building attributable to qualified revitalization expenditures."

(4) Paragraph (2) of section 50(a) of such Code is amended by inserting "or 48A(d)(2)" after "section 47(d)" each place it appears.

(5) Subparagraph (B) of section 50(a)(2) of such Code is amended by adding at the end

the following new sentence: "A similar rule shall apply for purposes of section 48A."

(6) Paragraph (2) of section 50(b) of such Code is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) a qualified revitalization building to the extent of the portion of the basis which is attributable to qualified revitalization expenditures."

(7) Subparagraph (C) of section 50(b)(4) of such Code is amended by inserting "or commercial revitalization" after "rehabilitated" each place it appears in the text or heading thereof.

(8) Subparagraph (C) of section 469(i)(3) is amended—

(A) by inserting "or section 48A" after "section 42", and

(B) by striking "CREDIT" in the heading and inserting "AND COMMERCIAL REVITALIZATION CREDITS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1995.

By Mr. CRAIG.

S. 744. A bill to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compactors that meet appropriate American National Standards Institute design safety standards; to the Committee on Labor and Human Resources.

THE BALERS AND COMPACTORS SAFETY STANDARDS MODERNIZATION ACT

Mr. CRAIG. Mr. President, I introduce the Balers and Compactors Safety Standards Modernization Act.

This bill would make long-overdue revisions to safety standards set by the Department of Labor's Hazardous Occupation Order Number 12 [HO 12].

HO 12 is a regulation issued by DOL in 1954 to protect employees who are under 18 years of age. In brief, it specifically prohibits minors from operating more than a dozen different types of equipment in the workplace. I certainly agree with the underlying purpose of HO 12, which is that younger workers should not be allowed to operate certain types of machinery when doing so would place them in harm's way.

Specifically, this Safety Standards Modernization Act would address problems caused by DOL's interpretation and enforcement of HO 12, with respect to cardboard balers and compactors that commonly are used in supermarkets, grocery stores, and other retail establishments, for preparing and bundling cardboard and paper materials for recycling purposes.

DOL's current interpretation of HO 12 goes so far as to prohibit minors from placing, tossing, or loading cardboard or paper materials into a baler or compactor. Such activities take place during a loading phase that is prior to, and separate from, the actual operation of the machine. While such a loading-phase prohibition may have made sense back in 1954, when HO 12 was originally issued, such is not the case today.

Technology has brought about significant safety advancements to balers and compactors. Much like a household microwave oven or trash compactor, the newest generation of balers now in use in grocery stores and other locations cannot be engaged and operated during the loading phase.

This important design feature is a result of safety standards issued by the American National Standards Institute [ANSI]. An employee is not at risk when placing cardboard materials into a baler that is in compliance with ANSI standards Z.245.5 1990, or putting paper materials into a compactor that is in compliance with ANSI standards Z245.2 1992.

Nonetheless, DOL treats all balers and compactors the same, and considers the placement of materials into these machines, if performed by a minor, to be a clear-cut violation of HO 12. Each violation can result in a fine of $10,000 against an employer.

If DOL could produce injury data showing that workers are at risk when loading materials into a machine that meets current ANSI standards, I might agree that the current interpretation and enforcement of HO 12 is warranted. However, DOL has acknowledged that it has no injury data for balers that meet the ANSI standard.

Despite the complete lack of evidence that workers are at risk in these situations, DOL has cited numerous supermarkets throughout the United States and has assessed several million dollars in fines against grocery owners in recent years.

It is difficult to understand the logic behind this kind of enforcement when, in fact, a review of 8,000 compensation cases involving injuries over the past 7 years by the Waste Equipment Technology Association failed to find a single injury attributable to a baler that meets current ANSI safety standards.

The present, rigid interpretation of HO 12 is bad regulatory policy and should not continue. It benefits no one, especially workers. Worker protection is not enhanced by issuing large fines against employers that use balers meeting current safety standards.

Such a policy also is clearly inconsistent with the goal of creating employment opportunities for young people. Because so many grocers have been fined by DOL for loading violations, the industry has become less inclined to hire younger workers.

Originally, DOL applied this interpretation of HO 12 to cardboard balers. As burdensome and objectionable as this policy has been, concerning cardboard balers, DOL more recently went a step farther and now is applying the same interpretation to compactors, a similar piece of equipment that retail establishments use to recycle paper materials.

Without the benefit of formal rulemaking and the opportunity for interested parties to file comments, DOL extended the jurisdiction of HO 12 to compactors at the beginning of 1994, and employers found themselves subjected to fines when it was documented that a minor had placed materials into a compactor.

This is one more example of the "speed trap" mentality of Federal agencies, and the Department of Labor, in particular. Balers and compactors are both governed by ANSI safety standards and cannot be engaged or operated during the loading phase. This means, to re-emphasize, that employees loading machines meeting ANSI standards are not at risk.

Clearly, DOL's position on HO 12, as it relates to cardboard balers and compactors, is not in step with the technology being used in the workplace. In view of the fact that this equipment can not be operated during the loading phase, there is no compelling reason to continue treating the placement of materials by minors a violation of HO 12.

The old joke goes that, when something is difficult to accomplish, you compare it to passing an Act of Congress. If there is one process more intractable, it must be modernizing Federal agency regulations.

HO 12 needs to be revised so that the placement of paper or cardboard materials into a baler or compactor that meets its respective ANSI safety standards by an employee under age 18 is no longer a violation of the regulation. The loading phase should be completely distinguished from the operating phase of the machine.

While DOL has solicited comments on its child labor regulations, in general, Congress does not need to, and should not, wait any longer for this one, simple revision to HO 12. Throughout at least two administrations, DOL has promised to reconsider the rule. Their latest offering is the goal of issuing a new, final regulation by February 1996, even through we have yet to see a proposed revision to the rule.

We don't need months of agency hearings and reams of paper. I've seen these grocery store balers operate. What's needed is a simple, commonsense change, and the bill I'm introducing today would make that change in a simple, straightforward way.

The many young people who will not have summer jobs this year under DOL's status quo interpretation of HO 12 should not have to wait another year or more for the glacier-like process of regulatory change to catch up with technology.

By promptly acting on the bill I'm introducing today, we can open up thousands of youth summer job opportunities without relying on government programs and grants.

The jobs are there. The young people are there. All we need to do is remove one, unnecessary, regulatory wall between them.

This bill would provide a narrow amendment to the Fair Labor Standards Act that would overrule DOL's interpretation of HO 12 in the limited and appropriate way I've described. My bill would not change the critically important safety focus of the regulation. In fact, I agree that DOL should remain vigilant and enforce the regulation in case when the safety of young workers is compromised by use of equipment that does not meet current ANSI safety standards.

The bill would provide only that young workers would be allowed to operate balers and compactors that meet the current industry standards that ensure complete safety in their operation.

Mr. President, I ask unanimous consent to print the text of my bill in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Compactors and Balers Safety Standard Modernization".

SEC. 2. AUTHORITY FOR MINORS TO LOAD MATERIALS INTO BALERS AND COMPACTORS.

In the administration of the child labor provisions of the Fair Labor Standards Act of 1938, minors under 18 years of age shall be permitted to—

(1) lc [illegible] erials into baling equipment that is [illegible] pliance with the American National [illegible] rds Institute safety standard ANSI Z245.5 1990, and

(2) load materials into a compacter that is in compliance with the American National Standards Institute safety standard ANSI Z245.2 1992.

ADDITIONAL COSPONSORS

S. 191

At the request of Mrs. HUTCHISON, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 191, a bill to amend the Endangered Species Act of 1973 to ensure that constitutionally protected private property rights are not infringed until adequate protection is afforded by reauthorization of the act, to protect against economic losses from critical habitat designation, and for other purposes.

S. 227

At the request of Mrs. FEINSTEIN, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 227, a bill to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes.

S. 383

At the request of Mr. WARNER, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 383, a bill to provide for the establishment of policy on the deployment by the United States of an antiballistic missile system and of advanced theater missile defense systems.

S. 388

At the request of Ms. SNOWE, the names of the Senator from Montana [Mr. BURNS] the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 388, a bill to amend title 23, United States Code, to eliminate the penalties for noncompliance by States with a program requiring the use of motorcycle helmets, and for other purposes.

S. 511

At the request of Mr. DOMENICI, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 511, a bill to require the periodic review and automatic termination of Federal regulations.

S. 578

At the request of Mr. D'AMATO, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 578, a bill to limit assistance for Turkey under the Foreign Assistance Act of 1961 and the Arms Export Control Act until that country complies with certain human rights standards.

S. 637

At the request of Mr. MCCAIN, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 637, a bill to remove barriers to interracial and interethnic adoptions, and for other purposes.

SENATE JOINT RESOLUTION 31

At the request of Mr. HATCH, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of Senate Joint Resolution 31, a joint resolution proposing an amendment to the Constitution of the United States to grant Congress and the States the power to prohibit the physical desecration of the flag of the United States.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

AMENDMENTS SUBMITTED

THE COMMON SENSE LEGAL STANDARDS REFORM ACT OF 1995 COMMON SENSE PRODUCT LIABILITY REFORM ACT OF 1995

DOLE (AND OTHERS) AMENDMENT NO. 617

Mr. DOLE (for himself, Mr. EXON, Mr. HATCH, Ms. SNOWE, Mr. MCCONNELL, Mr. ABRAHAM, Mr. KYL, Mr. THOMAS, Mrs. HUTCHISON, Mr. GRAMM) proposed an amendment to amendment No. 596 proposed by Mr. GORTON to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

On page 19, strike line 12 through line 5 on page 21, and insert the following:

SEC. 107. PUNITIVE DAMAGES IN CIVIL ACTIONS.

(a) FINDINGS.—The Congress finds that—

(1) punitive damages are imposed pursuant to vague, subjective, and often retrospective standards of liability, and these standards vary from State to State;

(2) the magnitude and unpredictability of punitive damage awards in civil actions have increased dramatically over the last 40 years, unreasonably inflating the cost of settling litigation, and discouraging socially useful and productive activity;

(3) excessive, arbitrary, and unpredictable punitive damage awards impair and burden commerce, imposing unreasonable and unjustified costs on consumers, taxpayers, governmental entities, large and small businesses, volunteer organizations, and nonprofit entities;

(4) products and services originating in a State with reasonable punitive damage provisions are still subject to excessive punitive damage awards because claimants have an economic incentive to bring suit in States in which punitive damage awards are arbitrary and inadequately controlled;

(5) because of the national scope of the problems created by excessive, arbitrary, and unpredictable punitive damage awards, it is not possible for the several States to enact laws that fully and effectively respond to the national economic and constitutional problems created by punitive damages; and

(6) the Supreme Court of the United States has recognized that punitive damages can produce grossly excessive, wholly unreasonable, and often arbitrary punishment, and therefore raise serious constitutional due process concerns.

(b) GENERAL RULE.—Notwithstanding any other provision of this Act, in any civil action whose subject matter affects commerce brought in any Federal or State court on any theory, punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant only if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct by the defendant that was either—

(1) specifically intended to cause harm; or

(2) carried out with conscious, flagrant disregard to the rights or safety of others.

(c) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded to a claimant in any civil action subject to this section shall not exceed 2 times the sum of—

(1) the amount awarded to the claimant for economic loss; and

(2) the amount awarded to the claimant for noneconomic loss.

This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(d) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such an award. If a separate proceeding is requested—

(1) evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded; and

(2) evidence admissible in the punitive damages proceeding may include evidence of the defendant's profits, if any, from its alleged wrongdoing.

(e) APPLICABILITY.—Nothing in this section shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by the United States, or by any State, under any law;

(2) create any cause of action or any right to punitive damages;

(3) supersede or alter any Federal law;

(4) preempt, supersede, or alter any State law to the extent that such law would further limit the availability or amount of punitive damages;

(5) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(6) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(7) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(f) FEDERAL CAUSE OF ACTION PRECLUDED.—Nothing in this section shall confer jurisdiction on the Federal district courts of the United States under section 1331 or 1337 of title 28, United States Code, over any civil action covered under this section.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "claimant" means any person who brings a civil action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) The term "clear and convincing evidence" means that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy such standard shall be more than that required under preponderance of the evidence, and less than that required for proof beyond a reasonable doubt.

(3) The term "commerce" means commerce between or among the several States, or with foreign nations.

(4)(A) The term "economic loss" means any objectively verifiable monetary losses resulting from the harm suffered, including past and future medical expenses, loss of past and future earnings, burial costs, costs of repair or replacement, costs of replacement services in the home, including child care, transportation, food preparation, and household care, costs of making reasonable accommodations to a personal residence, loss of employment, and loss of business or employment opportunities, to the extent recovery for such losses is allowed under applicable State law.

(B) The term "economic loss" shall not include noneconomic loss.

(5) The term "harm" means any legally cognizable wrong or injury for which damages may be imposed.

(6)(A) The term "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(B) The term "noneconomic loss" shall not include economic loss or punitive damages.

(7) The term "punitive damages" means damages awarded against any person or entity to punish such person or entity or to deter such person or entity, or others, from engaging in similar behavior in the future.

(8) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision of any of the foregoing.

(h) EFFECTIVE DATE.—This section shall apply to any civil action in which trial has not commenced before the date of enactment of this Act.

THOMPSON (AND OTHERS) AMENDMENT NO. 618

(Ordered to lie on the table.)

Mr. THOMPSON (for himself, Mr. COCHRAN, and Mr. SIMON) submitted an amendment intended to be proposed by them to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

In section 102(a)(1), after "commenced" insert the following: "in a Federal court pursuant to section 1332 of title 28, United States Code, or removed to a Federal court pursuant to chapter 89 of such title".

In section 102(c)(6), strike "or" at the end.

In section 102(c)(7), strike the period at the end and insert "; or".

In section 102(c), add the following new paragraph:

(8) create a cause of action or provide for jurisdiction by a Federal Court under section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

• Mr. THOMPSON. Mr. President, I submit on behalf of myself and Senators COCHRAN and SIMON an amendment that would limit applicability of the product liability to cases in federal court.

As currently before the Senate, H.R. 956 would seriously jeopardize the balance between state and federal governments that the Founding Fathers established in the Constitution. States have had responsibility for developing their own rules of tort law—free of federal interference—for more than 200 years. In an unprecedented fashion, the product liability bill would displace state law governing an area always reserved to the states, even when the case is brought in state court. I am troubled by a Washington knows best approach to product liability.

Even worse, the displacement of state law is selective. H.R. 956 prevents states from providing less protection to defendants, but not from providing more. This one-size-fits-all bill overlooks both that individual Americans are unique and that states have their own right to determine the law that should apply to their special situations.

The bill raises federalism problems in a very practical sense. Because state law would still govern many aspects of product liability law under H.R. 956, there would be numerous questions to litigate concerning the relationship between the federal law and existing state laws. New, different, and inconsistent interpretations of the federal law and the state laws would result. Under the bill, resolution of these issues would be provided from a federal court of appeals. Those courts, not state courts, would ultimately determine the scope and meaning of state law as it interacts with this bill. Moreover, those appeals courts would be deluged with litigation at a time when years elapse before trial of a civil case in federal court, and when Americans rightly demand that federal courts apply swift and certain justice in criminal cases.

By contrast, my amendment recognizes that interstate commerce is the justification for a federal product liability bill. It is interstate commerce that justifies federal court jurisdiction in cases brought by citizens of one state against citizens of another. I believe that the rationale of the bill corresponds precisely with the reasons underlying federal diversity jurisdiction.

Despite the claims made, no one truly knows the effect of this bill on the ability of injured Americans to recover adequate compensation for injuries caused by defective products. Nor will anyone know whether competitiveness of American business will be enhanced or whether insurance premiums will fall if H.R. 956 is enacted. At the same time, the bill would displace 200 years of law based on actual experience. If the bill failed to achieve its objectives, there would be almost no means of unscrambling the federalized egg. By contrast, applying the bill only to federal court cases would provide an opportunity to experiment. If H.R. 956's ideas work, states can adopt these rules as their own. Potentially, a preemptive approach might then make sense. But if the bill created numerous practical problems, well-tested state law would remain undisturbed while Congress acted to fix the problems in the federal law.

The practical effect of my amendment would be that defendants sued out of state in many instances would be able to remove their cases to federal court and obtain the federal rule. Defendants sued in their home state would not be able to remove the case to federal court. Thus, those defendants would be governed by their own state law as applied by their own state court. I believe this is to be a much more sensible approach than the one now before the Senate, and one consistent with the federal system the Constitution created.•

DORGAN AMENDMENT NO. 619

Mr. DORGAN proposed an amendment to amendment No. 617 proposed by Mr. DOLE to amendment No. 596 proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

On page 1, beginning with line 3, strike through line 2 on page 8 and insert the following:

SEC. 107. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

"(a) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in a product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

"(b) BIFURCATION AT REQUEST OF EITHER PARTY.—At the request of either party, the trier of fact in a product liability action that is subject to this title shall consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award."

SNOWE AMENDMENT NO. 620

Mr. GORTON (for Ms. SNOWE) proposed an amendment to amendment No. 596 proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

On page 19 strike line 22 through page 20 line 4 and insert the following new subsection:

(b) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this title shall not exceed 2 times the sum of—

(A) the amount awarded to the claimant for economic loss; and

(B) the amount awarded to the claimant for noneconomic loss.

(2) APPLICATION BY COURT.—This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

SHELBY (AND HEFLIN) AMENDMENT NO. 621

Mr. SHELBY (for himself and Mr. HEFLIN) proposed an amendment to amendment No. 617 proposed by Mr. DOLE to amendment No. 596 proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

At the appropriate place insert the following:

SEC. . LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

DEWINE (AND ABRAHAM) AMENDMENT NO. 622

Mr. DEWINE (for himself and Mr. ABRAHAM) proposed an amendment to amendment No. 617 proposed by Mr. DOLE to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

On page 3 line 23, strike "loss: and insert in lieu thereof: "loss;

except that if the award is against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government or organization which has fewer than twenty-five full-time employees, that amount shall not exceed $250,000."

DEWINE AMENDMENT NO. 623

Mr. DEWINE proposed an amendment to amendment no. 617 proposed by Mr. DOLE to amendment no. 596 proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

On page 4 line 11 strike the semicolon after the word "awarded" through line 15 and insert a period.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, May 2, 1995, at 3 p.m. in open session, to consider the nominations of Gen. Dennis J. Reimer, USA to be Chief of Staff of the Army, and for reappointment to the grade of General; and Lt. Gen. Charles C. Krulak, USMC to be Commandant of the Marine Corps, and for appointment to the grade of General.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 2, 1995, immediately following the first Roll Call vote to hold a business meeting to vote on pending items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet at 10 a.m., during the session of the Senate on Tuesday, May 2, 1995 to hold hearings on the Navy T-AO-187 Kaiser Class Oiler Contract.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, May 2, 1995, beginning at 9:30 a.m., in room 485 of the Russell Senate Office Building on the implementation of the Tribal Self-Governance Demonstration Project authorities by the Indian Health Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Nomination of Dr. Henry Foster, during the session of the Senate on Tuesday, May 2, 1995 at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the courts, U.S. Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Tuesday, May 2, 1995, at 9:00 a.m., in Senate Dirksen Room 226, on the costs of the legal system.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND REGULATORY RELIEF

Mr. GORTON. Mr. President, I ask unanimous consent that Subcommittee on Financial Institutions and Regulatory Relief, of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, May 2, 1995, to conduct a hearing on S. 650, The Economic Growth and Regulatory Paperwork Reduction Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet on Tuesday, May 2, 1995 at 9:30 a.m. in open session to receive testimony on the space programs in review of the Defense authorization request for fiscal year 1996 and the future years defense program, and to review the Department of Defense's space management initiative.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

JAMES D. HENRY, MISSOURI SMALL BUSINESS PERSON OF 1995

• Mr. BOND. Mr. President, it is with great pleasure that I recognize Jim Henry as Missouri's Small Business

Person of the Year for 1995. Jim Henry is the president and chief operating officer of the R.C. Wilson Co., located in St. Charles.

In years to come, we may refer back to 1995 as the year of small business owners. More attention is being given to the accomplishments of small business persons than at any time since I entered government service. Small businesses will create 66 percent of all new jobs this year. By contrast, large companies with over 5,000 employees will add only 6 percent of the new jobs. Small businesses are the engine that is fueling our economy, generating 52 percent of all sales and one-half of the gross domestic product. It is, therefore, very appropriate that the Small Business Administration has set aside this week to honor our Nation's men and women, like Jim Henry, who own and operate small businesses.

Jim Henry's business, the R.C. Wilson Co., is a collection agency. Most of us think of a collection business as one that is insensitive at best. However, since Mr. Henry purchased the company in 1985, he has worked hard to establish a level of excellence that is essential for success in today's competitive business environment. His business philosophy puts a special emphasis on the dignity of the consumer, and provides professional service and outstanding results while maintaining the fine image of the client.

Jim Henry has been an innovator. Over the past 10 years, he has expanded and enhanced the delinquent-account collection services by fully computerizing his agency. He added optical-disk storage and on-line capability with clients. He has recognized the tremendous changes in the work place by adding on-line connections for employees working from home. His business was the first of its kind in Missouri to add a computerized dialing system.

In 1985, the R.C. Wilson Co. employed 25 people with annual billings of $1.25 million. Today, Jim Henry has 114 employees and bills $4 million a year. His success rate is nearly 50 percent better than the industry average.

Jim Henry has succeeded by recognizing the needs of his customers and clients, by working hard and by being innovative. Equally significant, Jim Henry has never forgotten his employees, many have been with the company for over 20 years. He has shown us how to be an excellent businessman and employer, and I am proud to recognize Jim Henry as Missouri's 1995 Small Business Person of the Year.•

TRIBUTE TO STEVE WITTMAN

• Mr. FEINGOLD. Mr. President, true pioneers are rare and special individuals. They inspire us with their vision, their energy, their skill and their ability to lead.

Today I am sad to report the passing of one such pioneer, the legendary aviator Sylvester Joseph Wittman. Mr. Wittman and his wife, Paula, died in an airplane crash on Sand Mountain, in northeastern Alabama last Thursday night. They were flying in an airplane that Mr. Wittman had designed and built from their winter home in Ocala, Florida to their home in Oshkosh, Wisconsin when the accident occurred.

Many successful people like to go by the book. Steve Wittman, as he preferred to be called, helped write the book. His life practically traced the history of aviation. He took wing in the spit-and-bailing-wire era and never stopped contributing to his beloved calling even as we began flying farther, higher, and faster in more complex machines.

He was born in the year after the first powered flight at Kitty Hawk. His flying career began in 1924, when he and a partner bought an airplane, and he taught himself to fly. His first pilot's license was signed by Orville Wright.

For 70 years, he designed, built, and flew airplanes as a barnstormer, a test pilot, and a racer, and he was one of the founders of the Experimental Aircraft Association, the Oshkosh-based organization that does so much to promote the love and the joy of flying.

The Winnebago County airport in Oshkosh, which Mr. Wittman managed from 1931 until 1969, is named Wittman Field in his honor.

Buster, a red single-engined midget racer Mr. Wittman built and flew is currently on display in the Golden Age of Flight Gallery in the west wing of the National Air and Space Museum. Buster, originally named Chief Oshkosh, raced successfully for 23 years, beginning in 1931.

He was a superb pilot, and stories about his skill are legion, even though he was reluctant to tell them himself. One of the more famous incidents occurred as he and a friend were flying over Tennessee. A trigger-happy rifleman had put a .22 caliber slug into Mr. Wittman's gas tank, and the fumes almost asphyxiated him. He managed to get his ship down safely, a bit of flying his partner barely completed though fully conscious.

He kept the slug as a souvenir.

Mr. Wittman set several speed records, and it would be hard to find a significant air racing event he had not entered. It wasn't unusual for him to fly home with the winner's trophy. He entered his last closed-course pylon race in 1989. At the age of 85, he won one heat, finished second in another and then came in third in the final race.

By the way, he did all this with vision in only one eye. He had lost the other in an accident when he was young.

In addition to his brilliant and storied racing career, he also contributed greatly to the common body of knowledge of the aviation community. Although he had no formal engineering training, he was often ahead of the curve in aviation design, and he never stopped looking for clues to better performance. He designed a landing gear that has been installed on over 100,000 airplanes.

One of his airplanes, the Wittman Tailwind, is a design that is still being flown by private pilots all over the world.

His self-developed talents were so impressive, he was made an honorary member of the elite Society of Experimental Test Pilots, a rare achievement.

He had his share of bumps and bruises in crashes along the way, but at 91, he was still flying.

He did all this with modesty and gentlemanly character, and he was a man who enjoyed life at a level most of us never approach.

As Tom Crouch, chairman of the aviation department at the Air and Space Museum put it, "If anybody in the history of aviation could be called a legend, it would sure be him."

Our condolences go out to Mr. Wittman's relatives, friends, fellow aviators, and to all those who were inspired by this true pioneer.•

AID/U.N. POPULATION FUND

• Mr. REID. Mr. President, as my colleagues and I prepare to go to conference on the H.R. 1158/S. 617 Defense supplemental appropriations and rescissions bills, I wish to submit a statement of support for funding for the Agency for International Development [AID] and United Nations Population Fund [UNFPA] population assistance programs. I strongly commend the distinguished chairman of the Senate Appropriations Committee and the ranking member for their focus on retaining the option of continued funding for AID and UNFPA population assistance programs in S. 617. By allowing the administration to decide where to rescind AID dollars, rather than agreeing to proposals to specifically rescind UNFPA and other AID population assistance funds, the Senate Appropriations Committee has kept open an opportunity to support these programs at fiscal year 1995 levels. While AID administers many valuable and significant human assistance programs worldwide, its population assistance programs contribute greatly to improving opportunities for economic growth and political stability in many developing countries, and are crucial to the protection of our global environment. I strongly support the full funding of these programs and urge my colleagues in conference to commit to leaving the administration with the option to meet the United States 1995 population assistance commitments.•

TRIBUTE TO RICHARD CLARKE

• Mr. FEINSTEIN. Mr. President, leadership grounded in common sense and compassion and elevated by imagination and vision is the hallmark of Richard Clarke's 30-year career at Pacific Gas & Electric Co. [PG&E], the last 8 as chairman of the board and chief executive officer.

As his retirement nears, I should like to salute him. Over the years, first as mayor of San Francisco and now as U.S. Senator, I have worked closely with Richard. Not only on questions involving utility service, but on a broad range of community issues, I have known Dick as a person who quickly gets to the heart of issues and directly speaks his mind.

Even further, he has been involved in a wide range of charitable and civic activities, and gives meaning and substance to the accolade "civic leader."

During his tenure as PG&E's CEO, Richard Clarke made environmental improvement a company priority and created programs that implemented policies to conserve energy. So effective were these innovations that PG&E received the President's Environment and Conservation Challenge Award in 1991, the Nation's highest recognition for corporate environmental excellence. In that same year, then President Bush named him to the President's Council of Sustainable Development.

At the same time, Richard, as chair of the Bay Area Council and the Committee on Jobs, worked to bring together other business leaders of San Francisco business and focus their collective knowledge and talents on ways to make government more efficient and the economy stronger.

Under Richard Clarke's guidance, PG&E has won national recognition for improving the workplace by establishing child day-care centers for employees and advancing opportunities for women and minorities.

His sense of community concern and compassion is reflected in his effort of such worthwhile efforts as Francisco Food Bank and Project Open Hand, which provides nourishing meals to people living with AIDS, to United Way and the San Francisco Symphony, where he serves as a board member. He personally developed and championed programs that encourage PG&E employees to become mentors to disadvantaged young people and to provide guidance to small, developing businesses in the inner city.

As he retires, Richard Clarke leaves behind a remarkable record of accomplishment—success in business and community affairs. He takes with him the admiration and respect of all those who have worked with him, and who wish him all the best in retirement.•

THE 1995 WHITE HOUSE CONFERENCE ON AGING

• Mr. SARBANES. Mr. President, today begins what I anticipate will be a productive and useful week for the more than 2,200 delegates here in Washington for the fourth White House Conference on Aging. I commend President Clinton for convening the first White House Conference on Aging since 1981, and want to take this opportunity to welcome all of the participants in this important policy conference, especially those from my own State of Maryland.

In the spirit of the first White House Conference on Aging established by President Kennedy in 1961, this week's Conference will address common problems facing all generations of Americans and seek to increase public awareness of the interdependence of generations and the essential contributions of older people. It will also facilitate the development of public policy recommendations to maintain and improve the well-being of the aging. Mr. President, this is an important and full agenda and I applaud all who are participating in this timely Conference.

Senior citizens today comprise more than 12 percent of the country's population and by the year 2000, that number is expected to surpass 16 percent. Maryland seniors comprise 15.6 percent of the State's population, a figure expected to increase to just over 16.2 percent by the year 2000. This demographic transformation poses significant challenges and opportunities and the White House Conference on Aging provides an excellent framework through which the participants may address these issues.

The considerable participation and interest in the White House Conference on Aging clearly illustrates what I have always believed and experienced—older Americans want to contribute. They want to work, to volunteer, and to participate in improving their communities and their Nation. It is critical, in my view, that we recognize and utilize the valuable insight, experience and wisdom that senior citizens bring to all aspects of life.

Mr. President, I have always believed strongly in the potential of this significant and growing population to contribute to the development and implementation of policies that affect all Americans and I expect that the coming days will confirm my belief. I want to again commend all of the delegates from across the country and wish them well as they participate in the fourth White House Conference on Aging.•

ORDERS FOR WEDNESDAY, MAY 3, 1995

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m., Wednesday, May 3, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and that there then be a period for the transaction of morning business not to extend beyond the hour of 10:15 a.m., with Senators permitted to speak for up to 5 minutes each, except for the following: Senator THOMAS, 12 minutes; Senator BURNS, 10 minutes; Senator DORGAN, 12 minutes; Senator MOSELEY-BRAUN, 10 minutes; and Senator PRESSLER, 30 minutes; I further ask unanimous consent that at the hour of 10:15, the Senate resume consideration of H.R. 956, the product liability bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, for the information of all Senators, there will be a series of stacked votes beginning at 11:15 tomorrow morning on or in relation to any second-degree amendments to the Dole amendment No. 617.

Members should be on notice that two cloture motions were just filed tonight on the underlying Gorton substitute. Therefore, two cloture votes will occur during Thursday's session of the Senate at a time to be determined by the two leaders.

RECESS UNTIL 9 A.M. TOMORROW

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:08 p.m., recessed until Wednesday, May 3, 1995, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate May 2, 1995:

POSTAL RATE COMMISSION

WILLIAM H. LEBLANC III, OF LOUISIANA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING NOVEMBER 22, 2000. (REAPPOINTMENT.)

EXECUTIVE OFFICE OF THE PRESIDENT

JACOB JOSEPH LEW, OF NEW YORK, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, VICE ALICE RIVLIN.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

RICHARD J. STERN, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2000, VICE CATHERINE YI-YU CHO WOO, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS TO TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. MALCOLM B. ARMSTRONG [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. CHARLES T. ROBERTSON, JR [redacted].

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE

ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. EDWIN E. TENOSO [redacted].

THE FOLLOWING-NAMED AIR NATIONAL GUARD OFFICERS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 12203 AND 12212, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES AS INDICATED.

MEDICAL CORPS

To be lieutenant colonel

DAVID R. ANDREWS [redacted]

JUDGE ADVOCATE GENERALS DEPARTMENT

To be lieutenant colonel

BENJAMIN F. LUCUS I [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED NAVAL ACADEMY GRADUATES TO BE APPOINTED PERMANENT SECOND LIEUTENANTS IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL ACADEMY GRADUATES

To be second lieutenants

ACOSTA, STEPHEN J [redacted]
ADAMS, AARON W. [redacted]
ANDERSEN, DAVID E [redacted]
APPLETON, ROBERT W., III [redacted]
ASTLE, JAY C [redacted]
BAILEY, MARCIA L. [redacted]
BAILEY, ROBERT O., [redacted]
BASHAM, CHARLES J [redacted]
BATES, JAMES A., JR [redacted]
BEAUMAN, AMY G. [redacted]
BOBO, JOHN P. [redacted]
BRIDGEFORTH, LINWOOD J. [redacted]
BRILEY, CARL S [redacted]
BROWN, ERIC C. [redacted]
BROWN, LEE E. [redacted]
BURGESS, BRIAN P [redacted]
BURKE, JAMES B [redacted]
CARY, ANGELIQUE L. [redacted]
CHAPMAN, ANDREW G. [redacted]
CHOI, KYUJIN J [redacted]
CLEMANS, CRAIG C. [redacted]
COCKERHAM, SCOTT J. [redacted]
CONNELLEY, CARROLL J. [redacted]
CONNER, WILLIAM J. [redacted]
COTTRELL, MIMI [redacted]
DAY, WILLIAM D. [redacted]
DEAN, CHAD E. [redacted]
DELGADO, FRANKIE P [redacted]
DONLEY, JAMES P [redacted]
DUNNE, JUSTIN S. [redacted]
EHLER, BRETT A [redacted]
EICH, GEOFFREY S [redacted]
ELFERS, MARK W [redacted]
FITE, JAY R., JR [redacted]
FORBES, ANGUS P. [redacted]
FRAME, BRUCE C. [redacted]
GADZIK, JOSEPH S [redacted]
GAINES, RONALD E. [redacted]
GARDNER, HARRY L. [redacted]
GONZALEZ, MICHAEL D. [redacted]
GRANT, ANDREW F. [redacted]
HAINES, JASON W. [redacted]
HAMSTRA, ERIC J [redacted]
HANRAHAN, KELLY M. [redacted]
HARPER, MARK T., JR [redacted]
HARRIS, EMILY E. [redacted]
HART, CHRISTOPHER A. [redacted]
HAYNES, JONATHAN A. [redacted]
HERNANDEZ, RAY C. [redacted]
HERRERA, ROBERTO [redacted]
HICKS, JOSEPH D [redacted]
HOWARD, MICHAEL J. [redacted]
JAKUBOWSKI, ERIC S [redacted]
JILSON, ERIK W [redacted]
JONES, CHRISTOPHER R [redacted]
KAPITULIK, ERIC L [redacted]
KEMP, JESSE A [redacted]
KIEFER, ARNOLD M. [redacted]
KNIGHT, SONJA S. [redacted]
KOLOSKI, THOMAS H. [redacted]
LAMBERT, MICHAEL T., IV [redacted]
LAW, DAVID A. [redacted]
LAWSON, RICHARD B. [redacted]
LE BLANC, ELRIDGE C [redacted]
LEDFORD, ANDREW K. [redacted]
LEMOTT, DOUGLAS, JR. [redacted]
LEONARD, JOHN J. [redacted]
LIMBERT, MATTHEW E. [redacted]
LIPPERT, FREDERICK S [redacted]
LIPSKY, RAYMOND B., JR [redacted]
MANSFIELD, LESLIE B [redacted]
MARTIN, GREGORY W. [redacted]
MARTINEZ, ROBERTO J. [redacted]
MARTINO, VINCENT [redacted]
MC CLUNG, MEGAN M. [redacted]
MC INNIS, BRADLEY J [redacted]
MILLER, JASON F [redacted]
MILLER, TORRENS G [redacted]
MITCHELL, WIL E. [redacted]
MOCKENHAUPT, DONALD A. [redacted]
MOORE, DAVID A. [redacted]
MOORMAN, JAY E. [redacted]
MOXEY, TYREL W. [redacted]
MULLIN, EDWARD P. [redacted]
MURRAY, KEVIN F. [redacted]
MURRAY, KYLE D. [redacted]
OGDEN, TIMOTHY D. [redacted]
OLSON, NANCY L. [redacted]
ORLANDONI, DONALD V. [redacted]
PAGE, THOMAS S., JR [redacted]
PARK, SIDNEY R. [redacted]
PAULSON, PARKE A. [redacted]
PICKETT, ROY L. [redacted]
PRESECAN, THOMAS H. [redacted]
PRICE, JONATHAN D. [redacted]
PRIDDY, ANDREW T. [redacted]
REMBOLD, JONATHAN P. [redacted]
RIGHTER, JAMES A. [redacted]
ROBBINS, MATTHEW B. [redacted]
ROTHENBACH, WILLIAM C. [redacted]
RUSSELL, MATTHEW E. [redacted]
SAMPLE, CHRISTOPHER J [redacted]
SANTANA, FRANK [redacted]
SCHUTZ, WILLIAM A., I [redacted]
SENN, MATTHEW A. [redacted]
SHERWOOD, ROBERT W. [redacted]
SHONE, FRANK R., JR. [redacted]
SHORT, ERIK S. [redacted]
SMITH, JOHN E. [redacted]
SPAMAN, JAMES G. [redacted]
STOUT, PAUL K. [redacted]
SULLIVAN, ERIN J [redacted]
SUND, CHAD M. [redacted]
TIRONE, MICHAEL G. [redacted]
TURNER, WILLIAM T. [redacted]
VEGGEBERG, VERNON T. [redacted]
WAGNER, ERICH H. [redacted]
WAHLGREN, KIPP A [redacted]
WEINSTEIN, DAVID A. [redacted]
WYSSBROD, ROBERT L. [redacted]
YOUNG, HAROLD C. [redacted]
YOUNG, TODD C. [redacted]
ZAMARRIPA, LUIS R. [redacted]
ZEMBIEC, DOUGLAS A. [redacted]
ZIMA, GREGORY N. [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED TEMPORARY LIMITED DUTY OFFICERS OF THE U.S. MARINE CORPS TO RECEIVE ORIGINAL REGULAR APPOINTMENTS AS PERMANENT LIMITED DUTY OFFICERS UNDER PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5589:

To be captain

JAMES C. ADDINGTON [redacted]
DENNIS J. ALLSTON [redacted]
WILLARD D. ANDREWS, JR. [redacted]
WILLIAM D. ARNDT [redacted]
STANLEY A. BALDWIN, JR [redacted]
ERNEST D. BANKS [redacted]
THOMAS O. BARCUS, JR [redacted]
THOMAS P. BARZDITIS [redacted]
JAMIE R. BATES, JR [redacted]
THOMAS E. BECKER, JR [redacted]
BRAD W. BERGMAN [redacted]
RUBEN BERNAL [redacted]
WILLIAM BEROTTE, JR [redacted]
ROY L. BIBBINS [redacted]
MICHAEL J. BISSONNETTE [redacted]
JOSEPH S. BLOCHOWICZ, JR [redacted]
MICHAEL A. BOGACZYK [redacted]
CARMINE J. BORRELLI [redacted]
JAMES E. BRITT, JR [redacted]
CLARENCE J. BROOKER [redacted]
GEORGE L. BROUNTY [redacted]
JOHN T. BROWER [redacted]
EVERETTE G. BROWN [redacted]
GARY L. BROWN [redacted]
JOYCE A. BROWN [redacted]
ROGER G. BROWN [redacted]
DAVID R. BURCH [redacted]
GUILLERMO E. BURGESS [redacted]
JACK V. BUTLER, JR [redacted]
MARK E. BUTLER [redacted]
GREGORY D. BUTLER [redacted]
RICHARD W. BYNO, JR [redacted]
JOSE CABRERA [redacted]
CATHERINE A. CABRERA [redacted]
RICHARD B. CALDWELL, JR [redacted]
FRED M. CALLIES [redacted]
JOHN J. CAMPBELL [redacted]
WILLIAM T. CHAPMAN [redacted]
DONALD C. CHAPMAN [redacted]
PAUL W. CHAPMAN [redacted]
DON M. CHASTEEN [redacted]
DAVID N. CHERRIX, JR [redacted]
DANNY A. CHRISTMANN [redacted]
DALE R. CLARK [redacted]
MARK A. CLESTER [redacted]
ARTHUR P. COCHRAN [redacted]
SAMUEL L. COLEMAN [redacted]
PHILIP J. COLE [redacted]
GORDON L. COLSTON, JR [redacted]
RONALD W. CONARDY [redacted]
ROBERT N. CONQUEST [redacted]
RONALD C. CONSTANCE [redacted]
MARTHA E. CONWAY [redacted]
III WILLIAM J. COOK [redacted]
JOSEPH A. COPPOLA [redacted]
STEPHEN J. CORBITT [redacted]
JEROME CORE [redacted]
DAVID L. CORKERN [redacted]
JEFFERY A. CRAFTON [redacted]
RICHARD H. CRANE [redacted]
BRAXTER E. CRISLER, JR [redacted]
JAMES A. CROFFIE [redacted]
DAVID K. CROSSLEY [redacted]
ROGER N. CROSS [redacted]
NELLO E. DACHMAN [redacted]
MICHAEL W. DAHLKAMP, [redacted]
WILLIAM J. DAVIS, JR [redacted]
GEORGE A. DAVIS [redacted]
KENNETH M. DAVIS [redacted]
SCOTT E. DAVIS [redacted]
DONALD R. DINKEL [redacted]
BRADLEY I. DODD [redacted]
MICHAEL W. DONHAM, [redacted]
MARLIN L. DOODY, [redacted]
GERARD F. DORRE [redacted]
RONALD R. DUGAS, II [redacted]
PHILLIP D. DURBIN [redacted]
BRIAN R. DUVAL [redacted]
ADAM D. DZIEKONSKI [redacted]
LESTER C. EALEY, JR [redacted]
ROURK A. ELLQUIST, [redacted]
DONALD L. ERICKSON [redacted]
LESTER H. EVANS, JR [redacted]
DAVID C. FADDEN [redacted]
JOHN J. FAHEY [redacted]
GARY R. FALTINOWSKI [redacted]
DOUGLAS M. FARLEY [redacted]
JOHN J. FARLEY [redacted]
RICHARD H. FESCOE [redacted]
RUSSELL D. FICKES [redacted]
DAVID W. FISHER [redacted]
VERNON R. FREDERICK, JR [redacted]
DAVID W. FREY [redacted]
LARRY W. FRYE [redacted]
STANLEY S. FRYE [redacted]
DARYLL E. FULFORD [redacted]
LOUIS M. GACS [redacted]
THOMAS M. GALITELLO [redacted]
MICHAEL J. GALLAGHER [redacted]
MICHAEL H. GAMBLE [redacted]
GERARDO D. GARCIA [redacted]
JOSEPH R. GAUTREAU [redacted]
JAMES R. GEHRIS, JR [redacted]
TIBURTIUS GERHART, JR [redacted]
JOHN T. GERMAIN [redacted]
RANDY L. GIEDT [redacted]
CHARLES E. GIRARD [redacted]
ROBERT G. GOODWIN [redacted]
LOWELL B. GOUTREMOUT, JR [redacted]
JEFFREY W. GRAVES [redacted]
RUSSELL L. GRIMSLEY [redacted]
LONNY R. HADDOX [redacted]
LEONARD HALIK III [redacted]
GLENN J. HALL [redacted]
KATHY E. HAMMAN [redacted]
PAUL P. HARRIS [redacted]
GARY L. HARTLESS [redacted]
STEPHEN W. HASTINGS [redacted]
TIMOTHY M. HATHAWAY [redacted]
MARSHA K. HAYDEN [redacted]
HAROLD G. HAYES [redacted]
KENNETH J. HEALEY [redacted]
CHARLES A. HENRY [redacted]
JAMES G. HERRING [redacted]
DOUGLAS J. HIBBARD [redacted]
ERNEST R. HINES [redacted]
LEONARD L. HOFFMAN [redacted]
JERALD D. HOLM [redacted]
ROBERT C. JAROUSSE [redacted]
ISAIAH JOHNSON [redacted]
JOEL F. JONES [redacted]
MARTIN L. KALINA [redacted]
RAYMOND L. KESSLER [redacted]
DANNY W. KETTLE [redacted]
A. D. KING, JR [redacted]
STEVEN F. KLUGE [redacted]
MARK A. KNOWLES [redacted]
RICHARD D. KOSS [redacted]
BRAD D. LANDON [redacted]
MICHAEL P. LANDRY [redacted]
DEBORAH E. LANDRY [redacted]
MICHAEL E. LARSON [redacted]
SCOTT B. LATIOLAIS [redacted]
PETER M. LAWSON [redacted]
JOHNATHAN D. LAWSON [redacted]
THADDEUS T. LEWIS III [redacted]
MICHAEL F. LEWIS [redacted]
MICHAEL J. LEWIS [redacted]
JOHN C. LEX [redacted]
FREDERICK R. LICHTY, JR [redacted]
MICHAEL T. LIEFER [redacted]
JAY H. LIETZOW [redacted]
CLIFTON R. LLOYD [redacted]
ROY E. LOGAN, [redacted]
JAMES R. LOGAN [redacted]
DARIS W. LONG [redacted]
MICHAEL S. LONG [redacted]
TIMOTHY S. LOVE [redacted]
ROBERT J. MAGERS [redacted]
ARTHUR D. MARTIN [redacted]
KEVIN F. MASON [redacted]
THOMAS P. MC CABE [redacted]
JAMES C. MC CONNELL [redacted]
MICHAEL K. MC DANIEL [redacted]
MICHAEL T. MC GLYNN [redacted]
GEORGE C. MC LAIN [redacted]
DANIEL J. MC LEAN [redacted]
GREGORY A. MC NEAL [redacted]
WAYNE D. MEDEIROS, [redacted]
JEFFREY F. MENDENHALL [redacted]

EUGENE C. MENDIOLA [redacted]
WILLIAM A. MEZNARICH, JR [redacted]
RICKY R. MILLARD [redacted]
RUSSELL E. MILLER, JR [redacted]
PAUL J. MINER [redacted]
WILLIE J. MOORE [redacted]
JOSEPH F. MORAVEC [redacted]
TIMOTHY C. MOREHEAD [redacted]
LARRY D. MORGAN [redacted]
TERRANCE W. MORROW [redacted]
JOHN C. MOTT [redacted]
THEODORE W. MUELLER [redacted]
MICHAEL T. MULQUEENY [redacted]
CLENNON W. MURRAY [redacted]
PATRICK A. NEWSOME [redacted]
MICHAEL S. NISLEY [redacted]
JOHN R. NOLAN [redacted]
STEVEN W. OCHS [redacted]
KEVIN C. OHERAN [redacted]
RICKE S. OLGUIN [redacted]
ROBERT J. OSBORN I [redacted]
JOSE G. PANIAGUA [redacted]
KERRY D. PATTERSON [redacted]
CHARLES G. PELOQUIN [redacted]
ROBERT G. PENNOCK [redacted]
GREGORY A. PERSINGER [redacted]
DANIEL J. PETERLICK [redacted]
EDWARD J. PETERNEL [redacted]
SANFORD P. PIKE [redacted]
TOMMY PIQUES, JR [redacted]
MICHAEL D. PUCKETT [redacted]
ARTHUR F. PURCELL [redacted]
MARVIN L. RAHMAN [redacted]
RICHARD A. RATLIFF [redacted]
MICHAEL D. REAVES [redacted]
DAVID P. REECE [redacted]
ROCKEY J. REED [redacted]
TIMOTHY S. REED [redacted]
ROBERT M. REILLY [redacted]
ROGER N. RENNER [redacted]
THOMAS R. RICE [redacted]
TIMOTHY S. RICKER [redacted]
MICHAEL R. RIDDELL [redacted]
STEVEN P. RISIGARIGA [redacted]
JOHN A. RITTER [redacted]
GUILLERMO R. RIVERO [redacted]
ROY R. ROSAL [redacted]
LIGE ROSS, JR [redacted]
JAY A. ROTHMEYER [redacted]
CARLOS L. SANDERS [redacted]
CARL J. SCHEIDT [redacted]
EDWIN G. SCHROEDER [redacted]
JONATHAN F. SCHWARZ [redacted]
DONALD C. SCOTT [redacted]
SHANE D. SELLERS [redacted]
ROBERT E. SEVERSON [redacted]
BRITTON C. SHAFFER [redacted]
JOHN F. SISSON, JR [redacted]
DONALD E. SMITH [redacted]
GARY M. SNYDER [redacted]
ROBERT J. SOLNICK [redacted]
DANIEL L. SPEEDY [redacted]
LARRY E. SPICER [redacted]
DAVID L. STOKES [redacted]
WILLIAM R. STRICKLAND [redacted]
WILLIAM D. SVOBODA [redacted]
GARRETT F. SYLVAIN [redacted]
ROBERT G. SYPOLT [redacted]
RANDELL TACKETT [redacted]
WILLIAM G. TERHUNE [redacted]
DANNY R. TERVOL [redacted]
STANLEY E. THOMAS [redacted]
DONALD A. THOMPSON [redacted]
ALAN P. THOMPSON [redacted]
DARRELL W. TIBBETS, JR [redacted]
KEVIN P. TOOMEY [redacted]
ROBERT P. VENEMA [redacted]
JOSEPH A. WALLEY [redacted]
JAMES A. WALTER, JR [redacted]
JAMES WERDANN [redacted]
MARC W. WHITHORNE [redacted]
KEVIN R. WIGHTMAN [redacted]
DAVID J. WILSON [redacted]
JOHN G. WINDON [redacted]
RICHARD A. WITHERS, JR [redacted]
RICHARD A. WOLFE [redacted]
RICKEY H. WOOD [redacted]
LAWRENCE R. WOOLLEY [redacted]
GEORGE M. WYGANT [redacted]
BILLY Q. YODER [redacted]
DENNIS G. ZARNESKI [redacted]
JOHN E. ZEGER, JR [redacted]

To be major

DENNIS G. ADAMS [redacted]
JOSE L. AGUIRRE [redacted]
MICHAEL D. ANDERSON [redacted]
MICHAEL L. ANDREWS [redacted]
CHARLES P. ARTHUR [redacted]
DEMETRICE M. BABB [redacted]
CLACY E. BAKER [redacted]
KENNETH W. BARRY [redacted]
ROBERT A. BATH [redacted]
PHILIP S. BECKER [redacted]
JOHN R. BETTS, JR [redacted]
LARRY A. BISHOP, [redacted]
GEORGE K. BLACKWELL [redacted]
JOHN W. BLOODWORTH, JR [redacted]
EVERETT J. BOUDREAU [redacted]
MICHAEL W. BRAY [redacted]
JAMES E. BREVELL [redacted]
JEFF F. BROOKS [redacted]
GEORGE B. BROWN [redacted]
SAMUEL J. BROWN [redacted]
RONNIE W. BUNN [redacted]
LOSTON E. CARTER, JR [redacted]
DOUGLAS L. CASE [redacted]
DUKE R. CHAPMAN [redacted]
JERRY W. CHATELAIN, [redacted]
HOWARD P. CLARKE [redacted]
ARNOLD J. COPOSKY, [redacted]
RICHARD G. COX [redacted]
RONALD J. CRABBS [redacted]
DALE A. CRABTREE, JR [redacted]
EARL E. CRUSE, JR [redacted]
ROY V. DANIELS [redacted]
RICHARD A. DORN [redacted]
JOHN H. DUBOIS, JR [redacted]
EDWARD R. DUNLAP [redacted]
ALBERT L. EDWARDS, JR [redacted]
RONALD W. ELLINGER [redacted]
ERNIE L. ELLIS [redacted]
GARY E. ENGELKING, [redacted]
JOHN C. ENGSTROM, JR [redacted]
JAMES B. EUSSE [redacted]
ROBERT M. FIELDS [redacted]
JOSEPH C. FINCH [redacted]
GORDON R. FINKLEA [redacted]
MICHAEL H. FITZSIMMONS [redacted]
DEBRA A. FLETCHER [redacted]
GEORGE E. FOLTA [redacted]
GARY D. FRALEY [redacted]
PATRICK F. FROSSARD [redacted]
RALPH E. GARCIA [redacted]
JIMMY C. GREEN [redacted]
WILLIAM L. GROOTHOFF, JR [redacted]
HAROLD J. GUILLORY [redacted]
WILLIAM H. HAGUE [redacted]
LEONARD M. HARRIS, JR [redacted]
DENNIS J. HARTMAN, [redacted]
GEORGE L. HART [redacted]
FREDERICK F. HEIMGARTNER [redacted]
WILLIAM L. HENSLEE [redacted]
DONALD W. HERR, JR [redacted]
STEVEN HICKEY [redacted]
EDWARD W. HOLDER [redacted]
JOHN C. HOLT, JR [redacted]
JULIAN J. IGNACZAK, JR [redacted]
CALVIN H. IONA [redacted]
ROBERT H. IRVINE, [redacted]
ALLEN M. JACOBS [redacted]
WILLIAM E. JENNINGS [redacted]
WAYNE D. JONES [redacted]
MARIE G. JULIANO [redacted]
KENNETH E. KARLSON [redacted]
KENYON T. KELLEY [redacted]
GEORGE D. KENDLEY [redacted]
MARSHALL L. KINDRED [redacted]
GEORGE W. KIRBY [redacted]
HENRY L. KLEPAC [redacted]
BRUCE W. KNIPPEL [redacted]
LAWRENCE KOCIAN [redacted]
PETER J. KOUTROUBA [redacted]
JAMES J. KRAUS [redacted]
WARREN E. KYLE [redacted]
DALTON J. LANGLINAIS [redacted]
THOMAS J. LANGLOIS [redacted]
THOMAS R. LASHBROOK [redacted]
GEORGE H. LAUVE, JR [redacted]
PAUL F. LEASE [redacted]
JIMMY P. LEDBETTER [redacted]
MICHAEL P. LINEHAN [redacted]
CARL W. LOWE [redacted]
PHILLIP W. LUCAS [redacted]
ELMER L. LUCAS [redacted]
ALBERT A. LUCKEY [redacted]
DANIEL P. LYBERT [redacted]
AUGUST F. MALSON II [redacted]
HECTOR L. MELENDEZ [redacted]
LARRY T. MESSNER [redacted]
JOSEPH A. MILLER [redacted]
PATRICK E. MILLER [redacted]
LAWRENCE A. MILLER [redacted]
LESLIE N. MINIHAN [redacted]
SCOTTY W. MONTAGUE [redacted]
MICHAEL C. MONTCRIEFF [redacted]
BRUCE G. MONTGOMERY [redacted]
NATHANIEL MOON [redacted]
BOBBY L. MOORE, JR [redacted]
STEVEN M. MORELAND [redacted]
DAVID M. MOSER [redacted]
STEPHEN H. NEGAHNQUET [redacted]
ALAN J. NELSON [redacted]
CHARLIE P. NEUMANN [redacted]
MICHAEL E. NICKNADARVICH [redacted]
MATTHEW J. O'DONNELL [redacted]
LEE P. O'DONOVAN [redacted]
MARVIN D. PARKER [redacted]
HUGHES V. PATTERSON [redacted]
MILTON L. PETERSON [redacted]
CARL E. PHILLIPS [redacted]
DAVID L. POWERS [redacted]
EARL T. RADABAUGH [redacted]
RONALD W. REDFERN, [redacted]
JOHN H. REGAN [redacted]
WILLIAM J. RESAVY, JR [redacted]
CHARLES S. REYNOLDS, JR [redacted]
PABLO F. RIBADENEIRA [redacted]
CHARLES E. RIPLEY [redacted]
RANDY R. RISHELL [redacted]
GARY S. ROBERTS [redacted]
TIMOTHY R. ROLLINS [redacted]
RAYMOND T. ROWLAND [redacted]
VINCENT T. SABLAN [redacted]
STEVEN R. SCHRIER [redacted]
FRANK L. SCOTT, JR [redacted]
WILLIE F. SCOTT [redacted]
JAMES B. SCRUGGS, JR [redacted]
THOMAS P. SEVERIT [redacted]
DANIEL P. SHEA [redacted]
DAVID S. SIMKO [redacted]
BILLY T. SKAGGS [redacted]
JOHN W. SPENCER [redacted]
FLOYD B. STARKS [redacted]
EDWARD H. STEINHAUSER [redacted]
ROGER STEPHENS [redacted]
DAVID T. STEWART [redacted]
RONALD F. SWANSON, [redacted]
STANLEY D. TEMPLE [redacted]
RAYMOND O. THOMAS [redacted]
JOHN M. THORNTON [redacted]
BERNDT H. TIETJEN [redacted]
MICHAEL K. TOELLNER [redacted]
MARK L. TORNAI [redacted]
VERL J. TRICKETT [redacted]
CHARLES M. TUCKER [redacted]
CHARLES L. TURBYFILL [redacted]
CARL A. VANDIEST [redacted]
WILLIAM S. WATKINS [redacted]
RALPH WAY [redacted]
DENNIS A. WHEELER [redacted]
RONALD W. WILHITE [redacted]
ROBERT C. WITTENBERG [redacted]
JOHN C. WRIGHT [redacted]
LAWRENCE N. YEE [redacted]
PAUL A. ZAPPALA [redacted]
WILLIAM E. ZIMMERLY [redacted]
WAYNE J. ZIMMERMAN [redacted]
ROBERT A. ZINK [redacted]

To be lieutenant colonel

ROBERT C. BENBOW, JR [redacted]
VERNON E. BROWNING [redacted]
RAYMOND C. BROWN [redacted]
DANDRIDGE S. CARTER [redacted]
WILLIAM J. CAVANAUGH [redacted]
TOMMY L. CHANDLER, [redacted]
MERRITT L. COGSWELL [redacted]
CHARLES E. CONE [redacted]
DONALD P. CONE [redacted]
MICHAEL J. COOPER [redacted]
LARRY A. COWART [redacted]
DENNY L. COX [redacted]
PAUL D. CYR [redacted]
JOSEPH W. DEANES [redacted]
STEVEN S. DEMERS [redacted]
LYLE A. FERRARA [redacted]
SAMUEL L. FLORES, JR [redacted]
ARTHUR G. FRIEND [redacted]
MICHAEL E. GEORGE [redacted]
LAWRENCE R. GREEN [redacted]
JOHN C. HANNAFORD [redacted]
JOE V. JOHNSON [redacted]
JOHN J. KASSAY, JR [redacted]
FREDERICK J. KEEGAN [redacted]
JOHN J. KIEREPKA [redacted]
GARRY N. KLAUS [redacted]
HERMAN C. LARKIN [redacted]
DANIEL C. LEUTNER [redacted]
JAMES A. MARTIN, JR [redacted]
ROBERT W. MCMANUS [redacted]
CHRISTOBOL H. MENDEZ [redacted]
ROBERT H. MOORE [redacted]
DANIEL S. MULLINS [redacted]
JAMES D. NICHOLSON [redacted]
THOMAS J. PFAFFENBERGER [redacted]
WARREN S. ROBINETTE, JR [redacted]
LAWRENCE A. ROMAINE, JR [redacted]
JOSEPH H. SCHEPISI [redacted]
NICHOLAS A. SHRUM [redacted]
JOHN R. SMITH [redacted]
LONNIE D. SMITH [redacted]
DALE W. STONE [redacted]
JERREL R. TOWNSEND [redacted]
JERRY M. VICKERS [redacted]
JAMES W. WASHINGTON [redacted]

EXTENSIONS OF REMARKS

PARTY SMART

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. BUNNING of Kentucky. Mr. Speaker, I would like to take a moment to recognize the significant contribution of a major national alcohol education and awareness program called Party Smart. This program is a visible, effective commitment by the nonprofit organization Beer Drinkers of America to promote responsible alcohol consumption.

The message of Party Smart is simple yet vital: if you make the adult decision to drink alcohol, do it responsibly and in moderation. By implementing education programs in cooperation with major spring break cities, promoting the use of designated drivers, and sponsoring enjoyable nonalcoholic events, Party Smart consistently has shown, since its inception in 1988 that quality, objective, and positive alcohol education not only enhances people's lives, but helps save lives in the process.

One Party Smart program in particular has enjoyed a special relationship with my State of Kentucky. For the past 6 years, The Party Smart Designated Driver Program has been an integral part of the Kentucky Oaks and Derby at Churchill Downs. The Party Smart Designated Driver booths are highly visible from all areas of Churchill Downs, with two booths located at the inside track and two more at trackside.

Why is the Party Smart Designated Driver Program adopted by the management and concessionaires of the Kentucky Oaks and Derby, and endorsed by Churchill Downs?

The answer is simple. Because it works.

More than 2,000 Derby-goers sign up each year to be designated drivers and provide safe rides home for their friends. In exchange for their pledge not to drink alcohol, designated drivers receive free nonalcoholic beer and soft drinks.

The Kentucky Derby isn't the only place, by the way, where you'll find Party Smart. The Party Smart Fan Alcohol Awareness Program has been an integral part of many major sporting events, including Super Bowl XXIX in January 1995. Championship teams such as the New York Rangers and San Francisco 49ers endorse and participate in the program. It is only natural that this program of champions includes The Kentucky Oaks and Derby.

Every year, Party Smart continues doing what it does best—providing quality, privately-funded alcohol awareness information to those who decide not to drink. Beer Drinkers of America with more than 750,000 members in all 50 States, is working through Party Smart to make this year's Kentucky Oaks and Derby memorable, enjoyable, and, above all, safe.

I, for one, commend the Beer Drinkers of America, Churchill Downs and the local business community for encouraging personal responsibility and moderation and for doing their part to make the Kentucky Derby—the greatest 2 minutes in the sporting universe—even better.

TRIBUTE TO RICHARD OLIVER WARD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. TOWNS. Mr. Speaker, I want to commend Richard Oliver Ward for his vast contributions to the community. Richard was born in Kingston, Jamaica, on February 24 to Evaney and Joseph. His family consists of five sisters and three brothers. When Richard was 12 years old, the family moved to Brooklyn, NY.

Richard is a product of the New York City public school system. After arriving in Brooklyn, he attended P.S. 94 and later graduated from Charles E. Hughes High School. After high school, Richard enrolled in the Cooking Food of Marathon School.

But Richard's first love was always music. He started by playing drums in the church choir, but soon put them aside and began spinning records as a disc jockey. Richard worked at clubs throughout Brooklyn, singlehandedly moving his equipment from engagement to engagement. Word quickly spread that this young man from Jamaica possessed an unusual talent for spinning records. From salsa to calypso to the electric slide Richie Rich mixed it all effortlessly.

Richard has been employed since 1983 with the Police Athletic League [PAL]. He enjoys all sports and is an amateur body builder. He especially loves working with children.

Richard resides in the East Flatbush edition of Brooklyn and is the proud father of two children; Amanda, who is 12 years old, and Richard, Jr., who is 1 year old.

IN HONOR OF MAYOR DENNIS P. COLLINS, A DEDICATED PUBLIC SERVANT AND COMMUNITY LEADER

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute and honor to an outstanding individual, Dennis P. Collins, former mayor of the city of Bayonne. On May 3, 1995, the Bayonne Zionist District, Zionist Organization of America will hold their 63d annual American Zionist Fund Dinner. At the celebration, being held at the Bayonne Jewish Community Center, Mayor Dennis Collins will be honored by the organization.

Mayor Collins has always been an outstanding citizen of the Bayonne community and of the United States. He was born in Bayonne where he was raised with 12 other siblings. After graduating from high school, he decided to enlist in the Armed Forces of the United States. He proudly and courageously served in the Army for a 3-year tour during World War II. Upon the completion of his tour, he returned to attend St. Peter's College and Rutgers University. He later received his real estate and insurance broker's license.

In 1962, Mayor Collins decided to run for public office. He was elected first ward councilman and 4 years later in 1966 he was elected councilman-at-large. Thus began an illustrious career in politics that would eventually lead him to the mayor's office in the city of Bayonne. His great leadership qualities and outstanding dedication to the community were evident to the residents of Bayonne and elected him mayor of Bayonne in 1974. He went on to serve three consecutive terms in office, more than any other mayor in the history of the city of Bayonne.

As mayor, Dennis Collins helped to turn Bayonne into a flourishing and prosperous city. He improved and expanded the public services and facilities. Mayor Collins was able to maintain the city's economic vitality in spite of a national recession.

Mayor Collins played a dual role in the city of Bayonne. He not only was a leader of the community but he was also an active participant in various community organizations. He was a standard bearer of the New Frontier Democrats and was also a member of the Knights of Columbus. He has participated in many veterans groups and has been a faithful parishioner of Our Lady Star of the Sea Parish. He has also been a member of various other organizations that are too numerous to mention here.

There are no words to describe Mayor Dennis P. Collins, a dedicated leader, courageous countryman, outstanding citizen, devoted husband and father, and a friend to the people. Please join me in honoring Mayor Collins—one of the finest public servants in the history of Hudson County and excellent congressional staffer. I am proud to have him as a congressional staff member. He is a man of great respect and honor. I know he will continue to fight for the betterment, security, and prosperity of his community.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

UNITED STATES POLICY ON ALGERIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. HAMILTON. Mr. Speaker, the terrible civil violence in Algeria has claimed perhaps 30,000 lives in the past 3 years. Both the Algerian Government and the underground Islamist opposition reject a dialog and appear determined to resolve their differences by force. In the process, thousands of innocent civilians have been killed. The United States has important commercial interests in Algeria's petroleum and natural gas industries, as well as strategic interests in the stability of North Africa and the southern coast of the Mediterranean.

I wrote to the State Department on February 24, 1995, to raise a number of questions about United States policy toward Algeria. I received a detailed response to my questions on March 29, 1995. The text of the correspondence follows:

COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, DC, February 24, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: I am concerned about the deteriorating situation in Algeria. The death toll in the Algerian civil war has now reached a weekly casualty rate greater than that experienced at the height of the Algerian war of independence.

I would like to ask a number of questions:

1. What is U.S. policy toward Algeria today? In current circumstances, what purposes does an American Embassy in Algeria serve? Do you think that this conflict can be resolved militarily or is a political solution the only effective course? What do you see as the outlines of a plausible political solution?

2. Can outside actors, including the United States, play a helpful and important role in promoting a peaceful resolution of the Algerian political crisis? Does the U.S. favor or oppose an international conference on Algeria in which all major parties to the conflict participate? If you favor such a conference, how can you convince the Algerian government to participate?

3. What is U.S. policy on contacts with the various Islamic groups in Algeria? Are there organizations with which we can have a constructive dialogue? Do you support or oppose a dialogue with the Armed Islamic Group (AIG)? What is your understanding of the relationship between the Islamic Salvation Front (FIS) and the AIG? What is your view of the French government's allegation that the FIS representative in the U.S. is a senior member of the Islamic Salvation Group?

4. What is U.S. policy concerning upcoming IMF and Paris Club talks with Algeria? Is there a role for an important U.S. and G-7 political message to Algeria in those talks, and what should that message be?

5. What do you see as the impact of developments in Algeria on some of its neighbors in the region: Morocco, Tunisia, and Egypt? France and Spain?

I appreciate your consideration of these questions and look forward to an early reply.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 29, 1995.

Hon. LEE H. HAMILTON,
House of Representatives.

DEAR MR. HAMILTON: Thank you for your recent letter to Secretary Christopher concerning the situation in Algeria. We welcome the opportunity to address your specific questions and to share our perspective on the worsening crisis in that country. Because of the nature of your questions, we have attached, in question and answer format, our response.

We hope you find this information helpful. If you would like to discuss these issues at greater length, we would be happy to arrange for appropriate officials to meet with you at your convenience. Please do not hesitate to contact me if we can be of further assistance.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary
Legislative Affairs.

Enclosure.

What is U.S. policy toward Algeria today?

The United States Government seeks to encourage an Algerian solution which will provide stability for the country and assure that the crisis does not spill over into Algeria's neighbors. We remain concerned over the steady increase in violence both from government security forces and from the armed Islamist groups trying to topple the regime. For the past three years, in numerous contacts both in Algiers and in Washington, we have actively worked to promote a dialogue between the government and the major opposition parties, which we believe offers the best chance for a non-violent solution.

While we continue to engage the regime in discussions on political strategies which might reverse the downward spiral, the U.S. gives no direct economic assistance or military support to Algeria.

We have made clear that the U.S. deplores violence from any quarter and have urged strict respect for human rights by all groups in Algeria.

In current circumstances, what purposes does an American Embassy in Algeria serve?

Our diplomatic mission in Algiers accomplishes a number of essential functions, including: Preserving access to Algerian Government officials at all levels, unobtainable elsewhere, to seek GOA views and deliver U.S. policy messages; maintaining a U.S. presence to show continuing concern over the Algerian crisis and to demonstrate both to Algerians and to other foreign governments which keep embassies in Algiers that we do not believe a collapse of the state is imminent; serving as the U.S. Government's "eyes and ears", producing irreplaceable reporting and intelligence which guides U.S. policy towards the crisis; enabling U.S. companies to continue their involvement in Algeria's oil and gas industry through projects which total billions and will play a major role in any economic recovery—much of their involvement would end if the Embassy closed; providing services and representation for the 500-600 American citizens in Algeria.

Do you think that this conflict can be resolved militarily, or is a political solution the only effective course?

We are convinced that attempts to suppress the insurgency through military means alone will fail. On the contrary, this approach will only intensify the cycle of violence and spur further radicalization of the Islamist movement. This is the lesson of the past three years, during which time the regime's campaign to eradicate the opposition through repression has led to an exponential growth in insurgent operations. At the same time, we do not believe an Islamist military victory is likely in the near term.

In our view, a strategy which gives the main opposition groups—including Islamist leaders willing to seek a non-violent solution—a voice in a political process which prepares an eventual return to elections is essential to broaden the extremely narrow base upon which the Algerian regime rests. Such a strategy offers the best chance to reinforce pragmatic tendencies within the Islamist movement and to marginalize the most violent extremists.

What do you see as the outlines of a plausible political solution?

The Algerian parties themselves must determine, through negotiation, the outlines of a political process. It would be inappropriate for the U.S. Government to put forward a preconceived notion of the form which such an accord might take.

In general, we share with the main Algerian parties the conviction that a political solution must be designed to prevent the most radical outcome of the conflict. We believe that a viable solution must prepare Algeria for an eventual return to elections while providing concrete guarantees that no party can abuse the democratic process or impose a dictatorship in the future. We recognize that there is a need to rally non-extremist forces around a process which allows for the expression of different political views and enables the parties to work out their differences in a non-violent context. We were encouraged by the platform which the principal opposition parties signed after meeting in Rome in January, which was meant to serve as a starting point for talks with the regime.

Can outside actors, including the United States, play a helpful and important role in promoting a peaceful resolution of the Algerian political crisis? Does the U.S. favor or oppose an international conference on Algeria in which all major parties to the conflict participate? If you favor such a conference, how can you convince the Algerian government to participate?

We are already making every effort to press all sides to engage in dialogue aimed at opening up a political process. It is important, however, to understand the limits of outside influence on what is essentially an internal conflict among Algerians. Neither the regime's leaders nor opposition groups would welcome an attempt by the U.S. or European governments to mediate between them, and it might be unwise for the U.S. to try to insert itself more aggressively into this situation.

What is U.S. policy on contacts with the various Islamic groups in Algeria? Are there organizations with which we can have a constructive dialogue?

We have long maintained working-level contacts with a broad spectrum of Algerian public opinion, including with elements of the political opposition not linked to terrorism. The President affirmed publicly last year that the U.S. has had such contact with representatives of the Islamic Salvation Front (FIS).

Do you support or oppose a dialogue with the Armed Islamic Group?

Unlike the FIS, the Armed Islamic Group rejects compromise and embraces the use of indiscriminate terrorism to advance its extremist agenda. We do not maintain a dialogue with the GIA.

What is your understanding of the relationship between the Islamic Salvation Front and the GIA?

Prior to being banned in 1992, the FIS actively participated in the democratic process, winning a plurality of seats in the first round of legislative elections in December 1991. Since the suspension of the electoral process, the FIS has continued to advocate dialogue and a return to elections. By contrast, the GIA opposes dialogue and has openly claimed responsibility for terrorism against foreigners and Algerian civilians since the summer of 1993. We have no evidence that FIS leaders exercise control over the GIA. On the contrary, it appears that the FIS and GIA are rivals for control of the Islamic fundamentalist movement in Algeria.

What is your view of the French allegation that the FIS representative in the U.S. is a senior member of the Armed Islamic Group?

An individual who calls himself the FIS representative in the U.S.—but who has no legal status as such—has made statements on several occasions implying sympathy for some of the actions of the GIA. At other times, however, he has categorically condemned violent acts attributed to the GIA. We have no evidence—and neither the French nor any other government has provided any—that this individual is a "senior member" of the GIA. In fact, he served as the official FIS representative at the two recent conferences of Algerian political parties in Rome.

What is U.S. policy concerning upcoming IMF and Paris Club talks with Algeria? Is there a role for an important U.S. and G-7 political message to Algeria in those talks, and what should that message be?

Recognizing that economic reform is essential for the long-term well-being of the Algerian people, we have pressed for Algeria to move towards a market system which could provide adequate housing, food, and employment for all Algerians, thereby weakening the appeal for extremism. The U.S. has therefore welcomed the GOA's implementation of economic reforms and has supported IMF and World Bank agreements and Paris Club debt rescheduling, which create a positive macroeconomic environment and lay the groundwork for fundamental reform and growth.

Our "political message" to Algerian leaders has been clear. We have repeatedly stressed that political progress and an improvement in the security situation are essential prerequisites to sustainable economic recovery. Any attempt to use the IMF, World Bank, or Paris Club to increase pressure on the Algerian regime would require close coordination with our European allies on an issue of vital importance to them.

What do you see as the impact of developments in Algeria on some of its neighbors in the region—Morocco, Tunisia, Egypt, France, Spain?

The Algerian crisis has provoked concern in neighboring countries and raised the obvious question of whether events in Algeria threaten stability elsewhere in the region. We take seriously such concerns. This is one reason why we would oppose the imposition of any kind of extremist regime in Algeria. These regional concerns, however, do not alter our analysis that Algeria's predicament is driven by conditions indigenous to Algeria, which has had a very different history from its neighbors. The appeal of fundamentalism in Algeria is rooted in frustration arising from three decades of political exclusion, social injustice, and economic misery. Morocco, Tunisia, and Egypt each have significant strengths that are not shared by Algeria. King Hassan II of Morocco has stated publicly that he shares this analysis. Successes by Algerian Islamists undoubtedly embolden Islamist opponents in other countries, but there is no reason to assume a "domino" effect.

France and Spain fear that worsening instability in Algeria could lead to a flood of refugees across the Mediterranean. Moreover, the French fear repercussions within France's large Muslim community, which is mostly of Algerian origin. Nonetheless, both Paris and Madrid, with which we consult closely on this issue, have joined the U.S. in calling for political solution based on dialogue and a return to the electoral process.

TRIBUTE TO JULIE A. BALDUF

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young woman from my District who has recently accepted her appointment as a member of the class of 1999 at the U.S. Air Force Academy.

Julie A. Balduf will soon graduate Port Clinton High School after 4 years of outstanding academic achievement as well as extracurricular involvement. While in high school Julie has distinguished herself as a leader among her peers. She is an outstanding student and patriot.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the United States service academies. While at the Academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that Julie Balduf has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating her for her accomplishments to date and to wish her the best of luck as she begins her career in service to our country.

THE VARIETY BOYS AND GIRLS CLUB OF QUEENS' 40TH ANNIVERSARY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to an outstanding organization in my New York City district that has been committed to improving the lives of children for 40 years. The Variety Boys and Girls Club of Queens has worked with generations of young people in that special borough to realize their dreams and grow into upstanding members of the community.

The Variety Boys and Girls Club of Queens was established as the number of youth gangs around the country had risen dramatically during the late 1940's and early 1950's. In response to the growing number of gangs, Meyer "Moe" Baranco and attorney Charles J. Vallone, both of Queens, decided to establish a place for local youth to spend their time off the streets in a wholesome atmosphere.

In 1949, the club got its start when a fundraising testimonial was held to assist Charles Vallone's family take a trip to Italy. Instead of paying for the family trip, the $1,500 raised at the testimonial became the first major contribution toward the founding of the Boys Club. In the years since, the club has been extremely fortunate in attracting leading members of the community from every profession, all of whom have made valuable contributions to the club's growth and success.

When it first opened in 1955, the club acted as a home away from home to hundreds of boys. These boys would come from all over the Queens community to watch movies, play games, and participate in sporting events. Recognizing the need to serve all future citizens, in 1981 the board of directors decided to offer services to young women in the community. Redoubling its commitment to the area's girls, in 1985, the club resolved to expand all of its services to girls. Money was raised for an auxiliary gymnasium, and for additional recreational and support services to girls between 6 to 17 years of age. Soon, the Boys Club became the Boys and Girls Club of Queens.

Mr. Speaker, the basic problems that existed among this Nation's young people in the 1940's are still the same ones that we grapple with today: Too many youth who have too few role models. The Variety Boys and Girls Club of Queens provides an outstanding example of what can be done to address these problems if we put our minds to it. They say it takes a village to raise a child, and the Boys and Girls Club of Queens shows just how successful a village can be in shaping the lives of young people. Therefore, I would ask that my colleagues join me in marking the club's 40th anniversary, and help wish them another successful 40 years of exemplary service.

TRIBUTE TO MARILYN D. MOSLEY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. TOWNS. Mr. Speaker, I am fortunate to have constituents within my district who are committed to their community and passionate about their participation in the political process. Marilyn Mosley exemplifies the previously listed qualities. She serves as the assistant to the Brooklyn Borough president. In her capacity she is responsible for maintaining relations between that office and various community boards in the borough.

Born in Brooklyn, Marilyn is a product of the New York City Public School system. Marilyn was a member of the Girls High School class of 1959, and was voted "most likely to succeed" by her classmates. She later earned a bachelor of science degree from Morgan State University, where she majored in mathematics.

Marilyn began her professional career at P.S. 29, the same school from which she graduated. Teaching sixth grade at P.S. 29 was particularly rewarding for her because she was able to serve alongside her former teacher and mentor, the late Clara Cardwell.

Marilyn has served the school system in several teaching, supervisory, and administrative capacities. While teaching, Marilyn attended graduate school, graduating from City College summa cum laude with a master's degree in science and mathematics education. She earned a second master's degree in educational administration and supervision. Marilyn was inducted into Phi Delta Kappa, an honorary fraternity for students maintaining summa cum laude status at the graduate level.

Marilyn's achievements have been recognized by a host of groups and organizations. She has received numerous awards such as the PTA award for Excellence in Teaching, Educator of the Year, Woman of the Year, and citations from the New York City Council and the New York State Legislature. Marilyn's accomplishments are a testament to her interest, effort, and commitment to improving the quality of life for Brooklyn residents who consistently cite her for work well done.

IN HONOR OF REVEREND MONSIGNOR JOSEPH A. MARJANCZYK CELEBRATING HIS 50TH ANNIVERSARY OF ORDINATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to the Reverend Monsignor Joseph A. Marjanczyk on the 50th anniversary of his ordination. The parishioners of Our Lady of Mount Carmel will hold a dinner-dance in Father Marjanczyk's honor on May 6, 1995.

Father Joseph Marjanczyk was ordained by Archbishop Thomas A. Walsh of Newark on May 5, 1945. Prior to his ordination, Father Marjanczjk was a seminarian at the Immaculate Conception Seminary. While at the seminary, he compiled and edited four volumes of Sacred Scripture handbooks and authored a comprehensive history of "Christianity in Poland."

Father Joseph Marjanczyk was first assigned to the Polish parish of St. Valentine in Bloomfield, NJ. He served as chaplain to the Bloomfield Police Department and was Faithful Friar of Fr. Isaac Jogues Fourth Degree Assembly of Knights of Columbus Council 1178. Father Marjanczyk was on the archdiocesan Continuing Education of Priests Committee and also served for 12 years as an adjunct professor of Polish language at Seton Hall University.

He was later named to the Board of Trustees Seton Hall and at the Immaculate Conception Seminary.

Pope John Paul II named Father Marjanczyk a Prelate of Honor to His Holiness and bestowed upon him the title of Monsignor on May 29, 1979. Despite all his responsibilities Father Marjanczyk found time to serve outside of his jurisdiction as trustee of the City of Elizabeth Board of Education. On May 19, 1988, Pope John Paul II proclaimed Monsignor Marjanczyk a Protonotary Apostolic, and in January, 1991 Archbishop McCarrick of Newark appointed him as Vicar Episcopal of South Hudson County.

Father Joseph Marjanczyk was vested with the Knight of the Order of Polonia Restituta by the Polish Government-in-Exile, London, England. He was decorated with the Gold Insignia of the Order of Merit by the Republic of Poland. The Paderewski Memorial Committee Bayonne Chapter honored him with the Paderewski Memorial Silver medal on his name day, March 19, 1994.

Father Marjanczk is a man dedicated to helping and serving the people. He has devoted his life to serving God and to helping all those that are in need. Again, I congratulate Father Marjanczyk on the 50th anniversary of his ordination. May all his kindness and generosity be rewarded in the years to come.

TRIBUTE TO WILLIAM AND FUNG HSIEH

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. BAKER of California. Mr. Speaker, today it is my pleasure to recognize two remarkable people from my District, William and Fung Hsieh. Recently, reporter Ben Fox wrote in one of the leading papers in my District, the Tri-Valley Herald, that the Hsiehs are "an advertisement for graceful aging." Their remarkable lives and their 78 years of marriage—yes, 78—have been a testimony to what William rightly calls three of the great essentials of marriage: love, mutual trust, and reasonableness.

William, then called Wen-Lung, and Fung were married in 1917 in China. In the early 1920's, William traveled to the United States, where over the course of 5 years he obtained a doctorate in transportation and economics from the University of Pennsylvania. He returned to China to become a civil engineer, and was awarded the Medal of Freedom from the American Government in 1946 for his work in assisting the U.S. Army transport military supplies during the Second World War.

After fleeing China in the wake of the Communist takeover in 1949, the Fungs were separated again as William remained in Hong Kong and Fung lived in the United States pursuing the citizenship she had lost as a result of marrying a foreign national. Eventually, the Hsiehs and their eight children arrived in the United States, and William became a naturalized citizen in 1986.

Currently, the Hsiehs live in Livermore, which is a lovely city in the East Bay region of the San Francisco area, where they are near their son, Ed, and his wife, Cynthia.

The Hsiehs have much to teach about love, loyalty, and long-term commitment. They have weathered many storms in their lives, and yet their marriage has endured. In our era of family breakdown, the Hsiehs are a welcome reminder of the importance of the traditional values on which our country is based. It is a pleasure for me to honor the Hsiehs today, and to thank Mr. Fox for his touching piece about this wonderful couple.

THE PRICE OF AMERICAN LEADERSHIP

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a speech delivered last week by Anthony Lake, the President's National Security Adviser.

Mr. Lake states well the importance of American leadership and the necessity of the President to have the tools and the resources to be able to protect and promote our national interests.

The upcoming debate over resources for the 150 international affairs budget account will help determine whether the United States can sustain its world leadership. This account must take its fair share of cuts, but those cuts must be carried out with care and with bipartisan agreement so that the national interest of the United States will not be harmed.

I urge my colleagues to reflect on Mr. Lake's remarks before the National Press Club April 27, 1995. His speech follows:

THE PRICE OF LEADERSHIP

Let me begin with a simple but alarming fact: The United States could be on the brink of unilateral disarmament.

Did that get your attention? I hope so, because it is true.

No, we are not about to junk our jets or scuttle our ships. Our military is strong and ready—and there is a strong bipartisan consensus to keep it so. But we are on the verge of throwing away—or at least damaging—many of the other tools America has used for 50 years to maintain our leadership in the world. Aid to emerging markets, economic support for peace, international peacekeeping, programs to fight terrorism and drug trafficking, foreign assistance: Together with a strong military, these have been key instruments of our foreign policy.

Presidents since Harry Truman have used these tools to promote American interests—to preserve our security, to expand our prosperity and to advance democracy. Their efforts were supported by Democrats and Republicans—and the broad majority of the American people. Congress consistently provided the needed resources for these tasks. Because of this resolve, coupled with our military might, we prevailed over the long haul in the Cold War, strengthened our security and won unparalleled prosperity for our people.

Now, I deeply believe our success is in danger. It is under attack by new isolationists from both left and right who would deny our nation those resources. Our policy of engagement in world affairs is under siege—and American leadership is in peril.

A few of the new isolationists act out of conviction. They argue that the end of the Soviet menace means the serious threats are gone—that we should withdraw behind our borders and stick to concerns at home. Fortress America, they say, can shut out new dangers even though some of the new threats facing us—like nuclear proliferation, terrorism, rapid population growth and environmental degradation—know no boundaries.

But most of the new isolationists do not argue such a position or even answer to the name isolationist. They say they are part of the postwar bipartisan consensus that their goals are its goals—democracy, security, peace and prosperity. But they won't back up their words with deeds.

These self-proclaimed devotees of democracy would deny aid to struggling democracies. They laud American leadership, but oppose American leadership of coalitions, advocating only unilateral action instead.

Yes, they praise peace. But then they cut our help to those who take risks for peace. They demand greater prosperity. But they shy away from the hard work of opening markets for American workers and businesses. Under the cover of budget-cutting, they threaten to cut the legs out from under America's leadership.

These are the back-door isolationists—and they are much more numerous and influential than those who argue openly for American retreat. They can read the polls, and they know that the American people want the U.S. to be engaged in the world. Support for American leadership in the world is about as strong as ever—a Chicago Council on Foreign Relations survey shows two-thirds or more want us to remain deeply engaged. So these back-door isolationists and unilateralists cast themselves as the true guardians of American power. But through their actions, they could become the agents of a America's retreat. They champion American leadership, but they want it the one way you can't have it: and that is on the cheap.

They want America to turn its back on 50 years of success. They are working—whether they know it or not—to destroy part of the foundation for our peace and prosperity, the great legacy of our postwar leaders. Vandenberg, Truman, Marshall, Acheson. These men faced their own challenge from isolationists. But they saw the cost of our earlier withdrawal after Versailles was terribly, terribly damaging—saw it in the wreckage of Europe and Asia after World War II and the casualties America suffered liberating those continents. And they understood that investing in a vigorous foreign policy was the only way to prevent another catastrophe.

They knew the price of leadership. They spent what was necessary to maintain America's security. And they went further, creating the United Nations and the Bretton Woods institutions and covering those bills, pouring Marshall aid into Western Europe to save it from despair and communism and they and their successors in later Administrations developed the new tool of technical assistance—so that democracy and prosperity got a better chance around the world.

Look at the results: the map is almost covered with democracies, many of them strong allies. Markets that fulfill needs and dreams are expanding. A global economy supports American jobs and prosperity. These are the returns on 50 years of American political and economic investment abroad—the benefits of 50 years of bipartisan engagement.

But these achievements are not cut in stone. We will not go on reaping these benefits automatically. Back-door isolationism threatens to propel us in the wrong direction at a real moment of hope—when our engagement can still make a dramatic difference, by securing rather than frittering away our victory in the Cold War.

We could forfeit that victory because in many places, democracy still needs nurturing. Some market economies have not sunk deep roots, and the post-Cold War world has brought into new focus real and powerful dangers that threaten what we have worked for: aggression by rogue states, international terrorism, economic dislocation. These are new forms of an old conflict—the conflict between freedom and oppression, the conflict between the defenders of the open society and its enemies.

There is no expiration date on these lessons from five decades: Defeating these threats requires persistent engagement and hands-on policies. Defeating them demands resources. Throwing money at problems won't make them go away—but we also cannot solve problems without money. The measure of American leadership is not only the strength and attraction of our values, but what we bring to the table to solve the hard issues before us. That is why President Clinton has said that he will not let the new isolationism prevail.

Make no mistake: The American people want their nation to lead. Americans know the world is growing closer; they know our security and prosperity depend on our involvement abroad. And they agree with the President, who has said before and since he took office: "For America to be strong at home, it must be strong abroad."

Plenty of Americans also say they want us to spend less abroad—until they know the real numbers. Most think that we spend 15 percent or more of the federal budget on foreign aid. They think 5 percent would be about right.

They would be shocked to know that little more than 1 percent—$21 billion out of a $1.6 trillion dollar budget—goes to foreign policy spending, and less than $16 billion to foreign assistance. That's a lot of money, but not the budget-buster that neo-isolationists pretend. And that is 21 percent less in real terms than spent in FY 1986. They would also be surprised to learn that others recognize the reality of necessary resources far better than we. The richest, most powerful nation on Earth—the United States—ranks dead last among 25 industrialized nations in the percentage of GNP devoted to aid.

These are facts that should be better known. And more of our citizens should know that our foreign policy resources are devoted toward goals that the American people support.

$6.6 billion a year promotes peace—including our efforts in the Middle East, the help we give U.S. allies to defend themselves, and our contribution to UN peacekeeping missions around the world, such as those on the Golan Heights, the Iraq-Kuwait border and in Cambodia.

$2.4 billion builds democracy and promotes prosperity—helping South Africa, for example, hold free elections and transform itself peacefully.

$5 billion promotes development—that includes jobs programs in Haiti to increase employment, improve infrastructure and help that nation get back on its feet.

$1.7 billion provides humanitarian assistance—like caring for refugee children in the former Yugoslavia—because Americans have always wanted their country to alleviate suffering in areas of the most compelling need.

And the remainder is for the State Department and other agencies that work every day to advance America's interests abroad.

This is the price of American leadership—and the backdoor isolationists don't want us to pay it. But imagine how the world would look if we did not. Take what I call the George Bailey Test. You remember George—he is the character played by Jimmy Stewart in the Christmas classic "It's a Wonderful Life." In that film, the angel Clarence shows George how Bedford Falls would have fallen apart without him.

Allow me to play Clarence briefly and take you through a world without American leadership. Imagine:

If Ukraine, Belarus and Kazakhstan joined the club of declared nuclear weapons states because we couldn't do the deals to denuclearize them.

If Russian missiles were still pointed at our cities, because we couldn't push to detarget them.

If thousands of migrants were still trying to sail to our borders, because we had not helped restore democracy in Haiti.

If nearly 1 million American jobs had not been created over the last three years alone—because we had not promoted U.S. exports.

If we had to fight a war on the Korean peninsula—the implication of what some critics urged—because we did not confront the threat of a North Korea with nuclear weapons.

If another quarter of a million people had died in Rwanda because we had not deployed our military and they had not done such a fine job in the refugee camps.

Or, if we had paid tens of billions of dollars more and suffered more casualties because we insisted on fighting Operation Desert Storm against Iraq by ourselves.

Imagine that. Each of these efforts cost money and the hard work of building international coalitions. But you and I are safer, better off and enjoy more freedom because America made these investments. If the backdoor isolationists have their way, much of what we have worked for over two generations could be undone.

Speaker Gingrich recently described what the world might look like if America retreats. He described "a dark and bloody planet * * * in our absence you end up in Bosnia and Rwanda and Chechnya." He added, "They are the harbingers of a much worse 21st century than anything we've seen in the half century of American leadership."

It does not have to be that way. If we continue to invest in democracy, in arms control, in stability in the developing world, in the new markets that bring prosperity, we can assure another half century of American leadership.

But already, because of decisions in the last few years, we sometimes cannot make even modest contributions to efforts that deserve our support. America is a great nation—but we cannot now find the small sum needed to help support peacekeepers in Liberia, where a million people are at risk from renewed civil war. Or the money to fund adequately UN human rights monitors in Rwanda. We can barely meet our obligations in maintaining sanctions on Serbia. This is no way to follow the heroic achievements of the Cold War. And I can't imagine that this fits any American's vision of world leadership. It doesn't fit mine.

Nickel and dime policies cost more in the end. Prevention is cheap—and doesn't attract cameras. When the all-seeing eye of television finds real suffering abroad, Americans will want their government to act—and rightly so. Funding a large humanitarian effort after a tragedy or sending in our forces abroad to assist will cost many times the investment in prevention.

Some costs of short-sighted policies must be paid in our neighborhoods: In 1993, Congress cut by almost one-third our very lean request for funding to combat the flow of narcotics into our country—and that funding has been declining in real terms ever since. As a result, we are scaling back programs to wipe out production of drugs and block their importation, as well as training programs for police, prosecutors and judges in foreign countries. America pays a far higher cost in crime and ruined lives.

These are some of the constraints we have lived with in the past few years. And now, however, American leadership faces a still more clear and present danger. Budget legislation being prepared in Congress could reduce foreign affairs spending by nearly a quarter—or $4.6 billion. That would mean drastic cuts or the elimination of aid to some states of the former Soviet Union, and into the security assistance programs that help U.S. allies and friends provide for their own defense. It would sharply reduce or eliminate our contributions to international peace operations. It would lame the agencies—like OPIC and the Ex-Im Bank—that have played a key role in expanding U.S. exports. It would threaten our non-proliferation efforts and the Arms Control and Disarmament Agency. It would eliminate assistance for some programs that save children's lives.

These cuts would cripple our legacy of leadership. The strength to lead does not fall from heaven. It demands effort. It demands resources.

A neo-isolationist budget could undercut our strategic interest in democracy in Russia and the former Warsaw Pact. And it would directly affect America's security: We must continue to fund the farsighted programs begun by Senators Nunn and Lugar to reduce nuclear arsenals in the former Soviet Union. The $350 million in Nunn-Lugar funds made it possible for Ukraine to dismantle its arsenal and accede to the Non-Proliferation Treaty. That made it easier for us to pull back from the Cold War nuclear precipice—and save some $20 billion a year on strategic nuclear forces. That is just one of the more dramatic examples of how our foreign spending literally pays off.

A neo-isolationist budget could harm our efforts to prevent rogue states and terrorists from building nuclear weapons. We are spending $35 million over three years to employ thousands of weapons scientists in the former Soviet Union on civilian research projects. That helps keep them off the nuclear labor market—and from selling their skills to an Iraq or Iran.

A neo-isolationist budget could nearly end our involvement in UN peace operations around the world—operations that serve our interests. Presidents since Harry Truman have supported them as a matter of common sense. President Bush in particular saw their value: last year nearly 60 percent of our UN peacekeeping bill went to operations begun with his Administration's support. His Secretary of State, James Baker, made a strong defense for these operations when he remarked that "We spent trillions to win the Cold War and we should be willing to spend millions of dollars to secure the peace."

This is burdensharing at its best. UN peace operations.

Save us from deploying U.S. troops in areas of great importance—for example, Cyprus or the Indian sub-continent.

They help pick up where our troops left off—for example, along the border of Iraq and Kuwait. In Haiti, UN troops are saving us resources by replacing most of our own withdrawing troops.

They are building democracy in Namibia, Mozambique and Cambodia—all missions we helped design. In Cambodia, the UN negotiated the withdrawal of Vietnamese forces and then held the country's first democratic election. After the years of the Killing Fields, 90 percent of the electorate turned out to vote—while UN peacekeepers protected them for the Khmer Rouge.

We would pay much more if we performed even a small number of these missions unilaterally. Instead, the price we pay now in manpower and money is reasonable: Of the 61,000 UN peacekeepers deployed around the world, only some 3,300 are American. We pay the equivalent of half of one percent of our total defense spending for UN peace operations—less than a third of the total UN cost and less than the Europeans pay in proportion to their defense spending. We participate in these operations only after careful consideration of the command arrangements and costs—but we gain immense influence through our ability to lead multinational efforts.

And a neo-isolationist budget could severely undercut our work for peace. The President has said that "America stands by those who take risks for peace." That is true in Northern Ireland, in South Africa, the Middle East and around the world.

For the Middle East peace process to continue—and for negotiations in other regions to succeed—we must have the resources to support the risk-takers. We cannot convince the holdouts from the peace process that will stand behind a just and lasting settlement if we back away from our current commitments. That means maintaining aid to Israel, Egypt and the Palestinians and fulfilling our pledge of debt relief to Jordan. In the Middle East our vital security and economic interests are on the line. We must not fold our hands—and leave the game to the opponents of peace—just when we are so close to the verge of winning.

A neo-isolationist budget could throw away decades of investment in democracy. In the last 15 years, the number of democracies in the world has almost doubled—and USAID provided assistance to most of the newcomers. For example, in Mozambique, a nation emerging from years of strife, AID assistance helped register 6 million out of a possible 8 million voters and turn the polling there into a success. Now, when these societies are most fragile, is not the time to cut this lifeline for democracy.

And a neo-isolationist budget would directly damage our own livelihoods. Our economy depends on new markets for U.S. goods and high-paying jobs for American workers. That is why President Clinton led efforts to expand free trade with the landmark GATT agreement, NAFTA, and the free trade agreements in the Asia-Pacific region and in the Americas. And this Administration has worked harder, I believe, than any other to promote American exports. Imagine, for example, where we would be without the Commerce Department's efforts on this score. Secretary Brown's staff worked with other agencies last year on export deals worth $46 billion for American businesses—deals that support 300,000 U.S. jobs.

In many cases, we were in a position to close deals because America had been engaged in those countries for years. Consider two statistics. AID programs in some countries have helped increase life expectancy by a decade. And every year, AID's immunization program saves 3 million lives. These are statistics not only of humanitarian hope. They are part of efforts to help create stable societies of consumers who want to buy our goods—not masses of victims in need of relief.

In addition, our support of the multilateral development banks also helps nations grow and their economics prosper. We contribute $1.8 billion while other nations contribute $7 billion—and that capital leverages more than $40 billion in lending. If we stopped our contributions, we would lose our influence. And others might also follow our lead, and that would cripple these important institutions.

The backdoor isolationists who claim they are saving America's money cannot see beyond the green eyeshades. Our assistance has repaid itself hundreds and hundreds of times over. That was true when Marshall aid resuscitated European markets after the war. And in South Korea, which now imports annually U.S. goods worth three times as much as the assistance we provided in nearly 30 years.

And while we preserve our tradition of assistance, we are reforming its practice. AID has become a laboratory for Vice President Gore's efforts to reinvent government—it is eliminating 27 overseas missions and cut its workforce by 1200.

Now, with the "New Partnership Initiative," we will improve our assistance programs even more—by focusing on the local level. This will enhance the efforts of non-governmental organizations and raise the percentage of our aid that is channeled to them to 40 percent—because these organizations are on the ground and more responsive than distant national governments. This puts our resources to better use, helping nations so they can become self-sufficient.

Every one of us in this room knows that winning support for an activist foreign policy has never been easy in America.

Throughout the history of our Republic, we have never lived in literal isolation. In a world of instant communication and capital flows, we cannot do so now. That is not the issue. Literal isolationism is not an option.

What is at issue is whether we will have the policies and resources that can shape and support our involvement in ways that benefit our people in their daily lives—whether by opening markets or by preventing conflicts that could embroil us. It is at those times that our government failed to engage in such efforts that our people have paid the greatest price—as in World War II, following a period of irresponsible American retreat.

The genius of our postwar leaders was to see that technology and American power had changed the world and that we must never again remain aloof. But they had a hard time winning support even with the memories of war still fresh.

As he put his case forward, President Truman had an uphill struggle. But a foreigner saw that it was America's moment to lead—and told us so. Winston Churchill stirred the nation with his appeal for an engaged foreign policy. Today, we remember his address as the Iron Curtain speech, but Churchill called it "The Sinews of Peace." The phrase plays on a saying of the Romans: "Money is the sinews of war." Churchill's message was that preserving peace—like waging war—demands resources.

Today, that message rings as true as ever. This is a moment of extraordinary hope for democracy and free markets. But nothing is inevitable. We must remain engaged. We must reach out, not retreat. American leadership in the world is not a luxury: it is a necessity. The price is worth paying. It is the price of keeping the tide of history running our way.

TRIBUTE TO JASON SCHUBACH

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young man from my district who has recently accepted his appointment as a member of the class of 1999 at the U.S. Naval Academy.

Jason Schubach will soon graduate Old Fort High School after 4 years of outstanding academic achievement as well as extracurricular involvement. While in high school Jason has distinguished himself as a leader among his peers. He is an outstanding student and patriot.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the Academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that Jason Schubach has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating him for his accomplishments to date and to wish him the best of luck as he begins his career in service to our country.

TRIBUTE TO VAL ARTURO HENRY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. TOWNS. Mr. Speaker, I would like to commend Val Arturo Henry for his yeoman's work to improve his community, and his pursuit of individual excellence. Val was born in Colon, Republic of Panama, and immigrated to New York City when he was 2 years old.

Val attended public and secondary schools in Brooklyn and graduated from Franklin D. Roosevelt High School as a National Merit Scholar. He obtained his undergraduate degree in economics from Bucknell University. He than attended Fordham Law School, served as president of the Black Law Students Association, and passed the New York State Bar.

Since 1988, Val has been a private practitioner with a general law practice. He has also been associated with the law firms of Cichanowicz and Callan; and Simpson and Levitsky.

Val is a member of numerous associations, including the Brooklyn Bar Association, the Bar of the City of New York, the Metropolitan Black Bar Association, and the New York County Bar. He also serves on the boards of directors of Bedford Stuyvesant Legal Services Corp. and the Community Alliance for Youth Action. He is a member of Community Board 9 and serves on the Judicial Screening Committee for Kings and Richmond Counties. Val also serves as chancellor to his church, St. Georges Episcopal Church in Brooklyn, and sits on the Committee for Canons for the Episcopal Diocese of Long Island.

Married for the last 19 years to the former Deborah Ellen Corbett, Van and his wife have a son, Kairi William, a sophomore at Hampton University, and a daughter, Nia Elena, who is enrolled at Montessori Academy in Brooklyn.

The success achieved by Val Henry, he acknowledges, is due to his parents, Earl and Esther Henry of Tampa, FL, his brother Delano C. Henry, and his sister Lydia Manrow. I am pleased to introduce my colleagues to Val Arturo Henry.

HONORING SCHOOL SETTLEMENT ASSOCIATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to mark the accomplishments of the School Settlement Association and recognize two of its most devoted friends.

First, let me say a few words about the School Settlement Association. Serving the Greenpoint and Williamsburg areas of Brooklyn, NY, since 1901, School Settlement has developed a stellar reputation for providing innovative programming and services for thousands of area residents each year.

The organization's long list of community services include drug education, teen pregnancy counseling, vocational workshops, and various sports tournaments. School Settlement also provides remedial tutoring for local schoolchildren, has a very effective drop out prevention program, and distributes surplus Government food to families in need.

But, of course, good programs like these don't just happen by magic. They take lots of time and effort by dozens of friends and contributors. On May 5, the School Settlement Association will take time to honor Capt. Albert W. Girimonte and Paul J. Pullo.

Describing himself as a "Local Brooklyn boy who did well," Captain Girimonte currently serves as a police captain of the 90th precinct in Brooklyn. Before becoming a police officer, Captain Girimonte served with the U.S. Air Force from 1966 to 1969. Becoming one of New York's Finest in 1973, he worked his way steadily up through the ranks, reaching the rank of captain in 1987.

Captain Girimonte, and his wonderful wife, Barbara, are the proud parents of three children: Joseph, Albert, and Mary. Like their father, the two boys have chosen to devote their lives to public service, while his beautiful daughter, Mary, is getting ready to graduate the fifth grade.

Also to be honored is Paul Pullo, another outstanding member of the Greenpoint community, and devoted familyman. After graduating from St. John's University in 1972, Mr. Pullo worked at Dun & Bradstreet before moving on to start Apollo Petroleum and Metro Oil in 1977 with his brother.

In 1975, he married Frances Cannizzaro with whom he has had two wonderful children, Christina and Paul. Despite his busy schedule, Mr. Pullo has always found time to assist and improve his community. Metro Oil has received recognition from the U.S. Coast Guard for its oil storage facility, and Mr. Pullo has played an invaluable role in attracting business to the Greenpoint area.

Mr. Speaker, I am proud to have this opportunity to honor the good work of the School Settlement Association as well as Captain Girimonte and Mr. Pullo. Their outstanding service others and undaunting dedication to the community truly represent the best of American values, and are an inspiration to us all.

PROCLAMATION CONGRATULATING DEAN HARRAH

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Dean Harrah, should be recognized for his invaluable contributions to the game of baseball; and

Whereas, Dean Harrah, was a player for Kent State University, the United Mine Workers League, the Harrison County League, and numerous local and semi-pro teams; and

Whereas, Dean Harrah, has dedicated much of his talent to coach both elementary and high school students in which some of his players continued on to play college and professional baseball; and,

Whereas, Dean Harrah, led many of his teams to league championships, all-star game championships, and to all appearances at sectional, district, and regional tournaments; and

Whereas, Dean Harrah, has ensured that local programs were established for both girls and boys and help coordinate construction and renovation of many local fields; and

Whereas, the local communities are better places for people of all ages because of the work of Dean Harrah; and

Whereas, the residents of Belmont County and the surrounding areas of Ohio, with a real sense of pleasure, join me in commending Mr. Dean Harrah for his indispensable contribution to the game of baseball.

TRIBUTE TO THE FRIENDS OF THE ROSEVILLE PUBLIC LIBRARY ON THEIR 20TH ANNIVERSARY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. BONIOR. Mr. Speaker, I rise today to honor the Friends of the Roseville Public Library. This Saturday, the Friends are celebrating their 20th anniversary.

In 1975, Rosalie Perry and Carol Windorf, along with a handful of supporters, founded the group. Today, over 1,300 members provide services and support to the people of Roseville and surrounding communities through their public library.

In the past 20 years, the group has taken tremendous pride in their library. Without the

Friends, many of the services provided would simply be nonexistent. Computerized data bases, videos, Books on Tape, projectors, and compact discs are all available because of the work of the Friends of the Roseville Library. Currently, the group is in the process of raising funds to establish a computer center for children. In 1995, the Roseville library continues to house a large selection of books, magazines, and other reading materials, and because of the Friends' efforts, it is also preparing for the 21st century.

The people of Roseville are fortunate to have the Friends working to improve their library and I am looking forward to celebrating their 20th anniversary when I return to Michigan this weekend. I urge my colleagues to join me in wishing the Friends of the Roseville Public Library many more years of success.

IN HONOR OF FRANK PERRUCCI AND THE 25TH ANNIVERSARY OF THE CONCERNED CITIZENS OF BAYONNE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to congratulate the Concerned Citizens Organization of Bayonne on the recent celebration of their 25th anniversary. The organization was founded by Frank P. Perrucci, a concerned citizen who has dedicated most of his life to serving his community.

The Concerned Citizens Organization was founded in 1970 and the purpose of this organization is to improve the quality of life for city residents. Their motto, "We Care, Do You," symbolizes their commitment to community activism and civic involvement. The organization recognizes exceptional citizens by granting awards to those who have performed heroically.

Frank Perrucci, as the standard bearer of the Concerned Citizens Organization, has been the driving force of this community group. He has contributed his time and effort to many worthy causes including a voter registration drive, the "I Love Bayonne" project and efforts to protect the rights of the elderly. Regarding voter registration, Mr. Perrucci has participated in various forums aimed at encouraging participation in our democratic system.

While contributing to the community, he has also been a devoted husband, married to the former Jean Baccarella for the past 44 years, and an exceptional father to his four children. Mr. Perrucci is the proud grandfather of seven.

His contributions to the community have garnered him numerous awards, including the Boy Scouts of America Distinguished Citizen Award. He has also received awards from the national, State and Hudson County Catholic War Veterans, as well as from the city of Bayonne, the New Jersey Assembly, and the New Jersey Senate.

I would like to take this opportunity to thank Frank P. Perrucci on behalf of the city of Bayonne for all his hard work in the community. I am truly proud to have such an outstanding citizen living in the 13th Congressional District. Please also join me in praising Mr. Perrucci and the Concerned Citizens of Bayonne Organization for 25 years of dedication and commitment.

AMERICAN LEGION AUXILIARY CELEBRATES DIAMOND ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. SOLOMON. Mr. Speaker, I have often stood before you commending the virtues and contributions of America's veterans. However, today I would like to bring to your attention another, equally important group which performs many vital services for America's veterans, our communities, and our Nation at large.

This year, the American Legion Auxiliary celebrates its Diamond Jubilee. Since 1920, the Auxiliary has grown from a membership of 11,000 women to its current count of approximately 973,000 dedicated volunteers. With a motto of Service, not Self, the American Legion Auxiliary members have for 75 years exemplified the American ideals of philanthropy and patriotism through their many worthwhile endeavors. From lobbying Congress in grassroots campaigns for such issues as proper compensation for America's veterans and the G.I. Bill of Rights, to fund-raising projects which have generated millions of dollars for organizations including the American Cancer Society and the Muscular Dystrophy Association, the American Legion Auxiliary serves not only veterans, but its entire national community.

The American Legion Auxiliary looks to the past, the present, and the future as well. Auxiliary members were participants in the untiring efforts on behalf of disabled veterans, which eventually resulted in the establishment of Veterans' Administration, as well as a system of modern Veterans' Administration Medical Centers. As a result of these actions, the contributions and needs of disabled veterans are assured of their proper recognition and attention. In addition, the Auxiliary helps to prepare young women for lives of civil service through the Girls' State programs. In these programs, high school junior are selected, on the basis of their interest in government and their leadership potential, to attend a session during which they create and operate a government of their own. Each year, two citizens for each State session are chosen to participate in the Girls' Nation program in Washington, DC, functioning as our Federal Government would. Through these programs, the young women are encouraged to pursue their governmental interests, as well as to further develop confidence and speaking skills which will be valuable to them in all their future endeavors.

Mr. Speaker, as a veteran myself, I understand what it means to know that organizations such as the American Legion Auxiliary exist to acknowledge and support the efforts of those who fight for our country. I know that the millions of veterans who have already benefited from the labors of the Auxiliary members, as well as those who will do so in the years to come would agree with me when I say that the American Legion Auxiliary has become an example of selflessness and patriotism which all Americans may emulate.

Mr. Speaker, I ask that all Members join me in expressing our sincerest gratitude and congratulations to the American Legion Auxiliary as it celebrates 75 years of valuable service to our veterans, our communities, and our Nation.

HONORING THE BEST OF RESTON AWARD WINNERS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. DAVIS. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to the individuals and businesses who are this year's winners of the Best of Reston awards. The Best of Reston Community Service Award was created to recognize companies, organizations, and individuals who have made outstanding contributions to community service, and/or who have improved the lives of people in need, in Reston, VA.

Priscilla Ames has delivered 30 years of continuous civic work and community service. She has served the Greater Reston community in many capacities: on the Fairfax County Human Services Council, as Reston's director of Community Affairs and Public Information, on Community Advisory Committee of the Embry Rucker Shelter, and as a member of the Community Advisory Committee of the Cameron Glen Care Center. She has been honored by the Reston Rotary Club as their 1990 Citizen of the Year and named Lady Fairfax by Fairfax County in 1990.

Margaret Boyd has been one of Reston's most visible, consistent, and effective advocates for youth, particularly adolescents. Ms. Boyd has served as the Reston coordinator for the Teen Summit. She has also joined initiative in the conception and realization of the Pit Teen Center in Reston. She organized a teen/adult dialog in April 1994 and is planning a Teen Leadership Conference to be held in March 1995. Ms. Boyd is also teacher at Forest Edge Elementary School, an at-large board member for Reston Citizens Association [RCA] and chair of RCA's Youth Committee.

Juanita Cooper has been dedicated to the community, particularly the families and staff of Lake Anne Elementary School. Since 1976, she has nurtured the Lake Anne children. Her belief that every child deserves the chance to reach their potential is reflected in the faces and successes of the children whose lives she has touched.

Carlos and Ana Mejias are professional artisans of considerable experience and accomplishment who fled the war in El Salvador in 1980, bringing with them only their family and one suitcase. They established after-hours ceramic classes for area youth at Forest Edge Elementary School.

Datatel furthers higher education through the Datatel Scholars Foundation and a corporate matching gift program. Datatel also assists a number of local charities. Seven years ago, Datatel adopted the Embry Rucker Community Shelter giving it some $1,400 a year for the past 7 years in gifts.

The 1995 recipients of the Business Excellence Award:

Molson Breweries U.S.A. Inc., under the direction of president and chief executive officer John Barnett, have been major support of Wolf Trap Farm Park and the Kennedy Center for the Performing Arts. Mr. Barnett has been active in his pursuits to enhance the outstanding quality of life in Northern Virginia including: Taste of the Town at Reston Town Center and the National Law Enforcement Officers Memorial Fund.

BTG, now in its 13th year, BTG headed by Dr. Ed Bersoff is a leader in the information industry, with 634 employees and revenues of over $140 million. BTG is the business partner of Marshall High School, contributes funding and technology support to Hospice of Northern Virginia, and provides both funds and board members to a broad spectrum of community organizations including: Leadership Fairfax, the Women's Center, Court Appointed Special Advocates for abused children, Fairfax Hospital, and Women in Technology.

Mr. Speaker, I know my colleagues join me in honoring the Best of Reston award winners for all of their hard work in making their community a better place to live.

TRIBUTE TO QUEENIE MARY WOOTEN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. TOWNS. Mr. Speaker, I am pleased to recognize Ms. Queenie Mary Wooten. Queenie hails from South Carolina. She was born to James and Estella Hunt Corley, and was part of a large, close family. Queenie attributes her success in life to her family, her late husband, James Wooten, and her fiance, Dr. Raymond B. Croskey.

Queenie was educated initially in South Carolina, but graduated from Girls High School in Brooklyn. She received her AAS degree from New York Community College, and her bachelor of science degree from Medgar Evers College.

Ms. Wooten has served in a variety of professional capacities working with children in and outside of the public school system. She currently serves as an associate educational officer in Community School District 19, and is a coordinator of facilities maintenance and temporary housing. Additionally, Queenie is assisting with developing short- and long-range plans for the zoning of School District 19.

Queenie is involved in a number of educational, civic, religious, legislative, professional, and social activities. She is the founder of the Priscilla Wooten Educational Society. Additionally, she is a member of Community Planning Board 5, and is an active member of Grace Baptist Church, which is pastored by Rev. Jacob N. Underwood, Sr.

A recipient of numerous awards for community involvement, I am pleased to recognize Ms. Queenie Mary Wooten.

TRIBUTE TO WILLIAM B. SWANBECK

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young man from my district who has recently accepted his appointment as a member of the class of 1999 at the U.S. Naval Academy.

William B. Swanbeck will soon graduate Huron High School after 4 years of outstanding academic achievement as well as extracurricular involvement. While in high school William has distinguished himself as a leader among his peers. He is an outstanding student and patriot.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the Academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that William Swanbeck has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating him for his accomplishments to date and to wish him the best of luck as he begins his career in the service to our country.

TRIBUTE TO BRANCH 1111

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. BAKER of California. Mr. Speaker, voluntarism has long been vital to our society. When ordinary Americans show care for one another in direct and tangible ways, we see our country at its best.

In my own 10th District of California, this tradition is being continued by the Greater East Bay Branch 1111 of the National Association of Letter Carriers. Branch 1111 has been conducting its annual food drive since 1992, and each year has collected canned goods to help hurting people.

The plan is very simple: on Saturday, May 13, Americans are being asked to leave canned foods by their mail boxes. Postal carriers will pick up the donations, which will be given to local food banks, charities, and food pantries.

The effectiveness of this effort goes beyond the East Bay. Last year, the letter carriers collected 32 million pounds of food nationwide. This remarkable generosity was sparked by the letter carriers' work to inform the public of its food drive and its commitment to helping the needy.

I am pleased to recognize Maria Arzate and the other men and women of branch 1111 for their terrific work. They are a reminder that compassion and giving are alive and well in the United States.

HONORING THE CONSELYEA STREET BLOCK ASSOCIATION DAY CARE CENTER

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues an important event that took place in my district on Saturday, April 29th. On that day, the Conselyea Street Block Association held a dinner dance to honor their distinguished officers.

The Conselyea Street Block Association was formed within the community to provide needed child care services and a senior citizen program. The day care program began in 1975 providing pre-school and after-school programs for children in the Greenpoint community. Parents who are working, looking for work, attending school, or have a need for child preventative services are fortunate to have this residential day care center within their community.

The board of directors, Ms. Agnes DiGruccion and Ms. Angela Federico, work together with the parents and staff to formulate goals and objectives for the school programs and develop activities and curriculum for each age group.

Mr. Speaker, I would like to thank the members of the Conselyea Street Block Association for their continued dedication and service in the Greenpoint community. Their work with the children and seniors are so vital to the continued growth and development of their neighborhood.

It is comforting for a parent to know that their child is being cared for and receiving a valuable education within their own community. I would like to personally thank the officers who are being honored on this occasion: Mr. Thomas Guidice, president; Ms. Elizabeth Speranza, vice-president; Ms. Marion Ambrosino, secretary; Mr. Vincent Martello, treasurer; Ms. Tillie Tarantino and Ms. Agnes DiGruccino.

I ask that my colleagues join me in saluting the Conselyea Street Block Association for all of the exemplary work they do. Their tremendous community spirit and efforts to improve the lives of those in need is an inspiration to us all.

A PROCLAMATION CONGRATULATING PHYLLIS RICCADONNA

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Phyllis Riccadonna, Director of the Jefferson County Victim-Assistance program, received the Outstanding Victim's Services Practitioner Award at the seventh annual Ohio Victims of Crime Compensation Program's Recognition Awards Ceremony that was held in Columbus, Ohio on April 20, 1995; and

Whereas, Phyllis Riccadonna received this award for having consistently demonstrated foresight, caring and sensitivity for crime victims; and

Whereas, Phyllis Riccadonna, working with judges, prosecutors, and offenders, served more than 500 victims in 1994; and

Whereas, Phyllis Riccadonna developed the Ohio Valley Chapter of the Compassionate Friends, serves as aboard member of a local women's shelter and is now working to form a domestic-violence task force; and

Whereas, Jefferson County is a better place in which to live because of the work of Phyllis Riccadonna; and

Whereas, the residents of Jefferson County and the surrounding areas of Ohio, with a real sense of pleasure, join me in commending Mrs. Riccadonna as an outstanding Victims' Advocate.

HONORING THE WINNERS OF THE 18TH ANNUAL FAIRFAX COUNTY HUMAN RIGHTS AWARDS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. DAVIS. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to the winners of the 18th Annual Fairfax County Human Rights Awards. These awards, presented annually, recognize outstanding accomplishments in the area of human rights in Fairfax County. Accomplishments may represent a single significant activity or long-term commitment displayed through various activities. The winners are selected from nominees representing three categories: individual citizens, nonprofit organizations, and businesses. This year's awardees are:

The Honorable Gerald Bruce Lee, judge, 19th Judicial Circuit Court, serves as a mentor providing community awareness concerning social justice by participating in various volunteer programs such as Kamp Kappa, Early identification, and professional programs aiding minorities. His ability to listen, lead, and inspire have done much to expand human rights concerns by fostering greater communication between the court system and our community.

Ms. Brenda V. Plum, advocate for the disabled, has set an example by giving her time and talents in an effort to provide social awareness concerning the rights of disabled persons. Her tireless efforts to alleviate unfair practices include countless hours of community service to local area boards, authorities, and commissions, including various programs and projects.

Ms. Lillie G. Morarity, is the third vice president of the Fairfax County branch of the NAACP and chairperson of the annual Martin Luther King, Jr., Day program. Ms. Morarity is a community organizer who has exhibited unselfish and untiring efforts to enhance the pride, dignity, and sense of accomplishment of the minority community in general, and African-Americans in particular. Her various accomplishments at both local and national level have rallied the community at large and thus reaffirm commitment and respect for the human rights of all.

Ms. Laura Soonkee Lee Falkenstrom, serves as liaison, mentor, and bridge between Asian-American students and the Fairfax County public schools. She has been instrumental in assuring that the English as a Second Language Program meets the evolving culturally diverse needs of non-English-speaking students. She has been a strong leader in the development of cross-cultural awareness for our schools and community, including mentoring which has resulted in the employment of over 25 minority educators for the Fairfax County schools.

The 1994 Human Rights Award winner in the organization category is: Koinonia, a volunteer organization supported by local churches and civic organizations in the Franconia area. In addition, Koinonia functions as a liaison between the immediate needs of individuals and the help that may be received from local, State, or Federal agencies.

Mr. Speaker, I know my colleagues join me in honoring these awardees for their outstanding achievements in the area of human rights.

TRIBUTE TO VIDAL RIVERA MALDONADO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. TOWNS. Mr. Speaker, I want to highlight the many accomplishments of Vidal Rivera Maldonado. Vidal was born in Ponce, PR on September 6, 1946, to the late Natividad and Isabel Maldonado. He is the fourth of nine children. Vidal and his family arrived in New York in 1955.

Vidal is a product of the New York City Public School System, where he attended P.S. 180 and graduated in 1965 from Benjamin Franklin High School. From 1967 to 1970 he served in the U.S. Marines, spending 13 months in the Republic of Vietnam. When he returned, he met and married Adalisa Padilla; they are the proud parents of three boys and two girls. Vidal received a liberal arts degree from New York Technical College in 1978.

In his varied career, Vidal has worked for various Supreme Court judges. Vidal is affectionately known as the beverage man because of his work with beverage companies. He is the district sales manager with the Good-O-Beverage Co.

Vidal spends much of his free time devoted to the game of baseball. Every weekend during the baseball season, Vidal can be found at the East New York/Transit Tech baseball field coaching semi-professional teams.

Vidal and his family have lived in the East New York section of Brooklyn for the past 26 years, and are members of St. Fortunata Roman Catholic Church.

LOYALTY DAY PARADE COMMEMORATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. BONIOR. Mr. Speaker, I rise proudly to salute all the men and women who are serving, or who have served, in the defense of the United States of America.

Ever since President Eisenhower established May 1 as Loyalty Day, Americans have gathered around the Nation to affirm their commitment to our great Nation. I also salute the many people who commemorated this Loyalty Day back in my home district.

The Macomb County Council of the Veterans of Foreign Wars, along with its ladies auxiliary, has sponsored loyalty parades throughout the county for many years. Last evening, many of my friends and constituents participated in a parade in Fraser, MI.

The people who gathered in Fraser and around the Nation celebrated democracy, freedom, and our faith and pride in America. We all share the responsbility of defending and preserving these American values and I salute all who joined to demonstrate their commitment to these ideals.

Since the national tragedy in Oklahoma City, this Loyalty Day is especially important. In times of crises, Americans have always pulled together. We salute the men and women who have tirelessly worked through the rubble in hopes of finding survivors and we pray for the victims and their families. May we all find ways to prevent and discourage further tragedy.

I am both proud and privileged to serve the people who gathered at the Fraser Loyalty Day Parade. As members of the oldest contitutional Republic in the world, I ask all my colleagues to join with me and share in the faith of those in Fraser and around the Nation, as we reflect on Loyalty Day, 1995.

TRIBUTE TO JAMES J. ADAMS

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young man from my District who has recently accepted his appointment as a member of the class of 1999 at the U.S. Military Academy.

James J. Adams will soon graduate Hicksville High School after 4 years of outstanding academic achievement as well as extracurricular involvement. While in high school James has distinguished himself as a leader among his peers. He is an outstanding student and patriot.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the United States service academies. While at the Academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that James J. Adams has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating him for his accomplishments to date and to wish him the best of luck as he begins his career in service to our country.

UNITED STATES POLICY TOWARD SAUDI ARABIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. HAMILTON. Mr. Speaker, for many years Saudi Arabia has been a key partner of the united States in the strategic gulf region. Saudi Arabia is a major oil supplier and trading partner of the United States, and it played an essential role as our coalition ally in the gulf war. Since that war, however, there have been a number of credible reports that the Saudi economy is in difficulty, whether as a result of low oil prices and the cost of supporting the gulf war or as a result of mismanagement. There are also questions about the Kingdom's handling of domestic political discontent, its human rights record and its treatment of some U.S. citizens. I wrote to the Secretary of State on January 23, 1995, and on March 28, 1995, I received a reply on these issues.

Given the tremendous importance of Saudi Arabia to United States interests, I request that my exchange of letters on Saudi Arabia with the Department of State be entered into the CONGRESSIONAL RECORD:

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, January 23, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State,
U.S. Department of State, Washington, DC.

DEAR MR. SECRETARY: I write to seek clarification of U.S. policy toward Saudi Arabia.

First, it appears to me that Saudi Arabia is not responding effectively to the economic and political challenges it now faces, and I am concerned that U.S. policies may be contributing to Saudi economic difficulties.

Second, I am concerned about whether the U.S. government has a full appreciation of the internal political dynamics of Saudi Arabia and about whether we are in a position to respond effectively to internal events.

Third, I am concerned that important U.S. values, such as respect for the human rights of all Saudi citizens and fair treatment of American citizens abroad, are not advanced as effectively as they should be in our relations with Saudi Arabia.

I would appreciate your responses to the following questions.

1. Do you see low oil prices and the costs of financing the Gulf War as the cause of Saudi Arabia's current economic difficulties?

Are these problems compounded by domestic economic mismanagement, including a failure to institute taxes or cut subsidies?

How do you assess reports of corruption and kickbacks as a source of economic mismanagement and popular discontent?

How do you assess King Fahd's efforts of the past year to cut spending and address Saudi Arabia's economic problems?

2. How would you describe the stake of the United States in the Saudi economy?

Have U.S. efforts to boost sales of advanced weaponry and commercial aircraft to Saudi Arabia contributed to the economic dilemmas the Saudis now face?

Does the burden of payments for these purchases contribute to anti-American sentiment in the Saudi military and government?

3. What is current U.S. policy on arms sales to Saudi Arabia, and the status of U.S. efforts to restructure Saudi payments for previous military purchases?

What is the status of the $6 billion Saudi contract with Boeing and McDonnell-Douglas for the purchase of civilian airliners?

4. What is the policy of the U.S. embassy in Riyadh with respect to routine political contacts with a broad range of Saudi citizens, and to reporting on the internal situation in that country?

What limitations, unwritten or written, govern the contacts and reporting of U.S. embassy officers in Saudi Arabia?

Are similar limitations imposed on U.S. diplomats anywhere else?

What do you see as the strength of the Saudi political opposition, as well as the effectiveness of Saudi authorities in suppressing dissent?

Do you believe that the long-run political stability of Saudi Arabia is advanced by the government's suppression of any form of dissent and any free exchange of political ideas?

5. I recognize and appreciate the importance of Saudi Arabia as a strategic partner in the Gulf region, and the differences in our political cultures. Yet it is a matter of concern that we often appear unwilling to assert our own interests when we disagree with Saudi actions or policies.

Are press reports correct that the State Department spokesperson backed away from a statement last fall that the U.S. has "serious concerns" about the human rights situation in Saudi Arabia, even when those concerns are documented in the annual State Department human rights report?

What is the U.S. doing to promote respect for the basic human rights of Saudi citizens, especially the rights of peaceful assembly and free expression?

Does the U.S. Embassy press for fair treatment of all Americans working or living in Saudi Arabia?

Specifically, are you concerned by reports of the mistreatment of American women by Saudi religious police; the alleged detention, mistreatment, and expulsion of American citizens involved in business disputes with Saudi nationals; and reports of a forced separation of a U.S. citizen child from his mother as a result of the political activities of the child's Saudi father?

What steps do you take when U.S. consular concerns are not addressed?

I look forward to your early reply.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

U.S. DEPARTMENT OF STATE,
Washington, DC.

Hon. LEE HAMILTON,
Committee on International Relations, House of Representatives.

DEAR MR. HAMILTON: Thank you for your recent letter to the Secretary, and for the opportunity it provides to review with you the nature of the U.S.-Saudi relationship and our perspective on developments in Saudi Arabia. The Secretary has asked that I respond on his behalf.

For fifty years, Saudi Arabia has been a key partner for the U.S. in support of critical regional and global objectives, including security of global energy supplies, Middle East peace, and stability in the Gulf. As part of our dialogue, we have encouraged Saudi Arabia to support broad initiatives, like indefinite extension of the NPT, which contribute directly to enhanced regional security. For our part, the U.S. has worked closely with the Government of Saudi Arabia in support of its security and economic development. We fully expect to continue this close bilateral cooperation into the future.

In recent years, Saudi Arabia's economic development was slowed by the double impact of the Gulf war and the sharp decline in the world market price of oil. Despite the popular impression of Saudi Arabia as a country of unequalled wealth, the Saudi economy is, by global standards, relatively modest. Thus, its heavy outlays in 1990–91 as a result of Iraq's occupation of Kuwait—which the Saudi government estimates at some $60 billion—clearly burdened the economy. Until that time, the Saudis had begun to control the budget deficits which they had confronted since the mid-1980s as a result of declining oil revenues.

Despite the recent setbacks which the Saudi government has encountered, we believe that it has been a prudent and responsible manager of the Saudi economy. During the 1970s and early 1980s, the Saudi government was able to cover its investments in infrastructure and economic development, finance the extensive social safety net which it developed at that time, and build its external reserves through revenues derived from the sale of oil. (In a 1993 letter to The New York Times, Saudi Finance Minister Abalkhail valued Saudi infrastructure investments, including soft loans to private sector investors, at nearly one trillion dollars.) At the same time, as external reserves have declined, an aging infrastructure and a rapidly-growing population demanding services are now challenging the government for major new capital investments.

The government has embarked on a two-prong approach to meet this challenge. For the second year in a row, the King has announced significant decreases in government spending which will bring total budget reductions over the two-year period to twenty-five percent. The King also announced this year substantial reductions in popular subsidies, including those on gasoline, electricity, and water. These two moves should, by the Saudi government's estimate, reduce its deficit in SFY 95 to approximately $4 billion, down from the double-digit deficits experienced in recent years. More importantly, the moves should stimulate the private-sector-led growth upon which continued prosperity depends. We have encouraged the Saudi government to pursue deeper economic reforms, including restructuring of its inefficient public sector.

In the short term, however, government cutbacks and reductions in services have clearly affected the majority of Saudis. Tighter government budgets have reduce employment opportunities for young Saudis, frozen wages, and slowed the private sector, which has been heavily dependent on government contracts for its prosperity. This short-term economic downturn has colored popular perceptions of the government's financial management and sharpened the distinctions among the social groups. These economic strains have added to resentment over the advantages enjoyed by the very large Saudi royal family, particularly allegations that family members have traded on their positions and otherwise profited unethically in the society. While it is unclear what impact the activities of the Saudi royal family probably have on the Saudi economy, they will likely continue to engender resentment as long as the benefits of the society appear to be distributed unfairly.

The United States, of course, has an enormous stake in Saudi stability and economic development. Saudi Arabia is the largest trading partner of the U.S. in the Middle East and our fifteenth largest trading partner in the world. Saudi purchases of U.S. manufactured goods have played an important role in sustaining important sectors of the U.S. economy, such as airframes and the defense industrial base. Close cooperation between the U.S. and the Saudi Embassy here has paid off in our success in resolving nearly all of the longstanding commercial disputes which had complicated our strong economic relationship. Saudi adherence last year to the New York Convention on the arbitration of commercial disputes should prevent a repetition of these disputes in the future.

Although U.S. companies, with support from the U.S. government, have competed aggressively for Saudi sales, it is the Saudis alone who have defined their import priorities. Thus, it is misleading to suggest that U.S. companies are responsible for Saudi economic problems because they have won international competitions decided by the Saudis to provide major military and civilian items. Indeed, we believe that U.S. companies, as world leaders in both price and quality, have contributed to sound Saudi fiscal management by providing superior products at the lowest prices. Nevertheless, we are aware that the high profile of some U.S. commercial successes has generated criticism of the U.S. in sectors of Saudi society which believe incorrectly that the U.S. has pressed the Saudi government to make unwanted or unneeded purchases.

One major category of U.S. exports to Saudi Arabia has been in defense goods and services. This relationship reflects decades of close U.S.-Saudi security cooperation, including the major role that the U.S. military has played in working with and advising the Saudi military on its development. Saddam Hussein's occupation of Kuwait triggered a reevaluation in Saudi Arabia of the country's defense requirements and led to the decision to expand and modernize the Saudi armed forces significantly.

Purchases of U.S.-made equipment and services expanded substantially in the early 1990s but payments in recent years have been hampered by Saudi cash flow problems. U.S. officials have worked closely with their Saudi counterparts in the Ministry of Defense and Aviation since 1993 to restructure the Saudi program in order to reduce annual payments without cancelling procurement programs or diminishing operational readiness. Discussions for managing the SFY'95 program continue. Until such time as these issues are resolved, and Saudi ability to sustain current programs is sound, we and the Saudis have agreed that prudent financial management dictates that there not be purchases of major new military systems. We expect that any sales this year will be limited to support of ongoing programs. Payment levels for U.S. equipment will decline substantially beginning next year.

Negotiations to conclude the contracts for the purchase of Boeing and McDonnell Douglas airframes have been ongoing since the announcement of Saudi intentions. Those discussions are continuing. Administration support for the two U.S. companies remains very strong and we are in regular contact with company officials here and in Riyadh to coordinate our efforts to finalize the sale.

The U.S. Mission in Saudi Arabia maintains contact with a broad range of Saudis, both officials and private citizens. There are no limits on such contacts. On the basis of these, it is our view that the large majority of Saudis supports the leadership of the Al Saud. Even among those who are critical of elements of their leadership, we are not aware of significant sentiment in favor of changing the nature of the Saudi government or its leaders. The Committee for the Defense of Legitimate Rights (CDLR) is based in London although they keep in regular contact with the U.S. government through phone, and fax, and mail.

As a matter of principle, the U.S. government believes that societies are strengthened and are more stable if they are broad-based and permit popular participation in decision-making. This would include freedom of expression and peaceful assembly. We have encouraged the Government of Saudi Arabia to take steps toward democratization and we have welcomed its efforts, like the inauguration of the Majlis al-Shura, which might advance those objectives.

Despite some gains, there has been no effort to conceal the fact that the U.S. has serious concerns about the human rights situation in Saudi Arabia. As your letter notes, the State Department's annual report on human rights contains extensive discussion of these issues in Saudi Arabia and catalogs U.S. concerns, which include issues involving the rights of women and religious minorities as well as incidents of arbitrary arrest and mistreatment at the hands of the authorities.

Protection of the rights of U.S. citizens abroad is a matter of international dimensions with some aspects, like child custody cases, occupying particularly the attention of the Department and our posts overseas. In Saudi Arabia, we take any allegation of mistreatment of U.S. citizens seriously and investigate it thoroughly. As needed, we have aggressively raised these allegations to the highest levels of the Saudi government. Saudi authorities are committed to administer their society in accordance with their traditions, religion, and legal framework. This has on occasion led to differences between the U.S. and Saudi Arabia, particularly in regard to matters affecting dual nationals living and working in Saudi Arabia. But we believe that the U.S. Mission has been extremely effective in its role of providing American citizen services. Overall, the number of problems involving the tens of thousands of Americans who live and work in, or visit, Saudi Arabia each year has been few.

I hope you find this information helpful. If you would like to discuss these issues at greater length, we would be happy to arrange for appropriate officials to meet with you at your convenience.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

IN RECOGNITION OF CHARLES POSNER'S RETIREMENT AFTER 44 YEARS WITH THE HOUSING AUTHORITY OF BAYONNE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Mr. Charles Posner as he retires from his position as executive director of the Housing Authority of the city of Bayonne. He has proudly served the Housing Authority for 44 years, retiring recently on March 31, 1995.

Mr. Charles Posner was born and raised in Bayonne. He attended Bayonne High School and upon graduation he went to Rutgers University to receive a bachelor's degree in Business Administration and a master's degree in Public Administration. He has been married to his lovely wife the former Gertrude Landau for 46 years. They have two beautiful daughters, Ellen and Eva.

Mr. Charles Posner was appointed to serve as the tenant selection supervisor on March 15, 1951. He served diligently for 13 years in this post and on December 15, 1964 was appointed to serve as assistant executive director of the Housing Authority. He served with dedication, commitment and pride in all of his appointments. His hard work and determination made Mr. Charles Posner an outstanding leader among his fellow coworkers. His qualifications and outstanding work made him the best person to be appointed executive director of the Housing Authority on Dec. 3, 1983.

Mr. Charles Posner's dedication to his work has made the Housing Authority an excellent institution. The Housing Authority's outstanding service is due greatly to Mr. Charles Posner's leadership qualities and endless effort to create a better organization.

Few people understand the importance of low cost housing for the poor, elderly, and disadvantaged better than Mr. Charles Posner. Affordable housing for a poor family can be the beginning of a new life. Mr. Charles Posner is sensitive to the needs of those that are less fortunate. Public housing is more than just bricks and mortar, it is about creating a better community that will enable its people to prosper.

Mr. Charles Posner is truly an exceptional person and model citizen. In addition to his work with the Bayonne Housing Authority, Mr. Charles Posner also served in the Armed Forces of the United States of America in World War II. His valor and bravery is commendable. I am very proud to have had such an outstanding man work in my district. Please join me in honoring Mr. Charles Posner as he embarks on his retirement.

TRIBUTE TO MANUEL N. ORTIZ ARROYO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. TOWNS. Mr. Speaker, I want to commend Manuel Ortiz Arroyo for his personal vision, professional achievement, and unswerving dedication to his community. Professionally, Manuel works as a development consultant specializing in communications, area planning, real estate development, and venture capital formation. He is the executive director of the Carroll Gardens Associations, Inc. Neighborhood Preservation Corp., and has served in similar capacities in Manhattan.

Mr. Arroyo's academic background and training is impressive. He obtained a M.S. in community economic development, a M.S.W. in policy and planning, and a B.A. in politics from Old Westbury/SUNY. Manuel has also completed 39 credits toward a masters of urban planning.

Manuel Arroyo also recognizes the absolute need to empower people and communities, and has been involved in organizations such as the Progress/Puerto Rican Organization for Growth and Self Sufficiency, the Statewide Hispanic Housing Corp., the National Economic Development & Law Center, and the Neighborhood Preservation Coalition. I am honored to recognize Mr. Arroyo for his personal, professional, and community contributions to the great Borough of Brooklyn.

TRIBUTE TO LOU SEPERSKY

HON. JERROLD NADLER

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, May 2, 1995

Mr. NADLER. Mr. Speaker, on May 1, Community Board No. 6 of Manhattan honored Louis Sepersky, its immediate past chair. It is a fitting tribute to an outstanding New Yorker who has dedicated his life to service to, and advocacy for, his community at the grassroots level.

I have known Lou Sepersky for more than 30 years, and I am proud to call him a friend and to have worked with him as a colleague in the many challenges we shared. In addition to his serving as chair of Community Board No. 6, Lou's many positions of leadership at the local and national level include service as a district leader on Manhattan's East Side and as New York City chapter president of Americans for Democratic Action.

Mr. Speaker, too often we forget that this Nation was built through the achievements of citizens who exhibited uncommon character, determination, and ability to bring about change for the betterment of their fellow citizens. Lou Sepersky is one such outstanding citizen.

It is most fitting that Community Board No. 6 should honor Lou Sepersky, and that we honor him and Americans like him, who care enough to make a difference.

RECOGNIZING JOHN LINDL AND MICHAEL CAMBELL

HON. BILL BAKER

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, May 2, 1995

Mr. BAKER of California. Mr. Speaker, for decades, Lawrence Livermore National Laboratory [LLNL] has made a decisive contribution to America's technological leadership. Our national security has been enhanced and our energy future made more promising because of the lab's remarkable efforts.

Recently two of LLNL's most outstanding scientists, John Lindl and Michael Campbell, have been selected to receive the Department of Energy's prestigious E.O. Lawrence Award for their work in inertial confinement fusion. John Lindl is from my home town of Danville, while Michael Campbell hails from Livermore, also in the 10th Congressional District I am honored to represent.

The Lindl-Campbell research may eventually lead to creation of a miniature star in the laboratory, and help in the development of fusion energy. Their research also may well lead to gains in nuclear nonproliferation efforts and in the monitoring of America's nuclear weapons stockpiles.

The E.O. Lawrence Award is given for work in eight categories; Lindl and Campbell's was for work in the national security arena. I am pleased to recognize the superb work these scientists are doing on behalf of our security and our energy future, and would emphasize that the Lawrence Award once again proves the value of our national laboratories to our country.

TRIBUTE TO THE CATHOLIC WAR VETERANS OF THE USA

HON. PAUL E. GILLMOR

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, May 2, 1995

Mr. GILLMOR. Mr. Speaker, it gives my great pleasure to rise today and pay tribute to an outstanding veterans organization. This year the Department of Ohio, Catholic War Veterans of the USA will hold their 50th anniversary convention May 5–7, in Sandusky, OH.

The city of Sandusky is a community renowned for its civic pride and commitment to service. It is an appropriate host to this most special of guests, the Catholic War Veterans. As a veteran myself, I am aware of the exemplary service rendered by groups such as the CWV. Throughout its history there has never been a lack of enthusiasm or volunteer labor for its many projects.

Several years ago, I was honored to be chosen Outstanding Legislator of the Year by the Department of Ohio, Catholic War Veterans. It is one of the most cherished honors I have received in my years of public service.

Anniversaries are a time to reflect upon past accomplishments. They are also a time to look toward new horizons. The Catholic War Veterans have made it their responsibility to serve those in need by keeping pace with the ever increasing challenges facing mankind.

It is obvious that the people of Ohio and our Nation as a whole have greatly benefited from the effort that was started in 1945. I ask my colleagues to join me today in recognizing the achievements of the Department of Ohio, Catholic War Veterans and encourage them to continue to build upon their proud tradition of service in Ohio.

CITIZENS OF THE YEAR

HON. MICHAEL P. FORBES

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, May 2, 1995

Mr. FORBES. Mr. Speaker, I would like to take this opportunity to honor a few very important people from eastern Long Island. Mike Leonardi, Rita Rech, Terri Germano, and Paul Casiano will all be honored on Friday May 5, 1995 for their exemplary service to the community by receiving the Bay Area Civic Association's Third Annual Citizen of the Year Award. Each of these individuals has distinguished themselves in the community in his or her own way. Mike Leonardi is not only the Mastic Beach fire commissioner, but an assistant to the Brookhaven Town Council. Rita Rech is an active member of both the Bay Area Civic Association and the Mastic Park Civic Association. She embodies the true volunteer spirit in all of her activities. Beyond her service to eastern Long Island as a library employee, Terri Germano has dedicated time to the coordination of events for the Smith Point Beach Youth Project. Paul Casiano, as principal of Moriches Elementary School, has led them to become a National School of Excellence. Throughout his career, Paul Casiano has been an important link between his students and the community participating in both community and district activities. I would like to commend these dedicated members of the Long Island community for their service and dedication. We are proud and lucky to have them as neighbors.

TRIBUTE TO LAW ENFORCEMENT OFFICERS NATIONWIDE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, May 2, 1995

Mr. CLINGER. Mr. Speaker, I rise today to pay tribute to the law enforcement officers who serve and protect our communities in Pennsylvania and across the Nation.

It is appropriate today to recognize these brave men and women, especially those in the Keystone State, because today is the 90th anniversary of the Pennsylvania State Police. The first police organization of its kind, the Pennsylvania State Police was born of legislation that was signed into law by Governor Samuel W. Pennypacker on May 2, 1905.

In speaking with many of my colleagues in the House, I know that the Pennsylvania State Police enjoy an excellent reputation throughout the country—especially for their vigilance in maintaining safe highway travel. I have even had a few staffers who, in their enthusiasm to arrive at events in the Fifth Congressional District on time, have come to fully appreciate the keenness of their watchful eyes.

But while ensuring safe going for motorists is one of our police officers' most commonly known duties, it only scratches the surface of their tremendous breadth of responsibility. In northwestern and northcentral Pennsylvania, we are appreciative of and committed to the rural way of life. By maintaining safe streets and peaceful neighborhoods, our State and local officers of the law contribute invaluably to the preservation of our heritage.

On this special day, I rise to honor those who serve, those who have served, and those who have given their lives to protect our families, neighborhoods and friends. They are deserving of our most sincere thanks, and I am pleased to have this opportunity to recognize them here today.

IN MEMORY OF PAUL MARUYAMA

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. GEPHARDT. Mr. Speaker, I rise today to honor the memory of a man who was a true American—a man who truly believed in and lived the ideals of this country—his name was Paul Maruyama.

He came to the United States from Japan in 1934 to complete his education. Shortly after the start of World War II he and his wife Mary were given 48 hours to sell their possessions and report for internment in a camp—they were both American citizens. During relocation after the war, Paul and his family settled in St. Louis.

Paul spent the rest of his life in St. Louis working to make our community a better place to live. He became an importer of Japanese products and a consultant for Japanese and American companies who desired to do business in each other's country. He was given the title of "Goodwill Ambassador" for his work in promoting friendship and mutual understanding between Japan and his adopted country.

The list of his civic accomplishments is too long to enumerate but include: the founding of the Japan-American Society of St. Louis, serving is the honorary Consul-General of Japan, establishing the St. Louis Chapter of the Japanese-American Citizens League, conducting citizenship classes for Japanese who wanted to become citizens, and the establishment of the Sister Cities Program between Suwa City, Japan and St. Louis.

Paul's legacy is faith—faith in the values and ideals of this country. He never let his mistreatment during the war affect his attitude. He always believed this was the greatest nation in the world and loved and supported his adopted country every day. The St. Louis community has lost a good friend in Paul Maruyama—the United States of America has lost a true patriot.

TRIBUTE TO LEROY F. SMITH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. TOWNS. Mr. Speaker, I would like to acknowledge the contributions of Leroy F. Smith, a man who has contributed greatly to the community of Brooklyn, NY. Mr. Smith is a graduate of the New York public school system. He attended Boys High School in Brooklyn, and received a B.B.A. from Brooklyn College and his M.B.A. from the University of South Carolina.

Leroy has combined his academic training with community activism and professional experience to make meaningful contributions to my congressional district and greater Brooklyn.

Mr. Smith works tirelessly. Currently he serves as the president of a Bedford Stuyvesant tenant association, in addition to being the president of the Williamsburg-Throop-Marcus Garvey Blvd. Block Association. He is also a member of the 79th Precinct Community Council and the Willoughby Square Corporation. His past endeavors included service on the board of directors for the Bedford Stuyvesant Community Legal Services Corporation, and he is past president of various PTA organizations at Satellite East J.H.S., O.S. 44, and J.H.S. 258. Additionally, Mr. Smith served as a legislative aide to Assemblyman William F. Boyland, and he was one of 13 members of the Brooklyn Congress of Racial Equality [CORE] who walked 250 miles to attend the 1973 March on Washington.

I am pleased to introduce Leroy Smith to my House colleagues and to congratulate him for his valuable service to the community.

ARON S. EGNER WINS AMERICAN LEGION HIGH SCHOOL ORATORICAL CONTEST

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. SOLOMON. Mr. Speaker, the American Legion High School Oratorical Contest was established in 1938 with the purpose of helping high school students develop a deeper understanding of the U.S. Constitution. In the last 37 years, no student from New York State has won the competition. That is, until this year, when Aron S. Egner of Ballston Lake, NY, delivered the prize-winning speech, thus earning an $18,000 college scholarship.

Each year, the American Legion awards a total of $138,000 in scholarship prizes across the country in oratorical contests. Through these efforts, the American Legion accomplishes a twofold goal. First, through the preparation of delivery of their speeches, the participants develop extensive knowledge of such important topics as the U.S. Constitution and also hone their public speaking skills. Second, the prize money earned by the winners facilitates their obtaining a college education, and thus becoming contributive members of society. With his oratorical excellence, Aron S. Egner has proven that he is already well on his way to realizing the hopes held for him by the American Legion.

Aron is a senior at Schenendehowa High School in Clifton Park, NY. He participated in other American Legion programs during the year, becoming Governor of New York in the Boys State Program and the Attorney General in Boys Nation. In the Oratorical Competition, Aron's speech, entitled "Choosing Democracy," was judged best among those delivered by approximately 30,000 students from across the Nation. The speech eloquently and lucidly discusses the American citizen's privilege and obligation to vote in elections.

Mr. Speaker, Aron has already been recognized for his achievements by the American Legion. I ask that you and all Members join me as I submit Aron Egner's prize-winning speech to the RECORD and extend to him my heartiest congratulations on this impressive achievement, as well as best wishes in all of his future endeavors. I know we'll be hearing great things from this young man for many years to come.

AMERICAN LEGION SPEECH AND ORATORICAL CONTEST—1994

CHOOSING DEMOCRACY

(By Aron Egner)

Most of us don't appreciate what we have—until we lose it.

We take our health for granted—until we become ill or injured.

We count on a steady family income—until a family member is laid off.

We just assume electricity will always be available—until that storm knocks out power to our homes.

Too many Americans today also take our nation's Constitution for granted. What, they wonder, does a document written over 200 years ago—by a bunch of guys in powdered wigs—have to do with life in the 1990s?

The answer: everything.

Just as electricity powers everything in our homes: our T.V.'s, stereos, lights, and appliances, the Constitution is the engine that powers the American way of life.

The Constitution makes America: America. A free nation that operates under majority rule while preserving minority rights. A nation where the rule of law reigns supreme. A nation where you can criticize the government—and not go to jail or face a firing squad. Where you can worship or not worship God in any way you choose. Where government is the servant of the people—and not the other way around.

In the world of 1787—a world ruled by kings, queens emperors and czars—those Founding Fathers in powdered wigs came up with a new way of selecting leaders: elections.

They did this because they believed in the revolutionary statement at the heart of the Declaration of Independence: "* * * Governments are instituted among Men, deriving their just powers from the consent of the governed."

Of all the rights guaranteed in the Constitution, none is more important than the right to vote for our leaders. It is this right that is the foundation for all our other liberties.

Voting makes us the masters of our fate, giving us the ability to bring leaders to power, or force them out of office.

It sends a strong, clear message to everyone who desires to govern us: that we, the people, are the true rulers. We can elect you or we can defeat you. You must respond to our needs and govern us well, or you will not remain in power.

Back in 1787, no other nation on earth was governed this way. But from that point on, the U.S. Constitution became the inspiration for all people who wanted to live in freedom.

Today, democracy—inspired by the U.S. Constitution—is on the rise around the world.

The Communism of the Soviet Union, fashioned by Lenin and Stalin, has been replaced by fledgling democracies. Democracy has also supplanted dictatorships in Eastern Europe. And after finally winning the vote, the black majority in South Africa has elected Nelson Mandela.

But ironically, as we see news programs and newspapers filled with stories of the triumph of democracy around the globe, many of our own citizens aren't exercising their right to vote.

The Committee for the Study of the American Electorate found that in the 1992 elections, only 55 percent of eligible voters cast ballots.

Even more troubling, only 37 percent of American citizens between the ages of 18 and 24 voted.

President Franklin Delano Roosevelt, who led the American people in a world war to preserve democracy, told the people of our nation in a 1944 radio address: "Nobody will ever deprive the American people of the right to vote, except the American people themselves—and the only way they could do that is by not voting."

Democracy is not a spectator sport. The right to vote is useless if we don't take advantage of it.

Throughout history, Americans have worked, and fought, and died to preserve and expand their right to vote.

Originally, the Constitution gave states broad discretion in deciding who could vote. African-Americans were excluded from democracy's promise. Women were also denied the vote. And states imposed poll taxes and set other qualifications to keep even some white men out of the voting booth.

After the long, bloody struggle of the Civil War nearly tore our nation apart, the 13th Amendment to the Constitution abolished slavery. The 14th and 15th Amendments gave blacks citizenship and the right to vote, and the 24th Amendment—not ratified until 1964—outlawed disqualifying voters for failing to pay poll taxes or other taxes.

In 1965, President Lyndon Johnson signed the Voting Rights Act into law, helping to ensure that black Americans could exercise their Constitutional right to vote. He said at the time: "The vote is the most powerful instrument ever devised by man for breaking down injustice."

Women protested and demonstrated for years before the 19th Amendment to the Constitution was ratified in 1920, finally awarding them suffrage.

And in 1971, a long campaign by young people and their allies resulted in the ratification of the 26th Amendment, lowering the voting age from 21 to 18.

None of these amendments was achieved easily.

But they are given up easily—each and every time an American fails to vote.

Some people ask: Why is voting so important? When millions of ballots are cast, who's going to miss mine?

The answer is that citizenship in the United States imposes responsibilities as well as rights. And the ultimate responsibility we have is to preserve our rights. Not all of us can serve in the armed forces, run for public office, or work in government. But all of us—from age 18 on—have a responsibility to vote, to safeguard our liberty and the liberty of generations unborn. When you think of all the brave American soldiers who gave their lives to preserve our democratic way of life, it's hard to consider standing in line at the voting booth much of a sacrifice.

Other people say all the candidates are worthless; a bunch of crooked, useless politicians.

But that's a poor excuse. Life is filled with choices: what meal to eat, what college or trade school to go to, what career to pursue, even what car to buy. Seldom—if ever—is one of these choices the embodiment of sheer perfection. We choose, nevertheless, from the available alternatives. We use our judgment to decide which choice is best—or at least, the lesser of two evils.

Those who fail to vote have no right to complain about the failings of our government, because they have failed in the most elemental duty of citizenship. They are turning their backs on freedom.

Each of us has an obligation to vote, and society's institutions—the media, our government and our schools—need to do a better job of hammering home that message.

The media need to show us the good side of politics and government, and not just the bad. They must help us recapture the idealism that swept the nation when John F. Kennedy was president. Too often today, we instead view government as the corrupt conspiracy depicted in Oliver Stone's fictional "JFK."

Government must make voting easier. It should allow same-day registration of voters. It should make it possible for more people to vote by absentee ballot. Elections could be held over several days, to give more people time to go to the polls and reduce long lines. In addition, government should establish public financing of campaigns to reduce the influence of big money special interests.

Our schools need to bring social studies classes alive, by emphasizing student participation and involving young people in the study of current events. Students should hold mock election campaigns and stage debates. They should conduct mock Congressional and legislative sessions, like those held by the Boys and Girls State and Nation programs. Students should be encouraged not just to study yesterday's history, although that is important, but to make tomorrow's history by voting, learning about, and participating 1st hand in the political process. These are the lessons we should, we need, to teach.

Today, our power to elect our leaders is as important as it was when those guys in powdered wigs created our Constitution more than 200 years ago.

The message of the Constitution is timeless: vote as if your entire way of life depended on it. Why? Because it does.

HONORING MS. BARBARA SEAMAN

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to a woman who has saved lives and changed lives—Barbara Seaman.

Best known for her ground-breaking exposé of the health risks associated with the pill, "The Doctors' Case Against the Pill," Barbara Seaman changed the way women view medicine, and forced the medical establishment to begin changing the way many medical professionals view women who are their patients. When thousands of women taking the then-newly available pill began to experience serious side effects—some deadly—it was Barbara Seaman who told them why. A 1970 Gallup poll found that two-thirds of women taking the pill had not been warned of related risks by their physicians. Barbara Seaman changed that. Her book spurred the now-famous Gaylord Nelson Senate hearings which led to the requirement that inserts warning of potential side effects must be included in each pill package.

At last, women could begin to make informed decisions as to their method of birth control. We cannot quantify how many lives Barbara Seaman saved through her activism, or how many lives she changed.

Barbara Seaman exposed the risks associated with the pill at great personal expense. Although prior to the publication of "The Doctors' Case Against the Pill," Barbara Seaman had already become a well-respected columnist, Ms. Seaman was effectively blacklisted. Advertisers displeased with Ms. Seaman's activism used their influence to convince publishers not to print anything she had written.

But Barbara Seaman continued to be an advocate for women's health concerns, and went on to write additional books and to become one of the founders of the National Women's Health Network. Barbara Seaman remains a strong voice for women's health.

April 27 marked the 25th anniversary of the drafting of the historic letter sent to Ms. Seaman from then-Secretary of Health, Education, and Welfare Robert Finch, which cited Ms. Seaman's book as: "a major factor in our strengthening the language in the final warning published in the Federal Register to be included in each package of the pill."

Today, I salute Barbara Seaman as a national role model. Her work has saved the lives of countless women—not only those who were taking the pill without being informed of the risks, but all women whose health care professionals have been held to a higher standard because of Ms. Seaman's work. She began a movement that is still growing, and, today, I urge my colleagues to join me in recognizing Barbara Seaman's extraordinary accomplishments.

INTRODUCTION OF COMMUTER AIRPORT SAFETY BILL

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. OBERSTAR. Mr. Speaker, today I am introducing legislation, submitted by the administration, to give authority to the Federal Aviation Administration to regulate airports served by commuter airlines.

The legislation is part of the FAA's program to ensure that passengers traveling on commuter airlines—operating with aircraft of 30 seats or less—receive the same safety protection as passengers traveling on airlines operating large aircraft. The administration began this program after hearings by the House Aviation Subcommittee in February 1994, the need for a uniform standard for commuter airlines and large aircraft operators. I strongly support a uniform standard and have introduced legislation in the 103d and 104th Congresses to require FAA to establish this standard. I am pleased that FAA has responded by issuing a Notice of Proposed Rule Making to raise the commuter standards to the large aircraft level. We will monitor FAA's progress on the rulemaking and ensure that they do everything possible to meet their target of issuing final regulations by December of this year.

As commuter airlines have grown in importance the traveling public has come to expect that these airlines will be governed by the same safety standards as large aircraft operators. Approximately 10 percent of all passengers traveling on a scheduled airline now travel on a commuter. Since many commuters operate under the name and colors of major airlines—for example, as United Express—the public has the right to assume that the same standards will govern the commuter and its parent.

While FAA can act without legislative authority to raise most of the standards governing commuters, FAA has no authority under existing law to raise the standards governing safety at airports served only by commuters.

Under 49 U.S.C. section 44706, FAA has authority to issue operating certificates to airports served by air carriers using aircraft designed to carry 31 or more passengers. Under this authority FAA requires these airports to comply with a number of safety requirements, including requirements for aircraft rescue and firefighting equipment, airport guidance signs, airfield inspection procedures, airfield pavement maintenance standards, emergency plans, snow and ice control plans, and runway and taxiway standards. However, under existing law, FAA has no authority to impose these regulatory requirements on airports served only by aircraft of 30 or fewer seats.

The National Transportation Safety Board has recommended that legislation be enacted to give FAA authority to regulate airports served by commuter airlines. In making this recommendation NTSB stated that it was:

> * * * concerned that many community airports served by commuter airlines are not certificated in accordance with Part 139 because of the seating capacity of the aircraft serving those airports. Consequently, passengers flying into and out of those airports may not be provided adequate airport safety or emergency response resources.

The administration bill which I have introduced implements the NTSB recommendation. I have introduced this bill because I strongly believe that passengers traveling on commuter airlines are entitled to the same level of safety as passengers traveling on major airlines. However, I emphasize that the legislation does not require FAA to impose exactly the same standards for all types of airports. There may well be cases in which small aircraft do not present the same safety hazard as large aircraft, and the law gives FAA discretion to tailor its regulatory requirements to the hazard. FAA has similar discretionary authority under existing law, and has used this authority to impose requirements which vary with the size of aircraft and the number of aircraft serving an airport. FAA has stated that if it is given the authority over commuter airports, it will consider fully whether different requirements are appropriate for these airports. FAA has asked its Aviation Rulemaking Advisory Committee to study the problem and to make recommendations on the appropriate standards for commuter airports. I urge ARAC to complete its assignment promptly, so that FAA will be in a position to issue new regulations soon after it receives the necessary legislative authority.

IN HONOR OF WILLIAM R. DYSON

HON. ROSA L. DeLAURO

OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Tuesday, May 2, 1995

Ms. DELAURO. Mr. Speaker, in New Haven, CT, on April 27, 1995, the Amistad Committee will honor my good friend, and long-time Connecticut State Representative, William Riley Dyson. I am pleased to have this opportunity to join the Amistad Committee in honoring this extraordinary legislator and community activist.

The Amistad Committee is devoted to commemorating the remarkable events surrounding the Amistad Revolt and furthering the struggle for social justice and equality. The Amistad Revolt began in 1839 when captives from Sierra Leone seized the merchant ship *La Amistad* and ordered their kidnappers to return to Africa. When the slavers instead sailed toward the United States, the *Amistad* was taken into custody in the Long Island Sound. The rebels were held in the New Haven jail while they defended their civil rights in court. Anti-slavery advocates across the country rallied to the Africans' cause, and after 2 years, the U.S. Supreme Court upheld a decision that freed them and allowed them to return home.

The Amistad controversy galvanized opposition to the injustices of slavery. The incident deeply affected countless Americans, both black and white, who hailed the captives' courageous assertion of their human rights. This important event in American history has inspired generations of people in New Haven, and throughout our Nation, to follow the example of these Africans. State Representative William Riley Dyson is a person who exemplifies this commitment to the cause for peace and social justice.

Bill Dyson symbolizes the strength, vitality, and tremendous activism of the African-American community. From the time he was Director of the Newhallville Neighborhood Corporation and a New Haven Alderman, to his efforts to protest South African Apartheid, Bill Dyson has been a principled and outspoken advocate for the rights of all peoples. I was proud to join with Bill Dyson, and many others, as we welcomed Nelson Mandela at the White House during his historic visit to Washington.

While Bill remains committed to social justice throughout the world, his home district of New Haven will always be his highest priority. From his work in the State Legislature, where he is a member of the Appropriations, Education, Legislative, and Human Services committees, to his numerous civic commitments, such as the 1995 Special Olympics World Games and the Connecticut Food Bank, Bill Dyson continues to work tirelessly for the people of his community.

As the Amistad Committee honors Bill Dyson, I would like to take this opportunity to congratulate him, and to express my deep appreciation for all he has done. He has a special place in the hearts of all of us whom he has touched and enriched through his leadership and extraordinary activism. Bill Dyson is well-deserving of this honor, and I commend him for his many years of service.

TRIBUTE TO COL. WALTER J. MARM, JR., USA (RET.)

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, May 2, 1995

Mr. GREENWOOD. Mr. Speaker, today I rise to pay tribute to an outstanding military leader from the Eighth District of Pennsylvania upon his retirement from the U.S. Army.

Colonel Joe Marm retired yesterday as the Senior Army Advisor to the 79th Army Reserve Command Headquarters stationed at Naval Air Station Joint Reserve Base, Willow Grove, after more than 30 years of service through leadership to our country.

Joe Marm first led men as a platoon leader with the First Cavalry in Vietnam, he taught at West Point, served as a legislative liaison under the Secretary of the Army and just prior to his most recent assignment, was the Chief of Staff of the 157th Separate Infantry Brigade.

He has been awarded a chest full of medals, including the Bronze Star, Purple Heart, Meritorious Service Medal, Air Medal, and Army Commendation Medal. But it was 30 years ago this fall that he earned the medal worn above all others. As a young lieutenant in the vicinity of the Ia Drang Valley of Vietnam, Joe placed his life before those of his fellow soldiers and earned the Congressional Medal of Honor.

While enroute to assist another unit surrounded by enemy troops on that November day in 1965, Joe's platoon was forced to take cover. Seeing that his men were under intense fire, Joe broke away from the group and brought down four attackers. He then realized that a concealed enemy machinegun was raining fire on his platoon. In order to locate this weapon, he deliberately exposed himself to its bullets and launched an anti-tank missile in its direction. As the gun continued to fire, he charged the position, hurling grenades and then finally, although severely wounded, he finished the assault armed with only his rifle.

Fellow platoon leader, Lt. Dennis Deal, recalled in Lt. General Harold G. Moore's best-seller, We Were Soldiers Once . . . And Young, that "Joe Marm saved my life that day and the lives of many others." The official certificate commended his "gallantry on the battlefield and his extraordinary intrepidity at the risk of his life," praising his actions as being "in the highest traditions of the U.S. Army and reflecting great credit upon himself and the Armed Forces of this country."

It was later confirmed that in silencing the machinegun, Joe singlehandedly killed a North Vietnamese officer and 11 soldiers. Joe Marm was the only man to receive the Medal of Honor, America's highest decoration for valor, in the Ia Drang Valley campaign.

Sadly for us, the Marms will be moving on this summer, leaving Pennsylvania after 9 years of service to pursue other interests in North Carolina. From his wife Deborah's efforts to both the business and military communities as the past executive director of the Horsham Chamber of Commerce, to Joe's service to the Horsham community and the Army family in and around NAS Willow Grove, their move is our loss.

But the Marm name will live on in the ranks of our Army.

Joe Marm's youngest son, Will, plans to take the Army's oath of allegiance this summer as a member of West Point's entering Class of 1999—continuing the devoted Marm family service to the defense of our Nation.

SALUTE TO ABRAHAM H. HOCHBERG ON THE OCCASION OF HIS 90TH BIRTHDAY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mrs. MORELLA. Mr. Speaker, I rise today to salute a very special constituent, Abraham H. Hochberg, who will celebrate his 90th birthday this weekend.

Mr. Hochberg was born on May 9, 1905, in Biala-Podlaska, Poland, which is near the Russian border. As they grew up, his children heard many of his stories about his own childhood, about the terrible years of World War I, and about his apprenticeship as a watchmaker.

By the time he was 18, he realized, like so many others, that his future would not be in the Old World but in the New, and he made plans to come to the United States. But in 1923, because of restrictive immigration laws, his first stop was not to be the shores of America but Cuba, even though he spoke not a word of Spanish. And it was to Havana that, 5 years later, Freida Faijgenbaum of Biala-Podlaska sailed for a reunion with, and her marriage to, Mr. Hochberg.

In 1933, the Hochberg's were finally able to leave for America and, despite not being able to speak a word of English, settled here in the Nation's Capital and later in Chevy Chase, MD. Over the years, Mr. Hochberg became a successful businessman with several enterprises. Many longtime Washingtonians will remember Hochberg's Jewelers at 7th and E Streets NW., which served Washington families and visitors alike until the sixties.

But business has been only a part of Mr. Hochberg's life. His family and the community in which he lives have been important in this man's long and well-lived life. As the father of 3, the grandfather of 11, and the great-grandfather of 12, he has known the great joys and pleasures of family life. And he has known great sorrow. Many of his relatives in Poland perished in the Holocaust. Mrs. Hochberg passed away last year.

Throughout his life, he has been devoted to improving the lives of those around him through his generosity and wise counsel. He has always been a practitioner of what we today call community service. He has been particularly involved in the affairs of Homecrest House and the Hebrew Home, residences for the elderly in my district. He has just celebrated his 50th anniversary as a member of the Benjamin Franklin Masonic Lodge.

Mr. Hochberg's story, a story of a life well lived, is the proverbial American success story: a man who came to this country with few possessions but many hopes and dreams, who worked long and hard, and who happily shared his talents and success with his family, friends, and neighbors. Today, Mr. Hochberg's life is reflected in the lives of the thousands of people from all over the world who still come to the United States with their hopes and dreams and little else. And I know that must make him smile.

Mr. Speaker, I hope you will join me in congratulating Abraham H. Hochberg on the occasion of his 90th birthday celebration.

SCOTT MacHARDY AND MARK LANE: 1995 SBA NATIONAL YOUNG ENTREPRENEURS OF THE YEAR

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. ZELIFF. Mr. Speaker, it is my pleasure today to rise and recognize two of my constituents, Scott MacHardy of Rye Beach, and Mark Lane, of Candia, N.H. They have been named the 1995 SBA Young Entrepreneurs of the Year—for New Hampshire, New England and the entire country.

These two young men cofounded their company, Coed Sportswear, Inc., 5 years ago with $15,000. Each was only 23 years old.

Today, Coed Sportswear employs 50 people. In 1994, the company sold 26 million dollars' worth of merchandise worldwide, an incredible 250 percent over 1993.

Although Coed Sportswear represents a financial success story, its accomplishments are beyond profits. The growth of this small business illustrates that the entrepreneurial spirit in America is alive and well.

Mr. MacHardy and Mr. Lane are role models to the young people in our country. They are hard-working, honest businessmen who have created jobs in their communities. They started with a good, well-researched idea. Then they added a positive work ethic and the determination to see it through.

As a small businessman myself, and chairman of the Small Business Survival Caucus, I offer my sincere congratulations on a job well done. I wish Mark, Scott, and Coed Sportswear all the best in the coming years.

WATER RIGHTS ARE PROPERTY RIGHTS

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. RADANOVICH. Mr. Speaker, on March 3, this House approved the Private Property Rights Act. The purpose of the legislation is to reaffirm clearly that the Federal Government cannot take or diminish the value of private property without paying just compensation.

Since March 3, opponents of private property rights have sought to discredit the legislation by claiming that it is intended to protect water subsidies. That is totally false.

The Private Property Rights Act would allow a farmer to seek compensation if he is denied the use of part of his farm because of Federal wetlands or endangered species laws. The act would provide exactly the same protection to a farmer who loses the use of part of his property because his water supply is reduced or eliminated by Federal environmental regulation. The compensation would be based on the economic loss resulting from the decreased productive capacity of his or her farm. It would not be based on the price of the water.

Unfortunately, the false perceptions regarding the water rights provisions of the Private Property Rights Act have been given undeserved credence by recent articles in the Wall Street Journal. I have written to the editor of this newspaper to point out the errors. Mr. Speaker, I ask that a copy of my letter to the editor of the Wall Street Journal be printed in the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 14, 1995.

Mr. ROBERT L. BARTLEY,
Editor, The Wall Street Journal, New York, NY.

DEAR EDITOR: As a conservative Republican Member of Congress, I take strong exception to Mr. David Frum's March 13 column "The GOP's 'Takings' Sell Out."

Mr. Frum takes the Republican majority in the House to task for allegedly opting to "break with its free-market convictions" by including water rights provisions in the Private Property Rights Act, which passed the House on March 3.

Mr. Frum completely misstates both the intent and effect of the Private Property Rights Act when he asserts that it "requires the federal government to compensate Western Farmers and miners should it ever be tempted to ask them to pay the market price for water they take from federal irrigation projects."

The provision has nothing to do with the price of water.

Mr. Frum is absolutely correct that "the removal of a subsidy is not an abridgment of a property right." The Private Property Rights Act does not protect water subsidies. What it does do is allow landowners to be compensated for economic loss when their "right to use or receive water" is abridged by the federal government.

The water provisions of the legislation are specifically intended to ensure that Western farmers can apply for compensation when the value of their property is significantly diminished by a federal action that denies them the water that they are entitled to receive (with or without a subsidy) under state law or a binding contract with the federal government.

Farmland in the arid West isn't worth much without water. When a farmer's water supply is reduced or eliminated, the productive capacity—the value—of his or her property is reduced or eliminated. Throughout the West, the Endangered Species Act and more recent water project "reform" laws are being used by federal bureaucrats to deny water to agriculture. This is particularly true in my state of California.

The Republican majority in Congress is not abandoning its free-market convictions in the water policy arena. In fact, many of us believe that the federal government should get out of the water delivery business altogether by selling or transferring its water projects to local public agencies.

We would welcome Mr. Frum's thoughts on that endeavor, provided he gets his facts straight first.

Respectfully,

GEORGE P. RADANOVICH,
Member of Congress (R-CA-19th).

TRIBUTE TO HAZEL A. YOUNGER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. TOWNS. Mr. Speaker, I am pleased to recognize Hazel A. Younger, a native New

Yorker. She was born in Coney Island Hospital.

Hazel is particularly close to her family and feels that her strength comes from her Lord, and the encouragement offered by her mother, Mrs. Ella Garner, and her three sisters, Friedna, Edna, and Connie. Hazel is also the very proud mother of one son, Travis.

Hazel began her education with the goal of being a lawyer. However, midway during her studies, she developed a fascination with numbers and accounting became her career.

Presently, retired, Hazel serves as president of the board of directors of the cooperative in which she lives, P.E. Gorman Houses. She is a member of the Brookdale Hospital Ambulatory Care Services Community Advisory Board and Community Board 16. Hazel is also co-chairperson of Concerned Citizens of the 58th assembly district.

Because of her experience and eloquence, Hazel is often asked to speake at churches, community meetings, and A.A.R.P. chapters. She is known to be an articulate representative of the community, with direct access to local elected officials. I am pleased to commend Ms. Younger to the attention of my colleagues.

TRIBUTE TO RONALD E. HALL

HON. STEVE LARGENT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. LARGENT. Mr. Speaker, I rise today to pay tribute to my friend, Ron Hall, who retired in April of this year as president and chief executive officer of CITGO Petroleum Corp. Ron has been president and CEO of CITGO for the last 10 years and retires with the respect and esteem of all who have known him.

A native of Illinois, Ron received a B.S. from Bradley University, and an MBA from Columbia University. Southern Illinois University's College of Business and Administration awarded its first doctor of commercial science honorary degree to Ron in May 1988. Additionally, Ron is a member of the Bradley university Board of Trustees as well as a member of the University's College of Business Administration's National Council of Advisors.

In addition to Ron's professional and educational accomplishments, he always found time and energy to take part in civic and charitable activities in Tulsa, OK, such as serving as director of the Gilgrease Museum Association and of St. Francis Hospital, advisory director of the Tulsa Ballet Theatre and as a director of the Metropolitan Chamber of Commerce.

During Ron's tenure as president and CEO, CITGO has become a recognized leader in environmental stewardship, and through its corporate sponsorship of the Muscular Dystrophy Association, the lives of millions of people have been made better. CITGO is truly helping to make a difference in such areas as Tulsa, Corpus Christi, and Lake Charles with its active participation in the Adopt-a-School and Partners in Education programs.

CITGO may be losing a president and CEO but his lovely wife Jean will be gaining a ranch foreman down in Brenham, TX. I'm sure Ron will be looking forward to spending more time with Jean and their grandchildren. There's no doubt that once he has had his fill of bird hunting and fly fishing, we will see him involved with the community in some capacity. I do not believe a person of his energy and public spirit can stay away.

A SALUTE TO ANDY GUEST

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. WOLF. Mr. Speaker, on April 25, 1995, in beautiful Warren County, Virginia, near the town of Front Royal, a group of Virginia's leaders headed by Governor George F. Allen gathered to dedicate a new State park in honor of House of Delegate member Raymond R. Guest, Jr.

"Andy" Guest attended the dedication in his honor at the park which will provide several miles of riverfront recreational area along the Shenandoah River. Having just won a 2-year battle over cancer and poised to return for another term to the General Assembly where he has served since 1973, Andy was cited for his hard work and many years of leadership on behalf of Virginia State parks and recreational activities.

Andy Guest has done so much to preserve this region which is the core of Civil War battlefields and the very heart of American history. When he is not in Richmond representing the people of Virginia's 15th House of Delegates district, Andy continues to live on his family farm near the banks of the famous Shenandoah River where he grew up. Nothing could be more appropriate and no recognition could be more deserved than to name a beautiful piece of Virginia along the serene but majestic Shenandoah River after one of Virginia's own first citizens: Raymond R. "Andy" Guest.

I join Governor Allen and all of Virginia in saluting Andy.

TRIBUTE TO RAY OJEDA

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Ray Ojeda, a good friend and the outgoing mayor of San Fernando. Under Ray's intelligent and firm leadership, San Fernando has strengthened its ties to the local business community, paving the way for better economic times in the city.

Ray also took charge in the aftermath of the Northridge earthquake, which destroyed or damaged many buildings in San Fernando. The mayor provided a steady hand, and worked hard to get San Fernando its fair share of State and Federal assistance.

A resident of San Fernando for 18 years, Ray epitomizes the definition of public servant. Prior to his election to the City Council in 1992, Ray served as a planning commissioner and as a member of the Kiwanis Club. In his public role he has always emphasized the importance of community pride, a message that has particular application in San Fernando, where a few years ago gangs and graffiti were all too common. The recent turnaround is a testimony to Ray's efforts.

With two children and several grandchildren, along with a passion for golf and hunting, Ray leads an active life outside politics. In addition, Ray is the owner of Ray's Window Coverings in San Fernando.

Mr. Speaker, I ask my colleagues to join me in saluting Ray Ojeda, businessman/politician/father/grandfather, who has worked tirelessly on behalf of San Fernando. The residents are indeed lucky to have had him as mayor, and to continue to have him on the city council.

75TH ANNIVERSARY OF EMMANUEL COLLEGE OF BOSTON

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I would like to take this moment to recognize Emmanuel College of Boston on its 75th anniversary. Emmanuel College was founded in 1919 by Sister Helen Madeleine Ingraham and the Sisters of Notre Dame.

As the oldest women's Catholic college in New England, Emmanuel College's mission has been one of providing women with an outstanding liberal arts education rooted in Catholic heritage.

Mr. Speaker, I wish the students, administrators, faculty, and alumnae of Emmanuel College a happy 75th anniversary and continued success in the future.

TRIBUTE TO NANCY DALY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. MILLER of California. Mr. Speaker, last week I was honored to address the Second Annual Service to Children Awards Dinner in Los Angeles, and to present to Nancy Daly the Lifetime Service Award.

Ms. Daly, the founder of United Friends of the Children, is one of the most remarkable, effective and persistent advocates I have ever known, and she richly deserves this great honor. I would like to share my remarks with the Members of the House.

TRIBUTE TO NANCY DALY

I am very honored to make some remarks this evening, because Nancy Daly is a woman who sends a powerful message—to Los Angeles and to America—about what it means to dedicate ourselves to children. And I speak as a member of a profession where proclaiming your concern about children is a requirement of membership.

My path and Nancy's have crossed many times, including our service together on the National Commission on Children with Senator Jay Rockefeller, where she was the leading proponent for family preservation programs. But we worked on the same issues for years before we ever met.

Fifteen years ago, after years of investigations and hearings, Congress enacted my bill to reform the national foster care and adoption laws, P.L. 96-272.

It was at that same time that Nancy went out to visit MacLaren Children's Center, never dreaming that visit would change her life's work or the lives of so many others in this city. While I was massaging my colleagues in Congress to vote for my bill, Nancy was shampooing the heads of foster kids at MacLaren, and deciding that this system needed change, and that she was the one to change it.

It was in that same year that Nancy founded United Friends of the Children, that stunningly successful volunteer organization working with the abandoned and neglected children of MacLaren, working to improve the children's resources, their educational development, supporting college tuition programs and providing critical transitional help from foster care to independence through creation of low cost housing for those emancipated from the system.

Throughout the 1980s, Nancy became one of the premier advocates for family preservation programs—efforts designed by agencies and the courts to provide intensive service to at-risk families to help them work through serious problems rather than fragmenting, at great cost to the children and often to the state as well. She has mobilized the formidable resources of the entertainment community on behalf of children's issues, and is a vigorous promoter of programs to assure that children have proper legal representation in the court system when critical decisions are being made about their placements, their rights and their futures. And she played the central role in the creation of the Los Angeles Department of Children and Youth to give young people an advocate in government even though they are too young to have a voice in its management.

Not bad for a volunteer.

As Nancy was creating and participating in these, and many more activities, I served as the first chairman of the Select Committee on Children, Youth and Families in the Congress, a panel created by Tip O'Neill at my urging because children simply were not receiving the special attention they merited in federal policy. Oh, sure there were educational laws and health laws, foster care laws and child care laws: but no one was looking out for the kids, not for the program or the bureaucracy or the politics: just the kids.

And that Select Committee did what it was supposed to do. We raised the visibility of children, we held up a mirror to the Congress and said, "Like 'em or not, these are America's kids." We travelled throughout this country for eight years, putting children on the Congress' agenda: children with disabilities, children without homes, children of violence, children with AIDS, children in gangs, children without food, children in poverty. America's future. America's "most precious resource." The subject of every politician's favorite photo op.

And I think many in Congress were truly shocked by what they saw: the millions of children, about to inherit this nation, who were growing up in Third World conditions, abused, hungry, violent, with little or no investment in society or even in their own futures.

The mission of the Select Committee, you see, wasn't to score political points, but—perhaps naively—to depoliticize children in the political debate: to make it clear to conservative Republicans, Yellow Dog Democrats and Bleeding Heart liberals alike that you can't lecture America's children into being good citizens, or productive workers or responsible adults if you ignore their most basic needs in their formative years.

Children really don't care if you're liberal or conservative, a hard heart or a bleeding heart. They don't care if you're a volunteer, a case worker, a lawyer, or a congressman. They know when they're hurting, when they're scared, when they're hungry, when they're confused, and all they want to know is, "Are you going to be there for me?"

And, I suppose, that is what is so terribly tragic about what is going on in Washington today. A new political leadership in Congress, which shows no evidence at all of understanding children or public policy towards children, is putting a torch to most of what Nancy and I, and many others in this room and across America, have spent our lives doing. And don't get me wrong: I have no particular concern if someone wants to rewrite the nutrition, child care, family violence, foster care, adoption laws I wrote in the '70s, '80s and '90s—if they want to make them better.

But let's not kid anyone: the new congressional leadership isn't about improving the system, they are about destroying it, and the children be damned.

How else do you explain proposals to throw infants off income assistance because of the mistakes of their mothers?

How else do you explain $7 billion in nutrition cuts—exposing pregnant women, newborns and school children to serious deficiencies?

How else do you explain a punitive "welfare reform" plan that puts no one to work, but deprives five million people of basic assistance—300,000 right here in Los Angeles?

How else do you explain dissembling our foster care reforms with the result that children will be housed in unlicensed homes, with few if any services to them or their parents, with no legal representation or hopes for permanent homes?

I remember well in the early '80s when David Stockman came before the Budget Committee and I asked him how, in light of the uncontroverted evidence that the WIC program saved babies lives and money, too, he could justify slashing that program. And he replied that he didn't care whether the program worked, he just didn't like it.

Fortunately, at that time, we had a Congress that stood up to such dogma—on a bipartisan basis, I might add—and saved effective programs for children. But those days are long gone. The new extremist element in control of the Congress neither understands the programs nor appreciates their achievements. With a rhetorical tip of the hat to the apparently magical capabilities of state and local governments, with a cynical reliance on the limitless abilities of private charities, they have set about destroying our ability to protect children and give them hope.

You know, they call the Republican welfare reform bill the Personal Responsibility Act. And I am all for people meeting their responsibilities—to their children, to their families, and to their communities. When people don't push their kids to finish school or support their kids, or look hard to find employment, I think emphasizing personal responsibility makes a lot of sense.

But government has responsibilities, too, particular to our poorest, and most vulnerable, children. I have no admiration for political leaders, and make no concession to political strategies, that abandon those responsibilities to America's children.

These people aren't just about taking away the safety net. They want to fold up the tent and put the whole show out of business.

I don't know anyone who's not committed to making the bureaucracy more efficient and the programs more cost-effective. We made important changes in welfare policy, in child care, in services to dysfunctional families and children in crisis, and those policies work, with a lot of hard effort from volunteers and professionals at all levels. And we need to make more.

But you don't cure nutritional problems by cutting one fifth of the food stamp program a program that feeds 14 million children—as the House-passed welfare bill would do.

You don't give kids a chance in the future by denying children with Down Syndrome and cerebral palsy financial assistance, as it would do.

You don't make the foster care system more responsive by eliminating basic children's rights and turning the program over to the states, half of which are under court orders for failing to comply with the law.

So, at a time when should be learning from our experiences and building stronger programs, people like Nancy Daly are trudging to Capitol Hill and meeting with every Senator and aide she can find, as she did this month, urging that they put aside partisanship, ideology and fanaticism and think, as she has been for twenty years, about the children.

Nancy has a lot to teach the Congress.

She can teach them about the value of comprehensive services, about the need for legal advocates, about the contributions (and the limitations) of what volunteerism can do. She can demonstrate to them the need for a responsive government and the necessity of having someone in that bureaucracy whose job to think about children first. She can even show them how a liberal Democrat and a powerful Republican can get along together.

I would have hope that, at this stage, we wouldn't be engaged in a national debate about whether to kill programs or to keep them, but rather about how to make them more efficient for taxpayers and more effective for children. I believe quite frankly, it is a waste of Nancy Daly and many of those in this room to have to exert such effort and influence just to keep up where we are in terms of a national commitment of excellence to children. But I am enough of an historian and a politician to know that sometimes you have to play defense and work and wait for a better time to come. Unfortunately, the children are waiting, too, and millions of them do not have four or eight years to spare while politicians and voters figure out what they really want to do.

I see these obstacles as a challenge to those of us who hold a public trust. I have little pity or tolerance for those who bemoan the loss of a majority, or a chairmanship, or the other accoutrements of power. Other have lost far more than we, and they will continue to lose, to have their opportunities shattered and their futures stunted, if we wallow in self-absorbed anguish over an election.

Nancy Daly serves as an inspiration because she understands that what matters are the results. Beginning without a shred of political power, she has built monuments to the hopes and the futures of children throughout America, and I very much doubt she has given an hour since last November to questioning whether she should do anything but redouble her efforts on behalf of the kids who need her, and us, more now then ever.

Nancy, my warm congratulations to you on receipt of the richly deserved Lifetime Service Award. And since it is a "lifetime" award, I would note that you have several additional years of service that we are all looking forward to.

I am delighted to be able to participate in this tribute to a wonderful woman tonight, and honored that you have allowed me to share this evening with all of you.

VOICE OF DEMOCRACY WINNER—JANICE BANKERT

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. BURTON of Indiana. Mr. Speaker, I rise today to recognize the accomplishment of Miss Janice Bankert, a high school junior in my district who won the Veterans of Foreign Wars "Voice of Democracy" State competition. Miss Bankert has a lofty and noble vision for American democracy. One that, I might add, we should all strive to achieve—quoting Miss Bankert, "the barriers that are to be conquered are but foothills to a mountain if we are unified." Indeed, if we "put away prejudices and stubbornness" we can restore belief and faith in the "judgment of (the) government" again.

I salute Miss Bankert and submit the text of her script to be printed in the RECORD.

"MY VISION FOR AMERICA"

I have a vision for America that in my lifetime there will be a revolution of new thoughts which will sweep over this nation and produce in the heart of our society a stronger desire for democracy than ever before. My vision is that the dreary attitudes of leaving the decisions up to Washington will dissipate into the inclination to rise and to speak forth about the laws and principles that shape this country into what it is, and into what it will become. My vision is that on the evening news, instead of an overwhelmingly negative report about the goings-on in the White House, there will be loud acclamation and approval . . . because the people will feel that they are being heard. Instead of just voting, people will write letters, gather petitions, and communicate with the politicians from their districts and regions about what they need, and what they would like to see happen in their government. Ladies and gentlemen, my vision is that democracy will thrive in this nation by once again being planted and nurtured by the citizens.

For my fantasy to become reality the people for which this nation was first built must build it again with their own hands. Like the "amber waves of grain" is the power and greatness of this country. This nation is a harvest that has already been planted, and now needs cared for every moment, to be gathered with thankfulness and satisfaction. It is a fruit so fertile and awesome that it will take the unity of a nation to reap it . . . and enjoy its bounty. To do this, every person must invest time and effort. We all must work to change what is adverse to our common goal, an America we can take pride in, and like farmers in a field, weed out our enemies: hate, discord, indifference, and defacement of hope.

The task that faces us is not an impossible one if we are unified. The barriers that are to be conquered are but foothills to a mountain if we are unified. Our victory is not invisible if we are unified. Unified . . . each of us putting away prejudices and stubbornness, ignoring petty issues, believing in the judgment of our government, and having faith in the banner that has long been the embodiment of our allegiance to the democracy that began over two-hundred years ago, and continues today . . .

My vision for America is one that is common, but will only live if we, as citizens of the United States of America, actively birth it from our hearts, and allow it to suffocate no longer.

My vision for America is for each individual to feel as part of a union and to proudly, joyously say, "I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

HONORING THE CESAR CHEVEZ WRITING CONTEST AWARD WINNERS OF THE EAST SIDE UNION HIGH SCHOOL DISTRICT

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Ms. LOFGREN. Mr. Speaker, I rise today to recognize the remaining winners of the first annual Cesar Chavez writing contest held by the East Side Union High School district in San Jose, CA. I had the great privilege of attending the award ceremony honoring the student winners on March 31, 1995, and would like to continue sharing the essays and poems written by the student award winners with my colleagues.

On April 4, 1995, I began by sharing the essays and poems of the Grand Prize Winners and three of the First Place Winners. On April 6, 1995, I shared the five remaining First Prize entries, and the first three of eight Second Place winning entries. Today, I will share the remaining five essays and poems of the Second Place Winners.

The Second Prize winning essays and poems of Marie Aloy of Mount Pleasant High School, Mark Papellero of W.C. Overfelt High School, Raymond Ramirez of Piedmont Hills High School, Ester Martinez Estrada of Santa Teresa High School, and Anthonette Pena of Silver Creek High School follow:

UNTITLED

It was all very irrelevant to me. I'm not a farmer. I didn't live during the Great Depression or the years following. I don't grow fruit or pick it for that matter, and I'm not even of Hispanic descent. The dates and strikes and marches are just another group of history facts that I am asked to know and memorize for one reason or another. So far my life and the life and accomplishments of Cesar Chavez have no relation or commonality to bind him to my memory—except for one thing.

Something that I value greatly, that earns my genuine respect and admiration, I found hidden in a comment made about the great and greatly known Cesar Chavez. Actually it was his nephew Rudy Chavez Medina who inadvertently helped me find my way to relate to Cesar Chavez. Rudy came and spoke to us a few days ago about his famous uncle and mentioned offhandedly that his uncle Cesar was never afraid to ask for help. He was not the type to put himself on a pedestal for everyone to worship. When a goal was achieved he didn't credit it to his magnificent leadership. He praised everyone involved, and humbly made himself equal to every individual in the crowd. In a position of such great power I am amazed and in awe that this man could remain so wonderfully humble.

The "equality" of the man staggered me. He had opportunities, as all celebrated leaders do, to leap from poverty into a more comfortable life. But I'm sure he knew that that separation between his life and the lives of the farmers and laborers he inspired would lessen his effectiveness as a leader. So he sacrificed his own comfort for the welfare of the organization, for the thousands who needed his guidance.

They say he is comparable to Gandhi and took his passive resistance techniques from Martin Luther King, Jr. as well. He never put peoples' lives in danger. He wanted only a better world and envisioned achieving that new existence in a peaceful manner. No riots or destruction, only marches and calm demonstrations. Usually human nature turns people to the dark side of things. It is uplifting to learn about someone who wanted only to help and made sure that he didn't hurt anyone in the process.

No facts or figures, just feelings. That is what binds us together and that is what creates a bond in my mind and heart. I never really knew who he was, and the bits and pieces I had grasped had little to do with my life. Now I know who he was and what he did. I know that he was humble to the core and self-sacrificing in all that he did and a truly great man.

"THE LIVES OF WORKERS"

4:00 am
Wake up! Time for work!
Here's a piece of bread and tiny glass of powder milk.
Now go or you'll be late!
5:00 am
Plow. Have to work hard.
Plow. Need to support the family.
Plow. Need to survive.
Plow. Simple.
6:00 am
The sun rises.
Plow. Plan. Need clean water.
Plow. Plant. Pesticides in my lungs.
Plow. Plant. Tired.
7:00 am
The sun grows warm.
Plow. Plan. Lift. Need to rest.
Plow. Plant Lift. Pesticide grows strong.
Plow. Plant. Lift. Sweat.
8:00 am
The sun is warmer.
The grower comes.
He demands. He orders. He pushes.
He is mad. He gets his way.
9:00 am
The sun gets hot.
Plow. Plant. Lift. Carry. The work is too much.
Plow. Plant. Lift. Carry. I am the pesticide.
Plow. Plant. Lift. Carry. The condition needs to change.
Plow. Plant. Lift. Carry. Sweat and Ache.
THIS TREATMENT HAS TO STOP. WE HAVE TO OVERCOME.
Plow. Plant. Lift. Carry. Six more hours left.

CHAVEZ Y LA CAUSA

Just a man
No more, No less
Victim of intolerance
Who just wanted the best.

For his people
The workers of the field
With words of compensation
For the crops that they yield.

La Causa or The Cause
A movement without fear
It was forged by its people
And it streamed like a tear.

They said it was impossible
Pero si se puede hacer
With hearts filled with determination
Y amor para la mujer.

He carried on for years
Giving only of himself
He did it all for love
And cared nothing for wealth.

His presents was mighty
His movement was strong
And although he is gone
His glory lives on!

A HERO TO THE MEXICAN COMMUNITY

(By: Ester Martinez Estrada)

No words I can write can describe how Cesar Estrada Chavez dedicated his heart and soul to love and justice as we all know.
He was a leader that influenced strongly on rights.
A man that went out there and suffered with others day and night.
Cesar Chavez supported nonviolent actions on their part. For he declared, "truest act of courage, the strongest act of manliness, is to sacrifice ourselves for others in a totally nonviolent struggle for justice," and this came from his heart.
Farmworkers gathered in his demonstrations and his strikes to unite the true mexican pride.
A pride no mexican can hide.
They came together for the security of justice in peace.
They came together with strength to see their work environment rights to be released.
They came together to rise out of the fields and stand up and never sit 'till they were treated with respect and good pay.
They came together to revise their situation and at least get minimum wage.
Cesar Chavez joined hands with his line of mexican blood without fear.
Cesar Chavez led the mexican community hoping their aim and dream was near.
For they all knew that they had to start today for the * * * of the future's eye.
Together and always together they had to rise.
Together they all struggled and prayed.
Together they knew justice would serve one day.
Cesar Chavez and his fellow farmworkers came out of nowhere and bewildered all on their way to their destination.
Without the help of Cesar Chavez, injustice would have gone on for generations.
Cesar died peacefully in his sleep and is now up above.
He symbolized the brown pride and that strength of respectable love.
Now is the time Mexicans can stand proud and say, "My hope is Cesar Estrada Chavez and no one can ask why."

CESAR CHAVEZ

As a young boy, Cesar Estrada Chavez experienced the hardships of being the son of a migrant farm worker. As his family worked in the crops, they learned how to survive in the harsh conditions such as lack of shelter, money, and even food. Racism was also an issue that affected his life. Although his family were third generation Americans, because his ancestors were Mexicans, he was classified as a second-class citizen.

After working with the Community Service Organization from 1952 until 1962, he then moved on to found the National Farm Worker's Association. Under the NFWA, he organized nationwide boycotts of grapes, wine, and lettuce in an attempt to pressure California growers to sign a contract which would increase the farm worker's pay and provide them with a minimum amount of safety, Cesar Chavez became a symbol of hope for the people.

In particular, youth can look up to Cesar Chavez as a role model because it is at this point in our lives that we want to take an active role in mending society's flaws and begin to stand up for what we believe in. However, many of us are unsure of the role we should play and how far we are willing to go to stand by our decisions. As children, we had the vision of making a difference and had dreams of leading a successful life. At this age, reality begins to take its toll and we realize that if we really want to make a difference and lead a successful life there are things which we must do to accomplish these goals. Like Cesar Chavez, we must be willing to put ourselves on the line and uphold our principles and defend our sense of morality.

Cesar Chavez was a man who was not only determined, but courageous as well. "The only way is to keep struggling," he says. "Fighting for social justice is one of the most profound ways in which a man can say yea to man's dignity, and that really means sacrifice. There is no way on this earth in which you can say yes to a man's dignity and know that you're going to be spared some sacrifice."

TRIBUTE TO RALPH G. NEAS

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. MFUME. Mr. Speaker, I want to submit for the RECORD a column prepared by the chairperson of the Leadership Conference on Civil Rights [LCCR], Dr. Dorothy Height. This column speaks to the endless contributions that this organization's executive director, Ralph G. Neas, has made over the years. Ralph is completing his 14-year tenure at the helm of the LCCR and I wanted to take this time to share this article which reflects upon his contributions to equal opportunity for all Americans.

THE NEAS YEARS AT THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Last summer, Ralph G. Neas announced that he would be leaving as Executive Director of the Leadership Conference on Civil Rights (LCCR)[1] in the Spring of 1995. Much too soon that time has come. As Ralph completes his fourteen-year tenure at the helm of the Nation's oldest, largest, and most broadly-based coalition, it is an appropriate moment to reflect upon his extraordinary contributions to the cause of equal opportunity for all Americans and some of the reasons why he has earned his reputation as an effective leader, strategist, advocate, and coalition builder.

THE BIPARTISAN LEGISLATIVE SUCCESSES

Ralph Neas took over as Executive Director of the Leadership Conference, the legislative arm of the civil rights movement, on March 31, 1981, after eight years as a chief legislative assistant to Republican Senators Edward W. Brooke and Dave Durenberger. Ronald Reagan had just been sworn in as president. Senators Strom Thurmond and Orrin Hatch had just replaced Senators Edward Kennedy and Birch Bayh as chairs of the Senate Judiciary Committee and the Senate Subcommittee on the Constitution, respectively. The previous year, Senator Hatch had successfully filibustered to death the Leadership Conference's top legislative priority, the Fair Housing Act of 1980. Many feared that a similar fate awaited the Conference's top priority in the 97th Congress, the legislation to extend the Voting Rights Act of 1965, which was to be introduced in early April of 1981.

No small wonder then that many friends of Ralph, who just two years earlier had been totally paralyzed, on a respirator, and near death in a Minneapolis hospital room, told him that this was not their idea of a brilliant career move. But Ralph believed that his professional training in the Senate, where he had been the senior staffer on civil rights issues, and his bout with Guillain-Barre Syndrome, which had profoundly influenced his life, had prepared him for such a professional challenge.

The situation in the Spring of 1981 demanded bipartisanship, creativity, pragmatism, and leadership. Ralph and his LCCR colleagues showed an abundance of these qualities during the arduous eighteen month campaign to enact the 1982 Voting Rights Act Extension. Many people argued that the time for federal control over local voting processes had ended. But LCCR advocates demonstrated a continuing need and their efforts helped pass the extension by votes of 389 to 24 in the House of Representatives and 85 to 8 in the Senate, leaving President Reagan with no choice but to sign the historic measure into law. That law not only extended the Voting Rights Act for 25 years, but also extended the Act's bilingual assistance provisions and overturned a 1980 Supreme Court decision by reinstating the results standard in the Voting Rights Act.

The remarkable victory against great odds set the tone for the next fourteen years for LCCR. Indeed, the 1982 Voting Rights Act Extension campaign embodied several of Ralph's principal legislative theorems. Theorem number one is to always put together the strongest possible bipartisan bill that can be enacted into law. During the twelve years of the Reagan-Bush presidencies, that usually meant having at least two-thirds majorities in both Houses. Theorem number two is that any successful national legislative campaign must effectively integrate grassroots, Washington lobbying, and media strategies. If one component is absent, the legislative campaign is likely to fail. And third, it is essential that the coalition always remains cohesive and united, never allowing adversaries to successfully use the tactics of divide and conquer. If these basic principles are understood, then one can comprehend the success of the 1982 Voting Rights Act Extension and the legislative victories that followed.

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[1] On May 3rd, at its Annual Dinner to be held at the Hyatt Regency on Capitol Hill, the Leadership Conference will be celebrating its 45th Anniversary and presenting its Hubert H. Humphrey Civil Rights Award to Ralph G. Neas.

And there were many other LCCR legislative successes. No one could have predicted that more than two dozen LCCR legislative priorities would be enacted into law during Ralph's years at LCCR. In addition to the 1982 Voting Rights Act Extension, Ralph coordinated many of these legislative achievements for the Leadership Conference, including the:

Civil Rights Act of 1991—Overturned eight Supreme Court decisions which had made it much more difficult for victims of discrimination to get into court and to prove discrimination (the first time Congress has ever overturned more than one Supreme Court decision at one time). It also codified the "disparate impact" standard. And it provided for the first time monetary damages for women, persons with disabilities, and certain religious minorities who are victims of intentional job discrimination.

Americans with Disabilities Act (1990)—Perhaps the most significant and dramatic improvement in civil rights law in two decades. Provided civil rights protections in employment, transportation, communications, and public accommodations for the 49 million Americans with disabilities.

Fair Housing Amendments Act of 1988—Provided for the first time an effective enforcement mechanism. Also prohibited discrimination against persons with disabilities and discrimination against families with children.

Japanese-American Redress Bill (1988)—Apologized to Japanese-Americans interned in prison camps in the United States during World War II and authorized $20,000 to each of those who are alive.

Civil Rights Restoration Act—Congress overrode a presidential veto and overturned the 1984 Supreme Court Grove City decision. The Civil Rights Restoration Act restored the broad coverage of the four major civil rights laws that prohibit the federal funding of discrimination against minorities, women, persons with disabilities, and older Americans.

The final passage votes on all these laws averaged 85% of both the House and the Senate. In recognition of that extraordinary bipartisan success, Senator Edward Kennedy has called Ralph "the 101st Senator on Civil Rights."

Ralph also managed the successful campaigns to preserve the Executive Order on Affirmative Action in 1985–1986 and to defeat the Supreme Court nomination of Robert Bork. The Bork campaign was perhaps the most forceful statement of the determination of the coalition that the civil rights gains of three decades would not be rolled back.

Other LCCR legislative priorities enacted into law over the past fourteen years include the Family & Medical Leave Act, the Motor Voter Bill, the South African Sanctions Legislation, the Religious Freedom Restoration Act, the Voting Rights Language Assistance Act of 1982, the Elementary and Secondary Education Act of 1994 (including Chapter One reform), the Martin Luther King Holiday Act, three disability measures which overturned Supreme Court decisions, the Age Discrimination in Employment Claims Assistance Act, the Gender Equity in Education Act, the Voting Accessibility for Disabled and Senior Citizens Act, the 1989 Minimum Wage Increase, the Hate Crimes Statistics Act, and key provisions of the Economic Equity Act.

Without question, the past decade and a half has been, legislatively, a bipartisan reaffirmation of civil rights laws and a bipartisan repudiation of the right-wing legal philosophy. Indeed, the right wing did not enact one major item on its regressive civil rights agenda during that time. The LCCR victories are even more remarkable when one considers that during this time two branches of government were hostile to civil rights.

While the civil rights coalition and its congressional allies achieved considerable success, there was a serious downside to the Reagan-Bush years. We had to refight the civil rights battles that had been won during the 1960's and the 1970's. While these battles were won once again, Congress, the civil rights community, and the Nation had to devote an inordinate amount of time, energy and resources in waging these rearguard actions. Consequently, while the legal achievements of the past 30 years were preserved and in a number of instances, strengthened, the Nation by and large was unable to address the unfinished agenda of the civil rights movement—the quest for social and economic justice.

For years, Ralph and his LCCR colleagues have been advocating that economic justice must be the civil rights coalition's top priority. Our legislative efforts should focus primarily in such issues as health care; affordable housing economic security, especially for women and children; child care; Head Start and other early educational opportunities; employment opportunity, including job creation and job training; and economic empowerment issues. Regrettably, just as this economic opportunity agenda seemed to be moving to the front of the legislative line, once again we may have to devote our energies to resisting efforts to dismantle the legislative achievement of the past several decades.

While the battles will be hard fought, I remain confident that LCCR and its allies will once again defeat the efforts of the right wing, whether the issue be affirmative action or the economic security net for millions of Americans. Indeed, the same type of bipartisanship, creativity, and pragmatism that characterized our efforts in the 1980's and early 1990's will lead us to victory in the last half of the 1990's.

THE EXPLOSIVE INSTITUTIONAL GROWTH OF THE LEADERSHIP CONFERENCE

While the legislative successes are critically important, it is also important to point out the institutional successes as well. the fourteen years Ralph has spent managing LCCR have been characterized by explosive growth. The budget of the Leadership Conference has grown seven-fold since 1981. And the Leadership Conference, always the nation's largest coalition, has added more than 50 new national organizations, during this time. Some of the new members are the American Association of Retired Persons (AARP), the Association of Junior Leagues, the Disability Rights Education and Defense Fund, the American Association of University Women, the Mexican American legal Defense and Education Fund, the Service Employees International Union, the Congress of National Black Churches, the American Nurses Association, the Puerto Rican Legal Defense and Education Fund, Families USA, the National PTA, People For The American Way, the United Brotherhood of Carpenters and Joiners of America, the Human Rights Campaign Fund, Citizen Action, and the National Asian Pacific American Legal Consortium. There are now 180 national organizations, with memberships totaling more than 50 million Americans, who belong to the Leadership Conference on Civil Rights.

Such institutional growth has meant also the expansion of LCCR priorities. In addition to minority, gender, religious, and age issues, the Leadership Conference has forged a consensus on disability and gay and lesbian civil rights issues. The exceptional growth of the coalition, while generating new challenges, has made the Leadership Conference stronger and even more effective.

Throughout the years, Ralph has masterfully maintained unity among the diverse elements of the LCCR coalition. And through his work in LCCR, on Capitol Hill, with the Executive Branch, and with the business community, Ralph has earned respect for his ability to build bridges between disparate communities of interest and across the spectrum of political ideologies.

Ralph has also managed the Leadership Conference Education Fund (LCEF), an independent organization that supports educational activities relevant to civil rights. Along with Karen McGill Arrington, LCEF's Deputy Director, he has supervised projects such as an award winning public service advertising campaign promoting tolerance and diversity; a children's anti-discrimination campaign; and the publication of books and reports on emerging civil rights issues.

RALPH'S NEW CAREER

To say the least, things have not slowed down during Ralph's final months as LCCR's Executive Director. He was a key strategist in the successful effort to defeat the Balanced Budget Constitutional Amendment. Presently, he is coordinating the campaign to save affirmative action. In addition, Ralph is lecturing one day per week on the legislative process at the University of Chicago Law School.

In May, Ralph will embark on a new phase of his professional life. He will join the Washington law firm of Fox, Bennett, and Turner, where he will be Of Counsel. At the law firm, he will set up an affiliate, The Neas Group, which will provide strategic counseling to business and non-profit institutions. In addition, Ralph will be a Visiting Professor on a part-time basis at the Georgetown University Law Center where he will teach courses on the legislative process.

Among the boards on which he will continue to serve are the Guillain-Barre Syndrome Foundation International, the Disability Rights Education and Defense Fund, and the Children's Charities Foundation.

On behalf of everyone in the Leadership Conference, I want to express our deepest gratitude to Ralph and wish him well in all his new endeavors. We will miss the personal qualities that made Ralph so effective in his job—his cheerfulness and optimism even when facing great challenges, his patience in working with people to resolve differences within the coalition, and the respect he accorded to everyone's point of view. But we know that there will be many opportunities to work with him as we confront the challenges ahead of us. There is no question in my mind that Ralph will continue to be one of the drum majors for justice.

TRIBUTE TO STEVEN F. WINDMUELLER, PH.D.

HON. ANTHONY C. BEILENSON
OF CALIFORNIA

HON. HOWARD L. BERMAN
OF CALIFORNIA

HON. HENRY A. WAXMAN
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. BEILENSON. Mr. Speaker, we are honored to pay tribute to our dear friend, Steven Windmueller, who is retiring after a decade of distinguished service to the Jewish Community Relations Committee of the Jewish Federation Council of Los Angeles.

Steven's career reflects a lifelong commitment to the enhancement of Jewish education and community relations. Since 1969, he has actively initiated, supervised, and directed a host of programs to further these goals. In recognition of this dedication, Steven was recently honored by the Jewish Communal Professionals Association of Southern California, as well as by Operation Unity, a project dedicated to improving intergroup relations in Los Angeles.

In addition to his full-time employment with JCRC and his service to a host of community service endeavors, Steven utilizes his doctorate in international relations as an adjunct faculty member for the Hebrew Union College's Irwin Daniel School of Jewish Communal Service. He also serves as a guest lecturer for the University of Judaism's Department of Continuing Education. Widely published in both professional journals and the press, Steven has authored over 20 articles on community relations issues and Jewish public policy concerns. In addition, he appears frequently as a speaker and consultant for local and national media, as well as for community and civic groups.

Mr. Speaker, in honor of his deep devotion, and in recognition of his lifelong achievements, we ask our colleagues to join us today in saluting Steven Windmueller. He is truly a credit to the field of Jewish education and community relations, and he has our sincerest admiration and congratulations.

IN HONOR OF JULIA ROBINSON, MS, FNP, RN 1995 KERN COUNTY REGISTERED NURSE OF THE YEAR

HON. WILLIAM M. THOMAS
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. THOMAS. Mr. Speaker, I rise today to praise Ms. Julia Robinson, who on May 4 will be honored by her peers as the 1995 Kern County Registered Nurse of the Year.

In the person of Julia Robinson we do not have to look far to find an every day hero and role model for our children. While it may not be obvious when you look at Ms. Robinson's profession, a nurse, to see why she is a role model. There are many nurses. Nor is it obvious by her career, teaching. There are many teachers. To understand why Ms. Robinson is an every day hero and a role model, you must look at the totality of her work.

Ms. Robinson has risen to do good things throughout her career. She is both teacher and student—a teacher of nurses to be as an Associate Professor of Nursing at California State University, Bakersfield for over 10 years and as a doctoral student at the University of San Diego.

As an associate professor Ms. Robinson is the team leader and coordinator of the medical/surgical course of the nurses junior year and teaches course in advanced health assessment for graduate students. And for her efforts, her students honored Ms. Robinson in 1993 during the pinning ceremony. Julia Robinson also does not back away from great challenges and has recently taken on what some in the teaching world would consider the unenviable task of preparing the department for the reaccreditation process slated to begin in the fall of 1995.

Ms. Robinson has remained active in the day-to-day world of nursing by acting as a volunteer nurse practitioner for the Salvation Army and as a volunteer in the Student Health Center at the university. The list of Julia's accomplishments, degrees and honors stretches over years and I expect that given her past record of achievement and commitment to her profession they will continue long into the future. We offer congratulations to Julia Robinson on this honor that is very well deserved.

STATEMENT OF LIHEAP

HON. JACK QUINN
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. QUINN. Mr. Speaker, as I was delayed in travel from Buffalo to Washington, I missed a chance to vote today in favor of a motion to instruct conferees on H.R. 1158, Fiscal Year 1995 Emergency Supplemental Appropriations and Rescissions.

This motion would have instructed our colleagues who are discussing House and Senate differences to among other things—but most importantly to me—would have accepted the Senate restoration of $1.3 billion to the Low Income Home Energy Assistance Program, or LIHEAP.

Mr. Speaker, I have come before this body on several occasions to point out the seriousness of the elimination of funding for this program.

To those who live in areas like Buffalo, NY, it can be a matter of life or death. LIHEAP provides fuel assistance to disabled, working poor, and low-income senior citizens who can't meet their own total energy needs.

LIHEAP recipients have an average income of $8,257 per year; without some assistance their heat could be cut off. For these people, LIHEAP is a vital program which is certainly not pork or luxurious Federal spending.

Mr. Speaker, I would have risen in support for the motion to instruct conferees. I appreciate this opportunity to clearly state my position.

DEMOCRATS STILL OFFER AMERICA THE BEST DEAL

HON. MAJOR R. OWENS
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. OWENS. Mr. Speaker, Members of this House certainly have the right to change their parties. But when such soul changing operations occur in ways that humiliate fellow Members, the swindled parties have a right to express their bitterness. Some Democrats can still hear the riotous mocking laughter in the Republican cloakroom as a former Democrat from Georgia announced that he was now ready to expose himself as a Republican. The problem for some of us is that this crossing of the bridge into the enemy camps was staged to achieve maximum humiliation for Democrats. The turncoat chose to first play the role of Pied Piper playing the tune of welfare reform compromise to gullible, juvenile Democrats. He led the children of the Donkey through their own manure of illusions. He even had some political babies believing that his decoy legislation might pass.

The lesson of this latest fiasco should be perfectly clear: Democrats should stop wasting their energies laboring to construct compromises with the Republicans: Instead, Democrats must jettison their sluggishness and take a bold new set of alternatives to the masses of the caring majority that refused to vote in the last election. We must denounce the deals and loudly state exactly what Democrats intend to do for this Nation. Democrats must work to create jobs not only for welfare recipients but also stimulate job development for the unemployed and the underemployed. Democrats must fight for reform that eliminates taxes on personal wages of less than $50,000. Democrats must sponsor all necessary increases in the education and job training budget while we decrease wasteful spending on the CIA, Seawolf submarines and F22's for Defense. Democrats must insist that prosperous Germany and rich Japan pay the full cost for overseas bases. Democrats must do whatever is necessary to rebuild the Nation's physical infrastructure and provide greater economic security for citizens at all income levels. Instead of stepping in the manure of Trojan horse deals; instead of being confused by covenants and ad hoc compromises; Democrats should acknowledge and celebrate the solid rock foundations of Roosevelt's New Deal. On these foundations—full-employment, Federal deposit insurance, a national conservation program, fair labor standards, social security, et cetera—Democrats must resolve to keep building a magnificent tower of sharing that spreads light over all Americans.

MANURE OF THE TROJAN HORSE

The Trojan plot
They now reveal
A low down dirty deal
Majorities have
Power appeal
Democratic cowards
Are an easy steal
Loyalty the turncoats
Never feel
The Trojan plot
They now reveal

The real deal
Camouflaged
An Aldridge Ames fox
In the Gephardt henhouse
Solidarity forever
Licking the rear
Of the sly rude right
Cunning Caucus Clan
Benevolently bowing
To the Benedict Arnolds
Til all reason
Sinks way out of sight
Brief unity was real
We rallied round the deal
Liberals waded thru manure and dirt
Even while it smelled and hurt
We voted for the deal
But the Judas hug
Proved poisonous and unreal
Prostitution was the thing
A slimy partisan sting
Compromise
Is on the rise
From the halls of the White House
To the shores of the DNC
Adulteration duplication
Imitation is the
Grand fascination
Our nation needs to feel
Which is the clear and pure
Just and honest real deal
The lesson should be learned
No more should we be burned
On this plagiarized chapter
Set tight the sad seal
Democrats to compromise
Never again must kneel
Destiny demands
That we construct
Own own dam daring deal
The Trojan plot
We all now know
In a separate direction
With dedicated speed
Democrats must go.

TRIBUTE TO ART EDGERTON

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Ms. KAPTUR. Mr. Speaker, I rise today to recognize an honor bestowed on a well-known Northwest Ohioan and friend, Mr. Art Edgerton. Along with four others, Art will be inducted this year into the National Association of Black Journalists Region VI Hall of Fame.

Art began his broadcast career in 1958, and since then has worked regularly in local media. He currently serves as the director of public and corporate relations with a large Northwest Ohio radio station. Committed to promoting African-Americans and disabled people in journalism, Art is the current president of the Northwest Ohio Black Media Association. In this capacity, he has been outspoken in articulating the need for fairness in the field of journalism for both African Americans and people with disabilities.

Among Art's many gifts is an exceptional musical talent. He studied at The Julliard School and the Philadelphia Conservatory of Music, and is a gifted pianist, organist, and percussionist. His talents are recognized far beyond Northwest Ohio, were he enjoys a loyal and enthusiastic following.

Art Edgerton has been a quiet, commanding presence in Northwest Ohio for decades. His counsel is appreciated by many. He brings a unique perspective and uncompromising dedication to everything he does. Long recognized for his work, Art's previous citations include: Handicapped American of the Year 1967, Ohio Governors Super Hall of Fame 1970, Winner of the Baldwin Talent Search 1981, Distinguished Service Award from the Toledo Ophthalmologists and Optometrists 1990, and State Media Award from the State of Ohio Optometric Association 1990. The Northwest Ohio Black Media Association has established a scholarship in his honor.

We in Northwest Ohio are very proud that Art Edgerton has been named to the National Association of Black Journalists Region VI Hall of Fame, for we believe that none deserves the accolade more than Art. As we congratulate him on this achievement we also offer a heartfelt thank you for his efforts, always conducted with courage, grace, and integrity. We are proud of him and for him.

TRIBUTE TO RABBI ISAIAH ZELDIN

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. BERMAN. Mr. Speaker, we are honored to pay tribute to Rabbi Isaiah Zeldin, a good friend and one of the most respected and influential leaders in the Jewish community of Los Angeles, on the occasion of his 50th year in the rabbinate and his 75th birthday. In 1964 Rabbi Zeldin founded Stephen S. Wise Temple, which has since become the largest Jewish congregation in the West and the second-largest in the world. This alone justifies his exalted status.

But Rabbi Zeldin is not one to rest on his laurels. Through its programs, lectures and full-time day and high school, Stephen S. Wise Temple has made an immeasurable contribution to Jewish life in southern California. Hardly a day goes by when there is not a stimulating event of some kind taking place at the temple. Rabbi Zeldin would not have it any other way.

In 1953, New York's loss became California's gain; Rabbi Zeldin left his native New York City, where he was assistant dean of Hebrew Union College, and headed west; 1 year later he became founding dean of the Los Angeles branch Hebrew Union College. From 1958–63 Rabbi Zeldin was spiritual leader of Temple Emanuel in Beverly Hills.

Despite his rabbinical duties, Rabbi Zeldin somehow finds the time to get actively involved with other cases and organizations. For example, he is past president of the American Zionist Council and the San Fernando Valley Synagogue Council and sits on the board of the UCLA Medical Ethics Committee. In addition, Rabbi Zeldin writes frequently for newspapers and magazines.

Mr. Speaker, we ask our colleagues to join us today in saluting Rabbi Isaiah Zeldin, a man whose friendship, guidance, and intellect has touched the lives of so many. We wish him well on his birthday.

20TH ANNIVERSARY OF VIETNAM WAR

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. MARTINI. Mr. Speaker, April 30, 1995, marked the 20th anniversary of the end of United States involvement in Vietnam and one of the darkest chapters in American history. The Vietnam war created deep divisions in the American public. Even today, the war remains a controversial issue.

Controversies aside, 58,200 brave Americans gave their lives in the fight for democracy. Vietnam veterans should be proud of their service to our country.

For many years Vietnam veterans did not receive the gratitude that they rightfully deserve. Regardless of the war's politics, these soldiers stood firm and fought for freedom, something the people of Vietnam have never experienced.

As a Member of Congress, I am privileged to serve with two heroes of the Vietnam war. Congressman RANDY "DUKE" CUNNINGHAM, who is the only naval ace of the war and Congressman SAM JOHNSON, who was held in captivity for 6 years and 10 months. Our Nation owes both these individuals a tremendous debt of gratitude.

Vietnam veterans should walk with their heads high and know that their Nation is proud of them. In recent weeks former Secretary of Defense Robert McNamara has questioned the United States involvement in Vietnam. Mr. McNamara's comments should not diminish the fortitude and valor displayed by the men and women who served in Vietnam.

The lessons of the Vietnam war did not fall on deaf ears. In Operation Desert Storm we allowed generals, not politicians in Washington to run the war. The result was one of the most successful military operations in history.

As America moves forward into the 21st century, we must never forget the tragedy of the Vietnam war. We must never forget the service of 58,200 soldiers that did not return. And we must never forget the brave men and women who answered their country's call.

Vietnam veterans understand words like duty, honor, and country. As members of the finest fighting force in the world, these individuals have proved themselves in the service of our Nation. At the 20th anniversary of the war's end, I commend our Vietnam veterans. In closing, God bless you and welcome home.

HONORING THE OBSERVANCE OF LAW DAY

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. GEJDENSON. Mr. Speaker, on Monday, May 1, members of the legal profession from throughout eastern Connecticut will join their colleagues in national observance of Law Day. Law Day is a special day for Americans to celebrate our liberties and to rededicate ourselves to the ideals of equality and justice under law. This year's Law Day theme is "E Pluribus Unum", which serves as a reminder that the United States of America has forged one nation which guarantees equal protection and due process of law to its citizens, who represent all the different cultures, ethnic, racial, and religious groups of the world. This year's theme celebrates the law as the strongest bond in our richly diverse society.

Among the Law Day observances in eastern Connecticut on Monday, May 1, was the award ceremony for winners of the Law Day grade school poster contest and the Law Day high school essay contest. I applaud all the young people who took part in these creative competitions, and I especially want to congratulate the essay contest winner, Christina Alevras, and the poster winners, Mrs. Easter's Kindergarten Class, for their thoughtful efforts and their worthy achievements, in which they and their families should take great pride. I commend the legal community for its efforts to reach out to youth in thoughtful and positive ways that promote respect for law and democracy.

HOBART ROWEN

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. GONZALEZ. Mr. Speaker, I take this time to note the passing of Hobart Rowen, who died on April 13, at the age of 76.

Hobart Rowen, as much as anybody, invented the craft of business journalism and economic reporting. He was, as Secretary of the Treasury Rubin noted, pre-eminent in his field. Hobart Rowen was more than a pioneer. He was a master in the field he helped create, which is the field of reporting on business as legitimate news, and the field of interpreting economic events as a matter of genuine public information. Rowen understood that economics is an academic field, but he also understood that economic events have enormous public importance, and need to be reported as issues of basic public concern.

Hobart Rowen started as a copy boy at the Journal of Commerce, but soon became a reporter assigned to commodities. With the outbreak of World War II he was sent to Washington to cover defense expansion and how business responded to war mobilization. He served two years with the War Production Board, and in 1944 went to Newsweek magazine. Ben Bradlee, the fabled editor of the Washington Post, was also at Newsweek, and eventually, as editor of the newspaper, brought Rowen in to become financial editor.

At the Post, Rowan supervised the paper's Sunday business section and expanded the daily business coverage, bringing that page into the real world of reporting and making its impact important to the community and to the nation's understanding of economics, economic policy and business regulation. At Newsweek, Rowen had done a widely admired column on business trends and economic issues, and he continued that work at the Post. Rowen understood the basic economic changes that were taking place, and how those would play out. He understood—and was the first to report—the forces that led to the closing of the gold window, which was the end of the Bretton Woods monetary arrangement, and that the dollar would be devalued. He understood—and was the first to report—the bungled economic policies that led to wage and price controls. And he understood the futility of palliatives like those controls, that basic economic issues must be addressed with realistic policies. This was not happening, and so he lamented how unrealistic policies were leading the nation toward "slow but steady self-strangulation."

And how right he was. Mr. Rowen foresaw the events that so discomfit us today: the slow fall in real income, the slow poisoning of the dollar resulting from a seemingly intractable trade deficit, the folly and virtual insanity of the Reagan era fiscal policy, and much else. Hobart Rowen was, in the words of Ben Bradlee, "the first economics reporter of his generation who could go to a press conference about economics and know more than the guy who gave it." Hobart Rowen, largely the inventor of his craft, certainly did know his beat; he was a sure analyst, a fine craftsman and a first-rate reporter. His achievements earned a long list of awards, probably more than any other reporter in his field.

I am an admirer of Hobart Rowen's work, and an admirer of him as a decent, honorable, thoughtful human being. He made immense contributions to the country, through the diligent and thoughtful exercise of a craft that truly was his own. I applaud his life and salute his achievements. His voice will be sorely missed.

[From the Washington Post, Apr. 14, 1995]

HOBART ROWEN

"Good writing on economic subjects need not be dull," Hobart Rowen once wrote shortly after he joined the staff of this newspaper, and he spent the next three decades daily illustrating the truth of that declaration. He represented a major development in the history of The Post, and of American journalism generally, for he was among the first reporters capable of explaining modern economics to lay readers and illuminating for them the intellectual concepts that were driving public policy.

In a time when daily financial reporting tended heavily toward the ups and downs of the stock market, Mr. Rowen wrote about the world and the international forces that were affecting jobs and incomes here. That was doubly unusual because, in the 1960s, international economics was widely regarded in this country even among professional economists as a marginal subject. The United States dominated the world economy and, the conventional wisdom held, the rest was a minor specialty. That was true enough for the first 20 years or so after World War II, but then that domination began to erode and, as the country discovered in the inflationary 1970s, policy suddenly became much more complex.

As a reporter, Mr. Rowen scored many coups. In the spring of 1967, for example, he earned the memorable hostility of the Johnson administration by quoting the warnings of a "high government official"—later identified as the chairman of the Federal Reserve Board—that the costs of the Vietnam War were going to rise far higher than the president's current estimates. As Mr. Rowen knew, and as later events showed, those warnings were more than adequately justified.

But his real contribution lay less in even the best of the good stories and columns, taken one by one, than in the way he redefined the job of reporting the news of economics and finance. He stood at the junction of economic theory and Washington politics, and with sophistication an energy devoted himself to the job of explaining to readers what was going on. He found that job absorbing, and he kept working at it until his death yesterday at the age of 76.

IN RECOGNITION OF THE MEN AND WOMEN WHO PARTICIPATE IN FOLK DANCING FOR SELF-EXPRESSION AND ENTERTAINMENT, AND IN PARTICULAR, THOSE OF THE CENTRAL VALLEY SQUARE DANCE CLUB OF FARMINGTON, CT

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to recognize the Central Valley Square Dance Club of Farmington, CT, on the occasion of its 25th anniversary celebration. The club's appreciation of square dancing, both historically and practically, are worthy of distinction.

The Central Valley Squares sponsor dances twice a month from September until June and encourage all dancers, young and old, to participate in a truly noteworthy cultural experience. This wholesome activity transcends age, race, and cultural lines and is deeply rooted in the American experience.

Mr. Speaker, I commend the Central Valley Squares on this accomplishment and join the people of Connecticut in looking forward to their continued success. I am pleased to provide a recent article from the Bristol, CT, Press that describes the Squares activities in greater detail.

[From the Bristol (CT) Press, Apr. 25, 1995]

DANCERS TO CELEBRATE 25 YEARS

Central Valley Squares is celebrating its 25th anniversary. Twenty-five years ago three struggling clubs: Bristol Rhythm Squares, Southington Valley Stompers and Farmington Valley Squares, joined to form the present Central Valley Squares.

The club boasts 110 members with 13 of them as charter members. Club festivities and a special anniversary dance are planned for May 6 at New Horizons Village, Farmington. Internationally known caller, Jim Lee from Ontario, Canada, will call for this special event.

The officers and board members consist of Dan and Shirley Lodovico of Bristol as president; Dick and Lucy Tedesco of Bristol as vice president; Fran and Goldie St. Pierre of Farmington, program coordinators; Al and Beverly Dakers of Farmington, secretary; Ken and Andrea DeMello of Southington, news and corresponding secretary; and Bob and Libby Sujecki of Bristol, treasurer.

Bill and Jessie Saxton of Farmington, ways and means; Tony and Florence D'Angelo of New Britain special events; Hank and John Fitzgerald of Bristol, refreshments; Marcel and Noella Roberge of New Britain, class coordinators; and Joanne and Earl LaVallee of Bristol, travel.

Alan and Anne Bartleet of Bristol, publicity; Arleen Wilson of Bristol, historian; Norman and Pat Landry of Plainville, CASDAC; and John and Mary Napier of New Britain, advertisements.

The plus level dance club dances every first and third Saturday of the month at New Horizons Village, Farmington. New dancers classes begin every September with graduation in May.

Dances are $3.50 per person and are smoke-free and alcohol free. Callers and cuers are nationally and internationally known.

A CENTURY OF CARING, MEMORIAL BAPTIST CHURCH—CASCADES BAPTIST CHURCH 1895–1995

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. SMITH of Michigan. Mr. Speaker, on May 7, Cascades Baptist Church will be celebrating its centennial with special services and an open house during the afternoon. The church, originally called Memorial Baptist, was founded in 1895 as a mission work of First Baptist Church in Jackson. The church changed its name in 1959 when it moved to its present location at Bowen and High Streets. Now, one hundred years after its founding, Cascades Baptist is taking a look back over one hundred years of service within the community.

The roots of the church really go back as far as 1882, when a Sunday School was begun in the Griswold Park School by a member of the First Baptist Church. In May of 1882, it was formally made a mission of First Baptist Church under then Pastor L. Kirtley. It was called the Summitville Mission first, then the Butterfield Mission in memoray of Rev. Isaac Butterfield of First Baptist. In 1892, a weekly prayer meeting and Sunday afternoon preaching service began, and in 1895, the cornerstone was laid for the new building on a lot next to the school, right on the northwest corner of Griswold and Third Street. This ceremony was the second of the day for the First Baptist Members, as that same afternoon, they also laid the cornerstone for another mission work, the East Main Street Baptist Church, now the Loomis Park Baptist Church.

The new church faced an early disaster when their building burned in May of 1897. The made the decision to rebuild, and also to become an independent church the same year. In August of that year, they organized with a membership of 34, and laid the foundation for their new building in October. When finished at the end of that year, the new church had taken the name Memorial Baptist.

The church prospered in the years leading up to World War I. During the war, when the school required more property, the church sold its property to the school and moved their church and parsonage both across the road to their present location, at the southeast corner of Griswold and Third. The building was greatly expanded in 1934 with an addition to the east that increased the seating capacity to 249 in the upstairs auditorium. In 1930, the church had begun regular broadcasts on WIBM (then 1370 kHz) that continued periodically up through 1959.

As the church continued to grow, the facilities became much too small in the 1950's. The church decided to build a new facility to accommodate the needs. Accordingly, in 1954, lots were purchased at the corner of High and Bowen, ground was broken in 1955, and a new building completed in 1959. When the church moved in October 1959, the name was changed to Cascaded Baptist Church. The building was built for a cost of $165,000, though valued at $250,000. Volunteer work had greatly helped reduce costs. The mortgage was burned in November 1964.

Later, in 1978 under Paster A.R. Gould, the church underwent a major redecorating on the inside to give it the present warm and attractive interior. Also during Rev. Gould's ministry, the church undertook the ministry of Jackson Baptist Schools, which has grown greatly to a present enrollment of over 375 students. Recently, under present paster, Rev. Berry Jones, the church has added a gym and band facility to their high school. Though valued at nearly a million dollars, the building cost much less due to volunteer labor, and the construction was paid for almost entirely in cash.

Mr. Speaker, I am proud to salute the Cascades Baptist Church as it celebrates a century of caring. This honor is a testament to the past members and those today whose personal interest, strong support, and active participation contributed to this accomplishment. Their future is God's work and I wish them continued success.

HONORING 100 YEARS OF THE WOODLAWN HEIGHTS TAXPAYERS AND COMMUNITY ASSOCIATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. ENGEL. Mr. Speaker, 100 years ago, the residents of the North Bronx established a civic organization called the Woodlawn Heights Taxpayers and Community Association. Their motto was "To Make This a Better Place in Which to Live." And, for 100 years they have lived this motto.

I have had the privilege to work closely with this association on numerous community and neighborhood projects. They have a history of success in making Woodlawn a better place in which to live. These successes have led to a better Bronx and a better New York City. From securing a neighborhood library to preventing a discriminatory tax assessment, from spearheading beautiful programs to keeping open the local fire station, the Woodlawn Heights Taxpayers and Community Association has a record of accomplishment hard to beat.

The people of Woodlawn, of the Bronx, and of New York City have something of which to be very proud.

To the officers past and present and to the members of the Woodlawn Heights Taxpayers and Community Association—Thank you for your efforts, your hard work, and your dedication.

COMMENDING LORD BRAINE OF WHEATLEY FOR CHAMPIONING THE CASE OF RAOUL WALLENBERG IN THE BRITISH HOUSE OF LORDS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. LANTOS. Mr. Speaker, as we recall the 50th anniversary of the Allied victory over fascism in the Second World War, we cannot forget the individual heroes of the holocaust. The Congress of the United States, always at the forefront of the battle for liberty and human rights, bestowed honorary American citizenship upon Raoul Wallenberg in recognition of his triumphant battle to save as many as 100,000 innocent lives from certain death at the hands of the Nazis.

There are many others around the world who have also dedicated their lives to pursuing the truth behind Wallenberg's disappearance into the gulag and to teaching the world about his heroic deeds. On this day, I wish to commend The Right Honorable Lord Braine of Wheatley for opening debate in the House of Lords about the lost hero of the Holocaust, Raoul Wallenberg. Throughout his 45 years in Parliament, Lord Braine has championed the case of human rights. I ask my colleagues to join me in commending Lord Braine's lifelong efforts, and I offer an excerpt from his opening speech to the parliament on the 50th anniversary of Wallenberg's disappearance.

TEXT OF PROCEEDINGS FROM THE HOUSE OF LORDS, JANUARY 17, 1995

Lord Braine of Wheatley. My Lords, the most terrible, heartbreaking story of man's gross inhumanity to man occurred during the lifetime of many of us. It was the murder of the majority of Europe's Jews by the Nazis. These innocent people, young and old, were slaughtered—not because they posed the remotest threat to the power of the Nazis, but simply because of their religion. It was genocide on a massive scale.

The victims were worked to death, tortured, shot and gassed to death and their bodies burnt in huge incinerators. All of that took place in organised mass killings month after month during the Second World War. If there is a more monstrous story of sustained evil in human history, I have not heard of it.

In that ocean of cruelty and hate in wartime Hungary, one great heroic figure stands out—a brave young Swedish diplomat named Raoul Wallenberg. Indeed, he became one of the greatest heroes of all time. In the closing months of the Second World War, he responded to the appeals of the world Jewish community and left neutral Sweden to do what he could to save what remained of Hungarian Jewry.

So it was that in July 1944, Wallenberg went to what Simon Wiesenthal has referred to as "the slaughterhouse that was Budapest." By that time some five million European Jews had already been cruelly murdered. The Nazis, aware that they were now losing the war, were obsessed with wiping out those who remained and were within their reach. Four months earlier, they had invaded Hungary with the declared purpose of exterminating that last remaining Jewish community in Europe. Obersturmbannfuhrer Adolf Eichmann was given the task of liquidating the Hungarian Jewish community. It is ironic that the Hungarian Jews, who had survived the longest in Nazi-occupied Europe, were now the quickest to be destroyed. In a two month period, from 15th May to 8th July 1944, 430,000 Hungarian Jews were deported to Auschwitz in sealed cattle trucks.

Raoul Wallenberg became the head of a special department of the Swedish Legation in Budapest, charged with the task of helping the Jews wherever possible. He began by designing a Swedish protective passport to help them to resist both the Germans and Hungarians. Wallenberg had previously learned that both the German and Hungarian bureaucracies had a weakness for symbolism. So he had his passports attractively printed in blue and yellow (Sweden's national colours), displaying Sweden's coat of arms and the appropriate authorisations. I have such a passport, although I have not brought it with me today. It is a work of art. Wallenberg's passports had no validity whatsoever under international law, but they served their purpose, commanding the respect of those they were designed to influence. At first, he had permission to issue only 1,500 passports. But he managed to persuade the Hungarian authorities to let him issue 1,000 more and, by one means or another, managed to get the quota raised again.

Altogether Wallenberg was to save the lives of 100,000 Hungarian Jewish men, women and children. At the risk of his own life, he distributed Swedish passports by the thousands, even following the death marches to the Austrian border, physically pulling people off the trains bound for Nazi concentration camps, confronting at every turn the Nazis and the death squads. He also successfully protected refugees in scores of houses that he bought or rented in Budapest, marking them with the neutral flag of Sweden.

As the Soviet armies encircled Budapest in late 1944, Wallenberg fearlessly continued his work. On 13th January 1945, a Russian soldier saw a man standing alone outside a building with a large Swedish flag flying above its main entrance. It was Wallenberg. Speaking in fluent Russian, Wallenberg told an astonished Soviet sergeant that he was the Swedish charge' d'affaires for those parts of Hungary liberated by the Red Army. He was invited to visit the Soviet military headquarters at Debrecen, east of Budapest.

On his way out of the capital on 17th January with a Soviet escort, Wallenberg and his chauffeur, Vilmos Langfelder, stopped at various "Swedish Houses," where he bade farewell to his friends. He cheerfully told one colleague, Dr. Erno Peto, that he was not sure whether he would be the guest of the Soviets or their prisoner, but he thought he would be back within a week. Alas, he never returned.

According to reliable witnesses, Wallenberg and his driver were arrested and taken to Moscow, where they were thrown into prison. At first, the Soviet authorities maintained that Wallenberg had been taken into custody by the Red Army and that he was under their protection. However, nothing more was heard of him until 1947, when Deputy Foreign Minister Andrei Vyshinsky, in answer to repeated Swedish inquiries, stated that he was not in the Soviet Union and his whereabouts were unknown to them.

That was a blatant lie. Soviet prisoners of war, chiefly German, who were released in the early 1950s confirmed that Wallenberg had indeed been captured and imprisoned in Moscow, first in the dreaded Lubyanka and then in Lefortovskyaya prison. The Swedish Government intensified their inquiries, only to be told by the Soviet authorities that they had nothing to add to what they had said on the subject back in 1947.

Again, during a visit to Moscow in 1956, the Swedish Prime Minister raised the matter with the Soviet leadership. He produced irrefutable evidence that Wallenberg had been imprisoned by the Soviets. The Soviet answer to this was not given until the following year—in the form of a note from the Deputy Foreign Minister Andrei Gromyko to the Swedish Ambassador in Moscow. In that note—to which the Soviet Government have unfailingly referred every time there have been inquiries from the West—it was stated that, as a result of a thorough investigation by the Soviet authorities, it had been discovered that a prisoner named "Walenberg"—with one "l", which is the Lithuanian spelling of the name—had in fact died from a heart attack in 1947 in Lubyanka. It was also asserted that all the documents pertaining to his case had disappeared and that there was only a handwritten report about his death made by the head of the prison hospital service, one A.L. Smoltsov, who had since died. It seems that Smoltsov had informed the Minister for State Security, Abakumov, who himself was later to be executed in the purges of the Security Police, that Wallenberg was dead. Abakumov, of course, was a convenient person to blame for having misled the Soviet Foreign Ministry in the first place. There was lie after lie, deception after deception.

I must tell noble Lords that the Swedish Government have never accepted—and as far as I am aware, no Western government has accepted—the Soviet line that Wallenberg died in 1947. Why should I say that? The answer is that there is abundant evidence that he was alive after that date.

Further evidence did come to light in later years indicating that Wallenberg was alive but imprisoned in the Soviet Union. Indeed the great Russian historian Solzhenitsyn has testified that he met a Swede fitting Wallenberg's description during his own imprisonment.

Is it possible then that Raoul Wallenberg could still be alive? Well, it is not impossible. If he were alive today, he would be just two years older than myself. Spartan conditions have on occasions—many a doctor can testify to this—proved beneficial to a long life. Incredible though it may sound, during his research for the BBC's brilliant "Man Alive" documentary on Wallenberg, John Bierman met a Russian Jew, Leonid Berger, who was allowed to emigrate in 1978 after spending no fewer that 35 years in Soviet jails.

It is my duty to draw your Lordships' attention to rumours being circulated that the family of Raoul Wallenberg now accepts that he is no longer alive. There is no truth in this. Indeed, contact has been made with United States Congressman Tom Lantos, who was himself rescued from death by Wallenberg and is the only survivor of the Holocaust to be elected to the United States Congress. The Congressman's office contacted Nina Lagergren, Wallenberg's half-sister, and she has categorically denied that any member of the Wallenberg family concedes that he is dead. I am happy to take this opportunity of paying a tribute to Congressman Lantos, who has kept Wallenberg's name alive both inside and outside the United States Congress and was also responsible for him being granted honorary American citizenship.

It is now generally accepted that during his stay in Hungary, Wallenberg saved 100,000 lives. We should never, never, never, never forget this. May I humbly suggest that we should honour this brave man by following the example already provided by our American friends and allies by making him an honorary British citizen? In an almost poetic sense, honorary citizenship is uniquely appropriate to Wallenberg quite simply because he used the privilege of Swedish citizenship to save thousands of innocent lives. Indeed, conferring citizenship—the instrument Wallenberg exercised with so much courage, generosity and imagination—accounts not only for the fact that thousands who were granted Swedish citizenship by him are still alive today and have children and grandchildren, but also for the fact that, following his example, other countries which were neutrals in the war—Portugal, Spain, Switzerland, and the Vatican—granted citizenship as a means of saving Jewish lives.

Why then even after all these years should we in Britain honour Wallenberg's name in this way? The answer is that, with no thought for his own safety, in what has been called "the slaughterhouse that was Budapest", he accomplished the impossible. Sometimes alone, sometimes with others, he thwarted the designs of the most murderous regime the civilised world has ever seen. He bribed the unspeakable Nazis; he charmed them on occasions; he lied to them; he certainly threatened and bullied them; and used every other means he could devise to save the lives of the Budapest Jews. He was a Swedish diplomat. He had some authority. He even entered the deportation trains himself to pull of innocent human beings who would otherwise have gone to a cruel death. He worked incessantly, at great personal risk with utter disregard for his own safety, and through the sheer force of his example inspired hundreds of others to assist him.

At the end, when the Red Army entered Budapest, and what little remained of Nazi rule collapsed into anarchy, Wallenberg worked on tirelessly. He told a Swedish diplomat who urged him to seek cover in the Swedish Legation:

"For me there is no choice . . . I'd never be able to go back to Stockholm without knowing inside myself that I'd done all a man could do to save as many Jews as possible."

So it is that we remember Wallenberg because he has become more than a hero of our times. He symbolises the central conflict of our age, the determination to remain human, caring and free in the face of unspeakable tyranny. What Wallenberg represented in Budapest was nothing less than the conscience of the civilised world. By abducting and imprisoning him, the Soviet authorities did more than violate the longstanding rules of diplomacy accepted by civilised nations and their governments, they demonstrated contempt for everything his dedication and bravery in Budapest had achieved.

Yet even the Soviet Union of those days did not succeed in suppressing his achievements. Just as the Nazis could not keep him from his mission, so the Soviets failed to obliterate his legacy.

All mankind owes a great debt to this man, not only for the 100,000 lives he saved, but also for the example he gave us as to how one man with courage to care, even in history's darkest hour, can become a beacon of light and can make a difference.

There are two very good reasons for remembering this courageous man. First, because as the author of Milan Kundera observes, "The struggle of man against power is the struggle of memory against forgetting." Secondly, to paraphrase Abraham Lincoln, the world may little note nor long remember what we say here, but surely it will always remember what Raoul Wallenberg did to salvage the dignity of the human spirit from what was a hell on earth. It is a great honour to pay tribute to him this afternoon.

THE PASSAIC SEMIPRO LEAGUE

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. MARTINI. Mr. Speaker, there is nothing so truly American as the game of baseball. It, like spring itself, returns each year to capture the imagination of millions as our true national pastime.

We in the Eighth Congressional District of New Jersey have indeed been fortunate to have enjoyed a rich baseball tradition for decades, one that has been carried forth by a high level of competition that has come to characterize the Passaic County Semi-Pro League. On Friday, May 5, 1995, that tradition will again be celebrated with the 10th annual salute to Passaic semipro baseball at the Athenia Veterans Hall in Clifton, NJ. Hosted by the dinner committee of Ted Lublanecki, Jr., Ben Lublanecki, Jean Lublanecki, and Mike Ivanish, I am sure this celebration will be, as usual, a great success fitting of the honorees' accomplishments.

This year's event is made truly special by the highlighting of the careers of men who brought honor to themselves, their teams, and the Passaic Semi-Pro League. The honored group includes Raymond Tkacz, Donald J. Patlen, Gasper Pellegrino, and Jack Kelsall. For the benefit of you and our colleagues, I would like to note some of the accomplishment of these outstanding gentlemen:

Ray Tkacz is the youngest of the honorees this year. He started his baseball career with Wallington High School. After graduation, he moved onto local semipro teams such as the Wallington Hillsides, the Wallington Demchaks, and the Garfield Benignos. Not only was Ray a good team player, but he was a great coach, and he volunteered his time helping many teams achieve greatness. Ray coached in both the Wallington Little League and Babe Ruth League, American Legion Post 347, and Clifton Junior and Senior High School. His persistence and dedication led Passaic County High School and Bergen County American Legion Championships. On and off the field, Ray has always demonstrated the qualities of a winner. Already an inductee of the Bergen County Baseball Hall of Fame, Ray currently resides in Wallington where he continues his active interest in the sport.

Donald J. Patlen was a fine all-around player whose career lasted from 1948 to 1960. He earned two varsity letters for Passaic High School, and graduated from Farleigh Dickinson University in 1955 with a degree in business administration and six varsity letters: four in baseball and two in basketball. His career average at FDU was .350, and he was a Second Team All-East selection.

Donald started playing semipro baseball in Passaic, playing for the Drazins, the Bisons, the Demuro Comets, and the Uncle Sams, before joining one of the best teams in the North Jersey League, the Haledon Granetell Giants. With Donald's help, the Granetell Giants were able to win both the North Jersey and the Essex County League titles in the same year, and then went on to win the Tournament of Champions.

After graduation in 1955, Donald signed with another Giants club, this one of the National League. He went to spring training in 1956 and played with the likes of Willie McCovey, Orlando Cepeda, and Juan Marichal. Playing in Danville, VA, and St. Cloud, MN, Donald was batting .300 and playing centerfield regularly when he was called upon to serve his country in the U.S. Army. His time in the service did not stop him from playing ball, however, as Donald joined the Fort Knox, KY, and Italy baseball teams for the 1956 and 1957 seasons.

After returning home from the Army, he went to spring training again in 1958, being assigned to Corpus Christi, TX. Unfortunately, he was injured 3 weeks into the season and retired from professional baseball. Donald played for 2 more years with the semipro Clifton Dodgers, then stopped playing all together. Like Ray Tkacz, Donald is also a member of the Bergen County Hall of Fame.

Gasper Pellegrino played from 1947 to 1956. A Navy veteran, Gasper attended East Rutherford High School. After graduating, he tried to follow in the footsteps of the greats of his era: DiMaggio, Gehrig, and Ruth. Tryouts with the New York Giants and the St. Louis Cardinals proved unsuccessful, but Gasper continued his career with the Carlstadt Pros, the Passaic Kenyons, the Garfield Nationals, the Uncle Sams, and the Passaic Demuro Comets, helping the Demuro Comets to become one of the best teams of the day. Gasper is a retired letter carrier and lives in West Paterson, NJ.

Jack "Rabbit" Kelsall was a three-sport star at Garfield High School. A second baseman for the baseball team, Jack was the captain for his senior year, 1948, and was selected to the All-State, All-Bergen, and All-Passaic Valley Conference first teams. He went on to play at Stevens Institute of Technology, earning four varsity letters and again becoming captain during his senior year of 1952. Upon graduation Jack was offered a professional contract by the Detroit Tigers, but opted instead for a career in engineering.

Jack's semipro baseball career began in 1946 with the Garfield Jewells A.C. From 1946 to 1955, Jack played for the Garfield Benignos, the Paterson Chevy Red Sox, Passaic Maple Leafs, Bergen Bengals, and the Garfield Bucs, often played 6 or 7 days a week for many years. While his love of playing ball kept him active as a shortstop in a softball league well into his fifties, Jack is now retired, living in Matawan, NJ, where he coached Little League and Babe Ruth teams for 10 years.

Mr. Speaker, each of these individuals, through their countless and diverse contributions to the game of baseball have enriched the heritage of our great game not just in Passaic County, but wherever it is played throughout the world. I ask that you and my colleagues join me in honoring these gentlemen during the 10th annual salute to Passaic semipro baseball.

TRIBUTE TO SENATOR GONZALO BARRIENTOS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. COLEMAN. Mr. Speaker and Members, I rise today to pay tribute to my friend and former colleague from the Texas State Legislature, Senator Gonzalo Barrientos of Travis County. He will be honored this week at the Texas State Capitol as Texas Governor for a Day. This is a ceremonial honor bestowed on a Texas Senator every 2 years in recognition for his or her service to the State.

Senator Barrientos represents senatorial district 14, encompassing parts of Travis and Hays Counties, which includes the capital of Austin. He serves as chairman of the committee of the whole senate on legislative and congressional redistricting and a member of the senate committees on education, finance, nominations and natural resources. He was elected as senate president pro tempore for the current legislative session. He also chairs the Austin transportation study policy and advisory committee.

Senator Barrientos has always enjoyed and rightly deserves a reputation as an activist legislator with an impressive record of accomplishments. He is a 20-year veteran of the State legislature, having served in the Texas House of Representatives from 1975 to 1985 before his current tenure in the Texas Senate.

Notable among his accomplishments are legislative initiatives relating to elder abuse and high school dropouts. He has championed various issues during his career, including civil and constitutional rights, consumers and tenants' rights, environmental protection, benefits for State employees, efficiency in State government, education reform, health care, affordable housing, and historic preservation.

Prior to his first election, Gonzalo worked as an organizer for the National Urban League; as a program officer for VISTA/Peace Corps; and as a trainer for the Leadership Institute for Community Development in Washington, DC. His background with community organizations has contributed to his sensitivity toward the disenfranchised and powerless, and reflects his working class upbringing in central Texas.

He greatly values his Mexican-American heritage, and uses his position in the Texas Senate to be an advocate for women, the disabled, and all people of color. His work has benefited Hispanics across the country.

Senator Barrientos is the recipient of many awards, including the Texas Public Employees Association Outstanding Legislator of the Year; the Texas Outstanding Public Servants Award; the Texas Association of Community

Development Award of Outstanding Contributor to Community Development, and the Texas Rehabilitation Association's Legislative Excellence Award.

He is a graduate of the University of Texas at Austin. The university continues to be a major force of his work because it is one of his largest constituent organizations. He is proud of his associations with its faculty, students, and the many young people enrolled in public and private schools in the Austin/San Marcos area.

Gonzalo is married to Emma Serrato of Galveston, and they are the parents of five children. He is a devoted husband and father, and is a role model for people across the State.

I am proud to be among Senator Gonzalo Barrientos' many friends. I invite my colleagues in the U.S. Congress to join me in honoring this true Texas hero.

NATIONAL PROPANE SAFETY WEEK

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. TAUZIN. Mr. Speaker, I am pleased to bring to the attention of my colleagues the fact that for over 70 years, the propane gas industry has been making significant contributions to American life with remarkable degrees of dependability, efficiency, and above all safety.

To highlight the industry's sincere concern with safety, the National Propane Gas Association sponsors National Propane Safety Week, which is being held this year from May 1–5. The Safety Awareness Week will include safety demonstrations and anti-tampering messages as well as helpful tips on using gas grills, handling cylinders for recreational vehicles, what to do if a homeowner smells gas, and how to handle a pilot light that won't light.

All across the country, manufacturers, suppliers, and distributors regularly help in educating the over 60 million consumers of propane on the sage use of this gas. Consumers use this common fuel to heat their homes, and barns, dry their crops, and fuel their vehicles and machinery. National Propane Safety Week will play an important role in reinforcing the safety education of those who already have access to this pertinent information, as well as in making it available to those who do not.

A home safety audit, called Gas Check, is another initiative strongly recommended by the National Propane Gas Association throughout Safety Week. Celebrating its 10th anniversary this year, Gas Check® stresses consumer education, and after a thorough examination of operation of propane appliances. This kind of attention to the safety needs of consumers should not go unrecognized or unappreciated.

Mr. Speaker, I would like to stress my support for all of the propane dealers in my district who put safety first, and I encourage my colleagues to do the same. I would also like to personally commend the National Propane Gas Association and its constituent dealers for their efforts to promote public awareness about propane safety issues through their sponsorship of and participation in National Propane Safety Week.

Dr. E. ALMA FLAGG—ROLE MODEL

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. PAYNE of New Jersey. Mr. Speaker, I am pleased and honored to inform my colleagues of a special event that was held this past weekend. It was the recognition of a woman who has touched the lives of generations of residents of the greater Newark, NJ community. This genteel woman is Dr. E. Alma Flagg.

Dr. E. Alma Williams Flagg was born in City Point, VA, to the late Hannibal Greene Williams and Caroline Moody Williams. She and her family, which included a sister and three brothers, later settled in Newark, NJ. The traditional family has always been a source of support and it was no different in Dr. Flagg's family. Her widowed mother provided the love, support, encouragement and inspiration that enabled Dr. Flagg to excel.

Dr. Flagg is a graduate of Newark's East Side High School where she became a member of the National Honor Society, served as class poet and was voted most likely to succeed. She continued her education at Newark State College. She earned her master's degree at Montclair State College and the doctor's degree from Columbia University.

Her full-time teaching career began in Washington, DC but she returned to Newark, NJ in 1943 and taught and served as a school administrator in all wards of the city. Throughout her career she has been a trail blazer. In 1964 she was appointed principal of the integrated Hawkins Street School. She became the first African-American woman to hold that distinction. Her appointment as assistant superintendent in charge of curriculum services in 1967 was also a milestone. In 1985 a new elementary school was dedicated and named for her.

Dr. E. Alma Flagg's life is filled with acts that prove she has made a difference. Although retired, she continues to give of herself. Her days are filled with church, community, and various committee work. Her love for life and its participants is evident in her poetry. She and her late husband, Dr. J. Thomas Flagg, have raised two outstanding children—Dr. Thomas L. Flagg, a professor of psychology at Eastern Michigan University, and Luisa Flagg Foley, a Spanish teacher at Cherry Hill High School.

Mr. Speaker, I am sure my colleagues would have joined me as I gave my best wishes to an outstanding human being and consummate role model, Dr. E. Alma Flagg.

REGARDING MISCELLANEOUS TRADE LEGISLATION

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. COBLE. Mr. Speaker, today I am reintroducing legislation to benefit a small business located in Burlington, North Carolina, which is part of my congressional district. The company is called D&S International, and it actively engages in overseas trade. My bill is virtually identical to other legislation I have sponsored during the previous two terms at the behest of D&S. In fact, last year's bill, H.R. 1318, was included in the House version of the GATT-implementing language.

By way of background, D&S imported four German-made warp knitting machines in the fall of 1988. "Warp knitting machines" are classified under HTS 8447.20.40 and are not dutiable. D&S subsequently sold the machines to a Venezuelan company, which reserved the right to return them to D&S if certain conditions were not met. This, in fact, did occur, and the buyer shipped the machines back to D&S. The Customs "Entry Summary" lists an entry date for this transaction of July 12, 1989, at the port of Charleston.

Here is where the problem arose. The entry documentation classified the machinery as a reentry of goods of U.S. origin. This misclassification was then changed to a second misclassification in which the goods were listed as "knitting machines" under HTS 8447.90.90—dutiable at 4.4 percent.

Upon discovery of the additional duties, D&S contacted its freight forwarder and the U.S. Customs Service. This was done at the customs level by letter and office memorandum. Instead of correcting the classification at this point, however, Customs engaged D&S and the freight forwarder in a series of discussions and exchanges of information.

Pursuant to 19 U.S.C. 1514, such duty protests must be filed within 90 days of liquidation (i.e., the time at which Customs classifies an imported good and gives notice to the importer). While D&S conveyed the necessary information in a timely manner to Customs, the company did not do so by using the technical agency method of documentation, called "Form 19." Since D&S did not use Form 19 within this 90-day period, Customs did not and will not recognize the company protest. The inequity of the situation is therefore manifest: the other correspondence, while accomplishing the same goal as Form 19, is considered worthless for the purposes of protesting a misclassification.

The bottom line is that D&S owes approximately $28,000 in duty with interest accruing daily, effectively inhibiting the ability of the company to do business. Litigation is not a viable alternative, as it will only add to these costs. Accordingly, I urge my colleagues to support this legislation, which simply instructs the Secretary of the Treasury to treat the reentry of the four machines from Venezuela as a duty-free occurrence; and to refund any duties and interest which D&S has paid as a result of the misclassification.

In closing, I should note that the Department of Treasury informed the Ways and Means

Committee last year of its support for H.R. 1318. I am also inserting in the RECORD a copy of a March 15, 1994, correspondence from the General Counsel's office at Treasury which states that failure "* * * to grant relief would cause the importer—D&S—an justice."

I thank the Speaker.

DEPARTMENT OF THE TREASURY,
Washington, March 15, 1994.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington DC.

DEAR MR. CHAIRMAN: This letter expresses the views of the Department of the Treasury on H.R. 1318, "To provide for the liquidation or reliquidation of a certain entry of warp knitting machines as free of certain duties." The bill would authorize the refund of duties mistakenly imposed.

Although the Department generally opposes the enactment of private relief bills where the importer failed to make a timely claim for refund under applicable Customs regulations, the Department does not object to the enactment of H.R. 1318 because not to grant relief would cause the importer an injustice.

D&S International of North Carolina (D&S) imported four warp knitting machines from Germany duty free and sold them to a Venezuelan company. The Venezuelan company then returned the machines to D&S. Upon reentry, Customs mistakenly classified the machines as a reentry of U.S. goods and applied a rate of duty of 4.4 percent. Although D&S timely protested the duty, Customs ruled that the protest was not properly made. As a result, D&S now owes approximately $25,000 in duties on goods which should have been re-entered duty free.

The Senate companion legislation to this bill is S. 1009. A similar letter has been transmitted to the Senate Committee on Finance.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the transmittal of this report to your Committee.

Sincerely,

JEAN E. HANSON.

TRIBUTE TO LION ERIC C. JACOBSON

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. GEJDENSON. Mr. Speaker, I rise today to pay tribute to Eric C. Jacobson of Colchester, Connecticut. Mr. Jacobson is a Lion and currently serving them in the position of District Governor of District 23C. This district represents the eastern third of Connecticut. He will step down on June 30 after a year of dedication and hard work.

Mr. Jacobson has been a Lion for 17 years and embodies their motto, "We Serve." He has been President of the Colchester Lions Club where he was honored with the Melvin Jones fellowship, the highest honor of Lions Club International. He went on to serve the Lions as cabinet secretary-treasurer, zone chairman, district chairman, and most recently as lieutenant governor. As district chairman he oversaw Campaign Sight First, a world-wide effort to prevent the curable causes of blindness. As a result of this dedication, the Lions of eastern Connecticut raised more money for this noble cause than for any other project in the district's history.

In his current position as District Governor, Mr. Jacobson spends countless hours working with Lions all over the district. He is called upon to speak to each individual group and is very involved in their activities and projects. With fifty-seven different clubs in the district he will often dedicate five or six days a week to his fellow Lions and serves as liaison with other Lion Club districts in Connecticut. Mr. Jacobson oversees many district wide projects such as the Low Vision Center in Norwich, which provides equipment to the visually impaired to help them see.

Mr. Jacobson serves Connecticut as an inspiration to many people across eastern Connecticut through his hard work and dedication. Not only does he find time to work with his fellow Lions but also to serve the community in other ways. For instance in Colchester, he served on the Youth Services Board of Directors.

I ask my colleagues to join me today in honoring Eric Jacobson, and to wish him and his family the best in the future.

ARMENIAN GENOCIDE

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. COSTELLO. Mr. Speaker, I rise to join my colleagues today to commemorate the 80th anniversary of the Armenian genocide. In 1915, Armenian religious, political and intellectual leaders were arrested and executed. The campaign of genocide began with this act and resulted in the deaths of over 1.5 million Armenians by 1923.

April 24 is the symbolic day of remembrance for the Armenian community to join together and remember the horrible events of their ancestors. Residents of Armenian heritage in my congressional district believe remembering the past will prevent the world from forgetting.

The Armenian people have maintained their cultural and historical identity with perseverance and pride despite the oppression they endured. That is why I have joined a number of my colleagues in Congress in cosponsoring H. Con. Res. 47 to call on the Republic of Turkey to acknowledge and commemorate the genocide.

I ask my colleagues to join me in remembering the tragedy of the Armenian genocide and in renewing our commitment to human rights. The Congress must stand firm in its resolve to oppose violence and repression against humanity.

TRIBUTE TO COL. CHARLES L. FOX

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. SPENCE. Mr. Speaker, I would like to recognize Col. Charles L. Fox, Deputy Director, Office of Air Force Legislative Liaison, upon his retirement from the U.S. Air Force and commend him on his distinguished service to the National Security Committee and the U.S. House of Representatives. For the past 3 years, the House has enjoyed the outstanding leadership and commitment to service demonstrated by Colonel Fox. During this period, the Air Force has done an excellent job of providing complete and accurate information for use in Congressional oversight of Air Force programs and has ensured that prompt attention has been given to the many inquiries that Members of the House have made for their constituents.

On behalf of my colleagues, who have had the privilege of working with Colonel Fox, I would like to express our gratitude for his 28 years of honorable service to our country, as he retires from the Air Force.

50TH ANNIVERSARY NEW YORK STATE DIVISION OF VETERANS AFFAIRS

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. FORBES. Mr. Speaker, I would like to take this opportunity to recognize the 50th anniversary of the New York State Division of Veterans' Affairs, which formally occurred April 11 and will be celebrated May 9 in Albany. Like divisions of veteran's affairs all over the country, the New York State Division of Veterans' Affairs provides essential services and support to New York's 1.6 million veterans. In New York's First Congressional District in eastern Long Island, we are especially thankful for these 50 great years of work, as we have the largest concentration of veterans in the Nation.

And to those who have worked in the division of veterans' affairs all of these years, the respect is mutual. For New York's veterans, like all of America's veterans, are the ones who have kept us all safe and secure so that we could enjoy the fruits of our great democracy. They fought our enemies in two world wars, Korea, Vietnam, the Persian Gulf and numerous other military conflicts. They are the ones who have been out there every day during peacetime, patrolling the seas and skies, manning potential front lines and preparing to fight again if the need should arise. We owe our vets everything, Mr. Speaker.

And the New York Division of Veterans' Affairs has been in the forefront of efforts to provide these men and women the benefits they need and deserve. I commend and thank them for all of their service.

I would also like to bring to the House's attention the New York division's new director, an old and dear friend of mine, Mr. John L. Behan, who will be sworn in at the anniversary celebration next Tuesday.

John is a Marine Corps veteran who served with distinction in Vietnam. In 1966, my good friend was severely wounded after engaging the enemy while on patrol near Da Nang. For his bravery, he was decorated seven times and received New York State's highest military honor, the Conspicuous Service Cross. John suffered the loss of both legs in the incident and was honorably discharged in 1967.

John's spirit never died, though, and he learned to walk and much, much more with the use of artificial limbs. Always an athlete, John achieved a position on the U.S. Wheelchair Olympic Team a few years later. In 1976 he captained the amputee team and won several medals, including three golds, at the first International Games for the Disabled.

Having conquered the sporting world, in 1978 John entered State politics and was elected to the New York State Assembly, where he served until he was appointed by Governor Pataki as director of the New York State Division of Veterans' Affairs in February.

I would like to thank the New York State Division of Veterans' Affairs and their new director, John Behan, for their service to our Nation's heroes, of which John is one. They provide an irreplaceable service to our community and we are indebted to them.

HOUSE OF REPRESENTATIVES—*Wednesday, May 3, 1995*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. INGLIS of South Carolina].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 3, 1995.

I hereby designate the Honorable BOB INGLIS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With this ardent petition, O gracious God, we pray for the gift of wisdom in our hearts and in our actions, that what we ask or think or do will advance the good of the Nation and be to the benefit of every person. May we have perceptive minds and discerning hearts; may we be astute in our judgments and show mercy in our decisions so that the gift of wisdom will be our heritage and our legacy. Bless us and all Your people this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Illinois [Mr. DURBIN] will lead the membership in the Pledge of Allegiance.

Mr. DURBIN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE PRESIDENT'S RELEVANCE AND MEDICARE

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, earlier this year, Bill Clinton proclaimed he was relevant to the legislative process. Since he is still President of the United States, I certainly hope he is relevant, but as time goes on, I begin to wonder.

The debate on Medicare is just one example of the President's slipping relevance.

Republicans in the House and Senate are taking steps now to save Medicare in the future.

Our plan will preserve, improve, and protect Medicare far into the next century.

But comprehensive Medicare reform will take bipartisanship, statesmanship, and cooperation.

Unfortunately, the President has decided to walk away from this problem. In fact, he has rejected Republican attempts to get the administration involved in solving the Medicare problem.

I urge the President and his advisers to join Republicans in saving Medicare.

Actions speak louder than words, and if the President wants to be relevant, he has to act relevant.

TIME TO BRING THE AMERICAN PEOPLE INTO THE BUDGET DEBATE

(Mr. BENTSEN asked and was given permission to address the House for 1 minute.)

Mr. BENTSEN. Mr. Speaker, the Republican majority is getting ready to make dramatic changes in the Medicare program. I am concerned that the American people will not be included in this debate.

The Republican majority has already missed the deadline to submit a budget. To balance the budget and save $1 trillion over 7 years will be a difficult task, I admit. However, the Republican majority should submit a plan which we all can review. The Republican majority makes promises without making the tough choices on how to achieve their goals.

The Republican majority plans to cut Medicare by $300 billion over 7 years. These cuts will hurt seniors and result in higher costs. It is estimated that this will add $900 in out-of-pocket expenses for seniors in 2002.

Democrats have been responsible in reforming Medicare. In the 1993 OBRA bill, Democrats voted to strengthen the trust fund and made it solvent for an additional 3 years. No Republican Members supported these important reforms.

I am also concerned that any Medicare cuts will affect the health care industry. In my district, reduction in indirect medical education and direct medical education will have devastating consequences. I represent the Texas Medical Center which has two medical schools. Any medicare reductions in these payments will negatively impact the Houston area, and I will work vigorously to oppose these reductions.

If we are going to balance the budget, the American people should be involved and we should all contribute fairly to the solution. Without a plan, I cannot judge whether this goal will be met.

The American people deserve to know the details of a plan and we have the responsibility to ensure that they are included in this debate.

CONGRATULATIONS ON THE CONTRACT WITH AMERICA

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, during the last 3 weeks, I held 11 town meetings, 3 senior citizen conferences, and a very successful agriculture conference. I always ask those in attendance to tell me what they were hearing about the new 104th Congress.

Here is one letter I received last week:

DEAR ANDREA: You asked the question, "What are you hearing?"

Our son said, "The Republicans have a chance to do something, but they will probably drop the ball." A 17-year-old cynic. Now he says, "They did it. The Republicans did it."

My cousin in Santa Barbara said her husband is so excited she was not able to tear him away from the TV coverage for the first 100 days.

In general, people say, "We can depend on the freshmen in the Congress to stand together and do what they said they could do." Congratulations on the Contract With America. Thank you for your very hard work.

Sincerely,

MARY KAY DANA.

NIPOMO, CA.

REPUBLICANS HAVE PROMISED MORE THAN THEY CAN DELIVER

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, Members of the House, the senior citizens of this country should

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in `this typeface` indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

be deeply concerned about the rumblings that they hear on the Republican side of the aisle.

The Republicans have now come to face the fact that they cannot give tax cuts to the wealthy, balance the budget, and preserve Medicare, so now they are devising a plan by which they can make the cuts in Medicare to provide for the tax cuts for the wealthy.

I think we have to ask ourselves, is this really what America expected at the time of election, that we would pass on massive tax cuts to the wealthiest people in this country and we would do it at the expense of the Medicare plan, the health safety net for millions of seniors who have nowhere other to turn for health care in this country? I am saying to the senior citizens of this country, keep your eyes open and your ears tuned to the news waves because what the Republicans have in store is nothing but bad for the Medicare system of this country.

If they do not do that, what they have in store is to add another $150 billion in budget cuts to $1 out of every $3 that the Federal Government now spends, so they have run up against the cruel facts that they have promised more than they can deliver, and it looks like the beneficiaries of that will be the wealthy of the Nation, and the victims will be the health care of the senior citizens.

THE 175TH ANNIVERSARY OF THE HOUSE COMMITTEE ON AGRICULTURE

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, doubtlessly, we will return in just a moment to the 1-minute handgrenades back and forth. But first this happy birthday greeting.

My colleagues, as chairman of the House Committee on Agriculture, we are 175 years old as of today. As we begin our work on the 1995 farm bill, it is appropriate for us to take a brief moment to reflect on the long and distinguished story and history of the committee.

April 29, 1820, Congressman Lewis Williams of North Carolina, introduced a resolution to create a Committee on Agriculture in the House of Representatives. Since that time, we have remained true to the original purpose of the committee that was stated by Congressman Williams, to guard and protect the great and leading substantial interests in this country.

Hey, the House Ag Committee over the break, 16 hearings, 5,000 farmers in attendance, over 600 witnesses. When we are 200, I can assure you we will continue to do our work, to make sure we have the best quality food at the lowest price in the history of the world.

Happy birthday, House Ag Committee.

WHERE IS THE BUDGET?

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, well, the tax cuts got passed, the circus came to the Hill, and, guess what, we still do not have a budget.

We do not have any budget because now they have got to do the tough part, the spending part, and there is nothing really there they can cut except Medicare. They do not want to cut Medicare.

You know, we have tried last year, for the last 2 years, with the President, to reform the whole health care system. Boy, we did not get any help on that side.

They promised they could do this. This was going to be so easy. Now you hear everybody, saying, "Hey, where is the President, where is the President? He ought to do this."

Well, he was here last time. He was trying to do it. We were trying to do it with him. We got no help there.

Let us get this budget out. Let us see what we are going to do to get this thing balanced, and let us stop seeing the whining for help from the White House.

CONTINUING TO WORK FOR THE AMERICAN PEOPLE

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, while home during the 3-week recess, I traveled 17 of 21 days, visited 15 of 19 counties that I have the privilege to represent, appeared on several radio talk shows, and held numerous town meetings.

Overall, people are optimistic about the direction the new Congress is going. People believe Congress is starting to represent the working man and woman and passing commonsense legislation. I sincerely believe we are in the process of rebuilding the public's trust in Congress which was lost after previous Congresses neglected to listen to the people.

In the next few months we will all have to make difficult choices. But we, as elected officials, must continue to use common sense when drafting, discussing, and voting on legislation. We must continue to work for the American people.

Ultimately, we need to stay focused to the commitment we made with the American people—to again make America a great country.

LEADERSHIP IS TOUGH

(Mr. GENE GREEN of Texas asked and was given permission to address the House and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, leadership is tough. During the welfare reform, the Republican majority pulled seniors out of that legislation and I agreed with that decision. And now it appears Medicare is off the table to pay for tax cuts and budget reduction.

The Republican majority, which is attempting to balance the budget by the year 2002, plan to cut $400 billion out of Medicare. The Republican majority is realizing what President Clinton, and a number of other Democrats, and I said last year, when we were first elected, that to have a balanced budget we must control health care costs.

The Republican majority has promised not to cut Social Security or the military budget, and interest on the national debt, which is 20 percent of our budget, has to be paid.

Guess what? Medicare is 25 percent of everything left. And now they have promised not to tamper with that.

In 1993, the Democrats made Medicare solvent for 3 more years, without one Republican vote, and now they are criticizing the President and Democrats for not coming up with a plan before they introduce a budget.

Today the majority criticizes us for not providing leadership on Medicare. Well, they are the majority. Leadership is tough. If the Republican majority wants to continue to live in a dream world and think that they can balance the budget without cutting health care costs, they need to come up with a plan. Medicare should not be a cut.

THE TRAGEDY IN OKLAHOMA CITY

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker and Members of the House, following the tragedy in Oklahoma City, as was expected, tremendous rhetoric grew out of this fracas that occurred, both from the right and the left, calling for hearings on terrorism, international terrorism, domestic terrorism, paramilitary actions, all kinds of themes and theses that were propounded following that tragic event.

But we must focus once and for all on what happened there and then at that tragic moment. This was an act of mass murder, willful, deliberate, intended to kill people, and succeeded in that.

Our job, as the American people and the law enforcement and Members of Congress, communities together, must focus to bring those culprits to justice, bring them to the bar of justice, and then try them for murder and seek the death penalty. That is the analysis with which we must start in contemplating what happened in Oklahoma City on that fateful day.

The death penalty, which is favored by most people in our country, has never been more appropriate than in this particular situation.

GOP MEDICARE CUTS

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, today, the Republicans are over 2 weeks late in producing a budget.

I believe the reason for the Republican delay is that they do not know how they are going to keep all of their promises. Part of their answer to balancing the budget is to cut Medicare by over $300 billion. This means that seniors will have to pay on average an additional $900 in out-of-pocket expenses.

Now, Speaker GINGRICH is claiming that any Medicare cuts will be used to keep Medicare solvent. Of course he forgets to mention that Democrats have already worked to keep Medicare from going bankrupt in the past. In addition, it was Democrats, last year, who put forth an effort to reform health care and save Medicare.

I believe in balancing the budget and have always voted in support of a balanced budget, but I feel that any Medicare reform needs to arise in the context of health care reform. It is rising health care costs that are contributing to the deficit, not senior citizens.

OPPOSING THE AGREEMENT WITH CASTRO

(Mr. DIAZ-BALART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIAZ-BALART. Mr. Speaker, the secretly negotiated agreement between the Clinton administration and Fidel Castro, announced yesterday, to return Cuban refugees to Castro's state security is unprecedented as well as immoral.

As Speaker GINGRICH declared yesterday, for the first time in history, the U.S. Government has agreed to cooperate with a Communist dictatorship's security forces in order to carry out the forced return of refugees who managed to escape.

□ 1115

The administration now says that Castro has given it assurances that those refugees turned over to state security will not be persecuted, and yet they did not even ask Castro to abrogate his own law that requires jailtime for those caught trying to leave without permission. An administration official told me yesterday not to worry, that Castro has prosecutorial discretion. This, Mr. Speaker, this incident, this agreement, is shameful. It is another attempt to appease a totalitarian dictator who will still not be satisfied by the McGovernites who now control American foreign policy.

SAVAGE PLANS FOR MEDICARE

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, the Gingrichites took a poll, and now they are scurrying here, there, and everywhere searching for a way to dress up their plan to slash Medicare.

The Gingrichites are understandably scared silly that the American public recognizes that what they have in mind is a raid of $305 billion from the Medicare trust fund to fund last month's $345 billion tax break for the privileged few.

This week the Gingrichites say, well, Medicare is in such bad financial shape that it needs surgery to survive. Well, I ask, "Why didn't they think about that last month when they were standing on this floor and they approved a contract tax bill that pulled out $56 billion from the Medicare trust fund?"

That is right, $56 billion from the same fund they now complain is going broke, and, having bled the trust fund, now they intend to start whacking off the benefits for America's seniors.

The Gingrichites do not plan to salvage Medicare; they plan to savage it, and I think the American people are smart enough to recognize savagery when they see it, to know the difference between savagery and salvation.

NATIONAL DAY OF PRAYER

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, tomorrow is our National Day of Prayer, and there will be events, big and small, commemorating this all over the Nation. Every faith, every religion, believes prayer is a good thing.

If we have any hope of overcoming evil things like we saw in Oklahoma City 2 weeks ago, we need to overcome evil with good—good things like prayer.

I hope all Americans will participate in our National Day of Prayer tomorrow, at least in a small way. I do not say this in any holier-than-thou manner, because I have as many faults as anyone.

But I do believe this Nation would be a better place if more people spent more time in prayer.

The Old Testament tells us:

> If my people which are called by my name shall humble themselves, and pray, and seek my face, and turn from their wicked ways, then I will hear from heaven, and will forgive their sin, and heal their land.

Almost all of us need some type of healing—physically, emotionally, spiritually. I hope everyone will support the National Day of Prayer tomorrow.

REPUBLICANS TURNING TO MEDICARE IN ORDER TO PAY FOR TAX CUTS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, why have the Gingrich Republicans failed to meet the statutory deadline for passing a House budget resolution? The same Gingrich Republicans who were so proud of the fact that they met their hundred-day deadline for the Republican Contract With America, they read letters, fan mail, all sorts of comments from their districts about how proud they were, and yet when it comes down to the most basic thing, the spending bill for the Federal Government, the Gingrich Republicans have just dropped the ball.

Well, Mr. Speaker, the reason is pretty simple. The last item in the Republican contract was a Republican tax bill which adds $600 billion to our national debt over the next 10 years. When they sit down and try to figure out this $600 billion and how to make it up, they run out of solutions.

Well, where did they turn? They turned to one of the most important programs in America, Medicare, a program not only important for seniors, but important for hospitals and doctors all across the United States.

The Republicans have found themselves in this box, they have painted themselves in this corner, because they insist on tax breaks for the wealthiest people and absolving corporations from paying their Federal taxes, and they want to make up the difference by cutting Medicare. That is not fair.

I hope the Republicans will get off this premise that they have to give these tax cuts to the privileged few and focus on the truly important programs like Social Security and Medicare.

UNITED STATES-JAPAN AUTOMOTIVE AND AUTO PARTS NEGOTIATIONS

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to address an extremely important issue facing the automotive and auto parts industry. The United States-Japan framework talks were initiated in July 1993, but no agreement has been reached in these critical areas which amount to 60 percent of the United States bilateral deficit with Japan. Now these 1993 talks are only part of an effort that is now 10 years long to deal with very substantial nontariff barriers that Japan throws up to American auto parts and American automobiles even though that is the biggest item of our bilateral deficit. In recent years, as a result of these talks and all of the efforts that have been made, yes, Japan has increased the purchase of American parts, but only for those factories that produce in America.

Mr. Speaker, if we are to maintain a strong industrial base in America, we must be able to export quality, cost-competitive United States auto parts and automobiles everywhere in the world, even to Japan, and I strongly support the need for a negotiated agreement with Japan and support our United States Trade Representative, Mickey Kantor, in his efforts.

TRIBUTE TO JOHN JOSEPH NOVABILSKI, AN AMERICAN HERO

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, I rise to recognize a fallen hero. On Monday, May 1, in Prince Georges County, MD, we buried Police Corporal John Joseph Novabilski, known as "Nova."

Corporal Novabilski was killed in uniform while sitting in his cruiser working as an off-duty security guard. Allegedly, following an earlier argument, his assailant walked up from behind and shot Novabilski 11 times.

Officer Novabilski first joined the Prince Georges police force in 1988. He took his job as an officer of the law seriously, and sought duty in high crime areas. He was also compassionate, using his own money to buy toys for poor youngsters in the neighborhood. His fellow officers knew him for his big, warm smile and good humored griping.

At the funeral, a friend, Kirk Mullings, described Corporal Novabilski as a good man who wanted nothing more than to fall in love with a good woman, have many good friends, and do the job he loved.

On behalf of the citizens of Prince Georges County and the State of Maryland, I want to say to his wife, Karen, and his family that we appreciate what John did to help our community and we'll long remember his efforts. May God rest his soul. John Joseph Novabilski, American hero.

UNITED STATES-JAPAN AUTO PARTS NEGOTIATIONS

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, the meetings that begin today in Canada between the world's four economic powers mark another critical juncture in this country's ongoing effort to level the playing field for Japanese-American automotive trade. Although progress has been made in this area since talks began 4 years ago, much remains to be done.

This is not a question of demanding one-sided concessions: An improved trade situation is in the interest of both countries. Motor vehicle and equipment manufacturing is the largest U.S. manufacturing industry, and a cornerstone of America's industrial base. The "Big Three" alone—Chrysler, Ford, and General Motors—employ almost 700,000 Americans, and are among the largest employers of research engineers and scientists in the country. Thus the health of the U.S. auto industry has far-reaching implications for the larger U.S. economy and its competitiveness. Japan stands to gain, as well, including Japanese consumers, who currently pay prices for auto parts that are on average 340 percent higher than for identical parts in the United States.

Resolution of this crucial imbalance can set an important precedent, not only for anyone seeking access to Japan's markets, but also for American access to and competitiveness in other critical markets overseas. I strongly urge Ambassador Kantor to continue his effective leadership on this issue. I am confident that with a healthy balance of trade, this important relationship can flourish rather than flounder.

REPUBLICAN MEDICARE CUTS

(Mr. WARD asked and was given permission to address the House for 1 minute.)

Mr. WARD. Mr. speaker, I must rise today to speak out against the proposed reductions in Medicare spending which I feel will devastate our Nation's elderly.

Under the guise of protecting and strengthening the Medicare trust fund, Republicans have proposed billions in reductions in future spending over the next 7 years. Republicans have pledged not to cut Social Security, interest on the debt, or defense in order to pay for their tax cuts; therefore, the only remaining source from which to cut is Medicare.

The Medicare trust fund should be addressed appropriately as a long-term problem and should take into careful consideration the needs of our Nation's seniors. This debate should take place apart from the budget debate and apart from efforts to salvage the cynical, public opinion poll-driven Contract for American campaign promises.

Mr. Speaker, I call once again for compassion for the elderly of our society, another vulnerable, defenseless group which must be protected.

THE USUAL CLASS-WARFARE RHETORIC ON MEDICARE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, there are some things going on here in Washington the American people really ought to know about. Members of President Clinton's Cabinet have raised some very serious questions about the long-term health of Medicare. A report by the Medicare trustees concludes that Medicare will begin losing money next year and could become insolvent by the year 2001, and, by the way, this Medicare board includes Health and Human Services Secretary Donna Shalala, Labor Secretary Robert Reich, and Treasury Secretary Robert Rubin.

Now, last Friday, the Speaker of the House wrote the President expressing his concerns over this matter and communicated a willingness to work together on a solution, but the news about Medicare has apparently fallen on deaf ears at the White House and on this side of the House because the Speaker's letter is being dismissed with the usual class-warfare rhetoric. In fact, Leon Panetta suggested the White House will do nothing to help fix Medicare.

This is unfortunate, Mr. Speaker. Medicare is going broke and all the White House can offer up is class-warfare rhetoric. This shows a total avoidance of responsibility and a lack of respect to older Americans who expect leadership from Washington, and not excuses, not class warfare.

ONE TOO MANY PROMISES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, there is no mystery as to why the Republican leadership is late in producing their promised balanced budget and it seems that the party that loves to talk about promises made and promises kept may have made one too many promises when it comes to tax breaks for their wealthy friends. Who is being asked to finance the GOP tax windfall to the wealthy this time? Senior citizens. In fact, the Republican leaders want to cut $300 billion from Medicare to help to pay for their $325 billion tax giveaway to the wealthy. These cuts would add more than $3,000 to seniors' health care costs.

Mr. Speaker, Medicare is a program that works. It has made a difference in the lives of our seniors by bringing affordable care to seniors on fixed incomes.

This cut would be devastating to seniors. Do not take my word for it; listen to what the Republican chairman of the House Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER], said last year about Medicare cuts. I quote:

> I just don't believe that quality of care and availability of care can survive these additional cuts. And that is the price that is

going to have to be paid to pay for these cuts.

Republican leaders in the House should remember those words and reconsider this wrongheaded plan. We, in this body, should be fighting to save the Medicare safety net for seniors, not robbing the Medicare trust fund to pay for tax breaks for the wealthy.

THE GIVING INCENTIVE AND VOLUNTEER EMPOWERMENT ACT

(Mr. SOUDER asked and was given permission to address the House for 1 minute.)

Mr. SOUDER. Mr. Speaker, the Cato Institute estimates that spending on welfare programs by all levels of government runs over $35,000 for every family of four below the poverty line. But it is painfully obvious that the average poor family does not even come close to receiving this much money. The bulk is spent on bureaucratic overhead, not on the people it is intended to help.

Today, I will be introducing a bill to expand the tax incentive for charitable giving, thereby offering average citizens a chance to do more for those in need than the government ever could. My bill—the Giving Incentive and Volunteer Empowerment Act, or the GIVE Act—will encourage more charitable donations to private sector charities and other nonprofits, which get a much bigger bang for their bucks than do government-run programs.

The GIVE Act will do four things:

First, allow all individual filers to deduct from taxable income 120 percent of the value of their charitable donation.

Second, once again allow non-itemizers to deduct for charitable deductions, as long as they give more than $1,000, or $2,000 filing jointly.

Third, exclude charitable giving from the overall limitation on itemized deductions.

Fourth, extend the deadline for making tax-deductible charitable donations until April 15, when taxpayers are past the end-of-the-year cash crunch and can better estimate their tax liability.

I want to make it plain the GIVE Act is not meant to supplant all Government spending on social programs. But as we seek to reassert fiscal responsibility in Government, increased private giving and volunteer involvement can fill a need the deficit spending cannot—and with more success, efficiency, and compassion.

□ 1130

THE BALANCED BUDGET ENFORCEMENT ACT

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, the budget resolution is just around the corner and it is time to put the money where our mouths are and actually balance the budget.

Our deficits have left us with a debt of $4.7 trillion or $47,000 per taxpayer. Our yearly interest payments on the debt exceed $200 billion or $2,000 per taxpayer. This reduces wage rates, destroys jobs, and mortgages our future.

To start balancing the budget today, Mr. STENHOLM and I have introduced the Balanced Budget Enforcement Act. This bill will force us to make the tough decisions to balance the budget in 2002.

Unlike past attempts to balance the budget, this bill holds everyone's feet to the fire. There are no loopholes. Everything's on-budget. And all smoke-and-mirror projections will be checked by a nonpartisan Board of Estimates at the beginning and end of the annual budgeting process.

Mr. Speaker, everyone says they want to balance the budget, but we have not even come close. I have been in Washington long enough to know that the Balanced Budget Enforcement Act will work. If we are really serious about balancing the budget, the House will include this bill in the budget resolution.

DON SODERQUIST

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, I am pleased today to recognize a personal friend and distinguished businessman from my district, Don Soderquist. Don is the chairman of the board of the International Mass Retail Association [IMRA], and vice chairman and chief operating officer of Wal-Mart Stores, and in both capacities has shown a tireless commitment to this country and the principles on which it was built.

This month, Don is ending his term as chairman of the IMRA, the trade association that represents the vibrant mass-retailing industry. Don has been involved with discount and mass retailing since 1964, when he began his retailing career with Ben Franklin Stores. He joined Wal-Mart in 1980 as senior vice president. Throughout his career, he has exemplified the work ethic and entrepreneurial spirit.

Don is characterized by the depth of his personal commitments to his family, his church, and his community.

I ask all my colleagues to join me in saluting Don Soderquist as a devoted family man and dedicated business leader. While his leadership at IMRA will be missed, we wish him the best of luck at Wal-Mart and in his other endeavors.

AMERICA LOSES WITH THE MAJORITY BUDGET

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. CLAYTON. Mr. Speaker, by all accounts, there is at least a $3,500 billion hole in the budget that the majority will present to us next week. They want to balance the budget, and so do I. They do not want to cut Medicare, if possible; so do I. But they have also passed a bill to give the wealthiest of Americans a tax cut.

In other words, they want to use one-half of the budget for deficit reduction, they say; half of the money will go for Medicare, and the third half will go for the wealthiest Americans. That math does not add up, Mr. Speaker.

The tax cut will cost more than $345 billion that they gave to the wealthiest Americans. That is $45 billion more than they need to save Medicare. Now we are told the majority wants to put off the decision about Medicare. They are already 1 month behind their commitment to present a budget to this House.

Mr. Speaker, it seems clear what is going on here. In the end the majority will cut more than fat out of Medicare; they will cut the bone and the marrow out of Medicare. They will cause senior citizens to spend more than $3,000 more for their medical care.

Mr. Speaker, that is not fair. America will be the losers in the end if we do not address this appropriately.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 774

Mrs. SEASTRAND. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 774.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Is there objection to the request of the gentlewoman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I wish to take this opportunity to inquire of the majority leader the schedule for next week.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, the House will not be in session on Monday, May 8. On Tuesday, May 9, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for legislative business to take up H.R. 1139, the Striped Bass Conservation Act Amendments of 1995.

Mr. Speaker, of course, this is very important legislation, and we will want to give it our immediate attention. Mr. Speaker, this bill will be considered under suspension of the rules.

After we complete H.R. 1139, we plan to take up H.R. 1361, the fiscal year 1996 Coast Guard reauthorization, which is subject to a rule. While it is our intent to complete consideration of H.R. 1361 on Tuesday, we do not expect Tuesday to be a late night for Members. Members should be advised that we do not expect any recorded votes to be taken before 3:30 p.m. on Tuesday.

On Wednesday the House will meet at 11 a.m. to consider H.R. 961, the Clean Water Act Amendments of 1995, subject to a rule. We expect consideration of this bill to extend through the end of the week. The House will meet at 10 a.m. on Thursday and Friday. It is our hope to have Members on their way home to their families and their districts by no later than 3 p.m. on Friday.

Mr. BONIOR. If I might inquire to my friend from Texas, on Tuesday we have the suspension bill that the gentleman mentioned, which I know is of great interest particularly to my friend from Texas, who is one of the best at that sport. But let me ask you this: Is it possible if we could not hold the votes until 5 p.m. on Tuesday, given the fact we are going to have a suspension bill and the Coast Guard authorization will be under an open rule?

Mr. ARMEY. Well, I appreciate the gentleman's inquiry, but we do believe there will be some important amendments offered on the Coast Guard bill that follows. We do not expect a vote on the rule, but I do think in fairness to all Members who would participate in that important legislation, that we need to be prepared to have the membership prepared to have a vote as early as 3:30, but not before 3:30, on Tuesday.

Mr. BONIOR. Before 3:30?

Mr. ARMEY. 3:30, yes.

Mr. BONIOR. Does the gentleman plan to vote directly on the suspension on Tuesday, or are we going to take that up after the Coast Guard bill?

Mr. ARMEY. If there is a vote on the suspension ordered, we will roll that vote. But we do not intend to roll votes that might be called while we are in the Committee of the Whole.

Mr. BONIOR. I thank the gentleman. So Members would be safe until 3:30, and presumably longer?

Mr. ARMEY. Right.

Mr. BONIOR. Do you expect votes on Friday?

Mr. ARMEY. At this point, I think we have to be prepared for votes on Friday. We will be working on the Clean Water Act, and again we want to be able to, as we prepare for the week, be prepared to accommodate all the participation that any of the Members might want to make on that.

Mr. BONIOR. On the clean water bill that we will have before us, since it is probably one of the most important environmental pieces of legislation that we will consider in this body this Congress, I would ask my friend, what do you anticipate with respect to a rule?

It is our hope, obviously, that the rule will be open and we will not have a time cap on amendments, especially as the latter part of the week looks as if it is open and we can use indeed Thursday and Friday to complete this. I would hope that we would have an open process on this important bill.

Mr. ARMEY. Well, again, the gentleman is absolutely correct on that, although a rule has not yet been granted. It is anticipated that will be an open rule, and on that basis it is our anticipation we should expect some votes on Friday.

Mr. BONIOR. I would hope we would not have a time cap on that bill, I would ask my colleague. We want to clean up the waters of the country so you can catch all the great bass you referred to.

Mr ARMEY. The gentleman's priorities are those I applaud in that regard. We want to keep this as open a process as possible.

Mr. BONIOR. Finally, I would inquire from my friend from Texas with respect to the budget resolution. We are now into the 3d day of the month of May and we are past the April 15 deadline in which a budget resolution is required to be produced by this Congress. We are weeks behind. It is the first time that we have been behind in a number of years.

When are you going to bring the budget bill to the floor?

Mr. ARMEY. It is our anticipation we can have the budget bill to the floor the week after next on May 17. Obviously the committee is working very hard and working as much as it can in conjunction with other committees. I checked with the committee, and we are very confident that that timetable will hold up.

Mr. BONIOR. I thank the gentleman and yield back my time.

Mr. ARMEY. If the gentleman would yield for one final observation, as long as we are on the subject of striped and other bass, may I just ask the Nation, catch 'em, kiss 'em, and release 'em.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, May 9, 1995, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday, May 10, 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARMEY. Mr. Speaker, if I may just take a moment, I would like to thank all of these Members that are patiently waiting for their 1-minutes for the courtesy they have extended Mr. BONIOR, the Democratic whip, and myself, in carrying out this colloquy.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1361, THE COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 104–111) on the resolution (H. Res. 139) providing for the consideration of the bill (H.R. 1361) to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes, which was referred to the House Calendar and ordered to be printed.

TIME TO KEEP CONTRACT WITH OLDER AMERICANS

(Mr. TATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TATE. Mr. Speaker, we were sent here to keep our word with the Contract With America, and that is exactly what we did. Now we plan to keep a contract with our older Americans. Bill Clinton's own Medicare Board of Trustees, which includes the Cabinet members of Mr. Rubin, Secretary Shalala, and Secretary Reich, came out with a report that said that Medicare will be insolvent in the next few years, within 7 years. But have we heard something from the President? I am still listening. I have heard nothing.

This report that came out is not a Republican fact, it is not a Democrat fact. It is the Board of Trustees, and it is a fact.

Now, the Democrats' proposal as well, we had health care reform last year and that had Medicare reforms. If you have a leaky roof, you do not tear off the entire roof, you fix the leak. And that is what we want to do. Republicans are committed to preserve, to protect, and to improve Medicare, not to bury our heads in the sand, and that is exactly what we are going to do.

KEEP MEDICARE SOLVENT

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, our seniors depend on Medicare, and its solvency is a national priority. That is why President Clinton addressed this issue as soon as he took office in 1993.

The omnibus budget bill of 1993 not only reduced the deficit; it also strengthened the Medicare Trust Fund and made it solvent for 3 additional years. President Clinton and the Democrats in Congress did this without one Republican vote. The administration also recognized that Medicare could only be solvent if we have comprehensive health care reform. These initiatives passed out of committee without one Republican vote.

□ 1145

Now, Mr. Speaker, Republicans are poised to take $300 billion over 7 years from the Medicare Program. The Republicans plan to use the Medicare Program as a bank for their tax cuts. We must not let this happen. These Medicare cuts will cost seniors $3,000 over the next 7 years, using up most of their Social Security cost-of-living adjustment.

Chief of Staff Panetta said it well when he said, "No amount of accounting gimmicks, separate accounts, dual budget reconciliations can hide the reality that you," the Republicans, "essentially are calling for the largest Medicare cut in history to pay for tax cuts for the well-off."

We must fight these cuts.

TRADE IMBALANCE WITH JAPAN

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, today U.S. Trade Representative Mickey Kantor is meeting with Japanese Trade Representative Hashimoto in Canada to discuss United States auto sales in Japan. Last year, as in previous years, the largest share of our trade imbalance with Japan was in the automotive sector. In 1994, this imbalance was about $37 billion and represented 56 percent of our total trade deficit with Japan.

Japan has the second largest auto market in the world, but has by far the lowest sales of imported cars and trucks of all industrialized nations that manufacture cars.

General Motors has been building cars in the Third District of Kansas since the late 1940's, and I hope they will be there for another 50 years. But to ensure the success of our domestic automobile manufacturers, we must gain access to the second largest auto market in the world.

Right now Japanese auto makers hold 22 percent of the United States market, while the United States "Big Three" has only 1 percent of the Japanese market. United States Trade Representative Kantor should take all steps necessary to level this playing field with Japan. So long as this automotive imbalance exists, we will never be able to reduce our trade deficit with Japan.

WALK AMERICA

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Wisconsin. Mr. Speaker, today I rise to recognize the 25th anniversary of Walk America, the annual fundraiser for the March of Dimes, and one of the most important walking events in the Nation.

In 1938, President Franklin Delano Roosevelt, a man who wanted to save future generations from the pain of paralysis that he understood so well, founded the National Foundation for Infantile Paralysis, which later became the March of Dimes.

For almost 60 years, the March of Dimes has been helping America's children live healthier lives. In Wisconsin, grants from the March of Dimes have provided prenatal care for low-income women, bought soccer tickets for children with disabilities, and funded research that has led to breakthroughs in understanding birth defects.

Building a healthy future for our kids is an important part of what this Congress is all about, and the March of Dimes has provided invaluable assistance and dedication for our work in this direction.

I appreciate this opportunity to thank the March of Dimes on behalf of my State and to wish the foundation continued success.

OPENING JAPANESE MARKETS

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, it was 10 years ago that MARCY KAPTUR and I met with Japanese officials about opening their markets to United States auto parts. Imports then had less than 1 percent of Japan's protected market. Today, despite incessant American efforts, that figure is only 2.4 percent.

The Japanese sell their automotive products on every United States Main Street, but they make it difficult, often impossible, to sell United States products even on Japanese side streets.

The negotiations that begin today in Vancouver are make it or break it for opening the Japanese market. That is why there is broad support on a bipartisan basis here in Congress and in the U.S. business community, from the Business Roundtable and NAM to semiconductors and motion pictures.

Japan's protected markets undermine the world trading system. Resolution of this issue with Japan will affect this Nation's economic future, the confidence of Americans in their Nation's trade policy.

CIVIL LIBERTIES FOR ALL

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, I am fascinated with the process by which right-wingers have become devotees of civil liberties. A few years ago, when a lot of them were getting indicted, they became great supporters of such procedural protections as due possess and the fifth amendment.

Now we have seen a great rightwing rush, late in life, but I always like conversions, to embrace the principles of free speech. They have now decided that people who say crazy, irresponsible, dangerous things under the first amendment should be allowed to say them. I agree with them. I have always felt that way.

The problem is that they only imperfectly understand that. Because the fact is that the right to say these kinds of things—irresponsible and obnoxious and in some cases threatening—cannot only go to their rightwing caricatures. It goes to the left as well.

I am particularly struck by the fact that many of those who wanted the rapper Ice-T to be shut up and taken off the air, because he talked about killing policemen—and he certainly was, in my judgment, obnoxious and irresponsible—turn around and want to honor G. Gordon Liddy.

Now, they got a little embarrassed after the Oklahoma bombing, so they backed away from Liddy a little bit. But the fact is, there is very little difference morally or in the nature of the rhetoric between Ice-T and G. Gordon Liddy. I suppose at a future Republican senatorial dinner, we will see both of them doing a duet.

WE HAVE TO GET OUR FINANCIAL HOUSE IN ORDER

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute.)

Mr. SCARBOROUGH. Mr. Speaker, this Congress faces two challenges in the next 100 days and in the rest of this session. We have got to get our financial house in order. We have got to finally balance the budget, do it for the first time since 1969. The second thing we are going to have to do is finally get Medicare costs under control. A report by President Clinton's own task force shows that Medicare goes bankrupt by the year 2002. We have got to do both of these things at the same time, and it is going to call for heavy lifting, and it is going to call for bipartisan support.

I ask the Democrats today to come forward with a plan that not only saves Medicare but also balances the budget by the year 2002. If they are not willing to take part in the process, I ask that they step back and let the Republican Party do it, along with other conservative Democrats who are just as concerned about this very important issue. We have no choice. We must take care of Medicare and we must balance the budget by the year 2002, or it is the senior citizens who will suffer in the end.

COMMENDING THE FEDERAL EMPLOYEES WHO SERVE THE PUBLIC

(Mr. OLVER asked and was given permission to address the House for 1 minute.)

Mr. OLVER. Mr. Speaker, the deadly bombing 2 weeks ago in Oklahoma City has had a chilling effect on our Nation.

More than 100 Federal employees died.

They died because a few used violence to express their hate for the American Government.

We are angry. We want justice.

Our healing has barely begun.

As we mourn with the families of the victims, let us remember that Federal employees are not nameless, faceless bureaucrats. They are people. They help others every day.

In my district many Federal employees help us in our everyday lives.

I am reminded of Jeffrey Reck who serves as district manager of the Social Security Administration in Fitchburg, MA.

Jeff helps people get the benefits they deserve.

He gets answers. He gives people the personal help that we all need from our Government. He treats people like people.

Jeff's work is a tribute to his fallen colleagues and to Federal employees everywhere. I commend him and so many thousands who serve the public.

PROTECT MEDICARE

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to say to my Republican colleagues, it is time to deliver on your promises.

You said you would cut taxes, balance the budget, and leave Social Security and defense intact. Now tell us: How will you do it?

To date the Republicans have raided the Medicare trust fund to pay for their tax cuts for the rich. Their tax bill takes $27 billion away from the Medicare trust fund and from our Nation's senior citizens.

In 1993 and again in 1994, the President and the Democrats took action to make the Medicare Program stronger. And, we did it over the loud protests of my colleagues on the other side of the aisle.

I say to my Republican colleagues, don't take health care from our senior citizens to pay for tax cuts for the rich. That is not Medicare reform. And our senior citizens will not be fooled.

APPOINTMENT OF MEMBER TO ACT AS CHAIRMAN OF REVIEW PANEL ESTABLISHED BY RULE 51 OF THE RULES OF THE HOUSE

The SPEAKER pro tempore (Mr. INGLIS of South Carolina) laid before the House the following communication from the Honorable WILLIAM M. THOMAS, Member of Congress:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE OVERSIGHT,
Washington, DC, May 1, 1995.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to House Rule 51, clause 7, I have appointed the Honorable Vernon J. Ehlers as chairman of the review panel established by that Rule for the 104th Congress.

Best regards,
BILL THOMAS,
Chairman.

NEW DEREGULATION FOR TELECOMMUNICATIONS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I just wanted to advise and introduce to the Members that we had a telecommunications press conference today offered through the Committee on Commerce a new deregulatory bill which will allow mass communications to change dramatically, and I had the honor to offer as an amendment to this bill new broadcast ownership changes to allow many new forms of ownership for video broadcasting. It is a bipartisan bill.

Basically, it reduces restrictions on ownership of broadcasting stations and other media mass communications. As I mentioned, it repeals antiquated rules and regulations and brings broadcasting up to date with technology. The bill states that the FCC does not provide or enforce any regulations concerning cross ownership. The details of this will be in a statement that I will put in the extension of my remarks today.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

COMMUNICATIONS ACT OF 1995

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. FIELDS] is recognized for 5 minutes.

Mr. FIELDS of Texas. Mr. Speaker, this morning, I introduced on behalf of myself, Chairman TOM BLILEY, our Republican Members, and Democrat cosponsors, the Communications Act of 1995. Hearings are planned for Wednesday, May 10, Thursday, May 11, and Friday, May 12.

Truly, this is a watershed and historic moment for the telecommunication industry, our country, and the consuming public.

This legislation meets several broad objectives:

First, and foremost, the legislation gives definition and certainty as we move into this time of convergence and technological innovation.

Second, this legislation is much more deregulatory than the telecommunications legislation, introduced and passed last year. This legislation recognizes that the 1934 act is outdated—a dinosaur—and coupled with a hodgepodge of FCC administrative decisions and Federal court decisions, the telecommunications industry could be stifled and the consumer denied better products and services at lower costs unless we pass this historic legislation.

Third, great attention was paid in creating level playing fields—an atmosphere of legislative parity so that the rules are fair to all competitors as new lines of business are entered.

Fourth, it was our goal and objective for our legislation to be dynamic so that it evolves with and recognizes new technology and its applications.

Fifth, our legislation is predicated on competition and an opportunity model not government, be it Federal or State micromanagement.

I can't stand up here and tell you that the Communications Act of 1995 is perfect or that it will not change; of course, the legislative process itself is dynamic.

But, I can tell you that there has been much consultation with industry leaders, consumer groups, States and cities, with our members and between our respective staffs, and it should be recognized that this legislation builds on the foundation of the 14 months of negotiation between ED MARKEY and me last session and the 4 months of discussion and negotiation this year.

In January, we had very constructive meeting with CEO's from broadcast, computer, long distance, cable and satellite, telephony and wireless industries. The checklist approach in opening the local loop originated as a result of these meetings. Rather than a date certain, the regional Bell operating companies receive a date certain which is uncertain, meaning that if their loop is open, they could begin offering long-distance service as early as 18 months after the date of enactment. The long-distance companies said they could compromise on the involvement of the Justice Department if a certain number of requirements were met, meaning that the local loop is really open to competition. The checklist requirements which must be met are: interconnection and equal access, unbundling, number portability, dialing parity, resale, access to conduits and rights of way, elimination of franchise limitations, network interoperability, good-faith negotiation, and facilities-based competitor.

Our legislation gives pricing flexibility to telephone companies, eliminating the rate-of-return concept, and totally eliminating all pricing regulation when a telephone company has competition.

Bell operating companies can enter manufacturing when they have met interconnection and equal access requirements with no separate subsidiary required.

Bell operating companies are allowed to provide electronic publishing through a separate subsidiary with safeguards and a prohibition against cross-subsidies and discrimination against unaffiliated electronic publishers. This provision sunsets in the year 2000. The BOC's are not allowed to offer alarm monitoring service before July 1, 2000.

Broadcasters receive the ability to compress their signal under the spectrum flexibility language. There is also a streamlining of the broadcast license process and an extension of the length of the license from 5 to 7 years.

Direct broadcast satellite services will be exempted from State and local taxation laws.

Congressman SCHAEFER has composed a package of cable provisions which are part of the bipartisan bill. We deregulate the small cable provider upon enactment and deregulate the upper tier of larger companies at about the time that the telephone company will begin operating a cable service.

Congressman STEARNS will offer his bill as an amendment to raise broadcast ownership caps quickly and eliminate cross-ownership restrictions. VHF–VHF combinations could be restricted if it were determined that they would restrict competition or the diversity of voices in a local market.

Congressman OXLEY will offer an amendment to remove foreign ownership restrictions on domestic telephone and broadcast companies.

Congressmen GILLMOR and BOUCHER will offer an amendment to remove restrictions that prohibit the entry of those companies governed by the Public Utility Holding Companies Act into telecommunication services.

We stand here today with broad and deep bipartisan support; telecommunication policy should not be Democrat or Republican.

We feel that this legislation serves the consumer; that this legislation gives the definition and certainty for the industry to move forward and to build the information superhighway.

This will be an evolutionary and dynamic process—but now unleashed, our legislation will pass this committee and the House—there will be a conference with the Senate and a bill will be presented to the President and signed into law, because that's good for the country and our consuming public.

Mr. BLILEY. Mr. Speaker, today is a historic moment. Today we introduce the Communications Act of 1995, one of the most sweeping reforms of communications law in history. No law can stop the advancement of technology, but bad and antiquated laws can stop consumers from enjoying the fruits of technological progress. And that is what we have today: Americans not able to enjoy the full range of technologically feasible telecommunications services because technology has outpaced the state of the law.

MORE COMPETITION

The legislation that we are introducing today will bring competition to the local telephone and video markets—two traditional monopolies. Many companies would like to have the opportunity to compete for local telephone service. But the laws and regulations of this land effectively prohibit them from competing for business and offering innovative services, higher quality services, and lower priced services. American consumers want the choices that competition provides. The Communications Act of 1995 will give them those choices.

The bill sets the rules of the road for opening the local exchange to competition. It requires the presence of a competitor in the local exchange prior to allowing a Bell operating company to apply for entry into long distance.

Current laws restrict firms from entering other telecommunications markets as well, and the American consumer ultimately suffers. Telephone companies are prohibited by law from offering video services. The competition for higher quality and lower priced services that these and other firms could bring to the home video market would only benefit consumers. The bill will give broadcasters greater freedom to use spectrum creatively to offer new services. The bill will ultimately lead to more competition for electronic publishing, alarm, and telemessaging services.

LESS REGULATION

In short, the Communications Act of 1995 will promote competition in practically all telecommunications markets. But the mere presence of many firms competing in the current American telecommunications would not be enough to make consumers as well off as they could be. American telecommunications markets today are burdened with excessive regulations.

Firms that offer telecommunications services in the United States have artificially high costs because of: First, the high costs of complying with regulations, second, the length of licensing procedures, and third, the uncertainty of the outcome of licensing procedures. Who pays for the high cost of regulation? As always, it is the poor American consumer who pays the price. These costs of regulation are passed along to telecommunications consumers in the form of high prices for services, a lack of responsiveness to new market conditions, and a slow rate of innovation.

The Communications Act of 1995 would harness and substantially reduce Federal regulation of telecommunications. The act streamlines licensing procedures for broadcasters. The act creates temporary rules that promote a transition to competition. After the transition, most of the act sunsets. The act requires the Federal Communications Commission to forbear from—to stop—regulation. Much of the act would be largely administered locally rather than federally. The act would prevent States or the Federal Government from requiring costly rate-of-return regulation. Once telecommunications markets are competitive, price regulation would be banned altogether.

GREATER BENEFITS TO TELECOMMUNICATIONS CONSUMERS

American telecommunications consumers will be the beneficiaries of the Communications Act of 1995. Less regulation will lead to lower costs. More competition will lead to greater innovation, greater choice of services, and lower prices. Today we embark on the effort to fulfill these promises to the American telecommunications consumer.

Mr. OXLEY. Mr. Speaker, today's introduction of a telecommunications law rewrite is a landmark compromise that culminates years of work. I'm proud to be an original cosponsor of the Communications Act of 1995. The bill has already attracted significant support among Democrats, thanks to the leadership of subcommittee chairman JACK FIELDS.

America is poised to lead the world in communications technology. This procompetitive, anti-regulatory legislation will help us make the most of the greatest economic opportunity in the history of the world.

The United States should pursue two basic strategies during this transition into the information age: to increase competitiveness among U.S. companies to inspire more choices, better programming, and more efficient service for U.S. consumers, and to export aggressively so U.S. companies will prosper and hire American workers.

I will offer a free trade amendment to the bill to repeal restrictions on foreign investment that date back to World War I. The foreign ownership restriction is a telegraph law that has no place in a telecommunications age.

Section 310(b) of the 1934 Communications Act prohibits any foreign entity from holding an investment of more than 25 percent in U.S. broadcast facilities or common carrier companies. It was passed to guard against foreign sabotage when a limited number of information sources existed. When U.S. firms seek to sell telecommunications goods and services abroad, foreign governments point to U.S.

market restrictions as justification for theirs. This is a distressing reality for U.S. companies seeking to create new jobs here at home.

Telecommunications is one of the Nation's most dynamic export industries, expected to account for one-sixth of the domestic economy by the year 2000. The global telecommunications services industry alone will generate almost $1 trillion in revenues by the end of the decade.

I look forward to a constructive hearing and markup process on this bill, and I believe we will achieve our goal of enacting a modern telecommunications statute this year.

Mr. GILLMOR. Mr. Speaker, the telecommunications bill we are introducing today is one of the most important bills to be considered in Congress in many years, and its passage will have a tremendous impact in America for decades to come.

If this legislation is enacted, the law will begin to foster economic and technological development, instead of hamper it. The bill will provide consumers and businesses new communications services, an increase in choices in the marketplace, more competition and better prices.

The bill represents the biggest single deregulation of a major industrial sector in American history, involving one-seventh of the U.S. economy and affecting virtually every American citizen.

In addition to the provisions of the main bill, I have introduced a measure to allow public utilities to enter the telecommunications industry. Right now utility companies have the technological capacity to offer cable and telephone services, but they do not have the legal capacity. This legislation I am sponsoring with Representative RICK BOUCHER would allow public utilities this entry, further increasing competition and reducing prices for consumers.

Mr. BARTON of Texas. Mr. Speaker, today Commerce Committee Chairman TOM BLILEY, and Telecommunications Subcommittee Chairman JACK FIELDS, introduced the largest telecommunications reform bill ever to go through Congress. I am proud to be an original cosponsor of this historic legislation.

The Communications Act of 1995 will be the biggest job creation bill to pass this Congress. This legislation moves a number of currently heavily regulated industries into true market competition with each other, thus ensuring consumers real choices as to who to place their local telephone, cable television, and electronic data business with. The bill, when it becomes law, puts the consumer in the driver seat for all of his or her communications needs.

It is the most comprehensive, promarket and procompetition bill introduced for these services in the history of the Congress. The current telecommunications laws were passed over half a century ago when there were few radios, television existed only in the laboratory, and computers had not even been thought of. Today, telecommunications services are expanding daily and our laws should be expanded accordingly. Congress should quickly move ahead with this reform effort to meet the new challenges facing us today.

I support this deregulatory approach that will promote growth and competition in the telecommunications industry. If we can create a fair marketplace for telecommunication services, the industry, through competition, will create the much-touted information superhighway in a less expensive and more efficient fashion.

Mrs. LINCOLN. Mr. Speaker, I'm pleased to be an original cosponsor of H.R. 1555, the Communications Act of 1995. I'd like to thank Mr. FIELDS and Mr. MARKEY, Mr. DINGELL, and Mr. BLILEY for their commitment to this legislation.

I'm proud that this issue has remained a priority and that we have been able to build upon the legislation that passed the House of Representatives during the last Congress.

Once again, I have a special interest in keeping telephone rates in rural areas low while protecting small- and medium-sized phone companies from unfair competition. I have appreciated Chairman FIELDS' willingness to work with me on this issue throughout the drafting process. This bill, as introduced today, offers several protections for rural carriers, but I realize that it does not go far enough. Today, I pledge my commitment to improving this bill as it moves through the Commerce Committee. I have encouraged my colleagues to look at the Senate language regarding rural carriers, which exempts carriers who have 2 percent or fewer of the access lines nationwide, because I would like to see this bill move in that direction. As a start, Mr. FIELDS has assured me that we can amend this bill to exempt carriers that provide telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines. I appreciate his willingness to work with me and his commitment to protecting and preserving rural America.

Mr. Speaker, for rural America, this bill represents an amazing opportunity for advancements in education, among other things. I was pleased to see provisions to ensure that educational institutions will have access to this growing technology. Additionally, I pledge to work toward enhancing this bill to ensure that health care providers will be able to tap into resources to expand their infrastructure to provide telemedicine, which is essential to rural areas like the First Congressional District. This will be vital in delivering services that will help up keep up with advances in larger cities while preserving the quality of life we enjoy.

I look forward to working with my colleagues on the Commerce Committee to build upon this legislation and bring a bill to the House floor that this body can approve with the overwhelming support that we saw in passage of H.R. 3636 and H.R. 3626 during the last Congress.

Mr. STEARNS. Mr. Speaker, I am pleased to give my full support for the Communications Act of 1995 which the Subcommittee on Telecommunications and Finance introduced today with bipartisan support. I commend Chairman BLILEY and Chairman FIELDS for the outstanding work they did on this much-needed legislation.

I would also like to thank the staffs of both the subcommittee and full committee for their efforts in getting this legislation drafted and wish to commend them for the open and fair manner in which they achieved writing this groundbreaking legislation. This bill provides sweeping reforms in the communications industry and gives consumers a greater choice of services. This legislation will provide lower prices and higher quality. Clearly, the consumers will be the winners.

The antiquated Communications Act of 1934 needs to be updated to ensure that the American telecommunications industries will be able to compete in this high-technology information age in which we are living. This legislation encourages competition and deregulation, thereby opening up future market opportunities for those who wish to compete in all telecommunications services. Comprehensive reform of this industry is long overdue and I am proud to cosponsor this bill which will achieve that goal.

Mr. DINGELL. Mr. Speaker, today I joined many of my colleagues on the Commerce Committee in the introduction of H.R. 1555, the Communications Act of 1995. I would like to congratulate the chairman of the Commerce Committee, Mr. BLILEY, and the chairman of the Subcommittee on Telecommunications and Finance, Mr. FIELDS, for their cooperation and work in drafting this landmark piece of legislation.

This legislation closely tracks the legislation overwhelmingly passed by the House last year, H.R. 3626. That bill passed by a vote of 423 to 5, and it is my hope that H.R. 1555 will have the same level of support when it goes to the floor.

The legislation does several important things. It removes the artificial barriers to entry that restrict competition in several telecommunications markets. Upon the enactment of this bill, telephone companies will be permitted to offer cable service. Cable operators will be able to offer telephone service. Long distance companies will be able to resell local telephone service. And ultimately, the Bell operating companies will have the ability to enter the long distance market.

The dismantling of these barriers to entry will result in several significant improvements for the American public. Perhaps most importantly, services that have traditionally been offered by regulated monopolies will become competitive. Cable operators will have to fight with telephone companies to attract—and keep—consumers. Telephone companies will face a variety of competitors, each seeking new and innovative ways to attract subscribers. The long distance industry will face the entry of seven large, well-financed competitors.

The result, for the American public, will be lower prices and greater responsiveness to the needs of consumers.

In addition, we are likely to see the pace of innovation accelerate. Markets that heretofore have been responsive to Government edict will listen to consumers. Companies will refine their marketing efforts to make certain that consumers come first.

And by allowing competition across the telecommunications landscape, competitors are likely to create packages of services that appeal to consumers. Consumers can have the option of one-stop shopping, in which local and long distance telephone service can be obtained from a single vendor. Cable subscribers will be able to obtain a package that also includes telephone service. Consumers will be able to obtain greater convenience and save money—or, if they choose, they will still be able to purchase their service on an a la carte basis from a variety of service providers.

This is a good bill. But like any piece of legislation, it can be improved. I am particularly troubled by the provisions that end the regulation of cable rates on the day that the Federal Communications Commission issues its rules governing the offering of cable service by telephone companies. My concerns are shared by many of the Democratic members of the committee; they are shared by the administration; and I think it's likely that we will see some amendments to ensure that consumers are not gouged by monopolies until a competitive alternative is available.

But despite my reservations about this provision, I expect that we will be able to resolve our differences here in a manner comparable to the way we have developed a consensus on the other provisions of this bill. In that regard, I would like to commend both Chairman BLILEY and Chairman FIELDS for the manner in which they have treated the Democrats during the drafting process. This has been a truly bipartisan process, and the legislative text that was introduced today reflects the many compromises and changes that were made by both sides.

Telecommunications issues have never been partisan, and have never been ideological. The manner in which the majority has treated the minority in this case is exemplary, and it is my hope that it will serve as a model for the many legislative initiatives we have before us. I would like to thank both of these fine legislators, and look forward to continuing this bipartisan approach as H.R. 1555 moves through the House.

Mr. Speaker, H.R. 1555 is a good bill, and before it is sent to the President for his signature, it will be a better bill. I urge my colleagues to join with us in support of this legislation, and enact a statute that will enable the telecommunications industries to bring to the American people the benefits that the twenty-first century has to offer.

Ms. ESHOO. Mr. Speaker, I rise to inform Members about the introduction of the Commerce Committee's historic legislation to reshape our Nation's telecommunications laws.

I'm proud to be an original cosponsor of this legislation and commend Commerce Committee Chairman BLILEY, Telecommunications and Finance Subcommittee Chairman FIELDS, and ranking members JOHN DINGELL and ED MARKEY for their efforts to produce a bipartisan bill.

The Nation cannot wait another year for telecommunications reform. The current law of the land for telecommunications is based on a law written in the 1800's to govern railroads in America. Now, after several decades of extraordinary advances in information technology, most of our Nation's telephone system consists of a pair of copper wires.

As the Representative from Silicon Valley in California, I know the importance of deregulation to computer and software technology. Information technologies are the business of Silicon Valley.

I believe we can look to the computer and software industries as examples of good things to come for the communications industry if competition can be established.

Consider the first digital computer made in 1943 which was 8 feet high, 50 feet long, contained 500 miles of wire, and could perform about three additions per second. Today, consumers can purchase a computer with wafer-thin microprocessors which are capable of hundreds of millions of additions per second and fit on your lap.

Yet today's twisted copper wire telephone network is unsuitable for modern computers and software applications which can incorporate voice, video, graphic, and data transmissions and send them simultaneously in real-time exchanges.

A technology gap exists between the information technology and communications industries and this hurts our international competitiveness. This bill can help close the gap, encourage competition, and foster increases in high technology exports and jobs.

A successful telecommunications bill should pass two critical tests. First, it should establish a process which brings the greatest competition to bear, and second, it should promote technology innovation and production in a way that can make a difference in peoples' lives.

This bill is a step forward in meeting these important goals and I'm proud to cosponsor it.

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the special order today by the gentleman from Texas [Mr. FIELDS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

FINANCIAL SERVICES REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, the House has a unique opportunity during this Congress to take important and long-overdue steps to modernize the U.S. financial services system and prepare it for the competitive challenges of the 21st century.

In 1991, I served as chair of the Banking Committee's Task Force on the International Competitiveness of U.S. Financial Institutions. That task force concluded that our financial services policy had failed to keep pace with new market developments, including changes in corporate and individual consumer needs, new technology and product innovation. The result was a financial services system that was potentially uncompetitive, inefficient, unduly expensive, and slow to respond to changing customer demands.

The task force report concluded that it was incumbent upon policymakers to undertake a fundamental and comprehensive reassessment of the major laws and the regulatory structure which underpin the U.S. financial system. There have been several abortive efforts since that time to do so. But I believe we have now finally achieved substantial consensus that change is necessary, the circumstances are now ripe for meaningful action, and the goal is within our reach.

The chairmen of both the House and Senate Banking Committees have put forward comprehensive reform proposals. While these proposals differ in important regards, they share many key elements. The Treasury Department has put forward a proposal of its own that is substantively comparable in many critical respects. In addition, the affected industries are engaged in meaningful and substantive discussions on the key issues in an effort to achieve some consensus.

While differences in perspective certainly exist, what is most noteworthy is the widely shared assumption that our financial services system requires substantial reinvention. If we can keep our eye on this shared goal, we should be able to build upon the many points on which we all agree and effect reasonable compromise where we do not in the days ahead.

To that end, while I have very definite ideas of my own as to the best course of action on key issues, I do not plan to introduce legislation at this point. A Banking Committee markup is imminent, and we will be working from the chairman's mark—which is still in preparation—as is appropriate. I believe our best prospect of success lies in working cooperatively and in a spirit of compromise to further refine that mark in a way that builds consensus on these important issues. Past experience should certainly have taught us that legislation which does not reflect a reasonably broad consensus is doomed to failure.

I. PRINCIPLES TO GUIDE DELIBERATIONS

I would, however, like to set forth some principles which I believe should guide our deliberations.

(A) Congress should attempt to achieve the broadest reform possible;

(B) Elimination of the barrier between commercial and investment banking should be accomplished so as to maximize efficiencies and take advantage of possible synergies between lines of business, while safeguarding safety and soundness;

(C) Reform should create a true two-way street between banks and securities firms, level the competitive playing field, and provide such firms equal opportunity to enter each other's businesses;

(D) Nothing we do should turn the clock back or impose new restrictions where none are warranted;

(E) Safeguarding consumer rights and interests should be an integral part of any reform package;

(F) Proper regulatory oversight should emphasize functional regulation, ensure necessary political accountability, and take advantage of the benefits provided by a creative tention between regulators; and

(G) Reform should ensure that foreign banks have a fair opportunity to compete on equal terms, and are not competitively disadvantaged.

II. THE MAJOR ISSUES

A. The need for broad reform:

It is imperative that we strive for the broadest financial services reform on which it is possible to achieve consensus. This is not a time to be timid.

The current structure of our financial services system fails to reflect substantial changes in products, technology, customer demand, and service delivery that have occurred over many years. It is increasingly difficult to discern meaningful differences between the products offered by banks, securities firms, and insurance companies, or to place into neatly segregated compartments the customer needs each provider is attempting to serve.

Past ad hoc attempts to adjust to market changes without comprehensive reform have created a system replete with inconsistencies, and regulatory and legal anomalies. Our goal should be to correct this unduly complex and conceptually inconsistent structure, not perpetuate it. But we should not achieve purity by the elimination or undue restriction of legitimate businesses that pose no harm and contribute positively to the competitiveness and efficiency of our financial services system.

We must also focus on achieving progressive change, If financial services reform is justified, it is presumably because the premise behind our action is that we are constructing a safer and sounder financial services system, offering opportunities for diversification and better risk management. I believe that is the case. In my view, it is the very limited nature of the existing bank charter that has created many of the industry's past problems. The reform we craft should reflect that understanding.

B. Removing barriers between commercial and investment banking:

The Leach bill takes a major step forward in finally removing the barriers between the banking and securities businesses, businesses which simply offer alternative means of meeting similar customer needs. Such a step is long overdue.

Substantial changes have occurred in recent decades in the way traditional bank customers have attempted to meet their financial needs. Major corporations have moved increasingly to the capital markets to obtain needed financing. At the same time, individual consumers and small businesses have increasingly sought alternatives to traditional checking and savings accounts for transactional, savings, and investment purposes. Yet, while the market has changed substantially, the Nation's banks have been precluded from following their customers and effectively responding to changing demand.

Bank holding companies do have limited authority to enter the securities business through the section 20 subsidiaries authorized by the Federal Reserve. The successful operation of such subsidiaries has established clearly that commercial and investment banking activities can be combined within a holding company structure to the benefit of consumers, and without risk to safety and soundness, if proper controls are put in place.

I believe there is substantial consensus that the barriers between these two banking businesses should be eliminated, with proper prudential controls, and that should be a top priority of any reform package. Moreover, this reform should be effected in such a way as to maximize possible efficiencies and synergies.

1. Wholesale bank holding companies:

For those institutions that wish to engage solely in a wholesale business, the provision in the Leach bill for creation of a wholesale bank holding company, subject to more limited regulatory strictures, makes eminent sense. Many prudential controls are designed primarily to protect against an inappropriate use of depositor funds. For those institutions not engaged in retail activity and not seeking deposit insurance protection, less onerous controls are appropriate. While it is true that wholesale institutions will maintain access to the discount window, appropriate controls on such access are already in place.

2. Appropriate firewalls:

In the course of the debate on financial services reform in the past, great emphasis has been placed on firewalls between holding company affiliates as the primary mechanism for guarding against misuse of depositor funds. While I believe firewalls are important, they are only one element of an overall structure of prudential controls. A single-minded focus on firewalls as a source of protection may only ensure that they are so restrictive as to render inoperative useful synergies that can otherwise be achieved within the holding company structure.

Much has changed since earlier debates on these issues. The changes in bank capital requirements, coupled with provision in FDICIA for prompt corrective action and enhanced supervisory authority, have given bank regulators ample authority to intervene well before depositors are placed at any risk.

Firewalls certainly offer additional protection, but are no substitute for the prudential controls otherwise already in place.

I believe experience with the new authorities granted banking institutions will help us determine what firewalls are more or less meaningful and appropriate. Therefore, I believe it appropriate that the relevant regulatory authority be granted some marginal discretion to adjust those firewalls as experience dictates.

3. Exercise of authority through operating subsidiaries:

The Leach bill relies heavily on the holding company structure as protection against newly authorized activities placing the depository institution at risk. I believe this is largely appropriate. However, we should not insist on the expense and potential inefficiency of creating a holding company structure where one might not be necessary.

Where activities have been performed in the bank or bank subsidiaries with presenting any undue risk, such an alternative structure might continue to be appropriate. We should review closely what activities can reasonably continue to be conducted by the bank directly without undue risk.

C. The need to establish a true two-way street:

This reform effort should not be a debate simply about giving banks or any particular type of financial institution more powers, at the competitive expense of other financial services providers. Our goal should be to remove barriers between financial industries which we have come to see as artificial, level the competitive playing field and increase opportunities for all financial services providers.

In removing the barriers between commercial and investment banking, our goal should be to create a full two-way street through which commercial and investment banks can enter each other's businesses on equal terms. Yet, while this is our appropriate goal, it is not easily achieved if a reform bill is too narrowly structured. The structure of many existing securities firms and their existing affiliations with insurance companies may well preclude their taking full advantage of the removal of existing barriers between commercial and investment banking.

While the Leach bill provides some accommodation, I do not believe it goes far enough. Correcting this potential inequity must be a major matter of concern as we debate these issues.

D. Avoiding retrenchment:

There are legitimate and substantial differences of opinion regarding how far we should go in breaking down the walls between banking and commerce or, indeed, the barriers between various financial services providers. We may not ultimately be able to produce as broad reform as some, including myself, might like. However, in no case should this reform proposal become a vehicle for turning the clock back and eliminating or taking authority away from financial institutions whose activities have posed no risk while providing much benefit to consumers.

In my view, many of the existing anomalies in our financial services system represent marginal progress toward a more integrated financial services system. In fact, some of these anomalies simply reflect our financial services system as it once existed before new restrictions were imposed in various bank and thrift holding company legislation, CEBA and other legislation imposing what were new restrictions and limitations. The proper response is not to remove these anomalies or restrict them further, but to move, incrementally if need be, toward a comprehensive reform of the financial services system which will ultimately embrace them.

The original Leach bill would have eliminated the charter of unitary thrift holding companies. A subsequent draft would grandfather existing institutions. In my view, if we are not to address the banking and commerce issue fully, the proper approach is for the bill to remain silent on this issue. Existing unitaries have served as instructive examples of how financial and commercial activities can in some cases be appropriately mixed. They have posed no risk to safety and soundness, are subject to appropriate regulatory and oversight authority, and serve customers well.

There is no compelling reason to circumscribe their operations at this point. Grandfathering is an unworkable alternative in my view. To artificially circumscribe the ability of functioning businesses to expand and compete on equal terms is to effectively sound their death kneel. I believe that any changes in the unitary structure should await a subsequent day when we are willing and able to address banking and commerce issues in some comprehensive fashion.

In the same fashion, I believe it is time to eliminate the restrictions imposed on limited purpose banks. I always believed these restrictions were anticompetitive and should never have been imposed. But in any case they were intended as a temporary measure awaiting comprehensive financial services reform. We are still awaiting such reform, and I believe even this Congress' effort will fall short of what is desirable.

In the meantime, changes in the restrictions imposed on these financial institutions can no longer wait. This is virtually the only financial services arena in which time is standing still. There have otherwise been substantial changes in the laws and regulations that have enhanced opportunities for other financial services providers and made full-service banks more efficient, strong, and competitive. In this context, the arbitrary restrictions imposed on limited-purpose banks are untenable and unreasonable.

E. Safeguarding consumers:

Safeguarding the consumer's interests must be a central element of this reform effort. If banking institutions are to be permitted to offer an array of products, some of which are insured, and others not, it is imperative that the consumer be clearly informed of any risk he is assuming and that safeguards be put in place to eliminate any potential confusion. Clear disclosure requirements which will ensure that the consumer understands what protections are afforded with any particular products must be a part of this bill.

But disclosure alone is not enough. Institutional structures can inadvertently or purposefully suggest protections that do not apply. For example, the marketing of mutual funds under a name or logo that may suggest that the product is somehow insured or guaranteed by a banking institution could place the consumer at undue risk, and prohibitions or restrictions on the use of a common name and logo may be appropriate.

We must also find a proper balance between the consumer's right to privacy and the synergies available from cross-marketing. Both financial services providers and consumers can benefit from marketing efforts that bring the full array of products available from a particular financial services provider to the consumer's attention. Yet consumers also have a right to have confidential information maintained as such, and to be protected from being inundated with sales pitches and marketing information they neither seek nor wish to have. We must strive for a proper balance between these competing interests.

F. Providing for proper regulatory oversight:

The regulatory controls put in place in FDICIA—most notably, tougher capital requirements and provision for prompt corrective action—have contributed substantially to the safety and soundness of our banking system. These and other prudential controls are essential to the proper implementation of financial services reform.

I believe any effort at complete regulatory reorganization should follow rather than precede or accompany modernization legislation—it is difficult to determine what authority appropriately lies with what regulator when the distinctions between types of financial services providers and their products remain unclear. Nevertheless, clarification and, where appropriate, enhancement of regulatory authority should be central elements of the Banking Committee's product.

In my own view, the proper regulatory oversight structure would rely heavily on a scheme of functional regulation, while providing some limited oversight authority to the Federal Reserve at the holding company level to protect against systemic risk. I have great confidence in the Federal Reserve as an institution and in its skill as a regulator. However, I believe there are inherent risks in placing plenary authority in any independent regulatory institution, and I believe the authority granted the Federal Reserve in the Leach bill is too encompassing. The scheme we ultimately construct should ensure the necessary degree of political accountability and take advantage of the creative tension between regulatory authorities that has proved a useful source of adaptation and innovation in the past.

G. Equal treatment of foreign banks:

The presence of foreign financial institutions in our market has served our economy and our communities well. In addition, U.S. financial institutions benefit when they are able to enter foreign markets under regulatory regimes that permit them to compete fairly with domestic service providers.

Any financial services reform should provide for the equal treatment of foreign banks so long a hallmark of U.S. law. Most international banks in the United States operate uninsured, wholesale branches and agency offices rather than bank subsidiaries. The reform legislation should ensure that foreign banks that seek U.S. securities affiliates can continue to be able to operate branches and agency offices in the United States and not be required to "roll up" their U.S. banking operations into subsidiary banks.

Most countries permit nondomestic banks to compete through branches, because the entire world-wide capital of the bank stands behind the branch's operations. Such rules applied in foreign markets substantially benefit U.S. banking institutions operating abroad. Any change in that requirement would disadvantage them severely.

Applying these same rules in our own market benefits not only foreign banks but the U.S. customers they serve. The ability of a branch to draw on the resources of the entire bank directly benefits U.S. corporate customers by enhancing the availability of credit, increasing the availability and size of loans from international banks, and reducing the cost of financing for customers.

III. CONCLUSION

This Congress provides a singular opportunity to take major steps toward financial services reform which will make our financial services system safer, more efficient, and more competitive and provide consumers better and more varied services. I look forward to working with Chairman LEACH, Ranking Minority Member GONZALEZ, and my colleagues in both sides of the aisle to achieve this long-sought goal.

SOME COLLEGES AND UNIVERSITIES PERFORM A DISSERVICE TO AMERICA'S YOUNG

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, some of the colleges and universities in this Nation are performing a real disservice to our young people.

They are encouraging them to get—or at least not discouraging them from getting—degrees in fields in which there is almost no hope for a good job.

This is particularly true concerning many graduate programs—especially in the field of law.

My wife recently had her groceries carried out by a young man who had received a law degree but who could not find a job.

Many law schools are perpetrating a fraud. They tell their students "Yes, there are too many lawyers, but there will always be room for a few more good ones."

Well, everyone thinks they will be the good one.

Only after spending a small fortune and devoting several years of hard work to the task, do they receive a very rude awakening.

Except for a very few of the top graduates from the most prestigious schools, or the very few who have good family connections, most find out they could make more money managing a McDonald's or driving a truck.

We possibly should require colleges and universities to put warning labels on some of their degree programs such as "There are currently almost no jobs available in this field" or "This degree will do you absolutely no good whatsoever in obtaining employment."

If you think I am exaggerating, listen to these two letters in the April 24 issue of U.S. News & World Report:

> Thank you for including "Gypsy Profs" with your rankings of liberal arts programs. It should give pause to anyone misinformed enough to think a graduate degree will guarantee a chance to teach. Like those in your article, I have a Ph.D., which entitles me to drive 480 miles each week to teach five courses for two community colleges. Each semester is an employment uncertainty. But I love what I do—something not true of most people—and I don't see a great deal of employment security anywhere. I knew what I was getting when I entered graduate school. Still, I dearly wish that the future looked more promising. There's no dignity in being a mercenary teacher-for-hire; last week my father-in-law described me as "unemployed" at a family gathering.
>
> MICHAEL J. BOOKER.
>
> KNOXVILLE, TN.

> I received my Ph.D. in history from the University of Chicago in 1993, and after two years in the job market and well over 100 applications for employment, I have yet to be called for my first interview despite my teaching experience and track record of publishing in professional journals. The time I spent working toward my doctorate would have been better utilized in almost any other career, where I would have been earning money and accruing seniority. The "gypsy profs" may not realize it, but they are the lucky ones in the fraud America's graduate schools are perpetrating on their students!
>
> JONATHAN R. DEAN.
>
> CRAWFORDSVILLE, IN.

Now, I hope I will not be misunderstood. A college education is a good thing.

I am not saying people should not go to college.

I am saying that many college graduates cannot find jobs today, particularly in fields like law and in teaching school.

There is a huge surplus of lawyers—and a huge surplus of teachers—and a huge surplus of people who want jobs in law enforcement or other Government jobs.

All I am really saying is that we need to do everything possible to encourage young people to go into fields where they are needed more—where the future is brighter.

We should also do a better job promoting what used to be called vocational education, but which in most places today is called technology education.

We need more young people today with technical training.

It is sad to see so many young people today getting college degrees, and particularly graduate degrees, which really do them no good.

It is just wrong to continue perpetrating fraud on our Nation's young people so some universities can make more money or so that some colleges can continue to employ professors who are teaching in fields in which there are almost no jobs.

Fortunately, our unemployment is low; but our underemployment is great and, unfortunately, is growing. Many colleges and universities are helping to make this situation worse.

IN HONOR OF FALLEN SECRET SERVICE AGENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise as the ranking member of the House Appropriations Subcommittee on Treasury, Postal Service, and General Government. I rise today to pay a solemn tribute to the six employees of the U.S. Secret Service, one of whom is missing and five of whom we know have lost their lives as a result of the heinous attack on the Federal building in Oklahoma City. I rose yesterday in the context of the Oklahoma City resolution to talk about all the Federal employees.

I want to express my deepest sympathy to all the families, friends, and neighbors, but particularly, at this time to the family, friends, neighbors, and colleagues of the brave six Secret Service employees who we lost at Oklahoma City. This is a time of deep anguish and pain for the families of those killed, those injured, and those whose loved ones are still unaccounted for as they were doing the business of the people of the country.

Today we remember Assistant Special Agent in Charge Alan G. Whicher, who served as part of the detail protecting President Clinton, and then was transferred to what I am sure he and his family thought was a more tranquil environment in Oklahoma City. He lost his life.

Special Agent Cynthia L. Brown, appointed a special agent only a little over 1 year ago. She lost her life.

Special Agent Donald R. Leonard. His career assignments included the Vice-Presidential Protective Division. He lost his life.

Special Agent Mickey R. Maroney, who served with the Secret Service since 1971. He lost his life.

An investigative assistant, Kathy L. Seidl, appointed to the Secret Service in 1985, to the Oklahoma City office; and the office manager, Linda McKinney, who was recovered from the rubble only yesterday. She was the one I said was missing, and I was in error. She has been located.

I cannot say that I know the pain the people of Oklahoma City are experiencing. I do know very well the feeling of loss that communities all across this country feel for the people of Oklahoma City and for the loved ones of those who lost their lives.

Mr. Speaker, God blesses America, and he does so through the services of so many, and particularly through the service of those who are fallen but not forgotten. Let us, Mr. Speaker, resolve at this moment to embrace the wives and the children, the mothers and the fathers, the sisters and the brothers, the fellow colleagues, all those who love them dearly, in the fellowship of love and compassion. While they have lost an important part of their families, we must assure them they will always be a part of our larger family.

To the family and friends of those brave U.S. Secret Service agents and employees, my words today, of course, cannot express the sorrow for the loss of this Nation's best, and the gratitude for their sacrifice. I recall the words of President Lincoln, and I quote:

> I feel how weak and fruitless must be any words of mine which should attempt to beguile you from the grief of a loss so overwhelming, but I cannot refrain from tendering to you the consolation that may be found in the thanks of the Republic they died to save. I pray that our Heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and the lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom.

President Lincoln, of course, spoke of those who lost their lives in the preservation of the Union; those who lost their lives in Oklahoma City did so as well.

As a father, a husband, and as a child of God, my heartfelt sympathies go out to each of the families. May they, too, find comfort in their sorrow.

Mr. Speaker, I know that every colleague joins me in expressing our sympathy and our sorrow, and our wishes that God will bless Alan, Cynthia, Donald, Mickey, Kathy, and Linda.

THE DIFFICULTIES OF THE HOUSE AS IT DEALS WITH THE BUDGET ISSUE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I would just like to talk a bit about some of the things that are in some of the newspapers today about the difficulties this House is facing as it forces itself to deal with the budget issue. For the last 4 years, we had the budget done on time. That was before April 15. This year, for all the magic done and all the things that got going, guess what, we do not have a budget, and everybody is saying "Just do it. Where's the budget?"

I think the budget happens to be the most important thing, and we should have done that first, before we did all the giveaways and all the tax cuts and all the other goodies, but the goodies have been given out, and now it is time to take the medicine. The first issue that I thought was so interesting was the Hill newspaper, which said, guess what,

> The Republicans are having trouble with their own appointed head of the Congressional Budget Office.

Luckily, the Congressional Budget Office is there. When the Democrats appointed the head of the Budget Office, we had trouble. Mr. Reischauer pointed out that we had underestimated the cost of the health care proposals that were out there. Thank goodness he did that, because I think he brought real reality.

Now they are very angry because the new head that they appointed is telling them their Medicare stuff does not add up, that they have put in all sorts of little amendments, and they want to tinker a little bit with it, and it is going to be a whole lot more costly than they thought. That is not the news they want to hear, but Americans want to hear what is really going to happen to the budget, so I am glad that both under Republicans and Democrats that Budget Office has worked to be nonpartisan and look at the numbers, not poll numbers, but budget numbers.

This budget fight goes on and on and on because, as you see in the other newspaper, you see both Republican leaders out pleading with the President to join them in the rescue of Medicare. They want the President to join them in the rescue of Medicare after they have proceeded to raid Medicare. What a deal. They get to raid it, we get to rescue it. There is something wrong with that picture.

The President and his administration were very responsible in the last 2 years. They have dealt with Medicare in our last budget. We bailed it out for the next 3 years, added solvency to it. We did it without one Republican vote. We have been talking about how not only Medicare but all health care should be looked at, because of the rising costs. We have had many proposals. Guess what, we didn't get a lot of bipartisan help.

In this last election people went out and said, "It is so easy. Those silly Democrats, they just mess everything up. Just give it to us. We can do tax cuts, we can balance the budget, and we can increase defense." I guess people forgot they had heard that once before in 1981. It didn't work then, and we see it isn't working now.

I really hope we get on with business, we get a budget out here. The No. 1 issue people want is doing something about that deficit, doing something about that deficit as rapidly as possible. All the other stuff was frill. We got the frill out of the way. We still don't have the main course, the budget. I hope we don't see politicization of the budget office.

We saw earlier this year the Speaker taking on his own budget nominee, saying he didn't like the way that they were responding. They are supposed to respond neutrally and according to real numbers. That is the way it should be. I salute Director O'Neill for continuing that tradition, and I must say, let's stop whining about that and let's get on with the real budget. Just do it. Let's stop whining about how the President should rescue them from their own raids that they made to do tax cuts for the wealthy. Hey, they gave it away, now they have got to figure out how they pay. I don't think they should blame it on the President. He didn't get the credit for giving it all away.

Let's get on with it, let's see that budget, and let's get on with the real hard tasks of government.

Mr. DURBIN. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I am delighted to yield to the gentleman from Illinois.

Mr. DURBIN. I think I have heard some speculation that the Republicans want to cut somewhere in the neighborhood of $350 billion out of Medicare spending, which would mean, of course, that there would either be higher payments by senior citizens, or lower reimbursement to hospitals and doctors and clinics and the like.

What I find curious about this is that $350 billion figure is very close to the figure that we hear will be the cost of the tax cut bill, which was part of the Republican Contract With America. So this tax cut that took the money out of the Treasury is obviously being plugged with some cuts in Medicare. Maybe I have missed something here, but the two figures are very similar.

Mrs. SCHROEDER. The gentleman from Illinois listened very properly and very correctly. That is exactly right. They raided it, they gave it away, and now they are screaming to the President, "Rescue us, rescue us from our own craziness." If you remember, when these tax cuts went into effect, the Speaker attacked the same budget director who came out with this analysis on what those tax cuts were going to cost: "Did you write the numbers the same," and said it looked like she had socialists doing the analysis. Really.

That is why I think the rhetoric has gotten too high on this, and the gentleman has gotten right to the core of the problem, as he usually does.

□ 1215

MEDICARE AND THE BUDGET

The SPEAKER pro tempore (Mr. REGULA). Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, many of our colleagues on this side of the aisle have raised the question about exactly what is going on with the Republican budget process where we are now a month late in meeting the deadline, a deadline that we have not missed over the last 4 years.

I guess the answer is in the daily press. That is, that the Republican leadership is having a terrible time with now trying to figure out how to connect all of the dots in what they have promised in their budget to the American public. That is, that they would provide a huge tax cut to the wealthiest people in this Nation, they would balance the budget, they would add money to the military, and they would not touch Social Security.

Of course, what we now find out is that they cannot meet those targets without touching Social Security, and they plan to do more than just touch Social Security. The speculation runs from cuts of somewhere around $200 billion over the next 7 years to Senators estimating as high as $400 billion. What that means, if you just take an average, if you just save $250 billion, you are talking over that 7-year period of asking senior citizens to pay somewhere between $3,000 and $3,700 more for their health care.

The problem is that many, many of these senior citizens simply have no way to replace that income. They have no way to replace the money that they would have to pay out for the additional cost of Medicare. They have no ability to go back to work. They cannot get a job. They cannot lean on their children any harder. So those cuts are immediately translated to the declining assets and the financial wellbeing of the senior citizens.

The Republican leadership has run around the last couple of days trying to explain that this is really about their saving Medicare, this is about reforming Medicare. But it is interesting, as each objective observer who has looked at this says that this continues to translate into cuts to Medicare that must be made up by the beneficiaries of that plan, the senior citizens of this country, the $3,000 that I just talked about.

It is also interesting to note that when you get into a discussion of rural hospitals, we find out that there are 10 million Medicare beneficiaries who live in rural America, where often there is only a single hospital available to service that population and the rest of the community, and that these kinds of cuts, the hospital association tells us, translate into a serious threat of these hospitals closing, and not only the senior citizens losing access to that hospital but the entire community losing access to that hospital.

We also know that these rural residents very often are more likely than urban residents to be uninsured. So the ability to offset these cuts would then be shifted in rural areas, perhaps to those who have less access to insurance.

It is interesting also to note that the plan of just cutting across the board in Medicare is resisted by the National Association of Manufacturers, companies like Eastman Kodak that say if you do that, once again you are taking the cost of Medicare and you are shifting it onto the backs of working people who are already paying very substantial premiums for current Medicare recipients and for their future cost.

This kind of leads you to what happened yesterday when Senator DOLE and Speaker GINGRICH called a news conference to explain all this, and as they found that they could not explain it to the press, they finally just simply walked out of the news conference. They just walked off stage.

They called the news conference, they said, "We want the news conference to explain to the American people how we are saving Medicare," and when they got into the news conference a few minutes, they found out that they could not explain it because the numbers do not add up. They cannot protect Social Security under their plan or they cannot protect the balanced budget under their plan or they cannot protect the tax cut under their plan. So they simply in a huff walked out of the room and said they would get back to everyone later.

That is what the fear is about in the country today, is that they will get back to us later. I guess the new date for the budget is on May 17, and at that point then we will, I guess, be able to unravel the puzzle here on how they are going to meet the goal of the balanced budget which almost everybody in the country believes should happen, the goal of the tax cut which most of the country thinks is kind of a luxury when you are running a deficit of $250 to $300 billion a year, a $4 trillion national debt, to now borrow money to give people a tax cut or borrow money from the Social Security recipients to give the people a tax cut.

This just no longer makes any kind of economic sense, and looks very bad both for the deficit, for Social Security recipients, and eventually for low-income people who rely on the programs that have already been cut.

I will be happy to yield to the gentlewoman from California.

Ms. PELOSI. I thank the gentleman for yielding.

I wanted to focus on one point you had made about the Republicans saying they would not touch Social Security, but what these Medicare cuts will do. It would reduce half of the Social Security cost-of-living adjustment for millions and millions of our senior citizens. In fact, 2 million Medicare beneficiaries will have all or most of their cost of living adjustments consumed by the Republican beneficiary cost increases.

Mr. MILLER of California. So in fact what you are saying is when they get a COLA increase, the vast amount of that COLA will simply be absorbed in additional Medicare costs to the Social Security recipient?

Ms. PELOSI. Yes. It is a back door way of cutting Social Security.

MORE ON MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, I would like to follow up on the earlier discussion by the gentleman and the gentlewoman from California about Medicare.

I think it is critically important for us to focus on the fact that when we are talking about Medicare, we are not necessarily just confining our interest to the health care of our parents and grandparents. Some of us who are advancing in age look to Medicare just a few years down the line to take care of them, too.

But the bottom line is that Medicare and Medicaid, the other Government health care program, are major sources of funding for hospitals across the United States. In my small-town district in Illinois, I have many, many hospitals, and I find that 60 percent to 80 percent of the revenue coming into those hospitals comes from those two Government programs, Medicare and Medicaid.

So when I hear suggestions made, as I have from some Republican leaders who are trying to come up with a budget, that they want to make cuts of billions of dollars in Medicare funds in out years, it not only should cause concern among seniors and people soon to be seniors as to whether they will have to pay more out of pocket, it also raises a serious question as to whether or not these hospitals will receive enough revenue to keep their doors open.

Those who visit with the hospital administrators and boards know that there have been dramatic changes in these hospitals in rural and small town America over the last 10 years. Most of them have downsized, there are fewer patient beds, there is more outpatient service, and they depend dramatically on Medicare and Medicaid to continue to keep their doors open.

We just finished last week in Ames, IA, a rural conference with President Clinton and Vice President Gore talking about the future of small-town America. A lot of concentration was put on bringing new jobs and keeping businesses in rural America. What we found is that when the Chamber of Commerce or the local boosters want to bring in a business or keep one, they have to answer some basic questions. The first question is: Do you have a hospital? How many doctors do you have?

So when we talk about changing a Federal program for medical care, reducing the expenditure and literally threatening the bottom line of rural and small-town hospitals, the ripple effect goes far beyond the jobs at that hospital. It goes far beyond whether or not that ambulance has to drive 5 minutes or 50 minutes with a patient who is in critical need. It goes to the question of whether or not the community survives.

Members of Congress fight battles day in and day out to keep Federal facilities open in small towns. We know how important they are. There is nothing more important than a hospital. Absolutely nothing. In rural America, it is critically important because we have an older population. Many of them are in farming, the most dangerous occupation in America, and a lot of them get involved in automobile accidents in rural areas at higher speeds with more injuries.

So all these debates that we hear on Capitol Hill about budget resolutions and the future of Medicare have dramatic importance to people living in small town America. They had better tune in.

Let me tell you, also, as I listen to this debate, I am really troubled. The

Republicans yesterday, Mr. DOLE, Mr. GINGRICH, tossed down the gauntlet and said, "President Clinton, why haven't you told us anything about health care reform?"

Excuse me? This President was here 2 years ago with a proposal on health care reform. It was one that was detailed. Perhaps it was overly bureaucratic, maybe it was too large in its scope, but he accepted the challenge long before they issued it. He came to us and said, "Let's look at the integrated health care system of America and how we can help Medicare, Medicaid, uninsured people, and the private sector," and it fell on deaf ears.

The insurance industry ran over him like a steamroller, and that was the end of the debate. Now the Republican leaders have discovered the issue again because the problem is still there. The problem is there in terms of human terms and in terms of budget terms.

I sincerely hope that we can come to some sort of bipartisan dialog on this. But I think honestly before that occurs that the Republican leaders, particularly those in the House, are going to have to basically admit the reality that they cannot have a tax cut package which adds more to our Nation's deficit at the time that they are talking about cutting a program as critical as Medicare.

I think if they drop that whole Republican tax bill and then say, "Let's come to the table," we have got a real opportunity for bipartisanship. But why in the world should my senior citizens, should my small towns and should my neighbors lose a community hospital critical for the future of that community in order to give tax breaks to the wealthiest people in America under the Republican Contract With America? That does not compute. You cannot give a tax credit large enough to a family to make up for the loss of a hospital when there is serious need, when that family needs that medical care.

I yield to the gentlewoman from California.

Ms. PELOSI. I appreciate the gentleman's comments about what it means to hospitals, both rural and urban, and why we need to address the budget seriously without taking out all these hundreds of billions of dollars for tax cuts for the wealthiest.

I wanted to point out that distinction again, though, between tax cuts for the wealthiest and who is paying the price, out-of-pocket cost to senior citizens.

Right now the Urban Institute says that seniors spend a staggering 21 percent of their incomes to pay for out-of-pocket health care costs. That is now. If the Republicans go through with their tax cuts and take it out of Medicare, as we said earlier in the special order of the gentleman from California, this will again take it out of the pockets of seniors, a back door way of reducing their Social Security benefits by having them pay in some cases 100 percent of the cost-of-living adjustment and in many cases a majority of the cost-of-living adjustment.

So we absolutely must recognize who is paying for whose benefit. The senior citizens, the most vulnerable in our country, their health care benefits, out-of-pocket costs, will be used to pay for tax breaks for the wealthiest Americans. That just cannot be right.

Let's all be of good faith in this. Eliminate the tax break from this equation. Let's get down to talking about making Medicare solvent and doing it in a way that is respectful of the limitations of income of our senior citizens.

Mr. DURBIN. I thank the gentlewoman for her comments. I want to add something.

We are in a period of sacrifice. We will have to cut back on Federal spending. We are asking people to accept that reality. But think about some of the people affected by this debate. Some of the people literally dependent on Medicare and Medicaid are in nursing homes, totally unable to take care of themselves. They have exhausted all of their savings. They are dependent on Government programs and what their families can come up with. As we increase their expenses, there is nowhere for them to turn to make up the difference.

INTRODUCTION OF THE PROFESSIONAL TRADE SERVICE CORPS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I agree with my colleagues who were on the floor here of the absolute necessity of the United States balancing its budget and putting our financial house in order. But this afternoon, I want to talk to you about a different deficit, the trade deficit, and a piece of legislation I am introducing today, the Professional Trade Service Corps Act, which is essential to America correcting that deficit as well.

U.S. trade policy for the last two decades under both Democratic and Republican Presidents has been a major net loser for our Nation, its businesses and our workers. While some individual corporations and certain shareholders have benefited, overall the productive wealth of America has been diminished, as ballooning trade deficits have fueled the movement of our dollars offshore, as our citizens bought more and more imported goods coming into this country rather than our exports being sold abroad.

Trade deficits represent a serious decapitalization of this country, with more and more of our people's money moving abroad to pay for the goods they are buying from foreign importers, while foreign capital pours into this country. The economic accounts tell the story.

In 1980, our country was a net lender to the world, as foreign interests owed us more than $400 billion.

□ 1230

Today, however, the United States owes foreign creditors nearly $800 billion. We are now a net debtor nation.

As foreign imports, including many from U.S.-based firms that have escaped offshore, surge into our country, jobs that should have been created here, good-paying jobs, are now being located elsewhere in the world.

Furthermore, the value of our dollar continues its decade-long decline as U.S. dollars flood into the international market to pay for the goods that we are buying from other places.

Last year our country racked up yet another record deficit with the world in merchandise trade of over $166 billion. For January of this year, the United States set a monthly record deficit of $12 billion more in just 1 month, and keep in mind $1 billion of debt in trade translates into 23,000 lost jobs in this country.

These deficits represent real lost jobs, stagnant wages, and decreased living standards as your dollar buys less in this country.

You might be watching the trade talks that are going on with Japan right now. Last year we had over $66 billion in trade deficit with Japan, more of their goods coming in here than our goods being able to get into that market, because in fact it is a closed market, and if you just look at the automotive segment of that deficit, which represents half of our deficit with Japan, if we could solve that problem we could build in this country 100 factories, each employing over 5,000 workers, 100 factories, each employing over 5,000 workers, if we only solved half the trade problem that we have with Japan.

In short, these deficits hurt every American in our communities, and that is why today I am introducing the Professional Trade Service Corps bill to upgrade U.S. trade negotiating functions through creation of a specialized tenured body of trained professional trade negotiators for this country. The Corps' mission would be to conduct U.S. trade negotiations and streamline the trade functions of this Government.

The Professional Trade Service Corps incorporates a three-tier strategy to address the need for more skilled and committed U.S. trade negotiators. First the proposal would accomplish that goal by creating an elite professional body of American negotiators to address the issues of short tenure and the revolving door among our trade negotiators.

The average trade negotiators for our country stay in their position 2 years. The average negotiator for Japan stays in his position 30 years, speaks several languages, and has worked in various countries around the world.

Our bill would also establish a Trade Services Institute to train our current and future U.S. trade negotiators in the practices, culture, and customs of our trade competitors.

Then finally the bill restricts Trade Service Corps officials as well as other senior members of the executive and legislative branches from representing or advising foreign interests immediately after leaving Government service.

U.S. trade negotiators serve on the front lines of today's battle to win market share in the increasingly competitive international marketplace. To win, our country must have highly trained, professional, tenured, and committed trade negotiators with integrity at the table negotiating the best terms for America's workers and America's businesses.

I ask my colleagues to please join me in cosponsoring the Professional Trade Service Corps Act. Put this country on an equal footing at the international bargaining tables that control our destiny in terms of jobs and development in this country.

FAIR TRADE WITH JAPAN

(Mr. McINTOSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McINTOSH. Mr. Speaker, today, officials from the U.S. Trade Representative's Office are meeting with Japanese officials to address the current trade imbalance in auto parts between our two countries. I hope their efforts are successful.

Now, I am an advocate for free trade. For countries to prosper in today's global market place, they must export and import freely. The deal is simple. It's a two-way street.

Unfortunately, when it comes to Japan, our open market-policies have not been reciprocated. Hard-working American autoworkers and manufacturers of automotive parts in Indiana and throughout America have faced unfair barriers to their products. Last year, Japan imported 1 U.S. car for every 25 it exported; 60 percent of our $66 billion deficit with Japan results from imbalances in cars and autoparts.

American autoparts manufacturers are not asking for special privileges, just a fair opportunity to compete in Japan. We have waited too long. The Japanese must honor the practices of free trade and agree to fairly import U.S. auto parts.

When I meet with automakers and autoworkers in the Second Congressional District of Indiana they tell me, "We make the best auto products in the world, just give us a fair chance to compete." An agreement that allows real access to the Japanese market for autos and auto parts is a matter of fairness for U.S. automotive firms and workers.

WHY AMERICANS ARE ANGRY

The SPEAKER pro tempore (Mr. REGULA). Under the Speaker's announced policy of January 4, 1995, the gentleman from Vermont [Mr. SANDERS] is recognized for 60 minutes as the designee of the minority leader.

Mr. SANDERS. Mr. Speaker, it is no great secret that throughout the United States of America today there is a great deal of anger, there is a great deal of unrest. Fortunately not every angry person goes about blowing up buildings and killing hundreds of innocent people, but all over this country, people are feeling an unease. Something bad is happening and they do not quite understand what it is about.

What I would like to do this hour, Mr. Speaker, with the help of some of my colleagues, is to perhaps try to explain to the working people of America, to the middle-income people of America, perhaps some of the reasons why people are angry, why people are frustrated, and then maybe make some suggestions as to how we can develop public policy which will improve life for all of our people.

Mr. Speaker, let me begin by quoting from an I think very important article that appeared on the front page of the New York Times on Monday, April 16, just a couple of weeks ago. And what it says is that the United States of America today has by far the most unequal distribution of wealth in the entire industrialized world. And the article says that:

> Recent studies show that rather than being an egalitarian society, the United States has become the most economically stratified of industrialized nations. Even class societies like Britain, which inherited large differences in income and wealth over centuries, going back to their feudal past, now have greater economic equality than in the United States.

Then the article goes on to say:

> Federal Reserve figures from 1989, the most recent available, show that the wealthiest 1 percent of American households, with net worth of at least $2.3 million each, own nearly 40 percent of the Nation's wealth.

That in contrast to Britain where the richest 1 percent only own 18 percent of the wealth. So in other words, we are now living in a country from which the richest 1 percent own 40 percent of the wealth, which is more wealth than the bottom 90 percent. Rich are getting richer, poor are getting poorer, the middle class is shrinking, and I think that explains or begins to explain why it is that American people and especially working people, the middle-income people are feeling very, very anxious. Because the bottom line is, and we do not talk about that too much here, Democrats do not talk about it, Republicans do not talk about it, Rush Limbaugh somehow forgets to talk about it, but the reality is that since 1973, four-fifths, 80 percent of the American workers have experienced falling or stagnant real incomes.

Now what does that mean? That means in the last 22 years the American people are working very, very hard, in many instances they are working longer hours, in fact a study came out recently, if you can believe this, that in order to compensate for the falling wages American workers are now receiving, workers are now working an extra 1 month a year. In my own State of Vermont it is certainly not uncommon for workers to be working not one job, not two jobs, but on occasion three jobs.

Since 1973, for production workers, there has been a 20-percent decline in real wages. There has been an increase in poverty. For low-wage workers, workers who just have a high school degree, who do not have any college, the drop in entry-level jobs has been precipitous. For young male workers there has been a 30-percent decline in entry-level wages for young men graduating high school going into the work force; for young women the drop has been 18 percent.

There was an interesting article which I think typifies much of what is happening in this country, that appeared in the Wall Street Journal some months ago and they said the good news is that in the Midwest, many of the factories that has been closed in the 1980's are now reopening, workers are now going back to work in the factories. That is the good news. The bad news is that those workers, same workers are going back to the same factories at wages which are paying them 50 percent to 60 percent to 70 percent of what they made 10 or 12 years before.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. SANDERS. I am delighted to yield to my good friend from Oregon, one of the outstanding Congressmen in this institution.

Mr. DEFAZIO. I thank the gentleman. I think what you brought up in your introductory remarks here brings you to three major issues, and I would like to frame the debate that way as we continue the discussion.

You pointed out the decline of incomes and the standard of living for middle-income families and the disproportionate accrual of wealth to the top 1 percent, generally those earning over $250,000 a year. And what I think people would be interested in is what is the majority, the Republican majority's response to that growing disparity of income. Do they have a plan to deal with it. And of course the plan is their tax bill. And the tables on the tax bill are pretty interesting.

If we look at the tax bill which passed the House of Representatives by a fairly narrow margin, but with virtual unanimity on the Republican side of the aisle, 71.4 percent of the benefits of the capital gains tax break are going to go to people who earn over $200,000 a year. And if you go to the corporate tables, you find similar distributions. That is the largest corporations in America, and the multinational corporations will do well. Small businesses will get scant or no tax relief, and even smaller incorporated firms. In fact, we are repealing the corporate alternative minimum tax, something that was put in place in 1986 with agreement between President Reagan and a Democratic Congress that it was embarrassing that the largest, most profitable corporations in America, AT&T, $24.898 billion in profits 1982 to 1985, paid negative $635 million in taxes. So we had to put in place a corporate alternative minimum tax. But now we are being told the solution to the growing disparity and the unemployment in America is to go back to those tax policies of the 1980's.

Mr. SANDERS. If the gentleman will yield, what we are trying to explore is in fact why Americans are angry, and what I get upset about is people are angry, they should be angry, but to a large degree they do not know what they are angry about.

□ 1245

What the gentleman from Oregon has just said is that in the early 1980's some of the largest corporations in America, and in America most of the stock is owned by the wealthiest people, what he said is that in the early 1980's, major corporations earning billions in profit paid zero in Federal taxes, less than the working stiff who makes $20,000 a year, and because the Congress, which had passed that legislation, was a little bit embarrassed going back to their districts, they passed a minimum corporate tax law which said to these corporations that, "After all your lawyers and all of your fancy accountants get through going through the tax loopholes, you still are going to have to pay at least something in taxes."

And what the gentleman has just described is that several weeks ago right here on the floor of the House the Republican leadership voted to repeal that minimum corporate tax, so we are going to go back to those good old days when major corporations paid zero in taxes.

Mr. DEFAZIO. I would like to introduce another element. What I think angered people, when I went around to my 13 town hall meetings during the break, was when I pointed out, when they heard the idea of tax reform and tax relief, a lot of middle-income families had a little bit of hope. When I pointed out where the benefits are going to go, to the largest, most profitable corporations, we were in fact opening new loopholes for them, we were not going to close loopholes on multinational corporations which could bring in $60 billion a year to U.S. taxpayers, that we were going to provide the most benefits, 75 percent of the benefits in the individual tax breaks for capital gains to people who earn over $200,000 a year, there was not anybody who earned over $200,000 a year in my audiences in any of my town halls.

They were a little bit distraught, but what we did not know then and what we know now is that not only is this an outrageous return to trickle-down economics, which nearly bankrupted the country and began to bankrupt the country in the 1980's, did not provide more jobs, provided a flurry of leveraged buyouts which actually were job-destroying, but now the Republicans are planning to pay for these tax breaks by cutting Medicare. Now, is that not extraordinary?

They are trying to back pedal as quickly as they can. But the numbers just happen to add up.

When you look at their proposed reductions in Medicare in their budget, which they will unveil today at their special retreat at IBM's or Xerox's posh retreat center, and I wonder what kind of benefit that is being provided to the Republican Party and how that relates to the tax loophole, but in any case, when they go out to this corporate retreat center today and unveil their budget there, they are going to show they are going to pay for their tax break by reducing Medicare for average Americans and retired Americans.

It is an absolutely outrageous attempt to pilfer the pockets of those least able to pay, senior citizens and people in the lower economic bracket, to give tax breaks to people at the top.

But the sham is, well, we will all benefit because they will invest this money wisely. We already went through that once before. We found that trickle-down did not benefit the majority of the American people, but created the extraordinary disparities the gentleman is talking about.

We also, I think, are going to have to, a little bit later, get into trade here, because trade plays into this is a very large part.

Mr. SANDERS. I am delighted that we are being joined by one of the outstanding Congressmen, fighters for working people; I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS. I thank the gentleman for yielding.

I would like to congratulate him on the special order and the focus you started with, emphasizing what we have been trying to emphasize all year long, is that the American people are angry. Large numbers of people are angry. Large numbers of voters are angry. Certainly, working-class people are angry, certainly for good reason.

We have to focus on what it is they should be angry about. They focus their anger sometimes in the wrong direction, not understanding the forces at work which make their lives miserable or make them see themselves as sinking in quicksand in terms of their lives are getting no better as they go on working harder, but their wages are less, their wages have not kept pace with inflation, benefits like health care which all the other industrialized nations enjoy and help to stretch your wages because you do not have to pay large amounts of money for health care, are denied to the American workers. They get less fringe benefits, vacation time, family leave.

As you pointed out, countries that we went to war with, and we are glad the war is over and it is all peaceful, but Germany now has a higher standard of living than any nation in the world. I am not criticizing them for creating a higher standard of living for their workers. But workers here have to understand, workers in the industrialized world of 1995, it is possible to have decent salaries and also have 6 weeks' vacation, also have family and medical leave where you get paid, where you take time off. It is possible in an industrialized society to have this and still come out ahead of this Nation in terms of balance of payments.

Because we are in relationship with Germany, we owe them more money than they owe us. The balance of payments is negative on our side, just as in the case of Japan, you also have a standard of living and much more security.

This fact, or that, has just been highlighted by a study, and thanks to the New York Times, certainly emphasized in the mass media of the gap between the rich and the poor in this country which you mentioned before, just has to be looked at more closely.

I have the editorial from the New York Times on the same day that the major article appeared on April 17, 1995. That editorial, you know, says quite a bit. We cannot say it anymore clear than stated here. "The Rich Get Richer Faster," is the title of the editorial, and I want to read a few excerpts from the editorial:

> The gap between rich and poor is vast in the United States, and recent studies show it growing faster than anywhere else in the West. The trend is largely the result of technological forces at work around the world, but the United States Government has done little to ameliorate the problem. Indeed, if the Republicans get their way on the budget, the Government will make a troubling trend measurably worse.

Now, this is the New York Times editorial page talking, not partisan Democrats.

> Some inequality is necessary if society wants to reward investors for taking risks and individuals for working hard and well, but excessive inequality can break the spirit of those trapped in society's cellar and exacerbate social tensions. Extensive inequality can break the spirit of those trapped in society's cellar and can exacerbate social tensions.

I am not going to excuse anybody for the Oklahoma bombing, and I am not going to say that any set of conditions in society justified that kind of murderous act, but I am going to say that when you have a mixture in this country of the culture of the gun where we permit, and another way in which we are different from all other western nations is, the other industrialized nations, is we permit the proliferation of the guns in this society. We encourage a culture of the gun, which leads to a fascination with other, more complicated weapons. When you have an atmosphere like that and you also have the exacerbated tensions, the likelihood that individuals or small groups will go off half-cocked and do outrageous things is greatly increased.

I thank the gentleman for yielding.

Mr. SANDERS. Let me just go back to another point. We are trying to understand why in America tens of millions of middle-income and working people are living under such stress, and we are trying to understand how it is that every day on the talk shows and here in Congress we hear people attacking minorities, attacking poor people, men attacking women as the cause of the problem, people attacking gay people, attacking immigrants, and yet it is amazing to me how little discussion there is on the issue that the gentleman from New York and the gentleman from Oregon and I are talking about, and that is the fact that the wealthiest 1 percent are seeing enormous increases in their holdings in America, that the wealthiest earners, 20-percent earners, now earn more earned income than do the bottom 80 percent, that major corporation after major corporation are throwing American workers out on the street, going to Mexico where they are hiring people at 75-cents an hour, going to China where they are hiring desperate people there for 20-cents an hour. How come we are not allowed to focus our anger on those people, just on the poor, but not on the rich?

I did not read in the Constitution, I did not read in the schoolbooks that we are not allowed to talk about the wealthy and the power that they have over the lives of Americans. But somehow or another there seems to be a fear in this institution, and certainly on talk radio, that, gee whiz, we are not allowed to talk about the wealthy and the power that they have.

How come there is not discussion that the chief executive officers in America today of the Forbes 500 corporations are now earning 150 times what their workers are making? Is that justice? Is that fair? Is that what the American system is supposed to be about? Why are we not discussing and moving rapidly in raising the minimum wage? How is a worker supposed to bring up a family on $4.25 an hour minimum wage or even $5 an hour?

Mr. DeFAZIO. If the gentleman will yield on that one, that is excellent.

The issue again, the response of the Republican majority in this Chamber is that they will not even allow hearings or legislative consideration; far be it from a Democratic vote on this floor, on the issue of an increase in the minimum wage. They are so afraid of that issue; they know that a large majority of the American people do not believe it is fair that a person who works hard, 40 hours a week faithfully, 50 weeks a year or 52 weeks a year, is below the poverty level. And if that person has children, it is far below the poverty level in this country and not able to have any kind of a decent standard of living.

Why can't we have that discussion? It seems like everything is slanted the other way.

The tax policy, again, we have just passed huge tax breaks which will accrue to a very small percentage of the people, and they are going to be paid for by cutting Medicare and cutting welfare and other programs.

They will not allow us to have a debate and a vote on the issue of increasing the minimum wage and trade policy. They want to pin the failures of the trade policy on the Clinton administration, who certainly pushed through the NAFTA Agreement and the GATT Agreement, but they pushed them through with a majority of Republican votes and a minority of votes on the Democratic side of the aisle, because many of us knew they were wrong.

And one other point, lest people think that somehow through NAFTA and through shipping our jobs to Mexico, we have somehow at least improved the lot of the Mexican people, the standard of living has dropped 50-percent for average workers in Mexico in the last 6 months. They are threatened with 50 percent inflation, and their wage increases by law will be limited to 10 percent this year.

Interest rates are 80 to 90 percent in Mexico for people who can get credit cards. That is not very many. Bank failures, business failures are up. On May Day they had the largest demonstration in the history of the country.

We have pushed Mexico to the brink with exploitative trade policies, and we are losing American jobs.

Where is this all headed? When will we wake up? When will we come up with a trade policy that is set up to increase the standard of living in this country and in the countries of our trading partners? When will we have a tax policy that is set up for fairness, that helps to bring the disparities down? And when will we increase the minimum wage?

With this majority, never.

Mr. SANDERS. The gentleman is suggesting a very radical idea. He is suggesting the trade policy in America, and I think this year we have had $160 billion trade deficit.

Mr. DeFAZIO. $163 billion?

Mr. SANDERS. Thank you. We do not hear much about that figure. He is suggesting a terribly radical idea hardly heard on the floor of the House, and that is that maybe trade policy should work for the benefit of the average American worker rather than the head of the large corporations who are trying to take our jobs to Mexico and China.

We are delighted now to welcome a Congressman from upstate New York, the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. I have enjoyed the discussion, and thank you very much, particularly the last part.

I think it is very important for us to recognize that although most of the attention has been focused on the budget deficit, and that is a serious problem, it is one we have to deal with, but there are least two other major deficits we have to address.

And those two other deficits are more directly linked to the economic prosperity of the American people, particularly the average wage earner, the average worker, the average family, and those other two deficits are the ones being discussed about a moment ago by our colleague, the gentleman from Oregon [Mr. DeFAZIO], the trade deficit principally because that trade deficit is responsible for loss of a substantial number of manufacturing jobs. We have lost 1.4 million manufacturing jobs in this country over the course of the last decade and much of that can be attributed to our lack of a trade policy that focuses on the needs of the people in this country rather than other interests that may be within this country or abroad.

□ 1300

And the other deficit is the investment deficit. We are failing to invest in our own future, and the infrastructure of this country, and simple things like roads and bridges. Half of the bridges in the United States are now below standard. Our surface transportation systems are in bad need of repair, in many cases falling apart. We have not had a major investment since the 1950's with the Interstate Highway System. Major deficits in mass transit, major deficit in educational investment, major deficit in training, major deficit in research and development, for the creation of new jobs and new industries, and connected with these two is the exportation of important American technologies, technology that is developed in this country which could be producing the jobs of the future, and we are exporting those technologies. We have exported the jobs, and now we are exporting technologies to other countries.

Mr. SANDERS. I know that when we talk about the issue of jobs and the declining standard of living for the average American worker, what we are extremely mindful of is that for the young workers, especially for those who do not have a college education, their future indeed is very bleak. And one of the points that has to be made when we try to understand anger in America is that for tens of millions of Americans the American dream is fading fast, the dream that, if I work very hard, my kids are going to have a higher standard of living than I do.

Now I know that the gentleman from New York [Mr. OWENS] has worked hard on a jobs bill which attempts to address some of the issue that the gentleman from New York [Mr. HINCHEY] was talking about. Mr. OWENS, what about a jobs bill?

Mr. OWENS. Well, we introduced a jobs bill as a progressive caucus jobs will as a result of our understanding clearly what the message was on the November 8 election. At the exit polls they clearly pointed out that the No. 1 priority was jobs security. Those who were working are worried about the fact they are making less than they were making before, they cannot keep up with inflation. Many who were working were worried about losing the jobs they have already because of economic downsizing and streamlining, and of course many others are unemployed and work because they have no hope of getting a job. We keep sending manufacturing jobs overseas, chasing the cheapest labor in Bangladesh, out of prisons of China of whatever.

So why not address this as Democrats, even if the Republicans refuse to? They had in the Contract With America something about the Job Creation, Wage Enhancement Act which had not a single thing in it about job creation. It was all about removing regulations, and it was a back door way to make an assault on the kinds of regulations of the environment that are very necessary to protect the health and welfare of Americans.

Our jobs bill talks about creating jobs. In fact, one of the major functions of a modern Government has to be the creation of jobs. The economy, stupid, has to be translated into jobs, stupid. You can have a bustling economy. We have a very prosperous economy. The stock market is doing very well. But jobs are not being created.

You know, in addition to economics, we need a new science called "jobenomics." How do you create jobs? We propose an old-fashioned way to create jobs. First of all you recognize the fact that there is plenty of work to be done, it just needs to have some way to pay people to do necessary work. We need public infrastructure to be sort of rehabilitated. Physical infrastructure in terms of bridges, and roads, and schools across the country which need to be repaired or rebuilt, all those things need to be done, and we should channel the public dollars in that direction instead of wasting our public dollars on obsolete weapons systems and other kinds of things. We should be moving it toward job creation in every way possible.

Mr. SANDERS. In other words what the gentleman is saying is what everybody knows to be true in virtually every city, every town in America. There is an enormous amount of work that needs to be done. We need new environmentally sound sewer systems. We need better landfills. We need to clean up the pollution that exists all around us. We need to rebuild our mass transportation system. What an absurdity that when in terms of mass rail, our railroads, we are already behind Europe and Japan. Amtrak has laid off 5,000 workers rather than adding more workers to give us the best rail system in the entire world.

So, as Progressives, let us summarize some of what we are talking about. For a start, No. 1, the American people are angry and have a right to be angry, but for many reasons that anger has been deflected all over the place. Working people are becoming poorer in America. The gap between the rich and the poor is becoming wider. Twenty years ago the United States led the world in the wages and benefits we provide in our workers. Today we are in 10th place, behind many of the European countries. The hours that those workers in Germany, in France work are going down. They have more leisure time. In America the hours that our people are working are going up an extra month a year.

I say, "Why shouldn't we be angry? You can't be with your family, you can't be with your kids. You're working an extra month a year in order to make up for the decline in your wages. You're working overtime. You're working two jobs."

So we believe it is appropriate to raise the minimum wage. Workers should not be working 40 hours a week and falling further and further into poverty. Forty percent of the people in poverty are working full time. So we are concerned about that.

The gentleman from Oregon [Mr. DEFAZIO] has talked about trade policy. We talk about the Federal deficit. It is important. What about our trade policy? And Mr. DEFAZIO a number of months ago introduced, I think an extremely important piece of legislation. He introduced legislation to repeal the United States connection with NAFTA, to withdraw from NAFTA. I ask, "Mr. DEFAZIO, why did you introduce that legislation?"

Mr. DEFAZIO. I thank the gentleman for yielding.

Well, this was, of course, before the massive collapse and massive bailout by the U.S. Government adding insult to industry. Not only had our predictions come true; that is, that we began to enter into trade deficits with Mexico, therefore exporting U.S. jobs and capital to that country, that the Mexican peso has been devalued, that in fact the government had stolen another election and was continuing to oppress its own people, but we added insult to injury shortly after I introduced the bill, and we are now paying $20 billion for that privilege.

Why? Because a few United States corporations want to go down there to take advantage of that cheap labor, a fact, you know the average Mexican wage has dropped 50 percent in the last 6 months. This looks great to a number of large multinational corporations, foreign corporations flooding into Mexico to use it as an export platform, but with the $863 million dollars trade deficit that we ran with Mexico in one month in February, that means that we exported, according to our own Commerce Department, 20,000 jobs in 1 month, 20,000 United States manufacturing wage jobs exported to Mexico in 1 month, and now we are paying $20 billion of taxpayers' money to bail out their government in order to keep this sinking agreement afloat. It is a failure, and I would like the authors of that to admit that it is a failure, the Republican majority in this House, and the Democratic administration downtown, and the people on Wall Street who shoved it through. Admit, just admit, it is a failure, or admit that it is working the way you want it, which I think is the real truth, which is it is helping a few corporations, but it is hurting American workers, it is hurting Mexican workers, it is lowering standards of living on both sides of the border. That, perhaps, was the real intent. Then I would at least say they are honest, they got what they wanted.

One other quick point on trade. I cannot let what is going on with Japan go by. Here we are locked once again in negotiations with Japan to get them to allow our auto parts, which now a comparable quality American auto part costs about half of a Japanese replacement part. We are trying to break into their market, and the Japanese are saying, as usual, no, and in fact they are telling us that, if we use our sovereignty, if we, in fact, retaliate against them because they are unfairly keeping out comparable quality parts at half the price from their market, that they will go to the World Trade Organization and get sanctions against us, and guess what? All the analysts say they will win because that is the way GATT and the World Trade Organizations were set up. There is nothing in there to go at the unfair trade practices of Japan or other countries that hide them in secret, but only countries like the United States, which have public laws, will be penalized.

So, you know, we are going in the wrong direction, and we are driving down standards of living in this country to benefit a few corporations and our unfair trading partners abroad.

Mr. SANDERS. I find it interesting, the contract of America, the Republican proposal, talks about a whole lot of things, but it is amazing how it manages to miss the most important policy issues that affect the needs of working people. I say, "I know, Mr. HINCHEY, you have been working hard here fighting for the right of working people. What are some of the initiatives you would like to see taking place?"

Mr. HINCHEY. I would like to follow up with what the gentleman from Oregon [Mr. DEFAZIO] said about our trade policies and just observe that we are following a trade policy which essentially is described as free trade, open markets, the global marketplace, et cetera, et cetera, on and on, but when you look closely at what is happening, you find that while we, this country, is practicing those principles to a large extent, we are not finding reciprocal practices in many other countries. The gentleman from Oregon [Mr. DEFAZIO] points very correctly to the situation with Japan where they are very clever in the way that they hide the—their techniques of freezing out American goods and American products while we import as much as they can manufacture into this country, and we have been doing it for decades at the cost of American jobs and at the cost of the American standard of living.

What we want to do, what we are all about here, four of us and many other people who share our particular opinions, is simply this. We want attention paid to the American economy. We want jobs created here in the United States, but not low wage jobs. We want jobs created here in the United States that are going to be paying good living wages, and that is why we are for an increase in the minimum wage, and we ought to make it clear that by enacting a minimum wage—and by the way, if the minimum wage, which is now at $4.25 an hour had kept pace with its historical level, it would at this moment be more than $6 an hour, so we are far behind where we ought to be. Not only does the minimum wage, and this is, I think, a very important point, affect those people who are working at the minimum wage, but when you push up the minimum wage, you push up the next lowest, and then the second lowest, and the third and the fourth, et cetera. It has a ripple effect throughout the entire economy, increasing wages and increasing incomes for all Americans.

The Speaker of this House said just recently that the price of labor in the world is set in south China. If we ever buy into that idea, if this House, if this country, ever buys into the idea that the price of labor in the United States of America is set in south China, then we are on the road to destruction. The price of labor in the United States is no more set in south China than the principles and policies of this democratic republic are set in south China or everything else that we believe in is set in south China. It is high time that we divorced ourselves from these crazy notions that the American labor force has to compete with the least common denominator in slave labor countries around the world and get back to the idea that we can pay our people a good decent living wage so they could provide for their families, send their kids to school and improve their standard of living.

Mr. SANDERS. The gentleman makes an extremely important point. When you hear somebody get up, and give a speech, and say that we have got to be competitive in the global economy, hang on to your wallets and start worrying very much because what the gentleman from New York [Mr. HINCHEY] is saying is that in south China the wages are approximately 20 cents an hour. Well, American workers, are you ready to compete? Do you think maybe we can get down to 18 cents an hour? We can get those jobs back. What about 15 cents an hour? To a large degree much of the discussion of the global economy is just that.

□ 1315

It is asking American workers to lower their wages, give up their benefits, sacrifice our environmental standards in order to compete with desperate Third World countries where people are working for starvation wages. I think, as Mr. HINCHEY indicates, that should not be the paradigm under which we operate. Rather, we should be asking the question, why, in this great country, do we not develop policies which create decent paying jobs for all of our workers, a national health care system guaranteeing health care to all of our people, a fair tax system which takes the burden of taxes off the middle class and asks the wealthy to start paying their fair share of taxes, educational opportunity for all. Is that Utopia? I do not think so.

I want to ask Mr. OWENS a question: Recently, all over America, in my district, you have middle class people, husbands and wives, working 40, 50, 60 hours a week to afford to send their kids to college, because they understand that without a college education the kids are not going to make it to the middle class. That is simply the truth. Without a college education you cannot make it to the middle class.

Mr. OWENS, the Republicans recently have brought forth a proposal which would cut back on college loans, college financial grants. What impact does that have on the aspirations and dreams of the people in your district?

Mr. OWENS. What the Republicans are trying to do in their attempt to fulfill their contract against America, we call it against America, they say with America, in an attempt to do the undoable and bring the budget down to a level of balance by the year 2002, they are going to try to take $12 billion out of the student loan program.

Already we have year after year reduced the number of grants available. The poorest young people going to college, we used to provide more grants. But we have steadily reduced the number of grants, so it is very hard to qualify for a grant. You have to be very poor, because the amount of Pell grants available, the amount of money available for Pell grants is very low. We have deliberately emphasized student loan programs. Because after all, you have time to pay for it after you get out of college and get a decent job. Most of our aid now is in the form of student loans.

Now the Republicans are saying the student loan program should not be subsidized at all. What we do now is while a young person is in college, the interest on the loan is paid for by the Government. That is our contribution as taxpayers towards the student loan program. The students get out, pick up the loan, and they start paying the interest and principal until it is paid off. But the interest during the time they are in college is paid for by the Government, and if you take that away, that raises the amount the students owe. They are expecting to save $12 billion out of the hides of the students when we want to encourage more people to go to college. That is the one answer to our economy, to become more and more sophisticated and educated.

Mr. SANDERS. If we could perhaps wrap it up, I think, in conclusion, the point that we are trying to make, we as three or four members of the Progressive caucus, and there are 36 other members, is that we think to a large degree the Congress of the United States is out of touch with the needs of working people, middle income people, and is here to a large degree to represent the interests of the wealthy and the powerful. We think that much of what is in the Contract With America benefits the people who go to the $1,000 a plate fund-raising dinners. We think there are sensible public policies we can develop—we brought forth some of them this afternoon—that in fact we can raise the standard of living for American people, give people hope for the future, where today there is no hope.

I want to thank both the gentleman from New York, Mr. OWENS and Mr. HINCHEY, for joining me. We will do this again.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

BARBARIANS AT THE GATE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we just returned from recess this week, and it is a fairly slow week here in the Congress. But next week we will move into the process of finalizing the budget for the coming budget year, which begins October 1. It is a situation which I am quite concerned about.

There is a kind of calm around here before the storm. As far as I am concerned, I feel a sense of dread before a massacre takes place, because that is what I feel is in store; a massacre of very useful programs is about to occur in this budget finalization process that is going to start next week.

We already have a $17 billion rescission package. The majority party, the Republicans in this House, have already reached into this year's budget and pulled back $17 billion, mostly from very good programs. So $17 billion is being cut out of the budget that is now in process, now going on.

The budget year that will end on September 30, they are trying to take out $17 billion. The Senate has passed their version of the rescission package, and a conference is about to occur. There is nothing to feel optimistic about there. They put back a few vital items. I heard the Senate is going to restore the Summer Youth Employment Program. The Summer Youth Employment Program employs millions of young people across the country every summer. That had been wiped out by the Republican-controlled House rescission budget. Now the Senate says they will put it back, and I hope that they do restore that.

But I hope the President vetoes the whole bill. I hope that he understands there are numerous other cuts in that same $17 billion package, for instance, the cutting of the Department of Housing and Urban Development to the tune of $7 billion. You cut $7 billion out of the Department of Housing and Urban Development, and most of the money that is cut is for low income housing. I hope that the President will veto the whole package. But I dread what is going to happen with that package, that rescission package.

But beyond that, I dread the budget finalization process, because what has happened with the rescissions package is a preview of coming attractions, a preview of where this majority in this House is going.

It is not exaggerating to say that we are about to behold something similar to a group of barbarians burning down a city. It is not exaggerating, because we are going to destroy, and maybe this is a serious flaw, a serious weakness in the Constitution of the United States, that a party in power for 2 years can wreck havoc. It can destroy a great deal.

You can destroy the Department of Education by just denying funding. You can vote the funding out. It is difficult to vote down the authority for the agency, but if you don't fund it, you can destroy it, or so cripple it, until to matter who comes into power the next year, they will have to try to rebuild a crippled agency.

That has been the history of the Department of Education. It has always been a crippled agency. It came into being with great controversy. Thank God Jimmy Carter created the Department of Education finally. But during the years of Ronald Reagan they tried to destroy the Department of Education, and it has never been able to function fully. But finally it has begun to function and do the kinds of things it needs to do in terms of leadership.

The threat now is in the process of cutting the budget, one of the items that is being targeted by the Republican majority is the Department of Education. We are going to eliminate the Department of Education, in an age when high technology is so important, in an age when we say that every worker, every student, should strive to go to college, and in order to do that they have to come out of high school with the best possible education in order to get a decent job and function in a very complex society. At this time we are hearing leaders in this House talk about eliminating the Department of Education.

An invaluable piece of our civilization is about to be assaulted in this budget making process. A way of life created for Americans by Americans is about to be wrecked. That is how serious this year is.

Why is this year so different from any other? Because the majority party in the House, which is the same as the majority party in the Senate, have made it clear that they want to assault many of the programs that have been created over the last 60 years. They want to get rid of what has been painstakingly developed since Franklin Roosevelt's days. They want to get rid of the kinds of programs that make our society as great as it is. They want to get rid of the kinds of programs that reach out and say to every American that our great wealth, the fact that we are the wealthiest Nation that ever existed in the history of the world, is to be shared not equally, and we are not communists, we are not proposing that everybody should have an equal share, but we are proposing that everybody should have some share of it and some kind of decent living as a result of a prosperous America.

Now there is a barbaric philosophy. And I want to just pause for a minute and say I would like to see us lower our voices and use less extremist language. So I do not want to call my colleagues who propose these doctrines barbarians. I think that is a little extreme. I just want to focus on each act. A decent person can be guilty of a barbaric act. So you have some decent people who, I will not question their decency in general, but they are subscribing to barbaric policies, barbaric actions.

Let me give you one or two examples, and I will come back in more detail later on. It is a barbaric action to propose that we fund a *Seawolf* submarine for about $2.1 billion, and at the same time propose to cut the school lunch programs by about $2 billion. There is controversy about whether the school lunch programs have been cut or not. I think the conservative Congressional Budget Office has put that to rest. The conservative estimate of the conservative Congressional Budget Office is at least $2 billion will be cut from the program. It will lose that much over the 5-year period it is being proposed. So at least $2 billion. I think it will be more like $6 billion, but we will take the more conservative estimate.

You are going to cut school lunches by $2 billion, hungry kids will have less food, and at the same time propose to build a *Seawolf* submarine. What is a *Seawolf* submarine and what does it contribute to anything? Nothing. A *Seawolf* submarine would have been useful in a way with the Soviet Union. But the Soviet Union doesn't exist anymore. No other nation has these submarines.

What I am trying to do is bring this down to a level where it can be clearly understood. When I say a barbaric act has taken place when you propose to fund an obsolete weapon like a *Seawolf* submarine at the cost of $2.1 billion, while at the same time cutting school lunches by a like amount, that is a barbarian's reasoning at work. There is no sense, no compassion.

What will the *Seawolf* submarine do for America? It can do nothing now. It could have been very useful in a war with the Soviet Union. They have very sophisticated submarines; therefore, we had to prepare a more sophisticated submarine. We already have *Seawolf* submarines. Why build one more? The cold war has been over for several years. The Soviet Union is not building any more submarines.

This submarine cannot be used for peaceful purposes. If you do not use it for warfare, you can take the kids on a ride under the sea, you could put it in New York harbor and use it as a tourist attraction. But that is too dangerous. They will not use submarines for tourist attractions, because even the best submarine is risky to the point where you wouldn't take kids for joy rides underneath the sea. So it has no peaceful purpose. yet we are going to build another *Seawolf* submarine.

We are going to continue funding the Central Intelligence Agency to the tune of at least $28 billion, at least $28 billion. We do not know, because it is still secret. The Soviet Union has revealed secrets about their secret intelligence agency, but we haven't divulged the budget to the American people, so we just guess at $28 billion. It is a barbaric act to say we should continue the funding of the CIA at that level, while at the same time you cut the Summer Youth Employment Program, a program that provides jobs for youth during the summer and costs so much less. It is a barbaric act.

□ 1330

I will come back with more examples later on. But this is what we are up against.

I said that we have high-technology barbarians in charge in the House. I would like to retract that and say that the people are not barbarians because they certainly love their families; they do a lot of things that are decent every day. It is not that they are barbarians, but they are committing barbaric acts. We need to pinpoint each act one by one.

In New York City, we have some barbaric philosophy that has been proposed recently. We have this epidemic of barbarity in public service breaking out all over in New York State government, New York City government. We are proposing to give huge tax cuts to the rich while we are cutting programs for Medicare and Medicaid already.

The mayor of New York, I think, has expressed it openly. He has said what most of the leaders in the House of Representatives have not been willing to say. The mayor of New York has come right out and said it:

> Poor people, if they would please get out of town, get out of town and we will not have to be bothered with them. We would like to have policies which do not encourage poor people to stay around.

The mayor of New York City actually came out and said that. In the process of saying he did not say it, he kept saying things which were just as horrible, that as you cut programs and you squeeze neighborhoods and you refuse to build more housing and you cut the hospitals and you make life unbearable for poor people, let them get out of town, let them go. That is the kind of economic cleansing, it is a new statement by a public official of what many others are thinking but they are not stating.

We had a gentleman named Roger Star who was prominent in city civic circles and once served on the editorial board of the New York Times even who years ago said we should pursue a policy of ethnic, of planned shrinkage, that New York City should pursue a policy of planned shrinkage. That is, do not build any housing for the poor, do not bother to create infrastructures in a poor neighborhood for new sewer systems and new water systems, et cetera, do not do those things and do not build and, therefore, you plan, as a result of pursuing those policies, there will be a shrinkage of the city. As you shrink the city and the number of people in it, certainly the number of poor people, the responsibilities of the city go down and you can give tax cuts to the rich and take care of them as a result.

That was a private citizen making that statement. It was horrible enough then, but now we have the mayor of the city, the mayor who was elected by the people to govern all of the people. As you know, we know as elected officials here in the Congress, once we are elected, we are no longer elected to serve the people who elected us or the members of our party, we are elected to serve everybody. This mayor is openly saying that he really does not want to take care of a large part of the population of New York City.

Economic cleansing has been openly admitted, the philosophy. That is a barbaric philosphy. The thinking is barbaric; the policy is barbaric. I will come back to that later on.

What I am trying to say here is that I want to emphasize that the budget-making process that we are about to undertake is the most important thing that this Congress does. It is the most important event that happens in Washington. The budget-making process in any government is very important. I have used the example before of the British Government; the BBC, the British Broadcasting Corporation takes several days, used to take several days to just discuss the national budget. Nothing is more important than the budget-making process, whether you are making budgets at the Federal level or you are making the budget, going through the budget making-process at the State level or the city level.

Citizens should pay close attention because how we spend our money shows what our priorities are, how we spend our money shows what our values are. And how we spend our money determines whether our side is going to function properly or not. So in the budget-making process, all things that are most important to government and society are in motion at that time. Everything of value will be impacted by the budget process. And the budget process takes place first, but the appropriations process follows that and the two are inseparable.

The budget process sets general guidelines, the appropriations process spells out the details and they cannot be separated. The budget and appropriations process are the most important functions of our Government or any other government.

How and why is this budget and appropriations process different from all others? I have said it is different from all others because in power now we have a majority that insists that America is facing a crisis. They have created a crisis atmosphere. They have created a goal that is very difficult to attain, the goal of a balanced budget by the year 2002. If you insist that we have to balance the budget by the year 2002, then you have to take some drastic measures to do that. You cannot accomplish that unless you take drastic measures to cut the existing budget, unless you bring an axe to chop down programs that were created carefully over a 50- or 60-year period.

We had the New Deal. We had the Great Society. And there is a tendency to take all of this for granted. The Great Society was sort of an offshoot of the New Deal. Lyndon Johnson was a disciple of Franklin Roosevelt, and although we might criticize President Johnson for making many connections with foreign policy and with the Vietnam war, we recognize his devotion to the principles of Franklin Roosevelt as expressed through the Great Society programs: The Community Action program, the Medicaid program, the Medicare program; these things did not come from God directly. They did not fall out of heaven. They were created by Democratic administrations, and they represent an expression of the very best that is in America.

America, we have some things in our past and our tradition which we are not proud of, but we certainly can be proud of the tradition that is reflected in the New Deal and in the Great Society because it reflects a reaching out and a caring for all of the people of America and it was all done without a revolution. We have done more for human beings and for the citizens of our Nation without a revolution than other countries have done that had revolutions which professed to have this purpose.

But now we are engaged in a situation where in 2 years, in 2 years the people who have come to power are going to take advantage of a weakness in the Constitution. There are no safeguards in the Constitution against having a 2-year period be a period where you can destroy what was created in 60 years.

There is something wrong with our Constitution. I do not propose to talk about it now. I do not know what the remedy is, but it has just occurred to me as a result of the kind of protestations and the kind of declarations that have been made by the majority Republicans in the House this year, it just dawned on a lot of us that in 2 years you really can have a structure of the policies of the country totally turned around, totally altered. That is a great deal of change to take place in 2 years. It is revolutionary.

I have a suspicion of revolutions. We should always be suspicious of revolutions. Revolutions at best are necessary evils when there is no other alternative. Revolutions always cause almost as much harm as they do good because of the very nature of the upheaval of revolutions means that a lot of people are going to be trampled on, a lot of suffering is going to take place that would not take place if you follow an evolutionary process.

We have in America always followed an evolutionary process, even at the time of greatest crisis during the Depression, the transfer from Herbert Hoover to Franklin Roosevelt was not a revolution. It was an evolution. It was a use of the legislative process at its very best. Franklin Roosevelt did not go into the basement of the White House as Oliver North did and come up with secret plans about how to make the American Government operate in a way which was not approved by the Congress. Franklin Roosevelt came to the Congress, the New Deal legislation was passed in concert with the Congress.

Step by step we worked our way through a very difficult period. We entered World War II, and the same process was followed as we moved through the necessary processes to win World War II under the leadership of Franklin Roosevelt and Harry Truman. So we have always moved in an evolutionary way. Sometimes you have to speed up the evolutionary process, and sometimes the approach to the evolutionary process has to be comprehensive, across the board you have to move and move fast, but to move in a way that is being proposed now, where an artificial crisis is created, an umbrella of emergency has been created. So we have a situation where extreme changes, extreme radical changes can be justified because we have created a crisis.

Who is it who said that we have to have a balanced budget by the year 2002? What economist has said that that is absolutely necessary to keep our economy healthy? Our deficit is coming down already. Our deficit has never been as great as certain European countries who are not in a panic and not making their people suffer in order to get a balanced budget within a 7-year period. Where did this come from? Olympia? Did some oracle predict that we had to have a balanced budget by the year 2002?

That is an artificial goal. A crisis that is created by setting that, the rationale for it, we still do not know. It is forcing us into a revolutionary mode. You are going to have to make $700 billion in savings. You have to pull out of the process, out of the present budget over a 7-year period, you have to get $700 billion.

My colleagues previously were discussing the Medicare cuts, because one of the places where you have the largest Government expenditures is in health care costs, Medicare being probably one of the highest expenditures.

Medicare is on the chopping block now because if you have to save $700 billion over the next 5 to 7 years, where are you going to get it? It is like slick Willie Sutton who when he was asked, why do you rob banks, said that is where the money is. They are going to take it from Medicare because that is where the money is.

They are going to take it from Medicaid, too. Medicaid is a health care program for the poorest people in the country. And they are going to rob Medicaid, too. But nobody is discussing that because Medicaid does not have any defenders in this capital, in the city of Washington you do not hear from the White House any discussion of drastic cuts that are being proposed for Medicaid. You do not hear them on the Hill, here in Congress, but they are going to cut Medicaid for poor people drastically also.

Cuts are already under way in the States and in cities across America to cut health care for poor people. What is the problem when you start cutting health care for poor people? When the Medicaid program was first developed a statement was made which is still true. The statement is that there is no such thing as bargain basement, second-class health care. Health care is either adequate or it is not adequate. You cannot have second-class, bargain basement health care, health care where you use old needles to save money because if you use old needles to give injections, you are likely to create more disease than you are to create health.

You cannot have health care where the hospitals do not wash the linen except once a week. You cannot have health care where a doctor makes a diagnosis that a patient needs a certain medication that exists and we know it exists and the doctor decides that that is too expensive for that person. That is not health care. That is making judgments about human beings that nobody should have the right to make.

So health care costs cannot be trimmed and cannot be cut without damaging the health care process. It is either adequate health care or it is not. So when Medicare cuts are made, what we are saying is we are going to give bargain basement health care to poor people and that is going to be inadequate health care. And those of us who are here, those who propose it and those who are against it, we all know that what we are doing is unethical and dangerous, but there are going to be cuts for Medicaid and there are going to be cuts for Medicare if they continue to insist, if they insist that we have to balance our budget in America by the year 2002.

Now, why does it make sense to balance the budget? They offer this homespun logic that says every family balances its budget. You know they have to balance your budget.

□ 1345

That seems like a great truth, something that Einstein might endorse, except any mother, any father, anybody in any family knows that you do not balance your budget, you do not balance your budget year by year. Your mortgage is not paid for in 1 year. Your mortgage is spread out over a long period of time. Otherwise you could not afford, you cannot pay for a house—there are some rich and famous Americans who can, but most of us cannot pay for a house in 1 year. You cannot pay for your car in the same year, either. Most of us cannot pay for a car, so you do not balance your budget.

Balanced budgets are not something that heaven smiles upon because they work in the economy. They are something invented by the Republican majority here as a great good that we should all strive for which does not exist. They say cities and States have balanced budgets. Most cities and States do not have balanced budgets, they have operating budgets that are balanced and then they have capital budgets. They take all the items, like your car and your house and things that have to be paid for over a long period of time, because they are so tremendously expensive, and they put that in a capital budget.

What this Government needs to do, if you want to have an intelligent approach to the budget, is we should have a capital budget for items that cost a lot of money over a long period of time, and an operating budget for the items that you pay for on a yearly basis.

I would be the first to support a balanced budget operating budget if you want to propose it that way, as long as you take the capital items like the building of airports and highways, and if we need new weapon systems in the future, weapon systems are a large expenditure that come out, and you can look at it in a more intelligent way.

However, the people who are in charge now, they have the votes. They say we are going to have a balanced budget. It is dogmatic, it is not scientific, it is not logical, but they have the votes, so they have created a crisis.

I serve as the chairman of the Congressional Black Caucus Alternative Committee on the Budget. We hope that we are going to be able to offer an alternative budget on the floor, and show our vision of where America should be going and how you can deal with the budget versus the vision of the majority that is in control right now. We are going to do that, despite the fact that we have been told that no budget will be allowed on the floor for discussion unless it meets the requirement that has been set forth to move toward balance.

You have to have a balanced budget, a budget which is going toward balance, by the year 2002. That means that since our budgets are really projected on a 5-year period, not a 7-year period, we have to show in our fifth year in our budget that the deficit is down to $59 billion, which means that in 2 more years it will be eliminated completely. We are going to accept their challenge.

I am not sure what the Democratic minority is going to do as a whole, but the Congressional Black Caucus, we will accept that challenge. We will show how, even if you accept the illogical, unscientific approach of the Republican majority, you can produce a budget that will be in balance by the year 2002, and you can still do that without making large numbers of Americans suffer. You can do it without cutting Medicaid drastically; you can do it without cutting Medicare drastically. What you have to do, however, is stop the fantasy, stop the fantasy of increasing the defense budget because you identify with that in some kind of romantic way.

The defense budget cannot be increased while you are making all of these cuts. We do not need to increase the defense budget. We need to cut, instead, the $100 billion for overseas bases. We are still supplying bases in Germany and Japan. These are prosperous nations. They can take care of their own needs if they want to man those bases, or even if they do not need the bases, they are there for the security of Europe as a whole, or the bases are there for the security of Asia as a whole, then Japan should pay their share of maintaining security in the world.

It is about time. They are rich nations, Germany and Japan. Let them pay for the security of Europe instead of an egotistical America. Our ego is costing us billions of dollars, an egotistical sense that we, we should make sure that Europe is secure by paying for the bases in Europe. We should make certain that Asia is secure by paying for the bases in Europe. Ego. That is how Tom Sawyer whitewashed the fence.

Japan and Germany stand back and they chuckle while their economies go forward, while their workers earn higher pay, they have longer vacations, their society is much more secure than ours. They chuckle at our egotism that says we must maintain bases across the world in order to guarantee security and freedom, we must have a huge Navy that guarantees the freedom of the sea lanes of the world.

Why do we have to have a huge Navy to guarantee the freedom of the sea lanes of the world? If we want the freedom and security of the sea lanes to be guaranteed, let us give more support to the United Nations and let us have all nations join together to guarantee the security and the freedom of the sea lanes of the world.

It is our ego that costs us billions of dollars in defense, while other nations sit back and let us do it and chuckle at us while they pour their resources into their economy. They pour their resources into the creation of jobs.

In our budget, if you want to insist on balancing the budget, we say to the Republican majority, then let us balance the budget by cutting those things which are not necessary, like $100 billion in overseas bases.

We have, unfortunately, an attitude, a philosophy, that comes first. The attitude has to be confronted. We have to confront the fact that we are dealing with an elitist attitude, an attitude which says that we want an America which gets rid of all of the people who are a nuisance to those rich and famous who want to have an opportunity to make more and more money faster and faster.

We already have the largest corporations in the world. The Fortune 500 corporations are bigger than most of the countries in the world, their budgets. They have more money, more assets than most of the countries in the world. We already have more billionaires than any other country in the world. We do not have maybe the richest person in the world, maybe Japan or Germany might have him, but we have more people in the category of billionaires than any other nation in the world, yet we want to set conditions which will guarantee that they get rich faster, instead of setting conditions and making policies that guarantee that the pie is shared.

All of us participated in the building of America. Every soldier that died in every war made a contribution. Every person that worked in the factories during the war made a contribution. Every engineer that took the work of a genius and translated it into some practical application, you know, everybody participated in the building of this civilization and this society.

Everybody deserves some rewards. Not everybody deserves to be rich, but everybody deserves to have a decent opportunity to pursue happiness, the right to the pursuit of happiness. We have forgotten that it is our duty as a government to supply the right to pursue happiness.

Let us just take a moment to look at the study that was reported in the New York Times on Monday, April 17. The study was reported, and I also have an editorial, and I am not sure if it was on the same day, but it was either on the following day or the same day. On Monday, April 17, the article said "The gap in wealth in the U.S. is called the widest in the West."

In the previous special order with my colleagues, I mentioned this, and they talked about it, too, we have a situation where the United States has replaced Great Britain as being the nation where the gap between the rich and poor is the widest. There is a chart which shows that over the years, since 1925, in Great Britain, the gap between the wealthiest people and the poorest people has come down steadily, while the gap in America has risen steadily, and we are way above the British at this point. The gap between the average income of the richest and the poor is wider in America than it is in Germany, in Japan, or anywhere else in the world.

Mr. Speaker, I will include this article which appeared in the New York Times on April 17 for the RECORD:

[From the New York Times, Apr. 17, 1995]

GAP IN WEALTH IN THE UNITED STATES CALLED WIDEST IN WEST

(By Keith Bradsher)

WASHINGTON, April 12.—New studies on the growing concentration of American wealth and income challenge a cherished part of the country's self-image: They show that rather than being an egalitarian society, the United States has become the most economically stratified of industrial nations.

Even class societies like Britain, which inherited large differences in income and wealth over centuries going back to their feudal pasts, now have greater economic equality than the United States, according to the latest economic and statistical research, much of which is to be published soon.

Economic inequality has been on the rise in the United States since the 1970's. Since 1992, when Bill Clinton charged that Republican tax cuts in the 1980's had broadened the gap between the rich and the middle class, it has become more sharply focused as a political issue.

Many of the new studies are based on the data available then, but provide new analyses that coincide with a vigorous debate in Congress over provisions in the Republican Contract With America.

Indeed, the drive by Republicans to reduce Federal welfare programs and cut taxes is expected, at least in the short term, to widen disparities between rich and poor.

Federal Reserve figures from 1989, the most recent available, show that the wealthiest 1 percent of American households—with net worth of at least $2.3 million each—owns nearly 40 percent of the nation's wealth. By contrast, the wealthiest 1 percent of the British population owns about 18 percent of the wealth there—down from 59 percent in the early 1920's.

Further down the scale, the top 20 percent of Americans—households worth $180,000 or more—have more than 80 percent of the country's wealth, a figure higher than in other industrial nations.

Income statistics are similarly skewed. At the bottom end of the scale, the lowest-earning 20 percent of Americans earn only 5.7 percent of all the after-tax income paid to individuals in the United States each year. In Finland, a nation with an exceptionally even distribution of income, the lowest-earning 20 percent receive 10.8 percent of such income.

The top 20 percent of American households in terms of income—$55,000 or more—have 55 percent of all after-tax income.

"We are the most unequal industrialized country in terms of income and wealth, and we're growing more unequal faster than the other industrialized countries," said Edward N. Wolff, an economics professor at New York University. He will publish two papers in coming months that compare wealth patterns in Western countries.

Liberal social scientists worry about poor people's shrinking share of the nation's resources, and the consequences in terms of economic performance and social tension.

Margaret Weir, a senior fellow in government studies at the Brookings Institution, called the higher concentration of incomes and wealth "quite divisive," especially in a country where the political system requires so much campaign money.

"It tilts the political system toward those who have more resources," she said, adding that financial extremes also undermined the "sense of community and commonality of purpose."

Robert Greenstein, executive director of the Center on Budget and Policy Priorities, a Washington research group, observed, "When you have a child poverty rate that is four times the average of Western European countries that are our principal industrial competitors, and when those children are a significant part of our future work force, you have to worry about the competitive effects as well as the social-fabric effects."

Conservatives have tended to pay less attention to rising inequality, and some express skepticism about the statistics of their significance. Marvin H. Kosters, an economist at the American Enterprise Institute here, said he thought the gap, as measured, was being used as a false villain. "I think we have important sociological problems," he said, "but I don't think this gets at it all that well."

Murray L. Weidenbaum, professor of economics at Washington University in St. Louis and chairman of the Council of Economic Advisers under President Ronald Reagan in 1981-1982, said he thought the measures tended to overstate the gap by overlooking Government programs like food stamps or Medicaid.

Still, he said he was uncomfortable with greater concentration of wealth "unless there's a rapid turnover" in which "this year's losers will be next year's winners."

He noted that many wealthy people have bad years and that a lot of middle-class people, like graduate students, briefly look statistically as if they are starving. The United States does have "very substantial mobility," he added.

Mr. Weidenbaum said he doubted that the Republican agenda, if it became law, would have any substantial effect on the gap. He added that the "static" impact might be somewhat more concentration, but that the "dynamic" impact would produce a bigger economic pie for all to share.

There is no agreement as to why inequality is rising faster in the United States than elsewhere. Explanations include falling wages for unskilled workers as automation spreads, low tax rates on the rich during the 1980's, relatively low minimum wages, the decline of trade unions and the rapid rise in the 1980's of the stock and bond markets, in which rich people are heavily invested.

The most common view seems to be that the United States has witnessed the more extreme effects of several international trends toward greater economic inequality. "While many of the countries experienced many pieces of inequality, the United States is the one country that seems to have experienced all the pieces," said Peter T. Gottschalk, an economics professor at Boston College.

Mr. Wolff's papers are based on data that run through 1989. But Census Bureau figures show that the trend toward greater income inequality continued during the first year of the Clinton Administration. While incomes rose for the most affluent two-fifths of the nation's households as the economy expanded in 1993, the rest of the country suffered from falling incomes, after adjusting for inflation.

"U.S. wage distribution is more unequal than other countries and we do less in terms of tax and transfer policy" to cushion the disparities, said Timothy M. Smeeding, an American who is director of the Luxembourg Income Study Project. Mr. Smeeding is writing two papers drawing international comparisons of income.

The project, based in Walferdange, Luxembourg, is supported by the national science foundations of nearly two dozen countries including the United States, and has gathered Government data from the member nations showing that the United States has the greatest inequalities in income distribution.

Most economists believe that wealth and income are more concentrated in the United States than in Japan. But while data show that wealth is more equitably distributed in Japan, the Government there has not released enough detailed information to make statistical comparisons possible.

Anecdotal information strongly suggests that Japan has a more equal distribution of income. The chief executives of Japanese manufacturing companies, for example, make an average of 10 times the pay of their workers. American chief executives in manufacturing are paid 25 times more, according to a 1994 study by Towers Perrin, a management consulting company.

Professor Gottschalk said Canada and the Netherlands seemed to have avoided the trend toward relatively higher wages for high-skilled workers because they had sharply increased the number of college graduates. But other trends toward inequality, like a widening wage gap between experienced and inexperienced workers, have affected these two countries, as well.

The time American inequality began to increase is also debated, with various economists putting it anywhere from the mid-1970's to the early 1980's. The double-digit inflation and stock market slumps that followed the quadrupling of oil prices in 1973 temporarily produced greater equality, as the stocks and bonds of the rich lost value. But that effect gradually disappeared, with Mr. Wolff's data showing that the concentration of wealth among the richest has consistently exceeded Britain's level since 1978. British records are especially complete, making such comparisons easier.

The comparison with Britain is all the more striking because President Reagan and former Prime Minister Margaret Thatcher pursued broadly similar economic policies in the 1980's.

Rising housing prices have helped the British middle class and limited the growth in inequality there. Still, Mr. Gottschalk said most evidence indicated that income inequality rose much faster in the United States and Britian than elsewhere.

Richard V. Burkhauser, an economics professor at Syracuse University, said that in studying thousands of people in Germany and the United States over seven-year periods in the 1980's, he found that the two countries had roughly the same level of social mobility.

As part of the Contract With America's tax provisions, the House on April 5 approved an increase in individuals' exemptions from the estate tax, which is the main Federal tax on wealth. By the Treasury's estimate, this could cut in half the number of people subject to the tax, to one-half of 1 percent of the estates of those dying each year.

Republicans have argued that the overall tax-cut provisions would reduce annual tax bills by roughly equal percentages for rich and poor. Democrats say that because the annual tax bills of rich Americans are much larger, reducing them by about the same percentage means that most of the money goes to the rich rather than the poor or the middle class, further concentrating wealth and income.

Mr. OWENS. Mr. Speaker, I will read from the editorial a few excerpts that I did not have a chance to cover before. The New York Times is not a radical publication. The New York Times editorial says the following: "After years of little change, inequality exploded in America starting in the 1970's. According to Prof. Edward Wolff of New York University, three-quarters of the income gains during the 1980's and 100 percent of the increased wealth went to the top 20 percent of the families." In America, the top 20 percent got three-quarters of all the income gains. The 80 percent on the bottom, 8 out of 10, shared the rest.

I continue the quote from the New York Times: "The richest 1 percent of households control about 40 percent of the nation's wealth." One percent versus 99 percent. The other 99 percent take the rest. ". . . 1 percent control 40 percent of the nation's wealth—twice as much as the figure in Britain, which has the greatest inequality in Western Europe."

In Britain, which used to have the greatest inequality between the rich and the poor, now we have twice as much inequality in the New World, in America. We fought the British, we got rid of that system, that privilege and wealth. Now we have twice as much inequality as Britain.

"In Germany," and I am quoting from the New York Times editorial, "High-wage families earn about 2.5 times as much as low-wage workers," 2.5 times. The number in Germany has been falling. In America the figure is that the high-wage families in America earn four times as much as low-wage families, and the high-wage families' percentage of income is rising.

The difference between the high-wage families and the low-wage families, people who work every day for wages, we are not talking about wealthy people who have stocks and bonds and they get their income from their investments, we are talking about wage earners, people who work every day, the highest wages in America have been going up for the top and down for the bottom, so you have the top wage earners, the difference is four times as great.

I continue to read from the editorial in the New York Times: "The best guess about the factor behind the burgeoning inequality is technology; the wage gap between high- and low-skilled workers in America doubled during the 1980's. College graduates used to earn about 30 percent more than high school graduates, but now they earn 60 percent more." College graduates used to earn 30 percent more than just mere high school graduates, and now they earn 60 percent more.

Why is it barbaric that the Republican budget proposals are going to cut the student loan program by $12 billion over 5 years? Why is it a barbaric act, an act that has no vision, no logic, no science? Because you limit, when you make those kinds of cuts and make it more difficult for people to go to college, you limit the number of people who can enter the high-technology job market, and you cut off the possibilities of their earning livings at that level.

I go back to the New York Times article: "Prof. Sheldon Danziger of the University of Michigan estimates that trends in private pay rates explain about 85 percent of recent increases in inequality; Reagan-Bush tax cuts for the rich and spending cuts for the poor explain much of the other 15 percent."

However, even if government is not the main factor, and this is the New York Times, not me, I think government policies are certainly not what makes the economy, but government policies are the main factor in the way a society operates, including the economy. To quote the New York Times, "Even if government is not the main factor, it could be a part of the solution. Changes in the Canadian economy during the 1980's also hit hard at low-wage workers," changes in the Canadian economy.

In Canada, there the government stepped in to keep poverty rates on a downward path. In the United States, poverty rose, but in Canada, poverty dropped, because the government policies were used to intervene in their economy in ways to help the poor.

"House Republicans are now," and I am still quoting the New York Times, "House Republicans are now pushing the Federal budget in the wrong direction. At a time when employers are crying out for well-educated workers, the GOP proposes to cut back money for training and educational assistance. America needs better Head Start, primary and secondary education. It needs to train high school dropouts and welfare mothers. The GOP policy would leave the untrained stranded. That would harm the Nation's long-term productivity—and further distort an increasingly tilted economy."

□ 1400

Mr. Speaker, I include the New York Times editorial in its entirety at this point in the RECORD:

THE RICH GET RICHER FASTER

The gap between rich and poor is vast in the United States—and recent studies show it growing faster here than anywhere else in the West. The trend is largely the result of technological forces at work around the world. But the United States Government has done little to ameliorate the problem. Indeed, if the Republicans get their way on the budget, the Government will make a troubling trend measurably worse.

Some inequality is necessary if society wants to reward investors for taking risks and individuals for working hard and well. But excessive inequality can break the spirit of those trapped in society's cellar—and exacerbate social tensions.

After years of little change, inequality exploded in America starting in the 1970's. According to Prof. Edward Wolff of New York University, three-quarters of the income gains during the 1980's and 100 percent of the increased wealth went to the top 20 percent of families.

The richest 1 percent of households control about 40 percent of the nation's wealth—twice as much as the figure in Britain, which has the greatest inequality in Western Europe. In Germany, high-wage families earn about 2.5 times as much as low-wage workers; the number has been falling. In America the figure is above 4 times, and rising.

Interpreting these trends requires caution. Inequality rose here in the 1980's in part because the United States created far more jobs—many low-paid—than did Western Europe. Low-paying jobs are better than no jobs. Rising inequality in the United States has also been caused in substantial part by middle-class families that moved up the income ladder, opening a gap with those below them.

About half of Americans move a substantial distance up or down the income ladder over a typical five-year period. In a mobile society, where workers rotate among high- and low-earning jobs, earning gaps are less frightening because any given job would be less entrapping.

But mobility has offset none of the increased inequality of income. Studies at the Maxwell School at Syracuse University show that mobility in America is not higher than in Germany. Nor does mobility here appear to be higher today than it was in the early 1970's.

The best guess about the factor behind burgeoning inequality is technology; the wage gap between high- and low-skilled workers in America doubled during the 1980's. College graduates used to earn about 30 percent more than high school graduates, but now earn 60 percent more. Prof. Sheldon Danziger of the University of Michigan estimates that trends in private pay rates explain about 85 percent of recent increases in inequality; Reagan-Bush tax cuts for the rich and spending cuts for the poor explain much of the other 15 percent.

But even if government is not the main actor, it could be part of the solution. Changes in the Canadian economy during the 1980's also hit hard at low-wage workers. But there the Government stepped in to keep poverty rates on a downward path. I the United States, poverty rose.

House Republicans are now pushing the Federal budget in the wrong direction. At a time when employers are crying out for well-educated workers, the G.O.P. proposes to cut back money for training and educational assistance. America needs better Head Start, primary and secondary education. It needs to train high school dropouts and welfare mothers. The G.O.P. policy would leave the untrained stranded. That would harm the nation's long-term productivity—and further distort an increasingly tilted economy.

Mr. OWENS. Mr. Speaker, I just want to reemphasize something I read from the editorial earlier:

> Some inequality is necessary if society wants to reward investors for taking risks and individuals for working hard and well. But excessive inequality can break the spirit of those trapped in society's cellar—and exacerbate social tensions.

We are not proposing a change in capitalism. We are not proposing an attack on capitalism. Capitalism is the way of the world. It is the best economy that mankind has been able to fashion. But capitalism should be tempered by democratic government. Democratic government should extol the necessity to make sure that there are safety nets, that the wealth is shared. When people go to work for Xerox or IBM or Microsoft, they do not take an oath to uphold the Constitution of the United States. They do not have to be true to the doctrine expressed in the Declaration of Independence. The pursuit of happiness is not a concern of a corporation, per se. The pursuit of happiness of the American people is not their concern. The pursuit of profit is their business. But government must make certain that in the process of pursuing profits, corporations are part of a total society and that policies are promulgated where everybody is properly taken care of, not everybody shares equally but we have public policies which guarantee that everybody will have decent housing, public policies which guarantee that the opportunity to get an education will be provided.

We cannot afford to have a budget like the budget that is about to be proposed by the Republican majority that is going to slash job training programs tremendously, they are going to slash education programs, and, of course, there is a notion existing that they may completely eradicate the Department of Education.

What does it say to the world, to the civilized world, to the other industrialized nations that the United States of America is going to eliminate the Department of Education? What does it say to the other competitors that we have in the world about our future competitiveness? I think they will chuckle and say we are going to have less of a problem with a competitive America in the future if they are going to eliminate a Department of Education at the Federal level which gives a sense of direction for education in the country as a whole.

It is not responsible, we do not have a system like France or Great Britain or most of the European countries, we do not have a centralized system of education. The education budget in this country, most of it is paid for by State and local governments. The proportion of the budget of the Federal Government's share of the budget is about 8 percent now, fluctuating between 8 and 6 percent. Under Ronald

Reagan it went down to about 6 percent. But at most it is 8 percent of the total budget. Of the more than $360 billion spent on education from kindergarten to higher education last year, the Federal Government only paid for about 8 percent of that. So it is not our contribution financially that is so important. It is the leadership that the Federal Government offers in terms of giving a sense of direction to where we have to go in the global economy in order to be competitive. It is the leadership of the Federal Government that brought forth a document called "A Nation At Risk" where we said this Nation cannot survive unless we pay more attention to how our children are educated in order to be able to compete in the modern world. It is the leadership that led George Bush to put out America 2000, his own program for improving education.

Behind George Bush came President Clinton with Goals 2000. Goals 2000 is not so different from America 2000. They were both at the same conference where the Governors came up with the same six ways to improve education.

We were moving forward, we are moving forward in terms of Federal participation without Federal domination of education. The Federal Government offers leadership. But now I dread the budget that is coming because that budget proposes to eliminate the Department of Education. That is a barbaric act. It would be a barbaric act, an unreasonable act, an unscientific act to eliminate the Department of Education at this time.

I say the barbaric philosophy, people who are committing barbaric acts are a real danger. They are not barbarians themselves but each act should be examined by itself. I think I mentioned before a philosophy of economic cleansing that has been proposed by the mayor of New York City. The mayor of New York City is a nice guy when you get to know him. He is a decent fellow, he has a family, he has kids. I cannot call him a barbarian, but I can think of no more barbaric thinking than to believe that poor people should get out of town, they should leave, in order to make the city's economic situation better. That is barbaric in the extreme. It is a philosophy of ethnic cleansing that has been expressed by an elected official. Those who think it, I consider that bad enough, but this has been expressed and it must be challenged.

The mayor of New York City cannot say to the poor people of New York City, "You don't belong here." He cannot say to the African-Americans in New York City, "You don't belong here." New York City was a major slave port. Millions of slaves were poured into New York City in its early days. As New York City was built starting at the waterfront and moved back up to Central Park, even when Central Park was cleared, there are photographs of slaves working to clear the ground. That city was built in its infancy by slave labor. There is a Negro burial ground that was unearthed as they were building a new Federal building in a downtown section of Manhattan, and the Negro burial ground revealed massive numbers of graves, there must have been epidemic sickness, large numbers of people died, large numbers of children died. In order for there to be so many graves and so many people dying, there had to be many slaves there and they were the ones who cut down the trees, made the lumber, did the construction. Long before the white immigrants came, the slaves who were kidnapped and who were the hostages and not immigrants, they helped to build New York City. And now to say to the descendants of those slaves who built New York City, "Get out of town, you're not wanted."

Where will they go? Where will the poor people of New York City go? Who else wants them if New York City does not want them? Will they go to Marietta, GA, where they are building the F-22 fighter plane? The F-22 fighter plane is one of those obsolete weapon systems that we do not need. We do not need a fighter plane more sophisticated than the one we already have because the Soviet Union is not building another one. We have the best already, so why build another one? It is going to cost us $12 billion over the next 5 years to continue creating, building the F-22.

Can you give us some jobs in the F-22 plant in Marietta, GA, which happens to be the Speaker's district? Can you give us jobs for the poor of New York City? Can we send them to Marietta, GA?

Where will they go? Can we send them to Groton, CT, where they are building another *Seawolf* submarine? Can you give the poor people of New York jobs at Groton, CT, where they are building another *Seawolf* submarine?

Can they go to Texas where they made a killing? Texas is responsible for the savings and loan debacle. Half of the savings and loans that collapsed, half the swindles took place in Texas.

But they benefited even from the collapse because, since they have most of the problem in their State, the Resolution Trust Corporation and all of the effort to straighten out the debacle created by the savings and loan swindle, half of it is in Texas. So workers are hired by the Resolution Trust Corporation, by those people who are trying to straighten out the savings and loan mess. They are Texas workers, so Texas benefits twice.

Can we get some jobs for New Yorkers in Texas so that they can benefit from the savings and loan swindle, jobs that are created as we try to straighten it out? Where can the New York City poor people go?

Can they go to Kansas? In Kansas you have families who are farm families, and they have been averaging $30,000 to $40,000 in government checks over the last decade. According to an article in the New York Times, they get $30,000 to $40,000 for doing nothing, except what they do raises the price of food, and we pay more for food in New York because we are keeping the price of farm products high by subsidizing them with taxpayers' money.

There is something barbaric about paying people not to grow food and driving up the price so the poorest people have to pay more money. The farm price program was created by the New Deal, by Franklin Roosevelt, when farmers were poor, to save poor farmers, when large numbers of people lived on the land. But now we have less than 2 percent of the population of the United States living on farms, and we are spending billions of dollars to take care of those pretty well-to-do farmers and the agribusinesses.

I want to read one more editorial from the New York Times about the farm program. This is a program which we all accept nobody wants to cut. Recently the President made a trip to Iowa, and he pledged that he would defend Federal farm subsidies to the end.

The New York Times editorial says that farmers, quoting the New York Times, farmers are the Nation's richest welfare recipients.

> Farmers are the Nation's richest welfare recipients. Full-time farmers typically earn four times as much as nonfarm families.
>
> The Federal Government pays farmers and huge agribusinesses not to grow crops or send food abroad. Mr. Clinton says that is a nifty way to boost exports, but taxpayers who foot the bill might take exception.
>
> The Federal program stifles food production, which jacks up prices and hurts both consumers and the economy. The farm program costs taxpayers about $10 billion a year and adds an equal amount to food bills, driving up the price of milk, fruit, sugar and many other necessities by about 10 percent.

That quote was from the New York Times editorial, which is entitled "Mr. Clinton Bows to Farmers."

Many of those farmers live in Kansas, the State of Kansas. Can we send New York City's poor to Kansas to share in the welfare checks that the farmers get? Our welfare checks average no more than $600 for a family of three a month, so surely the welfare recipients in New York would greatly benefit if they could get welfare checks at the level of the checks that are being received by the farmers in Kansas.

Mr. Giuliano should know that there is nowhere else for the poor to go. They will not take them in Kansas; in Texas; in Groton, CT; in Marietta, GA. They have a right to stay in New York City. The inhabitants have a right, the citizens have rights.

If a government cannot take care of the needs of their citizens, they cannot provide decent services, they cannot provide educational opportunities, then that government should resign. The public officials who cannot do that should resign. Do not exhort the people to leave. That is barbaric. That is not ethnic cleansing, it is economic cleansing, since you want all the poor to go.

First we had the tax on the illegal immigrants. Then we had a tax on the legal immigrants. Now we want all poor people to go. That is barbaric. We must resist that kind of barbarism.

In closing, what I am saying is that the budget process is taking place at every level in the country. In New York State, the budget was supposed to be completed and submitted on April 1. Now it is more than a month later and it is not completed because there is a struggle under way in New York State between the elite oppressive minority—you have the same elite oppressive minority with the philosophy that the poor are expendable, that you can throw overboard certain people. You have the high-technology barbarians in control in New York State, and in New York City, in city hall you have the same philosophy in the mayor.

Yes, there are budget cuts that have to be made. Yes, there is a need to balance the budget, and Democrats should not get off the hook. We should come forward with proposals about how the budget should be balanced. We should not hesitate to talk about revenue.

In New York City, the State has always robbed the city blind in terms of revenue, doing very little for the city. They have taken far too much from the city. In New York City, you have a Port of New York City, a Port Authority of New York-New Jersey which owns all the most valuable land where the airport is and the ships dock. Revenue that ought to be going to the city is going to the Port Authority. That ought to be corrected.

In New York City, you have two- and three-family homeowners who pay taxes which are far lower, about one-fourth the taxes that are being paid by the people who live in the suburbs surrounding New York. You have a number of ways that revenue could be increased.

Yes, we do need to decrease expenditures. Yes, we do need to adjust programs. There is not a program that has ever been invented that could not be trimmed, could not be adjusted, could not be refined. All that should take place in an atmosphere of an evolutionary process, and not a revolutionary process which says that "We are going to destroy, we are going to slash and burn, we are going to have a blitzkrieg attack on all the social programs that were invented, that were developed over the last 60 years."

We do not need to go into the budget process next week with so much dread, so much fear, so much foreboding. We do not have to look forward to a process that is going to tear down and wreck the best that America has ever built.

□ 1415

It could be very different. We could go forward with a philosophy of FDR ringing in our ears. There is nothing radical or new. The "FDR's Economic Bill of Rights," I ran across it in a magazine the other day, and I will just close with this. Franklin Delano Roosevelt said many years ago:

> In our day these economic truths have become accepted as self-evident. We have accepted, so to speak, a second Bill of Rights under which a new basis of security and prosperity can be established for all regardless of station, or race or creed.
>
> Among these are:
>
> The right to a useful and remunerative job in the industries, or shops or farms or mines of the nation;
>
> The right to earn enough to provide adequate food and clothing and recreation;
>
> The right of farmers to raise and sell their products at a return which will give them and their families a decent living;
>
> The right of every businessman, large and small, to trade in an atmosphere of freedom from unfair competition and domination by monopolies at home or abroad;
>
> The right of every family to a decent home;
>
> The right of adequate medical care and the opportunity to achieve and enjoy good health;
>
> The right of adequate protection from the economic fears of old age, and sickness, and accident and unemployment;
>
> And finally, the right to a good education.

All of these ideas were espoused by Franklin Roosevelt many years ago. You have heard the Speaker of this House quote Roosevelt and speak of him admirably as a person who created new order in our society. Why does he want to tear down an order that was created by Franklin Roosevelt as we go forward in the budget process and appropriations process? This Nation is great because carefully, painstakingly we built a system that demonstrated we care about everybody in America. Let us not let the oppressive elite minority destroy what has been put there by and for a caring majority.

APPOINTMENT AS MEMBERS OF UNITED STATES DELEGATION OF MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore (Mr. REGULA). Without objection, and pursuant to the provisions of 22 U.S.C. 276h, the Chair announces the Speaker's appointment of the following Members of the House as members of the United States delegation of the Mexico-United States Interparliamentary Group for the first session of the 104th Congress: Mr. BALLENGER of North Carolina, vice chairman; Mr. GILMAN of New York; Mr. DREIER of California; Mr. SALMON of Arizona; Mr. HAYWORTH of Arizona; Mr. BROWNBACK of Kansas; Mr. DE LA GARZA of Texas; Mr. GEJDENSON of Connecticut; Mr. COLEMAN of Texas; Mr. MILLER of California; and Mr. RANGEL of New York.

There was no objection.

IMMIGRATION ENFORCEMENT IMPROVEMENTS ACT OF 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-68)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary, the Committee on Economic and Educational Opportunities, and the Committee on Commerce and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Immigration Enforcement Improvements Act of 1995." This legislative proposal builds on the Administration's FY 1996 Budget initiatives and complements the Presidential Memorandum I signed on February 7, 1995, which directs heads of executive departments and agencies to strengthen control of our borders, increase worksite enforcement, improve employment authorization verification, and expand the capability of the Immigration and Naturalization Service (INS) to identify criminal aliens and remove them from the United States. Also transmitted is a section-by-section analysis.

Some of the most significant provisions of this proposal will:

—Authorize the Attorney General to increase the Border Patrol by no fewer than 700 agents and add sufficient personnel to support those agents for fiscal years 1996, 1997, and 1998.

—Authorize the Attorney General to increase the number of border inspectors to a level adequate to assure full staffing.

—Authorize an Employment Verification Pilot Program to conduct tests of various methods of verifying work authorization status, including using the Social Security Administration and INS databases. The Pilot Program will determine the most cost-effective, fraud-resistant, and nondiscriminatory means of removing a significant incentive to illegal immigration—employment in the United States.

—Reduce the number of documents that may be used for employment authorization.

—Increase substantially the penalties for alien smuggling, illegal reentry, failure to depart, employer violations, and immigration document fraud.

—Streamline deportation and exclusion procedures so that the INS can expeditiously remove more criminal aliens from the United States.

—Allow aliens to be excluded from entering the United States during extraordinary migration situations or when the aliens are arriving on board smuggling vessels. Persons with a credible fear of persecution in their countries of nationality would be allowed to enter the United States to apply for asylum.

—Expand the use of the Racketeer Influenced and Corrupt Organizations (RICO) statute to authorize its use to pursue alien smuggling organizations; permit the INS, with judicial authorization, to intercept wire, electronic, and oral communications of persons involved in alien smuggling operations; and make subject to forfeiture all property, both real and personal, used or intended to be used to smuggle aliens.

—Authorize Federal courts to require criminal aliens to consent to their deportation as a condition of probation.

—Permit new sanctions to be imposed against countries that refuse to accept the deportation of their nationals from the United States. The proposal will allow the Secretary of State to refuse issuance of all visas to nationals of those countries.

—Authorize a Border Services User Fee to help add additional inspectors at high volume ports-of-entry. The new inspectors will facilitate legal crossings; prevent entry by illegal aliens; and stop cross-border drug smuggling. (Border States, working with local communities, would decide whether the fee should be imposed in order to improve infrastructure.)

This legislative proposal, together with my FY 1996 Budget and the February 7th Presidential Memorandum, will continue this Administration's unprecedented actions to combat illegal immigration while facilitating legal immigration. Our comprehensive strategy will protect the integrity of our borders and laws without dulling the luster of our Nation's proud immigrant heritage.

I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 3, 1995*.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DURBIN) to revise and extend their remarks and include extraneous matter:)

Ms. KAPTUR, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

Mr. DURBIN, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. FIELDS of Texas, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DURBIN) and to include extraneous matter:)

Mr. SCHUMER in four instances.
Mr. MFUME.
Mr. HAMILTON in four instances.
Ms. DELAURO.
Mr. OBERSTAR.
Mr. COYNE in two instances.
Mr. DIXON.
Mr. RICHARDSON in two instances.
Mr. STUPAK.
Mr. COLEMAN.
Mr. UNDERWOOD.
Mrs. LOWEY.
Mr. BERMAN in two instances.

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. SHUSTER.
Mrs. MORELLA.
Mr. STEARNS.
Mrs. ROUKEMA in three instances.
Mrs. JOHNSON of Connecticut.
Mr. LEWIS of California.
Mr. SMITH of New Jersey.

(The following Members (at the request of Mr. OWENS) and to include extraneous matter:)

Mrs. MEEK of Florida.
Mr. PARKER.
Mrs. SCHROEDER.
Mr. BILIRAKIS.
Mr. BENTSEN.
Mrs. COLLINS of Illinois.
Ms. KAPTUR.
Mr. SANFORD.
Mr. ROGERS.
Mr. MANTON.
Mr. MCDADE.
Mr. GILLMOR in three instances.
Mr. LAHOOD.
Mrs. MALONEY.

SENATE BILLS AND A JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 268. An act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes; to the Committee on Energy and Natural Resources;

S. 349. An act to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program; to the Committee on Energy and Natural Resources;

S. 441. An act to reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes; to the Committee on Energy and Natural Resources;

S. 523. An act to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes; to the Committee on Resources;

S.J. Res. 32. Joint resolution expressing the concern of the Congress regarding certain recent remarks that unfairly and inaccurately maligned the integrity of the Nation's law enforcement officers; to the Committee on the Judiciary.

ADJOURNMENT TO TUESDAY, MAY 9, 1995

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 58 of the 104th Congress, the House stands adjourned until 12:30 p.m. Tuesday, May 9, 1995, for morning hour debates.

Thereupon (at 2 o'clock and 20 minutes p.m.), pursuant to House Concurrent Resolution 58, the House adjourned until Tuesday, May 9, 1995, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Omitted from the Record of May 2, 1995]

760. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting two final rule amendments under the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Agriculture.

761. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the United States intends to offer a grant transfer to the Government of Colombia for two vessels, pursuant to Public Law 101-231, section 5 (103 Stat. 1959); to the Committee on National Security.

762. A letter from the Acting Secretary of the Army, transmitting notification that certain major defense acquisition programs have breached the unit cost by more than 15 and 25 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on National Security.

763. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting the annual report detailing test and evaluation activities of the Foreign Comparative Testing [FCT] Program during fiscal year 1994, pursuant to 10 U.S.C. 2350a(g); to the Committee on National Security.

764. A letter from the Director, Test, Systems Engineering and Evaluation, Department of Defense, transmitting summaries

outlining test projects recommended for fiscal year 1995 funding as part of the Foreign Comparative Testing Program, pursuant to 10 U.S.C. 2350a(g); to the Committee on National Security.

765. A letter from the Under Secretary of Defense, transmitting notification that the Secretary has invoked the authority granted by 41 U.S.C. 3732 to authorize the military departments to incur obligations in excess of available appropriations for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies, pursuant to 41 U.S.C. 11; to the Committee on National Security.

766. A letter from the Deputy Assistant Secretary, Department of the Air Force, transmitting notification that a study has determined contract performance to be most cost effective method of operating the mess attendant function at Andersen Air Force Base, Guam, pursuant to 41 U.S.C. 419; to the Committee on National Security.

767. A letter from the Chairman, SEROP Council, Department of Defense, transmitting a copy of the Strategic Environmental Research and Development Program Scientific Advisory Board annual report; to the Committee on National Security.

768. A letter from the Deputy Secretary of Defense, transmitting a report pursuant to section 123 of the National Defense Authorization Act for fiscal year 1995; to the Committee on National Security.

769. A letter from the Deputy Secretary of Defense, transmitting a report pursuant to section 333(a) National Defense Authorization Act for fiscal year 1995; to the Committee on National Security.

770. A letter from the Secretary, Department of Housing and Urban Development, transmitting the 1994 consolidated annual report on the community development programs administered by the Department, pursuant to 42 U.S.C. 5313(a); to the Committee on Banking and Financial Services.

771. A letter from the Chairman, the Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting the 1994 annual report, pursuant to Public Law 101–73, section 1103(a)(4) (103 Stat. 512); to the Committee on Banking and Financial Services.

772. A letter from the Director, Office of Legislative Affairs, Department of the Treasury, transmitting a report pursuant to section 406 of the Mexican Debt Disclosure Act of 1995; to the Committee on Banking and Financial Services.

773. A letter from the Director, Office of Legislative Affairs, Department of the Treasury, transmitting the status of the Treasury Department portion of the administration's response to House Resolution 80; to the Committee on Banking and Financial Services.

774. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting justification for a national interest determination by the President regarding the Export-Import Bank and the People's Republic of China (DTR 95–18); to the Committee on Banking and Financial Services.

775. A letter from the Executive Director, Thrift Depositor Protection Oversight Board and Acting Chief Executive Officer, Resolution Trust Corporation, transmitting a report on the activities and efforts of the RTC, the FDIC, and the Thrift Depositor Protection Oversight Board for the 6-month period ending March 31, 1995, pursuant to Public Law 101–73, section 501(a) (103 Stat. 387); to the Committee on Banking and Financial Services.

776. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting a study on the impact of the payment of interest on reserves; to the Committee on Banking and Financial Services.

777. A letter from the Acting Director, Office of Thrift Supervision, transmitting the Office of Thrift Supervision's 1994 annual report to Congress on the preservation of minority savings associations, pursuant to Public Law 101–73, section 301 (103 Stat. 279); to the Committee on Banking and Financial Services.

778. A letter from the Acting Director, Office of Thrift Supervision, transmitting the Office's 1995 compensation plan, pursuant to Public Law 101–73, section 1206 (103 Stat. 523); to the Committee on Banking and Financial Services.

779. A letter from the Secretary of Labor, transmitting the 1994 reports of the Department's Advisory Council for Employee Welfare and Pension Benefit Plans; to the Committee on Economic and Educational Opportunities.

780. A letter from the Secretary, Department of Energy, transmitting the annual report of actions under the Powerplant and Industrial Fuel Use Act of 1978 during calendar year 1994, pursuant to 42 U.S.C. 8482; to the Committee on Commerce.

781. A letter from the Administrator, Energy Information Administration, transmitting the Energy Information Administration's annual report for calendar year 1994, pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Commerce.

782. A letter from the Secretary of Energy, transmitting the annual/quarterly report on the Strategic Petroleum Reserve, pursuant to 42 U.S.C. 6241(g)(8); to the Committee on Commerce.

783. A letter from the Secretary, Department of Health and Human Services, transmitting a report on progress for research on outcome of health care services and procedures, pursuant to Public Law 101–239, section 6103(b)(1) (103 Stat. 2198); to the Committee on Commerce.

784. A letter from the Assistant Secretary for Environment, Safety and Health, Department of Energy, transmitting a summary of the Department of Energy Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs final environmental impact statement [EIS]; to the Committee on Commerce.

785. A letter from the Secretary, Federal Trade Commission, transmitting the report to Congress for 1993 pursuant to the Federal Cigarette Labeling and Advertising Act, pursuant to 15 U.S.C. 1337(b); to the Committee on Commerce.

786. A letter from the Secretary of Health and Human Services, transmitting a report to Congress for fiscal years 1991 and 1992 on the effectiveness of programs assisted under the Lead Contamination Control Act of 1988; to the Committee on Commerce.

787. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the 14th report on the activities of the Multinational Force and Observers [MFO] and certain financial information concerning U.S. Government participation in that organization for the period ending January 15, 1995, pursuant to 22 U.S.C. 3425; to the Committee on International Relations.

788. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the removal of items from the U.S. munitions list, pursuant to 22 U.S.C. 2778(f); to the Committee on International Relations.

789. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a memorandum of justification under section 610 of the Foreign Assistance Act to meet United States Government commitments to African peacekeeping efforts in Liberia; to the Committee on International Relations.

790. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on training assistance for Rwanda, pursuant to 22 U.S.C. 2261; to the Committee on International Relations.

791. A letter from the Director, U.S. Trade and Development Agency, transmitting a report pursuant to 22 U.S.C. 2421(e)(2); to the Committee on International Relations.

792. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–39, "Extension of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1992 Temporary Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

793. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–40, "Administration of Medication by Public School Employees Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

794. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–41, "District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974 Temporary Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

795. A letter from the Executive Director, District of Columbia Retirement Board, transmitting financial disclosure statements of board members, pursuant to D.C. Code, section 1–732, 1–734(a)(1)(A); to the Committee on Government Reform and Oversight.

796. A letter from the HUD Secretary's Designee, Federal Housing Finance Board, transmitting notification of the transfer of the inspector general; to the Committee on Government Reform and Oversight.

797. A letter from the Acting Executive Director, National Mediation Board, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

798. A letter from the Administrator, Office of Independent Counsel, transmitting the annual report on audit and investigative activities for the period ending September 30, 1994, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Reform and Oversight.

799. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year—if any—and the budget year provided by H.R. 889, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on Government Reform and Oversight.

800. A letter from the Office of Special Counsel, transmitting the annual report for fiscal year 1994, pursuant to Public Law 101–12, section 3(a)(11) (103 Stat. 29); to the Committee on Government Reform and Oversight.

801. A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting the audited financial statements of the Pennsylvania Avenue Development Corporation [PADC] for the fiscal year

ended September 30, 1994; to the Committee on Government Reform and Oversight.

802. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

803. A letter from the Secretary of Transportation, transmitting the Department's report entitled, "Shipping Study"; to the Committee on Resources.

804. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal rules of civil procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072 (H. Doc. No. 104-64); to the Committee on the Judiciary and ordered to be printed.

805. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal rules of Criminal procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072 (H. Doc. No. 104-65); to the Committee on the Judiciary and ordered to be printed.

806. A letter from the Attorney General of the United States, transmitting the annual report on the operations of the private counsel debt collection project for fiscal year 1994, pursuant to 31 U.S.C. 3718(c); to the Committee on the Judiciary.

807. A letter from the Director, Administrative office of the U.S. Courts, transmitting the annual report on applications for court orders made to Federal and State courts to permit the interception of wire, oral, or electronic communications during calendar year 1994, pursuant to 18 U.S.C. 2519(3); to the Committee on the Judiciary.

808. A letter from the President, The Foundation of the Federal Bar Association, transmitting a copy of the association's audit report for the fiscal year ending September 30, 1994, pursuant to 36 U.S.C. 1101(22), 1103; to the Committee on the Judiciary.

809. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal rules of appellate procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072 (H. Doc. No. 104-66) to the Committee on the Judiciary and ordered to be printed.

810. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal rules of bankruptcy procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2075 (H. Doc. No. 104-67) to the Committee on the Judiciary and ordered to be printed.

811. A letter from the U.S. Sentencing Commission, transmitting a report of amendments to the sentencing guidelines, policy statements, and commentary, together with the reasons for these amendments, pursuant to 28 U.S.C. 994(p); to the Committee on the Judiciary.

812. A letter from the Director, Federal Emergency Management Agency, transmitting determination that funding under title V (subsection 501(b)) of the Stafford Act, as amended, will exceed $5 million for the response to the emergency declared as a result of the bombing of the Alfred P. Murrah Federal building in Oklahoma City, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

813. A letter from the Secretary of Transportation, transmitting the National Plan of Integrated Airport Systems [NPIAS], 1993-97, pursuant to 49 U.S.C. app. 2203(b)(1); to the Committee on Transportation and Infrastructure.

814. A letter from the Secretary of Transportation, transmitting the interim report to Congress on the Commercial Vehicle Information System [CVIS] feasibility study, pursuant to section 4003 of the Intermodal Surface Transportation Efficiency Act of 1991; to the Committee on Transportation and Infrastructure.

815. A letter from the Secretary of Transportation, transmitting a report pursuant to section 1111(b)(4) of the Merchant Marine Act of 1936, as amended; to the Committee on Transportation and Infrastructure.

816. A letter from the Assistant Administrator, National Weather Service, transmitting the national implementation plan for modernization of the National Weather Service for fiscal year 1996, pursuant to Public Law 102-567, section 703(a) (106 Stat. 4304); to the Committee on Science.

817. A letter from the Chairman, National Research Council, transmitting a report entitled "Evolving the High Performance Computing and Communications Initiative to Support the Nation's Information Infrastructure," containing recommendations about the conduct, impact, and support of information technology research; to the Committee on Science.

818. A letter from the Secretary of Veterans Affairs, transmitting a report covering the disposition of cases granted relief from administrative error, overpayment and forfeiture by the Administrator in 1994, pursuant to 38 U.S.C. 210(c)(3)(B); to the Committee on Veterans' Affairs.

819. A letter from the Chairman, U.S. International Trade Commission, transmitting the 81st quarterly report on trade between the United States and China, the successor states to the former Soviet Union, and other title IV countries during 1994, pursuant to 19 U.S.C. 2440; to the Committee on Way and Means.

820. A letter from the Acting Secretary, Department of Agriculture, transmitting the Department's fiscal year 1994 annual report to Congress on progress in conducting environmental remedial action at Federally owned or operated facilities, pursuant to Public Law 99-499, section 120(e)(5) (100 Stat. 1699); jointly, to the Committees on Agriculture and Commerce.

821. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification to the Congress regarding the incidental capture of sea turtles in commercial shrimping operations, pursuant to Public Law 101-162, section 609(b)(2) (103 Stat. 1038); jointly, to the Committees on International Relations and Appropriations.

822. A letter from the Chairman, U.S. Sentencing Commission, transmitting a draft of proposed legislation entitled, "Cocaine Penalty Adjustment Act of 1995"; jointly, to the Committees on the Judiciary and Commerce.

823. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to provide for the transfer of operating responsibility for air traffic services currently provided by the Federal Aviation Administration on behalf of the United States to a separate corporate entity, in order to provide for more efficient operation and development of these transportation services and related assets, and for other purposes; jointly, to the Committees on Transportation and Infrastructure, the Budget, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIAZ-BALART: Committee on Rules. House Resolution 139. Resolution providing for the consideration of the bill (H.R. 1361) to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes (Rept. 104-111). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure.

H.R. 961. A bill to amend the Federal Water Pollution Control Act; with an amendment (Rept. 104-112). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER (for himself and Mr. GIBBONS):

H.R. 1551. A bill to amend the Internal Revenue Code of 1986 to properly characterize certain redemptions of stock held by corporations; to the Committee on Ways and Means.

By Mr. CHABOT (for himself and Mr. WYNN):

H.R. 1552. A bill to amend title 18, United States Code, regarding false identification documents; to the Committee on the Judiciary.

By Mr. CLYBURN (for himself, Mr. SPENCE, Mr. SPRATT, and Mr. GRAHAM):

H.R. 1553. A bill to establish the South Carolina National Heritage Corridor, and for other purposes; to the Committee on Resources.

By Mr. COLEMAN:

H.R. 1554. A bill to direct the Administrator of the Small Business Administration to establish a regional office in a community in the United States located not more than 10 miles from the border between the United States and Mexico; to the Committee on Small Business.

By Mr. BLILEY (for himself, Mr. DINGELL, Mr. FIELDS of Texas, Mr. MOORHEAD, Mr. OXLEY, Mr. BILIRAKIS, Mr. SCHAEFER, Mr. BARTON of Texas, Mr. HASTERT, Mr. STEARNS, Mr. PAXON, Mr. GILLMOR, Mr. KLUG, Mr. GREENWOOD, Mr. CRAPO, Mr. FRISA, Mr. WHITE, Mr. COBURN, Mr. TAUZIN, Mr. HALL of Texas, Mr. BOUCHER, Mr. MANTON, Mr. TOWNS, Ms. ESHOO, and Mrs. LINCOLN):

H.R. 1555. A bill to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies; to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS (for himself, Mr. BLILEY, Mr. FIELDS of Texas, Mr. SCHAEFER, Mr. GILLMOR, Mr. HALL of Texas, Mr. OXLEY, Mr. WHITE, Mr. KLUG, and Mr. HASTERT):

H.R. 1556. A bill to amend the Communications Act of 1934 to reduce the restrictions on ownership of broadcasting stations and other media of mass communications; to the Committee on Commerce.

By Mr. GOODLING (for himself and Mr. CUNNINGHAM):

H.R. 1557. A bill to authorize appropriations for fiscal years 1996, 1997, 1998 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute for Museum Services; and to repeal the National Foundation on the Arts and the Humanities Act of 1965 effective October 1, 1998; to the Committee on Economic and Educational Opportunities.

By Mr. GOODLING:

H.R. 1558. A bill to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. GORDON:

H.R. 1559. A bill to prevent unfair billing and charging practices for information services provided over calls to 800 numbers, and for other purposes; to the Committee on Commerce.

By Mr. GEPHARDT (for himself, Mr. BONIOR, Mr. FAZIO of California, Mrs. KENNELLY, Mr. MATSUI, Mr. DINGELL, Mr. LEVIN, Mr. MINETA, Ms. KAPTUR, Mr. HOYER, Mr. MILLER of California, Mrs. COLLINS of Illinois, Mr. CARDIN, Mr. LAFALCE, Mr. BROWN of Ohio, Mr. CLYBURN, Ms. DANNER, Ms. DELAURO, Mr. DEUTSCH, Mr. EVANS, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FRAZER, Mr. GONZALEZ, Mr. HINCHEY, Mr. JACOBS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KILDEE, Mr. KLINK, Mr. LIPINSKI, Mrs. MEEK of Florida, Mr. NEAL of Massachusetts, Mr. RAHALL, Mr. ROMERO-BARCELÓ, Mr. SANDERS, Mr. STUPAK, Mr. SPRATT, Mr. KLECZKA, and Ms. JACKSON-LEE):

H.R. 1560. A bill to expand U.S. exports of goods and services by requiring the development of objective criteria to achieve market access in foreign countries, to provide the President with reciprocal trade authority, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILMAN:

H.R. 1561. A bill to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for U.S. foreign assistance programs for fiscal years 1996 and 1997, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 1562. A bill to consolidate the foreign affairs agencies of the United States in order to achieve greater efficiency and economy in the post-cold war era; to the Committee on International Relations.

H.R. 1563. A bill to authorize appropriations for foreign assistance programs, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey:

H.R. 1564. A bill to authorize appropriations for the Department of State and for certain other international affairs functions and activities of the U.S. Government for fiscal years 1996 and 1997, and for other purposes; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HUTCHINSON (for himself, Mr. EDWARDS, Mr. STUMP, and Mr. MONTGOMERY):

H.R. 1565. A bill to amend title 38, United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans exposed to Agent Orange, ionizing radiation, or environmental hazards; to the Committee on Veterans' Affairs.

By Mrs. JOHNSON of Connecticut (for herself and Mr. MATSUI):

H.R. 1566. A bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions and to provide for carryovers and carrybacks of unused credits; to the Committee on Ways and Means.

By Ms. KAPTUR:

H.R. 1567. A bill to provide for the establishment of a Professional Trade Service Corps, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MANTON:

H.R. 1568. A bill to require explosive materials to contain taggants to enable law enforcement authorities to trace the source of the explosive material, whether before or after detonation; to the Committee on the Judiciary.

By Mr. MATSUI:

H.R. 1569. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of crops destroyed by casualty; to the Committee on Ways and Means.

By Mrs. MEYERS of Kansas:

H.R. 1570. A bill to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the administration, and for other purposes; to the Committee on Small Business.

By Ms. MOLINARI:

H.R. 1571. A bill to amend the Age Discrimination in Employment Act of 1967 to protect elected and appointed judges against discrimination based on age; to the Committee on Economic and Educational Opportunities.

H.R. 1572. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide death benefits to retired public safety officers; to the Committee on the Judiciary.

By Mr. NEY (for himself, Mr. OXLEY, Mr. BARR, Mr. BAKER of Louisiana, Mr. FOX, Ms. MOLINARI, Mr. ENGLISH of Pennsylvania, Mr. CALVERT, and Mr. TRAFICANT):

H.R. 1573. A bill to amend title 18, United States Code, to provide specific penalties for taking a firearm from a Federal law enforcement officer; to the Committee on the Judiciary.

By Mrs. ROUKEMA (for herself, Mr. MCCOLLUM, Mr. VENTO, and Mr. KANJORSKI):

H.R. 1574. A bill to amend the Federal Deposit Insurance Act to exclude certain bank products from the definition of a deposit; to the Committee on Banking and Financial Services.

By Mr. SOUDER (for himself, Mr. BRYANT of Tennessee, Mr. BARTLETT of Maryland, Mrs. CHENOWETH, Mr. COBURN, Mr. COOLEY, Mr. DORNAN, Mr. ENGLISH of Pennsylvania, Mr. GALLEGLY, Mr. GILMAN, Mr. GRAHAM, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. LARGENT, Mr. MCINTOSH, Mrs. MYRICK, Mr. SHADEGG, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. STOCKMAN, Mr. WATTS of Oklahoma, and Mr. WELDON of Florida):

H.R. 1575. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the charitable contribution deduction, to allow such deduction to individuals who do not itemize other deductions, and for other purposes; to the Committee on Ways and Means.

By Mr. ZIMMER (for himself, Mr. MEEHAN, Mr. BARRETT of Wisconsin, Mr. CASTLE, Mr. DEAL of Georgia, Mr. DICKEY, Mr. KLUG, Mr. MCHALE, Mr. MINGE, Mr. SHAYS, and Mrs. WALDHOLTZ):

H.R. 1576. A bill to amend section of 207 of title 18, United States Code, to tighten restrictions on former executives and legislative branch officials and employees, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on House Oversight, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STOCKMAN (for himself, Mr. JONES, Mr. FUNDERBURK, Mrs. CHENOWETH, Mr. BURTON of Indiana, and Mr. SALMON):

H.J. Res. 87. Joint resolution proposing an amendment to the Constitution of the United States regarding citizenship in the United States; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

[Omitted from the Record of May 2, 1995]

42. By the SPEAKER: Memorial of the Senate of the Commonwealth of Pennsylvania, relative to the closure or realignment of military installations in the Commonwealth; to the Committee on National Security.

43. Also, memorial of the General Assembly of the State of Arkansas, relative to insuring against natural disaster risk; to the Committee on Banking and Financial Services.

44. Also, memorial of the House of Representatives of the State of Arizona, relative to chlorofluorocarbons; to the Committee on Commerce.

45. Also, memorial of the Legislature of the State of Arizona, relative to the participation of the Republic of China on Taiwan in the United Nations; to the Committee on International Relations.

46. Also, memorial of the Senate of the State of Vermont, relative to the adoption of a national population policy; to the Committee on International Relations.

47. Also, memorial of the General Assembly of the State of Nevada, relative to mail delivery in the Lake Tahoe Basin; to the

Committee on Government Reform and Oversight.

48. Also, memorial of the Legislature of the State of Washington, relative to the Federal Marine Mammal Protection Act; to the Committee on Resources.

49. Also, memorial of the Legislature of the State of Washington, relative to the Puyallup Tribe gaming requests; to the Committee on Resources.

50. Also, memorial of the Senate of the State of Washington, relative to preserving and enhancing wetlands; to the Committee on Resources.

51. Also, memorial of the Legislature of the State of Minnesota, relative to the proposed sale of the Western Area Power Administration; to the Committee on Resources.

52. Also, memorial of the Legislature of the State of Washington, relative to a constitutional amendment regarding desecration of the American flag; to the Committee on the Judiciary.

53. Also, memorial of the Legislature of the State of Arizona, relative to the 10th amendment to the U.S. Constitution; to the Committee on the Judiciary.

54. Also, memorial of the Legislature of the State of Montana, relative to the Ninth Judicial Circuit of the U.S. Court of Appeals; to the Committee on the Judiciary.

55. Also, memorial of the Legislature of the State of Montana, relative to death penalty appeals; to the Committee on the Judiciary.

56. Also, memorial of the Senate of the State of Arizona, relative to providing the States with a method of offering amendments to the Constitution of the United States; to the Committee on the Judiciary.

57. Also, memorial of the Senate of the State of Arizona, relative to prohibiting Federal judges from imposing State and local taxes; to the Committee on the Judiciary.

58. Also, memorial of the Senate of the State of Arizona, relative to adopting a declaration of sovereignty; to the Committee on the Judiciary.

59. Also, memorial of the Senate of the State of Washington, relative to the physical desecration of the flag of the United States; to the Committee on the Judiciary.

60. Also, memorial of the General Assembly of the State of Iowa, relative to the Fort Dodge Friskies Petcare plant; to the Committee on the Judiciary.

61. Also, memorial of the Senate of the State of Georgia, relative to the adoption of the balanced budget amendment; to the Committee on the Judiciary.

62. Also, memorial of the Senate of the State of Texas, relative to the physical desecration of the flag of the United States; to the Committee on the Judiciary.

63. Also, memorial of the House of Representatives of the State of North Dakota, relative to Federal mandates with respect to the use of helmets by motorcyclists; to the Committee on Transportation and Infrastructure.

64. Also, memorial of the Senate of the State of Tennessee, relative to the redesignation of the Mountain Home Veterans Affairs Medical Center; to the Committee on the Veterans' Affairs.

65. Also, memorial of the Legislature of the State of Nevada, relative to Social Security payments; to the Committee on Ways and Means.

66. Also, memorial of the Senate of the State of Washington, relative to unemployment insurance benefits; to the Committee on Ways and Means.

67. Also, memorial of the General Assembly of the State of Indiana, relative to POW/MIA's; jointly, to the Committees on Ways and Means and International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Ms. MOLINARI introduced a bill (H.R. 1577) for the relief of the estate of Irwin Rutman; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. McCOLLUM and Mr. TRAFICANT.

H.R. 38: Mr. TUCKER, Mrs. CHENOWETH, Mr. POMBO, Mr. MATSUI, Mr. STEARNS, Mr. SCARBOROUGH, Mr. McDERMOTT, Mr. BLILEY, Ms. WOOLSEY, Mr. WAMP, Ms. PELOSI, Mr. SISISKY, Mr. LEACH, Mr. McINNIS, Ms. KAPTUR, Ms. DUNN of Washington, Mr. EMERSON, Mr. ENSIGN, Mr. HASTINGS of Florida, Mr. HEINEMAN, Mr. YOUNG of Alaska, Mr. BRYANT of Texas, Mr. BREWSTER, Mr. CAMP, Mr. BISHOP, Mr. CONDIT, Mr. DEFAZIO, Mr. DOYLE, Mr. BALDACCI, Mr. YOUNG of Florida, Mr. PETERSON of Florida, and Mr. BONILLA.

H.R. 315: Mr. GUTIERREZ.

H.R. 359: Ms. ROYBAL-ALLARD and Mr. SMITH of Texas.

H.R. 438: Mr. COOLEY.

H.R. 553: Mr. WYNN.

H.R. 713: Mr. HEFNER, Mr. HOLDEN, Mr. LUTHER, Ms. NORTON, Mr. STUPAK, and Mr. TORKILDSEN.

H.R. 752: Mr. HAYES, Mr. MASCARA, Mr. BURR, Mr. CHAPMAN, Mr. DIAZ-BALART, Mr. DOYLE, Mr. FUNDERBURK, and Mr. HOUGHTON.

H.R. 783: Mr. WARD, Mr. WATTS of Oklahoma, and Mr. CHAMBLISS.

H.R. 820: Mr. GEJDENSON, Mr. CLINGER, Mr. HEFNER, Mr. COBLE, Mr. ROBERTS, Mr. HILLEARY, Mr. CLEMENT, Mr. HOEKSTRA, Mr. GENE GREEN of Texas, Mr. PETRI, Mr. GORDON, Mr. PARKER, Mr. JONES, Mr. HOLDEN, and Mr. LATHAM.

H.R. 893: Mr. ACKERMAN, Mr. BERMAN, Mr. BORSKI, and Mr. FROST.

H.R. 985: Mr. McCRERY.

H.R. 997: Mr. BEVILL, Mr. CANADY, Mr. COLEMAN, Mr. DEUTSCH, Mr. EVERETT, Mr. GENE GREEN of Texas, Mr. HORN, Mr. MARTINEZ, Mrs. MEEK of Florida, Mr. ROHRABACHER, Mr. SMITH of New Jersey, and Mr. DEFAZIO.

H.R. 1018: Mr. SHAYS.

H.R. 1023: Mr. LAFALCE.

H.R. 1085: Mr. EHLERS.

H.R. 1242: Mr. BRYANT of Tennessee and Mrs. MYRICK.

H.R. 1252: Mr. FATTAH and Mr. SMITH of New Jersey.

H.R. 1272: Mrs. CLAYTON.

H.R. 1329: Ms. LOWEY, Mr. CLYBURN, and Mr. LIPINSKI.

H.R. 1330: Mr. PICKETT, Mr. STOCKMAN, Mr. SMITH of Texas, Mr. McCRERY, Mr. HALL of Texas, Mr. STENHOLM, Mr. CONDIT, Mr. TANNER, Mr. CREMEANS, Mr. SCARBOROUGH, and Mr. RADANOVICH.

H.R. 1400: Mr. CONYERS and Mr. LEWIS of Georgia.

H.R. 1422: Mr. GUTIERREZ.

H.R. 1504: Mr. EWING, Mr. DEUTSCH, Mr. McDERMOTT, Mr. RAHALL, and Mr. MARTINEZ.

H.R. 1512: Mr. HANCOCK.

H.J. Res. 79: Mr. CHAPMAN, Mr. CONDIT, Mr. GEKAS, Mr. SMITH of Texas, and Mr. MOLLOHAN.

H.J. Res. 84: Mr. OWENS, Mr. RANGEL, and Ms. NORTON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 774: Mrs. SEASTRAND.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

[Omitted from the Record of May 2, 1995]

6. By the SPEAKER: Petition of the Common Council, city of Buffalo, NY, relative to the funding reductions for the Summer Youth Program; to the Committee on Appropriations.

7. Also, petition of the Common Council, city of Buffalo, NY, relative to the funding reductions to public housing; to the Committee on Appropriations.

8. Also, petition of the Common Council, city of Buffalo, NY, relative to the funding reductions to the community schools anticrime funds; to the Committee on Appropriations.

9. Also, petition of the Common Council, city of Buffalo, NY, relative to the funding reduction to the 20th community development block grant funds; to the Committee on Appropriations.

10. Also, petition of the Common Council, city of Buffalo, NY, relative to the funding reduction to the Home Energy Assistance Program; to the Committee on Appropriations.

11. Also, petition of the Common Council, city of Buffalo, NY, relative to the funding reduction for Buffalo's lead abatement grant; to the Committee on Appropriations.

12. Also, petition of the comptroller of the city of New York, NY, relative to a proposal outlining the peace bond program and the creation of an Ireland Development Bank; to the Committee on Banking and Financial Services.

13. Also, petition of the Legislature of Rockland County, NY, relative to the Summer Youth Employment Program funding; to the Committee on Economic and Educational Opportunities.

14. Also, petition of the Alexandria City Council, Alexandria, VA, relative to a constitutional amendment regarding the desecration of the American flag; to the Committee on the Judiciary.

15. Also, petition of the National Association of Attorneys General, Washington, DC, relative to vertical restraints guidelines; to the Committee on the Judiciary.

16. Also, petition of the National Association of Attorneys General, Washington, DC, relative to Department of Justice memorandum of understanding on affirmative civil rights enforcement; to the Committee on the Judiciary.

17. Also, petition of John Jamian, State representative, Lansing, MI, relative to the 10th amendment to the U.S. Constitution; to the Committee on the Judiciary.

18. Also, petition of the common council, city of Syracuse, NY, relative to the Historic Homeownership Assistance Act; to the Committee on Ways and Means.

19. Also, petition of the National Association of Attorneys General, Washington, DC, relative to opposing the national lottery proposed by the Coeur d'Alene Indian Tribe of

Idaho; jointly, to the Committees on the Judiciary and Resources.

DISCHARGE PETITIONS

Under clause 3, rule XXVII the following discharge petitions were filed:

Petition 4, May 3, 1995, by Mr. Bryant of Texas on House Resolution 127 has been signed by the following Member: John Bryant.

SENATE—*Wednesday, May 3, 1995*

(Legislative day of Monday, May 1, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Chaplain will now deliver the morning prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Commit your way to the Lord, trust also in Him and He shall bring it to pass . . . Rest in the Lord, and wait patiently for Him.—Psalm 37:5, 7.

Gracious Lord, Your spirit is impinging on us, hovering all around us, ready to enter into us and give us power to live this day to the fullest. You have shown us that commitment is the key to open the floodgate and receive the inflow of Your incredible resources for living with peak performance today. Remind us that there is enough time and You will provide enough strength to do what You have called us to accomplish today. You never intended that we carry either the burdens or the opportunities of leadership alone.

May this day be one of constant conversation with You. Lord, help us to listen to You as You give us Your insight, discernment, wisdom, and vision. Help us to picture and claim Your best for our lives, the people around us and our Nation. Focus our attention on Your solutions to our problems. We commit this day to be a day in which we work with freedom and with joy. Thank You in advance for supernatural power.

In the name that is above every name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. INHOFE. Mr. President, this morning, the leader time has been reserved, and there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:15 a.m., with Senators permitted to speak for up to 5 minutes each.

At 10:15 a.m., the Senate will resume consideration of H.R. 956, the product liability bill.

At that time, there will be 60 minutes of debate to be equally divided between the two managers. At the hour of 11:15, the Senate will begin a series of stacked votes on or in relation to second-degree amendments to the Dole amendment. Further rollcall votes can be expected today, and the Senate may be in session into the evening to make progress on the product liability bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak therein.

THE AGENDA AND OPPORTUNITIES

Mr. THOMAS. Mr. President, I would like to continue our dialog that we, the freshmen, have had seeking to talk about the agenda, to talk about the opportunities that we have for the first time in 40 years to have a real opportunity to take a look at the programs that have been in place, programs that have simply been added to over a period of time, programs, obviously that had merit in the beginning, have some merit yet. But we have an opportunity to look at them, to look at ways to make them more effective and more efficient.

We have an opportunity to respond to voters who, I think, in November said we want change, we need to make a change in Government. I think one of the measures of good Government is whether or not Government is responsive to the kinds of messages that we receive from voters.

We want to take an opportunity to make Government programs work better. I think, unfortunately, there sometimes is a perception when you talk about change that those who want change simply want to toss out the programs and do nothing. That is not the case. The case is how do we do a better job of providing services to people? How do we be more effective?

Welfare is an excellent example. No one is talking about throwing women and children and welfare fathers out on the street. What we are talking about is helping people to help themselves, find a way to be more efficient, and to put people back into the workplace. That is what we are talking about.

So we are talking about bringing the Government closer to the people—block grants to the States, moving more responsibilities to the States—so people can participate more in their Government.

I do not think there is any question but what the voters in November said we want less Government and it should be less costly, that Government is too big and Government is too expensive.

So, Mr. President, that is the kind of agenda that the 11 of us who are new to this body would like to pursue. Those are the kinds of things that we believe should be considered and should be changed.

All of us have had a 2-week recess. I was in Wyoming for that entire 2 weeks and, I must tell you, I come back reinforced and rededicated to the idea that we need change. I heard from nearly everyone there: "We are pleased with what has begun in Washington. We are pleased with the ideas." Certainly, not everybody agrees with every detail. But the fact is that at least in my experience, people want us to move forward.

To do that we are going to have to continue to make clear, I think, the perception of what we are seeking to do. And the opposition, those who are opposed to change, and obviously the direction and the agenda of the administration is to say to people who are asking for change, all they want to do is do away with programs. Their notion is going to be to create fear—fear of change—and we are going to have to do something about that.

I think there are great debates, there are differences in view, clearly, of how people see the world, and there is a great deal of difference right here in this body among the Members. Some believe, genuinely and legitimately, that more Government is better, that we ought to have more money to spend, that the Government does a better job of spending money than do the taxpayers. On the other hand, most of us do not agree with that notion and want to make it smaller.

There is a legitimate debate and there is a great debate. So we have an agenda, and in order to do that, Mr. President, we are going to have to move through that agenda. I respect the purpose of the Senate in terms of its ability to go into depth and it is a deliberative body, and that should be the case. But it should not be an obstructionist body. It should not be a body that simply ties up this great debate, but rather it ought to be out there and we ought to have an agenda and we ought to move forward.

There are a number of things, certainly, that we clearly ought to talk about. We are talking about one of them now, and that is tort reform, something that needs to be done. We need also to talk about welfare reform. That is a legitimate thing we ought to do. We ought to take another look at crime. Clearly, health care needs some revision. We need to have regulatory reform. We need to balance the budget.

These are the agenda items that we have a responsibility, Mr. President, to undertake. I think if those of us who were elected this year have any message, the message is let us move forward with these issues, let us talk about these issues. We are willing to accept the results, of course. But we are not willing to accept the idea that we do not have an agenda, that we are not going to deal with the questions that the American people have asked, that we are simply going to take up all our time in obstructionist kinds of activities, that the rapid response team is always going to be opposed to change. So that is where we are, Mr. President. I think we have the greatest opportunity, and I thought that last month. And I have to tell you, having spent 2 weeks in Wyoming, that notion, in my view, is simply reinforced that people do want us to go forward.

Mr. President, I am not sure of the agenda. But the freshmen had a certain amount of time.

I yield to my associate from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

THE MEDICARE PROGRAM

Mr. SANTORUM. I thank the Senator for yielding. I would like to address a specific issue in the next 100 days in the Senate that I think is going to attract a lot of attention. It has already attracted a lot of attention. It is an issue of great importance to this country and people rely on this program—that is the Medicare Program. There is a lot of discussion going on in this town—and I hope across America—about Medicare and where it fits in with the scheme of things here in Washington.

Is Medicare going to be used to balance the budget? Is Medicare a program that is in trouble? What is the truth? What is the real story and who do you believe? Unfortunately, in Washington, that is a problem we have a lot, which is that every issue, irrespective of the importance of the issue, turns into a partisan battle, and one side says one thing and the other side says another. You would think with an issue such as Medicare, with the information we have before us, that we could act as adults and face the problem squarely, maturely, discuss it, debate it, and come up with a solution to the problem.

But as is the case around here all too often, political gain comes before responsible action. We have folks who think we can make political gains from Medicare, so let us delay responsible action for a while and see how much hay we can make in the process.

Here are the facts. The facts are that the Medicare trustees issued a report that says that Medicare will be insolvent by the year 2002. In other words, it will not have any money left in the trust fund to pay out benefits to anyone. That is not 25 years or 30 years from now, which is the problem of Social Security. Americans seem to be tuned into that Social Security is in trouble in the long term and that we cannot sustain it. The insolvency of Social Security is a little over 30 years away. It is a problem and we have to deal with that. We have a little bit more time.

Medicare is an immediate problem. Medicare runs out of money in 7 years. You would think, as I said, as mature adults elected here to govern the country, we could sit down and accept that, accept the findings of the trustees. Four out of the six Medicare trustees are Clinton administration officials. They have issued this report that says, "The Medicare trust fund will be able to pay benefits for only 7 years and is severely out of financial balance in the long range."

That is what this chart shows. Here is where the Medicare trust fund is exhausted, 2002. Here is the gap. It grows and grows. This is the revenue shortfall. It only gets worse, particularly in the outyears when the baby boomers start to retire.

There are less people working to support the Medicare trust fund. It is obvious that we have to do something; it is obvious that the time to act is now while we have a meager surplus that is going to be exhausted, as I said before, in 7 years. You would think that we could come to the table, accept the Clinton administration's own findings that this is a problem that must be solved, accept their own recommendation—again, the recommendation of the trustees—that says we need urgent action. But, no, you are going to see the big dance that goes on around here, the big dance on how we are going to scare seniors, lie to them; and anybody who wants to touch Medicare is not going to try to save Medicare. Oh, no, they just want to take the program away from them. They want to ruin Medicare. They want to break their promises to the American public.

Why? Why would people say things that are blatantly false? Why would they say that? Well, it is certainly not to preserve the trust fund, certainly not to make sure Medicare is there for future generations—I should not even say future—this generation of seniors. That certainly is not the reason they are saying it. Why are they saying it? Very simple: Political gain.

Political gain. It is a tried and true American maxim in American politics, and that is if you can square seniors enough so that they will vote against the other side who wants to take their programs away, you can win elections and then after the election, you will discover the problem. After the election is over, after you have reaped the benefits by scaring seniors that these bad guys out here who want to touch Medicare are out really to kill the program, after you have accomplished the scare tactics and succeeded in victory, then come to the floor, come to the American people after the election, after you have won and lied, and after you have accomplished what you wanted, and then say, look, the Medicare trust fund is going to be out of money, we have to do something. That is what is going to happen. That is what happened on Social Security in 1982. It is going to try to happen in 1996.

I just hope—I really hope—that the American public is smart enough to see through these scare tactics, not only by the Clinton administration, by the Democrats here in Congress, by these shameless, shameless seniors organizations who prey on the fear of seniors to swell their membership and get contributions and be able to fund their lobbyists and TV commercials and continue to go out there and feed on this frenzy. I hope the American public and seniors can see through this. It is a scare tactic that should not succeed. See through this. See that there is a problem, and see that those who want to tackle the problem now are doing it because we care, not because we want to destroy a program.

I yield the floor.

The PRESIDING OFFICER. Under a previous order, the Senator from Montana is recognized to speak for up to 10 minutes.

(The remarks of Mr. BURNS pertaining to the introduction of S. 745 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CAMPBELL. Mr. President, there will be several people this morning who have reserved time to speak on the potential sale of the Power Marketing Administrations.

I ask unanimous consent to also speak on this issue during morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

OPPOSE SALE OF PMA'S

Mr. CAMPBELL. Mr. President, I would like to add my very strong voice to that of my colleague from South Dakota, who will be speaking on this; the Senator from Montana, Senator BAUCUS; as well as Senator DASCHLE, on the potential sale of the Power Marketing Administrations that the administration has proposed.

There are a lot of things wrong with the Federal Government, very frankly, and I know we should always be looking for the functions we can privatize, that are done better in the private sector than by the Federal Government.

The American system of the Power Marketing Administrations is, in my experience and that of many of my constituents, an example of something that the Government does well in direct partnership with those folks living in rural regions of America.

The electrification of rural America is a success story because it involved a true partnership between the Federal Government and the people of rural America who rely on the electrification of the REA's to provide their power.

The partnership with the Federal Government has been a mutually beneficial one. America's rural electric cooperatives and small municipal power systems agreed to purchase the initially more expensive Federal hydropower because they understood the long-term security of a publicly owned power system.

Without the commitment to purchase the power, the system could not have been built. The REA members and other customers pay for electricity based on the cost of providing service, retirement of the construction debt, and interest.

The system is working well, Mr. President. Those who rely on electrical power from the system are repaying the Federal Government for capital investment costs of building a system, as well as the annual operation and maintenance costs of the system.

Down the road, when the projects are paid for, these dams and facilities will be federally owned and will continue to provide significant sources of revenue to the Federal Government.

The proposal of selling off the PMA's has a great deal of uncertainty. It is clearly our goal to cut the deficit, but on the other hand, if we are simply doing things to privatize another Government function without understanding the effects of doing so, I think it is rather risky.

Is it change just for the sake of change? I hope not. If it is to maximize deficit reduction, that means we sell to the highest bidder. If we do that, clearly the highest bidder will have to raise the electric rates for rural America, and that will not do any good for those who represent the States.

The rural regions that are having the toughest economic times of anywhere must have low rural electric rates. As Congress considers a new farm bill and the probability that many vulnerable programs may be cut or eliminated, I think it would be cruel to also turn out the lights.

If, on the other hand, those who represent rural regions insist, and we will, that there be a safe prohibition placed on the rate increases if they are sold, then it seems to me we are truly in a pointless exercise, privatizing a function that most agree serves its customers well at no annual cost to the Treasury.

I want to thank my colleagues, Senator PRESSLER, Senator DASCHLE, and Senator BAUCUS, for arranging a section on which they will also speak.

I yield the floor.

PUBLIC POWER

Mr. PRESSLER. Mr. President, I rise today to express my opposition to the administration's proposal to sell the Western Area, Southwestern, and Southeastern Power Marketing Administrations—collectively known as the PMA's.

Public power serves many functions in South Dakota. As a sparsely populated State, utilities are faced with the challenge of how to get affordable electricity into small cities and communities where there are less than two people per mile of transmission line. Public power provides the solution.

In public power utilities, the only investors are the consumers. Revenues are reinvested in the community—in the form of taxes and services. And, the low cost of power is essential to encourage economic development in small cities and towns.

Public power, purchased through the Western Area Power Administration, known as WAPA, costs South Dakotans an average of 2.5 cents less than the market rate. This allows revenue to be reinvested in additional transmission lines, and better service. The availability of hydropower from the Missouri River to rural cooperatives and municipals have helped to stabilize rates. With 7,758 miles of transmission lines in the Pick-Sloan region, WAPA can serve 133,100 South Dakotans—without charging them an arm and a leg.

Public power has brought more than electricity to South Dakota. For example, Missouri Basin Municipal Power Agency, based in Sioux Falls, has embarked on a program offering incentives for planting trees. The goal is to plant at least one tree for each 112,500 meters in the Agency's membership territory. In fact, Missouri Basin was recognized by the Department of Energy for outstanding participation in this Global Climate Change Program. I congratulate Tom Heller of Missouri Basin for this excellent community service program.

Public power also brings new jobs to the communities it serves. In part due to the low cost of power from East River Electric, there are now three injection molding plants based in Madison, SD—creating snowmobile parts. Arctic Cat, PPD, and Falcon Plastics employ approximately 200 people in Madison.

East River also is involved in other economic development activities. It provides classes to help the community attract businesses, and offers grants for feasibility studies associated with economic development projects. South Dakota clearly has benefited from the work of Jeff Nelson, as the general manager of the East River Electric Power Cooperative.

Public power is a South Dakota success story. It is the source of innovation, development, and community pride. I am sure the same is true in other towns and communities across America. In spite of these success stories, the Clinton administration—and several Members of Congress—want to put an end to this success.

Specifically, President Clinton has proposed selling WAPA and two other power marketing administrations in order to pay for the modest tax cut he has promised the American people.

In essence, this would force South Dakotans—and public power consumers in small cities and rural areas—to cover for the rest of America.

Under the President's plan, South Dakotans would not be able to enjoy the promised tax cut. Why? Because the sale of the PMA's could result in rate increases totaling more than $47 million.

In addition, I question the claim made by the administration that the sale of the PMA's would generate revenue for the Federal Government. Will it? Let us look at the facts.

PMA's still owe $15 billion in principal. Also, more than $9 billion in interest already has been paid to the Federal Government. By selling the PMA's, the Government would forfeit future interest payments.

In fact, a recent report prepared by the Congressional Research Service demonstrates just how much money the PMA's are expected to contribute to the Federal Government. This year, WAPA is expected to pay back $225.1 million borrowed from the Federal Government. But WAPA will also return another $153.4 million to the Treasury. Given these figures, it is clear that the Clinton plan does not make good economic sense.

As my colleagues know, this is not a new issue. I have been fighting the proposed sale of the PMA's ever since I came to Congress. In 1986, the Reagan administration made similar attempts to privatize the PMA's. We stopped them by passing a law to prevent the Department of Energy from pursuing any future plans to sell the PMA's, unless specifically authorized by Congress. I suspect the Clinton administration may have forgotten that law.

Mr. President, once again, we are fighting to prove the worth of public power. Once again, we must demonstrate how necessary it is to the lives of rural Americans. The people of South Dakota have stated their message loudly and clearly—through thousands of postcards, letters, and phone calls. South Dakotans such as Ron Holstein, Bob Martin, and Jeff Nelson have been leaders in their opposition to the proposed PMA sale and I appreciate all their hard work.

Public power is a solid investment for the Nation. Public power is one of the great success stories of South Dakota. I urge all my colleagues to stand united behind the continued success of public power, and the essential service it provides to the Americans who reside in small cities and towns. Now is not the time to mess with success.

POWER MARKETING ADMINISTRATIONS

Mr. BUMPERS. Mr. President, I rise today to join my colleagues in expressing opposition to the privatization of the Federal Power Marketing Administrations [PMA's]. This ill-conceived concept, which proponents claim would help reduce the deficit, is simply a bookkeeping gimmick that would accomplish little except for raising the electric rates of millions of consumers served by municipal and cooperative utilities.

A number of years ago customers of municipal and cooperative electric utilities entered into a covenant with the Federal Government. In exchange for the right to purchase the hydroelectric power generated at multipurpose Federal water projects at cost-based rates, these customers have provided a significant portion of the funds needed to build and operate the water projects. In addition to power production these projects serve other significant purposes, including making water available for irrigation, flood control, navigation, municipal and industrial water supply, wildlife enhancement, recreation, and salinity control. In many instances, the beneficiaries of these nonpower purposes of the water projects have paid little, if anything, for the projects.

Some are not suggesting that the Government renege on its agreement with the power customers by eliminating their right to purchase the power produced at Federal water projects. In addition to being patently unfair, the breach of this covenant with the power customers raises serious questions about the integrity of future agreements entered into between the Government and private parties.

The five power marketing administrations currently sell power to municipal and electric cooperative utilities serving millions of consumers in 34 States. Privatization of the PMA's could result in tremendous rate increases for these customers. In some areas, retail residential rates could triple. A recent study prepared by the Congressional Research Service estimated that PMA privatization could cause electric rates to rise by $1.2 to $1.3 billion per year.

The Southwestern Power Administration [SWPA] currently sells power produced at Federal water projects to customers in my home State of Arkansas, as well as in Kansas, Louisiana, Missouri, Oklahoma, and Texas. The privatization of SWPA could cause serious adverse economic consequences in the region. A study prepared when President Reagan first proposed privatizing SWPA indicated that consumers in Arkansas alone could stand to pay as much as 343 percent more to replace the power currently purchased from SWPA. Mr. President, I don't want to go back to my constituents and tell them that they are going to have to pay three times as much for electricity because the Government no longer wants to honor a contractual commitment.

Rather than roll up our sleeves and make the tough choices in order to reduce the Federal budget deficit, some Members of Congress instead want to resort to budgetary gimmicks. The sale of Government assets to increase the Government's cash flow, in the short term, might be the most cynical gimmick of them all. Because budget scoring periods run for 5 or 10 years, it is tempting to take actions that would reduce the deficit during the scoring period, but would actually increase the deficit in the out-years. This is exactly what would happen if the PMA's are privatized. Selling-off the PMA's could very well produce $2 billion in revenues immediately. However, because the PMA's would no longer be selling power on the Government's behalf, the immediate increase in revenues would be offset by the revenues forgone resulting from the sale of the assets.

In 1990 Congress amended the Budget Act to prohibit the use of receipts from the sale of Federal assets to be scored as a reduction in the deficit. The purpose of this provision is to prevent the use of gimmickry to create an illusion that we are balancing the budget. Mr. President, I fully expect that efforts will be made this year to repeal this prohibition. I intend to fight any such efforts that would make it more difficult to honestly balance the budget.

Mr. President, I recognize that we live in a new era and that streamlining Government and making it more efficient are not only desirable, but necessary. In this spirit, I am willing to work with critics of the PMA's in order to make them more efficient. But I will not support any legislation that would abrogate the covenant between the Government and the PMA customers which provides reasonably priced power to more than 1,000 consumer owned electric systems in the United States.

POWER MARKETING ADMINISTRATION

Mr. WARNER. Mr. President, I rise today in opposition to President Clinton's budget proposal for fiscal year 1996 to sell the Western Area, Southwestern, and especially the Southeastern Power Administrations to private investors.

In Virginia, the electric cooperatives and the municipal power systems represent almost a million citizens who receive a significant portion of electricity from the Kerr-Philpott hydro facilities located in southside Virginia. It is estimated that preferred customers under the electric cooperatives can expect annual increases of approximately $100 per year should the Southeastern Power Administration be sold.

I believe that it is fiscally irresponsible to turn the Power Marketing Administrations over to private interests, which will in turn penalize our consumers by driving up their rates. These members have already paid for a significant portion of investment in these facilities and nearly twice that amount in interest. SEPA has already repaid $433 million, or 30 percent, of the $1.442 invested.

The Federal Government is currently recovering its investment in SEPA facilities through the rates charged for the hydroelectric power generated to the customers in southside. This investment should be viewed as a contract with the ratepayers of the cooperatives to continue service with the Federal Government.

While the sale of the PMA's would provide the Department of the Treasury with the desired instant cash flow, we must consider how these Federal power sales will continue to generate revenue long after the projects are repaid.

The Power Marketing Administration should be valued for its assets, for the income it produces to pay its own way, and for the service it provides to the members of the cooperatives. For these reasons, I believe that the sale of the Power Marketing Administrations is not an efficient means of contributing to deficit reduction and should not be considered as a means of deficit reduction.

POWER MARKETING ADMINISTRATIONS

Mr. EXON. Mr. President, I will not take a great deal of time this morning, but I wanted to reiterate my strong opposition to the sale of the Power Marketing Administrations. I've made similar points with the Director of the OMB. And I sat to discuss this matter with the President.

We seem to go through this exercise just about every year, regardless of who is in the White House or who controls Congress. Until someone can show me some real benefits of privatization, I will continue to oppose the sale of the PMA's.

The Power Marketing Administration's deliver a critically important service to a large portion of the Nation. They are an example of what's right with Government. It seems ironic and very ill advised that they should be put on the auction block and I will not stand for any wholesale dismantling of the PMA system.

Ms. MOSELEY-BRAUN. Mr. President, I concur and agree with Senator EXON and I want the RECORD to state that.

Mrs. MURRAY. Mr. President, I have spoken in the past about my commitment to continuing the production and distribution of clean, reliable hydropower through Federal Power Marketing Administrations. Today, I reaffirm this commitment.

The Federal power program has served well both the taxpaying public and energy consumers. It serves the taxpaying public by paying its own way—and paying interest on its debt. It also serves the general public by providing navigation, flood control, recreation, fish and wildlife conservation, and irrigation. Few Federal programs can claim such far-reaching benefits at such a low cost.

Mr. President, if we sell our PMA's, we cannot be assured that the general public will continue to reap these many benefits. While the sale of PMA's would product short-term revenue, the sale will do little to solve the long-term problem of our Nation's debt. In fact, the permanent loss of these productive assets will result in foregoing future revenues likely to be in the billions of dollars.

At this time, the Bonneville Power Administration is not immediately threatened with sale. Several months ago, however, officials within the administration suggested to the President that he sell BPA to finance a tax cut. Fortunately, after hearing from Senators and Representatives from the Pacific Northwest, President Clinton elected to decline that advice. Recognizing the special attributes of BPA, he has said he does not intend to offer it for sale. So, my constituents appear to be safe for now.

I speak in opposition to the sale of the other PMA's because I believe their sale is not in the best interest of either the taxpaying public or the tens of millions of consumers who will certainly be saddled with higher electricity bills. Let us reject this short-term solution to our deficit and protect our Federal assets for the next generations of Americans.

SALE OF THE POWER MARKETING ADMINISTRATIONS

Mr. ROBB. Mr. President, like may of my colleagues, I rise today to briefly address the President's fiscal year 1996 budget proposal to privatize some of the Power Marketing Administrations [PMA's], including the Southeastern Power Marketing Administration [SEPA], which serves many Virginians.

I am concerned about the devastating effects of the privatization of the Southeastern Power Administration and other PMA's on rural electric providers and their consumers. Prior to the fiscal year 1996 budget submission, I contacted President Clinton and OMB Director Alice Rivlin and asked for this proposal to be reconsidered. Like many of my Democratic colleagues. I was disappointed to find this one-time asset sale in the final budget proposal.

Nationwide 650 rural electric systems receive allocations of power from Federal projects. Eleven of our thirteen Virginia rural electric cooperatives get a portion of their power direct from the Southeastern Power Administration. Over the years, Federal hydropower has helped rural electric cooperatives keep their rates competitive with investor-owned utilities.

If we are serious about deficit reduction, we must ensure that all of our Federal programs continue to provide significant benefits to our taxpayers. In my opinion, this proposal to sell SEPA and other PMA's is penny-wise, but pound-foolish. I would favor any proposal for deficit reduction, so long as the savings result from sound public policy. Our Federal power program benefits consumers, taxpayers, and continues to facilitate economic growth and development in rural areas across the country. Privatizing the PMA's will not produce benefits that outweigh the current program and is, in my judgment, bad public policy.

We should oppose the sale of the PMA's for several budgetary reasons. In the first place, the Government would lose a stream of revenue flowing into the Federal Treasury if the PMA's were sold. The estimated revenues which go to the Treasury exceed the appropriations for the PMA's. In fiscal year 1995, it is estimated that the net positive receipts to the Federal Treasury will be $243 million.

Given this situation, the fiscal advantage to the Federal Government of selling the PMA's is time limited. During the year in which sales are actually occurring, the Treasury would receive a windfall in receipts as monies received from the sales and saved from appropriations overwhelm the revenues lost as a result of the sale. However, as the foregone revenues exceed the saved appropriations in the years after the sales, we would be adding to the deficit.

Because capital asset sales are a one-time event. We have a budget rule that assets sales should not be counted in the budget. If we were to count the proceeds from selling Government assets as though they were receipts of the Federal Government, then these one-time receipts could be used to fund new spending programs or tax cuts that outlive the stream of receipts. We should follow the budget rule and not allow these fleeting savings to be counted as budget savings.

Another budgetary reason to oppose the sale of the PMA's is that the Federal Government could actually lose money if the sale price were inadequate to cover the present value of the federally-held debt. One study indicates that the revenue from the Alaska Power Administration under the current program would be higher than under its proposed sale. If this is the case with the APA, it could be equally true of the others. Given these budgetary uncertainties, we should not be rushing to privatize these entities.

The PMA's remain an integral part of our commitment to bring affordable and efficient hydroelectric power to the many Americans dependent on rural cooperatives and municipal power systems. PMA's are a wise and profitable investment on behalf of rural America.

We have made great strides in bringing electric power and other utilities to rural areas, largely through the work of rural electric cooperatives, and we should carefully consider the consequences of eliminating this valuable supply of electricity now.

I respectfully urge all of my colleagues to join me and support the continuation of Federal power.

POWER MARKETING ADMINISTRATIONS

Mr. HATFIELD. Mr. President, I am pleased to join with a number of my colleagues from both sides of the aisle who have come to the floor this morning to shed some light on proposals to sell off the Federal power marketing administrations. I continue to oppose such proposals, not only as they relate to the Bonneville Power Administration, but also as they relate to the other power marketing administrations.

Power Marketing Administrations are entities that have been created to market the power generated by Federal hydropower projects operated by the Army Corps of Engineers. PMA's are part of the Department of Energy's Federal power marketing program. One of the central features of this program is the preference clause, which allows consumer-owned, nonprofit local utility systems to have the preferential access to the power produced by Federal dams.

The five PMA's are as follows: The Southeastern Power Administration [SEPA], the Southwestern Power Administration [SWPA], the Western Area Power Administration [WAPA], the Bonnville Power Administration [BPA], and the Alaska Power Administration [APA].

The President's budget includes provisions for the sale of each of these PMA's except BPA. Proposals are pending in the House to either sell all or some of the PMA's or require them to sell their power at market rates, the definition of which appears to this Senator to lead to highly inflated and unrealistic prices.

My opposition to the sale of the PMA's is based on my view that it is shortsighted public policy to sell one of the few revenue generating assets of the Federal Government. It is important to remember that BPA is repaying, with interest, the capital investments in the Federal hydropower projects in the Columbia Basin. The other PMA's are making similar payments. When the repayment is completed, the Federal Government will be the owners of these projects. The PMA's pay their way and then some. I ask unanimous consent that a table showing project investments and repayment by PMA's be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PMA'S PAY BACK PRINCIPAL WITH INTEREST

Customers of the federal power marketing administrations are required by law to pay back the investment in federal hydropower facilities with interest. They are doing so, as shown in the table below:

STATUS OF REPAYMENT AS OF SEPT. 30, 1993 [1]

[Cumulative dollars in millions]

Location	Power investment [2]	Power revenues	Operation & maint. (O&M)	Purchased power	Interest paid thru 1993	Cumulative repayment thru 1995	Unpaid investment
Alaska	$205	$144	$52	0	$53	$39	$166
Bonneville	[3]12,260	34,723	5,572	$20,825	5,914	[3]2,412	[4]9,848
Southeastern	1,442	2,325	1,043	65	781	435	1,007
Southwestern	997	2,042	688	520	536	298	699
Western	5,631	[5]11,210	4,311	3,013	1,911	2,198	[4]3,433
PMA total	21,658	47,466	11,166	22,554	8,831	5,133	14,525

[1] All data are on accrual basis of accounting, except as noted, and are based on the best information available.

[2] The power investment to be repaid includes irrigation and other nonpower investment assigned to power for repayment for Bonneville and Western.

[3] Cash rather than accrual basis.

[4] The unpaid investment does not include construction work in progress or capitalized deficits.

[5] Net of income transfers of $109 million.

Mr. HATFIELD. Mr. President, the five PMA's carry out a distinctive mission, including both power and nonpower functions. For example, the Bonneville Power Administration's primary function is to market power generated by the Corps of Engineers dams in the Columbia River Basin. They also have significant involvement in implementing regional conservation measures, regional fishery recovery and conservation measures, and regional renewable energy programs. It is unlikely that the private sector would be willing to fulfill these public duties in the absence of PMA's.

This is of particular interest to the Northwest, where BPA is, under current plans, expected to shoulder the vast majority of the costs of salmon recovery. While many in the Northwest have argued that BPA should not be required to bear the entire burden of these recovery costs, to remove BPA from the picture leaves a void that would be difficult if not impossible to fill.

A number of economists have questioned the true fiscal benefit of selling Federal assets such as the PMA's. Not only would such a sale require the budget scoring rules of the Senate and the House to be fundamentally altered in order to show any positive deficit impact, it would also be of questionable benefit to the deficit problems we face. As Harvard Prof. Martin Feldstein has pointed out:

> Although Government accounting methods would make it look as if Federal spending and receipts are in better balance, these asset sales would do nothing to lessen the burden of the deficit. That burden occurs because Government borrowing to finance the deficit preempts savings that would otherwise be available for private investment in plant and equipment and in housing construction. The administration's proposed assets sales would preempt private savings every bit as much as a Federal sales of new debt of the same value.

Mr. President, over the last decade, I have seen many shortsighted proposals by successive administrations to sell off or alter substantially the power marketing administrations. I have had to fight these proposals each time and will continue to do so. As budget deficits grew, a cash-starved Federal Government looked to all sources of revenue generation to produce more dollars. The power marketing administrations, which produce large sums of annual revenues, became easy targets for those who look only at the bottom line. Little or no consideration was given to the impacts on local economies or the overall impact on Federal revenues.

While none of these proposals ultimately was successful, each created a cost for the economies which depend on PMA electric power. Electricity is the cornerstone of much of the Nation's economy, particularly in the Pacific Northwest. The high reliability and low cost of electric power provides the United States, and especially the Pacific Northwest, with a global competitive advantage which benefits the entire Nation.

As each of these proposals were made, uncertainty over the future cost of electricity was created. In the Pacific Northwest, where over half the electric power consumed is marketed by the Bonneville Power Administration, these proposals cast a cloud of uncertainty over future electric power prices. Rate increases of the magnitude contemplated by the proposals would devastate the economy of the region by discouraging investment in infrastructure, including modernization of new plants and equipment, and close factories and businesses which operate on the margin, many of which were attracted to the availability of low cost hydroelectric power in the region. The benefit of these proposals has overstated by every administration because the potential for lost tax revenue as a result of business failure or lack of investment was never taken into account.

In conclusion, Mr. President, proposals to sell off these revenue generating entities that are such fundamental importance to the local and regional economies they serve are misguided and will be opposed by this Senator. I am pleased to join with my colleagues to reinforce the importance of this issue.

I yield the floor.

Mr. FORD. Mr. President, I wish to voice my opposition to any efforts to privatize parts of the Federal Power Marketing Administrations including the Southwestern, Southeastern, or Western Area Power Administration.

This Nation made a commitment to bring affordable and efficient hydroelectric power to rural customers. In conjunction with thousands of rural cooperatives and municipal power systems across the country, Federal Power Marketing Administrations [PMA's] have met that commitment.

The utilities purchase power through the PMA's and the revenues cover PMA operating expenses, construction costs, and interest payments. And these sales put money into the Federal Treasury.

The proposed sale of these PMA's not only jeopardizes that commitment to rural Americans, but upsets the sensitive dynamics of the many dam projects from which the PMA's market their power.

These dams perform an array of services, including power generation, navigation, flood control, water supply, recreation, and fish and wildlife preservation. As a government entity PMA's have effectively balanced these sometimes diverse, and often competing functions.

As several colleagues and I told President Clinton in a letter back in January, there is no indication that a private, for-profit entity can be expected to become a full-partner in these interests at an almost certain loss of profits.

And what about the consumer? They essentially lose twice. Estimates show increases of as much as 30 to 50 percent per month for some residential rates. That's a frightening prospect for many families who are already living from paycheck to paycheck.

The consumer gets hit a second time when the Federal Treasury experiences a loss of that steady revenue I mentioned earlier. Because the Federal Power Program pays for all investments made, once construction, and interests costs are repaid, the Federal Government will own the power plants. But once sold, no revenue. And that's bad news for consumers at a time when reducing the deficit is critical to continued economic stability.

The Federal Power Program is one that assures access for rural residents to affordable electricity, returns much-needed revenue to the Federal Treasury, and effectively balances the many demands on these dams—from flood control to water supply to recreation. Clearly, this is not the kind of program Congress should add to the auction block, and I urge my colleagues to oppose any such efforts.

Mr. CONRAD. Mr. President, I would like to speak for just a moment on this PMA matter and then direct my attention to another issue. Who controls time?

The PRESIDING OFFICER. The Chair would inquire of the Senator from North Dakota if he is speaking on the time of his colleague from North Dakota?

Mr. DORGAN. Mr. President, I ask unanimous consent the Senator from North Dakota be allowed to speak for 9 minutes in the time reserved for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota is recognized for up to 9 minutes.

THE POWER MARKETING ADMINISTRATIONS

Mr. CONRAD. Mr. President, I thank the Chair and thank my colleague. I would like to speak just briefly on the PMA matter and then speak on another issue as well.

With respect to the PMA matter, I salute my colleagues who have come to the floor to oppose the sale of PMA's. Let me say I believe sale of the Power Marketing Administrations represents a very bad idea. It is bad for rural America. It represents bad faith. It is bad economics and it is bad policy.

This would have a very serious impact on rural America. In my State we would see an increase in rates of up to 60 percent; 240,000 customers in North Dakota would be adversely affected. Those rural customers are already paying rates that are 15 to 40 percent higher than city customers. The reason for that, of course, is very obvious. There is much less of a load per mile in rural areas than in city areas, so the costs are higher.

Mr. President, this would be a very serious matter for rural America. It also represents bad faith. The Government made a deal. The deal was this power was going to go to help rural America. That is precisely why the Federal Government entered into this enterprise. Preference power, it should be emphasized, is not a subsidy. These facilities are being repaid with interest. I believe the sale also represents bad economics. Selling the PMA's would be a one-time shot. It does not reduce the deficit because their own budget rules say you cannot sell assets to reduce the deficit. So, Mr. President, selling these facilities forgo decades of steady income.

Finally, I believe the PMA sale represents bad policy. These dams serve multiple purposes. No private entity can balance the interests of power production with flood control, navigation, water supply, and wildlife values.

Mr. President, for those reasons I oppose the sale of the PMA's.

WHERE IS THE BUDGET?

Mr. CONRAD. Mr. President, today is May 3. I think it is time to start asking the question of our colleagues on the other side, where is the budget? Where is the budget? We are supposed to have completed action on the budget in the Budget Committee by April 1. Today is May 3. We still do not see a budget. I am on the Budget Committee. I still do not know when we are even going to start to work on the budget.

Mr. President, I must say I am somewhat surprised because our friends on the other side of the aisle had a budget before the election. They told the American people that they had a budget plan. They said they could cut taxes, they said they could increase defense spending, and they said they could balance the budget. But now that they have assumed power and assumed control and assumed authority, there is no budget.

Mr. President, it is amazing the difference an election makes. Before the election there was this plan. They had the Contract With America. They told everybody they had this miracle. It was not going to reveal the details but a miracle plan that was going to allow them to cut taxes dramatically, increase defense spending, and balance the budget. Now that they are in power their plan is missing in action. Maybe it is because the plan just does not add up. This chart shows what we would need to do to balance the budget over the next 7 years. We would have to have a reduction in spending of $1.2 trillion to begin with. Then if we were going to be true to the promise we have made to Social Security recipients, they would have to cover the $636 billion in Social Security surpluses that are going to be generated during that 7-year period.

So now the hole to fill in is $1.8 trillion—not million, not billion, but trillion dollars. That is real money even in Washington talk. On top of that, of course, we are going to have to cover the massive tax cuts that the House has passed, $345 billion of tax cuts over the 7-year period. So that is the hole that we have to fill in, $2.2 trillion.

Unfortunately, before they ever started to fill in this hole, they dug the hole deeper by passing these massive tax cuts.

Let us see what they have produced so far by way of proposals to narrow the gap between the $2.2 trillion we need, and what they have actually done so far over in the House in terms of proposal. They are down here at a measly, anemic, $485 billion.

Mr. President, I would say our friends on the other side of the aisle have a credibility gap that is opening up here. In fact, it is more than a gap. It is a chasm. They are $1.6 trillion short. No wonder we do not see a budget out here. No wonder they have blown the deadline. No wonder they have not even started in the Budget Committee and they were supposed to be completed a month ago.

It is amazing. During the balanced budget amendment debate there was a rush to amend the Constitution to balance the budget. Boy, that was priority No. 1. But now when it comes time to actually do something to balance the budget, because of course, a balanced budget amendment will not cut one dime, will not add one dime of revenue, will not narrow the deficit by a dollar—now, when it comes time to actually present a budget, to actually do something about the deficit, the budget plan is nowhere to be found. This just does not add up. It does not add up, and not surprisingly our colleagues on the other side are more focused on a tax cut for the wealthiest among us than presenting a plan to reduce the deficit.

It is very interesting. If you look at who benefits from the Republican tax bill, what one finds is if you are a family of four earning over $200,000 a year, you get an $11,000 tax cut. If you are a family of four earning $30,000 a year, you get $124.

So the idea of our friends on the other side is to target tax relief in this country by giving 100 times as much to those earning over $200,000 a year than those earning $30,000 a year, and they call this middle-class tax relief. It is an interesting concept of the middle class. It is an interesting concept of focusing tax relief.

Mr. President, we have seen this plan before. We have seen it all before—back in the 1980's. If we look back at that time, we see what happens to the middle class. Do they benefit from this kind of plan to give big tax cuts to the wealthiest among us and explode the deficit? No. We can look back and see what happened in the 1980's. The top 1 percent saw 62 percent of the wealth growth go to them. The top 1 percent got 62 percent of the wealth growth in that period. The 80 percent at the bottom saw their wealth growth of 1.2 percent. That is trickle-down economics. What we have learned is that wealth does not trickle down. It gets sucked up. The wealthiest 1 percent get all the benefits.

Mr. President, let me just conclude by saying our friends on the other side have got to come up with a budget. Then we are going to see the gap between rhetoric and reality.

I thank the Chair. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senator from Montana has 5 minutes in morning business.

Mr. BAUCUS. I thank the Chair.

THE POWER MARKETING ADMINISTRATIONS

Mr. BAUCUS. Mr. President, Webster's define a tax as a requirement to pay a percentage of income from property or value for support of the Government. So we can see that a tax can come in many forms—a direct levy, or a hidden fee that sneaks up on the taxpayers under a cover name. That is precisely what the Clinton administration and some here in Congress have in mind for many Montana and western ratepayers.

As you may be aware, the administration in their fiscal year 1996 budget proposes to sell off four Power Marketing Administrations: Alaska Power, Southeastern Power, Southwestern Power, and the Western Area Power Administration, otherwise known as WAPA which brings low-cost electricity to thousands of eastern Montana families, ranchers, farms, and small businesses. They have found enthusiastic allies in the new House leadership. And together they say they will privatize these electricity providers. They predict a windfall, a one-time profit of $3.7 billion. If anyone promises you a free $3.7 billion, we all know you had better think carefully. You had better look at it real close. There is no exception.

I submit that privatizing the Power Marketing Administrations is a bad idea. It is shortsighted, and it hurts. It does not help. It hurts rural America. Privatization cannot work when its result is to simply create four huge monopolies which will gouge their capital market like any other monopoly.

So at its core, the proposal to sell off PMA's is no more than back-door tax repeal. To sell off the PMA's is no more than a back-door tax increase on the middle class. A tax hidden in the utility bill is every bit as much a tax as a gas tax, an income tax, or anything else. This is a tax, a tax increase on rural America.

The chart, Mr. President, tells it a little bit; $129 is the monthly bill of a typical residential customer in this area in Montana. This is from Marais. Marais residents will find their bill will increase 45 percent, which is $190 a month, as opposed to $129.72 every month.

What does that mean? That means that Montana, like much of the West, which is built on hydroelectric power, will find their economies declining. By harnessing the Missouri River, Fort Peck Reservoir has provided water to small industries which use the affordable power to create jobs and build communities, and folks in rural areas get affordable power to heat and light their homes, an essential service. It is something that works and has worked ever since Franklin Roosevelt came out to break ground at the Fort Peck Dam and bring public power to rural Montana.

Public power meant electricity an ordinary farm family could afford. It helped create Montana communities like Glasgow, Sidney, Shelby, and it keeps towns like these strong and healthy. As my friend Ethel Parker at Fort Shaw says,

> I have lived on a farm all my life; started out south of Geyser in central Montana in a semiarid prairie farm. The REA came to us in the early 1940's. Low-cost electricity has made life livable for those of us who raise the food and fiber for all Americans. Now Congress would knock our pins out from under us.

There are 100,000 Montana families, one in three of all the men, women, and children in Montana, that depend on WAPA and share Mrs. Parker's feelings, and they stand to see their power bills increased by 25 cents on the average on the dollar if this proposal goes forward. You are talking about real tangible cuts in the living standards for towns like Fort Shaw and all over the country, and that is why I am a staunch supporter of WAPA and equally against the sale of the PMA's.

The second point is that WAPA and the other power marketing programs take not one tax dollar. In fact, the Federal Government actually makes money off of these programs. WAPA is an example. The Federal Government has invested a total of $5.6 billion in WAPA, and each year the WAPA pays the Federal Government approximately $380 million for this loan, with interest, that is starting to be paid back. And so far the Federal Treasury has gotten back $4.1 billion on its initial loan. By the time this debt is retired in 24 years, the Federal Treasury will have made $14 billion on its initial investment of $5.6 billion. Even now, the PMA's run a profit for the Government. A recently released CRS report on the PMA's found that the Federal Treasury actually earns a profit of $244 million a year.

To repeat, Mr. President, a recently released CRS report on the PMA's found that the Federal Treasury actually earns a profit of $244 million a year on the PMA's. It is a profit. It does not add to the deficit, Mr. President. It decreases the deficit. So you have to look hard and you have to look long to find a Federal program that provides a good service to the public and makes a profit. WAPA provides a service and it makes a profit.

I find it incredibly shortsighted that the administration would want to sell America's infrastructure for a quick, one-time shot at cash—joined, I might add, by the House leadership. They also want to sell WAPA. So what's next—our highways, our bridges, our national parks? The principle is the same. America's infrastructure up for sale. That is what they want.

It does not make any sense to me, and I do not intend to stand by and let it proceed without a fight. And I serve notice, Mr. President, I intend to do everything I can to see that this proposal is defeated. We will shut the door on this misguided backdoor tax.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

SALE OF PMA'S

Mr. WELLSTONE. Mr. President, I shall be brief. I was one of the first Senators—and I am glad to be out here with colleagues on both sides of the aisle—to oppose the idea of selling the PMA's. I have spoken with the President. I have spoken with Alice Rivlin at OMB. I have spoken to relevant Budget Committee members and written letters to other Senators.

I basically see it this way. If you sell the PMA's, if the Government should sell the PMA's above current value, the only people who would want to buy them, some of the private investor-owned utility companies would want to buy them in order to raise rates. That is the only way they can make up the difference, in which case the ratepayers suffer. If you sell the PMA's at below current value, then this is a loss for the taxpayers. If you sell the PMA's at exactly the current value, insulating both the taxpayer and the ratepayer, then the only thing you are doing is privatizing for the sake of privatizing. So this proposal makes absolutely no sense.

Mr. President, I believe in the mission of the PMA's and the longstanding contract of the Western Power Administration with Minnesotans, and I think to sell these PMA's would be a serious mistake for greater Minnesota. In western Minnesota, WAPA provides hydroelectric power at production costs to rural electric cooperatives, municipal utilities, hospitals, school districts, and Federal facilities. Without this program, the energy bill for people in greater Minnesota could rise as much as $400 a year per customer—could rise as much as $400 per year per customer.

In this time of budget cutting, it is important to point out that WAPA is not an example of wasteful Government spending. In fact, through WAPA we actually pay off a Government loan. And more importantly, WAPA is a Government program that recognizes the unique needs of rural communities that lack the access to affordable energy enjoyed by their metropolitan neighbors.

Rural Minnesota is willing to do its part as our country works to reduce the Federal deficit, including selling wasteful Government operations. But eliminating a program that does not cost money and actually contributes to the health of the rural economy is an example of cutting for cutting's sake. It makes neither economic sense nor common sense, and that is why, as a Senator from Minnesota, I put this battle at the very top of my list of priorities.

I yield the floor.

Mr. DORGAN and Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have been in the Chamber some while. It is my intention to speak for 5 minutes on the PMA matter and then claim the additional 3 minutes on the morning business that was reserved.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 8 minutes.

The Chair would advise the Senator from Illinois that she does have reserved time to speak for up to 10 minutes and prior to taking the additional 5 minutes, we would recognize the Senator from North Dakota for the remaining 3 minutes and then the Senator from Illinois.

Mr. DORGAN. Mr. President, I would ask if the allotted time for morning business then allows for the full complement of time reserved for the Senator from Illinois; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. I thank the Chair.

SALE OF THE PMA'S

Mr. DORGAN. Mr. President, I should like to add my voice to the thoughts expressed today by the Senator from South Dakota and the Senator from Montana and others on the matter of the sale of the Power Marketing Administrations, the PMA's.

This does not mean much to a lot of people because we hear the use of acronyms and titles of organizations with which most people are not familiar. But the power marketing administrations, along with WAPA, which is the PMA that serves our region of the country, provide a very important mission and role for our region of the country and help provide, for a couple hundred thousand North Dakotans, reasonably low-cost power that has been a Federal promise to them for a long, long while.

We produce power through hydroelectric facilities that were built in conjunction with the construction of dams and reservoirs. Those projects have many purposes, including flood control and a range of other critical needs.

Part of the promise in the construction of those dams and the public works projects over time was the promise of being able to use the electricity from the hydropower generators and distribute it regionally at a reasonable cost. That has been of enormous benefit to rural consumers in my State, who, without this opportunity, would see their electric rates skyrocket.

The President has proposed selling the PMA's. The leaders of the House have proposed selling the PMA's. It does not make any sense, in my judgment, to do that. These are investments we have made. Payments have been made under these investments, on time and with interest. The PMA's are a $21 billion investment. The customers of the electricity, the ratepayer in rural America, have repaid $5.1 billion in principle and have paid $8.8 billion in interest.

For those in Washington to force the sale of the PMA's would be kind of like a hostile takeover when somebody comes along and says, "Well, it is true, you made your payments. You bought this. Now we are going to sell it out from under you."

It is not the right thing to do. I do not know why the President included it in his budget recommendation. It was, in my judgment, foolish to have done so. It does not make good economic sense. I think it breaks a Federal promise, and I think it is actually moving in the wrong direction. I hope, on a bipartisan basis, that we will find a way here in the Senate to put the blocks against these wheels and say, "No more. You are not going to move this forward."

If someone happens to think that selling the PMA's is going to reduce the Federal budget deficit, they should understand that, according to our budget law, you cannot sell assets and claim that you have now reduced the budget deficit. It does not do that under our budget rules.

But, I hope that the Senator from South Dakota, Senator PRESSLER, Senator BAUCUS, Senator CONRAD, Senator WELLSTONE, myself, and so many others who care a great deal about this, will be able to work together in a bipartisan way with the President and the leadership in the U.S. House, to show that that is an idea whose time has never come and one that we must defeat this year.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator's time has expired.

The Senator from Illinois.

Mr. DORGAN. Mr. President, I ask for the remaining 3 minutes of my time under the order. When the Chair indicated that my time had expired, I assume the Chair was speaking of the 5 minutes under the PMA discussion.

The PRESIDING OFFICER. The Senator had 3 minutes remaining, and that time has expired.

Mr. DORGAN. When I sought the floor, I sought to use the 5 minutes under the PMA discussion that was under a previous unanimous-consent, after which I had 3 minutes remaining in morning business.

The PRESIDING OFFICER. There was time for a list of speakers. My understanding is that you have used up all of your time under that list.

Mr. DORGAN. Mr. President, there was how much time reserved for Senator BAUCUS and Senator PRESSLER to discuss PMA in morning business?

The PRESIDING OFFICER. Senator BAUCUS had no time, and spoke under the normal 5-minute limit under Senate rules in morning business. Senator PRESSLER had 30 minutes.

Mr. DORGAN. How much of that time was used?

The PRESIDING OFFICER. Senator PRESSLER had 20 minutes remaining.

Mr. DORGAN. My understanding is that is available in 3-minute increments for those of us who wish to speak about PMA's.

The PRESIDING OFFICER. The Parliamentarian advises me that there was no such order that allows that to be done under Senator PRESSLER's time.

Mr. DORGAN. I disagree with the Parliamentarian.

Let me ask unanimous consent that I be allowed to speak for 3 additional minutes as per the previous agreement in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. DORGAN. In the remaining 3 minutes—and I appreciate the indulgence of the Senator from Illinois—I just want to discuss the issue raised by Senator CONRAD a few minutes ago.

We had, not very long ago, an urgency on the floor of the Senate to amend the U.S. Constitution to require a balanced budget, and the urgency was people moving around the floor here saying, "We must do this immediately. The country's future rests on it. It is critically important for the future of America. We must change the U.S. Constitution to require a balanced budget."

And, of course, almost everyone knew that if the Constitution were changed to require a balanced budget, not one penny's worth of difference in the Federal deficit would have occurred, because you cannot reduce the Federal deficit by changing the U.S. Constitution.

How do you do it? By writing a budget and bringing it to the floor of the Senate. What is the requirement there? Well, the requirement is on April 1, a budget is required by law to be brought to the floor of the Senate. On April 15, a conference report is to be passed on the budget.

Now, the question that many of us asks is: Where is the urgency today? Where is the budget? Is there a budget?

Well, we expect there is a budget somewhere. We cannot seem to see the budget. We hope that those who claimed the reduction of the deficit was so urgent—and it is—just a month or two ago would now understand that urgency and meet their obligation to bring a budget to the floor of the Senate and begin to really cut Federal spending and really reduce the Federal budget deficit.

I said then and I will say again today that there is a difference between posing and lifting. There has been a lot of posing in this Chamber in the last 3 or 4 months, but now it is time for some lifting. I think the American public and the Senate would be well served if those who talked so much about changing the Constitution to eliminate the Federal budget deficit would now be interested and willing to bring a budget resolution to the floor of the Senate as required by law and really start to dig in and reduce the Federal budget deficit.

Why has that not yet occurred? Because they have ridden into a box canyon they call a middle-class tax cut which really gives most of the benefits to the wealthy in this country, and at the same time they really want to go ahead and cut about $300 billion out of Medicare and Medicaid. They have ridden into a box canyon and discovered they have dismounted, running for the bushes, and now they cannot find any plans. They do not seem to have any notion at all about what to do about Medicare and Medicaid. They do not have a budget. They cannot bring it to the floor.

We do know this: They do have a tax-cut plan. It provides $11,200 a year in tax cuts to families with over $200,000 in income and it provides $120 a year to families with under $30,000 in income, and they call it middle class. Middle class on Rodeo Drive, I guess, but not middle class anywhere else in this country.

Most of us in this Chamber who want to deal with the deficit honestly want a budget and we want a budget that is real and does honest things. We want to cut Federal spending where we are spending too much. We want some additional revenues, to close some loopholes, and we want to reduce the Federal budget deficit. And we would like the majority party, while they are at it, while they bring the budget resolution to the floor, to jettison this tax cut and stop calling a tax cut for the wealthy a middle-class tax cut. It does not add up.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. I thank the Chair.

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 746 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE NEAS YEARS

Ms. MOSELEY-BRAUN. Mr. President, tonight the Leadership Conference on Civil Rights, one of the country's leading civil rights organizations, will take time to honor its executive director, Ralph Neas, as he leaves his position after a 14-year tenure. I would like to take a few moments to pay a brief tribute to this extraordinary individual, as he embarks on a new career after devoting the past 20-plus years to public service.

There is an old African proverb which says "God made the world round so we could not see too far down the road." I think it is fitting to mention that proverb here, as I first met Ralph Neas years ago, when we were both students at the University of Chicago Law School. I do not think that either of us could have imagined then that, some 20 years later, I would be a U.S. Senator saluting my former classmate as one of our Nation's foremost civil rights leaders. But I always knew that Ralph Neas would make a real difference, and I take great pride in his accomplishments, and I feel very lucky to be able to call him my friend.

Mr. President, when Ralph Neas finished law school, the world was his oyster. As one of the top graduates of the Chicago Law School, he could have been hired by any of the major law firms, and he could have made a great deal of money in the process. Instead, he chose to devote his life to public service. He joined the Congressional Research Service as a legislative attorney on civil rights, but was soon hired to a legislative assistant to Republican Senator Edward Brooke of Massachusetts, eventually becoming the Senator's chief legislative adviser. He stayed with Senator Brooke until his defeat in 1978, at which time he accepted a job as chief legislative assistant to Senator Durenberger of Minnesota. It was shortly after accepting the job with Senator Durenberger that Ralph was stricken with Guillian-Barre syndrome. Within weeks of contracting the illness in February 1979, he had been placed on a respirator and was paralyzed from the neck down. For nearly 100 days, he lay in the hospital, kept alive by machines, unable to even speak. At one point, he was administered the last rites. When he recovered, he took an 8-month sabbatical, spending time touring Europe, drafting a book about his Guillian-Barre experience, and helping to establish the Guillian-Barre Syndrome Foundation, now entitled the GBS Foundation International, which now has 15,000 members and 130 chapters throughout the world.

In the spring of 1981, Ralph was offered the job as executive director of the leadership conference. It was not the ideal time to take a job as head of a civil rights organization. The Republicans had just captured the presidency and control of the Senate, and many of Ralph's friends questioned why he would want to take such a demanding job after the experience he had endured. But as he stated later when asked about his decision:

> I certainly had more than a few moments [while in the hospital] to think about my life. Here I just came through an experience where I had been a disabled individual, and here [I was offered] a job that dealt with equal opportunity for disabled people, and victims of discrimination. Whatever happened in 1979 was not only important but there were some reasons for it happening. I learned a lot of lessons and I took the job.

Given the fact that the majority of Ralph Neas' tenure at the leadership conference was spent under Republican Presidents and Republican Senates, it might be understandable if little was achieved. But the Neas years were actually among the most productive that the leadership conference has ever had, a fact that is a tribute to his leadership. Ralph Neas was able to reach out to individuals on both sides of the aisle, and truly make civil rights a bipartisan issue.

But you do not have to take my word for it, Mr. President. All you have to do is consider just a few of the civil rights victories that have been achieved during the Neas years. First and foremost, of course, is passage of the Civil Rights Act of 1991, a bill that overturned a series of Supreme Court decisions that made it harder for victims of discrimination to have their day in court. This legislation codified the "disparate impact" standard, allowing plaintiffs to present statistical evidence of the composition of a workplace in order to help prove their discrimination claims, and for the first time provided monetary damages to women, persons with disabilities, and certain religious minorities who were the victim of intentional job discrimination.

In addition, consider the passage of the Americans With Disabilities Act, one of the most significant and dramatic improvements in civil rights law in two decades. This bill extended civil rights protection in employment, transportation, communications, and public accommodations, and greatly improved the quality of life for 49 million Americans with disabilities. During the Neas years, the leadership conference played a critical role in defeating repeated attempts to weaken or repeal Executive Order 11246, the Federal Executive order on affirmative action. I could go on, Mr. President, for there is no shortage of achievements—the Voting Rights Extension Act of 1982, the Fair Housing Amendments Act of 1988, the Japanese-American redress bill of 1988, the Civil Rights Restoration Act, et cetera, but I think these few examples are sufficient to illustrate what an extraordinary contribution that Ralph Neas has made to the civil rights of our Nation.

Tonight, countless individuals from the civil rights community, from the administration, and from Congress will gather to pay tribute to the remarkable leadership that Ralph Neas has provided the civil rights community, the U.S. Congress, and even the Nation during the last 14 years. This is not, however, a retirement. Ralph will continue his work in other ways, joining the Washington law firm of Fox, Bennett & Turner as counsel. While with the firm, he will establish an affiliate, the Neas group, that will provide strategic counseling to business and nonprofit institutions. In addition, Ralph will serve as a visiting professor at Georgetown University Law Center, teaching a course on the legislative process. He will continue his work on the boards of the Guillian-Barre Syndrome Foundation International, the Disability Rights Education and Defense Fund, and the Children's Charities Foundation. I have no doubt that he will continue to provide those of us in the U.S. Senate with his invaluable advice and counsel, a fact for which I am grateful.

Mr. President, when Ralph Neas was hospitalized with Guillian-Barre so many years ago, a nun at the hospital gave him a needlepoint sampler which read "Nothing is so Full of Victory as Patience." I believe the real hallmark of his work has been the consistency and unwavering vigilance—the patience—he has brought to his efforts to assure the enforcement of laws guaranteeing equality of opportunity to all Americans. It is no exaggeration to say that millions of men and women of all races—who may never know you Ralph Neas by name—have benefited directly from his dedication and personal sacrifice in behalf of civil and human rights. He has made a positive, constructive difference for our Nation. I am pleased to have an opportunity on the floor here today, and at the dinner this evening, to celebrate his contributions. I know that I speak for many others in this body when I extend to him my thanks, and my best wishes for his new career.

I ask unanimous consent that a statement by Dr. Dorothy I. Height, the chairperson of the leadership conference, entitled "The Neas Years at the Leadership Conference on Civil Rights," be placed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NEAS YEARS

(By Dr. Dorothy I. Height)

Last summer, Ralph G. Neas announced that he would be leaving as Executive Director of the Leadership Conference on Civil Rights (LCCR)* in the Spring of 1995. Much too soon that time has come. As Ralph completes his fourteen-year tenure at the helm of the Nation's oldest, largest, and most broadly-based coalition, it is an appropriate moment to reflect upon his extraordinary contributions to the cause of equal opportunity for all Americans and some of the reasons why he has earned his reputation as an effective leader, strategist, advocate, and coalition builder.

THE BIPARTISAN LEGISLATIVE SUCCESSES

Ralph Neas took over as Executive Director of the Leadership Conference, the legislative arm of the civil rights movement, on March 31, 1981, after eight years as a chief legislative assistant to Republican Senators Edward W. Brooke and Dave Durenberger. Ronald Reagan had just been sworn in as president. Senators Strom Thurmond and Orrin Hatch had just replaced Senators Edward Kennedy and Birch Bayh as chairs of the Senate Judiciary Committee and the Senate Subcommittee on the Constitution, respectively. The previous year, Senator Hatch had successfully filibustered to death the Leadership Conference's top legislative priority, the Fair Housing Act of 1980. Many feared that a similar fate awaited the Conference's top priority in the 97th Congress, the legislation to extend the Voting Rights Act of 1965, which was to be introduced in early April of 1981.

No small wonder then that many friends of Ralph, who just two years earlier had been totally paralyzed, on a respirator, and near death in a Minneapolis hospital room, told him that this was not their idea of a brilliant career move. But Ralph believed that his professional training in the Senate, where he had been the senior staffer on civil rights issues, and his bout with Guillain-Barré Syndrome, which had profoundly influenced his life, had prepared him for such a professional challenge.

The situation in the Spring of 1981 demanded bipartisanship, creativity, pragmatism, and leadership. Ralph and his LCCR colleagues showed an abundance of these qualities during the arduous eighteen month campaign to enact the 1982 Voting Rights Act Extension. Many people argued that the time for federal control over local voting processes had ended. But LCCR advocates demonstrated a continuing need and their efforts helped pass the extension by votes of 389 to 24 in the House of Representatives and 85 to 8 in the Senate, leaving President Reagan with no choice but to sign the historic measure into law. That law not only extended the Voting Rights Act for 25 years, but also extended the Act's bilingual assistance provisions and overturned a 1980 Supreme Court decision by reinstating the results standard in the Voting Rights Act.

The remarkable victory against great odds set the tone for the next fourteen years for LCCR. Indeed, the 1982 Voting Rights Act Extension campaign embodied several of Ralph's principal legislative theorems. Theorem number one is to always put together the strongest possible bipartisan bill that can be enacted into law. During the twelve years of the Reagan-Bush presidencies, that usually meant having at least two-thirds majorities in both Houses. Theorem number two is that any successful national legislative campaign must effectively integrate grassroots, Washington lobbying, and media strategies. If one component is absent, the legislative campaign is likely to fail. And third, it is essential that the coalition always remains cohesive and united, never allowing adversaries to successfully use the tactics of divide and conquer. If these basic principles are understood, then one can comprehend the success of the 1982 Voting Rights Act Extension and the legislative victories that followed.

And there were many other LCCR legislative successes. No one could have predicted that more than two dozen LCCR legislative priorities would be enacted into law during Ralph's years at LCCR. In addition to the 1982 Voting Rights Act Extension, Ralph coordinated many of these legislative achievements for the Leadership Conference, including the:

Civil Rights Act of 1991—Overturned eight Supreme Court decisions which had made it much more difficult for victims of discrimination to get into court and to prove discrimination (the first time Congress has ever overturned more than one Supreme Court decision at one time). It also codified the "disparate impact" standard. And it provided for the first time monetary damages for women, persons with disabilities, and certain religious minorities who are victims of intentional job discrimination.

Americans with Disabilities Act (1990)—Perhaps the most significant and dramatic improvement in civil rights law in two decades. Provided civil rights protections in employment, transportation, communications, and public accommodations for the 49 million Americans with disabilities.

Fair Housing Amendments Act of 1988—Provided for the first time an effective enforcement mechanism. Also prohibited discrimination against persons with disabilities and discrimination against families with children.

Japanese-American Redress Bill (1988)—Apologized to Japanese-Americans interned in prison camps in the United States during World War II and authorized $20,000 to each of those who are alive.

Civil Rights Restoration Act—Congress overrode a presidential veto and overturned the 1984 Supreme Court Grove City decision. The Civil Rights Restoration Act restored the broad coverage of the four major civil rights laws that prohibit the federal funding of discrimination against minorities, women, persons with disabilities, and older Americans.

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*On May 3rd, at its Annual Dinner to be held at the Hyatt Regency on Capitol Hill, the Leadership Conference will be celebrating its 45th Anniversary and presenting its Hubert H. Humphrey Civil Rights Award to Ralph G. Neas.

The final passage votes on all these laws averaged 85% of both the House and the Senate. In recognition of that extraordinary bipartisan success, Senator Edward Kennedy has called Ralph "the 101st Senator on Civil Rights."

Ralph also managed the successful campaigns to preserve the Executive Order on Affirmative Action in 1985–1986 and to defeat the Supreme Court nomination of Robert Bork. The Bork campaign was perhaps the most forceful statement of the determination of the coalition that the civil rights gains of three decades would not be rolled back.

Other LCCR legislative priorities enacted into law over the past fourteen years include the Family & Medical Leave Act, the Motor Voter Bill, the South African Sanctions Legislation, the Religious Freedom Restoration Act, the Voting Rights Language Assistance Act of 1982, the Elementary and Secondary Education Act of 1994 (including Chapter One reform), the Martin Luther King Holiday Act, three disability measures which overturned Supreme Court decisions, the Age Discrimination in Employment Claims Assistance Act, the Gender Equity in Education Act, the Voting Accessibility for Disabled and Senior Citizens Act, the 1989 Minimum Wage Increase, the Hate Crimes Statistics Act, and key provisions of the Economic Equity Act.

Without question, the past decade and a half has been, legislatively, a bipartisan reaffirmation of civil rights laws and a bipartisan repudiation of the right-wing legal philosophy. Indeed, the right wing did not enact one major item on its regressive civil rights agenda during that time. The LCCR victories are even more remarkable when one considers that during this time two branches of government were hostile to civil rights.

While the civil rights coalition and its congressional allies achieved considerable success, there was a serious downside to the Reagan-Bush years. We had to refight the civil rights battles that had been won during the 1960's and the 1970's. While these battles were won once again, Congress, the civil rights community, and the Nation had to devote an inordinate amount of time, energy and resources in waging these rearguard actions. Consequently, while the legal achievements of the past 30 years were preserved and in a number of instances, strengthened, the Nation by and large was unable to address the unfinished agenda of the civil rights movement—the quest for social and economic justice.

For years, Ralph and his LCCR colleagues have been advocating that economic justice must be the civil rights coalition's top priority. Our legislative efforts should focus primarily on such issues as health care; affordable housing; economic security, especially for women and children; child care; Head Start and other early educational opportunities; employment opportunity, including job creation and job training; and economic empowerment issues. Regrettably, just as this economic opportunity agenda seemed to be moving to the front of the legislative line, once again we may have to devote our energies to resisting efforts to dismantle the legislative achievements of the past several decades.

While the battles will be hard fought, I remain confident that LCCR and its allies will once again defeat the efforts of the right wing, whether the issue be affirmative action or the economic security net for millions of Americans. Indeed, the same type of bipartisanship, creativity, and pragmatism that characterized our efforts in the 1980's and early 1990's will lead us to victory in the last half of the 1990's.

THE EXPLOSIVE INSTITUTIONAL GROWTH OF THE LEADERSHIP CONFERENCE

While the legislative successes are critically important, it is also important to point out the institutional successes as well. The fourteen years Ralph has spent managing LCCR have been characterized by explosive growth. The budget of the Leadership Conference has grown seven-fold since 1981. And the Leadership Conference, always the Nation's largest coalition, has added more than 50 new national organizations, during this time. Some of the new members are the American Association of Retired Persons (AARP), the Association of Junior Leagues, the Disability Rights Education and Defense Fund, the American Association of University Women, the Mexican American Legal Defense and Education Fund, the Service Employees International Union, the Congress of National Black Churches, the American Nurses Association, the Puerto Rican Legal Defense and Education Fund, Families USA, the National PTA, People For The American Way, the United Brotherhood of Carpenters and Joiners of America, the Human Rights Campaign Fund, Citizen Action, and the National Asian Pacific American Legal Consortium. There are now 180 national organizations, with memberships totaling more than 50 million Americans, who belong to the Leadership Conference on Civil Rights.

Such institutional growth has meant also the expansion of LCCR priorities. In addition to minority, gender, religious, and age issues, the Leadership Conference has forged a consensus on disability and gay and lesbian civil rights issues. The exceptional growth of the coalition, while generating new challenges, has made the Leadership Conference stronger and even more effective.

Throughout the years, Ralph has masterfully maintained unity among the diverse elements of the LCCR coalition. And through his work in LCCR, on Capitol Hill, with the Executive Branch, and with the business community, Ralph has earned respect for his ability to build bridges between disparate communities of interest and across the spectrum of political ideologies.

Ralph has also managed the Leadership Conference Education Fund (LCEF), an independent organization that supports educational activities relevant to civil rights. Along with Karen McGill Arrington, LCEF's Deputy Director, he has supervised projects such as an award winning public service advertising campaign promoting tolerance and diversity; a children's anti-discrimination campaign; and the publication of books and reports on emerging civil rights issues.

RALPH'S NEW CAREER

To say the least, things have not slowed down during Ralph's final months as LCCR's Executive Director. He was a key strategist in the successful effort to defeat the Balanced Budget Constitutional Amendment. Presently, he is coordinating the campaign to save affirmative action. In addition, Ralph is lecturing one day per week on the legislative process at the University of Chicago Law School.

In May, Ralph will embark on a new phase of his professional life. He will join the Washington law firm of Fox, Bennett, and Turner, where he will be Of Counsel. At the law firm, he will set up an affiliate, The Neas Group, which will provide strategic counseling to business and non-profit institutions. In addition, Ralph will be a Visiting Professor on a part-time basis at the Georgetown University Law Center where he will teach courses on the legislative process.

Among the boards on which he will continue to serve are the Guillain-Barré Syndrome Foundation International, the Disability Rights Education and Defense Fund, and the Children's Charities Foundation.

On behalf of everyone in the Leadership Conference, I want to express our deepest gratitude to Ralph and wish him well in all his new endeavors. We will miss the personal qualities that made Ralph so effective in his job—his cheerfulness and optimism even when facing great challenges, his patience in working with people to resolve differences within the coalition, and the respect he accorded to everyone's point of view. But we know that there will be many opportunities to work with him as we confront the challenges ahead of us. There is no question in my mind that Ralph will continue to be one of the drum majors for justice.

TRIBUTE TO FORMER SENATOR JOHN C. STENNIS

Mr. HEFLIN. Mr. President, I would like to add my voice to those which have already lamented the passing of our dear former colleague from Mississippi, John Stennis. About 25 of us went down to Mississippi last week to his funeral to say goodbye to one of the true giants in the history of this institution.

I recall about 10 years ago, some Senators, including myself, went to Senator Stennis' hometown of De Kalb, MS, where the people of De Kalb and surrounding areas had gathered to help celebrate his birthday. There was a great outpouring of love and genuine affection from friends and neighbors who had known him, his father, and others before him. No one really knows an individual in the same way that the people of his hometown do, and you could see that as they came together that day. There was an authentic feeling of closeness and friendship.

De Kalb is a small community, probably smaller than the one I come from. The people there—the salt of the earth—knew their favorite son, John Stennis, for his character and integrity. The great outpouring of affection which was on display that day was the best evidence anyone ever needed of his graciousness, honesty, decency, and dedication to principle. All of us there could see that he stood very tall with those who knew him best.

John Stennis and I had much in common, both of us from southern families that go back for many generations. I used to enjoy the stories he would tell about his early years and how his father would raise cotton, transport it over to Alabama, and ship it down the river to Mobile. We were both judges at one time, which gave us a unique perspective on government, individuals, and human nature in general.

John Cornelius Stennis was born on August 3, 1901, in Kemper County, in the red clay hills of eastern Mississippi. He graduated Phi Beta Kappa from what is now Mississippi State University in 1923 and 4 years later, received his law degree from the University of Virginia. Just 1 year later, he was elected to the Mississippi Legislature. He later went on to serve as a district prosecuting attorney and circuit judge.

After 10 years on the bench, he ran in 1947 for the Senate seat held by the flamboyant Senator Theodore G. Bilbo and was elected over five opponents in November. His campaign theme was "I want to plow a straight furrow right down to the end of my row," and that philosophy guided the rest of his career in public service.

Until his last campaign, in 1982, he was never seriously challenged for reelection. Even then, facing future Republican National Committee Chairman Haley Barbour, then only 34, he won by a 2-to-1 margin.

In his early days in the Senate, John would work 16 hours a day, staying in the Senate until it adjourned and then studying in the Library of Congress. He was meticulous in his work, someone who would go over something again and again until he finally mastered its complexities. He was a commanding presence in the Senate Chamber, where his voice carried such resonance. Even after we had microphones, he would often speak without one.

John Stennis served in the Senate longer than all but one other person in its history. When he retired on January 3, 1989, he had served for 41 years, 1 month, and 29 days. During the 1960's and 1970's, he was the most influential voice in Congress on military affairs. He was chairman of the Appropriations Committee, and was instrumental in the development of the Tennessee-Tombigbee Waterway, which was extremely important to both our States economically. He changed with the times, and began to support civil rights measures. Due to his integrity, diligence, and judgment, he was often called upon to investigate controversial political matters. It became routine to refer to him as the conscience of the Senate. He was a patriarch and teacher to younger Members.

It his later years, while his voice remained clear and his mind sharp, he experienced serious physical problems. He was shot and seriously wounded by a burglar at his home in 1973, and had a leg amputated in 1984 due to cancer, but each time, he returned to his beloved Senate much sooner than had been expected.

After he retired, Senator Stennis moved to the Mississippi State University campus, home of the John C. Stennis Institute of Government and the John C. Stennis Center for Public Service, created by Congress to train young leaders. In one of his last interviews, he said, "I do believe the most important thing I can do now is to help young people understand the past and prepare for the future."

At that birthday celebration for John Stennis a decade ago, I had the honor and pleasure of speaking. I ended my speech with an old Irish prayer, which goes:

May the road rise to meet you.
May the wind always be at your back.
May the Sun shine warm on your face
And the rains fall soft on your shoulders,
And may the Good Lord hold you in the hollow of his hand during the remainder of your days.

He was a deeply religious man, and he told me he was particularly glad I used the prayer as a closing on that occasion.

John Stennis' days are now over, and his passing gives us reason to pause, reflect, and remember that this body is a decidedly better institution, and the United States a better nation, for having had the benefit of this statesman's service for so many years.

TRIBUTE TO BURTON COHEN

Mr. REID. Mr. President, it is a personal privilege for me to rise today to congratulate a man of considerable achievement in both business and community spirit. Burton Cohen was one of the pioneers who helped lead Las Vegas from its origins as a small gaming community to the thriving resort city that it has become today. Despite the great demands of his career, he has always devoted great time and energy to the development of our community and our State. Burton Cohen is more than a close friend; he is also a role model for Nevadans and all citizens of our country.

Burton Cohen moved to southern Nevada in 1966 when he became part owner and managing director of the Frontier Hotel. He had previously risen to success as the owner of his own hotel development company in Florida.

His talents were soon recognized throughout the Nevada gaming community, and he was recruited for other leadership positions in Las Vegas at Circus Circus, the Flamingo Hilton, Caesar's Palace, and the Dunes Hotel.

In addition to his considerable contributions to various hotel properties throughout southern Nevada, Burton has been a pivotal factor in shaping Nevada's transition to the 21st century. He was president of the Nevada Resort Association and was on the influential board of the Las Vegas Convention and Visitors Authority. Without his innovative presence, and his insightful vision, Las Vegas would not be the destination resort and convention center it is today.

Mr. Cohen has always adhered to the needs of our community. He became closely involved in numerous community activities and charitable causes. He served on the board of the Southern Nevada Drug Abuse Council and led a successful campaign for the United Way in the Las Vegas Valley. Burton was a member of the board of directors of the Boys' Clubs of Clark County and the Nevada Division of American Cancer Society. Furthermore, he has also been an active member in the Anti-Defamation League and is currently a trustee of Sunrise Hospital in Las Vegas.

Burton Cohen recently announced his retirement from his current position as president and chief executive officer of the Desert Inn Hotel and Country Club. His accomplishments in hotel management and in the community are unrivaled and will be deeply missed. Along with his wife, Linda, Burton has made southern Nevada a better place for tourists and residents alike.

On Saturday, May 20, the Anti-Defamation League will be honoring Burton Cohen with the "Lifetime Achievement Award." I can think of no better recipient for this honor, and I want the entire country to know of Burton's achievements and to join those of us in Nevada in recognizing his commitment to excellence.

MR. MAX H. KARL

Mr. KOHL. Mr. President, I rise today to express my sorrow at the passing of my good friend, Max H. Karl. He died on April 19, at the age of 85. Max was a man of vision, intellect, action, and compassion. He lived life to its fullest extent as a family man, a business man, a philanthropist, a civic minded citizen, and as a man devoted to his faith. Max Karl was a good friend not only to myself and my family, but to all of those who had the good fortune to come into contact with him.

At this time, I also extend my heartfelt condolences to his family. Max is survived by his wife Anita, his son Dr. Robert Karl of Miami, daughter Karyn Schwade of Miami, sister Minnie Friedman of Milwaukee, his brother Dr. Michael Karl of St. Louis, and nine grandchildren.

Mr. President, Max Karl was a man who was devoted to his family, his community, and his work. He was a son of Wisconsin, who in every way contributed to the betterment of those around him. Max was a graduate of the University of Wisconsin and its law school. He was the founder and chairman of the Mortgage Guaranty Insurance Corp., headquartered in my hometown of Milwaukee. Max also served as past president of the Mortgage Insurance Companies of America and as a director of First Wisconsin Corp. and MGIC affiliates.

In the public arena, Max served as a member of the Federal Home Loan Mortgage Corporation's advisory committee; the Metropolitan Milwaukee Association Chamber of Commerce; the National Association of Home Builders Roundtable; and was a member of the University of Wisconsin-Milwaukee's School of Business Administration Advisory Council.

Max Karl's other civic activities included serving as a director of the Grand Avenue Corp.; the Greater Milwaukee Committee; the Milwaukee Art Museum; the Milwaukee Symphony Orchestra; and the United Performing Arts Fund. Max was also a past trustee of Mt. Sinai Medical Center; Alverno College; the National Multiple Sclerosis Society; and a trustee emeritus of Marquette University.

Among the many awards and commendations he received in recognition of his charitable and civic work, Max was the 1962 recipient of the National Home and House Award; the 1973 recipient of the State of Israel Golda Meir Award; the 1982 Milwaukee Press Club Headliner Award winner; the 1985 Children's Outing Association Father of the Year; and most recently, in 1994, Max Karl was named to the UWM School of Business Administration "Wisconsin Gallery" of leading corporate citizens.

Max Karl was also a giant in the Milwaukee Jewish Community who, among his other accomplishments, served as a past president of the Milwaukee Jewish Federation; a former chairman of Wisconsin State of Israel Bonds; a member of the boards of Hillel Academy and the former Milwaukee Jewish Home. He also served on the boards of the American Committee for the Weizmann Institute of Science; Americans for a Safe Israel; American Israel Public Affairs Committee; United Israel Appeal; and the United Jewish appeal.

Mr. President, Max Karl was a man who used his time on this Earth fully and judiciously, and in so doing he created a rich legacy that will stand forever. He improved the lives of many, many thousands of people. He was greatly respected and much loved. He will be missed.

HONORING RALPH NEAS

Mr. BRADLEY. Mr. President, I rise today to pay tribute to Ralph Neas, an outstanding leader for civil rights, who is being honored this evening by the Leadership Conference on Civil Rights.

Tonight, as the Leadership Conference on Civil Rights [LCCR] celebrates its 45th anniversary as the Nation's oldest, largest and most broadly based civil rights coalition, Ralph Neas will be awarded the prestigious Hubert H. Humphrey Civil Rights Award for his "selfless and devoted service in the cause of equality." During his 14-year tenure as the executive director of the Leadership Conference, Ralph has been a voice of compassion and reason and a tireless advocate for equality. Dubbed the "101st Senator on Civil Rights" by Senator EDWARD KENNEDY, for his successful coordination of the lobbying efforts of 180 national organizations in the LCCR and for playing a major role in the passage of more than two dozen legislative victories, Ralph has demonstrated his effectiveness as a coalition builder. From the enactment of the 1982 Voting Rights Act extension to the recent enactment of the Civil Rights Act of 1991, his efforts have truly made a difference with respect to securing civil rights for millions of Americans.

Ralph's role in the civil rights community has not been limited to advocacy for the legislative arm of the civil rights community. In addition to his lobbying and legal research efforts, Ralph took on the role of executive director of the Leadership Conference Educational Fund. This independent organization supports numerous educational activities relevant to civil rights such as: an award winning public service advertising campaign promoting tolerance and diversity; a children's anti-discrimination campaign; and the publication of books and reports on emerging civil rights issues.

Today, when our country is increasingly a mixture of races, languages and religions, I am delighted to pay tribute to the efforts of an individual who recognizes the importance of both preserving and celebrating the diversity of our society. The reality is that America is essentially a pair of ideals—liberty and equality. However, these are ideals that are still unrealized. To realize these ideals we need to recognize that our increasing ethnic and racial diversity is a remarkable opportunity. We need to recognize that we will either all advance together, or each of us will be diminished. Ralph Neas has spent the better part of a distinguished career working to ensure that—no matter the color of our skin, the shape of our eyes, our religion, our gender—we all advance together. I salute Ralph Neas for the dedication and leadership he has so generously given to the civil rights community and congratulate him on being awarded the Hubert H. Humphrey Civil Rights Award.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let's do our little pop quiz once more:

Question: How many million dollars are in $1 trillion? While you are arriving at an answer, bear in mind that it was the U.S. Congress that ran up the Federal debt that now exceeds $4.8 trillion.

To be exact, as of the close of business Tuesday, May 2, the exact Federal debt—down to the penny—stood at $4,859,125,275,200.95. This means that every man, woman and child in America now owes $18,445.32 computed on a per-capita basis.

Mr. President, back to the pop quiz: How many million in a trillion? There are a million million in a trillion.

TUFTONIA'S WEEK AT TUFTS UNIVERSITY

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to commend Tufts University in Medford, MA, which 2 weeks ago celebrated its 11th annual Tuftonia's Week events. During this week each year, graduates of Tufts from around the world join together to remember and honor their outstanding university.

Tufts was founded in 1852 and now has over 8,000 students from all 50 States and 213 foreign countries. The university's main campus in Medford/Somerville is home to the college of liberal arts, the graduate school, the school of nutrition, and the Fletcher School of Law and Diplomacy, among others. The school of medicine and dentistry is on the Boston campus, and the Grafton campus houses the only school of veterinary medicine in New England.

I am proud to note that this year, the theme of Tuftonia's Week is community service. Many alumni celebrated the occasion by volunteering and helping to improve life in their neighborhoods. Among universities in Massachusetts, Tufts has taken an impressive leadership role in promoting community service and by integrating opportunities for such service into the academic curriculum.

The Tuftonia's Week celebration has a special meaning for me, because my daughter is one of more than 85,000 Tufts graduates. I am honored to take this opportunity to congratulate the president, John DiBiaggio, and the rest of the Tufts community for their impressive accomplishments.

A GREAT PHYSICIAN AND A TRUE PIONEER

Mr. INHOFE. Mr. President, I rise today to pay tribute to Ray Stowers, D.O., a constituent of mine. Dr. Stowers, a native Oklahoman, is an osteopathic, family practice physician from Medford, OK, who is a true example of the pioneer spirit in America.

In the pioneer spirit, Ray's contributions have resulted in so many "firsts" in his life, both for the State of Oklahoma, for the osteopathic medical profession, and for the patients that he has reached into the rural communities to help.

It is because of his most recent "first", that I rise today to congratulate Ray on his recent appointment to the Physician Payment Review Commission [PPRC]. Ray Stowers represents what is best about medicine and physicians in America today. During a time when the trend to become a specializing physician is so strong and promises such great rewards, Ray Stowers has remained dedicated to the path of providing solo, rural, family medicine for 21 years. Yet from this path, Ray has been able to pioneer programs that enhance the numbers of physicians who share this important commitment.

One of Ray's many successes occurred when the Governor of Oklahoma appointed him to serve on the board of the Task Force and Rural Planning Committee which was responsible for advising the Governor on the State's health care manpower needs, and for convening a statewide conference to discuss rural health care delivery issues.

As well, Ray had the vision to see Oklahoma's need for rural health clinics, ensuring care for Oklahoma's hardest to reach populations. While he saw the need for, and began, the first rural health clinics in this State, within 5 years that number had burgeoned into 38 rural health clinics. Now, Oklahoma's hard-to-reach and underserved communities are assured access to a doctor and good medical care.

In addition to his many appointments, since 1993, Dr. Stowers also has been a presence on the American Medical Association Relative Value Update Committee [RUC]. As the first osteopathic physician appointed to serve on this prestigious committee, Ray has facilitated greater understanding, collaboration, and teamwork between the osteopathic medical profession and the allopathic physician community, and has lent his considerable expertise on physician practices to the RUC proceedings.

Dr. Stowers has served his family, his profession, his community, and his State with strength and integrity that symbolizes a modern pioneer. Dr. Stowers, the great State of Oklahoma is proud of your accomplishments. And I am honored to join your family and friends and colleagues in wishing you every success as you embark on your next journey; serving on the Physician Payment Review Commission.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 956, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Gorton amendment No. 596, in the nature of a substitute.

(2) Dole modified amendment No. 617 (to amendment No. 596) to provide for certain limitations on punitive damages.

(3) Dorgan amendment No. 619 (to amendment No. 617) to establish uniform standards for the awarding of punitive damages.

(4) Shelby/Heflin amendment No. 621 (to amendment No. 617) to provide that a defendant may be liable for certain damages if the alleged harm to a claimant is death and certain damages are provided under State law.

(5) DeWine amendment No. 622 (to amendment No. 617) to provide protection for individuals, small business, charitable organizations and other small entities from excessive punitive damage awards.

(6) DeWine amendment No. 623 (to amendment No. 617), regarding asset disclosure.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour for debate equally divided and controlled by the Senator from Washington [Mr. GORTON] and the Senator from South Carolina [Mr. HOLLINGS] or their designees, prior to any votes ordered on or in relation to the Dole amendment No. 616.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak as in morning business for 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET DELAY

Mr. FEINGOLD. Mr. President, I add my voice of concern over the delay in action of the Federal budget. It is now May 3. That is over a month after the April 1 deadline for the Budget Committee to report a concurrent resolution on the budget. It is also nearly 3 weeks after the April 15 deadline for Congress to have completed its work on that concurrent budget resolution.

I raise my concern, Mr. President, knowing that not every budget deadline has always been met, nor do I suggest that the task facing the Budget Committee is an easy one. It is a very tough one. But by this time, during the two sessions of the 103d Congress, we had considered and passed a concurrent budget resolution through the Senate.

In 1994, we passed the Senate version of the concurrent budget resolution on March 25, and agreed to a conference report on May 12.

Moreover, those concurrent budget resolutions contained politically tough deficit reduction provisions, and were submitted, debated, and passed at a time when a new administration was taking office—the first Presidential party change in 12 years.

Mr. President, many of us on this side of the aisle are ready to help craft a budget that will eliminate the Federal deficit.

We have demonstrated that we are willing to vote for politically unpopular proposals to lower the deficit.

In 1993, when we were the majority party, we developed and passed a $500 billion deficit reduction package.

We are still very sorry that no member of what was then the minority party decided to support that package, though it was certainly the right of each Senator to vote as they saw fit.

Beyond the individual right of minority members, though, during the 103d Congress it was our responsibility as the majority party to advance a budget, not the responsibility of those on the other side of the aisle who were in the minority at the time.

Mr. President, it is the responsibility of the majority party to propose, refine, and pass a budget, with or without the help of members of the minority. We want to be a part of that process and to cooperate. But it is first the responsibility of the majority.

It is the privilege of the minority party to respond, offer alternatives, and, when conscience requires, to dissent from the budget proposal.

Such is the political dynamic of our legislative process.

And our colleagues on the other side of the aisle exercised their privilege as the minority party in 1993, and refused to join us in making that tough deficit reduction vote.

Mr. President, the two parties have exchanges roles in the 104th Congress, but the duty of the majority party remains unchanged.

It is the majority party that sets the agenda, proposes a budget, and finds a way to pass that budget.

By contrast to the last Congress, however, I know a number of us in the minority are willing to support a budget resolution that reduces the deficit.

We will help shoulder the burden of passing a budget that reduces the deficit.

But, Mr. President, before we can provide that cooperation, we must have a budget to work with.

The choices that face us are already extremely difficult.

Each day we delay they become even harder.

We are all very much aware of how our budget problems are accelerating, and what delay means in lost fiscal opportunities.

But delay also risks the political consensus that must be achieved if we are to make significant progress on the deficit.

Mr. President, without public support, we cannot hope to find the votes for a balanced budget.

I don't mean to suggest that we can only pass a budget if the American people are enthusiastically behind every provision.

That is not going to happen when doing spending cuts.

If we could find such a proposal, we would have balanced the budget a long time ago.

Nor do the American people expect or even want such a budget.

They rightly are skeptical of those who promise easy solutions.

Mr. President, what the American people do want is to feel that their elected Representatives are being straightforward and open with them about what they propose.

They will not support a budget that is the product of closed-door meetings, held in the dead of night.

But they will support a budget that is openly debated.

They are willing to sacrifice if they feel that the process has been open and fair.

Mr. President, this budget delay really amounts to a budget blackout.

The longer the delay, the longer the blackout, and the less likely that we will be able to build the political consensus with the American public that we will need to balance the budget.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. HEFLIN addressed the chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I would like to address the Dole amendment and its relationship to other parts of the bill.

The Dole amendment, of course, extends the provisions of this proposed bill to all civil actions involving interstate commerce. That includes almost every automobile accident, and every conceivable type of accident, not just product liability cases. And, as we know, the language "interstate commerce" has been so liberally construed up until the very recent Lopez case that it includes almost any situation. There are many examples, too numerous to cite here, that can demonstrate the liberal construction of the interstate commerce clause.

Let me first recite the provision not only in the Dole amendment but in the overall bill pertaining to punitive damages, that if you seek punitive damages and any party can call for a bifurcated trial which means that at the request of any party, the trier of facts, the jury, shall consider in a separate proceeding as to whether punitive damages should be awarded. By the way, bifurcated proceedings will result in an increase in transitional costs which is somewhat ironic in as much as the proponents of this legislation have maintained that one of the bill's objectives is to reduce, not increase, transactional costs.

If there is evidence of punitive misconduct, it is inconceivable to me that any defendant would not take advantage of a bifurcated trial. So, all punitive damage cases will have two trials. In the first trial, which is the trial in regard to underlying liability, compensatory damages will be sought, which includes noneconomic damages and economic damages, and all of its component aspects. There is this provision in the Dole amendment, and also in the overall bill—it is just a repetition put here—that evidence relative only to the claim of punitive damages as determined by applicable State law shall be inadmissible—not admissible, but inadmissible—in any proceedings to determine whether compensatory damages are to be awarded.

That means that in an automobile accident case or in a truck/automobile case, you could prove negligence in the trial in chief, but you could not prove gross negligence. Basically, what that means—and every defendant who would come along would argue—yes, you can argue that the truck that caused the accident, that did the wrongdoing, crossed the center line and hit an individual. But you could not prove that the driver had three beers or had a pint of whiskey, because that issue would go to the punitive damage aspect of the case. You could not prove basically that the owner of the truck knew, under these circumstances, that that driver had been convicted four times before of drunk driving. You could not prove in the trial in chief that the driver of that motor vehicle—and it was known to the owner of the truck, the truck company, that defendant had been convicted twice of reckless driving. You could not go into any aspect that would be evidence relating punitive damages and punitive misconduct.

Now, you could not prove in the Pinto automobile cases that there was a memorandum to the effect that a company will come out financially better rather than having a recall because of the location of the fuel tank and the certain danger that would result in the case of a rear end collisions. The memorandum in question showed that the company would come out better financially and with less expense to just pay off the claims that might arise from rear end collisions.

Now, how does this relate also to the Snowe amendment which is in the Dole amendment? We have to go in and look to several liability for noneconomic loss. Under the Snowe cap, the cap on punitive damages is twice the amount of economic and noneconomic damages.

Section 109 of the bill on the matter of several liability reads

> Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant determined in accordance to the harm to the plaintiff with respect to which the defendant is liable.

Therefore, in a motor truck and automobile accident, if a person were suing for punitive damages in a particularly egregious situation and trying to prove noneconomic damages, such as pain and the suffering, for example, and being aware of the basis for the cap of the Snowe amendment, that person could not prove against the owner of the truck that the owner knew of four convictions of drunk driving and two convictions of reckless driving in his efforts to establish the several liability of the driver and the owner of the truck.

How can a person establish under not only the Dole amendment but under the bill as a whole the amount of noneconomic damage, for example, against the owner of the truck?

Now, that is just one example, and there are probably a multitude of other examples. There are other aspects, but these two relate together in that, together, they put an injured party at a terrible disadvantage. It in effect says, regardless of the injury or the human element in this, we are interested in profits.

To me, as I look at all of this, and every time I see more and more instances which raise serious questions in my mind, there are all sort of provisions throughout this particular bill that just really shock the conscience as regards to the issue of fairness.

I am deeply concerned that people do not really understand how the provisions interrelate and what ultimate impact the bill will have on the individual and his or her rights to seek fair redress for injuries he or she may have received.

How much time is remaining on our side?

The PRESIDING OFFICER. Sixteen minutes.

Mr. HEFLIN. I reserve the balance of my time.

Mr. GORTON. Mr. President, how much time does the Senator desire?

Mr. McCONNELL. Mr. President, 7 or 8 minutes.

Mr. GORTON. I yield 8 minutes to the Senator from Kentucky.

Mr. McCONNELL. Mr. President, the amendment I offered yesterday to broaden this bill to include medical malpractice reform, which the Senate approved, may have been the shot heard around the civil justice system, but the amendment we will be voting on offered by Senator DOLE to extend punitive damages reform to all civil cases in the country is really the beginning of the revolution.

The Dole punitive damages amendment, together with an Abraham-McConnell amendment on joint and several liability, which we will offer shortly, are the true tests of whether the Senate is going to provide meaningful and comprehensive civil justice reform for every American.

Let me explain why the Dole amendment is so important to restoring justice to our civil justice system. Economic and noneconomic damages are awarded to compensate an injured party, to make the person whole in every possible way. That is a fundamental purpose of civil liability and one which I strongly support.

Punitive damages, on the other hand, are assessed to punish the responsible party for conduct that is almost criminal in its recklessness, deliberateness, or malice. Since we assign liability for economic and noneconomic damage on the basis of fault, it is clear that punitive damages are meant to punish something much more than mere negligent conduct. Such damages are to be sought in extreme and unusual situations, not as a bonus, in every case, Mr. President.

However, as any students of the tort system can say, the distinction between the two types of civil damages have become seriously blurred, making a mockery of the different purposes these damages are meant to serve.

Claims and large awards for punitive damages have become routine. Plaintiffs who are fully compensated for their injuries throughout economic and noneconomic damages get an extra windfall that bears no relation whatever to the harm that they have suffered.

The lawyers who represent these plaintiffs are stuffing their pockets with the money, as many plaintiffs lawyers will take up to half and even more of the total amount of these lucrative damage awards.

Often, Mr. President, the potential for such enormous punitive damages awards entices people to sue in the first place. Plaintiffs, egged on by their lawyers, will sometimes turn down offers to compensate all their harm in the hope of scoring big with punitive damages or extorting a much larger settlement out of a defendant, who is understandably reluctant to play punitives roulette.

In other words, what was once intended as a very narrow remedy lying somewhere between civil and criminal law has now become a gold mine that is exploited without regard to the considerations of justice and due process. The Dole amendment is designed to restore the concept of punishment to punitive damages.

If we accept the principle that the law of punitive damages must be reformed in product liability and medical malpractice, it follows that such reform should be extended to other civil actions as well.

Punitive damage reform will not limit an injured party's right to be fully compensated for any harm. Instead, it will give relief to consumers in the form of lower prices at the checkout counter and lower insurance costs for their homes and businesses. To confine that relief to product liability and medical malpractice gets only part of the job done.

Now, who is hurt by excessive punitive damages awards? The list is almost endless. Cities, counties, park districts, nonprofit agencies, charities like the Girl Scouts and the Little League and small businesses.

For example, the Girl Scouts in Washington have to sell 87,000 boxes of Girl Scouts cookies just to pay their liability insurance premium. In southern Illinois, they must sell 41,000 boxes to cover insurance liability. Girl Scout camps can no longer afford to offer horseback riding because of excessive risk. They have no diving boards in the swimming pools—too much exposure to litigation.

Cities spend $9 billion on liability judgments and settlements every year. An employee of the Smithsonian won a $400,000 award—$390,000 in the form of punitive damages because his supervisor called him an unflattering name. I guess that proves that sticks and stones may break my bones, while names earn a lawsuit.

For small businesses, one lawsuit can mean bankruptcy, even if it is won. The huge fee and time spent away from the businesses has literally wiped out mom and mop enterprises despite the fact that they win the suit. No wonder so many small businesses cave in to legal extortion rather than risk court costs, legal fees, disruption of the business, harm to their reputation, and exposure to the most expensive lottery in America—punitive damages.

The National Federation of Independent Business, which has been one of the true heroes on civil justice reform, brought to my attention the case of Hunt Tractor in my home State of Kentucky. They have been sued in two cases involving product liability allegations. In one case, the equipment operator was obviously negligent; and in the other case, the owner had modified the equipment to make it unsafe.

While Hunt won both cases, it cost the company and its insurance carrier more than $100,000 to defend, and countless hours entangled in legal proceedings.

Domino's, the chain of pizza delivery restaurants, was found liable for the injuries of a woman harmed when one of its pizza trucks was rushing to meet Domino's promised 30-minute-delivery deadline. Regardless of whether you believe Domino's had some share of the responsibility, the damages awarded in the case were astonishing. Out of a total award of $79 million, close to $78 million was punitive damages.

Some of my colleagues have mentioned the situation in Alabama, a State I have a great deal of interest in. I was born there and lived the first 8 years of my life in Alabama. In Alabama, plaintiffs routinely recover punitive damage awards. In three counties studied by Prof. George Priest, of the Yale Law School, he found that punitive damages were awarded in 72 to 95 percent of all cases in these three counties in Alabama—all cases.

It is hard to imagine that in all these cases defendants have behaved so egregiously as to warrant an assessment of punitive damages. Clearly, we need to bring punitive damages under control and relate them to punishment—not another routine part of every case. That is what this debate is about. It is not, as the opponents of reform have claimed, about taking money away from victims. It is about bringing some certainty to civil punishment, just as we do for criminal defendants.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. MOSELEY-BRAUN addressed the Chair.

Mr. HEFLIN. Mr. President, I ask for the yeas and nays on the Shelby amendment.

Mr. GORTON. Excuse me, will the Senator withhold?

Mr. HEFLIN. All right, I yield to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I know that I do not have a great deal of time, but I would like to discuss very briefly why I believe it would be a mistake for the Senate to adopt the Dole amendment on punitive damages. I know that the sponsors of this amendment are confident that their amendment, as drafted, will ensure that no limitations are placed on the ability to recover punitive damages in Federal civil rights cases. I am not sure that I agree with their assessment; however, even if it were correct, the pending amendment will have disastrous consequences in numerous cases that are brought pursuant to State law, including cases to vindicate civil rights. I have here a letter from Morris Dees, chief trial counsel for the Southern Poverty Law Center, which states:

> The Southern Poverty Law Center has used both Federal and State laws to cripple a number of white supremacist and neo-Nazi groups during the past 10 years. If a Senate bill that limits punitive damages is enacted, these judgments would not be possible.

A description of some of the types of cases that would be impacted by the Dole amendment illustrate the major harm that broadening the limitations of punitive damages to cover all civil litigation would create.

In 1990, the Southern Poverty Law Center won a $12.5 million judgment against the White Aryan Resistance and its leaders—Tom Metzger and his son John—for the beating death of a black student in Portland, OR. Of that award, $2.5 million was for compensatory damages, while the remaining $10 million was for punitive damages, a punitive award that was four times the amount of compensatory damages.

During the trial for civil damages, it was demonstrated that Mr. Metzger and the Ayran Resistance had for years preached that nonwhites were "God's mistakes," and that Jews were the progeny of Satan. Tom Metzger and his son, John, sent agents to Portland, OR, to organize the East Side White Pride, a youth division of the Aryan Resistance. At the organizational meeting, members were encouraged to commit violent acts against blacks, a fact that had disastrous consequences for a 28-year-old black Ethiopian immigrant named Mulugeta Seraw. While walking home, Mr. Seraw was attacked with a baseball bat by three skinheads who had attended the White Ayran Resistance meeting. Mr. Seraw—who had come to America to attend Portland State University, and who shipped money from his part-time job to his family back in Ethiopia—didn't stand a chance. He was dead before he ever reached the hospital.

Mr. President, I mention this case because it was brought not pursuant to Federal civil rights laws, but pursuant to a State wrongful death statute, the very type of civil action that will be impacted by the Dole amendment. And it is not the only lawsuit of its kind that the Dole amendment would limit.

Consider this case: In 1987, a wrongful death claim was brought against the United Klans of America for the lynching death of 19-year-old Michael Donald, a masonry student at Carver State Technical College in Alabama. The case resulted in a $7 million judgment against the Klan. Again, as this is exactly the type of claim that would be impacted by the Dole amendment, I will briefly describe the facts.

While walking home from his sister's house one evening, Michael Donald was kidnapped by two Klan members, Henry Hays and James "Tiger" Knowles. After driving to a deserted woods, Michael was ordered out of the car. A newspaper account describes what happens next:

> Henry Hays pulls a knife. Michael Jerks free. He runs. They chase him. He grabs a fallen tree limb. They knock it away. Hays has the noose. They wrestle it over Michael's head. Michael pulls on the rope, running in circles. Knowles holds the other end and beats him, again and again, with the tree limb. Michael collapses. Henry Hays pushes his boot into Michael's face and pulls the rope tight. They drag him through the dirt to the car. They lift him into the trunk. Knowles asks Hays if he thinks Michael is dead. "I don't know," Hays replies, "but I'm gonna make sure." He cuts Michael's throat three times. They drive back to Henry Hays' house and throw one end of the rope over the limb of a Camphor tree across the street. Then they lift Michael by the neck—high enough to swing. From the porch, the rest of the Klansmen can see. As Knowles steps back up to join them, he feels a friendly punch. "Good job, Tiger."

Mr. President, Tiger Knowles and Henry Hays were convicted of crimes for their role in Michael Donald's brutal death, which some people may feel is sufficient punishment. But for civil rights activists in the deep South, it was not. They recognized that this behavior was part of a pattern and practice of conduct by the Klu Klux Klan, designed to deprive minorities of their civil rights under law. So these activists sued the Klan, not pursuant to Federal Civil Rights Laws, but pursuant to State wrongful Death Statutes.

At trial, evidence was presented to show that on the evening of the murder, Tiger Knowles and Henry Hays had been told by their local Klan leader "get this down: if a black man can kill a white man, a white man should be able to get away with killing a black man * * *." The jurors were shown a Klan newspaper, that had a drawing of a black man with a noose around his neck, a drawing that Tiger Knowles testified had influenced his behavior. Jurors were informed of countless other, similar incidents in which the United Klan had been involved. And ultimately—and quite wisely, I would assert—they awarded Michael's mother, Beulah Mae Donald, $7 million.

Perhaps there are some who feel a lower award would be appropriate in this case. Again, I will quote from a newspaper account which describes that amount of the award:

> The Klan cannot pay. It has nowhere near that kind of money. So, in addition to a quarter of the wages some of the klansmen will earn for the rest of their lives, and in addition to titan Bennie Hays' house and farm, Beulah Mae Donald accepts every penny of the several thousand dollars that the United Klans of America has to its name, and the deed and keys to its national headquarters. She shuts it down.

Mr. President, I have outlined two examples of punitive damages in wrongful death cases, but these are not the only types of State law cases that would limited by the Dole amendment. In 1988, the Southern Poverty Law Center won $1 million from two Georgia Klan groups who attacked marchers celebrating Dr. King's birthday. Or consider a recent award of $7 million in punitive damages against a law firm that tolerated sexual harassment—a claim that was brought pursuant to California's Fair Housing and Employment Act, not Federal civil rights law.

As I stated at the beginning of debate on this legislation, I hope to be able to vote for cloture on a narrow, moderate product liability bill. I support reforms such as a statute of repose, or limitations on vicarious liability, or limitations of recovery if drug or alcohol use caused the injury. But I will never support any legislation that would, in the guise of civil justice reform, make it more difficult to bring civil rights claims under State law. I would never vote for an amendment that will restrict the ability of civil rights groups to sue the Klu Klux Klan. I urge my colleagues to reject the Dole amendment, and I ask unanimous consent that the text of the letter from the Southern Poverty Law Center, as well as the article describing their work, be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SOUTHERN POVERTY
LAW CENTER,
Montgomery, AL, April 25, 1995.

Senator TOM DASCHLE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DASCHLE: The Southern Poverty Law Center has used both federal and state tort laws to cripple a number of white supremacist and neo-Nazi groups during the past ten years. If a Senate bill that limits punitive damages is enacted, these judgments would not be possible.

In 1987, the Center got a $7 million judgment against the United Klans of America for the lynching death of a black teenager. The judgment bankrupted this violent hate group whose members had previously bombed the Sixteenth Street Baptist Church in Birmingham, Alabama, killing four young girls.

In 1990, the Center got a $12.5 million judgment against the White Aryan Resistance and its leader Tom Metzger for the death of a black student in Portland, Oregon, at the hands of Skinheads. Most of the judgment was punitive damages. The group we sued is now virtually out of business.

In 1988, the Center got $1 million judgment against two Georgia Klan groups for their assault on a group of marchers celebrating Dr. King's birthday. Almost all of this amount was punitive damages. We bankrupted both groups and took property from several members.

We presently have a civil damage suit pending against Rescue America and its Florida leader, John Burt. Our client is the family of slain abortion doctor David Gunn. Without a large punitive damage award, a favorable judgment would not be significant or effective.

Senator, this is a bad bill that is being proposed in the frenzy of political change. I urge you to vote against cloture on any bill or amendments that limit the ability of our civil justice system to punish those people and organizations that inflict unspeakable injuries on our friends, neighbors, family members and communities.

Sincerely,

MORRIS DEES,
Chief Trial Counsel.

[From the Los Angeles Times magazine, Dec. 3, 1989]

THE LONG CRUSADE

(By Richard E. Meyer)

When Morris Dees was 4, his daddy gave him his only whipping. He used a belt, and he whipped him all over the barnyard. It was for speaking with disrespect to a black man.

It made an impression, but nothing like the impression his daddy left a few years later, when Morris Dees was old enough to tote water. It was summer in Alabama, mercilessly hot. He carried the water in a bucket out to his daddy's workers, hoeing cotton in the fields.

One of them was Perry Lee. She was black. She kept a big dip of snuff in her cheek. One day, as Morris Dees handed her the water dipper, his daddy drove up. Perry Lee tucked a finger behind her teeth, flicked out her snuff and took time to drink. Morris Dees' daddy did two things his son never forgot.

With Perry Lee's hoe, he kept up her row, so she would not worry about falling behind.

Then he took the same dipper and drank.

Morris Dees grew up with a golden touch. He sold cotton mulch in high school, birthday cakes in college and mail order books after law school. By the time he was 32, he and a partner had sold the business for $6 million.

He lent the touch to raise money for Democratic presidential candidates—and, at the same time, Morris Dees, his daddy's son, put the touch to work for people like Perry Lee. In 1971, he co-founded and funded by directmail appeals the Southern Poverty Law Center in Montgomery, Ala., a nonprofit group of attorneys who use the law like a sword.

The law center recently unveiled a civil-rights memorial designed by Maya Lin, creator of the Vietnam Veterans Memorial. But its real importance is its litigation on behalf of the underdog. The center has challenged employment discrimination, hazardous working conditions, denial of voting rights, shoddy education, tax inequities and the death penalty. Its battles against the Ku Klux Klan are legendary—so successful that Morris Dees is a man marked for assassination.

He is praised as a courageous klan-buster, but he also gets criticized—even among those who share his goals. His critics say that some racists are toothless and that he busts them to impress the center's donors.

Now Morris Dees is coming West—to take on California's own Tom Metzger, of Fallbrook, and his White Aryan Resistance (WAR). Dees has sued Metzger, charging him with inciting neo-Nazi skinheads who killed a black man. He wants the courts to order Metzger and his organization to pay damages to the victim's family. His tactic is to ruin Metzger financially—as he has empires of the klan—and put him out of business.

If he succeeds, he will undo one of the most important white supremacists still operating.

Morris Seligman Dees, 52, is a soft-spoken man with light blue eyes and sandy hair. He is informal, given to wearing open shirts and loafers with no socks. He is wealthy enough to retire. But he does not.

What is it like to do what he does?

Why, with the inherent danger, does he keep on doing it?

It is spring of 1981, a Wednesday night in Mobile, Ala. Out in the suburbs, members of United Klans of America, the biggest, most secretive and arguably most violent of the Ku Klux Klans, are meeting at Bennie Hays' place. Usually they talk about klan business in Bennie's barn, then watch TV over at his house. But by most accounts—testified to, published or simply told—their meeting this night marks the beginnings of something that becomes extraordinary.

They are preoccupied by what they consider an outrage. A white policeman has been killed in Birmingham, 85 miles from Montgomery. A black has been charged with the murder. And it looks like the jury is deadlocked. Bennie Hays, 64, titan in charge of Klavern 900, commands everyone's attention. Although he will deny it later, two klansmen swear that Benny Hays declares to the meeting assembled; "Get this down: If a black man can kill a white man, a white man should be able to get away with killing a black man . . .".

Klansman James (Tiger) Knowles, 17, borrows a 22-caliber pistol. Then Knowles, fellow klansman Benjamin Franklin Cox, 20, and Henry Hays, 26, who is Bennie Hays' son and a member of the klan as well, go to Cox's home and pick up a rope. They tell Cox's mother they need it to tow a car.

They listen for word. On Friday night, Knowles and Cox go to Henry Hays' home to catch the 10 o'clock news. In the car, Tiger Knowles knots a hangman's noose. As they pull up chairs in front of Henry Hays' TV, a newscaster announces that the jury in the black man's case has, indeed, deadlocked. If the black man is not retried, he will go free.

Henry Hays and Tiger Knowles burst for the door. They drive straight to a black neighborhood. They see an elderly black man, but he is too far from their car. Besides, he is on a public telephone—he could appeal for help.

Not far away, Michael Donald, 19, the youngest son of Beulah Mae Donald, 61, is walking home from his sister's house. A masonry student at Carver State Technical College, Michael Donald works part time in the mail room at the Mobile Press Register. He is quite, broad-shouldered and well-mannered. He likes music, plays basketball on a community team, dates two or three girls.

As he detours to a corner gas station to buy cigarettes, Henry Hays and Tiger Knowles pull up.

They motion him over.

Knowles asks the way to a nightclub, and Michael Donald starts to direct him.

"Come closer," Knowles says.

Michael Donald leans over. Knowles pulls out the pistol.

"Be quiet," Knowles says.

They order him into the car and drive across Mobile Bay and into the woods.

"I can't believe this is happening," Michael Donald pleads. "I'll do anything you want. Beat me; just don't kill me. Please don't kill me."

The car stops. They order him out. Knowles holds the pistol. Michael Donald grabs him. All three scuffle for the gun. It goes off.

The bullet whines into the air.

Henry Hays pulls a knife. Michael jerks free. He runs. They chase him. He grabs a fallen tree limb. They knock it away. Hays has the noose. They wrestle it over Michael's head. Michael pulls on the rope, running in circles. Knowles holds the other end and beats him, again and again, with the tree limb.

Michael collapses.

Henry Hays pushes his boot into Michael's face and pulls the rope tight.

They drag him through the dirt to the car. They lift him into the trunk. Knowles asks Hays if he thinks Michael is dead.

"I don't know," Hays replies. "But I'm gonna make sure."

He cuts Michael's throat—three times.

They drive back to Henry Hays' house and throw one end of the rope over the limb of a camphor tree across the street. Then they lift Michael by the neck—high enough to swing.

From the porch, the rest of the klansmen can see.

As Knowles steps back up to join them, he feels a friendly pinch.

"Good job, Tiger."

In the dead of night, two of the klansmen drive downtown to the Mobile County courthouse. Out front, they set flame to a cross. And in the cool of the early morning, the city finds Beulah Mae Donald's son, hanging from the camphor tree, bruised, broken, dead.

Despite the rope and the burning cross, the Mobile County district attorney declares that race—much less the Ku Klux Klan—does not seem to be a factor in Michael Donald's death.

But the black community calls it a lynching.

Beulah Mae Donald's attorney, state Sen. Michael Figures, says it is clear to him that, at the very least, white extremists of some kind are involved.

Whites accuse Figures, who is black, of stirring up racism.

The police investigate, but they do not question the klan. Instead, they look into a theory that Michael Donald might have been involved with a white woman at the Press Register and gotten killed in a love triangle. Than they investigate a theory that he might have gotten killed in a drug deal. They arrest three men they describe as junkies. But when the case goes to a county grand jury, it tumbles apart.

Thousands of blacks march in protest.

All Beulah Mae Donald wants, she says, is "to know who really killed my child."

Michael Figures' brother, Thomas, an assistant U.S. attorney in Mobile, asks for a second investigation—this time by a federal grand jury.

And this time, Tiger Knowles cracks.

He plea-bargains. In return for his testimony, Knowles gets life—and Henry Hays gets death.

There the matter of Michael Donald might remain—but for the district attorney, who continues to maintain the klan's innocence. "I'm not sure this as a klan case," the district attorney says. Rather, he declares, this was a case in which members of the Ku Klux Klan just happen to have been involved.

Morris Dees simply does not believe it, and he cannot ignore it.

From what he can plainly see, Tiger Knowles and Henry Hays did not act in a vacuum. Dees calls Michael Figures and suggests that Beulah Mae Donald and the NAACP filed a civil suit against the United Klans of America, headed by Robert Shelton, its imperial wizard. Dees proposes to prove that the killers carried out a policy of violence for which the klan is responsible—just as a corporation is liable for the actions of its employees when they carry out its policies.

Although individual klansmen—Tiger Knowles and Henry Hays—were prosecuted, nobody has ever tried suing United Klans as a whole for damages. The idea, Dees says, would be to win a financial judgment large enough to bankrupt it.

Beulah Mae Donald approves.

On her behalf, Morris Dees sues United Klans of America in U.S. District Court in Mobile for $10 million.

The klan sees trouble.

Even before jury selection, it consents to a broad injunction against harrassing blacks. Then, as the trial gets under way, Morris Dees calls Tiger Knowles to testify.

Flanked by federal marshals, Knowles walks into court, past Beulah Mae Donald at the plaintiff's table.

Already a turncoat for testifying against Henry Hays, today he will add to the vengeance the klan feels against him. He walks past former fellow klansmen, seated at the defense table. Next to them is Shelton, their imperial wizard. Not a defendant, he is there as the chief officer of United Klans.

Morris Dees questions Knowles softly, Knowles tells how it was that Michael Donald died.

"We got the gun," Tiger recalls, "and then later . . . I tied the hangman's noose in Henry's car."

Throat cut, face bruised, clothing in disarray, wounds on the hands. Was that his work?

"Yes."

Dees holds up a drawing from a klan newspaper edited and published by Shelton. It shows a black man with a noose around his neck.

Had Tiger seen the drawing before he killed Michael?

"Yes."

Had it influenced him?

"Yes, it did."

Tiger steps down to show how Michael Donald was strangled.

Beulah Mae Donald sobs softly.

John Mays, the klan attorney, asks Tiger if he had heard Shelton order violence.

No, Tiger replies, but "he instructed us to follow our leaders."

Tiger recalls how Bennie Hays had suggested that if a black man could get away with killing a white man, then a white man ought to be able to get away with killing a black man.

"Mr. Hays is who I took orders from . . . He took his orders from Mr. Shelton. . . .

"All I know is I was carrying out orders."

Mays concedes that Michael's murder is a "horrible atrocity"—but he tries to portray the klan as a political organization. Shelton tells the jury that white supremacy is a political goal—nothing more. He says that nothing in the klan bylaws approves of violence. He says that he does not advocate violence.

Shelton adds triumphantly: "I'm not ashamed to be a white person."

In America, Mays says, "we don't punish the organization. We punish the individuals."

But Dees counters with a tutorial in klan history. With testimony from some former klansmen and depositions from others, he shows how Shelton personally directed the infamous Mother's Day attack in 1961 on Freedom Riders at the Trailways bus station in Birmingham; how a United klansman was convicted of bombing Birmingham's 16th Street Baptist Church in 1963, killing four black girls as they prepared to participate in the 11 o'clock service; how four klansmen killed Viola Liuzzo, a white civil-rights worker, in 1965 after hearing Shelton say, "If necessary, you know, just do what you have got to do," and how in 1978, just 2½ years before Michael Donald was killed, Shelton told a group of klansmen, "Sometimes you just got to get out there and stop them," after which the klansmen fired shots into the homes of blacks, including the state president of the National Assn. for the Advancement of Colored People.

Ku Klux Klan policy is hardly politics, Dees declares. Make no mistake, he says, it is violence.

Finally, Dees calls klansman William O'Connor to the stand. On TV news tape the day that Michael died, Bennie Hays had been pictured walking up to the camphor tree to look at his body. O'Connor tells the jury that Hays had said it was "a pretty sight."

Hays, acting as his own lawyer, calls O'Connor a liar. He says he had no knowledge of any plans to kill Michael Donald—and that anybody who says anything to the contrary is lying.

"I have never in my life heard anybody talk about a hanging," he tells the jury. He says lynching talk was a "no-no" during klan meetings. And, Bennie Hays says, Henry, his convicted son, still maintains that he is innocent.

As both sides wind up their cases, Tiger Knowles summons Morris Dees to his jail cell. Although he has been testifying for the plaintiffs, Tiger is a defendant—and he wants to offer a closing statement of his own.

"Say what you feel," Dees counsels.

When court resumes, Tiger Knowles, one of the killers of Michael Donald, stands in front of the jury box.

He won't take long, he says. He knows people have tried to discredit his testimony, but everything he has spoken is true. "I've lost my family, and I've got people after me," he says. "I was acting as a klansman. I hope people learn from my mistakes, learn what it cost me."

He turns to the jurors, "Return a verdict against me," he says, beginning to shake, "and everything else."

Then he turns to Beulah Mae Donald. He pauses.

He is in prison for life—but he is alive. Her son is dead. Trembling, then sobbing, Tiger Knowles apologizes. Jurors are crying, Judge Alex T. Howard, Jr., wipes his eyes. Tiger tells Beulah Mae Donald that he has nothing to pay her, but if it takes the rest of his life to make amends, he will—for any comfort it may bring. As for her son, he says, "God knows, if I could trade places with him, I would."

Softly, from her chair, Beulah Mae Donald forgives him.

The members of the jury deliberate for four hours. In the end, they award her $7 million.

The klan cannot pay. It has nowhere near that kind of money. So, in addition to a quarter of the wages some of the klansmen will earn for the rest of their lives, and in addition to Titan Bernie Hays' house and farm, Beulah Mae Donald accepts every penny of the several thousand dollars that the United Klans of America has to its name—and the deed and keys to its national headquarters.

She shuts it down.

Before, during and after victory, retribution from the klan and other white racists is a worry for Dees and his staff—sometimes a big one.

One night in the summer of 1983, a man stops his pickup on South McDonough Street, not far from an entrance to the Montgomery city sewer system. Two younger men step out of the truck. Silently they drop down into the sewer, out of sight.

The older man drives off.

He is Joe Garner, 37, a convenience store operator. The younger men are Tommy Downs and Charles (Dink) Bailey, both 20, who rent a room from Garner behind one of his stores, out in the county near Snowdoun. Besides being their landlord, Garner has become an influence on their lives.

For their mission of the moment, Garner has given Downs and Bailey a flashlight, a pair of brown gloves, some silver duct tape, a garden sprayer and a container of gasoline. They carry these items, in an old canvas bag, down into the sewer. One block north, on Hull Street, they climb out of the sewer and slip along Hull to the Southern Poverty Law Center. They dash into some bushes in back.

Earlier the same evening, Morris Dees has returned to the law center from northern Alabama, where he gave federal investigators evidence against members of the Invisible Empire, Knights of the Ku Klux Klan. This particular arm of the klan had attacked the president of the Southern Christian Leadership Conference and other blacks during a civil-rights march in Decatur, and Dees' evidence—including the identities of many of the assailants—eventually will lead to the conviction of several klansmen, including a former grand wizard.

After the criminal trial, Dees will sue the Invisible Empire, Knights of the Ku Klux Klan, winning an $11,500 settlement for the marchers and a ban against further harassment. And—more galling still—he will win a court decree ordering seven klan members to sit down with civil-rights leaders, who will teach them race relations.

Hours before Tommy Downs and Dink Bailey arrive at the law center, Dees and his investigators have locked the front door and gone home.

Tommy Downs eases out of the bushes. By his signed account to investigators, he sticks some of the duct tape to a back window, then taps along the tape with a tire tool. The glass cracks silently under the tape, and he lifts it out.

He runs back to the bushes and listens for a burglar alarm. There is none. Someone has forgotten to set it.

Downs fills the sprayer with gasoline. Then he slips through the broken window. With Dink Bailey standing guard outside, Downs sprays the carpet with gasoline. He sprays around the desks and around the filing cabinets, then opens a few drawers and sprays inside. He lights the gasoline—and crawls back outside.

Downs and Bailey run along Hull Street and climb back down into the sewer. They wait.

A smoke detector alerts the fire department. From an opening in the sewer, Downs and Bailey watch as fire trucks and police arrive. Then they duck down and make their escape.

At the law center, the gasoline vaporizes quickly, and the fire follows the vapor straight up. It scorches the carpeting and the file cabinets and causes $140,000 worth of damage to the walls, frame and ceiling. But virtually all of Dees' evidence against the klan—in the file drawers—survives.

When Dees arrives, the fire is still burning. On the wall, the law center clock is melted to a halt: 3:48 a.m.

Morris Dees has a hunch.

About a month before, he remembers, he had summoned Joe Garner to the law center for a deposition in the Decatur case. Garner had denied being a klan member—but Joe Garner sounded like someone who might carry a grudge, even against being questioned.

Dees checks into Garner's background—and into the past of his two renters. He discovers that when Tommy Downs moved from a previous address, he left behind a certificate that declared him to be a member of the klan. And the klan certificate is signed by none other than Joe Garner.

Within weeks, a law center investigator finds, a photo showing Tommy Downs marching at a klan rally—and Joe Garner marching in front of him. Both are wearing klan robes. On the arm of Garner's robe, just above the wrist, are the stripes of an exalted cyclops.

Dees brings the certificate and the photo to the Montgomery County district attorney.

The district attorney summons Tommy Downs before a grand jury and points out that lying could mean jail for perjury. Downs begins to cry. He confesses that he torched the Southern Poverty Law Center. It was Joe Garner, he says, who wanted it done—to destroy all of Dees' evidence against the Ku Klux Klan. And Tommy Downs reveals that Joe Garner has more in mind.

He wants to blow up downtown Montgomery.

Civil-rights leaders are planning a march. Downs says Garner wants to plant dynamite in the sewers beneath the streets—and touch it off as the civil-rights leaders pass overhead. The district attorney investigates—and finds 123 7-ounce sticks of dynamite and 8 pounds of plastic explosive. That, says a bomb expert with the Alabama Department of Public Safety, is enough to destroy an entire city block.

In addition, Downs says, Garner wants to set explosives on Morris Dees' car and blow it up one day when Dees drives to work.

The authorities arrest Joe Garner. He, Downs and Bailey plead guilty to a variety of state and federal charges. Joe Garner is sent to federal prison for 15 years. Downs and Bailey get lesser sentences.

Often, retribution is aimed solely at Morris Dees.

In one of his early fights, he wins a court order ending harassment of Vietnamese fishermen along the Texas Gulf Coast. The order is against a group of Texas fishermen—and a band of klansmen headed by Louis Beam, the Texas grand dragon of the Knights of the Ku Klux Klan.

Worse for the Knights, Dees wins a second court order that disbands Beam's Texas Emergency Reserve—a group of paramilitary klansmen organized into what amounts to a private army. During the legal proceedings, Beam calls Morris Dees an Antichrist Jew and holds out a Bible and cross to exorcise his demons.

And Louis Beam never forgets his humiliating defeat.

He leaves Texas and goes to Hayden Lake, Ida., where Richard Butler heads the Aryan Nations, an umbrella group of hard-core white racists. From Hayden Lake, Louis Beam writes to Dees and challenges him to a "dual [sic] to the death—you against me. . . .

"If you are the base, despicable, lowdown, vile poltroon I think you are—you will of course decline, in which case my original supposition will have been proven correct, and your lack of character verified . . ." Beam writes, "Your mother—think of her, why I can just see her now, her heart just bursting with pride as you, for the first time in your life, exhibit the qualities of a man and march off to the field of honor. (Every mother has a right to be proud of her son once). . . ."

When he gets no reply, Beam goes to Montgomery. He meets with Joe Garner, who has just come under investigation for the law center fire. An FBI report, recounting an agent's interview with Garner, says that Beam tells Garner he thinks Dees is "scum."

According to the report, Garner introduces Beam to one of Dees' cousins—who does not like Morris Dees and shows Beam where Dees lives. The report says Beam videotapes Dees' property, including details of his home. Then Beam talks his way into the lobby of the Southern Poverty Law Center. An investigator throws him out.

At about the same time, another white supremacist who frequents the Aryan Nations compound in Idaho takes up what is now becoming a growing cause: killing Morris Dees.

He is Robert Mathews, who organized the Order, which seeks to wrest large portions of the United States away from its "Zionist Occupied Government," and to establish a nation for whites only. The Order has in mind banning all other races, whom it calls "God's mistakes"—and it wants to kill all Jews, whom it considers the seed of Satan.

Mathews formulates six steps to accomplish this. Step Five is the assassination of "racial enemies"—and Dees in at the top of Mathews' hit list.

After a stop in Denver, where he and his men kill Alan Berg, a radio talk-show host who likes to bait racists, Mathews heads south. A resident of Birmingham who belongs to the Aryan Nations says Mathews asks him to gather all the information he can on Dees—but he refuses because he does not want to become involved.

Finally, Mathews tries to send a confederate, who is actually an FBI informant, south to finish Dees off.

The informant says that Mathews orders him "to kidnap [Dees], torture him, get information out of him, kill him, then bury him in the ground and put lye on it."

Within days, the FBI surrounds Mathews' hide-out on Whidbey Island in Puget Sound in Washington state. The FBI wants Mathews for a variety of crimes that include the slaying of Alan Berg and the $3.8 million robbery of a Brinks truck to finance the Order's incipient white racist revolution.

On Whidbey Island, Mathews and the FBI shoot it out. Night falls. It is a standoff. FBI agents fire flares. The flares ignite Mathews' house, and he is burned to death.

One of the last of his men to be captured is Bruce Pierce, fingered by others as the Alan Berg triggerman.

FBI agents arrest him in Rossville, Ga. In his van, the agents find cash, weapons and several news articles, including one about Morris Dees.

The next day, agents stop Pierce's wife. She is in Dees' state—Alabama. In her trailer, the FBI finds nine weapons and several books:

"Hit Men: A Technical Manual for Independent Contractors."

"Assassination: Theory and Practice."

Volume 1–5 of "How to Kill."

In August, 1989, the FBI opens an investigation into information from Georgia that some klansmen are yet again plotting to kill Morris Dees.

The information comes as Dees takes legal steps to collect a judgment he won for 75 civil-rights marchers attacked by the klan in Forsyth County, Ga., two years ago.

The judgment totaled $1 million. It was a crushing blow to both the Invisible Empire and the Southern White Knights.

"We think," Dees says, "it got them riled up."

More people are likely to get riled up as Morris Dees moves against Tom Metzger and his White Aryan Resistance.

Metzger, 51, is a one-time member of the John Birch Society who became the California grand dragon of the Knights of the Ku Klux Klan. As a klansman, he ran for Congress in 1960 from California's 43rd District. It reaches across northern and eastern San Diego County, Imperial County and part of Riverside County.

In the 1980 primary election, Metzger attracted 33,071 vote—enough to win the district's Democratic congressional nomination.

Although he ultimately got swamped, his primary election success gave him what he called "great exposure." In 1982, he ran unsuccessfully for the U.S. Senate—then founded the White Aryan Resistance.

Today Tom Metzger, a TV repairman, runs the White Aryan Resistance from Fallbrook, in San Diego County. He is the host of "Race and Reason," a TV interview program available to subscribers on more than 50 cable systems in at least a dozen states. The White Aryan Resistance publishes a newspaper. Metzger is linked by computer to white supremacists across the nation.

Like members of the Order, Metzger has held to racist tenets over the years, including the belief that non-whites are "God's mistakes" and that Jews are the progency of Satan.

Metzger has a 21-year-old son, John, who heads his youth recruitment. John Metzger runs an organization known as the White Student Union, the Aryan Youth Movement, the WAR Youth or the WAR Skins.

As the latter name implies, the Metzgers are hospitable to skinheads, young thugs who shave their skulls and favor military-style clothing. Skinheads strut about in heavy boots with steel toes, known as Doc Martens—and they sometimes carry clubs. Often the clubs are baseball bats. Tom Metzger supplies the skinheads with his White Aryan Resistance newspaper. Its comics feature the killing of blacks and Jews.

In a lawsuit filed in October, Dees and lawyers for the Anti-Defamation League of B'nai B'rith accuse Tom and John Metzger of sending agents to Portland, Ore., to organize and guide a particular group of skinheads called the East Side White Pride. "The agents reported regularly to . . . [the Metzgers] concerning their organizing efforts," the suit says. "The agents also urged . . . [the skinheads] to call . . . Tom Metzger's telephone hot line to receive aid, encouragement and direction."

One night a year ago, the suit says, Metzger's agents and the East Side White Pride held an organizational meeting of particular interest. "At that meeting," according to the suit, "the agents . . . in accordance with the [Metzgers] directions . . . encouraged members of the East Side White Pride to commit violent acts against blacks."

And on that same night, in southeast Portland, two friends drop off Mulugeta Seraw, 28, a black Ethiopian immigrant, in front of his apartment.

It is 1:30 a.m. Seraw works for Avis Rent-A-Car at the Portland airport. He sends money home to his parents, a son and five brothers and sisters in Ethiopia, where he hopes to return after attending Portland State University. Mulugeta Seraw goes to work at 7 a.m. Bedtime is long past.

He does not make it to his door.

Three skinheads attack him. One has a baseball bat.

Mulugeta Seraw's two friends, also black jump from their car. They are beaten back.

"Kick them!" scream two teen-age girls, watching nearby. "Kill them!"

Three minutes later, Seraw is lying in the street, bleeding, broken.

Neighbors call the police. Mulugeta Seraw is taken to a hospital. Doctors pronounce him dead.

Working with descriptions provided by witnesses, police track down Kenneth Mieske, 23, a performer of "hate metal" rock music who uses the name Ken Death; Kyle Brewster, 19, and Steven Strasser, 20. All are members of the East Side White Pride.

Mieske pleads guilty to murder and Brewster and Strasser to manslaughter. Mieske gets a life sentence, which carries mandatory imprisonment of 20 years. Brewster gets a 20-year sentence, with a minimum of 10 years' imprisonment. Strasser plea-bargains for a sentence of 9 to 20 years.

In their lawsuit, filed on behalf of Mulugeta Seraw's uncle, Engedaw Berhanu, who is the executor of his estate, Dees and the Anti-Defamation League charge the Metzgers, their White Aryan Resistance and skinheads Mieske and Brewster with wrongful death and conspiracy to violate Seraw's civil rights.

"The actions of the Oregon defendants in attacking Seraw were undertaken pursuant to the custom and practice of the defendant WAR of pursuing its racist goals through violent means," the suit says. Moreover, it says, the actions were undertaken "with the encouragement and substantial assistance of the California defendants."

Without specifying an amount, Dees and the Anti-Defamation League ask for punitive and compensatory damages to punish the Metzgers and to deter "further outrageous conduct of this kind."

Legally, this lawsuit is similar to the lawsuit in which Beulah Mae Donald won the last pennies in the coffers of the United Klans of America and the keys to its headquarters. And this is just what Morris Dees and the ADL have in mind.

But unlike the United Klans of America, Tom Metzger says, he will win. "They lost more because of the UKA's incompetence than anything else," Metzger says. "And because the UKA failed to appeal.

"There is absolutely no basis for this suit," Metzger says. "I don't have agents. We are not into telling anybody to go down out on the streets and get anybody and beat on them. Anybody who says that my son or I have said that is lying."

About his chief adversary, Metzger says: "Morris Dees is a clever fellow, and he's had some success. So we don't take this lightly.

"But I am not exactly a pushover, either."

For his efforts. Morris Dees gets awards—from civil-rights groups, Common Cause, bar associations and the like. But he also gets criticism—from writers in magazines such as the Progressive and the Other Side, a liberal publication that prints a giver's guide to charitable foundations.

The criticism focuses on the Southern Poverty Law Centers focuses on the Southern Poverty Law Center's $27-million endowment and its $3-million annual budget. The center has a stylish new building. Wags call it the Poverty Place. When Dees and the center attack racists, these critics say, they attack a foe who is no longer an important threat—but they do it anyway to improve donors and make the center's endowment grow.

Dees makes no apology for resources. It takes money, he says, to win lawsuits—and to provide the security that the center and its four lawyers need.

And certainly, Dees says, the klan is not the threat it once was. His own experts at the law center say that klan membership is down to one of its lowest levels in history. Credit goes to good times economically. In bad times, poor whites tend to take out their frustrations on blacks. Credit also goes, the experts say, to police work—as well as to antiklan groups.

So why does Morris Dees keep on doing what he does?

He is a multimillionaires. He does not need his law center salary of $79,600—more than what many of the 35 members of his staff earn, but less than the six-figure salary his top staff attorney makes.

Why does he keep putting himself in bam's way?

He leans back, crosses a sockless loafer over one knee and pauses.

First, the threat of racist terror may have eased some, but it has not ended. "If you don't think skinheads are any threat, then go ask the Seraws if their son is alive."

Second, he has always liked a good fight, "I've had my ass whipped, and I've whipped a few. . . . We absolutely take no prisoners. When we get into a legal fight, we go all the way. . . . Ever since I've been a kid, I've always liked a good challenge."

Third, although he was raised a Baptist, he feels a kinship with Jews. "My middle name is Seligman, and my family may have some Jewish connections. . . . You know, years ago, nobody took the threat to the Jews seriously. I am not saying that Louis Bearn and his crowd will duplicate what happened in Nazi Germany. I would think that this country is quite different. But I do see it as just a personal responsibility to do what I can to stop just a little bit of this happening right here. . . . And with the legal training I've got and what we've put together here, we're in a unique position to do it. . . .

Like Morris, Dees daddy, when he took Perry Lee's hoe. . . .

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I yield 7 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator is recognized.

Mr. EXON. Mr. President, I am pleased to be an original cosponsor and leading Democratic advocate for the Dole amendment to limit punitive damage awards in civil liability cases.

As a former small business person, I understand the need for businesses to plan for contingent liabilities. The litigation explosion since the 1970's when I left the private sector and entered public life has made the job of running a small business more difficult today than it was when my wife and I started our own successful small business. The Dole amendment will restore some degree of certainty to business, personal and charitable risk management and planning; all of which help facilitate commerce in this great Nation.

Punitive damages are a wild card in today's legal system. These awards are unpredictable, unrelated to the level of harm caused by a defendant and potentially they are unlimited. A particular injury, a particular lawyer, and a particular jurisdiction can mean a big recovery for the plaintiff and his lawyer and the end of business for the unlucky defendant.

The real cost of the current system is not only measured in the number of punitive awards won, but also the legal cost of defending against such suits, as well as the increased insurance and product costs for all Americans.

Certainly, no one wants to create a legal system which will encourage wrongdoing or careless behavior. The problem is that the relationship between punitive damage awards and safe behavior is not proven. One could argue that the current punitive damages system creates a bounty for the litigators to hunt for the right combination of facts, law, jury, and injury.

This uncertainty has led honest business people to settle even unworthy cases in order to avoid risking a spin at litigation and the roulette wheel mentality that goes with it.

The greatest expense of the current uncertainty is the contempt it generates from average citizens. They hear about unexplainable cases involving cups of hot coffee, or spilled milk shakes and their faith in the legal system is shaken. Our hallowed courts could some day take on the image of a legal casino.

A handful of States, including the State of Nebraska, do not even permit punitive damages. In the State of Nebraska the total absence of punitive damages has not created an unsafe environment or careless manufacturers or increased wrongful conduct. What the State of Nebraska does have are insurance rates which are more affordable to all citizens.

Under the Dole amendment, States which want to keep punitive damages can continue to have such a system, if that is their will. In those States, punitive damages would simply need to be related to the actual compensatory damages suffered by an injured party. Nothing in this amendment would require States to adopt punitive damage systems.

Mr. President, I am pleased to cosponsor and support the Dole amendment. To those who predict the end of American jurisprudence, I say come to Nebraska, Washington, or other States where punitive damages are not part of the State's legal system. You will see a high quality of life, affordable cost of living, and court systems a little less jammed with frivolous lawsuits.

Although not as dramatic as the course chosen by the State of Nebraska, I am confident that the Dole amendment is a step in the right direction to restore a degree of confidence and predictability to our legal system.

I thank the Chair. I thank my friend from Washington for yielding. I yield any remaining time of the 7 minutes originally allotted to this Senator.

Mr. GORTON. Mr. President, I yield 5 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to pay tribute to the distinguished Senator from Nebraska for his fine statement and for his support of this amendment on this floor. I think many people in this country are grateful for his leadership in this matter.

Let me spend a few seconds on some of the comments made by one of my dear friends, Senator HEFLIN, when he was here. He made reference to what evidence may be inadmissible in the compensatory damages phase of the trial.

It must be emphasized that the evidentiary restrictions on the Dole-Exon-Hatch amendment are based on State law. The relevant language is section 107(d)(1).

> Evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be admissible to determine whether compensatory damages are to be awarded. Whether particular evidence is admissible or inadmissible, therefore, depends on the facts of the case and the law of the State in which the action is brought. Moreover, if evidence is relevant only to punitive damages, there is no reason to object to excluding it in the compensatory damages case, and indeed such exclusion accords with the traditional rule . . . that irrelevant evidence is inadmissible.

I must mention that bifurcated proceedings in punitive damages cases are required or permitted under current law in almost all jurisdictions that permit claims for punitive damages.

Let me turn to the Dole-Exon-Hatch amendment. Naturally, I support this amendment. It is an amendment worthy of adoption. Unlike the Dole amendment, several other amendments have been offered that, in my view, weaken our efforts to reform punitive damages abuses. Thus, I cannot support those weakening amendments such as an amendment to remove limits on the award of punitive damages.

Yesterday I came to the floor and spoke at length about curbing the abuses in our punitive damages laws and the need for meaningful reform in this area. I would like to consider another example of out of control punitive damages and their impact. Consider the case of *Sherridan* v. *Northwest Mutual Life Insurance*, 630 So. 2d 384 (Ala. 1993). The insurance company in this case undertook a background check and numerous interviews of a person who became an agent for the company.

Moreover, in that case, the company, once it became aware that its agent had defrauded some policyholders, arguably did everything it could to rectify the situation. In fact, it was Northwestern Mutual that first notified the plaintiffs that payments made to an agent to pay for life insurance premiums were retained by him. The agent fled after he was confronted by the company. The company then offered to refund money with 10-percent interest and to reimburse them for any fees and expenses they may incur related to the money taken by their agent. The company appeared to do everything it possibly could do to make the victims whole for any and all loss.

Despite their effort to screen out wayward job applicants and a good faith effort to resolve this most unfortunate incident, the company was ultimately sued for compensatory and punitive damages. I should also mention that the policyholders, owners of a small business, whose original loss was $9,000, were the only policyholders out of 40 who held out and sued, rather than settle the case. Reportedly, at trial there were many repeated and exaggerated references to the wealth of the company, yet the jury was not allowed to hear of Northwestern Mutual's efforts to resolve the claim.

The Alabama jury—again an Alabama case, a State where tort law seems to be running out of control—awarded the plaintiff $400,000 in compensatory damages and $26 million in punitive damages. The Alabama Supreme Court reduced the punitive award to $13 million.

So they have the award. They are prone to do this.

Now let us think seriously about this case. The owners of a small automotive business were defrauded of $9,000 and, in response, the courts turned these individuals into multimillionaires. How anyone can defend a system that would allow such an injustice is beyond me. It really requires some world class rationalization.

Our legal system is in danger of losing all credibility in the eyes of the public as an institution where justice is served. It is unfair to American business, to American consumers, and the American public. Look. The people who are benefiting primarily by these types of outrageous awards and by the lack of restraint in this area are attorneys. Not all attorneys, however, should not be maligned because of these abuses by a few trial lawyers. Our profession is being hurt by trial lawyers who want to win it all at all costs, who will win at all costs, who are buying judges, who are influencing judges by contributions and who literally are denigrating the whole legal profession.

A competent lawyer can still win big damage awards by getting good economic damage awards and good noneconomic damage awards. A good lawyer does not need to allege and recover punitive damages to serve his client well. In fact, when I practiced law up to 19 years ago, we used to get big awards for both economic and noneconomic losses.

Let me just say this: There is plenty of room to recover a significant damage award by arguing persuasively and doing a competent job as a trial attorney. We do not need to have runaway juries and runaway courts of law and runaway attorneys upping runaway punitive damage awards. These abuses are what we are trying to correct here through our amendment. Punitive damages needs to be corrected because our country is being dislocated by these out-of-control approaches to the law.

So I hope that our colleagues will vote down some of these amendments. I hope that they will vote for this Dole-Exon-Hatch punitive damages amendment. I think that it will correct some of the difficulties of our current system, while at the same time provide for a continuation of good, fair, reasonable laws in our country.

Keep in mind, this judgment affects policy holders and insurance rates throughout the country, not just in one state. While this case arose in Alabama, the cost of these excessive judgments are passed on to all its customers throughout the United States.

Moreover, the very fact that a jury could award such an outrageous amount of punitive damages cannot go unnoticed by those who make and sell goods and services in this country. An award like this adds to the overall litigation climate in this country. It fuels the understandable perception that the system is a lottery with more and more jackpots. And those who can get socked with such awards by run away juries have to take that into account as they price their goods and services—to the detriment of consumers.

Mr. President, I have heard a number of my colleagues who are opposed to punitive damage reform claim that there is no increase in reported punitive damage awards, and thus no need for reform. The figure they repeatedly cite is a figure from one study that found 355 punitive damage awards granted by juries in product liability cases in the period 1965–90. On that basis, they claim that there is no problem with punitive damages in this country and that, consequently, no legislative solution is required.

This could not be further from the truth. I have been well aware of that study, as have many others. However, what I have learned in studying punitive damages, and in listing to experts testify at hearings I chaired in the Judiciary Committee is that no one has a precise handle on the number of these awards. That data is simply not available. In fact, those who cite to the study seem to have missed an enlightening statement on the second page of that study. On that page, it is acknowledged:

> The actual number of punitive damage awards in product liability litigation is unknown and possibly unknowable because no comprehensible reporting system exists. [See Michael Rustad, "Demystifying Punitive Damages in Product Liability Cases" (1992), at p. 2.]

In addition, testimony in the Judiciary Committee by Victor Schwartz indicated that other research demonstrated that, in just 5 States since 1990, 411 jury verdicts have awarded punitive damages. Punitive damage awards are certainly more frequent than opponents of this measure are willing to admit. And, of course, the Dole amendment covers all civil actions. There have also been a number of punitive damages awards outside the product liability context.

Perhaps what is by far the most important factor to keep in mind, however, is that excessive punitive damage awards have a harmful effect regardless of the number of reported cases on punitive damages. The number of reported cases bears no relationship to the detrimental impact of punitive damages because most cases are settled before trial. A mere demand for punitive damages in a case raises the settlement value of the underlying case and delay settlement.

The end result is that plaintiffs' trial lawyers begin to include exorbitant requests for punitive damages in the most routine cases. Data presented to the Judiciary Committee by Prof. George Priest, of Yale Law School, showed that in certain counties in Alabama between 70 and 80 percent of all tort cases filed include a claim for punitive damages. Unfortunately, using punitive damage claims as a threat in litigation is incredibly commonplace.

The allegation of punitive damages makes settlement nearly impossible because it is difficult to place a value on the claim for punitive damages. It also makes the prospect of a huge loss a real risk for defendants. That artificially inflates the cost of settlement.

Further, liability insurance costs in turn must rise. The bottom line is that these costs are passed on through the economic system, where consumers and workers ultimately pay the price. That occurs regardless of the precise number of punitive damage awards that juries in fact granted in any particular period.

I also urge my colleagues to support Senator DEWINE's amendment to offer small businesses some further protection against punitive damages. In my view, small businesses are the engine that drive our economy and provide much of our new employment opportunities. They truly deserve our support. Many small business owners are forced to live in constant fear of losing their entire investment and livelihood as a result of one lawsuit. That fear puts an enormous strain on their businesses, and more importantly, on the lives of their family members. This amendment offers our small business some modest relief from abusive claims.

Finally, I had intended to offer an amendment concerning the important issue of multiple punitive damage awards. I will pursue that issue on another day.

THE MULTIPLE PUNITIVE DAMAGES PROBLEM

Mr. HATCH. Mr. President, I rise today to discuss one of the most serious problems facing our civil justice system today—the imposition of multiple punitive damage awards against a party for the same act or course of conduct. The multiple imposition of punitive damages is simply unfair and undermines the public's confidence in our system of civil justice. Earlier this year, I introduced the Multiple Punitive Damages Fairness Act, S. 671, which addresses the fundamental unfairness of a system that allows a person to be sued again and again, sometimes in different States, for the same wrongful act. I had intended to offer the substance of my legislation as an amendment to the Products Liability Act, but have decided to withhold my amendment at this time.

Punitive damages, as we are all aware, are not awarded to compensate a victim of wrongdoing. These damages constitute punishment and an effort to deter future egregious misconduct. Punitive damage reform is not about shielding wrongdoers from liability, nor does the multiples bill prevent victims of wrongdoing from being rightfully compensated for their damages.

The people of Utah and the rest of the Nation have known for a long time that our system of awarding punitive damages is broken and in need of repair. State and Federal judges have repeatedly called upon the Congress to address this important issue. The American Bar Association House of Delegates, in a resolution approved in 1987, called for appropriate safeguards to prevent punitive damages awards "that are excessive in the aggregate for the same wrongful act." Although their recommendation suggests this action should be taken at the State level, there is no practical way to implement meaningful reform addressing multiple awards at the State level. The multiple imposition of punitive damages is one area where a Federal response is clearly justified.

Likewise, the American College of Trial Lawyers, a group comprised of both plaintiff and defense counsel, in a strongly worded report on punitive damages discussed the problems associated with the multiple imposition of punitive damages for both plaintiff and defense counsel. They wrote:

> From the Defendant's standpoint, there is a very real possibility that the punitive awards will be duplicative and therefore result in punishing the defendant more than once for the same wrongful conduct. This obviously offends basic notions of justice. Conversely, a plaintiff runs the risk that prior awards may exhaust the defendant's resources, and that, not only will there be insufficient funds from which to pay the plaintiff's punitive award, but the funds will be inadequate to pay a compensatory award.

More recently, Judge William Schwarzer, Director of the Federal Judicial Center, wrote abut the problems with multiple punitive damages. He concluded: "Congress needs to adopt legislation that creates a national solution, invoking its power over commerce. The repeated imposition of punitive damages for the same act or series on a firm engaged in interstate commerce surely constitutes a burden on interstate commerce."

Let me be very clear about what this amendment does. This amendment does not in any way affect a person's ability to be fully compensated for their economic and noneconomic damages. A plaintiff remains entirely able to recover their full compensatory damages if this amendment is enacted. Likewise, this amendment does not in any way limit the amount of punitive damages that may be awarded against a defendant.

Judge Friendly, a highly respected circuit court judge, first recognized the difficulties of the multiple imposition of punitive damages in several States in a 1967 opinion, *Roginsky* v. *Richardson-Merrell*, [378 F.2d 832 (2nd Cir.)] where he wrote:

> The legal difficulties engendered by claims for punitive damages on the part of hundreds of plaintiffs are staggering. If all recovered punitive damages in the amount here awarded these would run into the tens of millions. . . . We have the gravest difficulty in perceiving how claims for punitive damages in such a multiplicity of actions throughout the nation can be so administered as to avoid overkill.

My amendment goes to the heart of the fundamental unfairness so eloquently described by Judge Friendly.

The defendant and consumers are not the only ones hurt by excessive, multiple punitive damage awards. Ironically, other victims that the system is supposedly intended to protect, may be most seriously impacted by multiple punitive damage awards that precede their case. Funds that might otherwise be available to compensate them for their compensatory damages can be wiped out at any early stage by excessive punitive damage awards.

As mentioned, safeguards are needed to protect these later victims against the abuses inherent in the early award of multiple punitive damages. The conflict between current litigants seeking punitive damages and potential litigants seeking merely compensatory damages was addressed in a recent case, *Edwards* v. *Armstrong World Industries*, [911 F.2d 1151 (5th Cir. 1990)]. In that case, the court reluctantly affirmed a lower court decision awarding punitive damages explained its misgivings in the decision:

> If no change occurs in our tort or constitutional law, the time will arrive when Celotex's liability for punitive damages imperils its ability to pay compensatory claims and its corporate existence. Neither the company's innocent shareholders, employees and creditors, nor future asbestos claimants will benefit from this death by attrition.

Incidently, just 1 month after Judge Jones wrote those words, Celotex, already liable for $33 million in punitive damages, and faced with a potential quarter of a billion dollars in additional punitive damages as the result of an ongoing trial involving 3,000 additional claims, in which it had been decided that punitive damages would be calculated at two times the amount of compensatory damages, Celotex filed for bankruptcy protection under chapter 11, where it remains today.

Let me give another example that illustrate several of the concerns with multiple punitive damages. The Keene Corp. also illustrates how a company can be hit with so many punitive damage suits that they eventually declare bankruptcy.

In the late 1960's, the Keene Corp. purchased a subsidiary company for $8 million. Unfortunately, the subsidiary had made thermal insulation that contained about 10 percent asbestos. When the asbestos danger came to light in 1972, Keene closed the subsidiary. The company has only sold about $15 million in products while they owned the subsidiary.

From 1972 onward, Keene has had 50 punitive damage verdicts returned against it. Most of these verdicts involve claimants who were exposed to asbestos 25 years before the Keene Corp. was formed. The Keene Corp. has paid out over $530 million in damages as a result of that purchase, much of it to lawyers, and it still faces numerous lawsuits.

Ultimately, Keene was forced into bankruptcy just last year. And, as a result, victims who might have been entitled to receive compensatory damages may be left out in the cold. Keene filed papers in every case that asked for punitive damages, calling on the courts to disallow further awards since they no longer served any deterrence value or public policy purpose.

Obviously, the multiple imposition of punitive damages for Keene's wrongful conduct served no legitimate purpose. The company had already stopped selling the alleged harmful product and the $530 million paid out in damages was surely a sufficient punishment and deterrent.

This imposition of multiple punitive damages awards in different States for the same act is an issue that can only be addressed through Federal legislation and, thus, necessitates a congressional response. State and Federal judges have no authority to address the clear inequities confronting these defendants. In *Juzwin* v. *Amtorg Trading Corp.*, [718 F. Supp. 1233, 1235 (D.N.J. 1989)], the court vacated its earlier order striking, on due process grounds, the multiple imposition of punitive damages. In arriving at this decision the court noted:

> [T]his court does not have the power or the authority to prohibit subsequent awards in other courts. . . . Until there is uniformity either through Supreme court decision or national legislation this court is powerless to fashion a remedy which will protect the due process rights of this defendant or other defendants similarly situated.

Let me remind my colleagues that it is the courts, and not just private interests, that are calling for reform of multiple punitive damages.

My legislation addresses precisely the problems inherent in a system that allows every State to punish a defendant separately for the same wrongful act or conduct. More important, it is straightforward and simple. The legislation prohibits the award of multiple punitive damages based on the same act or course of conduct for which punitive damages have already been awarded against the same defendant.

This legislation also allows some flexibility. It allows some discretion to the court to allow subsequent cases to proceed to the jury on the issue of punitive damages, if there is new and substantial evidence that justifies the imposition of additional such damages, or if the first award was inadequate to punish and deter the defendant or others.

Under the first exception, if the court determines in a pretrial hearing that the claimant will offer new and substantial evidence of previously undiscovered, additional wrongful behavior arising out of the same course of conduct on the part of the defendant, other than injury to the claimant, the court may let the jury decide to award punitive damages.

The second exception included in this amendment was not contained in S. 671. This exception gives the court discretion to determine in a pre-trial proceeding whether the amount of punitive damages previously imposed, was insufficient to either punish the defendant's wrongful conduct or to deter the defendant or others from similar behavior in the future. If, after a hearing, the court makes specific finding that the damages previously imposed were not sufficient to punish or deter the defendant or others, the court may permit the jury to make an additional award of punitive damages. In both instances, the judge will deduct the amount of the prior award from the award in this subsequent case.

Moreover, my legislation will not preempt State law where a State prescribes the precise amount of punitive damages to be awarded. Thus, if a State desires to fix the amount of punitive damages for a specific egregious act, they may do so under my amendment. Likewise if a State desires to make an award of punitive damages proportional to the compensatory damages awarded, they may do so through State legislation. This provision is intended to preserve the discretion of States to legislate on this aspect of punitive damages in this limited fashion.

Finally, my legislation makes it clear that a defendant's act includes a single wrongful action or a course of conduct by the defendant affecting a number of persons. In applying this act, the phrase "act or course of conduct" should be interpreted consist6ent with our legislative objective of eliminating multiple punishment for what is essentially the same wrongful behavior.

I have looked at the problem of multiple punitive damages for some time and have concluded that a federal response is the only way of effectively addressing this issue. My legislation is a small step in addressing the larger problem of excessive punitive damages, but a needed beginning. I hope Senators join me in supporting this important legislation. It allows the unfettered imposition of punitive damages by a jury to punish and deter those who offend our community. However, with limited exception, we punish the defendant only once for his misconduct. I believe this is a fair way to proceed on this issue.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Alabama.

Mr. HEFLIN. Madam President, how much time is remaining on our side?

The PRESIDING OFFICER. Eleven minutes.

Who yields time?

The Senator from Alabama.

Mr. HEFLIN. Madam President, again, let me address some of the things that I think have escaped the attention of people—the interrelationship with the Dole amendment and the underlying bill, the underlying Gorton substitute—which deal with the issue pertaining to the calculation on each defendant of the noneconomic damages, and then its relationship to the Snowe amendment which basically sets the cap on punitive damages at twice the noneconomic damages, and the economic damages.

The underlying bill and the Dole amendment provide for a bifurcated trial—that is, two—where punitive damages are sought. If punitive damages are sought, then any—and I read from the Dole amendment, which is the exact language as in the bill —

> . . . evidence relative only to punitive damages as determined by applicable State law shall be inadmissible in any proceedings to determine whether compensatory damages are to be awarded.

Compensatory damages include noneconomic damages so therefore you cannot prove gross negligence; you cannot prove recklessness; you cannot prove wantonness; you cannot prove intentional conduct pertaining to the compensatory damage trial. The Dole amendment includes all civil actions, including automobile accidents that I talked about. It would also include this matter of the issue pertaining to rental cars.

Take, for example, a company decides there is need of a recall of certain cars, and therefore in the recall of those cars there is an immediate danger. But they continue to lease those cars. Then, in effect, you could not prove it where you sought also punitive damages.

Now, the noneconomic damages as it relates to section 109, which is several liability for noneconomic damages, provides, and I read:

> Each defendant shall be liable only for the amount of noneconomic loss allocated to defendant in direct proportion to the percentage of responsibility.

For the harm, in other words, the percentage of fault. Therefore, if you seek punitive damages, then under the underlying bill and the Dole bill, you cannot prove in the compensatory damage lawsuit in the trial in chief those elements of fault which constitute elements that would go to the proof of punitive damages. You are precluded. It is inadmissible.

So how can you prove the percentage of fault that may rest on defendants that have been guilty of punitive damage conduct, wantonness, conscious, flagrant indifference? How can you prove that and how can there be any logical sense way of determining what the noneconomic loss is? And in its relationship here, it makes it an impossibility. Therefore, when it comes to the case, as I pointed out, of a motor vehicle, where the company knew that the man had been convicted of four drunk driving charges, two reckless driving charges, and they continued to allow him to operate and drive trucks, you could not prove any of that in the case in chief. Therefore, you could not go toward the establishment of the percentage of harm of noneconomic damages towards that defendant.

And then in the punitive damages, it can only be twice the amount that might be allocated to him in the overall situation.

So it seems to me that the relationship of this and the punitive damages, particularly with the Snowe amendment really, have so many consequences. I have just thought of a few. There are a multitude of consequences that occur relative to this matter.

So I wish to point out that this is a situation which ought to be carefully considered, and I just do not believe even the authors of the bill and the authors of the Snowe amendment recognize the dangers that they are getting into relative to these matters.

How much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes 40 seconds.

Mr. HEFLIN. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. How much time remains to my side?

The PRESIDING OFFICER. Eleven minutes 15 seconds.

Mr. GORTON. Madam President, we are discussing here several amendments dealing with the concept of punitive damages in the court systems of the United States, a healthy discussion, and it is one that I do not believe has been previously debated on the floor of the Senate in spite of the invitation to do so extended by the Supreme Court of the United States.

Before we get into any of the details, I believe it important for Members and for the public to understand the peculiar nature of punitive damages. Punitive damages by the very title are a form of punishment imposed by juries on defendants in civil litigation. All other forms of punishment under our judicial system come as a result of criminal trials, in which case defendants have a wide range of constitutional protections and very particularly have the benefit of a limitation on punishments—a series of sentences set out by statutes either in specific terms or within ranges, together with the proposition that their guilt must be proven beyond a reasonable doubt. With respect to punitive damages, not only is the standard of proof lower but there are literally no limits on the amount of punishment, the fines, the damages, which can be imposed.

I must say that I find it peculiar that any Member of the Senate defends such a system which presents to juries, without any guidance or any limitation whatsoever, the right on any basis whatsoever to award any amount of punitive damages whatsoever, without even the slightest degree of relationship to the actual compensatory damages suffered by such a defendant. Over a century and a quarter ago, a judge in a New Hampshire court said:

> The idea is wrong. It is a monstrous heresy. It is an unsightly and unhealthy excrescence deforming the symmetry of the body of the law.

We might not use exactly that language today, Madam President, but I believe that my friend, the Senator from Nebraska, was entirely correct when he pointed out that his State and mine, lacking authority for punitive damages in civil cases, do not have discernibly more negligent, more outrageous, more unreasonable people engaged in business, whether that business is in making and selling products or in providing nonprofit services. There simply is not any real indication that this form of unlimited punishment has an actual impact on the economy other than discouraging people from getting into business in the first place, from developing and marketing new products, and other than causing them to withdraw perfectly valid products from the marketplace.

More recently, the Supreme Court of the United States has taken up this issue itself and in effect has invited us to move into this field. The majority opinion in a recent case, Pacific Mutual Life Insurance Company versus Haislip, in 1990, says:

> One must concede that unlimited jury discretion, or unlimited judicial discretion for that matter, in fixing punitive damages may invite extreme results that jar one's constitutional sensibilities.

And that is exactly what the case is right now. These jar one's constitutional sensibilities.

Justice O'Connor, in a dissent in that same case, said:

> In my view, such instructions—Instructions that the jury could do whatever it thinks best.
>
> Are so fraught with uncertainty that they defy rational implementation. Instead, they encourage inconsistent and unpredictable results by inviting juries to rely on private beliefs and personal predilections. Juries are permitted to target unpopular defendants, penalize unorthodox or controversial views, and redistribute wealth. Multimillion dollar losses are inflicted on a whim. While I do not question the general legitimacy of punitive damages, I see a strong need to constrain juries with standards to restrain their discretion so that they may exercise their power wisely, not capriciously or maliciously. The Constitution requires as much.

Madam President, this bill does not abolish the concept of punitive damages. It does, however, provide some limit on the sentences which juries can impose in the way of punitive damages—a sentence not to exceed twice the total amount of all of the economic and noneconomic damages which the juries have already found. To me, that seems eminently reasonable.

And I literally fail to understand why there is such a passionate defense of a system of absolutely unlimited liability, absolutely unlimited punishment, in the American system.

One would think at the very least that the opponents would come up with alternative standards upon which to make judgments with respect to punitive damages and other limits if they do not like the limits that are here. But we have one second-degree amendment before us that, once again, says there are absolutely no limits, absolutely no limits. And the opposition to the Dole amendment is that in every case which it covers beyond those already covered by the bill there should continue to be absolutely no limits on punitive damages. Madam President, that is simply wrong.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Straight to the point in the limited time available here, Madam President, it is totally misleading to state that there is no test, to say that in criminal law, we have a test, but in civil litigation, punitive damages, there is no test whatever.

To the contrary, there is a stipulation going right straight down the line of cases that, in awarding punitive damages, Madam President, you have to look at the ability to pay. There is a listed group of tests that are included. You have to look at the willfulness. These damages have to be found on willful misconduct, and right on down the line.

I want to get right to the McDonald's case, when they say there is no limit, that these punitive damages punish.

Then in that McDonald's case, I heard the foreman of that particular jury in an interview say she thought it was a frivolous charge at first until they found out there were some 700 cases and that McDonald's had cost-factored out, on a cost-benefit basis, the hotter the coffee, the more coffee you received out of the coffee bin. So they just wrote it off. They could keep taking the 700 claims and give third-degree burns over a sixth of the body and keep them 3 weeks in the hospital and everything else.

But punitive damages were awarded in that McDonald's case for $2.7 million. The court itself reduced it to $480,000.

There are limits in every jurisdiction. And punitive damages, if you go right to the automobile cases, caused in the last 10 years 72,254,931 cars to be recalled. That is wonderful safety on the highways of America. Why? Because of punitive damages? It has been proved from the Pinto case on down in all of these automobile cases. Had it not been for the punitive damage portion of the award, none of these would be recalled because the manufacturers could put it in the cost of the car.

We have garage door openers redesigned, we have cribs withdrawn, we have Drano packaging redesigned, firefighters' respirators redesigned, Remington Mohawk rifles recalled, the production of harmful arthritis drugs ceased, charcoal briquets properly labeled, steam vaporizers redesigned, heart valves no longer produced by Bjork-Shively, hazardous lawnmowers redesigned, hotel security strengthened, surgical equipment safely redesigned. On and on down the list, punitive damages have proved their worth to society.

And to come now and say in criminal cases we have sentencing guidelines, but there are no guidelines whatever in punitive damages cases is totally misleading. In fact, they have gone to the U.S. Supreme Court and the U.S. Supreme Court has upheld in the several States the punitive damages awards that have been made.

So we go right on down each one of the cases over and over again and again and we find, for example, in the leading case to ensure that a punitive damage award is proper, one, the defendant's degree of culpability, which must be willful misconduct; two, duration of the conduct; three, defendant's awareness of concealment; four, the existence of similar past conduct; five, likelihood the award will deter the defendant or others from like conduct; six, whether the award is reasonably related to the harm likely to result.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington has 4 minutes and 30 seconds remaining.

Mr. GORTON. Was not the order for voting at 11:15?

The PRESIDING OFFICER. That was the original intent of the order. The Senator may yield back his time, if he wishes.

Mr. GORTON. This Senator can make one very, very brief comment. He finds it curious that his friend from South Carolina, who is the leading member of his party and the former chairman of the Senate Commerce Committee, on which this Senator serves, and a cosponsor or a supporter of all of the automobile safety legislation which has gone through that committee in the last 15 years, which is the primary cause of a greater safety, should ascribe all changes in safety to product liability litigation. If that is true, he and I have certainly been wasting our time on hearings on automobile safety and passing laws respecting seat belts and air bags and side impact protection and the like.

Mr. DORGAN. Madam President, will the Senator yield?

My amendment will be the first amendment voted on when we begin this series of votes. I wonder if the Senator would yield 1 minute to me.

Mr. GORTON. Do I have a little bit more than a minute remaining?

The PRESIDING OFFICER. The Senator has 2 minutes and 40 seconds remaining.

Mr. GORTON. I will finish this thought and I will yield the remainder of my time to the Senator from North Dakota.

In any event, even the Senator from South Carolina has not come up with any parallel with respect to punitive damages and the criminal code. In the criminal code, maximum sentences for all offenses right up to and including the most aggravated forms of murder are set out in the statutes, ranges on which sentences can be imposed. With respect to punitive damages, there are no such limits. This proposal in its present form has such limits tied logically enough to the amount of damages which the person has actually suffered. This is the appropriate way to go.

I yield the remainder of my time to my friend from North Dakota.

Mr. DORGAN. How much time remains?

The PRESIDING OFFICER. The Senator from North Dakota would have 1 minute and 40 seconds.

AMENDMENT NO. 619

Mr. DORGAN. Madam President, the amendment that will be voted on immediately following my 1 minute or so will be the amendment I offered that strikes the limitation or the caps on punitive damages.

I want to explain why I offered this amendment. As I do so, let me say is that I have supported the notion of product liability reform. I voted for this bill coming out of the committee, although I had a problem with this section. I likely will vote for this bill going out of the Senate with respect to product liability reform.

But the standard is that you must prove that a company, that there is clear and convincing evidence that the harm was carried out with a conscious, flagrant indifference of the safety of others. If you have proven that standard of a company that they moved forward with a conscious, flagrant indifference of the safety of others, why on Earth would you want to put a cap on punitive damages?

The whole notion of punitive damages is to punish a company that would do that. We have very few punitive damages awarded in this country. It is not a crisis. Yes, I think we should have some product liability reform, and I support that. But the bill last year that was brought to the floor of the Senate reforming the product liability laws had no cap on punitive damages; none at all. Now this year they bring a bill to the floor with this cap. This cap should be stricken.

I hope that Members of the Senate will support my amendment. Again, the standard is conscious, flagrant indifference to the safety of others. If a corporation or a company has demonstrated that, then we say to them, "By the way, when someone tries to punish you for conscious, flagrant indifference to the safety of others, we won't let them punish you very much. We will put a cap on that."

Why would we do that? That is absurd. That makes no sense. It was not done last year; it should not be done this year.

I hope Members will support my amendment to strike that cap.

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Madam President, has all time been utilized?

The PRESIDING OFFICER. All time has expired.

Mr. GORTON. Madam President, I ask unanimous consent that all votes in the stacked sequence, following the first vote, be reduced to 10 minutes in length.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. I also call for the regular order which would make the voting sequence begin with the Dorgan amendment, with one exception.

I ask unanimous consent that the Shelby amendment be the last of the second-degree amendments to the Dole amendment considered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GORTON. What is the pending business, Madam President?

The PRESIDING OFFICER. Amendment No. 619, the Dorgan amendment, will be the first amendment to be voted on.

Mr. GORTON. Madam President, I move to table the Dorgan amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 619

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 619. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dole
Domenici
Exon
Faircloth
Frist
Gorton
Gramm
Grams

Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Nunn
Pressler
Robb
Santorum
Smith
Snowe
Stevens
Thomas
Thurmond
Warner

NAYS—49

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Murray
Packwood
Pell
Pryor
Reid
Rockefeller
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Thompson
Wellstone

So the motion to lay on the table the amendment (No. 619) was agreed to.

Mr. GORTON. Madam President, I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 622

The PRESIDING OFFICER. The question is on amendment numbered 622, offered by the Senator from Ohio [Mr. DEWINE].

Mr. GORTON. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, the amendment I have offered with the distinguished Senator from Ohio [Mr. DEWINE], is extremely important for small business owners across the country. This amendment protects small businesses and other small entities with 25 employees or less from excessive punitive damage awards over $250,000. Individuals, including small businesses organized as sole proprietors, whose net worth does not exceed $500,000 would also be protected.

Let me make it clear that small business owners support requiring someone to make restitution when they cause injuries. However, under our current liability structure businesses can be bankrupted by the addition of punitive damage awards that are vastly in excess of the business' ability to pay. The result is fewer small businesses and lost job opportunities. Our amendment will not limit plaintiffs from receiving full compensation for their economic and noneconomic damages.

Mr. President, this small business punitive cap amendment will be rated by the National Federation of Independent Business as a key small business vote for the 104th Congress. This amendment is also strongly supported by the 739,000 members of the National Restaurant Association. I ask unanimous consent that letters of endorsement by the NFIB and National Restaurant Association be printed in the RECORD. I yield the floor.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, May 2, 1995.

Hon. SPENCE ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the more than 600,000 members of the National Federation of Independent Business [NFIB], I commend you for offering an amendment that would protect small business owners from excessive punitive damage awards.

Small business owners support requiring someone to make restitution when they cause injuries. However, our current liability rules can mean that businesses can be bankrupted by the addition of punitive damage awards that are vastly in excess of the business' ability to pay. Because of the potential for such an outcome, many small business owners are, in effect, forced to settle out of court. This results in higher insurance premiums, higher consumer prices, and worst of all, increased disrespect for our legal system.

Your amendment does not mean that plaintiffs will not be compensated; they will still be able to recover unlimited economic and non-economic losses. It merely means that punitive damage awards over and above actual restitution will be capped at a level that permits many small businesses to survive a lawsuit.

Thank you for offering this important common sense small business amendment. Passage of your amendment along with the underlying Dole amendment will be Key Small Business Votes for the 104th Congress.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Government Relations.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, May 3, 1995.

Hon. SPENCE ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the National Restaurant Association and the 739,000 units the foodservice industry represents, I want to express our support for your amendment providing protection for small businesses from excessive punitive damage awards.

In an industry dominated by small businesses—72% of all eating and drinking establishments have sales of $500,000 per year or less, and experience profit margins in the 3 to 5% range—an excessive damage award can force a restaurant to close its doors. This hurts not only the business owner and his/her family, but the employees and their families as well.

Everyone agrees that citizens should have the right to sue and collect reasonable compensation if they are wrongfully injured. However, common sense legal reform is needed to bring balance back into the system. Your efforts in this regard are greatly appreciated.

Again, thank you for your efforts to protect America's small businesses.

Sincerely,

ELAINE Z. GRAHAM,
Senior Director, Government Affairs.

Mr. BAUCUS. Mr. President, I want to voice my support for two amendments offered by Senator DEWINE to S. 565 that were passed by voice vote today. The first amendment places a $250,000 cap on the amount of punitive damages that can be awarded against small businesses that have a net worth of less than $500,000. The second amendment allows juries to consider a defendant's assets when determining the appropriate amount to award for punitive damages.

I oppose S. 565. I believe that this bill extends the reach of the Federal Government into an area that properly belongs to the States. And rather than slowing litigation, I believe S. 565 will create confusion and therefore more litigation. Under this bill you will have 50 different State courts interpreting the impact on this law on existing State case and statutory law. It is a result that only the lawyers will benefit by.

At the same time, I recognize just how hard small businesses struggle to stay afloat. And, I am well aware that Montana law recognizes the need to appreciate small business concerns. For example, Montana allows small companies to operate as "limited liability" companies. By doing this, small companies are able to limit their liability exposure to the amount of capital invested. Montana also requires to look at a defendant's financial resources in determining punitive damages awards.

To the extent that we are going to enact Federal legislation governing certain aspects of tort law, I believe it is important to include provisions that are specifically targeted to small businesses. For this reason, I support the DeWine amendments as offered.

Mr. GORTON. Madam President, this amendment and the next amendment have been worked out by the two managers and can be agreed to by voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 622, offered by the Senator from Ohio [Mr. DEWINE].

So the amendment (No. 622) was agreed to.

Mr. GORTON. Madam President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 623

The PRESIDING OFFICER. The question is on amendment No. 623, offered by the Senator from Ohio [Mr. DEWINE].

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 623) was agreed to.

Mr. GORTON. Madam President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 621, AS MODIFIED, TO AMENDMENT NO. 617

Mr. SHELBY. Madam President, I send to the desk a modification of the amendment I have at the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 621), as modified, is as follows:

At the appropriate place insert the following:

SEC. . LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to this section, but only during such time as the State law so provides.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Is the Shelby amendment now the pending business?

The PRESIDING OFFICER. The Shelby amendment as modified is the pending business.

Mr. GORTON. Madam President, this is worked out with the two Senators from Alabama who are opponents to the bill but who nevertheless have a legitimate question about a quirk in Alabama law. The amendment applies only to certain cases in Alabama, and is acceptable.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 621), as modified, was agreed to.

Mr. SHELBY. Madam President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 617, AS AMENDED

The PRESIDING OFFICER. The question is on the Dole amendment, No. 617, as amended.

Mr. GORTON. Has a rollcall been ordered?

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 617, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dole
Domenici
Exon
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kerrey
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Santorum
Simpson
Smith
Snowe
Stevens
Thomas
Thurmond
Warner

NAYS—49

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simon
Specter
Thompson
Wellstone

So the amendment (No. 617), as amended, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, is there now an order in which the Senator from Tennessee [Mr. THOMPSON] is to offer the next amendment?

The PRESIDING OFFICER (Mr. THOMAS). That is correct.

Under the previous order, the Senator from Tennessee is recognized.

Mr. GORTON. Mr. President, I will shortly suggest the absence of a quorum. But, Mr. President, with the cooperation of the other side of the aisle, we will seek time agreements on future amendments and will hope to stack votes on any amendments which are ready to vote for sometime late in the afternoon so Members are not called back and forth willy-nilly.

While we look for that and wait for the Senator from Tennessee, I suggest the absence of a quorum.

Mr. FORD. Mr. President, we could not understand the distinguished Senator from Washington. May we have order?

The PRESIDING OFFICER. We will have order in the Senate. The Senator is exactly right.

Will the Senator repeat his statement?

Mr. GORTON. Under the previous order, the Senator from Tennessee, who is now present, has the right to offer the next amendment. I was suggesting that we attempt to get time agreements on as many amendments as possible in the future, but at the same time, to stack votes for sometime later this afternoon, if it is possible to do so, so that again we can bring Members here for votes, perhaps more than one vote, but not interrupt their schedules every hour or so.

Mr. HEFLIN. Mr. President, might I say, before we agree to that, we would have to see what the amendments are.

Mr. GORTON. I fully agree. This is simply a suggestion. I hope it will work. If it does not, we will proceed to the regular order.

Mr. President, I see the Senator from Tennessee is present. I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. Under the order, the Senator from Tennessee has the floor.

Mr. THOMPSON. Thank you, Mr. President.

AMENDMENT NO. 618 TO AMENDMENT NO. 596

(Purpose: To limit the applicability of the uniform product liability provisions to actions brought in a Federal court under diversity jurisdiction)

Mr. THOMPSON. Mr. President, I call up an amendment numbered 618, which is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON] proposes an amendment numbered 618 to amendment No. 596.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 102(a)(1), after "commenced" insert the following: "in a Federal court pursuant to section 1332 of title 28, United States Code, or removed to a Federal court pursuant to chapter 89 of such title".

In section 102(c)(6), strike "or" at the end.

In section 102(c)(7), strike the period at the end and insert "; or".

In section 102(c), add the following new paragraph:

(8) create a cause of action or provide for jurisdiction by a Federal Court under section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

Mr. THOMPSON. Mr. President, we are now engaged in a national debate on an issue that is important to the future of this country. The issue before us essentially is should the U.S. Congress federalize certain portions of our judicial system that, up until now, have been under the province of the States? And, if so, should we make major changes or more modest ones?

I cannot think of a more important subject for us to consider than our system of justice. The judicial system is a bedrock of our free society. It must be fair. It must be perceived to be fair. Our citizens must have confidence in it. As we continue our deliberations, we must do so with the purpose in mind of striving for a system that is most likely to achieve justice in most cases. It is serious business, and our decisions should not depend upon whose favorite ox is being gored at the moment.

At the outset, I must say that we could do this process a service by refocusing the terms of this debate. It seems that we have in large part gotten off to a somewhat rocky start, and have been spending too much time arguing about which side is the most greedy and which side has contributed the most to which party's political campaigns.

Most of the literature, most of the press, and a lot of the conversation has had to do with those subjects, and it is an all-too-easy refuge for those who really do not understand the issues or who do not care and are simply trying to win the debate.

As far as the debate going on between the private interests of each side of this legislative battle, I have not noticed that either side is going against its own economic interest.

They are all sophisticated and well financed.

It seems that nowadays the debate on important issues is going the way of political campaigns: concentrating on grossly distorted anecdotes, sound bites, and 30-second commercials designed to appeal to ignorance and emotion. That is fine for the contestants in this matter to engage in if they choose to do so, but this body has a duty and a different function.

First, we need to address the issue of federalism. At the outset, I must state that I have great concern with any proposal that imposes a Federal standard in an area that has been left up to the States for 200 years. I would remind many of my Republican brethren that we ran for office and were elected last year on the basis of our strong belief that the government that is closest to the people is the best government; that Washington does not always know best; that more responsibility should be given to the States because that is where most of the creative ideas and innovations are happening. Whether it be unfunded mandates, welfare reform, or regulations that are strangling productivity, we took the stand that States and local governments should have a greater say about how people's lives are going to be run, and the Federal Government less.

People have different notions about the importance of philosophical consistency. But let there be no mistake about what we are doing if by legislative fiat we usurp significant areas of State tort law, passed by State legislators, elected in their own communities. We are going against the very fundamentals of our own philosophy which has served as our yardstick by which we measure all legislation.

In the Contract With America, every provision, in one way or another, has to do with limiting the power or authority of the Federal Government or one of its branches with regard to the States or individuals except one: the change in the legal system. That provision has nothing to do with limiting or changing the rules with regard to the Federal Government—but, rather, with the Federal Government changing the rules between two private parties, the very thing we have been so critical of in the past. I would say to my friends who are conservative in all matters except this one: If and when we are no longer in the majority, we will stand naked against our opponents as they rewrite our tort law for America to fit their wishes and constituencies because we will have lost the philosophical high ground.

It is ironic that all of this is occurring at a time when the philosophical battle that we have been fighting for so many years is finally being won. Several recent Federal court decisions, including the recent Supreme Court decision in the Lopez case, have finally begun to place some restrictions on Congress' use of the commerce clause to regulate every aspect of American life. Conservatives have been complaining for years that congressional expansion into all areas, with the acquiescence of the Federal courts, has resulted in rendering the restrictions of the commerce clause meaningless. Now the courts have let Congress know that there are limitations to Congress' authority to legislate in areas only remotely connected to interstate commerce. And yet as we won the war, we take the enemy's position. We are now the ones who seek to legislate and regulate medical procedure in every doctor's office in every small town in America. And we are the ones who now seek to legislate and regulate the fee structure between a lawyer and his client in any small town in America.

It is not as if the States have abdicated their responsibilities in this area. Many States have tougher and more restrictive laws than those advocated before this body.

Four States have no punitive damages. Some States have caps on punitive damages. Most States have gone from a preponderance of the evidence standard to a clear and convincing standard for punitives. My own State of Tennessee has a 10-year statute of repose while the products bill before us allows 20 years. And as was recently pointed out by the National Conference of State Legislatures, "Each of the 50 State legislatures, many configures by a fresh influence of Republican tort reformers, is considering some type of overhaul of the legal system."

It is not as if State legislatures wish to be relieved of the burden of dealing with the subject of tort reform. As the president of the National Conference of State Legislatures recently said:

> As you know, NCSL regards the unjustified preemption of State law as a serious issue of federalism, comparable in many ways to the issue of Federal mandates. Federal mandates erode the fiscal autonomy of States, while Federal preemption erodes the legal and regulatory authority of States. Every year Federal legislation, regulations, and court decisions preempt additional areas of State law, steadily shrinking the jurisdiction of State legislatures.
>
> NCSL opposes Federal preemption of State product liability law, strictly on federalism grounds. Tort law traditionally has been a State responsibility, and the imposition of Federal products standards into the complex context of State tort law would create confusion in State courts. Without imposing one-size-fits all Federal standards, States may act on their own initiative to reform product liability law in ways that are tailored to meet their particular needs and that fit into the context of existing State law.

However, we are told that, while all of the above may be true, the system has totally gotten out of hand. It is said that our Nation is smothering under an avalanche of litigation and frivolous lawsuits; that our legal system is nothing more than a lottery system and that the lawyers are the only ones who really win the lottery. Well let us examine all of that.

In the first place, I want to say that in any system run by human beings there are going to be abuses and miscarriages of justice and our legal system is no exception. For example, there is no question but that some frivolous lawsuits are filed. However, it should be understood by the American public there is not one thing about any of the substantive legislative proposals we have considered or will consider that will in any way diminish the possibility of frivolous law suits. No proponent of reform will argue that there is. There is simply no way to prejudge a case before it is filed. What we can do and should do is impose a penalty upon the litigants and the lawyers once a court has determined that a lawsuit is frivolous. The Brown amendment, which strengthened rule 11 in Federal cases, does that. I voted for it, and I hope it finds its way into any legislation that is finally adopted.

Also, I am convinced that some industries in some States are being hit especially hard. I am very sympathetic to those that produce products or render professional services, that provide jobs for working people, and that make the wheels go around in our economy. That is why I am working to help relieve the burden of regulation that they face and the tax burden that too often penalizes investment and productivity.

My own personal opinion is that the number of lawsuits brought in this country is too high and that it is a reflection of more serious things going on in our society.

However, nothing in the proposed legislation would cut down on the number of lawsuits, and I do not think anyone believes that it is Congress' role to place a quota on the number of lawsuits that can be filed in this country.

We have reached a point where a lot of people would support any legislation if they thought it would hurt lawyers. And there is no question that lawyers are often times their own worst enemy. My own opinion is that the profession has become too much like a business, too bottom line oriented, that lawyer advertising has hurt the profession that some of the fees being reported from Wall Street and other places over the last decade or so have caused the public's regard for the legal profession to fall dramatically. Frankly that is something that the U.S. Congress should be able to appreciate. So we have an imperfect system in an imperfect world.

However, there is another side to the story. The fact of the matter is that all things considered, the system has served up pretty well for a long period of time. Our State tort system has provided us with a form of free market regulation. Goals like achieving product safety are reached without additional and intrusive government mandates that other countries have imposed as a substitute for a tort-based compensation system.

Also, in the State courts during 1992, all tort cases amounted to 9 percent of the total civil case load. In the Federal courts, product liability claims declined by 36 percent between 1985 and 1991, when one excludes the unique case of asbestos. Since 1990, the national total of State tort filings has decreased by 2 percent. If this trend continues in the next 10 years, State courts will experience a decline of 10 percent in State tort filings. As a matter of fact, the primary cause of the surge in litigation in Federal courts has been disputes between businesses. Contract cases, which make up only one type of all commercial litigation, have increased by 232 percent over the period of 1960 through 1988.

And there is a lot going on that does not meet the eye that has to do with self regulation in a free society. Every day all over the country lawyers are telling clients that they do not have a winnable case, or that, although they have a pretty good case, the expense involved is not worth the potential recovery. You see, lawyers do not make money on frivolous lawsuits. Insurance companies learned a long time ago that paying off on frivolous cases in order to avoid potential litigation expense does not pay off. And the plaintiff lawyers know that the insurance companies will not pay extortion.

Also going on every day in this country are cases which are settled where a person was wrongfully injured and received a reasonable amount of compensation. That is most cases. They do not make the newspapers.

Also going on every day in this country are decisions by insurance companies not to settle with the plaintiff even though he is clearly entitled the recovery because he is a little guy and stretching it out for a couple of years and causing his lawyer to have to bear the burden financing the depositions and other expenses will make the plaintiff and his lawyer more amenable to a lower settlement later on. Besides, they know that they can put the settlement money to good use for that 2-year period and make money on that money. On balance, it more than makes up for their own attorneys' fees.

Also, going on quite often, are situations where a large corporate defendant is caught having committed outrageous conduct which resulted in tremendous injuries to innocent people. Often these cases are settled even before suit is filed because the plaintiffs do not want to go through a lawsuit and defendants know what might be in store for them if the plaintiffs get a mean lawyer who knows what he is doing.

This is the real world. This is the rest of the iceberg of our legal system that most people do not see. It is free market, give and take, sometimes rough and tumble, and sometimes produces injustices. But we have always believed in America that, with all its faults, the best way to resolve disputes is not at 20 paces but with a jury from the local community who hears all the facts and listens to all the witness and who is in the best position of anybody in America to decide what is justice in any particular case. Then you have a judge who passes on what the jury did and then you have at least one level of appeal to pass on what the judge did. And I can assure you—and anybody who has ever been there knows this—that you do not find much run-away emotion left by the time you get to the appellate level in most State courts.

So if we are determined to ring out the injustices that slip through the State system here at the Federal level, what are we going to replace it with?

What are we going to replace it with? A one-size-fits-all standard? One standard that would apply to mom and pop and to General Motors? One standard that would cover both the frivolous lawsuit and the lawsuits involving gross misconduct by the defendant? In our haste to correct one problem, are we not running the danger of creating greater problems?

Let me give you another example from real life. A lot of people are concerned about frivolous lawsuits against the medical profession. I share that concern. There have been good physicians wrongfully sued in this country. I think the system pretty well takes care of the problem in the end, but I regret that they have to go through that process. I am sure most of them were very displeased with me—my good friend and his supporters—when I could not go along with a $250,000 punitive cap on their exposure. I wish I could have gone along with it. But I could not. Because, not only do I have grave reservations about Congress legislating in this area, but in addition, the same cap that would legitimately and properly help them in some cases would unfairly hurt others in other cases. That is the problem with the one-size-fits all approach in Washington.

Let me tell you a little story. David and Tammy Travis from Nashville, TN, came to see me last Wednesday, April 26. They have been following this debate and they wanted to tell me about their daughter Amanda. Amanda was a 5-year-old girl who was scheduled to have a routine tonsillectomy at a medical clinic in Nashville. Amanda arrived at the clinic at 6 a.m. A nurse, not an anesthesiologist, administered the anesthesia and he administered the wrong anesthesia. Also, Amanda was hooked up to the wrong intravenous solution, as well.

The errors continued as Amanda was given demerol even though she was not complaining and was not even awake. When Amanda began throwing up blood, the nurse informed the family that this was normal. By 2 o'clock that afternoon Amanda was lethargic. The nurse told the family that a doctor wanted to keep Amanda overnight, which was represented to be normal. However, the nurse had not contacted the doctor and had made that decision herself.

Later in the afternoon, Amanda could not breathe. The short-staffed hospital had only a nurse and a sitter on duty. In fact, the nurse who administered the anesthesia was a drug addict, who subsequently died of an overdose while preparing to go into an operating room for another patient. The clinic had known that the nurse had this drug problem.

When Amanda was hooked up to emergency equipment, her head blew up like a balloon, and she began to bleed out of her mouth, as her father used his handkerchief to try to stop the flow. The nurse ran off to get more equipment to open the airways. By this point, Amanda was getting so little oxygen that Mrs. Travis pleaded that 911 be called. Someone at the clinic did call 911 and the paramedics rushed Amanda to Vanderbilt Hospital. By this point, Amanda was essentially dead, although the paramedics did their best to revive her.

After Amanda died, her parents were not given timely copies of her records from the clinic. Amanda's parents did, however, obtain the records from Vanderbilt. When they received the clinic's records, it was obvious that the clinic had altered the records to cover up their errors. The clinic tried to make it look like Amanda had been fine when she left the clinic, and that it was the paramedics who had messed up.

The case went to trial about 2 years after the lawsuit was brought. The Travises are people of modest means. Their lawyer, Randy Kinnard of Nashville, financed 48 depositions and other expenses out of his own pocket over the 2-year period. The case was settled during trial for $3 million, an amount that reflected the clear liability of the clinic and availability of punitive damages. The lawyer's fee, incidentally, was 30 percent.

The Travises traveled to Washington with their story even though Mrs. Travis was under doctor's orders not to travel as a result of recent knee surgery. They came to my office with Mrs. Travis in a wheelchair. The Travises have no further financial interest in any of this legislation. They simply want to ask me to try to help make sure that we did not do anything up here that would make it more likely that other parents would lose their little girls the way they did; that we did not do anything to make it more economically feasible for hospitals or large companies to hire on the cheap or to cut corners.

The question presented to me is whether or not I am going to be a part of a process that tells Tennesseans that they cannot award this family $3 million if a jury in Tennessee, after hearing all the evidence, gives them that amount, or a company, realizing that they are finally at the bar of justice, coughs up that amount. I will not be a party to that.

We had another situation in Hardeman County in rural west Tennessee a few years ago that is instructive. A chemical company contaminated the region's groundwater. Residents exhibited various forms of disease: cancer, liver damage, kidney, skin, eye and stomach ailments, and nervous, immune, and reproductive system disorders. The jury found the chemical company had knowingly and recklessly dumped the chemical waste at its landfill site, failed to make the dumping site leakproof, disregarded the warnings of contamination by one of its own senior employees, failed to warn residents or government officials of the dangers, and attempted to cover up evidence when an investigation was initiated. Residents of Hardeman County recovered $5.3 million in compensatory damages and $7.5 million in punitive damages. Do I think that Congress should tell Tennesseans that they cannot allow the jury who heard the case to award those damages? I do not.

I get the feeling that there are cross currents running through the Senate at this point in our deliberations. I believe that there is a strong and understandable feeling that we should pass some tort reform measure in this session of Congress. I think, however, that there is another feeling that we are not quite sure of what we ought to pass and we fear that we do not fully appreciate or understand the effect of what we may be about to do.

It seems to me that the responsible thing to do is to take a second and harder look at the proposals before us and try to respond to a legitimate Federal interest while resisting the temptation to federalize 200 years of State law that has undergone substantial reform and is still being reformed as we deliberate. I suggest that because of the interstate nature of the activity that there is a legitimate Federal interest in the products liability laws of this Nation. Approximately 70 percent of all manufactured goods in this country travel in interstate commerce. I believe that this is one area under consideration that would pass the commerce clause test. Furthermore, not only do the products travel in interstate commerce but the litigants in product litigation are often also interstate in nature in that they are citizens of States different than that of the manufacture, thereby creating diversity jurisdiction, and are able to avail themselves of the Federal court system. Therefore, it would seem reasonable to legislate in an area involving interstate commerce with regard to litigation involving our Federal court system.

Therefore, I am offering on behalf of myself, Senator COCHRAN, and Senator SIMON an amendment to limit the bill's application to cases in Federal court. If my amendment were adopted, and a plaintiff filed a case in Federal court under diversity of citizenship jurisdiction, this Federal legislation would govern the case. If the plaintiff filed this suit in State court, State law would control. However, if the defendant successfully removed a case filed in State court to Federal court, this Federal law would apply.

My amendment would restore the federalism that the bills currently drafted would threaten. At a time when the American people overwhelmingly believe that the Federal Government has obtained too much power at the expense of the people and the States, we should not adopt a Washington-knows-best approach to tort law.

Particularly troubling is the selective preemption H.R. 956 creates. States cannot provide less protection to defendants than the bill mandates, but States are not prohibited from providing more. It is the bill's selective preemption that guarantees that it will not produce a uniform response to a supposedly national problem. The preemptive features of the bill overlook that Americans are unique individuals. Moreover, States have their own right to determine the law that should be applied to their own special situations.

My amendment is based not only on theories of federalism, it also recognizes the enormous practical problems the bill, as currently drafted, would cause to State-Federal relations.

Because State law would still govern tort cases to the extent that the bill did not preempt it, there would be numerous questions to litigate concerning the relationship between the Federal law and existing State laws. New, different, and inconsistent interpretations of the Federal law and the State laws would result. Under the underlying bill, Federal courts of appeal would resolve these issues. Those courts, not State courts, would ultimately determine the scope and meaning of State law as it interacts with this bill. To my mind, Federal courts should be bound by State court decisions on the meaning of controlling State law. By contrast, this bill would make State courts follow Federal court interpretations of controlling State law. Such a regime turns federalism on its head.

As I previously stated, my amendment recognizes that interstate commerce is the justification for a Federal tort reform bill. And it is interstate commerce that justifies Federal court jurisdiction in cases brought by citizens of one State against citizens of another State. I believe that the commerce clause rationale of the bill corresponds precisely with the reasons underlying Federal diversity jurisdiction. Moreover, by adding this amendment, the bill would actually provide a uniform law in Federal court to resolve the tort cases to which it applies. The existing bill would not achieve that result.

Despite the claims made, no one truly knows the effect that this underlying bill will have on the ability of injured persons to recover adequate compensation for their injuries. Nor will anyone know whether competitiveness of American businesses will be enhanced or insurance premiums will fall if H.R. 956 is enacted. At the same time, the bill would displace 200 years of law based on actual experience. If the bill failed to achieve its objectives, there would be almost no means of unscrambling the federalized egg. By contrast, applying the bill only to Federal court cases would provide an opportunity to experiment. If the bill's ideas work, States can adopt these rules as their own. Potentially, a preemptive approach might then make sense. But if the bill created numerous practical problems, well-tested State law would remain undisturbed while Congress acted to fix the problems in the Federal law.

The practical effect of the amendment would be that defendants sued out of State in many instances would be able to remove their cases to Federal court and obtain the Federal rule. Defendants sued in their home State courts would not be able to remove the case to Federal court. Thus, those defendants would be governed by their State law as applied by their own State court. I believe that this is a much more sensible approach than the one now before the Senate, and one consistent with the Federal system and the Constitution.

Mr. President, we should protect the right of the States we represent to maintain their core function of crafting law designed to compensate injured persons. We should also permit Federal courts to apply Federal law to those cases that represent truly national concerns. We should certainly be careful before we displace many years of law based on experience. My amendment would accomplish all those goals. I strongly recommend its adoption.

AMENDMENT NO. 618, AS MODIFIED, TO AMENDMENT NO. 596

Mr. THOMPSON. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The Senator from Tennessee has sent up a modification. Is there objection to the modification? Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 618) as modified, is as follows:

On page 9, line 3, after "commenced" insert the following: "in a Federal court pursuant to section 1332 of title 28, United States Code, or removed to a Federal court pursuant to chapter 89 of such title".

On page 10, line 19, strike "or" at the end.

On page 11, line 4, strike the period at the end and insert "; or" and add the following new paragraph:

(8) create a cause of action or provide for jurisdiction by a Federal Court under section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

CHANGE OF VOTE

Mr. LAUTENBERG. Will the Senator yield for a unanimous-consent request? I have just a short unanimous-consent request to make.

Mr. President, on vote 139 that took place yesterday, I voted "yea." It was my intention to vote "no." It does not change the outcome of the vote in any way. I ask unanimous consent that that be recorded as a "no."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I will be very brief, I say to my friend from Washington, because I have a satellite TV feed to high school students in Illinois that is going on right now.

Mr. GORTON. This Senator simply wanted to inquire about a time agreement.

Mr. SIMON. I will be very brief.

Mr. President, I strongly support and am pleased to cosponsor this amendment. It is right in theory. It is in line particularly with the Court decision that was made the other day about guns in school. I happen to disagree with that Court decision, but that is the law of the land. But it is right practically.

What we are doing without this amendment is massively overturning two centuries of tort law and tort decisions. What this amendment says is, "Let's move a little slowly. Let's apply this in the Federal courts but not in the State courts."

So we can learn, and maybe we will want to, after we have had a little experience, apply it to the State courts. I think it is a sound amendment. I am pleased to support and cosponsor the amendment of my colleague from Tennessee.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, first, I should like to inquire of the Senator from Tennessee, and those who support his amendment, whether or not we might reach a time agreement for the disposition of this amendment.

Mr. HEFLIN. Will the Senator yield?

Mr. HOLLINGS. Not at this time.

Mr. HEFLIN. I do not think so at this time. I think we want to ask some questions and do some things and have a clearer understanding of what the Thompson amendment does. I want to engage in a colloquy at least and so forth relative to the matter. So I would think at this time we ought to know.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. GORTON. If that is the case, I obviously will defer asking for such a unanimous-consent but will hope that with support of the amendment we will agree to one. The debate will ultimately be terminated, perhaps, or at least dealt with by a motion to table. But if we can plan the afternoon and evening, it will be helpful.

Mr. EXON. Will the Senator yield for a question?

Mr. GORTON. Yes, I will.

Mr. EXON. Since there is a time deadline of 1 p.m., I would like to ask my friend from Washington whether or not there could be general agreement on the passage of an amendment that he and I have worked out with regard to product liability that I think has been cleared on both sides of the aisle. We have been trying to find an appropriate time to do that. If possible, I think we can do it in 2 or 3 minutes if we can get unanimous-consent and if that is the will of my friend from Washington, the manager of the bill.

Mr. GORTON. Parliamentary inquiry. Is the rule that all amendments must be filed or formally introduced by 1 o'clock?

The PRESIDING OFFICER. Rule XXII requires that they be filed.

Mr. GORTON. This Senator is perfectly willing to deal with the amendment of the Senator from Nebraska, with which he is familiar. I am not sure that the other Senators here are, however. So I do not know that it is cleared yet.

Mr. EXON. I thought it had been cleared.

Mr. GORTON. I suggest the Senator file it and discuss it with the principal opponents to the overall bill, and perhaps we can do it in 1 or 2 minutes. It looks to me that they do not know what it is about.

Mr. HEFLIN. Mr. President, as I understand it, he is filing it with the idea of meeting the post-cloture requirement. In the event of that, all he has to do is file it at the desk and we can do it. Is that not all he has to do is file it at the desk?

The PRESIDING OFFICER. The amendment must be timely filed to be germane.

Mr. HEFLIN. All right.

Mr. EXON. Mr. President, I will comply with the wishes of my colleagues.

Mr. HEFLIN. In order to clarify, I think if there are amendments people have, if there is no objection, I think it may be extended until 3 o'clock or something like that, if people have them. I do not know of any more I am going to file myself.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. HEFLIN. Are there any objections to that?

Mr. GORTON. Mr. President, I do not think I am authorized to make that distinction at this point. The Senator can file it right now, and then, if we settle it later, we can take it up and dispose of it promptly, which I hope will be the case.

Mr. President, I find myself in a somewhat paradoxical situation. With almost all of the remarks and policy positions presented by the Senator from Tennessee, I find myself in agreement. Yesterday, for example, I voted with him against a limit on noneconomic damages in the medical malpractice portions of this bill, at least in part for the very kind of reasons that he outlined. I also found most forceful and persuasive—having used it myself—his arguments that the strongest case for congressional legislation in this field rests in the field of product liability, because we deal, almost without exception, with products manufactured in one State, sold in interstate commerce in a national market.

I lost him, however, on the last turn—that that very forceful argument for greater uniformity in the rules under which product liability litigation was conducted therefore meant that we should apply this bill only to litigation conducted in Federal courts, whether it be product liability or presumably other forms of litigation which have now been adopted as a part of this bill. In that, I profoundly disagree with him and find it somewhat surprising that he and other good, thoughtful lawyers and former judges in this body would countenance this amendment, even if they oppose this bill overall.

Now, one set of my reasons is purely pragmatic. The other is academic and theoretical, but nonetheless vitally important, perhaps more important than the practical reasons. The practical reasons are that 95 percent of product liability cases are filed in State rather than in Federal courts. Ninety-five percent. That is not unlike the proportion of all cases in State and in Federal courts. Overwhelmingly, legal disputes are decided in State courts, not in Federal courts themselves.

So, if interstate commerce is a justification, at least for the product liability provisions of this bill, why should the rules of this bill be limited to litigation conducted in Federal courts? That is to say, 5 percent of such litigation. The interstate commerce impacts of the development, the production, the distribution, and the use of products, is not affected in the slightest by the location of the court in which disputes or problems in connection with those products arise. If the interstate commerce clause is justification for any Federal rules in this field, it is justification for such rules in State courts to exactly the same extent that it is justification for such rules in Federal courts. There simply is no difference.

The interstate commerce is not the lawsuit, it is not the litigation, Mr. President; the interstate commerce is the travel of the product, the fact that the product is produced in one place, sold in another, perhaps developed in a third and used by a particular individual in a fourth State, or maybe in 10 or 20 States if it is a movable product. If we are going to have a set of rules with respect to product liability litigation, obviously, they should apply in all courts.

Let us go beyond that. We have said that, at the present time, the distribution of these cases is approximately 95 percent to 5 percent. We also have opposition to this bill primarily on the grounds that it will make some litigation more difficult or will limit the recovery of punitive damages. So the choice now of any lawyer representing a plaintiff in any case which does not have more severe limits on this litigation than are contained in this bill will be to bring that litigation in State court. In fact, if a lawyer who has a choice between the two brought it into Federal court, that lawyer would probably be guilty of malpractice. What earthly reason would there be to bring such a case in Federal court?

So instead of 5 percent of all cases in Federal court, would it be 1 percent? Would it be less than 1 percent? For all practical purposes, it would approach zero. We would gain no experience in finding which set of rules were better by the passage of this amendment.

In fact, what we are learning with the present experimentation is some States have more product liability litigation and some have greater punitive damage awards than others do.

Now, of course, this amendment applies not only to litigation which is commenced in Federal Court but litigation which is originally commenced in the State court and removed to Federal court. And, Mr. President, to oversimplify the case, getting into the Federal court with a product liability case like this is almost always going to be based on what is called "diversity of citizenship." That is to say, the claimants, the plaintiff; in one State, the defendant is from another State, or a certain amount is in issue.

If that is the case, and the original action is brought at a State court, it can be removed by the defendant to a Federal court. This right, however, does not exist when the parties are from the same State or when there is more than one party and there is a complete and total diversity of citizenship.

Again, Mr. President, given the way in which claimant lawyers operate in these situations, always suing or almost always suing not just the manufacturer but the retailer, sometimes the wholesaler, the developer, and the like, again, almost any competent lawyer can prevent the existence of diversity jurisdiction.

Mr. President, I would predict, I think there is not much opportunity to be contradicted, we would not have 1 percent of this kind of litigation actually conducted in Federal courts if this amendment were passed. We would not get this experimentation. We would simply see to it that the relatively small handful of such lawsuits now conducted in Federal courts ended up being conducted in State courts.

Even more troubling to me, at least, Mr. President, is the proposition that this so profoundly changes the nature of diversity litigation in Federal courts, and gives such a reward to those who game the system to find the best place in which to sue, that it has been exactly the opposite role that has obtained for a minimum of 60 years in this country.

Everyone in this body now who went to law school, or were at one time in law school, is familiar with the case in the Supreme Court of the United States called Erie Railroad Co. versus Tompkins in the year 1938.

The Supreme Court, as long ago as that year, found lawyers gaming the system, figuring out if a more favorable rule of law were going to be applied in the Federal court than the State court, they would try to get in to the Federal courts.

So the Supreme Court quite wisely said "Look, you bring one of these product liability lawsuits in Federal court or remove it to Federal court, we are going to apply exactly the same legal rules that State courts in that State would apply."

So we cannot get a better deal, a more favorable law, a more favorable rule by going into Federal court. A person would get exactly the same rules. That, of course, has been the law of the country ever since. It is that Supreme Court case that this amendment would overturn.

I do not mean to say it would be unconstitutional; certainly it would be constitutional. That is simply a ruling by the Supreme Court on these relationships. But if Congress wants to create an entirely different rule, it can do so.

In fact, this Congress has always in the past followed the rule of Erie versus Tompkins. When Congress does create Federal rules of tort law—and it does in the Federal Employees Liability Act and the Federal Longshore and Harbor Workers Compensation Act, and the Merchant Marine Act—it always says that those rules are going to be applied in any court wherever it is located in which such an action is brought, so that the system cannot be gamed.

It would be utterly improper, Mr. President, to depart from that wise set of rules and to move to a system in which consciously we set up one set of rules for actions in Federal court and another completely different set of rules for actions in State courts.

Nor does anything in the bill criticized by the Senator from Tennessee on the relationship between State and Federal courts, undercut or contradict that. If I understood him correctly, the Senator from Tennessee, said that this bill would have Federal courts interpreting State law through the circuit courts of appeal. Not so.

I will read the section that has to do with that relationship from the current bill. It says, "Notwithstanding any other provision of law, any decision of a circuit court of appeals interpreting a provision of this title," that is to say, Federal law if we pass this "this title shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the Circuit Court of Appeals."

This does not change the law. This is the law right now—Federal courts have priority in the interpretation of Federal law. At least at the Supreme Court level, that determination is binding on State courts when State courts interpret Federal law.

Nothing in this section gives Federal courts of appeal the right to interpret State laws. It only gives them the right to interpret this law, assuming that we pass it, which is something in my view that we did not have this section in the bill itself.

But to return to the argument, the argument is presented very forcibly by those who do not want the Congress legislating in this entire field, who are content with 50 to 53 different jurisdictions on tort law. They have a lot of precedent on their side. This has been, by and large with the exception of certain Federal statutes, the way in which these relationships have been conducted in the past.

The impact of changes in the legal system, more litigious system, higher judgments, greater risks to research and development of products, has created an urgency, I think a sufficient urgency, to move cautiously into this field. It can certainly be properly argued as it is on the other side that, no, we should not interfere at all.

I think it is that argument that ought to be made, Mr. President, that we should not involve ourselves in these issues, that we should defeat this bill. I do not think we should do it by presenting an amendment, first, which will not have any effect because there will be so few cases brought; and, second, reverses a wise decision of the Supreme Court of almost 60 years in age designed to prevent forum shopping, by saying whatever court a person is in they will abide by the same rule which this bill is consistent and which this amendment is not.

I hope we can get on to debating the merits of the entire bill, product liability, medical malpractice, rules relating to punitive damages and the like.

As I say, the Senator from Tennessee illustrated the fact that we have a problem, that we have a problem that crosses State lines. I believe we should do something about that problem, but I would rather see Members do nothing than to totally change the relationship between the State and the Federal courts in the manner which would be accomplished by this amendment.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me, first of all, compliment the distinguished Senator from Tennessee for bringing this issue to the Senate in the form of this amendment. I think it highlights the frustration that many Members feel at this point in the consideration of this legislation.

The Senator from Washington very correctly points out that this may be an amendment on which reasonable scholars, even, could disagree in terms of its impact on this bill before the Senate.

I think it speaks to a frustration that we have seen so many amendments adopted now, and have been rejected, that seek to enlarge considerably the subject matter which was first presented to this Senate in this product liability bill.

I think it is clear that there is a sound jurisdictional basis for the Congress to legislate in this area under the commerce clause—at least that is my opinion—but it does not necessarily extend to all of the subjects that have been debated on this floor after the bill has been called up.

We have now undertaken to fully explore the Federal role in limiting or modifying or writing new rules for professional liability of physicians and others in the health care area, why not insist that there be included a title on architects and engineers who are also professionals and who are held to a higher standard of conduct because they are professionals, but they are not included.

Are we going to permit, then, the legislation to proceed and have all other professionals excluded because of this omission? Even lawyers are professionals in the view of most. I mean, they are held to the same high standard of conduct as professionals. So when they breach their duty to provide skilled and thoughtful and professional assistance for pay to some member of society, they are held liable if they breach that duty, under the standards that are written into the law, just as physicians are, or hospitals, or others. So I think what the Senator from Tennessee is pointing out is that we are out into the deep water now in an effort to comprehensively reform the civil justice system of the United States, piecemeal, on the floor of the Senate.

We have committees that have jurisdiction over some of these areas. The Labor Committee, for example, had a markup session and reported out a bill dealing with malpractice liability and reforms in that area. As I understand it, that was the basis of the amendment of the Senator from Kentucky, Senator MCCONNELL, on medical malpractice, which the Senate has now adopted.

I understand the Banking Committee also is considering reporting out legal reform legislation dealing with securities transactions where class action suits are brought against companies or brokerage houses for various alleged acts of negligence or breaches of duty to the general public with respect to the value of securities or the conduct of officers and board members with respect to running the companies in a skilled way, or at least up to that standard that is owed to the investor who might buy stock in that company.

There has developed, as I understand it, a sort of cottage industry in some legal circles of bringing these kinds of actions, and now there is a cry for reform and restraint and restrictions on those kinds of actions. The Banking Committee has taken that up. They are considering it, and I understand they are going to report out a bill. If we are going to reform comprehensively the civil justice system of this country, why not await the advice of the Banking Committee on that subject and include that as a title in this bill or some bill?

I understand the Judiciary Committee has now before it a proposal by the chairman of that committee, Senator HATCH from Utah, which includes suggestions for other reforms in the civil justice system of the country.

My concern, which is reflected in this amendment of the Senator from Tennessee, is that we have gone so far now, we need to stop and say: "Wait a minute. This is not a civil justice reform bill. It is not all-inclusive," and try to narrow the application and the scope of this legislation to something that more narrowly fits the purpose of the bill that was brought to the floor by the Commerce Committee.

This bill relates to products liability. While some of us disagree about some of the provisions—we might want to change it, amendments ought to be considered—nonetheless, it had a fairly narrow application that was firmly based upon the commerce clause of the Constitution giving the Congress the power to legislate in this area. Some of these arguments that I have heard have absolutely nothing whatsoever to do with the Federal role in our society.

When they were talking about setting the lawyers' fees in certain contingent cases, I thought back to the time when I remember organized professional groups pleading with the Congress to do something about the Federal Trade Commission because they were about to get into the fee schedules of local professional organizations. Do you remember that? Several years ago there was a great hue and cry by the—well, I am not going to name the groups. They might get more attention than they want.

But the point is, we were arguing that the Federal Trade Commission did not have anything to do with the setting of fees at the local level by professionals. That was something that was regulated by professional societies, or State laws, or other entities—not the Federal Government. And now here we are being asked to pass judgment on a fee charged by a lawyer to his client in a purely local action maybe. It does not have anything to do with the Federal Government. And the Federal Government should not have anything to do with that. If you want to read and give effect to the Constitution, that separates the Federal role from State governments' roles in these areas.

So I am troubled about where we are now. I think at some point we may have an opportunity to consider whether this bill should be modified in a way that puts it more nearly back to where it started and that is dealing with product liability rather than an effort to comprehensively fix or modify every conceivable area of civil justice procedure or substantive law that strikes a Senator in a moment of serious concern that needs to be addressed on this bill, and we have seen those amendments come up now, and I guess we will see many others.

So I again compliment the Senator from Tennessee for trying to put in perspective what we are doing here and what we ought not to be doing here.

I intend to vote for his amendment.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, we had the occasion to attend the funeral of our distinguished former colleague, Senator Stennis. Time and again the visiting Senators who had served with him talked about his wisdom. My only comment is the wisdom of that distinguished gentleman is not lost to the Senate when you hear the Senator from Mississippi, Senator COCHRAN, talk. He does talk with professionalism. He does talk of trying to act professionally with respect to a Federal legislative body, and his statement on the amendment of the distinguished Senator from Tennessee is music to my ears.

This has been sort of a run-amok situation. When the Senator from Mississippi says it is not the intent to reform the whole civil justice system, we started on product liability—that is what he thought and that is what I thought but that is not what the contract calls for. I do not want somebody to say I had gotten partisan on this thing, because I am welcoming the bipartisanship with respect to the amendment of the Senator from Tennessee. But the RNC talking points show they do not have any idea of product liability. But they do have the civil justice. The contract calls for that. And you have seen what has been provided, Senator, on the House side, which is very, very disturbing.

Right to the amendment of the Senator from Tennessee, and particularly his address, which has really been music to my ears. It is like a drink of water in the desert, because he talks professionally of the duty and responsibility here of the U.S. Congress and the Federal Government. We do not find—and I agree with the Senator from Tennessee—the need for the Federal Government to start preempting local jury trials and the handling of tort cases at the local level. So what he is saying is, to try to keep step with the theme upon which he was elected—and incidentally it has been the theme upon which I have been elected for 28 to 29 years—is that the government that is the best government—the Jeffersonian phrase most often quoted—"is that closest to the people" and the local folks decide these things.

As I have said time and again here, you have a solution looking for a problem, because product liability cases are on a diminishing scale. There is no Federal problem with respect to the lawyers' fees nationally with respect to their clients.

It is only to deter and enhance and enrich the manufacturer that we even had the Abraham-McConnell amendment. But what the Senator from Tennessee does, as I read this amendment, is sort of bring a little order out of chaos. With respect to applicability, and in diversity cases under title 18 what we have is a jurisdiction and a responsibility.

So this would apply to the provisions of this bill, and diversity only in those cases that have been removed from the State courts to the Federal system. Yes. We have in Federal court a responsibility at the Federal level. And let us apply whatever they desire, which is almost open sesame now around here. I cannot tell what the next thing is coming up. But like the sheepdog can taste the blood, they are going to gobble up all the rights of the individuals back home because all of a sudden we, who have been elected by the people back home—think the people back home have totally lost judgment. We have to tell them how, why, where, and when. You can put in this evidence but you cannot put in this.

If that is necessary, the Senator from Tennessee says, let it apply in those diversity and removal cases, and then we will have fulfilled our responsibility. I hate to talk longer on the amendment because you become identified with your position in these matters. Somebody would say—I can hear them now—"Well, HOLLINGS is for the Senator from Tennessee's amendment, you had better vote against it."

I am trying to laud the distinguished Senator from Tennessee, particularly his comments. I just listened as he went chapter and verse right down the line. That is the first address of which I had the occasion to hear the distinguished Senator from Tennessee. I listened to him through his client, Senator Howard Baker, years ago in earlier proceedings. But now he is speaking in and of himself. I find that solid. When they talk about common sense, that solid common sense is coming through with respect to this particular issue of product liability and the amendment of the Senator from Tennessee. So I heartily endorse the attention, particularly of my colleague from West Virginia, one of the leading sponsors on this bill.

When it comes down to law, yes. We have a responsibility on the Federal side—diversity and removal. And let us apply whatever everybody decides by a majority vote is necessary to occur. But let us not in the context of simplicity and uniformity come back in and jumble this whole thing into the 50 jurisdictions with the 50 different interpretations and bring it up to the Federal system for even further interpretations and appeals and say that what we have now is uniformity.

The Senator from Tennessee gives us uniformity. There is no question about it in this particular amendment. I heartily endorse his initiative and his amendment.

I hope we can sort of calm down now without all of the little amendments of interested parties. They are on a roll—you can see by the way the votes are going—to affect all civil cases with respect to punitive damages. You would never think that would occur on the floor of the U.S. Senate because punitive damages had a salutary effect in our society. All I have heard is about runaway juries and the legal system as a lottery; these catcalls you might call it. It is almost like an athletic event up here. The deliberative body is the cheerleading section. The Senator from Tennessee says let us get out of the stands, get out of the chair, and get down on the field of responsibility and act like Senators and legislate where we have that responsibility, and leave the States and the local folks to their own judgments, their own considerations.

It is not a national problem. There have been problems arising. States have treated it differently. They have all revised practically all of their product liability laws in the last 15 years. These State legislatures come up and say, "For Heaven's sake, leave us alone." They testified before the Commerce Committee. The Association of State Supreme Court Justices, a bipartisan group says,

> For Heaven's sake, let us not put this thing in where we have to take all of these words of art and interpretation in the 50 States. Leave us alone.

The American Bar Association, a bipartisan group if there ever was one, and a study group of lawyers said we studied it again. It is totally off base. We oppose this bill. Mr. President, 123 legal scholars have come forward and said now you really, in an effort to give what you call common sense or uniformity or fairness—to get the buzzwords going—what you have really done is given the highest degree of unfairness, the highest degree of complexity that you could possibly imagine. They testified. The attorneys general testified against this measure. There it is.

How do I get that over to my colleagues? Well, thank heavens. I know a lot of them would listen to the leadership of the Senator from Tennessee, and I hope they will on this particular score.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I certainly join Senator HOLLINGS with regard to the remarks that have been made by the distinguished Senator from Tennessee and the distinguished Senator from Mississippi.

The Senator from Mississippi talked about the fact that here we are really going with this, a product liability to, in effect, change all civil actions; changing the tort laws. All of a sudden, we have adopted the Dole amendment which extends to all civil actions affecting commerce. Of course, under the laws pertaining to commerce, it does not say "interstate commerce." It says "commerce." I mean some people resent the decision pertaining to the Lopez case that was handed down. But this does not say "interstate commerce." It says affecting "commerce"—the language in the Dole amendment.

I wonder, how far does this go? Of all civil actions? Civil actions, if there are civil rights cases, based on State law? Is it covered by this? Does this apply to that? If there are civil rights cases under Federal law, are they affected by this? There are so many questions that are raised. There have been, for example, longstanding railroad laws pertaining to FELA cases. Are they affected by that? There are longstanding admiralty laws which are civil cases; are they affected by these amendments? Is the Jones Act, which is another matter pertaining to seafarers, affected by this act? There are so many things that just immediately come to mind that raise concerns in my mind.

Consider, for example, the antitrust laws that are enacted by States. You have the standard of three times damages, and as the bill is now amended, it is reduced down to two times.

Economic? If there are no noneconomic damages, then it is reduced down to twice. Are we changing the antitrust laws in reducing the penalties pertaining to those?

Senator COCHRAN mentioned that here we are attempting to change all of these laws on the floor of the Senate.

I said there have been groups that have studied the tort law. There is the American Law Institute that has published the restatement of torts. They have published the restatement of a great number of various fields of law. This product liability bill, the underlying bill, has no resemblance to that study group which has over the years included defense counsel, plaintiff's counsel, professors, scholars, and people who have worked on the concept of tort law, including product liability law. But this has been written by lawyers that are interested in trying to save themselves money, and they are trying to save themselves money at the expense of injured people. And now it is being extended to all civil actions.

Now, I am not exactly sure what the Thompson amendment does, and I would like to sort of engage in a colloquy and ask the Senator some questions pertaining to it.

From what I have been able to read and in listening to my colleague speak, really the Senator's amendment, as I understand it, limits the application of the underlying bill as now amended to Federal courts only. Is that correct?

Mr. THOMPSON. That is correct, I say to the Senator.

Mr. HEFLIN. In other words, it is not controlling on actions that are tried in State courts, such as the Senator's State and such as Senator COCHRAN's State.

Mr. THOMPSON. That is correct.

Mr. HEFLIN. It does not impose any of those provisions that are in the underlying bill, as amended, upon the State of Tennessee, the State of Mississippi, the State of Alabama, the State of New York, or any other State—it does not impose those provisions on them; is that correct?

Mr. THOMPSON. That is absolutely correct.

Mr. HEFLIN. All right. Now, the provision dealing with the interpretation of the court of appeals, which is in the underlying bill, the court of appeals that might interpret a district court and the Federal courts, that decision that is made relative to the underlying bill, as amended, would not affect proceedings in a State court?

Mr. THOMPSON. Under my amendment, that is correct.

Mr. HEFLIN. As I understand it, the Senator's amendment does not create a new cause of action or a Federal cause of action. Is that correct?

Mr. THOMPSON. That is exactly correct.

Mr. HEFLIN. In other words, the Senator's amendment, in effect, says that the provisions of the underlying bill—you have provisions dealing with punitive damages; you have provisions dealing with misuse and alteration; you have standards that are created relative to punitive damages; you have provisions dealing with intoxication and defenses on that——

Mr. THOMPSON. In the medical area also.

Mr. HEFLIN. You have the biomaterials provision and all of that in the product liability bill. Are those provisions limited strictly to cases that are tried in Federal district courts?

Mr. THOMPSON. That is correct.

Mr. HEFLIN. All right. So, now, if I understand it from the Senator's speech and also Senator SIMON's speech, the Senator's idea is that this would be an experiment, in effect a pilot program for a period of time in which you would determine how it would work, and from it, State courts could use the experience. State could learn from that experience? And, of course, Congress could look at the same thing and learn from the experiences that might be contained therein; is that correct?

Mr. THOMPSON. Yes, that is correct. It occurs to me on that point that States have learned, for example, from the Federal Rules of Civil Procedure and I believe also perhaps the Federal Rules of Criminal Procedure. Federal courts adopted rules that proved to be effective, and after a period of time States like Tennessee and others adopted State rules that resemble very much or in some cases are identical to the Federal rules, because over a period of time they proved to be salutary and desirable.

Mr. HEFLIN. All right. The distinguished Senator from Tennessee, I am sure, knows of the doctrine which came out of a case in the Supreme Court called Erie versus Tompkins. Now, Erie versus Tompkins basically says that State law prevails in diversity cases and prevails in Federal cases in the event that the Federal law is not written to approach it. In other words, if there is a void in Federal law, then the concept is that State law will be followed under the doctrine of Erie versus Tompkins in the Federal courts.

Mr. THOMPSON. Yes. The Federal court can follow the substantive law of the State.

Mr. HEFLIN. The Senator is correct in regard to substantive law. So if this particular bill, as amended, is silent relative to a State law and is not preempted, then a Federal court would continue to apply State substantive law in a case brought in the Federal courts? Is that correct?

Mr. THOMPSON. That is absolutely correct. In other words, in other diversity cases not covered by the provisions of this amendment or the underlying bill, Erie would apply and the substantive law of the States as always would still apply in those cases.

Mr. HEFLIN. Basically, I have a reservation on the philosophical viewpoint. I think, No. 1, as the bill presently stands, as it is amended, the Senator's amendment is an improvement. I do have reservations as to whether or not from a philosophical viewpoint we ought to be legislating in an area that has been left to the States for many years. And so it is a question of federalism. I am in somewhat of a conflict as to whether or not I would support the Senator's amendment, and that is something I am going to think about and give a little more thought to.

Mr. THOMPSON. If I could respond to that point just a moment, I think the Senator is reflecting a conflict that is going on within a lot of us. A lot of us understand the concern of our constituencies that businesses, and so forth, have legitimate complaints. A lot of us are also concerned about this rush to judgment, where the U.S. Congress and the Federal Government are on the verge of supplanting 200 years of State law, at a time when many of us are saying in other areas, whether it be welfare reform, regulatory reform, taxes, or unfunded mandates, we are all saying get the Government out of the States' business. States are where the innovation is going on. Let them take care of themselves. So we are all engaged in that conflict.

Product liability has been discussed in the Chamber of this body for many years, long before I arrived. The Senator, I am sure, has engaged in those debates over the years. I think there is a feeling that this is an area wherein there is more justification for our involvement on the Federal level because of the inherent interstate nature of the activities. Seventy percent of all manufactured goods now travel in interstate commerce.

If I had my desire, if I could write the legislation, or I could come to the conclusion, perhaps this is not where I would be. But I see the freight train going down the tracks, and I think we at some point have a responsibility to at least try to make sure that we wind up in as good a position as we can. And for me, that is carving out an area and saying, look, if we are going to do this, let us not go all across the board. Let us not usurp all State laws across the board dealing in these areas without knowing what we are doing.

The Senator from Alabama mentioned and in 5 minutes raised a dozen questions that nobody knows the answers to. The answers will be decided through reams and reams and reams of court decisions throughout this Nation over the next several years. We will create more lawyer work than we ever dreamed of because of what is going on here.

So what I am saying is, let us take the basic part of the original underlying legislation, which has to do with products liability, which has more of an interstate nature to it than what goes on in some small law office, what goes on in some accountant's office, what goes on in some doctor's small office or any of these other areas, and couple that with the interstate nature of most of products litigation, and that is diversity cases.

Incidentally, I disagree with my distinguished colleague from Washington concerning the number of diversity cases filed in Federal courts. Last year, the Administrative Office of the U.S. Courts reported that 22,000 products cases were filed—tried or disposed of—in Federal courts. That represents approximately 45 percent of all products cases.

So, close to half of all products cases, under my amendment, would get the benefit of this new Federal rule and legislation that we are proposing. But at least we would not be, in one fell swoop, supplanting all of the State law that has been developed over 200 years.

I believe that it is justified and it makes some sense in this area and would allow us to take a deep breath and look and see what we have wrought, whether or not it is working, whether or not insurance rates are being affected, whether or not this is something that States want to emulate or something that we, as the U.S. Congress, want to backtrack on and say we made a mistake. Under this, we could unscramble the Federal egg a whole lot better than if we changed all the laws in the States, got years of decisions, new decisions based on those laws, learned that we were wrong, got a new group in the majority in this body and in the House and had them come in and impose their will and their concept of justice and respond to their clients and their constituents.

I think it would be a mess. I think we are asking for a real mess down the road. What I am trying to avoid with this amendment is that kind of result, which I think would wreak havoc with our court system in this country.

(Mr. HATCH assumed the chair.)

Mr. HEFLIN. Mr. President, the Senator keeps using the word "interstate." As I read the language that we have now adopted, it is applied in regard to punitive damages in any civil action whose subject matter affects commerce, not interstate commerce, but commerce. Actually, it seems to me that commerce is affected almost by every conceivable type of action if there is a transaction. That, to me, under this language that is now in here, makes it so broad. It affects commerce and affects that aspect of it.

Now, under the Senator's amendment, he would allow for actions that are transferred, removed from the State courts to the Federal courts. And that is what is known as a removal action.

It is my understanding today that I think we passed in the Senate some bills that would enlarge the jurisdiction. But the present jurisdiction is that if the suit is for $50,000 or less, you cannot remove it from the State court to the Federal court. So, therefore, those types of cases of a frivolous nature seeking small damages relative to this matter would stay in the State court if they are $50,000 or less. Does the Senator interpret it that way?

Mr. THOMAS. Yes, I do.

Mr. HEFLIN. Now, if you are seeking punitive damages, you are limited in the amount that you claim with regard to the removal. So, chances are, you are not going to have many punitive damage cases that are affected, since there is a limit in the amount of money that you sue for, in the removal of those small type cases. Does the Senator agree with that?

Mr. THOMPSON. I am sorry, I missed that.

Mr. HEFLIN. I was just saying that, looking at punitive damages, we look upon that as being in big figures. But if the suit is only for $50,000, then the amount that you sue for includes if you seek punitive damages and it puts a cap on it. You cannot recover more than you can sue for and if you do not sue for more than $50,000, then you stay in the State courts and it is not removable to the Federal court.

Mr. THOMPSON. I think that is correct.

Mr. HEFLIN. All right.

Now, I am not sure that I understand this provision, the last one, which is No. 8. It reads:

> In section 102(c), add the following new paragraph:
>
> (8) create a cause of action or provide for jurisdiction by a Federal Court under section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

Now, that provision in there, I believe, is in the bill that was introduced. That is to prevent saying: "Create a Federal cause of action," and therefore leaves it strictly to the preemption that is in this bill as amended and does not create a separate cause of action at the Federal courts; is that correct?

Mr. THOMPSON. That is correct.

Mr. HEFLIN. I thank the Senator. I appreciate the distinguished Senator from Tennessee responding to my questions relative to these matters. I have a better understanding relative to what his amendment attempts to do.

I might just ask him, too, in this regard, I believe if we look at the Federal law and the Federal Rules of Civil Procedure that apply, the distinction between equity and civil cases is now combined into civil cases.

So in the Federal law that we have today under the Federal Rules of Civil Procedure, cases that we used to make a distinction between—we used to have really three types of cases. You would have criminal cases, you would have civil cases, and equity cases.

But the Federal Rules of Procedure, of course, which are not affected by Erie versus Tompkins, are now combined and you have equity and civil cases in it. So, basically, under the present Dole amendment, basically what we are looking at are really two types of cases—criminal cases and civil cases.

Under this, in regard to the Dole amendment as to punitive damages, in other words, the only thing it really excludes is criminal cases. Would the Senator agree with that?

Mr. THOMPSON. That seems to be the result of it.

Mr. HEFLIN. I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I, too, share the concern of the Senator from Alabama concerning the application of the commerce clause to some of the amendments that we have already adopted. I suppose the courts will have to determine whether or not there is sufficient interstate commerce with regard to some of these matters in the future.

In response to some of the comments made by the Senator from Washington, I have already pointed out that according to the American Bar Foundation, which is an independent body, separate from the American Bar Association, that if you include all the product liability cases filed in Federal court, plus those removed to Federal court—in other words, the subject of this amendment—you have approximately 45 percent of the product liability cases that were filed last year. So this is not a situation where only a handful of cases would be brought in Federal court.

Second, the amendment which I propose is not, as it has been characterized, a killer amendment designed to oppose any kind of reform. We started off early on in this body dealing with frivolous lawsuits. The only provision in any of this debate that actually deals with frivolous lawsuits is the one Senator BROWN proposed concerning rule 11. I supported that. We need a stronger rule 11 to take care of frivolous lawsuits.

Beyond that, it would be easy enough to simply oppose any legislation because it interferes with States' legitimate rights in these areas. We are not doing that. We are trying to strengthen this and come up with something that not only will pass but will not cause us to regret our actions later. Our amendment will give us an opportunity to see whether or not these broad-range measures work in the Federal court system, which is the system that we ought to be concerned with and with which we can legitimately deal.

The question arises: Why would anybody ever file a lawsuit in Federal court anymore under the Thompson amendment? There are several reasons. For example, the underlying bill, I believe, has a 20-year statute of repose. Tennessee has a 10-year statute of repose. If it is past 10 years since the product was manufactured, you would certainly bring the case in Federal court, not State court, because you would want to get the benefit of that statute of repose.

Also, the State of Washington and other States have no punitive damages at all. A plaintiff would certainly not want to bring a case in State courts in Washington if he had an opportunity to do otherwise.

On the preemption of State law, perhaps we are just passing in the night, as far as our conversation is concerned, but the underlying bill certainly preempts State law with regard to the subject matter covered by the underlying bill. So you have a Federal circuit determining what the interpretation of that law is and then the States have to follow that Federal court interpretation of that Federal law in cases that are decided before them.

On the question of forum shopping, under the underlying bill, you could have 50 different sets of rules in 50 different States. For example, with regard to caps, they are only caps. States are free to do more restrictive things if they are within those caps. They cannot do more liberal things, as far as plaintiffs are concerned. They can do more restrictive things.

You can have 50 different sets of rules. You can have plaintiffs shopping through 50 different States in some situations under the underlying bill. At least under this amendment, there will be many cases that are properly removable to Federal court. When those cases are removed, we will have one Federal standard.

So, Mr. President, I respect my distinguished colleague from Washington and what he is trying to do in his strong fight for a products bill. I suggest to him that what we are doing here, in the long run will strengthen his efforts instead of diminish them. I certainly hope this amendment gets full consideration in this body. Thank you. I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Utah.

Mr. HATCH. Mr. President, I am proud the Senator from Tennessee is on the Judiciary Committee working with us on many issues. With regard to this amendment, I am very concerned about it because I believe this amendment would undermine much of what our tort reform efforts on the floor of the Senate really are about and undermine what we have been trying to do this week.

Senator THOMPSON's amendment, as I view it, would strictly limit the coverage of tort reform legislation and, in my opinion, would take the whole substance out of this legislation.

Only 4 to 5 percent of tort cases are filed in our Federal courts. That is still a significant number, but it is still only 4 to 5 percent. That is according to the Department of Justice figures. Thus, under the Thompson amendment, the vast majority of litigation abuses in this country would go unchecked if his amendment is adopted. Plaintiffs would be able to sue in State courts to avoid having their suits subject to the Federal law. Although in some cases defendants might be able to remove State-filed cases to Federal courts, plaintiffs' lawyers will surely plead their cases in ways to prevent removal to Federal courts. The end result is that defendants may be subjected to vastly different substantive legal standards, depending on the whims or designs of plaintiffs, and that simply is not fair.

Under the Thompson amendment, parties would be uncertain about what laws would apply to their conduct. If sued in State court, one rule would apply. If sued in Federal court, an entirely different set of laws could apply. That uncertainty will not address the harmful effects on our economy today and the harmful effects that this bill is trying to cure. For example, higher liability insurance rates have been a problem in this country for years due to abusive litigation. Under the Thompson amendment, insurance companies will not be able to significantly reduce liability insurance rates because they will have no idea what risks they are going to face. They will have no idea where businesses and other groups they insure will be sued. The rates will continue to remain high, and all of those higher rates will continue to be passed on to you and me as consumers.

So the people who really lose, if we do not pass this tort reform legislation, this product liability legislation, as amended in its current form, will be every consumer in this country. Consumer losses amount to trillions of dollars over time, and I think it is time for us to face up to these problems.

Look, I have been a trial lawyer. I have tried hundreds of cases in my legal career, many of which are cases involving torts. I have to tell you that I think much good is done by trial lawyers who try to stand up against some of the evils in society by bringing litigation with regard to torts that are committed. However, we really in this country have gone way over to one side to the point where the deck is stacked. This bill is an attempt to try to bring our laws back to the middle where people are treated fairly, where lawyers can still win their cases, where lawyers can still win substantial verdicts, but where lawyers no longer get these runaway verdicts. These runaway verdicts really are happening in this country with greater frequency.

I might add, this kind of legislation, as evidenced by the Thompson amendment, is highly unusual. It is one thing to apply different procedural rules to cases brought in Federal or State courts. It is entirely another question to apply a different substantive rule. Ever since the landmark decision in Erie versus Tompkins, it has been clear that Federal courts sitting in diversity cases apply the substantive rules of State law.

This amendment would present a striking, perhaps even unprecedented, application of a Federal law. The very same tort case would proceed in State court under one substantive law, but if removed to Federal court in the same State, because of diversity, a different substantive law would apply to it. In my view, this does not make sense.

Senator THOMPSON acknowledges that the commerce clause clearly empowers Congress to act over product liability cases. This is not an area in which Congress ought to stay its hand, because the high cost of litigation abuses cross State lines and because they are a serious problem. I personally believe this is an area in which a limited Federal solution is amply justified.

Now, I have had judges all over this country come to me and say, "You must do something about punitive damages"—from the highest courts of this land—because they try not to be activist judges and do not believe that they can resolve this problem, and it is going to take congressional enactment to do so.

In the last amendment, the Dole-Exon-Hatch amendment, we made a great effort—and it did pass—to try to resolve some of these punitive damage problems. I think that amendment will help us to get those problems resolved. If we bifurcate the system saying that amendment only applies to the Federal courts and not to the State courts, we will continue this runaway system of punitive damages that is hurting everybody in America. And in the process, we will be hurting the Federal courts as well and the right of people to go to Federal court.

As a trial lawyer, I went to both State and Federal courts on a regular basis. I have to say that I enjoyed both of them, and I found competent people in both courts. But there were areas of the law where the Federal courts were better. There were areas of the law where the State courts were better. I tried, in the interest of my clients, to do the best I could by bringing the cases, when I could, in either of the courts and made the choice.

As a trial lawyer in those days—true, I am arguing for a time past, 19 years ago as a trial lawyer—our major claims were for economic and noneconomic damages, compensatory or noneconomic damages. We were able to get substantial verdicts by presenting our cases on those two theories. You very seldom alleged punitive damages unless there was egregious or intentional or willful conduct that justified punitive damages. But in this day and age, it is almost malpractice to not plead punitive damages, even in simple negligence cases in some of these States where the laws have gone awry and where the courts have in essence been captives of certain trial lawyers who literally are hurting the practice of law throughout this country by their voracious desire to make money at all costs, under the guise that they are helping consumers and those who are injured, when in fact the people who are primarily being helped are really those particular trial lawyers who have been doing this.

I can remember in one State, in a contest over a Supreme Court nomination, where there was a reformer running for the Supreme Court and the other person was a total captive of certain trial lawyers in that State. In one evening, 15 trial lawyers raised over $1½ million for their clone, for their captive, for the person who would rule for the plaintiffs no matter what the law said, or no matter what the law meant. Now, that is wrong. We are trying to resolve these problems with this particular bill.

My colleague from Tennessee is very sincere in this amendment. I have some feelings about it myself, because I personally do not want to see injured parties unable to receive adequate compensation for the injuries they suffered. On the other hand, I do not want to see everybody else in America irked because we will not curtail some of the abuses that really go on in trial practice every day.

I am also very concerned because I think some of these lawyers are really hurting my beloved profession. To some of them, these problems do not mean anything. It is just a voracious desire to make money at the expense of really virtually everybody. I think it is time to get some system that works, that is fair, that still protects the injured parties, but does not run away, like our current system has been doing in a great number of States.

Now, there are few States where it is just outrageous, and in a great number of States we are finding outrageous punitive damage awards from time to time. In some States, it is almost all of the time. As I said, it has become a rule rather than an exception to plead for punitive damages, even in cases where formerly there would be no real claim at all. I think it is time to do something about this. I hope our colleagues will vote against this amendment, as sincere as it is, and as well argued as the distinguished Senator from Tennessee has done it.

I respect him, I respect what he is trying to do, I respect our profession, and I respect trial lawyers. Most trial lawyers are very decent, honorable people who want to do the job for their clients. They want to do what is right. But there are a few who are distorting the profession and I think making a mockery out of trial law and out of the damages system of this country. That is what we are trying to resolve and trying to solve with this legislation. There is no simple way of doing it. This is the best way I know how.

To that degree, I want to praise the two leaders on the floor, Senators ROCKEFELLER and GORTON, for the excellent efforts they have made in order to try to keep this bill together, get it passed, and to get legislation that might help solve some of these vicious tort problems in our society today.

I yield the floor.

Mr. ROCKEFELLER. Mr. President, I thank the Senator from the State of Utah for his very nice closing sentence and also his general argument.

Mr. President, I have been—in case nobody has noticed—trying to enact what I call moderate product liability for many years—8 or 9—because I am convinced that consumers and businesses alike are ill served by the current disjointed State-by-State legal system.

Under this patchwork system of State laws that we have—glorified by those who propose this—victims are forced to wait far too long for compensation after their injury, and far too often it is the lawyers who benefit more from the awards, the settlements received, than the victims, which is not what I thought America was about.

This is simply unjust. I am absolutely convinced that the flow of goods in interstate commerce is severely hampered by the patchwork of product liability laws across this Nation. Businesses of every size and type simply have no way of knowing, under the current system, what rules they need to follow. How could they? They have 50 States to deal with. Businesses are hard pressed these days, small businesses in particular. This is especially onerous on those same small and start-up enterprises which, in my State of West Virginia and most of the rest of the Nation, are in fact the backbone of the economy. I daresay that the Presiding Officer would say that that is true for his State of Montana.

The amendment by the Senator from Tennessee, the very distinguished Senator THOMPSON, seeks to limit the bill's application to only those cases brought in Federal court. Make no mistake about it, this amendment would effectively kill product liability reform. It is a bill killer.

The reasons we must reject this amendment are the very same reasons we need product liability reform in the first place. I have stated that many times during the debate. The overwhelming majority—and this was said more ably by my colleague from the State of Washington, Senator GORTON—about 95 percent of product liability cases, are brought in State courts now. He suggests that number might go down closer to 1 percent. They would be totally untouched if this amendment were approved.

Additionally, it is very likely that even fewer cases would be brought in Federal courts because plaintiffs would keep their options open for forum shopping, as we call it, for better rules in some other State courts.

Consumers lose under the current system and that would not change if the Thompson amendment were adopted. Why do they lose? Consumers lose because they receive inadequate compensation under current State law. Consumers lose because they have to wait far too long to receive compensation.

Far too often, injured consumers are forced into poverty while waiting for their cases to be resolved. They have to depend on their own insurance or their own individual resources, if they have any.

Consumers lose because they are forced to pay outrageous legal fees under a State-by-State system. Consumers also lose because the patchwork of State statutes of limitation are so severe under the current law and result in barring legitimate claims. That is the subject I will discuss in a moment.

The underlying bill would correct these problems by replacing the State-by-State patchwork with a far more uniform system. The Thompson amendment would completely unravel that new uniform system.

In earlier debate, I have also set forth why manufacturers lose under the current State-by-State system. But I think this bears repeating. Manufacturers lose simply because they face unpredictable and escalating costs of litigation. These stifle research, these stifle development, they prevent investment, they cause products to be withdrawn, they cause products not to be improved, and they cost—guess what—jobs.

We have been working hard, very hard. The Senator from Washington and Senators on his side of the aisle and Senators on my side of the aisle have been working very, very hard to find the right balance.

Senator GORTON is not an extremist. The Senator from West Virginia is not an extremist. We are trying to find the right balance between consumers, plaintiffs, and businesses, with a special attention to small businesses, which is the majority of our businesses. We have been working very, very hard to find that right balance, to assure that the rights of the injured are fully protected while we meet the needs of business to manufacture and to invest.

We need both in this country. A person cannot just say, well, it is only consumers that count and business does not count, because if we did not have business, nobody would work. They would have no income. It is also equally silly to say it is only business that counts, because then that might take America back to a day when business practiced differently than they do today.

We have developed, I think, in America, a system whereby we try to protect consumers, and we do in the bill that the Senator from Washington and I suggest. The Gorton-Rockefeller substitute strikes that important balance for consumers and business. The Thompson amendment, I say again, would destroy that balanced solution.

The amendment of the Senator from Tennessee has a familiar and, I think, a very curious ring to it: Familiar because so far, the only suggestion concerning the problems of the product liability maze that I have heard from the opponents to this bill is the idea embodied in this amendment; curious because where is the logic in limiting the surgery proposed in our product liability bill to the equivalent of only one finger, when the problem plagues both hands?

We should face it. This amendment is based on a refusal to acknowledge the ridiculous cost, delays, and burdens of a very big problem called the patchwork of 55 sets of product liability rules and laws across the States and the territories.

I might add at this point that in earlier years, in hearings in the Commerce Committee, those opposing product liability reform always said that there will be this massive confusion if we have some kind of uniformity at the Federal level in certain areas, everything else being reserved to the States, which we do in this bill.

They always say, well, imagine a higher court trying to interpret 50 sets of laws. It is a specious argument. It needs to be said that it is a specious argument.

Right now, we are plagued by the 50 sets of laws, all different, to all States. So people forum shop, and I guess it is fairly well-known that if a person wants to go for punitive damages, there are three States to go to, and that is where most of the amount of the punitive damages come from. If they can find a way to drag somebody in—and Alabama is one of those States, curiously, ironically, interestingly—then people go there and they get very good results. There are two other States, in particular, also.

The point is that the Federal courts will not take very long—and a Federal judge pointed this out a couple of years ago—to figure out when we get uniformity and they have to take these 50 State laws, that there will now only be 1 law in a certain area and 50 laws in other areas.

It will not be confusing very long. It is permanently confusing now because everybody is running all over the place. Judges are smart folks. They do not get there because they cannot pass an SAT test; they get there because they are smart and they have to figure things out quickly. They will be able to do it.

This will actually make the whole process of interpreting State laws easier, more efficient, and better. Let that be said, because it has not been said in this debate. The argument that uniformity somehow confuses this by throwing open all of these State laws is specious. I pick that word for no particular reason.

I suggest to the Senators opposing the bill before the Senate and supporting this amendment, they should both vote against the amendment of the Senator from Tennessee.

Face it: This amendment guts the purpose of this product liability reform bill. We are trying to respond to problems that States on their own simply cannot fix themselves. What can the State legislature of West Virginia, for example, do about the fact that most of my State manufacturers sell their products in other States, where the rules dealing with punitive damages, with joint and several liability, with the statute of limitations, et cetera, come in every conceivable form? It is chaos.

I hear the Senator from Tennessee talk about innovation in the States, and I want to get on to the subject of innovation, since we do not have a time agreement on this. And I think the Senator from Washington and I would be glad to agree to a time agreement if any person shows any interest.

Let me discuss a little bit about product liability. I think the reason why the bill needs to pass and why I think the bill will pass, is that consumers lose, Mr. President, under the current system. Consumers receive inadequate compensation. That is, people who are injured, through product litigation, severely injured people—consumers—only recover about one-third of their actual damages.

Just think about that, severely injured, chewed up in a machine, or something of that sort, and they end up averaging only about a third of what they should actually get. While those who are mildly injured, who are also important, recover approximately five times their economic losses. That is totally unjust. And anyone on this floor who would defend that should choose not to.

Consumers have to wait a long time to get any kind of justice under the current system. Injured consumers in need of assistance must suffer through approximately 3 years of litigation before they receive a nickel of compensation. That is not the American way. And where we can improve it we ought to do so.

Consumers pay outrageous costs. To put it another way, the current tort system which rules the Nation at this point, and which the Senator from Washington and I are trying reasonably and in a balanced fashion to change, pays more to lawyers than it does to claimants. It pays more to lawyers than it does to claimants? Yes. That is wrong. This is America—that is wrong.

If there are those on this floor who choose to defend that and say that is good for injured people, that is good law, that is exactly the way we should leave the law, that we should leave that entirely unfettered so that lawyers make more off of this than do the people who are injured whom they purport to be defending, then let them defend that. Let them defend that. I am interested in their argument. They always talk about something else. They bring up Victor Schwartz, or they bring up some little thing here or there, but they never defend these things because they cannot, because they are dead wrong and they know it.

Another reason we need to change the product liability system in this country is because consumers face closed courthouse doors. What do I mean by that? A lot of people who are injured in this country by a product cannot file a claim because of something called the statute of limitations. I am not a lawyer, but I at least know what that means. And if, for example, I am injured in Virginia, my time for filing a claim runs out after 2 years from the time that I am injured.

I have had several debates with the Senator from California, Senator BOXER, about DES. She has said anybody involved with DES hates this bill.

She has used that word many times—hates this bill. Hates the bill. Hates the product liability reform bill the Senator from Washington and I are trying to get passed.

What I cannot seem to make clear enough is that under our bill, anybody who faced the kind of problems that somebody who faces DES faces, or somebody who faces asbestos, or somebody who faces some other kind of toxic harm or chemical harm—the Persian Gulf war syndrome, agent orange, all of this—wherein they do not discover they are injured for maybe 4 years, 5 years, 6 years, 7 years, 12 years, in our bill we say the statute of limitations, that is the time you can make application to file suit against the manufacturer, that person who injured you or that company that injured you—the two year limitation—should not start until you know that you are injured and you know what caused your injury. Which means all the DES people would have been fine under our bill, while they are completely cut off under the current law if the State has a statute of limitations which runs out, as most of them do, before DES would have been discovered.

I posit that, as lawyers say. I posit that. It is fact. People can say it is not true, I do not like the bill. There is a mindset around here on this whole subject which is very surprising and disturbing to me. I think this is not true—reasonable people, I am just looking at the Senator from Tennessee whom I consider a very reasonable person. I think he is thoughtful, he weighs things. But a lot of people in the fighting of this battle over the years have become so hardline that any kind of a change, any suggestion of a new fact, any suggestion that maybe the law could be improved, brings 100 percent disapproval and anger.

It is like somebody just puts out an idea and somebody is afraid the idea might be good so they immediately squash the idea. They just pound it down into the ground with their fists and crush the idea for fear it might be good or develop into something which is good and useful for the American people and for business.

It is a tendency which I regret in this body, which I do not consider worthy of the U.S. Senate. It is encouraged, I think, by a sort of hard-line mentality, and a lack of civility even, in discussing all of this.

Again, we want to open the courthouse doors through the statute of limitations. The opponents want the courthouse doors closed. Let them explain otherwise. Let them explain otherwise.

States with statutes of limitation that begin to run out at the time of injury, there are four of them: Arkansas, Virginia, Hawaii, Wyoming.

States with statutes of limitation which begin to run when the injury is discovered or should have been discovered, there are 16 of them. So that does not mean when the cause was discovered, that just means when the injury was discovered. That is not enough. It has to be when it was discovered and when the cause was discovered. We know from the Persian Gulf war veterans—and I do not know whether this applies to them or not—but we know they know when they are sick. But we also know that the U.S. Government and Department of Defense says that they are not sick. I go visit them and their hands are trembling, they cannot sleep, they cannot keep their marriages together, they are tired all day, they cannot keep their jobs, and they cannot focus their eyes on a newspaper for more than 5 minutes. But the Department of Defense says there is nothing wrong.

I beg to differ because I visit these people when I go back to my State of West Virginia, because I care about this and this is a cause of mine, to unmask Persian Gulf war syndrome. They know they are sick, but they cannot say why. What caused it? Was it Pyridostigmine? Was it some other kind of vaccine?

So you have 16 States—20 States—automatically where people are shut out. If those who oppose this legislation want to say, "We are for that, let them continue to be shut out," then let them get up and say so. Or if they say I am wrong, the Senator from West Virginia is wrong, then let them get up and say that. Let them get up and say we do not open the courthouse doors and that they do not close them—as they do, the courthouse doors—and keep them closed.

It is cruel. It does not make sense. It is based upon old-time life when it was all machines. Now a lot of the stuff is chemicals, toxins, and all kinds of things. That is where a lot of accidents happen. The industrial age has evolved. Just as you can sue somebody under current law for a piece of machinery that was built in the 19th century and that has passed through 15 different owners, all of whom have altered it. That was made for that time, that generation, that industrial revolution period. That idea is not made for the current times at all.

So we are trying to open the courthouse doors to consumers. Manufacturers lose under this current system. We are talking about people and manufacturers, yes, a balanced bill. Liability stifles research and development. This country is great because of our research and development, our spirit, our entrepreneurial spirit, which is embodied in research and development. Japan does not do basic research. The United States does. Then they come and buy it from us, or we sell it to them, however you want to characterize it. And on that the Senator from South Carolina would agree. We sell them our technology. But we do the basic research. That is the heart of America's greatness, the basic research we have done and the uses to which we put it.

But because of the current law, the fact is that many businesses spend far more money on litigation than they do on research and development. That is bad for business. That is bad for America. The fact remains that many companies these days—I think it is something like 47 percent of companies—have withdrawn products because of litigation fears. And a lot of companies now, if this is possible to believe, are afraid to improve their current products because by the act of improving their current products, it would imply that the previous iteration of that product was somehow defective and, therefore, they could be sued and, therefore, they do not improve the product so they cannot be sued. How ridiculous. How unlike America. If those who oppose this bill want to defend that, then let them go ahead and do that.

Phyllis Greenberger, who is the executive director of the Society for Advancement of Women's Health Research, in testimony before the Senate Commerce Committee on March of this year said:

> Liability concerns are stifling research and development of products for women.

She said:

> Contraceptive development in the U.S. provides an excellent example of how the threat of litigation can devastate an entire industry. Thirty years ago there were 13 companies in this country putting their resources towards research and development of new contraceptives. Today, there are only two.

And then what does she say?

> This is not because there is no market demand. Liability concerns are keeping products which have already been developed off the market despite a known therapeutic need.

I will use an example which I have used before. It is a very good one. It is Benedictine.

> Benedictine is the only prescription medicine ever approved in the United States for the treatment of nausea and vomiting during pregnancy. None other has ever been approved. It was approved by the Food and Drug Administration. The drug was used by 30,000 women until assertions arose that it caused birth defects. While scientific evidence failed to demonstrate any link and the FDA continued to back the product.

Remember this is still Phyllis Greenberger talking:

> While . . . the FDA continued to back the product, the manufacturer voluntarily removed Benedictine from the market due to the overwhelming cost of defending the product. Currently, therefore, there is no approved product available to treat pregnant women who experience severe and prolonged nausea, which can be harmful to the mother and to the fetus.

If that is what the opponents of this legislation want, let them defend it. They are using Benedictine all over the world—all over the world but not in the good old U.S.A. because of the fear of product liability litigation under our present system, which some of us are trying to change.

I think the United States loses under the current system. Insurance rates disable U.S. manufacturers. American manufacturers pay 10 to 50 times more for product liability insurance than their foreign competitors.

You have the European Economic Community, which has adopted uniform product liability laws. I believe, although I am not 100 percent sure, that 60 affiliated countries have done the same.

So we will continue to pay as a country 10 to 50 times more in insurance because we have all of these State laws, which all compete with each other, and other countries will have a uniform law, and they all will be our main competitors for exports and imports in this world. And who loses? The American people, the American workers, American business. America loses.

In a single year, Mr. President, the liability system cost the State of Texas 79,000 jobs. If that is the case, then let those who want to see that current system continue to get up and defend it. When people run for office, they talk about the need for jobs. Texas is losing jobs because of this. They have a lot of research and development in Texas, which is a very progressive, industrial State. So they are very much hurt by this.

Interestingly, when I say the United States loses under the current system, part of this is that the current system does not enhance product safety. I will have something to say about that. I would beg those listening to listen to this one sentence.

Though the number of torts—that is, suits—in product liability rose dramatically in the 1980's, consumer interest steadily declined during the 1980's as it did during the 1970's. So to link this with product safety is open to some substantial question.

Let me just make some more points. I go back to this problem of injured people having to wait so long to receive compensation. Mr. President, after I ran for Governor of West Virginia, an event little noticed and not long remembered, I gave my inaugural speech on the steps of the capitol. It was on a day in which the temperature was 37 degrees below zero. So in order for me to say it, I had to really mean it because people were just freezing all over the place. I made four promises to the people of West Virginia. I talked about education. I talked about roads. I said I wanted to remove the sales tax from food, at that time 3 percent, which I eventually moved to zero. And I wanted to make the workers compensation system, which at that time we called the workmen's compensation system, more efficient because I was offended that in the State of West Virginia when a worker was injured it took the State 77 days on average to get a check to an injured worker. I said, how can we be a humane State and do that? And I pledged in my inaugural address, which is sort of like your constitution, that I would get it done in 4 days.

Well, I did. I got it down to 4 days. If I am offended by the 77 days it took under the old West Virginia workers compensation system, what am I meant to feel about a 3-year period of time on average for an injured worker under U.S. laws, and State law in particular, to receive compensation for the first time. Three years later.

An Insurance Service Office study found that it took 5 years to pay claims with the average dollar loss and that "larger claims"—that is, the more seriously injured victims—"tend to take much longer to close than the smaller ones."

Now, this is interesting. "Several injured victims cannot afford to wait years to receive compensation." So what do they do, Mr. President? They know they are going to have to wait a long time while the lawyers rake in the money and they wait. They know they are going to have to wait a long time. They know they do not have the resources. So what do they have to do? The delays force them to settle, to not use the system as it is meant to be used but to settle for inadequate amounts of money. That is shameful. That is shameful. If those who oppose this bill want to stand up and defend that, I will be here to hear their argument. That is shameful. They have to settle because they know they cannot go through the business of paying the lawyers the money.

Let us talk about the business of bringing the lawsuit, and costs being so high. The GAO—who I think people respect pretty much throughout this Hill—estimated that 50 to 70 cents of every jury-awarded dollar goes to lawyers and legal costs. Fifty to 70 cents of every jury-awarded dollar goes to lawyers and legal costs. That is wonderful news for the injured person. It leaves him or her maybe 30 cents, maybe 50 cents. They are hurt. They are the ones hurting. The lawyers are just running these things through.

I am not picking on trial lawyers in particular. I have always made a point of saying lawyers on both sides—the trial lawyers and defense lawyers. They are both part of the act. Defense lawyers are very, very good at stringing it out, putting in more paper, asking for more information. They are very, very good at it. But the point is the people do not get the money. The injured person does not get the money. The lawyers and the legal process get the money.

A further illustration came in 1994 in a survey by the Association of Manufacturing Technology. This is hard to follow, so I would ask people just listen. It found that every 100 claims filed against its members result in outlays of $4.45 million in defense costs and $8 million in subrogation paid to employers or their workers compensation insurers. Claimants, therefore, received only $8.35 million of these 100 claims in the Association of Manufacturing Technology survey, and since plaintiffs' attorneys usually received one-third of the awards, injured people get to keep about $2.2 million while transaction and legal costs totaled $8.6 million.

Something that bothers me greatly about the current system is that the current system discourages the development of innovative products.

This is where I got off when I was talking about the amendment of the Senator from Tennessee. I used the word "innovation" in the States. The chairman and CEO of Biogen, Jim Vincent, stated to the Senate Commerce Committee in September 1993 that he has decided not to pursue research into the development of an AIDS vaccine because of the current U.S. product liability system.

The Immune Response Corp. of California is attempting to develop an AIDS vaccine, but in 1992 it had to delay important clinical trials because of liability concerns, and I believe they are not doing it anymore.

An Office of Technology Assessment study found that liability fears are a barrier to research testing and marketing of AIDS vaccines and called for Federal action.

Health Industry Manufacturers Association Vice President Ted Mannon told a House Energy and Commerce subcommittee that joint liability law is having an adverse effect on the ability of medical device manufacturers to obtain biomaterials—the raw materials that make products such as hip replacements and pacemakers.

I will just do one or two more of these.

In 1994, April 25, the New York Times reported:

> Big chemical companies and other manufacturers of materials used to make heart valves, artificial blood vessels, and other implants have been quietly warning medical equipment companies that they intend to cut off deliveries because of fear of lawsuits.

Now, if we simply want to stop that stuff and the people who have pacemakers and all the things that we can do in modern medicine do not matter anymore, then let those who oppose this bill defend that; that the very essence of modern research and the very essence of modern medical innovation is being cut off or cut down or cut back or cut out by the product liability system that we currently have in this country.

One more. The fear of exposure to product liability lawsuits again has diminished investment in basic scientific research. The reason I mention the word "basic" is because it has always distinguished us from other countries. We are the ones who do the basic research. The other countries do the applied research, particularly Japan, and Asian countries. We do the really hard stuff, which costs a lot of money. You do the basic research and you come up with materials or products or possibilities. Then during the applied research and getting it to commercialization—here the Senator from South Carolina and I would agree completely—that has been our American problem, the commercialization of products. But not basic research. That has been our strength.

Well, Mark Skolnick, who is a professor of biophysics at the University of Texas, has noted that areas where litigation has occurred will not receive support for exploration and development. Producers fearful of possible suits simply make that impossible.

The Conference Board, as I indicated earlier, said that 47 percent of U.S. companies have withdrawn products from the marketplace because of product liability concerns.

Gallup, in a 1994 survey, said that one in five small business executives report that they have decided not to introduce a new product or not to improve an existing one out of concern for product liability litigation.

What are we doing to ourselves, Mr. President? Why is it that such a small group can prevent our country from progressing while, at the same time, we protect our people?

I want to say a word about punitive damages.

I want to discuss the punitive damages concept, what it actually is, so that it becomes clearer.

Again, I am not a lawyer, so I have to look at these things from the point of view of somebody who is not a lawyer. I do not think the Presiding Officer is a lawyer, although he has all the attributes sometimes of that kind of sharp insight. But, as far as I know, I do not think he is a lawyer. There are a few of us in this body who are not.

The U.S. Supreme Court—which I do not consider to be a trivial body—has said that punitive damages have run wild in the United States.

JAY ROCKEFELLER, representing the people of West Virginia, did not say that. The U.S. Supreme Court said that.

There are virtually no standards for when punitive damages may be awarded under the current law and no clear guidelines as to their amount. Good behavior is swept in with bad. The result is uncertainty and instability and a chilling effect on innovation.

Now, I go back to Science magazine, 1992. A Science magazine article reported that at least two companies have delayed AIDS vaccine research and another company abandoned one promising approach as a result of liability concerns.

European parents can place children in built-in baby seats in cars. American parents cannot as easily, because the companies who make baby seats do not want to improve them on the fear that they will get sued because a previous iteration might therefore have been inferred to have been deficient. That's crazy.

So clear, rational rules are needed to promote innovation and responsible manufacturing practices while, at the same time, providing assurances that wrongdoers will be justly punished and deterred from future misconduct.

Please let us not have this as an argument between those who care about business and those who care about consumers. In fact, and I believe my colleague from the State of Washington would agree, those of us who are trying to reform the system care a whole lot more and are willing to do a whole lot more to help plaintiffs who are injured than are those who oppose this. Although they claim that they wear the halo for consumers, they do not. We are trying to help them. They are trying to keep the system as it is. They say that status quo is perfect; just leave it exactly as it is.

I have not done it every year, but I have routinely called in the American Trial Lawyers Association to my office to say: "Is there some way that we can work with you to try to work out some compromise on this subject?" The answer has always been no. Clear, but not encouraging. No. Into which I read, therefore, they want the system to be exactly as it is. Little changes? Big changes? Halfway changes? No. No changes. No changes.

I remember once one of the leaders of one of the consumer groups several years ago brought a woman from West Virginia who had been injured to my office. I guess the idea was to shame me, and to show me what anguish I had caused this woman. She came in and I saw them.

And at the end of the meeting, the woman was in fact sobbing, holding onto my hand, saying, "Your bill would have helped me, perhaps saved me."

Now, the leader of the consumer group was, obviously, at something of a loss. But I have to note that, for the RECORD, this is the case.

So a clear understanding of the nature of punitive damages is an essential prerequisite to meaningful reform. Punitive damages are punishment. They are quasi-criminal in nature and developed in England and the United States to serve as an auxiliary or helper to the criminal law. They have nothing to do with compensating a person who has been harmed and are not in any way intended to make the plaintiff whole. That purpose is served by compensatory damages, which provide recovery for both economic—which is lost wages—and medical expenses.

Let me make a point here, too. A lot of people say, "Oh, economic damages. Persons making $35,000 a year. They are 30 years old. Now they cannot work." Which, of course, is horrible, if it comes to that.

But they say, "Well, gee; I guess that is going to be $35,000 for economic wages." No, no, no. It is $35,000 for every year that that person would have deemed to have been able to work, plus all benefits, plus all retirement, and all the rest of it.

In fact, if you did that, let us say somebody was making $30,000 a year, and is 30 years old. They could work for another 35 years. I am not very good at math, but that would be many, hundreds of thousands of dollars; way above $250,000.

Mr. THOMPSON. Will the Senator yield for a point?

Mr. ROCKEFELLER. Yes.

Mr. THOMPSON. Was the Senator present when I made my statement concerning the family who visited me in my office concerning their 5-year-old daughter recently?

Mr. ROCKEFELLER. I apologize; I was not here.

Mr. THOMPSON. You mentioned the lady who was sobbing in your office. It reminded me of that visit I had last week. It was a family from Nashville who had lost their 5-year-old daughter. She had gone in for a routine tonsillectomy. One error followed another; many, many things went wrong. The clinic was hiring on the cheap. They had a drug addict there administering to this person.

Mr. ROCKEFELLER. Is the Senator discussing product or malpractice?

Mr. THOMPSON. Well, this is part of the underlying bill, as I understand it, the McConnell amendment.

Mr. ROCKEFELLER. I was trying to discuss product.

Mr. THOMPSON. Well, the Senator was talking about punitive damages, and that is the subject of my question.

And then the clinic sought to cover up. Finally, one of them called 911.

They did several things totally, totally that would constitute gross misconduct. They finally called 911, and then tried to cover up the records. They were caught. A lawyer represented them, charged 30 percent, incidentally, financed the litigation out of his own pocket for 2 years because the plaintiffs did not have the money to do that. Finally, they got to court. The defense, the insurance company, would not settle the case until they got to court. The mother broke down in court and they found out what they were up against in there and settled the case for $3 million.

Under this legislation, if this passed, I wonder what the Senator would tell that sobbing mother who was in my office last week in terms of whether or not we ought to tell the State of Tennessee they cannot allow a jury in Tennessee any longer to make that kind of award in a punitive damage case.

Mr. ROCKEFELLER. My answer to the distinguished Senator from Tennessee is that this particular Senator is trying to work to find a way in which there will not be caps as classically defined on punitive damages.

I say to the Senator from Tennessee that I voted, for example, with Senator DORGAN on his amendment to remove caps. And the Senator did that for a very specific purpose, because I think we can find a way, because I do not think we can pass the bill without finding that way, and I am convinced that we can find a way to do this so that I would have been as comfortable or as uncomfortable in that room with your constituent as I was with mine.

Now, I also want to say, when I talk about pain and suffering, the State of Washington has no punitive damages whatsoever. They have no punitive damages. Is it not interesting then that within the last 6 weeks that the State of Washington came down with a jury award for economic and pain and suffering of $40 million?

The only reason I mention that is to say, one, that economic is much more than people think of it as. It is the rest of your life's wages. It includes the raises that you might have gotten. It even presumes promotions you might have gotten, as well as the benefits, insurance, retirement and all the rest of it.

But pain and suffering is where a jury can get very subjective and where a jury does often get very subjective in a proper way and, in this case, a $40 million award. I do not think anybody who opposed this bill could have guessed there would have been a $40 million award out of a State that does not even have punitive damages. That happened 6 weeks ago in Washington.

So, Senator GORTON's and my bill understands and accepts the basic premise that punitive damages are punishment and provides the fundamentals that are part of any criminal punishment; a definition of the crime establishing a level of proof necessary for punishment and making the sentence fit the crime. So let us define the crime.

S. 565 defines the crime as conduct specifically intended to cause harm or conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by the product. The standard is fair and is similar to the standards of many States, in fact. It conveys that punitive damages are to be awarded only in the most serious cases of extremely outrageous conduct.

Level of proof: S. 565 explains how a claimant must prove the crime and requires that the proof be clear and convincing. This standard reflects, I think properly, a middle ground between the burden of proof standard ordinarily used in civil cases, which is proof by a reponderance of the evidence and criminal law standard which is proof beyond a reasonable doubt. So this is in between, clear and convincing.

The U.S. Supreme Court has endorsed clear and convincing evidence burden of proof standards in punitive damage cases. In addition, each of the principal groups to analyze the law of punitive damages since 1979 has recommended the standard, including the American Bar Association, which the Senator from South Carolina mentioned some time ago is bipartisan if anything ever was bipartisan, and the American College of Trial Lawyers.

Recently, the standard was recommended in a 5-year study of scholars by the American Law Institute and, incidentally, the standard is now law in 24 States.

Making the sentence fit the crime: Most importantly, we try to put reasonable parameters on sentencing to make it fit the crime; an established principle of law. Even very serious crimes, such as larceny, robbery and arson have sentences defined with a maximum sentence in statute.

As a result of adopting the amendment by the Senator from Maine and drawing on the interest expressed by colleagues on this side, we modified the bill to allow punitive awards to go as high as two times compensatory damages.

Opponents to this bill have argued that unlimited punitive damages are necessary to police corporate wrongdoing. Absolutely unlimited. This is not necessarily supported by facts. There is no credible evidence that products are any less safe in either those States that have set reasonable limits on punitive damages or in six States—Louisiana, Nebraska, Washington, New Hampshire, Massachusetts, and Michigan—that do not permit punitive damages at all. In fact, Brookings makes no link whatsoever between what is happening in punitive damages and product safety. That is an argument which is used by the opponents often.

Furthermore, plaintiffs in those States have no more difficulty obtaining legal representation than in those States where the sky is the limit.

I am coming to a close.

Bifurcation: This is a general remedy proposed to ease adverse impacts of punitive damages awards that permits a trial to be divided into segments, and this makes sense. The first part of the trial is addressing compensatory damages, the second dealing with punitive damages.

One has to do with helping the person. The second with punishing the manufacturer. Judicial economy is achieved by having the same jury determine liability and amounts of both compensatory damages and punitive damages.

This remedy we give the shorthand name of "bifurcation." Bifurcation trials are equitable because they prevent evidence that is highly prejudicial and relevant only to the issue of punitive damages—that is, the wealth of the defendant—from being heard by jurors and properly considered when they are determining basic liability. Bifurcation also helps jurors compartmentalize the trial, allowing them to easily separate the lower burden of proof required for compensatory damages and the higher burden of proof, clear and convincing evidence, for punitive damages.

So, Mr. President, I will soon yield the floor. First, I simply conclude by saying that product liability reform—the bill before the Senate—is not a child, a stepchild, not even a foster child of the Contract With America. It is the result of people of both sides of the aisle here in the Senate agreeing that the legal system, where it deals with interstate commerce, needs to be fixed, and it is precisely Congress' role, and only Congress' role, to step in where the States cannot do the job on their own, which is why we need to pass the bill.

I thank the Chair and yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I want to make a few remarks on the Thompson amendment. Before that, I want to see whether or not we can accommodate a number of Members. Rather than seeking a unanimous-consent agreement on a vote for a time certain, I hope that we will be able to debate the Thompson amendment fully. At the same time, there is another amendment that will be proposed by the Senators from Michigan and Kentucky. I hope that we will be able to set aside the present amendment and allow them to speak.

I know the Senator from Kentucky is the chairman of the Ethics Committee and must meet with that committee between 4 p.m. and 6 p.m. I would like to know whether or not the proponents of the Thompson amendment will permit that amendment to be introduced, for them to speak, and then speak back and forth on both of them—however they want to utilize their rights to continue debate on in this amendment.

Mr. HOLLINGS. Without objection, I will go along with the distinguished author of the amendment, Senator THOMPSON. I will need a little bit of time. You were asking for a time agreement?

Mr. GORTON. I will not make a motion to table until the Senator from South Carolina has all the time he wishes to speak.

Mr. THOMPSON. Does the Senator from Kentucky need to proceed before 4 o'clock? Otherwise, I believe we can finish in short order. We need a very few minutes. I think that will probably wind us up.

Mr. McCONNELL. I say to my friend from Tennessee that it is my hope and the hope of the Senator from Michigan as well, with your permission, to call up an amendment we are going to offer for discussion purposes. It could be stacked or laid aside. It will give both of us a chance to discuss this—in my particular case, the need to discuss it some time between now and 4 o'clock, because I will not be available for 2 hours after that. I do not know when these are going to be voted on in any event.

Mr. THOMPSON. How much time does the Senator from South Carolina need?

Mr. HOLLINGS. Ten minutes.

Mr. THOMPSON. I think I will need approximately the same. Would it be all right if we went 20 minutes or so and then brought up the amendment of the Senator from Kentucky?

Mr. McCONNELL. I say to the Senator from Tennessee it is fine with me, provided it is all right with the Senator from Michigan.

Mr. ABRAHAM. That would be fine.

Mr. GORTON. Then I will be relatively short.

Mr. HOLLINGS. I defer to the Senator from Tennessee. He is the author. If the Chair recognizes me, I can proceed——

Mr. GORTON. I think the Senator from Washington has the floor.

The PRESIDING OFFICER. Yes, the Senator from Washington has the floor at this time.

Mr. GORTON. Mr. President, I wanted to speak briefly on the Thompson amendment and will do so only relatively briefly to give him some more ammunition for his wonderful presentation on this subject.

I must start my remarks by confessing that he really had me dead to rights on one of the comments that he made about the impact of his own amendment. I will have to confess error and then say that I believe that error strengthens my case rather than weakens it.

I had said earlier during the course of this debate that the result of the passage of this amendment, giving litigants in every State two choices of different laws to enforce would simply mean, because of the restrictions included in the bill here, that all plaintiffs' lawyers would seek to bring their actions in the State courts in order to avoid the restrictions on punitive damages and on joint liability. And the Senator from Tennessee quite properly pointed out that there are a number of instances in which this bill, the Rockefeller-Gorton bill, treats plaintiffs' claimants more liberally than do the laws of various States. He took the statute of repose, which is 20 years in this bill, 10 to 12 years in most States that have a statute of repose—obviously, if the cause of action was based on a piece of machinery or a product that was 15 years old, the choice would be to go into Federal court and get the advantage of that more liberal provision. He even spoke about my own State, which does not allow punitive damages and, therefore, would impel the plaintiff to go into Federal court if the plaintiff wished punitive damages rather than into the State court.

He is correct. There are certainly some cases in which the claimant would have a better climate in which to bring such an action in Federal Court than in State court. But, Mr. President, one of the great vices of the present system, one of the vices that this bill—to focus on product liability for the moment—is designed to deal with is the myriad of 50 different sets of laws and procedures in the courts of 50 States. The justification, as the Senator from Tennessee pointed out himself, for any legislation in the field of product liability is the interstate commerce clause and the desire to smooth commerce among the several States, to have a degree of predictability.

This bill does not attempt to do what bills a decade ago in this field did, and that is to define negligence and strict liability and deal with a number of other matters of substantive law. It calls for limitations only in the field of a statute of repose and joint liability and punitive damages and allows more restrictive regimes in the various States to remain enforced. But, certainly, as compared with the present status of the law, there will be a greater degree of predictability and a greater degree of uniformity.

As the Senator from Tennessee so eloquently pointed out, if his amendment passes and should become law, instead of having 50 different systems in 50 different States, we would have 100 systems in 50 different States. We would double the complexity of the present system, because he is right—while I am right that in most States most plaintiffs would seek out the State court and attempt to avoid this law, under some circumstances in some States they would seek the Federal court in order to avoid the greater restrictions of State law. Not only would we not increase predictability and uniformity, we would double the degree of complexity. And there would be far more gaming of the system.

I think that every small business in the United States should greatly fear the Thompson amendment, because now at least if the defendant is large and obviously capable of paying a large judgment, many plaintiffs will only sue the manufacturer of a particular product. That manufacturer will be from a different State than the plaintiff, a case which under most circumstances could be brought in Federal court. But if the plaintiff of the future does not want to be in Federal court, we can bet their sweet life if this is a piece of equipment, a stepladder, the subject of lawsuits, the Ace Hardware Store in the hometown of the plaintiff will end up being a defendant.

There will be a lot more small business defendants in product liability litigation in the future if this amendment passes than there are now, because that will be the way to avoid diversity of citizenship and bring the action in State court when the State law is more favorable.

There will be more defendants, Mr. President. There will be twice as many applicable laws—two in every State in the United States rather than one. And there will be less uniformity and less predictability.

Now, Mr. President, it seems difficult for me to imagine any person thinking seriously about the practice of law and uniformity who really wants to overturn the doctrine in Erie Railroad versus Tompkins, in 1938, in which the Supreme Court said: "We are going to end this forum shopping. We will say it does not matter whether a person brings the diverse action in State or Federal court; the same law is going to apply."

This amendment would reverse that doctrine, would double the number of applicable laws in the United States, and increase infinitely the degree of forum shopping on the part of claimants' lawyers.

Mr. HOLLINGS. Mr. President, I want to touch on just two or three things quickly, and I want to yield, of course, to the principal author of the amendment, the Senator from Tennessee, with respect to punitive damages.

The statement was made by Senator ROCKEFELLER that the Supreme Court said that the punitive damages would just run amok. The fact is, the Supreme Court of the United States of America has not turned down or reversed punitive damages.

The most recent case happens to be a West Virginia case of this particular court, dated June 25, 1993, TXO Production Corp. versus Alliance Resources. Actual damages were $19,000, Mr. President. Do you know what the punitive damages were? Punitive damages, $10 million.

Do you think that disturbs the Senator from West Virginia, who says he is here for consumers? He is for corporations. They can get all the punitive damages they want. They are not subject to this bill. Oh, no; as a matter of fact, they are not subject to this bill. The leading case in his own State, $19,000 in actual damages, $10 million in punitive damages, upheld by the U.S. Supreme Court.

Second, with respect to keeping all the products off the shelf, and particularly as the Senator refers to AIDS and AIDS drugs, and how they are all going out of business.

Mr. President, I ask unanimous consent we have printed in the RECORD a statement by Gerald J. Mossinghoff, president of the Pharmaceutical Manufacturers Association, made last year before the Committee on Energy and Commerce.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF GERALD J. MOSSINGHOFF

Mr. Chairman and Members of the Subcommittee: I am Gerald J. Mossinghoff, President of the Pharmaceutical Manufacturers Association. PMA represents more than 100 research-based pharmaceutical companies—including more than 40 of the country's leading biotechnology companies—that discover, develop and produce most of the prescription drugs used in the United States and a substantial portion of the medicines used abroad. I appreciate the opportunity to appear today at this important hearing on the role of the pharmaceutical industry in healthcare reform.

Our companies support President Clinton's goal of assuring healthcare security for all Americans without sacrificing quality of care. To accomplish this goal, comprehensive healthcare reform is needed. Total healthcare costs are rising too fast. And too many people lack coverage for necessary medical care, including prescription drugs. These problems must be addressed.

The Administration is to be commended for proposing a comprehensive healthcare-reform plan that addresses all elements of an extremely complex healthcare system. We support strengthening consumer choice among competing private plans, rather than mandating a single-Government payer. We support providing comprehensive benefits, including prescription drugs, for all Americans. We support continuous coverage regardless of illness. We support greater emphasis on prevention and medical outcomes. And we support strong safeguards to ensure quality care. We also are pleased that the Administration has indicated that it will remain flexible and open to constructive suggestions on ways to improve its proposal. We believe that there must be greater reliance on the free competitive market in a reformed healthcare system.

WORLD LEADER

For many years, the pharmaceutical industry's success in developing new and better medicines has made it one of the country's most innovative and internationally competitive industries. The industry has a good chance to remain innovative and competitive—if the incentives for pharmaceutical innovation are preserved.

In its 1991 study of the industry, the ITC reported that U.S. firms accounted for nearly two-thirds of the new drugs introduced in the world market during 1940–1988. In his recent study, Heinz Redwood stated, "The American industry has a clear and outstanding lead in discovering and developing major, medically innovative, globally competitive, and therapeutically accepted new drugs . . . Perhaps the most important finding is that the American lead includes all but one of the therapeutic classes." The General Accounting Office, in a September 1992 study, concluded that the pharmaceutical industry maintained its competitive position and strong international leadership during the 1980s, while most other high-technology industries experienced some decline in their position. A report in the March 9, 1992 edition of Fortune magazine placed the pharmaceutical industry at the very top of the list of the country's most internationally competitive industries.

In conclusion, we believe the three principles outlined earlier in this statement—coverage, competition and cures—are fully consistent with the six goals specified by President Clinton for his healthcare-reform plan. Our industry firmly believes we can contribute significantly in helping to meet these worthy goals. We look forward to working with this Subcommittee in your efforts to achieve healthcare reform in a way that will accommodate our major concerns.

Mr. Chairman, that concludes my prepared Statement. I will be pleased to answer any questions that you or other Members of the Subcommittee may have.

Mr. HOLLINGS. Mr. President, I will read two sentences. "For many years"—says the leader of the pharmaceutical industry—

> For many years, the pharmaceutical industry's success in developing new and better medicines has made it one of the country's most innovative and internationally competitive industries.

In a study of the industry, the ITC reported that U.S. firms accounted for nearly two-thirds of the new drugs introduced in the world market during the period 1940 to 1988.

Forty-eight years, almost fifty years.

There is Fortune Magazine, there is the head of the industry, speaking for itself. Now we will bring it up to date, to February and April of this year.

February 23, 1995. I hold in my hand an advertisement entitled "Drug Companies Target Major Diseases with Record R&D Investment." It is an advertisement by America's pharmaceutical research companies, and I read:

> Pharmaceutical companies will spend nearly $15 billion on drug research and development in 1995.

Remember, the Senator from West Virginia said they are all going out of business on account of product liability, and they could not invest. The overwhelming evidence is the opposite of what the Senator from West Virginia contends.

> New medicines in development for leading diseases include 86 for heart disease and stroke, 124 for cancer, 107 for AIDS and AIDS-related diseases, 19 for Alzheimer's disease, 46 for mental diseases, and 79 for infectious diseases.

The pharmaceutical industry categorically refutes the statements made by the distinguished Senator from West Virginia.

Now, going right to less than a month ago, April 5, 1995, another advertisement: "Who Leads the World in Discovering Major New Drugs," put out by the America's pharmaceutical research companies.

> Between 1970 and 1992, close to half of the important new drugs sold in major markets around the world were introduced by the U.S. pharmaceutical companies. Here at home, the broad drug industry has been making 9 out of every 10 new drug discoveries. So when a breakthrough medicine is created for AIDS, heart disease, Alzheimer's disease, stroke, cancer, or any other disease, chances are it will come from America's drug and research companies.

That totally refutes the Senator from West Virginia's statement. Now finally, the arithmetic, simple arithmetic, refutes this pose for the consumer, whereby the consumer is not getting the majority of the money; the lawyer is getting the majority of the money. Of course, the inference is that the injured party, the plaintiff's lawyers, get the money. Arithmetic says that 33⅓ percent, which has been agreed to generally in the debate on both sides of the aisle, and parties pro and con, on a particular measure, 33⅓ percent is less than 100 percent and less than 50 percent, so the other 66⅔ percent goes to the client.

Or take the amendment of the Senator from Kentucky on malpractice: A 25 percent limitation there; 25 percent leaves 75 percent for the client.

Now, what are the facts? Why does the Senator use that distorted representation about being so concerned that the consumer is not getting the money he deserves, like every case brought is a winner?

No. 1, according to the Rand study of product liability injuries, of 100 percent injured, we find that only 7 percent of the injured parties consult an attorney; only 4 percent hire an attorney; and only 2 percent file a lawsuit. According to the New York Times, one-half of those filing are losing.

Now, who pays for all of those expenses, except for the plaintiff's attorney? So it gives no regard and no account for our distinguished group of professionals who are willing to take it on a contingency basis, although they are losing half the time, to try to get middle America and poor injured parties their day in court.

I can tell you now, come to this town and get injured, do not go downtown on billable hours. I tried to point that out with my particular amendment. You could not afford to hire the lawyer and we all know that. But they are being derided here as somehow the lawyers are running off with all the money.

Where does the money go? According to the National Consumers Insurance Organization, according to this survey, in our hearings,

> For every dollar paid to claimants, insurers paid an average of an additional 42 cents in defense costs while for every dollar awarded a plaintiff, plaintiff pays an average contingent fee of 33 cents out of that dollar. Thus, in cases in which the plaintiffs prevail, out of each $1.42 spent on litigation, half of that goes to attorney's fees, with the defendants' attorneys on average paid better than plaintiffs' attorneys.

They go take it down to where they are getting 56 percent.

Now here are the poor plaintiffs' lawyers. They are not even seen but in 2 percent of the product liability injury cases, and of the cases they file they are only recovering in half. So they are taking the expenses of the others. You can bet your boots when they finally prevail and get their third, that is still 66⅔ percent going to the client and 33⅓ percent going to the lawyer. So the lawyers they are interested in trying to restrict and with their amendments have voted to limit, they are the ones already in a sense losing.

The Senators stand here and say it is shameful? It is shameful to misrepresent the idea that this crowd sponsoring this bill is for the consumer. They know they are for the corporations. They know they are for the insurance companies. They know the drive. It is corporate America: Business Round Table, Conference Board, NAM—National Association of Manufacturers—they have been sponsoring this bill for 15 years and they know it. No consumer organization has come forward with this bill. All the consumer organizations of size and repute absolutely oppose the bill. To come up here and talk about shame, and the consumers are not getting the money, and misrepresenting the facts with respect to percentage when simple arithmetic shows no one gets over a third, and if limited by a vote, 25 percent. That leaves 75 percent for the client if they win.

And on that contingent fee, that trial lawyer who is representing the injured party has to assume all the costs and all the burden and all the risk. Otherwise that poor injured party would not have a lawyer because they cannot afford it. They found out $50 an hour was not enough. I tried to limit it here in my amendment. So they come forward here in this town with $100 an hour billable hours and going on up to $500 and more. They could just never get their day in court. We know that is being cared for back home.

That is why I am so interested in the amendment of the Senator from Tennessee, because we can stop this pell-mell march to Washington with the Washington bureaucrats administering and determining, not hearing any of the facts, disregarding the 12 jurors sworn to listen to the facts, bureaucrats who say,

> Forget about you, you all are runaway. You do not know. You have not heard. There is no relief. And it is a national problem and we are going to correct it with this mish-mash bill.

I favor the amendment of the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank the Senator from South Carolina for his remarks, which were eloquent as usual. I do think it is important that we refocus on what we are about here. The debate most of this afternoon has gotten off onto who is making the money, who is supporting who, scare tactics and figures taken out of thin air. I do not know where most of these figures are coming from.

I would like to refocus on what we are about here. We are about our judicial system in this country. There is nobody on the floor here who does not want a fair system, one that is fair to all parties. We certainly all recognize that manufacturers and sellers of products ought to be treated fairly and should not be put in a position where they cannot reasonably manufacture products and send them in interstate commerce and not be put out of business unfairly. We also understand that there are innocent people out there, children, other innocent people who sometimes are injured through the negligence and sometimes through the willful misconduct of large companies. And they need to be protected. We all know that.

We are talking about a system here. We are not talking about good guys and bad guys. We are talking about a system. What is the system that is best designed to produce a good system of justice across the board for this country?

Traditionally, we have had a system where States determine what their laws are. They learn, they change laws, a lot of innovation is going on in a lot of different States as has been pointed out here today. Changes are being made. Radical changes, in some States, are being made.

It has been suggested now that in the area of products liability, primary, we need to take a little bit different look. I am trying to take a little bit different look.

My amendment is called a killer amendment. This is the first time, I guess, in the history of the Senate, where we have ever gotten a product liability debate on the floor. I was one of the ones who said I will not support a filibuster. I will support bringing this up on a motion to proceed. I, and people like myself, presumably carried the day and we got this debate here. And I am suggesting now an approach that makes sense from the standpoint of what we as a U.S. Congress ought to be about. Not rewriting all the State laws in this country. That is against our basic philosophy. That is what I campaigned against, the Washington-knows-best attitude.

The Senator from West Virginia makes an eloquent plea for a 2-year statute of limitations. He is entitled to his opinion on a 2-year statute of limitations. I may agree with a 2-year statute of limitations. But why should the people of Tennessee have to follow the dictates of the Senator from West Virginia as to what the proper number of years for a statute of limitations is? It is just not right. I cannot go down that road.

Perhaps we can involve ourselves in an area that involves interstate commerce, that involves products; 70 percent of them which travel in interstate commerce and which also involves interstate litigants, if you will. And that is litigants who are in the Federal court because of diversity of jurisdiction, because you have citizens of various States.

To me, that makes some sense. That makes some sense. That is not a killer. That is an attempt to legislate in an area that we properly legislate in. I hope we do not, in this area or any other, rush to judgment to change longstanding rules or longstanding procedures that the States have enacted over the years, over 200 years, simply because of pressures and editorials in newspapers and some rush to judgment.

I support the Contract With America. I have simply pointed out that this is the only provision in the Contract With America that goes against our basic philosophy. All the rest of the Contract With America is limiting the Federal Government. It has to do with limiting one branch or another: Term limits, line-item veto. It has to do with limiting the Federal Government with regard to the States. How do we handle our welfare system? With regard to individuals, how much in taxes do we take from them or not? It all has to do with limitations on the Federal Government except this one thing.

What I am suggesting is that with regard to these cases that can legitimately be called interstate in nature, with regard to litigants who are legitimately interstate in nature—not because of what I thought up but because of what has been the law of this country for many, many years—let us apply some of these things, which are really broad and far-reaching in many respects, but let us go ahead and do it. Let us go ahead and try it and see and experiment, if you will, and see if this is going to save the world as we think it is.

I think we have to get straight on our statistics. We keep hearing a figure, some low figure of tort cases that are brought in Federal court, and that is true. But the indications from the Administrative Office of the U.S. Courts, an unassailable source, are that approximately 45 percent of products liability cases are either brought in Federal court or removed to Federal court because you have diversity of jurisdiction.

So is it suggesting that we apply these rules to 45 percent of the cases gutting this bill? Or is it saying instead of going 100 percent overnight, interfering in areas that people who are concerned about States rights and intrusive Federal Government are concerned about, that we take one step at a time. Under my amendment we would have uniformity in Federal courts in all States. Under the underlying bill you have caps in various areas but States are still free within those caps, as long as they do not go over the caps, to pass what legislation they want.

You still have 50 different States and 50 different State laws. That is not uniformity under the underlying bill. At least with regard to the diversity cases you would have uniformity. Is it bad for small business because they would be joined in order to defeat diversity? Would you have complete diversity? Would you join an interstate defendant? That is happening now. That is what is happening now. The courts have to determine. Are they properly joined in? So be it? You follow the legal consequences from that. If they are, you are in State court. If they are not properly joined then the court throws them out, and you have diversity and you can go to Federal court, if you want to.

Applying this to 45 percent of the cases before we rush pell-mell to take over State law in this country is not a killer amendment.

I must say that I understand the legitimate points of both sides of this argument. I understand the problems the manufacturers have. I am trying to redress the legitimate problems that manufacturers have in this country. I understand the proponents believe that we need to level the playing field some. But for me it is trying, I say to my friends on the other side, let us at least acknowledge that this is the case and this is what we are doing, and we are trying to level up the playing field.

Let us not try to convince the American people that this is a consumer's bill. This is not a consumer's bill. They say this is a consumer's bill because of attorney's fees. Most of the attorney's fees do not go to the litigants. Why is that? Often the defendant company or the insurance company representing them will string out a case for 2 or 3 years knowing it is a meritorious case causing costs to rise, having to pay defense attorney's fees and all of that, and then settle a case. Then they complain about the cost of the system.

That is what happened to the family that came into my office last week. They had a clear-cut situation where a clinic, if they had been trying to kill their 5-year-old daughter for a routine medical procedure they could not have done it any more efficiently. There was one mistake after another. A drug addict working on the premises who later OD'd. A comedy of errors; had to call 911; then covered up their activities. I cannot imagine of a more clear-cut case. Yet, it took 2 years, a lawyer having to finance that lawsuit out of his own pocket as often happens because they have been dragged around and deposed all around, running all the expenses up.

Anybody who has ever been involved in this knows the way it happens. Only when the mother got on the witness stand and broke down they said, OK, let us settle this case for $3 million. Should we be terribly impressed with the defense costs and the court costs and also what was involved in that particular piece of legislation? Whose fault is that? The parents of that little girl last week in my office who have no further ax to grind, they have no monetary or economic interest in this anymore, in this system, did not think that it was a consumer piece of legislation. They were saying please do not get into a situation where in this unusual case—thank God it does not happen every day. But it does happen. And when that does happen, let us make sure that we set an example that it does not pay for a clinic or a manufacturer to hire on the cheap, operate on the cheap thinking that they have a situation out here that is going to favor them in court, and they do not have to worry about it too much.

Some say it is a consumer bill because of the delays. You are going to have more delays under this underlying bill, if it passes, without this amendment than you have ever had before because we are creating new law. In all of the circuits this new law is going to have to be interpreted. There is all kinds of language in there. Every word of it will be subject to court interpretation, new interpretation, new law in every circuit which will then, with regard to that legislation, be binding on the States.

Other points that were made: The fact that we have a system with 50 different sets of laws in this country with 50 different States. That we do. It is called a Federal system. I kind of like it. I thought most of my colleagues kind of liked it. I may have a different idea about what the statute of limitations ought to be in Tennessee than the Senator from West Virginia. People in Tennessee might have different ideas about a lot of things than other people of other States. They have a right to address those things.

The suggestion was made that we could under the present system forum shop and go to Alabama, I believe the State was mentioned, and get a favorable situation there. Of course, the practical difficulties of that are well known. To anybody that has gone in the system you are a long way from home. You hire another lawyer. You expand your expenses—all of that. But assuming that does happen on occasion, my amendment would prevent that. If a fellow from Tennessee decided he wanted to get favorable State law from Alabama and went to the State of Alabama to sue an Alabama defendant, there would be diversity jurisdiction. They could go into Federal court and have the Federal standard apply, not the Alabama State standard.

The point is made that products are being restrained from the marketplace under our present system. I am sure that is true to a certain extent. It was said we could have all of these other products and people are now making products because of liability laws. Of course, there are no statistics on that. All of this is what somebody said. But I will take it at face value. So we do not have all the products that we otherwise would have if we had a different system.

I asked the question. What do we do about that? Assuming that is true, what do we do about it? Has anybody come up with a solution other than just wringing our hands and saying that products are being restrained? Are we going to say that beforehand you cannot sue these companies? Are you going to say that we can only bring *x* number of lawsuits a year—citizens of the United States of America—against these companies? Of course, not. You cannot do that.

On the other hand, are we going to say what these questions are going to be like if anybody gets hurt without any proof of negligence, without any proof of responsibility? Of course, not. We are not going to say that either.

What is the solution? The solution has always been let them manufacture their products with the knowledge that if they are manufacturing a product that affects human life, if they are proven to be negligent and they kill somebody, they are going to pay damages. And if they knew that they were likely to kill somebody, they are going to pay a lot of damages.

I do not know that any of this legislation addresses that problem except to put some caps on the amount of damages. I do not know a way in a free judicial system other than the way we have where we let juries decide these things under the supervision of a judge, under the supervision of the court of appeals, under the supervision of the State supreme court. I do not know that anybody has come up with a solution that is perfect that will make sure the right number of products come to market and no good products are restrained but bad products are kept off the market. The U.S. Congress cannot solve that problem. What we can have is a fair, open, responsible, judicial system with fair rules for everybody across the board.

Texas has lost how many jobs; how many thousands of jobs because of its product liability? I do not know where you get these figures. But my suggestion is that Texas changes law. As a matter of fact, from what I read in the paper, Texas has made and is in the process of making substantial changes in its tort law as we speak. Do we need to do that for Texas? Do we know more about what Texas needs than Texas does?

The Senator from Utah a while ago pointed out that only 5 percent of the tort cases are filed in Federal court. That is not the product liability cases which is the major thrust of the underlying bill and my amendment. But that proves their point, does it not? Most tort cases do not belong in Federal court because you do not have diversity. But 35 percent of product liability cases are in Federal court because you do have diversity, and you are more properly in an area that we can legislate in.

So, Mr. President, I would conclude simply by saying let us refocus on what this is about. The basic question is do we have a problem? How bad is it? And what do we do about it? I suggest that we do have some problem. It is certainly not in the dimension of the world coming to an end that we have heard on the Senate floor.

For anybody who knows anything about the system, looks at any of the statistics, it is just not there. But let us address the problem that we do have. Let us do it in a responsible manner, and let us not lose our philosophical integrity, those of us who have campaigned on the basis of limited Federal Government, having States do more in the areas of welfare, having States do more in the areas that affect the people who elected the members of the State legislatures who write those laws, and have Federal Government do a lot less. I suggest that having these reforms in this area involving interstate commerce, with regard to litigants who are involved in interstate commerce is a reasonable approach to a problem that will allow us to see whether or not it works, how it works, perhaps will wind up in uniformity if States desire to go in that direction, but does not represent a wholesale takeover of 200 years of State tort law in this country.

I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I would like to speak to another amendment that will be offered by the occupant of the chair at some time in the next 30 minutes or so dealing with the question of joint and several liability.

Put another way, Mr. President, we all know what that means. That is the looking-for-somebody-with-a-deep-pocket problem which is a pervasive problem in American litigation.

Interestingly enough, the mayor of the city of New York was before a subcommittee of the judiciary yesterday, and I obtained a copy of his testimony. It is really quite interesting. The mayor outlined the problems of the city of New York in recent years with regard to our tort system, which has clearly run amok. It is very interesting that last year New York City paid out $262 million in tort cases on roughly 8,000 claims which either proceeded to settlement or verdict.

And the mayor goes back and compares that to earlier years. In 1977, the mayor pointed out, the city paid out $24 million as compared to $262 million last year. In 1984, the city paid $84 million compared to $262 million last year. In 1990, the city of New York paid out $177 million—that was just 5 years ago—compared to $262 million in tort cases last year.

Most of these, of course, Mr. President, are cases where the plaintiff was trying to get into the pockets of the taxpayers of the city of New York. The mayor in his testimony proceeded to describe it in another way that kind of brings it home for all of us.

There has been a lot of talk here about whether statistics do or do not exist in various areas of this debate. The mayor put it this way. He said—and this was just yesterday before a Senate Judiciary Committee subcommittee. "With just half of our annual tort payments," said Mayor Giuliani, "the city could hire 2,900 additional police officers or firefighters or more than 3,700 teachers." The city could have hired 2,900 additional police officers or firefighters or more than 3,700 teachers for the money they paid out in tort claims in the city of New York last year alone.

The mayor went on. He said, "In terms of our operating budget, the amount we spent on these cases is more than 61 of 75 agencies of city government spent over a year."

Let us go over that. They spent more in tort cases in the city of New York than 61 of 75 agencies of the city of New York spent last year and more than the combined amount budgeted to sustain the operation of the DA's, district attorneys, in all five boroughs of the city of New York. They spent more money in tort claims last year in the city of New York than the amount of the district attorneys' budgets of all five boroughs of the city last year.

The mayor proceeded to say that New York City's personal injury payout is an enormous expense no matter how you look at it and falls squarely on the taxpayers, he says, the consumers in the city of New York.

The mayor went on. It is kind of interesting the way he put it. He says, "As individuals, Americans are the most generous people in the world. They are equally generous with their hard-earned tax dollars, but they would like to know that their money is being put to use wisely. When they learn, however, their money is being wasted, Americans rightly demand an accounting. I submit the time has come," said the mayor of New York, "for an accounting of the waste associated with the tort system as we know it."

What he was talking about, Mr. President, is the deep-pocket issue. "Municipalities and other public entities are often viewed as deep pockets that can easily afford to pay extra sums to plaintiffs claiming to be injured." He also mentioned a few of those cases.

I thought I might relate to the Senate the mayor of New York yesterday mentioned one case in which a subway mugger was caught in the act and shot by an alert transit cop. What did the robber do? Why, he sued the city and he won $4.3 million. The robber sued the city.

Here is another interesting one that New York experienced. He said in another case an 18-year-old student in direct contravention—direct contravention—of a teacher's instructions jumped over a volleyball net. The teacher said, "Don't do it." And the 18-year-old student did it anyway. The student suffered tragic injuries. But the city's liability for the teacher's effort to supervise cost the city $15 million.

The mayor cited another case. The city was ordered by a jury to pay a woman's estate $1 million after she entered a closed city park, ignored all the instructions, entered a closed city park and drowned in 3 feet of water.

So there you have it, Mr. President. That is the kind of thing that is going on all across America under the concept of joint and several liability, and it is clearly costing taxpayers, consumers, a lot of money.

The Senator from Michigan on behalf of himself and myself will bring up shortly with the permission of the Senate the Abraham-McConnell joint and several liability amendment which would permit an injured plaintiff to collect a full judgment from any defendant found to be liable for any part of the injury.

Mr. President, the doctrine of joint liability permits an injured plaintiff to collect the full judgment from any defendant found liable for any part of the injury. It means that no matter how remotely connected a defendant is to the events leading to plaintiff's injury, a defendant could be required to satisfy the entire judgment.

That is the kind of thing I was seeking to illustrate in referring to the testimony of the mayor of New York just yesterday.

The result is that lawyers for the plaintiffs add a whole host of defendants to a lawsuit in an effort to ensure the plaintiff can get the full judgment paid. With joint liability, it does not matter if you had anything to do with the events leading up to the plaintiff's injury. Instead, the chances of your getting sued depend upon how deep your pockets are. The deeper the pocket, the more likely to be sued.

For example, if a drunk driver injures an individual on someone else's property, the property owner will be joined in the lawsuit. It happened to the Cincinnati Symphony Orchestra, only it was not even the property owner. The accident happened near one of the orchestra's performance facilities. And the orchestra, a nonprofit entity, was needless dragged into a $13 million lawsuit and put at risk for the judgment.

Nonprofit organizations, municipalities, and small businesses can be hardest hit by joint liability. Although we do not think of these defendants as wealthy or rich, they are usually adequately insured, which also makes them good candidates to be deep pockets. New York City, to which I just referred, spends more on personal injury awards and settlements—$262 million in the last fiscal year—than it spends on funding public libraries.

One industry that is severely impacted by joint liability is the engineering profession. Often engineering firms are small and entrepreneurial. The American Consulting Engineers Council reports that of its 1,000 members, more than 700 are involved in lawsuits. The typical case involves a drunk or reckless driver speeding down a road that is undergoing construction. Although the road is well marked with a detour sign, an accident occurs. The driver sues everybody involved with the road: the local government, the highway department, anybody who owns adjoining property and, of course, the engineers who designed the road improvement. While the engineers—and any of the other defendants—may ultimately prevail, the costs of defense can be staggering. The Consulting Engineers report that in 1993, they paid out more than $35 million in awards and settlements. That is a huge amount of money, especially considering 80 percent of the engineering firms employ fewer than 30 people.

What does it mean for consumers and taxpayers? Higher prices and more taxes, since the engineering firms will have to pass their costs on to their customer. The local governments who hire engineers to build their roads and bridges will pay more and the American people will pay higher taxes to cover these lawsuits.

So, make no mistake about it. The tort tax is real. Every American lives with it. And every potential defendant has to take account, in the prices they set, for the possibility of being dragged into a lawsuit.

I recently received a letter from the institute for the National Black Business Council, an association of minority business owners. Mr. Lou Collier, the president of the council, writes in support of expanding the product liability bill.

Without an expansion of the joint and several liability reform, Mr. Collier states, "Millions of small businesses—restaurants, gas station owners, hair stylists, nearly every small business you can think of, would still face the threat of bankruptcy. That includes most African-American firms." The latest census data shows that 49 percent of all black-owned firms are service firms, and Mr. Collier, on behalf of minority small business owners, asks us to improve the climate for small business, "Small business owners and entrepreneurs have to overcome staggering odds to build a successful company. They shouldn't have to face a legal system where one frivolous lawsuit can force them to close their doors."

Now, that is Mr. Collier on behalf of the minority businesses of this country.

The amendment offered by Senator ABRAHAM and myself, by eliminating joint liability for noneconomic damages, would relieve some of those burdens.

Injured plaintiffs would still recover their full economic loss. But for the subjective noneconomic loss, each defendant would be responsible only for his or her proportionate share of harm caused.

This amendment is fair and consistent with principles of individual responsibility. It will put an end to the gamble taken by the trial bar when they join everyone in sight of an injury.

Let me just say in conclusion, Mr. President, having chaired a number of hearings years ago as chairman of the Courts Subcommittee of the Judiciary Committee, I had a hard time ever getting any plaintiff's lawyer to make a good argument in support of joint and several liability, because it is obviously not just. It violates any standard of American justice to require that someone who contributed little or nothing, just a little bit of what may have caused the harm, to end up getting assessed 100 percent of the damages simply because they are able to pay. That is not just. That does not have anything to do with civil justice.

It is astonishing to me, Mr. President, that our tort system in this country has evolved to the point where essentially innocent parties can end up being assessed all of the damages for a harm that they did not cause.

That is what the Abraham-McConnell amendment will be about when it is subsequently offered. I hope that I will be able to come back to the floor and speak again on this amendment at the appropriate time.

I wish to commend the occupant of the chair, the Senator from Michigan, for his great leadership in this tort reform field. He has been in the Senate now about 4 months, and I cannot remember anybody who has taken a subject and made a difference on it any more quickly than he has. I have enjoyed working with him.

We have another issue that we may be talking about later in the debate, something called an early offer mechanism, which I do not have the time to address at this point.

I just want to say how much I have enjoyed working with him. We are greatly in hope that the Senate will decide that changing the way we handle joint and several liability will be in the best interest of the American people.

Mr. President, I believe no one is about so speak. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for approximately 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF DR. HENRY FOSTER, TO BE SURGEON GENERAL

Mrs. MURRAY. Mr. President, I say to Members of the Senate, the Senate Labor and Human Resources Committee has just a few minutes ago concluded its testimony from Dr. Foster, who is the nominee for Surgeon General. I wanted to take this opportunity to personally thank Senator KASSEBAUM, chair of that committee, for doing an outstanding job of giving Dr. Foster the opportunity to present himself to the Senate and to the United States of America. I felt that the hearing was very fair and very well conducted by both Senator KASSEBAUM and all the members of the committee.

I also wanted to take this opportunity to commend Dr. Foster who, for the last several months, has been a person we have only known as a cardboard cutout; who, in the last day and a half has, I believe, really presented a very strong image to this country of a man who is caring, who is compassionate, and who can be a very forthright Surgeon General, to speak to the issues of the day that are of concern to so many of us; who will be a person, I believe, who will speak to women's health care issues in a way that needs to be done in this country today; who will speak to the issue of teen pregnancy and provide leadership; and a man who I think is a person who we can all look up to in terms of being a model public servant; who understands that we cannot just sit in our houses and close our blinds and shut our doors, but we need to personally get out and work with young kids today and be a personal role model for all of them.

I think he has done an outstanding job of answering all the questions that have been brought to him, and I believe that both Dr. Foster and the committee deserve a debt of gratitude from the Senate.

I look forward to having an expeditious vote on his nomination and to being allowed, as a U.S. Senator, to vote up or down on his nomination very soon on the floor of the Senate.

I thank the Chair and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 600 TO AMENDMENT NO. 596

(Purpose: To provide for proportionate liability for noneconomic damages in all civil actions whose subject matter affects commerce)

Mr. ABRAHAM. Mr. President, I ask unanimous consent to lay aside the pending Thompson amendment so I may offer an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM], for himself, Mr. MCCONNELL and Mr. KYL, proposes an amendment numbered 600.

Mr. ABRAHAM. I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 109 and insert in lieu thereof the following new section:

SEC. 109. SEVERAL LIABILITY FOR NONECONOMIC DAMAGES.

(a) FINDINGS.—The Congress finds that—

(1) because of the joint and several liability doctrine, municipalities, volunteer groups, nonprofit entities, property owners, and large and small businesses are often brought into litigation despite the fact that their conduct often had little or nothing to do with the harm suffered by the claimant;

(2) the imposition of joint and several liability for noneconomic damages frequently results in the assessment of unfair and disproportionate damages against defendants that bear no relationship to their fault or responsibility;

(3) producers of products and services who are only marginally responsible for an injury risk bearing the entire cost of a judgment for noneconomic damages even if the products or services originate in States that have replaced joint liability for noneconomic damages with proportionate liability, because claimants have an incentive to bring suit in States that have retained joint liability; and

(4) the unfair allocation of noneconomic damages under the joint and several liability doctrine disrupts, impairs and burdens commerce, imposing unreasonable and unjustified costs on consumers, taxpayers governmental entities, large and small businesses, volunteer organizations, and non-profit entities.

(b) GENERAL RULE.—Notwithstanding any other section of this Act, in any civil action whose subject matter affects commerce brought in Federal or State court on any theory, the liability of each defendant for noneconomic damages shall be several only and shall not be joint.

(c) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic damages allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person, including the claimant, responsible for the claimant's harm, whether or not such person is a party to the action.

(d) APPLICABILITY.—Nothing in this section shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by the United States, or by any State, under any law;

(2) give rise to any claim for joint liability;

(3) supersede or alter any Federal law;

(4) preempt, supersede, or alter any State law to the extent that such law would further limit the applicability of joint liability to any kind of damages;

(5) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(6) preempt State choice-of-law rules with respect to claims brought by a foreign nation or of a citizen of a foreign nation; or

(7) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED.—Nothing in this section shall be construed to establish any jurisdiction in the district courts of the United States on the basis of section 1331 or 1337 of title 28, United States Code.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "claimant" means any person who brings a civil action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) The term "commerce" means commerce between or among the several States, or with foreign nations.

(3)(A) The term "economic damages" means any objectively verifiable monetary losses resulting from the harm suffered, including past and future medical expenses, loss of past and future earnings, burial costs, costs of repair or replacement, costs of obtaining replacement services in the home (including, without limitation, child care, transportation, food preparation, and household care), costs of making reasonable accommodations to a personal residence, loss of employment, and loss of business or employment opportunities, to the extent recovery for such losses is allowed under applicable State law.

(B) The term "economic damages" shall not include noneconomic damages.

(4) The term "harm" means any legally cognizable wrong or injury for which damages may be imposed.

(5)(A) The term "noneconomic damages" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(B) The term "noneconomic damages" shall not include economic damages or punitive damages.

(6) The term "punitive damages" means damages awarded against any person or entity to punish such persons or entity or to deter such person or entity, or others, from engaging in similar behavior in the future.

(7) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision of any of the foregoing.

Mr. ABRAHAM. Mr. President, the amendment I have proposed with my esteemed colleague from Kentucky would extend the joint liability reforms of S. 565 to all cases whose subject matter affects interstate commerce. This extension is necessary, in our view, to realize the basic goals of the bill.

In its traditional form, the doctrine of joint liability allows the plaintiff to collect the entire amount of a judgment from any defendant found to be at least partially responsible for the plaintiff's damages.

Thus, for example, a defendant found to be 1 percent responsible for the plaintiff's damages could be forced to pay 100 percent of the plaintiff's judgment.

This example is not merely theoretical. In the case of Walt Disney World versus Wood, the plaintiff sought recovery of damages resulting from a collision between her go-kart and another driven by her fiancee. The jury found the plaintiff 14 percent responsible, and her fiancee 85 percent responsible, for the plaintiff's damages. Thus, between them, the plaintiff and her fiancee were 99 percent responsible for her damages.

Unfortunately for Disney, however, the jury found it 1 percent responsible for the plaintiff's damages and, under the doctrine of joint liability, Disney was forced to pay 86 percent of the plaintiff's judgment.

The Disney case underscores the fact that unreformed joint liability forces defendants to pay judgments on the basis of their resources, not their responsibility. Thus, a largely blameless defendant can be punished for the actions of a truly culpable defendant simply because the former defendant has greater assets than the latter.

This unfairness is aggravated when noneconomic damages are awarded.

Noneconomic damages are awarded to compensate plaintiffs for subjective harm, like pain and suffering, emotional distress, and humiliation. Since noneconomic damages are not based on tangible losses, however, there are no objective criteria for calculating their amount. As a result, the size of these awards often depends more on the luck of the draw, in terms of the jury, than on the rule of law.

Thus, when defendants are held jointly liable for noneconomic damages—as they are under the unreformed version of joint liability—they can be forced to pay enormous sums for unverifiable damages they did not cause.

Apparently forgotten amid all this is the old idea that the law is supposed to yield predictable, fair, and equitable results.

In cases where the doctrine of joint liability is applied, then, we depart from the fundamental concept, rooted in simple justice, that tort law liability should be based on fault. This departure yields a number of undesirable consequences.

First, determining liability on a basis other than fault often leaves people with an overwhelming sense of helplessness. No matter how careful they might be, actors are no longer masters of their own fate with regard to the extent of their exposure to liability.

For example, one of my cousins operates a baseball batting cage. Patrons of the cage pay money to swing at pitches hurled by a pitching machine. Obviously, a fast-pitched baseball can cause injury, so the small business posted warnings that the cage should only be used by experienced batters, and that only one person should be in the batter's box at a time. On one occasion, however, two patrons squeezed into the batter's box, including one who had never hit a fast-pitched baseball before. The inexperienced batter was struck by the ball and injured. The business was sued for this injury, although the plaintiff and her accomplice were largely responsible for it.

Thus, because of joint liability, and despite their best efforts to act responsibly, my cousin's business faced the prospect of paying for all the plaintiff's damages.

A second and related point is that basing liability on criteria other than fault erodes incentives for responsible behavior.

As Karyn Hicks has explained in a leading law review article,

> [u]nder joint and several liability, whether the actor is 1 percent responsible or 100 percent responsible for an injury, his actual cost potential for involvement in the activity will always be the same. He will, therefore, have little incentive to expend his resources in accident avoidance behavior, such as equipment maintenance or taking the time to act carefully, if * * * he will still have to pay the same as he would if he had made no expenditure to avoid the accident in the first place.

Thus, by reducing or eliminating an actor's reward for acting carefully, we likewise reduce or eliminate the incentive for shouldering the extra costs associated with careful conduct. The result, of course, is more accidents and injuries.

In truth, Mr. President, to the extent that joint liability requires parties to provide compensation for harms they did not cause, it acts like an accident insurance system. But this system is remarkably inefficient. Less than half of every dollar paid out in damage awards goes to the injured party—the remainder goes to court costs and attorney fees.

Of course, the costs imposed on defendants by unreformed joint liability are not limited to damage awards. In case after case, deep pockets organizations and individuals are made defendants for no reason other than their financial resources. For example, George McGovern operated a country inn that was sued by a man who got into a fistfight in its parking lot.

Mr. McGovern had a security man on duty at the time, and he managed to win the case. But he only did so after, in his words, "the expenditure of a great deal of time, effort and money."

In another case, a McDonald's restaurant was sued by a driver whose car was struck by a car driven by a drive-in patron of the restaurant.

The plaintiff argued that McDonald's had been negligent by failing to warn its patron of the dangers of eating while driving. The case was a patent attempt to extort a settlement from McDonald's by means of the threat of joint liability, but McDonald's prevailed only after 3 years of costly litigation.

Although not reflected in any damage award, the costs of these two cases should be attributed to the lure of joint liability because, absent that doctrine, the cases almost certainly would not have been brought.

Now, some may ask why we should reform a doctrine that has been around as long as joint liability. That is a fair question, but it has a ready answer.

Joint liability was designed for a fundamentally different body of law than that in place today. As Ms. Hicks explains, "the evolution of joint liability took place at a time when the contributory negligence of the plaintiff was a complete defense to any negligence action." But the vast majority of States have now abolished contributory negligence as a complete defense.

By failing to reform joint liability as well, we have moved, as Ms. Hicks explains, "from a situation where a wrongdoer compensated an innocent victim to one in which an actor responsible to a degree as minute as one percent * * * may, in fact, be confronted with paying the entire damage costs to a plaintiff who may have been considerably more responsible and in a far better position of cost avoidance than was he." Thus, Mr. President, joint liability reform is necessary to bring the doctrine into alignment with the reforms made to related, background principles of law.

S. 565 would reform joint liability in the product liability context by allowing it to be imposed for economic damages only, so that a defendant could be forced to pay for only his proportionate share of noneconomic damages. As a result, plaintiffs would be fully compensated for their out-of-pocket losses, while defendants would be better able to predict and verify the amount of damages they would be forced to pay. This reform thus would address the most pressing concerns of plaintiffs and defendants alike.

But this reform needs to be extended beyond the product liability context, because entities other than manufacturers and sellers are among those hardest hit by unreformed joint liability.

The impact of our current system on nonprofits and local governments, for example, is well-documented: Individual Little League Baseball leagues have seen their liability insurance premiums soar 1,000 percent over the past 5 years alone; the city of New York now pays out almost $270 million in tort awards each year, which is double the amount of funding for city libraries; and well-grounded fears of liability thwart the recruitment efforts of volunteer organizations.

Extending this bill's joint liability reforms beyond the product liability context is also critical to the bill's goals of enhancing economic growth and competitiveness.

Small businesses are the engine of that growth, generating 2 of every 3 new net jobs in our economy since the early 1970's. To a significant extent, however, small businesses are forced to direct their resources not to job creation, but to costs associated with lawsuits.

Liability insurance premiums paid by American businesses, for example, are now 20 to 50 times higher than those paid by foreign firms.

But the bill as currently written fails to pare these costs adequately because many if not most of the lawsuits involving small businesses do not concern product liability.

Instead, small businesses are routinely ensnared in suits for slip and fall, misconduct by employees, patrons, and the like. Since a majority of small business owners take home less than $50,000 per year a determination of joint liability in even one such lawsuit can cripple a small business or force it to close its doors. To be serious about enhancing economic growth, we have to address that threat.

Mr. President, it is clear that the American people, men and women alike, demand joint liability reform. According to a recent poll conducted by the Luntz Research Co., 71 percent of Americans believe that joint liability reforms should be extended to all lawsuits, not just product liability cases.

In summary, Mr. President, we can no longer afford to overlook the heavy burden that unreformed joint liability imposes on our society. I say our society, rather than simply "defendants," because we all know that the costs of our current system are passed on to all of society, rich and poor alike, in the form of lost jobs, higher taxes, reduced community services, and rising prices. Without our amendment, we can address only a small fraction of those costs. With it, we can make a difference in the lives of all Americans.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, this is merely in the nature of an announcement to confirm what I had said earlier. At approximately 5:45 I will ask for regular order at the direction of the majority leader and move to table the Thompson amendment. And I am certain there will be a rollcall on that motion.

So I would urge Members who wish to speak to the Thompson amendment, or for that matter the Abraham and McConnell amendment, to do so. The majority leader is working with the Democratic leader with respect to what will happen after that time and for tomorrow. But for the attention of all Members, at approximately 5:45 there will be a vote on the Thompson amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I have just read a copy of the Abraham-McConnell-Kyl amendment. I would like to discuss some of the language that I find in here.

Basically it says: Notwithstanding any other section of this act, in any civil action whose subject matter affects commerce brought in a Federal or a State court on any theory that liability of each defendant for economic damages shall be several only and shall not be joined.

So this is a much broadening of the issue than what was in the underlying product liability bill. It says in any civil action whose subject matter affects commerce—it does not say "interstate commerce," it says "commerce"—brought under any theory. I want to include that in my discussions with Senator THOMPSON on what is a civil action. We concluded that any action which is not a criminal action is a civil action.

This in effect preempts State law. State laws have many aspects that affect noneconomic damages. Noneconomic damages are defined herein as meaning subjective nonmonetary damages resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society companionship, loss of consortium, injury to reputation, and humiliation. That would mean, for example, that all suits that we might be talking about that are nonmonetary, including libel, defamation, slander, etc.

If there is one or more publication by a writer or contributing writer, all of those, then under this amendment you would have to pick the percentage of harm or the percentage of fault on each defendant. It would also mean that in the punitive damages in calculating the Snowe amendment, which is now a part of the underlying bill, you would have to consider this. And you would have to pick out each defendant. There is also the provision that does not allow for you to introduce any evidence of punitive damage or wrongdoing in a case at chief.

So I gave the illustration this morning of the truck company that knows that the driver has had four drunk driving charges, two reckless driving charges, and, therefore, you could not prove that evidence because that would be punitive as to the driver and as to the owner of the trucking company, and all that might be the owner of the trucking company, in calculating the damages. You would not be able to do it. It might well be that they say, "Well, the truck owner has just 5 percent of the damage," because the jury did not know anything about the fact that he had knowledge of those four convictions, and, therefore, it can affect it in a lot of different ways.

But I want to get also into what this includes. I just read it. I have not had time to do adequate research. But I do have questions, and I think they ought to be answered. Does this include noneconomic damages such as pain and suffering, or the emotional distress that could occur to an American with a disability or a State law that has certain disability acts? Does this apply to those States that have laws against sexual harassment? Sexual harassment is not a type of injury that you show in economic terms. It is a subjective damage that you have to evaluate. The discrimination cases that come up in employment, sometimes you may be able to prove monetary damages on that. But there are other elements of emotional distress, pain and suffering, and humiliation.

Then I also wonder what about antitrust litigation under a State law? There are so many unanswered questions about how this would apply. You wonder to what extent it would go. This amendment particularly seems to be, as it was under the product liability underlying bill, directed toward the non-wage earner, the retired person, the elderly who are going to spend, hopefully, their days in their retirement, their sunset years in life with emotional peace and enjoyment. And yet they are deprived of that, and you have someone over here that you cannot even prove the gross negligence or the recklessness or the wanton conduct in a trial in chief in trying to calculate whatever the noneconomic damages might be.

The woman who is deprived of the right to bear children comes under noneconomic damages—whether or not it occurs from a product or whether it would occur from the automobile accident or any type of cause of action that might arise pertaining to this amendment.

This is a very broad, sweeping amendment that covers so many aspects of the tort laws of the States, and we have had, I suppose, no hearings on this, as far as I know. I do not know whether this amendment was ever the subject of a hearing beyond the scope of the underlying product liability bill. I would like to ask the distinguished chairman of the Commerce Committee, were there any hearings ever held outside of product liability as to the effect of eliminating joint and several liability for noneconomic damages for all civil actions?

Mr. HOLLINGS. On behalf of the distinguished chairman of the Commerce Committee, Senator PRESSLER, the answer is no.

Mr. HEFLIN. I still refer to the Senator as my chairman, but I realize that all of a sudden we have had change.

So no hearings have been held in regards to the sweep of this. I would like to also ask the ranking member, have any hearings been held as to the broad sweep and the encompassing aspects of all civil actions pertaining to punitive damages outside of the field of product liability?

Mr. HOLLINGS. No. What is particularly disturbing, in the accelerated hearings—I say accelerated—actual markup took place, when and even before, unbeknownst, I would say, to most members of the committee they added on the matter of rental cars, they added on the matter of component parts, and a lot of other things. And it has been like a sheep dog with the taste of blood, gobble up anything. Anything you can think of, put it on. We have had no hearings on any of this.

Mr. HEFLIN. In other words, we have an expansion to all civil actions on any theory as to changes in the area of punitive damages and the elimination of joint and several liability. And the amendment does not limit its application to interstate commerce. We as a deliberate body, the U.S. Senate, are going to attach our stamp of approval to language that has such a far-reaching, encompassing aspect without having a single witness or law professor or defense lawyer, or anybody to advise us as to its potential effect.

I do not know where and how it affects Americans under the Disabilities Act or a State law that has a disability act. I do not know how it affects—and from this one cannot tell—what it does pertaining to all of the various State laws dealing with the environment. There are some States that have had Superfund-type cleanup laws. What happens where there are numerous parties which might have contaminated the environment?

It certainly seems to me that these things ought to be subject to some hearings and some investigations rather than coming here without having really any great knowledge as to its ultimate impact.

Now, it seems to me that this matter of rendering a separate judgment against each defendant as to the amount to be determined, pursuant to the preceding sentence, which is that they be in direct proportion to the percentage of responsibility of the defendant.

Now, in a trial of a case where you might have 10, 15, or more defendants, there are really no standards, no real directions that are given as to how you, in effect, will determine the placing of damages, no real instructions or standards, or various criteria to be used.

There are just so many unanswered questions, it seems to me that the Senate ought to give certainly a lot of careful thought to this amendment before we move forward.

The overall concept in the past has been that the wrongdoers, if a judgment is obtained, do the apportionment of the damages amongst themselves. Some States have what they call contribution among joint tort feasors. This has not been a real problem that I have heard of any great consequence—and I practiced law for 25 years—where there were those who really suffered as a result of joint tort feasor action. There may be some illustrations and there may be some instances to be pointed out, but I think they would be rare, indeed. Of course, if a person does not have any money, and the person who is injured only has a judgment against somebody that does not have any money, he cannot collect. The injured party is left holding the bag. He is the one who is really suffering. In other words, what you are doing with this amendment is benefiting the wrongdoer.

Now, under the underlying bill, you also have this matter of determining the percentage of fault. You have the situation of the employer's responsibility, co-employee's responsibility, and in the underlying bill, which is designed and it seems to be for such an advantage, that the harm can be placed against a nonparty. He does not have to be a defendant. You come up with somebody. And there are a lot of people you cannot sue. They are in bankruptcy, and so therefore, if they are in bankruptcy they have no money. Everybody wants to put all the fault off on him, on the person that might be in bankruptcy. Sometimes you cannot get service on someone in order to file a suit. So there are all sorts of considerations that should given to the impact of this far reaching amendment.

This underlying bill, seemingly, in determining the fault of the employer and the co-employee, is designed to give a particular emphasis to that. And it has language in the bill which says the last issue that shall be presented to the jury is the issue of the amount of fault that falls on the co-employee or the employer.

So you, therefore, try to have that fresh in the minds of the jury rather than somebody being able to present the case in a manner which they consider to be the proper way to do it. It ends up that you are required to try to emphasize and put the emphasis on the employer's fault, the coemployee's fault. And in most States you cannot sue the coemployee, who cannot be a party to the lawsuit because the employer is protected by workmen's compensation and the coemployee is protected by workmen's compensation.

So, all of these things are involved in this amendment which to me raises many questions. It just seems to me that it is already faulted with the fact that we have got that in the underlying bill. But to add it to all civil actions under any theory is grossly, in my judgment, unfair.

I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Michigan.

Mr. ABRAHAM. Thank you, Madam President.

I would like to try to answer several of the questions that were raised by the distinguished Senator from Alabama in his comments a moment ago. I was out of the Chamber for a minute, so I am trying to recapitulate all of his remarks. But I will go to the ones I think I understand.

One question that has been raised is the issue of whether the Senate has had an opportunity to consider some of the arguments that are involved in this effort to expand the underlying bill, the substitute bill, through such things as hearings and so on.

I would just say that I think there have been several efforts to do that. It is my understanding that in the Commerce Committee the notion of broadening legislation in that regard was discussed at least by one of the witnesses. A Mr. Ted Olson discussed the notion of broadening.

Also, obviously the principles of changing from the joint and several system that has preexisted were discussed in the context of the underlying bill itself. We discussed to some degree the same issues in a hearing that was held in the Judiciary Committee on punitive damages as well as in a subcommittee hearing that was conducted yesterday by Senator GRASSLEY on the cost of the legal system. To my knowledge, those are at least several venues in which these discussions have been the subject of hearings.

In addition, I guess I would just point out to the Chair that these are certainly not new issues. I believe the notion of reforming the legal system has been, as I understand it, at least before the Senate on previous occasions in various committees. So I think that we have had previous discussions as well.

Another point I want to address is the question that was raised as to whether the amendment we are proposing would apply to such things as the Civil Rights Act and so on. This amendment expressly does not alter or supersede Federal law. So in the case of any Federal law, whether it is the Civil Rights Act or others, I guess, that were referenced, I was out of the Chamber at that time, where provision for joint and several liability is provided, this amendment would not supersede. Those provisions would remain in place.

Let me just comment a little more broadly on some of the other points that were touched on by the Senator from Alabama in his remarks.

As far as noneconomic damages go, he, I think, did a very good job of outlining the broad definition of what constitutes noneconomic damages. And there is no intent on the part of our amendment to change that definition or to confine in any way the types of noneconomic damages which people might be able to recover.

The purpose of our amendment is to say that, while you may recover noneconomic damages, you should only recover them from a defendant to the extent the defendant is responsible for those noneconomic damages. And in the sense that so many of the noneconomic damages that were referenced tend to be in areas that are very subjective in terms of calculation, very hard to discern, it strikes me at least to be a fundamental principle of fairness that we not hold defendants who are not responsible for the negligence involved for damages over which it is very difficult, if not impossible, to calculate. As a sense of fairness, I think the type of amendment we are offering is responsive.

I would close with one final thought. We heard, I thought, a good point made with respect to some of the people who could conceivably be plaintiffs in actions of this sort; references to the elderly who might be injured and be seeking a form of recovery and not be somehow able to because we assign damages on the basis of responsibility.

But it seems to me that it is equally possible that the type of elderly individual referenced by the Senator from Alabama could be a defendant—an elderly individual who has saved his or her entire life for his or her retirement, who has a certain amount of fixed assets unlikely to get greater because of the fact that they have stopped working, who, because of joint and several liability, finds themselves, unhappily, the deep pocket in some type of multiple defendant situation and, consequently, even though they have only participated in a small degree in terms of the responsibility for an injury, end up holding the bag for the entire amount of the injury because the other defendants, even though more blameworthy, are judgment proof.

In short, I think you can see it from both perspectives.

The notion of our amendment is to try to place responsibility for resolving noneconomic damages on the shoulders of those who are most responsible for the damages in the first place, on the basis of their apportioned share of negligence.

So, for those reasons, I think our amendment is a sensible expansion of the underlying legislation. As I said earlier, I strongly hope that Members of the Senate will support it.

Madam President, I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Madam President, I was interested in what the distinguished Senator from Michigan had to say, particularly with regard to the reversal of where he made the elderly individual the defendant.

Most elderly persons in our country over the years, at least, I think the biggest majority of them, believed in having a home and buying a home and paying for their home by the time they reach retirement age. Most of them have what the insurance industry calls a homeowner's policy.

Now, how does that affect the illustration that he gave of the elderly defendant?

Practically every homeowner's policy has a provision known as the comprehensive liability provision. And those comprehensive liability provisions which insurance companies have sold over the years are indeed very comprehensive. I commend the insurance industry for the way they have sold these policies and their breadth. They cover pretty well any type of action that might be brought, unless it is specifically excluded.

The elderly individual probably in almost every case will have insurance to protect them from any liability that they might incur. Certainly, if they are driving an automobile, they carry insurance.

So I think the opportunity of saying the reversal—if you leave out the element of insurance—most of them are insured relative to this matter.

I just wanted to point that out in regard to this.

I have talked a lot about the Snowe amendment and severability and provisions on punitive damages in the underlying bill. Since Senator SNOWE is in the chair, it might be of interest to her, and I will recite it again.

Under the provisions of the underlying bill, if a person brings a suit and demands punitive damages, there is a provision that says if you demand it, either party can demand a separate hearing for punitive damages. I think that increases transaction costs, but that is not the point I want to bring here.

In that separate hearing, there is other language in the underlying bill which says that a party cannot introduce evidence of the conduct which would be admissible under a punitive damage trial, but in the suit for compensatory damages. So, therefore, a person who might be really, under several liability involved in this, 85 percent at fault but could not present the evidence of conduct which would constitute conduct recoverable under punitive damages in the trial in chief, you might have a situation where that person is 85 percent at fault really but because of this protection ends up with only about 5 percent in the noneconomic damage aspect of it.

So when you attempt to double that, you have a problem. That language pertaining to the fact that you cannot introduce in the compensatory damages part of a trial, the conduct of a defendant who is willful or conscious and flagrantly indifferent, but who could come under the punitive damage portion of a trial, prohibits such evidence from being introduced in the trial in chief. Therefore, the severability aspect of this comes into play, and it can well be that the defendant who is the greatest at fault and, therefore, you would have the severability as it would apply to the noneconomic damages, would be, in effect, able to escape relative to these matters.

So it is something she might want to look into as this bill goes forward. I feel like there is a major problem that might be there. I just mention that again.

I think I will yield the floor at this time.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Madam President, I just wanted to add a couple more points to my opening remarks on this amendment, because I think they elaborate a little more fully on some of the concerns I raised at that time.

As I mentioned in my comments, the need, in my judgment, for expanding the underlying substitute is based on my belief that there is a need to provide the same sort of protections to nonprofit organizations and civic organizations, and so on, that we are trying to provide to product manufacturers. I just wanted to enter into the RECORD a couple of examples that have been brought to my attention in recent days in the context of this debate.

The first is a case of a battered women's shelter in Evanston, IL. A few years ago, the Junior League of Evanston sought to establish such a shelter. An exhaustive search of liability insurance coverage revealed that no insurance company would provide coverage until the shelter operated for 3 years without being sued. No one was willing to serve on the shelter board unless it had liability insurance. So the shelter was never established.

That is the kind of, I think, unhappy outcome which the current system with respect to joint and several liability has created.

A similar incident involving the Cincinnati Symphony Orchestra illuminates the problem as well. A situation occurred recently where traffic was backed up on the exit ramp leading to the Cincinnati Symphony Orchestra's facility prior to a recent performance. A drunk driver, speeding above posted limits, rear ended a car in the traffic jam injuring the driver of that car. The injured driver filed a lawsuit and made the orchestra a defendant only after learning that the drunk driver was uninsured. The owner of the land on which the facility was situated was also made a defendant.

The plaintiff argued that the orchestra and the landowner were negligent in allowing the traffic jam to occur. After litigating the case all the way through trial, the orchestra and landowner were found to be 20 percent at fault between them. However, through the application of joint liability, the orchestra and the landowner were made responsible for all the plaintiff's damages, even though, by any commonsense measure, they had done little or nothing to cause them.

This is really the principle that caused me to bring this amendment in to expand the underlying substitute, because I think we have instance after instance where these types of outcomes are produced and, as I said in my opening statement, they happen regardless of the extent to which the defendant may have tried to protect against injury. We know that no situation is without its risks. Nobody who operates a business can operate it risk free. They can and should have as much incentive as possible to minimize the risks that they create.

Under a joint/several liability approach, however, there is not as much incentive to limit risk because, as I stated in my earlier comments, no matter how successfully one insulates themselves, even to exclude certain risks and possibilities of liability from happening, they still may be found responsible and pay the entire damages involved in an injury simply because of joint and several liability.

I do not think that is the kind of incentive system we want, and I think that set of incentives ought to apply across the board. Therefore, I believe the expansion of the legislation through my amendment from the product area exclusively to other areas, as indicated in the amendment, is a sensible and wise addition to this bill.

Madam President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, once again, we are back now to the joint and several question with the Abraham amendment. I remember a few years ago this issue of competitiveness in Europe, for example, that they did not have this and we pointed out at that particular time, and I read again article V of the Directive of the Official Journal of the European Community:

> Where, as a result of the provisions of this directive, two or more persons are liable for the same damage, they shall be liable jointly and severally, without prejudice to the provisions of national law concerning the rights of contribution or recourse.

So if they get on to the matter of competitiveness, I wanted to answer that in the first question, because the trend for joint and several without competitors is just that. The United States gives overwhelmingly predominant treatment—and in fact they call it fair treatment with respect to economic loss. Let us not misunderstand here. They characterize in the majority report what is fair. They use that word—and you can use—in the majority language of the report of the committee.

> Section 109 introduces fairness and uniformity to the law concerning joint and several liability and product liability actions by adopting the California rule, which holds that defendants are responsible only for their fair share of a claimant's subjective nonmonetary losses, including pain and suffering awards.

Well, is that fair? It was on an initiative, Madam President—proposition 51. That State of California is as goofy as it can come. They had, I remember, proposition 13 on property tax and wrecked the State. They can sell anything out there, mostly. They get a lot of money and a lot of advertising and a lot of TV and get a temper up and everything else like that. So they are ruining a magnificent school system. You could not get a license to build down in the capital, in Pasadena and Sacramento. I remember many instances, from friends out there, that it never has been the same since. They removed property tax support for general government and rolled it back, and now they have gone to an 8 percent sales tax and they have gone to a special gas tax for highways and everything else, and they have been struggling ever since with multibillion dollar deficits. They call it fair, the California rule. It is not the usual rule in the several States of America. It is the unusual rule, in this Senator's opinion, the unfair one.

Why did we say that it is unfair? We go right to the idea as to economic loss. It should be joint and several. Now, that is a hypothesis; that is the premise of the amendment of the distinguished Senator from Michigan. He agrees that is sound. In fact, the majority of the committee agrees that is sound. In fact, the major sponsors, the Senators from West Virginia and Washington, the principal sponsors here of product liability, all agree that joint and several is sound and fair. But only for economic damages.

What they are really doing is savaging the women and family population, savaging the women and family population of our country. That crowd that came to town with the family bill got a contract, and they are going to build a family. The majority of women, thank heavens, are the builders of the family, producing the family, caring for the family, and all without a salary—noneconomic loss, all with no compensation, so no compensatory situation. The family. Everybody I know down in my backyard, they have the big movement, the religious right and everything else. But they all say, "I am for the family, the family, the family." But I can tell you here and now that they are gutting the family.

Let us see what Professor Finley said with respect to the distinctions between economic loss and noneconomic loss damages harming women:

> Provisions that make distinctions between economic loss and noneconomic loss, favoring the former and disfavoring the latter, disadvantage women for several reasons. Noneconomic loss damages, which include compensation for loss of reproductive capacity, impairment of sexual function, harm to dignity and self-esteem, and emotional or psychic harm, are crucial category of damages for women, because many injuries that primarily or especially affect women are compensated largely, if at all, through noneconomic loss damages. For example, reproductive harm, including pregnancy loss, or infertility, is compensated primarily through noneconomic loss damages, because the greatest impact of these sorts of injuries is not on the ability to earn a paycheck, but rather on the ability to be a whole, fully functional female. Sexual harassment, sexual assault, sexual improprieties by health care providers are also examples of injuries that have profound impacts but are compensated primarily through noneconomic loss damages.
>
> Noneconomic loss damages are especially crucial to women in the area of drugs and medical devices. Unfortunately, far too many of the modern health and product liability disasters in the drug and device area involve products designed to be used in women's bodies, usually in connection with reproduction or sexuality: The anti-nausea drug thalidomide, which produced horrifying birth defects; the ineffective anti-miscarriage drug DES, which causes cervical cancer and infertility; the Dalkon Shield and Copper-7 IUDs, which caused sometimes fatal or sterilizing pelvic inflammatory disease and uterine perforations; silicone breast implants, which can cause debilitating autoimmune diseases and permanent disfigurement; the acne treatment drug Accutane, which if taken during the early stages of pregnancy causes serious birth defects; the drug Ritodine, which is prescribed to prevent premature labor, but has proven fatal to some women; the contraceptive Norplant, which is turning out to have serious side effects and to require expensive and dangerous invasive surgery to remove. The greatest extent of injuries caused by these products is to reproductive capacity, to the ability to bear a whole and healthy child, to intimacy and normal sexual functioning, to self esteem and dignity—all aspects of injury which are compensated by noneconomic loss damages. Studies also demonstrate that the prospect of liability can be a factor to encourage drug companies to more adequately include women in clinical trials of drugs and to perform more extensive testing of drugs and devices to be used in women's bodies.

If you go with this Abraham amendment, I can tell you here and now, you have cut off clinical trials of women in this drug field, because there is no loss there. They have written that off now as a care in this society—the family crowd that has come to town wanting a family bill, a family tax cut, and a family this and that, and they want to savage the family here with this joint and several prohibition, or noneconomic damages.

Going further with Professor Finley—and to make it absolutely clear, she is an outstanding professor. Lucinda M. Finley is her complete name. She says:

> Noneconomic loss damages are also of particular importance to women because a growing body of empirical research demonstrates that women recover far less than men for economic loss damages, and it is primarily thanks to the noneconomic loss category that women's tort recoveries move closer to the average for men. Women recover less under the economic loss category because on the whole they earn less than men; because their household labor, while recognized, is valued very low; because economic loss damages are often calculated using tables that presume that women earn less and will stop work earlier; and because so many injuries that happen to women have low economic loss value and injure primarily in noneconomic ways.

These inequities in economic loss damages are also true for other social groups that earn little or less on average than white men: The elderly and retired, blacks, and Hispanics. Noneconomic loss damages can also make the tort recoveries of these economically less well off social groups more commensurate with what white men receive for similar injuries.

Indeed, the nonpecuniary loss aspects of damages may be even more crucial for the elderly person or for the poorly paid minority clerical or domestic worker, because they are less likely than high wage earners to have disability and health insurance, a pension plan, or investments that can provide a security net in the event of catastrophic injury.

For all these reasons, full recognition of noneconomic loss damages is of fundamental importance to ensuring that the tort system provides adequate compensation to women for reproductive and sexual harm, and to the elderly and lower paid or impoverished members of society.

Madam President, I think it is clear cut. I could go on. There is no question in my mind what the intent here is. Again, the manufacturers bill is not for consumers. We have to have Senators on the floor saying, "Oh, I am worried about the consumers." The manufacturers bill, again, limits their liability and limits their cost so they can make more money and safety can decline in the United States.

What do we do when we provide for that several proof in noneconomic loss and the degree thereof? I read again from Professor Finley:

> Joint liability does not mean that part of the injury was caused by the independent actions of one defendant, while another part of the indivisible injury was caused by another defendant's actions. In many product cases, the injuries are an indivisible whole, and cannot meaningfully be parceled out in this way. For example, when a defective IUD causes an infection that renders a woman permanently infertile, one cannot meaningfully ascertain that the manufacturer's failure to test the tail string caused half the infertility, while the failure of the manufacturer of the copper or string filament to test its effects when introduced into the uterus caused the other half of the infection.

Now, here is an initiative to simplify the uniformity for less bureaucracy, causing what? If they want to know why there are so many lawyers, I can say now, having tried cases, that is going to put another 2 days of trial on my case, and we will spend more time and there will be more dispute and there will be more bureaucracy and there will be more cost.

That is all in the name of, really, punishing the poor, the minority, the women in our society, particularly family members. I think it ought to be rejected out of hand. They do not reject it. They adopt it with the word "fair" for economic loss.

It is not 1 percent in economic loss who has only 1 percent contributing, we will say, to the wrongful act or injury and the other 99 percent having gone bankrupt, and I only had 1 percent contribution to the particular verdict and finding of that jury. Yes, if it is only 1 percent for economic, then let the 1 percent pay the 100 percent. Let the 1 percent pay the 100 percent. They adopt that with the word "fair." They think that is fair, joint and several, for that. That is fair.

When it comes to the injuries for the women in our society, the aged in our society, the minorities in our society, the nonbreadwinners in our society, if they cannot prove economic loss, then what do they do? They list it out.

They want to make absolutely sure in that particular amendment—if I could find my copy of that Abraham amendment, they talk and they decide exactly what they do not want to pay for. They find, yes, joint and several for everything else, but the term "noneconomic damages" means "subjective, nonmonetary loss resulting from harm, including pain, including suffering, including inconvenience, including mental suffering, emotional distress, loss to society and companionship, loss of consortium, injury to reputation, and humiliation."

Throw all of that out under this amendment. Forget it. We will not be able to prove the several. And we have to start proving that while, at the same time, there has been proof by the greater weight of the preponderance of evidence that there has been wrongdoing and that there has been injury and the burden now is the injured party is to be injured further with the Abraham amendment. They are really putting the burden on here, and they come in the same breath and say, "We are interested in the injured parties—namely, consumers."

Now, if anybody believes that, well, I see we are getting around the time when we can vote and others want to speak, but I hope that Members will study this amendment very, very carefully and understand that it is not the California rule, like something is wonderful. I run in the other direction when I hear about the California rule.

If a person wants some liberal things happening and everything else of that kind, go to the State of California. I have many, many friends out there and they have a big time, but to bring this into rule of the United States of America and to reverse the majority State laws in our Nation and not to reverse it on joint and several for economic loss, which they term "fair" and sound but only for noneconomic loss, these particular people in our society, particularly families and those who produce and build the families and say that they are for families, they are caught off base on this. I hope they vote against their own amendment.

AMENDMENT NO. 681 TO AMENDMENT NO. 596

(Purpose: To make improvements concerning alternative dispute resolution)

Mr. KYL. Madam President, I am simply going to make a unanimous-consent request. I ask unanimous consent to lay aside the pending amendment and offer an amendment, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Arizona [Mr. KYL] proposes an amendment numbered 681 to amendment No. 596.

The amendment is as follows:

> In section 103, strike all after subsection (a) through the end of the section.

Mr. KYL. Madam President, just a moment to explain what this amendment is. I know we are getting close to the time to vote, and the Senator from Connecticut wishes to speak, as well.

This section 103 is titled "Alternative Dispute Resolution Procedures." It establishes that in a jurisdiction where an alternative dispute resolution procedure is provided for, that either the claimants or the defendant may utilize such procedure. That is point one. Of course, that does not change anything or add anything to existing law.

The second part of this provides how the procedure shall be utilized. Again, that adds nothing to the existing law.

The third part of section 103 establishes that if the defendant refuses to go along with or to accept the plaintiff's request and certain other conditions are satisfied, then the defendant shall be found liable for attorney's fees and costs. That is, in effect, the British rule, the loser pays. But there is no such provision for plaintiffs.

I thought this was merely an oversight. Obviously both parties to a litigation should be accorded the same rights under the rules of procedure. But it is not an oversight. I am told that certain Members of the body require this dichotomy in the rules in order to vote in favor of the bill.

Madam President, if that is what it takes we should not be doing it. This is grossly unfair. It would be an absolute and total departure from everything that our legal system stands for. All parties to litigation plead their cases, defend their cases, prosecute their cases under the same set of rules. We do not have rules that apply to one side but that do not apply to another; particularly where we are trying to avoid litigation in the first place by providing for alternative dispute resolution.

So, where a State has such a procedure we ought to be encouraging both parties to go through such a procedure. If there is to be a penalty attached, then that penalty should be the same for either party. If there is not, that is the business of the State jurisdiction. But the Federal Government should not be interceding and saying if a State has such a procedure it only applies to the defendant; plaintiff is under no obligation to go through with it if requested by the defendant.

So, Madam President, we will talk more about this tomorrow but I wanted my colleagues to know that this gross unfairness does need to be corrected in the bill. It is a very simple amendment, but I will be asking my colleagues to support this amendment tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, I wanted to send an amendment to desk to get in line here. I ask unanimous consent to temporarily lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 682 TO AMENDMENT NO. 596

(Purpose: To provide for product liability insurance reporting)

Mr. HOLLINGS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 682 to amendment No. 596.

Mr. HOLLINGS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . PRODUCT LIABILITY INSURANCE REPORTING.

(a) REPORT TO CONGRESS.—The Secretary of Commerce (hereafter in this section referred to as the "Secretary") shall provide to the Congress before June 30 of each year after the date of enactment of this Act a report analyzing the impact of this Act on insurers which issue product liability insurance either separately or in conjunction with other insurance; and on self-insurers, captive insurers, and risk retention groups.

(b) COLLECTION OF DATA.—To carry out the purposes of this section, the Secretary shall collect from each insurer all data considered necessary by the Secretary to present and analyze fully the impact of this Act on such insurers.

(c) REGULATIONS.—Within 120 days after the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to implement the purposes, and carry out the provisions, of this section. Such regulations shall be promulgated in accordance with section 553 of title 5, United States Code. Such regulations shall—

(1) require the reporting of information sufficiently comprehensive to make possible a full evaluation of the impact of this Act on such insurers;

(2) specify the information to be provided by such insurers and the format of such information, taking into account methods to minimize the paperwork and cost burdens on such insurers and the Federal Government; and

(3) provide, to the maximum extent practicable, that such information is obtained from existing sources, including, but not limited to, State insurance commissioners, recognized insurance statistical agencies, the Administrative Office of the United States Courts, and the National Center for State Courts.

(d) SUBPOENA.—The Secretary may subpoena witnesses and records related to the report required under this section from any place in the United States. If a witness disobeys such a subpoena, the Secretary may petition any district court of the United States to enforce such subpoena. The court may punish a refusal to obey an order of the court to comply with such a subpoena as a contempt of court.

Mr. HOLLINGS. Madam President, this is simply the amendment we had on previous product liability bills. It was actually proposed by the distinguished colleague, Senator ROCKEFELLER from West Virginia. It has to do with product liability insurance reporting.

Not to delay the Senator from Washington or the Senator from Connecticut, both of whom I thank very much for yielding, I will debate it later on.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 618 TO AMENDMENT NO. 596

Mr. GORTON. Madam President, I had earlier announced I would move to table the Thompson amendment at 5:45. I do see on the floor my distinguished colleague and cosponsor, the Senator from Connecticut, who has not spoken on any of these issues today.

I ask him if he would like to do so? I am going to certainly defer my motion to table.

Mr. LIEBERMAN. Madam President, replying to my friend and colleague from Washington, I would appreciate the opportunity to speak for just 4 or 5 minutes, if I may at this time, on the Thompson amendment.

Madam President, we have proceeded, now, for several days on the topic of product liability reform. Those of us who have sponsored the underlying bill, a bipartisan group, have argued that the current system of product liability litigation is costly, it is unfair, too much of the money put into the system goes to those who are operating it instead of the victims of actual negligence.

We have proceeded and brought several important issues to votes, not only on product liability but on the general topic of medical malpractice, punitive damages—a creative approach offered and accepted by more than 60 of our colleagues, by the occupant of the chair, the distinguished Senator from Maine.

I think we have a consistent pattern in which a majority of Members of the Chamber, of this Senate, have spoken in favor of reform, acknowledging that the status quo in the civil justice system, when it comes to tort law, is just not working as it should. It is not working in the interests of the American people. It is not working in the interests of the American consumer who is paying too much and getting too little. It is certainly not working in the interests of American business and American workers because it is denying us products. It is making us less competitive. It is denying employment opportunities. I say all of that as a preface to saying just a few brief words about the amendment offered by the Senator from Tennessee, Mr. THOMPSON, joined also by Senators SIMON and COCHRAN.

With all respect to my three colleagues, the record will note that they have not been, generally speaking, among those who have voted for the reform effort, the tort reform effort. I would say, respectfully again, that a vote for this amendment will have the effect of making hollow the effort to achieve genuine product liability reform—genuine tort reform. It would make it hollow in taking unto itself the banner of federalism and States rights, as it were—but it does so in a way that is not true to the actual content of the bill before us and is not really true to federalism either.

The fact is, the underlying bill leaves almost all of the fundamental questions of liability still with the States but it acknowledges that this area of our law has national implications. It is a national problem and it requires a national solution. By restricting the impact of these reforms to the Federal courts, this amendment essentially eviscerates—it guts the bill. It will not any longer be true reform.

There are some who have described the underlying bill as too weak. We like to say it is moderate. It is balanced—I believe it is. It is the way it ought to go forward. But if this amendment is agreed to, there will be very little left and it will be much less than moderate.

Madam President, let me just say specifically that the impact of this amendment would be to enable attorneys, plaintiff's attorneys, to shop for appropriate jurisdictions in which to, even more than under the current law, file their suits in State courts. But more significant and perhaps a point that has not been mentioned enough, plaintiff's attorneys here will be motivated to immediately add resident defendants to the complaint so as to avoid removal to Federal court. Under current legal practice, under current law, any time there is a defendant in a suit from the same State as plaintiff, diversity of jurisdiction, which is a prerequisite to obtaining Federal court jurisdiction, is defeated. Thus, plaintiffs can easily control here whether Federal law will apply and can frustrate the attempt to finally, after 18 years of attempts in this Senate, in this Congress, to reform. They can frustrate that attempt. It also means that more people will be sued, more small businesses will be sued, that lawsuits will cost even more.

So we are trying to achieve a modest level of uniformity in the underlying amendment in an effort to reform the inequitable, costly, slow system we now have. The amendment offered by the Senator from Tennessee will doom any effort to achieve those moderate results, and, therefore, I strongly urge my colleagues, again a majority of whom have expressed their clear desire for reform, to be consistent with that expressed desire for reform and to vote against the amendment offered by the Senator from Tennessee.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Madam President, almost 6 years ago the U.S. Supreme Court decision named Erie Railroad versus Tompkins did all it possibly could to consolidate and rationalize the law relating to actions brought or removed to Federal courts under diversity of jurisdiction by ruling that Federal courts were required to follow State law in such cases. So that it would cut back on forum shopping by lawyers who were looking for a more favorable law than within their own State by choosing between State or Federal courts.

For almost 60 years that has been the law and it has worked well. This bill is designed to reduce further the lack of uniformity, shopping among the various States.

The Thompson amendment instead of having 50 different jurisdictions and rules with respect to product liability litigation would result in 100 because the rule of the Federal court in Connecticut would be different from the rule in the State court in Connecticut. The rule in the Federal court in West Virginia would be different than the rule in the State court in West Virginia or Washington or Maine. So we would have more confusion, more forum shopping, and less uniformity.

That is why primarily the Thompson amendment should be defeated ending this debate.

Madam President, I ask for the regular order.

The PRESIDING OFFICER. The regular order is the amendment offered by the Senator from Tennessee.

Mr. GORTON. I move to table the Thompson amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington to lay on the table the amendment of the Senator from Tennessee. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

The PRESIDING OFFICER (Mr. BENNETT). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—58

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Conrad
Coverdell
Craig
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feinstein
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Murkowski
Nickles
Nunn
Pressler
Pryor
Robb
Rockefeller
Santorum
Smith
Snowe
Stevens
Thomas
Thurmond
Warner

NAYS—41

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cochran
Cohen
D'Amato
Daschle
Feingold
Ford
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Moseley-Braun
Moynihan
Murray
Packwood
Reid
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Thompson
Wellstone

NOT VOTING—1

Pell

So the motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I would like to address some of the underlying provisions in the product liability bill which I feel are unfair.

No. 1 is that in the definition of claimant and person, the language brings within the purview of this bill a Government entity. This means cities, counties, State government, the Federal Government. The statute of repose could be very important as we look at the U.S. Army relative to damages it might suffer.

I think most of the vehicles in the Army we know are designed to last a long time—helicopters, NASA vehicles, and so forth. Why the proponents want to include a Government entity within the provisions of this statute raises a lot of questions to me.

Now they pretty well exempt rental cars, lease property from product liability. I gave an illustration earlier that you might have a situation in which a recall is sent by the manufacturer, but the rental car agency decides to continue to lease the car with knowledge that there are dangers that might be in the car. I just mention that.

Also, in the calculation of several damages in the bill itself and in the Abraham amendment, there is language to the effect that in the several liability and the percentage of harm, that it does not have to be a party to the lawsuit. Therefore, you have situations where there could be companies in bankruptcy where you could not get jurisdiction. And then you could have a situation where, in the absence of service, you could not bring it; or it could be that the statute of limitations has run before someone recognizes that part of it is not to the lawsuit, to get service on, relative to that matter. Under most workman's compensation laws, it not only means that you cannot bring a lawsuit against your employer, but also against coemployees. Yet, you have the right under this, whether party to a lawsuit or not—the jury would be obligated to set a percentage of the fault against that party. And that party would not be there to defend themselves. They would not want to become involved in a lawsuit. They are the only ones who really know their defenses and the amount of their responsibility pertaining to the fault that might occur. So, in effect, therefore, they would gang up against a party who was not a defendant in the lawsuit.

Then there is language in regard to misuse or alteration, which is a defense that reduces the damage. But, again, it is carefully worded for an advantage. It says, ". . . misuse or alteration by any person, regardless of whether they are a defendant in the lawsuit."

And then you have, in this bill, to show you how it is worded, in the lawsuit if you have several defendants and they are not parties—the employer and the employee cannot be made—in most instances, the coemployee cannot be made a party to a lawsuit and is protected because of workman's compensation. Then it says that the last issue to be tried in the lawsuit is the percentage of the fault that falls on the employer or the coemployee.

So they want it to be fresh in the minds of the jury as being the last issue that is tried. That is another slight advantage that they are always working in regard to this. The draftsmen of this are keen people who have represented defendants, and they are knowledgeable about defending lawsuits and are trying to get an advantage rather than trying to be fair to the injured party. And then it has the provision that you cannot settle without the insurance company or the workman's compensation agreement. If you want to settle for 75 cents on the dollar, the workman's compensation insurer will not let you do that because they want 100 percent. That is another example of the bill's unfairness.

Now, there are a lot of lawsuits on asbestos injury. It would apply to asbestos, except there is some provision pertaining to the statute of repose relative to asbestos, calling it a "toxic" matter.

The bill has a provision for businesses coming under the provisions of the Uniform Commercial Code regarding commercial loss, where businesses are therefore given an advantage. Well, under the Uniform Commercial Code, it has generally, under warranties, a 4-year statute of limitations; whereas, under this bill, the injured worker has only 2 years in a statute of limitations. That is another advantage that is put in there for the benefit of the manufacturer.

Another aspect relates to implied warranty. The bill abolishes the concept of implied warranty as a cause of action. Implied warranty basically is a concept that says that the product is fit for the purpose for which it is sold. But under the language of the bill, there are several implied warranties. There is an implied warranty of merchantability, and other implied warranties are involved. Under this language, it allows the only warranty that you can have a cause of action for or sue on is an express warranty.

So, therefore, all a seller of goods has to do, if he has knowledge of defects, is to keep his mouth shut. He just does not say anything. Under the normal law, if he says nothing, but he has knowledge, then the implied warranty could be found. But unless a seller expressly warrants a product, he is exempt from liability. Then there could be an instance in regard to the Uniform Commercial Code relative to privity of contract. You have to have privity of contract, actual contractual relations; it would be a limited effect where it would come into play, but it is still an advantage the bill's proponents are seeking.

I wanted to mention those. Of course, as the bill presently stands, the drug companies are almost completely immune from any lawsuit. Regarding pharmaceutical companies—drugs—there is just about an impossibility the way it is presently framed to recover against them. The biomaterial section is still one where they have written it in such a manner that it has language that is most unusual. They say that if a material comes in contact with bodily fluids or with tissue and remains for less than 30 days, less than 30 days could be 1 minute. It could be 5 minutes. When it talks about less than 30 days, it says that that comes in contact through a surgical opening.

What is a surgical opening? A surgical opening could be a needle that is stuck into you, a needle, a hypodermic device that goes in the body to draw blood or administer a drug or medicine. That is, in effect, a surgical opening. If it stays there 30 seconds, then it comes under the classification, the way this is written, of being an implant. And, therefore, if you are a component part of the implant under the biomaterials section that we have here, you have just about a complete immunity. The only way you could do it would be that you have to prove that the component part was not made by a different party but was made by the manufacturer, or that the component part was made by the seller—component parts, many times, are made by many and different people—or that it was according to specifications. A lot of times, there are defects relative to specifications on these.

I point out that there are a lot more snakes, as I call them, involved in this. Every time you read it, you discover another one of these snakes wiggling in the grass. Each of them are big issues.

I think we have concentrated too much relative to punitive damages, because there are so many other issues involved in this that are just as big in taking away the rights of injured persons. I wanted to point those out. I thought some others would be on the floor but, as usual, some will leave before too long. Maybe I made a point in that regard.

I yield the floor.

Mr. HOLLINGS. Mr. President, I am afraid the distinguished Senator and myself are probably running them off the floor.

Mr. President, I have submitted an amendment which is presently at the desk. I understand from the managers of the bill that the intent now is to hear about these amendments this evening, and then in the morning, and it is up to the majority and minority leaders.

As they have told me about it thus far, perhaps around 12:15, we would start voting on three amendments: The amendment of the distinguished Senator from Michigan, Senator ABRAHAM; I think it is a second-degree amendment by the distinguished Senator from Arizona, Senator KYL; and my amendment.

With respect to my amendment, entitled Product Liability Insurance Reporting, it struck me at the time of the hearing, the official on behalf of the Government appeared, said that the National Governors' Association policies make three major points about product liability. The first urges Congress to adopt a uniform product liability code; second, the Congress to assess and if necessary enhancing Federal consumer protection and product safety standards; third, calls for more effective oversight of the insurance industry. There is absolutely none.

In fact, the attempts over the years to try to determine anything at all about casualty carriers, their costs, their rates, their losses, the availability of insurance and otherwise, has been a tremendous problem at the Federal level because we have left it generally to the States.

Back 9 years ago in the hearings we were having at that time—because we only had cursory hearings on the bill this time—when we were having hearings in depth, it was a matter of unanimity out of our committee when Senators from Kentucky and West Virginia got together reaching a significant agreement.

I quote the Senator from West Virginia, Senator ROCKEFELLER, the primary cosponsor with Senator GORTON of Washington of this particular bill that we now have before the Senate:

> The Senator from Kentucky and I have reached a significant agreement which I think achieves a significant goal in an eminently sensible manner. The amendment is before you and ensures for the first time that the Secretary of Commerce will collect—not "may collect" but "will collect"—comprehensive product liability insurance data which will be useful to us as policy makers at the Federal and State levels.
>
> The amendment in effect makes it possible that should this issue be revisited, Congress will in fact have the facts before us. Okay. So what is in the amendment?
>
> The amendment would require the Secretary of Commerce to report comprehensive information annually to the Congress on the effect of this product liability tort reform bill, should it pass, on those insurers, noninsurers, reinsurers, self-insurers, risk retention folks, who issue product liability insurance.
>
> Now the Secretary of Commerce will collect data from these folks, and he can collect data from existing insurance statistical agencies. In other words, the bureaucracy factor is minimized, Mr. Chairman, because he can collect it from those who already produce it.
>
> However, a key component of my agreement with the distinguished Senator from Kentucky provides that the committee report—and we crafted our language carefully here—will spell out for the Secretary what information is needed for comprehensive understanding of the issue. For example, insurers premiums and investment income, outlays, overhead, legal expenses, reserves, as well as claims paid as a result of settlement as opposed to claims paid as a result of adjudication.
>
> Included in the report language will be a provision that the National Association of Insurance Commissioners has a set amount of time to work out an agreement with the Secretary of Commerce to require that insurers report data on claims paid out as a result of economic, noneconomic, and punitive damages. That has been an elusive factor, and that information in fact is not now available or at least it is not broken out. As a result of this amendment, it will be, and will be available to us.
>
> I believe, Mr. Chairman, it is a good amendment. I believe it is a fair amendment. It is not the amendment which I had originally suggested, but I believe that it is a reasonable compromise that gets us the same information and in a reasonable manner.

Now, that was presented in the bill and accepted. Thereafter, year before last, when we had on the last occasion before the Senate product liability, that amendment, word for word, was presented and accepted. Presented by this Senator at that particular time as the chairman of the Commerce Committee and accepted by none other than the two distinguished leaders that we have, the cosponsors and managers of the bill, the distinguished Senator from West Virginia and the distinguished Senator from Washington.

My hope, of course, that the amendment was accepted, it would be accepted again. Perhaps we will have to vote on it. However, it would nonplus this particular Senator that here we have what the managers themselves have not only promulgated but what they have accepted heretofore as a reasonable, proper, and necessary add on to the consideration of product liability and now rejected at this particular time. With that in mind, I yield the floor.

AMENDMENT NO. 599, AS MODIFIED, TO AMENDMENT NO. 596

Mr. HATCH. Mr. President, I ask unanimous consent that the pending amendment be set aside to call up this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that amendment numbered 599, as previously agreed to, be modified with the language which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 599), as modified, is as follows:

At the appropriate place, insert the following new section:

SEC. . REPRESENTATIONS AND SANCTIONS UNDER RULE 11 FEDERAL RULES OF CIVIL PROCEDURE.

(a) IN GENERAL.—Rule 11 of the Federal Rules of Civil Procedure is amended—

(1) in subsection (b)(3) by striking out "or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery" and inserting in lieu thereof "or are well grounded in fact"; and

(2) in subsection (c)—

(A) in the first sentence by striking out "may, subject to the conditions stated below," and inserting in lieu thereof "may";

(B) in paragraph (2) by striking out the first and second sentences and inserting in lieu thereof the following: "A sanction imposed for violation of this rule may consist of reasonable attorneys' fees and other expenses incurred as a result of the violation, directives of a nonmonetary nature, or an order to pay penalty into court or to a party."; and

(C) in paragraph (2)(A) by inserting before the period ", although such sanctions may be awarded against a party's attorneys".

(b) EFFECTIVE DATE.—The provisions of this section shall take effect 30 days after the date of the enactment of this Act.

Mr. HATCH. Mr. President, this amendment was offered by Senator BROWN and adopted by the Senate earlier this week. We have consulted with Senator BROWN and he has agreed to our modification.

Section (2)(A) of Senator BROWN's amendment would make the imposition of sanctions for a violation of Federal Rule of Civil Procedure 11 mandatory. The current Federal rule gives Federal judges discretion to award sanctions if a violation has occurred. This amendment simply restores discretion to our Federal judges to award sanctions in the appropriate cases.

AMENDMENT NO. 683 TO AMENDMENT NO. 596

(Purpose: To revise the rules regarding claimants who are employees)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendments will be set aside and the clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 683 to amendment No. 596.

Mr. GORTON. I ask unanimous consent further reading be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike lines 4 through 14 and insert the following:

(2) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

On page 25, line 15, strike "CONSENT" and insert "NOTIFICATION".

On page 25, beginning with "subparagraph" on line 16 strike through line 25 and insert "subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the employer.".

Mr. GORTON. Mr. President, this is a corrective amendment with respect to the subrogation provisions of the workmen's compensation section. I have checked this out with the distinguished Senator from South Carolina. It is not controversial.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 683) was agreed to.

AMENDMENT NO. 684 TO AMENDMENT NO. 596

(Purpose: To modify the rented or leased products provision)

Mr. GORTON. Mr. President, I send another amendment to the desk for immediate consideration, and I ask the pending amendment be set aside.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], proposes an amendment numbered 684 to amendment No. 596.

Mr. GORTON. I ask unanimous consent further reading be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 21, after "but" insert "any person engaged in the business of renting or leasing a product".

Mr. GORTON. Mr. President, this falls under the same category, dealing with the definition of a rental.

I have checked it out with Senator HOLLINGS and it is acceptable and agreed to and not controversial.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 684) was agreed to.

UNANIMOUS CONSENT AGREEMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the vote on or in relation to the Abraham amendment No. 600, occur at 12:15 on Thursday, May 4, followed by a vote on or in relation to the Kyl amendment No. 681, to be followed by a vote on or in relation to the Hollings amendment No. 682, to be followed by a motion to invoke cloture on the Gorton substitute No. 596.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. Reserving the right to object, is the Kyl amendment relative to alternate dispute resolution proceedings?

Mr. GORTON. Yes, it is.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that all votes occurring in the stacked sequence following the first vote be limited to 10 minutes in length.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that following the first cloture vote, if not invoked, the time following the vote at 2 p.m. be equally divided in the usual form for debate only; at 2 p.m. the Senate proceed to vote on the second cloture motion; and the mandatory forum under rule XXII be waived for both cloture votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. For the information of all Senators, there will be no further votes tonight. However, Senators who wish to offer their amendments may do so tonight.

Also, Members should be aware that second-degree amendments must be filed 1 hour prior to the cloture vote under the provisions of rule XXII.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 685 TO AMENDMENT NO. 596

(Purpose: To toll the statute of limitations in certain actions brought against a product seller as manufacturer)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 685 to Amendment No. 596.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, between lines 14 and 15, insert the following: "For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer."

Mr. GORTON. Mr. President, this is the third in a series. This is a technical amendment that tolls the statute of limitations in connection with a possible claim against a wholesaler when a manufacturer is bankrupt or judgment proof. It has been cleared by Senator ROCKEFELLER and by the opponents to the bill.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 685) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. GORTON. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Zaroff, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF PROPOSED LEGISLATION ENTITLED "THE IMMIGRATION ENFORCEMENT IMPROVEMENTS ACT OF 1995"—MESSAGE FROM THE PRESIDENT—PM 44

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Immigration Enforcement Improvements Act of 1995." This legislative proposal builds on the Administration's FY 1996 Budget initiatives and complements the Presidential Memorandum I signed on February 7, 1995, which directs heads of executive departments and agencies to strengthen control of our borders, increase worksite enforcement, improve employment authorization verification, and expand the capability of the Immigration and Naturalization Service (INS) to identify criminal aliens and remove them from the United States. Also transmitted is a section-by-section analysis.

Some of the most significant provisions of this proposal will:

—Authorize the Attorney General to increase the Border Patrol by no fewer than 700 agents and add sufficient personnel to support those agents for fiscal years 1996, 1997, and 1998.

—Authorize the Attorney General to increase the number of border inspectors to a level adequate to assure full staffing.

—Authorize an Employment Verification Pilot Program to conduct tests of various methods of verifying work authorization status, including using the Social Security Administration and INS databases. The Pilot Program will determine the most cost-effective, fraud-resistant, and nondiscriminatory means of removing a significant incentive to illegal immigration—employment in the United States.

—Reduce the number of documents that may be used for employment authorization.

—Increase substantially the penalties for alien smuggling, illegal reentry, failure to depart, employer violations, and immigration document fraud.

—Streamline deportation and exclusion procedures so that the INS can expeditiously remove more criminal aliens from the United States.

—Allow aliens to be excluded from entering the United States during extraordinary migration situations or when the aliens are arriving on board smuggling vessels. Persons with a credible fear of persecution in their countries of nationality would be allowed to enter the United States to apply for asylum.

—Expand the use of the Racketeer Influenced and Corrupt Organizations (RICO) statute to authorize its use to pursue alien smuggling organizations; permit the INS, with judicial authorization, to intercept wire, electronic, and oral communications of persons involved in alien smuggling operations; and make subject to forfeiture all property, both real and personal, used or intended to be used to smuggle aliens.

—Authorize Federal courts to require criminal aliens to consent to their deportation as a condition of probation.

—Permit new sanctions to be imposed against countries that refuse to accept the deportation of their nationals from the United States. The proposal will allow the Secretary of State to refuse issuance of all visas to nationals of those countries.

—Authorize a Border Services User Fee to help add additional inspectors at high volume ports-of-entry. The new inspectors will facilitate legal crossings; prevent entry by illegal aliens; and stop cross-border drug smuggling. (Border States, working with local communities, would decide whether the fee should be imposed in order to improve infrastructure.)

This legislative proposal, together with my FY 1996 Budget and the February 7th Presidential Memorandum, will continue this Administration's unprecedented actions to combat illegal immigration while facilitating legal immigration. Our comprehensive strategy will protect the integrity of our borders and laws without dulling the luster of our Nation's proud immigrant heritage.

I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 3, 1995.*

REPORT OF PROPOSED LEGISLATION ENTITLED "THE ANTITERRORISM AMENDMENTS ACT OF 1995"—MESSAGE FROM THE PRESIDENT—PM 45

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

Today I am transmitting for your immediate consideration and enactment the "Antiterrorism Amendments Act of 1995." This comprehensive Act, together with the "Omnibus Counterterrorism Act of 1995," which I transmitted to the Congress on February 9, 1995, are critically important components of my Administration's effort to combat domestic and international terrorism.

The tragic bombing of the Murrah Federal Building in Oklahoma City on April 19th stands as a challenge to all Americans to preserve a safe society. In the wake of this cowardly attack on innocent men, women, and children, following other terrorist incidents at home and abroad over the past several years, we must ensure that law enforcement authorities have the legal tools and resources they need to fight terrorism. The Antiterrorism Amendments Act of 1995 will help us to prevent terrorism through vigorous and effective investigation and prosecution. Major provisions of this Act would:

—Permit law enforcement agencies to gain access to financial and credit reports in antiterrorism cases, as is currently permitted with bank records. This would allow such agencies to track the source and use of funds by suspected terrorists.

—Apply the same legal standard in national security cases that is currently used in other criminal cases for obtaining permission to track telephone traffic with "pen registers" and "trap and trace" devices.

—Enable law enforcement agencies to utilize the national security letter process to obtain records critical to terrorism investigations from hotels, motels, common carriers, storage facilities, and vehicle rental facilities.

—Expand the authority of law enforcement agencies to conduct electronic surveillance, within constitutional safeguards. Examples of this increased authority include additions to the list of felonies that can be used as the basis for a surveillance order, and enhancement of law enforcement's ability to keep pace with telecommunications technology by obtaining multiple point wiretaps where it is impractical to specify the number of the phone to be tapped (such as the use of a series of cellular phones).

—Require the Department of the Treasury's Bureau of Alcohol, Tobacco, and Firearms to study the inclusion of taggants (microscopic particles) in standard explosive device raw materials to permit tracing the source of those materials after an explosion; whether common chemicals used to manufacture explosives can be rendered inert; and whether controls can be imposed on certain basic chemicals used to manufacture other explosives.

—Require the inclusion of taggants in standard explosive device raw materials after the publication of implementing regulations by the Secretary of the Treasury.

—Enable law enforcement agencies to call on the special expertise of the Department of Defense in addressing offenses involving chemical and biological weapons.

—Make mandatory at least a 10-year penalty for transferring firearms or explosives with knowledge that they will be used to commit a crime of violence and criminalize the possession of stolen explosives.

—Impose enhanced penalties for terrorist attacks against current and former Federal employees, and their families, when the crime is committed because of the employee's official duties.

—Provide a source of funds for the digital telephone bill, which I signed into law last year, ensuring court-authorized law enforcement access to electronic surveillance of digitized communications.

These proposals are described in more detail in the enclosed section-by-section analysis.

The Administration is prepared to work immediately with the Congress to enact antiterrorism legislation. My legislation will provide an effective and comprehensive response to the threat of terrorism, while also protecting our precious civil liberties. I urge the prompt and favorable consideration of the Administration's legislative proposals by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 3, 1995.*

MESSAGES FROM THE HOUSE

At 12:46 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 655. An act to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 53. Concurrent resolution expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States.

The message further announced that the Speaker appoints Mr. PACKARD as an additional conferee on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

At 3:47 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that pursuant to the provisions of 22 U.S.C. 276h, the Speaker appoints the following Members of the House as members of the United States delegation of the Mexico-United States Interparliamentary Group for the First Session of the 104th Congress: Mr. BALLENGER, vice chairman, Mr. GILMAN, Mr. DREIER, Mr. SALMON, Mr. HAYWORTH, Mr. BROWNBACK, Mr. DE LA GARZA, Mr. GEJDENSON, Mr. COLEMAN, Mr. MILLER of California, and Mr. RANGEL.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 655. An act to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following measure was read and placed on the calendar:

H. Con. Res. 53. Concurrent resolution expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-794. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on a program of research outcomes of health care services and procedures; to the Committee on Finance.

EC-795. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on the activities of the Nonproliferation Disarmament Fund; to the Committee on Foreign Relations.

EC–796. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on Hong Kong; to the Committee on Foreign Relations.

EC–797. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to the U.S. Emergency Refugee and Migration Assistance Fund; to the Committee on Foreign Relations.

EC–798. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of corrections to treaties; to the Committee on Foreign Relations.

EC–799. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements other than treaties; to the Committee on Foreign Relations.

EC–800. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements other than treaties, and background statements; to the Committee on Foreign Relations.

EC–801. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements other than treaties, and background statements; to the Committee on Foreign Relations.

EC–802. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Audit of the D.C. Taxicab Commission Assessment Fund—Fiscal Years 1992, 1993, and 1994"; to the Committee on Governmental Affairs.

EC–803. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of the District of Columbia Board of Education's Personnel Screening Procedures for New Hires"; to the Committee on Governmental Affairs.

EC–804. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–805. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the report on the system of internal accounting and financial controls in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–806. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report on the Panama Canal Commission's financial statements for fiscal year 1994; to the Committee on Governmental Affairs.

EC–807. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the financial audit of the Federal Deposit Insurance Corporation's financial statements for calendar years 1993 and 1994; to the Committee on Governmental Affairs.

EC–808. A communication from the Executive Director of the Advisory Council On Historic Preservation, transmitting, pursuant to law, the report on the system of internal accounting and financial controls in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–809. A communication from the Chairman of the Christopher Columbus Fellowship Foundation, transmitting, pursuant to law, the report on the system of internal accounting and financial controls in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–810. A communication from the Director of the Office of Government Ethics, transmitting, pursuant to law, the report on the system of internal accounting and financial controls in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–811. A communication from the Secretary of Housing and Urban Development's Designee to the Federal Housing Finance Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–812. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–813. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–814. A communication from the Executive Officer of the National Science Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–815. A communication from the Executive Officer of the Federal Labor Relations Authority, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–816. A communication from the Executive Secretary of the Harry Truman Scholarship Foundation, transmitting, pursuant to law, the report on the system of internal accounting and financial controls in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–817. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, the report on the system of internal accounting and financial controls in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–818. A communication from the Director of the National Gallery of Art, transmitting, pursuant to law, the report on the system of internal accounting and financial controls in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–819. A communication from the Chairman and President of the National Railroad Passenger Corporation, transmitting, pursuant to law, the report under the Chief Financial Officers Act of 1990; to the Committee on Governmental Affairs.

EC–820. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report under the Chief Financial Officers Act of 1990; to the Committee on Governmental Affairs.

EC–821. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, the report under the Chief Financial Officers Act of 1990; to the Committee on Governmental Affairs.

EC–822. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report under the Chief Financial Officers Act of 1990; to the Committee on Governmental Affairs.

EC–823. A communication from the Chairman of the Board of the Pension Benefit Guaranty Corporation, Department of Labor, transmitting, pursuant to law, the report under the Chief Financial Officers Act of 1990; to the Committee on Governmental Affairs.

EC–824. A communication from the Attorney General, transmitting, pursuant to law, the report on the private counsel debt collection project for fiscal year 1994; to the Committee on Governmental Affairs.

EC–825. A communication from the Office of the Independent Counsel, transmitting, pursuant to law, the report on audit and investigative activities for the period April 1 through September 30, 1994; to the Committee on Governmental Affairs.

EC–826. A communication from the Treasurer of the Army and Air Force Exchange Service, transmitting, pursuant to law, the report of the actuary for calendar year 1993; to the Committee on Governmental Affairs.

EC–827. A communication from the Executive Director of the Martin Luther King, Jr. Federal Holiday Commission, transmitting, pursuant to law, the report of the Office of Inspector General for fiscal year 1994; to the Committee on Governmental Affairs.

EC–828. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the report of the annual audit for fiscal year 1994; to the Committee on Governmental Affairs.

EC–829. A communication from the Chairman of the PCA Retirement Plan, First South Production Credit Association, transmitting, pursuant to law, the report of the annual pension plan for calendar year 1994; to the Committee on Governmental Affairs.

EC–830. A communication from the Employee Benefits Manager, Farm Credit Bank of Columbia, transmitting, pursuant to law, the report of the farm credit retirement plan for the period September 1, 1993 through August 31, 1994; to the Committee on Governmental Affairs.

EC–831. A communication from the Director of the Morale, Welfare and Recreation Support Activity, Headquarters U.S. Marine Corps, Department of the Navy, transmitting, pursuant to law, the report on the retirement plan for calendar year 1993; to the Committee on Governmental Affairs.

EC–832. A communication from Secretary of Health and Human Services, transmitting, a draft of proposed legislation to extend the authorization of appropriations for programs under the Native American Programs Act of 1974, and for other purposes; to the Committee on Indian Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPECTER, from the Select Committee on Intelligence:

John M. Deutch, of Massachusetts, to be Director of Central Intelligence.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURNS (for himself, Mr. CRAIG, Mr. SIMPSON, and Mr. THOMAS):

S. 745. A bill to require the National Park Service to eradicate brucellosis afflicting the bison in Yellowstone National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. MOSELEY-BRAUN:

S. 746. A bill to amend the Social Security Act to provide certain reforms to welfare programs, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 747. A bill to require the President to notify the Congress of certain arms sales to Saudi Arabia until certain outstanding commercial disputes between United States nationals and the Government of Saudi Arabia are resolved; to the Committee on Foreign Relations.

By Mr. MCCAIN:

S. 748. A bill to require industry cost-sharing for the construction of certain new federally funded research facilities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. AKAKA (for himself and Mr. ROCKEFELLER):

S. 749. A bill to amend title 38, United States Code, to revise the authority relating to the Center for Women Veterans of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans Affairs.

By Mr. PACKWOOD (for himself and Mr. MOYNIHAN):

S. 750. A bill to amend the Internal Revenue Code of 1986 to properly characterize certain redemptions of stock held by corporations; to the Committee on Finance.

By Mr. EXON:

S. 751. A bill to provide that certain games of chance conducted by a nonprofit organization not be treated as an unrelated business of such organization; to the Committee on Finance.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 752. A bill to amend the Harmonized Tariff Schedule of the United States to restore the duty rate that prevailed under the Tariff Schedules of the United States for certrain twine, cordage, ropes, and cables; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. LEAHY, Mr. LUGAR, Mr. DASCHLE, Mr. CRAIG, Mr. BURNS, Mr. CAMPBELL, and Mr. HATFIELD):

S. 753. A bill to allow the collection and payment of funds following the completion of cooperative work involving the protection, management, and improvement of the National Forest System, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY (for himself, Mr. SIMON, and Mrs. BOXER):

S. 754. A bill to amend the Immigration and Nationality Act to more effectively prevent illegal immigration by improving control over the land borders of the United States, preventing illegal employment of aliens, reducing procedural delays in removing illegal aliens from the United States, providing wiretap and asset forfeiture authority to combat alien smuggling and related crimes, increasing penalties for bringing aliens unlawfully into the United States, and making certain miscellaneous and technical amendments, and for other purposes; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. FORD, Mr. JOHNSTON, Mr. CAMPBELL, Mr. THOMAS, and Mr. SIMPSON):

S. 755. A bill to amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER:

S. 756. A bill to expand United States exports of goods and services by requiring the development of objective criteria to achieve market access in foreign countries, to provide the President with reciprocal trade authority, and for other purposes; to the Committee on Finance.

By Mr. COCHRAN:

S.J. Res. 33. A bill proposing an amendment to the Constitution of the United States relative to the free exercise of religion; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 113. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

By Mr. HATCH:

S. Res. 114. A resolution to refer S. 740 entitled "A bill for the relief of Inslaw, Inc., and William A. Hamilton and Nancy Burke Hamilton" to the chief judge of the U.S. Court of Federal Claims for a report thereon; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS (for himself, Mr. CRAIG, Mr. SIMPSON, and Mr. THOMAS):

S. 745. A bill to require the National Park Service to eradicate brucellosis afflicting the bison in Yellowstone National Park, and for other purposes; to the Committee on Energy and Natural Resources.

THE YELLOWSTONE NATIONAL PARK BISON ACT OF 1995

Mr. BURNS. Mr. President, I rise to introduce legislation that is important to the future, I think, of the livestock industry, not only of Montana, but Washington, Idaho, and Wyoming and, also, I think to the Nation. Wherever the Government has a large concentration or a large presence, I think it has to be called upon to be a good neighbor. This legislation, which is long overdue, is as a result of the ineffectiveness of the Federal Government—especially the Park Service—to follow up on the work that it has been directed to complete. This bill will require the National Park Service to effectively manage a disease ridden herd of bison within the boundaries of the Yellowstone Park.

Mr. President, for years, the bison within the Yellowstone Park have carried brucellosis. It is a disease which causes cattle or bovines to abort their calves. When transmitted to humans, the disease can create a very painful and incurable disease known as undulant fever. This is a disease which the Animal Plant Health Inspection Service of the Department of Agriculture has targeted for complete eradication from the United States by 1998. The bison herd in Yellowstone Park is the only remaining major free-roaming herd in the Nation where nothing has been done to eradicate the disease.

Brucellosis is a disease which the livestock industry in the United States has spent untold millions of dollars to eliminate, done on a State-by-State program. In my State of Montana, the stockgrowers have spent almost $70 million to eradicate the disease and set up barriers in order to protect their herds. Yet, due to the continual delays in the Yellowstone National Park Service to address the remedy of the situation there in that park, the future of the livestock industry in Montana, the Nation, and the region, continues to be threatened by disastrous results which are a direct consequence of the disease. In addition, to the cost incurred by the livestock industry, there has been a cost to the State of Montana to protect its borders from the wandering herds of bison which roam outside the park every winter seeking forage.

These bison carry the disease and threaten the grazing lands and the herd on private lands in and around the park.

Now, I could stand here today and give a complete history of the terrible problem faced by States like Montana, Idaho, and Wyoming. For the sake of time, let me talk about this past winter and just exactly what happens.

In November, we had major snows in the park. It did not take long, but within a few weeks, up to five feet of snow had accumulated in Yellowstone Park, which effectively covered all the forage opportunities for the animals in the park.

When this occurs, the bison within the park turn and do exactly what is natural—they will start drifting between the lower meadows just for food. These large creatures are doing just exactly what their instincts tell them to do.

In order to protect livestock in our part of the country—and livestock industry and livestock agriculture is the No. 1 industry in Montana—we had to find it necessary to bring down these animals that we could not chase back into the park. This past winter, this number exceeded almost 400 head.

Nobody likes to see this happen, especially when an animal is following its own natural instincts for preservation and survival. However, it is necessary also to protect an economy and the safety of my State of Montana. If the disease were to be transmitted to any herd in the State, Montana would lose its brucellosis-free status that was granted by APHIS and the Department of Agriculture.

Already this year, the action of nine States has adversely affected the well-being of my cattle industry in the State of Montana. These nine States right now are requiring that any cattle transported from the State of Montana be tested for brucellosis, which basically, up until this incident, had been eradicated and certified free.

At the time, the industry is already reeling from a lower market. We are having to test all the breeding animals that leave the State of Montana, at a cost of $20 to $30 a head, a cost which we thought we spent money on to get rid of up until last year.

The language of this will require the National Park Service to face up to the seriousness of maintaining poor health and bad health practices for the herd of buffalo or bison in Yellowstone Park.

The animals will be tested and those that will test positive for the disease will be culled from the herd. Those that will test negative will be retained, and the younger animals will start on a program of being vaccinated. Doing this, over time, will finally eradicate the disease from the park.

When this herd was first introduced into the park by the U.S. Army, it was thought that there would be some sort of management plan to control the population. However, in the mid-1960's, the National Park Service developed a hands-off policy in relationship to the number of bison that could run in Yellowstone Park.

This action has increased the size of the herd and also increased the outbreaks of the disease. By increasing the herd size, the management of the park has increased the movement of the herd outside the park. The land mass within the park boundaries cannot sustain a herd of present size.

Anybody who would drive across the park would say that range conditions and the carrying capacity, we just have too much livestock in that part of the world, that little corner of the world, to sustain that herd. I think our estimated population went up to around 4,300, and by anybody's estimate it should be around 1,500. The provision of this bill will allow the Park Service to manage the size of that herd.

Mr. President, I appreciate the time to address this issue. This legislation is very important, not only, I think, for the livestock industry that would be affected in the States of Montana, Wyoming, and Idaho; I think it also shows that wherever Government has a presence, and is required to be or called upon to be a good neighbor, just like not asking the Park Service to do anything that we do not ask of an individual producer in the State of Montana, should this disease break out in a private herd. They, too, are asked to test, to cull, and to vaccinate, to get on a herd health program that takes this disease out of the livestock industry.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 745

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. YELLOWSTONE NATIONAL PARK BISON.

(a) TESTING, CULLING, VACCINATION, AND RELOCATION.—The Secretary of the Interior, acting through the Director of the National Park Service, shall—

(1) perform a blood test of each bison in the herd inhabiting Yellowstone National Park for brucellosis;

(2) in consultation with the Secretary of Agriculture, acting through the Administrator of the Animal and Plant Health Inspection Service and the State Veterinarians of the States of Idaho, Montana, and Wyoming, vaccinate and restrain under quarantine restrictions each bison that tests negative for brucellosis in accordance with a protocol established under the law of the States of Idaho, Montana, and Wyoming, to prevent transmission of brucellosis to susceptible animals;

(3)(A) slaughter or neuter each bison that tests positive for brucellosis, each bison that cannot be tested, and each bison that tests negative but cannot be restrained under quarantine restriction; and

(B) make the carcass or neutered bison available for use by Indian tribes and other suitable recipients;

(4) engage the services of a team of independent range scientists to determine the optimum population of bison that the land available for the heard in Yellowstone National Park is capable of sustaining;

(5) in consultation with the Secretary of the Interior, appropriate officials of Indian tribes, the States of Idaho, Montana, and Wyoming, and other interested parties, identify locations outside the Park that would be suitable for sustaining herds of bison created from any excess number of bison in the Yellowstone herd that are certified as being free of brucellosis, in accordance with standards established under the law of the States of Idaho, Montana, and Wyoming; and

(6) after brucellosis has been eradicated, continue to reduce the population of the Yellowstone herd to a number that is approximately 500 below the optimum population by transferring the excess number of bison to locations identified under paragraph (5).

(b) TIME FOR ACTION.—The Secretary of the Interior shall—

(1) initiate action under subsection (a) as soon as practicable, and in any event not later than December 31, 1995; and

(2) complete all of the actions required by subsection (a) not later than December 31, 1998.

(c) NO SURPLUS BISON.—After December 31, 1998, the Secretary of the Interior shall take all action necessary to ensure that the number of bison in the Yellowstone herd does not exceed the optimum population determined under subsection (a)(4).

By Ms. MOSELEY-BRAUN:

S. 746. A bill to amend the Social Security Act to provide certain reforms to welfare programs, and for other purposes; to the Committee on Finance.

THE ECONOMIC OPPORTUNITY AND FAMILY RESPONSIBILITY ACT OF 1995

Ms. MOSELEY-BRAUN. Mr. President, today I am introducing the Economic Opportunity and Family Responsibility Act of 1995. This bill seeks to reform the current welfare system in a way that protects children, supports families, and facilitates the transition from welfare to work, and it acknowledges what the debate in Congress has heretofore overlooked, moving recipients from welfare to work costs money, requires job creation, and will fail without transitional support services like health care and child care.

My bill also acknowledges that it takes two to make a baby and it includes strong child support provisions. At the same time, it acknowledges that some fathers would like to participate financially in the lives of their children, but cannot, due to under or unemployment. The bill provides assistance for them, too.

For me, the bottom line is ensuring that children are protected. The one question we must ask ourselves when evaluating various welfare reform proposals is, "what about the children?" Every provision in my bill seeks to improve the condition of children through economic opportunity for families and maintaining a minimum safety net for children. This country's future prosperity will be based on the accomplishments of all of our children. We do not have a child to waste.

I developed this legislation in conjunction with an advisory panel composed of Illinois academicians, advocacy organizations, State officials, and recipients. Their work and insight has been invaluable to this effort.

I wish to thank them for all their help.

The Senate Finance Committee has completed hearings on welfare reform and will soon consider specific proposals. Those on both sides of the aisle are committed to reform. The current system is broken and significant changes are necessary. Over 5 million families receive AFDC. While most leave welfare within 2 years, many cycle back on and off, and a small number are chronic welfare recipients. Recipients want to work, and I believe work is both a policy and moral necessity. Unfortunately, the current welfare system is fraught with disincentives.

There are disincentives to work and disincentives to marry. The system also forces States to spend too much time on administrative and process issues. The incentives, Mr. President, are in the wrong places and work is not a requirement for receipt of the benefit. I think on these things we all agree.

Where there is disagreement, but hopefully an opportunity to build some consensus, is how to devise and implement a system that will accomplish the goal.

The House has chosen to turn the problem over to the States by ending the entitlement status of AFDC and other programs that provide assistance to low-income families and replacing them with block grants to the States. I believe the House action was taken hastily and fails in many respects to identify proposed solutions to the underlying problems of our Nation's welfare system.

The Economic Opportunity and Family Responsibility Act, which I am introducing today, recognizes that welfare is simply a response to poverty. In 1993 in this country, 39.9 million Americans were poor; 22 percent of all children live in poverty, and more than half of all female-headed households, or 53 percent, are poor. Female-headed households account for 23 percent of all families.

This Nation and this Government cannot give up on improving living conditions for the poor. We cannot abdicate our responsibility for ensuring that America provides an opportunity for all Americans to experience a better way of life. Welfare reform cannot be successful if it exacerbates poverty rather than instituting measures to combat it. Being poor is not a sin, and blaming and punishing the poor for the social ills of this country is a misguided approach. Poverty is not a genetic issue, it is an economic issue. Creating new economic opportunities is a critical part, therefore, of any sensible welfare reform legislation, and it is the focus of my bill.

If the Senate is going to make headway on a proposal that can garner bipartisan support, everybody in this body, I think, must acknowledge the facts and not give in to unfounded rhetoric. The current welfare debate must not be framed by misconceptions and prejudices. The real problems that cause bloated welfare rolls, growing poverty, the lack of jobs in poor communities, the lack of health care and child care, should not get lost in the crossfire.

The facts are:

First, more AFDC recipients are white than are black.

Second, two-thirds of the recipients, 9 million of the total 14.1 million people, are children.

Third, the average family size is 2.9, which is similar to the national family size average.

Four, the average national monthly benefit is $373 a month for a family of three which, of course, is far below the poverty line, the official designated poverty line of $1,026 per month.

Finally, that the bulk of the recipients, over 40 percent, stay on welfare for only 2 years or less.

In order to make a dent in the welfare problem, which is really an economic one, I believe we must first create jobs. Even though unemployment rates are declining nationally in our Nation's poor communities, the unemployment numbers are staggering. For example, Mr. President, in Chicago's Robert Taylor Homes, which is a section on the south side of the city, there is 1 percent private sector employment—1 percent. No wonder that, even in a period of low national unemployment, in Chicago in this area 80 percent of the youth between the ages of 16 and 19 are unemployed and 55 percent of the 20- to 24-year-olds are out of work. Mr. President, this is not only a local problem, this is a national calamity, and it represents the kind of economic meltdown that has given rise to the welfare chaos that we see.

In addition to creating jobs, we must also do better to match job opportunities to recipients. While some have advocated a public works program, I believe that we have to build public/private partnerships to build jobs in the private sector. My bill offers several ways that this can be done.

In the first instance, it encourages banks to make equity investments in companies that are willing to locate in poor communities. Companies receiving these funds will be required to hire and train welfare recipients.

It allows welfare recipients to save money in what are called qualified asset accounts so they can start their own businesses and begin to prepare for their future.

It provides funding for job support demonstrations to help recipients in private sector jobs to maintain them.

And it provides funding for one-stop shopping career centers that coordinate services for welfare recipients, including job placement and job training.

Mr. President, while creating private-sector jobs in some areas may be difficult, and while we may not be able to create enough jobs to employ all welfare recipients immediately, I believe we must take this step. The dearth of private sector jobs is one of the greatest unacknowledged truths in this welfare debate. Instead, many have focused on cuts in funding and time limits. Requiring responsibility is important, but requiring time limits is ludicrous if there are no jobs for the recipients.

In addition to job creation, I believe we have to invest in families. Our current program has focused on providing subsistence to needy families. I believe we have to move from this philosophy to one of investment in families.

We can start, I think, with eliminating marriage disincentives.

Further, we have to eliminate barriers to working. It makes no sense to reduce benefits to recipients after 4 months and then again after 12 months, effectively eliminating incentives to work. I believe States do need flexibility to make changes like those permitted in my home State. Illinois allows recipients to keep $2 for every $3 of income. This is much easier administratively and allows recipients to earn money and to support a household.

Also, I believe we also have to encourage the working poor to take full advantage of what is already available to them. Nearly a quarter of those eligible for the earned income tax credit did not take advantage of the program. Less than one-half of 1 percent of families collecting EITC used the advanced payment option, which effectively functions as a negative income tax. I believe we need to do more to encourage people to take advantage of the programs that are already in place.

Also, Mr. President, we must do more to help those who get off welfare to stay off welfare. The majority of AFDC recipients leave within 2 years and 50 percent leave within 1 year. The problem is that a good chunk of those, 50 percent, who receive welfare tend to cycle on and off. The principal reason that most women leave their jobs and return to welfare is the lack of health insurance. A temporary response until we have real health care reform and, hopefully, universal coverage is to allow States to extend Medicaid health care coverage to women who want to get off welfare and out of the trap of welfare.

Another critical element is the provision of child care. While there are child care programs for low-income families, the dollars, frankly, are scarce. If we are to move women from welfare to work, we cannot forget about the children. Child care must be available and affordable. There is no other way unless we want to encourage child abandonment so moms can go to work to feed them. I believe we should block grant many of the child care programs, allowing the States to construct their own systems of funding. At the same time, I believe it is important to maintain the child care guarantee for those receiving assistance and to make certain that the assistance is adequate.

What the American people, I believe, wanted and what this Congress should deliver is not a program that throws money at the problem or that pulls the rug out from under the feet of poor children. We must design a program that makes every dollar productive.

In designing reforms, we should not ignore our past experience. We have existing programs that have been successful in moving recipients from welfare to work.

Wisconsin and Riverside, CA have been widely touted as the most successful welfare-to-work programs in the Nation. What both of these programs have are several things in common: An immediate requirement to find a job or participate in job search activities, increased funds for necessary support services like job training, counselors, and child care, and more caseworkers to deal more directly and comprehensively with the needs of individual recipients.

Moving recipients into jobs is expensive and time consuming. It can be done, but not on the cheap. Investing in people is more expensive, but far more rewarding, than just giving them a check. My bill costs money, but I believe it is an investment in the future. As the Chicago Tribune wrote in a recent editorial "a society that does not invest long term is one that always will have problems in the short."

I believe the Senate must also pledge to do no harm. We recently pledged to reject any legislation that increases the number of hungry and homeless children. Poorly thought out welfare reform does just that. When Michigan eliminated general assistance, jobs were not forthcoming and the number of homeless and hungry people increased. We must learn from past errors, and not enact reforms that ultimately hurt more poor children and families than are helped.

My bill, the Economic Opportunity and Family Responsibility Act, focuses on economic opportunity, family investment and transitional support. I believe these are the components for real welfare reform. I also believe that a greater dialog on these aspects of welfare reform should serve as a base for a wise and realistic Senate welfare reform effort.

Mr. President, I ask unanimous consent that a summary and a section-by-section analysis of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

The Economic Opportunity and Family Responsibility Act of 1995 focuses on welfare reform solutions that seek to reduce poverty in America. The key elements follow:

Investment in poor communities through private sector job creation; improves work incentives; provides state flexibility; encourages marriage and family stability; encourages parental responsibility; targets teen parents; acknowledges and encourages the participation of the non-custodial parent; reduces recidivism.

1. PROVIDES INCENTIVES FOR PRIVATE SECTOR JOB CREATION

Equity Investment Proposal—Targets the use of the banking system to create equity investments in companies located in or near poor communities. The Federal Reserve would be required to pay interest on the over $30 billion that banks and thrifts have on deposit at the Federal Reserve. Instead of cash interest would be paid in the form of certificates equal in value to the interest each bank and thrift "earned" each year.

Banks and thrifts could turn the certificates into cash by making investments in qualified companies—qualified companies are those willing to locate in or near high-unemployment/poverty zones. Qualified companies must agree that 50% of their employees associated with the investments will come from the ranks of the unemployed residents of the zone and particularly the long term unemployed and those eligible for AFDC, Foodstamps, and General Assistance.

Job Support Demonstration—Demonstration funds are available to entities in poor communities that have developed agreements with the private sector to provide jobs and relevant training to AFDC recipients. Funds could be used for necessary support services.

Coordination of Services—Allows funds for several demonstrations for states to develop One-Stop Career Centers in poor communities that would provide information on and/or assist recipients in obtaining job training, education, support services and matching job skills with existing or anticipated jobs.

2. PROVIDES INCENTIVES TO WORK

Increase Income Disregard—Allows states the flexibility to set their own income disregards.

Qualified Asset Accounts—States may allow recipients to save up to $10,000 for education, self-employment, and work related expenses.

Advanced EITC—Requires the Secretary of the Treasury to develop an Advanced Earned Income Tax Credit demonstration program.

Tax Assistance Program—Expands government efforts to provide funds for tax assistance to low income families targeting AFDC, Food Stamp recipients, the homeless, and those families that receive child care assistance through the At-Risk program.

3. PROVIDES STATE FLEXIBILITY

Allows states to move from process and administrative activities to moving recipients into work by:

Allowing states to require participation in JOBS immediately.

Allowing states the flexibility to determine what activities constitute participation in JOBS and the hours of recipient participation.

Consolidating several child care programs into a capped entitlement block grant.

Liberalizing earned income disregard rule.

Increasing JOBS funds.

4. ENCOURAGES MARRIAGE AND FAMILY STABILITY

Elimination of Marriage Disincentives:

Work histories—Removes the AFDC provision that requires principal wage earners in two parent families to have record work histories.

100 hour rule—Removes the AFDC provision that denies eligibility in the wage earner works 100 hours or more in a month.

6 month limit—Removes the AFDC provision that allows States to limit the participation of two-parent families in AFDC to only 6 months in any 12 month period.

Stepparents—Exempts stepparents from current deeming rules when their income is less than 130 percent of poverty.

5. REQUIRES PARENTAL RESPONSIBILITY

Expands Federal Locator Systems—Establishes a national network based on comprehensive statewide child support enforcement systems, allowing states to locate any absent parent who owes child support and coordinating child support enforcement between states.

Federal Child Support Order Registry—Establishes a federal child support order registry at HHS.

National Child Support Guidelines Commission—Establishes a Commission to develop national child support guidelines for consideration by the Congress.

Civil Procedures for Paternity Establishment would be Strengthened—Streamlines civil procedures used to establish paternity.

Hold on Occupational, Professional, and Business Licenses—Denies/withholds occupational, professional, business, and drivers' licenses for noncompliance with child support orders.

6. TARGETS TEEN PARENTS

Teen Schooling and Employment Requirements—Requires teen AFDC recipients to participate in educational activities leading to completion of high school or the equivalent, or participate in job preparation and job search activities. For those teens who do not meet these requirements a portion of their AFDC grant will be cut.

Teen Case Management—Requires states to establish a system that provides intensive case management services to teen parents on AFDC.

Minor Teenage Parent Residency Requirement—Requires teen parents receiving AFDC to live at home with parents or in another supervised setting, except under certain circumstances.

7. ACKNOWLEDGES THE ROLE OF THE NON-CUSTODIAL PARENT

Allows states to use a portions of JOBS funds for non-custodial parents:

Child Support Demonstrations—Provides funding for state demonstrations to establish programs for non-custodial parents who are unable to pay child support due to under or unemployment.

Teen Noncustodial Parents and Child Support—Gives states the authority to temporarily waive the right to collect child support obligations of teen noncustodial parents who are participating in a state educational or employment preparation program.

Provides grants to states for access and visitation programs.

8. REDUCES RECIDIVISM

Allows states to extend transitional child care and Medicaid:

Six child care programs are block granted. The child care guarantee remains for those receiving AFDC and those transitioning off of AFDC. Additional funds are made available for the block grant.

SECTION-BY-SECTION ANALYSIS

TITLE I—WORK

Section 101. Increase in JOBS program funding

Increase funding for the JOBS program to: $1.540 billion in FY96, $1.980 billion in FY97, $2.420 billion in FY98, $2.860 billion in FY99, $3.300 billion in FY00.

Section 102. Increase in JOBS matching rate; continuation of minimum rate

Increase the Federal match rate by 5% in FY96, by 10% by FY2000, with a minimum of 70%.

Other Changes: A portion of JOBS funds up to 5% at a state's discretion can be targeted to non-custodial parents.

Section 103. Increase in required JOBS participation rate

Increase the JOBS participation requirement to: 25% in FY96, 30% in FY97, 35% in FY98, and 40% in FY99.

Other changes: Voluntary activities for parents of young children (head start centers, school activities, parenting classes etc) can count toward participation rates.

States are allowed to pay for school at institutions of higher learning, vocational or technical school, if part of employability plan.

Section 104. Additional requirements for JOBS participation

Would establish work requirements from 15 and not more than 35 hours per week.

Section 105. Activities that are considered participation in the JOBS program

Would include volunteer work and training as acceptable activities in the JOBS program.

Section 106. Training and employment for noncustodial parents

Would establish a program to conduct training and employment opportunities for noncustodial parents.

Section 107. Demonstration project for private sector employment

Would create a demonstration program to provide jobs for individuals receiving aid under title IV of Social Security Act.

Section 108. Coordination of services

Allow funds for several demonstrations for States to develop One-Stop Career Centers in poor communities that would provide or offer information and assistance in obtaining:

Aid under the State plan; employment and training counseling; job placement services; child care; health care; transportation assistance; housing assistance; child support services; National Service; Unemployment Insurance; Carl Perkins Vocational programs; School-to-work programs; Federal student loan programs: JTPA; and other types of counseling and support services.

TITLE II—REFORMS OF AFDC AND TREATMENT OF TEENAGE PARENTS

Subtitle A—AFDC Reforms

Section 201. Increased income disregard

Liberalizes earned income disregard requirements.

Section 202. Disregard of income and resources designated for education, training, and employability

Allows AFDC recipients to disregard up to $10,000 of their contributions to "qualified asset accounts". Funds could be used for the following:

the attendance of any family member at any education or training program;

the improvement of the employability (including self-employment) of a member of the family (such as through the purchase of a car);

the purchase of a family residence;

a change of the family residence.

Section 203. Elimination of marriage disincentives

Work histories: Remove the AFDC provision that requires principal wage earners in two parent families to have recent work histories.

100 hour rule: Remove the AFDC provision that denies eligibility if the wage earner works 100 hours or more in a month.

6 month limit: Remove the AFDC provision that allows States to limit the participation of two-parent families in AFDC to only 6 months in any 12 month period.

Stepparents: Exempt stepparents from current deeming rules when their income is less than 130% of poverty.

Subtitle B—Teenage Parents

Section 211. Minor teenage parent residency requirement

Teens would be required to live with their parents or in a supervised living arrangement.

Section 212. Schooling and employment requirements

Require individuals under the age of 20 to participate in an educational program.

Section 213. Planning, start-up, and reporting

The federal government would reduce payment levels if the State's teen participation rate does not exceed established levels.

Section 214. Case management

Would require State to assign a case manager to each teen recipient who is a custodial parent or pregnant.

TITLE III—STRENGTHENING PARENTAL RESPONSIBILITY AND FAMILY STABILITY

Subtitle A—Federal Responsibilities

Section 301. Expansion of functions of federal parent locator service

The functions of the federal parent locator service would be expanded to provide information about an absent parent in order to establish parentage, or establish, modify, and enforce child support obligations. Safeguards would be established to prevent disclosure of information that would jeopardize the safety of either parent, or any child.

Section 302. Expansion of federal parent locator systems

The information collected by the Locator System would be expanded to include the most recent residential address, employer name and address, and amounts and nature of income and assets. The Secretary of the Treasury would be required to provide access to all Federal income tax returns filed by individuals with the IRS. The Secretary of HHS would expand the Parent Locator Service to establish a national network based on comprehensive statewide child support enforcement systems, which would allow states to locate any absent parent who owes child support, and coordinate child support enforcement between states.

Section 303. Federal child support order registry

The Secretary of HHS would establish a federal registry containing all child support orders entered in any state. States would use the registry to enforce interstate orders, update support orders, and track old child support orders.

Section 304. National reporting of employees and child support information

Secretaries of Labor and the Treasury would establish a system of reporting of employees by requiring employers to provide a copy of every employee's W-4 form to the child support order registry. The W-4 would include information about the employee's child support obligations.

Section 305. Federal matching payments

The Federal Matching Rate would be increased to 69 percent in fiscal year 1996, 72 percent in fiscal year 1997; and 75 percent in fiscal year 1998 and each succeeding fiscal year.

Section 306. Performance-based incentives and penalties

To encourage and reward State child support enforcement programs which perform in an effective manner, the Federal matching rate for payments to a State would be increased by a factor reflecting the sum of the applicable incentive adjustments with respect to Statewide paternity establishment and to overall performance in child support enforcement. Amounts range from up to 5 percentage points, depending on Statewide paternity establishment; and 10 percentage points in connection with the overall performance in child support enforcement.

Section 307. Increased federal financial participation for States with unified child support enforcement programs

The quarterly payment would increase by 5 percentage points if the State child support enforcement program is centered at the State level in a unified State agency.

Section 308. New child support audit process

The Secretary of HHS would generate new criteria and standards for conducting reviews of the child support provisions of the Social Security Act.

Section 309. National child support guidelines commission

A commission would be established to develop a national child support guideline for consideration by the Congress.

Section 310. Child support audit advisory committee

A committee of no more than 6 members would be established to assist the Secretary of HHS in developing revised audit criteria and standards.

Subtitle B—Paternity Establishment

Section 311. Paternity establishment procedures

Procedure would be established to make the voluntary establishment of paternity easier, including the use of hospital-based acknowledgement. Due process protection would be established for those individuals who voluntarily acknowledge paternity with extra protection for minor noncustodial parents who voluntarily acknowledge paternity.

Section 312. Enhancing outreach to encourage paternity establishment

Would add an enhanced federal match rate of 90 percent for greater state outreach efforts to encourage voluntary paternity establishment. This outreach could occur through providers of health services, such as prenatal health care providers, health clinics, or hospitals.

Section 313. Strengthening civil procedures for paternity establishment

Civil procedures used to establish paternity would be streamlined through such activities as expediting procedures for genetic testing upon birth of the child; advance the costs of genetic tests, subject to recoupment from the putative father of a child if he is determined to be the father; prohibit the use of hearings by a court or administrative agency to ratify an acknowledgement of paternity; and allowing the forgiveness of medical expenses associated with the birth of the child if the father cooperates or acknowledges paternity.

Section 314. Penalty for failure to established paternity promptly

The amounts payable to a State for any quarter after the enactment of this act would be reduced by an amount determined from a formula developed by the Secretary of HHS for certain children for whom paternity has not been established.

Subtitle C—Enforcement

Section 321. Access to financial records

Establishes procedures under which the State may obtain access to financial records maintained by any financial institution doing business in the State, for the purpose of establishing, modifying, or enforcing a child support obligation of the person.

Section 322. Presumed address of obligor and obligee

Procedures under which the court would require each party subject to child support order to file the following: the party's residential address or addresses; the party's mailing address; the party's home telephone numbers; the party's driver's license number and the state that issued that license; the party's social security account number; the name of each employer of the party; the addresses of each place of employment of the party; and the party's work telephone number or numbers.

Section 323. Fair credit reporting act amendment

Would allow access to credit reports for a State agency for use in establishing, modifying, or enforcing a child support award.

Section 324. Additional benefits subject to garnishment

Would allow garnishment of Federal death benefits, Black Lung benefits, workers' compensation and veterans benefits to fulfill child support obligations.

Section 325. Hold on occupational, professional, and business licenses

Procedures under which the State or Federal occupational licensing and regulating departments and agencies may not issue or renew any occupational, professional, or business license of a parent who is the subject of an outstanding failure to appear in a child support proceeding, or an individual who is delinquent in the payment of child support.

Section 326. Driver's licenses and vehicle registrations denied to persons failing to appear in child support cases

The State would not issue or renew the driver's license of any noncustodial parent who is the subject of an outstanding failure to appear warrant, capias, or bench warrant related to a child support proceeding.

Section 327. Liens

The State would place liens on all nonexempt real and titled personal property for child support arrearages, updating the value of the lien on a regular basis.

Section 328. Fraudulent transfer pursuit

Would require agencies to view any transfer of property for significantly less than the market value by a person who owes child support arrearages as an attempt to avoid paying child support arrearages.

Section 329. Reporting of child support arrearages to credit bureaus

Would require the total amount of the monthly support obligation to be reported to credit bureaus.

Section 330. Denial of passports to noncustodial parents subject to State arrest warrants in cases of nonpayment of child support

The Secretary of State is authorized to refuse a passport or revoke, restrict, or limit a passport for any person owning child support in any case that is not less than $10,000.

Section 331. Statutes of limitations

The age through which a State could pursue back child support would be extended until the child to whom the support is owed reaches age 30.

Section 332. Collection of past-due support using tax collection authority

The role of the IRS would be expanded to include collection of delinquent child support orders.

Subtitle D—State Responsibilities

Section 341. Start role

Each State would be required to establish an automated central State registry of child support orders, which, under a phase-in plan, would eventually contain all child support orders entered, modified, or enforced in the State.

Section 342. Uniform terms in orders

There would be a uniform abstract of a child support order developed, for use by the child support order registry. The uniform order would contain all pertinent information for the registry.

Section 343. States required to enact the uniform interstate family support act

Each State must have in effect laws which adopt the officially approved version of the Uniform Interstate Family Support Act.

Section 344. Expedited processes and administrative procedures

Non-compliant States with judicial systems for processing child support cases would be required to convert to administrative system.

Section 345. Due process

Due process would ensure that individuals who are parties to cases in which services are being provided under this part receive notice of all proceedings in which support obligations might be established or modified; and receive a copy of all modifications; and have timely access to a fair hearing of their complaint procedure.

Section 346. Outreach and accessibility

States would be required to use the uniform federal application for child support.

Section 347. Cost-of-living adjustment of child support awards

States would be required to adjust child support orders for cost-of-living increases. The agencies would also be required to notify the individual obliged to pay child support and the individual owed child support of the adjustments.

Section 348. Simplified process for review and adjustment of certain child support orders

States would be required to review a child support order every 3 years at the request of either parent subject to such order.

Section 349. Prevention of conflict of interest

To ensure that States do not provide to any noncustodial parent of a child representation relating to the review or adjustment of an order for the payment of child support with respect to the child, unless the State makes provision for such representation outside the State agency.

Section 350. Staffing

The Secretary of Health and Human Services would conduct a study on staffing for each State child support enforcement program to report to Congress.

Section 351. Training

Would provide federal training assistance and funding for training to States. States would develop and implement a training program under which training is to be provided at least once per year to all personnel performing functions under the State plan.

Section 352. Priorities in distribution of collected child support

Amounts collected as support by a State would be allocated as follows: First, for cash support payments. Then, for payments related to health care insurance coverage of children covered by the order. Finally, for payments of support that are past due, and for payment of unreimbursed health care expenses.

Section 353. Teenage noncustodial parents and child support

The States would be given authority to temporarily waive the right to collect child support obligations of teen noncustodial parents who are participating in a State educational or employment preparation program.

Subtitle E—Demonstrations, Grants, and Miscellaneous

Section 361. Establishment of child support assurance demonstration projects

In order to encourage States to provide a guaranteed minimum level of child support for every eligible child not receiving such support, the Secretary of HHS will make grants to 6 States to conduct demonstration projects to establish system of minimum child support.

Section 362. Establishment of simple child support modification demonstration projects

Secretary of HHS would make grants to not more than 5 States to conduct demonstration projects for the purpose of establishing a simple process for the modification of child support orders based on changed family circumstances.

Section 363. Establishment of demonstration projects for providing services to certain noncustodial parents

Provides funds for state demonstrations to establish programs for noncustodial parents who are unable to pay child support due to unemployment.

Section 364. Grants to States for access and visitation programs

Would enable States to establish and administer programs to support and facilitate absent parents' access to and visitation of their children.

Section 365. Technical correction to ERISA definition of medical child support order

Would amend language in Employee Retirement Income Security Act of 1974.

Subtitle F—Tax Reforms

Section 371. Quarterly advanced EITC

Require the Secretary of the Treasury within 6 months of enactment of this act to develop a quarterly multi-state Advanced Earned Income Tax Credit demonstration program.

Section 372. Expansion of the tax counseling for the elderly programs

Expand the TCE program to also provide funds for tax assistance to low income families targeting AFDC, Food Stamp recipients, the homeless and those families that receive child care assistance through the At-Risk program. Funds could be used to recruit, train, coordinate and provide oversight of volunteers. Funds could also be used to assist low income persons with tax audits, administrative hearings and obtaining assistance through the judicial system. Families at or below 185% of the poverty would be eligible.

TITLE IV—CHILD CARE

Section 401. Child care for needy families block grant

The following programs would be repealed: AFDC JOBS Child Care, At-Risk Child Care, Transitional Child Care, Child Care and Development Block Grant, Child Development Associate Program, State Dependent Care Planning and Development Grants. A new capped entitlement would be created. Each state would receive the aggregate amount of child care funds they received in FY 95. Any additional amounts will be made available to states that maintain state spending levels on child care in FY 95 plus put up $1 for every $4 of new money.

FY 95 would serve as the base year. All states would receive the amount they received in FY 95. No state will receive less—hold harmless provision. The additional funds available through the block grant would be based on a new funding formula.

Formula:

Hold Harmless provision—every state will receive a base amount equivalent to the aggregate amount of the above programs in FY 1995.

All additional funds will be allocated based on each state's proportion of poor children.

Section 402. Repeals and technical and conforming amendments

Related Repeal and conforming amendments

Section 403. State option to extend transitional medicaid benefits

States are permitted to extend Medicaid for 1 additional year.

TITLE V—EQUITY INVESTMENT

Section 501. Short title

This title may be cited as the "Equity Investment Development Act of 1995".

Section 502. Definitions

Defines key terms used in this title.

Subtitle A—Equity Investment Development Zones

Section 511. Designation procedure

Would designate 10 areas as equity investment development zones, using the designation process provided in this section.

Section 512. Eligibility criteria

Establishes criteria for eligibility to be designated as a development zone. These criteria include a limit on population, a limit on size of area, a minimum poverty rate, and other requirements.

Section 513. Period for which designation is in effect

Would allow any designation under this section to remain unless revoked by the appropriate Secretary. The appropriate Secretary would revoke a designation if the average poverty rate of the area equals the States, or if the area has an average unemployment rate that is less than or equal to the average of the State or States in its zone.

Section 514. Subsequent designations

Would allow the appropriate Secretaries to designate no more than 100 additional areas as equity investment development zones within 6 years of enactment of this title.

Section 515. Special Rules

Would require each local government or State that seeks to nominate the same area to comply with all requirements of this subtitle. Would treat an area nominated by an economic development corporation chartered by the State the same as an area nominated by a local government or a State.

Subtitle B—Equity Investments in Qualified Companies

Part I—Certificate Program

Section 521. Calculation of imputed earnings; issuance of certificates

Would establish a single rate of interest applicable to all reserves. The Board would make necessary changes to interest rate, and calculate the imputed earnings on all reserves during the preceding years.

Section 522. Investment in qualified companies

Would issue a certificate to an insured depository institution that could: (1) be used to make an equity investment in one or more qualified companies in the amount equal to the adjusted face value of the certificate; (2) be transferred by the insured depository institution to the Corporation; or (3) be sold by the insured depository institution to a third party.

Section 523. Reimbursement

Establishes procedure for reimbursement relating to direct investment.

Section 524. Transferability of certificates

Would allow each certificate under this part to be fully transferable.

Section 525. Expiration of certificates

Would establish that each certificate expires after two year period at issuance of certificate.

Section 526. Effective date

Would become effective on the date on which all of the initial designations of areas are made.

Part II—Community Equity Investment Corporation

Section 531. Establishment

Would establish a corporation called the Community Equity Investment Corporation.

Section 532. Incorporators; Board of Directors

Designates the board of directors.

Section 533. Restrictions on transferability of corporation stock

Would not allow transfer of corporation stock for 5 years.

Section 534. Dissolution of the corporation

Establishes procedures for the dissolution of the corporation.

Subtitle C—Assistance to Qualified Companies Receiving Equity Investments

Section 541. Wage supplementation program

Establishes procedures for wage supplementation.

TITLE VI—EFFECTIVE DATE

Section 601. Effective date

This Act and the amendments made by this Act shall take effect on October 1, 1995.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 747. A bill to require the President to notify the Congress of certain arms sales to Saudi Arabia until certain outstanding commercial disputes between United States nationals and the Government of Saudi Arabia are resolved; to the Committee on Foreign Relations.

THE SAUDI ARABIAN ARMS SALES LIMITATION ACT OF 1995

Mr. D'AMATO. Mr. President, I rise today, on behalf of myself and Senator MOYNIHAN, to introduce the Saudi Arabian Arms Sales Limitation Act of 1995. This legislation is designed to rectify a wrong that has been placed on an American company with New York roots by the Government of Saudi Arabia.

Specifically, this legislation would modify section 36(b)(1) of the Arms Export and Control Act to require congressional oversight and scrutiny of all arms sales to the Government of the Kingdom of Saudi Arabia until such time as the Secretary of State certifies and reports to Congress that the unpaid claims of American companies described in the June 30, 1993 report by the Secretary of Defense pursuant to section 9140(c) of the Department of Defense Appropriation Act, 1993—Public Law 102-396; 106 Stat. 1939—have been resolved satisfactorily. This would also include the additional claims noticed by the Department of Commerce on page 2 of the report.

The claim of a New York company, Gibbs & Hill, Inc., falls under this legislation. The company, which was a large employer in New York, sought to have its claim paid through the special claims process established for the resolution of claims of American companies which had not received fair treatment in their commercial dealing with the Government of the Kingdom of Saudi Arabia. The Gibbs & Hill claim is the last remaining unpaid claim awaiting resolution under the special claims process. Gibbs & Hill was decimated by financial losses incurred in the design of the desalination and related facilities for the Yanbu industrial city in Saudi Arabia in the late 1970's and early 1980's as a result of the kingdom's failure to honor its contractual obligations and pay for work done for the company.

I and many of my colleagues wrote to Saudi Ambassador, Bandar bin Sultan, who has authority to pay the claim, to express my concern that outstanding United States commercial claims be successfully resolved. In particular, I stated my concern that American companies may learn of the difficulties faced by United States firms in their efforts to achieve just settlements of their disputes and may become reluctant to do business in Saudi Arabia thereby depriving both countries of a valuable form of business exchange.

Now, we have the opportunity to conclude the special claims process established in 1992 for the resolution of claims of American companies for work in the kingdom. The kingdom has made a series of commitments to our Government to favorably resolve the claim for Gibbs & Hill. These commitments date from April 1993 and were reiterated both in Washington and in Riyadh on the eve of the gulf crisis, October 7, 1994, when our Nation once again came to the kingdom's rescue. While we saved the kingdom's assets once again, Gibbs & Hill has yet to be paid.

Administration officials, and numerous Senators and Members of Congress have repeatedly expressed their concern that this claims issue be successfully concluded through payment to Gibbs & Hill. The delaying tactics of the kingdom, which stands in stark contrast to our immediate response to their needs, can no longer be tolerated. Further delay simply casts a shadow over our bilateral relationship that eclipses the good-faith efforts which we have exerted together on the claims issue and indeed on all issues.

I urge my colleagues in the Congress to support this legislation. I also hope that the ensuing discussion of this legislation will focus on additional measures to ensure that the unfair treatment of Gibbs & Hill in its commercial dealings with the Saudi Arabian Government during the course of performing its work on behalf of the Saudi Arabian Government, as well as under the special claims process, is not repeated. It is with the realization of the past unfair treatment of firms such as Gibbs & Hill that I offer this legislation in an effort to fully scrutinize our commercial dealings with the kingdom until such time as the kingdom demonstrates its intention to honor its obligations and commitments.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NOTIFICATION OF ARMS SALES.

Until the certification under section 2 is submitted to the Congress, section 36(b)(1) of the Arms Export Control Act shall be applied to sales to Saudi Arabia by substituting in the first sentence "$10,000,000" for "$50,000,000", "$50,000,000" for "$200,000,000", and "$2,000,000" for "$14,000,000".

SEC. 2. CERTIFICATION.

Section 1 shall cease to apply if, and when the Secretary of State certifies and reports in writing to the Congress that the unpaid claims of American firms against the Government of Saudi Arabia that are described in the June 30, 1993, report by the Secretary of Defense pursuant to section 9140(c) of the Department of Defense Appropriations Act, 1993 (Public Law 102–896; 106 Stat 1939), including the additional claims noticed by the Department of Commerce on page 2 of that report, have been resolved satisfactorily.

By Mr. McCAIN:

S. 748. A bill to require industry cost-sharing for the construction of certain new federally funded research facilities, and for other purposes; to the Committee on Governmental Affairs.

THE FEDERAL RESEARCH FINANCING IMPROVEMENT ACT OF 1995

• Mr. McCAIN. Mr. President, today I'm introducing legislation to restore fairness and fiscal accountability to the Federal Government's many research and development programs and activities.

The bill would require that commercial interests share the cost of constructing and operating new Federal research facilities that are intended to benefit their industries.

This year the Federal Government will spend $73 billion for research programs, including facility construction. Many of these programs are intended primarily to assist private industries and are sponsored by a host of Federal agencies, predominantly the Department of Agriculture, the Department of Commerce, and the National Research Council.

For example, the Department of Agriculture spends nearly $750 billion per year for 116 centers under the Agriculture Research Service. These federally funded centers are designed to help a variety of agriculture industries, many of which have enormous resources and do not require Federal assistance. I understand the agency is planning to construct even more facilities. Last year, Congress appropriated $26 million to construct a new swine research center at Iowa State University, even though we already have 12 Federal centers dedicated to swine research. This additional facility will cost nearly $10 million a year to operate.

Mr. President, I recognize the importance of research and development to our competitiveness and economic growth, although I seriously question why we need 13 centers dedicated to swine research. Nevertheless, given our serious fiscal condition at a time when we are contemplating significant reductions in practically every area of domestic discretionary spending, I see absolutely no reason why Government research that benefits private industries, many of them quite prosperous, should not be cost-shared by the private sector.

In regard to the Swine Research Center, the pork industry, generates nearly $66 billion per year. Surely, it is reasonable to expect the industry, and the many others that directly benefit from Federal research, to share the cost of that work. I should add that the legislation would not require cost sharing for any research conducted for the purpose of helping industry comply with Federal regulations.

Mr. President, industry is historically more cautious with their resources than the Federal Government. If the private sector will not expend their resources for a program that is intended for their benefit, one must question why we would feel compelled to spend the taxpayer's hard earned money on the same venture. Public-private cost-sharing arrangements for commercially oriented Federal research will ensure that proposed activities are truly cost-beneficial and that the potential outcomes of the research are worth the dollars invested.

Again, I realize and appreciate the importance of research and development. Certainly, activities intended to promote public health and safety should not be compromised. I believe, however, that the legislation I've introduced is a prudent and responsible approach which, no doubt, can be improved, but which should receive the Senate's full and timely consideration. I hope that we can have a hearing in the very near future to examine what I believe is a very important fiscal issue.•

By Mr. AKAKA (for himself and Mr. ROCKEFELLER):

S. 749. A bill to amend title 38, United States Code, to recise the authority relating to the Center for Women Veterans of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

THE TECHNICAL MODIFICATIONS TO MINORITY VETERANS INITIATIVES ACT OF 1995

• Mr. AKAKA. Mr. President, in behalf of myself and Senator ROCKEFELLER, I am offering legislation today that would make certain improvements, largely technical in nature, to provisions affecting minority and women veterans that were enacted as part of an omnibus veterans benefits measure (Public Law 103–446) late last year.

As my colleagues recall, among other initiatives, Public Law 103–446 established within the Department of Veterans Affairs [VA] a Center for Minority Veterans, a Center for Women Veterans, and an Advisory Committee on Minority Veterans. These provisions were adopted in order to ensure that VA appropriately addresses the special needs and concerns of veterans who are women or members of minority groups. The measure we are introducing today would make the following modifications to these initiatives:

First, it would allow the directors of the Center for Minority Veterans and the Center for Women Veterans to have either career or noncareer status. Under the legislation adopted last year, both directors are required to be noncareer appointees. As the Senate sponsor of the legislation that led to the establishment of the two Centers, I had wanted the Secretary to retain the discretion to appoint either career or noncareer individuals to these jobs and believed that there was agreement on this approach with our colleagues in the House. Unfortunately, the career alternative was not included in the final legislation. The provision in the bill we are introducing today would restore that option so that the Secretary will have the option to appoint directors with career status so as to be able to consider the widest possible field of qualified candidates.

Second, it would add an additional function to the list of statutory functions of the Center for Minority Veterans. Specifically, our legislation would require the center to advise the Secretary of the effectiveness of VA's efforts to include minority groups in clinical research and on the particular health conditions affecting the health of minority group members. This provision is consistent with the goals set forth in section 492B of the Public Health Service Act. The Center for Women Veterans is already mandated by law to carry out a similar function with respect to the health of women veterans.

Third, it would explicitly require that the Center for Minority Veterans provide support and administrative services to the Advisory Committee on Minority Veterans. This provision is consistent with the traditional agency role of providing professional and technical support to advisory entities. Again, this provision parallels existing law requiring that the Center for Women Veterans provide support to the Advisory Committee on Women Veterans.

Fourth, it would define the minority veterans for whom the Center for Minority Veterans has responsibility. Specifically, minority veterans are defined as individuals who are Asian-American, black, Hispanic, Native American—including American Indian, Alaskan native, and Native Hawaiian—and Pacific-Islander-American. This definition is identical to the definition included in current law with respect to the Advisory Committee on Minority Veterans.

Fifth, it would extend the termination date of the Advisory Committee on Minority Veterans an additional 2 years, from December 31, 1997, to December 31, 1999. This provision is necessary because delays in establishing the Advisory Committee have reduced its potential working life to significantly less than the 3 years authorized by Congress. Extending the life of the Advisory Committee to December 1999 is not unreasonable, given that all other statutory VA advisory boards, including the Advisory Committee on Women Veterans, the Advisory Committee on Former Prisoners of War, and the Advisory Committee on Prosthetics and Special-Disabilities Programs, are authorized permanently.

Finally, our bill would give the Advisory Committee on Minority Veterans and the Advisory Committee on Women Veterans responsibility for monitoring and evaluating the respective activities of the Center for Minority Veterans and the Center for Women Veterans. Insofar as the Advisory Committees were established to oversee all of the activities of the Department of Veterans Affairs with respect to minorities and women, they necessarily should be tasked with overseeing the work of the very offices that are chiefly responsible for ensuring that the special needs of minority and female veterans are accommodated by VA.

Mr. President, I urge my colleagues to support this measure.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF AUTHORITY RELATING TO CENTERS.

(a) SES STATUS OF DIRECTORS.—Sections 317(b) and 318(b) of title 38, United States Code, are each amended by inserting "career or" before "noncareer".

(b) ADDITIONAL FUNCTIONS OF CENTER FOR MINORITY VETERANS.—Section 317(d) of such title is amended—

(1) by redesignating paragraph (10) as paragraph (12); and

(2) by inserting after paragraph (9) the following new paragraphs (10) and (11):

"(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (42 U.S.C. 289B of the Public Health Service Act (42 U.S.C. 289a–2) with respect to the inclusion of members of minority groups in clinical research and on particular health conditions affecting the health of members of minority groups which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are minorities.

"(11) Provide support and administrative services to the Advisory Committee on Minority Veterans provided for under section 544 of this title.".

(c) DEFINITION OF MINORITY VETERANS.—Section 317 of such title is further amended by adding at the end the following:

"(g) In this section—

"(1) The term 'veterans who are minorities' means veterans who are minority group members.

"(2) The term 'minority group member' has the meaning given such term in section 544(d) of this title.".

(d) CLARIFICATION OF FUNCTIONS OF CENTER FOR WOMEN VETERANS.—Section 318(d)(10) of such title is amended by striking out "(relating to" and all that follows through "and of" and inserting in lieu thereof "(42 U.S.C. 288a–2) with respect to the inclusion of women in clinical research and on".

SEC. 2 OVERSIGHT OF CENTERS BY ADVISORY COMMITTEES.

(a) CENTER FOR WOMEN VETERANS.—Section 542(b) of title 38, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) The Committee shall monitor and evaluate the activities of the Center for Women Veterans provided for under section 318 of this title and report to the Secretary the results of such monitoring and evaluation at the request of the Secretary.".

(b) CENTER FOR MINORITY VETERANS.—Section 544(b) of such title is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) The Committee shall monitor and evaluate the activities of the Center for Minority Veterans provided for under section 317 of this title and report to the Secretary the results of such monitoring and evaluation at the request of the Secretary.".

SEC. 3. EXTENSION OF TERMINATION DATE OF ADVISORY COMMITTEE ON MINORITY VETERANS.

Section 544(e) of title 38, United States Code, is amended by striking out "December 31, 1997" and inserting in lieu thereof "December 31, 1999".•

By Mr. PACKWOOD (for himself and Mr. MOYNIHAN):

S. 750. A bill to amend the Internal Revenue Code of 1986 to properly characterize certain redemptions of stock held by corporations; to the Committee on Finance.

REDEMPTION OF STOCKS LEGISLATION

• Mr. PACKWOOD. Mr. President, recent news reports suggest that corporate taxpayers may be attempting to dispose of stock of other corporations through stock redemption transactions that are the economic equivalent of sales. The transactions are structured so that the redeemed corporate shareholder apparently expects to take the position that the transaction qualifies for the corporate dividends received deduction and therefore substantially avoids the payment of full tax on the gain that would apply to a sales transaction.

For example, it has been reported that Seagram Co. intends to take the position that the corporate dividends received deduction will eliminate tax on significant distributions received from DuPont Co. in a redemption of almost all the DuPont stock held by Seagram, coupled with the issuance of certain rights to reacquire DuPont stock. (See, e.g. Landro and Shapiro, Hollywood Shuffle, Wall Street Journal, April 7, 1995; Sloan, For Seagram and DuPont, a Tax Deal that No One Wants to Brandy About, Washington Post, April 11, 1995; Sheppard, Can Seagram Bail Out of DuPont without Capital Gain Tax, Tax Notes Today, 95 TNT 75–4, April 10, 1995.) Moreover, it is reported that investment bankers and other advisors are actively marketing this potential transaction.

Today we introduce legislation intended to curtail the use of such transactions immediately. We believe the approach adopted in the bill is the correct approach, given the incentives under present law for corporations to structure transactions in an attempt to obtain the benefits of the dividends received deduction. We welcome comments on the bill and recognize that additional or alternative legislative changes may also be appropriate. However, it is anticipated that any legislative change that is enacted would apply to transactions after May 3, 1995.

No inference is intended that any transaction of the type described in the proposed legislation would, in fact, produce the results apparently sought by the taxpayers under present law. The bill does not address and does not modify present law regarding whether a transaction would otherwise be eligible for the dividends received deduction, nor is it intended to restrict the IRS or Treasury Department from issuing guidance regarding these or other issues.

The bill is directed at corporate shareholders because it is believed that the existence of the dividends received deduction under present law creates incentives for corporate taxpayers to report transactions selectively as dividends or sales. No inference is intended that any transaction characterized as a sale under the bill necessarily would be so characterized if the shareholder were an individual.

DESCRIPTION OF THE BILL

Under the bill, except as provided in regulations, any non pro rata redemption or partial liquidation distribution to a corporate shareholder that is otherwise eligible for the dividends received deduction under section 243, 244, or 245 of the Code would be treated as a sale of the stock redeemed. The bill applies to dividends to 80-percent shareholders that would qualify for the 100-percent dividends received deduction as well as to other transactions qualifying for a lesser dividends received deduction. It is not intended to apply to dividends that are eliminated between members of affiliated groups filing consolidated returns. However, it is expected that the Treasury Department will consider whether any changes to the consolidated return regulations would be necessary to prevent avoidance of the purposes of the bill.

The bill would replace the present-law provision (sec. 1059(e)(1)) that requires a corporate shareholder to reduce basis—but not recognize immediate gain—in the case of certain non pro rata redemptions or partial liquidation distributions.

It is intended that the bill apply to all non pro rata redemptions except to the extent provided by regulations.

The bill retains the existing Treasury Department regulatory authority, contained in section 1059(g) of present law, to issue regulations, including regulations that provide for the application of the provision in the case of stock dividends, stock splits, reorganizations, and other similar transactions and in the case of stock held by pass through entities. Thus, the Treasury Department can issue regulations to carry out the purposes or prevent the avoidance of the bill.

It is expected that recapitalizations or other transactions that could accomplish results similar to any non pro rata redemption or partial liquidation will also be subject to the provisions of the bill as appropriate.

It is also expected that redemptions of shares held by a partnership will be subject to the provision to the extent there are corporate partners.

There are concerns that taxpayers might seek to structure transactions to take advantage of sale treatment and inappropriately recognize losses. It is expected that the Treasury Department will by regulations address these and other concerns, including by denying losses in appropriate cases or providing rules for the allocation of basis.

It is anticipated that the private tax bar and other tax experts will provide input concerning the proposed legislation before its enactment. It is hoped that this process will identify any problems with the proposed legislation and potential improvements. Comment is encouraged in particular with respect to the loss disallowance provision, including whether the loss disallowance should be mandatory. Comment is also encouraged as to whether additional transition should be provided for existing rights to redeem contained in the terms of outstanding stock or otherwise.

EFFECTIVE DATE

The bill would be effective for redemptions occurring after May 3, 1995, unless pursuant to the terms of a written binding contract in effect on May 3, 1995 or pursuant to the terms of a tender offer outstanding on May 3, 1995.

No inference is intended regarding the tax treatment of any transaction within the scope of the bill. For example, no inference is intended that any transaction within the scope of the bill would otherwise be treated as a sale or exchange under the provisions of present law. At the same time, no inference is intended that any distribution to an individual shareholder that would be within the scope of the bill if made to a corporation should be treated as a sale or exchange to that individual because of the existence of the bill.●

By Mr. EXON:

S. 751. A bill to provide that certain games of chance conducted by a nonprofit organization not be treated as an unrelated business of such organization; to the Committee on Finance.

TAX LEGISLATION

Mr. EXON. Mr. President, today I am introducing legislation to repeal an obscurely worded provision in the 1986 Tax Reform Act which makes fundraising proceeds from games of chance conducted by nonprofit organizations subject to the unrelated business income tax [UBIT]. The 1986 change was effective for all States except North Dakota, which received a special exception from the rule. The effect of the change is that nonprofit groups must pay taxes on these proceeds at the corporate income tax rate.

In Nebraska, various churches, charities, veterans groups, and other nonprofit organizations use pull tab lottery cards for fundraising. Locally, these cards are known as pickle cards because they were often held for sale in old, large pickle jars. Pickle card fundraising in Nebraska is limited under State law only to nonprofit organizations. The problem with the 1986 change was that it was so obscure that many nonprofit groups had no knowledge of the new requirement to pay the added tax until 1990. Most, if not all, of the Nebraska nonprofit organizations conducting games of chance had a rude awakening when the Internal Revenue Service informed them of the back taxes they owed along with interest and penalties.

Most of these nonprofit groups are relatively small and they spend the funds raised by gaming each year. You can imagine their shock when they learned that they owed in some cases tens of thousands of dollars for a tax that they did not realize must be paid. In addition to the strain this puts on their finances, the IRS is now challenging the not-for-profits status of at least one Nebraska group based on the amount of funds raised through charitable gaming. Over 200 Nebraska charities have been affected by this confusing change in our law and by inconsistent enforcement by the IRS. I know that this has also been a problem in the past in other States, including Maryland and Minnesota.

The funds that these nonprofit organizations raise are used to support charitable causes and community services. The intention of the unrelated business income tax, enacted in 1950, is to eliminate the competitive advantage of certain tax-exempt organizations that engage in business in direct competition with taxable entities. In Nebraska, these nonprofits are not competing with private companies because, by Nebraska statute, only nonprofit organizations can raise money by selling pickle cards. I believe the solution to this problem is to eliminate the 1986 change, as the bill I am introducing today would do. This legislation would restore fairness and sensibility to our Tax Code and help to ensure that nonprofit organizations are able to continue to provide essential services and support in our communities.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 752. A bill to amend the Harmonized Tariff Schedule of the United States to restore the duty rate that prevailed under the tariff schedules of the United States for certain twine, cordage, ropes, and cables; to the Committee on Finance.

TARIFF LEGISLATION

Mr. SIMON. Mr. President, today I introduce legislation to correct an error that was made in the 1988 Harmonized Tariff Schedule [HTSUS].

Uni-Pac Equipment, Inc., of Bridgeview, IL, has served as the U.S. distributor of a Swiss company, Peter Born, since 1983. Born manufactures a sophisticated machine for tying the top layers of product-stacked pallets. The Born palletyer requires a highly specialized twine with a high tensile strength in order to operate effectively.

Since 1984, Uni-Pac has been importing the twine used in these machines at a duty rate of 8 percent under tariff 316.5500 [TSUSA]. When the 1988 Harmonized Tariff Schedule came into effect an error was discovered. Due to an oversight by someone at the International Trade Commission when writing the language of the HTSUS, the tariff covering the twine that Uni-Pac imports was accidentally omitted. This was a mistake. The HTSUS was not supposed to change any prevailing duties when it became law. However, because of the omission, the twine imported by Uni-Pac was bumped to the other classification with a duty rate of 27.6 cents per kilogram and a 15 percent duty, a 300-percent increase over the previous tariff. This mistake will cost Uni-Pac over $100,000 in increased duties if it is not corrected.

Uni-Pac has sought several remedies to this problem. The International Trade Commission does not have the authority to fix it. They have looked for other domestic suppliers of this twine, to no avail. There are no U.S. manufacturers of any twine that will work in their machines, and the twine used in these machines is not used in any other machine sold in the United States.

The only way to fix this problem is to amend the 1988 Harmonized Tariff

Schedule to include a classification for the twine imported by Uni-Pac and restore the duty rate that had previously been in effect. This new classification is limited in its scope so that it only covers the twine imported by Uni-Pac for use in the Born palletyer. This legislation also liquidates the increased duties that resulted from the omission of this classification in the 1988 HTSUS.

I am indebted to my colleague in the House, Mr. LIPINSKI, for his work on this issue. This is not a controversial issue, so I am hopeful that we can move quickly to address this problem.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TWINE, CORDAGE, ROPES, AND CABLES.

(a) TARIFF REDUCTION.—Chapter 56 of the Harmonized Tariff Schedule of the United States is amended by striking subheading 5607.50.20 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the article description in subheading 5607.50.40:

"5607.50.25	Not braided or plaited. Three ply twine of nylon having a final 'S' twist; measuring less than 4.8 mm in diameter; containing at least 10% cotton; made of 100% recycled materials	7.9%	Free (IL) 2.4% (CA) 5.8% (MX)	76.5%
5607.50.35	Other	26.8¢/kg + 14.6%	Free (IL) 8.2¢/kg + 4.5% (CA) 13% (M)	27.6¢/kg 76.5%."

(b) STAGED RATE REDUCTIONS.—

(1) FOR SUBHEADING 5607.50.25.—Any staged rate reduction of a rate of duty for subheading 5607.49.15 of the Harmonized Tariff Schedule of the United States that was proclaimed by the President before the date of the enactment of this Act shall also apply to the corresponding rate of duty set forth in subheading 5607.50.25 (as added by subsection (a)).

(2) FOR SUBHEADING 5607.50.35.—Any staged rate reduction of a rate of duty for subheading 5607.50.20 of the Harmonized Tariff Schedule of the United States that was proclaimed by the President before the date of the enactment of this Act and that would otherwise take effect after the date of the enactment of this Act shall also apply to the corresponding rate of duty set forth in subheading 5607.50.35 (as added by subsection (a)).

SEC. 2. APPLICABILITY.

(a) IN GENERAL.—The amendments made by section 1 apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon a request filed with the Customs Service on or before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any goods described in subheading 5607.50.25 of the Harmonized Tariff Schedule of the United States (as added by section 1(a)) that was made—

(1) after December 31, 1988; and

(2) before the 15th day after the date of the enactment of this Act;

shall be liquidated or reliquidated as though the amendment made by section 1(a) applied to such liquidation or reliquidation.

By Mr. BAUCUS (for himself, Mr. LEAHY, Mr. LUGAR, Mr. DASCHLE, Mr. CRAIG, Mr. BURNS, Mr. CAMPBELL, and Mr. HATFIELD):

S. 753. A bill to allow the collection and payment of funds following the completion of cooperative work involving the protection, management, and improvement of the National Forest System, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL FOREST SYSTEM LAND LEGISLATION

• Mr. BAUCUS. Mr. President, today I am introducing legislation with Senators LEAHY, LUGAR, DASCHLE, CRAIG, HATFIELD, BURNS, and CAMPBELL. This bipartisan bill encourages public-private partnerships in the management of our national forests.

National forests provide some of our Nation's most valued resources—fish and wildlife species and habitat, rare plants, majestic trees, recreation, and outstanding scenery. The U.S. Forest Service is the agency charged with the task of managing and protecting these precious resources. But it can't do the job alone. Much of the work carried out on our national forests is done in partnership with nonprofit organizations.

The Forest Service works with hundreds of nonprofit groups, including the Nature Conservancy, Rocky Mountain Elk Foundation, Boy Scouts of America, and Trout Unlimited. In Montana, for example, the Rocky Mountain Elk Foundation helped improve habitat for elk, mule deer and sensitive bird species on the Lolo National Forest. These groups contribute millions of dollars and countless hours every year to improve our public lands. I think it is time that the U.S. Government recognized their importance and made the rules fairer.

That is why I'm introducing this legislation. This bill will make it easier for nonprofit groups to make donations for fish and wildlife projects on the national forests. Unlike commercial enterprises that pay for resources on the national forests after they use them, nonprofit organizations make their full contribution up front. This requirement puts these groups at a tremendous disadvantage by causing them to forego interest from the time a cost-share agreement is finalized to when work is finished—a process that frequently takes more than 2 years.

My legislation levels the playing field for these private partners. It authorizes the Forest Service to fund cooperative projects with appropriated money and lets cooperators reimburse the Forest Service as work is completed rather than having to make their full share in contributions by front. My bill also requires the Secretary of Agriculture to establish rules regarding the acceptance of contributions.

Everyone wins under this legislation. The Forest Service will complete more fish and wildlife projects. Nonprofit groups will have a greater incentive to participate in cost-share projects. And, most importantly, the American people will see the benefits of improved fish and wildlife habitat. In closing, I encourage Congress to act quickly on this bill so we can begin to see on-the-ground results.•

By Mr. KENNEDY (for himself, Mr. SIMON, and Mrs. BOXER):

S. 754. A bill to amend the Immigration and Nationality Act to more effectively prevent illegal immigration by improving control over the land borders of the United States, preventing illegal employment of aliens, reducing procedural wiretap and asset forfeiture authority to combat alien smuggling and related crimes, increasing penalties for bringing aliens unlawfully into the United States, and making certain miscellaneous and technical amendments, and for other purposes; to the Committee on the Judiciary.

IMMIGRATION ENFORCEMENT IMPROVEMENTS ACT

Mr. KENNEDY. Mr. President, it is a privilege to introduce the Immigration Enforcement Improvements Act of 1995 today on behalf of the Clinton administration.

This important bill builds upon the administration's already impressive record in addressing the pressing national problem of illegal immigration.

We must take strong steps to stop illegal immigration, while continuing to welcome those immigrants who enter lawfully within our immigration ceilings and contribute so much to the Nation.

This administration has done more to close the door on illegal immigration than any previous administration. With expected increases this year and next, we will have increased border control staffing by 51 percent since President Clinton took office—including border patrols and inspectors at border crossing points and airports. We have tripled the deportation of illegal immigrants and targeted the removal of criminal aliens. We have increased the budget of the Immigration Service by over 70 percent from $1.5 billion in 1993 to $2.6 billion requested for 1996.

The real credit for these impressive accomplishments goes to President Clinton, Attorney General Janet Reno, and Immigration Commissioner Doris Meissner for their effective leadership and commitment to meeting the challenge of illegal immigration.

The legislation introduced today recognizes that there is no single solution to illegal immigration. The bill will give the administration a variety of tools to control our borders more effectively, to deny jobs to illegal workers, and to remove illegal immigrants who are here in violation of our laws.

The bill authorizes increases in enforcement personnel of no less than 700 Border Patrol agents annually for the next 3 years, and authorizes the increases in INS inspectors needed to enable full staffing at airports and entry points.

The bill imposes new, stiff penalties for alien smuggling, document fraud and other serious immigration offenses.

The bill authorizes pilot programs to test effective ways to verify that job applicants are eligible to work in the United States. The goal is to find simple and effective ways of denying jobs to illegal immigrants, and thereby shutting down the magnet that draws so many illegal aliens to this country.

The bill promotes coordination on workplace enforcement between the Immigration Service and the Department of Labor, since employers who hire undocumented workers often also violate other labor standards as well.

Finally, the bill expedites the removal of criminal aliens by eliminating needless procedures and redtape.

I commend the administration for their impressive initiative. Immigration should not be a partisan issue. In the weeks ahead, I look forward to working closely with Senator SIMPSON, the chairman of the Judiciary Subcommittee on Immigration, and with many other colleagues on both sides of the aisle to bring bipartisan legislation before the Senate capable of dealing with the serious challenges we face.

I ask unanimous consent that a more detailed summary of the bill may be printed in the RECORD, along with the text of the bill itself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Enforcement Improvements Act of 1995."

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short Title.
Sec. 2. Table of Contents.

TITLE I—BORDER ENFORCEMENT

Sec. 101. Authorization for Border Control Strategies.
Sec. 102. Border Patrol Expansion.
Sec. 103. Land Border Inspection Enhancements.
Sec. 104. Increased Penalties for Failure to Depart, Illegal Reentry, and Passport and Visa Fraud.
Sec. 105. Pilot Program on Interior Repatriation of Deportable or Excludable Aliens.
Sec. 106. Special Exclusion in Extraordinary Migration Situations.
Sec. 107. Immigration Emergency Provisions.
Sec. 108. Commuter Lane Pilot Programs.

TITLE II—CONTROL OF UNLAWFUL EMPLOYMENT AND VERIFICATION

Sec. 201. Reducing the Number of Employment Verification Documents.
Sec. 202. Employment Verification Pilot Projects.
Sec. 203. Confidentiality of Data Under Employment Eligibility Verification Pilot Projects.
Sec. 204. Collection of Social Security Numbers.
Sec. 205. Employer Sanctions Penalties.
Sec. 206. Criminal Penalties for Document Fraud.
Sec. 207. Civil Penalties for Document Fraud.
Sec. 208. Subpoena Authority.
Sec. 209. Increased Penalties for Employer Sanctions Involving Labor Standards Violations.
Sec. 210. Increased Civil Penalties for Unfair Immigration-Related Employment Practices.
Sec. 211. Retention of Employer Sanctions Fines for Law Enforcement Purposes.
Sec. 212. Telephone Verification System Fee.
Sec. 213. Authorizations.

TITLE III—ILLEGAL ALIEN REMOVAL

Sec. 301. Civil Penalties for Failure to Depart.
Sec. 302. Judicial Deportation.
Sec. 303. Conduct of Proceedings by Electronic Means.
Sec. 304. Subpoena Authority.
Sec. 305. Stipulated Exclusion and Deportation.
Sec. 306. Streamlining Appeals from Orders of Exclusion and Deportation.
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Sec. 309. Limitations on Relief from Exclusion and Deportation.
Sec. 310. Rescission of Lawful Permanent Resident Status.
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TITLE IV—ALIEN SMUGGLING CONTROL

Sec. 401. Wiretap Authority for Investigations of Alien Smuggling and Document Fraud.
Sec. 402. Applying Racketeering Offenses to Alien Smuggling.
Sec. 403. Expanded Asset Forfeiture for Smuggling or Harboring Aliens.
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TITLE V—INSPECTIONS AND ADMISSIONS

Sec. 501. Civil Penalties for Bringing Inadmissible Aliens from Contiguous Territories.
Sec. 502. Definition of Stowaway; Excludability of Stowaway; Carrier Liability for Costs of Detention.
Sec. 503. List of Alien and Citizen Passengers Arriving or Departing.
Sec. 504. Elimination of Limitations on Immigration User Fees for Certain Cruise Ship Passengers.
Sec. 505. Transportation Line Responsibility for Transit Without Visa Aliens.
Sec. 506. Authority to Determine Visa Processing Procedures.
Sec. 507. Border Services User Fee.

TITLE VI—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Sec. 601. Alien Prostitution.
Sec. 602. Grants to States for Medical Assistance to Undocumented Immigrants.
Sec. 603. Technical Corrections to Violent Crime Control Act and Technical Corrections Act.
Sec. 604. Expeditious Deportation.
Sec. 605. Authorization for Use of Volunteers.

TITLE I—BORDER ENFORCEMENT

SEC. 101. AUTHORIZATION FOR BORDER CONTROL STRATEGIES.

There are authorized to be appropriated to the Department of Justice such funds as may be necessary to provide for expansion of efforts to prevent illegal immigration through direct deterrence at the land borders of the United States.

SEC. 102. BORDER PATROL EXPANSION.

The Attorney General, in each of fiscal years 1996, 1997, and 1998, shall increase to the maximum extent feasible and consistent with standards of professionalism and training requirements, the number of full time, active-duty Border Patrol agents by no fewer than 700, above the number so such agents on duty at the end of fiscal year 1995, as well as hire an appropriate number of personnel needed to support these agents.

SEC. 103. LAND BORDER INSPECTION ENHANCEMENTS.

To eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General, subject to appropriation or availability of funds in the Border Services User Fee Account, shall increase in fiscal years 1996 and 1997 the number of full time land border inspectors assigned to active duty by the Immigration and Naturalization Service to a level adequate to assure full staffing of all border crossing lanes now in use, under construction, or whose construction has been authorized by Congress.

SEC. 104. INCREASED PENALTIES FOR FAILURE TO DEPART, ILLEGAL REENTRY, AND PASSPORT AND VISA FRAUD.

(a) The United States Sentencing Commission shall promptly promulgate, pursuant to 28 U.S.C. 994, amendments to the sentencing guidelines to make appropriate increases in the base offense levels for offenses under section 242(e) and 276(b) of the Immigration and Nationality Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the amendments made by section 130001 of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103-322, 108 Stat. 1796, 2023 (Sept. 13, 1994).

(b) The United States Sentencing Commission shall promulgate, pursuant to 28 U.S.C. 994, amendments to the sentencing guidelines to make appropriate increases in the base offense levels for offenses under 18 U.S.C. 1541-1546 to reflect the amendments made by section 130009 of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103-322, 108 Stat. 1796, 2030 (Sept. 13, 1994).

SEC. 105. PILOT PROGRAM ON INTERIOR REPATRIATION OF DEPORTABLE OR EXCLUDABLE ALIENS.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Attorney General, after consultation with the Secretary of State, may establish a pilot program for up to two years which provides for interior repatriation and other disincentives for multiple unlawful entries into the United States.

(b) REPORT.—If the Attorney General establishes such a pilot program, not later than 3 years after the date of enactment of this Act, the Attorney General, together with the Secretary of State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of the pilot program under this section and whether the pilot program or any part thereof should be extended or made permanent.

SEC. 106. SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS.

Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended—

(a) in subsection (b), by inserting at the end the following sentence: "If the alien has arrived from a foreign territory contiguous to the United States, either at a land port of entry or on the land of the United States other than at a designated port of entry, the alien may be returned to that territory pending the inquiry."

(b) by adding at the end the following new subsections (d) and (e):

"(d) SPECIAL EXCLUSION FOR EXTRAORDINARY MIGRATION SITUATIONS.—

"(1) Notwithstanding the provisions of section (b) of this section and of section 236, the Attorney General under the circumstances described in subparagraphs (A) or (B) may, without referral to an immigration judge, order the exclusion and deportation of an alien who appears to an examining immigration officer to be excludable. The Attorney General shall by regulation establish a procedure for special orders of exclusion and deportation under this subsection when, in the case of an alien who is, or aliens who are excludable under section 212(a)—

"(A) The Attorney General determines that the numbers or circumstances of aliens en route to or arriving in the United States, including by aircraft, present an extraordinary migration situation; or

"(B) The alien—

"(i) is brought or escorted under the authority of the United States into the United States, having been on board a vessel encountered outside of the territorial waters of the United States by officers of the United States;

"(ii) is brought or escorted under the authority of the United States to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States; or

"(iii) has arrived on a vessel transporting aliens to the United States without such alien having received prior official authorization to come to, enter, or reside in the United States.

"The judgment whether there exists an extraordinary migration situation within the meaning of (A) or whether to invoke the provisions of (B) is committed to the sole and exclusive discretion of the Attorney General; provided, that the provisions of this subsection may be invoked by the Attorney General under subparagraph (A) for a period not to exceed ninety days, unless, within such ninety-day period or extension thereof, the Attorney General determines, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, that an extraordinary migration situation continues to warrant such procedures remaining in place for an additional ninety-day period.

"(2) As used in this section, 'extraordinary migration situation' means the arrival or imminent arrival in the United States or its territorial waters of aliens who by their numbers or circumstances substantially exceed the capacity for the inspection and examination of such aliens.

"(3) When the Attorney General determines to invoke the provisions of paragraph (1), the Attorney General may, pursuant to this section and sections 235(e) and 106(f), suspend the normal operation of immigration regulations regarding the inspection and exclusion of aliens.

"(4) No alien may be ordered specially excluded under paragraph (1) if: (A) such alien is eligible to seek and seeks asylum under section 208; and (B) the Attorney General determines such alien has a credible fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, in the country of such person's nationality, or in the case of a person having no nationality, the country in which such person last habitually resided. The Attorney General may by regulation provide that, notwithstanding this paragraph, an alien may be returned to a country where the alien does not have a credible fear of persecution or of return to persecution. As used herein, the term "credible fear of persecution" means that: (A) there is a substantial likelihood that the statements made by the alien in support of his or her claim are true; and (B) in light of such statements and country conditions, the alien has a reasonable possibility of establishing eligibility as a refugee within the meaning of section 101(a)(42)(A). An alien determined to have a credible fear of persecution shall be taken before an immigration judge for a hearing in accordance with section 236.

"(5) Notwithstanding the provisions of paragraph (4), the Attorney General may provide that an application for asylum made by an alien arriving in the United States under the circumstances described in subparagraph (A) of paragraph (1) be considered pursuant to section 208 and any regulations promulgated thereunder for applications considered pursuant to this paragraph; Provided, however, that an alien not granted asylum is subject to a special order of exclusion under paragraph (1).

"(6) A special exclusion order entered in accordance with the provisions of this subsection is not subject to administrative appeal, except that the Attorney General shall provide by regulation for:

"(A) prompt review of such an order against an applicant who appears to have been lawfully admitted for permanent residence; and

"(B) prompt review of such an order entered against an alien physically present in the United States who has sought asylum under section 208 and was determined not to have a credible fear of persecution under paragraph (4). Such review shall be conducted by an officer or officers of the Department of Justice specially trained in asylum and refugee law.

"(7) A special exclusion order shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236, except that judicial review of such an order shall be available only under section 106(f).

"(8) Nothing in this subsection shall be regarded as requiring a hearing before an immigration judge in the case of an alien crewman or alien stowaway.

"(e) NO COLLATERAL ATTACK.—In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 and 276 of the Immigration and Nationality Act, no court shall have jurisdiction to hear claims attacking the validity of orders of special exclusion entered under this section.".

SEC. 107. IMMIGRATION EMERGENCY PROVISIONS.

(a) REIMBURSEMENT OF FEDERAL AGENCIES FROM IMMIGRATION EMERGENCY FUND.—Section 404(b) of the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended—

(1) in paragraph (1) after "paragraph (2)" by replacing "and" with ",", striking "State," inserting "other Federal agencies and States," inserting "and for the costs associated with repatriation of aliens attempting to enter the United States illegally, whether apprehended within or outside the territorial sea of the United States" before "except," and by adding the following language at the end of paragraph (1), "Provided, that the fund may be used for the costs of such repatriations without the requirement for a determination by the President that an immigration emergency exists.".

(2) in paragraph (2)(A), by inserting "to Federal agencies providing support to the Department of Justice or" after "available."

(b) VESSEL MOVEMENT CONTROLS.—50 U.S.C. 191 is amended by inserting "or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to or arriving off the coast of the United States presents urgent circumstances requiring an immediate Federal response," after "United States," the first time it appears.

(c) DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end of subsection (a) a new sentence to read as follows:

"In the event the Attorney General determines that an actual or imminent mass influx of aliens arriving off the coast of the United States presents urgent circumstances requiring an immediate Federal response, the Attorney General may authorize, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, any specially designated state or local law enforcement officer to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Service.".

SEC. 108. COMMUTER LANE PILOT PROGRAMS.

(a) Section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356) is amended—

(1) in paragraph (1), by striking "a project" and inserting "projects";

(2) in paragraph (1), by striking "Such project" and inserting "Such projects"; and

(3) by striking paragraph (5).

(b) The Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1994 (P.L. 103–121, 107 Stat. 1161) is amended by striking the fourth proviso under the heading "Immigration and Naturalization Service, Salaries and Expenses".

TITLE II—CONTROL OF UNLAWFUL EMPLOYMENT AND VERIFICATION

SEC. 201. REDUCING THE NUMBER OF EMPLOYMENT VERIFICATION DOCUMENTS.

(a) PROVISION OF SOCIAL SECURITY ACCOUNT NUMBERS.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended by adding at the end of subsection (b)(2) a new sentence to read as follows:

"The Attorney General is authorized to require an individual to provide on the form described in subsection (b)(1)(A) that individual's Social Security account number for purposes of complying with this section.".

(b) CHANGES IN ACCEPTABLE DOCUMENTATION FOR EMPLOYMENT AUTHORIZATION AND IDENTITY.—Section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking clauses (ii), (iii), and (iv) and redesignating clause (v) as clause (ii),

(B) in clause (i), by adding at the end "or", and

(C) in redesignated clause (ii), by revising the introductory text to read as follows:

"(ii) resident alien card, alien registration card, or other document designated by regulation by the Attorney General, if the document—"; and

(D) in redesignated clause (ii) by striking the period after subclause (II) and by adding a new subclause (III) to read as follows:

"(III) and contains appropriate security features." and

(2) in subparagraph (C)—

(A) by inserting "or" after the ";" at the end of clause (i),

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii).

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to hiring (or recruiting or referring) occurring on or after such date (not later than 180 days after the date of the enactment of this Act) as the Attorney General shall designate.

SEC. 202. EMPLOYMENT VERIFICATION PILOT PROJECTS.

(a) The Attorney General, together with the Commissioner of Social Security, shall conduct pilot projects to test methods to accomplish reliable verification of eligibility for employment in the United States. The pilot projects tested may include: (1) an expansion of the telephone verification system to include, by the end of Fiscal Year 1996, participation by up to 1,000 employers; (2) a process which allows employers to verify the eligibility for employment of new employees using Social Security Administration (SSA) records and, if necessary, to conduct a cross-check using Immigration and Naturalization Service (INS) records; (3) a simulated linkage of the electronic records of the INS and the SSA to test the technical feasibility of establishing a linkage between the actual electronic records of the INS and the SSA; or (4) improvements and additions to the electronic records of the INS and the SSA for the purpose of using such records for verification of employment eligibility.

(b) The pilot projects referred to in subsection (a) shall be conducted in such locations and with such number of employers as is consistent with their pilot status.

(c) The pilot projects referred to in subsection (a) shall begin not later than 12 months after the enactment of this Act and may continue for a period of 3 years. During the pilot project, the Attorney General shall track complaints of discrimination arising from the administration or enforcement of the pilot project. Not later than 60 days prior to the conclusion of this 3-year period, the Attorney General shall submit to the Congress a report on the pilot projects. The report shall include evaluations of each of the pilot projects according to the following criteria: cost effectiveness, technical feasibility, resistance to fraud, protection of confidentiality and privacy, and protection against discrimination, and which projects, if any, should be adopted.

(d) Upon completion of the report required by subsection (c), the Attorney General is authorized to continue implementation on a pilot basis for an additional period of 1 year any or all of the pilot projects authorized in subsection (a). The Attorney General shall inform Congress of a decision to exercise this authority not later than the end of the 3-year period specified in subsection (c).

(e) Nothing in this section, shall exempt the pilot projects from any and all applicable civil rights laws, including, but not limited to, Section 102 of the Immigration Reform and Control Act of 1986, as amended; Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Equal Pay Act of 1963, as amended; and the Americans with Disabilities Act of 1990, as amended.

(f) In conducting the pilot projects referred to in subsection (a), the Attorney General may require appropriate notice to prospective employees concerning the employers' participation in the pilot projects. Any notice should contain information for filing complaints with the Attorney General regarding operation of the pilot projects, including discrimination in the hiring and firing of employees and applicants on the basis of race, national origin, or citizenship status.

SEC. 203. CONFIDENTIALITY OF DATA UNDER EMPLOYMENT ELIGIBILITY VERIFICATION PILOT PROJECTS.

(A) Any personal information obtained in connection with a pilot project under section 202 may not be made available to government agencies, employers, or other persons except to the extent necessary—

(1) to verify that an employee is not an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3));

(2) to take other action required to carry out section 202; or

(3) to enforce the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or sections 911, 1001, 1028, 1546, or 1621 of title 18, United States Code.

(b) No employer may participate in a pilot project under section 202 unless the employer has in place such procedures as the Attorney General shall require—

(1) to safeguard all personal information from unauthorized disclosure and condition redisclosure of such information to any person or entity upon its agreement also to safeguard such information; and

(2) to provide notice to all individuals of the right to request an agency to correct or amend the individual's record and the steps to follow to make such a request.

(c)(1) Any person who is a U.S. citizen, U.S. national, lawful permanent resident, or other employment authorized alien, and who is subject to work authorization verification under section 202 shall be considered an individual under 5 U.S.C. 552a(a)(2), but only with respect to records covered by this section.

(2) For purposes of this section, a record shall mean an item, collection, or grouping of information about an individual that is created, maintained, or used by a Federal agency in the course of a pilot project under section 202 to make a final determination concerning an individual's authorization to work in the United States, and that contains the individual's name or identifying number, symbol, or other identifying particular assigned to the individual.

(d) Whenever an employer or other person willfully and knowingly—

(1) discloses or uses information for a purpose other than those permitted under subsection (a), or

(2) fails to comply with a requirement of the Attorney General pursuant to subsection (b),

after notice and opportunity for an administrative hearing conducted by the Attorney General or the Commissioner of Social Security, as appropriate, or by a designee, the employer or other person shall be subject to a civil money penalty of not less than $1,000 nor more than $10,000 for each violation. In determining the amount of the penalty, consideration shall be given to the intent of the person committing the violation, the impact of the violation, and any history of previous violations by the person.

(e) Nothing in this section shall limit the rights and remedies otherwise available to U.S. citizens and lawful permanent residents under 5 U.S.C. 552a.

(f) Nothing in this section or in section 202 shall be construed to authorize, directly or indirectly, the issuance of use of national identification cards of the establishment of a national identification card.

SEC. 204. COLLECTION OF SOCIAL SECURITY NUMBERS.

Section 264 of the Immigration and Nationality Act (U.S.C. 1304) is amended by adding at the end of a new subsection (f) to read as follows:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's Social Security account number for purposes of inclusion in any record of the alien maintained by the Attorney General.".

SEC. 205. EMPLOYER SANCTIONS PENALTIES.

(a) INCREASED CIVIL MONEY PENALTIES FOR HIRING, RECRUITING, AND REFERRAL VIOLATIONS.—Section 274A(e)(4)(A) of the Immigration and Nationality Act (8 U.S.C. 1324(e)(4)(A)) is amended—

(1) in clause (i), by striking "$250" and "$2,000" and inserting "$1,000" and "$3,000", respectively;

(2) in clause (ii), by striking "$2,000" and "$5,000" and inserting "$3,000" and "$8,000", respectively; and

(3) in clause (iii), by striking "$3,000" and "$10,000" and inserting "$8,000" and "$25,000", respectively.

(b) INCREASED CIVIL MONEY PENALTIES FOR PAPERWORK VIOLATIONS. Section 274A(e)(5) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)(5)) is amended by striking "$100" and "$1,000" and inserting "$200" and "$5,000", respectively.

(c) INCREASED CRIMINAL PENALTIES FOR PATTERN OR PRACTICE VIOLATIONS. Section 274A(f)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(f)(1)) is amended by inserting the phrase "guilty of a felony and shall be" immediately after the phrase "subsection (a)(1)(A) or (a)(2)." Section 274A(f)(1) of such Act is further amended by striking "$3,000" and "six months" and inserting "$7,000" and "two years", respectively.

SEC. 206. CRIMINAL PENALTIES FOR DOCUMENT FRAUD.

(a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—Section 1028(b)(1) of title 18, United States Code, is amended by striking "five years" and inserting "10 years and by adding at the end the following new provision:

"Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this section—

"(1) if committed to facilitate a drug trafficking crime (as defined in 929(a)) is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331) is 20 years.".(b) CHANGES TO THE SENTENCING LEVELS.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promptly promulgate guidelines, or amend existing guidelines, to make appropriate increases in the base offense levels for offenses under section 1028(a) of title 18. United States Code.

SEC. 207. CIVIL PENALTIES FOR DOCUMENT FRAUD.

(a) ACTIVITIES PROHIBITED.—Section 274C(a) of the Immigration and Nationality Act (8 U.S.C. 1324c(a)) is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the period and inserting "; or" at the end of paragraph (4); and

(3) by adding at the end the following:

"(5) to present before boarding a common carrier for the purpose of coming to the United States a document that relates to the alien's eligibility to enter the United States and to fail to present such document to an immigration officer upon arrival at a United States port of entry, or

"(6) in reckless disregard of the fact that the information is false or does not relate to the applicant, to prepare, to file, or to assist another in preparing or filing, documents which are falsely made (including but not limited to documents which contain false information, material misrepresentation, or information which does not relate to the applicant) for the purposes of satisfying a requirement of this Act.

"The Attorney General may waive the penalties of this section with respect to any alien who knowingly violates paragraph (5) if the alien is subsequently granted asylum under section 208 or withholding of deportation under section 243(h). For the purposes of this section, the phrase 'falsely made any document' includes the preparation or provision of any document required under this Act, with knowledge or in reckless disregard of the fact that such document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a material fact pertaining to the document.".

(b) CONFORMING AMENDMENTS FOR CIVIL PENALTIES.—Section 274C(d)(3) of the Immigration and Nationality Act (8 U.S.C. 132c(d)(3)) is amended by striking "each document used, accepted, or created and each instance of use, acceptance, or creation" in each of the two places it appears and inserting "each document that is the subject of a violation under subsection (a)".

SEC. 208, SUBPOENA AUTHORITY.

(a) IMMIGRATION OFFICER AUTHORITY.—

(1) Section 274A(e)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)(2)) is amended by—

(A) striking at the end of subparagraph (A) "and";

(B) striking at the end of subparagraph (B) "." and inserting ", and"; and

(C) adding a new subparagraph (C) to read as follows:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (3).'"

(2) Section 274C(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)(2)) is amended by—

(A) striking at the end of subparagraph (A) "and";

(B) striking at the end of subparagraph (B) "," and inserting ", and"; and

(C) adding a new subparagraph (c) to read as follows:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2)."

(b) SECRETARY OF LABOR SUBPOENA AUTHORITY.—

The Immigration and Nationality Act is amended by adding a new section 293 (8 U.S.C. 1364) to read as follows:

"Sec. 294. Secretary of Labor Subpoena Authority.

The Secretary of Labor may issue subpoenas requiring the attendance and testimony of witnesses or the production of any records, books, papers, or documents in connection with any investigation or hearing conducted in the enforcement of any immigration program for which the Secretary of Labor has been delegated enforcement authority under the Act. In such hearing, the Secretary of Labor may administer oaths, examine witnesses, and receive evidence. for the purpose of any such hearing or investigation, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary of Labor.".

SEC. 209. INCREASED PENALTIES FOR EMPLOYER SANCTIONS INVOLVING LABOR STANDARDS VIOLATIONS.

(a) Section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)) is amended by adding a new paragraph (10) to read as follows:

"(10)(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the level of the penalty prescribed by this subsection in any case where the employer has been found to have committed willful or repeated violations of any of the following statutes:

"(i) the Fair Labor Standards Act, 29 U.S.C. 201 et seq., pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction;

"(ii) the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq., pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction; or

"(iii) the Family and Medical Leave Act, 29 U.S.C. 2601 et seq., pursuant to a final determination by a court of competent jurisdiction.

"(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of the provisions of this paragraph.".

(b) Section 274B(g) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)) is amended by adding a new paragraph (4) to read as follows:

"(4)(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the level of the penalty prescribed by this subsection in any case where the employer has been found to have committed willful or repeated violations of any of the following statutes:

"(i) the Fair Labor Standards Act, 29 U.S.C. 201 et seq., pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction;

"(ii) the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq., pursuant to a final determination by the Secretary of labor or a court of competent jurisdiction; or

"(iii) the Family and Medical Leave Act, 29 U.S.C. 2601 et seq., pursuant to a final determination by a court of competent jurisdiction.

"(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of the provisions of this paragraph.".

(c) Section 274C(d) of the Immigration and Nationality Act (8 U.S.C. 1324c(d)) is amended by adding a new paragraph (7) to read as follows:

"(7)(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the level of the penalty prescribed by this subsection in any case where the employer has been found to have committed willful or repeated violations of any of the following statutes:

"(i) the Fair Labor Standards Act, 29 U.S.C. 201 et seq., pursuant to a final determination by the Secretary of labor or a court of competent jurisdiction;

"(ii) the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq., pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction; or

"(iii) the Family and Medical Leave Act 29 U.S.C. 2601, et seq. pursuant to a final determination by a court of competent jurisdiction.

"(B) the Secretary of Labor and the Attorney General shall consult regarding the administration of the provisions of this paragraph.".

SEC. 210. INCREASED CIVIL PENALTIES FOR UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) Section 274B(g)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)(2)(B)) is amended—

(1) in clause (iv)(I), by striking "$250" and "$2,000" and inserting "$1,000" and "$3,000", respectively;

(2) in clause (iv)(II), by striking "$2,000" and "$5,000" and inserting "$3,000" and "$8,000", respectively; and

(3) in clause (iv)(III), by striking "$3,000" and "$10,000" and inserting '"$8,000" and "$25,000", respectively.

(4) in clause (iv)(IV), by striking "$100" and "$1,000" and inserting "$200" and "$5,000", respectively.

SEC. 211. RETENTION OF EMPLOYER SANCTIONS FINES FOR LAW ENFORCEMENT PURPOSES.

Section 286(c) of the Immigration and Nationality Act, 8 U.S.C. 1356(c) is amended by striking the period at the end of the section and by adding the following:

"; provided further, that all monies received during each fiscal year in payment of penalties under section 274A of this Act in excess of $5,000,000 shall be credited to the Immigration and Naturalization Services Salaries and Expenses appropriations account that funds activities and related expenses associated with enforcement of that section and shall remain available until expended.".

SEC. 212. TELEPHONE VERIFICATION SYSTEM FEE.

Section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) is amended by adding at the end a new paragraph (5) to read as follows:

"(5) TELEPHONE VERIFICATION SYSTEM FEE.—

"(A) The Attorney General is authorized to collect a fee from employers, recruiters, or referrers who subscribe to participate in a telephone verification system pilot under this section.

"(B) Funds collected pursuant to this authorization shall be deposited as offsetting collections to the Immigration and Naturalization Service Salaries and Expenses appropriations account solely to fund the costs incurred to provide alien employment verification services through such a system.".

SEC. 213. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title. None of the costs incurred in carrying out this title shall be paid for out of any trust fund established under the Social Security Act.

TITLE III—ILLEGAL ALIEN REMOVAL

SEC. 301. CIVIL PENALTIES FOR FAILURE TO DEPART.

The Immigration and Nationality Act is amended by adding a new section 274D (8 U.S.C. 1324d) to read as follows:

"CIVIL PENALTIES FOR FAILURE TO DEPART

"SEC. 274D. (a) Any alien subject to a final order of exclusion and deportation or deportation who—

"(1) willfully fails or refuses to:

"(A) depart from the United States pursuant to the order;

"(B) make timely application in good faith for travel or other documents necessary for departure; or

"(C) present for deportation at the time and place required by the Attorney General; or

"(2) conspires to or takes any action designed to prevent or hamper the alien's departure pursuant to the order,

shall pay a civil penalty of not more $500 to the Commissioner as offsetting collections for each day the alien is in violation of this section.

"(b) Nothing in this section shall be construed to diminish or qualify any penalties to which an alien may be subject for activities proscribed by section 242(e) or any other section of this Act.".

SEC. 302. JUDICIAL DEPORTATION.

(a) Section 242A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)(1)) is amended to read as follows:

"(1) Authority. Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien: (i) whose criminal conviction for an offense for which the alien is before the court for sentencing causes such alien to be deportable under section 241(a)(2)(A), or (ii) who previously has been convicted of an aggravated felony at any time, if such an order has been requested by the United States Attorney with the concurrence of the Commissioner and if the court chooses to exercise such jurisdiction.".

(b) Section 242A(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)(3)(A)) is amended by striking clauses (ii) and (iii) and by revising clause (i) to read as follows:

"(i) A judicial order of deportation or denial of such order may be appealed by either party. Appellate review of any judicial order of deportation shall be considered as part of the underlying criminal case and subject to all the procedures and filing deadlines governing criminal appeals.".

(c) Section 242A(d)(4) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)(4)) is amended by striking "without a decision on the merits".

(d) The last sentence of 18 U.S.C. 3583(d)(3) is amended to read as follows:

"If an alien defendant is subject to deportation, the court may provide, as a condition of supervised release, that he or she be ordered deported by the Attorney General, pursuant to the procedures in the Immigration and Nationality Act, and remain outside the United States, and the court may order that he or she be delivered to a duly authorized immigration official for such deportation.".

SEC. 303. CONDUCT OF PROCEEDINGS BY ELECTRONIC MEANS.

Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting at the end the following: "Nothing in this subsection shall preclude the Attorney General from authorizing proceedings by video electronic media, by telephone, or, where waived or agreed to by the parties, in the absence of the alien. Contested full evidentiary hearings on the merits may be conducted by telephone only with the consent of the alien.".

SEC. 304. SUBPOENA AUTHORITY.

(a) Section 236(a) of the Immigration and Nationality Act (8 U.S.C. 1226(a)) is amended by inserting "issue subpoenas," in the first sentence after "evidence,".

(b) Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting "issue subpoenas," in the first sentence after "evidence,".

SEC. 305. STIPULATED EXCLUSION AND DEPORTATION.

(A) Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by adding at the end of subsection (a) the following new paragraph:

"(4) Stipulated Exclusion and Deportation.—The Attorney General shall provide by regulation for the entry by an immigration judge of an order of exclusion and deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the immigration judge. A stipulated order shall constitute a conclusive determination of the alien's excludability and deportability from the United States.".

(b) Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended in subsection (b) by striking the sentence immediately following paragraph (4) and inserting the following:

"The Attorney General shall further provide by regulation for the entry by an immigration judge of an order of deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the immigration judge. A stipulated order shall constitute a conclusive determination of the alien's deportability from the United States. The procedures so prescribed shall be the sole and exclusive procedures for determining the deportability of an alien under this section.".

SEC. 306. STREAMLINING APPEALS FROM ORDERS OF EXCLUSION AND DEPORTATION.

(a) Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION, EXCLUSION, AND SPECIAL EXCLUSION

"SEC. 106(A) APPLICABLE PROVISIONS.—Judicial review of a final order of exclusion or deportation is governed only by chapter 158 of title 28 of the United States Code, except as provided in subsection (b); provided, however, that no court may order the taking of additional evidence pursuant to 28 U.S.C. 2347(c).

"(b) REQUIREMENTS.—

"(1) A petition for review must be filed not later than 30 days after the date of the final order of exclusion or deportation.

"(2) A petition for review shall be filed with the Court of Appeals for the judicial circuit in which the immigration judge completed the proceedings.

"(3) The respondent is the Attorney General. The petition shall be served on the Attorney General and on the officer or employee of the Immigration and Naturalization Service in charge of the Service district in which the final order of exclusion or deportation was entered. Service of the petition on the officer or employee stays the deportation of an alien pending the court's decision on the petition, unless the court orders otherwise. However, if the alien has been convicted of an aggravated felony, or the alien is under an order of exclusion, service of the petition does not stay the deportation unless the court orders otherwise.

"(4) Except as provided in paragraph (5)(B) of this subsection—"the court of appeals shall decide the petition only on the administrative record on which the order of exclusion or deportation is based and the Attorney General's findings of fact shall be conclusive unless a reasonable adjudicator would be compelled to conclude to the contrary.

"(5)(A) If the petitioner claims to be a national of the United States and the court of appeals finds from the pleadings and affidavits that no genuine issue of material fact about the petitioner's nationality is presented, the court shall decide the nationality claim.

"(B) If the petitioner claims to be a national of the United States and the court of appeals finds that a genuine issue of material fact about the petitioner's nationality is presented, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides for a new hearing on the nationality claim and a decision on that claim as if an action had been brought in the district court under section 2201 of title 28.

"(C) The petitioner may have the nationality claim decided only as provided in this section.

"(6)(A) If the validity of an order of deportation has not been judicially decided, a defendant in a criminal proceeding charged with violating subsection (d) or (e) of section 242 may challenge the validity of the order in the criminal proceeding only by filing a separate motion before trial. The district court, without a jury, shall decide the motion before trial.

"(B) If the defendant claims in the motion to be a national of the United States and the district court finds that a genuine issue of material fact about the defendant's nationality is presented, the court shall decide the motion only on the administrative record on which the deportation order is based. The administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole.

"(C) If the defendant claims in the motion to be a national of the United States and the district court finds that a genuine issue of material fact about the defendant's nationality is presented, the court shall hold a new hearing on the nationality claim and decide that claim as if an action had been brought under section 2201 of title 28.

"(D) If the district court rules that the deportation order is invalid, the court shall dismiss the indictment. The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days. The defendant may not file a petition for review under this section during the criminal proceeding. The defendant may have the nationality claim decided only as provided in this section.

"(7) This subsection—

"(A) does not prevent the Attorney General, after a final order of deportation has been issued, from detaining the alien under section 242(c);

"(B) does not relieve the alien from complying with subsection (d) or (e) of section 242; and

"(C) except as provided in paragraph (3) of this subsection, does not require the Attorney General to defer deportation of the alien.

"(8) The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs."

"(c) REQUIREMENTS FOR PETITION.—A petition for review of an order of deportation shall state whether a court has upheld the validity of the order, and, if so, shall state the name of the court, the date of the court's ruling, and the kind of proceeding.

"(d) REVIEW OF FINAL ORDERS.—A court my review a final order of deportation only if—

"(1) the alien has exhausted all administrative remedies available to the alien as of right;

"(2) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

"(e) LIMITED REVIEW FOR NON-PERMANENT RESIDENTS CONVICTED OF AGGRAVATED FELONIES.—

"(1) A petition for review filed by an alien against whom a final order of deportation has been issued under section 242A may challenge only whether—

"(A) the alien is the alien described in the order;

"(B) the alien is an alien described in section 242A(b)(2) and has been convicted after entry into the United States of an aggravated felony; and

"(C) the alien was afforded the procedures described in section 242A(b)(4).

"(2) A court reviewing the petition has jurisdiction only to review the issues described in paragraph (1).

"(f) SPECIAL EXCLUSION.—Notwithstanding any other provision of law, except as provided in this subsection, no court shall have jurisdiction to review any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of the special exclusion provisions contained in section 235(d); except as provided herein, there shall be no judicial review of: (i) a decision by the Attorney General to invoke the provisions of section 235(d), (ii) the application of section 235(d) to individual aliens, including the determination made under paragraphs 5 and 6, or (iii) procedures and policies adopted by the Attorney General to implement the provisions of Section 235(d). Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection, or to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(1) Judicial review of any cause, claim, or individual determination made or arising under or pertaining to special exclusion under section 235(d) shall only be available in habeas corpus proceedings, and shall be limited to determinations of: (i) whether the petitioner is an alien, (ii) whether the petitioner was ordered specially excluded, and (iii) whether the petitioner can prove by a preponderance of the evidence that he or she is an alien lawfully admitted for permanent residence and is entitled to such further inquiry as prescribed by the Attorney General pursuant to section 235(d)(3).

"(2) In any case where the court determines that the petitioner: (i) is an alien who was not ordered specially excluded, or (ii) has demonstrated by a preponderance of the evidence that he or she is a lawful permanent resident, the court may order no remedy or relief other than to require that the petitioner be provided a hearing in accordance with section 236 or a determination in accordance with sections 235(a) or 273(d). Any alien who is provided a hearing under section 236 pursuant to these provisions may thereafter obtain judicial review of any resulting final order of exclusion pursuant to this section.

"(3) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order in fact was issued and whether it relates to the petitioner. There shall be no review of whether the alien is actually excludable or entitled to any relief from exclusion.".

SEC. 307. SANCTIONS AGAINST COUNTRIES REFUSING TO ACCEPT DEPORTATION OF THEIR NATIONALS.

Section 243(g) of the Immigration and Nationality Act (8 U.S.C. 1253(g)) is amended to read as follows:

"(g) DISCONTINUING GRANTING VISAS WHEN COUNTRY DENIES OR DELAYS ACCEPTING ALIEN—On being notified by the Attorney General that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General asks whether the government will accept the alien under this section, the Secretary of State may order consular officers in that foreign country to discontinue granting such classes of visas as the Secretary shall deem appropriate to citizens, subjects, nationals, and residents of that country until the Attorney General notifies the Secretary that the country has accepted the alien.".

SEC. 308. CUSTODY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended in paragraph (e)(2) by inserting after "unless" the following subparagraph—

"(A) the Attorney General determines, pursuant to section 3521 of title 18, United States Code, that release from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation or (B)".

(b) Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by revising paragraph (a)(2) to read as follows:

"(2)(A) The Attorney General shall take into custody any alien convicted of an aggravated felony when the alien is released. This requirement shall apply whether the alien is released on parole, supervised release, or probation, or may be arrested or imprisoned again for the same offense.

"(B) The Attorney General may release the alien only if the alien—

"(i) was lawfully admitted to the United States and satisfies the Attorney General that the alien is not a threat to the community and is likely to appear for any scheduled proceeding; or

"(ii) the Attorney General decides pursuant to section 3521 of title 18, United States Code, that release from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation.".

SEC. 309. LIMITATIONS ON RELIEF FROM EXCLUSION AND DEPORTATION.

(a) Section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is revised to read as follows:

"(c) An alien who is and has been lawfully admitted for permanent residence for at least 5 years, who has resided in the United States continuously for 7 years after having been lawfully admitted, and who is returning to such residence after having temporarily proceeded abroad voluntarily and not under an order of deportation, may be admitted in the discretion of the Attorney General without regard to the provisions of subsection (a) (other than paragraphs (3) and (9)(C)). For purposes of this subsection, any period of continuous residence shall be deemed to end when the alien is placed in proceedings to exclude the alien from the United States. Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion authorized under section 211(b). The first sentence of this subsection shall not apply to an alien who has been convicted of one or more aggravated felonies and has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years. This subsection shall apply only to an alien in proceedings under section 236.".

(b) Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) is revised to read as follows:

"SEC. 244(a). CANCELLATION OF DEPORTATION.—The Attorney General may cancel deportation in the case of an alien who is deportable from the United States and:

"(1) is and has been a lawful permanent resident for at least 5 years who has resided in the United States continuously for 7 years after being lawfully admitted and has not been convicted of an aggravated felony or felonies for which the alien has been sentenced, in the aggregate, to a term of imprisonment of at least 5 years; or

"(2) has been physically present in the United States for a continuous period of not less than 7 years since entering the United States; has been a person of good moral character during such period; and establishes that deportation would result in extreme hardship to the alien or the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

"For purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served an order to show cause pursuant to section 242B(a)(1). An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (2) if the alien was absent from the United States for any single period of more than 90 days or an aggregate period of more than 180 days. No person who is deportable under section 241(a)(2)(C) or 241(a)(4) shall be eligible for relief under this section. No person who has been convicted of an aggravated felony shall be eligible for relief under paragraph (2) of this section.

"(b) CONTINUOUS PHYSICAL PRESENCE NOT REQUIRED BECAUSE OF HONORABLE SERVICE IN ARMED FORCES AND PRESENCE UPON ENTRY INTO SERVICE.—The requirements of continuous residence or continuous physical presence in the United States specified in subsections (a)(1) and (a)(2) of this section shall not be applicable to an alien who: (1) has served for a minimum period of twenty-four months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and (2) at the time of his or her enlistment or induction was in the United States.

"(c) ADJUSTMENT OF STATUS.—The Attorney General may cancel deportation and adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General decides meets the requirements of subsection (a)(2). The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General decides to cancel removal.

"(d) VOLUNTARY DEPARTURE.—(1) The Attorney General may in his or her discretion permit an alien voluntarily to depart the United States at the alien's own expense—

"(A) in lieu of being subject to deportation proceedings under section 242 or prior to the completion of such proceedings, if the alien is not a person deportable under section 241(a)(2)(A)(iii) or section 241(a)(4). The Attorney General may require the alien to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified. If any alien who is authorized to depart voluntarily under this paragraph is financially unable to depart at his or her own expense and the Attorney General deems the alien's removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for enforcement of this Act; or

"(B) at the conclusion of a proceeding under section 242, only if the immigration judge determines that:

"(i) the alien is, and has been, a person of good moral character for at least five years immediately preceding his or her application for voluntary departure;

"(ii) the alien is not deportable under section 241(a)(2)(A)(iii) or section 241(a)(4); and

"(iii) the alien establishes by clear and convincing evidence that he or she has the means to depart the United States and intends to do so. The alien shall be required to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(2) If the alien fails voluntarily to depart the United States within the time period specified in accordance with subparagraphs (1) or (2), the alien shall be subject to a civil penalty of not more than $500 per day and be ineligible for any further relief under this paragraph or paragraph (b).

"(3) The Attorney General may by regulation limit eligibility for voluntary departure for any class or classes of aliens. No court may review any regulation issued under this subparagraph.

"(4) An alien may appeal from denial of a request for an order of voluntary departure under subparagraph (2) in accordance with the procedures in section 106, provided that no court shall have jurisdiction over an appeal regarding the length of voluntary departure where the alien has been granted voluntary departure of 30 days or more. Notwithstanding the pendency of an appeal by an alien of a denial of voluntary departure or a grant of voluntary departure of less than 30 days, the alien shall be removable from the United States 60 days after entry of the order of deportation. No court may order a stay of such removal. The alien's removal from the United States shall not moot the appeal.

"(e) ALIEN CREWMAN; NONIMMIGRANT EXCHANGE ALIENS ADMITTED TO RECEIVE GRADUATE MEDICAL EDUCATION OR TRAINING; OTHER.—The provisions of subsection (a) of this section shall not apply to an alien who—

"(1) entered the United States as a crewman subsequent to June 30, 1964;

"(2) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant exchange alien after admission, in order to receive graduate medical education or training, regardless of whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e); or

"(3)(A) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J) or has acquired the status of such a nonimmigrant exchange alien after admission other than to receive graduate medical education or training, (B) is subject to the two-year foreign residence requirement of section 212(e), and (C) has not fulfilled that requirement or received a waiver thereof, or in the case of a foreign medical graduate who has received a waiver pursuant to section 220 of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, has not fulfilled the requirements of section 214(k).".

(c) CONFORMING AMENDMENTS.—

(1) Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking the last two sentences.

(2) Section 242B of the Immigration and Nationality Act (8 U.S.C. 1252b) is amended—

(A) in paragraph (e)(2)—

(i) by striking "section 244(e)(1)" and inserting "section 244(d)", and

(ii) by striking "section 242(b)(1)" and inserting "section 244(d)", and

(B) in paragraph (e)(5)—

(i) by striking "section 242(b)(1)" and inserting "section 244(d)", and

(ii) by striking "suspension of deportation" and inserting "cancellation of deportation".

(d)(1) The amendments made by subsection (a) of this section shall take effect on the date of enactment; except that, for purposes of determining the period of continuous residence, the amendments made by subsection (a) shall apply to all aliens against whom proceedings are commenced on or after the date of enactment.

(2) The amendments made by subsection (b) of this section shall take effect on the date of enactment; except that, for purposes of determining the periods of continuous residence or continuous physical presence, the amendments made by subsection (b) shall apply to all aliens upon whom an order to show cause is served on or after the date of enactment.

(3) The amendments made by subsection (c) of this section shall take effect on the date of enactment.

SEC. 310. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

Section 246(a) of the Immigration and Nationality Act (8 U.S.C. 1256(a)) is amended by adding at the end the following sentence:

"Nothing in this subsection shall require the Attorney General to rescind the alien's status prior to commencement of procedures to deport the alien under section 242 and 242A, and an order of deportation issued by an immigration judge shall be sufficient to rescind the alien's status.".

SEC. 311. INCREASING EFFICIENCY IN REMOVAL OF DETAINED ALIENS.

(a) There are authorized to be appropriated such funds as may be necessary for the Attorney General to conduct a pilot program or programs to study methods for increasing the efficiency of deportation and exclusion proceedings against detained aliens by increasing the availability of pro bono counseling and representation for such aliens. Any such pilot program may provide for administrative grants to not-for-profit organizations involved in the counseling and representation of aliens in immigration proceedings. An evaluation component shall be included in any such pilot program to test the efficiency and cost effectiveness of the services provided and the replicability of such programs at other locations.

(b) Nothing in this section shall be regarded as creating a right to be represented in exclusion or deportation proceedings at the expense of the Government.

TITLE IV—ALIEN SMUGGLING CONTROL

SEC. 401. WIRETAP AUTHORITY FOR INVESTIGATIONS OF ALIEN SMUGGLING AND DOCUMENT FRAUD.

Section 2516(1) of title 18, United States Code, is amended—

(a) in paragraph (c), by inserting after "trains)" the following: "or a felony violation of section 1028 (relating to production of false identification documentation), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud or misuse of visas, permits, or other documents)";

(b) by striking "or" after paragraph (l);

(c) by redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively; and

(d) by inserting after paragraph (l) the following new paragraph:

"(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens);".

SEC. 402. APPLYING RACKETEERING OFFENSES TO ALIEN SMUGGLING.

Section 1961(1) of title 18, United States Code, is amended—

(a) by striking "or" after "law of the United States,";

(b) by inserting "or" at the end of clause (E); and

(c) by adding at the end the following:

"(F) any act, or conspiracy to commit any act, in violation of section 274(a)(1)(A)(v), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A)(v), 1327, or 1328).".

SEC. 403. EXPANDED ASSET FORFEITURE FOR SMUGGLING OR HARBORING ALIENS.

Section 274 of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1324) is amended—

(a) by amending paragraph (b)(1) to read as follows:

"(b) SEIZURE AND FORFEITURE.—(1) The following property shall be subject to seizure and forfeiture:

"(A) any conveyance, including any vessel, vehicle, or aircraft, which has been or is being used in the commission of a violation of subsection (a); except that—

"(1) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to the illegal act; and

"(2) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than such owner in violation of the criminal laws of the United States, or any State; and

"(B) any property, real or personal, (i) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of a violation of subsection (a), or (ii) that is used to facilitate, or is intended to be used to facilitate, the commission of a violation of subparagraph (a)(1)(A), except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted by any other person other than such owner without knowledge or consent of that owner."; and

(b) in paragraph (b)(2)—

(1) by striking "conveyances" both places it appears and inserting "property"; and

(2) by striking "is being used in" and inserting "is being used in, is facilitating, has facilitated, is facilitating or was intended to facilitate";

(3) in paragraph (3)—

(A) by inserting "(A)" immediately after "(3)", and

(B) by adding at the end the following:

"(B) Before the seizure of any real property pursuant to this section the Attorney General shall provide notice and opportunity to be heard to the owner of the property. The Attorney General shall prescribe such regulations as may be necessary to carry out this paragraph.";

(4) in paragraphs (b)(4) and (b)(5) by striking each place they appear the phrase "a conveyance" and the word "conveyance" and inserting "property"; and

(5) by redesignating subsection (c) to be subsection (d) and inserting the following new subsection (c)—

"(c) Criminal Forfeiture.—

"(1) Any person convicted of a violation of subsection (a) shall forfeit to the United States, irrespective of any provision of State law—

"(A) any conveyance, including any vessel, vehicle, or aircraft used in the commission of a violation of subsection (a); and

"(B) any property real or personal—

"(i) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of a violation of subsection (a), or

"(ii) that is used to facilitate, or is intended to be used to facilitate, the commission of a violation of subparagraph (a)(1)(A).

"The court, in imposing sentence on such person, shall order that the person forfeit to the United States all property described in this subsection.

"(2) The criminal forfeiture of property under this subsection, including any seizure and disposition of the property and any related administrative or judicial proceeding shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except for subsections 413(a) and 413(d) which shall not apply to forfeitures under this subsection.".

SEC. 404. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(a) in subsection (a)(1)(A)—

(A) by striking "or" at the end of clause (iii);

(B) by striking the comma at the end of clause (iv) and inserting "; or"; and

(C) by adding at the end the following new clause:

"(v)(I) engages in any conspiracy to commit any of the preceding acts, or (II) aids or abets the commission of any of the preceding acts.";

(b) in subsection (a)(1)(B)—

(A) in clause (i), by inserting "or(v)(I)" after "(A)(i)";

(B) in clause (ii), by striking "or(iv)" and inserting "(iv), or (v)(II)";

(C) in clause (iii), by striking "or (iv)" and inserting "(iv), or (v)";

(c) in subsection (a)(1)(B) by adding at the end the following new paragraph—

"(3) Any person who hires for employment an alien—

"(A) knowing that such alien is an unauthorized alien (as defined in section 274A(h)(3)), and

"(B) knowing that such alien has been brought into the United States in violation of this subsection.

shall be fined under title 18, United States Code, and shall be imprisoned for not more than 5 years."; and

(d) in subsection (a)(2)(A)—

(1) by striking the period after clause (iv) and adding a new clause (v) to read as follows:

"(v) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year."; and

(2) in subparagraph (B) by adding "(v)" after "(A)(i)" in clause (i).

SEC. 405. UNDERCOVER INVESTIGATION AUTHORITY.

(a) With respect to any undercover investigative operation of the Immigration and Naturalization Service which is necessary for the detection and prosecution of crimes against the United States—

(1) sums authorized to be appropriated for the Immigration and Naturalization Service by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 1341), section 3732 (a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 3324), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) sums authorized to be appropriated for the Immigration and Naturalization Service by this Act may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 9102);

(3) sums authorized to be appropriated for the Immigration and Naturalization Service by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of Title 18 of the United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 3302); and

(4) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

The authorization set forth in this section may be exercised only upon written certification of the Commissioner of the Immigration and Naturalization Service, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1), (2), (3), or (4) is necessary for the conduct of such undercover operation.

(b) As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraphs (3) and (4) of subsection (a), are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Immigration and Naturalization Service, as much in advance as the Commissioner or his or her designee determine practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) The Immigration and Naturalization Service shall conduct detailed financial audits of closed undercover operations on a quarterly basis and shall report the results of the audits in writing to the Deputy Attorney General.

SEC. 406. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) In General.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416), is amended—

(1) in subparagraph (N), by striking "of title 18, United States Code"; and

(2) in subparagraph (O), by striking "which constitutes" and all that follows up to the semicolon at the end and inserting ", for the purpose of commercial advantage".

(b) Effective Date of Conviction.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222(g) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416) is amended by adding at the end the following sentence:

"Notwithstanding any other provision of law, the term applies for all purposes to convictions entered before, on, or after the date of enactment of this Act."

(c) Application to Withholding of Deportation.—Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)) is amended in paragraph (2) by inserting "for which the sentence imposed is 5 years or more" after "aggravated felony".

TITLE V—INSPECTIONS AND ADMISSIONS

SEC. 501. CIVIL PENALTIES FOR BRINGING INADMISSIBLE ALIENS FROM CONTIGUOUS TERRITORIES.

Section 273 of the Immigration and Nationality Act (8 U.S.C. 1323) is amended by—

(a) striking "(other than from foreign contiguous territory)" from subsection (a), and

(b) striking "$3,000" and inserting "$5,000" in subsection (b).

SEC. 502. DEFINITION OF STOWAWAY; EXCLUDABILITY OF STOWAWAY; CARRIER LIABILITY FOR COSTS OF DETENTION.

(a) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding the following new subsection:

"(47) The term "stowaway" means any alien who obtains transportation without the consent of the owner, charterer, master or person in command of any vessel or aircraft through either concealment on board such vessel or aircraft or evasion of that carrier's standard boarding procedures.".

(b) Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended as follows:

(1) by inserting in paragraph (a)(1) before the period at the end of the first sentence the following: ", or unless the alien is an excluded stowaway who has requested asylum or withholding of deportation and whose application has not been adjudicated, or whose application has been denied but who has not exhausted any remaining appeal rights";

(2) by inserting after the first sentence in paragraph (a)(1) the following sentences:

"Any alien stowaway inspected upon arrival in the United States is an alien who is excluded within the meaning of this section. The term "alien" wherever appearing in this section shall include an excluded stowaway. The provisions of section 237 concerning the deportation of an excluded alien shall apply to the deportation of a stowaway under section 273(d).".

(c) Section 273(d) of the Immigration and Nationality Act (8 U.S.C. 1323(d)) is amended to read as follows:

"It shall be the duty of the owner, charterer, agent consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to detain on board or at such other place as may be designated by an immigration officer any alien stowaway until such stowaway has been inspected by an immigration officer. Upon inspection, the Attorney General, pursuant to regulation, may take immediate custody of any stowaway and shall charge the owner, charterer, agent, consignee, commanding officer, or master of the vessel or aircraft on which the stowaway has arrived the costs of detaining the stowaway. It shall be the duty of the owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to deport any alien stowaway on the vessel or aircraft on which such stowaway arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which such stowaway arrived when required to do so by an immigration officer. Failure to comply with the provisions of this section shall result in the imposition of a $5,000 fine, payable to the Commissioner as offsetting collections for each alien stowaway. Pending final determination of liability for such fine, no such vessel or aircraft shall be granted clearance, except that clearance may be granted upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the Commissioner. An alien stowaway inspected upon arrival shall be considered an excluded alien under this Act. The provisions of section 235 for detention of aliens for examination before a special inquiry officer and the right of appeal provided for in section 236 shall not apply to aliens who arrive as stowaways and no such aliens shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Attorney General may prescribe for the ultimate departure, removal or deportation of such alien from the United States. A stowaway may apply for asylum or withholding of deportation, as provided in sections 208 and 243(h) of this Act, pursuant to such regulations as the Attorney General may establish.".

SEC. 503. LIST OF ALIEN AND CITIZEN PASSENGERS ARRIVING OR DEPARTING.

Section 231(a) of the Immigration and Nationality Act (8 U.S.C. 1221(a)) is amended by—

(a) striking the first sentence and inserting the following—

"In connection with the arrival of any person by water or by air at any port within the United States from any place outside the United States, it shall be the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having such person on board to deliver to the immigration officers at the port of arrival, or other place designated by the Attorney General, electronic, typewritten or printed lists or manifests of the persons on board such vessel or aircraft.";

(b) striking in the second sentence "shall be prepared" and inserting "shall be prepared and submitted"; and

(c) inserting after the second sentence the following sentence:

"Such lists or manifests shall contain, but not be limited to, for each person transported, the person's full name, date of birth, gender, citizenship, travel document number (if applicable), and arriving flight number.".

SEC. 504. ELIMINATION OF LIMITATIONS ON IMMIGRATION USER FEES FOR CERTAIN CRUISE SHIP PASSENGERS.

Section 286(e)(1) of the Immigration and Nationality Act (8 U.S.C. 1356) is amended to read as follows:

"No fee shall be charged under subsection (d) for immigration inspection or preinspection provided in connection with the arrival of any passenger aboard an international ferry.".

SEC. 505. TRANSPORTATION LINE RESPONSIBILITY FOR TRANSIT WITHOUT VISA ALIENS.

Section 238(c) of the Immigration and Nationality Act (8 U.S.C. 1228(c)) is amended by inserting after the first sentence the following:

"Notwithstanding any other provision of this Act and in consideration for bringing aliens transiting through the United States without a visa, transportation lines shall agree, as part of any contract entered into under this section, to indemnify the United States against any costs for the detention and removal from the United States of any such alien who for any reason:

(a) is refused admission to the United States;

(b) fails to continue his or her journey to a foreign country within the time prescribed by regulation; or

(c) is refused admission by the foreign country to which the alien is travelling while transiting through the United States.".

SEC. 506. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

Section 202(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(1)) is amended by inserting before the period at the end the following:

"; provided, however, that nothing in this subsection shall be construed to limit the authority of the Secretary of State to determine the procedures for the processing of immigrant visa applications or the locations where such applications will be processed.".

SEC. 507. BORDER SERVICES USER FEE.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by inserting the following new subsection:

"(s)(1) In addition to any other fee authorized by law, the Attorney General shall charge and collect a fee, in United States currency, for border-related services and enforcement, at ports selected by the states in which they are located to participate in the border services user fee program. The fee shall be $1.50 for each non-commercial conveyance and $.75 for each pedestrian, for every land border entry, including persons arriving via ferries on any body of water which forms a part of the borders and boundaries contiguous to the United States. Commercial conveyances transporting passengers through passenger processing facilities shall be charged the pedestrian fee for the operator and each passenger, except that crewmen on ferries shall not be charged and conveyances on ferries will be charged the conveyance fee. These funds shall be available to the Attorney General in accordance with this section.

"(2) To the greatest extent practicable, fee revenues will be reinvested in participating ports in amounts that are approximately proportionate to the amounts collected at those ports and will not be used to substitute for the resources that would be allocated to the ports if they were not in the program, but will be added to the funds that would otherwise be dedicated to port spending.

"(3)(A) Each state that selects one or more ports to participate in the border services user fee program may establish a Border Services Council for each participating port.

"(B) The Councils shall develop spending priorities for the ports and submit those priorities to the Attorney General or his or her designated representative.

"(1) Port Services. The Attorney General or his or her designee shall account for these priorities in reinvesting fee revenues to fund additional permanent and temporary immigration inspectors and related support; the addition, improvement, and modification of facilities at ports of entry and border areas contiguous to those ports; the expansion, operation, and maintenance of information systems and advanced technologies related to port-related services and enforcement; and the enhancement of facilitation of legal traffic and the reduction of border violence and smuggling.

"(2) Port-related Enhancements. The Attorney General shall grant all revenues available for expenses above and beyond the costs set forth in subparagraph (1) to the Councils. These grant funds shall be spent on enhancements outside the port that facilitate operation of the port or otherwise enhance the flow of people or goods across the border.

"(3) For ports without Border Councils, the Attorney General or his or her designee shall make grants of all funds beyond those used for the purposes of subparagraph (1) to other ports.

"(C) The membership of the Councils shall include:

"(1) three state representatives appointed by the Governor, at least one of which shall represent business interests;

"(2) three local representatives appointed by the Mayor, the County Board of Supervisors, the Town Council, or other local governing body, as determined by the state; and

"(3) three federal representatives, including a Service representative appointed by the Commissioner; a Customs representative appointed by the Commissioner of the Customs Service; and a GSA representative appointed by the Administrator of General Services.

"(D) The Councils shall be exempt from the requirements of the Federal Advisory Committees Act, 5 U.S.C. App. All Council meetings shall be open to the public.

"(E) States that select ports for participation in the border services user fee program may withdraw those ports from the program: (1) after amortizing any improvements that have been made with revenues from the program and (2) after providing one year's notice, to allow the federal agencies to comply with the proper procedures for relocating or terminating inspectors and other personnel.

"(4) The Attorney General may—

"(A) develop and implement special discounted fee programs for frequent border crossers;

"(B) adjust the border crossing user fee periodically to compensate for inflation, based on a national average of the consumer price index, and other escalation in the cost of carrying out the purposes of this Act; and

"(C) contract with private and public sector entities to collect the fee and require the collection of the fee to be performed by local bridge, tunnel and other transportation authorities operating in the United States, including ferry operators, adjacent to ports of entry, where such authorities exist. Such authorities shall be reimbursed for administrative costs related to collection of the fee.

"(5) Nothing in this section shall be construed to limit the methods used for fee collection, including outbound collection of the fee.

"(6) All of the fees collected under this subsection shall be deposited as offsetting governmental receipts in a separate account within the Treasury of the United States, to be expended in accordance with subsection (2) of this section. Such account shall be known as the Border Services User Fee Account.

"(7) START UP COSTS.—The Attorney General is authorized to advance from the Working Capital Fund of the Department of Justice to the Border Services User Fee Account the funds required to implement the Border Services User Fees. Receipts from this Fee shall be transferred from the Border Services User Fee Account and deposited as offsetting receipts to the Working Capital Fund of the Department of Justice, up to the amount advanced by the Fund to liquidate the advance provided by the Department of Justice Working Capital Fund.

"(8) EFFECTIVE DATE.—The Attorney General shall begin collection of the fee in a participating State not later then twelve months from the date the State notifies the Attorney General that it has selected ports to participate in the border services user fee program.

"(9) PENALTIES FOR NONPAYMENT.—The Attorney General may establish penalties for non-payment of fees as determined to be necessary to ensure compliance with the provisions of this section.

"(10 REGULATIONS.—The Attorney General may prescribe such rules and regulations as may be necessary to carry out the provision of this section.".

TITLE VI—MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 601. ALIEN PROSTITUTION.

Section 2424 of title 18 of the United States Code is amended by—

(a) in the first paragraph of subsection (a)—

(1) striking "alien";

(2) inserting after "individual" the first time it appears ", knowing or in reckless disregard of the fact that said individual is an alien,"; and

(3) striking "within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppresing of the white-slave traffic".

(b) in the second paragraph of subsection (a)—

(1) striking "thirty" and inserting "five business"; and

(2) striking "within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white slave traffic".

(c) in the third paragraph of subsection (a), stirking "two" and inserting "ten".

(d) in subsection (b), striking "." after "failing to comply with this section" and inserting ", or for enforcement of the provisions of section 272A of the Immigration and Nationality Act, as amended.".

SEC. 602. GRANTS TO STATES FOR MEDICAL ASSISTANCE TO UNDOCUMENTED IMMIGRANTS.

(a) IN GENERAL.—In order to assist States to meet the costs of providing treatment to certain aliens for emergency medical conditions, there are authorized to be appropriated $150,000,000 for each of fiscal years 1996 through 2000.

(b) ALLOTMENTS.—

(1) From the sums appropriated pursuant to subsection (a) for a fiscal year, the Secretary of Health and Human Services shall determine, with respect to each State with a plan approved under title XIX of the Social Security Act, an allotment for each such State which shall be the amount which bears the same ratio to the amount appropriated for such fiscal year as the sum of such State's allotments for fiscal years 1988 through 1994 under section 204 of the Immigration Reform and Control Act of 1986 bears to the total of such allotments for all the States for such fiscal years.

(2) In the case of any State for which the allotment determined under paragraph (1) for fiscal year is less than 1 percent of the amount appropriated pursuant to subsection (a) for such year, no allotment shall be made, and in the case of any other State which notifies the Secretary that all or part of its allotment will not be needed for the purpose for which it is available, the State's allotment shall be made as determined under paragraph (1), and then reduced by the unneeded portion. There shall be allotted to each of the remaining States the amount determined with respect to each such State under paragraph (1), together with the additional allotments provided below in this paragraph. The total of (A) the amounts of allotments determined under paragraph (1) but not made, and (B) the amount of the reductions under the preceding sentence, shall also be allotted among each of the remaining States as follows: the allotment of each such remaining State shall be increased by an amount which bears the same ratio to such total as the allotment amount determined with respect to such State for the fiscal year involved under paragraph (1) bears to the sum of such allotment amounts for all such remaining States for such fiscal year.

(c) USE OF FUNDS.—Payments under this section may only be used to provide the non-Federal share of expenditures under the State plan approved under title XIX of the Social Security Act (as required by the last sentence of section 1902(a) of such Act) for care and services necessary for the treatment of an emergency condition that are furnished to an alien who is not a qualified alien under section 250A(c) of the Immigration and Nationality Act.

(d) PAYMENT OF FUNDS.—In order to receive funds under this section, the State shall certify to the Secretary that funds will only be used for the purpose described in subsection (c). Thereafter, the Secretary shall from time to time make payments to each State from its allotment under subsection (b)(2). Payments under this section shall be made to the agency responsible for administering or supervising the administration of the State's plan approved under title XIX of the Social Security Act, and such payments shall be available to the State for expenditure in accordance with this section in the year allotted or in any subsequent fiscal year.

(e) DEFINITION.—As used in this section, the term "State" has the meaning given such term, for purposes of title XIX of the Social Security Act, under section 1101(a)(1) of such Act.

SEC. 603. TECHNICAL CORRECTIONS TO VIOLENT CRIME CONTROL ACT AND TECHNICAL CORRECTIONS ACT.

(a)(1) Section 130003(c)(1) of the Violent Crime Control Act of 1994, Pub. L. 103-322, is amended by striking "a new subsection (i)" and inserting "a new subsection (j)".

(2) The amendment made by this subsection shall be effective as if originally included in section 130003(c)(1) of the Violent Crime Control Act of 1994.

(b)(1) Section 106(d)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1105a), as amended by Section 130004(b) of the Violent Crime Control Act of 1994, Pub. L. 103-322, is amended by striking "242A(b)(5)" and inserting "242A(b)(4)".

(2) The amendment made by this subsection shall be effective as if originally included in section 130004(b) of the Violent Crime Control Act of 1994.

(c)(1) Section 242A(d)(4) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)(4)), as added by section 223 of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, is amended by striking "without a decision on the merits".

(2) The amendment made by this subsection shall be effective as if originally included in section 223 of Pub. L. 103-416.

SEC. 604. EXPEDITIOUS DEPORTATION.

Section 225 of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, is amended by striking the words "section 242(i) of the Immigration and Nationality Act (8 U.S.C 1252(i))" and substituting in lieu thereof, "sections 242(i) or 242A of the Immigration and Nationality Act (8 U.S.C. 1252(i) or 1252a)".

SEC. 605. AUTHORIZATION FOR USE OF VOLUNTEERS.

Notwithstanding any other provision of law, the Attorney General may accept, administer, and utilize gifts of services from any person for the purpose of providing administrative assistance to the Immigration and Naturalization Service in administering programs relating to naturalization, adjudications at ports of entry, and removal of criminal aliens. Nothing in this Section shall require the Attorney General to accept the services of any person.

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SECTION-BY-SECTION ANALYSIS AS PREPARED BY THE DEPARTMENT OF JUSTICE

TITLE I—BORDER ENFORCEMENT

Sec. 101. Authorization for border control strategies.

This section authorizes the appropriation to the Department of Justice of the funds necessary for expanded control at the land borders.

Sec. 102. Border patrol expansion.

This section mandates the Attorney General in fiscal years 1996, 1997, and 1998, to increase the number of border patrol agents to the maximum extent possible and consistent with standards of professionalism and training, by no fewer than 700 each year.

Sec. 103. Land border inspection enhancements.

This section mandates the Attorney General, subject to appropriations or the availability of funds in the Border Services User Fee Account, to increase the number of land border inspectors in fiscal years 1996 and 1997 to a level that will provide full staffing to end undue delay and facilitate inspections at the land border ports of entry.

Sec. 104. Increased penalties for failure to depart, illegal reentry, and passport and visa fraud.

Section 104(a) directs the U.S. Sentencing Commission to increase the base offense level under section 242(e) for failure to depart under an order of deportation, and section 276(b) for illegal reentry after deportation to reflect the enhanced penalties provided in section 130001 of the Violent Crime Control Act of 1994 (VCCA).

The VCCA made failure to depart after a final order of deportation punishable by imprisonment of not more than four years, or not more than 10 years if the alien is deportable for alien smuggling, has committed certain other criminal offenses, has failed to register, has falsified documents, or is engaged in security-related espionage or terrorism.

The VCCA also provided for punishment of 10 years imprisonment of any alien who reenters subsequent to deportation for conviction or commission of three or more misdemeanors involving drugs, crimes against the person, or both. Imprisonment for aliens who reenter after deportation for aggravated felony was raised from 15 to 20 years.

Section 104(b) directs the Sentencing Commission to make appropriate increases in the base offense level for sections 1541–46 of Title 18, U.S.C. (passport and visa fraud) to reflect the enhanced penalties provided in section 130009 of the VCCA.

The VCCA increases the penalties for passport and visa fraud to up to 10 years imprisonment in most cases; and changes prior law by eliminating the option for fines instead of imprisonment and increasing the maximum number of years in prison.

Sec. 105. Pilot program on interior repatriation of deportable or excludable aliens.

This section permits the Attorney General to establish a pilot program for deportation of persons to the interior, rather than the border area, of a contiguous country. It mandates a report to Congress not later than 3 years after initiation of any pilot program.

Sec. 106. Special exclusion in extraordinary migration situations.

This section will aid with border control by allowing aliens to be excluded from entering the United States during extraordinary migration situations or when the aliens are arriving on board smuggling vessels. Persons with a credible fear of persecution in their countries of nationality will be allowed to enter the United States to apply for asylum.

Section 106(a) amends section 235 of the Immigration and Nationality Act (INA) to clarify that an alien in exclusion proceedings who has arrived from a foreign contiguous country may be returned to that country while the proceedings are pending.

Section 106(b) amends section 235 of the INA, relating to inspection requirements, by adding two new subsections, 235(d) and 235(e). New subsection (d) allows the Attorney General to order an alien excluded and deported without a hearing before an immigration judge. This authority may be exercised when the Attorney General declares an extraordinary migration situation to exist (because of the number of aliens en route to or arriving in the United States, including by aircraft) or when aliens are brought to the United States or arrive in the United States on board a smuggling vessel. (This language is virtually identical to that passed by the full Senate Judiciary Committee in August 1994 as a substitute for the general expedited exclusion authority proposed in S. 1333.)

A person will not be subject to expedited exclusion if he or she claims asylum and establishes a credible fear of persecution in his or her country of nationality. However, a person may be returned to a third country in which he or she has no credible fear of persecution or of return to persecution.

There is no administrative review of an order of special exclusion except for persons previously admitted to the United States as lawful permanent residents. Asylum denials would be reviewable by an asylum officer, but there is no judicial review of the asylum denial. (See section 308, below, for amendments to the judicial review provisions of the INA, which limit judicial review of a special exclusion order to certain issues through habeas proceedings.

New subsection 235(e) provides that a person may not attack prior orders of deportation as a defense against penalties for illegal reentries.

Sec. 107. Immigration emergency provisions.

Section 107(a) amends section 404(b) of the INA to permit reimbursement of other Federal agencies, as well as the States, out of the immigration emergency fund. Reimbursements could be made to other countries for repatriation expenses without the requirements that the President declare an immigration emergency.

Section 107(b) amends 50 U.S.C. 191 (Magnuson Act) to permit the control and seizure of vessels when the Attorney General determines that urgent circumstances exist due to a mass migration of aliens.

Section 107(c) amends section 101(a) of the INA by authorizing the Attorney General to designate local enforcement officers to enforce the immigration laws when the Attorney General determines that an actual or imminent mass migration of aliens present urgent circumstances.

Sec. 108. Commuter land pilot programs.

To facilitate border management, this section amends section 286(q) of the INA and the 1994 Department of Justice Appropriations Act to permit expansion of commuter lane pilot programs at land borders.

It also amends the 1994 Justice Appropriations Act to allow the Immigration and Naturalization Service (INS) to establish these projects on the Northern, as well as the Southern, border.

TITLE II—CONTROL OF UNLAWFUL EMPLOYMENT AND VERIFICATION

Sec. 201. Reducing the number of employment verification documents.

The provisions of this section will strengthen enforcement of employer sanctions. These provisions will assist interior enforcement and decrease nonimmigrant overstays by making it more difficult for illegal aliens to gain unlawful employment.

Section 201(a) amends section 274A(b)(2) of the INA to permit the Attorney General to require any individual to provide his or her Social Security account number on any forms required as part of employment verification process.

Section 201(b) amends section 274A(b)(1)(B) of the INA to eliminate three types of documents that may be present to establish both an individual's employment authorization and identity.

Under current law, by statute and regulation, an individual may present 1 or more of up to 29 documents to establish employment authorization, identity, or both.

Documents that now establish both employment authorization and identity are a U.S. passport, certificate of U.S. citizenship, certificate of naturalization, unexpired foreign passport with work authorization, or a resident alien card or other alien registration card containing a photograph and work authorization. Under this amendment, only a U.S. passport, resident alien card, or alien registration card or other employment authorization document issued by the Attorney General would establish both employment authorization and identity.

Subsection (b) also amends 274A(b)(1)(C) of the INA to eliminate the use of a U.S. birth certificate as a document that can establish work authorization.

Subsections (a) and (b) would apply with respect to hirings occurring not later than 180 days after enactment, as designated by the Attorney General.

Sec. 202. Employment verification pilot projects.

This section provides for the Attorney General, working with the Commissioner of Social Security, to conduct pilot projects to test methods for reliable and nondiscriminatory verification of employment eligibility. Pilot programs may include the expansion of the telephone verification system up to 1000 employers; a simulated linkage of INS and Social Security Administration (SSA) databases; a process to allow employers to verify employment eligibility through SSA records using INS records as a crosscheck; and improvements and additions to the INS and SSA databases to make them more accessible for employment verification purposes. Pilots are to run for 3 years with an option for a 1-year extension and are to be limited to certain geographical locations. The Attorney General may require employers participating in the pilots to post notices informing employees of their participation and of procedures for filing complaints with the Attorney General regarding the operation of the pilots.

At the end of the 3-year period, the Attorney General must report to Congress regarding the cost effectiveness, technical feasibility, resistance to fraud, and impact upon privacy and anti-discrimination policies of the various pilot projects.

Sec. 203. Confidentiality of data under employment eligibility verification pilot projects.

Section 203(a) provides for the confidentiality of individual information collected in the operation of pilot projects under section 202. No individual information may be made available to any Government agencies, employers, or other persons other than as necessary to verify that the employee is not an authorized alien. In addition, the information may be used for enforcement of the INA and for criminal enforcement of the immigration-related fraud provisions of Title 18 (sections 911, 1001, 1028, 1546, and 1621).

Pursuant to section 203(b), participating employers must have in place procedures to safeguard the personal information and notify employees of their right to request correction or amendment of their records. These procedures will be detailed in a standard memorandum of understanding signed by INS and each employer.

Section 203(c) makes the provisions, rights and remedies of 5 U.S.C. 552a(a)(2), applicable to all work-authorized persons who are subject to work authorization verification under section 202 with respect to records used in the course of a pilot project to make a final determination concerning an individual's work authorization.

Pursuant to section 203(d), employers and other persons are subject to civil penalties from $1,000 to $10,000 for the willful and knowing unlawful disclosure or use of information or failure to comply with subsection 203(b).

Section 203(e) states that nothing in this section shall limit the rights and remedies otherwise available to U.S. citizens and lawful permanent residents under 5 U.S.C. 552a.

Section 203(f) states that nothing in this section or section 202 shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

Sec. 204. Collection of Social Security numbers.

To facilitate the use of Social Security numbers in immigration-related activities, this section adds a new subsection 264(f) to the INA to clarify that the Attorney General may require any alien to provide his or her Social Security number for inclusion in any record maintained by the Attorney General. (This is a companion to section 201(a), described above.)

Sec. 205. Employer sanctions penalties.

Section 205(a) amends section 274A(e)(4)(A) of the INA to increase the civil penalties for employer sanctions for first violations from the current range of $250 to $2,000 to a range of $1,000 to $3,000. The subsection also increases penalties for second violations from the current range of $2,000 to $5,000 to a range of $3,000 to $8,000. The penalties for subsequent violations are increased from a range of $3,000 to $10,000 to a range of $8,000 to $25,000.

Section 205(b) amends section 274A(e)(5) of the INA to increase the penalties for employer sanctions paperwork violations from the current range of $100 to $1,000 to a range of $200 to $5,000.

Section 205(c) amends section 274A(f)(1) of the INA to increase the criminal penalty for pattern and practice violations of employer sanctions to a felony offense, increasing the applicable fines from $3,000 to $7,000 and the criminal sentence which may be imposed from not more than six months to not more than two years.

Sec. 206. Criminal penalties for document fraud.

Section 206(a) amends 18 U.S.C. 1028(b)(1), on identification document fraud, to increase the maximum term of imprisonment from 5 to 10 years. The maximum term of imprisonment is up to 15 years if committed to facilitate a drug trafficking offense, and up to 20 years if committed to facilitate an act of international terrorism.

Section 206(b) directs the Sentencing Commission promptly to make appropriate increases in all of the base offense levels for immigration document fraud offenses under 18 U.S.C. 1028.

Sec. 207. Civil penalties for document fraud.

Section 207(a) amends section 274C(a) of the INA to apply civil penalties in cases where an alien has presented a travel document upon boarding a vessel for United States, but fails to present the document upon arrival ("document-destroyers"). A discretionary waiver of these penalties is provided if the alien is subsequently granted asylum.

Subsection (a) also applies civil penalties against a person who prepares, files, or assists another person in preparing or filing, certain false documents in reckless disregard of the fact that the information is false or does not relate to the applicant.

Section 207(b) conforms section 274(c)(d)(3) to refer to "each document that is the subject of a violation under subsection (a)". This will clarify that an alien who does not present a document (because it was destroyed) is subject to penalties.

Sec. 208. Subpoena authority.

Section 208(a) amends section 274A(e)(2) of the INA to clarify that immigration officers may issue subpoenas for investigations of employer sanctions offenses under section 274A.

Section 208(b) adds a new section 294 to the INA to authorize the Secretary of Labor to issue subpoenas for investigations relating to the enforcement of any immigration program. It makes the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50) available to the Secretary of Labor. The Federal Trade Commission Act provisions allow access to documents and files of corporations, including the authority to call witnesses and require production of documents.

Sec. 209. Increased penalties for employer sanctions involving labor standards violations.

Section 209(a) adds a new paragraph 274A(e)(10) to the INA to authorize an administrative law judge to increase the civil penalties provided under employer sanctions to an amount up to two times the normal penalties, for willful or repeated violations of: (i) the Fair Labor Standards Act (29 U.S.C. 201 et seq.); (ii) the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.); and (iii) the Family and Medical Leave Act (29 U.S.C. 2601 et seq.).

Section 209(b) adds a new paragraph, section 274B(g)(4), to the INA to make the same provisions in (a) above applicable in section 274B, unfair immigration-related employment practices.

Sec. 210. Increased civil penalties for unfair immigration-related employment practices.

This section amends section 274B(g)(2)(B) of the INA to increase the civil penalties applicable for unfair immigration-related employment practices to make the penalties comparable to the increased proposed for employer sanctions violations.

The penalty for a first violation would be increased from the current range of $250 to $2,000 to a range of $1,000 to $3,000. The penalty for a second violation would be increased from the current range of $2,000 to $5,000 to a range of $3,000 to $8,000. The penalty for more than two violations would be increased from the current range of $3,000 to $10,000 to a range of $8,000 to $25,000.

The penalty for a documents violation, that is, requesting more or different documents than are required or refusing to honor documents tendered that on their face reasonably appear to be genuine, would be increased from a range of $100 to $1,000 to a range of $200 to $5,000.

Sec. 211. Retention of employer sanctions fines for law enforcement purposes.

This section amends section 286(c) of the INA to credit to INS appropriations any employer sanction penalties received in excess of $5,000,000. These funds will be used to fund employer sanctions enforcement and related expenses. The funds credited to the account remain available until used.

Sec. 212. Telephone verification system fee.

This section amends section 274A(d) of the INA to authorize INS to collect and retain the fees paid to use the telephone verification system pilot project. These fees are to be credited to the INS Salaries and Expenses appropriation as offsetting collections solely for employer verification services costs.

Sec. 213. Authorizations.

This section provides for blanket authorization for appropriation of funds needed to carry out this title.

TITLE III—ILLEGAL ALIEN REMOVAL

Sec. 301. Civil penalties for failure to depart.

This section adds a new section 274D to the INA, to subject aliens who willfully fail to depart after an order of exclusion or deportation to a $500-per-day penalty (payable to the INS Commissioner as offsetting collections). This section would not diminish the criminal penalties at section 242(e) for failure to depart or any other section of the INA.

Sec. 302. Judicial deportation.

Section 302(a) amends section 242A(d)(1) of the INA to authorize a U.S. district court to enter a judicial order of deportation when the court imposes a sentence that causes the alien to be deportable or when the alien previously has been convicted of an aggravated felony. Current law limits judicial deportation to the time of sentencing for an aggravated felony conviction.

Section 302(b) amends section 242A(d)(3) to provide that a judicial order of deportation or denial of the Government's motion for such an order may be appealed by either party, as part of the underlying criminal case.

Section 302(c) amends section 242A(d)(4) of the INA to strike the reference to "a decision on the merits." This change clarifies that the INS may place an alien in administrative deportation proceedings if a Federal district court judge has declined the Government's petition to issue a judicial deportation order.

Section 302(d) amends 18 U.S.C. 3583(d)(3) to provide that a court may set as a condition of supervised release that an alien defendant be ordered deported by the Attorney General and that the alien remain outside the United States. This amendment addresses an issue in litigation where district court judges have read this section to authorize them to order deportation.

Sec. 303. Conduct of proceedings by electronic means.

This section amends section 242(b) of the INA to permit deportation proceedings to be conducted by video conference or telephone, saving travel and hearing time and resources. The alien must consent to such a hearing by telephone if it is to be a full contested evidentiary hearing on the merits.

Sec. 304. Subpoena authority.

This section clarifies the authority of immigration judges to issue subpoenas in proceedings under sections 236 (exclusion) and 242 (deportation) of the INA.

Sec. 305. Stipulated exclusion and deportation.

This section amends sections 236 and 242 of the INA to permit the entry of orders of exclusion and deportation stipulated to by the alien and the INS, and to provide that stipulated orders are conclusive. Department of Justice regulations will provide that an alien who stipulates to an exclusion or deportation order waives all appeal rights.

Sec. 306. Streamlining appeals from orders of exclusion and deportation.

This section revises and amends section 106 of the INA. It provides for judicial review of final administrative orders of both deportation and exclusion through a petition for review, filed within 30 days after the final order in the judicial circuit in which the immigration judge completed the proceedings. Under current law, an order of exclusion is appealable to a district court and then appealable to the court of appeals.

The Attorney General's findings of fact shall be conclusive unless a reasonable adjudicator would be compelled to conclude to the contrary.

As in current law, a court may review a final order only if the alien has exhausted all administrative remedies. This section adds a requirement that no other court may decide an issue, unless the petition presents grounds that could not have been presented previously or the remedy provided was inadequate or ineffective to test the validity of the order.

A new section 106(e) provides that a petition for review filed by an alien against whom a final order of deportation has been issued under section 242A (aggravated felonies) will be limited to whether the alien: is the alien described in the order; has been convicted after entry of an aggravated felony; and was afforded the appropriate deportation proceedings.

Under section 106(f) there is no judicial review of an individual order of special exclusion or of any other challenge relating to the special exclusion provisions. The only authorized review is through a habeas corpus proceeding, limited to determinations of alienage, whether the petitioner was ordered specially excluded, and whether the petitioner can prove by a preponderance of the evidence that he or she is an alien admitted for permanent residence and is entitled to further inquiry. In such cases the court may order no relief other than a hearing under section 236 or a determination in accordance with sections 235(a) or 273(d). There shall be no review of whether the alien was actually excludable or entitled to relief.

Sec. 307. Sanctions against countries refusing to accept deportation of their nationals.

This section amends section 243(g) of the INA to permit the Secretary of State to refuse issuance of all visas to nationals of countries that refuse to accept deportation of their nationals from the United States. Under current law, the Secretary of State has the authority only to refuse to issue immigrant visas.

Sec. 308. Custody of aliens convicted of aggravated felonies.

Section 308(a) amends section 236(e) of the INA to permit the Attorney General to release an aggravated felon alien who is in exclusion proceedings from detention if the release is necessary to provide protection to a witness, a potential witness, or a person cooperating with a major criminal investigation, or to protect an immediate family member of such a person.

Section 308(b) amends section 242(a)(2) of the INA to permit the Attorney General to release an aggravated felon alien who is in deportation proceedings from detention if the release is necessary to provide protection to a witness, a potential witness, or a person cooperating with a major criminal investigation, or to protect an immediate family member of such a person.

Sec. 309. Limitations on relief from exclusion and deportation.

Section 309(a) amends section 212(c) of the INA to limit relief under section 212(c) of the INA to a person who has been lawfully admitted to the U.S. for at least 7 years, has been a lawful permanent resident for at least 5 years, and is returning to such residence after having temporarily proceeded abroad not under an order of deportation. The 5-year and 7-year periods would end upon initiation of exclusion proceedings. Also, relief under INA section 212(c) will be available only to persons in exclusion proceedings. Persons in deportation proceedings must now apply for cancellation of deportation (described below). Finally, an aggravated felon will be eligible for section 212(c) relief only if he or she has been sentenced to less than 5 years, in the aggregate, for the aggravated felony conviction or convictions. Time actually served will not be a factor in determining eligibility.

Section 309(b) amends section 244 of the INA to consolidate two existing forms of relief from deportation (suspension of deportation under section 244 and a waiver of deportability under section 212(c)) into one form of relief, "Cancellation of Deportation." A lawful permanent resident (LPR) would be eligible for cancellation if he or she has been an LPR for 5 years, has resided in the U.S. after lawful admission for 7 years, and has not been convicted of an aggravated felony or felonies for which he or she has been sentenced, in the aggregate, to a term or terms of 5 years or more. A non-LPR would be eligible for relief if he or she had been continuously physically present for 7 years, was of good moral character, and could establish extreme hardship to the alien or the alien's U.S. citizen spouse or child if deported. The 7-year and 5-year periods end with the issuance of an Order to Show Cause initiating deportation proceedings. This provision would clarify an area of the law regarding the cutoff periods for these benefits that have given rise to significant litigation and different rules being applied in different judicial circuits.

This section also amends the existing provisions for voluntary departure. Prehearing voluntary departure may be granted to any alien other than an aggravated felon. The Attorney General may require a voluntary departure bond. At the conclusion of a deportation proceeding, voluntary departure may be granted only if the person has been of good moral character for 5 years prior to the order, is not deportable under certain criminal or national security grounds, and demonstrates by clear and convincing evidence that he or she has the means to depart the United States and intends to do so. The alien would be required to post a voluntary departure bond. An alien would be subject to civil penalties of $500 per day for failure to depart within the time set for voluntary departure. Judicial review of voluntary departure orders would be limited.

An alien would be subject to civil penalties of $500 per day for failure to depart within the time set for voluntary departure. Judicial review of a voluntary departure order would be prohibited if relief was granted for 30 days or more. Judicial review of a denial of voluntary departure could not stay deportation of an alien after 60 days had passed from issuance of an order of deportation.

Section 309(c) makes conforming amendments to sections 242(b) and 242B(e) of the INA.

Section 309(d) provides that the effective date of this section is the date of enactment, except that subsections (a) and (b), relating to the determination of when the period of residency or of continuous physical presence ends, are applicable only to orders to show cause filed on or after the date of enactment. The conforming amendments made by subsection (c) are effective on enactment.

Sec. 310. Rescission of lawful permanent resident status.

This section amends section 246(a) of the INA to clarify that the Attorney General is not required to rescind the lawful permanent resident status of a deportable alien separate and apart from the deportation proceeding under section 242 or 242A. This provision will allow INS to place a lawful permanent resident who has become deportable into deportation proceedings immediately.

Sec. 311. Increasing efficiency in removal of detained aliens.

This section authorizes appropriations for the Attorney General to conduct a pilot program or programs to study methods for increasing the efficiency of deportation and exclusion proceedings against detained aliens by increasing availability of pro bono counseling and representation. The Attorney General may use funds to award grants to not-for-profit organizations assisting aliens.

TITLE IV—ALIEN SMUGGLING CONTROL

Sec. 401. Wiretap authority for investigations of alien smuggling and document fraud.

This section amends 18 U.S.C. 2516(1) to give INS the authority to use wiretaps in investigations of alien smuggling and document fraud.

Sec. 402. Applying racketeering offenses to alien smuggling.

This section amends 18 U.S.C. 1961(1) to include the offenses relating to alien smuggling as predicate offenses for racketeering charges. The application of RICO to smuggling will be limited to those offenses committed for commercial advantage or private financial gain.

Sec. 403. Expanded asset forfeiture for smuggling or harboring aliens.

This section amends 274 of the INA to authorize seizure and forfeiture of real and personal property in cases of alien smuggling and harboring. Current forfeiture authority is limited to conveyances. INS must give notice to owners of an intent to forfeit.

Sec. 404. Increased criminal penalties for alien smuggling.

This section amends section 274(a)(1)(A) of the INA to add conspiracy and aiding and abetting to the smuggling offenses, with offenders being subject to a fine, and/or 10 years imprisonment for conspiracy and/or 5 years imprisonment for aiding and abetting. It makes it a criminal offense to hire an alien with the knowledge that the alien is not authorized to work and that the alien was smuggled into the U.S. The penalty for violating this section is a fine and/or up to 5 years imprisonment.

This section also amends section 274(a)(2) of the INA to increase the penalties for multiple smuggling offenses (and for a new offense for smuggling aliens who will be committing crimes) to not less than 3 years or more than 10 years of imprisonment.

Sec. 405. Undercover investigation authority.

This section authorizes INS to use appropriated funds to lease space, establish, acquire, or operate business entities for undercover operations, so-called "proprietaries" to facilitate undercover immigration-related criminal investigations. INS may deposit funds generated by these operations or use them to offset operational expenses.

Sec. 406. Amended definition of aggravated felony.

Section 406(a) amends section 101(a)(43)(N) of the INA, to strike the reference to title 18, U.S.C. in defining alien smuggling as an aggravated felony. This amendment will result in the inclusion of the smuggling offenses in section 274 of the INA into the definition of aggravated felony. It also amends the definition of "aggravated felony" by adding a requirement that the offense of trafficking in document fraud to be "for the purpose of commercial advantage."

Section 406(b) amends section 101(a)(43) to provide that the term "aggravated felony" applies for all purposes to convictions entered before, on, or after the date of enactment of this Act. This amendment will end controversy on which convictions fall within the definition.

Section 406(c) amends section 243(h) of the INA to provide that for purposes of determining whether an alien is ineligible for withholding of deportation based on conviction for an aggravated felony, the alien must have been sentenced to five years or more. Currently any aggravated felon is ineligible for withholding of deportation.

TITLE V—INSPECTIONS AND ADMISSIONS

Sec. 501. Civil penalties for bringing inadmissible aliens from contiguous territories.

This section amends section 273(a) to establish the illegality of bringing inadmissible aliens from foreign contiguous territories. It amends section 273(b) of the INA to increase from $3,000 to $5,000 the fine for bringing in an alien unlawfully.

Sec. 502. Definition of stowaway; excludability of stowaway; carrier liability for costs of detention.

Section 502(a) adds a definition of stowaway to the INA (section 101(a)) to mean any alien who obtains transportation without consent or through concealment or evasion.

Section 502(b) amends section 237 of the INA to clarify that a stowaway is subject to immediate exclusion and deportation. However, it allows a stowaway to apply for asylum or withholding of deportation.

Section 502(c) amends section 273(d) of the INA to require the carrier to detain a stowaway until he or she has been inspected by an immigration officer and to pay for any detention costs incurred by the Attorney General should the alien be taken into custody. It amends section 273(d) by raising the fine for failure to remove a stowaway from $3,000 to $5,000 per stowaway, payable to the Commissioner as offsetting collections.

Sec. 503. List of alien and citizen passengers arriving or departing.

This section amends section 231(a) of the INA to clarify the content of and format for passenger lists and manifests to be prepared and submitted by carriers to INS, including name, date of birth, gender, citizenship, travel document number, and arriving flight number.

Sec. 504. Elimination of limitations on immigration user fees for certain cruise ship passengers.

This section amends section 286(e)(1) of the INA to remove the current exemption from payment of the $6 immigration user fee for cruise ship passengers.

Sec. 505. Transportation line responsibility for transit without visa aliens.

This section amends section 238(c) of the INA to provide that a carrier which has entered into an agreement with the United States to transport aliens without visas through the U.S. must agree to indemnify the United States for any costs of detaining or removing such an alien.

Sec. 506. Authority to determine visa processing procedures.

This section amends section 202(a)(1) of the INA, which provides that visas must be issued without discrimination because of race, sex, nationality, place of birth, or place of residence, to state that nothing in this subsection limits the authority of the Secretary of State to determine procedures for processing visas. This section would reverse a recent judicial decision which interpreted the existing language to require the Secretary of State to process visas in a specific location.

Sec. 507. Border services user fee.

This section adds a new subsection 286(s) to the INA, authorizing the Attorney General to charge and collect a border services user fee for every land border entry, including persons arriving at U.S. borders by ferry, at participating ports-of-entry. The fee is to be collected in U.S. Currency and is set at $1.50 for each non-commercial conveyance, and $.75 for each pedestrian. Commercial passenger conveyances will be charged the pedestrian fee for operator and each passenger, except that ferry crewmen are not subject to the fee.

The section provides for each State to determine at which, if any, ports the fee is to be collected. A State that exercises this local option may establish a Border Service Council for each port to develop priorities for use of the fees collected, for submission to the Attorney General. The Attorney General must consider these priorities in funding port services. Funds remaining after payment of the costs of port services are to be given to the Councils to spend on port-related enhancements. The Attorney General will allocate enhancement funds for ports that do not set up a Border Service Council.

The Council membership must include three state representatives appointed by the Governor including at least one business representative, three local representatives, and three federal representatives.

A State may withdraw a port from participation after amortizing improvements and after one year's notice.

The Attorney General is authorized to provide special discounts for frequent border crossers, to adjust the fee to compensate for inflation and cover increased costs, and to contract with private and public sectors to collect the fee. The Attorney General may establish such penalties for non-payment of the fees as are necessary to ensure compliance. The Attorney General is authorized to advance to the Border Services User Fee Account the amount of the start up costs from the Department of Justice's Working Capital Fund. Receipts from the fee will be transferred back from the Border Services User Fee Account and deposited as offsetting receipts to the Working Capital Fund to cover this advance.

The Attorney General will begin collecting the fee not later than 12 months from the date the State notifies the Attorney General that it has selected ports to participate in the fee program.

TITLE VI—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Sec. 601. Alien prostitution.

This section amends section 2424 of Title 18, U.S.C. (relating to filing statements with INS when bringing in aliens for immoral purposes) to add as a requirement for the offense that a person bringing in an alien for prostitution do so "knowing[ly] or in reckless disregard." It also deletes the statutory reference to signatories to the 1902 international convention and increases the maximum sentence for the offense from two to ten years.

Sec. 602. Grants to States for medical assistance to undocumented immigrants.

This section authorizes appropriations to assist States in providing treatment to certain aliens for emergency medical conditions.

Sec. 603. Technical corrections to Violent Crime Control Act and Technical Corrections Act.

Section 603(a) amends section 130003(c)(1) of the Violent Crime Control Act of 1994, Pub. L. 103-322. Section 130003(c)(1) created a new subsection 245(i) of the Act to provide for the adjustment of status for certain aliens in S nonimmigrant status. A technical correction is necessary because section 506(b) of the Commerce, Justice, and State appropriations statute, P.L. 103-317 (Aug. 26, 1994) had previously created a new subsection 245(i) to provide for the adjustment of status of certain aliens previously ineligible for such privilege. This proposed statutory amendment would redesignate the S-related adjustment provision as section 245(j) of the Act.

Section 603(b) amends section 130004(b)(3) of P.L. 103-322 by removing an incorrect reference to section 242A(b)(5) and replacing it with proper reference to paragraph (b)(4).

Sec. 604. Expeditious deportation.

This section amends Section 225 of the Immigration and Nationality Technical Corrections Act of 1994, P.L. 104-416, by adding a reference to section 242A of the INA (which requires the Attorney General to commence deportation proceedings promptly) to the existing reference to section 242(i) (also requiring expeditious deportation), so that section 225 now provides that neither of those provisions create any enforceable substantive or procedural right or benefit against the United States.

Sec. 605. Authorization for use of volunteers.

This section authorizes the Attorney General to accept and use unpaid personnel to assist INS administratively in naturalization, adjudications at ports of entry, and to remove criminal aliens.

By Mr. DOMENICI (for himself, Mr. FORD, Mr. JOHNSTON, Mr. CAMPBELL, Mr. THOMAS, and Mr. SIMPSON):

S. 755. A bill to amend the Atomic Energy Act of 1954 to provide for the privatization of the U.S. Enrichment Corporation; to the Committee on Energy and Natural Resources.

USEC PRIVATIZATION ACT

Mr. DOMENICI. Mr. President, I rise today on behalf of myself and Senators FORD, JOHNSTON, CAMPBELL, THOMAS, and SIMPSON to introduce the USEC Privatization Act.

The U.S. Enrichment Corporation is a federally owned corporation established pursuant to the Energy Policy Act of 1992. Prior to the transition mandated by the Energy Policy Act, USEC's functions were performed by the Department of Energy and its predecessor agencies.

Currently, the Corporation leases assets, most notably gaseous diffusion plants at Portsmouth, OH, and Paducah, KY, from the Department of Energy. USEC continues to operate those facilities in a manner similar to that in which they were operated prior to the transition. USEC also assumed contractual responsibility to implement uranium enrichment contracts that were in existence at the transition date and the right to utilize the gaseous diffusion facilities leased from the Department to provide uranium enrichment services, for the most part, as the market dictates.

The legislation I have introduced today would complete the transition process initiated by the Energy Policy Act by establishing USEC as a privately owned entity. The legislation is necessary to provide for a smooth transition and to resolve a number of issues not considered by the Energy Policy Act.

The legislation provides for the transfer of employment, health, and pension benefits of current employees from the current Government-owned Corporation to the private corporation. The language included in the legislation has been developed by USEC and the Department of Energy working in conjunction with the Office of Personnel Management. In addition, the union that represents the majority of employees at the Portsmouth and Paducah gaseous diffusion plants; the Oil, Chemical, and Atomic Workers International Union have made recommendations. It is my clear intention to protect the interests of those employees through the transition.

One of the most difficult and complicated issues facing USEC, and the uranium industry as a whole, is the reintroduction into the commercial market of uranium produced for defense purposes. During the cold war, uranium was produced for national security requirements in huge volumes with almost no consideration of cost. Treaty mandated reductions in nuclear arsenals have suddenly surplused much of that material. In addition, there is significant pressure to process fissile material from dismantled weapons in order to limit the ability to easily reconstitute those weapons. In the case of highly enriched uranium, those pressures have resulted in efforts, both in the United States and the former Soviet Union, to blend the material into low-enriched uranium suitable for electricity generation in commercial reactors.

Low-enriched uranium derived from highly enriched uranium, regardless of its country of origin, has suddenly become available in large quantities and, for the most part, in order to be sold in the commercial market, is being offered at prices significantly below its total production costs. Material once required regardless of cost, is now available to be sold at the marginal costs of blending it down—significantly below the production costs of even the most efficient producers in operation today.

U.S. trade law prohibits imported low-enriched uranium derived from highly enriched uranium from being dumped into U.S. markets. The Department of Commerce currently enforces restrictions on all uranium imported from the Russian Federation through the Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, Department of Commerce Investigation No. A–821–802, dated March 11, 1994, the Suspension Agreement. In addition, the Department of State has recently reached an understanding with Canada on the Implementation of the Suspension Agreement particularly as it pertains to the natural uranium component of low-enriched uranium derived from highly enriched uranium. That understanding stipulates that such material could be used only in the operation of the U.S. Enrichment Corporation, for example, for overfeeding purposes, for sale in accordance with Section IV.M of the Suspension Agreement, for example, outside of the United States, or it could be returned to Russia.

Those commitments place severe restrictions on the ability of the United States to implement the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, the HEU Agreement. That agreement calls upon the executive agent for the United States, currently USEC, to purchase $8 billion of separative work units and $4 billion of natural uranium displaced by low-enriched uranium derived from highly enriched uranium from former Soviet nuclear weapons between now and 2013. While USEC may sell the separative work units into the commercial market, the Suspension Agreement and the understanding with Canada prevent USEC from selling the vast majority of the natural uranium derived from the agreement. While USEC is technically obligated to pay the Russians for the natural component only when it is sold or 2013, whichever comes first, Russia has made it clear that failure to pay for the natural uranium upon delivery jeopardizes the entire HEU Agreement—clearly a detriment to United States national security interests.

This legislation proposes an innovative remedy to this situation. Simply put, natural uranium displaced by low-enriched uranium imported under the HEU Agreement would be deemed to be of Russian origin and title of such material would be given to Russia. That material would be subject to the Suspension Agreement and the understanding with Canada accept that it could be sold for commercial end use in the United States starting in 2002 according to a schedule defined in the legislation.

Under this proposal, the Russians would be able to sell natural uranium derived from the HEU Agreement for future deliveries; in effect establishing a futures market. The price the Russians would be able to derive for the material sold now as futures would be dependent upon the conditions of commercial agreements between the Russians and any private investment entity, and would vary depending on predicted prices in the year 2002 and beyond.

However, it is my estimate that the net present value of that material is somewhere near $7 per pound. While that is below the current market price of $11.50 per pound, a futures contract could provide for an immediate cash purchase of the uranium instead of the continued uncertainty and possible delay of reimbursement until 2013.

In addition to the benefits to the Russians, the United States gains because the Suspension Agreement and commitments made to Canada would stand. The USEC privatization is able to proceed without the uncertainty of a potential $4 billion obligation, and because the Suspension Agreement continues in its current form, the United States uranium industry is allowed to continue to operate according to market conditions.

The United States also has significant, undertermined inventories of excess highly enriched uranium and low-enriched uranium. This legislation establishes a series of requirements that must be met before that material may enter the civilian market. Prior to the privatization date, the Secretary may agree to transfer up to 4 million separative work units and 7,000 metric tons or natural uranium to USEC. However, that material may be delivered for commercial end use only according to a defined disposition schedule.

Additional material, transferred to USEC from the Department of Energy following privatization may also enter the commercial market. However, prior to any such sale, the Secretary of Energy must conduct a full rulemaking to determine that the sale of the material will not have an adverse impact on the domestic mining or enrichment industry.

The legislation leaves in place the Energy Policy Act's provisions regarding liability. This issue will be considered in hearings. However, it is my intent that liabilities incurred following the transition date will be borne by the government-owned enrichment enterprise in existence today and its privately owned successor following the privatization date.

There are a number of issues the legislation does not address. It does not include language proposed by USEC to enable USEC to commercialize organic membrane technology developed by the Department of Energy for uranium enrichment purposes. National security considerations and a desire to maintain a level playing field for technology transfer make this an issue best considered at a hearing before it is included in legislation. The legislation is also silent on the renegotiation of the current USEC-Department of Energy lease for the gaseous diffusion facilities. This may be an issue that is addressed following hearings.

Mr. President. The U.S. Enrichment Corporation falls within the jurisdiction of the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources. I serve as chairman of that subcommittee while my distinguished colleague from Kentucky, Senator FORD, serves as ranking member. It is my intention to hold hearings on this legislation as soon as practicable, preferably this month.

By Mr. ROCKEFELLER:

S. 756. A bill to expand United States exports of goods and services by requiring the development of objective criteria to achieve market access in foreign countries, to provide the President with reciprocal trade authority, and for other purposes; to the Committee on Finance.

THE OPEN MARKETS AND FAIR TRADE ACT

Mr. ROCKEFELLER. Mr. President, I am rising to talk about a problem that persists year after year, and a bill to do something about it. I'm speaking of our trade deficit, which is out of control. Certainly, we are making progress on some micro-economic levels, and the Clinton administration has hammered out more than 70 different trade agreements over the last 2-plus years—14 with Japan alone. These are helping some industries, some workers, and some parts of our economy. But they have done nothing to shrink the trade deficit. Clearly, more must be done.

The bill I am introducing today, the Open Markets and Fair Trade Act of 1995, will evaluate the current conditions of markets around the world for American products and negotiate access to those markets. It also gives the President and Congress a new tool to use in those negotiations—the threat of reciprocal trade action. Basically the bill tells our trading partners that if they refuse to give our products reasonable market access, we may impose the same kind of restrictions on their products.

For example, under this legislation, if negotiations with the Japanese over the aftermarket for autoparts reached an impasse, the President could come to Congress and seek a reciprocal trade action that establishes a regulation that matches their strict regulations on repairing cars, which today serve to effectively keep most American replacement parts off Japanese cars. These restrictions only serve to help the Japanese producers and harm American manufacturers. In fact, along with American companies and American workers, the Japanese consumer is probably the biggest loser in the equation. It costs them about $600 for a new alternator in Tokyo—the same part in the United States costs about $120. A muffler sells for about $82 in the United States, and $200 in Japan. And a shock absorber set costs about $230 here, and over $600 in Tokyo.

The New York Times ran a story on May 2 that couldn't be more timely. Even with the dramatic rise of the yen, they reported that it still costs $5.35 for a Florida grapefruit in Japan. And a can of Campbell's chicken noodle soup cost 220 yen today, the same as in 1991—when the dollar was more than 50 percent stronger. If the price of the soup had dropped to match the rise of the yen, a can of Campbell's soup would cost about 125 yen today, not 220 yen, or $2.75, as it is now being sold in Tokyo. It is clear that the savings that should accrue from the strength of the yen never passed on to the Japanese consumer.

But let me stress, this bill does not single out Japan. I want to pry open markets wherever they're closed, wherever in the world American products are denied access. Our trade deficit with Japan was $65 billion last year; with China it was $30 billion; we had a deficit of almost $14 billion with Canada, and Germany rang in at $14 billion. Mr. President, following my statement, I would like to include a chart that lists the top 10 countries in which America has a trade deficit. While not all of these countries have barriers of the sort that this bill seeks to eliminate, a number of them clearly do. Again, this bill does not specify one country or another, it is about following up on the Uruguay round and looking beyond tariffs—it is designed to deal with market barriers; the internal rules in various countries that are practical impediments to American businesses. I am seeking to open more markets across the globe in order to bring about the increased exports and jobs that GATT promised.

And I think it's high time we question the wisdom that blames almost all of America's trade deficit problems solely on ourselves. For years, we've heard the same assertions: "Americans spend too much and save too little . . . the budget deficit is too high . . . we are growing faster than other countries so we have more money to spend than you." Yes, these economic realities contribute to the problem, but under President Clinton's leadership, we have reduced the Federal fiscal deficit by over $700 billion, yet the trade deficit goes up and up.

I think it's time we reverse the premise and look at how the trade deficit fuels our savings and debt problems. The inability of American companies to sell in places like Japan, China, Germany, and elsewhere costs our corporations profits, our workers job opportunities, and our Nation revenues—all of which weigh down our own economic growth and add to our fiscal deficit.

Whether it is a requirement for American firms to hire local agents to conduct business; cumbersome inspection and customs procedures; bans on the sale of products for dubious claims of national sovereignty or some other sort of prerogative, the simple fact is that protected sanctuary markets abroad are a major contributor to America's economic problems.

To explain this simply, I will use as an example the well-known case of how Japanese manufacturers sell things like electronics in the United States at such cheap prices, even when the yen is at a record height. I am citing Japan here, but it could be any other country that has a "sanctuary" market. It is well-known that many Japanese-made products are cheaper in the United States than in Japan. That is because Japan's closed market is a sanctuary that effectively insulates producers from competition, and allows them to over-charge Japanese consumers, giving them enough of a profit margin at home to sell below cost here. That means American companies lose on both ends. We can't export into these markets, and their subsidized exports harm our domestic industries and cost us jobs.

My trade policy is quite simple, in addition to preserving the effectiveness of America's trade laws, I support measures that will increase American exports, and West Virginia exports specifically. Every $1 billion in exports supports about 17,000 jobs. So it follows that if we increase American exports, we will create more jobs here in the United States. And export related jobs are, on average, better, higher paying jobs. That is why I have worked so hard to introduce West Virginia businesses to foreign market opportunities.

While this bill will expose countries with whom we have a trade deficit to extra scrutiny by the Commerce Department, the Open Markets and Fair Trade Act of 1995 is about market opportunities for American firms and especially markets for American industries with the most export potential and which promote critical technologies. Most importantly, it instructs the Commerce Department to look at markets which, if we can export there, offer the greatest employment opportunities for American workers.

America cannot afford to be a market for everyone else's products when we don't get the same kind of access in return. Our economy, and the global economy, cannot sustain that kind of imbalance. The American people will only continue to support free trade if it means we are able to sell American products abroad as easily as Asian and European and Latin American manufacturers have access to our shelves and showrooms. While past negotiations should have made these points perfectly clear, the Open Markets and Fair Trade Act of 1995 will erase any doubts that may have lingered with our trading partners.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. TRADE DEFICIT: TOP 10 COUNTRIES

[In billions of dollars]

Country	Trade deficit		
	1994	1993	1992
1. Japan	65.669	59.318	49.417
2. China	29.494	22.768	18.260
3. Canada	14.693	10.732	8.341
4. Germany	12.512	9.648	7.593
5. Taiwan	9.633	8.855	9.397
6. Italy	7.518	6.764	3.602
7. Malaysia	7.012	4.504	3.898
8. Thailand	5.446	4.773	3.546
9. Venezuela	4.336	3.541	2.730
10. Nigeria	3.921	4.410	4.073
Subtotal for top 10	160.234	135.313	110.857
Total for the world	151.414	115.611	84.881

By Mr. COCHRAN:

S.J. Res. 33. A bill proposing an amendment to the Constitution of the United States relative to the free exercise of religion; to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT JOINT RESOLUTION

• Mr. COCHRAN. Mr. President, I am pleased today to introduce a joint resolution proposing an amendment to the Constitution that will restore to individuals the fundamental right to the free exercise of their religious beliefs.

Although most of us would agree that the Framers of the Constitution intended special protection for the "free exercise of religion" when they included it in the Bill of Rights, several judicial rulings, and other acts of governments at all levels, over the years have brought that provision into question and resulted in much confusion.

I invite Senators to support this reaffirmation of fundamental, constitutional right.•

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. ROTH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 44

At the request of Mr. REID, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 44, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

S. 103

At the request of Mr. BAUCUS, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from California [Mrs. BOXER], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 103, a bill entitled the "Lost Creek Land Exchange Act of 1995."

S. 240

At the request of Mr. DOMENICI, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 440

At the request of Mr. WARNER, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 440, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 448

At the request of Mr. PRYOR, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 448, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

S. 476

At the request of Mr. NICKLES, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 476, a bill to amend title 23, United States Code, to eliminate the national maximum speed limit, and for other purposes.

S. 539

At the request of Mr. COCHRAN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 539, a bill to amend the Internal Revenue Code of 1986 to provide a tax exemption for health risk pools.

S. 602

At the request of Mr. BROWN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 602, a bill to amend the NATO Participation Act of 1994 to expedite the transition to full membership in the North Atlantic Treaty Organization of European countries emerging from Communist domination.

S. 607

At the request of Mr. WARNER, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 615

At the request of Mr. AKAKA, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 615, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 694

At the request of Mr. KYL, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 694, a bill to prevent and punish crimes of sexual and domestic violence, to strengthen the rights of crime victims, and for other purposes.

S. 722

At the request of Mr. DOMENICI, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 722, a bill to amend the Internal Revenue Code of 1986 to restructure and replace the income tax system of the United States to meet national priorities, and for other purposes.

SENATE RESOLUTION 97

At the request of Mr. THOMAS, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Resolution 97, a resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from New York [Mr. D'AMATO] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 113—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. GORTON (for Mr. DOLE, for himself, and Mr. DASCHLE) submitted the following resolution; which was agreed to:

S. RES. 113

Whereas, in the case of *Committee for Judicial Review* v. *The United States Senate Committee on the Judiciary, Senator Orrin Hatch,* No. 1:95CV0770, pending in the United States District Court for the District of Columbia, the plaintiff has filed a complaint, seeking, among other relief, to restrain the Committee on the Judiciary from conducting confirmation hearings on the nomination of Peter C. Economus, who has been nominated to be a United States District Judge for the Northern District of Ohio;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1)(1994), the Senate may direct its counsel to defend committees and Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the Committee on the Judiciary, its chairman, Senator Orrin G. Hatch, and the other members of the Committee on the Judiciary in the case of *Committee for Judicial Review* v. *The United States Senate Committee on the Judiciary, Senator Orrin Hatch*.

SENATE RESOLUTION 114—TO REFER S. 740 TO THE U.S. COURT OF FEDERAL CLAIMS

Mr. GORTON (for Mr. HATCH) submitted the following resolution; which was agreed to:

S. RES. 114

Resolved, That the bill S. 740 entitled "A bill for the relief of Inslaw, Inc., and William A. Hamilton and Nancy Burke Hamilton" now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Court of Federal Claims. The chief judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due to the claimants from the United States.

AMENDMENTS SUBMITTED

THE COMMON SENSE LEGAL STANDARDS REFORM ACT OF 1995 COMMON SENSE PRODUCT LIABILITY REFORM ACT OF 1995

DODD AMENDMENT NO. 624

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Notwithstanding any other provision of this Act, punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in an action that is subject to this Act if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) Bifurcation and Judicial Determination.—

(1) In general.—Notwithstanding any other provision of this Act, in an action that is subject to this Act in which punitive damages are sought, the trier of fact shall determine, concurrent with all other issues presented, whether such damages shall be allowed. If such damages are allowed, a separate proceeding shall be conducted by the court to determine the amount of such damages to be awarded.

(2) ADMISSIBLE EVIDENCE.—

(A) Inadmissibility of evidence relative only to a claim of punitive damages in a bifurcated proceeding.—Notwithstanding any other provision of this Act, in any proceeding to determine whether the claimant in an action that is subject to this Act may be awarded compensatory damages and punitive damages, evidence of the defendant's financial condition and other evidence bearing on the amount of punitive damages shall not be admissible unless the evidence is admissible for a purpose other than for determining the amount of punitive damages.

(B) PROCEEDING WITH RESPECT TO PUNITIVE DAMAGES.—Evidence that is admissible in a separate proceeding conducted under paragraph (1) shall include evidence that bears on the factors listed in paragraph (3).

(3) FACTORS.—Notwithstanding any other provision of this Act, in determining the amount of punitive damages awarded in an action that is subject to this Act, the court shall consider the following factors:

(A) The likelihood that serious harm would arise from the misconduct of the defendant in question.

(B) The degree of the awareness of the defendant in question of that likelihood.

(C) The profitability of the misconduct to the defendant in question.

(D) The duration of the misconduct and any concealment of the conduct by the defendant in question.

(E) The attitude and conduct of the defendant in question upon the discovery of the misconduct and whether the misconduct has terminated.

(F) The financial condition of the defendant in question.

(G) The total effect of other punishment imposed or likely to be imposed upon the defendant in question as a result of the misconduct, including any awards of punitive or exemplary damages to persons similarly situated to the claimant and the severity of criminal penalties to which the defendant in question has been or is likely to be subjected.

(H) Any other factor that the court determines to be appropriate.

(4) REASONS FOR SETTING AWARD AMOUNT.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, with respect to an award of punitive damages in an action that is subject to this Act, in findings of fact and conclusions of law issued by the court, the court shall clearly state the reasons of the court for setting the amount of the award. The statements referred to in the preceding sentence shall demonstrate the consideration of the factors listed in subparagraphs (A) through (G) of paragraph (3). If the court considers a factor under subparagraph (H) of paragraph (3), the court shall state the effect of the consideration of the factor on setting the amount of the award.

(B) REVIEW OF DETERMINATION OF AWARD AMOUNT.—The determination of the amount of the award shall only be reviewed by a court as a factual finding and shall not be set aside by a court unless the court determines that the amount of the award is clearly erroneous.

DODD AMENDMENT NO. 625

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

Strike section 107 and insert the following new section:

SEC. 107. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Notwithstanding any other provision of this Act, punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in an action that is subject to this Act if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) BIFURCATION AND JUDICIAL DETERMINATION.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, in an action that is subject to this Act in which punitive damages are sought, the trier of fact shall determine, concurrent with all other issues presented, whether such damages shall be allowed. If such damages are allowed, a separate proceeding shall be conducted by the court to determine the amount of such damages to be awarded.

(2) ADMISSIBLE EVIDENCE.—

(A) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A BIFURCATED PROCEEDING.—Notwithstanding any other provision of this Act, in any proceeding to determine whether the claimant in an action that is subject to this Act may be awarded compensatory damages and punitive damages, evidence of the defendant's financial condition and other evidence bearing on the amount of punitive damages shall not be admissible unless the evidence is admissible for a purpose other than for determining the amount of punitive damages.

(B) PROCEEDING WITH RESPECT TO PUNITIVE DAMAGES.—Evidence that is admissible in a separate proceeding conducted under paragraph (1) shall include evidence that bears on the factors listed in paragraph (3).

(3) FACTORS.—Notwithstanding any other provision of this Act, in determining the amount of punitive damages awarded in an action that is subject to this Act, the court shall consider the following factors:

(A) The likelihood that serious harm would arise from the misconduct of the defendant in question.

(B) The degree of the awareness of the defendant in question of that likelihood.

(C) The profitability of the misconduct to the defendant in question.

(D) The duration of the misconduct and any concealment of the conduct by the defendant in question.

(E) The attitude and conduct of the defendant in question upon the discovery of the misconduct and whether the misconduct has terminated.

(F) The financial condition of the defendant in question.

(G) The total effect of other punishment imposed or likely to be imposed upon the defendant in question as a result of the misconduct, including any awards of punitive or exemplary damages to persons similarly situated to the claimant and the severity of criminal penalties to which the defendant in question has been or is likely to be subjected.

(H) Any other factor that the court determines to be appropriate.

(4) REASONS FOR SETTING AWARD AMOUNT.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, with respect to an award of punitive damages in an action that is subject to this Act, in findings of fact and conclusions of law issued by he court, the court shall clearly state the reasons of the court for setting the amount of the award. The statements referred to in the preceding sentence shall demonstrate the consideration of the factors listed in subparagraphs (A) through (G) of paragraph (3). If the court considers a factor under subparagraph (H) of paragraph (3), the court shall state the effect of the consideration of the factor on setting the amount of the award.

(B) REVIEW OF DETERMINATION OF AWARD AMOUNT.—The determination of the amount of the award shall only be reviewed by a court as a factual finding and shall not be set aside by a court unless the court determines that the amount of the award is clearly erroneous.

HEFLIN AMENDMENTS NOS. 626–627

(Ordered to lie on the table.)

Mr. HEFLIN submitted two amendments intended to be proposed by him to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

AMENDMENT NO. 626

At the appropriate place in amendment No. 596 insert the following:

INSURABILITY OF PUNITIVE DAMAGES

(1) Insurance companies properly licensed under state law shall be permitted to issue policies covering liability giving rise to punitive or exemplary damages.

(2) Nothing herein shall require insurers to offer such insurance policies for punitive or exemplary damages.

(3) Such policies shall be effective in all states of the United States, notwithstanding state law to the contrary.

AMENDMENT NO. 627

At the end of amendment No. 596, insert the following:

SEC. . TRULY UNIFORM STANDARDS FOR ALL STATES.

(a) PUNITIVE DAMAGES.—Notwithstanding any other provision of this Act or any limitation under State law, punitive damages may be awarded to a claimant in a product liability action subject to this title. The amount of punitive damages that may be awarded may not exceed the greater of—

(1) an amount equal to 3 times the amount awarded to the claimant for the economic loss on which the claim is based, or

(2) $250,000.

(b) ALTERATION OR MISUSE.—Notwithstanding any other provision of this Act, the provisions of section 106(a) supersede the law of any State concerning misuse or alteration of a product.

(c) STATUTE OF REPOSE.—Notwithstanding any other provision of this Act, no product liability action subject to this title, other than a product liability action for toxic harm, may be brought more than 20 years after the time of delivery of the product. This subsection supersedes any State law that requires a product liability action to be filed during a period of time shorter than 20 years after the time of delivery.

HEFLIN (AND SHELBY) AMENDMENT NO. 628

(Ordered to lie on the table.)

Mr. HEFLIN (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by them to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

At the appropriate place in amendment No. 596 insert the following:

SEC. . LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to this section, but only during such time as the State law so provides.

DORGAN AMENDMENT NO. 629

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

Insert at the appropriate place: "Notwithstanding any other provision of this Act, nothing in this Act shall impose limitations on punitive damage awards."

McCAIN AMENDMENT NO. 630

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

At the appropriate place in title I in Amendment No. 596, insert the following new section:

SEC. . ALLOCATION OF ATTORNEYS' FEES.

(a) IN GENERAL.—With respect to the consideration of any award or offer of settlement presented to a court in any civil action in Federal or State court, the court, in determining the appropriate amount of attorneys' fees with respect to an attorney who represents, on a contingency fee basis, a class or claimant, shall take into account the best interests of all claimants and seek to ensure that such award or settlement does not disadvantage other litigants in the action.

(b) CONSIDERATION OF EXPENSES.—

(1) IN GENERAL.—In determining an appropriate amount of attorneys' fees in an action under subsection (a), the court shall ensure that the recovery for the medical expenses (present and foreseeable) of the class or claimants are given priority over the attorneys' fee.

(2) MINIMAL AMOUNT.—With respect to an action under subsection (a) in which the medical expenses of the class or claimants exceeds the amount of the award or settlement, the court shall award the minimal amount of attorneys' fees necessary to reimburse the attorney for competent counsel and apply the remainder of the award or settlement amount to the expenses of the class or claimants.

(c) PAYMENT OF FEES.—The court, in an action described in subsection (a), shall ensure that an attorney for the class or claimant does not receive payment of fees until all members of the class or all claimants entitled to a payment under an award or settlement in such action receive such payments, unless the court finds good cause for permitting some other sequencing of payments.

(d) LIMITATION.—After complying with the provisions of subsections (a) and (b), the court shall ensure that the attorneys' fees to be paid are reasonable. A court shall determine that attorneys' fees are reasonable under this section, if such fees are proportionate to the actual benefit to the class or claimant under an award or settlement under the action involved, and to the amount of time and effort expended by the attorney with respect to such action.

EXON AMENDMENTS NOS. 631–634

(Ordered to lie on the table.)

Mr. EXON submitted four amendments intended to be proposed by him to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 631

On page 42, line 7, delete "so." and insert in lieu thereof: "so; or".

On page 42, between lines 7 and 8 add the following new section:

"(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgement that the court feels it is likely to enter should the claimant prevail.".

On page 43, line 6, insert "(1)" before "if".

On page 43, line 7, delete "(1)" and insert in lieu thereof: "(A)".

On page 43, line 10, delete "(A)" and insert in lieu thereof: "(i)".

On page 43, line 11, delete "(B)" and insert in lieu thereof: "(ii)".

On page 43, line 13, delete "(2)" and insert in lieu thereof: "(B)".

On page 43, line 13, delete "implant." and insert in lieu thereof: "implant; or".

On page 43, between lines 13 and 14 insert the following new section:

"(2) if the biomaterials supplier is related by common ownership or control to a person meeting all of the requirements described in paragraph (1), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgement that the court feels it is likely to enter should the claimant prevail.".

AMENDMENT NO 632

On page 23, line 17, strike "Each' and insert in lieu thereof: "Except as provided in (3), each".

On page 24, line 1, strike "For" and insert in lieu thereof: "Except as provided in (3), for".

On page 24 between lines 6 and 7, insert the following:

(3) Cases affected by Title II.

For cases involving manufacturers or biomaterials suppliers covered by Title II of this Act (the Biomaterials Access Assurance Act of 1995), the trier of fact shall allocate to such manufacturer (or manufacturers) the amount of noneconomic loss (if any) which is determined to be the responsibility of a biomaterials supplier (or biomaterials suppliers) where such biomaterials supplier (or suppliers) is (or are) protected from liability to a claimant by Title II of this Act.

AMENDMENT NO. 633

On page 14, line 16 strike "claimant," and insert in lieu thereof "claimant to the extent permitted by applicable State law,".

AMENDMENT NO. 634

On page 38, line 24, after the phrase "any civil action" add "except for an action based on an intentional wrongful act".

On page 39, on line 2 after the phrase "any legal theory," add "except on the basis of an intentional wrongful act".

BOXER AMENDMENTS NOS. 635–640

(Ordered to lie on the table.)

Mrs. BOXER submitted six amendments intended to be proposed by her to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 635

Strike page 29 through page 54, line 4.

AMENDMENT NO. 636

At the appropriate place in amendment 596, insert the following: "Notwithstanding Section 107 with regard to Uniform Standards for Award of Punitive Damages, the limitation of amount for punitive damages shall not apply to the loss of human reproductive function."

AMENDMENT NO. 637

At the appropriate place in amendment 596, insert the following: "Notwithstanding Section 107 with regard to Uniform Standards for Award of Punitive Damages, the limitation of amount for punitive damages shall not apply to brain damage."

AMENDMENT NO. 638

At the appropriate place in amendment 596, insert the following: "Notwithstanding Section 107 with regard to Uniform Standards for Award of Punitive Damages, the limitation of amount for punitive damages shall not apply to the loss of a limb."

AMENDMENT NO. 639

At the appropriate place in amendment 596, insert the following: "Notwithstanding Section 107 with regard to Uniform Standards for Award of Punitive Damages, the limitation of amount for punitive damages shall not apply to facial disfigurement."

AMENDMENT NO. 640

In section 104, of amendment 596, strike subsection (a) and insert the following new subsection:

(a) GENERAL RULE.—Except as otherwise provided under applicable State law, in any product liability action that is subject to this title filed by a claimant for harm caused by a product, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes that the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller.

ROCKEFELLER AMENDMENTS NOS. 641–651

(Ordered to lie on the table.)

Mr. ROCKEFELLER submitted 11 amendments intended to be proposed by him to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 641

In lieu of the matter proposed to be inserted by Gorton amendment 596, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act of 1995".

TITLE I—PRODUCT LIABILITY

SEC. 101. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) CLAIMANT.—The term "claimant" means any person who brings a product liability action and any person on whose behalf such an action is brought. If an action is brought through or on behalf of—

(A) an estate, the term includes the decedent; or

(B) a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means an amount equal to the sum of—

(A) the amount paid to an employee as workers' compensation benefits; and

(B) the present value of all workers' compensation benefits to which the employee is or would be entitled at the time of the determination of the claimant's benefits, as determined by the appropriate workers' compensation authority for harm caused to an employee by a product.

(3) CLEAR AND CONVINCING EVIDENCE.—

(A) IN GENERAL.—Subject to subparagraph (A), the term "clear and convincing evidence" is that measure of degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

(B) DEGREE OF PROOF.—The degree of proof required to satisfy the standard of clear and convincing evidence shall be—

(i) greater than the degree of proof required to meet the standard of preponderance of the evidence; and

(ii) less than the degree of proof required to meet the standard of proof beyond a reasonable doubt.

(4) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage to a product itself, loss relating to a dispute over its value, or consequential economic loss the recovery of which is governed by the Uniform Commercial Code or analogous State commercial law, not including harm.

(5) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which has a normal life expectancy of 3 or more years or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(6) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including any medical expense loss, work loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent that recovery for the loss is permitted under applicable State law.

(7) HARM.—The term "harm" means any physical injury, illness, disease, or death, or damage to property, caused by a product. The term does not include commercial loss or loss or damage to a product itself.

(8) INSURER.—The term "insurer" means the employer of a claimant, if the employer is self-insured, or the workers' compensation insurer of an employer.

(9) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product), and who designs or formulates the product (or component part of the product), or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, constructs, designs, or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another person; or

(C) any product seller that is not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(10) NONECONOMIC LOSS.—The term "noneconomic loss"—

(A) means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; and

(B) does not include economic loss.

(11) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(12) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; and

(ii) electricity, water delivered by a utility, natural gas, or steam.

(13) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(14) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who—

(i) in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(15) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, or any political subdivision thereof.

(16) TIME OF DELIVERY.—The term "time of delivery" means the time when a product is delivered to the first purchaser or lessee of the product that was not involved in manufacturing or selling the product, or using the product as a component part of another product to be sold.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY.—

(1) ACTIONS COVERED.—Subject to paragraph (2), this title applies to any product liability action commenced on or after the date of enactment of this Act, without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

(2) ACTIONS EXCLUDED.—

(A) ACTIONS FOR DAMAGE TO PRODUCT OR COMMERCIAL LOSS.—A civil action brought for loss or damage to a product itself or for commercial loss, shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable commercial or contract law.

(B) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable State law.

(b) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes a State law only to the extent that State law applies to an issue covered under this title.

(2) ISSUES NOT COVERED UNDER THIS ACT.—Any issue that is not covered under this title, including any standard of liability applicable to a manufacturer, shall not be subject to this title, but shall be subject to applicable Federal or State law.

(c) STATUTORY CONSTRUCTION.—Nothing in this title may be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601(8)) or the threat of such remediation.

(d) CONSTRUCTION.—To promote uniformity of law in the various jurisdictions, this title shall be construed and applied after consideration of its legislative history.

(e) EFFECT OF COURT OF APPEALS DECISIONS.—Notwithstanding any other provision of law, any decision of a circuit court of appeals interpreting a provision of this title (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 103. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) IN GENERAL.—

(1) SERVICE OF OFFER.—A claimant or a defendant in a product liability action that is subject to this title may, not later than 60 days after the service of the initial complaint of the claimant or the applicable deadline for a responsive pleading (whichever is later), serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(2) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in paragraph (3), not later than 10 days after the service of an offer to proceed under paragraph (1), an offeree shall file a written notice of acceptance or rejection of the offer.

(3) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in paragraph (2), extend the period for filing a written notice under such paragraph for a period of not more than 60 days after the date of expiration of the period specified in paragraph (2). Discovery may be permitted during such period.

(b) DEFENDANT'S PENALTY FOR UNREASONABLE REFUSAL.—

(1) IN GENERAL.—The court shall assess reasonable attorney's fees (calculated in accordance with paragraph (2)) and costs against the offeree, incurred by the offeror during trial if—

(A) a defendant as an offeree refuses to proceed pursuant to the alternative dispute resolution procedure referred to in subsection (a)(1);

(B) final judgment is entered against the defendant for harm caused by the product that is the subject of the action; and

(C) the refusal by the defendant to proceed pursuant to such alternative dispute resolution was unreasonable or not made in good faith.

(2) REASONABLE ATTORNEY'S FEES.—For purposes of this subsection, a reasonable attorney's fee shall be calculated on the basis of an hourly rate, which shall not exceed the hourly rate that is considered acceptable in the community in which the attorney practices law, taking into consideration the qualifications and experience of the attorney and the complexity of the case.

(c) GOOD FAITH REFUSAL.—In determining whether the refusal of an offeree to proceed pursuant to the alternative dispute procedure referred to in subsection (a)(1) was unreasonable or not made in good faith, the court shall consider—

(1) whether the case involves potentially complicated questions of fact;

(2) whether the case involves potentially dispositive issues of law;

(3) the potential expense faced by the offeree in retaining counsel for both the alternative dispute resolution procedure and to litigate the matter for trial;

(4) the professional capacity of available mediators within the applicable geographic area; and

(5) such other factors as the court considers appropriate.

SEC. 104. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action that is subject to this title filed by a claimant for harm caused by a product, a product seller other than a manufacturer shall be liable to a claimant, only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant; or

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect a product if the product seller had no reasonable opportunity to inspect the product that allegedly caused harm to the claimant.

(b) SPECIAL RULE.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(c) Rented or Leased Products.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(14)(B)) shall be subject to liability in a product liability action under subsection (a), but shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 105. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) General Rule.—Notwithstanding any other provision of law, a defendant in a product liability action that is subject to this title shall have a complete defense in the action if the defendant proves that—

(1) the claimant was under the influence of intoxicating alcohol or any drug that may not lawfully be sold over-the-counter without a prescription, and was not prescribed by a physician for use by the claimant; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for the accident or event which resulted in the harm to the claimant.

(b) Construction.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

SEC. 106. REDUCTION FOR MISUSE OR ALTERATION OF PRODUCT.

(a) General Rule.—

(1) In general.—Except as provided in subsection (c), in a product liability action that is subject to this title, the damages for which a defendant is otherwise liable under applicable State law shall be reduced by the percentage of responsibility for the harm to the claimant attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, the express warnings or instructions of the defendant if the warnings or instructions are determined to be adequate pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) Use intended by a manufacturer is not misuse or alteration.—For the purposes of this title, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) State Law.—Notwithstanding section 3(b), subsection (a) of this section shall supersede State law concerning misuse or alteration of a product only to the extent that State law is inconsistent with such subsection.

(c) Workplace Injury.—Notwithstanding subsection (a), the amount of damages for which a defendant is otherwise liable under State law shall not be reduced by the application of this section with respect to the conduct of any employer or coemployee of the plaintiff who is, under applicable State law concerning workplace injuries, immune from being subject to an action by the claimant.

SEC. 107. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) General Rule.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in a product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) Limitation on Amount.—The amount of punitive damages that may be awarded to a claimant in any product liability action that is subject to this title shall not exceed 3 times the amount awarded to the claimant for the economic loss on which the claim is based, or $250,000, whichever is greater. This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(c) Bifurcation at Request of Either Party.—

(1) In general.—At the request of either party, the trier of fact in a product liability action that is subject to this title shall consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) Admissible evidence.—

(A) Inadmissibility of evidence relative only to a claim of punitive damages in a proceeding concerning compensatory damages.—If either party requests a separate proceeding under paragraph (1), in any proceeding to determine whether the claimant may be awarded compensatory damages, any evidence that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

(B) Proceeding with respect to punitive damages.—Evidence that is admissible in the separate proceeding under paragraph (1)—

(i) may include evidence of the profits of the defendant, if any, from the alleged wrongdoing; and

(ii) shall not include evidence of the overall assets of the defendant.

SEC. 108. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Statute of Limitations.—

(1) In general.—Except as provided in paragraph (2) and subsection (b), a product liability action that is subject to this title may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered, the harm that is the subject of the action and the cause of the harm.

(2) Exceptions.—

(A) Person with a legal disability.—A person with a legal disability (as determined under applicable law) may file a product liability action that is subject to this title not later than 2 years after the date on which the person ceases to have the legal disability.

(B) Effect of stay or injunction.—If the commencement of a civil action that is subject to this title is stayed or enjoined, the running of the statute of limitations under this section shall be suspended until the end of the period that the stay or injunction is in effect.

(b) Statute of Repose.—

(1) In general.—Subject to paragraphs (2) and (3), no product liability action that is subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed after the 20-year period beginning at the time of delivery of the product.

(2) State law.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 20-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) Exceptions.—

(A) A motor vehicle, vessel, aircraft, or train that is used primarily to transport passengers for hire shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety of the specific product involved which was longer than 20 years, but it will apply at the expiration of that warranty.

(c) Transitional Provision Relating to Extension of Period for Bringing Certain Actions.—If any provision of subsection (a) or (b) shortens the period during which a product liability action that could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action pursuant to this title not later than 1 year after the date of enactment of this Act.

SEC. 109. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) General Rule.—In a product liability action that is subject to this title, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) Amount of Liability.—

(1) In general.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) Percentage of responsibility.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 110. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) General Rule.—

(1) Right of subrogation.—

(A) In general.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this title.

(B) Written notification.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) Insurer not required to be a party.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) SETTLEMENTS AND OTHER LEGAL PROCEEDINGS.—

(A) IN GENERAL.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this title, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) WRITTEN CONSENT.—Except as provided in subparagraph (C)—

(i) an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without the written consent of the insurer; and

(ii) no release to or agreement with the manufacturer or product seller described in clauses (i) through (iv) of subparagraph (A) shall be valid or enforceable for any purpose without the consent of the insurer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER OR COEMPLOYEE.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this title, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the employer.

(B) RIGHTS OF EMPLOYER.—

(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an employer shall, in the same manner as any party in the action (even if the employer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) LAST ISSUE.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is presented to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS OF SUBROGATION NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

SEC. 111. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under section 1331 or 1337 of title 28, United States Code, over any product liability action covered under this title.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1995".

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) QUALIFIED SPECIALIST.—With respect to an action, the term "qualified specialist" means a person who is qualified by knowledge, skill, experience, training, or education in the specialty area that is the subject of the action.

(9) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(10) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(11) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section; or

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if the biomaterials supplier—

(1) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(A) the manufacture of the implant; and

(B) the entrance of the implant in the stream of commerce; and

(2) subsequently resold the implant.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary,

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—The procedural requirements described in paragraphs (2) and (3) shall apply to any action by a claimant against a biomaterials supplier that is subject to this title.

(2) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(A) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(B) an action against the manufacturer is barred by applicable law.

(3) AFFIDAVIT.—At the time the claimant brings an action against a biomaterials supplier the claimant shall be required to submit an affidavit that—

(A) declares that the claimant has consulted and reviewed the facts of the action with a qualified specialist, whose qualifications the claimant shall disclose;

(B) includes a written determination by a qualified specialist that the raw materials or component parts actually used in the manufacture of the implant of the claimant were raw materials or component parts described in section 205(d)(1), together with a statement of the basis for such a determination;

(C) includes a written determination by a qualified specialist that, after a review of the medical record and other relevant material, the raw material or component part supplied by the biomaterials supplier and actually used in the manufacture of the implant was a cause of the harm alleged by claimant, together with a statement of the basis for the determination; and

(D) states that, on the basis of review and consultation of the qualified specialist, the claimant (or the attorney of the claimant) has concluded that there is a reasonable and meritorious cause for the filing of the action against the biomaterials supplier.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 205(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 207. APPLICABILITY.

This Act shall apply to all civil actions covered under this title that are commenced on or after the date of enactment of this title, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this title.

AMENDMENT NO. 642

Strike all after the first word of amendment 596 and insert the following:

1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act of 1995".

TITLE I—PRODUCT LIABILITY

SEC. 101. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) CLAIMANT.—The term "claimant" means any person who brings a product liability action and any person on whose behalf such an action is brought. If an action is brought through or on behalf of—

(A) an estate, the term includes the decedent; or

(B) a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means an amount equal to the sum of—

(A) the amount paid to an employee as workers' compensation benefits; and

(B) the present value of all workers' compensation benefits to which the employee is or would be entitled at the time of the determination of the claimant's benefits, as determined by the appropriate workers' compensation authority for harm caused to an employee by a product.

(3) CLEAR AND CONVINCING EVIDENCE.—

(A) IN GENERAL.—Subject to subparagraph (A), the term "clear and convincing evidence" is that measure of degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

(B) DEGREE OF PROOF.—The degree of proof required to satisfy the standard of clear and convincing evidence shall be—

(i) greater than the degree of proof required to meet the standard of preponderance of the evidence; and

(ii) less than the degree of proof required to meet the standard of proof beyond a reasonable doubt.

(4) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage to a product itself, loss relating to a dispute over its value, or consequential economic loss the recovery of which is governed by the Uniform Commercial Code or analogous State commercial law, not including harm.

(5) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which has a normal life expectancy of 3 or more years or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(6) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including any medical expense loss, work loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent that recovery for the loss is permitted under applicable State law.

(7) HARM.—The term "harm" means any physical injury, illness, disease, or death, or damage to property, caused by a product. The term does not include commercial loss or loss or damage to a product itself.

(8) INSURER.—The term "insurer" means the employer of a claimant, if the employer is self-insured, or the workers' compensation insurer of an employer.

(9) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product), and who designs or formulates the product (or component part of the product), or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, constructs, designs, or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another person; or

(C) any product seller that is not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(10) NONECONOMIC LOSS.—The term "noneconomic loss"—

(A) means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; and

(B) does not include economic loss.

(11) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(12) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; and

(ii) electricity, water delivered by a utility, natural gas, or steam.

(13) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(14) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who—

(i) in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(15) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, or any political subdivision thereof.

(16) TIME OF DELIVERY.—The term "time of delivery" means the time when a product is delivered to the first purchaser or lessee of the product that was not involved in manufacturing or selling the product, or using the product as a component part of another product to be sold.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY.—

(1) ACTIONS COVERED.—Subject to paragraph (2), this title applies to any product liability action commenced on or after the date of enactment of this Act, without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

(2) ACTIONS EXCLUDED.—

(A) ACTIONS FOR DAMAGE TO PRODUCT OR COMMERCIAL LOSS.—A civil action brought for loss or damage to a product itself or for commercial loss, shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable commercial or contract law.

(B) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable State law.

(b) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes a State law only to the extent that State law applies to an issue covered under this title.

(2) ISSUES NOT COVERED UNDER THIS ACT.—Any issue that is not covered under this title, including any standard of liability applicable to a manufacturer, shall not be subject to this title, but shall be subject to applicable Federal or State law.

(c) STATUTORY CONSTRUCTION.—Nothing in this title may be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601(8)) or the threat of such remediation.

(d) CONSTRUCTION.—To promote uniformity of law in the various jurisdictions, this title shall be construed and applied after consideration of its legislative history.

(e) EFFECT OF COURT OF APPEALS DECISIONS.—Notwithstanding any other provision of law, any decision of a circuit court of appeals interpreting a provision of this title (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 103. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) IN GENERAL.—

(1) SERVICE OF OFFER.—A claimant or a defendant in a product liability action that is subject to this title may, not later than 60 days after the service of the initial complaint of the claimant or the applicable deadline for a responsive pleading (whichever is later), serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(2) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in paragraph (3), not later than 10 days after the service of an offer to proceed under paragraph (1), an offeree shall file a written notice of acceptance or rejection of the offer.

(3) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in paragraph (2), extend the period for filing a written notice under such paragraph for a period of not more than 60 days after the date of expiration of the period specified in paragraph (2). Discovery may be permitted during such period.

(b) DEFENDANT'S PENALTY FOR UNREASONABLE REFUSAL.—

(1) IN GENERAL.—The court shall assess reasonable attorney's fees (calculated in accordance with paragraph (2)) and costs against the offeree, incurred by the offeror during trial if—

(A) a defendant as an offeree refuses to proceed pursuant to the alternative dispute resolution procedure referred to subsection (a)(1);

(B) final judgment is entered against the defendant for harm caused by the product that is the subject of the action; and

(C) the refusal by the defendant to proceed pursuant to such alternative dispute resolution was unreasonable or not made in good faith.

(2) REASONABLE ATTORNEY'S FEES.—For purposes of this subsection, a reasonable attorney's fee shall be calculated on the basis of an hourly rate, which shall not exceed the hourly rate that is considered acceptable in the community in which the attorney practices law, taking into consideration the qualifications and experience of the attorney and the complexity of the case.

(c) GOOD FAITH REFUSAL.—In determining whether the refusal of an offeree to proceed pursuant to the alternative dispute procedure referred to in subsection (a)(1) was unreasonable or not made in good faith, the court shall consider—

(1) whether the case involves potentially complicated questions of fact;

(2) whether the case involves potentially dispositive issues of law;

(3) the potential expense faced by the offeree in retaining counsel for both the alternative dispute resolution procedure and to litigate the matter for trial;

(4) the professional capacity of available mediators within the applicable geographic area; and

(5) such other factors as the court considers appropriate.

SEC. 104. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action that is subject to this title filed by a claimant for harm caused by a product, a product seller other than a manufacturer shall be liable to a claimant, only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant; or

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect a product if the product seller had no reasonable opportunity to inspect the product that allegedly caused harm to the claimant.

(b) SPECIAL RULE.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(14)(B)) shall be subject to liability in a product liability action under subsection (a), but shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 105. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) GENERAL RULE.—Notwithstanding any other provision of law, a defendant in a product liability action that is subject to this title shall have a complete defense in the action if the defendant proves that—

(1) the claimant was under the influence of intoxicating alcohol or any drug that may not lawfully be sold over-the-counter without a prescription, and was not prescribed by a physician for use by the claimant; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for the accident or event which resulted in the harm to the claimant.

(b) CONSTRUCTION.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

SEC. 106. REDUCTION FOR MISUSE OR ALTERATION OF PRODUCT.

(a) GENERAL RULE.—

(1) IN GENERAL.—Except as provided in subsection (c), in a product liability action that is subject to this title, the damages for which a defendant is otherwise liable under applicable State law shall be reduced by the percentage of responsibility for the harm to the claimant attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, the express warnings or instructions of the defendant if the warnings or instructions are determined to be adequate pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) USE INTENDED BY A MANUFACTURER IS NOT MISUSE OR ALTERATION.—For the purposes of this title, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) STATE LAW.—Notwithstanding section 3(b), subsection (a) of this section shall supersede State law concerning misuse or alteration of a product only to the extent that State law is inconsistent with such subsection.

(c) WORKPLACE INJURY.—Notwithstanding subsection (a), the amount of damages for which a defendant is otherwise liable under State law shall not be reduced by the application of this section with respect to the conduct of any employer or coemployee of the plaintiff who is, under applicable State law concerning workplace injuries, immune from being subject to an action by the claimant.

SEC. 107. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in a product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) LIMITATION ON AMOUNT.—The amount of punitive damages that may be awarded to a claimant in any product liability action that is subject to this title shall not exceed 3 times the amount awarded to the claimant for the economic loss on which the claim is based, or $250,000, whichever is greater. This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

(c) BIFURCATION AT REQUEST OF EITHER PARTY.—

(1) IN GENERAL.—At the request of either party, the trier of fact in a product liability action that is subject to this title shall consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) ADMISSIBLE EVIDENCE.—

(A) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If either party requests a separate proceeding under paragraph (1), in any proceeding to determine whether the claimant may be awarded compensatory damages, any evidence that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

(B) PROCEEDING WITH RESPECT TO PUNITIVE DAMAGES.—Evidence that is admissible in the separate proceeding under paragraph (1)—

(i) may include evidence of the profits of the defendant, if any, from the alleged wrongdoing; and

(ii) shall not include evidence of the overall assets of the defendant.

SEC. 108. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (b), a product liability action that is subject to this title may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered, the harm that is the subject of the action and the cause of the harm.

(2) EXCEPTIONS.—

(A) PERSON WITH A LEGAL DISABILITY.—A person with a legal disability (as determined under applicable law) may file a product liability action that is subject to this title not later than 2 years after the date on which the person ceases to have the legal disability.

(B) EFFECT OF STAY OR INJUNCTION.—If the commencement of a civil action that is subject to this title is stayed or enjoined, the running of the statute of limitations under this section shall be suspended until the end of the period that the stay or injunction is in effect.

(b) STATUTE OF REPOSE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), no product liability action that is subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed after the 20-year period beginning at the time of delivery of the product.

(2) STATE LAW.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 20-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) EXCEPTIONS.—

(A) A motor vehicle, vessel, aircraft, or train that is used primarily to transport passengers for hire shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety of the specific product involved which was longer than 20 years, but it will apply at the expiration of that warranty.

(c) TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of subsection (a) or (b) shortens the period during which a product liability action that could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action pursuant to this title not later than 1 year after the date of enactment of this Act.

SEC. 109. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In a product liability action that is subject to this title, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 110. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) GENERAL RULE.—

(1) RIGHT OF SUBROGATION.—

(A) IN GENERAL.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this title.

(B) WRITTEN NOTIFICATION.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) INSURER NOT REQUIRED TO BE A PARTY.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) SETTLEMENTS AND OTHER LEGAL PROCEEDINGS.—

(A) IN GENERAL.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this title, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) WRITTEN CONSENT.—Except as provided in subparagraph (C)—

(i) an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without the written consent of the insurer; and

(ii) no release to or agreement with the manufacturer or product seller described in clauses (i) through (iv) of subparagraph (A) shall be valid or enforceable for any purpose without the consent of the insurer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER OR COEMPLOYEE.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this title, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the employer.

(B) RIGHTS OF EMPLOYER.—

(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an employer shall, in the same manner as any party in the action (even if the employer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) LAST ISSUE.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is presented to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS OF SUBROGATION NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

SEC. 111. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under section 1331 or 1337 of title 28, United States Code, over any product liability action covered under this title.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1995".

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) QUALIFIED SPECIALIST.—With respect to an action, the term "qualified specialist" means a person who is qualified by knowledge, skill, experience, training, or education in the specialty area that is the subject of the action.

(9) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(10) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(11) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section; or

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if the biomaterials supplier—

(1) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(A) the manufacture of the implant; and

(B) the entrance of the implant in the stream of commerce; and

(2) subsequently resold the implant.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary,

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—The procedural requirements described in paragraphs (2) and (3) shall apply to any action by a claimant against a biomaterials supplier that is subject to this title.

(2) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(A) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(B) an action against the manufacturer is barred by applicable law.

(3) Affidavit.—At the time the claimant brings an action against a biomaterials supplier the claimant shall be required to submit an affidavit that—

(A) declares that the claimant has consulted and reviewed the facts of the action with a qualified specialist, whose qualifications the claimant shall disclose;

(B) includes a written determination by a qualified specialist that the raw materials or component parts actually used in the manufacture of the implant of the claimant were raw materials or component parts described in section 205(d)(1), together with a statement of the basis for such a determination;

(C) includes a written determination by a qualified specialist that, after a review of the medical record and other relevant material, the raw material or component part supplied by the biomaterials supplier and actually used in the manufacture of the implant was a cause of the harm alleged by claimant, together with a statement of the basis for the determination; and

(D) states that, on the basis of review and consultation of the qualified specialist, the claimant (or the attorney of the claimant) has concluded that there is a reasonable and meritorious cause for the filing of the action against the biomaterials supplier.

(c) Proceeding on Motion To Dismiss.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) Affidavits relating to listing and declarations.—

(A) In general.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) Response to motion to dismiss.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) Effect of motion to dismiss on discovery.—

(A) In general.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) Discovery.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) Affidavits relating status of defendant.—

(A) In general.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) Responses to motion to dismiss.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) Basis of ruling on motion to dismiss.—

(A) In general.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) Motion for summary judgment.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) Summary Judgment.—

(1) In general.—

(A) Basis for entry of judgment.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) Issues of material fact.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) Discovery made prior to a ruling on a motion for summary judgment.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) Discovery with respect to a biomaterials supplier.—A bio- materials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) Stay Pending Petition for Declaration.—If a claimant has filed a petition for a declaration pursuant to section 205(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) Manufacturer Conduct of Proceeding.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) Attorney Fees.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 207. APPLICABILITY.

This Act shall apply to all civil actions covered under this title that are commenced on or after the date of enactment of this title, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this title.

Amendment No. 643

Strike title II of amendment 596.

Amendment No. 644

In section 107 of amendment 596, strike subsection (b) and insert the following:

(b) Limitation on Amount.—

(1) In general.—Except as provided in paragraph (2), the amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this title shall not exceed the greater of—

(A) 3 times the sum of—

(i) the amount awarded to the claimant for the economic loss on which the claim is based; and

(ii) the amount awarded to the claimant for the noneconomic loss on which the claim is based; or

(B) $250,000.

(2) Exception.—

(A) Determination by court.—Notwithstanding subsection (c), in a product liability action that is subject to this title, if the court makes a determination that the application of paragraph (1) would result in an award of punitive damages that is insufficient to punish the egregious conduct of the defendant against whom the punitive damages are to be awarded or to deter such conduct in the future, the court shall determine the amount of punitive damages to be awarded to the claimant in a separate proceeding in accordance with this paragraph.

(B) Factors for consideration.—In any proceeding under subparagraph (A), the court shall consider each of the following:

(i) The likelihood that serious harm would arise from the misconduct of the defendant.

(ii) The degree of the awareness of the defendant of that likelihood.

(iii) The profitability of the misconduct to the defendant.

(iv) The duration of the misconduct and any concealment of the conduct by the defendant.

(v) The attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated.

(vi) The financial condition of the defendant.

(vii) The total effect of other punishment imposed or likely to be imposed upon the defendant as a result of the misconduct, including any awards of punitive or exemplary damages to persons similarly situated to the claimant and the severity of criminal penalties to which the defendant has been or is likely to be subjected.

(viii) Any other factor that the court determines to be appropriate.

(C) FINAL PROCEDURES.—

(i) ENTRY OF JUDGMENT.—At the conclusion of any proceeding under subparagraph (A), the court shall determine the amount of punitive damages to be awarded and shall enter judgment for that amount.

(ii) FINDINGS OF FACT AND CONCLUSIONS OF LAW.—Any judgment entered under this subparagraph shall be accompanied by findings of fact and conclusions of law demonstrating consideration of each of the factors set forth in clauses (i) through (v) of subparagraph (B).

AMENDMENT NO. 645

At the appropriate place in amendment 596, insert the following new section:

SEC. . CAP ON PUNITIVE DAMAGES IN CERTAIN ACTIONS.

Notwithstanding section 15(e)(1), the amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this Act shall be determined under such section but shall not exceed the amount determined under such section or $250,000, whichever is greater.

AMENDMENT NO. 646

At the appropriate place in amendment 596, insert the following new section:

SEC. . CAP ON PUNITIVE DAMAGES IN CERTAIN ACTIONS.

Notwithstanding section 15(e), the amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this Act shall not exceed $500,000.

AMENDMENT NO. 647

At the appropriate place in amendment 596, insert the following new section:

SEC. . CAP ON PUNITIVE DAMAGES IN CERTAIN ACTIONS.

Notwithstanding section 15(e)(1), the amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this Act shall not exceed the greater of 3 times the sum of the amounts described in subparagraphs (A) and (B) of such section.

AMENDMENT NO. 648

In section 107 of amendment 596, strike subsection (b) and insert the following:

(b) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amount of punitive damages that may be awarded to a claimant in a product liability action that is subject to this title shall not exceed the greater of—

(A) 2 times the sum of—

(i) the amount awarded to the claimant for the economic loss on which the claim is based; and

(ii) the amount awarded to the claimant for the noneconomic loss on which the claim is based; or

(B) $250,000.

(2) EXCEPTION.—In a product liability action that is subject to this title, if the trier of fact determines that, at the time the action is filed, the annual revenues of the defendant are greater than or equal to $10,000,000, the amount of punitive damages that may be awarded to the claimant shall not exceed the greater of—

(A) 2 times the sum of—

(i) the amount awarded to the claimant for the economic loss on which the claim is based; and

(ii) the amount awarded to the claimant for the noneconomic loss on which the claim is based; or

(B) $1,000,000.

(3) APPLICATION.—This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

AMENDMENT NO. 649

At the end of section 109 of amendment 596, add the following new subsection:

(c) SPECIAL RULE.—Notwithstanding subsections (a) and (b), if a defendant that is liable for noneconomic loss is unable to pay for the damages because the defendant is insolvent or bankrupt (as determined pursuant to applicable Federal or State law), the amount of liability of each other defendant in the action that is found to be liable for noneconomic loss shall be increased by a share, determined in accordance with the percentage of responsibility of the defendant, to cover the amount of liability for noneconomic loss of insolvent or bankrupt defendant.

AMENDMENT NO. 650

At the end of section 109 of amendment 596, add the following new subsection:

(C) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding subsections (a) and (b), in a product liability action that is subject to this title, the liability of the defendant for noneconomic loss shall be joint and several if—

(A) the percentage of responsibility of the defendant is determined to be greater than or equal to 30 percent of the harm to the claimant; and

(B) other defendants who are found to be liable for noneconomic loss become insolvent or bankrupt pursuant to applicable Federal or State laws.

(2) DETERMINATION OF PERCENTAGE OF RESPONSIBILITY.—For purposes of paragraph (1), in a product liability action that is subject to this title, the trier of fact shall determine the percentage of responsibility of each defendant for the harm to the claimant.

AMENDMENT NO. 651

At the end of section 107 of amendment 596, add the following new subsections:

(d) PUNITIVE DAMAGE REVOLVING FUNDS.—

(1) STATE REVOLVING FUNDS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, as soon as practicable after the date of enactment of this Act, each State in which punitive damages may be awarded in connection with product liability actions that are subject to this title shall establish a punitive damage revolving fund into which one-third of the amount of punitive damages awarded in such State in product liability actions that are subject to this title shall be deposited.

(B) USE OF AMOUNTS DEPOSITED IN REVOLVING FUND.—Subject to subsection (e), the amounts deposited in the revolving fund shall be used to pay the proportional share of the punitive damages that a defendant in such a product liability action that becomes insolvent or bankrupt pursuant to applicable Federal or State laws is unable to pay.

(2) FEDERAL REVOLVING FUND.—

(A) IN GENERAL.—Notwithstanding any other provision of law, as soon as practicable after the date of enactment of this Act, the Secretary of the Treasury shall establish a punitive damage revolving fund that shall be administered by the Director of the Administrative Conference of the United States Courts, into which one-third of the amounts awarded by Federal courts as punitive damages in product liability actions that are subject to this title shall be deposited.

(B) USE OF AMOUNTS DEPOSITED REVOLVING FUND.—Subject to subsection (e), the amounts deposited in the revolving fund shall be used to pay the proportional share of the punitive damages that a defendant in such a product liability action that becomes insolvent or bankrupt pursuant to applicable Federal or State laws is unable to pay.

(e) LIMITATION ON PAYMENT TO CLAIMANT.—With respect to a product liability action that is subject to this title, no claimant may receive a total payment of punitive damages in an amount greater than two-thirds of the amount of the punitive damages awarded by the court.

(f) CONFORMING AMENDMENT.—Section 604(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(26) Administer the punitive damage revolving fund established under section 107(d)(2) of the Product Liability Fairness Act of 1995.".

FEINGOLD AMENDMENTS NOS. 652–653

(Ordered to lie on the table.)

Mr. FEINGOLD submitted two amendments intended to be proposed by him to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 652

On page 6, line 22, in section 101(12)(B)(i) of title I, insert before the semicolon: "or any product designed or marketed primarily for the use of children".

AMENDMENT NO. 653

On page 6, line 22, in section 101(12)(B)(i) of title I, insert before the semicolon: "or any product designed or marketed primarily for the use of children".

HATCH AMENDMENT NO. 654

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

At the appropriate place in amendment No. 596, insert the following new section:

SEC. . REPRESENTATIONS AND SANCTIONS UNDER RULE 11 FEDERAL RULES OF CIVIL PROCEDURE.

(a) IN GENERAL.—Notwithstanding anything in this Act, Rule 11 of the Federal Rules of Civil Procedure is amendment—

(1) in subsection (b)(3) by striking out "or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery" and inserting in lieu thereof "or are well grounded in fact"; and

(2) in subsection (c)—

(A) in the first sentence by striking out "may, subject to the conditions stated below," and inserting in lieu thereof "may";

(B) in paragraph (2) by striking out the first and second sentences and inserting in lieu thereof the following: "A sanction imposed for violation of this rule may consist of reasonable attorneys' fees and other expenses incurred as a result of the violation, directives of a nonmonetary nature, or an order to pay penalty into court or to a party."; and

(C) in paragraph (2)(A) by inserting before the period ", although such sanctions may be awarded against a party's attorneys".

(b) EFFECTIVE DATE.—The provisions of this section shall take effect 30 days after the date of the enactment of this Act.

SPECTER AMENDMENTS NOS. 655–657

(Ordered to lie on the table.)

Mr. SPECTER submitted three amendments intended to be proposed by him to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 655

At the appropriate place in title I of the substitute amendment No. 596, insert the following:

SEC. . FOREIGN PRODUCTS.

(a) GENERAL RULE.—

(1) IN GENERAL.—Notwithstanding any other provisions of law, in any product liability action that is subject to this title for any harm sustained in the United States that relates to the purchase or use of a product manufactured outside the United States by a foreign manufacturer, the Federal district court in which the action is filed shall have personal jurisdiction over such manufacturer if the court determines that the manufacturer knew or reasonably should have known that the product would be imported for sale or use in the United States.

(2) SERVICE OF PROCESS.—Process in any action described in paragraph (1) may be served at any location at which the foreign manufacturer is located, has an agent, or regularly transacts business.

(b) ADMISSION.—In any product liability action that is subject to this title, if a foreign manufacturer of the product fails to furnish any testimony, document, or other thing upon a duly issued discovery order by the court in such action, that failure shall be deemed to be an admission by such manufacturer of any and all facts to which the discovery order relates.

AMENDMENT NO. 656

In the appropriate place in amendment No. 596, substitute in lieu of section 107(c) the following: "The amount of punitive damages that may be awarded to a claimant in any civil action subject to this section shall not exceed ten (10) percent of the net worth of the defendant against whom they are imposed."

AMENDMENT NO. 657

Strike section 109 of amendment No. 596, and insert the following section:

SEC. 109. JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—

(1) JOINT AND SEVERAL LIABILITY FOR ALL HARM.—Except as provided in paragraph (2), in a product liability action that is subject to this title, the liability of each defendant shall be joint and several.

(2) EXCEPTION.—In a product liability action that is subject to this title, the liability of a defendant for noneconomic loss shall be several only if such defendant is determined under subsection (b) to be responsible for a percentage of responsibility for the harm to the claimant that is less than 15 percent.

(b) PERCENTAGE OF RESPONSIBILITY.—In a product liability action that is subject to this title, the trier of fact shall determine the percentage of responsibility of each defendant for the harm to the claimant, including any noneconomic loss.

GRAHAM AMENDMENTS NOS. 658–659

(Ordered to lie on the table.)

Mr. GRAHAM submitted two amendments intended to be proposed by him to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 658

On page 16 of amendment 596, between lines 14 and 15, insert the following:

(c) SPECIAL RULE RELATING TO DRUGS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in any product liability action that is subject to this Act, the amount of liability of a product seller that is found liable to a claimant under subsection (a) for harm caused by a drug that may be lawfully sold, shall be determined on the basis of the market share of sales of the drug by the product seller (as defined and determined by the court).

(2) DRUG DEFINED.—As used in this subsection, the term "drug" has the meaning given in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

AMENDMENT NO. 659

On page 6 of amendment 596, strike out lines 16 through "subject" on line 20, and insert the following:

"(1) tissue, organs, and blood used for therapeutic or medical purposes, except to the extent that such tissue, organs, and blood (or the provision thereof) are subject,".

WELLSTONE AMENDMENTS NOS. 660–661

(Ordered to lie on the table.)

Mr. WELLSTONE submitted two amendments intended to be proposed by him to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 660

At an appropriate place, insert the following:

"Section . Notwithstanding any other provision of this Act, with regard to any separate proceeding under this Act to determine the amount of punitive damages, nothing in this Act shall be construed to limit the evidence admissible in such a proceeding beyond the restriction that evidence be relevant to the issue of the amount of punitive damages."

AMENDMENT NO. 661

At an appropriate place, insert the following:

"Section . Any limitation contained in this Act on the application of joint liability to the recovery of damages shall apply unless the court determines that its operation will prevent the recovery of "fair and adequate compensation" as described in the "Purposes" sub-section of the "Health Care Liability Reform" title of this Act."

HOLLINGS AMENDMENTS NOS. 662–674

(Ordered to lie on the table.)

Mr. HOLLINGS submitted 13 amendments intended to be proposed by him to amendment No. 596, proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 662

Strike lines 8 through 14 on page 9.

AMENDMENT NO. 663

On page 4, beginning with "The" on line 10, strike through line 12.

AMENDMENT NO. 664

Strike lines 10 through 15 on page 22.

AMENDMENT NO. 665

On page 11, strike lines 8 through 17.

AMENDMENT NO. 666

Strike lines 20 through 24 on page 28.

AMENDMENT NO. 667

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, the provision of section 107 that pertains to bifurcated proceedings shall not apply to any civil action.

AMENDMENT NO. 668

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, there shall be no limit because of this Act on the amount of punitive damages that may be awarded to a claimant in any civil action subject to this Act.

AMENDMENT NO. 669

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, no civil action shall be subject to section 107 of this Act.

AMENDMENT NO. 670

On page 28, between lines 12 and 13, insert the following:

SEC. 2. APPLICATION OF ACT LIMITED TO DOMESTIC PRODUCTS.

Notwithstanding any other provision of this Act, this Act shall not apply to any product, component part, implant, or medical device that is not manufactured in the United States within the meaning of the Buy American Act (41 U.S.C. 10a) and the regulations issued thereunder, or to any raw material derived from sources outside the United States.

AMENDMENT NO. 671

At the appropriate place, insert the following:

SEC. . NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law inconsistent with this Act if the legislature of that State considered a legislative proposal dealing with that provision in connection with reforming the tort laws of that State during the period beginning on January 1, 1980, and ending on the date of enactment of this Act, without regard to whether such proposal was adopted, modified and adopted, or rejected.

AMENDMENT NO. 672

At the appropriate place, insert the following:

SEC. . NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law adopted after the date of enactment of this Act.

Amendment No. 673

On page 1, between lines 15 and 16, insert the following:

SEC. 2. STATE IMPLEMENTATION REQUIRED.

Notwithstanding any provision of this Act to the contrary, nothing in this Act shall supersede any provision of State law or rule of civil procedure unless that State has enacted a law providing for the application of this Act in that State.

Amendment No. 674

At the appropriate place in the bill, insert the following:

SEC. —. NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law—

(1) if the legislature of that State considered a legislative proposal dealing with that provision in connection with reforming the tort laws of that State during the period beginning on January 1, 1980, and ending on the date of enactment of this Act, without regard to whether such proposal was adopted, modified and adopted, or rejected; or

(2) adopted after the date of enactment of this Act.

GORTON AMENDMENTS NOS. 675–679

(Ordered to lie on the table.)

Mr. GORTON submitted six amendments intended to be proposed by him to amendment No. 596, proposed by Mr. Gorton to the bill, H.R. 956 supra; as follows:

Amendment No. 675

On page 41, line 17, strike "or".

On page 42, line 2, strike "or".

On page 42, line 7, strike "so." and insert "so; or".

On page 42, between lines 7 and 8, insert the following:

"(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

On page 43, strike lines 3 through 13 and insert the following:

(c) Liability as Seller.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related manufacturer meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

Amendment No. 676

On page 16, line 21, after "but" insert "any person engaged in the business of renting or leasing a product".

Amendment No. 677

On page 2, strike lines 4 through 14 and insert the following:

(2) Claimant's benefits.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

On page 25, line 15, strike "CONSENT" and insert "NOTIFICATION".

On page 25, beginning with "subparagraph" on line 16 strike through line 25 and insert "subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the employer.".

Amendment No. 678

On page 16, between lines 14 and 15, insert the following:

For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

Amendment No. 679

On page 37, strike lines 5 through 9.

On page 37, line 10, strike "(9)" and insert "(8)".

On page 37, line 15, strike "(10)" and insert "(9)".

On page 37, line 17, strike "(11)" and insert "(10)".

On page 46, beginning with line 7, strike through line 25 on page 74 and insert the following:

(b) Manufacturer of Implant Shall Be Named a Party.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

HOLLINGS AMENDMENT NO. 680

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to amendment No. 596 proposed by Mr. Gorton to the bill H.R. 956, supra; as follows:

On page 7, lines 1 through 3, strike all and insert in lieu thereof the following:

(13) Product liability action.—The term "product liability action" means a civil action, brought against a manufacturer, seller, or any other person responsible for the distribution of a product in the stream of commerce, involving a defect or design of the product or anything for harm caused by the product.

KYL AMENDMENT NO. 681

Mr. KYL proposed an amendment to amendment No. 596 proposed by Mr. Gorton to the bill H.R. 956, supra; as follows:

In section 103, strike all after subsection (a) through the end of the section.

HOLLINGS AMENDMENT NO. 682

Mr. HOLLINGS proposed an amendment to amendment No. 596 proposed by Mr. Gorton to the bill H.R. 956, supra; as follows:

At the appropriate place in title I, insert the following new section:

SEC. . PRODUCT LIABILITY INSURANCE REPORTING.

(a) Report to Congress.—The Secretary of Commerce (hereafter in this section referred to as the "Secretary") shall provide to the Congress before June 30 of each year after the date of enactment of this Act a report analyzing the impact of this Act on insurers which issue product liability insurance either separately or in conjunction with other insurance; and on self-insurers, captive insurers, and risk retention groups.

(b) Collection of Data.—To carry out the purposes of this section, the Secretary shall collect from each insurer all data considered necessary by the Secretary to present and analyze fully the impact of this Act on such insurers.

(c) Regulations.—Within 120 days after the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to implement the purposes, and carry out the provisions, of this section. Such regulations shall be promulgated in accordance with section 553 of title 5, United States Code. Such regulations shall—

(1) require the reporting of information sufficiently comprehensive to make possible a full evaluation of the impact of this Act on such insurers;

(2) specify the information to be provided by such insurers and the format of such information, taking into account methods to minimize the paper-work and cost burdens on such insurers and the Federal Government; and

(3) provide, to the maximum extent practicable, that such information is obtained from existing sources, including, but not limited to, State insurance commissioners, recognized insurance statistical agencies, the Administrative Office of the United States Courts, and the National Center for State Courts.

(d) Subpoena.—The Secretary may subpoena witnesses and records related to the report required under this section from any place in the United States. If a witness disobeys such a subpoena, the Secretary may petition any district court of the United States to enforce such subpoena. The court may punish a refusal to obey an order of the court to comply with such a subpoena as a contempt of court.

GORTON AMENDMENTS NOS. 683–685

Mr. GORTON proposed three amendments to amendment No. 596 proposed by Mr. Gorton to the bill H.R. 956, supra; as follows:

Amendment No. 683

On page 2, strike lines 4 through 14 and insert the following:

(2) Claimant's benefits.—The term "claimant's benefits" means the amount

paid to an employee as workers' compensation benefits.

On page 25, line 15, strike "CONSENT" and insert "NOTIFICATION".

On page 25, beginning with "subparagraph" on line 16 strike through line 25 and insert "Subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the employer.".

AMENDMENT NO. 684

On page 16, line 21, after "but" insert "any person engaged in the business of renting or leasing a product".

AMENDMENT NO. 685

On page 16, between lines 14 and 15, insert the following: "For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer."

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the nominations of Charles William Burton to be a member of the Board of Directors of the U.S. Enrichment Corporation, and James J. Hoecker to be a member of the Federal Energy Regulatory Commission.

The hearing will take place Wednesday, May 10, 1995, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Camille Heninger at (202) 224–5070.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Wednesday, May 10, 1995, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on the Federal Energy Regulatory Commission's Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking, Promoting Wholesale Competition Through Open-Access Non-discriminatory Transmission Services by Public Utilities (Docket No. RM95–8–000), and Recovery Stranded Costs by Public Utilities and Transmitting Utilities (Docket No. RM94–7–001).

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Howard Useem at (202) 224–6567.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Wednesday, May 3, 1995, beginning at 9:30 a.m. in room SD–215, to conduct a hearing on the alternative minimum tax.

The PRESIDING OFFICER. With objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the nomination of Dr. Henry Foster during the session of the Senate on Wednesday, May 3, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 3, 1995 at 2 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND FORCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Wednesday, May 3, 1995, in open session, to receive testimony on peace operations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST BUSINESS RIGHTS, AND COMPETITION

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition of the Committee on the Judiciary, be authorized to hold a hearing during the session of the Senate on Wednesday, May 3, 1995, to consider "Antitrust Issues in Telecommunications Legislation."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent that the European Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 3, 1995, at 2 p.m. to hear testimony on Paths/Impediments to NATO Enlargement: Interests/Perceptions of Allies, Applicants, and Russia.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND REGULATORY RELIEF

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions and Regulatory Relief, of the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on Wednesday, May 3, 1995, to conduct a hearing on S. 650, "The Economic Growth and Regulatory Paperwork Reduction Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet at 9 a.m. on Wednesday, May 3, 1995, in open session, to receive testimony on the Marine Corps modernization programs and current operations in review of the defense authorization request for fiscal year 1996 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to meet Wednesday, May 3, at 10 a.m., to consider S. 440, a bill to designate the National Highway System.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. GORTON. Mr. President, in executive session, I ask unanimous consent that the Senate immediately proceed to the consideration of Executive Calendar No. 106, Charles T. Manatt, to be a member of the Board of Directors for the Communications Satellite Corporation; further, that the nomination be confirmed, and the motion to reconsider be laid upon the table; that any statements relating to the nomination appear at the appropriate place in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

COMMUNICATIONS SATELLITE CORPORATION

Charles T. Manatt, of the District of Columbia, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1997.

EXTRADITION TREATY WITH JORDAN—TREATY DOCUMENT NO. 104–3

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the following treaty on the Executive Calendar, Calendar No. 2, Treaty Document No. 104-3, Extradition Treaty with Jordan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I further ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages, up to and including the presentation of the resolution of ratification; that no amendments, conditions, declarations, provisos, reservations, or understandings be in order; that any statements be inserted in the CONGRESSIONAL RECORD as if read; that when the resolution of ratification is agreed to, the motion to reconsider be laid upon the table; that the President be notified of the Senate's action, and that following disposition of the treaty, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. I ask for a division vote on the resolution of ratification.

The PRESIDING OFFICER. A division is requested. Senators in favor of the resolution of ratification will rise and stand until counted.

All those opposed to ratification, please rise and stand until counted.

On a division, two-thirds of the Senators present and having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification is as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Extradition Treaty between the Government of the United States of America and the Government of the Hashemite Kingdom of Jordan, signed at Washington on March 28, 1995.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 113, submitted earlier today by Senators DOLE and DASCHLE, authorizing representation by Senate legal counsel.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 113) to authorize representation by Senate Legal Counsel.

Mr. GORTON. Mr. President, I ask unanimous consent that the resolution be considered and agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 113) was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 113

Whereas, in the case of *Committee for Judicial Review* v. *The United States Senate Committee on the Judiciary, Senator Orrin Hatch*, No. 1:95CV0770, pending in the United States District Court for the District of Columbia, the plaintiff has filed a complaint, seeking, among other relief, to restrain the Committee on the Judiciary from conducting confirmation hearings on the nomination of Peter C. Economus, who has been nominated to be a United States District Judge for the Northern District of Ohio;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1) (1994), the Senate may direct its counsel to defend committees and Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the Committee on the Judiciary, its chairman, Senator Orrin G. Hatch, and the other members of the Committee on the Judiciary in the case of *Committee for Judicial Review* v. *the United States Senate Committee on the Judiciary, Senator Orrin Hatch.*

RELIEF OF INSLAW, INC., AND WILLIAM A. HAMILTON AND NANCY BURKE HAMILTON

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 114, submitted earlier today by Senator HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 114) to refer S. 740 entitled "A bill for the relief of Inslaw, Inc., and William A. Hamilton and Nancy Burke Hamilton" to the chief judge of the United States Court of Federal Claims for a report thereon.

Mr. GORTON. I ask unanimous consent that the resolution be considered and agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 114) was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 114

Resolved, That the bill S. 740 entitled "A bill for the relief of Inslaw, Inc., and William A. Hamilton and Nancy Burke Hamilton" now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Court of Federal Claims. The chief judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due to the claimants from the United States.

ORDER FOR STAR PRINT—S. 735

Mr. GORTON. Mr. President, I ask unanimous consent that S. 735 be star printed to reflect the following changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOST CREEK LAND EXCHANGE ACT OF 1995

Mr. GORTON. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 103, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 103) entitled the "Lost Creek Land Exchange Act of 1995."

Mr. GORTON. I ask unanimous consent that the bill be deemed read a third time and passed; the motion to reconsider be laid upon the table; and, that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 103) was deemed read a third time, and passed; as follows:

S. 103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This title may be cited as the "Lost Creek Land Exchange Act of 1995".

SEC. 2. LAND EXCHANGE.

(a) GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter referred to in this title as the "Secretary") is authorized and directed to acquire by exchange certain lands and interests in lands owned by the Brand S Corporation, its successors and assigns, (hereinafter referred to in this title as the "Corporation"), located in the Lost Creek area of the Deerlodge National Forest and within the Gallatin National Forest.

(b) OFFER AND ACCEPTANCE OF LAND.—

(1) NON-FEDERAL LAND.—If the Corporation offers to convey to the United States fee title that is acceptable to the United States to approximately 18,300 acres of land owned by the Corporation and available for exchange, as depicted on the maps entitled "Brand S/Forest Service Land Exchange Proposal", numbered 1 through 3, dated March 1994, and described in the "Land Exchange

Specifications" document pursuant to paragraph (b)(3), the Secretary shall accept a warranty deed to such lands.

(2) FEDERAL LAND.—Upon acceptance by the Secretary of title to the Corporation's lands pursuant to paragraph (b)(1) and upon the effective date of the document referred to in paragraph (b)(3), and subject to valid existing rights, the Secretary of the Interior shall convey, by patent, the fee title to approximately 10,800 acres on the Deerlodge and Gallatin National Forests, and by timber deed, the right to harvest approximately 3.5 million board feet of timber on certain Deerlodge National Forest lands, as depicted on the maps referenced in paragraph (b)(1) and further defined by the document referenced in paragraph (b)(3): *Provided*, That, except for the east ½ of sec. 10, T3S, R8E, the Secretary shall not convey to the Corporation the lands on the Gallatin National Forest identified as the "Wineglass Tract" on the map entitled "Wineglass Tract", dated September 1994, unless the Secretary finds that measures are in place to protect the scenic, wildlife, and open space values of the Wineglass Tract. Such finding shall be contained in the document referenced in paragraph (b)(3).

(3) AGREEMENT.—A document entitled "Brand S/Forest Service Land Exchange Specifications", shall be jointly developed and agreed to by the Corporation and the Secretary. Such document shall define the non-Federal and Federal lands to be exchanged, and shall include legal descriptions of such lands and interests therein, along with any other agreements. Such document shall be transmitted, upon completion, to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives and shall not take effect until sixty days after transmittal to both Committees.

(4) CONFLICT.—In case of conflict between the maps referenced in paragraph (b)(1) and the document referenced in paragraph (b)(3), the maps shall govern.

(c) TITLE.—

(1) REVIEW OF TITLE.—Within sixty days of receipt of title documents from the Corporation, the Secretary shall review the title for the non-Federal lands described in paragraph (b) and determine whether—

(A) applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the Corporation has complied with the conditions imposed by this title.

(2) CONVEYANCE OF TITLE.—In the event the title does not meet Federal standards or is otherwise unacceptable to the Secretary, the Secretary shall advise the Corporation regarding corrective actions necessary to make an affirmative determination. The Secretary, acting through the Secretary of the Interior, shall effect the conveyance of lands described in paragraph (b)(2) not later than ninety days after the Secretary has made an affirmative determination.

(d) RESOLUTION OF PUBLIC ACCESS.—The Secretary is directed, in accordance with existing law, to improve legal public access to Gallatin National Forest System lands between West Pine Creek and Big Creek.

SEC. 3. GENERAL PROVISIONS.

(a) MAPS AND DOCUMENTS.—The maps referred to in section 202(b)(1) shall be subject to such minor corrections as may be agreed upon by the Secretary and the Corporation. The maps and documents described in section 202(b) (1) and (3) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(b) NATIONAL FOREST SYSTEM LANDS.—

(1) IN GENERAL.—All lands conveyed to the United States under this title shall be added to and administered as part of the Deerlodge or Gallatin National Forests, as appropriate, and shall be administered by the Secretary in accordance with the laws and regulations pertaining to the National Forest System.

(2) WILDERNESS STUDY AREA ACQUISITIONS.—Until Congress determines otherwise, lands acquired within the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area pursuant to this title shall be managed by the Secretary of Agriculture and the Secretary of the Interior, as appropriate, so as to maintain the presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(c) VALUATION.—The values of the lands and interests in lands to be exchanged under this title and described in section 202(b) are deemed to be of approximately equal value.

(d) LIABILITY FOR HAZARDOUS SUBSTANCES.—

(1) The Secretary shall not acquire any lands under this title if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(2) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this title after their transfer to the ownership of another party, but nothing in this title shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party.

ORDERS FOR THURSDAY, MAY 4, 1995

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m., Thursday, May 4, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and that there then be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak for up to 5 minutes each except for the following: Senator THOMAS, 30 minutes; Senator BRADLEY, 15 minutes; Senator DASCHLE or his designee, 30 minutes; Senator LAUTENBERG, 10 minutes; Senator FAIRCLOTH, 5 minutes; and Senator KERREY, 15 minutes.

I further ask unanimous consent that at the hour of 11:30, the Senate resume consideration of H.R. 956, the product liability bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, so that you know that there is another side here, we have no objections.

PROGRAM

Mr. GORTON. For the information of all Senators, there will be a series of stacked votes beginning at 12:15 tomorrow on or in relation to several amendments that were offered during today's session. Also, there will be at least one cloture vote on the Gorton substitute occurring at the end of the stacked sequence. In addition, under rule XXII, second-degree amendments must be filed at the desk 1 hour prior to the cloture vote.

ORDER FOR RECESS

Mr. GORTON. If there is no further business to come before the Senate, following the remarks of the distinguished Democratic leader, Senator DASCHLE, I ask unanimous consent the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair has an announcement.

The Chair, on behalf of the Vice President, pursuant to 22 U.S. Code 276d–276g, as amended, appoints the Senator from Washington [Mrs. MURRAY] as Vice Chairman of the Senate delegation to the Canada-United States Interparliamentary Group during the 104th Congress.

Mr. FORD. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, I will use my leader time as in morning business. There are a couple of issues I would like to address. As I understand it, once my remarks have been made, the Senate will then go into recess. So I will summarize my remarks at this point.

THE FEDERAL BUDGET FOR FISCAL 1996

Mr. DASCHLE. Mr. President, today is May 3, more than a month after the law requires a budget resolution to be reported to the Senate for debate. It is 18 days past April 15, when the law requires a budget resolution to have been completed and passed.

Yet, the Senate Budget Committee has not even begun to mark up a resolution. Instead, a scheduled markup has been delayed until May 8, so nothing will be done until then.

Yet, the current majority has inherited a budget from the last Congress in which the deficit is declining. Its task should be easier than the task of the last Congress, which made the tough decisions that led to deficit decline.

Meanwhile, although our task in the last Congress was a harder one, and we achieved it with no Republican help, we did so within the deadlines set by law.

Republicans campaigned on the claim that they could cut taxes, protect defense spending, and balance the budget, all without touching Social Security benefits. That was the message heard around the country all year last year. That was the message to which Americans responded: Cut taxes, protect defense spending, and balance the budget, without affecting Social Security.

Now the time is already past for the first downpayment on that promise—the budget resolution required by law.

All we are hearing is the stirring sound of people changing the subject. Republicans have discovered that the Medicare Program faces challenges in the years ahead. Democrats told them and the Nation that 2 years ago, when we shored up the Medicare Program and cut the deficit, all without Republican votes.

Throughout the last 2 years, Republicans have rejected each and every proposal offered to help shore up the Medicare Program, with rhetoric about reduced choices and higher taxes.

Now it is time to deliver. If Democratic solutions to the long-term problems of an aging population are no good, let us hear Republican solutions.

I fear we will not, because there are not any. The Republican discovery of a well-known fact is nothing but an effort to distract Americans from their real intentions. House Republicans are considering reductions in Medicare growth on the order of $300 billion. Senate Republicans have said they will need to reduce normal Medicare growth by $200 to $250 billion.

They all say they are not cutting, they are just reducing growth. But if a program grows because more people age and become eligible for it, it is pretty obvious that the same number of dollars will stretch a lot thinner.

Medicare program costs are increasing because all health insurance costs are increasing. In fact, on a per capita basis, Medicare and Medicaid costs are increasing at the same rate as privately insured costs. If Medicare growth rates are simply slashed—without reform—to a rate of growth half as high, we know who is going to pay.

The seniors and working people and employers of this country will pay, that is who. Hospitals and doctors will just shift costs to private insurers. The result will be a massive hidden tax on jobs, a massive hidden tax hike on seniors and workers through hikes in copayments and deductibles.

Cost sharing of the kind Republicans are now contemplating are not just likely to shift costs to the private sector. They are certain to shift costs to the private sector.

It will be an invisible tax on the privately insured.

Some Republicans want to impose this invisible tax to pay for their visible tax cut for the wealthy.

The budget figures and the rate of health care inflation show that Medicare can be preserved without massive cuts of the kind some are considering. The only reason they need to cut $300 billion from Medicare is because they plan to give away $354 billion at the same time through a tax cut for the wealthy.

Americans will not be fooled by talk of bipartisan commissions. They will not buy the ruse, where their retired parents' health care is cut way back and their own health care costs are exacerbated to quietly provide tax breaks to the wealthiest people in the country.

If Medicare needs reform, it should be reformed in a way that ensures seniors will get the care they have been promised, and it should be done in the context of health care reform. Medicare should not be cut blindly to achieve false savings—or worse, to fund a tax cut for those who need it least.

The first step in this process must be for the majority to do what they already should have done—propose a budget.

SELLING THE POWER MARKETING ADMINISTRATIONS IS BAD POLICY

Mr. DASCHLE. Mr. President, the administration's proposal to sell three of the Nation's five power marketing administrations includes the Western Area Power Administration, which markets power from the main stem dams on the Missouri River to South Dakota utilities and cooperatives.

As others have indicated, the sale of the power marketing administrations or PMA's would result in an expected one-time savings of $3.7 billion. However, basing the decision on that fact alone is a case of false economy.

PMA's return far more money to the Federal Government each year than they cost to operate. In 1995, for example, the Western Area Power Administration cost $225.1 million to operate, but returned $378.5 million to the Treasury. Other power marketing administrations showed even greater returns. And, beyond that, the sale is likely, ultimately, to increase electricity rates for consumers by up to 300 percent in some areas.

This makes no sense.

Obviously, we need to reduce the budget deficit, and Democrats are ready to do that. But we should not do it indiscriminately. Before we start cutting Government programs, we have a responsibility to evaluate their utility and consider the consequences.

I am concerned that, in proposing this sale, proponents have fallen prey to the allure of short-term savings and missed the larger point that power marketing administrations are good examples of exactly how Government should work.

It has been said that the purpose of Government is to do those things that are essential but which we cannot do as individuals. That is exactly what the power marketing administrations do. They bring affordable electricity to communities that otherwise might not be able to afford it. And they do it cost-effectively.

I have heard the claims that the power marketing administrations can be sold without causing substantial rate increases. Frankly, I'm skeptical of these claims.

In South Dakota, the Western Area Power Administration, or WAPA, markets power from the main stem dams along the Missouri River and has for years ensured a consistent and affordable supply of electricity. The program pays for itself.

If WAPA and the other PMA's are sold, rates are likely to increase substantially. That is because those with the deepest pockets—those in the best position to purchase the assets—will be out-of-State financial interests, whose primary objective will be to maximize their return on investment.

Like any business, the buyers of PMA's will want to maximize their bottom line—profits. And electric rates for existing Federal power customers will rise as a result. Customers in South Dakota and other States now served will pay much higher costs for power, with much of the money going to out-of-State financial interests who bankroll these purchases.

Farming, ranching, and small businesses dominate the prairie economy, providing modest incomes for most South Dakotans. The economic fate of our State or any other should not be placed in the hands of those whose only interest is in making higher profits.

As you would expect, the proposal to sell the power marketing administrations is unpopular in South Dakota and, I believe, in many other States as well.

I have received more than 10,000 letters from people opposed to the sale—and only two letters in favor of it. Ten thousand to two.

I believe that people generally know what is best for themselves. And when they speak this clearly, in such overwhelming numbers, Congress ought to listen.

And let there be no mistake. The sale of the power marketing administrations will have a negative effect far beyond the economy of South Dakota. PMA's sell power in 34 States across the country. I urge every Member of this body to take a long look at the potential impacts of this sale on customers in his or her State. Read the fine print in this proposal, and I believe you will see the folly in this idea.

In conclusion, Mr. President, PMA's work. Instead of selling them off, we should be holding them up as an example of how the Federal Government can work for the people and the national economy.

PMA's provide affordable power to States like South Dakota without any subsidy. The Federal Government gets a return on its investment. Customers have access to reliable, affordable electricity.

What more can one ask of a program? Like other States, South Dakota sacrificed great tracts of prime wildlife habitat and farmland so that dams could be constructed. Selling the PMA's now would deprive us of equitable compensation for those sacrifices. Given that, and given the almost certain rate increases that would result from the sale, as well as the likelihood of out-of-State ownership and, thus, the export of State resources, the sale of the PMA's is not a policy that I can support. I urge my colleagues to join me in opposing this ill-conceived sale.

Mr. President, I yield the floor and, as I understand it, we are now going into recess.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m., Thursday, May 4, 1995.

Thereupon, the Senate, at 7:28 p.m., recessed until Thursday, May 4, 1995, at 9:30 a.m.

NOMINATION

Executive nomination received by the Senate May 3, 1995:

DEPARTMENT OF STATE

TIMOTHY MICHAEL CARNEY, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SUDAN.

CONFIRMATION

Executive nomination confirmed by the Senate May 3, 1995:

COMMUNICATIONS SATELLITE CORPORATION

CHARLES T. MANATT, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1997.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

NATIONAL DAY OF PRAYER

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. PARKER. Mr. Speaker, I come before the House today to remind my colleagues of a very important day approaching—the National Day of Prayer to be observed on Thursday, May 4. Around this great country, people of all ages, race, and social standing will join together on Thursday to give thanks for the blessings they have received. In addition, they will offer up prayers for our Nation and the suffering we have recently endured. We certainly have much to be thankful for but we also have much to seek divine guidance about.

Although this body will not be in formal session on Thursday, I hope that my colleagues in their own personal way will observe the National Day of Prayer—a tradition since Congress passed a resolution in 1952.

In addition, I commend Wanda Kay Wigley for making the Mississippi National Day of Prayer a priority in our State.

RECOGNITION OF WALTER LUCIANO

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this body is the opportunity we occasionally get to recognize publicly outstanding citizens of our Nation. Today I am especially pleased to speak about so worthy and respected an individual. I rise today to recognize Mr. Walter Luciano.

On a local level, Mr. Luciano is involved in a number of organizations. He works for the parks department as a law enforcement officer. He is well known in Glendale Civilian Observation Patrol [GCOP] as patrol captain and as an active board member. Mr. Luciano is also an auxiliary member of the Middle Village Ambulance Corps.

Mr. Luciano, who held a reserve commission in the New York Army National Guard for almost 23 years of service was recently retired with the rank of captain due to downsizing of his unit. He now serves in the Retired Reserve. His commitment to serving this Nation is truly admirable; he is a model of how responsible citizens can help make their neighborhoods and their country safe.

Additionally, Mr. Luciano has been noted in the local papers of Bayridge, and the New York Daily News for his truancy program and his involvement with the New York City Board of Education's Speaker in the Classroom Program.

Mr. Speaker, I would like to take this moment to ask my colleagues in the U.S. House of Representatives to join me in commending Mr. Luciano for his dedicated service. He is truly an inspiration to us all.

CONTRACT WITH AMERICA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. HAMILTON of Indiana. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 19, 1995 into the CONGRESSIONAL RECORD.

THE CONTRACT WITH AMERICA

The House recently completed 100 days of action on the leadership's 10-point Contract with America, taking up and passing measures ranging from legal and congressional reforms to a balanced budget amendment.

Despite all the attention to the Contract in Washington, I have been impressed in a number of public meetings in Indiana that the Contract only rarely comes up for discussion. Most people know very little of its provisions. For those who do, many support the major elements of the Contract but also say that the House leadership has tried to do too much too quickly. Still others see Congress as operating under the "politics as usual" rules, criticize the spending cuts, or disagree with cutting taxes before balancing the budget.

SUMMARY

Crafted last fall, the Contract with America was organized into 10 major planks, plus a prologue making procedural changes in the House. The promise was to bring all of the items up for a vote within 100 days. All passed the House except the constitutional amendment limiting congressional terms. Some of the measures passed by the House—such as the balanced budget amendment and welfare reform—differed in significant ways from the versions outlined in the Contract. The Senate has not yet acted on most of the Contract, although it did defeat the balanced budget amendment. Only two parts of the Contract have become law—requiring Congress to comply with the laws it passes for everyone else and reducing unfunded federal mandates.

As it has turned out, the Contract is really a starting point for negotiations. It is clear to me that the raw and unrefined bills, passed by the House will be softened by the Senate, or may be even stopped. Even after surgery by the Senate, some Contract initiatives face possible presidential vetoes. Which parts of the Contract will eventually become law is far from clear.

I voted for several parts of the Contract and opposed others. The House first took action, with my support, to cut the number of committees and congressional staff and to require Congress to live by the laws it passes. These proposals were similar to legislation I sponsored last session based on the work of the Joint Committee on the Organization of Congress. I also voted for a balanced budget amendment, a version of the line-item veto, curbs on federal mandates on the states, and restrictions on excessive government regulations, among other measures. I did not support certain other provisions, including a bill that would restrict individuals' Fourth Amendment protections against government searches, a term limits proposal that would kick in some 19 years from now, and an expensive tax cut—largely for the wealthy—that would make it enormously difficult, if not impossible, to balance the budget.

ACCOMPLISHMENTS

There have been several positive aspects to the Contract with America. First, the House leadership did what they said they would do. They took on several major issues and moved them through the legislative process expeditiously. They deserve credit for that. They have seized extraordinary control of the political agenda and the terms of the debate.

Second, several Contract items represent significant reforms. For example, the measures, that have been signed into law—congressional compliance and restrictions on unfunded mandates—are important changes.

Third, the Contract has helped bring about a serious reassessment of the role of government. The House leadership has focussed greater attention on several very important questions. How big should the federal government be? Should the functions of income maintenance and regulation be permanent features of our government? Can we pay for whatever we decide the government ought to do? Do states have sufficient resources and capabilities to resume their full role under the Constitution?

DRAWBACKS

There are also several drawbacks to the Contract. First, the Contract has dealt to a surprising degree with legislative and regulatory procedures rather than substantive legislation. For example, the Contract has us vote on sending to the states a Constitutional amendment to require Congress to eventually balance the budget rather than have us simply vote on a balanced budget. As the Speaker said, "We cleverly picked popular things to do.

Second, the Contract failed to deal with many of the real problems facing our nation. As House consideration of the Contract was coming to a close, I kept thinking to myself that it is now time to get about the business of the nation: doing something about jobs, incomes, health care, and education. the real test is not how many bills are passed or the popular ratings score or the checklist on the Contract's progress. The real test is whether we improve the lives of Americans and improve our prospects for the future.

Third, several of the Contract items went too far. For example, a central part of the Contract has been to cut back programs for millions of struggling Americans while at the same time providing tax cuts mainly for the rich—tax cuts the Wall Street Journal called "the biggest tax-saving bonanza in years for upper-income Americans". I do not

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

find broad support for the proposals to cut federal programs that benefit children, the elderly, or the middle class.

Fourth, the tough budget decisions lie ahead. The basic Contract promise, of course, is to cut federal spending and balance the budget. If the new leadership fails at that, they will have failed altogether. The Contract's tax cuts were a major step in the wrong direction. It will be impossible to both reach a balanced federal budget and provide big House-passed tax cuts without putting the entire budget on the cutting table, including Medicare and Social Security. So far the House leadership has spoken only in generalities about cutting spending. Sooner or later, they will have to detail politically difficult spending cuts.

CONCLUSION

It is far too early in the process to say that the Contract has been a success or a failure. The House has certainly not finished its heavy lifting, and in many respects the tough decisions lie ahead. Still, a good start has been made on certain items, and it is quite possible that with the Senate serving as a filter and a brake, the legislative results will be pretty good.

FLOYD DAVIS TRIBUTE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. RICHARDSON. Mr. Speaker, last week New Mexico lost one of our great citizens. It is with great sadness that I inform the House of the death of Floyd Davis of Rio Rancho.

The 76-year-old Davis was the continuous, energetic volunteer in the fight to preserve, protect, and nurture African-American youth.

A long-time resident of Hempstead, NY, and Rio Rancho, Mr. Davis became a singular institution in both locales for research, communication, and networking related to increasing employment opportunities for the African-American community as a whole but especially for its youth. A native of Norfolk, VA, Mr. Davis retired from the U.S. Postal Service at John F. Kennedy Airport in New York and relocated to Rio Rancho.

Mr. Davis served as a school volunteer with troubled youth in Albuquerque, Rio Rancho, and Springfield Gardens, NY, and was one of the first to organize a directory of black businesses and professionals in Hempstead, NY.

He personally circulated through the public and private sector of Albuquerque in search of employment opportunities for African-American youth. Opportunities identified were disseminated through the civic and religious network of the community. This was often followed by any support required to achieve the goal of getting more youth gainfully employed.

He had recently completed a self-funded survey of African-American car sales persons in the Albuquerque area which was designed to increase patronization by the community and help strengthen the presence of these sales persons with potential customers.

Mr. Davis also served as a strong foot soldier across Albuquerque with the New Mexico Democratic Party to help get out the vote for many Democrats. He was a tireless volunteer for the Democratic Party and made sure that Democrats were elected to office.

Clearly, Mr. Davis touched a great many lives during his many years with us. I am glad I had the opportunity to know him. I urge my colleagues to join me in paying special tribute to this very special man, Mr. Floyd Davis of Rio Rancho.

STATEMENT ON ORDER OF THE EASTERN STAR

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. ROUKEMA. Mr. Speaker, I rise to call attention to the 125th anniversary of the Order of the Eastern Star, which is being celebrated at the organization's annual convention in Atlantic City, NJ, today. This is an important organization that has done much for our Nation and deserves our recognition.

The Order of the Eastern Star is associated with the Order of Free and Accepted Masons and membership is open to Master Masons, their wives, daughters, mothers, widows and sisters. The precise beginnings of the order are not known, but records indicate that a similar organization existed in France during the 18th century. The order was introduced in the United States by Robert Morris, a LaGrange, KY., Mason, teacher, poet, attorney, and minister who wrote the first ritual in 1850 and published it in 1865 as The Rosary of the Eastern Star. The General Grand Chapter, which has jurisdiction over chapters in the United States and Canada, was founded in 1876 and is headquartered here in Washington.

The order is dedicated to serving people in need, to social enjoyment and promotion of civic interests. Among other activities, it offers scholarships to needy students, and maintains homes both for aged members and orphaned children of members, and aids in research into diseases such as cancer, arthritis, and heart disease.

The Order of the Eastern Star is no small organization. There are 3 million members worldwide; 2.5 million of them in the General Grand Chapter. It is the largest women's fraternal organization in the world. I feel a particularly close connection because my own mother, Mrs. Margaret Scafati, has been a member for 55 years and served as worthy district deputy in 1978.

The Order of the Eastern Star has provided spiritual guidance and tangible aid to millions throughout its 125-year history. I congratulate the Order of the Eastern Star on its first 125 years and wish it another 125 years of equal success.

TRIBUTE TO SECOND BAPTIST CHURCH

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. DIXON. Mr. Speaker, I am pleased that Representatives MAXINE WATERS and WALTER TUCKER have joined me to salute the Second Baptist Church of Los Angeles on the occasion of its 110th anniversary of providing outstanding ministry and spiritual leadership to Los Angeles' African-American community. On Friday, May 12 at the Westin Bonaventure Hotel, Second Baptist Church will hold its anniversary banquet to recognize the distinguished contributions of some of Los Angeles' most notable sons and daughters. In recognition of the empowering contributions that Second Baptist Church has made to our combined communities however, we would like to use this opportunity to share with our colleagues the following historical retrospective of this great church.

For African-Americans the black church traditionally has served as a beacon of light and as a nurturing spiritual foundation. Clearly, Second Baptist Church stands as a personification of that force. Organized in 1885, Second Baptist Church began its spiritual journey with a small congregation of 22 members. Today, its congregation has swelled to 1,350 active and participating members.

The church's first pastor was the Reverend S.C. Pierce, who conducted services atop an animal stable in old downtown Los Angeles. In 1887, under the spiritual leadership of the Reverend C.H. Anderson, the church purchased the land and erected its first sanctuary on Maple Avenue. The Reverend Anderson pastored Second Baptist Church for two decades. He was followed in 1908 by the Reverend J.L. McCoy, who served until 1915. The Reverend H.D. Prowd succeeded Pastor McCoy; he served from 1915 to 1920.

In 1921, the Reverend Thomas L. Griffith answered the call to pastor Second Baptist Church's burgeoning congregation. Four years later in 1925, the church erected and moved to its present edifice at 2412 Griffith Avenue. Designed in the Lombard Romanesque style by famed Los Angeles architects Paul R. Williams and Norman Marsh, the church has been designated as a historical landmark by the city of Los Angeles.

The Reverend Griffith was succeeded in 1941 by the Reverend J. Raymond Henderson. During his 20 years of ministry, the church liquidated its mortgage of $83,000, underwent a complete renovation, constructed a parsonage and a Christian education building, and purchased an apartment building, a parking lot, and a community center.

In 1963, the Reverend Thomas Kilgore, Jr. became pastor of Second Baptist Church. It was under his leadership that the church solidified its base as an influential and important force in the future of Los Angeles' African-American community. During his leadership, the church succeeded in helping to reorder the priorities of community leaders to include the less fortunate and traditionally underserved members of Los Angeles society. He raised the community's social consciousness and established Second Baptist Church as a force not to be dismissed in formulating plans for the future of our neighborhoods and communities. Dr. Kilgore established programs to meet the needs of citizens that were otherwise not being addressed. He oversaw the construction of Griffith Gardens, a 38-unit apartment building, and established a child development center at the church. In addition, the church's social hall underwent a complete renovation and two parking lots were purchased. Today, the Reverend Kilgore serves as pastor emeritus of Second Baptist Church.

In October 1987 the Reverend William S. Epps answered the call to pastor Second Baptist Church. Today, the church operates a Christian education program, a community social service program, the Pueblo Christian Action Center, and the Second Baptist Child Development Center.

In addition, under the Reverend Epps' able leadership and ministry, the church regularly convenes seminars and forums as it continues to address the problems endemic to our communities today. Second Baptist Church extends its ministry far beyond the pulpit of its majestic stained-glass-surrounded sanctuary. It is an increasingly important force in our community as it provides spiritual nourishment to its flock, and also seeks to provide spiritual and economic renewal for the disenfranchised members of the community. It provides hope where there is often no hope and it inspires the spirits of men, women, and children by helping them to realize a better tomorrow.

Few would argue about the increasingly important correlation that exists between the church and a healthy and prosperous community. For over a century, Second Baptist Church has contributed to that prosperity by offering a ministry that nurtures the soul and empowers the mind. By providing economic and spiritual empowerment to the community, it continues to shine as a beacon of hope for the future. We are proud to recognize and commend this historic edifice and to congratulate the Reverend Epps, the Reverend Thomas Kilgore, Jr., and the members of Second Baptist Church for their ministry and leadership to the Los Angeles community. Please join us in extending our profound best wishes for continued success in the future.

A TRIBUTE TO THE SAN BERNARDINO COUNTY SUN

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of the San Bernardino County Sun newspaper in San Bernardino, CA. The Sun, under the leadership of executive editor Arnie Garson, was recently recognized as one of the top newspapers in the United States for 1994 in the annual Best of Gannett competition.

The San Bernardino County Sun was one of six finalists for the Gannett's Outstanding Achievement Award recognizing the best overall news performance by a newspaper in 1994 and is the recipient of the coveted Gold Medal Award for 1994. Altogether, the Sun received seven individual awards, the highest for any newspaper with a circulation of over 40,000.

In addition, Arnie Garson was 1 of 10 editors nationwide awarded the President's Ring and has thus become one of the finalists in the 1994 Editor of the Year competition. The top three contenders will be announced at the Gannett's editors' meeting in May and the winner will be announced in June.

Specifically, the Sun won top awards in seven separate categories. Mickie Enkoji was a top winner taking home first place honors in the Outstanding Achievement in Writing and Feature Writing categories. Rebecca Fairley Raney relieved the top prize for investigative reporting, while Paul Oberjuerge was recognized for his prize-winning sports column. In addition, the Sun received top honors for public service, headlines, and packaging and presentation.

Few who make their home in San Bernardino County are surprised by the Sun's success. As my hometown newspaper over the course of my life, I have watched the Sun professionally adapt to the many changes that have taken place in our county over the years. While we may differ on specific issues from time to time, I have nothing but the utmost level of respect for the high standards and professionalism of this newspaper.

Mr. Speaker, I ask that you join me, my colleagues, and the people of San Bernardino County in recognizing Arnie Garson and the entire staff of the Sun for its success. It is only fitting that the House recognize the San Bernardino Sun, one of the truly outstanding newspapers in the United States today.

TRIBUTE TO THE FEDERAL WORKERS IN OKLAHOMA CITY

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, I rise to pay tribute to the Federal workers who are among the bombing victims in Oklahoma City. Their great sacrifice deserves our respect. Their public service deserves our gratitude. Their memory deserves our reflection.

We have just begun the annual commemoration of Public Service Recognition Week, an occasion where Federal agencies and employee organizations recognize the contributions made by public servants at all levels of Government. The Oklahoma bombing victims are truly the most deserving of recognition this year. Those who were killed or injured while working for America, shall forever remain among our Nation's most honored.

The loss of these workers reminds us that Federal service does have its risks, as well as its rewards. The blast hit the Alfred P. Murrah Federal Building just as the employees inside began another workday. Now many of them are gone, but they have left behind a legacy of service to the public that is warmly remembered by the people of Oklahoma City.

Since the bombing, the Nation has witnessed the fine work of other Federal employees working tirelessly in Oklahoma City. During each day that has passed, we have seen Federal law enforcement officers effectively pursuing suspects and witnesses, the Federal Emergency Management Agency responding to the needs of Oklahoma citizens affected by the tragedy, and the General Services Administration's Emergency Operations Center coordinating the restoration of Federal agency operations in the area. This is Government service at its best.

This terrible event has caused many Americans to learn more about Federal workers—who they are, where they live, and what they do. Let's remember with pride those who served and are still serving today in Oklahoma City. Let's also recognize that there are many more like them serving Americans across this land.

TRIBUTE TO JERROD E. HAWK

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young man from my district who has recently accepted his appointment as a member of the class of 1999 at the U.S. Military Academy.

Jerrod E. Hawk will soon graduate Paulding High School after 4 years of outstanding academic achievement as well as extracurricular involvement. While in high school Jerrod has distinguished himself as a leader among his peers. He is an outstanding student and patriot.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the Academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that Jerrod Hawk has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating him for his accomplishments to date and to wish him the best of luck as he begins his career in service to our country.

A SALUTE TO BILLY STRAYHORN AND ELLINGTON '95

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. COYNE. Mr. Speaker, I am pleased today to pay tribute to Billy Strayhorn and his many contributions to jazz music as a pianist, composer, lyricist, and arranger.

Billy Strayhorn will soon be remembered in the city of Pittsburgh during "Ellington '95: The Thirteenth Annual International Conference on the Life and Music of Duke Ellington," where delegates from 16 countries and 34 States will be in attendance. This event is dedicated to the memory of Billy Strayhorn and is being hosted by the Billy Strayhorn Chapter of the Duke Ellington Society in Pittsburgh, PA.

Billy Strayhorn was born in Dayton, OH on November 29, 1915, and was raised in Pittsburgh where he graduated from Westinghouse High School. It was in Pittsburgh at the Stanley Theatre, now the Benedum Center for the

Performing Arts that the close association and collaboration between Duke Ellington and Strayhorn began. This remarkably productive collaboration endured for nearly three decades and produced more than 200 compositions and arrangements.

The musical compositions of Billy Strayhorn are among some of America's most popular jazz standards. Billy Strayhorn's music includes "Take the 'A' Train," the Ellington Band's theme song, "Lush Life," Something to Live For," "Day Dream," "After All," "Chelsea Bridge," "Lotus Blossom," and "Blood Count." Billy Strayhorn has been honored on many occasions for his contributions to jazz and was elected to the "Songwriters' Hall of Fame" on April 15, 1984, by the National Academy of Popular Music.

The discovery of previously unknown Billy Strayhorn compositions has brought new recognition and acclaim to this great composer's memory. A newly discovered composition, "Portrait of a Silk Thread," was premiered at the 1994 Ellington Conference in Stockholm, Sweden. Other previously unknown compositions have been found and will be premiered for the world at the Ellington Annual International Conference in Pittsburgh, May 24–28, 1995. I am confident that the presentation of these newly discovered compositions will be among the highlights of this year's Ellington conference.

Mr. Speaker, it is proper that the Members of the U.S. House should take note of Billy Strayhorn and his outstanding contributions to the musical heritage of the United States of America and the world. Billy Strayhorn and Duke Ellington were ambassadors to the world and helped to enlighten millions of individuals from around the globe to the American jazz experience. I am pleased that the memory of Billy Strayhorn will be celebrated in Pittsburgh later this month and commend to the House and the American people "Ellington '95: The Thirteenth Annual International Conference on the Life and Music of Duke Ellington."

RECOGNITION OF JUDITH PISAR

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to acknowledge publicly the outstanding citizens of our Nation. I rise today to honor Judith Pisar in her installment as a Chevalier of the Legion of Honor in France, an honor she received on May 26, 1994. Ms. Pisar's contributions have led to building of a widely-admired cultural bridge between the United States and France and to Franco-American cultural relations in general.

A native of New York, Ms. Pisar has spent the last two decades in Paris working for the American Center in Paris, a cultural center that houses contemporary American art. Founded 63 years ago, the American Center has helped bridge the gap of cultural differences between the United States and France. Under Ms. Pisar's direction, the American Center has expanded with a new building that was dedicated on June 4, 1994. The new building will house a 420-seat theater, studios, a gallery, classrooms, and apartments for visiting artists and writers and will have space for an American restaurant.

Ms. Pisar has also organized cultural, educational and charitable events for artists in France and the United States. She has put together exhibitions of young painters and a variety of multi-media events on both sides of the Atlantic.

Mr. Speaker, it is no surprise that France has bestowed this high achievement to Ms. Pisar, a person dedicated to the cultural and intellectual education of our countries.

Mr. Speaker, I would like to take this moment to ask my colleagues in the U.S. House of Representatives to join me in commending Ms. Judith Pisar for her valuable work. She is an inspiration to us all.

TRIBUTE TO SARA AND SIMHA LAINER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Sara and Simha Lainer, close friends of mine for more than 40 years and people passionately dedicated to the welfare of the Jewish community of Los Angeles. Natives of Eastern Europe, the Lainers came to southern California via Mexico, where they lived and worked for several years. We are lucky to have them.

Sara Lainer, a distinguished author of scholarly articles, has been an active volunteer on behalf of Hadassah, Pioneer Women, General Israel Orphans Home, the Yiddish Culture Club, and many other organizations. She continues to lecture in Hebrew and Yiddish to groups in Los Angeles, and she holds an honorary doctorate from the Hebrew Theological College, Jewish University of America. Her commitment to the intellectual and spiritual components of Judaism is extraordinary.

Simha Lainer, who ran a successful real estate business in the San Fernando Valley, is a strong supporter of, and a dedicated volunteer with, the University of Judaism, the Jewish Community Foundation, the ADL, and West Coast Friends of the Hebrew University. Anyone who cares about the Jewish community of Los Angeles owes a huge thanks to Simha Lainer.

In 1989, the Lainers established the Simha and Sara Lainer Fund for Jewish Education, which has thus far awarded $290,000 in scholarships to 400 children around the city. I can think of nothing more important than ensuring Judaism remains vibrant and alive in Los Angeles.

Simha and Sara also raised three sons, Mark, Nahum, and Luis, who have followed in the tradition of their parents in working hard on behalf of their community. I am indeed lucky to be good friends with all three, as well as their wives, Ellie, Alice, and Lee.

Mr. Speaker, I ask my colleagues to join me in saluting Sara and Simha Lainer, whose tireless efforts to make this a better world inspire us all.

ECONOMIC OUTLOOK

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 26, 1995 into the CONGRESSIONAL RECORD.

THE OUTLOOK FOR THE ECONOMY

With all the attention given to the Contract With America in the first 100 days, it is also important to focus on an issue of much importance for many Hoosiers—the state of the economy and what can be done to strengthen the outlook.

1994 was a year of solid economic growth, strong job creation, and low inflation, a very unusual combination for the postwar period. The Midwest, including Indiana, did even better. Most everyone would be pleased if we could just freeze the 1994 numbers. But analysts warn that the rise in interest rates during the past year is slowing important sectors of the economy—particularly housing and autos—and that the rest of the economy may also shift into lower gear this year and next.

Performance Of The Economy. Economic Growth. The economy's total output of goods and services grew 4.1% last year. This was the strongest growth in seven years and well above average for the postwar period. Much of the growth was fueled by a boom in business investment in new equipment. Housing starts hit their highest level since 1988, output of motor vehicles rose to the highest level in more than a decade, and industrial production rose 5.4% over 1993, the strongest gain in ten years.

Jobs. The economy created 3.5 million jobs in 1994, the strongest job growth in ten years. More than nine out of every ten new jobs were in the private sector, a sign of the revitalized economy. Of major importance, particularly for the Midwest, was the strong rebound in manufacturing jobs after the heavy losses between 1989 and 1993.

Unemployment. The strong job growth last year put many unemployed people back to work. The unemployment rate fell from 6.7% at the start of the year to 5.4% at the end of the year, which is where it currently stands. There are now 1.5 million fewer unemployed workers than there were at the start of 1994.

Inflation. At the same time, inflation remained firmly under control. During 1994, consumer prices rose only 2.7%, the fourth year in a row of low inflation.

Productivity. Productivity, a key to noninflationary growth, showed solid gains in 1994, for the second year in a row.

The Indiana Economy. For years, the Midwest lagged behind the rest of the American economy. We suffered more during recessions and took longer to catch up during recoveries. But that has now changed. The Midwest has outperformed the national economy in recent years, and especially last year. We had stronger job growth and lower unemployment—in fact, the unemployment rate in Indiana averaged about a point less than the national rate. Midwest growth was led by our strong manufacturing sector, which benefited from a big rise last year in business investment and consumer spending, as well as an increase in exports.

The Economic Outlook. Early last year, the Federal Reserve (Fed) began to tighten monetary policy, to keep the economy from overheating and causing higher inflation. Between February 1994 and February 1995, the Fed increased interest rates seven times, for a total rise of three percentage points. As a result, several key indicators suggest that the economy is slowing. Housing starts have fallen for three straight months and automobile sales are down from last year's peak. Industrial production has also fallen recently, and a big increase in unwanted inventories early this year might force manufacturers to cut production even more.

Most forecasters expect the economy to keep growing this year and next, although at a slower pace than last year. Job opportunities should also keep growing. But a few economists warn that the Fed may have tightened too much and put the economy into the danger zone of a new recession. In the past, whenever the Fed raised interest rates by three percentage points in a year a recession followed.

Economic Policy. What can be done to keep the economy growing and jobs increasing?

Deficit reduction. In 1993, Congress made major progress in bringing down the federal deficit. The improvement helped reduce long-term interest rates and stimulated the strong economic growth of 1994. Although the Fed reversed the progress on interest rates last year, Congress should continue to consolidate the gains on the deficit. The tax reduction package recently passed by the House, providing most of the benefits to upper-income taxpayers, was a big step backward for deficit reduction. It will make it extremely difficult to bring the budget into balance. I am also concerned that the new Congress may try to rush things by indiscriminately cutting programs that benefit the economy along with those that don't. Trying to do too much too soon may end in a deadlock that impairs further progress on the deficit. But a measured and reasoned approach to further deficit reduction would certainly be in the nation's long-term economic interest.

Interest rates. It generally takes from six to eighteen months for an increase in interest rates to have its full impact on the economy. With most of last year's rate rise coming since August, it will still be some months before we can evaluate the full economic effect. Since there are already signs of a slowdown, the Fed should clearly wait for better information on the economy before making any further rate increases. If the economic indicators show signs of deterioration in the next few months, I hope the Fed will actually consider reducing interest rates. With inflation already under control, a recession would impose hardship on millions of Americans with no benefit to the economy.

Conclusion. The 1990s expansion is now almost four years old and we have had some of the best economic numbers in a generation. The performance of the U.S. economy in 1994 was, in a word, outstanding. However, the question today is not whether the economy is slowing, but how much it is slowing and whether the Fed can achieve a "soft landing", trimming growth from over 4% to around 2.5%.

The economic statistics are important, but the real test of economic performance for me is whether it improves the income of working families, makes them feel more secure, and puts them on the path to prosperity. On those measures, the economic outlook must remain a top priority.

LEGISLATION PROVIDING MEDICAID COVERAGE OF ALL CERTIFIED NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. RICHARDSON. Mr. Speaker, I am pleased to introduce legislation, H.R. 1339, that would provide Medicaid coverage for all certified nurse practitioners and clinical nurse specialists for services they are legally authorized to perform.

As the need to provide basic medical care to the Nation's medically deprived population increases, the need to facilitate access to quality, cost-effective primary care provided by nurse practitioners also increases. Over 400 studies have confirmed the high quality of health care provided by nurse practitioners in a variety of urban and rural primary care settings. It is well known that the majority of our underserved populations are located in rural and inner city settings across the Nation. While nurse practitioners are willing and able to provide services in these settings, not all nurse practitioners are currently being reimbursed by Medicaid for their services in these areas.

Currently, patients are able to access the care of certain nurse practitioners such as family and pediatric nurse practitioners, but others such as adult and women's health nurse practitioners are not accessible. The legislation I am introducing would enable all nurse practitioners, regardless of specialty, to provide care to Medicaid recipients.

Nurse practitioners are particularly capable to provide health care to the indigent. Their educational programs emphasize the provision of care to patients who have limited financial resources. In a national survey conducted by the American Academy on Nurse Practitioners, over 60 percent of the patients seen by these providers had family incomes of less than $16,000 per year.

Nurse practitioners rate as high in financial efficiency as they do in consumer satisfaction. Their ability to focus on preventative and curative medical services contribute to the quality as well as the cost-effectiveness of the care they provide.

Nurse practitioners can play a central role in achieving our national goal of providing quality, cost-efficient health care for all citizens. I am hopeful this legislation will help to eliminate disparities in access to care for rural and inner city Medicaid populations by providing direct reimbursement to nurse practitioners and clinical nurse specialists who have proven their ability to deliver quality care in a cost-effective manner.

STATEMENT MARKING ANNIVERSARY OF HOLLAND HOME

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. ROUKEMA. Mr. Speaker, I rise to call attention to the 100th anniversary of the Holland Christian Home, which is located in North Haledon, NJ. The Holland Home is an excellent example of what private citizens can do to help those in need through their churches, civic groups and other organizations. It is a 151-bed home for the aged, fully licensed by the State and complete with skilled nursing care and other services that has developed from simple roots.

The Holland Home shows what people with vision can do when confronted with a problem in need of a solution. The founders of the home were church and community leaders who applied Christian principles to help all in their community, rather than waiting for the Government to solve their problems for them. That is a philosophy that is returning today, as the public realizes that "big government" is not always the answer. It was a concept that can work as well in 1995 as it worked in 1895.

The Holland Home traces its history to the early 1890s in Paterson, NJ, when members of several Dutch-speaking churches in the area addressed the difficulty of caring for elderly members, particularly those who had no children to provide for them. Remember, this was before Social Security or Medicare. The Reverend Reinder Drukker, who had come to New Jersey from Michigan, suggested that the churches construct a facility similar to the Holland Home he had visited in Grand Rapids. It was described as "an institution where the aged might spend their remaining days in comfort and Christian fellowship." The Reverend Drukker joined with the Reverend Helenus Nies of the Union Reformed Church; Cornelius Poelstra, publisher of a Dutch-language newspaper; and another civic leader, Henry Gardenier, to form the Holland Christian Home Association. The fund-raising drive began at an April 10, 1895, meeting where a collection was taken up to cover the $5 cost of renting a meeting hall—$8.09 was collected and the balance was the beginning of the building fund.

On Thanksgiving Day, 1898, a two-story, 34-by-36-foot building with 10 rooms for residents was dedicated in Paterson. The total cost, with much of the labor and many materials donated, was $2,037. It is important to note that this facility was built during a slow economy: when fund-raising proved slow, the foundation and basement were built without cost, completely with donated labor and materials. Cows, chickens and a vegetable garden were kept on the grounds in order to hold down the cost of feeding the elderly residents.

The structure quickly proved too small, and expansions were conducted in 1904 and 1922. The home was forced to move in 1960 after plans for Interstate 80 called for the new highway to go through the site of the existing home. The current facility in North Haledon—built at a cost of roughly $600,000 including land—was dedicated October 15, 1960. Expansions were constructed in 1969, the early 1970s, 1979, and 1987.

From its humble beginnings, the home has grown to a modern, 100-employee facility with a staff of registered nurses, licensed practical nurses, certified aides, an activity director, and social services director. The home is licensed by the State for 99 residential beds and 52 skilled nursing beds. At the average age of residential residents is 86 and the average age of skilled nursing residents is 91. The youngest resident is 75 and the oldest 107, with several over 100.

Despite this amount of growth, the home's 16-member board of directors is not done. Future plans include development of an number of independent living units adjacent to the existing home. The Holland Home has already served the elderly of the 19th and 20th centuries and clearly will continue providing outstanding care well into the 21st century.

The leaders of the Holland Home are exhibiting what we used to call Christian charity. An idea that taken for granted a century ago may seem like an innovation today. Let's hope the idea spreads.

TRIBUTE TO THE BEVERLY HILLS WEST CHAPTER OF THE LINKS, INC.

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. DIXON. Mr. Speaker, I rise today to pay tribute to the Beverly Hills West Chapter of The Links, Inc., which will be celebrating its 10th anniversary on May 13, 1995.

The Links, Inc. was founded on November 9, 1946 in Philadelphia, PA by Sarah Strickland Scott and Margaret Roselle Hawkins, two women who sought to develop ways to help youth and families in their community cope with educational, economic and social problems. This organization, comprised primarily of African-American women, has grown to over 8,000 members in 241 chapters in 40 States. The Links, Inc. has assisted youth and families both nationally and internationally through educational, civic, and intercultural programs.

The Beverly Hills West Chapter of the Links, Inc. was organized by Joyce T. Black and was chartered on May 5, 1985 with 25 members. The Chapter seeks to promote civic, intercultural, and social activities, and enrich the community by working together toward common goals.

The Beverly Hills West Chapter achieves its objectives through its broad range of programs: The Arts, National Trends and Services, Services to Youth, and International Trends and Services. The specific projects initiated by the Links highlight the essential role that the organization plays in the lives of our youth, families, and senior citizens. "The Panorama of Talent" showcases young visual and performing artists and provides scholarships to talented students. The Young Black Scholars Program supports disadvantaged youth seeking higher education by awarding scholarships. The Links assist seniors in the Santa Monica Senior Citizens Center through weekly arts and crafts, nutrition, health and wellness programs. The organization has also dealt with some of the most pressing issues facing distressed communities through its gang intervention, substance abuse workshops, teenage pregnancy programs and forums on cultural awareness.

Too often today we hear stories focusing on the desperate situation facing many in our communities, particularly our youth. It is most gratifying to pay tribute to a group of people taking the initiative to help those in need. I urge my colleagues to join me in extending best wishes to the Beverly Hills West Chapter of The Links, Inc. on its 10th anniversary and commending its members for their good works in the community.

A TRIBUTE TO DR. JAMES WILLIS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of Dr. James Willis of Apple Valley, CA. Jim, a dedicated professional and longtime community activist, is retiring after a 33-year career in private dental practice.

Jim began his career as a private practitioner in San Bernardino following his graduation from the University of Southern California School of Dentistry in 1962. After 5 years of success, he joined three other dentists in founding Wildwood Dental Group, one of the first group dental practices on the west coast. Working with his partners, Jim oversaw the general management of the practice and developed a national inventory tracking system which revolutionized the dental profession. He was also instrumental in establishing professional guidelines and the development of nationally recognized group practice standards. In 1979, Jim sold his group practice share and purchased a solo practice in Apple Valley.

Complementing his professional success, Jim has also been actively involved in a number of civil and community-based organizations over the years. He is a member of the Tri-County Dental Society, the founder and co-chairman of its political action committee, and chairman of the public relations committee. Jim is also a founding member and former 3-year president of the Inland Empire USC Trojan Club, a member of the San Bernardino Chamber of Commerce, and a former member of the Lions Club. Over the years, Jim has been extremely active in the Youth Baseball Program and has served as the volunteer director of the Redlands Assistant League for Children for whom he has provided needed dental care.

Jim Willis and I have been friends most of our lives. As youths, we spent much time together with family but particularly I remember the summers at the local swimming pool and time at the YMCA. All of his contemporaries from San Bernardino High School watched with admiration as he returned from the Navy to San Bernardino Valley College and, after a short stay, went directly to dental school at USC. Now as he retires from dentistry we all watch with wonder as he contemplates his next career.

Mr. Speaker, I ask that you join me, our colleagues, and Jim's many friends in recognizing his many fine achievements and selfless contributions. Jim's professionalism and dedication is deeply appreciated and greatly admired by those who know him. He has touched the lives of many people in southern California and it is only fitting that the House recognize Jim Willis upon his retirement.

PUBLIC SERVICE RECOGNITION WEEK

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, I wish to call the attention of our colleagues to the annual commemoration of Public Service Recognition Week and to one activity that has occurred and another that will begin on The Mall here in Washington tomorrow.

For the past 10 years, the President's Council on Management Improvement, and the Public Employees Roundtable, launch activities in more than 1,000 cities which highlight excellence in public service at the Federal, State, and local government levels. The objectives are to inform Americans about the contributions of public employees to the quality of our lives, to encourage excellence in government, and to promote public service careers.

Yesterday, the Public Employees Roundtable held a ceremony here on Capitol Hill, and resented its Breakfast of Champions Award to representatives of exceptional programs at each level of government. Among the winners was the Illinois Department of transportation which was recognized for the innovative Chicago Freeway Traffic and Incident Management Program.

Beginning tomorrow, May 4, and continuing through Sunday, May 7, over two dozen Federal agencies and employee organizations will have exhibits set up in three large tents on The Mall. The public is invited to come out to learn more about the functions and services each provides. Some of our military bands and other groups will provide entertainment for this family oriented event.

Mr. Speaker, Public Service Recognition Week offers all Americans, especially young people, the opportunity to learn more about the government and the rewarding careers available. It also provides the opportunity to thank those who serve us daily for their efforts. I believe that our public service should be valued and respected, and the activities occurring this week make crystal clear why.

TRIBUTE TO ABIGAIL M. POLUS

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young woman from my district who has recently accepted her appointment as a member of the class of 1999 at the U.S. Military Academy.

Abigail M. Polus will soon graduate Bowling Green High School after 4 years of outstanding academic achievements as well as extracurricular involvement. While in high school Abigail has distinguished herself as a leader among her peers. She is an outstanding student and patriot.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that Abigail Polus has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating her for her accomplishments to date and to wish her the best of luck as she begins her career in service to our country.

THE SPIRIT OF BLOOMFIELD

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. COYNE. Mr. Speaker, I am proud to represent the Bloomfield neighborhood of Pittsburgh, PA, where the Bloomfield Citizens Council [BCC] will be celebrating the Spirit of Bloomfield on May 5, 1995. This Spirit of Bloomfield celebration will feature a recognition of outstanding local residents who have made major contributions to the quality of life in this community. These men and women exemplify the ideal neighborhood resident who is dedicated to strengthening the social fabric of his or her community. It is men and women like those being honored by the Bloomfield Citizens Council who have helped to make our country the great Nation it is today. It is fitting that the House should have this opportunity to reflect on the good works of these individuals.

Patty Ladasky is this year's recipient of the Mary Cercone Outstanding Citizen Award. Patricia Ann Ladasky is known as the infamous Patty from Bloomfield to the public officials, neighborhood community groups, and publications. She is a professional staff writer for the Spirit of Bloomfield Family Magazine. Patty's events calendar and special event feature stories are treasured sources of information for local residents. She has also given thousands of hours of dedication and volunteer work on behalf of the entire Bloomfield community. Patty is known for her willingness to be on call 24 hours a day, 7 days a week, in previous years as vice president and board of directors member of the Bloomfield Citizens Council. She also helped to coordinate the BCC's response to neighborhood disaster like the toxic spill of April 1987 and the Taylor street fire, on January 17, 1993. Patty has also volunteered and held office with the Immaculate Conception School and is community liaison for WQED TV station for BCC. Patty has been married to Johnny Ladasky for 28 years and has a daughter, Wendy Anne, and a son, John.

Dr. Jack Hill has been selected for the 1995 Lifetime Achievement Award for his years of dedicated service to the advancement of clinical application of medicine in the fields of hematology, oncology, and internal medicine. In his 32 years at the Western Pennsylvania Hospital, he has touched the lives of Bloomfield residents with extraordinary sensitivity and concern for patients. He has been on staff of this hospital since 1963 where he has served as president of the medical staff, chief of the division of hematology and medical oncology, and chairman of the department of medicine. Dr. Hill is also a member of the clinical faculty of the University of Pittsburgh School of Medicine. He also appears twice a week on KDKA channel 2 noon news presenting "Ask the Doctor" reports. He has been honored repeatedly by the medical profession and on October 18, 1991, received the Governor's Special Recognition Award by the American College of Physicians for educating the Pittsburgh community about medical issues. Dr. Hill and his wife, Margaret (Peggy) McMurray, have been married for 36 years and have two sons, a daughter, and three granddaughters.

Sister Donna Smith is being honored with the Outstanding Youth Dedication Award for her commitment and innovative ability to stimulate intellectual curiosity in the students of Immaculate Conception. She is known for her dedication to the total child and her focus on helping children build character and develop personally. Sister Donna grew up on a farm in Butler and entered the sisters of the Holy Spirit in 1985 after having worked for many years as an engineering technician at American Glass Research. Sister Donna is currently working on her Masters Degree in Elementary Administration at Duquesne University where she earned a Bachelor of Science degree in Secondary Education. Sister Donna was assigned to Immaculate Conception in Bloomfield as a teacher in January 1989 and made her first vows as a Sister of the Holy Spirit in August of 1989. Sister Donna will make her final vows in August 1995.

Joedda Sampson has been selected to receive the Bloomfield Historical Preservation Award for her visionary approach and use of the Henry B. Lynch Victoria Mansion on Winebiddle Street. Joedda Sampson purchased the property and realized her dream of developing "Victoria Hall: A Celebration Center" with strong support from the BCC, and local residents. She is married to Ben Sampson and she has one daughter and eight stepchildren.

Herman Mitchell is being honored with the Dedicated Service Award for his years of service with the Pittsburgh City Police Department since 1958. Commander Mitchell retired last year after serving and protecting the people of Pittsburgh for 36 years. He held a number of key positions with the police department and was commander of the Community Oriented Police [C.O.P.] Division when he retired. He and his wife, Franzelle, have 8 children and 17 grandchildren.

Jerry McFadden is the recipient of this year's Neighborhood Loyalty Award. Sergeant McFadden retired from the Pittsburgh City Police Department on October 14, 1994, after 26 years of service. He won the praise of many Bloomfield residents during his service as head of the Crime Prevention Unit. His final year and half of police duty was a supervisor on the new C.O.P. program. He resides in Greenfield with his wife, Mary E., and are the parents of Jerry, Sean, and Heather.

Ken Slaughter is being honored with the Community Commitment Award for his service as a police officer in the Bloomfield community. Officer Slaughter currently serves as Crime Prevention Officer and also serves on the BCC Professional Advisory Board. Officer Slaughter grew up in the Hill District and is a graduate of Schenley High School.

Kurt Kondrich has been selected to receive the Extra Mile Award for his dedication to working closely with the BCC and the residents of Bloomfield as an officer with the Pittsburgh City Police Department. Officer Kondrich earned a B.A. Degree in Criminology from Indiana University and served as a police officer in Atlanta and with the Lee County, Florida Sheriff Department. He also serves on the Professional Advisory Board of the BCC. Officer Kondrich is the son of Ted and Marsha and was raised in Plum Boro.

Mr. Speaker, I want to also commend to the Members of the U.S. House of Representatives the men and women of Bloomfield who have been honored for their service to the defense of the United States of America. The following individuals have been given The Catholic War Veterans Patriotism Award: Regis Linn, Pete Fantone, Angelo Tabuso, Patricia Jean Donatelli Melfi, Norma Jean Donatelli Feigel, and Nina Rodgers. The following were selected to receive The Veterans of Foreign Wars Patriotism Award: Raymond (Ray) Fern, Bill Reynolds, Joe Wolff, Dorothy Pfenningworth, Mary Jane Kopicki, and Mary Ann (Sis) Stowitsky.

The people of Bloomfield and the city of Pittsburgh are rightfully proud of all of these men and women who have served their community and their Nation. I am pleased to have this opportunity to join in saluting these individuals who have done so much for their fellow citizens.

TRIBUTE TO EDWARD FELDMAN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Edward Feldman, who is completing a 2-year term as chair of the UCLA Governmental Relations Steering Committee. I had the pleasure of working with Ed on nursing home issues when I served in the California Legislature in the 1970's, and can attest to his zeal and dedication in fighting for those causes in which he believes.

A fellow UCLA alumnus, Ed has spent 21 of the past 27 years specializing in the investigation and prosecution of white collar crimes for the Los Angeles District Attorney's Office. His areas of responsibility included the major fraud division, where he served for more than 11 years, the Nursing Home Abuse Section and the Special Investigations Division. In August 1993, Ed was appointed acting head deputy of the newly formed Workers' Compensation Fraud Division of the Los Angeles County District Attorney's Office.

Ed recently supplanted his busy professional life with his role as chair of the Governmental Relations Steering Committee, which assists UCLA by providing alumni support for issues coming before Federal, State, and local elected officials. UCLA was lucky to have him.

Mr. Speaker, I ask my colleagues to join me in saluting Ed Feldman, a public servant who works tirelessly to promote social justice. He is a shining example to us all.

RECOGNITION OF COLUMBUS COUNCIL NO. 126

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. SCHUMER. Mr. Speaker, I rise today to recognize Columbus Council No. 126 on the occasion of its centennial anniversary of Friday, May 26, 1995. Having attended many of their events over the years, I know first hand the important work this organization does for the community.

I have often said that seniors are the backbone of our community. When I think of who is active in bringing seniors together to socialize and organize on the pressing issues of the day, I think of the members of Columbus Council No. 126. It is no surprise to me that they have had 100 years of success; we have all benefited from their commitment to charity, unity, fraternity, and patriotism.

I would like to personally thank the members and leadership of Columbus Council No. 126 for their dedication to service. I know my colleagues in the House of Representatives will join me in wishing this community organization another 100 years of success.

PREVENTING TERRORISM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. HAMILTON of Indiana. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 3, 1995 into the CONGRESSIONAL RECORD.

PREVENTING TERRORISM

All of us are filled with deep sorrow and anger over the terrorist bombing in Oklahoma City. This brutal tragedy is particularly frightening because it brought terrorism to the nation's heartland.

At the same time, it is inspiring to see the valiant rescue workers and united community spirit as Americans from across the country assist in relief efforts. No country is stronger or more open-hearted in times of crisis. We should also be proud of the remarkable speed of law enforcement officers in arresting suspects and tracing the origins of the crime.

The consequences of these events will be with us for many years. Not least is that the personal insecurity Americans have felt from random violence and crime will now be increased. Americans are worried about terrorism, but much more worried that it could hit close to them.

Unfortunately, terrorism cannot be stopped simply by catching criminals after a bomb explodes. We must reexamine and intensify our efforts to prevent terrorism.

Immediate Action: There is widespread consensus in Congress to take swift action to give the government enhanced powers to fight terrorism. Congress will quickly pass counterterrorism legislation. It is expected to include:

Law Enforcement: A central counterterrorist task force will be created to coordinate the efforts of different agencies. The President has requested 1,000 additional agents and prosecutors for this effort, which will be focused more on intelligence and prevention than law enforcement.

Criminal Punishment: The Oklahoma City terrorists will be tried under the federal death penalty for terrorist acts, a new provision from last year's crime bill. Terrorist acts include any act of mass destruction that results in death and all attacks on federal property. New legislation will increase criminal penalties and prohibit probation or reduced sentences for terrorist acts or attempted terrorist acts.

Explosives: Congress will consider measures to make chemicals—such as those used in Oklahoma City—less volatile, easier to trace, and more difficult to obtain in large quantities.

State-sponsored Terrorism: While the Oklahoma City bombing appears to be domestic in origin, we must also increase our efforts against terrorism sponsored by other nations. In the past, terrorist actions connected to Libya, Iraq, and other countries have been met with strict economic sanctions, military force, and political isolation.

Nuclear Materials: Counterterrorism legislation will place additional restrictions on the transfer of nuclear materials. The Oklahoma City bombing reinforces the need for strong measures to prevent terrorists from obtaining nuclear technology.

Other: Congress is also expected to, at significant additional cost, enhance security at federal buildings, airports, and ports; strengthen the ability of the government to deport aliens who are connected with terrorist activities; make it easier to use military expertise to investigate terrorist incidents; accelerate research on high-technology surveillance; give broader FBI access to credit card, travel, and phone records of suspected terrorists; freeze U.S. assets of radical foreign groups or individuals that seek political ends through violence; and give the FBI more latitude in eavesdropping—a court surveillance order would still be required, but there would be more flexibility once an order was issued.

The challenge is to protect our civil liberties while also protecting the people. I think it is important to uphold the requirement that law enforcement officials have a reasonable indication of criminal activity before a judge approves surveillance orders. Without such as requirement, it is easy to foresee abuse in monitoring law-abiding groups.

Rhetoric: For a long time I have been concerned about the consequences of virulent political rhetoric. Any public figure today is aware of the mounting anger against government, and it is legitimate to criticize the government for its failings and to offer productive solutions. It is certainly unfair to draw a direct line from rhetoric to acts of violence, and we should resist broad-based and unspecified blame. But it is also true that words have consequences. Sweeping, unfounded denunciations in a democracy are not healthy, from any political viewpoint. In Oklahoma, anti-government extremists attacked the government. Last week in California, an environmental zealot killed a timber industry executive. We should come out on the side of free speech, but we should also understand that extreme rhetoric, characterizing politics as warfare and political opponents as demons, creates an environment in which unstable persons can be encouraged to commit violent acts.

I think we need a period of toned-down rhetoric. When individuals of any political persuasion exploit or encourage hatred, it divides the country and contributes to the cynicism Americans feel about politics.

Root Causes: The only long-term solution for terrorism is to rise above these divisions and address the political grievances which provoke it. We must try to understand what causes such violent anger, as well as what can be done about it. Progress requires a serious assessment of the successes and failures of government. We need to both confront pressing problems, such as government excesses, job insecurity, and family breakdown, as well as try to clear up gross misperceptions about what government is doing. It is impossible to read some of the claims of various underground groups without recognizing we have a long way to go in understanding the politics of hate.

Conclusion: The long-term impact of the Oklahoma City bombing is uncertain. It may lead to similar incidents, but it may also lead to a more positive assessment of the role of government in society, and more respect for those who serve us. We may even see a renewed emphasis on family and community in our daily lives. I am hopeful for a shift away from confrontation and destructive criticism toward broad, productive cooperation in solving our nation's problems.

STATEMENT HONORING GRACE AZZOLINA SCADUTO

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate Grace Azzolina Scaduto on being named "Woman of the Year" by the New Jersey Federation of Republican Women.

This important honor will be bestowed on Mrs. Scaduto at the Federation's 65th annual convention, held May 5–6 in Atlantic City. The Federation is the oldest women's organization in New Jersey and Mrs. Scaduto is its outgoing president.

I can think of no one more deserving of this honor. Mrs. Scaduto is a wonderful person who is deeply dedicated to her family and to her party. She has applied her belief in the opportunities and responsibilities of being an American citize with conviction, helping others exercise their rights of citizenship. It is reassuring to see someone with this degree of commitment to our system of democracy, especially at a time when there are many whose opinion range from apathy to a belief that Government doesn't work.

Mrs. Scaduto, a well-known business executive, is secretary-treasurer of Food Circus Supermarkets Inc., a 12-store chain that she joined in 1953. She supervised the front-end of the supermarket operation in its formative years and helped formulate company policy and training manuals. She was previously manager of the Food Basket Supermarket, the family owned forerunner of Food Circus.

Mrs. Scaduto, a delegate to the 1992 Republican National Convention and alternate delegate at the 1988 convention, has had a long history of activity in Republican politics in New Jersey.

She has been president of the New Jersey Federation of Women since 1991 after serving in a number of roles in the organization, including vice president, corresponding secretary and member of the Board of Governors. Her dedication has allowed her to serve on countless Federation committees and chair numerous events. She is a State committeewoman for Monmouth County and has served on the committees of Kapalko for Congress and Azzolina for Congress. She is a former president and vice president of the Women's Republican Club of Middletown and a current member of Women of the 1990's. Mrs. Scaduto also chaired a number of special events and dinners, including a 1989 luncheon for our former colleague, the late Millicent Fenwick.

Despite the long hours involved in supporting the Republican Party, Mrs. Scaduto has also found time for civic activities. She is a member of the Georgian Court College Advisory Council and the Central Jersey chapter of the March of Dimes. She was presented the Community Service Award by the Middletown Area Chamber of Commerce in 1994 and the Women of Leadership Award by the Monmouth Girl Scouts in 1993, among many other awards. She has been active in Girl Scouts leadership since her days as Brownie troop leader in the 1960's.

With no end to her energy and enthusiasm, she is also the wife of Louis Scaduto, the mother of 4 children and grandmother of 11.

Grace Scaduto is truly an example to us all. Her service to society in all its aspects—family, politics and community—has been inspirational. I thank her for all she has done and wish her well in all that she does in the future.

THE IMPORTANCE OF ORPHAN DRUG RESEARCH

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am pleased to introduce today, along with my distinguished senior colleague from the Ways and Means Committee, ROBERT MATSUI, the Orphan Drug Tax Credit Amendments of 1995.

In 1983, the Congress enacted legislation that granted a tax credit for the clinical testing of drugs used to treat rare diseases with limited commercial potential, commonly referred to as orphan drugs. This legislation, in conjunction with orphan drug market exclusivity, has been successful in encouraging the type of narrow research critical to finding answers to the many questions posed by rare diseases. Currently, there are approximately 600 drugs that have received orphan drug designation and more than 100 of those have been approved for marketing. Because of the orphan drug legislation, we now have drugs to treat such diseases as cystic fibrosis, hepatitis B, multiple sclerosis, renal cell carcinoma, and pituitary dwarfism.

The bill we are introducing today would make two significant changes to the orphan drug tax credit:

First, it would make the orphan drug tax credit, which expired at the end of last year, permanent. Uncertainty over the future of the tax credit has caused a significant decline in the investment of capital in the biotechnology industry.

Second, this bill would allow companies to carry the tax credit back or forward pursuant to section 39 of the Internal Revenue Code. Most of the companies engaged in research of orphan drugs do not qualify for the tax credit. Under current law, a company can only claim a credit against their current year tax liability. Since most companies involved in orphan drug research are biotechnology firms that are still developing and have yet to market a product, they have no tax liability against which to claim the tax credit. This structural change would allow a developing company, such as a biotechnology firm, to use the tax credit at such time that it had a tax liability.

I am pleased to note that this bill is endorsed by both the Biotechnology Industry Organization, which represents the biotechnology industry, and the National Organization for Rare Disorders, Inc. [NORD], the primary nonprofit organization representing patients with rare diseases.

I commend this bill to my colleagues and look forward to its prompt approval by the Congress.

A TRIBUTE TO THE FEDERAL EMPLOYEES WHO LOST THEIR LIVES IN OKLAHOMA CITY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. MORELLA. Mr. Speaker, it is with great sadness that I rise to honor the dedicated Federal employees who lost their lives in bomb blast at the Alfred P. Murrah Federal Building in Oklahoma City. We will long remember these civil servants who paid the highest price for their commitment to public service.

One such dedicated public servant killed in the bomb blast was Secret Service agent Alan Whicher. Agent Whicher was a native of Maryland and lived in the town of Rockville, MD, until last October when he was transferred to Oklahoma City. While he was in Washington, Alan Whicher was assigned to protect the President. The transfer to America's heartland was viewed as a safer and less hectic assignment.

Alan Whicher was brought back home to Maryland to be buried. A wake was held at St. Patrick's Catholic Church in Rockville, where he stopped each morning before he went to work. Former neighbors, relatives, and colleagues poured into the church to pay their last respects.

President Clinton and First Lady Hillary Rodham Clinton attended the funeral. Alan Whicher was described by his former neighbors and friends as a man who cared deeply about his community. He was a loving husband to his wife, Pamela, and he was a devoted father to his three children. One of his last acts was to call his wife, who was about to give a speech at their new church, to offer encouragement and to wish her well.

Alan Whicher was a hero. All of the Federal employees who died in the ugly bomb blast in Oklahoma City were heroes. They were Americans who worked hard in unglamorous jobs to improve the quality of life for others. They were men and women who upheld the virtues of thrift and hard work to achieve economic independence. Their lives will not have been in vain if we can translate what happened in Oklahoma City into something that brings the whole country together.

A TRIBUTE TO AMANDA SHANKLE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. SHUSTER. Mr. Speaker, I rise today to congratulate Amanda Shankle on being selected by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary as the winner of the Voice of Democracy broadcast scriptwriting contest. Amanda is a 17-year-old constituent of mine and resides in Schellsburg, PA.

Amanda has written an extraordinary essay and deserves much praise for winning such a competitive contest. Her work shows insights into her subject matter and solid command of the English language. I would ask that all of my colleagues join me in offering a warm congratulations to Amanda for her excellent work.

Mr. Speaker, at this time I would also ask that Amanda's essay be reprinted in the CONGRESSIONAL RECORD so that all of my colleagues will have access to her fine work.

MY VISION FOR AMERICA

(By Amanda Shankle)

A vision is something seen in a dream, the vivid product of the imagination's power. My vision of America is the dream of a powerful nation, confident, united, and proud. It is a dream that exists only because of the thousands of brave men and women who fought for America's freedom, who sacrificed so that I might have the opportunity to express and to achieve my dream. Because of them I awake each day knowing that my future stands before me, alluring, exhilarating, and full of hope and promise.

But I also know that if my children are to awaken to that same dream, it is my responsibility to work to achieve it, to ensure that my vision for America becomes a reality. I must work for a country whose natural environment is not wasted by ignorance, greed or neglect, but preserved to support future generations. I must work for a nation in which people care for, and help one another, a nation that rests on a strong spiritual foundation of tolerance and faith, where all persons are treated with dignity, justice and respect.

I dream of an America whose leaders put the good of their people first, before party loyalty or personal gain; an America where no child goes to bed hungry, and no family is without a home. I dream of an America where the right to medical treatment and health care is basic; where no one has to suffer because they cannot afford the help they need.

I must work for a country where crime, drugs, and violence are the rare exception rather than the common rule, and I know that to achieve that dream I must support measures that strengthen our economy, cherish our families, and insist on schools that challenge the minds of our children.

I remember the vision of Martin Luther King, Jr. who dreamed of a nation where people would be judged by the content of their minds and characters, rather than by their race or religion. It is a dream that I share, and one I will work hard to achieve, just as I will work hard to insure that America remains strong, for I believe that a peaceful planet earth depends now, more than ever before, on the leadership, strength and prosperity of the United States of America.

I dream of a country whose future is transformed by the innovative and inventive genius of her scientists, a transformation whose great accomplishments work to support the worth of the land and the values of her people. I dream of an America leading a united, free and prosperous planet to explore the vast reaches of outer space. What wonders await us there?

Can my vision, my dream for America come to pass? Yes. If all of us will strive to work together, if we will open our hearts to one another, and to people everywhere, if we as Americans and as citizens of planet earth share our hopes, our dreams, and our visions, the power of the human imagination and the wisdom of the heart will accomplish all of this, and much more. I see America as an American, proud of its accomplishments and committed to making it truly a haven of prosperity and dreams. For in dreams come visions and through visions come new and exciting ventures for all of us to share. Yes. That is my vision for America.

IN HONOR OF GIRO ESPOSITO, JR.

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Ms. DELAURO. Mr. Speaker, on Friday, May 5, 1995, the Local Union 90 of the International Brotherhood of Electrical Workers [IBEW] will pay tribute to its business manager, Giro "Jerry" Esposito, Jr. in honor of his retirement. I would like to join Local 90 in commemorating this exceptional individual who has dedicated an entire career to his union and his craft. Jerry is a longtime family friend, and I am honored to have this opportunity to acknowledge his 43 years of service to the IBEW.

Jerry Esposito is not only an accomplished craftsman, but also a dependable coworker and an outstanding leader. His warm personality and high level of commitment have made him well respected by his colleagues at the IBEW. As the vice president, president, and most recently, the business manager, his dedication to the Electrical Workers Local 90 has never faltered and has resulted in prosperity and growth for the union.

Unions are crucial to the well-being of American workers and they depend heavily on the vitality and solidarity of their membership. Jerry Esposito's friends and fellow electrical workers have long relied on him as an essential member of their organization. He has always been active and willing to take the lead on important issues. As a member of the Connecticut Apprenticeship Council and the IBEW's Council on Industrial Relations, Jerry has given back both to his profession and to the union that has done so much for him.

I am sure his wife, Angie, and his children—Diane, Rosemary, and Patty—share in the tremendous pride that Jerry feels at this moment. I extend my heartfelt congratulations on this well-deserved tribute, and I commend Jerry Esposito for 43 years of distinguished work. I wish him many years of good health and happiness in his retirement.

"THE FANTASTICKS" ARE FANTASTIC

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to salute "The Fantasticks," the longest running show in American theater history, and the longest running musical in the world. The creation of Tom Jones and Harvey Schmidt, "The Fantasticks" is celebrating its 35th anniversary at the Sullivan Street Playhouse in New York's Greenwich Village today, May 3, 1995.

Approaching its 14,500th performance, "The Fantasticks" speaks to the most basic human emotions with an eloquence and style that transcends international and generational boundaries. Not only is "The Fantasticks" the longest running show in American theater history, but there have been over 8,300 productions of the musical performed in all 50 States. In addition to these college, community, and amateur productions, there have been no less than 15 national touring companies who have performed this wonderful show for tens of thousands of people throughout the country, and on dozens of U.S. military bases abroad.

"The Fantasticks" has also enjoyed extended popularity on the international stage. Each year, thousands of visitors from abroad visit the Sullivan Street Playhouse to take in a performance. "The Fantasticks" has also spawned more than 500 productions in 67 foreign countries in such places as Canada, Australia, Japan, Saudi Arabia, and Israel. The original cast recording of the play's music has sold more copies around the world than any other show.

And yet, it is not the incredible statistical records accumulated by this unique piece of theater that make it so extraordinary. "The Fantasticks" is special because for 35 years it has brought a countless number of people together to share an experience that they will take with them for the rest of their lives.

Mr. Speaker, I am proud to salute "The Fantasticks" on this, its 35th anniversary, and I hope my colleagues will join me in wishing it another 35 years of continued success.

ESTABLISHMENT OF SMALL BUSINESS ADMINISTRATION REGIONAL OFFICE ON UNITED STATES-MEXICO BORDER

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. COLEMAN. Mr. Speaker, I rise today to introduce a bill which would establish a Small Business Administration regional office for the United States-Mexico border region. The United States-Mexico border region faces unique economic and small-business circumstances which would best be addressed by devoting the efforts of a single office to the entire region. This measure is important now because of the recent economic events in Mexico which have severely affected businesses along the United States-Mexico border.

The SBA can and does help many border businesses, but many times their administrative structure does not allow for the special needs of our region. For too long, border SBA district offices, branch offices, and point-of-duty stations have had to report to regional offices in faraway cities. This causes the special needs of the region to be overlooked. My own SBA district office in El Paso reports to the regional office in Dallas which is over 600 miles away.

Apart from the distance question there is also the matter of SBA sensitivity to border business issues. Border cities' economic ties with Mexico give our business environment a special quality. The recent Mexican peso devaluation is a good example. In the retail industry, Texas border communities that cater to Mexican shoppers were the first to feel the effects of the peso devaluation.

Texas cities such as Laredo, McAllen, and El Paso all have shopping districts that rely heavily on sales to Mexican nationals. For example, the Laredo Chamber of Commerce estimates that retail sales in the downtown area dropped 60 to 80 percent in the last week of December, 1994, and the month of January. The McAllen Chamber of Commerce estimates that retail sales dropped about 20 percent by mid-January. In El Paso, which I represent, the Economic Development Council reports that downtown retail sales fell 70 to 75 percent after the devaluation. This has quite an impact, Mr. Speaker, because the retail sector comprises 25 percent of the El Paso economy.

These are the kinds of factors that make border economies unique and would best be served by a border regional SBA office. We need SBA management structure to reflect an understanding of United States/Mexico border needs. This bill would address that.

The establishment of a border regional SBA office is long overdue and I urge my colleagues to support it.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF SMALL BUSINESS ADMINISTRATION REGIONAL OFFICE ON U.S.-MEXICO BORDER.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Administrator of the Small Business Administration shall establish a regional office of the Small Business Administration in a community in the United States located—

(1) not more than 10 miles from the border between the United States and Mexico; and

(2) as close as practicable to the point that is halfway between San Diego, California, and Brownsville, Texas.

(b) REGIONAL ADMINISTRATOR.—The head of the office established under this section shall be the Regional Administrator of the Small Business Administration for the region of the United States located generally along the border between the United States and Mexico.

(c) FUNCTIONS.—The Administrator of the Small Business Administration shall delegate to the Regional Administrator referred to in subsection (b) the functions of the Administrator relating to administering activities conducted by the Small Business Administration in the region of the United States located generally along the border between the United States and Mexico.

RECOGNITION OF NATIONAL WEEK OF THE CHILD

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this body is the opportunity we occasionally get to recognize truly outstanding citizens of this country. Today I am especially pleased to recognize a group of citizens that are essential to the vitality of this country but are often overlooked, our children. I am happy to announce that the week of April 24, 1995, has been designated National Week of the Child.

As a father of two daughters, I know first hand the joys of raising children. My legislative successes pale in comparison to the rigors and joy of helping my children learn to take their first steps and learn to read. Sadly, I must pause to reflect on the tragedy in Oklahoma City as children lost their lives in an act of senseless violence. I am reminded that our children need to be protected as well as nurtured in this uncertain world.

This week we recognize that to do right by our children we must make sure that opportunities are available to all children to receive a good education, pursue any career, and to lend this Nation to greatness. Every child in America deserves to realize his or her full potential. They must be able to live and study without worrying about the basic necessities like food and shelter that many of us take for granted.

By declaring this week as the "Week of the Child," we are making it clear that we understand the need to dedicate ourselves to developing this country's most precious resource—our children.

TRIBUTE TO JUSTIN C. GORDON

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young man from my district who has recently accepted his appointment as a member of the Class of 1999 at the U.S. Military Academy.

Justin C. Gordon will soon graduate Keystone High School after 4 years of outstanding academic achievement as well as extracurricular involvement. While in high school Justin has distinguished himself as a leader among his peers. He is an outstanding student and patriot.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the Academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that Justin Gordon has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating him for his accomplishments to date and to wish him the best of luck as he begins his career in service to our country.

DEFICIT REDUCTION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 12, 1995 into the CONGRESSIONAL RECORD.

A PRIORITY ON DEFICIT REDUCTION

The House recently considered two bills to reduce taxes, a leadership bill and a minority party bill. I opposed both. My view is that before Congress cuts taxes it should reduce the deficit. The United States is currently $4.8 trillion dollars in debt. It makes no sense to borrow even more money to pay for a tax cut. We must reduce the deficit. I favor tax cuts, and would like to vote for them, but I believe our top priority should be cutting spending and balancing the budget.

THE TAX BILLS

Without doubt, the tax cut bills are attractive. Over five years the minority party bill would cut $32 billion in taxes with, among other things, tax deductions for higher education expenses and an expansion of Individual Retirement Accounts (IRAs). It would attempt to offset these tax cuts with a promise to save $25 billion in discretionary spending over the next five years, with another $7 billion in savings from other measures, including eliminating the tax-break for wealthy Americans who renounce their citizenship.

The leadership bill would instead cut taxes by $189 billion over five years, and another $452 billion in the following five years. Tax reductions include a cut in capital gains taxes, expanded IRAs, elimination of the minimum tax on corporations and a tax refund of up to $500 per child for families making up to $250,000. This bill also makes a promise to cut discretionary spending—by $100 billion over five years. Additional cuts assume $62 billion in savings from welfare block grants, $10 billion from Medicare, and other cuts for a total of $187 billion. This bill passed the House.

NO SPECIFIC CUTS

The tax cuts in both of these bills are specific, but most of the spending cuts are unspecified and little more than promises to avoid increasing spending in the future. These bills cut taxes now, and their proponents promise to cut spending later. That is what they said in 1981 when the national debt was less than $1 trillion. Today it is approaching $5 trillion and steadily increasing at the rate of $1 trillion per presidential term. Experience shows that spending cuts should come first.

NUMBER GAMES

I am concerned about how the House-passed bill is designed to reduce federal revenues by $189 billion in the first five years and then $452 billion in the next five years. This approach is used because House budget rules require offsetting spending cuts only in the first five years. The bill is 2½ times more costly in the second five years, but it does not include even a promise to reduce spending in those later years. These manipulative procedures are one reason we need to put spending cut money in the bank before we cut taxes.

TAX B[illegible]

I agree with my colleagues who say that taxes are too high. Federal, state, and local taxes consume a larger share of the average family's expenses than housing, food, clothing, and medical costs combined. High taxes discourage economic growth and savings. However, the national debt is a greater drag on the economy. One-seventh of every tax dollar pays interest on the national debt. Government borrowing drives up interest rates, increasing the cost of mortgage payments, student loans, and car payments. Deficit reduction is a huge tax cut for our children.

I understand the popular appeal of tax cuts, but have been pleased to note that a majority of Americans say they prefer balancing the budget to cutting taxes. The American people have their priorities exactly right. Proponents of tax cuts say Congress can cut spending enough to provide both. They argue that a tax cut leads to sufficient revenue growth to balance the budget. Recent economic history should make us extremely dubious of those arguments.

DISTRIBUTION

While there is much debate over how much the tax bill benefits the wealthy, and the statistics can be quite confusing, all agree that the great bulk of tax benefits would go to those who are better-off. The tax bill accelerates the widening gap between the rich and everyone else. When coupled with the recent spending cuts tilted sharply against the working poor, the result is an unfair transfer of resources from the needy to the rich. The U.S. Treasury estimates that half of the tax breaks would go to families making more than $100,000 per year—the top 10% of all taxpayers, and just 5% of Ninth District residents. Overall, the average family in the Ninth District would receive less than $300 a year from this bill, while families making over $100,000 a year would receive an average of $4,300.

ECONOMIC GROWTH

This bill also creates many new tax shelters that distort investment decisions and make the economy less efficient. Many provisions simply tell investors to put their money where they could get the biggest tax break. Leading business economists tell us that is a formula for economic stagnation. Sensible tax policy would encourage investors to put their money where it could produce valuable goods and services.

I support capital gains cuts that are focused on increasing long-term investment. But the structure of the capital gains tax cuts in the bill makes no distinction between long-term investment and short-term speculation, and the bill repeals the current small business investment credit. The tax rate for long-term small business investment increases under the bill from 14% to 19.8% to pay for a bigger cut for large corporations. This bill would reduce the national savings rate.

I also question the need for a short-term economic boost. The country is in the middle of one of the most successful periods of economic growth in its history. The economy has grown so swiftly that the Federal Reserve has raised interest rates 7 times to keep inflation in check. Surely stimulating more rapid growth would result in either more interest rate hikes or increased inflation. My view is that deficit reduction will be more effective at increasing long-term investment and economic growth.

CONCLUSION

It is urgent that Congress act today to erase the deficit. The tax bill passed by the House makes that goal much harder to fulfill. A tax cut in such circumstances is self-indulgent. We should not shift to the next generation a burden that this generation should bear.

JIM HYLAND: A NEIGHBOR WHO WENT THE EXTRA MILE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. LOWEY. Mr. Speaker, today I rise to honor Jim Hyland—a resident of the 18th Congressional District of New York—for his enduring commitment to our community. Jim Hyland exemplifies both leadership and service to his community. For 36 years, Mr. Hyland has worked with Citibank in the areas of lending and marketing. During his impressive career with the company, Mr. Hyland has served both as branch manager and as area director.

Jim Hyland's tireless community work is firmly evidenced by his current position as Citibank's Government and community relations officer for the Westchester, Mid Hudson, and Long Island regions. As the bank's representative in the community, Mr. Hyland brings Citibank's resources to the neighborhoods it serves.

Mr. Speaker, Jim's tenure at Citibank alone would have been enough to merit recognition. However, his grassroots campaign to improve the quality of neighborhood life does not end with his efforts at Citibank. In addition, he serves on several area boards of directors, including: Food Patch; Private Industry Council; Westchester Light House; Westchester/Putnam Affirmative Action; National Conference of Christians and Jews; and the Long Island Housing Partnership.

Aside from his commitment to community service, Jim Hyland is a dedicated husband, father and grandfather. Jim and his wife Joan, a registered nurse, live in Yorktown, NY. They have 7 wonderful children and 11 grandchildren.

Jim truly represents Citibank to the communities he serves. His love of people has compelled him to give of himself to help others. Jim's community outreach work, coupled with his remarkable sense of humor, have brought laughter and joy to so many over his 36-year career.

Mr. Speaker, on behalf of the friends, colleagues, admirers, and family of Jim Hyland, I hereby express heartfelt appreciation for his years of service and recognize the joyous occasion of his retirement. I am pleased to salute him.

THE OKLAHOMA CITY TRAGEDY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. SCHROEDER. Mr. Speaker, I would like to talk about several Coloradans impacted by the Oklahoma disaster.

A Fort Carson soldier spoke yesterday of the bitter irony that sent a good friend to a deadly work detail in Oklahoma City instead of him.

Sfc. Lola R. Bolden, 40, died in the bombing attack last Wednesday that killed at least 80 people in the Alfred P. Murrah Federal Building in Oklahoma City.

It could just as easily have been Sfc. Bobby Thornton who was killed.

"I wish I had taken the assignment, and she stayed here," Thornton said sadly yesterday. "It's hard to take."

But, he said, "If I had gone to Oklahoma City, my kids would have been in that day care—where 13 children were killed—that's what I've always been thinking, and it hurts the most."

Bolden, 40, formerly of Widefield, transferred to Oklahoma City in January. She and Thornton had been promoted at the same time, and one had to leave Fort Carson.

But Bolden was quicker making telephone calls, and she beat Thornton to the Army recruiting assignment in Oklahoma City.

"Everyone liked her. She would always get the job done, no matter what," Thornton said. "This really hurts a lot."

Thornton said he talked to Bolden a month ago. She had spotted a good job assignment that he could have applied for, and she wanted to pass on the tip.

"That's the kind of person she was," he said.

When he heard of the bombing, "Chills went through my body. I kept calling her home that day. I finally got a neighbor and told him, 'Tell me it's not true.'"

But it was.

Lola Bolden was divorced and is survived by three children. Two of them, ages 11 and 13, lived with her in Oklahoma City. An adult daughter lives in Birmingham, AL.

Meanwhile yesterday, another former Colorado man struggled with dimming hopes that his wife of 25 years would be found alive.

"There's been no word yet. Not a word," said Michael Meek, now of Moore, OK.

Claudette Meek, 43, graduated from Widefield, CO High School in 1969. She and Michael met there and had been together ever since. She worked at the Federal credit union in Oklahoma City.

Michael Meek had bought her 25 roses and was set to meet her for lunch Wednesday to celebrate his birthday.

He never got to give her those roses.

The Meeks have two children, ages 21 and 25.

"She (Claudette) touched a lot of people. That's the type of person she is," he said. "Her challenge is to serve people."

These wonderful Americans were just trying to serve their country when they died. My deepest sympathy goes out to their survivors.

Mr. Speaker, let me put some biographical sketches of Special Agents killed in Oklahoma City. We must not forget them.

BIOGRAPHICAL SKETCHES

Mickey B. Maroney, Special Agent, October 29, 1944–April 19, 1995

Mickey was appointed as a special agent on June 14, 1971, in the Forth Worth Office. Prior to his assignment to Oklahoma City, he served with the Johnson Protective Division. He is survived by his wife, Robbie, and children, Alice Ann (age 27) and Mickey Paul (age 23).

Linda G. McKinney Office Manager, body recovered on April 30

Linda was appointed to the Secret Service on June 28, 1981, in Oklahoma City. Linda is married to Danny McKinney and has a son, Jason Derek Smith (age 22). Linda's mother, Ms. Minnie J. Griffin, resides in Fittstown, Oklahoma.

Alan G. Whicher, Assistant Special Agent in Charge, July 12, 1954–April 19, 1995

Al was appointed to the Secret Service on April 12, 1976, in the Washington Field Office. His career included assignments to the Vice Presidential Protective Division, New York Field Office, Liaison Division, and the Presidential Protective Division. He is survived by his wife, Pamela Sue, and three children, Meredith Sue (age 16), Melinda Therese (age 15), and Ryan Gerald (age 13). Al's mother, Mrs. Elizabeth Whicher of Boonsboro, Maryland, also survives him.

Kathy L. Seidl, Investigative Assistant, November 13, 1955–April 19, 1995

Kathy was appointed to the Secret Service on March 17, 1985, in Oklahoma City. She is survived by her husband, Glenn, son Clinton Glenn Seidl, age 7, and stepson, Marcus Glenn Seidl, age 15. Kathy's parents, Dallas and Sharon Davis of Mustang, Oklahoma, also survive her.

Donald R. Leonard, Special Agent, June 27, 1944–April 19, 1995

Don was appointed as a special agent on November 16, 1970, in Oklahoma City. His career included assignments in the Tulsa Resident Agency, the Protective Support Division, the Vice Presidential Protective Division, and the St. Louis Field Office. Don is survived by his wife, Diane, and sons, Bradley Eugene (age 26), Jason Ray (age 23), and Timothy Gordon (age 22).

Cynthia L. Brown, Special Agent, April 15, 1969–April 19, 1995

Cindy was married to Special Agent Ron Brown of the Phoenix Field Office. She was appointed as a special agent on March 21, 1994, and assigned to Oklahoma City. In addition to her husband, she is survived by her parents, Linda Campbell of Rantoul, Illinois, and Gary Campbell of Sherman, Texas.

TRIBUTE TO FRANCISCO DUENAS PEREZ

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. UNDERWOOD. Mr. Speaker, I would like to take this occasion to commend one of the island's principal leaders upon his induction to the Guam Business Hall of Fame. Mr. Francisco Duenas Perez, through the years, has contributed greatly towards the development and economic stability of his home, the Island of Guam.

Better known as Frank D. Perez, he was born in the city of Agana to Jesus Flores Perez and Margarita Mendiola Duenas on July 5, 1913. He attended the Guam Elementary School and the Guam Evening High School, where he graduated with honors in 1933. Although he was accepted by the University of California at Davis, he decided not to leave the island in order to stay with his ailing mother. This industrial pioneer instead opted to engage in his first business venture at the young age of 20. He established a poultry farm which sold and exported high quality eggs to the local community and off-island localities such as Wake, Midway, and Johnston Islands.

The destruction brought about by World War II opened a window of opportunity for him to focus on the field of construction and development. In 1947, he joined Kenneth T. Jones, Jr., and Segundo Leon Guerrero in the formation of the Pacific Construction Co. Roughly 4 years later, he and family members founded the Frank D. Perez and Bros. Co., a conglomerate comprising a hardware store, a concrete block plant, and a construction company. Frank served as its president and general manager.

The company was incorporated in 1960 and came to be known as Perez Bros., Inc. They have since been pioneers in the development of housing subdivisions on the island. Perezville, the island's first private housing subdivision, was the outcome of this campaign spearheaded by Frank through Perez Bros. A virtual wilderness back in 1933 when Frank first acquired the land, Perezville, is now regarded as one of the island's best housing developments. Perezville and scores of high quality structures around the island could be considered as legacies of Frank Perez and Perez Bros.

His involvement in business ventures, however, has never caused him to cut back on his civic commitments. Aside from active participation in church and community projects, he has also made a mark in local governmental affairs. He was appointed to the House Assembly in 1937 while still in his twenties and went on to serve as an elected member of the Guam Legislature and its predecessor, the Guam Congress. It was as a senator in the Eighth Guam Legislature in 1965 that he sponsored a bill that established the Guam Economic Development Authority [GEDA], the agency which became the catalyst for Guam's economic development.

After seemingly countless decades of dedicated service and substantial contributions to the community, Frank Perez still chooses to remain active. He still attends to the business of Perez Bros. With Frank on the job, the island can continue to count on Perez Bros. to provide the same quality products and service that we have grown accustomed to during the more than four decades under his supervision.

Frank D. Perez, for the better part of this century, has contributed greatly to every aspect of Guam's development. I would like to take this occasion to commend and congratulate him on all his accomplishments and on his well-deserved induction to the Guam Business Hall of Fame. I join his wife, the former Carmen Sirena Camcho Duenas; his children: Frank, Joseph, Gregory, George, Thomas, Daniel, John, Mary, Carmen, and Margarita; who, together with the Guam Chamber of Commerce and the people of Guam, celebrate this man's extraordinary accomplishments.

DIVIDENDS RECEIVED DEDUCTION

HON. BILL ARCHER

OF TEXAS

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. ARCHER. Mr. Speaker, recent news reports suggest that corporate taxpayers may be attempting to dispose of stock of other corporations through stock redemption transactions that are the economic equivalent of sales. The transactions are structured so that the redeemed corporate shareholder apparently expects to take the position that the transaction qualifies for the corporate dividends received deduction and therefore substantially avoids the payment of full tax on the gain that would apply to a sales transaction.

For example, it has been reported that Seagram Co. intends to take the position that the corporate dividends received deduction will eliminate tax on significant distributions received from DuPont Co. in a redemption of almost all the DuPont stock held by Seagram, coupled with the issuance of certain rights to reacquire DuPont stock.—See, for example Landro and Shapiro, Hollywood Shuffle, Wall Street Journal pp. A1 and A11, April 7, 1995; Sloan, For Seagram and DuPont, a Tax Deal that No One Wants to Bandy About, Washington Post p.D3, April 11, 1995; Sheppard, Can Seagram Bail Out of DuPont without Capital Gain Tax, Tax Notes Today, 95 TNT 75–4, April 10, 1995.—Moreover, it is reported that investment bankers and other advisors are actively marketing this potential transaction. We would like to express our appreciation to Congressman STEPHEN HORN for his efforts in bringing this issue to our attention.

Today we introduce legislation intended to curtail the use of such transactions immediately. We believe the approach adopted in the bill is the correct approach, given the incentives under present law for corporations to structure transactions in an attempt to obtain the benefits of the dividends received deduction. We welcome comments on the bill and recognize that additional or alternative legislative changes may also be appropriate. However, it is anticipated that any legislative change that is enacted would apply to transactions after May 3, 1995.

No inference is intended that any transaction of the type described in the proposed legislation would, in fact, produce the results apparently sought by the taxpayers under present law. The bill does not address and does not modify present law regarding whether a transaction would otherwise be eligible for the dividends received deduction, nor is it intended to restrict the IRS or Treasury Department from issuing guidance regarding these or other issues.

The bill is directed at corporate shareholders because it is believed that the existence of the dividends received deduction under present law creates incentives for corporate taxpayers to report transactions selectively as dividends or sales. No inference is intended that any transaction characterized as a sale under the bill necessarily would be so characterized if the shareholder were an individual.

DESCRIPTION OF THE BILL

Under the bill, except as provided in regulations, any non pro rata redemption or partial liquidation distribution to a corporate shareholder that is otherwise eligible for the dividends received deduction under section 243, 244, or 245 of the code would be treated as a sale of the stock redeemed. The bill applies to dividends to 80-percent shareholders that would qualify for the 100-percent dividends received deduction as well as to other transactions qualifying for a lesser dividends received deduction. It is not intended to apply to dividends that are eliminated between members of affiliated groups filing consolidated returns. However, it is expected that the Treasury Department will consider whether any changes to the consolidated return regulations would be necessary to prevent avoidance of the purposes of the bill.

The bill would replace the present law provision (sec. 1059(e)(1)) that requires a corporate shareholder to reduce basis—but not recognize immediate gain—in the case of certain non pro rata redemptions or partial liquidation distributions.

It is intended that the bill apply to all non pro rata redemptions except to the extent provided by regulations.

The bill retains the existing Treasury Department regulatory authority, contained in section

1059(g) of present law, to issue regulations, including regulations that provide for the application of the provision in the case of stock dividends, stock splits, reorganizations, and other similar transactions and in the case of stock held by pass through entities. Thus, the Treasury Department can issue regulations to carry out the purposes or prevent the avoidance of the bill.

It is expected that recapitalizations or other transactions that could accomplish results similar to any non pro rata redemption or partial liquidation will also be subject to the provisions of the bill as appropriate.

It is also expected that redemptions of shares held by a partnership will be subject to the provision to the extent there are corporate partners.

There are concerns that taxpayers might seek to structure transactions to take advantage of sale treatment and inappropriately recognize losses. It is expected that the Treasury Department will by regulations address these and other concerns, including by denying losses in appropriate cases or providing rules for the allocation of basis.

It is anticipated that the private tax bar and other tax experts will provide input concerning the proposed legislation before its enactment. It is hoped that this process will identify any problems with the proposed legislation and potential improvements. Comment is encouraged in particular with respect to the loss disallowance provision, including whether the loss disallowance should be mandatory. Comment is also encouraged as to whether additional transition should be provided for existing rights to redeem contained in the terms of outstanding stock or otherwise.

EFFECTIVE DATE

The bill would be effective for redemptions occurring after May 3, 1995, unless pursuant to the terms of a written binding contract in effect on May 3, 1995 or pursuant to the terms of a tender offer outstanding on May 3, 1995.

No inference is intended regarding the tax treatment of any transaction within the scope of the bill. For example, no inference is intended that any transaction within the scope of the bill would otherwise be treated as a sale or exchange under the provisions of present law. At the same time, no inference is intended that any distribution to an individual shareholder that would be within the scope of the bill if made to a corporation should be treated as a sale or exchange to that individual because of the existence of the bill.

BROADCAST OWNERSHIP BILL

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. STEARNS. Mr. Speaker, today, I am proud to introduce a bipartisan bill to reduce the restrictions on ownership of broadcasting stations and other media of mass communication. Congressman RALPH HALL from Texas, along with a number of my esteemed Republican colleagues support this bill which repeals antiquated rules and regulations and brings broadcasting up to date with technology. The bill states that the FCC is not to prescribe or enforce any regulations concerning cross ownership. The only rules that the FCC can make address national caps and local ownership combinations. The video marketplace has undergone significant changes. Today, most Americans have access not only to many over-the-air broadcast channels, but also subscribe to cable, or own a home satellite receiver. With telephone company entry into the video marketplace, American consumers will have additional options from which to choose their programming. Despite all these advances in technology, broadcasting should remain a vital component in the information age. Broadcast television occupies a unique position in the world of telecommunications. Broadcasting is not only the only technology available to 100 percent of American households, the content it provides is free. The only cost is for a receiver.

The bill does the following: First, states that the FCC shall not prescribe or enforce rules limiting crossownership of mediums of mass communications; second, increases the aggregate national audience reach from 25 to 35 percent upon enactment. One year later allows the cap to increase to 50 percent. The bill contains a built-in safeguard; within 2 years of enactment of the bill, the FCC is to commission a study to ensure competition in the marketplace; third, the bill allows certain station ownership combinations in a market: UHF/UHF; UHF/VHF and if the Commission determines that it will not harm competition and will not harm the preservation of a diversity of voices in the local market, VHF/VHF combinations; fourth, the bill also repeals all radio ownership restrictions.

I might add that this bill will be presented as an amendment to the communications act of 1995, which has the full support of Chairman BLILEY and Chairman FIELDS and as previously mentioned, it is bipartisan.

CONGRATULATING CHERYL STEVENS, HONOR ROLL TEACHER

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. BENTSEN. Mr. Speaker, I rise today to congratulate Cheryl D. Stevens, of Roberts Elementary School in Houston. TX. Ms. Stevens has been named by the Association of Science-Technology Centers to its 1995 Honor Roll of Teachers.

The Children's Museum of Houston, which nominated Ms. Stevens for the honor roll, recognized her remarkable dedication to the world of science and teaching, Ms. Stevens excels in both at Roberts Elementary, where she teaches science to kindergarten through fifth graders. She and her students are participants in Science-by-Mail, a pen pal program designed to match fourth through ninth graders with scientists around the country. Over 20,000 kids and 20,000 teachers are involved in Science-by-Mail. In addition to Science-by-Mail's regular pen pal program, Ms. Stevens and her classes have participated in a special Science-by-Mail teleconference, Teltrain XI, a video town meeting televised around the country for scientists and students.

Ms. Stevens is also active in the Annual Meet Your Scientist Day, which will take place this year on Saturday, May 6, 1995. Over 300 school children will meet with scientists to learn more about the world of science and technology. This year, Ms. Stevens will be honored for her recognition as one of ASTC's honor roll teachers for 1995.

Ms. Stevens is a member of the Magic School Bus Advisory Committee, sponsored by the National Science Foundation and the Children's Museum of Houston. She also works actively on the Science and Technology Committee and the Building Blocks for a Healthy Classroom Conference at the museum.

Only 43 teachers were named to the 10th annual ASTC's honor roll. Each teacher has gone beyond the normal requirements of their school curriculum by using the resources of their local science center to inspire, educate, and stimulate students' interest in science and technology. I salute Ms. Stevens on her accomplishments and especially for her commitment to teaching. She is an outstanding role model for Houston's teachers and students. Her placement on ASTC's Honor Roll of Teachers is well-deserved.

OPENING OF THE SPECIAL EXHIBIT "DEFENDING RELIGIOUS LIBERTY"

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. SMITH of New Jersey. Mr. Speaker, thank you for this opportunity to speak out for religious freedom.

The worldwide religion known as the Baha'i Faith is one of the most peace-loving groups in the world—and yet one of the most consistently persecuted.

The Baha'i Faith began in Persia in the 1840's, and spread rapidly through the Mideast, where Islam has historically been dominant. Though the Baha'i Faith now has adherents all around the world, including all 50 States of the United States, its historic links to the Mideast have helped bring it repeatedly into conflict with Islam.

Islam, like most other world religions, teaches certain truths that its adherents take to be absolute. Baha'is take a different approach, seeing all religions as successive revelations, each with a partial truth.

These questions are faced, one way or another, by all men and women of conscience. And it is inevitable that many of us will come out differently on these questions. In decent societies—in free societies—we respect each other's freedom of conscience. If we seek to persuade one another, we do it in friendship, and with respect.

But in some parts of the world, force is still used to settle religious issues. In Iran, with its extremist regime, the fact that the Baha'is question Islam's claim to represent God's full and final revelation makes them a target of unceasing persecution. The fact that the

Baha'i Faith arose on territory in which Islam has been dominant for some 1,400 years, and among ethnic groups with a long Islamic heritage, seems to be an unbearable irritant to the Iranian regime. They view the Baha'is as worse than mere adherents of another religion—which, in their eyes, is quite bad enough. They view them as something worse: as heretics, as conscious destroyers of Islam.

For those of us who have met Baha'i believers—even those of us who come from a religious perspective quite different from theirs—the notion that they would be destroyers of anything is simply absurd.

Yet Baha'is in Iran have no legal rights, despite being the largest religious minority in that country. More than 200 Iranian Baha'is, including women and teenage girls, have been executed for their faith since 1979. Thousands have faced torture and imprisonment for refusing to convert to Islam. Tens of thousands have lost their jobs, and been forced to repay past salaries or pensions. All Baha'i students were expelled from Iranian universities by 1982.

President Clinton has placed Iran's treatment of its Baha'i minority on a par with ethnic cleansing in the former Yugoslavia. Given the professed intention of the Iranian regime to block the progress and development of the Baha'i Faith. I would have to agree with the President on this.

I salute my colleagues for sponsoring this exhibition on the persecution of the Baha'i Faith community. I hope it will inspire all who see it to stand up for religious freedom.

Thank you very much.

A SALUTE TO SMALL BUSINESS WEEK

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. MFUME. Mr. Speaker, I rise today to remind my colleagues, as well as the American public, that the week beginning April 30 is National Small Business Week, and I would like to take this opportunity to discuss small and minority-owned businesses and the role they play in our economy.

Not all Americans realize how important small businesses are to our national economy. Although the definition of a small business is sometimes varied, the fact of the matter is that firms with less than 100 employees account for more than 98 percent of the Nation's enterprises. Furthermore, between September 1991 and September 1992, jobs in small business dominated industries increased by 177,700 which helped to offset the 400,000 job decrease in industries dominated by large businesses.

While nonminority men still own the lion's share of small businesses and still represent the largest number of sales, minority- and women-owned businesses are increasing in size and number. Minority-owned businesses have increased from approximately 380,000 in 1969 to 1.5 million today. Despite this increase, however, minorities are still not fairly represented in small business ownership; while minorities comprise nearly 20 percent of the total U.S. population, they own less than 9 pecent of American businesses.

In addition to playing an important role in the national economy, minority- and women-owned businesses also tend to play important roles in their communities. In many poor, urban communities, minority-owned businesses are often the only commercial establishments available. Furthermore, as was demonstrated in a recent Department of Labor study, minority- and women-owned businesses are more likely to hire minorities and women than are businesses owned by nonminority men. In short, minority- and women-owned businesses fill voids in their communities and in the labor market that otherwise may be left empty.

Despite the importance of small and minority-owned businesses, they nevertheless face numerous problems. The primary obstacle facing most small businesses, regardless of their ownership, is the lack of capital. Despite numerous creative programs at the Federal, State, and local levels, the fact remains that capital is hard to come by.

This is especially true of minority- and women-owned businesses. In addition to the fact that minorities and women often lack the business connections and record of experience that has been so useful to many nonminority men in establishing their businesses, discrimination unfortunately also remains a problem. Further, many banks or lending institutions are hesitant to lend capital to minorities or women, especially if their business is going to be based in a poor, inner-city neighborhood.

As a member of the Small Business Committee as well as the Banking and Financial Service Committee, I am committed to do what I can to see that small and minority-owned businesses are provided with the tools necessary to succeed. Small and specifically, minority-owned businesses are too important to our national economy and our communities to allow them to falter. As we salute Small Business Week, I hope we will move forward with an agenda that supports the growth and development of small and minority-owned businesses.

TRIBUTE TO GERALD E. EDWARDS OF DELTA, OH

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Ms. KAPTUR. Mr. Speaker, I rise today to pay tribute to Mr. Gerald E. Edwards of Delta, OH, in my district. Mr. Edwards is to be honored by his community as the 1995 Delta Citizen of the Year. The award is indeed a fitting one, as he embodies all of the best attributes of the term "good citizen."

In addition to the insurance agency that he manages and the six properties he owns and maintains, Mr. Edwards has always found the time to engage in a multitude of volunteer activities. Always one to take the lead, he is an excellent example of one who takes his civic responsibilities seriously.

Committed to his community, Mr. Edwards has served as a long-time volunteer on the Delta fire/rescue squad, including his service as a past chief of the rescue squad. He is a past president of the Delta Chamber of Commerce and past president and past district governor of the Delta Rotary Club. Equally committed to his faith, he has served as an elder of the Delta Church of Christ. Currently, Mr. Edwards serves as the president of the Delta Family FOCUS [Friends of the Community United in Service] and as president of the Delta Library Board.

Perhaps most telling of his giving nature and commitment to his community is Mr. Edwards' Thanksgiving tradition of inviting members of his community who are without a traditional Thanksgiving meal to join him and his family for theirs. This past Thanksgiving, the Edwards family baked 30 pies, peeled 50 pounds of potatoes, cooked 5 turkeys, and picked enough green beans and served enough homemade applesauce, rolls, and coffee to feed nearly 200 people in Delta, OH, who may not have been able to experience the American tradition of Thanksgiving. He is truly an inspiration to those who know him.

Mr. Speaker, I know my colleagues join me in honoring a man whose sevice and responsibility to his community should serve as a reminder to us all of the limitless ability of one man or woman to improve and contribute to the lives in their community. Gerald Edwards of Delta, OH, represents in many ways the true meaning of citizenship. His contributions to the village of Delta have earned him a most deserved designation as its Citizen of the Year for 1995. I am honored to have this opportunity to recognize his selflessness and to represent him in the Congress of the United States.

LOYALTY DAY IS A CELEBRATION OF AMERICA

HON. MARSHALL "MARK" SANFORD

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. SANFORD. Mr. Speaker, Loyalty Day is a time for all Americans to challenge ourselves to capture the spirit of America, and to bring it to life in everything that we do. It is observed every May 1 as a celebration of life, liberty, and the pursuit of happiness.

Loyalty Day was established by the Veterans of Foreign Wars. I am proud to pay tribute to the VFW and its members, both for the sacrifices that they have made in the service of their country, and for their dedication to the principles that made this country great. The State commander for the department of South Carolina, Keith Harper, has spent many years promoting American values. He is one of the finest Americans that I know, and I hope that every Member of this House will take the time to read his comments on Loyalty Day, and to join me in saluting the VFW for establishing this holiday.

LOYALTY DAY 1995

Of all the holidays we celebrate in this country, none gets less attention than Loyalty Day. Even Labor Day is better known.

So that's why I'm happy to be here today, to share with you some thoughts on Loyalty Day and what this day is all about.

Unlike the 4th of July, it does not celebrate a specific date in our history. Unlike Veterans Day, it does not recognize a certain group of individuals. Unlike President's Day, it does not honor some of our former Presidents. Unlike Memorial Day, it does not ask us to pause and remember those who did so much for our country.

What it does is this: Loyalty Day is a celebration of America. It's a celebration of life, liberty and the pursuit of happiness. It's a celebration of what you are and what you want to be.

In a way, Loyalty Day is a challenge. It challenges each and every one of us to capture the spirit of America and bring it to life in everything we do. Loyalty Day is a trip into the future.

The Veterans of Foreign Wars take great pride in this holiday. After all, we started it.

During the dark days of the 1920's, when America was wracked by the worst depression anyone had ever seen, many Americans began to question our Government, our economy, our politics, and our very way of life.

And where there were people with questions, there were Communists running around with their own kind of answers. They say in our hard times, good times for them to overthrow our Government.

They were everywhere. They held meetings, they marched in parades, they catered to the out-or-work and the hungry, and they even tried to get American children to join their Communist youth organizations, right here in America.

The VFW fought back, our members had given too much, suffered too much, and sacrificed too much in WWI to let a bunch of Communists take America away from us.

We held our own meetings, we helped our own out-of-work and hungry, and we began to teach the children of this country what America was all about.

And on May Day we held our own parades. That was a day the Communists had claimed as their own, the one on which they celebrated their revolution. Well, we set things straight. We made it an American holiday. And when the Communists paraded down one street, we paraded up the next.

On May 1st, 1930, we held a parade in New York City that had 10,000 VFW and Ladies Auxiliary members in it. Over 100,000 people turned out to see it.

And when the parade reached Union Square, there was a patriotic rally, with speeches and dozens of bands playing the Star Spangled Banner.

Though wracked by depression, America at heart was alive and well, and in the tough times that followed, each celebration of Loyalty Day gave new hope that America would survive. And as our VFW parades grew larger, the Communists' parades grew smaller and smaller. Today they are completely gone.

In 1955, we asked Congress to proclaim Loyalty Day a national holiday, and one of our members who was a Senator from Pennsylvania introduced that legislation in Congress.

In signing the legislation, President Eisenhower said, "The prime requisite for retaining our freedom is unswerving devotion to the liberties embodied in our Constitution."

You who came here today are the kind of people he was talking about. The kind of people who know what America stands for and who take the time and make the effort to support what America stands for.

We meet here for one day to celebrate what we enjoy everyday, life, liberty and the pursuit of happiness. Those are the ideals on which America was founded and for which millions of Americans have fought to protect and preserve.

We carry on that fight today. We fought communism on the streets of America and on battlefields all over the world. Along the way, we fought the Axis powers in Europe, and the Japanese in the Pacific.

We paid a high price for the liberty and freedom we enjoy today. Yet, even as we meet here as free people in a strong and powerful nation, the question hangs over us; who will be our enemy tomorrow?

Will they attack us on main street or from some foreign location? No one knows. But one thing is certain, you and I will be the first line of defense. Patriotism is the best weapon you can have in any battle, and patriotism is based on knowing what your country stands for, and believing in what it stands for.

Abraham Lincoln described our American government as being a government of the people, for the people, and by the people. As such, we determine our own future.

You and I are some of the most important people in this country. What we want today is what America will be tomorrow. Washington does not tell us what we will be, we tell them.

But as wonderful as it sounds, our government requires a lot of work from each of us. And no one knows that better than the mayors who are with us today. They are really on the frontlines.

If we want a drug-free society, we have to fight for a drug-free society. Thinking about it won't make it happen.

If we want a better education system for our children, we have to fight for it. Thinking about it won't make it happen.

If we want our American military to be the best in the world and not be thrown away piece by piece in little battles that serve no national purpose, we have to fight for it. Thinking about it won't make it happen.

Freedom and democracy require a lot of work from each of us, and you do not have to wear a uniform or carry a weapon to defend them. You just have to do what you're doing right now, taking an active part in America. And to the mayors here, I offer the full support of the VFW.

That's the purpose and that's the message of Loyalty Day. It's a day on which we discuss the future of America, and the part each of us will play in reaching those goals.

It's a day to take pride in yourself, our community, our nation and our flag.

And I thank you for taking part in our Loyalty Day celebration. God bless you, and God bless America.

TRIBUTE TO RALPH NEAS AND THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to Ralph Neas and the Leadership Conference on Civil Rights, true leaders in the fight for civil rights. For the last 45 years the conference has worked diligently on this effort and has been successful in accomplishing some of the biggest civil rights victories in our Nation's history.

Many of these victories were won during the past 14 years under the successful leadership of Ralph Neas. Ralph has directed the lobbying, grassroots, legal research, and media efforts of the largest, oldest, and most broadly based civil rights coalition in this Nation. Ralph always believed his professional training as chief legislative assistant to two Senators and his triumph over Guillan-Barre syndrome had adequately prepared him for the challenges which were ahead for LCCR. During his tenure, Ralph served as a coalition builder as he kept the conference's diverse leadership united and effective. Through his work with LCCR, he has earned respect for his ability to build bridges between disparate communities of interest and across the spectrum of political ideologies.

The first major victory which Ralph and his LCCR colleagues won was passage of the Voting Rights Act of 1982. Bipartisanship, creativity, and leadership were all necessary to win this uphill battle. The Leadership Conference, led by Ralph exhibited all of these qualities during the almost 2-year campaign to enact this major piece of legislation. The hard work of LCCR set the stage for what would be numerous victories throughout his next 14 years as executive director.

Ralph Neas was one of the first leaders of the mainstream civil rights movement to recognize the civil rights struggle of people with disabilities. He brought disability issues to the forefront of the civil rights struggle and was instrumental in securing the enactment of the first civil rights laws for people with disabilities, the Americans With Disabilities Act. This would not have been possible without Ralph's vision, leadership, and commitment.

Ralph is also well known as a brilliant legislative strategist. Using that skill, as well as creativity and leadership, he led the fights which resulted in the passage of several additional major legislative initiatives. These initiatives include: the Civil Rights Act of 1991, the fair housing amendments of 1988, the Japanese-American redress bill, and the Civil Rights Restoration Act.

Not only did Ralph Neas experience great legislative success as the executive director of LCCR, he also experienced great institutional successes. His astute management led to a massive growth of the conference. The organization's budget grew seven fold since 1981 and added more than 50 new national organizations. Currently, 180 national organizations with memberships totaling more than 50 million Americans now belong to the conference. This significant growth has allowed LCCR to meet new challenges as an even stronger, more united, and effective group.

In addition to his duties as executive director, Ralph Neas managed the Leadership Conference's education fund, an independent organization that supports educational activities relevant to civil rights. In this capacity, he has supervised projects promoting tolerance an diversity, has led a successful children's antidiscrimination campaign, and published books and reports on emerging civil rights issues.

This month, Ralph will step down as executive director of the Leadership Conference and will embark upon new challenges in his life and career. We can all be assured that the new challenges which lie ahead for him will be marked by continued commitment to justice and equality for all Americans.

It is my pleasure to join many Americans in thanking Ralph for his unselfish service to his Nation and its people. It is also my distinct pleasure to congratulate the Leadership Conference on its 45th anniversary. Due to the Ralph Neas and the Leadership Conference's commitment and dedication to the civil rights movement, the past 45 years have been a strong, legislative, bipartisan reaffirmation of civil rights. We are a greater Nation because of the many successful battles fought and won by Ralph Neas and the Leadership Conference on civil rights, and I know that Ralph and the LCCR will continue to lead the way towards a nation of equality, justice, and strength.

TRIBUTE TO GIRL SCOUT GOLD AWARD RECIPIENTS

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. LAHOOD. Mr. Speaker, today I would like to salute a group of outstanding young women who will be honored with the Girl Scouts of the U.S.A. Gold Award by Kickapoo Council of Girl Scouts in Peoria, Illinois.

All are being honored on May 7, 1995, for earning the highest achievement award in Girl Scouting. The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development. The Girl Scout Gold Award can be earned by girls aged 14–17, or in grades 9–12.

Girl Scouts of the U.S.A., an organization serving over 2.6 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches, earn the Career Exploration Pin, earn the Senior Girl Scout Leadership Award, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Gold Award project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

The earning of the Girl Scout Gold Award is a major accomplishment, and I believe all of these girls should receive the public recognition due them for this significant service to their community and their country.

Following are the honorees: Jodi King, Kelly Cox, Buffie Icenogle, Monica Knapp, Marcy Mattern, Jolene Zessin, Jennifer Isaacs, Stacey Utley, and Rachel Moreno.

CARNEGIE HILL NEIGHBORS' 25TH ANNIVERSARY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to Carnegie Hill Neighbors, Inc. on this, its 25th anniversary. On May 1, Carnegie Hill Neighbors celebrated two and a half decades of outstanding service to the city of New York.

For over 25 years, the group's record of achievement in community service has been outstanding. Carnegie Hill Neighbors has been a major force in protecting thousands of New York City's most important buildings, and improving the aesthetic surroundings that we in New York have come to enjoy.

Carnegie Hill Neighbors represents a district that traverses from Museum Mile up to Third Avenue and from 86th Street to 98th Street. As the proud Member of Congress from this area, I know first-hand how Carnegie Hill Neighbors has strived to preserve 19th century brownstones, museums, prewar limestone apartment buildings, and other institutions that make up one of New York City's most unique architectural districts.

One of the group's top priorities has been to establish zoning laws which protect the architectural magnificence that exists in the city, and ensure that future buildings only add to the city's charm and beauty. In the first 3 years of its existence, Carnegie Hill Neighbors fought to tighten zoning laws on all avenues and streets, which had previously been the same liberal regulations for First, Second, and Third Avenues.

In 1985, Carnegie Hill Neighbors won rezoning to limit mid-block structures to size of brownstones. Almost 10 years later, they won an expansion of the Carnegie Hill Historic District which brought the total number of landmark buildings in the area to 400. Along with these distinguished achievements the group continues to serve its neighborhood through ongoing programs such as the Community Car Patrol Program, street cleaning, tree care, and environmental education.

Mr. Speaker, I am proud to help Carnegie Hill Neighbors celebrate its 25th anniversary. I would like to personally thank and honor Elizabeth Ashby, the current president, and Fred Papert and Ron Spence, the organization's first two presidents, for their exemplary work and devotion to the preservation of our city's heritage. On behalf of the constituents of New York's 14th Congressional District, I would like to express my sincerest appreciation to the Carnegie Hill Neighbors for preserving our district's heritage and I wish them continued success over the next 25 years.

ANNIVERSARY CONGRATULATIONS

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. SOUNDER. Mr. Speaker, I would like to take this opportunity to congratulate a special couple from my district who will celebrate the milestone of their 60th wedding anniversary on Thursday, May 4, 1995. It is so wonderful in these turbulent times to be able to recognize Ray and Irene Sunday, a couple who have honored their vows to one another for over half a century. It is an honor to commend this couple for their life together and to offer my best wishes for the years to come.

REINTRODUCTION OF EXPLOSIVES FINGERPRINTING ACT

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. MANTON. Mr. Speaker, I rise today to introduce the Explosives Fingerprinting Act. This legislation is virtually identical to H.R. 1262, legislation I introduced in the 103d Congress.

Unfortunately, last month's devastating bombing in Oklahoma City demonstrates that our Nation desperately needs to implement an effective method of quickly identifying and punishing the perpetrators of terrorist bombings.

My legislation would require all explosives manufacturers to introduce high-technology additives into their explosives that will give them identifying signatures which would identify when and where the particular explosive device was made.

These additives, called taggants, are microscopic chips designed to survive explosives. Many Federal law enforcement officials, including those at the Bureau of Alcohol, Tobacco and Firearms agree that taggants would be a valuable anti-terrorist tool. The use of taggants would allow agents to examine the manufacturers required paperwork to identify suspects from lists of purchasers. Identifying the source and subsequent sale of explosives is nearly impossible without taggants.

Given the effectiveness of taggants, it is discouraging that this anti-terrorist technology has not been required in the past. The reason, tragically, is that special interest groups representing the explosives industry and gun industry have not only worked to kill previous legislation to require taggants, but have also limited the amount of funding the Bureau of Alcohol, Tobacco and Firearms can devote to developing this technology.

As a former police officer, I know how difficult criminal investigations can be. However, I know it has been as frustrating for me as it has for the rest of the Nation to witness the difficulty our law enforcement personnel have had in locating the second suspect in the Oklahoma City attack, John Doe No. 2 despite a nationwide effort to find him.

It is time to give our law enforcement officials a valuable new tool in their arsenal. I would encourage my colleagues to join me as cosponsors of this important legislation thereby taking a small step toward making sure another such terrorist attack does not occur.

Finally, as a Member of Congress who hails from New York City, the site of the World Trade Center bombing 2 years ago, I know the fear and loss which these cowardly acts can have on a community. While the devastation which occurred in Oklahoma City is far greater than that which New York sustained, I know the people of New York have a special affinity for the suffering families and friends of the victims of this most recent tragedy. Our hearts go out to the people of Oklahoma City in this time of tragedy.

I think all Americans agree that this victimization of innocent people is a trend which we cannot allow to continue. While there will be many different proposals offered to address the threat of terrorism, I caution my colleagues to focus their attention on only those proposals which will hasten the punishment of criminals and not endorse initiatives which erode the freedoms and protections upon which our country was founded. We will not win the battle against terrorists who seek to tear our Nation apart by compromising the principles which define us.

In that regard, I urge my colleagues to join me in supporting meaningful legislation, the Explosives Fingerprinting Act, which will not only identify criminals but deter them, by securing information about the purchasers of explosive devices.

TRIBUTE FOR G. PAUL CAREY

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. MCDADE. Mr. Speaker, I would like to bring to the attention of my colleagues the death of one of my constituents, G. Paul Carey, on February 18, 1995.

Mr. Carey was born in Archbald, PA, where he lived until the age of 18. One week after graduation from Archbald High School, Mr. Carey enlisted in the Navy, serving with distinction in the South Pacific for 6 years. During this yearlong commemoration of the 50th anniversary of the end of World War II, it is fitting that we remember the life of one of the men who fought to end this devastating conflict.

Mr. Carey went above and beyond the call of duty, winning six Bronze Stars for defending our great Nation with courage and valor. His heroism was first demonstrated on the *U.S.S. Coney* during the battle of Latie Gulf, when, after a surprise attack, the Japanese almost annihilated the American destroyers in that area. Torpedoman 3d Class Carey received a communique from Admiral Nimitz congratulating him for the valor he exhibited during the attack.

In addition to his outstanding military record, Mr. Carey was a devoted family man. He is survived by his wife, the former Jeanne Walsh, RN, and his three sons, James, Patrick, and Paul, who will remember their father as the epitomy of honor and strength.

Mr. Carey's years of hard work as a traffic manager for Golo Footwear Corp. and his dedication to church and family earned him the respect and admiration of everyone he knew. He will truly be missed.

TRIBUTE TO BRIG. GEN. RUDOLF F. PEKSENS ON HIS RETIREMENT

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to a friend and distinguished military officer, Brig. Gen. Rudolph F. Peksens, who is retiring this month after nearly three decades of service in the U.S. Air Force.

Simply put, General Peksens epitomizes all that a military officer should be: A dedicated and knowledgeable professional known for his outstanding work and his devotion to those who served under him and to the community at large.

General Peksens is a native of Boston, MA, who graduated from Tufts University in 1966 as a member of the Reserve Officers Training Corps program. Following his graduation, General Peksens enlisted in the Air Force.

General Peksens has had a long and distinguished military career. He is the only Air Force officer to have flown fighter, bomber, and reconnaissance aircraft in combat. He is a command pilot with nearly 4,000 flying hours, including more than 600 hours in combat over Vietnam and Iraq. General Peksens served two combat tours in Vietnam, flying B-52's and RF-4C's. During our involvement in Operations Desert Storm and Provide Comfort, he served as vice commander and later commander of the 7440th Combat Wing. The General flew combat missions over Iraq in the F4G Phanton II Advanced "Wild Weasel."

In his years in the Air Force, General Peksens has a long history of command. He served as commander of the joint U.S. Air Force/U.S. Army in Europe Warrior Preparation Center, the largest computer war gaming facility in the world. From July 1988 to July 1989, General Peksens commanded the 26th Reconnaissance Wing in Zweibrucken, Germany. Under his command, the wing won the annual world-wide reconnaissance competition. From July 1989 to July 1991, he commanded the 52nd Fighter Wing "Wild Weasels" at Spangdahlem Air Base, Germany. During this period, the 52nd Fighter Wing deployed early and contributed significant resources to our Nation's combat operations in the Persian Gulf war. From September 1992 to July 1994, General Peksens commanded the 410th Bomb Wing at K.I. Sawyer Air Force Base in my district in Northern Michigan. During that period of time, the wing won the U.S. Strategic Command's first Omaha Trophy as the best flying unit in that command.

General Peksens currently serves as the director of Strategy, Policy and Plans for the U.S. Southern Command in Panama. In this capacity, he is responsible for formulating the long range strategy for achieving U.S. military objectives in Latin America.

General Peksens has been recognized repeatedly for his work and valor. His decorations include the Legion of Merit, the Distinguished Flying Cross with oak leaf cluster, the Bronze Star and the Air Medal with nine oak leaf clusters.

I came to know General Peksens when he served at K.I. Sawyer Air Force Base. As the commander of K.I. Sawyer, General Peksens presided over the base at the time that it was announced for closure by the Base Closure and Realignment Commission. Understandably, this was a painful, difficult time for the residents of the Marquette area. Through these rough times, General Peksens was always there for the community, to give his advise, time and assistance. To this day, people in Marquette still speak of his commitment and caring for the area and its residents. The General's devotion and hard work earned him the respect and genuine affection of virtually every person in the Marquette/Gwinn area. He was at all times, a caring and competent professional who personally and professionally reflected the highest standards and the greatest credit on him and the U.S. Air Force.

Mr. Speaker, General Peksens is retiring this year after nearly 30 years of distinguished service to this Nation. Serving in our Nation's Armed Forces is not an easy vocation. It is difficult, dangerous work where one can be called upon to work in an office one day, and to risk your life in combat the next. The tremendous sacrifices of these military officers and their families are inspiring. In peace and war, General Peksens has given of himself for the benefit of this country. I am proud to know him, to call him a friend, to say that this Nation owes him a debt of gratitude.

While we northern Michiganites will miss General Peksens, we want to take this opportunity to express our deep gratitude for a job well done and wish him and his wife, Ruthi, well in all of their future endeavors.

TRIBUTE TO LAKEVIS COLEMAN: A TRUE HERO

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mrs. MEEK of Florida. Mr. Speaker, I want to express my personal congratulations and the thanks of our community to Lakevis Coleman of Miami, a young man who is a true American hero.

In November 1993, Lakevis Coleman heard someone crying and went to investigate. He saw that a 5-year-old girl had been assaulted and sprang into action, grabbed her attacker, held him until the Metro-Dade police arrived and then testified against him in court. Because of his efforts, a child molester was convicted of kidnapping and sexual battery and sentenced to life in prison.

Our community is safer today because Mr. Coleman—only 19 years of age—cared enough and had the presence of mind to help a defenseless child who was totally incapable of helping herself. By doing so, Mr. Coleman reaffirmed what is best in our community, and I know that my colleagues join me in recognizing his extremely important contribution.

I want to share with my colleagues an article on Lakevis Coleman that appeared in the Miami Herald.

HERO HELPS DELIVER JUSTICE

(By Manny Garcia)

Lakevis Coleman helped send a rapist to prison this week. He is not a police officer or a prosecutor, just a South Dade resident who saw a child being assaulted, grabbed her attacker, held him for police and then testified against him.

"A real hero," said Windy Johnston, chief of the Dade state attorney's office Sexual Battery Unit.

Coleman was the only eyewitness who could identify James Thomas as the man who raped the child in a wooded area, after luring her there with offers of candy. The 5-year-old girl, an elementary school student from Goulds, testified in court but could not identify Thomas, even though he sat 20 feet away.

Without Coleman, "it would have been hard to win," said Johnston, who prosecuted the case with David Shapiro.

Coleman, 19, downplayed his role.

"It could have been my little sister or cousin," he said. "If someone sees a crime, they should get involved and offer a helping hand."

It doesn't always happen that way. Just down the block from where the rape occurred, a Naples contractor was shot and paralyzed during a robbery in broad daylight. Only one person initially came forward to testify in that case, but she later backed down. The case remains in limbo.

"You have to get involved," Coleman said. "It's the only way to protect your community."

Coleman, who waxes cars for a living, helped his community at about 9:30 a.m. on Nov. 19, 1993.

"I was laying on the sofa watching TV," Coleman said. "I had a friend over and she heard someone crying. I didn't pay any attention."

But the crying did not stop, so Coleman stood up and walked outside. He saw the victim's 7-year-old sister running from the bushes, pointing at the ground and screaming for help. Coleman saw Thomas trying to pull up his pants.

"What are you doing?" Coleman yelled, fast-walking toward Thomas.

"Nothing." Thomas responded.

A few feet later, Coleman arrived: "I saw the little girl. She didn't have anything on but a top.

"I looked at him. He looked at me. He tried to run. I grabbed him and threw him on the ground."

"I didn't do anything," Thomas insisted.

"Then why is she crying?" asked Coleman. Coleman told his friend to dial 911.

By then, word of the attack had spread around the neighborhood and an angry crowd surrounded Thomas. They wanted a piece of him before police arrived.

"They wanted to hurt him. I wanted to do it myself," said Coleman, who shielded Thomas from the crowd, urging them to let justice take its course.

Metro-Dade officers arrived two minutes later and hauled Thomas away. Paramedics took the girl to Jackson Memorial Hospital's Rape Treatment Center.

"He cut me. He cut me," she told doctors. Her injuries required surgery.

On Thursday, Coleman told his story to a four-woman, two-man jury. On Friday, the jury ordered lunch and, between bites of their sandwiches, convicted Thomas, 26, of kidnapping and sexual battery on a child under 12. Circuit Judge Fredericks Smith sentenced him to life in prison.

"He got what he deserved," said Coleman, who hopes to one day become a Dade County corrections officer. "I wasn't going to let him get away."

REMEMBERING A HERO—MAJ. GEN. GLENN A. PROFITT II

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1995

Mr. ROGERS. Mr. Speaker, the people of Kentucky and the Nation lost a war hero and humble servant when Air Force Maj. Gen. Glenn A. Profitt II died tragically in a plane crash in Alabama on April 17.

A native of Corbin, KY, General Profitt was director of plans and operations for the Air Education and Training Command at Randolph Air Force Base in San Antonio, TX.

Profitt was in charge of jet pilot training, survival training and combat training for airlift, fighter, tanker and special operations crews.

During his 31 years of service in the Air Force, he served in Vietnam and Desert Storm receiving numerous awards and decorations, including the Distinguished Service Medal, the Distinguished Flying Cross with six oak leaf clusters, Legion of Merit with two oak leaf clusters, Meritorious Service Medal, Air Medal with 29 oak leaf clusters and a bronze service star, the Air Force Commendation Medal, and the Combat Readiness Medal, and the National Defense Service Medal.

In Southeast Asia, General Profitt flew nearly 500 combat missions, serving almost 4 years in the region.

And, in Desert Storm, General Profitt was commander of the 15th Air Division, where he is credited with designing and implementing the most destructive air strike in history. Shortly after his successful tour in Desert Storm, he was promoted to Major General in 1992.

The general was commissioned through the Air Force Reserve Officer Training Corps program at Purdue University in 1964. He also received a masters degree from Webster University in Missouri and degrees from the Armed Forces Staff College and the prestigious National War College in Washington, DC.

General Profitt's father, Glenn Profitt, served as the city manager of Corbin in the 1970's and many of his relatives still live in our area.

I am proud of Maj. Gen. Glenn A. Profitt II. He placed his life in harm's way to protect and defend his country. Then, he led a new generation into battle nearly two decades later. He gave his career to the United States Air Force, and his service must always be remembered.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 4, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 5

9:00 a.m.
Armed Services
Acquisition and Technology Subcommittee
To hold hearings on S. 727, to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal year 1996, focusing on the implications of the revolution in military affairs.
SR-232A

9:30 a.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on issues of waste, fraud and abuse in the Medicare program.
SD-192

Joint Economic
To hold hearings to examine the employment-unemployment situation for April.
SD-106

10:30 a.m.
Commission on Security and Cooperation in Europe
Briefing on media and press developments underway in Serbia, Kosovo and Vojvodina.
2200 Rayburn Building

MAY 8

10:00 a.m.
Budget
Business meeting, to mark up a proposed concurrent resolution on the fiscal year 1996 budget for the Federal Government.
SH-216

2:00 p.m.
Armed Services
To hold hearings with the Committee on the Judiciary to examine the role of the military in combatting terrorism.
SD-106

Judiciary
To hold hearings with the Committee on Armed Services to examine the role of the military in combatting terrorism.
SD-106

2:30 p.m.
Governmental Affairs
Post Office and Civil Service Subcommittee
To hold hearings to review the implementation of the Ramspeck Act, which allows congressional employees to transfer to executive branch positions under certain circumstances, focusing on procedures and restrictions of the law.
SD-342

MAY 9

9:00 a.m.
Armed Services
Personnel Subcommittee
Readiness Subcommittee
To hold joint hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense, and the future years defense program, focusing on military family housing issues.
SR-232A

Environment and Public Works
Superfund, Waste Control, and Risk Assessment Subcommittee
To resume oversight hearings on the implementation of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).
SD-406

9:45 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on National Guard and Reserve programs.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for military construction programs, focusing on the Navy and Air Force.
SD-138

MAY 10

9:30 a.m.
Energy and Natural Resources
To hold hearings on the nominations of Charles William Burton, of Texas, to be a Member of the Board of Directors of the United States Enrichment Corporation, and James John Hoecker, of Virginia, to be a Member of the Federal Energy Regulatory Commission, Department of Energy.
SD-366

Judiciary
Immigration Subcommittee
To hold hearings on verification of applicant identity for purposes of employment and public assistance.
SD-226

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for Food, Nutrition, and Consumer Services, and Food and Consumer Service, each of the Department of Agriculture.
SD-138

2:00 p.m.
Energy and Natural Resources
To hold hearings on the Federal Energy Regulatory Commission's Notice of Proposed Rulemaking and Supplemental Proposed Rulemaking, promoting wholesale competition through open-access non-discriminatory transmission services by public utilities (Docket No. RM 95-8-000), and recovery stranded costs by public utilities and transmitting utilities (Docket No. RM 94-7-001).
SD-366

MAY 11

9:30 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, Department of Transportation.
SD-192

Labor and Human Resources
Disability Policy Subcommittee
To hold hearings to examine proposed legislation relating to the education of individuals with disabilities.
SD-430

Rules and Administration
To hold hearings to examine management guidelines for the future of the Smithsonian Institution.
SD-106

Special on Aging
To hold hearings to examine ways the private sector can assist in making long term care more affordable and accessible.
SD-562

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Bureau of Indian Affairs, Department of the Interior.
SD-116

10:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs, focusing on the Agency for International Development.
SR-325

1:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Indian Health Service, Department of Health and Human Services.
SD-116

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine access to abortion clinics.
SD-138

2:30 p.m.
Judiciary
Immigration Subcommittee
To hold oversight hearings on the Immigration and Naturalization Service; Department of Justice.
SD-226

MAY 12

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Environmental Protection Agency, the Council on Environmental Quality, and the Agency for Toxic Substances and Disease Registry.
SD-192

10:00 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Secretary of the Senate, the Sergeant at Arms and Doorkeeper of the Senate, the Senate Legal Counsel, and the Senate Office of Fair Employment Practices.
SD-116

MAY 15

2:00 p.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Library of Congress, the Congressional Budget Office, and the U.S. Capitol Police.
SD-116

MAY 16

9:30 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on rural development and credit.
SR-328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on environmental programs.
SD-192

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine NASA's space shuttle and reusable launch vehicle programs.
SR-253

Labor and Human Resources
Disability Policy Subcommittee
To resume hearings to examine proposed legislation relating to the education of individuals with disabilities.
SD-430

MAY 17

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine the National Academy of Public Administration's study on the Environmental Protection Agency.
SD-G50

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Park Service, Department of the Interior.
SD-192

2:00 p.m.
Armed Services
Acquisition and Technology Subcommittee
To resume hearings on S. 727, to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal year 1996, focusing on dual-use technology programs.
SR-232A

MAY 18

9:30 a.m.
Rules and Administration
To resume hearings to examine management guidelines for the future of the Smithsonian Institution.
SD-106

Small Business

To hold hearings to examine the Small Business Administration's 7(a) business loan program.

SD-628

Indian Affairs

To hold oversight hearings on the recommendations of the Joint Department of the Interior/Bureau of Indian Affairs/Tribal Task Force on Reorganization of the Bureau of Indian Affairs.

SR-485

10:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

10:30 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs.

SH-216

2:00 p.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the National Institutes of Health, Department of Health and Human Services.

SD-192

MAY 19

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Housing and Urban Development.

SD-192

10:00 a.m.

Appropriations

Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Architect of the Capitol, and the Government Printing Office.

SD-116

MAY 23

9:30 a.m.

Agriculture, Nutrition, and Forestry

To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal nutrition programs.

SR-328A

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on financial management.

SD-192

Indian Affairs

To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.

SR-485

MAY 24

9:30 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Fish and Wildlife Service, Department of the Interior.

SD-192

10:00 a.m.

Agriculture, Nutrition, and Forestry

Research, Nutrition, and General Legislation Subcommittee

To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on research and the future of U.S. agriculture.

SR-328A

MAY 25

10:00 a.m.

Agriculture, Nutrition, and Forestry

Marketing, Inspection, and Product Promotion Subcommittee

To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal farm export programs.

SR-328A

MAY 26

10:00 a.m.

Appropriations

Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the General Accounting Office, and the Office of Technology Assessment.

SD-116

JUNE 6

9:30 a.m.

Agriculture, Nutrition, and Forestry

Forestry, Conservation, and Rural Revitalization Subcommittee

To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on resource conservation.

SR-328A

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on intelligence programs.

S-407, Capitol

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Interior.

SD-138

JUNE 7

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the National Service and the Selective Service System.

SD-192

10:00 a.m.

Judiciary

Youth Violence Subcommittee

To hold hearings to examine the welfare system's effect on youth violence.

SD-226

JUNE 13

9:30 a.m.

Agriculture, Nutrition, and Forestry

Production and Price Competitiveness Subcommittee

To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.

SR-328A

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on health programs.

SD-192

JUNE 15

9:30 a.m.

Agriculture, Nutrition, and Forestry

Production and Price Competitiveness Subcommittee

To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.

SR-328A

JUNE 20

9:30 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on counternarcotic programs.

SD-192

JUNE 27

9:30 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense.

SD-192

CANCELLATIONS

MAY 5

9:30 a.m.

Environment and Public Works

Transportation and Infrastructure Subcommittee

To hold oversight hearings on General Services Administration activities on the U.S. Food and Drug Administration consolidation project, the proposed Federal Communications Commission lease consolidation, and the U.S. Patent Trademark Office consolidation.

SD-406

POSTPONEMENTS

MAY 4

2:00 p.m.

Foreign Relations

Near Eastern and South Asian Affairs Subcommittee

To hold hearings to examine U.S. assistance programs in the Middle East.

SD-419